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GUIDE TO FREEDOM OF INFORMATION INDEXES

January–March 1978

EDITORIAL NOTE: 5 U.S.C. 552 (commonly called the Freedom of Information Act) requires agencies to maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required to be made available or published (5 U.S.C. 552(a)(2)). Certain amendments (Pub. L. 93–502, November 21, 1974, 88 Stat. 1561) require the publication (with some exceptions) and distribution of these indexes at least quarterly. This guide has been compiled by the Office of the Federal Register from information submitted by agencies for the first three months of 1978 in order to notify the public of the availability of these indexes for sale or public inspection or both.

FOR FURTHER INFORMATION CONTACT:

Doris O'Keefe, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408 (202–523–3187).

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Department of Agriculture, Rural Electrification Administration.	Index of current REA publications: Electric Program, as of Apr. 18, 1977, with supplement thereto updating the index to Mar. 31, 1978. An alphabetic and numerical index of REA electric program bulletins, staff instructions, contract forms, and specifications.	Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Room 4043 South, Washington, D.C. 20250. No charge.	Director, Information Services Division, Rural Electrification Administration. U.S. Department of Agriculture, Room 4043 South, Washington, D.C. 20250.
Do	Index of current REA publications: Telephone as of Mar. 25, 1977, with supplement thereto updating the index to Mar. 31, 1978. An alphabetic and numerical index of REA telephone program bulletins, staff instructions, contract forms, specifications, sections of the Telephone Engineering and Construction and Telephone Operations manuals, and the rules and regulations of the Rural Telephone Bank.	do	Do.
Department of Defense, Department of the Air Force.	Numerical index of departmental forms (AFR 0–9). Dec. 2, 1977. Lists forms numerically within each category, including accountable forms, forms requiring storage safeguards, and obsolete forms.	DADF at nearest Air Force installation. Shelf stock. $2.88 per copy; reproduced copies, $6.10 per copy; shelf stock will be used while it lasts. Checks payable to: AFO (name of base furnishing copies).	DADF at nearest Air Force installation.
Do	Guide to indexes, catalogs, and lists of departmental publications (AFR 0–1). Sept. 1, 1974. Describes the indexes, catalogs, and lists of departmental publications; explains their use, tells how often they are revised, shows their distribution and gives the office of primary responsibility.	DADF at nearest Air Force installation. Shelf stock, $2.05 per copy; reproduced copies $2 per copy; shelf stock will be used while supply lasts. Checks payable to: AFO (name of base furnishing copies).	Do.
Do	Numerical Index of standard publications and recurring periodicals (AFR 0–2). Dec. 2, 1977. Lists regulations, manuals, and pamphlets together under each subject series; lists visual aids and recurring periodicals separately.	DADF at nearest Air Force Installation. Shelf stock, $2.80 per copy; reproduced copies $5.70; shelf stock will be used while supply lasts. Checks payable to: AFO (name of base furnishing copies).	Do.
Do	Miscellaneous Air Force and other Government agency publications (AFR 0–16), Sept. 10, 1976. Lists a wide range of subjects of interest to the Air Force.	DADF at nearest Air Force installation. Shelf stock, $3.08 per copy; reproduced copies, $2.10 per copy; shelf stock will be used while supply lasts. Checks payable to: AFO (name of base furnishing copies).	Do.
Do	Publications Numbering Systems (AFR 5–4). February 15, 1974. Contains subject series and description guide and alphabetical list of subjects.	DADF at nearest Air Force installation. Shelf stock $2.15 per copy, reproduced copies $2.45 per copy; shelf stock will be used while it lasts. Checks payable to: AFO (name of base furnishing copies).	Do.
Do	Disposition of Air Force documentation (AFM 12–50). Oct. 1, 1960. Pt. 2 consists of decision logic tables which provide for disposition of documentation created or accumulated by all Air Force activities. Attachment 3 is an index to the tables, arranged alphabetically by title of the record.	DADF at nearest Air Force installation. Shelf stock will not be used. Pt. 2 is voluminous, therefore, only tables pertaining to requested records will be reproduced. $2 for 1st 6 pages, plus $0.05 for each additional page. Checks payable to: AFO (name of base furnishing copies).	Do.
Defense Communications Agency.	1. DCA circulars and notices: Enclosure 1 consists of 2 sections. Section A contains the index of current DCA circulars and notices. Those circulars, notices, and changes published during the period July 1–Dec. 31, 1977, are highlighted by a number sign (#) in the left margin. Section B contains a listing of those publications which have been canceled or replaced since July 1, 1977 by a publication of a different number. Publications superseded by a revised issue bearing the same number are not included. Enclosure 2 is an alphabetical listing of current DCA circulars. Enclosure 3 is an alphabetical listing of current DCA Notices..	Defense Communications Agency, Washington, D.C. 20305. No Charge.	Defense Communications Agency, 8th St. and South Courthouse Rd., Arlington, Va. 22204.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Defense Communications Agency.—Continued	2. DCA instructions: Enclosure 1 consists of 2 sections. Section A contains the index of current DCA instructions. Those instructions and changes published during the period Apr. 1-Sept. 30, 1977, are highlighted by a number sign (#) in the left margin. Section B contains a listing of those instructions which have been canceled or replaced by an instruction of a different number since Apr. 1, 1977. Enclosure 2 is an alphabetical listing of current DCA instructions.	do	Do.
Department of Health, Education, and Welfare, Public Health Service, Center for Disease Control (HEW/PHS/CDC).	A written description of the general preventive medicine residency program, dated Apr. 29, 1976. Residency assignments, qualifications, appointments, and supervision, as outlined in this document.	Center for Disease Control, Attention: Assistant Director for Program, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Assistant Director for Program, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Staff publications booklet: An annual bibliographical listing of contributions made by the CDC staff to medical and scientific literature during the previous year.	Center for Disease Control, Attention: Director, Office of Information, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Office of Information, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Minutes of meetings and annual reports of following public advisory committees: Coal Mine Health Research Advisory Committee, Safety and Occupational Health Study Section, Immunization Practices Advisory Committee, Medical Laboratory Services Advisory Committee.	Center for Disease Control, Attention: Director, Management Analysis Office, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Management Analysis Office, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Morbidity and mortality weekly reports. In addition to providing informational morbidity and mortality data on diseases, these reports prescribe policies and interpret policies relative to prevention of diseases as well as health requirements that are covered by regulations.	Center for Disease Control, Attention: Director. Bureau of Epidemiology, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Bureau of Epidemiology, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Final Report of the Drinking Water Disinfection ad hoc Advisory Committee, dated Mar. 1, 1977. Recommendations to the Secretary, Health, Education, and Welfare, the Assistant Secretary for Health, and the Director, Center for Disease Control, on the merits of chlorine and ultraviolet light as a means of disinfecting water in program areas over which the CDC has jurisdiction or technical responsibility.	do	Do.
Do	Annual report to Congress regarding smoking and health.	Center for Disease Control, Attention: Director, Bureau of Health Education, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Bureau of Health Education, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	"Current Items". This publication from the Bureau of Laboratories is directed generally to heads of State or local laboratories. The publication includes technical procedures and informational data.	Center for Disease Control, Attention: Director, Bureau of Laboratories, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Bureau of Laboratories, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	National Institute for Occupational Safety and Health (NIOSH) policy memorandum, dated Sept. 11, 1974 on trade secret information.	Director, National Institute for Occupational Safety and Health, Parklawn Bldg., Room 8-20, 5600 Fishers Lane, Rockville, Md. 20857. No charge for 1 copy.	Director, National Institute for Occupational Safety and Health, Parklawn Bldg., Room 8-20, 5600 Fishers Lane, Rockville, Md. 20857.
Do	"NIOSH Policy Letter", dated Nov. 5, 1973 regarding reimbursement to an employer for financial loss (production time: pay) incurred as a result of a NIOSH research project.	do	Do.
Do	The President's report on occupational safety and health, annual report for 1974. This report covers programs of the Department of Labor, Department of Health, Education, and Welfare; and the Occupational Safety and Health Review Commission for calendar year 1974. It contains results of the 1st full year of occupational injury and illness survey.	do	Do.
Do	The Federal coal mine health program in 1974. This is a report of health activities under the Federal Coal Mine Health and Safety Act of 1969, NIOSH Publication No. 77-143.	do	Do.
Do	The Division of Training, National Institute for Occupational Safety and Health, Center for Disease Control, announcement of courses that are available to the public.	do	Do.
Do	The National Institute for Occupational Safety and Health current intelligence bulletin. This current bulletin alerts members of the occupational health community, government, labor, and industry to new information on potential occupational health hazards.	do	Do.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Department of Health, Education, and Welfare, Public Health Service, Center for Disease Control (HEW/PHS/CDC).—Continued	NIOSH Publications Catalog, 1970-1977. Lists availability of publications from the National Institute for Occupational Safety and Health. NIOSH Publication No. 77-207.	do	Do.
Do	Proposed interim program guidelines for venereal disease control, dated March 1975.	Center for Disease Control, Attention: Director, Bureau of State Services, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Bureau of State Services, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Venereal disease review criteria, dated Dec. 10, 1971.	do	Do.
Do	Recommended treatment schedules for syphilis, dated 1976.	do	Do.
Do	Gonorrhea, CDC recommended treatment schedules, dated 1974.	do	Do.
Do	Commentary on national strategies to control gonorrhea, dated July 1975.	do	Do.
Do	Updated guidelines concerning patients with penicillinase-producing *Neisseria gonorrhoeae* (PPNG), dated August 1977.	do	Do
Do	Summary Report on Influenza Virus Vaccine use, dated Feb. 7, 1977.	do	Do.
Do	Summary Report of Conference on Influenza Vaccine Activity for 1977-76, dated Mar. 21, 1977.	do	Do.
Do	Briefing and discussion on influenza A/USSR/1977 (H1N1)—Summary, dated Dec. 22,1977.	do	Do.
Do	Influenza virus vaccine workshop—Summary report and conclusions, dated Jan. 12, 1978.	do	Do.
Do	Conference on influenza A/USSR/1977 (H1N1)—Summary report, dated Jan.30, 1978.	do	Do.
Do	Guidelines for assessing immunity levels, dated November 1973.	do	Do.
Do	Immunization Against Disease, 1972 handbook.	do	Do.
Do	Guidelines for application immunization Project Grants, dated December 1977.	do	Do.
Do	Public Health Service recommendations for Counting Reported Tuberculosis Cases, dated January 1977.	do	Do.
Do	Preventive therapy of tuberculosis infection dated February 1975.	do	Do.
Do	Memorandum dated Nov. 7, 1975, regarding duration of preventive therapy with isoniazid.	do	Do.
Do	Guidelines for prevention of TB transmission in hospitals, dated September 1974.	do	Do.
Do	Equipment and procedures for erythrocyte protoporphyrin (EP) analysis as a screening method for pediatric lead poisoning, dated Feb. 3, 1975.	do	Do.
Do	Urban rat survey—guidelines for classroom use and field training of inspectors who serve in community rodent control programs, dated March 1974.	do	Do.
Do	Urban rat control project grants program guidelines for applicants, dated 1975.	do	Do.
Do	Procedures for collecting rats for anticoagulant resistance evaluation, Urban Rat Control, dated Mar. 29, 1977.	do	Do.
Do	Guidelines for grant applications. Childhood lead poisoning control, dated Mar. 14, 1974.	do	Do.
Do	Increased lead absorption and lead poisoning in young children. A statement by the Center for Disease Control, dated March 1975.	do	Do.
Do	The "Training Bulletin," which is published every 18 mo. This document lists each of the headquarters, field, or home-study courses that are available through the auspices of CDC during that time period. Specific information is presented that identifies prerequisites for attendance and describes the nature of each course.	Center for Disease Control, Attention: Director, Bureau of Training, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Bureau of Training, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Final denials, revocations, suspensions and limitations of licenses, and letters of exemptions to laboratories subject to the Clinical Laboratories Improvement Act of 1967.	Center for Disease Control, Attention: Bureau of Laboratories, Atlanta, Ga 30333. No charge for 1 copy.	Center for Disease Control, Bureau of Laboratories, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Administrative issuance. Facilities Engineering and Construction Manual, ch. CDC: 3-335, dated May 1, 1972. This issuance provides rules and regulations covering CDC buildings and grounds. It applies to CDC employees and also to visitors, solicitors, etc.	Center for Disease Control, Attention: Management Analysis Office, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Management Analysis Office, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Department of Health, Education, and Welfare, Public Health Service, Center for Disease Control (HEW/PHS/CDC).—Continued	Administrative issuance. Manual Guide—General Administration No. CDC-57, dated Nov. 13, 1970. This issuance provides policy and procedures to CDC employees for claims including those against CDC or against CDC employees as a result of their official duties.	do	Do.
Do	Administrative issuance. Manual Guide—General Administration No. CDC-1, dated Sept. 30, 1970. This issuance provides policy and procedures for conferences including those cosponsored by CDC and an organization other than a Federal agency.	do	Do.
Do	Administrative issuance. Manual Guide—ADP Systems No. CDC-1, dated Apr. 22, 1971. This issuance specifies the type of information for CDC organizations to furnish CDC computer systems office for determination as to whether a contract should be entered into with an outside source to perform the ADP services or whether the work can be performed within the Center.	do	Do.
Do	Administrative issuance. CDC General Memorandum No. 74-9, dated June 20, 1974. This issuance specifies rates for the Center to pay for blood.	do	Do.
Do	Administrative issuance. Procurement Manual Subpart CDC: 3-75.3, dated May 12, 1972. This issuance specifies CDC delegations of authority for publication of advertisements, notices, or proposals.	do	Do.
Do	Administrative issuance. Manual Guide—Printing Management No. CDC-6, dated Nov. 5, 1969. This issuance provides CDC policies and procedures for procurement of CDC authored articles which are to be published in private journals and briefly mentions publishers' services, e.g., setting of type, sending proofs, etc.	do	Do.
Do	Administrative issuance. National Institute for Occupational Safety and Health Administrative Issuance No. 406, dated Sept. 3, 1974. This issuance describes contents and documentation needed for research and technical services contract requests for NIOSH.	do	Do.
Do	Administrative issuance. Procurement Manual Subpart CDC: 3-3.6, dated Sept. 21, 1970. This issuance prescribes CDC policies and procedures for small purchases particularly through use of imprest funds, and briefly mentions vendors' role.	do	Do.
Do	Administrative issuance. CDC General Memorandum No. 77-13, dated Sept. 30, 1977. This issuance provides instructions to CDC employees for obtaining typewriter repair service and lists individual companies under contract to make repairs.	do	Do.
Do	Administrative issuance. CDC General Memorandum No. 74-1, dated Jan. 16, 1974. This issuance specifies CDC policies and procedures on unauthorized commitments and for obtaining approval for such commitments.	do	Do.
Do	Administrative issuance. Manual Guide—General Administration No. CDC-52, dated Mar. 12, 1973. This issuance provides policies and procedures for handling public inquiries to CDC during nonwork hours.	do	Do.
Do	Administrative issuance. Manual Guide—General Administration No. CDC-18, dated Mar. 6, 1969. This issuance provides CDC policies and procedures for obtaining clearance of CDC authored manuscripts, publications, etc., and includes policy on responding to requests from the press, etc.	do	Do.
Do	Administrative issuance. CDC General Memorandum No. 72-3, dated Feb. 9, 1972. This issuance provides policies and general guidelines to CDC employees on giving assurances of confidentiality in obtaining information from the public.	do	Do.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Department of Health, Education, and Welfare, Public Health Service, Center for Disease Control (HEW/PHS/CDC).—Continued	Administrative issuance. Manual Guide—Personal Property Management No. CDC-2, dated Apr. 17, 1969. This issuance provides CDC policies and procedures for producing, maintaining, shipping, and storing exhibits and includes procedures for production of exhibits by commercial contractors.	do	Do.
Do	Administrative issuance. Manual Guide—Safety Management No. CDC-19, dated Mar. 18, 1974. This issuance provides policy to CDC employees for distribution of cultures of microbial agents and of vectors to non-CDC persons.	do	Do.
Do	Administrative issuance. Manual Guide—Safety Management No. CDC-2, dated Dec. 15, 1975. This issuance provides policy on the need for and use of hazard warning signs that applies to CDC employees and also to visitors.	do	Do.
Do	Administrative issuance. Manual Guide—Safety Management No. CDC-3, dated June 18, 1973. This issuance provides policies on and procedures for handling compressed gases in cylinders. It applies to CDC employees and also certain policies and procedures apply to vendors.	do	Do.
Do	Administrative issuance. Personnel Guides for Supervisors, chapter IV, CDC Guide 7-2, dated Mar. 12, 1963, but still current. This issuance provides CDC policies and procedures for handling complaints on employee indebtedness.	do	Do.
Do	Administrative issuances. Manual Guide—General Administration No. CDC-5, dated Apr. 8, 1971 and National Institute for Occupational Safety and Health Administrative Issuance No. 2, dated Mar. 4, 1974. These issuances provide policies and procedures for making CDC and NIOSH facilities available to guest researchers.	do	Do.
Do	Administrative issuance. Manual Guide—General Administration No. CDC-61, dated Apr. 26, 1973. This issuance provides CDC policies and procedures for providing to students work experiences which relate to the CDC mission and to the educational objectives of the students.	do	Do.
Do	Administrative issuance. National Institute for Occupational Safety and Health unnumbered memorandum, dated Mar. 4, 1974. This issuance provides NIOSH policy on loan of property to non-Federal persons or institutions.	do	Do.
Do	Administrative issuances. Manual Guide—General Administration No. CDC-11, dated June 8, 1973 and National Institute for Occupational Safety and Health policy memorandum, dated June 25, 1973. These issuances provide policies and procedures for the protection of the individuals who are participating or involved in research investigations of the Center and of NIOSH, respectively.	do	Do.
Do	Administrative issuance. Manual Guide—Travel CDC-10, dated Dec. 26, 1972. This issuance provides CDC policy and procedures for employees renting automobiles for official travel and mentions services provided by the car rental contractors and of the conditions of the contracts.	do	Do.
Do	Administrative issuances. Manual Guide—Travel No. CDC-2 dated Jan. 14, 1974 and Correspondence Manual Chapter 10-40, dated Oct. 1, 1974. These issuances provide instructions to CDC employees for making reservations on common carriers and for picking up the tickets. They list the airlines and their telephone numbers.	do	Do.
Do	Administrative issuance. Manual Guide—General Administration No. CDC-63, Privacy Act, dated Nov. 23, 1976. This issuance provides to CDC employees guidance on carrying out requirements of the act.	do	Do.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Department of Health, Education, and Welfare, Public Health Service, Center for Disease Control (HEW/PHS/CDC).—Continued	Administrative issuance. CDC general memorandum No. 75-10. Freedom of Information Act, dated July 25, 1975. This issuance provides general information to CDC employees on major provisions of the act, procedures for responding to requests for information under the act, and brief data to the CDC employees on the Privacy Act.	do	Do.
Do	Administrative issuance. CDC general memorandum No. 75-2, civil defense, dated Apr. 2, 1975. This issuance provides information on the civil defense capacity and equipment of the CDC facilities in the Atlanta area that are officially designated to be used as public shelter areas under the national fallout shelter program.	do	Do.
Do	Administrative issuance. CDC unnumbered memorandums, parking at Clifton Rd. facilities, dated July 14, 1975 and Jan. 20, 1976. These issuances provide policy for CDC employees and visitors parking at the Clifton Rd. facilities, Center for Disease Control.	do	Do.
Do	Administrative issuance. CDC unnumbered memorandum, directory of licensed day-care facilities in the Metropolitan Atlanta area, dated Mar. 15, 1976. This issuance provides a listing of these facilities.	do	Do.
Do	Administrative issuance. CDC unnumbered memorandum, injury compensation, dated Sept. 15, 1975. This issuance provides procedures for CDC employees to follow to document on-the-job traumatic injuries, including submission of reports from attending physicians.	do	Do.
Do	Administrative issuance. Manual guide—general administration No. CDC-8, soliciting, vending, and displaying or distributing commercial advertising within CDC, dated Apr. 23, 1975. This issuance provides policy for soliciting, vending, and commercially advertising on property occupied by CDC.	do	Do.
Do	Administrative issuance. Personnel guide for supervisors, Ch. III, CDC guide 1-2, commercial employment offices, dated Jan. 7, 1976. This issuance provides policy on using commercial employment offices for recruiting personnel.	do	Do.
Do	Administrative issuance. personnel guide for supervisors, ch. III, CDC guide 1-9, dated Feb. 26, 1976. This issuance provides policies, responsibilities, and procedures for the selective placement program for handicapped employees and disabled veterans.	do	Do.
Do	Administrative issuance. National Institute for Occupational Safety and Health Administration, issuance No. 6, dated Apr. 15, 1976. This issuance provides policies and procedures for keeping interested governmental, labor, and management groups informed on the initiation and progress of NIOSH field studies.	do	Do.
Do	Administrative issuance, National Institute for Occupational Safety and Health Administration issuance No. 8, dated Oct. 30, 1975. This issuance provides procedures for maintenance of minutes of NIOSH meeting with representatives of nongovernmental groups.	do	Do.
Do	Recommendations of the Public Health Service Advisory Committee on Immunization Practices, such as: general recommendations on immunization, BCG vaccines, cholera vaccine, diphtheria and tetanus toxoids and pertussis vaccine, immune globulins for protection against viral hepatitis, perspectives on the control of viral hepatitis, type B, influenza vaccine, measles outbreak control, measles vaccine, meningococcal polysaccharide vaccines, mumps vaccine, plague vaccine, pneumococcal polysaccharide vaccine, poliomyelitis prevention, rabies, rubella vaccine, smallpox vaccine, typhoid vaccine, typhus vaccine, and yellow fever vaccine..	Center for Disease Control, Attention: Director, General Services Office, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, General Services Office, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Department of Health, Education, and Welfare, Public Health Service, Health Resources Administration (HEW/PHS/HRA).	Health Resources Administration index of policy documents as required by Public Law 90-23 (Freedom of Information). July 1, 1973, to Oct. 1, 1977. The HRA FOIA index is a listing of the following HRA documents: HRA policy, information, and instruction memoranda; supplements and circulars to the Federal personnel and HEW staff manuals; Federal regulations; delegations of authority; organization and functions statements; programmatic circulars, memoranda, instructions, notices, guides, guidelines, and operating manuals used by HRA components.	Associate Administrator, Office of Communications, Health Resources Administration, Room 10-44, Center Building, 3700 East-West Highway, Hyattsville, Md., 20782. Fees, as prescribed in 45 CFR 5.61, are 10¢ per page with the charge being made if the total amount exceeds $5. Check payable to DHEW-Health Resources Administration.	Associate Administrator, Office of Communications, Health Resources Administration, Room 10-44, Center Building, 3700East-West Highway, Hyattsville, Md., 20782, (301)436-8988.
Department of the Interior, Bureau of Mines.	Basic Bureau of Mines Manual General Table of Contents and Checklist—July 6, 1976. Numeric and subject listing of internal policies and procedures by series, part, chapter, paragraph, and subordinate paragraph.	In accordance with fee schedule in 43 CFR 2, App. A, Bureau of Mines.	Chief, Organization and Management Staff, Columbia Plaza Office Bldg., 2401 E St. NW., Washington, D.C. 20241.
Department of Transportation, Federal Highway Administration.	Opinions and final orders of the Federal Highway Administration in regard to the regulation of toll bridges: 1968-77; 1 page listing of opinions and final orders regarding regulation of toll bridges issued by the Federal Highway Administrator, which identifies the case and the date issued.	FOIA Program Officer, Federal Highway Administration, 400 7th St. SW., Washington, D.C. 20590. No charge.	FOIA Program Officer, Federal Highway Administration, 400 7th St. SW., Washington, D.C. 20590.
Do	Cease and desist and driver disqualification final orders by the Federal Highway Administrator: 1969-77; 9-page listing of cease and desist and driver disqualification final orders of the Federal Highway Administrator; items listed are identified by case docket number, name of carrier, and date notice of investigation was mailed.	do	Do.
Do	Cross reference index of current Federal Highway Administration directives as of March 31, 1978. The index is alphabetical by subject. Within each subject applicable Federal Highway Administration orders, notices, and manuals are identified (in some cases manuals may be also identified by the applicable volume or other subordinate breakdown). The index is computerized and updated quarterly.	FOIA Program Officer, Federal Highway Administration, 400 7th St. SW., Washington, D.C. 20590..	FOIA Program Officer, Federal Highway Administration, 400 7th St. SW., Washington D.C. 20590; Federal Highway Administration Regional Offices (for location see 49 CFR pt.7); Federal Highway Administration Division Offices. (For location see 49 CFR pt. 7.)
Department of the Treasury, Bureau of Alcohol, Tobacco, and Firearms.	The Director, Bureau of Alcohol, Tobacco, and Firearms (ATF) has determined that publication in the FEDERAL REGISTER of the ATF Index of Materials required by the Freedom of Information Act is unnecessary and impracticable for the reason that the Index is changing continually and that items listed are of interest to relatively few potential users. The Index consists of the following: Listing of Final Opinions of the Director, 1976-1977, Statements of Policy and Interpretations Index, Administrative Criminal Enforcement, Regulatory Enforcement, Technical and Scientific Services, and Inspection staff manuals and instructions to staff, and ATF publications..	Office of the Assistant to the Director (Public Affairs). Room 4402, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226. Price $1.50. Make check payable to the Bureau of Alcohol, Tobacco, and Firearms.	Public Affairs Reading Room, Room 4402, Bureau of Alcohol, Tobacco, and Firearms, 1200 Pennsylvania Ave. NW., Washington, D.C. 20226. BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS: North Atlantic Regional Office, 6 World Trade Center, Room 620, New York, N.Y. 10048. Mid-Atlantic Regional Office, Room 340, 2 Penn Center Plaza, Philadelphia, Pa. 19102. Southeast Regional Office, 3835 Northeast Expressway, Room 201, Atlanta, Ga. 30340. Central Regional Office, Federal Office Bldg., Room 6522, 550 Main St., Cincinnati, Ohio 45202. Midwest Regional Office, 230 S. Dearborn St., 15th floor, Chicago, Ill. 60604. Southwest Regional Office, Main Tower, 1200 Main St., Room 355, Dallas Tex. 75202. Western Regional Office, 525 Market St., 34th floor, San Francisco, Calif. 94105.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Department of the Treasury, Office of the Secretary.	Index of Selected Records: July 1967 to March 1978; Listing of current administrative documents, reports, and releases from the Office of the Secretary, Bureau of Engraving and Printing, Bureau of the Mint, U.S. Secret Service, Bureau of the Public Debt, Bureau of Government Financial Operations, Federal Law Enforcement Training Center, U.S. Customs Service.	Treasury Department Library, Room 5010, Treasury Bldg., 15th and Pennsylvania Ave., Washington, D.C. 20220, $1.50, Treasury of the United States.	Treasury Department Library, Room 5010 Treasury Bldg., 15th and Pennsylvania Ave., Washington, D.C. 20220.
(U.S.) Arms Control and Disarmament Agency.	Index to notices, instructions, regulations, and other ACDA records.	Freedom of Information Officer, U.S. Arms Control and Disarmament Agency, Department of State Bldg., Washington, D.C. 20451. No charge.	Freedom of Information Officer, U.S. Arms Control and Disarmament Agency, Department of State Bldg., Washington, D.C. 20451.
Civil Service Commission (CSC).	Index to Civil Service Commission information. Period covered: February 1975 to February 1976. A listing of policy and non-policy publications and information systems arranged alphabetically by title and subject.	Distribution Unit, Room B-431, U.S. Civil Service Commission, 1900 E St. NW., Washington, D.C. 20415. Free.	Commission Library or any Commission office, including regional and area offices.
Committee for Purchase from the Blind and Other Severely Handicapped.	Index of additions and deletions to the procurement list. August 1971-March 1978.	Order from: Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, 2009 N. 14th St., Suite 610, Arlington, Va. 22201. Price: 10¢ per page, per copy. Make checks payable to: Treasurer of the United States.	Committee for Purchase from the Blind and Other Severely Handicapped. Attention: Freedom of Information Officer.
Equal Employment Opportunity Commission.	Index to Commission Decisions Unpublished.	Librarian, Equal Employment Opportunity Commission, 2401 E St., NW., Washington, D.C. Price: 25¢. Payable to: U.S. Treasurer.	Librarian, Equal Employment Opportunity Commission, 2401 E St., NW., Washington, D.C. 20506.
Do	Index to Commission Decisions, Published.		Librarian or district office addresses at 29 C.F.R. 1610.4.
Do	Index to Equal Employment Opportunity Commission Orders.	See above. Price: 15¢; Payable to: U.S. Treasurer.	Do.
Do	Index to Compliance Manual (Table of Contents).	See above. Price: $3. Payable to: U.S. Treasurer.	Do.
Do	Index to General Counsel Manual (Table of Contents).	See above, Price: 45¢. Payable to: U.S. Treasurer.	Librarian, Equal Employment Opportunity Commission, 2401 E St. NW, Washington, D.C. 20506.
Farm Credit Administration.	Index of FCA Information Materials; Jan. 1-Mar. 31, 1978; (1) Publications (those available in supply); (2) news releases issued since Jan. 1, 1972; (3) biographies of FCA officials; (4) speeches by FCA officials; (5) FCA regulations and clarification letters; (6) research reports; (7) FCA Administrative and Personnel Handbook; (8) Directory of the FCA and Farm Credit Districts; (9) Monthly statistics on farm credit bank lending (list of tables); (10) FCA orders; and (11) FCA organization charts.	Public Affairs Division, Farm Credit Administration, 490 L'Enfant Plaza, East, SW., Washington, D.C. 20578. Payable to: Farm Credit Administration. Single copies free of charge for items 1, 3, 4, 6, 8, and 11. Copies of all others available at 10¢ per page.	Mr. Roland W. Olson, Director of Public Affairs, Farm Credit Administration, Washington, D.C. 20578.
Federal Trade Commission ...	Bound volumes of all FTC decisions, volumes 1-89, initial decisions of administrative law judges; Commission decisions in adjudicative proceedings; significant orders and opinions; consent orders; advisory opinions; and compliance advice; from March 1915 to June 1977. (Index of contents in each volume.).	Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Checks: Superintendent of Documents, $9-17 each (some volumes out of print).	Public Reference Branch, Federal Trade Commission, Room 130, 6th and Pa. Ave., NW., Washington, D.C. 20580. 202-523-3598. Copying charge $.12 per page (assessed only when 100 or more pages are duplicated).
Do	Bound volume of Advisory Opinions, June 1962 to December 1968, index included, containing requests for advice concerning proposed actions and Commission responses. (Advisory Opinions also included in volumes of decisions listed above.).	Same as above. $4.25 each	Do.
Do	Enforcement statements pertaining to a specific industry or Commission policy, continuous from July 1967.	Public Reference Branch, Federal Trade Commission, Room 130, 6th and Pa. Ave., NW., Washington, D.C. 20580. 202-523-3598. Checks: Treasury of the U.S. Copying charge $.12 per page (assessed only when 100 or more pages are duplicated).	Do.
Do	Trade Regulation Rules, interpretive rules and general statements of policy with respect to unfair or deceptive acts or practices in or affecting commerce, index for specific rulemaking proceedings, continuous from July 1967.	....do	Do.
Do	Application for reimbursement for participation in trade regulation rulemaking proceedings, continuous from 1976.	....do	Do.
Do	Current operating and administrative manuals; statements of general procedures and policies, rules of practice for adjudicative proceedings, nonadjudicative procedures, and miscellaneous rules; governing statutes.	....do	Do.
Do	Freedom of Information Act access requests and responses, continuous from March 1973.	....do	Do.

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Federal Trade Commission.—Continued	Letters closing investigations after facts disclosed indicate corrective action not required in the public interest, continuous from March 1974.	....do	Do.
Do	Applications from former members and employees to appear or participate in a proceeding or investigation, and Commission's responses, continuous from January 1969.	....do	Do.
Do	Staff opinion letters issued by staff in response to requests for advice, continuous from May 1962.	....do	Do.
Do	Index of proceedings in adjudicative matters pending before the Commission, current cases.	....do	Do.
Do	Petitions submitted requesting action by the Commission, continuous from 1971.	....do	Do.
Do	Index to publications available, including pamphlets, buyers' guides, industry guides, reports (e.g., quarterly financial, economic and staff in specific matters, annual, et cetera).	....do	Do.
Do	News releases and other public announcements, continuous from 1969.	....do	Do.
Do	Motions to limit or quash investigational subpoenas, continuous from June 1962.	....do	Do.
Do	Motions to limit or quash orders requiring access or requiring a special report or answers to specific questions, continuous from November 1975.	....do	Do.
Do	Announcement of meetings, and minutes of open meetings, continuous from March 1977.	....do	Do.
Do	Proposed consent orders, analyses, and relevant documents submitted by respondent or proposed respondent, during 60-day comment period.	....do	Do.
Do	Outside contacts, correspondence, meetings, information associated with Commission proceedings, continuous from April 1974.	....do	Do.
Do	Current record of final votes of each member of the Commission in every agency proceeding, continuous from 1973.	....do	Do.
Do	Assurances of voluntary compliance submitted by proposed respondents under investigation, 1965 to 1974.	....do	Do.
General Services Administration (GSA).	GSA Freedom of Information Act Index; July 4, 1967 through Mar. 31, 1978. Category A information which is final opinions, including concurring and dissenting opinions and orders, made in the adjudication of cases. Category B information which is those statements of policy and interpretations which have been adopted by GSA and are not published in the FEDERAL REGISTER. Category C information which is administrative staff manuals and instructions to staff that affect a member of the public.	GSA, Director of Information (AV), Washington, D.C. 20405. Price: $4.75. Make checks payable to: General Services Administration.	GSA Central Office Library and the business service centers located in each regional office listed below: Central Office Library, 18 and F Sts. NW., Room 1033, Washington, D.C. 20405. Business service centers: Region 1: John W. McCormack Post Office and Courthouse, Boston, Mass. 02109. Region 2: 26 Federal Plaza, New York, N.Y. 10007. Region 3: 7 and D Sts. SW., Washington, D.C.20407. Region 4: 1776 Peachtree St. NW., Atlanta, Ga. 30309. Region 5: 230 South Dearborn St., Chicago, Ill. 60604. Region 6: 1500 East Bannister Rd., Kansas City, Mo. 64131. Region 7: 819 Taylor St., Fort Worth, Tex. 76102. Region 8: Building 42, Denver Federal Center, Denver, Colo. 80225. Region 9: 525 Market St., San Francisco, Calif. 94105. Region 10: GSA Center, Auburn, Wash. 98002.
International Boundary and Water Commission, United States and Mexico, U.S. Section.	Brochure: Amistad Dam and Reservoir	Project Engineer, U.S. Section, IBWC, Route 2, Box 37, Highway 90 West, Del Rio, Tex. 78840. No charge.	Project Engineer, U.S. Section, IBWC, Route 2, Box 37, Highway 90 West, Del Rio, Tex. 78840.
Do	Brochure: Falcon Dam and powerplant	Reservoirs Manager, U.S. Section, IBWC, P.O. Box 1, Falcon Village, Tex. 78545. No charge.	Reservoirs Manager, U.S. Section, IBWC, P.O. Box 1, Falcon Village, Tex. 78545.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
International Boundary and Water Commission, United States and Mexico, U.S. Section.—Continued	Water Bulletins: containing data for 1 yr. covering flow of Rio Grande and related data from Elephant Butte, N. Mex., to Gulf of Mexico, re storage in major reservoirs, sources of river flow, diversions, suspended silt, chemical analyses, sanitary aspects of water quality, meteorologic data, and irrigated areas—for years 1931 through 1975.	Principal Engineer, Water Operations, U.S. Section, IBWC, room 203, IBWC Bldg., 4110 Rio Bravo, El Paso, Tex. 79902. Price: $3.50 per bulletin (data for 1 yr). Payable to: Treasurer of the United States.	Principal Engineer, Water Operations, U.S. Section, IBWC, room 203, IBWC Bldg., 4110 Rio Bravo, El Paso, Tex. 79902.
Do	Water Bulletins: Containing data for 1 yr. covering flow of Colorado River and other western boundary streams, and related data (including Tijuana, Santa Cruz, and San Pedro Rivers, and Whitewater Draw) for years 1960 through 1975.	Principal Engineer, Water Operations, U.S. Section, IBWC (same address as shown above). Price: $2.50 per bulletin (data for 1 yr). Payable to: Treasurer of the United States.	Principal Engineer, Water Operations, U.S. Section, IBWC (same address as shown above).
National Science Foundation (NSF).	Index of NSF circulars, manuals, and bulletins in effect as of January 3, 1978. A numerical and classification index of agency-wide issuances, encompassing: (a) NSF circulars—convey agency policies, regulations, and procedures of a continuing nature; (b) NSF manuals—provide detailed instructions for implementing operating procedures, requirements, and criteria; and (c) NSF bulletins—used to communicate urgent information concerning changes in policy or procedure prior to its incorporation into a circular or manual, and to communicate other information that is pertinent for a specific period.	NSF Public Information Office, Room 531, 1800 G St. NW., Washington, D.C. 20550. $0.10 per page, per copy. Payable to: National Science Foundation.	NSF Library, Room 219, 1800 G St. NW., Washington, D.C. 20550.
Do	Reviewer panelist, alphabetical listing as of February 28, 1978. Listing contains name, State, and institution of individuals who have reviewed proposals for the National Science Foundation for the period indicated above.	do	Do.
Do	Index of Office of the Director staff memoranda (O/D) in effect, as of January 3, 1978. A numerical index, by calendar year, of issuances used by the Director and Deputy Director of the National Science Foundation to implement policy and to communicate with the staff on subjects of their choice.	do	Do.
Do	Numerical index of NSF important notices in effect as of February 2, 1978. An index of notices serving as the primary means of general communication by the Director, NSF, with organizations receiving or eligible for NSF support. The notices convey important announcements of NSF policies and procedures or concerning other subjects determined to be of interest to the academic community and to other selected audiences.	do	Do.
Do	Reference file of current internal directorate issuances. A listing, by NSF directorate, of pertinent internal issuances of major NSF organizational components conveying policies, criteria, instructions or procedures amplified at a level below the Office of the Director and to communicate information of specific scope.	do	Do.
Do	Index of NSF regulations promulgated in the code of Federal Regulations under title 41, public contracts, property management; and title 45, public welfare. A listing, by subject title, of current Foundation regulations with a brief description of the content of each.	do	Do.
Do	Publications of the National Science Foundation. An index by topical classification, as of January, 1978, of current NSF publications issued and available to the public. Listings include annual reports, specific program announcements and brochures, science resources studies pamphlets, special studies publications and NSF periodicals. In addition to titles, provides NSF publication numbers and copy prices. (NSF publication 77-71).	NSF Publications Section, Room 234, 1800 G St. NW., Washington, D.C. 20550. One copy gratis.	For inspection or copying: NSF Library, Room 219, 1800 G St. NW., Washington, D.C. 20550. For additional information: NSF Communications Resource Branch (OGPP) room 531, 1800 G St. NW., Washington, D.C. 20550.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
National Science Foundation (NSF).—Continued	NSF guide to programs. A composite listing of summary information about NSF support programs, as of November, 1977. Provides general guidance and information describing the principal characteristics and basic purposes of each activity; eligibility requirements; closing dates (where applicable); and the address where more detailed information or applications may be obtained. (NSF publication 77-50).	NSF Publications Section, Room 234, 1800 G St. NW., Washington, D.C. 20550. One copy gratis; or Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Stock No. 038-000-00342-9. Unit price: $2.20.	Do.
Do	NSF Grant Policy Manual. A compendium of basic NSF grant policies and procedures for use by the grantee community and NSF Staff. The Manual implements OMB Circular No. A-110, which is directed toward standardizing and simplifying the various accountability and reporting requirements among Federal granting agencies. (NSF publication 77-47)..	Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Unit price: $12.00.	NSF Division of Grants and Contracts, Room 201, 1800 G St. NW., Washington, D.C. 20550.
National Transportation Safety Board (NTSB).	Initial decisions of administrative law judges, April 4, 1967 through Mar. 31, 1978. Chronological listing (by date of service) of decisions after hearings on appeal involving airman or air safety certificates.	Copies of indexes and checklist may be obtained by writing to Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. (Fees for duplication and instructions for payment will be included in letter of acknowledgement to requester).	Chief, Public Inquiries Section, Room 806-A, National Transportation Safety Board, 800 Independence Ave. SW., Washington, D.C. 20594. Public Reference Room 806-A.
	Safety enforcement decisions, May 18, 1967 through Mar. 31, 1978. Alphabetical and numerical listings of EA and EM final opinions/orders of the Board on appeal from initial decisions of NTSB administrative law judges or Commandant, U.S. Coast Guard.		
	NTSB directives checklist as of Jan. 4, 1978. Numerical listing (by NTSB order No.) of staff operations directives.	do	Do.
Postal Rate Commission	Postal Rate Commission Index, from 1971 to Mar. 31, 1978; Opinions and Recommended Decisions, Advisory Opinions and Orders having a precedential value.	Information Officer of the Commission, Postal Rate Commission, Washington, D.C. 20268. No charge.	Commission's Reading Room, Suite 500, 2000 L St. NW., Washington, D.C. 20268.
Renegotiation Board	Index of documents, vols. 1, 2, and 3, 1967 to present: Agreements, modification agreements, clearances after assignment, clearances after reassignment, clearances without assignment, clearance agreements, letters not to proceed, final orders, regional board opinions, orders, modification orders, special accounting agreements, interpretations, general orders, administrative orders that affect the public, memoranda of decision, statements of facts and reasons, summaries of facts and reasons, decisions on applications for stock item exemption, decisions on new durable productive equipment exemption, and decisions on applications for commercial exemption.	Public Information Office, The Renegotiation Board, 2000 M St. NW., Washington, D.C. 20446. $0.15 per page.	Public Information Office, The Renegotiation Board, 2000 M St. NW., Washington, D.C. 20446, Room 4310, Telephone: 202-254-7019.

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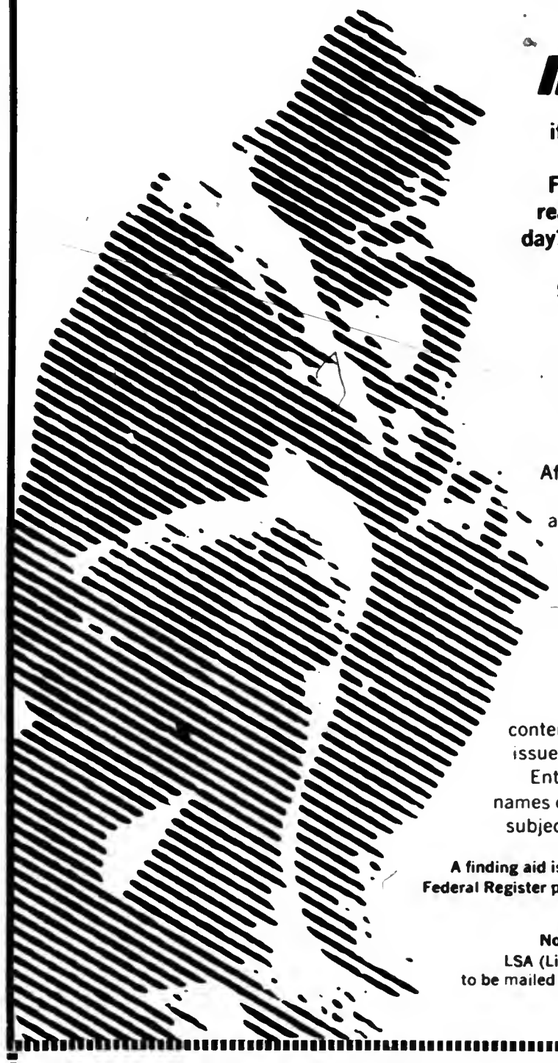

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11371 Amended by EO 12038 4957
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11888 Amended by EO 12041 8099
11902 Amended by EO 12038 4957
11905 Superseded by EO 12036 3674
11906 Amended by EO 12041 8099
11912 Amended by EO 12038 4957
11934 Amended by EO 12041 8099
11969 Amended by EO 12038 4957
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12032 Amended by EO 12041 8099
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1977 Plan No. 2 *See* EO 12048 13361

Recommendations Approved

January 26, 1978 4377

TITLE 4—ACCOUNTS

Chapter I—General Accounting Office

331.50 (a)(4)(B) and (d) revised; (a)(4)(C) added 9780
331.51 Added 9780
332.50 (a)(5) added 9780
332.51 Added 9781
351.120 (c) amended 9781
403.50 (c)(2) removed 9781
406.50 (f) amended 9781
406.60 (c) amended 9781
409.50 (e) amended 9781
409.60 (f) amended 9781

Chapter III—Cost Accounting Standards Board

331.20 (h), (i), and (j) added 9779

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TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

6.1 (a) amended; (c) added 9773
6.6. Amended 9773
9.6 (c) added 9773
9.20 (f) added 9773
213.3104 (f)(1) revised 1474
213.3105 (g)(1) revised 1472
213.3106 (a)(7) added 1471
(b)(7) removed; (d)(2) added 3693

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213.3113 (f)(5) added 6913
213.3114 (h)(11) revised 1471
213.3116 (e)(2) added; (k) removed 5793
213.3130 (a) and (b) removed 5793
213.3199 (h) added 2815
213.3216 (e) added 1472
(d)(1) revised 4963
213.3282 (b)(13) added 8149
213.3295 Added 3993
213.3303 (i)(6) added 2377
(d)(6) added 3253
(k) added 6913
213.3304 (a)(33) added 2378
(c)(6) added 3693
(a)(10) and (r) added 12292
213.3305 (a)(31) revised 1922
(a)(73) revised 2378
(a)(59) removed; (a)(78) added 3897
(a)(59 removed; (a)(78) added 3993
(a)(79) added 9782
213.3306 (a)(12) revised 1471
(a)(98) added 1473
(a)(37) revised 2377
(a)(2) revised 3253
(a)(98) revised; (a)(99) added 6913
(a)(97) revised 12292
(a)(100) added 13491
213.3307 (a)(4) removed 5793
213.3309 (a)(10) removed 5793
(a)(4) added 12291
213.3310 (y) added 3993
(e)(3) added 6913
(z) added 6914
(z)(1) revised 8777
(h)(2) added 12845
(z)(2) added 13491
213.3312 (o)(2) added 1921
(l) revised 2377
(l) revised 4586
(a)(16) removed 5793
(m)(4) added 6914
(a)(1) and (2) revised; (b)(4) added 7609
(a)(51) added 9782
(a)(1) revised 11689
213.3313 (a)(42) added 3253
(a)(42) revised 4585
(t)(1) revised; (t)(3) added 7199
213.3314 (a)(11) added 1471
(a)(9) revised 1921
(q)(7) revised 2815
(b)(3) added 3693
(a)(3) revised 4585
(a)(14) added 4585
(a)(20) revised 4963

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(x)(1) added	9782
(a)(9) revised	12291
(r)(4) through (9) added	12292
213.3315 (a)(1) revised	2377, 4964
(a)(13) revised	6913
213.3316 (c)(19) added	1474
(h)(14) added	4963
(q)(9) added	6913
(f)(9) revised	7199
(h)(13) added	8777
(h)(15) added	9782
(h)(16) added	12291
(a)(45) and (h)(17) added	12292
213.3318 (b)(8) revised	9781
213.3327 (a)(7) and (10) revised	2377
(a)(7) and (11) revised; (a)(8) removed	3994
213.3331 (a)(3) and (4) revised	1472
(c)(3) and (4) added	1922
(a)(6) added	2377
(c)(2) revised; (o)(2) added	3993
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(g)(1) revised; (g)(2) added	12291
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213.3332 (t) revised	4586
213.3333 (l) added	3994
213.3337 (a)(4) revised	2377
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213.3339 (a), (b), and (c) revised	5793
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213.3340 (g) added	1921
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213.3343 (b) revised; (a) added	1472
213.3344 (d) removed	5793
213.3348 (n) removed	13491
213.3354 (o) added	1921
(p) and (q) added	4585
213.3356 (h) added	12845
213.3359 (z), (aa) and (bb) added	4586
(cc) added	8777
(cc) revised	9782
(k) removed	12291
213.3360 (a) revised	12291
213.3364 (o) added	1921
213.3367 (b) revised; (h) added	1922
213.3373 (m) added	5793
213.3379 (n) added; (g) removed	8149
213.3382 (o) added	12845
(n) removed; (p) added	13491
213.3384 (l)(5) through (7) added	2167
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(b)(19) revised	6914
(i)(5) revised	7199
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213.3386 (f) added	2816
213.3394 (a)(2) revised	3254
(d)(6) added	2816
(h)(10) added	4586
(h)(11) added	8149
(d)(7) added	9782
(a)(29) revised	11143
302 Authority citation revised	4964
302.101 (c) introductory text and (a) revised	2378
302.103 Revised	2378
302.501—302.503 (Subpart E) Added	2378
315.806 (b)(1) revised	5794
330 Authority revised	2379
330.201 (e)(2) revised	2378
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353.102 (a) revised	2379
353.301 Revised	2379
353.302 (b) revised	2379
353.307 Redesignated as 353.308 and revised; new 353.307 added	2379
353.308 Redesignated from 353.307 and revised	2379
353.401 (a)(3) added; (b) revised	2379
511.201 (b) amended	1473
534.202 (b) amended	1473
591.201—591.213 (Subpart B) Appendix amended	12293
713.401 (Subpart D) Heading and section revised	12295
713.701—713.710 (Subpart G) added	12295
752.304 (b)(2)	5794
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772.306 (a) revised	5794

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TITLE 7—AGRICULTURE

Subtitle A—Office of the Secretary of Agriculture

1.29 (a) amended	12673
1.41 Amended	6205
2.15 (a)(1) revised; (a)(2)(x) added	1289
2.17 (a)(3)(xxi) removed; (b)(28) revised	1289
2.19 (a) revised; (b), (c), and (e) removed	3254
(f)(9) added	8252
2.20 (a) added; (b) and (c) removed	3256
2.25 (b) revised; (c) and (f) removed	6057
(c) added; (g) revised	13053
2.27 (a)(3) and (4) and (f) revised; (a)(7) through (11) and (16) removed; (a)(12) through (15) redesignated as (a)(7) through (10)	13053
2.50 (a)(3)(xxi) removed	1289
2.51 (a)(28) revised	1289
2.57 Revised	3256
2.58 Removed	3256
2.59 Removed	3256
2.61 Removed	3256
2.62 (a)(11) added	8252
2.70 (a)(15) through (27) added	11689
2.71 Removed	11689
2.75 Revised	6058
2.76 Removed	6059
2.79 Removed	6059
2.84 (a)(3) and (4) revised; (a)(7) through (11), (16) and (b) removed; (a)(12) through (15) redesignated as (a)(7) through (10)	13054
2.92 (a)(1) revised; (a)(2)(xi) added	1290
16.4 Revised	969
16.5 (a), (b), and (c) removed	969
20.1 Amended	5497
20.7 Revised	5497

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

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26.353 (c)(4) added	2816
26.905 Revised	2817
29.123 Revised	9585
29.9251 Revised	9585
46.45 Revised	4964
180.5 (a)(4) added	9782

Chapter II—Food and Nutrition Service, Department of Agriculture

215.1 Amended	1059
215.2 (e-2) and (k-1) added; (k) and (x) revised	1059
215.7 (d)(1) and (2) revised	1059
215.8 (b) revised; (c) removed; (d) redesignated as (c)	1060
215.9 (b) revised	1060
215.10 (a) and (f) revised; (c) amended	1060
215.11 (c)(1) amended; (c)(3) added	1060
215.13a (a), (b), (c), and (d) introductory text revised; (e) amended	1060
215.16 (b) and (g) amended	1060
225 Revised	4040, 13022
227 Added	12297
230 Appendix amended	5794
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240.1 (b), (c) and (d) revised	12300
240.2 (d) revised; (l-1) added	12300
240.3 Revised	12300
240.4 (a) revised	12300
240.6 (a) amended	12300
240.7 Amended	12300
240.8 Text designated as (a) and amended; (b) added	12301
247 Added	8778
250.10 (f)(3)(iv) revised	4029
250.14 Removed	9783
271.3 (f)(2) removed; (f)(3) through (11) redesignated as (f)(2) through (10); new (f)(8) revised; (f)(9) amended; eff. 1-1-78	1612
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Appendix added	8111
272.5 (a) amended; (c)(3)(ii) revised; (c)(3)(iv) removed; (c)(3)(v) redesignated as (c)(3)(iv) and revised	9783

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Chapter III—Animal and Plant Health Inspection Service, Department of Agriculture

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301.81-2a Amended 1925
319.28 (b)(5) removed 13491
354.2 Revised 12301

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture

401.103 (a) table amended 2380
401.132 Amended 2381
401.137 Amended 2380
401.141 Amended 2382
401.142 Removed 4248
401.143 Removed 4248
401.148 Amended 2383
401.150 Amended 2384
401.151 Removed 4248
401.154 Added 4248
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404.25 Amended 2381

Chapter VI—Soil Conservation Service, Department of Agriculture

622.55 Added 4030
657 Added 4031

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

701 Nomenclature change 8784
701.2 (c) amended 8784
701.3 Existing text designated as (a) and amended; (b) added 8784
701.5 Amended 8784
701.9 Amended 8784
701.10 Redesignated as 701.11 and heading amended; new 701.10 redesignated from 701.12 and revised 8784
701.11 Redesignated as 701.12 and amended; new 701.11 redesignated from 701.10 and heading amended 8784
701.12 Redesignated as 701.10 and revised; new 701.12 redesignated from 701.11 and amended 8784
701.13 Heading and (b) revised; (d) removed; (c) redesignated as (d); new (c) added 8784
701.16 (b), (c), (f), and (k) amended 8784
701.19 (a) amended 8784
701.21 (b) amended 8784
701.22 Removed 8784
701.70 (a) amended 8784
711.29 Amended 9784
722.401—722.423 Removed 8785
722.463—722.468 Removed 8785
722.558—722.564 (Subpart) Heading revised 2384
722.564 Revised 2384
724 Referendums 6205
724.6 Undesignated center heading and section revised 4969
724.7 Revised 4969
724.12—724.17 Undesignated center heading and sections revised 4969
725.72 (c)(3)(ii) and (iv) revised 2
725.94 (f) revised 2
725.95 (b) amended 2
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725.102 (a) and (b) amended 2
726.11 Undesignated center heading and section revised 4972
729.105 Revised 2817
760.1—760.32 (Subpart) Revised 10535
792 Revised 2819
795 Revised 9784
795.2 (e) added 1929

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

905.120 Revised 9455
905.146 Added 9455
905.147 Added 9456
905.148 Added 9456
905.216 Added; eff. 8-1-77 to 7-31-78 2385
905.301 (a) and (b) tables amended; (c) revised; eff. 1-16-78 to 9-24-78 2821
(a) and (b) tables amended; eff. 2-6 and 9-24-78 5498
(a) table amended 10901
906.360 (a)(4) revised 4033
907.215 Added; eff. 11-1-77 to 10-31-78 4966
907.719 Revised 753
907.722 Revised 753

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907.727 Added; eff. 2-3 to 7-13-78 3897
908.876 Added; eff. 3-3-78 to 4-13-78 8785
908.881 Added; eff. 3-31-78 to 1-15-79 13492
912.217 Added; eff. 8-1-77 to 7-31-78 2385
913.213 Added; eff. 8-1-77 to 7-31-78 2385
915.216 (a) revised; eff. 4-1-77 to 3-31-78 3898
916.216 (a) revised; eff. 3-1-77 to 2-28-78 2385
917.217 (a) revised; eff. 3-1-77 to 2-28-78 2385
917.218 (a) revised; eff. 3-1-77 to 2-28-78 2385
917.219 (a) revised; eff. 3-1-77 to 2-28-78 2385
928.207 Added 1785
929.151 Added 1474
930.107 (a) revised 8116
947.230 Added; eff. until 6-30-78 12845
959.218 Added 1475
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967.213 (a) and (b) revised 1475
(a) and (b) effective date corrected to 8-1-77 2818
971.318 Introductory text amended 13055
980.117 Added 5500
980.212 (b) introductory text, (2) and (3) revised 3349
987.6 Revised 4250
987.8 Amended 4250
987.9 Amended 4250, 4251
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987.13 Revised 4251
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987.22 Removed 4251
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987.30 (h) added 4252
987.31 (a) and (c) through (f) revised 4252
987.33 Amended 4252
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987.40 Amended 4252
987.43 Added 4252
987.44 (a) revised 4252
987.45 Amended 4253
987.46 Amended 4253
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987.61 Revised 4253
987.64 Amended 4251
Revised 4253
987.68 Amended 4253
987.72 (a) amended 4253
989.701 (g) added 13493
989.702 (d) amended 13493
991.216 Added; eff. 8-1-78 to 7-31-79 10903
993.128 Revised 5355

Chapter X—Agricultural Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

1139.12 (b)(5) suspended in part Mar. 78 through July 78 4589
1139.12 (b)(5) suspended in part Mar. 78 through July 78 4589

Chapter XI—Agricultural Marketing Service (Marketing Agreements and Orders; Miscellaneous Commodities), Department of Agriculture

1201.1—1201.70 Removed 2627
1201.72—1201.401 Removed 2627
1207.512 (a) introductory text amended; (a)(8) revised 9133

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

1421.72—1421.75 (Subpart) Revised 2822
1421.111—1421.113 (Subpart) Revised 2825
1421.235—1421.237 (Subpart) Revised 2837
1421.270—1421.273 (Subpart) Revised 2830
1421.294 (a) revised 5501
1421.295 Revised 5501
1421.350—1421.353 (Subpart) Revised 2835

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1421.390—1421.392 (Subpart) Revised	2841
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1425.2 (a) revised	4590
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1425.14 (a) revised	4590
1430.282 (a) (1) and (4) revised	1062
1435.26—1435.33 (Subpart) Added	1477
1446.7 (7) removed	5501
1446.11 Revised	5502
1446.12 (j) revised; (k) added	5502
1446.13 Revised	5502
1464.7 (a) revised	9134
1468.3 Revised	2
1468.101—1468.126 (Subpart) Added	9456
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1472.1501—1472.1555 (Subpart) Added	9462
1487 Added	4035
1488.19 Removed	1786

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1800.22 (k) removed; (q) revised	7422
1800.23 Revised	7422
1800.26 Added	7422
1804.1—1804.5 (Subpart A) Appendix D revised	3075
Appendix A corrected	7199
1804.3 (d)(1) revised	3075
1807.2 (f)(8) revised	7967
1815 Redesignated as Part 2045 (Subchapter S) and revised	3694
1822.1–1822.18 (Subpart A) Exhibit G amended	5503
1822.63 Revised	3696
1822.81—1822.98 (Subpart D) Exhibits F–5A and J amended; Exhibit J–2 revised	7968
1822.88 (a)(8) and (i)(3) added	7968
1822.203 Revised	3696
1822.321—1822.334 (Subpart I) Redesignated as 1933.401—1933.419 (Subpart I) and revised	2853
1823.472 (b)(1), (3)(i), and (e)(1) revised	7200
(b)(2) and (3) redesignated as (b)(3) and (4); new (b)(2) added; (b)(1) revised	13494
1861.1 (b)(5)(v) removed; (b)(5)(vi) redesignated as (b)(5)(v) and revised; (b)(5)(iv) and (d) revised; (e) and (f) added	8786
1901.158 (f)(1) revised	8787
1901.205 (f)(1) corrected	7977
1901.651—1901.655 (Subpart N) Added	3697
1904.124 (a)(1) revised	5503
1904.170 (e)(4) revised	5504
1904.175 (d)(1) revised	5504
1904.180 (d)(2)(iii) revised	5504
1921.104 (b) revised	7978
1933.9 (f) revised	7201
1933.17 (a)(2)(vii)(A), (13)(ii) and (viii) revised; (a)(2)(vii)(C) redesignated as (a)(2)(vii)(D); new (a)(2)(vii)(C) added	7201
1933.18 (a) introductory text, (4)(i), (7), and (9)(ii)(G) revised	7202
1933.401—1933.419 (Subpart I) Redesignated from 1822.321—1822.334 (Subpart I) and revised	2853
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1955.10 (h)(3) and (j) (2), (3) and (4) revised	4418
1955.15 (d) (12), (15) and (17) revised	4418
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1955.116 (a)(2)(v)(C) added; (b)(1), (3)(i)(B), (4)(iii) and (iv) revised	3699
1955.117 (a)(1), (b)(1), (d)(4) and (6) introductory text, (d)(6)(i) and (e)(4) revised; (e)(7) removed; (e)(5) and (6) redesignated as (e)(6) and (7); (a)(2)(iii) and new (e)(5) added	3699
1955.118 (c)(3), (e)(2) and (f) revised	3700
1980.60 (b) revised	1291
1980.444 Revised	7978
1980.451 Undesignated text following (k) amended	7978
2045 (Subchapter S) Added; Part redesignated from 1815 and revised	3694

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2852.38a Added	10540
2852.38b Added	10540
2852.38c Added	10542
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404.1016 (b) and (d) removed 64888
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653.211 (a) corrected †12855
653.214 (d)(1) corrected †12855
653.230 (c)(1)(ii), (2), (f)(2), (g)(2), and (h)(2) corrected; (k) revised †12855
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5.89 Revised ..... †7618
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5.91 Revised 44222
5.100 Amended 35151
Corrected 44544
8.36 (c) comment time extended 24254
10.40 (e)(2) corrected 19127
10.50 (a)(2) corrected 19127
10.105 (d) corrected 19127
12.22 (a) introductory text and (1), (b) introductory text, (c), and (d) corrected 19127
12.24 (b)(6) and (d) corrected 19127
12.26 Corrected 19127
12.28 Introductory text, and (b)(1)(ii) and (2)(ii) corrected 19127
12.30 (a) corrected 19127
12.35 (a) corrected 19127
12.37 (a) corrected 19127
12.38 (a) introductory text and (b) corrected 19127
12.100 (a)(2) corrected 19127
14.100 (c)(20)(i)(c), (d), and (e) removed 41851
(d)(1)(xx), removed 41852
(c)(4) and (7) removed ..... †3704
(b)(1)(iv) removed ..... †6937
(c)(20)(i)(o) removed ..... †11150
16.1 (b)(26) redesignated as (b)(30) and revised; (b)(27) and (29) removed; (b)(28) added 58889
20.100 (c)(3) amended 19989
(c)(28) redesignated as (c)(29) and revised; new (c)(28) added 42526
Technical correction 46516
(c)(30) added 58889
20.116 Revised 42526
Technical correction 46516
25 Reorganization table corrected 56728
25.1 Revised 19990
(d)(4) revised; (d)(5) and (6) added 42526
Technical correction 46516
(d)(5) revised 58889
Technical correction ..... †1940
25.20 (a)(8) added; (b) amended 19992
25.25 Revised 19992
(b) corrected 25854
25.30 Revised 19993
73.1030 (b) revised 36994
Effective date confirmed 54800
73.1095 (b) revised 33722
(b) effective date confirmed 43620
73.1162 Added 52394
Effective date confirmed 61254
73.1298 Added 38562
Effective date confirmed as 8-30-77; (b) amended eff. 2-17-78 ..... †6939
73.1326 Added; eff. 8-15-77 36451
Effective date corrected 43061
Effective date confirmed 59851
(b) amended 59852
73.1327 Added; eff. 8-15-77 36451
Effective date corrected 43061
Effective date confirmed 59851
73.1329 Added 37537
Effective date confirmed 46514
73.1410 Added 52393
Effective date confirmed 62129
(c) introductory text and (1) corrected 63386
Introductory text and (c)(1) corrected ..... †1490
73.1496 Added 38561
(a)(1) corrected 47191
Effective date confirmed 49452
73.1645 Added 38563
Effective date confirmed 52392
73.1646 Added 33723
Effective date confirmed 52393
73.1647 Added 33723
Effective date confirmed 52393
73.1991 Added 37537
Effective date confirmed 46514
73.2030 Added 36994
Effective date confirmed 54800
73.2087 Added 32228
Effective date confirmed 43620

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Page
73.2095 Added 33722
Effective date confirmed 43620
73.2162 Added 52394
Effective date confirmed 61254
73.2298 Added 38562
Effective date confirmed as 8-30-77; (b) revised eff. 2-17-78 ..... †6939
73.2326 Added; eff. 8-15-77 36452
Effective date corrected 43061
Effective date confirmed 59851
73.2327 Added; eff. 8-15-77 36452
Effective date corrected 43061
Effective date confirmed 59851
73.2329 Added 37537
Effective date confirmed 46514
73.2496 Added 38561
Effective date confirmed 49452
73.2645 Added 38563
Effective date confirmed 52392
73.2646 Added 33724
Effective date confirmed 52393
73.2647 Added 33724
Effective date confirmed 52393
73.2991 Added 37538
Effective date confirmed 46514
74.1106 Added 62472
Effective date confirmed ..... †11149
74.1205 (c) revised 52395
(c) effective date confirmed 62129
74.1254 Added 52396
74.1317 (b) amended 27225
74.1334 Effective date confirmed †4974
74.2254 Added 52396
74.2334 Effective date confirmed †4974
81.1 (g) table amended 32228, 33723, 33724, 33725, 36452, 36994, 37537, 37538, 38561, 38563, 38564, 43061, 52394, 57686, 59065, 60736 59065
(g) effective date confirmed 43620, 46514, 49452, 52392, 52393, 54800, 59851, 61254
(b) table amended 52396, 62472, 62474, 62477
(c) table amended 60737, 62482
(f) removed 52393
(f) effective date confirmed 62129
Effective date confirmed ..... †4974
(g) table amended ..... †4596, 8793
(g) effective date confirmed ..... †6939
(b) effective date confirmed ..... †11149
81.10 (l) added 59065
(j) added 60736
(k) added 60737
(n) added 62474
(h) added 62477
(i) added 62482
81.25 (a) table and (b)(1) amended 62477
81.27 (c) and (d) amended 62474
(d) introductory text amended 62477
(b) revised ..... †8793
81.30 (m) added 60737
(o) added 62474
(k) added 62477
(l) added 62482
82.1106 Removed 62472
Effective date confirmed ..... †11149
82.1254 Revised 52396
82.1310 Removed 62477
82.1311 Removed 62477
82.1312 Removed 62477
82.1313 Removed 62477
82.1334 Effective date confirmed †4974
82.2201 Removed 60737
82.2701a Removed 62482
101.2 (c)(5) added 45905
(c)(1)(iii), (2)(iii), and (3)(il) revised 47191
101.4 (b)(14) revised; eff. 7-1-79 ..... †12858
101.9 Effective date in part 7-1-79 27225
(c)(4) through (6) revised; eff. 6-27-77 27226
101.11 Added ..... †8795
101.17 (c) added 22033
Technical correction 31449
103.23 Removed ..... †9272
103.29 Removed ..... †9272
105 Effective date corrected to 7-1-79 ..... *35152
105.85 (h)(2)(vii) revised 20296
(f) (1) and (2) removed ..... †10552
109 Revised 52819
121 Reorganization table corrected 56728
Technical corrections ..... †1941
131.164 Removed ..... †11150
133.11 Heading corrected 47192
133.111 (d) and (e) revised; (f) added 39102
(d), (e), and (f) effective date confirmed 62130
133.155 (d), (e), and (f) added 39102
(d), (e), and (f) effective date confirmed 62130
133.156 (d) and (e) revised; (f) added 39102
(d), (e), and (f) effective date confirmed 62130
133.181 (d) and (e) revised; (f) added 39102
(d), (e), and (f) effective date confirmed 62130

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135 Revised; eff. 7-1-79	19132
135.3 Effective date confirmed	35155
Technical correction	37973
135.10 Restored in part	35155
Technical correction	37973
135.20 (a), (c), and (e)(7) restored in part	35155
Technical correction	37973
135.30 (a), (c), and (e) restored in part	35155
Technical correction	37973
135.40 (a) through (d) restored; effective date confirmed	35155
Technical correction	37973
135.65 (a), (c) and (e)(7) restored in part	35155
Technical correction	37973
135.110 (a)(1) and (2) stayed in part; effective date confirmed	35155
Technical correction	37973
Revised	†4598
135.120 (a)(2) stayed; effective date confirmed	35155
Technical correction	37973
Revised	†4599
135.130 Added; eff. 7-1-79	19137
135.140 (a)(1) and (2) stayed in part	35155
Technical correction	37973
Revised	†4599
135.160 Effective date confirmed	35155
139.117 Effective date stayed	†11695
146.120 Effective date confirmed as 7-1-79 and (a) stayed in part	†11696
146.126 Effective date confirmed as 7-1-79	†11696
146 155—146.177 Removed	55204
Technical correction	37973
146.185 Effective date confirmed except (b)(1)(i) effective date stayed	†10552
155.120 (a)(4)(ii) and (b)(2)(i) revised	30359
(a)(2)(iii)(b), (a)(4)(iii)(b), and (b)(1)(ii) revised	30360
(a)(4)(ii) and (b)(2)(i) effective date confirmed	56111
155.190 (a)(5)(iii)(a) revised	†12858
155.200 (c)(12) revised	30358
(c)(12) effective date corrected to 8-15-77	31449
(c)(12) effective date confirmed	55205
169.115 Effective date confirmed	25325
169.140 Effective date confirmed	25325
169.150 (a) revised; (b) through (g) effective date confirmed	25325
172.320 (a), (b), and (c)(4) corrected	56728
172.515 (b) amended	23148
172.834 (c) amended	37973
172.836 (c)(1) revised	†2871
172.838 (c)(3) revised	†2871
172.840 (c)(9) revised	†2871
172.842 (c)(1) revised	†2871
172.892 (e) amended	†11697
173.150 Heading corrected	56728
173.315 (a)(3) added	29856
(a)(3) table revised	32229
173.340 (a)(3) amended	†2872
173.345 (b) and (c)(1)(i) revised	†11317
175.105 (c) table corrected	56728
(c)(5) amended	59495
(c)(5) amended	†2873
175.300 (b)(3)(xii) and (xiii) revised	18610
(b)(3)(vii)(c) and (viii)(c) amended	21771
(b)(3)(xx) amended	44222
(b)(3)(xx) corrected	61254
(b)(3)(xxxi) amended; (b)(3)(xx) corrected	†2873
(b)(3)(xx) amended	†6216
(b)(3)(xx) corrected	†11697
175.320 (b)(3) table amended	†7206
176.170 (a)(5) table amended	37973, 41852, 41853
Correctly designated; (a)(5) table corrected	44544
(a)(5) table corrected	49452
(a)(5) table amended	59065, 62130
(b)(2) table amended	65150
(b)(2) table corrected	†2393
(b)(2) table amended	†7206
176.180 (b)(2) amended; eff. 4-20-78	†11698
176.300 (c) amended	41854
177.1010 (c)(7)(iv) corrected	56728
177.1020 Stay note removed; (f) added	48543
Technical correction	61254
177.1030 Stay note removed; (f) added	48543
Technical correction	61254
177.1040 Stay note removed; (f) revised	48543
Technical corrections	61254
177.1050 Stay note removed; (g) added	48544
177.1210 (b)(5) Table 1 corrected	56728
177.1330 Introductory text corrected	56728
177.1360 Revised	†2874
177.1480 Stay note removed; (d) added	48544
177.1630 (e)(4)(iii) amended	18611
177.1810 (b) table amended	28534
(b) and (c)(2) revised	43621
(b) and (c)(2) technical correction	52397
Technical correction	†1941
177.2355 Added	54533
(a) corrected	61594
178.1010 (b)(16) revised	37974
(b)(16) corrected	44544
(b)(16) corrected	†1941
178.2010 (b) amended	49452, 59496
(b) technical correction	61254
(b) corrected	†1941
(b) amended	†2874
178.3520 (a)(2)(ii) amended	49453
178.3740 (b) amended	44223
180.1 (f) added	52821
181.1 (c) added	52821
181.22 Revised	56728
181.23 Corrected	56728
181.24 Corrected	56728
181.25 Corrected	56728
181.26 Corrected	56728
181.27 Corrected	56728
181.28 Corrected	56728
181.29 Corrected	56728
182.10 Amended	†3705
182.70 Amended; eff. 4-20-78	†11698
182.1635 Added; eff. 4-20-78	†11699
182.5017 Removed	56728
182.5049 Removed	56728
182.5118 Removed	56728
182.5145 Removed	56728
182.5273 Removed	56728
182.5361 Removed	56728
182.5381 Removed	56728
182.5406 Removed	56728
182.5411 Removed	56728
182.5470 Removed	56729
182.5475 Removed	56728
182.5477 Removed	56728
182.5590 Removed	56728
182.5634 Removed; eff. 4-20-78	†11699
182.5650 Removed	56728
182.5701 Removed	56728
182.5881 Removed	56728
182.5915 Removed	56728
182.5920 Removed	56728
182.5925 Removed	56728
184.1 (f) revised	55205
184.1206 Added; eff. 4-20-78	†11699
184.1282 (e) removed	55205
184.1317 (e) removed	55205
184.1330 (d) removed	55205
184.1339 (d) removed	55205
184.1343 (d) removed	55205
184.1349 (d) removed	55205
184.1351 (d) removed	55205
184.1555 Added	48336
184.1634 Added; eff. 4-20-78	†11699
184.1698 Added	†3705
186.1839 Added; eff. 4-20-78	†11698
189.110—189.190 (Subpart C) Heading removed; (Subpart B) Heading revised	56729
189.180 (b) revised	56729
189.191 Added	†11317
189.220—189.280 (Subpart D) Heading redesignated as (Subpart C)	56729
193.212 (a) amended	29857
(a) corrected	41279
193.235 (b) and (c) redesignated as (c) and (d) and revised; new (b) added	58739
(a) amended	62131
193.380 (d) redesignated as (e); new (d) added	59852
193.415 Revised	23149
201.160 (b) revised	27227
201.311 Removed	53954
250.109 Removed	†10552
250.110 Removed	†10552
250.250 (c)(4) introductory text revised	63773
290.35 Redesignated as 291.501 and revised	46698
291.501 Redesignated from 290.35 and revised	46698
291.505 Redesignated from 310.505 and revised	46698
(b)(1)(vi) added	†6940
300.100 (Subpart C) Added	†11317
310.201 (a)(7) removed	36994
310.304 (b) amended	46710
310.501 (a) revised; eff. 4-3-78	†4220
(a)(2)(iv) and (3)(viii) corrected	†7618
310.502 Revised	23777
(b)(1) corrected	25854
(c) corrected	35155
310.505 Redesignated as 291.505 and revised	46698

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310.507 Added	63387
310.510 Added	41376
310.511 Added	37542
(b) corrected	43061
(b) amended	†10553
310.515 Added	37641
Effective date extended to 10–18–77	45304
314.110 (d) revised; (e) added	60739
(e) corrected	†8797
320.22 (c) redesignated as (c)(1); (c)(2) and (3) added	42311
330.10 (a)(5)(i), (ii) and (iii), (6)(i), (ii) and (iii), and (12) revised; (a)(13) added	19141
(a)(6)(iv) and (10)(i) amended	54800
369.21 Amended	22033, 36994
Technical correction	31449
429.55 (b) introductory text, (b)(1)(i), (2)(ii), (3)(ii), (4), (5), (6)(ii), (7), (8), and (9) revised	27227
(b)(10) added	64342
430.4 (a)(44) added	44223
430.5 (a)(60) and (b)(60) added	44223
(a)(1)(ii) and (b)(1)(ii) removed; (a)(1)(iii), (b)(1)(iii) and (x) revised	59854
430.6 (b)(62) added	44223
(a)(1)(ii) removed; (a)(1)(iii) revised	59854
430.20 (b)(2) corrected	19142
431.53 (b)(1) table amended	†9792
432.1 (b) revised	44225
433.26 Added	†11151
436.20 (c)(14) added	27228
436.33 (b) table amended	21275, 44224, 54534
(b) table revised	59855
(b) table corrected	61255
(b) table amended	†9799
(b) table amended; eff. 4–17–78	†11153
436.103 (a) table amended	18058
436.105 (b) table amended	27228
(a) and (b) tables amended	59856
(a) and (b) tables amended; eff. 4–17–78	†11153
436.106 (a) table amended; eff. 4–17–78	†11153
436.202 (a), (b), and (d) revised	29857
(b) corrected	31449
436.204 (b)(1) and (2) tables revised	59856
436.205 (b) and (c) tables revised	59856
436.214 Added	59856
436.309 (a)(3) amended; (b)(7) removed; eff. 4–17–78	†11153
436.316 Added	59857
436.319 Added	27228
436.320 Added; eff. 4–17–78	†11154
440.9a Heading, (a)(1) introductory text and (x) amended	59857
440.13a Heading, (a)(1) introductory text and (vii) amended	59857
440.15 Heading, (a)(1) introductory text and (3)(i) and (b)(5) amended; (a)(1)(v) revised	59857
440.19 Heading, (a)(1) introductory text and (viii) amended	59857
440.19a Heading, (a)(1) introductory text and (x) amended; (a)(2) revised	59857
440.25 Heading amended	59857
440.29 Heading revised; (a)(1) introductory text, (v), (vi), and (3)(i) and (b)(5) amended	59857
440.29a Heading, (a)(1) introductory text, (vii), and (viii), (3)(i) and (b)(7) amended	59858
(b)(7) corrected	†2393
440.36a Heading, (a)(1) introductor text and (vii), (a)(3)(i) and (b)(7) amended	59858
440.41 Heading, (a)(1) introductory text and (vi), (a)(3)(i) and (b)(6) amended	59858
440.41a Hearing, (a)(1) introductory text and (viii), (a)(3)(i) and (b)(3) amended	59858
440.49 Heading, (a)(1) introductory text and (v), (a)(3)(i) and (b)(5) amended	59858
440.49a Heading, (a)(1) introductory text and (vii), (a)(3)(i) and (b)(7) amended	59858
440.53a Removed	59858
Correctly removed	†2393
440.55a Revised	59858
440.57 Heading, (a)(1) introductory text and (v), (a)(3)(i), (b)(1)(i) and (5) amended	59859
440.59a Removed	59859
440.60a Removed	59859

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440.61a Removed	59859
440.63a Removed	59859
440.65a Removed	59859
440.66 Removed	58959
440.69 Heading, (a)(1) introductory text and (vi), (a)(3)(i), (b)(1) introductory text and (i) and (b)(6) amended	59859
440.71 Revised	59859
440.73 Revised	59859
440.74a Revised	59860
440.80a Revised	59860
440.81 Removed	59861
440.81a Added	59861
440.82 Heading, (a)(1) and (b)(8) amended	59861
440.105b (b)(1)(ii) revised; eff. 4–10–78	†9800
440.115 Revised	59861
440.115a Heading, (a)(1), (2), (3)(i)(*a*) and (ii)(*a*) amended	59861
440.115b Heading, (a)(1), (2), (3)(i)(*a*) and (ii)(*a*) amended	59861
(a)(3)(ii)(*b*) revised; eff. 4–10–78	†9800
440.119 Revised	59861
440.119a Heading, (a)(1), (2)(3)(i)(*a*) and (ii)(*a*) amended	59861
(a)(2) corrected	†2393
440.119b Heading, (a)(1), (2), (3)(i)(*a*) and (ii)(*a*) amended	59861
440.129 Heading, (a)(1) and (3)(ii)(*a*) amended; (a)(3)(i)(*a*) revised	59861
440.141 Revised	59862
440.141a Heading and (a)(1) amended; (a)(2) and (3)(i)(*a*) revised	59862
440.141b Heading, (a)(1) and (3)(ii)(*a*) amended; (a)(2) and (3)(i)(*a*) revised	59862
440.141c Heading, (a)(1) and (3)(ii)(*a*) amended; (a)(2) and (3)(i)(*a*) revised	59862
440.149 Revised	59862
440.149a Heading, (a)(1) and (3)(ii)(*a*) amended; (a)(2) and (3)(i)(*a*) revised	59862
440.149b Heading, (a)(1) and (3)(ii)(*a*) amended; (a)(2) and (3)(i)(*a*) revised	59862
440.153 Removed	59862
440.155 Revised	59862
440.155a Removed	59862
440.155b Removed	59862
440.155c Revised	59862
440.155d Added	59862
440.157 Heading, (a)(1) and (3)(i)(*a*) and (ii)(*a*) and (b)(1)(i) amended	59863
440.160 Removed	59863
440.166 Removed	59863
440.169 Revised	59863
440.169a Heading, (a)(1), (2), (3)(i)(*a*) and (ii)(*a*), (b)(1) and (b)(1)(i) amended	59863
440.169b Heading, (a)(1) introductory text and (3)(i)(*a*) and (ii)(*a*), (b)(1) introductory text and (i) amended	59863
440.171—440.171b Revised	59863
440.171c Added	59864
440.173—440.173b Revised	59864
440.173c Added	59865
440.173d Added	59865
440.174 Removed	59865
440.180 Revised	59865
440.180a Revised	59865
(a)(2) corrected	†3705
440.180b Removed	59866
440.180c Revised	59866
440.180d Removed	59866
440.180e Removed	59866
440.180f Revised	59866
440.180g Added	59867
440.209 Heading and text amended	59867
440.213 Heading and text amended	59867
440.219 Revised	59867
440.219a Heading and text amended	59867
440.219b Heading, (a)(1) and (3)(i)(*a*) and (ii)(*a*) amended; (a)(2) revised	59867
440.229 Revised	59867
440.229a Heading and text amended	59867
440.229b Heading, (a)(1) and (3)(ii)(*a*) and (b)(4) amended; (a)(3)(i)(*a*) revised	59867
440.236 Heading, (a)(1) and (3)(ii)(*a*) amended; (a)(2) and (3)(i)(*a*) revised	59868
440.241 Heading, (a)(1) and (3)(ii)(*a*) amended; (a)(2) and (3)(i)(*a*) revised	59868
440.249 Heading, (a)(1) and (3)(ii)(*a*) amended; (a)(2) and (3)(i)(*a*) revised	59868

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440.255 Revised	59868
440.255a Removed	59868
440.255b Revised	59868
(a)(1) amended	†9799
440.255c Revised	59868
(a)(1) amended	†9799
440.255d Added	59869
440.259 Removed	59870
440.261 Removed	59870
440.265 Removed	59870
440.265a Removed	59870
440.265b Removed	59870
440.274 Revised	59870
440.274a Revised	59870
440.274b Revised	59870
(a)(1) amended	†9799
440.274c Added	59871
440.280 Revised	59871
440.280a Heading and text amended	59871
440.280b Revised	59871
(a)(1) amended	†9799
440.280c Removed	59872
440.280d Removed	59872
440.281 Revised	59872
440.281a Added	59872
440.281b Added	59872
(a)(1) corrected	†2393
440.290 Revised; eff. 4-10-78	†9800
440.563 (Subpart F) Removed	59872
440.1080a–440.1081a (Subpart K) Added	59872
440.1081a (b)(3) corrected	†2393
442.11a (a)(1)(vi) and (3)(ii)(b)(1) revised	18059
442.23a (a)(1)(ix) revised; eff. 4-10-78	†9800
442.211 Revised	18059
444.40 Removed	58740
Effective date of 12-21-77 postponed	†9801
444.70a Revised	21275
444.72a Removed	21275
444.170a Removed	21275
444.270a Revised	21275
444.270b Revised	21275
(a)(1) corrected	37543
444.270c Removed	21276
444.342d (a)(1) amended; note removed	37975
Technical correction	44544
Technical correction	†1941
444.540a Removed	58740
Effective date of 12-21-77 postponed	†9801
444.540b Removed; eff. 4-20-78	†9802
444.570—444.570c Removed	21276
444.942b (a)(1) amended	18059
446.10 Added; eff. 4-17-78	†11154
446.10a Revised; eff. 4-17-78	†11154
446.15 (a)(1) introductory text and (v), and (b)(1) revised; eff. 4-17-78	†11155
446.16 (a)(1) introductory text and (v), and (b)(1) revised; eff. 4-17-78	†11155
446.20 (a)(1) introductory text and (b)(1) revised; eff. 4-17-78	†11155
446.20a (a)(1) introductory text and (b)(1) revised; eff. 4-17-78	†11155
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514.200 (b) and (c) redesignated as (c) and (d); new (b) added	†1941
520.100c Added	41855
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520.580 (c)(1) revised	33726
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520.2645 Added	†4975
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522.1662a (b)(3)(ii)(c) added	32229
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522.1680 (b) amended	37544
522.1698 Added	31450
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522.2150 (b) amended	36995
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524.1484h Added	63388
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544.173a (a)(1) and (4)(iii)(*a*)(*1*), and (b)(1)(i) amended; (a)(4)(ii)(*a*) and (*b*), (iii)(*b*), and (b)(2) and (3) revised	21277
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544.373b (a)(1), (a)(4)(iii)(*b*), (b)(2), (b)(1)(iii), and introductory texts of (b)(1)(i), (iv), and (iv)(*a*) revised	21280
544.973b (b)(2) revised	21281
546.110a (b) (1) and (2) amended; eff. 4–17–78	†11177
546.110b (a)(1) and (b) (1) and (2) amended; eff. 4–17–78	†11178
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546.110g (a)(1), (4)(iii)(*b*), and (b)(1) amended; (b)(2) revised; eff. 4-17-78	†11180
546.110h (b) amended; eff. 4-17-78	†11180
546.113a (b) (1) and (2) amended; eff. 4-17-78	†11180
546.180a (a) and (b) introductory texts revised; (a) (1) and (2) amended; eff. 4-17-78	†11180
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548.110 (a)(1), (4)(ii)(*a*), (*b*), and (iii)(*b*), and (b)(1) and (2) revised	27239
548.111 (a), (b)(1), (2), and (3)(i) revised	27239
548.112a (a)(1) amended; (b)(1) introductory text and (b)(2) and (3) revised	27240
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548.112c (b)(2) revised	27240
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548.313b Heading revised; (a) introductory text, (a)(2)(i) and (b) amended	27243
548.314a Heading and (a) revised	27243
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555.110c (c)(2) revised	64622
556.70 Revised	18614
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558.15 (g)(1) table amended	18060, 18061
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(e)(2) table amended	†9804
558.58 (c) added; (e)(1) introductory text revised and table amended	18616
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(e)(1)(iii) table corrected	36995
(e)(1)(iii) table amended	38567
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558.62 (c) added; (e)(2)(iii) and (iv) redesignated as (e)(2)(v) and (vi); new (e)(2)(iii) and (iv) added	18617
558.76 (c) revised; (e)(1) table amended; (e)(3) revised	18617
(e)(3)(iii) corrected	36995
558.78 (e)(1)(i) and (ii) tables and (a)(1) amended	18061
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558.120 (c) added	18617
558.126 (e) introductory text revised	18617
558.128 (e)(2) and (3) redesignated as (e)(3) and (4); (c) and new (e)(2) added; new (e)(3) amended	18617
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558.262 (c) added	18618
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(e) introductory text revised; table amended	61257
558.315 (c) revised	†11176
558.325 (f)(3)(x) added; (f)(1) revised	37545
558.342 (e) introductory text revised	18618
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558.368 Removed	18619
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558.460 (d) added; (f)(2)(v) redesignated as (f)(2)(vi); new (f)(2)(v), (vii), (viii), (ix) and (x) added	18618
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558.465 (d) revised	21281
558.485 (d)(2) introductory text revised; (d)(5) added	56326
558.530 (e)(4)(xvi) and (xvii) added	18618
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558.630 (b)(3) revised	49454
558.680 (c) added; (e)(1) table amended	18618
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561.55 Added	18620
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561.232 Added	45305
561.233 (a) amended	29857
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570.12 Added	44228
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601.2 (a) amended	19993
601.4 (b) corrected	19142
601.5 (b) corrected	19143
601.7 (a) corrected	19143
606.120 (b)(2) through (13) redesignated as (b)(3) through (14); new (b)(2) added; eff. 5-15-78	†2147
610.12 (g)(4) revised; eff. 9-11-78	†10558
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620 Technical correction	29859
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620.24 (c)(2) revised; (c)(3) added	27582
620.35 (e)(3) revised	27582
630 Technical correction	29859
630.66 (e)(3) revised	27582
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630.86 (e)(3) revised	27582
640.2 (e)(3) revised	59878
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286b.11 Revised 39214
289 Revised 47555
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290 Revised 40434
290a.9 Added 35157
292a.22 Revised ..... †3275
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354 Added 33734
355 Added 36996
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505.9 Amended ..... †1336
581.2 (e)(7) amended; (h)(1)(ii) and (iii), and (h)(11) revised; (h)(12) added 35647
(h)(1)(ii) revised 55810
621.1 Revised 43799
621.2 Added 43800
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621.4 Added 43803
650 Revised 65026
656 Added 56326
656.8 Heading, (b), (c)(5) and (d)(8) corrected ..... †1792
657 Added 55613

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701.123 (m) added 35647
706 Revised 36434
Authority citation revised 48876
706.1 (d) and (f) amended 48876
706.2 Heading revised; tables amended 48876
Table amended 54948
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706.3 Table amended 48876
707 Revised 61596
707.1 (c) revised 36251
721 Revised 43071
723.3 (e)(7) amended; eff. 11–28–77 ..... †2170
723.11 (e)(1) amended; (e)(2) revised; eff. 11–28–77 ..... †2170
724.321 Revised 59074
(b)(5) corrected 60911
724.501 Revised 59075
724.503 Revised 59075
724.803 Revised 59075
724.808 Revised 59075
724.811 Revised 59075
724.814 Revised 59075
724.902 Revised 59076
727.8 Revised 35957
727.11 Revised 35957
727.12 Revised 35958
763 Added ..... †3706
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806b.58 (m) revised 41409
816 Redesignated as Part 983 ..... †1070
819b Added 53958
842.49 (a)(1), (b)(1), (2), (3)(iii) and (iv), (c), (e)(4), (g), (h) introductory text, (h)(1) heading, (h)(i)(d) and (e), (ii), and (2) revised ..... †7316
842.83 (b)(1)(i)(c) and (d), (ii) through (v) and (c) revised; (b)(1)(i)(e) and (f) added ..... †7316
842.110 (a)(1)(iii) and (2)(vi) added; (a)(2)(iv) and (v), (3), (4), (5)(i), and (f) revised ..... †7316
842.125 (a)(1)(iii), (iv), (2), and (3) revised; (a)(1)(v), (vi), and (c) added ..... †7316
842.148 Revised ..... †7317
852 Added 42684
861 Redesignated as Part 984 ..... †1070
865.7 (d) added ..... †1619
865.13 Revised ..... †1619
865.14 (f) and (g) revised ..... †1619
865.101 Amended 36450
865.103 (b) amended 36450
865.107 (d) amended 36450
865.109 (e) introductory text revised; (e)(3) redesignated as (e)(4) and revised; new (e)(3) added 36450
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865.112 Amended 36450
880.0—880.24 Designated as Subpart A; eff. 10–24–77 ..... †6766
880.35—880.38 (Subpart B) Added; eff. 10–24–77 ..... †6766
888g Added ..... †4605
888h Added ..... †10908
983–984 (Subchapter S) Added ..... †1070
983 Redesignated from Part 816 ..... †1070
984 Redesignated from Part 861 ..... †1070
985 Added; eff. 8–3–77 ..... †6767

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1287 Added 37204
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1453.5 (b)(3)(ii) revised; (b)(2) and (3) note removed ..... †4014

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1800 Added 34878
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621 Sec. 7 amended	52400
621a Sec. 5 amended	52400
621b Sec. 6 amended	52400
631 Sec. 15 amended	52400
633 Sec. 11 amended	52400
651 Sec. 6 amended	52400

Chapter XV—Federal Reserve System

1505 Section 1 amended	35833, 55211

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TITLE 33—NAVIGATION AND NAVIGABLE WATERS

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1.01–30 (a) revised	48022
3.01–1 (g) added	48022
3.04–1 (b) revised	†8516
3.04–3 (b) revised	†8516
3.10–1 (b) revised	†2372
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3.10–80 (b) revised	†2372
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3.35–80 Removed	†1057
3.35–85 Removed	†1057
3.40–1 (b) revised	†2372
3.40–10 (b) revised	†2373
3.85–15 Revised	36252
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3.85–20 Added	36252
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82 Revised	35784
Authority citation revised	63169
82.120 (a) and (b) corrected	63169
82.135 (a) corrected	63169
82.305 (c) and (e) corrected	63169
82.310 (d) corrected	63169
82.735 (f) corrected	63169
82.748 (a) corrected	63169
82.750 (g) corrected	63169
82.1255 (a) corrected	63169
82.1305 Corrected	63169
82.1440 Corrected	63169
82.1495 Corrected	63169
82.1720 (b) corrected	63169
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85 Removed	35792
86.01–12 Added	57648
87 Heading revised	35792
87.1 Amended	35792
87.5–87.17 Undesignated center heading added	35792
87.18 Added	57648
87.20 Undesignated center heading and section added	35792
87 Appendix B added	57648
Appendix B corrected	†10911
88 Added	35792
91.01–12 Added	57650
96.05–10 Added	35793
110.2a Added	34881
110.5 (a–2) added	40694
110.25 (a) revised	39386
110.72b Added	40694
110.84a Added	36254
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110.126 Revised	37369
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110.128d Added	62001
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117.75 (c) and (f) amended; (m) added	†11983
117.130 Revised	†13379
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117.145 (d)(2) revised	†1337
117.190 (f)(3) and (4) removed	42199
117.191 Added	42199
117.225 (f)(1–c) added	†958
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117.245 (l)(13) removed	58936
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117.433a Added	61041
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117.438c Added	†8518
117.446f Heading corrected	46302
117.462a Added	39387
117.465 Revised	†8516
117.540 (b)(2) amended	†3562
117.560 (g)(9) revised	†1338
117.641 (f)(3) and (4) removed	†1337
117.643 (d) added	†957
117.663 (e)(7) revised	55470
117.685 Revised	†1337
117.706 (b) revised	†6770
117.708 Revised	41118
117.712 (g)(2) revised	†6770
117.725 (b) removed	†8517
117.759b (f)(16) Added	†8517
117.795 Revised	46925
117.800 (e)(1) revised	38903
117.810 (f)(5) and (6) amended	38904
118.15 Amended	56954
118.35 Removed	56954
118.45 Amended	56954
118.60 Authority citation removed	56954
118.65 (c) amended	56954
118.85 (a) amended	56954
126 Authority citation revised	48022
127.511 Revised	55471
128.101 Added	48876
128.301 Authority citation removed	63642
128.1401 (b)(2) and (3) revised; (b)(6) added; authority citation removed	63642
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135–136 (Subchapter M) Removed	57650
135 Removed	57650
136 Removed	57650
160 Authority citation revised	48022
160.1 Revised	48022
160.11 Introductory text amended	63369
160.35 (a) and (b) amended; (c) and (d) added	48022
160.37 Added	48023
160.39 Revised	48023
161.101 — 161.189 (Subpart B) Appendix A added	†12257
161.301 — 161.387 Undesignated center heading and sections added	37931
161.401—161.402 Undesignated center heading and sections added	51759
162 Added; supersedes 33 CFR Part 207 in part	51759
Redesignation table	51773
165 Added	63369
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165.201 Added (temporary)	†12682
165.513 Added (temporary)	†10342
181.701 — 181.705 (Subpart G) Added; eff. 9–1–78	†9767
183 Technical correction	41634
183.445 (a) revised	36253
183.450 (d) and (e) revised	36253
183.516 (b) and (c) amended	36253
183.520 Heading amended	36253
183.524 (c) revised	36253
183.526 (a) removed	36253
183.532 Table 7 revised	36253
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183.582 (a) amended	36253
183.590 (a)(2) revised	36253

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204.222b (a) revised	46520
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207.36 Superseded by 162.20	51773, 57961
207.40 Superseded by 162.25	51773, 57961
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207.100 (g), (i), (l), (r), and (s) superseded by 162.40 (a) through (f)	51773, 57961
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207.130 Superseded by 162.45	51773, 57961
207.140 Superseded by 162.50	51773, 57961
207.154 Superseded by 162.55	51773, 57961
207.157a Superseded by 162.20	51773, 57961
207.160 (f) superseded by 162.65 (a) (1) through (3) and (b)	51773, 57961
207.164c Added	38177
207.172 Superseded by 162.70	51773, 57961
207.180 (e)(1) through (4), (5) (i) and (iii) through (vi) correctly superseded by 162.75 (a)(1) through (3), (b)(1) through (4), and (5)(i) through (v)	51773, 57961
207.200 (b) (2) through (3), (c), and (d) superseded by 161.402 (a) (1) through (3), (b), and (c)	51773, 57961
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207.260 (d) superseded by 162.85 (a)	51773, 17962
207.275 (a)(3), (e)(1), (2)(i) through (iii) and (v) through (vii), and (3) through (6) correctly superseded by 162.90 (a)(1) through (3), (b)(1), (2)(i) through (vi), and (3) through (6)	51773, 57962
207.301 Superseded by 162.100	51773, 57962
207.306 (a) and (c) superseded by 162.105 (a) and (b)	51773, 57962
207.400 (a) (1), (2), and (4) through (8) superseded by 162.110(a) (1) through (7)	51773, 57962
207.410 (a), (b), and (d) through (j) superseded by 162.115 (a) through (i)	51773, 57962
207.450 Superseded by 162.120	51773, 57962
207.470 (e) through (g), (i) through (l), and (n) correctly superseded by 162.125 (a) through (m)	51773, 57962
207.473 (b) superseded by 162.130 (a)	51773, 57962
207.510 Superseded by 162.135	51773, 57962
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207.560 (a) through (c) superseded by 162.155 (a) through (c)	51773, 57962
207.565 (a) and (b) superseded by 162.160 (a) and (b)	51773, 57962
207.570 (a) and (b) superseded by 162.165 (a) and (b)	51773, 57962
207.580 (a) and (b) superseded by 162.170 (a) and (b)	51773, 57962
207.590 (f) superseded by 162.175 (a)	51773, 57962
207.591 Superseded by 162.180	51773, 57962
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207.750 (f) removed	40909
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207.785 Superseded by 162.240	51773, 57962
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207.802 (b)(3) revised	58519
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207.810 Superseded by 162.260	51773, 57962
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TITLE 34—GOVERNMENT MANAGEMENT

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TITLE 35—PANAMA CANAL

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119.16 (b) removed; (c) through (g) redesignated as (b) through (f)	†13380
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119.183—119.187 (Subpart E) Heading revised	†13381
119.183 Heading and (a) revised; (e) added	†13381
119.184 Revised	†13381
119.185 Revised	†13381
119.186 Heading and introductory text revised	†13381
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7.34 (b)(3)(i) revised	61042
7.75 (a)(1)(iii) revised	†6229
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200.2 (d) amended	40438
211.2 Effective date corrected to 7–28–77	38178
211.19 Effective date corrected to 7–28–77	38178
211.20—211.37 Effective date corrected to 7–28–77	38178
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222.1—222.11 (Subpart A) Added; redesignated in part from Part 231	56732
223.1 (e)(3) amended	35958
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223.10 (c)(2) revised	61452
231 Redesignated in part as 222.1—222.11 (Subpart A)	56732
251.52 (b) and (d) introductory text amended	59386
254.20—254.28 (Subpart B) added	†5821
261.1 Revised	35958
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261.2 (r) revised; (s) added	35959
261.6 (f) and (g) revised	35959
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261.52 (d), (h), and (j) revised	35959
261.58 (w), (x), and (y) added	35959
261.77 Technical correction	36254
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293.3 Existing text designated as (a); (b) added	35959
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330 Added	61986
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1.75 (c) revised; (f) and (g) added	†4015
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Chapter II—Copyright Office, Library of Congress

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TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

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2.80 Revised	†3707
3.261 (a)(20) revised	43834
3.359 Added; eff. 10–14–76	†4424
3.400 (x) and (y) added	†11703
3.808 (a) and (b)(1) introductory text revised	†4423
8.0 (b)(2) revised	62367
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8a.2 (a), (b)(1), (4), (5), (6) and (8) revised; (b)(9) and (c) added	43835
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8a.4 (b), (c) and (d) revised	43836
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13.402 Removed	41410
14.500 Revised	41410
14.501 Revised	41411
14.502 Revised	41411
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14.504 Revised	41411
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14.514 Revised	41411
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14.560 Revised	41413
14.561 Revised	41413
14.562 Redesignated from 14.563 and revised	41413
14.563 Redesignated as 14.562; new 14.563 redesignated from 14.583 and revised	41413
14.583 Redesignated as 14.563 and revised	41413
14.600 (a) and (b) introductory text and (b)(1) revised	41414
14.601 Revised	41414
14.602 Revised	41414
(c) and (d) revised	†2722
14.603 (a) revised	41414
14.604 Revised	41414
14.605 Revised	41415
14.606 (a) revised	41415
14.607 Introductory text, (a) and (b) revised	41415
14.608 Revised	41416
(a) and (b) revised	†2722
14.609 Revised	41416
14.610 Revised	41417
14.615 (b) and (c) revised	41417
14.616 (b) revised	41418
14.617 (a) revised	41418
14.618 (a), (b), and (c) revised	41418
14.619 Undesignated center heading and section added	41418
(b) and (c) revised	†10560
14.620 (b) through (e) revised	41418
14.626 (a)(2) revised	41419
14.627 Introductory text, (a), and (c) revised	41419
14.628 Revised	41419
14.629 (a) and (b)(1) and (4) revised	41419
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14.632 Redesignated from 14.635 and revised	41420
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14.635 Redesignated as 14.632 and revised	41420
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14.660 Redesignated from 14.663 and revised	41421
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14.665 (a) introductory text and (3), and (c) revised	41421
14.666 Revised	41422
14.667 (a)(2), and (4) revised	41422
14.668 (b)(2) revised	41422
14.700—14.709 Undesignated center heading and sections added	41422
17.50d Revised	55212
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17.262 Revised	54804
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17.270 Introductory text and (a) revised	54805
17.281 Revised	54805
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17.286 Removed	54805
17.287 Revised	54805
17.290 Revised	54806
18.3 (d) added	60144
21.1045 (f) revised	34517
21.4001 (c)(1) revised	†3707
21.4005 (a)(1) and (2), (b), (c), and (e) revised; (f) added	†3707
21.4233 (a)(1) revised	49454
21.4234 (d)(2) revised	49455
21.4235 (h) and (i) added	49455
21.4237 Heading, (a) introductory text and (d) revised; (h) and (i) added	49455
21.4255 (d) and (e) revised; (f) added	†3909
21.4272 (f) and (g) revised	49455
36.4212 (a)(2) and (3) revised	†9274
36.4311 (a) revised	†9274
36.4503 (a) revised	†9274

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2	57328
	†1631, 12892
3	34528, 59390, 60167, 62396, 64640
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8	40452
14	†12893
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TITLE 39—POSTAL SERVICE

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232.2 (a)(16) added	63170
233.1 (b)(1) and (b)(2) note amended	43836
241 Heading revised	59082
241.1 (c) removed	59082
243.2 (g) removed; (h) and (i) redesignated as (g) and (h)	33722
247 Added	59032
248 Added	59085
259.1 (a) amended; (b), (c), and (d) redesignated as (c), (d), and (e); new (b) added	58170
(c) amended	63170
265.6 (a)(2) amended	59085
265.8 (b)(3) amended	63170
265.10 Appendix A revised	63170
601.103 (t) through (w) redesignated as (u) through (x); new (v) revised; new (t) added	35158
601.105 Table amended	35158, 35648, 62368

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3002.3 Revised	63781

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111	38604, 38606, 39411, 40219, 40922, 43868, 48349, 56509, 56960
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TITLE 40—PROTECTION OF ENVIRONMENT

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1—610 (Chapter I) Appendix A added	60912
3.300—3.307 (Subpart C) Appendix D revised	62136
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Appendix F heading revised	†1338
Appendix H added	†1339
3.301 (a) and (d) amended	62135
(a) and (d) amended	†1338
3.305 (d)(3) through (5) added; (f) and (g) revised	62135
3.306 (d)(3) and (4) added; heading, (f) and (g) revised	62135
3.307 Added	62135
3.308 Added	†1339
3.607 (d) revised; (e) added	62137
(f) added	†1339
20.1 Revised	†1340
20.2 (a), (b)(1), and (f) revised	†1340
20.3 (h) amended	†1340
20.5 (d) through (g) and (n) revised; (o) added	†1340
20.8 (a)(2) and (3), (b)(1), (2), and (3), (d), and (e) revised	†1341
30 Authority citation revised	56051
30.101 (c) revised	56051
30.305–2 (a) (3), (4), and (14) revised; (a) (15) and (16) added	56051
30.305–5 (a) revised	56051
30.515 Existing text designated as (a); new (b) added	56051
33 Interim regulations; effective date extended to 3–1–78	53600
Interim regulations; effective date extended to 10–1–78	†10342
35.300—35.340 Text and undesignated center heading removed	56051
35.400—35.425 (Subpart B) Revised	56051
35.605–1 (c) and (d) revised	†1494
35.613 (b) revised; (d) redesignated as (e); new (d) added	†1494
35.626–2 (a) revised	†1494
35.700—35.744 Text and undesignated center heading added	56052
35.850—35.880 (Subpart D) Revised	†7426
35.910–1 Revised	†1598
35.910–2 Revised	†1598
35.910–7 Added	†1598
40.110 (d) revised	56056
40.115 Revised	56056
40.115–2 (b) revised	56056
40.115–3 (c) revised	56056
40.115–4 (b) revised	56056

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40.115–5 Existing text designated as (a); (b) added	56057
40.115–6 Revised	56057
40.115–7 Removed	56057
40.115–8 Removed	56057
40.115–9 Removed	56057
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40.120 Revised	56057
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40.125–1 Revised	56057
40.125–2 (c) revised	56057
40.130 (b) revised	56057
40.135–1 (a)(1) revised; (c) added	56057
40.135–2 Amended	56057
40.140–2 Removed	56057
40.145–1 Revised	56057
40.160–2 Revised	56057
45.102 (d) revised	56057
45.115 (c) revised	56057
45.135 (f) added	56058
45.145 Amended	56058
52.21 (b)(7), (c)(2), and (c)(3)(i), (v)(a), and (vi)(a) revised; (b) (8) and (9) added	57461
(b)(8) corrected	59500
52.50 (c)(17) added	44235
(c)(16) added	55811
52.120 (c)(11) added	36999
(c) (9), (10), and (11) redesignated as (12), (14), and (15); new (9), (10), (11), and (13) added	46926
52.125 (d) through (g) removed; (h) added	36999
(d) added	†759
Authority citation added	†760
(e) added	†6945
52.126 (b) introductory text and (a) revised	46926
52.130 (d) added	46926
52.131 Table amended; footnote (b) revised; (f) removed	†761
52.220 (c)(24)(iii)(B) and (ix)(A), (27)(iv)(A), (29)(ii) through (v), (30)(vi)(C) and (ix), (31)(v)(B)(vi) through (xii), (32)(iii), and (35)(i) through (iv) added	37977
(c)(35)(viii)(A) added	39664
(c)(19) removed	40695
(c)(21)(xiii)(A), (24)(x)(A), (25)(v)(A), (29)(vi)(A), (31)(xiii)(A), and (35)(iii)(B) added	41121
(c)(20), (21)(xxvii), (23)(ii) and (iii) removed	42224
(c)(21)(i) through (v) and (vii) through (xii), (22)(i), (23)(i)(A), (24)(iv) through (viii), (20)(iii) through (v), (27)(i) and (iii), (28)(iii), (iv), and (ix), (c)(39)(iii) and (viii) and (32)(ii) revised	42224
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(c)(35)(vi) revised	47556
(c)(35)(v)(A) added	53962
(c)(35)(i)(A) added	53963
(c)(35)(x)(A) and (37)(ii)(A) added	56113
(c)(25)(vii), (26)(xiv)(A), and (35)(xi)(A) added	56606
(C)(21)(ix)(B), (24)(v)(B) through (vii)(B), (x)(B), (26)(iv)(B), (viii)(B), (xiii)(B), (xvi)(A), (31)(xvi)(A) and (B), (xvii)(A), (32) (iii)(B), (35)(vi)(B), (ix)(A), (xii)(B), (xiv)(A), through (xvii)(A), (37)(i)(B, (iv)(A), (v) (A), and (39)(i)(A) through (iv)(A) added	†3277
(c)(35)(vii)(A) added	†3279
(c)(35)(xiii) added	†11817
(c)(21)(xvi), (23)(ii), (27)(x), (30)(xi) and (31)(vii) added	†11819
52.224 (a)(8) added	41122
(a)(1)(ii), (2)(v), (4)(ii) and (5)(ii) and (iv) through (ix), and (6) added	42225
(a)(9)(i) added	56606
52.225 (b)(i) through (x), (c)(3)(v), (d)(1), (2), (4), and (5) revised; (c)(3)(vi) and (vii) removed	37977
52.226 (b) added	42225
(b)(9)(i) revised	47556
(b)(4)(ii) added	†3279
52.231 Reinstated	40695
Revised	42225
(a)(2)(ii) revised	47557
(a)(2)(ii) revised	†11819
52.234 (a)(4) added	41122
(a)(2)(ii) added	42226
52.236 Added	39664
(b)(3)(ii) and (4)(i) added	†11817
52.246 (b)(2) added	41122
(b) revised	42226
52.252 (b)(2) added	41122
(b) revised	42226
52.253 (b)(2) added	41122
52.254 (a)(1) (ii) through (v) and (2) added	42226
52.269 (b)(1) (i) and (ii) added	42226
52.271 Added	†3277
52.272 Added	42226
52.273 (a)(2) added	41122
(a)(3)(ii) revised	47557
(a)(3)(i)(A) added	53962
(a)(1)(i)(A) added	53963
(a)(5)(i) added	56606
(a)(3)(v) and (7)(i) added	†11817
(a)(6)(ii) and (b) added	†11819
52.276 Added	56606
52.277 Added	56606
52.470 (c)(7) revised	49812
52.520 (c)(17) added	57125
52.676 (b)(6) added	58173
52.720 (c)(12) added	39665
52.770 (c)(12) revised; (c)(16) added	34518
52.771 (c) revised	34519
52.795 (b) added	34519
52.920 (c)(11) added	†3361
52.931 (c) added	†3361
52.970 (c)(6) added	37000
(c)(7) added	37549
52.980 Added	37549
52.1120 (c)(8) revised	35834
(c)(6) revised	42218
(c)(12) added	44236
(c)(15) revised	54417
Technical correction	†1070
(c)(14) added	†11816
(c)(13) added	†12325
52.1126 (e) revised	35834
(f) added	42218
(d) added	44236
(d) revised	†1795
(g) added	†12325
52.1131 (a) corrected	37978
52.1224 (b)(5) added; eff. 10–6–77	†10
52.1234 (c) added; eff. 10–6–77	†10
52.1382 (c) added	40697
52.1470 (c)(6) through (9) revised; (c)(11) added	†1342
(c)(10) added	†3278
52.1473 (a) amended; (c) removed	†1342
52.1474 (a) removed	†3278
52.1477 Removed	†1343
52.1484 Added	†1343
52.1486 Added	†1343
52.1487 Added	†1343
52.1620 (c)(9) added	53963
52.1633 Removed	53963
52.1670 (c)(33) added	43079
(c)(34) added	56607
(c)(35) added	58520
(c)(36) added	61453
52.1685 Removed	58520
52.1686 Removed	58520
52.1820 (c)(8) added	37550
(c)(9) added	55471
52.1830 Table amended	37551
52.1870 (c)(13) added	†4259
(c)(12) added	†4611
52.1880 (b) added	†4259
(b) added	†4611
52.1920 (c)(8) added	39389
(c)(9) added	55472
(c)(10) added	63782
(c)(9) revised	†9275
(c)(11) added	†13574
52.1926 Removed	39389
52.1931 Added	63782
52.1932 Added	†13574
52.2054 Added	54417
Technical correction	†1070
52.2220 (c)(28) Added	†11820
52.2233 (c) added	36456
52.2270 (c)(14) added	34518
(c)(13) added	37380
(c)(15) added	†9276
52.2272 Revised	37380
52.2275 Revised	37380
52.2279 Amended	37380
52.2283 (a), (b)(1), (2), (3) and (4), and (c) revised	37380
52.2285 Revised	37380
52.2286 Revised	37381
52.2289 Revised	37382
52.2291 Removed	37383
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52.2294 Revised	37383
52.2295 Removed	37384
52.2296 Revised	37384

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52.2298 Revised	37386
52.2420 (c)(13) and (14) added	58406
(c)(17) and (18) added	†9604
52.2435 (h) added	58406
52.2486 (q) added	38355
52.2489 (i) added	38355
52.2770 (c)(9) added	†4016
52.2780 (b) revised	†4016
55.570 (a)(1)(iii), (iv), (vi), and (vii) revised	56608
55.1520 Removed	41282
60 Authority citation revised	41424
Authority citation revised	†8800
60.2 (l) revised	†9278
60.3 Revised	37000
(a) corrected	38178
60.4 (b)(FF) revised	37387
(b)(BB) revised	44545
(b)(ZZ) added	46304
(b)(BBB) revised	62137
(b)(Y) added; eff. 10-6-77	†10
(b)(S) added	†3361
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60.7 Authority citation added	41424
Authority citation revised	†8800
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(c) revised	57126
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60.9 Authority citation added	41424
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60.10 Authority citation added	41424
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60.11 Authority citation added	41424
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60.13 Authority citation added	41424
(a) revised	†7572
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60.24 (g) authority citation added	41424
Authority citation revised	†8800
60.30—60.34 (Subpart C) Added	55797
60.40 Revised	37936
(c) revised; (d) added	†9278
60.41 (f) added	†9278
60.42 (a)(2) revised	61537
60.44 (a)(4) and (5), (c) and (d) added; (b) revised	†9278
60.45 (f)(4)(iii) and (iv) and (5) corrected; (f)(4)(v) revised	41122
Authority citation added	41424
(g)(1) added	61537
Authority citation revised	†8800
(f)(4)(vi) added	†9278
60.46 Authority citation added	41424
Authority citation revised	†8800
60.50 Revised	37936
60.53 Authority citation added	41424
Authority citation revised	†8800
60.54 Authority citation added	41424
Authority citation revised	†8800
60.60 Revised	37936
60.63 Authority citation added	41424
Authority citation revised	†8800
60.64 Authority citation added	41424
Authority citation revised	†8800
60.70 Revised	37936
60.73 Authority citation added	41424
Authority citation revised	†8800
60.74 Authority citation added	41424
Authority citation revised	†8800
60.80 Revised	37936
60.84 Authority citation added	41424
Authority citation revised	†8800
60.85 Authority citation added	41424
Authority citation revised	†8800
60.90 Revised	37936
60.93 Authority citation added	41424
Authority citation revised	†8800
60.100 Revised	37937
Revised	†10868
60.101 (i) through (m) added	†10869
60.102 (a)(2) effective date corrected to 6-24-77	38178
(a)(2) corrected	39389
(a) introductory text and (b) revised	†10868
60.104 Revised	†10869
60.105 (e)(1) effective date corrected to 6-24-77	38178
(e)(1) corrected	39389
Authority citation added	41424
Authority citation revised	†8800
(a)(2) and (4) through (6) and (e)(2) and (3) added	†10869
60.106 (e) effective date corrected to 6-24-77	38178
Authority citation added	41424
Authority citation revised	†8800
(c) and (d) revised	†10869
60.110 Revised	37937
60.113 Authority citation added	41424
Authority citation revised	†8800
60.120 Revised	37937
60.123 Authority citation added	41424
Authority citation revised	†8800
60.130 Revised	37937
60.133 Authority citation added	41424
Authority citation revised	†8800
60.140 Revised	37937

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60.153 Authority citation added	41424
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60.154 Authority citation added	41424
Authority citation revised	†8800
60.160 Revised	37937
60.165 Authority citation added	41424
(d)(2) revised	57126
Authority citation revised	†8800
60.166 Authority citation added	41424
Authority citation revised	†8800
60.170 Revised	37937
60.175 Authority citation added	41424
Authority citation revised	†8800
60.176 Authority citation added	41424
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60.180 Revised	37937
60.185 Authority citation added	41424
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60.186 Authority citation added	41424
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60.190 Revised	37937
60.194 Authority citation added	41424
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60.195 Authority citation added	41424
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60.200 Revised	37937
60.203 Authority citation added	41424
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60.204 Authority citation added	41424
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60.213 Authority citation added	41424
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60.214 Authority citation added	41424
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60.220 Revised	37938
60.223 Authority citation added	41424
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60.224 Authority citation added	41424
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60.230 Revised	37938
60.233 Authority citation added	41424
Authority citation revised	†8800
60.234 Authority citation added	41424
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60.240 Revised	37938
60.243 Authority citation added	41424
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60.244 Authority citation added	41424
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60.250 Revised	37938
(b) corrected	44812
60.253 Authority citation added	41424
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60.254 Authority citation added	41424
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60.260 Revised	37938
60.264 Authority citation added	41424
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60.265 Authority citation added	41424
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60.266 Authority citation added	41424
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60.270 Revised	37938
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60.273 Authority citation added	41424
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60.274 Authority citation added	41424
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60.275 Authority citation added	41424
Authority citation revised	†8800
60.280—60.285 (Subpart BB) Added	†7572
60.340—60.344 (Subpart HH) Added	†9453
60 Appendixes A through D authority citations added	41424
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61 Authority citation revised	41424
Authority citation revised	†8800
61.03 Revised	51574
61.04 (b)(FF) revised	37387
(b)(BB) revised	44545
(b)(BBB) revised	62137
(b)(Y) added; eff. 10-6-77	†10
(b)(I) revised	†6771
61.09 Authority citation added	41424
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61.10 Authority citation added	41424
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61.12 Authority citation added	41424
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61.13 Authority citation added	41424
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61.14 Authority citation added	41424
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61.15 Authority citation added	41424
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61.16 Authority citation added	41424
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61.24 Authority citation added	41424
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61.53 Authority citation added	41424
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61.54 Authority citation added	41424
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61.55 Authority citation added	41424
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61.67 Authority citation added	41424
Authority citation revised	†8800
61.68 Authority citation added	41424
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61.69 Authority citation added	41424
Authority citation revised	†8800
61.70 Authority citation added	41424
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61.71 Authority citation added	41424
Authority citation revised	†8800
61.104 (b)(5) added	†3361
61 Appendixes A and B authority citation added	41424
Appendixes A and B authority citations revised	†8800
73.658 (k) Note 1 revised	†7431
80.7 (a) and (a)(1) introductory texts and (a)(1)(i) amended; (a)(2) revised	45307
80.23 (b)(2)(viii) added	45307
81.300—81.356 (Subpart C) Added	†8964
85.001—85.076-35 (Subpart A) Removed	36457
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85.201—85.276-35 (Subpart C) Removed	36457
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85.1608 (d) revised	36457
85.1802 (a) amended	36456
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85 Appendixes I through VI removed	36457
86.077-2 (a) revised	45135
86.078-3 (a) revised	45135
86.078-8 (a)(1) revised	40697
86.078-37 (b)(1) revised	45646
86.079-2 Amended	45135
86.079-10 Added	45136
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86.079-11 Added	45136
86.079-21 Revised	45136
86.079-22 Added	45136
86.079-23 Added	45136
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86.079-25 Added	45139
86.079-26 Revised	45142
86.079-27 Added	45144
86.079-28 Added	45144
86.079-29 Added	45145
86.079-30 Revised	45146
86.079-31 Added	45149
86.078-32 Added	45149
86.079-33 Added	45149
89.079-34 Added	45149
86.079-35 Revised	45149
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86.113-78 (b) (2) and (3) amended; (b) (2) and (3) tables revised	45651
86.113-79 (a) added	45651
86.114-78 (a)(7) added	45652
86.121-78 (b)(3) revised	45652
86.123-78 (b)(3) revised	45652
86.129-79 (a) table, (b), and (c) revised	45652
86.129-80 Added	45653
86.135-78 (h) added	45654
86.136-78 (c) revised	45654
86.137-78 (b) (1), (11), (13), (16) and (17) amended; (b)(7) revised	45655
86.142-78 (f) revised; (p) added	45655
86.142-80 Added	45655

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86.144-78 (d) (1), (2) and (3) amended; (a) and (d)(4) revised	45655
86.301-79—86.347-79 (Subpart D) Added	45154
86.402-78 Amended	56737
86.413-78 (a)(2) revised	56737
86.416-78 (a)(2)(ii) revised	56737
86.416-80 Added	56737
86.426-78 (a) revised; (c) added	56737
86.428-78 (f) revised	56737
86.432-78 (a) and (e) revised	56737
86.436-78 (b) and (e)(2) revised	56737
86.437-78 (b)(1)(ii) and (3) revised	56738
86.440-78 (a)(2)(ii) revised	56738
86.442-78 (a)(1) revised	56738
86.508-78 (c) revised	56738
86.513-78 (b) revised	56738
86.519-78 (a)(9) revised	56738
86.535-78 (c) revised	56738
86.537-78 (b)(6) through (21) redesignated as (b)(7) through (22); new (b)(6) added; (b)(3), (11), (13), and (18) revised	56738
86.540-78 (a) through (g) redesignated as (b) through (h); new (a) added	56739
86.542-78 (f) revised; (o) added	56739
86.544-78 (c) and (d)(4) amended; (d) introductory text revised	56739
86.603 (c) amended	†4552
86.605 (a)(2)(v) revised	†4552
86.607 (i) revised	†4552
86.608 (c)(1) and (i) revised	†4552
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86.609 Heading, (a), (b), (c), (d)(3) and (d)(4)(iii) revised	†4552
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86.612 (f)(1)(ii) and (g)(2) revised	†4553
86.613 (b)(3) revised	†4553
86.777-1—86.777-15 (Subpart H) Heading revised	45171
86.777-1 Revised	45171
86.879-5 Added	45171
86.879-6 Added	45171
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86.879-12 Added	45173
86.879-13 Added	45174
86.879-14 Added	45174
86.977-1—86.977-15 (Subpart J) Heading revised	45174
86.977-1 Revised	45174
86 Appendix IX heading revised; Appendix X added	†4554
87.21 (d) revised	†12614
87.51 (a) revised	†12614
87.52 Revised	†12614
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117 Added; eff. 6-12-78 and 9-11-78	†10489
118 Added; 6-12-78 to 9-11-78	†10493
119 Added; 6-12-78 and 9-11-78	†10498
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120.27 Redesignated from 120.21 and introductory text removed	56740
120.104 Redesignated as 120.12 and (a) and (b) removed; (c) redesignated as (a)	56740
120.115 Removed	56740
133.103 (c) added	54665
136.3 Table 1 corrected; footnote 27 added	37205
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140.4 (b)(1) added	43837
142.10 (b)(6)(vi) revised	†5373
142.15 (b)(1) revised	†5373
149 Revised	51578
162.10 (i)(2)(x)(D) removed; (j)(2) revised	†5786
162.30 Added	44171
(d) through (i) added	†5786
162.31 Added	†5790
180.2 (a) revised	40909
180.3 (e)(5) corrected	†12682
180.209 (b) amended	†1796
180.213a Revised	†1796
180.215 Revised	46304
180.225 Revised	56113
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180.242 (a) table amended	44812
180.269 Amended	51580
180.275 Revised	56114
180.287 Removed	†3709
180.319 Table amended	46305
180.332 Revised	62913

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180.1001 (c) and (d) tables amended	35159
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(d) table amended	47205
(c) and (e) tables amended	63783
180.1036—180.1038 Added	47205
180.1039 Added	61985
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204.4 (b) amended	41635
204.5–5 (c) and (d) revised	61454
204.5–6 (a) amended; (b) revised	61454
204.5–7 Amended	41635
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204.53 (a)(1)(iv) added	61455
204.55–2 (f) amended	41635
(a) revised	61455
204.55–4 (a) amended	41635
204.55–8 (a)(4) introductory text amended; (a)(4)(iii) revised	61455
204.55–11 (b) amended	61455
204.56 (b) revised; (c) removed	61455
204.57–1 (c) amended	41635
(h) amended	61455
204.57–5 (d) added	41635
204.57–8 (a) and (b) revised; (c) and (d) redesignated as (d) and (e); new (c) added	61455
204.57–9 (a) revised	61455
204.58–1 (d) amended	41635
204.58–2 (g) amended	41635
204.58–3 (e) amended	41635
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204.59 (d) amended	61456
205.2 (a)(6) removed; (a)(26) revised	61457
205.4 (b) amended	†12326
205.5–2 (e) correctly designated; (a) introductory text revised; (f) added	61457
205.5–3 Removed	61457
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205.5–6 (a) amended; (b) revised	61457
205.5–7 Amended	†12326
205.50—205.59 (Subpart B) Stayed in part until 2–21–78	59975
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205.52 (c) amended	61456
205.53 (a)(2)(ii) amended	61458
205.54–1 (b) (1) and (2) amended; (d)(4) revised	61456
205.54–2 (a)(1)(iii) introductory text revised; (a)(1)(iv), (2)(i), and (3)(i) amended	61456
205.55–1 (b) revised	61456
205.55–2 (a) and (b)(1) revised	61458
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205.55–4 (b)(4)(i) revised	61456
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205.55–6 (a) revised	61458
205.55–9 (a) amended	61458
205.55–11 (a)(3)(iii) revised	61456
(a)(3) introductory text amended; (a)(3)(v) removed; (b) added	61458
205.56 (a)(2) amended	61456
(a)(1), (b), and (c) revised; (a)(3) added	61459
205.57–1 (a) and (e)(1) revised; (c) amended	61459
(c) amended	†12326
205.57–2 Heading and (e) revised	61459
205.57–5 (a) and (b) removed; (c) redesignated as new (a); new (a) introductory text amended; new (a)(3)(ii) and (5) revised	61459
(b) revised	†12326
205.57–7 (d) revised	61460
205.57–8 (a) and (b) revised; (c) and (d) redesignated as (d) and (e); new (c) added	61460
205.57–9 (a) revised	61460
205.58–1 (d) amended	†12326
205.58–2 (g) amended	†12326
205.58–3 (d)(3) revised; (e) amended	61456
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205 Appendix I amended	61460
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223 Revised	60703
226 Revised	60705
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406.13 Revised	62372
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413.11 (d) revised; (e), (f), and (g) added	35839
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413.14 Added	35839
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413.21 (d) revised; (e), (f), and (g) added	35840
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413.24 Added	35840
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413.41 (d) revised; (e), (f), and (g) added	35840
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413.44 Added	35840
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413.51 (d) revised; (e), (f), and (g) added	35841
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413.54 Added	35841
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413.61 (d) revised; (e), (f), and (g) added	35841
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413.64 Added	35841
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413.70—413.74 (Subpart G) Added	35842
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413.80—413.84 (Subpart H) Added	35842
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415.10 Amended	37299
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415.14 Added	37299
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429.52—429.53 Removed	49812
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432.103 (a) revised	54419
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436.20—436.22 (Subpart B) Revised	35849
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436.40—436.42 (Subpart D) Revised	35851
436.180—436.182 (Subpart R) Revised	35852
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458 Revised	†1344
600 Authority citation revised	45668
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600.002–78 (a) (39) and (40) added	45670
600.002–79 Amended	45670
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600.002–80 Added	45656
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600.007–77 (b)(1) and (f) revised	45657
600.007–80 Added	45657

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600.101–78—600.113–78 (Subpart B) Added 45657
600.206–77 (c)(1) (i), (ii), and (iii) revised 45660
600.206–79 Added 45660
600.206–80 (a)(2) added 45660
600.207–77 (d)(1) (i), (ii), and (iii) revised 45660
600.207–78 Added 45660
600.207–79 (a)(3)(iii) added 45661
600.207–80 (a)(3)(iii) added 45661
600.306–78 Added 37812
600.306–79 (a) added 45670
600.307–78 Added 37813
600.308–78 Added 37813
600.309–78 Added 37813
600.309–79 Added 45670
600.309–80 Added 45661
600.312–79 Added 45670
600.313–78 Added 45662
600.315–78 Added 45670
600.316–78 Added 45672
600.406–77 Removed 45672
600.501–78—600.512–78 (Subpart F) Added 45662
600.501–78—600.512–79 (Subpart F) Heading revised 45924
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600.501–79 Added 45925
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600.502–79 Added 45925
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600.506–79 Added 45925
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600.510–79 Added 45925
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600.510–80 (a)(3), (b), (d), and (e) revised 45926
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600.512–79 Added 45927
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600.701–76—600.706–76 (Subpart H) Removed 37813
600 Appendixes I and II added 45667
Appendix V added 37813
610 Added 40439
700—799 (Subchapter R) Temporary rule 60911
710 Added 64575
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712 Added †11324
750 Added 61260
761 Added †7156
762 Added; eff. 10–15–78 and 12–15–78 †11324

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1515 Added 65169
1516.3 Heading revised 35960
1516.5 Redesignated as 1516.6 and amended; new 1516.5 added 35960
1516.6 Redesignated from 1516.5 and amended 35960

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TITLE 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

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1–2.201 (a)(31) amended; note added 33736
1–2.202–2 Revised 33736
1–2.301 (b) revised 33737
1–3.410–2 (d) revised †7318
1–3.410–3 (c)(5) revised †7318
1–3.802–1 (a) amended; note added 33737
1–3.802–2 (b) amended; note added 33737
1–3.807–3 (g)(1) revised †11987
1–3.809 (b)(1) introductory text, (i) and (ii) introductory text revised †11987
1–4.000—1–4.913 (Subpart 1–4.9) Added 39215

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1–4.900 Added 39215
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1–4.908 Corrected; text in part correctly designated as 1–4.909 41635
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1–4.913 (c) corrected 41636
1–4.1103–2 Revised 43079
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1–5.902 (c)(3), (4), and (e)(2) revised; (f) removed; (g) and (h) redesignated as (f) and (g) †7318
1–5.903–2 Revised †7318
1–5.904 Revised †7318
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1–7.203–13 Amended †7318
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1–8.704–1 Amended 43081
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1–8.804–2 (b) revised 43081
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1–9.107–4 (a)(6) added †4424
1–9.107–6 Heading revised; (c) added †4424
1–9.109–7 Added †4427
1–10.102–1 Revised 56116
1–10.103–3 (a)(2) revised 56116
1–10.104–1 (b) and (d) revised 56116
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1–12.902–1 (a)(2) revised †11988
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1–12.905–3 Revised †11990
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1–12.905–6 Introductory text revised †11991
1–12.905–11 Added †11991
1–16.101 (a) and (b) revised 58174
1–16.201–1 Revised 58174

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1-16.701 (c) revised	58174
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1-16.802 Revised	38355
1-16.804-2 Revised	†6946
1-16.804-3 (a), (c), (d), (3) through (5), and (e) revised; (a) revised	45672, †6946
1-16.804-4 (b) revised	†6946
1-16.804-5 Revised	45672
1-16.901-18 (Standard Form 18) Revised	58175
1-16.901-33 (Standard Form 33) Revised	58176
1-16.901-33-A (Standard Form 33-A) Revised	58178
1-16.901-37 Revised; Revised	45673, †6947
1-16.901-37A Added	†6949
1-16.901-129 Revised	38355
1-16.901-147 Revised	38355
1-16.901-273 Added	56117
1-16.901-274 Added	56118
1-16.901-275 Added	56119
1-16.902-OF61 Revised	45675
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3-4.5704 (c) added	59643
3-4.5705 Added	59643
3-16.950-315 Amended	†6772
3-16.5001 Removed	†6778
3-16.5101—3-16.5113-3 (Subpart 3-16.51) Added	†6772

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4-4.1001—4-4.1004-4 (Subpart 4-4.10) Added	44236
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4-16.350 Revised	48878
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101-46.4902 Redesignated as 101-46.4802 and revised	40858
101-47.201-1 (a) revised	40698
101-47.201-3 (a) revised	40698
101-47.203-1 Revised	40698
101-47.203-2 Revised	40698
101-47.203-7 (d) revised	40698
101-47.301-1 (b) revised	47205
(c) revised	56123
101-47.301-4 Revised	47205
101-47.304-4 Introductory text, (a) introductory text, and (b) revised; (a)(7) removed	47205
101-47.308-2 (e) revised	46305
101-47.802 (a) revised	40698
101-47.4904 Revised	40698
101-47.4904-1 Revised	40698
101-48 Added	55813
101-49 Added	65171

Chapter 101—*Proposed Rules:*

101-11	†12731
101-19	49485
101-25	44823
101-30	56137
101-32	64710

Chapter 105—General Services Administration

105-53 Added	44813
105-54.102 (a)(3) revised	35649
105-54.104 (a) revised	35649
105-54.201 Revised	35649
105-54.202 (a) revised	35649
105-54.203 Revised	35649
105-54.203-1 (a) revised	35649
105-54.301-1 Revised	35649
105-54.301-2 Revised	35649
105-54.301-3 Revised	35649
105-54.301-4 (a) and (b) revised	35649
105-54.301-6 (e) revised	35649
105-54.302 Revised	35650
105-54.303a Added	35650
105-54.304 (a-1) added	35650
105-54.401 (a) and (c) revised	35650
105-61.102-5 Revised	†1798
105-61.5208 Revised	61861
105-61.5303-29 Revised	64895
105-61.5303-29a Removed	64895
105-63 Revised	40859
105-63.104 Added	63626
105-63.302 Revised	54830
105-63.400—105.63.406 (Subpart 105 63.4) Added	63627
105-63.403 Corrected	63787
105-65 Added	56124

Chapter 105—*Proposed Rules:*

105-61	56345, 56761, 57695

Chapter 114—Department of the Interior

114-25.303 Added	39978
114-26.501—114-26.501-53 (Subpart 114-26.5) Revised	†761
114-38.5500—114-38.5512 (Subpart 114-38.55) Revised	55894
114-43 Revised	†11577
114-44 Revised	†11580
114-45 Revised	†11580
114-46 Revised	†11582
114-60.300 Amended	42857
114-60.303 (b) and (c) removed; (d) redesignated as (b) and republished	42857
114-60.901 (b)(1) amended	42857
114-60.902 (a)(2) amended	42857
114-60.1000 Revised	56329
114-60.1001 Revised	56329
114-60.1002 (a) (1) and (2) added	42857
114-60 Appendix A revised	56329

Chapter 114—*Proposed Rules:*

114-50	†5391, 8272

Chapter 128—Department of Justice

128-48 Added	†3279
128-50 Added	†3281

Title 41—*Proposed Rules:*

In this title only see under specific chapters.

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TITLE 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

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1 Removed	†2877
5 Added	†1587
Appendixes A through G added	†1588
23.110—23.121 (Subpart B) Removed	†2877
33 Removed	†2877
35.61–35.66 (Subpart E) Added	60742
36.301–36.360 (Subpart J) Added	59646
36.351 (b)(2)(i) corrected	61861
50.301—50.310 (Subpart C) Added	†4570
Republished	†4832
51 Heading revised	†2878
51.1—51.9 (Subpart A) Removed	†2878
51a.301—51a.321 (Subpart C) Added	63568
51c Authority citation revised	†5352
51c.302 (a) amended	60418
51c.501 Revised	†5352
51c.502 Revised	†5352
51c.503 (a)(7)(vii) amended	†5352
51c.504 (c)(3)(ii) amended	†5352
51d Revised	56249
52h Added; eff. 10–1–77	†7864
54a.102 Revised	60403
56 Revised	60409
56.801 (Subpart H) Added	†5353
56b Removed	†2878
57 Heading revised	†2878
57.701—57.718 (Subpart H) Removed	†2878
57.1101—57.1114 (Subpart L) Removed	†2878
57.1301—57.1312 (Subpart N) Removed	†2878
57.1601—57.1614 (Subpart Q) Removed	†2878
57.2401–57.2414 (Subpart Y) Added	60883
57.2601—57.2613—(Subpart AA) Removed	†2878
57.2801—57.2812 (Subpart CC) Removed	†2878
57.3101–57.3115 (Subpart FF) Added	59500
58 Removed	†2878
66 Revised	63390
66.106 Heading correctly added	†1498
110.301—110.305 (Subpart C) Revised	†6021
110.401—110.407 (Subpart D) Revised	†6021
110.501—110.508 (Subpart E) Revised	†6021
121 Added	†13044
122.1 (o)(1) amended	†1253
122.106 (c) revised	62270
122.109 (b)(2)(i) and (ii) amended; (b)(3)(i) revised	†1253
123 Revised	†10120
124 Added	62270

Chapter IV—Health Care Financing Administration, Department of Health, Education, and Welfare

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405 Nomenclature changes	65113
Technical correction	†6605
405.101 (a) and (b) revised	†4428
405.120 (d)(1) removed	†4428
405.141 Removed	†4428
405.142 Removed	†4428
405.144 Removed	†4428
405.145 Removed	†4428
405.152 (b) revised	†4429
405.156 Removed	†4429
405.157 Introductory text revised	†4429
405.158 (b) removed	†4429
405.175 Removed	†4429
405.205 (b) footnote removed	†4429
405.212 (b) removed	†4429
405.213 (a) revised; (b) removed	†4429
405.214 (a) removed	†4429
405.221 (a), (b), and (e) removed	†4429
405.223 (a) (1) and (2) removed; (d) revised	†4429
405.224 Removed	†4429
405.230 (b) revised	†4429
405.231 (k) revised	†4429
(n) added	†8261
405.240 (d)(1) and (e) removed; (d)(2) revised	†4430
(f) added	†8261
405.249 (a)(2) revised	†4430
405.250a Redesignated as 405.-250–1	†8261
405.250–1 Redesignated from 405.250a	†8261
405.250–2 Added	†8261
405.310 (c) revised; (m) removed	†4430
405.428 (a) and (c) removed	†4430
405.502 (e) revised	65178
405.504 (a)(1) removed	†4430
405.541 Added	65178
405.542 Added	65179
405.543 Added	65180
405.544 Added	65180
405.609 (a) introductory text revised	†4430
405.1028 (k) and (l) added; eff. 11–24–78	†7985
405.1626 Removed	†4430
405.1627 (b)(1) removed	†4430
405.1631 Removed	†4430
405.1632 (d) removed	†4430
405.1660 (a) revised	†4430
405.1672 (a) revised	†4430
405.2001 (a) and (b) introductory text revised; (b)(5) removed	†5826
405.2002 Revised	†5826
405.2003 Revised	†5827
405.2004 (c)(2) amended; (c)(3) removed	†5827
405.2005 (a)(1) and (2) revised	†5827
405.2006 Removed	†5827
405.2007 Revised	†5827
405.2008 Removed	†5827
405.2009 Removed	†5827
405.2010 Removed	†5827
405.2011 Removed	†5827
405.2012 Removed	†5827
405.2025 (a)(1) amended	†5827
405.2050 (b)(1)(ii) amended; (b)(1)(iii) revised; (b)(1)(iv) added	†5823
405.2056 (b), (c), and (d) revised	†5827
405.2057 Removed	†5828
405.2401–405.2430 (Subpart X) Added	†8261
446 Nomenclature changes	65116
446.10 (Subpart A) Heading added; section heading revised	60564
446.150–446.185 (Subpart B) Added	60564
448 Nomenclature changes	65116
Technical correction	†6605
448.1 (c)(4) revised	†7986
(a)(1), (b)(2)(i), (c)(1), and (d) revised; (b)(1)(vii) and (viii) added; eff. in part 7–1–77	†9813
448.2 (d)(4) and (e) revised	†9814
448.3 (b)(1)(ii) and (7) through (9) revised; eff. in part 7–1–77	†9814
448.4 (a) and (b)(3) revised; (e) added; eff. in part 7–1–77	†9815
448.10 (b)(2)(iv) revised	†7986
(b)(2)(i) and (ii), and (d) revised	†9815
448.21 (a)(2)(i)(C), (3)(i)(B) and (C) and (c) revised	†9815
448.60 (a)(2) and (3)(iv) revised	†7986
(a)(1) and (b)(3) revised; (b)(11) added; eff. 10–1–76	†9816
448.70 (a)(1) amended	†9816
448.80 (a)(1) amended	†9816
449 Nomenclature changes	65117
Technical correction	†6605
449.10 (a)(11) added	64345
(a)(6)(iii), (b)(16)(ii) and (iii)(A) and (C) revised	†7986
(c)(1) revised	†9816
449.31 Revised	†8801
449.41 (c)(1) revised; eff. 7–1–77	†9816
449.82 Revised	†5828
449.100—449.109 (Subpart A Added	†4580
Republished	†4842
450 Nomenclature changes	65119
Technical correction	†6605
450.23 (a)(1) introductory text, (i) and (iv) amended	†7986
450.25 Revised	†13575
450.30 Clarification	†4861
(a)(2) revised	†8804
450.80 (a)(8) and (d) added	†3120
(a)(6) revised	†9817
450.90 (b)(2) introductory text and (v) revised	†9817
450.120 (Subpart B) Removed	60566
450.310 (Subpart D) Added	†3120
452 Nomenclature changes	65120
460 Nomenclature changes	65121
460.11 Revised	†2630
460.24 Amended	†2630
460.36 Amended	59086
461 Nomenclature changes	65121
463 Added	†7407
473 Nomenclature changes	65121
476 Added	†2283
478 Added	62277
478.101—478.106 (Subpart B) Added	†854
480 Nomenclature change	65122
481 Added	†5375
Title 42—*Proposed Rules:*	
37	64642
50	62718, 63651, 63797, 64649
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51a	60761

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57 †3344, 4784, 4790
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81 65194
†1968
110 †11472, 12339
121 54577, 56133, 57141, 59888
†3056, 6272
122 †11229
123 †11229
124 56916
405–480 (Ch. IV) †2412
405 †780, 2412, 2740
446 †2413
447 †2413
448 †2413
449 †780, 2412, 2413, 2740, 13860
450 †780, 2413, 2740, 2741, 13860
451 †2413
452 †2413
460 56626, 58544
†8813
462 †2413
471 †3796
474 †2413

TITLE 43—PUBLIC LANDS: INTERIOR

Subtitle A—Office of the Secretary of the Interior

4.242 (h) revised †5514
4.290 Revised †5514
4.296 Revised †5514
4.513 Amended †2724
4.560a Added †2724
4.561 Revised †2725
4.561a Added †2725
4.562 (c) and (d) added †2725
4.564 Added †2725
17.1 Amended †4259
17.3 (a), (b) (1) and (2) amended †4259
17.11 (a) amended †4259
20 Appendixes C through F revised †1072
31 Added 54806
31.11 (a) revised 57462
32 Added †12266
33 Heading and note added 62913, 65181

Chapter I—Bureau of Reclamation, Department of the Interior

419.1–0 (a) revised †11821
419.12 Revised †11821

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423 Effective date extension clarified 56508
424 Added 60144

Chapter II—Bureau of Land Management, Department of the Interior

2653.4 (c) filing date extended 64119
(c) filing date extended †11822
2920.0–5 (e) removed †7870
2920.0–5 (e) effective date corrected †11822
2924.1—2924.3–1 (Subpart 2924) Removed †7870
Effective date corrected †11822
3301.7 Added †3893
3301.8 Added †3895
3302.2 (a) revised 53963
3305a.4 Revised 53964
3521.3–2 (a) designated as (a)(1); (a)(2) added 64346
3523.1–3 Added 64346
3526.0–1—3526.3–2 (Subpart 3526) Added 64346
6263.0–1—6263.5 (Subpart 6263) Added †7870
Effective date corrected †11822

Public Land Orders

5187 Amended by PLO 5627 63170
5608 Revoked by PLO 5630 †3709
5627 63170
5628 63422
5629 63423
5630 *3709
5631 †11992
5632 †11992

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4 54434
14 †12339
26 54314
426 55625 56139, 57142, 59763, 59889
1600 †8814
2720 57862
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2880 †8770
3250 †12260
3300 56960
4100 60109,63437
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TITLE 45—PUBLIC WELFARE

Subtitle A—Department of Health, Education, and Welfare, General Administration

12 Revised 59843
12.3 (c) corrected 61263

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12.9 (d) corrected 61263
16.90—16.91 (Subpart C) Added †9265
16 Appendix B heading revised; text amended †9265
19.4 Revised 57317
46.102 (c) revised †1759
46.203 (b) and (c) revised †1759
46.204 (b) removed; (c) through (e) redesignated as (b) through (d); new (b) amended †1759
46.209 (a) and (b) revised †1759
73a Revised †7619
85 Added †2136

Chapter I—Office of Education, Department of Health, Education, and Welfare

100a.10 (a)(11) and (26) revised 53828
(a)(41) added †9248
100a.16 (a)(40) added †1765
100b.10 (f) revised 53828
100c.1 (f) revised 53828
102 Removed 56506
103 Removed 56506
104 Added 53828
104.3 (b) corrected; (e) removed; (f), (g), and (h) redesignated as (e), (f), and (g) †3909
105 Added 53852
105.603 (e) corrected †3909
105 Appendix A corrected †3909
115.64 Added 65524
115.65 Revised 65526
115 Appendix amended 65526
116d Hearings announced 56608
118 Guidelines removed †2630
121a.5 (b)(9) revised 65083
121a.540 Added 65083
121a.541 Added 65083
121a.542 Added 65083
121a.543 Added 65083
121a.702 (a)(2) removed 65083
121a Appendix A amended 65084
124 Guidelines removed †2630
126 Removed 56506
136 Added 64840
145 Removed 56506
150 Removed 56506
151 Removed 56506
153 Revised 57288
162 Appendix A removed †2630
163 Added 61227

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163a Added 61229
167 Removed 56506
168.71—168.83 (Subpart H) Added 64567
168.75 (b)(7) corrected †6230
168.76 (b)(1)(iii), (2) and (6) corrected †6230
168.80 (b) correctly designated and corrected; (c) (1) and (2) corrected †6230
168.81 (b)(2)(ii) corrected †6230
171.3 (c) revised 63575
171.4—171.9 Redesignated as 171.5—171.10; new 171.4 added 63575
172 Added †7530
172.63 (b) corrected †11704
174 Removed 56506
178 Removed 56506
Added 61045
179 Added †9248
181 Removed 56506
189.11 (b) revised 57638
189.13 (b) revised 57638
189.14 Revised 57638
189.16 (a)(2) and (b)(1 revised 57639
189.21 (b)(9) revised 57639
190.31—190.39 (Subpart C) Appendix removed †2631
190.32a (c), (e), and (f) revised; eff. 7–1–78 to 6–30–79 †3911
190.33 (b)(1) revised; eff. 7–1–78 to 6–30–79 †3911
190.35 (a)(2) revised; eff. 7–1–78 to 6–30–79 †3912
190.39 (a)(5) and (c) added; eff. 7–1–78 to 6–30–79 †3912
190.41—190.48 (Subpart D) Appendix removed †2631
190.43 (b)(1) revised; eff. 7–1–78 to 6–30–79 †3912
190.48 (a)(6) and (c) added; eff. 7–1–78 to 6–30–79 †3912
190.51 (Subpart E) Appendix removed †2631
197 Added †1765
198 Added 61234

Chapter II—Social and Rehabilitation Service (Assistance Programs), Department of Health, Education, and Welfare

201.14 (a) revised; Appendix added †9266
205.40 (b)(2)(iv) and (d) revised †2631

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205.202 (a) amended; (b)(4) removed ---- 60566
206.10 (a)(1) and (2)(i) revised ---- †6950
225.2 Amended ---- 60566
228 Effective date 1-31-77 in part ---- 61268
228.20 (a) revised ---- 61267
228.26 (a) revised; (i) redesignated as 228.30(c) ---- 61267
228.29 (a) and (b) revised ---- †4019
228.29-a Added ---- †4020
228.30 Revised ---- 61267
228.33 (g) introductory text and (9), (h) introductory text and (10), and (i) revised ---- †4020
228.39 Correctly added ---- 61267
228.42 (c) and (d) revised ---- 61267
(c)(2) effective date in part 9-7-76 to 9-30-77 ---- 61269
228.51 (c) revised ---- 61267
228.52 Effective date in part 7-1-76 to 9-30-77 ---- 61269
228.61 (a)(1) through (3) and (b) through (d) revised ---- 61267
228.70 (d) effective date in part 10-1-75 ---- 61268
228.92 Added ---- †4582
Republished ---- †4844
228.100 Revised ---- 61268
229 Added ---- †4020
232.12 Revised ---- †2176
232.13 Added ---- †2176
250.30 (d)(2) revised ---- 54420

Chapter III—Office of Child Support Enforcement (Child Support Enforcement Program), Department of Health, Education, and Welfare

302.31 Revised ---- †2180
302.52 Introductory text, (a) and (b) revised ---- 55818

Chapter VI—National Science Foundation

614.4 Revised ---- 55619

Chapter IX—Administration on Aging, Department of Health, Education, and Welfare

Chapter IX Removed ---- 59086
901 Redesignated as Part 1320 and revised ---- 59086, 59216
903 Redesignated as Part 1321 and revised ---- 59086, 59217
904 Redesignated as Part 1322 and revised ---- 59086, 59228
905 Redesignated as Part 1323 and revised ---- 59086, 59229
908 Removed ---- 59086, 59212
909 Redesignated as Part 1324 and revised ---- 59086, 59230,
910 Redesignated as Part 1325 and revised ---- 59086, 59236
911 Redesignated as Part 1326 and revised ---- 59086, 59238

Chapter X—Community Services Administration

1061.30-11 (b) amended ---- †9818
1061.32-1 — 1061.32-4 (Subpart) Added ---- 55187
1061.51-1—1061.51-15 (Subpart) Added; eff. 3-8-78 to 12-31-78 ---- †9476
1061.52-1—1061.52-9 (Subpart) Added ---- †9818
1067.50-1—1067.60-6 (Subpart) Added ---- †12859
1069.4-1—1069.4-5 (Subpart) Revised ---- †10912
1068.25-1 — 1068.25-2 (Subpart) Added ---- 53600
1068.30-1—1068.30-4 (Subpart) Added ---- 63171
1069.3-1—1069.3-6 (Subpart) Revised ---- 59505
Heading corrected ---- 61861
1069.8-5 (e) interpretation removed prior to eff. date; new interpretation added ---- 57693

Chapter XII—ACTION

1224 Added ---- 54286

Chapter XIII—Office of Human Development Services, Department of Health, Education, and Welfare

1300 (Subchapter A) Added ---- 59087
1301-1304 (Subchapter B) Added ---- 59087
1301 Removed ---- †2632
1320-1326 (Subchapter C) Added ---- 59087, 59212
1320 Redesignated from Part 901 and revised ---- 59086, 59216
1321 Redesignated from Part 903 and revised ---- 59086, 59217
1322 Redesignated from Part 904 and revised ---- 59086, 59228

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1323 Redesignated from Part 905 and revised ---- 59086, 59229
1324 Redesignated from Part 909 and revised ---- 59086, 59230
1325 Redesignated from Part 910 and revised ---- 59086, 59236
1326 Redesignated from Part 911 and revised ---- 59086, 59238
1336 (Subchapter D) Added ---- 59087
1336.51 (f) revised ---- 62138
1340 (Subchapter E) Added ---- 59087
1350-1351 (Subchapter F) Added ---- 59087
1355 (Subchapter G) Added ---- 59087
1361-1370 (Subchapter H) Added ---- 59087
1385-1387 (Subchapter I) Added ---- 59087
1390-1397 (Subchapter J) Added ---- 59087
1398 (Subchapter K) Added ---- 59087

Chapter XIV—National Institute of Education, Department of Health, Education, and Welfare

1451.5 Revised ---- †2878
1451.6 (c) revised ---- †2879
1451.7 Revised ---- †2879
1470.2 (c) removed ---- 63173
1470.3 Amended ---- 63173
1470.5 Revised ---- 63174
1470.7 (b)(1)(iii) revised ---- 63174
1470.9 (a)(1) and (4) revised ---- 63174
1470 Appendix removed ---- 63174
1480 Added ---- 59848

Chapter XVI—Legal Services Corporation

1622 Added ---- †11198

Chapter XVIII—Harry S. Truman Scholarship Foundation

1801 Revised ---- 64298

Chapter XIX—National Commission on the Observance of International Women's Year

1901 Added ---- 57128
1905 Added ---- 57128

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1622 ---- †1807
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TITLE 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation

1.01 (b)(1)(iii) revised; (b)(1)(iv) added; (b)(3) amended ---- †4431
1.25 (a) amended ---- †4431
2.20-5 (b) revised ---- 56331
4.03-5 Amended ---- 61200
4.03-40 Amended ---- 61200
4.40-1—4.40-35 (Subpart 4.40) Added ---- 61200
5.01-1 (b) amended ---- †4431
5.01-5 (a) and (b) amended ---- †4431
5.02-10 (a) amended ---- †4431
5.02-15 (a) amended ---- †4431
5.13-5 (a) amended ---- †4431
5.20-1 (a) amended ---- †4431
5.20-40 (a) amended ---- †4431
5.20-140 (e) amended ---- †4431
5.30-3 (a) and (b) amended ---- †4431
5.30-15 (a) and (b) revised ---- †6779
5.30-35 Added ---- †6779

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7 Heading correctly added	63174
7.3 Added	†3562
7.95 Corrected	63174
24.10–25 (a)(1) revised	56331
30.01–5 (e)(1) amended	63643
32.15–1 (a) revised; note added	56331
32.15–3 (b) amended	56331
32.15–5 (a) revised; note added	56331
35.01–30 Revised	56331
70.05–3 (f) revised	63643
77.17–5 (a) amended	56331
77.20–1 Revised; note added	56331
78.07–13 Removed	63643
90.05–1 (c) revised	63643
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110.15–117 (a)(1) revised	56331
148 Heading revised	†8760
148.01–1 (e) revised	63643
148.01–7 (a) table revised	†8760
Table corrected	†11583
148.02–1 (c) revised	†8761
148.02–3 (b) removed	†8761
148.02–5 Revised	63643
148.04–13 (a) introductory text revised	†8761
148.04–23 Added	†8761
153.1—153.12 (Subpart A) Table 1 corrected	56608
153.372 Corrected	57126
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160.002–5 Footnote added	†9772
160.002–6 (b) revised	†9770
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160.005–6 (b) revised	†9770
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160.047–5 Footnote added	†9772
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160.055–8 Heading and (b) revised	†9771
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160.060–8 Heading and (a) revised	†9771
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160.064–4 (a)(1) and (2) revised	†9772
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175.05–1 (g) removed	63643
182.20–22 (a) revised; (a–1) added	63175
184.15–10 (a) designation removed; text amended	56332
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188.05–1 (a) table correctly amended; footnotes 10, 11, and 12 added	†968
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222.2 Heading and (a)(2) revised	60567
251.1 Appendix No. 3 added	†1622
252.20 Heading revised; (a) and (b) redesignated as (a)(1) and (2); new (a) heading added; (c) introductory text and (1) through (4) redesignated as (a)(3) introductory text and (i) through (iv)	†4858
(d) heading and (1) through (3) redesignated as (a)(4) heading and (i) through (iii); new (b) added	†4858
280 Revised	61461
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310.2 (a) revised; eff. 11–12–77	†9
310.3 (b)(2) revised; eff. 11–12–77	†9
310.12 Article 1 revised; Article 2 amended; eff. 11–12–77	†9
350.2 Amended	†1943
350.4 (b) amended	†1943
350.5 (b)(7) added	†1943
381.2 (b)(4) added	57126
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502.262 Effective date clarified	†11992
507 Added	62916
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507.1 Revised	†3362
507.4 (d) revised	†3563
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531.3 (a), (c)(2) and (3), (f), (j), and (p) corrected; (i)(A) through (F) renumbered (1) through (6)	60913
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531.6 (g) corrected	60913
531.8 (c) corrected	60913
531.9 (c) corrected	60913
531.10 (b)(5) and (d) introductory texts, (b)(5)(i) and (d)(2) corrected	60913
531.11 (c) corrected	60913
531.14 (a) and (d) corrected	60913
531.16 (a) corrected	60913
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531.18 (e)(2) corrected	60913
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536 Revised	59267
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0.102 Added	54823
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1.953 (b)(2) removed	†10343
1.1305 (a)(6)(iii) and (iv) amended; (a)(6)(v) added; (a)(7) revised	59755
1.1311 Note added	59850
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2.983 (i) added	†12687
2.1001 (e) revised; (f) added	†12687
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17.54 Revised	54826
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21.44 (b)(2) revised	55818
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64.601 (b) Note 2 amended	†3663
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73.240 Note 11 added	62920
73.267 (a)(2) and (b)(1) revised	61863
73.313 (d) introductory text amended; (d)(1), (2), (3), and undesignated text added	†8142
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73.642 (c) revised	54827
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73.689 (a)(2)(ii), (b)(1) and (2)(i) revised	61863
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73.933 (b)(8) revised	58751
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74.601 (d) revised	†1949
74.602 (a) and (h) introductory texts revised; (i) removed	†1950
74.603 (a) revised	†1950
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74.631 (d) and (g) revised	†1950
74.632 (e) revised	†1950
74.634 (a)(1) revised	†1950
74.635 (a)(1) and (5) removed; (a)(4) revised	†1950
74.637 (a) revised	†1951
74.651 (a)(3) and (c) revised	†1951
74.661 (c) revised	†1951
74.665 (a), (b), (c), (f), and (g) revised	†1951
74.682 (f) removed	†1951
74.701 (a) and (b) revised	†1951
74.731 (b) revised	†1951
74.734 (a)(6) added	†1951
74.750 Heading and (c)(1) revised; (d) redesignated as (e) and introductory text and (1) revised; new (d) added; (f) through (i) removed	†1951
74.752 Added	†1952
74.761 Revised	†1952
74.766 (b) redesignated as (c) and revised; new (b) added	†1952
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78.15 (c) revised	61864
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78.19 (e)(2) revised	61864
78.53 (a) introductory text revised; (b) removed	61864
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78.61 (a) revised; (e) and (f) added	†4617
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81 Memorandum opinion and order of May 27, 1976 stayed in part	†10344
81.72 (j) revised	†13062
81.191 (c)(1) revised; (c)(2) redesignated as (3); new (c)(2) added	58409
81.204 (c) revised	63890
81.303 (e) added	†5378
81.304 (a) table amended; (b)(6) added	†5378
81.356 (b)(11) revised	58409
(a) table amended; (b)(2) added	64897
81.358 (a) revised	64628
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83.106 (a) revised	57963
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83.359 Table amended	64897
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83.813 (a)(3) revised	†4261
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83 Appendix added	60145
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87.115 (g) revised	54421
87.183 (dd) correctly added	54552
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89.105 (d) introductory text and (a) revised; (f) added	†6784
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89.107 (c) introductory text revised; (f) added	†6784
89.109 (d) revised; (k) added	†6784
89.121 Added	†6784
(d) revised	†7434
89.153 (i) added	†6784
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89.259 (f) table amended; (g)(18) through (20) added	†10697
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91.114 (f)(3) revised	54827
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91.354 (a) table amended; (b) (17) added	59977
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97.40 (d) and (e) removed; (c) revised; eff. date stayed as of 11-4-77	58753
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(a) and (c) revised; (d) added; eff. date stayed as of 11-4-77	58753
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97.77 Redesignated as 97.78; new 97.77 added at end of subpart C	†12689
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172.100 (g)(3) revised	57964
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173.65 (a)(3) added; (d) revised	57965
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173.272 (i)(22) revised 57966
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AGENCY ABBREVIATIONS USED IN HIGHLIGHTS AND REMINDERS
(This List Will Be Published Monthly In First Issue Of Month.)

USDA—AGRICULTURE DEPARTMENT
AMS—Agricultural Marketing Service
ARS—Agricultural Research Service
ASCS—Agricultural Stabilization and Conservation Service
APHIS—Animal and Plant Health Inspection Service
CCC—Commodity Credit Corporation
CEA—Commodity Exchange Authority
CSRS—Cooperative State Research Service
EMS—Export Marketing Service
ERS—Economic Research Service
FmHA—Farmers Home Administration
FCIC—Federal Crop Insurance Corporation
FAS—Foreign Agricultural Service
FNS—Food and Nutrition Service
FSQS—Food Safety and Quality Service
FS—Forest Service
PSA—Packers and Stockyards Administration
RDS—Rural Development Service
REA—Rural Electrification Administration
RTB—Rural Telephone Bank
SCS—Soil Conservation Service

COMMERCE—COMMERCE DEPARTMENT
Census—Census Bureau
EDA—Economic Development Administration
ITA—Industry and Trade Administration
MA—Maritime Administration
MBE—Minority Business Enterprise Office
NBS—National Bureau of Standards
NFPCA—National Fire Prevention and Control Administration
NOAA—National Oceanic and Atmospheric Administration
NSA—National Shipping Authority
NTIS—National Technical Information Service
PTO—Patent and Trademark Office
USTS—United States Travel Service

DOD—DEFENSE DEPARTMENT
AF—Air Force Department
Army—Army Department
DCPA—Defense Civil Preparedness Agency
DIA—Defense Intelligence Agency
DLA—Defense Logistics Agency
Engineers—Engineers Corps
Navy—Navy Department

DOE—ENERGY DEPARTMENT
BPA—Bonneville Power Administration
ERA—Economic Regulatory Administration
EIA—Energy Information Administration
ERO—Energy Research Office
ETO—Energy Technology Office
FERC—Federal Energy Regulatory Commission

HEW—HEALTH, EDUCATION, AND WELFARE DEPARTMENT
ADAMHA—Alcohol, Drug Abuse, and Mental Health Administration
CDC—Center for Disease Control
FDA—Food and Drug Administration
HCFA—Health Care Financing Administration
HDSO—Human Development Services Office
HRA—Health Resources Administration
HSA—Health Services Administration
NIH—National Institutes of Health
OE—Office of Education
PHS—Public Health Service
RSA—Rehabilitation Services Administration
SSA—Social Security Administration

HUD—HOUSING AND URBAN DEVELOPMENT DEPARTMENT
CARF—Consumer Affairs and Regulatory Functions, Office of Assistant Secretary
CPD—Community Planning and Development, Office of Assistant Secretary
FDAA—Federal Disaster Assistance Administration
FHEO—Fair Housing and Equal Opportunity, Office of Assistant Secretary
FHC—Federal Housing Commissioner, Office of Assistant Secretary for Housing
FIA—Federal Insurance Administration
GNMA—Government National Mortgage Association
ILSRO—Interstate Land Sales Registration Office
NCA—New Communities Administration
NCDC—New Community Development Corporation
NVACP—Neighborhoods Voluntary Associations and Consumer Protection, Office of Assistant Secretary

INTERIOR—INTERIOR DEPARTMENT
BIA—Bureau of Indian Affairs
BLM—Bureau of Land Management
FWS—Fish and Wildlife Service
GS—Geological Survey
HCRS—Heritage Conservation and Recreation Service
MESA—Mining Enforcement and Safety Administration
Mines—Mines Bureau
NPS—National Park Service
OHA—Office of Hearings and Appeals
Reclamation—Reclamation Bureau
SMRE—Surface Mining Reclamation and Enforcement Office

JUSTICE—JUSTICE DEPARTMENT
DEA—Drug Enforcement Administration
INS—Immigration and Naturalization Service
LEAA—Law Enforcement Assistance Administration
NIC—National Institute of Corrections

LABOR—LABOR DEPARTMENT
BLS—Bureau of Labor Statistics
BRB—Benefits Review Board
ESA—Employment Standards Administration
ETA—Employment and Training Administration
FCCPO—Federal Contract Compliance Programs Office
LMSEO—Labor Management Standards Enforcement Office
OSHA—Occupational Safety and Health Administration
P&WBP—Pension and Welfare Benefit Programs
W&H—Wage and Hour Division

STATE—STATE DEPARTMENT
AID—Agency for International Development
FSGB—Foreign Service Grievance Board

DOT—TRANSPORTATION DEPARTMENT
CG—Coast Guard
FAA—Federal Aviation Administration
FHWA—Federal Highway Administration
FRA—Federal Railroad Administration
MTB—Materials Transportation Bureau
NHTSA—National Highway Traffic Safety Administration
OHMO—Office of Hazardous Materials Operations
OPSO—Office of Pipeline Safety Operations
SLS—Saint Lawrence Seaway Development Corporation
UMTA—Urban Mass Transportation Administration

TREASURY—TREASURY DEPARTMENT
ATF—Alcohol, Tobacco and Firearms Bureau
Customs—Customs Service
Comptroller—Comptroller of the Currency
ESO—Economic Stabilization Office (temporary)
FS—Fiscal Service
IRS—Internal Revenue Service
Mint—Mint Bureau
PDB—Public Debt Bureau
RSO—Revenue Sharing Office

INDEPENDENT AGENCIES
ATBCB—Architectural and Transportation Barriers Compliance Board
CAB—Civil Aeronautics Board
CASB—Cost Accounting Standards Board
CEQ—Council on Environmental Quality
CFTC—Commodity Futures Trading Commission
CITA—Textile Agreements Implementation Committee
CPSC—Consumer Product Safety Commission
CRC—Civil Rights Commission
CSA—Community Services Administration
CSC—Civil Service Commission
CSC/FPRAC—Federal Prevailing Rate Advisory Committee
EEOC—Equal Employment Opportunity Commission
EXIMBANK—Export-Import Bank of the U.S.
EPA—Environmental Protection Agency
ESSA—Endangered Species Scientific Authority
ERDA—Energy Research and Development Administration
FCC—Federal Communications Commission
FCSC—Foreign Claims Settlement Commission
FDIC—Federal Deposit Insurance Corporation
FEA—Federal Energy Administration
FEC—Federal Election Commission
FHLBB—Federal Home Loan Bank Board
FMC—Federal Maritime Commission
FPC—Federal Power Commission
FRS—Federal Reserve System
FTC—Federal Trade Commission
GSA—General Services Administration
GSA/ADTS—Automated Data and Telecommunications Service
GSA/FPA—Federal Preparedness Agency
GSA/FSS—Federal Supply Service
GSA/NARS—National Archives and Records Service
GSA/PBS—Public Buildings Service
ICC—Interstate Commerce Commission
ICP—Interim Compliance Panel (Coal Mine Health and Safety)
ITC—International Trade Commission
LSC—Legal Services Corporation
NACEO—National Advisory Council on Economic Opportunity
NASA—National Aeronautics and Space Administration
NCUA—National Credit Union Administration
NFAH/NEA—National Endowment for the Arts
NFAH/NEH—National Endowment for the Humanities
NLRB—National Labor Relations Board
NRC—Nuclear Regulatory Commission
NSF—National Science Foundation
NTSB—National Transportation Safety Board
OFR—Office of the Federal Register
OMB—Office of Management and Budget
OPIC—Overseas Private Investment Corporation
PADC—Pennsylvania Avenue Development Corporation
PRC—Postal Rate Commission
PS—Postal Service
RB—Renegotiation Board
RRB—Railroad Retirement Board
ROAP—Reorganization, Office of Assistant to President
SBA—Small Business Administration
SEC—Securities and Exchange Commission
TVA—Tennessee Valley Authority
USIA—United States Information Agency
VA—Veterans Administration
WRC—Water Resources Council

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This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

H.R. 3454..... Pub. L. 95–237
"Endangered American Wilderness Act of 1978." (Feb. 24, 1978; 92 Stat. 40) Price $.70.

S. 1340..... Pub. L. 95–238
"Department of Energy Act of 1978—Civilian Applications." (Feb. 25, 1978; 92 Stat. 47) Price $1.50.

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[3195–01]

Title 3—The President

Memorandum of February 13, 1978

Determination Pursuant to Section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as Amended, (the "Act"), Authorizing the Use of $5,750,000 of Funds Made Available from the United States Emergency Refugee and Migration Assistance Fund

[Presidential Determination No. 78–5]

Memorandum for the Secretary of State

THE WHITE HOUSE,
Washington, February 13, 1978.

In order to meet unexpected urgent needs arising in connection with the admission of 7,000 Indochinese refugees presently in Thailand and elsewhere who are authorized by the Attorney General on January 25, 1978, for parole entry into the United States, and to similarly assist such other Indochinese refugees as may be otherwise admitted, I hereby determine, pursuant to Section 2(c)(1) of the Act, that it is important to the national interest that $5,750,000 from the United States Emergency Refugee and Migration Assistance Fund be made available to the Department of State for this purpose.

The Secretary of State is requested to inform the appropriate committees of the Congress of this Determination and the obligation of funds made under this authority.

This determination shall be published in the FEDERAL REGISTER.

Jimmy Carter

[FR Doc. 78-5496 Filed 2-27-78; 2:41 pm]

[3195-01]

Memorandum of February 15, 1978

Determination Pursuant to Section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as Amended, (the "Act") Authorizing the Use of $300,000 of Funds Made Available From the United States Emergency Refugee and Migration Assistance Fund

[Presidential Determination 78-6]

Memorandum for the Secretary of State

THE WHITE HOUSE,
Washington, February 15, 1978.

In order to meet unexpected and urgent needs arising from political and security actions against substantial numbers of persons in Latin America, I hereby determine, pursuant to Section 2(c)(1) of the Act, that it is important to the national interest that up to $300,000 of funds appropriated under the United States Emergency Refugee and Migration Assistance Fund be contributed to the Intergovernmental Committee for European Migration for the resettlement of refugees and detainees from Latin America to third countries abroad.

The Secretary of State is requested to inform the appropriate committees of the Congress of this Determination and obligation of funds under this authority.

This determination shall be published in the FEDERAL REGISTER.

Jimmy Carter

[FR Doc. 78-5497 Filed 2-27-78; 2:42 pm]

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[1505-01]

Title 1—General Provisions

CHAPTER I—ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

CFR CHECKLIST

1977 Issuances

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal regulations issued to date for 1977. New units issued during the month are announced on the back cover of the daily FEDERAL REGISTER as they become available.

For a Checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the Cumulative List of CFR Sections Affected, which is revised monthly.

The rate for subscription service to all revised volumes issued for 1977 is $350 domestic, $75 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR Unit (Rev. as of Jan. 1, 1977):

Title	Price
1	$1.85
2 [Reserved]	
3	3.00
4	3.25
5	4.70
7 Parts:	
0-45	5.30
46-51	4.20
52	5.20
53-209	5.80
210-699	6.10
700-749	4.10
750-899	1.80
900-944	4.25
945-980	2.40
981-999	2.50
1000-1059	4.25
1060-1119	4.40
1120-1199	3.20
1200-1499	4.20
1500-end	7.25
8	2.60
9	6.80
10 Parts:	
0-199	4.40
200-end	4.60
11 (Rev. 5/1/77)	2.30
12 Parts:	
1-299	7.40
300-end	7.30
13	4.20
14 Parts:	
1-59	6.00
60-199	5.10
200-1199	6.20
1200-end	2.20
15	5.35
16 Parts:	
0-149	5.50
150-999	4.25
1000-end	3.00

CFR Unit (Rev. as of April 1, 1977):

17	6.75
18 Parts:	
1-149	4.25
150-end	4.00
19	5.75
20 Parts:	
01-399	3.25
400-499	5.00
500-end	4.00
21 Parts:	
1-99	3.25
100-199	4.75
200-299	2.10
300-499	5.00
500-599	4.00
600-1299	3.50
1300-end	4.25
22	4.50
23	5.50
24 Parts:	
0-499	5.00
500-end	5.25
25	4.50
26 Parts:	
1 (§§ 1.0-1.169)	4.75
1 (§§ 1.170-1.300)	4.00
1 (§§ 1.301-1.400)	3.75
1 (§§ 1.401-1.500)	4.00
1 (§§ 1.501-1.640)	4.00
1 (§§ 1.641-1.850)	4.35
1 (§§ 1.851-1.1200)	5.25
1 (§§ 1.1201-end)	6.75
2-29	4.50
30-39	4.35
40-299	4.50
300-499	4.35
600-end	2.40
27	7.00

CFR Unit (Rev. as of July 1, 1977):

29 Parts:	
0-499	5.75
1900-1919	6.00
1920-end	4.50
30	6.00
32 Parts:	
1-39 (V. I) (Rev. 7/1/76)	4.75
(V. II) (Rev. 7/1/76)	7.50
(V. III) (Rev. 7/1/76)	5.25
400-589	5.00
590-699	4.00
1000-1399	2.75
1400-1599	4.25
1600-end	2.75
32A	3.75
33 Parts:	
1-199	7.00
200-end	5.30
34	1.70
35	4.00
38	4.50
37	3.00
39	3.50
40 Parts:	
0-49	4.25
50-59	5.75
60-99	5.00
100-399	4.75
400-end	5.75
41 Chapters:	
1-2	5.25
7	2.75
8	2.30
9 (Rev. 9/26/77)	5.00
10-17	4.25
19-100	4.50
101-end	5.75

CFR Unit (Rev. as of Oct. 1, 1977):

46 Parts:	
70-89	3.25
49 Parts:	
1-99	3.00

[6325-01]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Energy

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: An additional position of Staff Assistant to the Director, Executive Secretariat, is excepted from the competitive service under Schedule C because it is confidential in nature.

EFFECTIVE DATE: March 1, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3331(s)(1) is amended as set out below:

§ 213.3331 Department of Energy.

* * * * * *

(s) *Office of the Director, Executive Secretariat.* (1) Two Staff Assistants to the Director.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-5501 Filed 2-28-78; 8:45 am]

[3410-16]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY

PART 2—DELEGATION OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Clean Water Act of 1977 Implementation

AGENCY: U.S. Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document provides delegations of authority to the Assistant Secretary of Agriculture for Conservation, Research, and Education and the Administrator, Soil Conservation Service, relating to section 35 of the Clean Water Act of 1977.

EFFECTIVE DATE: March 1, 1978.

FOR FURTHER INFORMATION CONTACT:

M. D. Burdick, Director, Resource Development Division, Soil Conservation Service, U.S. Department of Agriculture, P.O. Box 2890, Washington, D.C. 20013, 202-447-4554.

SUPPLEMENTARY INFORMATION: On December 28, 1977, President Carter signed the Clean Water Act of 1977, Pub. L. 95-217. This Act, among other purposes, directs the Secretary of Agriculture, with concurrence of the Administrator of the Environmental Protection Agency, to establish and administer a program to enter into contracts with rural landowners and operators for the purpose of installing and maintaining practices and measures to control rural nonpoint source pollution. Landusers within designated high priority areas will have the opportunity to enter into 5-10 year contracts based on plans approved by local soil conservation districts. Technical and financial assistance provided under these contracts will be based on the landuser's agreement to manage his land in accordance with locally identified "best management practices."

Accordingly, Part 2, Subtitle A, Title 7, Code of Federal Regulations is amended as follows:

Subpart C—*Delegations of Authority to the Deputy Secretary, Assistant Secretaries, the Director of Economics, Policy Analysis and Budget, and the Director, Office of Governmental and Public Affairs.*

Section 2.19 is amended by adding a new paragraph (f)(9) to read as follows:

§ 2.19 Delegations of authority to the Assistant Secretary for Conservation, Research and Education.

* * * * *

(f) ***

(9) Administer responsibilities and functions assigned under section 35 of the Clean Water Act of 1977, Pub. L. 95-217, to the Secretary of Agriculture.

* * * * *

Subpart G—*Delegation of Authority by the Assistant Secretary for Conservation, Research and Education.*

Section 2.62 is amended by adding a new paragraph (a)(11) to read as follows:

§ 2.62 Administrator, Soil Conservation Service.

(a) ***

(11) Administer rural water quality cost-sharing program and other responsibilities assigned under section 35 of the Clean Water Act of 1977, Pub. L. 95-217.

* * * * *

(5 U.S.C. 301 and Reorganization Plan No. 2 of 1953.)

For Subpart C:

Dated: February 16, 1978.

BOB BERGLAND,
Secretary of Agriculture.

For Subpart G:

Dated: February 16, 1978.

M. RUPERT CUTLER,
Assistant Secretary for Conservation, Research and Education.

[FR Doc. 78-5350 Filed 2-28-78; 8:45 am]

[3510-24]

Title 13—Business Credit and Assistance

CHAPTER III—ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 308—SPECIAL ECONOMIC DEVELOPMENT AND ADJUSTMENT ASSISTANCE GRANTS

PART 309—GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE

Amendments

AGENCY: Economic Development Administration (EDA), Department of Commerce.

ACTION: Final rule.

SUMMARY: These regulations revise certain aspects of EDA's Special Economic Development and Adjustment Assistance Grant program. These changes are necessary to bring the program regulations into conformance with the program's authorizing legislation, as amended. The intended effect of these amendments is to update EDA's regulations.

DATES: Effective date: February 21, 1978. Comments by: March 31, 1978.

ADDRESS: Send comments to: Assistant Secretary for Economic Development, U.S. Department of Commerce, Room 7800B, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT:

Information on these regulations only: James F. Marten, U.S. Department of Commerce, Room 7009, Washington, D.C. 20230, 202-377-5441.

SUPPLEMENTARY INFORMATION: Pub. L. 94-487 made several changes to Title IX of the Public Works and Economic Development Act of 1965 (PWEDA). These amendments implement those statutory changes. Each amendment and the legislative change which necessitated it are described below.

PART 308

1. § 308.4 has been amended to include a new criterion under which the Assistant Secretary may award adjustment grants. As the result of an amendment to section 903(a)(1) of PWEDA, the Assistant Secretary may grant assistance to an eligible applicant which demonstrates "long-term economic deterioration". A new paragraph (2) is added to subsection (a) of § 308.4 to describe this eligibility criterion. Paragraphs (i) through (iv) of § 308.4(a)(2) contain examples of conditions which may create "long-term economic deterioration."

2. § 308.5 has been revised in several places to reflect a number of amendments to Title IX of PWEDA.

§ 308.5(b)(8) has been revised to reflect the eligibility of businesses for relocation assistance. Previously, such assistance was available only for individuals. This change was necessitated by an amendment to section 903(a)(1) of PWEDA.

§ 308.5(b)(12) also has been revised to conform its language to section 903(a)(1) of PWEDA, as amended.

§ 308.5(c) has been revised to include an additional method, payments to reduce interest on guaranteed loans, through which recipients may redistribute Title IX assistance. This change was required by an amendment to section 903(a)(2)(A) of PWEDA. Paragraph (c) has also been re-written to improve its clarity.

3. § 308.24 has been revised by making certain technical and format changes and by including payments to reduce interest on guaranteed loans among the forms of business development assistance available through Title IX. As with the change to § 308.5(c), this revision was necessitated by an amendment to section 903(a)(2)(A) of PWEDA.

4. § 308.27 has been revised by making certain technical and format changes, such as giving the section a new title, and by listing criteria for

the extension of relocation assistance to businesses. New paragraph (c) contains the requirements for and restrictions on the use of relocation assistance for businesses.

5. New § 308.28 has been added to Part 308 to incorporate certain materials removed from § 308.27.

As a result of the inclusion of the new § 308.28, the previous § 308.28 is renumbered as § 308.29.

PART 309

1. § 309.3 has been amended by adding to it a new paragraph (i) to discuss the relationship between the relocation assistance authorized by Title IX and the general prohibition on the use of EDA assistance for relocation purposes.

Because these amendments relate to the EDA grant and loan program, they are exempt from the procedures described in section 553 of the Administrative Procedure Act (5 U.S.C. 553). However, in the spirit of public policy set forth in that Act, interested persons may submit written suggestions regarding these amendments to the Assistant Secretary for Economic Development at the above address.

EDA has determined that this document does not constitute a major proposal requiring the preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular No. A-107.

Accordingly, 13 CFR Chapter III is hereby amended by revising Parts 308 and 309 to read as follows:

1. § 308.4(a) is revised to read as follows:

§ 308.4 Award of adjustment grants.

(a) The Assistant Secretary may make grants directly to an eligible recipient in an area for which the Assistant Secretary has made one of the following determinations.

(1) The area has experienced, or may reasonably be foreseen to be about to experience, a special economic development need. This need may arise from actual or threatened severe unemployment caused by economic dislocation, including unemployment caused by actions of the Federal Government or by compliance with Federal regulations, and from economic adjustment problems resulting from severe changes in economic conditions.

(2) The area has demonstrated long-term economic deterioration in its local economic base which contributes to the out-migration of economic activity and results in a decrease in employment opportunities. This situation may arise in one or more of the following ways:

(i) Widespread obsolescence of existing plant capacity and a lack of captial reinvestment in the area;

(ii) A continuing shift in consumption patterns producing a long-term decline in demand for the output of a major component of the area's economic base;

(iii) Inadequacy of an area's support facilities relative to the changing requirements of its major economic activities; and

(iv) Gradual depletion of a natural resource that has been a major component of the economic base of the area.

Grants will not be made which would have the purpose and effect of replacing the efforts of the economic adjustment program of the Department of Defense.

* * * * *

2. Paragraphs (b) and (c) of § 308.5 are revised to read as follows:

§ 308.5 Use of adjustment grants.

* * * * *

(b) * * *

(9) Relocation of businesses and individuals;

* * * * *

(12) Other assistance which demonstrably furthers the economic adjustment objectives of this part. The nature of this assistance will depend on the specific adjustment problem which is encountered. Any assistance granted under this paragraph is subject to normal statutory and regulatory restrictions.

(c) Adjustment grants to carry out a plan may be disbursed by eligible recipients through direct expenditures or through redistribution by them to public and private entities.

(1) Adjustment grants may be re-distributed in the form of grants to public and private non-profit entities only.

(2) Adjustment grants may be re-distributed in the form of loans, loan guarantees, payments to reduce interest on guaranteed loans, or other appropriate assistance to public and private entities.

3. § 308.24 is revised to read as follows:

§ 308.24 Business development.

(a) An adjustment grant may be used for business development purposes if the business development has a reasonable relation to the purpose of Title IX. Business development grants may be used:

(1) For the purchase, development and operation of land and facilities (including machinery and equipment) for industrial or commercial usage, including the construction of new buildings;

(2) For the rehabilitation of abandoned or unused buildings; and

(3) For the alteration, conversion or enlargement of existing buildings.

(b) Business development assistance may be made through any of the following activities:

(1) Purchasing evidences of indebtedness;

(2) Making fixed asset loans and working capital loans (which may include participation in loans);

(3) Guaranteeing fixed asset loans and working capital loans made to private borrowers by private lending institutions for any of the purposes of this subsection upon application by the lending institutions;

(4) Making payments to reduce interest on guaranteed loans; and

(5) Guaranteeing rental payments or leases for buildings and equipment.

(c) Title IX grants may be used to fund all or part of the cost of the activities described in this section.

4. § 308.27 is revised in its entirety, including its title, to read as follows:

§ 308.27 Relocation assistance.

(a) An adjustment grant may be used to assist in the relocation of individuals and businesses if such assistance has a reasonable relation to the purposes of Title IX and meets the criteria contained in paragraphs (b) and (c) of this section as appropriate.

(b) An adjustment grant may be used to assist in the relocation of unemployed workers and their families living with them only if both the following conditions are met:

(1) It is reasonably clear that alternative employment will not occur for such workers in their present locations during the process of long-range economic adjustment; and

(2) Relocation assistance funded under the Comprehensive Employment and Training Act of 1973 or the Trade Act of 1974 is not available to such workers.

(c) An adjustment grant may be used to assist in the relocation of businesses within the same area when it is reasonably clear that alternative opportunities for the operation of such businesses will not occur in their present locations during the process of long-range economic adjustment.

(1) For purposes of this paragraph, the words "same area" mean that geographic area which will allow employees of relocating businesses to retain their jobs.

5. A new § 308.28 is added and existing § 308.28 is renumbered as § 308.29 to read as follows:

§ 308.28 Other uses of adjustment assistance.

The Assistant Secretary may make adjustment grants available for public services, rent supplements, mortgage payment assistance, training, and for other appropriate uses if reasonably related to the purposes of Title IX and if useful to carry out a plan.

§ 308.29 General requirements.

* * * * *

1. A new subsection (i) is added to § 309.3 to read as follows:

§ 309.3 Nonrelocation.

* * * * *

(i) Relocation assistance made under the authority of Title IX of the Act and meeting the requirements of § 308.27 is not prohibited by this section.

AUTHORITY: Pub. L. 94-487, 90 Stat. 2331 (42 U.S.C. 3121 et seq.); sec. 701, Pub. L. 89-136, 79 Stat. 570 (42 U.S.C. 3211); Department of Commerce Organization Order 10-4, as amended (40 FR 56702, as amended).

Dated: February 21, 1978.

ROBERT T. HALL,
Assistant Secretary for Economic Development.

[FR Doc. 78-5384 Filed 2-28-78; 8:45 am]

[6320-01]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER B—PROCEDURAL REGULATIONS

[Regulation PR-171, Amdt. 36]

PART 302—RULES OF PRACTICE IN ECONOMIC PROCEEDINGS

Transfer of Authority From the Chief Administrative Law Judge to the Board's Secretary

AGENCY: Civil Aeronautics Board.

ACTION: Final Rule.

SUMMARY: This rule transfers from the Chief Administrative Law Judge to the Board's Secretary certain authority for granting continuances and extensions of time. This rulemaking, undertaken on the Board's own initiative, is designed to improve the management of the Board's responsibilities.

DATES: Effective: February 23, 1978. Adopted: February 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Phyllis T. Kaylor, Secretary, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5068.

SUPPLEMENTARY INFORMATION: Section 302.17 of the Board's rules of practice provides that the Board, the Chief Administrative Law Judge, or the administrative law judge assigned to a proceeding may grant continuances and extensions of time. In actual practice, most continuances and extensions are granted by the Chief Administrative Law Judge since they occur: (i) In cases which are not the subject of formal hearings, or (ii) at times before or after the assignment of a presiding administrative law judge. We believe that it is preferable that the Secretary rather than the Chief Administrative Law Judge have this ongoing responsibility so that the Chief Judge can devote his full time and effort to the administration of the Board's trial caseload.

The Secretary will undertake her responsibility in cooperation with those offices and bureaus of the Board responsible for processing the item to which the continuance or extensions of time is directed. Although we shall delete the name of the Chief Administrative Law Judge from Rule 17, he will continue to exercise the power now held by the administrative law judge assigned to a proceeding where that administrative law judge is unavailable.

Since this amendment affects a rule of agency organization and procedure, the Board finds that notice and public procedure are unnecessary, and that the rule may become effective immediately.

Accordingly, the Board amends section 302.17 of its rules of practice to read as follows:

§ 302.17 Continuances and extensions of time.

(a) *Generally.* Whenever a party has the right or is required to take action within a period prescribed by this part, by a notice given thereunder, or by an order or regulation, the Board, the Secretary or the administrative law judge assigned to the proceeding may: (i) Before the expiration of the prescribed period, with or without notice, extend such period; or (ii) upon motion, permit the act to be done after the expiration of the specified period, where the failure to act is clearly shown to have been the result of excusable neglect.

(b) *Procedures.* Except where an administrative law judge has been assigned to a proceeding, requests for continuances or extensions of time, as described in clauses (i) or (ii) of paragraph (a), shall be directed to the Board or its Secretary. Requests for continuances and extensions of time may be directed to the Chief Administrative Law Judge in the absence of the administrative law judge assigned to the proceeding.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324; Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989, 49 U.S.C. 1324 (note).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-5425 Filed 2-28-78; 8:45 am]

[3510-13]

Title 15—Commerce and Foreign Trade

SUBTITLE A—OFFICE OF THE SECRETARY OF COMMERCE

PART 16—PROCEDURES FOR A VOLUNTARY CONSUMER PRODUCT INFORMATION LABELING PROGRAM

Amendment To Permit CPILP Labels To Include Information About a Performance Characteristic When Another Federal Agency Requires Labeled Information About That Characteristic

AGENCY: Assistant Secretary for Science and Technology, U.S. Department of Commerce.

ACTION: Rule.

SUMMARY: This document amends the procedures for the Voluntary Consumer Product Information Labeling Program (CPILP) to authorize the Department of Commerce to include on CPILP labels for selected consumer products information about performance characteristics which are included in the labeling program of another Federal agency, provided the other agency agrees. The object of the amendment is to decrease the complexity of labeling for manufacturers by enabling them to comply with the labeling requirements of other Government programs through participation in CPILP, and to simplify product comparison by consumers at the point of sale.

EFFECTIVE DATE: March 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. Howard I. Forman, Deputy Assistant Secretary for Product Standards, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-3221.

SUPPLEMENTARY INFORMATION: On May 25, 1977, the Department of Commerce announced in the FEDERAL REGISTER (42 FR 26647) procedures under which a Voluntary Consumer Product Information Labeling Program administered by the Department will function. The Department determined that the program would be instituted on a limited pilot project basis. The goal of this program is to make available to consumers, at the point of sale, information on consumer product performance in an understandable and useful form.

Other Government agencies—such as the Federal Trade Commission, the Consumer Product Safety Commission, and the Environmental Protection Agency—also are proposing or considering various information disclosure requirements for consumer products. In many cases, however, it would be desirable to provide on a single label information of interest to consumers about a wider range of attributes than is being considered for labeling requirements by any one agency. For selected consumer products, the Department of Commerce desires to make CPILP labels compatible with the corresponding labeling requirements or recommendations promulgated by other agencies, so that the information disclosure requirements of those agencies can be satisfied by participation in CPILP. In such cases, product labeling would be simplified for manufacturers participating in CPILP since compliance with those other agency requirements would be assured. Product comparison by consumers at the point of sale also would be simplified since all of the information would be on a single label having a uniform, consumer-oriented format.

The final sentence in § 16.2(b) of the CPILP procedures states that: "The program seeks to avoid the duplication of other Federal programs under which performance characteristics are labeled by exempting those performance characteristics from this program." In view of the above stated desire of the Department of Commerce to include on CPILP labels performance characteristics which are included in other Federal labeling programs, a proposed amendment was published in the FEDERAL REGISTER (42 FR 64909, December 29, 1977) to amend the final sentence of § 16.2(b) of the CPILP procedures. It was emphasized in the preamble to the proposed amendment that CPILP is a voluntary program, and that manufacturers can comply with the labeling requirements of other Federal agencies without participating in CPILP. Interested persons were invited to submit written comments on the proposed amendment on or before January 30, 1978.

Comments concerning the proposed amendment were received from two sources. A card dated January 3, 1978, from Amy Beckett, 1310 East Meadowmere, Springfield, Mo. 65804, endorsed "the Commerce Department proposal to coordinate Federal product labeling requirements." The second letter dated January 16, 1978, was received from Lawrence H. Hodges, Vice President, Technical Affairs, J I Case Co., 700 State Street, Racine, Wis. 53404. This letter states, "J I Case Co. supports the Department's proposal that certain mandated labeling required by the regulations of other regulatory agencies and the labeling required by voluntary participants in the DoC's 'Voluntary Consumer Product Information Labeling Program (CPILP) be, in some instances, incorporated into one label.'"

Copies of the two letters of comment received, and a summary and analysis of these letters are available for public inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 5317, Main Commerce Building, 14th Street between E Street and Constitution Avenue NW., Washington, D.C. 20230.

For purposes of clarity, the amendment language was changed slightly so that the amendment consists of adding a new sentence at the end of § 16.2(b). Accordingly, the CPILP procedures are hereby amended as set forth below.

NOTE.—The Department of Commerce has determined that adoption of this amendment does not constitute a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and Office of Management and Budget Circular No. A-107.

Issued: February 24, 1978.

JORDAN J. BARUCH,
Assistant Secretary for Science and Technology.

§ 16.2 [Amended]

15 CFR Part 16 is amended by adding the following sentence at the end of § 16.2(b):

However, where the Federal agency concerned agrees, the Department of Commerce may include information about those performance characteristics in CPILP labels if, by doing so, product comparison at the point of sale is simplified for consumers, and the complexity of product labeling is reduced for the manufacturers by enabling them to comply with the labeling requirements of other Federal agencies through participation in CPILP.

Section 16.2(b), as amended, will read in its entirety as follows:

§ 16.2 Description and goal of program.

* * * * *

(b) The program involves voluntary labeling by enrolled participants of selected categories of consumer products with information concerning selected performance characteristics of those products. The performance characteristics selected are those that are of demonstrable importance to consumers, that consumers cannot evaluate through mere inspection of the product, and that can be measured objectively and reported understandably to consumers. The consumer products covered include those for which incorrect purchase decision can result in financial loss, dissatisfaction, or inconvenience. The program seeks to avoid the duplication of other Federal programs under which performance characteristics are labeled by exempting those performance characteristics from this program. However, where the Federal agency concerned agrees, the Department of Commerce may include information about those performance characteristics in CPILP labels if, by doing so, product comparison at the point of sale is simplified for consumers, and the complexity of product labeling is reduced for the manufacturers by enabling them to comply with the labeling requirements of other Federal agencies through participation in CPILP.

[FR Doc. 78-5398 Filed 2-28-78; 8:45 am]

[4210-01]

Title 24—Housing and Urban Development

SUBTITLE A—OFFICE OF THE SECRETARY

[Docket No. R-78-510]

PART 0—STANDARDS OF CONDUCT

AGENCY: Department of Housing and Urban Development—Office of the Secretary.

ACTION: Final rule.

SUMMARY: These amendments prohibit discrimination by employees against other employees of the Department because of race, color, religion, national origin, sex, or age. In addition, employees on official business are prevented from attending meetings which exclude persons for these reasons. The changes are needed to carry out statutory provisions and the requirements of Executive Order 11222.

EFFECTIVE DATE: March 1, 1978.

ADDRESS: Rules Docket Clerk, Department of Housing and Urban Development, Office of the General Counsel, Room 5218, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

John Waller, 202-755-6550.

SUPPLEMENTARY INFORMATION: Because these standards for prohibiting discrimination in the employment of personnel and the administration of HUD programs relate to agency management and personnel, notice and public procedure are unnecessary. In addition, good cause exists for making the changes effective upon publication in the FEDERAL REGISTER.

A finding of inapplicability regarding Environmental Impact has been prepared in accordance with the National Environmental Policy Act of 1969 and HUD Handbook 1390.1. A statement of inapplicability has also been prepared in accordance with Executive Order 11821 with respect to economic impact. Copies of these statements are available in the Rules Docket File which can be inspected and copied in the Office of the Rules Docket Clerk at the above address.

Accordingly, 24 CFR § 0.735-202 is amended by adding three new paragraphs which read as follows:

§ 0.735-202 Proscribed actions.

• • • • •

(g) Discrimination against any other employee, or applicant for employment, on the ground of race, color, religion, national origin, sex, or age;

(h) Excluding any person from participating in, or denying to any person the benefits of, any program or activity administered by the Department on the ground of race, color, religion, sex, or national origin; or

(i) While conducting official business, knowingly participating in or attending any segregated meetings, or meetings held in segregated facilities, from which persons are excluded because of race, color, religion, sex, or national origin.

(18 U.S.C. 201; E.O. 11222 of May 8, 1965, 30 FR 6469; 5 CFR 735.104.)

These amendments were approved by the Civil Service Commission on August 8, 1977.

Issued at Washington, D.C., February 21, 1978.

PATRICIA ROBERTS HARRIS,
Secretary, Housing and Urban Development.

[FR Doc. 78-5311 Filed 2-28-78; 8:45 am]

[4410-01]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 769-78]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart H—Antitrust Division

DELEGATION OF CERTAIN FUNCTIONS UNDER THE ENERGY POLICY AND CONSERVATION ACT

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This order delegates to the Assistant Attorney General in charge of the Antitrust Division the authority to act on behalf of the Attorney General with respect to carrying out the provisions of sections 252 and 254 of the Energy Policy and Conservation Act, 42 U.S.C. 6272, 6274, and to voluntary agreements signed pursuant to section 252.

The amendment effected by this order will enable the Department of Justice to be responsive to problems arising under voluntary agreements and plans of action entered into or developed under section 252 of the Act.

EFFECTIVE DATE: February 20, 1978.

FOR FURTHER INFORMATION CONTACT:

John H. Shenefield, Assistant Attorney General, Antitrust Division, Department of Justice, Washington, D.C. 20530, 202-739-2401.

SUPPLEMENTARY INFORMATION: Section 252 of the Energy Policy and Conservation Act assigns to the Attorney General the responsibility of approving, reviewing and monitoring voluntary agreements and plans of action developed and executed by individuals and business entities in order to assist in the implementation of the Agreement on an International Energy Program, which was signed by the United States of America on November 18, 1974, and which, among other things, was entered into in order to create a vehicle to equitably allocate petroleum and petroleum products between signatory countries in the event of a shortage of petroleum in world markets and to develop information systems concerning international supplies of petroleum and petroleum products. Section 252(f) of the Energy Policy and Conservation Act, 42 U.S.C. 6272(f), makes available to any person a defense "to any civil or criminal action brought under the antitrust laws" that the person was acting pursuant to a voluntary agreement or plan of action authorized under section 252. Section 254 of the Energy Policy and Conservation Act authorizes the Secretary of the Department of Energy after consulting with the Attorney General to provide information and data related to the energy industry to the International Energy Agency, an international administrative body established under the International Energy Program.

The amendment effected by this Order will enable the Department of Justice to be responsive to problems arising under voluntary agreements and plans of action entered into or developed under section 252 of the Energy Policy and Conservation Act, 42 U.S.C. 6272, while maintaining its vigorous, continuing supervision of the development and execution of such voluntary agreements and plans of action, by delegating to the Assistant Attorney General in charge of the Antitrust Division responsibilities which involve the expertise of the Antitrust Division concerning competitive issues.

By virtue of the authority vested in me by 28 U.S.C. 509, 510 and 5 U.S.C. 301, section 0.41 of Subpart H of Part O of Chapter I of Title 28, Code of Federal Regulations, is amended by adding a new paragraph (i) at the end thereof, to read as follows:

§ 0.41 Special functions.

• • • • •

(i) Acting on behalf of the Attorney General with respect to sections 252 and 254 of the Energy Policy and Conservation Act, 42 U.S.C. 6272, 6274, including acting on behalf of the Attorney General with respect to voluntary agreements or plans of action established pursuant to section 252 of that Act.

Dated: February 20, 1978.

GRIFFIN B. BELL,
Attorney General.

[FR Doc. 78-5285 Filed 2-28-78; 8:45 am]

[3810-71]

Title 32—National Defense

CHAPTER VI—DEPARTMENT OF THE NAVY

SUBCHAPTER S—NAVIGATION

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

USS Cincinnati

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department is amending its rules for certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972, to reflect that the Secretary of the Navy has determined that USS *Cincinnati* (SSN 693) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) without interfering with its special function as a naval submarine. The intended effect of this rule is to warn mariners on waters where the 72 COLREGS apply.

EFFECTIVE DATE: February 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Lt. Comdr. M. D. Seiders, JAGC, USN, Admiralty Division, Office of the Judge Advocate General, Navy Department, Washington, D.C. 20370, 202-694-5188.

SUPPLEMENTARY INFORMATION: This amendment to Part 706 provides notice that the Secretary of the Navy has certified that USS *Cincinnati* (SSN 693) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(c) regarding the arc of visibility and location of the stern light; annex I, section 2(a)(i) regarding the height of the masthead light; annex I, section 3(b) regarding the location of the sidelights; annex I, section 2(k) regarding the height of the anchor lights; and, rule 30(d)(i) regarding the display of two all round red lights when aground. Full compliance with the above-mentioned 72 COLREGS provisions would interfere with the special function of the ship. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that USS *Cincinnati* (SSN 693) is a member of the SSN 688 class of ships for which certain exemptions, pursuant to 72 COLREGS Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of § 706.3, are equally applicable to USS *Cincinnati*.

Since this amendment pertains to a military and foreign-affairs function of the United States, the rulemaking requirements of 5 U.S.C. 553 do not apply. Accordingly, 32 CFR Part 706 is amended as follows:

§ 706.2 [Amended]

1. The third Table One of § 706.2 is amended by inserting the following between "USS *Omaha*, SSN-692 6.10" and "USS *George Washington*, SSBN-598 4.11":

Vessel	Number	Distance in meters of forward masthead light below minimum required height, § 2(a)(i), annex I
•	•	•
USS Cincinnati.	SSN-693	3.49
•	•	•

2. The fourth Table Three of § 706.2 is amended by inserting the following between "USS *Omaha* SSN-692 236° 115° 252° 4.2 6.1 2.0 1.6 below" and "USS *George Washington* SSBN-598 240° 118° 255° 3.8 46.0 2.1 0.6 below":

Vessel	Number	Masthead light, arc of visibility; rule 21(a)	Sidelights, arc of visibility; rule 21(b)	Stern light, arc of visibility; rule 21(c)	Sidelights, distance inboard of ship's sides in meters; sec. 3(b), annex I	Stern light, distance forward of stern in meters; rule 21(c)	Forward anchor light, height above hull in meters; sec. 2(K), annex I	Anchor lights, relationship of aft light to forward light in meters; sec. 2(K), annex I
•	•	•	•	•	•	•	•	•
USS Cincinnati	SSN-693			209°	4.3	6.1	3.4	1.6 below.
•	•	•	•	•	•	•	•	•

3. Note 3 of Table Four of § 706.2 is amended by revising the existing note to read as follows:

NOTE 3.—The second masthead light required by rule 23(a)(ii) and the lights required by rules 24, 27, and 30(d)(i) are not installed on submarines.

Effective date: The effective date of this amendment will be February 28, 1978.

Dated: February 16, 1978.

W. GRAHAM CLAYTOR, JR.,
Secretary of the Navy.

[FR Doc. 78-5380 Filed 2-28-78; 8:45 am]

[3710-92]

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

[ER 1130-2-324]

PART 209—ADMINISTRATIVE PROCEDURES

Coordination of Hydroelectric Power Operations With Power Marketing Agencies

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Final rule.

SUMMARY: This regulation states the Corps of Engineers policies and procedures on coordination of hydroelectric power operations with the Federal Government power marketing agencies. The regulation is being issued in response to a recommendation contained within a Comptroller General of the United States Report to the Congress, dated January 2, 1976. This regulation will provide for more effective coordination of power operations between the Corps of Engineers and the Federal power marketing agencies.

EFFECTIVE DATE: March 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Kyle Jones, Construction-Operations Division, Civil Works Directorate, Office of the Chief of Engineers, Washington, D.C. 20314, 202-693-6975.

SUPPLEMENTARY INFORMATION: On June 7, 1977, the Corps of Engineers published a notice of proposed rule in the FEDERAL REGISTER, 42 FR 29025 (33 CFR 209-141), to establish policy and procedures for the coordination of hydroelectric power operations with power marketing agencies. Interested persons were invited to submit written comments, suggestions, or objections on or before July 15, 1977.

One comment was received. It was suggested that an operation rule curve based on lake elevation be developed for each reservoir. The curves are presently developed in accordance with the existing policy, therefore, inclusion in this regulation is not considered necessary.

To clarify the respective roles of the Corps and power marketing agencies, a second policy paragraph was added under section 209.141(e). The paragraph states that the Corps is responsible for operating the hydroelectric power projects and providing information affecting cost and power availability to the marketing agencies. Marketing the generated power declared excess to project needs and recovering Federal investment are the responsibilities of the marketing agencies. This new paragraph does not establish new policy but simply states existing policy.

Due to Executive Department reorganization, references to the Department of Interior have been deleted from the preamble. All references to marketing agencies are intended to refer to Federal agencies within the executive branch directly responsible for marketing power generated at Corps of Engineers multiple-purpose projects with power.

The Chief of Engineers has determined that this rule does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107 (statutory authority Pub. L. 90-483).

Dated: February 21, 1978.

JAMES N. ELLIS,
Colonel, Corps of Engineers, Executive Director, Engineer Staff.

In consideration of the above Part 209 is amended by adding 209.141 as follows:

§ 209.141 Coordination of hydroelectric power operations with power marketing agencies.

(a) *Purpose.* This regulation establishes policies and procedures for coordinating the operation of the Corps of Engineers' hydroelectric generating facilities with the power marketing agencies.

(b) *Applicability.* This regulation applies to all civil works field operating agencies (FOA) having generating facilities producing marketable electric power.

(c) *References.* (1) Section 5, Pub. L. 534, 78th Congress, Flood Control Act of 1944, December 22, 1944 (58 Stat. 889).

(2) Section 302, Pub. L. 95-91, 95th Congress, Department of Energy Organization Act, August 4, 1977 (91 Stat. 565).

(d) *Background.* Section 5 of the Act of December 22, 1944 (Pub. L. 534, 78th Congress), provides that electric power and energy generated at reservoir projects under the control of the Department of the Army and in the opinion of the Secretary of Army not required in the operation of such projects shall be delivered to the Secretary of Interior for transmittal and disposal in a manner to encourage the most widespread use thereof at the lowest possible rates to consumers consistent with sound business principles. Section 302 of the Department of Energy Organization Act (Pub. L. 95-91) transfers all functions of the Secretary of Interior under section 5 of the 1944 Act to the Secretary of Energy together with all other functions of the Secretary of Interior, and officers and components of the Department of the Interior, with respect to the Southeastern Power Administration; the Southwestern Power Administration; the Alaska Power Administration; the Bonneville Power Administation; and the power marketing functions of the Bureau of Reclamation.

(e) *Policies.* (1) The Corps is responsible for operating the hydroelectric power projects and providing information affecting cost and availability of power to the power marketing agencies. Marketing the generated power declared excess to the needs of the projects and recovering Federal investment are the responsibilities of the power marketing agencies.

(2) All FOA Commanders will develop, in coordination with their respective power marketing agency, a system for exchanging operating information. The system will include general operating information and information on conditions that could substantially affect costs or power availability.

(f) *Delegation.* Responsibility for coordinating the exchange of information may be delegated to the District Engineer at the discretion of the Division Engineer.

(g) *Procedures.* (1) Specific requirements.

(i) *Continuing.* Prompt written notification will be provided to the appropriate power marketing agency each time a change in power operations or conditions which could substantially affect costs or power availability is anticipated.

(ii) *Annual.* Annually, when no changes in power operations or costs are expected for the succeeding 12-month period, the marketing agency will be notified of that fact in writing.

(2) *FOA responsibility.* The FOA directly responsible for communicating with the marketing agency will develop appropriate reporting procedures in coordination with that agency.

[FR Doc. 78-5352 Filed 2-28-78; 8:45 am]

[8320-01]

Title 41—Public Contracts and Property Management

CHAPTER 8—VETERANS ADMINISTRATION

PART 8-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Architect-Engineer Evaluation Boards

AGENCY: Veterans Administration.

ACTION: Final regulation.

SUMMARY: This part is being revised to change the composition of the architect-engineer evaluation board appointed by the Assistant Administrator for Construction in order to increase the flexibility of that board.

EFFECTIVE DATE: February 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Clyde C. Cook, Supply Service, Veterans Administration, Washington, D.C. 20420, 202-389-2334.

SUPPLEMENTARY INFORMATION: Section 8-4.1004-1 is revised in order to permit representation on the architect-engineer evaluation board from any discipline considered necessary. This revision is intended to increase the efficiency of the architect-engineer evaluation by providing more flexibility in the composition of the board.

Since the change revises internal administrative matters, compliance with the provisions of 38 CFR 1.12 relating to regulatory development is considered unnecessary.

Approved: February 21, 1978.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

In § 8-4.1004-1, paragraph (a) is revised as follows:

§ 8-4.1004-1 Establishment of architect-engineer evaluation boards.

• • • • • •

(a) The evaluation board will be chaired by either the Chairman or Vice Chairman of the Architect-Engineer Evaluation Board, or the project director will be designated to act when necessary. The board's members, as appointed by the Assistant Administrator for Construction, will include the appropriate project director or designated project supervisor and as many qualified professional architects or engineers from the Office of Construction technical services as may be considered appropriate for the particular project. Additional members from the Office of Construction Health Care Facilities Service or from other Veterans Administration departments and staff offices will be designated for special type projects when appropriate.

• • • • •

[FR Doc. 78-5388 Filed 2-28-78; 8:45 am]

[4110-35]

Title 42—Public Health

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Coverage and Reimbursement of Rural Health Clinic Services

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final regulation with comment period.

SUMMARY: These regulations set forth the conditions for coverage and reimbursement of rural health clinic services under the Medicare program. They implement some of the provisions of the Rural Health Clinic Services Act of 1977 (Pub. L. 95-210), which is effective for Medicare on March 1, 1978. The intent is to increase the availability of primary and emergency care services in rural areas that do not have enough physicians.

DATES: Effective March 1, 1978. Comments by March 31, 1978.

Notice of proposed rulemaking has been waived, in order to meet the statutory effective date. However, we will consider written comments, suggestions, or objections received within 30 days and will revise the regulations, if necessary. In commenting please refer to file code MAB 63 RC. Agencies and organizations are requested to submit comments in duplicate.

ADDRESSES: Address comments to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 2372, Washington, D.C. 20013. Comments will be available for public inspection beginning approximately 2 weeks after publication, in Room 5225 of the Department's offices at 330 C Street SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5 p.m., 202-245-0950.

FOR FURTHER INFORMATION CONTACT:

Marinos Svolos, Medicare Bureau, HCFA, Room 106, East High Rise, 6401 Security Boulevard, Baltimore, Md. 21235, 301-594-9315.

SUPPLEMENTARY INFORMATION: The regulation implements the provisions of Pub. L. 95-210 dealing with the coverage and reimbursement of services furnished by rural health clinics under the Medicare program. It is effective for covered services furnished by a certified rural health clinic beginning March 1, 1978. Regulations setting forth the requirements a facility must meet to be certified as a rural health clinic were published in the FEDERAL REGISTER (43 FR 5373) on February 8, 1978. The provisions of Pub. L. 95-210 are effective for Medicaid covered services furnished by certified rural health clinics beginning July 1, 1978.

A notice of proposed rulemaking governing the coverage and reimbursement of rural health clinic services under medicaid will be published separately.

PURPOSE OF THE PROGRAM

Because of a lack of physicians, many areas of the country, particularly rural areas, have turned to specially-trained primary care practitioners to provide their health care needs. Many of these practitioners work in clinics under the general supervision of a physician and furnish a wide range of health care services many of which could previously only be reimbursed by Medicare if provided by a physician. These primary care practitioners are usually called physician assistants and nurse practitioners. The services nurse practitioners and physician assistants generally provide are primary care services under the supervision of a physician.

The use of nurse practitioners and physician assistants in an expanded role to provide primary care health services ordinarily provided by physicians has become more widespread in recent years. Until the enactment of Pub. L. 95-210, however, the Medicare law limited coverage of primary care services to those furnished by physicians, with only certain limited exceptions. Since the services provided by the nurse practitioners and physician assistants to Medicare beneficiaries were not generally eligible for Medicare reimbursement, these services were either paid for out-of-pocket by the beneficiary, supported through a grant, or treated by the clinic as bad debts or charity. As a result of these and other factors, several rural health clinics experienced serious financial problems. And, individuals who lived in such areas often did not have access to adequate health care services. Taking account of the severe health care problems resulting from the lack of physicians in many rural areas, Congress enacted Pub. L. 95-210 which amended the Medicare law to extend Medicare's coverage to permit reimbursement for services provided by qualified nurse practitioners and physician assistants in certified rural health clinics.

MAJOR REGULATION PROVISIONS

1. COVERAGE OF RURAL HEALTH CLINIC SERVICES

These regulations define the covered services furnished by a rural health clinic for which payment may be made by the Medicare program on behalf of its beneficiaries under Pub. L. 95-210. These include:

(1) Physicians' services including required physician supervisory services of nurse practitioners and physician assistants;

(2) Services and supplies furnished as an incident to a physician's professional services;

(3) Services of physician assistants, nurse practitioners, nurse midwives and specialized nurse practitioners;

(4) Services and supplies furnished as an incident to a nurse practitioner's or physician assistant's services; and

(5) Visiting nurse services on a part-time or intermittent basis to homebound patients (limited to areas in which there is a shortage of home health agencies).

Coverage of rural health clinic services is based largely on long-established Medicare coverage policy. For example, physicians services and services incident to a physician's services are defined in these regulations in accordance with the long-standing definitions of these terms. As contemplated under the law and congressional committee reports on Pub. L. 95-210, the regulations specify that covered services performed by a physician at the clinic are rural health clinic services which, accordingly, are reimbursable only to the clinic. Covered services performed by a physician outside the clinic are also covered rural health clinic services if the physician is compensated for the services by the clinic. If the physician is not so compensated, the covered services are reimbursable to the patient or the physician (if assignment is accepted) on the basis of reasonable charges. While the physician and clinic are free to choose the manner in which covered physicians' services outside the clinic will be paid for by Medicare, the Department expects that there will be a written agreement between the physician and clinic which reflects their decision on this matter. The Department also plans to closely monitor these situations to assure that no program abuse occurs.

The regulations provide that services furnished by nurse practitioners, physician assistants, nurse midwives and specialized nurse practitioners are covered, whether or not the clinic is under the full-time direction of a physician, if the individual is legally permitted under State law to perform such services and meets the education, training, and experience requirements set forth in the regulations. In defining services and supplies which are furnished incident to a nurse practitioner's or physician assistant's services in the clinic, the regulations adapt the requirements which must be met for services to be covered as incident to a physician's services. Essentially, the services and supplies must be of a type that:

(1) Would be covered if furnished as an incident to a physician's services;

(2) Is commonly furnished in physicians' offices; and

(3) Is commonly rendered without charge or included in the clinic's bill.

Such services and supplies must also be furnished as an incident to a nurse practitioner's or physician assistant's service. To be covered under this provision, services must be furnished by an employee of the clinic and under the direct supervision of a nurse practitioner, physician assistant, or physician.

The regulations also define Medicare's coverage of visiting nurse services furnished to homebound patients by rural health clinics that are located in areas where there is a shortage of home health agencies.

In such cases, part-time or intermittent nursing services provided by a registered nurse or licensed practical nurse are covered. Where possible, definitions have been used which are similar to the definitions used for comparable requirements under Medicare's home health benefit.

The regulations stipulate that the items and services a clinic offers which are not covered under the Medicare program are not eligible for Medicare reimbursement. These include, for example, routine dental services, and preventive services.

2. REIMBURSEMENT

Pub. L. 95-210 provides that Medicare payment for covered rural health clinic services will be "• • • 80 percent of costs which are reasonable and related to the cost of furnishing such services or on such other tests of reasonableness as the Secretary may pre-

scribe in regulations, including those authorized under section 1861(v)(1)(A) * * *." Clinics which are an integral part of a hospital will be paid in accordance with the reimbursement methods and principles used to pay for services furnished in a hospital. To implement this provision for those clinics which are not part of a hospital (independent clinics), the Department will initially use an all-inclusive rate method of payment designed to pay for Medicare's share of actual costs, to the extent that they are reasonable.

The Department's objectives in selecting the initial payment method for independent rural health clinics have been:

(1) To provide an equitable level of payment;

(2) To avoid imposing undue data collection, reporting or other administrative burdens on the clinic; and

(3) To permit the Health Care Financing Administration to administer the benefit in a way that does not impede clinic operation.

It is the Department's intent to phase out the initial payment method beginning in March 1979, and to replace it with a prospective method of payment that provides incentives for efficient operation.

All-Inclusive Rate of Payment

The regulations describe the all-inclusive rate method of payment to be used initially. This method of payment requires a clinic to submit, at the beginning of its reporting year, a budget forecast of costs and anticipated visits. Based upon the clinic's estimates the Medicare fiscal intermediary (called "carrier" in the regulations) determines an all-inclusive rate per visit for the clinic by dividing the total allowable expenses by the total anticipated clinic and home visits. Eighty percent of this rate, after subtracting the amount of any deductible for which the Medicare patient is responsible, is paid to the clinic when a Medicare patient is furnished a covered service by a clinic physician, physician assistant, nurse practitioner, nurse midwide, specialized nurse practitioner, or visiting nurse.

Adjustment of Payment

The regulations require that during each reporting period the fiscal intermediary will periodically review and adjust the all-inclusive rate, if necessary, to bring current payments into agreement with current expenses. Such revisions will also be performed if requested by the clinic. At the end of the reporting period (usually 1 year), there will be a reconciliation adjustment based on a report submitted by the clinic of its actual costs and visits for the period. Principally, using this information, the fiscal intermediary will determine the amount of payment due the clinic for covered services furnished Mediare patients. Any difference between the total payment due the clinic and the total payments for services furnished made during the reporting period is to be paid as follows:

(1) If the clinic has been under paid, the fiscal intermediary will make a lump-sum payment for the amount due.

(2) If the clinic has been over paid, the intermediary will arrange a repayment plan which generally seeks to recover the money due in a period not to exceed 1 year. A longer repayment period may be permitted if the intermediary is satisfied that unusual circumstances exist, e.g., to avoid severe financial hardship on the clinic.

Allowable Cost

The regulations define allowable cost for rural health clinics to include those costs which are reasonable in amount and necessary for the efficient delivery of rural health clinic services. These expenses include reasonable compensation for the services of physicians, physician assistants, nurse practitioners and other health care personnel, purchased services to the extent reasonable, and reasonable overhead costs related to the covered services, including depreciation costs. In determining whether specific expenses are allowable, the regulations stipulate that the principles of reinbursement for provider costs (Subpart D of the Medicare Regulations, 42 CFR, Part 405) will be followed. Thus, for example, reasonable amounts attributable to uncollected deductibles and coinsurance for which the clinic charges and makes reasonable efforts to collect will be recognized as part of the reconciliation process.

Tests of Reasonableness

Under the regulations, allowable costs of a rural health clinic are subject to tests of reasonableness developed by HCFA and the carrier. In part, these tests include guidelines which are intended to identify situations where costs will not be allowable without further justification by the clinic. These guidelines may include, but are not limited to, minimum productivity standards for physicians, physician assistants, nurse practitioners, nurse midwives, specialized nurse practitioners and visiting nurses, and guidelines to assess the reasonableness of levels of administrative expense. Additionally, the tests may include limits established based on costs estimated to be reasonable for the provision of clinic services. Such limits may be established with respect to total direct or indirect costs, or costs of specific items or groups of items or services.

Limits will be designed to assure that program payment is reasonable as required by the law. The limit will take into account the frequency and range of services furnished by the clinic and the amounts paid by the Medicare program for comparable services under other provisions of the law.

Reporting Requirements

It is the Department's intention to make reporting requirements as simple as possible so that all qualified rural health clinics will be able to comply with them. For the most part, reports will consist of a relatively simple list of board categories of expenses, such as salaries, purchased services, and administrative expenses, and basic data on clinic utilization. Rural health clinics will not be asked to submit extensive reports, such as those required of hospitals.

Future Reimbursement Method

Payment on the basis of the all-inclusive rate per visit (described above) will provide the experience and data the Department needs to develop a prospective payment method intended to provide incentives for efficient operation. The Department encourages suggestions for a prospective reimbuse approach, particularly as to the basis of payment, how the payment should be determined, and how incentives can be provided to encourage cost effective and efficient operations. After consideration of the various alternative approaches, the Department intends to publish a notice of proposed rulemaking followed by final regulations. Our current plan is to publish a notice of proposed rulemaking by October 1978, with final rules published and in effect by March 1979. In no event will the initial payment method be used for reporting periods beginning after March 1, 1980.

Administration

The Department intends to have Medicare fiscal intermediaries determine clinic payment rates and to adjudicate claims for services furnished by rural health clinics. (Since these intermediaries will be administering this new benefit under Part B of the Medicare program, they are referred to in these regulations as carriers with respect to their duties under the rural health clinic benefit.) Initially, there will be five intermediaries, each handling a multi-state region. The Department further intends to encourage States to utilize the same organizations to administer the rural health clinic benefit under the Medicaid program.

Other Provisions

The regulations also address such matters as the agreement the clinic is required to file with the Secretary,

suspensions, terminations and appeals. Under the agreement the clinic files with the Secretary, the clinic agrees to not charge Medicare beneficiaries for covered services except for any unmet deductible amounts and for coinsurance. the clinic also agrees to refund to beneficiaries as promptly as possible any amounts incorrectly collected from them.

The Department recognizes that there may be a heavy initial workload on the State agencies responsible for certifying rural health clinics and that, as a result, delays may occur in processing clinic requests for certification. Therefore, the Secretary intends to take this into consideration in establishing the effective date of his agreement with the clinic in order to assure that Medicare beneficiaries are not disadvantaged by such delays. Thus for example, if a clinic submits its application to the State agency prior to March 1, 1978, but the process for certifying the clinic and completing the agreement forms is not accomplished until the end of March, the Secretary will make that agreement effective as of March 1, 1978.

The procedures for appeals include appeals on the part of facilities with respect to whether they qualify as rural health clinics under the Medicare program, appeals by facilities as to the amount of reimbursement due them, and appeals by beneficiaries. Certain minor amendments to Subpart B are also included in this amendment. Minor revisions to other subparts of Part 405 will be published very soon to conform them to changes in Medicare's coverage provisions as a result of the enactment of Pub. L. 95-210.

Wavier of Proposed Rulemaking

The statute (Pub. L. 95-210) provides that Medicare reimbursement is available beginning March 1, 1978. Moreover, the legislative history contains numerous references to the urgent need for timely implementation of the statute. Therefore, the Secretary has determined that there is good cause to waive Notice of Proposed Rulemaking prior to issuing this regulation and to make it effective March 1, 1978.

Although rulemaking has been waived, public comments and recommendations on the regulations are invited and will be evaluated with a view towards possible revision. On January 17, 1978, the Department published a notice in the Federal Register (43 FR 2412) stating that drafts of the regulations would be available upon request. All comments from interested parties have been considered in preparing this regulation.

42 CFR Part 405 is amended as follows:

1. Section 405.231 is amended by adding a new paragraph (n) as follows:

§ 405.231 Medical and other health services; included items and services.

* * * * *

(n) Rural health clinic services as specified in Subpart X of this part.

2. Section 405.240 is amended by adding a new paragraph (f) as follows:

§ 405.240 Payment of supplementary medical insurance benefits; amounts payable.

* * * * *

(f) Eighty percent of the costs payable under Subpart X of this part, which are reasonable and related to the cost of furnishing rural health clinic services or which are based on other tests of reasonableness as specified by the Secretary.

3. Subpart B of this part is amended by redesignating § 405.250a as § 405.250-1 and adding a new § 405.250-2 as follows:

§ 405.250-1 Outpatient physical therapy and speech pathology services furnished by participating provider; plan of treatment requirements.

* * * * *

§ 405.250-2 Procedures for payment; rural health clinic services furnished by a rural health clinic.

Payment for covered rural health clinic services shall be made if:

(a) The services are furnished in accordance with the requirements of Subpart X of this part and Subpart A of part 481 of this chapter; and

(b) A written request for payment is filed by the clinic on the form and in the manner prescribed by the Secretary.

4. 42 CFR Part 405 is amended by adding a new Subpart X to read as follows:

Subpart X-Rural Health Clinic Services

Sec.

405.2401 Scope and definitions.
405.2402 Basic requirements.
405.2403 Content and terms of the agreement with the Secretary.
405.2404 Terminations of agreements.
405.2410 Beneficiary entitlement and liability.
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405.2413 Services and supplies incident to a physician's services.
405.2414 Nurse practitioner and physician assistant services.
405.2415 Services and supplies incident to nurse practitioner and physician assistant services.
405.2416 Visiting nurse services.
405.2417 Visiting nurse services: Determination of shortage of home health agencies.
405.2418 Applicability of general payment exclusions.
405.2425 Payment for rural health clinic services.
405.2426 All-inclusive rate.
405.2427 Annual reconciliation.
405.2428 Allowable costs.
405.2429 Reports and maintenance of records.
405.2430 Beneficiary appeals.

Authority: Sec. 1102, 1833, 1861(aa), 1871, Social Security Act; 49 Stat. 647, 79 Stat. 302, 322, and 331, 91 Stat. 1485; 42 U.S.C. 1302, 13951, 1395hh, and 1395x(aa).

§ 405.2401 Scope and definitions.

(a) *Scope.* This subpart establishes the requirements for coverage and reimbursement of rural health clinic services under Medicare.

(b) *Definitions.* As used in this subpart, unless the context indicates otherwise:

(1) "Act" means the Social Security Act.

(2) "Allowable costs" means costs that are incurred by a clinic and are reasonable in amount and proper and necessary for the efficient delivery of rural health clinic services.

(3) "Beneficiary" means an individual enrolled in the Supplementary Medical Insurance program for the Aged and Disabled (Part B of title XVIII of the Act).

(4) "Coinsurance" means that portion of the clinic's charge for covered services for which the beneficiary is liable in addition to the deductible.

(5) "Carrier" means an organization that has a contract with the Secretary to administer the benefits covered by this subpart.

(6) "Covered services" means items or services for which the beneficiary is entitled to have payment made on his or her behalf under this subpart.

(7) "Deductible" means: (i) The first $60 of expenses incurred by the beneficiary during any calendar year for items and services covered under Part B of title XVIII; and

(ii) The expenses incurred for the first 3 pints of blood or 3 units of packed red blood cells furnished to a beneficiary during any calendar year. (See sections 405.245 and 405.246 for greater detail.)

(8) "HCFA" stands for Health Care Financing Administration.

(9) "Intermittent nursing care" means a medically predictable need for nursing care from time to time, but usually not less frequently than once every 60 days.

(10) "Nurse-midwife" means a registered professional nurse who is currently licensed to practice in the State, who meets applicable State requirements governing nurse midwives, and who meets one of the following conditions:

(i) Is currently certified as a Nurse Midwife by the American College of Nurse Midwives; or

(ii) Has satisfactorily completed a formal educational program (of at least one academic year) that:

(A) Prepares registered nurses to furnish care to essentially normal

newborns and women antepartally, intrapartally, postpartally and/or gynecologically;

(B) Upon completion, qualifies the nurse to take the certification examination offered by the American College of Nurse Midwives;

(C) Includes at least 4 months (in the aggregate) of classroom instruction and a component of supervised clinical practice; and

(D) Awards a degree, diploma, or certificate to persons who successfully complete the program; or

(iii) Has successfully completed a formal educational program that does not meet the requirements of paragraph (b)(10)(ii) of this section, and has been practicing as a nurse midwife for a total of 12 months during the 18-month period immediately preceding the effective date of the regulations governing certification of rural health clinics (February 8, 1978).

(11) "Nurse practitioner" and "physician assistant" mean individuals who meet the applicable education, training experience and other requirements of § 481.2 of this chapter.

(12) "Part-time nursing care" means nursing care that is required on less than a full-time basis, that is, less than 8 hours a day or 40 hours a week.

(13) "Physician" means: (i) A doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which the function is performed; and

(ii) Within limitations as to the specific services furnished, a doctor of dentistry or dental or oral surgery, a doctor of optometry, a doctor of podiatry or surgical chiropody or a chiropractor. (See section 1861(r) of the Act and § 405.232a of this part for specific limitations).

(14) "Reporting period" means a period of 12 consecutive months specified by the carrier as the period for which a clinic must report its costs and utilization. The first and last reporting periods may be less than 12 months.

(15) "Rural health clinic" means a facility that: (i) Has been determined by the Secretary to meet the requirements of section 1861(aa)(2) of the Act and Part 481 of this chapter; and

(ii) Has filed an agreement with the Secretary in order to provide rural health clinic services under Medicare. (See § 405.2402.)

(16) "Secretary" means the Secretary of Health, Education, and Welfare or his delegate.

(17) "Specialized nurse-practitioner" means a registered professional nurse who is currently licensed to practice in the State, who meets the State's requirements governing the qualifications of nurse practitioners, and who meets one of the following conditions:

(i) Is currently certified as a nurse practitioner by the American Nurses' Association to perform specialized primary health care services; or

(ii) Has satisfactorily completed a formal educational program (of at least one academic year) that:

(A) Prepares registered nurses to perform an expanded role in the delivery of specialized primary health care services;

(B) Includes at least 4 months (in the aggregate) of classroom instruction and a component of supervised clinical practice; and

(C) Awards a degree, diploma, or certificate to persons who successfully complete the program, or

(iii) Has successfully completed a formal educational program that does not meet the requirements of paragraph (17)(ii) of this section, and has been performing an expanded role in the delivery of specialized primary health care services for a total of 12 months during the 18-month period immediately preceding the effective date of the regulations governing certification of rural health clinics (February 8, 1978).

(18) "Visit" means a face-to-face encounter between a clinic patient and a physician, physician assistant, nurse practitioner, nurse midwife, specialized nurse practitioner, or visiting nurse. Encounters with more than one health professional, and multiple encounters with the same health professional, which take place on the same day and at a single location constitute a single visit, except for cases in which the patient, subsequent to the first encounter, suffers illness or injury requiring additional diagnosis or treatment.

(19) "Visiting nurse services" means part-time or intermittent nursing care and related medical supplies (other than drugs or biologicals) furnished by a registered nurse or licensed practical nurse to a homebound patient.

§ 405.2402 Basic requirements.

(a) *Certification by the State survey agency.*—The rural health clinic must be certified in accordance with Part 481 of this chapter.

(b) *Acceptance of the clinic as qualified to furnish rural health clinic services.*—If the Secretary, after reviewing the survey agency recommendation and other evidence relating to the qualifications of the rural health clinic, determines that it meets the requirements of this subpart and of Part 481 of this chapter, he will send the clinic:

(1) Written notice of the determination; and

(2) Two copies of the agreement to be filed as required by section 1861(aa)(1) of the Act.

(c) *Filing of agreement by the rural health clinic.*—If the rural health clinic wishes to participate in the program, it must:

(1) Have both copies of the agreement signed by an authorized representative; and

(2) File them with the Secretary.

(d) *Acceptance by the Secretary.*—If the Secretary accepts the agreement filed by the rural health clinic, he will return to the clinic one copy of the agreement, with a notice of acceptance specifying the effective date.

(e) *Duration of agreement.*—The agreement shall be for a term of one year and may be renewed annually by mutual consent of the Secretary and the rural health clinic.

(f) *Appeal rights.*—If the Secretary does not certify a rural health clinic, or refuses to enter into or renew an agreement, the facility is entitled to a hearing in accordance with Subpart O of this part.

§ 405.2403 Content and terms of the agreement with the Secretary.

(a) Under the agreement, the rural health clinic agrees to the following:

(1) *Maintaining compliance with conditions.*—The clinic agrees to maintain compliance with the conditions set forth in Part 481 of this chapter and to report promptly to HCFA any failure to do so.

(2) *Charges to beneficiaries.*—The clinic agrees not to charge the beneficiary or any other person for items and services for which the beneficiary is entitled to have payment made under the provisions of this part (or for which the beneficiary would have been entitled if the rural health clinic had filed a request for payment in accordance with § 405.250–2), except for any deductible or coinsurance amounts for which the beneficiary is liable under § 405.2410.

(3) *Refunds to beneficiaries.*—(i) The clinic agrees to refund as promptly as possible any money incorrectly collected from beneficiaries or from someone on their behalf.

(ii) As used in this section, "money incorrectly collected" means sums collected in excess of the amount for which the beneficiary was liable under § 405.2410. It includes amounts collected at a time when the beneficiary was believed not to be entitled to Medicare benefits but:

(A) The beneficiary is later determined to have been entitled to Medicare benefits; and

(B) The beneficiary's entitlement period falls within the time the rural health clinic's agreement with the Secretary is in effect.

(4) *Beneficiary treatment.*—(i) The clinic agrees to accept beneficiaries for care and treatment; and

(ii) The clinic agrees not to impose any limitations on the acceptance of beneficiaries for care and treatment that it does not impose on all other persons.

(b) *Additional provisions.*—The agreement may contain any additional provisions that the Secretary finds necessary or desirable for the efficient and effective administration of the Medicare program.

§ 405.2404 Terminations of agreements.

(a) *Termination by rural health clinic.*—(1) *Notice to Secretary.* If the clinic wishes to terminate its agreement it shall file with the Secretary a written notice stating the intended effective date of termination.

(2) *Action by the Secretary.*—(i) The Secretary may approve the date proposed by the clinic, or set a different date no later than 6 months after the date of the clinic's notice.

(ii) The Secretary may approve a date which is less than 6 months after the date of notice if he determines that termination on that date would not:

(A) Unduly disrupt the furnishing of services to the community serviced by the clinic; or

(B) Otherwise interfere with the effective and efficient administration of the Medicare program.

(3) *Cessation of business.* If a clinic ceases to furnish services to the community, that shall be deemed to be a voluntary termination of the agreement by the clinic, effective on the last day of business.

(b) *Termination by the Secretary.*—(1) *Cause for termination.* The Secretary may terminate an agreement if he determines that the rural health clinic:

(i) No longer meets the conditions for certification under Part 481 of this chapter; or

(ii) Is not in substantial compliance with the provisions of the agreement, the requirements of this subpart, any other applicable regulations of this part, or any applicable provisions of title XVIII of the Act; or

(iii) Has undergone a change of ownership.

(2) *Notice of termination.* The Secretary will give notice of termination to the rural health clinic at least 15 days before the effective date stated in the notice.

(3) *Appeal by the rural health clinic.* A rural health clinic may appeal the termination of its agreement in accordance with the provisions set forth in Subpart O of this part.

(c) *Effect of termination.* Payment will not be available for rural health clinic services furnished on or after the effective date of termination.

(d) *Notice to the public.* Prompt notice of the date and effect of termination shall be given to the public, through publication in local newspapers:

(1) By the clinic, after the Secretary has approved or set a termination date; or

(2) By the Secretary, when he has terminated the agreement.

(e) *Conditions for reinstatement after termination of agreement by the Secretary.* When an agreement with a rural health clinic is terminated by the Secretary, the rural health clinic may not file another agreement to participate in the Medicare program unless the Secretary:

(1) Finds that the reason for the termination of the prior agreement has been removed; and

(2) Is assured that the reason for the termination will not recur.

§ 405.2410 Beneficiary entitlement and liability.

(a) *Entitlement.* A beneficiary is entitled to have payment made on his or her behalf for rural health clinic services in accordance with this subpart.

(b) *Liability.* (1) The beneficiary's entitlement to payment begins only after the beneficiary has incurred the deductible;

(2) The beneficiary is responsible, in addition, for a coinsurance amount which cannot exceed 20 percent of the clinic's reasonable customary charge for the covered service; and

(3) The beneficiary's deductible and coinsurance liability, with respect to any one item or service furnished by the clinic, may not exceed a reasonable amount customarily charged by the clinic for that particular item or service.

§ 405.2411 Scope of benefits.

(a) Rural health clinic services reimbursable under this subpart are:

(1) The physicians' services specified in § 405.2412;

(2) Services and supplies furnished as an incident to a physician's professional service;

(3) The nurse practitioner or physician assistant services specified in § 405.2414;

(4) Services and supplies furnished as an incident to a nurse practitioner's or physician assistant's services; and

(5) Visiting nurse services.

(b) Rural health clinic services are reimbursable when furnished to a patient at the clinic, at a hospital or other medical facility, or at the patient's place of residence.

§ 405.2412 Physicians' services.

(a) Physicians' services are professional services that are performed by a physician at the clinic or are performed away from the clinic by a physician whose agreement with the clinic provides that he or she will be paid by the clinic for such services.

§ 405.2413 Services and supplies incident to a physician's services.

(a) Services and supplies incident to a physician's professional service are reimbursable under this subpart if the service or supply is:

(1) Of a type commonly furnished in physicians' offices;

(2) Of a type commonly rendered either without charge or included in the rural health clinic's bill;

(3) Furnished as an incidental, although integral, part of a physician's professional services;

(4) Furnished under the direct, personal supervision of a physician; and

(5) In the case of a service, furnished by a member of the clinic's health care staff who is an employee of the clinic.

(b) Only drugs and biologicals which cannot be self-administered are included within the scope of this benefit.

§ 405.2414 Nurse practitioner and physician assistant services.

(a) Professional services are reimbursable under this subpart if:

(1) Furnished by a nurse practitioner, physician assistant, nurse midwife, or specialized nurse practitioner who is employed by, or receives compensation from, the rural health clinic;

(2) Furnished under the medical supervision of a physician;

(3) Furnished in accordance with any medical orders for the care and treatment of a patient prepared by a physician;

(4) They are of a type which the nurse practitioner, physician assistant, nurse midwife or specialized nurse practitioner who furnished the service is legally permitted to perform by the State in which the service is rendered; and

(5) They would be covered if furnished by a physician.

(b) The physician supervision requirement is met if the conditions specified in § 481.8(b) of this chapter and any pertinent requirements of State law are satisfied.

(c) The services of nurse practitioners, physician assistants, nurse midwives or specialized nurse practitioners are not covered if State law or regulations require that the services be performed under a physician's order and no such order was prepared.

§ 405.2415 Services and supplies incident to nurse practitioner and physician assistant services.

(a) Services and supplies incident to a nurse practitioner's or physician assistant's services are reimbursable under this subpart if the service or supply is:

(1) Of a type commonly furnished in physicians' offices;

(2) Of a type commonly rendered either without charge or included in the rural health clinic's bill;

(3) Furnished as an incidental, although integral part of professional services furnished by a nurse practitioner, physician assistant, nurse midwife, or specialized nurse practitioner;

(4) Furnished under the direct, personal supervision of a nurse practitioner, physician assistant, nurse midwife, specialized nurse practitioner or a physician; and

(5) In the case of a service, furnished by a member of the clinic's health care staff who is an employee of the clinic.

(b) The direct personal supervision requirement is met in the case of a nurse practitioner, physician assistant, nurse midwife, or specialized nurse practitioner only if such a person is permitted to supervise such services under the written policies governing the rural health clinic.

(c) Only drugs and biologicals which cannot be self-administered are included within the scope of this benefit.

§ 405.2416 Visiting nurse services.

(a) Visiting nurse services are covered if:

(1) The rural health clinic is located in an area in which the Secretary has determined that there is a shortage of home health agencies;

(2) The services are rendered to a homebound individual;

(3) The services are furnished by a registered nurse, licensed practical nurse, or licensed vocational nurse who is employed by, or receives compensation for the services from the clinic; and

(4) The services are furnished under a written plan of treatment that is:

(i) Established and reviewed at least every 60 days by a supervising physician of the rural health clinic or established by a nurse practitioner, physician assistant, nurse midwife, or specialized nurse practitioner and reviewed at least every 60 days by a supervising physician; and

(ii) Signed by the nurse practitioner, physician assistant, nurse midwife, specialized nurse practitioner, or the supervising physician of the clinic.

(b) The nursing care covered by this section includes:

(1) Services that must be performed by a registered nurse, licensed practical nurse, or licensed vocational nurse if the safety of the patient is to be assured and the medically desired results achieved; and

(2) Personal care services, to the extent covered under Medicare as home health services. These services include helping the patient to bathe, to get in and out of bed, to exercise and to take medications.

(c) This benefit does not cover household and housekeeping services or other services that would constitute custodial care.

(d) For purposes of this section, "homebound" means an individual who is permanently or temporarily confined to his or her place of residence because of a medical or health condition. The individual may be considered homebound if he or she leaves the place of residence infrequently. For this purpose, "place of residence" does not include a hospital or long term care facility.

§ 405.2417 Visiting nurse services: Determination of shortage of agencies.

A shortage of home health agencies exists if the Secretary determines that the rural health clinic:

(a) Is located in a county, parish, or similar geographic area in which there is no participating home health agency or adequate home health services are not available to patients of the rural health clinic;

(b) Has (or expects to have) patients whose permanent residences are not within the area serviced by a participating home health agency; or

(c) Has (or expects to have) patients whose permanent residences are not within a reasonable traveling distance, based on climate and terrain, of a participating home health agency.

§ 405.2418 Applicability of general payment exclusions.

The payment conditions, limitations, and exclusions set out in Subpart C and §§ 405.232, 405.243 and 405.252 of this part are applicable to payment for services provided by rural health clinics.

§ 405.2425 Payment for rural health clinic services.

(a) *Payment to provider clinics.* A clinic will be paid in accordance with Subpart D of this part if:

(1) The clinic is an integral and subordinate part of a hospital, skilled nursing facility or home health agency participating in Medicare (i.e., a provider of services); and

(2) The clinic is operated with other departments of the provider under common licensure, governance and professional supervision.

(b) *Payment to independent clinics.* (1) All other clinics will be paid on the basis of an all-inclusive rate for each beneficiary visit for covered services. This rate will be determined by the carrier, in accordance with this subpart and general instructions issued by HCFA.

(2) The amount payable by the carrier for a visit will be determined as follows:

(i) If the deductible has been fully incurred by the beneficiary prior to the visit, 80 percent of the all-inclusive rate will be paid.

(ii) If the deductible has not been fully incurred by the beneficiary prior to the visit, payment will be made to the clinic only if the clinic's reasonable customary charge for the services furnished exceeds the amount necessary to satisfy the beneficiary's deductible. The amount necessary to satisfy the deductible will be subtracted from the all-inclusive rate, and 80 percent of the remainder, if any, will be paid to the clinic.

(3) In order to receive payment, the payment procedures established in accordance with § 405.250-2 shall be followed.

(4) This method of payment shall terminate with reporting periods that begin after March 1, 1980.

§ 405.2426 All-inclusive rate.

(a) *Determination of rate.* (1) An all-inclusive rate will be determined by the carrier at the beginning of the reporting period.

(2) The rate will be determined by dividing the estimated total allowable costs by estimated total visits for rural health clinic services.

(3) The rate determination will be subject to any tests of reasonableness that may be established in accordance with this subpart.

(b) *Adjustment of rate.* (1) The carrier will, during each reporting period, periodically review the rate to assure that payments approximate actual allowable costs and visits for rural health clinic services, and will adjust it if:

(i) There is a significant change in the utilization of clinic services;

(ii) Actual allowable costs vary materially from the clinic's estimated allowable costs; or

(iii) Other circumstances arise which warrant an adjustment.

(2) The clinic may request the carrier to review the rate to determine whether adjustment is required.

§ 405.2427 Annual reconciliation.

(a) *General.* Payments made to a rural health clinic during a reporting period will be subject to reconciliation to assure that those payments do not exceed or fall short of the allowable costs attributable to covered services furnished to Medicare beneficiaries during that period.

(b) *Calculation of reconciliation.* (1) The carrier will determine the total reimbursement amount due the clinic on the basis of:

(i) The report specified in § 405.2429(c)(2); and

(ii) The rate determined by dividing the total allowable costs incurred for the reporting period by total visits for rural health clinic services furnished for the period. The rate will be subject to tests of reasonableness which may be established in accordance with this subpart.

(2) The total reimbursement amount due shall be compared with total payments made to the clinic for the reporting period, and the difference shall constitute the amount of the reconciliation.

(c) *Notice of program reimbursement.*—The carrier will send written notice to the clinic:

(1) Setting forth its determination of the total reimbursement amount due the clinic for the reporting period and the amount, if any, of the reconciliation; and

(2) Informing the clinic of its right to have the determination reviewed at a hearing under the procedures set forth in Subpart R of this part, if the amount in controversy is at least $1,000.

(d) *Payment of reconciliation amount.* (1) *Underpayments.* If the total reimbursement due the clinic exceeds the payments made for the reporting period, the carrier will make a lump-sum payment to the clinic to bring total payments into agreement with total reimbursement due the clinic.

(2) *Overpayments.* If the total payments made to a clinic for the reporting period exceed the total reimbursement due the clinic for the period, the carrier will arrange with the clinic for repayment through a lump-sum refund, or, if that poses a hardship for the clinic, through offset against subsequent payments or a combination of offset and partial refund. The repayment shall be completed as quickly as possible, generally within 12 months from the date of the notice of program reimbursement. A longer repayment period may be agreed to by the carrier if the carrier is satisfied that unusual circumstances exist which warrant a longer period.

§ 405.2428 Allowable costs.

(a) *Applicability of general Medicare principles.* In determining whether a specific type or item of cost is allowable, such as interest, depreciation, bad debts and owner compensation, the principles for reimbursement of provider costs, as set forth in Subpart D of this part, will be followed as applicable.

(b) *Typical rural health clinic costs.* The following types and items of cost will be included in allowable costs to the extent that they are reasonable:

(1) Compensation for the services of physicians, physician assistants, nurse practitioners, nurse midwives, specialized nurse practitioners and visiting nurses employed by the clinic.

(2) Compensation for the duties that a supervising physician is required to perform under the agreement specified in § 481.8 of this chapter.

(3) Costs of services and supplies incident to the services of a physician, physician assistant, nurse practitioner, nurse midwife or specialized nurse practitioner.

(4) Overhead costs, including clinic adminstration, costs applicable to use and maintenance of the clinic facility, and depreciation costs.

(5) Costs of services purchased by the clinic.

(c) *Tests of reasonableness for rural health clinic cost and utilization.* Tests of reasonableness authorized by sections 1833(a) and 1861(v)(1)(A) of the Act may be established by HCFA or the carrier with respect to direct or indirect overall costs, costs of specific items and services, or costs of groups of items and services. Those tests include, but are not limited to, screening guidelines and payment limitations.

(d) *Screening guidelines.*—(1) Costs in excess of amounts established by the guidelines will not be included unless the clinic provides reasonable justification satisfactory to the carrier.

(2) Screening guidelines will be used to assess:

(i) Compensation for the professional and supervisory services of physicians and for the services of physician assistants, nurse practitioners, nurse midwives and specialized nurse practitioners;

(ii)Physician, physician assistant, nurse practitioner, specialized nurse practitioner, nurse midwife, and visiting nurse productivity;

(iii) The level of admininstrative and general expenses;

(iv) Staffing (e.g., the ratio of other clinic personnel to physicians, physician assistants, and nurse practitioners); and

(v) The reasonableness of payments for services purchased by the clinic, subject to the limitation that the costs of physicians' services purchased by the clinic may not exceed the reasonable charges for these services as determined under Subpart E of this part.

(e) *Payment limitations.* Limits on payments may be set by HCFA, on the basis of costs estimated to be reasonable for the provision of such services.

§ 405.2429 Reports and maintenance of records.

(a) *Maintenance and availability of records.* The rural health clinic shall:

(1) Maintain adequate financial and statistical records, in the form and containing the data required by HCFA, to allow the carrier to determine payment for covered services furnished to Medicare beneficiaries in accordance with this subpart.

(2) Make the records available for verification and audit by HEW or the General Accounting Office;

(3) Maintain financial data on an accrual basis, unless it is part of a governmental institution that uses a cash basis of accounting. In the latter case, appropriate depreciation on capital assets will be allowable rather than the expenditure for the capital asset.

(b) *Adequacy of records.*—(1) The carrier may suspend reimbursement if it determines that the clinic does not maintain records that provide an adequate basis to determine payments under Medicare.

(2) The suspension will continue until the clinic demonstrates to the carrier's satisfaction that it does, and will continue to, maintain adequate records.

(c) *Reporting requirements.*—(1) *Initial report.* At the beginning of its initial reporting period, the clinic shall submit an estimate of budgeted costs and visits for rural health clinic services for the reporting period, in the form and detail required by HCFA, and such other information as HCFA may require to establish the payment rate.

(2) *Annual reports.* Within 90 days after the end of its reporting period, the clinic shall submit, in such form and detail as may be required by HCFA, a report of:

(i) Its operations, including the allowable costs actually incurred for the period and the actual number of visits for rural health clinic services furnished during the period; and

(ii) The estimated costs and visits for rural health clinic services for the succeeding reporting period, and such other information as HCFA may require to establish the payment rate.

(3) *Late reports.* If the clinic does not submit an adequate annual report on time, the carrier may reduce or suspend payments to preclude excess payment to the clinic.

(4) *Inadequate reports.* If the clinic does not furnish a report or furnishes a report that is inadequate for the carrier to make a determination of program payment, HCFA may deem all payments for the reporting period to be overpayments.

(5) *Postponement of due date.* For good cause shown by the clinic, the carrier may, with HCFA's approval, grant a 30-day postponement of the due date for the annual report.

(6) *Termination of agreement or change of ownership.* The report from a clinic which voluntarily or involuntarily ceases to participate in the Medicare program or experiences a change in ownership is due no later than 45 days following the effective date of the termination of agreement or change of ownership.

§ 405.2430 Beneficiary appeals.

A beneficiary may request a hearing by a carrier (subject to the limitations and conditions set forth in Subpart H of this part) if:

(a) The beneficiary is dissatisfied with a carrier's determination denying a request for payment made on his or her behalf by a rural health clinic; or

(b) The beneficiary is dissatisfied with the amount of payment; or

(c) The beneficiary believes the request for payment is not being acted upon with reasonable promptness.

(Sec. 1102, 1833, 1861(aa), 1871, Social Security Act; 49 Stat. 647, 79 Stat. 302, 322, and 331, 91 Stat. 1485; 42 U.S.C. 1302, 1395l, 1395hh, and 1395x(aa).)

(Catalog of Federal Domestic Assistance Programs—13.801, Medicare-Supplementary Medical Insurance.)

Dated: February 17, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: February 23, 1978.

JOSEPH A. CALIFANO, JR.,
Secretary.

[FR Doc. 78-5403 Filed 2-28-78; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6320-01]

CIVIL AERONAUTICS BOARD

[14 CFR Parts 207, 208, 212, 214]

[EDR-343-B; Economic Regulations Docket 31229; Dated February 23, 1978]

CHARTER FLIGHT DELAYS AND SUBSTITUTE AIR TRANSPORTATION

Supplemental Notice of Proposed Rulemaking

AGENCY: Civil Aeronautics Board.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: This notice establishes a 31-day period for the filing of reply comments in a rulemaking proceeding about charter flight delays.

DATES: Comments by April 14, 1978. Reply comments by May 15, 1978. Comments and other relevant information received after these dates will be considered by the Board only to the extent practicable. Requests to be put on the Service List: March 13, 1978. Docket Section prepares the Service List and sends it to each person listed, who then serves his comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 31229, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Dyson, Office of General Counsel, Rules Division, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5444.

SUPPLEMENTARY INFORMATION: By Notice of Proposed Rulemaking EDR-343, dated December 22, 1977 (42 FR 64905, December 29, 1977), the Board proposed to change its regulations, so as to allow a maximum of 6 hours' delay on all charter flights by all types of carriers.

Comments in response to EDR-343 were originally due February 13, 1978. In a letter dated January 30, 1978, counsel for the National Air Carrier Association (NACA) requested a 60-day extension of the period for filing comments on the notice. They further requested that, in light of the variety of alternatives likely to be recommended by the commenters, a 31-day period for reply comments be established. The NACA request was supported in three letters dated January 31, 1978, from counsel for several charter-only foreign air carriers.[1]

The request for an extension of the initial comment period was granted on February 6, 1978 (EDR-343A, 43 FR 5383, February 8, 1978) by the Associate General Counsel, Rules Division, under the authority delegated by § 385.20(d) of the Board's Organization Regulations (14 CFR 385.20(d)). However, since he does not have delegated authority to establish a period for the filing of reply comments, he has referred the second portion of the NACA request to the Board.

Because reply comments may be particularly useful to us in analyzing any recommendations that may be included in the initial comments, we have decided to grant the request. Accordingly, we will consider reply comments submitted by May 15, 1978.

Those persons planning to participate who wish to be served with the comments of others, and who are willing to serve their own comments and reply comments on others, may on or before the date shown at the beginning of this notice, request the Docket Section to place them on the Service List. The Service List will be prepared by the Docket Section and mailed to those named on it. Persons filing responsive comments should serve any person whose comment is dealt with in their responsive comments, whether or not either party is on the Service List.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-5426 Filed 2-28-78; 8:45 am]

[1] British Caledonian Airways, Ltd., Dan-Air Services Ltd., and Condor Flugdienst GmbH.

[6320-01]

[14 CFR Part 223]

[Economic Regulations Docket 32160; EDR-346; Dated: February 23, 1978]

DEFINITIONS OF "HANDICAPPED" AND "RETIRED" PERSONS FOR FARE PURPOSES

Notice of Proposed Rulemaking

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish definitions of the terms "handicapped" and "retired," for the guidance of carriers wishing to establish reduced fares for handicapped and retired passengers in accordance with a recent amendment of the Federal Aviation Act that allows such special fares and requires the Board to define these terms.

DATES: Comments by: April 10, 1978. Reply comments by: May 1, 1978.

Comments and other relevant information received after these dates will be considered by the Board only to the extent practicable.

Requests to be put on the Service List: March 21, 1978. Docket Section prepares the Service List and sends it to each person listed, who then serves his comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 32160, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Stephen Babcock, Office of the General Counsel, Civil Aeronautics Board, 202-673-5442.

SUPPLEMENTARY INFORMATION: Section 8(a) of Pub. L. 95-163, 91 Stat. 1281, enacted on November 9, 1977, amends section 403(b)(1) of the Federal Aviation Act of 1958 to require the Board to allow carriers to establish space-available reduced fares for the transportation of three classes of passengers: the handicapped (and any required attendants); people who are at least 60 years old and retired; and all people who are at least 65 years old.

Section 8(a) of the new law states that a "handicapped person" is "any person who has severely impaired vision or hearing, and any other physically or mentally handicapped person, *as defined by the Board,*" and that "retired" means "no longer gainfully employed *as defined by the Board.*" (Emphases added.)

The proposed definition of the phrase "physically or mentally handicapped" is based on the definition of "handicapped person" adopted by the Department of Health, Education, and Welfare (45 CFR 84.3(j), 42 FR 22678, May 4, 1977) for the purposes of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 706. The Board's proposed definition is somewhat simpler than the one adopted by HEW, however, since this definition must determine only eligibility for reduced rate space-available air transportation, whereas the Rehabilitation Act definition must take into account a great variety of potential discriminations against otherwise qualified handicapped persons.

Air carriers are already required to file in their tariffs all of their rules and regulations for transporting handicapped persons, including their rules for determining the kinds of handicaps which prohibit the transportation of the handicapped person for safety reasons. (ER-1020, adopted on August 25, 1977, in Docket 23904, 42 FR 43828 (August 31, 1977).) The rules proposed here are not intended to modify or otherwise affect those safety-related tariff rules, of course, but are rather intended to apply to those handicapped persons who may (either by themselves or with an attendant) be safely carried in accordance with the carrier's rules on that subject.

The Board's proposed definition of "no longer gainfully employed" is not based on any existing definition, and its allowance of partial employment reflects our surmise that the Congress intended us to adopt a liberal definition.

The proposd new § 223.11 to our existing regulations on free and reduced rate transportation (14 CFR Part 223) is simply intended to make it clear that carriers may adopt reasonable tariff rules, supplementing the regulations proposed here, concerning the space-available reduced fare transportation which section 403(b)(1) authorizes.

Finally, we will consider in this proceeding whether to define the term "handicapped" to include immigrant orphans, and we specifically solicit the views of interested members of the public on this question. The Board has already received a number of letters from persons interested in the placement of foreign orphan children with American families.[1] These children travel to the United States, principally from Asian counties, and are a definable class, specifically identified by the Immigration and Naturalization Service (see 8 CFR 204.1(b)). The writers of these letters have stressed the need of the adoption agencies to obtain free or reduced rate transportation for these children, and argue that the plight of these orphans is in itself a handicap of great magnitude.

We have tentatively concluded that these children should not be classifed as handicapped for the purpose of section 403 of the Act unless they are in fact emotionally or physically impaired, and the definition proposed here therefore does not specifically include them. We have not reached a firm decision on this important question, however, and will give it careful consideration, in light of both the comments that have already been received and those that we will receive in response to this notice, before taking final action.

Accordingly, it is proposed to amend Part 223 of the Board's Economic Regulations (14 CFR Part 223) as follows:

§ 223.1 [Amended]

1. In § 223.1, "Definitions," after the definition of the term "Free transportation," add the following new definition:

"No longer gainfully employed" or "retired," as those terms are used in section 403(b)(1) of the Act, means not regularly working at a full-time paying job.

2. In § 223.1, "Definitions," after the definition of the term "Original tariff," add the following new definition:

"Physically or mentally handicapped person," as used in section 403(b)(1) of the Act, means any person who has a physical or mental impairment (other than drug addiction or alcoholism), which substantially limits one or more major life activities.

3. Add the following new § 223.11:

§ 223.11 Space-available reduced fares for ministers of religion and for elderly, retired and handicapped people.

Carriers offering reduced fares on a space-available basis pursuant to subsection 403(b)(1) of the Act may establish reasonable tariff rules to assist in identifying those who qualify for transportation under that subsection.

(Secs. 204 and 403 of the Federal Aviation Act of 1958, as amended; 72 Stat. 743, 758 (as amended by 91 Stat. 1281); 49 U.S.C. 1324, 1373.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-5402 Filed 2-28-78; 8:45 am]

[1] These include letters from a number of families who wish to adopt these children and from several of their Senators and Congressmen, as well as letters from adoption agencies engaged in placement services and from their counsel. All of these letters have been placed in the official docket file for this proceeding.

[7510-01]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[14 CFR Part 1221]

THE NASA SEAL AND OTHER DEVICES, AND THE CONGRESSIONAL SPACE MEDAL OF HONOR

Procedures for Nomination of an Astronaut

AGENCY: National Aeronautics and Space Administration.

ACTION: Proposed regulation.

SUMMARY: The National Aeronautics and Space Administration (NASA) is proposing procedures for the nomination of an astronaut by the Admninistrator to receive the Congressional Space Medal of Honor. Pub. L. 91-96 authorizes the President to award the Medal in the name of Congress. Part 1221 would be amended to include a new Subpart 2—The Congressional Space Medal of Honor.

DATE: Any comments received by April 1, 1978, will be considered before a final regulation is adopted.

ADDRESS: Comments and requests for additional information are addressed to: Susan McGuire Smith, Office of General Counsel, Mail Code GG-1, NASA Headquarters, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT:

Susan McGuire Smith, 202/755-3924.

SUPPLEMENTARY INFORMATION: This proposed regulation has been coordinated with the Office of General Counsel, Department of Defenese.

Dated: February 23, 1978.

A. M. LOVELACE,
Deputy Administrator.

1. 14 CFR Part 1221 is amended by:
(a) Revising the Part heading:

PART 1221—THE NASA SEAL AND OTHER DEVICES, AND THE CONGRESSIONAL SPACE MEDAL OF HONOR

(b) Redesignating §§ 1221.100 through 1221.117 as Subpart 1221.1 with the following Subpart heading:

1221.1—NASA Official Seal, Insignia, Logotype, Official Program and Astronaut Badges, and Flags

(c) Adding a new Subpart 1221.2 reading as follows:

Subpart 1221.2—The Congressional Space Medal of Honor

Sec.
1221.200 Scope.
1221.201 Basis for award of the medal.
1221.202 Description of the medal.
1221.203 Nominations.
1221.204 Proceedings of the NASA Incentive Awards Board.

Authority: Pub. L. 91-76, September 29, 1969.

Subpart 1221.2—The Congressiogal Space Medal of Honor

§ 1221.200. Scope.

This Subpart establishes procedures for nominating an astronaut for the Congressional Space Medal of Honor.

§ 1221.201 Basis for award of the medal.

(a) The standard for award of the Congressional Space Medal of Honor is established by Pub. L. 91-76 (42 U.S.C. 2461) which provides that the President may award the Medal to any "astronaut who in the performance of his duties has distinguished himself by exceptionally meritorious efforts and contributions to the welfare of the Nation and of mankind."

(b) Only one Congressional Space Medal of Honor may be awarded to a person. However, for each succeeding act that would otherwise justify the award of the Medal, the President may award a suitable bar or other device.

(c) The Medal may be awarded to any person who is or has been designated to travel in space and who has distinguished himself or herself while undertaking duties in preparation for, execution of, or subsequent to, but in connection with, a space flight.

(d) The Medal may be awarded for actions occurring before the effective date of this Subpart 1221.2, and, when appropriate, posthumously.

§ 1221.202 Description of the medal.

The description of the Congressional Space Medal of Honor, which was designed by the Institute of Heraldry, U.S. Army, is set forth in Appendix A to this Subpart. Each person awarded the Medal also shall receive a citation describing the basis for the award.

§ 1221.203 Nominations.

(a) Formal nominations for award of the Congressional Space Medal of Honor on behalf of NASA will be made by the Administrator to the President.

(b) Any person may recommend to the Administrator that an astronaut be nominated for award of the Medal. Such a recommendation must be in writing, and must describe in concise detail the events believed to warrant award of the Medal. The recommendation should, if appropriate, be accompanied by supporting documentation, such as eyewitness statements, extracts from official records, sketches, photographs, etc.

(c) All recommendations for nominations submitted to the Administrator or made on his own initiative will be referred to the NASA Incentive Awards Board for the purpose of investigating and making findings of fact and giving advice to the Administrator.

(d) Any recommendation involving an astronaut who is a member of the armed services on active duty or who is employed by another agency of the Federal Government but temporarily assigned or detailed to NASA shall also be transmitted to the Secretary of Defense or the head of the employing agency, as appropriate, for his or her recommendation.

(e) The Administrator will forward to the President his recommendation, and that of the astronaut's employing agency, as appropriate.

§ 1221.204 Proceedings of the NASA Incentive Awards Board.

The NASA Incentive Awards Board shall thoroughly consider the facts giving rise to a recommendation for nomination and shall prepare a report for the Administrator. The Board should, to the extent practicable, coordinate its efforts with those of the astronaut's employing agency, as appropriate. Its final report must take into account any pertinent information submitted by the employing agency.

2. In Title 14, CFR, Chapter 5, the table of contents is revised to change the title of Part 1221 to read as follows:

The NASA Seal and Other Devices, and the Congressional Space Medal of Honor

APPENDIX A—CONGRESSIONAL SPACE MEDAL

OBVERSE

DESCRIPTION

A circular green enamel wreath of laurel surmounted by a five-pointed gold star (with vertical point downward) and issuing from between each point a gold flame, the star surmounted by a light blue enamel cloud bank with five lobes edged in gold bearing a five-pointed dark blue enamel star fimbriated gold and charged in center with a diamond; standing upon the wreath at top center a gold eagle with wings displayed.

SYMBOLISM

The laurel wreath, a symbol of great achievement, with the overlapping star points, simulates space vehicles moving to greater accomplishments through space. The flames signify the dynamic energy of the rocket era and the imagination of the men in the space program of the United States. The stylized glory cloud alludes to the glory in the coat of arms of the United States and to the high esteem of the award. The dark blue voided star symbolizes the vast mysteries of outer space while the brilliancy of the feat is represented by a diamond. The eagle with wings raised in the spirit of peace represents man's first landing on another planet.

REVERSE

DESCRIPTION

The reverse bears in center the inscription "CONGRESSIONAL" arranged in a semicircle above the inscription "SPACE MEDAL PRESENTED TO"; in base is space for the name of the recipient and the date, all within an outer circle of fifty stars.

SUSPENSION RIBBON

DESCRIPTION

A ribbon 1⅜ inches in width consisting of the following vertical stripes: gold 1/16 inch, dark blue ¼ inch, light blue 9/32 inch, white 1/16 inch, red 1/16 inch, white 1/16 inch, light blue 9/32 inch, dark blue ¼ inch, gold 1/16 inch.

CABLE NOS. OF COLORS

Gold ..... 65021 (old gold).
Dark blue ..... 70076 (independence blue).
Blue ..... 65014 (light blue).
Red ..... 65006 (scarlet).
White ..... 65005.

SYMBOLISM

The scarlet center line on the white band symbolizes the courage of the astronauts in the nation's manned space program and the fire power of rockets that carry the crew through the earth's atmosphere (light blue); the light blue is the same color as the chief of the shield of the coat of arms of the United States which appears on the President's flag. The dark blue symbolizes the hostile environment of space, the gold edge representing success and accomplishment. Red, white and blue are also the national colors of the United States.

MINIATURE

DESCRIPTION

A one-half size replica of the medal and suspension ribbon approximately 2 1/16 inches in overall length.

LAPEL EMBLEM

DESCRIPTION

A miniature of the obverse of the medal, 9/16 inch in diameter, all gold with a diamond in center.

ROSETTE

DESCRIPTION

One-half inch in diameter in the colors of the ribbon.

[FR Doc. 78-5312 Filed 2-28-78; 8:45 am]

[6750-01]

FEDERAL TRADE COMMISSION

[16 CFR Part 443]

HEALTH SPAS

Additional Hearings on Proposed Trade Regulation Rule

AGENCY: Federal Trade Commission.

ACTION: Additional hearings scheduled at New York, N.Y.

SUMMARY: On May 24, 1977, the presiding officer published in the FEDERAL REGISTER a Final Notice of a proposed trade regulation rule proceeding concerning Health Spas. Hearings in addition to those listed in that notice have been scheduled.

DATES: Hearings will be held on March 13 and 14, 1978, in New York City commencing at 10:00 a.m. and 9:00 a.m., respectively.

ADDRESSES: Hearing location: Room C and D, 2204-2206 of the Federal Trade Commission, New York Regional Office in the Federal Building at 26 Federal Plaza, New York, New York.

FOR FURTHER INFORMATION CONTACT:

Mr. John Crowley, 212-264-7150, Federal Trade Commission, New York Regional Office, Federal Building, 26 Federal Plaza, New York, N.Y. 10007.

SUPPLEMENTARY INFORMATION: On May 24, 1977, the presiding officer published in the FEDERAL REGISTER (42 FR 26432) a Final Notice of a proposed trade regulation rulemaking proceeding concernin Health Spas. The notice included a schedule of dates and places of hearings.

Two witnesses were unable to be scheduled at the New York hearings due to a dispute concerning their proposed testimony. This dispute has now been resolved and the presiding officer has scheduled additional hearings to be held commencing at 10 a.m., March 13, 1978, in Room C and D, 2204-2206, at the Federal Trade Commission New York Regional Office, Federal Building, 26 Federal Plaza, New York, N.Y. 10007. The hearings will be confined to the testimony of these two witnesses. The testimony of the two witnesses will be in public hearing; cross-examination of the two witnesses will be in closed sessions and not open to the public.

Prepared statements or outlines and exhibits of the witnesses will be made available for inspection at the New York Regional Office at the above address.

For additional information, instructions and requirements regarding the proceeding, see the presiding officer's Final Notice in the FEDERAL REGISTER of May 24, 1977, 42 FR 26432.

Issued: February 24, 1978.

ROGER J. FITZPATRICK,
Presiding Officer.

[FR Doc. 78-5340 Filed 2-28-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34-14493; File No. S7-737]

REGULATION OF CLEARING AGENCIES

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The proposed rule is intended to disclose the names of depository participants to issuers and other qualified parties for the purpose of establishing a point outside the depository from which the distribution of communications to beneficial shareowners may be initiated. The proposal facilitates issuer-shareowner communications by codifying an existing practice between issuers and depositories and by making depository participant information available to certain qualified non-issuers without the need for issuer cooperation.

DATES: Comments must be received on or before: April 30, 1978.

ADDRESS: Written comments, submitted in triplicate, should be addressed to the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, and refer to File No. S7-737.

FOR FURTHER INFORMATION CONTACT:

Dennis E. Carlton, Attorney, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, 202-755-8946.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Securities and Exchange Commission (the "Commission"), pursuant to sections 2, 17A and 23(a) of the Act [15 U.S.C. 78b, 78q-1 and 78w(a)], publishes for public comment an amendment to Title 17, Chapter II, Part 240 of the Code of Federal Regulations to add § 240.17Ad-8.

PROPOSED RULE 17Ad-8

Proposed Rule 17Ad-8 would require registered clearing agencies to transmit a "securities position listing"[1] on a periodic basis to each issuer whose securities the clearing agency holds and, upon request, to other persons who certify their entitlement under Federal law or applicable state law to inspect, obtain, or otherwise gain access to the issuer's list of shareholders of record or securities position listing or who attest to the issuer's decision to provide the claimant with the position listing. Under the rule, issuers are given the opportunity to contest such claims.

A securities position listing would have to be transmitted by each registered clearing agency, without charge, annually and, if requested, quarterly to each issuer whose securities the clearing agency holds. Additional listings also would be provided to issuers upon request. Listings furnished pursuant to the proposed rule, except annual and quarterly listings provided to issuers, would be subject to a reasonable charge based on the clearing agency's cost of preparation.

DISCUSSION

Chapter V of the Commission's Final Report of the Street Name Study recommended that "each depository be required to transmit periodically to each issuer whose securities the depository holds of record a list of the persons on whose behalf the depository holds the securities."[2] The recommendation of the Street Name Study was intended to codify an existing depository practice which facilitates issuer-shareowner communications by enabling issuers to initiate the communication process with depository participants instead of with the depositories.[3] The proposed rule would formalize this practice and enable certain qualified non-issuers to obtain depository participant information without the need for issuer cooperation that is so important now.

Depositories generally have refused to provide participant information to persons other than issuers.[4] The Commission is aware of several instances where issuers have taken the position that under state law they are obligated to reveal only shareholders of record, a position which discloses depositories but not depository participants. The general unavailability of

[1] A "securities position listing" is defined by the proposed rule to mean: "[W]ith respect to the securities of any issuer . . ., a list of those participants in [a registered] clearing agency on whose behalf the clearing agency holds the issuer's securities and of the participants' respective positions in such securities as of a specified date."

[2] SEC, Final Report of the Securities and Exchange Commission on the Practice of Recording the Ownership of Securities in the Records of the Issuer in Other than the Name of the Beneficial Owner of Such Securities, pursuant to Section 12(m) of the Securities Exchange Act of 1934 (Committee Print 1976) (the "Street Name Study"), 55.

[3] Under the "omnibus proxy procedure," the depository prepares for an issuer having a shareholders' meeting a list of the names and holdings of participants that have depository positions in the issuer's securities as of the record date. The depository then forwards the list to the issuer along with an "omnibus proxy" which authorizes each participant, to the extent of the participant's position, to act as the depository's proxy and to vote the securities.

[4] Requests from non-issuers for position listings have been received by most depositories. The majority of such requests are from "proxy solicitors." The depositories comply with the requests only after receiving written authorization from the issuers involved or after satisfying themselves that the solicitor is inquiring on behalf of the relevant issuer. Otherwise, unless the request is from a governmental authority or is accompanied by a court order for production of the listing, the request is refused.

depository participant information creates an impediment to communications between non-issuers and beneficial shareowners.

The proposed rule overcomes that impediment for qualifying non-issuers while protecting the interests of issuers and depositories. Issuers are concerned that shareowner information be disclosed only to proper parties. The proposed rule (i) limits the nonissuers who may obtain the information without issuer consent to those entitled by Federal law or to those entitled under state law to recordholder information, and (ii) requires the nonissuers to give prior notice to issuers of the basis for claiming entitlement to the information. The former requirement reduces the likelihood of improper or frivolous claims by requiring a claimant to have, and assert, a basis in state or Federal law for obtaining a position listing, and the latter requirement gives the issuer an opportunity to contest the claim before the list is dislosed.[1]

The rule also provides for the interests of clearing agencies. By establishing guidelines for the mandatory issuance of position listings, the proposed rule clarifies the responsibility of clearing agencies to issuers and removes a potential liability perceived by clearing agencies for the release of participant information to non-issuers. Under the proposed rule, a clearing agency need not investigate an applicant's claim for a position listing which on its face meets the requirements of paragraph (c). The Commission believes that registered clearing agencies should not become embroiled in disputes between issuers and nonissuer claimants over position listings; the depository's role is to act in accordance with the provisions of the proposed rule unless restrained by a court or other legal authority.

Accordingly, it is proposed to amend 17 CFR Part 240 by adding § 240.17Ad-8 as follows:

§ 240.17Ad—8 Transmission of securities position listings.

(a) For purposes of this section, the term "securities position listing" means, with respect to the securities of any issuer held by a registered clearing agency in the name of the clearing agency or its nominee, a list of those participants in the clearing agency on whose behalf the clearing agency holds the issuer's securities and of the participants' respective positions in such securities as of a specified date.

(b) A registered clearing agency shall, without charge, transmit not less frequently than annually, and more frequently if the issuer requests, a securities position listing to each issuer whose securities the clearing agency holds. To the extent, however, that the issuer requests securities position listings more frequently than once per calendar quarter, the additional listings may be supplied subject to payment by the issuer of the clearing agency's reasonable expenses for preparing each additional listing.

(c) A registered clearing agency shall promptly furnish a securities position listing, upon payment of the clearing agency's reasonable expenses for preparing such listing, to any person who certifies to the clearing agency in a signed statement that, after due inquiry and to the best of his knowledge, (1) such person is entitled under applicable state law to inspect, obtain or otherwise gain access to the subject issuer's list of shareholders of record and has obtained from the issuer access to, or made application to the issuer for, such list, or (2) such person is entitled under Federal law, or rules or regulations thereunder, to a securities position listing or listing of an issuer's shareholders of record, or (3) the subject issuer accedes to such person's request for a securities position listing. The claimant shall further certify to the clearing agency that a signed copy of the claim has been given to the Secretary of the subject issuer five business days (unless the claimant is a bidder in a tender offer subject to Section 14(d) of the Securities Exchange Act of 1934, or the rules and regulations thereunder, in which case the period shall be one business day), not to include week-ends or public holidays, prior to presentation of the claim to the clearing agency. In the event that a party certifies his entitlement to a securities position listing pursuant to alternatives (1) or (2), the claim also must specify the applicable state or Federal authority and, if necessary, steps taken to comply therewith.

(d) It shall be unlawful for any person willfully to violate any provision of this rule or knowingly and willfully to certify any information pursuant to this rule which is false or misleading with respect to any material fact.

Interested persons are invited to submit their views upon proposed Rule 17Ad-8 in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, no later than April 30, 1978. Reference should be made to File No. S7-737. All comments received will be available for public inspection.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 22, 1978.

[FR Doc. 78-5339 Filed 2-28-78; 8:45 am]

[1] The allowance of a short time period for contesting a claim in a tender offer situation reflects the compelling time constraints of such a situation.

[6740-02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[18 CFR Parts 2, 154]

[Docket No. RM78-4]

INCORPORATION OF COMPENSATION PROVISIONS IN CURTAILMENT PLANS

Extension of Comment Period

AGENCY: Federal Energy Regulatory Commission.

ACTION: Further extension of time.

SUMMARY: The Commission is granting an extension of time to and including March 1, 1978, for filing initial comments and to and including April 3, 1978, for filing reply comments in the proposed rulemaking proceeding docketed as RM78-4. This extension is being granted in order to ensure that all parties have adequate time in which to respond to the proposed rulemaking.

DATES: Initial comments must be received on or before March 1, 1978, and reply comments must be received on or before April 3, 1978.

ADDRESS: Send comments to: Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Kenneth F. Plumb, Secretary, 202-275-4166.

SUPPLEMENTARY INFORMATION: On February 2, 1978, the Puerto Rico Manufacturers Association filed a motion requesting a further extension of time for submitting written comments on the Preliminary Notice of Proposed Rulemaking, issued November 30, 1977, and published December 8, 1977 (42 FR 62018). A previous extension of time for filing initial and reply comments in this proceeding was granted by Commission Notice issued December 23, 1977. (43 FR 1509, Jan. 10, 1978.)

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5369 Filed 2-28-78; 8:45 am]

[4810-31]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[27 CFR Parts 6, 8]

[Reference Notice No. 315]

UNLAWFUL TRADE PRACTICES UNDER THE FEDERAL ALCOHOL ADMINISTRATION ACT

Extension of Comment Period

AGENCY: Bureau of Alcohol, Tobacco and Firearms.

ACTION: Extension of period for filing written comments.

SUMMARY: On December 30, 1977, the Bureau of Alcohol, Tobacco and Firearms published an advance notice of proposed rulemaking in the FEDERAL REGISTER [42 FR 65204]. That advance notice announced that ATF was considering proposing new and amended regulations implementing the unlawful trade practice provisions of the Federal Alcohol Administration Act. Interested persons were given until February 28, 1978, to submit their written comments.

A number of industry members and individuals have requested additional time in which to submit their written comments. The Director feels that extending the comment period until April 15, 1978, will provide adequate time for the preparation and submission of written comments by interested persons.

DATE: Comments must be received on or before April 15, 1978.

ADDRESS: Director, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226 (Attention: Chief, Regulations and Procedures Division).

FOR FURTHER INFORMATION CONTACT:

Charles N. Bacon, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226, telephone 202-566-7626.

REX D. DAVIS,
Director.

FEBRUARY 27, 1978.

[FR Doc. 78-5589 Filed 2-28-78; 10:52 am]

[3810-70]

DEPARTMENT OF DEFENSE

Office of the Secretary

[32 CFR Part 288]

[DoD Instruction No. 7230.7]

USER CHARGES

Schedules of Fees and Rates

AGENCY: Office of the Secretary of Defense.

ACTION: Proposed rule.

SUMMARY: The Department of Defense is proposing changes to its "Schedule of Fees and Rates." The fees and rates apply to certain services relating to copying, certifying, and searching of records rendered to the public. The changes are necessary to reflect increases in consumer prices.

DATES: Comments must be received by March 31, 1978.

ADDRESS: Send comments to: Office of the Deputy Assistant Secretary of Defense (Management Systems), the Pentagon, Room 3E831, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert E. Flaherty, 202-697-7297.

SUPPLEMENTARY INFORMATION: In FR Doc 67-4159 as published in the FEDERAL REGISTER on April 14, 1967 (32 FR 6025), the Office of the Secretary of Defense issued this part establishing policies and procedures for improved implementation of the "user charges" as expressed in Title V of the Independent Offices Appropriation Act of 1952 (5 U.S.C. 140) and Bureau of the Budget Circular No. A-25, September 23, 1959, as amended, Subject: "User Charges." Subsequently, there were published modifications to certain sections of this part; namely, 34 FR 12339 of July 26, 1969; 36 FR 22236 of November 23, 1971; 37 FR 23719 of November 8, 1972, and 42 FR 62503 of December 13, 1977. This proposed revision adjusts the Schedule of Fees and Rates to reflect consumer price increases since the Schedule was last published. Accordingly, § 288.10 is revised as follows:

Sec.
288.10 Schedule of fees and rates.

AUTHORITY: 5 U.S. Code, sec. 140; Title V, Pub. 2, 137, 82d Cong., Act of Aug. 31, 1951, 65 Stat. 290.

§ 288.10 Schedule of fees and rates.

(a) The schedule applies to authorized services related to copying, certifying and searching records rendered to the public by Components of the Department of Defense, except when those services are excluded or excepted from charges under § 288.3(d) of, or § 288.9 to, this Instruction. Except as provided in special cases prescribed below, a minimum fee of $2.40 will be levied for processing any chargeable case. Normally only one (1) copy of any record or document will be provided.

(b) *Requests involving:*

(1) *Training and education*

(i) Transcripts

	Fee
Original copy	$2.40
Each additional copy	.30

(Includes requests for transcripts of graduation from military academies and schools.)

(ii) Certificates

Original copy	$2.40
Each additional copy	.30

(Includes all requests for certificates, verification of attendance, and course completion from service schools and other facilities.)

(2) *Medical and dental records of patients and former patients when requested for purposes other than further treatment.* Covers requests for information from or copies of medical records, including Clinical Records (inpatient records of military and nonmilitary patients), Health Records (military outpatient records), Outpatient Records (nonmilitary outpatient records), Dental Records, and loan of X-rays.

Searching and processing (per hour)	$9.60
Minimum charge	6.00
Each typewritten page	2.40
Office copy reproductions (per image)	.06
Loan of each X-ray	1.80
Copy of X-ray 8 in by 10 in	1.80
10 in by 12 in	2.40
14 in by 17 in	3.60

(3) *Military Membership and Record (Excluding Medical and Dental Records.)*

Address of record, each	$2.40

Copies of releasable military personnel records, such as effectiveness reports for officers and enlisted personnel reproduced for the personal use of active, retired and former members or next of kin of missing in action or deceased member of the Armed Forces.

Minimum charge (up to 8 reproduced images)	$2.40
Each additional image	.06
Statement of verification of service of report of separation, for individuals with other than honorable discharges	3.60

(4) *Photography.*

(i) Still pictorial or documentary photographic prints, and not more than three prints may be sold from any individual negative on each order. Unlisted standard sizes of prints may be furnished, if available, at proportionate rates.

8 in by 10 in single weight glossy finish, 1st print	$1.50
2d and 3d prints, each	1.20
8 in by 10 in double weight matte finish, 1st print	2.00
2d and 3d prints, each	1.80
11 in by 14 in double weight matte finish, each	4.20
16 in by 20 in double weight matte finish, each	5.50
20 in by 24 in double weight matte finish, each	7.75
35 mm color transparency slide made from color negative material	4.20
35 mm duplicate from 35 mm slide	.60
4 in by 5 in black and white negative, each	2.25
4 in by 5 in color transparencies or color negative, each	8.00
8 in by 10 in color transparencies or color negative, each (in quantities not to exceed three copies of any one view)	16.75
8 in by 10 in color type "C" print, 1st print	5.40
2d and 3d prints, each	2.40
11 in by 14 in color type "C" prints, 1st print	9.60
2d and 3d prints, each	6.00
16 in by 20 in color type "C" print, each	21.00
16 in by 20 in color type "C" print, mounted on 20 in by 24 in cardboard, each	23.00
70 mm color internegative, each	7.00

(ii) Aerial photographic prints, contact prints, or exact negative sizes, single weight glossy or double weight semi-matte, black and white, per frame.

Contact prints	Fee
70 mm film	$2.40
5 in by 5 in, paper or film	2.40
9 in by 9 in, 10 in by 10 in, paper	2.40
9 in by 9 in, 10 in by 10 in, film	3.60
Enlargements	
9 in by 9 in (from 70 mm only), paper	2.40
9 in by 9 in (from 70 mm only), film	3.60
12 in by 12 in thru 16 in by 16 in (1.5X), paper	4.80
18 in by 18 in thru 20 in by 20 in (2X), paper	6.00
24 in by 24 in thru 30 in by 30 in (3X), paper	7.20
36 in by 36 in thru 40 in by 40 in (3X), paper	14.40

For an intermediate-size enlargement, use the price listed for the next larger size.

(iii) Aerial photographic indices and mosaic copies, each.

10 in by 12 in	$3.60
20 in by 24 in	6.00

(iv) Reproduction of cover overlays, each.

Transparent foil film overlays	$3.00
Transparent paper overlays	1.80

(v) Motion Picture.

	Price per foot	
	Contact	Reduction
Color		
16 mm work print (negative/positive)	$0.17	$0.24
16 mm reversal work print	.17	.24
16 mm master positive	.37	.64
16 mm dupe negative (from master positive)	.48	.53
16 mm reversal dupe negative	.48	.53
16 mm internegative (from reversal original)	1.00	–
16 mm short rolls (under 200 ft), add	.06 to basic price	
16 mm tab to tab printing, add	.15 to basic price	
35 mm work print (negative/positive)	.22	–
35 mm master positive	.72	–
35 mm dupe negative	.72	–
35 mm reversal dupe negative	1.20	–
35 mm short rolls (under 400 ft), add	.06 to basic price	
35 mm tab to tab printing, add	.18 to basic price	
Black and white		
16 mm work print (negative/positive)	.10	.16
16 mm master positive (fine grain)	.13	.17
16 mm dupe negative	.20	.26
16 mm short rolls (under 200 ft), and	.06 to basic price	
16 mm tab to tab printing, add	.07 to basic price	
35 mm work print	.11	–
35 mm master positive	.14	–
35 mm dupe negative	.24	
35 mm short rolls (under 400 ft) add	.06 to basic price	
35 mm tab to tab printing, add	.08 to basic price	
Magnetic tape		
Dub (16 mm, 35 mm, ¼ in) per hour		66.00
Miscellaneous		
Searching, each hour or fraction thereof		15.60
Minimum charge per order (including stock search)		30.00
16 mm film to 2 inch video tape (does not include tape) per hour		270.00
Minimum charge		150.00

(5) *Construction and engineering information.* Copies of aerial photograph maps, specifications, permits, charts, blueprints, and other technical engineering documents.

	Fee
Searching, per hour or fraction thereof (including overhead costs)	$9.60
First print	1.60
Each additional print of same document	.60

(6) *Copies of medical articles and illustrations.* Standards contained in Title V of the Independent Offices Appropriation Act of 1952 (5 U.S.C. 140) will be utilized in computing costs.

(7) *Claims, Litigation.* (Includes court-martial records furnishing information from Report of Claims Investigations, e.g., automobile collision investigations, safety reports, etc.)

Requests pertaining to private litigation and to cases in which the United States is a party and where court rules provide for reproduction of records without cost to the Government (if not covered in (2) or (3) above.

Searching processing (per hour)	$9.60
Minimum charge	6.00
Office copy reproductions (minimum up to six (6) reproduced images)	2.40
Each additional image	.06
Certification and validation with seal, each	3.60

NOTE.—Charges for professional search or research will be made in accordance with paragraph (10) below.

(8) *Publications and Forms.* A search and/or processing fee as prescribed in (10), below, will be made for requests requiring extensive time (one hour or more).

(i) Shelf Stock. (Requestors may be furnished more than one copy of publication or form if it does not deplete stock levels below projected planned usage.)

Minimum fee per request (up to 6 repro pages)	$2.4
plus	
Forms, per copy	.06
Publications, per printed page	.01

(Examples: Cost of 20 forms, $3.60; cost of a publication with 100 pages, $3.40.)

(ii) Office copy reproduction (when shelf stock is not available).

Minimum charge (up to 6 reproduced pages)	$2.40
Each additional image	.06

(9) *Engineering data (microfilm).*

Aperture cards	
Silver duplicate negative, per card	$0.50
When key punched and verified, per card	.60
Diazo duplicate negative, per card	.42
When key punched and verified, per card	.50
35 mm roll film, per frame	.36
16 mm roll film, per frame	.30
Paper prints (engineering drawings), each	.60
Paper reprints of microfilm indices, each	.06

(10) *General.* Charges for any additional services not specifically provided above and consistent with the provisions of the basic instruction will be made by the respective DoD Components at the following rates:

	Fee
Clerical search and processing per hour	$9.60
Minimum charge	6.00
Professional searching or researching	

(to be established at actual hourly rate prior to search. A minimum charge will be established at ½ hourly rate.)

Minimum charge for office copy reproduction (minimum up to 6 images)	$2.40
Each additional image	.06
Each typewritten page	2.40
Certification and validation with seal, each	3.60
Hand drawn plots and sketches, each hour or fraction thereof	7.20

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

FEBRUARY 23, 1978.

[FR Doc. 78-5381 Filed 2-28-78; 8:45 am]

[4310-10]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[41 CFR Part 114-50]

UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES

Relocation Assistance Advisory Services

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice invites comments on a proposal to amend Departmental regulations pertaining to implementation and administration of activities under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646). The amendment would modify existing requirements relative to determination of the need for development of a relocation assistance plan and establish review and approval procedures when a plan is required.

DATE: Comments must be received by April 10, 1978.

ADDRESS: Send comments to the Chief, Division of Property Management, Office of Administrative and Management Policy (PM/AMP), room 5310, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

James O. Wyatt, Chief, Division of Property Management, telephone number area code 202-343-3185.

SUPPLEMENTAL INFORMATION: All written comments made pursuant to this notice will be available for public inspection at the Division of Property Management (Rm. 5310) Department of the Interior, during regular business hours, 7:45 a.m. to 4:15 p.m. (except holidays). The primary author of this proposal is George W. Sandberg, Room 5310, Department of the Interior, Washington, D.C., 20240, Phone 343-3185.

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular No. A-107.

RICHARD R. HITE,
Deputy Assistant Secretary of the Department of the Interior.

FEBRUARY 21, 1978.

41 CFR 114-50 is amended as follows:

Amend § 114-50.402 to read as follows:

§ 114-50.402 Relocation plan.

In conjunction with a project proposal involving acquisition of real property, a determination must be made during the pre-authorization planning phase whether the real property acquisition activities will result in the displacement of persons from their dwellings, businesses, or farm operations. Where land acquisition activities will cause such displacement, a relocation plan shall be developed prior to commencement of acquisition activities in accordance with procedures outlined in § 114-50.500.

(a) The plan shall include the following information, as a minimum:

(1) The estimated number of individual families, businesses, farm operations, and non-profit organizations which are to be relocated.

(2) The availability of decent, safe and sanitary replacement housing (both sale and rental) within the financial means of the individuals and families being displaced.

(3) The probable impact of other federal and/or federally-assisted relocation programs on the availability of replacement housing.

(4) The estimated total cost, by category (moving expense, replacement housing for homeowner, etc.), of payments to displaced persons.

(5) The estimated cost of administering required relocation services to displaced persons.

(6) The name and title of the person responsible for preparation of the plan and the date of preparation.

(b) Each relocation plan shall be:

(1) Coordinated with other Federal and State agencies and private concerns having relocation programs within the project area, to ensure that the real estate market from which replacement housing will be obtained is capable of supplying the demands of all users of housing. (See also § 114-50.403 and 114-50.404); and

(2) Updated periodically to reflect current real estate conditions. When funds have been appropriated for commencement of real property acquisition, the relocation plan will be continuously updated and serve as a basis for accomplishing required relocation activities.

(3) Reviewed and approved at the bureau headquarters office level prior to commencement of acquisition activities, (e.g., development of property descriptions, title examination, appraisals, negotiation, etc.).

(4) Submitted (copy only) when approved, to the Assistant Secretary-Policy, Budget and Administration (AMP/PM).

(c) A more elaborate relocation plan may be required in instances where acquisition of real property for a program or project will result in the displacement of a substantial number of persons in a metropolitan area, particularly where low or moderate income persons are involved. In any such instances, Bureaus and Offices shall be guided by the relocation planning instructions promulgated by the Department of Housing and Urban Development in its Relocation Handbook 1371.1.

[FR Doc. 78-5299 Filed 2-28-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[BC Docket No. 78-65; RM-2987]

FM BROADCAST STATION IN BELPRE, OHIO

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a Class A FM channel to Belpre, Ohio, as that community's first FM assignment. Petitioner, Max Bungard, states the proposed channel could provide a first local aural broadcast service to Belpre.

DATES: Comments must be received on or before April 18, 1978, and reply comments on or before May 8, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

NOTICE OF PROPOSED RULEMAKING

Adopted: February 17, 1978.

Released: February 24, 1978.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Belpre, Ohio), BC Docket No. 78-65, RM-2987.

By the Chief, Broadcast Bureau.

1. *Petitioner, proposal, comments.* (a) Petition for rulemaking, [1] filed by Max Bungard ("petitioner"), proposing the assignment of Channel 296A to Belpre, Ohio, as a first FM assignment to that community. No responses to the proposal were received.

(b) The channel can be assigned in conformity with the minimum distance separation requirements.

(c) Petitioner states that if the channel is assigned, he will apply for it.

2. *Community data.* (a) *Location.* Belpre, in Washington County, is located 256 kilometers (160 miles) east of Cincinnati, Ohio, and 120 kilometers (75 miles) southwest of Wheeling, W. Va.

(b) *Population.* Belpre—7,189; Washington County—57,160.[2]

(c) *Local broadcast service.* There is no local aural broadcast service in Belpre. However, it receives service from Marietta, Ohio, and Parkersburg, W. Va., located 19 kilometers (12 miles) and 8 kilometers (5 miles) distant, respectively.

3. *Economic data.* Petitioner states that there was a 32.7 percent increase in Belpre's population between 1960-70. We are told that the Belpre subdivision of Washington County is expanding and growing faster than most other county subdivisions and has become the home of a large base of industry, finance, transportation and education. Petitioner asserts that the proposed station would give the residents of Belpre and surrounding area in the southern part of Washington County their first local full-time facility.

4. *Preclusion studies.* Because Belpre is part of a metropolitan area (Marietta, Ohio, approximately 19 kilometers (12 miles) distant, and Parkersburg, W. Va., approximately 8 kilometers (5 miles) distant), a preclusion study was made. The study indicates that preclusion would occur only on the co-channel. Four communities (Marietta, Ohio, population 16,861, Parkersburg, 44,208, Williamstown, 2,743, and St. Marys, W. Va., 2,348) would be affected as a result of the proposed assignment. However, Marietta, Parkersburg, and St. Marys have one or more FM assignments. Williamstown has no local aural service, but is located immediately across the Ohio River from Marietta. Moreover, it is much smaller than Belpre.

5. In view of the apparent need for a first local aural broadcast service in Belpre and the fact that preclusion would not be an impediment, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules as follows:

City and Channel No.
Belpre, Ohio; Present:—; Proposed: 296A.

[1] Public Notice of the petition was given on November 7, 1977, Report No. 1088.

[2] Population figures are taken from the 1970 U.S. Census.

6. Authority to institute rule making proceedings; showings required; cut-off procedures; and filing requirements are set forth below and are incorporated herein.

NOTE.—A showing of continuing interest is required by paragraph 2 before a channel will be assigned.

7. Interested parties may file comments on or before April 18 1978, and reply comments on or before May 8, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of proposed rule making to which this appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of proposed rulemaking to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of proposed rulemaking to which this appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-5399 Filed 2-28-78; 8:45 am]

[6712-01]

[47 CFR Part 73]

[BC Docket No. 78-66; RM-2984]

FM BROADCAST STATION IN ONALASKA, WIS.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a first Class A FM channel to Onalaska, Wis. Petitioner, Everybody's Mood, Inc., states that the proposed station could provide Onalaska with a first local aural broadcast service.

DATES: Comments must be received on or before April 18, 1978, and reply comments on or before May 8, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

NOTICE OF PROPOSED RULEMAKING

Adopted: February 17, 1978.

Released: February 24, 1978.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Onalaska, Wis.), BC Docket No. 78-66, RM-2984.

By the Chief, Broadcast Bureau.

1. *Petitioner, proposal, comments.* (a) Petition for rulemaking,[1] filed October 4, 1977, by Everybody's Mood, Inc. ("petitioner"), proposing the assignment of Channel 261A to Onalaska, Wis., as a first FM assignment to that community. No responses were made to the proposal.

(b) Petitioner states it will promptly apply for the channel, if assigned.

2. *Community data.* (a) *Location.* Onalaska, in La Crosse County, is located 290 kilometers (182 miles) northwest of Milwaukee, and adjacent to La Crosse, Wisconsin.

(b) *Population.* Onalaska—4,909; La Crosse County—80,468.[2]

(c) *Local broadcast service.* There is no local aural broadcast service in Onalaska. It receives service from AM Stations WIZM, WKTY and WLCX and FM Stations WIZM-FM, WSPL—FM, and WLXR-FM in La Crosse.

3. *Economic data.* Petitioner states that the population of Onalaska has increased over 55 percent between 1960-70. It notes that Onalaska is a center for agriculture and industry for the area. Petitioner offers a description of Onalaska's form of government, the local geography, school system, industrial and commercial activity and other material in an effort to show the need for the assignment.

4. *Preclusion studies.* Preclusion would be caused on the co-channel only. Sparta, Wis. (population 6,258) is the only community of over 1,000 population that would be precluded. That would not be an impediment to the assignment as Sparta already has AM and FM stations.

5. *Other considerations.* Petitioner proposes a transmitter site seven miles east of Onalaska in order to meet the 160 kilometer (105 miles) distance separation requirement to Station KAUS-FM (Channel 260) in Austin, Minn., and the 105 kilometer (65 miles) distance separation requirement to Station WBIZ-FM (Channel 264) in Eau Claire, Wis. However, this location will place a 366 meter (1,200 feet m.s.l.) peak between the transmitter site and the community to be served. The peak appears to extend approximately 137 meters (450 feet) above the ground level of the transmitter site and Onalaska. Section 73.315(b) provides, among others, that the location should be so chosen that line-of-sight can be obtained from the antenna over the principal city or cities to be served and that in no event should there be a major obstruction in this path. Petitioner should address this issue[3] and submit terrain profiles between the proposed site and Onalaska and should show the expected signal levels in the service area.

[1] Public Notice of the petition was given on October 25, 1977, Report No. 1084.

[2] Population figures are taken from the 1970 U.S. Census.

[3] Although petitioner claims that Onalaska would be encompassed within the 70 dBu contour, data in support of this assertion is lacking, and the effects of shadowing

(Continued)

6. Comments are invited on the proposal to amend the FM Table of Assignments with regard to the community of Onalaska, Wis., as follows:

City and Channel No.	
Onalaska, Wis.	Present: —; Proposed: 261A.

7. The Commission's authority to institute rulemaking proceedings; showings required; cut-off procedures; and filing requirements are set forth below and are incorporated herein.

NOTE.—A showing of continuing interest is required by paragraph 2 before a channel will be assigned.

8. Interested persons may file comments on or before April 18, 1978, and reply comments on or before May 8, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE W. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the notice of proposed rulemaking to which this appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of proposed rulemaking to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rulemaking to which this appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-5400 Filed 2-28-78; 8:45 am]

[6712-01]

[47 CFR Part 76]

[Docket No. 21472]

"SATURATED" CABLE TELEVISION SYSTEMS

Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Extension of time.

SUMMARY: In response to a request by Counsel for the Public Broadcasting Service, and for good cause shown, a two week extension of time is granted to submit comments in response to the notice of proposed rulemaking in Docket 21472. This proceeding is concerned with problems associated with cable television systems that are required to carry more broadcast signals than they have capacity to carry.

DATES: Comments must now be received on or before March 9, 1978, and reply comments on or before April 10, 1978.

ADDRESSES: Office of the Secretary, Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION:

Contact James A. Hudgens, Cable Television Bureau, 202-632-6468.

SUPPLEMENTARY INFORMATION:

Adopted: February 17, 1978.

Released: February 22, 1978.

In the matter of amendment of Part 76 of the Commission's rules and regulations (sections 76.59-76.63) with respect to "saturated" Cable Television Systems. *Order* (43 FR 3598).

1. In the notice of proposed rulemaking in the above-entitled proceeding, the dates originally designated for comments and reply comments were January 23 and February 22, 1978, respectively. However, requests for an extension of time were submitted by the Community Antenna Television Association and Viacom International, Inc. Good cause having been shown therefor, by Order of January 18, 1978, an extension of time was granted to the dates of February 23 and March 27, 1978.

2. Now a request for a further extension of time for a period of 2 weeks has been submitted by Counsel for the Public Broadcasting Service (Arent, Fox, Kintner, Plotkin & Kahn). In support thereof, petitioners state that the issues raised in the proceeding are more difficult and time-consuming than anticipated, and that the time is needed to finalize the preparation of the Comments and to permit needed consultation between house counsel and outside counsel. Additionally, petitioners state that the requested extension will permit PBS "to finish compiling programming data helpful to the Commission in its analysis of this question and requested in the Notice."

3. We note that we specifically stated our intention to expedite this proceeding in the Notice itself and that one extension already has been granted. However, in view of the considerations cited by petitioner, it appears that the Commission will benefit from the submission of the materials described by petitioners and that good cause has been shown for granting the requested extension.

Accordingly, *it is ordered*, That the dates for filing comments and reply comments in Docket 21472 are further extended to March 9 and April 10, 1978, respectively.

This action is taken by the Chief, Cable Television Bureau, pursuant to the authority delegated by Section 0.288 of the Commission's Rules.

FEDERAL COMMUNICATIONS COMMISSION,
JAMES R. HOBSON,
Chief, Cable Television Bureau.

[FR Doc. 78-5401 Filed 2-28-78; 8:45 am]

[3] (Continued) have not been considered. These are matters which would have to be resolved before the assignment could be made. See Bloomsburg, Pa., 34 FCC 2d 940 (1972); Attica-Warsaw, N.Y., 54 FCC 2d 1137 (1975).

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-16]

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

CADRON CREEK WATERSHEDS, ARK.

Intent To Prepare an Amplification to the Final Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an amplification to the final environmental impact statement is being prepared for the Cadron Creek Watersheds, Cleburne, Conway, Faulkner, Van Buren, and White Counties, Ark.

The amplification to the environmental impact statement concerns changes in plan elements after the final impact statement was filed with the Council on Environmental Quality. The sponsors of the project elected to eliminate one floodwater retarding structure to preserve a popular canoeing reach on the East Fork Cadron Creek.

The final environmental impact statement was filed with the Council on Environmental Quality on June 1, 1976. The Notice of Availability of final environmental impact statement was submitted to the FEDERAL REGISTER on April 16, 1976.

The Soil Conservation Service invites participation of agencies and individuals with expertise or interest in the preparation of the amplification to the final environmental impact statement. The amplification will be developed by Mr. M. J. Spears, State Conservationist, Soil Conservation Service, 5029 Federal Building, P.O. Box 2323, Little Rock, Ark. 72203, 501-378-5445.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83566, 16 U.S.C. 1001-1008.

Dated: February 9, 1978.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service, U.S. Department of Agriculture.

[FR Doc. 78-5286 Filed 2-28-78; 8:45 am]

[3410-16]

WATER RESOURCES PROJECT TYPE ACTIVITIES

Channel Modification Guidelines

AGENCY: Soil Conservation Service, Agriculture and Fish and Wildlife Service, Interior.

ACTION: Notice of Final Guidelines for Use of Channel Modification as a Means of Water Management in water resource project type activities of the Soil Conservation Service (SCS). The guidelines are not intended to have the force of rules or regulations, but are published for the information of the interested public.

SUMMARY: An interdisciplinary team of specialists from the Department of the Interior's Fish and Wildlife Service (FWS) and the Department of Agriculture's Soil Conservation Service has worked cooperatively over the past several months to develop the attached guidelines for channel modification. The guidelines are based on these professionals' own experienced judgment, plus the suggestions of many other interested Federal and State agencies, organizations, and individuals whose views were solicited. The heads of both agencies, Lynn A. Greenwalt and R. M. (Mel) Davis, have personally guided this effort and support the guidelines.

For the guidelines to be effective, reasoned judgment will be required among professional planners, biologists, and others. Compromises will need to be negotiated. We expect users of the guidelines to suggest refinements. After a reasonable period of use, we will review their effectiveness and rewrite them if the need is apparent.

The guidelines should be studied thoroughly and applied intelligently. In general, they provide that:

1. SCS and FWS will use an interdisciplinary planning process which permits a balancing of the need to both maintain a viable, naturally functioning ecosystem and provide for projected food and fiber, economic, and other social needs.

2. Measures other than channel work will be suggested, analyzed, evaluated, and accepted if channel work will cause measurable habitat losses and if other alternatives will contribute to project objectives with less damaging effects. Channel work normally will be a "last resort" measure.

3. Channel work will not be undertaken when it would destroy or modify critical habitat for endangered or threatened species.

4. Wetland types 3-20 will not be purposely drained, and any indirect drainage of these types will be avoided unless appropriate mitigation or compensation is provided. Types 1 and 2 will be evaluated as to their ecological importance and preservation strongly recommended in accordance with provisions in the guidelines.

5. The intent and spirit of the Federal Wild and Scenic Rivers Act and similar State legislation will be respected.

6. Important fish and wildlife habitat values will be maintained or enhanced. Conservation easements or other comparable means will be utilized wherever necessary to provide reasonable protection for wetlands subject to secondary drainage predicted to occur as a result of, or be facilitated by, channel modification.

EFFECTIVE DATE: March 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. F. Eugene Hester, Associate Director, Environment and Research, U.S. Fish and Wildlife Service, 202-343-5715.

Mr. Joseph W. Haas, Assistant Administrator for Water Resources, Soil Conservation Service, 202-447-4527.

SUPPLEMENTARY INFORMATION: On August 8, 1977, the Soil Conservation Service and the Fish and Wildlife Service published in the FEDERAL REGISTER (42 FR 40119) proposed guidelines for use of channel modification as a means of water management in water resource project type activities of the Soil Conservation Service. During the 37-day commenting period numerous comments were received from Federal agencies, State agencies, organizations, and individuals. All written comments were given consideration in developing the final guidelines. The full text of all comments received is on file and available for public inspection in: Room 5226, South Agriculture Building, Washington, D.C., and Room 849, 1730 K Street NW., Washington, D.C.

Accordingly, the following final guidelines are published for informational purposes.

Dated: February 24, 1978.

ROBERT L. HERBST,
Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior.

M. RUPERT CUTLER,
Assistant Secretary for Conservation, Research, and Education, Department of Agriculture.

CHANNEL MODIFICATION GUIDELINES

PREPARED BY

Department of the Interior, Fish and Wildlife Service

Department of Agriculture, Soil Conservation Service

CHANNEL MODIFICATION GUIDELINES

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CHANNEL MODIFICATION GUIDELINES

I. INTRODUCTION

A. Purpose

These guidelines are promulgated by the Soil Conservation Service (SCS) and the Fish and Wildlife Service (FWS) to guide their personnel in identifying when and where channel modification may be used as a technique for implementing water and related land resource projects. They will be used in the planning of all SCS projects or measures which qualify for either technical, financial, and/or credit assistance under the authorities for flood prevention projects, small watershed projects, and resource conservation and development projects. These program authorities contain provisions for maintaining and enhancing fish and wildlife resources as well as achieving other water management objectives.

B. Policy

It is the policy of SCS and FWS that care and effort will be made to maintain and restore streams, wetlands, and riparian vegetation as functioning parts of a viable ecosystem upon which fish and wildlife resources depend.

It is also the policy of SCS and FWS to use an interdisciplinary planning process which will permit a balancing of the need to maintain a viable, naturally functioning ecosystem and projected food and fiber, economic, and other social needs.

The application of these guidelines, the resource inventory, interpretation, and planning assistance provided by SCS and FWS will ensure identification and consideration of alternatives to channel modification.

C. Applicability

These guidelines become effective as of the date they are approved. They will be applied to: (1) All new planning starts; (2) all projects in the planning phase, unless SCS and FWS agree it is not important and feasible to apply the guidelines; (3) all projects approved for construction, (a) when supplements or revisions are prepared which would result in an increase in the amount or type of channel modification which would increase the potential adverse environmental impact; or (b) when SCS and FWS agree that: (i) important fish and wildlife habitat is involved and threatened; (ii) project modification is feasible; and (iii) project modification to minimize adverse environmental impact has not been accomplished as a result of reviews mandated by the National Environmental Policy Act or other congressional, Presidential, or Secretarial initiatives.

After the guidelines have been in use for a year or more, their effectiveness will be reviewed, and changes will be made if determined to be necessary. These guidelines may be terminated at the request of either agency.

II. BACKGROUND

Congress has recognized that erosion, floodwater, and sediment can cause damage in the watersheds of the rivers and streams of the United States. It has found that loss of life and damage to property constitute a menace to the national welfare and that the Federal Government should cooperate with States and their political subdivisions for the purposes of preventing such damages and of furthering the conservation, development, utilization, and disposal of water. In so doing, this action will also preserve, protect, and improve the Nation's land and water resources and the quality of the environment.

Congress has also recognized that rivers and streams, wetlands, and riparian vegetation constitute a valuable resource which is vital to the public interest in naturally functioning ecosystems, water transport, and maintenance of fish and wildlife populations. Dependent upon the situation, wetlands can serve as: (1) Natural flood detention areas; (2) sediment and debris traps; (3) water purifiers and in recycling nutrients; (4) groundwater recharge areas; (5) nursery areas for aquatic animal species; (6) important habitats for a wide variety of plant and animal species, some of which have been depleted to the point that their continued existence is endangered; and (7) areas which produce highly valuable crops of timber, fish, and wildlife.

High flows in rivers and streams and periodic overflow have significant value in creating and maintaining meandering channels and in cleansing and redistributing substrates. This action by water provides riffles, pools, or other habitat for fish spawning and rearing and production of aquatic invertebrates. It also provides diverse plant successional areas and other types of shoreline habitat that fulfill fish and wildlife food and cover requirements. However, it is also recognized that many areas adjacent to streams and wetlands are well-suited for and have a long history of agricultural and urban uses.

Channel modification, used in a sensitive manner, is one method that can be utilized in solving specific water management problems. It may be needed to restore a water course impaired or damaged naturally or through man's unwise use or management of adjacent or upstream lands. It may also be needed to provide a safe and healthy environment and for the maintenance of existing agricultural productivity. However, channel modification can cause serious damage to fish and wildlife resource values. In addition to the direct impacts on the stream and immediate environs, the practice has, on occasion, led directly or indirectly to major drainage of wetlands, clearing of bottomland forests for intensive agriculture, and increased flooding and siltation in downstream areas. Channel modification for flood control, drainage, and irrigation projects has often resulted in severe conflict with the function of the associated ecosystems, changing or reducing both the variety and abundance of fish and wildlife resources.

Because of the variety of values associated with water, it is incumbent upon the SCS and the FWS to continue to share their technical expertise to help ensure decisions which will result in the maximum benefits to assure long-term agricultural productivity and optimum environmental quality.

III. GUIDELINES

A. Alternatives

The guidelines for channel modification will be used when formulating alternative plans under the Water Resources Council's Principles and Standards. The planning process will include an inventory of resources, including fish and wildlife habitats and their geographic delineation. It will also identify appropriate means for minimizing adverse impacts on habitat values. Measurement of habitat values will be determined on a case-by-case basis in accordance with habitat evaluation procedures promulgated by FWS and developed jointly with SCS.

Alternative plans will be formulated to: (1) Emphasize environmental quality; (2) optimize national economic development; and (3) provide varying mixes of the components of the environmental quality and national economic development objectives. For each alternative plan, there will be a display or accounting of relevant beneficial and adverse effects. A comparison of the displays will identify trade-offs between the environmental quality and economic development objectives. Within this framework and in compliance with the requirements of the National Environmental Policy Act (NEPA), equal consideration will be given to environmental and economic and technical aspects in the decisionmaking process.

In compliance with the mandates of NEPA and the Water Resources Council's Principles and Standards, the FWS will assist the SCS develop, evaluate, and recommend alternatives, if any, to channel modification when it is expected to cause, directly or indirectly, measurable losses of fish and wildlife resources. Channel modifications will not be considered if a practical alternative exists. A practical alternative is one which meets all of the following tests: (1) is consistent with the Water Resources Council's Principles and Standards; (2) makes a significant contribution to project objectives; and (3) results in less damage to fish and wildlife habitat. Thus, channel modification will normally emerge as the last resort measure.

The following three broad types of alternatives will be considered singly or in combination:

1. Soil and Water Conservation practices.

2. Nonstructural—nonstructural measures may include, but are not limited to, land use regulation, land acquisition the maintenance of aquatic areas, floodplain zoning, floodproopfing existing buildings, flood forecasting, flood warning, flood hazard information, flood insurance, tax adjustments, emergency assistance, and relocation of properties and people.

3. Structural—structural alternatives to channel modification include, but are not limited to, dams, floodways, dikes, levees (including set back levees), flood walls, pumping plants, diversions, and wetland development, maintenance, and restoration.

B. Types of channel modification

Channel modification is defined in these guidelines to include actions such as riprapping, selective snagging, clearing and snagging, widening, deepening, realignment, and lining, listed generally in order of ascending impact on fish and wildlife resources.

1. Selective Snagging—The selective removal of obstructions from a channel to increase its capacity to convey water. This includes, but is not limited to, the removal of downed timber and accumulations of debris or obstructions.

2. Clearing and Snagging—The removal of obstructions from the channel and stream banks, including the removal of vegetation and accumulations of bedload material, to increase its capacity to convey water. It may include the removal of sediment bars, drifts, logs, snags, boulders, piling, piers, headwalls, and debris.

3. Riprapping—The placement of irregular permanent material such as rock in critical areas along the watercourse to protect the earth materials against excessive erosive forces.

4. Widening—The overall widening of a channel to restore or increase its capacity to convey water. This usually involves clearing, snagging, and excavation of a portion of the channel side slope(s). Where practical, widening is performed on one side only with appropriate consideration given to alternating from one side to the other.

5. Deepening—The overall deepening of a channel to increase its capacity to convey water and/or provide drainage. Deepening usually involves clearing or snagging and excavating of a portion of the channel bottom and the channel side slope(s).

6. Realignment—The construction of a new channel or a new alignment and may involve the clearing, snagging, widening, and/or deepening of the existing channel where the new alignment coincides with the existing channel. It may include straightening the alignment to restore or increase the capacity of the channel to convey water.

7. Lining—Placement of a nonvegetative protective lining over all or part of the perimeter of a channel to prevent erosion or to increase the capacity of the channel to convey or conserve water.

C. Channel modification as an alternative

The following criteria will be utilized in the planning process for determining when channel modification can be considered an alternative. If used, channel modification will be the minimum required, either alone or in combination with other measures. It will be accomplished using the least damaging construction techniques and equipment in order to retain as much of the existing characteristics of the channel and riparian habitat as possible. Construction practices may include, but are not limited to, such things as seasonal construction, minimum clearing, reshaping spoil, limiting excavation to one bank (on alternating sides where appropriate), and prompt revegetation of disturbed areas.

Channel modification may be considered as an alternative for project purposes for which the SCS is currently authorized by law and which are in conformance with agency (SCS) policy and regulations, provided the modification is designed to resolve specific problems and would not cause directly or indirectly any of the following to occur:

1. Jeopardize the continued existence of endangered species and threatened species designated or formally proposed[1] by the destruction or modification of habitat or such species which is determined to be critical under the Endangered Species Act of 1973 or species similarly classified under law of the State(s) in which the project is located.

2. Result in restricted access to use of streams or stream segments developed specifically for recreation of fish and wildlife use by the general public.

3. The intent or purpose is to drain or otherwise alter wetland types 3 through 20[2] or the result of the modification would be to indirectly alter wetlands types 3 through 20 and provisions for appropriate mitigation or compensation by establishment of similar habitat values in the project area are not provided. Wetland types 1 and 2 with important fish and wildlife habitat values will be treated in accordance with item 3 below, and their preservation will be strongly recommended when they are adjacent to types 3 through 20 or are needed to maintain a balanced aquatic or semi-aquatic ecosystem.

Also, channel modification will not be considered as an alternative unless it can be accomplished with little or no direct or indirect adverse[3] effect on:

1. Stream or stream segments now designated or undergoing study under the Wild and Scenic Rivers Act or officially designated pursuant to other Federal of State(s) legislative actions for their important natural, esthetic, or recreational values.

2. Streams located in or flowing through or contiguous to established wilderness areas, parks, refuges, or other areas set aside pursuant to Federal of State(s) legislative actions for fish and wildlife esthetic or recreational values.

3. Important fish and wildlife habitat values, including riparian habitat, in the project impact area, State, or Nation after providing for all appropriate mitigation, compensation, or preservation measures. Conservation easements or other comparable means will be utilized wherever necessary to provide reasonable life of project protection for wetlands or riparian areas subject to secondary drainage predicted to occur as a result of, or be facilitated by, channel modification. (Measurement of habitat values will be determined on a case-by-case basis in accordance with habitat evaluation procedures to be promulgated by FWS and developed jointly with SCS.)

IV. COORDINATION AND INTERACTION

The FWS and the SCS recognize that the application of the above guidelines can most effectively be accomplished through cooperative effort during all planning phases of a water resource project. The FWS and the SCS will work cooperatively with State fish and wildlife agencies to inventory and assess the fish and wildlife resources and to plan alternatives, enhancements, replacement, or necessary mitigation measures.

The level of effort to be devoted by FWS to each watershed project will be proportional to the value of the resources and expected impact on fish and wildlife resources. If FWS determines at any stage of planning that it cannot, for any reason, participate, it will so notify SCS in writing stating reasons for discontinued participation. Even though FWS discontinues participation in planning, they will eventually, as prescribed by law, become involved with reviewing and commenting on the watershed plan. In such instances, FWS will not oppose the project plan on the basis of channel modifications unless it is clearly evident that the plan is not in conformance with the provisions of these guidelines after consultation with SCS determining this to be the case.

The following procedures will be used in the planning of water resource projects. The coordination identified is between the field levels of FWS and SCS; however, both agencies recognize that planning will always involve State fish and wildlife agencies as well as the interested public and sponsoring agencies at all stages throughout the planning process.

[1] Applicable only during a 6-month period immediately following the date a proposal is published in the FEDERAL REGISTER by FWS in compliance with the Endangered Species Conservation Act of 1973.

[2] Wetland types as described in FWS Circular No. 39 or subsequent publications.

[3] Rule of reason must be used in applying these guidelines and determining the actual net effects and their significance at the field level considerering the value of the resource and importance of the project objectives.

COORDINATION OF FIELD LEVEL PLANNING[4]

Process	SCS action	FWS action
Preapplication	Potential application under consideration. Notifies FWS that potential application is being considered and issued invitation to meetings.	Participate in meetings.
	Assists sponsors in developing information when appropriate. (Normally requires from one to several days.) Request from FWS available fish and wildlife information and viewpoints concerning potentials for and impacts of a probable project.	Furnishes available information and FWS viewpoint concerning potentials for and impacts of a probable project. If requested, participates jointly with SCS and State fish and wildlife studies needed and report findings as may be required. (Field level letter.)
Application	Receives application. Notifies FWS in writing that application has been received and when field examination is to begin. Issues invitation to FWS to participate in all meetings and in study and evaluation of available information. (Field examination may require a few days to several weeks.).	Participates in meetings.
	Initiates field examination and assembles available information, coordinates study and evaluation of available information and data. Begins environmental assessment.	Participates in field examination. Assembles and furnishes available fish and wildlife information and data. Participates in study and evaluation of available information and data and in identification of problems and study needs and potential solutions worthy of further study.
	Identifies problems and needs, potential solutions, and broad alternatives worthy of further study. Request FWS to work cooperatively with SCS and State fish and wildlife agency in any special studies required in this step.	Works cooperatively with SCS and State fish and wildlife agency in any special studies required and in preparing an appropriate report.
	Prepares field examination report (includes pertinent fish and wildlife information from FWS) and provides copy to FWS.	Provides inputs (letter report) for the field examination report.
	Requests FWS to participate in developing a plan of study. Prepares the study plan.	Participates with SCS in developing a plan of study. FWS will advise as to scope and detail of specific studies needed, capability of FWS to perform studies, and its desire to participate in design of any contracts to secure necessary information.
	Requests planning authority (submits views of FWS with request for planning authorization).	
Planning	Receives notice of planning authorization. Notifies FWS in writing. Initiates and coordinates Preliminary Investigation (PI) and continues environmental assessment. Notifies FWS in writing. (PI may require from several weeks to 2 years.).	Participates in meetings and preparation of joint FWS-State fish and wildlife agency-SCS fish and wildlife inventory, assessment, base line data, and report.
	SCS initiates preparation of PI report and update of the study plan. Requests FWS participation in PI and update of plan of study..	Furnishes additional inputs to problems, needs, alternatives and impacts as the PI process progresses and jointly makes recommendations for mitigation, compensation, and enhancement. Furnishes inputs for the PI report and updating of study plan.
	Sends PI report to FWS and others	Participates with SCS to review the PI report with the public.
Detailed planning	Coordinates the detailed planning stage and continuation of the environmental assessment. Notifies FWS that detailed planning is to commence and issues invitation to participate in detailed planning and in meetings.	Participates with SCS and others in detailed planning of alternatives and the components. Works cooperatively with State fish and wildlife agency and SCS to formulate the alternatives and to assess fish and wildlife impacts. Works cooperatively with SCS and State in preparation of recommendations for mitigation, compensation, and enhancement for initial draft plan and, when prepared, an EIS. Participates in meetings. Provides detailed report in accordance with Fish and Wildlife Coordination Act and section 12 of Pub. L. 82-566.
Prepares initial draft plan and, when required, and EIS.	Initiates local field review and issues an invitation to FWS to participate in this review. Provides FWS with initial draft plan and an EIS, if prepared.	Provides review comments on initial draft and participates in local field review.
Review (formal)	Prepares a draft plan and EIS, if required, and circulates for interagency review.	Provides commends to Interior and works with SCS in an attempt to resolve issues, if warranted.
	SCS prepares final plan and EIS, if required. Forwards plan and EIS through system for approval and authorization.	Review plan and EIS according to FWS and Interior instructions.
Operations	Receives notice of authorization for installation. Notifies FWS. (Regional and area offices.) Prepares construction plans and invites FWS to review them.	Reviews pertinent construction plans.
	Notifies FWS of supplement when the channel modification guidelines are applicable. (See page 2.) Prepares supplemental plans when necessary and circulates for local field review.	Participates in formulating supplemental plan when the channel modification guidelines are applicable. Same involvement as in planning and provides inputs for supplemental plan. Also provides comments on supplemental plan when circulated for local field review.
	Forwards supplemental plan for approval. Provides FWS copy of supplemental plan.	
Maintenance	Advises FWS and State fish and wildlife agency of scheduled maintenance inspections during the life of the project.	Participates in maintenance inspections at FWS discretion. If appropriate, makes recommendations for changes in O&M agreement if necessary to ensure that proper maintenance is accomplished.

[4] All steps apply to planning for small watershed projects. Appropriate steps will be followed for Pub. L. -534 and Resource Conservation and Development measures planning.

NOTES: 1. SCS notifies FWa when planning is suspended, project action terminated, or other stop actions are taken.

2. The level of effort to be devoted by the FWS to each watershed project will be proportional to the value of the resources and expected impact on fish and wildlife resources. If FWS determines at any stage of planning that it cannot, for any reason, participate, it will so notify SCS in writing stating reasons for discontinued participation.

V. RESOLUTION OF ISSUES

General

It is recognized that issues may develop which cannot be resolved at the field level. When issues arise, it will be the practice of the FWS and the SCS to refer such cases and issues to the next higher respective administrative level for resolution and ultimately, if necessary, to the Secretaries of Agriculture and Interior. The Secretary of Agriculture will seek the advice and counsel of the Secretary of the Interior in reaching his decision. Consultation between the two agencies will, at each level, occur throughout the decision process.

Procedure

1. Most of the problems in applying the guidelines will be identified at the field planning level. When this occurs, the SCS Planning Staff Leader will consult directly with the FWS Field Supervisor (Ecological Services) and attempt to resolve the issue.

2. Should te SCS Planning Staff Leader and the FWS Area of Field Supervisor be unable to reach agreement, the issue should be referred and coordionated as follows:

USDA IN CONSULTATION WITH USDI

State Conservationist, SCS	Regional director and/or area manager, FWS as appropriate.
Administrator, SCS	Director, FWS.
Assistant Secretary for Conservation, Research, and Education.	Assistant Secretary for Fish and Wildlife and Parks.
Secretary of Agriculture	Secretary of the Interior.

The decision on whether channel modification will be part of a project plan shall rest with the Secretary of Agriculture. If disagreement still exists at the Secretary's level, the FWS views and recommendations will be appended to the project plan.

At all levels in the decision process, the desires and needs of the local sponsors, environmental groups, State and Federal agencies, and interested public will be taken fully into account.

Dated: February 21, 1978.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

Dated: February 22, 1978.

R. M. DAVIS,
Administrator,
Soil Conservation Service.

[FR Doc. 78-5338 Filed 2-28-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket 22387; Order 78-2-112]

INVESTIGATION OF AIR EXPRESS RATES

Order to Terminate Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 23rd day of February 1978.

The Board instituted this investigation by Order 70-7-109, dated July 23, 1970, to determine the lawfulness of the air express rates and charges and the revenue divisions, both prospectively and retrospectively, of such rates and charges between REA Express, Inc. (REA) and the direct air carriers participating in the air express agreements. Concurrently, the Board instituted a separate investigation in Docket 22388 into the need for the continuation of REA as an exclusive express agent of the airlines.[1] In the latter investigation, the Board ultimately found that REA's exemption authority to conduct air express service should be terminated and authorized REA to operate as a domestic air freight forwarder.[2] On the other hand, we have never completed the investigation of air express rates and charges, which is the subject of this order.

By Order 74-5-23, dated May 6, 1974, the Board determined, first, that its decision in Docket 22388 to terminate REA's exemption authority had mooted issues in the rates investigation as far as those issues concerned prospective lawfulness, and, second, that the record in the rates case was not adequate to decide the merits of REA's contention that a retrospective adjustment should be made in its favor to the divisions of air express revenues.[3] Nevertheless, the Board, as a last resort, gave REA an opportunity to meet with the airlines, under Board auspices, for the purpose of assembling factual materials and negotiating an agreement on the issue of retrospective divisions.

The parties failed to take advantage of this opportunity. REA continued its efforts to obtain judicial reversal of the Board's findings in both the service and rates cases, and the airlines maintained their position that the Board did not have the power to oversee retrospective adjustments in the air express revenue divisions.[4] Thus, there was no mutually agreeable basis on which even to begin negotiations.

The dispute was soon eclipsed by the financial collapse of REA. On February 18, 1975, REA filed a petition in bankruptcy. It was so adjudged on November 6, 1975.[5]

Under these circumstances, we see no further purpose to be served by leaving this matter open.

Accordingly, pursuant to the Federal Aviation Act of 1958 as amended,

It is ordered, That: 1. The investigation in Docket 22387 be terminated; and

2. Copies of this order shall be served upon all parties to Docket 22387; the Honorable John J. Galgay, Bankruptcy Judge; and C. Orvis Sowerwine, Trustee in Bankruptcy.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[6]
Secretary.

[FR Doc. 78-5394 Filed 2-28-78; 8:45 am]

[1] Express Service Investigation, Order 70-7-110.

[2] Orders 73-12-36, dated December 7, 1963; 75-4-54, dated April 9, 1975; and 75-5-96, dated May 23, 1975; affirmed 524 F. 2d 54 (C.A. 2d 1975); cert. denied, 426 U.S. 906.

[3] On the issue of retrospective adjustment of revenues, the administrative law judge held that the rates and divisions he found reasonable for the future showed that the airlines, rather than REA, had been underpaid.

[4] See Order 74-6-117, dated June 26, 1974, denying REA's motion to stay Order 74-5-23, Supra, pending judicial review.

[5] Bankruptcy No. 75-B-0251 et seq., United States District Court for the Southern District of New York.

[6] All Members concurred.

[6320-01]

[Docket 32118; Order 78-2-120]

PAN AMERICAN WORLD AIRWAYS, INC.

Order of Suspension and Investigation Regarding Proposed Increased Excess Baggage Charges

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 13th day of February 1978.

By tariff revisions[1] filed on December 23, 1977, and marked to become effective on March 3, 1978, Pan American World Airways, Inc. (Pan American) proposes to modify excess baggage charges in international markets. Over and above the two bags carried free, Pan American proposes to limit the number of pieces of excess baggage acceptable at currently effective charges to two pieces and to increase the charges for more than four pieces. For example, the following table shows a comparison for the New York-London market.

[1] Revisions to Air Tariffs Corporation, Agent, CAB No. 55. These tariffs were originally scheduled to become effective on February 6, 1978. Pan American requested and was granted until January 25 in file an answer to the complaint and postponed the effectiveness of its filing until March 3, 1978.

Market	Excess baggage charges per piece		
		Present	Proposed
New York to London	2 bags free	Free.	Free.
	2 bags at	$35 each	$35 each.
	Additional pieces at	$35 each	$105 each.
	Oversized pieces at	$35 to $105 plus $35 for each 10 kg. in excess of 45 kgs.	$105 each.

In effect travellers will be permitted the current free baggage allowance plus two pieces of excess baggage, at currently applicable charges as at the present.[2] Additional pieces of baggage tendered beyond the two excess pieces will be assessed charges ranging between 300 and 400 ercent above the current excess baggage charges.

In support of the proposal, Pan American asserts that: it has been experiencing continuing problems with the volume of excess baggage that passengers have presented at check-in time and, because of aircraft volume and weight restraints, it has unable to board all the baggage tendered; the proposal is a relatively inrestrictive response made essential by some passengers abusing baggage privileges by tendering twenty, thirty or more pieces, which preclude other passengers or freight shippers from usiung Pan American's service; the movement of large numbers of pieces at rates considerably below regular freight charges gives the tenderer an unfair preference over other shippers and dilutes the economic support for the operaton; for the months of September and October and for the first three weeks of November, 1977, 493 bags were not loaded on the same flight as the related passengers departing from New York; limiting the applicability of current excess baggage charges to only two excess pieces will only affect a small percentage of passengers; the increased charges are set to approximate the level of freight charges if the baggage were sent as cargo, assuming 35 kilograms per piece; the proposal is designed to discourage the tender of inordinate amounts of excess baggage, while not imposing a requirement that a passenger ship baggage as freight, a requirement that could create a need for both the passenger and the carrier to conform to specialized customs and other regulations related to international cargo shipments; the solution of tendering all excess baggage (beyond a specified number) as freight is too restrictive for international travel because customs clearance and other procedures are cumbersome and may involve delays; Pan American has not designed the rates to put couriers out of business; the costs of extraordinary amounts of excess baggage are best measured by the revenues lost by the displacement of freight traffic; to maintain simpliciuty and efficiency in passenger handling procedures, Pan American is proposing that essentially the same rules and regulations govern baggage allowances and assessment of excess charges throughout its system; and the proposal would establish excess baggge rates at levels that will discourage the use of the baggge system to carry freight under the guise of personal baggage.

A complaint requesting suspension pending investigation of this proposal has been filed by the DHL Corp. (DHL), an air courier service. Additionally, answers in support of the complaint have been filed by the Government of Guam, the Air Courier Conference of America (ACCA), and another courier service, Purolator Sky Courier, Inc. (Purolator). These complaints allege, among other things, that: the proposal is designed to put courier companies out of business by raising excess baggage charges to exorbitant levels; the scheduled carriers are attempting to seize upon the experience of air couriers and eliminate competition through economic sanctions as evidenced by the magnitude of the increases; the direct carriers are trying to force courier companies out of business because many of these carriers will soon have unlimited cargo rights and want courier business for themselves; the fact that Western Air Lines, Inc. and United Air Lines, Inc. have instituted similar excess baggage restrictions indicates this proposal is in concert with the actions of others and constitutes an antitrust violation; the residents of Pago Pago and Guam have no alternative air service, so this proposal will inflict particular harm upon their residents and businesses; the carrier cites no cost data in support of its proposal; the three-month study data is not relevant to passenger traffic and related baggage between the U.S. and Guam, and offers no support for the proposal in connection with Guam traffic; because passenger fares between Guam and U.S. are so high, tourists travelling between the two points remain for a substantial period, and the longer a person expects to be away from home, the more baggage must be taken along; the carrier should not be permitted to abuse its monopoly position in the U.S.-Guam market by forcing passengers to bear the proposed massive charges; contrary to expectations, the effect of such charges could be to dampen both tourism and business travel between U.S. and Guam; the proposed levels are too high because excess baggage is far less costly to process than freight—no storage, no waybill paperwork, no advertising, no sales commissions, no additional handling costs, and a passenger is paying a fare; the sole justification for these significant increases is a survey conducted at one terminal over an eleven-week period and the results do not support a claim of significant inconvenience to the carrier or passengers; the justification submitted is inadequate in that it lacks data on costs and revenues as required by section 221.165 of the Board's Economic Regulations; and the carriers will be able to engage in rebating and other forms of favoritism by not charging for all excess baggage.[3]

The Board finds that Pan American's proposal may be unlawful and should be investigated. The board further concludes that it should be suspended pending investigation.[4]

[2] A third free bag is permitted if it can be carried aboard and stowed in the passenger compartment. Oversized pieces are charged at the same rate as excess baggage.

[3] The Board has also received letters of protest from businesses and other courier services complaining about the magnitude of Pan American's proposed increase and its severe impact upon their requirements or business services.

[4] In view of the similarity of the issues, this investigation will be consolidated with that covering domestic and overseas transportation, Docket 32118. See Order 78-2-70.

It appears that the proposed increases could have a severe impact on passengers. The carrier makes no attempt to support the increases on the basis of costs of service. Pan American supports its proposal by a survey undertaken at one terminal for a consecutive period of eleven weeks. In our opinion, this survey alone does not support or justify such substantial increases at New York or throughout the carrier's system. It shows that about 493 bags did not accompany passengers during the period—an average of only 6.4 bags per day. Admittedly any baggage not loaded due to capacity constraints poses a problem; and we are aware that in certain markets very large amounts of goods are carried as excess baggage. Certainly, the Board can understand that something must be done in situations where twenty, thirty, or more pieces of excess baggage are tendered to the detriment of service for other baggage or freight. However, Pan American has not sufficiently justified this proposal. The carrier has submitted no evidence that the charges should be applied systemwide and that the problem cannot be localized; that the average excess bag weight 35 kilograms (77 pounds);[1] or that the proposed charges are in any way cost-related. Therefore, we conclude that the proposal may be unlawful and should not be permitted to become effective.

The Board believes that a satisfactory resolution may be reached without a formal hearing. Consequently, Pan American may submit additional justification in this docket by February 24, 1978, and a conference will be held on March 3, 1978, between Board staff and interested persons for the purpose of seeking a mutually satisfactory resolution of this problem.

Accordingly, pursuant to sections 102, 204(a), 403, 404, 801, and 1002 of the Federal Aviation Act of 1958:

It is ordered, That: 1. An investigation be instituted to determine whether the provisions set forth in Appendix A hereof, and rules, regulations, or practices affecting such provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to take appropriate action to prevent the use of such provisions or rules, regulations, or practices;

2. Pending hearing and decision by the Board, the tariff provisions specified in Appendix A are suspended and their use deferred from March 3, 1978, to and including March 2, 1979, unless otherwise ordered by the Board, and that no changes be made in them during the period of suspension except by order or special permission of the Board;

3. Except to the extent granted here, the complaint of DHL Corporation in Docket 31948 is dismissed;

4. The investigation instituted here is consolidated into Docket 32118;

5. A conference will convene in room 1002N, 1875 Connecticut Avenue NW., Washington, D.C. 20428, on March 3, 1978, to explore the issues raised in this order. Pan American may submit additional justification in support of its proposal by February 24, 1978, to be filed in this Docket and served upon all parties to Docket 32118. The conference will be presided over by a Board staff member who will report the results to the Board.

6. This order shall be submitted to the President[2] and shall become effective on March 3, 1978; and

7. Copies of this order shall be filed in the applicable tariffs and served upon Pan American World Airways, Inc., DHL Corp., the Air Courier Conference of America, the Government of Guam, and Purolator Sky Courier, Inc., which are made parties to Docket 32118.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[3]
Secretary.

APPENDIX A.—*Tariff CAB No. 55, issued by Air Tariffs Corp., Agent*

On 27th Revised Page 46-A—

1. The parenthetical expression "(Not applicable to PA)" in Rule No. 16(V)(3)(c).

2. The Exception to subparagraphs (a), (b) and (d) of Rule No. 16(V)(3) and the Exception to that Exception.

[FR Doc. 78-5395 Filed 2-28-78; 8:45 am]

[1] Data in the Transatlantic, Transpacific and Latin American Service Mail Rates Investigation, Docket 26487, indicate an average weight per bag from 26.9 to 30.3 pounds.

[2] This order was submitted to the President on February 14, 1978.

[3] All Members concurred.

[3510-22]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

COD FISHERY

Closure of the Directed Commercial Fishery for Cod on Georges Bank and in Southern New England Waters

Notice is hereby given pursuant to 50 CFR 651.8(a)(2) (See FEDERAL REGISTER, December 30, 1977, page 65187 and FEDERAL REGISTER, January 4, 1978, page 778) that the Assistant Administrator for Fisheries has determined that 50% of the quarterly allocation of 4,163 metric tons of cod (see FEDERAL REGISTER, December 30, 1977, page 65187) for the commercial fishery for Georges Bank and Southern New England has been taken. As of February 15, 1978, statistics maintained by the National Marine Fisheries Service indicate that 2,800 metric tons of the 4,163 quarterly allocation have been taken on Georges Bank and in Southern New England. Therefore, the season for taking cod in a directed commercial fishery for cod on Georges Bank and in Southern New England by persons and vessels subject to the jurisdiction of the United States shall terminate at 0001 hours, March 1, 1978. This restriction shall remain in effect until 2400 hours, March 31, 1978. Between March 1 and March 31, 1978, inclusive, no person or vessel shall land cod from Georges Bank and Southern New England in amounts greater than the following:

(1) For vessels under 50 gross registered tons: 2,000 pounds landed weight of cod per day of fishing or 10 percent by weight of all other fish on board per trip, whichever is greater.

(2) For vessels of 50–125 gross registered tons: 2,500 pounds landed weight of cod per day of fishing or 10 percent by weight of all other fish on board per trip, whichever is greater.

(3) For vessels over 125 gross registered tons: 3,000 pounds landed weight of cod per day of fishing or 10 percent by weight of all other fish on board per trip, whichever is greater.

For vessels making trips of more than three days, two days will be deducted for steaming time. For example, on a seven day trip, a vessel of 126 gross registered tons may land 15,000 pounds of cod or 10 percent by weight of all other fish on board, whichever is greater. (Seven days minus two days for steaming equals five days at 3,000 pounds per day or 15,000 pounds).

(4) For vessels of any size: using fixed gear (hooks or gillnets) 16,000 pounds per week beginning on Sunday and ending on Saturday.

Fishermen are also reminded that during March, April, and May, certain spawning areas are closed to bottom gear. See the notice appearing on page.

Issued at Washington, D.C. and dated February 24, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Services.

[FR Doc. 78-5420 Filed 2-28-78; 8:45 am]

[3510-22]

COD FISHERY

Closure of the Directed Commerical Fishery for Cod in the Gulf of Maine

Notice is hereby given pursuant to 50 CFR 651.8(a)(2) (See FEDERAL REGISTER, December 30, 1977, page 65187 and FEDERAL REGISTER, January 4, 1978, page 778) that the Assistant Administrator for Fisheries has determined that 50% of the quarterly allocation of 1,250 metric tons of cod (see FEDERAL REGISTER, December 30, 1977, page 65187) for the commercial fishery in the Gulf of Maine has been taken. As of February 15, 1978, statistics maintained by the National Marine Fisheries Service indicate that 719 metric tons of the 1,250 ton quarterly allocation have been taken in the Gulf of Maine. Therefore, the season for taking cod in a directed commerical fishery for cod in the Gulf of Maine by persons and vessels subject to the jurisdiction of the United States shall terminate at 0001 hours, March 31, 1978. This restriction shall remain in effect until 24 hours, March 31, 1978. Between March 1 and March 31, 1978 inclusive, no person or vessel shall land cod from the Gulf of Maine in amounts greater than the following:

(1) For vessels under 50 gross registered tons: 2,000 pounds landed weight of cod per day of fishing or 10 percent by weight of all other fish on board per trip, whichever is greater.

(2) For vessels of 50–125 gross registered tons: 2,500 pounds landed weight of cod per day of fishing or 10 percent by weight of all other fish on board per trip, whichever is greater.

(3) For vessels over 125 gross registered tons: 3,000 pounds landed weight of cod per day of fishing or 10 percent by weight of all other fish on board per trip, whichever is greater.

For vessels making trips of more than three days, two days will be deducted for steaming time. For example, on a seven day trip, a vessel of 126 gross registered tons may land 15,000 pounds of cod or 10 percent by weight of all other fish on board, whichever is greater. (Seven days minus two days for steaming equals five days at 3,000 pounds per day or 15,000 pounds).

(4) For vessels of any size: using fixed gear (hooks or gillnets) 16,000 pounds per week beginning on Sunday and ending on Saturday.

Issued at Washington, D.C. and dated February 24, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-5421 Filed 2-28-78; 8:45 am]

[3510-22]

NEW ENGLAND GROUNDFISH SPAWNING AREAS

Closed to Bottom Gear

Persons and vessels subject to the jurisdiction of the United States are reminded that during the months of March, April, and May two areas off Cape Cod and Georges Bank are closed to bottom-tending trawls. These two closed areas are set forth in 50 CFR, Part 651 (See FEDERAL REGISTER of June 10, 1977 at page 29877, continued in effect by the emergency regulations promulgated in the FEDERAL REGISTER on December 30, 1977, at page 65186 and repromulgated in the FEDERAL REGISTER on February 13, 1978).

The regulation governing these closed areas is:

Section 651.5 *Closed areas.* (a) It shall be unlawful to use fishing gear other than pelagic fishing gear (i.e. purse seines or true midwater trawls using midwater trawl doors incapable of being fished on the bottom) during March, April, and May in areas bounded by straight lines connecting the following coordinates in the order listed.

(1) 69°55′ W., 42°10′ N.; 69°10′ W., 41°10′ N.; 68°30′ W., 41°35′ N.; 68°45′ W., 41°50′ N.; 69°00′ W., 41°50′ N.

(2) 67°00′ W., 42°20′ N.; 67°00′ W., 41°15′ N.; 65°40′ W., 41°15′ N.; 65°40′ W., 42°00′ N.; 66°00′ W., 42°20′ N.

(b) The provisions of paragraph (a) of this section shall not apply: (1) To vessels that fish in area (1) with hooks having a gape of not less than 1.18 inches (3 cm); and (2) to vessels that fish in either area (1) or (2) or both with: (i) Pot gear designed to take lobster; or (ii) dredges designed to take scallops.

(c) It shall be unlawful for any person fishing in the above areas to attach any protective device to pelagic fishing gear or to employ any means that would, in effect, make it possible to fish for demersal species.

Issued at Washington, D.C., and dated February 24, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-5422 Filed 2-28-78; 8:45 am]

[3510-22]

MARINE MAMMALS PERMIT

Receipt of Application

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407); and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant: (a) Name—Mr. Michael B. Demetrius, President, Marineworld-Africa USA; (b) Address—Marine World Parkway, Redwood City, Calif. 94065.

2. Type of permit: Public Display.

3. Name and number of animals: Atlantic bottlenosed dolphins (*Tursiops Truncatus*), 10.

4. Type of activity: To take by capture and maintain for public display.

5. Location of activity: Copanio Bay, Rockport, Tex.

6. Period of activity: 2 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the FEDERAL REGISTER the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Fla. 33702; and
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, Calif. 90731.

Dated: January 7, 1978.

ROLAND FINCH,
Acting Assistant Director for Fisheries Management, National Marine Fisheries Service.

[FR Doc. 78-5310 Filed 2-28-78; 8:45 am]

[3510-22]

SURF CLAM FISHING DAY DESIGNATION AND CHANGE

Public Hearings on Administrative Procedures

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Announcement of Public hearings.

SUMMARY: Three public hearings will be held by the Northeast Region, NMFS, in conjunction with the Mid-Atlantic Fishery Management Council to determine the procedure by which

surf clam fishing vessel owners or operators may change the fishing days designated by their permits. This change could only be accomplished during certain times of the year, and must be requested in writing, under the present proposal. Alternative reduction in effort systems, i.e., fishing on one or three days will also be discussed.

DATES: The hearings will be held March 7, March 9, and March 10, 1978. See supplementary information below.

ADDRESS: The hearings will be held in Philadelphia, Pa.; Ocean City, Md.; and Red Bank, N.J. See supplementary information below.

FOR FURTHER INFORMATION CONTACT:

William G. Gordon, Regional Director, National Marine Fisheries Service; 14 Elm Street; Gloucester, Mass. 01930, telephone 617-281-3600.

SUPPLEMENTARY INFORMATION: Notice is hereby given that there will be public hearings to receive testimony concerning the administrative procedure to be used by the National Marine Fisheries Service and surf clam boat owners and operators to change the designated fishing days on vessel permist. A number of comments were received in response to the final surf calm regulations suggesting that fishermen be given greater flexibility in choosing their authorized fishing days when fishing effort was reduced by the Regional Director. The purpose of these hearings will be to receive public comment on the National Marine Fisheries Service proposed system and to investigate alternative systems for future effort reductions to three, two, or one fishing days.

The National Marine Fisheries Service proposes to designate two 30-day periods each year during which surf clam vessel owners and operators may make a written request of the Regional Director to change the two authorized fishing days shown on their permits. Within 45 days of receipt of a written request a new permit designating the requested days will be issued by certified mail. Until a new permit has been received, the fishing days designated in the old permit will remain in force. Upon receipt of the replacement permit, the vessel owner or operator will be required, within ten days, to return the old vessel permit by certified mail to the National Marine Fisheries Service Regional Office, 14 Elm Street, Gloucester, Mass. 01930.

Three hearings on this proposal will be held from 7:30 to 10 p.m. at the following locations:

MARCH 7, 1978

Sheraton Airport Inn, Airport Exit off I-95, Philadelphia, Pa. 19153.

MARCH 9, 1978

Sheraton Fontainebleau Inn, 10100 Coastal Highway, Ocean City, Md. 21842.

MARCH 10, 1978

Molly Pitcher Inn, Route 35, Red Bank, N.J. 07701.

For further information, contact Mr. William G. Gordon, Regional Director, National Marine Fisheries Service, 14 Elm Street, Gloucester, Mass. 01930, telephone 617-281-3600.

Signed at Washington, D.C. this 24th day of February, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-5423 Filed 2-28-78; 8:45 am]

[3510-04]

National Technical Information Service

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, DC 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchases from the National Technical Information Service (NTIS), Springfield, Va. 22161 for $4 ($8 outside North American Continent). Requests for copies of patent applications must include the PAT/APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Branch, General Services Division/Federal Building, Agricultural Research Service, Hyattsville, Md. 20782.

Patent Application 835,104: Dust Control During Grain Processing Operations; filed Sept. 21, 1977.

Patent Application 837,489: Soil Stabilization Method; filed Sept. 28, 1977.

Patent Application 837,931: Biodegradable Starch-Based Films; filed Sept. 28, 1977.

Patent Application 840,423: Production of Homodeoxyharringtonine and Other Cephalotaxine Esters by Tissue Culture; filed Oct. 7, 1977.

U.S. DEPARTMENT OF COMMERCE, National Technical Information Service, 5285 Port Royal Road, Springfield, Va. 22161:

Patent Application 860,799: Method and Apparatus for Implementation of the CMAC Mapping Algorithm; filed Dec. 15, 1977.

U.S. DEPARTMENT OF TRANSPORTATION, Patent Counsel, 400 7th Street SW., Washington, D.C. 20590.

Patent 4,058,911: Road-Runner Alcohol Safety Interlock system; filed Aug. 18, 1976, patented Nov. 22, 1977, Not available NTIS.

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, Md. 20014.

Patent Application 802,189: N-Formyl Peptides Useful as Leucoattractants; filed May 31, 1977.

U.S. DEPARTMENT OF THE INTERIOR, Branch of Patents, 18th and C Streets SW., Washington, D.C. 20240.

Patent Application 774,354: Sensing Mechanism for Mine Roof Bolting Apparatus; filed Mar. 4, 1977.

Patent Application 809,881: Well Perforating Method for Solution Well Mining; filed June 24, 1977.

Patent Application 817,886: Method for Preparing Solar Collectors; filed July 21, 1977.

Patent Application 817,887: Auger Construction Providing Reduced Noise; filed July 21, 1977.

Patent Application 818,045: Production of Pure Alumina; filed July 22, 1977.

Patent Application 818,183: Method for Eliminating Solution-Level Attack on Cathodes During Electrolysis; filed July 22, 1977.

Patent Application 819,518: Bioelctric Neutralization of Acid Waters; filed July 26, 1977.

Patent Application 829,129: Method of Leaching Aluminum from Feldspar Minerals; filed Aug. 30, 1977.

[FR Doc. 78-5448 Filed 2-28-78; 8:45 am]

[3910-01]

DEPARTMENT OF DEFENSE

Department of the Air Force

COMMUNITY COLLEGE OF THE AIR FORCE (CCAF) ADVISORY COMMITTEE

Meeting

FEBRUARY 15, 1978.

The Community College of the Air Force Advisory Committee is scheduled to meet at 8:30 a.m., March 28, 1978, in Room 41 of the Community College of the Air Force, Building 146, located at Lackland Training Annex, San Antonio, Tex.

The meeting is open to the public.

Agenda items include: Transition to the Commission on Colleges, Master Plan, Review of Existing Programs.

For further information, contact Lt. Col. Wade R. Kilbride, at 512-671-3632.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison, Directorate of Administration.

[FR Doc. 78-5287 Filed 2-28-78; 8:45 am]

[3910-01]

USAF SCIENTIFIC ADVISORY BOARD

Changed Meeting

FEBRUARY 22, 1978.

The USAF Scientific Advisory Board Meeting of the Strategic Panel scheduled for March 13-14, 1978, at Headquarters, Aerospace Defense Command (ADCOM), Colorado Springs, Colo., as published in FEDERAL REGISTER, Vol. 43, No. 23, 2849, February 2, 1978, has been changed to March 23-24, 1978. All other information is the same.

For further information contact the Scientific Advisory Board Secretariat at 202-697-4648.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc. 78-5298 Filed 2-28-78; 8:45 am]

[3910-01]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

FEBRUARY 23, 1978.

The USAF Scientific Advisory Board Electronic Systems Division Advisory Group, Air Force Systems Command, will hold meetings on March 16, 1978 from 8:30 a.m. to 5 p.m. and March 17, 1978 from 8:30 a.m. to 12 p.m., at Hanscom Air Force Base, Mass. in the Command Management Center, Building 1606.

The Group will receive classified briefings and hold classified discussions on selected Air Force Command, Control and Communications Programs.

The meetings concern matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly the meetings will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-8404.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc. 78-5297 Filed 2-28-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

SOUTHEASTERN POWER ADMINISTRATION

Procedure for Public Participation in Formulation of Marketing Policy

AGENCY: Southeastern Power Administration, Department of Energy.

ACTION: Proposed procedural rule.

SUMMARY: The Administrator of the Southeastern Power Administration (SEPA), which is headquartered at Elberton, Ga., proposes to adopt a procedure for public participation in the formulation of marketing policy. Marketing policy is defined as a policy for marketing any portion of the electric power and energy available for sale by SEPA which the Administrator determines will significantly affect the manner in which SEPA sells or exchanges electric power and energy or provides other services. Under the proposed procedure notice of a proposed policy would be published in the FEDERAL REGISTER and mailed to affected customers and others who have expressed an interest in the subject. The Administrator would have the option of holding a public information forum to explain the proposed policy. In any event, a public comment forum would be held and interested persons would have the opportunity to submit written comments. SEPA staff would evaluate the oral and written comments, following which the Administrator would decide on the policy and issue an explanation of the decision. Written comments will be received on the proposed procedure and an opportunity for oral presentation of views will be provided before a final procedure is adopted.

DATES: Written comments are due on or before March 31, 1978. An opportunity for oral presentation will be provided at Atlanta, Ga., on March 21, 1978.

ADDRESSES: Five copies of written comments should be submitted to: Administrator, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Ga. 30635. The opportunity for oral presentation of views will be at 9:30 a.m., March 28, 1978, at the Holiday Inn Airport, 1380 Virginia Avenue, Atlanta, Ga. 30320.

FOR FURTHER INFORMATION CONTACT:

Mr. Harry F. Wright, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Ga. 30835, 404-283-3261.

SUPPLEMENTARY INFORMATION: The Southeastern Power Administration (SEPA) was established by the Secretary of the Interior pursuant to section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, to market power and energy from hydroelectric power projects of the Department of the Army in the 10 Southeastern States of West Virginia, Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Tennessee, and Kentucky. Section 302(a) of the Department of Energy Organization Act, Pub. L. 95-91, transferred SEPA to the Department of Energy. The transfer took place on October 1, 1977.

There are 21 operating projects in the southeastern area for which SEPA is the marketing agent. One additional project, the Richard B. Russell Dam and Lake, is presently under construction and scheduled for first operation in 1983.

SEPA presently serves some 200 wholesale power purchasers, 2 of which are located outside of the 10-State area referred to above. The nameplate capacity of the power marketed by SEPA is 2,712,375 kilowatts, and the average annual energy is about 6,900,000,000 kilowatt-hours.

SEPA has grouped the projects for which it has marketing responsibility into four separate and distinct systems, each of which is treated separately with respect to operations, sales arrangements, and rate and repayment purposes. These systems are as follows:

Kerr-Philpott projects—two projects located in the Roanoke River basin in Virginia.

Georgia-Alabama projects—nine projects in three river basins, of which seven are located in Georgia and Alabama and two are located on the Georgia-South Carolina border.

Jim Woodruff project—one project located in the Apalachicola River basin on the Georgia-Florida border.

Cumberland Basin projects—eight projects in the Cumberland River basin in Tennessee and Kentucky. A ninth project in the basin, the Laurel project, recently came on line, but long-term marketing arrangements have not yet been made.

SEPA does not own any transmission lines, so to date, it has relied on other utility systems for wheeling power and energy to its preference customers. These wheeling arrangements normally are a part of contracts that also involve sales and exchange arrangements.

In the past SEPA has developed its policies for the allocation of power and energy and the negotiation of power sales, exchange, and wheeling contracts after informal consultation with customers and other interested persons and during the negotiation process. However, in response to requests from existing and potential customers and in keeping with the letter and the spirit of the Department of Energy Organization Act, SEPA now proposes to adopt a more formal pro-

cedure for public participation in the development of marketing policies. The proposed procedure is set forth below.

Dated: February 23, 1978.

WILLIAM S. HEFFELFINGER,
Director of Administration.

PROPOSED PROCEDURE FOR PUBLIC PARTICIPATION IN THE FORMULATION OF MARKETING POLICY

1. *Purpose and scope.* The purpose of this procedure is to enable individuals and organizations, public and private, whose interests will be substantively impacted by Southeastern Power Administration (SEPA) decisions or actions, to participate in development of SEPA marketing policies, as defined in the following section 2, prior to SEPA's determination of marketing policies. The procedure shall apply to marketing policy formulation, and not implementation.

2. *Definitions.*—(a) *Administrator.* The SEPA Administrator, or any person acting in such capacity. The administrator may designate a SEPA employee to be responsible for any of his tasks named herein, except those specified in sections 10 and 11 which must be performed by the Administrator himself.

(b) *Customer.* An organization whose interests the Administrator determines will be substantially affected by the proposed marketing policy and which currently is purchasing, exchanging, transferring, assigning, /or selling electric power and energy, related services, or transmission capability to, with, or from SEPA.

(c) *Marketing policy.* A policy for marketing any portion of the electric power and energy available for sale by SEPA which the Administrator determines will, over a period of years, significantly affect or alter the manner in which SEPA implements its statutory authority to sell, exchange, otherwise dispose of, or acquire electric power and energy, or provide forced outage reserves, load factoring service, or transmission service.

(d) *Proposed marketing policy.* One under consideration for adoption as a marketing policy.

(e) *Notice.* The method by which customers and the public shall be informed of SEPA's intention to develop a marketing policy, a proposed marketing policy, a revision of a proposed marketing policy, public information and comment forums, and procedures for adopting a marketing policy. Notice shall be by and effective on publication in the FEDERAL REGISTER and wherever a time period is provided, the date of publication shall determine the commencement of the time period. Notice shall also be given by mail to customers and to those individuals and organizations that have requested in writing that they receive written notice regarding a proposed marketing policy or a marketing policy subject. Notice shall include the name, address, and telephone number of the person to contact if participation or further information is sought. Notices may be combined.

(f) *Public.* Any individual who, or organization which, has or could have a direct and significant interest in the SEPA marketing policy.

g. *Staff evaluation.* A written evaluation by the SEPA staff of the written and oral comments on a proposed marketing policy. It shall include a review of the studies used in developing a revised proposed marketing policy or marketing policy, and shall indicate revisions and reasons for them.

3. *Decision to formulate a marketing policy and notice of intent.* When the administrator decides a new or revised written marketing policy is needed, SEPA shall give notice of its intent at least 30 days prior to giving notice of the proposed marketing policy pursuant to the following section 4. SEPA shall indicate the extent that any existing policy might be revised in developing a new marketing policy. SEPA shall solicit written comments and proposals to use in formulating the proposed marketing policy.

4. *Proposed marketing policy.* SEPA shall give notice of the proposed marketing policy stating in it: The subject and purpose of and the legal authority for the proposed marketing policy and the major issues it will raise; the text of the proposed marketing policy; the date, time, and location of any scheduled public information and comment forums; and the list of studies used in developing the proposed marketing policy and locations at which SEPA would make them available for inspection or copying in accordance with the Freedom of Information Act, 5 U.S.C. 552.

5. *Optional public information forum.* The Administrator shall determine whether public information forums will be held to explain the proposed marketing policy and the studies used in its formulation, and answer questions. The Administrator shall determine the number, if any, and locations of such forums in accordance with interest shown in the subject of the proposed marketing policy. Notice to be given in advance of any such forum shall include the purpose, date, time, place, and procedures for any such forum.

The Administrator shall act as or appoint a forum chairman. Questions raised at the forum shall be answered by SEPA representatives at the forum, a subsequent forum at the same location, or in writing. Forum proceedings shall be transcribed. All documents introduced, and questions and written answers shall be available for inspection or copying in accordance with the provisions of the Freedom of Information Act, 5 U.S.C. 552.

6. *Public comment forum.* A public comment forum shall be held to permit customers and the public to submit written comments and orally present views and proposals regarding the proposed marketing policy. Notice to be given at least 30 days in advance of the forum shall include the purpose, date, time, place, and procedures for the forum, and a statement of what studies used in developing the proposed marketing policy are available and their locations. The Administrator shall determine the number and locations of such forums in accordance with interest shown in the subject of the proposed marketing policy. The Administrator shall act as or appoint a forum chairman. At the start of a forum the chairman shall briefly explain procedures and rules.

Notwithstanding any additional rules or procedures it might develop, SEPA shall allow customers and the public to make oral statements and comments, introduce relevant documents, and ask questions of SEPA representatives at the forum. Persons requesting to speak shall notify SEPA at least 3 days before a forum so a list of forum participants can be prepared. The chairman shall establish time limitations for oral presentations by these participants to assure that all who register to speak shall have an opportunity to do so. Others will be permitted to speak if time allows. Those unable to speak because of time limitations and others who so desire may submit written comments. The chairman may question forum participants and, at his discretion, permit SEPA representatives and other participants a like privilege.

Questions not answered during a forum shall be answered in writing no later than the effective date of the notice of either a revised proposed marketing policy as provided in the following section 9 or, if a revised proposed marketing policy is not developed, the marketing policy as provided in the following section 10. Forum proceedings shall be transcribed. All documents introduced and written answers to questions shall be available for inspection and copying in accordance with the Freedom of Information Act, 5 U.S.C. 552.

7. *Consultation and comment period.* Customers and the Public may file written comments and questions with SEPA regarding the proposed marketing policy until at least 15 days after the last public comment forum.

8. *Staff evaluation.* Following the consultation and comment period, SEPA shall prepare a staff evaluation.

9. *Revised proposed marketing policy and review for revised proposed marketing policy.* If appropriate, SEPA shall develop a revised proposed marketing policy following the staff evaluation and give notice of the revision and any studies used in developing the revised proposed marketing policy not available at the date of the initial public comment forum. Customers and the public shall be given at least 30 days from the effective date of notice of the revised proposed marketing policy to submit written comments to SEPA before the Administrator adopts, modifies and adopts, or rejects the revised proposed marketing policy.

10. *Final marketing policy issued.* Following the staff evaluation the Administrator shall decide whether to adopt, modify and adopt, or reject the marketing policy. The Administrator shall issue an explanation of the decision which shall include the purpose of and the legal authority for the marketing policy, the reasons for the policy, and the primary objections to the proposed power marketing policy submitted by customers or the public with brief explanations for rejecting those objections. SEPA shall give notice of the marketing policy adopted. It shall become effective either on the date of notice or at a later date specified by the Administrator.

11. *Emergency marketing policy implementation.* If the Administrator determines prior to initiation or completion of the foregoing procedure that a delay in implementing a marketing policy will adversely affect SEPA, its customers, or the public, the Administrator may implement the marketing policy on an interim basis until this procedure is completed.

[FR Doc. 78-5313 Filed 2-28-78; 8:45 am]

[6740-02]

[Docket No. E-7738]

BOSTON EDISON CO.

Notice of Filing

FEBRUARY 23, 1978.

Take notice that Boston Edison Co. on February 10, 1978, tendered for filing revised cost of service schedules and amendments to Boston Edison's Rate S-2 prepared in accordance with opinion Nos. 809 and 809-A of the Commission.

Any person disiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before March 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5355 Filed 2-28-78; 8:45 am]

[6740-02]

[Docket No. ER78-223]

DUKE POWER CO.

Notice of Supplement to Electric Power Contract

FEBRUARY 24, 1978.

Take notice that Duke Power Co. (Duke Power) tendered for filing on February 21, 1978, a supplement to the Company's Electric Power Contract with the town of Huntersville. Duke Power states that this contact is on file with the Commission and has been designated Duke Power Co. Rate Schedule FDPC No. 251.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the following increases in contract demand: Delivery Point No. 1, from 2,800 KW to 3,200 KW.

Duke Power indicates that this supplement also includes an estimate of sales and revenue for twelve months immediately preceding and for the twelve months immediately succeeding the effective date. Duke Power proposes an effective date of March 20, 1978.

According to Duke Power copies of this filing were mailed to the town of Huntersville and the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 6, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5357 Filed 2-28-78; 8:45 am]

[6740-02]

[Docket No. ER76-659]

ALABAMA POWER CO.

Notice of Compliance Filing

FEBRUARY 23, 1978.

Take notice that Alabama Power Co. on February 9, 1978, tendered for filing, pursuant to the approved settlement agreements in the above-noted docket, a compliance report showing the details of refunds made. The Company indicates that the refunds to the municipalities and cooperatives were made on January 26, 1978.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before March 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5356 Filed 2-28-78; 8:45 am]

[6740-02]

[Docket No. ER78-220]

CENTRAL HUDSON GAS & ELECTRIC CORP.

Notice of Rate Filing

FEBRUARY 23, 1978.

Take notice that on February 17, 1978, Central Hudson Gas & Electric Corp. (Central Hudson) tendered for filing an Amendment related to transmission service provided from the Roseton Generating Plant to Niagara Mohawk Power Corp. (Niagara Mohawk) in accordance with the provisions of its Rate Schedule F.E.R.C. No. 42.

Central Hudson indicates that the Amendment increases from 6.5% to 8.0% the minimum rate of return to be used by Central Hudson in determining annual charges for transmission service to Niagara Mohawk.

Central Hudson requests waiver of the notice requirements set forth in 18 CFR 35.11 of the Regulations to permit the Amendment to become effective on January 1, 1978.

Central Hudson states that a copy of its filing was served on Niagara Mohawk and the State of New York Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 6, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5357 Filed 2-28-78; 8:45 am]

Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before March 13, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5358 Filed 2-28-78; 8:45 am]

[6740-02

[Docket No. ER78-222]

DUKE POWER CO.

Supplement to Electric Power Contract

FEBRUARY 24, 1978.

Take notice that Duke Power Co. (Duke Power) tendered for filing on February 21, 1978, a supplement to the Company's Electric Power Contract with Piedmont Electric Membership Corp. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Co. Rate Schedule FPC No. 138.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the following increases in designated demand: Delivery Point No. 4, from 2,100 KW to 3,000 KW.

Duke Power indicates that this supplement also includes an estimate of sales and revenue for twelve months immediately, preceding and for the twelve months immediately succeeding the effective date. Duke Power proposes an effective date of March 20, 1978.

According to Duke Power copies of this filing were mailed to Piedmont and the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions of protests should be filed on or before march 13, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5359 Filed 2-28-78; 8:45 am]

[6740-02]

[Docket No. ER76-658]

IOWA POWER & LIGHT CO.

Notice of Compliance Filing

FEBRUARY 24, 1978.

Take notice that Iowa Power & Light Co., on February 16, 1978, tendered for filing revised tariff sheets in compliance with the Commission's Order Approving Settlement Agreement, issued October 26, 1977, in the above-noted docket.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such protests should be filed on or before March 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5360 Filed 2-28-78; 8:45 am]

[6740-02]

JERSEY CENTRAL POWER & LIGHT CO.

[Docket No. ER76-813]

Notice of Filing

FEBRUARY 24, 1978.

Take notice that Jersey Central Power & Light Co. (Jersey), by letter dated February 6, 1978, tendered for filing, pursuant to the Commission's order of October 25, 1977, schedules indicating the amounts Jersey has refunded to its wholesale customers. Jersey indicates that a copy of the schedules has been sent to the New Jersey Board of Public Utility Commissioners.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before March 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH P. PLUMB,
Secretary.

[FR Doc. 78-5361 Filed 2-28-78; 8:45 am]

[6740-02]

[Docket No. ER78-206]

MISSISSIPPI POWER & LIGHT CO.

Notice of Proposed Agreement

FEBRUARY 23, 1978.

Take notice that Mississippi Power & Light Co. (MP&L) on February 3, 1978 tendered for filing a letter agreement dated December 13, 1978, between Tennessee Valley Authority (TVA) and MP&L indicates that the Agreement provides for MP&L to sell during the period of December 10, 1977 through December 24, 1977, 500 mW of capacity with associated energy as scheduled by TVA according to TVA's needs. MP&L states that this assistance is being provided from the reserves available to MP&L and is subject to immediate recall in the event such energy is needed by MP&L's customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before March 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH P. PLUMB,
Secretary.

[FR Doc. 78-5362 Filed 2-28-78; 8:45 am]

[6740-02]

[Docket No. ER76-211]

MOUNT CARMEL PUBLIC UTILITY CO.

Notice of Presiding Judge's Certification of Settlement Agreement to the Commission

FEBRUARY 23, 1978.

Take notice that on February 10, 1978, Presiding Administrative Law Judge William L. Ellis certified to the Commission pursuant to section 1.18 of the rules of practice and procedure, a "Stipulation and Agreement" executed by Mount Carmel Public Utility Co. and the village of Allendale, Ill., resolving all issues in dispute in this proceeding.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with section 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5363 Filed 2-28-78; 8:45 am]

[6740-02]

[Docket No. CP78-119]

NORTHWEST PIPELINE CORP.

Amendment to Application

FEBRUARY 22, 1978.

Take notice that on February 15, 1978, Northwest Pipeline Corp. (Applicant) P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP78-119 an amendment to its application filed in the instant docket pursuant to section 7(c) of the Natural Gas Act so as to provide for the implementation of two agreements dated January 26, 1978, between Applicant and Western Transmission Co. (Western), all as more fully set forth in the amendment on file with the Commission and open to public inspection.

It is indicated that on December 14, 1977, Applicant filed an application in the instant docket requesting, inter alia, authorization to transport natural gas for the account of Michigan Wisconsin Pipeline Co. and the exchange of natural gas with Colorado Interstate Gas Co. (CIG). Applicant states that the application was predicated in part upon Western agreeing to transport certain volumes of natural gas available to Applicant from the Creston Nose Area of Carbon County, Wyo., and that prior to and at the time of the filing by Applicant, Applicant and Western has been unable to agree to the terms and conditions applicable to a transportation service to be provided Applicant by Western. Accordingly, Applicant asserts that it was considering alternate routes to transport the Creston Nose gas to CIG for exchange by displacement. One such alternate route considered was for Applicant to construct a line appriximately due North from the Creston Nose Area to the facilities of CIG approximately 11 miles north of the most northerly well currently dedicated to the project in the Creston Nose Area, it is stated. Applicant indicates that the aforementioned alternative would have parallelled the facilities of Western for the entire 11 miles and would have been located approximately 2 miles west of the facilities of Western.

The application states that after becomming aware of the possible alternative contemplated by Applicant, Western, on September 6, 1977, filed a complaint pursuant to § 1.6 of the Commission's rules of practice and procedure (18 CFR 1.6) and therein made allegations relative to Applicant's violating certain provisions of the Natural Gas Act and the Commission's Regulations thereunder. The application further states that Western concluded its complaint by requesting that the Commission institute a proceeding in which Applicant would be required to show cause why the acts alleged by Western were not in violation of the Natural Gas Act and the Commission's regulations thereunder.

It is indicated that the Western's complaint was assigned Docket No. CP 77-611, and that on September 20, 1977, a copy of the complaint was served on Applicant. Applicant indicates that on October 11, 1977, it filed its answer to the complaint of Western, rebutting the allegation of Western and requesting the dismissal of the proceeding in CP 77-611 or an immediate resolution of the dispute. Applicant further indicates that on November 9, 1977, it filed its motion for expedited resolution of the proceedings in Docket No. CP77-611. It is stated that Western, on or about November 15, 1977, filed its answer to Applicant's motion of November 9, 1977, and that on December 22, 1977, Applicant filed its motion to consolidate proceedings and request for expedited prehearing conference.

Applicant states that it and Western have recently entered into two agreements which have resolved the differences between the two parties and which render the proceedings in CP77-611 moot. Applicant indicates that Western would submit to the Commission a motion requesting the withdrawal of the complaint filed in Docket No. CP77-611, and that Applicant would file its answer in support of Western's motion at the appropriate time.

It is stated that the two agreements entered into between Applicant and Western are as follows:

A. A gas transportation agreement dated January 26, 1978, whereby Western has agreed to transport certain supplies of natural gas which Applicant has available in the Creston Nose Area of Carbon County, Wyo., through Western's facilities for delivery to CIG and

B. An agreement dated January 26, 1978, which provides that Western would have the option to purchase the east-west portion of Trunk A as reflected in Figure 2 of 4 of Exhibit F to the original application filed herein and on Exhibit B to the agreement dated January 26, 1978. The agreement dated January 26, 1978, also provides that should Applicant be required to install compression on the Creston Nose Gathering System, such compression, to the extent possible, would be located at the intersection of Western's transmission line and the east-west portion of Trunk A and provides further that Western would have the right to purchase such compression within three years from the date of installation.

Applicant states that pursuant to the gas transportation agreement, it would gather the volumes of natural gas available to it in the Creston Nose Area and deliver such volumes to Western at a proposed point of interconnection between the facilities of Western and Applicant in Carbon County, Wyo. Applicant further states that the volumes of gas so received by Western from Applicant would be commingled with other volumes in Western's pipeline and equivalent volumes adjusted for heating value would be delivered to CIG for Applicant's account at a point of interconnection between the facilies of Western and CIG in Sweetwater County, Wyo. The volumes of natural gas so delivered to CIG by Western for the account of Applicant would be redelivered to Applicant through the operation of that certain gas purchase, transportation and exchange agreement dated April 1, 1976, as amended November 28, 1977, it is said. It is stated that the ageeement dated April 1, 1976, constitutes CIG's and Applicant's FERC special rate schedules X-59 and X-26, respectively.

The application states that Western proposes to charge Applicant for the transportation service contemplated herein a charge per Mcf equal to the differential rate set forth in Western's gas cost and Western's selling price, which present rate is 12.2 cents per Mcf.

Applicant states that its proposal as originally filed herein has not changed, as it was acknowledged therein that utilizing the existing transmission capacity of Western to transport the Creston Nose volumes to the facilities of CIG was a possible route to take.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before March 16, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5378 Filed 2-28-78; 8:45 am]

[6740-02]

[Docket No. ER78-219]

PENNSYLVANIA-NEW JERSEY-MARYLAND INTERCONNECTION

Notice of Proposed Revised Schedule

FEBRUARY 23, 1978.

Take notice that on February 16, 1978, the Pennsylvania-New Jersey-Maryland Interconnection (composed of Public Service Electric and Gas Co., Philadelphia Electric Co., Pennsylvania Power & Light Co., Baltimore Gas & Electric Co., Jersey Central Power & Light Co., Metropolitan Edison Co., Pennsylvania Electric Co. and Potomac Electric Power Co., hereinafter collectively refereed to as PJM) tendered for filing a revised schedule 8.03 to the Interconnection Agreement between Cleveland Electric Illuminating Co. (CEI) and PJM dated September 30, 1965.

PJM indicates that, for the purpose of conserving energy resources either party to the agreement may arrange to obtain conservation energy from the other. PJM further indicates that when supplied, the charge for conservation energy generated on the supplying system will be 110 percent of the out-of-pocket replacement cost of generating the energy, plus a generation service charge of 3.75 mills per kilowatt hour. PJM states that the schedule also provides for a transmission service charge for deliveries of conservation energy from systems interconnected with CEI or PJM.

PJM requests that, because of the current uncertainty of fuel supplies associated with the coal miners' strike, and the possibility that transactions will be required imminently under the proposed schedule, the Commission waive its notice requirements and allow the proposed schedule to become effective February 16, 1978. Its stated termination date is December 31, 1978.

Any person desiring to be heard or to protest said application should file a petition to intervene or protests with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20246, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure. All such petitions or protests should be filed on or before March 6, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5364 Filed 2-28-78; 8:45 am]

[6740-02]

[Docket No. CP78-192]

SOUTHERN NATURAL GAS CO.

Notice of Application

FEBRUARY 24, 1978.

Take notice that on February 16, 1978, Southern Natural Gas Co. (Applicant), P.O. Box 2563, Birmingham, Ala. 35202, filed in Docket No. CP78-192 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon its Bayou Mongoulois Gas Lift and Re-delivery Meter Station, which are located on its 20-inch south section 28 line traversing Lake Mongoulois Field, St. Martin Parish, La., all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to abandon the subject facilities which have been used to account for volumes of gas lift gas transported in the field for Texaco Inc. (Texaco) across Bayou Mongoulois. Applicant indicates that it has been advised by Texaco that Texaco has no further need for the subject facilities. Applicant states that no service is currently being rendered by means of the facilities proposed to be abandoned. Consequently, Applicant requests permission and approval to abandon the subject facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 20, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protest filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdication conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5365 Filed 2-28-78; 8:45 am]

[6740-02]

[Docket No. ER78-224]

TUCSON GAS & ELECTRIC CO.

Notice of Filing of Power and Energy Sales Agreement

FEBRUARY 24, 1978

Take notice that Tucson Gas & Electric Co. (TGE) on February 14, 1978 tendered for filing a Power and Energy Sales Agreement (the Agreement) dated February 3, 1978 between TGE and Platte River Power Authority (Platte River). Copies of the filing were served upon Platte River on February 14, 1978, according to TGE.

TGE indicates that the purpose of this Agreement is to establish terms and conditions between the parties relative to the delivery by TGE of firm capacity and associated energy as scheduled by Platte River.

Any person desiring to be heard or to make application with reference to said Agreement should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this Agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5366 Filed 2-28-78; 8:45 am]

[6740-02]

[Docket No. CP78-191]

TRUNKLINE GAS CO.

Application

FEBRUARY 22, 1978.

Take notice that on February 15, 1978, Trunkline Gas Co. (Applicant), P.O. Box 1642 Houston, Tex. 77001, filed in Docket No. CP78-191 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of approximately 8.4 miles of 24-inch pipeline loop in Jefferson Davis and Calcasieu Parishes, La., and the operation of approximately 23.8 miles of 30-inch pipeline loop to be constructed in Calcasieu, Jefferson Davis, and Beauregard Parishes, La., pursuant to authorization granted in Docket No. CP74-140, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to construct and operate approximately 8.4 miles of 24-inch pipeline loop on its existing Lakeside lateral in Jefferson Davis and Calcasieu Parishes, La., at an estimated total cost of $2,993,000, which cost Applicant would finance from funds on hand, and from short-term bank borrowings. Applicant also requests authorization to operate as a supply line a portion of the facilities previously authorized for construction in CP74-140 in connection with Trunkline's LNG project at Lake Charles, La., namely approximately 23.8 miles of 30-inch pipeline loop from Applicant's mainline facilities at Longville, La. (Station 48), to a point of connection with the 8.4 miles of 24-inch pipeline above described. Applicant indicates that it plans to construct this portion of such 30-inch loop during the summer of 1978 in conjunction with the 24-inch loop, so as to eliminate a bottleneck in Applicant's existing supply system from offshore and Southern Louisiana. The two contiguous sections of pipeline would complete the looping of Applicant's facilities from Lakeside to Longville, La., it is stated.

The application states that only the above described portion of the 30-inch pipeline authorized in Docket No. CP74-140 is presently needed, and the remainder of the certificated pipeline, consisting of 22 miles of 30-inch line to the LNG plant itself, would be constructed at the appropriate time to be in service for the LNG project of which it is a part. It is indicated that the proposed facilities are necessary to ensure that the additional supplies available to Applicant and others would be available for the 1978-79 winter heating season.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5379 Filed 2-28-78; 8:45 am]

[6740-02]

[Docket No. ER78-221]

UNION ELECTRIC CO.

Notice of Proposed Revised Service Schedules

FEBRUARY 24, 1978.

Take notice that on February 21, 1978, Union Electric Co. (Union) tendered for filing a Second Amendment and revised Schedules II and IV to the Interchange Agreement dated July 30, 1968 between Union and Iowa-Illinois Gas & Electric Co.

Union indicates that said agreement adds system Participation Power to the classifications of power and energy available under the Interchange Agreement between the parties and provides for revisions in certain rates under said Interchange Agreement.

Union proposes an effective date 30 days from the date of filing.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 13, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5367 Filed 2-28-78; 8:45 am]

[6740-02]

[Project No. 2817]

VIGILANTE ELECTRIC COOPERATIVE, INC.

Application for Preliminary Permit

FEBRUARY 24, 1978.

Public notice is hereby given that an application for preliminary permit was filed on September 22, 1977, under the Federal Power Act (16 U.S.C. 791a-825r) by Vigilante Electric Cooperative, Inc. (applicant) (correspondence to: Mr. Wilbur L. Anderson, General Manager, Vigilante Electric Cooperative, Inc., 225 East Bannack Street, Dillon, Mont. 59725), for the proposed Broadwater-Missouri project No. 2817. The proposed project would be located on the Missouri River, in Broadwater County, Mont., near the cities of Toston and Townsend. The Missouri River is a navigable waterway of the United States.

Applicant proposes to develop a hydroelectric facility in conjunction with

an existing 378-foot-long concrete dam which is presently used for irrigation purposes. The proposed project would utilize the existing conservation pool. Although subject to modification, the proposed project would also consist of: (1) A powerhouse to be located near the dam spillway and adjacent to the existing irrigation canal outlet at the right abutment of the dam; (2) an intake structure; (3) two fixed-blade, horizontal bulb-type turbines to be operated at a normal head of 33 feet; (4) two 5,500 kW generators; (5) a substation and switchyard to be located adjacent to the new powerhouse; and (6) a 2-mile-long transmission line from the proposed facility to applicant's existing transmission line system. Applicant also proposes to install radial gates to replace the planks now in use at the dam.

The power developed by the proposed project would be utilized by applicant to assist in meeting its present and future load requirements.

A preliminary permit does not authorize the construction of a project. A permit, if issued, gives the permittee during the period of the permit the right of priority of application for license while the permittee undertakes the necessary studies and examinations to determine the engineering and economic feasibility of the proposed project, the market for the power, and all other necessary information for inclusion in an application for a license.

Any person desiring to be heard or to make protest with reference to said application should, on or before May 9, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

The application is on file with the Commission and is available for inspection.

The public should take further notice that on October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the Federal Power Commission on the date the DOE Act takes effect shall not be affected, and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued, and further actions shall be taken by the appropriate component of DOE now responsible for the functions under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary of Energy and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC" 10 CFR ——, *Provided*, That this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5368 Filed 2-28-78; 8:45 am]

[6560.01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL-861-8; OPP-00068]

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT SCIENTIFIC ADVISORY PANEL

Meeting

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA)

ACTION: Notice of open meeting

SUMMARY: There will be a two-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel from 9:30 a.m. to 4:30 p.m. daily on Friday, March 17 and Saturday, March 18, 1978. The meeting will be held in the Department of Pathology Conference Room, School of Medicine, University of California, San Francisco, Calif., and will be open to the public.

FOR FURTHER INFORMATION CONTACT:

Dr. H. Wade Fowler, Jr., Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs (WH-566), Room 803, Crystal Mall, Building 2, 1921 Jefferson Davis Highway, Arlington, Va., telephone 703-557-7560.

SUPPLEMENTARY INFORMATION: In accordance with section 25(d) of the amended FIFRA, the Scientific Advisory Panel will comment on the impact on health and the environment of regulatory actions under sections 6(b) and 25 (a) prior to implementation. The purpose of this meeting is to discuss the following topics:

1. Review of Proposed Rulemaking on Optional Procedures for Classification of Pesticide Uses by Regulations (Phase II);

2. Review of epidemiological data required for assessment of hazards to farmworkers re-entering fields treated with pesticides.

Because of limited seating capacity, any member of the public wishing to attend or submit a paper should contact Dr. H. Wade Fowler, Jr., at the address or phone listed above. Interested persons are permitted to file written statements before or after the meeting, and may upon advance notice to the Executive Secretary, present oral statements to the extent that time permits. Written or oral statements will be taken into consideration by the Panel in formulating comments or in deciding to waive comments. Persons desirous of making oral statements must notify the Executive Secretary and submit 10 copies of a summary no later than March 14, 1978.

Individuals who wish to file written statements are advised to submit 10 copies of statements to the Executive Secretary in a timely manner to ensure appropriate consideration by the Panel.

Dated: February 23, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-5424 Filed 2-28-78; 8:45 am]

[6560-01]

[FRL 861-5; OPP-50358]

MONSANTO CO.

Issuance of Experimental Use Permit

The Environmental Protection Agency (EPA) has issued an experimental use permit to the following applicant. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 524-EUP-24. Monsanto Co., St. Louis, Mo. 63166. This experimental use permit allows the use of 2,060 pounds of the herbicide Glyphosate on cotton and soybeans to evaluate control of various weeds. A total of 2,060 acres is involved; the program is authorized only in the States of Alabama, Arizona, Arkansas, California, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Mississippi, Missouri, Nebraska, New Mexico, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, and Virginia. The experimental use permit is effective from January 17, 1978 to January 17, 1979. Temporary tolerances for residues of the active ingredient in or on cotton forage, cottonseed, soybean grain, forage, and hay, liver, kidney of cattle, goats, hogs, horses, poultry, and sheep, and a food additive regulation for residues of the active ingredient in soybean hulls have been established.

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460. It is suggested that such interested persons call 202-755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. This file will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

(Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: February 22, 1978.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc. 78-5280 Filed 2-28-78; 8:45 am]

[6560-01]

[FRL 861-6; OPP-30142]

PESTICIDE PROGRAMS

Receipt of Applications To Register Pesticide Products Containing New Active Ingredients

Applications have been submitted to the Environmental Protection Agency (EPA) to register pesticide products containing an active ingredient which has not been included in any previously registered pesticide products. Applications were made pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 89 Stat. 751; 7 U.S.C. 136(a) et seq.), and the regulations thereunder (40 CFR 162.6(b)(6)). Notice of receipt of these applications does not indicate a decision by the Agency on the applications.

Interested persons are invited to submit written comments on these applications to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Room 401, East Tower, 401 M Street SW., Washington D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and others interested in inspecting them. The comments must be received on or before March 31, 1978 and should bear a notation indicating the EPA File Symbol number of the application to which the comments pertain. Comments received within the specified time period will be considered before a final decision is made with respect to the pending application. Comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Specific questions concerning these applications and the data submitted should be directed to the Product Manager (PM) 17, Registration Division (WH-567), Office of Pesticide Programs, at the above address or by telephone at area code 202-426-9425. The labels furnished by FMC Corp., as well as written comments filed pursuant to this notice, will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Notice of approval or denial of the applications to register pesticide products listed will be announced in the FEDERAL REGISTER. Except for such material protected by Section 10 of FIFRA, the test data and other information submitted in support of registration as well as other scientific information deemed relevant to the registration decision shall be made available after approval pursuant to section 3(c)(2) of FIFRA. The procedures for requesting such data will be given in the FEDERAL REGISTER if an application is approved.

Dated: February 21, 1978.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc. 78-5281 Filed 2-28-78; 8:45 am]

APPLICATIONS RECEIVED

EPA File Symbol 279-GNRG. FMC Corp., Agricultural Chemical Division, 2000 Market Street, Philadelphia, Pa. 19103. Pounce Technical. Active Ingredient: Permethrin, (*3-phenoxyphenyl*) *methyl* (±) *cis - trans - 3 - (2,2-dichloroethenyl)-2,2-dimethyl-cyclopropanecarboxylate* 92.0 percent. Application proposes that this product be used as an insecticide for formulating use only.

EPA File Symbol 279-GNRU. FMC Corp., Agricultural Chemical Division, 2000 Market Street, Philadelphia, Pa. 19103. Pounce 3.2 EC. Active Ingredient: Permethrin, (*3-phenoxyphenyl*) *methyl* (±) *cis - trans - 3 - (2,2-dichloroethenyl)-2,2-dimethyl-cyclopropanecarboxylate* 38.4 percent. Application proposes that this product be classified for restricted use as an insecticide for aerial or ground application to cotton against bollworm, tobacco budworm, boll weevil, pink bollworm, cotton leaf perforator and lygus.

[6560-01]

[FRL 861-7; OPP-30141]

PESTICIDE PROGRAMS

Receipt of Applications To Register Pesticide Products Containing New Active Ingredients

Applicationss have been submitted to the Environmental Protection Agency (EPA) to register pesticide products containing active ingredients which have not been included in any previously registered pesticide products. Applications were made pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 89 Stat. 751; 7 U.S.C. 136(a) et seq.), and the regulations thereunder (40 CFR 162.6(b)(6)). Notice of receipt of these applications does not indicate a decision by the Agency on the applications.

Interested persons are invited to submit written comments on these applications to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency (EPA) to register pesticide products containing active ingredients which have not been included in any previously registered pesticide products. Applications were made pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 89 Stat. 751; 7 U.S.C. 136(a) et seq.), and the regulations thereunder (40 CFR 162.6(b)(6)). Notice of receipt of these applications does not indicate a decision by the Agency on the applications.

Interested persons are invited to submit written comments on any applications referred to in this notice to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. The comments must be received on or before March 31, 1978 and should bear a notation indicating the EPA File Symbol number of the application to which the comments pertain. Comments received within the specified time period will be considered before a final decision is made with respect to the pending applications. Comments received after the specified time period will be considered only to the extent possible without delaying processing of the application.

Specific questions concerning these applications and the data submitted should be directed to the Product Managers (PM), Registration Division (WH-567), Office of Pesticide Programs, at the above address or appropriate phone number listed below. The labels furnished by each applicant as well as all written comments filed pursuant to this notice, will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Notice of approval or denial of the applications to register pesticide products listed will be announced in the FEDERAL REGISTER. Except for such material protected by Section 10 of FIFRA, the test data and other information submitted in support of registration as well as other scientific information deemed relevant to the registration decision shall be made available after approval pursuant to section 3(c)(2) of the Freedom of Information Act. The procedures for requesting such data will be given in the FEDERAL REGISTER if an application is approved.

Dated: February 21, 1978.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

APPLICATIONS RECEIVED

EPA File Symbol 35980-R. Atlantic and Pacific Research Inc., P.O. Box 14366, North

Palm Beach, Fla. 33408. SM-3. Active Ingredients: *Cytokinin-like activity equivalent to 100 ppm Kinetin* .0001 percent. Application proposes that this product be classified for general use as a growth regulator on oranges. PM25 202-426-2632.

EPA File Symbol 201-GTI. Shell Chemical Co., Suite 200, 1025 Connecticut Avenue NW., Washington, D.C. 20036. ACCEL. Active Ingredients: *N-(phenylmethyl)-9-(tetrahydro-2H-pyran-2-yl)-9H-Purin-6-amine* 1.3 percent. Application proposes that this product be classified for general use on roses, carnations, and mums in greenhouses. PM25 202-426-2632.

[FR Doc. 78-5282 Filed 2-28-78; 8:45 am]

[6560-01]

[FRL 861-4; OPP-42004C]

STATE OF SOUTH CAROLINA

Approval of State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides

Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 et seq.), and the implementing regulations of 40 CFR Part 171, require each State desiring to certify applicators to submit a plan to EPA for its certification program. Any State certification program under this section shall be maintained in accordance with the State Plan approved under this section.

On October 28, 1975, notice was published in the FEDERAL REGISTER (40 FR 50122) of the intent of the Regional Administrator, EPA, Region IV, to approve, on a contingent basis, the South Carolina State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides. Contingent approval was requested by the State of South Carolina, of the South Carolina Pesticide Control Act enacted June 4, 1975. Complete copies of the South Carolina State Plan were made available for public inspection at the Agency's Region IV Office in Atlanta, at the Office of the Division of Regulatory and Public Service Programs, Clemson University, Clemson, South Carolina, and at the Agency's Technical Services Division, Federal Register Section, Office of Pesticide Programs, EPA Headquarters, Washington, D.C.

Contingent approval of the Plan was granted pending promulgation of final regulations for the enforcement of the South Carolina Act. Notice of contingent approval was published in the FEDERAL REGISTER on January 6, 1976 (41 FR 1125).

Final regulations for the enforcement of the South Carolina Pesticide Control Act were published in the South Carolina State Register on December 12, 1977, and became effective upon publication. Therefore, it has been determined that the South Carolina State Plan will satisfy the requirements of Section 4(a)(2) of the amended FIFRA and 40 CFR Part 171.

The South Carolina Plan will remain available for public inspection at the Division of Regulatory and Public Service Programs, Clemson University, Clemson, S.C. 29631.

EFFECTIVE DATE

Pursuant to Section 4(d) of the Administrative Procedure Act, 5 U.S.C. 553(d), the Agency finds that there is good cause for providing that the approval granted herein to the South Carolina Plan shall be effective upon signature of this notice.

Accordingly, this approval shall become effective immediately.

Dated: February 6, 1978.

JOHN A. LITTLE,
Deputy Regional Administrator,
Region IV.

[FR Doc. 78-5279 Filed 2-28-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. I-438]

COMMON CARRIER SERVICES INFORMATION

International and Satellite Radio Applications Accepted for Filing

BY THE CHIEF, COMMON CARRIER BUREAU.

FEBRUARY 21, 1978.

The Applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications if, upon further examination, it is determined they are defective and not in conformance with the Commission's rules, regulations and its policies. Final action will not be taken on any of these applications earlier than 31 days following the date of this notice. Section 309(d)(1).

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

SATELLITE COMMUNICATIONS SERVICES

MD, 297-CSG-R-78 Communications Satellite Corp. (WA27), Clarksburg, MD. Renewal of Station License (Developmental) from February 15, 1978 to February 15, 1979.

AL, 312-DSE-P/L-78 TV Cable Co., of Andalusia, Inc., Andalusia, AL. Authority to construct, own, and operate a Domestic Communications Satellite Receive-Only Earth Station at this location. Lat. 31°18'45" N., Long. 86°31'45" W. Rec. Freq. 3700-4200MHz. Emission 36000F9., with a 6-meter antenna.

VA, 313-DSE-P/L-78 The Christian Broadcasting Network, Inc., Virginia Beach, VA. Authority to construct, own, and operate a Domestic Communications Satellite Receive-Only Earth Station at this location. Lat. 36°48'07" N., Long. 76°11'40" W. Rec. Freq. 3700-4200MHz. Emission 36000F9., with a 10-meter antenna.

MN, 314-DSE-P/L-78 American Television & Communications Corp., Mankoto, MN. Authority to construct, own, and operate a Domestic Communications Satellite Receive-Only Earth Station at this location. Lat. 44°10'24" N., Long. 93°57'04" W. Rec. Freq. 3700-4200MHz. Emission 36000F9., with a 5-meter antenna.

MI, 315-DSE-P/L-78 Gerity Broadcasting Co., Essexville, MI. Authority to construct, own, and operate a Domestic Communications Satellite Receive-Only Earth Station at this location. Lat. 43°36'53" W., Long. 83°50'37" W. Rec. Freq. 3700-4200MHz. Emission 36000F9., with a 4.5-meter antenna.

FL, 316-DSE-M/L-78 North Lauderdale Cablevision, Inc. (WE56), North Lauderdale, FL. Modification of License to permit share use in the Earth Station.

TX, 320-DSE-P/L-78 Valley Cable TV, Inc., Brownsville, TX. Authority to construct, own, and operate a Domestic Communications Satellite Receive-Only Earth Station at this location. Lat. 25°57'16" N., Long. 97°30'58" W. Rec. Freq. 3700-4200MHz. Emission 36000F9., with a 6-meter antenna.

TX, 321-DSE-P/L-78 Valley Cable TV, Inc., Weslaco, TX. Authority to construct, own, and operate a Domestic Communications Satellite Receive-Only Earth Station at this location. Lat. 26°08'10" N., Long. 97°57'29" W. Rec. Freq. 3700-4200MHz. Emission 36000F9., with a 4.3-meter antenna.

TX, 322-DSE-P/L-78 Valley Cable TV, Inc., Harlingen, TX. Authority to construct, own, and operate a Domestic Communications Satellite Receive-Only Earth Station at this location. Lat. 26°10'06" N., Long. 97°41'36" W. Rec. Freq. 3700-4200MHz. Emission 36000F9., with a 6-meter antenna.

TX, 323-DSE-P/L-78 Valley Cable TV, Inc., Raymondville, TX. Authority to construct, own, and operate a Domestic Communications Satellite Receive-Only Earth Station at this location. Lat. 26°25'42" N., Long. 97°47'10" W. Rec. Freq. 3700-4200MHz. Emission 36000F9., with a 6-meter antenna.

CA, 324-DSE-P/L-78 Sammons Communications Inc., Stanislaus County, CA. Authority to construct, own, and operate a Domestic Communications Satellite Receive-Only Earth Station at this location. Lat. 37°27'55" N., Long. 120°54'59" W. Rec. Freq. 3700-4200MHz. Emission 36000F9., with a 4.5-meter antenna.

MI, 325-DSE-P/L-78 Muskegon Cable TV Co., Norton Shores, MI. Authority to construct, own, and operate a Domestic Communications Satellite Receive-Only Earth Station at this location. Lat. 43°12'07" N., Long. 86°15'41" W. Rec. Freq. 3700-4200MHz. Emission 36000F9., with a 4.5-meter antenna.

IL, 326-DSE-P/L-78 Central Cable System, Inc., Clinton, IL. Authority to construct, own, and operate a Domestic Communications Satellite Receive-Only Earth Station at this location. Lat. 40°09'45" N., Long. 88°56'45" W. Rec. Freq. 3700-4200MHz. Emission 36000F9., with a 5-meter antenna.

MA, 327-DSE-P/L-78 Nantucket Cablevision Corp., Nantucket, MA. Authority to construct, own, and operate a Domestic Communications Satellite Receive-Only Earth Station at this location. Lat. 41°16'50" N., Long. 70°10'10" W. Rec. Freq. 3700-4200MHz. Emission 36000F9., with a 5-meter antenna.

AR, 328-DSE-P/L-78 Twin Lakes Television Co., Berryville, AR. Authority to construct, own, and operate a Domestic Communications Satellite Receive-Only Earth Station at this location. Lat. 36°22'58" N., Long. 93°33'32" W. Rec. Freq. 3700-4200MHz. Emission .36000F9., with a 5-meter antenna.

NM, 329-DSE-P/L-78 Las Cruces TV Cable, Las Cruces, NM. Authority to construct, own, and operate a Domestic Communications Satellite Receive-Only Earth Station at this location. Lat. 32°17'49" N., Long. 106°46'42" W. Rec. Freq. 3700-4200MHz. Emission 36000F9., with a 4.5-meter antenna.

IA, 330-DSE-P/L-78 Greater Algona Cable TV, Inc., Algona, LA. Authority to construct, own, and operate a Domestic Communications Satellite Receive-Only Earth Station at this location. Lat. 43°04'05" N., Long. 94°12'19" W. Rec. Freq. 3700-4200MHz. Emission 36000F9., with a 5-meter antenna.

IA, 331-DSE-P/L-78 Greater Humboldt-Dakota City Cable TV, Inc., Humboldt, IA. Authority to construct, own, and operate a Domestic Communications Satellite Receive-Only Earth Station at this location. Lat. 42°42'23" N., Long. 94°12'19" W. Rec. Freq. 3700-4200MHz. Emission 36000F9., with a 5-meter antenna.

WY, 332-DSE-P/L-78 New Castle Cable TV, Inc., Elk Mountain, WY. Authority to construct, own, and operate a Domestic Communications Satellite Receive-Only Earth Station at this location. Lat. 43°43'42" N., Long. 104°02'57" W. Rec. Freq. 3700-4200MHz. Emission 36000F9., with a 4.5-meter antenna.

[FR Doc. 78-5396 Filed 2-28-78; 8:45 am]

[6720-01]

FEDERAL HOME LOAN BANK BOARD

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Publication of Accounting Bulletin IA-5

FEBRUARY 17, 1978.

AGENCY: Federal Home Loan Bank Board.

ACTION: Publication of bulletin.

SUMMARY: This bulletin provides guidance to institutions whose accounts are insured by the Federal Savings and Loan Insurance Corporation, and service corporations and joint ventures of such institutions, with respect to audits by internal auditors. The substance of the information contained herein was available in a predecessor bulletin issued on May 23, 1967, now superseded; the present reformulation is necessary for updating and revision, as described below.

EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION, CONTACT:

Gerald P. Weintraub of the Office of Examinations and Supervision, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552, telephone 377-6539.

SUPPLEMENTARY INFORMATION: Section 563.17-1 of the regulations for the Federal Savings and Loan Insurance Corporation (12 CFR 563.17-1) mandates that each insured institution be audited at least annually in a manner satisfactory to the Corporation. Policy Statement 571.2 (12 CFR 571.2) provides that this audit requirement may be satisfied by means of an audit by a public accountant or internal auditor, and prescribes that auditors comply with such additional requirements as may be issued by the Board's Office of Examinations and Supervision. Bulletin PA-7a (reissued at 42 FR 29962-4; June 10, 1977) sets forth the Office's policy with respect to audits of insured institutions by independent public accountants. Guidelines for internal auditors were similarly established by Bulletin IA-4 on May 23, 1967.

Since its adoption, Bulletin IA-4 has become outdated and would have required substantial revision to comport with regulatory changes and other developments of the last ten years; therefore, Bulletin IA-5 was developed instead.

In addition to a change of format, the major differences between the old and new guidelines are as follows:

1. Bulletin IA-4 set forth detailed auditing procedures concerning all facets of an institution's operations; Bulletin IA-5 recognizes the impracticality of specifying in advance the range and scope that may be appropriate for an auditor's review and directs the internal auditor to use generally accepted auditing standards, supplemented by certain appropriate minimum scope procedures.

2. With respect to the qualifications of an internal auditor, Bulletin IA-5 specifies familiarity with all applicable publications which pertain to the review, including periodic releases of the Financial Managers Society for Savings Institutions, Inc., and the American Institute of Certified Public Accountants. Bulletin IA-4 made no mention of the auditor's continuing responsiblity to remain aware of current auditing developments.

3. Bulletin IA-4 provided for an audit of transactions originating within each 6-month period; Bulletin IA-5 recognizes the growing complexities of the savings and loan business and permits various test checks to be performed on an annual basis.

4. Bulletin IA-5 clarifies that all audit procedures and the review of internal controls are fully applicable to accounting records maintained on automated equipment and refers to applicable Bank Board and American Institute of Certified Public Accountants policy statements.

5. Bulletin IA-5 incorporates the financial statement requirement set forth in Insurance Regulations 563.17-1(a)(2) and 563.45; Bulletin IA-4 was adopted prior to the publication of these requirements.

6. Bulletin IA-5 is applicable to audits of service corporations which were not in existence when Bulletin IA-4 was adopted.

7. Part Two of Bulletin IA-4, pertaining to "Modifications of Examination Procedures," was not included in Bulletin IA-5 because it is obsolete and incompatible with present examination procedures.

BULLETIN IA-5: AUDITS OF INSURED INSTITUTIONS, SERVICE CORPORATIONS, AND JOINT VENTURES BY INTERNAL AUDITORS

This Bulletin supplements the Federal Savings and Loan Insurance Corporation's Statement of Policy (§ 571.2 of the Rules and Regulations for Insurance of Accounts) with respect to audits by internal auditors. Internal auditors must meet all applicable requirements of such Statement as well as all requirements set out in this Bulletin.

I. APPLICABLE AUDITING STANDARDS

As a minimum, internal auditors must use generally accepted auditing standards. The internal auditor shall be familiar with applicable publications of the Financial Managers Society for Savings Institutions, Inc. (FMS), and of the American Institute of Certified Public Accountants (AICPA), including the "Internal Auditors Manual for Savings Institutions," (FMS); the industry audit guide, "Audits of Savings and Loan Associations," (AICPA); "Statements on Auditing Standards," (AICPA); and subsequent SAS releases promulgated periodically by the AICPA.

II. AUDIT PERIOD

The term "audit period" refers to the period of time between "audit dates." The period should be twelve (12) calendar months and may not be changed without approval of the District Director-Examinations.

III. AUDIT DATE

The term "audit date" refers to the AS OF date for annual audit reports to the District Director-Examinations. The audit date should coincide with a month-end date. Nothing said herein should be construed as prohibiting the commencement of audit work on an unannounced basis or as prohibiting continuous audit programs.

IV. SCOPE OF AUDIT

A. *General requirements.* The internal auditor shall be familiar with the statutes, rules and regulations (Federal and State) under which the institution being audited operates, and with its charter and bylaw provisions.

The audit should incorporate the necessary procedures to satisfy the internal auditor that there is compliance with the applicable regulations that relate to accounting matters and accordingly may affect the institution's financial position or results of operations.

In instances where the internal auditor anticipates any material potential loss in the assets of the institution or a serious violation of any Federal or applicable State regulation, the circumstances should be discussed with the District Director-Examina-

tions as soon as the audit work which disclosed the situation is completed.

Nothing in this Bulletin shall be construed to imply authority for the omission of any procedure which internal auditors would ordinarily employ in the course of an audit made for the purpose of making a statement as to the accuracy of financial reports.

Any of the procedures referred to herein with respect to the review of internal controls or audit procedures are fully applicable to accounting records maintained on automated equipment. The internal auditor shall be familiar with appropriate publications in this area as may be issued from time to time by the Federal Home Loan Bank Board, OES, FMS, or AICPA, including Bulletin PA-7-1 and "Audits of Service Center Produced Records" (AICPA, 1974).

B. *Board of Directors' resolution.* As of the effective date of this Bulletin (for existing internal audit programs) and/or at the time of commencing a new internal audit program, the board of directors of the institution and, where applicable, the board of directors of each service corporation, shall furnish the District Director-Examinations with a copy of the minutes of the directors' meeting at which a resolution providing for the following was adopted:

1. That the internal audit shall be performed to the satisfaction of the District Director-Examinations.

2. That the internal auditor is independent of all association operating and management personnel, that the auditor shall have access to all records of the association without prior notice wherever they may be and that the auditor shall report to the institution's board of directors (or audit committee thereof) any denial of access to such record by any officer or employee.

3. That the internal auditor shall make available, if requested by the District Director-Examinations, completed audit work programs and related audit workpapers, and shall render, if requested, a letter report to the District Director-Examinations indicating specific auditing procedures performed and the results thereof.

4. That the internal auditor shall perform specific auditing procedures in instances when the District Director-Examinations has issued written instructions to the internal auditor. These specific procedures may be in addition to those customarily performed by an internal auditor in accomplishing the audit program. The internal auditor may communicate to the board of directors (or audit committee thereof) and appropriate management officials, any specific instructions received from the District Director-Examinations, if in the judgment of the auditor, such communication should be made.

5. That the internal auditor shall meet at least annually with either the institution's and/or service corporation's full board of directors or a duly elected or appointed audit committee of the board of directors. The purpose of the meeting would encompass a discussion of written reports which set forth the scope and results of work accomplished since the preceding meeting (including the annual report to the District Director-Examinations) along with recommendations and corrective actions taken by operating personnel. In connection with the meeting at which the annual report is discussed, the directors shall promptly file a letter with the District Director-Examinations acknowledging the meeting and setting forth action to be taken with respect to any deficiencies noted in the audit report.

6. That the internal auditor shall, upon discovering an apparent defalcation or being informed of such a matter, determine that the institution has immediately notified the District Director-Examinations in writing of the apparent defalcation. If the institution did not make such notification, the internal auditor shall immediately notify the District Director-Examinations and the board of directors of such defalcation.

Additionally, for new internal audits, the resolution shall confirm the items required by section 571.2(c)(1)(ii) of the Policy Statement.

C. *Review of the system of internal control.* The internal auditor has the responsibility to review and evaluate the adequacy of the institution's system of internal control in establishing the scope of his audit tests. Prior to any review, the internal auditor should be familiar with the chapters on internal control contained in the "Internal Auditors Manual for Savings Institutions" published by the FMS.

At this time, the FHLBB has not attempted to devise a standard list of internal controls which should be adopted by all savings and loan institutions and their subsidiaries. It is the responsibility of the internal auditor to develop a comprehensive control questionnaire as part of his review of the internal controls.

In conjunction with and in the rendering of the annual report (see Part V of this Bulletin), the internal auditor shall disclose any material weaknesses in the institution's system of internal controls and shall include recommendations for strengthening controls in the areas of such weaknesses, together with corrective actions taken by the institution's management or operating personnel.

The internal auditor must review and test the written descriptions of the institution's systems of internal controls for the major areas of activity. The internal auditor is cautioned not to accept management's statements regarding controls in existence. The auditor should determine through observation, inquiry and tests of transactions that such controls are operative. Workpapers must indicate the methodology and the results of the tests. Any deficiences noted by the internal auditor must be reported to management and the board of directors and appropriate follow-up action must be taken.

As a minimum, matters regarding physical and accounting controls in the following areas of an institution's operations should be reviewed and tested (such list is not designed nor intended to supplant the internal auditor's judgment): Cash—Cash balances (on hand and in banks); Cash receipts (including payments on loans, deposits and investments); Cash disbursements (including withdrawals, lending, and expenses); Consignment items (travelers checks, savings bonds, etc.). Marketable securities and other investments. Loans—Lending policies and procedures; Documents; Delinquencies; Interest income and accrual computations; Unique controls required by specific types of loans. Real estate owned (acquired for investment and/or through foreclosure or in lieu thereof). Property. Other assets and deferred charges. Savings accounts—Inactive accounts; Passbooks and certificates; Opening; Closing; Interest expense and accrual computations. Borrowed money. Advances by borrowers for taxes and insurance. Other liabilities and deferred credits. Net worth and/or retained earnings accounts. Review of operations.

D. *Confirmation of loans and savings accounts.* The audit must include satisfactory confirmation of loans and savings accounts by direct correspondence. The internal auditor shall determine the extent of confirmation that in the auditor's judgment is necessary. The internal auditor's workpapers shall clearly disclose the number and percent, by both number and dollar amount, of loans and savings accounts confirmed. The workpapers must also disclose the type of confirmation used (i.e., positive or negative) and the basis used to select accounts for confirmation. If statistical sampling is used as the basis for selecting accounts, the workpapers must also disclose the method used and the confidence level achieved.

The internal auditor shall include in the periodic reports to the board of directors of the institution, and in the annual report to the District Director-Examinations, any material exceptions to confirmation requests that are not satisfactorily reconciled.

E. *Inspection of loan documents.* The internal auditor has the responsibility to determine the extent that documents supporting loans made and purchased, prior and subsequent to the date of the previous audit report, are to be inspected. The auditor's workpapers shall clearly disclose the percent of the number of new loan files examined to the number originated in the current audit period. In addition, the working papers must disclose the number and percent of files examined applicable to previous audit periods to the total number of loans outstanding as of the end of the audit period. The workpapers shall also disclose the basis used to select loan accounts for documents inspection and the specific documents inspected for each loan.

The internal auditor shall include in the periodic reports to the board of directors of the institution, and in the annual report to the District Director-Examinations, any material exception noted in the loan documents examined that are not satisfactorily resolved.

F. *Loans and participations sold or purchased.* The internal auditor has the responsibility to determine the extent of audit tests to be performed on loans and participations sold or purchased. The audit workpapers shall clearly indicate the extent of audit procedures performed and conclusions reached.

Audit procedures shall include confirmation of significant balances of loans or participations sold or purchased and the significant terms of the purchase or sale agreement with the purchaser or seller.

For loans or participations purchased, the internal auditor's workpapers shall clearly disclose the methods used to determine the adequacy of auditing procedures with respect to loans serviced by others. Such procedures shall include, as appropriate, obtaining letters from the servicing organization's public accountant and/or internal auditor confirming the extent to which their examination included confirmation of such loans, examination of related document files and determination of the accuracy of dilinquency reports to the purchaser, and the results of such audit tests.

G. *Review of adequacy of valuation allowances.* Particular care should be exercised in determining the need for and the adequacy of valuation allowances. The internal auditor shall consider the need for obtaining appraisals by independent, professional appraisers. The internal auditor shall discuss with the District Director-Examinations any proposed independent appraisal program prior to proceeding with such a program.

H. *Personnel.* The internal auditor shall endeavor to avoid the use of operating personnel in the performance of the audit. However, if it is necessary to use such personnel, they should be closely supervised. Operating personnel must not be used to audit the records of the department to which they are assigned or the work for which they are responsible.

V. ANNUAL AUDIT REPORT TO THE DISTRICT DIRECTOR-EXAMINATIONS

An annual report of the internal audit must be prepared as of the audit date. The report should contain an outline of the scope and results of the work accomplished, along with the internal auditor's findings and recommendations, and the corrective actions taken by the institution.

The annual report must contain a summary of all matters of material substance contained in any reports to the institution's board of directors (or audit committee) since the preceding annual report.

The annual report shall contain a statement to the effect that the internal auditor has reviewed all annual and semiannual reports submitted to the Federal Home Loan Bank Board by the insured institution or service corporation during the audit period, and that the reports are accurate and present the correct financial condition in accordance with the instructions for the reports.

The annual report shall also contain such financial statements as will meet the requirements for financial statements contained in Insurance Regulation 563.17-1(a)(2) and 563.45 (when applicable).

The term "annual audit report" refers, in addition to the material specifically required by this section, to the report on internal control, or to any other special or supplemental reports related to the audit or the report thereon, but not to the periodic reports submitted to the directors if matters of material substance contained in the periodic reports are summarized in the annual report.

VI. FILING OF ANNUAL AUDIT REPORTS

The internal auditor shall file a copy of the annual audit report with the District Director—Examinations within 90 calendar days following the audit date. If the internal auditor finds that completion of the audit and issuance of his report will require a period in excess of 90 calendar days from the audit date, an extension of time from the District Director—Examinations should be requested in writing, providing the reasons for such delay. Unwarranted delay in completion of the audit or report thereon may be a basis for rejection of the internal audit by the District Director—Examinations.

VII. CHANGE OF INTERNAL AUDITOR

If the board of directors, by appropriate resolution, terminates an internal auditor, the institution must notify the District Director—Examinations in writing (with a copy to the terminated auditor) within 15 days following such termination. Such notification must indicate the reason for the termination and must state whether in the past 24 months there were any disagreements with the internal auditor on any matter of auditing principles or practices, which disagreements if not resolved to the satisfaction of the internal auditor would have caused the auditor to make reference in the annual audit report to the subject matter of the disagreement. The board of directors shall request the terminated auditor to furnish a letter to the District Director—Examinations stating whether there is agreement with the statements contained in the letter of the institution and, if not, stating the respects in which there is disagreement.

A new internal auditor should be named within sixty days of the termination of an internal auditor. Action of the board of directors as provided by section IV.B of this bulletin shall be accomplished.

VIII. OTHER REQUIREMENTS

The internal auditor shall not rely upon the performance of an examination by the Federal Home Loan Bank Board's Office of Examinations and Supervision, or report based thereon, to diminish his responsibility with respect to an audit of an insured institution or service corporation or subsidiary thereof.

This bulletin becomes effective for audit years beginning after December 31, 1977 and supersedes all previous IA bulletins issued by this Office. Inquiries and requests for information regarding matters covered by this Bulletin or Statement of Policy 571.2 should be directed to the District Director—Examinations for the Federal Home Loan Bank District in which the home office of an insured institution is located.

WILLIAM SPRAGUE,
Director, Office of Examinations and Supervision.

(Secs. 402, 403, 407, 48 Stat. 1258, 1257, 1260, as amended; 12 U.S.C. 1725, 1726, 1730; Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 comp., p. 1071.)

By the Federal Home Loan Bank Board.

RONALD A. SNIDER,
Assistant Secretary.

[FR Doc. 78-5382 Filed 2-28-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

AMERICAN EXPORT DIVISION OF FARRELL

Notice of Substitution

The Federal Maritime Commission has been notified by counsel for Farrell Lines Inc. that American Export Lines, Inc. will be merged into Farrell Lines Inc. on or about March 28, 1978; and that thereafter American Export will be operated by Farrell Lines as "American Export Division of Farrell." As a result of this merger, Farrell Lines Inc. will succeed by operation of law to the rights and liabilities of American Export Lines, Inc., including the rights and liabilities under the respective approved section 15 Agreements to which American Export Lines, Inc. is presently a party. Accordingly, the records of the Federal Maritime Commission concerning approved agreements to which American Export is presently a party will be changed, effective the date of the merger, to substitute the name of "American Export Division of Farrell," as a participating carrier, in place of American Export. In addition, the conference and ratemaking agreements to which American Export is presently a party are obligated to notify the Commission that they have also changed their records accordingly. The following is a list of the agreements involved:

Conference and rate agreements

17	8210	9522-B
2846	8220	9522-C
5660	8420	9548
5850	8558	9577
7100	8650	9615
7670	9214	9982
7690	9238	9984
7770	9239	10117
8040	9461	10155
8050	9522-A	10261

Other than conference and rate agreements

9623	10267	80846
9627	10305	9735
9705	9481	9905
10276	9996	10030
9972	10148	10051
9981	10149	10118
10050	80432	10254
10203	80646	9233
10138	80744	

Terminal agreements

T-2901 T-2903 T-2891

Dated: February 23, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-5295 Filed 2-28-78; 8:45 am]

[6730-01]

[Independent Ocean Freight Fowarder License No. 149OR]

AVERY & TAYLOR IMPORT-EXPORT SERVICES, INC.

Order of Revocation

On February 18, 1978, Avery & Taylor Import-Export Services, Inc., voluntarily surrendered its Independent Ocean Freight Forwarder License No. 149OR for revocation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), § 5.01(c), dated August 8, 1977;

It is ordered, That Independent Ocean Freight Forwarder License No. 149OR issued to Avery & Taylor Import-Export Services, Inc., be and is hereby revoked effective February 18, 1978 without prejudice to reapply for a license in the future.

It is further ordered, That a copy of this Order be published in the FEDERAL

REGISTER and served upon Avery & Taylor Import-Export Services, Inc.,

LEROY F. FULLER,
Director, Bureau of Certification and Licensing.

[FR Doc. 78-5292 Filed 2-28-78; 8:45 am]

[6730-01]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by Section 311(p)(1) of the Federal Water Pollution Control Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

Certificate No.	Owner/operator and vessels
01087	Dampskibsselskabet Torm A/S: *Torm Herdis.*
01106	N.V. Stoomvaart-Maatschappij Oostzee: *Winsum.*
01323	Manchester Liners Ltd.: *Sealrain Trenton.*
01428	Ocean Transport & Trading Ltd.: *Menestheus.*
01613	Reardon Smith Line Ltd.: *Welsh City.*
01877	Carbocoke Societa Di Navigazione SPA: *Luigi Lagrange, Solaro.*
02194	Compagnie Generale Maritime: *Gauguin.*
02274	Albis Ardua Societa Di Navigazione: *Volantas.*
02418	Sidermar S.P.A.: *Perseus.*
02458	The China Navigation Co. Ltd.: *Coral Chief.*
02877	Nippon Yusen Kabushiki Kaisha: *Jingu Maru, Wakatake Maru.*
03004	Rederi Ab Soya: *Traviata.*
03727	Continental Oil Co.: *Sinclair 8.*
04447	Williamette-Western Corp.: *Multnomah, Wahkiakum.*
04562	Okada Kaiun Kabushiki Kaisha: *Grace.*
04564	Yamashita-Shinnihon Kisen Kaisha: *Wakashige Maru.*
04652	Astrocielo Compania Naviera S.A.: *Athanasios.*
05040	General Construction Co.: *Mukilteo.*
05537	Empresa Navegacion Mambisa: *Jose Magti, O'Higgins.*
05577	Far Eastern Shipping Co.: *Pioner Vladivostoka.*
06478	Korea Marine Industry Development Corp.: *Soo Gong 51.*
06510	Compagnie Nationale Algerienne De Navigation: *Gara Djebilet, Tlemcen, Medea.*
07743	Yangming Marine Transport Corp.: *Ming Cheer, Ming Giant, Ming Joy.*
08131	Empresa Naveacion Caribe: *Primero De Mayo, Puerto De Vita, Comandante Vilo Acuna.*
08234	Burmah Oil Tankers Ltd.: *Burmah Endeavour.*
08473	Tokyo Marine Co., Ltd.: *Fujiaki Maru.*
09086	The Boswell Oil Co.: *Chem 2.*
10227	Professional Navigation Corp.: *Golden Grampus.*
10254	Hambro S.A.: *Ramar*
10405	J.A. Reinecke K.G.: *Canaima.*
10896	K.G.G. Co., S.A.: *Sea Bird No. 83.*
12041	Ulterwyk Corp.: *Miriam.*
12145	Chevron U.S.A. Inc.: *Chevron Arizona.*
12586	Amer-Yhtyma Oy: *Finn-Amer.*
12631	Hamilton Bros., Inc.: *Maray.*
12820	Compania Micacea S.A.: *Victoria II.*
12727	Sea Trading Ltd.: *Windglow, Etai.*
12805	Compagnie Generale D'Armements Maritimes: Alpha Mariner.
13048	Monumental Marine Inc.: *Doric Merchant.*
13167	Map Tankers Inc.: *Unicorn Derek.*
13168	Chesterton Corp.: *Merephan V.*
13169	Bulkcargo Navigation Corp. Ltd.: *Polly.*
13171	International Transport Simoon Inc.: *Simoon.*
13172	International Transport Solano Inc.: *Solano.*
13173	Transocean Martime Transport Inc.: *Oriental Endeavour, Oriental Banker.*
13174	A.E. Sorensen A/S: *A.E.S.*
13175	Lunden: *Charlotte S.*
13176	Partrederiet: Star Eitt: *Star Sea.*
13177	Marilambri Compania Naviera S.A. of Panama: *Raphaella.*
13178	Seacalf Shipping Corp.: *Aiolos.*
13179	Winston Corp.: *Winston.*
13183	Partrederiet Tongala: *Tongala.*
13184	Italmare S.P.A.: *Libia Cuomo.*
13185	Golar Gas Transport, Inc.: *Khannur.*
13186	Clausen Singapore Private Ltd.: *Codan, Inger Clausen.*
13187	Clearwater Navigation S.A.: *Hakata.*
13188	Orange Field Steamship Co. Inc.: *Mari Gold.*
13189	Kuwana Kaiun K.K.: *Sokai Maru.*
13190	Nagashiki Kogyo Kabushiki Kaisha: *Shinsei Maru.*
13191	Pietamentos Maritimos, S.A.: *Tarragona.*
13192	Al Ain Tanker Co. Inc.: *Al Ain.*
13193	Southern Metals Shipping Ltd.: *Diamond.*
13194	Stella Corp.: *Corinthiakos.*
13195	Osprey Dredge and Derrick Co. Inc.: *Pelican.*
13196	Greenpeace Foundation/Save the Whales: *Ohana Kai.*
13197	Sunoco Terminals, Inc.: *LOU II, New Orleans.*
13199	Keplion International Inc.: *Kanuka Forest.*
13200	Canal Freight Lines Inc.: *CC 206, CC 207, CC 211.*
13201	Trans Seas Cargoes Corp. of Liberia: *MESSINIAKI AKTIDA.*
13202	Partsrederiet Fjordaas: *Fjordaas.*
13203	Aeolian Beach Marine, Inc.: *EUROSUN.*
13207	K/S Merc Scandia XV: *MERCANDIAN STAR.*
13208	K/S Merc Scandia XIV: *Mercandian Prince.*
13209	Tamassos Shipping Co. S.A. Panama: *Antonios.*
13211	La Sabanas Shipping Co. S.A.: *Ocean Lead.*
13232	Rederij North Pole N.V.: *North Pole, South Pole.*
13263	Blue Jay Co.: *ROBERT L., TED E.*
13292	Mrs C.J. Dammers: *Jan Willem.*
13294	Blue Mast Shipping Co. S.A.: *Argolikos.*
13304	Reedereigesellschaft MS Planet Henry Gerdao KG (G.m.b.h. & Co.): *Planet.*
13323	Stolt Norness Inc.: *Stolt Norness.*
13341	Agean Sky Inc.: *Blue Pearl.*
13366	Mar De Plata Co. Naviera S.A. Panama: *Transworld Goliath.*
13370	Bowoon Sangsa Co., Ltd.: *Bowoon No. 9.*
13428	Westfield Shipping Co. Ltd.: *Thamesfield.*
13436	South Continental Tanker Corp., Inc.: *Transud II.*
13444	Norfolk Shipping Co. Ltd.: *Eastern Moon.*
13468	Thoresen International A/S: *Torafjord, Torasund, Hai Hing.*
13474	Ever Sunshine Navigation S.A: *Silver Star.*
13475	Marmira Compania Naviera S.A.: *Pantazis Catas.*
13476	Macky De Navegacion S.A.: *Atlantic Albatross.*
13478	I/S Karen Winther: *Karen Winther.*
13483	Messrs Timber Shipping Inc.: *Strathkirn.*
13486	Syntagma Shipping Co. S.A.: *Ioanna V.*
13491	K.K. Iyo Kosan: *Ryujin Maru.*
13495	Proteas Maritime Inc.: *Singapore Progress.*
13496	Brittas Bay Shipping Co. Ltd.: *Silverpale.*
13497	Oriental Petroleum Carriers, Inc.; *Energy Transport.*
13498	Fairway Shipping Inc.: *Fairway.*
13499	Jermyn Shipping Corp.: *Biakh.*
13493	Associated Express Container Services, Inc.: *Oriental Executive.*
13500	Intercontinental Car Carriers S.A.: *President.*
13501	Panama Hero Shipping S.A.: *Hero No. 1.*
13502	Dodona Shipping Corp.: *Asphalt Merchant.*
13503	Standard Navigazione S.P.A.: *Punta Stella.*
13504	Adelfan Corp.: *PHGH.*
13505	Citadel Shipping Co. Ltd.: *Anastasia II.*
13506	Kelburn Shipping Corp.: *Union Reefer.*
13508	Shinsei Kaiun K.K.: *Osaka Reefer.*
13509	Partrederiet Wilnina: *Wilnina.*
13510	Bigal Shipping Corp.: *Cherry Flower.*
13513	Shipco 2296, Inc.: *Keystone Canyon.*
13513	Partrederiet Thor Star: *Thor Star.*
13514	Nefeli Compania Maritima S.A. Panama: *Nikolaos*
13515	Rederiet AF 24. November 1975: *Jytte Danielsen.*
13516	Neptune Gamma (PTE), Ltd.: *Neptune Peridot.*
13517	Ace Navigation Co., Ltd.: *Hual Traveller.*
13518	Ace Transportation Co., Ltd.: *Hual Trotter.*
13520	Sanji Hara: *Nadayoshi Maru No. 10, Nadayoshi Maru No. 15.*
13522	Cala D'Olivo S.P.A. Di Navigazione: *Frigo Harmony.*
13526	Letterman, Ltd.: *Nopal Audrey.*
13556	Metropolitan Seaboard Corp.: *Mykali II.*
13558	Marcostar Shipping Corp. S.A. Panama: *Eva.*
13565	Lift-Off, Inc.: *Lift Off.*
13576	Standard Shipping, Inc.: *Jaymat Trident.*
13580	Kaiyo Suisan Kabushiki Kaisha: *Kaiyo Maru No. 1.*
13582	Congelador Mar Tres S.A.: *Congelador Mar Tres.*
13583	Congelador Mar Uno S.A.: *Congelador Mar Uno.*
13584	Eastern Petroleum Carriers, Inc.: *Energy Generation.*
13585	El Paso Sonatrach Tanker Co.: *El Paso Sonatrach.*
13586	El Paso Paul Kayser Tanker Co.: *El Paso Paul Kayser.*
13587	Arbyx Diamond Shipping S.A.: *Kriti Diamond.*
13588	Spiliada Maritime Corp. of Liberia: *Spiliada.*
13589	Overseas Petroleum Carriers, Inc.: *Energy Resource.*
13590	Wijdzicht B. V. Scheepvaart & Handelmij: *Eric.*
13593	Dubhe Transport, Inc.: *Dubhe.*
13603	Audley Shipping, Ltd.: *Alamo.*
13607	Gloria Maritime Naveganes S.A.: *Oleander.*
13612	Liberian Cynosure Transports, Inc.: *World Probity.*
13613	U.T.G., Inc.: *Freedom.*

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-5293 Filed 2-28-78; 8:45 am]

[6730-01]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 311(p)(1) of the Federal Water Pollution Control Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

Certificate No.	Owner/operator and vessels
01032	The Graig Shipping Co., Ltd.: *Graigwyd.*
01123	Hemisphere Transportation Corp.: *Tulsa Getty.*
01266	Aktieselskabet Ornen: *Thor I.*
01428	Ocean Transport & Trading, Ltd.: *Nestor, Melampus.*
01841	Chas. Kurz & Co., Inc.: *Meton.*
01866	Industria Armamento S.P.A.: *Honestas.*
02126	Morania Oil Tanker Corp.: *Morania No. 400, T-30.*
02194	Compagnie Generale Maritime: *Cavelier De La Salle.*
02198	Peninsular & Oriental Steam Navigation Co.: *Stratheden, Strathesk.*
02259	Neste Oy: *Ukku.*
02458	The China Navigation Co., Ltd.: *Nimos.*
02465	Koch-Ellis Marine Contractors: *KE 46, KE 47, LEC 5.*
02917	Scherkate Sahami Keschtirani Melli Arya: *Arya Shahab, Arya Sepehr.*
03314	Gulf Oil Corp.: *American Independence.*
03502	Shinyei Senpaku K.K.: *Kinkasan Maru.*
03640	Pan Ocean Bulk Carriers, Ltd.: *Pan Dynasty, Pan Crystal.*
03708	Puget Sound Tug & Barge Co.: *ST-20.*
03866	M. Smits: *Louise Smits, Ida Smits.*
04081	Jugoslavenska Oceanska Plovidba, Kotor: *Kosmaj.*
04114	Italcarbo Societa Di Navigazione S.P.A.: *Corallina.*
04163	Cenac Towing Co., Inc.: *CTCO-197, CTCO-198.*
04172	Ekiof Marine Corp.: *E-17.*
04179	Ory Bros. Marine Service of America, Inc.: *Fueler No. 3, CBL-302.*
04228	Compagnie Maritime Belge (Lloyd Royal) S.A.: *Montenaken.*
04262	Eddie Steamship Co., Ltd.: *Concord Navigator, Weilee, Panamax World.*
04357	Nedlloyd Lijnen B.V.: *Nedlloyd Houtman.*
04396	Hapa-Lloyd Aktiengeselischaft: *Duesseldorf Express.*
04437	Lebeouf Bros. Towing Co., Inc.: *Barbara, Boy, Dwight, Ellen, Leslie.*
04564	Yamashita-Shinnihon Kisen Kaisha: *Nichiyu Maru.*
04803	Brent Towing Co., Inc.: *Betty Brent, B-2124, B-2128, B-2224; B-2324, B-2424, B-2524.*
04939	Panocean-Anco, Ltd.: *Pass of Balmaha.*
05271	Compania Chilena De Navegacion Interoceanica: *Arauco.*
05377	Manson Construction & Engineering Co. and Oeberg Construction Co.: *BC 46.*
05736	Flota Cubana De Pesca: *Rio Jatibonico, Rio Toa.*
06063	Belcher Towing Co.: *Belcher No. 35.*
06510	Compagnie Nationale Algerienne De Navigation: *Edough, Djurdjura, Beni-Saf, Ghazaouet, Tenes, Tin-Hinan, Collo, Chelia, Djorf, Hodna, Cherchell, Dellys, Ksar El Boukhari.*
06729	Overseas Containers Ltd.: *Table Bay.*
07363	Martin Fuel Distributors, Inc.: *AHC 13, M.T. 1.*
07743	Uangming Marine Transport Corp.: *Ming Youth, Ming Young, Ming Challenger, Ming Leader, Ming Wisdom.*
07808	Fleet Towing Co., Inc.: *Van H. Powell.*
07874	Sanmarco Vrontados S.A.: *Polyxeni.*
08682	Kankichi Yukawa: *Hosei Maru No. 58.*
08709	Bibby Freighters, Ltd.: *Dorsetshire.*
08818	Venus Carriers Corp. S.A.: *Erica.*
09002	Commercial Transport Corp.: *N.M.S. No. 1400, N.M.S. No. 1401, N.M.S. No. 1407, N.M.S. No. 1456, N.M.S. No. 1460, N.M.S. No. 1463, N.M.S. No. 1466.*
09389	Triangle Shifting & Fleeting Service, Inc.: *TC-28, GDM 264.*
10035	Crystal Steamship Co. S.A.: *Rye Gas.*
10190	Union Gulf Marine Co. S.A.: *Union Osaka.*
10260	Hollywood Marine, Inc.: *Hollywood 830.*
10433	Estonian Shipping Co.: *Aleksandra Artjukhina, Jaan Anveit, Ivan Rusakov, Aleksandr Vinokurov, Vera Lebedeva, Petr Krasikov, Vasiliy Shelgunov, Nicolay Shvernik, Leninskaja Gvardija.*
10931	Hansung Shipping Co., Ltd.: *Scan Challenger.*
11011	Power Corp. of Canada, Ltd.: *Louis R. Desmarais.*
11266	Binion Marine Service, Inc.: *TCB 307.*
11369	P.T. Rig Tenders, Inc.: *H-49.*
11372	Crowley Maritime International S.A.: *Active.*
11541	Hancock Shipping Co., Ltd.: *Houston Trader.*
11614	Chung Gai Ship Management Co., Ltd.: *Nada.*
11921	Point Landing Fuel Corp.: *PL 101.*
12034	Venezolana De Buques-Venebuques C.A.: *Ceres I, Guiria.*
12115	Nippon Kyodo Hogei K.K.: *Ohtsu Maru, Nisshin Maru No. 3.*
12202	Atwood Oceanics International S.A.: *Regional Enterprise.*
12374	Bayard Line (Maldives), Ltd.: *Kyuta Maru.*
12609	Houssam Shipping Corp. S.A.: *Houssam B.*
12673	M.J. Rudolph Corp.: *R 12, R 14.*
12682	Technica Aeromaritima S.A.: *Southern Isle.*
13025	Federal Pacific (Liberia), Ltd.: *Federal Rhine.*
13068	Ocean & Gulf Shipping Corp.: *Triton.*
13084	The Oliver Transportation Co.: *Coen 125.*
13096	Amherst Shipping Co., Inc.: *Aries.*
13097	Mount Ocean Line S.A.: *Celta Lily.*
13100	Morgan Marine Corp.: *WGH-16.*
13101	Pacific Sunshine S.A.: *Canopy.*
13104	Continental (London), Ltd.: *Lutetian.*
13127	Sishen Shipping (PTY), Ltd.: *Sishen.*
13145	Jay Shree Shipping Prop. Jay Shree Tea & Industries, Ltd.: *Jay Gayatri.*
13156	Gemini Transport, Inc.: *Torocoba.*
13157	Triscantin Shipping S.A.: *Oriental Forest.*
13158	Tsushima Unyu K.K.: *Shoko Maru.*
13159	Connaught Shipping S.A.: *Great Brisbane.*
13160	Gloxinia Shipping Corp.: *Aliakmon Light.*
13161	Kim-Marine Ltd.: *Sconset.*
13162	Kim-Ship Ltd.: *Great Point.*
13163	Orpheus Tanker Corp.: *World Eulogy.*
13164	Transload & Transport, Inc.: *TCB-67, TCB-68, REB-1901, REB-1902.*
13165	Josef Roth (Cyprus) Shipping Co. Ltd.: *Anton Roth, Viktoria Roth, Helene Roth.*
13166	Angali Shipping Co. Ltd.: *Irenes Sea.*
13170	Dumfries Shipping Co. Ltd.: *Eastern Maid.*
13180	San Constantino Compania General De Buques S.A. (Panama): *EFMAR.*
13191	Fletamentos Maritimos S.A.: *Ceuta.*
13198	Sedihyo Line Ltd.: *Blue Aketshi.*
13204	University Maritime Ltd:. *Thistle Endeavour.*
13205	Afthoros Maritime Corp. *Thistle Venture.*
13253	Jackson Marine Corp. *Hustler, Vagabond.*
13254	Tug and Marine Operators Ltd.: *Teague Bay, Turquoise Bay.*
13271	South Island Shipping Inc.: *Energy Vitality.*
13289	Barro Colorado Shipping Co. S.A.: *Keiyo.*
13314	Marubeni Maritime Management Inc.: *Pacific Royal, Pacific Master, Pacific Peace.*
13316	Prudential Transport Corp.: *Virginia.*
13328	K/S A/S Karmoy Supply & Co.: *Karmoy Boy.*
13350	Sunny Island Transport Inc.: *Juno.*
13362	Galatia Shipping Corp.: *San Juan.*
13368	Sanko Kisen (Cayman) Ltd.: *Neptune Leo.*
13388	Pressos Compania Naviera S.A.: *Nicolaos Angelakis.*
13390	William Randolph: *Little Lil.*
13402	Chiles Offshore Ltd.: *Texas Star.*
13409	Partrederiet Talisman: *Talisman.*
13424	Nordic Breese Shipping Ltd., London: *Nordic Breese.*
13425	K/S Merc Scandia XVI: *Mercandian Moon.*
13426	Vermala Shipping Enterprises Ltd.: *Gay Fidelity.*
13433	Thenal Shipping Corp., Liberia: *Sea Lion.*
13435	K/S Royal Viking Sea: *Royal Viking Sea.*
13543	Tokai Gyogyo Kabushiki Kaisha: *Nadayoshi Maru No. 5, Nadayoshi Maru No. 7, Nadayoshi Maru No. 12, Nadayoshi Maru No. 18, Nadayoshi Maru No. 20.*
13545	Negros Shipping S.A.: *Blue Ocean.*
13546	Kabushiki Kaisha Maruma Uodonya: *Masu Maru No. 8.*
13547	Holland America Cruises N.V.: *Rotterdam, Statendam, Prinsendam.*
13548	Holland Amerika Lijn N.V.: *Veendam, Volendam.*
13551	Deckships Ltd.: *Stefi.*
13561	Cherry Point S.A.: *Santa Lucia II.*
13562	Aurora Reederei G.m.b.H. & Co. KG. MS Maretrader: *Maretrader.*
13567	Third Shipmore Associates: *Overseas New York.*
13568	Alvenus Shipping Co. Ltd.: *Algol.*
13569	Multan Maritime S.A.: *Duke Albatross.*
13570	Mina Co. Ltd.: *Minarosa.*

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-5294 Filed 2-27-78; 8:45 am]

[6730-01]

[Independent Ocean Freight Forwarder License No. 105]

JOSEPH CORTINA

Order of Revocation

The bond issued in favor of Joseph Cortina, P.O. Box 603, Tampa, Fla. 33601, FMC No. 105, was cancelled effective February 21, 1978.

By letter dated January 23, 1978, the licensee was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 105 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before February 21, 1978.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

Joseph Cortina has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised) Section 5.01(d) dated August 8, 1977;

It is ordered, That Independent Ocean Freight Forwarder License No. 105 be and is hereby revoked effective February 21, 1978.

It is further ordered, That Independent Ocean Freight Forwarder License No. 105 issued to Joseph Cortina be returned to the Commission for cancellation.

It is further ordered, That a copy of this Order be published in the FEDERAL

REGISTER and served upon Joseph Cortina.

LEROY F. FULLER,
Director, Bureau of Certification and Licensing.

[FR Doc. 78-5296 Filed 2-28-78; 8:45 am]

[1610-01]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt and Approval of a Proposed Report

A request for clearance of a proposed report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on February 14, 1978. (See 44 U.S.C. 3512 (c) and (d).) The purpose of publishing this notice is to inform the public of such receipt and the action taken by GAO.

CIVIL AERONUTICS BOARD

Request for clearance on an emergency basis was received from the CAB for a letter to be sent to companies who write charter operator surety bonds. The letter requests information as to whether claims have been filed against individual surety bonds and the amounts of such claims. The CAB needs this information immediately to insure that the monies deposited by all passengers signing up for flights from tour operators are adequately protected. Respondents number about 60 and reporting burden is estimated to be two hours per respondent.

The GAO granted clearance of this request on February 22, 1978, under number B-180226 (S78007) because CAB was able to demonstrate potential public harm if a normal clearance review period had been used.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc. 78-5411 Filed 2-28-78; 8:45 am]

[1610-01]

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following requests for clearance of a report intended for use in collecting information from the public was accepted by the Regulatory Reports Review Staff, GAO, on February 22, 1978. (See 44 U.S.C. 3512 (c) and (d).) The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such acceptance.

The notice includes the title of the request received; the name of the agency sponoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed ICC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before March 20, 1978, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

INTERSTATE COMMERCE COMMISSION

The clearance of ICC Form BOp-101, Quarterly Report of Under and Over Estimates, expired on September 30, 1977. Since the ICC did not request an extension of clearance for this form at that date, the form has been deleted from the GAO inventory. Accordingly, the Commission form has no effective clearance as required by the Federal Reports Act.

The ICC has subsquently requested reinstatement clearance of Form BOp-101 which is required to be filed by household goods carriers. The ICC states that there are no changes to the form. The Quarterly Report of Under and Over Estimates is intended to provide factual data relating to each individual incorrect estimate to allow evaluation of estimating practices by the Commission, the reporting movers and the public. Form BOp-101 is required to be filed by all household goods carriers for only those quarters during which the carrier prepares any estimates which are in error in excess of 10 percent. If no estimates were prepared during a particular quarter or if all estimates which were prepared were within 10 percent of the final actual costs, no report is required. The reports are mandatory and available for public inspection. The ICC estimates that reports are received from 300-400 carriers each quarter and that reporting time averages 10 hours per response.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc. 78-5412 Filed 2-28-78; 8:45 am]

[4110-02]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

EMERGENCY SCHOOL AID ACT

Extension of Closing Date for Receipt of Applications for Fiscal Year 1978

Under the authority contained in the Emergency School Aid Act, Title VII of Pub. L. 92-318, as amended (20 U.S.C. 1601-1619). the Commissioner of Education extends the February 28, 1978, closing date for the receipt of certain applications under the Act of March 14, 1978. The purpose of the extension is to permit applicants in areas which have recently experienced severe weather conditions more time to develop applications consistent with requirements concerning public and advisory committee participation. However, the extension applies to all applications invited by the notice of the February 28 closing date published in the FEDERAL REGISTER on January 4, 1978 (43 FR 796). Applicants which have already filed applications pursuant to that notice will be permitted (but are not required) to review, revise, and refile their applications by the extended closing date.

The extended closing date applies to applications from local educational agencies for the following types of assistance: 1. Basic Grants under section 706(a) of the Act; 2. Pilot Project grants under section 706(b) of the Act; 3. Bilingual Project grants under section 708(c) of the Act; 4. Special Project grants under section 708(a) of the Act to assist in implementing nonrequired plans described in section 706(a)(1)(D) of the Act and 45 CFR 185.11(b)(4), providing for the enrollment of nonresident children.

The extended closing date also applies to applications from other agencies and organizations, indicated below, for the following types of assistance:

1. Grants under section 708(b) of the Act to public or private nonprofit organizations other than local educational agencies; 2. Bilingual Project grants under section 708(c) to private nonprofit organizations; 3. Special Project grants under section 708(a) of the Act to the central public education agencies in Puerto Rico, Guam, American Samoa, the Virgin Islands and the Trust Territories of the Pacific Islands; 4. Special Arts Project grants under section 708(a) of the Act to public agencies responsible for the administration of statewide arts programs; 5. Special Mathematics Project grants under section 708(a)(3) of the Act to private nonprofit agencies; and 6. Special Student Concerns Project grants under section 708(a) of the Act to public agencies other than local educational agencies.

The Assistant Secretary for Education has determined that awards for Special Projects described in this notice will make substantial progress toward meeting the purposes of the Act.

Applications must be prepared and submitted in accordance with regulations, instructions, and forms included in the program information packages.

Closing date: March 14, 1978.

A. Applications sent by mail. An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Washington, D.C. 20202. The address for applications should be marked as follows: Attention: 13.525A (for Basic Grants); Attention: 13.526A (for Pilot Projects); Attention: 13.528A (for Bilingual LEA Projects); Attention: 13.532K (for Special Projects for section 706(a)(1)(D) plans); Attention: 13.529A (for Nonprofit Organization Projects under section 708(b)); Attention: 13.528B (for Bilingual Nonprofit Organization Projects); Attention: 13.532C (for Special Projects in jurisdictions other than States); Attention: 13.532D (for Special Arts Projects); Attention: 13.532E (for Special Mathematics Projects); Attention: 13.532F (for Special Student Concerns Projects). Applications must be received by the Application Control Center on or before the closing date. In an effort to prevent the late arrival of applications due to unforeseen circumstances, the Office of Education suggests that applicants consider the use of registered or certified mail as explained below.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than March 9, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare or the U.S. Office of Education.

B. Hand-delivered applications. An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m., Washington, D.C., time, except Saturdays, Sundays, and Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

C. Program information. The amount of funds available for each type will be established after enactment of appropriation legislation.

In fiscal year 1977, funds were expended as follows: (a) 430 Basic Grants, in an average amount of $307,580;

(b) 162 Pilot Project grants, in an average amount of $198,462;

(c) 24 Bilingual Projects grants to local educational agencies, in an average amount of $338,520;

(d) 4 Special Project grants to support nonrequired plans described in section 706(a)(1)(D) of the Act, in an average amount of $378,144;

(e) 205 grants to nonprofit agencies, in an average amount of $83,881;

(f) 5 Special Project grants to public agencies in jurisdictions other than States, in an average amount of $560,000;

(g) 15 Special Arts Project grants, in an average amount of $99,747;

(h) 1 Special Mathematics Project grant, in the amount of $750,000; and

(i) 7 Special Student Concerns Project grants, in an average amount of $205,403.

D. Project periods. Grants made pursuant to this notice will be for projects starting no earlier than July 1, 1978, and ending no later than September 30, 1979, but in no case for more than a 12-month period.

E. For further information and forms contact: Division of Program Operations, Equal Educational Opportunity Program, U.S. Office of Education, 400 Maryland Avenue SW., Room 2007A, Washington, D.C. 20202; 202-245-7965.

F. Applicable regulations. Grant awards made pursuant to this notice will be subject to the following regulations: (1) Regulations relating only to assistance under the Emergency School Aid Act (45 CFR Part 185), and (2) The Office of Education general provisions regulations (45 CFR Parts 100, 100a and appendixes) except to the extent that these regulations are inconsistent with 45 CFR Part 185.

(20 U.S.C. 1601-1619.)

(Catalog of Federal Domestic Assistance Number 13.525, Basic Grants; 13.526, Pilot Projects; 13.528, Bilingual Projects; 13.529, Public and Nonprofit Private Organization Grants; 13.532, Special Projects-Emergency School Aid.)

Dated: February 27, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78-5514 Filed 2-28-78; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-78-846]

REPORT DEVELOPMENT OF ENERGY PERFORMANCE STANDARDS FOR NEW CONSTRUCTION

Public Meeting

AGENCY: Department of Housing and Urban Development.

ACTION: Public Meeting.

SUMMARY: The purpose of the meeting is to inform the public about the first phase of the program to develop energy performance standards for new construction. It will be held on Thursday, March 16, 1978, at 9:30 a.m. in the Department of Commerce Auditorium, Main Entrance on 14th Street, Washington, D.C. 20230. HUD is conducting a three-phase program in conformance with Title III of Pub. L. 94-385, the Energy Conservation Standards for New Buildings Act of 1976. The agenda will include a report on the activities carried out to establish a baseline or reference on how much energy nonresidential and residential buildings are currently designed to use. Topics presented will include:

1. Development of Building and Climate Classification Systems
2. Sample Selections
3. Data Collection and Analysis
4. Findings

An overview of the second phase of the program will also be presented. All interested parties are invited to attend. A period will be set aside for questions and comments.

FOR FURTHER INFORMATION CONTACT:

Mary Ann Eichenberger, 202-755-6230.

Issued at Washington, D.C., February 22, 1978.

DONNA E. SHALALA,
Assistant Secretary for Policy Development and Research.

[FR Doc. 78-5308 Filed 2-28-78; 8:45 am]

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

THREATENED SPECIES PERMIT

Notice of Receipt of Application

Applicant: W. E. Arrington, Inc., P.O. Box 881, Idaho Falls, Idaho 83401.

This application is a correction to one that appeared in FR Doc. 78-3009, filed February 2, 1978, 8:45 a.m. The applicant wishes to apply for a Captive Self-Sustaining Population permit authorizing the purchase and sale for propagation, tigers (*Panthera tigris*), leopards (*Panthera pardus*), and jaguars (*Panthera onca*) listed in 50 CFR Section 17.11 as T(C/P). Humane shipment and care in transit is assured.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1816. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: February 24, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-5324 Filed 2-28-78; 8:45 am]

[4310-55]

THREATENED SPECIES PERMIT

Notice of Receipt of Application

Applicant: Raymond Louis Holmes, Route 2, Box 29 GC, Tahlequah, Okla. 74464.

The applicant wishes to apply for a Captive Self-Sustaining Population permit authorizing the purchase and sale for propagation, those species of pheasants listed in 50 CFR Section 17.11 as T(C/P). Humane shipment and care in transit is assured.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2141. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: February 24, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-5325 Filed 2-28-78; 8:45 am]

[4310-55]

THREATENED SPECIES PERMIT

Notice of Receipt of Application

Applicant: M. L. Hutto, 124 Mac Circle, Lexington, S.C. 29072.

The applicant wishes to apply for a Captive Self-Sustaining Population permit authorizing the purchase and sale for propagation, those species of pheasants listed in 50 CFR Section 17.11 as T(C/P). Humane shipment and care in transit is assured.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1894. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: February 24, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-5326 Filed 2-28-78; 8:45 am]

[4310-55]

THREATENED SPECIES PERMIT

Notice of Receipt of Application

Applicant: Kings Island, P.O. Box 400, Kings Mills, Ohio 45034.

The applicant wishes to apply for a Captive Self-Sustaining Population permit authorizing the purchase and sale in interstate commerce for propagation, those species of tigers (*Panthera tigris*) listed in 50 CFR Section 17.11 as T(C/P). Humane shipment and care in transit is assured.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2165. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: February 24, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-5327 Filed 2-28-78; 8:45 am]

[4310-55]

THREATENED SPECIES PERMIT

Notice of Receipt of Application

Applicant: St. Louis Zoological Park, Forest Park, St. Louis, Mo. 63110.

The applicant wishes to apply for a Captive Self-Sustaining Population permit authorizing the purchase and sale for propagation, those species of animals listed in 50 CFR Section 17.11 as T(C/P). Humane shipment and care in transit is assured.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2147. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: February 24, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-5328 Filed 2-28-78; 8:45 am]

[4310-55]

THREATENED SPECIES PERMIT

Notice of Receipt of Application

Applicant: Seneca Park Zoo, 2222 St. Paul Street, Rochester, N.Y. 14621.

The applicant wishes to apply for a Captive Self-Sustaining Population permit authorizing the purchase and sale for propagation, tigers (*Panthera tigris*), Mikado pheasants (*Syrmaticus mikado*), and Swinhoe's pheasant (*Lophura swinhoii*) listed in 50 CFR Section 17.11 as T(C/P). Humane shipment and care in transit is assured.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1896. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: February 24, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-5329 Filed 2-28-78; 8:45 am]

[4310-55]

THREATENED SPECIES PERMIT

Notice of Receipt of Application

Applicant: Richard M. Sewell, 223 Dunes Road, North Bend, Oreg. 97459.

The applicant wishes to apply for a Captive Self-Sustaining Population permit authorizing the purchase and sale in interstate commerce for propagation, those species of pheasants listed in 50 CFR Section 17.11 as T (C/P). Humane shipment and care in transit is assured.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2150. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: February 24, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-5330 Filed 2-28-78; 8:45 am]

[4310-55]

THREATENED SPECIES PERMIT

Notice of Receipt of Application

Applicant: Charles L. Taylor, R.R. No. 2, Box No. 37, Delphi, Ind. 46923.

The applicant wishes to apply for a Captive Self-Sustaining Population permit authorizing the purchase and sale for propagation, those species of pheasants listed in 50 CFR Section 17.11 as T(C/P). Humane shipment and care in transit is assured.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1895. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: February 24, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-5331 Filed 2-28-78; 8:45 am]

[4310-55]

THREATENED SPECIES PERMIT

Notice of Receipt of Application

Applicant: Toledo Zoological Gardens, 2700 Broadway, Toledo, Ohio 43609.

The applicant wishes to apply for a Captive Self-Sustaining Population permit authorizing the purchase and sale for propagation, those species of felines listed in 50 CFR Section 17.11 as T(C/P). Humane shipment and care in transit is assured.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2183. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: February 24, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-5332 Filed 2-28-78; 8:45 am]

[4310-55]

THREATENED SPECIES PERMIT

Notice of Receipt of Application

Applicant: Sven F. Walther, Rt. 1, Box 283, Cornelius, Oreg. 97113.

The applicant wishes to apply for a Captive Self-Sustaining Population permit authorizing the purchase and sale for propagation, those species of pheasants listed in 50 CFR Section 17.11 as T(C/P). Humane shipment and care in transit is assured.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2138. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: February 24, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-5333 Filed 2-28-78; 8:45 am]

[4310-55]

THREATENED SPECIES PERMIT

Notice of Receipt of Application

Applicant: Washington Park Zoological Gardens, Lake Front, Michigan City, Ind. 46350.

The applicant wishes to apply for a Captive Self-Sustaining Population permit authorizing the purchase and sale for propagation, Bengal tigers (*Panthera tigris*), leopards (*Panthera pardus*), and jaguars (*Panthera onca*) listed in 50 CFR Section 17.11 as T(C/P). Humane shipment and care in transit is assured.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1891. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: February 24, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-5334 Filed 2-28-78; 8:45 am]

[4310-84]

Office of the Secretary

ESTABLISHMENT OF GRAZING FEES FOR 1978

Revised Schedule

The Department of the Interior has published proposed regulations on fees (43 FR 60109) with a 90-day public comment period ending on February 21, 1978. The proposed regulations would establish a revised fee schedule based upon results of a 1977 fee study. As recommended to the Congress, proposed fees in 1978 would be less than under existing regulations, but higher than 1977 fees.

Establishment of Grazing Fees for 1978. The grazing fee year extends from March 1 through the last day in February of the following year. Grazing fee billings and authorizations are normally issued prior to the permittee's first grazing period in the new fee year. Because the comment period

on the proposed grazing fee rulemaking extended to Feb. 21, 1978, a determination of 1978 grazing fees by March 1, 1978, will not allow adequate time to fully evaluate public comments on the proposed rulemaking. This notice providing for the continuation of the 1977 grazing fee until the establishment of 1978 grazing fee is necessary to allow full evaluation of the comments received. During this interim period, preliminary bills will be issued at the 1977 fee rate to avoid delay or inconvenience to the grazing permittee.

This notice shall not be construed to imply or mean that any fee increase over the 1977 rate will not be collected for the utilization of livestock forage for the fee year starting March 1, 1978.

Effective Date. This notice is effective March 1, 1978, and shall remain in effect until cancelled by the issuance of the final rulemaking on 1978 grazing fees.

Dated: February 27, 1978.

GARY J. WICKS,
Deputy Assistant Secretary of the Interior.

[FR Doc. 78-5588 Filed 2-28-78; 8:45 am]

[7020-02]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-48]

ALTERNATING PRESSURE PADS

Order regarding investigation

Pursuant to my authority as Chief Administrative Law Judge of this commission, I hereby designate Administrative Law Judge Donald K. Duvall as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the FEDERAL REGISTER.

Issued February 23, 1978.

MYRON R. RENICK,
Chief Administrative Law Judge.

[FR Doc. 78-5419 Filed 2-28-78; 8:45 am]

[7020-02]

[Investigation No. 337-TA-29]

CERTAIN WELDED STAINLESS STEEL PIPE AND TUBE

Commission Determination and Action

The United States International Trade Commission ("Commission") having instituted an investigation pursuant to its Notice of Investigation issued on February 16, 1977;

And, having heard this matter in accordance with the provisions of 19 U.S.C. 1337 (section 337) and 5 U.S.C. 551-559;

Has determined[1] That there is in this investigation a violation of section 337 by reason of the importation or sale or both (as the case may be) by persons named in this order of certain welded stainless steel pipe and tube at prices lower than the average variable cost of production of said product without commercial justification; that an order directing these persons to cease and desist from this practice should be issued in lieu of a direction under section 337(d) that the articles concerned be excluded from entry into the United States; that such order has none of the effects listed under section 337(f) such that the order should not be issued; and that during the period of Presidential consideration of this order under section 337(g), the articles concerned shall be entitled to entry free of bond.

Therefore, the Commission hereby issues the following order as its action in this matter:

ORDER TO CEASE AND DESIST

I. DEFINITIONS

The terms in quotations below shall be defined as shown for purposes of interpreting this order:

"Respondents" refer to all respondents listed below, their successors and assigns:

Ataka & Co., Ltd.
Brasimet Industries Corp.
Hanwa Co., Ltd.
Kanematsu-Gosho, Ltd.
Marubeni Corp.
Nissho-Iwai Co., Ltd.
Okura Trading Co., Ltd.
Sumitomo Shoji America, Inc.
Sumitomo Shoji Kaisha, Ltd.
Toa Seiki Co., Ltd.
Toyo Menka Kaisha, Ltd.

"Commission" refers to the United States International Trade Commission.

"Stainless steel" refers to any alloy steel which contains less than one percent of carbon and a mimimum of ten percent of chromium.

"Welded stainless steel pipe and tube" refers to all welded tubular products made from stainless steel having a circular cross-sectional configuration with an actual outside diameter from .0375 to 6.525 inches inclusive.

"Marginal cost" is the increment to total cost that results from producing an additional increment of output.

"Average variable cost of production" is the sum of all costs that vary with changes in output divided by output, and includes, but is not limited to the cost of all raw materials and energy plus direct labor.

"Commercial justification" shall be a reason for pricing other than as prescribed in this order, which reason indicates, by virtue of commercial context, that such pricing was not intended to injure competition in the United States in welded stainless steel pipe and tube.

"United States" refers to the fifty states, the District of Columbia and Puerto Rico.

"Manufacturer" refers to any company which produces welded stainless steel pipe or tube.

"Exporter" refers to any company which sells welded stainless steel pipe or tube for export to customers located in the United States.

"Importer" refers to any company which imports welded stainless steel pipe or tube into the United States.

II. CONDUCT PROHIBITED

No respondent manufacturer shall sell for export to the United States, without commercial justification, any welded stainless steel pipe and tube manufactured in Japan at a price that is below the reasonably anticipated marginal cost. In determining whether costs are "reasonably anticipated," the Commission will assume that prices above average variable cost, as calculated by methods that are reasonably consistent for each respondent manufacturer from year to year, are above reasonably anticipated marginal cost.

No respondent exporter or importer shall sell or offer for sale in the United States, without commercial justification, welded stainless steel pipe and tube manufactured in Japan at a price that is below the reasonably anticipated marginal cost of the manufacturer plus incidental costs of said respondent exporter or importer. In determining whether a respondent exporter and importer has complied with this Order, the Commission will impute knowledge of suppliers' costs to respondent exporters and importer, which may be rebutted by the suppliers' affidavit under oath that (1) it will not supply its costs to the respondent exporters or importer, and (2) its price in the transaction in question is not less than the original manufacturer's reasonably anticipated marginal cost.

This order is applicable to any and all importations made after the date this order is published in the FEDERAL REGISTER, regardless of terms of sale, date of contract, etc.

III. REPORTING

Respondent manufacturers, exporters, and importers shall file with the Commission information sufficient in form and detail that the Commission can determine whether there is compliance with this Order. The first such report shall be due 120 days after the date this order becomes final. Subsequent reports shall be filed annually by each respondent beginning for each of them with a second report on a date not later than two months after the end of each respondents' fiscal year. A form for all reports required by this paragraph will be timely provided by the Commission. Respondent manufacturers and exporters who are no longer engaged in the manufacture or sale of welded stainless steel pipe and tube for export to customers in the United States may file a certificate under oath to that effect in lieu of the reports required by this paragraph.

Failure to report shall constitute a violation of this order.

IV. COMPLIANCE AND INSPECTION

For each year as to which (or as to any part of which) a report is required, each respondent manufacturer shall maintain business and accounting records on a basis consistent from year to year such that prices and all costs of producing welded stainless steel pipe and tube in Japan may be determined by examining these records. Such records shall also be adequate for determining each respondent manufacturer's total production for export from Japan to the United States of welded stainless steel pipe and tube manufactured by said respondent in Japan. All respondents shall maintain such records adequate to show each respondent's profits and losses by fiscal year for their operations relating to welded stainless steel pipe and tube manufactured in Japan for export to the United States. Such records shall be retained by each respondent for a period of at least three years after each required report is due.

V

Each respondent, upon written request by the Commission mailed to its principal office, shall furnish or otherwise make available to the Commission all books, ledgers, accounts, correspondence, memoranda, financial reports, and other records and documents in the possession or under the control of each respondent for the purposes of verifying any matter contained in the reports required under paragraph IV of this Order. The Commission may exercise, in the enforcement of this order, any of the information-gathering powers available to it under section 333 of the Tariff Act of 1930, 19 U.S.C. 1333.

VI

Information obtained by the means provided in paragraphs III and V above shall only be made available to the Commission or its representatives, shall be entitled to confidential treatment, and shall not be divulged by any representative of the Commission to any person other than a duly authorized representative of the Commission, except as required in the course of legal proceedings to which the Commission is a party for the purpose of securing compliance with this Order or as otherwise required by law, upon ten days notice to the respondent involved.

VII

Any violation of this Order shall allow action by the Commission in accordance with the provisions of section 337(f) (19 U.S.C. 1337(f)), including the revocation of this Order and the exclusion of the articles concerned from entry into the United States. Violation of this Order may also be the subject of action pursuant to section 333 of the Tariff Act of 1930 (19 U.S.C. 1333). In determining whether any respondent is in violation of this Order, the Commission may infer facts adverse to any respondent failing to provide adequate or timely information.

VIII. BONDING

The Secretary of the Treasury shall not require bond during the period of Presidential consideration of this action pursuant to section 337(g) of the Tariff Act of 1930, as amended (19 U.S.C. 1337(g)).

IX. TERM

This order shall expire, unless earlier modified or revoked by the Commission, on December 31, 1982.

X. PUBLICATION

The Secretary will publish a copy of this "Commission Determination and Action" in the FEDERAL REGISTER; serve a copy upon all parties, and transmit a copy thereof, together with the record of this proceeding, to the President. The Secretary will also inform the Secretary of the Treasury of the Commission's determination on bonding.

XI. DISMISSALS

No person not specifically named in this order is subject to this order, and as to any such person, previously a party to this investigation, this investigation is hereby terminated.

Issued: February 22, 1978.

By order of the Secretary.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-5305 Filed 2-28-78; 8:45 am]

[7020-02]

[Investigation No. 337-TA-45]

CERTAIN COMBINATION LOCKS

Order Regarding Investigation

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Donald K. Duvall as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the FEDERAL REGISTER.

Issued February 23, 1978.

MYRON R. RENICK,
Chief Administrative Law Judge.

[FR Doc. 78-5417 Filed 2-28-78; 8:45 am]

[7020-02]

[Investigation No. 337-TA-47]

CERTAIN FLEXIBLE FOAM SANDALS

Order Regarding Investigation

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Donald K. Duvall as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the FEDERAL REGISTER.

Issued: February 23, 1978.

MYRON R. RENICK,
Chief Administrative Law Judge.

[FR Doc. 78-5415 Filed 2-28-78; 8:45 am]

[7020-02]

[Investigation No. 337-TA-38]

CERTAIN FOOD SLICERS

Order Regarding Investigation

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Donald K. Duvall as Presiding Officer is this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the FEDERAL REGISTER.

Issued: February 23, 1978.

MYRON R. RENICK,
Chief Administrative Law Judge.

[FR Doc. 78-5416 Filed 2-28-78; 8:45 am]

[7020-02]

[Investigation No. 337-TA-46]

CERTAIN TELESCOPIC SIGHT MOUNTS

Order Regarding Investigation

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Donald K. Duvall as Presiding Officer in this investigation.

[1] Vice Chairman Joseph O. Parker and Commissioner Catherine Bedell dissenting as to the determination of violation of section 337 and are not participating in the issuance of the subject order.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the FEDERAL REGISTER.

Issued: February 23, 1978.

MYRON R. RENICK,
Chief Administrative Law Judge.

[FR Doc. 78-5416 Filed 2-28-78; 8:45 am]

[7020-02]

[Investigation No. 337-TA-3]

DOXYCYCLINE

Order Regarding Investigation

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Donald D. Duvall as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the FEDERAL REGISTER.

Issued: February 23, 1978.

MYRON R. RENICK,
Chief Administrative Law Judge.

[FR Doc. 78-5414 Filed 2-28-78; 8:45 am]

[7020-02]

[303-TA-2]

LEATHER WEARING APPAREL FROM URUGUAY

Place of Public Hearing

Notice is hereby given that the public hearing in this matter scheduled to begin at 9:30 a.m., e.s.t., on Tuesday, March 14, 1978, in New York City, will be held in the auditorium of the United States Mission to the United Nations, 799 U.N. Plaza, 45th Street and First Avenue, New York, N.Y. (please use 45th Street entrance). Requests for appearance should be filed with the Secretary of the United States International Trade Commission, in writing, at his office in Washington, D.C., not later than noon, Thursday, March 9, 1978.

Notice of the investigation and hearing was published in the FEDERAL REGISTER of February 9, 1978 (43 FR 5593).

Issued: February 23, 1978.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-5413 Filed 2-28-78; 8:45 am]

[7020-02]

[AA1921-Inq.-10]

UNCOATED FREE SHEET OFFSET PAPER FROM CANADA

Inquiry and Hearing

The U.S. International Trade Commission (Commission) received advice from the Department of the Treasury (Treasury) on February 17, 1978, that, during the course of determining whether to institute an investigation with respect to chemical-wood-pulp based offset printing paper, containing less than 5 percent by weight mechanical wood pulp, whether or not cut to size or shape, not impregnated, not coated, not surface-colored, not embossed, not ruled, not lined, not printed, and not decorated from Canada in accordance with section 201(c) of the Antidumping Act of 1921, as amended (19 U.S.C. 160(c)), Treasury had concluded from the information available to it that there is substantial doubt that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of this merchandise into the United States. Therefore, the Commission on February 23, 1978, instituted inquiry AA1921-Inq.-10, under section 201(c)(2) of that act, to determine whether there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevnted from being established, by reason of the importation of such merchandise into the United States.

The Treasury advised the Commission as follows:

DEAR MR. CHAIRMAN: In accordance with section 201(c) of the Antidumping Act of 1921, as amended, an antidumping investigation is being initiated with respect to offset paper from Canada. Pursuant to section 201(c)(2) of the Act, you are hereby advised that the information developed in our preliminary investigation has led to the conclusion that there is substantial doubt that an industry in the United States is being, or is likely to be, injured or is prevented from being established by reason of the importation of this merchandise into the United States.

Information available to Treasury indicates that imports of offset paper from Canada hold a small percentage of the U.S. market, with no significant recent expansion. For 1974, 1975, 1976, and the first 10 months of 1977, Canadian imports' market share, was, respectively, 2.1 percent, 1.7 percent, 2.0 percent, and 2.1 percent. During the same period the market share for domestic producers was 86.1 percent, 90.7 percent, 89.7 percent, and 89.0 percent. Canadian imports have merely recovered the slight decrease in market share experienced during the 1975 recession. There has been no significant effect on the U.S. domestic producers.

The paper industry, domestic and imports, experienced sharp drops in production during 1975, but the industry rebounded in 1976 and surpassed 1974 figures during the first 10 months of 1977. Data supplied by petitioner regarding profitability and capacity utilization tracks the pattern of decline followed by rebound evidenced by the raw production data. Capital investment by domestic producers provides no indication of injury and petitioner's scanty, selective data on unemployment provides insufficient evidence of injury. For these reasons, Treasury has concluded there is substantial doubt as to whether an industry in the United States is being, or is likely to be, injured.

Pursuant to the applicable provisions of law, it is requested that the Commission advise the Department as to whether it determines there is no reasonable indication that an industry in the United States is being, or is likely to be, injured or is prevented from being established by possible less-than-fair-value imports of offset paper from Canada under TSUSA item numbers 252.67 and 256.30.

For purposes of this investigation, as recommended by your Office of Nomenclature, "offset paper" means chemical-wood-pulp based offset printing paper, containing less than 5 percent by weight mechanical wood pulp, whether or not cut to size or shape, not impregnated, not coated, not surface-colored, not embossed, not ruled, not lined, not printed, and not decorated, provided for in the above-referred TSUSA item numbers.

Based on data submitted by petitioner, margins of sales at less than fair value appear to range from 3 to 16 percent on imports of subject merchandise from Canada.

Some of the enclosed data is regarded by Treasury to be of a confidential nature. It is therefore requested that the Commission consider all the enclosed information to be for the official use of the ITC only, not to be disclosed to others without prior clearance from the Treasury Department.

Sincerely yours,

ROBERT H. MUNDHEIM.

Hearing. A public hearing in connection with the inquiry will be held on Monday, March 13, 1978, beginning at 9:30 a.m., e.s.t., in the auditorium of the U.S. Mission to the United Nations, 799 U.N. Plaza, 45th Street and First Avenue, New York, N.Y. (please use 45th Street entrance). All parties will be given an opportunity to be present, to produce evidence, and to be heard at such hearing. Requests to appear at the public hearing should be received in writing in the office of the Secretary to the Commission not later than noon Wednesday, March 8, 1978.

Written statements. Interested parties may submit statements in writing in lieu of, and in addition to, appearance at the public hearing. A signed original and 19 true copies of such statements should be submitted. To be assured of their being given due consideration by the Commission, such statements should be received no later than Monday, March 13, 1978.

Issued: February 23, 1978.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-5306 Filed 2-28-78; 8:45 am]

[1505-01]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 77-19]

PHENMETRAZINE QUOTAS—1977

Correction

In FR Doc. 78-3959 appearing at page 6169-76 in the FEDERAL REGISTER of Monday, February 13, 1978 and corrected at page 7488 in the FEDERAL REGISTER of Thursday, February 23, 1978, the following changes should be made in the issue of February 23, 1978 on page 7488:

1. In correction econd line, the word "work" should read "word".
2. In correction 4, third line, the word "work" should read "word".
3. In correction 5, in the table under the paragraph numbered 77, the number "2,477 under "NPA" should read "2,466.

[6820-35]

LEGAL SERVICES CORPORATION

GRANTS AND CONTRACTS

FEBRUARY 22, 1978.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant applications submitted by:

1. Inland Counties Legal Services in Riverside, California to serve the migrant farmworkers in the Coachella Valley.
2. Legal Aid Association of Ventura County in Oxnard, California to serve the migrant farmworkers in Ventura and Southern Santa Barbara counties.
3. California Rural Legal Services in San Francisco, California to serve the migrant farmworkers in the Salinas and Imperial Valleys and also the migrant population in the areas now served by CRLA's Delano and Madera offices.

Interested persons are hereby invited to submit written comments or recommendations concerning the above applications to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, San Francisco Regional Office, 690 Market Street, San Francisco, Calif. 94104.

THOMAS EHRLICH,
President.

[FR Doc. 78-5300 Filed 2-28-78; 8:45 am]

[6820-35]

GRANTS AND CONTRACTS

FEBRUARY 22, 1978.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract or project."

The Legal Service Corporation hereby announces publicly that it is considering the grant application submitted by:

Southern Arizona Legal Services in Tucson, Arizona to serve Santa Cruz and Cochise counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Denver Regional Office, 1726 Champa Street, Suite 500, Denver, Colo. 80202.

THOMAS EHRLICH,
President.

[FR Doc. 78-5301 Filed 2-28-78; 8:45 am]

[6820-35]

GRANTS AND CONTRACTS

FEBRUARY 23, 1978.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant applications submitted by:

Central Minnesota Legal Services in Minneapolis, Minnesota to serve Meeker county.

Southern Minnesota Regional Legal Services in St. Paul, Minnesota to serve Fillmore and Houston counties.

Legal Aid Service of Northeast Minnesota in Duluth, Minnesota to serve Koochiching counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above applications to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Chicago Regional Office, 310 South Michigan Avenue, 24th Floor, Chicago, Ill.

THOMAS EHRLICH,
President.

[FR Doc. 78-5302 Filed 2-27-78; 8:45 am]

[6820-35]

GRANTS AND CONTRACTS

FEBRUARY 23, 1978.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant applications submitted by:

East Mississippi Legal Services in Meridian, Mississippi to serve Scott and Lauderdale counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Atlanta Regional Office, 615 Peachtree Street NE., 9th Floor, Atlanta, Ga. 30308.

THOMAS EHRLICH,
President.

[FR Doc. 78-5303 Filed 2-28-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-466]

ALLENS CREEK NUCLEAR GENERATING STATION, UNIT NO. 1

Notice of Availability of Draft Supplement to the Final Environmental Statement

Notice is hereby given that a Draft Supplement to the Final Environmental Statement (NUREG-0428) has been prepared by the Commission's Office of Nuclear Reactor Regulation related to the proposed construction of the Allens Creek Nuclear Generating Station (ACNGS), Unit No. 1, by the Houston Lighting & Power Company. The proposed station is to be located in Austin County, Texas.

The Supplement identifies the project changes resulting from the deferral and subsequent rescheduling of Unit No. 1 and the cancellation of Unit No. 2 of the initially proposed

two-unit station for the Allens Creek site. It also assesses the associated changes in the environmental impact and adverse effects that were evaluated in the FES and in staff testimony at hearings before the Atomic Safety and Licensing Board.

The Draft Supplement is available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C., and in the Sealy Public Library, 415 Main Street, Sealy, Tex. The Draft Supplement is also being made available at the Houston-Galveston Area Council, 3701 West Alabama Avenue, Sealy, Tex. 77027. Requests for copies of the Draft Supplement should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Director, Division of Document Control.

Interested persons may submit comments on the Draft Supplement to the FES for the Commission's consideration. Federal, State, and specified local agencies are being provided with copies of the Draft Supplement (local agencies may obtain these documents upon request).

Comments by Federal, State and local officials, or other members of the public received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C. and the Sealy Public Library, 415 Main Street, Sealy, Tex. Upon consideration of comments submitted with respect to the Draft Supplement, the Commission's staff will prepare a Final Supplement, the availability of which will be published in the FEDERAL REGISTER. Comments are due by April 17, 1978.

Comments on the Draft Supplement from interested members of the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Bethesda, Maryland, this 24th day of February 1978.

For the Nuclear Regulatory Commission.

ROBERT P. GECKLER,
Acting Chief, Environmental Projects Branch No. 1, Division of Site Safety and Environmental Analysis.

[FR Doc. 78-5353 Filed 2-28-78; 8:45 am]

[7590-01]

[Project Nos. P-657 and P-657A]

NEW YORK STATE ELECTRIC & GAS CORP. AND LONG ISLAND LIGHTING CO.

Receipt of Partial Application for Construction Permit and Facility License: Time for Submission of Views on Antitrust Matters

New York State Electric & Gas Corp. and the Long Island Lighting Co. (applicants), pursuant to section 103 of the Atomic Energy Act of 1954, as amended, filed one part of an application, dated January 10, 1978, in connection with their plans to construct and operate 2 pressurized water reactors at either the "New Haven" site, near Lake Ontario, or the "Stuyvesant" site, near the Hudson River in New York State. The designated site will be identified in the Preliminary Safety Analysis Report and Environmental Report, which are scheduled to be submitted in October and November 1978, respectively. Upon receipt of the remaining portions of the application dealing with radiological health and safety and environmental matters, separate notices of receipt will be published by the Commission including an appropriate notice of hearing.

The portion of the application filed contains the information requested by the Attorney General for the purpose of an antitrust review of the application as set forth in 10 CFR 50, Appendix L.

A copy of the partial application is available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555. Project Nos. P-657 and P-657A have been assigned to the application and should be referenced in any correspondence relating to it.

Any person who wishes to have their views on the antitrust matters of the application presented to the Attorney General for consideration or who desires additional information regarding the matter covered by this notice, should submit such views or requests for additional information to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, attention: Chief, Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation, on or before April 24, 1978.

Dated at Bethesda, Md., this 14th day of February 1978.

For the Nuclear Regulatory Commission.

OLAN D. PARR,
Chief, Light Water Reactors Branch No. 3, Division of Project Management.

[FR Doc. 78-4538 Filed 2-21-78; 8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on February 21, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division of office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, of from the reviewer listed.

NEW FORMS

NATIONAL SCIENCE FOUNDATION

Survey of State Agency Research and Development, RD-1 and 2, single time, State government agencies, Laverne V. Collins and Ellett, C. A., 395-3214.

Publishing Policies and Practices Survey, single time, sample of editors and publishers of scientific journels, Laverne V. Collins, Office of Federal Statistical Policy and Standards, 395-3214.

Activities of Sciences and Engineering Faculty in Universities and 4-Year Colleges, single time, science and engineering faculty in 4 year colleges and universities, Laverne V. Collins, 395-3214.

SMALL BUSINESS ADMINISTRATION

Small Business Development Center Program Evaluation, single time, business firms, economics and general government division, Reese B. F., 395-3451.

NATIONAL SCIENCE FOUNDATION

Survey of Local Government Research and Development, RD-4, 4A, and 4, single time, 2,000 largest local governments, Laverne V. Collins and Ellett, C. A., 395-3214.

DEPARTMENT OF COMMERCE

Bureau of Census:
- Agriculture Questionnaire, Listing Sheet, single time, farms, Ellett, C. A., 395-6132.
- Agriculture Questionnaire, Listing Page, 78-A1(PR), 78-A3(PR), single time, farms, Ellett, C.A., Office of Federal Statistical Policy and Standard, 395-6132.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration (Medicare), Medicare Second Surgical Opinion Demonstration Projects, HCFA - 36T, 37T, and 38T, on occasion, 7,750 requesters of second surgical opinions, Human Resources Division, Richard Eisinger, 395-3532.

REVISIONS

DEPARTMENT OF STATE (EXCLUDING AID AND ACTION)

Application for Confidential Verification of Birth, DSP-16, on occasion, Registrar of Vital Statistics Office, 1,000 responses, 100 hours, Marsha Traynham, 395-3773.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration:
- 1978 Survey of Widows Without Benefits, SSA-3584, single time, widows, 3,000 responses, 1,000 hours, Office of Federal Statistical Policy and Standard, 673-7959.
- Report of Continuing Disability Interview, SSA-454, on occasion, persons entitled to disability benefits, 300,000 responses, 75,000 hours, Caywood, D. P., 395-3443.

EXTENSIONS

DEPARTMENT OF ENERGY

National Survey of Compensation Paid S7E's Engaged in Research and Development, annually, R. & D. establishments, 325 responses, 4,190 hours, Laverne V. Collins, 395-3214.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control, Trade Name Request Form for NOHS, CDC NIOSH 09, on occasion, chemical manufacturers, 20,000 responses, 5,000 hours, Ellett, C. A., 395-6132.

DEPARTMENT OF JUCTICE

Immigration and Naturalization Service:
- Crewmans Landing Permit, I-95A, on occasion, alien crewman, 150,000 responses, 25,000 hours, Marsha Traynham, 395-3773.
- Petition to Classify Status of Alien Relative for Issuance of Immigrant Visa, I-130, on occasion, U.S. citizen, permanent resident, 200,000 responses, 100,000 hours, Marsha Traynham, 395-3773.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-5440 Filed 2-28-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 10124; 812-4239]

AMERICAN MEDICAL ASSOCIATION TAX-EXEMPT INCOME FUND INC., AND CONTINENTAL ILLINOIS NATIONAL BANK & TRUST CO. OF CHICAGO

Filing of Application of the Act for an Order of the Commission Exempting Certain Transactions

FEBRUARY 17, 1978.

Notice is hereby given that American Medical Association Tax-Exempt Income Fund, Inc. (the fund), a Maryland corporation, 535 North Dearborn Street, Chicago, Ill. 60610, and Continental Illinois National Bank & Trust Co. of Chicago (the adviser) (hereinafter collectively referred to as the applicant) 231 South LaSalle Street, Chicago, Ill. 60693, filed an application on December 5, 1977, pursuant to section 10(f) of the Investment Company Act of 1940 (the Act), for an order of the Commission exempting certain transactions of the Fund from the provisions of section 10(f) of the Act so as to permit the Fund to purchase municipal bonds (as hereinafter defined) in public offerings in which the Fund's investment adviser participates as a principal underwriter, subject to certain conditions specified in the application and set forth below. All interested persons are referred to the application which is on file with the Commission for a statement of the representations made therein, which are summarized below.

The Fund is a diversified open-end, management investment company and is registered under the Act. On September 30, 1977, the Fund filed a registration statement on Form N-8B-1 pursuant to section 8(b) of the Act. On that same date it also filed a registration statement on Form S-5 under the Securities Act of 1933 in order to be able to commence a distribution of shares of common stock, which has not as yet been declared effective. The Fund's investment objective is to provide shareholders, through investment in and active management of a diversified portfolio of municipal bonds, as high a level of Federally tax-exempt income as is consistent with prudent investment and preservation of capital. In seeking this objective, the adviser proposes to invest at least 80 percent of the Fund's assets in a diversified portfolio consisting primarily of fixed-income obligations issued by or on behalf of States, territories, and possessions of the United States and the District of Columbia and their political subdivisions, agencies, and instrumentalities, including municipalities and multistate agencies, the interest on which is exempt from Federal income taxation (such obligations being referred to hereinafter as municipal bonds). However, the above percentage may be reduced for temporary periods in circumstances which, in the opinion of the adviser, require a defensive position for protection of the Fund's stockholders. The Fund also anticipates that from time to time it may invest a portion of its assets (not to exceed 20 percent of the Fund's assets, except as indicated above) in temporary investments, the income from which may be subject to Federal income taxation.

The Fund and the adviser are parties to an investment advisory agreement pursuant to which the adviser provides specified management services to the Fund in return for a set fee. The Adviser is registered as an investment adviser under the Investment Advisers Act of 1940. Accordingly, the Fund and the adviser are each an affiliated person of each other as that term is defined in section 2(a)(3) of the Act.

The Adviser is a major commercial bank and trust company and dealer and underwriter in municipal and government obligations and other types of securities. Through its municipal securities division the adviser participates as an underwriter in a substantial number of public offerings of municipal bonds.

Three of the five members of the Fund's board of directors are interested persons of the Fund. The remaining two directors are not interested persons of the Fund.

Section 10(f) of the Act, in pertinent part, provides that no registered investment company shall knowingly purchase or acquire, during the existence of any underwriting or selling syndicate, any security a principal underwriter of whiich is an officer, director, investment adviser, or employee of such investment company, or is a person of which any such officer, director, investment adviser, or employee is an affiliated person. That section further provides that the Commission, by rules or regulations upon its own motion or by order upon application, may exempt any transaction or classes of transactions from the restrictions contained therein to the extent such exemption is consistent with the protection of investors.

Pursuant to the rulemaking authority granted by section 10(f), the Commission adopted rule 10f-3 in 1958. The rule provides that a purchase of securities by a registered investment company prohibited by section 10(f) of the Act shall be exempt from the provisions of that section if certain conditions are satisfied. The applicants note that rule 10f-3 was designed for underwritten offerings of corporate equity and debt securities, whereas they intend to invest primarily in municipal bonds. The applicants assert that underwritten offerings of municipal bonds are conducted under different terms and conditions than corporate underewritings and for several reasons do not fit within the framework of rule 10f-3. For example, there is no registration requirement for municipal bonds under the Securities Act of 1933 as required by section (a)(1) of rule 10f-3. Therefore, the Fund will be precluded from being able to take advantage of the exemption afforded by the rule and will be unable to purchase municipal bonds in public offerings in which the adviser participates as a "principal underwriter," as such term is defined in section 2(a)(29) of the Act.

It is the applicants' contention, as stated in its application, that due to the special nature of the municipal bond markert and its emphasis on dus-

tributions through underwriting syndicates, the Fund must have access to the primary underwriting market in order to obtain best price and execution in the accumulation of portfolio securities. Because of the large participation of the adviser in these underwritings, the applicants believe that the prohibitions of section 10(f) would, unless modified, prejudice the Fund by precluding access to a significant portion of the municipal bond market. The applicants state that although there may be a large secondary market in municipal bonds, this secondary market lacks the depth and liquidity of the corporate bond or short-term securities market and is more susceptible to sharp price fluctuations.

In order for the Fund to participate in public offerings of municipal bonds in which the adviser is a "principal underwriter," the applicants seek an order of the Commission exempting its proposed future purchases of municipal bonds from Section 10(f) on the basis of the terms set forth below, which are discussed in the application. These terms are based upon rule 10f-3 appropriately revised for the purposes of the requested exemptive order to reflect the special nature of the municipal bond market.

TERMS OF THE PROPOSED ORDER

The exemptive order sought by the applicants would be subject to the following conditions (paragraph references are keyed to the text of rule 10f-3):

(a) The securities to be purchased shall be:

(1) Part of an issue of municipal bonds, the interest on which is exempt from Federal income tax, which is being offered to the public;

(2) Purchased at not more than the public offering price prior to the end of the first full business day after the first date on which the issue is offered to the public;

(3) Offered pursuant to an underwriting agreement under which the underwriters are committed to purchase all of the municipal bonds being offered, if the underwriters purchase any thereof;

(4) Acquired pursuant to an order (which may be conditional) placed by or for the account of the Fund with an underwriter not earlier than 2 days after the first public announcement of the offering and prior to the first date on which the issue is offered to the public;

(5) Purchased in an unsolicited transaction originating with the Fund or its investment adviser; and

(6) Purchased in transactions for which records are maintained setting forth the reasons for the purchase and for the sale, if any, of any portfolio securities related to the transaction, which records shall be available for inspection by the Commission.

(b) The gross commission, spread or profit to the principal underwriters shall not exceed 2.5 percent of the principal amount of the issue.

(c) On the date of purchase the issue shall have received an investment grade rating, including conditional or provisional ratings, from Standard & Poor's Corp. or Moody's Investors Service, Inc.; *Provided, however,* If the issuer of the securities to be purchased, or the entity supplying the revenues from which the issue is be paid, shall have been in continuous operation for less than 3 years, including the operations of any predecessor, then on the date of purchase the issue shall have received a rating of "A" or better from Standard & Poor's Corp. or Moody's Investors Service, Inc.

(d) The principal amount of municipal bonds to be purchased by the Fund or by the Fund and any other investment companies having the same investment adviser, shall not exceed 3 percent of the principal amount of the issue being underwritten or $500,000 in principal amount, whichever is greater, but in no event greater than 10 percent of the principal amount of the issue.

(e) The consideration to be paid by the Fund in purchasing the municipal bonds being offered shall not exceed 3 percent of the total assets of the Fund; *Provided,* That if such consideration shall exceed $1,000,000, it shall not exceed 2 percent of the Fund's total assets.

(f) The exemptive order shall not be construed to permit transactions with any affiliated person or principal underwriter of the Fund or any affiliated person thereof (including purchases from syndicate managers designated as group sales or otherwise allocated to the account of such affiliated person or principal underwriter) which would otherwise be prohibited by section 17 of the Investment Company Act of 1940; the Fund having represented that it will keep its noninterested directors completely informed, and fully aware, of the available alternatives with respect to recapture of the costs of portfolio transactions and having undertaken to take such steps as may be necessary to seek to implement any such recapture, including the filing of applications for exemptions under the Investment Company Act of 1940, if the noninterested directors should determine that recapture is in the best interests of the Fund or if otherwise required by developments in the law.

(g) The purchase of the securities being offered shall have been authorized or approved by a resolution of the board of directors of the Fund, or of a committee composed of at least three members of such board (a majority of which must be noninterested persons of the Fund), which resolution shall state that in the judgment of the board or committee, the purchase of securities proposed will meet all the requirements of paragraphs (a) through (f) of this exemptive order and which authorization or approval shall have been supported by the vote (by a meeting or by written consent given without a meeting) of not less than a majority of the members of the board of directors or of the committee who were not interested persons of the Fund.

(h) The Fund shall set forth all transactions conducted pursuant to the exemptive order in its quarterly reports filed with the Securities and Exchange Commission on Form N-1Q. In addition, information as to such transactions shall be contained in the notes to the Fund's published financial statements.

(i) The officers and directors of the Fund and its investment adviser assume the burden of establishing that each transaction made pursuant to the exemptive order is consistent with the purpose of such order to assure that the selection of the Fund's portfolio securities is in the interest of the Fund's security holders rather than in the interest of its affiliated persons or in the interest of underwriters, brokers, or dealers.

The applicants state that, as set forth in Investment Company Act Release No. 2797 (December 2, 1958), the conditions to the exemption from section 10(f) contained in Rule 10f-3 are designed to permit purchases without an exemptive order where the circumstances are such as to make it unlikely that the purchase will be inconsistent with the protection of investors. The applicants contend in their application that the exemption sought from the prohibitions of section 10(f) is consistent with the protection of investors. The applicants further contend that the terms of the exemption sought in the application attempt to incorporate the substantive provisions of Rule 10f-3 into a framework taking into account the realities of municipal bond underwritings so as to permit effective use of the exemption and at the same time making it unlikely that a purchase thereunder will be inconsistent with the protection of investors.

Notice is further given that any interested person may, not later than March 13, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of

such request shall be served personally or by mail upon the applicants at the addresses stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5341 Filed 2-28-78; 8:45am]

[8010-01]

[Release No. 14488; SR-Amex-77-34]

AMERICAN STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

FEBRUARY 17, 1978.

On December 27, 1977, the American Stock Exchange, Inc. ("Amex") 86 Trinity Place, New York, N.Y. 10006, filed with the Commission, pursuant to section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975 and rule 19b-4 thereunder, copies of a proposed rule change which requires that applicants for membership pass a floor qualification examination before being permitted to execute orders on the exchange floor.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission release (Securities Exchange Act Release No. 14341, January 5, 1978) and by publication in the FEDERAL REGISTER (43 FR 1854, January 12, 1978).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of section 6 and the rules and regulations thereunder. More specifically, the Commission finds that the proposed rule change is consistent with section 6(c)(3)(A) of the Act which permits a national securities exchange to examine and verify the qualifications of an applicant to become a member of the exchange.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5342 Filed 2-28-78; 8:45 am]

[8010-01]

[Release No. 20418; 70-6119]

CONNECTICUT LIGHT & POWER CO.

Proposed Issuance and Sale of First Mortgage Bonds at Competitive Bidding

FEBRUARY 21, 1978.

Notice is hereby given that the Connecticut Light & Power Co. ("CL&P"), Selden Street, Berlin, Conn. 06037, a public-utility subsidiary company of Northeast Utilities, a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating section 6(b) of the Act and rule 50 promulgated thereunder as applicable to the following proposed transaction. All interested parties are referred to said application, which is summarized below, for a complete statement of the proposed transaction.

CL&P proposes to issue and sell, at competitive bidding; up to $40 million principal amount of its first and refunding mortgage —— percent bonds, series EE, due March 1, 2008. The interest rate, which shall be a multiple of ⅛ of 1 percent, and the price, exclusive of accrued interest, to be paid to CL&P, which will be not less than 99 percent nor more than 102.75 percent of the principal amount thereof, will be determined by competitive bidding. The bonds will be issued under the indenture of mortgage and deed of trust dated as of May 1, 1921, between CL&P and Bankers Trust Co., trustee, as supplemented and amended from time to time, and as to be further supplemented by a supplemental indenture to be dated March 1, 1978. The supplemental indenture provides, among other things, that the bonds shall not be redeemed at the applicable general redemption price prior to March 1, 1983, if such redemption is for the purpose of or in anticipation of refunding such bonds through the use, directly or indirectly, of funds borrowed by CL&P at an effective interest cost of less than the effective interest cost of the bonds.

The net proceeds from the sale of the bonds will be used by CL&P primarily to repay a portion of the company's short-term borrowings estimated to total $65,000,000 at the time of such sale. Such short-term borrowings were applied to finance CL&P's 1977-1978 construction program.

The Company's 1978 construction program expenditures are expected to total about $123,700,000, including approximately $5,000,000 for nuclear fuel. In addition to the sale of the bonds, the Company estimates that it will require an additional $85,300,000 of funds from external sources to complete its 1978 construction program and to pay at maturity $16,000,000 of 3 percent bonds in 1978. It expects to obtain such funds temporarily through short-term borrowings. In addition, if the company is successful in selling its 12 percent interest in Seabrook, N.H., nuclear units, approximately $73,000,000 of proceeds will be available to it.

A statement of the fees and expenses incurred or to be incurred in connection with the proposed transactions will be supplied by amendment. The approval of the Connecticut Public Utilities Control Authority is required for the issuance of the bonds. It is represented that no other state commission, and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than March 14, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5343 Filed 2-28-78; 8:45 am]

[8010-01]

[File Nos. 3-5389; 81-305]

COUNTRY KITCHEN INTERNATIONAL, INC.

Application and Opportunity for Hearing

FEBRUARY 17, 1978.

Notice is hereby given that Country Kitchen International, Inc. ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for an order granting Applicant an exemption from the provisions of section 15(d) of the 1934 Act.

The Applicant states, in part:

1. Pursuant to an Agreement of Merger dated June 14, 1977, CC-2, Inc., an indirect subsidiary of Carlson Cos., Inc., was merged into the Applicant, effective November 17, 1977. As a result of said merger, all of the remaining public stockholders of the above Company became entitled to receive $10 per share in cash, which shares were extinguished and canceled as a matter of law on said effective date.

2. As of said effective date, CC-1, Inc., the parent of CC-2, Inc., and a direct subsidiary of Carlson Cos., Inc., became the sole stockholder of the Applicant, and no further trading has been effected in the stock of the above Company.

3. The Applicant has filed with the Commission its Form 10-Q for the period ended September 30, 1977, and a Form 8-K to reflect said merger.

Accordingly, the Applicant believes that the granting of the exemption would not be inconsistent with the public interest or the protection of investors.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street NW.,Washington, D.C.

Notice is further given that any interested person not later than March 14, 1978, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5344 Filed 2-28-78; 8:45 am]

[8010-01]

[Release No. 10125; 812-4186]

MASSACHUSETTS MUTUAL LIFE INSURANCE CO. AND MASSMUTUAL INCOME INVESTORS, INC.

Filing of Application for Order

FEBRUARY 21, 1978.

Notice is hereby given that Massachusetts Mutual Life Insurance Co. (the "Insurance Company") and MassMutual Income Investors, Inc. (the "Fund"; referred to hereinafter together with the Insurance Company as "Applicants"), 1295 State Street, Springfield, Mass. 01111, a closed-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act"), have filed an application on September 8, 1977, and amendments thereto on October 3, 1977, December 17, 1977, and January 9, 1978, for an order of the Commission: (1) pursuant to section 17(b) of the Act exempting from the provisions of section 17(a) of the Act a proposed sale by the Insurance Company to the Fund of $2,000,000 principal amount of 9% 20-Year Senior Notes (the "Notes") of MEI Corp. ("MEI") at the price paid by the Insurance Company for the purchase of the Notes transferred, plus accrued interest, and (2) pursuant to section 17(d) of the Act and Rule 17d-1 thereunder permitting the Insurance Company and the Fund to purchase, from MEI, $15,500,000 principal amount and $1,000,000 principal amount, respectively, of the Notes. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that MEI is issuing, at direct placement, $22,000,000 aggregate principal amount of the Notes, and that the Insurance Company has been offered for purchase the entire amount of that issue. According to the application, the Notes are unsecured and contain no provisions subordinating the Notes to any other indebtedness of MEI. Applicants further state that on December 2, 1977, the Insurance Company purchased $5,500,000 principal amount of the Notes and that it is planned that the remainder of the Notes will be purchased at a second closing occuring sometime in 1978.

Applicants assert that the Insurance Company, which is the investment adviser of the Fund, believes the Notes to be an attractive investment for the Fund. Accordingly, Applicants propose that the Fund invest in the Notes in the following manner.

First, Applicants propose ("First Proposal") that the Fund purchase from the Insurance Company $2,000,000 principal amount of the $5,500,000 principal amount Notes purchased by the Insurance Company at the first closing. The price of the Notes sold to the Fund would be the price paid by the Insurance Company for such Notes plus accrued interest running from December 2, 1977 (the date of the first closing) to the date of the Fund's purchase. Upon purchase, the Fund will be bound by the same terms and conditions subject to which the Insurance Company presently holds such securities. The Applicants state that the purchase of the Notes by the Fund will occur only if the Commission issues the exemptive order requested herein on or before March 31, 1978. If that order is issued, the purchase will be made within one month after such issuance; if the exemption is not granted on or before March 31, 1978, then the Insurance Company will retain for investment the entire amount of the Notes purchased at the first closing. Applicants state that the Fund will not purchase any Notes from the Insurance Company unless such purchase has been approved by a majority vote of the directors of the fund who are not interested persons of the Insurance Company.

Second, Applicants propose ("Second Proposal") that the Insurance Company and the Fund investment concurrently in the $16,500,000 principal amount of the Notes to be issued at the second closing. Applicants state that the Insurance Company and the Fund would purchase $15,000,000 principal amount and $1,000,000 principal amount of the Notes, respectively. Applicants state, however, that the second closing is contingent upon certain closing conditions being met. These closing conditions provide generally that MEI must be in the same business and financial condition as it was at the time of the first closing. If the closing conditions are not met then the Insurance Company and the Fund each have the right to refrain from purchasing the Notes scheduled to be issued at the second closing. Further, Applicants state that the Fund will not purchase any of the Notes from MEI at the second closing unless the Insurance Company purchases $15,500,000 in principal amount of the Notes from MEI at such closing.

The Applicants assert that the Insurance Company holds warrants, exercisable at any time prior to February 1, 1983, to purchase up to 190,532 shares of MEI common stock at a price of $2.29 per share and warrants, exercisable at any time prior to June 1, 1984, to purchase up to 53,571 shares of MEI common stock at a price of $5 per share (hereinafter "MEI Warrants"). Applicants also assert the Insurance Company holds a 7¼% Senior Note due 1983 of Beverages, Inc., a wholly-owned subsidiary of MEI, in the outstanding principal amount of $1,990,000 ("Beverage Note"). Applicants state that the Fund owns no securities of MEI or any of its subsidiaries.

Section 2(a)(3) of the Act defines an affiliated person of an investment company to include any investment adviser thereof.

Section 17(a) of the Act provides, in part, that it is unlawful for any affiliated person of a registered investment company, acting as principal, knowingly to sell any security to such registered investment company. Section 17(b) of the Act generally provides that, upon application, the Commission shall exempt a proposed transaction from the provisions of section 17(a) of the Act if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of the registered investment company concerned and with the general purposes of the Act. Applicants request an order pursuant to section 17(b) of the Act exempting from the provisions of section 17(a) of the Act the First Proposal, involving the sale by the Insurance Company of Notes to the Fund. Applicants state that the terms of the transfer are reasonable and fair and do not involve any overreaching on the part of either the Insurance Company or the Fund since: (1) the consideration paid by the Fund would equal the price paid by the Insurance Company for the Notes, plus accrued interest, and (ii) the Insurance Company is retaining over half of the Notes purchased by it on December 2, 1977, thus sharing with the Fund the risk that the Notes may prove to be a poor investment. Applicants also state that the proposed transaction is consistent with: (i) the policy of the Fund as recited in its registration statements, and (ii) the general purposes of the Act.

Section 17(d) of the Act and Rule 17d-1 thereunder, taken together, provide, in part, that it is unlawful for an affiliated person of a registered investment company, acting as principal, to effect any transaction in which such registered investment company is a joint participant, without the permission of the commission. Rule 17d-1 provides, in part, that in passing upon applications for orders granting such permission, the Commission will consider: (1) whether the participation of the investment company in such transaction on the basis proposed is consistent with the provisions, policies, and purposes of the Act, and (2) the extent to which such participation is on a basis different from or less advantageous than that of other participants. Applicants request an order pursuant to section 17(d) of the Act and Rule 17d-1 thereunder permitting the Insurance Company to participate in the Second Proposal, involving the joint purchase by the Insurance Company and the Fund of Notes from MEI. Applicants assert that: (i) the Insurance Company and the Fund are purchasing the Notes on the same basis and not on a basis more favorable to the Insurance Company than to the Fund, and (ii) the purchase is consistent with the provisions, policies, and purposes of the Act. Applicants assert further that the Insurance Company considers the Notes a sound investment and that it would be to the Fund's disadvantage not to purchase a portion of the Notes.

Applicants state that the interest of the Insurance Company in the MEI warrants and the Beverage Notes had no effect on the decision of the Insurance Company that the Notes are an attractive investment for both the Insurance Company and the Fund. They also state that the Notes are a type of security in which the Fund's investments are restricted to 25% of its total assets, and that the Fund has approximately $36,000,000 in assets which may be invested in this type of security. Applicants assert that the decision for the Fund to purchase 3,000,000 principal amount of the Notes was made by balancing the belief by the Applicants that long-term interest rates would not move significantly higher than 9% versus the desirability of the Fund's maintaining a liquid position.

Notice is further given that any interested person may, not later than March 17, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5345 Filed 2-28-78; 8:45 am]

[8010-01]

[Release No. 10129; 812-4193]

MASSACHUSETTS MUTUAL LIFE INSURANCE CO., AND MASSMUTUAL INCOME INVESTORS, INC.

Filing of Application for Order

FEBRUARY 22, 1978.

Notice is hereby given that Massachusetts Mutual Life Insurance Co. ("Insurance Company"), and MassMutual Income Investors, Inc. ("Fund"), 1295 State Street, Springfield, Mass. 01111, closed-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act"), (hereinafter collectively referred to as "Applicants"), have filed an application on September 26, 1977, and amendments thereto on November 14, 1977, and February 1, 1978, (1) pursuant to section 17(d) of the Act and Rule 17d-1 thereunder, for an order of the Commission permitting the Insurance Company to purchase $9,000,000 principal amount and the Fund to purchase $3,000,000 principal amount at direct placement of a new issue of 8.5% 20-year senior notes ("Notes") of Mead Corp. ("Mead"), and (2) alternatively, in the event the Insurance Company purchases $12,000,000 in principal amount of the Notes before the issuance of such order, for an order pursuant to Section 17(b) of the Act exempting from the provisions of Section 17(a) of the Act the sale of $3,000,000 in principal amount of the Notes plus accrued interest by the Insurance Company to the fund. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that the Notes are a portion of an aggregate principal amount of $75,000,000 of Notes to be issued by Mead with no discount or premium. Before the purchase by the Insurance Company of any of this issue of Notes, the Insurance Company held $1,600,000 in principal amount of Mead's 8.50% debentures due 1995 ("Mead Debentures"). The Fund owns no securities of Mead.

Applicants state that the Insurance Company purchased $3,000,000 in principal amount of Notes at a closing which took place December 22, 1977, and they expect that the remaining principal amount of Notes will be issued at a closing to occur between April 1, 1978 and June 30, 1978 ("Later Closing").

The Insurance Company is the investment adviser for the Fund. Applicants represent that in the judgment of the Insurance Company the Notes would be an attractive investment for the Fund, and the Insurance Company understands that Mead is willing to sell a portion of the Notes to the Fund. Applicants state that the Fund will not pay any commission to any intermediary in connection with this transaction. They state further that any modification, amendment, or waiver affecting the loan agreements or the Notes will affect the Fund and the Insurance Company equally.

Applicants propose the following alternative arrangements, depending upon the issuance of the requested Commission order prior to the Later Closing, or subsequent to the Later Closing.

I. Should the Commission order sought herein issue prior to the Later Closing, Applicants contemplate that the Fund will enter into note purchase agreements with Mead providing for purchase by the Fund of $3,000,000 principal amount of the Notes at the Later Closing and purchase by the Insurance Company of $9,000,000 of the Notes from Mead at the Later Closing.

According to the application, the note purchase agreements would contain customary closing conditions, and if the closing conditions were not satisfied at the time of the Later Closing, the Applicants would have the right to refrain from purchasing the Notes scheduled to be issued at such closing. However, Applicants state that the Fund will not purchase any Notes from Mead at the second closing unless the Insurance Company purchases $9,000,000 in principal amount of Notes from Mead at such closing. Applicants represent that if the Fund purchases Notes from Mead at the Later Closing, the Fund will pay the same price as the Insurance Company for the Notes.

II. Should the Commission order sought herein issue subsequent to the Later Closing, Applicants represent that, pending receipt of such an order, the Insurance company is prepared to commit to purchase for its general account $12,000,000 in principal amount of Notes at such closing, subject to the obligation to transfer to the Fund $3,000,000 in principal amount of the Notes acquired by the Insurance Company at the Later Closing. Applicants state that such obligation is subject to receipt of a favorable commission order issued within three months of the Later Closing.

Applicants state that the price to be paid by the Fund for the Notes will be equal to the price paid by the Insurance Company for the Notes, plus accrued interest from the date of the Insurance Company's purchase to the date of transfer.

With respect to such transfer of Notes from the Insurance Company to the Fund, Applicants state that (1) if a favorable Commission order is issued within thirty days after the Later Closing, the Insurance Company will transfer the Notes to the Fund as soon as practicable; or, alternatively, (2) if a favorable Commission order is issued more than thirty days after the Later Closing but within three months after such closing the Fund will not purchase any Notes from the Insurance Company unless such purchase has been approved by a majority vote of the Directors of the Fund who are not interested persons of the Insurance Company ("Required Vote"). Applicants state that the Required Vote will take place within 45 days of receipt of a favorable order, and that the Insurance Company will transfer the Notes to the Fund as soon as practicable after such transfer is approved by the Required Vote.

According to the application, the purpose of the 45 day time allowance for the Required Vote is to allow for the scheduling of a meeting of such Directors. The application further states that such meetings are generally held no more often than once a month.

Should the requested Commission order not issue, Applicants state that all the Notes purchased by the Insurance Company will be retained by it for investment.

Section 2(a)(3) of the Act includes, within the definition of the term "affiliated person" of an investment company, the investment adviser to the investment company. Therefore, as the investment adviser to the Fund, the Insurance Company is an affiliated person of the Fund.

Section 17(d) of the Act, and Rule 17d-1 thereunder, taken together, provide, in part, that it is unlawful for an affiliated person of registered investment company, acting as principal, to effect any transaction in which such investment company is a joint participant, without the permission of the Commission. Rule 17d-1 provides, in part, that in passing upon applications for orders granting such permission, the Commission will consider (1) whether the participation of the investment company in such transaction on the basis proposed is consistent with the provisions, policies, and purposes of the Act, and (2) the extent to which such participation is on a basis different from or less advantageous than that of other participants.

With respect to alternative I, above, the Applicants submit that unless the application is granted, Rule 17d-1 might arguably prevent the Fund from acquiring any of the Notes from Mead in connection with a transaction in which other Notes were being acquired from Mead by the Insurance Company. Applicants state that in the absence of the requested order, the Insurance Company would exclude the Fund and participate only for its own general fund, even though, in the judgment of the Insurance Company, the Notes are an attractive investment for the Fund.

Applicants argue that the Insurance Company and the Fund will be purchasing Notes on the same basis and not on a basis more favorable to the Insurance Company than to the Fund. In the judgment of the Insurance Company, the Notes provide an attractive yield and represent a sound investment; thus, the Applicants assert that the Fund would be disadvantaged if it was not permitted to acquire a portion of the new issue of Notes. They assert further that the purpose of the application is to avoid a disadvantage to the Fund, and that the interest of the Insurance Company in the Mead Debentures has had no effect on the decision of the Insurance Company that the Notes are an attractive investment for both the Insurance Company's general account and for the Fund.

The Insurance Company believes that it is appropriate to share with the Fund the $15,000,000 in principal amount of the Notes which the Insurance Company has been offered on the basis of $3,000,000 in principal amount for the Fund and $12,000,000 in principal amount for the Insurance Company. In support of this assertion, Applicants submit the following: The investment policies of the Fund call for the Fund to invest at least 75% of its total assets in one or more of five categories of high grade interest-bearing debt securities and in cash or cash equivalents. In addition, the Fund may invest up to 25% of its assets in certain other types of securities. The Fund now has approximately $36,000,000 in assets which may be invested in the latter types of securities, and the Insurance Company believes it would be inadvisable for too large a portion of those assets to be invested in one restricted debt security. Hence, the Insurance Company believes that it would be advisable for the Fund to acquire $3,000,000 in principal amount of the Notes instead of (for instance) the Fund and the Insurance Company each acquiring one-half of the principal amount of the Notes offered to the Insurance Company. Applicants submit that to make available to the Fund the investment opportunity presented by the proposed Notes is consistent with the provisions, policies, and purposes of the Act.

Section 17(a) of the Act provides, in part, that it is unlawful for any affiliated person of a registered investment company knowingly to sell to such registered investment company any security or other property. Pursuant to Section 17(b) of the Act, the Commission, upon application, shall grant an exemption from such prohibition if evidence establishes that the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act. With regard to alternative II, above, Applicants submit that the transfer would technically fall within the provisions of Section 17(a) of the Act.

Applicants submit that (1) the terms of such a transfer, since the consideration paid by the Fund would equal the price paid by the Insurance Company for the Notes, plus accrued interest, will be reasonable and fair and will not involve overreaching on the part of either the Insurance Company or the Fund; (2) the proposed transaction will be consistent with the policy of the Fund as recited in its registration statements; and (3) the proposed transaction will be consistent with the general purposes of the Act.

Notice is further given that any interested person may, not later than March 17, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5346 Filed 2-28-78; 8:45 am]

[8010-01]

[Release No. 10127; 812-4252]

SCUDDER DEVELOPMENT FUND, ET AL.

Filing of Application for an Order Exempting Proposed Transaction

FEBRUARY 22, 1978.

Notice is hereby gived that Scudder Development Fund ("Scudder"), 345 Park Avenue, New York, N.Y. 10022, an open-end diversified management investment company registered under the Investment Company Act of 1940 ("Act"); and Title Insurance and Trust Co., Trustee for the Individual Retirement Account of Richard D. Colburn ("TITC/IRA/RDC"); Title Insurance and Trust Co., Trustee for the Employees Retirement Plan of Consolidated Electrical Distributors, Inc. ("TITC/ERP/CED"); Richard D. Colburn ("RDC"); Judith N. Colburn ("JNC"); The Employees Retirement Plan of Rolled Alloys, Inc. ("ERP/RA"); and Concord Investment Co. ("Concord") (referred to collectively as "Buyers") c/o Bernard E. Lyons, Esq., 1516 Pontius Avenue, Los Angeles, Calif. 90025, (Scudder and Buyers referred to collectively as "Applicants") filed an application on December 16, 1977 pursuant to section 17(b) of the Act for an order of the Commission exempting from the provisions of section 17(a) of the Act the proposed sale by Scudder to Buyers of 50,000 shares of common stock ("the Shares") of Hughes Supply, Inc. ("Hughes"). TITC/ERP/CED, as an affiliated person of Hughes, which is an affiliated person of Scudder, would otherwise be prohibited under section 17(a) of the Act from knowingly purchasing the shares from Scudder. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Scudder was organized on February 5, 1970, under the name of Scudder AM Fund, and on April 24, 1970, its name was changed to Scudder Development Fund. As of November 30, 1977, Scudder had net assets of approximately $21,349,309 and approximately 840 shareholders.

RDC is a resident of Beverly Hills, Calif. and the retired chairman of The Susquehanna Corp., a subsidiary of Studebaker-Worthington Co., of which RDC is a director. Consolidated Electrical Distributors, Inc. ("CED"), a Delaware corporation, is a distributor of electrical supplies and apparatus. The capital stock of CED is owned by RDC and his three children, Keith W. Colburn, Richard W. Colburn and Carol Colburn Hogel ("the Children"). JNC is RDC's wife. Rolled Alloys, Inc. ("RA"), a Delaware corporation, is engaged in the business of steel warehousing and, through subsidiaries, of managing investments. The Capital stock of RA is owned by RDC and the Children. Concord is a Nevada corporation engaged in managing investments. Concord is a wholly owned subsidiary of a wholly owned subsidiary of RA.

Applicants state that Hughes is a Florida corporation engaged in the business of distributing plumbing and electrical supplies and manufacturing. The common stock of Hughes is actively traded in the over-the-counter market.

Scudder holds in its portfolio 93,500 shares of the common stock of Hughes, or approximately 6.97 percent of the outstanding voting stock of Hughes. Each Buyer currently owns the number of shares of Hughes common stock indicated in the following table, and each intends to purchase from Scudder additional shares of Hughes common stock indicated in the following table:

Buyer	Number of shares held	Number of shares purchasing
TITC/IRA/RDC	22,300	900
TITC/ERP/CED	157,000	9,000
RDC	.....	15,000
JNC	.....	5,000
ERP/RA	.....	2,000
Concord	30,000	18,100
	209,300	50,000

Buyers do not concede that any of them other than TITC/ERP/CED is an affiliated person of Hughes within the meaning of section 2(a)(3) of the Act. However, because of the various interrelationships between the purchasers it has been determined to include all of them as Applicants.

The Buyers represent that no one of them nor any individual associated with any of them have any connection with Scudder as a shareholder, employee or otherwise, nor do they have any connection with Scudder, Stevens & Clark, the adviser to Scudder, either through personal relationships, as clients, or through any business relationships whatsoever.

Scudder represents that on Friday, November 25, 1977 a representative of Buyers approached Scudder by telephone to determine whether Scudder had any interest in selling any shares of Hughes. Thereupon, Scudder made inquiries through the NASDAQ System and determined that there were four brokerage houses bidding $14 and asking $14½ per share and four or five additional brokerage houses bidding $13⅞ and asking $14⅜ per share. After reviewing Hughes' current earnings and its basic suitability for Scudder's portfolio, it was determined to offer the Buyers 50,000 shares at a price of $15, thus reducing Scudder's holding to 43,500. This deci-

sion was reached in the light of the judgment that the holding should be reduced at that time. In addition, although $15 per share was less than Scudder's average cost of $16.59 per share, Scudder determined that such commitment was not appropriate at that time because Hughes had not met its expectations and the price had fluctuated, since the original acquisition of the Hughes shares, down to $7 and then back up to $15.

On Monday, November 28, the representative of the Buyers called from California before the opening of the market in New York with an offer of $14¾, which Scudder refused. Applicants state that shortly thereafter the representative of the Buyers consulted further with his clients and agreed to meet Scudder's price. The transaction was confirmed by telegram sent November 30. Scudder represents that it had no particular information about Hughes which influenced its decision to sell this block of 50,000 shares.

Section 17(a) of the Act provides, in part, that it shall be unlawful for any affiliated person of a registered investment company or any affiliated person of such person to knowingly purchase from such registered company, or any company controlled by such registered company, any security or other property.

Scudder owns more than 5 percent of Hughes' capital stock, and therefore, Hughes is an affiliated person of Scudder under section 2(a)(3) of the Act. TITC/ERP/CED owns more than 5 percent of Hughes' capital stock, and, therefore, it is an affiliated person of Hughes under section 2(a)(3) of the Act. TITC/ERP/CED, as an affiliated person of an affiliated person of a registered investment company, acting as principal, is prohibited under section 17(a) of the Act from knowingly purchasing from such registered investment company any security or other property.

Section 17(b) of the Act provides, in part, that the Commission upon application, may exempt a proposed transaction from the provisions of section 17(a) of the Act if the evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policy of the investment company and with the general purposes of the Act.

Applicants represent that the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person concerned. The price was determined on the basis of arms' length negotiation and represents and increase over the amount the Buyers initially offered. The proposed transaction is consistent with the policy of Scudder, since it represents disposition of a security which has not shown the capital appreciation in the past and does not presently, have, in the judgment of management, the capital appreciation potential for the future which Scudder's investment policy requires it to seek. Applicants represent that the proposed transaction is consistant with the general purposes of the Act because it is in the best interest of investors in Scudder and is designed to obtain an investment result which Scudder does not believe it could be certain of achieving in a different type of transaction.

Notice is further given that any interested person may, not later than March 20, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5347 Filed 2-28-78; 8:45 am]

[8010-01]

[Release No. 10130; 812-4220]

SENTRY FUND, INC. AND SENTRY EQUITY SERVICES, INC.

Application for an Order of Exemption

FEBRUARY 22, 1978.

Notice is hereby given that Sentry Fund, Inc. (the "Fund"), an open-end diversified management investment company registered under the Investment Company Act of 1940 (the "Act"), and Sentry Equity Services, Inc. ("Equity Services"), the Fund's principal underwriter (collectively, "Applicants"), 1800 North Point Drive, Stevens Point, Wis. 54481, have filed an application on November 14, 1977 and an amendment thereto on January 23, 1978, pursuant to section 6(c) of the Act for an order exempting Applicants from the provisions of section 22(d) of the Act to the extent necessary to permit the purchase of shares of the Fund from the proceeds of certain insurance contracts, as defined herein, issued by Sentry Life Insurance Co. and its subsidiaries, Sentry Life Insurance Co. of New York and Patriot General Life Insurance Co., without a sales charge but subject only to a $20 administrative fee. All interested persons are referred to the application on file with the Commission for a statement of the facts and representations therein, which are summarized below.

All of the issued and outstanding shares of Equity Services are owned by the Sentry Corp., a subsidiary of and holding company for Sentry Insurance a mutual company. The Sentry Corp. organized the Fund in 1969 and owns, either directly or through its subsidiaries, all of the issued and outstanding shares of Sentry Investment Management, Inc., the Fund's investment adviser, and of Sentry Life Insurance Co., Sentry Life Insurance Co. of New York and Patriot General Life Insurance Co.

Sentry Life Insurance Co. is a stock insurance company licensed to write life insurance, annuities, and accident and health insurance in all fifty states except New York, in the District of Columbia, in Hong Kong and in Guam. Sentry Life Insurance Co. of New York is a stock insurance company licensed to write life insurance, annuities, and accident and health insurance in the State of New York. Patriot General Life insurance Co. is a stock insurance company licensed to write life insurance in the state of Massachusetts, Nevada, New Hampshire, and Utah.

Applicants offer shares of the Fund to the public at a price based upon net asset value plus a sales charge that varies with the quantity of securities purchased. The sales charge, expressed as a percentage of the public offering price, ranges from 8 percent on sales of less than $10,000 to 1 percent on sales of $500,000 or more. Applicants propose to sell Fund shares to insureds of Sentry Life Insurance Co., Sentry Life Insurance Co. of New York and Patriot General Life Insurance Co., and/or their beneficiaries without a sales charge but subject only to a $20 administrative fee where payment for such Fund shares is made with proceeds of insurance contracts issued by said companies. Applicants have defined "proceeds of insurance contracts" to mean: death benefits under life policies, the maturity value of endowment contracts, the cash (surrender) value of fixed-dollar like insurance and annuity contracts, and lump sum cash options available to beneficiaries.

Section 22(d) of the Act provides, in part, that no registered investment company shall sell any redeemable security issued by it to any person except either to or through a principal underwriter for distribution or at a current public offering price described in the prospectus, and, if such class of security is being currently offered to the public by or through an underwriter, no principal underwriter if such security and no dealer shall sell any such security to any person except a dealer, a principal underwriter, or the issuer, except at a current public offering price described in the prospectus.

Applicants state that elimination of the sales charge for purchases made with insurance proceeds would recognize that the payments giving rise to the insurance proceeds would have been previously subjected to sales charges and would avoid cumulation of sales charges. Applicants further contend that such elimination is appropriate since no advertising or other sales effort is required where Fund shares are purchased with insurance proceeds and that the opportunity to purchase Fund shares at a reduced charge will afford insureds and their beneficiaries additional flexibility with respect to their insurance proceeds.

Applicants state that the proposed $20 administrative fee is intended to pay for review and underwriting of the insured's (beneficiary's) application, coding, establishing a Fund account, preparation of a deposit remittance, production and mailing of a confirmation and setting up of a file folder and represents Equity Services' costs or approximate costs involved in such transactions. Applicants further state that no part of the proposed $20 fee will be used to compensate any salesman nor may any part be properly deemed a sales load, that if the proposed $20 fee should result in a profit, which is not anticipated, no part thereof will be used as a sales load or to compensate any salesman and that if in the future Applicants anticipate that the proposed $20 fee will result in a profit, downward adjustment will be made so that the fee does not exceed anticipated cost or approximate cost. Applicants state that in no event will the insured or beneficiary purchasing the Fund shares incur a charge exceeding the normal sales load and that the vast majority of individuals who purchase Fund shares with their insurance proceeds will achieve substantial savings.

Section 6(c) of the Act provides, in part, that the Commission may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than March 20, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5348 Filed 2-28-78; 8:45 am]

[8010-01]

[Release No. 10123; 812-4205]

VANCE, SANDERS MUNICIPAL BOND FUND, LTD. AND VANCE, SANDERS & CO., INC.

Filing of Application for Order of Exemption

FEBRUARY 17, 1978.

Notice is hereby given that Vance, Sanders Municipal Bond Fund, Ltd. (a California Limited Partnership) ("Fund"), registered under the Investment Company Act of 1940 (the "Act") as an open-end, diversified management investment company, and Vance, Sanders & C., Inc. ("Vance Sanders"; referred to collectively with the Fund as "Applicants"), Advisor General Partner and investment adviser of, and principal underwriter for, the Fund, One Beacon Street, Boston, Mass. 02108, filed an application on October 13, 1977, and amendments thereto on January 4, 1978, and February 14, 1978, requesting an order of the Commission pursuant to section 6(c) of the Act exempting the Fund and its general partners from the provisions of (1) section 2(a)(19) of the Act to the extent that the Fund's general partners would otherwise be deemed to be "interested persons" of the Fund or its Advisor General Partner solely because they are partners in the Fund, and (2) section 15(c) of the Act so that the Director General Partners will not be deemed to be parties to the Fund's investment advisory contract solely by reason of their being parties to the Fund's partnership agreement. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that the Fund was organized as a limited partnership under the Uniform Limited Partnership Act of California and propose to operate as an open-end investment company with the objective of providing investors as high a level of current income exempt from federal income taxes as is consistent with the preservation of capital. They further state that the Fund will seek to achieve this objective by investing in a diversified portfolio of obligations, the interest from which is exempt from federal income tax. According to the application, rulings have been issued by the Internal Revenue Service stating that the Fund will be taxed as a partnership and not as an association taxable as a corporation, and that the income of the Fund exempt from federal income taxes would retain its tax-exempt character when properly allocable to the partners. Although the Internal Revenue Service has not ruled upon whether the particular allocations proposed by Applicants will be given effect for federal income tax purposes, Applicants state that they have been advised by cousel that the allocation of income they propose is proper.

Applicants further state that: (1) the general partners of the Fund will consist of Director General Partners and an Advisor General Partner; (2) only individuals may serve as Director General Partners; (3) the Fund will be managed solely by the Director General Partners except for those specific activities of the Fund for which responsibility is given to the Advisor General Partner; and (4) the Director General Partners will perform the same functions as directors of incorpo-

rated investment companies. Applicants state that the Advisor General Partner is excluded from participation in the management of the Fund; however, the Advisor General Partner is charged with certain responsibilities, including managing the investment of Fund assets and administering its affairs subject to the supervision of the Director General Partners. Applicants further state that in return for the Advisor General Partner assuming the responsibilities assigned to it, the partnership agreement provides that such partner will be allocated 6½ percent of the daily gross income of the Fund (excluding gains or losses), but in no event shall such amount exceed, on an annual basis, 0.3 of 1 percent of the Fund's average net assets.

Included as exhibits to the application are opinions of counsel that: (1) the Fund is duly organized and validly existing as a limited partnership under the laws of the State of California, and (2) the division of managerial functions among the general partners in the manner proposed is lawful.

According to the application, (1) the Director General Partners act only by majority vote and are subject to election and removal by vote of the partners; (2) in the event no Director General Partner remains, it is the responsibility of the Advisor General Partner to promptly call a meeting of the limited partners ("Limited Partners"), to be held within 120 days of the date the last Director General Partner ceased to act in such capacity, for the purpose of determining whether to elect to continue the business of the Fund and, if the business is to be continued, the election of Director General Partners; and (3) for the period of time during which no Director General Partner remains, the Advisor General Partner is permitted to engage in the management, conduct and operation of the business of the Fund to the same extent as a Director General Partner. Applicants state that the Advisor General Partner shall be subject to election and removal by vote of the partners and, in addition, may be removed as the Advisor General Partner upon 60 days' written notice by vote of a majority of the Director General Partners or by vote of the partners.

According to the application, (1) the Fund's Limited Partners have no rights to control the Fund's business, but may exercise certain rights and powers of a Limited Partner under the partnership agreement, including voting rights, and (2) the partnership agreement authorizes Limited Partners to exercise voting rights on certain matters, including the right to elect or remove general partners. Applicants state that it is the opinion of California counsel that the existence or exercise of these voting rights does not subject the Limited Partners to liability as general partners under the Uniform Limited Partnership Act of California. However, Applicants further state that it is possible that because of such voting rights the Limited Partners might be found to be subject to liability as general partners by the courts of another state. In this regard, the Applicants state (1) that, if a Limited Partner is sued to satisfy an obligation of the Fund, the Fund will, upon notice of such suit by the Limited Partner, either satisfy such obligation or, if it believes such suit is without merit, undertake the defense of such suit, and (2) that the Fund intends to include in all material contracts a provision limiting the claims of creditors to Fund assets. Applicants have submitted as an exhibit to the application an opinion of counsel stating that if a Limited Partner is held to be liable as a general partner, has satisfied liabilities of the Fund in excess of his required capital contribution, and if the assets and insurance of the Fund are insufficient to reimburse the Limited Partner, the partnership agreement provides a basis upon which the Limited Partner would have recourse against the general partners.

Applicants state that the entire interest of the partners will be divided into Shares of Partnership Interest ("Shares") which will be offered to investors, and that, upon the sale of a Share to a purchaser who is not a Limited Partner, and upon receipt of a signed partnership authorization, including a power of attorney required of all Limited Partners, the purchaser will become a Limited Partner upon the filing of an amendment to the partnership agreement. According to the application, the Director General Partners agree to process such amendments weekly, and daily when necessary. Applicants further state that (1) the remainder of the Fund's income after the allocation of income to the Advisor General Partner, referred to above, as well as other items of gain, loss, deductions and credits, will be allocated equally among the outstanding Shares of the Fund; (2) all Shares will have equal rights and one vote each on all matters to be voted upon by partners; and (3) a Limited Partner can assign his Shares, in whole or part, provided the assignee agrees to become a substituted Limited Partner, the Director General Partners consent to such assignment and substitution, and the assignee executes the necessary documents to become a substituted Limited Partner.

According to the application (1) as a condition of the granting of the rulings noted above, the Internal Revenue Service required that at all times the general partners must have in the aggregate a one percent interest in all Fund items of income, gains and losses; (2) the general partners have met this condition by purchasing in the aggregate one percent of the outstanding Shares of the Fund; and (3) Vance Sanders undertakes that at all times while serving as Advisor General Partner it will own one percent of the Fund's outstanding Shares and will not withdraw as Advisor General Partner except on two year's notice. Vance Sanders also undertakes that it will stand for election for Advisor General Partner at each election so long as its duties and obligations as Advisor General Partner have not been terminated, and that in the event that the Fund terminates such obligations and duties, Vance Sanders will remain as a general partner and continue to own one percent of the outstanding Shares for one year or until a successsor general partner is appointed, whichever is earlier. The Fund undertakes that any successor Advisor General Partner will agree to the same undertakings as Vance Sanders. Applicants agree that any exemptive order issued herein may be conditioned upon the continued effectiveness of such undertakings.

On October 4, 1976, the Tax Reform Act of 1976 amended Subchapter M of the Internal Revenue Code, effective for taxable years beginning after December 31, 1976, to enable investment companies in corporate form to pass through tax-exempt income to their shareholders. The Fund asserts, however, that the following desirable consequences can be achieved in partnership form, but not in corporate form:

(1) Although, as noted above, the Internal Revenue Service has not ruled that the allocation of income Applicants propose will be given effect for federal income tax purposes, the Fund believes that the income received by Vance Sanders is non-taxable if tax-exempt to the partnership, enabling the advisory fee to be substantially lower than fees currently being paid by almost all corporate municipal bond funds;

(2) As a partnership the Fund is in a more flexible position because it would not have to comply with the percentage limitations on investments and income contained in Subchapter M of the Internal Revenue Code, as would a corporate municipal bond fund;

(3) If any portion of the partnership's income is tax-exempt in a state if received directly, it may be tax-exempt to the partner because, normally, under state law a partner is taxed on his allocated share of partnership income as though received directly; and

(4) A partnership normally is not subject to state taxes; the Fund expects to receive rulings from (a) the Department of Revenue of the State of California to the effect that the Fund is not subject to any income tax in the State of California, and (b) the Massachusetts Department of Corporations and Taxation to the effect that neither the Fund nor non-resident holders of Shares, by reason of their being holders of Shares, will be subject to Massachusetts income tax.

Section 10(a) of the Act provides that no registered investment company shall have a board of directors more than 60 percent of the members of which are persons who are "interested persons" of such registered company. Section 2(a)(12) of the Act defines "director" to include any director of a corporation or any person performing similar functions with respect to any organization, whether incorporated or unincorporated.

Section 15(c) of the Act provides, inter alia, that it shall be unlawful for any registered investment company having a board of directors to enter into, renew, or perform any contract or agreement whereby a person undertakes to serve or act as investment adviser of such company, unless the terms of such contract or agreement and any renewal thereof have been approved by the vote of a majority of directors who are not parties to such contract or agreement or interested persons of any such party.

Section 2(a)(19)(A) of the Act provides, in part, that an "interested person" of another person, when the other person is an investment company, means (1) any affiliated person of such investment company, and (2) any interested person of any investment adviser or principal underwriter for such company. Section 2(a)(19)(B) of the Act provides, in part, that an "interested person" of another person, when the other person is an investment adviser or principal underwriter for any investment company, means any affiliated person of such investment adviser or principal underwriter. Section 2(a)(3)(D) of the Act provides, in part, that an "affiliated person" of another person means any partner or co-partner of such person.

Applicants submit that the relationship of the Director General Partners to the Fund is essentially identical to the relationship of directors to a corporate investment company. They state that, nevertheless, the provisions of section 2(a)(3) of the Act would make all Director General Partners affiliated persons of the Advisor General Partner, with the result that the Director General Partners would be deemed interested persons of the Fund and its Advisor General Partner under section 2(a)(19) of the Act.

Applicants, to permit compliance with sections 10(a) and 15(c) of the Act, have requested that the Fund and its general partners be exempted from the provisions of section 2(a)(19) to the extent that the general partners would otherwise be interested persons of the Fund or its Advisor General Partner solely because they are general partners of the Fund, a limited partnership in which the Fund's investment adviser and principal underwriter, Vance Sanders, is also a general partner. Applicants assert that since section 2(a)(19) excludes from the definition of interested person of an investment company those individuals who would be interested persons solely because they are directors or owners of securities of an investment company, and since the Advisor General Partner is excluded from participation in the management of the Fund, it is consistent with the purposes fairly intended by the policy and provisions of the Act to grant the requested exemption from section 2(a)(19).

Applicants state that since the Director General Partners who fulfill the function of non-interested directors of necessity have signed the partnership agreement and the partnership agreement provides for compensation to Vance Sanders for managing the investment and reinvestment of Fund assets, it could be contended that the Director General Partners are parties to the advisory contract or agreement. Applicants have requested an exemption from the provisions of section 15(c) of the Act so that the Director General Partners will not be deemed to be parties to the advisory contract solely by reason of their being parties to the partnership agreement. Applicants state that all of the provisions required to be included in an advisory contract by section 15 of the Act are included in the partnership agreement, which is a written agreement, and that the partnership agreement will be submitted to the partners (i.e., shareholders) and Director General Partners for approval.

Section 6(c) of the Act provides, in part, that the Commission may, upon application, exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In addition to the undertakings summarized above, Vance Sanders undertakes that it will not request, and the Fund undertakes that it will not grant, for a period of three years, an increase in either the percentage of income allocated to Vance Sanders, or in the limitation on such allocation of 0.3 percent of average net assets on an annual basis. The Applicants also undertake that if the tax treatment to Vance Sanders with respect to either the income received, or expenses incurred, by Vance Sanders while acting as Advisor General Partner is adversely affected and the Fund is willing, because of such change, to recommend to shareholders an increase in the income to be allocated to Vance Sanders so that there is no longer any significant advantage to the partnership form, Vance Sanders will recommend to the Fund, and the Fund will recommend to its shareholders, that the form of the Fund's organization be changed from a partnership to a corporation. Vance Sanders also undertakes that if the tax treatment of the income received or expenses incurred while acting as Advisor General Partner is not adversely affected, Vance Sanders will not request or accept an increase in such income unless, after such increase, the income allocated to it for acting as Advisor General Partner is significantly below its fees received for acting as investment adviser to other investment companies.

The Fund undertakes that, prior to a public offering of Shares, it will be added as one of the named assureds in an errors and omissions policy, up to a maximum amount of $5 million (with a $100,000 deductible for any one claim) and will be a named assured in a brokers' indemnity bond in an aggregate amount of $10 million. The Fund undertakes that it will be covered by such insurance and that it will take no action to cancel such policies or, if such policies are cancelled by the insurance companies, it will obtain comparable insurance.

Applicants agree that any exemptive order granted may be conditioned upon the continued effectiveness of the above-described undertakings. They submit that the granting of the requested exemptions is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than March 14, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course fol-

lowing said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5349 Filed 2-28-78; 8:45 am]

[4710-02]

DEPARTMENT OF STATE

Agency for International Development

PROVISION OF PESTICIDES TO LIBERIA, AFRICA

Intent To Waive Certain Requirements

AGENCY: Agency for International Development, State.

ACTION: Notice of Intent to Waive Certain Requirements to allow procurement of Pesticides to Control Cocoa and Coffee Pests and Diseases in Liberia.

SUMMARY: The Agency for International Development intends to waive certain requirements for provision of pesticides as set forth in Interim Pesticide Procedures, the "Interim Regulations", published in the FEDERAL REGISTER on January 7, 1976 (41 FR 1297). This waiver will be made pursuant to Section (a) of the regulations.

DATES: Comments on this proposed action must be received within twenty (20) days after publication in the FEDERAL REGISTER.

FOR FURTHER INFORMATION CONTACT:

Dr. Frederick Whittemore, Room 413F, Rosslyn Plaza, Arlington, Va. 20523, 703-235-1497. Mail address, Office of Agriculture, AID, Department of State, Washington, D.C. 20523.

SUPPLEMENTARY INFORMATION: The following table sets forth the pesticides, the crops on which they will be used, and the target pest or disease.

Pesticide	Crop	Pest/disease
Cuprous oxide	Cocoa	Black pod disease.
Do	Coffee	Coffee berry disease.
Lindane	Cocoa	Cocoa mirids.

BACKGROUND

The Agency for International Development (A.I.D.) negotiated a loan agreement with the Liberian government in November, 1975. The purpose of the $5 million to be loaned over a 5 year period was to increase rice, coffee, and cocoa production of small farmers in Lofa County. Experience in Liberia and elsewhere in the coffee and cocoa growing areas of West Africa indicates that unless black pod and mirids on cocoa, and coffee berry disease on coffee, are controlled with such insecticides and fungicides as are being proposed in this project, productivity remains marginal. The use of such pesticides is essential for the increased production of coffee and cocoa by small farmers, which is the objective of the loan agreement.

A.I.D. INTERIM PESTICIDE PROCEDURES

The Interim Pesticide Procedures, which clearly apply to the proposed procurement, provide that A.I.D. will not finance pesticides that have not been registered by the Environmental Protection Agency (EPA) for the specific uses for which procurement is intended. However, A.I.D. may finance the procurement of unregistered pesticides if they are to be used on crops and associated pests not grown or found in the United States and if the determination is made by the Administrator of A.I.D. that the benefits to be derived from their use outweigh potential adverse effects and no preferable alternatives are available.

The administrator has tentatively determined that the benefits of the procurement and use of these pesticides outweigh the potential adverse effects and that no preferable alternatives are available.

BASIS FOR DETERMINATION

Cuprous Oxide (Perenox). This fungicide is registered for general use by EPA. The environmental impact of its use in the United States is considered to be minimal by EPA. It is of a very low order of acute toxicity to humans and is extensively used on a variety of food crops, including fresh fruits and vegetables, many of which are frequently consumed without further processing. Although the climatic and sociological conditions under which these pesticides will be used in Liberia differ greatly from U.S. conditions, cuprous oxide has been widely used, with no known instances of any related toxicological or environmental problems, throughout coffee and cocoa growing areas of West Africa for the control of coffee and cocoa diseases.

Lindane (Gamma BHC). On February 17, 1977, subsequent to the proposed use of lindane in the relevant project paper, EPA published a FEDERAL REGISTER Notice (42 FR 9816-23) of a Rebuttable Presumption Against Registration and Continued Registration of Pesticide Products Containing Lindane on the basis of laboratory evidence indicating that lindane caused tumors in laboratory animals and interferes with their growth, maturation, and reproductive capacity. Evidence is also available that lindane presents an unreasonable hazard to aquatic organisms. However, EPA does not consider the above evidence to be sufficient to warrant issuance of a Notice of Intent to cancel the registration of lindane products at this time.

Aware of this information, A.I.D. considered two substitutes proposed by the Ghana Cocoa Research Institute, propoxur and dioxacarb. However, these two carbamates present an acute toxic hazard to human users, since they inhibit the enzyme cholinesterase and can result in intoxication, caused by over exposure, to workers. The acute human toxicological hazards associated with the use of lindane are relatively slight when compared with propoxur and dioxacarb.

The proposed use of lindane on growing cocoa in Liberia does not involve direct application to the aquatic environment. Farmers will be briefed on this hazard, which is associated with pesticide drift. Additionally, lindane and benzene hexachloride (of which lindane is the gamma isomer) have been used extensively in Africa for the past twenty-five years, for the protection of stored grains and other purposes, as well as on cocoa. Since the crop in the project area is estimated to be less than 0.3 percent of the total African crop, the incremental risk associated with the use of lindane on this extremely small proportion of the total crop, much of which is and has been protected by lindane or benzene hexachloride, is considered to be insignificant when compared with the cumulative exposure which has already been, and will continue to be, experienced by persons using this material in Africa and persons consuming toxicologically insignificant amounts of lindane residues in cocoa and chocolate products throughout the world.

Project measures are planned to minimize hazards related to pesticide handling which will result in much better monitoring and controlling of chemical use under this project than obtains elsewhere in Liberia. These measures include:

(1) Regulation of pesticide distribution, storage, and use by officials;

(2) Conducting regular training programs for extension workers and farmers on appropriate application procedures and the use of safety equipment;

(3) Application of field pesticides directly by project officials initially and until farmers have sufficient knowledge and experience to assume this responsibility.

For each of the pesticides to be used in this project, there is no preferable alternative available. Experience throughout the coffee and cocoa growing areas of West Africa indicates that unless black pod and mirids on cocoa

and coffee berry disease are controlled with such pesticides, productivity remains marginal. Their use is therefore essential for the production of economically profitable crops. Use of these pesticides can thus be expected to increase appreciably the income of small farmers producing coffee and cocoa in Liberia.

The incremental added risks associated with the use of these pesticides in this project are considered to be negligible and to be outweighed by the benefits of using them on coffee and cocoa.

The EPA Registration Division of EPA has been consulted and its concurrence in the intended course of action has been obtained.

This publication constitutes notice of the impending final approval of this determination by the Administrator, A.I.D.

Dated: February 13, 1978.

GOLER T. BUTCHER,
Assistant Administrator for Africa.

[FR Doc. 78-5335 Filed 2-28-78; 8:45 am]

[4710-02]

[Delegation of Authority No. 127]

MISSION DIRECTOR AND DEPUTY MISSION DIRECTOR

United States Agency for International Development/Egypt

Pursuant to the authority delegated to me by AID Delegation of Authority No. 23, dated December 28, 1962, as amended, I hereby delegate the following functions to the Mission Director and Deputy Mission Director, USAID/Egypt, with respect to projects proposed to be conducted in Egypt under section 204 of Title II of the Agricultural Trade Development and Assistance Act of 1954, as amended (Pub. L. 480):

(1) Determining the agencies, including intergovernmental organizations, through which and the manner, terms, and conditions upon which, transfers of Egyptian pounds obtained with funds authorized under section 204 shall be made in order to meet costs designed to assure that commodities made available under Title II are used to carry out more effectively the purpose for which such commodities are made available, or to promote community and other self-help activities designed to alleviate the causes of the need for such assistance, (except for the personnel and administrative costs of cooperating sponsors, distributing agencies, and recipient agencies, and the costs of construction or maintenance of any church-owned or operated edifice or any other edifices to be used for sectarian purposes); and (2) determining that such funds are supplemental to, and not in substitution for, funds normally available for such purposes from other non-United States sources.

The exercise of such authority shall be in accordance with section 204 of Pub. L. 480 and AID Handbook Nine, and is subject to the following limitations:

(a) No individual project shall be approved which would obligate U.S.-owned local currency exceeding the equivalent of U.S. $100,000; and the total amount of all projects approved in any fiscal year shall not exceed the local currency equivalent of U.S. $1,000,000.

(b) No project shall be approved which is not recommended and sponsored by qualified and experienced cooperating sponsors operating Title II food assistance programs in Egypt.

(c) Use of this authority in each fiscal year is subject to the availability of funds and prior approval by AID/Washington and the Interagency Staff Committee of the total amount of local currencies proposed for utilization in that fiscal year.

This Delegation of Authority may not be redelegated.

This Delegation of Authority is effective immediately.

Dated: February 3, 1978.

JOSEPH C. WHEELER,
Assistant Administrator, Bureau for Near East.

[FR Doc. 78-5336 Filed 2-28-78; 8:45 am]

[4710-02]

[Delegation of Authority No. 128]

MISSION DIRECTOR AND DEPUTY MISSION DIRECTOR

United States Agency for International Development/Egypt

Pursuant to the authority delegated to me by A.I.D. Delegation of Authority No. 23, dated December 28, 1962, as amended, I hereby delegate to the Mission Director and Deputy Mission Director, USAID/Egypt, the function, pursuant to section 204 of Title II of the Agricultural Trade Development and Assistance Act of 1954, as amended (Pub. L. 480), of signing local currency project agreements or other appropriate documents with cooperating sponsors to effect the obligation and expenditure of Egyptian pounds accruing under Title I of Pub. L. 480 and purchased from the U.S. Treasury under the authority of section 204 of Pub. L. 480.

The exercise of such authority shall be in accordance with section 204 of Pub. L. 480 and AID Handbook Nine, and is subject to the limitations that:

(1) No local currency project agreement shall be signed which would obligate U.S.-owned local currency exceeding the equivalent of U.S. $100,000; and the total amount of all local currency project agreements signed in any fiscal year shall not exceed the local currency equivalent of U.S. $1,000,000.

(2) Use of this authority in each fiscal year is subject to the availability of funds and prior approval by AID/Washington and the Interagency Staff Committee of the total amount of local currencies proposed for utilization in that fiscal year.

This Delegation of Authority may not be redelegated.

This Delegation of Authority is effective immediately.

Dated: January 26, 1978.

KATHLEEN S. BITTERMANN,
Coordinator, Office of Food for Peace.

[FR Doc. 78-5337 Filed 2-28-78; 8:45 am]

[4910-57]

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

SPECIAL GUIDELINES FOR RAIL TRANSIT

Equipment Procurements

On December 15, 1976, the Department of Transportation, Urban Mass Transportation Administration (UMTA) published in the FEDERAL REGISTER a document proposing guidelines for certain contract terms and conditions to be used for the procurement of rail transit equipment purchased with UMTA capital grant funds (41 FR 54825).

Pursuant to the notice accompanying this document, UMTA held a public hearing on January 12, 1977, to receive comments on the proposed guidelines. Interested persons were given until February 11, 1977, to submit written comments. The notice also provided that after the meeting was held and all the information submitted was reviewed, UMTA would prepare a final version of these guidelines to be promulgated through appropriate channels.

UMTA has given careful consideration to all comments received with respect to the proposed guidelines, and has revised and consolidated several of the proposed guidelines to respond to comments received ~~or to~~ clarify their intended meaning. Therefore, UMTA now issues for publication as a supplement to its third-party contract requirements set forth in the External Operating Manual an addendum consisting of the following sixteen guidelines specifically applicable to rail transit equipment procurements: Authority of the Engineer or Other Agent of the Buyer, Changes, Title,

Risk of Loss, Acceptance, Indemnification, Liquidated Damages, Termination for Default, Excusable Delays, Stop Work Orders, Changes in Laws or Regulations, Approval of Subcontractors, Inspections and Tests, Disputes and Claims, Buyer's Pre-Bid Appeal Procedure, and Exemptions from Guidelines.

Because these guidelines relate to grants, they may be made effective in fewer than 30 days following notice of their issuance by UMTA.

Interested persons may obtain copies of these "Special Guidelines for Rail Transit Equipment Procurements" and background information concerning this matter by writing to the Director, Office of Public Affairs, Urban Mass Transportation Administration, 400 7th Street SW., Room 9330, Washington, D.C. 20590

Issued in Washington, D.C., February 23, 1978.

RICHARD S. PAGE,
Urban Mass Transportation Administrator.

[FR Doc. 78-5386 Filed 2-28-78; 8:45 am]

[4810-35]

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1977 Rev., Supp. No. 11]

SURETY COMPANIES ACCEPTABLE ON FEDERAL BONDS

A certificate of authority as an acceptable surety on Federal bonds is hereby issued by the Secretary of the Treasury to the following company under Sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of $40,000 has been established for the company.

Name of Company, Business Address, and State in Which Incorporated

Fritz Insurance Company

2150 Landmeier Road

Elk Grove Village, Illinois 60007

New Mexico

Certificates of authority expire on June 30 each year, unless sooner revoked, and new certificates are issued on July 1 so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Copies of the circular, when issued, may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: February 23, 1978.

D. A. PAGLIAI,
Commissioner, Bureau of Governmental Financial Operations.

[FR Doc. 78-5316 Filed 2-28-78; 8:45 am]

[4830-01]

Internal Revenue Service

COMMISSIONER'S ADVISORY GROUP

Open Meeting

There will be a meeting of the Commissioner's Advisory Group on March 14 and 15, 1978, in room 3313 of the Internal Revenue Service Building. The building is located at 1111 Constitution Avenue NW., Washington, D.C. The meeting will begin at 10 a.m. on March 14 and 9 a.m. on March 15. The agenda will include the following topics:

TUESDAY, MARCH 14, 1978

Review of IRS Audit Efficiency
Availability and Use of Technical Advice by Revenue Agents
Impact of Code Section 6110 on the Private Rulings Procedure and on the Publication of Revenue Rulings.
Feasibility of Pilot Projects to Provide No-Fee and Low-Fee Legal Services to Taxpayers in Audit, Appeals and Collection
Effectiveness of Relationships Between IRS and Professional, Trade, and Taxpayer Groups

WEDNESDAY, MARCH 15, 1978

Employment Tax Timing Problems of Exempt Organizations Dependent Primarily on Federal Grants
IRS Reorganization
IRS Alternative to TAS
Partnership Level Audit Proposal

The meeting, which will be open to the public, will be in a room that accommodates approximately 50 people. After the Committee members finish discussing the items on the agenda, there may be time for statements by non-members. If you want to make a statement at the meeting, or if you would the Committee to consider a written statement, please call or write to Lauralee A. Matthews, Assistant to the Commissioner, 1111 Constitution Avenue NW., Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Lauralee A. Matthews, Assistant to the Commissioner, 202-566-4390 (not toll free).

JEROME KURTZ,
Commissioner.

FEBRUARY 23, 1978.

[FR Doc. 78-5283 Filed 2-28-78; 8:45 am]

[4810-22]

Office of the Secretary

CERTAIN NUTS, BOLTS, AND SCREWS

Initiation of Investigation Under Section 232 of the Trade Expansion Act of 1962

AGENCY: United States Treasury Department.

ACTION: Initiation of Section 232 Investigation.

SUMMARY: This notice is to advise the public that an investigation is being conducted under section 232 of the Trade Expansion Act to determine the effects on the national security of imports of nuts, bolts, and large screws. Interested parties are invited to submit written data, views or arguments to the General Counsel of the Treasury concerning this question by March 31, 1978.

EFFECTIVE DATE: March 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Richard B. Self, Director, Office of Tariff Affairs, Office of the General Counsel, Office of the Secretary, Department of the Treasury, 15th and Pennsylvania Avenue NW., Washington, D.C. 20220, 202-566-8585.

SUPPLEMENTARY INFORMATION: In a letter dated February 10, 1978, the President directed the Secretary of the Treasury to initiate an expedited national security investigation, under section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862) pertaining to U.S. imports of iron or steel lag screws and bolts, bolts (except mine-roof bolts), nuts and large screws provided for in TSUS items 646.49, 646.54, 646.56, and 646.63. (A copy of the letter is appended to this notice.) Accordingly, such an investigation is being undertaken pursuant to section 9.2(a) of the Treasury Regulations (31 CFR 9.2(a)).

Interested parties are invited to submit relevant data, views, or arguments with respect to this question to the General Counsel of the Treasury by March 31, 1978.

Within 90 days following the publication of this Notice, a notice may be issued announcing the time and place of a public hearing designed to afford interested parties the opportunity to present oral or written views on specific questions on which Treasury thinks additional guidance from public comment may be helpful. The public hearing will take place within 30 days of publication of that Notice.

A recommendation to the President by the Secretary of the Treasury as to the appropriateness of import relief under section 232 of the Trade Expansion Act of 1962 is expected to be made no later than August 28, 1978.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

FEBRUARY 24, 1978.

APPENDIX

THE WHITE HOUSE,
Washington, February 10, 1978.

HON. W. MICHAEL BLUMENTHAL,
Secretary of the Treasury,
Washington, D.C.

DEAR MR. SECRETARY: Pursuant to section 202(b) of the Trade Act of 1974, I have determined that provision of import relief on U.S. imports of iron or steel lag screws or bolts, bolts (except mine-roof bolts) and bolts and their nuts in the same shipment, nuts, and screws having shanks or threads over 0.24 inch in diameter, provided for in items 646.49, 646.54, 646.56, and 646.63 of the Tariff Schedules of the United States (TSUS) would not be in the national economic interest.

In conjunction with my decision not to provide import relief to the domestic bolt, nut, and large screw industry, I have determined that, in light of a recent Federal Preparedness Agency (FPA) staff study which indicates that domestic fastener production capability is not adequate to satisfy wartime metal fastener requirements, further investigation of U.S. national security interests as they relate to bolts, nuts, and large screws is warranted. Accordingly, I hereby direct that you undertake an expedited national security investigation under section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) pertaining to U.S. imports of iron or steel lag screws and bolts, bolts (except mine-roof bolts), nuts, and large screws provided for in TSUS items 646.49, 646.54, 646.56, and 646.63.

Sincerely,

JIMMY CARTER.

[FR Doc. 78-5383 Filed 2-28-78; 8:45 am]

[4810-40]

Office of The Secretary

[Supplement to Department Circular, Public Debt Series—No. 6-78]

TREASURY NOTES OF SERIES G-1982

Interest Rate Increase

FEBRUARY 23, 1978.

The Secretary of the Treasury announced on February 22, 1978, that the interest rate on the notes described in Department Circular—Public Debt Series—No. 6-78, dated February 16, 1978, will be 7¼ percent per annum. Accordingly, the notes are hereby redesignated 7¼ percent Treasury Notes of Series G-1982. Interest on the notes will be payable at the rate of 7¼ percent per annum.

PAUL H. TAYLOR,
Acting Fiscal Assistant Secretary.

[FR Doc. 78-5310 Filed 2-28-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 599]

ASSIGNMENT OF HEARINGS

FEBRUARY 24, 1978.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 36781, Rate Restructuring, December 1977, R.M.M.T.B., now assigned February 27, 1978, at DC, is postponed indefinitely.
Section 5b Appl. No. 1, Alaska Rail Water Association Agreement, now assigned March 7, 1978, at DC, is canceled and reassigned to April 3, 1978, at Seattle, WA, in a hearing room to be later designated.
MC 134970 (Sub-No. 16), Unzicker Trucking, Inc., is now assigned March 14, 1978, at Chicago, IL, and will be held at room 280, E. M. Dirksen Building, 219 South Dearborn Street.
MC 134022 (Sub-No. 25), Richard A. Zima, d.b.a. Zipco is now assigned March 15, 1978, at room 280, E. M. Dirksen Building, 219 South Dearborn Street.
MC 134022 (Sub-No. 26), Richard A. Zima, d.b.a. Zipco is now assigned March 15, 1978, at room 280, E. M. Dirksen Building, 219 South Dearborn Street.
MC 134022 (Sub-No. 29), Richard A. Zima, d.b.a. Zipco is now assigned March 15, 1978, at Chicago, IL, and will be held at room 280, E. M. Dirksen Building, 219 South Dearborn Street.
MC 80289 (Sub-No. 13), Red Line Furniture Carriers, Inc., now being assigned May 8, 1978 (1 week), at New York, NY, in a hearing room to be later designated.
MC-F-13067, Roadway Express, Inc.—Control and Merger—Western Gillette, Inc., MC-F-13156, Arkansas-Best Freight System, Inc.—Purchase (Portion)—Western Gillette, Inc., MC-F-13157, Campbell Sixty-Six Express, Inc.—Purchase (Portion)—Western Gillette, Inc., MC-F-13158, The Chief Freight Lines Co.—Purchase (Portion)—Western Gillette, Inc., F.D. 28591, The Chief Freight Lines, Co., MC-F-13159, Churchill Truck Lines, Inc.—Purchase (Portion)—Western Gillette, Inc., MC-F-13160, Gordons Transport, Inc.—Purchase (Portion)—Western Gillette, Inc., and MC-F-13161, Graves Truck Line, Inc.—Purchase (Portion)—Western Gillette, Inc., now being assigned for continued hearing on April 11, 1978 (4 days), at Dallas, TX, in a hearing room to be later designated.
MC 96992 (Sub-No. 4), Highway Pipeline Trucking Co. and MC 115841 (Sub-No. 538), Colonial Refrigerated Transportation, Inc., now being assigned April 17, 1978 (1 week), at Dallas, TX, in a hearing room to be later designated.
MC 125433 (Sub-No. 123), F-B Truck Line Co., is now assigned for hearing May 2, 1978 (1 day), at San Francisco, CA, at a hearing room to be later designated.
MC 30837 (Sub-No. 478), Kenosha Auto Transport Corp., is now assigned for hearing May 3, 1978 (3 days), at San Francisco, CA, at a hearing room to be later designated.
MC 109780 (Sub-No. 74), Continental Trailways, Inc., is now assigned for hearing May 8, 1978 (2 weeks), at San Francisco, CA, at a hearing room to be later designated.
AB 43 (Sub-No. 42), Illinois Central Gulf Railroad Co. Abandonment in Green, Monroe, Brown, Johnson, Morgan, and Marion Counties, IN, is now assigned for hearing March 13, 1978, at Indianapolis, IN, and will be held at room 264, New Federal Building, 575 North Penn and March 14-17, hearing will be held at room 402, Federal Building and U.S. Courthouse, 46 East Ohio Street.
MC 119792 (Sub-No. 66), Chicago Southern Transportation Co., is now assigned for hearing April 25, 1978 (1 day), at Tampa, FL, at a hearing room to be later designated.
MC 113388 (Sub-No. 121), Lester C. Newton Trucking Co., Inc., is now assigned for hearing April 26, 1978 (3 days), at Tampa, FL, at a hearing room to be later designated.
MC 56679 (Sub-No. 94), Brown Transport Corp., is now assigned for hearing May 5, 1978 (1 day), at Miami, FL, at a hearing room to be later designated.
MC 140587 (Sub-No. 4), Cecil Claxton Trucking, now assigned April 4, 1978, at DC, is canceled.
MC 9913, American Can & Storage, Inc., Investigation and Revocation of Certificates, is now assigned for hearing May 4, 1978 (1 day), at Miami, FL, at a hearing room to be later designated.
AB 55 (Sub-No. 13), Seaboard Coast Line Railroad Co. Abandonment Between Arcadia and Port Boca Grande in DeSoto, Charlotte, and Lee Counties, FL, is now assigned for hearing May 1, 1978 (3 days), at Ft. Myers, FL, at a hearing room to be later designated.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-5392 Filed 2-28-78; 8:45 am]

[7035-01]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY—ELIMINATION OF GATEWAY LETTER NOTICES

FEBRUARY 15, 1978.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may

be filed with the Interstate Commerce Commission within 10 days from the date of this publication. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

No. MC 61825 (Sub-No. E1183) (Correction), filed May 13, 1974, published in the FEDERAL REGISTER issue of January 20, 1978, and partially republished, as corrected, this issue. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, DC 20036. *Furniture parts* (except commodities in bulk), from points in CT, DE, DC, ME, MD, MA, NH, NJ, RI, those points in VT on and east of a line beginning at the United States-Canadian International Boundary line, and extending along VT Hwy 114, to junction U.S. Hwy 5, to junction VT Hwy 11, to junction U.S. Hwy 7, to junction VT Hwy 9, then along VT Hwy 9 to the VT-NY State line; those points in NY, on and east of a line beginning at the NY-VT State line, and extending along NY Hwy 7, to junction U.S. Hwy 9W, to junction NY Hwy 32, to junction NY Hwy 23, to junction NY Hwy 30, to junction NY Hwy 17, then along NY Hwy 17 to the NY-PA State line; those points in PA on and east of a line beginning at the PA-NY State line, and extending along PA Hwy 370, to junction PA Hwy 247, to junction U.S. Hwy 6, to junction Interstate Hwy 81, to junction U.S. Hwy 22, to junction U.S. Hwy 11, then along U.S. Hwy 11 to the PA-MD State line; those points in VA on and east of a line beginning at the VA-WV State line, and extending along U.S. Hwy 11 to junction VA Hwy 16, to junction VA Hwy 614, to junction VA Hwy 749, to junction U.S. Hwy 21, to junction VA Hwy 805, to junction VA Hwy 94, to junction U.S. Hwy 58, to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of Smyth County, VA.

NOTE.—The purpose of this partial republication is to correct the territorial description. The remainder of this letter-notice remains as previously published.

No. MC 61825 (Sub-No. E1210), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., DC 20036. *Furniture parts and materials, equipment, and supplies* used in the manufacture and distribution of new furniture and furniture parts, except commodities in bulk, from points in AL, AZ, AR, CA, CO, FL, GA, ID, KS, LA, MS, MT, NV, NM, OK, OR, TN, TX, UT, WA and WY and from those points in WV, KY, IN, IL, MO, IA, and NE on and south of a line beginning at the VA-WV State line, and extending along the New River to U.S. Hwy 19, to junction WV Hwy 3, to junction U.S. Hwy 119, to junction WV Hwy 10, to junction WV Hwy 37 to the WV-KY State line, and extending along KY Hwy 32 to junction Interstate Hwy 64, to junction KY Hwy 36, to junction U.S. Hwy 62, to junction KY Hwy 32, to junction U.S. Hwy 25, to junction U.S. Hwy 460, to junction KY Hwy 227, to junction KY Hwy 607, to junction U.S. Hwy 127, to junction KY Hwy 355, to junction KY Hwy 22, to junction KY Hwy 573, to junction KY Hwy 157 to the Trimble-Oldham County line, and extending along the Trimble-Oldham County line to the KY-IN State line, and extending north along the OH River to the Clark-Jefferson County line and extending along the Clark-Jefferson County line to IN Hwy 362, to junction IN Hwy 3, to junction IN Hwy 56, to junction IN Hwy 39, to junction U.S. Hwy 50, to junction IN Hwy 37, to junction IN Hwy 58, to junction IN Hwy 67, to junction U.S. Hwy 41, to junction U.S. Hwy 50 to the IN-IL State line and extending along U.S. Hwy 50 to junction IL Hwy 127, to junction IL Hwy 140, to junction IL Hwy 4, to junction IL Hwy 16, to junction IL Hwy 100, to junction IL Hwy 96, to junction U.S. Hwy 24 to the IL-MO State line, and extending along U.S. Hwy 24 to junction U.S. Hwy 61, to junction MO Hwy 6, to junction MO Hwy 15, to junction U.S. Hwy 136, to junction MO Hwy 149 to the MO-IA State line, and extending along IA Hwy 216 to junction IA Hwy 5, to junction IA Hwy 2, to junction U.S. Hwy 65, to junction U.S. Hwy 34 to the IA-MO State line, and extending along U.S. Hwy 34 to junction U.S. Hwy 73, to the Platte River and extending along the Platte River to NE Hwy 92, to junction U.S. Hwy 81, to junction NE Hwy 22, to junction NE Hwy 39, to junction NE Hwy 14, to junction NE Hwy 84, to junction U.S. Hwy 81 to the NE-SD State line; from those points in MN, ND, and SD on and west of a line beginning at the NE-SD State line, and extending along U.S. Hwy 81 to junction U.S. Hwy 16, to junction Interstate Hwy 90, to junction SD Hwy 37, to junction U.S. Hwy 212, to junction U.S. Hwy 281 to the SD-ND State line, and extending along U.S. Hwy 281 to junction ND Hwy 11, to junction ND Hwy 32, to junction ND Hwy 46, to junction ND Hwy 18, to junction Interstate Hwy 94 to the ND-MN State line, and extending along U.S. Hwy 10 to junction U.S. Hwy 59, to junction MN Hwy 113, to junction U.S. Hwy 71 to the United States-Canadian International Boundary line, to New York, NY. The purpose of this filing is to eliminate points in Smyth County, VA, Lynchburg, VA, and Baltimore, MD.

No. MC 61825 (Sub-No. E1211), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., DC 20036. *Materials, equipment, and supplies* used in the manufacture, packaging, and distribution of new furniture and furniture parts, except commodities in bulk, from points in CT, ME, MA, NH, RI, and VT to points in VA on and south of a line beginning at the NC-VA State line extending along VA Hwy 89 to junction U.S. Hwy 58, to junction VA Hwy 100, to junction U.S. Hwy 11, to junction Hwy 460, to junction VA Hwy 727, to junction VA Hwy 615, to junction VA Hwy 600, to junction U.S. Hwy 501 to the VA-NC State line. The purpose of this filing is to eliminate the gateway of Elizabeth City, NC, and/or Lynchburg, VA.

No. MC 61825 (Sub-No. E1212), filed May 13, 1974. applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, DC 20036. *Furniture parts and furniture materials*, except commodities in bulk, from points in MA, CT, and RI to points in LA. The purpose of this filing is to eliminate the gateway of points in Smyth County, VA, Lynchburg, VA, and Martinsville, VA.

No. MC 61825 (Sub-No. E1213), filed May 13, 1974. applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, DC 20036. *Furniture parts and furniture materials*, except commodities in bulk, from those points in KY on and south of a line beginning at the TN-KY State line, and extending along U.S. Hwy 127 to junction KY Hwy 90, to junction KY Hwy 80, to junction KY Hwy 91, to junction U.S. Hwy 62, to junction U.S. Hwy 45 to the KY-IL State line, to points in DE; to those points in NJ and NY on and east of a line beginning at the Atlantic Ocean, and extending along the DE River to U.S. Hwy 1, to junction NJ Hwy 91, to junction NJ Hwy 27, to the Garden State Parkway, to junction NJ Hwy 506, to junction NJ Hwy 17, to the Garden State Parkway, to junction NJ Hwy 502, to junction NJ Hwy 505 to the NJ-NY State line, and extending along NY Hwy 303 to junction U.S. Hwy 9W, to junction U.S. Hwy 6 to the NY-CT State line. The purpose of this filing is to eliminate the gateway of points in Smyth County, VA, Lynchburg, VA, and Martinsville, VA.

No. MC 61825 (Sub-No. E1214), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, DC 20036. *Furniture parts and furniture materials*, except commodities in bulk, from points in MA, CT, and RI to points in MD. The purpose of this filing is to eliminate the gateway of points in Smyth County, VA, Lynchburg, VA, and Martinsville, VA.

No. MC 65941 (Sub-No. E36), filed January 24, 1975. Applicant: TOWER LINES, INC., P.O. Box 6010, Wheeling, WV 26003. Applicant's representative: George V. Thieroff (same as above). *Oil, grease, paper, roofing, metal and clay products, and materials, equipment, and supplies* used or useful in the production and packing of metal and clay products and building, stone, structural steel, and heavy machinery and equipment (except commodities in bulk), (1)(a) between points in Washington, Allegheny, Greene, Westmoreland, Fayette, and Somerset Counties, PA that are on and west of U.S. Hwy 219, on the one hand, and, on the other, points in OH on and west of a line beginning at the OH-WV State line and extending along U.S. Hwy 250 to Lake Erie, (1)(b) between points in Beaver, Butler, Armstrong, Indiana, and Clarion Counties, PA that are on and south of Interstate Hwy 80, points in Clearfield County, PA that are on and south of Interstate Hwy 80 and on and west of U.S. Hwy 219, points in Cambria County, PA that are on and west of U.S. Hwy 219, points in Jefferson County, PA that are on and South of Interstate Hwy 80, and points in Somerset County, PA that are on and west of U.S. Hwy 219, on the one hand, and, on the other, points in OH on and south of a line beginning at the OH-WV State line and then along Interstate Hwy 70 to junction OH Hwy 209, then along OH Hwy 209 to junction OH Hwy 83, then along OH Hwy 83 to junction OH Hwy 541, then along OH Hwy 541 to junction U.S. Hwy 62, then along U.S. Hwy 62 to junction OH Hwy 37, then along OH Hwy 37 to junction U.S. Hwy 33, then along U.S. Hwy 33 to the OH-IN State line, (2) between points in PA on and west of U.S. Hwy 219, on the one hand, and, on the other, points in OH and south of Interstate Hwy 70, (3) between points in PA on, south, and west of a line beginning at the WV-PA State line and extending along Interstate Hwy 70 to junction U.S. Hwy 219, then along U.S. Hwy 219 to the PA-WV State line, on the one hand, and, on the other, points in OH on and west of a line beginning at the OH-WV State line, then along U.S. Hwy 250 to junction Interstate Hwy 77, then along Interstate Hwy 77 to junction OH Hwy 59, then along OH Hwy 59 to junction OH Hwy 91, then along OH Hwy 91 to Lake Erie, (4) between points in Monongalia, Taylor, Marion, and Barbour Counties, WV, on the one hand, and, on the other, points in OH on, west, and north of a line beginning at the OH-WV State line, then along OH Hwy 78 to junction OH Hwy 60, then along OH Hwy 60 to junction OH Hwy 93, then along OH Hwy 93 to junction U.S. Hwy 50, then along U.S. Hwy 50 to the OH-IN State line and points on and west of a line beginning at the OH-WV State line, and extending along OH Hwy 45 to junction OH Hwy 88 to the OH-PA State line, (5)(a) between points in Kanawha County, WV, on and north of U.S. Hwy 60, on the one hand, and, on the other, points in OH, on, north, and east of a line beginning at the OH-WV State line and extending along OH Hwy 78 to junction OH Hwy 800, then along OH Hwy 800 to junction U.S. Hwy 250, then along U.S. Hwy 250 to junction OH Hwy 94,then along OH Hwy 94 to junction OH Hwy 604, then along OH Hwy 604 to junction OH Hwy 83, then along OH Hwy 83 to junction U.S. Hwy 224, then along U.S. Hwy 224 to junction OH Hwy 58, then along OH Hwy 58 to Lake Erie, (5)(b) between points in Harrison, Doddridge, Lewis, and Gilmer Counties, WV, on the one hand, and, on the other, points in OH on and north of a line beginning at the OH-WV line and extending along Interstate Hwy 70 to junction Interstate Hwy 71, then along Interstate Hwy 71 to junction Interstate Hwy 75, then along Interstate Hwy 75 to the OH-KY State line, (6) between points in Tyler, Pleasants, Ritchie, Calhourn, Wirt, and Wood Counties, WV, on the one hand, and, on the other, points in Ashtabula, Lake, Geauga, Trumbull, Mahoning, Belmont, Columbiana, Portage, Carroll, Jefferson, and Harrison Counties, OH, (7) between points in Roane and Jackson Counties, WV and points in Putnam County, WV on and north of U.S. Hwy 60, on the one hand, and, on the other, points in Ashtabula, Lake, Geauga, Trumbull, Mahoning, Belmont, Wayne, Medina, Lorain, Ottawa, Lucas, Portage, Carroll, Jefferson, Harrison, Summitt, Cuyahoga, Erie, Huron, Sandusky, and Wood Counties, OH, (8) between points in Cabell County, WV, on and north of U.S. Hwy 60 and points in Mason County, WV, on the one hand, and, on the other, points in Ashtabula, Lake, Geauga, Trumbull, Mahoning, Belmont, Portage, Carroll Jefferson, Harrison, Summitt, and Cuyahoga Counties, OH, (9) between points in Pendleton, Randolph, Upshur, Braxton, Clay, Webster, Nicholas, and Pocahontas Counties, WV and points in Fayette and Greenbrier Counties, WV on and north of U.S. Hwy 60, on the one hand, and, on the other, points in OH on and north of a line beginning at the OH-WV State line, then along Interstate Hwy 70 to junction OH Hwy 13, then along OH Hwy 13 to junction OH Hwy 657, then along OH Hwy 657 to junction OH Hwy 314, then along OH Hwy 314 to junction OH Hwy 95, then along OH Hwy 95 to junction U.S. Hwy 30S, then along U.S. Hwy 30S to junction U.S. Hwy 68, then along U.S. Hwy 68 to junction U.S. Hwy 30N, then along U.S. Hwy 30N to junction U.S. Hwy 30, then along U.S. Hwy 30 to the OH-IN State line, (10) between points in Tucker, Grant, Hardy, Mineral, Hampshire, Morgan, Berkeley, and Jefferson Counties, WV, on the one hand, and, on the other, points in OH on and north of a line beginning at the OH-WV State line, then along OH Hwy 78 to junction OH Hwy 37, then along OH Hwy 37 to junction U.S. Hwy 22, then along U.S. Hwy 22 to junction OH Hwy 138, then along OH Hwy 138 to junction U.S. Hwy 62, then along U.S. Hwy 62 to the OH-KY State line. The purpose of this filing is to eliminate the gateway of Martins Ferry, Ohio (excluding that portion of WV in the Martins Ferry, OH, commercial zone, as defined by the Commission).

No. MC 83539 (Sub-No. E346), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment, between points in the State of AL in and west of Jackson, Marshall, Etowah, Calhoun, Talladega, Coosa, Elmore, Montgomery, Pike, Crenshaw, and Covington counties, on the one hand, and, on the other, points in the State of MA. The purpose of this filing is to eliminate the gateways of Philadelphia, PA, points within a 50-mile radius of Nashville, TN, and points in KY.

No. MC 83539 (Sub-No. E349), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment, between points in the State of AL, on the one hand, and, on the other, points in the State of OH. The purpose of this filing is to eliminate the gateways of points within a 50-mile radius of Nashville, TN, and points in KY.

No. MC 83539 (Sub-No. E350), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment, between points in the State of AL, on the one hand, and, on the other, points in the State of PA. The purpose of this filing is to eliminate the gateways of points within a 50-mile radius of Nashville, TN, and points in KY.

No. MC 83539 (Sub-No. E351), filed May 31, 1977. Applicant: C & H

TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Commodities,* the transportation of which, because of their size or weight, require the use of special equipment, between points in the State of AL, on the one hand, and, on the other, points in the State of RI. The purpose of this filing is to eliminate the gateways of Philadelphia, PA, points within a 50-mile radius of Nashville, TN, and points in KY.

No. MC 83539 (Sub-No. E352), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Commodities,* the transportation of which, because of their size or weight, require the use of special equipment, between points in the State of AL in, north and west of Marion, Winston, Lawrence, Morgan, and Madison Counties, on the one hand, and, on the other, points in the State of VA in and west of Dickinson, Russell, and Washington Counties. The purpose of this filing is to eliminate the gateways of points within a 50-mile radius of Nashville, TN, and points in KY.

No. MC 83539 (Sub-No. E356), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Commodities,* the transportation of which, because of their size or weight, require the use of special equipment, between points in Mississippi County, AR, on the one hand, and, on the other, points in the State of MO, in, north and west of Buchanan, Clinton, Caldwell, Livingston, Linn, Sullivan, Adair, and Schuyler Counties, Restricted against: (1) Service in the stringing or picking up of any of the above commodities in connection with main or truck pipelines, and (2) service in the stringing or picking up of pipe in connection with oil or gas pipelines. The purpose of this filing is to eliminate the gateways of points in KY and IL.

No. MC 83539 (Sub-No. E432), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). (1) *Commodities,* the transportation of which, because of their size or weight, require the use of special equipment, and (2) *related machinery parts, and related contractors' materials and supplies* when moving in connection with the commodities in (1) above, between (a) points in MD, on the one hand, and, on the other, points in VA in and west of Craig, Montgomery, Floyd, and Patrick Counties; (b) points in MD in, west, and north of Frederick, Carroll, Baltimore, Baltimore City, Harford, and Cecil Counties, on the one hand, and, on the other, points in VA in and west of Rockingham, Augusta, Rockbridge, Bedford, Pittsylvania, and Halifax Counties; (c) points in MD in and west of Frederick County, on the one hand, and, on the other, points in VA in, west, and south of Rockingham, Augusta, Nelson, Amherst, Campbell, Charlotte, Lunenburg, Nottoway, Brunswick, Greensville, Sussex, Southampton, Isle of Wight, Warwick, York, and in Accomac, and Northhampton Counties; (d) points in MD in and west of Washington Counties, on the one hand, and, on the other, points in VA. The purpose of this filing is to eliminate the gateway of points in PA.

No. MC 83539 (Sub-No. E433), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). (1) *Commodities,* the transportation of which, because of their size or weight, require the use of special equipment, and (2) *related machinery parts and related contractors' materials and supplies* when moving in connection with the commodities in (1) above, (a) between points in MD, on the one hand, and, on the other, points in WV in and west of Mason, Putnam, Kanawha, Boone, Logan, and Mingo Counties, and in and north of Ohio County; (b) points in MD in and east of Washington County, on the one hand, and, on the other, points in WV in and west of Morgan County; (c) points in MD in and east of Wicomico and Somerset Counties, on the one hand, and, on the other, points in WV. The purpose of this filing is to eliminate the gateway of points in PA.

No. MC 83539 (Sub-No. E434), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). (1) *Commodities,* the transportation of which, because of their size or weight, require the use of special equipment and (2) *related machinery parts and related contractors' materials and supplies* when moving in connection with the commodities in (1) above, between points in MD, on the one hand, and, on the other, points in WI, except that no service shall be performed in the stringing or picking up of pipe in connection with oil or gas pipelines. The purpose of this filing is to eliminate the gateways of points in IN and PA.

No. MC 83539 (Sub-No. E435), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). (1) *Commodities,* the transportation of which because of their size or weight, require the use of special equipment, and parts thereof when moving in connection with such commodities, between (a) points in AR in and east of Caly, Greene, Craighead, Poinsett, Cross, and Crittenden Counties, on the one hand, and, on the other, points in CO in the west of La Plata, San Juan, Ouray, Gunnison, Chaffee, Park, Jefferson, Boulder, and Weld Counties; (b) points in AR in Mississippi and Crittenden Counties, on the one hand, and, on the other, points in the State of CO, restricted against (1) the stringing or picking up of any of the above commodities in connection with main or truck pipelines, and (2) the stringing or picking up of pipe in connection with oil or gas pipelines. The purpose of this filing is to eliminate the gateways of points in IL, MO, and Wichita, KS.

No. MC 83539 (Sub-No. E437), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). (1) *Structural steel,* the transportation of which because of size or weight requires the use of special equipment, from the facilities of C.F. & I. Steel Corp. at or near Pueblo, CO, to points in NH. The purpose of this filing is to eliminate the gateways of points in IN, Philadelphia, PA, and Worcester, MA.

No. MC 83539 (Sub-No. E438), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Structural steel,* the transportation of which because of size or weight requires the use of special equipment, from the facilities of C. F. & I. Steel Corp., at or near Pueblo, CO, to points in VT. The purpose of this filing is to eliminate the gateways of points in IN, Philadelphia, PA, and Worcester, MA.

Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). (1) *Self-propelled articles* (except in driveaway service), each weighing 15,000 pounds or more, and (2) *related machinery, parts, and supplies* moving in connection with the commodities in (1) above between: (a) points in MO, in and west of Pike, Montgomery, Gasconade, Phelps, Dent, Shannon, Carter, Butler, Dunklin, and Pemiscot Counties, on the one hand, and, on the other, points in OH in east and north of Erie, Lorain, Medina, Summit, Stark, and Columbiana Counties; (b) points in MO in and west of Ralls, Audrain, Callaway, Cole, Moniteau, Morgan, Benton, Hickory, St. Clair, Cedar, Barton, Jasper, Lawrence, Christian, Douglas, Howell, Oregon, Ripley, Butler, Dunklin, and Pemiscot Counties, on the one hand, and, on the other, points in OH, restricted against the transportation of any shipment which (1) originates at St. Louis or Kansas City, MO, and which is destined to any point in IA, KS, or MO, or (2) originates at any point in IA, KS, or MO and which is destined to St. Louis or Kansas City, MO, and further restricted to commodities which are transported on trailers. The purpose of this filing is to eliminate the gateways of points in IA, IL and IN, or points in AR and KY.

No. MC 83539 (Sub-No. E447), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Self-propelled articles* (except in driveaway service), each weighing 15,000 pounds or more and *related machinery, parts, and supplies* moving in connection therewith, between points in OH, on the one hand, and, on the other, points of OK. The purpose of this filing is to eliminate the gateway of points in IN.

Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Commodities,* the transportation of which, because of their size or weight, require the use of special equipment, between points in MA, on the one hand, and, on the other, points in MI. The purpose of this filing is to eliminate the gateways of Philadelphia, PA.

No. MC 83539 (Sub-No. E450), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Commodities,* the transportation of which, because of size or weight, require the use of special equipment, between: (A) points in MA, on the one hand, and, on the other, points in that part of OH in, west, and south of Ottawa, Sandusky, Seneca, Crawford, Richland, Ashland, Medina, Summit, Portage, and Trumbull Counties; and (B) points in that part of MA, in and east of Worcester County, on the one hand, and, on the other, points in OH. The purpose of this filing is to eliminate the gateway of Philadelphia, PA.

No. MC 83539 (Sub-No. E451), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Commodities,* the transportation of which, because of size or weight, require the use of special equipment, between points in MA on the one hand, and, on the other, points in that part of TN in and west of Clay, Overton, Putnam, DeKalb, Warren Coffee, and Franklin Counties. The purpose of this filing is to eliminate the gateways of Philadelphia, PA, any points in KY, and Nashville, TN.

No. MC 83539 (Sub-No. E452), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Commodities,* the transportation of which, because of size or weight, require the use of special equipment between points in MA on the one hand, and, on the other, points in VA. The purpose of this filing is to eliminate the gateway of Philadelphia, PA.

No. MC 83539 (Sub-No. E453), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Commodities,* the transportation of which, because of size or weight, require the use of special equipment between points in MA on the one hand, and, on the other, points in WV. The purpose of this filing is to eliminate the gateway of Philadelphia, PA.

No. MC 83539 (Sub-No. E454), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Commodities,* the transportation of which, because of size or weight, require the use of special equipment and parts thereof when moving in connection with such commodities between points in MI (Lower Peninsula), on the one hand, and, on the other, points in MO. Restrictions: (1) No service shall be performed in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines; and (2) no service shall be performed in stringing or picking up of pipe in connection with oil or gas pipelines. the purpose of this filing is to eliminate the gateways of IL and IN.

No. MC 83539 (Sub-No. E455), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Commodities,* the transportation of which, because of size or weight, require the use of special equipment; and related machinery parts, and related contractors' materials and supplies when moving in connection with such commodities; between points in MI, on the one hand, and, on the other, points in NJ. The purpose of this filing is to eliminate the gateway of PA.

No. MC 83539 (Sub-No. E456), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Commodities,* the transportation of which, because of size or weight, require the use of special equipment; and related machinery parts, and related contractors' materials and supplies when moving in connection with such commodities, between points in MI, on the one hand, and, on the other, points in NY. The purpose of this filing is to eliminate the gateway of PA.

No. MC 83539 (Sub-No. E457), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Commodities,* the transportation of which, because of size or weight, require the use of special equipment, and parts thereof when moving in connection with such commodities, between (a) points in MI (Upper Peninsula), on the one hand, and, on the other, points in that part of NC in, west, and south of Madison, Buncombe, Rutherford, Cleveland, Lincoln, Mecklenburg, Union, and Anson Counties; (b) points in that part of MI in and west of Keweenaw, Houghton, Iron, Dickinson, and Menominee Counties, on the one hand, and, on the other, points in NC; (C) points in that part of MI in and west of Marquette, and Delta Counties on the one hand, and, on the other, points in that part of NC in and west of Vance, Franklin, Nash, Edgecombe, Wilson, Greene, Lenoir, Duplin, and Anslow. The purpose of this filing is to eliminate the gateways of KY and points within a 50 mile radius of Nashville, TN.

No. MC 83539 (Sub-No. E458), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Commodities,* the transportation of which, because of size or weight, require the use of special equipment between points in MI, on the one hand, and, on the other, points in RI. The purpose of this filing is to eliminate the gateway of Philadelphia, PA.

No. MC 83539 (Sub-No. E459), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Commodities,* the transportation of which, because of their size or weight, require the use of special equipment, and parts thereof when moving in connection with such commodities, between: (A) points in MI, on the one hand, and, on the other, points in that part of SC, in, east, and south of Anderson, Abbeville, Greenwood, Edgefield, Aiken, Barnwell, Allendale, Hampton, and Beaufort Counties; (B) points in that part of MI, in

and west of Cheboygan, Charlevoix, Antrim, Grand Traverse, Wexford, Lake, Newaygo, Kent, Allegan, Kalamazoo, Van Buren, and Cass Counties, on the one hand, and, on the other, points in SC; and (C) points in MI, in and west of Huron, Tuscola, Genesee, Shiawassee, Ingham, Jackson, Calhoun, and Branch Counties, on the one hand, and, on the other, points in that part of SC, in, east, and south of Anderson, Abbeville, Greenwood, Edgefield, Aiken, Orangeburg, Dorchester, and Charleston Counties. Restriction: The authority granted immediately above is subject to the condition that the carrier shall not transport aircraft and missiles, and parts thereof. The purpose of this filing is to eliminate the gateways of KY, points within a 50-mile radius of Nashville, TN, and NC or GA.

No. MC 83539 (Sub-No. E460), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Commodities*, the transportation of which, because of size or weight, require the use of special equipment, and parts thereof when moving in connection with such commodities, between: (A) points in that part of MI in and west of Marquette and Delta Counties, on the one hand, and, on the other, points in TN; (B) points in MI, on the one hand, and, on the other, points in that part of TN, in and west of Macon, Jackson, Putnam, Cumberland, Bledsoe, and Hamilton Counties. The purpose of this filing is to eliminate the gateways of KY and points within a 50-mile radius of Nashville, TN.

No. MC 83539 (Sub-No. E461), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Commodities*, the transportation of which, because of size or weight, require the use of special equipment, and parts thereof when moving in connection with such commodities between points in MN, on the one hand, and, on the other, points in OH. Restrictions: (1) No service shall be performed in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. (2) No service shall be performed in the stringing or picking up of pipe in connection with oil or gas pipelines. The purpose of this filing is to eliminate the gateways of IL and IN.

No. MC 83539 (Sub-No. E462), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Commodities*, the transportation of which, because of size or weight, require the use of special equipment and related machinery parts, and related contractors' materials and supplies when moving in connection with such commodities, between points in MN, on the one hand, and, on the other, points in WV. Restriction: No service shall be performed in the stringing or picking up of pipe in connection with oil or gas pipelines. The purpose of this filing is to eliminate the gateways of IL and IN.

No. MC 83539 (Sub-No. E463), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Commodities*, the transportation of which, because of size or weight, require the use of special equipment; and related machinery parts, and related contractors' materials and supplies when moving in connection with such commodities between points in MN, on the one hand, and, on the other, points in WV. Restriction: No service shall be performed in the stringing or picking up of pipe in connection with oil or gas pipelines. The purpose of this filing is to eliminate the gateways of IL and IN.

No. MC 83539 (Sub-No. E464), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Commodities*, the transportation of which, because of size or weight, require the use of special equipment and parts thereof when moving in connection with such commodities; between points in MS, on the one hand, and, on the other, points in OH. Restriction: No service shall be performed in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. The purpose of this filing is to eliminate the gateway of KY.

No. MC 83539 (Sub-No. E465), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Commodities*, the transportation of which, because of size or weight, require the use of special equipment and, related machinery parts, and related contractors' materials and supplies when moving in connection with such commodities; between points in MO, on the one hand, and, on the other, points in OH. Restrictions: (1) No service shall be performed in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. (2) No service will be performed in the stringing or picking up of pipe in connection with oil or gas pipelines. The purpose of this filing is to eliminate the gateways of IL and IN.

No. MC 83539 (Sub-No. E466), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Commodities*, the transportation of which, because of size or weight, require the use of special equipment, and parts thereof when moving in connection with such commodities, between points in MO, on the one hand, and, on the other, points in VA. Restrictions: (1) No service shall be performed in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. (2) No service shall be performed in the stringing or picking up of pipe in connection with oil or gas pipelines. The purpose of this filing is to eliminate the gateways of IL, and IN, or KY.

No. MC 83539 (Sub-No. E467), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Commodities*, the transportation of which, because of size or weight, require the use of special equipment, and related machinery parts when moving in connection with such commodities, between points in MO, on the one hand, and, on the other, points in WV. Restrictions: (1) No service shall be performed in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines, (2) no service shall be performed in the stringing or picking up of pipe in connection with oil or gas pipelines. The purpose of this filing is to eliminate the gateways of IL, IN, or KY.

No. MC 83539 (Sub-No. E468), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Commodities*, the transportation of which, because of size or weight, require the use of special equipment between points in MT, on the one hand, and, on the other, points in VA. Restrictions: No service shall be performed in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. No service shall be performed in the stringing or picking up of pipe in connection with oil or gas pipelines; the authority granted shall be restricted against the transportation of boats. The purpose of this filing is to eliminate the gateways of SD, IA, IL, and IN.

No. MC 83539 (Sub-No. E469), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Commodities*, the transportation of which, because of size or

weight, require the use of special equipment between points in MT, on the one hand, and, on the other, points in WV. Restrictions: No service shall be performed in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. No service shall be performed in the stringing or picking up of pipe in connection with oil or gas pipelines; the authority granted shall be restricted against the transportation of boats. The purpose of this filing is to eliminate the gateways of SD, IA, IL, and IN.

No. MC 83539 (Sub-No. E470), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Commodities*, the transportation of which, because of size or weight, require the use of special equipment, between points in that part of NE, in, west, and south of Dawes, Box Butte, Morrill, Garden, Keith, Lincoln, Frontier, and Redwillow Counties, on the one hand, and, on the other points in that part of WI in and east of Door, Kewaunee, Manitowoc, Sheboygan, Ozaukee, Milwaukee, Racine, and Kenosha Counties. Restrictions: No service shall be performed in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. The carrier shall not transport machinery, equipment, materials, and supplies used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, from, to or between points in IL. The authority granted under the two commodity descriptions above shall be restricted against the transportation of cast iron pressure pipe and fittings and accessories therefor when moving with such pipe, from Council Bluffs, IA. No service shall be performed in the stringing or picking up of pipe in connection with oil or gas pipelines. The purpose of this filing is to eliminate gateway points in IL and IN.

No. MC 83539 (Sub-No. E493), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Commodities*, the transportation of which, by reason of size or weight, require the use of special equipment; and related machinery and contractor's materials and supplies when their transportation is incidental to the transportation of the commodities authorized above, between points in SD, on the one hand, and, on the other, points in WV. Restriction: The authority granted herein is subject to the condition that the carrier shall not engage in the stringing or picking up of pipe along pipelines. The purpose of this filing is to eliminate the gateway of OH.

No. MC 83539 (Sub-No. E494), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment anf related machinery parts and related contractors' materials and supplies when moving in connection with such commodities, between points in Union County, SD, on the one hand, and, on the other, points in Racine and Kenosha Counties, WI, restricted against the stringing or pickup of pipe in connection with oil or gas pipelines. The purpose of this filing is to eliminate the gateways of IA, IL, and IN.

No. MC 83539 (Sub-No. E497), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Commodities*, the transportation of which, because of size or weight, require the use of special equipment, and related machinery parts and related contractors' materials and supplies when their transportation is incidental to the transportation of the commodities authorized above, between points in VA and WI, restricted against the stringing or picking up of pipe in connection with oil, gas, main, or truck pipelines. The purpose of this filing is to eliminate the gateways of IN and IL.

No. MC 83539 (Sub-No. E498), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Commodities*, the transportation of which, because of size or weight, require the use of special equipment (except boats), and related machinery parts and related contractors' materials and supplies when moving in connection with such commodities, between points in VA and points in WY, restricted against the stringing or picking up of any of the above commodities in connection with main or truck pipelines. The purpose of this filing is to eliminate the gateways of IN, IL, IA, and SD.

No. MC 83539 (Sub-No. E4799) filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment and related machinery parts and related contractors' material and supplies when moving in connection with such commodities between points in WV and points in WI, restricted against the stringing or picking up of any of the above commodities in connection with oil, gas, main or truck pipelines. The purpose of this filing is to eliminate the gateways of IN and IL.

No. MC 83539 (Sub-No. E590), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Heavy machinery*, (A) between those points in MD in and west of Queen Annes, Anne Arundel, Calvert, and St. Marys Counties, on the one hand, and, on the other, those points in NC in and west of Alleghany, Wilkes, Iredell, Mecklenburg, and Union Counties; (B) between those points in MD in and west of Frederick County, on the one hand, and, on the other, points in NC; (C) between those points in MD in, west and north of Dorchester and Somerset Counties, on the one hand, and, on the other, those points in NC in and west of Madison, Buncombe, and Henderson Counties. The purpose of this filing is to eliminate the gateways of PA and VA.

No. MC 83539 (Sub-No. E591), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Heavy machinery*, between points in MD, in, west, and north of Queen Annes, Anne Arundel, Calvert, and St. Marys Counties, on the one hand, and, on the other, points in SC (PA, VA, and NC*). Restriction: The authority granted immediately above is subject to the condition that the carrier shall not transport aircraft and missiles and parts thereof. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 102567 (Sub-No. E71) (Correction), filed June 3, 1974, published in the FEDERAL REGISTER issue of June 4, 1975, and republished, as corrected, this issue. Applicant: MC NAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, LA 71010. Applicant's representative: Joe Day (same as above). *Petroleum products* (except liquefied petroleum gases), as defined in Appendix XIII to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209, in bulk, in tank vehicles, from those points in LA, AR and TX within 150 miles of Henderson, TX, which are south of a line beginning at Alexandria, LA, and extending along U.S. Hwy 71 to junction U.S. Hwy 59, then along U.S. Hwy 59 to junction TX Hwy 155, then along TX Hwy 155 to junction U.S. Hwy 79, then along U.S. Hwy 79 to a point on U.S. Hwy 79 within 150 miles of Henderson, TX, near Rockdale, TX, to those points in AR north of a line beginning

at the AR-OK State line and extending along U.S. Hwy 62 to junction AR Hwy 25, then along AR Hwy 25 to junction AR Hwy 18, then along AR Hwy 18 to junction AR Hwy 135, then along AR Hwy 135 to junction AR Hwy 140, then along AR Hwy 140 to the AR-TN State line. The purpose of this filing is to eliminate the gateways of points in that part of LA north and west of a line beginning at the LA-TX State line and extending along U.S. Hwy 84 to junction U.S. Hwy 167, then along U.S. Hwy 167 to the LA-AR State line.

NOTE.—The purpose of this republication is to correct the origin states, to include TX, previously omitted.

No. MC 102567 (Sub-No. E75) (Correction), filed June 3, 1974, published in the FEDERAL REGISTER issue of June 4, 1975, and republished, as corrected, this issue. Applicant: MC NAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, LA 71010. Applicant's representative: Joe Day (same as above). *Petroleum products* as described in Appendix XIII to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209, in bulk, in tank vehicles, (except liquefied petroleum gas, anhydrous ammonia, and asphalt), from those points in TX, LA, and AR within 150 miles of Henderson, TX, which are south of a line beginning at the AR-OK State line and extending along AR Hwy 4, to junction U.S. Hwys 59/71, to junction AR Hwy 24, to junction AR Hwy 4, then along AR Hwy 4 to junction AR Hwy 19, then along AR Hwy 19 to junction U.S. Hwy 82, then along U.S. Hwy 82 to a point near Strong, AR, to those points in TN north and east of a line beginning at the TN-KY State line and extending along U.S Hwy 51 to junction TN Hwy 22, then along TN Hwy 22 to the TN-MS State line. The purpose of this filing is to eliminate the gateways of El Dorado, AR, Cotton Valley, LA, and Waskom and Mt. Pleasant, TX.

NOTE.—The purpose of this republication is to correct the territorial description.

No. MC 106603 (Sub-No. E81), filed May 10, 1974. Applicant: DIRECT TRANSIT LINES, INC., P.O. Box 8099, Grand Rapids, MI 49508. Applicant's representative: Martin J. Leavitt, P.O. Box 400, Northville, MI 48167. *Such glazed building blocks and clay products, other than pottery,* which are building contractor's roofing, building, and insulating materials, from Lansing, MI, to points in MO within the St. Louis, MO-East St. Louis, IL, commercial zone as defined by the Commission and points in IA on the east of U.S. Hwy 63. The purpose of this filing is to eliminate the gateways of points in IN (except the plantsite of the Bethlehem Steel Corp., located at Burns Harbor, Porter County, IN) and Joliet, IL.

No. MC 106603 (Sub-No. E82), filed May 10, 1974. Applicant: DIRECT TRANSIT LINES, INC., P.O. Box 8099, Grand Rapids, MI 49508. Applicant's representative: Martin J. Leavitt, P.O. Box 400, Northville, MI 48167. *Such building blocks and clay products, other than pottery,* which are building contractor's roofing, building, and insulating materials (except in bulk), from Ypsilanti, MI, to points in IA on the east of U.S. Hwy 63, and points in MO within the St. Louis, MO-East St. Louis, IL, commercial zone as defined by the Commission. the purpose of this filing is to eliminate the gateways of points in IN (except the plantsite of the Bethlehem Steel Corp., located at Burns Harbor, Porter County, IN) and Joliet, IL.

No. MC 106603 (Sub-No. E101), filed May 10, 1974. Applicant: DIRECT TRANSIT LINES, INC., P.O. Box 8099, Grand Rapids, MI 49508. Applicant's representative: Martin J. Leavitt, P.O. Box 400, Northville, MI 48167. *Materials, equipment, and supplies used in the manufacture, installation, or application of roofing or roofing materials* (except commodities in bulk), restricted to those roofing or roofing materials that are building contractor's materials, equipment, and supplies, from points in DE, MD, NJ, NY, PA, DC, VA, on, north, and east of a line beginning at the VA-WV State line and extending southeast along U.S. Hwy 250 to junction U.S. Hwy 15, then south on U.S. Hwy 15 to junction U.S. Hwy 460, then southeast on U.S. Hwy 460 to junction VA Hwy 46, then south on VA Hwy 46 to junction VA Hwy 49, then south on VA Hwy 49 to junction VA Hwy 138, then south on VA Hwy 138 to junction U.S. Hwy 1, then southwest on U.S. Hwy 1 to the VA-NC State line, and points in WV on, north, and east on a line beginning at the WV-OH State line and extending east along U.S. Hwy 50 to junction U.S. Hwy 19, then south on U.S. Hwy 19 to junction U.S. Hwy 33, then east on U.S. Hwy 33 to junction U.S. Hwy 250, then southeast on U.S. Hwy 250 to the WV-VA State line, to points in MO within the St. Louis, MO-East St. Louis, IL, commercial zone as defined by the Commission and those points in MO within 10 miles of the west bank of the Mississippi River. The purpose of this filing is to eliminate the gateways of the plantsite of Certain-teed Products Corp. at Avery, OH.

No. MC 106603 (Sub-No. E102), filed May 10, 1974. Applicant: DIRECT TRANSIT LINES, INC., P.O. Box 8099, Grand Rapids, MI 49508. Applicant's representative: Martin J. Leavitt, P.O. Box 400, Northville, MI 48167. *Materials, equipment, and supplies* used in the manufacture, installation, or application of roofing or roofing materials (except commodities in bulk), restricted to those roofing and roofing materials that are building contractor's equipment, materials, and supplies from points in NJ, on, north, and east of a line beginning at the PA-NJ State line and extending east along Interstate Hwy 276 to junction Interstate Hwy 295, then on Interstate Hwy 295 to junction U.S. Hwy 206, then south on U.S. Hwy 206 to junction NJ Hwy 70, then east along NJ Hwy 70 to junction NJ Hwy 72, then east on NJ Hwy 72 to the Atlantic Ocean, NY, and PA on and north of a line beginning at the OH-PA State line and extending east along Interstate Hwy 80 to junction PA Hwy 147, then south on PA Hwy 147 to junction PA Hwy 61, then south on PA Hwy 61 to junction U.S. Hwy 422, then southeast on U.S. Hwy 422 to junction Interstate Hwy 276, then east on Interstate Hwy 276 to the PA-NJ State line, to points in IL. The purpose of this filing is to eliminate the gateways of the plantsite of Certain-teed Products Corp. at Avery, OH, and Whiting, IN.

No. MC 106603 (Sub-No. E103), filed May 10, 1974. Applicant: DIRECT TRANSIT LINES, INC., P.O. Box 8099, Grand Rapids, MI 49508. Applicant's representative: Martin J. Leavitt, P.O. Box 400, Northville, MI. 48167. *Materials, equipment, and supplies* used in the manufacture, installation, or application of roofing or roofing materials (except commodities in bulk), restricted to those roofing and roofing materials that are building contractor's equipment, materials, and supplies, from points in DE, MD, NJ, south, on, and east of a line beginning at the PA-NJ State line and extending east along Interstate Hwy 276 to junction Interstate Hwy 295, then on Interstate Hwy 295 to junction U.S. Hwy 206, then south on U.S. Hwy 206 to junction NJ Hwy 70, then east on NJ Hwy 70 to junction NJ Hwy 72, then east on NJ Hwy 72 to the Atlantic Ocean, PA on and south of a line beginning at the OH-PA State line and extending east along Interstate Hwy 80 to junction PA Hwy 147, then south on PA Hwy 147 to junction PA Hwy 61, then south on PA Hwy 61 to junction U.S. Hwy 422, then southeast on U.S. Hwy 422 to junction Interstate Hwy 276, then east on Interstate Hwy 276 to the PA-NJ State line, VA on and west of a line beginning at the WV-VA State line and extending south along U.S. Hwy 21 to the VA-NC State line; DC and WV on and west of a line beginning at the WV-OH State line and extending south along U.S. Hwy 35 to junction Interstate Hwy 77, then south on Interstate Hwy 77 to junction U.S. Hwy 21, then south on U.S. Hwy 21 to the WV-VA State line, to points in IL on and north of a line beginning at the IL-IN State

line and extending west along IL Hwy 17 to junction IL Hwy 29, then south on IL Hwy 29 to junction IL Hwy 116, then west on IL Hwy 116 to junction U.S. Hwy 67, then south on U.S. Hwy 67 to junction IL Hwy 9, then west on IL Hwy 9 to the IL-IA State line. The purpose of this filing is to eliminate the gateways of the plantsite of Certain-teed Products Corp. at Avery, OH, and Whiting, IN.

No. MC 106603 (Sub-No. E104), filed May 10, 1974. Applicant: DIRECT TRANSIT LINES, INC., P.O. Box 8099, Grand Rapids, MI 49508. Applicant's representative: Martin J. Leavitt, P.O. Box 400, Northville, MI. 48167. *Materials, equipment, and supplies* used in the manufacture, installation or application of roofing or roofing materials (except commodities in bulk), restricted to those roofing and roofing materials that are building contractor's equipment, materials, and supplies from points in DE, MD (except points on and northwest of U.S. Hwy 220), NJ on and southwest of a line beginning at the PA-NJ State line and extending east along Interstate Hwy 276 to junction Interstate Hwy 295, then on Interstate Hwy 295 to junction U.S. Hwy 206, then south on U.S. Hwy 206 to junction NJ Hwy 70, then east on NJ Hwy 70 to junction NJ Hwy 72, then east on NJ Hwy 72 to the Atlantic Ocean, PA on and northeast of a line beginning at the PA-MD State line and extending north along U.S. Hwy 219 to junction PA Hwy 31, then west on PA Hwy 31 to junction PA Hwy 136, then west on PA Hwy 136 to junction PA Hwy 51, north on PA Hwy 51 to the PA-OH State line, then north along the PA-OH State line to Interstate Hwy 80, then those points on and south of a line extending east along Interstate Hwy 80 to junction PA Hwy 147, then south on PA Hwy 147 to junction PA Hwy 61, then south on PA Hwy 61 to junction U.S. Hwy 422, then southeast on U.S. Hwy 422 to junction Interstate Hwy 276, then on Interstate Hwy 276 to the PA-NJ State line, DC, VA on and northeast of a line beginning at the VA-WV State line and extending east along U.S. Hwy 50 to junction U.S. Hwy 17, then along U.S. Hwy 17 to the Atlantic Ocean, and points in WV on and north of a line beginning at the VA-WV State line and extending along U.S. Hwy 50 to junction U.S. Hwy 220, to points in IL on, north and west of a line beginning at the IL-MO State line at Chester, IL, and extending southeast along IL Hwy 3 to junction IL Hwy 149, then east on IL Hwy 149 to junction IL Hwy 13, then east on IL Hwy 13 to junction Interstate Hwy 57, then north on Interstate Hwy 57 to junction U.S. Hwy 50, then west of U.S. Hwy 50 to junction U.S. Hwy 51, then east on U.S. Hwy 51 to junction IL Hwy 16, then east on IL Hwy 16 to junction Interstate Hwy 57, then north on Interstate Hwy 57 to junction Interstate Hwy 74, then east on Interstate Hwy 74 to the IL-IN State line, then north along the IL-IN State line to IL Hwy 17, then points on and south of a line beginning at IL Hwy 17 and extending west to junction IL Hwy 29, then south on IL Hwy 29 to junction IL Hwy 116, then west on IL Hwy 116 to junction U.S. Hwy 67, then south on U.S. Hwy 67 to junction IL Hwy 9, then west on IL Hwy 9 to the IL-IA State line. The purpose of this filing is to eliminate the gateways of the plantsite of Certain-teed Products Corp. at Avery, OH and Whiting, IN.

No. MC 106603 (Sub-No. E105), filed May 10, 1974. Applicant: DIRECT TRANSIT LINES, INC., P.O. Box 8099, Grand Rapids, MI 49508. Applicant's representative: Martin J. Leavitt, P.O. Box 400, Northville, MI 48167. *Materials, equipment* and *supplies* used in the manufacture, installation or application of roofing or roofing materials (except commodities in bulk), restricted to those roofing and roofing materials that are building contractor's equipment, materials, and supplies, from points in DE, MD, on and northeast of a line beginning at the MD-PA State line and extending along Interstate Hwy 70 to junction U.S. Hwy 50, then east on U.S. Hwy 50 to junction MD Hwy 404, then along MD Hwy 404 to the MD-DE State line, NJ on and southwest of a line beginning at the PA-NJ State line and extending east along Interstate Hwy 276 to junction Interstate Hwy 295, then on Interstate Hwy 295 to junction U.S. Hwy 206, then south on U.S. Hwy 206 to junction NJ Hwy 70, then east on NJ Hwy 70 to junction NJ Hwy 72, then east on NJ Hwy 72 to the Atlantic Ocean, and PA on and northeast of a line beginning at the MD-PA State line and extending along Interstate Hwy 70 to junction PA Hwy 31, then west on PA Hwy 31 to junction PA Hwy 136, then west on PA Hwy 136 to junction PA Hwy 51, then north on PA Hwy 51 to the PA-CH State line, then north along the PA-OH State line to Interstate Hwy 80, then those points on and south of a line extending east along Interstate Hwy 80 to junction PA Hwy 147, then south on PA Hwy 147 to junction PA Hwy 61, then south on PA Hwy 61 to junction U.S. Hwy 422, then south on U.S. Hwy 422 to junction Interstate Hwy 276, then along Interstate Hwy 276 to the PA-NJ State line, to points in IL bounded by a line beginning at the IL-MO State line and extending north along Interstate Hwy 57 to junction U.S. Hwy 50, then west on U.S. Hwy 50 to junction U.S. Hwy 51, then on U.S. Hwy 51 to junction IL Hwy 16, then east on IL Hwy 16 to junction Interstate Hwy 57, then south on Interstate Hwy 57 to junction U.S. Hwy 45, then south on U.S. Hwy 45 to junction IL Hwy 1, then south on IL Hwy 1 to the IL-KY State line. The purpose of this filing is to eliminate the gateways of the plant site of Certain-teed Products Corp. at Avery, OH and Whiting, IN.

No. MC 107012 (Sub-No. E307), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Applicant's representative: David D. Bishop and Gary M. Crist (same as above). *New Furniture, uncrated,* (1) From points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, and Tallapoosa Counties, AL, to points in Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine, and Webster Parishes, LA (*points in AR). Aroostook, Penobscot, Piscataquis, Somerset, Hancock, Knox, Waldo, and Washington Counties, ME (*Berne, IN). Points in TX (*points in AR). Chittenden, Franklin, Grand Isle, Lamoille, Addison, Orange, Washington, Calendonia, Essex and Orleans Counties, VT, Coos, Carroll and Grafton Counties, NH (*Berne, IN). (2) From points in Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike, and Russell Counties, AL, to points in Bienville, Bossier, Caddo, Claiborne, DeSoto, Matchitoches, Red River, Sabine and Webster Parishes, LA (*points in AR). Bolivar, Carrol, Coahoma, Grenada, Homes, Humphrey, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington, and Yazoo Counties, MS (*points in AR). Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llamo, Lubbock, Lynn, McCullock, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swicher,

Wheeler, Wichita, Wilbarger, Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Cameron, Dimmit, Duval, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Kaines, Kenedy, Kinney, Kleberg, LaSalle, Live Oak, McMullen, Marverick, Medina, Nueces, Real, Refugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, Zapata, Zavala, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward, Winkler, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collins, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt, and Wood Counties, TX (*points in AR). (3) Fron points in Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, and Winston Counties, AL, to points in Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapides, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine, and Webster Parishes, LA (*points in AR). Points in ME (*Berne, IN) Bolivar, Carrol, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington, and Yazoo Counties, MS (*points in AR). Points in NH (*Berne, IN). Points in TX (*points in AR). Points in VT (*Berne, IN). (4) From points in DeKalb, Jackson, Limestone, Madison, Marshall, and Morgan Counties, AL, to points in Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapides, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine, and Webster Parishes, LA (*points in AR). Points in ME (*Berne, IN). Bolivar, Carrol, Coahoma, Grenada, Homes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington, and Yazoo Counties, MS (*points in AR). Points in NH (*Berne, IN). Points in TX (*points in AR). Points in VT (*Berne, IN). (5) From points in Baldwin, Butler, Choctaw, Clarke, Conecuh, Dallas, Escambia, Greene, Hale, Lawndes, Marengo, Mobile, Monroe, Perry, Sumter, Washington, and Wilcox Counties, AL, to points in Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine, and Webster Parishes, La (*points in AR). Points in ME (*Berne, IN). Coos, Cheshire, Hillsboro, Sullivan, Carroll, and Grafton Counties, NH (*Berne, IN). Broome, Cayuga, Chemung, Chenango, Courtland, Delaware, Madison, Onondaga, Ontario, Otsego, Schoharie, Schuyler, Seneca, Tioga, Tompkins, Wayne, Yates, Allegany, Chatauqua, Erie, Genesee, Livingston, Monroe, Niagara, Cattaraugus, Orleans, Steuben, Wyoming, Herkimer, Jefferson, Lewis, Oneida, Oswego, St. Lawrence, Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Saratoga, Schenectady, Warren and Washington Counties, NY (*points in AR). Cameron, Clarion, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Potter, Venango, Warren, Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Indiana, Lawrence, Somerset, Washington and Westmoreland Counties, PA (*points in AR). Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne, and Weakley Counties, TN, (*points in AR). Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llamo, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Schackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Armstrong Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward, Winkler, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt, and Wood Counties, TX (*points in AR). Points in VT (*Berne, IN). Brooke, Hancock, Marshall and Ohio Counties, WV (*points in AR). The purpose of this filing is to eliminate the gateways indicated by the asterisks above.

No. MC 107012 (Sub-No. E308), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Applicant's representative: David D. Bishop and Gary M. Crist (same as above). *New Furniture, uncrated,* (1) From points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, and Yuba counties, CA, to points in Barnes, Cass, Dickey, Kidder, LaMoure, Logan, McIntosh, Ransom, Richland, Sargent and Stutsman Counties, ND. (2) From points in Inyo, Fresno, Kings, Tulare, Kern, Los Angeles, Orange, San Luis Obispo, Santa Barbara, Ventura, San Bernardino, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne, Yolo, Imperial, Riverside, and San Diego Counties, CA, to points in ND. (3) From points in Glenn, Humboldt, Lake, Mendicino, Tehama, and Trinity Counties, CA, to points in Adams, Billings, Bowman, Burleigh, Dunn, Emmons, Golden Valley, Grant, Herttinger, Mercer, Morton, Oliver, Sioux, Slope, Stark, Barnes, Cass, Dickey, Kidder, LaMoure, Logan, McIntosh, Ransom, Richland, Sargent, Stutsman, Eddy, Foster, Grand Forks, Griggs, Nelson, Steele, Traill, Benson, Cavalier, Pembina, Pierce, Ramsey, Rolette, Sheridan, Towner, Walsh, Wells, Bottineau, Burke, McHenry, McLean, Mountrail, Renville, and Ward Counties, ND. The purpose of this filing is to eliminate the gateway of Laramie, WY.

No. MC 107012 (Sub-No. E309), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Applicant's representative: David D. Bishop and Gary M. Crist (same as above). *New Furniture, uncrated,* (1) From points in Hartford, New London, Tolland, Windham, and Litchfield counties, CT, to points in AL; Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton, and Washington Counties, FL; Bartow, Chattooga, Carroll, Catoosa, Dade, Douglas, Floyd, Gordon, Haralson, Heard, Murray, Paulding, Polk, Walker and Whitfield Counties, GA; Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, Chester, Crockett, Dyer, White, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby, Tipton, Cannon, Cheatham, Clay, Davidson, DeKalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne, and Weakley Counties, TN. (2) From points in Fairfield, Middlesex, and New Haven Counties, CT, to points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, DeKalb, Jackson, Limestone, Madison, Marshall, Morgan, Baldwin, Butler, Choctaw, Clarke, Conecuh, Dallas, Escambia, Greene, Hale, Lawndes, Marengo, Mobile, Monroe, Perry, Sumter, Washington, and Wilcox counties, AL; Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton and Washington Counties, FL; Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby, Tipton, Cannon, Cheatham, Clay, Davidson, DeKalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne, and Weakley Counties, TN. The purpose of this filing is to eliminate the gateway of points in KY.

No. MC 107012 (Sub-No. E310), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Applicant's representative: David D. Bishop and Gary M. Crist (same as above) *New Furniture, uncrated,* (1) From points in Kent County, DE, to points in FL; Atkinson, Baker, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Clay, Chattahoochee, Clinch, Coffee, Colquitt, Cook, Crawford, Crisp, Decatur, Dodge, Dooly, Dougherty, Early, Echols, Grady, Harris, Houston, Irwin, Jones, Lamar, Lanier, Lee, Lowndes, Macon, Marion, Meriwether, Miller, Mitchell, Monroe, Muscogee, Peach, Pike, Pulaske, Quitman, Randolph, Schley, Seminole, Stewart, Sumter, Talbot, Taylor, Telfair, Terrell, Thomas, Tift, Troup, Turner, Twiggs, Upson, Webster, Wilcox, Worth, Banks, Barrow, Butts, Cherokee, Clarke, Clayton, Cobb, Coweta, Dawson, DeKalb, Elbert, Fannin, Fayette, Forsyth, Franklin, Fulton, Gilmer, Gwinnett, Habersham, Hall, Hart, Henry, Jackson, Jasper, Lumpkin, Madison, Morgan, Newton, Oconee, Pickens, Rabun, Rockdale, Spalding, Stephens, Towns, Union, Walton, White, Baldwin, Burke, Columbia, Emanuel, Glascock, Greene, Hancock, Jefferson, Jenkins, Johnson, Laurens, Lincoln, McDuffie, Oglethorpe, Putnam, Richmond, Taliaferro, Treutlen, Warren, Washington, Wilkes, Wilkinson, Bartow, Chattooga, Carroll, Catoosa, Dade, Douglas, Floyd, Gordon, Haralson, Heard, Murray, Paulding, Polk, Walker and Whitfield Counties, GA; Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania and Yancey Counties, NC; Abbeville, Anderson, Greenville, Ocomee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union and York Counties, SC; Boone, Cabell, Lincoln, Logan, Mingo, Putnam, and Wayne Counties, WV. (2) From points in Sussex County, DE, to points in Charlotte, DeSota, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsborough, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter, Volusia, Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton, Washington, Columbia, Dixie, Franklin, Gadsen, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor and Wakulla Counties, FL; Atkinson, Baker, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Chattahoochee, Clay, Clinch, Coffee, Colquitt, Cook, Crawford, Crisp, Decatur, Dodge, Dooly, Dougherty, Early, Echols, Grady, Harris, Houston, Irwin, Jones, Lamar, Lanier, Lee, Lowndes, Macon, Marion, Meriwether, Miller, Mitchell, Monroe, Muscogee, Peach, Pike, Pulaski, Quitman, Randolph, Schley, Seminole, Stewart, Sumter, Talbot, Taylor, Telfair, Terrell, Thomas, Tift, Troup, Turner, Twiggs, Upson, Webster, Wilcox, Worth, Banks, Barrow, Butts, Cherokee, Clarke, Clayton, Cobb, Coweta, Dawson, DeKalb, Elbert, Fannin, Fayette, Forsyth, Franklin, Fulton, Gilmer, Gwinnett, Habersham, Hall, Hart, Henry, Jackson, Jasper, Lumpkin, Madison, Morgan, Newton, Oconee, Pickens, Rabun, Rockdale, Spalding, Stephens, Towns, Union, Walton, White, Baldwin, Burke, Columbia, Emanuel, Glascock, Greene, Hancock, Jefferson, Jenkins, Johnson, Laurens, Lincoln, McDuffie, Oglethorpe, Putnam, Richmond, Taliaferro, Treutlen, Warren, Washington, Wilkes, Wilkinson, Appling, Bacon, Brantley, Camden, Charlton, Glynn, Jeff Davis, Long, McIntosh, Montgomery, Pierce, Tattnall, Toombs Ware, Wayne, Wheeler, Bartow, Chattooga, Carroll, Catoosa, Dade, Douglas, Floyd, Gordon, Haralson, Heard, Murray, Paulding, Polk, Walker and Whitfield Counties, GA; Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania and Yancey Counties, NC; Abbeville, Anderson, Greenville, Ocomee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union and York Counties, SC; Boone, Cabell, Lincoln, Logan, Mingo, Putnam, and Wayne Counties, WV. The purpose of this filing is to eliminate the gateway of ponts in TN (except points in Hamblen County, TN).

No. MC 107012 (Sub-No. E311), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Applicant's representative: David D. Bishop and Gary M. Crist (same as above). *New Furniture, uncrated:* From points in DC, to points in FL; Atkinson, Baker, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Chattahoochee, Clay, Clinch, Coffee, Colquitt, Cook, Crawford, Crisp, Decatur, Dodge,

Dooly, Dougherty, Early, Echols, Grady, Harris, Houston, Irwin, Jones, Lamar, Lanier, Lee, Lowndes, Macon, Marion, Meriwether, Miller, Mitchell, Monroe, Muscogee, Peach, Pike, Pulaski, Quitman, Randolph, Schley, Seminole, Stewart, Sumter, Talbot, Taylor, Telfair, Terrell, Thomas, Tift, Troup, Turner, Twiggs, Upson, Webster, Wilcox, Worth, Banks, Barrows, Butts, Cherokee, Clarke, Clayton, Cobb, Coweta, Dawson, De Kalb, Elbert, Fannin, Fayette, Forsyth, Franklin, Fulton, Gilmer, Gwinnett, Habersham, Hall, Hart, Henry, Jackson, Jasper, Lumpkin, Madison, Morgan, Newton, Oconee, Pickens, Rabun, Rockdale, Spalding, Stephens, Towns, Union, Walton, White, Baldwin, Burke, Columbia, Emanuel, Glascock, Greene, Hancock, Jefferson, Jenkins, Johnson, Laurens, Lincoln, McDuffie, Oglethorpe, Putnam, Richmond, Taliaferro, Treutlen, Warren,, Washington, Wilkes, Wilkinson, Appling, Bacon, Brantley, Camden, Charlton, Glynn, Jeff Davis, Long, McIntosh, Montgomery, Pierce, Tattnall, Toombs, Ware, Wayne, Wheeler, Bartow, Chattooga, Carroll, Catoosa, Dade, Douglas, Floyd, Gordon, Haralson, Heard, Murray, Paulding, Polk, Walker and Whitfield Counties, GA; Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania and Yancey Counties, NC; Abbeville, Anderson, Greenville, Ocomee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union, and York Counties, SC. The purpose of this filing is to eliminate the gateway of points TN (except points in Hamblen County, TN).

No. MC 107515 (Sub-No. E249), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Road NE., Atlanta, GA 30326. *Canned meats, canned meat products, and canned meat pyproducts* (except hides) from the plantsite of Armour & Co., near Sterling, IL, to Houston and San Antonio, TX, and their commercial zones and that protion of TX on, east, and south of a line extending from the TX-Mexico border at Laredo, TX, on Interstate Hwy 35 to San Antonio, TX, then on Interstate Hwy 10 to the TX-LA State line. Restriction: The authority granted herein may not be tacked with any other authority held by carrier so as to perform a through service via the point of origin near Sterling, IL. The purpose of this filing is to eliminate the gateway of Lewisburg, TN.

No. MC 107515 (Sub-No. E253), filed May 29, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Road NE., Atlanta, GA 30326. *Meats, meat products, and meat byproducts* as described in section A of Appendix 1 to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except commodities in bulk, in tank vehicles and hides); from the plantsite of Armour & Co., near Sterling, IL, to that portion of VA on, south, and east of a line extending from the NC-VA State line on Interstate Hwy 81 to its junction with U.S. Hwy 460, then on U.S. Hwy 460 to its junction with U.S. Hwy 360 to Richmond, VA, and its commercial zone, thence on U.S. Hwy 60 to Norfolk, VA, and its commercial zone and the Atlantic Ocean. Restrictions: (1) The authority granted herein may not be tacked with any other authority held by carrier so as to perform a through service via the points of origin near Sterling, IL. (2) The operations authorized herein are restricted against the transportation of traffic originating at Nashville, TN. The purpose of this filing is to eliminate the gateway of Madison, TN.

No. MC 107515 (Sub-No. E513), filed January 27, 1975. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Road NE., Atlanta, GA 30326. *Meats, meat products, meat byproducts,* as described in section A of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 272 and 766 from Arkansas City, KS, to points in VA on and east of U.S. Hwy 1. The purpose of this filing is to elimiate the gateway of Atlanta, GA.

No. MC 107515 (Sub-No. E515), filed January 27, 1975. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Road NE., Atlanta, GA 30326. (1) *Meats, meat products, meat byproducts* (except canned goods) as defined in section A of Appendix 1 to the report in Descriptions in Motor Carrier Certificates, 61 MCC 766, and frozen foods, from Houston, TX, to OH and that portion of MI on and east of a line beginning at the IN/MI State line on MI Hwy 66 to junction MI Hwy 115, then along MI Hwy 115 to junction MI Hwy 37 then along MI Hwy 37 to Lake MI at or near Traverse City, MI; (2) *meats, meat products, and meat byproducts* as described in Appendix I to the report in Descriptions in Motor Carrier Certificates, 61MCC 209 and 766, from Galveston, TX, and the plantsite of Armour & Co., located 7 miles north of Houston, TX, to the territory in (1) above; and (3) *frozen foods, meats, meat products, and meat byproducts,* as described in Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, from San Antonio, TX, to that portion of OH on and east of a line beginning at the WV-OH State line on Interstate Hwy 77 to junction OH Hwy 21, then along OH Hwy 21 to Lake Erie at or near Cleveland, OH. The purpose of this filing is to eliminate the gateways of Atlanta, GA, and Louisville, KY.

No. MC 107515 (Sub-No. E527), filed January 27, 1975. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Road NE., Atlanta, GA 30326. *Unfrozen fresh and cured meats,* (1) from Los Angeles, CA, to VA, NC, SC, WVA, MD, DC, PA, NY, NJ, DE, CT, RI, MA, VT NH, ME, points in KY, on or east of U.S. Hwy 31W, and points in OH, on, south, or east of Interstate Hwy 71; and (2) from San Jose and San Francisco, CA, to VA, NC, SC, WVA, MD, NJ, DE, CT, RI, MA, VT, NH, ME, points in PA on or east of Interstate Hwy 81, and points in NY, on, east, or south of a line beginning at the NY/PA State line and extending over Interstate Hwy 81 to junction NY Hwy 12, then over NY Hwy 12 to junction NY Hwy 28, then over NY Hwy 28 to NY Hwy 30, then over NY Hwy 30 to junction NY Hwy 3, then over NY Hwy 3 to junction Interstate Hwy 87, then over Interstate Hwy 87 to the United States/Canadian Border. The purpose of this filing is to eliminate the gateways of Atlanta, GA; Atlanta, GA, and Louisville, KY; Atlanta, GA, and Gatesville, NC.

No. MC 107515 (Sub-No. E546), filed January 27, 1975. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Road NE., Atlanta, GA 30326. *Frozen foods* (1) from points in that portion of TX on or east of a line beginning at the OK-TX State line and extending along U.S. Hwy 271 to junction U.S. Hwy 69, then over U.S. Hwy 69 to junction U.S. Hwy 79, then over U.S. Hwy 79 to junction TX Hwy 19, then over TX Hwy 19 to Interstate Hwy 45, then over Interstate Hwy 45 to junction TX Hwy 288, then over U.S. Hwy 288 to the Gulf of Mexico at Freeport, TX, to Blaine, WA, (2) from Houston, TX, to points in that part of WA, on or north of a line beginning at Simlik Beach and extending along WA Hwy 536 to junction WA Hwy 20, then over WA Hwy 20 to junction Interstate Hwy 5 then over 155 to junction U.S. Hwy 2 then over U.S. Hwy 2 to the ID-WA State line; points in ID on or north of Interstate Hwy 90; and points in MT on, north or west of a line beginning at the ID-MT State line and extending along U.S. Hwy 12 to junction U.S. Hwy 93, then over U.S. Hwy 93 to junction U.S. Hwy 2, then over U.S. Hwy 2 to junction U.S. Hwy 89, then over U.S. Hwy 89 to U.S. Hwy-Canadian border (3) from Beaumont, TX, to (a) points in that portion of OR on or west of U.S. Hwy 395 (b) points in that portion of OR on or north of U.S. Hwy 20 (c) all points in WA (d) points in ID on, north, or west of a line beginning at the OR-ID State line and extending along ID Hwy 52 to junction ID Hwy 55, then over ID Hwy 55 to junction U.S. Hwy 95, then over U.S. Hwy 95 to junction U.S. Hwy 12, then over U.S. Hwy 12 to the MT-ID State line; and (3) to all points in MT (4) from Galveston, TX, to (a) points in WA (except Franklin, Benton, Klickitat, Skamania, Clark and Cowlitz, Counties); (b) points in ID on or north of U.S. Hwy 12; (c) points in MT on or north of a line beginning at the ID-MT State line and extending along U.S. Hwy 12 to junction MT Hwy 200 to junction U.S. Hwy 89, then over U.S. Hwy 89 to junction Interstate Hwy 15, then over Interstate Hwy 15 to U.S. Hwy Canadian boundary (5) from points in that part of TX on, south or east of a line beginning at the AR-TX State line and extending along U.S. Hwy 59 to junction U.S. Hwy 80, then over U.S. Hwy 80 to junction U.S. Hwy 259, then over U.S. Hwy 259 to junction U.S. Hwy 59, then over U.S. Hwy 59 to junction U.S. Hwy 69, then over U.S. Hwy 69 to Port Arthur, TX, to Portland and Milwaukee, OR; that part of OR on, north or west of a line beginning at Newport and extending along U.S. Hwy 20 to Interstate Hwy 5, then over Interstate Hwy 5 to WA-OR border that portion of WA on, north or west of a line beginning at WA-OR State line and extending along Interstate Hwy 5 to junction U.S. Hwy 12, then over U.S. Hwy 12 to junction U.S. Hwy 97, then over U.S. Hwy 97 to junction Interstate Hwy 90, then over Interstate Hwy 90 to the ID-WA State line; points in ID on, or north of Interstate Hwy 90; and points in MT as described in 4(c) above. (6) From Texarkana, TX, to OR, WA; to that portion of ID on, north or west of a line beginning at the ID-OR State line and extending along U.S. Hwy 95 to junction ID Hwy 55, then over ID Hwy 55 to junction Interstate Hwy 80N, then over Interstate Hwy 80N to ID Hwy 68, then over ID Hwy 68 to junction U.S. Hwy 93, then over U.S. Hwy 93 to the ID-MT State line and to all points in MT. Restriction: Said operations are restricted against the transportation of (1) frozen fruits, berries, and vegetables, and (2) canned foodstuffs originating at Houston, TX, and points in its commercial zone as defined by the Commission, destined to points in AL, NC, SC, Jacksonville and points in Escambia and Santa Rosa Counties, FL, and Atlanta, GA, and points in its commercial zone as defined by the Commission. (3) meats, meat and meat byproducts as defined by the Commission and (4) commodities in bulk, in vehicles equipped with mechanical refrigeration. The purpose of this filing is to eliminate the gateways of Woodstock, TN and Gilestown, TN.

No. MC 107515 (E569), filed January 27, 1975. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Road NE., Atlanta, GA 30326. *Fresh and cured meat* (1) from Atlanta, GA, and points within 10 miles of Atlanta and Griffin, GA and points within 5 miles of Griffin, GA, to CA, WA and OR; (2) from Albany, GA. and points within 5 miles of Albany, GA, to WA, OR and that part of CA on and north of a line beginning at the NV-CA State line on Interstate Hwy 15 to junction CA Hwy 138, then along CA Hwy 13 to junction Interstate Hwy 5, then along Interstate Hwy 5 to junction CA Hwy 126, then along CA Hwy 126 to the Pacific Ocean at or near Ventura, CA; (3) from Columbus, GA, to OR, WA, and that portion of CA on and north of a line beginning at the CA-NV State line on CA Hwy 168 to junction U.S. Hwy 395, then along U.S. Hwy 395 to junction CA Hwy 178, then along CA Hwy 178 to junction CA Hwy 155, then along CA Hwy 155 to junction CA Hwy 99, then along CA Hwy 99 to junction CA Hwy 198, then along CA Hwy 198 to junction CA Hwy 41, then along CA Hwy 41 to the Pacific Ocean; and (4) from Macon, GA, and points within 5 mines of Macon, GA, Montezuma, GA, and points within 5 miles of Montezuma, GA, to OR, WA, and points in CA on and north of a line beginning at the NV-CA State line on Interstate Hwy 40 to junction Interstate Hwy 15, then along Interstate Hwy 15, to junction U.S. Hwy 395, then along U.S. Hwy 395 to junction Interstate Hwy 10, then along Interstate Hwy 10 to the Pacific Ocean at or near Santa Monica, CA. The purpose of this filing is to eliminate the gateway of Bristol, TN.

No. MC 107515 (Sub-No. E572), filed January 27, 1975. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Road NE., Atlanta, GA 30326. *Frozen foods,* in vehicles equipped with mechanical refrigeration (a) from that portion of IN, on, north, or east of a line beginning at the OH-IN State line and extending along U.S. Hwy 35 to its junction with IN Hwy 3, then over IN Hwy 3 to its junction with IN Hwy 124, then over IN Hwy 124 to its junction with IN Hwy 5, then over IN Hwy 5 to its junction with U.S. Hwy 33, then over U.S. Hwy 33 to its junction with IN Hwy 19, then over IN Hwy 19 south to the IN-MI State line to points in CA on, south or west of a line beginning at San Francisco and extending along Interstate Hwy 80 to junction CA Hwy 17, then over CA Hwy 17 to its junction with Interstate Hwy 580, then over Interstate Hwy 580 to its junction with Interstate Hwy 5 at Tracy, CA, then over Interstate Hwy 5 to the United States-Mexican boundary line; and (b) from points in IN on, north, or east of U.S. Hwy 33 to points in that portion of AZ on or west of a line beginning at the United States-Mexican border at Nogales and extending along U.S. Hwy 89 to U.S. Hwy 93, then over U.S. Hwy 93 to its junction with Interstate Hwy 40, then over Interstate Hwy 40 to the AZ-CA border and to points in that portion of CA on, south, or west of a line beginning at the CA-AZ State line at Needles and extending along U.S. Hwy 66 to its junction with CA Hwy 58, then over CA Hwy 58 to its junction with CA Hwy 99, then over CA Hwy 99 to its junction with CA Hwy 132, then over CA Hwy 132 to its junction with Interstate Hwy 580, then over Interstate Hwy 580 to its junction with Interstate Hwy 80, then over Interstate Hwy 80 to San Francisco. The purpose of this filing is to eliminate the gateways of Detroit, MI, and Columbus, OH.

No. MC 107515 (Sub-No. E584), filed January 27, 1975. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga 30050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Road NE., Atlanta, Ga 30326. *Frozen foods,* in vehicles equipped with mechanical refrigeration: (1) From points in CA to VA, MA, CO, NJ, DE, DC, points in that part of PA on or east of a line beginning at the MD-PA State line and extending along U.S. Hwy 220 to its junction with U.S. Hwy 15, then along U.S. Hwy 15 to the NY-PA State line and points in their commercial zones, and points in that part of NY on or east of a line beginning at the United States-Canadian boundary and extending along NY Hwy 30 to its junction with NY Hwy 28, then over NY Hwy 28 to its junction with Interstate Hwy 90, then over Interstate Hwy 90 to its junction with Interstate Hwy 81, then over Interstate Hwy 81 to its junction with NY Hwy 13, then over NY Hwy 13 to its junction with NY Hwy 14, then over NY Hwy 14 to the NY-PA State line; (2) from points in CA on, south, or west of a line beginning at the international boundary line of the United States and Mexico and extending along CA Hwy 86 to its

junction with Interstate Hwy 10, then over Interstate Hwy 10 to its junction with Interstate Hwy 5, then over Interstate Hwy 5 to its junction with California Hwy 152, then over CA Hwy 152 to its junction with CA Hwy 1 then over CA Hwy 1 to the Pacific Ocean at Santa Cruz, CA, to NY; (3) from points in that part of CA on, south, or west of a line beginning at the international boundary line and the United States and Mexico and extending along CA Hwy 86 to its junction with Interstate Hwy 10, then over Interstate Hwy 10 to its junction with Interstate Hwy 5, then over Interstate Hwy 5 to its junction with Interstate Hwy 580, then over Interstate Hwy 580 to its junction with CA Hwy 17, then over CA Hwy 17 to CA Hwy 92, then over CA Hwy 92 to its junction with CA Hwy 1, then over CA Hwy 1 to the Pacific Ocean near El Granada, CA, and points in their commercial zones, to points in PA; and (4) from San Francisco and San Bruno, CA, to points in PA. In 1 through 4 above with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Rocky Mount, NC.

No. MC 107515 (Sub-No. E585), filed January 27, 1975. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Road NE., Atlanta, GA 30326. *Frozen foods*, in vehicles equipped with mechanical refrigeration: (1) From points in OH to points in San Diego, Orange, Los Angeles, Ventura, and Santa Barbara Counties, CA, (2) from points in OH and Richmond, IN, to Carson City, NV, and points in CA on or west of U.S. Hwy 395, (3) from points in OH to all points in WA and to those points in OR on or west of U.S. Hwy 395 and to points in ID on or west of U.S. Hwy 95, and (4) from points in that portion of OH on or east of a line beginning at the OH River and extending along U.S. Hwy 23 to its junction with U.S. Hwy 50, then over U.S. Hwy 50 to junction OH Hwy 28, then over OH Hwy 28 to junction OH Hwy 72, then over OH Hwy 72 to its junction with U.S. Hwy 68, then over U.S. Hwy 68 to its junction with Interstate Hwy 75, then over Interstate Hwy 75 to the OH-MI State line to points in OR and ID. The purpose of this filing is to eliminate the gateways of Detroit, MI, and Columbus, OH.

No. MC 107515 (Sub-No. E586), filed January 27, 1975. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Road NE., Atlanta, GA 30326. *Frozen foods*, in vehicles equipped with mechanical refrigeration: (1) From points in that part of OH on, north, or east of a line beginning at the OH-IN State boundary line and extending along U.S. Hwy 30 to its junction with U.S. Hwy 30S, then over U.S. Hwy 30S to its junction with U.S. Hwy 23, then over U.S. Hwy 23 to its junction with U.S. Hwy 35, then over U.S. Hwy 35 to the OH-WV State boundary line to points in AZ; and (2) from points in that part of OH on, north, or east of a line beginning at the OH River and extending along OH Hwy 247 to its junction with U.S. Hwy 62, then over U.S. Hwy 62 to its junction with OH Hwy 72, then over OH Hwy 72 to its junction with U.S. Hwy 68, then over U.S. Hwy 68 to its junction with U.S. Hwy 33, then over U.S. Hwy 33 to the IN-OH State line to points in AZ, on, west, and south of a line beginning at the United States/Mexican border at or near Nogales and extending along U.S. Hwy 89 to its junction with U.S. Hwy 60, then over U.S. Hwy 60 to the AZ/CA State line. The purpose of this filing is to eliminate the gateway of Detroit, MI, and Columbus, OH.

No. MC 107515 (Sub-No. E587), filed January 27, 1975. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Road NE., Atlanta, GA 30326. *Frozen foods*, in vehicles equipped with mechanical refrigeration: (1) From points in that part of OH on, north, or east of a line beginning at the OH-KY State line and extending along U.S. Hwy 68 to junction U.S. Hwy 35, then over U.S. Hwy 35 to Dayton, then over OH Hwy 49 to Greenville, then over OH Hwy 571 to the OH-IN State line near Union City to Las Vegas, NV, (2) from all points in OH to Storey, Douglas, and Lyon Counties, NV. The purpose of this filing is to eliminate the gateways of Detroit, MI, and Columbus, OH.

No. MC 107515 (Sub-No. E594), filed January 27, 1975. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Road NE., Atlanta, GA 30326. *Frozen foods*, in vehicles equipped with mechanical refrigeration: (1) From NC and SC, to AZ, CA, CO, MT, NV, NM, OR, UT, WA and WY, (2) from GA, to CO, ID, MT, NV, OR, UT, WA, and WY. The purpose of this filing is to eliminate the gateway of the State of TN (except Memphis and its commercial zone), (3) frozen foods (except frozen citrus products to CO, ID, MT, and WY), (a) from FL, to ID, MT, OR, UT, WA, WY, that portion of CO on and north of a line beginning at the CO-KS State line on U.S. Hwy 24 to junction U.S. Hwy 50, then along U.S. Hwy 50 to the CO-UT State line and that portion of NV on and south of U.S. Hwy 50, (b) from that portion of FL on and east of U.S. Hwy 319, to NV and CO. The purpose of this filing is to eliminate the gateways of Doraville, GA, and Dyersburg, TN.

No. MC 107515 (Sub-No. E623), filed February 13, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Applicant's representative: Alan E. Serby, Suite 375, 3379 Peachtree Road NE., Atlanta, GA 30326. *Meats, meat products, and meat byproducts* (except in bulk) as described in section A of appendix 1, to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209, in vehicles equipped with mechanical refrigeration: (1) From points in that part of VA commencing at the VA-WV State line over U.S. Hwy 250 to junction Interstate Hwy 64, then over Interstate Hwy 64 to junction VA Hwy 33, then over Hwy 33 to Chesapeake Bay at or near Bushy, VA, and points in VA on the DE-MD-VA Peninsula, to points in IL; (2) from points in VA to points in IL on or south of a line commencing at the IL-IN Hwy State line and extending over U.S. Hwy 50 to junction IL Hwy 127, then over IL Hwy 127 to junction IL Hwy 16, then over IL Hwy 16 to junction IL Hwy 267, then over IL Hwy 267 to junction IL Hwy 106, then over IL Hwy 106 to junction U.S. Hwy 36, then over U.S. Hwy 36 to junction U.S. Hwy 54, then over U.S. Hwy 54 to IL-MO State line at or near Pike, IL. Restrictions: (1) All authority sought herein is restricted to the transportation of shipments which originate at or are destined to points in NY, CO, MA, RI, NJ, PA, MD, DE, VA, DC, KY, NC, SC, TN, GA, AL, FL, MS, AR, LA, OK, TX, AZ, CA, and NM. (2) All of the authority herein shall expire on December 18, 1978, unless on or prior to that date the Commission shall renew the certificate issued to carrier in MC 107515 (Sub-No. 799). The purpose of this filing is to eliminate the gateway of Bristol, VA.

No. MC 107515 (Sub-No. E624), filed February 13, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Applicant's representative: Alan E. Serby, Suite 375, 3379 Peachtree Road NE., Atlanta, GA 30326. (1) *Frozen fruits and vegetables:* From points in VA, DE, NJ, CT, RI, and DC; that protion of MA on or east of Interstate Hwy 91, New York City, NY, points in PA on, south, or east of U.S. Hwy 1, points in MD on or east of U.S. Hwy 15 to points in MO on, south, or west of a line commencing at the IL-MO State line and extending over Interstate Hwy 270 to junction Interstate Hwy 70, then over Interstate Hwy 70 to junction U.S. Hwy 65, then over U.S. Hwy 65 to junction U.S. Hwy 36, then over U.S. Hwy 36 to the MO-KS State line; (2) *salads and sandwich spreads* from points in the origin territory in (1) above to all points in KS and that portion of IL on and south of U.S. Hwy 460; (3) *salads and sandwich spreads* from points in VA on or south of a line commencing at the VA-WV State line and extending over U.S. Hwy 460 to junction U.S. Hwy 360, then over U.S. Hwy 360 to junction VA Hwy 33, then over VA Hwy 33 to the Chesapeake Bay at or near Locust Hill, VA, to points in ND, SD, IA and points in IN on or south or west of a line beginning at the KY-IN State line and extending over U.S. Hwy 150 to junction IN Hwy 37, then over IN Hwy 37 to junction IN Hwy 46, then over IN Hwy 46 to junction U.S. Hwy 231, then over U.S. Hwy 231 to junction U.S. Hwy 136, then over U.S. Hwy 136 to junction U.S. Hwy 41 then over U.S. Hwy 41 to junction U.S. Hwy 24, then over U.S. Hwy 24 to the IL-IN State line; points in IL on, south, or west of a line commencing at the IL-IN State line and extending over U.S. Hwy 24 to junction IL Hwy 47, then over IL Hwy 47 to junction U.S. Hwy 34, then over U.S. Hwy 34 to junction U.S. Hwy 51, then over U.S. Hwy 51 to IL-WI State line; and points in WI on, north, or west of a line commencing at the WI-IL State line and extending over U.S. Hwy 51 to junction WI Hwy 59, then over WI Hwy 59 to junction U.S. Hwy 18, then over U.S. Hwy 18 to Milwaukee and Lake MI; (4) *frozen fruits and vegetables* from points in the territory described in (3) above to points in MO, MN, NE, and that portion of WI specified in (3) above. Restrictions: (1) All authority sought herein is to be restricted to transportation in vehicles equipped with mechanical refrigeration. (2) All authority sought herein is to exclude commodities in bulk. (3) All authority sought herein is restricted to the transportation of shipments which originate at or are destined to points in NY, CT, MA, RI, NJ, PA, MD, DE, VA, DC, KY, NC, SC, TN, GA, AL, FL, MS, AR, LA, OK, TX, AZ, CA, and NM. (4) All of the authority herein shall expire on December 18, 1978, unless on or prior to that date the Commission shall renew the Certificate issued to carrier in MC 107515 (Sub-No. 799). The purpose of this filing is to eliminate the gateway of Knoxville, TN.

No. MC 107515 (Sub-No. E625), filed February 13, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Applicant's representative: Alan E. Serby, Suite 375, 3379 Peachtree Road NE., Atlanta, GA 30326. *Cheese* (except in bulk) in vehicles equipped with mechanical refrigeration, from points in VA, MD, DE, NJ, NY, PA, MA, RI, and DC to points in CA, OR, and WA. Restrictions: (1) All authority sought herein is restricted to the transportation of shipments which originate at or are destined to points in NY, CT, MA, RI, NJ, PA, MD, DE, VA, DC, KY, NC, SC, TN, GA, AL, FL, MS, AR, LA, OK, TX, AZ, CA, and NM. (2) All of the authority herein shall expire on December 18, 1978, unless on or prior to that date the Commission shall renew the Certificate issued to carrier in MC 107515 (Sub-No. 799). The purpose of this filing is to eliminate the gateways of Nashville, TN, or Lousiville, KY.

No. MC 107515 (Sub-No. E626), filed February 13, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Applicant's representative: Alan E. Serby, Suite 375, 3379 Peachtree Road NE., Atlanta, GA 30326. *Frozen foods* (except in bulk) in vehicles equipped with mechanical refrigeration, from Suffolk, VA, to points in MI. Restrictions: (1) All authority sought herein is restricted to the transportation of shipments which originate at or are destined to points in NY, CT, MA, RI, NJ, PA, MD, DE, VA, DC, KY, NC, SC, TN, GA, AL, FL, MS, AR, LA, OK, TX, AZ, CA, and NM. (2) All of the authority herein shall expire on December 18, 1978, unless on or prior to that date the Commission shall renew the Certificate issued to carrier in MC 107515 (Sub-No. 799). The purpose of this filing is to eliminate the gateway of Rocky Mount, NC.

No. MC 107515 (Sub-No. E627), filed February 13, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Applicant's representative: Alan E. Selby, Suite 375, 3379 Peachtree Road NE., Atlanta, GA 30326. *Frozen foods*, (except in bulk) in vehicles equipped with mechanical refrigeration, from Suffolk, VA, to points in Erie and Niagara Counties, NY. Restrictions: (1) All authority sought herein is restricted to the transportation of shipments which originate at or are destined to points in NY, CT, MA, RI, NJ, PA, MD, DE, VA, DC, KY, NC, SC, TN, GA, AL, FL, MS, AR, LA, OK, TX, AZ, CA, and NM. (2) All of the authority herein shall expire on December 18, 1978, unless or prior to that date the Commission shall renew the Certificate issued to carrier in MC 107515 (Sub-No. 799). The purpose of this filing is to eliminate the gateway of Rocky Mount, NC.

No. MC 107515 (Sub-No. E628), filed February 13, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Applicant's representative: Alan E. Selby, Suite 375, 3379 Peachtree Road NE., Atlanta, GA 30326. *Frozen foods*, (except in bulk) in vehicles equipped with mechanical refrigeration from Bristol, VA, to points in MA and points in CT on, north, or east of a line commencing at the NY-CT State line and extending over Interstate Hwy 84 to junction CT Hwy 34, then over CT Hwy 34 to New Haven. CT, and points in NY on, north, or east of a line beginning at the NY/CT State line and extending over NY Hwy 35 to junction U.S. Hwy 9, then over U.S. Hwy 9 to junction NY Hwy 73, then over NY Hwy 73 to junction NY Hwy 3, then over NY Hwy 3 to junction NY Hwy 30, then over NY Hwy 30 to the international boundary line at or near Trout River, NY. Restrictions: (1) All authority sought herein is restricted to the transportation of shipments which originate at or are destined to points in NY, CT, MA, RI, NJ, PA, MD, DE, VA, DC, KY, NC, SC, TN, GA, AL, FL, MS, AR, LA, OK, TX, AZ, CA, and NM. (2) All of the authority herein shall expire on December 18, 1978, unless on or prior to that date the Commission shall renew the Certificate issued to carrier in MC 107515 (Sub-No. 799). The purpose of this filing is to eliminate the gateway of Rocky Mount, NC.

No. MC 107515 (Sub-No. E629), filed February 13, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Applicant's representative: Alan E. Serby, Suite 375, 3379 Peachtree Road. NE., Atlanta, GA 30326. *Frozen foods* (except in bulk), in vehicles equipped with mechanical refrigeration from Suffolk, VA, to points in that part of OH on, north and west of a line commencing at the OH-KY State line and extending over U.S. Hwy 23 to its junction with OH Hwy 124, then over OH Hwy 124 to its junction with OH Hwy 93, then over OH Hwy 93 to its junction with U.S. Hwy 33, then over U.S. Highway 33 to its junction with OH Hwy 37, then over OH Hwy 37 to its junction with Interstate Hwy 70, then over Interstate Hwy 70 to its junction with OH Hwy 13, then over Hwy 13 to its junction with OH Hwy 3, then over OH Hwy 3 to its junction with U.S. Hwy 42 at or near Parma, OH, then over U.S. Hwy 42 to Cleveland, OH. Restrictions: (1) Restricted to the transportation of shipments which originate at or are destined to points in NY, CT, NA, RI, NJ, PA, MD, DE, VA, DC, KY, NC, SC, TN, GA, AL, FL, MS, AR, LA, OK, TX, AZ, CA, and NM. (2) All of the authority herein shall expire on December 18, 1978, unless on or prior to that date the Commission shall renew the Certificate issued to carrier in MC 107515 (Sub-No. 799). The purpose of this filing is to eliminate the gateway of Rocky Mount, NC.

No. MC 107515 (Sub-No. E630), filed February 13, 1976. Applicant: RE-

FRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Applicant's representative: Alan E. Serby, Suite 375, 3379 Peachtree Road NE, Atlanta, GA 30326. *Fresh fruits and vegetables,* in packages, and *unfrozen meats and meat products* (except in bulk), in vehicles equipped with mechanical refrigeration from Suffolk, VA, to Washington, DC, Baltimore, MD, and points in PA, NJ, NY, CT, RI, MA, ME, NH, and VT. Restrictions: (1) Restricted against joinder or tacking for the purpose of performing through service from Columbus, OH, Cudahy and Madison, WI, Kansas City, KS-MO, St. Joseph and St. Louis, MO, East St. Louis, Sterling, Momence, and Rochelle, IL, Covington, KY, West Point, NE, and points in IA and MN to points in MD, VA, and the DC. (2) Restricted to the transportation of shipments which originate at or are destined to points in NY, CT, MA, RI, NJ, PA, MD, DE, VA, DC, KY, NC, SC, TN, GA, AL, FL, MS, AR, LA, OK, TX, AZ, CA, and NM. (3) All of the authority herein shall expire on December 18, 1978, unless on or prior to that date the Commission shall renew the certificate issued to carrier in MC 107515 (Sub-No. 799). The purpose of this filing is to eliminate the gateway of Gatesville, NC.

No. MC 107515 (Sub-No. E631), filed February 13, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Applicant's representative: Alan E. Serby, Suite 375, 3379 Peachtree Road, NE, Atlanta, GA 30326. *Frozen foods* (except sugar and commodities in bulk), in vehicles equipped with mechanical refrigeration (1) from NY, CT, RI, MA, PA, DE, MD, NJ, VA, and the DC, to all points in CA, NV, AZ, UT, OR, ID, WA, NM, and points in that portion of CO on, south, or west of a line beginning at the CO-KS State line and extending over U.S. Hwy 36 to its junction with CO Hwy 71, then over CO Hwy 71 to its junction with U.S. Hwy 34, then over U.S. Hwy 34 to its junction with U.S. Hwy 40, then over U.S. Hwy 40 to the CO-UT State line; (2) from points in VA, DE, MD, NJ, CT, RI, MA, Washington, DC, and that portion of PA on or east of a line commencing at the WV-PA State line and extending over U.S. Hwy 22 to its junction with U.S. Hwy 119, then over U.S. Hwy 119 to its junction with PA Hwy 255, then over PA Hwy 255 to its junction with PA Hwy 555, then over PA Hwy 555 to its junction with PA Hwy 120, then over PA Hwy 120 to its junction with PA Hwy 872, then over PA Hwy 872 to its junction with U.S. Hwy 6, then over U.S. Hwy 6 to PA Hwy 449, then over PA Hwy 449 to the NY-PA State line; that portion of NY on or east of a line beginning at the NY-PA State line and extending over NY Hwy 19 to its junction with NY Hwy 17, then over NY Hwy 17 to its junction with NY Hwy 21, then over NY Hwy 21 to its junction with NY Hwy 15, then over U.S. Hwy 15 to Rochester, NY, then over NY Hwy 18 to Lake Ontario at or near Sea Breeze, NY, to points in CO, points in WY on, south or west of U.S. Hwy 287, points in MT, on or west of a line commencing at the WY-MT State line and extending over U.S. Hwy 191 to its junction with U.S. Hwy 10, then over U.S. Hwy 10 to its junction with U.S. Hwy 93, then over U.S. Hwy 93 to the international border line at or near Eureka, MT; and (3) from DE, NJ, CT, RI, MA, VA, and the DC; that portion of PA on, south or east of a line commencing at the MD-PA State line and extending over interstate Hwy 81 to its junction with Interstate Hwy 78, then over Interstate Hwy 78 to the PA-NJ State line; and points in MD on, south or east of Interstate Hwy 81; and points in NY on or south of Interstate Hwy 84, to points in WY and points in MT on or west of U.S. Hwy 89. Restrictions: (1) All authority sought herein is restricted to the transportation of shipments which originate at or are destined to points in NY, CT, MA, RI, NJ, PA, MD, DE, VA, DC, KY, NC, SC, TN, GA, AL, FL, MS, AR, LA, OK, TX, AZ, CA, and NM. (2) All of the authority herein shall expire on December 18, 1978, unless on or prior to that date the Commission shall renew the Certificate issued to carrier in MC 107515 (Sub-No. 799). The purpose of this filing is to eliminate the gateway of the State of TN (except Memphis and points in its commercial zone).

No. MC 115331 (Sub-No. E24) (correction), filed May 16, 1974, published in the FEDERAL REGISTER issue of May 5, 1976, and partially republished, as corrected, this issue. Applicant: TRUCK TRANSPORT INC., 230 Saint Clair Avenue, East St. Louis, IL 62201. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. (46) *Dry Fertilizer,* in bulk, from Cairo, IL, to points in IA. The purpose of this filing is to eliminate the gateway of Selma, Mo.

NOTE.—The purpose of this partial republication is to correct the commodity description. The remainder of this letter-notice remains as previously published.

No. MC 116014 (Sub-No. E21), filed June 15, 1975. Applicant: OLIVER TRUCKING COMPANY, INC., P.O. Box 53, Winchester, KY 40391. Applicant's representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. *Lumber,* from points in KY on and east of a line beginning at the WV-KY State line, then along U.S. Hwy 23 to junction KY Hwy 80, then along KY Hwy 80 to junction U.S. Hwy 25W, then along U.S. Hwy 25W to KY-TN State line, to points in WV on and east of a line beginning at the OH-WV State line, then along Interstate Hwy 77 to the WV-VA State line. The purpose of this filing is to eliminate the gateways of points in Powell County, KY, and points in KY on and east of U.S. Hwy 31E.

No. MC 116014 (Sub-No. E23), filed June 15, 1975. Applicant: OLIVER TRUCKING CO. INC., P.O. Box 53, Winchester, KY 40391. Applicant's representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. *Lumber,* from those points in KY on and east of U.S. Hwy 31E to points in ME, VT, NH, MA, CT, RI, NY, PA, NJ, DE, MD, OH, IN, MI, WI, IL, MN, IA, and those points in MO on and north of a line beginning at the IL-MO State line, and extending along U.S. Hwy 66 to the MO-KS State line. The purpose of this filing is to eliminate the gateway of Pulaski County, KY, Powell County, KY between points in KY on and east of U.S. Hwy 31E, Clark County, KY, and the plant site of Bluegrass Cooperage, Louisville, KY.

No. MC 116014 (Sub-No. E27), filed June 15, 1975. Applicant: OLIVER TRUCKING CO., INC., P.O. Box 53, Winchester, KY 40391. Applicant's representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. *Lumber,* from points in KY on and east of U.S. Hwy 31E, to points in TN on and west of a line beginning at the KY-TN State line, and extending along U.S. Hwy 27 to junction TN Hwy 52, then along TN Hwy 52 to junction TN Hwy 42, then along TN Hwy 42 to junction U.S. Hwy 70S, then along U.S. Hwy 70S to junction TN Hwy 55, then along TN Hwy 55 to junction U.S. Hwy 41A, then along U.S. Hwy 41A to junction U.S. Hwy 64, then along U.S. Hwy 64 to junction TN Hwy 97, then along TN Hwy 97 to the TN-AL State line. The purpose of this filing is to eliminate the gateways of Barren County, KY, points in KY on and east of U.S. Hwy 31E, and Pulaski County, KY.

No. MC 117574 (Sub-No. E80), filed June 29, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Applicant's representative: E. S. Moore, Jr. (same as above). *Agricultural implements, agricultural machinery, tractors* (other than truck tractors), *incidental machinery, attachments and parts* when moving with such implements, machinery or tractors, except commodities requiring special equipment, (1) between points in Haywood, Jackson, and Transylvania Counties, NC, on the one hand, and, on the other, all points in OR and WA, and points in: CA, on and north of a line commencing at a point in San Francisco on Interstate Hwy 80, then along Interstate Hwy 80 to the CA-NV State line; ID, points on and west of a line commencing on U.S. Hwy 93 on the ID-NV State line; then along U.S. Hwy 30 to its junction with ID Hwy 55, then along ID Hwy 55 to its junction with U.S. Hwy 95, then along U.S. Hwy 95 to its junction with ID Hwy 13, then along ID Hwy 13 to its junction with U.S. Hwy 12, then along U.S. Hwy 12 to the ID-MT State line; MT, points on and west of a line commencing at the ID-MT State line on U.S. Hwy 12, then along U.S. Hwy 12 to its junction with U.S. Hwy 91, then along U.S. Hwy 91 to the Canadian-MT border; NV, points on and west of a line commencing at the CA-NV State line on U.S. Hwy 40, then along U.S. Hwy 40 to its junction with U.S. Hwy 93, then along U.S. Hwy 93 to the ID-NV State line.

(2) Between points in Guilford, Randolph, and Rockingham Counties in NC, on the one hand, and, on the other, points in CA, ID, MN, MT, NV, ND, OR, SD, UT, WA, WY, and points in the following described States: AZ, points west of a line commencing at Douglas, AZ, on the AZ-Mexico border along U.S. Hwy 666 in a northerly direction to its junction with U.S. Hwy 70, then in a northwesterly direction along U.S. Hwy 70 to its junction with U.S. Hwy 60, then along U.S. Hwy 60 in a northeasterly direction to its junction with State Hwy 61, then along State Hwy 61 in a northerly direction to the AZ-NM State line; CO, points west of a line commencing at the CO-NM State line along Interstate Hwy 25 in a northerly direction to its junction with U.S. Hwy 350, then along U.S. Hwy 350 in a northeasterly direction to its junction with U.S. Hwy 50 in an easterly direction to its junction with U.S. Hwy 385, then along U.S. Hwy 385 in a northerly direction to its junction with State Hwy 96, then along State Hwy 96 in an easterly direction to the CO-KS State line; Ia, points north of a line commencing at the NE-IA State line along State Hwy 2 in an easterly direction to its junction with U.S. Hwy 71, then along U.S. Hwy 71 in a northerly direction to its junction with U.S. Hwy 34, then in an easterly direction along U.S. Hwy 34 to its junction with U.S. Hwy 169, then along U.S. Hwy 169 in a northerly direction to its junction with Interstate Hwy 80, then along Interstate Hwy 80 in an easterly direction to its junction with State Hwy 330, then along State Hwy 330 in a northeasterly direction to its junction with U.S. Hwy 30, then along U.S. Hwy 30 in an easterly direction to its junction with U.S. Hwy 63, then along U.S. Hwy 63 in a northerly direction to its junction with U.S. Hwy 20, then along U.S. Hwy 20 in an easterly direction to junction with State Hwy 150, then along State Hwy 150 in a northerly direction to its junction with U.S. Hwy 18, then along U.S. Hwy 18 in a northeasterly direction to the IA-WI State line; KS, points north of a line commencing at the CO-KS State line along State Hwy 96, then in an easterly direction along State Hwy 96 to its junction with State Hwy 27, then along State Hwy 27 to its junction with U.S. Hwy 40, then along U.S. Hwy 40 in an easterly direction to its junction with U.S. Hwy 83, then along U.S. Hwy 83 in a northerly direction and northeasterly direction to its junction with State Hwy 9, then along State Hwy 9 in an easterly direction to its junction with U.S. Hwy 281, then along U.S. Hwy 281 in a northerly direction to its junction with U.S. Hwy 36, then along U.S. Hwy 36 in an easterly direction to its junction with U.S. Hwy 73, then along U.S. Hwy 73 to the KS-NE State line; MI, points north of a line commencing at Lake MI at Frankfort, MI, along State Hwy 115, then in a southeasterly direction to its junction with U.S. Hwy 10, then along U.S. Hwy 10 in a southeasterly direction to its junction with State Hwy 15, then along State Hwy 15 in a southeasterly direction to its junction with State Hwy 46, then along State Hwy 46 to its termination at Lake Huron; NE, points west of a line commencing at the NE-KS State line along U.S. Hwy 73 to its junction with the NE-IA State line; NM, points north of a line commencing at State Hwy 53 in an easterly direction to its junction with State Hwy 32, then along State Hwy 32 in a northerly direction to its junction with U.S. Hwy 666, then along U.S. Hwy 666 in a northerly direction to its junction with U.S. Hwy 550, then along U.S. Hwy 550 in an easterly direction to its junction with State Hwy 17, then along State Hwy 17 in an easterly direction to its junction with U.S. Hwy 84, then along U.S. Hwy 84 in an southerly direction to its junction with U.S. Hwy 64, then along U.S. Hwy 64 in a northeasterly direction to its junction with Interstate Hwy 25, then along Interstate Hwy 25 in a northerly direction to the NM-CO State line; OH, points east and north of a line commencing at Lake Erie near Cleveland, OH along State Hwy 14, then along State Hwy 14 in a southeasterly direction to its junction with State Hwy 45, then along State Hwy 45 in a southeasterly direction to its junction with U.S. Hwy 30, then along U.S. Hwy 30 in a southeasterly direction to the OH-PA State line; WI, points north of a line commencing at the WI-IA State line along State Hwy 60 in an easterly direction to its junction with U.S. Hwy 12, then in a northerly direction along U.S. Hwy 12 to its junction with State Hwy 33, then along State Hwy 33 to its junction with State Hwy 22, then along State Hwy 22 in a northeasterly direction, then to its junction with U.S. Hwy 41, then along U.S. Hwy 41 in a northeasterly direction to its termination at Lake MI. The purpose of this filing is to eliminate the gateway of Shadygrove, PA.

(3) Between points in the NC Counties of Hoke, Roberson, and Scotland, on the one hand, and, on the other, points in CAL, COL, ID, MN, MT, NE, NV, ND, OR, SD, UT, WA, WI, and WY, and points in the following decribed States; AZ, points on and northwest of a line commencing at the AZ-Mexico Border along AZ Hwy 85 in a northerly direction to its junction with U.S Hwy 80, then in an easterly direction along U.S. Hwy 80 to its junction with U.S. Hwy 60, then in an easterly direction along U.S. Hwy 60 to its junction with AZ Hwy 61, then in a northeasterly direction along AZ Hwy 61 to the AZ-NM State line; IL, points on and north of a line commencing at the IA-IL State line along IL Hwy 17 in an easterly direction to its junction with U.S. Hwy 51, then in a northerly direction along U.S. Hwy 51 to its junction with U.S. Hwy 34, then in an easterly directin along U.S. Hwy 34 to the IL-Lake Michigan line; IA, points on and northwest of a line commencing at the MO-IA State line along IA Hwy 15 in a northerly direction to its junction with IA Hwy 2, then in an easterly direction along IA Hwy 2 to its junction with IA Hwy 1, then in a northerly direction along IA Hwy 1 to its junction with U.S. Hwy 34, then in an easterly direction along U.S. Hwy 34 to the IA-IL State line; KS points on and north of a line commencing at the OK-KS State line along U.S. Hwy 56 in a northeasterly direction to its junction with U.S. Hwy 83, then in a northerly direction along U.S. Hwy 83 to its junction with Interstate Hwy 70, then in an easterly direction along Interstate Hwy 70 to its junction with U.S. Hwy 81, then in a northerly direction along U.S. Hwy 81 to its junction with U.S. Hwy 36, then in an easterly direction along U.S. Hwy 36 to its junction with U.S. Hwy 73, then in a northerly direction along U.S. Hwy 73 to the KS-MO State line; MI, points on and northeast of a line commencing at St. Joseph, MI along U.S. Hwy 31 in a southeasterly direction to its junction with U.S. Hwy 12, then in an easterly direction along U.S. Hwy 12 to its junction with U.S. Hwy 27, then in a southerly direction along U.S. Hwy 27 to the OH-MI State line; MO, points on and north of a line commencing at the KS-MO State line along U.S. Hwy 136 in an easterly direction to its junction with MO Hwy 15, then in a northerly direction along MO Hwy 15 to the MO-IA State line; NM, points north and west of a line commencing at the AZ-NM State line along Interstate Hwy 40 in an easterly direction to its junction with U.S. Hwy 85, then in a northerly direction along U.S. Hwy 85 to its junction with U.S. Hwy 64, then in an easterly direction

along U.S. Hwy 64 to the NM-OK State line; OH, points on and north of a line commencing at the IN-OH State line along Interstate Hwy 80 in an easterly direction to its junction with OH Hwy 66, then in a southerly diretion along OH Hwy 66 to its junction with U.S. Hwy 6, then in an easterly direction along U.S. Hwy 6 to its junction with OH Hwy 199, then in a southeasterly direction along OH Hwy 199 to its junction with OH Hwy 18, then in an easterly direction along OH Hwy 18 to its junction with U.S. Hwy 224, then in an easterly direction along U.S. Hwy 224 to its junction with U.S. Hwy 250, then in a southeasterly direction along U.S. Hwy 250 to the OH-WV State line; WV, points on and north of a line commencing at the OH-WV State line along U.S. Hwy 250 in a southeasterly direction to its junction with U.S. Hwy 50, then in an easterly direction along U.S. Hwy 50 to the WV-State line.

(4) Between points in the N.C. Counties of Montgomery, Moore, and Richmond, on the one hand, and, on the other, points in CA, ID, MT, NE, NV, ND, OR, SD, UT, WA, WY, and points in the following described States; AZ, points on and north and west of a line commencing at Yuma, AZ, along Interstate Hwy 8, then in a northerly direction to its junction with U.S. Hwy 80, then in a northerly direction along U.S. Hwy 80 to to its junction with U.S. Hwy 89, then in a northerly direction along U.S. Hwy 89 to its junction with U.S. Hwy 160, then in a northeasterly direction to the AZ-CO State line; CO, points north and west of a line commencing at the AZ-CO State line along U.S. Hwy 160, then in an easterly direction to its junction with U.S. Hwy 85, then in a northerly direction along U.S. Hwy 85 to its junction with U.S. Hwy 24, then in a northeasterly direction along U.S. Hwy 24 to its junction with U.S. Hwy 385, then in a northerly direction along U.S. Hwy 385 to its junction with U.S. Hwy 34 in an easterly direction to the CO-NE State line; NE, points north and west of a line commencing at the CO-NE State line along U.S. Hwy 34, then in a northeasterly direction to its junction with U.S. Hwy 83, then in a northerly direction along U.S. Hwy 83, to its junction with U.S. Hwy 30, then in an easterly direction along U.S. Hwy 30 to its junction with U.S. Hwy 77, then in a northerly direction to the NE-IA State line; IA, points north and west of a line commencing at the NE-IA State line along U.S. Hwy 75, then in a northeasterly direction to its junction with State Hwy 60, then in a northeasterly direction along State Hwy 60 to its junction with U.S. Hwy 18, then in an easterly direction along U.S. Hwy 18 to its junction with State Hwy 4, then in a northerly direction to the IA- MN State line; MN, points north and west of a line commencing at the IA-MN State line along State Hwy 4, then in a northeasterly direction to its junction with State Hwy 60, then in a northeasterly direction along State Hwy 60 to its junction with U.S. Hwy 169, then in a northeasterly direction along U.S. Hwy 169 to its junction with Interstate Hwy 35, then in a northeasterly direction to Duluth, MN; MI, only Sault Ste. Marie, MI; OH, points north of a line commencing at Lake Erie near Ashtabula, OH along State Hwy 11, then in a southerly direction, then to its junction with State Hwy 82, then to the OH-PA State line.

(5) Between points in the Counties of Franklin, Vance and Warren in NC, on the one hand, and, on the other, points in AZ, CA, CO, DE, ID, IA, MI, MN, MT, NE, NV, ND, OR, SD, UT, WA, WI, and WY, and points in the following described States: IL, points north of a line commencing at the IL-MO State line along U.S. Hwy 24, then in a northeasterly direction to its junction with Interstate Hwy 57, then along Interstate Hwy 57 in a northerly direction to its junction with State Hwy 17, then along State Hwy 17 in a northeasterly direction to the IL-IN State line; IN, points north of a line commencing at the IL-IN State line along U.S. Hwy 6 in an easterly direction to the IN-OH State line; KS, points west of a line commencing at the OK-KS State line along Interstate Hwy 35 in a northerly direction to its junction with U.S. Hwy 50, then along U.S. Hwy 50 in an easterly direction to its junction with Interstate Hwy 35, then along Interstate Hwy 35 in an easterly direction to the KS-MO State line; MO, north of a line commencing at the MO-KS State line along U.S. Hwy 24, then in an easterly direction to the MO-IL State line; NM, points west and north of a line commencing at the NM-TX State line along U.S. Hwy 62 in a northerly direction to its junction with U.S. Hwy 285, then along U.S. Hwy 285 in a northerly direction to its junction with U.S. Hwy 82, then along U.S. Hwy 82 in an easterly direction to its junction with State Hwy 172, then along State Hwy 172 in a northerly direction to its junction with U.S. Hwy 380, then along U.S. Hwy 380 in an easterly direction to its junction with State Hwy 18, then along State Hwy 18 in a northerly direction to its junction with U.S. Hwy 70, then along U.S. Hwy 70 in a northeasterly direction to its junction with U.S. Hwy 60, then along U.S. Hwy 60 to the NM-TX State line; OH, points north of a line commencing at the OH-IN State line along U.S. Hwy 6 in an easterly direction to its junction with U.S. Hwy 127, then along U.S. Hwy 127 in a southerly direction to its junction with U.S. Hwy 24, then along U.S. Hwy 24 in an easterly direction to its junction with State Hwy 15, then along State Hwy 15 in a southeasterly direction to its junction with U.S. Hwy 23, then along U.S. Hwy 23 in a southeasterly direction to its junction with U.S. Hwy 30, then along U.S. Hwy 30 in an easterly direction to its junction with State Hwy 19, then along State Hwy 19 in a southeasterly direction to its junction with State Hwy 97, then along State Hwy 97 in a southeasterly direction to its junction with State Hwy 39, then along State Hwy 39 in a southeasterly direction to its junction U.S. Hwy 250, then along U.S. Hwy 250 in a southeasterly direction to its junction with U.S. Hwy 22, then along U.S. Hwy 22 in an easterly direction to the OH-WV State line; OK, points west of a line commencing at the OK-TX State line along U.S. Hwy 60 in an easterly direction to its junction with U.S. Hwy 64, then along U.S. Hwy 64 in an easterly direction to its junction with Interstate Hwy 35, then along Interstate Hwy 35 in a northerly direction to the OK-KS State line; TX, points west of a line commencing at Presidio, TX, on the TX-Mexico Border along U.S. Hwy 67 in a northerly direction, then to its junction with U.S. Hwy 90, then along U.S. Hwy 90 in a northerly direction to its junction with State Hwy 54, then along State Hwy 54 in a northerly direction to the TX-NM State line; WV, points north of a line commencing at the WV-OH State line along U.S. Hwy 22 then to the WV-PA State line. The purpose of this filing is to eliminate the gateway of Waynesboro, PA. Restrictions: (1) All authority granted above is restricted against the transportation of shipments between Racine, WI, Burlington and Bettendorf, IA, Rockford and Rock Island, IL. (2) The authority granted herein to the extent that it duplicates any authority heretofore granted to or now held by carrier shall not be construed as conferring more than one operating right.

No. MC 118831 (Sub-No. E135), filed April 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 Eleventh Street NW., Washington, DC 20001. *Liquid petrochemicals*, in bulk, in tank vehicles from points in SC on, east, and south of a line beginning on U.S. Hwy 21 at the NC-SC State line; then southward on U.S. Hwy 21 to SC Hwys 72-121 to a junction with SC Hwy 901; then southward on SC Hwy 901 to a junction with SC Hwy 9; then eastward on SC Hwy 9 to a junction with U.S. Hwy 21; then southward on U.S. Hwy 21 to a junction with SC Hwy 97; then southeastward on SC Hwy 97 to a junction with U.S. Hwy 601; southward on U.S. Hwy 601 to Lugoff, SC; from Lugoff, SC, back to Camden, SC, on Hwy 601, then southward on U.S. Hwy 251 to a junction with SC Hwy 261; then southward on SC Hwy 261 to a junction with U.S. Hwy 15; then southward on U.S. Hwy 15 to a junction with U.S. Hwy 301; then northward on U.S. Hwy 301 to a junction with U.S. Hwy 521; then eastward on U.S. Hwy 521 to a junction with U.S. Hwy 52; then southward on U.S. Hwy 52 to a junction with SC Hwy 45; then eastward on SC Hwy 45 to McClellanville, SC, and then due east to the Atlantic Ocean, to points in IL (except points in the East St. Louis commercial zone), IN, KY, MI, MO (except points in the St. Louis commercial zone), OH, TN, and WI. The purpose of this filing is to eliminate the gateway of Charlotte, NC.

No. MC 118831 (Sub-No. E136), filed April 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 Eleventh Street NW., Washington, DC 20001. *Liquid petrochemicals*, in bulk, in tank vehicles from Greenville, SC, to points in MI and WI, and points in MO (except the St. Louis, MO, commercial zone), IL (except the East St. Louis, IL, commercial zone), IN and OH, on, north, and west of a line starting at MO Hwy 5 on the AR-MO State line, then northward on MO Hwy 5 to the junction with U.S. Hwy 60, then eastward on U.S. Hwy 60 to the junction with U.S. Hwy 63, then northward on U.S. Hwy 63 to the junction with U.S. Hwy 66, then northward on U.S. Hwy 66 to a junction with Interstate Hwy 44, then eastward on Interstate Hwy 44 to a junction with Interstate Hwys 55-70, then eastward on Interstate Hwys 55-70 to a junction with Interstate Hwy 57, then northward on Interstate Hwy 57 to a junction with Interstate Hwy 74, then eastward on Interstate Hwy 74 to a junction with IL Hwy 1, then northward on IL Hwy 1 to a junction with U.S. Hwy 24, then eastward on U.S. Hwy 24 to a junction with U.S. Hwy 41, then northward on U.S. Hwy 41 to a junction with IN Hwy 14, then eastward on IN Hwy 14 to a junction with IN Hwy 25, then northeastward on IN Hwy 25 to a junction with U.S. Hwy 30, then eastward on U.S. Hwy 30 to a junction with U.S. Hwy 127, then southward on U.S. Hwy 127 to a junction with U.S. Hwy 33, then southeastward on U.S. Hwy 33 to a junction with OH Hwy 29, then southeastward on OH Hwy 29 to a junction with U.S. Hwy 68, then southward on U.S. Hwy 68 to a junction with OH Hwy 72, then southward on OH Hwy 72 to a junction with U.S. Hwy 35, then southeastward on U.S. Hwy 35 to a junction with OH Hwy 93, then southeastward on OH Hwy 93 to a junction with OH Hwy 233, then southeastward on OH Hwy 233 to a junction with OH Hwy 141, then southward on OH 141 to a junction with OH Hwy 378, then southward on OH Hwy 378 to Getaway, OH, then by unnumbered road to Chesapeake, OH. The purpose of this filing is to eliminate the gateway of Charlotte, NC.

No. MC 118831 (Sub-No. E137), filed April 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 Eleventh Street NW., Washington, DC 20001. *Liquid petrochemicals*, in bulk, in tank vehicles, from Beaufort, SC, to points in IL (except the East St. Louis commercial zone), IN, KY, MI, MO (except the St. Louis commercial zone), OH, WI, and points in TN on and north of a line beginning at U.S. Hwy 25 on the TN-NC border, then westward on U.S. Hwy 25 to a junction with Interstate Hwy 40, then westward on Interstate Hwy 40 to a junction with U.S. Hwy 70, then westward on U.S. Hwy 70 to a junction with TN Hwy 104, then westward on TN Hwy 104 to a junction with TN Hwy 20, then westward on TN Hwy 20 to the AR-TN border. The purpose of this filing is to eliminate the gateway of Charlotte, NC.

No. MC 118831 (Sub-No. E141), filed April 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 Eleventh Street NW., Washington, DC 20001. *Liquid petrochemicals*, in bulk, in tank vehicles, from points in SC on and east of a line beginning at SC Hwy 9 on the NC-SC border, then southward on SC Hwy 9 to a junction with SC Hwy 292, then southward on SC Hwy 292 to a junction with SC Hwy 290, then southward on SC Hwy 290 to a junction with U.S. Hwy 221, then southward on U.S. Hwy 221 to a junction with SC Hwy 39, then southward on SC Hwy 39 to a junction with SC Hwy 121, then southward on SC Hwy 121 to a junction with SC Hwy 19, then southeastward on SC Hwy 19 to a junction with U.S. Hwy 78, then west on U.S. Hwy 78 to a junction with SC Hwy 125, then southeastward on SC Hwy 125 to a junction with SC Hwy 301, then southwestward on SC Hwy 301 to the SC-GA border, to points in MO (except the St. Louis commercial zone). The purpose of this filing is to eliminate the gateway of Charlotte, NC.

No. MC 118831 (Sub-No. E142), filed April 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 Eleventh Street NW., Washington, DC 20001. *Liquid petrochemicals* (except anhydrous ammonia, fertilizer, and fertilizer materials), in bulk, from points in NC on and east of a line beginning at U.S. Hwy 176 on the NC-SC border, then northward on U.S. Hwy 176 to a junction with NC Hwy 108, then eastward on NC Hwy 108 to a junction with U.S. Hwy 64, then northward on U.S. Hwy 64 to a junction with NC Hwy 18, then northward on NC Hwy 18 to a junction with NC Hwy 268, then eastward on NC Hwy 268 to a junction with U.S. Hwy 601, then northward on U.S. Hwy 601 to a junction with U.S. Hwy 52, then northward on U.S. Hwy 52 to the NC-SC border; to St. Louis, MO, and East St. Louis, IL. The purpose of this filing is to eliminate the gateway of Charlotte, NC, and Robertson County, TN.

No. MC 118831 (Sub-No. E143), filed April 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 Eleventh Street NW., Washington, DC 20001. *Liquid petrochemicals*, in bulk (except anhydrous ammonia, fertilizer, and fertilizer materials) from points in NC on and east of a line beginning on U.S. Hwy 321 at the NC-SC border, then northward on U.S. Hwy 321 to a junction with NC Hwy 275, then southwestward on NC Hwy 275 to a junction with NC Hwy 216, then northward on NC Hwy 216 to a junction with NC Hwy 150, then northeastward on NC Hwy 150 to a junction with U.S. Hwy 21, then northward on U.S. Hwy 21 to a junction with NC Hwy 268, then northeastward on NC Hwy 268 to a junction with U.S. Hwy 601, then northward on U.S. Hwy 601 to a junction with U.S. Hwy 52, then northward on U.S. Hwy 52 to the NC-VA border; to AR. The purpose of this filing is to eliminate the gateway of Charlotte, NC and Robertson County, TN.

No. MC 124174 (Sub-No. E9), filed June 4, 1974. Applicant: MOMSEN TRUCKING CO., P.O. Box 37490, Omaha, NE 68137. Applicant's representative: Karl E. Momsen (same as above). *Animal and poultry feed and animal and poultry feed ingredients*, (1) between Anita, IA, and points within 15 miles thereof, on the one hand, and, on the other, those points in IA within 60 miles of Auburn, NE, on, south, and west of a line beginning at the IA-NE State line, at Council Bluffs, IA, at junction of IA Hwy 92 and U.S. Hwy 275, then along U.S. Hwy 275 to junction U.S. Hwy 34, then along U.S. Hwy 34 to junction IA Hwy 41, then along IA Hwy 41 to junction IA Hwy 184, then along IA Hwy 184 to a point 4 miles east, then south on unnumbered highway to junction IA Hwy 174, then along IA Hwy 174, south 12 miles on unnumbered highway to junction U.S. Hwy 59, then along U.S. Hwy 59 to the IA-MO State line; (2) between points in IA within 15

miles of Anita, IA, on the one hand, and, on the other, points in MO within 60 miles of Auburn, NE, on and west of a line beginning at the IA-MO State line, and extending along U.S. Hwy 59 to junction U.S. Hwy 159 to the MO River; (3) between Anita, IA, and 15 miles thereof, on the one hand, and, on the other, points in KS within 60 miles of Auburn, NE, except those east of a line beginning at the NE-KS State line and extending along KS Hwy 7 to Iowa Point, KS, southwest on unnumbered highway to Highland, KS, then south along KS Hwy 120 to junction KS Hwy 20, to junction U.S. Hwy 73 southeast to a point at or near Lancaster, KS, which is a point of the arc of the radius of 60 miles of Auburn, NE; (4) from points in NE, KS, and MO within 60 miles of Auburn, NE, to a point in IA within 50 miles of Spencer, IA, except those south of a point on IA Hwy 31 and the Cherokee-Ida County line, then east to U.S. Hwy 59 to junction U.S. Hwy 20, to junction U.S. Hwy 71, north 4 miles to unnumbered road, then east through Nemaha and Knoke, IA, to the junction of IA Hwy 4 and the 50 mile radius of Spencer, IA. The purpose of this filing is to eliminate the gateway of Omaha, NE, and its commercial zone, including Council Bluffs, IA.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-5393 Filed 2-28-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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International Trade Commission	12, 13
National Council on Educational Research	14

[6320-01]

1

[M-101, Amdt. 4, Feb. 23, 1978]

NOTICE OF DELETION OF ITEM FROM THE FEBRUARY, 23, 1978 AGENDA

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., February 23, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 12. Dockets 30526, 31778, 31849, 31934, 31939, 31940, 31961, 31983 and 32106, Applications by TWA and Pan American to continue suspensions and exemptions involved in their route exchange agreement. (Memo No. 7782, BPDA, BIA, OGC.)

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: This item was deleted from the February 23, 1978, agenda so that the Board could give more consideration to the issues involved. Accordingly, the following Members have voted that agency business requires the deletion of item 12 from the February 23, 1978 agenda and rescheduled for the March 1 agenda and that no earlier announcement of this deletion was possible.

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Richard J. O'Melia

[S-446-78 Filed 2-27-78; 9:53 am]

[6320-01]

2

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., March 1, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.

2. Dockets 31317 et al. Comprehensive liberalization of charter rules (OGC).

3. Docket 24694 and 31976, Miami-Los Angeles cases, Petitions for Reconsideration (OGC).

4. Docket 31737, Amendment of Part 300 on Separation of Functions (request for instruction) (OGC).

5. Docket 29323, International Air Service Co., Acquisition of Control of Aloha Airlines, Inc.—motion for interim approval of interlocking relationship (OGC).

6. Docket 30561, Complaint of *Miles Laboratories, Inc.* v. *United Parcel Service Co.*—motion for review of BOE dismissal of third-party complaint (Memo No. 7776, OGC).

7. Docket 28655, *Seattle/Portland-Japan Service Investigation* (request for instructions) (Memo No. 7758, 7758-A, OGC).

8. Docket 29790, Dallas-Fort Worth-Western Mexico—Order of Discretionary Review (OGC).

9. Docket 29445, Las Vegas/Dallas/Fort Worth Nonstop Service Investigation—Recommendations concerning petitions for discretionary review (OGC).

10. Dockets 28213, 28955, 29373, 29431, 29512, 29618, and 29984, Applications of Yusen Air and Sea Service Co., Ltd. (Japan) d.b.a. Yusen Air and Sea Service (U.S.A.), Inc. (Yusen), Kinki Nippon Tourist Co. Ltd. (Japan) d.b.a. Kintetsu World Express, Inc. (U.S.A.) (Kintetsu); Warehousing Co. Ltd. (Japan) d.b.a. Nissin International Transport, U.S.A., Inc. (Nissin); Nippon Express Co., Ltd. (Japan) d.b.a. Nippon Express U.S.A, Inc. (Nippon); Mitsui Air & Sea Service Co., Ltd. (Japan) d.b.a. (Mitsui); "K" Line Air Service Ltd. (Japan) d.b.a. "K" Line New York Inc. (U.S.A.) (K-Line); and Nishi Nippon Railroad Co., Ltd. (Japan) d.b.a. NNR Aircargo Service (U.S.A.) Inc. (Nishi) (Memo No. 6758-A, OGC).

11. Docket 29880, Compensation of participants in Board preceedings (Memo No. 6751-A, OGC).

12. Docket 29186, *Memphis-Twin Cities/Milwaukee Case* (OGC, OEA).

13. Docket 21670, *Frontier Airlines, Inc. Subsidy Mail Rates*—Petitions for discretionary review (OGC).

14. Dockets 30526, 31778, 31849, 31934, 31939, 31961, 31983, and 32106, Applications by TWA and Pan American to continue suspensions and exemptions involved in their route exchange agreement (Memo No. 7782, BPDA, BIA, OGC).

15. Dockets 31870, 31981, 31984, Order that scopes and established Subpart M procedures to govern the Baltimore/Washington Houston Low-Fare Route Case (Memo No. 7641-B, BPDA, BLJ).

16. Docket 30971, Western Air Lines, Inc. Motion for Hearing on Phoenix-Salt Lake City Competitive Nonstop Authority (Memo No. 7785, BPDA).

17. Docket 31967, Ozark's Petition For Show Cause, or, Alternatively, Motion For Hearing on St. Louis-Washington (Via Dulles Airport) (Memo No. 7784, BPDA).

18. Docket 30717, Closing the docket which solicited comments on the fare-effectiveness rule (Memo No. 6967-B, BPDA).

19. Fare increase and fare structure changes proposed in 48 state-Alaska markets by various carriers, and intra-Alaska increase proposed by Alaska Airline (BPDA).

20. Docket 30332, LATA Agreement proposing increase in North/Central Pacific cargo rates (BPDA).

21. Docket 31400, petition of Rocky Mountain Airways for reconsideration of Board Order 77-12-130; Dockets 31400 and 28342, Rocky Mountain Airways, motion to consolidate its amendment No. 2 to application in Docket 28342 with Docket 31400, requesting authority in some of the new markets which the Board put in issue in Order 77-12-130; Dockets 31400 and 31270, Aspen Airways' motion for leave to file an unauthorized document, the petition of Aspen for reconsideration of Board Order 77-12-130 (Memo No. 4680-G, BLJ, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202-673-5068.

The Board will not be able to meet on Thursday, March 2, 1978 because of the Senate Appropriations hearings scheduled for that day. Because of these hearings, the Board must meet

on Wednesday, March 1, 1978. Inadvertently, that information was not seen by the Secretary's office in time for a meeting notice to issue with a full seven days' notice. So that the orderly conduct of the Board's business will not be delayed, the following Members have voted that agency business requires that the Board meet on Wednesday, March 1, 1978 with six days' notice and that no earlier announcement of the meeting was possible:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

[S-445-78 Filed 2-27-78; 9:53 am]

[6570-06]

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 7518, S-412-78.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (eastern time), Tuesday, February 28, 1978.

CHANGES IN THE MEETING:

Addition of the following items to the portion open to the public:

5. Freedom of Information Act Appeal 77-12-FOIA-247 concerning a request for the names and addresses of certain parties who filed charges of discrimination.

6. Proposed two-month extension of funding of contracts with three private bar organizations and extension of time only of one additional contract to run through April 30, 1978.

7. Proposal to hold public hearings to develop possible commission policy on work-scheduling as it relates to religious discrimination.

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required these changes and that no earlier announcement was possible.

The vote was as follows:

In favor of changes: Eleanor Holmes Norton, Chair, Daniel E. Leach, Vice Chair, Ethel Bent Walsh, Commissioner.
Opposed: None.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued February 24, 1978.

[S-450-78 Filed 2-27-78; 11:52 am]

4

FEDERAL COMMUNICATIONS COMMISSION.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Wednesday, February 22, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission Meeting.

CHANGES IN THE MEETING: The following agenda item should be deleted:

Agenda, Item No., Subject

Common Carrier—8—Western Union Tariff FCC No. 254, revising rates and rate structure for low-speed private line services.

The following Common Carrier items will be considered on Thursday, February 23, 1978, starting at 9:30 a.m., in Room 856, at 1919 M Street NW., Washington, D.C. instead of in the sequence indicated on the earlier notice.

Agenda, Item No., Subject

Common Carrier—3—Declaratory ruling concerning interconnection obligations of AT&T.
Common Carrier—4—AT&T's petitions to suspend Southern Pacific Communications Company's Transmittal No. 113, revising its Tariff FCC No. 6 to offer Sprint Option V service.
Common Carrier—5—MTS and WATS Market Structure.

Items remaining to be considered from the previous day will follow these Common Carrier items.

The prompt and orderly conduct of Commission business requires these changes and no earlier announcement of the changes was possible.

CONTRACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Office, telephone 202-632-7260.

Issued: February 21, 1978; February 22, 1978.

[S-447-78 Filed 2-27-78; 9:53 am]

[6712-01]

5

FEDERAL COMMUNICATIONS COMMISSION.

PREVIOUSLY ANNOUNCED TIME AND DATE: Follows 9:30 a.m., Open Commission Meeting, Wednesday, February 22, 1978.

PLACE: Room 856, 1919 M Street, NW., Washington, D.C.

STATUS: Closed Commission meeting.

CHANGES IN THE MEETING: This meeting has been rescheduled for Wednesday, March 1, 1978, starting at 9:30 a.m., Room 856, at 1919 M Street, NW., Washington, D.C.

MATTERS TO BE CONSIDERED:

Agenda, Item No., Subject

Complaints and Compliance—1—Results of investigation into the operations of WJPD-AM and FM, Ishpeming, Mich.
Complaints and Compliance—2—Field investigations into the operations of KODE-TV, Joplin, Mo., FOAM-TV, Pittsburg, Kans. KTVJ, Joplin, Mo.
Hearing—1—Petition for special relief in the Rhinelander, Wis. TV renewal proceeding. (Docket No. 21266.
Hearing—2—Motions to certify record in the Orlando, Fla. television proceeding. (Docket Nos. 11083, 17339, 17341, 17342, 17344.)
Hearing—3—Comments of seven applicants for a construction permit for an AM station in Los Angeles, Calif. (Docket Nos. 15752, 15754, 15755, 15756, 15764, 15765 and 15766.)
Hearing—4—Petition filed by Midwest St. Louis, Inc., for a declaratory ruling in a comparative hearing for the UHF TV station in St. Louis, Mo. (Docket Nos. 20820, 20821.)
Hearing—5—Applications for review of a final review board decision in the KTVO, Inc., Kirksville, Mo. television proceedings. (Docket No. 20100.)
Hearing—6—Petition for reconsideration filed by Talton Broadcasting Co., of a Commission decision in the renewal proceeding of WHBB-AM, Selma, Ala. (Docket No. 20723.)
Hearing—7—Draft decision in the Oil Shale Broadcastng Co. (KWSR), Rifle, Colo. renewal proceedings. (Docket No. 20231.)

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Office, telephone 202-632-7260.

Issued: February 22, 1978.

[S-448-78 Filed 2-27-78; 9:53 am]

[6714-01]

6

NOTICE OF CHANGE IN SUBJECT MATTER OF AGENCY MEETING

FEDERAL DEPOSIT INSURANCE CORPORATION.

On Friday, February 24, 1978, Chairman George A. LeMaistre and Director John G. Heimann (Comptroller of the Currency) determined that Corporation business required their addition of the following matter to the agenda for the closed Board of Directors' meeting scheduled for 2:00 p.m. on Thursday, March 2, 1978:

Request from a State banking authority that the Corporation, pursuant to section 10(b) of the Federal Deposit Insurance Act, assist in an examination of a national bank in connection with the bank's application for a State charter.

The Board further determined, by the same vote, that no earlier notice of a change in the subject matter of the meeting was practicable; that the Board's deliberations with respect to the matter were exempt from the open meeting requirements of the "Government in the Sunshine Act" by subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(10) thereof; and that the public interest did not require consideration of the matter in a meeting open to public observation.

Dated: February 24, 1978.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-449-78 Filed 2-27-78; 10:44 am]

[6740-02]

7

NOTICE OF MEETING

FEBRUARY 27, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: February 28, 1978. (Following regular Commission meeting.)

STATUS: Closed.

MATTERS TO BE CONSIDERED: Pending civil litigation.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

KENNETH F. PLUMB,
Secretary.

[S-451-78 Filed 2-27-78; 1:17 pm]

[6740-02]

8

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 8057 Pub. February 27, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: March 1, 1978, 10:00 a.m.

CHANGE IN THE MEETING: The following item has been added:

Item No., Docket No., and Company

CP-11(A)—CP77-363, Columbia Gas Transmission Corp. and National Fuel Gas Supply Corp.
CP-11(B)—CP77-38, Tennessee Gas Pipeline Co., a division of Tenneco Inc., and National Fuel Gas Supply Corp.
CP-11(C)—CI76-432, Cabot Corp., CP76-19, Columbia Gas Transmission Corp., and the Sylvania Corp., CP76-361, Columbia Gas Transmission Corp.
CP-11(D)—CP77-477, Panhandle Eastern Pipe Line Co.

KENNETH F. PLUMB,
Secretary.

[S-452-78 Filed 2-27-78; 1:17 pm]

[6740-02]

9

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published February 27, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: March 1, 1978 10 a.m.

CHANGE IN THE MEETING: The regular Commission meeting scheduled for Wednesday, March 1, 1978, at 10 a.m. has been changed to Tuesday, February 28, 1978, at 10 a.m.

KENNETH F. PLUMB,
Secretary.

[S-444-78 Filed 2-27-78; 9:53 am]

[6730-01]

10

FEDERAL MARITIME COMMISSION.

TIME AND DATE: March 9, 1978, 10 a.m.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Agreement Nos. 5680-26 and 6060-22: Modifications of the Pacific-Straits Conference Agreement and the Pacific Indonesian Conference Agreement, respectively to revise the self-policing provisions of their agreements
2. Notice of Proposed Rulemaking: Capitalization of interest incurred during a period of construction
3. Docket No. 77-54: *Allied Chemical International Corp.* v. *Atlantic Lines*—Review of initial decision
4. Special Docket No. 523: *Mitsui and Co. U.S.A. Inc.* vs. *Pacific Westbound Conference*—Review of initial decision
5. Special Docket No. 534: *Cutler-Hammer Denver* v. *Lykes Bros. Steamship Co., Inc.*—Consideration of record
6. Special Docket No. 531: *Mitsubishi International Corporation* v. *Far East Conference and American President Lines, Ltd.*—Consideration of record
7. Docket No. 71-29: *Baton Rouge Marine Contractors, Inc.* v. *Cargill, Inc.*—Consideration of request for oral argument
8. Docket No. 76-58: Reports by Common Carriers by water in the Domestic Offshore Trades—Consideration of record

Portions closed to the public:

1. Docket No. 73-79: *Household Goods Forwarders Association of America, Inc., et al.* v. *American Export Lines, Inc., Sea-Land Service, Inc., United States Lines, Inc.*—Consideration of petition of Household Goods Forwarders Association of America for reconsideration of Commission's decision
2. Docket No. 74-10: Freight Forwarder Bids on Government Shipments at United States Ports—Possible violations of the Shipping Act, 1916, and General Order 4—Consideration of petition of General Services Administration for Declaratory Order
3. Docket No. 77-52: Far East Conference, Pacific Westbound Conference, Japan/Korea-Atlantic and Gulf Freight Conference and the Trans-Pacific Freight Conference of Japan/Korea Assessment of Incheon Arbitrary United States Import/Export Trades—Consideration of request of Hearing Counsel for protective order

CONTRACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5727.

[S-455-78 Filed 2-27-78; 3:39 pm]

[6770-01]

11

FCSC MEETING NOTICE NO. 18-77—NOTICE OF MEETINGS

FOREIGN CLAIMS SETTLEMENT COMMISSION.

Announcement in regard to commission meetings and hearings.

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of routine Commission business and other matters specified, as follows:

Date, Time and Subject Matter

Wednesday, March 1, 1978, at 10:30 a.m.—Canceled.
Wednesday, March 8, 1978, at 10:30 a.m.—Canceled.
Wednesday, March 15, 1978, at 10:30 a.m.—Canceled.
Wednesday, March 22, 1978, at 10:30 a.m.—Canceled.
Wednesday, March 29, 1978, at 10:30 a.m.—Canceled.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, D.C. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Executive Director, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, D.C. 20579, telephone 202-653-6156.

Dated at Washington, D.C. on February 21, 1978.

FRANCIS T. MASTERSON,
Executive Director.

[S-456-78 Filed 2-27-78; 3:39 pm]

[7020-02]

12

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 9 a.m., P.s.t., and 12 noon, P.s.t., Tuesday, March 7, 1978.

PLACE: Seattle Center, 305 Harrision Street, Seattle, Wash.; and Room 117, 701, E. Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints (if necessary).
5. Work gloves (Inv. TA-406-1)—briefing and vote on the question of market disruption.
6. Any items left over from previous agenda.

CONTACT PERSONS FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-454-78 Filed 2-27-78; 3:39 pm]

[7020-02]

13

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 9:30 a.m., Friday, March 10, 1978.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Work gloves (Inv. TA-406-1)—vote on remedy, if necessary.
2. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-453-78 Filed 2-27-78; 3:39 pm]

[4110-29]

14

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH.

TIME AND DATE: March 17, 1978, 9:30 a.m.-3:30 p.m.

PLACE: Room 823, National Institute of Education, 1200 19th Street NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Swearing-in ceremony and remarks (9:30 a.m.-10 a.m.).
2. Approval of minutes January 12-13, 1978 (10 a.m.-10:05 a.m.)
3. Director's general report (10:05 a.m.-10:45 a.m.).
4. Director's report on status of labs and centers (10:45 a.m.-11:15 a.m.)
5. Director's report on procurement policy and practices (11:15 a.m.-12 noon).
6. Report of review and reports committee: annual report (1 p.m.-2 p.m.)
7. Executive committee report: Issues for future consideration (chairman's report) (2 p.m.-Adjournment).

CONTACT PERSON FOR MORE INFORMATION:

Mrs. Ella L. Jones, Administrative Coordinator/NCER, telephone, 202-254-7900.

PETER H. GERBER,
Chief, Policy and Administrative Coordination, National Council on Educational Research.

[S-443-78 Filed 2-27-78; 9:53 am]

federal register

WEDNESDAY, MARCH 1, 1978
PART II

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

STATE COASTAL MANAGEMENT PROGRAMS

Development and Approval

[3510-08]

Title 15—Commerce and Foreign Trade

CHAPTER IX—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION (NOAA)

PART 923—COASTAL ZONE MANAGEMENT PROGRAM APPROVAL REGULATIONS

Interim—final Regulations

AGENCY: National Oceanic and Atmospheric Administration (NOAA) Department of Commerce.

ACTION: Interim final rule.

SUMMARY: These interim final regulations revise and incorporate several sets of existing regulations dealing with development and approval of State coastal management programs. These regulations reflect more accurately the interpretation of program approval requirements being provided by the Office of Coastal Zone Management (OCZM).

EFFECTIVE DATE: April 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Carol Sondheimer, State Programs, Office of Coastal Zone Management, Page Building 1, 3300 Whitehaven Street NW., Washington, D.C. 20235, 202-634-1672.

SUPPLEMENTARY INFORMATION: The National Oceanic and Atmospheric Administration (NOAA) is issuing these revised regulations, pursuant to sections 305, 306, and 307 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.), hereafter referred to as the "Act," in interim final form to make effective as soon as possible regulations which reflect more accurately the interpretation of program approval requirements being provided by the Office of Coastal Zone Management (OCZM). Since a substantial number of coastal States will seek program approval within the next several months, it is appropriate to have in effect revised regulations that provide greater detail and clarity as to the approval requirements. NOAA also desires to respond to requests from several Federal agencies and other interested parties to discuss further some of the major issues addressed in the regulations prior to their publication in final form. NOAA believes that such an open process follows the spirit of the Act. However, certain constraints exist with respect to agency informal rulemaking which have been emphasized in a recent Federal court decision (*Home Box Office v. FCC*, D.C. Cir., March 25, 1977). While engaged in informal rulemaking, Federal agency officials are limited with respect to communications they may have with persons outside the agency on the merits of the rulemaking. In order to accommodate the above competing needs, NOAA has determined that the most appropriate procedure would be this issuance in interim final form. Following this publication, OCZM will meet, during the comment period provided below, with the interested parties who have expressed a desire to do so, and a written summary of each discussion will be placed in the record. The public is invited to review the record during this period and to subit written comments on such summaries. Following consideration of these discussions and any other comments received during the comment period, and making revisions where appropriate and legal, NOAA will promulgate these regulations in final form.

These regulations revise and supersede the following sets of existing regulations related to management program development and approval:

(1) Final Coastal Zone Management Program Development Regulations (15 CFR Part 920) published in the FEDERAL REGISTER on April 29, 1977, dealing with section 305 program development, preliminary approval, and grant applications;

(2) Final Coastal Zone Management Program Approval Regulations (15CFR Part 923) published in the FEDERAL REGISTER on January 9, 1975, dealing with section 306 program approval requirements;

(3) Interim Coastal Zone Management Federal-State Consultation Regulations (15 CFR Part 925) published in the FEDERAL REGISTER on February 2, 1975, dealing with subsections 307(b) and 307(h) of the Act which have to do with Federal consultation, review and approval procedures, and mediation during program development and preliminary approval;

(4) Final Coastal Zone Management Program Approval Regulations Amendment (15 CFR Part 923) published in the FEDERAL REGISTER on November 2, 1976, dealing with subsection 306(h) of the Act with respect to island segmentation; and

(5) Proposed Coastal Zone Management Program Approval Regulations Amendments (15 CFR Part 923) published in the FEDERAL REGISTER on December 30, 1976, dealing with subsections 306(c)(2)(B), 306(g) and 312 of the Act which have to do with a continuing State-local consultation mechanism, changes to approved management programs, and termination and withdrawal of funding of approved management programs.

On August 29, 1977, NOAA published proposed revisions to the above-referenced regulations. Written comments were requested by October 28, 1977. Comments were received from 14 State reviewers, 10 Federal agencies, 11 industrial groups, 2 environmental groups, and 3 miscellaneous reviewers. These comments have been considered in preparing these regulations.

DISCUSSION OF MAJOR ISSUES AND NOAA RESPONSE

Below is a discussion of the more major comments and changes to these regulations. This is followed by a section-by-section discussion of other comments received.

RELATIONSHIP OF 15 CFR PART 920 TO 15 CFR PART 923

A number of reviewers felt it was confusing and, in some cases, contradictory to indicate that the program development regulations (15 CFR Part 920) were incorporated into the program approval regulations (15 CFR Part 923) and, yet, that where there were differences, the Part 923 regulations control. In order to avoid any confusion, Subparts A-D of the Program Development (15 CFR Part 920) Regulations dealing with the requirements of subsection 305(b) of the Act are superseded by the requirements contained herein, especially Subpart A-E. The preliminary approval sections (Subpart E) of the Program Development Regulations have been incorporated herein as §§ 923.74–923.77 with only minor changes. The grant application procedures (Subpart F) for section 305 grants of the Program Development Regulations have been incorporated herein as part of Subpart J, especially §§ 923.96 and 923.97, again with only minor changes. Accordingly, reference no longer need be made to the Program Development Regulations (15 CFR Part 920).

GENERAL REQUIREMENTS

A few reviewers felt that the regulations did not reflect adequately a basic thrust of the Act—the preservation of unique, vulnerable or valuable coastal resources. While NOAA feels this thrust was reflected adequately in previous regulations § 923.3 has been rewritten to reaffirm this basic purpose of the Act.

ENERGY FACILITY PLANNING

Several reviewers felt that the proposed energy facility planning requirements did not reflect adequately the relationship between this planning element and national interest considerations required pursuant to subsection 306(c)(8) of the Act. Section 923.14, especially § 923.14(a)(4), has been revised to reflect this relationship. A number of other deletions and additions (from 15 CFR 920.18) have been made in response to other comments on this section. These changes are discussed below in the section-by-section analysis of changes.

INLAND BOUNDARY

Comments were received suggesting the approach taken to determining the inland boundary (in § 923.31) would yield an inland boundary larger than that intended by Congress. Conversely, a number of comments were received that the inland boundary should be larger than that provided for in § 923.31 to ensure fulfillment of the Act's purposes. NOAA has reviewed the Act and legislative history, and has determined that the present interpretation contained in § 923.31 is a correct and reasonable one. Accordingly, the basic requirements of § 923.31 remain unchanged. Minor changes to this section, for the purpose of further clarification, are discussed in the section-by-section analysis that follows.

TREATMENT OF LOCAL PROGRAMS

A couple of reviewers objected to the possibility provided in these regulations (in § 923.42) that State management programs could be approved in advance of completion of local implementation programs (where a State will use the control technique provided by subsection 306(e)(1)(A) of the Act) on the basis that the State program would not provide sufficient specificity to guide those affected by the program as to permissible uses or geographic areas of particular concern. A number of other reviewers maintained that all local programs developed and approved after NOAA approval of a State's program always must be treated as amendments to the State's program.

The present regulations are a resonable interpretation of the requirements of the Act and provide adequate safeguards (in §§ 923.3(a)(2) and 923.42(c)(4)(iii)) to assure sufficent specificity in any State program approved by the Assistant Administrator (prior to local program completion) so that those affected by the program will know how and where they are affected.

With respect to how local programs are incorporated into a State's program, NOAA does not agree that local programs would constitute amendments in all cases. Whether or not such programs would constitute amendments (as opposed to refinements) would depend on whether these programs would result in substantially different, significant environmental impacts or substantially different intergovernmental relationships from the State's approved management program. This determination is best left to a case-by-case determination as provided for in § 923.80(c). However, to assure that there is adequate opportunity for the public, affected parties, and governmental entities to provide input to and review of local programs before they are approved by the State (which appears to be the major concern of those commentators who perfer to treat incorporation of local programs as amendments), a new § 923.42(c)(4)(ii) has been added to assure such opportunities are provided.

INCORPORATION OF AIR AND WATER QUALITY REQUIREMENTS

Several commentators expressed concern with the comment in § 923.44(c)(4) which informed States that if they adopted, pursuant to the Federal Water Pollution Control Act and the Clean Air Act, pollution control standards which are more stringent than those provided for in these Federal Acts, those more stringent standards must be incorporated in the management program, and that incorporation of these standards would be a legitimate factor in adequately considering the national interest in siting of facilities which are more than local in nature. The reviewers were concerned that some States would use these stricter pollution control requirements to preclude or restrict unreasonably the siting of energy facilities which otherwise may be in the national interest. This section has been rephrased to remind States that if they have such stricter standards, these must be incorporated pursuant to subsection 307(f) of the Act, but to clarify that the Act does not mandate stricter standards. The position of requiring States which have adopted more stringent standards to incorporate them into their management programs is based on a careful reading of the legislative history of subsection 307(f) of the Act, and is supported by the Environmental Protection Agency. Because this section produced a large number of comments, and because there are cogent arguments on either side, NOAA particularly invites further comment on this section.

NATIONAL INTEREST

Several reviewers objected to the national interest being characterized in terms of "resources" as well as "facilities" and further objected to a balancing of these various "national interests." A number of these reviewers further suggested that subsection 306(c)(8) required that facilities be accommodated in the coastal zone and that assurance be provided that local regulations do not unreasonably exclude or restrict uses of regional benefit, especially when these uses involve energy facilities.

NOAA response. NOAA maintains that the requirement of subsection 306(c)(8) of the Act for adequate consideration of the national interest in the planning for and siting of facilities that are necessary to meet more than local requirements must be met within the overall context of the Act. As described in the legislative history, the purpose of "adequate consideration" is to achieve the act's "spirit of equitable balance between State and national interests." As such, consideration of facilities in which there may be a national interest must be undertaken within the context of the Act's broader finding of a "national interest in the * * * beneficial use, protection, and development of the coastal zone" (Section 302(a)). Subsection 302(g) of the Act gives "high priority" to the protection of natural systems. Accordingly, while the primary focus of subsection 306(c)(8) is on the planning for and siting of facilities, adequate consideration of the national interest in these facilities must be based on a balancing of these interests with other national and State interests relative to the wise use, protection and other development of the coastal zone. As the Department of Energy noted in its comments on the proposed regulations:

> The Act presumes a balancing of the national interest of energy self-sufficiency with State and local concerns involving adverse economic, social, or environmental impacts.

However, in recognition of commentators' concerns that proposed § 923.52 does not clearly identify the need to focus on facilities in which there may be a national interest, § 923.52 has been revised to clarify that the purpose of the requirements contained in this section are to assure that facilities in which there is a national interest are considered in (1) the development of the State's management program, (2) the review and approval of a State's program by the Assistant Administrator, and (3) the implementation of the program. Other changes have been made to this section to further emphasize the focus on facilities, including separation of the tables, one dealing with facilities, the other dealing with resources.

With respect to the comment that assurance must be provided that local regulations do not unreasonably exclude or restrict uses of regional benefit when these uses involve energy facilities, NOAA notes that these commentators have confused the requirements of subsection 306(c)(8) of the Act with subsection 306(e)(2) of the Act. Subsection 306(c)(8) calls for "adequate consideration" which is not synonomous with assuring that provision be made to assure the siting of energy facilities in which there is a national interest. The requirement to assure local regulations do not unreasonably restrict or exclude uses of regional benefit is a separate and distinct requirement pursuant to subsection 306(e)(2) of the Act. As § 923.13 of these regulations points out, States should define uses of regional benefit based on (1) their effect on more than one unit of local government, and (2) direct and significant impacts on coastal waters. Effect may be considered to be of a multi-county or intrastate nature. Accordingly, facilities in which there is a national interest need

not necessarily be defined as uses of regional benefit. However, as § 923.13(d) points out, where States do define uses of regional benefit to include facilities in which there is a national interest, then assurance must be provided that local regulations do not unreasonably restrict or exclude such uses.

Review of Performance

A number of commentators objected to proposed § 923.91 as being too vague and not providing enough specificity as to the criteria and procedures to be used to review performance of States once their management programs are approved. NOAA agrees that more detail on performance review after program approval can and should be provided. Moreover, NOAA feels that these requirements can be better handled as separate regulations since these are required pursuant to section 312 of the Act and are not requirements of program approval pursuant to section 306 of the Act. Accordingly, § 923.91 of the proposed regulations has been dropped from these regulations and will be treated in separate regulations which NOAA will first issue in proposed form to allow adequate opportunity for review and comment.

Changes to Approved Programs

In response to a number of questions and suggestions, proposed § 923.90 (now § 923.80) has been rewritten and expanded to provide examples of items that would constitute changes to an approved management program and to clarify differences in review and approval procedures depending on whether the change is an amendment or a refinement. Proposed §§ 923.92 and 923.93 (now §§ 923.81 and 923.82, respectively) also have been revised to further specify and clarify the procedures for amending or refining, respectively, the management program.

Section-by-Section Analysis

SUBPART A

(a) *Section 923.1—Purpose.* Four commentators suggested that differences between the 15 CFR Part 920, and 15 CFR Part 923 regulations be identified and resolved.

NOAA response. See discussion under major changes of the relationship of 15 CFR Part 920 to 15 CFR Part 923.

(b) *Section 923.2—Definitions.* (1) One commentator suggested the terms "direct and significant impacts," "special management," and "special management areas" be defined.

NOAA response. NOAA feels these terms are already sufficiently explained in §§ 923.31(d) and 923.21 respectively, and need not be further defined in this section.

(2) One reviewer suggested that "shorelines" be defined as the coastlines of the several States as defined in the Submerged Lands Act.

NOAA response. NOAA does not feel this suggested definition is appropriate. There is no indication that Congress intended to interpret "shorelines" synonymously with the term "coastline" as defined in the Submerged Lands Act. In fact, the legislative history suggests that "shoreline" was used synonymously with "coastal zone" and that Congress' attention was to a coastal area, in which a variety of competing uses took place, not on the "line" itself.

(3) One commentator suggested defining "water dependency."

NOAA response. NOAA does not feel this necessary or appropriate as such definition is better left to each State as it feels appropriate given the specifics of its management program.

(4) Three commentators suggested the addition of the Department of Energy and the deletion of component agencies.

NOAA response. All references to the Energy Research and Development Administration, the Federal Energy Administration, and the Federal Power Commission, have been deleted and the Department of Energy has been substituted.

(5) One reviewer suggested that "pollution abatement and control" be included in § 923.2(d) as one of those activities which impact or affect a State's coastal zone.

NOAA response. This suggestion has been accepted.

(6) One reviewer suggested the addition of the Department of State to the list of relevant agencies.

NOAA response. NOAA has not accepted this suggestion. For one, it did not come from the Department of State. For another, "relevant agencies" are those that need to be involved extensively in program development and program review. It is not normally essential for the Department of State to be involved extensively in such activities. Moreover, § 923.2(e) makes provision for the inclusion of the Department of State when such involvement is warranted.

(7) One commentator suggested a clarification in the definition of the term "Secretary" to note that, for mediation purposes, the authority remains in the Office of the Secretary.

NOAA response. Section 923.2(b) has been so clarified.

(8) One commentator found the terms "fields" of interest, "types of uses," "uses subject to the management program," "areas of particular concern," "facilities in which there may be a national interest," and "resources in which there may be a national interest" which are cited in §§ 923.2, 923.10, 923.12, 923.14, 923.21, 923.50, and 923.52 respectively to be repetitive and overlapping.

NOAA response. NOAA disagrees that these terms are repetitive and overlapping. They refer to different aspects of program management and are explained sufficiently in each of the respective sections cited above.

(c) *Section 923.3—General Requirements.* (1) Two reviewers suggested that NOAA should require that a State's program provide for management of all uses with direct and significant impacts on coastal waters, not just those a State has determined make its coastal zone a unique, vulnerable or valuable area. One of these reviewers also felt the regulations should specifically affirm in this section that management programs must provide a planning process for managing the impacts of energy facilities and for the consideration of the national interest. The other reviewer felt that NOAA should provide that management programs assure the preservation and protection of coastal resources consistent with the basic conservation purposes of the Act.

NOAA response. With respect to the first comment, § 923.3 (especially (g)) has been revised to assure that management is provided for those uses with direct and significant impacts on coastal waters.

With respect to the second comment, NOAA does not feel it necessary to mention specifically in this section the requirements to provide an energy facility planning process and to consider adequately the national interest as these already are provided for in §§ 923.14 and 923.52 respectively.

With respect to the third comment, NOAA has addressed this issue in the discussion of general requirements under major changes, above.

(2) One commentator suggested the word "comprehensive" be deleted from the description of the management program in paragraph (a)(1) as this commentator found no statutory basis for the requirement.

NOAA response. The word "comprehensive" appears as part of the definition of the term "management program" in section 304(11) of the Act. Accordingly, no change has been made to this paragraph.

(3) Five reviewers objected to paragraph (b) suggesting that the wording is open to controversy and is not in conformance with the Act.

NOAA response. NOAA agrees that the wording of this paragraph may be confusing and is not essential for program approval purposes. Accordingly, paragraph (b) of the proposed regulations has been deleted.

(4) One reviewer suggested that the requirement for three broad classes of policies in proposed paragraph (e) (now paragraph (f)) be deleted, as this reviewer felt inclusion of this requirement would lead to a program of broad land use controls. Two commentators suggested this paragraph be revised to indicate that State management programs should address endangered species and marine mammals and their needs. One of these commentators also suggested adding OCS development and mineral extraction to the examples of development policies to be addressed in management programs. Another reviewer objected to the implication of this paragraph that the priority given different issues would be left to the States. This reviewer felt the regulations should indicate clearly that the scope and priority given these issues would be evaluated by the Assistant Administrator prior to granting approval.

NOAA response. With respect to the first comment, NOAA believes the three broad classes of policies (having to do with resources, coastal development and governmental processes) are necessary to address the findings and policies of sections 302 and 303 of the Act. However, NOAA has not stipulated the specific policies that are appropriate within these broad groupings as this is the responsibility of the State, working in consultation with interested and affected parties, including the general public. In further response to the reviewer's concern that inclusion of these three groupings would lead to broad land use controls, it should be noted that the examples provided, of appropriate subjects for policies, are coastal specific. To further emphasize the coastal aspect of these management policies, group (2) in paragraph (f) has been retitled "Coastal Development Policies."

With respect to the second comment, paragraph (f)(1) has been revised to include "* * * areas containing fishery, spawning, and harvesting grounds, other wildlife habitats including those of endangered species * * *" as examples of resources that should be considered under the Resource Policies grouping.

With respect to the third comment, paragraph (f)(2) has been revised to include "* * * mineral extraction, onshore OCS-related development * * *" as examples of development that should be considered under the Coastal Development Policies grouping.

With respect to the fourth comment, paragraph (g) provides that "the Assistant Administrator will review management programs to ensure that major coastal resources * * * are addressed by appropriate policies in the program."

(5) Three commentators urged that proposed paragraph (f) (now paragraphs (i)-(k)) be expanded to provide more guidance to States on meeting the mandates of Presidential Executive Orders on wetlands protection and floodplain management. A fourth commentator concurred, advocating that barrier islands also be included. Two reviewers suggested a revision to clarify that the Wetlands Order does not apply to the issuance by Federal agencies of permits, licenses or allocations to private parties for activities involving wetlands on non-Federal property. Two other commentators requested further discussion of means to incorporate and coordinate the mandates of the Orders with the national flood insurance program.

NOAA response. With respect to the first comment requesting further guidance on complying with the Executive Orders, OCZM is working with the Environmental Protection Agency, the Corps of Engineers, and the Federal Insurance Administration to develop the guidance requested. OCZM hopes to have this guidance ready for inclusion in these regulations at the time of their issuance as Final Regulations. Alternatively, OCZM will issue guidance papers separate from these regulations if the necessary information is not available at the time of issuance of Final Regulaltions.

With respect to the second comment, NOAA has not added a reference to barrier islands in these paragraphs because barrier islands are not addressed in the two Executive Orders cited in paragraphs (i)-(k). However, NOAA has added reference to barrier islands in paragraph (f)(1) as an example of a resource to be considered under the Resource Policies grouping.

With respect to the third comment, NOAA does not feel it necessary to clarify in these paragraphs Federal responsibilities under the Wetlands Executive Order as this section is addressed to State, not Federal, responsibilities pursuant to these Orders.

With respect to the fourth comment, NOAA has not provided additional discussion of means to coordinate with the national flood insurance program because of uncertainty at the time of issuance of these regulations of whether or how the national flood insurance program will be altered by the Executive Order on floodplain management. NOAA is working with the Federal Insurance Administration to develop an interagency agreement which will address interrelationships between the coastal zone management and the flood insurance programs.

SUBPART B

(a) Three reviewers objected that Subpart B did not treat uses subject to management as comprehensively as subsections 306(c)(8) and 306(e)(2) of the Act require, and suggested that this Subpart should expressly require State programs to provide for the requirements of those two subsections of the Act.

NOAA response. NOAA does not feel the objection of the reviewers is valid as the requirements of the two subsections of the Act cited above already are addressed in individual sections of the regulations (§§ 923.52, 923.13, and 923.43 respectively).

(b) *Section 923.10—General.* One commentator suggested this section should be revised to address coastal waters, consistent with the language of the Act, and not the broader reference to coastal resources, as proposed section 923.10 provides.

NOAA response. Section 923.10 has been revised as per the suggestion above.

(c) *Section 923.11—Uses Subject to Management.* (1) One commentator suggested the addition of the words "within the coastal zone which have a direct and significant impact on coastal waters."

NOAA response. NOAA finds these words unnecessary and redundant and therefore has made no change.

(2) One reviewer felt that the suggested analyses in paragraphs (b) and (c) would involve studies so complex that it would be years before they were completed. In contrast, three reviewers felt that these analyses are critical to program development and therefore should be made a requirement for program approval.

NOAA response. While NOAA agrees that the inventories suggested in paragraph (b) and the analyses suggested in paragraph (c) are useful to program development, NOAA does not feel these inventories and analyses are the sole means of arriving at a determination of uses that should be subject to the management program. Moreover, NOAA cannot find any statutory language that would require such inventories and analyses be made mandatory. In response to the first reviewer's concern, the fact that these studies are recommended, and not required, should alleviate some of the concern about the amount of time required to complete these studies. Moreover, it should be noted that many of the States involved in the coastal program development process, in fact, have been able to complete the recommended inventories and analyses in less than the numerous years anticipated by the first reviewer.

(3) Two commentators suggested that the analyses recommended in paragraph (c) should be limited to impacts on coastal waters and not on coastal resources as the proposed paragraph provides. Another reviewer suggested that this paragraph be clarified to apply to uses with direct and significant impacts on coastal waters before they can be subject to the management program. A third commentator suggested that the list of uses be considered a minimum.

NOAA response. With respect to the first comment, paragraph (c) has been revised as per the suggestion above.

With respect to the second comment, paragraph (c) already explicitly

refers to direct and significant impacts as a basis for determining whether uses are to be subject to the management program.

With respect to the third comment, NOAA has not adopted the suggestion that the list of uses be considered a minimum requirement as this paragraph is a recommendation and not a requirement. As another commentator noted, in connection with another section, "at a minimum" implies a requirement and therefore is inappropriate in a commentary.

(4) A number of commentators suggested the following changes to the list of uses contained in paragraph (c):

(i) Deletion of the words "such as subdivisions, high-rise apartments or hotels, trailer parks, second-home developments, shopping centers, and associated transportation corridors" from paragraph (c)(1);

(ii) Deletion of the words "manufacturing complexes, industrial parks" and addition of the word "marine" to "mineral and sand extraction operations" in paragraph (c)(2);

(iii) Deletion of the words "schools, hospitals, government buildings" from paragraph (c)(4); and

(iv) Addition of transportation facilities as a separate paragraph.

NOAA response. With respect to the first two comments, NOAA has not made the suggested changes because the items listed are illustrative and clarify the sorts of analyses that may be appropriate for program development.

With respect to the third suggestion, NOAA has deleted the recommended words because it feels, on reconsideration, that those examples do not provide further understanding of the recommended analyses.

With respect to the fourth comment, NOAA has added a new paragraph (5) covering transportation facilities. Because of this addition, "associated transportation facilities" has been deleted from paragraph (c)(1).

(5) Two commentators suggested, in connection with paragraph (d), the Assistant Administrator should consider whether major coastal issues, raised by the public or governmental entities, are addressed through existing programs as well as through the State's coastal management program. Another reviewer suggested the term "major coastal-related issues" in paragraph (d) should be clarified.

NOAA response. With respect to the first comment, no change has been made because the regulations already allow for and anticipate the incorporation of existing programs as elements of a State's management program.

With respect to the second comment, NOAA has added language to paragraph (d) to indicate that the significance of issues raised by the public or governmental entities will be judged in terms of their relationship to the findings and national policies of sections 302 and 303 of the Act.

(d) *Section 923.12—Use Permissibility.* (1) Two commentators suggested that this section did not meet the requirements of the Act in only requiring development of "policies and procedures" for definition of permissible uses while subsection 305(b)(2) of the Act mandates a more detailed definition. In contrast, another reviewer suggested that the requirement for policies and procedures by which uses subject to the management program will be allowed, conditioned, modified or prohibited be deleted.

NOAA response. The first two commentators have misunderstood how the regulations address the requirements of subsection 305(b)(2). Section 923.11(a)(1) requires an identification of permissible uses (i.e., uses that will be subject to the management program) which is a partial fulfillment of the requirement of subsection 305(b)(2). Language has been added to § 923.11(a)(1) to indicate clearly this is in fulfillment of the requirement of that subsection of the Act. Once uses have been determined to be subject to the management program, pursuant to § 923.11, then States must determine how they will be managed (i.e., allowed, conditioned, modified, or prohibited) which is the requirement of § 923.12. NOAA feels, in response to the suggestion that this requirement be deleted, that it is reasonable in view of the language of the Act and logical in terms of what a management program should contain.

(2) One reviewer felt that the distinction between "uses subject to the management plan" and "permissible uses with direct and significant impacts" had been blurred and that this distinction needed to be maintained since only uses with direct and significant impacts need to be managed by regulatory techniques.

NOAA response. While NOAA agrees that not all uses subject to the management program need be managed by regulation, NOAA does not agree with the commentator's analysis. NOAA believes that uses that must be subject to the management program are those with direct and significant impacts on coastal waters. The issue of the appropriate management technique (e.g., regulation versus technical or financial assistance) is a separate issue, and is dealt with in § 923.3(h).

(3) With respect to paragraph (c), the following recommendations were made:

(i) One reviewer felt the suggested analyses were overly complicated. Another reviewer objected to consideration of capability/suitability analyses for all uses, maintaining that the earlier program approval regulations required these analyses only for geographic areas of particular concern. In contrast, two reviewers felt these analyses should be required;

(ii) The considerations suggested in paragraphs (2)–(5) all should include reference to future, as well as present, considerations;

(iii) The words "resource types" and "coastal resources" in paragraphs (1) and (2) respectively should be replaced with the words "resources of the coastal waters";

(iv) The word "coastal" should be replaced with the word "water" in the term "coastal dependency" in paragraph (5);

(v) Paragraphs (2) and (4) should be deleted; and

(vi) A paragraph (6) should be added requiring the policies and procedures (called for in paragraph (a)) to be based on other existing regulatory programs.

NOAA response. With respect to the first set of comments, NOAA does not agree that these analyses are overly complicated. Moreover, it should be noted that these analyses are recommended but not required. In response to the comments that these analyses should be required, NOAA does not believe that these are the sole means for determining use permissibility. Moreover, NOAA does not find any statutory language that would require such analyses be made mandatory.

In response to the second comment, it is not necessary to add reference to future considerations as such a reference already can be found in paragraph (1). Moreover paragraphs (1)–(5) should not be considered mutually exclusive but complementary.

In response to the third comment, NOAA does not feel it necessary or appropriate to substitute "resources of the coastal waters" for "resource types" or "coastal resources."

With respect to the fourth comment, NOAA has made the recommended change.

With respect to the fifth comment, NOAA does not feel it necessary or appropriate to delete paragraphs (2) and (4) as these are suggestions, not requirements, that are worth calling to the attention of the States.

In response to the sixth comment, NOAA does not feel it necessary to add the additional paragraph as the regulations already allow for reliance on other existing regulatory programs as elements of a State's management program.

(4) With respect to paragraph (d), the following comments were received:

(i) The factors listed in paragraphs (1)–(5) are inadequate, and full range of environmental impacts must be considered, including cumulative and long-range impacts;

(ii) Economic development and energy self-sufficiency should be included as factors for consideration; and

(iii) The listed considerations have no statutory basis, are not necessary to control impacts, and many of these considerations are properly addressed by non-regulatory aspects of the program.

NOAA response. In response to the first comment, NOAA feels that the factors listed do cover a full range of environmental impacts. Moreover, it should be noted that the considerations listed in paragraphs (1)–(5) are illustrative and non-inclusive. Accordingly, States are in no way precluded from considering cumulative and long-range impacts.

In response to the second comment, reference to energy has been added to paragraph (5).

In response to the third comment, NOAA again notes that these analyses are recommended and not mandated. They are offered as suggestions to States as to how to meet the requirements of paragraph (a).

(5) One reviewer suggested that since the Act mandates definition of permissible uses, if performance standards are to be relied upon (as provided for in paragraph (d)), the regulations should specify that uses can be prohibited through the application of these standards. Another reviewer felt the performance standard approach held good potential and that the discussion should be expanded.

NOAA response. The requirement to define uses subject to the management program is contained in § 923.11, not in this section. As noted in an earlier response, § 923.11 has been so clarified. Performance standards represent one means of specifying how uses are to be managed once they are determined to be subject to the program. The term "management" is not and need not, for purposes of the Act, be synonymous with "prohibition." Accordingly, NOAA does not agree with the comment above that performance standards must be capable of prohibiting uses in all cases.

With respect to the second comment, NOAA has nothing further to add at this time regarding the use of performance standards to meet the requirements of this section and thus has not expanded the discussion.

(6) One reviewer suggested that paragraph (d)(2) would be more effective if reworded to read: "Historic, cultural, and aesthetic resources where coastal development is likely to affect these resources." This same reviewer also suggested rephrasing paragraph (d)(4) to include consideration of all species that depend upon the coastal zone during at least a portion of their life cycle.

NOAA response. NOAA has adopted the suggested rewording of paragraph (d)(2) but has not made the recommended change to paragraph (d)(4) as the existing language appears broad enough.

(7) One commentator suggested that the comment in paragraph (e) regarding performance standards was unnecessarily limiting. If a State can manage activities with direct and significant impacts via performance standards, the requirement to specify directly such uses seems inappropriate.

NOAA response. Again this commentator appears to have confused the requirements of § 923.11 with § 923.12. As noted earlier, they are separate requirements. Accordingly, paragraph (e) remains unchanged.

(e) *Section 923.13—Uses of Regional Benefit.* (1) A number of reviewers in commenting on other sections of these regulations made comments that are most appropriately addressed in a discussion of this section. These commentators suggested that uses of regional benefit must be defined, at a minimum, to include, energy facilities in which there is a national interest.

NOAA response. First, it should be noted that the present regulations provide that States may define uses of regional benefit in terms of facilities (including energy facilities) in which there may be a national interest. It also should be noted that this is not mandatory but one of several options available to States in meeting the requirements of subsection 306(e)(2) of the Act. Moreover, NOAA finds nothing in the language of the Act or the legislative history to imply that subsection 306(c)(8) (which deals with consideration of facilities in which there is a national interest) and subsection 306(e)(2) (which deals with uses of regional benefit) were intended to be linked together and made to represent a single requirement. Nor does NOAA find any language to preclude such linkage if States desire to do so. Accordingly, NOAA has left it up to States whether or not to define uses of regional benefit in terms of facilities in which there is a national interest.

(2) One reviewer suggested that the requirements of paragraph (a) be eliminated.

NOAA response. NOAA believes the requirements of paragraph (a) represent a reasonable interpretation of the statutory requirement of subsection 306(e)(2) of the Act. As a statutory requirement, it cannot be eliminated except by Congress.

(3) One commentator suggested that this section fails to implement the statutory requirement of subsection 306(e)(2) of the Act by not providing adequate guidance as to what uses might be of regional benefit and how States might assure that local regulations do not unreasonably restrict these uses. Relatedly another reviewer felt there was not a clear definition of uses of regional benefit while two other reviewers suggested the list of options be expanded or, at least, be made non-inclusive. Another reviewer suggested that the three sources suggested in paragraph (c) for identifying uses of regional benefit must all be used to determine such uses. Still another reviewer suggested that the second and third alternative, where uses of regional benefit may be defined as facilities in which there are national interests, should be justified as the latter is a separate and distinct requirement of the Act. The same reviewer suggested that the first option could be broadened by referencing planning programs of other Federal agencies.

NOAA response. In response to the first three comments, what was paragraph (c) and is now paragraph (d) has been expanded to provide further guidance as to how States might define uses of regional benefit. Section 923.43 already contains guidance as to how States might assure local regulations do not unreasonably restrict these uses. A clarification to this effect has been added to new paragraph (c) of this section.

With respect to the fourth comment, NOAA does not agree that all sources listed in paragraph (d) must be used to determine uses of regional benefit. NOAA feels that suggesting alternative approaches to States is a reasonable and logical response to meeting the requirement of the Act.

With respect to the fifth comment, as noted in an earlier response, nothing in the statute appears to prohibit defining uses of regional benefit in terms of facilities in which there is a national interest. NOAA does agree with this commentator that consideration of facilities, in which there is a national interest, is a separate requirement. Accordingly, the approach is optional and not mandatory.

Finally, NOAA has followed the recommendation of this reviewer and has made reference to other Federal programs in paragraph (d).

(4) One reviewer felt there was a certain amount of confusion between this section and related § 923.43 and objected to the physical separation of these requirements in the regulations.

NOAA response. Paragraph (c) has been added to clarify the relationship between this section and § 923.43.

(f) *Section 923.14—Energy Facility Planning Process.* (1) Several reviewers made comments on this section which are more appropriate to the discussion of national interest in § 923.52. Accordingly, those comments are analyzed in the discussions under § 923.52.

(2) Two reviewers suggested that the regulations specifically commit States to the siting of energy facilities through this process. Conversely, one commentator suggested it be noted that subsection 305(b)(8) of the Act was not enacted to encourage the siting of energy facilities in the coastal zone. Relatedly, five reviewers object-

ed to the reference in paragraph (c) that encourages States to employ site specific control techniques, and noted that Congress specifically forbade intercession in specific siting decisions.

NOAA response. NOAA agrees with the commentators who note that Congress did not intend to encourage the unnecessary siting of energy facilities in the coastal zone. To wit, the Committee Report on the 1976 Amendments to the Act noted: "The Committee in no way wishes to accelerate the location of energy facilities in the coasts: on the contrary, it feels a disproportionate share are there now." However, that same report states that "State coastal zone programs *should*, therefore, specifically address how major energy facilities are to be located in the coastal zone if such siting is necessary. Second, the program shall include methods of handling the anticipated impacts of such facilities." (Emphasis added.) Accordingly, in response to the first comments, NOAA does not read the legislative history to mandate energy facility siting but rather to encourage articulation of locational and environmental considerations that will influence energy siting decisions. Similarly, in response to the second comment, NOAA does not believe that the present requirements encourage location of energy facilities in the coastal zone but rather require a clear articulation of how energy facility impacts are to be managed. Finally, in response to the last set of comments, NOAA agrees that Congress did not intend for intercession into specific siting decisions; to wit, the Committee statement that it "wishes to emphasize * * * that this new paragraph (8) requires a State to develop, and maintain a planning process, but *does not imply intercession in specific siting decisions.*" (Emphasis added.) Again, NOAA does not feel the initial comments in paragraph (c) to which reviewers object are directed towards intercession in specific siting decisions but rather articulation of site considerations that need to be taken into account in order to manage impacts from energy facilities.

(3) A number of reviewers suggested changes or additions to the requirements of paragraph (a) as follows:

(i) Include all energy-related activities in this planning process;

(ii) Add a requirement for trade-offs of energy-related natural resources against other non-energy resources;

(iii) Identify potential demands and impacts on coastal resources from energy facilities;

(iv) Expand paragraph (a)(2) to take into account alternative sites and to include consideration of ecological, cultural, historic, and aesthetic values as well as needs for enocomic development;

(v) Include members of the energy facility community in the consultation requirement of paragraph (a)(4); and

(vi) Include specific mention of Federal and State fish and wildlife agencies for consultation purposes in paragraph (a)(4).

NOAA response. In response to the first comment, NOAA believes States need include in the planning process only those energy facilities defined in section 304(5) of the Act. However, NOAA also believes it reasonable to allow States, at their option, to include additional energy-related activities, as suggested by the first commentator, in this planning process. Paragraph (d), which is incorporated from 15 CFR 920.18(b)(2), reflects this discussion above.

In response to the second comment, NOAA is not sure how the recommended addition would contribute to a State's ability to manage impacts from energy facilities. In any case, NOAA does not believe that such trade-offs as suggested by the commentator are precluded by the present regulations.

With regard to the third comment, NOAA is not sure that identification of potential demands on coastal resources is a necessary requirement to develop a process for managing impacts from energy facilities. Again, NOAA does not believe the present regulations preclude the analyses suggested by the commentator.

With respect to the fourth comment, NOAA believes paragraph (f) (which is incorporated from 15 CFR 920.18) addresses the concerns of the commentator.

Finally, with respect to the fifth and sixth comments, paragraph (a)(4) has been revised to reference "interested and affected public and private parties" which includes the energy facility community and the fish and wildlife agencies referred to by the commentators.

(4) Two commentators objected to suggestions in the commentary in paragraph (c) which they believe displays a bias against nuclear and other energy facilities. Relatedly, two other reviewers suggested the commentary accomplished little in advising States on planning for energy facilities and suggested paragraph (c) be deleted. Another reviewer felt reference to 15 CFR 920.18(b)(1) would eliminate the need for most of paragraph (c).

NOAA response. NOAA wishes to go on record as not being biased against nuclear or other energy facilities. NOAA is committed to the mandate of the Act to provide for the development as well as the preservation of the coastal zone and its resources. NOAA believes this mandate is achieved through a balancing of developmental and preservation considerations. It is this concept of balancing that was intended to be conveyed in the commentary of paragraph (c) and certainly not any bias against energy facilities. However, NOAA has deleted most of paragraph (c) in response to the second set of commentators and to remove any hint of bias because it feels the addition of the 15 CFR 920.18 commentary (as paragraphs (d)–(i)), is more specific than that provided in proposed paragraph (c) and therefore more helpful to States in developing the required planning process.

(5) One reviewer suggested the regulations clarify that prior to identification of sites, States should consult with appropriate Federal and local government officials and the public.

NOAA response. As indicated in an earlier response, site identification, per se, is not a required part of the planning process. In any case, though, revised paragraph (a)(4) provides for "an identification of how interested and affected public and private parties may be involved in the planning process."

(6) One reviewer suggested that paragraph (c) clarify that areas of particular concern designated for ecological reasons be reserved exclusively for the purposes for which designated. This commentator also suggested that the list of other facilities or resources of national interest be expanded to include historic and cultural resources and that the "should" in the second to last sentence of paragraph (c) be changed to "must."

NOAA response. While the sections of paragraph (c) to which these changes are addressed have been deleted, NOAA, in any case, believes that the first suggestion is implied in paragraph (a)(2) and the remaining portions of paragraph (c).

(7) One commentator suggested including a variance provision that would allow the waiver of process requirements in cases where national energy needs outweigh resource and conservation concerns.

NOAA response. NOAA does not believe this is a necessary requirement for fulfilling the Congressional intent in adding this planning process. Neither does NOAA feel that adoption of such a provision by States is precluded by the present regulations.

(8) One commentator suggested the addition of a discussion indicating how this planning element and that provided in the Coastal Energy Impact Program (CEIP) (15 CFR Part 931) might be coordinated.

NOAA response. Paragraph (g), adapted from 15 CFR 920.18(b)(8), addresses some of these interrelationships.

(9) Finally, one reviewer objected to the statement in proposed paragraph (e), now paragraph (j), that State programs could be approved without completion of this element and suggested that the first sentence of this paragraph be deleted.

NOAA response. In reviewing the legislative history and the language of

subsection 305(b)(9) of the Act, NOAA is convinced that Congress intended that State programs approved prior to October 1, 1978, have until that date to meet the three new planning elements. Accordingly, the recommended change has not been made to paragraph (j).

SUBPART C

(a) *Section 923.20—General.* One commentator suggested that this section should indicate that the philosophy that should govern the designation of special management areas is the protection and preservation of valuable coastal ecosystems. Conversely, one reviewer felt that the regulations evidenced a preservation bias in uses permitted in designated areas of particular concern. A third commentator suggested that States be required to address the problem of dredge spoil disposal areas for maintenance dredging.

NOAA response. With respect to the first two comments, while NOAA agrees that the majority of special management areas probably will be designated for conservation reasons, neither the Act nor these regulations preclude the designation of areas for special management because of their development potentials or values.

With respect to the third comment, NOAA can find no authority in the Act or legislative history to mandate the designation of dredge spoil areas. However, NOAA has added these for consideration for designation to paragraph (d) of § 923.21.

(b) *Section 923.21—Areas of Particular Concern.* (1) Three reviewers objected to generic designations of areas of particular concern, suggesting that all designations must be site-specific. Relatedly three reviewers suggested the reference to mapping in paragraph (d)(4) should be a requirement for specific (rather than generalized) mapping. By contrast one reviewer objected to what it interpreted to be a requirement for site-specific designations.

NOAA response. NOAA believes the present regulation allowing for generic as well as site-specific designations to be reasonable and not precluded by the Act or legislative history. An example is provided to demonstrate the potential utility and reasonableness of allowing generic designations: Assume State "X" determines that all its salt marshes are of particular concern for their natural values. State "X" determines that the most appropriate means of providing special management for its salt marshes is to institute a separate permit requirement for any development activity proposed in coastal marshlands. In this case, the areas affected, the nature of the concern, and the nature of the special management can be reasonably understood by all affected parties through generic designation in the management program.

(2) One reviewer suggested that the regulations clarify that designation of areas of particular concern may involve no additional enforceable authorities but rather increased coordination, technical assistance, or public expenditures. Another reviewer suggested that the requirement of paragraph (a)(3) for enforceable policies and authorities be deleted. In contrast, one commentator suggested that States be required to demonstrate how enforceable policies and authorities will solve concerns in a manner consistent with the conservation purposes of the Act.

NOAA response. In response to all three comments, NOAA has revised paragraph (a)(3) to require a demonstration of "how the management program addresses and resolves the concerns for which areas are designated." This has the effect of recognizing the first commentator's suggestion that effective management may involve other than regulation, of deleting the reference to enforceable policies as suggested by the second commentator, and of including the third commentator's recommendation that the management techniques should be appropriate to the reason for designation. It should be noted, however, that this revision does not require a demonstration of consistency with the conservation purposes of the Act, as the third commentator suggested, since NOAA believes designations may be for other purposes which would be equally consistent with the Act. Finally, NOAA believes the first commentator's recommendation is equally applicable to other areas of particular concern discussed in § 923.23, and accordingly has added language along the lines suggested to § 923.20 which includes general information applicable to all the sections of this Subpart.

(3) Three reviewers objected to the language of paragraph (c) as potentially permitting differential degrees of comprehensive controls for areas of particular concern. Two of these commentators suggested that the comment subverted the purposes of the Act and should be deleted. The third suggested the conditions under which these differences might be appropriate should be specified.

NOAA response. NOAA believes that the concept contained in paragraph (c) is a valid one and is not a subversion of the Act. It seems logical to conclude that in a State with a comprehensive regulatory system throughout its coastal zone (e.g., a permit requirement for any development in the coastal zone) that relatively less importance need be attached to designation of areas of particular concern if the permit system already addresses any concerns there may be about particular areas. Even in such situations, however, those States still would have to meet the requirements of paragraph (a). In these situations it may be anticipated that designations may be for non-regulatory purposes as for example, increased maintenance, interagency coordination, or technical assistance.

(4) One reviewer suggested an addition to paragraph (c) that requires States to develop management procedures for areas of particular concern no later than the completion of the first program management grant (awarded pursuant to section 306 of the Act).

NOAA response. NOAA finds no statutory requirement that would mandate, where further management procedures are to be developed after program approval that these must be developed within a year. While NOAA may, in fact, on occasion impose such a requirement as a grant award condition, a time limit of one year may not be appropriate and sufficient in all cases, and therefore, has not been made a condition of these regulations.

(5) One reviewer suggested it would be helpful to reference § 923.23 which discusses other areas of particular concern.

NOAA response. Reference to § 923.23 has been added to paragraph (c) as well as clarification that paragraph (a) of § 923.21 is required of all State programs while § 923.23 is optional.

(6) One reviewer objected to the term "review" resources in paragraph (d), noting that an "inventory" is the language contained in subsection 305(b)(3) of the Act.

NOAA response. The word "inventory" has been substituted for "review" in paragrah (d)(1).

(7) A number of changes were suggested to the categories listed for consideration in paragraph (d)(1):

(i) Addition of areas of saltwater intrusion and potable ground water resources;

(ii) Clarification of the term "physical feature" in sentence (i);

(iii) Addition of "areas in or determined to be eligible for the National Register of Historic Places" to sentence (i);

(iv) Addition of "endangered species" to sentence (ii);

(v) Addition of "hydrologic" to sentence (v); and

(vi) Addition of "estuaries" to sentence (viii), and changing "aquifer recharge areas" to "aquifers and their recharge areas."

NOAA response. NOAA has incorporated all the changes recommended above.

(8) One reviewer objected to sentences (iv), (v), and (vi) of paragraph (d) as providing too much latitude to

designate areas which may not have direct and significant impacts on coastal waters.

NOAA response. NOAA has reviewed the examples provided in the cited sentences, and is satisfied they represent examples of areas which could have direct and significant impacts on coastal waters, and therefore are appropriate for consideration for designation as areas of particular concern.

(9) Several reviewers commented on paragraph (d)(5). Two suggested Federal consultation should be required in designating areas of particular concern, not just encouraged. One reviewer recommended that the State Historic Preservation Officer be specifically mentioned, and expressed concern over how NOAA intends to comply with the National Historic Preservation Act (NHPA). Another reviewer objected to the lack of local input and suggested rewording of this section.

NOAA response. In response to the first and last comments, NOAA believes the present regulations are appropriate. There is nothing in the Act to specifically mandate Federal or local government input into designation of areas of particular concern.

With respect to the second comment, NOAA does not feel it necessary or appropriate in this section to single out the Historic Preservation Officer. Additional, NOAA does not feel it appropriate to address how it complies with the NHPA in a section addressing State responsibilities. In any case, NOAA fulfills the mandates of the NHPA during its review of State programs, after they are submitted to the Assistant Administrator for approval, by sending copies of a State's program to the Advisory Council on Historic Preservation for their review and comment, and by reviewing a State's program for any site-specific aspects of the program that could affect properties on the National Register of Historic Places.

(c) *Section 923.22—Priority of Uses.* (1) Five reviewers objected that the development of priority of use guidelines is required only for areas of particular concern. These commentators suggested the Act mandates priority of use guidelines for the entire coastal zone. Conversely, one commentator suggested the section be rewritten to clarify that it is not a requirement of the Act that priority guidelines be established for all areas of particular concern.

NOAA response. The language of subsection 305(b)(5) of the Act—"broad guidelines on priorities of uses *in particular areas*" (emphasis added)—is ambiguous and has caused confusion as to its meaning. A review of the legislative history does not provide any further guidance. Accordingly, NOAA has determined that a useful, as well as reasonable, interpretation of the words "in particular areas" is to deem them to be synonymous with "areas of particular concern." Moreover, NOAA believes that the general concern of the reviewers—that there be a clear articulation of State policy preferences for certain resources, uses, or areas in the coastal zone—is covered adequately by the requirements of § 923.3 for clearly stated and specific coastal zone policies.

In response to the second comment, NOAA does believe it is a requirement of the Act that priority use guidelines be established for all areas of particular concern designated pursuant to § 923.21.

(2) One reviewer noted that designation of lowest priority uses should be part of the requirements of paragraph (a), and not just discussed as part of the paragraph (d) commentary.

NOAA response. NOAA regrets that, through oversight, this requirement was omitted from paragraph (a). This omission has been corrected in these regulations.

(3) One commentator objected that the regulations encourage guidelines that may be so restrictive as to be confiscatory.

NOAA response. NOAA disagrees in that the guidelines are advisory.

(4) One reviewer objected that paragraph (f) weakens this section by making the guidelines advisory and recommended the comment be deleted.

NOAA response. The word "guidelines" implies that they may be advisory and, in fact, need not have the force of law. Accordingly, NOAA has retained paragraph (f).

(d) *Section 923.23—Other Areas of Particular Concern.* (1) One reviewer objected to the approval of management programs without establishment of necessary management techniques and suggested that the regulations require area of particular concern designations (including identification of authorities to manage these areas) to be in place prior to program approval.

NOAA response. NOAA believes this reviewer has misinterpreted the requirement. Section 923.21 requires the designation of a number of areas of particular concern, including identification of how the appropriate management is to be accomplished prior to program approval. What § 923.23 does is provide States with an optional technique for further indicating areas that are known to require additional management although the exact nature of appropriate management requires some additional time to determine or to effectuate. This option seems reasonable in light of the dynamic nature of coastal management requirements, and the realities of the time and effort required in some cases to develop appropriate management techniques.

(2) One reviewer suggested more explanation as to what are "areas that are known to require additional or special management" referred to in paragraph (a)(1).

NOAA response. NOAA believes it is up to the States to make this determination. Accordingly, no change has been made to this paragraph.

(3) One commentator suggested that proposed paragraphs (a)(2), and § 923.24(c) be combined for greater clarity.

NOAA response. NOAA has accepted this recommendation. Section 923.24(c) is now included as part of § 923.23(a)(2).

(4) One reviewer suggested that NOAA require the establishment of a process whereby States can continue to designate areas of particular concern after program approval to address changing management needs.

NOAA response. While NOAA believes establishment of such a process is both beneficial and desirable to meet changing management needs, NOAA does not find any statutory basis to mandate the establishment of such a process. It is for this reason that § 923.23 is recommended but not required.

(e) *Section 923.24—Areas for Preservation and Restoration.* (1) Three reviewers suggested that the relationship between areas of particular concern and areas for preservation or restoration be clarified and that acceptable criteria for designation of areas for preservation or restoration be listed. Conversely, one reviewer suggested that the requirement for States to describe criteria by which areas for preservation or restoration can be designated be eliminated.

NOAA response. NOAA believes the relationship between areas of particular concern and areas for preservation or restoration is already clear. Areas of particular concern are *areas* designated at the time of management approval. The areas for preservation/restoration requirement is for establishment of a *process* (i.e., criteria and procedures by which designations can be made) prior to program approval. NOAA believes it is up to the States to determine appropriate criteria and procedures, and, therefore, has not provided criteria in these regulations. NOAA does feel that requiring States to describe these criteria and procedures is not an unreasonable requirement and, in fact, fulfills the requirements of subsection 306(c)(9) of the Act which states that "the management program makes *provisions for procedures* whereby specific areas may be designated * * *." (Emphasis added).

(2) One commentator suggested that the regulations require that areas for preservation or restoration designated for environmental, aesthetic, historic

or cultural purposes cannot be subject to uses or modifications which detract from the purposes for which they are designated.

NOAA response. Such additional language is not necessary. It is assumed that protection of the resources mentioned above would be included as part of the designation.

(f) *Section 923.25—Shorefront Access and Protection Planning.* (1) One reviewer suggested that "preservation" in the title of this section be changed to "protection" to comport with the language of the Act.

NOAA response. This was an oversight on NOAA's part. The suggested word change has been made.

(2) One reviewer requested clarification of whether the planning requirements of this section, and § 923.26, apply only to ocean frontage or to other shorelines such as along wetlands and coastal rivers.

NOAA response. While States have the option of including other shoreline areas in the planning requirements, the minimum requirement is to address areas along ocean frontage and, in the case of the Great Lakes States, along the Great Lakes.

(3) One reviewer suggested that, while the 1976 Amendments to the Act called for a planning process, the intent was that States implement the plans. Therefore, the regulations should be restructured to require States to initiate action programs.

NOAA response. Paragraphs (a) (3) and (5) already accomplish this very intent.

(4) With respect to the requirements in paragraph (a), the following suggestions were received:

(i) Require States to indicate present laws concerning access;

(ii) Require States to demonstrate the enforceability of policies in light of the conservation purposes of the Act; and

(iii) Delete the term "and/or" and use one or the other word.

NOAA response. With respect to the first comment, sentence (a)(5) has been revised to include an identification of legal authorities.

With respect to the second comment, sentence (a)(3) has been revised to include the word "enforceable."

With respect to the third comment, the words "and/or" have been deleted and the words "and" or "or" have been substituted as appropriate.

(5) One commentator requested a clarification of what kinds of "other public coastal areas" cited in paragraph (b)(1) should be included.

NOAA response. Comment (c)(5), which was incorporated from 15 CFR 920.17, provides the requested clarification.

(g) *Section 923.26—Shoreline Erosion/Mitigation Planning.* (1) One reviewer suggested that this section also should address the fact that erosion is a natural ecological phenomenon and that States should consider the impacts of mitigation or restoration on adjacent shorelines, littoral drift and other ecological processes such as accretion.

NOAA response. NOAA has included this concept as paragraph (2) of Comment (c).

(2) Another commentator suggested that the word "can" in the first line of paragraph (a) should be replaced with the word "must."

NOAA response. The recommended change has been made.

SUBPART D

(a) *Section 923.30—General.* One commentator suggested the regulations cite the definition of "coastal waters" from section 304(2) of the Act.

NOAA response. NOAA has added the citation as paragraph (d).

(b) *Section 923.31—Inland Boundaries.* (1) One reviewer suggested adding the words "which have direct and significant impacts on coastal waters" to paragraph (a)(1).

NOAA response. This suggestion has been adopted.

(2) Another reviewer requested further clarification of what is meant by "transitional and intertidal areas" in paragraph (a)(3). This reviewer suggested "coastal areas that affect coastal waters, as well as those that are distinctly affected by coastal waters" as clarifying language.

NOAA response. NOAA has added clarifying examples to paragraph (a)(3). These are more specific than the language suggested above.

(3) One reviewer suggested that "periodic" in paragraph (a)(4), as it relates to tidal inundation, be defined.

NOAA response. The word "regular" has been substituted for "periodic."

(4) One reviewer objected to the possibility that interior portions of main islands might be excluded from the coastal zone and recommended that the last sentence of paragraph (a)(5) be deleted. Conversely, one reviewer suggested that this paragraph puts a greater burden of proof on affected island jurisdictions than on mainland coastal States. Two reviewers suggested that this paragraph seemed to imply that only island jurisdictions, and not all coastal States, are required to include offshore islands in their coastal zones.

NOAA response. NOAA agrees with the second commentator that islands should have no greater burden of proof as to the area included in the coastal zone than mainland States. However, NOAA believes the language of paragraph (a)(5) imposes no greater burden on islands than on mainland States. NOAA also agrees with the third set of reviewers that proposed paragraph (a)(5) could be misread to imply that coastal States do not have to include offshore islands in their coastal zone. NOAA has revised paragraph (a)(5) to remove any possibility of such a misinterpretation.

(5) One reviewer requested additional guidance or examples in paragraph (b) specific to the Great Lakes States.

NOAA response. NOAA has reviewed this commentary and believes additional guidance is unnecessary. While paragraph (b)(2) is not relevant to Great Lakes States, paragraphs (1) and (3) are.

(6) One commentator suggested that it is a clear intent of the Act that watersheds (discussed in paragraph (b)(1)) which affect coastal waters must be included in the coastal zone. Conversely, a couple of reviewers objected to the latitude provided States to include entire watersheds and suggested that there is no statutory basis for this provision. Another reviewer suggested the term "entire watershed" is controversial. This reviewer suggested that an upstream boundary based on the normal or average position of saltwater intrusion would be more workable than the approach of the proposed regulations. Finally, one reviewer recommended that the regulations indicate that nothing in this paragraph is intended to lessen the consistency requirements for Federal projects upstream that could alter the quality of coastal waters.

NOAA response. With respect to the first two sets of comments, NOAA believes the approach it has taken to inclusion of entire watersheds in a State's coastal zone is a reasonable and correct one for the reasons contained in paragraph (b)(1) of § 923.31. However, NOAA has clarified that such watershed areas be included only where there are uses that have direct and significant impacts on coastal waters.

With respect to the third comment, NOAA has removed the word "entire" from the heading of this paragraph and has included the concept of average saltwater intrusion.

With respect to the last comment, it is inappropriate to include, in the program development and approval regulations, commentary that is directed to the Federal consistency requirements of section 307 of the Act for which there are separate regulations (15 CFR Part 930).

(7) Several reviewers objected to the definition of tidal influence, as five parts per thousand in paragraph (b)(2), as being too restrictive. Two of these reviewers suggested that the boundary extend to the area inundated by tides from a one hundred-year storm. Another reviewer suggested the regulations require the inclusion of rivers upstream to the limit of tidal influence. One commentator suggested the salinity determination would re-

quire exceedingly expensive physical analyses and that reference to it should be deleted. Finally one reviewer suggested wording to limit the scope of this paragraph to areas "adjacent to the State's shoreline" as defined in the Submerged Lands Act.

NOAA response. NOAA agrees that "five parts per thousand" is inappropriate and therefore has dropped reference to this term. NOAA has not made any of the other changes recommended above as it believes the present interpretation is correct. To adopt the first two suggestions would exceed statutory authority and to adopt the last suggestion would be too limiting.

(8) One reviewer objected to permitting Indian non-trust lands to be commingled with trust lands or to be included in any manner in a coastal zone management program.

NOAA response. This paragraph as well as § 923.33(e), makes clear that trust lands are excluded from a State's coastal zone. However, non-trust lands, which are not owned, leased, held in trust or whose use is otherwise by law subject solely to the discretion of the Federal Government need not be excluded from a State's management program. Accordingly, NOAA sees no basis for this reviewer's objection. Moreover, the possible tribal participation discussed in § 923.33(e) was reviewed with affected tribes.

(9) One reviewer suggested that paragraph (c), by not requiring States to define the boundary in urban areas on the basis of direct and significant impacts on coastal waters, would undercut the purposes of the Act. Another reviewer suggested that the area of sewage collection or urban runoff discharged into coastal waters could be a basis for determining urban coastal boundaries.

NOAA response. NOAA does not intend the commentary of paragraph (c) to undermine the purposes of the Act but rather to recognize the very real difficulties States face in trying to determine direct and significant impacts in urban areas and to suggest some options for determining a reasonable urban boundary. NOAA believes the examples provided by the second commentator are particularly useful in this regard and has included them in this paragraph.

(10) One commentator objected to the words "coastal resources" in paragraph (d) as providing too much latitude and suggested instead use of the words "coastal waters" consistent with the language of the Act.

NOAA response. This suggestion has been accepted.

(11) Three reviewers expressed concern over the time States have to determine if a location is in the coastal zone as provided in paragraph (e). Two of these reviewers suggested 30 days was too much time and one suggested a 10-day limit. Another commentator requested a clarification of "a reasonable period of time."

NOAA response. NOAA has added the suggestion that States attempt to respond to inquiries in as short a time as possible and has noted that 30 days is a maximum, not a minimum. Additionally, NOAA has clarified what is meant by "a reasonable period of time."

(12) One reviewer suggested that maps, charts, and other graphics appropriate to understanding the provisions and geographic scope of the management program be a requirement. Another review suggested that, based on experience with other programs, either specific maps or no maps at all be required.

NOAA response. As noted in an earlier response to a similar comment that maps of areas of particular concern be required, NOAA does not find a statutory basis for making maps a required part of program submission. In response to commentators' concerns, however, NOAA has deleted the word "generalized" in order to encourage more specific maps.

(13) One commentator suggested the following paragraph be added to this section:

Comment. The landward extent of the coastal zone is to be determined by the State, subject to the statutory limitations. However, it is clear that the intent of Congress was that States delineate boundaries with a relatively conservative approach, including only those "shorelands, the uses of which have a direct and significant impact on the coastal waters." In the final analysis States possess a great deal of discretion in defining the inland boundaries of their coastal zones, subject to the minimum requirements of the Act.

NOAA response. NOAA finds the above to be confusing and contradictory and does not feel that any greater understanding of the requirements would be provided by adding this comment.

(c) *Section 923.32—Seaward Boundaries.* One reviewer suggested the regulations address the issue of disputed State boundaries. Two other reviewers suggested that States delineate their lateral seaward boundaries.

NOAA response. In response to both these comments, paragraph (d) has been added.

(d) *Section 923.33—Excluded Federal Lands.* (1) Two reviewers objected to the broad exclusion from the coastal zone of leased Federal lands or lands the use of which is subject solely to Federal jurisdiction. One other commentator suggested that lease of Federal holdings to private individuals or entities should not be excluded. Still another commentator was concerned how the regulations would affect frequent surplusing of land.

NOAA response. The issue of what is meant by the term "excluded Federal lands" referenced in section 304(1) of the Act has been a longstanding and controversial one. The issue was initially referred to the Department of Justice. An Assistant Attorney General's opinion dated August 10, 1976 partially addressed the issue with respect to owned lands. The issue of leased lands was not resolved in that opinion. However, during an Office of Management and Budget-sponsored Quality of Life Review of the Federal consistency regulations (15 CFR Part 930), the issue was discussed again and the position contained in this section was agreed to. With respect to the commentator's concern about Federal lands leased to private parties, NOAA's position is that the lands themselves, if owned by a Federal agency regardless of whether leased to a private party, are excluded. However, the activities of the private party on those leased lands are subject to the provisions of the State's management program if such activities have effects on the State's coastal zone. With respect to the comment on surplused lands, until the General Services Administration declares Federal lands surplus and available for disposition to other than a Federal agency, these lands are excluded. However, as paragraph (c) notes, States may indicate in their management program appropriate use of Federal lands if and when they are declared surplus.

(2) NOAA has changed all references to "areas" and "holdings" in this paragraph to "lands" to comport with the language of section 304(1) of the Act.

(3) Two reviewers suggested that guidance be provided regarding the effect of management programs on Federal land acquisition proposals. These reviewers were concerned that unless the ability of the Federal Government to acquire or assist in the acquisition of lands is made clear, a State could attempt to block a land acquisition proposal. One of these reviewers suggested that Federal agencies should be provided with the option, at their sole discretion, of allowing lands they propose to acquire to remain within a State's coastal zone.

NOAA response. While NOAA appreciates the concerns of these reviewers, land not owned, leased, held in trust or whose use is otherwise by law subject solely to the discretion of the Federal Government is not excluded from the coastal zone. Accordingly, land that may be acquired in the future by the Federal Government cannot be excluded in the present from a State's coastal zone. NOAA also does not find a statutory basis for adding the language suggested by the one reviewer. It should be noted, however, that the Federal Government's powers of eminent domain are protected by the provisions of subsection 307(e) of the Act.

(4) One reviewer objected to the apparent requirement that States map excluded Federal lands as this would place an unreasonable hardship on some States.

NOAA response. This reviewer has misread the requirement as paragraph (a) says that States must "describe *or* map" (emphasis added), leaving the option to States as to whether or not they map excluded Federal lands.

(5) One commentator objected to the language in paragraph (e), regarding tribal participation in coastal management, asserting that it is highly offensive in its tone.

NOAA response. As noted in response to an earlier comment, this statement was reviewed by affected Indian tribes and no objections were received by NOAA.

(e) *Section 923.34—Interstate Boundaries.* One reviewer suggested that the requirements of this section are weak, requiring no more than consultation. This commentator further suggested that a record of telephone conversations and meetings, as suggested in the commentary in paragraph (b), is sufficient to ensure coordination.

NOAA response. NOAA believes the present requirement is sufficient to meet the purposes of the Act. NOAA has deleted paragraph (b).

SUBPART E

(a) *Section 923.40—General.* One commentator suggested that it should be a requirement that the authorities relied upon must be capable of prohibiting uses inconsistent with the management program. This reviewer further suggested that the regulations should state that the adequacy of authorities will be scrutinized in light of subsection 302(g) of the Act which speaks to the present inadequacy of present institutional arrangements for planning and regulating land and water uses.

NOAA response. NOAA believes that the requirements of this subpart already require that authorities be capable of prohibiting uses inconsistent with the management program. However, NOAA does not interpret this to mean that "management" necessarily implies prohibition of uses in all situations. In response to the second comment, NOAA has added a new paragraph (c) discussing the Assistant Administrator's review responsibilities with respect to subsection 302(g) of the Act.

(b) *Section 923.41—Identification of Authorities.* (1) One reviewer suggested that States should be required to show how "all" existing State laws, legislative history and court rulings support authorities relied upon.

NOAA response. The requirement to identify "relevant" authorities is sufficient.

(2) One commentator suggested that the last sentence in paragraph (b)(1) be expanded to allow a legal opinion to be obtained from the Governor's designated legal advisor for coastal management as an alternative to the State's Attorney General. Conversely, one reviewer suggested that "in the opinion of the Assistant Administrator" be deleted and the word "may" changed to "must."

NOAA response. With respect to the first comment, the purpose of this paragraph is to make it clear that there may be occasions when the Assistant Administrator will insist on a legal opinion being from the State's Attorney General. The present wording does not preclude seeking such an opinion from the Governor's designated legal advisor but does make clear that sometimes this will not be sufficient to satisfy the Assistant Administrator.

With respect to the second comment, there is no language in the Act or legislative history that would make such an opinion mandatory.

(3) One reviewer suggested further guidance could be provided regarding resolution of conflict among competing uses.

NOAA response. The guidance requested already is provided in *Comment (f).*

(4) One commentator suggested a clarification that the mechanisms to resolve conflicts discussed in paragraph (f) must result in a legally binding decision.

NOAA response. This suggestion has been accepted in modified form so that paragraph (f) now reads, "* * * provided that any procedure results in a decision which is binding upon the entities involved."

(5) In connection with paragraph (g), one reviewer suggested that States include evidence of a commitment to use identified funds to implement the acquisition plans called for in this paragraph.

NOAA response. NOAA has accepted this suggestion.

(c) *Section 923.42—Control Techniques.* (1) One commentator suggested the regulations were unclear as to which policies a State must be able to enforce.

NOAA response. Clarification has been added to § 923.3(h) where it is more appropriate.

(2) One reviewer noted that different degrees of specificity may occur depending upon the type of control system a State is using, and suggested a statement to clarify that regardless of the control technique selected, the management program, "as an integrated whole, must set forth policies, criteria, and standards with the same degree of specificity (and resulting administrative predictability) as would be required for any other control technique."

NOAA response. This suggestion has been rejected as unnecessary and inappropriate. The criteria for approvability with respect to policy specificity is contained in § 923.3(a)(2). As long as the test contained therein is met, there is sufficient uniformity of specificity.

(3) One commentator suggested that the word "policies" in paragraph (c)(1) be deleted to follow more closely the language of subsection 306(e)(1)(A) of the Act.

NOAA response. NOAA has accepted this suggestion.

(4) Three commentators objected to the discussion is paragraph (c) of program approval in the case where local programs are not completed.

NOAA response. If the conditions in paragraph (c)(4) are met, then approval of a State's program in advance of local program completion is warranted. Paragraph (c)(4)(iv) specifies, among other things, that there must be "sufficient direct State authorities to ensure that land and water use decisions subject to the management program will be consistent with the policies, goals and objectives of the management program between the time of section 306 approval and the time when all local programs are adopted." Also, see discussion of local programs under major changs above.

(5) One commentator suggested the example in paragraph (c)(2)(i) include reference to the potential of new development to damage historic and cultural resources.

NOAA response. The paragraph to which the reviewer refers is a quote from an approved State program. This has been clarified in these regulations.

(6) One reviewer suggested each program should specify a means of overriding conflicting local ordinances or actions.

NOAA response. The Act does not require an override, *per se,* as suggested by the commentator. It does require States to have a method of assuring that local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land and water uses of regional benefit. These requirements are addressed in §§ 923.13 and 923.43.

(7) One commentator suggested that paragraph (c)(5) require a State to provide notice to Federal agencies when it has determined that local programs are in compliance with State criteria.

NOAA response. In response to this comment, a new paragraph (c)(4)(ii) has been added to this section that requires procedures for State approval of local programs to include provisions for:

(i) The public and governmental entities to provide input into the development of local programs;

(ii) The public and governmental entities to make their views known prior to State approval of local programs; and

(iii) Review by the State of the adequacy of local consideration of facilities identified in the State's program as having national interests attached to them.

(8) Four reviewers objected to the term "pattern of noncompliance" in paragraph (c)(6). Two of these reviewers suggested that in certain instances even a single noncompliance can have devastating effects.

NOAA response. In view of these comments, NOAA has revised this paragraph to provide that the monitoring system must be capable of detecting single instances of noncompliance where uses of regional benefit or facilities in which there is a national interest are involved.

(9) One reviewer felt the discussion of networking in paragraph (d) was inadequate and that the regulations should require States to demonstrate that:

(i) Existing, special purpose laws adequately reflect and will be operated in conformity with the State's management program; and

(ii) Any executive order or interagency agreement is legislatively authorized and legally binding and enforceable in State court.

NOAA response. These concepts already are addressed in the regulations. Paragraph (d)(3) provides that "• • • the effect of networking is to tie the implementation of these individual authorities into a comprehensive framework that addresses more than the individual responsibilities of each agency and that makes these authorities part of an overall, unified strategy for managing coastal land and water resources. In applying existing authorities, the State must determine that they can be used to implement the full range of policies identified as necessary for coastal management purposes." Paragraph (d)(4) states in relevant part: "Each State agency which exercises statutory authority that is to be incorporated into the management program must be legally bound to exercise its authority in conformance with the State's enforceable policies. This can be achieved through an executive order or an interagency agreement • • • provided that such order or agreement binds the affected parties to conformance with relevant management program policies."

(10) One commentator objected to the provision in paragraph (d)(5) that allows citizens as a vehicle for bringing suit to ensure enforcement of interagency agreements. This commentator also objected to enforcement by a State agency or the Attorney General unless these have been given responsibility for enforcement.

NOAA response. NOAA does not understand the basis for the reviewer's objections and thinks the present regulations are reasonable. It is assumed that a State agency or the Attorney General will not be responsible for enforcement unless charged with and legally capable of assuming that responsibility.

(11) A couple of reviewers suggested that paragraph (e) should require administrative review for land and water use regulations (including exceptions and variances thereto) in addition to the items already included to comport more closely with the language of subsection 306(e)(1)(c) of the Act.

NOAA response. Paragraph (e)(1) has been revised accordingly.

(12) Two reviewers suggested that paragraphs (e)(2) and (3) appear to be in conflict and that, at a minimum, paragraph (e)(3) should state which type of actions may be exempted from case-by-case review.

NOAA response. To avoid confusion, NOAA has deleted a portion of paragraph (e)(3).

(d) *Section 923.43—Authorities Related to Uses of Regional Benefit.* (1) One reviewer suggested that a mechanism "for reviewing the impact of local policies on greater than local interests" does not meet the requirements of subsection 306(e)(2) of the Act and that an "affirmative statutory or regulatory mandate" is required.

NOAA response. The present regulations require more than simply a mechanism for reviewing the impact of local policies. Section 923.43(c) provides in relevant part that States may meet the requirements of this section through:

(i) Statewide siting laws that supersede local regulations when necessary; or

(ii) Assurance that an adequate amount of sites are or can be set aside through:

(A) State acquisition programs;

(B) Provision of sites in local maps or ordinances; or

(C) State guidelines defining uses of regional benefit and requiring their consideration as local implementation programs are developed; or

(iii) Definition of what constitutes unreasonable restrictions or exclusions and an administrative or judicial means for dealing with such restrictions or exclusions when they occur.

(2) One reviewer suggested eliminating the words "in addition to the requirement of § 923.13 to determine what constitute uses of regional benefit."

NOAA response. These words have been left in, in the belief they clarify that this section comprises the second half of the requirements necessary to meet subsection 306(e)(2) of the Act.

(e) *Section 923.44—Air and Water Pollution Control Requirements.* (1) One reviewer suggested language be included which recognizes the term "requirement" has been defined by EPA General Counsel to include any enforceable standard or duty established pursuant to the Act.

NOAA response. This suggestion has been incorporated into paragraph (a).

(2) This same reviewer made a number of suggested revisions to the table in this section to reflect changes resulting from recent amendments to the Clean Air Act.

NOAA response. These suggestions have been adopted.

(3) One commentator suggested that old 15 CFR 923.44(b)(2) which encouraged the development of working relationships between air and water quality agencies and coastal zone programs still is appropriate and should be included. Relatedly, another commentator suggested further discussion would be helpful of ways to incorporate these standards.

NOAA response. In response to these comments, paragraph (c)(1) has been expanded.

(4) One reviewer was concerned that requiring States to include in the management program the more stringent standards discussed in paragraph (c)(4) would require detail beyond the scope of practicality.

NOAA response. NOAA appreciates the concern of this reviewer but believes the language of paragraph (c)(4)(ii) is sufficiently flexible, especially in its referral to "a separate reference," to accommodate the reviewer's concern.

(f) *Section 923.45—Organizational Structure.* No comments.

(g) *Section 923.46—Designated State Agency.* One reviewer suggested that the designated State agency must have the capability to enforce implementation in addition to the capability to monitor and evaluate implementation.

NOAA response. Enforcement capability need not rest with the designated State agency. In many cases, other State agencies, the courts, the Governor, or an administrative mechanism, may be used to enforce implementation.

(h) *Section 923.47—Documentation.* (1) One reviewer suggested that the "networking" of many independent governmental entities creates special documentation problems. As examples this reviewer cited the fact that the powers of Governors in many States are limited and that in some States officials may be elected directly and have authorities independent of the Governor.

NOAA response. NOAA regards these examples as legal issues and not documentation problems in the sense in which this section is meant. These issues already are addressed in § 923.42(d)(4).

(2) One commentator suggested that this section should be amended to ensure that all portions of a management program be adopted only after duly noticed public hearings at which these portions are clearly identified as part of the management program.

NOAA response. This comment is more appropriately addressed as part of the discussion of *Section 923.58—Public Hearings.*

SUBPART F

(a) *Section 923.50—General.* one commentator suggested that the word "reconciliation" be substituted for "balancing" in the sentence that reads, "The policies of section 303 of the Act require a balancing of varying, sometimes conflicting, interests be achieved • • •"

NOAA response. The semantic difference seems to minor to warrant a change.

(b) *Section 923.51—Federal-State Consultation.* (1) One reviewer recommended that this section be redrafted to reflect the obligation of States to seek and consider Federal interests, especially those associated with facilities in which there may be a national interest pursuant to subsection 306(c)(8) of the Act.

NOAA response. The section as presently written, especially paragraphs (b) and (c), more than adequately reflect the concerns of the reviewer. Moreover, the obligation of States to consider adequately facilities in which there is a national interest is addressed at length in § 923.52.

(2) One reviewer suggested public notice be given of forthcoming contacts between the State and Federal agencies.

NOAA response. To impose this requirement, which NOAA regards as neither legally necessary nor appropriate, would create an administrative burden that could render the whole concept of Federal consultation unworkable. Much of the consultation envisioned by this section is anticipated to be in the form of telephone calls, letters, and informal meetings. Requiring public notice of such activities is not reasonable.

(3) One reviewer suggested that evidence of Federal-State consultation in the form of a Federal agency statement be required.

NOAA response. The requirements of paragraphs (b) (3) and (5) accomplish the general purpose suggested by the reviewer without necessitating a statement from Federal agencies.

(4) Two reviewers commented that there is no language in the Act requiring States to accommodate, even where "appropriate," Federal views on substantive elements of a State's program, and that the regulations should make clear that States determine whether accommodation is "appropriate."

NOAA response. NOAA has accepted the above recommendation and has clarified paragraph (b)(4) accordingly.

(5) One reviewer suggested that the words "should" and "encouraged to" in paragraph (f) should be changed to "shall" and "must." Relatedly this reviewer felt that the discussion of Federal agency contributions to national interest statements should be cast in terms of Federal agencies being the determiners of national interest.

NOAA response. The present phraseology is correct as it is meant to provide suggestions as to viable approaches to consultation. It is not meant to be all inclusive nor the only means of approaching the consultation requirements. The question of how national interests are determined is discussed in response to similar comments directed at § 923.52.

(c) *Section 923.52—Consideration of National Interests.* (1) Several commentators suggested that this section fails to implement subsection 306(c)(8) of the Act properly by not providing sufficient guidance as to what constitutes "adequate consideration" by a State.

NOAA response. Paragraph (i) discusses the items the Assistant Administrator will assess in determining if a State has given "adequate consideration" to facilities in which there is a national interest.

(2) Five commentators objected to language in (what are now) paragraphs (b), (f), and (g) that left it to States to determine the nature of national interests to be considered during program development and after program implementation, maintaining that it is a function of Federal agencies to determine what constitutes the national interest. In this connection, one commentator recommended that words such as "determining" or "for deriving" be replaced with "considering" and "which specify" in order to alleviate these commentators' concerns.

NOAA response. NOAA has made the recommended word changes but paragraph (g) indicates that Federal laws, and policy statements from the President, in addition to Federal agency statements, are sources which specify national interests to be considered by a State.

(3) One commentator suggested the requirements in (now) paragraph (b)(2) be expanded to require regional and local interests be weighed and reflected in the management program.

NOAA response. Subsection 306(c)(8) is oriented towards consideration of national interests. However, as noted in the major changes above, paragraph (a) has been revised to note that the national interest in particular facilities shall be done in the context of other Federal, State and local concerns involving adverse economic, social or environmental impacts.

(4) One reviewer suggested that it would be helpful to provide an explanation of what interstate energy plans (referenced in now paragraph (c)(1)) should be considered.

NOAA response. Paragraph (c)(1) has been clarified to indicate that the interstate energy plans referred to are those developed pursuant to section 309 of the Act.

(5) One reviewer objected to (now) paragraph (c) as this reviewer does not believe State programs can be approved until they meet the energy facility planning requirements of subsection 305(b)(8) of the Act.

NOAA response. As noted in response to a similar comment on § 923.14, NOAA has reviewed the legislative history and the language of the Act and is convinced that Congress intended that State programs, approved prior to October 1, 1978, have until that date to meet the requirements of subsection 305(b)(8).

(6) One reviewer objected to reference in (now) paragraph (f) to "regional demands" as this is not a necessary criterion for determining if a facility meets "requirements which are other than local in nature."

NOAA response. The commentary in paragraph (f) is meant to assist States in meeting the requirements of this section. To the extent reference to "regional demands" is not helpful, it has been deleted.

(7) One commentator suggested that proposed paragraph (e) (now paragraph (f)) should require that all comments received from relevant Federal agencies be made available for public comment before the Assistant Administrator makes a final determination on the approvability of a State's program.

NOAA response. Section 923.51(b)(6) already requires States to indicate the nature of major comments by Federal agencies during program development. The purpose of this requirement is to enable the Assistant Administrator to assess a State's consideration of these comments. These comments are included as part of the Draft Environmental Impact Statement (DEIS) distributed for public review and comment.

(8) Numerous additions to Tables 1 and 2 were suggested.

NOAA response. With very few exceptions, the recommended changes to Tables 1 and 2 were made. Readers are invited to compare the tables as they appeared in the proposed regulations and as they now appear herein for specific additions. Those additions that were not adopted were rejected because they were not compatible with the intent of the tables.

(9) One reviewer suggested that sources in (now) paragraph (g) for deriving national interests should be limited to Federal laws, policy statements from the President, and statements from Federal agencies. This re-

viewer maintained that plans from other Federal, State or interstate agencies (such as interstate energy plans) and testimony from public hearings are too "ephemeral" to be used as sources for deriving national interests.

NOAA response. Plans from other governmental entities, especially Federal agencies, may be useful sources for specifying the national interest in facilities. Accordingly, sentence (g)(4) has been left in these regulations. NOAA agrees that testimony from public hearings or other public input may be too "ephemeral" to be a useful source and accordingly has deleted this reference.

(10) One commentator indicated that (now) paragraph (i)(3) was unclear whether State responses to Federal agencies' comments should be directly to the commenting agency or whether the program document would suffice as a response.

NOAA response. To the extent a State's program document meets the requirements of § 923.51(b)(5), with specific reference to major siting concerns raised by Federal agencies, the program document will suffice. There may be situations, however, where direct response to a Federal agency, separate from any response in the program document, may be both appropriate and desirable. Accordingly, States may find it useful to maintain a separate file of direct responses to Federal agencies.

(d) *Section 923.53—Federal Consistency Procedures.* (1) One commentator suggested that the words "in the opinion of the State" should be inserted ahead of "will be subject to these provisions." This insertion is the same as in 15 CFR 930.35 of the Federal Consistency regulations.

NOAA response. This suggestion has been accepted.

(2) One reviewer suggested States be able to include the consistency procedures as an appendix rather than as part of the main body of the document.

NOAA response. This suggestion has been accepted.

(3) In addition, this section has been expanded to provide States with further guidance as to the Federal consistency procedures and listings that need to be included as part of the management program.

(e) *Section 923.54—Mediation.* (1) One commentator suggested the regulations ignore the statutory directive that the Secretary shall seek to mediate, by allowing any party to refuse to participate. Relatedly, another reviewer objected that mediation efforts should last only so long as both parties agree to participate.

NOAA response. Unlike arbitration, the results of mediation are not binding but rather advisory. The essence of mediation is that disagreeing parties voluntarily agree to discuss the issue with a neutral party acting as both referee and conciliator. Under the concept of mediation and under the statute, the Secretary has no authority to force parties to agree to initiate mediation, or even to continue mediation, once it has begun.

(2) One reviewer suggested that the regulations be revised to require all mediation conferences be public.

NOAA response. This is not required under the Administrative Procedure Act or any other Federal law. Howeyer, in response to this reviewer's concern, NOAA has added a provision to paragraph (f) for notice in the FEDERAL REGISTER of such conferences.

(3) In connection with paragraph (i), one reviewer suggested the regulations include criteria for the Assistant Administrator's determination of whether inclusion of a serious disagreement in a State's management program would preclude approval. Another reviewer suggested a time limit be provided for the Assistant Administrator's action. Yet another reviewer suggested that the regulations should state that the Assistant Administrator's decision would be an appealable action.

NOAA response. With respect to the first comment, NOAA cannot foretell the nature of disagreements and what their effect would be on program approvability. Therefore, NOAA cannot provide the criteria requested.

Similarly, NOAA, cannot foretell the appropriate amount of time that will be required to determine if inclusion of a disagreement will have a negative effect on program approvability.

Finally, with respect to the last comment, to the extent the Assistant Administrator's decision is an appealable item, it is so on the basis of laws other than this Act and therefore the regulations need not state this to make it a fact.

(f) *Section 923.55—Full Participation.* (1) One commentator felt it was unclear if this section applied to Federal agencies, and accordingly, whether a mechanism was required to guarantee continued Federal consultation after program approval.

NOAA response. While the requirements of this section do not apply to Federal agencies, the requirement of § 923.52(b)(3) for a process for consideration of the national interest in facilities that are more than local in nature during program implementation guarantees a mechanism for continued Federal consultation. Even if such a requirement were not part of the regulations, common sense would dictate the necessity of a continuing State-Federal consultation element.

(2) One reviewer suggested that paragraph (a)(1) be expanded to require: a "sunshine" provision for open sessions; an obligation on States to solicit and consider public comments; and to define interested public and private bodies.

NOAA response. The thrust of these suggestions is addressed in the requirements of this section, especially paragraph (a) (2) and (3), and paragraph (2)(6) which has been added to require that public meetings be held at accessible times and locations, with reasonable notice and availability of materials.

(3) One reviewer suggested proposed paragraph (e) should be expanded to require States to summarize which public information techniques were used, when, and how effective they were.

NOAA response. The present requirements of paragraph (a) already cover the basic purpose of this suggestion—to ensure public knowledge of and participation in program development. In any case, NOAA does not intend the items in proposed paragraph (e) (now paragraph (d)), to be requirements but rather suggestions.

(g) *Section 923.56—Plan Coordination.* (1) Three commentators suggested that no program should be approved when unresolved conflicts exist with other public agency plans.

NOAA response. This recommendation is not a requirement of the Act. Subsection 306(c)(2)(A) calls for coordination which does not necessarily imply resolution of conflicts. Moreover, this coordination is only required for local, areawide, and interstate plans in effect on January 1 of the year in which the State's program is submitted, not for all public agency plans. In any case, paragraph (a)(3) already addresses the issue of resolving conflicts among plans.

(2) One reviewer suggested the urban transportation planning program be added to the list of areawide planning programs in paragraph (c). Another suggested adding State implementation plans (SIP's) pursuant to the Clean Air Act. A third reviewer recommended the word "applicable" precede "interstate" programs.

NOAA response. NOAA has adopted the first and third suggestions. NOAA has not included reference to SIP's in this list because they are not local, areawide, or interstate plans in the meaning of subsection 306(c)(2)(A) of the Act. In any case, the requirement for incorporating the Clean Air Act standards are addressed by separate sections of the Act and these regulations.

(3) One commentator questioned whether the A-95 process discussed in paragraph (d) can serve as a conflict resolution mechanism.

NOAA response. The A-95 process can serve as a conflict resolution mechanism because the procedures provide that conferences may be held to resolve conflicts if they are noted during the course of A-95 review.

(4) One reviewer suggested that a committee of local officials appointed from each municipality in the coastal zone could be a viable alternative to the use of the A-95 clearing houses as a conflict resolution mechanism.

NOAA response. NOAA has adopted this concept as paragraph (e) and expanded it to include regional, State, or interstate officials as well.

(h) *Section 923.57—Continuing Consultation.* (1) One reviewer suggested that the distinction in paragraph (e)(2) between a legislatively-mandated State agency "management program decision" and a discretionary one on the part of a State would be difficult to maintain. Accordingly, this reviewer suggested the regulations include a provision for local consultation on major, legislatively-mandated State agency decisions.

NOAA response. The discussion and examples in paragraph (e)(2) of what would constitute legislatively-mandated versus discretionary decisions are sufficiently clear to make distinctions as to which State actions need to be subject to the local consultation required by this section and which do not. Accordingly, the reviewer's recommendation has not been adopted.

(2) One reviewer suggested the word "landmarks" in sentence (e)(2)(v) be changed to "resources."

NOAA response. This suggestion has been accepted.

(3) One commentator recommended clarification of paragraph (e)(3) to indicate whether a conflict exists if local regulations are stricter than those of the State. Another reviewer suggested deleting the words "incompatible with."

NOAA response. NOAA has followed both recommendations. With respect to the first comment, paragraph (e)(3) now indicates that a conflict may occur when local requirements are stricter than the States.

(4) One reviewer suggested that the phrase "local zoning ordinance, decision or other action" in paragraph (e)(4) be defined very broadly to include approvals, denials, amendments, variances, and special exceptions. Conversely, another commentator suggested that the proposed definition, in including variances and special exceptions, already was too broad.

NOAA response. On reconsideration, NOAA believes the term "local zoning ordinance, decision or other action" should be defined narrowly, rather than broadly, in order to keep the consultation requirements from becoming too burdensome and thereby unworkable. Accordingly, the term is limited to zoning ordinances, master plans and official maps.

(5) One reviewer requested that the specific circumstances under which a local government forfeits its right to comment be defined.

NOAA response. This information already can be found in paragraph (e)(6).

(i) *Section 923.58—Public Hearings.* (1) One commentator suggested that all portions of a State's management program should be subject to a public hearing. This same reviewer objected to the provision in paragraph (d)(3) that the hearing(s) could be on the full scope of the management program but not necessarily on the document per se.

NOAA response. The requirement to hold public hearing(s) on the scope of the management program is reasonable. The program document is often extremely long and sometimes filled with detailed information necessary to meet some of the requirements of the Act but not particularly essential to the general public to understanding the impact of the program. Some States prepare executive summaries or some other shortened version of the program which describes its scope in an easily understandable form to the general public. However, to address the reviewer's concern, an additional provision has been added to paragraph (d)(3) to the effect that States must provide copies of the document on request if the hearings are not on the document *per se.*

(2) One reviewer suggested that all pertinent materials, not just agency materials, be made available to the public at the time of a public hearing.

NOAA response. This is not necessary as the term "agency materials" includes all pertinent materials that the agency used in development of the management program.

(3) One commentator suggested that paragraph (d)(6) be amended to allow States to submit summaries of public hearings within 30 days following formal program submittal to the Office of Coastal Zone Management (OCZM) for threshold review.

NOAA response. This recommendation has been adopted.

SUBPART G

(a) *Section 923.62—Environmental Impact Assessments.* (1) Two reviewers suggested the guidance on preparing environmental impact assessments be deleted and, in its place, reference be made to Council on Environmental Quality (CEQ) guidelines.

NOAA response. NOAA has retained this guidance because there are numerous and repeated requests from States for this information. If and when CEQ revises its guidelines or adopts regulations on the subject, OCZM will review and revise, if necessary, the information contained in this section.

(2) One commentator suggested, in connection with paragraph (c), that it would be helpful to list the criteria to be used to determine when an Environmental Impact Statement (EIS) will be necessary for segment programs.

NOAA response. The criteria OCZM uses to determine if an EIS is necessary for a segment program, a full program, or an amendment, are those contained in the National Environmental Policy Act (NEPA) and CEQ guidelines. Paragraph (c) has been revised to reflect this.

SUBPART H

(a) *Section 923.71—Recommended Format for Program Submission.* (1) One reviewer commented that the section is unclear in differentiating requirements from recommendations.

NOAA response. Paragraph (a) clearly states this section is intended as guidance.

(2) One commentator suggested that as part of its submission, a State should be required to include evidence that it has the capability in terms of staffing and funding to implement the program. This reviewer also recommended that States be required to describe how they intend to allocate staff and money to implement the program.

NOAA response. While there is no statutory basis to require this information as part of the program submission, this information is contained in the separately submitted grant application for program implementation funds. See § 923.95(c).

(b) *Section 923.72—Review/Approval Procedures.* (1) One reviewer suggested that paragraph (a) should include a checklist of findings required pursuant to sections 305 and 306 of the Act. This reviewer also suggested that a State be provided an itemization of deficiencies if its program is disapproved.

NOAA response. The checklist of findings already can be found in the chart that is part of § 923.71. The recommendation that States be advised of deficiencies precluding approval has been added to paragraph (f).

(2) Two reviewers suggested that paragraph (b) indicate that the review and comment periods noted therein are based on the requirements of NEPA and CEQ guidelines.

NOAA response. This suggestion has been adopted.

(3) One commentator suggested that OCZM assume the responsibility for printing the Final Environmental Impact Statement (FEIS).

NOAA response. Paragraphs (a) and (c) have been revised to indicate that either the State or OCZM will print the DEIS and FEIS, depending on State capabilities.

(c) *Section 923.73—Miscellaneous.* (1) One reviewer suggested this section indicate the conditions that could extend the review procedures.

NOAA response. This is unnecessary as these conditions already are discussed in § 923.72.

(d) *Sections 923.74-923.77—Preliminary Approval.* (1) As noted in the discussion under major changes these sections now contain the information on preliminary approval previously contained in 15 CFR Part 920.

SUBPART I

(a) In the draft regulations issued August 29, 1977, this subpart appeared as Subpart J. Accordingly, comments addressed to Subpart J of the draft regulations are responded to hereunder.

(b) For reasons cited in major changes above, § 923.91 of the draft regulations dealing with review of performance of approved programs has been dropped.

(c) *Section 923.80—General.* One commentator suggested that before any refinement or amendment is approved by the Assistant Administrator, Federal agencies should be notified and consulted.

NOAA response. In the case of amendments, Federal agencies are notified and consulted before the Assistant Administrator takes action. In the case of refinements, notification of Federal agencies occurs after the Assistant Administrator takes action due to the minor nature of the change involved.

(d) *Section 923.81—Amendments of Modifications to Approved Management Programs.* (1) One reviewer suggested "and/or" in paragraph (b)(3) be changed to "and."

NOAA response. This change has been made.

(2) One commentator suggested that the requirement for notifying those affected by changes to a State's management program be made stronger.

NOAA response. The requirement in paragraph (c)(4) for public notice and a discussion of the degree and nature of public interest is sufficiently strong.

(e) *Section 923.82—Refinements to Approved Management Programs.* (1) One reviewer objected to this entire section and suggested OCZM clarify what type of action constitutes a refinement.

NOAA response. Section 923.80 has been rewritten to provide a rather extensive list of examples of actions that would constitute changes to the management program. Whether these changes represent amendments or refinements is to be based on the criteria contained in §§ 923.81(b) and 923.82(b). As § 923.80(e) indicates, the designated State agency has the responsibility for making the initial determination with the Assistant Administrator retaining the responsibility of reviewing the correctness of this determination.

(2) Two commentators suggested public notice be given of a State's request for refinements. Another reviewer requested notification be provided Federal agencies.

NOAA response. Paragraph (c)(2)(iii) has been revised to require an indication that the public and affected parties have been informed of the proposed change.

(3) One commentator suggested an additional requirement be added to paragraph (c)(2) that States include, as part of their request for a refinement, a determination that there are no significant changes in previously approved intergovernmental relationships or if there are changes, these have been concurred with by the affected parties.

NOAA response. This recommendation has been adopted as a new paragraph (v).

(f) *Section 923.83—Termination and Withdrawal of Administrative Funding.* (1) One reviewer requested clarification of the effect of termination of funding on the Federal consistency provisions. Two other commentators suggested a provision be added to notify Federal agencies when funding is terminated.

NOAA response. Paragraph (b)(2) has been revised to indicate that Federal consistency requirements no longer apply once funding is terminated. Notice of terminations will be placed in the FEDERAL REGISTER in order to apprise all interested parties, including Federal agencies.

(2) One reviewer suggested that interested parties be invited to comment on a State's failure to comply with its approved management program.

NOAA response. Opportunity for the public and other interested parties to comment already is provided in connection with public sessions sponsored annually by OCZM and the State to review the State's performance pursuant to its approved management program.

(3) One reviewer suggested that the Assistant Administrator should have more than just the ability to recommend termination to the NOAA Grants Office, as provided in paragraph (b)(2). This reviewer maintained the Assistant Administrator should be able to make and implement a decision to terminate funding.

NOAA response. Under NOAA grants management procedures, official notification of grant terminations come from the NOAA Grants Office.

SUBPART J

(a) In the draft regulations issued August 29, 1977, this subpart appeared as Subpart I. Accordingly, all comments addressed to Subpart I of the draft regulations are responded to hereunder.

(b) As noted in major changes above, the information in 15 CFR 920.50–920.61 pertaining to applications for program development and preliminary approval grants pursuant to subsections 305 (c) and (d) of the Act respectively is now contained in this subpart, especially §§ 923.92(b), 923.96, 923.97, and 923.99.

(c) *Section 923.90—General.* One reviewer suggested language to require adequate notice be given States in the event the Federal share of a grant will be less than the eighty (80) percent share allowed under the Act.

NOAA response. The reviewer has not suggested what would constitute adequate notice. Present OCZM practice is to advise States of the Federal rate in advance of submission of applications by a State. Finally, it should be noted that the language of subsections 305(c) and 306(a) with respect to the Federal share is permissive. In other words, it sets 80 percent as a maximum.

(d) *Section 923.91—Administration of the Program.* No comments.

(e) *Section 923.92—State Responsibility.* (1) One reviewer suggested that the initial grant, signed by the Governor, identify administrative personnel authorized to request amendments.

NOAA response. This comment is more appropriate to section 923.81 where, it should be noted, paragraph (c)(1) has been revised to allow amendments to be submitted by the head of the administering agency designated by the Governor.

(2) Two reviewers requested clarification as to how funding requests for programs authorized under other sections of the Act could be coordinated with requests for program development or implementation funds. One of these reviewers suggested that paragraph (c) refer to the State matching share as well as the Federal portion of a grant.

NOAA response. The requested clarification regarding coordinating funding requests has been added to § 923.95(h) where it is more appropriate. The suggested clarification to paragraph (c) has been adopted.

(f) *Section 923.95—Eligible Costs.* (1) Five commentators questioned OCZM's interpretation of eligible program implementation costs as being too restrictive and not helpful in carrying out a State's management program. These commentators suggested that limited construction costs should be allowed to achieve program objectives, particularly in areas designated for preservation or restoration.

NOAA response. Section 923.95 has been substantially revised in light of these comments, especially paragraphs (c)–(f).

(2) One reviewer suggested that equipment purchases of $1,000 or more should be the amount at which NOAA approval would be required, rather than the $500 in proposed paragraph (c) (now paragraph (g)).

NOAA response. This suggestion has been adopted.

(3) One commentator suggested the term "administrative funding" was a poor term as it implied to the reviewer that only personnel costs could be funded with an administrative (section 306) grant.

NOAA response. NOAA has clarified the purposes to which section 306 funding can be put in paragraphs (c)–(e). In addition, § 923.90(e) notes that the terms "administrative grant" and "implementation grant" are used interchangeably.

(g) *Section 923.102—Grant Amendments.* One reviewer objected to the fact that grantees would be advised of disposition on their grant amendment requests (as distinct from program amendment requests) within a thirty (30) day period and requested a shorter notification period.

NOAA response. Given the fact that all grant amendment requests must go through the NOAA Grants Office and that Office handles grants activities for all NOAA funding programs; 30 days is a reasonable amount of time to allow for processing of grant amendment requests.

PUBLIC REVIEW AND COMMENT

NOAA invites public review and comment on these interim final regulations so they again may be modified, if necessary and where legally permissible, to fully satisfy the requirements of the Act in a manner which addresses the concerns of all parties affected by the regulations. Written comments should be submitted to: State Programs, Attention: Carol Sondheimer, Office of Coastal Zone Management, Page Building 1, 3300 Whitehaven Street NW., Washington, D.C. 20235, on or before April 30, 1978. Requests for meetings to discuss these regulations during this comment period may be made in writing or by phone to Carol Sondheimer, 202-634-1672. Following the close of the comment period, and after review of comments, these regulations may be amended and will be published as final regulations in the FEDERAL REGISTER.

Dated: February 22, 1978.

T. P. GLEITER,
Assistant Administrator for Administration.

PART 923—COASTAL ZONE MANAGEMENT PROGRAM APPROVAL REGULATIONS

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AUTHORITY: Secs. 305, 306, 307, and 312, Coastal Zone Management Act of 1972, Pub. L. 92-583, 86 Stat. 1280, as amended by Pub. L. 94-370, 90 Stat. 1013.

Subpart A—General

§ 923.1 Purpose.

(a) The primary purpose of these regulations is to set forth the criteria by which State programs submitted to the Assistant Administrator for management program approval pursuant to section 306 of the Act will be evaluated. These regulations also establish the procedures by which States meeting the approval criteria may apply for administrative grants pursuant to subsections 306 (a) and (h) of the Act. Also included in these regulations are the procedures by which programs submitted for preliminary or full approval pursuant to sections 305(d) or 306 of the Act, respectively, will be reviewed; the conditions under which approved programs may be altered; and the conditions under which grants may be terminated.

These regulations also establish the procedures for States to apply for program development, preliminary approval or program implementation grants pursuant to subsections 305(a), 305(d) and 306 of the Act, respectively.

(b) Sections 305, 306 and 307 of the Act set forth requirements which must be fulfilled as a condition of program approval. The specifics of these requirements are set forth below in these groupings: General Requirements; Uses Subject to Management; Special Management Areas; Boundaries; Authorities and Organization; Coordination, Public Involvement and National Interests; and Miscellaneous. All relevant sections of the Act are dealt with under one or more of these groupings but not necessarily in the order in which these sections appear in the Act.

(c) In summary, the requirements for program approval are that a State develop a management program that:

(1) Identifies and evaluates those coastal resources recognized in the Act that require management or protection by the State;

(2) Reexamines existing policies or develops new policies to manage these resources. These policies must be specific, comprehensive and enforceable, and must provide an adequate degree of predictability as to how coastal resources will be managed;

(3) Determines specific uses and special geographic areas that are to be subject to the management program,

based on the nature of identified coastal concerns. The basis for managing uses (or their impacts) and areas should be based on resource capability and suitability analyses, socio-economic considerations and public preferences;

(4) Identifies the inland and seaward areas subject to the management program;

(5) Provides for the consideration of the national interest in the planning for and siting of facilities that meet more than local requirements; and

(6) Includes sufficient legal authorities and organizational arrangements to implement the program and to insure conformance to it.

In arriving at these substantive aspects of the management program, States are obliged to follow an open process which involves providing information to and considering the interests of the general public, special interest groups, local governments, and regional, State, interstate and Federal agencies.

(d) Subparts A-D (§§ 920.1-920.32) of the 15 CFR Part 920 Regulations pertaining to program development are superceded by the requirements contained herein. Subpart E (§§ 920.40-920.43) of the 15 CFR Part 920 Regulations dealing with preliminary approval pursuant to subsection 305(d) of the Act have been incorporated herein as part of Subpart H (§§ 923.74-923.77). Subpart F (§§ 920.50-920.61) dealing with applications for program development grants have been included herein in Subpart J (§§ 923.96-923.102).

(e) Care has been taken in the use of the following words: "must," "shall," "provided that," "may," and "should." Wherever possible the words "must," "shall," and "provided that" appear in sections entitled Requirement. However, even when such words appear in Comment sections, they shall be interpreted as requirements of these regulations. The words "should" or "may" are to be interpreted as recommendations, and not as requirements for program approval.

(f) States should note that, while they must meet the requirements of these regulations, the presentation of how these requirements are met—either to the Assistant Administrator or to the public—need not be in the order or terminology used herein. (See section 923.71 for further discussion of the program submission format.)

§ 923.2 Definitions.

(a) The term "Act" means the Coastal Zone Management Act of 1972, as amended.

(b) The term "Secretary" means the Secretary of Commerce or his/her designee. With the exception of the mediation functions discussed in section 923.54, all functions of the Act have been vested in the Assistant Administrator for Coastal Zone Management based on duly executed delegations of authority from the Secretary to the Administrator of the National Oceanic and Atmospheric Administration (NOAA) by Amendment 5 of the Department of Commerce Organizational Order 25-5A, dated June 3, 1977; and from the Administrator to the Assistant Administrator for Coastal Zone Management by NOAA Circular 78-10.

(c) The term "Assistant Administrator" means the Assistant Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

(d) The term "relevant Federal agencies" means those Federal agencies with programs, activities, projects or regulatory, financing or other assistance responsibilities, in the following fields which could impact or affect a State's coastal zone:

(1) Energy production or transmission,

(2) Recreation of an interstate nature,

(3) Interstate transportation,

(4) Production of food and fiber,

(5) Preservation of life and property,

(6) National defense,

(7) Historic, cultural, esthetic and conservation values,

(8) Mineral resources and extraction, and

(9) Pollution abatement and control.

The following are defined as relevant Federal agencies:

Department of Agriculture;
Department of Commerce;
Department of Defense;
Department of Energy;
Department of Health, Education, and Welfare;
Department of Housing and Urban Development;
Department of the Interior;
Department of Transportation;
Environmental Protection Agency;
Nuclear Regulatory Commission;
General Services Administration.

Should governmental reorganization occur, relevant Federal agencies shall be those with programs, activities, projects or responsibilities in the fields cited above. States should include other Federal agencies as appropriate to their program development or implementation efforts.

(e) The term "Federal agencies principally affected" shall mean the same as "relevant Federal agencies." The Assistant Administrator may expand upon the term for purposes of reviewing the management program and environmental impact statement.

(f) The term "Coastal State" means a State of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound or one or more of the Great Lakes. Pursuant to section 304(3) of the Act, the term also includes Puerto Rico, the Virgin Islands, Guam and American Samoa. Pursuant to section 703 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, the term also includes the Northern Marianas.

(g) The following terms, as used in these regulations, have the same definition as provided in section 304 of the Act.

(1) Coastal zone,
(2) Coastal waters,
(3) Estuary,
(4) Land use,
(5) Water use,
(6) Management program.

§ 923.3 General requirements.

(a) *Requirement.* In addition to the specific requirements related to individual elements of a State's coastal management program (such as those related to boundaries, areas of particular concern, legal authorities, etc.), the approvability of any State program, pursuant to section 306 of the Act, will be determined by the Assistant Administrator in accordance with the following general requirements:

(1) That the management program is comprehensive. It must address and provide for the management of those significant resources, uses and areas that the State has determined, through its development process and in consultation with all relevant interests as required by the Act and these regulations, make its coastal zone a unique, vulnerable or valuable area requiring various forms of management;

(2) That the policies, standards, objectives and criteria upon which decisions purusant to the program will be based are articulated clearly and are sufficiently specific to provide (i) a clear understanding of the content of the program, especially in identifying who will be affected by the program and how, and (ii) a clear sense of direction and predictability for decision makers who must take actions pursuant to or consistent with the management program; and

(3) That there are sufficient policies of an enforceable nature to insure the implementation of and adherence to the management program.

In addition to sufficient enforceable policies to constitute an approvable program, States may include policies of an enhancement or horatory nature. (See discussion in paragraph (h) below.)

(b) *Comment.* Statutory Citation, Subsection 306(c)(1):

Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that: (1) the state has developed and adopted a management program for its coastal zone * * * which is adequate to carry out the purposes of this title and is consistent with the policy declared in section 303 of this title.

(c) *Requirement.* In determining resources, uses and areas to be subject to the management program and appropriate management thereof, as articulated in the program's policies and implemented in the program's authorities, States shall take into consideration the findings of Section 302 of the Act that led Congress to find a national interest in providing for the effective management of the Nation's coastal resources. The Act emphasizes that important ecological, cultural, historic and aesthetic values such as living marine resources, wildlife habitats, public and open space, and nutrient rich areas are being lost or adversely affected by population growth and economic development in the coastal zone. The Act clearly envisions that such activities as population growth and economic development will occur in a manner that recognizes and reflects the findings of Sections 302 of the Act.

(d) *Comment.* Statutory Citation, Section 303:

The Congress finds that—

(a) There is a national interest in the effective management, beneficial use, protection, and development of the coastal zone,

(b) The coastal zone is rich in a variety of natural, commercial, recreational, industrial, and esthetic resources of immediate and potential value to the present and future well-being of the Nation;

(c) The increasing and competing demands upon the lands and waters of our coastal zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources, have resulted in the loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse changes to ecological systems, decreasing open space for public use, and shoreline erosion;

(d) The coastal zone, and the fish, shellfish, other living marine resources, and wildlife therein, are ecologically fragile and consequently extremely vulnerable to destruction by man's alterations;

(e) Important ecological, cultural, historic, and esthetic values in the coastal zone which are essential to the well-being of all citizens are being irretrievably damaged or lost;

(f) Special natural and scenic characteristics are being damaged by ill-planned development that threatens these values;

(g) In light of competing demands and the urgent need to protect and to give high priority to natural systems in the coastal zone, present state and local institutional arrangements for planning and regulating land and water uses in such areas are inadequate; and

(h) The key to more effective protection and use of the land and water resources of the coastal zone is to encourage the states to exercise their full authority over the lands and waters in the coastal zone by assisting the states, in cooperation with Federal and local governments and other vitally affected interests, in developing land and water use programs for the coastal zone, including unified policies, criteria, standards, methods, and processes for dealing with land and water use decisions of more than local significance.

(i) The national objective of attaining a greater degree of energy self-sufficiency would be advanced by providing Federal financial assistance to meet state and local needs resulting from new or expanded energy activity in or affecting the coastal zone.

(e) *Comment. Statutory Citation,* Section 303:

The Congress finds and declares that it is the national policy (a) to preserve, protect, develop, and where possible, to restore or enhance the resources of the Nation's coastal zone for this and succeeding generations, (b) to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone giving full consideration to ecological, cultural, historic, and esthetic values as well as to needs for economic development, (c) for all Federal agencies engaged in programs affecting the coastal zone to cooperate and participate with state and local governments and regional agencies in effectuating the purposes of this title, and (d) to encourage the participation of the public, of Federal, state and local governments and of regional agencies in the development of coastal zone management programs. With respect to implementation of such management programs, it is the national policy to encourage cooperation among the various state and regional agencies including establishment of interstate and regional agreements, cooperative procedures, and joint action particularly regarding environmental problems.

(f) *Requirement.* Particular attention shall be devoted to subsection 303(b) of the Act which calls for (i) the ability to manage coastal land and water resources based on (ii) ecological, historical, cultural, esthetic and economic considerations. It is impossible to specify by regulation the relevant scope, priority and type of such considerations for each coastal State, given significant differences in the biophysical characteristics of the coastal zone, the quantity, quality and distribution of coastal resources located therein and the uses of or conflicts over use of these diverse resources. At a minimum, however, States shall include three broad classes of policies in their management program in order to provide a framework for the exercise of various management techniques governing coastal resources, uses and areas:

(1) *Resource policies* are those directed toward the management and conservation of valuable or vulnerable coastal resources such as wetlands, floodplains, estuaries, intertidal areas, beaches and dunes, barrier islands, cliffs and bluffs, other areas subject to erosion or accretion, areas containing fishery, spawning and harvesting grounds, other wildlife habitats including those of endangered species, and esthetic, cultural and historic resources.

(2) *Coastal development policies* are those that address such matters as shorefront access, ports and harbors, energy facilities, coastal dependency of large-scale industrial, commercial, residential and institutional developments, mineral extraction, on-shore OCS-related development; and

(3) *Government process policies* are those which address such matters as the roles and responsibilities of different levels of government, or clarification and simplification of regulatory and permitting procedures.

(g) *Comment.* State programs are not required to contain policies addressing all resources, uses, or processes potentially encompassed by the three general categories above. However, the Assistant Administrator will review management programs to ensure that major coastal resources of more than local significance in a State and uses with direct and significant impacts on coastal waters in that State are addressed by appropriate policies in the program.

(h) *Comment.* Some policies must be of an enforceable nature (as, for example, policies derived from regulatory statutes) and others may be of an enhancement nature (as, for example, policies that encourage or state priorities for certain activities in a certain manner or area, or policies that involve planning, financial, or technical assistance), assuming there are sufficient enforceable policies to find the program approvable. Two hypothetical examples follow of an enforceable and enhancement policy respectively:

(1) It is the policy of the State to preserve wetlands for their biological productivity, habitat values, and storm buffer functions. To this end, no activity shall occur in a coastal wetland without first receiving a permit from agency X.

(2) It is the policy of the State to encourage location of new, coastal-dependent industries in areas already served by necessary and adequate infrastructure such as roads and sewage treatment facilities.

Whether policies must be enforceable rather than encouragement depends on the nature of the concern. Generally, it should be anticipated that policies relating to resources will need to be of an enforceable nature (as, for example, the ability to exercise permit requirements). The Assistant Administrator will determine that the scope and enforceability of a State's program are adequate based on the enforceable policies of the program.

(i) *Comment.* With specific reference to wetlands and floodplains located in a State's coastal zone, the Assistant Administrator will review a State's management program to see that it

contains policies either directly addressing appropriate uses of or in coastal floodplains and wetlands or addressing acceptable and unacceptable impacts in those areas. These policies are deemed necessary in order that the Assistant Administrator may fulfill his/her responsibilities pursuant to Presidential Executive Orders on wetland and floodplains issued May 24, 1977 which provide, with respect to wetlands in relevant part, that:

(1) Each [Federal] agency shall provide leadership and take action to minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands, in carrying out the agency's responsibilities for * * * conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating and licensing activities * * *

(5) In carrying out the activities described in Section 1 of this Order, each agency shall consider factors relevant to a proposal's effect on the survival and quality of the wetlands. Among these factors are:

(a) public health, safety, and welfare, including water supply, quality, recharge and discharge, pollution, flood and storm hazards, and sediment and erosion;

(b) maintenance of natural systems, including conservation and long term productivity of existing flora and fauna, species and habitat diversity and stability, hydrologic utility, fish, wildlife, timber, and flood and fiber resources, and

(c) other uses of wetlands in the public interest including recreational, scientific and cultural uses.

(j) *Comment.* With respect to floodplains, the Presidential Executive Order provides in relevant part that:

(1) Each [Federal] agency shall provide leadership and shall take action to reduce the risk of flood loss, to minimize the impact of floods on human safety, health and welfare, and to restore and preserve the natural and beneficial values served by floodplains in carrying its responsibilities for * * * conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating and licensing activities.

(2) In carrying out the activities described in Section (1) of this Order, each agency has a responsibility * * * to ensure that its planning programs and budget requests reflect consideration of flood hazards and flood plain management * * *

(4) Each agency shall take floodplain management into account when formulating or evaluating any water and land use plans and shall require land and water resources use appropriate to the degree of hazard involved * * *

(6) The term "floodplain" shall mean the lowland and relatively flat areas adjoining inland and coastal waters including flood-prone areas of offshore islands, including at a minimum, that area subject to a one percent or greater chance of flooding in any given year.

(k) *Comment.* With respect to the definition of "floodplain" in (6) above, it is recognized that in some States, their coastal zone boundaries may not be as extensive as the 100-year floodplain, nor do these boundaries necessarily have to include floodplains adjoining inland waters. However, to the extent a State's coastal zone does include floodplain areas as defined above, policies affecting those areas must be compatible with the intent of the Executive order.

Subpart B—Uses Subject to Management

§ 923.10 General.

This subpart deals with land and water uses which, because of their direct and significant impacts on coastal waters, are subject to the terms of the management program. Determination of these uses will assist in determining the appropriate coastal management boundary. This subpart deals in full with the requirements of subsection 305(b)(2), Uses Subject to Management and 305(b)(8), Energy Facility Planning, and deals in part with the requirements of subsection 306(e)(2), Uses of Regional Benefit.

§ 923.11 Uses subject to management.

(a) *Requirement.* The essential requirements of this subpart are: (1) To determine and identify which uses shall be subject to the terms of the management program pursuant to subsection 305(b)(2) of the Act.

(2) To establish the bases for policies, management authorities, and techniques that will govern whether and how uses will be allowed, conditioned or denied; and

(3) To assure that these policies and authorities incorporate a sufficient range of considerations to address the national findings and policies of sections 302 and 303 of the Act.

(b) *Comment.* In order to meet the requirements of (a)(1) above, States should inventory natural and man-made coastal resources and should analyze the quality, location, distribution and demand (including claimed national interests) for these resources as well as the need for and nature of coastal management. Assessments derived from these inventories and analyses should form one basis for determining appropriate uses subject to the management program.

(c) *Comment.* In addition, States should consider the potential for direct and significant coastal impacts on coastal waters from uses of lands, including, but not limited to, the following:

(1) Residential and commercial developments such as subdivisions, high-rise apartments or hotels, trailer parks and second-home developments, and shopping centers;

(2) Industrial developments, such as tank farms and refineries, power plants, manufacturing complexes, industrial parks, onshore and offshore port facilities, mineral and sand extraction operations; liquified natural gas (LNG) facilities, petrochemical plants, and Outer Continental Shelf (OCS) development;

(3) Recreational facilities such as beaches, amusement parks, marinas and other boating facilities;

(4) Public facilities and public works such as schools, hospitals, government buildings, dams and water treatment facilities; and

(5) Transportation facilities such as highways, railroads, airports, ports and harbors.

(d) *Comment.* In determining if uses and their management are sufficiently comprehensive, the Assistant Administrator will consider whether significant coastal-related issues raised by the public and/or governmental entities during the course of program development or related to the findings and national policies of Sections 302 and 303 of the Act.

§ 923.12 Use permissibility.

(a) *Requirement.* In order to meet the requirements of subsection 305(b)(2) of the Act, and the associated requirements of § 923.11(a)(2), States must develop policies and procedures by which uses, determined to be subject to the managment program, will be allowed, conditioned, modified, encouraged or prohibited. Policies and procedures regarding management of uses or their impacts must be capable of effective application at the time of program approval.

(b) *Comment.* Statutory Citation, Subsection 305(b)(2):

The management program for each coastal state shall include * * * (2) A definition of what shall constitute permissible land uses and water uses within the coastal zone which have a direct and significant impact on the coastal water.

(c) *Comment.* The policies and procedures called for in paragraph (a) above should be based on the following types of analyses: (1) Capability and suitability of resources types to accommodate existing or projected uses;

(2) Environmental impacts on coastal resources;

(3) Compatability of various uses with adjacent uses or resources;

(4) Evaluation of inland and other location alternatives;

(5) Water dependency of various uses and other social and economic considerations.

(d) *Comment.* Management of uses based on the policies and procedures noted in (a) above, including performance standards, shall take into account the full range of considerations called for in Sections 302, 303 and 307(f) of the Act. Examination of the following representative factors is suggested:

(1) Air and water quality;

(2) Historic, cultural and aesthetic resources where coastal development is likely to affect these resources;

(3) Open space or recreational usage of the shoreline where increased access to the shorefront is a particularly important concern;

(4) Floral and faunal communities where loss of living marine resources or threats to endangered or threatened coastal species are particularly important concerns; and

(5) Water dependency of various activities and uses, including those related to energy.

(e) *Comment.* To the extent a State's management program policies are generalized, performance standards that will be used to enforce these policies will need to be sufficiently explicit and specific that persons affected by the management program will have a reasonable understanding of what uses would be permitted in which locations of the coastal zone and under what conditions. Further, while performance standards represent an acceptable procedure for managing uses, they do not substitute for the requirement of § 923.11(a)(1) to identify uses subject to the management program.

923.13 Uses of regional benefit.

(a) *Requirement.* In order to meet the requirements of subsection 306(e)(2) of the Act, State's must:

(1) Identify what constitute uses of regional benefit; and

(2) Identify methods that will assure that local land and water use regulations do not unreasonably restrict or exclude land and water uses of regional benefit.

(b) *Comment.* Statutory Citation, Subsection 306(e)(2):

Prior to granting approval, the Secretary shall also find that the program provides * * * (2) for a method of assuring that local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land and water uses of regional benefit.

(c) *Comment.* This section of the regulations provides guidance on how States may meet the requirements of (a)(1) above: Section 923.43 contains commentary addressing the requirements of (a)(2) above.

(d) *Comment.* States have a number of options with respect to identifying uses of regional benefit as required in (a)(1) above. These options include, but are not limited to, those discussed in this paragraph. Whatever approach a State chooses, the basic criteria for identifying uses of regional benefit should be two-fold: (1) Effect on more than one local unit of government (effect may be considered to be of a multi-county or intrastate nature), and (2) direct and significant impact on coastal waters. Using these criteria, States could identify those uses they perceive will affect or produce some regional benefit in terms of providing services or other benefits to citizens of more than one unit of local, general-purpose government (excluding situations such as cities and counties that exercise jurisdiction over the same geographic areas). Such activities as regional waste treatment plants, multi-county garbage disposal sites or landfills, State highways, or multi-county parks and beaches might be identified under this approach.

These same uses or other uses might be identified on the basis of plans adopted by areawide agencies designated pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, or as defined in other regional plans such as Statewide Comprehensive Outdoor Recreation Plans (SCORPs), Statewide transportation plans, or regional wastewater treatment plans (funded pursuant to section 208 of the Federal Water Pollution Control Act). Where States follow this approach, they should coordinate the requirements of this section with those of § 923.56 having to do with plan coordination.

As another approach, States may choose to define uses of regional benefit to include facilities in which there may be a national interest in their planning and siting. Under this approach, such facilities as ports, highways, energy production and transmission facilities, national seashores, parks and forests, and military bases could be identified as uses of regional benefit. (See § 923.52 which discusses consideration of facilities in which there may be a national interest.).

(e) *Comment.* Once uses of regional benefit have been identified, States must provide a method for assuring local regulations do not unreasonably restrict or exclude such uses. Acceptable alternatives for meeting this requirement are discussed in § 923.43 of subpart E—Authorities and Organization.

§ 923.14 Energy facility planning process.

(a) *Requirement.* In order to meet the requirements of subsection 305(b)(8) of the Act, States must develop a planning process which is capable, at a minimum, of anticipating and managing the impacts from energy facilities in or affecting a State's coastal zone. This process must include the following elements:

(1) Identification of energy facilities which are likely to locate in, or which may significantly affect, a State's coastal zone;

(2) Procedures for assessing the suitability of sites for such facilities;

(3) Articulation of State policies for managing energy facilities and their impacts, including a clear articulation of policies regarding conditions that may be imposed on site location and facility development;

(4) Identification of how interested and affected public and private parties may be involved in the planning process, and a discussion of the means for continued consideration of the national interest, in the planning for and siting of energy facilities that are necessary to meet more than local requirements, after program approval; and

(5) Identification of legal authorities and management techniques that will be used to implement State policies and procedures.

(b) *Comment.* Statutory Citation, Subsection 305(b)(8) and (9):

The management program for each coastal state shall include * * * (8) A planning process for energy facilities likely to be located in, or which may significantly affect, the coastal zone, including, but not limited to, a process for anticipating and managing the impacts from such facilities * * * (9) No management program is required to meet the requirements in paragraphs * * * (8) * * * before October 1, 1978.

(1) The purpose of identifying energy facilities which may significantly affect the coastal zone is to assure the consideration of energy facilities as land or water uses likely to have direct and significant impacts on coastal resources and therefore subject to the management program. Since the specific planning process called for in this section is an integral part of the requirements of this subpart, many of the requirements contained in (a) (1) and (2) above can be met by completing the work called for in §§ 923.11 and 923.12. The coordination requirements in (a)(4) above can be fulfilled in large measure through adequate consultation pursuant to §§ 923.51 and 923.55. Further, because of the obvious linkage between subsections 305(b)(8) of the Act having to do with an energy facility planning process and 306(c)(8) having to do with consideration of national interests involved in planning for and siting of facilities, including energy facilities which may be more than local in nature, States should coordinate fulfillment of the requirements of this section with those of § 923.52—Consideration of National Interests.

(c) *Comment.* Since one of the objectives of implementing State coastal management programs is to bring about a greater degree of predictability with respect to what may occur in which areas of the coastal zone, and since many energy facilities are coastal dependent and may cause substantial impacts on coastal resources and adjacent land and water uses, States are encouraged, through establishment of this planning process, to be site-specific, especially in indicating areas that are appropriate or inappropriate for particular types of energy facilities. As a result of developing this required planning process, States should be able to specify the conditions that would either constrain or

lead to the siting of particular energy facilities in a State's coastal zone.

(d) *Comment.* To determine which energy facilities may significantly affect the coastal zone, as required in (a)(1) above, States must consider, at a minimum, those facilities listed in subsection 304(5) of the Act. These facilities include any equipment or facility which will be used or expanded primarily (1) in the exploration for, or the development, production, conversion, storage, transfer, processing, or transportation of any energy resource, or (2) for the manufacture, production, or assembly of equipment, machinery, products or devices which are involved in any activity described in (1). This includes (i) electric generating power plants, (ii) petroleum refineries and associated facilities, (iii) gasification plants, (iv) facilities used for the transportation, conversion, treatment, transfer or storage of liquefied natural gas, (v) uranium enrichment or nuclear fuel processing facilities, (vi) oil and gas facilities, including platforms, assembly plants, storage depots, tank farms, crew and supply bases and refining complexes, (vii) facilities, including deepwater ports, for the transfer of petroleum, (viii) pipelines and transmission facilities, and (ix) terminals which are associated with the foregoing. States have the option of expanding this list for planning and management purposes to include any related or secondary energy activities, which a State feels may significantly affect its coastal zone.

(e) *Comment.* At a minimum, "significantly affect" shall be defined in terms of substantial or potentially substantial changes in coastal zone resources which could be affected by a proposed energy facility. These include changes in land, air, water, minerals, flora, fauna, noise, and objects of historic, cultural, archeological or aesthetic significance. States have the option of using a more expansive definition of "significantly affect" which could include any or all of the concepts in the National Environmental Policy Act of 1969 (Pub. L. 91-190, as amended). These concepts include the following: (1) Effects which are noteworthy in an overall, cumulative way, considering the impacts of a given energy facility and related facilities, either existing or contemplated; (2) effects which may be positive, negative or both; (3) effects which may come about or increase in magnitude because of the particular location of an energy facility; and (4) effects which cover a broad range of environmental, social and economic impacts.

(f) *Comment.* In developing a procedure for assessing the suitability of sites for energy facilities, as required in (a)(2) above, it will be important to create a planning process that takes adequate account of all the potential changes noted in paragraph (e) of this section, as well as any other economic, social or environmental factors the State chooses to consider significant. This procedure must also include a capability to evaluate alternative sites and to determine if a potential site is appropriate given these assessments. This assessment procedure should be designed to evaluate, to the extent practicable, the costs and benefits of proposed and alternative sites in terms of State and national interests as well as local concerns.

(g) *Comment.* In articulating State policies and management techniques, as required in (a) (3) and (5) above, States should indicate whether it is State policy to permit, discourage or prohibit major classes of energy facilities (identified pursuant to (a)(1) above) in the coastal zone. If so, States should articulate clearly any and all conditions that may be attached to siting, including, for example, conditions on site development or internalization of costs, where such conditions exist as part of a State's energy facility planning process or policies.

(h) *Comment.* In articulating State policies and management techniques as required in (a) (3) and (5) above, State coastal planning or management agencies are encouraged to develop these in consultation and cooperation with other State, local and Federal agencies. General consultation requirements for program development, of which this consultation should be considered a part, are discussed more fully in § 923.51. Depending on the approach taken to energy facilities management, this consultation and coordination should include, but need not be limited, to procedures for: (1) Assessing need/demand projections; (2) allocating these needs among coastal and inland locations; (3) identifying potential coastal impacts; and (4) determining site suitability of alternative locations for particular facilities. The actual analysis of particular sites may be accomplished using planning funds authorized under subsection 308(c) of the Act.

(i) *Comment.* The nature of State policies and management techniques that will be articulated as part of the overall management program will vary, depending on the approach taken to planning and management of energy facilities or their impacts, and the extent and type of energy facility siting procedures and impact management techniques already existing in a particular State. Accordingly, in meeting the requirements of § 923.41 to list relevant constitutional provisions, laws, regulations, judicial decisions and other appropriate official documents or actions, States must include those items specifically related to planning for, anticipating and managing energy facilities or impacts, including licensing or permitting procedures.

(j) *Comment.* In addressing the requirements of (a)(4) above, States should identify clearly the organizational structure and procedural means by which energy facility planning (including decisions made pursuant to that planning process) is carried out in the State. This should include a discussion of the respective roles of State agencies and their relationship to the lead agency and to the management program's requirements (as well as the respective roles and opportunity for participation by Federal agencies, local governments, other interested and affected public and private parties). Included in this discussion should be an explanation of the process by which the national interest in the planning for and siting of energy facilities, identified pursuant to § 923.52, can continue to be considered after program approval.

(k) *Comment.* State coastal zone management programs that are submitted and approved prior to October 1, 1978, may submit this planning element as a program amendment by, but no later than, September 30, 1978, or this element may be included as part of the basic program submission submitted and approved prior to October 1, 1978. State coastal zone management programs submitted prior to October 1, 1978, but approved on or after that date, must include this planning element as part of the basic program submission. State coastal zone management programs submitted for approval after October 1, 1978, must include this element as part of the basic program submission.

Subpart C—Special Management Areas

§ 923.20 General.

(a) This subpart deals with areas that are of particular concern because of their coastal-related values or characteristics, or because they may face pressures which require detailed attention beyond a State's general planning and regulatory system as proposed in the management program. As a result, these areas require special management attention within the terms of the State's overall coastal program. This special management may include regulatory or permit requirements applicable only to the area of particular concern. It also may include increased intergovernmental coordination, technical assistance, enhanced public expenditures, or additional public services and maintenance to a designated area. This subpart deals with the following interrelated subsections of the Act: 305(b)(3)—Geographic Areas of Particular Concern; 305(b)(5)—Guidelines on Priorities of Uses; 305(b) (7)—Shorefront Access and Protection Planning; 305(b) (9)—Shoreline Erosion Planning; and 306(c) (9)—Areas for Preservation and Restoration.

§ 923.21 Areas of particular concern.

(a) *Requirement.* In order to meet the requirements of subsections 305(b)(3) and (5) of the Act, States must:

(1) Designate geographic areas that are of particular concern, on a generic or site-specific basis or both;

(2) Describe the nature of the concern and the basis on which designations are made;

(3) Describe how the management program addresses and resolves the concerns for which areas are designated; and

(4) Provide guidelines regarding priorities of uses in these areas, including guidelines on uses of lowest priority.

(b) *Comment.* Statutory Citation, Subsection 305(b)(3):

The management program for each coastal state shall include * * * (3) An inventory and designation of areas of particular concern within the coastal zone.

(c) *Comment.* The importance of designating areas of particular concern for management purposes and the number and type of areas that should be designated is directly related to the degree of comprehensive controls applied throughout a State's coastal zone. Accordingly, where a State's general coastal management policies and authorities are insufficient to address the nature of a State's concern in a particular area or type of area, then designation of areas of particular concern is especially important since that designation will include more specific policies and authorities that also will govern management within those areas. Where a State's general coastal management policies and authorities are broad and address State and national concerns comprehensively, relatively less emphasis need be placed on designation of areas of particular concern. Attention is invited to § 923.23 which discusses additional designations States may make beyond those required by this section.

(d) *Comment.* Designation.

(1) In developing the criteria for designating areas of particular concern and in making the designations, States shall inventory their natural and man-made coastal zone resources and shall consider whether the following represent areas of concern requiring special management:

(i) Areas of unique, scarce, fragile or vulnerable natural habitat, unique or fragile, physical, figuration (as, for example, Niagara Falls), historical significance, cultural value or scenic importance (including resources on or determined to be eligible for the National Register of Historic Places.)

(ii) Areas of high natural productivity or essential habitat for living resources, including fish, wildlife and endangered species and the various trophic levels in the food web critical to their well-being.

(iii) Areas of substantial recreational value and/or opportunity;

(iv) Areas where developments and facilities are dependent upon the utilization of, or access to, coastal waters;

(v) Areas of unique hydrologic, geologic or topographic significance for industrial or commercial development or for dredge spoil disposal;

(vi) Areas of urban concentration where shoreline utilization and water uses are highly competitive;

(vii) Areas of significant hazard if developed, due to storms, slides, floods, erosion, settlement, and salt water intrusion;

(viii) Areas needed to protect, maintain or replenish coastal lands or resources including coastal flood plains, aquifers and their recharge areas, estuaries, sand dunes, coral and other reefs, beaches, offshore sand deposits, and mangrove stands.

(2) Designation does not necessarily require specific gubernatorial or legislative action. Such action is necessary only to the extent the appropriate management of designated areas cannot be assured without such action.

(3) Designations may be generic (i.e., by type of area such as all wetlands, or all port areas) or they may be site-specific (as for example historic area x in county y) or they may be both. Irrespective of whether these designations are generic or site-specific, States must indicate the nature of the concern. This will accomplish two purposes: (i) indicate why areas or types of areas have been selected for special management attention and (ii) provide a basis for articulating appropriate management policies and use guidelines.

(4) Once designated, areas of particular concern must be identified by location (if site specific) or category of coastal resources (if generic) in sufficient detail that affected landowners, governmental entities and the public can determine with reasonable certainty if a given area is or is not designated. Maps that indicate the location of designated areas or types of areas are encouraged as part or a State's program submission.

(5) Some States may wish to involve local governments, other State agencies, Federal agencies and/or the public in the process of designating areas of particular concern. Such efforts are encouraged. In these cases, the State shall establish guidelines regarding the purposes, criteria and procedures for nomination and selection of such areas.

§ 923.22 Priorities of uses.

(a) *Requirement.* At a minimum, priority of use guidelines, including uses of lowest priority, must be established for areas of particular concern designated pursuant to § 923.21. States may establish priority use guidelines that apply throughout the coastal zone and are encouraged to do so, especially as an aid to resolving use conflicts.

(b) *Comment.* Statutory Citation, Subsection 305(b)(5):

The management program for each coastal state shall include * * * (5) Broad guidelines on priorities of uses in particular areas, including specifically those uses of lowest priority.

(c) *Comment.* Within areas of particular concern there are three main purposes of the guidelines on priority of uses will serve:

(i) To provide a basis for special management in areas of particular concern;

(ii) To provide a common reference point for resolving conflicts, and

(iii) To articulate further the nature of the interests to be promoted, prohibited or managed as a result of designation.

(d) *Comment.* One of the purposes in providing guidelines regarding uses of lowest priority in a specific area or for a specific type of area is to guide resolution of conflicts when two or more uses are competing for the same area. Where States are concerned about prohibiting or strictly controlling particular uses or types of uses in areas of particular concern, such uses should not be listed as uses of lowest priority but should be separately prohibited or restricted.

(e) *Comment.* Another purpose of priority use guidelines is to express the State's management concerns and policies on how resources should be protected and/or developed. When an identified use is determined to be of lowest priority in a geographic area, based on the results of resource inventories and analyses, program policies and other controls should be used to guide such uses to areas where the use will be more compatible with resource capability and suitability, and consequently will receive a higher priority.

(f) *Comment.* As with other guidelines of this general type, guidelines for priority of uses need not be determinative in all cases. However, they should be regarded as strongly advisory to decision makers carrying out the management program and the enforceable policies therein and may provide the basis for legal challenge to actions taken inconsistent with the guidelines.

§ 923.23 Other areas of particular concern.

(a) In addition to the designation of areas of particular concern required by § 923.21, States also may designate two other types of special management areas.

(1) One type comprises specific areas that are known to require additional or special management (e.g., urban waterfronts) but for which additional management techniques have not been developed or necessary authorities

have not been established at the time of program approval. For this category of areas of particular concern it is assumed that the appropriate management techniques, that meet all the requirements of § 923.21(a) above, will be developed during program implementation. If States designate areas of particular concern of this type, the Assistant Administrator will review the designations to determine that the reason for designation has been clearly stated, that a reasonable time frame and procedure have been established for developing and implementing appropriate management techniques, and that an agency (or agencies) capable of formulating the necessary management policies and techniques has been identified.

(2) The second type consists of a process for future designation of areas of particular concern after program approval. Establishment of such a process recognizes the evolving nature of management programs and the desirability of establishing a mechanism to address areas which may become a focus of State concern in the future. States that wish to establish a process for designating future areas of particular concern, that may be other than areas for preservation or restoration which are discussed on § 923.24 below, shall describe the criteria and procedures by which such designations can be made.

§ 923.24 Areas for preservation or restoration.

(a) *Requirement.* To meet the requirements of subsection 306(c)(9) of the Act, States must:

(1) Describe the criteria by which areas can be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological or esthetic values; and

(2) Describe the procedures by which such designations can be made.

(b) *Comment.* Statutory Citation, subsection 306(c)(9):

> Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that * * * (9) The management program makes provisions for procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological or esthetic values.

(c) *Comment.* States that wish to establish a process for designating future areas of particular concern, that may be other than areas for preservation or restoration, shall describe the criteria and procedures by which such designations for other purposes can be made.

§ 923.25 Shorefront access and protection planning.

(a) *Requirement.* In order to meet the requirements of subsection 305(b)(7) of the Act and to coordinate these requirements with those of subsections 305(b)(3) and 306(c)(9), States must develop a planning process that can identify public shorefront areas appropriate for access or protection. This process must include:

(1) A procedure for assessing public areas requiring access or protection;

(2) A definition of the term "beach" and an identification of public areas meeting that definition;

(3) Articulation of enforceable State policies pertaining to shorefront access and protection;

(4) A method for designating shorefront areas (either as a class or site specifically) as areas of particular concern or areas for preservation or restoration, if appropriate; and

(5) An identification of legal authorities, funding programs and other techniques that can be used to meet management needs.

(b) *Comment.* Statutory Citation, Subsection 305(b)(7):

> The management program for each coastal state shall include * * * (7) A definition of the term "beach" and a planning process for the protection of, and access to, public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological or cultural value.

(1) The basic purpose in focusing special planning attention on shorefront access and protection is to express more than local concern with respect to additional access or protection needs for public beaches and other public coastal areas of environmental, recreational, historic, esthetic, ecological or cultural value and to include these areas for special management attention within the purview of the State's management program. If appropriate, this special management attention may be achieved by designation of public shorefront areas requiring additional access or protection as areas of particular concern or areas for preservation or restoration. Since the specific planning requirements called for in this section are closely related to the broader requirements for areas of particular concern and areas for preservation and restoration, many of the requirements called for in paragraph (a) above can be met by completing the work called for in §§ 923.21 and 923.24.

(c) *Comment.* In meeting the requirements of (a)(1) above, States should take the following into account:

(1) States should make use of the analyses and considerations of Statewide concern developed to meet the requirements of § 923.21 dealing with areas of particular concern. It also is recommended that information contained in State Outdoor Comprehensive Recreation Plans be considered.

(2) If islands are not considered areas of particular concern, in the context provided by § 923.21, then their protection needs should be addressed through this planning process. Analysis of the need and priority for protection will be useful in establishing eligibility for such funds as may be available for islands acquisition pursuant to subsection 315(2) of the Act.

(3) In developing a procedure for identifying access and protection needs, States should analyze (a) the supply of existing public facilities and areas, (b) the anticipated demand for future use of these facilities, and (c) the capability and suitability of existing areas to support increased access. Based on these and other considerations, as appropriate, the State's planning process shall include a description of appropriate types of access and protection, taking into account governmental and public preferences, resource capabilities and priorities.

(4) In determining access requirements, States should consider both physical and visual access. The emphasis, however, should be on the provision of increased physical access. Special attention should be given to recreational needs of urban residents for increased shorefront access. Physical access may include, but need not be limited to, footpaths, bikepaths, boardwalks, jitneys, rickshaws, parking facilities, ferry services and other public transport. Visual access may involve, but need not be limited to, viewpoints, setback lines, building height restrictions, and light requirements.

(5) In determining the needs for protection of public coastal areas, States should consider such factors as (a) environmental, esthetic or ecological preservation (including protection from overuse and mitigation of erosion or natural hazards), (b) protection for public use benefits (including recreational, historic or cultural uses), (c) preservation of islands, and (d) such other protection as may be necessary to insure the maintenance of environmental, recreational, historic, esthetic, ecological or cultural values of existing public shorefront attractions. Existing public shorefront attractions may be broadly construed to include, but need not be limited to: public recreation areas, scenic natural areas, threatened or endangered floral or faunal habitat, wetlands, bluffs, historic, cultural or archaeological artifacts, and urban waterfronts.

(d) *Comment.* With respect to the requirements of (a)(2) above, the purpose of defining the term "beach" is to aid in the identification of those existing public beach areas requiring further access and/or protection as a part of the State's management program. States should define "beach" in terms of characteristic physical elements (e.g., submerged lands, tidelands, foreshore, dry sand area, line of vegetation, dunes) or in terms of public characteristics (e.g., local, State or Federal ownership, or other demonstrated public interest such as easements, leases, licenses, or traditional and habitual usage). At a minimum, the definition of what constitutes a public beach shall be as broad as that allowed under existing State law or constitutional provisions. States should take into account special features such as composition (e.g., nonsand beaches), location (e.g., urban or riverine beaches), origin (e.g., manmade beaches) and fragility (e.g., areas of shifting dunes). Where access may be complicated by questions of ownership and use of the foreshore or dry sand beach, States are encouraged to define beach in terms of its component parts, especially at the mean high tide line, or the ordinary high water mark in the Great Lakes. Finally, in defining the term "beach," States should provide a rationale explaining the relationship between the definition developed and access and protection needs.

(e) *Comment.* With respect to the requirements of (a)(5) above, States should develop a procedure which will allow for the eventual identification of specific areas for which provision of access through acquisition will be appropriate during program implementation. In developing this procedure, States shall identify local, State or Federal sources for accomplishing particular access proposals. Particular attention should be given to coordination of management objectives with funding programs pursuant to subsection 315(2) of the Act, and pursuant to the Land and Water Conservation Fund (16 U.S.C. 460 et seq.) and other statutes as may be appropriate. The access referred to in this subsection is broader than the types of access that may be acquired using subsection 315(2) funds which is limited to the acquisition of lands or interests in lands for purposes of providing access to public shorefront or for the preservation of islands.

(f) *Comment.* State coastal zone management programs that are submitted and approved prior to October 1, 1978, may submit this planning element as a program amendment by, but no later than, September 30, 1978, or this element may be included as part of the basic program submission submitted and approved prior to October 1, 1978. State coastal zone management programs submitted prior to October 1, 1978, but approved on or after that date, must include this planning element as part of the basic program submission. State coastal zone management programs submitted for approval after October 1, 1978, must include this element as part of the basic program submission.

§ 923.26 Shoreline erosion/mitigation planning.

(a) *Requirement.* In order to meet the requirements of subsection 305(b)(9) of the Act and to coordinate these requirements with those of subsections 305(b)(3) and 306(c)(9), States must include a planning process that can assess the effects of shoreline erosion. Evaluation must include assessment of ways to mitigate, control or restore areas adversely affected by erosion. This process must include:

(1) A method for assessing the effects of shoreline erosion;

(2) Articulation of State policies pertaining to erosion, including policies regarding preferences for non-structural, structural and/or no controls;

(3) A method for designating areas for erosion control, mitigation and/or restoration as areas of particular concern or areas for preservation and restoration, if appropriate;

(4) Procedures for managing the effects of erosion, including non-structural procedures; and

(5) An identification of legal authorities, funding programs and other techniques that can be used to meet management needs.

(b) *Comment.* Statutory Citation, Subsection 305(b)(9):

> The management program for each coastal state shall include * * * (9) A planning process for (A) assessing the effects of shoreline erosion (however caused), and (B) studying and evaluating ways to control, or lessen the impact of, such erosion, and to restore areas adversely affected by such erosion.

(1) The basic purpose in developing a process to evaluate and, if appropriate, to control and mitigate shoreline erosion is to assure consideration of erosion impacts within the purview of a State's management program. Since the specific planning requirements called for in this section are closely related to the broader requirements of areas of particular concern and areas for preservation and restoration, many of the requirements called for in paragraph (a) above can be met by completing the work called for in §§ 923.21 and 923.24.

(c) *Comment.* With respect to the requirements of (a)(1) above, States should consider the following: (1) Loss of land along the shoreline or along estuarine banks, whether this loss is caused by actions of man or by natural forces, and whether these actions are regularly occurring, cyclical, or one-time events; and (2) the cause of these effects (e.g., manmade vs. natural forces), the effects of erosion on adjacent land and water uses as well as the impacts of mitigation or restoration of eroded areas on adjacent shorelines, littoral drift, and other natural ecological processes such as accretion.

The purpose of such assessments will be to determine how, if at all, States will want to handle erosion control, mitigation and/or restoration.

(d) *Comment.* In addressing the requirements of (a)(2) above, States should consider non-structural and structural options as well as the possibility of allowing erosion and accretion to continue to occur without management intervention. It is not the intent of these planning requirements to imply that an appropriate State response to erosion necessarily requires control (either of a structural or non-structural nature). In some locations along a State's coast, it may be appropriate to articulate a policy of non-control, given the cause of erosion, the configuration of the coastline or the adverse impacts that may result from control techniques. An example of where a policy of non-control may be appropriate is along barrier islands where there is substantial natural erosion and accretion due to littoral drift. In cases where State policy is not to control erosion, either in selected locations or along the entire coastline, the rationale for such policy should be stated explicitly. In evaluating ways to control or lessen erosion impacts, either through non-structural or structural techniques, States should take into account such considerations as shoreline configuration, extent of the problem, costs of alternative solutions, and incorporation of existing management techniques. States also should take particular account of the National Flood Insurance Program (24 CFR 1909 et seq.), and regulations of the Federal Insurance Administration on flood-related erosion-prone areas (24 CFR 910.5).

(e) *Comment.* In addressing the requirements of (a)(3) above with respect to areas for preservation or restoration, States may consider complete re-establishment of the pre-erosion shoreline or other more limited rebuilding of an eroded area. Both natural and developed areas may be considered for restoration purposes. Due to restrictions on the use of section 306 funds (see § 923.95), not all means of restoration proposed by States may be eligible for section 306 funding, or funding under other sections of the Act. Despite this restriction on the use of section 306 funds, States should not feel restricted as to the means of restoration proposed as part of the management program and should give particular attention to coordination of shoreline erosion management objectives with funding programs pursuant to the U.S. Army Corps of Engineers Beach Erosion Control Program (33 U.S.C. 426 et seq.) and the Hurricane Protection Program (33 U.S.C. 701 et seq.) and other statutes as may be appropriate.

(f) *Comment.* State coastal zone management programs that are submitted and approved prior to October

1, 1978, may submit this planning element as a program amendment by, but no later than, September 30, 1978, or this element may be included as part of the basic program submission submitted and approved prior to October 1, 1978. State coastal zone management programs submitted prior to October 1, 1978, but approved on or after that date, must include this planning element as part of the basic program submission. State coastal zone management programs submitted for approval after October 1, 1978, must include this element as part of the basic program submission.

Subpart D—Boundaries

§ 923.30 General.

(a) There are four elements to a State's boundary: The inland boundary, the seaward boundary, areas excluded from the boundary, and, in most cases, interstate boundaries. Specific requirements with respect to procedures for determining these boundaries, and means for identifying these boundaries are discussed in the sections of this subpart that follow.

(b) *Comment.* Statutory Citation, Subsection 305(b)(1):

> The management program for each coastal state shall include * * * (1) An identification of the boundaries of the coastal zone subject to the management program.

(c) *Comment.* Statutory Citation, Subsection 304(1):

> The term "coastal zone" means the coastal waters (including the lands therein and thereunder), and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other in proximity to the shorelines of the several coastal states, and includes islands, transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone extends, in Great Lakes waters, to the international boundary between the United States and Canada and, in other areas, seaward to the outer limit of the United States territorial sea. The zone extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters. Excluded from the coastal zone are lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers or agents.

(d) *Comment.* Statutory Citation, Subsection 304(2):

> The term "coastal waters" means (A) in the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows and marshes, and (B) in other areas, those waters adjacent to shorelines which contain a measurable quantity or percentage of seawater, including but not limited to, sounds, bays, lagoons, bayous, ponds and estuaries.

§ 923.31 Inland boundaries.

(a) *Requirement.* The inland boundary of a State's coastal management area must include:

(1) Those areas the management of which is necessary now or is likely to be necessary in the near future to control uses which have direct and significant impacts on coastal waters, pursuant to § 923.11 of these regulations;

(2) Those special management areas identified pursuant to § 923.21;

(3) Transitional and intertidal areas—Areas subject to periodic or occasional inundation by tides, as, for example, coastal floodplains, storm surge areas, tsunami and hurricane zones, or washover channels.

(4) Salt marshes and wetlands—Areas subject to regular inundation of tidal salt (or Great Lakes) waters which contain marsh flora typical of the region.

(5) Islands—Bodies of land surrounded by water on all sides. In the case of Puerto Rico, the U.S. Virgin Islands, Hawaii, Guam, American Samoa and the Northern Marianas interior portions of the major island(s) may be excluded if uses of these lands do not cause direct and significant impacts on coastal waters.

(6) Beaches—The area affected by wave action directly from the sea. Examples are sandy beaches and rocky areas usually to a vegetation line.

(b) *Comment.* While the above elements represent the minimum area that must be included in a State's landward coastal management boundary, a State also may include the following within the management area:

(1) Watersheds—A State may determine some uses within entire watersheds have direct and significant impact on coastal waters. In such cases it would be appropriate to define the coastal zone as including these watersheds. However, while it is clear that large rivers can have a substantial effect on coastal waters, taken to its logical conclusion, this also could mean vast areas of the interior might have to be included in the coastal zone. Therefore, along major rivers, such as the Mississippi, the Susequehanna, the Hudson, the Columbia and the Sacramento, the coastal zone need extend upstream only to the point of identified average salt water intrusion, although States may delineate boundaries above this point if they can demonstrate that uses can or do occur that have direct and significant impacts on coastal waters and, therefore, require management as part of a State's program.

(2) Waters under saline influence—Waters containing a significant quantity of seawater as defined by and uniformly applied by the State, must be included in the coastal boundaries. Areas of tidal influence that extend further inland, particularly in estuaries, deltas and rivers, may be included if uses further inland could have direct and significant impacts on coastal waters.

(3) Indian lands not held in trust by the Federal Government. Because such lands often are interspersed with trust lands (which must be excluded from the management area), it may be difficult to develop a discrete management program for non-trust lands alone. Moreover, in some cases, because of longstanding jurisdictional disputes, it often may be difficult to determine which lands are trust lands and which are non-trust lands. Accordingly, States have the option of including or excluding non-trust lands from the management program. (See § 923.33(e) regarding tribal participation in coastal management.)

(c) *Comment.* Urban areas. In many urban areas or where the shoreline has been modified extensively, natural system relationships between land and water may be extremely difficult, if not impossible, to define in terms of "direct and significant impacts." Two impacts that States should consider as causing direct and significant impacts in urban areas are those resulting from sewage discharges and urban runoff into coastal waters. In addition, States should consider dependency of uses on water access, or visual relationships as factors appropriate for the determination of the inland urban boundary. While inland boundaries in urban areas may be more limited than in more natural, less developed portions of a State's coastal zone, how much more limited this boundary may be will depend on the extent of development or alteration, the nature of coastal-related issues of significance in urban areas, and the number, nature and location of water dependent or water-impacting uses in close proximity to the water.

(d) *Comment.* Direct and significant impacts.

(1) The purpose of determining "direct and significant impacts" on coastal waters is to assist in a determination of uses subject to the management program and thereby included within the management boundaries.

(2) Certain uses may cause direct and significant impacts only in terms of water or air quality impacts. However, once such uses have been identified, their management should be based on the comprehensive policies of the program which will address more than just air and water quality considerations.

(3) While the substantive definition of direct and significant impact is a matter for each State to establish, the Associate Administrator will review this definition in terms of the method used to analyze various land and water uses and their impacts on coastal waters.

(e) *Requirement.* The inland boundary must be described in a manner which is sufficiently clear and exact to enable persons to determine whether property they use or an activity they propose to undertake is or is not located in the area subject to management. Whether this description should be in narrative form or graphically depicted in the management program document depends on (i) the nature of the boundary and (ii) whether it is possible to determine if a use or an area is within the coastal zone within a reasonable period of time. "Reasonable period of time" means that States must be able to advise interested parties whether they are subject to the terms of the management program within, at a maximum, 30 days of receipt of an inquiry. States should endeavor to respond to inquiries within a shorter time period in order not to cause unnecessary uncertainty for affected parties.

(f) *Comment.* The primary purpose in defining the coastal zone boundary is to assist coastal residents and property owners, resource users and governmental entities to understand the geographic scope of the management program and to assist them in determining whether, where and how they are affected by the program. Accordingly, it is anticipated that the program submission should contain maps, charts or other graphics appropriate to understanding the provisions and geographic scope of the management program.

(g) *Comment.* An inland coastal zone boundary defined in terms of political jurisdiction (e.g., county, township or municipal lines) cultural features (e.g., highways, railroads), planning areas (e.g., regional agency jurisdictions, census enumeration districts), or a uniform setback line is acceptable provided that such boundary includes the beaches, wetlands, islands, transitional and intertidal areas cited in paragraphs (a)(3)–(6) above plus those uses identified pursuant to section 923.11 and those areas identified pursuant to section 923.21.

§ 923.32 Seaward boundaries.

(a) *Requirement.* The seaward boundary is clearly defined in the Act. For States adjoining the Great Lakes, the seaward boundary is the international boundary with Canada or the boundaries with adjacent States. For all other States participating in the program, the seaward boundary is the three mile outer limit of the United States territorial sea. The requirement can be met by a simple restatement of the limits defined in this section.

(b) *Comment.* The seaward limits as defined in this section are for purposes of this program only and represent the area within which the State's management program may be authorized and financed. These limits are irrespective of any other claims States may have by virtue of the Submerged Lands Act or any changes that may occur as a result of the Fisheries Conservation and Management Act of 1976.

(c) *Comment.* The seaward limits need not be defined in any more precise manner than that stated above provided that there are no water areas which immediately require a more exact delineation because of site specific policies associated with these areas. Examples of what would constitute critical areas that would require more precise delineation include, but are not limited to, those areas where a State specifically encourages or conditions construction of a monobuoy; designates marine sanctuaries, protected resource habitats or preserves; reserves corridors for pipelines; or reserves areas for siting of off-shore islands or other structures.

(d) *Comment.* Lateral seaward boundaries. States shall use the same lateral seaward boundaries to the limit of the United States territorial sea used in the extension of such boundaries for purposes of the Coastal Energy Impact Program (CEIP) pursuant to Subpart H of 15 CFR 931.80 et seq. The lateral boundaries need not be mapped unless there are water areas along these boundaries which require delineation because of site specific policies associated with these areas. In the event no agreement exists regarding the State's lateral seaward boundary at the time of program submission, States should indicate the status of lateral seaward boundary negotiations pursuant to 15 CFR 931.82.

§ 923.33 Excluded lands.

(a) *Requirement.* States must exclude from their coastal management zone those lands owned, leased, held in trust or whose use is otherwise by law subject solely to the discretion of the Federal Government, its officers or agents. To meet this requirement, States must describe or map lands or types of lands owned, leased, held in trust or otherwise used solely by Federal agencies. The intent of this requirement is not to list or map every military base which is physically located in, but legally excluded from, a State's coastal zone but rather to indicate the large-scale holdings and types of lands excluded. Accordingly, a State may simply declare that, for example, all Department of Defense lands in counties x, y and z are excluded.

(b) *Comment.* Where Federal agencies have provided information regarding the location of excluded lands, these should be listed, usually as an appendix or attachment to the management program. It will not always be necessary or appropriate to list these lands in the format or detail provided by the Federal agencies. If Federal agencies have not provided sufficient information or detail regarding lands that should be excluded, States may rely on such other information as they may be able to obtain.

(c) *Comment.* The exclusion of Federal lands does not remove Federal agencies from the obligation of complying with the consistency provisions of section 307 of the Act when Federal actions on these excluded lands have spillover impacts that significantly affect coastal zone areas, uses or resources within the purview of a State's management program. Therefore, States should consider mapping the following types of excluded Federal lands: (i) Large-scale holdings (of 100 or more acres), especially those that may have spillover effects; (ii) lands near special management areas; and (iii) lands that may be declared surplus or excess in the near future, especially those for which the State has reuse priorities or policies.

(d) *Comment.* In excluding Federal lands from a State's coastal zone for the purposes of this Act, a State does not impair in any way any rights or authorities that it may have over Federal lands that exist separate from this program.

(e) *Comment.* Indian lands. While Indian lands held in trust by the Federal government must be excluded from a State's coastal zone, by definition in the Act, and while alienated (or nontrust) lands may be excluded from a State's program, it is not intended that such exclusions should deter tribes along coastal shorelines from developing and administering sound coastal management practices. Wise use and management of tribal land and water resources would complement State management efforts and would further the national objectives of the Act. Accordingly, tribal participation in coastal management efforts shall be supported and encouraged provided that such efforts are compatible with a State's coastal management policies and are in furtherance of the national policies of section 303 of the Act. (For further guidance on tribal participation in coastal management activities, see § 923.93(e).)

§ 923.34 Interstate boundaries.

While it is not required that inland coastal management boundaries of contiguous States be coterminous, States must indicate that there has been consultation with adjoining coastal States during the program development process to manage a common resource compatibly or to minimize the possibility of incompatible uses occurring at the juncture of each State's boundary.

Subpart E—Authorities and Organization

§ 923.40 General.

(a) The authorities and organizational structure on which a State will rely to administer its management program are the crucial underpinnings for enforcing the policies which guide the management of the uses and areas identified according to the previous subparts. There is a direct relationship between the adequacy of authorities and the adequacy of the overall program. The authorities need to be broad enough in both geographic scope and subject matter to ensure implementation of the State's enforceable policies. These enforceable policies must be sufficiently comprehensive and specific to regulate land and water uses, control development, and resolve conflicts among competing uses in order to assure wise use of the coastal zone. (Issues relating to the adequate scope of the program are dealt with in § 923.3.)

(b) The entity or entities which will exercise the program's authorities required above is a matter of State determination. They may be the State agency designated pursuant to section 306(c)(5) of the Act, other State agencies, regional or interstate bodies, and local governments. The major approval criterion is a determination that such entity or entities are required to exercise their authorities in conformance with the policies of the management program. Accordingly, the essential requirement is that the State demonstrate that there is a means of ensuring such compliance. This demonstration will be in the context of one or a combination of the three control techniques specified in section 306(e)(1) of the Act and as further described in section 923.42 below.

(c) In determining the adequacy of the authorities and organization of a State's program, the Assistant Administrator will review and evaluate authorities and organizational arrangements in light of the requirements of this subpart and the finding of section 302(g) of the Act, which provides:

> In light of competing demands and the urgent need to protect and to give high priority to natural systems in the coastal zone, present State and local institutional arrangements for planning and regulating land and water uses in such areas are inadequate.

(c) The authorities requirements of the Act dealt with in this subpart are those contained in subsections 305(b)(4)—Means of Control; 306(c)(7)—Authorities; 306(d)(1)—Control Development and Resolve Conflicts; 306(d)(2)—Powers of Acquisition; 306(e)(1)—Techniques of Control; 306(e)(2)—Uses of Regional Benefit; and 307(f)—Air and Water Quality Control Requirements. The organizational requirements of the Act dealt with in this subpart are those contained in subsections 305(b)(6)—Organizational Structure; 306(c)(5)—Designated State Agency; and 306(c)(6)—Organization.

§ 923.41 Identification of authorities.

(a) *Requirement.* In order to meet the requirements of subsection 305(b)(4) of the Act, States must identify relevant constitutional provisions, statutes, regulations, case law and such other legal instruments (including executive orders and interagency agreements) that will be used to carry out the State's management program. This identification will include the authorities required pursuant to sections 306(d) and 306(e) of the Act.

(b) *Comment.* Statutory Citation, Subsection 305(b)(4):

> The management program for each coastal state shall include * * * (4) An identification of the means by which the state proposes to exert control over the land uses and water uses referred to in paragraph (2), including a listing of relevant constitutional provisions, laws, regulations, and judicial decisions.

(1) A clear identification of the authorities relied upon to implement the management program is necessary for the Assistant Administrator to determine the legal adequacy of the program. When, in the opinion of the Assistant Administrator, there is serious question as to the enforceability of any of the authorities asserted to be part of the management program, the Associate Administrator may request the designated State agency (for program development purposes) to seek an opinion from the State's Attorney General.

(2) Another purpose of this listing is to assure that there is a clear identification of laws and other authorities which expressly are a part of the management program and to which the Federal consistency provisions of the Act will be applied.

(c) *Requirement.* Irrespective of the control technique chosen pursuant to subsection 306(e)(1) of the Act, States must have adopted at the time of program approval the legal authorities called for in section 306(d) in order to assure that management of coastal land and water uses will be in accordance with the policies of the management program. These authorities must include the ability to:

(1) Administer land and water use regulations in conformance with the policies of the management program;

(2) Control such development as is necessary to ensure compliance with the management program;

(3) Resolve conflicts among competing uses;

(4) Acquire appropriate interests in lands, waters or other property as necessary to achieve management objectives. Where acquisition will be a necessary technique for accomplishing particular management program policies and objectives, the management program must indicate for what purpose acquisition will be used (i.e., what policies or objectives will be accomplished); the type of acquisition (e.g., fee simple, purchase of easements, condemnation); and what agency (or agencies) of government have the authority for the specified type of acquisition.

(d) *Comment.* Statutory Citation, Subsection 306(c)(7):

> Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that * * * (7) The state has the authorities necessary to implement the program, including the authority required under subsection (d) of this section.

(e) *Comment.* Statutory Citation, Subsection 306(d):

> Prior to granting approval of the management program, the Secretary shall find that the state, acting through its chosen agency or agencies, including local governments, areawide agencies designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, regional agencies, or interstate agencies, has authority for the management of the coastal zone, in accordance with the management program. Such authority shall include power:
>
> (1) To administer land and water use regulations, control development in order to ensure compliance with the management program, and to resolve conflicts among competing uses; and
>
> (2) To acquire fee simple and less than fee simple interests in lands, waters, and other property through condemnation or other means when necessary to achieve conformance with the management program.

(f) *Comment.* Examples of acceptable conflict resolution mechanisms, as referred to in (c)(3) above, include, but are not limited to, mediation procedures, administrative review, gubernatorial action, or judicial appeal provisions provided that any such mechanism results in a decision which is binding upon the entities involved. Since the policies, standards and criteria of the management program will form the basis for conflict resolution, it will be important that these be clearly and specifically stated. This will be particularly true when the primary means of resolving conflicts is to be judicial review or appeal.

(g) *Comment.* Where the acquisition technique, referred to in (c)(4) above, will be a significant element of a State's management program, the State may be required to submit a specific acquisition plan with evidence of the availability of adequate funding for those acquisitions a commitment to carry out the acquisition plan.

(h) *Comment.* Given the provisions of section 315(2) of the Act authorizing acquisition funds for shorefront access and for preservation of islands. States should indicate in their management program the acquisition authorities available for these two purposes. Such a list also will help to meet the requirements of § 923.25(a)(5) for identifying legal authorities and management techniques that can be used to meet shorefront access or island preservation needs.

§ 923.42 Control techniques.

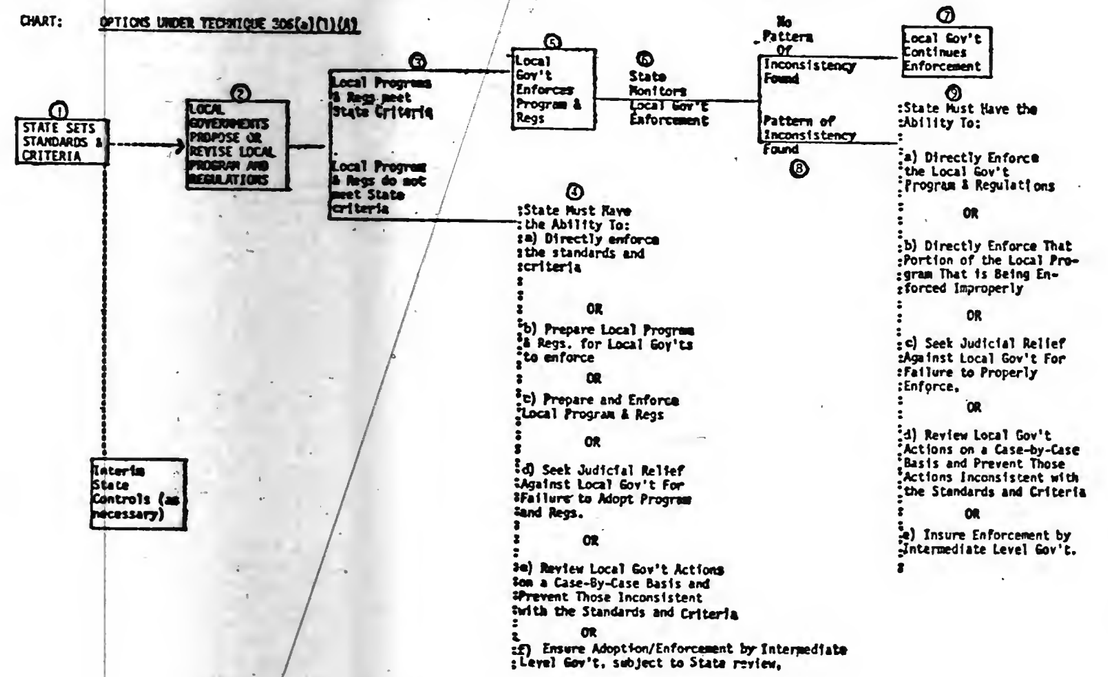
(a) *Requirement.* A State must choose to implement and enforce its program through any one or a combination of the techniques provided for under section 306(e)(1) of the Act. The differences among the techniques raise different issues that States must resolve. These issues are discussed in the *Comments* below.

(b) *Comment.* Statutory Citation, Subsection 306(e)(1):

> Prior to granting approval, the Secretary shall also find that the program provides:
>
> (1) For any one or a combination of the following general techniques for control of land and water uses within the coastal zone:
>
> (A) State establishment of criteria and standards for local implementation, subject to administrative review and enforcement of compliance;
>
> (B) Direct state land and water use planning and regulation, or
>
> (C) State administrative review for consistency with the management program of all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any state or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings.

(c) *Comment.* Local implementation—Technique A

CHART: OPTIONS UNDER TECHNIQUE 306(e)(1)(A)



(1) Control technique 306(e)(1)(A) of the Act allows for State establishment of criteria and standards for local implementation, subject to administrative review and enforcement of compliance. The critical issues related to this technique are:

(i) The degree of specificity required in the State criteria and standards,

(ii) The extent to which local programs, ordinances or regulations must be in place prior to approval of the State's management program, and

(iii) The means for State administrative review and enforcement of compliance.

The chart and discussions below are meant to guide State responses to these issues and to indicate the type and degree of latitude OCZM will find acceptable.

(2) *Specificity of standards.* Under Technique A the State establishes policies, standards and criteria regarding management of particular coastal resources, uses and areas for local governments to implement. (Item 1 on chart.) The policies of the program may serve as the criteria and standards for local implementation, providing these policies meet the requirements of section 923.3 for specificity. Local implementation can consist of development or revision of local programs, laws, ordinances or regulations provided that these are based on the State policies, standards and criteria and are enforceable. The State policies, criteria and standards must be adopted as part of the coastal management program, either pursuant to legislation or binding executive action. These criteria must be adopted by the State at the time of submission of a program to the Assistant Administrator for approval and must be sufficiently specific to provide those who will be affected by the management program with an understanding of how land and water activities and uses will be managed once local programs and/or ordinances are adopted. At a minimum, the State guidelines must provide for, or incorporate, at least the degree of specificity and predictability provided by the general State coastal policies developed pursuant to § 923.3 of these regulations. Following are two examples of guidance to localities taken from approved State programs that is sufficiently specific:

(i) New development shall assure stability and structural integrity, and neither create not contribute significantly to erosion, geographic instability or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

(ii) The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

(3) States using Technique A may seek section 306 approval after all requisite local ordinances or programs have been reviewed and approved. In such cases, only items 5-9 of the chart apply.

(4) *Direct interim controls.* Alternatively, States may seek program approval prior to final approval of all local ordinances and programs provided that:

(i) A reasonable time and procedure for local compliance has been established (what constitutes a reasonable time period shall be agreed to by the State and the Assistant Administrator);

(ii) Procedures for approval of local programs by the State agency include provisions for:

(A) Opportunity for the public and governmental entities (including Federal agencies) to participate in the development of local programs; and

(B) Opportunity for the public and governmental entities (including Federal agencies) to make their views known (through public hearings or other means) to the State agency prior to approval of local programs; and

(C) Review by the State of the adequacy of local program consideration of facilities identified in a State's management program in which there is a national interest.

(iii) The State policies, standards and criteria are sufficiently specific (as discussed in (2) above); and

(iv) There is sufficient direct interim authority to insure that land and water use decisions subject to the management program will be consistent with the policies, goals and objectives of the management program between the time of section 306 approval and the time when all local programs are adopted. The adequacy of these direct interim authorities will be judged on the same basis as specified for direct State controls (Technique B), discussed in (d) below, or as specified for case-by-case reviews (Technique C), as discussed in (e) below, as appropriate.

During the period while local programs, ordinances, etc. are being adopted or revised and approved, agencies and applicants must be consistent only with those State, policies, standards, criteria and authorities that are in effect in the interim. Once local programs, ordinances, etc. are approved by the State and incorporated as either an amendment or a refinement (pursuant to the provisions of §§ 923.81 and 923.82 respectively), consistency with those local programs, ordinances, etc. will be required.

(5) *Review/Approval Process.* Once State policies, standards and criteria have been adopted, local governments propose plans, programs and/or regulations to implement the policies and standards. (Item 2 on chart.) This may include the preparation of new comprehensive plans, zoning ordinances, by-laws, subdivision regulations, special purpose regulations (as for example, sand dune protection ordinances), or the revision of existing plans, ordinances, or regulations. The State entity empowered by legislative or executive mandate to review local programs (which may include plans, laws, ordinances and/or regulations) must determine if the programs meet the requirements of the State policies, standards and criteria. (Item 3 on chart.) If the localities do not develop programs consistent with the policies, standards and criteria, the State must have the authority to take action to assure that the management program is implemented, either by the State or by the local government. (Item 4 on chart.) To insure implementation, the State must have the ability to do at least one of the following:

(i) Directly enforce the State standards and criteria. To use this alternative, a State would need enough State authorities to be able to control directly land and water uses which have a direct and significant impact upon the coastal waters;

(ii) Prepare a local program for the local government to enforce. To use this alternative the State must have (a) statutory authority to prepare and adopt a program for a local government, and (b) a mechanism by which the State can cause the local government to enforce the State-created program. (See (iv) below for a potential enforcement mechanism);

(iii) Prepare and enforce a program and regulations on behalf of a local government. Here the State must have the authority to (a) prepare and adopt a plan, regulations, and ordinances for the local government and (b) enforce such plans, regulations and ordinances. The distinction between this approach and the preceding one is that in this case the State both adopts and implements while in the preceding case, the State adopts but the local government implements;

(iv) Seek judicial relief against the local government for failure to comply with a management program including a description of the standards and authorities under which judicial relief can be sought.

(v) Review local government actions on a case-by-case basis or on appeal, and prevent actions inconsistent with the standards and criteria. Under this option, when a local government fails to adopt an approvable program, the State must have the ability to review activities in the coastal zone subject to the management program and the power to prohibit, modify or condition those activities based on the policies, standards and criteria of the management program; or

(vi) If a locality fails to adopt a management program, the State could devise a procedure whereby the responsibility for preparing a program shifts to an intermediate level government, such as a county. If this intermediate level of government fails to produce a program, then the State must have the ability to take one of the actions described above. This alternative cannot be used where the intermediate level of government lacks

the legal authority to adopt and implement regulations necessary to implement State policies, standards and criteria.

(6) *Enforcement.* Once a local program is approved, implementation and enforcement begin. (Item 5 on chart.) To ensure that local actions continue to comply with the State management policies, the State must establish a monitoring system. (Item 6 on chart.) The State agency designated pursuant to subsection 306(c)(5) of the Act will be responsible for establishing a monitoring system capable of detecting paterns of noncompliance except that in the case of facilities in which there is a national interest or uses of regional benefit recognized in a State's management program, the monitoring system must be capable of detecting single instances of local actions affecting such facilities or uses in a manner contrary to the management program. Given the substantive differences that can be expected in State programs with respect to what constitutes compliance with State policies, it will be up to each State to develop and appropriate monitoring system. The monitoring system and the determination of what constitutes a pattern of noncompliance should take into account such considerations as the number of activities improperly managed, the size and type of such activities, their proximity to coastal waters and to special management areas, whether they constitute uses of regional benefit and whether they affect facilities in which there is a national interest. A description of the monitoring system and a discussion of what will constitute patterns of noncompliance shall be included in the program submission. Following are some monitoring techniques States may want to use, either singly or in combination. The list is not exhaustive and does not limit States to only these techniques:

(i) Periodic reports—monthly reports submitted by each local government listing all building permits issued, variances and exceptions granted, subdivision plats approved, etc. during the preceding month,

(ii) Spot checks by State Agency,

(iii) Procedures for submission of citizen complaints followed by State review of complaint,

(iv) Establishment of citizen "overview" committees, or

(v) Selective review of local decisions.

(7) If no pattern of noncompliance is found, local governments continue implementation of local authorities and the State's role is confined to continued monitoring. (Item 7 on chart.) If, however, monitoring reveals a pattern of noncompliance, the State must be able to insure that its standards and criteria are adhered to. (Item 8 on chart.) The State must be capable of assuring compliance when a pattern of deviation is detected or when a facility involving identified national interests or uses of regional benefit is affected in a manner contrary to the program's policies. (Item 9 on chart.) When State action is required because of failure by a local government to enforce its program, the State has the following options available to enforce compliance:

(i) Directly enforce the entire local program;

(ii) Directly enforce that portion of the local program that is being enforced improperly. State intervention here would be necessary only in those local government activities that are violating the policies, standards or criteria. For example, if a subdivision regulation were the only part of a program that was being enforced improperly, State enforcement could be limited to that regulation. In such a case, the State would need to have the statutory authority to ensure compliance of subdivision applications;

(iii) Seek judicial relief against local government for failure to properly enforce;

(iv) Review local government actions on a case-by-case basis or on appeal and the power to prevent those actions inconsistent with the policies and standards. The same authorities as those noted in connection with § 923.42(c)(5)(v) above would be necessary; or

(v) Provide a procedure whereby the responsibility for enforcing a program shifts to an intermediate level of government, assuming statutory authority exists to enable the immediate level of government to assume this responsibility.

(d) *Comment.* Direct state control—Technique B.

(1) Under Technique B, a State may control land and water uses subject to the management program on the basis of direct State Authority. This authority may be derived from a single, comprehensive piece of legislation specific to coastal management and the requirements of this Act or on the basis of several different, often pre-existing, State authorities which are compatible with and applied on the basis of the coastal management policies developed pursuant to § 923.3. This latter approach has been referred to informally as networking.

(2) *Comprehensive legislation.* While it is possible that a State will be able to put together into a single piece of legislation all the authorities needed to meet the requirements of this subpart, it is more likely that even a single, major piece of coastal legislation will be supplemented with other State authorities to meet all the legal requirements. Where this will be the case, States are advised to review the commentary on networking that follows. Also, in cases where a State will be relying primarily—but not exclusively—on a single piece of legislation, it is important to be explicit about those other authorities included in the management program as part of the listing called for in § 923.41.

(3) *Networking.* The critical issues related to networking are:

(i) The extent to which existing, special purpose laws adequately reflect and will be operated in conformity with the State's comprehensive management policies;

(ii) The extent to which and when rules and regulations of networked authorities need to be altered; and

(iii) The extent to which executive orders intradepartmental or interagency agreements, memoranda of understanding or agreement are binding and enforceable. Even though each agency is statutorily mandated to carry out its own, often more narrowly focused policies, the effect of networking is to tie the implementation of these individual authorities into a comprehensive framework that addresses more than the individual responsibilities of each agency and that makes these authorities part of an overall, unified strategy for managing coastal land and water resources. In applying existing authorities, the State must determine that they can be used to implement the full range of policies identified as necessary for coastal management purposes.

(4) *Enforceability.* Each State agency which exercises statutory authority that is to be incorporated into the management program must be legally bound to exercise its authority in conformance with the State's enforceable policies. This can be achieved through an executive order or an interagency agreement (including memoranda of understanding or agreement) provided that such order or agreement binds the affected parties to conformance with relevant management program policies. In States where affected agency heads report directly to the Governor and where the Governor has a legal policy making responsibility, an executive order will be an acceptable instrument to assure the coordination of networked activities.

(5) Interagency agreements (such as memoranda of understanding or agreement) must be binding and enforceable in order to constitute acceptable legal authorities. Interagency agreements will be considered enforceable if the management program and State authorities in support of the program provide grounds for bringing an action to ensure compliance of networked agencies with the program. It will be sufficient if any of the following can bring suit: The State agency designated pursuant to subsection 306(c)(5) of the Act, the State's Attorney General, another State agency, a local government, or a citizen.

(6) It is anticipated that executive orders and interagency agreements will focus on either or both of the following:

(i) Tie in of an enforcement mechanism; as for example, tying in an existing enforcement mechanism of an agency to serve as the basic compliance mechanism for coastal management purposes, or, more likely;

(ii) Establishment of conformance requirements of other State agency activities or authorities to management program policies. In order for interagency agreements to be considered binding, States should include the following:

(A) A description of how the networked agency, in implementing or enforcing its particular authorities, will operate those authorities in conformance with the management program's policies;

(B) A discussion of procedures to be followed to resolve conflicts between agency activities and management program policies or conflicts between agencies regarding what constitutes conformance with the policies:

(7) If networked State agencies can enforce the management program policies at the time of section 306 approval without first having to revise their operating rules and regulations, then any proposed revisions to such rules and regulations which would enhance or facilitate implementation need not be accomplished prior to program approval. However, where State agencies cannot enforce coastal policies without first revising their rules and regulations, then these revisions must be made prior to program approval. An example clarifying the distinction between these two statements follows: Assume State X has established as a management program policy that only specified types of development henceforth will be permitted on barrier islands. Assume further that such a policy statement is contained in State legislation that proclaims such policy to be effective immediately and directs all State agencies to revise their existing operating procedures (including rules and regulations) within a certain time period to conform with the policy. In this case, the policy is enforceable at time of management program approval and the revision of associated rules and regulations could occur after program approval. Now, however, assume the same policy is part of the management program but the corresponding State legislation states the policy becomes effective when State regulations have been revised to reflect this policy mandate. In this example, rule revision would be necessary prior to program approval.

(e) *Comment.* Case-by-case reviews—Technique C.

(1) Under Technique C States review individual development plans, projects, or land and water use regulations (including variances and exceptions thereto) proposed by any State or local authority or private developer which have been defined in the management program as subject to review for consistency with the management program. The State must have the power to approve or disapprove such actions or the power to seek court review. The State must provide public notice of the action and must provide opportunity for a public hearing prior to rendering a decision. Under this technique the critical issues that must be addressed are:

(i) The basis on which the designated State agency will decide to review particular plans or projects;

(ii) The criteria by which plans and projects will be approved or disapproved; and

(iii) The procedures under which the case-by-case reviews will be conducted.

(2) This technique requires the greatest degree of policy specificity because compliance with the program will not require any prior actions on the part of anyone affected by the program. Specificity also is needed to avoid challenges that decisions (made pursuant to the management program) are unfounded, arbitrary or capricious.

(3) The State must identify the plans, projects or regulations it will review, based on the significance of these plans in terms of impacts on coastal resources, potential for incompatibility with the State's coastal management policies, and greater than local significance.

(4) *Procedures.* Certain minimal procedural requirements are dictated by the language of section 306(e)(1)(C) of the Act. These are that:

(i) Prior to approving or disapproving the consistency of a development plan or project with the management program, public notice be provided. Such public notice should be provided in those communities most likely to be affected by the proposal. Further, such public notice should provide information on the nature of the proposal (such as size, location, type, etc.), where further information is available, and notice of hearing dates, if any;

(ii) There be the opportunity for hearings. Hearings may be defined as public hearings or such other hearings format as may be permitted under a State's administrative procedure act or pursuant to an agency's administrative or operating regulations, or provisions for providing written comments.

§ 923.43 Authorities related to uses of regional benefit.

(a) *Requirement.* In addition to the requirement of § 923.13 to determine what constitute uses of regional benefit, States must provide for a method of assuring that local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land and water uses of regional benefit. In order to meet the requirements of this section, States must identify those techniques, including legal authorities, that will be used to assure that unreasonable restrictions or exclusions by local land and water use regulations shall not be sustained.

(b) *Comment.* Statutory Citation, Subsection 306(e)(2):

> Prior to granting approval, the Secretary shall also find that the program provides: * * * (2) for a method of assuring that local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land and water uses of regional benefit.

(c) *Comment.* Following are some examples of acceptable techniques that may be used to assure that local regulations do not unreasonably restrict or exclude uses of regional benefit. These examples are not exclusive, but rather are illustrative of approaches that will meet the requirements of this section:

(1) Statewide siting laws that supercede local regulations when necessary;

(2) Assurance that an adequate amount of specific sites are or can be set aside to meet a projection of reasonable and foreseeable demand for different uses of regional benefit through:

(i) State acquisition programs for sites as the need arises for particular uses of regional benefit;

(ii) Provision of sites in local maps or ordinances; or

(iii) State guidelines defining uses of regional benefit and requiring their consideration as local implementation programs are developed.

If a state follows examples (ii) or (iii), that State must have the ability to assure that if local maps, ordinances or programs are changed, such changes will not result in an insufficient number of sites throughout the coastal zone to meet projected demands;

(3) Definition of what constitutes unreasonable restrictions or exclusions and establishment of an administrative or judicial mechanism to deal with such restrictions or exclusions as they occur. Under this approach, the two essential elements are:

(i) A specific definition of what constitutes an unreasonable restriction or exclusion in order to provide the basis for an appeal or other action to the administrative or judicial mechanism. States may wish to define "an unreasonable restriction or exclusion" along similar lines to what would constitute "arbitrary or capricious" zoning action in order to provide the same grounds for action;

(ii) Provision of standing to some party—either a State agency, a local government, a landowner, or an aggrieved party—to challenge an allegedly unreasonable restriction or exclusions.

§ 923.44 Air and water pollution control requirements.

(a) *Requirement.* In order to fulfill the requirements of section 307(f) of the Act, States must incorporate into their programs requirements established pursuant to the Federal Water Pollution Control Act (FWPCA) as amended, and the Clean Air Act (CAA) as amended. Requirements are any enforceable standards established pursuant to either Act as defined by the General Counsel of the Environmental Protection Agency (EPA).

(b) *Comment.* Statutory Citation, Subsection 307(f):

> Notwithstanding any other provision of this title, nothing in this title shall in any way affect any requirement (1) established by the Federal Water Pollution Act as amended, or the Clean Air Act as amended, or (2) established by the Federal Government or any state or local government pursuant to such Acts. Such requirements shall be incorporated in any program developed pursuant to this title and shall be the water pollution control and air pollution control requirements applicable to such program.

(c) *Comment.* Incorporation. (1) With respect to the document submitted for approval, it is sufficient that the program state that the requirements of the FWPCA and CAA are the minimum water and air pollution control requirements applicable to the management program and are incorporated by reference. Incorporation of the air and water quality requirements should involve their consideration during program development, especially with respect to use determinations and designation of areas for special management. In addition, this incorporation will prove to be more meaningful if close coordination and working relationships between the State coastal planning or management agency and the air and water quality agencies are developed and maintained throughout the program development process and after program approval.

(2) Following is a table of the most important Clean Air Act requirements. These requirements are categorized as either uniform, nationwide requirements or non-uniform requirements applicable to a specific State or local area. The first category of requirements is established in the Clean Air Act or by the EPA, pursuant to provisions of the CAA, and applies uniformly in all areas of the country. The second category of requirements is based on the nature of air quality problems that exist or are forecast in coastal areas, in locations where emission sources may affect air quality in coastal areas, and in other areas of a State. The majority of the second category of requirements will be included in the State Implementation Plans (SIPs) required by the Clean Air Act.

TABLE.—*Clean Air Act requirements*

Uniform, nationwide requirements	*Nonuniform requirements (SIP's)*
National ambient air quality standards.	New source review.
Motor vehicle emission standards (except where States have been granted a waiver by EPA).	Emissions or air quality standards more stringent than Federal standards.
New source performance standards.	Prevention of significant deterioration.
National emissions standards for hazardous air pollutants.	Attainment and maintenance of national ambient air quality standards
	Other attainment or maintenance measures such as transportation control measures.

(3) Water quality standards are established by promulgation or EPA approval of State standards, taking into consideration public water supplies, protection and propagation of fish, shellfish and wildlife, recreation, agriculture, industry and navigation. EPA itself develops standards on effluent limitations, new source performance standards, pre-treatment standards and toxic pollutant discharge standards.

(4) If more stringent standards are developed by a State pursuant to the CAA or FWPCA, and where such standards can be enforced under State authorities, they must be incorporated into the State's management program.

(i) In such cases, if incorporation of these more stringent standards leads to the restriction or exclusion of some facilities in which there is a national interest in their siting, such exclusion or restriction is established pursuant to the requirements of the Clean Air Act and Federal Water Pollution Control Act in which there is also a national interest.

(ii) Where more stringent requirements are incorporated, these should be explicitly referenced as such in the management program. Whether or not the additional requirements per se must be included in the body of the management program document, as an appendix, or as a separate reference will depend on the nature and detail of these requirements. States should consult with OCZM on this matter.

§ 923.45 Organizational structure.

(a) *Requirement.* In order to fulfill the requirements of subsections 305(b)(6) and 306(c)(6) of the Act, States must describe the organizational structure that will be used to implement and administer the management program. This description must include a discussion of those State and other agencies, including local governments, that will have responsibility for administering, enforcing and/or monitoring those authorities or techniques required pursuant to the following subsections of the Act: 306(c)(2)(B); 306(c)(7); 306(d) (1) and (2); 306(e) (1) and (2) and 307(f). Further, the State must describe the relationship of these administering agencies to the State agency designated pursuant to subsection 306(c)(5) of the Act.

(b) *Comment.* Statutory Citation, Subsection 305(b)(6):

> The management program for each coastal state shall include * * * (6) A description of the organizational structure proposed to implement such management program including the responsibilities and interrelationships of local, areawide, state, regional and interstate agencies in the management process.

(c) *Comment.* Statutory Citation, Subsection 306(c)(6):

> Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that * * * (6) the state is organized to implement the management program required under paragraph (1) of this subsection.

(1) The main purpose of this requirement is to provide a clear understanding of the entities that have responsibility for administering various aspects of the management program and the interrelationship of these entities.

§ 923.46 Designated State agency.

(a) *Requirement.* In order to fulfill the requirement of subsection 306(c)(5) of the Act, the Governor must designate a single State agency to receive and administer section 306 grants. This State agency shall be fiscally and programmatically responsible for the grants and further must have the following capabilities:

(1) The fiscal and legal capability to accept and administer grant funds, to make contracts or similar arrangements (such as passthrough grants) with participating agencies for the purpose of carrying out specific management tasks and to account for the expenditure of implementation funds by any recipient of such monies.

(2) The administrative capability to monitor and evaluate the management of the State's coastal resources by the various agencies and/or local governments with specified responsibilities under the management program (irrespective of whether such entities receive section 306 funds); to make periodic reports to OCZM, the Governor, or the State legislature, as appropriate, regarding the performance of all agencies involved in the program. The agency must be capable of presenting evidence of adherence to the management program or justification for deviation from the program as part of the review of State performance required by section 312 of the Act; and

(3) The ability to request approval from the Assistant Administrator for amendments or refinements to the management program, if and when appropriate.

(b) *Comment.* Statutory Citation, Subsection 306(c)(5):

Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that * * * (5) The Governor of the state has designated a single agency to receive and administer the grants for implementing the management program required under paragraph (1) of this section.

(c) *Comment.* The last two requirements in (a) above should be read in close conjunction with those of Subpart J—Review of Approved Management Programs, which reals with review of performance after approval, amendments, or refinements to management programs, and termination and withdrawal of funding.

(d) *Comment.* The 306 agency designation is designed to establish a single point of accountability for prudent use of administrative funds in the furtherance of the management program and for monitoring of management activities. Designation does not imply that this single agency need be a "super agency" or the principal implementation vehicle. It is, however, the focal point for proper administration and evaluation of the State's program and the entity to which OCZM will look when monitoring and reevaluating a State's program during program implementation.

(e) *Comment.* The requirements for the single designated agency contained herein need not be viewed as confining or otherwise limiting the role and responsibilities which may be assigned to this agency. It is up to the State to decide in what manner and to what extent the designated State agency will be involved in actual program implementation or enforcement. In determining the extent to which this agency should be involved in program implementation or enforcement, specific factors should be considered, such as the manner in which local, municipal and regional authorities are involved in program implementation, the administrative structure of the State, the authorities to be relied upon and the agencies administering such authorities. Because the designated State agency may be viewed as the best vehicle for increasing the unity and efficiency of a management program, the State may want to consider the following in arriving at a designation.

(1) Whether the designated State entity has a legislative mandate to coordinate other State or local programs, plans and/or policies within the coastal zone;

(2) To what extent linkages already exist between the entity, other agencies, and local governments;

(3) To what extent management or regulatory authorities affecting the coastal zone presently are administered by the agency; and

(4) Whether the agency is equipped to handle monitoring, evaluation and enforcement responsibilities.

§ 923.47 Documentation.

(a) *Requirement.* In order to fulfill the requirements of subsections 306(c)(4), (5), (6) and (7), documentation is required to the effect that the Governor:

(1) Has reviewed and approved as State policy the management program, and any changes thereto, submitted for the approval of the Assistant Administrator;

(2) Has designated a single State agency to receive and administer implementation grants;

(3) Attests to the fact that the State has the authorities necessary to implement the management program; and

(4) Attests to the fact that the State is organized to implement the management program.

This documentation may be contained in the transmittal signed by the Governor which accompanies the management program submission.

(b) *Comment.* This requirement for a statement of endorsement by the Governor is intended to make clear that the management program is an enforceable instrument of State policy and to assure gubernatorial commitment in carrying out the program.

Subpart F—Coordination, Public Involvement and National Interests

§ 923.50 General.

(a) Coordination with governmental agencies having interests and responsibilities affecting the coastal zone, and involvement of interest groups as well as the general public are essential elements in the development and administration of a coastal management program. The coordination requirements of this subpart are intended to lead to substantive inputs into the management program. Evaluation and incorporation of these inputs is necessary to achieve a proper balancing of diverse interests. The policies of section 303 of the Act require that a balancing of varying, sometimes conflicting, interests be achieved, including:

(1) The preservation, protection, development and, where possible, the restoration or enhancement of coastal resources;

(2) The achievement of wise use of coastal land and water resources with full consideration having been given ecological, cultural, historic, and esthetic values and needs for economic development; and

(3) The involvement of the public, of Federal, State and local governments and of regional agencies in the development and implementation of coastal management programs.

(b) *Comment.* Statutory Citation, Section 303:

The Congress finds and declares that it is the national policy (a) to preserve, protect, develop, and, where possible, to restore or enhance the resources of the Nation's coastal zone for this and succeeding generations, (b) to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone giving full consideration to ecological, cultural, historic, and esthetic values as well as to needs for economic development, (c) for all Federal agencies engaged in programs affecting the coastal zone to cooperate and participate with state and local governments and regional agencies in effectuating the purposes of this title, and (d) to encourage the participation of the public, of Federal, state and local governments and of regional agencies in the development of coastal zone management programs. With respect to implementation of such management programs, it is the national policy to encourage cooperation among the various state and regional agencies including establishment of interstate and regional agreements, cooperative procedures, and joint action particularly regarding environmental problems.

(c) Coordination with and participation by various units and levels of government, interest groups and the general public shall begin early in the program development process and shall occur continuously throughout the process on a timely basis to assure that such efforts will result in substantive inputs into a State's management program. State efforts should be devoted not only to obtaining information necessary for developing the management program but also to obtaining views on what is proposed for implementation and to responding to concerns by interested parties. The requirements for intergovernmental cooperation and public participation continue after program approval. This subpart, therefore, deals with requirements for coordination with governmental and private bodies to assure that their interests are fully articulated and considered during the program development process and that procedures are created to insure continued consideration of their viewpoints during program implementation. In addition, this Subpart deals with mediation procedures for serious disagreements that occur during program development and preliminary approval. Accordingly, this Subpart deals with the following subsections of the Act: 306(c)(1)—Opportunity for Full Participation; 306(c)(2)(A)—Plan Coordination; 306(c)(2)(B)—Continued State-Local Consultation; 306(c)(3)—Public Hearings; 306(c)(8)—Consideration of National Interests; 307(b)—Federal Consultation; and 307(h)—Mediation.

§ 923.51 Federal-State consultation.

(a) *Comment.* The requirements of subsections 306(c)(1) and 307(b) of the Act and those of subsections 307 (c) and (d) establish reciprocal State-Federal relationships. It is in the context of these relationships that the requirements of this section should be read. In exchange for providing relevant Federal agencies with the opportunity for full participation during program development and for adequately considering the views of such agencies, States can effectuate the Federal consistency provisions of subsections 307 (c) and (d) of the Act (See 15 CFR Part 930).

(b) *Requirement.* In order to meet the requirements of section 306(c)(1) of the Act for the opportunity of full participation by relevant Federal agencies in the development of a State's management program, States must:

(1) Contact the office of each relevant Federal Agency listed in § 923.2(d) and such other Federal agencies as may be relevant, owing to a State's particular circumstances, early in the development of its management program. The purpose of such contact is to develop mutual arrangements or understandings regarding that agency's participation during program development;

(2) Provide for Federal agency input on a timely basis as the program is developed. Such input shall be related both to information required to develop the management program and to evaluation of and recommendations concerning various elements of the management program;

(3) Summarize the nature, frequency, and timing of contacts with relevant Federal agencies, including attempts to resolve differences, if any;

(4) Evaluate Federal comments received during the program development process and, where appropriate in the opinion of the State, accommodate the substance of relevant comments in the management program; and

(5) Indicate the nature of major comments by Federal agencies provided during program development (either by including copies of comments or by summarizing comments) and discuss any major differences or conflicts between the management program proposals and Federal views that have not been accommodated or resolved at the time or program submission.

(c) *Requirement.* With respect to the requirements of (b)(4) above, States must consider and evaluate relevant Federal agency views or comments about the following:

(1) The management of coastal resources for preservation, conservation, development, enhancement or restoration purposes, including statements of national interest policies or claims related thereto;

(2) Statements of national interests in the planning for or siting of facilities which are more than local in nature;

(3) Uses which are subject to the management program;

(4) Areas which are of particular concern to the management program; and

(5) Federally developed or assisted plans that must be coordinated with the management program pursuant to subsection 306(c)(2)(A) of the Act. (See § 923.56 for more detail on this last requirement.)

(d) *Requirement.* In order to fulfill his/her responsibilities under subsection 306(c)(1), the Assistant Administrator shall find that adequate opportunity for full participation by relevant Federal agencies has been provided if a State has:

(1) Contacted relevant Federal agencies;

(2) Provided timely opportunities for relevant Federal agency participation and input; and

(3) Advised these agencies of public hearings on the management program.

(e) *Requirement.* In order to fulfill his/her responsibilities pursuant to subsection 307(b), the Assistant Administrator shall determine whether State consideration of relevant Federal agency views, during program development, has been adequate, based on the nature and reasonableness of a State's evaluation of and response to relevant Federal agency views that relate to substantive requirements of the Act, in particular those relating to boundaries, uses subject to management, areas of particular concern, legal authorities, guidelines on priorities of uses, organization, shorefront planning process, energy facility planning process, the erosion planning process, and national interest considerations.

(f) *Comment.* Statutory Citation, Subsection 306(c)(1):

Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that:

(1) the state has developed and adopted a management program for its coastal zone * * * with the opportunity for full participation by relevant Federal agencies.

(1) Following are some procedures States should use to insure the effectiveness of their consultation efforts. Officially designated regional or field contacts of relevant Federal agencies should be informed early of the management program's overall design and specific applicable issues and should be briefed periodically at important stages in the program development process. Policies, criteria for determining use permissibility, designations or areas of particular concern and other major elements of the management program should be made available for agency review and comment as these elements are developed and considered by the States. Individual consultation, as well as group presentations, should become more substantive and specific as the program moves toward submission. Individual consultations with relevant Federal agencies should be particularly useful as the State establishes its Federal consistency procedures, determines which Federal activities, projects, licenses, permits, and assistance it will want subject to the consistency requirements of subsection 307 (c) and (d) of the Act, and decides which national interest considerations are most important for the State to address with respect to its coastal zone.

(2) At the earliest practicable time in the process of developing the management program relevant Federal agencies should advise the State agency of the extent of their interests in the development of the management program. In particular, Federal agencies should discuss with the State agency the extent to which Federal activities, projects, regulatory actions and/or assistance programs may affect coastal resources. Federal agencies are encouraged to provide the State agency with their interpretations of various national interests related to the planning for and siting of facilities that are more than local in nature or the conservation of various coastal resources. (See section 923.52 for more detail on national interest.) Federal agency statements on national interests should be directed to those policies and issues a State's management program proposes to address or those which a Federal agency believes the management program should address. Federal agencies should provide technical information and other forms of assistance to aid States in their program development efforts.

(g) *Comment.* Statutory Citation, Subsection 307(b):

The Secretary shall not approve the management program submitted by a State pursuant to section 306 unless the views of Federal agencies principally affected by such program have been adequately considered.

(1) In addition to the consideration of relevant Federal agency views required during program development, Federal agencies have the opportunity to provide further comment during the program review and approval process. (See Subpart H for details on this process.) Moreover, in the event of a serious disagreement between a relevant Federal agency and designated State agency that relates to those elements required in a State's management program pursuant to sections 305 and 306 of the Act, the mediation provisions of subsection 307(h)(1) of the Act are available. (See § 923.54 for details on mediation.)

§ 923.52 Consideration of national interests.

(a) *General.* The primary purpose in requiring, pursuant to subsection 306(c)(8) of the Act, adequate consid-

eration of national interests involved in the planning for and siting of facilities (which are necessary to meet other than local requirements) is to assure that such facilities are considered in (1) the development of the State's management program, (2) the review and approval of the program by the Assistant Administrator, and (3) the implementation of the program as such facilities are proposed. One need not conclude from this that any and all such facilities proposed for the coastal zone need be sited therein. The Act presumes a balancing of national interests in such facilities as defense installations, energy production and distribution facilities and highways with Federal, State and local concerns involving adverse economic, social or environmental impacts.

(b) *Requirement.* In order to meet the requirements of subsection 306(c)(8) of the Act, States must:

(1) Describe which national interests in the planning for and siting of facilities (which are necessary to meet requirements that are more than local in nature) were considered during program development and the sources relied upon for such consideration;

(2) Indicate how and where the consideration of these national interests is reflected in the substance of the management program including, where appropriate, indication of when and where national interests in identified facilities may compete or conflict with other national interests in coastal resource conservation. In cases of such conflict, the program shall indicate how the conflict has been or can be weighed and resolved;

(3) Describe a process for continued consideration of identified national interests (in facilities which are necessary to meet requirements that are more than local in nature) during program implementation, including a clear and detailed description of the administrative procedures and decision points where such interests can be considered.

(c) *Requirement.* With specific reference to meeting the requirement for adequate consideration of the national interest in the planning for and siting of energy facilities in, or which significantly affect, a State's coastal zone, States shall, in addition to the requirements of (b) above:

(1) Consider any applicable interstate energy plan or program developed pursuant to section 309 of the Act; and

(2) Meet the requirements for an energy facility planning process pursuant to the requirements of § 923.14, except that:

(i) States with a management program approved prior to October 1, 1978, that do not meet the requirements of subsection 305(b)(8) of the Act shall:

(A) Describe existing or developing management program standards or policies as these apply to energy facility planning and siting; and

(B) Describe briefly the status of the planning process required pursuant to subsection 305(b)(8) of the Act.

(d) *Comment.* The 1976 amendments to subsection 306(c)(8) of the Act stress adequate consideration of the national interest in the planning for and siting of energy facilities in or significantly affecting a State's coastal zone. The 1976 amendments also provide in subsection 305(b)(8) of the Act for a specific process related to energy facilities including a process for anticipating and managing the impacts for such facilities. The requirements for that planning process are set forth in § 923.14. The Congress intended this planning process to complement the evaluation of varying national interests pursuant to subsection 306(c)(8) of the Act. It is for this reason that the more specific requirements of (c) above are imposed.

(e) *Comment.* Statutory Citation, Subsection 306(c)(8):

Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that: * * * (8) The management program provides for adequate consideration of the national interest involved in planning for, and in the siting of, facilities (including energy facilities in, or which significantly affect, such state's coastal zone) which are necessary to meet requirements which are other than local in nature. In the case of such energy facilities, the Secretary shall find that the state has given such considerations to any applicable interstate energy plan or program.

(f) *Comment.* In considering the nature of national interests associated with the planning for and siting of facilities that are more than local in nature, States should consult with Federal and other State agencies having responsibilities related to these interests as well as with industries and other relevant entities to determine the potential demand for facilities in each State that are more than local in nature. Moreover, in considering the nature of national interests involved in the planning for and siting of facilities, States also should consult with Federal and other State agencies involved in resource conservation and protection as well as with other relevant entities to determine the nature of resource conservation and protection interests affecting siting considerations. Other factors that should enter into a State's consideration of national interests involved in planning for and siting of facilities are the configuration and size of a State's coastal zone; the quantity, quality and distribution of various coastal resources; and the coastal-dependent nature of those facilities. Below is a table that lists uses that may have facilities associated with them in which there may be a national interest in their planning or siting. This table is illustrative. It is intended as a guide to States as to facilities that normally are appropriate for consideration as to the national interest associated with them. As a State develops its program, it is anticipated that the national interest considerations in that State will begin to be delimited so that the program can focus on the relatively few of the items listed in the table below and the later table that are most significant in that State's coastal zone.

TABLE 1.—*Facilities in which there may be a national interest in planning or siting*

Uses	Associated facilities	Associated Federal agencies
National defense and aerospace.	Military bases and installations; defense manufacturing facilities; aerospace facilities.	Department of Defense, National Aeronautics and Space Administration.
Energy production and transmission.	Oil and gas rigs, storage, distribution and transmission facilities; power plants; deep-water ports; LNG facilities; geothermal facilities; coal mining facilities.	Department of Energy, Department of Interior, Department of Commerce, Department of Transportation, Corps of Engineers.
Recreation	National seashores, parks, forests; large and outstanding beaches and recreational waterfronts.	Department of Interior, Department of Agriculture.
Transportation	Interstate highways, railroads; airports; ports; aids to navigation, including Coast Guard stations.	Department of Transportation, Department of Commerce, Corps of Engineers.
Regional water treatment plants.	Sewage treatment plants; desalinization plants.	Environmental Protection Agency, Department of the Interior.

(g) *Comment.* The sources which specify the national interests to be considered during program development and implementation, as required in (b)(1) and (3) above, are numerous. Among these are:

(1) Federal laws and legislation, as for example the Outer Continental Shelf Lands Act, the Department of Energy Reorganization Act, the National Highways Act, the Federal Water Pollution Control Act, and the Clear Air Act;

(2) Policy statements from the President, as for example the National Energy Plan; the National Environmental Message and associated executive orders on wetlands and floodplains; the national Outdoor Recreation Plan;

(3) Statements from Federal agencies regarding national interests specifically related to a State's coastal zone, including such statements as may be provided by the Assistant Administrator as part of NOAA's ongoing assistance to States on this matter; and

(4) Plans, reports and studies from Federal, State, interstate agencies or from interstate groups, as for example interstate energy plans.

(h) *Comment.* In meeting the requirements of (a)(2) above to indicate

if conflicts occur in the management program between facilities in which there are national interest considerations and resource protection, and how these conflicts may be resolved, States may want to refer to the nature of national interests associated with particular resources. Below is a table suggesting resources in which there may be national interests. As with the table above, this listing is illustrative and not all-inclusive. States should examine sources similar to those noted in paragraph (g) above for specification of the national interests in these resources.

TABLE 2.—*Resources in which there may be a national interest*

Resources	Major related Federal legislation	Associated Federal agencies
Water	Federal Water Pollution Control Act.	Environmental Protection Agency, Corps of Engineers.
Air	Clean Air Act	Environmental Protection Agency.
Wetlands	Federal Water Pollution Control Act; Fish and Wildlife Coordination Act.	Corps of Engineers, Environmental Protection Agency, Department of Interior, Department of Commerce.
Endangered flora and fauna.	Endangered Species Act	Department of Interior, Department of Commerce.
Flood plains and erosion hazard areas.	Flood Insurance Act	Housing and Urban Development, Corps of Engineers, Department of Agriculture.
Barrier islands and beaches.	Coastal Zone Management Act	Department of Interior, Department of Commerce, Corps of Engineers.
Historic and cultural resources.	National Historic Preservation Act	Advisory Council on Historic Preservation.
Wildlife refuges and reserves	Pitman-Robinson Act; Dingall-Johnson Act; Land and Water Conservation Fund Act.	Department of Interior, Department of Commerce.
Areas of unique cultural significance.	National Historic Preservation Act	Advisory Council on Historic Preservation, Department of Interior.
Minerals	Mineral Leasing Act	Department of Interior.
Prime agricultural lands	Homestead Act	Department of Agriculture.
Forests	National Forest Management Act	Department of Agriculture, Department of Interior.
Living marine resources	Fisheries Conservation and Management Act; Marine Mammal Protection Act.	Department of Commerce, Department of Interior.

(i) *Comment.* In evaluating the adequacy of a State's consideration during program development of national interests involved in the planning for or siting of facilities which may be more than local in nature, the Assistant Administrator shall assess the reasonableness of:

(1) The claims made and sources used to specify national interests;

(2) Consideration given in the management program to varying national interests, including the relative weighing of competing interests;

(3) Responses to major siting concerns raised by Federal agencies or other interested parties, including considerating of any applicable interstate energy plan or program developed pursuant to section 309 of the Act; and

(4) Adequacy of the procedures described by the State for continued consideration of national interests after program approval.

§ 923.53 Federal consistency procedures.

(a) *Requirement.* States shall include in their management program submission, as part of the body of the submission or as an appendix or an attachment, the provisions they will use to implement the Federal consistency requirements of subsections 307 (c) and (d) of the Act. These provisions shall include, at a minimum, the following:

(1) An indication of whether the State agency designated pursuant to subsection 306(c)(5) of the Act or a single other State agency will handle consistency review (see 15 CFR 930.18);

(2) a list of Federal license and permit activities that will be subject to review (see 15 CFR 930.53);

(3) for States anticipating coastal zone effects from Outer Continental Shelf (OCS) activities, the license and permit list also must include OCS plans which describe in detail Federal license and permit activities (see 15 CFR 930.74; and

(4) the public notice procedures to be used for certifications submitted for Federal license and permit activities and, where appropriate, for OCS plans (see 15 CFR 930.61-930.62 and 930.78).

(b) *Comment.* The management program may include the following provisions:

(1) a list of Federal activities, including development projects, which in the opinion of the State agency are likely to significantly affect the coastal zone and thereby will require a Federal agency consistency determination (see 15 CFR 930.35);

(2) a description of the types of information and data necessary to assess the consistency of Federal license and permit activities and, where appropriate, those described in detail in OCS plans (see 15 CFR 930.56 and 930.75); and

(3) For Federal assistance applications outside the coastal zone the State agency chooses to review, a description of the geographic area within which Federal assistance activities will be subject to review (see 115 CFR 930.94).

(c) *Comment.* The management program should include a brief explanation of the Federal consistency requirements contained in subsections 307(c) (1), (2), (3) and (d) of the Act in order to provide affected parties with this basic information.

(d) *Comment.* For further guidance on structuring the implementing provisions of the Federal consistency requirements, see 15 CFR 930.

§ 923.54 Mediation.

(a) The Act provides for the mediation of "serious disagreements" between any Federal agency and a coastal State during the development or initial implementation of a management program. This provision in the Act further reinforces Congress' acknowledgement that State-Federal differences may arise and should be resolved during program development or implementation. In certain cases, mediation by the Secretary or his/her designee, with the assistance of the Executive Office of the President, may be an appropriate forum for conflict resolution. This section describes the conditions of and processes for mediation of serious disagreements that may arise during program development. Mediation provisions for handling serious disagreements during full program implementation are quite similar and are discussed in 15 CFR Part 930.

(b) *Comment.* Statutory Citation, Subsection 307(h):

In the case of serious disagreement between any Federal agency and a coastal state:

(1) in the development or the initial implementation of a management program under section 305 * * *

The Secretary, with the cooperation of the Executive Office of the President, shall

seek to mediate the differences involved in such disagreement • • •

(c) State-Federal differences that arise during program development should be addressed initially by the parties involved. Whenever a serious disagreement cannot be resolved between the parties concerned, either party may request the informal assistance of the Assistant Administrator in resolving the disagreement. This request shall be in writing stating the points of disagreement and the reasons therefor. A copy of the request shall be sent to the adversary party.

(d) If a serious disagreement persists, Secretarial mediation shall be provided to the parties to the serious disagreement when requested of the Secretary in writing by either party and when all parties agree to participate in the mediation effort. A copy of the written request must be sent to the parties to the serious disagreement and to the Assistant Administrator.

(e) Within 15 days following receipt of a request for mediation, the disagreeing agency shall transmit a written response to the Secretary, and to the agency requesting mediation indicating whether it wishes to participate in the mediation process. The Secretary will not provide mediation assistance unless all parties to the serious disagreement agree to participate.

(f) If all parties agree to mediation, the Secretary shall schedule a mediation conference to be attended by representatives from the Office of the Secretary, and the disagreeing Federal and State agencies. The Secretary shall provide the parties at least 10 days notice of the time and place set for the mediation conference. Notice also shall be placed in the FEDERAL REGISTER to allow other parties an opportunity to make known to the Secretary in writing their interest in the disagreement.

(g) Secretarial mediation efforts shall last only so long as the parties agree to participate. The Secretary shall confer with the Executive Office of the President, as necessary, during the mediation process.

(h) Mediation shall terminate: (1) At any time the parties agree to a resolution of the serious disagreement, (2) if one of the parties withdraws from mediation, (3) in the event the parties fail to reach a resolution of the serious disagreement within 15 days following Secretarial mediation efforts, and the parties do not agree to extend mediation beyond that period, or (4) for other good cause.

(i) If the conflict resolution efforts described above do not resolve the disagreement, the Assistant Administrator shall determine whether inclusion in the management program of the State agency's position in the disagreement affects the Assistant Administrator's ability to approve the State's management program. The Assistant Administrator shall communicate his/her determination in writing, with the reason(s) therefor, to the parties to the disagreement.

§ 923.55 Full participation.

(a) *Requirement.* In addition to consultation with Federal agencies, subsection 306(c)(1) of the Act requires that the opportunity for full participation in program development be provided State agencies, local governments, regional organizations, port authorities and other interested public or private parties. To meet this requirement with respect to governmental entities (other than Federal) and other public or private parties, States shall:

(1) Develop and make available general information regarding the program design, its content and its status throughout program development;

(2) Provide a listing, as comprehensive as possible, of all governmental agencies, regional organizations, port authorities and public and private organizations likely to be affected by or have a direct interest in the development and implementation of the management program;

(3) Indicate the nature of major comments received from interested or affected parties, as identified in (2) above, and the nature of the State's response;

(4) Coordinate the contents of the management program with local, areawide or interstate plans applicable to areas within the coastal zone existing on January 1 of the year in which the State's management program is submitted to the Assistant Administrator;

(5) Establish a mechanism to provide for continuing coordination with affected parties after program approval, including specifically establishment of a mechanism for State-local consultation with respect to State activities that may conflict with local zoning;

(6) Hold public meetings, workshops, etc., during the course of program development at accessible locations and times, with reasonable notice and availability of materials; and

(7) Hold public hearings during the development of the management program, at least one of which shall be on the scope of the entire program.

These requirements are discussed in greater detail in the commentary that follows and in the three sections that follow.

(b) *Comment.* Statutory Citation, Subsection 306(c)(1):

Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that: (1) the state has developed and adopted a management program for its coastal zone • • • with the opportunity of full participation by • • • state agencies, local governments, regional organizations, port authorities, and other interested parties, public and private • • •

(c) *Comment.* As noted in the general introduction to this subpart, the most effective means for assuring that the opportunity for full participation has been provided is to initiate appropriate activities early during program development and to continue such efforts on a timely basis throughout the program development process. Moreover, the requirement to provide opportunities for input from and participation by interested or affected parties does not end with program approval, as witness subsection 306(c)(2)(B) of the Act which requires the establishment of a mechanism for continuing State-local consultation on particular matters after program approval. (See §923.57 for details on the requirements of subsection 306(c)(2)(B).)

(d) *Comment.* Public information may take many forms, among which the following should be given consideration:

(1) Brochures and reports made available in places of public congregation such as libraries, government buildings, stores or transit facilities;

(2) Radio, television and personal presentations;

(3) Press announcements;

(4) Public meetings or hearings;

(5) Exhibits;

(6) Telephone "hot lines;" and

(7) Films and slide shows.

(e) *Comment.* States should also consider establishing advisory committees and/or technical advisory boards comprised of public citizens representing specific interests, local government representatives, and or State and Federal agency representatives. These committees and boards may serve a number of useful purposes: providing information needed to develop the management program; serving as a conduit and evaluator of public interests and concerns; and determining major program directions.

§ 923.56 Plan coordination.

(a) *Requirement.* In order to meet the requirements of subsection 306(c)(2)(A) of the Act and the associated requirements of § 923.55(a)(4), States shall coordinate the contents of the management program with local, areawide or interstate plans applicable to areas within the coastal zone existing on January 1 of the year in which the State's management program is submitted to the Assistant Administrator for approval. Evidence of coordination shall be documented in the management program by:

(1) Identifying local governments, areawide agencies designated pursuant to regulations established under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, regional agencies or interstate agencies which have plans affecting the coastal zone in effect on January 1 of the year in which the management program is submitted.

(2) Listing or providing a general summary of substantive contacts with these entities to coordinate the management program with their plans; and

(3) Identifying conflicts with those plans of a regulatory nature that are unresolved at the time of program submission and the means that will be used to resolve these conflicts.

(b) *Comment.* Statutory Citation, Subsection 306(c)(2)(A):

Prior to granting approval to a management program submitted by a coastal state, the Secretary shall find that • • •

(2) The State has: (A) coordinated its program with local, areawide, and interstate plans applicable to areas within the coastal zone existing on January 1 of the year in which the state's management program is submitted to the Secretary, which plans have been developed by a local government, and areawide agency designated pursuant to regulations established under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency • • •

(c) *Comment.* The process envisioned by this subsection of the Act should enable a State not only to avoid duplication of and conflict between its program and other plans applying within its coastal zone but also to draw upon the planning capabilities of and work already completed by a wide variety of local governments and other agencies. Particular attention shall be given to land use plans prepared pursuant to section 701 of the Housing and Urban Development Act of 1968, as amended; State and areawide waste treatment facility or management plans prepared pursuant to sections 201 and 208 of the Federal Water Pollution Control Act, as amended; plans and designations made pursuant to the Flood Insurance Act of 1974; and any applicable interstate energy plans or programs developed pursuant to section 309 of the Act; and regional and interstate highway plan adopted by a governmental entity as of January 1 of the year in which the management program is submitted. States shall take into consideration the contents of such Federal interagency agreements as OCZM has entered into with respect to this Act, as for example the OCZM-HUD; and OCZM-EPA interagency agreements.

(d) *Comment.* In order to meet the requirements of (a) (2) and (3) above use of State and areawide clearinghouses, established pursuant to OMB Circular A-95 (revised) will suffice: (1) as a means of contacting all relevant entities provided that such entities are among the recipients of clearinghouse notices and (2) as a mechanism for identifying and resolving conflicts.

(e) *Comment.* Another means of meeting the requirements of (a) (2) and (3) above could be use of a committee or task force of local, regional, State and/or interstate officials, as appropriate, to identify and coordinate relevant plans.

§ 923.57 Continuing consultation.

(a) *Requirement.* In order to meet the requirements of subsection 306(c)(2)(B) of the Act and the associated requirements of § 923.55(a)(5), States shall:

(1) Establish a mechanism which will provide for continuing consultation and coordination after program approval between local governments, regional, areawide, interstate and other State agencies with activities in the coastal zone and the State agency designated pursuant to subsection 306(c)(5) of the Act; and

(2) Establish a mechanism specifically designed to insure continued State-local government consultation on State management program decisions that would conflict with any local zoning ordinance, decision or other action.

(b) *Comment.* Statutory Citation, subsection 306(c)(B):

Prior to granting approval to a management program submitted by a coastal state, the Secretary shall find that • • •

(2) The state has • • •

(B) established an effective mechanism for continuing consultation and coordination between the management agency designated pursuant to paragraph (5) of this section and with local governments, interstate agencies, regional agencies, and area-wide agencies within the coastal zone to assure the full participation of such local governments and agencies in carrying out the purposes of this title; except that the Secretary shall not find any mechanism to be "effective" for purposes of this subparagraph unless it includes each of the following requirements:

(i) Such management agency is required, before implementing any management program decision which would conflict with any local zoning ordinance, decision, or other action, to send a notice of such management program decision to any local government whose zoning authority is affected thereby.

(ii) Any such notice shall provide that such local government may, within the 30-day period commencing on the date of receipt of such notice, submit to the management agency written comments on such management program decision, and any recommendation for alternatives thereto, if no action is taken during such period which would conflict or interfere with such management program decision unless such local government waives its right to comment.

(iii) Such management agency, if any such comments are submitted to it, within such 30-day period, by any local government:

(I) is required to consider any such comments,

(II) is authorized, in its discretion, to hold a public hearing on such comments, and

(III) may not take any action within such 30-day period to implement the management program decision, whether or not modified or the basis of such comments.

(c) *Comment.* In meeting the requirement of (a)(1) above for establishing a general mechanism for continuing consultation and coordination, States should consider use of the OMB Circular No. A-95 (revised) Project Notification and Review System as the required mechanism provided that affected local governments, areawide, regional, interstate and other State agencies are part of the notification system.

States also should consider the possibility of establishing or utilizing councils, committees, task forces, etc, with representation from affected local governments, areawide, regional, interstate and other State agencies, as appropriate, as a vehicle for providing continuing consultation and coordination after program approval. Such a council, etc., when it includes local government representation, may be a helpful vehicle in meeting the requirements of (a)(2) above and as further discussed in comment (d) below.

(d) *Comment.* The purposes of the State-local consultation mechanism contained in subparagraphs (i), (ii) and (iii) of subsection 306(c)(2)(B) of the Act are:

(1) To provide explicitly in a State's management program for a mechanism to inform local governments with zoning authority of management program plans or policies which could conflict with such zoning authority;

(2) To allow local governments an opportunity to comment on State management program plans and policies which conflict with local government zoning;

(3) To require the State management agency to consider such comments, during which time it may hold a public hearing (at its discretion) on the matter, and to refrain from taking action to implement the proposed management program plan or policy during the comment period; and

(4) To permit the State management agency to implement the management program decision in the event the local government waives its right to comment, concurs with the proposed action, or takes action during the comment period which conflicts or interferes with the proposed State management program decision (in which case, a local government forfeits its right to comment).

(e) *Comment.* Coastal Zone management development and implementation is a dynamic process. Congress recognized that an effective means for pursuing this process required not only increased efforts by coastal State governments, but also participation by local governments. In its amendment of section 306(c)(2)(B) of the Act, Congress specifically developed a provision that major State policies and plan decisions to be implemented pursuant to an approved State management pro-

gram require notice to legal governments when such decisions could conflict with local government zoning. For the purposes of this section, the following terms shall have the following meanings:

(1) "Management agency" refers to the State agency designated by the Governor pursuant to subsection 306(c)(5) of the Act and to any other State agency responsible for implementing a management program decision;

(2) "Management program decision" refers to any major, discretionary policy decisions on the part of a management agency, such as the determination of permissible land and water uses, the designation of areas of particular concern or areas for preservation or restoration, or the decision to acquire property for public uses. Regulatory actions dictated by State legislation, such as individual permit actions, which are taken pursuant to these major decisions are not subject to the State-local consultation mechanism. Examples of what might constitute a major management program decision include, but are not limited to:

(i) A State management agency decision that a certain class of wetlands may not be filled and/or developed;

(ii) A decision prohibiting the development of non-water dependent facilities on certain shoreline areas;

(iii) A decision requiring that new development on the shoreline may not interfere with existing public rights of access to the sea, and that new developments of a certain magnitude are required to provide public access as part of the development;

(iv) A decision to acquire urban shoreland for recreational purposes; or

(v) Designation of coastal historic resources or natural areas as areas for preservation or restoration, when any of these are discretionary, and not legislatively mandated, decisions of a management agency.

(3) "Conflict" (with a local zoning ordinance, decision or other action). A State management program decision may be considered to be in conflict with a local zoning ordinance if the decision is contradictory to that ordinance, including local ordinances that impose additional requirements beyond those of the State's program. However, a State management program decision that consists of additional but different requirements shall not be considered to be in conflict with a local zoning ordinance, decision or other action;

(4) "Local zoning ordinance, decision or other action" refers to any local government land or water use action which regulates or restricts the construction, alteration or use of land, water or structures thereon or thereunder. These actions include zoning ordinances, master plans and official maps. Accordingly, a local government has the right to comment on a State management program decision when such decision conflicts with the above specified actions;

(5) "Written comment" from local governments shall be submitted in writing to the State management agency and may include recommendations for alternative actions and/or a request for a public hearing on the management program decision;

(6) "Waiver" of the right of a local government to comment (thereby permitting a State agency to proceed immediately with implementation of the management program decision) shall result:

(i) Following State agency receipt of a written statement on the part of local government:

(A) Waiving its right to comment; or

(B) Concurring with the management program decision; or

(C) Indicating the local government intends to take action which conflicts or interferes with the management program decision; or

(ii) Following a public statement by a local government to the effect of (A), (B) or (C) above; or

(iii) Following an action by a local government that conflicts or interferes with the management program decision.

A waiver of the right to comment or a waiver indicating concurrence may also be presumed if the local government fails to submit written comments to the State agency within the 30-day comment period. OCZM strongly encourages local governments not to effect a waiver by silence as this process causes needless delay in implementing a management program decision.

(f) *Comment.* The purpose of this notice and comment procedure is to enable State agencies and local governments to achieve a consensus, when appropriate and possible, with respect to proposed State land and water use decisions. Local governments are encouraged to submit comments to State agencies in order to try to assure that policies and plans developed at the State level have sufficient flexibility to accommodate the various and diverse needs of coastal communities. For example, in response to a State agency management decision proposing to prohibit development of non-water dependent commercial uses on the shoreline within the jurisdiction of a local government, that local government might comment that the restriction conflicts with an urban waterfront zoning ordinance that selectively permits such developments as a means of promoting the economic viability of a redeveloping area. Based on such comments, the State management agency might be persuaded to modify its original proposal. It should be noted, however, that the requirements of subsection 306(c)(2)(B) are not intended to deflect from one of the basic purposes of the Act—that of encouraging States to exercise effectively their responsibilities to achieve wise use of land and water resources of the coastal zone. Accordingly, while the purpose of this specific consultation requirement is to establish a process for discussion of differences, the ultimate administrative authority to resolve conflicts shall be the State management agency.

(1) State programs must detail a procedure whereby local governments with zoning authority are notified of management program decisions which will affect their jurisdiction. For purposes of this consultation mechanism, local governments are those defined in section 304(10) of the Act which have some form of zoning authority. Such notice must be in writing and must inform the local government of its right to submit comments to the State management agency in the event the proposed State management program decision conflicts with a local zoning ordinance decision or other action. States are encouraged to use, where possible, existing procedures such as those established in administrative procedures acts. The effect of providing such notice is to stay State action to implement its management decision for at least a thirty-day period unless the local government waives its right to comment.

(2) State management programs also must provide that the management agency adequately consider all comments received by local government(s). This consideration should include a written response by the management agency to the local government(s), within a reasonable period of time following receipt of local comments, as to the outcome of that agency's consideration of local comments. Such consideration may include a decision, at the discretion of the management agency, to hold a public hearing. The State management program also must set forth public notice and other hearing procedure requirements. In the event that a local government requests a public hearing and such a request is granted, the State management program may provide or require that the local government requesting such hearing shall provide the required public notice and/or meeting facility. In the event a public hearing is held, the management agency shall provide written response to the affected local government, within a reasonable period of time and prior to implementation of the management program decision, on the results of the agency's consideration of public hearing comments.

(3) State management programs shall include a provision indicating the procedures to be followed by a management agency regarding implementation of a management program decision following receipt of a local government's comments.

(4) State mangement programs are encouraged to include a provision requiring notification in writing from local governments to the appropriate State agency of any action taken during the 30-day comment period which conflicts or interferes with the proposed management program decision. State management programs also should include a provision for local governments to waive their right to comment. In those instances where the local government chooses to waive is opportunity to comment, or concurs with the State management decision, there is no need for further delay in implementing the proposed State management decision. In order to apprise the State agency of these views, local governments are strongly encouraged to transmit such views in writing to the State agency (using the procedure described in the State's management program). Otherwise, the State agency will be compelled to await unnecessarily the expiration of the 30-day comment period before proceeding with the proposed decision. A local government forfeits its right to comment on a proposed management agency decision, and to request a public hearing when the local government takes action during the comment period which conflicts or interferes with the proposed management decision. Where a local government intends to take such conflicting or interfering action, OCZM strongly encourages local governments to so advise the State agency in writing.

(5) State management programs should indicate what action the State agency will take in the event a local government pursues a conflicting or interfering action. States are encouraged to develop their responses to conflicting local actions within the framework of sections 306(d)(1) and 306(d)(2) of the Act. Section 306(d)(1) of the Act provides, inter alia, that the State has the management authority to resolve conflicts among competing uses. Sections 306(e)(2) of the Act requires that the management program provide for a method of assuring local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land or water uses or regional benefit.

§ 923.58 Public hearings.

(a) *Requirement.* In order to meet the requirements of subsections 306(c)(1) and (c)(3) and section 311 of the Act and the associated requirements of § 923.55(a)(7), States shall:

(1) Hold a minimum of two public hearings during the course of program development, at least one of which will be on the total scope of the coastal management program;

(2) Provide a minimum of 30 days public notice of hearing dates and locations; and

(3) Make available, at the time of public notice, all agency materials pertinent to the hearings.

(b) *Comment.* Statutory Citation, Subsection 306(c)(1):

Prior to granting approval of a management program submitted by a coastal state the Secretary shall find that:

(1) The state has developed and adopted a management program for its coastal zone * * * after notice * * *

(c) *Comment.* Statutory Citation, Subsection 306(c)(3):

Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that * * *

(3) The state has held public hearings in the development of the management program.

(d) *Comment.* Statutory Citation, Section 311:

All public hearings required under this title must be announced at least thirty days prior to the hearing date. At the time of the announcement, all agency materials pertinent to the hearings, including documents, studies, and other data, must be made available to the public for review and study. As similar materials are subsequently developed, they shall be made available to the public as they become available to the agency.

(1) Notification of public hearings should provide the public the longest period of notice practical, but in no event should notice be less than the 30 day statutory minimum. Announcement of the hearings should be through media designed to inform the public—not merely to provide "technical notice." Therefore, in addition to any publication of legal notice as required by State law, reasonably informative news releases should be made available to the news media in the affected communities.

(2) At the time of the announcement, all agency materials pertinent to the hearings, including documents, studies, and other data, must be made available to the public for review and study in the locale where the hearings are to be conducted.

(3) Hearings on the total management program do not have to be held on the actual document submitted to the Assistant Administrator for section 306 approval. However, such hearing(s) must cover the substance and content of the proposed management program in such a manner that the general public, and particularly affected parties, have a reasonable opportunity to understand the impacts of the management program. If the hearing(s) are not on the management document per se, all requests for such document must be honored and comments on the document received prior to submission must be considered.

(4) Hearings should be held in those geographic areas which would be most affected by the issues under consideration at the hearing. Hearings on the total management program should be held in places within the State where all citizens of the State may have an opportunity to comment.

(5) In many cases, the population of the coastal zone fluctuates significantly with the seasons of the year. Efforts should be made to insure that hearings were held when those populations most likely to be affected are present.

(6) A verbatim transcript of the hearings need not be prepared but a comprehensive summary should be made available to the public within forty-five (45) days after the conclusion of the hearings. A copy of these summaries shall be summitted with the program document or within thirty (30) days following formal program submittal.

Subpart G—Miscellaneous

§ 923.60 General.

The purposes of this subpart are to provide guidance on (a) meeting the requirements of subsection 306(h) of the Act dealing with segmented management programs and (b) fulfilling the requirements for an environmental impact assessment which all management program submissions, whether for a State's total coastal zone or a segment, must contain.

§ 923.61 Segmentation.

(a) If a State intends to adopt its management program in two or more segments, it shall so advise the Assistant Administrator as early as practicable, stating the reasons for segmenting the program and requesting the Assistant Administrator's approval. In addition to meeting the approval requirements of these regulations, each segment of a management program must demonstrate that:

(1) The segment includes a geographic area on both sides of the coastal landwater interface;

(2) A timetable and budget have been established for the timely completion of the remaining segment(s); and

(3) The State will exercise policy control over each segment of its management program prior to and following its integration into a complete State management program. Demonstration of this control will include (i) completion of the management boundary determination for the entire coastal zone throughout the State and (ii) consideration of the national interest throughout the State's entire coastal zone in the planning for and siting of facilities cited in § 923.52.

(b) *Comment.* Statutory Citation, Section 306(h):

At the discretion of the state and with the approval of the Secretary, a management program may be developed and adopted in segments so that immediate attention may be devoted to those areas within the coastal zone which most urgently need management programs: Provided, that the state adequately provides for the ultimate coordination of the various segments of the management program into a single, unified program, and that the unified program will be completed as soon as reasonably practicable.

(1) This section of the Act reflects a recognition that it may be desirable for a State to develop and adopt its management program in segments rather than all at once because of a relatively long coastline, developmental pressures or public support in specific areas, or earlier regional management programs already developed and adopted. It is important to note, however, that the ultimate objective of segmentation is completion of a management program for the coastal zone of the entire State in a timely fashion. Segmentation is at the State's option, but requires the approval of the Assistant Administrator. States should notify the Assistant Administrator as early as possible regarding intention to prepare a management program in segments.

(c) *Comment.* Continuing involvement at the State as well as local level in the development and implementation of segmented programs is essential. This emphasis on State participation and coordination with the program as a whole should be reflected in the individual segments of a management program. Regional agencies and local governments may play a large role in developing and carrying out such segmented programs, but there must be a continuing State voice throughout this process. This State involvement shall be expressed in the first segment of the management program in the form of evidence that (i) the boundaries of the coastal zone for the entire State have been defined (pursuant to Subpart D) and (ii) there has been adequate consideration of the national interest involved in the planning for and siting of facilities necessary to meet requirements which are other than local in nature (pursuant to § 923.52) for the State's entire coastal zone. These requirements are designed to assure that the development of a Statewide coastal zone management program proceeds in an orderly fashion and that segmented programs reflect accurately the needs and capabilities of the State's entire coastal zone which are represented in that particular segment.

(1) It is recognized that small islands may form separate and valuable ecological units for which a segment of the management program may be established with relatively few problems. The Assistant Administrator may waive certain requirements under this section Related to segmented approval for islands. The requirements that the State must (1) provide an adequate consideration of the national interest in the planning for and siting of facilities necessary to meet requirements which are other than local in nature for the State's entire coastal zone and (2) define the boundaries of the coastal zone for the entire State may be waived if the Assistant Administrator determines that their completion would serve no useful purpose in evaluating the merits of the application for approval of a small island segment.

(d) *Comment.* One of the distinguishing features of a coastal zone management program is its recognition of the relationship between land uses and their effect upon coastal waters, and vice versa. Segments should likewise recognize this relationship between land and water by including at least the dividing line between them, plus the lands and waters on either side which are mutually affected. In the case of a segment which is predominatly land, the boundaries shall include those waters which are directly and significantly impacted by land uses in the segment. Where the predominant part of the segment is water, the boundaries shall include the adjacent shorelands strongly influenced by the waters, including at least islands, transitional and intertidal areas, salt marshes, wetlands and beaches (or similar such areas in Great Lakes States). A segmented management program shall not be developed solely for the purpose of protecting or controlling a single coastal resource or use, however desirable that may be.

(e) *Comment.* Segmented management programs submitted for approval will be reviewed and approved in the same manner as programs for complete coastal zones, utilizing the same approval criteria, plus those of this section. States submitting segmented programs have the option of including the three planning elements required by subsections 305(b) (7), (8) and (9) of the Act as part of the segment submission or as part of the final submission which integrates the segments into a single, unified program.

§ 923.62 Environmental impact assessments.

(a) *Requirement.* All State management program submissions must contain an environmental impact assessment that meets the requirements of the national Environmental Policy Act (NEPA). At present Council of Environmental Quality (CEQ) Guidelines require the following items be addressed (although not necessarily in the same order presented below):

(1) A description of the proposed action;

(2) A description of the environment affected;

(3) The relationship of the proposed action to land and water use plans, policies, and controls for the area;

(4) The probable impact of the proposed action on the environment;

(5) Alternatives;

(6) Probable adverse environmental effects which cannot be avoided;

(7) The relationship between local, short-term uses of the environment and the maintenance and enhancement of long-term productivity;

(8) Irrevocable or irretrievable commitments of resources that would be involved in the proposed action should it be implemented; and

(9) Consultation and coordination with others.

(b) *Comment.* A number of these items should already be addressed in the State's program submission. In these cases a simple cross-referencing will be sufficient:

(1) The State's "description of the proposed action" should focus on the issues that the management program is designed to address and the means by which these issues will be addressed through implementation of the management program. This should already be part of the basic program submission. Accordingly in the environmental impact assessment appendix, this item can be cross-referenced to the appropriate page(s) or section(s) of the submission. If a State is following the format for submission suggested in § 923.71, references to relevant portions of the "Summary," "Framework of Program Development," and "Policies" would be appropriate.

(2) The "description of the environment affected"—the State's coastal zone and the natural and manmade resources therein—also should already be part of the program document submitted for approval. Cross-reference should be made to relevant sections. If following the format suggested in § 923.71, reference to "Framework of Program Development" would be appropriate.

(3) Again, cross-reference to relevant sections of the program submission should suffice to explain "the relationship of the proposed action to land and water use plans, policies and controls to the areas." Particular reference should be made to those sections addressing the requirements of §§ 923.3—General Requirements; 923.11—Uses Subject to Management; 923.13—Uses of Regional Benefit; 923.41—Identification of Authorities; 923.42—Control Techniques; 923.43—Authorities Related to Uses of Regional Benefit; and 923.56—Plan Coordination.

(4) The discussion of "the probable impact of the proposed action on the environment" is the major aspect a State will need to address as part of the environmental impact assessment appendix attached to its submission. The purpose of this discussion is to indicate, to the extent possible given data and time constraints, the environmental, social and economic changes that can be expected to result from implementation of the State's management program. In turn, this will provide information, either explicitly or implicitly, on both the level and distribution of costs and benefits to affected parties. In effect, this discussion should make explicit many of the assumptions that have gone into developing and framing a State's management program. The environmental and corresponding socio-economic impacts that can be expected to result from program implementation will depend, in large measure, on the nature of proposed implementation techniques. Moreover, not all aspects of the State's management program will necessarily involve changes and/or environmental impacts. This may be so particularly where States will be relying on pre-existing management and regulatory techniques. However, to the extent these existing techniques are applied in new ways and thereby create new impacts (such as greater efficiencies in permit processing or, conversely, increased time required for permit reviews), these changes should be noted. The level of specificity regarding probable impacts will vary depending on (i) the level of specificity contained in the management program itself, (ii) the size of the area to be managed, and (iii) the amount of time, money and personnel allocated to this task.

(5) The discussion of "alternatives" should focus on those alternatives that have been considered seriously and reviewed at some length by OCZM. In addition, alternatives which raised substantial public debate as a result of consultation and public participation during program development should be discussed. Usually these alternatives will relate to management techniques, boundaries and uses subject to management. To the extent these alternatives are discussed in the body of the management program document, cross-reference will suffice.

(6) Since the program document probably will not contain an explicit discussion of "probable adverse environmental impacts which cannot be avoided," this aspect should be addressed in the environmental impact assessment appendix. Where the program encourages certain uses or development activities which may have a probable adverse environmental impact, these should be identified. In addition, since "environmental impacts" may cause socioeconomic impacts of an adverse nature, these also should be discussed. This discussion may be done in conjunction with a discussion of the "relationship between local, short-term uses of the environment and the maintenance and enhancement of long-term productivity." It is also possible to combine both of these discussions with that of "probable impact of the proposed action on the environment" provided that it is clearly stated that all three aspects have been combined into one discussion in the environmental impact assessment.

(7) In discussing the "relationship between local, short-term uses of the environment and the maintenance and enhancement of long-term productivity," it may be reasonable to assume that, while there may be short-term negative impacts on particular aspects of the environment, over the long-term, effectuation of the State's management program should contribute to maintenance, and possibly enhancement, of productivity. However, where short-term environmental disruptions can be identified, such identification should be made and discussed.

(8) Again, since the program document probably will not contain an explicit discussion of "irretrievable commitments of resources," this aspect should be addressed in the environmental impact assessment appendix. The option exists to include this discussion in with some of the other aspects indicated above.

(9) Discussion of "consultation and coordination with others" should already be addressed in the program document and/or as an appendix documenting opportunities for full participation. Accordingly, appropriate cross-referencing should be made, especially to those sections that address the requirements of Subpart F.

(c) *Comment.* OCZM will use the information provided in a State's environmental impact assessment (EIA) to determine if an environmental impact statement (EIS) is required. When an EIS is required pursuant to NEPA, OCZM will develop a draft EIS covering the Assistant Administrator's proposed action of approving the management program. The timing and review procedures for the EIS are discussed in § 923.72.

Subpart H—Review/Approval Procedures

§ 923.70 General.

The purpose of this subpart is to describe the process of State program review and approval following submission of a State's management program. Because the review process usually involves preparation and dissemination of draft and final environmental impact statements and lengthy Federal agency review, States should anticipate that it normally will take 7 months between the time a State first submits a draft management program to OCZM for threshold review and the point at which the Assistant Administrator makes a final decision on whether to approve the management program. Certain factors will contribute to lengthening or shortening this timetable; these factors are discussed in the sections that follow. This subpart also provides guidance on a recommended format for the program document submitted to the Assistant Administrator for review and approval. In addition, this subpart provides criteria for receiving, reviewing and providing preliminary approval of State coastal management programs pursuant to subsection 305(d) of the Act.

§ 923.71 Recommended format for program submissions.

(a) This guidance is provided in response to requests from a number of States for a suggested format. States should note, however, that this format is not mandatory. As long as States address all the sections of the Act and associated requirements of these regulations, the presentation of their management program may be in such format as best suits their situation provided that such format has been discussed with and agreed to by OCZM.

(b) States should include an index with their program submission that indicates where in the management program document the information can be found which is necessary to make the findings required by the Act and associated requirements of these regulations. A chart is provided below of the findings required by the Act and associated requirements of these regulations. This chart should assist States in developing the index. If States use the chart below as an index, it is recommended that a third column entitled *Page Number* be added to expedite review of management programs.

CHART.—*Findings necessary for sec. 306 approval*

Section of the act	*Associated section(s) of these regulations*
Sec. 306(a) which includes the requirements of sec. 305:	
305(b)(1): Boundaries	923.31, 923.32, 923.33, 923.34
305(b)(2): Uses subject to management	923.11, 923.12
305(b)(3): Areas of particular concern	923.21, 923.23
305(b)(4): Means of control	923.41
305(b)(5): Guidelines on priorities of uses	923.22
305(b)(6): Organizational structure	923.45
305(b)(7): Shorefront planning process[1]	923.25
305(b)(8): Energy facility planning process[1]	923.14
305(b)(9): Erosion planning process[1]	923.26

CHART.—*Findings necessary for sec. 306 approval*—Continued

Section of the act	*Associated section(s) of these regulations*
Sec. 306(c) which includes:	
306(c)(1): Notice; full participation; consistent with sec. 303	923.58, 923.51, 923.55, 923.3
306(c)(2)(A): Plan coordination	923.56
306(c)(2)(B): Continuing consultation mechanisms	923.57
306(c)(3): Public hearings	923.58
306(c)(4): Gubernatorial review and approval	923.47
306(c)(5): Designation of recipient agency	923.46, 923.47
306(c)(6): Organization	923.45, 923.47
306(c)(7): Authorities	923.41, 923.47
306(c)(8): Adequate consideration of national interests	923.52
306(c)(9): Areas for preservation/restoration	923.24
Sec. 306(d) which includes:	
306(d)(1): Administer regulations, control development; resolve conflicts	923.41
306(d)(3): Powers of acquisition, if necessary	923.41
Sec. 306(e) which includes:	
306(e)(1): Technique of control	923.41, 923.42
306(e)(2): Uses of regional benefit	923.13, 923.41, 923.43
Sec. 306(h): Segments[2]	923.61
Sec. 307 which includes:	
307(b): Adequate consideration of Federal agency views	923.51
307(f): Incorporation of air and water quality requirements	923.44

[1] Not required before Oct. 1, 1976.
[2] Applicable only to segmented management programs.

(c) OCZM recommends the following format for coastal management program submissions: Summary; Framework of Program Development; Policies; and 306 Requirements. OCZM also recommends the following items as appendices: Documentation of Governmental Consultation and Public Participation Efforts; Summaries of Required Public Hearings; Text of Relevant Legal Authorities; Environmental Impact Assessment (EIA); and such other Technical Reports, Maps, Organizational Charts or other materials as a State feels would be useful in reviewing the management program. The elements of the main body of the management program are discussed in greater detail below:

(1) Summary—This section should serve as an executive summary of the program and should describe briefly the major elements of the State's management program. This section also should include a discussion of objectives the State will seek to attain through implementation of its management program. Specific milestones and timeframes for accomplishment of these objectives should be established where possible. This information will be useful in conducting the annual review of approved programs required pursuant to section 312 of the Act.

(2) Framework of Program Development—This section should address the major coastal issues and problems identified during the program development process, the nature of those issues and problems, and how the management program can help to resolve them. This section should include a discussion of the major coastal natural resources and human activities which are important, unique and/or subject to intense pressures or conflicts. A brief discussion of the institutional setting within which the program was developed and some of the major considerations or alternatives that led to particular management approaches is appropriate as part of this section. In addition, there should be a brief discussion of those issues and problems which the program may not address initially but which will be taken into consideration during program implementation and/or future program refinements.

(3) Policies—This section should contain those policies that provide the basis for a comprehensive, enforceable and predictable management program. These policies should be tied to issues and problems (discussed in (2) above) and to legal authorities (discussed in (4) below).

(4) 306 Requirements—In this section States should demonstrate that the sections of the Act and these regulations necessary for approval have been met. The following contents are suggested:

(i) Boundaries—The requirements of subsection 305(b)(1) of the Act and Subpart D of these regulations should be addressed. States may want to indicate here, or as part of the EIA, major boundary alternatives considered. Generalized maps of the management boundaries and of excluded Federal lands, if provided, are recommended for inclusion in this section (or if more easily handled as a separate appendix, their location in the appendix should be indicated in this section).

(ii) Uses Subject to Management—The requirements of subsections 305(b)(2), 305(b)(8) and 306(e)(2) of the Act and related sections 923.11-923.14, and 923.43 of these regulations should be addressed in terms of the process used to determine uses subject to the management program and how these uses will be managed.

(iii) Special Management Areas—The requirements of subsections 305(b)(3), 305(b)(5), 305(b)(7), 305(b)(9), and 306(c)(9) and the associated requirements of Subpart C of these regulations should be addressed. States are encouraged to include generalized maps locating designated Areas of Particular Concern.

(iv) Authorities and Organization—The requirements of subsections 305(b)(4), 305(b)(6), 306(c)(5)-306(c)(7), 306(d), 306(e) and 307(f) of the Act and the associated requirements of Subpart E of these regulations should be addressed through a narrative synopsis of the administrative and legal bases that will be used to implement and insure enforcement of and compliance with the policies and the use and area determinations of the management program. This section should include, as applicable, discussion of six types of legal authorities: State legislation, State agency regulations, gubernatorial executive orders, interagency agreements, significant judicial decisions and significant constitutional provisions. With respect to the organizational structure that will be used to implement the management program, this section should include a discussion of the roles and responsibilities during the program implementation of the State agency designated pursuant to subsection 306(c)(5) of the Act and of other State, local or regional agencies that will be involved in carrying out the management program. The relationship of the designated State agency to these other agencies also should be described.

(v) Consultation, Participation and National Interests—The requirements of subsections 306(c)(1)-306(c)(3), 306(c)(6) and 307(b) of the Act and the related requirements of Subpart F of these regulations should be addressed. Included herein should be a summary of consultation efforts with relevant Federal and State agencies, local governments, regional, areawide and/or interstate entities. A summary of public information and participation during program development should be included, including an indication of where and when required public hearings were held and a brief summary of those hearings. Also included herein should be discussions of national interest considerations; what procedures the State will use to implement the Federal consistency provisions of the Act; and what mechanisms will be used to insure continued governmental consultation and public participation after program approval. Detailed documentation regarding a number of the requirements addressed in this section can be reserved for appendices.

(vi) Miscellaneous—Normally, States will address the requirements of subsection 306(c)(4) and related § 923.41 in the gubernatorial transmittal that will accompany the program submission. For a segment submission, the same format should be used. All the requirements of the Act and these regulations apply unless otherwise noted in § 923.61. Segment submissions must also address the requirements of subsection 306(h) of the Act and the associated requirements of § 923.61.

§ 923.72 Review/approval procedures.

(a) Upon submission by a State of its draft management program, OCZM and NOAA will review the document to determine if it adequately meets the requirements of the Act and these regulations. These reviews normally will take three weeks or longer. Assuming positive findings are made and major revisions to the State's draft management program are not required, OCZM will prepare a Draft Environmental Impact Statement (DEIS). (If major revisions are necessary, this initial review period will extend beyond three weeks.) The DEIS will incorporate the State's program document. This combined document, hereinafter referred to as the DEIS, will be distributed to principally affected Federal agencies, State, local and regional agencies, national interest groups and to interested individuals. Preparation of the DEIS, printing of the document, delivery to EPA, and publication in the FEDERAL REGISTER of notice of availability of the DEIS and notice of date and location of public hearing on the DEIS normally will take 45 days. Since States normally will be responsible for printing the DEIS, the time involved will vary depending on State printing capabilities.

(b) From the time of notice of availability in the FEDERAL REGISTER of the DEIS, each Federal agency, other person or entity normally has 45 days pursuant to CEQ guidelines to provide comments, if any, on the management program and/or on the DEIS to the Assistant Administrator. During this time period, a public hearing will be held in one or more locations in the coastal State whose program is under review. At least fifteen (15) days notice, pursuant to CEQ guidelines and the Administrative Procedure Act, will be provided, including announcement of availability of the DEIS. Following the public hearing(s), the comment period normally will remain open for fifteen days.

(c) Following the close of the DEIS comment period, the Assistant Administrator will review and evaluate comments received, in keeping with the requirement of subsection 307(b) of the Act, that a State's management program not be approved unless the views of principally affected Federal agencies have been adequately considered, and in keeping with the requirements of the National Environmental Policy Act (NEPA). Preparation of response to comments, revisions to the State's management program (if appropriate), submission of a final program, and preparation and printing of a Final Environmental Impact Statement (FEIS) normally will take a minimum of three months. Factors that will vary this time frame are: the nature of comments received on the DEIS, the nature and extent of revisions necessary to the management program, and State capabilities with respect to printing the FEIS (since States normally also will be responsible for printing the FEIS).

(d) Notice of the availability of the FEIS will be published in the FEDERAL REGISTER. The Assistant Administrator shall send a copy of such statement to each Federal agency or other person or entity which received a copy of the DEIS and to any additional persons who request a copy of the FEIS.

(e) The Assistant Administrator will review and evaluate any comments received during the thirty day review in keeping with the requirements of subsection 307(b) of the Act. The Assistant Administrator shall then approve or disapprove a State's management program. In the event of approval, the Assistant Administrator shall prepare a set of findings with respect to the requirements of the Act. These findings shall be available upon request. Notice of availability of these findings shall be published in the FEDERAL REGISTER. Principally affected Federal agencies will be sent a copy of the findings as a matter of course.

(f) In the event review of comments on the FEIS leads to a decision by the Assistant Administrator not to approve the management program, the Assistant Administrator shall so advise the State in writing, including the reasons therefor. Notice of this decision also will be published in the FEDERAL REGISTER.

§ 923.73 Miscellaneous.

(a) The timelines laid out in § 923.72 may be shortened if any of the following occur:

(1) Reduction of the time allotted to review environmental impact statements is proposed consistent with applicable procedures and guidelines and concurrence is requested from the Council on Environmental Quality. Reductions in review time normally are limited to emergency circumstances or conditions which would result in impaired program effectiveness; or

(2) A draft environmental impact statement has been issued in connection with preliminary approval pursuant to subsection 305(d) of the Act (see § 923.74 et seq.) and a supplementary or final impact statement is all that is necessary for full approval pursuant to subsection 306(a) of the Act; or

(3) In the case of segmented programs only, a determination is made that the proposed segment management program will not significantly affect the environment. In such cases a negative declaration will be prepared. The program submission still shall shall be sent to principally affected Federal agencies for their review and comment.

(b) The Assistant Administrator shall follow the procedures of § 923.72 in reviewing for approval any amendments or modifications to an approved management program submitted by a State. (See Subpart I for details on amendment procedures.)

§ 923.74 Preliminary approval.

(a) The basic purpose of preliminary approval is to allow a State additional time to implement fully a coastal management program which, in its design and description, meets the requirements of section 306 of the Act. In granting preliminary approval, recognition is given to the need to include, in a subsection 305(d) work program, those deficiencies precluding section 306 approval, the specifics for remedying those deficiencies, and a timetable within which this is to occur.

(b) Another objective is to provide funding to support initial implementation of selected elements of a State's coastal management program, provided that the overall design and description of the program meets the section 306 requirements. For selected elements to be initially implemented, necessary section 306 legal authorities and administrative capabilities must be in place.

(c) A third objective is to provide a State with additional time to resolve problems, uncovered during DEIS review of a program submitted for section 306 approval, when such problems would preclude full approval.

(d) The following are examples of situations under which States may apply for preliminary approval:

(1) A State may be able to describe the legislative authority it needs in order to meet the requirements under section 306 to have an approvable program, and to draft a bill carrying this out, but not be able to enact same within the time period provided pursuant to subsection 305(c). This could be because the legislature meets only every two years, or because the process is too complicated to accomplish in a matter of months.

(2) A State program may call on local units of government to prepare their own coastal plans in accordance with State guidelines. However, one or even two years may be required for these units to carry out their work. Under this example, it should be noted that, depending on the nature of the State-local relationships and existing legal authorities, this activity also can be accomplished as part of a State's subsection 305(c) program development grant or as part of a section 306 program administrative grant. (See § 923.42(c)(4) for a discussion of when this activity can be performed as part of a section 306 administrative grant.)

(3) A State may need to reorganize within the Executive branch before a program can gain approval and funding under section 306.

(4) A State may be encountering problems resolving differences with one or a number of Federal agencies with respect to specific aspects of its coastal management program.

(e) Preliminary approval is not seen as a necessary continuum from section 305 to section 306 status. States may move directly from subsection 305(c) (program development) grants to section 306 (program implementation) grants. Progression from subsection 305(c) status to subsection 305(d) (preliminary approval) status is not automatic, nor is progression from preliminary approval status to section 306 status automatic. Application for preliminary approval requires consultation with the Assistant Administrator to insure that the State meets the eligibility conditions and approval criteria.

(f) Preliminary approval is meant to apply to a fully described coastal management program for a State's entire coastal zone. Accordingly, segments are not eligible for approval pursuant to this subsection but shall continue to be considered under provisions of section 306 of the Act and related requirements of these regulations dealing specifically with segmentation.

§ 923.75 Eligibility for consideration.

(a) *Requirement.* In order to be eligible for consideration for preliminary approval, pursuant to subsection 305(d), a State must be in one of the following situations:

(1) All subsection 305(c) program development grants have been expended and the State can describe a program that meets the basic approval criteria but there are still aspects of the program which must be instituted before suction 306 approval can be given; or

(2) At any time during section 305 program development when a State has elements of its coastal management program to implement and meets the basic approval requirement (that the overall program as described would be approvable when fully implemented); or

(3) During the course of section 306 review, problems are uncovered that preclude section 306 approval but do not preclude preliminary approval.

§ 923.76 Criteria for preliminary approval.

(a) *Requirement.* For a State's coastal management program to receive preliminary approval pursuant to subsection 305(d)(2) of the Act, the State must demonstrate that:

(1) The management program fulfills the requirements of section 305(b) of the Act and §§ 923.11, 923.12, 923.21-923.23, 923.41, and 923.45 of these regulations;

(2) Deficiencies that prohibit achievement of section 306 program approval are identified, after consultation with the Assistant Administrator, and the means and timetable for remedying these deficiencies are specified;

(3) The purposes for which the subsection 305(d) grant are to be used are specified;

(4) Adequate steps have been or are being taken to meet the requirements under section 306 or 307 of the Act, which involve Federal officials or agencies;

(5) The program as described and proposed for implementation would be fully approvable when submitted for section 306 approval; and

(6) For those elements to be implemented under subsection 305(d), the necessary legal authorities and organizational structures are adequate and in place.

(b) *Comment.* (1) Pursuant to subsection 305(d)(2)(A) of the Act, "(a) coastal state is eligible to receive grants under this subsection if it has • • • (d)eveloped a management program which • • • (i) is in compliance with rules and regulations promulgated to carry out subsection (b), but (ii) has not yet been approved by the Secretary under section 306." The rules and regulations referred to above are contained in Subparts A-F of these regulations.

(2) Pursuant to paragraph 305(d)(2)(B) of the Act, "(a) coastal State is eligible to receive grants under this subsection if it has • • • (s)pecifically identified, after consultation with the Secretary, any deficiency in such program which makes it ineligible for approval • • • (p)ursuant to section 306, and has established a reasonable time schedule during which it can remedy any such deficiency." The only deficiencies that a State may remedy after preliminary approval are those that relate to implementing capability. In other words, an acceptable subsection 305(d) program can be deficient only in its lack of having translated fully described but pending implementing actions into accomplished fact. Deficiencies bearing on the adequacy of program design, description, or implementation strategy cannot be addressed as part of a subsection 305(d) program but rather should continue to be addressed as part of the basic subsection 305(c) program development process. To meet the requirements of subsection 305(d)(2)(B) of the Act, States should describe the nature of the deficiency, the reason for it, and the specific means and timetable by which the deficiency shall be overcome. The schedule for remedying deficiencies should be sufficiently long to be realistic, given the nature and number of deficiencies and the particulars of a State's situation. At the same time it should be sufficiently tight to insure an enhanced and expeditious State effort. In no case shall the timetable for remedying section 306 deficiencies extend beyond fiscal year 1980.

(3) Pursuant to subsection 305(d)(2)(C) of the Act, "(a) coastal State is eligible to receive grants under this subsection if it has • • • (s)pecified the purposes for which grants shall be used."

(i) In specifying the purposes for which grants shall be used, States are advised that the following represent allowable subsection 305(d) costs:

(A) Resolving section 306 deficiencies;

(B) Meeting the new planning requirements of subsections 305(b) (7), (8), and (9);

(C) Implementing those portions of a State's coastal management program for which sufficient authorities and organizational structures are in place; and

(D) Updating coastal management programs if this updating would be an allowable cost after section 306 approval.

(ii) Examples of fundable items to remedy section 306 deficiencies include, but are not limited to:

(A) Pass-throughs to local or regional units of government to develop master programs and/or local ordinances conforming to State guidelines;

(B) Efforts necessary to enact or refine needed legislation;

(C) Federal coordination efforts, including establishment of procedures for determining Federal consistency once a coastal management program is fully approved under section 306; and

(D) Negotiation of memoranda of understanding and instituting other arrangements for interactions among State agencies.

(iii) Examples of fundable items to meet the new planning requirements include:

(A) Development of a shorefront access and protection planning process;

(B) Development of an energy facility planning process; and

(C) Development of a shoreline erosion/mitigation planning process.

(iv) Examples of fundable items to initiate implementation of selected aspects of a State's coastal management program include, but are not limited to:

(A) Personnel or equipment necessary to administer approved permit and other authorities;

(B) Signs, publications, etc., relative to approved management practices; and

(C) General maintenance/resource management activities.

(v) Example of fundable items for updating the management program include, but are not limited to:

(A) Site-specific studies on appropriate management techniques for areas for preservation or restoration;

(B) Opinion surveys to determine public understanding or acceptance of various elements of the management program;

(C) Studies of ways to improve intergovernmental coordination techniques approved as part of the management program.

(4) Pursuant to subsection 305(d)(2)(D) of the Act, "(a) coastal State is eligible to receive grants under this subsection if it has • • • (t)aken or is taking adequate steps to meet any requirement under section 306 or 307 which involves any Federal official or agency." For purposes of this paragraph, the particular sections of 306 and 307 are:

(i) Subsection 306(a)(1)—identification of excluded Federal lands;

(ii) Subsection 306(c)(1)—opportunity for full participation by relevant Federal agencies. This shall include advising Federal agencies (especially at the regional level) of the State's intent to apply for preliminary approval;

(iii) Subsection 306(c)(8)—adequate consideration of the national interest involved in planning for, and in the siting of, facilities necessary to meet requirements which are other than local in nature;

(iv) Subsection 307(c)—development of procedures for certifying Federal consistency with respect to Federal activities or development projects, and with respect to activities subject to Federal licenses or permits;

(v) Subsection 307(d)—development of procedures for certifying Federal consistency with respect to Federal assistance to State and local governments; and

(vi) Subsection 307(h)(1)—participation in mediation procedures, if appropriate.

(5) Pursuant to subsection 305(d)(2)(E) of the Act, "(a) coastal State is eligible to receive grants under this subsection if it has • • • (c)omplied with any other requirement which the Secretary, by rules and regulations, prescribes as being necessary and appropriate to carry out the purposes of this subsection." By virtue of these rules and regulations, the following are prescribed as necessary and appropriate for States to complete in order to merit preliminary approval under this paragraph:

(i) A description of the overall management program of sufficient detail and addressing all section 306 findings to allow a determination that, when implemented, these elements will constitute an approvable section 306 management program.

(ii) For those aspects to be implemented under subsection 305(d), a demonstration that the legal authorities and organizational capability necessary for implementation exist at time of preliminary approval.

(iii) An Environmental Impact Assessment (EIA), with particular emphasis on those elements, if any, which will be funded for implementation purposes pursuant to subsection 305(d).

§ 923.77 Preliminary approval review/approval procedures.

(a) States interested in preliminary approval should consult with the Assistant Administrator well in advance of the point at which they would like to receive such approval. As a general rule, such consultation should begin six months before approval is desired. The purpose of this consultation is to determine:

(1) If the program will be sufficiently developed, designed and described to warrant consideration for preliminary approval at the time desired;

(2) If there are any elements of the State's management program eligible for implementation funding as part of preliminary approval;

(3) The content and detail of the EIA which must accompany the State's preliminary approval submission; and

(4) If an EIS will be necessary prior to granting preliminary approval.

If the Assistant Administrator indicates that the program appears to meet the subsection 305(d) approval criteria, and if a determination is made that an EIS will not be necessary prior to preliminary approval, States should plan on submitting the subsection 305(d) program document, including an EIA, two to three months prior to the desired date of approval. If the Assistant Administrator determines an EIS will be necessary prior to granting preliminary approval, States should plan on submitting the program document, including the EIA, shortly after this determination is made. The EIS procedures discussed in § 923.72 then will be followed. The subsection 305(d) program document should follow the general format recommended by OCZM in § 923.71. In addition, the information required by § 923.76 (b)(2) and (b)(3) with respect to describing deficiencies, timetable for remedying, and purposes for which the grant will be used must be included. The application for grant funds and the accompanying work program is a separate document that may be submitted in conjunction with or subsequent to submission of the subsection 305(d) program document. The requirements for the grant application are contained in Subpart J, § 923.99.

(b) Upon submission by a State of a subsection 305(d) program document, the Assistant Administrator shall review the document for compliance with the approval criteria contained in § 923.76. If a State meets the approval criteria, the Assistant Administrator may award a subsection 305(d) grant and will issue a set of findings with respect to deficiencies and the timetable for their resolution.

(c) Copies of the subsection 305(d) program document and the Assistant Administrator's findings of deficiencies will be distributed to relevant Federal agencies.

(d) If a State applies for preliminary approval after formal section 306 program review has begun, preliminary approval will be issued at that point in the section 306 review process when the DEIS review reveals problems that preclude full program approval and implementation but do not preclude preliminary approval. States will be required to take into consideration those items raised by the DEIS reviews as part of the subsection 305(d) work program.

Subpart I—Changes to Approved Management Programs

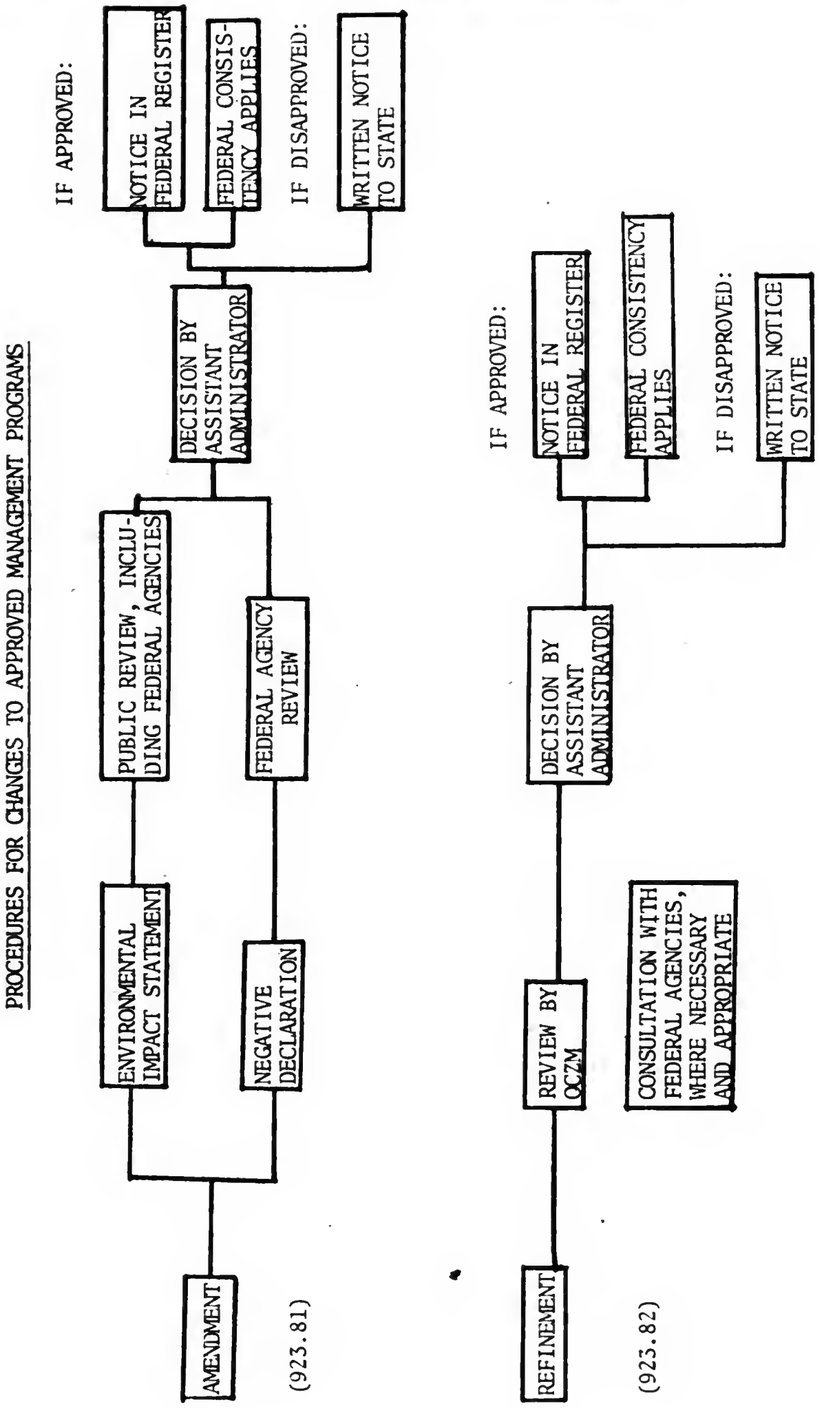
§ 923.80 General.

(a) This Subpart establishes the criteria and procedures by which changes to approved management programs may be made. This Subpart also establishes the conditions and procedures by which administrative funding may be terminated for programmatic reasons.

(b) Changes to an approved management program may take the form of amendments (also referred to as modifications in subsection 306(g) of the Act) or refinements. The criteria for determining if a change is an amendment and the procedure for processing such amendment is contained in § 923.81. The criteria for determining if a change is a refinement and the related review and approval procedures are found in § 923.82. Below is a chart depicting the differences between amendments and refinements with respect to review and approval procedures.

CHART

PROCEDURES FOR CHANGES TO APPROVED MANAGEMENT PROGRAMS



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(c) An illustrative list is provided below of potential program changes. It does not distinguish between amendments and refinements. This distinction is to be made on the basis of the criteria contained in §§ 923.81 and 923.82 respectively.

LIST OF POTENTIAL PROGRAM CHANGES

New or Revised Legislation

Examples:
- New powerplant siting authority
- Revised wetlands law
- Amended flood control authority
- New law authorizing acquisition of coastal lands

New or Revised State Agency Regulations

Examples:
- Regulations to implement sand mining legislation
- Revisions to shoreland regulations changing permissible use districts, conditional uses and/or management techniques
- Revision of dredge and fill permit regulations

New or Revised Local Implementation Programs, Ordinances or Other Regulations Pursuant to State Policies, Criteria or Standards

Examples:
- Local management certified programs to be in conformance with State standards and criteria
- New or revised shoreland ordinances
- New or revised soil erosion ordinances
- New or revised flood control zones

Additions, Deletions or Revisions to Designated Areas of Particular Concern (APCs) or Areas for Preservation or Restoration (APRs)

Examples:
- New designations of APCs pursuant to a State's Critical Areas Act
- Revisions to designated hazard areas or shoreline environmental areas pursuant to a State's Shoreline Management Act
- New designation of a port area for redevelopment pursuant to APC procedures in a State's management program

Changes to Enforceable Policies (by other than legislation or regulations as discussed in (1) and (2) above)

Example:
- New executive order on floodplains management

Changes in Organizational Arrangements

Examples:
- Modification of the list of uses of regional benefit or the methods to assure local regulations do not unreasonably restrict or exclude such uses
- Changes in State-local consultation procedures required pursuant to subsection 306(c)(2)(B) of the Act
- Changes in procedures for considering national interests

(d) The lead State agency, designated pursuant to subsection 306(c)(5) of the Act, has the responsibility for notifying the Assistant Administrator of proposed changes and requesting approval of such changes. Such request(s) may be made annually at the time of reapplication for administrative funding or on an as-occurring basis. Action to implement a change prior to its acceptance by the Assistant Administrator as part of the State's management program may result in a finding that the State has not adhered to its management program and is not justified in deviating from it. (See § 923.83(b)(1)(ii).) Federal consistency does not apply until the change is approved by the Assistant Administrator. Use of administrative funds to implement work tasks associated with a proposed change, before approval by the Assistant Administrator, may be disallowed upon audit of the program. States are encouraged to use their performance reports to inform the Assistant Administrator in a timely manner of potential changes to the management program.

(e) The lead State agency has the initial responsibility of determining whether proposed changes represent amendments or refinements. The assistant Administrator will review this determination to see if it conforms to the criteria of §§ 923.81 and 923.82 respectively. States are encouraged to consult with OCZM in advance of a formal request for change(s) to ascertain if their determination is correct.

§ 923.81 Amendments or modifications to approved management programs.

(a) Amendments (or modifications) to approved management programs may be justified if they are in response to changes in coastal zone needs, problems, issues, priorities, social or political expectations, or other factors bearing on the relevancy and viability of a State's coastal management program, provided that such amendments/modifications are consistent with the findings and policies of section 302 and 303 of the Act and with the requirements of section 306 of the Act.

(b) Amendments or modifications will represent one of these types of changes to the management program:

(1) Changes in basic program goals, objectives or policies;

(2) Changes in techniques (for achieving goals, objectives or policies) that result in an environmental impact significantly different from previously approved techniques; or

(3) Changes in techniques (for achieving goals, objectives or policies) that result in significantly altered intergovernmental relationships not reviewed by and concurred with by affected agencies or units of government at the time of proposed modification.

(c) *Amendment procedures.* Prior to formal submission of an amendment, the State shall inform the public as well as affected parties of the proposed change in order to determine the degree and nature of public interest. Following evaluation of public and private reactions, if a State decides to proceed with a request for a program amendment, it shall submit the following to the Assistant Administrator:

(1) A written request from the Governor for the amendment or the head of the lead State agency designated pursuant to subsection 306(c)(5) of the Act;

(2) A description of the proposed change;

(3) Justification for the change in terms of the factors noted in (a) above;

(4) Evidence of public notice and a discussion of the degree and nature of public interest; and

(5) An environmental impact assessment or a determination that the proposed amendment will not have significantly different environmental impacts from the already approved management program.

The Assistant Administrator then shall review the requested change pursuant to the requirements of subsection 306(g) of the Act. Pursuant to this section, amendments to approved management programs are to be reviewed and approved according to the same procedures utilized for initial management program approvals. The specifics of these procedures are contained in Subpart H. The Assistant Administrator will make a case-by-case determination as to the necessity of issuing an Environmental Impact Statement (EIS) prior to approving any amendments or modifications.

In the event an EIS is appropriate, which will be the case when changes described in (b)(2) above are proposed, the review/approval procedures described in § 923.72 will be followed. In the event a determination is made that an EIS is not required, as may be the case when changes described in (b)(3) above are proposed, the Assistant Administrator will send a copy of the proposed amendment(s) to relevant Federal agencies for their review and comment. Federal agencies normally will have at least forty-five (45) days for review and comment. The Assistant Administrator will consider these comments before making a final decision on whether or not to approve the requested amendment. Whichever review/approval procedure is followed, notice of a decision by the Assistant Administrator will be published in the FEDERAL REGISTER. In the event an amendment request is not approved, the Assistant Administrator will so advise the State in writing, including the reasons therefore.

(d) *Comment.* Statutory Citation, Subsection 306(g):

> Any coastal state may amend or modify the management program which it has submitted and which has been approved by the Secretary, under this section, pursuant to the required procedures described in subsection (c).

(e) Federal consistency, as provided for in section 307 of the Act, shall not apply to proposed amendments unless

and until such amendments are approved, pursuant to the procedures in Subpart H, and are thereby incorporated as part of the approved management program.

(f) In cases where an amendment relates to an already approved program goal, objective, policy, authority or other technique and the State acts to implement that amendment prior to approval by the Assistant Administrator, such action may represent cause for notification by the Grants Officer of intent to terminate and withdraw financial assistance pursuant to § 923.83. In cases where an amendment relates to a new goal, objective, policy or authority not previously contained in a State's approved coastal management program, the State may initiate implementation of such amendment provided it does not conflict with or contradict any existing approved management program goal, objective, policy or authority and with the understanding that section 306 funding for and Federal consistency relative to that amendment are not available unless and until approval is conferred.

(g) State management programs that have been or will be approved, pursuant to section 306 of the Act, prior to October 1, 1978, without meeting the requirements of subsection 305(b) (7), (8) and (9) and related §§ 923.14, 923.25 and 923.26 of these regulations will need to be amended to incorporate these three planning requirements into their approved management programs.

§ 923.82 Refinements to approved management programs.

(a) It is recognized that a coastal management program is a dynamic process that will change over time in response to changing needs and conditions. Not all these changes will be of such a major nature to require an amendment. Accordingly, States may make minor refinements to their management programs without following the formal amendment procedures specified in § 923.81 and Subpart H. Such refinements may be made following consultation with and approval by the Assistant Administrator.

(b) Refinements are changes relating to programs or techniques for attaining particular goals and objectives or for implementing particular policies (but not changes in these goals, objectives or policies themselves). In addition, these refinements will not have an environmental impact significantly different from previously approved programs or techniques and will not significantly alter previously approved intergovernmental arrangements with other State agencies, local governments and/or Federal agencies, unless the affected agencies/units of government and the Assistant Administrator concur in these alterations.

(c) States shall use the following procedure in making refinements to their management programs:

(1) States shall consult with the Assistant Administrator prior to proceeding with a formal request for a refinement to determine that the change represents a refinement rather than an amendment and that the change is both reasonable and justifiable.

(2) Upon such a determination, the State shall submit a written request from the head of the designated State agency which shall contain:

(i) A description of the proposed change;

(ii) Justification for the change;

(iii) Indication that the public and affected parties have been informed of the proposed change and a discussion of their reactions; and

(iv) A determination that the proposed change will not have environmental impacts significantly different from the already approved management program.

(v) a determination that the proposed refinement will not significantly alter previously approved intergovernmental relationships or, if there are changes in these relationships, that these have been concurred with by the affected governmental entities or legislatively mandated.

Upon receipt of the formal request for a refinement, the Assistant Administrator will evaluate the supporting materials submitted along with the request. If appropriate in the opinion of the Assistant Administrator, he/she will consult with relevant Federal agencies or other interested parties. Notice of the Assistant Administrator's decision will be published in the FEDERAL REGISTER. Copies of the refinement will be sent to relevant Federal agencies as a matter of course and to other parties upon request. If the Assistant Administrator disapproves the request, the State shall be notified in writing including the reasons therefor.

§ 923.83 Termination and withdrawal of administrative funding.

(a) In addition to the provisions contained in OMB Circular A-102 relating to termination and withdrawal of funding awarded pursuant to a grant award, the Assistant Administrator may recommend to the NOAA Grants Office that section 306 grant funding be terminated and withdrawn if the Assistant Administrator determines that:

(1) A State has failed or is failing to adhere to and was or is not justified in deviating from its approved management program; and

(2) That State has been provided notice of intent to terminate and withdraw funding; and

(3) That State has been provided an opportunity to demonstrate adherence, or justification for program alteration or modification.

(b) *Comment.* Statutory Citation, Subsection 312(b):

> The Secretary shall have the authority to terminate any financial assistance extended under section 306 and to withdraw any unexpended portion of such assistance if (1) he determines that the state is failing to adhere to and is not justified in deviating from the program approved by the Secretary; and (2) the state has been given notice of the proposed termination and withdrawal and given an opportunity to present evidence of adherence or justification for altering its program.

(1) Situations which may lead to notice of intent to terminate and withdraw funding include:

(i) In evaluating a State's performance as part of the continuing review function pursuant to section 312 of the Act, the Assistant Administrator determines that the State has not adhered to its management program approved pursuant to section 306 of the Act, and such lack of adherence is not justified; or

(ii) In going through the amendment process where the amendment relates to a previously approved program goal, objective, policy, authority or other technique, a State acts to implement that amendment prior to approval by the Assistant Administrator.

(2) In the event there is cause for terminating and withdrawing section 306 funding, notice in the form of written documents from the Assistant Administrator and the NOAA Grants Officer to the Governor of the State in question or the head of the designated State agency shall be provided advising of the intent to terminate an approved grant and to withdraw any unexpected portions of funding assistance. Included in this notice will be the reasons for the proposed termination and withdrawal of funds as well as notice of opportunity for the State to present evidence of adherence or justification for alteration or refinement of its program. Such opportunity to present evidence as referred to in subsection 312(b) of the Act shall consist of a thirty day period, commencing on a receipt of notice, within which the State may respond by providing written materials demonstrating adherence to or justification for refining or modifying its program. Within this thirty day period, a State may request additional time beyond the thirty day period to present evidence of adherence or justification for alteration or refinement. Such additional time shall not extend beyond a subsequent thirty days from the termination of the first thirty day period. In total then, a State may have a maximum of sixty days, from receipt of notice, in which to respond. Following receipt and evaluation of a State's evidence with respect to adherence or justification for alteration, a final determination shall be made by NOAA with respect to termination and withdrawal of funding assistance. If termination and withdrawal of funding is deemed appropriate, the NOAA Grants Office shall take appropriate action to terminate or withdraw funds. If funding is terminated and withdrawn pursuant to this section, notice shall be placed in the FEDERAL REGISTER. Once funding is terminated and withdrawn pursuant to this section, Federal consistency pursuant to section 307 of the Act shall cease to apply to that State's program.

Subpart J—Applications for Program Development or Implementation Grants

§ 923.90 General.

(a) The primary purpose of development grants made pursuant to section 305 of the Act is to assist coastal States in the development of comprehensive coastal management programs that can be approved by the Assistant Administrator. The primary purpose of implementation grants made pursuant to section 306 of the Act is to assist coastal States in implementing coastal management programs following their approval by the Assistant Administrator. The purpose of the guidelines in this subpart J is to define the procedures by which grantees apply for and administer grants under the Act. These guidelines shall be used and interpreted in conjunction with the Grants Management Manual under the Coastal Zone Management Act, hereinafter referred to as the "Manual."

(b) The Manual incorporates a wide range of Federal requirements, including those of the Office of Management and Budget, the General Services Administration, the Department of the Treasury, the General Accounting Office and the Department of Commerce. In addition to specific policy requirements of these agencies, the Manual includes recommended policies and procedures for grantees to use in submitting a grant application.

(c) Grants awarded to a State must be expended for the development or administration, as appropriate, of a management program that meets the requirements of the Act.

(d) Grants shall not exceed eighty per cent of the annual total cost of the program.

(e) For purposes of this subpart, the term "development grant" means a grant awarded pursuant to subsection 305(a) of the Act. "Administrative grant" and "implementation grant" are used interchangeably and mean grants awarded pursuant to subsections 306 (a) or (h) of the Act.

§ 923.91 Administration of the program.

The Congress assigned the responsibility for the administration of the Act to the Secretary of Commerce who has designated NOAA to manage the program. NOAA has established the Office of Coastal Zone Management for this purpose. All application and preapplication forms are to be requested from and submitted to:

> National Oceanic and Atmospheric Administration, Office of Coastal Zone Management, Grants and Loans, Operations Staff, 3300 Whitehaven Street NW., Washington, D.C. 20235.

§ 923.92 State responsibility.

(a) Applications for program administrative grants shall be submitted by the Governor of a participating State or by the head of the State agency or entity designated by the Governor pursuant to subsection 306(c)(5) of the Act.

(b) In the case of a section 305 grant, the application shall designate a single State official, agency or entity to receive development grants and to be responsible for development of the State's coastal management program. The designee need not be that agency designated by the Governor pursuant to subsection 306(c)(5) of the Act as the single agency to receive and administer implementation grants.

(c) One State application will cover all program activities for which funds under this Act and matching State funds are provided, irrespective of whether these activities will be carried out by State agencies, areawide or regional agencies, local governments, or interstate entities.

(d) The designated State entity is fiscally responsible for all expenditures made under the grant, including expenditures by subgrantees and contractors.

§ 923.93 Allocation.

(a) A State may allocate a portion or portions of its grant to other State agencies, local governments, areawide or regional agencies, interstate entities, or Indian tribes if the work to result from such allocation(s) contributes to the effective development or implementation of the State's management program.

(b) *Local governments.* Should a State desire to allocate a portion of its development grant to a local government, pursuant to the provisions of subsection 305(g) of the Act, units of general-purpose local government are preferred over special-purpose units of local government, pursuant to section 402 of the Intergovernmental Cooperation Act of 1968.

(c) *Local governments.* Where a State will be relying on direct State controls as provided for in subsection 306(e)(1)(B) of the Act, pass-throughs to local governments for local planning, regulatory or administrative efforts under a section 306 grant cannot be made, unless they are subject to adequate State overview and are part of the approved management program. Where the approved management program provides for specified local activities or one-time projects, again subject to adequate State overview, then a proportional amount of administrative grant funds can be allocated to local governments.

(d) *Areawide agencies.* If a State wishes, it may allocate a portion of its administrative grant to an areawide agency, and absent State law to the contrary, preference shall be given to those agencies recognized or designated as areawide comprehensive planning or development agencies under the provisions of the Office of Management and Budget Circular No. A-95, under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966.

(e) *Indian Tribes.* In furtherance of the policy enunciated in § 923.33(e), individual tribes or groups of tribes may be considered regional agencies and may be allocated a portion of a State's grant in the form of a contract or subgrant for the development of independent tribal coastal management programs or the implementation of specific management projects provided that:

(1) The State certifies that such tribal programs or projects are compatible with its approved coastal management policies; and

(2) On excluded tribal lands, the State demonstrates that the tribal program or project would or could directly affect the State's coastal zone.

(f) *Comment.* Statutory Citation, Subsection 305(g):

> With the approval of the Secretary, any coastal state may allocate to any local government, to any areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, to any regional agency, or to any interstate agency, a portion of any grant received by it under this section for the purpose of carrying out the provisions of this section.

(g) *Comment.* Statutory Citation, Subsection 306(f):

> With the approval of the Secretary, a state may allocate to a local government, an areawide agency designated under section 204 Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency, a portion of the grant under this section for the purpose of carrying out the provisions of this section: Provided, that such allocation shall not relieve the state of the responsibility of ensuring that any funds so allocated are applied in furtherance of such state's approved management program.

§ 923.94 Geographic segments.

(a) Application procedures for a grant to be awarded pursuant to subsection 306(h) of the Act for a geographic segment of a State's coastal zone are the same as those set forth in this subpart for a grant to administer

the approved management program of the entire coastal zone of a State.

(b) When a State has a program for a geographic segment of its coastal zone approved pursuant to subsection 306(h) of the Act, that portion of a State's coastal zone not awarded segment approval will continue to be eligible for section 305 grants until authorization for such funds terminates.

§ 923.95 Eligible implementation costs.

(a) Costs claimed must be beneficial and necessary to the objectives of the grant project. As used herein the terms cost and grant project pertain to both the Federal and the matching share. Allowability of costs will be determined in accordance with the provisions of Federal Management Circular (FMC) 74-4: Cost Principles Applicable to Grants and Contracts with State and Local Governments.

(b) Federal funds awarded pursuant to section 306 of the Act may not be used for land acquisition purposes and may not be used for construction purposes except as described in paragraph (e) below.

(c) The primary purpose for which implementation funds, pursuant to section 306 of the Act, are to be used is to assure effective implementation and administration of the management program, including especially administrative actions to carry out and enforce program policies, authorities and other management techniques.

(d) Additional purposes to which States are encouraged to apply implementation funding are those that resolve coastal problems and issues in which there are national interests including fisheries management, reduction of losses due to coastal hazards, protection of natural resources, siting of energy facilities, provision of access to and use of the shorefront and urban waterfronts.

(e) Still other purposes to which implementation funding may be applied include the management of designated areas of particular concern, especially areas designated for preservation or restoration purposes, consistent with the national policies of the Act and the policies in a State's management program. Preservation and restoration projects involving expendable materials (as for example, seeds to be used as a non-structural erosion control technique or, for another example, materials to restore lighthouses designated as areas for restoration) may be funded for areas designated for preservation or restoration pursuant to §§ 923.21 or 923.24. All costs associated with such projects may not exceed a total of $50,000 per grant, except in the case of a demonstration grant which may be negotiated with and approved by the Assistant Administrator. In addition the following conditions must be met:

(1) The project must be consistent with and fulfill the objectives of a related policy (or policies) in the State's management program;

(2) Basic program administration requirements discussed in paragraph (c) are provided for;

(3) No other sources of funding are readily available; and

(4) An explanation is provided of how the area will be maintained and operated once preserved or restored.

(f) Section 306 funding in support of any of these purposes, except as limited in paragraph (e) above, may be used to fund:

(1) Personnel costs,

(2) Supplies and overhead,

(3) Equipment (subject to the limitations in paragraph (g) below), and

(4) Feasibility studies and preliminary engineering reports. A feasibility study is defined as a document, independent of a particular design solution for a project, which presents an analysis of the economic praticality of the project. A preliminary engineering report is defined as a document which presents both engineering criteria, in sufficient detail to form the basis for the preparation of final design documents and detailed engineering cost estimates. Detailed architectural drawings and engineering specifications are not eligible costs unless directly related to preservation and restoration projects discussed in (e) above.

(g) Equipment purchases of more than one thousand (1,000) dollars per item require NOAA approval prior to purchase. Such purchases may be deemed eligible costs if the State:

(1) Has examined lease, rental or other non-purchase alternatives and purchase represents an equal or lesser cost alternative, and

(2) The equipment is essential to management activities that are anticipated to continue for more than 1 year.

(h) States are encouraged to coordinate administrative funding requests with funding possibilities pursuant to sections 308, 309, 310 and 315 of the Act. When in doubt as to the appropriate section of the Act under which to request finding, States should consult with OCZM. States should consult with OCZM on technical aspects of consolidating requests into a single application.

§ 923.96 Application for initial program development or implementation grants.

(a) The form SF-424, Preapplication for Federal Assistance, may be used at the applicant's option. If used, the Preapplication form should be submitted 120 days prior to the beginning date of the requested grant. The preapplication shall include documentation, signed by the Governor, designating the State office, agency or entity to apply for and administer the grant. Copies of the approved management program are not required.

(b) All applications are subject to the provisions of OMB Circular A-95 (revised). The Form SF-424, Preapplication for Federal Assistance, will be transmitted to the appropriate clearinghouses at the time it is submitted to OCZM.

The Preapplication form shall include an attachment indicating the date copies of the preapplication form were submitted to the State and areawide clearinghouses. The Preapplication form may be used to meet the project notification and review requirement of OMB Circular A-95 with the concurrence of the appropriate clearinghouses. In the absence of such concurrence, the project notification and review procedures established by State and areawide clearinghouses should be implemented simultaneously with the distribution of the Preapplication form.

(c) The Form SF-424, Application for Federal Assistance (Non-Construction Programs) constitutes the formal application and must be submitted 60 days prior to the desired grant beginning date. The application must be accompanied by evidence of compliance with A-95 requirements including the resolution of any problems raised by the proposed project. OCZM will not accept applications substantially deficient in adherence to A-95 requirements.

(d) Costs claimed as charges to the grant project must be beneficial and necessary to the objectives of the grant project. As used herein, the terms "cost" and "grant project" pertain to both the Federal grant and the matching share. Allowability of costs will be determined in accordance with the provisions of FMC 74-4: Cost Principles Applicable to Grants and Contracts with State and Local Governments.

(e) In Part IV—Program Narrative of the Form SF-424, the applicant shall describe clearly and briefly the activities that will be undertaken with grant funds in support of implementation and administration of the management program. This description shall include:

(1) An identification of those elements of the approved management program that are to be supported in whole or in part by the Federal and the matching share,

(2) A clear statement of the major tasks required to implement each element,

(3) For each task:

(i) Specify how it will be accomplished and by whom;

(ii) Identify any subgrantees or contractors that will be allocated responsibility for carrying out all or portions of the task, and indicate the estimated cost of the subgrant or contract for each allocation. Identify, if any, that portion of the task that will be carried out under contract with private firms or individuals and indicate the estimated cost of such contract(s);

(iii) Indicate the estimated total cost. Also indicate the estimated total person-months if any, allocated to the task from the applicant's staff;

(iv) Indicate the percent estimated to be completed during the grant period.

(4) The sum of all task costs in subparagraph (3) above should equal the total estimated grant project cost.

(5) Using two categories, Professional and Clerical, indicate the total number of personnel in each category on the applicant's staff that will be assigned to the grant project. Also indicate the number assigned full time and the number assigned less than full time in the two categories. Additionally, indicate the number of new positions created in the two categories as a result of the grant project.

(f) In addition to the requirements of paragraphs (a)-(e) above, Part IV—Program Narrative for an initial section 305 program development grant must contain the following:

(1) A summary of the State's past and current activities in its coastal zone and a description of the current status of coastal management and related activities;

(2) A discussion and ranking by general order of importance of the major coastal zone related problems and issues facing the State;

(3) An identification of the goals the State expects to achieve by development of its coastal management program, and the objectives it has set to meet these goals; and

(4) A description of the overall program design for developing the management program. This should be an outline of the State's plan of action, identifying the work necessary to develop an approvable management program. The applicant should describe in brief and concise terms how the overall program design is intended to meet the requirements set forth in Subparts A-F of these regulations. Specifically, the program design shall include:

(i) An identification of existing information and sources of information;

(ii) A projection as to additional information needed;

(iii) A description of methods for public participation;

(iv) A description of the processes by which the State intends to involve various levels of government in the development of the management program; and

(v) An identification of any other Federal or State plan, program or activity which may have a significant impact on the State's coastal zone. As it is developed, the coastal management program should include methods to coordinate federally assisted programs, pursuant to the requirements of § 923.56.

§ 923.97 Applications for subsequent program development grants.

(a) Subsequent development grants will follow the procedures set forth in § 923.96 (a), (b), (c), and (e) except that the preapplication form may be used at the option of the applicant. If used, the procedures set forth in § 923.96(a) will be followed. In any event, the A-95 project notification and review procedures established by State and areawide clearinghouses shall be followed. Additionally, the program design (§ 923.96 (f)(4)) shall be updated to:

(1) Describe the anticipated design and content of the management program, including the major issues the program will address, and the policies and management techniques that will be proposed to address these issues;

(2) Describe how the past year's work contributed to the accomplishment of the overall program design and specifically to meeting the requirements for program approval;

(3) Examine and assess the need, if any, to modify the overall program design or the program's goals and objectives or both in view of the above or any emerging opportunities or problems; and

(4) Indicate when the State will submit a management program to the Assistant Administrator for review and final approval pursuant to section 306 of the Act or for preliminary approval pursuant to subsection 305(d) of the Act.

(b) In evaluating whether a State is making satisfactory progress towards completion of an approvable management program which is necessary to establish eligibility for subsequent grants, the Assistant Administrator will consider:

(1) The progress made towards meeting management program goals and objectives;

(2) The progress demonstrated in completing the past year's work program;

(3) The cumulative progress towards meeting the requirements for preliminary or final approval of a coastal management program;

(4) The applicability of the proposed work program to fulfillment of the requirements for final approval; and

(5) The effectiveness of mechanisms for insuring public participation and consultation with affected Federal, State, regional and local agencies in program development.

§ 923.98 Applications for subsequent program implementation grants.

Second and subsequent year applications will follow the procedures set forth in § 923.96 (a), (b), (c) and (e) except that:

(1) The Preapplication form may be used at the option of the applicant. If used, the procedures set forth in § 923.96 (a) shall be followed;

(2) The Governor's document designating the State agency to receive and administer the grant is not required unless there has been an approved change of designation; and

(3) Copies of the approved management program and approved changes are not required.

§ 923.99 Applications for preliminary approval grants.

(a) The primary purposes of preliminary approval grants are to assist a State in insuring ultimate implementation of a fully developed program design and to provide for initial implementation of approved management elements. Additionally, subsection 305(d) funding may be used to meet the requirements of subsection 305(b)(7), (8), and (9). The purpose of these guidelines is to define the procedures by which grantees apply for and administer grants under the Act.

(b) No subsection 305(d) grant will be made after September 30, 1979.

(c) The Form SF-424, Application for Federal Assistance (Non-Construction Programs), constitutes the formal application and must be submitted 60 days prior to the desired grant beginning date. The application must be accompanied by evidence of compliance with A-95 requirements including the resolution of any problems raised by the proposed project. The Assistant Administrator will not accept applications substantially deficient in adherence to A-95 requirements.

(d) In Part IV, Program Narrative of the Form SF 424, the applicant should respond to the following requirements:

(1) Set forth a work program describing the activities to be undertaken during the grant period. This work program shall include:

(i) A precise description of each major task to be undertaken to resolve section 306 deficiencies, and a specific timetable for remedying these deficiencies;

(ii) A precise description of implementation activities for approved management components, including a demonstration that these implementation funds will not be applied outside the approved coastal management boundaries;

(iii) A precise description of any other tasks necessary for and allowable under subsection 305(d);

(iv) For each task, identify any "Other Entities," as defined in the "Manual," that will be allocated responsibility for carrying out all or portions of the tasks, and indicate the estimated cost of the subcontract for each allocation. Identify, if any, that portion of the task that will be carried out under contract with consultants

and indicate the estimated cost of such contract(s); and

(v) For each task, indicate the estimated total cost. Also, indicate the estimated total months of effort, if any, allocated to the task from the applicant's staff.

(2) The sum of all task cost in the above paragraph should equal the total estimated grant project cost.

(3) Using two categories, Professional and Clerical, indicate the total number of personnel in each category on the applicant's staff that will be assigned to the grant project. Also indicate the number assigned full time and the number assigned less than full time in the two categories. Additionally, indicate the number of new positions created in the two categories as a result of the grant project.

§ 923.100 Application for three new planning elements.

(a) For those States receiving program development grants up to October 1, 1979, pursuant to subsections 305(c) or 305(d), the work program and funding request for the subsection 305(b) (7), (8), and (9) planning elements should be developed as part of the overall work program and grant application pursuant to the procedures contained in § 923.96 for subsection 305(c) grants or pursuant to § 923.99 for subsection 305(d) grants.

(b) For States that have an approved management program or will have an approved management program by October 1, 1978, those States may receive program development grants for the express purpose only of fulfilling the subsection 305(b) (7), (8), and (9) requirements prior to October 1, 1978. States with program approved prior to or by October 1, 1978, must fulfill these three requirements by that date. States with program implementation grants which also wish to receive the program development grants for this specified purpose and within the specified time limit may make application for section 305 planning funds and section 306 implementation funds using a single application form. The work tasks and costs associated with the new planning elements must be clearly and separately identified. States should consult with the Assistant Administrator for detailed guidance on the preparation and content of a combined application. Alternatively States may make two separate applications—one following the requirements set forth in § 923.96 for section 305 grants and one following the application requirements in § 923.96 for section 306 administrative grants.

(c) Comment. Statutory Citation, Subsection 305(h):

> Whenever the Secretary approves the management program of any coastal State under section 306, such State thereafter (1) shall not be eligible for grants under this section except that such State may receive grants under subsection (c) in order to comply with the requirements of Paragraphs (7), (8), and (9) of subsection (b) * * *.

§ 923.101 Approval of applications.

(a) The application for a grant by any coastal State which complies with the policies and requirements of the Act and these guidelines shall be approved by the Assistant Administrator, assuming available funding.

(b) Should an application be found deficient, the Assistant Administrator will notify the applicant in writing, setting forth in detail the manner in which the application fails to conform to the requirements of the Act or these regulations. Conferences may be held on these matters. Corrections or adjustments to the application will provide the basis for resubmittal of the application for further consideration and review.

(c) The Assistant Administrator may, upon finding of extenuating circumstances relating to applications for assistance, waive appropriate administrative requirements contained in this subpart.

§ 923.102 Grant amendments.

Amendments to a grant award must be submitted to, and approved by, the Assistant Administrator prior to initiation of the contemplated change. Requests for substantial changes should be discussed with the Assistant Administrator well in advance. The grantee shall be notified within 30 days from date of receipt of the request whether the grant amendment has been approved or if it still is under consideration and when the grantee may expect a decision. All amendments to the grant must be approved in writing by the NOAA Grants Officer.

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federal register

WEDNESDAY, MARCH 1, 1978
PART III

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

COMMUNITY DEVELOPMENT BLOCK GRANTS

Eligible Activities

[4210-01]

Title 24—Housing and Urban Development

CHAPTER V—OFFICE OF THE ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND DEVELOPMENT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-78-471]

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

Subpart C—Eligible Activities

AGENCY: Department of Housing and Urban Development.

ACTION: Final rulemaking.

SUMMARY: HUD is issuing final rules on Subpart C of the regulations governing eligible activities for the community development block grant program under Title I of the Housing and Community Development Act of 1974, as amended. Rules governing the eligibility of activities have been revised for clarity and to incorporate new activities authorized by Title I of the Housing and Community Development Act of 1977.

EFFECTIVE DATE: March 1, 1978.

FOR FURTHER INFORMATION CONTACT:

William Hammer, Program Standards Division, Office of Community Planning and Development, Department of Housing and Urban Development, Washington, D.C. 20410, 202-755-6304.

SUPPLEMENTARY INFORMATION: On October 25, 1977 (42 FR 56540) proposed revisions to Subpart C were published in the FEDERAL REGISTER for public comment. Interested parties were given until November 25, 1977, to submit written comments. All comments received with respect to the proposed rules governing eligible activities in Subpart C were given due consideration. As a result of the comments received, the following changes were made:

GENERAL POLICIES

Based upon several suggestions contained in comments on the proposed regulations, a number of changes were made to the general policies governing eligible activities.

Paragraph (a) of § 570.200 was revised to indicate that activities must comply with the general purposes of the block grant program and program requirements as they apply specifically for entitlement applicants in Subpart D, applicants under the Secretary's Fund in Subpart E, Small City applicants in Subpart F, or Urban Development Action Grant applicants in Subpart G. The principal purpose of this paragraph is to serve as a reminder that activities may be funded only where the eligibility requirements of this subpart and other specific requirements for each type of applicant contained in Subparts D, E, F, or G are met. The paragraph is not intended to replace or modify those requirements, but to direct attention to the fact that there are other requirements that must also be met.

URBAN DEVELOPMENT ACTION GRANT

The eligibility of activities under the Urban Development Action Grant (UDAG) program has been changed in paragraph (b) of § 570.200 in accordance with several comments. First, it has been made clear that UDAG funds may be used for new housing construction. Secondly, the rules governing ineligible activities set forth in § 570.207 do apply to the UDAG program. When HUD exercises the special authority set forth in § 570.453 which permits a finding that activities are consistent with the statutory objectives for UDAG, this special authority is not limited by § 570.207 and activities which might normally be deemed ineligible for block grant funding may nonetheless be authorized by HUD.

MODEL CITIES ACTIVITIES

In response to several questions raised by the comments, paragraph (c) of § 570.200 has been revised to indicate that once the special authority for previous model cities activities has expired, old model cities activities must then meet the regular eligibility requirements of Subpart C in order to be eligible to continue to receive block grant funds.

ACTIVITIES OUTSIDE OF AN APPLICANT'S BOUNDARIES

Several comments requested clarification of the provisions governing the use of block grant funds outside of an applicant's boundaries. The general rule is that the undertaking of an activity by an applicant outside of its boundaries is permissible so long as it is not plainly inappropriate to meeting the applicant's identified needs or inconsistent with State or local law.

SPECIAL ASSESSMENTS

There were a number of comments directed at the issue of special assessments under the block grant program. Section 570.206(h) of the proposed regulations has been deleted and a new paragraph (f) of § 570.200 has been added regarding special assessments.

A new paragraph (f)(1) contains a definition of "special assessments" which makes clear that the term is directed toward fees charged for the capital cost of installation of public improvements and is not related to property taxation or determination of property values for the purposes of taxation.

Paragraph (f)(2) establishes a general rule that no special assessments may be levied which would recover any costs of a public improvement provided with block grant funds. Charging low- and moderate-income persons for improvements provided with block grant funds is contrary to the basic purposes of the program.

The paragraph does provide that HUD may grant applicants exceptions to the general rule to permit special assessments to be levied against properties as a means of leveraging private investment to implement strategies for economic development or neighborhood revitalization so long as no special assessments are levied against properties owned and occupied by low- and moderate-income persons and any block grant funds which are recovered are treated as program income.

Paragraph (f)(3) indicates that where eligible public improvements are provided from local revenue sources which will be reimbursed through special assessments, block grant funds may be used to pay the special assessments in behalf of low- and moderate-income property owners. In order for special assessments to be paid with block grant funds, the public improvements must be identified in the Community Development Program, and have been initiated on or after the effective date of these regulations. Applicants which propose to pay special assessments with block grant funds must carry out the appropriate environmental reviews and clearances for the public improvement under 24 CFR Part 58.

CONSULTANT ACTIVITIES

Paragraph (g) of § 570.200 regarding consultant fees received a great deal of comment. The limitation on consultant fees was prescribed by statute in section 409 of Department of Housing and Urban Development Independent Agencies Appropriation Act, 1978 (Pub. L. 95-119). Therefore, there is no alternative to the GS-18 limitation on compensation of consultants which is required by statute. The current rate of compensation under Federal law for a GS-18 is $47,500 per year, with a daily rate calculated to be $182.68.

Any contract with a consultant shall provide that each person acting as a consultant or employed by a consulting firm shall not be compensated at more than a reasonable rate which may not exceed the statutory maximum. Further, contracts for such services shall specify that the amounts of compensation and payments to a consultant shall be subject to adjustment where monitoring reviews or audits indicate that personal services were compensated at greater than a reasonable rate.

TRANSITION POLICY FOR FISCAL YEAR 1978

A number of activities contained in Subpart C contain, as a part of their requirements for eligibility, a relationship to the strategy statements. Other activities are to be located in or serve a Neighborhood Strategy Area (NSA), which is the term now used instead of Comprehensive Neighborhood Revitalization Area described in Subpart D of the proposed regulations.

Since many applications will be received prior to the effective date of that subpart, paragraph (h)(1) of § 570.200 sets forth an interim policy to enable applicants to undertake these activities prior to the submission of the three year strategy statements.

Applicants desiring to carry out these activities during fiscal year 1978 shall submit a brief narrative interim policy description. This will include for each proposed activity requiring a relationship to a strategy statement, a brief description of the activity, the needs and conditions that the activity is designed to address, and how the activity will impact on those needs and conditions.

Paragraph (h)(2) sets forth provisions for designation of interim NSA's. HUD agreed with the comments that the definition of Comprehensive Neighborhood Revitalization Area contained in the proposed rules was too stringently defined and will use the term "Neighborhood Strategy Area (NSA)" in lieu of Comprehensive Neighborhood Revitalization Area. NSA is more broadly defined than the previous term. For example, the three to five year limit on substantially meeting the needs of the area is no longer used. As it is now defined, the term also provides greater flexibility and is applicable to varied local conditions. If the applicant concentrates physical development activities in a given area in a manner consistent with the statutory requirements for public services described in § 570.201(e), the area should meet the revised definition for an NSA. Upon the issuance of final regulations governing Subpart D, the preamble will further describe these changes.

The paragraph further describes the interim NSA designation that may be used during fiscal year 1978 prior to the adoption of final rules governing Subpart D. The interim NSA's are designated by the applicant. A brief narrative description of the applicant's plans for activities in the NSA should be included.

ACQUISITION OF REAL PROPERTY

In response to one comment, paragraph (a) of § 570.201 has been changed to make clear that rights-of-way and easements may be purchased with block grant funds.

Paragraph (a)(5) includes a second example of acquisition for other public purposes which is acquisition of land for development of low- and moderate-income housing.

There were a number of comments regarding the example contained in paragraph (a)(5). This example was intended as only one among many legitimate public purposes for which block grant funds may be used and HUD has decided to retain the example. Central cities might decide to acquire existing housing within their jurisdictions or outside at their own discretion, pursuant to State and local law, as means to implement strategies for spatial deconcentration. This example was cited for illustrative purposes in response to questions about such undertakings which have arisen several times in the past. HUD wished to clarify that funds may be used in this manner. Applicants have full discretion to decide whether to employ such a mechanism and to formulate appropriate means for such an undertaking with adjoining jurisdictions.

NEIGHBORHOOD FACILITIES

Paragraph (c)(4) has been revised as a result of comments to delete the reference to a specific 51 percent requirement. The 51 percent rule was perceived to imply that some form of quantitative measurement would be necessary. This was not intended and the requirement has been deleted. Neighborhood facilities shall be primarily designed to meet the needs of neighborhood residents. This does not preclude incidental use of neighborhood facilities by non-residents.

Paragraph (c)(4)(i) has been changed to indicate that a neighborhood facility may serve an area locally designated as a neighborhood.

Paragraph (c)(4)(ii) has been revised to include small cities of 25,000 population or under as the equivalent of a neighborhood. The increase from 10,000 to 25,000 population has correspondingly been revised in § 570.207(a)(2)(i).

SOLID WASTE DISPOSAL FACILITIES

There were a number of comments regarding solid waste disposal facilities. The facilities eligible for assistance quite simply do not include the use of block grant funds for the initial collection of solid waste. Items such as garbage collection trucks and trash collection receptacles are not eligible. Similarly, using block grant funds to provide solid waste collection services under this paragraph is not eligible. Paragraph (c)(5)(ii) accordingly reflects that initial collection of solid waste is not eligible.

Sites, fixtures, and equipment used after the final collection process are eligible. This may include incinerators or sanitary land fills and their appurtenances. Similarly, intermediate transfer sites, fixtures, and equipment are also eligible for block grant funding.

Solid waste disposal facilities must serve areas where activities included in the Community Development Program are being carried out, such as neighborhood strategy areas. Paragraph (c)(5)(i) implements this requirement. The reference to being located in such an area should not be taken as encouragement for the location of solid waste facilities in residential neighborhoods.

FIRE PROTECTION AND PARKING FACILITIES

Paragraphs (c) (6) and (7) of § 570.201 have been changed pursuant to comments to provide that such facilities must be located in or serve areas where activities listed in the Community Development Program are being carried out, such as Neighborhood Strategy Areas.

STREET IMPROVEMENTS

Several comments suggested that curbs, gutters, and sidewalks be mentioned specifically. Paragraph (c)(9) of § 570.201 has been changed accordingly.

RECREATION FACILITIES

Several comments questioned whether any spectator facilities could be provided as an incidental part of recreation facilities authorized by paragraph (c)(2) of § 570.201, which is substantially identical to the rule in effect for the past three years. It would certainly be permissible to provide limited seating space for spectators at recreational facilities. For example, some limited seating facilities at a softball field which are incidental to the primary use for persons to participate would be permissible, whereas a facility with seating accommodations for several hundred or more persons to watch competitive sports such as high school football is more properly considered an ineligible spectator facility.

OTHER PUBLIC FACILITIES AND IMPROVEMENTS

Paragraph (c)(14) of § 570.201 provides that public facilities and improvements other than those listed in § 570.201(c) may be assisted where they are necessary and appropriate to implement an applicant's strategy for neighborhood revitalization or housing. General municipal buildings which are described as ineligible in § 570.207(a)(1) will not be authorized. Applicants must submit to HUD a description of the proposed facility or improvement and its relationship to the applicant's strategy. In authorizing activities under this provision HUD will consider the amount of benefit to low- and moderate-income persons which results, the degree of

impact on the identified needs of the applicant, and the availability of other Federal funds for the activity.

PUBLIC SERVICES

Quite a number of comments were received regarding public services. The statutory requirements governing services are very specific and HUD is limited by those requirements. Paragraph (e) of § 570.201 has been revised pursuant to comments as follows:

First, the introductory paragraph indicates that a service must meet five criteria to be eligible for funding.

Paragraph (e)(1) has been changed to delete the word "must" which conveyed the impression that services are required to be provided. Rather, the provision of eligible services is at the option of the applicant, but can be provided in a Neighborhood Strategy Area where there is the required concentration of block grant funded community development activities.

The proposed rule stated that public services must be provided for residents of Comprehensive Neighborhood Revitalization or similar areas. Analysis of the comments showed two major areas of concern. Many comments indicated that public services should be permitted anywhere in the locality so long as the services benefitted low- and moderate-income persons. Others felt the definition of Comprehensive Neighborhood Revitalization Areas was too restrictive and expressed concern that the definition would limit activities to areas which were very small or in relatively good condition, thus preventing applicants from undertaking comprehensive programs in areas of greatest need or designating areas large enough for public services to be provided in an economical and effective manner.

The final rule permits public services to be provided only in Neighborhood Strategy Areas which is the term used in place of Comprehensive Neighborhood Revitalization Area. The statute permits public services only in those areas where block grant funded physical development activities are being carried out in a concentrated manner. The limitation of public services to NSA's most closely conforms to this statutory requirement and is intended to eliminate the confusion regarding the eligibility of public services. Notwithstanding the worthiness of many services or the desire expressed in some comments for greater flexibility to fund services, the statute does not provide for block grant assistance for citywide public services.

Finally, the paragraph has been changed to indicate that during each year the required concentration of activities is present, public services may be provided, and services may aslo be continued for up to three years afterward. Hence, a service might be provided in an area for four years when the required concentration of block grant assisted physical development activities was present and be continued for three more years after the physical development activities were complete.

Paragraph (e)(2) has been revised to delete the requirement that two-thirds of the persons receiving a public service be neighborhood residents. This requirement was confused with the proposals in Subpart D as proposed relating to program benefit and could require quantitative measurement not contemplated by the statute. Services must be designed to serve area residents, but may also serve other residents on an incidental basis.

Some of the comments demonstrated confusion regarding the relationships to State, local and Federal funding sources. Paragraph (e)(3) has been revised to refer to local revenue sources. A service must be a quantifiable increase over the level of service provided in the previous twelve months from the revenue sources of the applicant or from State funding sources. The statute did not include Federal sources and neither does this regulation. Rather, Federal sources must be determined not to be available at the time of funding pursuant to paragraph (e)(4). An otherwise eligible service provided from block grant funds may also be continued at the same level in subsequent years since Federal funds are not measured.

In paragraph (e)(5), an example has been cited of an activity necessary and appropriate to support physical development activities. Several comments suggested that applicants be required to submit all determinations for review by HUD. Such a process was tried in prior years and was ineffective. The process of a local determination of appropriateness to be made by applicants will be retained with provision for HUD oversight in those more extreme cases where the required linkages are obscure.

Finally, the only physical development activities which are able to satisfy the requirements of paragraph (e) are those funded from the block grant program. This requirement is statutory and cannot be modified as several comments have suggested.

INTERIM ASSISTANCE

As a result of a number of comments, paragraph (f) of § 570.201 has been revised. Interim assistance may take place in two situations. First, in areas designated for physical development activities to take place during the three year period of the Community Development Program, certain interim activities may be undertaken as a prelude to the carrying out of more comprehensive treatment and to hold the area from further deterioration.

Paragraph (f)(1) describes these activities. These include the collection of garbage, trash, and debris as part of neighborhood clean up compaigns. However, the regular collection of garbage or trash in an area at curb side would be considered a normal municipal service and is not eligible for assistance.

Paragraph (f)(2) discusses the second type of interim assistance activity which is directed toward the alleviation of imminent threats to public health and safety. The chief executive officer of an applicant may determine that an imminent threat to public health and safety exists in an area and shall inform the appropriate HUD Area Office within seven days of the determination. Imminent threats to the public health and safety are described in greater detail in Subpart F. Three types of activities may be undertaken as interim assistance in areas where an imminent threat is present. These include the repair of private property, the repair of public facilities and improvements, and the removal of trash, debris, and unsafe structures.

REMOVAL OF ARCHITECTURAL BARRIERS

Several comments requested further clarification of the term "privately owned" as it relates in paragraph (k) of § 570.201 to the removal of architectural barriers. The term is quite literal in its use and means any privately owned building, facility, or improvement. This includes residential structures and non-residental structures. For example, architectural barriers to privately owned apartment buildings or supermarkets could be removed with block grant funds pursuant to paragraph (k).

Applicants undertaking barrier removal activities to be carried out with block grant funds are encouraged to follow the standards prescribed by the American National Standards Institute, Incorporated in publication ANSI A117.1—1961 (R1971).

ASSISTANCE TO PRIVATE UTILITIES

Paragraph (1) of § 570.201 authorizes the use of block grant assistance to privately owned, publicly regulated utilities for activities including the placing of distribution facilities underground. Such activities must be necessary and appropriate to implement an applicant's strategy for neighborhood revitalization, or housing in order for assistance to be provided for this type of commercial real property improvement.

REHABILITATION OF RESIDENTIAL STRUCTURES BY PUBLIC BODIES

As a result of several comments, paragraph (a) of § 570.202 has been changed to clarify the term "public residential structures." Block grant funds may be used to rehabilitate properties owned or acquired by a public body which are either to remain in public ownership or to be sold. This includes single and multifamily permanent dwelling units and residential facilities, including group homes, halfway houses and emergency shelters.

REHABILITATION BY PRIVATE ENTITIES

A number of comments were received regarding paragraph (c)(1) of § 570.202 which have resulted in a number of revisions.

Private entities, including both those which are nonprofit and profit making, may use block grant funds to acquire structures for rehabilitation to be used as housing. This includes both permanent single and multifamily dwelling units which may be retained by the private entity or resold, and also residential facilities such as group homes, halfway houses, and emergency shelters. Upon completion of the rehabilitation activities the housing units must meet the basic health and safety standards of the Section 8 Existing Housing Program.

OTHER REHABILITATION ASSISTANCE

Block grant funds may be used in a number of ways to assist in the rehabilitation of privately owned properties. Paragraph (d) of § 570.202 indicates that block grant funds may be used for temporary relocation expenses for those displaced temporarily by rehabilitation activities being carried out with block grant assistance.

In response to several comments paragraph (c)(2) states that rehabilitation financing may be provided either in areas where activities listed in the community development program are being carried out or on a citywide spot basis for low- and moderate-income persons.

Paragraph (c)(2)(iii) makes clear that both heating and cooling equipment may be converted, modified, or replaced and states explicity that solar energy equipment may be used. Although applicants may carry out a program of rehabilitation assistance designed solely to weatherize units and increase their energy efficiency, such program should not ignore serious deficiencies in units being weatherized which render the units unsafe.

Paragraph (c)(2)(v) has been added in response to several comments. The paragraph permits the use of block grant funds to pay initial homeowner warranty premiums at the time of loan or grant settlement to protect the quality of workmanship of the rehabilitated unit.

Several comments requested that HUD permit activities to be carried on a longer-term basis as a means of supporting neighborhood stabilization efforts once physical rehabilitation of the structures is completed, including activities to assist low- and moderate-income persons to maintain rehabilitated units in order to continue the stabilization of an area once more comprehensive treatment is completed. Such activities must meet the public services provisions of § 570.201(e).

Paragraph (c)(3) provides that block grant funds may be used to purchase materials for the rehabilitation of properties. Applicants should make adequate provision to ensure that arrangements are made to provide the labor necessary to utilize the materials in rehabilitation efforts. In some instances the property owner or tenant may be able to donate the labor, or other arrangements, such as the use of CETA grant funds, might be developed by the applicant.

CODE ENFORCEMENT

Several comments indicated that code enforcement activities should be permitted on a citywide or spot basis. The statutory authority for this activity does not provide for the use of block grant funds in such a manner. Rather code enforcement must be undertaken as part of a more comprehensive treatment of a deteriorated or deteriorating area. This activity should be designed to supplement, but not replace an applicant's routine enforcement activities.

Paragraph (e) of § 570.202 has been modified to indicate that block grant assisted code enforcement activities may only take place in areas where activities listed in the Community Development Program are being carried out, such as Neighborhood Strategy Area.

HISTORIC PRESERVATION

Paragraph (f) of § 570.202 had been changed to include properties listed on local registers of historic places among those properties defined as historic by this paragraph.

A number of comments addressed the program benefit criteria set forth in § 570.302 as they relate to historic preservation activities. These requirements are set forth in other subparts of these regulations depending upon the nature of the applicant. For example, entitlement applicants should refer to the appropriate requirements of Subpart D to determine whether historic preservation activities, or any other activities, comply with the criteria regarding program benefit.

ECONOMIC DEVELOPMENT ACTIVITIES

A large number of comments were received regarding the economic development activities described in § 570.203. Several comments suggested that activities listed in other sections of the subpart also be listed here. Activities listed in §§ 570.201 and 570.202 may also be undertaken for the purpose of supporting economic development. For example, § 570.201(d) provides sufficient authority for the use of block grant for clearance and demolition activities for economic development purposes. It would be redundant to provide for clearance and demolition activities in § 570.203 when sufficient authority for these activities is available elsewhere.

There was some concern expressed in the comments regarding the apparent open ended nature of activities authorized by this section particularly the authority in paragraph (b) for otherwise ineligible public facilities and improvements. The paragraph has been revised to exclude general government facilities listed in § 570.207(a)(1) from gaining eligibility under this paragraph. Activities undertaken pursuant to § 570.203 must be necessary and appropriate to implement an applicant's economic development strategy.

In order for an otherwise ineligible facility or improvement to be funded under paragraph (b), specific prior authorization must be obtained from HUD. In authorizing activities, HUD will determine the necessity or appropriateness of an activity by taking into account several factors, such as the amount of long-term employment the facility or improvement will generate for low- and moderate-income persons, the necessity of the activity for stimulating private investment, the degree of impact on the economic conditions of the applicant, and the availability of other Federal funds for the activity.

Applicants must also request determinations for paragraphs (a) and (c). By implementing the statutory provisions in this manner for activities which are not normally a part of the block grant program, HUD will ensure the flexibility for applicants and that, where such special activities are to take place under § 570.203, they occur within the framework of the basic objectives of the block grant program.

Several comments suggest that an authority similar to that provided in § 570.204(c) also be provided directly for applicants in § 570.203. Special authority was provided in the statute for neighborhood based nonprofit organizations, Small Business Investment Companies, and local development corporations. The statute does not provide a similar authority for applicants, so such a provision cannot be included in § 570.203.

ACTIVITIES BY PRIVATE NONPROFIT ENTITIES, NEIGHBORHOOD-BASED NONPROFIT ORGANIZATIONS, SMALL BUSINESS INVESTMENT COMPANIES, AND LOCAL DEVELOPMENT CORPORATIONS

A number of comments were received requesting clarification of § 570.204. paragraphs (a)(2) (i) and (ii) of Section 570.204 have been revised to

distinguish between private nonprofit entities and neighborhood based nonprofit organizations. Certain activities may be undertaken by only neighborhood-based nonprofit organizations, and not other private nonprofit entities under paragraph (c) of this section. A nonprofit organization which is neighborhood-based is defined in paragraph (a)(2)(ii) as one having a majority of its membership, clientele, or governing body residing in the neighborhood where the activities are to be carried out.

Paragraph (a)(2)(i) describes the other private nonprofit entities which do not qualify as neighborhood based. Although these entities may use block grant funds are eligible activities under paragraph (b), they are excluded from the authority to undertake certain other special activities listed in paragraph (c).

Paragraph (a)(2)(iii) has been revised to refer to Small Business Investment Companies (SBICs) organized pursuant to § 301(d) of the Small Business Investment Act of 1958, as amended, which include profitmaking entities. SBICs which are organized on a profitmaking basis are fully eligible to use block grant assistance.

Paragraph (a)(2)(iv) now includes State development corporations eligible under § 501 of the Small Business Investment Act of 1958, as amended, among the entities defined as local development corporations for the purposes of the block grant program. Paragraph (c)(4) has been changed to exclude assistance for general municipal buildings ineligible under § 570.207(a)(1) and political activities ineligible under § 570.207(e) from those activities which may be carried out under the special authority of this paragraph.

Paragraph (b) has been revised to clarify that entities eligible to carry out activities with block grant assistance under § 570.204 may use block grant funds to acquire title to facilities. These facilities must be open to the general public during those hours of normal operation, and excessive fees for the use of the facility which would exclude low- and moderate-income persons shall not be charged.

Planning Activities

As a result of several comments, paragraph (a)(4) of § 570.205 has been changed to indicate that planning activities may include surveys of historic properties, and surveys and plans for removal of architectural barriers to the handicapped and elderly.

Paragraph (c) has been modified to permit § 701 type comprehensive planning activities to be carried out by all applicants and not be restricted to metropolitan cities and urban counties as originally proposed. Further, activities under this paragraph must be determined by HUD to be necessary or appropriate to meeting the needs and objectives of its community development plan. It is recognized that comprehensive planning activities carried out with block grant funds may relate to elements beyond the scope of activities eligible for assistance under §§ 570.201 and 570.202.

Administrative Costs

A number of comments were received regarding general administrative costs which are now set forth separately in § 570.206. Several comments suggested that HUD place a percentage limitation upon the amount of block grant funds that an applicant may spend on administration. Because of the variety of grant sizes, types of applicants, and activities being undertaken which vary in complexity, HUD has determined that there is no single limitation that could be imposed which would be equitable in all situations. Rather, the term "reasonable" is the key term in the statute and in the paragraph. HUD will continue to monitor administrative costs, particularly where applicants incur administrative costs significantly higher than those of other applicants with similar grant sizes and activities.

Other Block Grant Administrative Costs

As a result of comments, several revisions have been made to the general program activities, which, for the block grant program, are considered to be administrative costs.

Paragraph (f) of § 570.206 permits the use of block grant funds to prepare applications for other Federal programs when the activities to be carried out are necessary and appropriate to implement the applicant's community development strategy. There are special rules governing the reimbursement of cost for small cities set forth in Subpart F. Applicants may use block grant funds, other than UDAG funds, for the preparation of applications for the UDAG program.

Paragraph (c) has been revised to refer to housing counseling and other activities undertaken by applicants to affirmatively further fair housing and provide a greater choice of housing opportunities laws. Other forms of housing couseling are eligible for block grant funding where the requirements of § 570.201(e) are met.

Paragraph (d) has been revised to include both performance and payment bonding for contractors carrying out block grant activities. The paragraph makes clear that this may be accomplished by using block grant funds to pay bonding premiums as well as other arrangements appropriate to this activity.

Paragraph (h) makes clear that historic preservation clearances that are a part of the broader environmental assessment and clearance of block activities are eligible for assistance.

Ineligible Activities

Paragraph (a) of § 570.207 has been changed to clarify several points resulting from requests contained in the comments. The basic rule is that items set forth as ineligible in this section generally may not receive block grant assistance. There are several specific exceptions. If a facility or improvement is authorized under the special authority to permit other public facilities and improvements necessary for strategy implementation pursuant to §§ 570.201(c)(14) or 570.203(b), respectively, this authorization is deemed to supersede the limitations of this paragraph. Further, the removal of architectural barriers and historic preservation activities authorized by §§ 570.201(k) and 570.202(g), respectively, may be carried out on facilities and improvements listed as a part of § 570.207(a) which would otherwise be ineligible for block grant assistance.

Paragraph (a)(2)(v) has been revised to clarify the nature of devices which are included as ineligible sewage treatment facilities. These include the actual treatment works, intercepting sewers, outfall sewers, pumping stations and other equipment. Block grant funds may be used to construct sewage collection lines, but not facilities for sewage treatment. Interceptor sewers are considered a part of the sewage treatment system and are excluded from eligibility.

Purchase of Equipment

Paragraph (b) of § 570.207 sets forth the policies relating to the ineligibility of purchasing equipment with block grant funds. The general rule is that block grant funds cannot be used to purchase equipment and items of personalty. There are several exceptions. Block grant funds may be used to purchase construction equipment which is as part of a solid waste disposal system described in § 570.201(c)(5). Funds may also be used by applicants and subgrantees to purchase furnishings and personal property used to administer a block grant program or a part of a public service pursuant to § 570.201(e). Paragraph (b)(2) also authorizes the use of block grant funds to purchase certain motor vehicles used in program administration or as a part of a public service.

Maintenance and Repair

Maintenance and repair activities related to the general upkeep of public facilities and improvements are the responsibility of units of general local government. Block grant funds may not be used for general maintenance and repairs, except for the special provisions for interim assistance under § 570.201(f).

Paragraph (c) of § 570.207 has been revised to provide several examples of the types of maintenance and repair items that are excluded. In some cases, a fine line must be drawn between maintenance and repair, and rehabilitation of facilities and improvements which are eligible for assistance. Accordingly, several examples are cited; filling potholes in a street, which is repair, is ineligible, whereas resurfacing a street is considered for the purposes of the block grant program to be eligible as reconstruction or rehabilitation. Similarly, mowing grass in recreation areas is maintenance and is ineligible, but using block grant funds to add new equipment in a recreation area would be a permitted activity.

Industrial Parks

Paragraph (i) of § 570.207 of the proposed regulations has been deleted as a result of comments. Although HUD is deleting this paragraph because the test of firm commitments seems overly burdensome, applicants nonetheless should exercise judgement in using block grant funds for activities to develop an industrial park where firm commitments are not available. While HUD does not wish to deter those undertakings with the potential for success, HUD will use the monitoring process to watch for situations where activities are undertaken without commitments from potential users and are not attracted within a reasonable period of time.

Comments Not Acted Upon

The description of the changes to Subpart C discussed a number of comments which HUD was unable to act upon. In many cases, comments proposed the inclusion or modification of activities not authorized by the statute or the exclusion of activities which were specifically authorized. Other comments proposed alternative directions on matters of Departmental policy which after due consideration, were not accepted.

The following are some of the comments already discussed which HUD did not agree to act upon for the reasons set forth above:

1. Permiting the use of block grant funds to construct new housing for the handicapped;

2. Requiring the concurrence of at least 60 percent of the residents of an area before initiating the acquisition of land;

3. Deleting or imposing additional requirements on the use of block grants for purchase of existing housing outside of an applicant's boundaries;

4. Requiring mandatory set asides of a certain percentage of block grant funds for a variety of individual activities, such as public services;

5. Excluding the construction of swimming pools as recreational facilities;

6. Excluding the construction of bike paths, pedestrian malls, and other public works authorized by the statute; and

7. Permitting the use of block grant to administer activities other than section 312 rehabilitation loans and section 810 Urban Homesteading, which are not funded by the block grant program;

A number of comments addressed departmental relocation policies. These comments were generally relevant to other subparts of the regulations and do not relate to the provisions of this subpart on the basic eligibility of payments and assistance.

Several comments suggested that school districts, local housing authorities, and other public bodies be added to the list of entities under § 570.204. This could not be accommodated because the statutory authority is limited to private entities.

Several comments were concerned about the coordination of block grant funded economic development activities with the programs of other Federal agencies. HUD certainly encourages applicants to coordinate their activities in such a manner as to best utilize all available resources, but does not feel that the imposition of certain specific requirements of other programs would be of benefit to either the block grant program, or other programs.

OTHER INFORMATION: A Finding of Inapplicability with regard to Environmental Impact has been prepared in accordance with HUD Handbook 1390.1, and a Finding of Inapplicability with regard to economic and inflationary impact has been prepared in accordance with Executive Order 11821 for Subpart C. Copies of the Findings are available for inspection and copying during business hours in the Office of the Rules Docket Clerk, Room 5216, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Accordingly, 24 CFR Part 570 is amended by revising the Table of Contents for Subpart C and by revising Subpart C as set forth below.

I. The Table of Contents to 24 CFR Part 570, Subpart C, is revised to read as follows:

Subpart C—Eligible Activities

Sec.
570.200 General policies.
570.201 Basic eligible activities.
570.202 Eligible rehabilitation and preservation activities.
570.203 Eligible economic development activities.
570.204 Eligible activities by private nonprofit entities, neighborhood-based nonprofit organizations, local development corporations, and Small Business Investment Companies.
570.205 Eligible planning and urban design costs.
570.206 Eligible administrative costs.
570.207 Ineligible activities.

AUTHORITY: Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301, et seq.); Title I, Housing and Community Development Act of 1977 (Pub. L. 95-128); and sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

II. Subpart C, Eligible Activities is revised to read as follows:

Subpart C—Eligible Activities

§ 570.200 General policies.

(a) *Determinations of eligibility.* This subpart sets forth the variety of eligible activities that may be undertaken with assistance under this Part (block grant funds) to meet community development and housing needs and priorities principally for low- and moderate-income persons or for the prevention or elimination of slums and blight. The listing of certain eligible types of activities in this subpart does not by itself, however, render specific activities, proposed to be conducted by individual applicants, eligible for block grant assistance. There are other requirements that must also be met to qualify a specific activity for assistance. An activity may be assisted only in those instances where it complies with the eligibility criteria of this subpart, with all other applicable requirements of this Part as they may apply to applicants under Subparts D, E, F, or G, such as those relating to equal opportunity, and the basic statutory objectives of the block grant program. In particular, activities conducted by entitlement recipients under Subpart D must comply with the requirements set forth in § 570.302 regarding benefit to low- and moderate-income persons or elimination of slums and blight, and small city discretionary recipients must comply with similar requirements set forth in Subpart F. Further, there must be compliance with all applicable environmental review and clearance procedures set forth in 24 CFR Part 58.

(b) *Urban Development action grants.* Grant assistance may be provided with Urban Development Action Grants pursuant to Subpart G for:

(1) Activities eligible for assistance pursuant to this Subpart; and

(2) Such other activities, including new housing construction, as the Secretary may determine to be consistent with the statutory objectives of the Urban Development Action Grant (UDAG) program as provided for in § 570.453. The provisions of § 570.207 regarding ineligible activities apply to the UDAG program, except where an activity is determined to be consistent with the statutory objectives of the UDAG program pursuant to § 570.453, the limitations set forth in § 570.207 do not apply.

In making determinations of eligibility with regard to Urban Development Action Grants, for the purposes of §§ 570.201–207, the term "Community Development Program" as used in this subpart shall also mean the "Urban Development Action Program."

(c) *Model cities activities.* Notwithstanding anything to the contrary in this subpart, any ongoing model cities activity being carried out in a model cities program shall be eligible for funding under this Part from that portion of the hold-harmless amount attributable to such model cities program until the applicant has received five years of funding for such activities as calculated pursuant to § 570.103(c)(2)(iii). For the purpose of this paragraph, the term "ongoing activity" means any model cities activity underway as of January 1, 1975, that was approved and funded by HUD on or before June 30, 1974. Upon expiration of the eligibility of activities under this paragraph, applicants should refer to the other requirements of this subpart which must be satisfied in order for block grant assistance to continue to be provided for model cities activities.

(d) *Special policies governing facilities.* The following special policies apply to: (1) *Facilities containing both eligible and ineligible uses.* Where a facility, otherwise eligible for assistance under the block grant program is to be provided as a part of a multiple-use building and/or facility that also contains otherwise ineligible uses, the portion of the costs attributed to the eligible facility may be assisted with block grant funds where;

(i) The facility, which is otherwise eligible and proposed for assistance, will occupy a designated and discrete area within the larger facility; and

(ii) The applicant can determine the costs attributable to the facility proposed for assistance as separate and distinct from the overall costs of the multiple-use building and/or facility.

For example, a senior center, which is to occupy space within a building that is otherwise used for the conduct of general governmental business, may be assisted when it exclusively occupies a separate and designated area within the building (i.e, the senior center does not "float" to different locations within the building that happen to be available on a less than permanent basis) and the applicant can determine the cost associated with providing the senior center as distinct from those costs associated with all remaining ineligible portions of the building.

(2) *Facilities located on school property.* Any facility eligible for assistance pursuant to § 570.201(c), which is designed primarily for a public purpose other than education is not considered to be a school or educational facility where, although it is to be located on a site controlled by a school district, school board or similar body responsible for public education, the facility will only be used by any adjacent school or educational facility on an incidental basis. In order to determine whether the facility is to be used on an incidental basis, the applicant shall at a minimum demonstrate that:

(i) After school hours and on weekends, the facility shall be available for use by the general public to the same extent as similar facilities operating within the applicant's jurisdiction; and

(ii) During school hours, the facility is not used for school purposes for more than four hours each day.

(e) *Activities outside an applicant's boundaries.* Applicants may conduct activities which are otherwise eligible for block grant assistance outside of their boundaries which are not inconsistent with State or local law and which are not plainly inappropriate to meet identified needs of the applicant. This may include an urban county carrying out otherwise eligible activities within a metropolitan city with block grant assistance where the activities are not plainly inappropriate to meeting identified needs of the urban county.

(f) *Special assessments under the block grant program.* The following policies relate to the use of special assessment under the block grant program:

(1) *Definition of special assessment.* The term "special assessment" means a fee or charge levied or filed as a lien against a parcel of real estate as a direct result of benefit derived from the installation of a public improvement, such as streets, curbs, and gutters. The amount of the fee represents the pro rata share of the capital costs of the public improvement levied against the benefitting properties. This term does not relate to taxes, or the establishment of the value of real estate for the purpose of levying real estate, property, or ad valorem taxes.

(2) *Special assessments to recover block grant funds.* The general rule is that special assessments shall not be used to recover any of the capital costs of a public improvement provided with block grant funds. Where both block grant and local funds are used to provide public improvements, any special assessment shall be prorated in proportion to the investment of each. Applicants may request an exception to this rule where the use of special assessments as a means to leverage private investment is necessary and appropriate to implement the applicant's strategy for economic development or neighborhood revitalization. Exceptions will not be granted by HUD for any special assessment which will recover costs of public improvements provided with block grant funds from properties owned and occupied by low- and moderate-income persons. Block grant funds recovered through special assessments authorized by HUD will be considered program income pursuant to § 570.506.

(3) *Special assessments paid with block grant funds.* Block grant funds may be used to pay special assessments levied against properties owned and occupied by low- and moderate-income persons for the capital costs of eligible public facilities and improvements financed from local revenue sources, other than block grant funds, which (i) are described in the Community Development Program; (ii) are initiated after the effective date of this provision; and (iii) represent the pro rata share of the capital cost of the eligible facility or improvement to the benefitting property.

(g) *Consultant Activities.* Applicants may employ consultants to provide professional assistance in program planning, application preparation, and other general professional guidance relating to program execution. The use of consultants is governed by the following:

(1) *Program requirements,* including the requirements of this Part, Federal Management Circular 74-4, OMB Circular A-102, and applicable Federal, State, and local laws;

(2) *Written agreements* shall be executed between the parties which detail the responsibilities, standards; and fees;

(3) *Compensation for consultants.* No person employed as a consultant, or by a firm providing consultant services, shall receive more than a reasonable rate of compensation for personal services paid with block grant funds which, on a daily basis, shall not exceed the maximum daily rate of compensation for a GS-18 as established by Federal law; and

(4) *Adjustments* of rates of compensation and payments under consultant contracts may be made where audit and monitoring reviews indicate that the rates of compensation were not reasonable, or exceeded the maximum daily rate for a GS-18.

(h) *Transition policy for fiscal year 1978.* A number of activities set forth in Subpart C contain, as a part of the criteria for eligibility for block grant assistance, requirements that activities be necessary and appropriate to the implementation of certain strategies for community development and housing described in Subpart D, or that activities take place within Neighborhood Strategy Areas (NSA).

(1) *Interim strategy statement.* For those applications submitted during fiscal year 1978 prior to the effective date for the submission of strategies, applicants may submit a brief narrative interim strategy statement for activities subject to this requirement. The interim strategy statement shall include:

(i) a brief description of the activity;

(ii) a brief description of the needs and conditions the activity is designed to address; and

(iii) a brief description of how the activity will impact upon the needs and conditions which it is designed to address.

(2) *Interim NSA designation.* For those applications submitted during fiscal year 1978, applicants may designate interim NSA's for activities subject to this requirement. An interim NSA is selected by the applicant and designated in the Community Development Program. In determining the size of the NSA, the applicant shall take into account the severity of its problems and the amount of resources to be provided to address those problems. For each area designated as an NSA, the applicant shall include a brief narrative description of its plan for stabilizing and upgrading the area which:

(i) provides for a combination of physical improvements, necessary public facilities and services, private investment and citizen self-help activities appropriate to the needs of the area; and

(ii) coordinates public and private investment efforts.

§ 570.201 Basic eligible activities.

Grant assistance may be used for the following activities:

(a) *Acquisition.* Acquistion in whole or in part by a public agency, by purchase, lease, donation or otherwise, of real property (including air rights, water rights, rights-of-way, easements, and other interests therein) which is:

(1) Blighted, deteriorated, deteriorating, undeveloped or inappropriately developed from the standpoint of sound community development and growth, as determined by the recipient pursuant to State and local laws;

(2) Appropriate for rehabilitation or conservation activities;

(3) Appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open spaces, natural resources and scenic areas, the provision of recreational opportunities or the guidance of urban development;

(4) To be used for the provision of public works, facilities and improvements eligible for assistance under this subpart; or

(5) To be used for other public purposes, including the conversion of land to other uses where necessary or appropriate to the community development program. Examples include an applicant purchasing land to be used for the development of housing for low- and moderate-income persons, and an applicant which is a central city of a metropolitan area using block grant funds to purchase houses in a non-impacted suburban jurisdiction in order to provide a wider choice of housing opportunities for central city lower-income residents.

(b) *Disposition.* Disposition, through sale, lease, donation, or otherwise, of any real property acquired with block grant funds or its retention for public purposes, provided that the proceeds from any such disposition shall be program income subject to the requirements set forth in § 570.506. Further information regarding disposition is set forth in § 570.613.

(c) *Public facilities and Improvements.* Acquisition, construction, reconstruction, rehabilitation, or installation of certain publicly owned facilities and improvements. This may include the execution of architectural design features, and similar treatments intended to enhance the esthetic quality of facilities and improvements receiving block grant assistance, such as decorative pavements, railings, sculpture, pools of water and fountains, and other works of art. Public facilities and improvements eligible for assistance under this paragraph include:

(1) *Senior centers,* but excluding any facility whose primary function is to provide residential accommodations or care on a 24-hour day basis (such as a group home).

(2) *Parks, playgrounds and other recreational facilities* which are designed for participation, but not spectator facilities such as stadiums.

(3) *Centers for the handicapped.* The term "center for the handicapped" means any single or multipurpose facility which seeks to assist persons with physical, mental, developmental and/or emotional impairments to become more functional members of the community by providing programs or services which may include, but are not limited to, recreation, education, health care, social development, independent living, physical rehabilitation and vocational rehabilitation; but excluding any facility whose primary function is to provide residential care on a 24-hour a day basis (such as a group home or halfway house). For example, a sheltered workshop would be a single purpose center for the handicapped, and a facility providing several services for the handicapped would be a multipurpose center for the handicapped, both of which are eligible for assistance.

(4) *Neighborhood facilities.* Such facilities may be of either a single purpose or multipurpose nature and be designed to provide health, social, recreational or similiar community services primarily for residents of the neighborhood service area which is either:

(i) A geographic location within the jurisdiction of a unit of general local government (but not the entire jurisdiction) designated in comprehensive plans, ordinances or other local documents as a neighborhood or, in a new community as defined in § 570.403(a), a neighborhood, village or similar geographical designation; or

(ii) An entire unit of general local government or a new community as defined in § 570.403(a) which is under 25,000 population, with the exception of a facility which is designed solely as a communitywide facility in a new community with a currently projected population in excess of 25,000.

(5) *Solid waste disposal facilities,* which are defined as those physical parts of solid waste management systems commencing at and including the site or sites at which publicly or privately owned collection vehicles discharge municipal solid wastes, through the point of ultimate disposal including necessary site improvements and conveying systems, including appropriate fixed and movable equipment including vehicular containers used after the first stage of disposal at transfer stations, but not including the final collections. (i) Such facilities or equipment must be located in or serve areas where other activities included in the Community Development Program are being carried out, such as a NSA. (ii) Equipment and appurtenances used in the initial collection of solid waste are not included among those solid waste disposal facilities eligible for assistance under this Part.

(6) *Fire protection facilities and equipment.* Such facilities and equipment must be located in or serve areas where other activities included in the Community Development Program are being carried out, such as a NSA.

(i) Fire protection facilities are defined as the land and necessary improvements thereto which are necessary for properly housing and storing fire protection equipment and personnel by a fire protection organization, but not including fire fighting schools and their appurtenances.

(ii) Fire protection equipment is defined as the appropriate equipment and apparatus which a fire protection organization requires for carrying out a program for protecting property and maintaining the safety and welfare of the public, including emergency medical aid, from the dangers of fire.

(7) *Parking facilities.* Such facilities must be located in or serve areas where other activities included in the Community Development Program are being carried out, such as a NSA.

(8) *Public utilities,* other than water and sewer, which include:

(i) Facilities necessary for distribution of the utility (but not production or generation, such as electrical generation plants);

(ii) Buildings and improvements that are an integral part of the utility and

are of such a nature that the utility will not function without them; and

(iii) The placing underground of existing or new distribution facilities. Further information regarding the eligibility of assistance to privately owned utilities is set forth in § 570.201(1).

(9) *Street improvements.* Streets, street lights, traffic signals, signs, street furniture, trees, bridges, culverts causeways, curbs, gutters, sidewalks, and other normal appurtenances to streets and structures facilitating the passage on, or usage of, streets, but excluding expressways and other limited access ways and their appurtenances.

(10) *Water and sewer facilities,* including storm sewers, except for sewage treatment works and interceptor sewers which are described as in § 570.206(a)(6). The term "storm sewers" means sewers or other conduits, open or closed, or their appurtenances which collect, transport and dispose of storm waters, surface water, street wash, other wash and ground water or drainage into an existing water course, but excluding domestic waste water and commercial and industrial wastes.

(11) *Foundations and platforms for air rights sites.*

(12) *Pedestrian malls and walkways.*

(13) *Flood and drainage facilities,* in cases where assistance for such facilities has been determined to be unavailable under other Federal laws or programs pursuant to the provisions of § 570.607. The term "flood and drainage facilities" means those undertakings designed to influence or affect the flow in a natural water course (such as a river, stream, lake, estuary, bay, ocean or intermittent stream) and excludes storm sewers.

(14) *Other public facilities and improvements,* not listed in this paragraph, except those described in §§ 570.207 (a)(1) and (f), which are necessary and appropriate to the implementation of the applicant's strategy for neighborhood revitalization or housing.

(i) The applicant shall provide HUD with a description of the proposed facility or improvement and the relationship to applicant's strategy for neighborhood revitalization or housing.

(ii) Among the factors HUD will take into account in authorizing assistance under this paragraph are the amount of benefit to low- and moderate-income persons, the degree of impact on the identified needs of the applicant, and the availability of other Federal funds for the activity.

(d) *Clearance activities.* Clearance, demolition and removal of buildings and improvements, including movement of structures to other sites. Demolition of HUD assisted housing units may be undertaken only with the prior approval of HUD.

(e) *Public services.* Provision of public services (including labor, supplies and materials) which are directed toward improving the community's public services and facilities, including those concerned with employment, crime prevention, child care, health, drug abuse, education, welfare or recreational needs, and which are directed toward coordinating public and private development programs. Such services may be provided by State or local governments, quasi-public, private or nonprofit agencies, including, but not limited to, HUD-approved counseling agencies, selected by the applicant for funds provided under this Part. In order to be eligible for block grant assistance, public services must meet each of the following criteria:

(1) Public services are to be provided for residents of neighborhood strategy areas in which block grant assisted physical development activities are being carried out in a concentrated manner. Such public services may be supported with block grant funds during the period which block grant assisted physical development activities are being carried out in a concentrated manner, and may be continued for no more than three years after the completion of such physical development activities. For the purpose of this paragraph:

(i) Physical development activities include only those described in § 570.201 (a) through (d), (f) through (h), and (k), and § 570.202 through § 570.203.

(ii) The phrase "concentrated manner" shall mean that the block grant assisted physical development activities are being carried out within an area in a coordinated manner to serve a common objective or purpose pursuant to a locally developed plan or strategy.

(2) Such services must be directed toward meeting the needs of residents of such areas. Block grant assistance may incidentally be provided for such services only for those who are not residents of areas of concentrated physical development.

(3) A public service must be either (i) a new service, or (ii) a quantifiable increase in the level of a service above that which has been provided by or in behalf of the applicant from local revenue sources or State funds received by the applicant in the twelve calendar months prior to submission of the block grant application. (An exception to this requirement with regard to State-funded services may be made if HUD determines that the decrease in the level of a service was the result of events not within the control of the applicant.)

(4) Federal assistance in providing or securing such public services must have been applied for and denied or not made available pursuant to the provisions of § 570.607.

(5) Public services must be determined by the applicant to be necessary or appropriate to support the physical development activities to be carried out within Neighborhood Strategy Areas. For example, the provision of job training for area residents working on neighborhood revitalization projects would be appropriate to support a concentration of block grant assisted physical development activities being carried out in the area. (i) The specific determination of support for each proposed public service is not required to be included in the application, but the applicant must briefly describe the relationship of the public service to the physical development activities. (ii) HUD will accept the applicant's determination that a public service is necessary and appropriate to support the physical development activities unless there is substantial evidence to the contrary, in which case additional information or assurances may be requested from the applicant prior to a determination of eligibility.

(f) *Interim assistance.* Interim assistance to alleviate harmful conditions where immediate public action is determined by the applicant to be necessary.

(1) The following activities may be undertaken as a prelude to more comprehensive treatment in areas where activities included in the Community Development Program are to be carried out, such as an NSA, in order to hold the area from further deterioration during the interim period:

(i) The repairing of streets, sidewalks, parks, playgrounds, publicly owned utilities and public buildings;

(ii) The improvement of private properties to the extent necessary to eliminate immediate dangers to public health, safety or welfare;

(iii) The establishment of temporary public playgrounds on vacant land; and

(iv) The execution of special garbage, trash, and debris removal, including neighborhood clean up campaigns, but not the regular curbside collection of garbage or trash in an area.

(2) The following activities may be undertaken to the extent necessary to alleviate emergency conditions threatening the public health and safety in areas where the chief executive officer of the applicant determines that an imminent threat to the public health and safety exists requiring immediate resolution of emergency conditions:

(i) the improvement of private properties;

(ii) the repair of streets, sidewalks, utilities, and other public facilities and improvements; and

(iii) the removal of trash and debris, unsafe structures, clearance of streets including snow removal, and other similar activities.

The chief executive officer, or his designee, shall notify the appropriate HUD Area Office within seven days of determining that a situation exists which poses an imminent threat to the public health and safety and that block grant funds will be used to alleviate the emergency conditions.

(g) *Payment of the non-Federal share* required in connection with a Federal grant-in-aid program undertaken as part of the block grant activities, *Provided,* That such payment shall be limited to activities otherwise eligible under this subpart.

(h) *Urban renewal completion.* Payment of the cost of completing an urban renewal project funded under Title I of the Housing Act of 1949 as amended. Further information regarding the eligibility of such costs is set forth in § 570.801.

(i) *Relocation.* Relocation payments and assistance for individuals, families, businesses, nonprofit organizations, and farm operations displaced by activities assisted under this Part. Further information regarding the eligibility of relocation costs is set forth in § 570.602.

(j) *Loss of rental income.* Payments to housing owners for losses of rental income incurred in holding for temporary periods housing units to be utilized for the relocation of individuals and families displaced by program activities assisted under this Part.

(k) *Removal of architectural barriers.* Special projects directed to the removal of material and architectural barriers which restrict the mobility and accessibility of elderly or handicapped persons to publicly owned and privately owned buildings, facilities, and improvements. Further information regarding the removal of architectural barriers is available in publication ANSI A117.1-1961 (R. 1971) of the American National Standards Institute, Inc.

(l) *Privately owned utilities.* Acquisition, construction, reconstruction, rehabilitation, or installation of distribution facilities and lines of privately owned utilities where necessary and appropriate to implement the applicant's strategy for neighborhood revitalization or housing. Activities may include the placing underground of new or existing distribution facilities.

(1) The applicant shall provide HUD with a description of the proposed activity and the relationship to the applicant's strategy for neighborhood revitalization or housing.

(2) Among the factors HUD will take into account in authorizing such activities are:

(i) The degree of benefit to low- and moderate-income persons;

(ii) The degree of impact on the indentified needs of the applicant; and

(iii) The availability of other Federal funds for the activity.

§ 570.202 Eligible rehabilitation and preservation activities.

Grant assistance may be used for the following activities for the rehabilitation of buildings and improvements:

(a) *Rehabilitation of public residential structures.* Rehabilitation of publicly owned or acquired properties for use or resale in the provision of housing, including:

(1) *Permanent housing units,* both single family and multifamily, for rental or sale; and

(2) *Residential facilities,* including group homes, halfway houses, and emergency shelters. For example, a group home for the handicapped or a temporary shelter for battered women may be provided through acquisition and rehabilitation of properties for those purposes.

(b) *Public housing modernization.* Modernization and modernization planning of publicly-owned low-income housing (excluding, the new construction of office facilities for such public housing).

(N.B. block grant funds may also be provided by an applicant to a public housing agency to be used for otherwise eligible activities, e.g., public services such as security and day care meeting the requirements of § 570.201(e) and planning and policy-planning-management activities under § 570.205 related to public housing improvements.)

(c) *Rehabilitation of private properties.* Block grant assistance may be used for the rehabilitation of privately owned properties. Assistance may consist of:

(1) *Acquisition for the purpose of rehabilitation.* Block grant funds may be used to assist private entities, including those organized for profit and on a not-for-profit basis to acquire, for the purpose of rehabilitation, and rehabilitate properties for use or resale in the provision of housing which, upon completion of rehabilitation, at a minimum will meet the Section 8 Existing Housing Quality Standards set forth in 24 CFR § 882.109, including:

(i) Permanent housing units, both single family and multifamily, for rental or sale; and

(ii) Residential facilities, including group homes, halfway houses, and emergency shelters;

(2) *Rehabilitation financing.* Block grant funds may be used to finance the rehabilitation of privately owned residential, non-residential (excluding industrial properties), and mixed use properties either within areas where activities included in the Community Development Program are being carried out, such as a NSA, or on a spot basis throughout the jurisdiction of the applicant for low- and moderate-income persons. Block grant funds may be used directly to finance rehabilitation, including settlement costs, through the direct use of block grant funds in the provision of assistance, such as grants, loans, loan guarantees and interest supplements, for:

(i) Costs of rehabilitation of properties, including, repair directed toward cure of an accumulation of items of deferred maintenance, replacement of principal fixtures and components of existing structures, and renovation through alteration, additions to, or enhancement of existing structures, which may be undertaken singly, or in combination;

(ii) Refinancing existing indebtedness secured by a property being rehabilitated if such refinancing is necessary or appropriate to the execution of a Community Development Program;

(iii) Measures to increase the efficient use of energy in structures through such means as installation of storm windows and doors, siding, wall and attic insulation, and conversion, modification or replacement of heating and cooling equipment, including the use of solar energy equipment;

(iv) Financing of costs associated with the connection of residential structures to water distribution lines or local sewer collection lines; or

(v) Costs of initial homeowner warranty premiums for rehabilitation carried out with block grant assistance.

(3) *Materials.* Block grant funds may be used to provide materials, including tools, for use in the rehabilitation of properties either by the property owner or tenant, or where arrangements have been made for the provision of labor, such as through a CETA grant.

(d) *Temporary relocation assistance.* Block grant funds may be used for temporary relocation payments and assistance to individuals, families, businesses, non-profit organizations, and farm operations displaced temporarily by rehabilitation activities assisted under this part. Further information regarding the eligibility of relocation costs is set forth in § 570.602.

(e) *Code enforcement.* Code enforcement in areas where activities included in the Community Development Program are being carried out, such as an NSA, which is deteriorating or deteriorated in which such enforcement together with public improvements, rehabilitation assistance, and services to be provided, may be expected to arrest the decline of the area.

(f) *Historic preservation.* Rehabilitation, preservation, restoration and acquisition of historic properties, either publicly or privately owned, which are those sites or structures that are either listed in or eligible to be listed in the National Register of Historic Places, listed in a State or local Inventory of Historic Places, or designated as a State or local land mark or histor-

ic district by appropriate law or ordinance.

Publicly owned historic properties may be assisted, including those properties which are otherwise ineligible for assistance under this subpart. However, eligibility is limited only to those costs necessary for rehabilitation, preservation or restoration of the property and not for conversion or expansion of the property for any ineligible use. For example, a city museum serving low- and moderate-income persons, and listed in the National Register may be restored, but the addition of a new wing on the museum could not normally be assisted, unless it were otherwise eligible for assistance pursuant to § 570.203(b).

§ 570.203 Eligible economic development activities.

Grant assistance may be provided for the following development activities which are not otherwise eligible for block grant assistance, which are directed toward the alleviation of physical and economic distress, or the economic development of a new community as described in § 570.403(a) through stimulation of private investment community revitalization, and expansion of economic opportunities for low- and moderate-income persons, and handicapped persons, and which are necessary and appropriate to implement the applicant's strategy for economic development.

The applicant shall provide HUD with a description of the activity, and of the relationship to the applicant's strategy for economic development. In authorizing activities, HUD will take into account the amount of long-term employment to be generated by the activity accessible to low- and moderate-income persons, the necessity of the activity to stimulate private investment, the degree of impact on the economic conditions of the applicant, and the availability of other Federal funds.

(a) *Acquisition.* Acquisition of real property for economic development purposes;

(b) *Public facilities and improvements.* Acquisition, construction, reconstruction, rehabilitation, or installation of public facilities and improvements not otherwise eligible for assistance, except buildings and facilities for the general conduct of government which are excluded by § 570.207(a)(1).

For example, in an area with an unemployment rate in excess of the national rate, a manpower training center which is designed to prepare for the work force low- and moderate-income persons who are unemployed or underemployed, may be assisted where it is determined by the applicant that such a facility is necessary and appropriate to support its economic development strategy.

(c) *Commercial and industrial facilities.* Acquisition, construction, reconstruction, rehabilitation or installation of:

(1) Commercial or industrial buildings and structures, including:

(i) Purchase of equipment and fixtures which are part of the real estate, but not personal property; and

(ii) Energy conservation improvements designed to encourage the efficient use of energy resources (including renewable energy resources or alternative energy resources);

(2) Commercial or industrial real property improvements (including railroad spurs or similar extensions).

§ 570.204 Eligible activities by private nonprofit entities, neighborhood-based nonprofit organizations, local development corporations, or small business investment companies.

(a) *General.* Grant assistance may be used by applicants to provide block grant funds for activities designed to implement the applicant's strategies for economic development and neighborhood revitalization set forth in this section to be carried out by a private nonprofit entity, a neighborhood-based nonprofit organization, local development corporation, or Small Business Investment Company (SBIC). (1) *Applicant Responsibilities.* Applicants are nonetheless responsible for ensuring that block grant funds are utilized by such entities in a manner consistent with the requirements of this Part and other applicable Federal, State, or local law. Specific requirements governing the administration of the use of block grant funds by such entities are set forth in § 570.612. Applicants will also be responsible for the carrying out of applicable environmental review and clearance responsibilities.

(2) *Eligible Entities.* Entities eligible to receive block grant funds under this section are: (i) A private non-profit entity which is any organization, corporation, or association, duly organized to promote and undertake community development activities on a not-for-profit basis, including new community associations as defined in § 570.403(b);

(ii) A neighborhood-based nonprofit organization which is an association or corporation, duly organized to promote and undertake community development activities on a not-for-profit basis within a neighborhood as defined pursuant to § 570.201(c)(4). An organization is considered to be neighborhood-based if the majority of either its membership, clientele, or governing body are residents of the neighborhood where activities assisted with block grant funds are to be carried out;

(iii) A Small Business Investment Company (SBIC) which is an entity organized pursuant to section 301(d) of the Small Business Investment Act of 1958 (15 U.S.C. 681(d)), including those which are profit making; and

(iv) A local development corporation which is an entity organized pursuant to Title VII of the Headstart, Economic Opportunity, and Community Partnership Act of 1974 (42 U.S.C. 2981); an entity eligible for assistance under section 502 of the Small Business Investment Act of 1958 (15 U.S.C. 696), a State development entity eligible for assistance under section 501 of the Small Business Investment Act of 1958 (15 U.S.C. 695), or other similar entity incorporated pursuant to Federal, State, or local law.

(b) *Activities eligible under §§ 570.201-570.203, and § 570.205 and § 570.206.* Grant assistance may be provided by an applicant to be utilized by private nonprofit entities, neighborhood-based nonprofit organizations, SBIC's, or local development corporations for activities otherwise eligible for block grant assistance pursuant to §§ 570.201-570.203, § 570.205, and § 570.206. Where such entities use block grant funds to acquire title to facilities, including those described in § 570.201(c) or § 570.203(b), they shall be operated so as to be open for use by the general public during all normal hours of operation. Reasonable fees may be charged for the use of facilities acquired by such entities, but charges, such as excessive membership fees, which will have the effect of precluding low- and moderate-income persons from using the facilities are not permitted.

(c) *Community economic development or neighborhood revitalization activities.* Grant assistance may be provided by an applicant to be used by neighborhood-based nonprofit organizations, SBIC's or local development corporations, but not private nonprofit entities as defined in § 570.204(a)(2)(i), for community economic development or neighborhood revitalization activities which are not otherwise eligible for assistance under this subpart and which are determined by the applicant to be necessary or appropriate to the accomplishment of its Community Development Program. Such activities may include the provision of block grant assistance for use by neighborhood-based nonprofit organizations, SBIC, or local development corporations for:

(1) Assistance through grants, loans, guarantees, interest supplements, or technical assistance to new or existing small businesses, minority businesses and neighborhood nonprofit businesses for

(i) Working capital or operational funds; and

(ii) Capital for land, structures, property improvements, and fixtures;

(2) Capitalization of a SBIC or local development corporation required to qualify for assistance under other Federal programs;

(3) Assistance to minority contractors to obtain performance bonding; or

(4) Other activities, excluding those described as ineligible for block grant assistance in §§ 570.207(a)(1) and (e), appropriate for community economic development or neighborhood revitalization. Where an applicant proposes to fund such entities to undertake activities pursuant to this paragraph, the applicant shall:

(i) Provide HUD with a complete description of the proposed activity;

(ii) Provide HUD with a description of the relationship of the proposed activity to the applicant's strategy for neighborhood revitalization or econmic development; and

(iii) Receive specific authorization from HUD to undertake the activity.

§ 570.205 Eligible planning, and urban environmental design costs.

Grant assistance may be used for the following planning, design, and environmental costs:

(a) *Development of a Comprehensive Community Development Plan.* For the purpose of this section, the term "Comprehensive Community Development Plan" means a statement or statements (in words, maps, illustrations or other methods of communication) which identify the present conditions, needs and major problems of the applicant's jurisdiction relating to the specific objectives of the Community Development Program as set forth in § 570.2(a) and set forth objectives, policies and standards to guide the development and implementation of such Community Development Program. Activities necessary to develop a Comprehensive Community Development Plan may include:

(1) *Data gathering and studies* necessary for the development of the Plan or its components, including the production of base mapping and aerial photography in coordination with the U.S. Geological Survey, and gathering information from citizens, but excluding the gathering of detailed data and preparing of analyses necessary for the engineering and design of facilities or activities ineligible for block grant assistance pursuant to § 570.207;

(2) *Development of statements of objectives,* policies and standards regarding proposed or forseeable changes in the present conditions or problems affecting the applicant's jurisdiction that are to be addressed by the Community Development Program, including policies which will affirmatively further fair housing;

(3) *Development of a three-year Community Development Plan* which identifies the community development, housing, and economic conditions and needs, demonstrates a comprehensive strategy for meeting those needs and

specifies both short- and long-term objectives to guide the applicant's Community Development Program;

(4) *Related planning and urban environmental design acitivities including* the preparation of communitywide plans for land use, housing, open space, recreation, utilities, historic preservation, including surveys of historic properties, economic development, neighborhood preservation, removal of architectural barriers to the elderly and handicapped, and environmental assessment;

(5) *Collection of detailed data,* preparation of analyses, engineering and design of facilities eligible for assistance which can be constructed with block grant funds; and

(6) *Development of codes, ordinances and regulations,* necessary for the implementation of the plan, including local fair housing ordinances.

(b) *Development of a policy-planning-management capacity* so that the applicant may:

(1) Set long-term and short-term objectives related to the community development and housing needs of its jurisdiction;

(2) Devise programs and activities to meet these goals and objectives;

(3) Establish an urban environmental design administrative capacity to use a systematic, interdisciplinary approach to the integrated use of natural and social sciences and environmental design arts in planning and decision making;

(4) Evaluate the progress of such programs and activiites and the extent to which the goals and objectives have been accomplished; and

(5) Carry out the management, coordination and monitoring of the activities and programs that are a part of the applicant's Community Development Program.

(c) *Comprehensive planning activities.* In addition to the planning activities otherwise eligible for assistance under this section, assistance may be also provided for comprehensive planning activities eligible for assistance under the section 701 planning assistance program pursuant to 24 CFR Part 600 provided that such additional planning activities are necessary or appropriate to meeting the needs and objectives of the applicants' Community Development Program. The applicant shall submit a description of the activity to HUD. Among the factors HUD will take into account in authorizing activities will be the impact of the activity on the needs and objectives identified by the applicant, and the availability of other Federal funds.

§ 570.206 Eligible Administrative Costs.

Payment of reasonable administrative costs and carrying charges related to the planning and execution of community development activities financed, in whole or in part, with funds provided under this Part and housing activities covered in the applicant's Housing Assistance Plan (HAP). Costs incurred in carrying out the program, whether charged to the program on a direct or an indirect basis, must be in conformance with the requirements of Federal Management Circular (FMC) 74-4, "Cost Principles Applicable to Grants and Contracts with State and Local Governments." All items of cost listed in Attachment B, Section C of that Circular (except Item 6, preagreement cost, which are eligible only to the extent authorized in § 570.301(c) are allowable without prior approval to the extent they constitute reasonable costs and are otherwise eligible under this subpart.

(a) *Eligible program administration costs.* Reasonable administrative costs and staff expenses include necessary expenditures for the following:

(1) Salaries, wages and related costs of the applicant's staff and the staff of local public agencies engaged in carrying out the program;

(2) Travel costs incurred for official business in carrying out the program;

(3) Administrative services performed under third-party contracts or agreements, including such services as general legal services, accounting services and audit services;

(4) Other costs for goods and services required for administration of the program, including such goods and services as rental and maintenance of office space, insurance, utilities, office supplies and rental or purchase of office equipment;

(5) Costs associated with the administration of individual program activities; and

(6) Reasonable administrative costs relating to the provision of rehabilitation loans under Section 312 of the Housing Act of 1964, as amended, and, where appropriate, administration of an urban homesteading program pursuant to section 810 of the Housing and Community Development Act of 1974, as amended, in accordance with the Community Development Program or housing assistance plan.

(b) *The provision of information and other resources to residents* and citizen organizations participating in the planning, implementation, or assessment of activities being carried out with block grant funds. This may include assistance to neighborhood organizations in areas of concentrated activities or to city-wide organizations conducting training or other activities designed to increase the capability of low- and moderate-income persons to be involved effectively in the development and planning and design of a community development program consistent with the applicable citizen participation requirements set forth in this Part.

(c) *Provision of fair housing counseling services* and other activities designed to further the fair housing provisions of § 570.307(k) and the housing objective of promoting greater choice of housing opportunities and avoiding undue concentrations of assisted persons in areas containing a high proportion of lower-income persons. For example, activities may include informing members of minority groups, and the handicapped, of housing opportunities in non-traditional neighborhoods and providing information about such areas, and assisting members of minority groups, and the handicapped, through provision of escort services to brokers offices in non-traditional neighborhoods.

(d) *Provision of assistance to facilitate performance and payment bonding* necessary for contractors carrying out activities assisted with block grant funds including, payment of bond premiums in behalf of contractors.

(e) *Property management.* Reasonable costs of managing properties acquired with block grant funds.

(f) *Applications for Federal programs,* including the block grant program and UDAG program, may be prepared with block grant funds where necessary and appropriate to implement the applicant's comprehensive strategy for community development. Special provisions regarding letter to proceed for small city applicants are contained in Subpart F.

(g) *Activities to facilitate the implementation of a housing assistance plan* for necessary expenses, prior to construction, in planning and obtaining financing for the new construction or substantial rehabilitation of housing for lower-income persons. Activities may include:

(1) The costs of conducting preliminary surveys and analyses of market needs;

(2) Site and utility plans, narrative descriptions of the proposed construction, preliminary cost estimates, urban design documentation, and "sketch drawings," but excluding architectural, engineering, and other details ordinarily required for construction purposes, such as structural, electrical, plumbing, and mechanical details;

(3) Reasonable costs associated with development of applications for mortgage and insured loan commitments, including commitment fees, and of applications and proposals under the Section 8 housing assistance payments program pursuant to 24 CFR Parts 880-883; and

(4) Fees associated with processing of applications for mortgage and insured loan commitments under programs including those administered by HUD, Farmers Home Administration (FmHA), Federal National Mortgage Association (FNMA), and the Government National Mortgage Association (GNMA).

The new construction or direct financing of new construction of housing is not eligible for assistance under this Part, except as described in § 570.207(f).

(h) *Environmental Studies.* The reasonable costs of environmental studies, including historic preservation clearances, necessary to comply with 24 CFR Part 58, including project specific environmental assessments and clearances for activities eligible for assistance under this Part.

§ 570.207 Ineligible activities.

The following is a list of activities which are ineligible for block grant assistance under most circumstances and serves as a general guide regarding ineligible activities. There are several authorities set forth in Subpart C which would permit activities cited in this section to be undertaken with block grant funds. When an activity used as an example in this section meets the requirements for eligibility pursuant to Subpart C, such an activity may be assisted with block grant funds even though it is used as an example of an ineligible activity. The list of examples of ineligible activities is merely illustrative and does not constitute a list of all ineligible activities:

(a) *Public works, facilities and site or other improvements.* The general rule is that public works, facilities and site or other improvements are ineligible to be acquired, constructed, reconstructed, rehabilitated or installed unless they are eligible pursuant to § 570.201(c) or § 570.203(b), or were previously eligible under any of the programs consolidated by the Act (except the public facilities loan program, the model cities program, and as an urban renewal local grant-in-aid eligible under section 110(d)(3) of Housing Act of 1949) and cited in § 570.1(b). Activities undertaken to make facilities and improvements otherwise ineligible for development with block grant assistance accessible to the elderly and handicapped through removal of architectural barriers, or for the purposes of historic preservation pursuant to §§ 570.201(k) and 570.202(f), respectively, are eligible for assistance with block grant funds and are not precluded by this section. Where acquisition of real property includes an existing improvement which is to be utilized in the provision of an ineligible public facility, the portion of the acquisition cost attributable to such improvement, as well as the cost of any rehabilitation or conversion undertaken to adapt or make the property suitable for such use, shall be ineligible. Examples include the following:

(1) *Buildings and facilities for the general conduct of government,* cannot be provided with block grant assistance, such as city halls and other headquarters of government where the governing body of the recipient meets regularly and which are predominantly used for municipal purposes, courthouses, police stations and other municipal office buildings;

(2) *Other facilities and improvements,* which may not be provided with block grant funds unless they are determined by HUD to be necessary and appropriate to the implementation of an applicant's strategy for community development and housing in accordance with §§ 570.201(c)(14) or 570.203(b), include:

(i) *Facilities used for exhibitions, spectator events and cultural purposes,* including stadiums, sports arenas, auditoriums, concert halls, cultural and art centers, convention centers and exhibition halls, museums, central libraries, and similar facilities. For the purpose of this paragraph, libraries (including central libraries in units of general local government under 25,000 population where the criteria set forth in § 570.201(c)(4)(ii) are satisfied), cultural, art and museum facilities which meet the requirements for neighborhood facilities set forth in § 570.201(c)(4) are considered neighborhood facilities and are therefore eligible for assistance.

(ii) *Schools and educational facilities,* (including elementary, secondary, college, and university facilities). For the purpose of this paragraph,

A neighborhood facility, senior center or center for the handicapped in which classes in practical and vocational activities (such as first aid, homemaking, crafts, independent living, etc.) are among the services provided is not considered as a school or educational facility;

(iii) *Airports, subways, trolley lines, bus or other transit terminals,* or stations, and other transportation facilities, (excluding railroad spurs assisted pursuant to § 570.203(c)).

(iv) *Hospitals, nursing homes and other medical facilities.* For the purpose of this paragraph, a neighborhood facility, senior center, center for the handicapped, which provide general health services is not considered to be a medical facility.

(v) *Treatment works for sewage or industrial wastes of a liquid nature,* consisting of the various devices used in the treatment of sewage and commercial and industrial wastes of a liquid nature, including the necessary interceptor sewers, outfall sewers, actual treatment facilities, pumping stations, power and other equipment, and their appurtenances. The term "interceptor sewer" means a line which has as its primary purpose the diversion or transmission of sewage from a collection system to a treatment facility, and applies to the following:

(A) In those situations where raw or inadequately treated sewage is being discharged from an existing public sewer, those sewer lines, whether gravity or force, and any pumping stations or other appurtenances thereto which are necessary to prevent or eliminate the discharge into any waterway of raw or inadequately treated sewage from an existing point or points of discharge in a public system are not eligible. This includes any necessary pumping stations, force mains or other appurtenances thereto; and

(B) In all other situations, the line or lines which divert the flow to the treatment facility from the point of natural discharge of a collection system, where no treatment to be provided, including any necessary pumping stations, force mains or other appurtenances are not eligible.

(b) *Purchase of equipment.* The purchase of equipment with block grant funds is generally ineligible.

(1) *Construction equipment.* The purchase of construction equipment is ineligible, but compensation for the use of such equipment through leasing, depreciation or use allowances pursuant to Attachment B of OMB Circular A-102 for an otherwise eligible activity is an eligible use of block grant funds. An exception is the purchase of construction equipment which is used as a part of a solid waste disposal facility which is eligible for block grant assistance pursuant to § 570.201(c)(5), such as a bulldozer used at a sanitary landfill.

(2) *Furnishings and personal property.* The purchase of equipment, fixtures, motor vehicles, or furnishings or other personalty not an integral structural fixture is ineligible, except when necessary for use by a recipient or its subgrantees in the administration of its Community Development Program pursuant to § 570.205(d), or as a part of a public service pursuant to § 570.201(e).

(c) *Operating and maintenance expenses.* The general rule is that any expense associated with operating, maintaining or repairing public facilities and works or any expense associated with providing public services not assisted with block grant funds is ineligible for assistance. However, operating and maintenance expenses associated with providing public services or interim assistance otherwise eligible for assistance under this Part may be assisted. For example, the cost of a public service being operated with block grant funds in a neighborhood facility may include reasonable expenses associated with operating the public service within the facility, including costs of rent, utilities and maintenance.

Examples of activities which are not eligible for block grant assistance are:

(1) Maintenance and repair of streets, parks, playgrounds, water and sewer facilities, neighborhood facilities, senior centers, centers for the handicapped, parking and similar public facilities. Examples of maintenance and repair activities for which block grant funds may not be used include the filling of pot holes in streets, repairing of cracks in sidewalks, the mowing of recreational areas, and the replacement of expended street light bulbs.

(2) Payment of salaries for staff, utility costs and similar expenses necessary for the operation of public works and facilities; and

(3) Expenses associated with provision of any public service which is not eligible for assistance pursuant to § 570.201(e).

(d) *General government expenses.* Expenses required to carry out the regular responsibilities of the unit of general local government are not eligible for assistance under this part. Examples include all ordinary general government expenditures not related to the Community Development Program and not related to activities eligible under this subpart.

(e) *Political activities.* No expenditure may be made for the use of equipment or premises for political purposes, sponsoring or conducting candidates' meetings, engaging in voter registration activity or voter transportation or other partisan political activities.

(f) *New housing construction.* Assistance may not be used for the construction of new permanent residential structures or for any program to subsidize or finance such new construction, except as provided under the last resort housing provisions set forth in 24 CFR Part 43, or pursuant to § 570.204(c)(4). For the purpose of this paragraph, activities in support of the development of low- or moderate-income housing in accordance with an approved Housing Assistance Plan including clearance, site assemblage, provision of site and provision of public improvements and certain housing preconstruction costs set forth in § 570.205(d)(7), are not considered as programs to subsidize or finance new residential construction.

(g) *Income payments.* The general rule is that assistance shall not be used for income payments for housing or any other purpose. Examples of ineligible income payments include the following: payments for income maintenance, housing allowances, down payments and mortgage subsidies.

III. Conforming changes are made to part 570 as follows:

§ 570.403 [Amended]

1. In § 570.403(h), the reference to "§ 570.200(a)" is changed to "§ 570.201(c)(4)."

§ 570.405 [Amended]

2. In § 570.405(b), the reference to "§ 570.200" is changed to "Subpart C."

§ 570.407 [Amended]

3. In § 570.407(d), the reference to "§ 570.200" is changed to "Subpart C."

§ 570.512 [Amended]

4. In § 570.512(e), the reference to "§ 570.200" is changed to "Subpart C."

§ 570.601 [Amended]

5. In § 570.601(b)(4)(iii), the reference to "§ 570.200" is changed to "Subpart C."

§ 570.607 [Amended]

6. In § 570.607, the references to "§ 507.200(a)(8)," "§ 570.200(b)," and "§ 570.200(a)(2)" are changed to "§ 570.201(e)," "§ 570.200(c)," and "§ 570.201(c)(13)," respectively.

§ 570.801 [Amended]

7. In § 570.801(b)(1)(ii), the references to "§ 570.200" are changed to "Subpart C."

§ 570.907 [Amended]

8. In § 570.907(h), the references to "§ 570.200(a)(8)" and "§ 570.200(a)(2)" are changed to "§ 570.201(e)" and "§ 570.201(c)(13)," respectively.

§ 570.909 [Amended]

9. In § 570.909(f)(1)(i), the reference to "§ 570.200" is changed to "Subpart C."

(Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*); Title I, Housing and Community Development Act of 1977 (Pub. L. 95-128); and sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).)

Issued at Washington, D.C., February 21, 1978.

ROBERT C. EMBRY, Jr.,
Assistant Secretary for Community Planning and Development.

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WEDNESDAY, MARCH 1, 1978

PART IV

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

■

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

Entitlement Grants

[4210-01]

Title 24—Housing and Urban Development

CHAPTER V—OFFICE OF THE ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND DEVELOPMENT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-78-471]

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

Subpart D—Entitlement Grants

AGENCY: Department of Housing and Urban Development.

ACTION: Final rulemaking.

SUMMARY: HUD is issuing final rules on Subpart D of the regulations for the Community Development Block Grant Program governing applications for entitlement grants. These rules have been revised to:

(1) Ensure that community development programs carried out with block grant funds meet statutory objectives, particularly the objective of providing decent housing, a suitable living environment, and expanded economic opportunities principally for persons of low- and moderate-income;

(2) Enhance the opportunity for citizens to participate in planning, implementing, and assessing the program;

(3) Provide for improved planning which coordinates housing assistance and community development programs and encourages a comprehensive approach to dealing with urban problems; and

(4) Rationalize the application process by reducing the frequency of submission of the Community Development and Housing Assistance Plans to once in three years, making them more substantive documents, and simplifying the annual application.

EFFECTIVE DATE: Unless otherwise indicated in the regulations, these requirements are effective for all applications received in HUD on or after May 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Harriet L. Frank, Beverly M. Harvey, or David J. Pollack, Programs Standards Division Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-6304—755-6306.

SUPPLEMENTARY INFORMATION: On October 25, 1977, proposed revisions to Subpart D were published in the FEDERAL REGISTER (42 FR 56450) for public comment. Interested parties were given until November 25, 1977, to submit written comments. A total of 1,327 letters of comment were received. All comments were considered carefully in revising these rules for final effect. The following summarizes the significant recurrent comments and the changes that were made.

PLANNING CONSIDERATIONS

Public comments tended to support the general approach of encouraging comprehensive planning and use of block grant funds in a concentrated manner, but criticized the specific provisions for being too restrictive. Comments by local officials and public interest groups tended to be in agreement in both areas. Cities which liked the approach felt that it would facilitate longer range planning and make for more effective programming. Comments from public interest groups stated their expectation that these provisions would result in more funds being targeted to lower-income neighborhoods.

The specific criticisms that were made were as follows. Many commenters felt that the rules were too prescriptive in that they appeared to make comprehensive neighborhood revitalization programs mandatory. They concluded that all block grant recipients had to use funds in a concentrated manner, and that scattered programs were not permitted even where they were appropriate for the particular community and benefited low- and moderate-income persons.

The definition of comprehensive neighborhood revitalization areas was criticized by both local government officials and public interest groups. The commenters objected particularly to the requirement that such areas be of manageable size and condition and to the three to five year time limit for substantially meeting the housing and community development needs of the area. They stated that this would prevent localities from undertaking comprehensive programs in the worst areas and that it would require designating areas that were to small too permit effective citizen participation or delivery of services.

Other recurrent comments were:

(1) That comprehensive programs should not be limited to residential areas—this comment was made by numerous localities that did not meet the UDAG distress criteria; and

(2) That this appeared to require an additional plan and the relationship of that to the three-year community development plan was not clear.

This section has been substantially revised in response to the comments. Section 570.301(a) is now headed "Comprehensive Strategies." It states the basic planning efforts required of all applicants for block grants and explicitly recognizes that each applicant has discretion to develop strategies appropriate to local needs and conditions. Paragraph (b) is headed "Coordination of Programs" and describes the block grant funded activities and related HUD programs which may be undertaken where community development activities are being carried out in a concentrated manner and encourages localities to designate appropriate areas for concentrated action.

Paragraph (c) is headed "Neighborhood Strategy Area" which is the term being adopted to refer to areas where concentrated programs are being carried out. This is more flexibly defined than the "Comprehensive Neighborhood Revitalization Area" term, which it replaces. It eliminates the three to five year time limit. Rather, it provides that the size of the area should take into account the conditions and the extent of resources to be provided so that substantial long-term improvements can be accomplished within a reasonable time. The size and condition of the areas to be selected are at the discretion of the applicant so long as the resources provided are sufficient to truly constitute a concentrated approach to meeting the needs of designated areas.

There was considerable favorable comment on the multiyear programming provisions which have been retained. There were no other significant comments.

PROGRAM BENEFIT TO LOW- AND MODERATE-INCOME PERSONS

These provisions received extensive comment from a wide range of local governments, public interest groups, and individuals. In general, local government officials objected to the rule. While most agreed that the principal benefit of the block grant program should be for low- and moderate-income persons, they felt that the rule as proposed was too restrictive, that it would limit local initiative and flexibility, and would create paperwork and administrative burdens. These communities objected both to the overall percentage requirement for the use of funds for the benefit of low- and moderate-income persons, and to many of the detailed provisions such as the definition of low- and moderate-income service areas and the limitations on the kinds of projects which could be carried out as exceptions to the low- and moderate-income benefit provisions.

On the other hand, many groups endorsed the rule. These commenters felt that a higher proportion of funds should be used for the benefit of low- and moderate-income persons, and that some of the detailed provisions should be tightened to prevent abuse.

The final rule continues the emphasis on principally benefitting low- and moderate-income persons. The rule provides that an application shall be presumed to benefit low- and moderate-income persons where the applicant proposes that not less than 75 percent of the program funds be used for projects and activities which benefit low- and moderate-income persons as defined in the rule. Such a presumption, while not determinative, shall relieve the applicant, in the absence of substantial evidence to the contrary, from any examination by HUD prior to funding to determine whether or not the program as a whole principally benefits low- and moderate-income persons. All other applications shall be subject to examination by HUD prior to funding to determine whether they principally benefit low- and moderate-income persons. In making this determination, HUD will consider the information in the applicant's community development plan, the specific needs of lower-income persons in the applicant's jurisdiction, and past expenditure patterns in areas having concentrations of lower-income persons. All programs, whether entitled to the presumption or not, shall be subject to monitoring by HUD to ensure that low- and moderate-income persons are principally benefitted by the program as a whole.

The reasons for adopting this rule are as follows. It was decided that it was necessary to require in the regulations for the first time that the block grant program should principally benefit low- and moderate-income persons, and to provide clearer and more specific rules and review standards to assure that this occurred. None of the alternative approaches suggested appeared workable; they did not provide a standard which could be administered in a fair and consistent fashion. Yet it was recognized that a rigid percentage requirement would unduly limit applicants. It was therefore decided to adopt a modified rule which provides a reasonable measure of flexibility and responsiveness to varied local circumstances.

The comments made on the specific provisions, and the changes made in response to those comments are as follows:

GENERAL

Section 570.302(a) is now called Statutory Provisions and cites the statutory sections on which this rule is based. Section 570.302(b) is now called General Requirements and contains the rules formerly in paragraph (a), revised as follows:

Paragraph 570.302(b)(1) states that all projects and activities must either principally benefit low- and moderate-income persons, or prevent or eliminate slums and blight, or meet other community development needs having a particular urgency. This is the rule which was originally published as 570.303(b)(5) in the FEDERAL REGISTER of February 2, 1977. It is based on the maximum feasible priority language of Section 104(b)(2) of the Act which set out the three categories of projects for which block grant funds could be used.

Paragraph 570.302(b)(2) states that the program as a whole shall principally benefit low- and moderate-income persons. Paragraph 570.302(b)(3) contains the provision that programs in which at least 75 percent of the funds are budgeted for projects defined as principally benefitting lower-income persons shall be presumed to meet this requirement, absent substantial evidence to the contrary.

Numerous commenters who objected to the percentage requirement also questioned the legal basis for this rule. These commenters noted that the statute does not have any quantitative standard for benefits to low- and moderate-income persons and simply requires that applicants give maximum feasible priority to activities which benefit low- and moderate-income persons or prevent or eliminate slums and blight. They therefore questioned HUD's authority to give greater weight to one category of project. While this view has been fully considered, it was concluded that the requirement is statutorily permissible in terms of the specific programmatic requirements and the stated primary objective of the Act.

Subparagraph 570.302(b)(3) also provides that the determination of the amount of funds benefitting low- and moderate-income persons will be based on the amount of program funds to be available during the three year period covered by the applicant's Community Development and Housing Plan. This substitutes for the provisions in Section 570.302(d)(5) of the proposed rules regarding adjusting the amount of funds which must be used for projects which principally benefit low- and moderate-income persons by the amount by which such expenditures have exceeded 75 percent in previous years. The reason for this is to facilitate long range planning by providing an assured source of funding for projects which otherwise meet these requirements. It is noted that Section 570.304(c) requires a three year activity summary which describes the projects to be carried out over a three year period, their locations and the amounts of block grant and other funds to be provided. The new application forms to be used effective August 1, 1978, will clearly display the information required to make these determinations on a three year basis and to hold cities accountable for using program funds in accordance with the Three-Year Plan.

Subparagraph (4) is new and responds to the numerous comments regarding the paperwork and other difficulties anticipated in order to comply with this rule. Many commenters noted that census data is now out of date and in many cases no longer accurately represents existing conditions; that neighborhoods or other geographic areas to be served by particular projects are generally not coterminous with census tract boundaries; and that the effort to qualify areas for assistance could lead to gerrymandering and deflect attention from the quality of programming. In response, this new provision states that the applicant's determinations that projects principally benefit low- and moderate-income persons may be based on a variety of data including 701 planning studies, local surveys, etc.; and that the applicant shall maintain such documentation in its files. Where at least 75 percent of program funds are budgeted for projects which principally benefit low- and moderate-income persons, HUD will accept the applicant's determinations; otherwise, HUD will examine the proposed activities to ensure that the programs as a whole principally benefits lower-income persons. HUD will monitor the applicant's performance to assure that the projects being carried out with block grant funds principally benefit low- and moderate-income persons. Our intention is to carry out the statutory objective of benefitting low- and moderate-income persons in a strong and committed fashion. At the same time, we intend to be practical and flexible regarding documentation. Applicants need to know the income characteristics of areas within their jurisdictions in order to design programs to meet statutory requirements, and documentation reflecting that knowledge must be maintained in the applicant's files. However, we do not intend that applicants be restricted, in their programing by obsolete data or irrelevant geographic boundaries. Rather, we expect that applicants will be able to make a reasonable case that projects carried out with block grant funds principally serve low- and moderate-income persons based on pertinent generally available information.

Subparagraph (5) contains the provision for benefitting low income persons which was previously in § 570.302(a)(2). Numerous comments regarding this were made by public interest groups concerned with the needs of lower income persons. Many felt that a more specific rule is needed which would require that expenditures for low-income, as compared with moderate-income persons, be in proportion to such persons' share of the low- and moderate-income population. These commenters expressed concern that cities would neglect the neediest parts of their population in favor of those relatively more effluent. These comments were considered at length and it was decided that a quantified requirement for benefits to low-income persons should not be adopted. The reasons are that there is no evidence that there is a significant pat-

tern of neglect of low-income persons in favor of moderate-income persons, who are defined as members of households whose income does not exceed 80 percent of the SMSA or state nonmetropolitan median, and that an additional quantitative standard would greatly complicate local planning and programing. However, the words "which can be carried out with available resources" were deleted since many read this as diluting the commitment to assuring that the needs of low income persons were addressed. This section provides a clear basis for dealing with abuses and HUD intends to enforce it.

Review Guidelines

The provisions in paragraph (c) are new and indicate how the modified standard will be administered. Subparagraph (1) provides that, absent substantial evidence to the contrary, HUD will presume that an application principally benefits low- and moderate-income persons where at least 75 percent of the program funds are for projects which meet the definitions of principally benefitting lower-income persons. Subparagraph (2) provides that HUD will subject all other applications to an examination prior to funding to determine whether the activities proposed constitute a program which principally benefits low- and moderate-income persons, and indicates some of the factors that shall be taken into account in making that determination.

Projects Which Benefit Low- and Moderate-Income Persons

These provisions, which were previously in the proposed paragraph 570.302(b), received the greatest number of comments made on the specific provisions of the general rule.

It is apparent from these comments that most of the local governments that objected to the overall percentage requirement were particularly troubled by the combination of that requirement with the tight definitions of projects which would be credited toward meeting it. These commenters stated that the proposed rules would impede and even prevent effective programing. The specific comments were: Numerous local governments, particularly cities in the south and west, and urban counties, stated that they had no areas, or very few areas, in which low- and moderate-income persons constituted a majority. Others felt that the definitions of projects principally benefitting low- and moderate-income persons were too restrictive and would limit comprehensive programming in certain transitional areas in which funds could be used to great effect.

Comments were made that targeting funds into areas with a majority of low- and moderate-income residents would work against the legitimate, statutory objective of spatial deconcentration, of minorities and low- and moderate-income persons; that exceptions should be made for areas that are economically diverse when block grant funds were being used to promote such diversity; and that provision should be made for activities which encourage the provision of subsidized housing for low-income persons outside areas of lower-income concentration. Some commenters questioned the definitions of low- and moderate-income, and proposed alternatives such as defining them as 100 percent and 120 percent of the Standard Metropolitan Statistical Area (SMSA) or state nonmetropolitan median incomes, or having a national standard, or defining them in comparison to the applicant's median income. Some proposed that low- and moderate-income areas be defined as areas with concentrations of lower income persons exceeding the average of such persons in the SMSA or the community. Some suggested that the absolute number of low- and moderate-income persons to be served be considered, not only the proportion of such persons in a given area, since they felt that the proposed rules would prevent benefits to large numbers of lower income persons who reside in areas where they do not constitute a majority.

On the other hand, numerous public interst groups concerned with lower income persons felt that the rule was too permissive since it counted as a low- and moderate-income benefit project one which benefitted as much as 49 percent higher income persons. Many felt that the cost of each project should be prorated to the extent that it benefits low- and moderate-income persons. Some felt that low- and moderate-income projects should be limited to those which provide direct benefits to low- and moderate-income persons. They objected to including projects which benefitted geographic areas where higher income persons would also receive benefits. Finally, a number of commenters felt that the provision that projects defined as principally benefiting low- and moderate-income persons must meet identified needs of low- and moderate-income persons should be strengthened and specific standards for meeting it be provided.

After careful consideration of the full range of comments, it was decided that this section should be modified in order to provide needed flexibility and responsiveness to varied local circumstances and permit effective programming. We could not agree that projects that benefit low- and moderate-income persons should be limited to projects which provide direct benefits to such persons. Direct benefits consists of rehabilitation financing and public services. It is noted that many lower-income persons could not afford to repay loans or pay increased rents, although lower-income homeowners may benefit from direct grants, and, therefore, could not directly benefit from most rehabilitation programs. Public services are limited by the Act to areas in which physical development activities are being carried out in a concentrated manner and where the public services are necessary to support such physical development activities. As a practical matter, it is, therefore, generally not possible to use the block grant program exclusively for provision of benefits directly to lower-income individuals. Furthermore, restricting local programming in such fashion would effectively prevent cities from providing needed facilities such as neighborhood facilities, pools, playgrounds, to the majority of lower-income persons, since some higher-income persons might also benefit.

The definitions of projects which benefit low- and moderate-income persons have been revised as follows: First, the requirement that such projects must be designed to meet identified needs of low- and moderate-income persons as described in the applicant's Community Development Plan has been moved to the beginning for greater emphasis. The distinction between projects benefitting low- and moderate-income areas and projects benefitting low- and moderate-income persons has been eliminated because it proved to be confusing. Rather, the categories of projects now include projects with income eligibility requirements that limit the benefits to low- and moderate-income persons, and projects which do not have income limits but which principally benefit low- and moderate-income persons in an area delineated by the applicant. The rule makes clear that such areas need not be coterminous with census tracts, but rather may consist of neighborhoods or other locally defined areas to be served by a given project.

The category of projects benefitting low- and moderate-income persons in delineated areas has been expanded to include areas with less than a majority of low- and moderate-income persons for localities whose low- and moderate-income residents are dispersed and where it is not possible or appropriate to target funds to areas where low- and moderate-income residents constitute a majority.

Economic development projects are now described as projects designed to create permanent employment for low- and moderate-income persons. Projects to attract or retain commercial facilities in lower income neighborhoods are now listed as an example or projects benefitting delineated areas.

Removal of architectural barriers is added to the list of projects generally assumed to benefit low- and moderate-income persons in response to a number of comments and questions.

Projects Which Prevent or Eliminate Slums and Blight

Paragraphs (e) and (f) now contain the rules formerly listed under the heading of "Exceptions" in paragraph (c). The new headings conform to the three categories of activity in the maximum feasible priority language of the Act.

Local government officials who commented on these provisions generally regarded them as too restrictive. Many stated that the overall percentage requirement for the use of funds was sufficient to assure principal benefit to low- and moderate-income persons, and that the activities permitted with the remainder of the grant should therefore be more flexibly defined. Specific comments included the following: Economic development activities should not be limited to localities meeting the distress criteria for Urban Development Action Grants since many other cities are distressed relative to their regions, or have distressed areas within their jurisdiction; the slum and blight category should include commercial revitalization; the limit on such activities should be 33⅓ percent rather than 25 percent; the rule effectively prevents most historic preservation activities; the category of "elimination of detrimental conditions" should be expanded to include activities such as relocation and site improvements.

Certain groups which commented opposed the provision permitting activities to attract higher income residents. They were concerned that such activities would displace lower income persons and felt that it was inappropriate to use block grant funds to aid higher income persons. Many recommended that where block grant funds were used to encourage construction or rehabilitation of higher income housing, the rules require that a specified proportion of the housing units, such as 20 percent, be reserved for Section 8 assistance.

There were numerous comments about urban renewal completion. A number of local governments recommended that there be no limit on the use of funds for this purpose and that cities should be encouraged and aided in completing such projects. It was also recommended that completion of urban renewal projects which principally benefit low- and moderate-income persons should be credited toward meeting the 75 percent requirement.

The following changes have been made in response to these comments. The first category has been redefined as projects in areas which meet the definition of an urban renewal or similar area under state law and in which the applicant undertakes a comprehensive program to remedy the conditions which qualify the area. The reason for redefining the concept of comprehensive slum and blight prevention and elimination projects was to provide a definition that was more flexible and easier to understand and apply. It was observed that the previous definition led to the conclusion that comprehensive neighborhood programs were permitted only in areas which were not predominantly low- and moderate-income and that readers were uncertain as to how extensive the deterioration had to be in order to qualify an area. This category now includes commercial as well as residential areas, as numerous cities recommended.

The second category, elimination of detrimental conditions, has been expanded to include relocation, since acquisition and demolition generally necessitate relocation payments and assistance. It has also been expanded to include historic preservation since that is a statutory objective and we agree that the previous provision was too limited. However, we did not add site improvements since it was our specific intention to prevent use of block grant funds for public improvements and facilities in areas which were neither predominantly low- and moderate-income nor blighted. Provision of often costly improvements and facilities on a scattered basis not part of a strategy to aid low- and moderate-income persons or prevent or eliminate slums and blight is generally not consonant with the objectives of the Act and is therefore deliberately precluded by this rule.

The provision on completion of Federally assisted urban renewal projects has been clarified to indicate that projects which principally benefit low- and moderate-income persons are counted as such. Activities necessary to complete renewal projects which do not principally benefit lower-income persons shall not be included in those activities benefitting lower-income persons, but shall be recognized as activities which prevent or eliminate slums and blight.

The category of activities which may be undertaken only by distressed cities has been eliminated. Regarding economic development, it was decided that limiting such activities to distressed cities would be inappropriate for certain cities that did not meet the Action Grant distress criteria but nonetheless had a real need to enhance their economic viability. The restriction had been proposed in order to avoid the use of block grant funds for commercial or industrial developments in cities which were relatively affluent and had strong economies, where the economic development activities would not principally benefit low- and moderate-income persons. We have concluded that we can accomplish the same result in a fashion more responsive to individual city conditions by applying the "plainly inappropriate" criteria for disapproval of applications in § 570.311 of these regulations. The special category of attracting higher income residents has been eliminated altogether. Attracting higher income residents is a statutory objective and applicants can develop strategies toward that end. Such strategies may be accomplished through projects which principally benefit low- and moderate-income persons, or through slum prevention and elimination activities permitted by these regulations; they do not constitute a separate category of activity and are no longer separately described.

Projects Designed To Meet Needs Having a Particular Urgency

Some commenters stated that urgent needs should not be subject to the limitation on expenditures for projects and activities not benefitting low- and moderate-income persons. Others felt that the requirement that the needs must be of recent origin should be eliminated. A number of commenters wanted specific criteria for determining that other sources of funding were not available, and for determining that the applicant could not finance the activities on its own.

We considered the comments and decided not to change this section. We feel that urgent needs should be subject to the same limitation as activities to prevent and eliminate slums and blight since that is consonant with the primary objective of the Act. The requirement that the need be of recent origin is consistent with current policy, which has proved workable. If a need is not of recent origin, and a community has not acted to address it, the urgency of the need becomes questionable. We considered developing specific criteria for determining local capacity to finance and availability of other resources and found this effort impractical due to the great range of circumstances which would have to be provided for.

Computing Benefits to Low- and Moderate-Income Persons

There were numerous comments from public interest groups objecting to the credit for previous expenditures exceeding 75 percent of the grant for the benefit of low- and moderate-income persons. That provision has been eliminated. The other recurrent comment was that urban renewal loan repayment should not be excluded from the computation of funds used for the principal benefit of such per-

sons. We did not accept that because of the large amount of outstanding loans with Federal guarantees and the importance we attach to assuring that adequate resources are available for repayment.

The substantive changes in this section are as follows: A provision has been added, stating that where a project consisting of several activities does not principally benefit low- and moderate-income persons, but a particular activity does, the applicant may consider credit that activity as a low- and moderate-income benefit. This is intended to encourage programming for such persons. Finally, a provision has been added that the nature and result of a project will determine whether a project benefits low- and moderate-income persons, not simply geographic location. This is to assure attention to the purpose and substantive effect on such persons.

Mitigating Adverse Effects

Numerous comments were made expressing concern about anticipated displacement as a result of block grant funded activities and recommending stronger provisions. A number of commenters recommended that HUD require a specific relocation plan to be submitted by each applicant. Others recommended that HUD prescribe the types of actions applicants would have to take to mitigate adverse effects, for example, instituting rent controls in areas where block grant funds were used for rehabilitation of rental properties. Some felt that the rules should prohibit displacement, not simply require that the effects of such displacement be mitigated. On the other hand, some commenters felt that this provision worked against spatial deconcentration objectives, since it appeared to require that persons stay in the same neighborhood in all cases.

The Department is most concerned about the problems of displacement of lower income persons as a result of neighborhood change, and is considering what additional programs and policies are required to deal with this. Nevertheless, we concluded that it would not be appropriate or effective to make these rules more restrictive. Our experience in predecessor categorical grant-in-aid programs was that specific relocation plans did not prevent displacement nor assure that relocation was carried out in a humane fashion due to:

(1) The time that elapsed between development of the plans and actual displacement;

(2) The difficulty of controlling relocation workload and provision of new housing resources; and

(3) Other factors.

Moreover, the context of a block grant program, including a statutory 75-day review period, does not lend itself to review of detailed relocation plans.

Regarding steps to be taken to mitigate adverse effects, we feel that this is best left to the applicant at the present time since local conditions vary and steps which may be workable and effective for some could be damaging to others. Nor did we feel that we could prohibit displacement entirely, since in many cases that would prevent neighborhood revitalization activities. Rather than adopting these recommendations, the Department will rely on monitoring of programs and working directly with local governments to assure that programs are carried out in a manner which minimizes hardships to lower income persons, and assists them to remain in existing neighborhoods, if that is what they prefer.

Citizen Participation

As with to the provisions on program benefit to low- and moderate-income persons, the proposed citizen participation provisions received extensive comment from local governments, public interest groups, and individuals. Again, there was a clear demarcation between the comments of local government officials and their associations on one hand, and the comments of legal aid societies, neighborhood organizations, civil rights organizations, and other public interest groups on the other. In general, the former groups objected to the proposed rule, primarily due to the increased level of detail of the requirements and the additional administrative expense which would be involved in implementing them. In contrast, the public interest groups generally supported the rule as a marked improvement over previous regulations, but many wanted it strengthened.

Comments made on the specific provisions, and the changes made in response to those comments are as follows:

§ 570.303(a)—General

Several commenters expressed concern that the regulations create expectations among citizens that they can restrict the local government's authority over the program, while the statute expressly reserves that authority. In order to emphasize that citizens must be afforded an opportunity to provide advice to the local government regarding the program, but they do not have the power under these regulations to veto the elected government's decisions, the first sentence of paragraph 570.303(a) has been revised to state that the applicant shall provide citizens with an adequate opportunity to participate "in an advisory role" in planning, implementing, and assessing the program.

§ 570.303(b)—Written citizen participation plan

The proposed regulations stated that the applicant's written citizen participation plan had to be followed beginning with the preparation of the first application to be submitted to HUD on or after the effective date of the regulations. Many comments were made that a longer lead time was needed in which to prepare the plan, particularly since another provision requires citizen involvement in the plan's development. To help ensure the adoption of well-devised plans, the final rule states that the plan shall go into effect no later than August 1, 1978.

Many commenters recommended requiring submission of the plan to HUD for review. After careful consideration, it was decided that submission of citizen participation plans by all communities should not be required, principally because HUD does not have sufficient staff to review adequately all of the thousands of plans. It is felt that HUD's limited staff resources can be used more effectively in resolving complaints and findings regarding citizen participation.

§ 570.303(c)—Standards of participation

A large number of public interest groups recommended that citizen participation structures be required at both the neighborhood and community-wide levels. The proposed regulations called for a citizen participation process at both levels. The term "process" has been retained in the final rule in recognition of the diverse size and political traditions of program applicants. The inflexibility of requiring all communities to established formal citizen participation structures, regardless of the effectiveness of existing arrangements, was also considered. We believe that the exact form of the citizen participation process is not critical; what is important is that the process meet prescribed standards.

Many smaller communities complained that a two tier process of participation (i.e., communitywide and neighborhood) would be burdensome and of no value in smaller communities. They pointed out that the small size of the community ensures the communitywide process will be effective in informing residents about the program and providing them the opportunity to become involved. In response to these comments, the final rule requires only a communitywide process for applicants with populations under 50,000.

A large number of comments were received regarding the specific standards of participation enumerated in paragraph (c). As a result of those comments, four changes have been made. First, the standards in

§ 570.303(c)(1)(ii) and § 570.303(c)(1)(vi) of the proposed rules have been combined and placed in § 570.303(c)(2). This has been done to make it clearer that applicants are not required to establish citizen advisory committees, though they may choose to do so. Second, the segments of the population which must be involved in the citizen participation process have been expanded to include the business community and civic groups who are concerned about the program. These were added in recognition of the important roles business and civic groups play in community development. Third, "substantial" representation of low- and moderate-income citizens and members of minority groups on citizen advisory committees the applicant chooses to establish or recognize has been substituted for "adequate" representation of such persons to emphasize the importance of close coordination between the applicant and the intended primary beneficiaries of the program. Finally, § 570.303(c)(1)(iii) of the proposed rules has been revised in the final rule (§ 570.303(c)(3)) to state that the applicant shall make reasonable efforts to ensure continuity of involvement by citizens or citizen organizations throughout all stages of the program. The proposed rule said there shall be continuity of participation by specific citizen representatives. This change was made because it is not our intent to encourage applicants to treat certain citizens preferentially, which is the interpretation several commenters placed on the previous language. Rather, it is out intent to foster the high quality of citizen involvement which can only occur when the same citizens of citizen organizations remain involved in the process throughout all stages of the program, from initial planning through assessment of performance.

§ 570.303(d)—Scope of participation

A number of local government officials objected to the requirement in the second sentence of this paragraph that citizens must be involved in the development of the citizen participation plans. Some objected because they felt it was a contradiction in terms to say that citizens should be involved in planning a process to involve citizens. Others objected on the grounds that the requirement implies that communities have to start all over again in developing a citizen participation process, thereby ignoring processes developed locally over the last three years. We disagree with these conclusions. While some entitlement communities do not presently have written citizen participation plans, all have existing citizen participation mechanisms of one type or another. These can be used to involve citizens in developing a written plan. With regard to the other objection, no community should have to start all over again in developing a citizen participation process; while most communities will have to modify their existing processes by some degree, these regulations provide wide latitude with regard to the form of the citizen participation process and, therefore, should accommodate existing forms of citizen involvement.

Several commenters requested clarification as to what is meant by citizen involvement in program implementation. In response, subparagraph (2) has been revised to state that, at a minimum, this includes involvement of citizens in an advisory role in policy decisions regarding program implementation. An example is citizen advice on the degree of subsidy to be provided in connection with rehabilitation loans to families in different income ranges. Day-to-day operational decisions are not included in the category of policy decisions. This subparagraph also suggests other roles citizens may play in program implementation.

Subparagraph (3), which has been renamed "Assessment of performance," has been revised to more closely reflect new statutory intent. A new provision has been added regarding the handling of citizen comments on the applicant's community development performance. The provision states that the applicant shall include in its annual performance report copies of comments submitted by citizens regarding the applicant's community development performance, the applicant's assessment of such comments, and a summary of any actions taken in response to the comments received. Submission of the citizen comments are required by the statute. Submission of the other two items are needed to assist HUD in evaluating the citizen comments as part of the overall assessment of the applicant's performance. Where appropriate, this additional information in the annual performance report will trigger more detailed monitoring of the applicant's performance.

§ 570.303(f)—Consideration of objections to applications

The material in this paragraph was contained in paragraph 570.309(b) of the proposed regulations. It has been moved because it deals with an important element of citizen participation. One minor change has been made. In order to better ensure that citizen objections will be considered during the application review period, HUD will not approve an application until at least 45 days after its receipt. Previously, the minimum review period was 30 days.

§ 570.303(g)—Complaints

Many comments from local governments expressed concern that the provision in the proposed regulations flatly requiring written responses to citizen complaints within 15 working days provided insufficient time in which to prepare responsive answers to complex complaints. We agree more flexibility is needed and, therefore, the final rule provides that the applicant shall make "every reasonable effort" to provide written responses within 15 working days.

§ 570.303(h)—Technical assistance

Numerous local governments objected to the proposed technical assistance provisions. They objected to losing control over determining the amount of money to be spent on technical assistance, the persons to provide the assistance, and the groups to receive it. On the other hand, public interest groups strongly supported the technical assistance provisions. After careful consideration of all comments, the rule was revised to provide that the level and type of assistance shall be determined by the applicant. It was also revised to provide that technical assistance "should" be provided by specialists jointly selected by the applicant and the organizations and groups assisted. Such joint selection is not mandatory.

§ 570.303(i)—Adequate information

A number of public interest groups recommended that applicants be required to publish line item reports of planned activities 60 days prior to final public hearings on the application. While this proposal was not adopted, new subparagraph (4) has been added which requires applicants to make copies of the proposed application, as well as copies of the citizen participation plan, the approved application, and the annual performance report, available at locations conveniently located for persons affected by the program and accessible to the handicapped.

Many commenters objected to the provision in the proposed rule that copies of a wide range of program records and information be put on display in one or more locations reasonably accessible to persons affected by the program. They were concerned with the cost involved in putting all the material on display and keeping it updated, and they questioned the advantage to be gained. In response, the rule has been changed to require copies of the documents of most interest to citizens (i.e., the citizen participation plan, the proposed and approved applications, and the annual performance report) be placed at locations convenient to persons affected by the program, but that all other documents relevant to the program be made available for citizen review upon request at the applicant's office (e.g., City Hall) during normal working hours.

The material in subparagraph (3) on public availability of the application was contained in paragraph 570.309(a) of the proposed regulations. It has been moved because of its relevance to the citizen participation process. The previous requirement for publication of a notice stating the application has been submitted to the A-95 clearinghouse and is available to interested parties upon request, has been deleted. That notice is no longer needed in light of the new requirement for a public hearing prior to action by the local governing body authorizing the submission of the application to A-95 clearinghouses.

Numerous local governments objected to the provisions in the proposed regulations on meetings. Many thought it was unreasonable to hold applicants responsible for assuring citizen organizations hold public meetings. Some questioned the need for minutes or summaries of meetings held to provide information and respond to questions about the program. Others were concerned with the expense involved in obtaining the minutes or summaries. On the other hand, citizen groups favor forums at which information about the program is provided and where questions can be asked. After considering the full range of comments, it was decided to delete the requirement on meetings and to revise the paragraph on public hearings, to provide for responses to citizen proposals and questions at the hearings. The provisions in the final rule on providing adequate information to citizens, together with the answering of citizen questions at public hearings, will provide citizens the opportunity to become informed about the program.

§ 570.303(j)—PUBLIC HEARINGS

A number of commenters noted that the Act does not require public hearings on program progress and performance, but only to obtain the views of citizens on community development and housing needs. While that is true, we believe it is consistent with the Act and reasonable to require the holding of public hearings on performance. The Act requires citizens be encouraged to submit views and proposals, and that they be provided the opportunity to participate in developing the application, that they be provided the opportunity to submit comments on the applicant's performance. In order for citizens to participate intelligently in developing the application, including submitting proposals for activities, and to intelligently comment on the applicant's performance, they must be afforded the opportunity to find out how well previously approved activities are doing.

Subparagraph (3) on notices of public hearings has been revised in response to numerous comments from local governments on the high cost that would be involved in complying with the proposed rule. The final rule requires publication of the notice in the nonlegal section of newspapers of general circulation, including minority and non-English language newspapers of general circulation where they exist. While the rule no longer requires publication of the notice in neighborhood newspapers serving low- and moderate-income persons, applicants are required to make reasonable efforts to provide the notices, in the form of press releases, to those newspapers. The information required to be placed in the notice has been shortened to include the date, time, place, and procedures of the hearings, and the topics to be considered.

§ 570.303(k)—BILINGUAL

Many local government officials questioned whether the benefit to be derived from translating major program documents justified the expense. To keep costs down, the final rule provides that "summaries of basic information" rather than "major documents" be produced for non-English speaking persons. This will still provide non-English speaking citizens with information about the program and how it affects them, but does not require that all regulations, forms, and other major documents be translated to other languages.

§ 570.303(l)—CONTINGENCY AND LOCAL OPTION ACTIVITIES

This paragraph has been expanded to cover citizen participation in the selection of local option activities. While paragraph (d) on scope of participation already states that citizens shall be involved in subsequent amendments and other changes to the application, it apparently was not clear that "other changes" was intended to include the selection of local option activities. The expansion of this paragraph now clarifies that citizens must be involved in selecting local option activities.

§ 570.303(m)—PROGRAM AMENDMENTS

This new paragraph has been added to emphasize that citizen participation is required with respect to program amendments. It provides that where prior HUD approval of the amendment is required, as specified in § 570.312, public hearings must be held on the amendment. All other amendments, except those involving disaster activities, also require citizen participation, but the specific nature of the participation is left to the discretion of the community.

COMMUNITY DEVELOPMENT AND HOUSING PLAN

Comments on the new application requirements were generally favorable and many commenters, including local officials as well as public interest groups, expressed the view that these provisions would encourage more effective programing. However, numerous local officials expressed concern that this would greatly increase the paperwork requirements and result in a boon to consultants. These comments were considered carefully and all proposed requirements reviewed to assure that those retained served a positive purpose. These provisions do not require lengthy statements presented in technical terms. They do require a concise but clear and explicit statement, of the applicant's housing and development strategy that is comprehensible both to citizens and HUD and that is relevant to the needs of the applicant.

The other major concern about this section as a whole was about the timing of implementation, and coordination with the Housing Assistance Plan. The effective date of these requirements has accordingly been changed to August 1, 1978, which is the date the new three year housing program aspect of the Housing Assistance Plan requirements will become effective as well. The effect of this change is the entitlement grant recipients will apply for fiscal year 1978 funds on current forms and under current planning requirements, except as specifically modified. These localities thus will have sufficient lead time to implement the new requirements in an orderly fashion, in coordination with the Housing Assistance Plan, and to develop meaningful three-year plans in full consultation with citizens. Consistent with this, the title of this section has been changed to "Community Development and Housing Plan," and the linkage between housing and community development is emphasized throughout.

The other major issues that were raised and the actions taken are as follows:

Regarding the summary of community development and housing needs, many local officials stated that the requirement to describe the needs of all neighborhoods having significant concentrations of low- and moderate-income persons was onerous, particularly for cities having many such areas. This requirement has accordingly been deleted.

Various public interest groups concerned with the needs of lower-income persons recommended that the needs of low-income and moderate-income persons be described separately. This was not adopted because there is no national pattern of neglect of the needs of low-income persons in favor of moderate-income persons, and it was therefore concluded that an additional application requirement was unwarranted. A provision was added that applicants shall describe any special needs of lower-income minority group members in response to a number of comments on that point.

With regard to the comprehensive strategy, there were few specific comments. The changes that have been made, and the reasons, are:

The section has been reorganized to state specific requirements in a more logical fashion. It now calls for a communitywide component in which the applicant describes its general development strategy and priorities for the use of funds. The neighborhood revitalization strategy accordingly is limited to projects which have a neighborhood focus, namely, plans for Neighborhood Strategy Areas, and plans for other neighborhood improvement efforts. The community facilities and public improvements strategy has been eliminated since it overlapped the other requirements; plans for such facilities are to be contained in the neighborhood revitalization strategy, where appropriate, or the communitywide strategy.

The housing component has been changed so that it is a comprehensive statement of the community's overall housing strategy, both assisted and non-assisted. The strategy includes the Housing Assistance Plan. In addition, it includes all citywide efforts to foster housing maintenance and improvements and increase housing opportunities, including regulatory actions and fair housing actions previously included under neighborhood revitalization. The plan to mitigate adverse effects of community development activities on low- and moderate-income persons has also been moved here in response to comments that such effects may result not only from neighborhood revitalization and that this requirement should therefore apply to all programs.

The economic development strategy is no longer limited to distressed cities since others may also carry out economic development activities with block grant funds. A provision has been added to include discussion of the needs of identifiable population groups experiencing significant unemployment or underemployment and to describe any job training to be offered such persons. Projects which benefit such persons are most appropriate in alleviating economic distress and should be emphasized.

Regarding the three-year activity summary, a number of local governments objected to the requirement to specify planned activities and funding levels in advance as they felt it would be difficult and limit local flexibility and ability to respond promptly to citizen requests. These comments were considered carefully and it was concluded that these requirements should be retained for the following reasons:

(1) This would provide strong incentive for longer range planning;

(2) It constitutes a more reasonable period to evaluate whether programs benefit low- and moderate-income persons;

(3) It will substantially reduce the paperwork required on an annual basis.

With regard to responsiveness to citizens, the three-year plans are required to be developed in consultation with citizens, and improved longer range planning would make citizen involvement more meaningful. In addition, applicants may amend programs where necessary.

The map requirements have been revised to conform to other changes. In response to numerous comments, they have also been changed to indicate that information need not be displayed according to census tract boundaries if another method of presentation is available and better describes the community.

ANNUAL COMMUNITY DEVELOPMENT PROGRAM

The changes in this section are to conform to other changes in this subpart and to the application forms being developed. Added requirements are a general project description and anticipated accomplishments.

HOUSING ASSISTANCE PLAN

The proposed regulations received comments from local governments, State and areawide planning agencies, public interest groups, and individuals. Three sections of the proposal received particular comment: completion of the 1976 three year goal, minimum percentage goals, and the establishment to critieria for determining the adequacy of rehabilitation. Comments and changes are detailed below.

GENERAL PROVISIONS

Several cities expressed concern that spatial deconcentration efforts were beyond their control and impossible to achieve on a local level. They further commented that providing opportunities for persons displaced as a result of activities precipitated by a HAP to relocate in their immediate neighborhoods was contrary to the concept of spatial deconcentration.

The Department emphasizes that the HAP should serve to promote spatial deconcentration by providing the opportunity for lower-income households to choose housing outside areas of concentrations of lower-income persons but, in no way, to infringe upon a household's choice to remain in their neighborhood even though it may be a lower-income area.

While public interest groups basically were pleased with the provisions requiring applicants to continue to address needs identified in prior HAPs and to take all actions within their control in order to facilitate the provision of assisted housing, comments from cities indicated their concern that HUD would not provide sufficient funds for them to meet all of the goals established in those HAPs and they cite past experience under the section 8 program as the basis for their concern. Because of the misconceptions surrounding these sections, we have made several changes. Responsibility of the applicant has been clarified by removing the citation on the use of public mechanisms when the private sector does not provide assisted housing. This was not intended to require applicants to devote all, or a specified amount of, their grant to housing assistance. Nor was it intended that a community would be exempt from the provisions if insufficient Federal funds were available. It was intended that a community would initially take those actions which would assist the private sector in providing the housing, including but not limited to provision of housing sites. At the point at which the private sector did not respond to available resources, it would be expected that the community would then assume that responsiblity. In order to clarify this intent, we have followed the recommendations of several commenters that a list of sample actions be included. These actions are referenced in this section, and they are set forth in § 570.306(b)(3)(iii).

Additionally, the section on the submission of HAPs prior to August 1, 1978 has been rewritten to further define the time periods covered by the annual housing action program, to provide consistency with 24 CFR 891, Review of Applications for Housing Assistance; Allocation of Housing Assistance Funds and to clarify that communities are required to address proportionality by household type only. In addition this section clarifies that applicants are required also to identify general locations for new construction and substantial rehabilitation.

HOUSING ASSISTANCE PLAN CONTENT

HOUSING CONDITIONS

Two comments requested that vacancy rates be required by unit sizes, and by rent levels. While applicants are asked to evaluate the vacant units in their communities in order to assess applicability of available housing programs to their needs, such evaluation is conducted from the point of view of general knowledge about the community. It does not require specific statistical data, cross tabulated by tenure, size, rent level, and condition as would be required if such information were requested in the presentation on conditions. Therefore, these requests have been rejected.

HOUSING ASSISTANCE NEEDS

Several public interest groups requested that both housing assistance needs and housing assistance goals be presented separately for low- (or very low-) income households. This request has not been reflected in the attached revisions. First, there has been no evidence provided that very low-income households have not received housing assistance where it has been provided for lower-income households. Second, a primary vehicle for the provision of assisted housing is the section 8 program which requires that at least 30 percent of all families assisted be very low- (i.e.; low) income. Similarly, the public housing program requires that at least 20 percent of the units in a project (placed under ACC after the 1974 HCD Act) be occupied by very low-income families.

A phrase has been added to this section to indicate that information on privately induced displacement is to be reported only when the information is available. It should be noted, in response to two comments, that displacement figures are estimates and that the Department is aware that the figures reported will not necessarily match exactly the number of households eventually displaced. We expect only that the estimates reflect generally available data and that they be considered in the planning process.

Several comments suggested that the requirement that all communities within the jurisdiction of an Areawide Planning Organization (APO) use the same data be eliminated.

The Department encourages areawide planning and is supportive of any process to strengthen it. The Areawide Housing Opportunities Plan (AHOP) is a vehicle which allows communities, through the APO, to plan for their jurisdictions in a coordinated manner and to assist HUD in the allocation of the Department's housing resources.

In endorsement of this approach we have not eliminated that requirement but we have revised it to reflect that only applicants which are within the jurisdiction of an APO having an approved AHOP will be required to use the same data. Applicants within the jurisdiction of an APO not having an approved AHOP are not required, but are encouraged to do so.

All of section 570.306(b)(2)(ii)(A) has been moved forward to section 570.306(b)(i)(A). This section was intended to refer to the needs assessment of not only households expected to reside but to the assessment of households currently residing as well. The assessment of the number of households Expected to Reside (ETR) is to be prepared for metropolitan areas using the methodology set forth in these regulations. Alternative methodologies, if approved by HUD, would be required to be used by all communities within the jurisdiction of the APO receiving approval of an AHOP.

The general tenor of response to the revised ETR formula was favorable with only three commenters suggesting that an employment factor be included as an addition to the formula, and one commenter suggesting retention of the current methodology. The Department has decided to adopt the proposed simplified formula on the basis that estimates derived address the broader concept of spatial deconcentration. Several commenters questioned whether the revised formula would permit a negative estimate of ETR. It is not possible to separate the effects of potential outmigration when dealing with applicants on an individual basis; therefore, calculations which result in a negative figure are to be recorded as a zero.

Use of the revised ETR formula will become effective August 1, 1978.

Finally, nonmetropolitan applicants are required to present their best estimate of the number of lower-income households who reasonably could be expected to reside in their community. If, based on available data, this estimate should reasonably be zero, then the applicant is permitted to record it as such.

The commenters asked that the derivation of step 5 in the formula be explained. Simply, it is the result of factoring the equation used for the ETR formula to solve for x = ETR.

Several commenters suggested that no adjustment be made in the ETR formula in order to derive the estimate of the number of households who could reasonably be expected to reside. It must be understood that the formula, without the adjustment, results not in the number of households who reasonably could be expected to reside, but in the number of households which, statistically, should reside. Without the adjustment, there is an assumption that each household which statistically should move, will move. This is an invalid assumption; therefore, based on information on movement patterns, the Department has determined that the adjustment of one-third of the gross estimate is reasonable.

Suggestions to incorporate adjustments on a sliding scale were evaluated and rejected on the basis of complexity and resultant inequality.

THREE YEAR HOUSING PROGRAM

As indicated in the discussion of general provisions, we have included in this section examples of the types of actions HUD expects an applicant to take to demonstrate that it is exercising all means within its power to achieve the goals in its Housing Assistance Plan (HAP) and to address any special housing needs and/or conditions in its community. Actions are required to be cited whenever past performance or anticipated difficulties warrant, and whenever special needs and/or conditions are cited.

The requirement to identify general locations separately by household type has been removed from the regulations in response to numerous comments, but most particularly because general locations typically should not be so small as to be appropriate exclusively for one household type only

ANNUAL HOUSING ACTION PROGRAM

Many commenters questioned the inclusion of a requirement for applicants to specify the housing assistance programs which it did not wish to utilize. This requirement was intended to be a conforming change to revisions to 24 CFR 891. Inasmuch as these regulations have yet to be published for comment, the paragraph has been eliminated.

STANDARDS AND CRITERIA FOR APPROVAL OF HAPS'.

The issue that generated the largest volume of comment was the establishment of a minimal goal. Cities contended that the percentage was too excessive because HUD would never be able to provide sufficient funds for applicants to meet five percent of need per year. Public interest groups contended that the percentage was too low and should be increased. Others proposed elimination of a percentage to be replaced with narrative descriptions of the relationship of goals to needs and an emphasis on monitoring. Concern was also expressed that relating the percentage to a 20 year time frame was too restrictive and did not allow for changes in an applicant's needs.

The Department has decided to retain a percentage relationship between needs and goals but we have modified it to reflect goals which would meet at least 15 percent of need during each three year period and not necessarily 5 percent each year. Also, it should be noted that the goals are related to the total need, and not to the need for rental units, or new construction units, alone.

Because the percentage relationship has been retained unless an applicant can demonstrate that a goal of 15 percent over three years is infeasible, the paragraph on realistic goals has been removed to eliminate redundancy.

The final issue to elicit substantial comment was the section on adequacy of rehabilitation. Response to this issue was received from all categories of commenters and was unanimous in requesting the elimination of local codes as a criteria of satisfactory completion of rehabilitation. Given the comments received, particularly those citing probable prohibitive rehabilitation costs because of stringent codes, the Department has accepted the recommendations and has chosen to use only Section 8 Existing Housing Quality Standards as a criteria.

Finally, § 570.306(c)(2)(i) was considered to be repetitive and was eliminated.

CERTIFICATIONS

Section 570.307(k) adds a certification which provides that buildings and facilities, other than privately owned residential structures, be accessible to the handicapped.

PUBLIC AVAILABILITY OF AND OBJECTIONS TO APPLICATIONS

In response to comments, the rules previously contained in § 570.309 have been transferred to the section on citizen participation, and this section has now been reserved.

HUD REVIEW AND APPROVAL OF APPLICATIONS

The following changes have been made: § 570.311(a)(1)(ii) has been revised to read that all required component parts of the application are submitted and properly completed. Section 570.311(c)(2)(iv) has been changed to include members of minority groups.

AMENDMENTS

There was a considerable amount of comment that the currently effective ten percent threshold for requiring submission of Community Development Program amendments to HUD should be retained, and this requirement has accordingly been restored. The rule, however, has been rewritten to improve its clarity.

The Housing Assistance Plan amendment requirement has been changed for conformity to revised regulations to 24 CFR Part 891 to be issued.

PERFORMANCE REPORT

Comments from local government officials generally favored submission of the grantee performance report after the completion of the applicant's program year. In contrast, comments from civil rights organizations, citizen groups, and legal aid societies generally favored submission of the report prior to submission of the application, so that it could be used in reviewing an applicant's past performance in conjunction with review of the application. The Department agrees with the timing favored by the latter groups and, therefore, the proposed rule requiring submission of the report by the end of the eighth month in a recipient's program year has been adopted.

OTHER INFORMATION: A Finding of Inapplicability with respect to Environmental Impact has been prepared in accordance with HUD Handbook 1390.1. In addition, a Finding of Inapplicability with respect to Inflation Impact has been prepared in accordance with Executive Order 11821. Copies of the Findings are available for inspection and copying during business hours in the Office of the Rules Docket Clerk, Room 5216, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Accordingly, 24 CFR Part 570 is amended by revising Subpart D, and by making other technical and conforming changes to reflect the revisions.

I. The table of contents to Subpart D is revised to read as follows:

Subpart D—Entitlement Grants

Sec.
570.300 Outline of application requirements.
570.301 Planning considerations.
570.302 Program benefit to low- and moderate-income persons.
570.303 Citizen participation requirements.
570.304 Community development and housing plan.
570.305 Annual community development program.
570.306 Housing assistance program.
570.307 Certificates.
570.308 Timing of application submission.
570.309 Public availability of and objections to application [Reserved].
570.310 A-95 clearinghouse review and comment.
570.311 HUD review and approval of application.
570.312 Amendments.

AUTHORITY: Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301, et seq.); Title I, Housing and Community Development Act of 1977 (Pub. L. 95-128); and Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

II. Subpart D is revised to read as follows:

Subpart D—Entitlement Grants

§ 570.300 Outline of application requirements.

This section briefly outlines the requirements which must be met by the applicant when applying for an entitlement grant and references other sections containing more detailed information on these requirements.

(a) *Planning requirements.* Requirements that the applicant must meet in planning its community development program are covered in the following sections.

(1) Section 570.301 describes general planning considerations;

(2) Section 570.302 describes the requirement that the applicant's community development program must be planned and carried out so as to principally benefit persons having low- and moderate-income; and

(3) Section 570.303 describes the requirement that the applicant must prepare and implement a written citizen participation plan, part of which provides for citizen involvement in the planning process.

(b) *Triennial submission requirements.* Every third year, beginning with the first application submitted on or after August 1, 1978, the applicant must submit an application consisting of the following:

(1) Standard Form 424, Federal Assistance, prescribed by OMB Circular No. A-102;

(2) Community Development and Housing Plan as described in § 570.304;

(3) Annual Community Development Program as described in § 570.305;

(4) Housing Assistance Plan as described in § 570.306; and

(5) Certifications as described in § 570.307.

(c) *Annual submission requirements.* For each of the other years in a three year period the applicant must submit an application consisting of the following:

(1) Standard Form 424;

(2) Annual Community Development Program as described in § 570.305;

(3) Annual Housing Action Program as described in § 570.306(b)(5); and

(4) Certifications as described in § 570.307.

(d) *Other application requirements.* The applicant must also comply with the following requirements when applying for an entitlement grant:

(1) Requirements on the timing of applications as set forth in § 570.308;

(2) Requirements on notifying State and areawide clearinghouses of the applicant's intent to apply for Federal assistance, on submitting the application to clearinghouse for comment, and on taking actions following clearinghouse reviews, as described in § 570.310.

§ 570.301 Planning considerations.

(a) *Comprehensive strategies.* The act requires that applicants have a three-year plan for the use of block grant funds which demonstrates a comprehensive strategy for meeting identified community development and housing needs. The Act provides descretion to local governments to develop strategies appropriate to local conditions and permits a wide choice of projects and activities to carry out those strategies. However, a comprehensive strategy shall include: (1) a systematic assessment of the locality's community development and housing needs and the resources available to meet those needs; (2) determination of the applicant's long- and short-term objectives and priorities for the use of funds; (3) development of a three-year plan of activities designed to meet the needs and objectives identified. This plan shall provide for undertaking housing and community development activities in a coordinated and mutual-

ly supportive manner consistent with local and areawide development planning and national urban growth policies. The requirements for the summary of the three-year plan are stated in § 570.304.

(b) *Coordination of programs.* It is recognized that different strategies may be appropriate and effective in dealing with different local needs and conditions. However, the Act limits certain activities to areas in which block grant assisted physical development programs are being carried out in a concentrated manner, for example, public services pursuant to § 570.201(e). Moreover, certain other HUD programs are designed to focus on areas of concentrated community development activity, for example, Urban Homesteading, and Section 8 Substantial Rehabilitation Special Procedures pursuant to 24 CFR Part 881. Applicants are therefore encouraged to designate appropriate areas in which various programs can be carried out in a concentrated and coordinated manner. For purposes of these regulations such areas shall be designated as Neighborhood Strategy Areas as defined in paragraph (c).

(c) *Neighborhood strategy area.* This is an area which is selected by the applicant and designated in its three-year Community Development and Housing Plan for a program of concentrated community development activities. For each Neighborhood Strategy Area the applicant shall include in its Plan a comprehensive strategy for stabilizing and upgrading the area which:

(1) Provides for a combination of physical improvements, necessary public facilities and services, housing programs, private investment and citizen self-help activities appropriate to the needs of the area;

(2) Coordinates public and private development efforts;

(3) Provides sufficient resources to produce substantial long-term improvements in the area within a reasonable period of time; in determining the size of the area the applicant shall take into account the severity of its problems and the amount of resources to be provided so that this requirement can be met.

(4) Examples of Neighborhood Strategy Area programs include: a residential rehabilitation program which provides loans and grants to property owners in a designated area in which street improvements, playgrounds, and public services are also being provided; and a redevelopment program which includes systematic demolition of substandard structures and assemblage of sites for new construction in a particular area in conjunction with site improvements and facilities necessary to attract new development.

(5) In order for a program to qualify as a Neighborhood Strategy Area program, the activities which an applicant includes in such program (including activities to be funded and implemented in more than one action year) shall be grouped and deemed by the applicant to be a project, as defined in 24 CFR § 58.3. The environmental review of such project should take into account the relationship between component activities, and the cumulative environmental effects of activities.

(d) *Planning and implementing multiyear projects.* (1) An applicant may allocate funds in an application for the payment of part of the cost of a multiyear project to be financed in increments with funds becoming available in succeeding program years, provided the full scope and estimated cost of the total project is described in the first application in which grant funds are allocated for the project. This does not preclude use of subsequent year entitlement funds to complete a project which was designed as a single year proj- ect and whose cost exceeds initial estimates.

(2) The environmental assessment of a multiyear project, performed under 24 CFR Part 58, should encompass the entire multiyear scope of activities. Upon certification that the applicant has completed the environmental requirements for a multiyear project, HUD may issue its release of funds for the entire multiyear project. Such release of funds shall be subject to the provisions of paragraphs (3) and (4) of this subsection.

(3) Approval of each increment of a multiyear project is subject to the general availability of grant funds, adequate performance, and the submission of an acceptable application in each year in which grant funds are to be applied toward payment of project cost. In those instances where the applicant exhausts previously approved grant funds before the next increment is approved, the applicant may obligate and spend local funds to continue the work and be reimbursed with funds approved for the next increment, provided the locally funded work was undertaken in compliance with the requirements of this Part.

(4) The continued authority of an applicant to commit Title I funds to a multiyear project or * * * to be reimbursed for the expenditure of local funds for costs of such project, after completion of environmental requirements and HUD release of funds, shall be subject to the continued relevance and completeness of the environmental assessment performed. In the event of any significant or substantial change in the nature, magnitude or extent of the project, or any significant or substantial change in the environment affecting the project, the applicant shall, prior to any further commitment of Title I funds to the project, complete the requirements of 24 CFR Part 58 relating to the updating of environmental clearances.

(5) The applicant may also obligate and spend local funds prior to approval of its application for the purpose of completing activities previously approved and assisted under the urban renewal program, the water and sewer facilities program, the neighborhood facilities program, or the open space land program, described in § 570.1(b)(1), (3), (4), and (6), respectively. After approval of its application, the applicant will be reimbursed with funds programmed in the application to cover those costs, provided such locally funded work was undertaken in compliance with the requirements of this Part. The environmental review requirements of 24 CFR Part 58, except the provisions of Subpart C of Part 58, must be complied with prior to the incurring of any such costs to be reimbursed by HUD; however, the provisions of Subpart C of Part 58 must be complied with prior to the release of funds by HUD.

(e) *Reimbursement for costs of planning and environmental studies.* Prior to approval of its application, an applicant may obligate and spend local funds for the purpose of environmental assessments required by 24 CFR Part 58, for the planning and capacity building purposes authorized by § 570.205 (a) and (b), and for the provision of information and resources to citizens pursuant to § 570.206(b). After approval of its application, the applicant will be reimbursed with funds programmed in the application to cover those costs, provided such locally funded activities were undertaken in compliance with the requirements of this Part.

§ 570.302 Program benefit to low- and moderate-income persons.

(a) *Statutory Provisions.* The housing and Community Development Act states as its primary objective the development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low- and moderate-income. The Act also requires the applicant to certify that its community development program has been developed so as to give maximum feasible priority to activities which will benefit low- and moderate-income families, or aid in the prevention or elimination of slums or blight. It also permits approval of activities which the applicant certifies and the Secretary determines are designed to meet other community development needs having a particular urgency. Consistent with the statutory objectives, the following rules govern the expenditure of program funds to insure that the program principally benefits low- and moderate-income persons.

(b) *General Requirements.*

(1) All projects and activities must either principally benefit low- and moderate-income persons, or aid in the prevention or elimination of slums and blight, or meet other community development needs having a particular urgency.

(2) Each annual application for funds under this subpart must provide that the applicant's program as a whole shall principally benefit low- and moderate-income persons.

(3) An application shall be presumed to principally benefit low- and moderate-income persons, absent substantial evidence to the contrary, where not less than 75 percent of the program funds to be available during the three year period covered by the applicant's community development and housing plan shall be used for projects and activities which principally benefit low- and moderate-income persons under the standards in paragraph (d) of this section. Applications submitted between May 1, 1978 and July 15, 1978, shall be presumed to principally benefit low- and moderate-income persons if at least 75 percent of the program funds applied for shall be used for projects and activities which meet the standards in paragraph (d).

(4) The applicant shall maintain in its files the documentation on which basis it determines that projects principally benefit low- and moderate-income persons. Such documentation may include 701 planning studies, welfare and unemployement records, local surveys, and similar generally available information. HUD will monitor the applicant's performance to ensure that the applicant's community development program principally benefits low- and moderate-income persons.

(5) In designing projects and selecting areas in which to carry out activities, the applicant shall address the needs of low- as well as moderate-income persons, given the nature and relative severity of their needs, and shall include projects suitable to meeting those needs.

(c) *Review Guidelines.*

(1) An application which meets the standard in paragraph (b)(3) will not be subject to further examination by HUD prior to funding with respect to benefit to low- and moderate-income persons.

(2) An application which does not meet the standard in paragraph (b)(3) shall be subject to an examination by HUD prior to funding to determine whether the activities proposed are plainly inappropriate to meeting the needs of the applicant because of the nature and severity of the needs of low- and moderate-income persons in relation to the general needs and conditions of the applicant, and whether taken as a whole, the proposed program principally benefits low- and moderate-income persons. In making this review, HUD shall consider the information in the applicant's three year community development and housing plan, its annual Community Development Program, past expenditure patterns in areas having concentrations of lower income persons, and other generally available data.

(d) *Projects which principally benefit low- and moderate-income persons.* A project or activity will be considered to principally benefit low- and moderate-income persons if it is designed to meet identified needs of low- and moderate-income persons as described in the applicant's community development plan and it meets one of the following standards:

(1) The project has income eligibility requirements that limit the benefits of the project to low- and moderate-income persons.

(2) The project does not have income eligibility requirements but the majority of the beneficiaries are low- and moderate-income persons. The following are examples of projects which meet this standard:

(i) A neighborhood strategy area program or a public improvement activity which serves an area, delineated by the applicant, where the majority of the residents are low- and moderate-income persons. Such an area may consist of a locally defined neighborhood or planning district, one or more census tracts, enumeration districts, or parts thereof; it need not be coterminous with census boundaries.

(ii) A project designed to attract or retain neighborhood commercial facilities which provide essential services to residential areas which have a majority of low- and moderate-income residents.

(iii) Economic development projects which are designed to provide direct employment opportunities for permanent jobs, the majority of which will be for low- and moderate-income persons if the persons expected to be employed are defined as low- and moderate-income prior to employment; it is not necessary that the incomes of persons employed by economic development projects be low or moderate after the project is completed.

(iv) A senior center which is used principally by persons of low- and moderate-income.

(3) Removal of architectural barriers pursuant to § 570.201(k); such projects may be assumed to principally benefit low- and moderate-income persons in the absence of substantial evidence to the contrary.

(4) A project which must be carried out prior to or is an integral part of a project which will principally benefit low- and moderate-income persons. An example is the extension of water and sewer lines to permit construction of low-rent housing. The cost of such projects must not be unreasonable in relation to the low- and moderate-income benefits to be provided. The housing or other facilities on which basis the project is justified must be included in the applicant's community development plan and there must be evidence acceptable to HUD that construction of the housing or other facilities will in fact be commenced within the three year period covered by the Plan.

(5) A project which serves an area with less than a majority of low- and moderate-income persons; where: (i) The applicant has no areas within its jurisdiction where low- and moderate-income persons constitute a majority, or (ii) the applicant has so few such areas that it is inappropriate to limit the grant to projects in those areas; provided that: (A) the project serves areas having the largest proportion of low- and moderate-income residents in the locality; (B) the project is clearly designed to meet identified needs of lower income persons in those areas; and (C) the project benefits such persons at least in proportion to their share of the population of the areas served.

(e) *Projects which prevent or eliminate slums or blight.* The following projects and activities will be considered to prevent or eliminate slums or blight:

(1) A project in an area which is a slum, or a blighted, deteriorated, or deteriorating area, as defined by State or local law, and in which the applicant undertakes a comprehensive program, as defined in § 570.301(c), to remedy the conditions which qualify the area as an urban renewal or similar area. In such cases the applicant may undertake any otherwise eligible activity necessary to accomplish its strategy for upgrading the area. Because State laws vary, HUD will recognize those State or local laws which authorize public actions for the purpose of slum and blight prevention and elimination. It is not necessary that an area be formally designated an urban renewal or similar area, but evidence supporting a local determination that an area meets criteria for slums and blight must be maintained in the locality's records.

(2) A project designed to eliminate detrimental conditions which are scattered or located outside slum or blighted areas. Authorized activities are only those necessary to eliminate the specific conditions of blight or physical decay, by acquisition of blighted structures, demolition, historic preservation, and relocation.

(3) Activities necessary to complete Federally assisted urban renewal projects which do not principally benefit low- and moderate-income persons.

(f) *Projects designed to meet needs having a particular urgency.* These

are projects which the applicant certifies and the Secretary determines are designed to alleviate a serious and immediate threat to the health or welfare of the community which is of recent origin where the applicant is unable to finance the projects on its own, and other sources of funding are not available. A condition will generally be considered to be of recent origin if it developed or became critical within 18 months preceding the application for funds.

(g) *Determining benefits to low- and moderate-income persons.*

(1) In determining the amount of program funds which principally benefit low- and moderate-income persons, the costs of administration and planning cited in § 570.205 may be excluded as they will generally be assumed to benefit low- and moderate-income persons in the same proportion as the remainder of the grant.

(2) The amount of any program funds to be applied to the repayment of urban renewal temporary loans may also be excluded.

(3) Funds budgeted for contingencies and/or local option activities may also be excluded; such funds shall be expended in such a manner that the program will continue to meet the requirements of this section.

(4) If a project or activity meets the definition in paragraph (d) of principally benefitting low- and moderate-income persons, the cost of the project or activity may be determined to benefit low- and moderate-income persons. This includes projects to prevent or eliminate slums and blight and projects designed to meet a need having a particular urgency where such projects principally benefit low- and moderate-income persons under paragraph (d).

(5) If a project is designed to prevent or eliminate slums or blight or to meet needs having a particular urgency and does not also principally benefit low- and moderate-income persons under the provisions in paragraph (d), a particular activity (such as a rehabilitation loan program with income limits) within that project may nevertheless be counted in determining the amount of program funds which benefit low- and moderate-income persons.

(6) In determining whether a proposed project will actually benefit low- and moderate-income persons, the nature of the needs identified, the relationship of the project to meeting those needs, and the net effect of the completed project shall be considered. Thus, mere location of an activity in a low- or moderate-income area does not conclusively demonstrate that a project or activity benefits lower income persons. A neighborhood revitalization effort which creates improved housing and better living environment, principally for low- and moderate-income persons, would be counted as such. Where such a program results in a change in the income characteristics of the area so that a majority of the ultimate beneficiaries are higher income persons, the program would not be counted as principally benefitting low- and moderate-income persons.

(h) *Mitigating adverse effects.* Where the program will result in direct or indirect displacement or other hardships to low- and moderate-income persons, the applicant shall take appropriate steps to minimize such displacement or hardships. Section 570.304(b)(2) requires the applicant to include in its community development plan the actions it will take to assist low- and moderate-income persons to remain in existing locations when they prefer to do so, and to mitigate adverse effects on such persons as a result of neighborhood revitalization activities.

§ 570.303 Citizen participation requirements.

(a) *General.* The applicant shall provide citizens with an adequate opportunity to participate in an advisory role in planning, implementing, and assessing the program. In so doing, the applicant shall also provide adequate information to citizens, hold public hearings to obtain views of citizens, and provide citizens an opportunity to comment on the applicant's community development performance. Nothing in these requirements, however, shall be construed to restrict the responsibility and authority of the applicant for the development of the application and the execution of its Community Development Program.

(b) *Written citizen participation plan.* The applicant shall prepare a written citizen participation plan that provides procedures by which each of the requirements set forth in the following paragraphs will be implemented. The plan shall go into effect no later than August 1, 1978. The provisions concerning citizen involvement in implementing and assessing the program apply to activities that are ongoing as of that date, as well as to all future activities. The plan shall remain in effect until all activities assisted under this Part are completed, or until it is superseded by a new plan. Upon request by HUD, the plan shall be submitted to HUD to aid in the handling of complaints and to facilitate monitoring and evaluation.

(c) *Standards of participation.* The applicant shall provide a process of citizen participation at the communitywide level with regard to the overall application and program. Applicants with populations of 50,000 or more shall also provide a process of citizen participation at the neighborhood level in areas where a significant amount of activity is proposed or ongoing. These processes shall meet the following standards:

(1) All aspects of citizen participation shall be conducted in an open manner, with freedom of access for all interested persons;

(2) There shall be involvement of low-and moderate-income persons, members of minority groups, residents of areas where a significant amount of activity is proposed or ongoing, the elderly, the handicapped, the business community, and civic groups who are concerned about the program. Where the applicant chooses to establish, or has established, a general communitywide citizen advisory committee, there shall be substantial representation of low- and moderate-income citizens and members of minority groups. Similarly, where the applicant chooses to establish or recognize neighborhood advisory committees in areas where low- and moderate-income persons or members of minority groups reside, there shall be substantial representation of such persons;

(3) The applicant shall make reasonable efforts to ensure continuity of involvement of citizens or citizen organizations throughout all stages of the program;

(4) Citizens shall be provided adequate and timely information, so as to enable them to be meaningfully involved in important decisions at various stages of the program;

(5) Citizens, particularly low- and moderate-income persons and residents of blighted neighborhoods, shall be encouraged to submit their views and proposals regarding the Community Development Program;

(d) *Scope of participation.* The applicant shall provided for the continuity of citizen participation throughout all stages of the program. This includes citizen involvement in the development of the citizen participation plan, as well as involvement in the following areas:

(1) *Application development.* Citizens shall be involved in development of the annual application, including:

(i) The three-year community development plan, including the identification of commmunity development and housing needs, and the setting of priorities;

(ii) The Housing Assistance Plan, including the annual housing action program;

(iii) The annual Community Development Program; and

(iv) Subsequent amendments and other changes to the above, in accordance with § 570.312.

(2) *Program implementation.* The roles citizens will play in program implementation shall be indicated in the citizen participation plan. At a minimum, this shall include involvement of citizens in an advisory role in policy decisions regarding program implementation. It may also include self-help activities carried out by citizen groups and direct program operations conducted by neighborhood-based organizations and other eligible nonprofit entities.

(3) *Assessment of performance.* Citizens and citizen organizations shall be given the opportunity to assess and submit comments on all aspects of the applicant's *community development performance, including the performance of the applicant's grantees and contractors.* They shall also be given the opportunity to assess projects and activities to determine whether objectives are achieved. The methods by which such opportunities shall be made available shall be indicated in the citizen participation plan. The applicant shall include in its annual performance report: (i) Copies of comments submitted by citizens regarding the applicant's community development performance; (ii) the applicant's assessment of such comments; and (iii) a summary of any actions taken in response to the comments received.

(e) *Submission of views and proposals.* The applicant shall provide for and encourage the submission of views and proposals regarding the Community Development Program by citizens, particularly low- and moderate-income persons and residents of blighted neighborhoods. This includes submission of such views:

(1) Directly to the applicant during the planning period prior to public hearings on the application;

(2) To recognized neighborhood, project area, and communitywide citizen organizations;

(3) At neighborhood and other meetings, if scheduled by the applicant prior to formal public hearings; and

(4) At formal public hearings.

The applicant shall provide timely responses to all proposals submitted to it, including written responses to written proposals stating the reasons for the action taken by the applicant on the proposal. The citizen participation plan shall state the number of days within which responses will be provided. Whenever practicable, responses should be provided prior to the final hearing on the application.

(f) *Consideration of objections to applications.* Persons wishing to object to approval of an application by HUD may make such objection known to the appropriate HUD Area Office. HUD will consider objections made only on the following grounds: The applicant's description of needs and objectives is plainly inconsistent with available facts and data; or the activities to be undertaken are plainly inappropriate to meeting the needs and objectives identified by the applicant; or the application does not comply with the requirements of this Part or other applicable law; or the application proposes activities which are otherwise ineligible under this Part.

Such objections should include both an identification of the requirements not met and, in the case of objections made on the grounds that the description of needs and objectives is plainly inconsistent with significant, generally available facts and data, the data upon which the persons rely. Although HUD will consider objections submitted at any time, such objections should be submitted within 30 days of the publication of the notice that the application has been submitted to HUD, as described in paragraph (i)(3) below. In order to ensure that objections submitted will be considered during the review process, HUD will not approve an application until at least 45 days after receipt of an application.

(g) *Complaints.* The plan shall provide for answering complaints in a timely and responsive manner. The applicant shall make every reasonable effort to provide written responses within 15 working days.

(h) *Technical assistance.* To facilitate citizen participation, the plan shall provide for technical assistance. The level and type of assistance determined appropriate by the applicant shall be provided to: (1) Citizen organizations, so that they may adequately participate in planning, implementing, and assessing the program; and (2) groups of low- and moderate-income persons and groups of residents of blighted neighborhoods which request assistance in developing proposals and statements of views.

It may also be directed toward assisting citizens in organizing and operating neighborhood and project area organizations and in carrying out Community Development Program activities. Technical assistance should be provided by specialists jointly selected by the applicant and the organizations and groups to be assisted. It may be provided either by the applicant directly or through arrangements with public or private entities.

(i) *Adequate information.* The applicant shall provide for full public access to program information and affirmative efforts to make adequate information available to citizens, especially to those of low- and moderate-income and to those residing in lower-income or blighted neighborhoods.

(1) At the time the applicant begins planning for the next program year, the following program information shall be provided to citizens:

(i) The total amount of community development block grant funds available to the applicant for community development and housing activities, including planning and administrative activities,

(ii) The range of activities that may be undertaken with these funds and the kind of activities previously funded in the community,

(iii) The processes to be followed in drawing up and approving the local application and the schedule of meetings and hearings,

(iv) The role of citizens in the program, as provided under this section,

(v) A summary of other important program requirements.

(2) The applicant shall provide for full and timely disclosure of its program records and information consistent with applicable State and local laws regarding personal privacy and obligations of confidentiality. Documents relevant to the program shall be made available at the applicant's office during normal working hours for citizen review upon request (either written or oral). Such documents include the following:

(i) All mailings and promotional material,

(ii) Records of hearings,

(iii) All key documents, including all prior applications, letters of approval, grant agreements, the citizen participation plan, performance reports, evaluation reports, other reports required by HUD, and the proposed and approved application for the current year,

(iv) Copies of the regulations and issuances governing the program, and

(v) Documents regarding other important program requirements, such as contracting procedures, environmental policies, fair housing and other equal opportunity requirements, relocation provisions, and the A-95 review process.

(3) When the application is submitted to HUD upon completion of clearinghouse reviews, the applicant shall publish a notice in a newspaper of general circulation stating that the application has been submitted and is available to interested parties upon request and describing the requirements on citizen objections to applications contained in paragraph (f), above.

(4) The applicant shall make copies of the citizen participation plan, the proposed and approved application, and the annual performance report available at locations conveniently located for persons affected by the program and accessible to the handicapped.

(j) *Public hearing.* The plan shall provide for a sufficient number of hearings to obtain citizen views and to respond to citizen proposals and questions at different stages of the program. Such hearings shall be held at convenient times and locations which permit broad participation, particularly by low- and moderate-income persons and by residents of blighted neighborhoods. Hearing arrangements should make possible the full participation of handicapped citizens.

(1) *Presubmission hearings.* The applicant shall hold at least two kinds of

public hearings prior to the submission of the application:

(i) To obtain views and proposals of citizens at the initial stage of application development on community development and housing needs and priorities, and to obtain comments on the applicant's community development performance;

(ii) To obtain views of citizens on the proposed application prior to submission of the application to A-95 clearinghouses.

(2) *Performance hearings.* In order to review program progress and performance, the applicant shall hold an additional public hearing or hearings thirty to sixty days prior to the start of planning for the next program year.

(3) *Notices.* In order to give adequate notice of public hearings:

(i) The applicant shall, 10 days prior to each public hearing, publish a notice in easily readable type in the nonlegal section of newspapers of general circulation, including minority and non-English language newspapers of general circulation where they exist. Such notices shall indicate the date, time, place and procedures of the hearing and topics to be considered. The applicant also shall make reasonable efforts to provide the notices, in the form of press releases, the neighborhood newspapers or periodicals serving low- and moderate-income neighborhoods.

(ii) The applicant is encouraged to take other actions to widely publicize the hearings, such as arranging for public service radio and television announcements.

(k) *Bilingual.* Wherever a significant number of low- and moderate-income persons and residents of blighted neighborhoods speak and read a primary language other than English, the plan shall provide that all notices of public hearings and summaries of basic information be produced in such language or languages and that bilingual opportunities shall be offered at required public hearings.

(l) *Contingency and local option activities.* The plan shall provide that if the applicant sets aside funds in its application for contingencies and/or local option activities, or if it chooses to identify in its application activities that could replace any activities disapproved by HUD during its application review, the citizen participation process shall be involved in the selection of such contingency or local option activities.

(m) *Program amendments.* The plan shall provide for citizen participation in any amendments to an approved application, except those for disaster activities. If the nature of the amendment is such that prior HUD approval is required, as specified in § 570.312, the applicant shall hold public hearings on the amendment. If the amendment does not require prior HUD approval, the plan shall describe how the citizen participation process shall be involved in the amendment.

§ 570.304 Community Development and Housing Plan.

An entitlement application shall include a summary of a Community Development and Housing Plan. This document shall be submitted every third year as part of the annual application for funds beginning with the first application submitted on or after August 1, 1978. It shall summarize the community development and housing needs of the applicant. Its comprehensive strategy for meeting those needs, including its long- and short-term objectives, and the projects and activities planned for the next three years.

(a) *Summary of community development and housing needs.* This shall include the following:

(1) *A community profile* on a form to be prescribed by HUD, which provides data regarding population and income characteristics of the community, the condition of the housing stock, and the economic condition of the community as a whole.

(2) *A narrative summary* of the applicant's community development and housing needs, particularly those of low- and moderate-income households and any special needs of identifiable segments of the total group of lower income persons. The narrative shall include a brief description of the major needs for neighborhood revitalization, for community facilities and public improvements, and for housing.

(b) *Comprehensive strategy.* The applicant shall describe how it proposes to meet its identified community development and housing needs, particularly those of low- and moderate-income households residing in or expected to reside in the community and any special needs of identifiable segments of the lower income population. The strategy shall include a communitywide component which describes the development strategy of the applicant, the major objectives the applicant seeks to accomplish, the priorities it has established for the use of block grant funds, and the factors it has taken into account in selecting areas for treatment and designing programs to meet identified needs. In addition, it shall include the following component strategies:

(1) *Neighborhood revitalization.* The applicant shall describe its strategy for maintaining and preserving viable neighborhoods and for upgrading neighborhoods affected by blight and deterioration.

This shall emphasize the actions to be taken that will improve conditions for low- and moderate-income persons residing in or expected to reside in the community.

(i) Areas targeted for concentrated action as Neighborhood Strategy Areas pursuant to § 570.301(c) shall be identified. For each such area the applicant shall describe:

(A) The objectives, both long-term and short-term, to be achieved, quantified whereever possible:

(B) The physical improvement programs to be carried out with block grant funds, such as code enforcement, rehabilitation, acquisition, demolition, or public improvements:

(C) Related programs proposed such as Urban Homesteading and section 8 Substantial Rehabilitation Special Procedures;

(D) Public Services to be carried out in support of the physical improvement programs;

(E) An implementation schedule showing the anticipated timing of activities and the coordination of block grant funded activities and other local actions;

(F) The anticipated resources, including block grant funds, other Federal, State, or local funds, and private investment;

(G) The role of any neighborhood organizations;

(H) How the housing assistance goals and general locations in the Housing Assistance Plan, particularly the rehabilitation goals, support the applicant's neighborhood revitalization strategy.

(ii) Other neighborhood improvement efforts shall be described. This shall include specific actions designed to prevent and eliminate slums and blight where such actions are not carried out in a concentrated manner; it shall also include actions to provide improved community facilities and public improvements where they will principally benefit persons of low- and moderate-income. The strategy shall describe the activities to be carried out, the objectives to be accomplished, the anticipated timing, and the block grant and other funds to be provided.

(2) *Housing.* The applicant shall describe a communitywide strategy to improve housing conditions and to meet the housing assistance needs that have been identified. The strategy shall consist of a Housing Assistance Plan as described in § 570.306 as well as the following:

(i) A strategy for any programs to be carried out on a communitywide basis, such as provision of rehabilitation financing for low- and moderate-income persons or elimination of detrimental conditions; the strategy shall include the goals to be accomplished, a timetable of actions to be taken, and the amount of block grant and other funds to be provided;

(ii) Any regulatory and other actions proposed to foster housing maintenance and improvements. This may include: actions to eliminate redlining

with respect to property insurance and the availability of credit for the purchase and rehabilitation of housing; and actions such as provision of tax incentives to promote investment in restoration of deteriorated or abandoned housing;

(iii) The applicant's strategy for increasing the choice of housing opportunities for low- and moderate-income persons, including members of minority groups and female-headed households, including efforts to achieve spatial deconcentration of such housing opportunities and actions to affirmatively further fair housing;

(iv) Any community facilities and improvements to be provided in furtherance of the applicant's housing strategy and to assure accomplishment of goals for assisted housing; and

(v) Where the community development program will result in direct or indirect displacement or other hardships to low- and moderate-income persons, the strategy shall describe the actions the applicant will take to assist such persons to remain in their present neighborhoods when they prefer and to mitigate any adverse effects resulting from block grant funded activities.

(3) *Economic development.* A description of the applicant's strategy for economic develoment is required from applicants that propose block grant funded economic development activities: The strategy shall include:

(i) A description of the major needs for economic development in the locality; this shall include discussion of the needs of identifiable population groups experiencing significant unemployment or underemployment, as well as general economic needs of the applicant experiencing a stagnating or declining tax base or loss of population;

(ii) A description of the activities proposed to further economic development and to attract private investment, including the coordination of block grant funded activities with other local actions and a timetable for provision of other Federal and State resources;

(iii) The number and types of permanent jobs expected to result from economic development projects, particularly jobs for unemployed or underemployed population groups and low- and moderate-income persons and the types and extent of any job training which will be provided to such residents; and

(iv) Evidence of commitments or interest by developers of new or expanded employment facilities.

(c) *Three-year project summary.* This shall consist of a tabular summary of the projects proposed to be carried out with block grant funds during the next three years to implement the applicant's comprehensive strategy, grouped by location, the anticipated timing, the goals to be accomplished, the population benefitting, and the estimated block grant and other funds to be provided, and indicating whether the project or activity principally benefits low- and moderate-income persons, aids in the prevention or elimination of slums and blight, or meets other community development needs having a particular urgency. The requirements of this paragraph shall not apply to:

(1) Hold harmless applicants whose entitlement ends and who do not apply for small cities comprehensive grants involving multiyear funding commitments pursuant to § 570.423(b) during the same year; and (2) any applicant for a small cities grant who does not request a multiyear funding commitment.

(d) *Maps.* The plan shall include maps showing the following information. The maps shall be on a census tract or enumeration district base, but the information need not be displayed according to the tract or enumeration district boundaries.

(1) The extent and location of low- and moderate-income persons;

(2) The extent and location of minority group residents;

(3) The extent and location of substandard and deteriorated housing;

(4) The locations of block grant funded projects included in the three-year project summary.

(5) Neighborhood strategy areas, if any. Maps shall be clearly legible, and all required maps submitted shall be of the same scale and cover the same areas. The applicant may submit supplementary maps of a different scale, at its discretion, where this will increase clarity. More than one type of information may be combined on one map if the information is clearly legible when combined.

(e) *Interim provisions.* Applications submitted prior to August 1, 1978, shall conform to the Community Development Plan Summary requirements published in the FEDERAL REGISTER (41 FR 4134) on January 28, 1976. However, applicants proposing to undertake activities whose eligiblity under the rules in Subpart C depends on the activities being consistent with a strategy for community development shall supplement the plan summary with a brief narrative statement containing the information required by § 570.200(h).

§ 570.305 Annual Community Development Program.

Each annual application shall contain a Community Development Program describing the projects and activities to be carried out with program year funds. Such projects and activities shall be consistent with the previously submitted three-year Community Development and Housing Plan, or an amended plan shall be submitted with the application as required by § 570.312(a). The Community Development Program shall consist of the following:

(a) *Project summary.* The following information shall be provided for each project and activity to be commenced during the program year:

(1) The name of the project or activity;

(2) A description of the project which states its purpose, the sequence of activities, duration of the project, and the entity responsible for carrying it out;

(3) The location and service area, including the census tract(s) or enumeration district(s) of the project, and the entity responsible for carrying it out;

(4) Whether the project or activity principally benefits low- and moderate-income persons, aids in the prevention of elimination of slums and blight, or meets other community needs having a particular urgency;

(5) A description of the activities which comprise each project, and the estimated costs and timing;

(6) The amounts and sources of other public funds and private investments anticipated to be provided;

(7) The environmental review status;

(8) Anticipated accomplishments.

(b) *Cost summary.* This will consist of a tabular summary, on a form to be prescribed, of proposed block grant expenditures in specific categories and the anticipated resources available.

(c) *A map or maps* of the applicant's jurisdiction showing the locations of proposed activities, on a base map census tracts or enumeration districts, and any designated neighborhood strategy areas. The maps shall be consistent with the requirements of scale and legibility in § 570.304(d).

§ 570.306 Housing Assistance Plan.

(a) *General Provisions.* This section contains policies, procedures, requirements and standards governing the Housing Assistance Plan (HAP).

(1) *Purpose.* The HAP is required as part of the application for assistance under this Part. The HAP serves as a measure of the conditions of the applicant's housing stock and the needs of lower (low and moderate) income persons for housing assistance. Further, the HAP serves to establish goals for assistance best suited to meet the needs of lower income persons and to further the revitalization of the community, including the restoration and rehabilitation of stable neighborhoods to the maximum extent possible, and the reclamation of the housing stock where feasible through the use of a broad range of techniques for housing restoration by local government, the private sector, or community organisa-

tions, including provisions of a reasonable opportunity for tenants displaced as a result of such activities to relocate in their immediate neighborhood. The

gram pursuant to § 570.306(b)(4) which will propose goals for housing assistance to be provided in Federal Fiscal

goals designed to address the needs of a particular tenure type (owner or renter), household type, (elderly and

(i) The applicant shall provide estimates of housing assistance needs of lower-income persons currently resid-

for an additional number of lower-income households expected to reside. An applicant obtaining a negative

zation is to be used in lieu of a methodology set forth in this Part, HUD will consider whether such alternate

tions, including provisions of a reasonable opportunity for tenants displaced as a result of such activities to relocate in their immediate neighborhood. The HAP must propose general locations for assisted housing which promote greater choice of housing opportunities and avoid undue concentrations of assisted persons in areas containing a high proportion of lower-income persons, and which further fair housing and assure the availability of public facilities and services adequate to support housing facilities. In addition, all communities are expected to share in providing expanded housing opportunities for lower-income persons and to participate in areawide solutions of housing problems through promotion of spatial deconcentration of housing opportunities for lower-income persons.

(2) *Use.* The HAP is not only a requirement for assistance under this Part, but it serves as the means for HUD to distribute assisted housing resources to applicants. The HAP offers applicants a means to implement strategies to conserve and expand its housing stock in order to provide a decent home in a suitable living environment for all persons, but principally those of lower income. The HAP should facilitate the reduction of the isolation of income groups within communities and geographic areas, affirmatively further fair housing and promote the diversity and vitality of neighborhoods.

(3) *Responsibility of applicant.* Applicants are responsible for implementation of the housing assistance plan in an expeditious manner. This includes the timely achievement of all goals for assisted housing and particularly those which address the needs of families and large families requiring rental assistance. Applicants are expected to take all actions within their control to facilitate the implementation of an approved housing assistance plan including those actions specified in §§ 570.306(b)(3)(iii) and (b)(4)(ii), as well as the development of Section 8 housing when notifications of funding availability are not responded to by private developers.

(4) *Period covered by HAP.* The HAP shall be submitted and be effective for time periods as follows:

(i) Housing Assistance Plans submitted to HUD after the publication date of these regulations but prior to August 1, 1978 shall be designed to complete the requirement that housing assistance provided pursuant to the three-year goals set forth in the HAP approved during 1976 shall have been provided in the same proportion as those goals by household type (elderly and handicapped, families and non-elderly individuals, and large families). Accordingly, applicants shall submit an annual housing action program pursuant to § 570.306(b)(4) which will propose goals for housing assistance to be provided in Federal Fiscal Year 1979 which, when combined with all housing assistance provided in FFY 1977 and 1978 will result in the provision of housing assistance in the same proportion as the three year goals, by household type, set forth in the HAP submitted in 1976. For the purposes of 24 CFR 891, the three-year goal for HAP's submitted prior to August 1, 1978 is the three-year goal submitted in the 1976 HAP including any amendments thereto. For example, an applicant which has provided housing assistance primarily for elderly households during FFY 1977 and 1978 is expected to establish goals this year in the annual housing action program for families and large families so that assistance provided during FFY 1977, 1978 and 1979 will be in the same proportion, by household type, as the 1976 three-year goal. In addition, the applicant shall identify general locations for new construction and substantial rehabilitation units or projects. For HAP's submitted prior to August 1, 1978, general locations shall be applicable to the housing assistance goals as described above in this paragraph; however, the requirements for identifying such locations are set forth in § 570.306(b)(3)(ii). Unless there have been substantial changes in the housing conditions and housing assistance needs, an applicant is required to submit only an annual goal and the general locations for proposed new construction and substantial rehabilitation.

(ii) Housing Assistance Plans submitted after August 1, 1978 shall be submitted once every three years as described in § 570.306(b) and shall cover a three year period. However, each annual application shall include an annual housing action program. Although some revision and updating may be necessary during this period because of the availability of new data sources or significant changes in local conditions or needs, the HAP shall be in effect for three program years. A new HAP shall be submitted every third program year thereafter.

(iii) A Hold Harmless Entitlement applicant submitting a HAP after August 1, 1978, but not proposing to apply for a grant under Subpart F of these regulations during its phase out year, is subject to this section except that the establishment of a three-year numerical goal as described in § 570.306(b)(3)(i) is not applicable.

(5) *Relationship to previously approved HAP's.* (Effective August 1, 1978.) Applicants are not relieved of their responsibilities to continue to address goals established to meet the needs for assisted housing identified in prior program years. Accordingly, applicants who had approved component goals designed to address the needs of a particular tenure type (owner or renter), household type, (elderly and handicapped, family and non-elderly individuals, or large family), or housing type (existing, substantial rehabilitation, or new construction), or any combination of the above, which have not been substantially met, shall include goals to meet such needs prior to providing further assistance for tenure, household, or housing types for which established goals have been substantially met. For example, an applicant which has identified a substantial need, and established goals for families and large families, but nonetheless has met only the goals or a substantial portion of the goals, established for elderly households shall meet the goals established for families and large families before providing additional assistance to elderly households.

(b) *Housing Assistance Plan Content.* The application shall contain a housing assistance plan which includes:

(1) *Housing Conditions.* The applicant shall describe the condition of the existing housing stock in the community by providing a statistical profile by tenure type (owner and renter), which describes housing conditions by number of units in standard and in substandard condition. If a housing rehabilitation program is proposed as part of the applicant's strategy statement as set forth in § 570.304(b), the number of units which are suitable for rehabilitation shall be stated. Estimates shall be made of vacancy rates for non-seasonal available units in standard condition, using the best estimate at the time the application is prepared, but in no case including units to be vacant at a future date.

(2) *Housing Assistance Needs.* The applicant shall describe the housing assistance needs of lower income persons.

The data for such description generally shall be derived from Federal census data; except that the applicant may also utilize other more recent data generally available from public or private sources, including areawide, regional, or State planning agencies; provided that the deviations from estimates derived from the Federal census data or from areawide, regional, or State planning agency assessments are explained. All applicants which are within the jurisdiction of an areawide planning organization having an approved Areawide Housing Opportunity Plan (AHOP) must use the data presented in the Plan. Applicants which are within the jurisdiction of an areawide planning organization which does not have an approved AHOP should use the same census, areawide, or State data unless more recent, generally available data exist for an individual applicant.

(i) The applicant shall provide estimates of housing assistance needs of lower-income persons currently residing in the community, by tenure type and by household type (lower-income households which are elderly and handicapped, families and non-elderly individuals, and large families), for all households, including those households to be displaced by public action and, where information is available, by private action during the three year program. Such estimates shall also be provided for any identifiable segment of the total group of lower-income households in the community.

(ii) The applicant shall assess the housing assistance needs of lower-income households (by household type for all households and all minority households), who could reasonably be expected to reside in the community.

(A) (Effective August 1, 1978.) An applicant community in a metropolitan area shall utilize the following methodology to derive the minimum estimate of the number of lower-income households who could be expected to reside in the applicant community during the three year period of applicability of the HAP. First, the metropolitan area percentage of lower-income households shall be determined using Section 8 Income Limits. Second, the total number of households in the applicant's jurisdiction shall be determined. Third, the total number of households from step two shall be multiplied by the percentage from step one, the product of which is the total required number of lower-income households. Fourth, the number of lower-income households currently residing in the applicant's jurisdiction shall be determined. Fifth, the number of lower-income households currently residing from step four shall be subtracted from the total required number of lower-income households produced in step three, the remainder of which is to be divided by one minus the metropolitan area percentage of lower-income households, the result being the gross estimate of the number of lower-income households expected to reside in the applicant community. Sixth, applicants shall then determine the estimate of the number of lower-income households who reasonably may be expected to reside by multiplying the gross estimate of the number of lower-income households expected to reside by one-third. This estimate of the number of lower-income households who reasonably may be expected to reside shall be cited in the applicant's assessment of the overall housing assistance needs of lower-income households. An applicant with a gross estimate of the number of households expected to reside of zero as a result of the fifth step in the above methodology is not required to set forth a housing need for an additional number of lower-income households expected to reside. An applicant obtaining a negative gross estimate as a result of the fifth step shall record the gross estimate of the number of households expected to reside as a zero.

EXAMPLE

Step 1. SMSA Y Lower Income Houshold Percentage: 40 percent.

Step 2. City W Total Number of Households currently residing: 5,000.

Step 3. City W Total Number of Households Currently Residing×SMSA Lower-Income Household Percentage=Total required number of lower-income households: 5,000×40%=2,000.

Step 4. City W Total Lower-Income Households Currently Residing: 1,000.

Step 5. (City W Total required number of lower-income households—City W Lower-Income Households Currently Residing)/(1—SMSA Lower-Income Households Percentage)=Gross Estimate of Lower-Income Households. Expected to Reside: (2,000−1000)/(1−40%)=1,000/60%=1,667.

Step 6. City W gross estimate of the number of lower-income households expected to reside/3=the estimate of the number of lower-income households who reasonably may be expected to reside 1,667/3=556.

(B) An applicant in a nonmetropolitan area, for which relevant Federal census data are not available, shall submit its best estimate of the number of lower-income households who reasonably could be expected to reside in the community, based on data generally available from Federal, State, areawide, or local sources.

(iii) *Use of alternative methodologies for determining estimates of lower-income households expected to reside developed by State or areawide planning organizations;* (Effective August 1, 1978.) HUD may, at its option, determine that a State or an areawide planning organization has developed an alternative methodology for one or both of these elements which evidences compliance with the objectives of this Part and is a more precise means to measure such needs within the specific geographic area of its jurisdiction. The basis for such determinations are set forth in 24 CFR Part 891, Subpart E. Having so determined, HUD may, at its option, authorize the use of such methodology, in lieu of the methodology set forth in § 570.306(b)(2)(ii), by all applicants within the jurisdiction of such areawide planning organizations.

(A) HUD shall inform all affected applicants, by publication of a Notice in the FEDERAL REGISTER, of those State or areawide planning organizations where an alternative methodology has been approved by HUD and whether such methodology will be used in lieu of the methodology set forth in § 570.306(b)(2)(ii).

(B) In determining whether an alternative methodology developed by a State or an areawide planning organization is to be used in lieu of a methodology set forth in this Part, HUD will consider whether such alternate methodology provides the estimates required to meet the standards of acceptability set forth in paragraphs (b) and (c) of this section and is statistically and mathematically sound.

(C) HUD shall monitor the estimates developed through an approved State or areawide planning organization alternative methodology. Although areawide organizations are encouraged to develop methodologies which are innovative in scope and suited to the circumstances of the jurisdiction of the areawide planning organizations, HUD may withdraw approval of or require modification of an alternative methodology which is determined to produce estimates which are plainly inconsistent with the objectives of this Part.

(iv) In addition, the applicant shall provide a narrative statement which summarizes any special housing conditions in the community and special housing needs found to exist in the total group of lower-income households in the community. Such summary shall include but need not be limited to, discussion of:

(A) Female heads of households;

(B) Individual minority groups;

(C) Handicapped persons;

(D) Special housing conditions such as concentrations of mobile homes; and

(E) Special housing needs related to a community's economic base such as military housing, migrant workers, and retirement centers.

(3) *Three Year Housing Program.* (Effective August 1, 1978 except as provided for paragraph (ii) in § 570.306(a)(4)(i).) The applicant shall describe a three year housing program for implementation of its community development and housing strategy:

(i) *Goals.* The program shall specify, by tenure type, household type, and housing type, a realistic three year goal for the number of dwelling units or persons to be assisted. The statement of the three year goal for assisted dwelling units also shall take into consideration housing conditions with respect to the availability of existing units of standard quality and units suitable for rehabilitation and shall meet the standards set forth in § 570.306(c)(1).

(ii) *General Locations.* The program shall identify the general locations of proposed new construction housing units or projects, and substantial rehabilitation units or projects, for the programs subject to 24 CFR 891 and, to the extent feasible, other assisted housing programs identified in the goals for lower-income persons on maps as called for in § 570.304(d). The locations shall be identified by census tract (or enumeration districts or geo-

graphic quadrants in those jurisdictions where a census tract includes a substantial area, such as an entire community). General locations for housing projects shall contain at least one site which conforms to the site and neighborhood standards established for the appropriate HUD assisted housing program. Where an applicant proposes assisted housing resources in areas of concentration of minorities or federally assisted housing, general locations outside of such areas also shall be proposed in order to ensure the provision of assisted housing in a balanced manner.

(iii) *Actions to be taken.* The program shall describe those actions which will be necessary for the applicant to take to address any special housing needs and conditions cited in § 570.306(b)(2)(iv), as well as any actions determined necessary, on the basis of findings of past performance reviews pursuant to Subpart O of these regulations, to achieve the housing assistance goals, and shall set forth a timetable for such actions. In addition, applicants anticipating difficulty in achieving goals in newly prepared HAPs shall set forth actions required to achieve those goals. The actions may include, but are not limited to: (A) acquisition of sites and provision of site improvements for the development of assisted housing; (B) adoption or modification of local ordinances and land use measures to facilitate the development of assisted housing including institution of local referendum actions, where necessary; (C) issuance of appropriate zoning changes, building permits, utility connections and similar administrative requirements; (D) formation of a local housing authority or execution of an agreement with a housing authority having powers to provide assisted housing within the jurisdiction of the applicant; (E) removal of local residency preferences for assisted housing; (F) promotional and assistance activities to encourage developers to initiate assisted housing or to allocate a portion of their planned unsubsidized developments for assisted housing, and to encourage owners to make units available for Section 8 existing housing programs; and (G) measures to reduce the cost of housing development, such as tax abatement, waiver of fees and other administrative costs.

(4) *Annual Housing Action Program.* For each program year as part of the annual submission, the applicant shall describe a program of actions to carry out each program year increment in order to achieve the three year housing program. The annual action program shall:

(i) Specify, by tenure type, household type, and housing type, a realistic annual goal for the number of dwelling units or persons to be assisted, including the relative proportion of new, rehabilitated, and existing units best suited to the needs of lower-income persons indentified by the applicant; and

(ii) Set forth specific actions, if any, to be undertaken during the program year to assure the implementation of the three-year housing program including those actions described in paragraph (b)(3)(iii) of this section.

(c) *Standards and criteria for approval of HAPs.* The following standards and criteria shall apply to the reviews and determinations of acceptability of housing assistance plans and shall be effective as of the date of publication of these regulations except as otherwise noted:

(1) *Goals for assisted housing*—(i) *Proportionality.* The three year housing assistance goals shall address the needs of the three household types (elderly and handicapped, families and non-elderly individuals, and large families) within each tenure type (owner and renter) in the same proportion as the total lower-income housing needs identified in the HAP, of those household types, by tenure type. Certain adjustments to this requirement are permitted as follows:

(A) HUD may grant an exception from this requirement when an applicant documents special needs arising from displacement of significant numbers of households of a particular size; natural disasters; meeting the housing requirements of section 105 (f) and (h) of the U.S. Housing Act of 1949, as amended; accommodating proposals for projects of feasible size which could not otherwise be developed; or implementing the goals of a HUD-approved AHOP; or

(B) (Effective August 1, 1978.) Applicants required to emphasize a particular household type or types pursuant to § 570.306(a)(5) shall make no downward adjustment in the percentage represented by such household type, but the percentage represented by other household types may be adjusted downward as necessary. For example, an applicant which has disproportionately met the needs of elderly households in prior years would not be permitted to make any downward adjustment to the percentages represented by family and large family households, but may be required to reduce the percentage represented by elderly households to zero.

(ii) *Tenure types.* The types and quantities of housing assistance proposed by tenure type (owner and renter), shall be appropriate to meeting indentified needs of both renters and owners. In this regard, unless a community can demonstrate that it can meet the needs of households expected to reside through assistance programs for homeowners, such needs shall be assumed to represent needs for rental units.

(iii) (Effective August 1, 1978.) *Minimal goals.* The goals must directly address known needs for housing assistance and contain a sufficient number of units to permit practical and economically feasible housing development. For applicants with are within the jurisidiction of a HUD-approved AHOP, HUD will accept the goals included therein. All other applicants shall propose a three-year housing assistance goal which represents assistance for at least 15 percent of the total need unless the applicant can demonstrate to the safisfaction of HUD that such a goal would be infeasible. The standard that housing assistance plans with only minimal housing assistance goals are plainly inappropriate recognizes that communities with very substantial housing assistance needs have a responsibility to propose substantial housing assistance goals and that goals should reflect the desirability of meeting a significant percentage of identified needs at an early date.

(iv) *Vacancy rates.* In establishing goals for assisted housing, the applicant shall consider the vacancy rate established pursuant to § 570.300(b)(1) and shall estimate the number of such vacant units which would be adequate to meet the needs of lower-income households.

(A) In those cases where there exists a less than adequate vacancy rate (as determined by HUD) in housing units resulting in an insufficient number of vacant, standard, available units of appropriate size, cost, and type to meet the identified housing assistance needs for rental units for lower-income households goals for housing assistance shall emphasize a program of new construction of rental units for households of lower-income. For example, an applicant with a significant number of lower-income households expected to reside in the community and a less than adequate rental vacancy rate, would be expected to emphasize a program of new construction of rental units to address this need. However, this does not preclude the use of a vehicle such as the Section 8 Existing Housing program to address the needs of households currenty residing in the community, provided that the existing program is used in concert, during the three year program, with new construction and/or substantial rehabilitation so that the housing market will not be further imbalanced.

(B) In those cases where there exists an adequate vacancy rate as determined by HUD in standard housing units creating a sufficient number of vacant, available units of appropriate size, cost, and type to meet the identified housing assistance needs of lower-income persons for rental units, goals for housing assistance shall emphasize a program of existing housing for persons of lower-income.

(v) *Urban renewal completion.* Applicants engaged in the completion of Urban Renewal projects and having to meet requirements of Sections 105 (f) and (h) of the U.S. Housing Act of 1949 as amended, or applicants obligated to meet such requirements under close-out agreements pursuant to § 570.804 for projects which have been settled financially, shall establish goals large enough to meet such obligations.

(vi) *Adequacy of rehabilitation.* In order to be included as goals in a Housing Assistance Plan any units proposed to be rehabilitated for either owners or renters must be units which are determined by the applicant to be substandard, and upon completion of rehabilitation, will meet, at a minimum, Section 8 Existing Housing Quality Standards pursuant to 24 CFR § 882.109, and be occupied by lower-income households. Any units proposed for rehabilitation using Federal assistance, shall upon completion meet the standards of the applicable Federal program where they exceed Section 8 Existing Housing Quality Standards.

(vii) (Effective August 1, 1978.) *Relationship to previously approved goals.* Where an applicant does not provide goals to meet unfulfilled needs in accordance with § 570.306(a)(5), such housing assistance goals will be determined to be plainly inappropriate.

(viii) *Local actions to implement goals.* An applicant shall make all efforts to meet the goals in its three year housing program. When actions such as acquisition of land, formation of a housing authority or rezoning are necessary for the development of housing, such actions should be accomplished by the second year of the three year housing program. HUD shall consider an applicant's past performance in providing assisted housing pursuant to the performance standards for implementing housing assistance plans set forth in § 570.909 in determining whether the housing assistance goals are appropriate. In those instances where an applicant's performance in the past indicates that local actions are required to facilitate delivery of housing resources, but the applicant does not provide that such actions will be undertaken on a timely basis, the goals will be determined to be plainly inappropriate.

(ix) *Consistency with areawide housing opportunity plans.* A housing assistance plan of a community which is within the jurisdiction of an areawide planning organization, shall be consistent with the approved Areawide Housing Opportunity Plan prepared by the areawide planning organization pursuant to 24 CFR Part 891.

(2) *General locations.* The applicant shall demonstrate by its selection of general locations that its HAP will promote greater spatial deconcentration of housing opportunities for lower-income persons, particularly minorities.

§ 570.307 Certifications.

The applicant shall submit certifications each year providing assurances that:

(a) It possesses legal authority to apply for the grant, and to execute the proposed program.

(b) Its governing body has duly adopted or passed as an official act a resolution, motion or similar action authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

(c) It has complied with all the requirements of OMB Circular No. A-95 as modified by this Part and that either:

(1) Any comments and recommendations made by or through clearinghouses are attached and have been considered prior to submission of the application; or

(2) The required procedures have been followed and no comments or recommendations have been received.

(d) Prior to submission of its application, the applicant has:

(1) Prepared a written citizen participation plan, which:

(i) Provides an opportunity for citizens to participate in the development of the application, encourages the submission of views and proposals, particularly by residents of blighted neighborhoods and citizens of low- and moderate-income, provides for timely responses to the proposals submitted, and schedules hearing at times and locations which permit broad participation;

(ii) Provides citizens with adequate information concerning the amount of funds available for proposed community development and housing activities, the range of activities that may be undertaken, and other important program requirements;

(iii) Provides for public hearings to obtain the views of citizens on community development and housing needs; and

(iv) Provides citizens with an opportunity to submit comments concerning the community development performance of the applicant:

(2) Followed this plan in a manner to achieve full participation of citizens in development of the application. The applicant shall also follow this plan to achieve full citizen participation in all other stages of the program.

NOTE.—The above certification on citizen participation is effective August 1, 1978. For applications submitted to HUD prior to August 1, 1978, the certification requirement of § 570.303(e)(4) published in the FEDERAL REGISTER (41 FR 4135) on January 28, 1976, shall apply.

(e) Its chief executive officer or other officer of applicant approved by HUD:

(1) Consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 insofar as the provisions of such Act apply to this Part;

(2) Is authorized and consents on behalf of the applicant and himself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his responsibilities as such an official.

(f) The Community Development Program has been developed so as to give maximum feasible priority to activities which will benefit low- and moderate-income families or aid in the prevention or elimination of slums or blight.

[The requirement for this certification will not preclude the Secretary from approving an application where the applicant certifies, and the Secretary determines, that all or part of the Community Development Program activities are designed to meet other community development needs having a particular urgency as specifically explained in the application in accordance with § 570.302(f).]

(g) It will comply with the regulations, policies, guidelines and requirements of OMB Circular No. A-102, Revised, and Federal Management Circular 74-4 as they relate to the application, acceptance, and use of Federal funds under this Part.

(h) It will administer and enforce the labor standards requirements set forth in § 570.605 and HUD regulations issued to implement such requirements.

(i) It will comply with all requirements imposed by HUD concerning special requirements of law, program requirements, and other administrative requirements, approved in accordance with OMB Circular No. A-102 Revised.

(j) It will comply with the provisions of Executive Order 11296, relating to evaluation of flood hazards and Executive Order 11288 relating to the prevention, control, and abatement of water pollution.

(k) It will require every building or facility (other than a privately owned residential structure) designed, constructed, or altered with funds provided under this Part to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," Number A-117.1-R 1971, subject to the exceptions contained in 41 CFR 101-19.604. The applicant will be responsible for conducting inspections to insure compliance with these specifications by the contractor.

(*l*) It will comply with:

(1) Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352), and the regulations issued pursuant thereto (24 CFR Part 1), which provides that no person in the United States shall on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance and will immediately take any measures necessary to effectuate this assurance. If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the applicant, this assurance shall obligate the applicant, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits.

(2) Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284), as amended, administering all programs and activities relating to housing and community development in a manner to affirmatively further fair housing; and will take action to affirmatively further fair housing in the sale or rental of housing, the financing of housing, and the provision of brokerage services.

(3) Section 109 of the Housing and Community Development Act of 1974, and the regulations issued pursuant thereto (24 CFR Part 570.601), which provides that no person in the United States shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds provided under this Part.

(4) Executive Order 11063 on equal opportunity in housing and nondiscrimination in the sale or rental of housing built with Federal assistance.

(5) Executive Order 11246, and the regulations issued pursuant thereto (24 CFR Part 130 and 41 CFR Chapter 60), and Section 4(b) of the Grant Agreement, which provides that no person shall be discriminated against on the basis of race, color, religion, sex or national origin in all phases of employment during the performance of Federal or federally assisted construction contracts. Contractors and subcontractors on Federal and federally assisted construction contracts shall take affirmative action to insure fair treatment in employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation and selection for training and apprenticeship.

(m) It will comply with Section 3 of the Housing and Urban Development Act of 1968, as amended, requiring that to the greatest extent feasible opportunities for training and employment be given to lower-income residents of the project area and contracts for work in connection with the project be awarded to eligible business concerns which are located in, or owned in substantial part by, persons residing in the area of the project.

(n) It will:

(1) To the greatest extent practicable under State law, comply with Sections 301 and 302 of Title III (Uniform Real Property Acquisition Policy) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and will comply with Sections 303 and 304 of Title III, and HUD implementing instructions at 24 CFR Part 42; and

(2) Inform affected persons of their rights and of the acquisition policies and procedures set forth in the regulations at 24 CFR Part 42 and § 570.602(b).

(o) It will:

(1) Comply with Title II (Uniform Relocation Assistance) of the Uniform Relocation Assistance and Real Property Acquistion Policies Act of 1970 and HUD implementing regulations at 24 CFR Part 42 and § 570.602(a);

(2) Provide relocation payments and offer relocation assistance as described in Section 205 of the Uniform Relocation Assistance Act to all persons displace as a result of acquisition of real property for an activity assisted under the Community Development Block Grant Program. Such payments and assistance shall be provided in a fair and consistent and equitable manner that insures that the relocation process does not result in different or separate treament of such persons on account of race, color, religion, national origin, sex, or source of income;

(3) Assure that, within a reasonable period of time prior to displacement, comparable decent, safe and sanitary replacement dwellings will be available to all displaced families and individuals and that the range of choices available to such persons will not vary on account of their race, color, religion, national origin, sex, or source of income; and

(4) Inform affected persons of the relocation assistance, policies and procedures set forth in the regulations at 24 CFR Part 42 and § 570.602(a).

(p) It will establish safeguards to prohibit employees from using positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

(q) It will comply with the provisions of the Hatch Act which limits the political activity of employees.

(r) It will give HUD and the Comptroller General through any authorized representatives access to and the right to examine all records, books, papers, or documents related to the grant.

(s) It will insure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of the program are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify HUD of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA.

(t) It will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973. Pub. L. 93-234, 87 Stat. 975, approved December 31, 1973. Section 103(a) required, on and after March 2, 1974, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes for use in any area, that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards. The phrase "Federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance.

(u) It will, in connection with its performance of environmental assessments under the National Environment Policy Act of 1969, comply with Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470), Executive Order 11593, and the Preservation of Archeological and Historical Data Act of 1966 (16 U.S.C. 469a-1, et. seq.) by (a) consulting with the State Historic Preservation Officer to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects (See 36 CFR Part 800.8) by the proposed activity, and (b) complying with all requirements established by HUD to avoid or mitigate adverse effects upon such properties.

§ 570.308 Timing of application submissions.

(a) *Submission of applications.* (1) In order to receive an entitlement grant under this Part, each applicant is required to submit an application at least 75 days, but no more than 120 days, prior to the end of its program year.

(2) An applicant which did not receive an entitlement grant in the previous fiscal year must apply no later than April 30.

(3) Notwithstanding other provisions of this section, no application will be accepted between July 15 and October 1, in any year.

(b) *Program year.* A program year shall run for a twelve month period. An applicant may, however, either shorten or lengthen its program year by as much as three calendar months, provided:

(1) It is for the purpose of conforming the program year to State or local or fiscal budgeting requirements; and

(2) HUD receives written notice of a shortened program year at least six months prior to the date the program year would have ended if it had not been shortened, or in the case of a lengthened program year, at least three months prior to the date the program year would have ended if it had not been lengthened. An applicant may not however, receive more than one entitlement grant from a single Federal fiscal year appropriation.

§ 570.309 Public availability of and objections to application [Reserved]

§ 570.310 A-95 clearinghouse review and comment.

Applicants must comply with the procedures set forth in Part I of OMB Circular No. A-95 except as modified below. In addition to rules governing applications, these procedures also require that program amendments submitted to HUD in accordance with § 570.312 shall be submitted to appropriate clearinghouses for a 30-day review and comment period.

(a) *Clearinghouse notification.* The A-95 requirement that clearinghouses be notified of an applicant's intent to apply for Federal assistance will be satisfied by HUD. Each fiscal year HUD will advise the appropriate State and areawide clearinghouses, with a copy to the applicant, of those communities entitled to receive grants under this Part. This notification will be provided at least 60 days prior to the date by which the applicant must submit the completed application to HUD. Upon receipt of its copy of the HUD notification to the clearinghouses, the applicant shall make arrangements with the clearinghouses regarding early transmittal of information describing the contents of the application. An applicant wishing to submit its application to HUD before February 1 of each year shall provide its own notice of intent to file with the appropriate clearinghouses in accordance with the usual A-95 procedures.

(b) *Clearinghouse review of application.* Unless the requirement is waived by a clearinghouse, the applicant shall provide the clearinghouses a period of 45 calendar days to review the completed application and transmit to the applicant any comments or recommendations. Clearinghouses will be of assistance to both the applicant and HUD if their reviews address the application approval criteria contained in § 570.311(c), as well as the "subject matter of comments and recommendations" in Part I, Attachment A of OMB Circular No. A-95, item 5. Emphasis should be placed on consistency among State, areawide and local plans and strategies. Compliance with environmental and civil rights laws should also be emphasized.

(c) *Application actions after clearinghouse review.* The applicant shall include with its application to HUD all clearinghouse comments, or when no comments are received, a statement that no comments or recommendations have been received from the clearinghouses. Where activities are determined by the area wide planning agency to be inconsistent with areawide plans, the applicant shall provide in the application to HUD an explanation of the reasons for the inconsistencies.

(d) *Application modification during clearinghouse or HUD review.* An applicant which revises its application while it is under review by a clearinghouse or by HUD shall inform the clearinghouses of the revisions and, if the application has been submitted to HUD, the number of days remaining within the 75-day review period described in § 570.311(d), for HUD to complete its review of the application.

§ 570.311 HUD review and approval of application.

(a) *Acceptance of application.* (1) Upon receipt of an application, the HUD Area Office will accept it for review, provided that:

(i) It has been received before the deadline for receipt of applications established in § 570.308(a);

(ii) All of the required component parts of the application are submitted and are properly completed;

(iii) The funds requested do not exceed the entitlement amount;

(iv) Any comments and recommendations received from clearinghouses, or a statement that no comments were received, are attached to the application; and

(v) Any additional assurances previously required as a result of monitoring, inadequate local performance, or audit findings, are included.

(2) If the application is accepted in accordance with the preceding paragraph, the date of acceptance of the application will be the date of receipt of the application in the HUD field office, and the applicant will be so notified in writing. If the application is not accepted for review, the applicant will be so notified in writing, and will be advised of the specific reasons for nonacceptance.

(b) *Scope of review.* (1) HUD will normally base its review upon the applicant's certifications, statements of facts and data, and other information. The Secretary reserves the right, however, to consider relevant evidence which challenges the certifications, and information submitted by the applicant, and to require additional information or assurances from the applicant as warranted by such evidence.

(2) The review will include, but need not be limited to, the following matters contained in the application and the grantee performance report, or derived from monitoring:

(i) Eligibility of proposed activities;

(ii) Program benefit to low- and moderate-income persons in accordance with the provisions of § 570.302;

(iii) Housing Assistance Plan conformity to the requirements of § 570.306;

(iv) Coordination of housing assistance and community development activities;

(v) Consistency of the needs stated in the plan with generally available data;

(vi) Appropriateness of proposed plans and programs to meeting the applicant's needs and objectives;

(vii) compliance with previous contract conditions or other corrective and remedial actions required by HUD;

(viii) Experience regarding the effectiveness of the proposed activities in meeting the community development needs in the locality;

(ix) Applicant's capacity to carry out the program proposed as evidenced by its previous performance record; and

(x) Compliance with the requirements of this Part and other applicable laws and regulations.

(c) *Criteria for disapproval.* The Secretary will approve the application unless:

(1) On the basis of significant facts and data, generally available, and pertaining to community and housing needs and objectives, the Secretary determines that the applicant's description of such needs and objectives is plainly inconsistent with such facts and data. The data to be considered may be published data accessible to both the applicant and the Secretary, such as census data, or other data available to both the applicant and the Secretary, such as recent local, areawide or State comprehensive planning data.

(2) On the basis of the application, the Secretary determines that the activities to be undertaken are plainly inappropriate to meeting the needs and objectives identified by the applicant. The following are examples of situations in which activities may be determined to be "plainly inappropriate" to meeting the identified needs of the applicant:

(i) Experience over a period of time has demonstrated that the types of activities proposed have not been or are

unlikely to be effective in alleviating the conditions they were designed to affect;

(ii) The applicant has identified areas containing significant concentrations of deteriorated housing and blight and does not propose to undertake a concentrated program of activities in any such areas;

(iii) The proposed program does not principally benefit low- and moderate-income persons under the requirements of § 570.302;

(iv) Proposed activities will have a detrimental effect on low- and moderate-income persons or members of minority groups and adequate measures to mitigate such effects are not proposed;

(v) Housing goals, locations, and strategy do not meet the criteria of § 570.306(c);

(vi) Actions essential to accomplish housing assistance goals, including supportive community development activities, are not proposed;

(vii) The proposed program does not reflect previous requirements of the Secretary for corrective or remedial actions, or activities proposed have previously been the basis of such requirements.

(3) The Secretary determines that the application does not comply with the requirements of this Part with specific regard to the primary purposes of principally benefitting persons of low- and moderate-income or aiding in the prevention or elimination of slums or blight, or other applicable law, or proposes activities which are ineligible under this Part.

(d) *Timing.* The Secretary will notify the applicant in writing within 75 days, but not less than 45 days, of the date of receipt of the application, that the application has been either approved or disapproved. In the event the Secretary has not mailed a notification to the applicant within 75 days from the date of acceptance of a completed application the application shall be deemed to be approved. If the application is disapproved the applicant shall be informed of the specific reasons for disapproval.

(e) *Reduction of grant.* The Secretary may approve an application for an amount less than the full entitlement for the following reasons:

(1) Activities are not eligible under Subpart C and funds are not reprogrammed to eligible activities within the 75-day review period;

(2) Activities do not meet other program requirements, such as benefits to low- and moderate-income persons described in § 570.302; or

(3) The recipient's performance does not meet the standards prescribed in § 570.909 and a reduction is appropriate pursuant to § 570.911.

(f) *Conditional approval.* The Secretary may make a conditional approval, in which case the full entitlement amount will be approved but the obligation and utilization of funds for affected activities will be restricted. Conditional approvals may be made where:

(1) Local environmental reviews under § 570.603 have not yet been completed;

(2) The requirements of § 570.607 regarding the provision of public services and flood or drainage facilities have not yet been satisfied; or

(3) There is substantial evidence that there has been, or there will be, a lack of substantial progress, nonconformance, noncompliance, or a lack of continuing capacity, as described in § 570.909. In such case, the reason for the conditional approval and the actions necessary to remove the condition shall be specified. Failure to satisfy the condition may result in a reduction in the annual grant amounts pursuant to §§ 570.910(b)(10) or 570.911.

§ 570.312 Amendments.

(a) *Community Development Program amendments.* A recipient shall submit an amended application to the HUD Area Office when:

(1) The recipient proposes to use more than 10 percent of the entitlement amount approved for the affected program year to undertake one or more new activities, other than local option activities pursuant to § 570.600 and disaster activities pursuant to 24 CFR § 58.6.

(2) The recipient proposes to alter the stated purpose, location, or class of beneficiaries of previously approved activities whose cost exceeds 10 percent of the entitlement amount approved for the affected program year.

(3) The combination of proposed new activities (other than local option activities and disaster activities) and changes in the purpose, location, or class of beneficiaries of previously approved activities involves more than 10 percent of the entitlement amount approved for the affected program year.

(4) The cumulative effect of a number of smaller changes involving new activities (other than local option activities and disaster activities) or changes in the purpose, location, or class of beneficiaries of approved activities exceeds 10 percent of the entitlement amount approved for the affected program year. In such instances, the recipient shall include in its request for amendment documentation describing the smaller changes previously made, as well as those being proposed. After the amendment is approved by HUD, the accrual of smaller changes begins again.

(5) The recipient proposes to reduce the amount of funds previously approved for completion of urban renewal projects.

When the recipient proposes to undertake activities which are not consistent with the three-year project summary included in its community development plan, it shall submit an amended community development plan summary to HUD at the same time the proposed program amendment is submitted.

(b) *Housing Assistance Plan Amendments.* The recipient shall request prior HUD approval of Housing Assistance Plan amendments when any of the following conditions exist:

(1) The recipient proposes a reduction of any goal for housing assistance pursuant to § 570.306(b)(3)(i) or § 570.306(b)(4)(i);

(2) The recipient proposes the inclusion of a goal by household type or housing type, not previously specified pursuant to § 570.306 (b)(3)(i) or (b)(4)(i);

(3) The recipient proposes to exceed any three year goal by housing type or household type by the percentage cited in 24 CFR Part 891;

(4) The recipient proposes a revision of the general locations for assisted housing established pursuant to § 570.306(b)(3)(ii); or

(5) There is a significant change in, or new data available regarding, the conditions of the housing stock or the housing needs of lower-income persons.

(c) *Scope of submission.* Only the following documentation must be submitted in support of a request for an amendment to an approved application:

(1) The elements of the approved application to be changed, such as the affected portions of the annual Community Development Program;

(2) The certifications described in § 570.307; and

(3) Documentation regarding A-95 clearinghouse reviews as described in § 570.310(c).

(d) *Response to requested amendments.* Within 30 days of the date of receipt of the proposed amendment, HUD will notify the recipient in writing that the amendment has been approved, disapproved, or conditionally approved pursuant to § 570.311(f), or, if a final decision on the amendment has not as yet been made, the date by which the recipient will be notified of the final decision. In the event HUD has not mailed a notification to the recipient within that 30-day period, the amendment shall be deemed approved. If the proposed amendment is disapproved, the recipient shall be informed of the specific reasons for disapproval.

(3) *Other changes.* Changes not covered in paragraphs (a) or (b) of this section including local option and disaster activities, do not require prior HUD approval, but shall be reported to HUD as part of the annual performance report described in § 570.906.

(f) *Citizen participation.* All amendments and other changes to the Community Development Program, community development plan and Housing Assistance Plan require citizen participation. Formal public hearings, however, are required only when prior HUD approval of application amendments is required. Citizen participation requirements do not apply, however, to disaster activities.

(g) *A-95 review.* The recipient shall provide the State and areawide clearinghouses with 30 days for review and comment prior to submission of an application amendment for prior HUD approval.

(h) *Environment.* The recipient shall comply with applicable provisions of 24 CFR Part 58 respecting all amendments.

III. Section 570.906 is revised to read as follows:

§ 570.906 Performance report.

(a) *Submission requirements.* (1) Each entitlement recipient shall submit a performance report to HUD no later than the end of the eighth month of each program year. The report shall cover a twelve month period ending with the sixth month of the program year.

(2) A copy of the performance report shall be submitted to the appropriate A-95 State and areawide clearinghouses for informational purposes at the time it is submitted to HUD.

(3) The recipient shall make the report available to citizens at no charge and shall make public notice of the availability of the report at the time it is submitted.

(4) The requirements for submission of performance reports by discretionary grant recipients are set forth in § 570.400(h).

(b) *Content of report.* The report shall include the following components in a format to be prescribed:

(1) *Progress on planned activities.* The report shall describe progress on each project and activity that was to be carried out under approved applications since the inception of the applicant's block grant program, excluding projects or activities reported as completed in a previous report. The report shall list each project and activity by the program year in which it was approved and provide cumulative information on the following:

(i) Amount of funds obligated and expended;

(ii) Environmental status including the date of HUD release of funds;

(iii) The administrative unit having lead responsibility;

(iv) The steps taken to carry out the project, such as advertisement for bids, completion of a specified percentage of construction, etc.

(2) *Recipient assessment.* The report shall include the recipient's assessment of the effectiveness of the program of community development activities conducted under this Part in meeting local needs and objectives and national objectives of the block grant program.

(3) *Persons benefitting.* The report shall include an analysis of the persons actually benefitting from activities carried out under the program.

(4) *Housing assistance.* The applicant shall describe progress in carrying out the Housing Assistance Plan, including actions taken to further fair housing.

(5) *Citizen participation.* The applicant shall describe the actions it has taken to comply with the requirements of § 570.303, and include (i) copies of comments submitted by citizens regarding the applicant's community development performance; (ii) the applicant's assessment of such comments; and (iii) a summary of any actions taken in response to the comments received.

(6) *Equal opportunity.* The applicant shall present evidence of compliance with the certifications required by § 570.307(*l*).

IV. Conforming and technical changes are made to Part 570 as follows:

§ 570.400 [Amended]

1. In § 570.400(a), the reference to "Subparts A, B, C, F, G, H, I, and J" is changed to "Subparts A, B, C, J, K, and O."

2. In § 570.400(f), the reference to "§ 570.306(e)" is changed to "§ 570.311(f)."

§ 570.401 [Amended]

3. In § 570.401(c), the reference to "§ 570.303(e) except for (4) and (6)" is changed to "§ 570.307 except for paragraphs (d) and (f)."

§ 570.403 [Amended]

4. In § 570.403(c)(3), the reference to "§ 570.303(e) (1), (3), (5) if applicable, (7), (8), (11), (12) if applicable, and (13) if applicable" is changed to "§ 570.307 (a), (c), (e) if applicable, (g), (h), (l), (m), (n) if applicable and (o) if applicable."

5. In § 570.403(e)(2), the reference to "Subpart G" is changed to "Subpart K."

§ 570.404 [Amended]

6. In § 570.404(b)(3)(A), the reference to "§ 570.303(b)" is changed to "§ 570.305."

7. In § 570.404(b)(3)(B), the reference to "§ 570.303(c)" is changed to "§ 570.306(b)."

8. In § 570.404, paragraph (b)(3)(c) is deleted and reserved.

9. In § 570.404(b)(3)(D), the reference to "§ 570.303(e), except for (e)(4)" is changed to § 570.307, except for paragraph (d)."

10. In § 570.404(c)(4)(ii)(B), the reference to "§ 570.303(b)" is changed to "§ 570.305."

11. In § 570.404, paragraph (c)(4)(ii)(D) is deleted and reserved.

12. In § 570.404(c)(4)(ii)(E), the reference to "§ 570.303(e), except for (e)(4)" is changed to "§ 570.307, except for paragraph (d)."

§ 570.405 [Amended]

13. In § 570.405, the reference to "§ 570.303" is changed to "Subpart D."

§ 570.406 [Amended]

14. In § 570.406(c)(5), the reference to "§ 570.303(e), except for (4) and (6)" is changed to "§ 570.307, except for paragraphs (d) and (f)."

§ 570.407 [Amended]

15. In § 570.407(e), the reference to "§ 570.303" is changed to "Subpart D."

16. In § 570.407(e)(1), the references to "§ 570.303(a)" and "§ 570.303(b)" are changed to "§ 570.304" and "§ 570.305," respectively.

17. In § 570.407(e)(3), the reference to "§ 570.303(c)" is changed to "§ 570.306(b)."

18. In § 570.407(e)(4), the reference to "§ 570.303(e), except for (4) and (6)" is changed to "§ 570.307, except for paragraphs (d) and (f)."

§ 570.503 [Amended]

19. In § 570.503(a), the reference to "§ 570.306(e)" is changed to "§ 570.311(f)."

§ 570.504 [Amended]

20. In § 570.504, the reference to "§ 570.306(e)," is changed to "§ 570.311(f)."

§ 570.600 [Amended]

21. In § 570.600, the references to "§ 570.303(b)" and "§ 570.306(e)" are changed to "§ 570.305" and "§ 570.311(f)," respectively.

§ 570.804 [Amended]

22. In § 570.804(b), the references to "§ 570.305," "§ 570.303," "§ 570.306," and "§ 570.303" are changed to "§ 570.312," "§ 570.300(b) or (c)," "§ 570.311," and "§ 570.300(c)," respectively.

23. In § 570.804(b)(7)(ii), the reference to "§ 570.303(c)" is changed to "§ 570.306."

24. In § 570.804(b)(7)(vi), the reference to "Subpart J" is changed to "Subpart O."

§ 570.900 [Amended]

25. In § 570.900, paragraph (d) is deleted.

§ 570.907 [Amended]

26. In § 570.907(b), the reference to "§ 570.900(d)" is changed to "§ 570.303."

27. In § 570.907(c), the reference to "§ 570.303(b)" is changed to "§ 570.305."

§ 570.909 [Amended]

28. In § 570.909(f)(1), the reference to "§ 570.305" is changed to "§ 570.312."

29. In § 570.909(f)(1)(i), the references to "§ 570.303(e)(6)" and "§ 570.305" are changed to "§ 570.307(f)" and "§ 570.312," respectively.

§ 570.910 [Amended]

30. In § 570.910(b)(4), the reference to "§ 570.306(b)(1)" is changed to "§ 570.311(b)(1)."

31. In § 570.910(b)(9), the reference to "§ 570.306(e)(3)" is changed to "§ 570.311(f)(3)."

32. In § 570.910(b)(10), the reference to "§ 570.306(e)(3)" is changed to "§ 570.311(f)(3)."

33. In §§ 570.403(e)(1), 570.502(a)(2), 570.505, 570.506 (a) and (b), 570.507, 570.508, 570.512(d), 570.905(b), and 570.907(a), the reference to "Federal Management Circular 74-7" is changed to "OMB Circular No. A-102."

[Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.); Title I, Housing and Community Development Act of 1977 (Pub. L. 95-128); and sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d).)]

Issued at Washington, D.C., February 22, 1978.

ROBERT C. EMBRY, Jr.,
Assistant Secretary for Community Planning and Development.

[FR Doc. 78-5180 Filed 2-23-78; 2:24 pm]

federal register

WEDNESDAY, MARCH 1, 1978

PART V

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

■

COMMUNITY DEVELOPMENT BLOCK GRANTS

Small Cities Program

[4210-01]

Title 24—Housing and Urban Development

CHAPTER V—OFFICE OF ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND DEVELOPMENT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-78-485]

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

Subpart F—Small Cities Program

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This rule prescribes the mechanisms for distribution by HUD of discretionary community development block grants as authorized by section 106 of the Housing and Community Development (HCD) Act of 1974. The discretionary program, now designated the Small Cities Program, has been substantially revised to incorporate both the statutory changes included in the 1977 Housing and Community Development Act and new administrative initiatives.

EFFECTIVE DATE: March 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Subpart F: James N. Forsberg, Program Standards Division, Office of Community Planning and Development, Department of Housing and Urban Development, Washington, D.C. 20410, 202-755-6306.

SUPPLEMENTARY INFORMATION: On November 18, 1977, the Department of Housing and Urban Development published in the FEDERAL REGISTER (42 FR 59654) proposed rules for the Small Cities Program, Subpart F of 24 CFR Part 570. Regulations governing the discretionary balances grants were previously contained in Subpart E, §§ 570.400 thru 570.402, which the Department published in the FEDERAL REGISTER on October 18, 1976. Interested persons were given until December 19, 1977, to comment on proposed Subpart F.

Approximately 350 comments were received concerning the proposed regulations. After full and careful consideration of these public comments, we have made the following changes in developing the final rule:

§ 570.420 GENERAL

Section 570.420 contained general information and set out the basic framework for the Small Cities Program.

Subsection (b) outlined the overall objectives for the Small Cities Program. Several additions to these objectives were suggested by the comments and clarification of the existing objectives requested. Although we have decided not to expand the list, we have altered the language to make the objectives clearer and more applicable to small communities.

Subsection (c) defined eligible applicants. We have changed the wording to specify that units of government participating in either an urban county or a metropolitan city are not eligible. Some respondents requested that hold-harmless communities participating with an urban county only for the purpose of meeting the 200,000 population level should still be eligible to apply for discretionary funds. We do not believe, however, that such a result is legally permissible or administratively desirable.

Subsection (d) defined the two types of programs—Comprehensive and Single Purpose—available to small cities. For purposes of clarification, this subsection has been abbreviated to contain only a general statement as to the existence and focus of these two elements, with the revised definitions now contained in § 570.423 and § 570.427 respectively.

Subsection (e) established a system for division of funds between the Comprehensive and Single Purpose elements based generally on the relative dollar demand within each competing jurisdiction, with an anticipated minimum reservation of 30 percent for each in most cases. The comments were divided between favoring more funds for Comprehensive and seeking a higher guarantee for Single Purpose. This section has been completely revised to state that 25 to 35 percent of the funds will be reserved for the Single Purpose Program, with the remainder reserved for the Comprehensive Program, except where the demand for Comprehensive Grants would not justify a 65 percent reservation or would justify a reservation of more than 75 percent. There is no demand experience on which to make allocations to the two programs at this time. We will examine the demand in programs this fiscal year for use in allocating funds between programs in subsequent years.

Subsection (f) covered grant amounts for each competition pool and for individual applicants. In response to comments received, the reference to minimum grants has been removed and the language concerning maximum grants has been changed to refer to general ceilings per applicant. Separate ceilings are allowed for multiyear commitments and joint applications. Although the reference to Regional and Area Offices has been eliminated, we intend that the establishment of ceilings be done primarily by our field offices. Specific suggestions, such as basing ceilings on population levels, will be utilized where we find them appropriate.

Subsection (g), which covered access to programs, now permits States, and counties applying in behalf of other units of government, to submit preapplications for both Comprehensive and Single Purpose Grants, as suggested by several commenters.

Subsection (h) concerned the method for selecting grantees. Several commenters felt that the Area Offices were given too much discretion in rejecting data submitted. The entire reference to rejection of data has been eliminated. In addition, the final documentations of HUD decisions on data will be available to the general public, not just interested applicants.

Subsection (j) placed restrictions on communities with previous audit findings. A number of comments opposed this subsection, with some charging that we were discriminating against small communities since no similar provision is applied to entitlement recipients. We believe, however, that this restriction, with its waiver provision, is an appropriate and useful check on past participants in HUD programs. The analogy to the entitlement program is not persuasive since we have other measures not applicable to the discretionary program that can be taken against entitlement grantees to correct such situations. The degree of seriousness and the timing of such audit findings, which were factors mentioned in the comments, will be considered in granting waivers.

Subsection (k)—Program benefit to low- and moderate-income persons—has been redesignated "Program Design" and has been rewritten to better express our position with respect to program benefits.

§ 570.421—APPLICATIONS BY STATES AND COUNTIES; JOINT APPLICATIONS

This section set out the guidelines and ground rules for applications by States and counties in behalf of themselves or other units of local government within their jurisdiction and for joint applications by units of local government.

A large number of general comments on this section suggested that these types of applications, particularly joint applications, should be given extra points in the rating system. While we do wish to encourage such applications where the local needs and administrative capacities make them appropriate, we do not want them to be used simply as a means for scoring more points. Where these applications are indeed appropriate, the potential increase in points that are directly related to the design and impact of the proposed program should be a sufficient and effective incentive for cooperative efforts.

Subsection (b) required written agreements between the units of government paritcipating in an "in behalf of" application. Consistent with one comment, the paragraph has been changed to make clear that both the preapplication and the application must be pursuant to a written agreement. Another comment recommended that such a written agreement be required between a State and the local government(s) where the proposed activities are to be carried out even when the State application is in behalf of itself. This suggestion was not adopted. State law may permit unilateral State action, and while HUD certainly encourages cooperation between States and their local governments, we do not wish to limit existing State authority to carry out community development activities.

As suggested in the comments, Subsection (c) has been revised to indicate that the written agreement required for joint applications must cover both the preapplication and application and must be submitted with the preapplication.

Subsection (d) has been revised in response to comments to state explicitly that only units of general local government included in a State or county application "in their behalf" are prohibited from submitting their own preapplication.

Subsection (e) proposed that only data from those incorporated and unincorporated areas where community development activities were proposed would be used in the selection criteria for county, State and joint applications. Several comments raised questions as to what this restriction meant and how it would be administered. The final rule is more explicit as to what data will be considered and distinguishes between county and State applications in behalf of themselves and applications from these entities in behalf of units of general local government or joint applications.

Subsection (e) also provided that county, State, and joint preapplications would be rated separately for the needs selection factors where their accumulated population covered by the preapplication was substantially larger than the average population of the other applicants against whom they were competing. A large number of comments expressed uncertainty as to exactly what this meant or how it would be implemented, and some comments claimed that a separate ranking would discourage such applications. It was suggested that such a separate ranking was unnecessary since only data from the area in which activities were proposed would be used for these selection criteria. This separate ranking process is now described in Sections 570.424 and 570.428, and has been limited to preapplications from counties and States in behalf of themselves, State preapplications in behalf of counties, and joint preapplications in which a county is participating.

Subsection (f) provided information related to the submission of a Housing Assistance Plan (HAP) with county, State or joint applications. In response to Several comments, the language of this subsection has been revised to better express the intended meaning.

Subsection (g) has been clarified to indicate that the restriction on the use of funds applies to units of general local government "participating" (formerly "included") in an urban county or metropolitan city.

§ 570.422 STATE PARTICIPATION

We are still considering the comments received on State Participation as a result of the solicitation contained in the preamble to the proposed rule which was published November 18, 1977.

§ 570.423 COMPREHENSIVE PROGRAM GENERAL REQUIREMENTS

This section, which included the basic standards for Comprehensive Grants, has been substantially reorganized and revised.

The definition of a Comprehensive Program in subsection (a) has been refined. In response to comments, the requirement that the program provide for lower income housing has been eliminated since it is adequately covered by the Housing Assistance Plan mandate.

Subsections (b), (c) and (d) of proposed § 570.423, have been eliminated. The portions of these subsections that are still relevant have been incorporated where appropriate in those subsections dealing with funding decisions. Section 570.423 now also contains those portions of proposed Sections 570.424 and 570.425 that have been retained, and § 570.424 et seq. have been renumbered accordingly.

Subsection (b) now covers funding commitments. In response to numerous comments, it states that HUD may make commitments of up to three years for the Comprehensive Program. Thus all applicants seeking a Comprehensive Grant may request multiyear funding. The factors we will consider in determining the number of years for which a commitment will be made are listed. As required by the 1977 legislation, we will give special consideration for multiyear funding to those hold-harmless communities currently carrying out a comprehensive program which are subject to the phase-out provision.

The references to subsequent funding that were previously in § 570.424(c) are now in subsection (b). Many comments expressed concern about the conditioning of future commitments upon the availability of appropriations. This condition, however, is legislatively mandated. It is intended to limit HUD's obligations in case such funds are not provided by Congress in future years. The reference to the annual Community Development Program has been retained. Submission of this document is necessary to ensure that the actions of the applicant have been and will be consistent with its approved application.

Proposed § 570.425 set forth specific threshold requirements to be satisfied prior to applying for a Comprehensive Grant or a multiyear commitment. Subsection (a) established the following four requirements for Comprehensive Grant applications: 2,500 population (waivable), have previously carried out a community development block grant program, have demonstrated adequate past performance, and have the capacity to undertake the proposed program. The first two of these, particularly the 2,500 figure, generated considerable opposition. After thorough and careful consideration, we have eliminated both of these thresholds. The latter two requirements have been retained in subsection (c).

The additional threshold requirement in Section 570.425(b) for multiyear commitments—that applicants must have previously carried out a comprehensive community development block grant program—has also been removed.

Subsection (c) of § 570.425, now a part of § 570.423(c), set out the factors HUD would consider in evaluating past performance. Based on suggestions submitted, we will consider actions to facilitate the provision of low- and moderate-income housing, instead of just actions to facilitate the accomplishment of HAP goals ((c)(2)(ii)), and we have added development and/or implementation of a section 701 housing and land use element to the list of possible positive actions.

§ 570.424 SELECTION SYSTEM FOR COMPREHENSIVE GRANTS

The criteria for scoring and selecting preapplications for Comprehensive Grants were contained in proposed Section 570.426.

Several commenters expressed confusion over the way need was to be defined in terms of substandard housing in Section 570.426 (c) and (d). Others suggested that communities be permitted to establish their own definition of substandard housing and supply us with that information. Because of this confusion, housing need will now be measured in only two ways—by overcrowding, and by lack of plumbing. This information is supplied by the Bureau of the Census and is available for every potential applicant. It provides a uniform standard for comparing housing needs. To permit individual localities to define housing need would not supply us with standardized, consistent information which would permit us to make valid comparisons. Although we recognize that the Bureau of Census information to

be used is perhaps outdated to some extent, it is the only national data available for this purpose.

Numerous comments were received concerning the weighing of the needs factors in § 570.426 (a-d). Most communities felt that the double weighing of absolute numbers was unfair to smaller communities. We have decided to keep the weighted system because we believe it provides an accurate reflection of relative need among applicants. "Proportion of need" is still included to recognize those situations where a community's needs represent a significant portion of its housing or population. The discretionary selection system has used equal weighing of absolute numbers and proportion in the past, with the results showing an advantage for the smaller communities. Funds to such communities have far exceeded their percentage of the persons residing in cities under 50,000. Greater emphasis on absolute numbers should correct this.

Many comments were received concerning the number of program design criteria (§ 570.426(e)) that had to be addressed by a community. Most communities felt that they could not design a program that addressed six criteria. Therefore, we have reduced the number of criteria that must be addressed to four, with the points adjusted to achieve a better indication of the quality of programs. Several of the criteria have been changed for clarification. Because of comments received, we have also removed the Housing Opportunity Plan and impact beyond the local jurisdiction as separate criteria. Factors which we may consider in assessing a program have been included in § 570.424(e). Although several communities felt the design criteria were developed to express a preference by us for certain activities, this is not the case. The criteria should permit a community to define its own needs and develop a program to address those needs.

Various comments were made concerning the criterion dealing with the impact of the program on other Federal programs or policies. This is one of the factors contained in the statute and must be included in the system. Suggestions were also made to include State programs in this factor. This was rejected because State programs and plans are provided recognition in (e)(1)(viii).

Subsection (f)—benefit to low- and moderate-income persons—has been revised. There was concern that this proposed rule encouraged citywide projects and provided an additional factor that favored the larger communities. Also, in many cases the criteria required considerable data that were not readily available to either the Department or applicants. The new method of assessing benefit will require the applicant to provide an estimate of the amount of the requested funds that will be used to benefit low- and moderate-income persons. Applicants will then be ranked based on the percent of funds requested that will be so used. This will require defining the total beneficiaries of each element of the program and then determining how many of the beneficiaries are of low- and moderate-income. This factor will ensure that those programs providing the greatest benefit to low- and moderate-income persons receive preference.

Several comments expressed concern over the two performance criteria of subsection (g), (previously paragraph h), housing and equal opportunity. We view the housing criteria as an effective way to reward those communities that are taking positive actions to address their low- and moderate-income housing needs. While a community's performance in housing will be evaluated before it will be considered for a grant, these criteria should serve as an additional incentive for communities to actively seek out means and resources for meeting their housing goals. Two of the factors (§ 570.424(g)(1) (i) and (v)) can be met by communities that have not received housing assistance recently, but are taking steps to provide fair housing within their communities.

Many communities expressed concern over the equal opportunity criterion because they did not have minorities in their community and because of the nebulous nature of the standard that would be used to award points. The wording has been changed in (g)(2) to establish a measurable standard that can be used to make the determination. Points may be awarded based on past contracting of the applicant with minority owned, controlled, or managed businesses, and based on the employment of minorities by the applicant. We believe, in view of our equal opportunity objectives, it is very important to reward those communities who have provided opportunities for minorities.

A large number of comments suggested that points be awarded to hold-harmless phase out communities. Others recommended that such communities be guaranteed funding without going through the rating process if they could demonstrate continuing need, with a Letter of Intent submitted in lieu of a preapplication. While we strongly believe that all applicants, including hold-harmless communities, should be awarded grants based on competition, we recognize the legitimate concerns of those communities which are experiencing a phase-out of their assured source of funding. To promote continuity in local programs, subsection (i) now provides 25 points for those communities currently carrying out a comprehensive community development program and which are subject to the phase-out provisions.

Subsection (j) has been amended to include authority for the field offices to invite backup applications.

Concern was expressed that the grouping process used to determine actual points in § 570.426 was too complex and confusing. We also feel that the system might contain some inequities in providing a point spread far in excess of the actual difference between applicants. Therefore, the concept of grouping and assigning points by groupings has been eliminated. In its place, we will use a system whereby points are awarded based on each applicant's comparison with the highest rated applicant for each factor.

§ 570.425 PREAPPLICATIONS FOR COMPREHENSIVE GRANTS

This section, designated § 570.427 in the proposed regulations, describes what must be included in preapplications for Comprehensive Grants. Several commenters suggested elimination of the preapplication for hold-harmless communities and use of the Letter of Intent in lieu of the preapplication. The law specifies certain factors that must be considered in selecting among grantees, and only by rating all grantees against the criteria can the Department determine which applicants most effectively address the criteria and should be invited to proceed with a full application. Both Houses of Congress in their Committee Reports, cited studies indicating that the hold-harmless grants have a very low correlation with communities' development needs. For these reasons, we are requiring the hold-harmless communities to submit preapplications.

Subsection (a) has been changed to refer to OMB Circular A-102 rather than Federal Management Circular 74-7 to reflect the current designation for the document.

Paragraph (a)(2)(iv) has been added to reflect the revised method of assessing benefit under § 570.424(f). Applicants will have to specify the total number of persons benefitting from each component of the program and the number of low- and moderate-income persons benefitting.

Several comments suggested that § 570.426(b) (iii) and (v) were overlapping requirements. Both, however, have been retained in subsection (a). Paragraph (iii) requires only the information pertaining to the Program Factor (§ 570.424(e)), whereas paragraph (v) requests information from those applicants addressing the selection criteria contained in § 570.424 (q) and (h).

Most of the comments on proposed Section 570.426 dealt with subsection (d), Program Benefit to low- and moderate-income persons. Many felt that this requirement did not give full recognition to the many objectives of the Act, it did not take into account the character of smaller cities where much of the low- and moderate-income population is not concentrated, and would not permit applicants to design a program to address their most critical needs. Others suggested that the "exception" category be expanded to perhaps 30 percent.

In view of the changes that have been made in § 570.424(e), Program Design Criteria, which relate the criteria to the impact of the program on low- and moderate-income persons, and the revised method used to measure benefit under § 570.424(f), which will look at the percent of dollars a community requests which will benefit low- and moderate-income persons, the requirements contained in § 570.426(d) have been removed from the Small Cities regulations. Thus, even though we have removed the strict rule that no more than 25 percent of the funds be used for activities which do not benefit low- and moderate-income persons, the selection system is designed to select those applicants that meet the needs of low- and moderate-income persons most adequately and propose to expend the greatest proportion of the funds requested on low- and moderate-income persons. In addition, § 570.420(k) now contains the general mandate that each proposed program must principally benefit low- and moderate-income persons.

§ 570.426 APPLICATIONS FOR COMPREHENSIVE GRANTS

Most comments on this Section, formerly § 570.428, related to the Citizen Participation requirements of the entitlement program which were incorporated by reference for the Small Cities Comprehensive Program. These Citizen Participation requirements are being revised in the final entitlement regulations to permit more flexibility for communities. We believe it is appropriate to apply the same Citizen Participation requirements to Comprehensive applicants as to entitlement applicants, given the intended similarity in the nature and scope of the two programs. The regulations do permit the cost of citizen participation to be included as an eligible administrative cost for reimbursement if the full application is approved.

Other commenters felt that it was also not appropriate to apply the entire set of application requirements of the entitlement program to the Small Cities Comprehensive Program, and that the time permitted between invitation of a full application and its submission would be inadequate in view of the application requirements. As stated previously, the two programs are similar in nature and, accordingly, the same application requirements should apply. Additionally, since many of the Comprehensive Grant recipients will be hold-harmless communities, the use of the same application requirements will permit these applicants to use the same forms for both funding mechanisms. With regard to the time constraints, applicants for Comprehensive Grants will have the period prior to the preapplication, in addition to the period between the submission of the preapplication and the full application, to fully develop the information required with the full application. We will, if possible, provide additional time for Comprehensive Grant applicants in future fiscal years.

§ 570.427 SINGLE PURPOSE GRANT PROGRAM GENERAL REQUIREMENTS

This section was previously designated § 570.429. The proposed regulations provided in § 570.429(b) that a community had to "substantially complete" any project for which it had received funding, which was further defined as "75 percent of the funds obligated and 50 percent of the funds expended," before it could apply for a Single Purpose Grant. Communities pointed out that no such standard was being applied to Comprehensive grantees and that in many cases the failure to achieve such results was beyond the control of the applicants. The revised regulations removes this performance standard. In lieu of this requirement, the same performance standards as described in Section 570.423(c) will be applied to all previous recipients of discretionary grants in determining whether or not performance has been adequate to consider them for another grant.

Considerable confusion resulted over the apparent contradictions in defining a Single Purpose Program. The preamble indicated that a Single Purpose Program could consist of a single activity or a number of activities. Section 570.429(a) defined it as a single activity or project, and Section 570.420(d)(2) described it as "essentially one activity." The definition in the final rule is now contained in § 570.427(a) and has been clarified to explain that a Single Purpose preapplication may consist of one or more projects, each involving one or more activities designed to address a specific community development need.

This clarified definition of Single Purpose Grants should permit communities to undertake a wide-range of activities, such as street repairs, and sidewalk construction, which support or are incidental to a primary activity.

Applications for Single Purpose Grants which propose substantial activities to address more than one major need, for example housing rehabilitation and a major public improvements program, are describing two projects, each of which will be rated separately.

§ 570.428 SELECTION SYSTEM FOR SINGLE PURPOSE GRANTS

The rating mechanism for the Single Purpose Program was contained in § 570.430 of the proposed rules. Several suggestions were made that 1970 Census data should not be relied on to rate communities under the needs factors in § 570.430 (a) through (d) because the data is no longer relevant and does not represent changes that have taken place since the data was assembled. Unfortunately, the Census data, as updated, are the only uniform data available in all communities that may be competing for discretionary grants. While certain communities or planning areas may have more recent information, the use of this information would not be fair to those communities that do not have such data.

Paragraphs (a) through (d), Needs factors; (f) Benefit to low- and moderate-income persons; (g) Performance in housing and equal opportunity efforts; and (i) Final ranking; and the actual method for assigning scores for each factor have been stated in the final rule as proposed in Section 570.428 for the reasons expressed previously.

Various concerns were raised concerning the program factor, § 570.430(e). Some commenters felt the distinction between relationship and impact was too hard to define. Others felt the program areas that would be addressed were too limiting and did not let a community design a program in such a manner that they could take advantage of all the eligible activities permitted under the legislation. After considering the comments, we agree that the difference between relationship and impact may be too fine and we have eliminated the consideration of relationship. In view of the revised definition of Single Purpose, which will permit more than one activity, we have expanded the types of activities that can be undertaken. Concern was also expressed that the decisions that were to be made were too subjective. To assist applicants in describing a program in such a manner that it can be considered equitably with others, subsection (e) now defines what will be considered in making the assessment determinations.

Several commenters asked for definitions of terms contained in § 570.430(i), Other Factors, now subsection (h) of § 570.428. HUD field offices will provide the definition of those terms as they will be applied within their jurisdictions. Several comments were also received suggesting that State programs be included in § 570.430(i)(4). State program recognition is provided for within (h)(1)(B).

§ 570.429 PREAPPLICATIONS FOR SINGLE PURPOSE GRANTS

Paragraph (a)(2)(iv) reflects changes in the proposed submission requirements of § 570.431 to conform to the new calculation of benefit to low- and moderate-income persons in § 570.428(f).

Several commenters pointed out that the proposed regulations did not require a Citizen Participation certification with the preapplication. This was an oversight and the requirement has been added at (a)(2)(vi). The requirement for a Grantee Performance Report or status report has also been included at (a)(4).

Commenters suggested that too much information was required to be submitted with the preapplication, and that the data requirements were too extensive. Changes made in the selection criteria listed in § 570.428 will reduce the amount of information required, although we do recognize the preapplication still requires substantial information. However, since we want to select the best designed projects that benefit low- and moderate-income persons to the greatest extent, sufficient information is required to permit us to make reasonable judgments and decisions that promote these objectives.

§ 570.430 APPLICATIONS FOR SINGLE PURPOSE GRANTS

Proposed § 570.432 has been substantially revised in subsection (a) to more directly reflect the statutory requirements. As the legislation requires, applicants which have a population of 25,000 or more or which are located in an urbanized area of a Standard Metropolitan Statistical Area, must submit a summary of a three-year community development plan which identifies its community development and housing needs, describes a comprehensive strategy for meeting those needs, and specifies both short- and long-term objectives to be met by the strategy. As the law permits, we are exempting all other applicants from this requirement.

Subsection (b) now also better reflects the statutory language. Several comments expressed the opinion that the HAP requirements were too complex for small communities to deal with effectively. In response to these comments and other recommendations for specific changes, we have attempted in subsection (c) to simplify the HAP requirements without compromising statutory intent.

A few comments recommended that we make clear that applicants located within a county which has an approved HAP, or incorporated areas that wish to apply for funding which are in a county preparing a HAP, are not required to submit a separate HAP. We have clarified this situation by permitting such applicants to submit the county's plan "in lieu of preparing a separate Housing Assistance Plan." This arrangement requires an agreement between the county and the applicant. We have changed the language pertaining to this agreement to state that the agreement must identify the applicant's fair share of the housing assistance goals and obligate the applicant to assume responsibility for its fair share.

There were several comments suggesting that the term "households" be substituted for "persons" and "families" in the discussion of Housing Assistance Plan requirements. We have made this change where appropriate.

In response to other comments, paragraph (c)(1)(i) makes it clear that the applicant is required only to describe the condition of the housing stock in the community. We have also added that the required estimate of vacancy rates shall take into account only "non-seasonal, available" units.

As requested by comments, definitions of the terms "tenure" and "household type" have been added in subsection (c) where appropriate. The definition of household type has been revised to include elderly, handicapped, family and non-elderly individuals, and large family.

The specific reference to assessment of the housing assistance needs of handicapped, female heads of households and each minority group currently residing in or expected to reside in the community, has been replaced by the general requirement to include information on any identifiable segment of the total group of low-income households in the community, as some commenters requested.

Several comments suggested that the "expected to reside" requirement be eliminated entirely, or at least waived for communities with a population under 2,500. This information, however, is legislatively required from all applicants. Other comments suggested that applicants be permitted to use non-statistical means to estimate the number of those expected to reside in instances where reliable statistical data are not available. Section 570.306 of the block grant regulations requires that applicants in metropolitan areas use the established "expected to reside" formula, but non-metropolitan applicants may use other means to estimate the number of those expected to reside.

We received a few comments which suggested that units proposed for rehabilitation in the HAP goals should be required to meet standards other than local housing codes. This provision has been changed in paragraph (c)(2) to require that units proposed for rehabilitation must meet, at a minimum, the Section 8 Existing Housing Quality Standards upon completion. We have retained the provision that weatherization and other similar activities will not satisfy rehabilitation housing assistance goals.

Several comments requested that applicants be permitted to submit required information by enumeration district as well as census tract. Subsection (d) now allows applicants to submit maps which identify required information by census tract, enumeration districts, or geographic quadrant of the community where data from census tracts or enumeration districts either are unavailable or include a substantial area.

§ 570.431 CITIZEN PARTICIPATION

Of the numerous comments received on the citizen participation (§ 570.433), the majority were concerned with the complexity and detailed structure of the requirements. Many comments stated that the citizen participation requirements were plainly "big city oriented" and did not acknowledge the character of small cities which lack the resources necessary to comply with such extensive requirements. In response to these comments, the citizen participation requirements for the Single Purpose Program have been extensively revised and simplified. Simplification of this Section is not to be construed as minimizing the importance of citizen participation, but is only intended to provide small communities with the flexibility necessary to achieve meaningful citizen participation. We have also restructured what is the new Section 570.431 to make clear not only the applicant's responsibilities, but also the sequence of actions which must be taken at each stage in the preapplication/application process.

§ 570.432 SINGLE PURPOSE GRANTS FOR IMMINENT THREAT TO PUBLIC HEALTH OR SAFETY

A few comments requested clarification of the term "unique and unusual circumstance" used in § 570.434(a)(1). This phrase is not further defined, however, because we believe that the phrase which follows it "* * * not for the type of threat that occurs with frequency in a number of communities within the state * * *" adequately conveys the idea that needs which are eligible for Imminent Threat funding must constitute a circumstance uncommon for the State, as well as an imminent threat to public health and safety.

Several comments requested that the level of available funding for Imminent Threat grants be increased from 15 percent; a number of other comments suggested that the Imminent Threat set aside be decreased. We consider the reservation of up to 15 percent of funds allocated pursuant to Subpart B and assigned to the Area

Office for Small Cities Grants in metropolitan and nonmetropolitan areas as an adequate maximum level of funding for the imminent threat needs of most areas. Area Offices may decide to reserve less than that percentage if conditions within their jurisdiction so warrant.

Several comments recommended that we establish a clear set of priorities within the category of Imminent Threats to Public Health or Safety. However, we have decided to remain with our original position that the urgency and immediacy of the threat shall be verified, on a case by case basis, by an appropriate authority other than the applicant, prior to submission of a full application to the Area Office for concurrence. This provision is intended to give the Area Office a measure of discretion in the determination of imminent threats. If the Area Office concurs with the finding that an imminent threat to public health and safety exists, a Single Purpose Grant may be awarded to alleviate this condition, despite the possibility that other requests for imminent threat funding may be received after available funding has been depleted.

One comment suggested that the requirement that all funds to be committed no later than the end of the fiscal year in which they were assigned, (§ 570.434(b)(1)), was too restrictive. This provision has been removed from the regulations in view of the fact that Small Cities funding decisions will not be made until the last quarter of Fiscal Year 1978, and because we do not wish to restrict the availability of funds for Single Purpose Grants for imminent threats to public health or safety.

Several comments suggested that the language pertaining to the method of allocating funds set aside for urgent needs should be clarified to state that such funds shall be reserved out of funds available for Single Purpose Grants. This language has been included in paragraph (b)(1).

§ 570.433 HUD REVIEW AND ACTIONS ON FULL APPLICATIONS FOR SINGLE PURPOSE AND COMPREHENSIVE GRANTS

Numerous comments suggested that Section 570.435, which authorized an applicant to incur costs for the planning and preparation of an application for funds available under this subpart, including citizen participation, be expanded to include the costs of preapplication. We have considered this possibility for several years but again decline to adopt it. Potential reimbursement would encourage the employment of outside experts and could lead to a substantial increase in the costs of preparing competitive preapplications. Such a result would be unfair to those communities not selected. The wording of this section, which permits authorization to incur costs, has been clarified to convey the intended meaning that the authorization will be extended to all applicants invited to submit a full application.

§ 570.434 PROGRAM AMENDMENTS FOR SINGLE PURPOSE AND COMPREHENSIVE GRANTS

This Section was previously designated § 570.436. A suggestion was made that the language of proposed paragraph (a) be expanded to give consideration to any program amendments which would improve the effectiveness of local programs. For this reason, the provision which states that "HUD will consider amendments only if they are necessitated by actions beyond the control of the applicant" has been removed.

A new paragraph, designated (b), describes when prior HUD approval for amendments to a Housing Assistance Plan is required.

§ 570.435 MODIFIED OMB CIRCULAR NO. A-95 PROCEDURES FOR THE SMALL CITIES PROGRAM

This Section was previously designated § 570.437. Several comments recommended that both preapplication and application be submitted for A-95 clearinghouse review 45 days, instead of 30 days, prior to submission to HUD. This recommendation was not adopted for the preapplication because it would lengthen the time frame for the entire application process. As a further means to ensure that funding decisions will be made within the fiscal year, we have revised the A-95 review procedure of full applications, now contained in paragraph (c), to provide that applications may be submitted to the appropriate State and areawide A-95 clearinghouses prior to or concurrent with submission to HUD. The clearinghouses will then have 45 days from receipt of the application to review it and furnish any comments to HUD. We will not take any final action on the application until either the comments have been received or the time limit has expired. We have removed § 570.437(d), Consistency Requirement, which stated that the Department does not intend to fund any activities which were clearly inconsistent with areawide or State plans, because HUD has no means of determining the adequacy of the areawide or State plans in question. However, Area Offices are required by CPD Notice 76-23, dated November, 1976, to obtain approval of the Regional Administrator prior to approving a project which a clearinghouse recommends for disapproval or approval with substantial changes, if a successful resolution of the issues cannot be reached.

Numerous provisions of the Small Cities Program have been substantially changed in the final rule primarily as a result of comments received. The major revisions that have been made include elimination of the threshold requirements for access to the programs, revision of the method for allocating funds between the Single Purpose Program and the Comprehensive Program, and removal of the requirement that no more than 25 percent of the funds may be expended on activities which do not principally benefit low- and moderate-income persons. These changes will make the program more responsive to the needs of small cities and will permit maximum flexibility to communities in designing programs to meet their needs, and ensure timely use of the funds. The procedures contained in Subpart F are urgently needed so the Department can make funding decisions governing fiscal year 1978 appropriations within the same fiscal year and provide the funds on an annual basis consistent with the intent of the legislation. After weighing the desirability of providing further rulemaking in this proceeding against the urgent need for immediate adoption of this rule, the Assistant Secretary for Community Planning and Development has determined that publication of the rule for comment is impracticable, unnecessary, and contrary to the public interest and that good cause exists for making this rule effective March 1, 1978.

A finding of inapplicability with respect to environmental impact has been prepared in accordance with HUD Handbook 1390.1. In addition, the inflationary impact of this rule has been evaluated in accordance with Executive Order 11821. Copies are available for inspection and copying in the Office of the Rules Docket Clerk, Room 5216, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410.

Accordingly, 24 CFR is amended by adding a new Subpart F as follows:

The Table of Contents for Subpart F is revised as follows:

Subpart F—Small Cities Program

Sec.
570.420 General
570.421 Applications by States and Counties; Joint Applications
570.422 State Participation [Reserved]
570.423 Comprehensive Program General Requirements
570.424 Selection System for Comprehensive Grants
570.425 Preapplications for Comprehensive Grants
570.426 Applications for Comprehensive Grants
570.427 Single Purpose Program General Requirements
570.428 Selection System for Single Purpose Grants
570.429 Preapplications for Single Purpose Grants
570.430 Application for Single Purpose Grants

570.431 Citizen Participation Requirements for Single Purpose Grants
570.432 Single Purpose Grants for Imminent Threat to Public Health or Safety
570.433 HUD Review and Actions on Full

(c) *Eligible applicants.* Eligible applicants are States and units of general local government, excluding metropolitan cities, urban counties, units of government which are participating in

(h) *Method of selecting grantees.* (1) HUD will establish national selection and rating systems for both the Comprehensive and Single Purpose Programs which identify the criteria that

Cities Program is heavily weighted toward those programs which have the greatest benefit to low- and moderate-income persons. All activities contained within such programs must

sistance Plan for a unit of general local government in which the State or county intends to carry out activities, the State or county may satisfy its Housing Assistance Plan require-

gram and subject to the phase-out provisions of Section 106(h) of the Housing and Community Development Act of 1974, as amended. Grant requests must either by themselves, or in com-

570.431 Citizen Participation Requirements for Single Purpose Grants
570.432 Single Purpose Grants for Imminent Threat to Public Health or Safety
570.433 HUD Review and Actions on Full Applications for Single Purpose and Comprehensive Grants
570.434 Program Amendments for Single Purpose Comprehensive Grants
570.435 Modified OMB Circular No. A-95 Procedures for the Small Cities Program

AUTHORITY: Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301, et seq.); Title I, Housing and Community Development Act of 1977 (Pub. L. 95-128); and sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d).)

Subpart F is revised to read as set forth below:

Subpart F—Small Cities Program

§ 570.420 General.

(a) *Scope and Applicability.* This Subpart describes the policies and procedures that will be used to implement the Small Cities Program. Funds for this program are those provided through the metropolitan and nonmetropolitan balances describes in § 570.104(c) in Subpart B of this part. Except as modified in this Subpart, the policies and procedures set forth in Subparts A, B, C, J, K, and O of this part, as well as those Sections of Subpart D of this part which are specifically cited in this Subpart shall apply to the Small Cities Program. The HUD Environmental Review Procedures contained in 24 CFR Part 58 also apply to this Subpart.

(b) *Program Objectives.* The Small Cities Program will provide grants to States and units of general local government in both metropolitan and nonmetropolitan areas to undertake the same community development activities as may be funded in the entitlement grant program. The Small Cities Program, however, is competitive in nature and the demand for funds far exceeds the amount available. Therefore, eligible applicants selected for funding will be those communities having the greatest need as evidenced by poverty and substandard housing and whose applications must adequately address locally-determined needs of low- and moderate-income persons, consistent with one or more of the following purposes.

(1) Support realistic and attainable strategies for expanding low and moderate income housing opportunities;

(2) Promote deconcentration of lower-income housing;

(3) Promote more rational land use;

(4) Provide increased economic opportunities for low- and moderate-income persons;

(5) Correct deficiencies in public facilities which affect the public health or safety, especially of low- and moderate-income persons.

(c) *Eligible applicants.* Eligible applicants are States and units of general local government, excluding metropolitan cities, urban counties, units of government which are participating in urban counties or metropolitan cities, and Indian tribes eligible for assistance under Section 107(a)(7) of the Act. For the purpose of this Subpart, a unit of general local government includes those entities described in § 570.403(b)(1) (2) and (3). Applications may be submitted individually, jointly, or by counties and States on behalf of other units of government.

(d) *Types of grants.* Recognizing that needs of communities vary widely, the Small Cities Program will consist of grants for two general type programs—Comprehensive and Single Purpose.

(e) *Distribution of funds between comprehensive grants and the single purpose grants.* Within both the metropolitan and nonmetropolitan balances for each Area Office's jurisdiction, 25 to 35 percent of the funds will be reserved for the Single Purpose Program, with the remainder reserved for the Comprehensive Program. Exceptions to these percentages may be made where there is insufficient demand for Comprehensive Grants to justify a 65 percent reservation or where the demand for Comprehensive Grants would justify a reservation of more than 75 percent.

(f) *Size of Grants.*—(1) *Ceilings.* Within the metropolitan and nonmetropolitan areas of each Area Office's jurisdiction, HUD may establish general ceilings per applicant for both Single Purpose and Comprehensive Grants. Separate ceilings may be established for Comprehensive Grants with multiyear commitments, or joint applications, or for applications in behalf of other units of government.

(2) *Individual Grant Amounts.* Both Single Purpose and Comprehensive Grants for specific grantees will be provided in amounts commensurate with the size of the applicant and the applicant's program. In determining appropriate grant amounts for each applicant, HUD may consider an applicant's population, need, proposed activities, ability to carry out the proposed program, previous funding levels, and availability of hold-harmless funds.

(g) *Restrictions on applying for grants.* Applicants may apply for either a Comprehensive Grant or a Single Purpose Grant, except for States or counties applying on behalf of other units of government as described in § 570.421(b), in which case the State or county may apply for both a Single Purpose and a Comprehensive Grant. A preapplication for a Comprehensive Grant which does not meet the definition of such a program will be considered for a Single Purpose Grant.

(h) *Method of selecting grantees.* (1) HUD will establish national selection and rating systems for both the Comprehensive and Single Purpose Programs which identify the criteria that will be used in selecting among applicants. Preapplications are required for both programs. These will be divided into metropolitan and nonmetropolitan pools for both programs and rated and ranked pursuant to §§ 570.424 and 570.428, respectively. Applicants must include sufficient information in the preapplication to permit HUD to rate the preapplication against the various selection criteria, and must advise HUD of the source of information and the method used to compile the information for the preapplication. Existing sources of information, such as areawide analyses, State plans or needs assessments, should be used whenever possible. Decisions made by HUD in selecting grantees will be documented and made available to the general public upon request.

(2) HUD will establish deadlines for submission of preapplications by publication of a Notice in the FEDERAL REGISTER.

(i) *Data.* Data used in this Subpart with respect to the needs factors (§ 570.424(a)-(d) and § 570.428(a)-(d)), in the selection criteria shall be based on information acquired by HUD from the United States Bureau of the Census for use in allocating funds pursuant to Subpart B of this Part for the same fiscal year appropriation. However, a HUD Regional Office may authorize the use of updated data developed by a State agency for the entire nonmetropolitan area or all metropolitan areas of the State in lieu of Federal census data if the following criteria are met:

(1) The data have been updated in such a manner that they can be applied to all potential applicants in the nonmetropolitan or metropolitan areas of a State;

(2) The data are generally available and can be verified by HUD;

(3) The data can be submitted in a usable form no later than 30 days prior to the deadline for submission of preapplications.

(j) *Previous audit findings.* A preapplication will not be accepted from any community that has an outstanding audit finding for any HUD program undertaken by the community or has an outstanding monetary obligation to HUD as a result of such a finding. Waivers to this prohibition may be provided by the Regional Administrator, but in no instance shall a waiver be provided when funds are due HUD, unless a satisfactory arrangement for repayment of the debt has been made.

(k) *Program Design.* The program as a whole must principally benefit low- and moderate-income persons. In addition, the selection process of the Small Cities Program is heavily weighted toward those programs which have the greatest benefit to low- and moderate-income persons. All activities contained within such programs must either benefit low- and moderate-income families, or aid in the prevention or elimination of slums or blight, or meet other community development needs having a particular urgency.

§ 570.421 Applications by States and counties; Joint Applications.

(a) *General.* In addition to applications by cities in behalf of themselves, States and counties may apply for Single Purpose or Comprehensive Grants for use in specific locations within metropolitan or nonmetropolitan areas in behalf of themselves and in behalf of other units of general local government. For purposes of this section, the term "county" does not include urban counties.

(b) *Preapplications and applications in behalf of others.* Applications by States and counties submitted in behalf of other units of general local government shall be pursuant to a written agreement between the county or State and the participating units of general local government. Such agreements must be submitted with the preapplication.

(c) *Joint preapplications and applications.* Units of general local government, including counties, may submit a joint preapplication or application which would address common problems faced by the jurisdictions. These preapplications and applications must be pursuant to written cooperation agreements, submitted with the preapplications, will be submitted by only the unit of government disignated as the lead unit for administrative purposes. The lead unit of government shall be considered the applicant.

(d) *Limits on applying for assistance.* Units of general local government included in an application submitted by a State or County in their behalf, or included in a joint application, may not otherwise apply for assistance under this Subpart.

(e) *Data considerations.* With respect to county and State applications in behalf of themselves, only data relating to those unincorporated and incorporated areas where community development activities are to take place shall be included for use in rating the needs factor of the selection criteria (§ 570.424(a)-(d) and § 570.428(a)-(d)). With respect to State and county applications in behalf of units of general local government, and for joint applications, only data relating to the unincorporated or incorporated places in which activities are to take place shall be considered in rating the needs factor of the selection criteria.

(f) *Housing Assistance Plans.* (1) If there is a HUD-approved Housing Assistance Plan for a unit of general local government in which the State or county intends to carry out activities, the State or county may satisfy its Housing Assistance Plan requirements by indicating its support of the existing plan.

(2) For joint applications and applications in behalf of units of general local government, the Housing Assistance Plan (HAP) shall relate to each unit of government in which activities are to be carried out. The plan shall be adopted by each unit of general local government included in the application and shall be consistent with any other HAP applicable to these jurisdictions.

(g) *Urban counties and metropolitan cities.* A state or a county may not apply for funds provided under this subpart for use in a metropolitan city or an urban county, including any unit of general local government that is participating in the metropolitan city or urban county.

§ 570.422 State participation. [Reserved]

§ 570.423 Comprehensive program general requirements.

(a) *Definition.* A comprehensive program must meet all of the following criteria:

(1) Address a substantial portion of the identifiable community development needs within a defined concentrated area;

(2) Involve two or more activities that bear a relationship to each other, excluding administration, planning, and management, and which either in terms of support or necessity are carried out in a coordinated manner;

(3) Have beneficial impact within a reasonable period of time;

(4) Be developed through assessment of the applicant's community development, housing, and economic needs;

Exceptions to the requirement that the activities be concentrated within a designated area may be made if the applicant can demonstrate to HUD's satisfaction that the proposal represents a reasonable means of addressing the needs identified.

(b) *Funding Commitments.* (1) HUD will make commitments of up to three years for the Comprehensive Program, subject to the availability of appropriations. In determining the number of years for which a commitment will be made, HUD will consider the nature of the program proposed, the previous performance of the applicant, including both community development and housing; the capacity of the applicant to carry out the program proposed; the scheduling of the program; and the year-by-year fund requirements. Special consideration for funding commitments beyond one year will be given to those applicants currently carrying out a Comprehensive Program and subject to the phase-out provisions of Section 106(h) of the Housing and Community Development Act of 1974, as amended. Grant requests must either by themselves, or in combination with other stated funding sources, be sufficient to complete the program described.

(2) Once a community has been selected for a multiyear commitment and funds are available, it will not have to compete in the selection process for funding during subsequent years. Funds will be provided in subsequent fiscal years after the grantee has submitted the Annual Community Development Program, and HUD has determined that the annual program either is consistent with that described in the original application or has been properly amended pursuant to § 570.434, and the community's performance is adequate. Performance determinations will be made based on the criteria described in § 570.423(c).

(c) *Capacity and performance considerations.* No grant will be made to an applicant that does not have the capacity to undertake the proposed program. In addition, applicants which have participated in the Block Grant Program previously must have performed adequately. In determining whether an applicant has performed adequately, HUD will examine the applicant's performance in the following areas:

(1) *Community development activities.* (i) The rate of progress achieved in moving activities into execution;

(ii) The rate of expenditure or obligation of community development funds.

(2) *Housing assistance.* (i) The actual progress achieved in meeting goals established under an approved Housing Assistance Plan;

(ii) Absent achievement of such goals, the actions taken by the community to facilitate the provision of housing assistance for low- and moderate-income persons, such as:

(A) Removal of impediments such as restrictive zoning or building codes;

(B) Changes in land use to facilitate construction;

(C) Provision of sites and/or necessary infra-structure;

(D) Organization of a housing authority or other similar entity;

(E) Development of a Section 701 land use or housing element.

(3) *Compliance with applicable laws and regulations.* (i) The compliance of the community with the laws, regulations, and Executive Orders applicable to the Community Development Block Grant program;

(ii) Resolution of findings made as a result of HUD monitoring;

(iii) Resolution of audit findings.

§ 570.424 Selection system for Comprehensive Grants.

Preapplications will be rated and scored against each of the following

nine factors. All points for each factor will be rounded to the nearest whole number. The maximum score possible is 1025 points.

	Points
(a) Need—Absolute number of poverty persons	100
(b) Need—Percent of poverty persons	50
(c) Need—Absolute number of substandard housing units	30
(d) Need—Percent of substandard housing units	20
(e) Program factor—Impact of the proposed program	400
(f) Benefit to low- and moderate-income persons	200
(g) Performance:	
Housing	100
Local equal opportunity efforts	50
(h) Housing opportunity plan (HOP):	
Applicant participating	50
(i) Hold-harmless phaseout communities	25

Preapplications from counties in behalf of themselves, States in behalf of themselves or in behalf of counties, or joint preapplications in which a county is participating, will be scored separately with respect to the needs factors of § 570.424 (a)–(d).

(a) *Need—absolute number of poverty persons (100 points).* All applicants will be ranked in terms of the number of persons whose incomes are below the poverty level according to the latest data from the Bureau of the Census. Individual scores will be obtained by dividing each applicant's absolute number of persons in poverty by the greatest number of persons in poverty of any applicant and multiplying by 100.

(b) *Need—percent of poverty persons (50 points).* All applicants will be ranked in terms of the percentage of their population below the poverty level according to the latest data from the Bureau of the Census. Individual scores will be obtained by dividing each applicant's percentage of persons in poverty by the highest percentage of persons in poverty of any applicant and multiplying by 50.

(c) *Need—absolute housing need (30 points).* All applicants will be ranked in terms of their absolute housing needs, as identified in the latest data available from the Bureau of the Census. Need will be measured by the number of units which lack plumbing or are overcrowded. Individual scores will be obtained by dividing each applicant's absolute housing need by the highest number of such units of any applicant and multiplying the results of 30.

(d) *Need—percent of housing need (20 points).* All applicants will be ranked in terms of their percent of housing need, as identified in the latest data available from the Bureau of the Census. Need will be measured by the percent of units which lack plumbing or are overcrowded. Individual scores will be obtained by dividing each applicant's percentage of housing need by the highest percentage of such housing needs of any applicant and multiplying the results by 20.

(e) *Program factor—impact of the proposed program (400 points).* Each applicant shall select four program design criteria from among the following eleven. HUD will measure the impact of the program on each of the program design criteria selected, based on the results to be achieved when considering the amounts of funds sought, the persons to be benefitted, the degree and nature of the benefit, additional actions that may be necessary to fully resolve the need, previous actions the applicant may have taken to address that need, environmental considerations, and where appropriate, site selection standards.

(1) *Program design criteria.* (i) Supports comprehensive neighborhood stabilization and/or revitalization in low and moderate income areas, or conserves the housing supply for low- and moderate-income persons;

(ii) Provides housing opportunities for low- and moderate-income families and minorities on a regional basis; or implements a HUD-approved Housing Opportunity Plan;

(iii) Provides opportunities for spatial deconcentration within the locality of low- and moderate-income families and minorities;

(iv) Supports the expansion of housing for low- and moderate-income persons;

(v) Addresses a serious deficiency in a community's public facilities for the principal benefit of low- and moderate-income persons;

(vi) Provides for expanded economic opportunities for persons of low- and moderate-income in the form of permanent employment;

(vii) Benefits low- and moderate-income persons by removing slums or blighted conditions;

(viii) Implements a State growth or resource coordination plan;

(ix) Enhances a community's position as a regional center, economic development center, or growth center;

(x) Resolves a serious threat to the health or safety of low- and moderate-income persons;

(xi) Deals with the impact caused by other Federal actions or policies particularly on low- and moderate-income persons, and/or supports other Federal programs being undertaken in the community.

(2) *Rating and ranking methods.* This factor requires a two-step rating process. First, the potential of the proposed program of activities to achieve the results intended by each selected criterion when considered in relation to other communities addressing the same criterion will be assessed and a numerical value assigned, based on the following:

The results would have no impact	0
The results would have minimal impact	2
The results would have a moderate impact	4
The results would have a significant impact	8

After each of the four criteria selected by an applicant has been rated and values assigned, the total is added (Program Impact Score Maximum is 32). Then, the actual points are determined by dividing each applicant's Program Impact Score by the highest Program Impact Score achieved by any applicant and multiplying the result by four hundred.

(f) *Benefit to low- and moderate-income persons (200 points).* All applicants will be ranked in terms of the percent of funds which will benefit low- and moderate-income persons. Individual scores will be obtained by dividing each applicant's percentage by the highest percentage achieved by any applicant and multiplying the results by 200. Costs of planning, management and administration will not be included in this computation. The appropriate median income amounts for low and moderate income will be supplied by HUD.

(g) *Performance in housing and equal opportunity (150 points total).* (1) *Housing efforts.* Twenty points for each of the following criterion will be awarded to each applicant that can demonstrate outstanding performance in: (i) providing housing for low- and moderate-income families located in a manner which provides housing choices for areas outside of minority and low-income concentrations; (ii) dispersal, by race, in occupancy of its existing assisted housing;

(iii) Meeting its large family housing assistance needs in relation to that proportion of need;

(iv) Carrying out housing assistance goals from previous HAP(s).

(v) Enforcement of a Fair Housing Ordinance.

(2) *Local equal employment and entrepreneurial efforts (50 points).* (i) Twenty-five points will be awarded to any applicant that demonstrates that the percentage of its contracts based on dollar value, awarded within the past two years to minority owned, controlled, or managed businesses, is greater than the percentage of minorities residing within the county for nonmetropolitan applicants, or within the SMSA for metropolitan applicants.

(ii) Twenty-five points will be awarded to any applicant that demonstrates that its percentage of minority employees is greater than the percentage of minorities within the county for nonmetropolitan applicants, or within the SMSA for metropolitan applicants.

(h) *Housing Opportunity Plan (50 points).* Fifty points will be awarded to any jurisdiction participating in a HUD-approved areawide Housing Opportunity Plan.

(i) *Hold-Harmless Provisions (25 points).* Twenty-five points will be awarded to a community which is currently carrying out a comprehensive community development program and which is subject to the phase-out provisions of Section 106(h) of the Housing and Community Development Act of 1974, as amended.

(j) *Final ranking.* The points received by each applicant on the nine rating factors will be totaled and the preapplications ranked according to the final point totals. Invitations for full applications will be made based on this final ranking to the extent funds are available. HUD may invite additional applications on a stand-by basis in the event one of the applications from the higher ranked applicants is not approved, or additional funds become available.

§ 570.425 Preapplications for Comprehensive Grants.

(a) *Submission requirements.* Preapplications shall be submitted on HUD forms to the appropriate Area Office and shall consist of the following:

(1) Standard Form 424, as prescribed by OMB Circular A-102;

(2) A program narrative statement which consists of the following:

(i) A brief description of the applicant's community development problems/needs to be served by the proposed program; and identification of the criteria for selection to be addressed by the program;

(ii) A description of the program to be carried out with assistance under this Subpart and an estimate of the cost of the proposed activities;

(iii) Information that demonstrates the impact the proposed program will have on the design criteria being addressed;

(iv) An analysis of the amount of funds that will be used to benefit low- and moderate-income persons. The analysis shall indicate the total number of persons to be served, the number of persons that meet the definition of low and moderate income, how such low- and moderate-income persons are served, and the nature of the benefit;

(v) A brief statement describing the overall housing strategy that will be employed to meet the community's housing needs; and

(vi) Other information appropriate to respond to the other criteria for selection set forth in § 570.424.

(3) A certificate assuring compliance with all the citizen participation requirements of § 570.431(c) and (d)(1).

(4) A map of the applicant's jurisdiction which clearly identifies:

(i) Census tracts and/or enumeration districts;

(ii) Location of the proposed activities;

(iii) Concentrations of minority groups;

(iv) Concentrations of low- and moderate-income persons, and

(v) General locations for proposed new or rehabilitated housing assistance.

(5) If the applicant has received prior assistance under this part, a status report regarding performance with prior grants pursuant to § 570.423(c), or the Grantee Performance Report in lieu of the status report.

(b) *Submission of additional data.* Only data submitted by the deadline for submission of preapplications will be considered in the selection process, unless specifically requested by HUD in writing. All other data received after the deadline will be returned to the applicant.

§ 570.426 Applications for Comprehensive Grants.

(a) *Application requirements.* The application requirements contained in Sections 570.303, 570.304, 570.305, 570.306 (excluding paragraph (a)(4)(1)), and 570.307 of Subpart D of this Part, shall apply to applicants for Comprehensive Grants.

(b) *Coordination with applications for CDBG Entitlement Grants.* Where possible, HUD will use information submitted with a hold-harmless entitlement application, such as a Housing Assistance Plan which was prepared for a grant in the same fiscal year in which the Small Cities grant is being sought. Communities that anticipate applying for a Small Cities Comprehensive grant in addition to their hold-harmless entitlement, are encouraged to develop an overall strategy and comprehensive program that anticipates some additional funding, but which would lend itself to be segmented if the Small Cities request is not funded. Additional steps which could be taken to save time and effort would be to:

(1) Include the possibility of additional funding in the planning phase in such a manner that citizen participation requirements would have been met if and when a preapplication for a Small Cities Comprehensive grant is submitted;

(2) Submit such proposals through the A-95 clearinghouse process with the annual hold-harmless entitlement application to eliminate the necessity of resubmitting such information if and when an application for a Small Cities Comprehensive Grant is submitted.

(c) *Title VI compliance.* All applicants, except those currently receiving a hold-harmless grant, will be required to submit, on a form prescribed by HUD, evidence of compliance with title VI of the Civil Rights Act of 1964. The purpose of the evidence is to enable HUD to determine whether the benefits to be provided will be on a non-discriminatory basis and will achieve the purposes of the program for all persons, regardless of race, color, or national origin.

§ 570.427 Single purpose program general requirements.

(a) *General.* The Single Purpose Program will provide funds for one or more projects consisting of an activity or a set of activities designed to meet a specific community development need. Funds will be made available to address serious problems with housing needs or economic conditions which principally affect persons of low- and moderate-income or public facilities which affect the public health and safety.

(b) *Projects.* Applicants may seek funds within a single preapplication for more than one project, as long as the total grant request is within any grant ceilings and individual grant amounts that have been established. Each project will be rated separately. Grants requested, either by themselves or in combination with other stated funding sources, must be sufficient to complete the program.

(c) *Performance Requirements.* Communities which are currently carrying out or have carried out a metropolitan or nonmetropolitan discretionary grant program must satisfy the performance criteria described in Section 570.423(c) before they may apply for another grant. Performance determinations will be made as of the date the preapplication is submitted to the Area Office.

§ 570.428 Selection system for Single Purpose Grants.

Preapplications will be rated and scored against each of the following eight factors. All points for each factor will be rounded to the nearest whole number. The maximum score possible is 875 points.

	Points
(a) Need—absolute number of poverty persons	100
(b) Need—percent of poverty persons	50
(c) Need—absolute number of substandard housing units	30
(d) Need—percent of substandard housing units	20
(e) Program factor:	
Impact of the proposed program	200
(f) Benefit to low- and moderate-income persons	200
(g) Performance:	
Housing	100
Local equal opportunity efforts	50
(h) Other:	
Housing opportunity plan	50
Enhances position as a regional center	25
Implements State growth plan	25
Other Federal programs	25

Preapplications from counties in behalf of themselves, States in behalf of themselves or in behalf of counties, or joint preapplications in which a county is participating, will be scored separately with respect to the needs factors of § 570.428(a)–(d).

(a) *Need—absolute number of poverty persons (100 points).* All applicants

will be ranked in terms of the absolute number of poverty persons below the poverty level according to the latest data from the Bureau of the Census. Individual scores will be obtained by dividing each applicant's absolute number of persons in poverty by the greatest number of persons in poverty of any applicant and multiplying by 100.

(b) *Need—percent of poverty persons (50 points).* All applicants will be ranked in terms of the percentage of their population below the poverty level according to the latest data from the Bureau of the Census. Individual scores will be obtained by dividing each applicant's percentage of persons in poverty by the highest percentage of persons in poverty of any applicant and multiplying by 50.

(c) *Need—absolute housing need (30 points).* All applicants will be ranked in terms of their absolute housing need, as identified in the latest data available from the Bureau of the Census. Need will be measured by the number of units which lack plumbing or are overcrowded. Individual scores will be obtained by dividing each applicant's absolute housing need by the highest number of such units of any applicant and multiplying the results of 30.

(d) *Need—percent of housing need (20 points).* All applicants will be ranked in terms of their percent of housing need, as identified in the latest data available from the Bureau of the Census. Need will be measured by the percent of units which lack plumbing or are overcrowded. Individual scores will be obtained by dividing each applicant's percentage of housing need by the highest percentage of such housing needs of any applicant and multiplying the results by 20.

(e) *Program factor—impact of the proposed program (400 points).* Each applicant shall select four program design criteria from among the following eleven. HUD will measure the impact of the program on each of the program design criteria selected, based on the results to be achieved when considering the amounts of funds sought, the persons to be benefitted, the degree and nature of the benefit, additional actions that may be necessary to fully resolve the need, previous actions the applicant may have taken to address that need, environmental considerations, and where appropriate, site selection standards.

(1) *Program design criteria.* (i) Supports comprehensive neighborhood stabilization and/or revitalization in low and moderate income areas, or conserves the housing supply for low- and moderate-income persons;

(ii) Provides housing opportunities for low- and moderate-income families and minorities on a regional basis; or implements a HUD-approved Housing Opportunity Plan;

(iii) Provides opportunities for spatial deconcentration within the locality of low- and moderate-income families and minorities;

(iv) Supports the expansion of housing for low- and moderate-income persons;

(v) Addresses a serious deficiency in a community's public facilities for the principal benefit of low- and moderate-income persons;

(vi) Provides for expanded economic opportunities for persons of low- and moderate-income in the form of permanent employment;

(vii) Benefits low- and moderate-income persons by removing slums or blighted conditions;

(viii) Implements a State growth or resource coordination plan;

(ix) Enhances a community's position as a regional center, economic development center, or growth center;

(x) Resolves a serious threat to the health or safety of low- and moderate-income persons;

(xi) Deals with the impact caused by other Federal actions or policies particularly on low- and moderate-income persons, and/or supports other Federal programs being undertaken in the community.

(2) *Rating and ranking methods.* This factor requires a two-step rating process. First, the potential of the proposed program of activities to achieve the results intended by each selected criterion when considered in relation to other communities addressing the same criterion will be assessed and a numerical value assigned, based on the following:

The results would have no impact	0
The results would have minimal impact	2
The results would have a moderate impact	4
The results would have a significant impact	8

After each of the four criteria selected by an applicant has been rated and values assigned, the total is added (Program Impact Score Maximum is 32). Then, the actual points are determined by dividing each applicant's Program Impact Score by the highest Program Impact Score achieved by any applicant and multiplying the result by four hundred.

(f) *Benefit to low- and moderate-income persons (200 points).* All applicants will be ranked in terms of the percent of funds which will benefit low- and moderate-income persons. Individual scores will be obtained by dividing each applicant's percentage by the highest percentage achieved by any applicant and multiplying the results by 200. Costs of planning, management and administration will not be included in this computation. The appropriate median income amounts for low and moderate income will be supplied by HUD.

(g) *Performance in housing and equal opportunity (150 points total).* (1) *Housing efforts.* Twenty points for each of the following criterion will be awarded to each applicant that can demonstrate outstanding performance in: (i) providing housing for low- and moderate-income families located in a manner which provides housing choices for areas outside of minority and low-income concentrations; (ii) dispersal, by race, in occupancy of its existing assisted housing;

(iii) Meeting its large family housing assistance needs in relation to that proportion of need;

(iv) Carrying out housing assistance goals from previous HAP(s).

(v) Enforcement of a Fair Housing Ordinance.

(2) *Local equal employment and entrepreneurial efforts (50 points).* (i) Twenty-five points will be awarded to any applicant that demonstrates that the percentage of its contracts based on dollar value, awarded within the past two years to minority owned, controlled, or managed businesses, is greater than the percentage of minorities residing within the county for nonmetropolitan applicants, or within the SMSA for metropolitan applicants.

(ii) Twenty-five points will be awarded to any applicant that demonstrates that its percentage of minority employees is greater than the percentage of minorities within the county for nonmetropolitan applicants, or within the SMSA for metropolitan applicants.

(h) *Housing Opportunity Plan (50 points).* Fifty points will be awarded to any jurisdiction participating in a HUD-approved areawide Housing Opportunity Plan.

(i) *Hold-Harmless Provisions (25 points).* Twenty-five points will be awarded to a community which is currently carrying out a comprehensive community development program and which is subject to the phase-out provisions of Section 106(h) of the Housing and Community Development Act of 1974, as amended.

(j) *Final ranking.* The points received by each applicant on the nine rating factors will be totaled and the preapplications ranked according to the final point totals. Invitations for full applications will be made based on this final ranking to the extent funds are available. HUD may invite additional applications on a stand-by basis in the event one of the applications from the higher ranked applicants is not approved, or additional funds become available.

(v) General locations for proposed new or rehabilitated housing assistance.

(5) If the applicant has received prior assistance under this part, a status report regarding performance with prior grants pursuant to § 570.423(c), or the Grantee Performance Report in lieu of the status report.

(b) *Submission of additional data.* Only data submitted by the deadline for submission of preapplications will be considered in the selection process, unless specifically requested by HUD in writing. All other data received after the deadline will be returned to the applicant.

§ 570.426 Applications for Comprehensive Grants.

(a) *Application requirements.* The application requirements contained in Sections 570.303, 570.304, 570.305, 570.306 (excluding paragraph (a)(4)(1)), and 570.307 of Subpart D of this Part, shall apply to applicants for Comprehensive Grants.

(b) *Coordination with applications for CDBG Entitlement Grants.* Where possible, HUD will use information submitted with a hold-harmless entitlement application, such as a Housing Assistance Plan which was prepared for a grant in the same fiscal year in which the Small Cities grant is being sought. Communities that anticipate applying for a Small Cities Comprehensive grant in addition to their hold-harmless entitlement, are encouraged to develop an overall strategy and comprehensive program that anticipates some additional funding, but which would lend itself to be segmented if the Small Cities request is not funded. Additional steps which could be taken to save time and effort would be to:

(1) Include the possibility of additional funding in the planning phase in such a manner that citizen participation requirements would have been met if and when a preapplication for a Small Cities Comprehensive grant is submitted;

(2) Submit such proposals through the A-95 clearinghouse process with the annual hold-harmless entitlement application to eliminate the necessity of resubmitting such information if and when an application for a Small Cities Comprehensive Grant is submitted.

(c) *Title VI compliance.* All applicants, except those currently receiving a hold-harmless grant, will be required to submit, on a form prescribed by HUD, evidence of compliance with title VI of the Civil Rights Act of 1964. The purpose of the evidence is to enable HUD to determine whether the benefits to be provided will be on a non-discriminatory basis and will achieve the purposes of the program for all persons, regardless of race, color, or national origin.

§ 570.427 Single purpose program general requirements.

(a) *General.* The Single Purpose Program will provide funds for one or more projects consisting of an activity or a set of activities designed to meet a specific community development need. Funds will be made available to address serious problems with housing needs or economic conditions which principally affect persons of low- and moderate-income or public facilities which affect the public health and safety.

(b) *Projects.* Applicants may seek funds within a single preapplication for more than one project, as long as the total grant request is within any grant ceilings and individual grant amounts that have been established. Each project will be rated separately. Grants requested, either by themselves or in combination with other stated funding sources, must be sufficient to complete the program.

(c) *Performance Requirements.* Communities which are currently carrying out or have carried out a metropolitan or nonmetropolitan discretionary grant program must satisfy the performance criteria described in Section 570.423(c) before they may apply for another grant. Performance determinations will be made as of the date the preapplication is submitted to the Area Office.

§ 570.428 Selection system for Single Purpose Grants.

Preapplications will be rated and scored against each of the following eight factors. All points for each factor will be rounded to the nearest whole number. The maximum score possible is 875 points.

	Points
(a) Need—absolute number of poverty persons	100
(b) Need—percent of poverty persons	50
(c) Need—absolute number of substandard housing units	30
(d) Need—percent of substandard housing units	20
(e) Program factor:	
Impact of the proposed program	200
(f) Benefit to low- and moderate-income persons	200
(g) Performance:	
Housing	100
Local equal opportunity efforts	50
(h) Other:	
Housing opportunity plan	50
Enhances position as a regional center	25
Implements State growth plan	25
Other Federal programs	25

Preapplications from counties in behalf of themselves, States in behalf of themselves or in behalf of counties, or joint preapplications in which a county is participating, will be scored separately with respect to the needs factors of § 570.428(a)–(d).

(a) *Need—absolute number of poverty persons (100 points).* All applicants

will be ranked in terms of the absolute number of poverty persons below the poverty level according to the latest data from the Bureau of the Census. Individual scores will be obtained by dividing each applicant's absolute number of poverty persons by the greatest number of poverty persons of any applicant and multiplying the result by 100.

(b) *Need—percent of poverty persons (50 points).* All applicants will be ranked in terms of the percentage of their population below the poverty level according to the latest data from the Bureau of the Census. Individual scores will be obtained by dividing each applicant's percentage of poverty persons by the highest percentage of poverty persons of any applicant and multiplying the results by 50.

(c) *Need—absolute housing need (30 points).* All applicants will be ranked in terms of their absolute housing need, as identified in the latest data available from the Bureau of the Census. Need will be measured by the number of units which lack plumbing or are overcrowded. Individual scores will be obtained by dividing each applicant's absolute number of housing units which lack plumbing or are overcrowded by the highest amount of such housing units of any applicant and multiplying the results by 30.

(d) *Need—percent of housing need (20 points).* All applicants will be ranked in terms of their percent of housing need, as identified in the latest data available from the Bureau of the Census. Within nonmetropolitan areas, need will be measured by the percent of units which lack plumbing or are overcrowded. Individual scores will be obtained by dividing each applicant's percentage of housing need by the highest percentage of housing need of any applicant and multiplying the results by 20.

(e) *Program factor—impact of the proposed program (200 points).* All applicants will be rated based on the impact of the proposed project will have on the need identified. The intent of this factor is to select among the projects which are proposed to address a similar problem area, those projects which will have the most significant impact. In assessing impact, consideration will be given to the amount of funds requested by the applicant, the results to be achieved, the extent and nature of benefit to low- and moderate-income persons, any additional actions that may be required, previous actions taken by the applicant, environmental concerns, site selection standards where appropriate, and the nature of the activity.

(1) *Problem areas.* The problem areas cited in the preapplication for which funds are being requested must be in one of the following three categories:

(i) Housing.

(ii) Deficiencies in public facilities which affect the public health and safety.

(iii) Economic conditions.

The applicant must explain how the project being proposed impacts on the problem area selected, and the needs of low- and moderate-income persons. Specific measurable terms should be used in this explanation.

(2) *Rating method.* All projects addressing the same problem area will be compared in terms of impact on the identified problem area, as follows:

The project would have no impact	0
The project would have minimal impact	50
The project would have moderate impact	100
The project would have substantial impact	200

(f) *Benefit to low- and moderate-income persons (200 points).* This factor will measure the benefit to low- and moderate-income persons. All applicants will be ranked in terms of the percent of funds benefitting low- and moderate-income persons. Individual scores will be obtained by dividing each applicant's percentage by the highest percentage achieved by any applicant and multiplying the results by 200.

(g) *Performance in housing and equal opportunity (150 points).*—(1) *Housing efforts (100 points).* Twenty points for each of the following criterion will be awarded to each applicant that demonstrates outstanding performance in:

(i) Providing housing for low- and moderate-income families located in a manner which provides housing choices outside of areas of minority and low-income concentrations;

(ii) Dispersal, by race, in occupancy of its existing assisted housing;

(iii) Meeting its large family housing assistance needs in relation to that proportion of need;

(iv) Carrying out housing assistance goals from previous HAP(s);

(v) Enforcement of a Fair Housing Ordinance.

(2) *Local equal employment and entrepreneurial efforts (50 points).* (i) Twenty-five points will be awarded to any applicant that can demonstrate that the percentage of its contracts, based on dollar value, awarded within the past two years to minority owned, controlled, or managed businesses, is greater than the percentage of minorities residing within the county for nonmetropolitan applicants, or within the SMSA for metropolitan applicants.

(ii) Twenty-five points will be awarded to any applicant that can demonstrate that its percentage of minority employees is greater than the percentage of minorities within the county for nonmetropolitan applicants, or within the SMSA for metropolitan applicants.

(h) *Other (125 points).* (1) Twenty-five points will be awarded for each of the following criteria effectively addressed by a proposed program which:

(A) Enhances the community's position as a regional center, economic development center, or growth center;

(B) Is consistent with and implements a State growth or resource coordination plan;

(C) Deals with the impact of other Federal programs or policies on the community and/or supports another Federal program being undertaken in the community.

(2) Fifty points will be awarded if the applicant is a participating jurisdiction in a HUD-approved Housing Opportunity Plan (50 points). (i) *Final ranking.* The points received by each applicant on the eight rating factors will be totalled, and the preapplications ranked according to the final point totals. Invitations for full applications will be made based on this final ranking to the extent funds are available. HUD may invite additional applications on a standby basis in the event one of the applications from the higher-ranked applicant is not approved or additional funds become available.

§ 570.429 Preapplications for Single Purpose Grants.

(a) *Submission requirements.* Preapplications shall be submitted on HUD forms to the appropriate HUD Area Office and shall consist of the following:

(1) Standard Form 424, as prescribed by OMB Circular A-102.

(2) A program narrative statement which consists of the following:

(i) A brief description of the applicant's community development problems/needs to be served by the proposed activity(ies) and an identification of which of the three possible problem areas (housing, public facilities which affect the health or safety, or economic conditions) that the activity will address;

(ii) A description of the activity(ies) to be carried out with assistance under this Subpart and an estimate of the cost;

(iii) A statement describing the impact the activity will have on the identified problem;

(iv) A statement on the percent of funds requested that will benefit low- and moderate-income persons. The statement should indicate the total number of persons to be served and the number of such persons that meet the definition of low and moderate income.

(v) Other information appropriate to respond to the criteria for selection set forth in § 570.428, particularly information on the Performance and Other Factors.

(vi) A certificate assuring compliance with the appropriate citizen participation requirements of § 570.431.

(3) *Maps.* A map of the applicant's jurisdiction which identifies by census tract or enumeration district:

(i) the location of the proposed activities;

(ii) the concentrations of minorities; and

(iii) the concentrations of low- and moderate-income persons.

(4) If an applicant has received prior assistance under this part, either a status report addressing the performance criteria or *submission of additional data.*

(b) The Grantee Performance Report in lieu of the status report must be submitted. Only that data received by the deadline established for preapplications will be considered in the selection process unless additional data are specifically requested, in writing, by HUD. Unrequested material received after the deadline will be returned to the applicant.

§ 570.430 Applications for Single Purpose Grants.

(a) *Needs assessment and strategy.* An applicant with a population of 25,000 or more, or which is located in an urbanized area of a Standard Metropolitan Statistical Area, must submit a summary of a three year community development plan which identifies its community development and housing needs, describes a comprehensive strategy for meeting those needs, and specifies both short- and long-term objectives to be met by the strategy. Such strategies should be developed in accordance with areawide development planning and national growth policies, and should (1) describe a program that will eliminate or prevent slums, blight or deterioration where such conditions exist; (2) provide improved community facilities and public improvements, including the provision of supporting health, social, and similar services where necessary and appropriate and in a manner to ensure full participation by and benefit or improve conditions for low- and moderate-income persons residing in or expected to reside in the community; and (3) foster neighborhood development in order to induce higher income persons to remain in or return to the community.

(b) *Community Development Program.* All applicants, regardless of population, must, after consideration of appropriate environmental factors, describe the project that will be undertaken which includes;

(1) The activity or activities to be undertaken to meet the community development needs and objectives;

(2) The estimated cost of each activity; and

(3) Identification of other resources that will be used to address the needs and objectives.

(c) *Housing assistance plan.* All applicants, regardless of population, are required to submit a Housing Assistance Plan. Applicants located within a county which is receiving a community development block grant may submit that county's Housing Assistance Plan in lieu of preparing a separate Plan, if it elects to assume its fair share of the housing assistance established as a goal by the county and it can demonstrate in the application that the county's survey of housing conditions and assessment of housing assistance needs have incorporated information for the applicant. An agreement between the county and the applicant must be executed which identifies the applicant's fair share of the housing assistance goals and obligates the applicant to assume responsibility for its fair share.

(1) *Housing needs and goals.* (i) The applicant shall describe the condition of the housing stock in the community by tenure (renter or owner). Estimates shall be made of the vacancy rates for non-seasonal, available units in standard condition, using the best estimate at the time the application is prepared, but in no case including units to be vacant at a future date.

(ii) The applicant shall assess the housing assistance needs of lower-income households currently residing in the community by tenure and by household type, (elderly and handicapped, family and non-elderly individuals, and large family), including any identifiable segment of the total group of lower income households in the community. Housing assistance needs of lower-income households expected to reside shall be assessed in accordance with § 570.306(b)(2)(ii).

(iii) The applicant shall propose a realistic goal to address the identified needs of lower-income households. The goal should specify the number of dwelling units or persons to be assisted by housing type (new, rehabilitated and existing units), by tenure, and by household type. The goal should address relative proportions of need insofar as practicable while providing for the development of feasible projects. The applicant shall describe the actions it plans to take to further fair housing for minorities and women pursuant to its assurance under § 570.307(k)(2).

(2) *HUD review of HAP.* Where substantial housing needs are identified pursuant to paragraph (c)(1) of this section, HUD may determine that a Housing Assistance Plan with only minimal goals is plainly inappropriate to meeting the applicant's needs. Housing types (new, rehabilitated or existing dwelling units) proposed to meet housing assistance needs should be established in relation to a community's housing market and should be realistic in terms of estimating the number and types of units which can be absorbed by the market within a reasonable period of time and provide for a balanced housing market. Any units proposed to be included in the HAP as goals for rehabilitation must meet, at a minimum, the Section 8 Existing Housing Quality Standards pursuant to 24 CFR 882.109, upon completion. Weatherization and other similar activities will not satisfy rehabilitation housing assistance goals.

(d) *Map requirements.* Maps must be submitted which include the following information identified by census tract (or enumeration district, or geographic quadrant of the community where tracts or enumeration districts are either not available or include a substantial area, such as an entire community:

(1) Concentrations of low- and moderate-income persons;

(2) Concentrations of minority residents;

(3) Locations of community development activities to be undertaken;

(4) Service areas of the proposed activities, if applicable;

(5) The median income of the census tracts in which the proposed activities are to be undertaken;

(6) Concentrations of substandard housing; and

(7) General locations for proposed new or rehabilitated housing assistance.

(e) *Cost analysis.* The total cost of each activity must be identified as well as the amount of Single Purpose grant that will be used for each activity. If the proposed activity is dependent on other funds for completion, the source of funds and the status of the commitment must also be indicated.

(f) *Title VI compliance.* All applicants, except those currently receiving a hold-harmless grant, are required to submit, in a form to be provided by HUD, evidence of compliance with Title VI of the Civil Rights Act of 1964. The purpose of the evidence is to enable HUD to determine whether the benefits to be provided will be on a non-discriminatory basis and will achieve the purposes of the program for all persons, regardless of race, color, or national origin.

(g) *Certificates of assurance.* The certificates required by § 570.307 of Subpart D shall be submitted by all single purpose applicants.

§ 570.431 Citizen participation requirements for single purpose grants.

(a) *General.* Each applicant for a Single Purpose Grant shall provide citizens with an adequate opportunity to participate in the planning, implementation and assessment of the program. To achieve these goals, each applicant must prepare and follow a written citizen participation plan that meets the requirements set forth in

this section. Nothing in these requirements, however, shall be construed to restrict the responsibility and authority of the applicant for the develop-

(9) Bilingual opportunities will be provided at public hearings, when necessary.

The plan must be written and avail-

assessment of the Community Development Program including the development of the Grantee Performance Report and the submission of views to

waived in the case of an imminent threat. HUD shall notify the appropriate state and areawide A-95 clearinghouses that it is inviting a full applica-

(ii) Other resources necessary for the completion of the proposed activity are no longer available or will not be available within a reasonable period

(ii) The recipient proposes a revision of general locations for assisted housing.

(c) *A-95 and citizen participation re-*

this section. Nothing in these requirements, however, shall be construed to restrict the responsibility and authority of the applicant for the development of the application and the execution of the Community Development Program.

(b) *Scope of citizen participation.* Citizen participation shall include involvement in:

(1) The determination of priorities, the development of the community development and housing strategy and the Housing Assistance Plan;

(2) Subsequent amendments to the Community Development Program and the Housing Assistance Plan; and

(3) The process of planning, implementing and assessing the Community Development Program and performance.

(c) *Citizen participation plan.* Each applicant for a Single Purpose Grant must prepare and follow a written citizen participation plan that describes the method by which the following criteria will be met:

(1) The views and proposals of citizens, particularly low- and moderate-income persons, members of minority groups, and residents of blighted areas and neighborhoods where activities are proposed or ongoing, shall be solicited and responded to in a timely manner.

(2) Adequate notices of public hearings shall be provided in a timely manner so as to make them accessible and understandable to all citizens, including non-English speaking persons. The plan shall specify the number of days prior to hearings that notices will be made available.

(3) Hearings to obtain citizen views and to respond to citizen proposals will be scheduled at times and locations which permit broad participation, particularly by low- and moderate-income persons and residents of blighted neighborhoods and project areas.

(4) Citizens shall be involved in the development of both the preapplication and application.

(5) Full public access to program information and affirmative efforts to get adequate information to citizens shall be provided, particularly for persons of low- and moderate-income and residents of blighted neighborhoods and project areas.

(6) Citizens shall be involved in amendments, budget revisions and changes to the Community Development Program and the Housing Assistance Plan.

(7) Citizens shall be involved in planning, implementing and assessing the Community Development Program and performance.

(8) Low- and moderate-income persons and minorities will be ensured substantial representation in an advisory committee, if one has been created.

(9) Bilingual opportunities will be provided at public hearings, when necessary.

The plan must be written and available prior to undertaking any of the above.

(d) *Requirements for citizen participation in each stage of the application process:*

(1) *Preapplication stage.* (i) Prior to the preparation of the preapplication, the applicant shall, in accordance with the written plan, make available the following information:

(A) The total amount of Single Purpose funds to be applied for by the applicant for community development;

(B) The range of activities that may be undertaken with these funds, the kind of activities previously funded in the community (if applicable) and the progress made with respect to these activities;

(C) The fact that more preapplications will be submitted to HUD than can be funded;

(D) The processes to be followed in soliciting and responding to the views and proposals of citizens in a timely manner; and

(E) A summary of other important program requirements.

(ii) Prior to the required public hearings, the applicant shall provide for adequate public notices of the hearings in accordance with paragraph (c)(2) of this section.

(iii) Prior to the actual preparation of the preapplication, hearings shall be held to obtain the views and proposals of citizens with regard to the determination of priorities and community development and housing needs.

(iv) A certificate of assurance shall be submitted with the preapplication assuring that all appropriate requirements have been met.

(2) *Application stage.* Prior to the submission of the full application, the applicant shall, in accordance with the written plan:

(i) Assure that citizen participation has taken place with regard to the determination of priorities and community development and housing needs;

(ii) Provide adequate notices of public hearings in accordance with paragraph (c)(2) of this section; and

(iii) Hold hearings on the proposed application before adoption of a resolution or similar action by the local governing body authorizing the filing of the application.

(3) *Post approval stage.* Following the approval of its application, the grantee shall, in accordance with the written plan:

(i) Assure citizen participation when considering subsequent amendments to the Community Development Program and the Housing Assistance Plan; and

(ii) Provide for citizen participation in the planning, implementation and assessment of the Community Development Program including the development of the Grantee Performance Report and the submission of views to the Area Office.

§ 570.432 Single Purpose Grants for imminent threat to public health or safety.

(a) *Criteria.* The following criteria for an imminent threat to public health or safety shall apply:

(1) Notwithstanding the provisions of § 570.428, the Area Manager may, at any time, invite a full application for funds available under this Subpart in response to a request for assistance to alleviate an imminent threat to public health or safety that requires immediate resolution by waiving the requirements for preapplications. The urgency and the immediacy of the threat shall be verified by HUD with an appropriate authority other than the applicant prior to submission of the full application, and the Area Manager will review the claim to determine if, in fact, an imminent threat to public health or safety does exist. For example, an applicant with documented cases of disease resulting from a contaminated drinking water supply would have an imminent threat to public health, while an applicant ordered to improve the quality of its drinking water supply over the next two years would not have an imminent threat within the definition of this paragraph. These funds are to be used to deal with those threats which represent a unique and unusual circumstance, not for the type of threat that occurs with frequency in a number of communities within a state.

(2) The applicant does not have sufficient local resources and other Federal or state resources are unavailable to alleviate the imminent threat.

(b) *HUD action.* (1) Each Area Office Manager is authorized to reserve up to 15 percent of the funds allocated pursuant to Subpart B and assigned to the Area Offices for Small Cities Grants in metropolitan and nonmetropolitan areas for use in funding full applications to alleviate imminent threats to the public health or safety. Funds reserved shall be considered a part of the percentage of funds available for Single Purpose Grants. The 15 percent limit may be applied separately to the metropolitan and nonmetropolitan balances. Full applications shall be submitted in accordance with § 570.430.

(2) The only funds to be reserved for imminent threats to the public health and safety are those set aside by the Area Manager. After these funds have been depleted, no further applications relating to imminent threat shall be considered during that fiscal year.

(c) *Waiver of A-95 requirements.* The requirements for A-95 review and comment pursuant to § 570.435(c) may be waived in the case of an imminent threat. HUD shall notify the appropriate state and areawide A-95 clearinghouses that it is inviting a full application for an imminent threat from an applicant.

(d) *Letter to proceed.* The Secretary may issue the applicant a letter to proceed to incur costs to alleviate the imminent threat provided all environmental reviews are completed pursuant to 24 CFR Part 58.

§ 570.433 HUD review and actions on full applications for Single Purpose and Comprehensive Grants.

(a) *Full applications.* Only applications from communities that have been invited to submit a full application will be accepted for review, and then only if: (1) It has been received before the deadline that has been established; (2) the application requirements are complete; (3) the funds requested do not exceed the amount of the invitation by HUD, unless a higher amount is acceptable to HUD; (4) the activities are essentially the same as those for which a full application was invited; (5) and any comments received from the clearinghouses are attached to the application or a statement included that no comments were received, with a copy of the letter transmitting the application to the clearinghouse.

(b) *HUD action on full applications.*—(1) *Review and notification.* While HUD is not required to review discretionary applications within 75 days, it will try to do so. Applications will be reviewed to ensure that any other resources that may be required are, in fact, available; and that any conditions that were established at the time of invitation have been satisfied. Following the review, HUD will promptly notify the applicant of the actions taken with regard to its application.

(2) *Conditional approval.* The Secretary may make a conditional approval in which case the grant will be approved, but the use of funds will be restricted. Conditional approvals may be made pursuant to § 570.311(f) or to insure that (i) actual provision of other resources required to complete the proposed activities will be available within a reasonable period of time; (ii) the project can be completed within estimated costs; (iii) or until site and neighborhood standards approval has been obtained for proposed housing projects, if applicable.

(3) *Disapproval of a full application.* The Secretary may disapprove a full application for the reasons set forth in § 570.311(c). In addition, full applications may be disapproved for any of the following reasons:

(i) The conditions established at the time of invitation have not been fully met;

(ii) Other resources necessary for the completion of the proposed activity are no longer available or will not be available within a reasonable period of time;

(iii) The activities cannot be completed within the estimated costs or resources available to the applicant;

(iv) There is new evidence of a lack of capacity of a recipient to carry out the proposed activities;

(v) The applicant has received other funds for the activities and assistance under this Subpart is no longer required.

(4) *Letter to proceed.* HUD will issue a letter authorizing an applicant to incur costs for the planning and preparation of an application for funds available under this Subpart, including citizen participation and environmental studies. Reimbursement for such costs will be dependent upon HUD approval of the application. Only those costs associated with the actual cost of preparation of the application may be assisted. In no instances may a planning or preparation fee be reimbursed when it is based upon a percentage of the assistance received under this subpart and such fees shall comply with the requirements set forth in § 570.200. Costs incurred by an applicant prior to notification of a funding approval or issuance of a letter to proceed by HUD are not eligible for assistance under this part.

§ 570.434 Program amendments for Single Purpose and Comprehensive Grants.

(a) HUD will consider amendments if they are necessitated by actions beyond the control of the applicant. Recipients shall request prior HUD approval for all program amendments involving new activities or significant alteration of existing activities that will change the scope, location, objectives or scale of the approved activities or beneficiaries. Approval will be subject to the following:

(1) New or significantly altered activities will be rated in accordance with the criteria for selection applicable at the time the original preapplication was rated. The rating of the new program or activity proposed by the amendment must be equal to or greater than the lowest rating received by a funded activity or program during that cycle of preapplication ratings.

(2) Consideration shall be given to whether any new activity proposed can be completed promptly.

(b) Housing Assistance Plan Amendments.

(1) *Comprehensive Grant.* Recipients shall request prior HUD approval in accordance with § 570.312(b).

(2) *Single Purpose Grant.* Recipients shall request prior HUD approval when any of the following conditions exist:

(i) The recipient proposes an increase or decrease of any goal by housing type or household type;

(ii) The recipient proposes a revision of general locations for assisted housing.

(c) *A-95 and citizen participation requirements.* Whenever an amendment requires HUD approval, the requirements of this Subpart for A-95 review and citizen participation must be met and the recipient shall provide all appropriate State and areawide A-95 clearinghouses with thirty days in which to review and comment on the proposed amendment prior to its submission to HUD.

§ 570.435 Modified OMB Circular No. A-95 procedures for the Small Cities Program.

(a) *General.* (1) Applicants for grants (both Single Purpose and Comprehensive) under the Small Cities Program must comply with all of the procedures set forth in Part I of OMB Circular No. A-95 except as modified below. These procedures also require that program amendments which must receive HUD approval shall be submitted for a thirty day review and comment period prior to submission to HUD pursuant to 24 CFR 52.101(g).

(2) All applicants are urged to contact their A-95 clearinghouses for forms and instructions which the clearinghouses have developed to facilitate their reviews.

(3) Clearinghouses will be of assistance to the applicant and to HUD if their reviews address the appropriate performance factors (§ 570.423(c)), the criteria for selection for the Comprehensive Program (§ 570.424), and the criteria for selection for the Single Purpose Program (§ 570.428), as well as the "subject matter of comments and recommendations" in item 5, Part I, Attachment A of OMB Circular No. A-95, with emphasis on consistency with State, areawide and local plans and compliance with environmental and civil rights laws.

(b) *A-95 procedures for preapplications.* Preapplications for either Comprehensive Grants or for Single Purpose Grants shall be submitted to the appropriate State and areawide A-95 clearinghouses prior to or concurrent with the submission of the preapplication to HUD to serve as the notification of intent to apply for a Federal grant. The clearinghouses shall have thirty days from receipt of the preapplication in which to conduct their review and provide a response to the applicant with a copy to HUD. The clearinghouse must clearly identify the applicant and the activity or program to which the comments are addressed. HUD shall not make a final rating on a preapplication until all clearinghouse comments are considered, or if no clearinghouse comments are received by HUD, thirty days after the deadline for submission of preapplications. Applicants are urged to pro-

vide preapplications to the clearinghouses prior to submission to HUD whenever possible.

(c) *A-95 procedures for full applications.* (1) Applications shall be submitted to the appropriate State and areawide A-95 clearinghouses prior to or concurrently with submission to HUD. The clearinghouses shall have forty-five days from receipt of the application to review the application and give the comments to HUD and the applicant.

(2) HUD will not take any final action on the application until comments have been received or until forty-five days after the application was sent to the clearinghouse. The applicant will be provided an opportunity to respond to clearinghouse comments before HUD takes final action on an application.

(3) If the A-95 comments contain any findings of inconsistency with State, areawide or local plans, or noncompliance with civil rights laws, the applicant must explain why it should proceed with the project.

(2) In § 570.400, paragraphs (b), (f)(1)(i), and (g) are revised to read as follows:

§ 570.400 General.

• • • • •

(b) *Data.* Wherever data are used in this Subpart for selecting applicants for assistance, the source of such data shall be the materials that HUD acquires from the United States Bureau of Census for use in allocating funds pursuant to Subpart B of this part for the same fiscal year appropriation.

• • • • •

(f) • • •
(1) • • •
(i) The application is postmarked or received on or before the final date established by HUD for submission of applications for each fiscal year.

(g) *Program amendments.* Recipients shall request prior HUD approval for program amendments whenever the amendment results from changes in the scope or the objective of the approved program.

• • • • •

(3) Section § 570.402 is cancelled and reserved for future use.

§ 570.402 [Reserved]

(4) In § 570.409, paragraph (d)(1)(i)(c) is revised to read as follows:

§ 570.409 Reallocated funds.

• • • • •

(d) • • •
(1) • • •
(i) • • •

(c) If reallocated funds are available after meeting the urgent needs in all metropolitan areas in that State, to the same metropolitan area or other metropolitan areas in the same State for use in accordance with the provisions of Subpart F; and

• • • • •

(5) In § 570.409(d)(1)(ii)(B), the reference to "§ 570.402" is changed to "subpart F".

(6) In 570.409(d)(2), the reference to "§ 570.400(b)(1) and § 570.402" is changed to "Subpart F".

(7) In 570.409(e) the phrase "the criteria for selection described in § 570.402(b)" is changed to "Subpart F".

(8) In § 570.409(e)(1)(i) (A) and (B) the references to "§ 570.402(a)" are changed to "§ 570.420(c)".

(9) In § 570.409(e)(2) the reference to "§§ 570.300(b)(1) and 570.402" is changed to "Subpart F".

§ 570.503 [Amended]

(10) In § 570.503(a), the reference to "570.402(d)(5)(iii)" is changed to § 570.433(b)(2)."

§ 570.504 [Amended]

(11) In § 570.504, the reference to "§ 570.402(d)(5)(iii)" is changed to "§ 570.433(b)(2)."

(12) In § 570.910, a new paragraph (b)(11) is added to read as follows:

§ 570.910 Corrective and remedial action.

• • • • •

(b) • • •

(11) In the case of discretionary grants made under Subpart F, adjust, reduce or withdraw the grant, except for funds already expended on otherwise eligible activities which may not be recaptured or deducted from future grants.

• • • • •

(Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.); Title I, Housing and Community Development Act of 1977 (Pub. L. 95-128); and Sec. 7(d), Department of Housing and Urban development Act (42 U.S.C. 3535(d)).)

Issued at Washington, D.C. February 22, 1978.

ROBERT C. EMBRY, Jr.
Assistant Secretary for Community Planning and Development.

[FR Doc. 78-5181 Filed 2-23-78; 2:24 am]

federal register

WEDNESDAY, MARCH 1, 1978
PART VI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

■

LOANS FOR HOUSING THE ELDERLY OR HANDICAPPED

[4210-01]

Title 24—Housing and Urban Development

CHAPTER VIII—LOW INCOME HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-78-322]

PART 885—LOANS FOR HOUSING THE ELDERLY OR HANDICAPPED

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This regulation establishes substantive provisions and procedural requirements governing operation of the section 202 direct loan program for housing for the elderly or the handicapped. This final rule decentralizes the responsibility for reserving section 202 loan fund authority to HUD Field Offices, consolidates section 202 and section 8 processing, and revises the criteria to be used in selecting Borrowers to receive Fund Reservations.

EFFECTIVE DATE: March 31, 1978.

FOR FURTHER INFORMATION CONTACT:

George O. Hipps, Jr., Director, Office of Loan Origination, Department of Housing and Urban Development, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Department of Housing and Urban Development (HUD) published on February 25, 1976, at 41 FR 8314, a final rule amending Title 24, Part 885, to provide a program of direct loan financing for projects for the elderly or handicapped pursuant to section 202 of the Housing Act of 1959, as amended (12 USC 1701q). Subsequent to publication of that final rule, the Housing Authorization Act of 1976, Pub. L. 94-375, was enacted on August 3, 1976, making certain changes in the provisions of section 202, pursuant to which the Department published a final rule amending Part 885 on January 28, 1977 (42 FR 5568).

On January 31, 1977, the Department gave notice, at 42 FR 5924, that it proposed to amend 24 CFR Part 885 to decentralize the authority for reserving section 202 loan fund authority to HUD field offices, partially consolidate section 202 and section 8 application and review procedures and revise the criteria to be used in selecting Borrowers to receive fund reservations. These changes were originally intended to be applicable to section 202 loan commitments made during Fiscal Year 1977. However, in order to assure that Fiscal Year 1977 section 202 loan funds made available by the Congress would be obligated before the end of that Fiscal Year and thus not lapse, HUD elected to follow the procedures prescribed in the final rule published on February 25, 1976 at 41 FR 8314, as amended on January 28, 1977 at 42 FR 5568, for section 202 loan commitments made during Fiscal Year 1977.

The period for receipt of comments on the proposed rule closed on February 24, 1977. The Department received 47 responses from 45 sources, including four memoranda from HUD field offices. All comments were carefully considered. The most recurrent and significant comments, and the changes from the proposed rule, are discussed below:

1. Twenty respondents addressed the basic decentralization question, of which 17 favored decentralization (including three who would have preferred decentralization only to the Regional Offices) while only three noted opposition. The Department has decided to decentralize program authority and responsibility to field offices.

2. On the issue of priority for projects using section 8 assistance in less than 80 percent of the units, public comments were overwhelmingly negative, and that proposed preference has been dropped from the final rule.

3. During the comment period, twelve respondents objected to continued use of the section 231 mortgage limits. In addition, section 202(a) of the Housing and Community Development Act of 1977, Pub. L. 95-128, signed October 12, 1977, amended section 202 of the Housing Act of 1959 to prohibit use of section 231 mortgage limits to section 202 projects. Therefore, the Department published at 42 FR 57439, November 2, 1977, new cost limits specifically tailored for the section 202 program. With minor clarifying changes, the amended section 885.410 is incorporated in this final rule.

4. Among the 47 responses to the proposed rule, only sixteen commented specifically on the proposed requirement for site control contained in § 885.230(c) of the Proposed Rule, and these responses were divided: sponsors and potential sponsors preferred not to take the financial risks associated with obtaining control of a building site, while certain other respondents favored the resultant faster processing and earlier availability of new housing units. It is the Department's judgment that the advantages of the site control requirement—greater predictability in the distribution of housing resources, increased ability to meet local HAP requirements, increased administrative efficiency, and speedier delivery of housing to those in need—significantly outweigh Sponsors' interest in minimizing the financial risk inherent in the application process. The Department has decided to implement the proposed rule's requirement that evidence of site control be included as a condition of application for a reservation of funds under section 202, and the list of exhibits required in the application (formerly contained in §§ 885.225 and 885.230 of the proposed rule and, subsequently described in § 885.210 of this final rule) shall include documentary evidence of site control, except in the case of Borrowers contemplating projects for the nonelderly handicapped. In the case of Borrowers submitting applications for fund reservations for projects wholly or primarily for the non-elderly handicapped, documentary evidence of site control shall not be required as a part of the application for fund reservation, except that, for simplicity and expediency in processing applications and developing new housing resources, applications for such projects which identify a specific site which is suitable for construction of such a project and under the control of the Borrower corporation shall be deemed preferable to proposals which are not site-specific. In all cases, such applicants, as a minimum, must identify the locality in which they propose to develop the housing project. Also in the interest of expeditious processing and prompt availability of additional housing resources, the Department does not contemplate extensions of the fund reservations, beyond those already provided in § 885.230 of this final rule, for borrowers whose applications are approved prior to identification of a proposed site.

5. Six respondents objected to the proposed shortening of the period between fund reservations and start of construction from 18 to 12 months. The final rule requires that construction or substantial rehabilitation begin within 18 months after the date of the reservation of funds, unless an extension of time not to exceed six (6) months is approved by the Field Office Director.

6. Various other issues were raised in the public comments. These were generally either in favor of the proposed rule and/or the continuation of the section 202 program, or were limited to specific cases and have not required additional changes from the January 31 Proposed Rule.

Consistent with President Carter's directives requiring that regulations be simplified wherever possible, and directives contained in the Housing and Community Development Act of 1977 concerning simplified procedures, this final rule has been shortened and simplified, compared to the January 31 proposed rule, by eliminating the cross-references to sections 880 and 881 of this chapter, and by incorporating the section 8 application requirements formerly contained in §§ 885.230, 885.300, and 885.400 of the proposed rule. By so incorporating the section 8 application requirements, these regulations assure that project applications which meet the requirements of the section 202 program shall have met the requirements for housing assistance payments under the section 8 Housing Assistance Payments program as provided in the U.S. Housing Act of 1937, as amended.

The Department has determined that this Final rule will not have a significant impact upon the quality of the environment. A Finding of Inapplicability with respect to the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the Secretary, Room 5218, Department of Housing and Urban Development, Washington, D.C. 20410.

It is hereby certified that the economic and inflationary impacts of this final rule have been carefully evaluated in accordance with Executive Order 11821.

Accordingly, 24 CFR Part 885 is amended to read as follows:

PART 885—LOANS FOR HOUSING FOR THE ELDERLY OR HANDICAPPED

Subpart A—General Policy

Sec.
885.1 Purpose and policy.
885.5 Definitions.

Subpart B—Allocations of Loan Funds and Processing Applications for Section 202 Fund Reservations

885.200 Allocation of loan fund authority.
885.205 Announcement of fund availability and invitations for applications for section 202 fund reservations.
885.210 Contents of applications.
885.215 Limitation on number of units.
885.220 Application for fund reservation.
885.225 Approval of applications.
885.230 Duration of section 202 fund reservations.

Subpart C—[Reserved]

Subpart D—Direct Loan Financing Procedures

885.400 Requests for direct loan financing.
885.405 Approval of requests for financing.
885.410 Amount and terms of financing.
885.415 Requirements prior to initial loan closing.
885.420 Loan disbursement procedures.
885.425 Completion of construction or substantial rehabilitation, cost certification and approvals by HUD.

AUTHORITY: Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart A—General Policy

§ 885.1 Purpose and policy.

(a) Purpose. The purpose of the program described in this Part is to provide direct Federal loans under section 202 of the Housing Act of 1959, as amended, 12 U.S.C., 1701q, for housing projects to serve elderly or handicapped families and individuals. The housing projects shall provide the necessary services for the occupants, which may include, among others, health, continuing education, welfare, informational, recreational, homemaker, counseling, and referral services, as well as transportation where necessary to facilitate access to these services. The management plans shall address management and maintenance responsibilities of the Borrower as well as the delivery of necessary services for the occupants.

(b) General Policy. A loan made pursuant to this Part shall be used to finance the construction or substantial rehabilitation of residential projects for the elderly or the handicapped. Consistent with Congressional directives stated in the Housing and Community Development Act of 1977, these regulations have been developed to consolidate the application requirements of both Section 202 and Section 8. Therefore, projects which meet the requirements of the Section 202 program shall be deemed to have met the requirements for housing assistance payments under the Section 8 Housing Assistance Payments Program as provided in the U.S. Housing Act of 1937, as amended.

§ 885.5 Definitions.

As used in this part:

Act means section 202 of the Housing Act of 1959, as amended, 12 U.S.C. 1701q.

Affiliated Entities means entities that the field office determines to be related to each other in such a manner that it is appropriate to treat them as a single entity. Such relationship shall include any identity of interest among such entities or their principals and the use by any otherwise unaffiliated entities of a single Borrower or of Borrowers that have any identity of interest between themselves or their principals.

Application means the application for a Section 202 Fund Reservation, including all required forms and exhibits submitted in response to an Invitation for such applications.

Assistant Secretary means the Assistant Secretary for Housing-Federal Housing Commissioner.

Borrower means a private nonprofit corporation or a nonprofit consumer cooperative which may be established by the Sponsor, which will obtain a section 202 loan and execute a mortgage in connection therewith as the legal owner of the project. "Borrower" does not mean a public body or the instrumentality of a public body. The purposes of the Borrower must include the promotion of the welfare of elderly and/or handicapped families. No part of the net earnings of the Borrower may inure to the benefit of any private shareholder, contributor or individual and the Borrower may not be controlled by or be under the direction of persons or firms seeking to derive profit or gain therefrom.

Construction means the erection or substantial rehabilitation of structures for Housing and Related Facilities.

Development Cost means the cost of construction or substantial rehabilitation of Housing and Related Facilities, and of the land on which they are located, including necessary site improvements and such other expenses as may be determined by the Assistant Secretary to be properly attributable to the capital cost of the construction or substantial rehabilitation or development of the Housing and Related Facilities.

Elderly or Handicapped Family means:

(a) Families of two or more persons the head of which (or his or her spouse) is 62 years of age or over or is handicapped, or

(b) The surviving member or members of any family described in paragraph (a) living in a unit assisted under the section 202 program with the deceased member of the family at the time of his or her death.

(c) A single person who is 62 years of age or over, or a non-elderly handicapped person between the ages of 18 and 62 or

(d) Two or more elderly or handicapped persons living together, or one or more such persons living with another person who is determined by HUD, based upon a licensed physician's certification provided by the tenant family or prospective tenant family, to be essential to their care or well-being.

Field Office means any HUD Area, Insuring, or Regional Office which is delegated authority to process applications under the section 202 and section 8 programs.

Handicapped Person means any adult having an impairment which is expected to be of long-continued and indefinite duration, is a substantial impediment to his or her ability to live independently, and is of a nature that such ability could be improved by more suitable housing conditions. A person also shall be considered handicapped if he or she is developmentally disabled, i.e., if he or she has a disability attributable to mental retardation, cerebral palsy, epilepsy, or another neurological condition found by the Secretary of Health, Education, and Welfare to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, which disability originates before such individual attains age eighteen, which constitutes a substantial handicap to such individual.

Housing and Related Facilities means rental or cooperative housing

structures constructed or substantially rehabilitated as permanent residences for use by elderly or handicapped families and includes structures suitable for use by families residing in the project or in the area such as cafeterias or dining halls, community rooms or buildings, and workshops or other essential service facilities. "Housing and Related Facilities" does not include nursing homes, hospitals or intermediate and transitional care facilities.

Invitation means the Invitation for Applications for section 202 Fund Reservations issued by a field office and described in § 885.205(c), below.

Region means any one of the ten HUD Regions.

Request means the Request for Direct Loan Financing and all required forms and exhibits submitted by a Borrower for whom a section 202 Fund Reservation has been approved.

Section 8 Program means the Housing Assistance Payments Program-New Construction or Substantial Rehabilitation as defined in Parts 880 and 881 of this Chapter, which implements section 8 of the U.S. Housing Act of 1937, as amended.

Seed Money Expenses mean those expenses which are necessary to cover the costs of planning and obtaining financing for a section 202 project and which will be incurred prior to the initial closing of the construction loan for the project.

Sponsor means any private nonprofit entity, no part of the net earnings of which inures to the benefit of any private shareholder, contributor or individual, which entity is not controlled by, or under the direction of persons or firms seeking to derive profit or gain therefrom, and which is approved by the Field Office Director as to administrative and financial capacity and responsibility. "Sponsor" does not mean a public body or the instrumentality of a public body.

Substantial Rehabilitation means the improvement of the condition of a property from deteriorated and substandard to good condition. Substandard or deteriorated properties are those which do not provide safe and adequate shelter, and in their present condition endanger the health, safety or well-being of the occupants. Substantial Rehabilitation also includes renovation, alteration or remodeling for the conversion or adaptation of property to the design and condition required for use under this part.

Subpart B—Allocation of Loan Funds and Processing Applications for Section 202 Fund Reservations

§ 885.200 Allocation of Loan Fund Authority.

(a) Section 202 loan fund authority will be allocated by the Assistant Secretary to HUD field offices in accordance with the requirements of section 213(d) of the Housing and Community Development Act of 1974 as set forth in 24 CFR 891.402 and 891.403.

(b) Field Office Directors will determine the amount of section 202 loan fund authority to be allocated to each allocation area in accordance with 24 CFR 891.404. In determining the number of units for housing for the elderly and/or handicapped to be allocated to a specific allocation area, the Field Office Director must consider the three-year goals set forth in Housing Assistance Plans and the proportionality requirements with respect to housing type and household type with the objective of achieving the proportionality by household type established in the first three-year goal by the end of Fiscal Year 1979. Where loan fund authority allocated to an allocation area would not be adequate for a feasible project the Field Office Director may either: (1) combine allocation areas, or (2) distribute sufficient loan fund authority for a feasible project and withhold future allocations until such advance is compensated.

(c) Field Office Directors will set aside sufficient contract authority for the Section 8 Housing Assistance Payments Program for use in connection with projects to be financed under Section 202.

§ 885.205 Announcement of Fund Availability and Invitations for Applications for Section 202 Fund Reservations.

(a) Promptly upon determining the amount of loan fund authority to be allocated to each field office, the Assistant Secretary shall publish an Announcement of Fund Availability in the FEDERAL REGISTER indicating:

(1) The amount of lending authority (and approximate number of units) being made available to each field office;

(2) The date by which the field offices will publish Invitations for Applications for section 202 Fund Reservations;

(3) The earliest date applications will be accepted for processing and the closing date; and

(4) Other appropriate guidance to prospective borrowers.

(b) Each field office shall publish a single Invitation in newspapers of general circulation serving the allocation areas in which the housing is desired at least once a week for two consecutive weeks. The field office shall also notify minority media, minority organizations involved in housing and community development, and groups with special interest in housing for the elderly and/or handicapped. Copies of the Invitation shall be available in the field office.

(c) The Invitation shall state:

(1) The designated allocation areas where loan fund authority is being made available, the amount of such authority and the approximate number of units this amount is expected to assist.

(2) That applications from the designated allocation areas will be evaluated first, and that only in the event that an insufficient number of approvable applications are received from the designated allocation areas will applications from other areas be considered for approval.

(3) That, notwithstanding subparagraph (c)(2) above, applications for housing designed wholly for the nonelderly disabled or handicapped from any allocation area will be accepted and evaluated.

(4) That copies of the applicable regulations, instructions, forms and other program information may be obtained at the field office.

(5) The date, time, and place applications will be accepted.

(6) The deadline date for receipt of applications.

§ 885.210 Contents of application.

Each application shall include all of the information, materials, forms, and exhibits enumerated below, on the basis of which the field office will determine the Borrower's eligibility for a reservation of section 202 loan funds and for participation in the section 8 housing assistance payments program. The same information requested of the Borrower in items 10-22, below, must be provided for each Sponsor identified in the application.

(1) The name, address, and telephone number of the Borrower and also of the Sponsor (if any).

(2) The name, title, address, and telephone number of the officer or member of the Board of Directors of the Borrower to whom communications should be addressed.

(3) The following specific information regarding the application:

(a) Number of section 202 units requested.

(b) Number of units for which section 8 Assistance is requested. Section 8 Housing Assistance Payments are required for a minimum of 20 percent of the section 202 units in any project. Applications contemplating use of section 8 contract authority in less than 100 percent of the rental dwelling units must demonstrate that sufficient market demand is anticipated for the unsubsidized units to assure the feasibility of the project.

(c) Dollar amount of section 202 direct loan requested.

(4) A narrative description of the proposed housing, including: (a) number and types of structures; (b) number of stories; (c) number of units by size (number of bedrooms); (d) special amenities or features.

(5) A narrative description of the anticipated occupancy (elderly and/or handicapped [physicially handicapped or developmentally disabled, i.e., mentally retarded, cerebral palsy, or epilepsy]).

(6) A statement as to whether the Borrower (and/or Sponsor) has submitted or is planning to submit an application to any other field office in response to the current Invitation. If so, indicate the city and state where the proposed project is to be located, the number of units requested, and the field office to which the proposal was or will be submitted.

(7) A signed certification of the Borrower's intention to comply with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, Executive Order 11246, and section 3 of the Housing and Urban Development Act of 1968.

(8) A Housing Consultant's Certificate and Contract (if consultant services have been employed by the Borrower).

(9) Evidence of the Borrower's legal status as a nonprofit corporation.

(10) A Request for Preliminary Determination of Eligibility as a Nonprofit Sponsor and/or Mortgagor on a form prescribed by HUD.

(11) A statement evidencing the Borrower's ties to the community and support from local community groups.

(12) The names and addresses of the officers and directors of the Borrower, and such other information as shall be required on the prescribed form, together with a certification by each officer or director that he or she will not receive any compensation from the Borrower for his or her services, and does not have any financial interest in any contract with the Borrower, or in any firm or corporation which has a contract with the Borrower.

(13) Satisfactory evidence that the Borrower has the necessary legal authority to finance, construct or substantially rehabilitate and maintain the project and to apply for and receive the proposed loan, that it meets any requirements as to corporate organization, and that it has authority to enter into such contract obligation and execute such security instruments as may be required by HUD.

(14) Evidence of previous participation in HUD programs, if any, by the Borrower, its officers or directors, on such forms as may be prescribed by HUD.

(15) A description of all rental housing projects and/or medical facilities owned and operated by the Borrower.

(16) A description of any financial default, modification of terms and conditions of financing, or legal action taken or pending against the Borrower or its officers, directors, or trustees in their corporate capacity.

(17) A description of the Borrower's past or current involvement in any programs or of its provision of services, other than housing, if any, which would give evidence of the organization's management capabilities.

(18) A statement as to whether the Borrower has received a section 202 fund reservation since May 1, 1976.

(19) A description of the Borrower's capability to sponsor, develop, own, manage, and provide appropriate services in connection with housing for the elderly or handicapped.

(20) An estimate of start-up expenses and the source of funds to meet these expenses. If the Borrower plans to use section 106(b) seed money loans, an application for such loan must be submitted with required attachments.

(21) Copies of balance sheet(s) and statement(s) of income and expenses for each of the past three years the Borrower has operated.

(22) In the case of project proposals to be developed exclusively or primarily for the nonelderly handicapped, identification of the locality in which the Borrower proposes to develop the project.

(23) In the case of project proposals to be developed for the elderly, the following specific information with respect to the proposed project:

(a) Documentary evidence that the Borrower has control of the site, e.g. a copy of a contract(s) of sale for the site or a copy of the site option agreement(s), a deed, or other legal commitment for the site.

(b) A map showing the location of the site and the racial composition of the neighborhood, with the area of racial concentration delineated.

(c) A sketch of the site plan showing the general development of the site including the location of the proposed building(s), streets, parking areas and drives, service areas, and unusual site features.

(d) Evidence that the proposed construction or rehabilitation is permissible under applicable zoning ordinances or regulations, or a statement of the proposed action to make the construction or rehabilitation permissible and the basis for belief that such action will be completed successfully prior to the receipt of the conditional commitment for direct loan financing (e.g., a summary of the results of any recent requests for rezoning on land in similar zoning classifications and the time required for such rezoning, preliminary indications of acceptability from zoning bodies, etc.).

(e) A statement as to whether proposed project will displace site occupants. If so, the proposal shall state the number of families, individuals, and business concerns to be displaced (identified by race or minority group status and whether they are owners or renters), and shall demonstrate that relocation is feasible and how necessary relocation payments, if any, will be funded.

(f) A showing that the proposal meets any special requirements or restrictions necessary for compliance with the local HAP.

(g) A statement that gross rents (the sum of contract rents and allowances, if any) will not exceed published Fair Market Rents by more than that allowed by the Fair Market Rent Limits pursuant to § 880.108(a) or § 881.108(a) of the Regulations.

(24) A demonstration that the application meets any other requirements as may be imposed by or upon the Department and which requirements are made known to the applicant prior to submission of the application.

§ 885.215 Limitation on numbers of units.

No organization shall participate as Sponsor, Co-sponsor, or Borrower in the filing of an application or applications for a reservation of section 202 loan funds in a single Region in a single fiscal year in excess of that necessary to finance the construction or substantial rehabilitation of 300 units of housing and related facilities.

(a) This limitation shall apply to organizations that participate as Cosponsors regardless of whether the Cosponsors are affiliated or non-affiliated entities.

(b) Affiliated entities which submit separate applications shall be deemed to be a single entity for purposes of this 300 unit limitation.

§ 885.220 Review of application for fund reservation.

(a) *Initial Screening.* To be eligible for selection, an Application must be received by the field office within the time period specified in the Invitation and must be complete. In order to determine whether an Application is complete and acceptable for technical processing, the field office shall perform an initial screening upon receipt of the Application.

(b) *Action on Applications Found To Be Incomplete.* If an Application is determined to be incomplete, the Borrower shall be advised in writing of the deficiencies and that additions or changes will be accepted if they are received on or before a specified date (generally 10 calendar days from the date of the request for additional information).

(c) *Preliminary Evaluation.* Applications found to be complete shall be eligible for a preliminary evaluation to determine whether the entity filing the Application is, in fact, an eligible nonprofit corporation, and whether the Application is responsive to the Invitation.

(d) *Technical Processing.* When an Application is determined to be complete and responsive to the Invitation,

technical processing, consisting of the following, shall be accomplished:

(1) For each Application which is determined to be subject to A-95 clearance, the field office shall send a copy to the appropriate A-95 Clearinghouse for review, inviting a response within 30 calendar days from the date of transmittal, unless the Borrower has provided appropriate site and preliminary project information to the clearinghouse prior to submitting its application to HUD, in which case the application shall include the comments, if any, of the clearinghouse;

(2) For purposes of compliance with section 213 of the HCD Act of 1974, the field office shall forward (if not previously submitted by the Borrower) a notification, in the form prescribed by HUD, to the Chief Executive Officer (or such designee as that Officer may designate) of the unit of general local government in which the proposed housing is to be located and shall invite a response within 30 calendar days from the date of the notification letter;

(3) The Application will be evaluated by the field office on the basis of those factors which may be necessary to determine the eligibility and acceptability of the Sponsor and Borrower, acceptability of the location (site), acceptability of the design concept, compliance with the Fair Market Rent Limits, and the comments, if any, received during the response periods from the appropriate A-95 Clearinghouse and from the unit of general local government.

(4) If, in its evaluation of all pertinent factors, the field office finds deficiencies which, in its judgment, are correctable within a reasonable time, it may grant such additional time as it deems appropriate to enable the Borrower to correct such deficiencies. Otherwise the Borrower shall be sent a notification specifying the deficiencies and stating that the Application has been rejected.

(5) Prior to selection, the field office shall complete an environmental review in compliance with the requirements of HUD procedures pursuant to the National Environmental Policy Act of 1969. Prior to selection, the field office shall determine whether the proposed site is in compliance with Executive Order 11988, Floodplain Management, and Executive Order 11990, Wetlands Protection.

(6) Based on the factors set forth in this paragraph (d), the field office shall determine for each allocation area the Applications which, in its judgment, are approvable. Selections then shall be made in accordance with paragraph (e) of this section.

(e) For each allocation area, the field office shall rank order each Application on the basis of its assessment of the Borrower's qualifications, the proposed site, the design concept, and the comments, if any, received from the appropriate A-95 clearinghouse and from the unit of general local government. The field office shall identify for selection the highest ranking Applications in descending order which most reasonably approximate the estimated maximum number of units which can be funded in any allocation area under the allocation of fund authority; provided, however, that in accordance with 24 CFR 891.404(d) priority will be given to acceptable Applications from localities which did not previously receive assistance.

(f) The ranking list developed pursuant to paragraph (e) above may be modified by the Field Office Director under the following circumstances:

(1) If selection solely on the basis of the ranking would result in a violation of site and neighborhood standards; or

(2) Where necessary to provide an appropriate distribution by dollars and units for projects for the non-elderly handicapped.

§ 885.225 Approval of applications.

(a) A Borrower whose Application is approved shall be issued a notice of section 202 Fund Reservation in a format prescribed by the Assistant Secretary, specifying:

(1) The amount of the section 202 fund reservation, the number and mix of units, and the location (or locality, in the case of projects to serve the non-elderly handicapped) of the proposed project.

(2) The amount of section 8 contract authority reserved to the project.

(3) A date by which the Borrower is required to return a copy of the notification with an indication of its acceptance.

(b) If the Borrower does not accept the notification by the date specified, the field office may notify the Borrower that its previous approval of the Borrower's Application is withdrawn;

(c) No part of the loan funds reserved may be transferred by the Borrower;

(d) A section 202 fund reservation may be used only in connection with the project which has been approved in connection with the Application and may not be transferred to a section 8 project which is proposed in response to an invitation pursuant to § 880.203 or 881.203 of this Chapter;

(e) Subject to the availability of funds, and in accordance with directives of the Assistant Secretary, the Field Office Director may amend the amount of a fund reservation approved pursuant to paragraph (b) of this section at any time before the final closing of a loan.

§ 885.230 Duration of section 202 funds reservation.

The Field Office Director, subject to the approval of the Assistant Secretary, may cancel a fund reservation at any time if it can be established that the Borrower is not making satisfactory progress toward the start of construction, and shall cancel any reservations of section 202 loan funds for projects for which the construction or substantial rehabilitation is not commenced within the eighteen-month period following issuance of the Notice of section 202 Fund Reservation, unless an extension of time, not to exceed six months, is requested of and granted by the Field Office Director.

Subpart C—[Reserved]

Subpart D—Direct Loan Financing Procedures

§ 885.400 Request for direct loan financing.

Simultaneously with the notice of section 202 Fund Reservation, the field office will invite the Borrower to submit a request for a conditional or firm commitment for direct loan financing. The Request for Direct Loan Financing shall be on forms prescribed by HUD, shall include all such exhibits as HUD may require, and must be submitted, within the time limit specified in the notice of section 202 Fund Reservation, to the field office serving the area in which the proposed project will be located.

(a) Processing of a request for a conditional commitment for direct loan financing shall include an evaluation of the Contract Rents, the Borrower's Affirmative Marketing Plan and the financial feasibility of the project. Contract Rents shall be established by the field office within the applicable Fair Market Rent Limits, and shall be no higher than the rents determined by HUD to be necessary to cover operating costs, debt service on the section 202 loan, and reasonable reserves. In the case of projects requesting section 8 Contract Authority for less than all of the rental dwelling units, the Contract Rents must be within such levels that sufficient market demand can be anticipated for the unsubsidized rental dwelling units to assure the feasibility of the project.

(b) Processing of a request for a firm commitment shall include review of the final plans and specifications, review of the Contractor/Borrower's cost estimate, and a review of the conclusions reached during conditional commitment processing. In the case of Borrowers permitted by the Field Office Director to submit requests for firm commitment without going through conditional commitment processing the field office shall perform the steps set forth in paragraph (a) above when carrying out firm commitment processing.

(c) Any Contract Rents which are or have been proposed by a Borrower may be modified by the field office at any time prior to the execution of the Agreement to Enter into a Housing Assistance Payments Contract.

§ 885.405 Approval of requests for direct loan financing.

The field office shall review the Request for Direct Loan Financing and the required exhibits and shall notify the Borrower of its approval by issuance of a conditional or firm commitment, as appropriate, or of its disapproval of the Request.

(a) A conditional commitment shall be issued in a format prescribed by the Assistant Secretary and shall include the following:

(1) The estimated cost of the project,

(2) The "as-is" value of the site and the land value fully improved (with offsite improvements installed),

(3) The detailed estimates of operating expenses and taxes,

(4) The supportable cost,

(5) The financial requirements,

(6) The loan amount,

(7) The approved contract rents. If the approved rents are lower than those proposed by the Borrower, the commitment shall state the reason(s) for the reduction(s). The conditional commitment also shall specify the time period within which the Borrower must submit a request for a firm commitment for direct loan financing.

(b) A firm commitment shall be issued in a format prescribed by the Assistant Secretary and shall include the following:

(1) Approval of the final plans and specifications;

(2) A statement that the Contractor/Borrower's cost estimates have been reviewed;

(3) Reaffirmation of the conclusions reached during conditional commitment processing or a statement as to what changes to earlier conclusions have been approved.

If the Borrower was permitted to apply for a firm commitment without passing through conditional commitment processing, the items listed in paragraph (a) above shall be included in the issuance of the firm commitment for direct loan financing. Issuance of a firm commitment evidences the Assistant Secretary's approval of the request for direct loan financing, and sets forth the terms and conditions upon which the loan shall be made and the loan proceeds disbursed.

(c) If a request for conditional or firm commitment for direct loan financing is not forthcoming within the time periods specified in the Notice of section 202 Fund Reservation or the Conditional Commitment, as appropriate, the Field Office Director may cancel the fund reservation, consistent with the limitations specified in § 885.230.

§ 885.410 Amount and terms of financing.

(a) The amount of financing approved shall be the amount stated in the Notice of section 202 Fund Reservation, including any increase approved by the field office prior to the final closing of a loan; provided, however, that the amount of financing provided shall not exceed the lesser of:

(1) The dollar amounts stated in subparagraphs (b) through (f) of this section, or

(2) The total development cost of the project as determined by the field office.

(b) For such part of the property or project attributable to dwelling use (excluding exterior land improvement as defined by the Assistant Secretary) the maximum loan amount, depending on the number of bedrooms, shall be: (1) $19,000 per family unit without a bedroom, (2) $21,500 per family unit with one bedroom, (3) $25,000 per family unit with two bedrooms.

(c) In order to compensate for the higher costs incident to construction of elevator type structures of sound standards of construction and design, the field office may increase the dollar limitations per family unit as provided in paragraph (c) of this section, not to exceed: (1) $21,700 per family unit without a bedroom, (2) $24,900 per family unit with one bedroom, (3) $30,800 per family unit with two bedrooms.

(d) Reduced loan amount—leaseholds. In the event the loan is secured by a leasehold estate rather than a fee simple estate, the allowable cost of the property upon which the loan amount is based shall be reduced by the value of the leased fee.

(e) Adjusted loan amount—rehabilitation projects. A loan amount which involves a project to be rehabilitated shall be subject to the following additional limitations:

(1) Property held in fee. If the Borrower is the fee simple owner of the project not encumbered by a mortgage, the maximum loan amount shall not exceed 100 percent of the cost of the proposed rehabilitation.

(2) Property subject to existing mortgage. If the Borrower owns the project subject to an outstanding indebtedness, which is to be refinanced with part of the section 202 loan, the maximum loan amount shall not exceed the cost of rehabilitation plus such portion of the outstanding indebtedness as does not exceed the fair market value of such land and improvements prior to the rehabilitation, as determined by the field office.

(3) Property to be acquired. If the project is to be acquired by the Borrower and the purchase price is to be financed with a part of the section 202 loan, the maximum loan amount shall not exceed the cost of the rehabilitation plus such portion of the purchase price as does not exceed the fair market value of such land and improvements prior to the rehabilitation, as determined by the field office.

(f) Increased Mortgage Limits—High Cost Areas.

(1) In any geographical area where the Assistant Secretary finds cost levels so require, the Assistant Secretary may increase, but not to exceed 50 percent, the dollar amount limitations set forth in § 885.410 (b) and (c).

(2) If the Assistant Secretary finds that because of high costs in Alaska, Guam, or Hawaii it is not feasible to construct dwellings without the sacrifice of sound standards of construction, design, and livability within the limitations of maximum loan amounts provided in this section the principal amount of mortgages may be increased by such amounts as may be necessary to compensate for such costs, but not to exceed in any event the maximum, including high cost area increases, if any, otherwise applicable by more than one-half thereof.

(g) The loan shall bear interest at a rate established by the Secretary by adding:

(1) A rate determined by the Secretary of the Treasury to be the average interest rate on all interest bearing obligations to the United States then forming a part of the public debt computed at the end of the fiscal year immediately prior to the date on which the loan is made; plus (2) and allowance to cover administrative costs and probable losses under the program, which allowance has been determined by the Secretary of HUD to be one percent (1%) per annum during the construction period, and one half of one percent (0.5%) thereafter.

(h) Loans shall bear interest at the rate in effect at the time the loan is made. A loan shall be deemed to be made as of the date of the initial loan closing pursuant to § 885.415. If a loan is made in a fiscal year other than that fiscal year in which the Request is processed, and the interest rate for the year in which the loan is made is different from the rate used for processing, the field office shall reprocess the Request based on the new rate.

(i) The loan shall be secured by a first mortgage on real estate in fee simple or long term leasehold; the mortgage shall be repayable during a term not to exceed 40 years and shall be subject to such terms and conditions as shall be determined by the Assistant Secretary.

(j) In order to assure HUD of the Borrower's continued commitment to the development, management, and operation of the project, a minimum capital investment is required of section 202 Borrowers of one-half of one percent (0.5%) of the mortgage amount committed to be disbursed, not to exceed the amount of $10,000.

Section 106(b) loans made pursuant to section 106 of the Housing Act of 1968 may not be utilized to meet the minimum capital investment requirement. Such minimum capital investment shall be placed in escrow at the initial closing of the section 202 loan and shall be held by HUD or other escrow agent acceptable to the field office for not less than a three-year period from the date of initial occupancy and may be used for operating expenses or deficits as may be directed by the field office. Any unexpended balance remaining in the minimum capital investment account at the end of the escrow period shall be returned to the Borrower.

§ 885.415 Requirements prior to initial loan closing.

Prior to the initial loan closing, the Borrower shall furnish such executed documents on HUD-approved forms as the field office may require including the following:

(a) Agreement to Enter into Housing Assistance Payments Contract;

(b) Certificate of Incorporation of the Borrower as required by applicable state or local law;

(c) Internal Revenue Service Section 501(c) (3) or (4) tax exemption ruling;

(d) Certificate of Relationships and Nonprofit Motives of the Borrower;

(e) Mortgagee's Attorney's Opinion as to the legal status of the Borrower, building permit, and compliance with zoning laws and requirements;

(f) Regulatory Agreement for Nonprofit Section 202/Section 8 Mortgagors;

(g) Mortgagor's Oath that the Project will not be used for hotel or transient purposes;

(h) Agreement and Certification to certify actual costs and as to any financial and family relationships between the Borrower, the architect, general contractor and subcontractors;

(i) Assurance of Compliance with HUD Regulations under Title VI of the Civil Rights Act of 1964;

(j) Note and First Mortgage or Deed of Trust executed in accordance with § 885.405 (h);

(k) A title policy insuring that the mortgage constitutes a first lien on the project;

(l) Building Loan Agreement setting forth the conditions for loan disbursement;

(m) Construction or Substantial Rehabilitation Contract between the Borrower and the General Contractor which shall be a cost plus contract with an upset price and may provide for an incentive payment to the Contract or for early completion;

(n) Assurance of Completion of Construction or Substantial Rehabilitation Contract in the form of 50 percent Performance and Payment Bond or a cash escrow in the amount of 25 percent of total construction cost;

(o) Escrow Agreement in the amount of the cost of any off-site facilities, funded by a cash deposit or letter of credit to assure completion of the facilities;

(p) A Contractor's and Sub-Contractor's Certification Concerning Labor Standards and Prevailing Wage Requirements.

§ 885.420 Loan Disbursement Procedures.

(a) Disbursements of loan proceeds shall be made directly by HUD to or for the account of the Borrower and may be made through an approved lender, mortgage servicer, title insurance company, or other agent satisfactory to the Borrower and HUD.

(b) All disbursements to the Borrower shall be made on a periodic basis in an amount not to exceed the HUD-approved cost of portions of construction or substantial rehabilitation work completed and in place, minus the appropriate holdback, as determined by the field office.

(c) Requisitions for loan disbursements shall be submitted by the Borrower on forms to be prescribed by the Assistant Secretary and shall be accompanied by such additional information as the field office may require in order to approve loan disbursements under this Part, including but not limited to evidence of compliance with the Davis-Bacon Act, Department of Labor regulations, all applicable zoning, buildings and other governmental requirements, and such evidence of continued priority of the mortgage of the Borrower as the Assistant Secretary may prescribe.

§ 885.425 Completion of construction or substantial rehabilitation, execution of HAP contract, and cost certification and approvals by HUD.

(a) The requirements for completion of construction or substantial rehabilitation and approvals by HUD shall be satisfied by the Borrower prior to submission of a final requisition for disbursement of loan proceeds.

(b) Upon issuance of a Certificate of Occupancy the HAP Contract shall be executed first by the Borrower and then by HUD, however, payments under the HAP Contract shall only be made with respect to occupied units, and further, the Borrower shall not be entitled to receive vacancy payments for unoccupied units until and unless the project is finally accepted by HUD. If the Project is to be completed in stages, the procedures of this section shall apply to each stage.

(c) The Borrower shall submit to the field office all documentation required for final disbursement of the loan including:

(1) A Borrower's/Mortgagor's Certificate of Actual Cost, showing the actual cost to the mortgagor of the cost plus construction contract, architectural, legal, organizational, offsite costs, and all other items of eligible expense. The certificate shall not include as actual cost any kickbacks, rebates, trade discounts, or other similar payments to the mortgagor or to any of its officers, directors, or members.

(2) A verification of the Certificate of Actual Cost by an independent Certified Public Accountant or independent public accountant acceptable to the field office.

(3) A certification of the general contractor (and such subcontractor, material suppliers, and equipment lessors, as the Assistant Secretary or field office may require), on a form prescribed by the Assistant Secretary, as to all actual costs paid for labor, materials, and subcontract work under the general contract exclusive of the builder's fee and kickbacks, rebates, trade discounts, or other similar payments to the general contractor, the mortgagor, or any of its officers, directors, stockholders, partners, or members.

Issued at Washington, D.C., on February 22, 1978.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 78-5314 Filed 2-28-78; 8:45 am]

federal register

WEDNESDAY, MARCH 1, 1978
PART VII

OFFICE OF MANAGEMENT AND BUDGET

BUDGET DEFERRALS

Reports

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

DEPARTMENTS OF COMMERCE, INTERIOR AND TREASURY

Budget Deferrals

TO THE CONGRESS OF THE UNITED STATES:

In accordance with the Impoundment Control Act of 1974, I herewith report a new Department of Commerce deferral of Maritime Administration funds totalling $122 million in budget authority and a new deferral of $0.4 million in outlays for the Antirecession financial assistance fund in the Department of the Treasury.

In addition, I am reporting routine revisions to two previously transmitted deferrals. A Department of the Interior deferral is increased by $2 million in budget authority, and a Department of the Treasury deferral is increased by $4.1 million in outlays.

The details of each deferral are contained in the attached reports.

JIMMY CARTER.

THE WHITE HOUSE,
February 23, 1978.

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Deferral No.	Item	Budget Authority
	Department of Commerce:	
	Maritime Administration	
D78-57	Ship construction	122,000
	Department of the Interior:	
	Bureau of Land Management	
D78-15A	Oregon and California grant lands	33,180
	Department of the Treasury:	
	Office of the Secretary	
D78-58	Antirecession financial assistance fund	388
D78-28B	State and local government fiscal assistance trust fund	5,779
	Total, deferrals	161,347

* *

SUMMARY OF SPECIAL MESSAGES
FOR FY 1978
(in thousands of dollars)

	Rescissions	Deferrals
Sixth special message:		
New items	---	122,388
Changes to amounts previously submitted	---	6,048
Effect of the sixth special message	---	128,436
Previous special messages	57,923	4,764,782
Total amount proposed in special messages	57,923 (in 4 rescission proposals)	4,893,218 1/ (in 58 deferrals)

1/ This amount represente budget authority except for $9,573,000 consisting of three Department of the Tressury deferrals of outlays only (D78-50, D78-58 and D78-28B).

Deferral No: D78-57

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of Pub. L. 93-344

Agency: Department of Commerce	New budget authority (P.L. 95-86 ___): $135,000,000
Bureau: Maritime Administration	Other budgetary resources: 229,184,322
Appropriation title & symbol: Ship Construction 1/ 13X1708	Total budgetary resources: 364,184,322
	Amount to be deferred: Part of year: $ ___ Entire year: 122,000,000
CFDA identification code: 13-1708-0-1-403	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other ___
Grant program: [X] Yes [ ] No	
Type of account or fund: [ ] Annual [ ] Multiple-year ___ (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ___

Justification:

This appropriation, available until expended, provides subsidies to U.S. shipyards for the construction and reconstruction of ships to be operated in the U.S.-foreign trade.

The deferral, totalling $122,000,000, is based on the current projections of reliable demand for U.S. shipbuilding. Anticipated new shipbuilding contracts during FY 1978 can be funded with the $242,184,322 apportioned for this period. The amount deferred will be used in succeeding years.

This deferral action is taken in accordance with the Antideficiency Act (31 U.S.C. 665) which provides that funds not limited to a definite period of time shall be apportioned so as to achieve their most effective and economical use.

Estimated Effects:

The deferral will not delay any planned construction or reconstruction of subsidized ships and will not affect the international competitive position of U.S. shipyards.

Outlay Effect:

There is no outlay effect of this deferral.

1/ This account was the subject of a similar deferral in FY 1977.

D78-15A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of P.L. 93-344

This report revises Deferral No. D78-15 transmitted to the Congress on October 3, 1977, and printed as House Document No. 95-235.

The amount deferred for the Oregon and California Grant Lands appropriation is $33,180,327, an increase of $1,890,327 over the amount previously deferred. This change results from an increase in the amount estimated to be available for appropriation in FY 1978, partially offset by an increase in planned FY 1978 obligations and a decrease in balances carried over from FY 1977.

Deferral No: D78-15A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of the Interior	New budget authority (P.L. 95-74) $ 56,500,000*1/
Bureau Bureau of Land Management	Other budgetary resources 20,845,327*
Appropriation title & symbol 14X5136 Oregon and California Grant Lands 2/	TOTAL budgetary resources 77,345,327*
	Amount to be deferred: Part of year ____ Entire year 33,180,327*
OMB identification code: 14-5136-0-2-302	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other ____
Grant program [ ] Yes [X] No	
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-year	Type of budget authority: [ ] Appropriation [ ] Contract authority [X] Other Appropriated Receipts

Justification:*

Funds in this account are derived from an indefinite no-year appropriation equivalent to 25 percent of timber sale receipts from revested Oregon and California Railroad grant lands. The appropriated receipts provide for management, development, and protection of the Federally-owned Oregon and California grant lands, including the construction and maintenance of roads. Because the appropriation is based on receipts collected in the same fiscal period and the receipts are based on the timber harvested, the total amount available for obligation can only be estimated. Not only may actual receipts vary from estimates, but receipts for the last two months of the fiscal period are not known in time to make programmatic adjustments to offset a possible shortfall between estimated and actual amounts. Deferral is planned to cushion fluctuating receipt levels. This deferral is taken pursuant to the Antideficiency Act (31 U.S.C. 665).

Receipts for FY 1977 totaled $212,090,848 with an unobligated balance of $20,845,327 carried forward into FY 1978. New budget authority available in 1978 under terms of the appropriation is estimated to equal $56,500,000. Total resources for this program are estimated at $77,345,327. The FY 1978 obligation program of $44,165,000 is consistent with the President's Budget for FY 1979 and results in a deferral of $33,180,327.

1/ Estimated. The appropriation is for "an amount equivalent to 25 percent of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands."
2/ This account was the subject of a similar deferral during FY 1977.
* Revised from previous report.

Estimated Effects:

There will be no programmatic impact in FY 1978.

Outlay Effect:

There is no outlay effect of this deferral.

Deferral No: D78-58

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of the Treasury	New budget authority (P.L. 95-119) $1,400,000,000
Bureau Office of the Secretary	Other budgetary resources 83,063,000
Appropriation title & symbol Antirecession Financial 1/ 2/ Assistance Fund 207/80108 208/90108	Total budgetary resources 1,483,063,000
	Amount to be deferred: Part of year 3/ $ 388,000 Entire year ____
OMB identification code: 20-0108-0-1-852	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [X] Other P.L. 94-369, P.L. 95-30
Grant program [X] Yes [ ] No	
Type of account or fund: [ ] Annual [X] Multiple-year September 30, 1978 September 30, 1979 (expiration date) [ ] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

Justification

The Antirecession Financial Assistance Fund provides for federal economic assistance to State and local governments to help prevent those governments from taking budget related actions which are injurious to national economic health. These quarterly countercyclical payments are based on the relative size of the revenue sharing payments made to the State and local governments and the extent to which the unemployment rates present in those areas, in the appropriate quarter, exceed 4.5 percent. This deferral represents payments which have been withheld from various governments for reasons of noncompliance with the requirements of the Public Works Employment Act 1976 (P.L. 94-369).

Estimated Effects

The release of these funds is contingent upon the various governments' compliance with the law by submitting required forms and reports.

Outlay Effect

There is no outlay effect of this deferral. The funds will be made available this fiscal year.

1/ This account is the subject of another deferral, D78-26C.
2/ This account was the subject of a similar deferral (D78-50) earlier this fiscal year.
3/ Outlays only.

D78-28B

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344.

This report revises Deferral No. D78-28A transmitted to the Congress on December 15, 1977, and printed as House Document 95-270.

This revision of a deferral for the State and local government fiscal assistance trust fund in the Office of the Secretary of the Treasury increases the previously reported deferral from $1,711,000 to $5,779,000. This increase of $4,068,000 results from nonreceipt of assurance forms from recipient governments and noncompliance with the requirements of the State and Local Fiscal Assistance Act, as amended.

Deferral No: D78-28B

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Treasury	New budget authority (P.L. 95-119) $6,854,924,000
Bureau: Office of the Secretary	Other budgetary resources 46,347,000*
Appropriation title & symbol: State and Local Government 1/ 2/ Fiscal Assistance Trust Fund 20X8111	Total budgetary resources 6,901,221,000*
	Amount to be deferred: Part of year 3/ $5,779,000*
	Entire year
OMB identification code: 20-8111-0-7-851	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [X] Yes [ ] No	[X] Other P.L. 92-512, Sections 121 and 123; P.L. 94-488
Type of account or fund: [ ] Annual [ ] Multiple-year _____ (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other _____

Justification

The State and Local Government Fiscal Assistance Trust Fund is the vehicle for disbursement of general revenue sharing funds. Scheduled payments to State and local governments are made on a quarterly basis. This deferral represents payments which have been withheld from various governments involved in annexations or disincorporations and for reasons of noncompliance with the requirements of the State and Local Fiscal Assistance Act, as amended.

Estimated Effect

The release of these funds is contingent upon adherance by the various governments to the compliance regulations, and determinations as to which higher level of government is eligible to receive those funds withheld because of annexations and disincorporations.

Outlay Effect

There is no outlay effect of this deferral. The funds will be made available this fiscal year.

1/ This account is the subject of another deferral, D78-27C.
2/ This account was the subject of a similar deferral during FY 1977.
3/ Outlays only.
* Revised from previous report.

[FR Doc. 78-5509 Filed 2-27-78; 3:29 pm]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

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PROPOSED RULES:
2 8270
154 8270

20 CFR
PROPOSED RULES:
416 8555

24 CFR
0 8255
570 ..... 8434, 8450, 8476
885 8492
2205 8764

25 CFR
PROPOSED RULES:
43p 8555
113 8557

27 CFR
PROPOSED RULES:
6 8270
8 8270

28 CFR
0 8256

32 CFR
706 8256
PROPOSED RULES:
288 8271

33 CFR
3 8515
117 8516–8517
209 8257
PROPOSED RULES:
117 8559

41 CFR
8–4 8258
PROPOSED RULES:
114–150 8272

42 CFR
405 8258

43 CFR
PROPOSED RULES:
2880 8770

45 CFR
PROPOSED RULES:
90 8756
102 8561
115 8561
116 8561
116d 8561
130 8561
161 8561
205 8562

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148 8760

47 CFR
91 8518
PROPOSED RULES:
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76 8275

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172 8519
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174 8522
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1033 ..... 8528, 8529
1125 8530
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1300 8531
1303 8534
1304 8536
1306 8538
1307 8539
1308 8544
1309 8547
1310 8549
PROPOSED RULES:
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173 8562
174 8562
175 8562
176 8562
177 8562
399 8569
571 8571

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[6820–27]

Title 5—Administrative Personnel

CHAPTER X—NATIONAL CAPITAL HOUSING AUTHORITY

Deletion of Chapter

EDITORIAL NOTE.—The Office of the Federal Register has received a letter from the Assistant Corporation Counsel of the District of Columbia, in which he states that regulations presently codified as 5 CFR Chapter X are obsolete and should no longer be published in the Code of Federal Regulations. These regulations govern the responsibilities and conduct of National Capital Housing Authority employees. The letter requests the Office of the Federal Register to delete the regulations from the Code of Federal Regulations.

The basis for the requested deletion is section 202 (a) and (b) of the District of Columbia Self Government and Governmental Reorganization Act, Pub. L. 93-198. That act transferred the National Capital Housing Authority, its assets and employees to the District of Columbia Government. Employees of the National Capital Housing Authority are now governed by the District of Columbia Personnel Regulations.

Therefore, pursuant to 1 CFR 8.2, Chapter X of Title 5, Code of Federal Regulations, is deleted.

[6820–27]

CHAPTER XII—DISTRICT OF COLUMBIA REDEVELOPMENT LAND AGENCY

Deletion of Chapter

EDITORIAL NOTE.—The Office of the Federal Register has received a letter from the Assistant Corporation Counsel of the District of Columbia in which he states that regulations presently codified as 5 CFR Chapter XII should no longer be published in the Code of Federal Regulations. These regulations govern the responsibilities and conduct of District of Columbia Redevelopment Land Agency employees. The letter requests the Office of the Federal Register to delete the regulations from the Code of Federal Regulations.

The basis for the requested deletion is the District of Columbia Self Government and Governmental Reorganization Act, Pub. L. 93-198. That act transferred the District of Columbia Redevelopment Land Agency, and its employees to the District of Columbia Government.

Therefore, pursuant to 1 CFR 8.2, Chapter XII of Title 5, Code of Federal Regulations, is deleted.

[3410–02]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Navel Orange Reg. 433]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period March 3–9, 1978. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of navel oranges, as hereafter provided, will tend to effectuate the declared policy of the act by tending to establish and maintain such orderly marketing conditions for such oranges as will provide, in the interests of producers and consumers, an orderly flow of the supply thereof to market throughout the normal marketing season to avoid unreasonable fluctuations in supplies and prices, and is not for the purpose of maintaining prices to farmers above the level which it is declared to be the policy of Congress to establish under the act.

The committee met on February 28, 1978, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges tends to be somewhat easier at this time, particularly on small sizes and lower grades.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 907.733 Navel Orange Regulation 433.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period March 3, 1978, through March 9, 1978, are established as follows:
(1) District 1: 1,001,000 cartons;
(2) District 2: 299,000 cartons;
(3) District 3: Unlimited movement.
(b) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: February 28, 1978.

CHARLES R. BRADER,

which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on

S. Keller, Attorney 202-452-3582, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

[3510–24]

Title 13—Business Credit and Assistance

However, in the spirit of the public policy set forth in that Act, interested persons may submit written suggestions regarding this amendment to the

final approach to Runway 36 of Flushing Airport.

EFFECTIVE DATE: 0901 GMT March 2, 1978.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: February 28, 1978.

CHARLES R. BRADER,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-5753 Filed 3-1-78; 11:28 am]

[3410-02]

[Valencia Orange Reg. 577]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period March 3-9, 1978. Such action is needed to provide for orderly marketing of fresh Valencia oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: March 3, 1978.

FOR FURTHER INFORMATION CONTACT: Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of Valencia oranges, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on February 28, 1978 to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified week. The committee reports the market for Valencia oranges has not yet been established.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 908.877 Valencia orange regulation 577.

Order. (a) The quantities of Valencia oranges grown in Arizona and California which may be handled during the period March 3, 1978 through March 9, 1978, are established as follows:

(1) District 1: Unlimited movement;
(2) District 2: Unlimited movement;
(3) District 3: 150,000 cartons.

(b) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: February 28, 1978.

CHARLES R. BRADER,
Director, Fruit and Vegetable Division Agricultural Marketing Service.

[FR Doc. 78-5754 Filed 3-1-78; 11:28 am]

[6210-01]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. O; Docket No. R-0109]

PART 215—LOANS TO EXECUTIVE OFFICERS OF MEMBER BANKS

Credit Card Indebtedness

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: This amendment increases from $1,000 to $5,000 the limit imposed upon member banks' extensions of credit to their own executive officers through the use of bank credit cards and similar plans. The rule change is intended to make this exemption reflective of increases in both the use of credit cards and consumer prices since this provision of the regulation was first adopted.

EFFECTIVE DATE: March 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert E. Mannion, Associate General Counsel 202-452-3274 or James S. Keller, Attorney 202-452-3582, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The Board of Governors of the Federal Reserve System has amended its Regulation O in order to make an adjustment in one of the exemptions in that regulation in light of the increases in credit card usage and in consumer prices since the provision of the regulation was first adopted.

The provisions of 5 U.S.C. § 553 relating to notice and public participation are not followed in connection with adoption of the amendment because the Board finds for good cause that notice and public participation are unnecessary since the amendment relaxes a restriction previously imposed.

Authority: 12 U.S.C. 375a.

Effective March 24, 1978, § 215.2(iv) is amended to read as follows:

§ 215.2 Definitions.

* * * * *

(c) "Extension of credit" and "extend credit". * * *

* * * * *

Such terms, however, do not include:

* * * * *

(iv) Indebtedness arising by reason of general arrangements under which a bank (a) acquires charge or time credit accounts or (b) makes payments to or on behalf of participants in a bank credit card plan, check credit plan, or similar plan, except that this subdivision (iv) shall not apply to indebtedness of an executive officer to his own bank to the extent that the aggragate amount thereof exceeds $5,000 or to any such indebtedness to his own bank that involves prior individual clearance or approval by the bank other than for the purpose of determining whether his participation in the arrangement is authorized or whether any dollar limit under the arrangement has been or would be exceeded.

Board of Governors of the Federal Reserve System, February 24, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-5481 Filed 3-1-78; 8:45 am]

[3510-24]

Title 13—Business Credit and Assistance

CHAPTER III—ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 309—GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE

Relocation; Restrictions Against Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: This rule amends the regulation which sets forth EDA restrictions against assistance which will aid establishments in relocating from one area to another. This amendment is caused by the fact that formerly this subsection had been interpreted as prohibiting assistance to industry associations and similar organizations within the apparel field. The intended effect of this amendment is to clarify the policy of the Economic Development Administration (EDA) with respect to the non-relocation requirements.

DATES: Effective date: March 2, 1978. Comments by: April 3, 1978.

ADDRESS: Send comments to: Assistant Secretary for Economic Development, U.S. Department of Commerce, Room 7800B, Washington, D C. 20230.

FOR FURTHER INFORMATION CONTACT:

Information on Regulations: James F. Marten, U.S. Department of Commerce, Room 7009, Washington, D.C. 20230, 202-377-5441.

SUPPLEMENTARY INFORMATION: This publication amends 13 CFR, Part 309 by revising the following regulation:

Section 309.3(f) is amended to provide that EDA will not extend financial assistance for programs, projects, facilities, or purchases to be used by or for highly mobile, intensely competitive industries, such as the apparel or garment trades within the textile industry but that such restriction is not intended to prohibit assistance to industry associations and similar organizations within the apparel field which are not themselves relocating. This amendment is intended to clarify EDA policy with respect to the circumstances under which EDA will not extend financial assistance.

Because these rules relate to the EDA grant and loan program, they are exempted from the procedures described in section 553 of the Administrative Procedure Act (5 U.S.C. 553). However, in the spirit of the public policy set forth in that Act, interested persons may submit written suggestions regarding this amendment to the above address.

NOTE.—EDA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular No. A-107.

Accordingly, 13 CFR Part 309 is revised as follows:

1. By revising § 309.3(f) to read as follows:

§ 309.3 Non-relocation.

* * * * *

(f) EDA will not extend financial assistance for programs, projects, facilities, or purchases to be used by or for highly mobile, intensely competitive industries, such as the apparel or garment trades within the textile industry. However, this restriction is not intended to prohibit assistance to industry associations and similar organizations within the apparel field which themselves are not relocating.

* * * * *

(Sec. 701, Pub. L. 89-136, 79 Stat. 570 (42 U.S.C. 3211); Department of Commerce Organization Order 10-4, as amended (42 FR 56702, as amended).)

Dated: December 28, 1977.

ROBERT HALL,
Assistant Secretary for Economic Development.

[FR Doc. 78-5519 Filed 3-1-78; 8:45 am]

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 78-EA-8]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Terminal Control Area: New York, N.Y.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the New York, N.Y., Terminal Control Area, by de-controlling a nominal section of airspace in Area A contiguous to Flushing Airport, Flushing, N.Y. The de-control will permit a longer final approach to Runway 36 of Flushing Airport.

EFFECTIVE DATE: 0901 GMT March 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Morris Rosen, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430, telephone 212-995-3391.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart K of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the New York, N.Y., Terminal Control Area. The change will permit the use of additional uncontrolled airspace for aircraft utilizing Runway 36 at Flushing Airport.

The alteration will de-control airspace and therefore imposes no additional burden on any person. Further, its early publication will permit is coincidence with the reopening of Flushing Airport. Thus, notice or public procedure hereon are unnecessary, and good cause exists for making the amendment effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are Morris Rosen, Air Traffic Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart K of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT March 2, 1978, as follows:

1. Amend section 401 of Part 71, Federal Aviation Regulations, as follows:

NEW YORK, N.Y., TERMINAL CONTROL AREA

AREA A

In the text, delete, "thence direct to the JFK VORTAC 349° radial 8.5 mile DME fix, direct to the JFK VORTAC 340° radial 9 mile DME fix, direct to the JFK VORTAC 341° radial 10 mile DME fix, thence direct to the point of beginning." and substitute therefor, "thence direct to the intersection of the Clearview Expressway and the LaGuardia 093° radial; direct to the southern edge of Bowne Park; direct to the southern edge of Leavitts Park; thence direct to the JFK VORTAC 349° radial 9 mile DME fix, direct to the JFK VORTAC 341° radial 10 mile DME fix, thence direct to the point of beginning.".

AREA J

In the text, delete, "then easterly to the JFK VORTAC 340° radial 8.5 mile DME fix, thence easterly to the Clearview Expressway at its point of intersection with a line extending from the JFK VORTAC 349° radial 8.5 mile DME fix to the LGA VOR 093° radial at a point 6 miles from the VOR,

thence northerly along the Clearview Expressway to the point of beginning." and substitute therefor "thence direct to the southern edge of Leavitts Park, thence direct to the south edge of Bowne Park, thence easterly to the intersection of LaGuardia 093° radial with the Clearview expressway, thence northerly along the Clearview Expressway to the north stanchion of the Throgs Neck Bridge.".

Section 307(a), and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(c)); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, N.Y., on February 15, 1978.

LOUIS J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc. 78-5322 Filed 3-1-78; 8:45 am]

[4910-13]

[Airspace Docket No. 77-SW-60]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone: Corpus Christi NAS, Tex., Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: In a rule published in the FEDERAL REGISTER of January 26, 1978, volume 43, page 3546, amendment paragraph, the phrase "7 miles northwest of the VORTAC; 1.5 miles each side of the 016 radial, extending from the 5-mile radius zone to" was erroneously stated twice. This correction deletes the repetition.

EFFECTIVE DATE: March 23, 1978.

FOR FURTHER INFORMATION CONTACT:

David Gonzalez, Airspace and Procedures Branch (ASW-536), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: Federal Register document 78-2172 was published on January 26, 1978 (43 FR 3546) with an effective date of March 23, 1978 and altered the control zone at Corpus Christi Naval Air Station (NAS), Tex. A descriptive phrase was erroneously stated twice within the description. Action is taken herein to redescribe the control zone and correct the error.

ADOPTION OF THE CORRECTION

Accordingly, pursuant to the authority delegated to me by the Adminstration, FR Doc. 78-2172, appearing at page 3546 in the FEDERAL REGISTER of January 26, 1978, in the amendment paragraph, the Corpus Christi NAS, Tex., control zone is amended by deleting the description and substituting the following:

That airspace within a 5-mile radius of NAS Corpus Christi (latitude 27°41'30" N., longitude 97°17'15" W.) including the following extensions based on the Navy Corpus VORTAC (latitude 27°41'09" N., longitude 97°17'40" W.); 3 miles each side of the 331 radial, extending from the 5-mile radius zone to 7 miles northwest of the VORTAC; 1.5 miles each side of the 016 radial, extending from the 5-mile radius zone to 5.5 miles north of the VORTAC; 3 miles each side of the 118 radial, extending from the 5-mile radius zone to 7 miles southeast of the VORTAC; and 1.5 miles each side of the 160 radial, extending from the 5-mile radius zone to 6.5 miles south of the VORTAC.

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11948, and OMB Circular A-107.

Issued in Fort Worth, Tex., on February 16, 1978.

PAUL J. BAKER,
Acting Director, Southwest Region.

[FR Doc. 78-5321 Filed 3-1-78; 8:45 am]

[4910-13]

[Docket No. 17593; Amdt. No. 95-277]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

PART 95—IFR ALTITUDES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rule) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: March 23, 1978.

FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-8277.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) prescribe new, amended, suspended, or revoked IFR altitudes governing the operation of all aircraft in IFR flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adquate for safe flight operations and free of frequency interference.

The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provides for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment is unnecessary, impracticable, or contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

The principal authors of this document are Rudolph L. Fioretti, Flight Standards Service, and Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly and pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective: March 23, 1978.

(Secs. 307 and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348 and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 25 FR 6489 and Paragraph 802 of Order FSP 1100.1, as amended March 9, 1973.)

NOTE.—The Federal Aviation Administration has determined that this amendment does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C. on February 22, 1978.

JAMES M. VINES,
Chief,
Aircraft Programs Division.

[FR Doc. 78-5323 Filed 3-1-78; 8:45 am]

FROM/TO	TOTAL DISTANCE	CHANGEOVER POINT FROM DISTANCE GEOGRAPHIC LOCATION	TRACK ANGLE	MEA	MAA
J842R is amended to delete:					
Texarkana, Ark. W/P	220.0	110.0 Texarkana	059/239 to COP	18000	45000
Memphis, Tenn. W/P		34-14-41N 92-01-59W	063/243 to Memphis		
Memphis, Tenn. W/P	218	53 Memphis	061/241 to COP	18000	45000
Elmon, Tenn. W/P			066/246 to Elmon		
J842R is amended by adding:					
Texarkana, Ark. W/P	220	110 Texarkana	059/239 to COP	18000	45000
Surry, Miss. W/P			064/244 to Surry		
Surry, Miss. W/P	218	53 Surry	062/242 to COP	18000	45000
Elmon, Tenn. W/P			066/246 to Elmon		
J843R is amended to read in part:					
Sader, Ky. W/P	184	79 Sader	244/064 to COP	18000	45000
Birle, Ark. W/P			241/061 to Birle		
Birle, Ark. W/P	206	103 Birle	241/061 to COP	18000	45000
Horeb, Ark. W/P			237/057 to Horeb		
J874R is amended to delete:					
Memphis, Tenn. W/P	244	50 Memphis	094/274 to COP	18000	45000
Rome, Ga. W/P			100/280 to Rome		
J874R is amended by adding:					
Surry, Miss. W/P	244	50 Surry	095/275 to COP	18000	45000
Rome, Ga. W/P			100/280 to Rome		
J875R is amended to read:					
Brame, Ga. W/P	84.3			18000	45000
Vulcan, Ala. W/P			267/087 to Vulcan		
Vulcan, Ala. W/P	145.1	45 Vulcan	295/115 to COP	18000	45000
Banks, Miss. W/P			291/111 to Banks		
J885R is amended to delete:					
Festus, Mo. W/P	196	68 Festus	171/351 to COP	18000	45000
Memphis, Tenn. W/P			169/349 to Memphis		
J885R is amended by adding:					
Festus, Mo. W/P	196	68 Festus	171/351 to COP	18000	45000
Surry, Miss. W/P			170/350 to Surry		
J891R is amended to delete:					
Annom, ILL. W/P	155.9	77.9 Annom	188/008 to COP	18000	45000
Memphis, Tenn. W/P		36-12-29N 89-34-51W	188/008 to Memphis		
J891R is amended by adding:					
Anoom, ILL. W/P	136	78 Annom	188/008 to COP	18000	45000
Surry, Miss. W/P			189/009 to Surry		
J932R is amended to delete:					
Jackson, Miss. W/P	146.2	99.2 Jackson	000/180 to COP	18000	45000
Memphis, Tenn. W/P		34-09-37N 90-01-40W	359/179 to Memphis		

§95.6000 HIGH ALTITUDE AIRWAY ROUTES

FROM/TO	TOTAL DISTANCE	CHANGEOVER POINT FROM DISTANCE GEOGRAPHIC LOCATION	TRACK ANGLE	MEA	MAA
J833R is amended to read in part:					
Bangor, Me. VORTAC	126		225/045 to COP	18000	45000
Neons, Me. W/P			222/042 to Neons		
Neons, Me. W/P	112		210/030 to COP	18000	45000
Loams, Mass. W/P			206/026 to Loams		
Loams, Mass. W/P	61			18000	45000
Patty, N.Y. W/P			267/087 to Patty		

FROM/TO	TOTAL DISTANCE	CHANGEOVER POINT DISTANCE FROM GEOGRAPHIC LOCATION		TRACK ANGLE	MEA	MAA
J932R is amended by adding:						
Jackson, Miss. W/P	146	99	Jackson	000/180 to COP	18000	45000
Surry, Miss. W/P				000/180 to Surry		
J934R is amended to read in part:						
Money, Miss. W/P	82.1				18000	46000
Bigbee, Miss. W/P				086/266 to Bigbee		
Bigbee, Miss. W/P	81.7	25.0	Bigbee	076/256 to COP	18000	45000
Vulcan, Ala. W/P				080/260 to Vulcan		
Vulcan, Ala. W/P	93.7	46.8	Vulcan	069/249 to COP	18000	45000
Rome, Ga. W/P				068/248 to Rome		
J956R is amended to delete:						
Memphis, Tenn. W/P	227	175	Memphis	356/176 to COP	18000	45000
Morris, Ill. W/P				357/177 to Morris		
J956R is amended by adding:						
Surry, Miss. W/P	227	175	Surry	357/177 to COP	18000	45000
Morris, Ill. W/P				357/177 to Morris		

§95.6002 VOR FEDERAL AIRWAY 2
is amended to delete:

FROM	TO	MEA
Gardner, Mass. VOR •2000-MCA Leominster INT, W-bound ••3100-MOCA	*Lowell INT, Mass.	**3700
Lowell INT, Mass	Boston, Mass. VOR	2000

§95.6003 VOR FEDERAL AIRWAY 3
is amended to read in part:

FROM	TO	MEA
Vero Beach, Fla. VOR Smyrna INT. Fla	Smyrna INT, Fla. Ormond Beach, Fla. VOR	2000 1600

§95.6004 VOR FEDERAL AIRWAY 6
is amended to read in part:

FROM	TO	MEA
Lamar INT, Ind. 4000-MRA ••1900-MOCA	*Spencer INT, Ind.	**3000
Holland INT, Ind Via N alter. •4000-MRA ••2000-MOCA	*Cades INT, Ind. Via N alter.	**3600
Cadey INT. Ind Via N alter. •2000-MOCA	Sacks INT, Ind. Via N alter.	*3500

§95.6007 VOR FEDERAL AIRWAY 7
is amended to read in part:

FROM	TO	MEA
Melon INT, Fla	Waregrass, Ala. VOR Via W alter.	2000
Peasy INT, Ala	Waregrass, Ala. VOR	2500
Waregrass, Ala. VOR	Shipe INT, Ala.	2000
Jones INT. Ala •3000-MRA	Vulcan, Ala. VOR	3000
Andys INT. Ala Via E alter.	Vulcan, Ala. VOR Via E alter.	3600
Vulcan, Ala. VOR •2200-MOCA	Muscle Shoals, Ala. VOR	*2800
Vulcan, Ala. VOR Via E alter •3000-MRA ••2300-MOCA	*Boone INT, Ala. Via E alter,	**3000
Vulcan, Ala. VOR Via W alter •2100-MOCA	Cheek INT, Ala Via W alter.	*2600

§95.6008 VOR FEDERAL AIRWAY 8
is amended to read in part:

FROM	TO	MEA
Grand Junction Colo VOR Via S alter.	Trac INT, Colo Via S alter.	9000
Trac INT Colo Via S alter •12700 MCA Paces INT, E-bound	*Paces INT, Colo. Via S alter.	11000
Paces INT Colo Via S alter •12200-MOCA	Coon INT, Colo Via S alter.	*13000
Coon INT, Colo. Via S alter	Glenn INT, Colo Via S alter	13000

§95.6009 VOR FEDERAL AIRWAY 9
is amended to read in part:

FROM	TO	MEA
Sally INT. La.	New Orleans, La. VOR	2000
New Orleans, La VOR •1400-MOCA	Macon INT, La.	*1900

§95.6011 VOR FEDERAL AIRWAY 11
is amended to read in part:

FROM	TO	MEA
Brooksy, Ala. VOR Via W alter.	Semmes, Ala. VOR Via W alter.	2000
Semmes, Ala. VOR Via W alter	Greene County, Miss. VOR Via W alter.	2000

§95.6012 VOR FEDERAL AIRWAY 12
is amended to read in part:

FROM	TO	MEA
Mose INT, Tex Via S alter •9500 MRA 5700-MOCA	*Westside INT, Tex. Via S alter.	**6000

§95.6013 VOR FEDERAL AIRWAY 13
is amended to read in part:

FROM	TO	MEA
Humble, Tex VOR •1400-MOCA	Cleveland INT, Tex.	*1900
Cleveland, INT Tex	Lufkin, Tex. VOR	2000

§95.6014 VOR FEDERAL AIRWAY 14
is amended by adding

FROM	TO	MEA
Gardner, Mass VOR	Norwich, Conn. VOR	3000

95.6016 VOR FEDERAL AIRWAY 16
is amended to delete:

FROM	TO	MEA
Gardner, Mass. VOR 3100-MOCA	Berea INT, Mass.	*3700
Berea INT, Mass 1800-MOCA	Brush INT, Mass.	*2300
Brush INT, Mass	Boston, Mass. VOR	2300

95.6015 VOR FEDERAL AIRWAY 15
is amended to read in part:

FROM	TO	MEA
Hobby, Tex VOR Via N alter.	Sealy INT, Tex. Via N alter.	2000

95.6016 VOR FEDERAL AIRWAY 16
is amended to read in part:

FROM	TO	MEA
Pine Bluff, Ark VOR 1850 -MOCA	Holly Springs, Miss. VOR	*5000
Texarkana Ark VOR Hope INT, Ark 2300 -MOCA	Hope INT, Ark Spara INT, Ark	2000 *4000
Spara INT, Ark 1600-MOCA	Bunns INT, Ark	*8000

95.6018 VOR FEDERAL AIRWAY 18
is amended to read in part:

FROM	TO	MEA
Shreveport, La VOR Via S alter 3000 MRA	*Peter INT, La Via S alter	2000
Peter INT, La Tuscaloosa, Ala VOR Vulcan, Ala VOR Via N alter	Monroe, La VOR Vulcan, Ala VOR Trust INT, Ala Nokes INT, Ala Via N alter	2000 2400 3500 3600

95.6020 VOR FEDERAL AIRWAY 20
is amended to read in part:

FROM	TO	MEA
Gulfport, Miss VOR	Semmes, Ala. VOR	2000
Picayune, Miss. VOR Via N alter.	Semmes, Ala. VOR Via N alter.	2000
Semmes, Ala. VOR Semmes, Ala VOR Via S alter	Monroeville, Ala. VOR Monroeville Ala. VOR Via S alter	2000 2000
Beaumont, Tex VOR Beaumont, Tex VOR Via N alter	Lake Charles, La. VOR Olers INT. Tex Via N alter.	1700 1700
Olers INT, Tex Via N alter	Lake Charles, La. VOR Via N alter.	1700
Lake Charles, La VOR Lake Charles, La VOR Via N alter	Lafayette La. VOR Metha INT, La Via N alter.	1800 1700
Metha INT, La Via N alter.	Lafayette, La. VOR Via N alter.	2100
Lafayette La VOR Lafayette La VOR Via S alter.	New Orleans, La. VOR Tibby, La VOR Via S alter.	1700 1700
Tibby, La VOR Via S alter.	New Orleans, La. VOR Via S alter.	1700
New Orleans, La VOR	Slidell INT, La	1700

95 6042 VOR FEDERAL AIRWAY 42
is amended to read in part

FROM	TO	MEA
Holland INT. Ind 4000 MRA 2000 MOCA	Cadey INT. Ind	**3500
Cadey INT. Ind 2000 MOCA	Sacks INT. Ind	*3500

95.6049 VOR FEDERAL AIRWAY 49
is amended to read in part

FROM	TO	MEA
Vulcan, Ala. VOR 1300 MRA 2100 MOCA	*Bount INT, Ala	**3000
Vulcan, Ala. VOR Via E alter. Vulcan, Ala. VOR Via W alter. 2700 MOCA	Decatur, Ala. VOR Via E alter. Johns INT. Ala Via W alter.	3000 *2800

95.6051 VOR FEDERAL AIRWAY 51
is amended to read in part

FROM	TO	MEA
Vero Beach, Fla. VOR Smyrna INT. Fla	Smyrna INT. Fla Ormond Beach, Fla VOR	2000 1600

95.6053 VOR FEDERAL AIRWAY 53
is amended to delete

FROM	TO	MEA
Key West, Fla VOR •1300 MOCA	Tiger INT. Fla	*2000
Tiger INT. Fla •1200 MOCA	Fomm INT. Fla	*2500
Fomm INT. Fla	Biscayne Bay, Fla VOR	2000

§95.6064 VOR FEDERAL AIRWAY 64
is amended to read in part

FROM	TO	MEA
Tonna INT. Ala.	Rocket, Ala. VOR	2600
Muscle Shoals, Ala. VOR Via N alter.	Rocket, Ala. VOR Via N alter.	2600
Rocket, Ala. VOR Rocket, Ala. VOR Via N alter.	Chattanooga, Tenn. VOR Chattanooga, Tenn. VOR Via N alter.	4000 6000

95.6066 VOR FEDERAL AIRWAY 66
is amended to read in part.

FROM	TO	MEA
Macon, Ga VOR 500-MRA	*Misty INT, Ga.	2300
Misty INT. Ga 3300 MRA	*Harle INT, Ga	2300
Harle INT. Ga	Augusta, Ga VOR	2300

§95.6068 VOR FEDERAL AIRWAY 68
is amended to read in part.

FROM	TO	MEA
Dupel INT. N.M. Via N alter.	Roswell, N.M. VOR Via N alter. SE-bound NW-bound	*6000 *9000
5300 MOCA Corona N.M. VOR Hondo INT. N.M.	Hondo INT, N.M. Roswell, N.M. VOR SE-bound NW-bound	9000 *6000 *9000
5300-MOCA		

95.6070 VOR FEDERAL AIRWAY 70
is amended to read in part:

FROM	TO	MEA
Dulce INT, La	Scholes, Tex. VOR	1700
Scholes, Tex VOR	Sabine Pass, Tex. VOR	1700
Sabine Pass, Tex VOR	Lake Charles, La. VOR	1700
Lake Charles, La VOR	Lafayette, La. VOR	1800
Lafayette, La VOR	Baton Rouge, La. VOR	1800
Lafayette, La. VOR Via N alter.	Bar INT, La. Via N alter.	1700
Bar INT, La Via N alter.	Baton Rouge, La. VOR Via N alter.	1800
Baton Rouge, La VOR	Tichs INT, La.	2000

95.6071 VOR FEDERAL AIRWAY 71
is amended to read in part:

FROM	TO	MEA
El Dorado, Ark. VOR 1600-MOCA	Spara INT, Ark.	*2500

95.6076 VOR FEDERAL AIRWAY 76
is amended to read in part:

FROM	TO	MEA
Industry, Tex VOR	Hobby, Tex. VOR	2000

§95.6080 VOR FEDERAL AIRWAY 80
is amended by adding:

FROM	TO	MEA
Keene INT, Colo.	Wiggi INT, Colo.	7500

§95.6080 VOR FEDERAL AIRWAY 80
is amended to delete:

FROM	TO	MEA
Denver, Colo. VOR	Wiggi INT, Colo.	7500

95.6083 VOR FEDERAL AIRWAY 83
is amended to read in part:

FROM	TO	MEA
Nelson INT, N.M	Roswell, N.M. VOR NW-bound SE-bound	5000 5300
Roswell, N.M. VOR	Hondo INT, N.M. NW-bound SE-bound	*9000 *6000
•5300-MOCA Roswell, N.M. VOR Via E alter	Dupel INT, N.M. Via E alter. NW-bound SE-bound	*9000 *6000
•5300-MOCA		

§95.6085 VOR FEDERAL AIRWAY 85
is amended to read in part:

FROM	TO	MEA
•Drake INT, Colo.	Benson INT, Colo.	13400
•13400-MCA Drake INT, NW-bound		

95.6085 VOR FEDERAL AIRWAY 85
is amended to delete:

FROM	TO	MEA
Denver, Colo. VOR	Meboy INT, Colo.	7600
Meboy INT, Colo	•Drake INT, Colo.	10500
•13400 MCA Drake INT, NW-bound		

95.6094 VOR FEDERAL AIRWAY 94
is amended to read in part:

FROM	TO	MEA
Greenville, Miss. VOR Via N alter. •1800-MOCA	Water INT, Miss. Via N alter.	*5000
Bethany INT, Tex	Elm Grove, La. VOR	2000
Elm Grove, La. VOR •3000-MRA	*Peter INT, La.	2000
Water INT, La.	Monroe, La. VOR	2000

§95.6095 VOR FEDERAL AIRWAY 95
is amended to read in part:

FROM	TO	MEA
Desert INT, N.M.	Farmington, N.M. VOR E-bound W-bound	8000 13000

§95.6114 VOR FEDERAL AIRWAY 114
is amended to read in part:

FROM	TO	MEA
Cloudo INT, Tex. •7300-MRA ••4400-MOCA	*Goodnight INT, Tex.	**5000
Alexandria, La. VOR •3000-MRA	*Bunkie INT, La.	1800
Bunkie INT, La. •2000-MRA	*Dones INT, La.	1800
Dones INT, La. Baton Rouge, La. VOR	Baton Rouge, La. VOR Voils INT, La.	1800 2100

§95.6115 VOR FEDERAL AIRWAY 115
is amended to read in part:

FROM	TO	MEA
Shipe INT, Ala	Vulcan, Ala. VOR	3000
Vulcan, Ala. VOR	Wiled INT, Ala.	3500
Vulcan, Ala. VOR Via E alter.	Trust INT, Ala. Via E alter.	3500

95.6130 VOR FEDERAL AIRWAY 130
is amended to read in part:

FROM	TO	MEA
Marthas Vineyard, Mass. VOR	Palmer INT, Mass	2000
Palmer INT, Mass	Wacky, INT, Mass.	2100
Wacky INT. Mass	Norwich, Conn. VOR	2300

95.6139 VOR FEDERAL AIRWAY 139
is amended to read in part:

FROM	TO	MEA
Whitman, Mass VOR 2500 MCA Tonn. INT, N-bound	*Tonn INT, Mass.	7000
Tonn INT Mass	Kennebuch, Me. VOR	2500

95.6141 VOR FEDERAL AIRWAY 141
is amended to read in part:

FROM	TO	MEA
Lebanon, N.H. VOR 4000 MOCA	Rucky INT, Vt.	*6000
Rucky INT, Vt. 5700 MOCA	Greek INT, Vt.	*6000

95.6141 VOR FEDERAL AIRWAY 141
is amended to delete:

FROM	TO	MEA
Boston, Mass. VOR	Revar INT, Mass.	7000
Revar INT. Mass 1560 MOCA	Wasen INT. Mass.	*2000
Wasen INT, Mass. 1700 MOCA	Witch INT, Mass.	*2000
Witch INT, Mass. 1900-MOCA	Manchester, N.H. VOR	*2500

95.6152 VOR FEDERAL AIRWAY 152
is amended to read in part:

FROM	TO	MEA
Orlando, Fla. VOR Via S alter.	Smyrna INT, Fla. Via S alter.	2000
Smyrna INT, Fla Via S alter	Ormond Beach, Fla. VOR Via S alter.	1600

§95.6159 VOR FEDERAL AIRWAY 159
is amended to read in part:

FROM	TO	MEA
Miami, Fla. VOR	Palm Beach, Fla. VOR	2000
Andy INT, Ala.	Vulcan, Ala. VOR	3800
Vulcan, Ala. VOR •2100-MOCA	Hamilton, Ala. VOR	*2600

§95.6159 VOR FEDERAL AIRWAY 159
is amended to delete:

FROM	TO	MEA
Vero Beach, Fla. VOR Via E alter.	Orlando, Fla. VOR Via E alter.	2000

§95.6161 VOR FEDERAL AIRWAY 161
is amended to read in part:

FROM	TO	MEA
Llano, Tex. VOR •5000-MRA ••2800-MOCA	*Pridy INT, Tex.	**4500

§95.6165 VOR FEDERAL AIRWAY 165
is amended to read in part:

FROM	TO	MEA
Reno, Nev. VOR •8200-MOCA	Pyron INT, Nev.	*11000
Pyron INT, Nev. 13000-MRA 10700-MOCA	*Bonds INT, Nev. NW-bound SE-bound	**14000 **12000
Bonds INT. Nev 11900 MOCA	Chair INT, Calif.	*14000
Chair INT, Calif. 10300-MOCA	Lakeview, Ore. VOR SE-bound NW-bound	*14000 *11000

§95.6168 VOR FEDERAL AIRWAY 168
is amended to read:

FROM	TO	MEA
Vulcan, Ala VOR	La Grange, Ga. VOR	4000

95.6170 VOR FEDERAL AIRWAY 170
is amended by adding:

FROM	TO	MEA
Devils Lake, N.D. VOR	Jamestown, N.D. VOR	3200
Jamestown, N.D. VOR •1000-MOCA	Aberdeen, S.D. VOR	*4700

§95.6172 VOR FEDERAL AIRWAY 172
is amended to read in part.

FROM	TO	MEA
Malbach, Neb. VOR 3100 -MOCA	Columbus, Neb. VOR	*3800

95.6187 VOR FEDERAL AIRWAY 187
is amended to read in part:

FROM	TO	MEA
Dove Creek, Colo. VOR Via W alter. •11200-MOCA	Paron INT, Colo. Via W alter.	*12000
Paron INT, Colo Via W alter.	*Grand Junction, Colo. VOR Via W alter.	12000
10200-MCA Grand Junction VOR, S-bound		

§95.6196 VOR FEDERAL AIRWAY 196
is amended to read in part:

FROM	TO	MEA
Lafayette, La. VOR •3000-MRA	*Rose INT, La.	1800
Rose INT, La Baton Rouge, La. VOR	Baton Rouge, La. VOR Clinton INT, La.	1800 1800

95.6198 VOR FEDERAL AIRWAY 198
is amended to read in part:

FROM	TO	MEA
Sabine Pass, Tex. VOR	White Lake, La. VOR	2000
White Lake, La. VOR	Tibby, La. VOR	2000
Tibby, La. VOR	Harvey, La. VOR	2000
Weimar INT, Tex.	Eagle Lake, Tex. VOR	2100
Marco INT, Tex.	Int, 104 M rad Stonewall VOR &080 M rad San Antonio VOR	
Via N alter.	Via N alter.	*4500
•7000-MOCA INT 104 M rad Stonewall VOR &080 M rad San Antonio VOR Via N alter. •1800-MOCA	Weimar INT, Tex. Via N alter.	*2500

95.6208 VOR FEDERAL AIRWAY 208
is amended by adding:

FROM	TO	MEA
Page, Ariz. VOR •11500 MCA Hanksville VOR, S-bound	•Hanksville, Utah VOR	14000
Hanksville Utah VOR 10000 MRA	•Green INT, Utha	9000
Green INT. Utah 9300 MOCA	Carbon, Utah VOR	*10000
Carbon, Utah VOR	Myton, Utah VOR	11300

95.6209 VOR FEDERAL AIRWAY 209
is amended to read in part:

FROM	TO	MEA
Semmes, Ala. VOR 1260 MOCA	Burin INT, Ala.	*2000
Brookwood, Ala. VOR	Vulcan, Ala. VOR	2500

95.6210 VOR FEDERAL AIRWAY 210
is amended to read in part:

FROM	TO	MEA
Fruitland INT, N.M	Farmington, N.M. VOR E-bound W-bound	8300 12000

95.6212 VOR FEDERAL AIRWAY 212
is amended to read in part:

FROM	TO	MEA
Dacus INT, Tex	Lufkin, Tex. VOR	2000
Cocoa INT, La	Alexandria, La. VOR	2000

§95.6222 VOR FEDERAL AIRWAY 222
is amended to read in part:

FROM	TO	MAA
Industry, Tex. VOR	Sealy INT, Tex.	2000
Humble, Tex. VOR	Beaumont, Tex. VOR	1800
Beaumont, Tex. VOR	Lake Charles, La. VOR	1700
Lake Charles, La. VOR	Macon INT, La.	1700
Macon INT, La.	*Goodville INT, La.	**5000
*3000-MRA		
1500-MOCA		
McComb, Miss. VOR	Eaton, Miss. VOR	2000
Eaton, Miss. VOR	Montgomery, Ala. VOR	2000

§95.6229 VOR FEDERAL AIRWAY 229
is amended by adding:

FROM	TO	MEA
Gardner, Mass. VOR	Keene, N.H. VOR	3600
Keene, N.H. VOR	Jamaica INT, Vt.	6000
Jamaica INT, Vt.	Ebert INT, Vt.	5200
Ebert INT, Vt.	Mudd INT, Vt.	5900
Mudd INT, Vt.	Burlington, Vt. VOR	5800

§95.6239 VOR FEDERAL AIRWAY 239
is amended to read in part:

FROM	TO	MEA
Rome, Mo. VOR	Jefferson City INT, Mo.	2900

§95.6240 VOR FEDERAL AIRWAY 240
is amended to read in part:

FROM	TO	MEA
New Orleans, La. VOR	Pearl INT, La.	1700
Pearl INT, Miss.	Semmes, Ala. VOR	2000

§95.6241 VOR FEDERAL AIRWAY 241
is amended to read in part:

FROM	TO	MEA
Semmes, Ala. VOR	Crestview, Fla. VOR	*3000
2400-MOCA		
Crestview, Fla. VOR	Wiregrass, Ala. VOR	2000
Wiregrass, Ala. VOR	Eufaula, Ala. VOR	2000
Wiregrass, Ala. VOR	Efland INT, Ala.	3400
via W other	Via W other	

§95.6243 VOR FEDERAL AIRWAY 243
is amended to read in part:

FROM	TO	MEA
Clover port INT, Ky.	Apalona INT, Ind.	**4000
2000 MRA		
1800-MOCA		
Apalona INT, Ind.	*Cadey INT, Ind.	**6000
4000-MRA		
2000-MOCA		
Cadey INT, Ind.	*Jiger INT, Ind.	**4000
3500-MRA		
2000-MOCA		

§95.6245 VOR FEDERAL AIRWAY 245
is amended to read in part:

FROM	TO	MEA
Alexandria, La. VOR	Larto INT, La.	1900
Jackson, Miss. VOR	*Heron INT, Miss.	2000
2700 MRA		
Heron INT, Miss.	Bigbee, Miss. VOR	2400

§95.6267 VOR FEDERAL AIRWAY 267
is amended to delete:

FROM	TO	MEA
Miami, Fla. VOR	Hoover INT, Fla.	*2000
1300-MOCA		
Hoover INT, Fla.	Pahokee, Fla. VOR	*2000
1300-MOCA		

§95.6276 VOR FEDERAL AIRWAY 276
is amended to read in part.

FROM	TO	MEA
Greenwood, Miss. VOR	Bigbee, Miss. VOR	2000
Bigbee, Miss. VOR	Minim INT, Ala.	2000
Bigbee, Miss. VOR	Minim INT, Ala.	
Via S alter.	Via S alter.	*2000
1700 MOCA		
Minim INT, Ala.	Vulcan, Ala. VOR	2400
Tuscaloosa, Ala. VOR	Vulcan, Ala. VOR	2400
Via S alter.	Via S alter.	

§95.6280 VOR FEDERAL AIRWAY 280
is amended to read in part

FROM	TO	MEA
Meser INT, Tex.	*Westside INT, Tex.	**6000
*9500 MRA		
**5200 MOCA		
Texoco, Tex. VOR	*Westside INT, Tex.	**7000
Via S alter.	Via S alter.	
9500-MRA		
**5500 MOCA		

§95.6306 VOR FEDERAL AIRWAY 306
is amended to read in part:

FROM	TO	MEA
Montgomery INT, Tex.	Cleveland INT, Tex.	*5000
1800-MOCA		
Cleveland INT, Tex.	Dacosta, Tex. VOR	*1900
1400-MOCA		
Otors INT, La.	Lake Charles, La. VOR	1700
Beaumont, Tex. VOR	Lake Charles, La. VOR	1700
Via S alter.	Via S alter.	

§95.6306 VOR FEDERAL AIRWAY 306
is amended by adding:

FROM	TO	MEA
Austin, Tex. VOR	*Butler INT, Tex.	**2400
Via S alter.	Via S alter.	
3060-MRA		
*2000 MOCA		
Butler INT, Tex.	Podds INT, Tex.	*2500
Via S alter.	Via S alter.	
1800-MOCA		

§95.6321 VOR FEDERAL AIRWAY 321
is amended to read in part.

FROM	TO	MEA
Owens INT, Ala.	Rocket, Ala. VOR	3500
Rocket, Ala. VOR	Shelbyville, Tenn. VOR	*3000
*2500-MOCA		
Shelbyville, Tenn. VOR	Livingston, Tenn. VOR	3400

§95.6323 VOR FEDERAL AIRWAY 323
is amended to read in part:

FROM	TO	MEA
Macon, Ga. VOR	Luner INT, Ga.	*3000
2300-MOCA		
Luner INT, Ga.	Husky INT, Ga.	*3000
2000 MOCA		

§95.6330 VOR FEDERAL AIRWAY 330
is amended to read in part

FROM	TO	MEA
Arbon INT, Ida.	Rinie INT, Ida.	8000
Rinie INT, Ida.	*Jackson, Wyo. VOR	**14000
13700-MCA Jackson VOR, W-bound		
13300 MOCA		

§95.6366 VOR FEDERAL AIRWAY 366
is added as read

FROM	TO	MEA
Dupree, S.D. VOR	Aberdeen, S.D. VOR	*6500
*4100-MOCA		
Aberdeen, S.D. VOR	Fargo, N.D. VOR	*5900
2600 MOCA		

§95.6462 VOR FEDERAL AIRWAY 462
is amended by adding:

FROM	TO	MEA
Cambridge, N.Y. VOR	Kerst INT, Vt.	5900
Kerst INT, Vt.	Mudd INT, Vt.	6000
Mudd INT, Vt.	Rocky INT, Vt.	5200
Rocky INT, Vt.	Montpelier, Vt. VOR	4500

§95.6481 VOR FEDERAL AIRWAY 481
is amended to read:

FROM	TO	MEA
Concord INT, Mass.	Whitman, Mass. VOR	1900
Whitman, Mass. VOR	*Tonna INT, Mass.	2000
2500-MCA Tonna INT N-bound		
Tonna INT, Mass.	Sandy INT, N.H.	2500
Sandy INT, N.H.	Brunswick, Me. VOR	3000

§95.6482 VOR FEDERAL AIRWAY 482
is amended to read in part:

FROM	TO	MEA
Klamath Falls, Ore. VOR	Tulip DME Fix, Calif.	*14000
	SE-bound	*9000
	NW-bound	
8500 MOCA		
Tulip DME Fix, Calif.	Bocks INT, Calif.	
	SE-bound	*14000
	NW-bound	*9000
8400-MOCA		
Bocks INT, Calif.	Hollo INT, Nev.	*14000
*10100-MOCA		

§95.6455 VOR FEDERAL AIRWAY 455
is amended to read

FROM	TO	MEA
New Orleans, La. VOR	Picayune, Miss. VOR	2000
Picayune, Miss. VOR	Eaton, Miss. VOR	2000
New Orleans, La. VOR	Stidell INT, La.	
Via E alter.	Via E alter.	*1500
1400-MOCA		
Stidell INT, La.	Gulfport, Miss. VOR	
Via E alter.	Via E alter.	1800
Gulfport, Miss. VOR	Mouse INT, Miss.	
Via E alter.	Via E alter.	1800
Mouse INT, Miss.	Eaton, Miss. VOR	
Via E alter.	Via E alter.	2000
New Orleans, La. VOR	Macon INT, La.	
Via W alter.	Via W alter.	*1500
1400-MOCA		
Macon INT, La.	Eaton, Miss. VOR	
Via W alter.	Via W alter.	*6000
1800-MOCA		
Eaton, Miss. VOR	Meridian, Miss. VOR	2300
Eaton, Miss. VOR	Bay Springs INT, Miss.	
Via W alter.	Via W alter.	*3000
1800-MOCA		
Bay Springs INT, Miss.	*Paulding INT, Miss.	
Via W alter.	Via W alter.	3000
3000 MRA		
2000-MCA Paulding INT, SW-bound		
Paulding INT, Miss.	Meridian, Miss. VOR	
Via W alter.	Via W alter.	2000

§95.6455 VOR FEDERAL AIRWAY 455
is amended to read in part.

FROM	TO	MEA
New Orleans, La. VOR	Macon INT, La.	
Via W alter.	Via W alter.	*1900
1400-MOCA		

§95.6455 VOR FEDERAL AIRWAY 455
is amended to read in part

FROM	TO	MEA
New Orleans, La. VOR	Stidell INT, La.	
Via E alter.	Via E alter.	1700

§95.6465 VOR FEDERAL AIRWAY 465
is amended to read in part:

FROM	TO	MEA
Malad City, Ida. VOR	Lundi INT, Ida.	
	SW-bound	11100
	NE-bound	14000
10300-MCA Malad City VOR, NE-bound		

§95.6475 VOR FEDERAL AIRWAY 475
is amended by adding:

FROM	TO	MEA
Madison, Conn. VOR	Wooby, INT, R.I.	
Via E alter.	Via E alter.	2400
Wooby INT, R.I.	Providence R.I. VOR	
Via E alter.	Via E alter.	2300

§95.6496 VOR FEDERAL AIRWAY 496
is amended to read in part:

FROM	TO	MEA
Glens Falls, N.Y. VOR	Kerst INT, Vt.	4500
Kerst INT, Vt.	Lebanon, N.H. VOR	5900

§95.7014 JET ROUTE NO. 14 is amended to read in part:

FROM	TO	MEA	MAA
Little Rock, Ark. VORTAC	Vulcan, Ala. VORTAC	18000	45000
Vulcan, Ala. VORTAC	Atlanta, Ga. VORTAC	18000	45000

§95.7022 JET ROUTE NO. 22 is amended to read in part:

FROM	TO	MEA	MAA
Meridian, Miss. VORTAC	Vulcan, Ala. VORTAC	18000	45000
Vulcan, Ala. VORTAC	Knoxville, Tenn. VORTAC	18000	45000

§95.7031 JET ROUTE NO. 31 is amended to read:

FROM	TO	MEA	MAA
New Orleans, La. VORTAC	Meridian, Miss. VORTAC	18000	45000
Meridian, Miss. VORTAC	Vulcan, Ala. VORTAC	18000	45000

§95.7039 JET ROUTE NO. 39 is amended to read in part:

FROM	TO	MEA	MAA
Montgomery, Ala. VORTAC	Vulcan, Ala. VORTAC	18000	45000
Vulcan, Ala. VORTAC	Nashville, Tenn. VORTAC	18000	45000

§95.7041 JET ROUTE NO. 41 is amended to read in part:

FROM	TO	MEA	MAA
Montgomery, Ala. VORTAC	Vulcan, Ala. VORTAC	18000	45000
Vulcan, Ala. VORTAC	Memphis, Tenn. VORTAC	18000	45000

§95.7052 JET ROUTE NO. 52 is amended to read in part:

FROM	TO	MEA	MAA
Greenwood, Miss. VORTAC	Bigbee, Miss. VORTAC	18000	45000
Bigbee, Miss. VORTAC	Vulcan, Ala. VORTAC	18000	45000
Vulcan, Ala. VORTAC	Atlanta, Ga. VORTAC	18000	45000

§95.7069 JET ROUTE NO. 69 is amended to read:

FROM	TO	MEA	MAA
Semmes, Ala. VORTAC	Int 010 M rad Semmes VORTAC & 230 M rad Vulcan VORTAC	22000	45000
Int 010 M rad Semmes VORTAC & 230 M rad Vulcan VORTAC	Vulcan, Ala. VORTAC	18000	45000

§95.7079 JET ROUTE NO. 79 is amended by adding:

FROM	TO	MEA	MAA
Kennedy, N.Y. VORTAC	Hyannis, Mass. VORTAC	18000	45000
Hyannis, Mass. VORTAC	Bangor, Me. VORTAC	18000	45000

§95.7114 JET ROUTE NO. 114 is amended to read in part:

FROM	TO	MEA	MAA
Denver, Colo. VORTAC	Int. 046 M rad Denver VORTAC & 250 M rad North Platte VORTAC	18000	45000
Int. 046 M rad Denver VORTAC &250 M rad North Platte VORTAC	O'Neill, Neb. VORTAC	#23000	45000

#MEA is established with a gap in navigation signal coverage.

§95.7151 JET ROUTE NO. 151 is amended to read in part:

FROM	TO	MEA	MAA
Vulcan, Ala. VORTAC	Farmington, Mo. VORTAC	21000	45000

§95.7173 JET ROUTE NO. 173 is added to read:

FROM	TO	MEA	MAA
Salt Lake City, Utah VORTAC	Meeker, Colo. VORTAC	18000	45000

2. By amending Sub-Part D as follows:

§95.8003 VOR FEDERAL AIRWAYS CHANGEOVER POINTS

AIRWAY SEGMENT FROM	TO	CHANGEOVER POINTS DISTANCE FROM	
V-51 is amended by adding:			
Nobb, Ind. VOR	Shelbyville, Ind. VOR	30	Nobb
V-16 is amended to read in part:			
Texarkana, Ark. VOR	Pine Bluff, Ark. VOR	90	Texarkana
V-16 is amended by adding:			
Pine Bluff, Ark. VOR	Holly Springs, Ark. VOR	35	Pine Bluff
V-47 is amended by adding:			
Pine Bluff, Ark. VOR	Gilmore, Ark. VOR	40	Pine Bluff
V-208 is amended by adding:			
Page, Ariz. VOR	Hanksville, Utah VOR	61	Page
Carbon, Utah VOR	Myton, Utah VOR	17	Carbon

§95.8003 JET ROUTES CHANGEOVER POINTS

AIRWAY SEGMENT FROM	TO	CHANGEOVER POINTS DISTANCE FROM	
J-173 is amended by adding:			
Salt Lake City, Utah VORTAC	Meeker, Colo. VORTAC	47	Salt Lake City

[FR Doc. 78-5323 Filed 3-1-78; 8:45 am]

[6355-01]

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT

that coatings applied to metal furniture at the factory do not present the hazard of lead poisoning in children resulting from the ingestion of available lead-paint chips that Part 1303

1303. The commenters included 11 concerned citizens, 7 manufacturers, 1 county agency, and 3 trade associations. The comments from the concerned

A trade association representing toy manufacturers and another association representing the manufacturers of juvenile furniture requested that children's metal furniture be included

Environmental Quality in the FEDERAL REGISTER on June 10, 1977 (42 FR 29948). The potential environmental effects of the exclusion of metal furniture were also included in the draft statement on lead content in

ban because it does not affect the basic purpose and provisions of the ban. Therefore, the provisions of section 7 and 9 (a)-(d) do not apply. The

[6355-01]

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

SUBCHAPTER B—CONSUMER PRODUCT SAFETY ACT REGULATIONS

PART 1303—LEAD-CONTAINING PAINT AND CERTAIN CONSUMER PRODUCTS BEARING LEAD-CONTAINING PAINT

Amendment to Ban

AGENCY: Consumer Product Safety Commission.

ACTION: Final amendment to rule.

SUMMARY: The Commission amends its banning regulation on furniture bearing lead-containing paint to exempt metal furniture articles (but not metal children's furniture) bearing factory-applied coatings from the furniture banned by the regulation. The Commission is issuing this amendment because of data indicating that factory-applied coatings from metal furniture do not chip or chalk and are, therefore, inaccessible for ingestion by children. The National Paint and Coatings Association petitioned the Commission to take this action.

DATE: The amendment is effective March 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles Jacobson, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6400.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On January 12, 1978, the Commission published in the FEDERAL REGISTER (43 FR 1804) a proposed amendment to its final ban on lead-containing paint (defined as paint containing more than 0.06 percent lead by weight) and toys and furniture bearing such paint (42 FR 44192 (16 CFR Part 1303)). The proposed amendment would exempt metal furniture articles (but not metal children's furniture) bearing factory-applied coatings from the regulation banning furniture under Part 1303.

The amendment was proposed in response to a petition dated October 7, 1977 (CP 78-1), from the National Paint and Coatings Association (NPCA) seeking the exclusion of metal furniture (but not metal children's furniture) bearing factory-applied lead coatings from the provisions of Part 1303. In its petition NPCA contended that coatings applied to metal furniture at the factory do not present the hazard of lead poisoning in children resulting from the ingestion of available lead-paint chips that Part 1303 was designed to address. The petitioner stated that metal furniture coatings are inaccessible to children because of their resistance to chipping and peeling due to the hardness of the coatings and their strong adhesion to the metal substrate. NPCA submitted information and test data in support of its petition, and at a November 2, 1977, public meeting on the petition, NPCA demonstrated mechanical performance tests which measure the hardness, adhesion, and resistance to impact of metal furniture coatings.

Based on the data submitted by NPCA and other information available to the Commission, the Commission granted the petition and proposed the amendment cited above. (42 FR 44192.) The grounds for the proposed amendment are set out in the proposal document and will only be summarized here.

Basically, the Commission noted that the mechanical stress performance tests conducted by NPCA at the November 2, 1977, public meeting strongly suggest that factory-applied metal furniture coatings are much harder than ordinary interior or exterior surface coatings applied to walls or woodwork, are resistant to chipping and cracking, and strongly adhere to the metal substrate to which they are applied. The Commission also considered the views of two medical experts, Dr. Julian Chisolm and Dr. J. W. Sayre, both of whom were proponents of the proposition to ban residential paint containing more than 0.06 percent lead, but who in letters to NPCA expressed their support for an exemption for metal furniture. (The letters are on file at the Commission's Office of the Secretary.) In addition, the Commission noted that a review of the scientific literature on lead poisoning did not yield a single reference to factory-applied metal furniture coatings as being responsible for elevated blood lead levels or lead poisoning of children. Finally, the Commission considered data on the economic effects of the elimination of lead from metal furniture coatings which indicated that certain deep tone colors may be difficult to obtain with non-leaded pigments and that without lead, the price of metal furniture coatings would rise moderately, causing a small increase in the prices of some metal furniture.

RESPONSE TO COMMENTS

The Commission received twenty-two comments on the proposed amendment to exempt metal furniture (but not metal children's furniture) bearing factory-applied coatings from the lead-containing paint ban, Part 1303. The commenters included 11 concerned citizens, 7 manufacturers, 1 county agency, and 3 trade associations.

The comments from the concerned citizens as well as the county agency requested that an exemption for metal furniture not be granted. Several of these commenters expressed the view that the risk of lead poisoning in children would be increased as a result of the exemption. Two of the commenters also stated that if any exemption for metal furniture articles was granted, a warning label on the exempted articles should be required.

The Commission notes that none of the commenters who expressed disapproval of the proposed exemption supplied any data to support their views. Based upon the data referenced above and discussed in the proposal document, the Commission believes that factory-applied coatings for metal furniture will not pose a significant hazard to young children because the hardness of the coatings, their adherence to the metal substrate, and their resistance to chipping appear to make it difficult for a child to obtain such coatings. Because the Commission does not believe there is a significant hazard from such furniture, it has not required any warning labels on metal furniture. The Commission emphasizes that it expects that reasonable manufacturing practices will result in metal furniture whose coatings are hard, durable, and tightly bound to the metal substrate. The Commission points out, however, that should it find instances where these factory-applied coatings containing lead chip, peel, chalk, or otherwise become easily available for removal and ingestion by children, it may consider individual regulatory action.

The comments from the manufacturers, which included 5 metal furniture manufacturers and 2 coatings manufacturers, uniformly supported the proposed exemption. One manufacturer noted that the paint on metal furniture is only a few mils in thickness and very hard and that it is difficult to remove even with the best of paint-removing devices. Another manufacturer stated that the pre-painting preparation of the metal substrate gives adhesion qualities which minimize any chipping and cracking possibilities. Several manufacturers emphasized that lead chromate pigments are inexpensive when compared to substitute pigments.

A commenter representing an association of manufacturers, retailers, and wholesalers of office furniture also supported the proposed exemption, noting that the standards of application in the office metal furniture industry are high and that the same testing procedures demonstrated by NPCA at the public meeting are utilized.

A trade association representing toy manufacturers and another association representing the manufacturers of juvenile furniture requested that children's metal furniture be included within any final exemption for the same reasons that adult metal furniture had been included in the proposed exemption.

The Commission declines to broaden the scope of the proposal to include children's furniture. The Commission notes that since 1973 the coatings on toys and other articles intended for use by children, which includes furniture, have been subject to a lead limit of 0.5 percent (see 37 FR 5229; 16 CFR 1500.17(a)(6)(ii)).

NOTE.—Coatings on adult furniture will first become subject to a lead limit on February 28, 1978 (42 FR 44192; 16 CFR Part 1303).

The Commission sees no reason for abolishing lead-paint restrictions for children's furniture at this time when manufacturers of such articles have been conforming to a lead limit for the past several years which virtually eliminates the use of lead as a pigment. In declining to broaden the scope of the proposal, the Commission emphasizes that although the possibility of children's metal furniture chipping or flaking may be remote, the close proximity of children to their own furniture makes even this possibility an unnecessary risk. In this regard the Commission notes that Dr. Sayre in his letter to NPCA on CP 78-1, noted above, stated: "Neither have we found many children who gnaw much furniture *besides their high-chairs and cribs.*" [Emphasis added.] (The letter is dated October 25, 1977 and is on file at the Commission's Office of the Secretary.) In addition, children often bang their furniture with other objects or into other objects, thereby increasing the chance that the coatings may chip. The Commission also points out that the National Academy of Sciences (NAS) in a report submitted to the Commission entitled "Recommendations for the Prevention of Lead Poisoning in Children" specifically recommended that the lead content of paints on children's articles, including toys and furniture, be severely restricted. (NAS Report, p. 10.)

ENVIRONMENTAL CONSIDERATIONS

The Commission has considered the potential environmental impacts of an exemption for metal furniture from a ban on lead-containing paint, toys, and furniture in the Final Environmental Impact Statement on Lead Content in Paint, dated May 2, 1977. (See, especially, pages I-B-15, II-A-8-9, III-6, and III-17 of the final statement.).

NOTE.—The availability of the final impact statement was announced by the Council on Environmental Quality in the FEDERAL REGISTER on June 10, 1977 (42 FR 29948). The potential environmental effects of the exclusion of metal furniture were also included in the draft statement on lead content in paint which was made available for public comment by announcement in the FEDERAL REGISTER on February 4, 1977. (42 FR 6879.)

Therefore, the Commission believes that there is no need for any further environmental review of this exemption.

CONCLUSION

In determining whether a specific risk of injury is "unreasonable" and therefore, properly the subject of a banning regulation, the Commission generally balances the probability that the risk will result in harm and the gravity of the harm against a rule's effect on the product's utility, cost, and availability to the consumer. (See H.R. Rep. No. 92-1153, 92d Cong., 2d Sess., 1972, p. 33.)

In this instance the Commission believes, based upon the data summarized above and after a review of the public comments, that the probability that factory-applied coatings on metal furniture will result in harm is remote because the hardness of the coatings and their resistance to chipping makes it unlikely that the coatings will be removed and ingested by children. In addition, the Commission has indicated that should it find instances where factory-applied lead coatings for metal furniture chip, peel, chalk, or otherwise become easily available for removal and ingestion by children, it may consider individual regulatory action.

The Commission also notes, after a review of information on the economic effects of the elimination of lead pigments from these factory-applied coatings, that such elimination may have an adverse effect on the product's cost and utility.

The Commission finds that the available data does not indicate that metal furniture (exclusive of metal children's furniture) bearing factory-applied coatings presents an unreasonable risk of injury from lead poisoning in children. Therefore, the Commission concludes that a ban of such metal furniture is not reasonably necessary to eliminate a risk of injury associated with the painted furniture and has decided to issue the amendment as set forth below.

PROPOSAL

Section 9(e) of the Consumer Product Safety Act, 15 U.S.C. 2058(e), provides that when an amendment to a consumer product safety rule involves a material change the procedures in sections 7 and 9 apply. It is the Commission's view that the amendment issued below does not involve a material change to the lead-containing paint ban because it does not affect the basic purpose and provisions of the ban. Therefore, the provisions of section 7 and 9 (a)-(d) do not apply. The Commission believes that the informal rulemaking procedures of the Administrative Procedure Act (APA), 5 U.S.C. 533, do apply. The Commission has decided to make this amendment effective immediately March 2, 1978, so that it may be in effect before or at the same time as the lead-containing paint ban. In this regard the Commission notes that subsection (d) of §553 of the APA excepts substantive rules which grant or recognize an exemption from the 30-day delayed effective date requirement.

Accordingly, pursuant to provisions of the Consumer Product Safety Act (sec. 9(e), 86 Stat. 1216; 15 U.S.C. 2058(e)), and the Administrative Procedure Act, 5 U.S.C. 553, the Commission amends 16 CFR 1303.3(c) by adding a new subparagraph (3) as follows:

§ 1303.3 Exemptions.

. . . . . .

(c) The following products are exempt from the scope of the ban established by Part 1303 (no cautionary labeling is required):

. . . . . .

(3) Metal furniture articles (but not metal children's furniture) bearing factory-applied (lead) coatings.

(Sec. 9(e), 86 Stat. 1216 (15 U.S.C. 2058(e)).)

Effective date: The amendment is effective March 2, 1978.

Dated: February 27, 1978.

SADYE E. DUNN,
Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 78-5511 Filed 3-1-78; 8:45 am]

[4910-14]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 77-242]

PART 3—COAST GUARD AREAS

Boundary Line Revision

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: These amendments change the eastern hemisphere boundary line for the Coast Guard Atlantic and Pacific areas. The geographic boundaries of the Navy Unified Command and Fleet Command structures

have been changed. As a result, all of the Indian Ocean area was placed under the Pacific Commands. Because of the command relationship that exists between the Navy and the Coast Guard in time of war and other contingencies, the Coast Guard Area eastern hemisphere boundary line is also adjusted.

EFFECTIVE DATE: This amendment is effective on: February 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1477.

SUPPLEMENTARY INFORMATION: Since these amendments are matters relating to agency organization, they are exempt from the notice and public procedure requirements in 5 U.S.C. 553(b), and since they are not substantive, they may be made effective in less than 30 days after publication in the FEDERAL REGISTER under 5 U.S.C. 553(d)(2).

DISCUSSION OF AMENDMENTS

The Coast Guard Atlantic Area-Pacific Area boundary line, which currently extends from the South Pole north along 62° E. longitude to the Asian land mass, is changed to extend north along 17° E. longitude to the African land mass. This document also corrects a long-standing editorial error concerning the ocean area line along the coast of the North, Central, and South American land mass for the Atlantic area. This line extends along the east coast of the land mass, and should so read, not the west coast as currently indicated in the regulation.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are: Captain George K. Greiner, Project Manager, Marine Safety Council, and Edward J. Gill, Jr., Project Attorney, Office of the Chief Counsel.

In consideration of the foregoing, Part 3 of Title 33 of the Code of Federal Regulations is amended as follows:

1. By revising § 3.04-1(b) to read as follows:

§ 3.04-1 Atlantic area

* * * * *

(b) The Atlantic Area shall comprise the land areas and U.S. navigable waters of the First, Second, Third, Fifth, Seventh, Eighth, and Ninth Coast Guard Districts and the ocean areas lying east of a line extending from the North Pole south along 95° W. longitude to the North American land mass; thence along the east coast of the North, Central, and South American land mass to the intersection with 70° W. longitude; thence due south to the South Pole. These waters extend east to the Eastern Hemisphere dividing line between the Atlantic and Pacific Areas which lies along a line extending from the North Pole south along 100° E. longitude to the Asian land mass and along a line extending from the South Pole north along 17° E. longitude to the African land mass.

2. By revising § 3.04-3(b) to read as follows:

§ 3.04-3 Pacific area.

* * * * *

(b) The Pacific Area shall comprise the land areas and the U.S. navigable waters of the Eleventh, Twelfth, Thirteenth, Fourteenth, and Seventeenth Coast Guard Districts and the ocean areas lying west of a line extending from the North Pole south along 95° W. longitude to the North American land mass; thence along the west coast of the North, Central and South American land mass to the intersection with 70° W. longitude; thence due south to the South Pole. These waters extend west to the Eastern Hemisphere dividing line between the Atlantic and Pacific Areas which lies along a line extending from the North Pole south along 100° E. longitude to the Asian land mass and along a line extending from the South Pole north along 17° E. longitude to the African land mass.

(80 Stat. 383, as amended (5 U.S.C. 552); 63 Stat. 545 (14 U.S.C. 633); 80 Stat. 937 (49 U.S.C. 1655(b)); 49 CFR 1.45 and 1.46.)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: February 21, 1978.

E. L. PERRY,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[FR Doc. 78-5131 Filed 3-1-78; 8:45 am]

[4910-14]

[CGD 77-146]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Hillsborough River, Fla.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amended regulation will provide further restrictions for the Platt Street, Brorein Street, Kennedy Boulevard, Cass Street, and Laurel Avenue drawbridges across the Hillsborough River, Tampa, Fla., by requiring at least 2 hours notice from 10 p.m. to 6 a.m. This change is being made because of limited vessel traffic (an average of one opening on each bridge every other day during this period). This action will relieve the bridge owner of maintaining constant attendance at these bridges.

EFFECTIVE DATE: This amendment is effective on March 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-0942.

SUPPLEMENTARY INFORMATION: On September 19, 1977, the Coast Guard published a proposed rule (42 FR 46931) concerning this amendment. The Commander, Seventh Coast Guard District, also published these proposals as a public notice dated September 19, 1977. Interested persons were given until October 18, 1977, to submit comments.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Edward J. Gill, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF COMMENTS

One comment was received which was not pertinent to the proposal.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations, is amended by revising § 117.465 to read as follows:

§ 117.465 Hillsborough River, Tampa, Florida.

(a) City of Tampa highway bridges at Platt Street, mile 0.0; Brorein Street, mile 0.16; and the State of Florida highway bridge at Kenney Boulevard, mile 0.4. From 6 a.m. to 10 p.m., the draws shall open on signal except that from 7:30 a.m. to 9 a.m. and 4 p.m. to 6:15 p.m., Monday through Saturday, the draws of these bridges need not be opened for passage of vessels. From 10 p.m. to 6 a.m., the draws shall open on signal if at least 2 hours advance notice is given.

(b) City of Tampa highway bridges at Cass Street, mile 0.7, and Laurel Street, mile 1.0. From 6 a.m. to 10 p.m., the draws shall open on signal. From 10 p.m. to 6 a.m., the draws shall open on signal if at least 2 hours advance notice is given.

(c) Seaboard Coast Line Railroad bridge at Cass Street, mile 0.7. The draw shall open on signal from 4 p.m. to 12 midnight, Monday through Friday. At all other times the draw shall be maintained in the open to navigation position.

(d) City of Tampa highway bridge at West Columbus Drive, mile 2.3, and the State of Florida highway bridge at West Hillsborough Avenue, mile 4.8. From 8 a.m. to 6 p.m., the draws shall open on signal. From 6 p.m. to 8 a.m., the draws shall open on signal if at least 1 hour advance notice is given.

(e) Public vessels and vessels in distress. (1) From 6 a.m. to 10 p.m., the draws of the bridges listed in paragraph (a) of this section shall open on signal for the passage of public vessels of the United States, vessels owned or operated by State, county, or local governments for public safety purposes, or any vessel in distress. The opening signal is four blasts of a whistle, horn, or other sound-producing device.

(2) From 10 p.m. to 6 a.m., the draws of the bridges listed in paragraphs (a) and (b) of this section shall open as soon as possible but not longer than 1 hour after a request by a public vessel of the United States, vessels owned or operated by the State, county, or local governments used for public safety purposes, or any vessel in distress.

(f) The owners of or agencies controlling the bridges shall conspicuously post notices containing the substance of these regulations, both upstream and downstream, on the bridges or elsewhere, in such a manner that they may be easily read at all times from an approaching vessel. This notice shall state exactly how the authorized representative may be reached for openings of the draw.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: February 15, 1978.

O.W. SILER,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc. 78-5132 Filed 3-1-78; 8:45 am]

[4910-14]

[CGD 77-150]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Umpqua River, Oreg.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment for the drawbridge at mile 11.1 across the Umpqua River near Reedsport, Oreg., provides that from 8 a.m. to 4 p.m., Monday through Friday, the draw shall open on signal. At all other times the draw shall open on signal if at least 4 hours notice is given. The bridge owner will be relieved of the duty to open the bridge on signal at night and on weekends.

EFFECTIVE DATE: This amendment is effective on March 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-0942.

SUPPLEMENTARY INFORMATION: On September 6, 1977, the Coast Guard published a proposed rule (42 FR 44560) concerning this amendment. The Commander, Thirteenth Coast Guard District, also published this proposal as a public notice dated September 2, 1977. Interested persons were given until October 3, 1977, to submit comments.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Edward J. Gill, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF COMMENTS

Three comments were received. Two had no objection to the proposed change. The Port of Umpqua Commission objected to the proposal that the bridge open after 4 hours notice at all times. The Port Commission requested that the draw open on signal from 8 a.m. to 4 p.m., Monday through Friday. The Oregon State Highway Division agreed to this change. This change is included, and is considered beneficial to navigation.

Section 117.725(b) is being deleted. This section provided regulations for the bridge when constant attendance of draw tenders was required.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended as follows:

1. By deleting § 117.725(b).

2. By adding a new § 117.759b(f)(16) to read as follows:

§ 117.759b Drawbridges across navigable waters in Oregon where constant attendance is not required.

* * * * *

(f) * * *

(16) Umpqua River highway drawbridge at Reedsport, Oreg. The draw shall open on signal from 8 a.m. to 4 p.m., Monday through Friday. At all other times the draw shall open on signal if at least 4 hours notice is given.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: February 15, 1978.

O.W. SILER,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc. 78-5132 Filed 3-1-78; 8:45 am]

[4910--14]

[CGD 76-217]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

AIWW, North Palm Beach, Fla.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment revises the regulations for the Parker bridge, AIWW, mile 1013.7, to allow that from November 15 through April 15, from 7 a.m. to 7 p.m., the draw need open only on the hour and half-hour. At all other times the draw shall open on signal. This change is being made because of a significant increase in vehicular traffic during this period.

EFFECTIVE DATE: This amendment is effective on April 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-0942.

SUPPLEMENTARY INFORMATION: On December 2, 1976, the Coast Guard published a proposed rule (41 FR 53362) concerning this amendment. The Commander, Seventh Coast Guard District, also published these proposals as a Public Notice dated December 3, 1976. Interested persons were given until January 4, 1977, to submit comments.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Lieutenant Edward J. Gill, Project Attorney, Office of the Chief Council.

DISCUSSION OF COMMENTS

Two comments were received which supported the proposal. Ten letters and a petition were received which opposed the proposal.

The proposal provided that the draw open on signal from 7 p.m. to 7 a.m.

and on the hour and half-hour from 7 a.m. to 7 p.m.

Several of those objecting to the proposal recommended that the re-

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL

lar radio service. A new starting frequency may be assigned by the staff for any of the various groups when the frequencies available to it in sequence are exhausted. Also, should

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Title 49—Transportation

Materials Operations, Exemptions Branch, and Evan C. Braude, of the Office of the Chief Counsel, Research and Special Programs Directorate.

reference to the new stowage requirements aboard cargo vessel in § 176.230 for flammable compressed gases in 106A and 110A tank car tanks.

and on the hour and half-hour from 7 a.m. to 7 p.m.

Several of those objecting to the proposal recommended that the restrictive period be limited to the winter tourist season, and that the draw open on signal during the remainder of the year.

In the absence of justifying traffic data, the Coast Guard feels that this recommendation is reasonable, and is incorporated in the regulation.

Several of the objections to the proposal recommended 15-minute openings and some suggested the use of time clocks. The Coast Guard does not feel that these recommendations are justified at this time and they are not included in the regulation.

The Coast Guard will closely monitor this bridge, and if additional data indicates further changes are needed, a new proposal will be published.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations, is amended by adding a new §117.438c immediately after §117.438b to read as follows:

§117.438c Parker Bridge, U.S. 1, AIWW, North Palm Beach Fla..

(a) The draw shall open on signal, except that from November 15 through April 15, from 7 a.m. to 7 p.m., the draw need open only on the hour and half-hour, except as provided in paragraph (b) of this section.

(b) The draw shall open at any time for the passage of public vessels of the United States, tugs with tows, cruise boats operated on a regular schedule or vessels in distress. The opening signal from these vessels is four blasts of a whistle, horn, or by shouting.

(c) The owner of or agency controlling this bridge shall post, on both sides of the bridge, signs that state the conditions of this regulation. These signs shall be of such size that they may be easily read from an approaching vessel at any time.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: February 27, 1978.

O. W. SILER,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc. 78-5517 Filed 3-1-78; 8:45 am]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 91—INDUSTRIAL RADIO SERVICES

Designating 483.6125 MHz as a New Starting Point for Assigning Frequencies in the Business Radio Service in the Dallas, Tex., Metropolitan Area in the 470–512 MHz Band

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: This order designates a new starting point for assigning frequencies to licensees in the Business Radio Service at Dallas, Tex., metropolitan area. The frequencies available in sequence are now occupied and are substantially loaded. Therefore, an additional starting point is being established.

EFFECTIVE DATE: March 6, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

A. C. King, Safety and Special Radio Services Bureau, 632-6497.

SUPPLEMENTARY INFORMATION: Since substantive matters relating to this order were previously decided in the Fifth Report and Order in Docket 18261, the prior notice requirement of 5 U.S.C. 533 is unnecessary.

ORDER

Adopted: February 16, 1978.

Released: February 22, 1978.

In the matter of the designation of 483.6125 MHz as a new starting point for assigning frequencies in the Business Radio Service in the Dallas, Tex., metropolitan area in the 470–512 MHz band.

By the Chief, Safety and Special Radio Services Bureau:

1. In the Fifth Report and Order in Docket 18261 the Commission provided a flexible frequency assignment plan for the 470–512 MHz band frequencies available in Dallas and Houston, Tex., and in Miami, Fla. *Land Mobile/UHF-TV Sharing Plan*, 48 FCC 2d 360 (1974). In Paragraph 12 of that Report and Order, the Commission said, "• • • since all of the frequencies are to be available in all eligible radio services, the frequencies in which the first assignments are to be made do not necessarily set out the boundaries for frequency availability in a particular radio service. A new starting frequency may be assigned by the staff for any of the various groups when the frequencies available to it in sequence are exhausted. Also, should any group fail to use its assigned frequency, that base line may be moved." *Land Mobile/UHF-TV Sharing Plan, supra*, at p. 364.

2. The frequencies available in sequence in the Business Radio Service in Dallas in the 470–512 MHz band are now occupied and are substantially loaded. Therefore, in accordance with Paragraph 12 of the Report and Order in Docket 18261, an additional starting point is being established. That starting frequency will be 483.6125 MHz. Assignments will be made sequentially in ascending and descending order from this frequency until all available contiguous channels are occupied.

3. This action is taken pursuant to the authority contained in section 4(i) of the Communications Act of 1934, as amended, and to authority delegated by the Commission in the Fifth Report and Order in Docket 18261 previously cited. The amendment to §91.114(f)(3) is for conformity with substantive matters which were previously decided in the Fifth Report and Order and which are being implemented herein. Therefore, compliance with the prior notice requirements prescribed by 5 U.S.C. 553 is unnecessary.

4. Accordingly, *It is ordered*, That effective March 6, 1978, §91.114(f)(3) of the Commission's Rules is amended as set forth below.

Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

ARLAN K. VAN DOORN,
Acting Chief, Safety and Special Radio Services Bureau.

Part 91 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

Section 91.114(f)(3) is amended to read:

§91.114 Frequencies in the band 470–512 MHz.

• • • • • •

(f) • • •

(3) Base station frequencies for the Business Radio Service will be assigned serially beginning at 472.3625 MHz for Miami, 483.6125 MHz and 484.3625 MHz for Dallas, and 489.6625 MHz and 498.3625 MHz for Houston and progressing, a channel at a time, upward and downward from those points. Mobile station frequencies are 3 MHz higher than the corresponding base station frequencies. Normally, each channel shall be substantially filled before the next channel will be assigned.

• • • • • •

[FR Doc. 78-5484 Filed 3-1-78; 8:45 am]

[4910-60]

Title 49—Transportation

CHAPTER I—MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

[Docket No. HM-139; Amdt. Nos. 172-40, 173-114, 174-29, 176-4, 179-22]

CONVERSION OF INDIVIDUAL EXEMPTIONS TO REGULATIONS OF GENERAL APPLICABILITY

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Final rule.

SUMMARY: This action is being taken to incorporate into the Department's Hazardous Materials Regulations a number of changes based on the data and analysis supplied in selected exemption applications, or from existing special permits and exemptions. The need for this action has been created by the public demand to make available new packaging and shipping alternatives that have proven themselves safe under the Department's special permit and exemption programs. The intended effect of these amendments is to provide wider access to the benefits of transportation innovations recognized and shown to be effective and safe.

EFFECTIVE DATE: March 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Alan I. Roberts, Director, Office of Hazardous Materials Operations, 2100 2d Street SW., Washington, D.C. 20590, 202-426-0656.

SUPPLEMENTARY INFORMATION: On September 1, 1977, the Materials Transportation Bureau (MTB) published a Notice of Proposed Rulemaking, Docket HM-139; Notice 77-8 (42 FR 43993) which proposed these amendments. The background and the basis for incorporating these exemptions into the regulations were discussed in that notice. Interested persons were invited to give their views prior to the closing date of September 30, 1977. Primary drafters of this document are Darrell L. Raines and John C. Allen of the Office of Hazardous Materials Operations, Exemptions Branch, and Evan C. Braude, of the Office of the Chief Counsel, Research and Special Programs Directorate.

Several commenters objected to the proposed amendment to §173.251 to authorize boron tribromide in glass containers inside DOT Specification 37A drums aboard passenger-carrying aircraft. The Bureau agrees with this comment and has no intention of authorizing this commodity in any container aboard passenger-carrying aircraft (boron tribromide is presently forbidden by the Hazardous Materials Table in §172.101 for this mode). Unfortunately a typographical error appeared in Notice 77-8 for the proposed modes of transportation (see the entry for E 7211-No. in that notice). The number 5, representing passenger-carrying aircraft, should have been the number 4, representing cargo-only aircraft. The amendment to §173.251(b)(3) therefore applies only to rail, highway, cargo vessel, and cargo-only aircraft (subject to the quantity limit of 1-quart per package).

A number of comments were directed to the proposed amendment to §173.314(c), Note 7 which was based on DOT-E 7810. The proposal was to authorize certain flammable and nonflammable refrigerant gases in DOT Specification 106A and 110A multiunit tank car tanks to be shipped by cargo vessel. Note 7 to the Table in §173.314(c) now has the effect of limiting these "ton" tanks to the rail and highway modes only. The proposal was to amend the note and simply add the words "cargo vessel." However, this proposal would have had the effect of authorizing all of the other compressed gases which are referenced by Note 7 in the Table in §173.314(c) to be shipped by cargo vessel in 106A and 110A tanks.

This effect would go beyond the intention of the Bureau which is to authorize only the refrigerant gases covered by DOT-E 7810 for shipment in this manner. Accordingly, a number of other changes have been made to effect the desired authorization. The refrigerant gases in the Table are now referenced by a new Note 24 which authorizes these gases by all three modes. Note 24 also refers the reader to other regulations, peculiar to the 106A and 110A ton tanks including a reference to the new stowage requirements aboard cargo vessel in §176.230 for flammable compressed gases in 106A and 110A tank car tanks.

The Table in §179.201-1 has been amended to uniformly require the safety relief vent-burst pressure to be at the tank test pressure instead of the previously authorized 75 percent setting. Also, for all domeless tank cars built to DOT Specification 111A and for certain DOT Specification 103 tank cars, the minimum outage has been increased to 2 percent from the previously required 1 percent. These changes are based on experience under the special permit and exemption program and on a petition for rulemaking from the Bureau of Explosives and endorsed by the Manufacturing Chemists Association and Stauffer Chemical Co. An editorial change has been made to correct a typographical error which referenced a 104AW tank car instead of a 103AW in Notice 77-8.

Another change initiated by the Bureau concerns the rule change to §173.119(m)(11) to authorize MC 305 and MC 306 cargo tanks for certain flammable liquids having a secondary hazard. A sentence has been added to restrict the MC 305 and MC 306 cargo tanks from being shipped by cargo vessel when containing these commodities.

One final change incorporated in these amendments is to add a revision to §173.65(d) to correct an error made in Docket HM-139, Amendments 172-38, 173-110, 176-3 (42 FR 57964) published on November 7, 1977. This paragraph allows certain commodities to be shipped as nonregulated items if certain conditions are met. The words "without any other requirements" were inadvertently omitted in the introductory portion of that paragraph.

In consideration of the foregoing, 49 CFR Parts 172, 173, 174, 176 and 179 are amended as follows:

PART 172—HAZARDOUS MATERIALS TABLE AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

1. In §172.101 the Hazardous Materials Table is amended by adding, in alphabetical sequence, an entry for inflatable liferafts to read as follows:

§172.101 Hazardous Materials Table

(1)	(2)	(3)	(4)	(5) Packaging		(6) Maximum net quantity in one package		(7) Water shipments		
				(a) Exceptions	(b) Specific requirements	(a) Passenger carrying aircraft or rail car	(b) Cargo only aircraft	(a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	*		*		*		*		*	
A/W/A	(Add) Life-rafts, inflatable	ORM-C	None	None	173.906	1 per inaccessible cargo compartment	No limit	1,2	1,2	
	*		*		*		*		*	

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PART 173—SHIPPERS-GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

2. In § 173.34 paragraph (e)(15)(ii) is revised to read as follows:

§ 173.34 Qualification, maintenance, and use of cylinders.

* * * * *

(e) * * *

(15) * * *

(ii) The cylinder is used exclusively for: Air, argon, cyclopropane, ethylene, helium, hydrogen, krypton, neon, nitrogen, nitrous oxide, oxygen, sulfur hexafluoride, xenon, and permitted mixtures thereof (see § 173.301(a)) and permitted mixtures of these gases with up to 30 percent by volume of carbon dioxide. These commodities must have a dewpoint at or below minus 52° F. at 1 atmosphere.

* * * * *

3. In § 173.65 paragraph (d) is revised to read as follows:

§ 173.65 High explosives with no liquid explosive ingredient nor any chlorate.

* * * * *

(d) The following materials may be shipped dry as drugs, n.o.s. or medicines, n.o.s. without any other requirements by rail freight or highway if the amount in one outside package does not exceed 4 ounces, and the materials are packed in securely closed bottles or jars that are cushioned to prevent breakage:

(1) Ammonium picrate.
(2) Dipicrylamine.
(3) Dipicryl sulfide.
(4) Dinitrophenylhydrazine.
(5) Nitroguanidine.
(6) Picramide.
(7) Picric acid.
(8) Picryl chloride.
(9) Trinitroanisole.
(10) Trinitrobenzene.
(11) Trinitrobenzoic acid.
(12) Trinitro-m-cresol.
(13) Trinitronaphthalene.
(14) Trinitroresorcinol.
(15) Trinitrotoluene.
(16) Urea nitrate.
(17) Triaminotrinitrobenzene.
(18) Trichlortrinitrobenzene.
(19) Hexanitrostilbene.

* * * * *

4. In § 173.119 paragraph (m)(11) is revised to read as follows:

§ 173.119 Flammable liquids not specifically provided for.

* * * * *

(m) * * *

(11) Specification MC 305, MC 306, or MC 307 (§§ 178.340, 178.341, 178.342 of this subchapter). Tank motor vehicles meeting § 178.343-2(c) of this subchapter. Not authorized for flammable liquids which are also organic peroxides. MC 305 and MC 306 not authorized for transportation by water.

* * * * *

5. In § 173.182 paragraph (b)(6)(i) is revised to read as follows:

§ 173.182 Nitrates.

* * * * *

(b) * * *

(6) * * *

(i) Specification 44P (§ 178.241 of this subchapter). All plastic bags. Maximum authorized net weight is 81 pounds. Authorized only for ammonium nitrate mixed fertilizer, ammonium nitrate fertilizer (containing no more than 0.2 percent carbon), and potassium nitrate.

* * * * *

6. In § 173.241 paragraph (a)(3) is revised to read as follows:

§ 173.241 Outage.

(a) * * *

(3) *Outage requirements for tank cars.* In tank cars, outage must be calculated to percentage of the total capacity of the tank, i.e., shell and dome capacity combined. If the dome of the tank car does not provide sufficient outage, then vacant space must be left in the shell to make up the required outage. The outage for tank cars must not be less than 2 percent, except that outage for Specification 103A, 103B, 103C, 103E, 103A-AL, 103C-AL, 103AW, 103BW, 103CW, 103EW, 103ANW, 103A-ALW, tank cars must not be less than 1 percent.

* * * * *

7. In § 173.251 paragraph (b)(3) is added to read as follows:

§ 173.251 Boron trichloride and boron tribromide.

* * * * *

(b) * * *

(3) Specification 37A (§ 178.131 of this subchapter). Steel drums not over 30-gallon capacity each with inside glass receptacles not over 1-quart capacity each. Inside containers and cushioning must comply with paragraph (b)(1) of this section. Not more than four 8-ounce glass receptacles or two 1-quart glass receptacles may be packed within one 8-gallon 37A drum. Not more than twelve 8-ounce glass receptacles or six 1-quart glass receptacles may be packed within one 30-gallon 37A drum. Completed package must meet test requirements of § 178.131-11 of this subchapter.

8. In § 173.314 the table in paragraph (c) is amended by revising the entries for Dichlorodifluoromethane, Dichlorodifluoromethane and difluoroethane mixture, Dichlorodifluoromethane-dichlorotetrafluoroethane mixture, Dichlorodifluoromethane-monochlorodifluoromethane mixture, Dichlorodifluoromethane-monofluorotrichloromethane mixture, Dichlorodifluoromethane-trichloromonofluoromethane-monochlorodifluoromethane, mixture, mixture, Difluoroethane, Difluoromonochloroethane, Monochlorodifluoromethane, Monochlorotetrafluoroethane, Trifluorochloroethylene; and by adding Note 24 at the end of the table to read as follows:

§ 173.314 Requirements for compressed gases in tank cars.

* * * * *

(c) * * *

Kind of gas	Maximum permitted filling density, note 1	Required tank car, see sec. 173.31(a) (2) and (3)
* * *	* * *	* * *
Dichlorodifluoromethane; note 13	119	DOT-106A500X, 110A500-W, note 24.
	125	DOT-105A300W.
	123	DOT-112A340W, 114A340W.
Dichlorodifluoromethane and difluoroethane mixture (constant boiling mixture); note 13.	Note 22	DOT-106A500X, 110A500W, note 24. DOT-105A300W.
Dichlorodifluoromethane-dichlorotetrafluoroethane mixture; note 13.	119	DOT-106A500X, 110A500-W, note 24.
	125	DOT-105A300-W.
	Note 21	DOT-112A340W, 114A340W.
Dichlorodifluoromethane-monochlorodifluoro-methane mixture; note 13.	119	DOT-106A500X, 110A500-W, note 24.
	125	DOT-106A300-W.
	123	DOT-112A340W, 114A340W.

Kind of gas	Maximum permitted filling density, note 1	Required tank car, see sec. 173.31(a) (2) and (3)
Dichlorodifluoromethane-monofluorotrichloromethane mixture; note 13.	Note 22	DOT-106A500X, 110A500-W, note 24.
		DOT-105A300-W.
	Note 21	DOT-112A340W, 114A340W.
Dichlorodifluoromethane-trichloromonofluoromethane-monochlorodifluoromethane mixture; note 13.	119	DOT-106A500X, 110A500-W, note 24.
	125	DOT-105A300-W.
	123, Note 21	DOT-112A340W, 114A340W.
Dichlorodifluoromethane-trichlorotrifluorethane mixture; note 13.	119	DOT-106A500X, 110A500-W, note 24.
	125	DOT-105A300-W.
	123	DOT-112A340W, 114A340W.
Difluoroethane	79	DOT-106A500X, 110A500-W, note 24.
	79	DOT-112A400W.
	84	DOT-105A300-W.
Difluoromonochloroethane; note 13	100	DOT-106A500X, 110A500W, note 24.
		DOT-105A100W, note. 4.
* * *	* * *	* * *
Monochlorodifluoromethane; note 13	105	DOT-106A500X, 110A500W, note 24.
	110	DOT-106A300W.
	108	DOT-112A400W.
Monochlorotetrafluoroethane; note 13	125	DOT-106A500X, 110A500W, note 24.
	126	DOT-112A400W.
* * *	* * *	* * *
Trifluorochloroethylene	115	DOT-106A500X, 110A500W, note 24.
	120	DOT-105A300W, note 4.
* * *	* * *	* * *

* * * * *

NOTE 24—Specification 106A and 110A tanks for these commodities are authorized for transportation by rail freight, highway, and cargo vessel. (See §§ 174.204, 176.200, 176.230 and 177.834(m) of this subchapter for additional requirements.)

* * * * *

9. In § 173.328, paragraph (a)(3) is added to read as follows:

§ 173.328 Poison A materials not specifically provided for.

(a) * * *

(3) Cyanogen chloride containing less than 0.9 percent water may also be packaged as prescribed by § 173.332(a)(2) of this subchapter.

* * * * *

10. In § 173.353 paragraph (a)(7) is added to read as follows:

§ 173.353 Methyl bromide and methyl bromide mixtures.

(a) * * *

(7) Specification 12B (§ 178.205 of this subchapter). Fiberboard box with inside tinplated metal cans containing not more than 6 ounces net weight of product per can. Cans must be capable of withstanding a pressure of 75 pounds per square inch at 130° F without leakage or permanent distortion. Not more than 12 cans may be packed snugly in the outside fiberboard box and gross weight of completed package shall not exceed 30 pounds. Authorized only for methyl bromide and ethylene dibromide mixtures.

* * * * *

11. In § 173.373 paragraph (a)(6) is added to read as follows:

§ 173.373 Ortho-nitroaniline and para-nitroaniline.

(a) * * *

(6) Specification MC 304, MC 307, MC 310, MC 311, or MC 312 (§§ 178.340, 178.342, 178.343 of this subchapter). *Tank motor vehicles.* If the cargo tank is constructed with bottom outlets, they must meet §§ 178.342-5(a) and 178.343-5 of this subchapter. Cargo tank must be insulated and have a steel inner tank. Authorized only for ortho-nitroaniline loaded in a liquefied state at a temperature not over 180° F. Not authorized for transportation by water.

12. § 173.906 is added to read as follows:

§ 173.906 Inflatable life-rafts.

An inflatable life-raft, serviced and ready for use as a life-saving appliance aboard a vessel or aircraft, containing small quantities of hazardous materials which are required as part of the life-saving appliance, e.g., a non-flammable compressed gas with no subsidiary hazards packaged in a cylinder complying with DOT regulations, Class C explosives in the form of pyrotechnic signal devices, and flammable liquids in the form of a repair kit capable of repairing punctures in the buoyancy compartments etc., must be packed in strong outside packagings.

PART 174—CARRIAGE BY RAIL

13. In § 174.25, paragraphs (a)(2) (i) and (ii) are revised to read as follows:

§ 174.25 Additional information on waybills, switching orders and other billings

(a) * * *

(2) * * *

(i) In letters not less than ⅜ of an inch, or

(ii) In bold, uppercase letters not less than ⅒ of an inch high inside a rectangle made with any symbol such as asterisk (*), dollar sign ($), capital (X), or the symbol for number (#).

* * * * *

PART 176—CARRIAGE BY VESSEL

14. § 176.230 is added to read as follows:

§ 176.230 Stowage of flammable compressed gases.

Flammable compressed gases transported in Specification 106A and 110A multi-unit tank car tanks must be stowed on deck only, and must be shaded from radiant heat.

15. In § 176.415, paragraph (c)(5) is added to read as follows:

§ 176.415 Permit requirements for nitro carbo nitrate and certain ammonium nitrates.

* * * * *

(c) * * *

(5) If the material is ammonium nitrate (organic coated), ammonium nitrate-phosphate, an ammonium nitrate mixture containing more than 60

percent ammonium nitrate, or nitro carbo nitrate in non-rigid combustible packaging and loaded in freight containers or roll-on, roll-off highway vehicles, it may be loaded or unloaded at a non-isolated facility provided that facility meets the approval of the Coast Guard Captain of the Port.

PART 179—SPECIFICATIONS FOR TANK CARS

16. In § 179.200-18 paragraph (b)(1) is revised to read as follows:

§ 179.200-18 Safety relief devices.

* * * * *

(b) * * *

(1) When permitted in § 179.201-1, each tank or compartment used for the transportation of corrosive liquids, flammable solids, oxidizing materials, or poisonous liquids or solids, Class B, need not be equipped with safety relief valves, but if not so equipped shall have one safety vent at least 1¾ inches inside diameter, of an approved design which will prevent interchange with fixtures prescribed in § 179.200-16(a), and closed with a frangible disc of lead or other approved material of a thickness that will rupture at not more than 100 percent of tank test pressure. Means for holding disc in place shall be such as to prevent distortion or damage to disc when applied. Safety vent closure shall be chained or otherwise fastened to prevent misplacement. All tanks equipped with vents shall be stenciled "Not for Flammable Liquids."

17. In § 179.201-1 the table in paragraph (a) is amended by changing the individual entries for maximum expansion capacity and vent bursting pressure to read as follows:

§ 179.201-1 Individual specification requirements.

(a) * * *

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e)).

NOTE.—The Materials Transportation Bureau has determined that this document does not contain a major proposal requiring

Safety Act and the Cost Savings Act through an Associate Administrator for Rulemaking, and conducts its enforcement and investigative functions

as amended by section 10(b) of Pub. L. 91-604 (84 Stat. 1700).

(d) Exercise the authority vested in the Secretary by section 204(b) of the

DOT specifications	103ALW	103ANW	103BW	103CW	103DW	103EW
*		*			*	
(Revised) Minimum expansion capacity (See 179.200-14)	1 percent in dome	1 percent in dome	1 percent in dome	1 percent in dome	2 percent in dome	1 percent in dome
*		*			*	
(Revised) Vent bursting pressure p.s.i.	60	60	60	prohibited	60	60
*		*			*	

§ 179.201-1 Individual specification requirements.—Continued

DOT specifications	103W	104W	111A60W1 1/	111A60W2	111A60W5	111A60W7
*		*			*	
(Revised) Minimum expansion capacity (See 179.200-14)	2 percent in dome	2 percent in dome	2 percent in tank	2 percent in tank	2 percent in tank	2 percent in tank
*		*			*	
(Revised) Vent bursting pressure p.s.i.	60	60	60	60	60	60
*		*			*	

DOT specifications	111A100W1 1/	111A100W2 1/	111A100W3	111A100W4	111A100W5	111A100W6	111A60F1, 1/ 111A100F1, 1/ 111A100F2, 1/
*				*		*	
(Revised) Minimum expansion capacity (See 179.200-14)	2 percent in tank	2 percent in tank	2 percent in tank	Footnote 2	2 percent in tank	2 percent in tank	
*				*		*	
(Revised) Vent bursting pressure p.s.i.	100	100	100	prohibited	100	100	
*				*		*	

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e)).

NOTE.—The Materials Transportation Bureau has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued in Washington, D.C. on February 28, 1978.

L. D. SANTMAN,
Acting Director, Materials Transportation Bureau.

[FR Doc. 78-5410 Filed 3-1-78; 8:45 am]

[4910-59]

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

PART 501—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: This document amends regulations concerning the National Highway Traffic Safety Administration's organization to reflect the reorganization of powers and duties within NHTSA that went into effect on January 1, 1978. The reorganization was designed to simplify the agency's structure and to improve the quality of its decisionmaking process.

EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Lena Gardiner, Office of Management Services, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-4811.

SUPPLEMENTARY INFORMATION: The National Highway Traffic Safety Administration is responsible for the administration of the National Traffic and Motor Vehicle Safety Act (Pub. L. 89-563, as amended; 15 U.S.C. 1381-1431), the Motor Vehicle Information and Cost Savings Act (Pub. L. 92-513, as amended; 15 U.S.C. 1901-2012), and the Highway Safety Act (Pub. L. 89-564, as amended; 23 U.S.C. 401-406). Before the reorganization, the agency administered the standards-setting, standards enforcement, and defects investigation authorities of the Motor Vehicle Safety Act through a single Associate Administrator. The principal effect of the reorganization is to separate the standards setting authority from the enforcement and investigative authority. As reorganized, the agency administers its rulemaking authority under both the Motor Vehicle Safety Act and the Cost Savings Act through an Associate Administrator for Rulemaking, and conducts its enforcement and investigative functions under both Acts through an Associate Administrator for Enforcement. The reorganization made complementary changes within other elements of the agency.

The amendment to Part 501 as set forth below relates soley to the organization and procedure of the National Highway Traffic Safety Administration and may be made effective without notice and opportunity for comment. The reorganization became effective January 1, 1978.

In consideration of the foregoing, Part 501 in Title 49, Code of Federal Regulations is amended as set forth below.

Issued on February 23, 1978.

JOAN CLAYBROOK,
Administrator.

Sec.
501.1 Purpose.
501.2 General.
501.3 Organization and general responsibilities.
501.4 Succession to Administrator.
501.5 Exercise of authority.
501.6 Secretary's reservations of authority.
501.7 Administrator's reservations of authority.
501.8 Delegations.

AUTHORITY: Sec. 9, 80 Stat. 930 (49 U.S.C. 1659).

§ 501.1 Purpose.

This part describes the organization of the National Highway Traffic Safety Administration (NHTSA) through Associate Administrator and Staff Office Director levels in NHTSA and provides for the performance of duties imposed, and the exercise of powers vested in the Administrator of the NHTSA (hereafter referred to as the "Administrator").

§ 501.2 General.

The National Highway Traffic Safety Administrator is delegated authority by the Secretary of Transportation (49 CFR 1.50) to:

(a) Carry out the National Traffic and Motor Vehicle Safety Act of 1966, as amended (80 Stat. 718; (15 U.S.C. 1381, et seq.)).

(b) Carry out the Highway Safety Act of 1966, as amended (80 Stat. 731) (including chapter 4 of Title 23 U.S.C.) except for highway safety programs, research, and development relating to highway design, construction and maintenance, traffic control devices, identification, and surveillance of accident locations, and highway-related aspects of pedestrian and bicycle safety.

(c) Exercise the authority vested in the Secretary by section 210(2) of the Clean Air Act (42 U.S.C. 1857, et seq.) as amended by section 10(b) of Pub. L. 91-604 (84 Stat. 1700).

(d) Exercise the authority vested in the Secretary by section 204(b) of the Federal Railroad Safety Act of 1970 (84 Stat. 972; 45 U.S.C. 433(b)) with respect to the laws administered by the National Highway Traffic Safety Administrator pertaining to highway, traffic, and motor vehicle safety.

(e) Carry out the Act of July 14, 1960, as amended (74 Stat. 526; 23 U.S.C. 313 note).

(f) Carry out the functions vested in the Secretary by the Motor Vehicle Information and Cost Savings Act of 1972, as amended (49 U.S.C. 1902 et seq.) except section 512.

(g) Carry out the functions vested in the Secretary by section 211(c) of the Highway Safety Act of 1973, Pub. L. 93-87, Title II (87 Stat. 282).

(h) Carry out the functions vested in the Secretary by section 108 of the Motor Vehicle and Schoolbus Safety Amendments of 1974 (Pub. L. 93-492, 88 Stat. 1482).

(i) Administer the following sections of title 23, United States Code, with the concurrence of the Federal Highway Administrator:

(1) 141, as it relates to certification of the enforcement of speed limits; and

(2) 154 (a), (b) and (d).

(j) Carry out the functions vested in the Secretary by section 1(a) of Executive Order 11912.

§ 501.3 Organization and general responsibilities.

The organization of, and general spheres of responsibility within, the NHTSA, through the levels of the immediate Office of the Administrator (which includes the Deputy Administrator; the Executive Secretariat; Director, Office of Civil Rights; and the Director, Office of Public Affairs and Consumer Participation), the Chief Counsel and the offices of the Associate Administrators, are as follows:

(a) Office of the Administrator. (1) Administrator. Provides for: (i) Representation of the Department and is the principal advisor to the Secretary in all matters relating to functions assigned under the National Traffic and Motor vehicle Safety Act of 1966, as amended; to the driver and motor vehicle functions assigned under the Highway safety Act of 1966; to motor vehicle and consumer information functions under the Motor Vehicle Information and Cost Savings Act of 1972, as amended; and to such other authorities as delegated by the Secretary of Transportation (49 CFR 1.50):

(ii) Establishing NHTSA program policies, objectives, and priorities and directing development of action plans to accomplish the NHTSA mission;

(iii) Directing, controlling, and evaluating the organization, program ac-

tivities, performance of NHTSA staff, program, and field offices;

(iv) Approving broad legislative, budgetary, fiscal and program proposals and plans; and

(v) Taking management actions of major significance, such as those relating to changes in basic organization pattern, appointment of key personnel, allocation of resources, and matters of special political or public interest of sensitivity.

(2) Deputy Administrator. Assists the Administrator in the discharge of his/her responsibilities and is responsible for: directing and coordinating the Administration's management and operational programs as well as the related policies and procedures at headquarters and in the field; and day-to-day direction of the Regional Administrators.

(3) Executive Secretariat. Provides a central facilitative staff for the Administrator and Deputy Administrator and services and support to the National Highway Safety Advisory Committee and such other committees as designated by the Administrator.

(4) Director, Office of Public Affairs and Consumer Participation. Acts as principal staff advisor to the Administrator on public affairs and consumer programs, and provides comprehensive programs for public information and public affairs covering all NHTSA activities.

(5) Director, Office of Civil Rights. As principal staff advisor to the Administrator and Deputy Administrator on all matters pertaining to civil rights, acts as Director of Equal Employment Opportunity, Contracts Compliance Officer, and Title VI (Civil Rights Act of 1964) Coordinator; assures Administrationwide compliance with related laws, Executive Orders, regulations, and policies; and, provides assistance to the Office of the Secretary in investigating and adjudicating formal complaints of discrimination.

(b) Chief Counsel. As chief legal officer, the Chief Counsel provides legal services to the Administrator and officers of the Administration, prepares litigation for the Administration; effects rulemaking actions; and serves as coordinator on legislative affairs.

(c) Associate Administrators. (1) Associate Administrator for Rulemaking. As the principal advisor to the Administrator on all matters as they relate to the setting of standards and regulations, administers the programs of the administration to develop and promulgate Federal Standards and regulations dealing with the crash protection, crash survivability, crash avoidance of motor vehicles, the issuance of mandatory Automotive Fuel Economy Standards and related procedural regulations, and the development of consumer information and regulations dealing with the crash protection and survivability characteristics, damageability, crash avoidance, ease of diagnosis and repair of motor vehicles.

(2) Associate Administrator for Enforcement. As the principal advisor to the Administrator on all matters as they relate to the enforcement of motor vehicle safety, fuel economy, and damageability laws and standards, administers programs of the administration to ensure compliance with Federal laws, standards and regulations pertinent to vehicle safety, fuel economy, damageability, consumer information and odometer fraud.

(3) Associate Administrator for Traffic Safety Programs. Directs programs relating to: State and community uniform traffic safety performance standards, including vehicle-in-use performance inspection standards; financial and technical assistance to States and communities to achieve comprehensive traffic safety programs; and, the promotion of national programs on traffic safety, including the reduction of alcohol and drug use by drivers.

(4) Associate Administrator for Research and Development. Directs programs relating to: research, development; accident investigation and information collection, analysis and dessemination; and development of facilities requirements to support NHTSA research and development efforts.

(5) Associate Administrator for Plans and Programs. Acts as advisor to the Administrator and Deputy Administrator on all matters involving NHTSA policies, objectives, programs, and plans and their relationship to those of the Department of Transportation.

(6) Associate Administrator for Administration. Acts as advisor to the Administrator and Deputy Administrator on all administrative and managerial matters as they relate to NHTSA missions, programs, and objectives; organization and delegations of authority; management studies; personnel management; training; logistics and procurement; budget; financial management; accounting and data systems design; paperwork management; investigations and security; audit; defense readiness; and administrative support services.

§ 501.4 Succession to Administrator.

The following officials in the order indicated, shall act as Administrator of the National Highway Traffic Safety Administration, in the case of the absence or disability or in the case of a vacancy in the Office of the Administrator, until a successor is appointed:

(a) Deputy Administrator, (b) Chief Counsel, (c) Associate Administrator for Plans and Programs, (d) Associate Administrator for Rulemaking, (e) Associate Administrator for Enforcement, (f) Associate Administrator for Research and Development, (g) Associate Administrator for Traffic Safety Programs, and (h) Associate Administrator for Administration.

§ 501.5 Exercise of Authority.

(a) In exercising the powers and performing the duties delegated by this part, officers of the NHTSA and their delegates are governed by applicable laws, executive orders, regulations, and other directives, and by policies, objectives, plans, standards, procedures, and limitations as may be issued from time to time by or on behalf of the Secretary of Transportation, the Administrator and Deputy Administrator, or, with respect to matters under their jurisdictions, by or on behalf of the Associate Administrators, and Directors of staff offices.

(b) Each officer to whom authority is delegated by this part may redelegate and authorize successive redelegations of that authority subject to any conditions he may prescribe. Redelegations of authority shall be in written form and shall be published in the FEDERAL REGISTER when they affect the public.

(c) Each officer to whom authority is delegated will administer and perform the functions described in his respective functional statements.

§ 501.6 Secretary's reservations of authority.

The authorities reserved to the Secretary of Transportation are set forth in § 1.44 of part 1 and in part 95 of the regulations of the Office of the Secretary of Transportation in subtitle A of this title (49 CFR parts 1 and 95).

§ 501.7 Administrator's reservations of authority.

The delegations of authority in this part do not extend to the following authority which is reserved to the Administrator:

(a) The authority under the National Traffic and Motor Vehicle Safety Act of 1966, as amended, to: (1) Establish, amend, or revoke final new and used motor vehicle safety standards and regulations except for the issuance of amendments to existing standards through the abbreviated rulemaking procedures concerning tires and rims; (2) Make final determinations concerning violations of the Act and regulations issued thereunder.

(b) The authority under the Highway Safety Act of 1966, as amended, to: (1) Apportion authorization amounts and distribute obligation limitations for State and community highway safety programs; (2) Approve the awarding of incentive grants to the States authorized under 23 U.S.C. 402(j); (3) Promulgate uniform State and community highway safety standards; (4) Amend or revoke State and community highway safety standards

(5) Fix the rate of compensation for non-government members of the National Highway Safety Advisory Committee.

(c) The authority under the Motor Vehicle Information and Cost Savings Act of 1972, as amended (49 CFR 1902 et seq.), to:

(1) Establish, amend, revoke, or grant exemptions from final motor vehicle standards;

(2) Establish, amend, revoke, or grant exemptions from final automotive fuel economy standards;

(3) Release initially compiled official information to consumers and automobile dealers, and issue final rules and regulations developed under the act;

(4) Make final determinations concerning violations of the Act and regulations thereunder;

(5) Assess civil penalties and grant credits to manufacturers under Section 508.

(d) The authority under section 211(c) of the Highway Safety Act of 1973, to allocate funds to the States.

(e) The authority under section 141 and section 154(a) and (d) of Title 23 of the United States Code, with the concurrence of the Federal Highway Administrator, to disapprove any State certification or to impose any sanction on a State.

§ 501.8 Delegations.

(a) *Deputy Administrator.* The Deputy Administrator is delegated authority to act for the Administrator, except where specifically limited by law, order, regulation, reservation, or instructions of the Administrator.

(b) Director, Office of Civil Rights. The Director, Office of Civil Rights is delegated authority to:

(1) Act as the NHTSA Director of Equal Employment Opportunity.

(2) Act as NHTSA Contracts Compliance Officer.

(3) Act as NHTSA coordinator for matters under Title VI of the Civil Rights Act of 1964, Executive Order 11247, and regulations of the Department of Justice.

(c) Executive Secretary. The Executive Secretary is delegated authority to issue subpoenas, at the request of the Assistant Chief Counsel for Litigation and after notice to the Administrator, for the attendance of witnesses or production of documents pursuant to the National Traffic and Motor Vehicle Safety Act.

(d) Chief Counsel. The Chief Counsel is delegated authority to:

(1) Exercise the powers and perform the duties of the Administrator with respect to the setting of odometer regulations authorized under Title IV of the Motor Vehicle Information and Cost Savings Act (86 Stat. 947, as amended, 90 Stat. 981; 15 U.S.C. 1901).

(2) Establish the legal sufficiency of all investigations conducted under the authority of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (80 Stat. 718; 15 U.S.C. 1381 et seq) and under the authority of Titles I and IV of the Motor Vehicle Information and Cost Savings Act of 1966, as amended (86 Stat. 947; 15 U.S.C. 1901 et seq).

(3) Exercise the powers of the Administrator, other than subpoena powers, under the following paragraphs of subsection 112(c) of the National Traffic and Motor Vehicle Safety Act (90 Stat. 718, as amended 88 Stat. 1470; 15 U.S.C. 1401(c)) at such stage in each investigation as the Administrator may determine that the preliminary data indicate a need for full inquiry: paragraph 1), paragraph (3) with respect to requiring reports and answers to be given under oath, paragraph (4), and paragraph (5).

(e) Associate Administrator for Plans and Programs. The Associate Administrator for Plans and Programs is delegated authority to direct the NHTSA planning and evaluation system in conjunction with Departmental requirements and planning goals; coordinate the development of the Administrator's plans, policies, and programs, the analyses of their expected impact, and their evaluation in terms of the degree of goal achievement; and perform independent analyses of proposed Administration regulatory, grant, legislative, and program activities.

(f) Associate Administrator for Rulemaking. Except for those portions that have been reserved to the Administrator, the Associate Administrator for Rulemaking is delegated authority to exercise the powers and perform the duties of the Administrator with respect to the setting of motor vehicle safety standards, average fuel economy standards, procedural regulations, and the development of consumer information and regulations authorized under:

(1) The National Traffic and Motor Vehicle Safety Act of 1966, as amended (80 Stat. 718; 15 U.S.C. 1381 et seq) except section 108 (b)(1) regarding used motor vehicles and State inspections, including the issuance of amendments to existing standards concerning tires and tire-rims through the prescribed abbreviated rulemaking procedures, subject to prior coordination with the Chief Counsel; and

(2) Titles I, II, and V of the Motor Vehicle Information and Cost Savings Act of 1972, as amended (86 Stat. 947; 15 U.S.C. 1901).

(g) Associate Administrator for Enforcement. Except for those portions that have been reserved to the Administrator, delegated to the Chief Counsel, or delegated to the Executive Secretary, the Associate Administrator for Enforcement is delegated authority to exercise the powers and perform the duties of the Administrator with respect to administering the NHTSA enforcement program for all laws, standards, and regulations pertinent to vehicle safety, fuel economy, damageability, consumer information and odometer fraud, authorized under (1) the National Traffic and Motor Vehicle Safety Act of 1966, as amended (80 Stat. 718; 15 U.S.C. 1381 et seq), and the Motor Vehicle Information and Cost Savings Act of 1972, as amended (86 Stat. 947; 15 U.S.C. 1901).

(h) Associate Administrator for Traffic Safety Programs. Except for those portions that have been reserved to the Administrator the Associate Administrator for Traffic Safety Programs is delegated authority to exercise the powers and perform the duties of the Administrator with respect to: The Highway Safety Act of 1966 (80 Stat. 731; 23 U.S.C. 401 et seq.), as amended; section 108(b)(1) of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (80 Stat. 718; 15 U.S.C. 1381 et seq.), regarding used motor vehicles and State inspection; the authority vested by section 210(2) of the Clean Air Act (42 U.S.C. 1857, et seq.), as amended by section 10(b) of Pub. L. 91-604 (84 Stat. 1700); the authority vested by section 204(b) of the Federal Railroad Safety Act of 1970 (84 Stat. 972; 45 U.S.C. 433(b)), with respect to the laws administered by the Administrator pertaining to highway traffic, and motor vehicle safety; administering Title III of the Motor Vehicle Information and Cost Savings Act of 1972 (86 Stat. 959; 15 U.S.C. 1901); carrying out the requirements of 211(c) of the Highway Safety Act of 1973 (87 Stat. 288); and the carrying out of the Act of July 14, 1960 (National Driver Register), as amended (74 Stat. 526; 23 U.S.C. 313 note); administers sections 141, as it relates to certification of the enforcement of speed limits, and 154 (a), (b), and (d) of title 23 United States Code, with the concurrence of the Federal Highway Administrator.

(i) Associate Administrator for Research and Development. The Associate Administrator for Research and Development is delegated authority to:

(1) Develop and conduct research and development programs and projects necessary to support the purposes of the National Traffic and Motor Vehicle Safety Act of 1966, as amended, the Highway Safety Act of 1966, as amended, and the Motor Vehicle Information and Cost Savings Act of 1972, as amended, in coordination with the appropriate Associate Administrators and the Chief Counsel.

(2) Conduct safety research, either independently or in cooperation with other public or private organizations, to improve the total state-of-the-art of motor vehicle and highway traffic safety.

(j) Associate Administrator for Administration. The Associate Administrator for Administration is delegated authority to:

(1) Exercise procurement authority with respect to requirements of the NHTSA;

(2) Administer and conduct personnel management activities of the NHTSA;

(3) Administer NHTSA fiscal management programs, including systems of funds control and accounts of all financial transactions, budgetary programs and controls, and the allocation of personnel resources; and

(4) Conduct administrative management services in support of NHTSA missions and programs.

(k) Regional Administrators. Each Regional Administrator is delegated authority to:

(1) Approve or disapprove State annual highway safety work programs (including changes in the initial agreement and approval of final vouchers) in accordance with procedural requirements of the Administration (jointly with the delegate of the Federal Highway Administrator), except for highway safety programs administered on Indian reservations by the Secretary of the Interior under 23 U.S.C. 402(i);

(2) Administer the operational phases of alcohol safety action projects within his Region as contact technical manager and such other projects that may be delegated for Regional administration.

(3) Approve or disapprove proposed revisions to State Highway Safety Comprehensive Plans that previously have been approved by Headquarters, NHTSA; portions of such plans that have been conditionally approved by Headquarters, NHTSA, may not be approved or disapproved for revision without the prior concurrence of the Associate Administrator for Traffic Safety Programs; jointly with the delegate of the Federal Highway Administrator, approve or disapprove revisions to conditionally approved portions of Comprehensive Plans that concerns standards administered by the Federal Highway Administration.

[FR Doc. 78-5385 Filed 3-1-78; 8:45 am]

[7035-01]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

PART 1033—CAR SERVICE

[Second Revised Service Order No. 1299]

Consolidated Rail Corp. Ordered To Deliver Empty Boxcars to Boston & Maine Corp., Robert W. Meserve and Benjamin Lacy, Trustees (BM); BM Ordered To Deliver Empty Boxcars to Maine Central Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Second Revised Service Order No. 1299).

SUMMARY: Because of severe shortages of 50-ft. plain boxcars for loading by shippers served by the Maine Central Railroad, the Consolidated Rail Corp. is ordered to deliver 100 fifty-ft. plain boxcars per week to the Boston & Maine Corp. and the Boston & Maine Corp. is ordered to deliver 100 fifty-ft. plain boxcars per week to the Maine Central Railroad. The cars to be delivered are to be suitable for transporting newsprint paper.

DATES: Effective 11:59 p.m., February 26, 1978. Expires 11:59 p.m., March 12, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: The Order is printed in full below.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 24th day of February 1978.

An acute shortage of boxcars for transporting shipments of paper exists on the Maine Central Railroad Co. (MeC), in spite of efforts of the Car Service Division of the Association of American Railroads to expedite the return of MeC boxcars to that line. The Consolidated Rail Corp. (CR), by reason of its location and traffic flows, normally has between 28,000 and 30,000 50-ft. plain boxcars of railroad ownership and approximately 2,200 or more similar cars owned by private car companies of railroad ownership and control. The total number of 50-ft. plain boxcars is in excess of twice CR's ownership of approximately 14,000 such cars. Its use of cars owned by other railroads and of railroad controlled private cars exceeds CR's ownership of 50-ft. cars.

In the opinion of the Commission an emergency exists requiring redistribution of a portion of the boxcars located on CR in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure herein are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1299 Consolidated Rail Corp. ordered to deliver empty boxcars to Boston & Maine Corp., Robert W. Meserve and Benjamin Lacy, Trustees (IBM); BM ordered to deliver empty boxcars to Maine Central Railroad Co.

(a) Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) The Consolidated Rail Corp. (CR) shall deliver to the Boston & Maine Corp., Robert W. Meserve and Benjamin Lacy, Trustees (BM), a weekly total of one hundred (100) empty plain boxcars listed in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 406 issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM" and having inside length 49-ft. 8-in. and less than 59-ft. 8-in., and bearing reporting marks assigned to a railroad or to a railroad controlled private car company. The cars delivered by CR to the BM must be suitable for loading with newsprint paper, the BM to be the judge.

(2) The BM shall deliver to the Maine Central Railroad Co. (MeC) a weekly total of one hundred (100) empty plain boxcars of the type described in paragraph (1) of this section. The cars delivered by the BN to the MeC must be suitable for loading with newsprint paper, the MeC to be the judge.

(b) This order shall not apply to cars of Mexican or Canadian ownership or to cars subject to Interstate Commerce Commission or Association of American Railroads' Orders requiring return of cars to owners.

(c) The rate of delivery specified in this direction shall be maintained within weekly periods ending each Sunday at 11:59 p.m., so that at the end of each seven days the full delivery required for that period shall have been made.

(d) Cars applied under this direction shall be so identified on empty car cards, movement slips, and interchange records as moving under the provisions of this direction.

(e) The carriers delivering the empty boxcars as described above must advise Joel E. Burns, Director, Bureau of Operations, Interstate Commerce Commission, Washington, D.C. 20423 each Wednesday as to the number of cars, covered by this direction, delivered during the preceding week, ending each Sunday at 11:59 p.m.

(f) The carriers receiving the cars described above must advise Joel E. Burns, Director, Bureau of Operations, Interstate Commerce Commission, Washington, D.C. 20423 each Wednesday as to the number of cars received during the preceding week, ending each Sunday at 11:59 p.m.

(g) *Regulations suspended.* The operation of all rules and regulations, insofar as they conflict with the provisions of this direction, is hereby suspended.

(h) *Effective date.* This direction shall become effective at 11:59 p.m., February 26, 1978.

(i) *Expiration date.* This direction shall expire at 11:59 p.m., March 12, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1(10-17).)

It is further ordered, That a copy of this direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement; and that notice of this direction be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-5525 Filed 3-1-78; 8:45 am]

[7035-01]

PART 1033—CAR SERVICE

[Service Order No. 1304]

Distribution of Covered Hopper Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Service Order No. 1304).

SUMMARY: There is a shortage of jumbo covered hopper cars for transporting shipments of grain. A large number of these cars have been placed in unit-train service. Service Order No. 1304 provides that no common carrier by railroad shall permit the use in unit-grain train service of more than twenty percent of its ownership of jumbo covered hopper cars.

DATES: Effective 11:59 p.m., March 1, 1978. Expires 11:59 p.m., April 30, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423. Telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: The Order is printed in full below.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 24th day of February 1978.

An acute shortage of covered hopper cars for transporting shipments of grain, grain products, soybeans, or soybeans meal exists in certain sections of the country. Some carriers have placed substantial numbers of large-capacity covered hopper cars in unit-train service for the movement of grain under tariff provisions which require that these cars remain in this service for five or more consecutive trips in the service of a single shipper. Such practices are depriving shippers, unable to ship to the destinations to which such services are available or unable to comply with tariff provisions applicable to such movements with respect to availability of tonnage in a single day or ability to receive grain in such quantities, of an equitable share of the supply of large covered hoppers thus creating great economic loss.

The Commission on July 28, 1977, in docket Ex Parte No. 307, ordered, and the carriers have incorporated in their tariffs, rules requiring that, in periods of shortages in the supplies of covered hopper cars, such cars assigned to the use of a shipper for five or more consecutive trips in unit-grain train service be returned to the control of the carrier for redistribution in a fair and equitable manner.

It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1304 Distribution of covered hopper cars.

(a) Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) *Restrictions on use of covered hopper cars.* Effective March 1, 1978, no common carrier by railroad shall permit the use in unit-grain train service of more than twenty percent (20%) of its ownership of jumbo covered hopper cars. (See exception.)

(2) *Repetitive trips.* After completion of five consecutive trips or of the minimum number of trips required by applicable tariffs to qualify for unit-grain train rates, whichever is the lesser, unit-grain trains comprised of jumbo covered hopper cars shall be returned to the origin carrier for distribution. In distributing cars so returned to the control of the carrier, consideration shall be given to the sequence of car orders, the amount of grain immediately available for shipment and the ratio of grain cars ordered to grain cars furnished during the previous seven-day period.

(3) *Completion period.* The period specified in applicable tariffs for completion of the total volume requirements of any unit-grain train shipment on which the required number of consecutive trips has been interrupted because of the provisions of paragraph (2) of this section, shall be extended by addition of the number of days of such interruption, to the total number of days allowed to fulfill such volume requirements.

(4) *Railroad cars mixed with private cars.* (i) Jumbo covered hopper cars of railroad ownership may be substituted for similar cars of private ownership in unit-grain trains normally consisting of cars of private ownership to replace cars which have been damaged by the railroad, provided such substitution does not exceed ten percent (10%) of the total number of cars in such train, fractions of a car to be computed by the next higher whole number of cars. The total of such railroad-owned cars shall be included in the total number of cars authorized herein to be used in unit-grain train service. (See exception (iii).)

(ii) Carrier may operate unit-grain trains comprised of cars of both railroad and private ownership. (See exception (iii).) The railroad-owned cars used in such unit train of mixed ownerships shall remain subject to the provisions of paragraph (2) of this section.

(iii) *Exception.* The provisions of parts (i) and (ii) of this paragraph shall not apply to unit-grain trains subject to tariff provisions requiring the exclusive use of cars of private ownership.

(5) *Increased use in unit trains prohibited.* No common carrier by railroad shall increase the proportion of its ownership of covered hopper cars operated in unit-grain train service above the proportion operated in unit-grain train service on February 15, 1978.

(6) *Exception.* Exceptions to this order may be authorized to carriers by the Railroad Service Board, Interstate Commerce Commission, Washington, D.C. 20423, upon written application stating the number of additional cars to be used in unit-grain train service, the points between which such cars are to be used and the effect upon the

carrier's ability to supply cars to other grain shippers who are dependent on it for their car supplies.

(7) *Substitution of small cars for jumbo cars prohibited.* No common carrier shall substitute smaller covered hopper cars for jumbo covered hopper cars for use in unit-grain train service.

(8) *Monthly reports required.* Each common carrier by railroad owning jumbo covered hopper cars shall report to Mr. Joel E. Burns, Chairman, Railroad Service Board, Interstate Commerce Commission, Washington, D.C. 20423, on or before the tenth day of each month the number of jumbo covered hopper cars owned, as of the first of the month, the total number in unit-grain train service; by trains, the number of railroad-owned and privately owned cars in unit-grain trains of mixed ownership; by trains, the number of railroad-owned cars substituted for private cars which have been damaged by railroad and the number of private cars in such unit-grain trains; the number of railroad-owned cars in general grain service, the number in other services, the number of unit-grain trains operated during the previous month, and the number of trips made by such trains.

(b) *Definitions:* (1) *Unit-grain train.* Unit-grain trains are hereby defined as trains of twenty (20) or more covered hoppers organized and operated as a unit from a single point of origin or concentration point, to one destination or distribution point in order to comply with published tariff requirements.

(2) *Jumbo covered hopper cars of railroad ownership.* Jumbo covered hopper cars of railroad ownership are hereby defined as cars listed in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 406, issued by W. J. Trezise, or successive issues thereof as bearing reporting marks issued to railroads and having mechanical designation "LO", and having cubical capacities of 4,000 cu. ft. or larger and weight-carrying capacities of 180,000 lbs. or greater.

(3) *Cars of private ownership.* Cars of private ownership are hereby defined as cars listed in the section entitled "Private Car Owners", pages 709-1099, inclusive, of the Official Railway Equipment Register, I.C.C.-R.E.R. No. 406, issued by W. J. Trezise, or successive issues thereof.

(c) *Rules and regulations suspended.* In the event that the operation of any unit-grain train is discontinued by the shipper prior to March 15, 1978, as a result of this order, the discontinuance of such a train shall be deemed to have completed the tariff responsibility as to total volume required to be shipped and as to the number of consecutive trips required to be made by such unit-grain train. The operation of all other tariff provisions or of other rules and regulations, insofar as they conflict with the provisions of this order, is hereby suspended.

(d) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(e) *Effective date.* This order shall become effective at 11:59 p.m., March 1, 1978.

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., April 30, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1(10-17).)

It is further ordered, That a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-5526 Filed 3-1-78; 8:45 am]

[7035-01]

SUBCHAPTER B—PRACTICE AND PROCEDURE

PART 1125—STANDARDS FOR DETERMINING RAIL SERVICES CONTINUATION SUBSIDIES

Report and Order; Correction

AGENCY: Rail Services Planning Office, Interstate Commerce Commission.

ACTION: Publication of corrections.

SUMMARY: These are corrections to the Standards for Determining Rail Service Continuation subsidies (Ex Parte 293; Sub No. 2) published in the FEDERAL REGISTER (Vol. 43, No. 7, 1692) on Wednesday, January 11, 1978. These corrections were necessitated by Accounting Series Circular No. 168 issued by the Bureau of Accounts, Interstate Commerce Commission, on January 25, 1978. This circular made corrections and clarifications to the Uniform System of Accounts for Railroads (Docket No. 36367).

DATE: Effective date January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

James Wells, Chief, Cost Evaluation Branch, Rail Services Planning Office, 202-254-7552.

Issued February 24, 1978, by Alan M. Fitzwater, Director, Rail Services Planning Office.

By the Commission.

H. GORDON HOMME, Jr.,
Acting Secretary.

CORRECTIONS OF TEXT

FEDERAL REGISTER page 1696, "Revenue from property used. * * *" add ", less expenses." Present Account Number should read "506, 534."

FEDERAL REGISTER page 1699, Electric Power Systems, Column 2 should read "253, 257, 304."

FEDERAL REGISTER page 1700, Miscellaneous Buildings and Structures, Column 2 should read "221, 229, 239, 265 and 304."

FEDERAL REGISTER page 1701, After "Casualties and Insurance—Switching, Insurance" insert the following:

CASUALTIES AND INSURANCE—OTHER

Other casualties—274, 420—52-13-00—Actual.
Insurance—275—53-13-00—Actual.

FEDERAL REGISTER page 1702, Depreciation—Other, Column 2 should read "268, 305."

FEDERAL REGISTER page 1702, Dismantling Retired Road Property—Other, Column 2 should read "270, 306."

FEDERAL REGISTER page 1702, Other—Running, Column 2 should read "281-282, 274."

FEDERAL REGISTER page 1702, Other—Switching, Column 2 should read "281-282, 274."

FEDERAL REGISTER page 1702, Other—Other, Column 2 should read "281-282, 274."

FEDERAL REGISTER page 1703, Depreciation, Column 2 should read "331, 305."

FEDERAL REGISTER page 1703, Other, Column 2 should read for:
Salaries and Wages—"339, 332."
Materials—"339."
Purchased Services—"339."
Other Expenses—"339, 332."

FEDERAL REGISTER page 1704, Other, Column 2 should read "330, 339, 332."

FEDERAL REGISTER page 1704, Depreciation, Column 2 should read "331, 305."

FEDERAL REGISTER page 1705, Depreciation, Column 2 should read "331, 305."

FEDERAL REGISTER page 1706, Other, Column 2 should read for:
Salaries and Wages—"339, 332."
Materials—"339."
Purchased Services—"339."
Other Expenses—"339, 332."

FEDERAL REGISTER page 1707, Train and Inspection and Lubrication, Column 2 should read-"314, 402, 311."

FEDERAL REGISTER page 1707, Other, Column 2 should read "402, 411, 420."

FEDERAL REGISTER page 1708, Other, Column 2 should read "411, 420."

FEDERAL REGISTER page 1709 (4) Specialized Services Operations Fringe Benefits, Column 2 should read "409, 457, 449."

FEDERAL REGISTER page 1709, Other, Column 2 should read "411, 442, 446, and 420."

FEDERAL REGISTER page 1710, Other, Column 2 should read for:
Salaries and Wages—"411, 420."
Materials—"411."
Purchased Services—"411."
Other Expenses—"411, 420."

FEDERAL REGISTER page 1711, Industrial Development, Column 2 should read "356, 452, 451."

FEDERAL REGISTER page 1711, Personnel and Labor Relations, Column 2 should read "452, 451."

FEDERAL REGISTER page 1711, Legal and Secretarial, Column 2 should read: "452, 454, 274, 332, and 420."

FEDERAL REGISTER page 1711, Other, Column 2 should read "355, 360, 460, 351, 451, 452, and 453."

[FR Doc. 78-5528 Filed 3-1-78; 8:45 am]

[7035-01]

[Docket No. 35819]

Regulations Governing the Form of ICC Designations To Be Shown on Tariffs and Schedules, and Assignment of Alpha Code Carrier and Agent Designations

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: This document amends various rules to require the use of standard ICC designations in place of consecutive ICC numbers to identify tariffs and schedules. Currently, manual and computer files of tariff and schedule information must be constantly updated because the identifying number changes with each reissuance of the tariff or schedule. Under the new system the designation will remain constant with the reissuances being indicated by the addition of an alphabetical suffix to the standard designation. A unique carrier or agent identifier, which forms part of the standard designation, will be assigned to each carrier or agent by a committee formed of representatives from the transportation industry.

EFFECTIVE DATE: Effective April 3, 1978.

FOR FURTHER INFORMATION CONTACT:

William P. Geisenkotter, Chief, Section of Tariffs, Bureau of Traffic, Interstate Commerce Commission, Washington, D.C. 20423, 202-275-7739.

SUPPLEMENTARY INFORMATION: The standard ICC designation consists of the letters "ICC," a unique carrier or agent code consisting of a minimum of two and a maximum of four alphabetical characters, and a standard tariff number assigned according to the type of tariff. Letter suffixes varying from "A" to "Z" indicate successive reissuances of a tariff or schedules.

The unique carrier and agent codes will be assigned by a committee formed of representatives of all the various modes and kinds of carriers. The committee shall file a list of the codes in tariff form with the Commission not later than September 1, 1978. A statement indicating that all members of the committee agree to the contents must accompany the tariff. If the members cannot agree, the Commission will assume responsibility for assigning codes.

The address of the organization or organizations to which carriers may apply for codes must be submitted to the Commission by September 1, 1978. The standard designation must be shown on every effective tariff or schedule on file March 1, 1979, and on every tariff or schedule indicated to become effective after that date. Any carrier or agent having a code in the code register now maintained by the National Motor Freight Tariff Association, Inc. and now on file with the Commission, may convert to the standard designation before the industry code is filed, provided that no code has been assigned to the carrier or agent by the Western Railroad Association, and provided that no duplication exists between that code and the codes currently maintained by the Western Railroad Association.

The notice of proposed rulemaking was published at 38 FR, April 4, 1973, p. 8601.

These regulations are issued under the following authority: sec. 310a, 5 U.S.C. 553, 558; 49 U.S.C. 5, 6, 12, 20, 304, 310a, 317, 318, 319, 904, 906, 1003, 1005, 1013; sec. 12, 24 Stat. 383 as amended, secs. 5, 6, 12, 24 Stat. 380 as amended, sec. 20, 24 Stat. 386 as amended; 49 Stat. 546, 560, 561, 563, as amended; sec. 210a, 52 Stat. 1237, 1238, as amended; secs. 304, 306, 54 Stat. 933, 935; secs. 403, 405, 413, 56 Stat. 285, 287, 295; 80 Stat. 378.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

SUBCHAPTER D—TARIFFS AND SCHEDULES

PART 1300—FREIGHT TARIFFS: RAILROADS, WATER CARRIERS, AND PIPELINE COMPANIES SUBJECT TO SECTION 6 OF THE INTERSTATE COMMERCE ACT AND CARRIERS JOINTLY THEREWITH

Section 1300.3(b) is amended to read as follows:

§ 1300.3 Content of tariff title page.

* * * * *

(b) On the upper right-hand corner, the ICC identification. Prior to March 1, 1979, tariffs may use either one of two systems of identification, subject to certain restrictions. One is the numbering system whereby each carrier and agent numbers each new issue consecutively. The other is the system employing both alphabetical characters (the code signifying the issuing carrier or agent or, in some instances the kind of tariff—see § 1300.31(c)(2)(ii)) and numbers (the carrier's or agent's own tariff number including a suffix letter, if any). See § 1300.31—ICC Numbering Systems for details. The first is referred to in these rules as the "ICC number" and the other, while also an ICC number, is differentiated by referring to it as "standard ICC designation." In either case the type shall be bold-face and of not less than 12 point. Immediately under this designation or number, in smaller type, shall be shown the ICC designation or ICC number (and letter, if any) of each tariff or the number of each supplement canceled thereby. If the number of canceled publications is so large as to render it impracticable to thus enter them on the title page, they must be shown immediately following the table of contents, provided specific reference thereto is entered on the title page directly under the ICC designation or number. Carrier's serial numbers, if desired, may be entered below the upper marginal line of a title page showing an ICC number (not standard ICC designation).

* * * * *

Section 1300.9(i)(6) is amended to read as follows:

§ 1300.9 Amendments and supplements.

* * * * *

(i) * * *

(6) A similar adoption notice must immediately be filed by a receiver when he assumes possession and con-

trol of a carrier's lines. If the adoption notice bears an ICC number (not standard ICC designation), it must be consecutively numbered in the ICC service of the adopted carrier. If the adoption notice bears a standard ICC designation (not ICC number), it must be designated in the ICC numbering system of the adopted carrier. When the receivership is terminated, the carrier taking over the properties shall file an adoption notice and shall also file supplements as hereinabove prescribed if a change in the name of the carrier has been made.

* * * * *

Section 1300.14(g) is revised to read as follows:

§ 1300.14 Statutory notice; additional procedure in filing tariffs.

* * * * *

(g) *Explanation of missing numbers or letters required.* Tariffs, bearing ICC numbers (not standard ICC designations), and supplements are required to be numbered consecutively, and tariffs bearing standard ICC designations (not ICC numbers) (see §1300.31—ICC Numbering Systems) are required to have alphabetical suffixes affixed to the ICC designations when the tariffs are reissues of prior tariffs bearing standard ICC designations. Insofar as possible publications should be filed in such consecutive order. If, for any reason, this is not done, the tariff or supplement which is not numbered or lettered in sequence with the publication last filed must be accompanied by a memorandum explaining why consecutive numbers or letters were not used.

* * * * *

Section 1300.31 is added and reads as follows:

§ 1300.31 ICC numbering systems.

(a) *Compliance.* Until March 1, 1979, every tariff must bear either an I.C.C. (or ICC) number or a standard ICC designation as set forth in paragraphs (b) and (c), respectively, of this section. Every effective tariff on file with this Commission on that date and every tariff which is indicated to become effective after that date must bear a standard ICC designation as set forth in paragraph (c) of this section. Conversion from the consecutive I.C.C. (or ICC) system to the standard ICC designation system shall be accomplished in the manner set forth in paragraph (d) of this section.

(b) *I.C.C. (or ICC) numbers.* The I.C.C. (or ICC) numbers shall run consecutively beginning with the next consecutive number in the existing series or, if no tariffs have been issued previously, beginning with I.C.C. (or ICC) No. 1.

(c) *Standard ICC designation.* (1) The standard ICC designation shall be constructed by use of the characters "ICC," by use of a unique standard tariff, carrier, or agent code consisting of a minimum of two and a maximum of four alphabetical characters, and by use of a standard tariff number assigned according to the type of tariff, and in that order (when a master tariff of a general increase, the standard number may be the letter X followed by the docket number of the ex parte proceeding). For example, if the carrier or agent or the specific tariff has been assigned the code ABCD and the tariff has been given the number 2000 by the carrier or agent, the ICC designation would be "ICC ABCD 2000."

(2)(i) The codes shall be assigned by the transportation industry. Only one code shall be assigned to each carrier (even if carrier is of more than one mode) or agent (see paragraphs (c)(2)(ii) and (iii) for exceptions). Each code shall be unique for the carrier or agent to which it is assigned and may not be used by any other, regardless of mode. Each carrier or agent must use only the code assigned thereto and may not use any other, except where a separate code has been authorized for a particular tariff series. A carrier or agent may request that it be assigned a specific code (regardless of whether or not one has been previously assigned), which must be appropriate and not duplicate any other. To the greatest extent practicable, the first two letters of the requested code must relate to the carrier's or agent's name. "A," "An," or "The" forming part of the name of the carrier or agent should not be considered when requesting a code. A court-appointed receiver, trustee, et cetera, who assumes possession and operating control of a carrier's lines, whether in whole or in part, shall use the old carrier's code. In all other cases where the name of a carrier is lawfully changed or the operating control of a carrier's properties is lawfully transferred in whole or in part to another party under authority of an order of this Commission, and the regulations in this part require the filing of an adoption notice, the code of the new carrier shall be used on the adoption notice and on all original tariffs filed thereafter in the name of the new carrier. Where there is a change in the name of the carrier or agent without a change in ownership of a carrier or identity of an agent, a new code shall be assigned unless retention of the same code is authorized by the Commission. Exception: A code assigned for use on a specific tariff of an agent must continue to be used on that tariff. (See paragraph (c)(2)(ii) of this section.) A code which has been previously but is no longer assigned may be reassigned after its prior assignment has been canceled for at least 5 years. All requests for codes shall be in writing.

(ii) Consideration shall be given to requests for the assignment of specific codes to classification tariffs and other specific types of governing tariffs which have a substantial nationwide application for a substantial number of participating carriers. The requested code must not duplicate any other. Such a code shall be assigned only to a tariff published and filed in the name of an agent. To the greatest extent possible a requested code must coincide with the first letter of the primary words in the title of the tariff. Only one such code shall be assigned to a tariff. Each code shall be unique for the specific tariff series to which it is assigned and may not be used by the agent on any other tariff or by any carrier or other agent.

(iii) Consideration shall be given to requests for assignment of a separate code to a carrier for use in identifying separately a division or district of the carrier. The requested code must not duplicate any other. The code shall be in addition to the base code assigned the carrier under the provisions of paragraph (c)(2)(i) of this section. The additional code shall be constructed by the use of the base code together with an appropriate letter suffix, designating the particular district or division thereof, which, including the suffix, may not exceed four alphabetical characters. Where the base code consists of four characters, the letter suffix shall be added to the first three characters of the base code.

(iv) The transportation industry shall file with the Commission in tariff form a list of the assigned alphabetical codes and the names of the carriers and agents to which they are assigned. This tariff shall be amended every three months (if the list has changed during that period) to maintain it in an updated condition. The amendments shall amend the list to the extent of showing changes, additions, and cancellations. The tariff, if in bound form, shall comply with the supplemental and volume limitations for tariffs provided in part 1310 of this chapter. Partial amendments to the list may be shown in each supplement, and more than one partial amendment may be in effect at the same time. Only one tariff containing a list of codes may be in effect at one time.

(3) A standard tariff number assigned to a tariff filed in the name of a rail carrier or its agent shall consist of not more than four characters (when a master tariff of a general increase, the standard number may be the letter X followed by the docket number of the ex parte proceeding). The first digit or letter shall conform to the following grouping:

First digit or letter of standard tariff numbers to be assigned to types of tariffs listed opposite thereto	*Types of tariffs to which the first digits or letter listed opposite thereto are to be assigned*
1	Class rate tariffs.
2	Class exceptions tariffs.
3	General commodity rate tariffs (i.e., numerous unrelated commodities).
4	Specific commodity rate tariffs (e.g., iron or steel articles).
5	Routing guide tariffs.
6	Governing tariffs (all kinds).
7	TOFC and COFC class and/or commodity rate tariffs.
8 or 9	Miscellaneous tariffs (e.g., switching, special service, terminal service, et cetera).
X	May be used for master tariffs of general increases.

When a tariff, because of the provisions it contains, could be construed as being of more than one type, the governing factor in assignment of the digit or letter will be the category that represents the principal portion of the contents or that which signifies its primary purpose.

(4) A standard tariff number assigned to a tariff filed in the name of other than a rail carrier or its agent shall consist of not more than four digits. The grouping of the numbers shall be established by the carrier or agent according to the particular types of tariffs involved, and the number assigned to a tariff must conform to that grouping.

(5) The assigned number will remain the same from reissue to reissue of the tariff. A new tariff, not a reissue, shall not show a letter suffix following the tariff number, and the first reissue of it shall show the letter suffix A, the next reissue B, and so on until Z, following which the letter suffix A will again be used and the process repeated. In the example, in paragraph (c)(1) of this section, the first reissue of tariff ICC ABCD 2000 would be ICC ABCD 2000-A, the next reissue ICC ABCD 2000-B, and so on. Where the ICC number on a tariff is changed to a standard ICC designation, there may be no letter suffix, or as an alternative, any letter suffix may be used, and reissues proceeding from there alphabetically. A carrier or agent may not on any of its tariffs provide a tariff number for its own purpose that is different in any respect from that used in the ICC designation, and whole numbers (not fractional or decimal) must be employed. The purpose is to dispense with and prohibit dual systems of numbering any tariff.

(6) A standard tariff number which has been previously but is no longer assigned and used on an effective tariff may be reassigned after the last tariff to which it was assigned has been canceled for at least 5 years.

(7) When a carrier or agent adopts the standard ICC designation system and obtains a code, it must continue to use such system and file no new tariffs using the ICC consecutive numbering system. The ICC designation of a tariff which employs this system may not be changed.

(8) Tariff indexes containing the old ICC numbers of indexed tariffs shall be corrected to show the new ICC designation not later than 90 days from the effective date of the changeover of the particular tariff series in each case.

(9) Any tariff which refers to another as a governing publication or otherwise, using the standard ICC designation in such reference must clearly spell out the name of the carrier or agent whose tariff it is, or under the Explanation of Abbreviations or other appropriate place in the tariff explain the code as to the name of the carrier or agent for which it stands. If the code is assigned to the tariff, the explanation must clearly identify the tariff, including the name of the issuing agent.

(10) Tariffs that use numerical or alphabetical codes to identify carriers in connection with routing, participating carrier lists, et cetera, must convert such codes to the standard carrier codes not later than March 1, 1981.

(11) In applying the regulations in this part in connection with tariffs issued in, or converted to, the standard ICC designation system, any reference in such regulations, either expressed or implied, to the ICC consecutive numbering system and to "series" shall be construed to apply as well to the standard ICC designation system.

(d) *Conversion to new system.* (1) Each carrier or agent must obtain its standard code before it adopts the standard ICC designation system. A carrier or agent may elect to convert to the standard system only as each tariff is reissued, or a new one (not a reissue) is published, or in the alternative to convert all its existing tariffs at one time. In any event, all tariffs, except as otherwise provided in §1300.31(c)(10), must be converted by March 1, 1979. If all existing tariffs are converted at one time, the notice of the conversion in each tariff shall be made by special supplement. Such supplement shall contain no other matter, shall not be canceled, shall be considered exempt from the supplemental limitations in this part for the life of the tariff involved, and shall be shown as a supplement to the old tariff. The supplement may be published on not less than one day's notice, and shall contain a notice reading substantially as follows:

NOTICE OF CHANGE OF ICC NUMBER

Effective (here show date which is next following the general effective date of the supplement) the ICC designation of this tariff, as heretofore amended, is changed to (here show new tariff designation). All amendments to this tariff will hereafter use the new designation.

Any reference in any other tariff to this tariff by the previous ICC designation shall be construed as referring to this tariff by the new designation.

(2) Any reference in one tariff to another tariff by its old ICC number, after such referred-to tariff has been reissued or converted using the standard ICC designation system, must be corrected by publication(s) filed within 60 days of the effective date of the changed designation. Such references may be corrected upon not less than 1 day's notice. A supplement issued to a bound tariff for the purpose of effecting such correction, and containing no other matter, may be issued and maintained without regard to the supplemental matter limitations of this part. If the corrections as to any particular bound tariff would require more than one page of tariff matter, corrections may be made by "Amendment to * * *" an item or other tariff unit provided the supplement contains only such corrective matter and is retained as a separate effective supplement (not reissued) for the life of the tariff or until all affected amended tariff items or units are reissued. Use of blanket form of supplement (a common supplement to two or more tariffs) to bound tariffs is authorized subject to the same conditions set forth in this subparagraph.

(3) A loose-leaf tariff may only be changed to the standard ICC designation system, without complete reissue, by issuance of the supplement authorized in this paragraph plus a revised title page (effective the same date as the supplement and upon the same notice), subject to the further condition that the new title page and each new or revised page issued thereafter shall show in connection with the standard ICC designation the words "Formerly ICC" followed by the old number.

(4) Tariffs (not supplements or loose-leaf page revisions) which are completely compiled and in the hands of the printer for publication, not filed, at the time of the complete changeover by a carrier or by an agent, which bear the old-type ICC designation, may be filed if accompanied by the supplement authorized in this paragraph and in the case of a loose-leaf tariff by revised title page, and the circumstances explained in the letter of transmittal accompanying the filing.

(5) When a tariff filed in the names of two or more agents is converted, the conversion must become effective on the same date for all the agents involved.

* * * * *

PART 1303—PASSENGER SERVICE SCHEDULES; RAIL AND WATER CARRIERS

Section 1303.3(a) is amended to read as follows:

§ 1303.3 Title page arrangement

• • • • •

(a) *ICC designations or numbers and cancellations.* In the upper right-hand corner, the ICC identification. Prior to March 1, 1979, tariffs may use either one of two systems of identification, subject to certain restrictions. One is the numbering system whereby each carrier and agent numbers each new issue consecutively. The other is the system employing both alphabetical characters (the code signifying the issuing carrier or agent or, in some instances the kind of tariff—see § 1303.37 (c)(2)(ii)) and numbers (the carrier's or agent's own tariff number including a suffix letter, if any). See § 1303.37—ICC Numbering Systems for details. The first is referred to in these rules as the "ICC number" and the other, while also an ICC number, is differentiated by referring to it as "standard ICC designation." Immediately under this designation or number shall be shown the ICC designation or ICC number (and letter, if any) of each tariff or the number of each supplement canceled thereby. If the number of publications canceled is so large as to make it impracticable to enter them on the title page, the cancellation notice must be shown on page 2 and specific reference thereto shown on the title page directly under the ICC designation or number.

• • • • •

Section 1303.8(g)(5) is amended to read as follows:

§ 1303.8 Amendment Procedure.

• • • • •

(g) • • •

(5) A similar adoption notice must immediately be filed by a receiver or trustee when he assumes possession and control of a carrier's lines. If the adoption notice bears an ICC number (not standard ICC designation), it must be consecutively numbered in the ICC series of the adopted carrier. If the adoption notice bears a standard ICC designation (not ICC number), it must be designated in the ICC numbering system of the adopted carrier. The name of the receiver or trustee shall be shown on the title page as a part of the carrier's correct name. When such possession and operating control is terminated the carrier taking over the properties shall file an adoption notice and also shall file supplements announcing the adoption as prescribed in the foregoing subparagraphs of this paragraph.

• • • • •

Section 1303.11(c) is revised to read as follows:

§ 1303.11 Filing tariffs; rejections.

• • • • •

(c) *Explanation of missing numbers or letters required.* Tariffs bearing ICC numbers (not standard ICC designations) are required to be numbered consecutively, and tariffs bearing standard ICC designations (not ICC numbers) (see § 1303.37—ICC Numbering Systems) are required to have alphabetical suffixes affixed to the ICC designations when the tariffs are reissues of prior tariffs bearing standard ICC designations. Insofar as possible, tariffs should be filed in such consecutive order. If, for any reason, this is not done, the tariff which is not numbered or lettered in sequence with the tariff last filed must be accompanied by a memorandum explaining why consecutive numbers or letters were not used.

• • • • •

Section 1303.37 is added and reads as follows:

§ 1303.37 ICC Numbering Systems.

(a) *Compliance.* Until March 1, 1979, every tariff must bear either an ICC number or a standard ICC designation as set forth in paragraphs (b) and (c), respectively, of this section. Every effective tariff on file with this commission on that date and every tariff which is indicated to become effective after that date must bear a standard ICC designation as set forth in paragraph (c) of this section. Conversion from the consecutive I.C.C. (or ICC) system to the standard ICC designation system shall be accomplished in the manner set forth in paragraph (d) of this section.

(b) *I.C.C. (or ICC) numbers.* The I.C.C. (or ICC) numbers shall run consecutively beginning with the next consecutive number in the existing series or, if no tariffs have been issued previously, beginning with I.C.C. (or ICC) NO. 1.

(c) *Standard ICC designation.* (1) The standard ICC designation shall be constructed by use of the characters "ICC," by use of a unique standard tariff, carrier, or agent code consisting of a minimum of two and a maximum of four alphabetical characters, and by use of a standard tariff number assigned according to the type of tariff, and in that order. For example, if the carrier or agent or the specific tariff has been assigned the code ABCD and the tariff has been given the number 2000 by the carrier or agent, the ICC designation would be "ICC ABCD 2000."

(2) (i) The codes shall be assigned by the transportation industry. Only one code shall be assigned to each carrier (even if carrier is of more than one mode) or agent (see paragraphs (c)(2)(ii) and (iii) for exceptions). Each code shall be unique for the carrier or agent to which it is assigned and may not be used by any other, regardless of mode. Each carrier or agent must use only the code assigned thereto and may not use any other, except where a separate code has been authorized for a particular tariff series. A carrier or agent may request that it be assigned a specific code (regardless of whether or not one has been previously assigned), which must be appropriate and not duplicate any other. To the greatest extent practicable, the first two letters of the requested code must relate to the carrier's or agent's name. "A," "An," or "The" forming part of the name of the carrier or agent should not be considered when requesting a code. A court-appointed receiver, trustee, et cetera, who assumes possession and operating control of a carrier's lines, whether in whole or in part, shall use the old carrier's code. In all other cases where the name of a carrier is lawfully changed or the operating control of a carrier's properties is lawfully transferred in whole or in part to another party under authority of an order of this Commission, and the regulations in this part require the filing of an adoption notice, the code of the new carrier shall be used on the adoption notice and on all original tariffs filed thereafter in the name of the new carrier. (Where there is a change in the name of the carrier or agent without a change in ownership of a carrier or identity of an agent, a new code shall be assigned unless retention of the same code is authorized by the Commission. Exception: A code assigned for use on a specific tariff of an agent must continue to be used on that tariff. See paragraph (c)(2)(ii) of this section.) A code which has been previously but is no longer assigned may be reassigned after its prior assignment has been canceled for at least 5 years. All requests for codes shall be in writing.

(ii) Consideration shall be given to requests for the assignment of specific codes to specific types of governing tariffs which have a substantial nationwide application for a substantial number of participating carriers. The requested code must not duplicate any other. Such a code shall be assigned only to a tariff published and filed in the name of an agent. To the greatest extent possible a requested code must coincide with the first letter of the primary words in the title of the tariff. Only one such code shall be assigned to a tariff. Each code shall be unique for the specific tariff series to which it is assigned and may not be used by the agent on any other tariff or by any carrier or other agent.

(iii) Consideration shall be given to requests for assignment of a separate code to a carrier for use in identifying separately a division or district of the carrier. The requested code must not duplicate any other. This code shall be in addition to the base code assigned the carrier under the provisions of paragraph (c)(2)(i) of this section. The additional code shall be constructed by the use of the base code together with an appropriate letter suffix, designating the particular district or division thereof, which, including the suffix, may not exceed four alphabetical characters. Where the base code consists of four characters, the letter suffix shall be added to the first three characters of the base code.

(iv) The transportation industry shall file with the commission in tariff form a list of the assigned alphabetical codes and the names of the carriers and agents to which they are assigned. This tariff shall be amended every three months (if the list has changed during that period) to maintain it in an updated condition. The amendments shall amend the list to the extent of showing changes, additions, and cancellations. The tariff, if in bound form, shall comply with the supplemental and volume limitations for tariffs provided in Part 1310 of this chapter. Partial amendments to the list may be shown in each supplement, and more than one partial amendment may be in effect at the same time. Only one tariff containing a list of codes may be in effect at one time.

(3) A standard tariff number assigned to a tariff shall consist of not more than four digits. The grouping of the numbers shall be established by the carrier or agent according to the particular types of tariffs involved, and the number assigned to a tariff must conform to that grouping.

(4) The assigned number will remain the same from reissue to reissue of the tariff. A new tariff, not a reissue, shall not show a letter suffix following the tariff number, and the first reissue of it shall show the letter suffix A, the next reissue B, and so on until Z, following which the letter suffix A will again be used and the process repeated. In the example, in paragraph (c)(1) of this section, the first reissue of tariff ICC ABCD 2000 would be ICC ABCD 2000-A, the next reissue ICC ABCD 2000-B, and so on. Where the ICC number on a tariff is changed to a standard ICC designation, there may be no letter suffix, or as an alternative, any letter suffix may be used, and reissues proceeding from there alphabetically. A carrier or agent may not on any of its tariffs provide a tariff number for its own purpose that is different in any respect from that used in the ICC designation, and whole numbers (not fractional or decimal) must be employed. The purpose is to dispense with and prohibit dual systems of numbering any tariff.

(5) A standard tariff number which has been previously but is no longer assigned and used on an effective tariff may be reassigned after the last tariff to which it was assigned has been canceled for at least 5 years.

(6) When a carrier or agent adopts the standard ICC designation system and obtains a code, it must continue to use such system and file no new tariffs using the ICC consecutive numbering system. The ICC designation of a tariff which employs this system may not be changed.

(7) Tariff indexes containing the old ICC numbers of indexed tariffs shall be corrected to show the new ICC designation not later than 90 days from the effective date of the changeover of the particular tariff series in each case.

(8) Any tariff which refers to another as a governing publication or otherwise, using the standard ICC designation in such reference must clearly spell out the name of the carrier or agent whose tariff it is, or under the Explanation of Abbreviations or other appropriate place in the tariff explain the code as to the name of the carrier or agent for which it stands. If the code is assigned to the tariff, the explanation must clearly identify the tariff, including the name of the issuing agent.

(9) Tariffs that use numerical or alphabetical codes to identify carriers in connection with routing, participating carrier lists, et cetera, must convert such codes to the standard carrier codes not later than March 1, 1981.

(10) In applying the regulations in this part in connection with tariffs issued in, or converted to, the standard ICC designation system, any reference in such regulations, either expressed or implied, to the ICC consecutive numbering system and to "series" shall be construed to apply as well to the standard ICC designation system.

(d) *Conversion to new system.* (1) Each carrier or agent must obtain its standard code before it adopts the standard ICC designation system. A carrier or agent may elect to convert to the standard system only as each tariff is reissued, or a new one (not a reissue) is published, or in the alternative to convert all its existing tariffs at one time. In any event, all tariffs except as otherwise provided in § 1303.37(c)(9), must be converted by March 1, 1979. If all existing tariffs are converted at one time, the notice of the conversion in each tariff shall be made by special supplement. Such supplement shall contain no other matter, shall not be canceled, shall be considered exempt from the supplemental limitations in this part for the life of the tariff involved, and shall be shown as a supplement to the old tariff. The supplement may be published on not less than 1 day's notice, and shall contain a notice reading substantially as follows:

NOTICE OF CHANGE OF ICC NUMBER

Effective (here show date which is next following the general effective date of the supplement) the ICC designation of this tariff, as heretofore amended, is changed to (here show new tariff designation). All amendments to this tariff will hereafter use the new designation.

Any reference in any other tariff to this tariff by the previous ICC designation shall be construed as referring to this tariff by the new designation.

(2) Any reference in one tariff to another tariff by its old ICC number, after such referred-to tariff has been reissued or converted using the standard ICC designation system, must be corrected by publication(s) filed within 60 days of the effective date of the changed designation. Such references may be corrected upon not less than 1 day's notice. A supplement issued to a bound tariff for the purpose of effecting such correction, and containing no other matter, may be issued and maintained without regard to the supplemental matter limitations of this part. If the corrections as to any particular bound tariff would require more than one page of tariff matter, corrections may be made by "Amendment to • • •" an item or other tariff unit provided the supplement contains only such corrective matter and is retained as a separate effective supplement (not reissued) for the life of the tariff or until all affected amended tariff items or units are reissued. Use of blanket form of supplement (a common supplement to two or more tariffs) to bound tariffs is authorized subject to the same conditions set forth in this subparagraph.

(3) A loose-leaf tariff may only be changed to the standard ICC designation system, without complete reissue, by issuance of the supplement authorized in this paragraph plus a revised title page (effective the same date as the supplement and upon the same notice), subject to the further condition that the new title page and each new or revised page issued thereafter shall show in connection with the standard ICC designation the words "Formerly ICC" followed by the old number.

(4) Tariffs (not supplements or loose-leaf page revisions) which are completely compiled and in the hands of the printer for publication, not filed, at the time of the complete changeover by a carrier or by an agent, which bear the old-type ICC designation, may be filed if accompanied by the supplement authorized in

this paragraph and in the case of a loose-leaf tariff by revised title page, and the circumstances explained in the letter of transmittal accompanying the filing.

(5) When a tariff filed in the names of two or more agents is converted, the conversion must become effective on the same date for all the agents involved.

PART 1304—EXPRESS COMPANIES SCHEDULES AND CLASSIFICATIONS

Section 1304.3(b) is amended to read as follows:

§ 1304.3 Content of tariff title page.

* * * * *

(b) On the upper right-hand corner in bold-face type, the ICC identification. Prior to March 1, 1979, tariffs may use either one of two systems of identification, subject to certain restrictions. One is the numbering system whereby each carrier and agent numbers each new issue consecutively. The other is the system employing both alphabetical characters (the code signifying the issuing carrier or agent or, in some instances the kind of tariff — see § 1304.43(c)(2)(ii)) and numbers (the carrier's or agent's own tariff number including a suffix letter, if any). See § 1304.43—ICC Numbering Systems for details. The first is referred to in these rules as the "ICC number" and the other, while also an ICC number, is differentiated by referring to it as "standard ICC designation." Immediately under this designation or number in smaller type shall be shown the ICC designation or ICC number (and letter, if any) of each tariff canceled thereby. If, however, the number of canceled tariffs is so large as to render it impracticable to thus enter them on the title page, they must be shown on the following page, and specific reference to such list must be entered on the title page immediately under the ICC designation or number. Serial numbers of express companies may, if desired, be entered below the upper marginal line of a title page showing an ICC number (not standard ICC designation).

* * * * *

Section 1304.14(h) is amended to read as follows:

§ 1304.14 General provisions in connection with filing

* * * * *

(h) Tariffs bearing ICC numbers (not standard ICC designations) are presumed to be numbered consecutively, and tariffs bearing standard ICC designations (not ICC numbers) (see § 1304.43—ICC Numbering Systems) are required to have alphabetical suffixes in sequence affixed to the ICC designations when the tariffs are reissues of prior tariffs bearing standard ICC designations. Occasionally a tariff or supplement is received which does not bear an ICC number or alphabetical suffix next in order to that borne by the one last filed. This is sometimes occasioned by the missing number or letter having been assigned to a tariff that is in course of preparation. Request is made that insofar as is possible express companies will file tariffs and supplements in consecutive order. If from any cause this is not done in any instance, the tariff or supplement which is not numbered or lettered consecutively with the publication last filed must be accompanied by a memorandum explaining as to the missing number or letter.

* * * * *

Section 1304.43 is added and reads as follows:

§ 1304.43 ICC Numbering Systems.

(a) *Compliance.* Until March 1, 1979, every tariff must bear either an I.C.C. (or ICC) number or a standard ICC designation as set forth in paragraphs (b) and (c), respectively, of this section. Every effective tariff on file with this commission on that date and every tariff which is indicated to become effective after that date must bear a standard ICC designation as set forth in paragraph (c) of this section. Conversion from the consecutive I.C.C. (or ICC) system to the standard ICC designation system shall be accomplished in the manner set forth in paragraph (d) of this section.

(b) *I.C.C. (or ICC) numbers.* The I.C.C. (or ICC) numbers should run consecutively beginning with the next consecutive number in the existing series or, if no tariffs have been issued previously, beginning with I.C.C. (or ICC) No. 1.

(c) *Standard ICC designation.* (1) The standard ICC designation shall be constructed by use of the characters "ICC," by use of a unique standard tariff, carrier, or agent code consisting of a minimum of two and a maximum of four alphabetical characters, and by use of a standard tariff number assigned according to the type of tariff, and in that order. For example, if the carrier or agent or the specific tariff has been assigned the code ABCD and the tariff has been given the number 2000 by the carrier or agent, the ICC designation would be "ICC ABCD 2000."

(2)(i) The codes shall be assigned by the transportation industry. Only one code shall be assigned to each carrier (even if carrier is of more than one mode) or agent (see paragraphs (c)(2)(ii) and (iii) for exceptions). Each code shall be unique for the carrier or agent to which it is assigned and may not be used by any other, regardless of mode. Each carrier or agent must use only the code assigned thereto and may not use any other, except where a separate code has been authorized for a particular tariff series. A carrier or agent may request that it be assigned a specific code (regardless of whether or not one has been previously assigned), which must be appropriate and not duplicate any other. To the greatest extent practicable, the first two letters of the requested code must relate to the carrier's or agent's name. "A," "An," or "The" forming part of the name of the carrier or agent should not be considered when requesting a code. A court-appointed receiver, trustee, et cetera, who assumes possession and operating control of a carrier's lines, whether in whole or in part, shall use the old carrier's code. In all other cases where the name of a carrier is lawfully changed or the operating control of a carrier's properties is lawfully transferred in whole or in part to another party under authority of an order of this Commission, and the regulations in this part require the filing of an adoption notice, the code of the new carrier shall be used on the adoption notice and on all original tariffs filed thereafter in the name of the new carrier. (Where there is a change in the name of the carrier or agent without a change in ownership of a carrier or identity of an agent, a new code shall be assigned unless retention of the same code is authorized by the Commission. Exception: A code assigned for use on a specific tariff of an agent must continue to be used on that tariff. (See paragraph (c)(2)(ii) of this section.) A code which has been previously but is no longer assigned may be reassigned after its prior assignment has been canceled for at least 5 years. All requests for codes shall be in writing.

(ii) Consideration shall be given to requests for the assignment of specific codes to specific types of governing tariffs which have a substantial nationwide application for a substantial number of participating carriers. The requested code must not duplicate any other. Such a code shall be assigned only to a tariff published and filed in the name of an agent. To the greatest extent possible a requested code must coincide with the first letter of the primary words in the title of the tariff. Only one such code shall be assigned to a tariff. Each code shall be unique for the specific tariff series to which it is assigned and may not be used by the agent on any other tariff or by any carrier or other agent.

(iii) Consideration shall be given to requests for assignment of a separate code to a carrier for use in identifying separately a division or district of the carrier. The requested code must not duplicate any other. This code shall be in addition to the base code assigned the carrier under the provisions of paragraph (c)(2)(i) of this section. The additional code shall be constructed by the use of the base code together with an appropriate letter suffix, designating the particular district or division thereof, which, including the suffix, may not exceed four alphabetical characters. Where the base code consists of four characters, the letter suffix shall be added to the first three characters of the base code.

(iv) The transportation industry shall file with the Commission in tariff form a list of the assigned alphabetical codes and the names of the carriers and agents to which they are assigned. This tariff shall be amended every three months (if the list has changed during that period) to maintain it in an updated condition. The amendments shall amend the list to the extent of showing changes, additions, and cancellations. The tariff, if in bound form, shall comply with the supplemental and volume limitations for tariffs provided in Part 1310 of this chapter. Partial amendments to the list may be shown in each supplement, and more than one partial amendment may be in effect at the same time. Only one tariff containing a list of codes may be in effect at one time.

(3) A standard tariff number assigned to a tariff shall consist of not more than four digits. The grouping of the numbers shall be established by the carrier or agent according to the particular types of tariffs involved, and the number assigned to a tariff must conform to that grouping.

(4) The assigned number will remain the same from reissue to reissue of the tariff. A new tariff, not a reissue, shall not show a letter suffix following the tariff number, and the first reissue of it shall show the letter suffix A, the next reissue B, and so on until Z, following which the letter suffix A will again be used and the process repeated. In the example in paragraph (c)(1) of this section, the first reissue of tariff ICC ABCD 2000 would be ICC ABCD 2000-A, the next reissue ICC ABCD 2000-B, and so on. Where the ICC number on a tariff is changed to a standard ICC designation, there may be no letter suffix, or as an alternative, any letter suffix may be used, and reissues proceeding from there alphabetically. A carrier or agent may not on any of its tariffs provide a tariff number for its own purpose that is different in any respect from that used in the ICC designation, and whole numbers (not fractional or decimal) must be employed. The purpose is to dispense with and prohibit dual systems of numbering any tariff.

(5) A standard tariff number which has been previously but is no longer assigned and used on an effective tariff may be reassigned after the last tariff to which it was assigned has been canceled for at least 5 years.

(6) When a carrier or agent adopts the standard ICC designation system and obtains a code, it must continue to use such system and file no new tariffs using the ICC consecutive numbering system. The ICC designation of a tariff which employs this system may not be changed.

(7) Tariff indexes containing the old ICC numbers of indexed tariffs shall be corrected to show the new ICC designations not later than 90 days from the effective date of the changeover of the particular tariff series in each case.

(8) Any tariff which refers to another as a governing publication or otherwise, using the standard ICC designation in such reference must clearly spell out the name of the carrier or agent whose tariff it is, or under the Explanation of Abbreviations or other appropriate place in the tariff explain the code as to the name of the carrier or agent for which it stands. If the code is assigned to the tariff, the explanation must clearly identify the tariff, including the name of the issuing agent.

(9) Tariffs that use numerical or alphabetical codes to identify carriers in connection with routing, participating carrier lists, et cetera, must convert such codes to the standard carrier codes not later than March 1, 1981.

(10) In applying the regulations in this part in connection with tariffs issued in, or converted to, the standard ICC designation system, any reference in such regulations, either expressed or implied, to the ICC consecutive numbering system and to "series" shall be construed to apply as well to the standard ICC designation system.

(d) *Conversion to new system.* (1) Each carrier or agent must obtain its standard code before it adopts the standard ICC designation system. A carrier or agent may elect to convert to the standard system only as each tariff is reissued, or a new one (not a reissue) is published, or in the alternative to convert all its existing tariffs at one time. In any event, all tariffs, except as otherwise provided in § 1304.43(c)(9), must be converted by March 1, 1979. If all existing tariffs are converted at one time, the notice of the conversion in each tariff shall be made by special supplement. Such supplement shall contain no other matter, shall not be canceled, shall be considered exempt from the supplemental limitations in this part for the life of the tariff involved, and shall be shown as a supplement to the old tariff. The supplement may be published on not less than 1 day's notice, and shall contain a notice reading substantially as follows:

NOTICE OF CHANGE OF ICC NUMBER

Effective (here show date which is next following the general effective date of the supplement) the ICC designation of this tariff, as heretofore amended, is changed to (here show new tariff designation). All amendments to this tariff will hereafter use the new designation.

Any reference in any other tariff to this tariff by the previous ICC designation shall be construed as referring to this tariff by the new designation.

(2) Any reference in one tariff to another tariff by its old ICC number, after such referred-to tariff has been reissued or converted using the standard ICC designation system, must be corrected by publication(s) filed within 60 days of the effective date of the changed designation. Such references may be corrected upon not less than 1 day's notice. A supplement issued to a bound tariff for the purpose of effecting such correction, and containing no other matter, may be issued and maintained without regard to the supplemental matter limitations of this part. If the corrections as to any particular bound tariff would require more than one page of tariff matter, corrections may be made by "Amendment to * * *" an item or other tariff unit provided the supplement contains only such corrective matter and is retained as a separate effective supplement (not reissued) for the life of the tariff or until all affected amended tariff items or units are reissued. Use of Blanket form of supplement (a common supplement to two or more tariffs) to bound tariffs is authorized subject to the same conditions set forth in this subparagraph.

(3) A loose-leaf tariff may only be changed to the standard ICC designation system, without complete reissue, by issuance of the supplement authorized in this paragraph plus a revised title page (effective the same date as the supplement and upon the same notice), subject to the further condition that the new title page and each new or revised page issued thereafter shall show in connection with the standard ICC designation the words "Formerly ICC" followed by the old number.

(4) Tariffs (not supplements or loose-leaf page revisions) which are completely compiled and in the hands of the printer for publication, not filed, at the time of the complete changeover by a carrier or by an agent, which bear the old-type ICC designation, may be filed if accompanied by the supplement authorized in this paragraph and in the case of a loose-leaf tariff by revised title page, and the circumstances explained in the letter of transmittal accompanying the filing.

(5) When a tariff filed in the names of two or more agents is converted, the

conversion must become effective on the same date for all the agents involved.

* * * * *

PART 1306—PASSENGER AND EXPRESS TARIFFS AND SCHEDULES OF MOTOR CARRIERS

Section 1306.2(a) is amended to read as follows:

§ 1306.2 Title page of every tariff and supplement shall show in the order named.

(a) *Serial number of tariffs.* (1) On the upper right-hand corner of each tariff, the ICC identification. Prior to March 1, 1979, tariffs may use either one of two systems of identification, subject to certain restrictions. One is the numbering system whereby each carrier and agent numbers each new issue consecutively. The other is the system employing both alphabetical characters (the code signifying the issuing carrier or agent or, in some instances the kind of tariff—see § 1306.18(c)(2)(ii)) and numbers (the carrier's or agent's own tariff number including a suffix letter, if any). See § 1306.18—ICC Numbering Systems for details. While both systems are "ICC numbers," the first is referred to in these rules as the "MP-ICC or ME-ICC number" and the other is differentiated by referring to it as "standard ICC designation."

(2) When tariffs are issued canceling a tariff or tariffs previously filed, immediately under the designation or number shall be shown the ICC designation or MP-ICC number of each tariff canceled thereby.

* * * * *

Section 1306.18 is added and reads as follows:

§ 1306.18 ICC Numbering systems.

(a) *Compliance.* Until March 1, 1979, every tariff and every schedule must bear an MP-I.C.C. (MP-ICC) or ME-I.C.C. (ME-ICC) number or a standard ICC designation as set forth in paragraphs (b) and (c) of this section. Every effective tariff and every effective schedule on file with this Commission on that date and every tariff and every schedule which is indicated to become effective after that date must bear a standard ICC designation as set forth in paragraph (c) of this section. Conversion from the consecutive MP-I.C.C. (MP-ICC) or ME-I.C.C. (ME-ICC) system to the standard ICC designation system shall be accomplished in the manner set forth in paragraph (d) of this section.

(b) *MP-I.C.C. (MP-ICC) or ME-I.C.C. (ME-ICC) numbers.* The MP-I.C.C. (MP-ICC) or ME-I.C.C. (ME-ICC) numbers shall run consecutively beginning with the next consecutive number in the existing series or, if no tariffs or schedules have been issued previously, beginning with No. 1.

(c) *Standard ICC designation.* (1) The standard ICC designation shall be constructed by use of the characters "ICC," by use of a unique standard tariff, carrier, or agent code consisting of a minimum of two and a maximum of four alphabetical characters, and by use of a standard tariff or schedule number assigned according to the type of tariff or schedule, and in that order. For example, if the carrier or agent or the specific tariff has been assigned the code ABCD and the tariff or schedule has been given the number 2000 by the carrier or agent, the ICC designation would be "ICC ABCD 2000." Tariffs or schedules containing rates, charges, or other provisions published to apply on emergency movements authorized by this Commission under section 210a(a) of the Interstate Commerce Act may be filed without a standard carrier code when the party to whom the authority is issued has not been issued a code. Such publications, however, must comply fully with all other requirements of this paragraph.

(2) (i) The codes shall be assigned by the transportation industry. Only one code shall be assigned to each carrier (even if carrier is of more than one mode) or agent (see paragraphs (c)(2)(ii) and (iii) for exceptions). Each code shall be unique for the carrier or agent to which it is assigned and may not be used by any other, regardless of mode. Each carrier or agent must use only the code assigned thereto and may not use any other, except where a separate code has been authorized for a particular tariff series. A carrier or agent may request that it be assigned a specific code (regardless of whether or not one has been previously assigned), which must be appropriate and not duplicate any other. To the greatest extent practicable, the first two letters of the requested code must relate to the carrier's or agent's name. "A," "An," or "The" forming part of the name of the carrier or agent should not be considered when requesting a code. A court-appointed receiver, trustee, executor, administrator, assignee, et cetera, who assumes possession and operating control of a carrier's lines, whether in whole or in part, shall use the old carrier's code. In all other cases where the name of a carrier is lawfully changed or the operating control (including temporary operating control under section 210a(b) of the act) of a carrier's properties is lawfully transferred in whole or in part to another party under authority of an order of this Commission, and the filing of an adoption notice is required, the code of the new carrier shall be used on the adoption notice and on all original tariffs or schedules filed thereafter in the name of the new carrier. (Where there is a change in the name of the carrier or agent without a change in ownership of a carrier or identity of an agent, a new code shall be assigned unless retention of the same code is authorized by the Commission. Exception: A code assigned for use on a specific tariff of an agent must continue to be used on that tariff. See paragraph (c)(2)(ii) of this section.) A code which has been previously but is no longer assigned may be reassigned after its prior assignment has been canceled for at least 5 years. All requests for codes shall be in writing.

(ii) Consideration shall be given to requests for the assignment of specific codes to specific types of governing tariffs which have a substantial nationwide application for a substantial number of participating carriers. The requested code must not duplicate any other. Such a code shall be assigned only to a tariff published and filed in the name of an agent. To the greatest extent possible a requested code must coincide with the first letter of the primary words in the title of the tariff. Only one such code shall be assigned to a tariff. Each code shall be unique for the specific tariff series to which it is assigned and may not be used by the agent on any other tariff or by any carrier or other agent. (The provisions of this paragraph (c)(2)(ii) do not apply to schedules filed by contract carriers.)

(iii) Consideration shall be given to requests for assignment of a separate code to a carrier for use in identifying separately a division or district of the carrier. The requested code must not duplicate any other. This code shall be in addition to the base code assigned to carrier under the provisions of paragraph (c)(2)(i) of this section. The additional code shall be constructed by the use of the base code together with an appropriate letter suffix, designating the particular district or division thereof, which, including the suffix, may not exceed four alphabetical characters. Where the base code consists of four characters, the letter suffix shall be added to the first three characters of the base code.

(iv) The transportation industry shall file with the Commission in tariff form a list of the assigned alphabetical codes and the names of the carriers and agents to which they are assigned. This tariff shall be amended every three months (if the list has changed during that period) to maintain it in an updated condition. The amendments shall amend the list to the extent of showing changes, additions, and cancellations. The tariff, if in bound form, shall comply with the

supplemental and volume limitations for tariffs provided in Part 1310 of this chapter. Partial amendments to the list may be shown in each supplement, and more than one partial amendment may be in effect at the same time. Only one tariff containing a list of codes may be in effect at one time.

(3) A standard tariff or schedule number assigned to a tariff or schedule shall consist of not more than four digits. The first digit of the standard number assigned to a tariff or schedule containing rates, charges, or other provisions covering emergency movements authorized by this Commission under section 210a(a) of the act shall be "9". This digit may not be assigned to any other type of tariff or schedule as a first digit. The grouping of the numbers for other types of tariffs or schedules shall be established by the carrier or agent according to the particular types of tariffs or schedules involved. The number assigned to a tariff or schedule must conform to these groupings.

(4) The assigned number will remain the same from reissue to reissue of the tariff or schedule. A new tariff or schedule, not a reissue, shall not show a letter suffix following the tariff or schedule number, and the first reissue of it shall show the letter suffix A, the next reissue B, and so on until Z, following which the letter suffix A will again be used and the process repeated. In the example in paragraph (c)(1) of this section, the first reissue of tariff or schedule ICC ABCD 2000 would be ICC ABCD 2000–A, the next reissue ICC ABCD 2000–B, and so on. Where the MP-ICC or ME-ICC number is changed to a standard ICC designation, there may be no letter suffix, or as an alternative, any letter suffix may be used, and reissues proceeding from there alphabetically. A carrier or agent may not on any of its tariffs or schedules provide a tariff or schedule number for its own purpose that is different in any respect from that used in the ICC designation, and whole numbers (not fractional or decimal) must be employed. The purpose is to dispense with and prohibit dual systems of numbering any tariff or schedule.

(5) A standard tariff or schedule number which has been previously but is no longer assigned and used on an effective tariff or schedule may be reassigned after the last tariff or schedule to which it was assigned has been canceled for at least 5 years.

(6) When a carrier or agent adopts the standard ICC designation system and obtains a code, it must continue to use such system and file no new tariffs or schedules using the MP-ICC or ME-ICC consecutive numbering system. The ICC designation of a tariff or schedule which employs this system may not be changed.

(7) Any tariff or schedule which refers to another as a governing publication or otherwise, using the standard ICC designation in such reference must clearly spell out the name of the carrier or agent whose tariff or schedule it is, or under the Explanation of Abbreviations or other appropriate place in the tariff or schedule explain the code as to the name of the carrier or agent for which it stands. If the code is assigned to the tariff, the explanation must clearly identify the tariff, including the name of the issuing agent.

(8) Tariffs that use numerical or alphabetical codes to identify carriers in connection with routing, participating carrier lists, et cetera, must convert such codes to the standard carrier codes not later than March 1, 1981.

(9) In applying the regulations in this part in connection with tariffs or schedules issued in, or converted to, the standard ICC designation system, any reference in such regulations, either expressed or implied, to the MP-ICC or ME-ICC consecutive numbering system and to "series" shall be construed to apply as well to the standard ICC designation system.

(d) *Conversion to new system.* (1) Each carrier or agent must obtain its standard code before it adopts the standard ICC designation system. A carrier or agent may elect to convert to the standard system only as each tariff or schedule is reissued, or a new one (not a reissue) is published, or in the alternative to convert all its existing tariffs or schedules at one time. In any event, all tariffs and all schedules, except as otherwise provided in § 1306.18(c)(8) must be converted by March 1, 1979. If all existing tariffs or schedules are converted at one time, the notice of the conversion in each tariff or schedule shall be made by special supplement. Such supplement shall contain no other matter, shall not be canceled, and shall be shown as a supplement to the old tariff. The supplement may be published on not less than 1 day's notice, and shall contain a notice reading substantially as follows:

NOTICE OF CHANGE OF MP-ICC (OR ME-ICC) NUMBER

Effective (here show date which is next following the general effective date of the supplement) the MP-ICC (or ME-ICC) designation of this tariff (or schedule), as heretofore amended, is changed to (here show new tariff (or schedule) designation). All amendments to this tariff (or schedule) will hereafter use the new designation.

Any reference in any other tariff (or schedule) to this tariff (or schedule) by the previous MP-ICC (or ME-ICC) designation shall be construed as referring to this tariff by the new designation.

(2) Any reference in one tariff or schedule to another tariff or schedule by its old MP-ICC or ME-ICC number, after such referred-to publication has been reissued or converted using the standard ICC designation system, must be corrected by publication(s) filed within 60 days of the effective date of the changed designation. Such references may be corrected upon not less than 1 day's notice. If the corrections as to any particular bound tariff or schedule would require more than one page of matter, corrections may be made by "Amendment to * * *" an item or other unit provided the supplement contains only such corrective matter and is retained as a separate effective supplement (not reissued) for the life of the tariff or schedule or until all affected amended items or units are reissued. Use of blanket form of supplement (a common supplement to two or more tariffs or schedules) to bound tariffs or schedules is authorized subject to the same conditions as set forth in this subparagraph.

(3) A loose-leaf tariff or schedule may only be changed to the standard ICC designation system, without complete reissue, by issuance of the supplement authorized in this paragraph plus a revised title page (effective the same date as the supplement and upon the same notice), subject to the further condition that the new title page and each new or revised page issued thereafter shall show in connection with the standard ICC designation the words "Formerly MP-ICC (or ME-ICC)" followed by the old number.

(4) Tariffs or schedules (not supplements or loose-leaf page revisions) which are completely compiled and in the hands of the printer for publication, not filed, at the time of the complete changeover by a carrier or by an agent, which bear the old-type designation, may be filed if accompanied by the supplement authorized in this paragraph and in the case of a loose-leaf tariff by revised title page, and the circumstances explained in the letter of transmittal accompanying the filing.

* * * * *

PART 1307—FREIGHT RATE TARIFFS, SCHEDULES, AND CLASSIFICATIONS OF MOTOR CARRIERS

Paragraphs (b) and (d) of section 1307.5 are amended to read as follows:

§ 1307.5 Form and content of schedules.

* * * * *

(b) *Numbering of schedules.* Each schedule shall bear an ICC identification. Prior to March 1, 1979, schedules may use either one of two systems of identification, subject to certain restrictions. One is the numbering

system whereby each carrier numbers each new issue consecutively. The other is the system employing both alphabetical characters (the code signifying the issuing carrier) and numbers (the carrier's own schedule number including a suffix letter, if any). See §1307.15—ICC Numbering Systems for details. While both systems are "ICC numbers," the first is referred to in these rules as the "MF-ICC number" and the other is differentiated by referring to it as "standard ICC designation."

• • • • •

(d) *Title page.* The first (front or top) page of a schedule shall be prepared as a title page showing in the upper right-hand corner its standard ICC designation or its MF-ICC number. Immediately under this designation or number shall be shown the ICC designation or MF-ICC number (and letter, if any) of each schedule canceled thereby.

• • • • •

Section 1307.10 is amended to read as follows:

§1307.10 Assumption of operating control by a receiver.

NOTE.—As used in §§1307.10 and 1307.11, the term "receiver" means a receiver, trustee, executor, administrator, assignee, or other similar party.

Adoption notices and supplements similar to those prescribed in §1307.8 shall immediately be filed by a receiver when he assumes full possession and operating control of a carrier's lines. Adoption notices bearing MF-I.C.C. (not standard ICC designations) numbers shall be consecutively numbered in the MF-I.C.C. series of the adopted carrier. Adoption notices bearing standard ICC (not MF-I.C.C. numbers) designations shall be designated in the ICC numbering system of the adopted carrier. Adoption supplements shall be consecutively numbered. Each adoption notice and supplement shall show the name of the receiver on the title page in connection with the carrier name. When such possession and operating control are terminated, the carrier taking over the properties in their entirety shall file an adoption notice and if a change in the name of the carrier has been made, shall also file supplements as prescribed in §1307.8.

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Section 1307.11(b) is amended to read as follows:

§1307.11 Adoptions; general instructions.[1]

• • • • •

(b) *Powers of attorney.* Powers of attorney adopted by a receiver or other carrier shall, within 120 days, be replaced and superseded by new powers of attorney issued by, and numbered in the series of the receiver or other new carrier, except that a receiver may number powers of attorney in the old series (see also §1307.12(a)). The cancellation reference to the former power of attorney must include the name of the former issuing carrier. Powers of attorney which will not be replaced by new issues shall be regularly revoked on the notice and in the manner prescribed by §1307.7.

• • • • •

Section 1307.12 is revised to read as follows:

§1307.12 Temporary operation of contract carrier properties.

(a) *New carrier assuming temporary control.* When temporary authority to take over the operating control of all or a portion of the operations of a contract carrier is granted pursuant to the provisions of section 210a(b) of the act, the new carrier then assumes temporary control of the operations of the old carrier shall comply with the provisions of §§1307.8, 1307.9, and 1307.11 except that the new carrier is not required to reissue the adopted powers of attorney during the period of temporary control of the operations of the old carrier.

(b) *Adoption notice to be filed when temporary authority ends.* If the temporary authority to assume operating control of the old carrier is discontinued or vacated, the old carrier must file an adoption notice reassuming control of the operations and otherwise comply with all of the provisions of §§1307.8, 1307.9, and 1307.11. The effective date to be shown on the adoption notice and adoption supplements is the date on which the new carrier's temporary authority to operate the properties of the old carrier expires or is vacated.

• • • • •

Section 1307.15 is added and reads as follows:

§1307.15 ICC Numbering Systems.

(a) *Compliance.* Until March 1, 1979, every schedule must bear either an MF-I.C.C. (or MF-ICC) number or a standard ICC designation as set forth in paragraphs (b) and (c), respectively, of this section. Every effective schedule on file with this Commission on that date and every schedule which is indicated to become effective after that date must bear a standard ICC designation as set forth in paragraph (c) of this section. Conversion from the consecutive MF-I.C.C. (or MF-ICC) system to the standard ICC designation system shall be accomplished in the manner set forth in paragraph (d) of this section.

(b) *MF-I.C.C. (or MF-ICC) numbers.* The MF-I.C.C. (or MF-ICC) numbers shall run consecutively beginning with the next consecutive number in the existing series or, if no schedules have been issued previously, beginning with MF-I.C.C. (or MF-ICC) No. 1.

(c) *Standard ICC designation.* (1) The standard ICC designation shall be constructed by use of the characters "ICC," by use of a unique standard carrier code consisting of a minimum of two and a maximum of four alphabetical characters, and by use of a standard schedule number assigned according to the type of schedule, and in that order. For example, the standard ICC designation on a schedule of a carrier to whom has been assigned the code ABCD, which schedule has been given the number 2000 by the carrier, would be "ICC ABCD 2000." Schedules containing charges or other provisions published to apply on emergency movements authorized by this Commission under section 210a(a) of the Interstate Commerce Act may be filed without a standard carrier code when the party to whom the authority is issued has not been issued a code. Such schedules, however, must comply fully with all other requirements of this paragraph.

(2)(i) The codes shall be assigned by the transportation industry. Only one code shall be assigned to each carrier, even if carrier is of more than one mode (see paragraph (c)(2)(ii) for exception). Each code shall be unique for the carrier to which it is assigned and may not be used by any other, regardless of mode. Each carrier must use only the code assigned thereto and may not use any other. A carrier may request that it be assigned a specific code (regardless of whether or not one has been previously assigned), which must be appropriate and not duplicate any other. To the greatest extent practicable, the first two letters of the requested code must relate to the carrier's name. "A," "An," or "The" forming part of the name of the carrier should not be considered when requesting a code. A court-appointed receiver, trustee, executor, administrator, assignee, et cetera, who assumes possession and operating control of a carrier's lines, whether in whole or in part, shall use the old carrier's code. In all other cases where the name of a carrier is lawfully changed or the operating control (including temporary operating control under section 210a(b) of the act) of a carrier's properties is lawfully transferred in whole or in part to another party under authority of an order of this Commission, and the regulations in this subpart require the filing of an adoption notice, the code of the new carrier shall be used on the adoption notice and on all original schedules filed thereafter in the name of the new carrier. (Where there is a change in the name of the carrier without a change in ownership, a new code shall be assigned unless retention of the same code is authorized by the Commission.) A code which has been previously but is no longer assigned may be reassigned after its prior assignment has been canceled for at least 5 years. All requests for codes shall be in writing.

(ii) Consideration shall be given to requests for assignment of a separate code to a carrier for use in identifying separately a division or district of the carrier. The requested code must not duplicate any other. This code shall be in addition to the base code assigned the carrier under the provisions of paragraph (c)(2)(i) of this section. The additional code shall be constructed by the use of the base code together with an appropriate letter suffix, designating the particular district or division thereof, which, including the suffix, may not exceed four alphabetical characters. Where the base code consists of four characters, the letter suffix shall be added to the first three characters of the base code.

(iii) The transportation industry shall file with the Commission in tariff form a list of the assigned alphabetical codes and the names of the carriers and agents to which they are assigned. This tariff shall be amended every three months (if the list has changed during that period) to maintain it in an updated condition. The amendments shall amend the list to the extent of showing changes, additions, and cancellations. The tariff, if in bound form, shall comply with the supplemental and volume limitations for tariffs provided in Part 1310 of this chapter. Partial amendments to the list may be shown in each supplement, and more than one partial amendment may be in effect at the same time. Only one tariff containing a list of codes may be in effect at one time.

(3) A standard schedule number assigned to a schedule shall consist of not more than four digits. The first digit of the standard number assigned to a schedule containing rates, charges, or other provisions covering emergency movements authorized by this Commission under section 210a(a) of the act shall be "9". This digit may not be assigned to any other type of schedule as a first digit. The grouping of the numbers for other types of schedules shall be established by the carrier according to the particular types of schedules involved. The number assigned to a schedule must conform to these groupings.

(4) The assigned number will remain the same from reissue to reissue of the schedule. A new schedule, not a reissue, shall not show a letter suffix following the schedule number, and the first reissue of it shall show the letter suffix A, the next reissue B, and so on until Z, following which the letter suffix A will again be used and the process repeated. In the example in paragraph (c)(1) of this section, the first reissue of schedule ICC ABCD 2000 would be ICC ABCD 2000-A, the next reissue ICC ABCD 2000-B, and so on. Where the MF-ICC number on a schedule is changed to a standard ICC designation, there may be no letter suffix, or as an alternative, any letter suffix may be used, and reissues proceeding from there alphabetically. A carrier may not on any of its schedules provide a schedule number for its own purpose that is different in any respect from that used in the ICC designation, and whole numbers (not fractional or decimal) must be employed. The purpose is to dispense with and prohibit dual systems of numbering any schedule.

(5) A standard schedule number which has been previously but is no longer assigned and used on an effective schedule may be reassigned after the last schedule to which it was assigned has been canceled for at least 5 years.

(6) When a carrier adopts the standard ICC designation system and obtains a code, it must continue to use such system and file no new schedules using the MF-ICC consecutive numbering system. The ICC designation of a schedule which employs this system may not be changed.

(7) Any schedule which refers to another as a governing publication or otherwise, using the standard ICC designation in such reference must clearly spell out the name of the agent whose publication it is, or under the Explanation of Abbreviations or other appropriate place in the schedule explain the code as to the name of agent for which it stands.

(8) In applying the regulations of this subpart in connection with schedules issued in, or converted to, the standard ICC designation system, any reference in such regulations, either expressed or implied, to the MF-ICC consecutive numbering system and to "series" shall be construed to apply as well to the standard ICC designation system.

(d) *Conversion to new system.* (1) Each carrier must obtain its standard code before it adopts the standard ICC designation system. A carrier may elect to convert to the standard system only as each schedule is reissued, or a new one (not a reissue) is published, or in the alternative to convert all its existing schedules at one time. In any event, all schedules must be converted by March 1, 1979. If all existing schedules are converted at one time, the notice of the conversion in each schedule shall be made by special supplement. Such supplement shall contain no other matter, shall not be canceled, shall be considered exempt from the supplemental limitations in this subpart for the life of the schedule involved, and shall be shown as a supplement to the old tariff. The supplement may be published on not less than one day's notice and shall contain a notice reading substantially as follows:

NOTICE OF CHANGE OF MF-ICC NUMBER

Effective (here show date which is next following the general effective date of the supplement) the MF-ICC designation of this schedule, as heretofore amended, is changed to (here show new schedule designation). All amendments to this schedule will hereafter use the new designation.

Any reference in any other schedule to this schedule by the previous MF-ICC designation shall be construed as referring to this tariff by the new designation.

(2) Any reference in one schedule to another publication by its old MF-ICC number, after such referred-to publication has been reissued or converted using the standard ICC designation system, must be corrected by publication(s) filed within 60 days of the effective date of the changed designation. Such references may be corrected upon not less than 1 day's notice. A supplement issued to a bound schedule for the purpose of effecting such correction, and containing no other matter, may be issued and maintained without regard to the supplemental matter limitations of this subpart. If the corrections as to any particular bound schedule would require more than one page of matter, corrections may be made by "Amendment to • • •" an item or other unit provided the supplement contains only such corrective matter and is retained as a separate effective supplement (not reissued) for the life of the schedule or until all affected amended items or units are reissued. Use of blanket form of supplement (a common supplement to two or more schedules) to bound schedules is authorized subject to the same conditions set forth in this subparagraph.

(3) A loose-leaf schedule may only be changed to the standard ICC designation system, without complete reissue, by issuance of the supplement authorized in this paragraph plus a revised title page (effective the same date as the supplement and upon the same notice), subject to the further condition that the new title page and each new or revised page issued thereafter shall show in connection with the

[1] See note in §1307.10.

standard ICC designation the words "Formerly MF-ICC" followed by the old number.

(4) Schedules (not supplements or loose-leaf page revisions) which are completely compiled and in the hands of the printer for publication, not filed, at the time of the complete changeover, which bear the old-type MF-ICC designation, may be filed if accompanied by the supplement authorized in this paragraph and in the case of a loose-leaf schedule by revised title page, and the circumstances explained in the letter of transmittal accompanying the filing.

Section 1307.26(a)(1) is amended to read as follows:

§ 1307.26 Title page.

(a) • • •

(1) *ICC designation or MF-I.C.C. numbers and cancellations.* On the upper right-hand corner, the ICC identification. Prior to March 1, 1979, tariffs may use either one of two systems of identification, subject to certain restrictions. One is the numbering system whereby each carrier and agent numbers each new issue consecutively. The other is the system employing both alphabetical characters (the code signifying the issuing carrier or agent or, in some instances the kind of tariff—see § 1307.50(c)(2)(i)) and numbers (the carrier's or agent's own tariff number including a suffix letter, if any). See § 1307.50—ICC Numbering Systems for details. While both systems are "ICC numbers," the first is referred to in these rules as the "MF-ICC number" and the other is differentiated by referring to it as "standard ICC designation." In either case the type shall be prominent bold face which shall, on printed tariffs, be not less than 12 point. Immediately under this designation or number shall be shown the ICC designation or MF-ICC number (and letter, if any) of each tariff canceled thereby, except that, when the cancellations are so numerous that it is inconvenient to show a list of the canceled publications on the title page, it may be shown immediately preceding the table of contents. In this event a reference thereto shall be shown under the ICC designation or MF-I.C.C. number on the title page.

• • • • •

Paragraph (e) of section 1307.43 is amended and paragraph (g) of § 1307.43 is revised to read as follows:

§ 1307.43 Transfer of operations; changes in name and control.

• • • • •

(e) *Receiver, et cetera, must file adoption notice and supplements.* Adoption notices and supplements similar to those prescribed in paragraphs (a) and (c) of this section shall immediately be filed and posted by a receiver, trustee, executor, administrator, assignee, or lessee when he assumes possession and operating control of a carrier's lines, either in whole or in part. Adoption notices bearing MF-I.C.C. numbers (not standard ICC designations) shall be consecutively numbered in the MF-I.C.C. series of the adopted carrier. Adoption notices bearing standard ICC designations (not MF-I.C.C. numbers) shall be designated in the ICC numbering system of the adopted carrier. Adoption supplements shall be consecutively numbered. Each adoption notice and supplement shall show the names of the receivers, trustees, executors, administrators, assignees, or lessees on the title page in connection with the former carrier's name. When such possession and operating control are terminated, the carrier taking over the properties shall file an adoption notice and if a change in the name of the carrier has been made, shall also file supplements as prescribed in paragraphs (a) and (c) of this section.

• • • • •

(g) *Temporary control.* (1) When temporary authority to take over the operating control of all or a portion of the operations of a carrier is granted pursuant to the provisions of section 210a(b) of Part II of the Interstate Commerce Act, as amended, the new carrier that assumes temporary control of the operations of the old carrier shall comply with the provisions of paragraphs (a), (b), (c), (d), and (f) of this section except that the new carrier is not required to reissue the adopted concurrences and powers of attorney during the period of temporary control of the operations of the old carrier.

(2) If the temporary authority to assume operating control of the old carrier is not made permanent, the old carrier must file an adoption notice reassuming control of the operations and otherwise comply with all of the provisions of this section. The effective date to be shown on the adoption notice and adoption supplements is the date on which the temporary authority for the new carrier to operate the properties of the old carrier expires or is vacated.

• • • • •

Section 1307.44(c) is amended to read as follows:

§ 1307.44 Filing and posting tariffs.

• • • • •

(c) *Explanation of missing numbers or letters required.* Tariffs, bearing MF-ICC numbers (not standard ICC designations), and supplements are required to be numbered consecutively, and tariffs bearing standard ICC designations (not MF-I.C.C. numbers) (see § 1307.50—ICC Numbering Systems) are required to have alphabetical suffixes to the ICC designations when the tariffs are reissues of prior tariffs bearing standard ICC designations. If, for any reason, this is not done, the tariff or supplement which is not numbered or lettered in sequence with the publication last filed must be accompanied by a memorandum explaining why consecutive numbers or letters were not used.

• • • • •

Section 1307.50 is added and reads as follows:

§ 1307.50 ICC Numbering Systems.

(a) *Compliance.* Until March 1, 1979, every tariff must bear either an MF-I.C.C. (or MF-ICC) number or a standard ICC designation as set forth in paragraphs (b) and (c), respectively, of this section. Every effective tariff on file with this Commission on that date and every tariff which is indicated to become effective after that date must bear a standard ICC designation as set forth in paragraph (c) of this section. Conversion from the consecutive MF-I.C.C. (or MF-ICC) system to the standard ICC designation system shall be accomplished in the manner set forth in paragraph (d) of this section.

(b) *MF-I.C.C. (or MF-ICC) numbers.* The MF-I.C.C. (or MF-ICC) numbers shall run consecutively beginning with the next consecutive number in the existing series or, if no tariffs have been issued previously, beginning with MF-I.C.C. (or MF-ICC) No. 1.

(c) *Standard ICC designation.* (1) The standard ICC designation shall be constructed by use of the characters "ICC," by use of a unique standard tariff, carrier, or agent code consisting of a minimum of two and a maximum of four alphabetical characters, and by use of a standard tariff number assigned according to the type of tariff, and in that order. For example, if the carrier, or agent or the specific tariff has been assigned the code ABCD and the tariff has been given the number 2000 by the carrier or agent, the ICC designation would be "ICC ABCD 2000." Tariffs containing rates or other provisions published to apply on emergency movements authorized by this Commission under section 210a(a) of the Interstate Commerce Act may be filed without a standard carrier code when the party to whom the authority is issued has not been issued a code. Such tariffs, however, must comply fully with all other requirements of this paragraph:

(2)(i) The codes shall be assigned by the transportation industry. Only one code shall be assigned to each carrier (even if carrier is of more than one mode) or agent (see paragraphs (c)(2)(ii) and (iii) for exceptions). Each code shall be unique for the carrier or agent to which it is assigned and may not be used by any other, regardless of mode. Each carrier or agent must use only the code assigned thereto and may not use any other, except where a separate code has been authorized for a particular tariff series. A carrier or agent may request that it be assigned a specific code (regardless of whether or not one has been previously assigned), which must be appropriate and not duplicate any other. To the greatest extent practicable, the first two letters of the requested code must relate to the carrier's or agent's name. "A," "An," or "The" forming part of the name of the carrier or agent should not be considered when requesting a code. A court-appointed receiver, trustee, executor, administrator, assignee, et cetera, who assumes possession and operating control of a carrier's lines, whether in whole or in part, shall use the old carrier's code. In all other cases where the name of a carrier is lawfully changed or the operating control (including temporary operating control under section 210a(b) of the act) of a carrier's properties is lawfully transferred in whole or in part to another party under authority of an order of this Commission, and the regulations in this subpart require the filing of an adoption notice, the code of the new carrier shall be used on the adoption notice and on all original tariffs filed thereafter in the name of the new carrier. (Where there is a change in the name of the carrier or agent without a change in ownership of a carrier or identity of an agent, a new code shall be assigned unless retention of the same code is authorized by the Commission. Exception: A code assigned for use on a specific tariff of an agent must continue to be used on that tariff. See paragraph (c)(2)(ii) of this section.) A code which has been previously but is no longer assigned may be reassigned after its prior assignment has been canceled for at least 5 years. All requests for codes shall be in writing.

(ii) Consideration shall be given to requests for the assignment of specific codes to classification tariffs and other specific types of governing tariffs which have a substantial nationwide application for a substantial number of participating carriers. The requested code must not duplicate any other. Such a code shall be assigned only to a tariff published and filed in the name of an agent. To the greatest extent possible a requested code must coincide with the first letter of the primary words in the title of the tariff. Only one such code shall be assigned to a tariff. Each code shall be unique for the specific tariff series to which it is assigned and may not be used by the agent on any other tariff or by any carrier or other agent.

(iii) Consideration shall be given to requests for assignment of a separate code to a carrier for use in identifying separately a division or district of the carrier. The requested code must not duplicate any other. This code shall be in addition to the base code assigned the carrier under the provisions of paragraph (c)(2)(i) of this section. The additional code shall be constructed by the use of the base code together with an appropriate letter suffix, designating the particular district or division thereof, which including the suffix, may not exceed four alphabetical characters. Where the base code consists of four characters, the letter suffix shall be added to the first three characters of the base code.

(iv) The transportation industry shall file with the Commission in tariff form a list of the assigned alphabetical codes and the names of the carriers and agents to which they are assigned. This tariff shall be amended every three months (if the list has changed during that period) to maintain it in an updated condition. The amendments shall amend the list to the extent of showing changes, additions, and cancellations. The tariff, if in bound form, shall comply with the supplemental and volume limitations for tariffs provided in Part 1310 of this chapter. Partial amendments to the list may be shown in each supplement, and more than one partial amendment may be in effect at the same time. Only one tariff containing a list of codes may be in effect at one time.

(3) A standard tariff number assigned to a tariff shall consist of not more than four digits. The first digit shall conform to the following grouping:

First digit of standard tariff numbers to be assigned to types of tariffs listed opposite thereto	*Types of tariffs to which the first digits listed opposite thereto are to be assigned*
1	Governing publications of all kinds; adoption notices.
2	Commodity rate tariffs.
3	Combined class and commodity rate tariffs.
4	Commodity column or distance rate tariffs.
5	Class rate tariffs.
6	Miscellaneous tariffs (those not included in any other category).
7	Import and export tariffs (tariffs assigned this digit must contain only import or export, or both, provisions).
8	Reserved for future assignment.
9	Tariffs containing rates or provisions covering emergency movements authorized by this Commission under section 210a(a) of the act.

When a tariff, because of the provisions it contains, could be construed as being of more than one type, the governing factor in assignment of the digit will be the category that represents the principal portion of the contents or that which signifies its primary purpose. Any tariff assigned any first digit, other than 7, may contain some, but not only, import or export provisions.

(4) The assigned number will remain the same from reissue to reissue of the tariff. A new tariff, not a reissue, shall not show a letter suffix following the tariff number, and the first reissue of it shall show the letter suffix A, the next reissue B, and so on until Z, following which the letter suffix A will again be used and the process repeated. In the example, in paragraph (c)(1) of this section, the first reissue of tariff ICC ABCD 2000 would be ICC ABCD 2000-A, the next reissue ICC ABCD 2000-B, and so on. Where the MF-ICC number on a tariff is changed to a standard ICC designation, there may be no letter suffix, or an alternative, any letter suffix may be used, and reissues proceeding from there alphabetically. A carrier or agent may not on any of its tariffs provide a tariff number for its own purpose that is different in any respect from that used in the ICC designation, and whole numbers (not fractional or decimal) must be employed. The purpose is to dispense with and prohibit dual systems of numbering any tariff.

(5) A standard tariff number which has been previously but is no longer assigned and used on an effective tariff may be reassigned after the last tariff to which it was assigned has been canceled for at least 5 years.

(6) When a carrier or agent adopts the standard ICC designation system and obtains a code, it must continue to use such system and file no new tariffs using the MF-ICC consecutive numbering system. The ICC designation of a tariff which employs this system may not be changed.

(7) Any tariff which refers to another as a governing publication or otherwise, using the standard ICC designation in such reference must clearly spell out the name of the carrier or agent whose tariff it is, or under the Explanation of Abbreviations or other appropriate place in the tariff explain the code as to the name of the carrier or agent for which it stands. If the code is assigned to the tariff, the explanation must clearly identify the tariff, including the name of the issuing agent.

(8) Tariffs that use numerical or alphabetical codes to identify carriers in connection with routing, participating carrier lists, et cetera, must convert such codes to the standard carrier codes not later than March 1, 1981.

(9) In applying the regulations of this subpart in connection with tariffs

issued in, or converted to, the standard ICC designation system, any reference in such regulations, either expressed or implied, to bound tariffs is authorized subject to the same conditions set forth in this subparagraph.

§ 1308.3 Title pages.[1]

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issued in, or converted to, the standard ICC designation system, any reference in such regulations, either expressed or implied, to the MF-ICC consecutive numbering system and to "series" shall be construed to apply as well to the standard ICC designation system.

(d) *Conversion to new system.* (1) Each carrier or agent must obtain its standard code before it adopts the standard ICC designation system. A carrier or agent may elect to convert to the standard system only as each tariff is reissued, or a new one (not a reissue) is published, or in the alternative to convert all its existing tariffs at one time. In any event, all tariffs, except as otherwise provided in § 1307.50(c)(8), must be converted by March 1, 1979. If all existing tariffs are converted at one time, the notice of the conversion in each tariff shall be made by special supplement. Such supplement shall contain no other matter, shall not be canceled, shall be considered exempt from the supplemental limitations in this subpart for the life of the tariff involved, and shall be shown as a supplement to the old tariff. The supplement may be published on not less than one day's notice, and shall contain a notice reading substantially as follows:

NOTICE OF CHANGE OF MF-ICC NUMBER

Effective (here show date which is next following the general effective date of the supplement) the MF-ICC designation of this tariff, as heretofore amended, is changed to (here show new tariff designation). All amendments to this tariff will hereafter use the new designation.

Any reference in any other tariff to this tariff by the previous MF-ICC designation shall be construed as referring to this tariff by the new designation.

(2) Any reference in one tariff to another tariff by its old MF-ICC number, after such referred-to tariff has been reissued or converted using the standard ICC designation system, must be corrected by publication(s) filed within 60 days of the effective date of the changed designation. Such references may be corrected upon not less than 1 day's notice. A supplement issued to a bound tariff for the purpose of effecting such correction, and containing no other matter, may be issued and maintained without regard to the supplemental matter limitations of this subpart. If the corrections as to any particular bound tariff would require more than one page of tariff matter, corrections may be made by "Amendment to • • •" an item or other tariff unit provided the supplement contains only such corrective matter and is retained as a separate effective supplement (not reissued) for the life of the tariff or until all affected amended tariff items or units are reissued. Use of blanket form of supplement (a common supplement to two or more tariffs) to bound tariffs is authorized subject to the same conditions set forth in this subparagraph.

(3) A loose-leaf tariff may only be changed to the standard ICC designation system, without complete reissue, by issuance of the supplement authorized in this paragraph plus a revised title page (effective the same date as the supplement and upon the same notice), subject to the further condition that the new title page and each new or revised page issued thereafter shall show in connection with the standard ICC designation the words "Formerly MF-ICC" followed by the old number.

(4) Tariffs (not supplements or loose-leaf page revisions) which are completely compiled and in the hands of the printer for publication, not filed, at the time of the complete changeover by a carrier or by an agent, which bear the old-type MF-ICC designation, may be filed if accompanied by the supplement authorized in this paragraph and in the case of a loose-leaf tariff by revised title page, and the circumstances explained in the letter of transmittal accompanying the filing.

(5) When a tariff filed in the names of two or more agents is converted, the conversion must become effective on the same date for all the agents involved.

• • • • •

PART 1308—FREIGHT TARIFFS AND SCHEDULES OF WATER CARRIERS

Section 1308.1(a)(4) is amended to read as follows:

§ 1308.1 Construction and filing.

(a) • • •

(4) Each tariff shall bear an ICC identification. Prior to March 1, 1979, tariffs may use either one of two systems of identification, subject to certain restrictions. One is the numbering system whereby each carrier and agent numbers each new issue consecutively. The other is the system employing both alphabetical characters (the code signifying the issuing carrier or agent or, in some instances the kind of tariff—see § 1308.13(c)(2)(ii)) and numbers (the carrier's or agent's own tariff number including a suffix letter, if any). See § 1308.13—ICC Numbering Systems for details. The first is referred to in these rules as the "ICC number" and the other, while also an ICC number, is differentiated by referring to it as "standard ICC designation."

• • • • •

Paragraphs (a) and (b) of section 1308.3 are amended to read as follows:

§ 1308.3 Title pages.[1]

• • • • •

(a) In the upper right-hand corner, either the standard ICC designation or the I.C.C. number of the tariff.

(b) When a tariff is issued canceling a tariff or tariffs previously filed, the standard ICC designation or ICC number (and letter, if any) of each tariff canceled immediately under the designation or number of the new tariff.

• • • • •

Section 1308.13 is added and reads as follows:

§ 1308.13 ICC Numbering Systems.

(a) *Compliance.* Until March 1, 1979, every tariff must bear either an I.C.C. (or ICC) number or a standard ICC designation as set forth in paragraphs (b) and (c), respectively, of this section. Every effective tariff on file with this Commission on that date and every tariff which is indicated to become effective after that date must bear a standard ICC designation as set forth in paragraph (c) of this section. Conversion from the consecutive I.C.C. (or ICC) system to the standard ICC designation system shall be accomplished in the manner set forth in paragraph (d) of this section.

(b) *I.C.C. (or ICC) numbers.* The I.C.C. (or ICC) numbers shall run consecutively beginning with the next consecutive number in the existing series or, if no tariffs have been issued previously, beginning with I.C.C. (or ICC) No. 1. If a carrier files both contract carrier schedules and common carrier tariffs, only one series of numbers should be used.

(c) *Standard ICC designation.* (1) The standard ICC designation shall be constructed by use of the characters "ICC," by use of a unique standard tariff, carrier, or agent code consisting of a minimum of two and a maximum of four alphabetical characters, and by use of a standard tariff number assigned according to the type of tariff, and in that order. For example, if the carrier or agent or the specific tariff has been assigned the code ABCD and the tariff has been given the number 2000 by the carrier or agent, the ICC designation would be "ICC ABCD 2000." Tariffs containing rates or other provisions published to apply on emergency movements authorized by this Commission under section 311 of the Interstate Commerce Act may be filed without a standard carrier code when the party to whom the authority is issued has not been issued a code. Such tariffs, however, must comply

[1] Paragraphs (a), (b), (c), (f), and (h) of this section need not be observed in tariffs containing only charges for towage.

fully with all other requirements of this paragraph.

(2)(i) The codes shall be assigned by the transportation industry. Only one code shall be assigned to each carrier (even if carrier is of more than one mode) or agent (see paragraphs (c)(2)(ii) and (iii) for exceptions). Each code shall be unique for the carrier or agent to which it is assigned and may not be used by any other, regardless of mode. Each carrier or agent must use only the code assigned thereto and may not use any other, except where a separate code has been authorized for a particular tariff series. A carrier or agent may request that it be assigned a specific code (regardless of whether or not one has been previously assigned), which must be appropriate and not duplicate any other. To the greatest extent practicable, the first two letters of the requested code must relate to the carrier's or agent's name. "A," "An," or "The" forming part of the name of the carrier or agent should not be considered when requesting a code. A court-appointed receiver, trustee, et cetera, who assumes possession and operating control of a carrier's lines, whether in whole or in part, shall use the old carrier's code. In all other cases where the name of a carrier is lawfully changed or the operating control of a carrier's properties is lawfully transferred in whole or in part to another party under authority of an order of this Commission, and the filing of an adoption notice is required, the code of the new carrier shall be used on the adoption notice and on all original tariffs filed thereafter in the name of the new carrier. (Where there is a change in the name of the carrier or agent without a change in ownership of a carrier or identity of an agent, a new code shall be assigned unless retention of the same code is authorized by the Commission. Exception: A code assigned for use on a specific tariff of an agent must continue to be used on that tariff. See paragraph (c)(2)(ii) of this section.) A code which has been previously but is no longer assigned may be reassigned after its prior assignment has been canceled for at least 5 years. All requests for codes shall be in writing.

(ii) Consideration shall be given to requests for the assignment of specific codes to specific types of governing tariffs which have a substantial nationwide application for a substantial number of participating carriers. The requested code must not duplicate any other. Such a code shall be assigned only to a tariff published and filed in the name of an agent. To the greatest extent possible a requested code must coincide with the first letter of the primary words in the title of the tariff. Only one such code shall be assigned to a tariff. Each code shall be unique for the specific tariff series to which it is assigned and may not be used by the agent on any other tariff or by any carrier or other agent.

(iii) Consideration shall be given to requests for assignment of a separate code to a carrier for use in identifying separately a division or district of the carrier. The requested code must not duplicate any other. This code shall be in addition to the base code assigned the carrier under the provisions of paragraph (c)(2)(i) of this section. The additional code shall be constructed by the use of the base code together with an appropriate letter suffix, designating the particular district or division thereof, which, including the suffix, may not exceed four alphabetical characters. Where the base code consists of four characters, the letter suffix shall be added to the first three characters of the base code.

(iv) The transportation industry shall file with the Commission in tariff form a list of the assigned alphabetical codes and the names of the carriers and agents to which they are assigned. This tariff shall be amended every three months (if the list has changed during that period) to maintain it in an updated condition. The amendments shall amend the list to the extent of showing changes, additions, and cancellations. The tariff, if in bound form, shall comply with the supplemental and volume limitations for tariffs provided in part 1310 of this chapter. Partial amendments to the list may be shown in each supplement, and more than one partial amendment may be in effect at the same time. Only one tariff containing a list of codes may be in effect at one time.

(3) A standard tariff number assigned to a tariff shall consist of not more than four digits. The grouping of the numbers shall be established by the carrier or agent according to the particular types of tariffs involved, and the number assigned to a tariff must conform to that grouping.

(4) The assigned number will remain the same from reissue to reissue of the tariff. A new tariff, not a reissue, shall not show a letter suffix following the tariff number, and the first reissue of it shall show the letter suffix A, the next reissue B, and so on until Z, following which the letter suffix A will again be used and the process repeated. In the example, in paragraph (c)(1) of this section, the first reissue of tariff ICC ABCD 2000 would be ICC ABCD 2000-A, the next reissue ICC ABCD 2000-B, and so on. Where the ICC number of a tariff is changed to a standard ICC designation, there may be no letter suffix, or as an alternative, any letter suffix may be used, and reissues proceeding from there alphabetically. A carrier or agent may not on any of its tariffs provide a tariff number for its own purpose that is different in any respect from that used in the ICC designation, and whole numbers (not fractional or decimal) must be employed. The purpose is to dispense with and prohibit dual systems of numbering any tariff.

(5) A standard tariff number which has been previously but is no longer assigned and used on an effective tariff may be reassigned after the last tariff to which it was assigned has been canceled for at least five years.

(6) When a carrier or agent adopts the standard ICC designation system and obtains a code, it must continue to use such system and file no new tariffs using the ICC consecutive numbering system. The ICC designation of a tariff which employs this system may not be changed.

(7) Any tariff which refers to another as a governing publication or otherwise, using the standard ICC designation in such reference must clearly spell out the name of the carrier or agent whose tariff it is, or under the Explanation of Abbreviations or other appropriate place in the tariff explain the code as to the name of the carrier or agent for which it stands. If the code is assigned to the tariff, the explanation must clearly identify the tariff, including the name of the issuing agent.

(8) Tariffs that use numerical or alphabetical codes to identify carriers in connection with routing, participating carrier lists, et cetera, must convert such codes to the standard carrier codes not later than March 1, 1981.

(9) In applying the regulations in this subpart in connection with tariffs issued in, or converted to, the standard ICC designation system, any reference in such regulations, either expressed or implied, to the ICC consecutive numbering system and to "series" shall be construed to apply as well to the standard ICC designation system.

(d) *Conversion to new system.* (1) Each carrier or agent must obtain its standard code before it adopts the standard ICC designation system. A carrier or agent may elect to convert to the standard system only as each tariff is reissued, or a new one (not a reissue) is published, or in the alternative to convert all its existing tariffs at one time. In any event, all tariffs, except as otherwise provided in § 1308.13(c)(8), must be converted by March 1, 1979. If all existing tariffs are converted at one time, the notice of the conversion in each tariff shall be made by special supplement. Such supplement shall contain no other matter, shall not be canceled, shall be considered exempt from the supplemental limitations in this subpart for the life of the tariff involved, and shall be shown as a supplement to the tariff. The supplement may be published on not less than 1 day's notice, and shall contain a notice reading substantially as follows:

NOTICE OF CHANGE OF ICC NUMBER

Effective (here show date which is next following the general effective date of the supplement) the ICC designation of this

§ 1308.101 Construction and filing.

(a) • • •

(4) Each schedule shall bear an ICC identification. Prior to March 1, 1979,

constructed by use of the characters "ICC," by use of a unique standard carrier code consisting of a minimum of two and a maximum of four alpha-

separately a division or district of the carrier. The requested code must not duplicate any other. This code shall be in addition to the base code assigned

(5) A standard schedule number which has been previously but is no longer assigned and used on an effective schedule may be reassigned after

the supplement contains only such corrective matter and is retained as a separate effective supplement (not reissued) for the life of the schedule or

NOTICE OF CHANGE OF ICC NUMBER

Effective (here show date which is next following the general effective date of the supplement) the ICC designation of this tariff, as heretofore amended, is changed to (here show new tariff designation). All amendments to this tariff will hereafter use the new designation.

Any reference in any other tariff to this tariff by the previous ICC designation shall be construed as referring to this tariff by the new designation.

(2) Any reference in one tariff to another tariff by its old ICC number, after such referred-to tariff has been reissued or converted using the standard ICC designation system, must be corrected by publication(s) filed within 60 days of the effective date of the changed designation. Such references may be corrected upon not less than 1 day's notice. A supplement issued to a bound tariff for the purpose of effecting such correction, and containing no other matter, may be issued and maintained without regard to the supplemental matter limitations of this subpart. If the corrections as to any particular bound tariff would require more than one page of tariff matter, corrections may be made by "Amendment to . . ." an item or other tariff unit provided the supplement contains only such corrective matter and is retained as a separate effective supplement (not reissued) for the life of the tariff or until all affected amended tariff items or units are reissued. Use of blanket form of supplement (a common supplement to two or more tariffs) to bound tariffs is authorized subject to the same conditions set forth in this subparagraph.

(3) A loose-leaf tariff may only be changed to the standard ICC designation system, without complete reissue, by issuance of the supplement authorized in this paragraph plus a revised title page (effective the same date as the supplement and upon the same notice), subject to the further condition that the new title page and each new or revised page issued thereafter shall show in connection with the standard ICC designation the words "Formerly ICC" followed by the old number.

(4) Tariffs (not supplements or loose-leaf page revisions) which are completely compiled and in the hands of the printer for publication, not filed, at the time of the complete changeover by a carrier or by an agent, which bear the old-type ICC designation, may be filed if accompanied by the supplement authorized in this paragraph and in the case of a loose-leaf tariff by revised title page, and the circumstances explained in the letter of transmittal accompanying the filing.

* * * * *

Section 1308.101(a)(4) is amended to read as follows:

§ 1308.101 Construction and filing.

(a) * * *

(4) Each schedule shall bear an ICC identification. Prior to March 1, 1979, schedules may use either one of two systems of identification, subject to certain restrictions. One is the numbering system whereby each carrier numbers each new issue consecutively. The other is the system employing both alphabetical characters (the code signifying the issuing carrier) and numbers (the carrier's own schedule number including a suffix letter, if any). See § 1308.110—ICC Numbering Systems for details. The first is referred to in these rules as the "ICC number" and the other, while also an ICC number, is differentiated by referring it as "standard ICC designation."

* * * * *

Paragraphs (a) and (b) of section 1308.103 are amended to read as follows:

§ 1308.103 Title pages.

* * * * *

(a) In the upper right-hand corner, either the standard ICC designation or the I.C.C. number of the schedule.

(b) When a schedule is issued canceling a schedule or schedules previously filed, the standard ICC designation or ICC number (and letter, if any) of each schedule canceled immediately under the designation or number of the new schedule.

* * * * *

Section 1308.110 is added and reads as follows:

§ 1308.110 ICC Numbering systems.

(a) *Compliance.* Until March 1, 1979, every schedule must bear either an I.C.C. (or ICC) number or a standard ICC designation as set forth in paragraphs (b) and (c), respectively, of this section. Every effective schedule on file with this Commission on that date and every schedule which is indicated to become effective after that date must bear a standard ICC designation as set forth in paragraph (c) of this section. Conversion from the consecutive I.C.C. (or ICC) system to the standard ICC designation system shall be accomplished in the manner set forth in paragraph (d) of this section.

(b) *I.C.C. (or ICC) numbers.* The I.C.C. (or ICC) numbers shall run consecutively beginning with the next consecutive number in the existing series or, if no schedules have been issued previously, beginning with I.C.C. (or ICC) No. 1. If a carrier files both contract carrier schedules and common carrier tariffs, only one series of numbers should be used.

(c) *Standard ICC designation.* (1) The standard ICC designation shall be constructed by use of the characters "ICC," by use of a unique standard carrier code consisting of a minimum of two and a maximum of four alphabetical characters, and by use of a standard schedule number assigned according to the type of schedule and in that order. For example, the standard ICC designation on a schedule of a carrier to whom has been assigned the code ABCD, which schedule has been given the number 2000 by the carrier, would be "ICC ABCD 2000." Schedules containing rates or other provisions published to apply on emergency movements authorized by this Commission under section 311 of the Interstate Commerce Act may be filed without a standard carrier code when the party to whom the authority is issued has not been issued a code. Such schedules, however, must comply fully with all other requirements of this paragraph.

(2)(i) The codes shall be assigned by the transportation industry. Only one code shall be assigned to each carrier, even if carrier is of more than one mode (see paragraph (c)(2)(ii) for exception). Each code shall be unique for the carrier to which it is assigned and may not be used by any other, regardless of mode. Each carrier must use only the code assigned thereto and may not use any other. A carrier may request that it be assigned a specific code (regardless of whether or not one has been previously assigned), which must be appropriate and not duplicate any other. To the greatest extent practicable, the first two letters of the requested code must relate to the carrier's name. "A," "An," or "The" forming part of the name of the carrier should not be considered when requesting a code. A court-appointed receiver, trustee, et cetera, who assumes possession and operating control of a carrier's lines, whether in whole or in part, shall use the old carrier's code. In all other cases where the name of a carrier is lawfully changed or the operating control of a carrier's properties is lawfully transferred in whole or in part to another party under authority of an order of this Commission, and the filing of an adoption notice is required, the code of the new carrier shall be used on the adoption notice and on all schedules filed thereafter in the name of the new carrier. (Where there is a change in the name of a carrier without a change in ownership, a new code shall be assigned unless retention of the same code is authorized by the Commission.) A code which has been previously but is no longer assigned may be reassigned after its prior assignment has been canceled for at least 5 years. All requests for codes shall be in writing.

(ii) Consideration shall be given to requests for assignment of a separate code to a carrier for use in identifying separately a division or district of the carrier. The requested code must not duplicate any other. This code shall be in addition to the base code assigned the carrier under the provisions of paragraph (c)(2)(i) of this section. The additional code shall be constructed by the use of the base code together with an appropriate letter suffix, designating the particular district or division thereof, which, including the suffix, may not exceed four alphabetical characters. Where the base code consists of four characters, the letter suffix shall be added to the first three characters of the base code.

(iii) The transportation industry shall file with the Commission in tariff form a list of the assigned alphabetical codes and the names of the carriers and agents to which they are assigned. This tariff shall be amended every three months (if the list has changed during that period) to maintain it in an updated condition. The amendments shall amend the list to the extent of showing changes, additions, and cancellations. The tariff, if in bound form, shall comply with the supplemental and volume limitations for tariffs provided in part 1310 of this chapter. Partial amendments to the list may be shown in each supplement, and more than one partial amendment may be in effect at the same time. Only one tariff containing a list of codes may be in effect at one time.

(3) A standard schedule number assigned to a schedule shall consist of not more than four digits. The grouping of the numbers shall be established by the carrier according to the particular types of schedules involved, and the number assigned to a schedule must conform to that grouping.

(4) The assigned number will remain the same from reissue to reissue of the schedule. A new schedule, not a reissue, shall not show a letter suffix following the schedule number, and the first reissue of it shall show the letter suffix A, the next reissue B, and so on until Z, following which the letter suffix A will again be used and the process repeated. In the example, in paragraph (c)(1) of this section, the first reissue of schedule ICC ABCD 2000 would be ICC ABCD 2000-A, the next reissue ICC ABCD 2000-B, and so on. Where the ICC number on a schedule is changed to a standard ICC designation, there may be no letter suffix, or as an alternative, any letter suffix may be used, and reissues proceeding from there alphabetically. A carrier may not on any of its schedules provide a schedule number for its own purpose that is different in any respect from that used in the ICC designation, and whole numbers (not fractional or decimal) must be employed. The purpose is to dispense with and prohibit dual systems of numbering any schedule.

(5) A standard schedule number which has been previously but is no longer assigned and used on an effective schedule may be reassigned after the last schedule to which it was assigned has been canceled for at least 5 years.

(6) When a carrier adopts the standard ICC designation system and obtains a code, it must continue to use such system and file no new schedules using the ICC consecutive numbering system. The ICC designation of a schedule which employs this system may not be changed.

(7) In applying the regulations in this subpart in connection with schedules issued in, or converted to, the standard ICC designation system, any reference in such regulations, either expressed or implied, to the ICC consecutive numbering system and to "series" shall be construed to apply as well to the standard ICC designation system.

(d) *Conversion to new system.* (1) Each carrier must obtain its standard code before it adopts the standard ICC designation system. A carrier may elect to convert to the standard system only as each schedule is reissued, or a new one (not a reissue) is published, or in the alternative to convert all its existing schedules at one time. In any event all schedules must be converted by March 1, 1979. If all existing schedules are converted at one time, the notice of the conversion in each schedule shall be made by special supplement. Such supplement shall contain no other matter, shall not be canceled, and shall be shown as a supplement to the old tariff. The supplement may be published on not less than one day's notice, and shall contain a notice reading substantially as follows:

NOTICE OF CHANGE OF ICC NUMBER

Effective (here show date which is next following the general effective date of the supplement) the ICC designation of this schedule, as heretofore amended, is changed to (here show new schedule designation). All amendments to this schedule will hereafter use the new designation.

Any reference in any other schedule to this schedule by the previous ICC designation shall be construed as referring to this tariff by the new designation.

(2) Any reference in one schedule to another schedule by its old ICC number, after such referred-to schedule has been reissued or converted using the standard ICC designation system, must be corrected by publication(s) filed within 60 days of the effective date of the changed designation. Such references may be corrected upon not less than one day's notice. If the corrections as to any particular bound schedule would require more than one page of matter, corrections may be made by "Amendment to . . ." an item or other unit provided the supplement contains only such corrective matter and is retained as a separate effective supplement (not reissued) for the life of the schedule or until all affected amended items or units are reissued. Use of blanket form of supplement (a common supplement to two or more schedules) to bound schedules is authorized subject to the same conditions set forth in this subparagraph.

(3) A loose-leaf schedule may only be changed to the standard ICC designation system, without complete reissue, by issuance of the supplement authorized in this paragraph plus a revised title page (effective the same date as the supplement and upon the same notice), subject to the further condition that the new title page and each new or revised page issued thereafter shall show in connection with the standard ICC designation the words "Formerly ICC" followed by the old number.

(4) Schedules (not supplements or loose-leaf page revisions) which are completely compiled and in the hands of the printer for publication, not filed, at the time of the complete changeover, which bear the old-type ICC designation, may be filed if accompanied by the supplement authorized in this paragraph and in the case of a loose-leaf schedule by revised title page, and the circumstances explained in the letter of transmittal accompanying the filing.

* * * * *

Part 1309—Tariffs and Classifications of Freight Forwarders

Section 1309.3 is revised to read as follows:

§ 1309.3 ICC Numbering Systems.

(a) *Compliance.* Until March 1, 1979, every tariff must bear either an I.C.C.-F.F. (or ICC-FF) number (instead of an ICC number prescribed in the tariff circular indicated in § 1309.1) of a standard ICC designation as set forth in paragraphs (b) and (c), respectively, of this section. Every effective tariff on file with this Commission on that date and every tariff which is indicated to become effective after that date must bear a standard ICC designation as set forth in paragraph (c) of this section. Conversion from the consecutive I.C.C.-F.F. (or ICC-FF) system to the standard ICC designation system shall be accomplished in the manner set forth in paragraph (d) of this section.

(b) *I.C.C.-F.F. (or ICC-FF) numbers.* The I.C.C.-F.F. (or ICC-FF) numbers shall run consecutively beginning with the next consecutive number in the existing series or, if no tariffs have been issued previously, beginning with I.C.C.-F.F. (or ICC-FF) No. 1.

(c) *Standard ICC designation.* (1) The standard ICC designation shall be constructed by use of the characters "ICC," by use of a unique standard tariff, forwarder, or agent code consisting of a minimum of two and a maximum of four alphabetical characters, and by use of a standard tariff number assigned according to the type of tariff, and in that order. For example, if the forwarder or agent or the specific tariff has been assigned the code ABCD and the tariff has been given the number 2000 by the forwarder or agent, the ICC designation would be "ICC ABCD 2000."

(2)(i) The codes shall be assigned by the transportation industry. Only one code shall be assigned to each forwarder or agent (see paragraphs (c)(2)(ii) and (iii) for exceptions). Each code shall be unique for the forwarder or agent to which it is assigned and may not be used by any other, regardless of mode. Each forwarder or agent must use only the code assigned thereto and may not use any other, except where a separate code has been authorized for a particular tariff series. A forwarder or agent may request that it be assigned a specific code (regardless of whether or not one has been previously assigned), which must be appropriate and not duplicate any other. To the greatest extent practicable, the first two letters of the requested code must relate to the forwarder's or agent's name. "A," "An," or "The" forming part of the name of the forwarder or agent should not be considered when requesting a code. A court-appointed receiver, trustee, executor, administrator, assignee, et cetera, who assumes possession and operating control of a forwarder, whether in whole or in part, shall use the old forwarder's code. In all other cases where the name of a forwarder is lawfully changed or the operating control of a forwarder's properties is lawfully transferred in whole or in part to another party under authority of an order of this Commission, and the regulations in Part 1300 of this chapter require the filing of an adoption notice, the code of the new forwarder shall be used on the adoption notice and on all original tariffs filed thereafter in the name of the new forwarder. (Where there is a change in the name of the forwarder or agent without a change in ownership of a forwarder or identity of an agent, a new code shall be assigned unless retention of the same code is authorized by the Commission. Exception: A code assigned for use on a specific tariff of an agent must continue to be used on that tariff. See paragraph (c)(2)(ii) of this section.) A code which has been previously but is no longer assigned may be reassigned after its prior assignment has been canceled for at least 5 years. All requests for codes shall be in writing.

(ii) Consideration shall be given to requests for the assignment of specific codes to classification tariffs and other specific types of governing tariffs which have a substantial nationwide application for a substantial number of participating forwarders. The requested code must not duplicate any other. Such a code shall be assigned only to a tariff published and filed in the name of an agent. To the greatest extent possible, a requested code must coincide with the first letter of the primary words in the title of the tariff. Only one such code shall be assigned to a tariff. Each code shall be unique for the specific tariff series to which it is assigned and may not be used by the agent on any other tariff or by any forwarder or other agent.

(iii) Consideration shall be given to requests for assignment of a separate code to a forwarder for use in identifying separately a division or district of the forwarder. The requested code must not duplicate any other. This code shall be in addition to the base code assigned the forwarder under the provisions of paragraph (c)(2)(i) of this section. The additional code shall be constructed by the use of the base code together with an appropriate letter suffix, designating the particular district or division thereof, which, including the suffix, may not exceed four alphabetical characters. Where the base code consists of four characters, the letter suffix shall be added to the first three characters of the base code.

(iv) The transportation industry shall file with the Commission in tariff form a list of the assigned alphabetical codes and the names of the carriers and agents to which they are assigned. This tariff shall be amended every three months (if the list has changed during that period) to maintain it in an updated condition. The amendments shall amend the list to the extent of showing changes, additions, and cancellations. The tariff, if in bound form, shall comply with the supplemental and volume limitations for tariffs provided in part 1310 of this chapter. Partial amendments to the list may be shown in each supplement, and more than one partial amendment may be in effect at the same time. Only one tariff containing a list of codes may be in effect at one time.

(3) A standard tariff number assigned to a tariff shall consist of not more than four digits. The grouping of the numbers shall be established by the forwarder or agent according to the particular types of tariffs involved, and the number assigned to a tariff must conform to that grouping.

(4) The assigned number will remain the same from reissue to reissue of the tariff. A new tariff, not a reissue, shall not show a letter suffix following the tariff number, and the first reissue of it shall show the letter suffix A, the next reissue B, and so on until Z, following which the letter suffix A will again be used and the process repeated. In the example, in paragraph (c)(1) of this section, the first reissue of tariff ICC ABCD 2000 would be ICC ABCD 2000-A, the next reissue ICC ABCD 2000-B, and so on. Where the ICC-FF number on a tariff is changed to a standard ICC designation, there may be no letter suffix, or as an alternative, any letter suffix may be used, and reissues proceeding from there alphabetically. A forwarder or agent may not on any of its tariffs provide a tariff number for its own purpose that is different in any respect from that used in the ICC designation, and whole numbers (not fractional or decimal) must be employed. The purpose is to dispense with and prohibit dual systems of numbering any tariff.

(5) A standard tariff number which has been previously but is no longer assigned and used on an effective tariff may be reassigned after the last tariff to which it was assigned has been canceled for at least 5 years.

(6) When a forwarder or agent adopts the standard ICC designation system and obtains a code, it must continue to use such system and file no new tariffs using the ICC-FF consecutive numbering system. The ICC designation of a tariff which employs this system may not be changed.

(7) Tariff indexes containing the old ICC-FF numbers of indexed tariffs shall be corrected to show the new ICC designations not later than 90 days from the effective date of the changeover of the particular tariff series in each case.

(8) Any tariff which refers to another as a governing publication or otherwise, using the standard ICC designation in such reference must clearly spell out the name of the forwarder or agent whose tariff it is, or under the Explanation of Abbreviations or other appropriate place in the tariff explain the code as to the name of the forwarder or agent for which it stands. If the code is assigned to the tariff, the explanation must clearly identify the tariff, including the name of the issuing agent.

(9) Tariffs that use numerical or alphabetical codes to identify forwarders in connection with participating forwarder lists, et cetera, must convert such codes to the standard forwarder codes not later than March 1, 1981.

(10) in applying the regulations in Parts 1300 and 1309 in connection with tariffs issued in, or converted to, the standard ICC designation system, any reference in such regulations, either expressed or implied, to the ICC or ICC-FF consecutive numbering system and to "series" shall be construed to apply as well to the standard ICC designation system.

(d) *Conversion to new system.* (1) Each forwarder or agent must obtain its standard code before it adopts the standard ICC designation system. A forwarder or agent may elect to convert to the standard system only as each tariff is reissued, or a new one (not a reissue) is published, or in the alternative to convert all its existing tariffs at one time. In any event, all tariffs, except as otherwise provided in § 1309.3(c)(9), must be converted by March 1, 1979. If all existing tariffs are converted at one time, the notice of the conversion in each tariff shall be made by special supplement. Such supplement shall contain no other matter, shall not be canceled, shall be considered exempt from the supplemental limitations in Part 1300 for the life of the tariff involved, and shall be shown as a supplement to the old tariff. The supplement may be published on not less than 1 day's notice, and shall contain a notice reading substantially as follows:

NOTICE OF CHANGE OF ICC-FF NUMBER

Effective (here show date which is next following the general effective date of the supplement) the ICC-FF designation of this tariff, as heretofore amended, is changed to (here show new tariff designation). All amendments to this tariff will hereafter use the new designation.

Any reference in any other tariff to this tariff by the previous ICC-FF designation shall be construed as referring to this tariff by the new designation.

(2) Any reference in one tariff to another tariff by its old ICC-FF number, after such referred-to tariff has been reissued or converted using the standard ICC designation system, must be corrected by publication(s) filed within 60 days of the effective date of the changed designation. Such references may be corrected upon not less than 1 day's notice. A supplement issued to a bound tariff for the purpose of effecting such correction, and containing no other matter, may be issued and maintained without regard to the supplemental matter limitations of Part 1300. If the corrections as to any particular bound tariff would require more than one page of tariff matter, corrections may be made by "Amendment to . . ." an item or other tariff unit provided the supplement contains only such corrective matter and is retained as a separate effective supplement (not reissued) for the life of the tariff or until all affected amended tariff items or units are reissued. Use of blanket form of supplement (a common supplement to two or more tariffs) to bound tariffs is authorized subject to the same conditions set forth in this subparagraph.

(3) A loose-leaf tariff may only be changed to the standard ICC designation system, without complete reissue, by issuance of the supplement authorized herein plus a revised title page (effective the same date as the supplement and upon the same notice), subject to the further condition that the new title page and each new or revised page issued thereafter shall show in connection with the standard ICC designation the words "Formerly IC-FF" followed by the old number.

(4) Tariffs (not supplements or loose-leaf page revisions) which are completely compiled and in the hands of the printer for publication, not filed, at the time of the complete changeover by a forwarder or by an agent, which bear the old-type ICC-FF designation, may be filed if accompanied by the supplement authorized in this paragraph and in the case of a loose-leaf tariff by revised title page, and the circumstances explained in the letter of transmittal accompanying the filing.

PART 1310—FREIGHT RATE TARIFFS AND CLASSIFICATIONS OF MOTOR COMMON CARRIERS

Section 1310.3 is amended to read as follows:

§ 1310.3 ICC Numbering Systems (rule 3).

(a) *ICC Designations must be printed on tariffs.* (1) Every tariff must bear an ICC identification designation. Until March 1, 1979, tariffs may use either one of two systems of identification, subject to certain restrictions. One is the system whereby each carrier and agent numbers each new tariff consecutively (see paragraph (b) of this section). The other is the system employing both alphabetical characters (the code signifying the issuing carrier or agent or, in some instances the kind of tariff) and numbers (the carrier's or agent's tariff number including a letter suffix letter, if any) (see paragraphs (c) and (d) of this section). While both systems are ICC designations, the latter system is differentiated by referring to it in this part as "standard ICC designation."

(2) The term "ICC designation" as used in this Part 1310 (except not paragraph (d) of this section) shall be construed to mean "ICC number," "MF-ICC number," or "standard ICC designation," whichever is appropriate as to a particular tariff.

(3) the title page of every original tariff (bound and looseleaf) and of any supplement thereto, and any revised title page of a looseleaf tariff shall show the ICC designation in the upper right-hand corner (see § 1310.9(g) (rule 9)—blanket supplements). All other pages (original and revised) of a looseleaf tariff shall show the designation in the upper corner forming part of the binding edge. When the tariff is one published on both sides of the sheet, this would be the upper left-hand corner on one page and the upper right-hand corner for the next higher numbered page published on the reverse side.

(4) any tariff referring to another tariff must identify it by ICC designation.

(5) Every effective tariff on file with this Commission on March 1, 1979, and every tariff which is indicated to become effective after that date must bear a standard ICC designation as set forth in paragraph (c) of this section. Conversion from the consecutive numbering system to the standard ICC designation system shall be accomplished in the manner set forth in Paragraph (d) of this section.

(6) The ICC designation assigned to a tariff which has been rejected may not again be used. The rejected tariff may not be referred to in any subsequent tariff as having been canceled, amended, or withdrawn, but the tariff which is published in its stead must bear the following notation:

Issued in lieu of (here identify the rejected tariff), rejected by the Commission.

(b) *ICC consecutive numbering system.* (1) The regulations in this paragraph (b) shall not apply to any emergency temporary authority tariff (see § 1310.28(i)). Also see § 1310.21 as to tariffs of joint agents.

(2) Paragraph (a) of this section requires that, until March 1, 1979, either a consecutive ICC number or a standard ICC designation shall be shown on every tariff. On and after that date only a standard ICC designation may be shown. This paragraph (b) contains the rules governing the showing of ICC consecutive numbers. Paragraphs (c) and (d) of this section contain the rules governing the assignment of standard ICC designations and the conversion from the consecutive system to the standard system.

(3) The ICC numbers shall run consecutively beginning with the next unused number in the carrier's or agent's ICC series. If a carrier or agent has previously filed tariffs only in an ICC series where the letters "ICC" have been prefixed with an "MF", the "next unused number" is the one in that series. For example, if the last tariff filed was designated MF-I.C.C. No. 14 under the former regulations, the next tariff shall be designated ICC 15, followed by 16, 17, and so on. If a carrier or agent has previously filed a tariff bearing an ICC number which did not show any prefix before the letters "ICC," the next unused number is the one in that series. If a carrier or agent has not previously filed any tariff, the number series shall commence with ICC 1.

(4) An original tariff, and its supplements or loose-leaf page amendments, if any, bearing a MF-ICC designation on the effective date of this part 1310 shall continue to use the designation

"MF-ICC" on subsequent supplements or loose-leaf pages until the tariff is reissued or is converted to the ICC

transferred in whole or in part to another party under authority of an order of this Commission, and the reg-

tions, and cancellations. The tariff, if in bound form, shall comply with the supplemental and volume limitations

spect from that used in the standard ICC designation, and whole numbers (not fractional or decimal) must be

NOTICE OF CHANGE OF ICC (OR MF-ICC) NUMBER

Effective [here show date which is next following the general effective date of the

(5) When a tariff filed in the names of two or more agents is converted, the conversion must become effective on

"MF-ICC" on subsequent supplements or loose-leaf pages until the tariff is reissued or is converted to the ICC standard designation system, whichever is earlier. Reissues which use the consecutive numbering system shall use the designation "ICC" only, without periods and without the use of "No." in connection therewith, and without letter prefixes or suffixes attached to the number.

(c) *Standard ICC designation.* (1) The standard ICC designation shall be constructed by use of the characters "ICC," by use of a unique standard tariff, carrier, or agent code consisting of a minimum of two and a maximum of four alphabetical characters, and by use of a standard tariff number assigned according to the type of tariff, and in that order. For example, if the carrier or agent or the specific tariff has been assigned the code ABCD and the tariff has been given the number 2000 by the carrier or agent, the ICC designation would be "ICC ABCD 2000." Tariffs containing rates or other provisions published to apply on emergency movements authorized by this Commission under section 210a(a) of the Interstate Commerce Act may be filed without a standard carrier code when the party to whom the authority is issued has not been issued a code. Such tariffs, however, must comply fully with all other requirements of this paragraph.

(2)(i) The codes shall be assigned by the transportation industry. Only one code shall be assigned to each carrier (even if carrier is of more than one mode) or agent (see paragraphs (c)(2)(ii) and (iii) of this section for exceptions). Each code shall be unique for the carrier or agent to which it is assigned and may not be used by any other, regardless of mode. Each carrier or agent must use only the code assigned thereto and may not use any other, except where a separate code has been authorized for a particular tariff series. A carrier or agent may request that it be assigned a specific code (regardless of whether or not one has been previously assigned), which must be appropriate and not duplicate any other. To the greatest extent practicable, the first two letters of the requested code must relate to the carrier's or agent's name. "A," "An," or "The" forming part of the name of the carrier or agent should not be considered when requesting a code. A court-appointed receiver, trustee, executor, administrator, assignee, et cetera, who assumes possession and operating control of a carrier's lines, whether in whole or in part, shall use the old carrier's code. In all other cases where the name of a carrier is lawfully changed or the operating control (including temporary operating control under section 210a(b) of the act) of a carrier's properties is lawfully transferred in whole or in part to another party under authority of an order of this Commission, and the regulations in this part require the filing of an adoption notice, the code of the new carrier shall be used on the adoption notice and on all original tariffs filed thereafter in the name of the new carrier. (Where there is a change in the name of the carrier or agent without a change in ownership of a carrier or identity of an agent, a new code shall be assigned unless retention of the same code is authorized by the Commission. Exception: A code assigned for use on a specific tariff of an agent must continue to be used on that tariff. See paragraph (c)(2)(ii) of this section.) A code which has been previously but is no longer assigned may be reassigned after its prior assignment has been canceled for at least 5 years. All requests for codes shall be in writing.

(ii) Consideration shall be given to requests for the assignment of specific codes to classification tariffs and other specific types of governing tariffs which have a substantial nationwide application for a substantial number of participating carriers. The requested code must not duplicate any other. Such a code shall be assigned only to a tariff published and filed in the name of an agent. To the greatest extent possible a requested code must coincide with the first letter of the primary words in the title of the tariff. Only one such code shall be assigned to a tariff. Each code shall be unique for the specific tariff series to which it is assigned and may not be used by the agent on any other tariff or by any carrier or other agent.

(iii) Consideration shall be given to requests for assignment of a separate code to a carrier for use in identifying separately a division or district of the carrier. The requested code must not duplicate any other. This code shall be in addition to the base code assigned the carrier under the provisions of paragraph (c)(2)(i) of this section. The additional code shall be constructed by the use of the base code together with an appropriate letter suffix, designating the particular district or division thereof, which, including the suffix, may not exceed four alphabetical characters. Where the base code consists of four characters, the letter suffix shall be added to the first three characters of the base code.

(iv) The transportation industry shall file with the Commission in tariff form a list of the assigned alphabetical codes and the names of the carriers and agents to which they are assigned. This tariff shall be amended every three months (if the list has changed during that period) to maintain it in an updated condition. The amendments shall amend the list to the extent of showing changes, additions, and cancellations. The tariff, if in bound form, shall comply with the supplemental and volume limitations for tariffs provided in Part 1310 of this chapter. Partial amendments to the list may be shown in each supplement, and more than one partial amendment may be in effect at the same time. Only one tariff containing a list of codes may be in effect at one time.

(3) A standard tariff number assigned to a tariff shall consist of not more than four digits. The first digit shall conform to the following grouping:

First digit of standard tariff numbers to be assigned to types of tariffs listed opposite thereto	*Types of tariffs to which the first digits listed opposite thereto are to be assigned*
1	Governing publications of all kinds; adoption notices.
2	Commodity rate tariffs.
3	Combined class and commodity rate tariffs.
4	Commodity column or distance rate tariffs.
5	Class rate tariffs.
6	Miscellaneous tariffs (those not included in any other category).
7	Import and export tariffs (tariffs assigned this digit must contain only import or export, or both, provisions).
8	Reserved for future assignment.
9	Tariffs containing rates or provisions covering emergency movements authorized by this Commission under sec. 210a(a) of the act.

When a tariff, because of the provisions it contains, could be construed as being of more than one type, the governing factor in assignment of the digit will be the category that represents the principal portion of the contents or that which signifies its primary purpose. Any tariff assigned any first digit, other than 7, may contain some, but not only, import or export provisions.

(4) The assigned number will remain the same from reissue to reissue of the tariff. A new tariff, not a reissue, shall not show a letter suffix following the tariff number, and the first reissue of it shall show the letter suffix A, the next reissue B, and so on until Z, following which the letter suffix A will again be used and the process repeated. In the example, in paragraph (c)(1) of this section, the first reissue of tariff ICC ABCD 2000 would be ICC ABCD 2000–A, the next reissue ICC ABCD 2000–B, and so on. Where the ICC or MF-ICC number on a tariff is changed to a standard ICC designation, there may be no letter suffix, or as an alternative, any letter suffix may be used, and reissues proceeding from there alphabetically. A carrier or agent may not on any of its tariffs provide a tariff number for its own purpose that is different in any respect from that used in the standard ICC designation, and whole numbers (not fractional or decimal) must be employed. The purpose is to dispense with and prohibit dual systems of numbering any tariff.

(5) A standard tariff number which has been previously but is no longer assigned and used on an effective tariff may be reassigned after the last tariff to which it was assigned has been canceled for at least 5 years.

(6) When a carrier or agent adopts the standard ICC designation system and obtains a code, it must continue to use such system and file no new tariffs using the consecutive numbering system. The designation of a tariff which employs the standard system may not be changed.

(7) Any tariff which refers to another as a governing publication or otherwise, using the standard ICC designation in such reference must clearly spell out the name of the carrier or agent whose tariff it is, or under the Explanation of Abbreviations or other appropriate place in the tariff explain the code as to the name of the carrier or agent for which it stands. If the code is assigned to the tariff, the explanation must clearly identify the tariff, including the name of the issuing agent.

(8) Tariffs that use numerical or alphabetical codes to identify carriers in connection with routing, participating carrier lists, et cetera, must convert such codes to the standard carrier codes not later than March 1, 1981.

(9) Tariff indexes containing the old ICC numbers of indexed tariffs shall be corrected to show the new ICC designation not later than 90 days from the effective date of the changeover of the particular tariff series in each case.

(d) *Conversion to new system.* (1) Each carrier or agent must obtain its standard code before it adopts the standard ICC designation system. A carrier or agent may elect to convert to the standard system only as each tariff is reissued, or a new one (not a reissue) is published, or in the alternative to convert all its existing tariffs at one time. In any event, all tariffs, except as otherwise provided in paragraph (c)(8) of this section, must be converted by March 1, 1979. If all existing tariffs are converted at one time, the notice of the conversion in each tariff shall be made by special supplement. Such supplement shall contain no other matter, shall not be canceled, shall be considered exempt from the supplemental limitations in this part for the life of the tariff involved, and shall be shown as a supplement to the old tariff. The supplement may be published on not less than one day's notice, and shall contain a notice reading substantially as follows:

NOTICE OF CHANGE OF ICC (OR MF-ICC) NUMBER

Effective [here show date which is next following the general effective date of the supplement] the [here show either ICC or MF-ICC] designation of this tariff, as heretofore amended, is changed to [here show new tariff designation]. All amendments to this tariff will hereafter use the new designation.

Any reference in any other tariff to this tariff by the previous [here show either ICC or MF-ICC] designation shall be construed as referring to this tariff by the new designation.

(2) Any reference in one tariff to another tariff by its old ICC or MF-ICC number, after such referred-to tariff has been reissued or converted using the standard ICC designation system, must be corrected by publication(s) filed within 60 days of the effective date of the changed designation. Such references may be corrected upon not less than 1 day's notice. A supplement issued to a bound tariff for the purpose of effecting such correction, and containing no other matter, may be issued and maintained without regard to the supplemental matter limitations of this part. If the corrections as to any particular bound tariff would require more than one page of tariff matter, corrections may be made by "Amendment to * * *" an item or other tariff unit provided the supplement contains only such corrective matter and is retained as a separate effective supplement (not reissued) for the life of the tariff or until all affected amended tariff items or units are reissued. Use of blanket form of supplement (a common supplement to two or more tariffs) to bound tariffs is authorized subject to the same conditions set forth in this subparagraph.

(3) A loose-leaf tariff may only be changed to the standard ICC designation system, without complete reissue, by issuance of the supplement authorized in this paragraph plus a revised title page (effective the same date as the supplement and upon the same notice), subject to the further condition that the new title page and each new or revised page issued thereafter shall show in connection with the standard ICC designation the words "Formerly [here show either 'ICC' or 'MF-ICC']" followed by the old number.

(4) Tariffs (not supplements or loose-leaf page revisions) which are completely compiled and in the hands of the printer for publication, not filed, at the time of the complete changeover by a carrier or by an agent, which bear the old-type ICC or MF-ICC designation, may be filed if accompanied by the supplement authorized in this paragraph and in the case of a loose-leaf tariff by revised title page, and the circumstances explained in the letter of transmittal accompanying the filing.

(5) When a tariff filed in the names of two or more agents is converted, the conversion must become effective on the same date for all the agents involved.

* * * * *

Section 1310.5(b) is amended to read as follows:

§ 1310.5 Title page of original tariffs (rule 5).

* * * * *

(b) *ICC designation and cancellation notice.* In the upper righthand corner shall be shown the tariff's ICC designation. Immediately thereunder shall be shown the ICC designation of each tariff, if any, canceled thereby, except that if the cancellations are numerous, the ICC designations of the tariffs canceled may be shown immediately preceding the table of contents, and a reference to that cancellation notice shown under the ICC designation on the title page.

* * * * *

Section 1310.6(e)(1) is amended to read as follows:

§ 1310.6 Contents of tariff (rule 6).

(See §§ 1310.14, 1310.22, 1310.24, 1310.25, 1310.27, and 1310.28 (rules 14, 22, 24, 25, 27, and 28) for provisions which may be filed on less than 30 days' notice.)

* * * * *

(e) *List of participating carriers.* (1) A list of participating carriers (complete names must be shown) arranged alphabetically shall be provided, with the city and state of the principal office, the lead docket number of its certificate series, and the form and number of the power of attorney or concurrence issued. This does not apply to tariffs of a carrier having application only for that carrier. The carrier in whose name the tariff is filed is not to be named a participating carrier in any case. The commonly accepted rules for alphabetizing shall be used, with the key part of the name shown first. In the case of trade names and partnerships, the names of the individual or partners are to follow, but away from the left margin. The name or part of the name controlling its alphabetical position should be in upper case characters if the tariff employs both upper and lower case.

* * * * *

Section 1310.9(a)(2) and Section 1310.9(g)(3) are amended to read as follows:

§ 1310.9 Supplements (Rule 9)

(See §§ 1310.14, 1310.22, 1310.24, 1310.25, 1310.27, and 1310.28 (rules 14,

22, 24, 25, 27, and 28) for provisions which may be filed on less than 30 days' notice.)

(a) • • •

(2) The first supplement to a tariff shall be designated as Supplement 1 either in the upper right-hand corner of the title page thus:

SUPPLEMENT 1 TO [HERE SHOW ICC DESIGNATION]

or in the center of the uppermost portion in connection with the carrier's or agent's own tariff number (this number may not be different from the number in the standard ICC designation.) In the latter case, the ICC designation must nevertheless be shown in the upper right-hand corner. Subsequent supplements shall be numbered consecutively in like manner. Whatever location is used for the first supplement must be also used for all subsequent supplements to the same tariff. The supplement number assigned to a supplement which has been rejected may not again be used. The rejected supplement may not be referred to in any subsequent supplement as having been canceled, amended, or withdrawn, but the supplement which is published in its stead must bear the following notation:

"Issued in lieu of [here identify the rejected supplement], rejected by the Commission."

• • • • •

(g) • • •

(3) Such supplements shall show on their title page, in lieu of printed supplement and ICC designations, in the upper right-hand corner the following wording and spaces for later insertion of numbers:

"Supplement —— to ——"

Before filing with this Commission, each copy shall have inserted in ink or by other permanent means the appropriate supplement number and the ICC designation of the tariff it supplements. The number of copies ordinarily required for each tariff supplemented shall be filed.

• • • • •

Sections 1310.25(h) and 1310.25(i) are amended to read as follows:

§ 1310.25 transfer of operations—Change in name and control (Rule 25)

• • • • •

(h) *Series of ICC designations to use on adoption notices and new tariffs.* Except as otherwise provided in this paragraph as to appointments of fiduciaries (see paragraph (n) of this section), the ICC designation assigned to an adoption notice shall be in the designation series of the new carrier. The ICC designation on an adoption notice filed by a fiduciary shall be in the designation series of the old carrier. If the ICC consecutive numbering system is used, the designation assigned shall be the next consecutive unused number in the series of the new carrier (if new carrier is not a fiduciary) or series of the old carrier (if new carrier is a fiduciary). In the event the designation (regardless of whether consecutive or standard) is in the old carrier's series, the designation shall be identified by naming the carrier followed by "Series."

• • • • •

(i) *Temporary control.* If the temporary authority issued to a party to assume operating control of the old carrier under section 210a(b) of the Act is not made permanent, the old carrier must file an adoption notice reassuming control of the operations and otherwise comply with all the provisions of this section. The effective date to be shown on the adoption notice and adoption supplements is the date on which the temporary authority for the new carrier to operate the properties of the old carrier expires or is vacated.

• • • • •

In section 1310.28, paragraphs (i)(3), (i)(5), and (i)(6) are amended to read as follows:

§ 1310.28 Provisions which may be filed on less than 30 days' notice (rule 28).

(See §§ 1310.14, 1310.22, 1310.24, 1310.25, and 1310.27 (rules 14, 22, 24, 25, and 27) for other provisions which may be filed on less than 30 days' notice.)

• • • • •

(i) • • •

(3) The publications must be issued in the name of the carrier and may contain only matter pertaining to the emergency temporary authority. Until March 1, 1979, the ICC designation assigned to an emergency temporary authority (ETA) tariff must either be a consecutive number and prefixed with a "W" (for example, ICC W [here show consecutive number]) or be a standard ICC designation with the standard tariff number commencing with "9" (for example, "ICC ABCD 900") as required by §1310.3(c). The first "ETA" tariff prefixed with a "W" shall be numbered one, with each subsequent "W" tariff consecutively numbered. On and after March 1, 1979, every "ETA" tariff must bear a standard ICC designation with the tariff number commencing with "9".

• • • • •

(5) Each tariff referred to by an "ETA" tariff must be identified by its ICC designation. The carrier must certify in writing to the appropriate field office of this Commission that it is a participant in each such tariff.

(6) Should the provisions of an "ETA" tariff not conform to the emergency temporary authority actually granted, another "ETA" tariff may be filed under this paragraph (i) to cancel the first "ETA" tariff and bring the provisions into conformity with the authority granted.

• • • • •

§ 1310.1 [Amended]

Section 1310.1(c)(1) is amended by changing "ICC (MF-I.C.C.) No." to read "ICC Designation".

Section 1310.1(d)(1) is amended by changing "MF-I.C.C. or ICC series" to read ICC designations".

Section 1310.1(e) is amended by changing the title to read "Tariff publications filed out of sequence."

§ 1310.4 [Amended]

Section 1310.4(f)(4) is amended by changing the last sentence to read as follows: "See § 1310.10(d) (rule 10) as to cancellation of prior issues of the same page, and § 1310.3(a)(3) (rule 3) for placement of the ICC designation."

§ 1310.6 [Amended]

Sections 1310.6 (f)(3)(ii) and (n)(3), 1310.18(b), and 1310.20(b)(1) are amended by adding "(See § 1310.3 for exception)" after "code designations".

Section 1310.6(n)(1) is amended by adding at the end "See § 1310.3 for exceptions."

Section 1310.6(h)(1) is amended by changing "ICC (MF-ICC) No." to read "ICC Designation" and by adding at the end the following sentence: "If all tariffs referred to bear standard ICC designations, the third column may be omitted."

§ 1310.7 [Amended]

Sections 1310.7(g)(3) and 1310.8(b)(1) are amended by changing "ICC (or MF-ICC) ——," to read "[here show ICC designation]".

Sections 1310.7(g)(4), 1310.9(a)(3), 1310.9(f), 1310.11(b)(8), 1310.14(l)(2), 1310.15(b)(1)(ii), 1310.19(a)(1), 1310.21(b), 1310.24(a)(2)(i), 1310.25(t), 1310.25(u), 1310.27(b)(5), 1310.27(c)(2), and 1310.30(a) are amended by changing "ICC (or MF-ICC) number" wherever it is shown to read "ICC designation".

Sections 1310.7(h)(3), 1310.26(g)(2), 1310.26(g)(4), and 1310.27(m) are amended by changing "ICC (or MF-ICC) numbers" to read "ICC designations".

§ 1310.8 [Amended]

Section 1310.8(b)(5) is amended by changing "ICC (or MF-ICC)" to read "ICC designation".

§ 1310.14 [Amended]

Section 1310.14(f)(2), the "notice of suspension," is amended by inserting the words "designation or" between the words "the" and "number".

§ 1310.17 [Amended]

Section 1310.17(c)(3) is amended by changing "ICC number" to "ICC designation".

§ 1310.20 [Amended]

Section 1310.20(c)(1) is amended by changing "ICC or MF-ICC number" to read "ICC designation".

Section 1310.20(f)(1) is amended by changing "ICC or MF-ICC No." under Column 3 to read "ICC Designation".

§ 1310.22 [Amended]

Section 1310.22(f) is amended by changing "ICC (or MF-ICC No.)————(former tariff)" to read "[here show ICC designation of former tariff]".

§ 1310.24 [Amended]

Section 1310.24(a)(1) is amended by changing "ICC number" to read "ICC designation".

§ 1310.25 [Amended]

Section 1310.25(a)(7) is amended by changing "numbers" to read "designations".

Section 1310.25(e) is amended by changing "ICC 45" to read "ICC ABCD 100".

Section 1310.25(g)(1) is amended by changing "(numbers and names for illustration only)" to read "(designations, numbers and names for illustration only)" and by changing "ICC 45" to read "ICC ABCD 100".

Section 1310.25(p)(1) and (p)(2) is amended by changing "ICC————" to read "[here show ICC designation]".

§ 1310.26 [Amended]

Section 1310.26(f) is amended by changing "ICC (or MF-ICC)————," (ICC or MF-ICC No.) to read "[here show ICC designation]".

§ 1310.27 [Amended]

Section 1310.27(1)(6) is amended by changing "ICC number" both places it is shown to read "ICC designation".

Section 1310.27(n) is amended by changing "number" everywhere it is shown to read "designation".

§ 1306.100 and 1307.100 [Amended]

In sections 1306.100 and 1307.100, paragraphs (b)(1), (c)(2), (c)(4), (c)(5), and (c)(6) are amended to read as follows:

• • • • •

(b) *General provisions.* (1) Subject to the limitations herein, motor common carriers may establish rates or fares, or both, and other tariff provisions covering emergency movements authorized by this Commission under section 210a(a) of the Interstate Commerce Act, without further notice prior to acceptance of property or passengers, or both, for transportation other than posting, where required, of an individual tariff (not a loose-leaf page) containing such rates or fares, or both, and other provisions (such a tariff may refer to one or more agents' tariffs for governing provisions), or containing provisions other than rates or fares and referring to one or more agents' tariffs for such rates or fares, or both, and other provisions, and having three copies of the tariff (five copies if the tariff is a passenger carrier tariff containing both passenger and property provisions), with a letter of transmittal, filed with the commission's Bureau of Operations' field office which has jurisdiction over the point at which the carrier is domiciled or such other field office as the Commission may designate in special circumstances.

• • • • •

(c) *Limitations.* (1) • • •

(2)(i) All publications must be issued in the name of the carrier and may contain only matter pertaining to the emergency temporary authority. Until March 1, 1979, the ICC designation assigned to an emergency temporary authority (ETA) tariff must either be a consecutive designation (see paragraph (c)(2)(ii) of this section) or be a standard ICC designation (see paragraph (c)(2)(iii) of this section). On and after that date only a standard ICC designation may be shown on these publications.

(ii) Each consecutive ICC designation assigned to a publication shall show a "W" prefix in the following manner:

MF-ICC W (here show number)

MP-ICC W (here show number)

ME-ICC W (here show number)

The first "ETA" tariff issued under each of the above designations shall be assigned No. 1. (The abbreviation "No." need not be shown.) Subsequent "ETA" tariffs shall be numbered consecutively. Passenger carriers should show either the "MP-ICC W" or "ME-ICC W" designation, or both, whichever is appropriate as to a tariff. Until October 5, 1978, property carriers using the consecutive designation system shall show either the "MF-ICC W" or "ICC W" designation. On and after October 5, 1978, only the "ICC W" consecutive designation of a property carrier may be shown (see § 1310.28(i)) if the consecutive designation is used.

(iii) The standard ICC designation shall be constructed and assigned in the manner required by §§ 1306.18 and 1307.50 of parts 1306 and 1307. The standard tariff number in a standard ICC designation shall commence with "9" (for example, "ICC ABCD 900").

(3) • • •

(4) Each tariff referred to by an "ETA" tariff must be identified by its ICC designation. A referred to tariff containing more than one ICC designation shall be identified by each of its designations.

(5) The carrier must certify in writing to the appropriate field office that it is a participant in each tariff to which its "ETA" tariff refers.

(6) When the provisions of an "ETA" tariff do not conform to the emergency temporary authority actually granted, another "ETA" tariff may be filed hereunder to cancel the first "ETA" tariff and bring the provisions into conformity with the authority granted.

• • • • •

§§ 1306.101 and 1307.101 [Amended]

In sections 1306.101 and 1307.101, paragraphs (b)(1), (c)(2), (e)(4), (c)(5), and (c)(6) are amended to read as follows:

• • • • •

(b) *General provisions.* (1) Subject to the limitations herein, motor contract carriers may establish rates or fares, or both, and other schedule provisions covering emergency movements authorized by this Commission under section 210a(a) of the Interstate Commerce Act, without further notice prior to acceptance of property or passengers, or both, for transportation other than posting, where required, of an individual schedule (not a loose-leaf page) containing such rates or fares, or both, and other provisions (such a schedule may, for governing provisions, refer to a distance guide or to a publication reproducing the regulations promulgated by the Department of Transportation governing the acceptance and transportation of dangerous articles (hazardous materials), or both), and having three copies of the schedule (five copies if the schedule is a passenger carrier schedule which contains both passenger and property provisions, with a letter of transmittal, filed with the Commission's Bureau of Operations' field office which has jurisdiction over the point at which the carrier is domiciled or such other field office as the Commission may designate in special circumstances.

• • • • •

(c) *Limitations.* (1) • • •

(2) (i) All publications must be issued in the name of the carrier and may contain only matter pertaining to the emergency temporary authority.

Until March 1, 1979, the ICC designation assigned to an emergency temporary authority (ETA) tariff must either be a consecutive designation (see paragraph (c)(2)(ii) of this section) or be a standard ICC designation (see paragraph (c)(2)(iii) of this section). On and after that date only a standard ICC designation may be shown on these publications.

(ii) Each consecutive ICC designation assigned to a publication shall show a "W" prefix in the following manner:

MF-ICC W (here show number)
MP-ICC W (here show number)
ME-ICC W (here show number)

The first "ETA" schedule issued under each of the above designations shall be assigned No. 1. (The abbreviation "No." need not be shown.) Subsequent "ETA" schedules shall be numbered consecutively. Passenger carriers should show either the "MP-ICC W" or "ME-ICC" designation, or both, whichever is appropriate as to a schedule. Property carriers shall show only the "MF-ICC W" designation.

(iii) The standard ICC designation shall be constructed and assigned in the manner required by §§ 1306.18 and 1307.15 of Parts 1306 and 1307. The standard schedule number in a standard ICC designation shall commence with "9" (for example, ICC ABCD 900).

(3) • • •

(4) Each publication referred to by an "ETA" schedule must be identified by its ICC designation. A referred publication containing more than one ICC designation shall be identified by each of its designations.

(5) The carrier must certify in writing to the appropriate field office that it is a participant in each publication to which its "ETA" schedule refers.

(6) When the provisions of an "ETA" schedule do not conform to the emergency temporary authority actually granted, another "ETA" schedule may be filed hereunder to cancel the first "ETA" schedule and bring the provisions into conformity with the authority granted.

• • • • •

SUBCHAPTER B—PRACTICE AND PROCEDURES

PART 1131—TEMPORARY AUTHORITY APPLICATIONS UNDER SECTION 210a(a) OF THE INTERSTATE COMMERCE ACT

§ 1131.2 [Amended]

In Section 1131.2, the third paragraph commencing with "Should 180-day temporary authority" under "A" in the "Note" at the end of the section is amended by changing "W" in the last sentence to read "ETA".

§ 1131.5 [Amended]

In Section 1131.5(b)(2), " 'W' tariff or schedule" is changed to read "'ETA' tariff or schedule" in both places it is shown.

[FR Doc. 78-5277 Filed 3-1-78; 8:45 am]

[3510-12]

Title 50—Wildlife and Fisheries

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 285—ATLANTIC FISHERIES

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Final rulemaking.

SUMMARY: On June 14, 1977, 42 FR 30373-5, Subpart B of Title 50 was expanded to add four new sections. Two of the new sections were designated by numbers already in effect for Subpart C. To avoid possible confusion from this overlap, we are renumbering Subparts C and D. This is solely a change in section numbering. No change is made in the text of the affected sections.

EFFECTIVE DATE: February 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. William G. Gordon, Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Mass. 01930, telephone, 617-281-3600.

Signed at Washington, D.C. this 24th day of February 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

Accordingly Subpart C and Subpart D of 50 CFR Part 285 are renumbered as follows:

Subpart C—Yellowfin Tuna (Thunnus albacares)

Sec.
285.50 Authorized fishing.
285.51 Open and closed seasons.
285.52 Incidental catch.
285.53 Recordkeeping.
285.54 Reporting requirement.

Subpart D—Restrictions on Tuna Imports

285.80 Basis and purpose.
285.81 Species subject to regulation.
285.82 Species under investigation by the Commission.
285.83 Investigations authorized.
285.84 Publication of findings.
285.85 Proof of admissibility.
285.86 Removal of import restrictions.

[FR Doc. 78-5478 Filed 3-1-78; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[4110-07]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Part 416]

SUPPLEMENTAL SECURITY INCOME

Permitting Individuals Applying for or Receiving SSI to File for Food Stamps in Social Security Offices

AGENCY: Social Security Administration, HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Social Security Administration is planning to publish regulations dealing with the right of certain households to apply for food stamps at social security offices. Individuals seeking supplemental security income (SSI) benefits at social security offices are often seeking food stamps as well but are required to go elsewhere to apply. Because substantially similar information is required to determine eligibility under both programs, Congress passed a law permitting households in which all members are SSI recipients to file for food stamps at the social security office. The Secretaries of Health, Education, and Welfare and Agriculture are also authorized, but not required, to permit applicants for, and recipients of, title II benefits to apply for food stamps at social security offices.

The regulations, which will be promulgated with the concurrence of the Department of Agriculture, would describe SSA's authority to obtain information from individuals solely for food stamp purposes; would give SSA the authority to turn the information over to the food stamp agency; and, would set forth the ways in which SSA offices and food stamp offices will interact so as to best serve the individuals seeking benefits.

FOR FURTHER INFORMATION CONTACT:

Morris Sackel, Room 403, West High Rise Building, 6401 Security Boulevard, Baltimore, Md. 21235, telephone 301-594-6973.

Dated: January 30, 1978.

DON WORTMAN,
Acting Commissioner of Social Security.

[FR Doc. 78-5436 Filed 3-1-78; 8:45 am]

[4310-02]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 43p]

REVISION OF FINAL ROLL OF THE CONFEDERATED TRIBES OF SILETZ INDIANS OF OREGON

Preparation, Certification, Approval and Publication of Roll

FEBRUARY 23, 1978.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau proposes to add a new part to its regulations. The purpose of this addition is to establish procedures to govern the preparation of a current membership roll of the Confederated Tribes of Siletz Indians of Oregon as authorized by the Act of November 18, 1977 (Pub. L. 95-195).

DATE: Comments must be received on or before April 3, 1978.

ADDRESS: Written comments should be directed to: Chief, Division of Tribal Government Services, Bureau of Indian Affairs, 1951 Constitution Avenue NW., Washington, D.C. 20245.

FOR FURTHER INFORMATION CONTACT:

Ms. Janet L. Parks, Chief, Branch of Tribal Enrollment Services, telephone 343-2985; author, Janet L. Parks.

SUPPLEMENTARY INFORMATION: This proposal is necessary because of language in the Act of November 18, 1977 (91 Stat. 1415), which restores the Confederated Tribes of Siletz Indians of Oregon as a federally recongized sovereign Indian tribe and restores to the Siletz Tribes and its members those Federal services and benefits furnished to federally recognized American Indian tribes and their members. The Act declared the final roll prepared under the August 13, 1954, Termination Act open and and charged the Secretary, the Interim Council and tribal officials with insuring the continuing accuracy of the roll.

In order to carry out the provisions of the Act we are proposing that the Interim Council employ enrollment staff to revise and update the final roll and maintain the roll until the records are delivered to the tribal governing body.

The proposed regulations provide procedures for filing and processing applications and appeals, approval of the roll by the Portland Area Director, and for publication of the completed revised roll in the FEDERAL REGISTER.

The authority for issuing these regulations is contained in 5 U.S.C. 301 and sections 463 and 465 of the revised statutes (25 U.S.C. 2 and 9), and 230 DM 1 and 2.

Subchapter F of Chapter I of Title 25 of the Code of Federal Regulations is hereby amended by the addition of a new part to read as follows:

43p—REVISION OF FINAL ROLL OF THE CONFEDERATED TRIBES OF SILETZ INDIANS OF OREGON

Sec.
43p.1 Definitions.
43p.2 Purpose.
43p.3 Announcement of revision of the roll.
43p.4 Enrollment staff.
43p.5 Tenure of enrollment staff.
43p.6 Basic membership roll.
43p.7 Additions to the roll.
43p.8 Deletions from the roll.
43p.9 Application forms.
43p.10 Filing of applications and deadline for filing.
43p.11 Burden of proof.
43p.12 Action on applications.
43p.13 Posting of names of enrollees.
43p 14 Protests and appeals.
43p.15 Decisions of Secretary on protests and appeals.
43p.16 Preparation of revised roll.
43p.17 Certification and approval of revised roll.
43p.18 Publication of revised membership roll.
43p.19 Current membership roll.
43p.20 Special instructions.

AUTHORITY: 5 U.S.C. sec. 301, R. S. SECS. 463 and 465; 25 U.S.C. secs. 2 and 9, and 95 Stat. 1415.

§ 43p.1 Definitions.

As used in these regulations:

(a) "Act" means the Act of Congress approved November 18, 1977, 95 Stat. 1415, Pub. L. 95-195.

(b) "Secretary" means Secretary of the Interior or his authorized representative.

(c) "Assistant Secretary" means Assistant Secretary of the Interior for Indian Affairs or his authorized representative.

(d) "Director" means Area Director, Portland Area Office, Bureau of Indian Affairs or his authorized representative.

(e) "Tribe" means the Confederated Tribes of Siletz Indians of Oregon.

(f) "Council" means the Interim Council elected under section 5 of the

Act to represent the tribe and its members in implementing the Act.

(g) "Staff" means enrollment staff employed by the Interim Council to prepare a current membership roll.

(h) "Final membership roll" means the final membership roll of the tribe published on July 20, 1956, on pages 5454-5462 of volume 21 of the FEDERAL REGISTER.

(i) "Living" means born on or prior to and living on November 18, 1977.

(j) "Service area" means Benton, Lane, Lincoln, Linn, Marion, Polk, Tillamook and Yamhill counties in the State of Oregon.

(k) "Sponsor" means a person who files an application for enrollment on behalf of another person. A sponsor may be a parent, recognized guardian, next friend, next of kin, spouse, executor or administrator of estate, or other person.

§ 43p.2 Purpose.

The regulations in this part govern the revision of the final membership roll of the tribe under the Act of November 18, 1977, 95 Stat. 1415, Pub. L. 95-195.

§ 43p.3 Announcement of revision of the roll.

When funds have been made available to the Council to employ sufficient staff to do the work necessary to revise and update the final membership roll and the staff has been employed, and when the application forms and other necessary documents have been devised and printed, the Council shall announce that the revision of the final membership roll of the tribe shall begin on a date to be specified in the announcement. The date specified shall be not less than fifteen (15) nor more than thirty (30) days from the date the announcement is issued. A press release shall be prepared announcing the date the preparation of the roll shall begin and other pertinent information such as the membership requirements, where application forms may be obtained and when and where they should be filed. The press release shall be distributed to all newspapers and radio stations within the service area of the Siletz Indians with a request that it be given wide publicity. Copies of the press release shall also be sent to all Indian Centers and shall be posted in all Bureau of Indian Affairs installations and at various other public places throughout the service area as well as in post offices of the towns within and adjacent to the service area.

§ 43p.4 Enrollment Staff.

The Council shall employ either from within or without the membership of the Council, but not from without the membership of the tribe, at least five (5) persons to serve as the enrollment staff. The staff shall review all applications for enrollment filed in accordance with these regulations and shall determine the qualifications of the applicants for enrollment with the tribe. The staff may perform other functions relating to enrollment and membership in the tribe as the Council may from time to time direct.

§ 43p.5 Tenure of Enrollment Staff.

The staff shall serve at least until the revision of the final membership roll has been completed but no later than the date that responsibility for the tribal roll is assumed by the tribal governing body.

§ 43p.6 Basic membership roll.

All persons living on November 18, 1977, whose names appear on the final membership roll shall be members of the tribe.

§ 43p.7 Additions to the roll.

There shall be added to the basic membership roll of the tribe the names of all persons living on November 18, 1977, who meet the following qualifications:

(a) They were entitled on August 13, 1954, to be on the final membership roll but their names were not listed on that roll; or

(b) They are descendants of persons whose names appear on the final membership roll or who were entitled to be included on that roll and possess at least ¼ degree of blood of members of the tribe or their Siletz Indian ancestors; and

(c) They have filed an application for enrollment with the tribe in accordance with the procedures set forth in this part.

§ 43p.8 Deletions from the roll.

The name of any person who was not living on November 18, 1977, shall be removed from the final membership roll by the staff upon receipt of a death certificate or other evidence of death acceptable to the Secretary.

§ 43p.9 Application forms.

Application forms will be furnished by the Director, Council, or staff or other designated persons upon written or oral request. Each person furnishing application forms shall keep a record of the names of the individuals to whom applications are given, the control numbers of the forms, and the date furnished. Instructions for completing and filing applications shall be furnished with each form. The form shall indicate prominently the deadline for filing the application.

(b) Among other information, each application form shall contain:

(1) A certification as to whether the application is for a natural child or an adopted child of the parent through whom eligibility is being claimed.

(2) If the application is filed by a sponsor, the name, address, and relationship of the sponsor to the applicant.

(3) A control number for the purpose of keeping a record of applications furnished interested individuals.

§ 43p.10 Filing of applications and deadline for filing.

(a) Any person other than those persons whose names appear on the final membership roll who desires to be enrolled and who believes he meets the requirements for enrollment must file, or have filed in his behalf, a completed application form with the staff within one hundred twenty (120) days from the date specified in the announcement.

(b) Applications for minors, mental incompetents, or other persons in need of assistance may be filed on their behalf by a sponsor, but must be filed within the specified time.

§ 43p.11 Burden of proof.

The burden of proof of eligibility is on the applicant. If the applicant's ancestors through whom eligibility is claimed cannot be identified in the records, the staff may request the applicant to furnish whatever additional information and evidence it may consider necessary to determine the applicant's eligibility for enrollment. Failure of the applicant to furnish sufficient information to establish eligibility may be sufficient cause for rejection.

§ 43p.12 Action on applications.

The staff shall consider each application and upon determining the eligibility of an applicant shall notify the person who filed the application in writing of its decision. If the determination is favorable, the name of the applicant shall be placed on the roll. If the decision is not favorable, the person who filed the application shall be notified of the decision by certified mail, to be received by the addressee only, return receipt requested, together with a full explanation of the reasons for the rejection and of his right of appeal to the Secretary. (If correspondence is sent outside the States of the United States, it may be necessary to use registered mail.) If an individual files applications on behalf of more than one person, one notice of eligibility or rejection may be addressed to the person who filed the applications. However, the notice must list the name of each applicant involved.

(b) To avoid hardship or gross injustice, the staff may waive technical deficiencies in applications or other submissions.

§ 43p.13 Posting of names of enrollees.

When action has been taken on all applications filed the staff shall post

in prominent places within and adjacent to the service area for review by interested persons a list of names of living persons named on the final membership roll and the names of approved applicants for enrollment. The list shall contain only the name of each enrollee and the name of the ancestor through whom eligibility was established. No other information shall be shown.

§ 43p.14 Protests and Appeals.

(a) Any interested person may file a protest with the Secretary with respect to the inclusion of any name on the roll or the exclusion of any name from the roll. These protests must be in writing and must be received by the designated official before the close of business on the 30th day after the date the list of enrollees in posted as required by § 43.13. The burden of proof shall be on the person filing the protest.

(b) Any person against or for whom a protest has been filed shall be notified of the protest in writing by certified mail, to be received by the addressee only, return receipt requested and shall have thirty (30) days from the receipt of such notice to submit additional information or documentation in his own behalf.

(c) Appeals from rejected applicants must be in writing and must be filed under Part 42 of this Chapter, except that all appeals shall be determined by the Secretary within ninety (90) days after an appeal is received.

§ 43p.15 Decision of the Secretary on protests and appeals.

The decision of the Secretary on a protest or appeal shall be final and written notice of the decision shall be given the applicant, protestor, or sponsor. When so directed by the Secretary, the Director shall have entered on the roll the name of any person whose eligibility has been established or have removed from the roll the name of any person whose ineligibility has been proved as the result of a protest or appeal.

§ 43p.16 Preparation of revised roll.

The staff shall prepare a minimum of ten (10) copies of the completed revised roll. The roll shall contain for each person a roll or identification number, name, address, sex, date of birth, degree of Siletz Indian blood, total degree of Indian blood, and the basic membership or other roll number, name and relationship of the ancestor or ancestors through whom eligibility was established.

§ 43p.17 Certification and approval of revised roll.

The roll shall be certified by the staff and Council with a statement that to the best of their knowledge and belief the roll contains only the names of thse persons who were determined to meet the requirements for membership. The Secretary shall approve the roll.

§ 43p.18 Publication of revised membership roll.

After approval by the Secretary the revised roll shall be published in the FEDERAL REGISTER.

§ 43p.19 Current membership roll.

Until the tribe assumes responsibility for the roll the staff shall keep the membership roll current by adding thereto the names of children who meet the qualifications for membership in the tribe specified in the Act, and for whom an application has been filed and by deleting therefrom the names of person whose have relinquished their membership in the tribe in writing and of deceased persons upon receipt of a death certificate or other evidence of death acceptable to the Council.

§ 43p.20 Special instructions.

To facilitate the work of the staff, the Assistant Secretary may issue special instructions not inconsistent with the regulations in this Part.

FORREST J. GERARD,
Assistant Secretary,
Indian Affairs.

[FR Doc. 78-5550 Filed 3-1-78; 8:45 am]

[4310-02]

[25 CFR Part 113]

ALASKA NATIVE FUND

Recognition of Assignments of Future Interests

FEBRUARY 23, 1978.

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Proposed rules.

SUMMARY: These regulations are proposed to implement section 31 of the Alaska Native Claims Settlement Act, as amended by section 4 of the Act of November 15, 1977, which gives the Secretary of the Interior the Authority to recognize validly executed assignments made by Regional Corporations of their rights to receive payments from the Alaska Native Fund.

DATE: Written comments must be received on or before April 3, 1978.

ADDRESS: Comments should be sent to: Assistant Director, Financial Management, Office of Administration, Bureau of Indian Affairs, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Louis H. Conger, Jr., Bureau of Indian Affairs, 202-343-6342.

SUPPLEMENTARY INFORMATION: Section 4 of the Act of November 15, 1977 (Pub. L. 95-178; 91 Stat. 1369, 1370; 43 U.S.C. 1628), amended the Alaska Native Claims Settlement Act by adding a new section 31 which provides as follows:

(a) Notwithstanding the provision of section 3477 of the Revised Statutes, as amended (31 U.S.C. 203), the Secretary is authorized to recognize validly executed assignments made by Regional Corporations of their rights to receive payments from the Alaska Native Fund. Such assignments shall only be recognized to the extent that the Regional Corporation involved is not required to distribute funds pursuant to subsection (j) or (m) of section 7 of this Act.

(b) The Secretary shall not recognize any assignment under this section which does not provide that the United States reserve the right to assert against the assignee and successors of the assignee, any setoff or counterclaim which the United States has against the assignor Corporation.

(c) No stockholder of any Regional or Village Corporation shall have any claim against the Secretary or the United States as the result of any assignment duly recognized by the Secretary pursuant to this section.

These proposed rules are intended to implement that provision.

Prior to the enactment of that provision, it had been determined that the Secretary had no authority to recognize such assignments of a Regional Corporation's future interest in the Alaska Native Fund. Comptroller General Opinion No. B-108439 (November 16, 1976). The cited opinion stated that recognition of such an assignment by the Secretary was prohibited by the terms of the so-called Anti-Assignment Act (31 U.S.C. 203). However, the opinion acknowledged that the Act did not prohibit a Regional Corporation from assigning its right to future distributions from the Alaska Native Fund. Only Secretarial recognition of such an assignment was prohibited by the Anti-Assignment Act. Absent such recognition, the Secretary is obliged only to make distributions of the Alaska Native Fund as directed by the payee Regional Corporations; he cannot be bound by the terms of the assignment.

On the other hand, Government recognition of assignments of these claims against the United States in effect provides the assignee with a secured interest in the future distributions. After recognition, a Regional Corporation is no longer able to direct the Secretary to make payments of its share of the Alaska Native Fund in a manner inconsistent with the terms of the assignment. The Act of November 15, 1977, now gives the Secretary the authority to create such a secured interest. This will enable Regional Corporations to borrow the necessary capital for development projects at reduced interest rates. However, the new authorization permits the Secretary only to recognize such assignments to the extent that the Regional Corpora-

tion is not required to distribute those funds pursuant to subsection (j) or (m) of section 7 of the Settlement Act. Those provisions require a Regional Corporation to redistribute a certain percentage of its Alaska Native Fund share to the Village Corporations in its region and to certain stockholders.

The following proposed rules have been drafted to require that a Regional Corporation provide evidence that the Corporation's Board of Directors has authorized an assignment, and that it specifically intended that the Secretary recognize that assignment. These proposed rules would not require that the Secretary substitute his business judgment for that of the Regional Corporation in determining whether to recognize a validly executed assignment.

DRAFTING INFORMATION: These proposed regulations were drafted by employees of the Division of Financial Management of the Bureau of Indian Affairs, and attorneys in the Division of Indian Affairs of the Office of the Solicitor, Department of the Interior. The principal authors were Louis H. Conger, Jr., and Bart Wright of the Bureau of Indian Affairs, and Scott Keep and Tim Vollmann of the Solicitor's Office.

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB circular A-107.

This notice is published in exercise of the authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 230 DM 1.2A(1).

Dated: February 23, 1978.

FORREST J. GERARD,
Assistant Secretary,
Indian Affairs.

Subchapter J of Chapter I of Title 25 of the Code of Federal Regulations is hereby amended by adding a new Part 113, as follows:

PART 113—RECOGNITION OF ASSIGNMENTS OF FUTURE INTERESTS IN THE ALASKA NATIVE FUND

Sec.
113.1 Scope and purpose.
113.2 Definitions.
113.3 Payment of shares in the Fund in the absence of recognition of an assignment.
113.4 Recognition of assignments.
113.5 Register of recognized assignments.
113.6 Re-assignment.
113.7 Multiple assignments.
113.8 Disclaimer.
113.9 Cancellation of assignments.
113.10 Reconsideration; Finality.

AUTHORITY: Sec. 25 and 31, Pub. L. 92-203, 85 Stat. 715, as amended by Pub. L. 95-178, 91 Stat. 1370 (43 U.S.C. 1624, 1628).

§ 113.1 Scope and purpose.

(a) The regulations in this part shall apply to all future distributions of the Alaska Native Fund pursuant to section 6 of the Alaska Native Claims Settlement Act (43 U.S.C. 1605), except money reserved for the payment of attorney and other fees as provided in section 20 of the Act (43 U.S.C. 1619).

(b) These regulations are not intended (1) to alter the distribution formula of section 6 of the Act (43 U.S.C. 1605), or the redistribution formulas of sections 7(j) or 7(m) of the Act (43 U.S.C. 1606(j), (m)); or (2) to require the distribution of money in the Fund when not authorized by the Act, or when the money has been set aside in an escrow or reserved account pursuant to an order of a court of competent jurisdiction.

(c) The regulations in this part are intended to implement section 31 of the Act (43 U.S.C. 1628) which authorizes the Secretary to recognize validly executed assignments of a Regional Corporation's rights to receive payments from the Fund.

§ 113.2 Definitions.

As used in the regulations in this part—

Act means the Alaska Native Claims Settlement Act, as amended (Pub. L. 92-203, 85 Stat. 715, 43 U.S.C. 1601 et seq.; Pub. L. 95-178, 91 Stat. 1370).

Assignee means the person or entity extending credit to a Regional Corporation and receiving from that corporation an assignment of certain of the corporation's future interests in the Fund, as security for the debt.

Assignor means a Regional corporation which has assigned to another certain of its future interests in the Fund.

Assistant Secretary means the Assistant Secretary for Indian Affairs, U.S. Department of the Interior, or his authorized representative.

Fund means the Alaska Native Fund created by section 6 of the Act (43 U.S.C. 1605).

Payee means the recipient of a distribution from the Fund. The payee must be a banking institution insured by the Federal Deposit Insurance Corporation.

Regional Corporation means an Alaska Native Regional Corporation established under the laws of the State of Alaska in accordance with the provisions of the Act.

Secretary means the Secretary of the Interior.

Village Corporation means an Alaska Native Village Corporation organized under the laws of the State of Alaska as a business for profit or nonprofit corporation to hold, invest, manage and/or distribute lands, property, funds, and other rights and assets for and on behalf of a Native village in accordance with the terms of the Act.

§ 113.3 Payment of shares of the Fund in the absence of recognition of an assignment.

(a) All money in the Fund shall be distributed by the Assistant Secretary at the end of each three months of the fiscal year among the Regional Corporations on the basis of the relative numbers of Natives enrolled in each region.

(b) Except as otherwise authorized in the regulations in this part, a Regional Corporation's quarterly share of the Fund shall be made payable to the Regional Corporation through a payee designated by the Regional Corporation.

(c) A Regional Corporation may designate a payee of its quarterly share at any time, and may change that designation at any time, *provided that* the Assistant Secretary be notified of any such designation or change in designation at least ten (10) days before the quarterly distribution date. Any such designation must include the name, address, and the American Banking Association number of the payee.

§ 113.4 Recognition of assignments.

(a) Upon application of a Regional Corporation, as provided in paragraph (c) of this section, the Assistant Secretary shall recognize a validly executed assignment of that portion of a future interest in the Fund not subject to the redistribution provisions of sections 7(j) and 7(m) of the Act. A future interest which is not subject to those redistribution provisions shall be referred to in this section as an "assignable future interest" or the "assignable portion of a quarterly distribution."

(b) Upon recognition of such an assignment, the Assistant Secretary shall distribute the amount assigned to the payee designated by the parties to the assignment, and shall continue to pay the amount assigned to that payee, except as provided by §§ 113.6(b) and 113.9 of this part.

(c) A Regional Corporation's application for recognition of an assignment of a future interest in the Fund (1) shall be addressed to the Assistant Secretary for Indian Affairs, Attn: Assistant Director, Financial Management, Bureau of Indian Affairs, U.S. Department of the Interior, Washington, D.C. 20240; (2) shall specifically request that the Assistant Secretary recognize an assignment of a fixed sum to which the Regional Corporation may be entitled from the Fund; (3) shall designate a payee of the amount assigned; (4) shall be accompanied by a duly-adopted resolution of the Board of Directors of the Regional Corporation, which resolution authorizes the making of the assignment and the application for recognition of that assignment by the Secretary of the Interior; and (5) shall be accompanied by four copies of a validly executed assignment of a portion of the Regional Corporation's assignable future interest in the Fund, which assignment shall contain the following language:

(i) The parties to this assignment agree to seek recognition of this assignment by the Secretary of the Interior, as authorized by section 4 of the Act of November 15, 1977, Pub. L. 95-178 (91 Stat. 1369, 1370).

(ii) It is understood by the parties to this assignment that in the event the Secretary of the Interior recognizes this assignment, the United States reserves the right to assert against the assignee and successors of the assignee, any setoff or counterclaim which the United States has against the assignor Corporation.

(d) The Assistant Secretary shall not recognize any assignment by a Regional Corporation who has not transmitted to the Secretary an up-to-date annual audit report or a fair and reasonably detailed summary thereof, as required by section 7(o) of the Act, within one year preceding the date of receipt of the Corporation's application for recognition of the assignment.

(e)(1) An assignment may provide that: (i) All of the assignable portion of each quarterly distribution be paid to the payee designated in the application for recognition of assignment;

(ii) A fraction of the assignable portion of each quarterly distribution be paid to the designated payee; or that

(iii) Payment of the designated payee may not exceed a certain amount of the assignable portion of each quarterly distribution.

(2) Other formulas for assignment of assignable future interests may be recognized if (i) such a formula clearly identifies what portion of each affected quarterly distribution is to be paid to the designated payee, and (ii) the formula will permit the Assistant Secretary to set priorities in accordance with § 113.7 of this part when subsequent application is made fo recognition of additional assignments.

§ 113.5 Register of recognized assignments.

The Assistant Secretary shall maintain and make available for inspection by the public a register of assignments recognized by him pursuant to the regulations in this part. Such register shall list the name of the Regional Corporation; the name and address of the assignee; the name, address, American Banking Association number, and account number for deposit of the payee of the amount assigned; the amount assigned; the amount paid at each quarterly distribution under the terms of the assignment; and the date of the Assistant Secretary's recognition.

§ 13.6 Re-assignment.

(a) The Assistant Secretary shall not recognize any re-assignment by the assignee of any future interest of a Regional Corporation in the Fund.

(b) The Assistant Secretary may accept a re-designation of a new payee of an assignment recognized by the Assistant Secretary, upon application of an authorized official of the assignee in accordance with § 113.3(c) of this part.

§ 113.7 Multiple assignments.

(a) The Assistant Secretary may recognize more than one assignment of a Regional Corporation's future interests in the Fund. A second or later assignment of a Regional Corporation's future interest in the Fund, when recognized in accordance with section 113.4 of this part, shall be recognized subject to assignments already recognized.

(b) The Assistant Secretary shall not recognize an assignment of a Regional Corporation's future interest in the Fund if he has more than one outstanding application from that Corporation seeking recognition of such future interests. If more than one application from a Regional Corporation is pending before the Assistant Secretary, he shall notify both the Regional Corporation and the assignees of the assignments sought to be recognized, and seek a written consensus on the priorities to be established. In the absence of such a consensus, the Assistant Secretary shall not recognize any such assignment.

§ 113.8 Disclaimer.

The Assistant Secretary does not guarantee by any action taken pursuant to the regulations in this part that the entitlement of a Regional Corporation to any quarterly distribution of the Fund shall be of any given amount, or that the cumulative entitlement of that Corporation will reach any given sum.

§ 113.9 Cancellation of assignments.

(a) The Assistant Secretary shall cancel his recognition of an assignment upon joint application of the assignee and Regional Corporation involved. Such application must include a resolution of the Board of Directors of the Regional Corporation, and a validly executed agreement between the Regional Corporation and assignee cancelling the assignment and authorizing the Secretary of the Interior to cancel his recognition of the assignment.

(b) Such cancellation of recognition of an assignment shall be reflected in the register compiled by the Assistant Secretary as provided in § 113.5 of this part.

§ 113.10 Reconsideration; finality.

(a) A decision of the Assistant Secretary not to recognize an assignment of a future interest in the Fund may be the subject of a petition for reconsideration if such a petition is submitted to the Assistant Secretary by the Regional Corporation within 30 days of the decision. Upon reconsideration, the Assistant Secretary shall inform the Regional Corporation what defects, if any, remain in its application for recognition, and shall provide the corporation with an opportunity to cure those defects.

(b) A decision of the Assistant Secretary to recognize an assignment of a Regional Corporation's future interest in the Fund shall not be subject to reconsideration or administrative appeal, and shall therefore be final for the Department.

FORREST J. GERARD,
Assistant Secretary—
Indian Affairs.

[FR Doc. 78-5552 Filed 3-1-78; 8:45 am]

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGD 77-093]

DRAWBRIDGE OPERATION REGULATIONS

Saginaw River, Mich.

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Michigan Department of State Highways, the Coast Guard is considering amending the operating regulations for the Veteran's Memorial Bridge, mile 5.6, and the Lafayette Street Bridge, mile 6.8, across the Saginaw River, Bay City, Mich., to extend the restrictive opening periods for these bridges to include weekends. Vehicular traffic on these bridges has increased because of the loss of the nearby Third Street bridge. The proposed changes will assist the flow of vehicular traffic during the reconstruction of the Third Street bridge.

DATE: Comments must be received on or before March 24, 1978.

ADDRESS: Comments should be submitted to and are available for examination at the office of the Commander (obr), Ninth Coast Guard District, 1240 East 9th Street, Cleveland, Ohio 44199.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-0942.

SUPPLEMENTARY INFORMATION: Persons submitting comments should include their name and address, identi-

fy the bridge, and give reasons for any recommended change in the proposal.

The Commander, Ninth Coast Guard District, will forward any comments received with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and recommend final action on this proposal to the Commandant, U.S. Coast Guard. The proposed regulations may be changed in the light of comments received.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Edward J. Gill, Jr., Project Attorney, Office of the Chief Counsel.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by revising § 117.700(h)(2) to read as follows:

§ 117.700 Saginaw River, Mich.; bridges.

• • • • •

(h) • • •

(2) From March 16 through December 15, the draws of the Belinda Street, Third Street, Veterans Memorial and Lafayette Street bridges shall open on signal, except that:

(i) From 6:30 a.m. to 8:30 a.m. and 3:30 p.m. to 5:30 p.m., Monday through Friday, except legal holidays observed in the locality, the draws need not open for the passage of vessels of less than 50 gross tons.

(ii) From 7:30 a.m. to 8:30 a.m. and 4:30 p.m. to 5:30 p.m., Monday through Friday, except legal holidays observed in the locality, the draws need not open for the passage of downbound vessels of over 50 gross tons.

(iii) From 8 a.m. to 8 p.m. on Saturdays, Sundays and legal holidays observed in the locality, the draws of the Lafayette Street and Belinda Street bridges need not open for the passage of recreational vessels except from three minutes before to three minutes after the hour and half-hour.

(iv) From 8 a.m. to 8 p.m. on Saturdays, Sundays and legal holidays observed in the locality, the draw of the Veteran's Memorial bridge need not open for the passage of recreational vessels except from three minutes before to three minutes after the quarter hour and the three-quarter hour.

• • • • •

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5).)

Dated: February 16, 1978.

E. L. PERRY,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[FR Doc. 78-5133 Filed 3-1-78; 8:45 am]

[4910-14]

[33 CFR Part 117]

[CGD 78-018]

DRAWBRIDGE OPERATION REGULATIONS

Oklawaha River, Fla.

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Florida Department of Transportation, the Coast Guard will consider revising the regulations for four bridges across the Oklawaha River, Marion County, Fla., to require at least 3 hours notice at all times. Three of the bridges open on signal from 7 a.m. to 7 p.m. and from 7 p.m. to 7 a.m. if at least 3 hours notice is given. The remaining bridge at Sharpes Ferry opens on signal from 7 a.m. to 7 p.m. on weekends and from 7-9 a.m. and 5-7 p.m. during weekdays if at least 1 hour notice is given. This change is being considered because of infrequent openings of these bridges. The proposed change will relieve the owners of the bridges of the obligation of opening on signal during the above listed periods.

DATE: Comments must be received on or before April 3, 1978.

ADDRESS: Comments should be submitted to and are available for examination at the office of the Commander (oan) Seventh Coast Guard District, 51 Southwest First Avenue, Miami, Fla. 33130.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-0942.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrenced with or any recommended change in the proposal.

The Commander, Seventh Coast Guard District, will forward any comments received with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast guard Headquarters, Washington, D.C., who will evaluate all communications received and recommend a course of final action to the Commandant on this proposal. The proposed regulations may be changed in the light of comments received.

DRAFTING INFORMATION: The principal persons involved in drafting this proposal are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Edward J. Gill, Jr., Project Attorney, Office of the Chief Counsel.

DISCUSSION OF THE PROPOSED REGULATIONS

Bridge opening data submitted suggests that the proposed change will meet the reasonable needs of navigation. Since 1973 the draws have been opened as follows: Sharpes Ferry—4 openings; Moss Bluff—61 openings (including 18 test openings); Starkes Ferry—43 openings (including 13 test openings); and Muclan Farms—no openings.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by:

1. Adding a new § 117.245(h)(25-a) immediately after § 117.245(h)(25) and by deleting § 117.434 as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of an including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

• • • • •

(h) • • •

(25-1) *Oklawaha River, Marion County, Fla.* The draws of the bridges at Sharpes Ferry, Moss Bluff, Starkes Ferry, and Muclan Farms shall open on signal if at least 3 hours notice is given.

• • • • •

§ 117.434 [Deleted]

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended and OMB Circular A-107.

Dated: February 21, 1978.

E. L. PERRY,
Vice Admiral, U.S. Coast Guard
Acting Commandant.

[FR Doc. 78-5518 Filed 3-1-78; 8:45 am]

[4110-02]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 102]

EDUCATION HEARING BOARD

Decision to develop regulations

AGENCY: Office of Education, HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Commissioner of Education plans to propose regulations to establish an Education Hearing Board to provide impartial administrative procedures for educational institutions or State and local agencies to appeal adverse audit or other findings or orders of OE officials. The Board is intended to replace the more narrowly conceived Title I Audit Hearing Board established by FEDERAL REGISTER Notice of October 27, 1972, as amended by Notice of July 12, 1976.

FOR FURTHER INFORMATION CONTACT:

Dr. David S. Pollen, 400 Maryland Avenue, SW., Room 4025, Washington, D.C. 20202, telephone 202-245-7835.

Dated: January 16, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78-5498 Filed 3-1-78; 8:45 am]

[4110-02]

[45 CFR Part 115]

SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

Technical Amendments and Definitions

AGENCY: Office of Education, HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Commissioner plans to amend current regulations governing the award of Federal assistance to school districts for current expenditures in areas affected by Federal activities. The proposed technical changes provide definitions for terms as "employed on/work on Federal property" and "suitable" free public education. It provides to the State educational agencies an alternate method of calculating the local contribution rate of generally comparable districts and allows the administrator to conduct adjudication appeals for applications filed after the deadline.

FOR FURTHER INFORMATION CONTACT:

Mr. William L. Stormer, Division of School Assistance in Federally Affected Areas, 400 Maryland Avenue SW., Room 2107, Washington, D.C. 20202, telephone 202-245-8427.

(Catalog of Federal Domestic Assistance No. 13.478—School Assistance in Federally Affected Areas.)

Dated: January 18, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78-5494 Filed 3-1-78; 8:45 am]

[4110-02]

[45 CFR Part 116]

EDUCATIONALLY DEPRIVED CHILDREN

Amendments to Maintenance of Effort Regulations in Title I of ESEA

AGENCY: Office of Education, HEW.

ACTION: Notice of Decision to Develop Regulations.

SUMMARY: The Commissioner of Education proposes to publish a notice of proposed rulemaking to implement amendments to Title I of the Elementary and Secondary Education Act authorized by Pub. L. 94-482. These statutory amendments: (a) modify the requirement that grant recipients maintain State and local expenditures for educational purposes by setting up an additional way of measuring maintenance of effort; and (b) gives the Commissioner of Education the authority to waive the requirement in accordance with published criteria. The primary purpose of the notice will be to establish proposed criteria for the waivers.

FOR FURTHER INFORMATION CONTACT:

Genevieve Dane, U.S. Office of Education, 400 Maryland Avenue, SW., (ROB-3-Room 3642E) Washington, D.C. 20202, 202-245-2506.

(Catalog of Federal Domestic Assistance Nos. 13.428, Educationally Deprived Children; Local Educational Agencies; 13.429, Educationally Deprived Children, Migrants; 13.431, Educationally Deprived Children in State Administered Institutions Serving Neglected or Delinquent Children)

Dated: January 16, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78- 5432 Filed 3-1-78; 8:45 am]

[4110-02]

[45 CFR Part 116d]

EDUCATIONALLY DEPRIVED CHILDREN-MIGRANTS

AGENCY: Office of Education, HEW.

ACTION: Notice of Decision to Develop Regulations.

SUMMARY: The Commissioner of Education proposes to publish a final regulation to govern the awarding of grants to State educational agencies for programs to meet the special educational needs of migratory children of migratory agricultural workers or of migratory fishermen. These grants are authorized by Title I of the Elementary and Secondary Education Act. Presently, awarding of these grants is governed by the interim regulation published in the FEDERAL REGISTER on July 13, 1977. (42 FR 36076.)

FURTHER INFORMATION CONTACT:

Mr. Vidal A. Rivera, Jr., Migrant Branch/DED, U.S. Office of Education, 400 Maryland Avenue, SW. (ROB-3, Room 3642), Washington, D.C. 20202, 202-245-2427.

(Catalog of Federal Domestic Assistance No. 13.429, Educationally Deprived Children-Migrants)

Dated: January 24, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78- 5434 Filed 3-1-78; 8:45 am]

[4110-02]

[45 CFR Part 130]

LIBRARY SERVICES AND CONSTRUCTION ACT

AGENCY: Office of Education, HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Commissioner of Education proposes to publish a notice of proposed rulemaking to implement the Library Services and Construction Act as amended October 9, 1977. Revisions include the requirement that Federal funds expended for administrative purposes must be equally matched with State or other non-Federal funds. The base year for the maintenance of effort requirement for funds expended for services for the handicapped and institutionalized has been changed from fiscal year 1971 to the second preceding fiscal year from the year for which application is made. Additional emphasis has also been placed on strengthening major urban resource libraries.

FOR FURTHER INFORMATION CONTACT:

Elizabeth H. Hughey, Office of Libraries and Learning Resources, U.S. Office of Education, 400 Maryland Avenue SW. (ROB No. 3, Room 3022), Washington, D.C. 20202, telephone 202-245-2813.

(Catalog of Federal Domestic Assistance Nos. 13.464, 13.408, 13.465, Library Services and Construction Act Titles I, II, III)

Dated: January 31, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78-5435 Filed 3-1-78; 8:45 am]

[4110-02]

[45 CFR Part 161]

CAREER EDUCATION INCENTIVE

tive will be based on States' reducing the dollar error rate below the 4 percent level.

FOR FURTHER INFORMATION

tos fibers from the mills (mostly foreign) to industries that use asbestos in the products they manufacture. The largest industry in this category (SIC

It includes chrysolite, crocidolite, amosite, anthophyllite asbestos, tremolite asbestos, and actinolite asbestos. These are all asbestiform minerals

to long term exposure to airborne asbestos concentrations. As noted in the 1972 preamble of the Occupational Safety and Health Administration

occupational settings. The EPA's standard for airborne asbestos emissions falls under its "no visible emissions" criterion. This is in contrast to the

[4110-02]

[45 CFR Part 161]

CAREER EDUCATION INCENTIVE PROGRAM

AGENCY: Office of Education, HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Commissioner of Education proposes to develop regulations to govern the award of grants and allotments for the following four new programs authorized under the new Career Education Incentive Act:

(a) An Allotment Program to States including the District of Columbia, Puerto Rico, and the Insular Areas to enable them to provide leadership and support local implementation of career education;

(b) A Model Grant Demonstration Program to public and private non-profit agencies and organizations;

(c) A Postsecondary Educational Demonstration Program for institutions of postsecondary education and other public and private non-profit agencies and organizations; and

(d) A Career Information Program for public and private non-profit agencies and organizations.

The Administration has not requested funding to implement any of these programs.

FOR FURTHER INFORMATION CONTACT:

Dr. Sidney C. High, Jr., U.S. Office of Education, 7th and D Streets SW., Room 3108-A, Washington, D.C. 20202, Phone 202-245-2331.

(CFDA No. Not Yet Assigned)

Dated: January 31, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78-5433 Filed 3-1-78; 8:45 am]

[4110-07]

Social Security Administration

[45 CFR Part 205]

AID TO FAMILIES WITH DEPENDENT CHILDREN

FISCAL INCENTIVES FOR LOWERING AFDC ERROR RATES

Decision to develop regulations

AGENCY: Social Security Administration, HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Social Security Administration is planning to publish proposed regulations that would provide States administering the Aid to Families with Dependent Children Program (AFDC) with a fiscal incentive for lowering the AFDC Quality Control (QC) error rates. The incentive will be based on States' reducing the dollar error rate below the 4 percent level.

FOR FURTHER INFORMATION CONTACT:

Mr. John Bowes, Room 1416, Mary E. Switzer Building, 330 C Street SW., Washington, D.C. 20201, 202-245-0788.

Dated: February 1, 1978.

DON WORTMAN,
Acting Commissioner of Social Security.

[FR Doc. 78-5499 Filed 3-1-78; 8:45 am]

[4910-60]

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

[49 CFR Parts 172, 173, 174, 175, 176, 177]

[Docket No. HM-160; Notice No. 78-3]

TRANSPORTATION OF ASBESTOS

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The amendments proposed herein would require certain kinds of asbestos to be shipped by all modes in non-specification, rigid, air-tight packagings, such as metal or fiber drums; or in bags when shipped in closed freight containers. The proposals are intended to reduce the risks to property and to the public health and safety associated with the generation of airborne concentrations of asbestos that may result from the packaging and handling of asbestos fiber shipments. The available data clearly indicates that regular, long term exposure to ariborne concentrations of asbestos fibers poses a range of carcinogenic and other serious health risks; and recent studies suggest that these dangers are also associated with exposures that are low-level, brief or intermittent.

DATE: Comments must be received on or before May 2, 1978.

ADDRESS COMMENTS TO: Dockets Section, Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C. 20590. It is requested that five copies be submitted.

FOR FURTHER INFORMATION CONTACT:

Alan I. Roberts, Director, Office of Hazardous Materials Operations, 2100 Second Streets SW., Washington, D.C. 20590, 202-426-0656.

SUPPLEMENTARY INFORMATION:

I. BACKGROUND—PRODUCTION/CONSUMPTION/TRANSPORTATION PATTERNS

Asbestos is a generic term used to describe a number of naturally occuring fibrous, hydrated mineral silicates. It includes chrysolite, crocidolite, amosite, anthophyllite asbestos, tremolite asbestos, and actinolite asbestos. These are all asbestiform minerals which, when crushed, produce asbestos fibers with various chemical and physical properties.

Asbestos fibers are generally characterized by high tensile strength and flexibility, and favorable chemical resistance, heat and frictional properties. Certain grades of asbestos can be spun and woven, while others can be laid and pressed to form paper, or used for structural reinforcement of materials such as cement, plastic, asphalt and tile. The asbestos content of these latter products ranges from 5 to 15 percent by weight.

Although asbestos is adaptable to more than 2,000 uses, the construction industry accounts for nearly two-thirds of the United States (U.S.) asbestos fiber consumption. The remaining 33 percent is utilized in a myriad of industrial and consumer products.

During the ten-year period ending 1976, the total amount of new asbestos introduced into the U.S. transportation system averaged approximately 1,700,000 short tons annually. Slightly more than half this tonnage consists of crude or milled asbestos fibers, with the remainder consisting of asbestos contained in products manufactured in whole or in part from asbestos. There is, of course, a lag between the time a shipment of asbestos fibers enters the transportation system and the time that shipment enters the transportation system as a manufactured product.

Growth in the utilization and transportation of asbestos is expected to slowly increase at a rate of about 2 percent per year.

During the entire history of the asbestos industry in the United States, domestic sources have been able to meet only a small percentage of U.S. requirements. Roughly 90 percent of the total U.S. industrial demand for all grades and types of asbestos fibers is thus dependent on foreign imports—with Canada being the major source of supply. In 1975, 93 percent of U.S. imports came from Canada with the next largest suppliers being the Republic of South Africa (3 percent) and the U.S.S.R. (2 percent). Eight other countries shipped smaller amounts of asbestos to the U.S. in 1975.

The transportation pattern for asbestos is characterized by three distinct stages:

In the first stage, asbestos ore is transported from the mine site to a milling plant where the ore is crushed and processed into fibers.

Of the five mills operating in the U.S. as of late 1976, three are located at the mines, but the other two are 32 and 52 miles distant. Transportation is reported to be by open-hopper vehicles such as dump trucks.

The second stage is characterized by the shipment of crude or milled asbestos fibers from the mills (mostly foreign) to industries that use asbestos in the products they manufacture. The largest industry in this category (SIC 3292) as of 1972 consisted of 142 establishments primarily engaged in the manufacture of asbestos textiles, asbestos building materials, asbestos insulating materials for covering boilers and pipes, and other products composed wholly or chiefly of asbestos fibers. Other industries receiving asbestos fibers are mainly industries engaged in the production of asphalt felts and coatings (SIC 2952), hard surface floor coverings (SIC 3996), gaskets (SIC 3293), and paper products (SIC 2261).

These industries generally receive their shipments of asbestos fibers in pressure packed, five-ply paper or woven vinyl bags weighing about 100 lbs. per bag, with the bags glue-locked to each other and shrink-wrapped to a pallet (wrapped with a film of plastic which is then shrunk). In the aggregate, rail shipments handle about 80 percent of all milled asbestos fibers entering the U.S. transportation system, with merchant vessel shipments accounting for the remaining 20 percent. Packaging for ocean transportation, both for imported and exported asbestos fibers, is changing to containerization. All shipments, for example, from the Union of South Africa have been reported to be containerized. Although rail shipments of asbestos fibers are not yet being containerized, the majority of such shipments are made in sealed, railroad box cars which are routed for the most part direct to the asbestos products manufacturing industries.

The third stage in the transportation of asbestos involves the shipment of manufactured products made wholly or in part from asbestos. Approximately 61 percent of the asbestos used in manufactured products is firmly imbedded or "locked in" such products as floor tiles, asbestos cement pipes and sheets, floor products and plastics. These products generate less airborne fibers than asbestos manufactured products that are friable or in powder form, although at the present time, it is not known whether the transportation of products in either category under current conditions presents an unreasonable risk to the public health and safety. As defined in the Department of Commerce's 1972 Census of Transportation, approximately 92 percent of asbestos manufactured products are shipped by motor vehicle, with rail and all other modes accounting for about 7 percent and 1 percent, respectively.

II. GENERAL EFFECTS OF AIRBORNE ASBESTOS EXPOSURE/EVIDENCE OF ACCIDENTAL RELEASE OF ASBESTOS FIBERS

The MTB believes it to be firmly established that asbestos, in its several commercial forms, poses serious health hazards to individuals subject to long term exposure to airborne asbestos concentrations. As noted in the 1972 preamble of the Occupational Safety and Health Administration (OSHA) standard on asbestos (37 FR 11318): "No one has disputed that exposure to asbestos of high enough duration is causally related to asbestosis and cancers * * *" Recent new evidence, however, as reported by OSHA, not only tends to confirm this finding but also suggests that serious potential health risks are involved with even relatively low-level, brief or intermittent exposure to airborne asbestos concentrations. Although there is no detailed information available on the amount of asbestos fibers released in transportation, the MTB believes that, in consideration of the carcinogenic and other health hazards associated with asbestos, there is a sufficient basis for establishing regulatory control of asbestos in transportation.

III. RELATIONSHIP TO HM-145

On December 9, 1976, the MTB published an Advanced Notice of Proposed Rulemaking (41 FR 53824) in Docket No. HM-145 entitled "Environmental and Health Effects Materials." In that Notice, the MTB announced that it was considering whether new or additional transportation controls are necessary for certain classes of materials which are not generally subject to the existing Hazardous Materials Regulations.

A large number of comments were received in Docket HM-145. The MTB has concluded that a considerable amount of time and effort is still needed in staff evaluation of these comments before it will be in a position to issue a notice or notices of proposed rulemaking for environmental and health effects materials, either on a comprehensive or on a selective basis.

Several comments on HM-145, however, were specifically directed to the idea that transportation regulatory controls for asbestos be established as soon as possible, with the suggestion that asbestos be addressed on an individual basis, rather than writing until the eventual resolution of Docket HM-145. The MTB agrees with the urgency of the views expressed on this matter, and therefore asbestos is being treated separately under this proposed rulemaking.

IV. QUANTITATIVE VERSUS QUALITATIVE STANDARDS

In determining that there is a need for transportation controls on asbestos, the MTB has considered the desirability and practicality of utilizing quantitative or qualitative emission criteria or some combination of the two, either as developed by the MTB or as developed by other agencies.

Currently, quantitative permissible exposure limits for asbestos, as promulgated by the Environmental Protection Agency (EPA) have not been established for environmental or non-occupational settings. The EPA's standard for airborne asbestos emissions falls under its "no visible emissions" criterion. This is in contrast to the quantitative criteria established by OSHA for airborne concentrations of asbestos fibers in occupational or worksite conditions. The criteria of OSHA consist of an 8-hour time weighted average standard, and a maximum "ceiling concentration" standard. Both standards are to some extent based on the ability of current devices to measure asbestos airborne concentrations in a systematic, meaningful manner, and are not directly based on any causal or threshold relationship between the standards and the probability of contracting an asbestos induced disease.

The MTB believes that its proposed non-specification packaging standards as applied to the transportation of asbestos fiber is an effective and efficient means of precluding potential problems associated with asbestos airborne emissions occurring during transportation; and that they are consistent with the standards of both EPA and OSHA.

V. SCOPE AND IMPACT

The standards as herein proposed would only apply to the transportation of what are generally regarded as milled or crude asbestos fibers, but would exclude asbestos contained in a natural or artificial binding-material and manufactured products containing asbestos.

In light of the regulatory controls already in existence or under consideration by other federal agencies, and until such time as the MTB has more specific and concrete information that the normal packaging and handling of these forms of asbestos is such as to create unreasonable asbestos exposure problems, the MTB does not believe their specific regulation in transportation is warranted.

In reviewing the potential inflationary and economic impacts associated with the proposed rule, the MTB has determined that such impacts will be minimal. Based on the foregoing discussion of the production and transportation pattern for asbestos shipments, it is clear that the only aspect of that pattern which might experience a cost impact pertains to import and export shipments by merchant vessel. This follows from the fact that the proposed rule would generally require all such shipments to be containerized in contrast to packaging alternatives now available to shippers. However, the cost-differential between these alternative cargo handling methods is not only very small, but a significant portion of such shipments are already containerized, or being containerized.

As proposed herein, a new paper shipping name "Asbestos" would be added to the list of hazardous materials in 49 CFR 172.101. The proposed

classification for "asbestos" would be as an ORM-C (Other Regulated Material, Group C).

Primary drafters of this document are A. W. Grella, Technology Division, Office of Hazardous Materials Operations; J. S. Nalevanko, Economist, Materials Transportation Bureau; and Douglas A. Crockett, Office of the Chief Council, Research and Special Programs Directorate.

In consideration of the foregoing, Title 49, Code of Federal Regulations, Parts 172 through 177 would be amended as follows:

PART 172—HAZARDOUS MATERIALS TABLE AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

§ 172.10 [Amended]

1. In § 172.101, the Hazardous Materials Table would be amended by adding a new entry, immediately following "Arsine," to read as follows:

(1)	(2)	(3)	(4)	(5) Packaging		(6) Maximum net quantity in one package		(7) Water shipments		
				(a)	(b)	(a)	(b)	(a)	(b)	(c)
	Hazardous materials descriptions and proper shipping names	Hazard class	Label(s) required (if not excepted)	Exceptions	Specific requirements	Passenger carrying aircraft or rail car	Cargo only aircraft	Cargo vessel	Passenger vessel	Other requirements
	(Add)									
	Asbestos	ORM-C	None	173.1090(b)	173.1090(c)	No limit	No limit	1, 2	1, 2	Stow and handle to avoid airborne particles.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

2. § 173.1090 would be added to read as follows:

§ 173.1090 Asbestos.

(a) Asbestos includes any of the following hydrated mineral silicates: chrysolite, crocidolite, amosite, anthophyllite asbestos, tremolite asbestos, and actinolite asbestos, and every product containing any of these minerals.

(b) Asbestos which is immersed or fixed in a natural or artificial binder material (such as cement, plastic, asphalt, resins or mineral ore) and manufactured products containing asbestos are not subject to the requirements of this subchapter.

(c) Asbestos must be offered for transportation and transported in—

(1) Rigid, airtight packagings such as metal or fiber drums, or

(2) Bags when in closed freight containers, motor vehicles, or rail cars, that are loaded by the consignor and unloaded by the consignee.

PART 174—CARRIAGE BY RAIL

3. Subpart Heading M would be added immediately following § 174.812 to read as follows:

Subpart M—Detailed Requirements for Other Regulated Materials

4. § 174.840 would be added to read as follows:

§ 174.840 Special loading and handling requirements for asbestos.

Asbestos must be loaded, handled, and any asbestos contamination of rail cars removed, in a manner that will prevent occupational exposure to airborne asbestos particles. (See § 173.1090 of this subchapter.)

PART 175—CARRIAGE BY AIRCRAFT

5. § 175.640 would be added to read as follows:

§ 175.640 Special requirements for other regulated materials.

Asbestos must be loaded, handled, and any asbestos contamination of aircraft removed, in a manner that will prevent occupational exposure to airborne asbestos particles. (See § 173.1090 of this subchapter.)

PART 176—CARRIAGE BY VESSEL

6. § 176.906 would be added to read as follows:

§ 176.906 Stowage and handling of asbestos.

Asbestos must be stowed, handled and any asbestos contamination of vessels removed, in a manner that will prevent occupational exposure to airborne asbestos particles. (See § 173.1090 of this subchapter.)

7. § 177.844 would be added to read as follows:

§ 177.844 Other regulated materials.

Asbestos must be loaded, handled, and any asbestos contamination of transport vehicles removed, in a manner that will prevent occupational exposure to airborne asbestos particles. (See § 173.1090 of this subchapter.)

AUTHORITY: (18 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e) and paragraph (a)(4) of Appendix A to Part 102).

NOTE.—The Materials Transportation Bureau has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued in Washington, D.C., on February 23, 1978.

ALAN I. ROBERTS,
Director, Office of Hazardous Materials Operations.

[FR Doc. 78-5277 Filed 3-1-78; 8:45 am]

[4910-22]

Federal Highway Administration

[BMCS Docket No. MC—64; Notice No. 78-6]

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This document proposes safety and health standards to govern employees engaged in the operation, maintenance, and loading and unloading of motor vehicles. These standards are designed to eliminate uncertainty with regard to the jurisdictional authority of the Occupational Safety and Health Administration and the Federal Highway Administration, and to improve safety and health standards for employees of motor carriers.

DATE: Comments must be received on or before May 31, 1978.

ADDRESS: Submit comments (original and 2 copies) to: Robert A. Kaye, Director, Bureau of Motor Carrier Safety, Federal Highway Administration, Department of Transportation, Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Gerald J. Davis, Chief, Driver Requirements Branch, Bureau of Motor Carrier Safety, Federal Highway Administration, Department of Transportation, Washington, D.C. 20590, 202-426-9767.

PRINCIPAL LAWYER

Attorney, Gerald M. Tierney, Motor Carrier and Highway Safety Law Division, Office of Chief Counsel, Federal Highway Administration, Department of Transportation, Washington, D.C. 20590, 202-426-0346. Office hours are from 7:45 a.m. to 4:15 p.m., EST, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Federal Highway Administration's (FHWA) Bureau of Motor Carrier Safety (BMCS) proposes to amend the Federal Motor Carrier Safety Regulations (FMCSR) by adding a new Part 399 prescribing Employee Safety and Health Standards under 49 U.S.C. 304.

An Advance Notice of Proposed Rulemaking (ANPRM) was published in the FEDERAL REGISTER on July 15, 1975 (40 Fr. 29729). The ANPRM was issued to clarify the extent to which the FHWA exercises statutory authority to prescribe or enforce standards or regulations in the fields of interstate motor carriage and the handling of hazardous materials. Sixteen comments were received in reply to the ANPRM. Fifteen commentors supported regulation by the FHWA. The comments received as a result of the ANPRM have been considered in this proposal.

This Notice of Proposed Rulemaking (NPRM) proposes to issue standards governing employee safety in the operation, maintenance, loading, and unloading of commercial motor vehicles. The substantive requirements of the proposed standards correspond generally with those contained in the Occupational Safety and Health Standards (29 CFR Part 1910) issued by the Department of Labor (DOL).

It has been determined that this regulatory proposal is not a major proposal requiring preparation of an inflationary impact evaluation under Executive Order 11821 and OMB Circular A-107. However, this proposal is considered to be a regulatory action that may be controversial. Presently the Occupational Safety and Health Administration's (OSHA) regulations cover many of the activities and persons that would be regulated under this proposal. Although these proposed regulations improve upon the OSHA regulations by being tailored to a particular activity, they do not impose more stringent standards than those already in effect under the OSHA. In fact, in many cases the standards proposed are less stringent because they are designed to address the particular problems affecting safety of operations of commercial motor carriers rather than being broad enough to cover a multitude of other activities.

The problems to be addressed in these standards are diverse and complex. Therefore, this is the first of a

series of NPRM's that will be issued. Each NPRM will propose specific standards similar to those contained in the several suparts of the DOL's Occupational Safety and Health Standards. The issuance of several NPRM's will help facilitate an orderly development of standards and enable interested persons to participate more effectively in the development of these standards.

Since the inception of the Occupational Safety and Health Act of 1970, motor carriers have complained of (1) dual regulation by two different U.S. Government agencies, (2) the lack of uniformity that exists in the interpretation of standards promulgated by the OSHA, (3) the difficulty in understanding standards, and (4) the lack of consultative inspections.

Mr. Edward V. Kiley, Vice President, American Trucking Associations, Inc., before the Select Subcommittee on Labor of the Committee on Education and Labor, United States House of Representatives, on July 24, 1974, voiced the complaints of the trucking industry. Said Mr. Kiley, "In the three years that have passed there have been three major problem areas of a continuing nature for the interstate motor carrier, * * * Our greatest problem is that the Occupational Safety and Health Act opened the door to jurisdictional disputes between the Department of Transportation (DOT) and the OSHA. These two agencies have not yet been able to reach agreement on jurisdiction. Although the final determination of such jurisdiction is for the courts, until the two agencies have reached an understanding, the truck operator will be faced with the threat of two sets of Government regulations and two groups of Government officials establishing differing safety standards for our drivers and vehicles." Mr. Kiley continued, "We are constantly faced with the threat of being cited by OSHA in matters where DOT is exercising jurisdiction and we have the continuing burden and expense of contesting such citations. Interstate motor carriers, of all types, including those exempted from economic regulation, have been subjected to detailed safety regulations since the passage of Part II of the Interstate Commerce Act. In addition, motor carriers, both for-hire and private, are regulated under the Explosives and Other Dangerous Articles provisions of Title 18, U.S. Code, Sections 831-835." Kiley asserted, "We have found that if OSHA officials are not aware that DOT is exercising jurisdiction in a particular activity they will assume that OSHA jurisdiction prevails. The OSHA will also assume jurisdiction if they are aware that DOT is exercising jurisdiction but do not believe that the DOT control is sufficient. It is our firm belief that if DOT exercises control over the driver or the vehicle, to any extent, OSHA has no jurisdiction."

"A second major concern of the interstate motor carrier," Mr. Kiley said, "is the lack of uniformity that exists in the interpretation of standards by the various OSHA regions and by States which have authority, as provided by the Act, to administer their own occupational safety and health programs. Uniformity of regulations and interpretations is essential to the success of the Occupational Safety and Health Act and to the ability of employers and employees in interstate commerce to know and comply with the requirements. At the present time OSHA regional administrators have authority to establish their own interpretations of the standards. As the States develop their potential for administering the Occupational Safety and Health Act, the problem of varying interpretations will intensify." "The reason for this," Mr. Kiley asserted, "is that the State authorities claim they are not bound by the interpretations of OSHA or the decisions of the Occupational Safety and Health Review Commission. We believe that legislation is required in order that a multi-State employer need [only] comply with one set of industrial safety requirements and interpretations."

Further, Mr. Kiley stated, "A third major concern of the trucking industry is that motor carriers are subject to citations for non-compliance with standards that are difficult to understand because of their complexity. We feel that the onus should be on the regulatory agency to carefully explain its requirements before a penalty for non-compliance is imposed. We support the concept of amending the Act to permit consultative inspections at the request of the employer so that he can learn what must be done to comply with the Act. We believe the privilege of consultative inspections should be available to all employers regardless of size."

With respect to the foregoing discussion, the intent of this rulemaking action is (1) to eliminate any uncertainty that may exist where jurisdictional authority to regulate and enforce compliance with occupational safety and health standards are concerned; (2) to ensure uniformity wherein regulatory enforcement and interpretation is concerned; (3) to make those occupational safety and health standards applicable to the motor carrier industry as clear and concise as possible; and (4) to incorporate into these regulations the option of an employer to consultative inspections under the safety provisions of the Interstate Commerce Act.

The Federal Government has regulated the safety of operations of interstate motor carriers since the passage of Part II of the Interstate Commerce Act. Presently, in the FMCSR, various sections of Parts 392, 393, 395, 396, and 397 address the problem of employee safety and health.

The following citations and definitions have been included in this document to delineate the authority given the DOT by Congress to regulate motor carriers.

GENERAL AUTHORITY

1. *Motor Carrier Safety.* The DOT is delegated authority to "establish reasonable requirements with respect to * * * qualifications and maximum hours of service of employees, and safety of operation and equipment" of motor carriers operating in interstate or foreign commerce (49 U.S.C. 304).

2. *Hazardous Materials Safety.* The DOT is authorized to formulate regulations for the safe transportation within the United States of hazardous materials and the regulations so formulated are binding upon all persons who transport or offer for transportation hazardous materials in commerce. (49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e).)

3. *Safety and Comfort of Migrant Workers.* The DOT is empowered "to establish * * * reasonable requirements with respect to comfort of passengers, qualifications and maximum hours of service of operators, and safety of operation and equipment" of motor carriers who transport migrant workers a "total distance of more than 75 miles * * * if such transportation is across the boundary line of any State, the District of Columbia, or Territory of the United States, or a foreign country." (49 U.S.C. 304.)

DEFINITIONS

1. *Motor Carrier.* The term "motor carrier" includes a common carrier by motor vehicle, a contract carrier by motor vehicle, and a private carrier of property by motor vehicle.

2. *Interstate Commerce.* The term "interstate commerce" means commerce between any place in a State or between places in the same State through another State, whether such commerce moves wholly by motor vehicle or partly by motor vehicle and partly by rail, air, express, or water.

3. *Foreign Commerce.* The term "foreign commerce" means commerce, whether such commerce moves wholly by motor vehicle or partly by motor vehicle and partly by rail, air, express, or water, (A) between any place in the United States and any place in a foreign country, or between places in the United States through a foreign country; or (B) between any place in the United States and any place in a Territory or possession of the United States insofar as such transportation takes place within the United States.

4. *Motor Vehicle.* The term "motor vehicle" means any vehicle, machine,

tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the

Sec.
399.3 Applicability.
399.5 Definitions.
399.7 Employer responsibility

"Employee" means a person who is employed in a job which affects interstate or foreign commerce.

loss of workdays; loss of consciousness; or restriction of work or motion.

"Standard" means a requirement

(ii) Company name;
(iii) Establishment name;
(iv) Establishment address;
(v) Case or file number;

accident which is fatal to one or more employees or which results in the hospitalization of five or more employees,

tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transporation of passengers or property, or any combination thereof determined by the FHWA, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street-railway service.

5. *Migrant Worker.* The term "migrant worker" means any individual proceeding to or returning from employment in agriculture as defined in 29 U.S.C. 203(f) or 26 U.S.C. 3121(g).

WORK ACTIVITIES REGULATED OR ENFORCED BY THE FHWA

The FHWA presently exercises statutory authority to prescribe or enforce regulations affecting employee safety and health with respect to work activities by employees of motor carriers that are ordinarily and customarily performed in, on, or about motor vehicles including, but not limited to, the following specific activities:

(1) The operation, maintenance, loading and unloading of motor vehicles engaged in the transportation of passengers or property in interstate or foreign commerce.

(2) The operation, maintenance, loading and unloading of motor vehicles engaged in intrastate transportation of hazardous materials performed by motor carriers who operate in interstate or foreign commerce, whether or not the motor carriers transport hazardous materials in interstate or foreign commerce.

(3) The storage, handling, packaging, and labeling of hazardous materials by employees of shippers, receivers, and motor carriers incident to the transportation of such hazardous materials by motor carriers who operate in interstate or foreign commerce.

(4) The transportation of migrant workers by motor vehicles across the boundary line of a State, the District of Columbia, or a Territory of the United States for a distance of more than 75 miles.

OTHER ACTIVITIES

Although the FHWA jurisdiction, in some cases, extends beyond that exercised in these regulations, it has been decided not to increase coverage beyond that specified in these regulations.

In consideration of the foregoing, it is proposed to amend Chapter III of Subtitle B in Title 49, Code of Federal Regulations by adding Part 399 as follows:

Subpart A—General

PART 399—EMPLOYEE SAFETY AND HEALTH STANDARDS

Sec.
399.1 Purpose and scope.
399.3 Applicability.
399.5 Definitions.
399.7 Employer responsibility.
399.9 Incorporation by reference.

Subpart B—Recording and Reporting Employee Injuries and Illnesses

399.21 Register of employee injuries and illnesses.
399.23 Initial report of injury.
399.25 Retention of records.
399.27 Reporting of fatality or multiple hospitalization accidents.
399.29 Employees not in fixed establishments.

Subpart C Through J [Reserved]

Subpart K—Medical and Emergency Medical Care

399.191 Medical services and emergency medical care.

AUTHORITY: Sec. 204, 49 Stat. 546 as amended (49 U.S.C. 304); sec. 6, Pub. L. 89-670; 80 Stat. 937 (49 U.S.C. 1655); 49 CFR 1.48 and 49 CFR 301.60.

Subpart A—General

§ 399.1 Purpose and scope.

This part prescribes employee safety and health standards for working conditions and work places, of employees, which are related to the operation, maintenance, loading and unloading of motor vehicles.

§ 399.3 Applicability.

(a) This part applies to all common carriers, contract carriers, and private carriers of property subject to the Interstate Commerce Act (49 U.S.C 301 et seq.).

§ 399.5 Definitions.

As used in this part—"Administrator" means the Federal Highway Administrator or his delegate. Whenever the term "Assistant Secretary of Labor" appears in the Occupational Safety and Health Standards (29 CFR Part 1910) that have been incorporated by reference in this part, the term "Federal Highway Administrator" is to be substituted.

"Emergency medical care" is any one-time treatment, and any follow-up visit for the purpose of observation, or minor scratches, cuts, burns, splinters, and so forth, which do not ordinarily require medical care. Such one-time treatment, and follow-up visit for the purpose of observation, is considered emergency medical care even though provided by a physician or registered professional personnel.

"Emergency medical care personnel" is a person who has received at least 40 hours instruction from a State approved program and holds a valid certificate in emergency medical care from that State.[1]

[1] One such program is that of the National Highway Traffic Safety Administration, entitled, "Emergency Medical Services Crash Injury Management."

"Employee" means a person who is employed in a job which affects interstate or foreign commerce.

"Employer" means a motor carrier engaged in interstate or foreign commerce who has employees, but does not include the United States, any State, or political subdivision of a State.

"Establishment" means a single physical location where business is conducted or where services or industrial operations are performed. Where distinctly separate activities are performed at a single physical location, each activity shall be treated as a separate establishment.

"Foreign commerce" means commerce, whether such commerce moves wholly by motor vehicle or partly by motor vehicle and partly by rail, air, express, or water, (A) between any place in the United States and any place in a foreign country, or between places in the United States through a foreign country; or (B) between any place in the United States and any place in a Territory or possession of the United States insofar as such transportation takes place within the United States.

"Interstate commerce" means commerce between any place in a State and any place in another State or between places in the same State through another State, whether such commerce moves wholly by motor vehicle or partly by motor vehicle and partly by rail, air, express or water.

"Lost workdays" means the number of days (consecutive or not) after, but not including, the day of injury or illness during which the employee would have worked but could not do so; that is, could not perform all or any part of his or her normal assignment during all or any part of the workday or shift, because of the injury or illness.

"Medical personnel" is a physician with a valid license to practice medicine or osteopathy.

"Medical treatment" includes treatment administered by a physician or by registered professional personnel under the standing orders of a physician. Medical treatment does not include emergency medical care even though provided by a physician or registered professional personnel.

"Near proximity" means 3 to 4 minutes from an establishment.

"Person" means an individual, partnership, association, corporation, business trust, legal representative, or an organized group of individuals.

"Recordable employee injuries or illnesses" are any employee, work related, injuries or illnesses which result in: A fatality, regardless of the time between the injury and death; the length of the illness; lost workdays; a transfer to another job; termination of employment; medical treatment (other than emergency medical care) without loss of workdays; loss of consciousness; or restriction of work or motion.

"Standard" means a requirement which specifies conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment.

§ 399.7 Employer responsibility.

(a) Each employer subject to the requirements of this part shall:

(1) Furnish its employees employment and places of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to its employees; and

(2) Comply with the standards contained in this part.

(b) An employer who is in compliance with the standards in this part shall be deemed to be in compliance with paragraph (a)(1) of this section.

§ 399.9 Incorporation by reference.

(a) The standards of agencies of the U.S. Government and organizations that are not agencies of the U.S. Government that are incorporated by reference in this part, have the same force and effect as other standards in this part.

(b) Copies of the standards that are incorporated by reference may be examined at the Bureau of Motor Carrier Safety, Washington, D.C. 20590. Copies of those private standards may also be obtained from the issuing organizations. Their names and addresses are listed in the pertinent subparts of this part.

(c) Any changes in the standards, incorporated by reference in this part, and an official historical file of such changes are available for inspection at the Bureau of Motor Carrier Safety, Washington, D.C. 20590.

(d) Any changes in the standards incorporated by reference in this part may be specifically adopted by the FHWA with publication of a Notice of adoption in the FEDERAL REGISTER.

§ 399.21 Register of employee injuries and illnesses.

(a) Each employer shall maintain, in each establishment, a register on which is recorded all recordable employee injuries and illnesses for that establishment, except that, under the circumstances described in paragraph (b) of this section, an employer may maintain the register at a place other than the establishment. Each employer shall enter each employee injury and illness that is work related on the register as early as practicable but no later than 6 working days after receiving information that a recordable case has occurred.

(1) The Register must contain at least the following information:

(i) Calendar year;
(ii) Company name;
(iii) Establishment name;
(iv) Establishment address;
(v) Case or file number;
(vi) Date of injury or onset of illness;
(vii) Employees name;
(viii) Occupation;
(ix) Department;
(x) Description of injury or illness;
(xi) Extent of an outcome of injury; (A) Date of injury related fatality; (B) Number of non-fatal injuries; (C) Number of injuries with loss work days; (D) Number of days away from work; (E) Number of days of restricted work activity; (F) Number of injuries without lost work days;
(xii) Type of illness; (A) Occupational skin diseases or disorders; (B) Dust disease of the lungs; (C) Respiratory conditions due to toxic agents; (D) Poisoning (systemic effects of toxic materials); (E) Disorders due to physical agents; (F) Disorders associated with repeated trauma; (G) All other occupational illnesses.
(xiii) Date of illness-related fatality;
(xiv) Non-fatal illnesses; (A) Number of days away from work; (B) Number of days of restricted work activity; (C) Number of illnesses without lost of work days.
(xv) Name of person certifying the correctness of the entries appearing in the Register;
(xvi) Title of the person certifying the correctness of the entries appearing in the Register;
(xvii) Date of certification.

(b) An employer may maintain the register at a place other than the establishment or by means of data processing equipment, or both, under the following conditions:

(1) There is available, at the place the register is maintained, sufficient information to complete the register to a date within 6 working days after receiving information that a recordable case has occurred, as required by paragraph (a) of this section.

(2) There is available, at each of the employer's establishments, a copy of the register which reflects separately the injury and illness experience of that establishment complete and current to a date within 45-calendar days.

§ 399.23 Initial report of injury.

In addition to the register of employee injuries and illnesses required under § 399.21, each employer shall have available within 6 working days after receiving information that a recordable case has occurred, an initial report of injury for each employee injury or illness for that establishment. For this purpose, any State approved Workmen's Compensation Report Form or its equivalent shall be completed in accordance with the instructions printed thereon.

§ 399.25 Retention of records.

Records provided for in §§ 399.21 and 399.23 shall be retained at each establishment for 3 years following the end of the year to which they relate.

§ 399.27 Reporting of fatality or multiple hospitalization accidents.

Within 24 hours after the occurrence of a work related employment accident which is fatal to one or more employees or which results in the hospitalization of five or more employees, the employer shall report the accident by telephone or in person as soon as possible after the accident to the Director, Regional Motor Carrier Safety Office of the Federal Highway Administration region in which the employer's principal place of business is located. The addresses and jurisdictions of the FHWA regions are specified in § 390.40 of this subchapter.

(a) The required notification shall include the most reliable information available to the employer on the following subjects:

(1) Date and time of the accident.
(2) Location of the accident.
(3) Name of each employee involved.
(4) Number of persons killed.
(5) Number of persons injured and the extent of the injuries.
(6) A brief description of the accident.
(7) Name of the person making the report.
(8) Telephone number at which the person making the report can be reached.

(b) *Exception.* Those fatal accidents requiring immediate notification under § 394.7 of this subchapter need not be reported under the rules of this section.

(c) The Regional Director may require such additional reports, in writing or otherwise, as he deems necessary, concerning the accident.

§ 399.29 Employees not in fixed establishments.

Employers of employees engaged in physically dispersed operations (such as satellite trucking operations) who do not report to any fixed establishment on a regular basis but are subject to common supervision may satisfy the provisions of §§ 399.21, 399.23, and 399.25 with respect to such employees by—

(a) Maintaining the required records for each operation or group of operations which are subject to common supervision in an established central place;

(b) Having the address and telephone number of the central place available at each worksite; and

(c) Having personnel available at the central place during normal business hours to provide information from the records maintained there by telephone, by mail, and by personal interview.

Subparts C through J [Reserved]

Subpart K—Medical and Emergency Medical Care

§ 399.191 Medical services and emergency medical care.

(a) The employer shall ensure the availability of medical personnel for advice and consultation on matters of employee health. To be able to advise and consult, the physician must know

the workplace processes which pose a hazard to personnel working there.

(b) In the absence of an infirmary, clinic, or hospital in the near proximity of the establishment which is used for the treatment of all injured or ill employees, emergency medical care personnel shall be available at the establishment to render emergency medical care.

(c) In the absence of an infirmary, clinic, or hospital in the near proximity to the establishment, emergency medical care personnel shall have emergency medical supplies, approved by the consulting physician, easily accessible to them when required. The location of the emergency medical supplies shall be conspicuously marked for easy identification.

(1) Emergency medical supplies shall consist of at least—

(i) A bag mask resuscitator plus various adult size masks;
(ii) Oral pharyngeal airways (of various sizes);
(iii) Portable oxygen equipment with a D-size tube tank;
(iv) A long arm upper extremity air or wood splint;
(v) A long leg lower extremity air or wood splint;
(vi) A telescoping Thomas half-ring splint with a padded ankle hitch;
(vii) A long spine board with accessories or a scoop stretcher;
(viii) A blanket;
(ix) Soft roller bandages (6 each);
(x) Triangular bandages (2 each);
(xi) Universal dressings (3 each);
(xii) Mouth gags;
(xiii) A package of vaseline gauze strips;
(xiv) 4x4 inch gauze pads (20 each);
(xv) 2 inch adhesive tape rolls (2 each);
(xvi) 10 safety pins;
(xvii) Bandage scissors; and
(xviii) Sterile water (500cc. of normal saline in a plastic bag).

(2) Emergency medical supples shall be checked by the employer at least monthly to ensure that expended items are replaced.

Interested persons are invited to submit their views on these proposals. Communications should identify the docket number and the notice number which appear at the beginning of this notice.

Communications received on or before January 31, 1978, will be considered before final action is taken on this proposal. All comments received will be available for examination by interested persons at the Bureau of Motor Carrier Safety, Room 3404, Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590.

Issued on February 23, 1978.

ROBERT A. KAYE,
Director, Bureau of Motor Carrier Safety.

[FR Doc. 78-5512 Filed 3-1-78; 8:45 am]

[4910-59]

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 78-04; Notice 1]

FEDERAL MOTOR VEHICLE SAFETY STANDARDS

New Pneumatic Tires—Passenger Cars

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: NOTICE OF PROPOSED RULEMAKING.

SUMMARY: This notice proposes amendments of Standard No. 109, New Pneumatic Tires—Passenger Cars, that would allow a higher maximum inflation pressure and establish criteria for performance testing of these tires. This amendment is being proposed in response to petitions from the Goodyear Tire & Rubber Co. and the Rubber Manufacturers Association to produce higher inflation tires which they submit may permit improved automobile fuel economy. This notice denies the Michelin Tire Corp.'s petition to delete requirements mandating a maximum permissible inflation pressure.

DATES: Comment closing period March 29, 1978. Proposed effective date: Date of publication in the FEDERAL REGISTER.

ADDRESSES: Comments should refer to the docket number and be submitted to Room 5108, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Mr. Arturo Casanova, Crash Avoidance Division, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1715.

SUPPLEMENTARY INFORMATION: The NHTSA has received petitions from the Goodyear Tire & Rubber Co. and the Rubber Manufacturers Association (RMA) requesting amendments of Standard No. 109, New Pneumatic Tires—Passenger Cars, which would permit the production of new P-type tires using a higher maximum permissible inflation pressure than currently allowed in the standard. The agency, by this notice, grants those petitions and proposes amendments to the standard which would permit the production of these tires.

The agency also received a petition from Michelin dated September 2, 1977, requesting deletion of all references to the maximum permissible inflation pressure in the standard. In regard to the Michelin petition, the NHTSA considers the deletion of the maximum inflation requirement from the standard to be inappropriate. Michelin's petition is, therefore, denied. Section 201 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.) (as amended) requires the agency to establish tire labeling that includes a tire's maximum permissible load. Maximum permissible load is a function of tire inflation pressure. The agency concludes, therefore, that the inflation pressure requirement must remain. It is expected that Michelin's needs could be essentially satisfied by the amended maximum permissible inflation pressure proposed by this notice.

The advent of high inflation pressure tires has resulted, in part, from research in methods for conserving energy. Tires with higher inflation pressures have less rolling resistance on the road. Therefore, use of these tires may result in the increased fuel economy of vehicles on which they are mounted. Experiments conducted on these tires by the manufacturers indicate that vehicle fuel economy can be increased without any sacrifice of vehicle ride quality or safety.

The RMA which petitioned in support of the Goodyear tire subsequently filed a second petition (January 17, 1978) supporting a Dunlop tire that would also utilize a higher inflation pressure. The Dunlop tire, unlike the Goodyear, has advantages beyond fuel economy. The Dunlop tire is designed to be retained on the tire rim in the event of rapid tire deflation. This design helps to prevent loss of vehicle control during tire failure. Unlike earlier Dunlop designs, this tire will not operate in the flat condition for an extensive period of time. It will, however, provide ample time for a driver to stop a vehicle safely after experiencing tire failure.

The new tires addressed by this notice would be mounted on specially designed rims. These new rim designs help to maintain comfortable ride which might otherwise be reduced by the use of higher inflation pressure tires. Standard tires currently being produced would not be capable of being mounted on these new rims. Accordingly, if these rims were installed on a vehicle, there probably could not be any interchange of tire types without also changing the rims on which the tires are mounted.

The proposed amendment would increase the maximum permissible inflation pressure permitted in Standard No. 109 to 300 kPa. Conforming amendments would be made throughout the standard establishing test criteria for the various required performance tests for this new inflation pressure. These new test criteria would be identical to those existing for 240 kPa tire.

The NHTSA would require tire performance tests to be made at the same load levels as prescribed for the 240 kPa tire, because the agency tentatively concludes that these are the most severe test conditions for higher-inflation pressure tires. The new high inflation tires are not extra load tires and, therefore, are not designed to carry greater tire loads. In fact, they are designed to carry identical loads as the 240 kPa tire. The agency has determined that to increase the performance test inflation to 300 kPa, for example, would actually result in easier test conditions for the endurance and high speed performance tests. The increased tire inflation pressure would result in loss sidewall flex for high inflation tires than they would sustain if only inflated to 240 kPa. Removing sidewall flex increases the sidewall stiffness. Stiffer sidewalls decreases heat generation, thereby increasing the ease of passing the tire performance tests. Therefore, the NHTSA tentatively concludes that the tire should be tested at the lower inflation pressure, since this condition is more severe and better assures the safety of the tire.

The NHTSA has reviewed the environmental and economic impacts of this proposal and has tentatively determined that there would be no negative environmental impacts. Since this is a minor technical amendment of the standard that will permit the production of a new tire, there should be no costs associated with its implementation. However, the costs of these new tires may be higher than the cost of current production tires.

Normally the addition of a new tire concept to Appendix A of Standard No. 109 is of a routine nature and such additions are made quarterly under a shortened procedure. This new tire concept, however, is not currently covered by the text of the standard, thereby requiring a minor revision of the text according to regular rulemaking procedures. The Goodyear Tire & Rubber Co. and the Dunlop Tire Corp. submitted the required test data certifying compliance with the safety requirements of Standard No. 109 as required for the addition of new tire concepts to Appendix A. Since these amendments might result in energy savings with no degradation in safety, the NHTSA finds it in the public interest to expedite this rulemaking. Accordingly, a 30-day comment period has been prescribed, and it is proposed that the amendments become effective immediately upon publication of the final rule in the FEDERAL REGISTER.

In consideration of the foregoing, it is proposed that Title 49 of the Code of Federal Regulations, Part 571.109 (Standard No. 109, New Pneumatic Tires—Passenger Cars) be amended as follows:

1. Section 4.2.1(b) would be amended to read:

§ 4.2.1 General.

* * * * *

(b) Its maximum permissible inflation pressure shall be either 32, 36, 40, or 60 psi, or 240, 280, or 300 kPa.

* * * * *

2. Section 4.2.2.2(a)(2) would be amended to read:

§ 4.2.2.2 Physical dimensions.

* * * * *

(a)(2) (For tires with a maximum permissible inflation pressure of 60 psi or 240, 280 or 300 kPa) 7 percent or 0.4 inches, whichever is larger; and

* * * * *

3. Section 4.3.4 would be amended to read:

§ 4.3.4 If the maximum inflation pressure of a tire is 240, 280 or 300 kPa then:

(a) Each marking of that inflation pressure pursuant to § 4.3(b) shall be followed in parenthesis by the equivalent inflation pressure in psi, rounded to the next higher whole number; and

4. The table in Figure 1 would be revised to read:

Wheel size	Dimension "A" for tires with maximum inflation pressure	
	Other than 60 lb/in²	60 lb/in²
17 in	12.0	
16 in	11.5	9.9
15 in	11.0	9.4
14 in	10.5	8.9
13 in	10.0	
12 in	9.5	
11 in	9.0	
10 in	8.5	
370 mm	10.5	
390 mm	11.0	
395 mm	11.0	

5. The table of loads immediately following § 5.4.2.3 would be amended to read:

Maximum permissible inflation pressure	Loads for 4 hr	Loads for 6 hr	Loads for 24 hr
	Loads from table I (listed in specified psi or kPa column)		
32 psi	24	28	32
36 psi	28	32	36
40 psi	32	36	40
240 kPa	180	220	240
280 kPa	220	260	280
300 kPa	180	220	240
	Load as specified percentage of maximum load rating marked on tire sidewall		
60 psi	85	92	100

6. The table in § 5.5.1 would be revised to read:

A Maximum permissible inflation preasure	B Load from table I
32 psi	24 psi col.
36 psi	28 psi col.
40 psi	32 psi col.
240 kPa	180 kPa col.
280 kPa	222 kPa col.
300 kPa	180 kPa col.
	Load as specified percentage of maximum load rating marked on tire sidewall
60 psi	85

7. Tables II-A, II-B and II-C in appendix A would be amended to read:

TABLE II.—*Minimum breaking energy values (inch-pounds)*

TABLE II-A.—*For bias ply tires with designated section width of 6 in and above*

		Maximum permissible inflation
Cord material	* * *	300 kPa
Rayon	* * *	1,650 in-lb
Nylon or polyester	* * *	2,600 in-lb

TABLE II.—*For B for bias ply tires with designated section width below 6 in*

		Maximum permissible inflation
Cord material	* * *	300 kPa
Rayon	* * *	1,000 in-lb
Nylon or polyester	* * *	1,950 in-lb

TABLE II.—*C for radial ply tires*

		Maximum permissible inflation pressure
Designated section width	* * *	300 kPa
Below 160 mm	* * *	1,950 in-lb
160 mm or above	* * *	2,600 in-lb

8. Table III in appendix A would be amended to read:

TABLE III.—*Test inflation pressures*

Maximum permissible inflation pressure	* * *	300 kPa
Pressure to be used in tests for physical dimensions, bead unseating, tire strength and tire endurance	* * *	180 kPa
Pressure to be used in test for high speed performance	* * *	220 Kpa

9. Table I, appendix A would be amended by the addition of new tables incorporating the following new tire size designation and corresponding values:

TABLE I—*xx/tire load ratings, test rims, minimum six factors and section widths for "P/65" ISO type tires for J M millimetric rims*

Tire size designation[2]	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)[1]							Test rim width (in millimeters)	Minimum size factor (in millimeters)	Section[3] width (in millimeters)
	120	140	160	180	200	220	240			
P215/65R390...	495	535	570	605	635	670	700	150	870	215

[1] The designated cold inflation pressures may be increased to a maximum of 300 kPa to meet special vehicle performance requirements with no increase in load.
[2] The letters "D" for diagonal and "B" for bias-belted may be used in place of the "R".
[3] Actual section width and overall width shall not exceed the specified section width by more than the amount specified in S4.2.2.2.

TABLE I—*yy/tire load ratings, test rims, minimum size factors and section widths for "P/65" ISO type radial tires for DL millimetric rims*

Tire size[2] designation.	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)[1]							Test rim width (in millimeters)	Minimum size factor (in millimeters)	Section[3] width (in millimeters)
	120	140	160	180	200	220	240			
P195/65R370...	405	435	465	495	520	545	570	135	805	194

[1] The designated cold inflation pressures may be increased to a maximum of 300 kPa to meet special vehicle performance requirements with no increase in load.
[2] The letters "D" for diagonal and "B" for bias-belted may be used in place of the "R".
[3] Actual section width and overall width shall not exceed the specified section width by more than the amount specified in S4.2.2.2.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a succinct and concise fashion.

In the case of comments that contain materials for which confidential treatment is requested, those materials should be deleted from the copies submitted to the docket. A copy of the complete comments should be submitted to the Office of Chief Counsel at the above address, with an indication of which portions of the comments are the subject of the request for confidentiality.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

The principal authors of this notice are Arturo Casanova of the Crash Avoidance Division and Roger Tilton of the Office of Chief Counsel.

(Secs. 103, 119, 201, and 202, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407, 1421, and 1422); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on February 22, 1978.

ELWOOD T. DRIVER,
Acting Associate Administrator for Rulemaking.

[FR Doc. 78-5172 Filed 3-1-78; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[4310-10]

ADVISORY COUNCIL ON HISTORIC PRESERVATION

PROPOSED CONSTRUCTION OF AN EIGHT-LANE FREEWAY ON INTERSTATE ROUTE 15

Notice is hereby given in accordance with § 800.5(c) of the Council's "Procedures for the Protection of Historic and Cultural Properties" (36 CFR Part 800) that on March 22, 1978, at 7 p.m. a public information meeting will be held at the Lincoln Elementary School Auditorium, 1029 North Broadway, Escondido, Calif. The purpose of this meeting is to provide an opportunity for representatives of national, State and local units of Government, representatives of public and private organizations, and interested citizens to receive information and express their views on the proposed construction of an eight-lane freeway on Interstate Route 15 from 0.5 mile south of Gopher Canyon Road to 1.5 miles south of Lilac Road, San Diego County, an undertaking assisted by the Federal Highway Administration, that will adversely affect archeological sites SDi-4556, SDi-4807, and SDi-4808, San Diego County, properties determined by the Secretary of the Interior to be eligible for inclusion in the National Register of Historic Places.

The following is a summary of the agenda of the public information meeting:

I. An explanation of the procedures and purpose of the meeting by a representative of the Executive Director of the Council.

II. An explanation of the undertaking and an evaluation of its effects on the properties by the Federal Highway Administration.

III. A statement by the California State Historic Preservation Officer.

IV. Statements from local officials, private organizations and the public on the effects of the undertaking on the properties.

V. A general question period.

Speakers should limit their statements to approximately 10 minutes. Written statements in furtherance of oral remarks will be accepted by the Council at the time of the meeting. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, P.O. Box 25085, Denver, Colo. 80225, or at 303-234-4946.

ROBERT M. UTLEY,
Deputy Executive Director.

[FR Doc. 78-5493 Filed 3-1-78; 8:45 am]

[3410-07]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[FmHA Instruction 1980-E]

BUSINESS AND INDUSTRIAL LOANS

Insured Loan Interest Rates

Notice is hereby given by the Farmers Home Administration that the current rate of interest for insured business and industrial loans, established pursuant to 7 CFR 1980.423(b) is as follows:

(a) Insured loans to private entrepreneurs will be at the rate of nine and one-half percent (9½%). This rate will remain in effect until a change is published in the FEDERAL REGISTER.

Effective date. This notice shall be effective March 2, 1978.

Dated: February 23, 1978.

JAMES E. THORNTON,
Associate Administrator, Farmers Home Administration.

[FR Doc. 78-5482 Filed 3-1-78; 8:45 am]

[3410-11]

Forest Service

LONE TREE PLANNING UNIT LAND MANAGEMENT PLAN

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Lone Tree Planning Unit, Gifford Pinchot National Forest, Wash., USDA-FS-R6-DES (Adm)-78-5.

The environmental statement describes six alternative land management plans for the National Forest land in the Lone Tree Planning Unit.

The draft environmental statement was transmitted to EPA on February 17, 1978.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service,
South Agriculture Building, room 3210,
12th Street and Independence Avenue SW.,
Washington, D.C. 20013.
USDA, Forest Service,
Pacific Northwest Region,
319 Southwest Pine Street,
Portland, Oreg. 97204.
USDA, Forest Service, Gifford Pinchot National Forest, 500 West 12th Street, Vancouver, Wash. 98660.

A limited number of single copies are available upon request to Forest Supervisor Robert Tokarczyk, Gifford Pinchot National Forest, 500 West 12th Street, Vancouver, Wash. 98660.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor Robert D. Tokarczyk, Gifford Pinchot National Forest, 500 West 12th Street, Vancouver, Wash., 98660. Comments must be received by April 18, 1978, in order to be considered in the preparation of the final environmental statement.

Dated: February 17, 1978.

CURTIS L. SWANSON,
Regional Environmental Coordinator, Planning, Programming and Budgeting.

[FR Doc. 78-5446 Filed 3-1-78; 8:45 am]

[3410-11]

PROPOSED ADDITION TO THE WASHAKIE WILDERNESS

Hearing

Notice is hereby given that a public hearing will be held during the hours of 9:30 a.m. to 11:30 a.m., 1 p.m. to 5 p.m. and 7 p.m. to 10 p.m., April 1, 1978, in the DuBois High School Auditorium, DuBois, Wyo., on a proposal for the future management of the DuNoir Special Management Unit, including a proposal for an addition to the Washakie Wilderness. The proposed wilderness addition is comprised

of approximately 11,100 acres within the Shoshone National Forest in Fremont County, Wyo.

A document containing a map and information about the proposal may be obtained from the Forest Supervisor, Shoshone National Forest, West Yellowstone Highway, P.O. Box 961, Cody, Wyo. 82414, or from the Wind River District Ranger, P.O. Box 186, DuBois, Wyo. 82413.

Individuals and organizations may express their views by appearing at this hearing or may submit written comments for inclusion in the official record to the Regional Forester, Rocky Mountain Region, 11177 West 8th Avenue, P.O. Box 25127, Lakewood, Colo. 80225. Those persons wishing to present oral testimony at the hearing should notify the Regional Forester at the above address, prior to March 29, 1978.

R. A. RESLER,
Acting Chief, Forest Service.

FEBRUARY 28, 1978.

[FR Doc. 78-5585 Filed 3-1-78; 8:45 am]

[3410-11]

LAND MANAGEMENT PLAN FOR THE DUNOIR SPECIAL MANAGEMENT UNIT FOR THE SHOSHONE NATIONAL FOREST

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Land Management Plan for the DuNoir Special Management Unit, Shoshone National Forest. The Forest Service report number is USDA-FS-R2-DES(Adm)(Leg) FY-78-01.

The environmental statement concerns the proposed revision and implementation of a land management plan in response to Pub. L. 92-476. This law requires the Secretary of Agriculture to recommend to the President the highest and best public use of the DuNoir Seecial Management Unit.

This draft environmental statement was transmitted to EPA on February 28, 1978.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th Street and Independence Ave. SW., Washington D.C. 20250.
USDA, Forest Service, 11177 West 8th Avenue, P.O. Box 25127, Denver, Colo. 80225.
Shoshone National Forest, Yellowstone Highway, P.O. Box 961, Cody, Wyo. 82414.

A limited number of single copies are available upon request to John R. McGuire, Chief, USDA, Forest Service, South Agriculture Building, Room 3230, 12th Street and Independence Avenue SW., Washington, D.C. 20250, and Craig W. Rupp, Regional Forester, USDA, Forest Service, 11177 West 8th Avenue, P.O. Box 25127, Denver, Colo. 80225.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the EPA Guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards and from Federal agencies having jurisdiction by-law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to John R. McGuire, Chief, USDA, Forest Service, South Agriculture Building, Room 3230, 12th Street and Independence Avenue SW., Washington, D.C. 20250, and Craig W. Rupp, Regional Forester, USDA, Forest Service, 11177 West 8th Avenue, P.O. Box 25127, Denver, Colo. 80225. Comments must be received by April 29, 1978, in order to be considered in the preparation of the final environmental statement.

LINAR L. ROGET,
Associate Deputy Chief for Programs and Legislation.

FEBRUARY 28, 1978.

[FR Doc. 78-5674 Filed 3-1-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket No. 30598]

COSTELLO TRAVEL SERVICE, INC., AND BUREAU OF ENFORCEMENT VS. CIE TOURS INTERNATIONAL, INC., AND EMERALD INTERNATIONAL TRAVEL, INC.

Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge Frank M. Whiting. Future communications should be addressed to Judge Whiting.

Dated at Washington, D.C., February 24, 1978.

NAHUM LITT,
Chief Administrative Law Judge.

[FR Doc. 78-5503 Filed 3-1-78; 8:45 am]

[6320-01]

[Docket No. 31044]

HAZARDOUS ARTICLES RULES AND PRACTICES INVESTIGATION

Prehearing Conference

Notice is hereby given that a prehearing conference in this proceeding is assigned to be held on March 21, 1978, at 9:30 a.m. (local time), in room 1033, Hearing Room A, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and six copies to the judge of: (1) proposed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evidence; (4) statements of positions; and (5) proposed procedural dates. The Bureau of Pricing and Domestic Aviation will circulate its material on or before March 3, 1978, and the other parties on or before March 15, 1978. The submissions of the other parties shall be limited to points on which they differ with the Bureau, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., February 24, 1978.

JANET D. SAXON,
Administrative Law Judge.

[FR Doc. 78-5502 Filed 3-1-78; 8:45 am]

[6320-01]

[Docket Nos. 32126, etc.; Order 78-2-76]

NORTHWEST AIRLINES, INC. ET AL.

Order Regarding Twin Cities-Kansas City-Oklahoma-Texas Route Proceeding; Correction

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 14th day of February 1978.

In FR Doc. 78-4824 appearing at page 7454 in the issue of Thursday, February 23, 1978, (1) Insert on page 7456, immediately after paragraph 7, the following:

"7a. The applications of Northwest Airlines in Docket 30547 Continental Air Lines in Docket 30614, and Texas International Airlines in Docket 31278 be consolidated with the proceeding instituted by paragraph 4, above."

Dated: February 23, 1978.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-5506 Filed 3-1-78; 8:45 am]

[6320-01]

[Docket No. 32118]

PAN AMERICAN WORLD AIRWAYS, INC.

Conference Regarding Increased Excess Baggage Charges

Notice is hereby given that a conference in the above-entitled proceeding will be held on March 3, 1978, at 10 a.m., in room 1002N (North Building), 1875 Connecticut Avenue NW., Washington, D.C., for the purpose of seeking a mutually satisfactory resolution between Pan American and the other parties named in Order 78-2-70, February 13, 1978.

PHYLLIS T. KAYLOR,
Secretary.

FEBRUARY 24, 1978.

[FR Doc. 78-5505 Filed 3-1-78; 8:45 am]

[6320-01]

[Docket No. 30616]

"SUPER-SAVER" FARES INVESTIGATION

Rescheduled Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing in the above-entitled proceeding, which was assigned to commence on March 14, 1978 (43 FR 5403, February 8, 1978) is rescheduled to commence on April 18, 1978, at 9:30 a.m. (local time), in room 1003, Hearing Room D, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned.

Dated at Washington, D.C., February 23, 1978.

MARVIN H. MORSE,
Administrative Law Judge.

[FR Doc. 78-5504 Filed 3-1-78; 8:45 am]

[6320-01]

[Docket Nos. 31022, 30910, 32162; Order 78-2-122]

TEXAS INTERNATIONAL AIRLINES, INC., ET AL.

Order Instituting Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 24th day of February 1978.

On May 25, 1977, Eastern filed a motion for a hearing on its application filed May 20, 1977, for nonstop authority between Dallas/Fort Worth, Tex., and Tucson, Ariz.

In support of its motion, Eastern states that: (1) Its proposed one-stop single-plane service between Tucson and Atlanta via Dallas/Fort Worth will provide Tucson with first single-plane and single-carrier service to the Southeast;[1] (2) competition with American Airlines is needed in the Dallas/Fort Worth-Tucson market; (3) the Dallas/Fort Worth-Tucson segment would enable Eastern to compete more effectively with Delta in the Dallas/Fort Worth-Atlanta market; and (4) the traffic Eastern projects in the Dallas/Fort Worth-Tucson market will be able to support two daily round trips by Eastern.

[1]Miami is the only Southeast point to which Tucson now receives single-plane service.

Answers in support of Eastern's motion were filed by Braniff Airways, Hughes Airwest, Texas International (TXI), the city of Atlanta and the Atlanta Chamber of Commerce, the Dallas/Fort Worth parties,[2] and the Tucson Airport Authority.

American filed an answer in opposition to Eastern's motion. American alleges that: (1) Its 4½ daily nonstop round trips in the Dallas/Fort Worth-Tucson market provide sufficient service; (2) Eastern would show an operating loss if its proposed forecast were adjusted for overstatements in growth, stimulation and participation; and (3) Eastern's service proposal would result in substantial diversion from American.

TXI filed a motion to consolidate its application in Docket 31022[3] with Eastern's application in docket 30910.

We have decided to institute the "Dallas/Fort Worth-Tucson Investigation," Docket 32162, to consider the need for competitive nonstop authority in the Dallas/Fort Worth-Tucson market.

In accordance with the policy announced in our order instituting the "Chicago - Albany / Syracuse - Boston Competitive Service Investigation" (Order 77-12-50), the offer or failure to offer lower prices will be taken into account in determining whether the public convenience and necessity require the award of new authority, and, if so, which carrier(s) should be selected. We therefore expect the instituted investigation to include an examination of the need for and flexibility of various new price/quality options and related issues, as we explained in Order 77-12-50. We repeat, however, that traditional service benefits, including the benefits of city-pair competition, are important issues which will be weighted with price and price/quality considerations. Moreover, as more fully set out in Order 77-12-50, the parties and the judge should focus on whether any new authority should be permissive, whether multiple awards should be made, whether multiple awards may encourage real price competition, and whether they are consistent with the Federal Aviation Act.

Finally TXI has not provided sufficient information for us to determine the environmental consequences of its requested certificate amendment at this time. Therefore, we will require TXI to file the information set forth in Part 312 of the Board's Procedural Regulations. We will allow TXI and all carriers filing applications in this proceeding 30 days from the date of service of this order to file their environmental evaluations.

Accordingly, It Is Ordered, That:

1. The motion for hearing of Eastern Air Lines in Docket 30910 be granted;

2. An investigation designated as the "Dallas/Fort Worth-Tucson Investigation", Docket 32162, be instituted pursuant to section 204 of the Act and set for hearing before an administrative law judge of the board at a time and place to designated later;

3. This investigation shall consider whether the public convenience and necessity require that new authority be granted in the Dallas/Fort Worth-Tucson market; if so, which air carrier(s) should be authorized; and whether the new or existing authority should be subject to any terms, condition or limitations;

4. Any authority awarded in this investigation shall be ineligible for subsidy;

5. The application of Texas International Airlines in Docket 31022 be consolidated into the investigation instituted by paragraph 2, above;

6. The following be made parties to the investigation instituted by paragraph 2, above: American Airlines, Braniff Airways, Eastern Air Lines Hughes Airwest, Texas International Airlines, the city of Atlanta and the Atlanta Chamber of commerce, the city of Dallas, the city Fort Worth, the Dallas Chamber of Commerce, the Fort Worth Chamber of Commerce, the North Texas Commission, and the Tucson Airport Authority;

7. Applications, amendments to applications, motions to consolidate, and petitions for reconsideration of this order shall be filed within 20 days from the date of service of this order and answers shall be filed within 10 days thereafter; and

8. Texas International Airlines and all other carriers filing applications that they seek to have consolidated in the investigation instituted by paragraph 2, above, shall file environmental evaluations pursuant to § 312.12 of the Board's Regulations the date of service of this order.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-5507 Filed 3-1-78; 8:45 am]

[2]The city of Dallas, city of Fort Worth, Dallas Chamber of Commerce, Fort Worth Chamber of Commerce, and North Texas Commission.

[3]TXI filed an application on June 20, 1977, for Dallas/Fort Worth-Tucson nonstop authority.

[3510-07]

DEPARTMENT OF COMMERCE

Intended use of article: The article is intended to be used for a variety of studies involving the determination of

[3510-24]

Economic Development Administration

cate with the Director, Statutory Import Programs Staff, Bureau of

regation studies by scanning Auger microscopy with direct observations by

This meeting will be open to the public on a first-come-first-served

[3510-07]

DEPARTMENT OF COMMERCE

Bureau of the Census

CENSUS ADVISORY COMMITTEE ON POPULATION STATISTICS

Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., App. 1, 1976), notice is hereby given that the Census Advisory Committee on Population Statistics will convene on March 31, 1978, at 9:30 a.m. The Committee will meet in Room 2424, Federal Building 3, at the Bureau of the Census in Suitland, Md.

The Census Advisory Committee on Population Statistics advises the Director, Bureau of the Census, on current programs and on plans for the decennial census of population.

The Committee is composed of five members appointed by the Secretary of Commerce, and ten members designated by the President of the Population Association of America from the membership of that Association.

The agenda for the meeting, which is scheduled to adjourn at 4:15 p.m. is: (1) Introductory remarks by the Director of the Census Bureau; (2) status of 1980 census planning; (3) coverage and content of the 1980 evaluation program; (4) 1980 Volume I population reports, including: (a) number of inhabitants by area, (b) general population characteristics, (c) general, social, and economic characteristics, and (d) detailed characteristics; (5) current programs, including future Current Population Survey supplements, population estimates and projection program, social indicators program, and joint projects with the National Center for Health Statistics; and (6) public discussion, Committee recommendations, and format for future meetings.

The meeting will be open to the public, and a brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Control Officer at least 3 days prior to the meeting.

Persons planning to attend and wishing additional information concerning this meeting or who wish to submit written statements may contact the Committee Control Officer, Dr. Paul C. Glick, Senior Demographer, Population Division, Bureau of the Census, Room 2011, Federal Building 3, Suitland, Md. (Mailing address: Washington, D.C. 20233). Telephone 301-763-7030.

Dated: February 27, 1978.

MANUEL D. PLOTKIN,
Director, Bureau of the Census.

[FR Doc. 78-5510 Filed 3-1-78; 8:45 am]

[3510-24]

Economic Development Administration

METHUEN INTERNATIONAL MILLS AND MODEL SPORTSWEAR, INC.

Petitions for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions were accepted for filing on February 24, 1978, from two firms: (1) Methuen International Mills, End of Pine Street, Methuen, Mass., a producer of fabrics; and (2) Model Sportswear, Inc., 221 Van Houten Avenue, Passaic, N.J. 07055, a producer of outerwear jackets for men and boys. The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

JACK W. OSBURN, JR.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc. 78-5515 Filed 3-1-78; 8:45 am]

[3510-25]

Industry and Trade Administration

RESEARCH FOUNDATION OF THE STATE UNIVERSITY OF NEW YORK AT ALBANY

Applications for Duty Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulations, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5 p.m., Monday through Friday, in Room 6886C of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00125. Applicant: The Research Foundation of the State University of New York at Albany, Department of Physics, 1400 Washington Avenue, Albany, N.Y. 12222. Article: Ultra High Vacuum 3-Axis Goniometer. Manufacturer: Panmure Instruments Ltd., United Kingdom. Intended use of article: The article is intended to be used for research in solid state physics with emphasis on the application of Rutherford Backscattering of MeV ions to the study of the structure, reactions and properties of well characterized atomically clean surfaces. Students engaged in graduate studies in the Department of Physics will be conducting their research for Masters and Doctoral degrees using the article together with the associated ion accelerator, ultra high vacuum chamber and surface cleaning and characterization apparatus. Application received by Commissioner of Customs: February 13, 1978.

Docket No. 78-00131. Applicant: Charleston Area Medical Center, Department of Pathology, Brooks & Elmwood Streets, Charleston, W. Va. 25325. Article: Electron Microscope, Model EM 9S-2 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for tissue and cytology studies independently in conjunction with light microscopic work for diagnostic, research and teaching purposes. Specific projects for the research and teaching use are anticipated to lie in the field of: (a) Recognition of viral diseases; (b) diagnostic cytology; and (c) specific problems in hematology. The material obtained by electron microscopy will be organically incorporated into important gross photographic, and photomicrographic and other teaching collections at the institution. Application received by Commissioner of Customs: February 6, 1978.

Docket No. 78-00133. Applicant: The Unviersity of Nevada, Business Center-North, Reno, Nev. 89557. Article: Fourier Transmission Multi-Nuclear Magnetic Resonance Spectrometer System, Model JNM/FX-100. Manufacturer: JEOL Analytical Instruments, Japan. Intended use of article: The article is intended to be used for a variety of studies involving the determination of molecular structure, utilizing ^{13}C, ^{1}H, ^{2}H, ^{15}N, ^{19}F and ^{31}P nuclear magnetic resonance in the Fourier transform mode. In addition, numerous studies involving computer applications such as kinetics, line shape, analysis and spin systems analysis will be conducted. Studies of the relaxation rates T_1 and $T_{1\rho}$ will also be conducted. Application received by Commissioner of Customs: February 10, 1978.

Docket No. 78-00134. Applicant: Washington University School of Medicine, 660 South Euclid Avenue, St. Louis, Mo. 63110. Article: Nihon Kohden Model PC-3A, Continuous recording oscilloscope camera. Manufacturer: Nihon Kohden, Japan. Intended use of article: The article is intended to be used in an experiment to resolve the controversy of the four different theories as to how the body is represented in the deep cerebellar nuclei. The experiment will also be of clinical importance in providing information on localization of function within the cerebellum that might take clinical testing for cerebellar deficits more precise. The article is needed for the experiment as the simplest analysis is to compare cerebellar unit discharge to the EMG traces displayed on the oscilloscope as the four movements (thumb, wrist, elbow, and shoulder) are performed. A second use of the article would be to photograph computer displays of neural discharge-behavior correlations. Application received by Commissioner of Customs: February 12, 1978.

Docket No. 78-00135. Applicant: University of Pennsylvania, Department of Metallurgy & Materials Science, Lab. for the Research on the Structure of Matter, 3231 Walnut Street, Philadelphia, Pa. 19104. Article: (2) Two of HPT2—High precision translator with tilt capability and (2) Two of RD2-S—High precision rotary drive with axial motion capbility. Manufacturer: Vaccum Generators Ltd., United Kingdom. Intended use of article: The article is intended to be used in the investigation of segregation of impurity and alloying elements, to free surfaces of oriented single crystal and polycrystalline iron and nickel. The investigations will include both time dependent and equilibrium aspects of segregation. Single crystal experiments will consist of a comparison of low energy electron diffraction data (LEED) and Auger electron spectra (AES) of surfaces after sulfur segregation from the bulk with similar data on surfaces after gas phase adsorption of sulfur. Similar comparisons on other impurity elements for which suitable gas phase species can be found will also be conducted. In the polycrystal experiments, the applicant will combine segregation studies by scanning Auger microscopy with direct observations by optical, X-ray, and electron microscopy. High purity oriented single crystals will be doped with pairs of alloying elements and used in ternary cosegregation studies. The articles will also be used routinely by several Ph. D. candidates in persuance of the thesis research necessary for the Ph. D. degree. Application received by Commissioner of Customs: February 12, 1978.

Docket No. 78-00136. Applicant: National Radio Astronomy Observatory Associated Universities, Inc., 2010 N. Forbes Boulevard, Suite 100, Tucson, Ariz. 85705. Article: Klystron, Model VRB2113A30 and accessories. Manufacturer: Varian Associates of Canada Ltd., Canada. Intended use of article: The article is intended to be used as a phase-locked local oscillator in a millimeter wave radio astronomy receiver. This receiver is used in conjunction with a microwave antenna to measure the intensity, polarization, frequency and direction of cosmic radiation. Application received by Commissioner of Customs: February 12, 1978.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-5447 Filed 3-1-78; 8:45 am]

[3510-22]

National Oceanic and Atmospheric Administration

REGIONAL FISHERY MANAGEMENT COUNCIL CHAIRMEN

Public Meeting

The Assistant Administrator for Fisheries will meet with the Chairman of each of the eight Regional Fishery Management Councils created under the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265). This meeting will be held in the South Atlantic Fishery Management Council headquarters located at 1 Southpark Circle, Suite 306, Charleston, S.C., on March 27-28, 1978. On March 27, the meeting is scheduled to begin at 8:30 a.m., and recess at 5 p.m. On March 28, the meeting is scheduled to commence at 8:30 a.m. and adjourn at approximately noon. The participants at this meeting will discuss:

1. Establishment of administrative and programmatic policies and guidelines as they relate to the Regional Fishery Management Councils.
2. Legal issues as they pertain to the Regional Fishery Management Councils.
3. Establishment of communications between Regional Fishery Management Councils and new NOAA management team.
4. Other appropriate issues.

This meeting will be open to the public on a first-come-first-served basis. Seating will be available for approximately 20 members of the public. Public participation will be permitted to the extent time permits.

Dated: February 27, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-5483 Filed 3-1-78; 8:45 am]

[3710-08]

DEPARTMENT OF DEFENSE

Department of the Army

JUDGE ADVOCATE GENERAL'S SCHOOL BOARD OF VISITORS

Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee meeting:

NAME OF COMMITTEE: Board of Visitors, The Judge Advocate General's School, U.S. Army, Charlottesville, Va. 22901.

DATE OF MEETING: 21-22 March 1978.

PLACE: The Judge Advocate General's School, U.S. Army, Charlottesville, Va. 22901.

TIME: 0900-1500—21 March 1978; 0900-1200—22 March 1978.

PROPOSED AGENDA: The first day's agenda consists of a briefing by the Commandant, a meeting with the senior instructors of the Academic Department's divisions, a demonstration on the School's video capability, and visits to the Basic and Advanced classes while in session. During the second day, the Board will convene and write its report which will be submitted to the Commandant. This meeting is open to the public; however, space accommodations are limited. Persons wishing to attend, appear before, or file statements with the Committee at the time and in the manner permitted by the Committee should advise the recorder of the Committee in writing prior to the meeting at the following address: Post Judge Advocate, The Judge Advocate General's School, U.S. Army, Charlottesville, Va. 22901.

Dated: February 22, 1978.

By authority of the secretary of the Army.

ROME D. SMYTH,
Colonel, U.S. Army, Director, Administrative Management, TAGCEN.

[FR Doc. 5449 Filed 3-1-78; 8:45 am]

[3810-70]

Office of the Secretary

tion (ERA) to revise rates for the sale of power from the Rio Grande Project. The purpose of this Notice is to advise

the Elephant Butte Powerplant on the Rio Grande in New Mexico. Water releases from the Elephant Butte Reser-

Energy, 2000 M Street NW., Washington, D.C. 20461. Such written comments may be mailed or hand deliv-

[6740-02]

Federal Energy Regulatory Commission

pursuant to a gas exchange agreement between the parties dated July 5, 1974, as amended. It is further indicated

[3810-70]

Office of the Secretary

DOD ADVISORY GROUP ON ELECTRON DEVICES

Advisory Committee Meeting

Working Group A (mainly microwave devices) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session at 201 Varick Street, New York, N.Y. 10014, March 16, 1978.

The purpose of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The microwave area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter wave devices, and passive devices. The review will include details of classified defense programs throughout. In accordance with section 10(d) of Appendix I, Title 5, United States Code, it is hereby determined that this meeting of the Advisory Group on Electron Devices concerns matters listed in section 552b(c) of Title 5 of the United States Code, specifically Subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Correspondence and Directives, WHS, Department of Defense.

FEBRUARY 27, 1978.

[FR Doc. 78-5476 Filed 3-1-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. WAPA 78-2]

RIO GRANDE PROJECT, WESTERN AREA POWER ADMINISTRATION

Intent to Act on Proposal for Rate Revision

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice.

SUMMARY: The Acting Assistant Secretary for Resource Applications has requested the Administrator of the Economic Regulatory Administration (ERA) to revise rates for the sale of power from the Rio Grande Project. The purpose of this Notice is to advise the public that the Administrator of ERA intends to act on the request and to invite interested parties to submit written comments relevant to the proposed rates. An opportunity for an oral presentation will be afforded upon request.

DATES: Effective date of rate revision—60 days after ERA's approval. Written comments are due on or before April 3, 1978. Requests for an oral presentation are due March 10, 1978. If a public hearing is requested, it will be held on March 15, 1978.

ADDRESS: Requests for an oral presentation and/or ten copies of written comments shall be submitted to:

Office of Regulations Management, Box SD, Department of Energy, 2000 M Street NW., Room 2214, Washington, D.C. 20461.

The public hearing, if held, will be in:

Room 1410, Federal Building, 517 Gold SW., Albuquerque, N. Mex.

FOR FURTHER INFORMATION CONTACT:

A. Grey Staples, Office of Utility Systems, Economic Regulatory Administration, 1111 20th Street NW., Room 538, Washington, D.C. 20461, 202-254-9782.

Richard W. Manning, Office of the General Counsel, 12th and Pennsylvania Avenue NW., Room 6146, Washington, D.C. 20461, 202-566-9653.

SUPPLEMENTARY INFORMATION: Pursuant to section 302(a)(1) of the Department of Energy Organization Act (Pub. L. 95-91) the function to establish rates for power previously marketed by the Bureau of Reclamation, Department of Interior, was transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204-4, effective October 1, 1977, the Secretary of Energy delegated to the Administrator of the Economic Regulatory Administration the authority to make the final decision as to rate adjustments under section 10 of the rules entitled "Procedures for Public Participation in General Adjustment in Power Rates" adopted by the Department of the Interior for the Bureau of Reclamation, set forth at 40 FR 34431-32 (August 15, 1975). Pursuant to section 705 of the Act, these rules remain in effect until superseded. The Acting Assistant Secretary for Resource Applications has submitted a request for reconsideration and revision of the final decision that was made on September 30, 1977, by the Assistant Secretary of Interior on the power rate for the Rio Grande Project, N. Mex.

The power rate involved is for about 66 million kWh generated annually at the Elephant Butte Powerplant on the Rio Grande in New Mexico. Water releases from the Elephant Butte Reservoir are for irrigation purposes and, therefore, are generally confined to the April through October period. Thus, only seasonal power is available from the project.

In the early years of project operation the powerplant generated about 100 million kWh annually; however, since 1950, inflow to the reservoir has been less than 60 percent of the previous 50-year average. Financially, power revenues during the past 25 or so years have not been sufficient to pay annual operation and maintenance costs and interest on the investment in power assets. Repayment studies show that an average power rate of 24.5 mills per kWh would be needed for project payout. The rate that became effective in April 1974 provided an average return to the project of about 8.15 mills.

The September 30, 1977, Department of the Interior decision promulgated a rate schedule, Schedule SW-F2, which provides for a monthly capacity charge of $3.20 per kW of billing demand plus an energy charge of 8.5 mills per kWh for energy use. The new rates became effective on the first day of the first full billing period beginning on or after December 1, 1977. However, the sale of project power under that schedule is limited generally to the annual summer season of April through September. That schedule was designed to provide an average return to the project of about 16 mills per kWh. The rate was established considering that the costs of alternative power to project customers were estimated in 1975 to be about 18 mills per kWh.

Project customers have strongly protested the rate on the basis that the increase of about 8 mills per kWh placed in effect in one step would cause serious economic hardship on the ultimate user.

The proposal is to revise the power rate schedule to place the rate increase in effect in three steps over a 2-year period. The revised schedule, Schedule SW-F2R, would become effective with the April 1978 billing period. The monthly rate for the first year would be $2.13 per kW of the billing demand plus 6 mills per kWh of energy use. The monthly rate for the second year would be $2.72 per kW of the billing demand plus 7 mills per kWh of energy use. Thereafter, the rate would be $3.20 per kW of billing demand plus 8.5 mills per kWh of energy use.

COMMENT PROCEDURES.—Interested persons are invited to submit comments with respect to the subject matter set forth in this Notice to: Office of Regulations Management, Box SD, Room 2214, Department of Energy, 2000 M Street NW., Washington, D.C. 20461. Such written comments may be mailed or hand delivered and should be received by 4:30 p.m., e.s.t. on April 3, 1978.

Any person who has an interest in this matter or is a representative of a group or class of persons that has an interest in it, may make a written request for an opportunity to make an oral presentation at a public hearing. Such a request can be mailed or hand delivered to: Office of Regulations Management, Box SD, Department of Energy, Room 2214, 2000 M Street NW., Washington, D.C. 20461, and must be received before 4:30 p.m., e.s.t. on March 10, 1978.

The request shall state the name of the person making the request, identify the interest represented and if appropriate, state why he or she is a proper representative of a group or class of persons that has an interest; give a concise summary of the proposed oral presentation; and give a telephone number where the person may be contacted.

DOE reserves the right to select the persons to be heard, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited based on the number of persons requesting to be heard.

It is not contemplated that the public hearing, if any, will be adjudicative in nature. A DOE official will be designated to preside at the hearing, if one is held and any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding official.

The hearing, if held, will begin at 9:30 a.m., on March 15, 1978, in Room 1410 of the Federal Building, 517 Gold SW., Albuquerque, N. Mex.

Public comments, if any, and the hearing record, if any, will be available for inspection at the DOE Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

Issued in Washington, D.C., on February 24, 1978.

DOUGLAS C. BAUER,
Assistant Administrator for Utility Systems, Economic Regulatory Administration.

[FR Doc. 78-5495 Filed 3-1-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Docket No. CP77-123]

ARKANSAS LOUISIANA GAS CO.

Petition To Amend

FEBRUARY 22, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4,1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferrd to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of Section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by Section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977 by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR——, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

Take notice that on February 13, 1978, Arkansas La. Gas Co. (Petitioner), P.O. Box 1126, Shreveport, La. 71163, filed in Docket No. CP77-123 a petition to amend the order of February 12, 1975 (53 FPC——) issued by the Federal Power Commission (FPC) in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize additional delivery points for the exchange of gas between Petitioner and Natural Gas Pipeline Co. of America (Natural), all as more fully set forth in the application on file with the Commission and open to public inspection.

It is indicated that pursuant to the FPC order of February 12, 1975, Petitioner was authorized in the instant docket to exchange up to 10,000 Mcf of natural gas per day with Natural in Washita and Caddo Counties, Okla., pursuant to a gas exchange agreement between the parties dated July 5, 1974, as amended. It is further indicated that pursuant to the FPC order of February 12, 1975, Natural was granted authorization in Docket No. CP75-141 to exchange gas with Petitioner.

The Petition states that Natural now has some gas committed to the Natural system from a fractional interest in a well that is, or is to be, connected to Petitioner's system under Petitioner's current budget certificate to connect new supplies because most of the gas from the unit has been sold to Petitioner. Consequently, the parties have agreed to add another Natural-to-Petitioner delivery point under the July 5, 1974 exchange agreement in order to accommodate Natural's receipt of its limited share of the gas from said well, thereby minimizing the necessity for additional gathering facilities to the well, it is asserted. The petition further states that Petitioner has gas committed to it from another well in the vicinity of another Natural pipeline, and the parties have agreed to add another Petitioner-to-Natural delivery point under the subject exchange agreement to accomodate Petitioner's receipt by displacement of the gas from the additional well.

It is stated that the additional delivery point from Petitioner-to-Natural is to be at a point on Natural's 12-inch lateral in Wheeler County, Texas, and that to get the gas to this point for delivery to Natural, Petitioner would have to construct gathering facilities at a total cost estimated to be $183,500. It is further stated that the additional delivery point from Natural-to-Petitioner is to be at a point in Mills County, Oklahoma at Petitioner's meter run located at the well known as the Hickey No. 1-32 well in said section. Petitioner states that it would purchase and receive for its own account most of the production from said Hickey No. 1-32 well, and would be receiving Natural's share of the production for Natural's account under this exchange arrangement. Petitioner indicates that since the point of delivery would be at the wellhead meter Natural would not have to construct and facilities in order for its share of this gas to be delivered to Petitioner. Petitioner states that it would install, own, operate and maintain the metering equipment at this point.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 16, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed

with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with he Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5372 Filed 3-1-78; 8:45 am]

[6740-02]

[Docket No. RI77-123]

DORFMAN PRODUCTION COMPANY, OPERATOR

Order Granting Special Relief and Permitting Intervention

FEBRUARY 23, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERCO which, as in independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

On September 1, 1977, Dorfman Production Company, Operator (Dorfman) filed a petition for special relief pursuant to Section 2.76 of the Commission's General Policy and Interpretations for the sale of natural gas to United Gas Pipe Line Co. (United) from the Thrasher No. 1 and No. 2 Wells in the Willow Springs Field, Gregg County, Tex.[1]

Dorfman is making the sale of gas to United under a contract dated February 16, 1972, pursuant to a small producer certificate granted in Docket No. CS72-406 on January 11, 1972. Dorfman is currently collecting a rate of 37.20 cents per Mcf. Dorfman proposes to undertake necessary recompletion work in order to improve its gas recovery from the two wells. Consequently, Dorfman requests that the Commission authorize it to collect rates of $1.10 per Mcf and $1.15 per Mcf for the sales from the Thrasher No. 1 and No. 2 wells, respectively. By contract amendment dated July 8, 1977, United agreed to pay Dorfman the rate authorized by the Commission in this proceeding.

Notice of Dorfman's petition for special relief was issued on September 13, 1977. United filed a timely petition to intervene.

Based on an analysis of the data submitted by Dorfman, Staff estimates that the proposed investment of $40,000 in the Thrasher No. 1 well will result in additional production of 113,000 Mcf of gas and 735 Bbls. of liquids over a period of five years.

In addition, Staff estimates that the proposed investment of $115,000 in the Thrasher No. 2 Well will result in additional production of 313,000 Mcf of gas and 2,036 of liquids over a period of eight years.

Operating expenses were based on the 24 month period from July, 1975 through June, 1977 and were estimated by the Staff to be $7,700 per year per well. The Staff escalated this annual expense at an annual rate of 5% for five years to allow for inflation to project estimated total expenses of $42,546 for the Thrasher No. 1 Well over a five year remaining life and $72,027 for the Thrasher No. 2 Well over an eight year remaining life.

Using the above costs and reserves in the traditional costing methodology and allocating costs between gas and liquids by the modified Btu method,[2] the Staff concludes that the requested rates are cost supported.

Upon consideration of the data submitted and Staff's analysis thereof, we conclude that it is in the public interest to grant special relief to Dorfman.

The Commission orders: (A) Dorfman's petition for special relief is hereby granted.

(B) Dorfman is authorized to collect total rates of $1.10 per Mcf and $1.15 per Mcf for sales of gas from its Thrasher No. 1 and No. 2 Wells, respectively, effective on the date of issuance of this order or on the date of completion of the proposed work, whichever is later. This authorization is contingent upon Dorfman's filing within 30 days of the effective date set forth above a statement signed by United that the proposed work has been performed to United's satisfaction.

(C) The special rate authorized in Ordering Paragraph (B) shall not become effective as provided therein unless Dorfman files within 30 days of the issuance of this order a contractual amendment authorizing the rate granted herein and an appropriate rate change filing in accordance with Section 154.94 of the Commission's Regulations (18 C.F.R. § 154.94).

(D) United is permitted to intervene in the above-entitled proceeding subject to the rules and regulations of the Commission; *Provided, however,* That participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to inervene; and *Provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order of the Commission entered in this proceeding and that such intervenor agrees to accept the record as it now stands.

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A

DORFMAN PRODUCTION COMPANY, OPERATOR, DOCKET NO. RI77-123, THRASHER NO. 1 AND 2 WELLS, WILLOW SPRINGS FIELD, GREGG COUNTY, TEX.

Working Interest Owners Covered by Petition

Owner	Gross working interest (percent)
Sam Y. Dorfman, Jr	18.1640
Louis Dorfman	18.1640
Albert Sklar	30.2734
Leonard W. Phillips	30.2734
August Erickson	0.7813
S. L. Florsheim Jr	0.7813
Estate of Morris B. White	0.7813
Betty J. Walker Upton	0.3907
Paul R. Walker, Jr	0.3906
Total	100.0000

APPENDIX B

Dorfman Production Co., Operator, Docket No. RI77-123, Thrasher No. 1 and No. 2 Wells, Willow Springs Field, Gregg County, Tex.

Unit Cost of Gas—Thrasher No. 1 Well

Line No. and Item (a)	Amount (b)
1. Net working interest volumes:	
2. Gas—Mcf at 14.65 lb/in²a[3]	68,108

[1] See Appendix A for a complete list of the working interest owners covered by this petition.

[2] See Appendices B and C attached hereto.

APPENDIX B—Continued

Dorfman Production Co., Operator, Docket No. RI77-123, Thrasher No. 1 and No. 2 Wells, Willow Springs Field, Gregg County, Tex.

Unit Cost of Gas—Thrasher No. 1 Well

Line No. and Item (a)	Amount (b)
3. Liquids—barrels[3]	596
4. Cost of production:	
5. Return on rate base at 15 pct[3]	$16,580
6. DD&A[4]	32,500
7. Production expense[5]	42,546
8. Subtotal	91,626
9. Allocated to gas[6]	85,780
10. Unit cost of gas (cents/Mcf):	
11. Cost of production[7]	125.95

Unit cost of gas—Thrasher No. 1 well —Con

Line No. and item (a)	Amount (b)
12. Production tax[8]	10.21
13. Total unit cost	136.16

[1] (113,000 Mcf—29,000 Mcf fuel)×.810811 N.W.I.
[2] 735 Bbls.×.810811 N.W.I.
[3] Line 12 of sheet 3×.15×5 yr remaining producing life.
[4] From line 6 of sheet 2.
[5] Based on estimated operating expenses of $7,700 per yr for the 1st yr and escalated 5 pct per yr for 4 yr. Includes regulatory expense.
[6] Line 8×line 12 of sheet 2.
[7] Line 9÷line 2.
[8] 7.5 pct×line 13.

APPENDIX B

Dorfman Production Co., Operator, Docket No. RI77-123, Thrasher No. 1 and No. 2 Wells, Willow Springs Field, Gregg County, Tex.

Investment and Allocation of Costs—Thrasher No. 1 Well

Line No. and Item (a)	Amount (b)
1. Investment:	
2. Remaining net book investment	$
3. Rework well	40,000
4. Total investment	40,000
5. Less salvage value[1]	7,500
6. Depreciable investment	32,500
7. Depreciation per unit of production	.477183
8. Allocation of costs:[2]	
9. Gas—MMBtu[3]	71,513
10. Liquids—MMBtu[4]	4,871
11. Total—MMBtu	76,384
12. Percentage allocated to gas[5]	93.62

[1] Petitioner's estimate of salvage value.
[2] Line 6÷68,108 Mcf.
[3] Modified Btu method per Opinion No. 749.
[4] 68,108 Mcf×1.050 MMBtu/Mcf.
[5] 596 Bbls.×5.448 MMBtu/Bbl.×1.5 modifier.
[6] Line 9÷line 11.

APPENDIX B.—*Dorfman Production Co., Operator, Docket No. RI77-123, Thrasher No. 1 and 2 Wells, Willow Springs Field, and Gregg County, Tex.*

Average investment and annual rate base—Thrasher No. 1 well

Line No. and year (a)	Annual N.W.I. production (Mcf) (b)	Beginning of year investment (c)	Depreciation[1] (d)	End of year investment (e)	Average investment[2] (f)
(1) Average investment					
(2) 1	19,631	$40,000	$9,362	$30,638	$35,319
(3) 2	16,376	30,638	7,815	22,823	26,731
(4) 3	13,135	22,823	6,268	16,555	19,689
(5) 4	10,702	16,555	5,107	11,448	14,002
(6) 5	8,272	11,446	3,948	7,500	9,474
(7) Total	68,108		32,500		105,215
(8) Average annual investment[3]					21,043
(9) Average annual rate base					
(10) Average annual investmentG21					
					21,043
(11) Average annual working capital allowance[4]					1,064
(12) Total annual rate base					22,107

[1] Col. (b) times line 7 of sheet 2.
[2] (Col. (c) plus Col. (e)) divided by 2.
[3] Col. (f) of line 7 divided by 5-year remaining producing life.
[4] .125 times line 7 of sheet 1 divided by 5 year remaining producing life.

APPENDIX C

Dorfman Production Co., Operator, Docket No. RI77-123, Thrasher No. 1 and No. 2 wells, Willow Springs Field, Gregg County, Tex.

Unit cost of gas—Thrasher No. 2 well

Line No. and item (a)	Amount (b)
1. Net working interest volumes:	
2. Gas—Mcf at 14.65 lb/in²a[1]	216,162
3. Liquids—Barrels[2]	1,651
4. Cost of production:	
5. Return on rate base at 15 pct[3]	$71,248
6. DD&A[4]	102,500
7. Production expense[5]	72,027
8. Total	245,775
9. Allocated to gas[6]	$231,987
10. Unit cost of gas (cents/Mcf):	
11. Cost of production[7]	$107.32

Unit cost of gas—Thrasher No. 2 well —Continued

Line No. and item (a)	Amount (b)
12. Production tax[8]	8.70
13. Total unit cost	116.02

[1] (313,000 Mcf—46,400 Mcf fuel)×.610811 N.W.I.
[2] 2,036 bbls.×.810811 N.W.I.
[3] Line 15 of sheet 3×.15×5 year remaining producing life.
[4] From line 7 of sheet 2.
[5] Based on estimated operating expenses of $7,700 per year for the first year and escalated 5 pct per year for 5 years. Includes regulatory expense.
[6] Line 8×line 13 of sheet 2.
[7] Line 9÷line 2.
[8] 7.5 pct÷line 13.

Investment and allocation of costs—Thrasher No. 2 well

Line No. and Item (a)	Amount (b)
1. Investment	
2. Remaining net book investment	0

Investment and allocation of costs—Thrasher No. 2 well —Continued

Line No. and Item (a)	Amount (b)
3. Rework well	$100,000
4. Tubing	15,000
5. Total investment	115,000
6. Less salvage value[1]	12,500
7. Depreciable investment	102,500
8. Depreciation per unit of production[2]	.474181
9. Allocation of costs:[3]	
10. Gas—MMBtu[4]	226,970
11. Liquids—MMBtu[5]	13,493
12. Total	240,462
13. Percentage allocated to gas[6]	94.39

[1] Petitioner's estimate of salvage value.
[2] Line 7÷216,162 Mcf.
[3] Modified Btu method per Opinion No. 749.
[4] 216,162 Mcf×1.050 MMBtu/Mcf.
[5] 1,651 bbls.×5.448 MMBtu/bbl.×1.5 modifier.
[6] Line 10÷line 12.

APPENDIX C.—*Dorfman Production Co., Operator, Docket No. RI77-123, Thrasher No. 1 and No. 2 Wells, Willow Springs Field, Gregg County, Tex.*

Average investment and annual rate base—Thrasher No. 2 well

Line No. and year	Annual N.W.I. production (Mcf)	Beginning of year investment	Depreciation[1]	End of year investment	Average investment[2]
(a)	(b)	(c)	(d)	(e)	(f)
(1) Average investment:					
(2) 1	35,027	$115,000	$16,609	$98,391	$106,696
(2) 3	32,594	98,391	15,455	82,936	90,664
(4) 3	30,162	82,936	14,302	68,634	75,785
(5) 4	27,729	68,634	13,149	55,485	62,060
(6) 5	26,108	55,485	12,380	43,105	49,295
(7) 6	23,675	43,105	11,226	31,879	37,492
(8) 7	21,244	31,879	10,074	21,805	26,842
(9) 8	19,623	21,805	9,305	12,500	17,153
(10)	216,162		102,500		465,987
(11) Average annual investment[3]					58,248
(12) Average annual rate base					
(13) Average annual investment					58,248
(14) Average annual working capital allowance[4]					1,125
(15) Total annual rate base					59,373

[1] Col. (b) × line 6 of sheet 2.
[2] (Col. (c) + Col. (e))÷2.
[3] Col. (f) of line 10÷8 year remaining producing life.
[4] .125 × line 7 of sheet 1÷8 year producing life.

[FR Doc. 78-5377 Filed 3-1-78; 8:45 am]

[6740-02]

[Docket No. CP76-254]

MICHIGAN CONSOLIDATED GAS CO.

Order Approving Proposed Stipulation and Agreement

FEBRUARY 24, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) or 402(a)(2) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

On March 8, 1977, Michigan Consolidated Gas Co. (Michigan Consolidated) filed in the captioned docket[1] a proposed Stipulation and Agreement in Settlement of Cost of Service and Rate of Return (Stipulation and Agreement). For the reasons stated below, the Federal Energy Regulatory Commission (Commission) finds that the proposed Stipulation and Agreement is reasonable and should be approved.

Proceedings in the captioned docket were initiated on February 10, 1976, when Michigan Consolidated filed an application pursuant to section 7(c) of the Natural Gas Act requesting the FPC to grant the company a certificate of public convenience and necessity in order to render gas storage services to Northern Indiana Public Service Co. (NIPSCO), Northern Natural Gas Co. (Northern) and Natural Gas Pipeline Co. of America (Natural). Michigan Consolidated proposed creating a new Interstate Storage Division in order to render large-volume, long-term storage for the interstate natural gas market. In addition, the company proposed constructing a 2.4 mile, 24 inch pipeline from the Taggart Storage Field to Taggart Station in Michigan and installing a 7,500 horsepower compressor at the existing Taggart Compressor Station. According to Michigan Consolidated, the certificate, if approved, would result in the dedication by the company of 41 Bcf per year capacity to interstate gas storage for a 15 year term.

Other applications with respect to these storage services were filed in separate dockets by Michigan Wisconsin Pipe Line Co. (Docket No. CP76-255), Northern (Docket No. CP76-271), and Natural (Docket Nos. CP76-325 and CP76-353). By order issued September 8, 1976, the FPC consolidated the subject applications, issued temporary certificates to Michigan Wisconsin and Michigan Consolidated, and established hearing procedures to determine whether the proposed storage services and attendant facilities are required in the public convenience and necessity.

In addition to formal hearings concerning the consolidated applications, Michigan Consolidated, the FPC staff and other parties to the proceeding attended settlement conferences. Those conferences resulted in a resolution of the cost of service issues (including rate of return) regarding Michigan Consolidated's initial rates for the proposed storage services.

The settlement cost of service, attached as Appendix A, represents a $4,082,309 reduction in the originally claimed cost of service, or from $19,197,950 to $15,115,641. In addition, the settlement cost of service reflects a reduction in Michigan Consolidated's requested over all rate of return from 12.64% to 10.07%.[2]

In computing the total rate base for those storage facilities of $64,050,998, as of December 31, 1976, the parties established the price of base gas at $1.4031 per Mcf rather than at $0.9871 per Mcf as proposed by Michigan Consolidated in its application. Michigan Consolidated has agreed that the $1.4031 price per Mcf of base gas used in computing the rate base shall remain in effect for that purpose for the balance of the 15 year term of the certificate.

The parties have further agreed on a 4.5% depreciation rate which, according to the terms of the Stipulation and Agreement, will recover the remaining net depreciable costs of the investment in the Taggart Field over a 15 year term equal to the duration of the proposed storage service contracts.

The settlement rates are comprised of a demand charge of $0.514 per Mcf and a commodity rate of 32.26¢ per Mcf, as compared to Michigan Consolidated's originally filed rates per Mcf of $0.654 and 40.97¢, respectively.

The proposed Stipulation and Agreement reflecting the settlement rates, with a motion for its certification and approval, were filed by Michigan Consolidated on March 8, 1977. On March 22, 1977, the presiding Administrative Law Judge certified the Stipulation and Agreement to the FPC. Public notice of the filing was issued on July 1, 1977, with comments due on or before July 12, 1977, and replies to comments, on or before July 26, 1977. Michigan Consolidated, Michigan Public Service Commission (MPSC) and the staff each filed comments or a response.

On March 21, 1977, MPSC filed comments in response to Michigan Consolidated's motion for certification and approval of the settlement agreement. MPSC stated it would support the cost of service agreement only if a pending, separate agreement between MPSC and Michigan Consolidated, not concerning jurisdictional issues before the FPC, were finalized. In the event the agreement between MPSC and Michigan Consolidated were not finalized, MPSC reserved the right to brief issues concerning the proposed storage service.

On March 17, 1977, staff filed an answer to Michigan Consolidated's motion stating it had no objection to the certification of the settlement nor to its approval. However, on March 29, 1977, staff amended its answer concerning Michigan Consolidated's request for approval of the settlement. Stating that although it understood that the settlement rates would be effective prospectively from January 31, 1977, staff believed there was no agreement with respect to the rates charged under the temporary authorization prior to January 31, 1977. Staff added that if the Commission determined that the rates collected before January 31, 1977, for the temporary service were not "just and reasonable," it should order Michigan Consolidated to refund excess revenues collected prior to January 31, 1977, as well as any revenues collected above the stipulated rates after January 31, 1977. In addition, although staff did not object to inclusion of the construction cost ($4.8 million) of the proposed 7,500 horsepower compressor in computing the settlement cost of service it stated that it opposed a determination favoring the public convenience and necessity of the proposed compressor in the hearing in this proceeding. The purpose of the amended answer, according to staff, was to clarify "any apparent disparity between staff's March 17, 1977 answer and the positions articulated in its initial brief." Staff concluded, however, that it did not object to approval of the proposed settlement agreement subject to the modification it supported in its initial brief in the proceeding.

On April 4, 1977, Michigan Consolidated filed comments on staff's amendment to its answer concerning the proposed Stipulation and Agreement. Michigan Consolidated argued that staff's amendment was untimely and that whatever clarification staff considered necessary should be presented in its reply brief in the proceeding. Further, Michigan Consolidated stated that staff was attempting to modify the terms of the agreement by requesting a $4.8 million decrease in the agreed rate base. The settlement cost of service was the result of a "pot-of-dollars" agreement, according to Michigan Consolidated, and modifying particular items in the overall settlement would affect the agreed rates. Michigan Consolidated stated that the issues staff raised in its amendment (the certificate-worthiness of the 7500 H.P. compressor and the treatment of refunds) are being litigated in the proceeding and are not necessary for the Commission's determination on the proposed settlement. Finally, the company argued that in the interest of encouraging settlements the Commission should not permit parties to make untimely adjustments in their positions on basic settlement issues. Therefore, the Commission should not permit staff to amend its answer, but should approve the tendered settlement agreement.

Pursuant to the July 1, 1977 notice of the filing of the Stipulation and Agreement, staff filed comments on July 12, 1977. There staff stated it had "no objections in principle to the cost

[1] Docket No. CP76-254 represents one of several filings which the Federal Power Commission (FPC) consolidated by order issued September 8, 1976, in *Michigan Wisconsin Pipe Line Co., et al.*, Docket No. CP76-255, et al.

[2] The company's capital structure as of Sept. 30, 1976 (adjusted to include proposed financing of $13.4 million debt at an estimated 9.5 percent rate and $5.12 million equity):

Class of capital	Amount	Capital ratios (percent)
Long-term debt	$382,869,228	58.4
Common equity	273,237,141	41.6
Total	656,106,369	100.0

	Cost of allowance	Weighted component (percent)
Long-term debt	7.97	4.66
Common equity	13.00	5.41
Total		10.07

of service contained in the proposed settlement." Staff added, however, that "uncertificated facilities are contained in the proposal," and that it was challenging the need for one such facility in the hearing on the certificate issues: the 7,500 H.P. compressor currently operating under temporary Commission authorization. Staff contended that if the Commission ultimately decides that the facility should not be certificated, "the cost of service should * * * be reduced by the $4,800,000,"[3] its base cost. Having reserved its position in opposition to the compressor, staff supported the proposed settlement and recommended its approval following resolution of the certificate issues in the proceeding.[4]

On July 28, 1977, Michigan Consolidated submitted reply comments related to staff comments of July 12, 1977. Michigan Consolidated argued that staff's contention that the settlement cost of service should be reduced to reflect removal of costs associated with the disputed compressor facility if such facility is not certificated by the Commission is contrary to the parties' agreement. According to the company, the settlement agreement does not concern the certificate-worthiness of the compressor facility, and moreover, the agreement is strictly a negotiated dollar settlement which reflects no agreement among the parties with regard to any underlying rate-making principles. To adjust the proposed settlement cost of service in accordance with staff's recommendation would adversely affect Michigan Consolidated's revenues and preclude it from earning the settlement rate of return.

By motion filed October 11, 1977, Michigan Consolidated requested that the Commission act on the proposed Stipulation and Agreement stating that its prompt approval would prepare the way for disposition of the non-rate issues in the proceeding.

The FPC, in an order issued September 8, 1976, consolidated the dockets; issued temporary certificates to Mich-Wisc and Michigan Consolidated for the construction and operation of the new facilities proposed in Docket Nos. CP76-255 and CP76-254, respectively; granted interventions; and established hearing procedures. In the September 8, 1976 order the FPC noted that Mich-Wisc and Michigan Consolidated had filed motions on June 3, and 10, 1976, in Docket Nos. CP76-255 and CP76-254, respectively, requesting temporary authorization to construct facilities proposed in those dockets and to redeliver gas commencing November 1, 1976, to NNG, Natural and NIPSCO pursuant to the temporary authorization. The FPC found that "* * * emergencies exist on the systems of Mich-Wisc and MCG (Michigan Consolidated) which require temporary authorization for the transportation arrangements and the construction and operation of the necessary facilities to enable Mich-Wisc and MCG to redeliver the storage volumes to NNG, NIPSCO, and Natural." The FPC added (mimeo., p. 8).

> * * * [W]e shall permit Mich-Wisc and MCG, pending the outcome of this proceeding, to reflect in the subsequently filed tariff sheets the cost of service attributable to the subject pipeline facilities.
>
> If, after hearing in this matter, it is found that Mich-Wisc and MCG should not be issued permanent authorization for the construction of the proposed facilities, then we shall require Mich-Wisc and MCG to remove retroactively the construction costs attributable to these facilities from their rate bases and make refunds accordingly.

Therefore, regardless of the agreement between the parties with regard to the rates charged by Michigan Consolidated for the storage services, the FPC had determined already that the construction costs associated with Michigan Consolidated's proposed facilities in this docket (including the 7,500 horsepower compressor) would be removed from its rate base in the event the facilities are not permanently certificated. Should that happen, the Commission will require Michigan Consolidated to make refunds of excessive revenues collected which are attributable to the inclusion of the uncertificated facilities in its rate base for the duration of the temporary authorization.

Further, the parties have agreed that the settlement, if approved, is effective as of January 31, 1977, and Michigan Consolidated will refund excess revenues it has collected over the stipulated rates from that date. However, staff has urged that the company be directed to refund, in addition, revenues which were collected in excess of the stipulated rates before January 31, 1977. Michigan Consolidated, in its comments on the settlement, did not respond specifically to the merits of staff's contention on this point. However, in its reply to staff's initial brief on the certificate issues in the proceeding, Michigan Consolidated stated that the stipulated rates intentionally were prospective from January 31, 1977, to avoid refund questions. Inasmuch as the proposed Stipulation and Agreement by its terms is prospective from January 31, 1977, and is silent with respect to pre-January 31, 1977 charges, the Commission will limit its determination to the settlement agreement before it at this time. The question of Michigan Consol- idated's possibly refunding a portion of the rates collected before January 31, 1977, will be resolved when the Commission considers the other issues in the consolidated dockets not covered by the terms of the instant proposal.

Based upon a review of the record in this proceeding including the settlement agreement and the pleadings, evidence and comments submitted in support thereof, the Commission finds that the settlement agreement represents a reasonable resolution of the issues in this proceeding in the public interest and that the agreement should be approved and adopted as hereinafter ordered. The Commission shall, accordingly, approve the Stipulation and Agreement and permit it to become effective on January 31, 1977.

The Commission orders: (A) The Stipulation and Agreement of Settlement certified on March 22, 1977, is incorporated herein by reference and is approved and adopted, subject to the condition that Michigan Consolidated remove from rate base, and make appropriate refunds for, costs associated with the construction and operation of proposed facilities if such facilities are not permanently certificated.

(B) Within 20 days from the date of this order, Michigan Consolidated shall file tariff sheets in accordance with the terms of the settlement agreement.

(C) Within 20 days from the date of this order, Michigan Consolidated shall refund all amounts collected in excess of the settlement rates, together with interest at the rate of 9 percent per annum. Michigan Consolidated shall within 10 days thereafter submit a report of the refunds and interest to the Commission. A copy of such report shall be furnished to each state commission within whose jurisdiction the customers of Michigan Consolidated sell natural gas at retail.

(D) This order is without prejudice to any findings or orders which have been made or which may hereafter be made by the Commission and is without prejudice to any claims or contentions which may be made by the Commission, its staff or any other party or person affected by this order in any proceeding now pending or hereinafter instituted by or against Michigan Consolidated by any other person or party.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[Docket No. CP76-254]

APPENDIX A

Michigan Consolidated Gas Co., Interstate Storage Division, cost of service[1] for settlement purposes

Operation and maintenance	$1,257,527
Administrative and general	802,303
Depreciation	2,287,510
Property taxes	754,385
Michigan single business tax	365,292
Federal income tax	3,198,688
Return at 10.07 pct	6,449,936
Total	15,115,641
Cycled volumes—Mcf	41,000,000
Cost per Mcf (cents)	36.87

[1]The settlement cost of service submitted by Michigan Consolidated has been adjusted to correct a mathematical error in the underlying calculations supporting the depreciation allowance. As a result, the settlement cost of service is increased by $4,500.

APPENDIX B

Michigan Consolidated Gas Co., Interstate Storage Division, rate base and return for settlement purposes

Gross gas plant per books at Dec. 31, 1976		$57,483,299
New plant additions:		
7,500 hp compression		4,800,000
Cost to complete 2.4 mi lateral pipeline:		
Total estimate	$946,630	
Incurred at Dec. 31, 1976	663,674	282,956
Adjusted gross plant		62,566,255
Reserve for depreciation per books at Dec. 31, 1976		17,013,035
Adjusted net plant Dec. 31, 1976		45,553,220
Working capital:		
⅛of operation and maintenance		257,478
Working storage gas impounded at end of withdrawal cycle—13,000,000 Mcf priced at MDQ rate of Michigan-Wisconsin effective at Dec. 1, 1976 of $1.4031		18,240,300
Total rate base Dec. 31, 1976		64,050,998
Rate of return for staff (percent)		10.07
Return requirements		$6,449,936

APPENDIX C.—*Michigan Consolidated Gas Co. Interstate Storage Division income taxes and returns for settlement purposes*

Income taxes:	
Total return requirements	$6,449,936
Less—Interest at 4.66 percent of $64,050,998	2,984,777
Subtotal	3,465,159
Federal income tax	.9231
Total	$3,198,688
Depreciations:	
Adjusted gross plant—Dec. 31, 1976	62,566,255
Less:	
Nondepreciable land	650,221
Base gas per books	11,082,481
Total	11,732,702
Depreciable plants	50,833,553
Annual rate of depreciation (percent)	4.5
Annual depreciation	$2,287,510

APPENDIX D.—*Michigan Consolidated Gas Co., Interstate Storage Division, rate design based upon MCGC proposed settlement cost of service of Jan. 27, 1977*

Line No.	Description	Total	Demand at 12.5 pct	Commodity at 87.5 pct
(1)	(2)	(3)	(4)	(5)
1	Cost of service	$15,115,641	$1,889,455	$13,226,186
2	Contract demand (MMcf)		306	
3	Contract volumes (Bcf)			41.0
4	Demand rate per Mcf		$0.514	
5	Commodity rate per Mcf (cents)			32.26

	Type of service, firm customers	Demand	Commodity	Average
			Cents	*Cents*
6	50-d service	$0.514	32.26	44.60
7	100-d service	.514	32.26	38.43
8	143-d service	.514	32.26	36.57
9	Off peak customers		32.26	32.26

[FR Doc. 78-5370 Filed 3-1-78; 8:45 am]

[6740-02]

LAND WITHDRAWN IN PROJECT NO. 1144—ALASKA

Order Vacating Land Withdrawal

FEBRUARY 23, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977. On December 23, 1977, the Secretary issued an order amending DOE delegation Order No.0204-1 further delegating to the FERC the authority to take action in this proceeding.

The Bureau of Land Management, Department of the Interior, has requested that the land withdrawal for Project No. 1144 be vacated in its entirety, thereby requiring Federal Energy Regulatory Commission consideration under section 24 of the Federal Power Act.

Project No. 1144 was a small diversion-conduit development on Lowell Creek, a steep coastal stream which flows into Resurrection Bay at Seward, Alaska. The withdrawal for Project No. 1144 covers approximately 10 acres along Lowell Creek as shown on a map entitled "Lowell Creek Project, Chugach National Forest" (FPC No. 1144-1), filed in the office of the Federal Power Commission on December 29, 1930. Notice of the withdrawal was given to the General Land Office (now Bureau of Land Management) by letters dated March 13, 1931, and November 10, 1933.

The Lowell Creek powerplant was first operated by the Seward Light and Power Co. on December 1, 1905. The license for the project was issued July 15, 1933, to S. M. Graff, President and Manager of said company. The project was subsequently abandoned and the Federal Power Commission accepted the surrender of the license by order issued September 4, 1952. Redevelopment of this site was considered unlikely.

Lowell Creek has no significant hydroelectric value as the average flow is only about 25 cfs (Alaska Power Administration estimate). The Alaska Power Administration has recommended that the withdrawal for Project No. 1144 be vacated in its entirety.

[3]The Commission notes that in the event it orders removal of the costs associated with the facility from the cost of service, the $4.8 million base cost would be removed from the rate base, resulting in a significantly smaller reduction in the cost of service.

[4]On November 11, 1977, Judge Gordon issued an Initial Decision granting the consolidated applications to render storage and transportation services. The Judge's Decision found that the 7,500 horsepower compressor should be certificated subject to Michigan Consolidated's obtaining a certificate to render storage service for Panhandle in Docket No. CP77-274.

The Commission orders: That the withdrawal for Project No. 1144 is hereby vacated in its entirety.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5371 Filed 3-1-78; 8:45 am]

[6740-02]

LANDS WITHDRAWN IN PROJECT NO. 907—COLORADO

Order Vacating Land Withdrawal

FEBRUARY 23, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977. On December 23, 1977, the Secretary issued an order amending DOE delegation Order No. 0204-1 further delegating to the FERC the authority to take action in this proceeding.

The Forest Service, U.S. Department of Agriculture, has requested that the land withdrawal for Project No. 907 be vacated in its entirety, thereby requiring Federal Energy Regulatory Commission consideration under section 24 of the Federal Power Act.

The following described lands were withdrawn pursuant to the filing on June 9, 1928, of an application for preliminary permit for Project No. 907 for which the Federal Power Commission gave notice of land withdrawal to the General Land Office (now Bureau of Land Management) by letter dated June 27, 1928:

NEW MEXICO PRINCIPAL MERIDIAN, COLORADO

(RIO GRANDE NATIONAL FOREST)

T. 41 N., R. 3 W.,
Sec. 1, lots 3, 4, S½NW¼.

(Approximately 161 acres.)

The lands lie at North Clear Creek Falls, about 5 miles downstream from Continental Reservoir, in the Upper Rio Grande Basin.

The applicant for Project No. 907 contemplated construction of a 1,490-foot-long conduit heading in North Clear Creek above the falls, and a powerhouse with an installed capacity of 400 kw below the falls. The average flow at the diversion site is estimated to be about 50 cfs. A gross head of about 250 feet was to be developed; however, the application for the project was rejected on July 10, 1929.

Development of this small site was considered by the Bureau of Reclamation in a 1940 report on the San Luis Valley Project (House Document No. 693, 76th Congress, 3d Session), and found to be economically infeasible at that time.

There are no known active plans for hydroelectric development involving the subject lands and such use is considered unlikely.

The Geological Survey has recommended that the land withdrawal for Project No. 907 be vacated in its entirety.

The Commission orders: The land withdrawal for Project No. 907 is hereby vacated in its entirety.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5373 Filed 3-1-78; 8:45 am]

[6740-02]

LANDS WITHDRAWN IN PROJECT NO. 941—COLORADO

Order Vacating Land Withdrawal

FEBRUARY 23, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977. On December 23, 1977, the Secretary issued an order amending DOE delegation Order No. 0204-1 further delegating to the FERC the authority to take action in this proceeding.

Receipt of Additional Antitrust Information; Time for Submission of Views on Antitrust Matters

The Forest Service, U.S. Department of Agriculture, has requested that the land withdrawal for Project No. 941 be vacated in its entirety, thereby requiring Federal Energy Regulatory Commission consideration under section 24 of the Federal Power Act.

The following described lands were withdrawn pursuant to the filing on December 7, 1928, of an application for preliminary permit for Project No. 941 for which the Federal Power Commission gave notice of land withdrawal to the General Land Office (now Bureau of Land Management) by letter dated January 4, 1929, as adjusted to conform to resurveys by Federal Power Commission letter dated July 20, 1936, and General Land Office letter dated July 31, 1943:

NEW MEXICO PRINCIPAL MERIDIAN, COLORADO

(RIO GRANDE NATIONAL FOREST)

T. 37 N., R. 4 E.,
Sec. 36, lots 1 and 2, E½ lot 3, NE¼ lot 4, N½ lot 5, N½ lot 6.

T. 36 N., R. 5 E.,
Sec. 9, lots 1, 4, 5, 6, and 7, N½NE¼, SE¼NE¼, NE¼SE¼;
Sec. 10, E½NW¼, SW¼NW¼, NW¼SW¼.

(Approximately 518 acres.)

The lands lie along the Alamosa River, about 5 to 12 miles upstream from Terrace Reservoir, in the Upper Rio Grande Basin.

The applicant for Project No. 941 contemplated construction of 2 small hydroelectric developments on the Alamosa River. Unit No. 1 was to consist of a diversion dam, conduit, and powerhouse with a capacity of about 175 horsepower, in sec. 36, T. 37 N., R. 4 E. Unit No. 2 was to consist of a storage dam, reservoir, conduit and powerhouse with a capacity of about 240 horsepower, in secs. 9 and 10, T. 36 N., R. 5 E. The preliminary permit for Project No. 941 expired on May 19, 1933, and an application for license was not filed.

There are no known active plans for hydroelectric development involving the subject lands and such use is considered unlikely because of the small amount of water available (the average flow of the Alamosa River at a gaging station 0.8 mile upstream from Terrace Reservoir is 112 cfs for 48 years of record).

The Geological Survey has recommended that the Commission vacate the land withdrawal for Project No. 941 in its entirety.

The Commission orders: That the land withdrawal for Project No. 941 is hereby vacated in its entirety.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5374 Filed 3-1-78; 8:45 am]

[6740-02]

LANDS WITHDRAWN IN PROJECT NOS. 385, 445, 506, 519, 1220, 1296, 1418, 1519, 1576, 1615, 1616, 1618, 1678, 1682, and 1750, COLORADO

Order Vacating Land Withdrawals

FEBRUARY 23, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977. On December 23, 1977, the Secretary issued an order amending DOE delegation Order No. 0204-1 further delegating to the FERC the authority to take action in this proceeding.

The Forest Service, U.S. Department of Agriculture, has requested that the land withdrawals for transmission line Project Nos. 385, 445, 506, 519, 1220, 1296, 1418, 1519, 1576, 1615, 1616, 1618, 1678, and 1750 be vacated in their entirety, thereby requiring Federal Energy Regulatory Commission consideration under section 24 of the Federal Power Act. The lands affected by the withdrawals lie within the Arapaho, Pike, Rio Grande, Roosevelt, and White River National Forests, Colo., and are listed in the attachment hereto.

Federal Power Commission licenses were issued for 8 of the 15 projects under consideration (Project Nos. 385, 445, 506, 519, 1220, 1296, 1418, and 1519). All of these licenses were surrendered or terminated over 30 years ago. The transmission lines which constituted these projects were distribution lines, not primary lines or parts of a "project" as defined in Section 3(11) of the Federal Power Act.

The applications for Project Nos. 1576, 1615, 1616, 1618, 1678, 1682, and 1750 were dismissed by the Federal Power Commission because of lack of jurisdiction and were referred to the U.S. Forest Service.

Under the circumstances, the land withdrawals for Project Nos. 385, 445, 506, 519, 1220, 1296, 1418, 1519, 1576, 1615, 1616, 1618, 1678, 1682, and 1750 no longer serve a useful purpose.

The Commission orders: That the land withdrawals for Project Nos. 385, 445, 506, 519, 1220, 1296, 1418, 1519, 1576, 1615, 1616, 1618, 1678, 1682, and 1750 are hereby vacated in their entirety.

By the Commission.

KENNETH F. PLUMB,
Secretary.

SIXTH PRINCIPAL MERIDIAN, COLORADO

Unless Otherwise Noted

1. Project No. 385 (White River National Forest). Portions (totaling about 5 acres) of the following described subdivision were withdrawn pursuant to the filing on February 5, 1923, of an application for license for Project No. 385 for which the Commission (FPC) gave notice of land withdrawal to the General Land Office (now Bureau of Land Management) by letter dated February 23, 1923:

T. 5 S., R. 88 W.,
Sec. 32, SW¼.

2. Project No. 445 (Arapaho National Forest). Portions (totaling about 10 acres) of the following described subdivisions were withdrawn pursuant to the filing on October 23, 1923, of an application for license for Project No. 445 for which the Commission (FPC) gave notice of land withdrawal to the General Land Office by letter dated November 5, 1923:

T. 7 S., R. 77 W.,
Sec. 29, NW¼SW¼;
Sec. 30, SE¼NW¼, S½NE¼, NE¼SE¼.

3. Project No. 506 (Arapaho National Forest). Portions (totaling about 4 acres) of the following described subdivisions were withdrawn pursuant to the filing on May 23, 1924, of an application for license for Project No. 506 for which the Commission (FPC) gave notice of land withdrawal to the General Land Office by letter dated May 29, 1924:

T. 4 S., R. 74 W.,
Sec. 1, lots 16, 48;
Sec. 12, lots 2, 40, 45, 46, 100.

4. Project No. 519 (Arapaho and Roosevelt National Forests). Portions (totaling about 56 acres) of the following described subdivisions were withdrawn pursuant to the filing on July 18, 1924, of an application for license for Project No. 519 for which the Commission (FPC) gave notice of land withdrawal to the General Land Office by letter dated August 21, 1924:

T. 2 S., R. 74 W.,
Sec. 2, SW¼NW¼;
Sec. 5, S½S½;
Sec. 6, S½SE¼;
Sec. 8, NE¼NE¼;
Sec. 9, N½NW¼, SW¼NE¼.
T. 2 S., R. 75 W.,
Sec. 1, S½;
Sec. 2, SE¼;
Sec. 10, E½;
Sec. 11, N½;
Sec. 12, N½N½.

5. Project No. 1220 (Roosevelt National Forest). Portions (totaling about 6 acres) of the following described subdivisions were withdrawn pursuant to the filing on September 21, 1932, of an application for license for Project No. 1220 for which the Commission (FPC) gave notice of land withdrawal to the General Land Office by letter dated October 4, 1932:

T. 4 N., R. 73 W.,
Sec. 11, SW¼NE¼, NW¼SE¼.

6. Project No. 1296 (Pike National Forest). Portions (totaling about 1 acre) of the following described subdivisions were withdrawn pursuant to the filing on January 10, 1935, of an application for license for Project No. 1296 for which the Commission (FPC) gave notice of land withdrawal to the General Lnad Office by letter dated March 3, 1936:

T. 12 S., R. 68 W.,
Sec. 31, W½SW¼, SE¼SW¼.

7. Project No. 1418 (Arapaho National Forest). Portions (totaling about 6 acres) of the following described subdivision were withdrawn pursuant to the filing on January 18, 1937, of an application for license for Project No. 1418 for which the Commission (FPC) gave notice of land withdrawal to the General Land Office by letter dated February 18, 1937:

T. 6 S., R. 78 W.,
Sec. 2, S½NW¼.

8. Project No. 1519 (Arapaho National Forest). Portions (totaling about 8 acres) of the following described subdivisions were withdrawn pursuant to the filing on October 28, 1938, of an application for license for Project No. 1519 for which the Commission (FPC) gave notice of land withdrawal to the General Land Office by letter dated December 23, 1938:

T. 2 S., R. 75 W.,
Sec. 3, SW¼SE¼, SE¼SW¼, W½SW¼;
Sec. 4, NW¼NE¼, S½NE¼, NE¼SE¼;
Sec. 10, NE¼, NE¼NW¼.

9. Project No. 1576* (Arapaho National Forest). Certain lands (acreage not determined) lying within or near the following described sections were withdrawn pursuant to the filing on February 14, 1939, of an application for license for Project No. 1576:

T. 3 S., R. 74 W.,
Secs. 2, 11

10. Project No. 1615* (Roosevelt National Forest). Portions (totaling about 1.5 acres) of the following described subdivision were withdrawn pursuant to the filing on August 12, 1939, of an application for license for Project No. 1615:

T. 5 N., R. 72 W.,
Sec. 21, SE¼SW¼.

11. Project No. 1616* (Roosevelt National Forest). Certain lands (acreage not determined) lying within the following described sections were withdrawn pursuant to the filing on August 21, 1939, of an application for license for Project No. 1616:

T. 5 N., R. 70 W.,
Secs. 6, 7.
T. 5 N., R. 71 W.,
Secs. 1, 2, 3, 4.
T. 6 N., R. 71 W.,
Sec. 33.

12. Project No. 1618* (Rio Grande National Forest). Portions (acreage not determined) of the following described sections were withdrawn pursuant to the filing on August 30, 1939, of an application for license for Project No. 1618:

T. 39 N., R. 3 E., New Mexico Principal Meridian, Colorado,
Secs. 3, 9.

13. Project No. 1678* (Arapaho National Forest). Portions (acreage not determined) of the following described sections were withdrawn pursuant to the filing on February 3, 1940, of an application for license for Project No. 1678:

T. 5 S., R. 71 W.,
Sec. 31.
T. 6 S., R. 71 W.,
Sec. 6.

14. Project No. 1682* (Pike National Forest). Portions (acreage not deter-

*Notice of land withdrawal not issued.

mined) of the following described sections were withdrawn pursuant to the filing on February 6, 1940, of an application for license for Project No. 1682:

T. 7 S., R. 72 W.,
Sec. 30.
T. 7 S., R. 73 W.,
Secs. 25, 27.
T. 7 S., R. 74 W.,
Sec. 12.

15. Project No. 1750° (Rio Grande National Forest). Portions (acreage not determined) of the following described section were withdrawn pursuant to the filing on August 20, 1940, of an application for license for Project No. 1750:

T. 40 N., R. 3 E., New Mexico Principal Meridian, Colorado,
Sec. 29.

[FR Doc. 78-5375 Filed 3-1-78; 8:45 am]

[6740-02]

LANDS WITHDRAWN IN PROJECTS NOS. 373, 521, 937, 1024, 1415, 1546, 1547, AND 1825

Order Vacating Land Withdrawals

FEBRUARY 23, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977. On December 23, 1977, the Secretary issued an order amending DOE delegation Order No. 0204-1 further delegating to the FERC the authority to take action in this proceeding.

The Forest Service, U.S. Department of Agriculture, has requested that the land withdrawals for transmission line projects Nos. 373, 521, 937, 1024, 1415, 1546, 1547, and 1825 be vacated insofar as they affect national forests lands, thereby requiring Federal Energy Regulatory Commission consideration under section 24 of the Federal Power Act. This order pertains to all lands withdrawn for these projects. The lands affected by the withdrawals are listed in the attachment hereto.

Federal Power Commission licenses were issued for four of the eight projects under consideration (projects Nos. 373, 521, 937, 1024). The licenses for project Nos. 373, 521, and 937 were surrendered over 35 years ago after the projects were abandoned. The Federal Power Commission accepted the surrender of the license for project No. 1024 by order dated February 5, 1946, upon finding that the transmission line which constituted this project was not a primary line within the meaning of section 3(11) of the Federal Power Act.

The Federal Power Commission consented to the withdrawal of the application for project No. 1415 on July 26, 1938.

The applications for project Nos. 1546, 1547, and 1825 were dismissed and referred to the Forest Service after it was found that the lines involved were not subject to Federal Power Commission jurisdiction.

Under the circumstances, the land withdrawals for projects Nos. 373, 521, 937, 1024, 1415, 1546, 1547, and 1825 no longer serve a useful purpose.

The Commission orders: That the withdrawals for Projects Nos. 373, 521, 937, 1024, 1415, 1546, 1547, and 1825 are hereby vacated in their entirety.

By the Commission.

KENNETH F. PLUMB,
Secretary.

SIXTH PRINCIPAL MERIDIAN, COLORADO

1. Project No. 373 (Arapaho and Pike National Forests). Portions (totaling about 42 acres) of the following described subdivisions were withdrawn pursuant to the filing on December 18, 1922, of an application for license for project No. 373 for which the Commission (FPC) gave notice of land withdrawal to the General Land Office (now Bureau of Land Management) by letter dated January 22, 1923:

T. 5 S., R. 76 W.,
Sec. 35, E½SE¼.
T. 6 S., R. 76 W.,
Sec. 2, NW¼, NW¼SW¼;
Sec. 3, S½NE¼, SE¼;
Sec. 10, W½NE¼, E½NW¼, NE¼SW¼, SE¼;
Sec. 14, NW¼, NE¼SW¼;
Sec. 15, NE¼NE¼.
T. 6 S., R. 77 W.,
Sec. 7, NE¼SW¼.

2. Project No. 521 (Roosevelt National Forest). Portions (totaling about 4 acres) of the following described subdivisions were withdrawn pursuant to the filing on July 18, 1924, of an application for license for project No. 521 for which the Commission (FPC) gave notice of land withdrawal to the General Land Office by letter dated August 21, 1924, as corrected by letter dated September 17, 1924:

T. 1 N., R. 71 W.,
Sec. 6, NE¼SW¼ (outside National Forest).
T. 1 N., R. 72 W.,
Sec. 1, N½SE¼, SW¼SE¼.

3. Project No. 1825[1] (San Isabel National Forest). Certain lands (acreage not determined) lying within the following described sections were withdrawn pursuant to the filing on January 25, 1941, of an application for license for Project No. 1825:

T. 21 S., R. 69 W.,
Sec. 34.
T. 22 S., R. 69 W.,
Sec. 24.

NEW MEXICO PRINCIPAL MERIDIAN, COLORADO

1. Project No. 937 (San Juan National Forest). Portions (totaling about 47 acres) of the following described subdivisions were withdrawn pursuant to the filing on December 1, 1926, of an application for license for project No. 937 for which the Commission (FPC) gave notice of land withdrawal to the General Land Office by letter dated January 2, 1929:

T. 36 N., R. 11 W.,
Sec. 2, N½N½, SW¼NW¼;
Sec. 3, S½NE¼, NE¼SW¼, NW¼SE¼;
Sec. 9, NE¼NE¼, S½NE¼, E½SW¼, NW¼SE¼;
Sec. 16, E½NW¼;
Sec. 21, E½NW¼, SW¼;
Sec. 28, NW¼NW¼;
Sec. 33, NW¼NE¼, SE¼NE¼, E½SE¼.
T. 37 N., R. 11 W.,
Sec. 36, S½SW¼.

2. Project No. 1024 (San Juan National Forest). Portions (totaling about 4 acres) of the following described subdivisions were withdrawn pursuant to the filing on October 5, 1929, of an application for license for project No. 1024 for which the Commission (FPC) gave notice of land withdrawal to the General Land Office by letter dated December 11, 1929, as corrected by letter dated December 21, 1929, and adjusted by letter dated December 15, 1931:

T. 36 N., R. 12 W.,
Sec. 31, NE¼NE¼.
T. 36 N., R. 13 W.,
Sec. 25, lot 1 (outside National Forest);
Sec. 26, S½NW¼.

3. Project No. 1415[1] (Uncompahgre National Forest). Certain lands (acreage not determined) lying within the following described sections were withdrawn pursuant to the filing on December 28, 1936, of an application for license for project No. 1415:

T. 43 N., R. 7 W.,
Secs. 7, 8, 17, 18.

4. Project No. 1546[1] (Uncompahgre National Forest). Certain lands (acreage not determined) lying within the following described section were withdrawn pursuant to the filing on February 9, 1939, of an application for license for project No. 1546:

T. 44 N., R. 7 W.,
Sec. 31.

5. Project No. 1547[1] (Uncompahgre National Forest). Certain lands (acreage not determined) lying within the following described sections were withdrawn pursuant to the filing on February 9, 1939, of an application for license for project No. 1547:

T. 44 N., R. 7 W.,
Secs. 29, 30.

[FR Doc. 78-5376 Filed 3-1-78; 8:45 am]

[1] Notice of land withdrawal not issued.

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 862-1]

STATE OF DELAWARE

Determination of Primary Enforcement Responsibility

Public notice is hereby given in accordance with the provisions of section 1413 of the Safe Drinking Water Act (Pub. L. 93-523, December 16, 1974) and 40 C.F.R. Part 142 the national interim primary drinking water regulations (41 FR 2918, January 20, 1976), that the Honorable Patricia C. Schramm, Secretary, Department of Health and Social Services, has submitted an application rquesting primary enforcement responsibility under the Safe Drinking Water Act to the Environmental Protection Agency (EPA) Region III office for concurrence and approval.

Jack J. Schramm, Regional Administrator for EPA Region III, has approved the application from the State of Delaware for primary enforcement responsibility, which shall become effective on March 31, 1978. This determination was concluded after a thorough evaluation of Delaware's water supply supervision program in relation to the requirements of 40 C.F.R. 142.10 including the adoption and implementation of:

1. Drinking water standards and regulations.
2. An inventory of public water systems.
3. A systematic program for conducting sanitary surveys.
4. The establishment and maintenance of a program for the certification of laboratories.
5. Laboratory facilities certified by EPA.
6. A plan review program to assure the proper design and construction of new or modified public water systems.
7. Adequate statutory and regulatory authority.
8. Authority to sue in courts and to enjoin continuing violations.
9. Authority permitting right of entry and inspection of public water systems.
10. Authority to require suppliers of water to keep appropriate records and make appropriate reports to the State.
11. Authority to require public notification of violations.
12. Authority to assess civil or criminal penalties for violation of State regulations.
13. Record keeping and reporting procedures.
14. A system for issuing variances and exemptions.
15. Adoption of a plan for the provisions of safe drinking water under emergency circumstances.

Delaware's water supply supervision program, as presented and evaluated on the above noted points, has indicated that it is fully capable of carrying out all the areas required to attain primary enformcement responsibility.

Any interested parties are invited to submit written comments on this determination and may request a public hearing on or before March 31, 1978. If a public hearing is requested and granted, this determination shall not become effective until such time following the hearing, that the Regional Administrator issues an order affirming or rescinding the determination.

Request for a public hearing shall be addressed to:

Jack J. Schramm, Regional Administrator, Region III—3RA00, 6th and Walnut Streets, Philadelphia, Pa. 1906.

A request for public hearing shall include the following information:

1. The name, address, and telephone number of the individual(s) organization, or other entity requesting a hearing.
2. A brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such a hearing.
3. The signature of the individual(s) making the request; or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request for a public hearing is made on or before March 31, 1978, a public hearing will be held. The Regional Administrator will give further notice in the FEDERAL REGISTER and in a newspaper or newspapers of general circulation in the State of Delaware of any hearing to be held pursuant to a request submitted by an interested person, or on his own motion. Notice of the hearing shall be given not less than fifteen (15) days prior to the time scheduled for the hearing. In addition to publication as described above, notice will be sent to the person requesting a hearing and to the State. Notice of the hearing will include a statement of the purpose of the hearing, information regarding the time and location for the hearing, and the address and telephone number of an office at which interested persons may obtain further information concerning the hearing.

After receiving the record of the hearing the Regional Administrator will issue an order affirming or rescinding his determination. If the determination is affirmed, it shall become effective as of the date of this order.

If no timely and appropriate request for a hearing is received and the Regional Administrator does no elect to hold a hearing on his own motion, this determination shall become effective thirty (30) days after issuance of the initial notice.

Please bring this notice to the attention of any persons known by you to have an interest in this determination.

A complete copy of Delaware's application for primary enforcement responsibility is available for public inspection during normal business hours at the office of the Regional Administrator and at the following location in Delaware:

State of Delaware, Department of Health and Social Services, Office of Sanitary Engineering, Jesse E. Cooper Memorial Building, Capital Square, Dover, Delaware 19901.

Dated: February 23, 1978.

JACK J. SCHRAMM,
Regional Administrator, Region III, Environmental Protection Agency.

[FR Doc. 78-5429 Filed 3-1-78; 8:45 am]

[6560-01]

[FRL 862-3]

STATE OF WEST VIRGINIA

Determination of Primary Enforcement Responsibility

Public notice is hereby given in accordance with the provisions of section 1413 of the Safe Drinking Water Act (Pub. L. 93-523, December 16, 1974) and 40 C.F.R. 142 the national interim primary drinking water regulation (41 FR 2918, January 20, 1976), that Robert G. McCall, Director of the Environmental Health Services Division of the West Virginia Department of Health, has submitted an application requesting primary emforcement responsibility under the Safe Drinking Water Act to the Environmental Protection Agency (EPA) Region III office for concurrence and approval.

Jack J. Schramm, Regional Administrator for EPA Region III, has approved the application from the State of West Virginia for primary enforcement responsibility, which shall become effective on March 31, 1978. This determination was concluded after a thorough evaluation of West Virginia's water supply supervision program in relation to the requirements of 40 C.F.R. 142.10 including the adoption and implementation of:

1. Drinking water standards and regulations.
2. An inventory of public water systems.
3. A systematic program for conducting sanitary surveys.
4. The establishment and maintenance of a program for the certification of laboratories.
5. Laboratory facilities certified by EPA.
6. A plan review program to assure the proper design and construction of new or modified public water systems.
7. Adequate statutory and regulatory authority.
8. Authority to sue in courts and to enjoin continuing violations.
9. Authority permitting right of entry and inspection of public water systems.
10. Authority to require suppliers of water to keep appropriate records and make appropriate reports to the State.

11. Authority to require public notification of violations.
12. Authority to assess civil or criminal penalties for violation of State regulations.
13. Record keeping and reporting procedures.
14. A system for issuing variances and exemptions.
15. Adoption of a plan for the provisions of safe drinking water under emergency circumstances.

West Virginia's water supply supervision program, as presented and evaluated on the above noted points, appears to be fully adequate for carrying out all the areas required to attain primary enforcement responsibility.

Any interested parties are invited to submit written comments on this determination and may request a public hearing on or before March 31, 1978. If a public hearing is requested and granted, this determination shall not become effective until such time following the hearing, that the Regional Administrator issues an order affirming or rescinding the determination.

Requests for a public hearing shall be addressed to:

Jack J. Schramm, Regional Administrator, Region III—3RA00, 6th and Walnut Streets, Philadelphia, Pa. 19106.

A request for public hearing shall include the following information:

1. The name, address, and telephone number of the individual(s), organization, or other entity requesting a hearing.
2. A brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such a hearing.
3. The signature of the individual(s) making the request; or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request for a public hearing is made on or before March 31, 1978, a public hearing will be held. The Regional Administor will give further notice in the FEDERAL REGISTER and in a newpaper or newspapers of general circulation in the State of West Virginia of any hearing be held pursuant to a request submitted by an interested person, or on his own motion. Notice of the hearing shall be given not less than fifteen (15) days prior to the time scheduled for the hearing. In addition to publication as described above, notice will be sent to the person requesting a hearing and to the State. Notice of the hearing will include a statement of the purpose of the hearing, information regarding the time and location for the hearing, and the address and telephone number of an office at which interested persons may obtain further information concerning the hearing.

After receiving the record of the hearing the Regional Administrator will issue an order affirming or rescinding his determination. If the determination is affirmed, it shall become effective as of the date of this order.

If no timely and appropriate request for a hearing is received and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become effective thirty (30) days after issuance of the initial notice.

Please bring this notice to the attention of any persons known by you to have an interest in this determination.

A complete copy of West Virginia's application for primary enforcement responsibility is available for public inspection during normal business hours at the office of the Regional Administrator and at the following location in West Virginia:

State of West Virginia, West Virginia Department of Health, Office of Sanitary Engineering, State Office Building No. 1, 1800 Washington Street, Charleston, W. Va. 25305.

Dated: February 23, 1978.

CHRISTOPHER K. SEGLEM,
Acting Regional Administrator, Region III, Environmental Protection Agency.

[FR Doc. 78-5331 Filed 3-1-78; 8:45 am]

[6560-01]

[FRL 862-2]

WATER PROGRAMS

Determination of Primary Enforcement Responsibility, State of New Mexico

This public notice is issued pursuant to section 1413 of the Safe Drinking Water Act, Pub. L. 93-523, December 16, 1974, and § 142.10 of the National Interim Primary Drinking Water Regulations, published in the FEDERAL REGISTER on January 20, 1976.

An application has been received from the Director, New Mexico Environmental Improvement Agency, dated January 6, 1978, requesting that the New Mexico Environmental Improvement Agency be granted primary enforcement responsibility for water systems in the State of New Mexico, in accordance with the provisions of this Act.

In response, I have determined that the New Mexico Environmental Improvement Agency has met all conditions of the Safe Drinking Water Act and subsequent regulations for the assumption of primary enforcement responsibility for water systems in the State of New Mexico. The State—

(1) Has adopted drinking water regulations which are no less stringent than the National Interim Primary Drinking Water Regulations;
(2) Has adopted and will implement adequate procedures for the enforcement of such State regulations, including adequate monitoring and inspections;
(3) Will keep such records and make such reports as required;
(4) If it permits variances or exemptions from the requirements of its regulations, will issue such variances and exemptions in accordance with the provisions of the National Interim Primary Drinking Water Regulations;
(5) Has adopted and can implement an adequate plan for the provision of safe drinking water under emergency circumstances.

All documents relating to this determination are available for public inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

Director, New Mexico Environmental Improvement Agency, P.O. Box 2348-Crown Building, Santa Fe, N. Mex. 87501.
Regional Administrator, Environmental Protection Agency, Region VI, First International Building, 1201 Elm Street, Dallas, Tex. 75270.

All interested parties are invited to submit written comments on this determination and may request a public hearing. Written comments and/or a request for a public hearing must be submitted on or before March 31, 1978. A request for a public hearing shall include the following information:

(1) The name, address, and telephone number of the individual, organization or other entity requesting a hearing.
(2) A brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such hearing.
(3) The signature of the individual making the request; or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request for a public hearing is made by March 31, 1978, a public hearing will be held. The Regional Administrator will give further notice in the FEDERAL REGISTER and in a newspaper or newspapers of general circulation in the State of New Mexico of any hearing to be held pursuant to a request submitted by an interested person, or on his own motion. Notice of the hearing shall be given not less than fifteen (15) days prior to the time scheduled for the hearing. In addition to publication as described above, notice will be sent to the person requesting a hearing and to the State. Notice of the hearing will include a statement of the purpose of the hearing, information regarding the time and location for the hearing, and the address and telephone number of an office at which interested persons may obtain further information concerning the hearing.

After receiving the record of the hearing, the Regional Administrator will issue an order affirming or rescinding his determination. If the determination is affirmed, it shall become effective as of the date of this order.

If no timely and appropriate request for a hearing is received and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become effective on March 31, 1978.

Please bring this notice to the attention of any persons known by you to have an interest in this determination.

Dated: February 23, 1978.

ADLENE HARRISON,
Regional Administrator, Region VI, Environmental Protection Agency.

[FR Doc. 78-5430 Filed 3-1-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

NORTRUST CORP.

Proposed Acquisition of Jefferson Investment Corp.

Nortrust Corp., Chicago, Ill., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(2) of the Board's regulation Y (12 CFR 225.4(b)(2)), for permission to acquire the charter of Jefferson Investment Co., San Antonio, Tex. Notice of the applicaton was published on November 9, 1977, in the San Antonio Express and the San Antonio Evening News, newspapers circulated in San Antonio, Tex. Notice was also published on January 31, 1978, in the following newpapers: the Amarillo Globe News, Amarillo, Tex.; the El Paso Times, El Paso, Tex.; The Houston Chronicle, Houston, Tex.; the San Antonio Light, San Antonio, Tex.; the Fort Worth Star-Telegram, Fort Worth, Tex.; and the Citizen, Austin, Tex. Notice was also published on February 1, 1978, in the Dallas Morning News, a newspaper published in Dallas, Tex.

Applicant states that the proposed subsidiary would be renamed Northern Trust Co. of Texas and would perform the activities of a trust company including activities of a fiduciary, agency, or custodian nature and acting as an investment or financial advisor. Applicant further states that its existing subsidiary, Nortrust Farm Management, Inc., of San Antonio, Tex., would perform or carry on agricultural activities including management of farms and ranches and purchasing, funding, and selling livestock for trust, probate, conservator and guardian of etates for which the Northern Trust Co. of Texas is acting as fiduciary. Such activities have been specified by the Board in section 225.4(a) of regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than March 22, 1978.

Board of Governors of the Federal Reserve System, February 23, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-5479 Filed 3-1-78; 8:45 am]

[6210-01]

UNITED BANCSHARES, INC.

Formation of Bank Holding Company

United Bancshares, Inc., Rosenberg, Tex., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring at least 95 percent of the voting shares (less directors' qualifying shares) of Rosenberg Bank and Trust, Rosenberg, Tex. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 14, 1978.

Board of Governors of the Federal Reserve System, February 23, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-5480 Filed 3-1-78; 8:45 am]

[4110-89]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

OFFICE OF EDUCATION

Comments on Collection of Information and Data Acquisition Activity

Pursuant to section 406(g)(2)(B), General Education Provisions Act, notice is hereby given as follows:

The National Center for Education Statistics, and the U.S. Office of Education have proposed collections of information and data acquisition activities which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to comply with paragraph (g)(2)(B) of the "Control of Paperwork" amendment which provides that each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during a 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acquisition activity.

These data acquisition activities are subject to review by the HEW Education Data Acquisition Council and the Office of Management and Budget.

Descriptions of the proposed collections of information and data acquisition activities follow below.

Written comments on the proposed activities are invited. Comments should refer to the specific sponsoring agency and form number and must be received on or before April 3, 1978, and should be addressed to Administrator, National Center for Education Statistics, attn: Manager, Information Acquisition, Planning, and Utilization, Room 3001, 400 Maryland Avenue SW., Washington, D.C. 20202.

Further information may be obtained from Elizabeth M. Proctor of the National Center for Education Statistics, 202-245-1022.

Dated: February 24, 1978.

MARIE D. ELDRIDGE,
Administrator, National Center for Education Statistics.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Public School Library Media Center Survey—1978.

2. AGENCY/BUREAU/OFFICE

Assistant Secretary for Education/ National Center for Education Statis-

tics/Division of Multilevel Education Statistics/Learning Resources Branch.

3. AGENCY FORM NUMBER

NCES 2349-2.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

The General Education Provisions Act, Pub. L. 90-247, as amended, Part A, sec. 406(f)(1)(A) which states that "The Center shall furnish such special statistical compilations and surveys as the Committee on Labor and Public Welfare and on Appropriations of the Senate and the Committee on Education and Labor and on Appropriations of the House of Representatives may request."

Pub. L. 93-380 which states in sec. 406(b) "The Center shall:

(1) collect, collate, and from time to time, report full complete statistics on the conditions of education in the United States;

(2) conduct and publish reports on specialized analyses of the meaning and significance of such statistics;

(3) assist State and local educational agencies in improving and automating their statistical and data collection activities;

Pub. L. 94-482, sec. 133(a) 4, 6, and 7 states that the Assistant Secretary for Education shall:

(4) review the lifelong learning opportunities provided through employers, unions, the media, libraries and museums, secondary schools and postsecondary educational institutions, and other public and private organizations to determine means by which the enhancement of their effectiveness and coordination may be facilitated;

(6) identify existing barriers to lifelong learning and evaluate programs designed to eliminate such barriers; and

(7) to the extent practicable, seek the advice and assistance of the agencies of the Education Division.

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Voluntary.

6. HOW INFORMATION COLLECTED WILL BE USED

This data will be used by the National Center for Center Education Statistics as an integral part of the condition of education report; the Education Division administrators in determining future policy; the Bureau of Libraries and Learning Resources in its activity of comparing data collected to National standards; and by State administrators, researchers, and students as a source on library resources.

7. DATA ACQUISITION PLAN

a. Method of collection: Mail and telephone.
b. Time of collection: Fall 1978, Spring 1979.
c. Frequency: Single time.

8. RESPONDENTS

a. Type: Public school libraries.
b. Number: Approximately 3,800.
c. Estimated average man-hours per respondent: 30 minutes.

9. INFORMATION TO BE COLLECTED

Data will consist of an inventory of books, periodicals, and audiovisual materials, a count of staff, size of facilities and utilization of resources.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Application—Veterans' Cost-of-Instruction Payments to Institutions of Higher Education.

2. AGENCY/BUREAU/OFFICE

Office of Education/Bureau of Higher and Continuing Education/Division of Student Services and Veterans Programs.

3. AGENCY FORM NUMBER

OE Form 269.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

Section 420(c)(1) of the Higher Education Act of 1965, as amended. "An institution shall be eligible to receive the payment to which it is entitled under this section only if it makes application therefor to the Commissioner." (20 U.S.C. 1070e-1), Pub. L. 92-318.

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Required to obtain or maintain benefits.

6. HOW INFORMATION COLLECTED WILL BE USED

This information will be used in the processing of applications from institutions of higher education for institutional entitlements/payments.

7. DATA ACQUISITION PLAN

a. Method of collection: Mail.
b. Time of collection: Spring.
c. Frequency: Annually.

8. RESPONDENTS

a. Type: Institutions of Higher Education.
b. Number: 1,200.
c. Estimated average man-hours per respondent: 30.

9. INFORMATION TO BE COLLECTED

The Standard Form 424 will be used as the face page.

Other information requested focuses on the following factors required to determine the amount of payment:

1. Total undergraduate student enrollment;

2. Total undergraduate veteran enrollment;

3. Full-time equivalent number of undergraduate veterans in attendance on April 16, receiving vocational rehabilitation subsistence or general education assistance benefits under Chapters 31 and 34, Title 38, U.S.C.;

4. Full-time equivalent number of undergraduate veteran students in attendance on April 16 currently receiving or who had ever received tutorial assistance benefits (section 1692) or who had ever received remediation or preparatory benefits (sections 1691, 1696) under subchapters V and VI, Chapter 34, Title 38, U.S.C.

A narrative statement is also required covering consortium participation.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Collection of Technical Information on BEH-Funded Products (for a catalog of educational products and programs developed under the direct sponsorship of BEH funds for fiscal years 1968-77).

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education/Bureau for the Education of the Handicapped/Division of Media Services/Captioned Films and Telecommunications Branch.

3. AGENCY FORM NUMBER

OE 620.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

Part F, section 651(a)(2) of Pub. L. 91-230, Instructional Media for the Handicapped. "The purposes of this part are to promote the educational advancement of handicapped persons by: (A) Carrying on research in the use of educational media for the handicapped, (B) producing and distributing educational media for the use of handicapped persons, their parents, their actual or potential employers, and other persons directly involved in work for the advancement of the handicapped, and (C) training persons in the use of educational media for the instruction of the handicapped."

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Voluntary.

6. HOW INFORMATION COLLECTED WILL BE USED

Condition of education. The sole purpose of this data collection is to produce a comprehensive catalog of BEH-funded products. This data will be useful to Education Division administrators in determining future policy; to the Bureau in review of its activity; and to special and nonspecial education teachers, administrators, researchers, students, and parents as a resource to products available.

Special indexes to the product descriptions will enhance the accessibility of the information. In keeping with the spirit and intent of Pub. L. 94-142, the Catalog will enable the Special Education Community to share its knowledge and resources with any person interested in, or responsible for, educating today's youth.

7. DATA ACQUISITION PLAN

a. Method of collection: Mail and Telephone.
b. Time of collection: Spring and Summer, 1978.
c. Frequency: Single time.

8. RESPONDENTS

a. Type: Colleges and universities, individuals, SEA's, LEA's, nonprofit organizations, and organizations other than schools or education agencies.
b. Number: Approximately 2,800.
c. Estimated average man-hours per respondent: 30 minutes.

9. INFORMATION TO BE COLLECTED

Each product description entry is intended to relay basic information to Catalog readers. Each entry will list: developer's name and address; title and type of product; goals and objectives; major components; subject areas; intended users; intended beneficiaries; patterns of use; assessment; time requirements; materials, equipment, and personnel requirements; implementation procedures; product availability; and assurances and claims.

All respondents will receive the same questionnaire.

[FR Doc. 78-5464 Filed 3-1-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

[N-6003]

NEVADA

Pursuant to the authority in 43 CFR Part 2070, Subpart 2071 and the Bureau of Land Management-Bureau of Reclamation Memorandum of Agreement Contract No. 14-06-200-8451A, and authorization from the Director dated June 22, 1977, I hereby designate the lands in the following descried area as the Grimes Point Recreation Site:

MT. DIABLO MERIDIAN, NEVADA

T. 18 N., R. 30 E.
Sec. 15, W½NE¼, E½NW¼;
Sec. 21, SW¼NE¼, S½.

The area described aggregates 600 acres of public lands managed by the Bureau of Land Management. The lands are located in Churchill County, Nev.

The Grimes Point Recreation Site is a "Class VI—Historical and Cultural" area as defined under the Bureau of Outdoor Recreation System of Classification.

EDWARD R. EVATZ,
Chief, Division of Resources.

[FR Doc. 78-5440 Filed 3-1-78; 8:45 am]

[4310-84]

[NM 32891]

NEW MEXICO

Application

FEBRUARY 17, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Natural Gas Pipeline Co. of America has applied for one 4-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 21 S., R. 24 E.,
Sec. 6, NW¼SE¼.

This pipeline will convey natural gas across 0.126 of a mile of public land in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-5451 Filed 3-1-78; 8:45 am]

[4310-84]

[NM 32903]

NEW MEXICO

Application

FEBRUARY 17, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 28 N., R. 11 W.,
Sec. 33, NE¼NW¼.

This pipeline will convey natural gas across 0.069 of a mile of public land in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-5452 Filed 3-1-78; 8:45 am]

[4310-84]

[NM 32899, 32900, 32901, 32902 and 32904]

NEW MEXICO

Application

FEBRUARY 17, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Northwest Pipeline Corp. has applied for five 4½-inch natural gas pipeline rights-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 30 N., R. 14 W.,
Sec. 10, SE¼SE¼
Sec. 14, NW¼NW¼, S½N½ and NE¼SW¼;
Sec. 15, NE¼NE¼.

These pipelines will convey natural gas across 1.731 miles of public land in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-5453 Filed 3-1-78; 8:45 am]

[4310-84]

[NM 32878, 32889]

NEW MEXICO

Applications

FEBRUARY 16, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for two 4½-inch natural gas pipeline rights-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 32 N., R. 11 W.,
Sec. 26, E½SW¼ and SW¼SW¼;
Sec. 29, SE¼.

These pipelines will convey natural gas across 0.383 mile of public lands in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-5454 Filed 3-1-78; 8:45 am]

[4310-84]

[U-37256]

UTAH

Order Providing for Opening of Public Lands

1. In an exchange of lands made under the provision of section 8 of the Act of June 28, 1934, 48 Stat. 1269, 1272, as amended and supplemented, 43 U.S.C. 315g (1964), the following lands have been reconveyed to the United States:

SALT LAKE MERIDIAN, UTAH

T. 4 S., R. 10 W.,
Sec. 16;
Sec. 19, N½;
Sec. 20, N½.

Containing 1280 acres in Tooele County.

2. The mineral rights in Sec. 16 were reserved and are not affected by this order. The mineral rights in Sec. 19, N½ and Sec. 20, N½ were never withdrawn.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands described in paragraph 1 hereof are hereby open to operation of the public land laws. All valid applications received at or prior to April 20, 1978, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. The subject lands are located on Cedar Mountain west of Skull Valley approximately 25 air miles southwest of the town of Tooele, Utah. The soil is shallow and rocky with numerous volcanic rock outcrops. In the past these lands have been used for livestock grazing.

5. Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

PAUL L. HOWARD,
State Director.

FEBRUARY 22, 1978.

[FR Doc. 78-5457 Filed 3-1-78; 8:45 am]

[4310-84]

[U-26131]

UTAH

Order Providing for Opening of Public Lands

1. In an exchange of lands made under the provision of section 8 of the Act of June 28, 1934, 48, Stat. 1269, 1272, as amended and supplemented, 43 U.S.C. 31g (1964), the following lands have been reconveyed to the United States:

SALT LAKE MERIDIAN, UTAH

T. 10 N., R. 15 W.,
Sec. 6, NW¼SWE¼
T. 10 N., R. 16 W.,
Sec. 1, SW¼;
Sec. 11, NE¼;
Sec. 15, E½;
Sec. 21, NW¼NE¼, E½NW¼;
Sec. 27, SW¼;
Secs. 29, 31, 33.
T. 9N., R. 16W.,
Secs. 5, 7.
T. 11 N., R. 13W.,
Secs. 19, 23.

The areas described aggregate 5,418.46 acres in Box Elder County, Utah.

2. The subject land is locate about 20 miles southwest of Park the topography ranges from nearly level to rolling. The soils tend to be highly alkaline. The vegetation is typical of the west desert which is principally a greasewood type associated with some sagebrush, shadscale, annual grasses, and weeds. The economy of this area is based primarily upon livestock. The subject land has no water.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands described in paragraph 1 hereof are hereby open to operation of the public land laws, including the mining laws (Ch. 2 Title 30 U.S.C.) and the mineral leasing laws, excepting T. 10 N. R. 15 W., SLM, sec. 6, NW¼SE¼ containing improvements for the Rosebud Camp facility which is opened to mineral leasing only. All valid applications received at or prior to April 20, 1978, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, Utah State Office, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

PAUL L. HOWARD,
State Director.

FEBRUARY 22, 1978.

[FR Doc. 78-5458 Filed 3-1-78; 8:45 am]

[4310-84]

[Wyoming 62595]

WYOMING

Application

FEBRUARY 21, 1978.

Notice is hereby given that pursuant to section 28 of the Minerals Leasing Act of 1920, as amended (30 U.S.C 185), the Northwest Pipeline Corp. of Salt Lake City, Utah, filed an application to construct a meter station site across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYO.

T. 25 N., R. 113 W.,
Sec. 14, SE¼NE¼.

The meter station site facility will be utilized for efficient operation of the applicant's natural gas pipeline system.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 1869, Highway 187 North, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-5455 Filed 3-1-78; 8:45 am]

[4310-84]

[Wyoming 61874]

WYOMING

Application

FEBRUARY 21, 1978.

Notice is hereby given that pursuant to section 28 of the Minerals Leasing

Act of 1920, as amended (30 U.S.C. 185), Cities Service Gas Co. of Oklahoma City, Okla., filed an application for a right-of-way to construct a compressor station site and a 20-inch pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYO.

T. 14 N., R. 71 W.
Sec. 32.
T. 14 N., R. 72 W.
Sec. 30.
T. 17 N., R. 77 W.
Sec. 12.
T. 18 N., R. 77 W.
Sec. 34.
T. 21 N., R. 81 W.
Secs. 18, 20, 22, and 26.
T. 21 N., R. 82 W.
Secs. 14, 16, and 18.
T. 21 N., R. 83 W.
Secs. 14 and 30.
T. 21 N., R. 84 W.
Secs. 25, 26, 32, and 34.
T. 21 N., R. 85 W.
Secs. 32, 34, and 36.
T. 21 N., R. 86 W.
Secs. 32 and 34.
T. 21 N., R. 87 W.
Secs. 30, 32, and 34.
T. 21 N., R. 88 W.
Secs. 20, 22, and 26.
T. 21 N., R. 89 W.
Secs. 22, 24, 28, and 30.
T. 21 N., R. 90 W.
Sec. 34.

The pipeline will transport natural gas from a point in section 34, T. 21 N., R. 90 W., Sweetwater County, Wyo.; thence in a general southeasterly direction across Wyoming and into Colorado to the town of Merino. The proposed compressor station site will be located in sec. 34, T. 21 N., R. 90 W., Sweetwater County, Wyo., encompassing 21.18 acres.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 670, 1300 Third Street, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-5456 Filed 3-1-78; 8:45 am]

[4310-84]

[W-56482 Amendment]

WYOMING

Application

FEBRUARY 23, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Co. of Colorado Springs, Colo., filed an amendment application to their existing right-of-way grant W-56482 for a right-of-way to construct a 4½-inch pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 22 N., R. 94 W.,
Sec. 32, E½SW¼, W½SE¼, and SE¼SE¼.

The proposed pipeline covered under this amendment to Colorado Interstate Gas Co.'s existing right-of-way W-56482, will transport natural gas from the No. 4 Siberia Ridge No. 11-32 well located in the E½SW¼ of section 32, T. 22 N., R. 94 W., Sweetwater County, and will connect into Colorado Interstate Gas Co.'s existing pipeline located in the NW¼ of section 4, T. 21 N., R. 94 W., Sweetwater County, Wy.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the appliction should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-5487 Filed 3-1-78; 8:45 am]

[4310-84]

[Cheyenne 045214 Amendment]

WYOMING

Application

FEBRUARY 23, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Coastal States Gas Co. of Cody, Wyo., has filed an amended application for a right-of-way to relocate a 6-inch pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 52 N., R. 101 W,
Sec. 33, lot 3 and W½SW¼

The pipeline will transport natural gas from a point in the SW¼, section 33, in a southeasterly direction to an existing line within the SW¼, section 33, T. 52, N., R. 101 W., Park County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 1869, Highway 187 North, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-5485 Filed 3-1-78; 8:45 am]

[4310-70]

National Park Service

COLORADO RIVER MANAGEMENT PLAN, DRAFT ENVIRONMENTAL IMPACT STATEMENT

Meeting

Notice is hereby given that the National Park Service will hold a public

meeting on the draft Colorado River Management Plan and its draft Environmental Impact Statement in Washington, D.C., on Thursday, March 23, 1978.

A portion of this meeting will be open to the public on March 18, 1978, from 9 a.m. to 12:30 p.m. The topic for discussion will be policy.

The remaining sessions of this meeting will be closed to the public pursuant to section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) and 5 U.S.C. 552b(c)(9)(B) because premature disclosure of the information to be discussed would be likely to significantly frustrate implementation of proposed agency action.

The meeting will be held in the Auditorium of the Interior Building, 18th and C Streets, N.W., Washington, D.C. 20240. Copies of the proposed revision III standard concession contract language are available at the same address.

[4410-01]

DEPARTMENT OF JUSTICE

Attorney General

Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6378.

ROBERT M. SIMS,
Administrative Officer, National

Washington, D.C. 20555 and at the Plymouth Public Library, North Street, Plymouth, Mass. 02360.

Information in connection with the

meeting on the draft Colorado River Management Plan and its draft Environmental Impact Statement in Washington, D.C., on Thursday, March 23, 1978.

The meeting will begin at 1:30 p.m., e.s.t., in the auditorium of the Department of the Interior, 18th and C Streets NW., Washington, D.C.

National Park Service personnel will be available at the meeting location at 12:30 p.m., e.s.t. to answer questions or explain the details of the plan during the hour before the meeting begins.

The National Park Service will consult with various Federal, State and local government agencies, individuals and organizations on the proposed Colorado River Management Plan and its draft Environmental Impact Statement. The purpose of this meeting and consultations is to provide for wide citizen participation through which the Service will receive ideas, suggestions and comments from the public.

The public record will remain open until May 1, 1978, during which time written comments on the planning documents will be welcomed, reviewed and considered.

Anyone wishing copies of the draft Colorado River Management Plan and its draft Environmental Impact Statement, additional information on the public meetings or the National Park Service planning process, or those wishing to submit comments on the planning documents may write to the Superintendent, Grand Canyon National Park, P.O. Box 129, Grand Canyon, Ariz. 86023.

Dated: February 27, 1978.

WILLIAM J. WHALEN,
Director,
National Park Service.

[FR Doc. 78-5508 Filed 3-1-78; 8:45 am]

[4310-70]

PROPOSED REVISION III, STANDARD CONCESSSION CONTRACT LANGUAGE

Notice was given in the December 16, 1977, FEDERAL REGISTER, pages 63480 and 63481, that the National Park Service is proposing to change its standard concession contract language and is soliciting written comments from all interested parties on or before February 16, 1978. However, it has been determined that it would be in the best interest of all interested parties and the United States to provide an additional period of time of approximately thirty (30) days from date of this publication, within which to submit written comments. Accordingly, written comments on the proposed revision III, standard concession contract language must be received on or before March 20, 1978, addressed to the Director, National Park Service, Department of the Interior, Washington, D.C. 20240. Copies of the proposed revision III standard concession contract language are available at the same address.

Dated: February 24, 1978.

DAVID J. TOBIN, JR.,
Acting Director,
National Park Service.

[FR Doc. 78-5619 Filed 3-1-78; 8:45 am]

[4310-10]

Office of Hearings and Appeals

[Docket No. M 78-24]

STANSBURY COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Stansbury Coal Co., P.O. Box 2088, Rock Springs, Wyo. 8291, has filed a petition to modify the application of 30 CFR 75.902, low and medium voltage ground check monitor circuits, to its Stansbury mine, located in Sweetwater County, Wyo.

The substance of petitioner's statement is as follows:

1. The modification being requested will only be applicable to the lighting systems installed in the main conveyor and hoist slopes. All other low- and medium-voltage circuits will have failsafe ground check monitoring.

2. Petitioner feels that the modification will provide no less than the same measure of protection afforded to all employees by such standard.

3. Upon an investigation by qualified and competent Federal electrical personnel, or at a public hearing, petitioner will present information relating to the modification of 30 CFR 75.902.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before April 3, 1978. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: February 21, 1978.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

[FR Doc. 78-5488 Filed 3-1-78; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Attorney General

[Order No. 771-78]

CINCINNATI POST AND CINCINNATI ENQUIRER

Order for Hearing on Application for Approval of Joint Operating Agreement

The Newspaper Preservation Act, 15 U.S.C. 1801 et seq., requires the Attorney General's prior written approval of any new joint newspaper operating arrangement if the arrangement is to qualify for the limited antitrust exemption afforded by the Act.

Pursuant to that Act, and the regulations governing the filing and approval of joint newspaper operating arrangements (28 CFR Part 48), on September 28, 1977, the Cincinnati Post and the Cincinnati Enquirer filed an Application for Approval of a Joint Operating Arrangement.

Section 1803(b) of Title 15, United States Code, provides that approval cannot be given unless the Attorney General determines that not more than one of the newspapers involved in the arrangement is a publication other than a failing newspaper and that approval of the arrangement would effectuate the policy and purpose of the Act. This determination must be based on the record, consisting of all materials filed in accordance with 28 CFR Part 48.

Based upon a review of the entire record, I am of the opinion that the required determination cannot presently be made. Pursuant to 28 CFR 48.8(c), I therefore order that a hearing be held in accordance with the provisions of 28 CFR 48.10.

Dated: February 22, 1978.

GRIFFIN B. BELL,
Attorney General.

[FR Doc. 78-5459 Filed 3-1-78; 8:45 am]

[7536-01]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

SPECIAL PROJECTS ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Special Projects Advisory Panel (Folk Arts) will take place March 17, 1978, from 9 a.m. to 9 p.m.; March 18, 1978, from 9 a.m. to 5:30 p.m.; and March 19, 1978, from 9 a.m. to 1 p.m., in Room 1422, 2401 E Street NW., Washington, D.C. 20506.

A portion of this meeting will be open to the public on March 18, 1978, from 9 a.m. to 12:30 p.m. The topic for discussion will be policy.

The remaining sessions of this meeting on March 17, 1978, from 9 a.m. to 9 p.m.; March 18, 1978, from 12:30 p.m. to 5:30 p.m.; and March 19, 1978, from 9 a.m. to 1 p.m. are for the purpose of Panel review, discussion, evalution, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amend, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 19-7, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(B) of section 552(b) of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6378.

Dated: February 21, 1978.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc. 78-5461 Filed 3-1-78; 8:45 am]

[7536-01]

VISUAL ARTS ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Visual Arts in the Performing Arts) will take place March 20, 1978, from 9:30 a.m.-5:30 p.m., in Room 1115, 2401 E Street, Northwest, Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and 9(B) of section 552 of title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6378.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

FEBRUARY 21, 1978.

[FR Doc. 78-5460 Filed 3-1-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-471 and 50-471A]

Receipt of Additional Antitrust Information; Time for Submission of Views on Antitrust Matters

Boston Edison Co., et al.,[1] pursuant to section 103 of the Atomic Energy Act of 1954, as amended, filed on July 25, 1977, and December 9, 1977, information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. This information adds Massachusetts Municipal Wholesale Electric Co. as an owner of the Pilgrim Nuclear Generating Station Unit 2.

The information was filed by Boston Edison Co., et al.[1] in connection with their application for a construction permit and operating license for the Pilgrim Nuclear Generating Station, Unit No. 2, a pressurized water reactor. The site for this plant is located near the town of Plymouth, in Plymouth County, Mass.

The original antitrust portion of the application was submitted on December 21, 1973 (originally submitted for Units 2 and 3; Unit 3 was subsequently dropped from the application) and Notice of Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicants' Environmental Report; Time for Submission of Views on Antitrust Matters was published in the FEDERAL REGISTER on January 14, 1974 (39 FR 1786). The Notice of Hearing was also published in the FEDERAL REGISTER on January 14, 1974 (39 FR 1786).

Copies of the above stated documents are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Plymouth Public Library, North Street, Plymouth, Mass. 02360.

Information in connection with the antitrust review of this application can be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

Any person who wishes to have his views on the antitrust matters with respect to the Massachusetts Municipal Wholesale Electric Co. presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission on or before April 10, 1978.

Dated at Bethesda, Md., this 6th day of February 1978.

For the Nuclear Regulatory Commission.

OLAN D. PARR,
Chief, Light Water Reactors Branch No. 3, Division of Project Management.

[FR Doc. 78-3854 Filed 2-8-78; 8:45 am]

[7590-01]

[Docket No. 50-471]

BOSTON EDISON COMPANY ET AL. (PILGRIM NUCLEAR GENERATING STATION UNIT 2)

Order

FEBRUARY 24, 1978.

On Thursday, March 9, 1978, commencing at 10 a.m. this Board will hear oral argument on the appeals from the Licensing Board's decision of November 30, 1977 (LBP-77-66, 6 NRC 834), denying a limited work authorization. The argument will be held in the Commission's public hearing room on the 5th floor, East-West Towers, 4350 East-West Highway, Bethesda, Md.

Appellants, the applicants and the staff, are allowed one hour for their presentation, to be divided equally between them unless they agree on some other division; a portion of this time may be reserved for rebuttal. Appellee, Commonwealth of Massachusetts, the only party to file a brief opposing the appeal, is allowed 1 hour for its response. Each party is instructed to provide the Secretary of this Board promptly, by letter, the name of counsel who will present argument in its behalf.

It is so ordered.

For the Appeal Board.

MARGARET E. DU FLO,
Secretary.

[FR Doc. 78 5468 Filed 3-1-78; 8:45 am]

[1] Central Maine Power Co., Central Vermont Public Service Corp., Fitchburg Gas & Electric Light Co., Montaup Electric Co., New Bedford Gas & Edison Light Co., New England Power Co., Public Service Co. of New Hampshire, The United Illuminating Co., Town of Hudson Light & Power Department, Burlington Electric Department, Vermont Electric Cooperative, Inc., Taunton Municipal Lighting Plant Commission, and Massachusetts Municipal Wholesale Electric Co.

[7590-01]

[Docket No. 50-70; Operating License No. TR-1]

GENERAL ELECTRIC CO.; (VALLECITOS NUCLEAR CENTER)

Order Extending Time for Response to Show Cause Order

By Order to Show Cause dated January 27, 1978, the Director of Nuclear Reactor Regulation required the General Electric Co. to show cause why the Vallecitos Nuclear Center should not be shut down pending completion of certain modifications to the facility. The Order required that the General Electric Co. file its response to the Order within 30 days of the date of the Order.

By letter dated February 23, 1978, the General Electric Co. requested an extension of time to March 31, 1978, to file its response to the Order. The request states that the extension is necessary to allow adequate time for the preparation of the response.

Good cause having been shown, it is hereby ordered that the General Electric Co. shall file its response to the Order to Show Cause on or before March 31, 1978.

Dated at Bethesda, Md., this 24th day of February 1978.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 78-5467 Filed 3-1-78; 8:45 am]

[7590-01]

[Docket No. 50-219]

JERSEY CENTRAL POWER & LIGHT CO.

Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 37 to Facility Operating License No. DPR-16, issued to Jersey Central Power & Light Co. (the licensee), which revised technical specifications for operation of the Oyster Creek nuclear generating station located in Ocean County, New Jersey. The amendment is effective as of its date of issuance.

The amendment changes the Technical Specifications to add two snubbers to the table, add location numbers, to correct identification numbers, and to make other minor changes relating to snubbers to assure that snubbers are operable.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendment dated January 19, 1978, (2) Amendment No. 37 to License No. DPR-16, and (3) the Commission's related letter and Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Ocean County Library, Brick Township Branch, 401 Chambers Bridge Road, Brick Town, New Jersey 08723. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 24th day of February 1978.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 78-5466 Filed 3-1-78; 8:45 am]

[7590-01]

[Docket No. 50-155]

CONSUMERS POWER CO.

Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 31 to Facility Operating License No. DPR-6, issued to Consumers Power Co. (the licensee), which revised technical specifications for operation of the Big Rock Point nuclear generating station located in Charlevoix County, Michigan. The amendment is effective as of its date of issuance.

The amendment changes the Technical Specifications to add a new section 3.7.C.3 which requires that the reactor be shutdown if the number of operable snubbers is less than 90 percent of the total number of snubbers of each type.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendment dated January 19, 1978, (2) Amendment No. 31 to License No. DPR-6, and (3) the Commission's related letter and Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 24th day of February 1978.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 78-5465 Filed 3-1-78; 8:45 am]

guide series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regula-

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[4910-58]

NATIONAL TRANSPORTATION SAFETY BOARD

[7590-01]

[Docket No. 50-70; Operating License No. TR-1]

GENERAL ELECTRIC CO.; (VALLECITOS NUCLEAR CENTER—GENERAL ELECTRIC TEST REACTOR)

Conference

On October 24, 1977, the Acting Director, Office of Nuclear Reactor Regulation, issued an order suspending activity at the test reactor at the licensee's Vallecitos Nuclear Center. That order directed the licensee to show cause why the suspension should not be continued, and invited interested persons to request a hearing. On November 14, 1977, the Friends of the Earth and Congressman Ronald Dellums requested a hearing and indicated their interest in participating in such a hearing. Several other persons have also expressed some interest in this proceeding. By its memorandum and order dated February 13, 1977, the Nuclear Regulatory Commission has delegated to this Licensing Board the authority to rule on requests for a hearing and to conduct any hearings which may ensue.

All persons desiring to participate in any show cause hearing are hereby invited to appear at a conference to be held by the Board beginning at 9 a.m. on Thursday, March 16, 1978, at the U.S. Customs House, Room No. 503, 555 Battery Street, San Francisco, Calif. The Board will particularly consider all requests for hearing at that time. If necessary, the conference will continue on Friday, March 17, 1978.

So ordered.

Dated at Bethesda, Md., this 23rd day of February 1978.

The Atomic Safety and Licensing Board.

EDWARD LUTON,
Chairman.

[FR Doc. 78-5469 Filed 3-1-78; 8:45 am]

[7590-01]

[Docket No. 50-335]

FLORIDA POWER & LIGHT CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued amendment No. 21 to facility operating license No. DPR-67, issued to Florida Power & Light Co. (the licensee), which revised the license and its appended technical specifications for operation of the St. Lucie plant unit No. 1 (the facility) located in St. Lucie County, Fla. The amendment is effective as of its date of issuance.

The amendment changed the technical specification table for shock suppressors (snubbers) to add two snubbers to the table, add location numbers, to correct identification numbers, and to make other minor changes relating to snubbers to assure that snubbers subject to surveillance are accurately identified. These changes do not alter existing surveillance requirements for snubbers.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission had determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated May 20, 1976, (2) amendment No. 21 to license No. DPR-67, and (3) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Fla. 33450.

A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 17th day of February 1978

For the Nuclear Regulatory Commission.

MARSHALL GROTENHUIS,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 78-5470 Filed 3-1-78; 8:45 am]

[7590-01]

[Docket No. 50-219]

JERSEY CENTRAL POWER & LIGHT CO.

Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued amendment No. 28 to provisional operating license No. DPR-16, issued to Jersey Central Power & Light Co. (the licensee), which revised technical specifications for operation of the Oyster Creek nuclear generating station (the facility) located in Ocean County, N.J. The amendment is effective as of its date of issuance.

The amendment adds a definition for surveillance requirements to the technical specifications.

The application, as amended, for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated August 6, 1976, and supplement thereto dated September 23, 1977, (2) amendment No. 28 to license No. DPR-16, and (3) the Commission's related evaluation that is included in the concurrently issued letter to the licensee. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Ocean County Library, Brick Township Branch, 401 Chambers Bridge Road, Brick Town, N.J. 08723. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 22nd day of February 1978.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 78-5471 Filed 3-1-78; 8:45 am]

[7590-01]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its regulatory guide series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory guide 1.129, revision 1, "Maintenance, Testing, and Replacement of Large Lead Storage Batteries for Nuclear Power Plants," describes a method acceptable to the NRC staff for performing maintenance, testing, and replacement of large lead storage batteries for all types of nuclear powerplants. This guide endorses IEEE standard 450-1975, "IEEE Recommended Practice for Maintenance, Testing and Replacement of Large Lead Storage Batteries for Generating Stations and Substations." Revision 1 of the guide reflects public comment and additional staff review.

Comments and suggestions in connection with: (1) Items for inclusion in guides currently being developed, or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be make in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Md., this 21st day of February 1978.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc. 78-5472 Filed 3-1-78; 8:45 am]

[7590-01]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.91, Revision 1, "Evaluations of Explosions Postulated to Occur on Transportation Routes Near Nuclear Power Plants," describes methods acceptable to the NRC staff for determining whether risk of damage due to an explosion on a nearby transportation route is sufficiently high to warrant a detailed investigation. Acceptable methods for evaluating structural adequacy when an investigation is warranted are also described. This guide was revised as a result of additional staff review.

Comments and suggestions in connection with: (1) items for inclusion in guides currently being developed, or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 1.91, Revision 1, will however, be particularly useful in evaluating the need for an early revision if received by April 28, 1978.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Md., this 22d day of February 1978.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc. 78-5473 Filed 3-1-78; 8:45 am]

[4910-58]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 78-9]

ACCIDENT REPORTS; SAFETY RECOMMENDATIONS AND RESPONSES

Availability and Receipt

Marine Accident Report: U.S. Tankship "SS Marine Floridian" Collision with Benjamin Harrison Bridge, Hopewell, Va., February 24, 1977.—According to the National Transportation Safety Board, the probable cause of the accident was inadequate maintenance and inspection of a manual transfer switch in the electrical circuit which opened by the force of gravity and thus interrupted electrical power to the steering motor when the vessel was in a position from which it could not be stopped or steering gear power restored before it collided with the bridge.

Contributing to the cause of the collision was the operation of the vessel at a speed higher than necessary for a safe passage through the bridge opening, failure of the steering alarm to function, and the inherent length of time necessary to activate the alternate steering engine.

Joint investigation by the U.S. Coast Guard and the Safety Board showed that the manually operated electrical switch—a vertically mounted, three-bladed "knife" switch—had opened by itself under gravity and vibration. Its failure in service occurred only 5 months after Coast Guard and American Bureau of Shipping inspections, the Board noted.

When the 25,000-ton tanker's steering system malfunctioned, the vessel veered to the left of the channel and the raised center span on the bridge, and collided with the northern tower span. The northern end of the span dropped across the main deck just forward of the aft-located deckhouse. Ten days later the span, including the northern main tower of the bridge, collapsed onto the vessel and into the river. Total damage to the bridge and the vessel was estimated to be $8,500,000.

As a result of investigation into the collision, the Safety Board last August 4 directed seven safety recommendations to the Coast Guard seeking improved steering system safety aboard large vessels. (For recommendations M-77-8 through 14, see 42 FR 40791, August 11, 1977.) Following approval of the formal investigation report on January 26, the Board considered that additional safety actions would be necessary. Accordingly, on February 14, the Board recommended that the U.S. Coast Guard—

Expedite the submission of the legislative proposal and urge Congress to enact legisla-

tion, or authorize the Coast Guard to undertake rulemaking, to establish in the navigation rules for inland waters a requirement for vessels to proceed at a safe speed identical to the requirement established by Rule 6

determined that the probable cause of the accident was the failure of the engineer of train WA-4 to fulfill his responsibility to properly control the speed of the train as required by the

Railroad/Highway Accident Report: Collision of an Amtrak/Atchison, Topeka and Santa Fe Railway Train and a Tractor-Cargo Tank Semitrailer, Marland, Okla., December 15, 1976,

aboard were rescued by a fishing boat. Later, the pilot stated that after the baggage door opened, it remained open, and he could not maintain control of the airplane.

Coast Guard's letter of January 16 reports on evaluation of the adequacy of 33 CFR Parts 154 through 156 since the original rule was published on December 21, 1972. As a result of pollu-

portation safety. This document announces a public hearing to be held to inquire into the cause and prevention to derailments and the safe carriage of hazardous materials and to aid the transportation community including

tion, or authorize the Coast Guard to undertake rulemaking, to establish in the navigation rules for inland waters a requirement for vessels to proceed at a safe speed identical to the requirement established by Rule 6 of the newly adopted international convention for vessels on the high seas which became effective on July 15, 1977. (Class II, Priority Action) (M-78-1)

Conduct a formal study in coordination with the Federal Maritime Administration and the shipping industry to determine a standard array of operational and audio data that should be recorded automatically with a view to establishing a requirement for the installation and operation of suitable equipment in U.S. vessels over 1,600 gross tons built after 1965, and to submitting an initiative to Inter-Governmental Maritime Consultative Organization for the adoption of a similar international requirement. (Class III, Long Term Action) (M-78-2)

In a concurrent action on February 14, the Safety Board recommended that the Federal Highway Administration—

Study and publish a report on the completeness and effectiveness of its bridge classification/inspection program under 23 U.S.C. 144, 23 CFR Part 650, and the American Association of State Highway and Transportation Officials' "Manual for Maintenance Inspection of Bridges" Part 2.5, especially as to bridges over navigable channels, for their ability to sustain pier impact at water level and for the design of the traffic control system on the bridges. (Class II, Priority Action) (H-78-1)

Work with the U.S. Coast Guard to develop specifications for the design of dolphins, fenders, and other energy absorption and/or vessel redirection devices for the protection of both bridge and vessel during an accidental impact. Issue these design specifications along with guidelines and requirements for the placement of dolphins, fenders, and energy absorption and redirection devices. (Class III, Long Term Action) (H-78-2)

Bring together in one publication all guidelines for traffic control at movable bridges, including signs, signals, pavement markings, and restraint devices. (Class II, Priority Action) (H-78-3)

Also, on Feburary 14, the Safety Board recommended that the Commonwealth of Virginia—

In rebuilding the Benjamin Harrison Bridge, comply with the Federal Highway Administration guidelines in providing and locating warning signals and gates and all other required traffic control devices. (Class II, Priority Action) (H-78-5)

Railroad Accident Report: Rear End Collision of two ConRail Freight Trains, Stemmers Run, Baltimore, Md., June 12, 1977.—Board investigation indicates that following collision of ConRail train WA-4 with the rear of ConRail freight train WA-6, a fire began in the lead locomotive unit of train WA-4 and in the caboose of train WA-6. Two crewmembers in each train were injured and damage was estimated at $300,000.

In its formal investigation report approved January 26, the Safety Board determined that the probable cause of the accident was the failure of the engineer of train WA-4 to fulfill his responsibility to properly control the speed of the train as required by the signal indications to insure that it could be stopped before passing signal 880. Contributing to the severity of the accident was the manner in which the engineer of train WA-4 applied and released the brakes approaching the accident point and the failure of the engineer of train WA-6 to communicate with the tower and train WA-4 when train WA-6 stopped.

As a result of its investigation of this accident, the Safety Board on February 15 recommended that the Consolidated Rail Corporation—

Insure that ConRail freight trains and locomotives receive proper airbrake tests. (R-78-1)

Equip all mainline freight trains with radio capable of communicating between trains, between trains and base stations, and between both ends of the same train. (R-78-2)

Supplement Rule 102 by requiring the crewmembers of all trains to notify by radio the appropriate authority (dispatcher, etc.) immediately when a train stops under unpredicted circumstances and require that authority to inform all trains that are approaching the stopped train. (R-78-3)

Determine whether engineers on ConRail freight trains fully understand and use train brakes properly. (R-78-4)

Also on February 15, the Board recommended that the Federal Railroad Administration—

Analyze the data relating to the role of radio in train accidents and report its findings. (R-78-5)

Unless refuted by the above analysis, require railroads to install radios where appropriate on trains and to maintain them in operating condition, unless all personnel involved are notified to the contrary by appropriate railroad procedures. (R-78-6)

Each of the above recommendations is designated "Class II" for priority action

NOTE.—Copies of the above-referenced marine and railroad accident reports are now being processed for release to the public. Announcement of their availability will be made in the FEDERAL REGISTER in the near future.

Aircraft Accident Report: Commonwealth of Pennsylvania, Piper PA-31T, Bressler, Pa., February 24, 1977 (Report No. NTSB-AAR-78-1).—The Safety Board announced the release of copies of its investigation report which claimed the lives of nine people—six passengers, including Pennsylvania Secretary of Transportation, two pilots, and a resident of the home which was destroyed during the crash. The Board found that the Piper's flightcrew failed to insure that the aircraft was properly loaded and that the center of gravity was within certificated limits. (See also 43 FR 2780, January 19, 1978.)

Railroad/Highway Accident Report: Collision of an Amtrak/Atchison, Topeka and Santa Fe Railway Train and a Tractor-Cargo Tank Semitrailer, Marland, Okla., December 15, 1976, (Report No. NTSB-RHR-77-3).—Also made available to the public last week were printed copies of the investigation report.

Aviation Safety Recommendation A-78-3.—During investigation of several air carrier accidents, the Safety Board has identified wind shears and their associated hazards as causal factors. These hazards are usually encountered during takeoff or approach. Although wind shear has been a recognized phenomenon in the atmosphere, it was not fully recognized as a hazard to flight safety until recent sophisticated investigative techniques enabled the Board to determine more accurately the extent to which variable winds may degrade airplane capabilities at low altitude. Significant efforts by Government and industry groups have been launched to minimize such hazards.

The Safety Board has emphasized in accident reports, safety recommendations, and other correspondence that flight into a hazardous environment should be avoided and commends the Federal Aviation Administration for its efforts to develop systems to detect and measure wind shear, which should greatly assist pilots in avoiding such hazards.

In spite of these efforts, flightcrews continue to be confronted with unanticipated hazardous winds, and the Safety Board believes that every means must be afforded them to assure safe passage through these atmospheric variations. Accordingly, on February 16 the Safety Board recommended that the Federal Aviation Administration—

Establish a joint Government-industry committee to develop flight techniques for coping with inadvertent encounters with severe wind shears at low altitude. (Class II, Priority Action) (A-78-3)

Aviation Safety Recommendation A-78-4.—Last September 24, a Piper PA-31 Navajo crashed shortly after takeoff from Lake Minchumina, Alaska, when the forward baggage door popped open. Investigation indicated that cargo had been loaded into the forward baggage compartment just before this flight. The pilot indicated that he had latched and locked this baggage door during the preflight inspection. Takeoff was made on a relatively rough gravel-dirt surface and some turbulence was encountered during climbout. The door came open shortly thereafter. The pilot attempted to return immediately to the airport but the airplane impacted Lake Minchumina before he could do so. The pilot and the five passengers aboard were rescued by a fishing boat. Later, the pilot stated that after the baggage door opened, it remained open, and he could not maintain control of the airplane.

As a result of its investigation, the Board believes that this baggage door was latched and locked during the preflight inspection. However, the door apparently became unlocked and then opened sometime during the takeoff or climb.

In view of the potential hazards created by in-flight openings of these baggage doors—adverse aerodynamic effects on airplane controllability and ejection of cargo into propellers or adjacent structure—the Safety Board recommends that the Federal Aviation Administration—

Issue an Airworthiness Directive applicable to Piper Cheyenne, Navajo, and Aztec airplanes to require a periodic inspection of the forward baggage door locks, and to establish an inspection procedure and repair or replacement requirements. The inspection should insure that the baggage door lock tang will not disengage from the door handle, and that the latching load imposed during handle operation is a specified minimum consistent with dynamic loads which can be encountered during all ground and flight operations. (Class II, Priority Action) (A-78-4)

RESPONSES TO SAFETY RECOMMENDATIONS

Intermodal: I-77-1.—Letter of January 25 from the Federal Highway Administration is an update on the agency's implementation of this recommendation which asked for development of guidelines for local and State agencies to use in designating and periodically reviewing routes for the transportation of hazardous materials as a means of reducing injury and damage from accidents involving hazardous materials in their jurisdictions.

FHWA reports that a public hearing was held by the U.S. Department of Transportation last October 20 and that a decision on the matter of an inconsistency ruling between the New York City Health Code and the Hazardous Materials Transportation Act cannot be made for at least 6 weeks. Until such a decision is reached and all legal issues resolved, the Bureau of Motor Carrier Safety will hold in abeyance further unilateral efforts to develop guidelines for specific route designations as contained in this recommendation.

Marine: M-75-11.—This recommendation resulting from investigation into the explosion and fire on board the unmanned tank barge *Ocean 80* at Carteret, N.J., on October 25, 1972, asked Coast Guard, for at least 1 year, to thoroughly investigate all oil pollution incidents involving cargo transfer spills to evaluate the adequacy of 33 CFR Parts 154 through 156.

Coast Guard's letter of January 16 reports on evaluation of the adequacy of 33 CFR Parts 154 through 156 since the original rule was published on December 21, 1972. As a result of pollution investigations and experience in enforcing these regulations, revisions were proposed last June 27 (42 FR 32670). The final rule is planned for late spring 1978. With the publication of EPA's list of designated hazardous substances imminent, planning is underway to revise these regulations to govern hazardous substance transfers as well as oil transfers.

Marine: M-76-16 thru 19.—In answer to recommendations resulting from investigation of the sinking of the *SS Silver Dove* on April 2, 1973, U.S. Coast Guard's letter of January 19 provides a copy of Navigation and Inspection Circular No. 4-77 which gives guidance concerning the danger of shifting weights or counter flooding when a vessel experiences a permanent heel due to a cargo shift.

NOTE.—The above notice summarizes Safety board documents publicly released last week and recommendation response letters recently received.

The Board's safety recommendation letters in their entirety are available to the general public; single copies are obtainable without charge. Copies of the full text of responses to recommendations may be obtained at a cost of $4 for service and 10¢ per page for reproduction.

Single copies of accident reports may be obtained from the Safety Board without charge; multiple copies may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

All requests to the Board for copies must be in writing, identified by the report or recommendation number and the date of publication of this notice in the FEDERAL REGISTER. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

BARBARA BUSH,
Acting Federal Register Liaison Officer.

FEBRUARY 27, 1978.

[FR Doc. 78-5554 Filed 3-1-78; 8:45 am]

[4910-58]

DERAILMENTS AND CARRIAGE OF HAZARDOUS MATERIALS

Independent Safety Board Act of 1974 En Banc Public Hearing

AGENCY: National Transportation Safety Board.

ACTION: Public hearing.

SUMMARY: The Independent Safety Board Act of 1974 confers upon the Board the power to conduct public inquiries into matters pertinent to transportation safety. This document announces a public hearing to be held to inquire into the cause and prevention to derailments and the safe carriage of hazardous materials and to aid the transportation community including Federal, State, and local government agencies and persons engaged in the transportation of people or property in commerce. This document sets forth areas of inquiry the agency wishes addressed in written and oral submissions.

DATES: Hearing April 4, 5, and 6, 1978, at 9 a.m.; Notification of Intent to Speak due on or before March 13, 1978; written statements due on or before March 20, 1978.

ADDRESSES: Hearing Location: Federal Office Building 10-A; 800 Independence Avenue SW, Washington, D.C. 20594: Send written statements to Deputy Director, PP-2, Bureau of Plans and Programs, National Transportation Safety Board, Washington, D.C. 20594.

FOR FURTHER INFORMATION CONTACT:

Mr. Barry M. Sweedler, Deputy Director, Bureau of Plans and Programs. National Transportation Safety Board, Washington, D.C. 20594, phone 202-472-6164.

Mr. Bill Gossard, Transportation Safety Specialist, Government Liaison, Bureau of Plans and Programs, National Transportation Safety Board, Washington, D.C. 20594, phone 202-472-6151.

SUPPLEMENTARY INFORMATION: On January 3, 1975, the President signed into law the Transportation Safety Act of 1974 (Pub. L. 93-633). Title III of that Act is the Independent Safety Board Act of 1974 ("the Act"). The Act confers upon the Board the power to conduct public inquiries into matters pertinent to transportation safety. Therefore, a public hearing is to be held to secure data and information with respect to railroad derailments and the carriage of hazardous materials. This public hearing will assess the efforts and the record of Federal, State, and local government entities, the industry, shippers, suppliers, and others in curtailing the number of railroad derailments and mitigating the risk of hazardous materials release.

Notice is hereby given that a hearing will be held beore an "en banc" sitting of the Board in the Federal Office Building 10-A, 800 Independence Avenue SW, Washington, D.C., on April 4-6, 1978. The proceedings will commence at 9 a.m. on subject dates and will consist of presentations of statements in oral and written form and questioning by the Board. Interested persons are invited to submit written comments regardless of

whether or not they intend to participate in the hearing.

Any person desiring to submit written comments, give oral statement, or otherwise participate in the proceedings should notify the Deputy Director of the Bureau of Plans and Programs by telephone 202-472-6164, on or before March 13, 1978. Four copies of the statement must be filed with the Deputy Director by March 27, 1978. The written statement will indicate the titled subject, length of time requested for oral presentation, the text of the areas of concern on which the witness wishes to give testimony, and the names and identifications of witnesses who propose to appear. Copies of all written submissions will be available for public inspection and copying upon request in accordance with the agency's rules regarding availability of information.

To aid persons in preparing written comments and oral statements, the objectives of the hearing and general areas of inquiry follow:

OBJECTIVES OF THE HEARING

The objectives of the public hearing are:

1. To examine the effects of railroad derailments involving the carriage of hazardous materials;

2. To obtain adequate information to identify obstacles which hinder improvements to rail safety;

3. To evaluate various proposals for elimination of problems identified; and

4. To assist the Board in determining the most productive solutions for reversing the increasing derailment trend and minimizing losses from hazardous materials release.

AREAS OF INQUIRY

The areas of inquiry are:

1. Federal regulatory policies that affect the derailment trend and safer carriage of hazardous materials;

2. Indentification of obstacles to the reduction of derailments;

3. Proposed solutions to reverse the derailment trend;

4. Identification of obstacles for minimizing hazardous materials release;

5. Proposed methods to minimize the effects of hazardous materials release; and

6. Proposed Federal regulatory actions to reverse the derailment trend and minimize hazardous materials release.

KAY BAILEY,
Acting Chairman.

FEBRUARY 27, 1978.

[FR Doc. 78-5555 Filed 3-1-78; 8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on February 21, 1978, (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

NATIONAL SCIENCE FOUNDATION

Survey of State Agency Research and Development, RD-1 and 2, single time, State Government agencies, Laverine V. Collins, Ellett, C. A. 395-3214.

Publishing Policies and Practices Survey, single time sample of editors and publishers of scientific journals, Laverne V. Collins, 395-3214, Office of Federal Statistical Policy and Standard.

Activities of Sciences and Engineering Faculty in Universities and 4-Year Colleges, single time, science and engineering faculty in 4-year colleges and universities, Laverne V. Collins, 395-3214.

SMALL BUSINESS ADMINISTRATION

Small Business Development Center Program Evaluation, single time, business firms, Economics and General Government Division, Reese B. F., 395-3451.

NATIONAL SCIENCE FOUNDATION

Survey of Local Government Research and Development, RD-4, 4A and 4, single time, 2,000 largest local goverments, Laverne V. Collins, Ellett, C. A. 395-3214.

DEPARTMENT OF COMMERCE

Bureau of Census:

Agriculture Questionnaire, Listing Sheet, single time, farms, Ellett, C. A., 395-6132.

Agriculture Questionnaire, Listing Page, 78-A1(PR), 78-A3(PR), single time, farms, Ellett, C. A. 395-6132, Office of Federal Statistical Policy and Standard.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration (Medicare), medicare second surgical opinion demonstration projects, HCFA-36T, 37T and 38T, on occasion, 7,750 requesters of second surgical opinions, Human Resources Divsion, Richard Eisinger, 395-3532.

REVISIONS

DEPARTMENT OF STATE (EXCLUDING AID AND ACTION)

Application for Confidential Verification of birth, DSP-16, on occasion, Registrar of Vital Statistics Office, 1,000 responses, 100 hours, Marsha Traynham, 395-3773.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration:

1978 Survey of Widows Without Benefits, SSA-3584, single time widows, 3,000 responses, 1,000 hours, Office of Federal Statistical Policy and Standard, 673-7959.

Report of Continuing Disability Interview, SSA-454, on occasion, persons entitled to disability benefits, 300,000 responses, 75,000 hours, Caywood, D. P., 395-3443.

EXTENSIONS

DEPARTMENT OF ENERGY

National Survey of Compensation Paid S7E's Engaged in Research and Development, annually, R. & D. establishments, 325 responses, 4,190 hours, Laverne V. Collins, 395-3214.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control, Trade Name Request Form for NOHS, CDC NIOSH 09, on occasion, chemical manufacturers, 20,000 responses, 5,000 hours, Ellett, C. A., 395-6132.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service:

Crewmans Landing Permit, I-95A, on occasion, alien crewman, 150,000 responses, 25,000 hours, Marsha Traynham, 395-3773.

Petition to Classify Status of Alien Relative for Issuance of Immigrant Visa, I-130, on occasion, U.S. citizen, permanent resident, 200,000 responses, 100,000 hours, Marsha Traynham, 395-3773.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-5578 Filed 3-1-78; 8:45 am]

[3110-01]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on February 24, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

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Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the clearance office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

U.S. INTERNATIONAL TRADE COMMISSION

Purchasers' questionnaire—carbon steel plate, single-time, 200 purchasers of carbon steel plate, C. Louis Kincannon, 395-3211.

DEPARTMENT OF COMMERCE

Bureau of Census, Evaluation of the 1977 Commodity Transportation, Survey, single-time, 400 subsamples of the 1977 CTS, Strasser, A., Office of Federal Statistical Policy and Standard, 395-6132.

DEPARTMENT OF DEFENSE

Department of the Navy, U.S. Navy RZ/VET paid mixed media test/attitude and awareness survey, single-time, 1200 U.S. Navy Veterans Ages 25-34, National Security Division, Raynsford, R., 395-4734.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management, Nationwide Pipeline Inventory, single-time, pipeline companies, Ellett, C. A., 395-6133.

REVISIONS

VETERANS' ADMINISTRATION

Comprehensive Evaluation of Health Services: Survey of Veterans' Opinions, 10-1465 A&B, on occasion, VA patients, 7,500 responses, 1,875 hours, Richard Eisinger, Caywood, D. P., 395-3214.

Veterans Application for work-study allowance, 20-8691, on occasion, Veterans, 50,000 responses, 12,500 hours, Caywood, D. P., 395-3443.

Income Statement for Parent Claiming Dependency and Indemnity Compensation, 21-41790, on occasion, Veteran's parent, 12,000 responses, 6,000 hours, Caywood, D. P., 395-3443.

DEPARTMENT OF AGRICULTURE

Economics, Statistics, and Cooperatives Service-Statistics, Hatchery and Broiler Chick Placement Survey, Weekly, Chicken Hatcheries, 19,608 responses, 3,922 hours, Ellett, C. A., 395-6132. Office of Federal Statistical Policy and Standard.

DEPARTMENT OF AGRICULTURE

Economics, statistics, and cooperatives service-statistics, a study of questionnaire and interview effects, single time, cattle and hog farmers, 3,600 responses, 908 hours, Ellett, C. A., 395-6132, Office of Federal statistical policy and standard.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health care financing administration (medicare), RACC long term care survey, HCFA-19T, single time, hospital administration. director of nursing, admitting phys., 150 responses, 75 hours, Richard Eisinger, 395-3214, Office of Federal statistical policy and standard.

Food and drug administration, Quick response surveys—protein diet, annually, Woman of ages 25-44 living in telephone households, Richard Eisenger, 395-3214, Office of Federal statistical policy and standard.

EXTENSIONS

SMALL BUSINESS ADMINISTRATION

Export information survey, on occasion, Primarily small business manufacturers, 2,700 responses 675 hours, Lowry, R.L., 395-3772.

DEPARTMENT OF AGRICULTURE

Rural electrification administration, construction inventory—for labor and material contract, REA 254, On occasion, REA Electric borrowers, 200 responses 1,600 hours, Ellett, C.A., 395-6132.

DEPARTMENT OF COMMERCE

Bureau of census, Green coffee stocks and roastings, BUS-903S, Quarterly, Coffee wholesalers and roasters, 800 responses 160 hours, Ellett, C.A., 395-6132, Office of Federal statistical policy and standard.

DEPARTMENT OF DEFENSE

Department of the Air Force, Contract progress schedule and contract progress report (construction), AF 3064, Weekly, Defense contractors, 70,000 responses 192,000 hours, Marsha Traynham, 395-3773.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-5660 Filed 3-1-78; 8:45 am]

[3190-01]

OFFICE OF THE SPECIAL REPRE- SENTATIVE FOR TRADE NEGOTIATIONS

NON-RUBBER FOOTWEAR

Letter to the Commissioner

The following letter, concerning administration of the orderly marketing agreement with the Republic of Korea on non-rubber footwear, has been sent to the Commissioner of Customs:

HON. ROBERT CHASEN,
Commissioner, U.S. Customs Service,
Department of the Treasury,
Washington, D.C. 20229.

FEBRUARY 22, 1978.

DEAR MR. COMMISSIONER: The Government of the Republic of Korea has requested that the restraint level applicable to category k2 of the U.S.-Korean orderly marketing agreement on non-rubber footwear (corresponding to category No. 923.94 of the Tariff Schedules of the United States) be increased by 15 percent. The quantity by which the K2 restraint level is increased is to be subtracted from the K1 (TSUS No. 923.93) restraint level. Such a request, and U.S. compliance with it, is in accordance with the terms of the orderly marketing agreement.

Accordingly, pursuant to operative paragraph (6) of Proclamation No. 4510, of June 22, 1977, you are hereby requested, for the current restraint year, to increase the restraint level applicable to nonrubber footwear imports entering under TSUS item No. 923.94 by 15 percent, and to decrease the restraint level applicable to such imports entering under TSUS item No. 923.93 by the same amount.

This letter will be published in the FEDERAL REGISTER and the action will become effective on the first working day after publication.

Sincerely,

ROBERT S. STRAUSS.

RICHARD RIVERS,
General Counsel.

[FR Doc. 78-5668 Filed 3-1-78; 8:45 am]

[7715-01]

POSTAL RATE COMMISSION

VISIT TO POSTAL FACILITY

FEBRUARY 22, 1978.

Notice is hereby given that on February 25, 1978, Commissioner Bright will visit the New York Post Office for the purpose of acquiring general background knowledge of postal operations.

No particular matter at issue in contested proceedings before the Commission nor the substantive merits of a matter that is likely to become a particular matter at issue in contested proceedings before the Commission will be discussed.

A report of the visit will be on file in the Commission's Docket room.

By direction of the Commission.

DAVID F. HARRIS,
Secretary.

[Fr Doc. 78-5462 Filed 3-1-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1433]

CALIFORNIA

Declaration of Disaster Loan Area

Riverside, San Diego, Santa Clara and Santa Cruz Counties and adjacent counties within the State of California constitute a disaster area as a result of damage caused by heavy rains, strong winds, flooding and heavy wave action on ocean coast which occurred on December 26-28, 1977, for San Diego

County and on January 7-17, 1978 for Riverside, Santa Clara and Santa Cruz Counties.

[8025-01]

[Proposed License No. 02/02-0340]

FUNDEX CAPITAL CORP.

Application for a License as a Small Business Investment Company

For the purpose of obtaining a license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act), Fundex Capital Corp. (the applicant), with the Small Business Administration (SBA) pursuant to 13 CFR 107.102.

The applicant with its principal place of business at 525 Northern Boulevard, Great Neck, New York 11021, proposes to operate as a nonleveraged investment company.

The applicant is owned by Fundex Capital Partners, a limited partnership, and Fundex Capital Partners II, a limited partnership, both of which are also licensed as small business investment companies.

The officers and directors are as follows:

Jeffrey Lynford, President, 525 Northern Boulevard, Great Neck, New York 11021

Stephen Lynford, Vice President, 525 Northern Boulevard, Great Neck, New York 11021

Jeffrey Lynford, Director, 525 Northern Boulevard, Great Neck, New York 11021

Stephen Lynford, Director, 525 Northern Boulevard, Great Neck, New York 11021

Matthew Lynford, Director, 525 Northern Boulevard, Great Neck, New York 11021

The applicant will begin operations with $300,000 of paid-in capital and paid-in surplus.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is hereby given that any person may, not later than 30 days from the date of publication of this notice, submit to SBA written comments on the proposed licensee. Any such communications should be addressed to the Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published by the applicant in a newspaper of general circulation in Great Neck, New York.

Dated: February 24, 1978.

PETER F. McNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-5663 Filed 3-1-78; 8:45 am]

No. 1 (See 43 FR 3199), are amended by adding the following Parish:

WEST BATON ROUGE PARISH

Small Business Administration, District Office, 150 Causeway Street, 10th Floor, Boston, Massachusetts 02114.

[8025-01]

PRIVACY ACT OF 1974

Proposed Revision to System of Records

County and on January 7-17, 1978 for Riverside, Santa Clara and Santa Cruz Counties.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on April 17, 1978, and for economic injury until the close of business on November 15, 1978, at:

Small Business Administration, District Office, 211 Main Street, San Francisco, Calif. 94105.

Small Business Administration, District Office 350 South Figueroa Street 6th Floor, Los Angeles, Calif. 90071. Small Business Administration, District Office, 880 Front Street, Federal Building—Suite 4-S-33, San Diego, calif. 92101.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: February 14, 1978.

WILLIAM T. GENNETTI,
Acting Administrator.

[FR Doc. 78-5535 Filed 3-1-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1437]

CONNECTICUT

Declaration of Disaster Loan Area

Fairfield, New Haven, and New London and adjacent counties within the State of Connecticut constitute a disaster area as a result of damage caused by blizzard conditions with excessive snow, high tides, and flooding which occurred on February 6-7, 1978. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on April 17, 1978, and for economic injury until the close of business on November 15, 1978, at:

Small Business Administration, District Office, One Financial Plaza, Hartford, Conn. 06103

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: February 15, 1978.

ROGER H. JONES,
Acting Administrator.

[FR Doc. 78-5538 Filed 3-1-78; 8:45 am]

[8025-01]

[Proposed License No. 02/02-0340]

FUNDEX CAPITAL CORP.

Application for a License To Operate as a Small Business Investment Company

An application for a license to operate as a Small Business Investment Company under the Small Business Investment Act of 1958, as amended (Act) (15 U.S.C. 661 et seq.), has been filed by Fundex Capital Corp. (the applicant), with the Small Business Administration (SBA) pursuant to 13 CFR 107.102.

The applicant with its prinicipal place of business at 525 Northern Boulevard, Great Neck N.Y. 11021, will begin operations with $501,000 of paid-in capital and surplus. The capital stock will be sold to approximately thirteen individuals in a non-public offering. Eleven persons purchased 500 shares of Preferred Stock at $1,000 per share. These same eleven persons and two other purchased 1,000 shares of Common Stock at $1 per share.

The officers and directors of the applicant will be as follows:

Name	Title	Percent
Howard Sommer, 35 Buckingham Dr. Dix Hills, N.Y. 117465.	President, general manager and director.	26 pct common 0 pct preferred.
Martin Albert, 1 Edgewood Dr. New Hyde Park, N.Y. 11040.	Vice president, secretary, treasurer and director.	26 pct common, 0 pct preferred.
Irving Mills, 1540 East 24th St. Brooklyn, N.Y. 11210.	Director	10.2 pct common, 10 pct preferred.
U.S. Capital Corporation, 525 Northern Blvd., Great Neck, N.Y. 11021.		8.4 pct common, 20 pct preferred.

The applicant will share office space with U.S. Capital Corp., a commercial finance company. Messrs. Sommer, Albert and Mills constitute all the officers, directors, and control the stock of U.S. Capital Corp.

The applicant will conduct its operations principally in the Northeastern United States. In its early years it will emphasize the making of collateralized loans rather than equity investments. It also intends to provide management consulting services to its portfolio companies and other small concerns. Such services will be provided by officers and directors in all phases of business activity.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Act and the SBA Rules and Regulations.

Any person may, on or before March 17, 1978; submit to SBA written comments on the proposed License. Any such communications should be addressed to the Duputy Associate Administrator for Investment, Small Business Administration 1441 "L" Street NW., Washington, D.C. 20416.

A copy of this Notice shall be published in a newpaper of general circulation in the area of Great neck, N.Y.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.

Dated February 23, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-5539 Filed 3-1-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1413; Amdt. No. 2]

KANSAS

Declaration of Disaster Loan Area

The above numbered Declaration (See 43 FR 2966), and Amendment No. 1 (See 43 FR 4892), are amended by adding Harvey and Sheridan Counties and adjacent counties within the State of Kansas, and the time for filing applications is extended to August 16, 1978, for physical damage and November 15, 1978, for economic injury.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: February 15, 1978.

ROGER H. JONES,
Acting Administrator.

[FR Doc. 78-5532 Filed 3-1-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1400 Amdt. No. 2]

LOUISIANA

Declaration of Disaster Loan Area

The above numbered Declaration (See 42 FR 60240), and Amendment No. 1 (See 43 FR 3199), are amended by adding the following Parish:

WEST BATON ROUGE PARISH

Natural disaster(s)	*Date(s)*
Excessive rainfall	Early April 1977.
Drought	May 1 to July 31, 1977.
Excessive rainfall	August 1977.
Hurricane winds	Sept. 5, 1977.

and adjacent Parishes within the State of Louisiana as a result of natural disasters as indicated. All other information remains the same.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: February 1, 1978.

PATRICIA M. CLOHERTY,
Deputy Administrator.

[FR Doc. 78-5534 Filed 3-1-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1421; Amdt. No. 1]

MAINE

Declaration of Disaster Loan Area

The above numbered Declaration (See 43 FR 4892) is amended by adding Hancock, Oxford and Washington Counties and adjacent counties within the State of Maine, and extending the filing date for the physical damage until the close of business on April 18, 1978, and for economic injury until the close of business on November 17, 1978.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: February 16, 1978.

PATRICIA M. CLOHERTY,
Acting Administrator.

[FR Doc. 78-5536 Filed 3-1-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1435]

MASSACHUSETTS

Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that the following counties and adjacent counties within the State of Massachusetts, constitute a disaster area because of damage caused by coastal flooding beginning about February 6, 1978:

Barnstable, Bristol, Dukes, Essex, Nantucket, Norfolk, Plymouth, and Suffolk.

Eligible persons, firms and organizations may file applications for loans for physical damage caused by coastal flooding, until the close of business on April 13, 1978, and for economic injury until the close of business on November 10, 1978, at:

Small Business Administration, District Office, 150 Causeway Street, 10th Floor, Boston, Massachusetts 02114.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: February 15, 1978.

ROGER H. JONES,
Acting Administrator.

[FR Doc. 78-5531 Filed 3-1-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1407; Amdt. No. 2]

MICHIGAN

Declaration of Disaster Loan Area

The above numbered Declaration (See 41 FR 61347) and Amendment No. 1 (See 42 FR 63510) are amended by extending the filing date for physical damage until the close of business on May 25, 1978, and for economic injury until the close of business on September 8, 1978.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: February 15, 1978.

ROGER H. JONES,
Acting Administrator.

[FR Doc. 78-5537 Filed 3-1-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1436]

NEW JERSEY

Declaration of Disaster Loan Area

The area of Cedar Avenue and Boardwalk Street, in the City of Wildwood, in Cape May County, N.J., constitutes a disaster area because of damage resulting from a fire which occurred on January 18, 1978. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on April 21, 1978, and for economic injury until the close of business on November 17, 1978, at:

Small Business Administration, District Office, 970 Broad Street, Room 1635, Camden, N.J. 08102

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: February 17, 1978.

PATRICIA M. CLOHERTY,
Acting Administrator.

[FR Doc. 78-5530 Filed 3-1-78; 8:45 am]

[8025-01]

PRIVACY ACT OF 1974

Proposed Revision to System of Records

In 42 FR 48794 (September 23, 1977), the Small Business Administration published a notice of its systems of records in compliance with the Privacy Act of 1974 (Pub. L. 93-579, 5 U.S.C. 552a(o)).

Notice is hereby given that the SBA has submitted a proposed revision to a system of records pursuant to the provisions of the Office of Management and Budget (OMB) Circular No. A-108, which provides supplemental guidance to Federal Agencies regarding the preparation and submission of reports of their intention to establish or alter systems of records as required by the Privacy Act of 1974.

Any person interested in commenting on the following proposed revision to the system may do so by submitting comments in writing to the Administrator, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416. Comments must be received on or before April 3, 1978.

Dated: February 22, 1978.

PATRICIA M. CLOHERTY,
Deputy Administrator.

SBA285

System name:

Official Travel Files (SBA285).

System location:

Central Office, at address listed in Appendix A, Federal Records Centers, at addresses listed in Appendix B.[1]

Categories of individuals covered by the system:

SBA employees.

Categories of records in the system:

Files include Travel Voucher and Applications for Advance of Funds submitted by each employee.

Authority for maintenance of the system:

5 U.S.C. 301, 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Records are reviewed by the General Accounting Office in the course of an audit of the Agency.

In the event that a system of records maintained by this Agency to carry out its function indicates a violation or potential violation of law, whether civil, ciriminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulatory rule or order issued pursu-

[1] Referenced appendixes A and B are included in 42 FR 48794.

ant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigation or prosecution of such violation or charged with enforcement or implementing the statute, rule, regulation or order issued pursuant thereto.

Storage:

Records are kept in file folders.

Retrievability:

Records are indexed by employee name and social security number.

Safeguards:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is utilized to prevent unauthorized disclosure.

Retention and disposal:

Records are maintained for two years after the end of a fiscal year, or until a GAO audit. Records are then transferred to a Federal Records Center, where they will be disposed of 10 years after the end of the fiscal year in which the records were compiled.

Systems manager(s) and address:

Privacy Act Officer. See Appendix A for address.

Notification procedures:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to the Privacy Act Officer, at the address contained in Appendix A.

Record access procedures:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

Contesting record procedures:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in tha above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

Record source categories:

Travel Vouchers and Applications for Advance of Funds submitted by employees.

[FR Doc. 78-5541 Filed 3-1-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1434]

WISCONSIN

Declaration of Disaster Loan Area

The 200 Block of Walworth Avenue, in the City of Delavan, Walworth County, Wis., constitutes a disaster area because of damages resulting from a fire which occurred on January 20, 1978. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on April 17, 1978, and for economic injury until the close of business on November 15, 1978, at:

Small Business Administration, District Office, 122 West Washington Avenue, Room 700, Madison, Wis.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: February 15, 1978.

ROGER H. JONES,
Acting Administrator.

[FR Doc. 78-5533 Filed 3-1-78; 8:45 am]

[4710-01]

DEPARTMENT OF STATE

[Public Notice CM-8/18]

STUDY GROUPS 10 AND 11 OF THE U.S. ORGANIZATION FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

Meeting

The Department of State announces that Study Groups 10 and 11 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet jointly on March 15, 1978, at 9:30 a.m. in room 8210, Federal Communications Commission, 2025 M Street NW., Washington, D.C.

Study Group 10 deals with questions relating to sound broadcasting; Study Group 11 deals with questions relating to television broadcasting. The primary purpose of the meeting on March 15 will be to review the preparatory work for the CCIR Special Preparatory Meeting which will be held in Geneva starting in October 1978, as a preliminary to the 1979 World Administrative Radio Conference.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chairman.

Dated: February 22, 1978.

GORDON L. HUFFCUTT,
Chairman,
U.S. CCIR National Committee.

[FR Doc. 78-5467 Filed 3-1-78; 8:45 am]

[4710-01]

[Public Notice 585]

PUBLIC NOTICE ON MARITIME BOUNDARIES; CORRECTION

In FR Doc. 78-622, appearing at page 1659 in the issue of Wednesday, January 11, 1978, Item 11 under column 1, Latitude (North), was incorrectly listed as 23°49'40". Item 11 should read "23°49'30"."

Dated: February 14, 1978.

MARY ELIZABETH HOINKES,
Assistant Legal Adviser.

[FR Doc. 78-5445 Filed 3-1-78; 8:45 am]

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD (78-020)]

CHEMICAL TRANSPORTATION INDUSTRY ADVISORY COMMITTEE

Meeting of Subcommittee on Chemical Vessels

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Chemical Transportation Industry Advisory Committee's Subcommittee on Chemical Vessels to be held on Wednesday, March 22, 1978, beginning at 9:30 a.m., Room 8238, Nassif Building, 400 7th St. SW., Washington, D.C. 20590. The agenda for this meeting is as follows:

To continue review of the existing rules for barges carrying hazardous liquids in bulk (46 CFR part 151). These rules cover areas such as:

1. Tank venting.
2. Tank gauging.
3. Barge hull stability.
4. Cargo piping.
5. Cargo transfer.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, Captain C. E. Mathieu, Commandant (G-MHM/83) U.S. Coast Guard, Washington, D.C. 20590, 202-426-2306. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on February 17, 1978.

H. G. LYONS,
Captain, U.S. Coast guard,
Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 78-5516 Filed 3-1-78; 8:45 am]

[4910-06]

Federal Railroad Administration

TRACK SAFETY STANDARDS

Petitions for waiver

As required by 45 U.S.C. 431(c) notice is hereby given that four parties have submitted waiver petitions to the Federal Railroad Administration (FRA). Each petition requests that the particular party be granted a waiver of compliance with certain provisions of the Track Safety Standards (49 CFR Part 213).

Each of these parties, which are identified below, is seeking a waiver of compliance with certain provisions of the standards on a temporary basis. A brief description of the particular facts involved in each request, as well as the particular regulatory provision, is identified below to the degree that such information has been furnished by the petitioners.

Interested persons are invited to participate in these proceedings by submitting written comments or views. The FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. However, the FRA will provide an opportunity for oral comment if requested to do so by any interested party. Such requests must be in writing and must be submitted to the FRA before March 10, 1978.

All communications concerning these proceedings should identify the appropriate Docket Numbers (e.g., FRA Waiver Petition Docket Number RST-77-5) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

Communications received before March 31, 1978, will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination, both before and after the closing date for comments, during regular business hours in Room 5101, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

[Waiver Petition Docket RST-77-18]

OCTORARO RAILWAY INC.

The Octoraro Railway (Octoraro) seeks a temporary waiver of compliance with the Track Safety Standards. The particular provisions of this regulation for which the waiver is sought involve unspecified requirements for track structure and geometry.

Octoraro seeks this waiver for a period of less than twelve months and in no event later than November 30, 1978. The trackage involved consists of two segments of railroad totaling approximately 42 miles.

One segment of the trackage consists of approximately 42 miles of track running between Wawa, Pa. (milepost 16.3) and Colora, Md. (milepost 59.7) which is also identified as USRA line segment No. 142. Octoraro currently operates approximately two or three freight trains a week over a portion of this trackage and does not handle any hazardous materials on this line. This trackage is owned by the Southeastern Pennsylvania Transportation Authority and Octoraro provides service as the designated operator.

The other segment of the trackage consists of approximately 28 miles of track running between Wilmington, Del. (milepost 1.9) and Modena, Pa. (milepost 30.2) which is also identified as USRA line segments Nos. 907 and 939. Octoraro currently operates approximately two or three trains a week over this trackage and does not handle any hazardous materials on this line. This trackage is owned by the Reading Co. and Octoraro provides service as the designated operator. The only portion of this trackage for which a waiver is sought is the yard trackage located at South Modena, Pa.

Octoraro notes that the trackage generally complies with FRA safety standards and that Octoraro is currently engaged in a rehabilitation program to upgrade the tracks. The current goal of the rehabilitation program is to replace the deteriorated ties at a rate of approximately 200 ties for each mile of track.

[Waiver Petition Docket RST-77-19]

CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD

The Chicago, Milwaukee, St. Paul & Pacific Railroad (Milwaukee) seeks a temporary waiver of compliance with section 213.109 which governs tie condition requirements. Milwaukee seeks this waiver for approximately 25 miles of track located in the State of Montana.

Milwaukee seeks this waiver for two segments of trackage. One segment involves trackage running between Butte, Mont., and Dawson, Mont., a distance of approximately eight miles. The other segment involves trackage running between Gold Creek, Mont., and Drummond, Mont., a distance of approximately 16 miles.

Milwaukee notes that the defective tie conditions were identified in December 1977 and adverse winter weather hampers its efforts to take corrective action on this trackage. Train operations over this trackage normally consist of two through freight trains daily in each direction.

Milwaukee indicates that it will initiate corrective action in early spring of this year. However, Milwaukee seeks a waiver of compliance for this trackage for a period of approximately eleven months.

[Waiver Petition Docket RST-77-20]

STATE OF ILLINOIS

The State of Illinois (Illinois) seeks a temporary waiver of compliance with the Track Safety Standards. The provisions of the regulation for which this waiver is sought involve the requirements for track structure and geometry contained in section 213.55 (alignment) section 213.63 (surface) and section 213.109 (crossties).

Illinois seeks this waiver for approximately eight miles of track. The trackage involved is identified as former Penn Central tracks running between Matteson (milepost 24) and Frankfort (milepost 33). This trackage which is located in C ook and Will counties in Illinois is also identified as USRA line segment No. 415.

Illinois notes that no operations have been conducted on this line since December 31, 1977. However, if service is restored it can be anticipated that lumber and liquified petroleum gas will be transported over these tracks.

Illinois notes that it is involved in a program to upgrade this trackage and that it completed the upgrading on several other lines during 1977. The program to upgrade this trackage should, in the judgement of Illinois, be completed during the 1978 construction season.

[Waiver Petition Docket RST-78-1]

SOUTHERN PACIFIC TRANSPORTATION CO.

The Southern Pacific Transportation Co. (SP) seeks a temporary waiver of compliance with the Track Safety Standards. The particular provisions for which the waiver is sought involve all those sections relating to track geometry and track structure.

SP seeks a waiver of compliance for approximately 48 miles of trackage until the resolution of abandonment proceedings currently pending before the Interstate Commerce Commission. The trackage involved is the line between Seagoville and Bonita Junction located in the State of Texas.

SP indicates that it currently operates three trains per week in each direction on this line and handles approximately 25 cars in each train. SP does not propose to perform any rehabilitation on this trackage but would make any repair deemed essential to permit actual operation of freight trains. No data on specific track deficiencies has been provided by SP.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431), as amended by section 5(b) of the Federal Railroad Authorization Act of 1976, Pub. L. 94-348, 90 Stat. 817, July 8, 1976; Section 1.49(n) of the regulations of the Office of the Secretary, 49 CFR 1.49(n).

Issued in Washington, D.C. on February 24, 1978.

ROBERT H. WRIGHT,
Acting Chairman,
Railroad Safety Board.

[FR Doc. 78-5437 Filed 3-1-78; 8:45 am]

[4910-59]

National Highway Traffic Safety Administration

[Docket No. IP77—18; Notice 1]

BUDD CO.

Petition for Exemption From Notice and Remedy for Inconsequential Noncompliance

The Budd Co. of Troy, Mich., has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act for a noncompliance with 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, Lamps, Reflective Devices, and Associated Equipment. The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

Budd has informed NHTSA that it manufactured 80 semi-trailer vans, produced for a single customer in 1975 and 1976, with the identification lamp cluster "located between the turn sig-

nals on the rear cross member* * *" Standard No. 108 requires, instead, that these lamps be located as near the top of the vehicle as is practicable. Petitioner argues that the noncompliance is inconsequential because the cross member location is used in many instances in which higher mounting is impracticable, e.g., open top trailers, dump trucks. It also argues that lower mounted lights are much easier to keep clean and in operating order, thus enhancing motor vehicle safety.

Interested persons are invited to submit written data, views and arguments on the petition of The Budd Co. described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the FEDERAL REGISTER pursuant to the authority indicated below.

Comment closing date: April 17, 1978.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on February 24, 1978.

ELWOOD T. DRIVER,
Acting Associate Administrator for Rulemaking.

[FR Doc. 78-5404 Filed 3-1-78; 8:45 am]

[4910-59]

[Docket No. EX78-3; Notice 1]

GENERAL MOTORS CORP.

Petition for Temporary Exemption From Federal Motor Vehicle Safety Standards

General Motors Corp. ("GM" herein) of Warren, Mich., has petitioned for a 2-year exemption from Federal Motor Vehicle Safety Standard No. 106-74, Brake Hoses, for certain trucks, on the basis that to require compliance would prevent it from selling a motor vehicle whose overall level of safety is equivalent to or exceeds that of nonexempted motor vehicles.

The notice of receipt of a petition for a temporary exemption is published in accordance with section 123 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1410), and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

GM has developed a parking brake system for use on hydraulic braked trucks, called "HY-PARK". Petitioner views the system as innovative since it uses "power steering fluid to 'hold off' the spring actuated parking brake." Hoses used as jounce hoses (from the rear chassis to the axel) will not meet many aspects of Standard No. 106-74, and others of the same type will be used in nonjounce applications. The operating pressure of the HY-PARK system is about 100 psi, "well below the operating pressure of hydraulic brake systems that FMVSS 106-74 addresses." Because of the low operating pressure GM views Federal burst strength expansion, whip resistence, water absortion and brake fluid compatibility tests as inappropriate, and that compliance with air brake hose requirements (at 800 psi pressure) will meet the need for motor vehicle safety. The company also proposes to meet what it feels are appropriate SAE requirements of J844c, Air Brake Tubing and Pipe, and J517c, Hydraulic hose, and J516b, Hydraulic Hose Fittings. It believes that the system will have an overall level of safety equivalent to that of air actuated spring parking brakes, and it lists additional safety advantages attributable to HY-PARK including: elimination of "chucking" or slack in the parking brake system due to drive line tolerances, design so that failure of a hydraulic line will result in application rather than release of the parking brakes, and provision of a "much higher brake torque capability with two large wheel brakes vs. one smaller propshaft brake." To substantiate that compliance with Standard No. 106-74 would prevent the sale of the vehicle GM states that it has been unable to locate "a hose large enough in diameter to meet the volume requirements of the system and meet FMVSS 106-74 for hydraulic hoses". GM does not intend to comply at the end of the exemption period as it assumes the standard will be amended appropriately by that time. It has not yet, however, petitioned for such an amendment. Not more than 2,500 exempted vehicles will be sold in the U.S. in any 12-month period for which the exemption is granted.

Interested persons are invited to submit comments on the petition by General Motors Corp. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. Comments received after the closing will also be filed and will be considered to the extent practicable. Notice of final action on the petition will be published in the FEDERAL REGISTER.

Comment closing date: April 3, 1978.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159 (15 U.S.C. 1410); delegations of authority at 49 CFR 1.50 and 501.8.)

Issued on February 21, 1978.

ELWOOD T. DRIVER,
Acting Associate Administrator for Rulemaking.

[FR Doc. 78-5405 Filed 3-1-78; 8:45 am]

[4910-59]

[Docket No. EX 77-4; Notice 2]

INVACAR LTD.

Petition for Temporary Exemption From Federal Motor Vehicle Safety Standard

This notice denies the petition by Invacar, Ltd., of Benfleet, Essex, England, for a temporary exemption from 49 CFR 571.123, Motor Vehicle Safety Standard No. 123, Motorcycle Controls and Displays. The Administrator has been unable to find that an exemption would be consistent with the objectives of motor vehicle safety.

Petitioner is a manufacturer of a three-wheeled enclosed single passenger motor vehicle, which is a "motorcycle" for purposes of compliance with the Federal motor vehicle safety standards. Invacar's Model 70 has been developed to provide mobility for the disabled. To accommodate the widest range possible of paraplegic problems, Model 70 is available with 56 variations of its control system. These include 14 variations of basic controls with a steering wheel, 18 variations with bicycle-type handle bar steering, and 12 different control arrangements each, with right or left hand tiller bar steering. Thus the vehicle will not comply with the controls required of conventional motorcycles by Standard No. 123 but Invacar argues that it will provide an equivalent level of safety in that the controls that are available are sufficient for safe operation on the open road. In response to a request from NHTSA for statistics concerning accident involvement of invalid-operated vehicles, petitioner submitted data, available for examination in the docket, that showed a safety record superior to two-wheeled motorcycles albeit inferior to four-wheeled vehicles. By providing transportation for invalids, Invacar believes that an exemption would be in the public interest. Since the company intends to provide driver training, "possibly in conjunction with static driving trainers, in order to reduce the risk to drivers" it is argued that an exemption would also be consistent with the objectives of the Traffic Safety Act. The vehicle is represented as complying with all other standards that apply to motorcycles. Without the variations in control location that an exemption would provide, the company could not sell the Model 70 in the United States.

The petition was supported by the Department of California Highway Patrol with the provision that the company train each operator to whom it sold or leased the vehicles. After the comment period closed a letter was received from the Rehabilitation Services Administration, Department of Health, Education, and Welfare opposing it.

In reaching a decision the Administrator has considered the safety record of the Invacar and other three-wheeled vehicles, the social benefits that self-mobility for the handicapped provides, and the potential impact upon motor vehicle safety that an affirmative decision might have. In so doing, the issue has not been reached whether the Invacar's overall level of safety equals or exceeds that of nonexempted vehicles for, in truth, there is nothing with which it can be compared. There are virtually no three-wheeled passenger cars of American manufacture, while it does not appear other three-wheeled British machines with which it could be compared are designed for operation by the handicapped.

Instead the decision has been made on whether an exemption would be in the public interest and consistent with the objectives of the Traffic Safety Act which are to reduce traffic accidents, and their resulting deaths and injuries.

There is an undeniable public interest in accommodating the handicapped. Towards that end directives have been issued for redesign of entrances and exits of public facilities and areas such as water fountains, toilets, and elevator controls. Street curbs have been dished to facilitate wheelchair travel. Buses have been designed with wider doors and to "kneel", reducing the distance from step to curb. Elevators are required as alternative entrances and exits for subways. Very little provision, however, has been made for self-mobility, and the concept is an attractive one.

Balanced against this, however, is the necessity that the means of mobility provided not expose the vehicle operator to risks of accidents greater than those to which an operator of a conventional motor vehicle is exposed. It is demonstrable that a three-wheeled vehicle is less stable than one with four wheels regardless of the skills of the operator. Statistics submitted by the petitioner indeed show a greater accident involvement by three-wheeled vehicles (including Invacar) than by conventional four-wheeled ones. Although data gathering methods differ and NHTSA does not regard the British statistics as conclusive, it has given great weight to remarks of the Secretary of State for Social Services who reported (for an indeterminable time period) that 5030 three wheelers for invalids had been involved in accidents, with injuries to 419 operators compared with injuries to 94 disabled drivers of 1820 cars. Moreover, 283 three-wheelers overturned or were blown over, resulting in injuries to 102 operators, whereas only 4 passenger cars overturned, occasioning one driver injury. Indeed, Report 1150C of the Transport and Road Research Laboratory has concluded that single vehicle accidents occur to three-wheeled vehicles at more than three times the rate for four-wheeled ones. The Administrator has therefore concluded that there is a greater public interest to be served by denying the petition than by granting it, and that it is not possible to find that an exemption would be consistent with traffic safety objectives. Of possible significance is the fact that no organization representing the interests of the handicapped, or handicapped persons, supported the petition.

For the foregoing reasons the petition by Invacar Ltd. for a temporary exemption from 49 CFR 571.123, Motor Vehicle Safety Standard No. 123, is hereby denied.

(Sec. 3, Pub. L. 92-543, 88 Stat. 1159 (15 U.S.C. 1410); delegation of authority at 49 CFR 1.50.)

Issued on February 23, 1978.

JOAN CLAYBROOK,
Administrator.

[FR Doc. 78-5406 Filed 3-1-78; 8:45 am]

[4910-59]

[Docket No. IP77-22; Notice 1]

HUNG-A INDUSTRIAL CO., LTD.

Receipt of Petition for Exemption From Notification and Remedy for Inconsequential Noncompliance

Hung-A Industrial Co. Ltd. of Pusan, Korea, has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for two noncompliances with 49 CFR 571.119 Motor Vehicle Safety Standard No. 119, New Pneumatic Tires for Vehicles Other Than Passenger Cars. The basis of the petition is that the noncompliances are inconsequential as they relate to motor vehicle safety.

This notice of receipt of a petition for a determination of inconsequentiality is published in accordance with section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417), and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Paragraph S6.4 of Standard No. 119 requires that each tire shall have treadwear indicators enabling a person inspecting the tire to determine visually whether the tire has worn to a tread depth of one-sixteenth of an inch. Hung-A has shipped approximately 28,000 tires without tread wear indicators to the United States for use on boat trailers. Hung-A argues that this noncompliance is inconsequential as "the treadwear can be easily noticed because of the Saw Rib Tread Pattern of the tires. With this type of pattern, the wearing of the tire can easily be seen by the consumer, in order that he may determine the replacement time for safety measures."

Paragraph S6.5(d) of Standard No. 119 requires tires to be marked with maximum load rating and corresponding inflation pressure of the tire when cold. Hung-A's tires lack a load rating in pounds, and instead are marked with "B" or "C", a load range specified "under different temperature conditions as defined in the Tire and Rim Association manual (Industrial Section 5, Table PT-1F) and the Interim Federal Specifications (22-7-410A Table 1, Industrial tires; Groups 1, 1A, 2, 2A, and 3)." Hung-A argues that the classification gives "a very similar effect for the safety of the consumer", and that its tires otherwise meet all Federal and Association requirements. The company reports that in the 2 year period that these tires have been available "there have been no reports of accident or safety malfunction by the consumer or supplier". It has shipped an additional 11,000 nonconforming tires out of the country and is now producing conforming tires.

Interested persons are invited to submit written data, views and arguments on the petition of Hung-A Industrial Co. described above. Comments should refer to the docket number and be submitted to: Docket Section National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the FEDERAL REGISTER pursuant to the authority indicated below.

Comment closing date: April 17, 1978.

(Sec. 102, Pub. L. 93-492, 99 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on February 21, 1978.

ELWOOD T. DRIVER,
Acting Associate Administrator for Rulemaking.

[FR Doc. 78-5407 Filed 3-1-78; 8:45 am]

[4910-59]

[Docket No. IP77-21; Notice 1]

VESPA OF AMERICA CORP.

Receipt of Petition for Exemption From Notification and Remedy for Inconsequential Noncompliance

Vespa of America Corp. of San Francisco, Calif., has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.123, Motor Vehicle Safety Standard No. 123, Motorcycle Controls and Displays. The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition for a determination of inconsequentiality is published in accordance with section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417), and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Petitioner is an importer of motor scooters which are defined as "motorcycles" under the Federal motor vehicle safety standards. Pursuant to Table 2 of Standard No. 123 if a motorcycle is equipped with a neutral gear indicator, it shall be in the form of a green display lamp that illuminates when the gear selector is in neutral position. Since March 1975 Vespa has imported approximately 7,367 motor driven cycles equipped with a neutral gear indicator that differ from the specifications of Standard No. 123. Vespa's motorscooters incorporate a hand rotating shift system "by which the operator can visually determine what gear he is in by alignment of [an indicator dot on the handlebar] with the gear indicator numeral on the rotating shift arm". A dot between "1" and "2" indicates neutral though it is not otherwise identified. Petitioner believes that the noncompliance is inconsequential because "the correct operation of gear selection and the neutral position (is adequately explained) through (the) Vehicle Owners Manual which is supplied to the retail buyer."

Interested persons are invited to submit comments on the petition for inconsequentiality by Vespa of America Corp. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received, are available for examination in the docket both before and after the closing date. Comments received after the closing date will also be filed and will be considered to the extent practicable. Notice of final action on the petition will be published in the FEDERAL REGISTER.

Comments closing date: April 17, 1978.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159 (15 U.S.C. 1410); delegations of authority at 49 CFR 1.50 and 501.8.)

Issued on February 21, 1978.

ELWOOD T. DRIVER,
Acting Associate Administrator for Rulemaking.

[FR Doc. 78-5408 Filed 3-1-78; 8:45 am]

[8320-01]

VETERANS ADMINISTRATION

STATION COMMITTEE ON EDUCATIONAL ALLOWANCES

Meeting

Notice is hereby given pursuant to section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on March 23, 1978, at 10 a.m., the San Diego Regional Office Station Committee on Educational Allowances shall at Room 902, 2022 Camino Del Rio North, San Diego, Calif. 92108, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in North Star Aviation, 200 North El Cielo Road, Palm Springs, Calif. 92262, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of the law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

Dated: February 17, 1978.

HERBERT R. RAINWATER,
Director, Veterans Administration Regional Office.

[FR Doc. 78-5490 Filed 3-1-78; 8:45 am]

[1505-01]

INTERSTATE COMMERCE COMMISSION

[Volume No. 57]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

Correction

In FR Doc. 78-2822, appearing at page 4515 in the issue of Thursday, February 2, 1978, on page 4517, in the last line of the second column and the first line of the third column, the applicant, BUILDINGS TRANSFER CORP., INC. should have appeared as BILLINGS TRANSFER CORP., INC.

[7035-01]

[Volume No. 66]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

FEBRUARY 24, 1978.

PETITIONS FOR MODIFICATION, INTERPRETATION, OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

NOTICE

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

All pleadings and documents must clearly specify the suffix (e.g., M1 F, M2 F) numbers where the docket is so identified in this notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this notice. Such protests shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247)[1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

No. MC 3581 (Sub-No. 10) (M1) (Notice of filing or petition to modify commodity description), filed December 11, 1977. Petitioner: THE MOTOR CONVOY, INC., Suite 107, 2175 Parklake Drive NE., Atlanta, GA 30345. Petitioner's representative: K. Edward Wolcott, P.O. Box 872, Atlanta, GA 30301. Petitioner holds a motor *common carrier* certificate in No. MC 3581 (Sub-No. 10), issued June 26, 1964, authorizing transportation, over irregular routes, of *Tractors*, except crawler type, moving in mixed loads with automobiles and trucks, in secondary movements, in truckaway service, from Winston-Salem, NC, to points in TN, VA, and WV. By the instant petition, petitioner seeks to modify the commodity description by adding *"tractor attachments, parts and accessories when moving at the same time and in the same vehicle with tractors."*

No. MC 12960 (M1) (Notice of filing of petition for modification of territorial scope of broker's license), filed December 2, 1977. Petitioner: AUTO CLUB SERVICES, INC., Park Center Boulevard at West 39th Street, Minneapolis, MN 55416. Petitioner's Representative: J. G. Dall, Jr., P.O. Box 567, McLean, VA 22101. Petitioner holds a license No. MC 12960, issued July 11, 1977, authorizing petitioner to engage in operations as a *broker* of passengers and their baggage, in special and charter operations, beginning and ending at points in MN, and extending to points in the United States, including AK, but excluding HI, and authorizing petitioner to engage in such operations as a broker at MN and St. Louis Park, MN. By the instant petition, petitioner seeks to modify the territorial description to authorize it to broker such operations between points in the United States (including AK and HI). The type of operations authorized and the points at which such operations are conducted remain the same.

No. MC 108589 (M1) (Notice of filing of petition to delete restriction), filed December 22, 1977. Petitioner: EAGLE EXPRESS CO., a corporation, P.O. Box 680, Somerset, KY 42501. Petitioner's representative: John M. Nader, Route 3, Box 4, Bowling Green, KY 42101. Petitioner holds a motor *common carrier* Certificate in No. MC 108589, issued October 2, 1963, authorizing transportation over regular routes, as pertinent, of *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): (1) Between Knoxville, TN, and Somerset, KY, serving all intermediate points on U.S. Hwy 27 between Somerset, KY, and the KY-TN State line and all intermediate and off-route points within ten miles of Somerset and serving the intermediate point of Oneida, TN, in the pick-up of shipments destined to points north of the KY-TN state line except shipments to or through Louisville, KY, and the commercial zone thereof and in the delivery at Oneida of shipments originating at points north of the KY-TN state line: From Knoxville over U.S. Hwy 25-W to Caryville, TN, thence over TN Hwy 63 to junction U.S. Hwy 27, and then over U.S. Hwy 27 to Somerset (also from Caryville, TN, over U.S. Hwy 25-W to Corbin, KY, and then over KY Hhwy 80 to Somerset), and return over the same route; (2) between Jamestown, KY, and Lexington, KY, serving the intermediate and off-route points of Moreland, Houstonville, Liberty, Dunnville, Irvins Store, Ella, Brady, Whittle, Ono, Creelsboro, and Rowena, KY, points within five miles of Jamestown, KY, and points on and within five miles of U.S. Hwy 127 (formerly KY Hwy 35) between Casey-Russell County line and Jamestown, KY (not including points located in Casey County unless otherwise authorized): From Jamestown over U.S. Hwy 127 (formerly Ky Hwy 35) to Danville, Ky, then over KY Hwy 34 to junction U.S. Hwy 27, and then over U.S. Hwy 27 to Lexington, and return over the same route. Restriction: In connection with the route described immediately above, no service is to be rendered between Lexington and Louisville, KY. By the instant petition, petitioner seeks to remove the restriction "In connection with the route described immediately above, no service is to be rendered between Lexington and Louisville, KY."

No. MC 114552 (Sub-Nos. 31 and 41) (M1) Notice of filing of petition to modify commodity description), filed December 30, 1977. Petitioner: SENN TRUCKING CO., a corporation, P.O. Drawer 220, Newberry, SC 29108. Petitioner's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1267, Arlington, VA 22210. Petitioner holds motor *common carrier* certificates in No. MC 114552 (Sub-No. 31) and No. MC 114552 (Sub-No. 41) issued November 9, 1976, and November 2, 1976, respectively. No. MC 114552 (Sub-No. 31) authorizes transportation over irregular routes, of *Gypsum board, plywood, molding, and stain* when moving at the same time, and in the same vehicle with plywood, from Charlotte, NC. to points in AL, DE, GA, IN, KY, MD, MS, NJ, NY, PA, TN, and WV. No. MC 114552 (Sub-No. 41) authorizes transportation over irregular routes, of *Gypsum board and plywood*, From Charlotte, NC, to points in IL, MI, OH, TX, VA, WI, and DC. By the instant petition, petitioner seeks to modify the above authorities by adding composition board to each of the commodity descriptions.

No. MC 114552 (Sub-No. 52) (M1) (Notice of filing of petition to modify commodity description, filed December 30, 1977. Petitioner: SENN TRUCKING CO., a corporation, P.O. Drawer 220, Newberry, SC 29108. Petitioner's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1267, Arlington, VA 22210. Petitioner holds a motor *common carrier* certificate in No. MC 114552 (Sub-No. 52) issued November 24, 1976, authorizing transportation, over irregular routes, of (1) *Plywood*, from points in Manatee County, FL, to points in FL, restricted to foreign commerce only; and (2) *plywood, plywood paneling, gypsum board and moulding, and materials, supplies, and accessories* (except commodities in bulk) used in the installation of plywood paneling, gypsum board, and moulding when moving at the same time and in the same vehicle with such commodities, from points in Manatee County, FL, to points in AL, AR, FL, GA, LA, MS, OK, SC, and TX. By the instant petition, petitioner seeks to modify the above authority by adding composition board and materials, supplies, and accessories used in the installation of composition board in (2) above.

No. MC 134548 (Sub-No. 7) (M1) (Notice of filing of petition to modify territorial description), filed November 16, 1977. Petitioner: ZENITH TRANSPORT LTD., 2131 Willington Avenue, Barnaby, BC, Canada. Petitioner's representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. Petitioner holds a motor *common carrier* Certificate in No. MC 134548 (Sub-No. 7), issued August 27, 1976, authorizing transportation, over irregular routes, of *Tungsten concentrate*, in boxes, from ports of entry on the United States-Canada Boundary line at or near Blaine, Lynden, and Sumas, WA, to Bishop, CA, and Fallon, NV. By the instant petition, petitioner seeks to modify the destination of Bishop CA, to Upper Scheelite, CA.

No. MC 135684 (Sub-No. 17) (M1) (Notice of filing of petition to modify certificate to add the facilities of a shipper), filed December 2, 1977. Petitioner: BASS TRANSPORTATION, CO., INC., P.O. Box 391, Flemington, NJ 08822. Petitioner's representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Petitioner holds a motor *common carrier* Certificate in MC 135684 Sub-No. 17,

issued September 15, 1977, authorizing transportation, over irregular routes of: (1) *Such commodities* as are dealt in by retail and chain grocery, hardware, and drug stores, in containers (except furniture, frozen foods, and fresh meats), from Cranford, NJ, to points in NY, DE, MD, NJ, and CT, that part of PA on and east of U.S. Hwy 219, and that part of VA on and north of U.S. Hwy 60, and the District of Columbia; and (2) *materials and supplies* (in containers) used in the manufacture and distribution of the commodities specified in (1) above, from the destination points named in (1) above to Cranford, NJ; (3) (a) *Such commodities* as are dealt in by retail and chain grocery, hardware, and drug stores, in containers, and (b) *materials and supplies* (except in bulk), used in the manufacture and distribution of the commodities described in (3)(a) above, between Cranford, NJ, points in that portion of the New York, NY, Commercial zone as defined in Commercial Zone and Terminal Areas, 53 MCC 451, within which local operations may be conducted pursuant to the partial exemption of section 203(b)(8) of the Interstate Commerce Act (the "exempt" zone), Canton, OH, and Chicago, IL, with no transportation for compensation on return except as otherwise authorized; (4) *Foodstuffs* (except frozen foods and fresh meats), from Milton, PA, to points in AL, FL, GA, LA, MS, NC, SC, TN, and TX, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized in (1) through (4) are restricted to the transportation of shipments originating at or destined to the facilities of American Home Products Corp. at the above-named points. By the instant petition, petitioner seeks to add the facilities of a shipper, Confectionery Consolidators, Inc., to parts (1), (2), and (3) of the Certificate by modifying the restriction as follows: Restriction: The operations authorized in (1) through (3) are restricted to the transportation of shipments originating at or destined to the facilities of American Home Products Corp. or Confectionery Consolidators, Inc., at the above named points in parts (1) through (3); and the operations authorized in (4) are restricted to the transportation of shipments originating at or destined to the facilities of American Home Products Corporation at the above-named points in part (4).

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION

NOTICE

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. All pleadings and documents must clearly specify the "F" suffix where the docket is so identified in this notice. Such pleading shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

No. MC 107496 (Sub-No. 1084) (Republication), filed May 20, 1977, published in the FEDERAL REGISTER issue of June 30, 1977, and republished this issue. Applicant: RUAN TRANSPORT CORP., 3200 Ruan Center, 666 Grand Avenue, Des Moines, IA 50309. Applicant's representative: E. Check, P.O. Box 855, Des Moines, IA 50304. An Order of the Commission, Review Board No. 1, dated November 25, 1977, and served December 6, 1977, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dichlorovinyl dimethyl phosphate, in bulk*, from Denver, CO, to points in AR, MS, and TX; and (2) *lime, in bulk*, from Springfield, MO, to points in IL, NJ, KY, and OH. Applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the grant of Ohio as a destination state in part (2) above.

No. MC. 116133 (Sub-No. 14) (Republication), filed June 17, 1977, published in the FEDERAL REGISTER issue of August 11, 1977, and republished this issue. Applicant: POLLARD DELIVERY SERVICE, INC., Washington National Airport, Washington, DC 20001. Applicant's representative: Peter A. Greene, 900 17th Street NW., Washington, DC 20006. An Order of the Commission, Review Board No. 3, decided February 2, 1978, and served February 16, 1978, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except articles of unusual value, household goods as defined by the Commission, and commodities which because of their size and weight require special equipment, commodities in bulk, and motor vehicles), between Aberdeen and Havre de Grace, MD, on the one hand, and, on the other, Philadelphia International Airport at Philadelphia, PA; Newark International Airport at Newark, NJ; LaGuardia Airport at Flushing, NY; and John F. Kennedy International Airport at Jamaica, NY; restricted to the transportation of shipments having a prior or subsequent movement by air; that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the addition of of Aberdeen, MD, in the territorial description in applicant's actual grant of authority.

No. MC 118159 (Sub-No. 177) (Republication), filed June 17, 1976, published in the FEDERAL REGISTER issue of July 29, 1976, and republished this issue. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, WI 54306. An Order on Reconsideration, Division 1, acting as an Appellate Division, dated November 10, 1977, and served November 23, 1977, finds on reconsideration that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting: *foodstuffs* (except in bulk), in mixed loads with cleaning, bleaching, washing, and scouring compounds, (1) from Atlanta, GA, to points in AL, KY, points in TN, west of U.S. Hwy 431, points in LA each of the Mississippi River, and points in AR, on and east of a line beginning at the AR-MO State line near Corning, AR, and extending along U.S. Hwy 67 to its junction with U.S. Hwy 65 at or near North Little Rock, AR thence along U.S. Hwy 65 to the AR-LA State line near Readland, AR (except Little Rock and points in its commercial zone), and (2) from Houston, TX, to points in AR, LA, and MS, restricted, in (1) and (2) to the transportation of traffic originating at the facilities of the Clorox Co., located at the name origin points. Applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of the Interstate Commerce Act and the Commission's and regulations. The purpose of this republication is to indicate the grant of AL as a destination state in part (1) of applicant's service authorization.

No. MC 127726 (Sub-No. 4) (Republication), filed June 15, 1977, published in the FEDERAL REGISTER issue of August 4, 1977, and republished this issue. Applicant: LEMAN KNIGHT, doing business as, PETE KNIGHT TRUCKING CO., R.F.D. 1, Detroit, AL 35552. Applicant's representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. An Order of the Commission, Review Board Number 1, decided February 13, 1978, and served February 16, 1978, finds that operation by applicant, in interstate or foreign commerce, as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Jasper and Double Springs, AL, to points in AR, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MO, MS, NE, NY, NC, OH, PA, SC, TN, TX, VA, WV, and WI, under a continuing contract or contracts with TMA Forest Products, Division of Tennessee River Pulp and Paper Co., of Counce, TN; will be consistent with the public interest and the national transportation policy. Applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. The purpose of this republication is to indicate the addition of NY in the destination portion of applicant's actual grant of authority.

No. MC 134670 (Sub-No. 3) (Republication), filed July 15, 1977, published in the FEDERAL REGISTER issue of August 25, 1977, and republished this issue. Applicant: DIVERSIFIED TRANSPORTATION, INC., P.O. Box 1406, Mountain View, CA 94042. Applicant's representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. An Order by the Commission, Review Board Number 2, decided January 27, 1978, and served February 16, 1978, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, transporting: (1) *Radiopharmaceuticals and radioactive chemicals*, and (2) *diagnostic kits*, between points in San Mateo, Santa Clara, Alameda, and Sacramento Counties, CA, on the one hand, and, on the other, points in Calaveras, Butte, Placer, Shasta, Amador, Merced, Siskiyou, El Dorado, Tuolumne, Nevada, and Fresno Counties, CA, and points in NV, restricted in both (1) and (2) above to the transportation of traffic having a prior or subsequent movement by air; that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the addition of Nevada County, CA in the territorial description.

No. MC 135437 (Sub-No. 16) (Republication), filed July 5, 1977, published in the FEDERAL REGISTER issue of August 25, 1977, and republished this issue. Applicant: TRI-NORTHEASTERN TRANSPORT, INC., P.O. Box 80, Lyndonville, NY 14098. Applicant's representative: S. Michael Richards, P.O. Box 225, 44 North Avenue, Webster, NY 14580. An Order of the Commission, Review Board Number 2, decided January 27, 1978, and served February 16, 1978, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from Turkey, NC, to points in CT, DE, IN, ME, MA, MD, MI, IL, NJ, NY, NH, OH, PA, RI, VT, WI, and DC; that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the addition of IN, MI, and WI, in the destination portion of applicant's actual grant of authority.

No. MC 139999 (Sub-No. 17) (Republication), filed November 18, 1976, published in the FEDERAL REGISTER issue of December 23, 1976, and republished this issue. Applicant: REDFEATHER FAST FREIGHT, INC., 2606 North 11th Street, Omaha, NE 68110. Applicant's representative: Arlyn L. Westergren, Suite 530, Univac Building, 7100 West Center Road, Omaha, NE 68106. A Report of the Commission, Review Board No. 2, decided January 25, 1978, and served February 16, 1978, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts*, and *articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificate, 61 MCC 209 and 766, (except hides and commodities in bulk), from the plantsite of Dubuque Packing Co., located at or near Mankato, KS, to points in CT, IL, IN, IA, MA, MI, NJ, NY, OH, PA, RI and WI, restricted to traffic originating at the named origin and destined to points in the named destination States; that applicant is fit, willing, and able properly to perform such services and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. The purpose of this republication is to indicate the addition of MA in the destination portion of applicant's actual grant of authority.

No. MC 139999 (Sub-No. 20) (Republication), filed January 10, 1977, published in the FEDERAL REGISTER issue of February 24, 1977, and republished this issue. Applicant: REDFEATHER FAST FREIGHT, INC., 2606 North 11th Street, Omaha, NE 68110. Applicant's representative: Arlyn L. Westergren, Suite 530, Univac Building, 7100 West Center Road, Omaha, NE 68106. A Report of the Commission, Review Board No. 2, decided January 25, 1978, and served February 16, 1978, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts*, and *articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificate, 61 MCC 209 and 766, (except hides and commodities in bulk), from the plantsite of Dubuque Packing Co., located at or near Mankato, KS, to points in CT, IL, IN, IA, MA, MI, NJ, NY, OH, PA, RI and WI, restricted to traffic originating at the named origin and destined to points in the named destination States; that applicant is fit, willing, and able properly to perform such services and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. The purpose of this republication is to indicate the addition of MA in the destination portion of applicant's actual grant of authority.

No. MC 141255 (Sub-No. 3) (Republication) filed May 24, 1976, published in the FEDERAL REGISTER issue of July 8, 1976, and republished this issue. Applicant: TANDY TRANSPORTATION, INC., P.O. Box 7135, 3501 Fairview, Fort Worth, TX 76111. Applicant's representative: Ralph W. Pulley, Jr., 4555 First National Bank Building, Dallas TX 75202. An Order of the Commission, Review Board No. 3, dated November 9, 1977, and served November 29, 1977, finds that operation by applicant, in interstate or foreign commerce, as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of: (1) *Antenna masts* (except commodities which because of their size or weight require the use of special equipment), from Tarrant City, AL, to Groveport, OH, Braintree, MA, Detroit, MI, and Buffalo, NY; (2) *electronic stands* (except commodities which because of their size or weight require the use of special equipment), from St. Louis, MO, to Braintree, MA; (3) *plastic rolls*, from New London, WI, to Fort Worth, TX; (4) *electronic equipment* (except

commodities which because of their size or weight require the use of special equipment), from Mundelein, IL, to Braintree, MA; (5) *electronic equipment and supplies* (except commodities which because of their size or weight require the use of special equipment), from Palmer, MA, to Fort Worth, TX; (6) *printing calculators* (except commodities which because of their size or weight require the use of special equipment), from Greenwich, CT, to Fort Worth, TX, and Garden Grove, CA; (7) *speaker parts for electronic equipment* (except commodities which because of their size or weight require the use of special equipment), from Grand Rapids MI, to Fort Worth, TX; the service described in (1) through (7) above is authorized to be performed under a continuing contract, or contracts, with Radio Shack, division of Tandy Corp.; (8) *knitting yarns in skeins*, from Oregon, IL, to Forth Worth, TX; (9) *wood frames and parts for needlework*, from Chicago, IL, to Forth Worth, TX; (10) *kits of linen or canvas, threads, tapestry, rug yarns, and artists materials*, from New York, NY, to Fort Worth, TX; the service described in (8) through (10) above is authorized to be performed under a continuing contract, or contracts, with American Handicrafts Co. and Merribee Co., divisions of Tandy Crafts, Inc., and Merribee Corp., a subsidiary of Tandy Crafts, Inc.; will be consistent with the public interest and the national transportation policy. Applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations.

The purpose of this republication is to indicate the authority granted in (6) above to transport printing calculators from Greenwich, CT, to Garden Grove, CA.

No. MC 143186 (Republication), filed April 13, 1977, published in the FEDERAL REGISTER issue of May 19, 1977, and republished this issue. Applicant: JOSHUA TRANSPORTATION CO., INC., 184 Stone Street, Clinton, MA 01510. Applicant's representative: John F. O'Donnell, P.O. Box 238, Milton, MA 02187. An Order of the Commission, Review Board Number 2, dated December 5, 1977, and served January 4, 1978, finds that operation by applicant, in interstate or foreign commerce, as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of plastic articles (except in bulk), from Leominster and Clinton, MA, to points in AL, AR, DE, FL, GA, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, NE, NC, ND, OH, OK, SC, SD, TN, TX, VA, WV, WI, the DC, points in PA, on and west of U.S. Hwy 15, and points in NY, on, north, and west of a line beginning at the NY-PA State line at or near Hancock, NY, and extending along DE County Road 27 to junction NY Hwy 10, thence along NY Hwy 10 to junction NY Hwy 8 or near Stilesville, NY, then along NY Hwy 8 to junction NY Hwy 9N, then along NY Hwy 9N to Ticonderoga, NY, and then east along unnumbered Hwy to Lake Champlain, under a continuing contract, or contracts, with Amory Chemical & Plastic Co., Inc., of Clinton, MA, will be consistent with the public interest and the national transportation policy. Applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. The purpose of this republication is to indicate the grant of Iowa as a distination State in applicant's service authorization.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

NOTICE

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protest not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if not representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(e)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under precedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 217 (Sub-No. 19), filed January 23, 1978. Applicant: POINT TRANSFER, INC., P.O. Box 1441, Station C, Canton, OH 44708. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, machinery and machinery parts, contractors' supplies, builders' supplies and equipment, and building and construction materials, batteries, scrap matal, waste material, scrap paper, electric power line equipment, power plant equipment, transformers, rags, asphalt paving materials, manufactured fertilizing compounds, petroleum oils, greases and other related products, roller bearings and equipment, materials, and supplies* used in the manufacture of roller bearings and other related products (except commodities in bulk), between points in OH, on the one hand, and, on the other, points in IN.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, DC or Cleveland, OH.

No. MC 2368 (Sub-No. 72), filed January 3, 1978. Applicant: BRALLEY-WILLETT TANK LINES, INC., 2212 Deepwater Terminal Road, P.O. Box 495, Richmond, VA 23204. Applicant's representatives: William T. Marshburn (same address as applicant), Steven L. Weiman, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Animal oils and greases*, in bulk, from Muncie, IN, to Portsmouth, VA.

NOTE.-If hearing is deemed necessary, applicant requests it be held in Washington, DC.

No. MC 2392, (Sub-No. 111), filed January 30, 1978. Applicant: WHEELER TRANSPORT SERVICE, INC., P.O. Box 14248, West Omaha Station, 7722 F Street, Omaha, NE 68124. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer, in bulk, in tank vehicles*, from Optic, NE, to points in CO and KS.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Omaha, NE or Sioux City, IA.

No. MC 2962 (Sub-No. 66), filed January 23, 1978. Applicant: A. & H. TRUCK LINE, INC., 1111 East Louisiana Street, Evansville, IN 47717. Applicant's representative: Robert H. Kinker, P.O. Box 464, Frankfort, KY 40602. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of the St. Meinrad Archabbey at or near St. Meinrad, IN as an off-route point in connection with carrier's presently authorized regular route operations.

NOTE.—If a hearing is deemed necessary, applicant requestes that it be held at Evansville, IN.

No. MC 4963 (Sub-No. 57), filed January 9, 1978. Applicant: ALLEGHANY CORP. doing business as JONES MOTOR, Bridge Street and Schuylkill Road, Spring City, PA 19475. Applicant's representative: Roland Rice, Suite 501, Perpetual Building, 1111 E Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron pipe and fittings; and plastic pipe and fittings, between Charlotte and Bakers, NC, on the one hand, and, on the other, points in ME, NH, and VT.*

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requestes that it be held at either Washington, DC, or Charlotte, NC.

No. MC 5470 (Sub-No. 137), filed December 27, 1977. Applicant: TAJON, INC., R.D. 5, Mercer, PA 16137. Applicant's representative: Brian L. Troiano, 918 16th Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Alloys, ores and silicon metals*, in dump vehicles, from Bridgeport, AL and Kimball, TN to points in AR, CT, DE, Fl, GA, IL, IN, KY, LA, MD, MI, MS, MO, NJ, NY, NC, OK, PA, SC, VA, WV, and WI, and (2) *materials and supplies* used in the manufacture of alloys and silicon metals, in dump vehicles, from points in the destination states named in part (1) above to Bridgeport, AL and Kimball, TN.

NOTE.—If a hearing is deemed necessary, applicant requestes that it be held at New York, NY, or Washington, DC.

No. MC 13250 (Sub-No. 139), filed January 9, 1978. Applicant: J. H. ROSE TRUCK LINE, INC., P.O. Box 16190, Houston, TX 77022. Applicant's representative: James M. Doherty, 500 West 16th Street, P.O. Box 1945, Austin, TX 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Valves, hydrants;* and (2) *parts, attachments and accessories* for the commodities named in (1) above, from the plantsite and storage facilities of American Darling Valve & Manufacturing Co. located at or near Beaumont, TX, to points in the United States, including AK, but excluding HI.

NOTE.—If a hearing is deemed necessary, applicant requestes that it be held at either Houston or Dallas, TX.

No. MC 27089 (Sub-No. 4), filed December 28, 1977. Applicant: CHI-WAUKEE TRUCK LINES, INC., 1501 West Pershing Road, Chicago, IL 60609. Applicant's representative: David G. Abraham, Suite 304, 6400 Goldsboro Road, Washington, DC 20034. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt, carbonated, and cereal beverages, beverage containers, and advertising matter*, from Minneapolis-St. Paul, MN to Chicago, IL, (2) *cleaning, scouring, and washing compounds, prepared food, candy or confectionary, toilet preparations, plastic articles, magazines or periodicals, parts thereof, paper*, from Chicago, IL to Minneapolis-St. Paul, MN, (3) *general commodities*, with no exceptions between Chicago, IL and Milwaukee, WI, and from Chicago, IL to Minneapolis-St. Paul, MN under a continuing contract or contracts with Metropolitan Distributors, Inc., Shaklee Corp., and Moran Freight Systems, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Chicago, IL or Washington, DC.

No. MC 45194 (Sub-No. 17, filed January 23, 1978. Applicant: LATTAVO BROTHERS, INC., 2230 Shepler Church Avenue SW., Canton, OH 44706. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, machinery and machinery parts, contractors' supplies, builders' supplies and equipment, and building and construction materials, batteries, scrap metal, waste material, scrap paper, electric power line equipment, power plant equipment, transformers, rags, asphalt paving materials, manufactured fertilizing compounds, petroleum oils, greases and other related products, roller bearings and equipment, materials, and supplies* used in the manufacture of roller bearings and other related products (except commodities in bulk), between points in OH, on the one hand, and, on the other, points in IN.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, DC or Cleveland, OH. Common control may be involved.

No. MC 47583 (Sub-No. 62), filed January 9, 1978. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, KS 66115. Applicant's representative: D. S. Hults, P.O. Box 225, Lawrence, KS 66044. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles* (except in bulk), from the plantsite and warehouse facilities of Mobil Chemical Co., Plastics Division, located at Frankfort, IL, to points in ND, SD, NE, KS, OK, AR, MO, IA, MN, WI, TN, KY, IN, OH, MI, CO, TX, GA, NY, CA, SC, MA, NJ, WV, and WY.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Kansas City, MO. Common control may be involved.

No. MC 51146 (Sub-No. 571), filed January 30, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Applicant's representative: Wayne Downing (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are manufactured, distributed, or used by manufacturers and distributors of chemicals (except commodities in bulk), between the facilities of McKesson Chemical at or near Appleton, WI, on the one hand, and, on the other, points in MI, OH, KY, TN, NJ, NY, DE, PA, MD, IA, MO, MN, IL, IN, VA, WV, and DC.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, IL.

No. MC 52657 (Sub-No. 742), filed December 22, 1977. Applicant: ARCO AUTO CARRIERS, INC., 16 West 151 Shore Court, Burr Ridge, IL 60521. Applicant's representative: James Bouril, 16 West 151 Shore Court, Burr Ridge, IL 60521. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles* in secondary movements, in truckaway service, (1) between points in CT, NJ, NY, and PA; (2) between points in MD, NY, OH, PA, and WV; (3) between points in IL, IA, KS, MO, NE, and OK; (4) between points in IL, IN, IA, KY, MI, MO, OH, and WI. Restricted against the transportation of traffic, having an immediately prior movement by rail, and re-

stricted to transportation of motor vehicles manufactured by American Motors Corp. or its subsidiaries, including Jeep Corp.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Detroit, MI, or Chicago, IL.

No. MC 52709 (Sub-No. 346), filed January 30, 1978. Applicant: RINGSBY TRUCK LINES, INC., P.O. Box 7240, 3980 Quebec Street, Denver, CO 80207. Applicant's representative: Robert P. Tyler, P.O. Box 7240, 3980 Quebec Street, Denver, CO 80207. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes transporting: *Foodstuffs*, serving the storage facilities of Pepperidge Farm, Inc., at or near Logan, UT, as an off-route point in connection with carrier's presently authorized regular-route operations at Ogden, UT.

NOTE.—If a hearing is deemed necessary, applicant requests that it be at Salt Lake City, UT, or Denver, CO. Common control may be involved.

No. MC 56679 (Sub-No. 102), filed December 12, 1977. Applicant: BROWN TRANSPORT CORP., a corporation, 352 University Avenue SW., Atlanta, Ga. 30315. Applicant's representative: John P. Carlton, 903 Frank Nelson Building, Birmingham, AL 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the commission, commodities in bulk, and those requiring special equipment), (1) between Atlanta, GA, and New York, NY: From Atlanta, GA, over Interstate Hwy 85 to its junction with Interstate Hwy 95, then over Interstate Hwy 95 and U.S. Hwy 1 to New York, NY, and return over the same route, serving all intermediate points, and serving Pedricktown, and Secaucus, NJ, and points in WY, Lackawanna, Luzerne, Columbia, Monroe, Northampton, Carbon, Schuylkill, Lehigh, Buck, Berks, Lebanon, Dauphin, Montgomery, Lancaster, York, and Chester Counties, PA, as off-route points, (2) between Savannah, GA, and Petersburg, VA: From Savannah, GA, over U.S. Hwy 17 to Wilmington, NC, then over U.S. Hwy 117 to Wilson NC, then over U.S. Hwy 301 to its junction with Interstate Hwy 95, then over Interstate Hwy 95 to Petersburg, VA, and return over the same route, serving all intermediate points, (3) between Savannah, GA, and Charlotte, NC: From Savannah, GA, to Columbia, SC, over U.S. Hwy 321, then over U.S. Hwy 21 to Charlotte, NC, and return over the same route, serving all intermediate points, (4) between Greenville, SC, and the junction of SC Hwy 90 and U.S. Hwy 17 near Little River Neck, SC: From Greenville, SC, over U.S. Hwy 276 to its intersection with Interstate Hwy 26, then over Interstate Hwy 26 to Columbia, SC, then over U.S. Hwy 378 to Conway, SC, then over SC Hwy 90 to its junction with U.S. Hwy 17 and return over the same route, serving all intermediate points, (5) between Savannah, GA, and Florence, SC: From Savannah, GA, over alternate U.S. Hwy 17, then over U.S. Hwy 17 to its junction with Interstate Hwy 95, then over Interstate Hwy 95 to its junction with Interstate Hwy 20, then over Interstate Hwy 20 to Florence, SC, and return over the same route, serving all intermediate points, (6) between Augusta, GA, and Rockingham, NC: From Augusta, GA, over U.S. Hwy 1 to Windsor, SC, then over SC Hwy 302 to Columbia, SC, then over U.S. Hwy 1 to Rockingham, NC, and return over the same route, serving all intermediate points, (7) between Sylvania, GA, and Ulmers, SC: From Sylvania, GA, over U.S. Hwy 301 to Ulmers, SC, and return over the same route, serving all intermediate points, (8) between Baltimore, MD, and York, PA: From Baltimore, MD, over Interstate Hwy 83 to York, PA, and return over the same route, serving all intermediate points, (9) between York, and Philadelphia, PA: From York, PA, over U.S. Hwy 30 to Philadelphia, PA, for operating convenience only, serving no intermediate points, (10) between Cleveland, OH, and Knoxville, TN: (a) From Cleveland, OH, over Interstate Hwy 71 to Cincinnati, OH, then over Interstate Hwy 75 to Knoxville, TN, and return over the same route serving all intermediate points in OH and all other points in OH as off-route points, (b) between Cleveland, OH, and Greensboro, NC: From Cleveland, OH, over Interstate Hwy 77 to Wythville, VA, then over U.S. Hwy 52 to Winston-Salem, NC, then over U.S. Hwy 421 to Greensboro, NC, and return over the same route, serving all intermediate points in OH and all other points in OH as off-route points, and serving all intermediate points in NC, (11) between the junction of GA Hwy 21 and Interstate Hwy 95 and the junction of Interstate Hwy 95 and U.S. Hwy 17: From the junction of U.S. Hwy 21 and Interstate Hwy 95 over Interstate Hwy 95 to the junction of Interstate Hwy 95 and U.S. Hwy 17, and return over the same route, (12) between Fayetteville and Wilson, NC: From Fayetteville over Interstate Hwy 95 and U.S. Hwy 301, serving all intermediate points, (13) between Sanford and Henderson, NC: From Sanford over U.S. Hwy 1 to Henderson, NC, and return over the same route, (14) between Washington, GA, and Columbia, SC: From Washington, GA, over U.S. Hwy 378 to Columbia, SC, and return over the same route, serving all intermediate points, (15) between Calhoun Falls and McCormick, SC: From Calhoun Falls over SC Hwy 81 to McCormick, SC, and return over the same route, serving all intermediate points, (16) between Wythville, VA, and Charlotte, NC: From Wythville, VA, over U.S. Hwy 21 and Interstate Hwy 77 to Charlotte, NC, and return over the same route, serving all intermediate points in NC, (17) between Knoxville, TN, and Winston-Salem, NC: From Knoxville, TN, over Interstate Hwy 40 to Winston-Salem, NC, and return over the same route, serving all intermediate points in NC, (18) between Asheville, NC, and Greenville, NC: From Asheville, NC, over U.S. Hwy 25 to Greenville, SC, and return over the same route, serving all intermediate points, (19) between Chicago, IL, and Atlanta, GA: (a) From Chicago, IL, over U.S. Hwy 41 to Atlanta, GA, and return over the same route, serving Peoria, IL, as an off-route point, (b) from Chicago, IL, over Interstate Hwy 65 to Nashville, TN, then over Interstate Hwy 24, to Chattanooga, TN, then over Interstate Hwy 75 to Atlanta, GA, and return over the same route, (c) from Chicago, IL, over Interstate Hwy 65 to Indianapolis, IN, then over Interstate Hwy 74 to Cincinnati, OH, then over Interstate Hwy 75 to Atlanta, GA, and return over the same route, serving Knoxville, TN, as an intermediate point; and (20) between Savannah, GA, and Petersburg, VA: From Savannah, GA, over GA Hwy 21 to Interstate Hwy 95, then over Interstate Hwy 95 and U.S. Hwy 301 to Petersburg, VA, and return over the same route, serving all intermediate points.

NOTE.—Applicant has authority to provide all of the service proposed herein (except that its northbound authority to DE, MD, NJ, NY, PA, and VA presently is limited to transportation of textiles and textile products, and previously held authority to operate between Peoria, IL, and points in the Southern States served by Brown was withheld by the Commission in its gateway elimination application), except for these two segments of authority, the only purposes of the application are (1) to provide alternate gateways; and (2) to replace certain segments of irregular-route authority with regular-route authority. Common control may be involved. If a hearing is deemed necessary, the applicant request that it be held at either Atlanta, GA, or Washington, DC, with subsequent hearings in Chicago, IL, and New York, NY.

No. MC 59150 (Sub-No. 121), filed January 23, 1978. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose Street, Jacksonville, FL 32206. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Concrete products*, from the plantsite and storage facilities of H.D.W.-Houdaille Co. at or near Jonesboro, GA, to points in AL, NC, SC and TN.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Atlanta, GA or Jacksonville, FL.

No. MC 59367 (Sub-No. 114), filed January 11, 1978. Applicant: DECKER TRUCK LINE, INC., P.O. Box 915, Fort Dodge, IA 50501. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, (except hides and commodities in bulk), from the plantsite and storage facilities of American Beef Packers, Inc., in Pottawattamie County, IA, to points in MN and WI.

NOTE.—If a hearing is deemed necessary, applicant requests that said hearing be held at Omaha, NE or Des Moines, IA.

No. MC 64932 (Sub-No. 581), filed January 9, 1978. Applicant: ROGERS CARTAGE CO., a corporation, 10735 South Cicero Avenue, Oak Lawn, IL 60453. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural pesticides*, in bulk, in tank vehicles, from the plantsite and storage facilities utilized by Shell Chemical Co., a division of Shell Oil Co., at or near El Paso, IL to points in the United States (except AK and HI).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, IL.

No. MC 67234 (Sub-No. 18), filed December 30, 1977. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Applicant's representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty containers for household goods*, between points in the United States (except AK and HI).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at St. Louis, MO or Chicago, IL.

No. MC 75320 (Sub-No. 191), filed January 9, 1978. Applicant: CAMPBELL SIXTY-SIX EXPRESS, INC., P.O. Box 807, Springfield, MO 65801. Applicant's representative: John A. Crawford, P.O. Box 22567, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the K Mart Corp. Distribution Center located in Coweta County, GA as an off-route point in connection with carrier's authorized regular-route operations.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Atlanta, GA.

No. MC 82841 (Sub-No. 219), filed January 11, 1978. Applicant: HUNT TRANSPORTATION, INC., 10770 "I" Street, Omaha, NE 68127. Applicants' representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and wood products*, from Douglas County, NV to AL, AZ, AR, CO, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NM, OH, OK, SD, TN; TX, UT, WI, and WY.

NOTE.—Applicant requests oral hearing to be held in Albuquerque, NM, or, Denver, CO.

No. MC 96938 (Sub-No. 9), filed January 23, 1978. Applicant: ARKANSAS TRANSIT HOMES, INC., 8400 Mabelvale Pike, Little Rock, AR 72209. Applicant's representative: Harold G. Hernly, Jr., 118 North St. Asaph Street, Alexandria, VA 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, and *buildings*, in sections (except prefabricated buildings) in initial movements, from points in AR to points in MO, KY, IL, KS, NM, and AL.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Little Rock, AR, or DC.

No. MC 98327 (Sub-No. 26), filed December 27, 1977. Applicant: SYSTEM 99, 8201 Edgewater Drive, Oakland, CA 94621. Applicant's representative; Michael J. Stecher, 256 Montgomery Street, San Francisco, CA 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over (regular) routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, commodities in bulk, household goods as defined by the Commission and commodities requiring special equipment): (1) Between Las Vegas, NV, and Kingman, AZ, serving the intermediate points between Las Vegas and Boulder City, NV, inclusive; from Las Vegas over U.S. Hwy 93 to Kingman and return over the same route. (2) Between the junction of U.S. Hwy 93 and U.S. Hwy 95 (near Alunite, NV) and the junction of Interstate Hwy 40 (U.S. Hwy 66) and Arizona State Hwy 95, east of Topock, AZ, serving all intermediate points; from the junction of U.S. Hwy 93 and U.S. Hwy 95 (near Alunite, NV) over U.S. Hwy 95 to its junction with Interstate Hwy 40 west of Needles, CA, then over Interstate Hwy 40 to its junction with Arizona State Hwy 95, east of Topock, AZ, and return over the same route. (3) Between the junction of U.S. Hwy 95 and Nevada State Hwy 77 and the junction of Arizona State Hwy 95 and Interstate Hwy 40 (U.S. Hwy 66) at Topock, AZ, serving all intermediate points; from the junction of U.S. Hwy 95 and Nevada State Hwy 77 over Nevada State Hwy 77 to its junction with Arizona State Hwy 68 then over Arizona State Hwy 68 to its junction with Arizona Hwy 95, then over Arizona Hwy 95 to its junction with I-40 (U.S. Hwy 66) at Topock, AZ, and return over the same route. (4) Between Essex, CA, and the junction of Interstate Hwy 40 (U.S. Hwy 66) and U.S. Hwy 95 west of Needles, CA, serving all intermediate points; from Essex, CA, over Interstate Hwy 40 to its junction with U.S. Hwy 95, west of Needles, CA, and return over the same route.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held on a consolidated hearing with MC-F 13204, at Phoenix, AZ.

No. MC 100449 (Sub-No. 81) (clarification), filed December 12, 1977, published in the FEDERAL REGISTER issue of February 9, 1978, and republished this issue. Applicant: MALLINGER TRUCK LINE, INC., RFD No. 4, Fort Dodge, IA 50501. Applicant's representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in App. 1, Sections A & C 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Geo. A. Hormel & Co., at Fort Dodge, IA, Austin, MN, and Fremont, NE, to points in TX.

NOTE.—If a hearing is deemed necessary, applicant requests that the hearing be held at Minneapolis, MN. The purpose of this republication is to clarify and confirm that the correct docket number assigned to this proceeding is No. MC 100449 (Sub-No. 81).

No. MC 100449 (Sub-No. 82) (Correction), filed December 12, 1977, published in the FEDERAL REGISTER issue of February 9, 1978, as No. MC 100449 (Sub-No. 81), and republished as corrected this issue. Applicant: MALLINGER TRUCK LINE, INC., RFD No. 4, Fort Dodge, IA 50501. Applicant's representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, trans-

porting: *Meats, meat products, meat by products, and articles distributed by meat packinghouses,* as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Indianapolis, IN, to points in ND and SD.

NOTE.—If a hearing is deemed necessary, applicant requests that the hearing be held at Chicago, IL, or Indianapolis, IN. The purpose of this republication is to indicate the correct docket number assigned to this proceeding as No. MC 100449 (Sub-No. 82), in lieu of No. MC 100449 (Sub-No. 81), as published in the FEDERAL REGISTER issue of February 9, 1978.

No. MC 100449 (Sub-No. 87), filed January 27, 1978. Applicant: MALLINGER TRUCK LINE, INC., Rural Route No. 4, Fort Dodge, IA 50501. Applicant's representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: Part (1): *Recreational vehicles, campers,* and *trailers,* and *parts, accessories, equipment, materials, and supplies* used in the manufacture or distribution of recreational vehicles, campers and trailers, between Forrest City, IA, on the one hand, and, on the other, points in TX, IL, IN, OH, and MI, restricted against the transportation of commodities in bulk and commodities requiring special equipment. Part (2): (a) *Plastic sheets, moldings, products and materials,* (except in bulk), from Mansfield, TX, to points in the United States in and west of OH, KY, TN, and MS, (except AK and HI), (b) *equipment, materials and supplies* used or useful in the manufacture or distribution of plastic sheets, moldings, products, and materials, (except commodities in bulk), from points in the United States in and west of KY, TN, and MS, OH (except AK and HI) to Mansfield, TX.

NOTE.—If a hearing is deemed necessary, applicant requests that the hearing be held at Dallas, TX, Oklahoma City, OK, and Washington, DC.

No. MC 100666 (Sub-No. 377), filed January 23, 1978. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Building, 3535 North West 58th Street, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Lumber,* from Keokuk, IA, to points in AL, AR, LA, MS, OK, TN, and TX.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at St. Louis, MO.

No. MC 104829 (Sub-No. 76), filed January 30, 1978. Applicant: CARGO CONTRACT CARRIER CORP., PO Box 206, U.S. Hwy 20, Sioux City, IA 51102. Applicant's representative: William J. Hanlon, 55 Madison Ave., Morristown, NJ 07960. Authority sought to operate as a *common carrier,* by motor vehicle, transporting: *Foodstuffs,* from Jersey City, NJ to points in the States of MI, OH, IL, and IN, restricted to the traffic originating at the named origin and destined to the named destination States.

NOTE.—Applicant holds contract carrier authority in MC-136408 and subs thereunder; therefore dual operations may be involved. (Hearing site: Washington, DC).

No. MC 104832 (Sub-No. 12), filed December 29, 1977. Applicant: HOLMAN TRANSFER CO., a corporation, 49 Southeast Clay Street, Portland, OR 97214. Applicant's representative: Lawrence V. Smart, Jr., 419 Northwest 23rd Avenue, Portland, OR 97210. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *General Commodities,* (except those of unusual value, Classes A and B explosives, *household goods* as defined by the Commission, commodities in bulk, commodities requiring special equipment), between Portland, OR, on the one hand, and, on the other, points in King, Pierce, Snohomish, Yakima, and Spokane Counties, WA. Restricted to shipment originating at facilities of Holman Transfer Co.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Portland, OR.

No. MC 105566 (Sub-No. 156), filed January 23, 1978. Applicant: SAM TANKSLEY TRUCKING, INC., PO Box 1119, Cape Girardeau, MO 63701. Applicant's representative: Thomas F. Kilroy, Suite 406 Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *General commodities* (except household goods as defined by the Commission, commodities of unusual value, class A and B explosives, commodities in bulk, and commodities requiring special equipment), from the facilities of Western Electric Corp., located in Adams, Allegheny, Beaver, Delaware, Mercer, and Westmoreland Counties, PA, to points in the United States on and west of a line beginning at the mouth of the MS River, and extending along the MS River to its junction with the western boundary of Itasca County, MN, then along the western boundaries of Itasca and Koochiching Counties, MN, to the International Boundary Line between the United States and Canada (except AK and HI).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, PA or Washington, DC.

No. MC 106743 (Sub-No. 15), filed January 23, 1978. Applicant: COLEMAN AMERICAN MOVING SERVICES, INC., 4081 Ross Clark Circle NW., Dothan, AL 36301. Applicant's representative: R. S. Richard, 57 Adams Avenue, Montgomery, AL 36104. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Used household goods, and unaccompanied baggage,* between points in Mobile, Baldwin, Washington, Clarke, Monroe, Escambia, and Conecuh Counties, AL. Restriction: Said operations are restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized. Said operations are restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization, and unpacking, uncrating, and decontainerization of such traffic.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Mobile, Montgomery, or Birmingham, AL.

No. MC 107403, (Sub-No. 1058), filed January 30, 1978. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, PA 19050. Applicant's representative: Martin C. Hynes, Jr., same address as applicant. Authority sought to operate as a *common carrier,* over irregular routes, transporting: *Aqua ammonia,* in bulk, in tank vehicles, from Hammond, LA, to points in AL, AR, MS and TX.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held in Washington, DC.

MC 107460 (Sub-No. 74) filed January 12, 1978. Applicant: WILLIAM Z. GETZ, INC., 3055 Yellow Goose Road, Lancaster, PA, 17601. Applicant's representative: Donald D. Shipley (same address as applicant). Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Printed matter,* from the plantsites of the R. R. Donnelley & Sons Co., located at or near Lancaster, PA, to points in AL, AR, CT, DE, FL, GA, ID, IL, IN, KY, LA, ME, MD, MA, MI, MS, MT, NE, NV, NH, NJ, NY, NM, NC, ND, OH, OK, RI, SC, SD, TN, UT, VT, VA, WV, WY and the DC, under a continuing contract or contracts with the R. R. Donnelley & Sons Co.

NOTE.—If a hearing is deemed necessary, Applicant requests that it be held either at Washington DC or Chicago, IL.

No. MC 107544 (Sub-No. 144), filed December 29, 1977. Applicant: LEMMON TRANSPORT CO., INC., P.O. Box 580, Marion, VA 24354. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Authority sought to operate as *common carrier,* by motor vehicle, over irregular routes, transporting: *Commodities in bulk,* from Smyth County, VA, to points in KY, MD, OH, NC, PA, SC, TN, VA, and WV.

NOTE.—If a hearing is deemed necessary applicant requests that it be held in Washington, DC, or Roanoke, VA. Applicant holds common carrier authority in No. MC 113959 and subs thereunder, therefore dual operations may be involved.

No. MC 107678 (Sub-No. 66), filed January 16, 1978. Applicant: HILL & HILL TRUCK LINE, INC., P.O. Box 9698, 14942 Talcott Street, Houston, TX 77015. Applicant's representative: J. Marshall Forsyth (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Bentonite, bentonite clay, foundry molding sand treating compounds, water impedance foundation boards, mud treating compounds, drilling mud additives, and lignite coal* (except commodities in bulk), from points in MT, ND, SD, and WY to points in the United States, including AK (but excluding HA).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Denver, CO.

No. MC 107913 (Sub-No. 17), filed January 11, 1978. Applicant: F & W EXPRESS, INC., 165 South Parkway West, Memphis, TN 38109. Applicant's representative: Dale Woodall, 900 Memphis Bank Building, Memphis, TN 38103. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Lake Village, AR, and Eudora, AR; from Lake Village, AR, over U.S. Hwy 65 to Eudora, AR, and return over the same route, serving as off-route points in connection with applicant's regular-route authority.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Little Rock, AR.

No. MC 108119 (Sub-No. 77), filed January 11, 1978. Applicant: E. L. MURPHY TRUCKING CO., a corporation, P.O. Box 43010, St. Paul, MN 55164. Applicant's representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Mechanical lifting equipment,* (2) *attachments and parts for mechanical lifting equipment,* from St. Joseph, MO, to points in the United States (except AL and HA).

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Kansas City, MO, or St. Louis, MO.

No. MC 109397 (Sub-No. 389), filed January 10, 1978. Applicant: TRI-STATE MOTOR TRANSIT CO., a corporation, P.O. Box 113, Joplin, MO 64801. Applicant's representative: A. N. Jacobs (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Heating equipment and heating equipment parts,* between Tulsa, OK, on the one hand, and, on the other, points in the United States (including AL, but excluding HA).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Tulsa or Oklahoma City, OK.

No. MC 110012 (Sub-No. 37), filed January 9, 1978. Applicant: ROY WIDENER MOTOR LINES, INC., P.O. Box 68, Morristown, TN 37814. Applicant's representative: John R. Sims, Jr., 915 Pennsylvania Building, 425 13th Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *General commodities* in rail and steamship containers (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those of unusual value, and commodities which because of their size or weight, require the use of special equipment), and *empty containers,* between points in Cocke County, TN, on the one hand, and, on the other, Morristown, TN, restricted to commodities having a prior or subsequent movement by rail.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Washington, DC, or Knoxville, TN.

No. MC 110325 (Sub-No. 79), filed January 26, 1978. Applicant: TRANSCON LINES, a corporation, P.O. Box 92220, Los Angeles, CA 90009. Applicant's representative: Wentworth E. Griffin, 1221 Baltimore Avenue, Kansas City, MO 64105. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of the K-Mart Corp. Distribution Center, located at or near Newnan (Coweta County), GA, as an off-route point in connection with carrier's authorized regular route operations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, GA.

No. MC 110391 (Sub-No. 2), filed January 18, 1978. Applicant: CHESTER A. DEYOUNG AND KAREN M DEYOUNG, d.b.a. DEYOUNG TRANSFER & STORAGE CO., 214 East Part Street, Livingston, MT 59047. Applicant's representative: Chester A. DeYoung (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over regualar routes, transporting: *General commodities* (except commodities in bulk and commodities which because of weight and size require special equipment), between Wilsall, MT, and Mammoth Hot Springs, Yellowstone National Park, WY, over U.S. Hwy 89, serving all intermediate points and the off-route point of Chico Hot Springs, MT.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Livingston, Bozeman, or Helena, MT.

No. MC 110525 (Sub-No. 1223), filed January 30, 1978. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, PA 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes transporting: *Dry aluminum chloride,* in bulk, or in sealbins, from the facilities of Aluminum Co. of America near Palestine, TX, to Wood River, IL. (Hearing site: Pittsburgh, PA, or Washington, DC.)

No. MC 111231 (Sub-No. 225), filed December 22, 1977. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, AR 72764. Applicant's representative: Adelyn B. McKamy, P.O. Box 1295, Greenville, MS 38701. Authority sought to engage in operation, in interstate or foreign commerce, as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Composition building boards and materials* incidental to the transportation and installation thereof, from Laurel, MS, to points in IL, KS, and MO.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests modified procedure to be held at Jackson, MS, or Chicago, IL.

No. MC 111320 (Sub-No. 69), filed January 10, 1978. Applicant: KEEN TRANSPORT, INC., P.O. Box 1417, Hudson, OH 44236. Applicant's representative: Larry E. Gresh, Keen Transport, Inc., P.O. Box 1417, Hudson, OH 44236. Authority sought to engage in operation, in interstate or foreign commerce, as a *common carrier,* by motor vehicle, over irregular routes, in the transportation of: (1) *Tractors,* with or without attachments (except truck tractors used for pulling highway trailers), lift trucks, compactors, excavators, road rollers and dump trucks for off highway use; (2) *parts, attachments* and *accessories* for the com-

modities described in (1) above when moving in mixed loads with the commodities in (1) above. Restricted: To transporting the commodities described in (1) above on specially de-

No. MC 113651 (Sub-No. 255), filed January 5, 1978. Applicant: INDIANA REFRIGERATOR LINES, INC., Post Office Box 552, Muncie, IN 47305. Applicant's representative: H. Barney

thority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen prepared foods* (except commodities in bulk), from the plantsite and storage

No. MC 114273 (Sub-No. 331), filed January 9, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Applicant's representative: Kenneth L. Core (same address as ap-

dota, and Rochelle, IL, to Eau Claire, Superior, WI, points in KS, MN, NE, SD, and points in that part of IA on and west of U.S. Hwy 169.

AL, GA, FL, and TN, and (2) *materials, equipment, and supplies* (except commodities in bulk), used in the pro-

modities described in (1) above when moving in mixed loads with the commodities in (1) above. Restricted: To transporting the commodities described in (1) above on specially designed: (a) Hydraulically operated detachable gooseneck I-beam trailers; (b) hydraulically operated detachable gooseneck lowboy trailers with a ground to trailer floor loading height of 24" or less; (c) hydraulically operated detachable gooseneck lowboy dropside trailers with a ground to trailer loading height of 18" or less; (d) short lead lowboy and dolly assembly combinations; (e) stretch lowboy trailers; (f) lowboy body trailers, from the plantsites, warehouses and storage areas of Caterpillar Tractor, located in IL and IA to points in CO, KS, MO, MT, NE, ND, OK, SD, and WY.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Omaha, NE or Denver, CO. Common control may be involved.

No. MC 112148 (Sub-No. 61), filed January 27, 1978. Applicant: WORSTER-IOWA, INC., R.D. No. 1, Gay Road, North East PA 16428. Applicant's representative: Joseph F. MacKrell, 120 West Tenth Street, Erie, PA 16501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities utilized by John Morrell & Co. at or near Sioux City, IA, to points in CT, ME, MD, MA, NJ, NY, PA, RI. Restricted to traffic originating at the named origins and destined to points in the above named destination States.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, DC. Common control may be involved.

No. MC 113528 (Sub-No. 35), filed January 11, 1978. Applicant: MERCURY FREIGHT LINES, INC., P.O. Box 1247, Mobile, AL 36601. Applicant's representative: Joy Stephenson, P.O. Box 1247, Mobile AL 36601. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except explosives and commodities requiring special equipment), serving the facilities of K-Mart Corp.'s Distribution Center (also known as S. S. Kresge Distribution Center) in Coweta County, GA as an off-route point in connection with applicant's authorized regular-route operations.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Atlanta, GA or Birmingham, AL. Common control may be involved.

No. MC 113651 (Sub-No. 255), filed January 5, 1978. Applicant: INDIANA REFRIGERATOR LINES, INC., Post Office Box 552, Muncie, IN 47305. Applicant's representative: H. Barney Firestone, Suite 1600, 10 S. La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and articles distributed by meat packinghouses* (except hides and commodities in bulk), as defined in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, from the plantsite and warehouse facilities of Honey Beef House located at or near Mentone, IN to points in CT, MA, PA, and NY. Restriction: Restricted to the transportation of traffic originating at the above named origins and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Indianapolis, IN.

No. MC 113651 (Sub-No. 258), filed January 9, 1978. Applicant: INDIANA REFRIGERATOR LINES, INC., Post Office Box 552, Muncie, IN 47305. Applicant's representative: H. Barney Firestone, Suite 1600, 10 S. La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from points in NY west of U.S. Interstate Hwy 81 to points in MI. Restriction: Restricted to traffic originating at the plantsite and storage facilities of Curtice-Burns, Inc. and destined to points in MI.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Buffalo, NY.

No. MC 113651 (Sub-No. 259), filed January 9, 1978. Applicant: INDIANA REFRIGERATOR LINES, INC., Post Office Box 552, Muncie, IN 47305. Applicant's representative: H. Barney Firestone, Suite 1600, 10 S. La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from points in NY west of U.S. Interstate Hwy 81 to points in FL. Restriction: Restricted to traffic originating at the plantsite and storage facilities of Curtice-Burns, Inc. and destined to points in FL.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Buffalo, NY.

No. MC 113651 (Sub-No. 260), filed January 11, 1978. Applicant: INDIANA REFRIGERATOR LINES, INC., Post Office Box 552, Riggin Road, Muncie, IN 47305. Applicant's representative: H. Barney Firestone, Suite 1600, 10 S. La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen prepared foods* (except commodities in bulk), from the plantsite and storage facilities of Rotanelli Foods, Inc., located at or near Pelham Manor and New Rochelle, NY, to points in MN, IA, MO, TN, GA, FL, SC, NC, VA, WV, KY, IN, OH, IL, WI, MI, RI, PA, NY, NJ, DE, ME, MD, MA, VT, NH, CT, DC, Omaha, NE, and Overland Park, KS.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York, NY.

No. MC 113828 (Sub-No. 252), filed January 27, 1978. Applicant: O'BOYLE TANK LINES, INC., P.O. Box 30006, Washington, DC 20014. Applicant's representative: William P. Sullivan, Federal Bar Building, West, 1819 H Street NW., Washington, DC 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt* and *salt products* in bulk, in tank vehicle, from Charlotte, NC, to points in GA, TN, and VA.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, DC.

No. MC 114045 (Sub-No. 491), filed January 30, 1978. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, D/FW Airport, TX 75261. Applicant's representative: J. B. Stuart, P.O. Box 61228, D/FW Airport, TX 75261. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery*, from Bloomington, IL to points in CA and TX.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, IL, or Dallas, TX. Common control may be involved.

No. MC 114273 (Sub-No. 329), filed January 11, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Applicant's representative: Kenneth L. Core (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts*, and *articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk in tank vehicles), from the plantsites and storage facilities utilized by Spender Foods, Inc., at or near Fremont and Schuyler, NE to points in NC, SC and TN. (Restricted to traffic originating at and destined to the above-named points.)

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Chicago, IL or Washington, DC.

No. MC 114273 (Sub-No. 331), filed January 9, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Applicant's representative: Kenneth L. Core (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts*, and *articles* distributed by meat packinghouses (except hides and commodities in bulk), as defined in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, from the plantsite and warehouse facilities of Wilson Foods Corp., located at Albert Lea, MN, Cedar Rapids and Des Moines, IA to points in TN.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Dallas, TX or Kansas City, MO.

No. MC 114274 (Sub-No. 45), filed January 13, 1978. Applicant: VITALIS TRUCK LINES, INC., 137 Northeast 48th Street Place, Des Moines, IA 50306. Applicant's representative: William H. Towle, 180 North LaSalle Street, Suite 3520, Chicago, IL 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *frozen foodstuffs:* From the facilities of Campbell Soup Co. at Omaha, NE, to Chicago, IL, and points in MN.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, IL.

No. MC 114552 (Sub-No. 150), filed January 23, 1978. Applicant: SENN TRUCKING CO., a corporation, P.O. Box 220, Newberry, SC 29108. Applicant's representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes in the transportation of, *Polyvinyl, chloride, plastic pipe and fittings:* From the plantsite of Tridyn Industries, Inc., at or near Colfax, NC to points in AR, LA, OK, and TX, and points in the United States in and east of WI, IL, KY, TN, and MS.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, GA, Newberry, SC, or Colfax, NC.

No. MC 114632 (Sub-No. 144), filed January 23, 1978. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Applicant's representative: Michael L. Carter, P.O. Box 287, Madison, SD 57042. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs (except in bulk):* (1) From Chicago, IL, and its Commercial Zone to points in IA, KS, MN, NE, ND, SD, WI, and points in Kansas City, MO, Commercial Zone, (2) from Kenosha, WI, to points in IA, KS, MN, and NE, and (3) from Dekalb, Mendota, and Rochelle, IL, to Eau Claire, Superior, WI, points in KS, MN, NE, SD, and points in that part of IA on and west of U.S. Hwy 169.

NOTE.—Applicant holds motor contract carrier authority in No. MC 129706, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, IL.

No. MC 114725 (Sub-No. 82), filed January 30, 1978. Applicant: WYNNE TRANSPORT SERVICE, INC., 2222 North 11th Street, Omaha, NE 68110. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer*, in bulk, in tank vehicles, from Optic, NE, to points in CO and KS (hearing site, Omaha, NE, or Sioux City, IA).

NOTE.—Common control may be involved.

No. MC 114969 (Sub.-No. 70), filed January 24, 1978. Applicant: PROPANE TRANSPORT, INC., 1734 State Route 131, P.O. Box 232, Milford, OH 45150. Applicant's representative: Alki E. Scopelitis, 815 Merchants Bank Building, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nitrogen fertilizer solutions:* From the storage facilities of C. F. Industries, Inc., at or near Burns Harbor, IN, to points in MI.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Chicago, IL, or Indianapolis, IN.

No. MC 115821 (Sub-No. 34), filed January 24, 1978. Applicant: FRANK BEELMAN dba. BEELMAN TRUCK CO., Washington Street, St. Libory, IL 62282. Applicant's representative: Ernest A. Brooks, 1301 Ambassador Building, 411 North 7th Street, St. Louis, MO 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer material*, in bulk, from Bussen Spur, MO, to points in IL.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Chicago or Springfield, IL.

No. MC 115841 (Sub-No. 594), filed January 30, 1978. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., Suite 110, 9041 Executive Park Drive, Knoxville, TN 37919. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, from the facilities utilized by Falstaff Brewing Corp., at or near New Orleans, LA, to points in TX, AR, MS, AL, GA, FL, and TN, and (2) *materials, equipment, and supplies* (except commodities in bulk), used in the production, sale, and distribution of malt beverages, from points in TX, AR, MS, AL, GA, FL, and TN, to the facilities utilized by Falstaff Brewing Corp. at or near New Orleans, LA.

NOTE.—Common control may be involved. If a hearing is deemed necessary applicant requests that it be held at New Orleans, LA, or Washington, DC.

No. MC 115841 (Sub-No. 595), filed January 27, 1978. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., Suite 110, 9041 Executive Park Drive, Knoxville, TN 37919. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt and asphalt roofing* (except in bulk), from Memphis, TN, to points in MS, AR, KY, MO, LA, AL, TN, and GA.

NOTE.—Common control may be involved. If a hearing is deemed necessary applicant requests that it be held at Memphis, TN, or Washington, DC.

No. MC 115841 (Sub-No. 597), filed January 26, 1978. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., Suite 110, 9041 Executive Park Drive, Knoxville, TN 37919. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products*, and *articles* distributed by meat packing houses as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 (except hides and commodities in bulk), from the facilities utilized by John Morrell & Co., Inc., at or near Sioux Falls, SD; Sioux City, Estherville, and Humboldt, IA; and St. Paul, MN, to points in AL, AR, CO, DE, DC, FL, GA, IL IN, KS, KY, LA, MD, MI, MS, MO, NM, NC, OH, OK, SC, TN, TX, VA, and WV, restricted to the transportation of shipments originating at the named origins.

NOTE.—Common control may be involved. If a hearing is deemed necessary applicant requests that it be held at Chicago, IL, or Washington, DC.

No. MC 116763 (Sub-No. 400), filed January 3, 1978. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Applicant's representative: H. M. Richters, P.O. Box 81, Versailles, OH 45380. Authority sought to operate as a *common carrier*, by motor vehicle,

over irregular routes, transporting: *Confectionary* (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of E. J. Brach & Sons, Inc. at or near Chicago and Carol Stream, IL, to points in AL, FL, GA, KY, MD, MS, NJ, NC, OH, PA, SC, TN, VA, WV, and DC. Restricted to the transportation of traffic originating at the named origins and destined to points in the named destination states.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Chicago, IL.

No. MC 116763 (Sub-No. 401), filed January 30, 1978. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Applicant's representative: H. M. Richters, North West Street, Versailles, OH 45380. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (I) *Foodstuffs* (except frozen foods, and commodities in bulk, in tank vehicles). (a) From the facilities of The J. M. Smucker Co. at or near Orrville, OH, to points in IL, IN, IA, points in KS on and east of U.S. Hwy 281, MI, points in MO on and west of U.S. Hwy 65, and St. Louis and points in its commercial zone as defined by the Commission, points in NE on, east, and south of a line beginning at the NE-KS State line and extending along U.S. Hwy 83 to North Platte, NE, and thence along U.S. Hwy 30 to the Missouri River and points in the commercial zone of any point described, points in NY west of NY Hwy 12, NC, OK, points in PA west of U.S. Hwy 220, Philadelphia and Scranton, PA, SC, TX, VA south of U.S. Hwy 60, WV, WI, and Minneapolis-St. Paul, MN and points in its commercial zone. (b) From the facilities of H. W. Madison Co., Division of The J. M. Smucker Co., at or near Medina, OH, to points in AL, AR, CT, DE, GA, IL, IN, IA, KS, KY, MD, MA, MI, MN, MO, NE, NJ, NY, NC, ND, OK, PA, RI, SC, SD, TX, VA, WV, WI, and DC. (c) From the facilities of H. W. Madison Co., Division of The J. M. Smucker Co., at or near New Bethlehem, PA, to points in the United States in and east of ND, SD, NE, KS, OK, and TX. (d) From the facilities of H. B. De Viney Co., Inc., a subsidiary of The J. M. Smucker Co., at or near New Bethlehem, PA, to points in the United States in and east of ND, SD, NE, KS, OK, and TX (except Memphis, TN, and Orrville, OH). (e) From the facilities of A. F. Murch Co., a subsidiary of The J. M. Smucker Co., at or near Paw Paw, MI to points in the United States in and east of ND, SD, NE, KS, OK, and TX (except FL, ME, VT, NH, MA, CO, and RI). (f) From the facilities of J. M. Smucker Co., at or near Memphis, TN to points in DE, IN, Aroostook County, ME, MN west and south of a line beginning at the MN-IA State line near Elmore, and extending along U.S. Hwy 169 to Amboy, then along MN Hwy 30 to junction of U.S. Hwy 59, then along U.S. Hwy 59 to the junction of U.S. Hwy 14, then along U.S. Hwy 14 to the MN-SD State line, ND, SD, VA, WI (except Kenosha, Milwaukee, and Racine), and MD (except Baltimore). (II) *Ingredients, materials, and supplies*, used in the manufacturing, processing, sale, and distribution of foodstuffs, from points in the United States in and east of ND, SD, NE, KS, OK, and TX, to the origins named in I (a), (b), (c), (d), (e), and (f), above. Restriction: Restricted in both Parts (I) and (II) above, to traffic originating at the named origins and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Columbus, OH.

No. MC 117119 (Sub-No. 667), filed January 30, 1978. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Applicant's representative: L. M. McLean (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Such merchandise* as is dealt in by retail discount, department or variety stores (except commodities in bulk), from New York, NY, to the facilities of Wal-Mart Stores, Inc., at Searcy, AR.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, MO.

No. MC 117119 (Sub-No. 668), filed January 30, 1978. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Applicant's representative: L. M. McLean (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Rubber, rubber products, and related materials and supplies* used in the manufacture thereof (except commodities in bulk), between Siloam Springs, AR, and Denver, CO, restricted to traffic originating at and destined to the plantsites and facilities utilized by Gates Rubber Co. at the named points.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Denver, CO.

No. MC 117686 (Sub-No. 203), filed January 23, 1978. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Boulevard, P.O. Box 417, Sioux City, IA 51102. Applicant's representative: George L. Hirschbach, P.O. Box 417, Sioux City, IA 51102. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from the plantsite or facilities of Rich Products Corp. at or near Murfreesboro, TN to points in IL, IN, IA, KS, KY, MN, MO, TN, and WI.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Buffalo, NY, or Washington, DC. Applicant states it is seeking to purchase a permit held by Minn-Cal, Inc.; therefore dual operations may be involved.

No. MC 117940 (Sub-No. 256), filed January 6, 1978. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Applicant's representative: Allan L. Timmerman, 5300 Highway 12, P.O. Box 104, Maple Plain, MN 55359. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by discount and variety stores (except foodstuffs and commodities in bulk), from points in ME, NH, VT, MA, CT, and RI, to points in GA, restricted to the transportation of shipments originating at named origins and destined to the facilities of K Mart Corp. at named destinations.

NOTE.—If a hearing is deemed necessary the applicant requests it be held in Detroit, MI.

No. MC 118838 (Sub-No. 17), filed January 30, 1978. Applicant: GABOR TRUCKING, INC., Rural Route 4, Box 124B, Detroit Lakes, MN 56501. Applicant's representative: Richard P. Anderson, 502 First National Bank Building, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in interstate or foreign commerce, transporting: *Steamed bone meal* (except in bulk, in tank vehicles), from Reading, PA, to points in IN, MN, IA, MI, WI, OH, IL, and MO.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis-St. Paul, MN.

No. MC 119630 (Sub-No. 15), filed January 11, 1978. Applicant: VAN TASSEL, INC., 5th and Grand, Pittsburg, KS 66762. Applicant's representative: Dean Williamson, 280 National Foundation Life Building, 3535 Northwest 58th Street, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wallboard and materials, supplies and accessories* incidental to the installation thereof, from Pittsburg, KS to points in CO, MO, MT, NV, NH, NM, ND, OR, SC, WA, and WY.

NOTE.—Applicant holds contract carrier authority in MC 115036 and sub-numbers thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at (1) Kansas City, MO, or (2) Chicago, IL.

No. MC 119789 (Sub-No. 418), filed January 30, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, TX 75222. Applicant's representative: Lewis Coffey, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *Steel joists and accessories* thereof, from Grapeland, TX, to points in AZ, AR, LA, NM, OK, and TX. (2) *Iron and Steel Decking*, from Grapeland, TX, to points in AZ, AR, LA, MS, NM, OK, TN, and TX.

NOTE.—If a hearing is deemed necessary, Applicant requests that it be held in Dallas, TX.

No. MC 123255 (Sub-No. 133), filed January 16, 1978. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, OH 43055. Applicant's representative: C. F. Schnee, Jr., 140 Everett Avenue, Newark, OH 43055. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes transporting: *Glass containers*, from the facilities of Midland Glass Co. at or near Warner Robins, GA, to points in the United States in and east of the States of WI, IL, KY, TN, and MS. Restricted to shipments orginating at the facilities of Midland Glass Co. and destined to the named distination area.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant request that it be held at Columbus, OH.

No. MC 123407 (Sub-No. 426), filed December 23, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass*, from Hawkins County and Kingsport, TN, to the ports of entry on the international boundary between the United States and Canada on Interstate Hwys 87, 89, and 91 and at the St. Clair, Detroit, Niagara, and St. Lawrence River crossing points, in some instances applicant's shipments will move to the PQ and ON, Canada.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, DC.

No. MC 123476 (Sub-No. 31), filed January 13, 1978. Applicant: CURTIS TRANSPORT, INC., Box 388, 3616 Jeffco Boulevard, Arnold, MO 63010. Applicant's representative: David G. Dimit (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles* (except in bulk, in tank vehicles), from the plantsite and warehouse facilities of Mobil Chemical Co., Plastic Division, located at Frankfort, IL, to points in ND, SD, NE, KS, OK, AR, MO, IA, MN, WI, TN, KY, IN, OH, MI, CO, TX, GA, NY, SC, MA, NJ, WV, WY, PA, and NC.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either St. Louis, MO, Chicago or Springfield, IL.

No. MC 124774 (Sub-No. 103), filed January 26, 1978. Applicant: MIDWEST REFRIGERATED EXPRESS, INC., 4440 Buckingham Drive, Omaha, NE 68106. Applicant's representative: Arlyn L. Westergren, Suite 530, Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses* (except hides and commodities in bulk), as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, from the plantsite of Dubuque Packing Co. located at Omaha, NE, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VA, WV, and DC.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Omaha, NE.

No. MC 124887 (Sub-No. 48), filed January 23, 1978. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL 32421. Applicant's representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes in the transportation of: (1) *Plastic Pipe and Fittings*, and (2) *Materials and Supplies* used in the manufacture and installation of plastic pipe and fittings, between points in Geneva County, AL, on the one hand, and, on the other, points in that part of the United States in and east of ND, SD, NE, KS, OK, and TX.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Jacksonville or Tallahassee, FL, or Atlanta, GA.

No. MC 125368 (Sub-No. 28), filed January 27, 1978. Applicant: CONTINENTAL COAST TRUCKING CO., INC., P.O. Box 26, Holly Ridge, NC 28445. Applicant's representative: C. W. Fletcher (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Armour & Co., located at or near Gaffney, SC, to points in FL and NY.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, DC or Chicago, IL.

No. MC 125433 (Sub-No. 146), filed January 30, 1978. Applicant: F-B TRUCK LINE CO., a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Applicant's representative: David J. Lister, 1945 South Redwood Road, Salt Lake City, UT 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fireplaces, grates, and hearths* (except in bulk), from Santa Cruz, CA to points in the United States (excluding AK and HI).

NOTE.—Common control may be involved. (Hearing: San Francisco, CA.)

No. MC 125996 (Sub-No. 54), filed January 11, 1978. Applicant: ROAD RUNNER TRUCKING, INC. 13080 Renfro Circle, P.O. Box 37491, Omaha, NE 68137. Applicant's representative: Floyd F. Knutson, 13080 Renfro Circle, P.O. Box 37491, Omaha, NE 68137. Authority sought to operate as a *common carrier*, over irregular routes. *Meat, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in section A and C of Appendix I to the Report in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), From the plantsite and/or storage facilities utilized by Farmland Foods, located at or near Carroll, Denison, Iowa Falls, Des Moines, Fort Dodge, Cherokee, Sioux City, IA and Omaha, NE, to points in the States of AZ, CA, CO, ID, MT, NV, NM, OR, TX, UT, WA, and WY. Restricted to traffic originating at the above named origins and destined to the above named destinations.

NOTE.—If a oral hearing is deemed necessary, applicant requests it be held in Omaha, NE.

No. MC 128527 (Sub-No. 97), filed December 19, 1977. Applicant: MAY TRUCKING CO., a corporation, P.O. Box 398, Payette, ID 83661. Applicant's representative: Timonthy R. Stivers, P.O. Box 162, Boise, ID 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed, feed ingredients, and feed supplements*, (1) from points in Los Angeles County, CA, to points in ID, OR, WA, NV, UT, and MT, and (2) from points in IL, IA, WI, MN, and NE, to points in ID, OR, NV, WA, and CA.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Los Angeles, CA.

No. MC 129107 (Sub-No. 8), filed January 27, 1978. Applicant: R. H. HARDING CO., INC., 100 Centre Drive, Rochester, NY 14623. Applicant's representative: S. Michael Richards, 44 North Avenue, P.O. Box 225, Webster, NY 14580. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes,

transporting: *Used automobiles, in secondary movements, in truckaway service*, between points in CT, ME, MA, NH, NJ, NY, PA, RI, and VT.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Syracuse, NY or New York, NY.

No. MC 129660 (Sub-No. 8), filed January 30, 1978. Applicant: MALLETTE BROS. TRUCK LINE, INC., 3708 Highway 90, Gautier, MS 39553. Applicant's representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plywood, molding and trim, and advertising and display materials, paint stains and nails*, when moving in the same shipment with plywood, molding and trim, from the facilities of Pavco Industries, Inc. at Pascagoula, MS to points in CT, IA, ME, MA, MN, NE, NH, RI, VT and WI, and (2) *materials, supplies and equipment used in the manufacture of plywood, molding or trim* (except commodities in bulk), from points in the states named in (1) above to the facilities of Pavoc Industries, Inc. at Pascagoula, MS.

NOTE.—If hearing is deemed necessary, the applicant requests that it be held at Jackson, MS.

No. MC 133566 (Sub-No. 101), filed January 11, 1978. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, IN 46947. Applicant's representative: Charles W. Beinhauer, Suite 4959, One World Trade Center, New York, NY 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from the facilities of Rich Products Corp., at or near Murfreesboro, TN to points in AL, AR, DE, FL, GA, KS, KY, LA, MD, MI, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VA, WV, and DC. Restricted to traffic originating at the above named origins and destined to points in the named destination states.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Buffalo, NY or New York, NY.

No. MC 133689 (Sub-No. 167), filed January 23, 1978. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, MN 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sugar*, from Baltimore, MD, and Philadelphia, PA, to points in OH, IN, IL, MI. Restriction: Restricted to traffic originating at the named origins and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, MN.

No. MC 134405 (Sub-No. 43), filed January 30, 1978. Applicant: BACON TRANSPORT CO., a corporation, P.O. Box 1134, Ardmore, OK 73401. Applicant's representative: Dean Williamson, 280 National Foundation Life Building, 3535 Northwest 58th Street, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carbon black*, in sealed bins, from Evangeline and St. Mary Parishes, LA, to Ardmore, OK. (Hearing site: (1) Dallas, TX, (2) Kansas City, MO.)

No. MC 135797 (Sub-No. 96), filed January 24, 1978. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR. 72745. Applicant's representative: Paul A. Maestri (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agricultural machinery and equipment, tools, dies, molds, precision instruments, machinery and machinery parts*, and (2) *machinery, materials, equipment, and supplies* (except in bulk) used in the manufacture or distribution of the commodities named in (1) above, between points in Benton County, AR, and McDonald County, MO, on the one hand, and, on the other, points in the United States (except AL and HA).

NOTE.—If an oral hearing is deemed necessary, applicant requests that it be held at Fayetteville, AR; Tulsa, OK; or Washington, DC. Common control may be involved.

No. MC 136168 (Sub-No. 23), filed January 12, 1978. Applicant: WILSON CERTIFIED EXPRESS, INC., P.O. Box 717, Marshall, MO 65340. Applicant's representative: Donald L. Stern, Suite 530, Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses* (except hides and commodities in bulk), as defined in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, from the plantsite and warehouse facilities of Wilson Foods Corp. located at Oklahoma City, OK, to points in CA, restricted to the transportation of traffic originating at the above-named origins and destined to the named destinations, under a continuing contract, or contracts, with Wilson Foods Corp.

NOTE.—Applicant holds common carrier authority in No. MC 141641 (Sub 5), therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, MO, or Dallas, TX.

No. MC 136214 (Sub-No. 5), filed January 27, 1978. Applicant: ROGER L. JACOBSON, d.b.a. COLUMBIA MATERIALS, 120 South Gollob Road, Tucson, AZ 85710. Applicant's representative: Edwin E. Piper, Jr., 1115 Sandia Savings Building, Albuquerque, NM 87102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feeds and feed ingredients* (except commodities in bulk moving in tank vehicles), from points in AZ and TX, to points in AZ, NM, CO, TX, KS, NE, SD, WY, ID, MT, UT and OK, under a continuing contract, or contracts, with Anderson-Clayton Co., Inc., Phoenix, AZ, and Wilbur-Ellis Co., Ogden, UT.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Albuquerque, NM, or Phoenix, AZ.

No. MC 136315 (Sub-No. 25), filed January 10, 1978. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 22-A, Philadelphia, MS 39350. Applicant's representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board*, from the facilities of MacMillan Bloedel Building Materials in Ashtabula, OH, to points in AR, IL, IN, KY, MI, MO, MS, NY, OH, PA, and TN.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Jackson, MS, or Atlanta, GA. Applicant holds contract carrier authority in No. MC 123905, therefore dual operations may be involved.

No. MC 136408 (Sub-No. 40), filed January 30, 1978. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Applicant's representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals* (except in bulk, in tank vehicles), from the facilities of the Monsanto Co. located at Addyston, OH, to points in the States of AR, CA, CO, ID, IA, KS, MI, MO, NE, OK, TX, and WI, under a continuing contract or contracts with the Monsanto Co. of St. Louis, MO.

NOTE.—Applicant holds common carrier authority in MC 140829 and subs thereunder; therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held in Washington, DC.

No. MC 136511 (Sub-No. 10), filed December 20, 1977. Applicant: VIRGINIA APPALACHIAN LUMBER CORP., 9640 Timberlake Road, Lynchburg, VA 24502. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture and furniture parts*, from Grainger County, TN, to points in TX, NM, AZ, CA, NV, OR, WA, UT, CO, WY, ID, MT, and OK.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Knoxville, TN.

No. MC 136605 (Sub-No. 42), filed January 27, 1978. Applicant: DAVIS BROS. DIST., INC., P.O. Box 8058, Missoula, MT 59807. Applicant's representative: W. E. Seliski, P.O. BOX 8058, Missoula, MT 59807. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Insulation, and* (2) *equipment and supplies used in the manufacture and distribution of insulation*, between Minot, ND, and Great Falls, MT, on the one hand, and, on the other, points in ID, MT, ND, OR, SD, UT, WA, and WY.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Great Falls or Billings, MT.

No. MC 138104 (Sub-No. 53), filed January 19, 1978. Applicant: MOORE TRANSPORTATION CO., INC., 3509 North Grove Street, Fort Worth, TX 76106. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Building and construction materials*, from the plantsite of the Celotex Corp., located at or near Texarkana, AR, to points in AL, AR, FL, GA, KS, LA, MS, MO, OK, and TX, and (2) *materials and supplies* used in the manufacture of and/or the distribution of commodities named in (1) above (except commodities in bulk), from the destination States named in (1) above to the facilities of the Celotex Corp., located at or near Texarkana, AR.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Dallas or Fort Worth, TX.

No. MC 138469 (Sub-No. 57), filed January 11, 1978. Applicant: DONCO CARRIERS, INC., 641 North Meridian, P.O. Box 75354, Oklahoma City, OK 73107. Applicant's representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packing- houses* (except hides and commodities in bulk), as defined in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, from the plantsite and warehouse facilities of Wilson Foods Corp., located at Albert Lea, MN, to points in AL, GA, LA, and MS, restricted to the transportation of traffic originating at the above-named origin and destined to the named destinations.

NOTE.—Applicant holds contract carrier authority in MC 136375 and subs thereunder, therefore, dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Dallas, TX, or Kansas City, MO.

No. MC 138875 (Sub-No. 72), filed January 24, 1978. Applicant: SHOEMAKER TRUCKING CO., a corporation, 11900 Franklin Road, Boise, ID 83705. Applicant's representative: F. L. Sigloh (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber mill products, wood products, paneling, millwork, and composition board*, between points in ID, on the one hand, and, on the other, points in WY.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Boise, ID, or Portland, OR.

No. MC 139420 (Sub-No. 28), filed January 30, 1978. Applicant: ART GREENBERG, d.b.a. GLACIER TRANSPORT, P.O. Box 428, Grand Forks, ND 58201. Applicant's representative: James B. Hovland, P.O. Box 1680, 414 Gate City Building, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Baking powder* (except in bulk), from Terre Haute, IN, to Phoenix, AZ; Fresno, Los Angeles, Sacramento, and San Francisco, CA; Boise and Pocatello, ID; Albuquerque, NM; Portland, OR; Salt Lake City, UT; Seattle and Spokane, WA; Billings, MT, and Denver and Grand Junction, CO.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Salt Lake City, UT; Los Angeles, CA; or Phoenix, AZ.

No. MC 139482 (Sub-No. 32), filed January 9, 1978. Applicant: NEW ULM FREIGHT LINES, INC., County Road 29 West, New Ulm, MN 56073. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition boards*, from the facilities of the United States Gypsum Co. at Greenville, MS, to KS, OK, and TX.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Minneapolis, MN.

No. MC 139588 (Sub-No. 5), filed January 23, 1978. Applicant: GRANDVIEW ENTERPRISES, INC., 8265 North Borthwick, P.O. Box 17170, Portland, OR 97217. Applicant's representative: Lawrence V. Smart, Jr., 419 Northwest 23d Avenue, Portland, OR 97210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Glazed and unglazed ceramic wall and floor tile, glazed and unglazed quarries and mosaic*, from points in OH to Portland, OR and Tukwila, WA, under continuing contract or contracts with Uniq Distributing Co., Inc., located at Portland, OR, and Tiles, Inc., located at Seattle, WA.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Portland, OR.

No. MC 139973 (Sub-No. 37), filed January 23, 1978. Applicant: J. H. WARE TRUCKING, INC., P.O. Box 398, Fulton, MO 65251. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vacuum cleaners, vacuum cleaner bags, floor polishers and parts*, (1) from Bristol, VA, to Des Moines, IA, Hammond, IN, Memphis, TN, Little Rock, AR, Toledo, OH, Salt Lake City, UT, and Louisville, KY, and (2) from Old Greenwich, CT, to Little Rock, AR, Toledo, OH, and Louisville, KY.

NOTE.—Applicant holds motor contract carrier authority in MC 138375 and sub numbers thereunder, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at either Kansas City, MO, or St. Louis, MO.

No. MC 141097 (Sub-No. 14), filed January 4, 1978. Applicant: CAL-TEX, INC., P.O. Box 1678, Costa Mesa, CA 92626. Applicant's representative: Greg P. Stefflre, Suite 1724, Broadway Plaza Building, 700 South Flower Street, Los Angeles, CA 90017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (a) *Synthetic yarns, synthetic fiber* and the materials and supplies used in the manufacture and sale thereof, from the facilities, production and plantsites of E. I. duPont, located at or near Chattanooga, TN, Waynesboro, VA, Columbia and Pontiac, SC, and Charlotte, NC, Monsanto located at or near Greenville, SC, and Pensacola, FL, Hale located at or near Abbeville, SC, to the facilities and sites of Pharr Yarns, Inc., located at or near McAdenville, Gastonia, Belmont, and Spencer Mountain, NC, Clover, SC, and Rome, GA; (b) *Synthetic yarns, synthetic fiber* and the materials and supplies used in the manufacture and sale thereof, from the facilities of Pharr Yarns, Inc., at or near McAdenville, Gastonia, Belmont, and Spencer Mountain, NC, to Little Falls, NJ, Marietta, PA, and Carlisle, PA, under contract or continuing contracts with Pharr Yarns, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Los Angeles, CA, or Charlotte, NC.

No. MC 141097 (Sub-No. 16), filed January 4, 1978. Applicant: CAL-TEX, INC., P.O. Box 1678, Costa Mesa, CA 92626. Applicant's representative: Greg P. Steffire, Suite 1724, Broadway Plaza Building, 700 South Flower Street, Los Angeles, CA 90017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic yarn, synthetic fibers*, and the materials and supplies used in connection with the manufacturing thereof; (a) between the facilities of Pharr Yarns at or near McAdenville, Gastonia, Belmont, and Spencer Mountain, NC, and Rome, GA, and the facilities of Bulkspun at or near Lugoff, Stuckey, and Olanta, SC, and Inman Mills at or near Enora, SC; (b) from the facilities of Bulkspun Industries at or near Lugoff, Stuckey, and Olanta, SC, and Inman Mills at or near Enoree, SC, to points in CA under a continuing contract or contracts with Pharr Yarns, Inc., of McAdenville, NC.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Los Angeles, CA, Washington, DC, or Charlotte, NC.

No. MC 141443 (Sub-No. 5), filed January 30, 1978. Applicant: JOHN LONG TRUCKING, INC., 1030 East Denton Street, Sapulpa, OK 74066. Applicant's representative: Dean Williamson, 280 National Foundation Life Building, 3535 Northwest 58th Street, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods and frozen foods*, from Delta, CO, to points in AZ, CA, KS, NM, OK, TX, and UT.

NOTE.—Applicant holds motor contract carrier authority in No. MC 124656 and sub numbers thereunder; therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Oklahoma City, OK, or Denver, CO.

No. MC 141532 (Sub-No. 17), filed January 10, 1978. Applicant: PACIFIC STATES TRANSPORT, INC., 35433 16th Avenue South, Federal Way, WA 98002. Applicant's representative: Henry C. Winters, 235 Evergreen Building, Renton, WA 98055. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood and wood products*, from points in ID and MT to points in CA.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Los Angeles, CA, or Portland, OR.

No. MC 141773 (Sub-No. 5), filed January 3, 1978. Applicant: THERMO TRANSPORT, INC., 156 East Market Street, Indianapolis, IN 46204. Applicant's representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, Indianapolis, IN 46240. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (A) *Aircraft machine gun links and 20 millimeter projectal metal parts*, from the plantsite of Wells Marine, Inc., at Costa Mesa, CA, to Marion, IL, Milan, TE, Texarkana, TX, and Independence, MO; and (B) *iron and steel articles*, from points in the United States, on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, thence northward along the western boundaries of Itasca and Koochiching Counties, MN, to the International Boundary line between the United States and Canada to Costa Mesa, CA, under a continuing contract or contracts with Wells Marine, Inc. Restriction: Restricted to traffic moving in vehicles equipped with mechanical temperature controlled equipment.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Los Angeles, CA.

No. MC 141804 (Sub-No. 97), filed January 23, 1978. Applicant: WESTERN EXPRESS, division of INTERSTATE RENTAL, INC., P.O. Box 422, Goodlettsville, TN 37072. Applicant's representative: Frederick J. Coffman, P.O. Box 422, Goodlettsville, TN 37072. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Televisions; electrical appliances; electrical sending, receiving, and recording equipment; microwave ovens; refrigerators; rice cookers; audio visual tape players and displays; parts and accessories*, from Los Angeles and Orange Counties, CA, to points in and east of MN, IA, MO, AR, and LA.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Nashville, TN, or Los Angeles, CA.

No. MC 142189 (Sub-No. 26), filed January 23, 1978. Applicant: C. M. BURNS d.b.a. WESTERN TRUCKING, 521 Lincoln Avenue, Baker, MT 59313. Applicant's representative: Michael R. Griffith, Box 980, Baker, MT 59313. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals, Agricultural*, such as: *Tree/Weed Killing Compounds and Insecticides*, from St. Joseph, MO, to Billings, Sidney, Conrad, Great Falls, Bozeman, and Ronan, MT.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Billings, MT, or Des Moines, IA.

No. MC 142827 (Sub-No. 3), filed January 19, 1978. Applicant: DE MARLIE TRUCKING, INC., Box 338, Reynolds, IL 61279. Applicant's representative: Robert H. Levy, 29 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packing houses* (except hides and commodities in bulk), as defined in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates 61 MCC 209 and 766, from the plantsites and warehouse facilities of Central Meat Co., and Dakota Meat Co. located at Chicago, IL, to points in IN, OH, MI, MO and PA.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Chicago, IL.

No. MC 142897 (Sub-No. 6), filed January 20, 1978. Applicant: KENNEDY FREIGHT LINES, INC., P.O. Box 332, Lapel, IN 56051. Applicant's representative: Paul F. Berry, 275 East State Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Auto parts and equipment, materials, and supplies* used in the manufacture of auto parts (except commodities in bulk and those requiring special equipment), between Goldsboro, NC, on the one hand, and, on the other, points in the United States (except AK and HI), under a continuing contract or contracts with Questor Corp.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Columbus, OH.

No. MC 142941 (Sub-No. 14), filed January 30, 1978. Applicant: SCARBOROUGH TRUCK LINES, 1313 North 25th Avenue, Phoenix, AZ 85009. Applicant's representative: Phil B. Hammond, 10th Floor, 111 West Monroe, Phoenix, AZ 85003. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages and wine*, from (1) the facilities of Heaven Hill Distributors at Bardstown, KY, to points in AZ, CA, NM and NV; (2) the facilities of Double Springs Distillers, Inc., at or near Frankfort, KY, to points in AZ, CA and NV; (3) the facilities of National Distillers Products Co., at Cincinnati, OH, Frankfort and Louisville, KY, to Flagstaff, Phoenix, Tucson and Yuma, AZ.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Phoenix, AZ or Louisville, KY.

No. MC 142948 (Sub-No. 5), filed January 30, 1978. Applicant: THE GRADER LINE, INC., 434 Atlas Drive, Nashville, TN 37211. Applicant's representative: Edward C. Blank, II, Middle Tennessee Bank Building, P.O. Box 1004, Columbia, TN 38401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Packaging materials* including *foam meat trays, bags* (paper, poly, film), *fiber packaging materials, packaging film, egg cartons, and related tapes* (gum, pressure sensitive adhesives, stretch wire, twine), *related sealers* and *tying and stapling machines*, from the plantsites of Service Packaging Co., Inc., in Davidson County, TN, to points in KY, VA, GA, AL, MS, AR, MO and IN, and from points in VA, GA, OH and AL to the plantsites of Services Packaging Co., Inc., in Davidson County, TN. Restriction: Restricted to traffic originating at the above named locations and destined to the above named destination points.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held in Nashville, TN.

No. MC 143436 (Sub-No. 7), filed January 9, 1978. Applicant: CONTROLLED TEMPERATURE TRANSIT, INC., 9049 Stonegate Road, Indianapolis, IN 46277. Applicant's representative: Stephen M. Gentry, 1500 Main Street, Speedway, IN 46224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning compounds* and *related articles* in vehicles equipped with mechanical refrigeration, from the warehouse facilities of City Haul and Storage, Inc., located at or near Indianapolis, IN to points in KY.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Indianapolis, IN or Chicago, IL.

No. MC 143978 (Sub-No. 3), filed January 12, 1978. Applicant: EMERSON DELIVERY, INC., 307 12th Avenue SE., Cedar Rapids, IA 52406. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed materials*, between Cedar Rapids, IA, on the one hand, and, on the other, points in IL, IN, KS, MN, MO, NE, NY and WI under continuing contract or contracts with Stamats Publishing Co. of Cedar Rapids, IA.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Chicago, IL or St. Paul, MN.

No. MC 144117 (Sub-No. 3), filed January 23, 1978. Applicant: TLC LINES, INC., 1666 Fabick Drive, P.O. Box 1090, Fenton, MO 63026. Applicant's representative: Daniel C. Sullivan, 10 South La Salle Street, Suite 1600, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Laminated plastics* and *liquid adhesives* (except in bulk), from the facilities of General Electric Co., at or near Coshocton, OH to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY. Restricted to traffic originating at the above named origin and destined to above named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either St. Louis, MO, or Chicago, IL.

No. MC 144136 (Sub-No. 2), filed January 10, 1978. Applicant: STOVER LINES, INC., 5636 Northwest 17th Street, Topeka, KS 66618. Applicant's representative: Clyde N. Christey, 514 Capitol Federal Building, Topeka, KS 66603. Authority sought to operate as a *contract carrier*, by motor vehicles over regular routes, transporting: *General commodities* (except commodities in bulk and class "A" and class "B" explosives), restricted, however, to traffic having an immediately prior or subsequent movement by air. Between Forbes Industrial Park at or near Topeka, KS, and Will Rogers World Airport at or near Oklahoma City, OK, serving the Wichita Municipal Airport at or near Wichita, KS, as an intermediate point: From Forbes Industrial Air Park north over U.S. Hwy No. 75 to the KS Turnpike; then south and west over KS Turnpike to U.S. Interstate Hwy No. 35; then south over U.S. Interstate Hwy No. 35 to its intersection with U.S. Hwy No. 54; then west over U.S. Hwy No. 54 to the Wichita Municipal Airport; then return over U.S. Hwy No. 54 to U.S. Interstate Hwy No. 35; then southerly over U.S. Interstate Hwy No. 35 to U.S. Hwy No. 62; then west over said U.S. Hwy No. 62 to Will Rogers World Airport and return over the same route. From Forbes Industrial Air Park north over U.S. Hwy No. 75 to the KS Turnpike; then southwesterly over the KS Turnpike to its intersection with U.S. Hwy No. 50; then westerly over U.S. Hwy No. 50 to its intersection with U.S. Interstate Hwy No. 35 West; then southerly over U.S. Interstate Hwy No. 35 West to its intersection with U.S. Hwy No. 54; then westerly over said U.S. Hwy No. 54 to Wichita Municipal Airport and return over the same route as an alternate route for the operating convenience of the carrier only. Between Forbes Industrial Air Park at or near Topeka, KS, and the Will Rogers World Airport at or near Oklahoma City, OK serving the Tulsa, OK International Airport at or near Tulsa, OK as an intermediate point: From Forbes Industrial Air Park southerly over U.S. Hwy No. 75 to OK State Hwy No. 11; then easterly over said OK State Hwy No. 11 to Tulsa International Airport; then westerly over OK State Hwy No. 11 to its intersection with U.S. Hwy No. 75; then west over U.S. Interstate Hwy No. 75 to its intersection with U.S. Interstate Hwy No. 244; then southwesterly over said U.S. Interstate Hwy No. 244 to U.S. Interstate Hwy No. 44; then southwesterly over U.S. Interstate Hwy No. 44 to U.S. Interstate Hwy No. 35; then southerly over U.S. Interstate Hwy No. 35 to U.S. Hwy No. 62; then westerly over U.S. Hwy No. 62 to the Will Rogers World Airport and return over the same route. Between Forbes Industrial Air Park at or near Topeka, KS and the Des Moines Municipal Airport at or near Des Moines, IA, serving the Kansas City International Airport at or near Kansas City, MO as an intermediate point: From Forbes Industrial Air Park at or near Topeka, KS northerly over U.S. Hwy No. 75 to U.S. Interstate Hwy No. 70; then easterly over U.S. Interstate Hwy No. 70 to U.S. Interstate Hwy No. 635; then northerly over U.S. Interstate Hwy No. 635 to U.S. Interstate Hwy No. 29; then northerly over U.S. Interstate Hwy No. 29 to the Kansas City International Airport; then easterly over MO State Hwy No. 291 to U.S. Interstate Hwy No. 35; then northerly over U.S. Interstate Hwy No. 35 over to Army Post Road; then east over Army Post Road to the Des Moines Municipal Airport and return over the same route. From Forbes Industrial Air Park at or near Topeka, KS northerly over U.S. Hwy No. 75 to U.S. Interstate Hwy No. 70; then easterly over said U.S. Interstate Hwy No. 70 to U.S. Interstate Hwy No. 35; then northerly over U.S. Interstate Hwy No. 35 to Army Post Road; then east over said Army Post Road to the Des Moines Municipal Airport and return over the same route for the operating convenience of the carrier only.

Between Forbes Industrial Air Park at or near Topeka, KS and the Des Moines Municipal Airport at or near Des Mointes, IA, serving the Eppley Field at or near Omaha, NE, as an intermediate point: From Forbes Industrial Air Park northerly over U.S. Hwy No. 75 to NE State Hwy No. 165; then northeasterly over NE State Hwy 165 to Eppley Field; then southwesterly over NE State Hwy No. 165 to U.S. Hwy No. 75; then southerly over U.S. Hwy No. 75 to U.S. Interstate Hwy No. 80; then easterly over said U.S. Interstate Hwy No. 80 to U.S. Interstate Hwy No. 35; then south over U.S. Interstate Hwy No. 35 to Army Post Road; then east over said Army Post Road to the Des Moines Municipal Airport and return over the same route.

Between Forbes Industrial Air Park at or near Topeka, KS and Lincoln Municipal Airport at or near Lincoln, NE: From Forbes Industrial Air Park north over U.S. Hwy No. 75 to NE State Hwy No. 2; then west over said NE State Hwy No. 2 to U.S. Hwy No. 34; then north over said U.S. Hwy No. 34 to Cornhusker Hwy; then west over Cornhusker Hwy to Lincoln Municipal Airport and return over the same

route. From Forbes Industrial Air Park north over U.S. Hwy No. 75 to NE State Hwy No. 165; then northeasterly over NE State Hwy No. 165 to Eppley Field; then southwesterly over NE State Hwy No. 165 to U.S. Interstate Hwy No. 480; then southwesterly over U.S. Interstate Hwy No. 480 to U.S. Interstate Hwy No. 80; then over U.S. Interstate Hwy No. 80 to Lincoln Municipal Airport and return over the same route as an alternate route for operating convenience of the carrier only.

Between Forbes Industrial Air Park at or near Topeka, KS and Lambert-St. Louis International Airport at or near St. Louis, MO serving Kansas City International Airport at or near Kansas City, MO as an intermediate point: From Forbes Industrial Air Park north over U.S. Hwy No. 75 to U.S. Interstate Hwy No. 70; then east on U.S. Interstate Hwy No. 70 to U.S. Interstate Hwy No. 635; then northeasterly over U.S. Interstate Hwy No. 635 to U.S. Interstate Hwy No. 29; then northwesterly over U.S. Interstate Hwy No. 29 to Kansas City International Airport; then southeasterly over U.S. Interstate Hwy No. 29 to U.S. Interstate Hwy No. 70; then easterly over U.S. Interstate Hwy No. 70 to Lambert-St. Louis International Airport and return over the same route. From Forbes Industrial Airport at or near Topeka, KS northerly over U.S. Hwy No. 75 to U.S. Interstate Hwy No. 70; then easterly over U.S. Interstate Hwy No. 70 to Lambert-St. Louis International Airport, and return over the same route, for the operating convenience of the carrier only.

Between Forbes Industrial Air Park at or near Topeka, KS and Springfield Municipal Airport at or near Springfield, MO serving the Joplin Municipal Airport at or near Joplin, MO as an intermediate point: From Forbes Industrial Air Park southerly over U.S. Hwy No. 75 to KS Hwy No. 96; then east over KS Hwy No. 96 to U.S. Hwy No. 160; then east over U.S. Hwy No. 160 to KS Hwy No. 57; then East over KS Hwy No. 57 to MO State Hwy No. 171; then southeasterly over MO State Hwy No. 171 to Joplin Municipal Airport; then east over MO State Hwy No. 71 to U.S. Interstate Hwy No. 44; then easterly over U.S. Interstate Hwy No. 44 to Springfield Municipal Airport and return over the same route. From Forbes Industrial Airport at or near Topeka, KS, north over U.S. Hwy No. 75 to U.S. Interstate Hwy No. 70; then east over U.S. Interstate Hwy No. 70 to U.S. Interstate Hwy No. 635; then north over U.S. Interstate Hwy No. 635 to U.S. Interstate Hwy No. 29 to Kansas City International Airport at or near Kansas City, MO; then southerly over U.S. Hwy No. 71 to MO State Hwy No. 7; then southeasterly over MO State Hwy No. 7 to MO State Hwy No. 13; then southerly over MO State Hwy No. 13 to U.S. Interstate Hwy No. 44; then westerly over U.S. Interstate Hwy No. 44 to Springfield Municipal Airport at or near Springfield, MO and return over the same route, as an alternate route for the operating convenience of the carrier only. Serving no intermediate points except as above indicated, under a continuing contract with Air Cargo Charters, Inc. of Topeka, KS.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Kansas City, MO.

No. MC 144171 (Sub-No. 2), filed January 23, 1978. Applicant: HUBERT BYNUM, d.b.a. BYNUM TRUCKING, P.O. Box 465, South Fulton, TN 42041. Applicant's representative: James N. Clay III, 2700 Sterick Building, Memphis, TN 38103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pig iron* and *sand*, in bulk, in dump vehicles, from Birmingham, AL to South Fulton, TN and (2) *Coke*, in bulk, in dump trailers, from St. Louis, MO to South Fulton, TN under a continuing contract or contracts with Automated Castings, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Memphis, TN or Nashville, TN.

No. MC 144183, filed January 5, 1978. Applicant: CYNTHIA W. WAGNER, d.b.a. CLIFTON TRUCKING, 2721 N Street NW., Washington, DC 20007. Applicant's representative: Cynthia W. Wagner (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from the mining sites of Zacherl Coal Co. located at points in Clarion County, PA to points in Oswego County, NY: Erie County, NY; Cuyahoga County, OH; Summit County, OH; Wayne County, OH; Lake County, OH, under a continuing contract or contracts with Zacherl Coal Co.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, DC or Pittsburgh, PA.

No. MC 144197, filed January 13, 1978. Applicant: KEYBOARD CARRIAGE, INC., 801 S. 13th Street, Louisville, KY 40210. Applicant's representative: Rudy Yessin, 314 Wilkinson Street, P.O. Box B, Frankfort, KY 40602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pianos, organs, musical instruments, parts, accessories and supplies and materials* used in the manufacture of pianos, organs and musical instruments, transported in equipment designed specifically for the transportation of pianos, organs and musical instruments: Between all points in the United States (except AK and HI).

NOTE.—If a hearing is deemed necessary, the applicant requests it to be held at Washington, DC; Louisville, KY; Memphis, TN; or Cincinnati, OH.

No. MC 144224, filed January 23, 1978. Applicant: GREGO MUNRO POAPST, Rural Route No. 2, Lunenburg, ON, KOC 1 Ro, Canada. Applicant's representative. Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority sought to operate as a *common carrier*, by motor vehicles, over irregular routes, transporting: (1) *Cabs and accessories* for off highway motorized vehicles, including tractors and construction machines, (2) *off highway motorized vehicles*, including tractors and construction machines, (3) *materials, supplies, and equipment* used in the manufacture of the commodities in (1) above, between ports of entry on the international boundary line between the United States and Canada, on the one hand and, on the other, points in CT, DE, IL, IN, IA, KY, ME, MD, MA, MI, MN, MO, NH, NJ, NY, OH, PA, RI, VT, VA, WV, WI, and DC; restricted to transportation on trailers, to transportation in foreign commerce, and to transportation from and to the facilities of Sims Cabs, Ltd. in Cornwall, ON, Canada via border crossings with the Provinces of ON, PQ and NB, Canada.

NOTE.—If hearing is deemed necessary, applicant requests to be held at Syracuse, NY.

No. MC 144234, filed January 27, 1978. Applicant: PDV CARTAGE, INC., Minonk, IL 61760. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Building, 411 North 7th Street, St. Louis, MO 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer material*, in bulk, from the storage facilities of CF Indutries, Inc., located at or near Bussen, MO, to points in IL.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago or Springfield, IL.

No. MC 144262, filed January 23, 1978. Applicant: F. E. NEALY, INC., P.O. Box 1767, Greeley, CO 80631. Applicant's representative: John P. Thompson and Raymond M. Kelley, 450 Capitol Life Center, Denver, CO 80203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, in the transportion of: *Animal and poultry feed and animal and poultry feed ingredients and supplements*, from Ault, CO, to points in those parts of SD, NE, and KS located on and west of a line extending along U.S. Hwy 83 from the ND-SD State line to Vivian, SD, then along U.S. Hwy 16 to Presho, SD, and then along U.S. Hwy 183 to the KS-OK State line, and to points in WY. Restriction: The operations authorized above are limited to a transportation service to be performed, under a continuing contract, or contracts, with Farmland Industries, Inc. or Kansas City, MO.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Denver, CO or Kansas City, MO.

PASSENGERS

No. MC 57298 (Sub-No. 12), Filed December 19, 1977. Applicant: UNION BUS LINES, INC., St. Charles and 12th Streets, Brownsville, TX 78520. Applicant's representative: Leroy Hallman, 4555 First National Bank Building, Dallas, TX 75202. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage and express and newspapers in the same vehicle with passengers*, between San Antonio and Laredo, TX, from San Antonio, TX over Interstate Hwy 35 to Laredo, TX, and return over the same route, serving all intermediate points.

NOTE.—Common control may be involved. If a hearing is deemed necessary applicant requests it be held in San Antonio or Laredo, TX.

BROKERS

No. MC 130364 (Sub-No. 1), filed January 24, 1978. Applicant: ARGO TRAVEL AGENCY, INC., doing business as WORLD WIDE TRAVEL SERVICE, 234 East Washington Street, Athens, GA 30601. Applicant's representative: Robert E. Tritt, 101 Marietta Tower, Suite 3401, Atlanta, GA 30303. Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Athens, GA, to sell or offer to sell the transportation of: *Passengers and their baggage in round trip sightseeing and pleasure tours in charter and special operation*, by motor common carriers, beginning and ending in Athens, GA, and extending to points in AL, AZ, CA, CO, LA, NV, NM, NC, ND, KY, SD, SC, PA, TX, UT, VA, WY, Washington, DC, MS and NY.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Atlanta or Athens, GA. Common control may be involved.

No. MC 130477F, filed February 2, 1978. Applicant: JEFFERY J. WELCH AND CODY F. WELCH, a partnership, doing business as ALPENA TRAVEL SERVICE, 118 West Washington, Alpena, MI 49707. Applicant's representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Alpena, MI, to sell or offer to sell the transportation of: *Passengers and their baggage, in round-trip sightseeing and pleasure tours*, in special and charter bus operations and travel to be rendered under arrangement between motor and rail, water or air carriers, beginning and ending at points in Cheboygan, Presque Isle, Montmorency, Alpena, Otsego, Oscoda, Alcona, Roscommon, Ogemaw, and Iosco Counties, MI and extending to points in the United States, including AK but excluding HI.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Lansing or Grand Rapids, MI.

WATER CARRIER

No. W-1319, filed December 8, 1976. Applicant: ST. CROIX CRUISE & CHARTER CO., INC., 136 West Delos Street, St. Paul, MN 55107. Applicant's representative: Warren G. Smith, (same address as applicant). Authority sought to operate as a *common carrier*, by *water*, in the transportation of: *Passengers*, by self-propelled vessel, in special and charter operations, during the season extending between April and November of each year, both months inclusive, between Stillwater, Marine, Taylors Falls, Bayport, Afton, MN, and Hudson, and Prescott, WI, on the St. Croix River.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either St. Paul, Stillwater, or Minneapolis, MN.

FINANCE APPLICATIONS; NOTICE

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, or rail carriers or motor carriers pursuant to section 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rules 240(c) or 240(d) of the Commission's General Rules of Practice (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

No. MC-F-13490 (correction) (HYMAN FREIGHTWAYS, INC., purchase (portion) Keomah Truck Lines, Inc.), published in the February 2, 1978 issue of the FEDERAL REGISTER on pages 4533 and 4534. Prior notice stated that an application had not been filed for temporary authority under section 210a(b). Notice should have read as follows: Application has been filed for temporary authority under section 210a(b).

No. MC-F-13509. Authority sought for purchase by BEST WAY MOTOR FREIGHT, INC., 1765 Sixth Ave., South, Seattle, WA, 98134, of the operating rights of Evergreen Freight Lines Inc., East 5205 Union Avenue, Spokane, WA 99211, and for acquisition by S. W. Eland, 2236 38th Pl. E., Seattle, WA 98134, of control of such rights through the purchase. Applicants' attorney: Wallace Aiken, 1215 Norton Building, Seattle, WA 98104. Operating rights sought to be transferred: (1) General commodities, with exceptions, as a common carrier over regular routes: (a) Between Spokane, WA, and Stratford, WA, serving the intermediate points of Reardan and Edwall, WA, and the off-route points of Irby, Marlin, Wilson Creek, and Adrian, WA, from Spokane over U.S. Hwy 2 to junction Washington Hwy 231 to Edwall, WA, then over unnumbered county road to junction Washington Hwy 28, approximately 6 miles north of Harrington, WA, and then over Washington Hwy 28 to Stratford, and return over the same route. (b) Between Spokane, WA, and Davenport, WA, serving all intermediate points and the off-route points of Mondoni, Little Falls, and Miles, WA, and Geiger Field, from Spokane over U.S. Hwy 2 to Davenport, and return over the same route. (c) Between Davenport, and Odessa, WA, serving the intermediate points of Harrington, Mohler, Downs, and Lamont, WA, from Davenport over Washington State Hwy 28 to junction unnumbered highway, then over unnumbered highway via Mohler, and Downs, WA, to junction Washington Hwy 28, then over Washington State Hwy 28 to Odessa, and return over the same route. (d) Between Ritzville, WA, and Spokane, WA, serving the intermediate points of Tyler, Fishtrap, and Sprague, WA, from Ritzville over U.S. Hwy 395 to Spokane, and return over the same route. (e) Between Sprague, WA, and Lamont, WA, serving no intermediate points, from Sprague, WA, over Washington Hwy 23 to Lamont, and return over the same route. (f) Between Davenport and Nespelem, WA, serving the intermediate points of Grand Coulee and Coulee Dam, WA, and the off-route point of Lincoln, WA, from Davenport over U.S. Hwy 2 to Wilbur, WA, then over Washington Hwy 155 to Nespelem, and return over the same route. (g) Between Davenport, WA, and Grand Coulee, WA, serving the intermediate points of Creston, Wilbur, Goven, Almira, Hartline, Coulee City, and Electric City, WA, from Davenport over U.S. Hwy 1 to junction Washington Hwy 155, then over Washington Hwy 155 to Grand Coulee, and return over the same route. Vendee is authorized to operate as a common carrier in WA, OR, and ID. Application has been filed for temporary authority under section 210a(b).

OPERATING RIGHTS APPLICATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS

NOTICE

The following operating rights application(s) are filed in connection with pending finance applications under Section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under Section 212(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the authorities must be filed with the Commission within 30 days of this notice. All pleadings and documents must clearly specify the "F" suffix where the docket is so identified in this notice. Protests shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its confliction authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative, or applicant if no representative is named.

Each applicant states that there will be no signficant effect on the quality of the human environment resulting from approval of its application.

NO. MC 120951 (Sub-No. 2), filed: January 27, 1978. Applicant: DUGGAN'S TRUCKING, INC., 1502 Niagara Street, Buffalo, N.Y. 14203. Applicant's representative: Robert D. Gunderman, Suite 710 Statler Hilton, Buffalo, N.Y. 14202. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), (1) between points in Erie County, NY, and (2) between points in Erie County, NY, on the one hand, and, on the other, points in Niagara County, NY.

NOTE.—This is an application to convert Applicant's Certificate of Registration No. MC 120951 Sub-No. 1 to a corresponding Certificate of Public Convenience and Necessity and is directly related to the application of Applicant and Robert E. Witherell filed under § 212(b) of the Act, in MC-FC-77528, not yet published in the FEDERAL REGISTER. If a hearing is deemed necessary, Applicant requests that it be held at Buffalo, NY.

MOTOR CARRIER INTRASTATE APPLICATION(S)

NOTICE

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 206(a)(6) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's General Rules of Practice (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

GA Docket No. 79880-M filed December 23, 1977. Applicant: ALL CITIES TRANSFER, INC., 1567 East Hamilton Avenue, East Point, GA 30344. Applicant's representative: Ben Cotton, 1567 East Hamilton Avenue, East Point, GA 30344. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *General commodities*, between Atlanta, GA, and Shenandoah, GA (Coweta County), via U.S. Interstate Highway 85, and Georgia State Highway 34, serving no intermediate points. Intrastate, interstate and foreign commerce authority sought. Hearing: February 14, 1978, in the Commission's Hearing Rm. 177 State Office Building, 244 Washington St., SW. Atlanta, GA. Hearing: Date, time, and place not yet fixed. Requests for procedural information should be addressed to GA Public Service Commission, 162 State Office Building, 244 Washington Street SW., Atlanta, GA 30334, and should not be directed to the Interstate Commerce Commission.

ME Docket No. X-256, filed December 21, 1977. Applicant: FOGG & JORDAN, INC, doing business as MERRILLS EXPRESS, 16 Allen Avenue Extension, Falmouth, ME. Appliant's representative: John G. Feehan, One Canal Plaza, Portland, ME 04112. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of: *General commodities*, from Portland/South Portland, ME, to Lewiston passing through and serving Scarborough, West Falmouth, Falmouth, North Falmouth, Cumberland, Cumberland Junction, Cumberland Center, West Cumberland, Westbrook, North Yarmouth, Yarmouth, Walnut Hill, Gray, New Gloucester, Upper Gloucester, North Pownal, Pownal Center, West Pownal, and Auburn, ME. Restriction: Service to Scarborough and Westbrook restricted to the interlining of freight. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time, and place not yet fixed. Requests for procedural information should be addressed to ME Public Utilities Commission, State House Annex, Capitol Shopping Center, Augusta, ME 04330, and should not be directed to the Interstate Commerce Commission.

By the Commission.

H.G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-5390 Filed 3-1-78; 8:45 am]

[7035-01]

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MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

NOTICE

FEBRUARY 22, 1978.

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. All pleadings and documents must clearly specify the "F" suffix where the docket is so identified in this notice. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 720 (Sub-No. 41), filed January 16, 1978. Applicant: BIRD TRUCKING CO. INC., P.O. Box 227, Waupun, WI 53963. Applicant's representative: Michael J. Wyngaard, 329 West Wilson Street, P.O. Box 8004, Madison, WI 53708. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods and prepared foodstuffs*, from points in Madison, Grant, and Huntington Counties, IN to points in and east of ND, SD, NE, KS, OK, and TX.

NOTE.—If a hearing is deemed necessary, applicant request it be held at either Madison or Milwaukee, WI.

No. MC 720 (Sub-No. 42), filed January 18, 1978. Applicant: BIRD TRUCKING CO. INC., P.O. Box 227, Waupun, WI 53963. Applicant's representative: Anthony C. Vance, Esq., 1300 Old Chain Bridge Road, McLean, VA 22101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned baby goods and dry cereal* from Canajoharie, NY, to MI OH, IN IL, KY, MN, and WI, restricted to traffic origination at the facilities of Beechnut Foods Corp. at Canajoharie, NY, and destined to the named destination States.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Albany, NY or Madison, WI.

No. MC 720 (Sub-No. 43), filed January 18, 1978. Applicant: BIRD TRUCKING CO., INC., P.O. Box 227, Waupun, WI 53963. Applicant's representative: Anthony C. Vance, 1300 Old Chain Bridge Road, Mclean, VA 22101. Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Canned goods, sauerkraut in bags, and carbonated beverages* (except malt beverages), from Phelps, Shortsville, Alton, LeRoy, Oakfield, South Dayton, Leicester, NY, to MI, restricted to traffic originating at the facilities of or utilized by Curtice-Burns, Inc. at the named origin points and destined to MI.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Rochester, NY, or Madison, WI.

No. MC 340 (Sub-No. 46), filed January 6, 1978. Applicant: QUERNER TRUCK LINES, INC., 1131-33 Austin Street, San Antonio, TX 78208. Applicant's representative: M. Ward Bailey, 2412 Continental Life Building, Fort Worth, TX 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen vegetables*, from points in Webb, Cameron, and Hidalgo Counties, TX, to points in AR, TN, and MS.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Houston or San Antonio, TX.

No. MC 2860 (Sub-No. 166), filed January 12, 1978. Applicant: NATIONAL FREIGHT, INC., 71 West Park Avenue, Vineland, NJ 08360. Applicant's representative: W. Randall Tye, 1400 Candler Building, Atlanta, GA 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meat, meat products; and meat byproducts* as described in section A of Appendix I to the report in "Descriptions in Motor Carrier Certificates," 61 MCC 209, at 766 (except commodities in bulk and those injurious or contaminating to other lading), from Detroit, MI, to points in that part of FL on and south of a line beginning at the Atlantic Ocean, then along Interstate Hwy 4 to junction U.S. Hwy 27, then along U.S. Hwy 27 to the Caloosahatchee River, then along the Caloosahatchee River to the Gulf of Mexico; and (2) *such merchandise* as is dealt in and sold by retail chain grocry and department stores (except commodities in bulk), from points in CT, DE, MA, NJ, NY, RI, MD (except points in Allegany, Garrett, and Washington Counties), and that part of PA north and east of a line beginning at the PA-MD State line, then along U.S. Hwy 522 to the junction of U.S. Hwy 322, then along U.S. Hwy 322 to junction of Interstate Hwy 80, then along Interstate Hwy 80 to the PA-OH State line, to points in FL.

NOTE.—Applicant states that it presently holds the authority described above in the form of Letter Notice Licenses under Docket Nos. MC 2860 Sub-No. E-20 and MC 2860 Sub-No. E-37; and that the instant application constitutes a request for a renewal or new license for the transportation activities of a continuing nature now authorized in the aforesaid Letter Notices. Applicant also states it intends to tack the above requested authority at points in Camden, Atlantic, Gloucester, Salem, and Cumberland Counties, NJ, to provide a through service from southwestern PA to FL, and to tack at DE, MD, PA, or NJ, to provide a through service to FL. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, DC.

No. MC 2900 (Sub-No. 322), filed January 16, 1978. Applicant: RYDER TRUCK LINES, INC., Ranger Division, 2050 Kings Road, P.O. Box 2408-R, Jacksonville, FL 32203. Applicant's representative: John Carter (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber mill products, particleboard, wooden fencing, and wood products*, from Post Falls, Coeur d'Alene, St. Maries, Santa, Potlatch, Lewiston, Spalding, Kamiah, and Jaype, ID to IL, IN, IA, MI, MN, MO, OH, PA, WV, and WI, restricted to the transportation of shipments originating at Potlatch Corp. millsites at the named origins and destined to points in the named destination states.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Seattle, WA or Portland, OR.

No. MC 2900 (Sub-No. 324), filed January 23, 1978. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408, Jacksonville, FL 32203. Applicant's representative: S. E. Somers, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment): Serving the plantsite of United Gas Pipe Line Co. Compressor Station near Vinton, LA, as an offroute point in connection with applicant's regular route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Houston, TX, or Washington, DC.

No. MC 2934 (Sub-No. 18), filed January 25, 1978. Applicant: AERO MAYFLOWER TRANSIT CO., INC., P.O. Box 107B, Indianapolis, IN 46206. Applicant's representative: James L. Beattey, 130 East Washington Street, Suite One Thousand, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Black jack tables, crap tables, roulette tables, baccarat tables, big six tables, big six wheels, roulette wheels, slot machine stands, chips, and miscellaneous gambling equipment*, from Las Vegas, NV, to Atlantic City, NJ.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Las Vegas, NV, or Indianapolis, IN. Common control may be involved.

No. MC 4963 (Sub-No. 56), filed December 19, 1977. Applicant: ALLEGHANY CORP. d.b.a. JONES MOTOR, Bridge Street and Schuylkill Road, Spring City, PA 19475. Applicant's rep-

resentative: Roland Rice, Suite 501, Perpetual Building, 1111 E Street NW., Washington, DC 20004. authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods, as defined by the Commission, commodities in bulk and those requiring special equipment), serving Stockbridge, MI, as an off-route point in connection with carrier's regular route operations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Jackson, MI. Common control bay be involved.

No. MC 5227 (Sub-No. 35), filed January 23, 1978. Applicant: ECKLEY TRUCKING, INC., P.O. Box 201, Mead, NE 68041. Applicant's representative: Gailyn L. Larsen, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Solar heating units; collectors and duct work; and equipment, materials, and supplies* used in the manufacture, distribution, and installation thereof, between the facilities of or utilized by Future Systems, Inc., at or near Manhattan, KS, Janesville, WI, and Alamosa and Denver, CO, on the one hand, and, on the other, points in the United States (except AK and HI).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Lincoln, NE, or Denver, CO.

No. MC 9291 (Sub-No. 6), filed January 16, 1978. Applicant: CARROL BALL, 312 East Market (Box 53), Centerville, KS 66014. Applicant's representative: Clyde N. Christey, 514 Capitol Federal Building, Topeka, KS 66603. Authority sought to operate as a *common carrier*, by motor vehicles, over irregular routes, transporting: *Building components*, from the plantsite and/or storage facilities of Components, Inc., located at or near Garnett, KS, to points in AR, CO, IA, LA, MN, MO, NE, OK, SD, and TX.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Kansas City, MO.

No. MC 9325 (Sub-No. 74), filed January 3, 1978. Applicant: K LINES, INC., 17765 Southwest Boones Ferry Road, P.O. Box 1348, Lake Oswego, OR 97034. Applicant's representative: Eugene A. Feise (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from points in OR to points in UT.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Portland, OR.

No. MC 20722 (Sub-No. 32), filed January 20, 1978. Applicant: M&G CONVOY, INC., 590 Elk Street, Buffalo, NY 14240. Applicant's representative: Walter N. Bieneman, Attorney for Applicant, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. Authority sought to operate as a *common carrier*, by motor vehicle, in interstate and foreign commerce over irregular routes in the transportation of *motor vehicles*, in secondary movements, from Albany, NY, to points and places in VT, ME, NH, and RI.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Washington, DC.

No. MC 22195 (Sub-No. 173), filed January 16, 1978. Applicant: DAN DUGAN TRANSPORT CO., a corporation, P.O. Box 946, Sioux Falls, SD 57105. Applicant's representative: F. Fred Fischer (same address as applicant). Application to extend an existing motor carrier certificate as a *common carrier*, by motor vehicle, in interstate commerce, over irregular routes, in the transportation of: *Soybean meal, cake meal, dry soybean flour, dry soybean mill run, and crude soybean oil*, from Manning, IA, to points in MN, SD, NE, CO, KS, and MO.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Sioux City, IA, or Sioux Falls, SD.

No. MC 26396 (Sub-No. 165), filed January 10, 1978. Applicant: POPELKA TRUCKING CO., a corporation, d.b.a. THE WAGGONERS, P.O. Box 990, Livingston, MT 59047. Applicant's representative: Sharon L. Hamlett (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bentonite*, from the plantsite of American Colloid Co., located at or near Malta, MT, Belle Fourche, SD, and Upton and Lovell, WY, to points in OK, TX, AR, LA, MS, AL GA, FL, KY, TN, NC, SC, VA, WV, CA, and WA, and DC.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, IL, or Billings, MT.

No. MC 27817 (Sub-No. 140), filed January 9, 1978. Applicant: H. C. GABLER, INC., R.F.D. No. 3, P.O. Box 220, Chambersburg, PA 17201. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and preserved foodstuffs*, from the plantsite of the Bruce Foods Corp., located at or near Wilson, NC, to points in IL, IN, and MI, restricted to traffic originating at and destined to the aforementioned origin and destination.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, DC, or Harrisburg, PA.

No. MC 29910 (Sub-No. 186), filed January 24, 1978. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, AR 72901. Applicant's representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): Serving the facilities of Beaird Poulan located at Marshall, TX, as an off-route point in connection with applicant's authorized regular route operations at Shreveport, LA.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Shreveport, LA,or Dallas, TX.

No. MC 32948 (Sub-No. 22), filed December 20, 1977. Applicant: P.A.K. TRANSPORT, INC., P.O. Box 187, Newport, NH 03773. Applicant's representative: R. Peter Decato, 23 Bank Street, Lebanon, NH 03766. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural commodities, wood products, forest products*, and *lumber products* (except commodities in bulk in tank vehicles), between points in ME, NH, VT, MA, CT, RI, NY, and NJ.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Concord, NH, or Boston, MA. Applicant holds motor contract carrier authority in No. MC 21945 and subnumbers thereunder, therefore dual operations may be involved.

No. MC 35807 (Sub-No. 79), filed January 11, 1978. Applicant: WELLS FARGO ARMORED SERVICE CORP., P.O. Box 4313, Atlanta, GA 30302. Applicant's representative: Steven J. Thatcher (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coin, currency and securities*, between Jacksonville, FL, and Pierce, Glynn, McIntosh, Charlton, Liberty, Wayne, Camden, Brantley, Chatham, and Ware Counties, GA, under the continuing contract or contracts with banks and banking institutions.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Atlanta, GA, or Jacksonville, FL. Common control may be involved.

No. MC 35807 (Sub-No. 81), filed January 13, 1978. Applicant: WELLS FARGO ARMORED SERVICE CORP., P.O. Box 4313, Atlanta, GA 30302. Applicant's representative: Steven J. Thatcher (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Audit and accounting media; checks; cashletters; statements; advices; magnetic tapes, punch cards and other computer media; data processing media; printed documents; microfilm, microfiche, microforms and related items; written instruments and documents as are used in the business of banks and banking institutions* (1) between Sioux City, IA and Knox, Pierce, Antelope, Madison, Stanton, Cuming, Burt, Cedar, Dixon, Dakota, Wayne, Thurston, and Douglas Counties, NE; Union, Clay, Lincoln, Yankton, Bon Homme, Turner, Hutchinson, Minnehaha, Charles Mix, Douglas, McCook, Hanson, Davison, Hand, Aurora, Brule, Gregory, Tripp, Jerauld, Sanborn, Beadle, Miner, Lake, and Moody Counties, SD; Rock, Nobles, Jackson, Martin, Pipestone, Murray, Cottonwood, and Watowan Counties, MN; and (2) between Spencer, IA and Pipestone, Murray, Cottonwood, Watowan, Martin, Jackson, Nobles, and Rock Counties, MN, under a continuing contract or contracts with banks and banking institutions.

NOTE.—If a hearing is deemed necessary, the Applicant requests it be held at Sioux City, IA; Omaha, NE or Washington, DC. Common control may be involved.

No. MC 43867 (Sub-No. 40), filed January 23, 1978. Applicant: A. LEANDER McALISTER TRUCKING CO., P.O. Box 2214, Wichita Falls, TX 76307. Applicant's representative: Brian E. Brewton, traffic manager, P.O. Box 2214, Wichita Falls, TX 76307. Authorty sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, as defined in descriptions in motor carrier certificates, 61 MCC 209; (2) *tanks, iron and steel, or aluminum, and parts, attachments, and accessouries therefore;* (3) *pressure vessels and chemical process equipment;* (4) *superchangers;* (5) *electric switch control cabinets*, from points in Wichita County, TX, to points in the United States (except AK and HI); and (6) *materials, supplies, and equipment used in the manufacture, installation, and repair of the commodities named in (1) through (5) above*, from points in the United States (except AK and HI) to points in Wichita County, TX.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Dallas or Fort Worth, TX.

No. MC 47171 (Sub-No. 103), filed January 13, 1978. Applicant: COOPER MOTOR LINES, INC., P.O. Box 4259, Greenville, SC 29608. Applicant's representative: Harris G. Andrews (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dental and hospital supplies*, from Hancock, NY, to Atlanta, GA.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Washington, DC. Common control may be involved.

No. MC 47583 (Sub-No. 58), filed December 16, 1977. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, KS 66115. Applicant's representative: D. S. Hults, P.O. Box 225, Lawrence, KS 66044. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, equipment and supplies* used in the manufacture and distribution of insulation and insulating products (except commodities in bulk and commodities which because of size or weight require the use of special equipment), from points in the United States (except AK and HI) to the plantsite and storage facilities of Johns Manville Sales Corp., located at or near McPherson, KS.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it to be held in Kansas City, MO.

No. MC 51146 (Sub-No. 564), filed January 16, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Applicant's representative: Wayne Downing (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soap, cleaning compounds*, and *toilet preparations*, from Kansas City, KS to points in MN, ND, and SD.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, IL.

No. MC 51146 (Sub-No. 567), filed January 16, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Applicant's representative: Wayne Downing (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* and *related advertising materials*, and *returned empty malt beverage containers*, between the facilities of Pabst Brewing Co., at or near Pabst, GA, on the one hand and, on the other, points in IL, IN, IA, MI, MN, MO, OH, and WI.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, IL.

No. MC 51146 (Sub-No. 569), filed January 18, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Applicant's representative: Wayne Downing (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products* from Monroe, MI, to those points in NY west of a line beginning at the international boundary line between the United States and Canada and extending along U.S. Hwy 9 to its junction with NY Hwy 7, then along NY Hwy 7 to its junction with U.S. Hwy 11, then along U.S. Hwy 11 to the NY-PA State line; those points in MD west of a line beginning at the PA-MD State line and extending along MD Hwy 45 to its junction with MD Hwy 2, then along MD Hwy 2 to the Chesapeake Bay, then north along Chesapeake Bay and the Susquehanna River to the PA-MD State line; and those points in IL on and within an area bordered on the north by U.S. Hwy 60, on the west by the Mississippi River, on the south by IL Hwy 49, and on the east by the Wabash River; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of paper and paper products (except commodities in bulk) from points in the destination territory described in (1) above to Monroe, MI; and (3) *wood products* from New Freedom, PA, to points in IL, IA, MI, MN, and WI.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, IL.

No. MC 56244 (Sub-No. 54), filed December 26, 1977. Applicant: KUHN TRANSPORTATION CO., INC., P.O. Box 98, R.D. No. 2, Gardners, PA 17324. Applicant's representative: John M. Musselman, P.O. Box 1146, 410 North Third Street, Harrisburg, PA 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by lawn and garden care centers (except commodities in bulk), from the facilities of O. M. Scott & Sons Co., at or near Marysville and Columbus, OH, to points in DE, MD, NJ, PA, and DC.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Harrisburg, PA, Columbus, OH, or Washington, DC.

No. MC 59150 (Sub-No. 113), filed December 19, 1977. Applicant: PLOOF TRUCK LINES, INC., P.O. Box 3277, Jacksonville, FL 32206. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Richmond Lumber Co. plantsite at Union City, GA, to points in AL, NC, SC, TN, and VA.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Atlanta, GA, or Jacksonville, FL.

No. MC 59150 (Sub-No. 118), filed January 6, 1978. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose Street, Jacksonville, FL 32206. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL

32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic pipe and conduit, and fittings and accessories* used in the installation thereof, from points in Geneva County, AL to points in FL, GA, NC, SC, VA, TN, MS, and LA; and (2) *equipment, materials, and supplies* used in the manufacture of plastic pipe and conduit (except commodities in bulk), and *fittings and valves*, from points in FL, GA, NC, SC, VA, TN, MS, and LA, to points in Geneva County, AL.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Atlanta, GA.

No. MC 59150 (Sub-No. 120), filed January 18, 1978. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose Street, Jacksonville, FL 32206. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and veneer*, from points in AL, to points in VA, NC, SC, TN, GA, FL, MS, LA, restricted to traffic moving for the account of Buchannan Hardwood, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Birmingham, AL.

No. MC 60014 (Sub-No. 69), filed January 16, 1978. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, PA 15146. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from points in ID, MT, OR, and WA to points in IL, IN, IA, KY, MI, MN, MO, OH, and WI.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Los Angeles, CA, or Washington, DC.

No. MC 70832 (Sub-No. 20), filed January 12, 1978. Applicant: NEW PENN MOTOR EXPRESS, INC., P.O. Box 630, Lebanon, PA 17402. Applicant's representative: S. Harrison Kahn, Suite 733, Investment Building, Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rebuilt automotive parts, cores, and purchased parts*, between Beech Creek, PA, and Milton, PA.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Harrisburg, PA, or Washington, DC.

No. MC 71652 (Sub-No. 12), filed January 16, 1978. Applicant: BYRNE TRUCKING, INC., 4669 Crater Lake Hwy, Medford, OR 97501. Applicant's representative: William D. Taylor, 100 Pine Street, Suite 2550, San Francisco, CA 94111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass*, from the plantsite of Guardian Industries, located at or near Kingsburg, CA, to points in ID, OR, and WA.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Portland, OR, or San Francisco, CA.

No. MC 71652 (Sub-No. 13), filed January 16, 1978. Applicant: BYRNE TRUCKING, INC., 4669 Crater Lake Hwy, Medford, OR 97501. Applicant's representative: William D. Taylor, 100 Pine Street, Suite 2550, San Francisco, CA 94111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel wire rope on spools*, from the plantsite of E. H. Edwards Co., South San Francisco, CA, to points in OR and WA.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Portland, OR, or San Francisco, CA.

No. MC 71652 (Sub-No. 14), filed January 16, 1978. Applicant: BYRNE TRUCKING, INC., 4669 Carter Lake Hwy., Medford, OR 97501. Applicant's representative: William D. Taylor, 100 Pine Street, Suite 2550, San Francisco, CA 94111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials* and *iron* and *steel articles*, as described in Appendix V to the report of the Commission in *ex parte* No. 45, Descriptions in Motor Carrier Certificates, 61 MCC 209, from the plant site of H. H. Robertson Co., Stockton, CA, to OR, WA, and ID.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Medford, OR, or Stockton or San Francisco, CA.

No. MC 75830 (Sub-No. 13), filed January 25, 1978. Applicant: INTERCITY TRANSPORT & MOTOR COMPANY, INC., Liggett Addition, P.O. Box 88, Buckhannon, WV 26021. Applicant's representative: William A. Gray, 2310 Grant Building, Pittsburgh, PA 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *bakery goods, and materials used in the manufacture and sale of bakery goods*, between Cincinnati, OH, on the one hand, and, on the other, points in VA, MD, NJ, DE, NY, CT, MA, RI, and DC, under a continuing contract or contracts with Keebler Co. of Elmhurst, IL. (2) *bakery goods, and materials used in the manufacture and sale of bakery goods*, between Philadelphia, PA, on the one hand, and, on the other, points in IL, MI, MO, IA, MN, and WI, under a continuing contract or contracts with Keebler Co. of Elmhurst, IL.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Pittsburgh, PA, or Washington, DC.

No. MC 82063 (Sub-No. 88), filed December 14, 1977. Applicant: KLIPSCH HAULING CO., a corporation, 10795 Watson Road, Sunset Hills, MO 63127. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Formaldehyde*, in bulk, in tank vehicles, from Malvern, AR to Tuscaloosa, AL; Kansas City, KS; Moncure, NC; and Houston, TX.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in St. Louis, MO, or Washington, DC.

No. MC 82492 (Sub-No. 174), filed December 19, 1977. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., P.O. Box 2853, Kalamazoo, MI 49003. Applicant's representative: William C. Harris (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: I. *Petroleum* and *petroleum products, vehicle body sealer* and/or *sound deadener compound* (except in bulk) and *filters*, from points in Marion County TN, to points in AR, IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, OK, SD, LA, TX, and WI. II. *Materials, supplies* and *equipment* used in the manufacture, sale and distribution of the commodities named in Part I above (except in bulk), from points in OH, WV, PA, and KY, to Marion County TN, Restriction: Restricted to traffic destined to points in Marion County, TN. III. *Petroleum* and *petroleum products, vehicle body sealer* and/or *sound deadener* compound (except in bulk) and *filters*, from points in OH, NY, PA, WV, to points in Marion County, TN, Restriction: Restricted to traffic destined to Marion County, TN.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, DC.

No. MC 86913 (Sub-No. 41), filed January 3, 1978. Applicant: EASTERN MOTOR LINES, INC., P.O. Box 649, Warrenton, NC 27589. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue & 13th Street NW., Washington, DC 20004. Authority sought to engage in operation in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Composition board, plywood, accessories* and *materials* used in the installation and sale thereof, from the facilities of Abitibi Corp., located in Lucas County, OH, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VA, VT, WV, and the DC.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, DC or Detroit, MI.

No. MC 94265 (Sub-No. 258), filed January 20, 1978. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305 - Route 460, Windsor, VA 23487. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Road NE., Atlanta, GA 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, (1) from the facilities of Mount Airy Cold Storage at or near Mount Airy, MD, to points in the States of CT, DE, ME, MD, MA, NH, NJ, NY, NC, OH, PA, VA, WV, and the DC; and (2) *returned shipments of frozen foods*, from the about specified destination points to the above specified origin.

NOTE.— If a hearing is deemed necessary, applicant requests that it be held at Washington, DC of Portland, OR.

No. MC 100666 (Sub-No. 375), filed January 13, 1978. Applicant: MELTON TRUCK LINES INC., P.O. Box 7666, Shreveport, LA 71107. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Building, 3535 North West 58th Street, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Lumber* and *wood products*, from points in Douglas County, NV, to points in AL, AR, CO, KS, LA, MS, NM, OK, TN, and TX.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Albuquerque, NM.

No. MC 102616 (Sub-No. 938), filed January 23, 1978. Applicant: COASTAL TANK LINES, INC., 250 North Cleveland-Massillon Road, Akron, OH 44313. Applicant's representative: David F. McAllister (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, from Aurora, IN, to points in OH.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Columbus, OH or Chicago, IL.

No. MC 102616 (Sub-No. 939), filed January 24, 1978. Applicant: COASTAL TANK LINES, INC., 250 N. Cleveland-Massillon Road, Akron, OH 44313. Applicant's representative: David F. McAllister (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural pesticides*, in bulk, from the plantsite and storage facilities utilized by Shell Chemical Co., a division of Shell Oil Co., at or near El Paso, IL, to points in the United States (except AK and HI).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Columbus, OH or Chicago, IL.

No. MC 102817 (Sub-No. 28), filed January 12, 1978. Applicant: PERKINS FURNITURE TRANSPORT, INC., P.O. Box 24335, Indianapolis, IN 46254. Applicant's representative: Robert W. Loser, 1009 Chamber of Commerce Building, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *New furniture, kitchen cabinets, and store and office fixtures*, from points in IN (except Warsaw and Tell City); points in MI (except Charlevoix); OH; IL; and KY, to points in NC and SC, (2) *new furniture*, from Welcome, NC, and points in Catawba County, NC, and Nichols, SC, to points in IN, KY, IL, MI, MO, KS, NE, ND, SD, WI, and IA; and (3) *new furniture and hospital beds*, from Charlotte, NC, to points in KY, IN, IA, IL, KS, MI, MN, MO, NE, ND, SD, and WI.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Indianapolis, IN.

Docket No. MC 103051 (Sub-No. 421), filed January 23, 1978. Applicant: FLEET TRANSPORT CO., INC., 934-44th Avenue, North, Nashville, TN 37209. Applicant's representative: Russell E. Stone, P.O. Box 90408, Nashville, TN 37209. Permanent authority sought to operate as a *common carrier*, over irregular routes, by motor vehicle, transporting: *Petroleum and petroleum products, vehicle body sealer and/or sound deadener compound*, in bulk, in tank vehicles, from points in Marion County, TN to all points in the United States, (except AK and HI).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Nashville, TN or Atlanta, GA.

Docket: MC 103066 (Sub-No. 65), filed January 10, 1978. Applicant: STONE TRUCKING CO., a corporation, P.O. Box 2014, Tulsa, OK 74101. Applicant's representative: Eugene D. Anderson, Suite 428, 910 Seventeenth St. NW, Washington, DC 20006. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting: *Starch and dextrine*, in bags, boxes and drums, from Houlton, ME, to points in AR, CA, FL, GA, IL, IN, MI, MO, NC, OH, TX, VA, WV, and WI.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, DC, or Chicago, IL.

No. MC 103993 (Sub-No. 921), filed January 13, 1978. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Applicant's representative: Paul D. Borghesani (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers, semitrailers and trailer chassis* (other than those designed to be drawn by passenger automobiles) in initial movements, from the plantsite of Boyd Tank Trailers, Inc., at or near Boyd, TX to points in the United States (except AK and HI).

NOTE.—If a hearing is deemed necessary, Applicant requests it be held at Ft. Worth, TX.

No. MC 103993 (Sub-No. 922), filed January 13, 1978. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46514. Applicant's representative: Paul D. Borghesani (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Particle board, lumber and lumber mill products*, from Navajo, NM to points in MO, AR, TX, OK, IL, and IN.

NOTE.—If a hearing is deemed necessary, Applicant requests it be held at Albuquerque, NM.

No. MC 104430 (Sub-No. 49), filed January 9, 1978. Applicant: CAPITAL TRANSPORT CO., INC., P.O. Box 408, Highway 24 West, McComb, MS 39648. Applicant's representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fuel oils*, in bulk, in tank vehicles, (1) from the facilities of Ergon, Inc. at or near Greenville, MS to points in AL, AR, LA, MS, and TN; (2) from the facilities of Ergon, Inc. at or near Vicksburg, MS to points in AL, AR, LA, and MS; (3) from the facilities of Mobile Bulk Terminal, Inc. at or near Mobile, AL to points in AL, FL, LA, and MS.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Jackson, MS.

No. MC 104654 (Sub-No. 156), filed January 10, 1978. Applicant: COMMERCIAL TRANSPORT, INC., P.O. Box 469, Belleville, IL 62222. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th St. NW., Washington, DC 20004. Authority sought to engage in operation, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *fertilizer and fertilizer material*, in bulk, from the storage facilities of CF Industries, Inc., at or near Bussen Spur, MO, to points in IL.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either St. Louis, MO or Washington DC.

No. MC 105045 (Sub-No. 79), filed January 16, 1978. Applicant: R. L. JEFFRIES TRUCKING CO., INC, 1020 Pennsylvania Street, Evansville, IN 47701. Applicant's representative: Paul F. Sullivan, 711 Washington

Building, Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled front-end loaders* and parts and attachments therefor, from Fairview, OK, to points in VA and NC.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held in Washington, DC. Applicant states that it presently holds size-and-weight and self-propelled articles (each weighing 15,000 lbs. or more) authority from points in OK to points in VA.

No. MC 105501 (Sub-No. 24), filed January 9, 1978. Applicant: TERMINAL WAREHOUSE CO., a corporation, 1851 Radisson Road NE., Blaine, MN 55434. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, moving in trailer-on-flat-car or container-on-flat-car service*, from Arlington, MN, to Minneapolis, MN, and its commercial zone, restricted to traffic having a subsequent movement by rail.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Minneapolis, or St. Paul, MN. Applicant holds motor contract carrier authority in No. MC 141191, therefore, dual operations may be involved.

No. MC 105501 (Sub-No. 26), filed January 19, 1978. Applicant: TERMINAL WAREHOUSE CO., INC., 1851 Raddison Road NE., Blaine, MN 55434. Applicant's representative: Anthony C. Vance, 1300 Old Chain Bridge Road, McLean, VA 22101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and livestock), in containers, or in trailers, from points in Aitkin, Anoka, Benton, Big Stone, Blue Earth, Brown, Carlton, Carver, Chippewa, Chisago, Cottonwood, Crow Wing, Dakota, Dodge, Douglas, Faribault, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Isanti, Kanabec, Kandiyohi, Lac Qui Parle, Le Sueur, Lyon, Martin, McLeod, Meeker, Millie Lacs, Morrison, Mower, Nicollet, Olmsted, Pine, Polk, Ramsey, Redwood, Renville, Rice, Scott, Sherburne, Sibley, and Steele Counties MN, points in St. Louis County on and south of U.S. Hwy 2, and points in Stearns, Stevens, Swift, Todd, Wabasha, Waseca, Washington, Watonwan, Winona, and Wright Counties, MN, to Minneapolis, MN, restricted to the transportation of shipments having an immediate subsequent movement by rail.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Minneapolis, MN.

No. MC 106644 (Sub-No. 248), filed January 23, 1978. Applicant: SUPERIOR TRUCKING CO., INC., P.O. Box 916, Atlanta, GA 30301. Applicant's representative: Frank Hall, Suite 713, 3384 Peachtree Road NE., Atlanta, GA 30326. Authority sought to operate as a *common carrier*, over irregular routes, by motor vehicle, transporting: Such commodities as *motorgraders and accessories*, from the plantsite facilities of Champion Road Machinery International at Lexington County, SC to points in the United States including AL, but excluding HI.

NOTE.—If an oral hearing is deemed necessary, we request it be held at either Columbia, SC or Washington, DC.

No. MC 107403, (Sub-No. 1052), filed December 19, 1977. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, PA 19050. Applicant's representative: Martin C. Hynes, Jr., same address as applicant. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products, vehicle body sealer and/or sound deadener compound*, in bulk, in tank vehicles, from points in Marion County, TN to all points in the United States (except AK and HI).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held in Washington, DC.

No. MC 107515 (Sub-No. 1121), filed January 23, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Applicant's representative: Alan E. Serby, Serby & Mitchell, P.C., 3379 Peachtree Road NE., Suite 375, Atlanta, GA 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *Foodstuffs* (except in bulk), from the plantsite or facilities of Rich Products Corp. at or near Murfreesboro, TN, to points in AR, DE, IL, IN, IA, KS, KY, LA, MD, MN, MO, NJ, NY, OH, OK, PA, TN, TX, VA, WV, and WI.

NOTE.—Dual operations and/or common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Buffalo, NY.

No. MC 107839 (Sub-No. 174), filed December 19, 1977. Applicant: DENVER-ALBUQUERQUE MOTOR TRANSPORT, INC., 2121 East 67th Avenue, Denver CO 80216. Applicant's representative: Edward T. Lyons, Jr., 1600 Lincoln Center Building, 1660 Lincoln Street, Denver CO 80264. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from points in Cameron and Hidalgo Counties, TX to points in AZ, CA, CO, ID, KS, MT, NE, NV, NM, OK, OR, UT, WA, and WY.

NOTE.—If hearing is deemed necessary, Applicant requests that it be consolidated with similar applications, but does not specify a location.

No. MC 107839 (Sub-No. 175), filed January 9, 1978. Applicant: DENVER-ALBUQUERQUE MOTOR TRANSPORT, INC., P.O. Box 16106, 2121 East 56th Avenue, Denver CO 80216. Applicant's representative: Edward T. Lyons, Jr., 1600 Lincoln Center Building, 1660 Lincoln Street, Denver CO 80264. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), (1) from the plantsite and storage facilites of Swift & Co. located at or near Omaha, NE, and Glenwood, Des Moines, and Marshalltown, IA, to points in AL, FL, GA, NC, SC, and TN, (2) from Sioux City, IA, to points in AL, GA, NC, SC, and Memphis, TN, and (3) from Grand Island, NE, to points in AL restricted to the transportation of traffic originating at the named origins and destined to points in the named destination States.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at the same time and place as other similar applications presently pending.

No. MC 108053 (Sub-No. 141), filed December 19, 1977. Applicant: LITTLE AUDREY'S TRANSPORTATION CO., INC., P.O. Box 129, Fremont, NE 68025. Applicant's representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses* (except hides and commodities in bulk), as defined in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, from the plantsite and warehouse facilities of Wilson Foods Corp. located at Logansport, IN, to points in AZ, CA, ID, NV, OR, UT, and WA. Restricted to the transportation of traffic originating at the abovenamed origins and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Dallas, TX or Kansas City, MO. Common control may be involved.

No. MC 108053 (Sub-No. 142), filed January 19, 1978. Applicant: LITTLE AUDREY'S TRANSPORTATION CO., INC., P.O. Box 129, Fremont, NE 68025. Applicant's representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), (a) from the plantsite and storage facilities of Hygrade Food Products Corp. at or near Storm Lake, IA, to points in AZ and CA (except San Diego, Los Angeles, San Jose, San Francisco, Stockton, and Sacramento, CA); (b) from the plantsite and storage facilities of Hygrade Food Products Corp. at or near Cherokee, IA, to points in AZ and CA. Restricted to traffic originating at the above-named origin points and destined to the named destination States.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Detroit, MI, or Washington, DC. Common control may be involved.

No. MC 108341 (Sub-No. 78), filed January 13, 1978. Applicant: MOSS TRUCKING CO., INC., 3027 North Tryon St., P.O. Box 8409, Charlotte, NC 28208. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Motor graders, and attachments, accessories and parts for motor graders*, (a) between the ports of entry on the international boundary line between the United States and Canada located at points in NY, on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, CO, and NM, and (b) between Lexington County, SC, on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, CO, and NM; (2) *materials, equipment and supplies* used in the manufacture, sale and/or distribution of commodities in (1) above, (a) from points in the United States in and east of ND, SD, NE, CO, and NM to ports of entry on the international boundary line between the United States and Canada located at points in NY, and (b) from points in the United States in and east of ND, SD, NE, CO, and NM to Lexington County, SC; and (3) *experimental and show display motor graders and incidental paraphernalia* which at the time of movement are being transported for display or experiment, between points in the United States in and east of ND, SD, NE, CO, and NM.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at either Columbia, SC, Atlanta, GA, or Washington, DC.

No. MC 108341 (Sub-No. 82), filed January 23, 1978. Applicant: MOSS TRUCKING CO., INC., 3027 North Tryon Street, P.O. Box 8409, Charlotte, NC 28208. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiberglass products including fiberglass tanks and fiberglass pipe*, from Wilson, NC to points in the United States in and east of MN, IA, MO, AR, and LA.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at either Raleigh, NC or Washington, DC.

No. MC 108380 (Sub-No. 94), filed January 23, 1978. Applicant: JOHNSTON'S FUEL LINERS, INC., Box 100, Newcastle, WY 82701. Applicant's representative: Truman A. Stockton, Jr., The 1650 Grant Street Building, Denver, CO 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Limestone, limestone products, sand and appregates*, between points in SD, ND, NE and WY; (2) *bentonite*, in bags and in bulk, from points in WY and SD to points in the United States, (including AK except HI), restricted against the transportation of so-called Mercer commodities as described in Mercer Extension—Oil Field Commodities, 74 MCC 459 to points in CO, KS, NM, WY, NT, ID, UT, ND and NE; and (3) *cement*, in bags and in bulk, (a) from the South Dakota Cement Plant at or near Rapid City, SD to points in NE, MN, ND, NT, ID, UT, WY and CO, (b) from points in WY to points in NE, MT, ID, UT and CO, and (c) between points in WY.

NOTE.—Common control may be involved. If a hearing is deemed necessary applicant requests that it be held at Rapid City, SD or Cheyenne, WY.

No. MC 109692 (Sub-No. 51), filed January 13, 1978. Applicant: GRAIN BELT TRANSPORTATION CO., a corporation, Route 13, Kansas City, MO 64161. Applicant's representative: Warren H. Sapp, 4420 Madison, Suite 230, Kansas City, MO 64111. Authority sought to conduct operations as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feeds and feed ingredients* (except in bulk), from the plantsite and storage facilities of Harvest Brands, a division of Harvest Industries, Inc., located at or near Pittsburg, KS, to points in AR, IL, IN, IA, KY, MI, MN, MO, NE, NM, OH, OK, SD, TX, WI, and those points in TN located on and west of U.S. Hwy 231.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, MO, or Tulsa, OK. Common control may be involved.

No. MC 109689 (Sub-No. 326), filed January 13, 1978. Applicant: W. S. HATCH CO., a corporation, 643 South 800 West, Woods Cross, UT 84087. Applicant's representative: Mark K. Boyle, 345 South State Street, Salt Lake City, UT 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Phosphoric acid*, in bulk, from Don, ID, to Port Angeles, Hoquiam, Bellingham, Longview, Cosmopolis, Tacoma, and Everett, WA.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Salt Lake City, UT.

No. MC 109689 (Sub-No. 327), filed January 13, 1978. Applicant: W. S. HATCH CO., a corporation, 643 South 800 West Woods Cross, UT 84087. Applicant's representative: Mark K. Boyle, 345 South State Street, Salt Lake City, UT 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dinitrotoluene (DNT)*, in bulk, from Pasadena, TX, to Salt Lake City, UT.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Salt Lake City, UT.

No. MC 110012 (Sub-No. 38), filed January 20, 1978. Applicant: ROY WIDENER MOTOR LINES, INC., 707 North Liberty Hill Road, P.O. Box 68, Morristown, TN 37814. Applicant's representative: John R. Sims, Jr., 915 Pennsylvania Building, 425 13th Street NW., Washington, DC 20004. Applicant seeks authority to engage in operation, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of: *New furniture and furniture parts*, from the plantsites of Lea Industries, Inc., Division of Sperry-Hutchinson Co., located at or near Richmond and Kenbridge, VA; Waynesville, NC; and Hamblen County, TN, to points in IA, KS, MN, MO, NE, ND, OK, SD, and TX; *materials and supplies* used in the manufacture of furniture (except commodities in bulk, in tank vehicles) and returned new furniture, from points in IA, KS, MN, MO, NE, ND, OK, SD, and TX to the plantsites of Lea Industries, Inc., Division of Sperry-Hutchinson Co., located at or near Richmond and Kenbridge, VA; Waynesville, NC; and Hamblen County, TN.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Nashville, TN or Washington, DC.

No. MC 110563 (Sub-No. 215), filed January 23, 1978. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 North, Sidney, OH 45365. Applicant's representative: Joseph M. Scanlan, 111 West Washington Avenue, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byprod-*

ucts, and *articles* distributed by meat packing- houses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except bulk commodities and hides, skins, and pieces thereof), from, Defiance, OH, plant site of Dinner Bell Foods, to all points in NJ, NY, and PA.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, IL or Columbus, OH.

No. MC 110563 (Sub-No. 216), filed January 23, 1978. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 North, Sidney, Oh 45365. Applicant's representative: Joseph M. Scanlan, Attorney at Law, 111 West Washington Avenue, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: 1. *Meat, meat products, meat by-products*, and *articles* distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), 2. *Foodstuffs*, when shipped in mixed loads with the commodities described in 1 above, from the plantsite and/or storage facilities utilized by Jones Dairy Farm at or near Fort Atkinson and Jefferson, WI, to points in the states of CT, DE, NH, NJ, NY, ME, MD, MA, PA, RI, VA, VT, WV and Washington, DC.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Milwaukee, WI or Chicago, IL.

No. MC 110988 (Sub-No. 356), filed January 10, 1978. Applicant: SCHNEIDER TANK LINES, INC., 4321 West College Avenue, Appleton, WI 54911. Applicant's representative: Paul Schneider (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum sulphate, or liquid alum*, in bulk, in tank vehicles, from Wisconsin Rapids, WI to Des Moines and Waterloo, IA.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Chicago, IL. Common control may be involved.

No. MC 111849 (Sub-No. 5), filed December 28, 1977. Applicant: WILSON MOVING AND STORAGE, INC., 129 Strongs Avenue, Rutland, VT 05701. Applicant's representative: Reginald C. Wilson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), having a prior or subsequent out-of-state movement by rail, between Vermont Railway, Inc., ramps, located in Rutland and North Bennington, VT, and points in the counties of Rutland, Addison, Windsor, Windham, Orange, and Bennington, VT; Washington County, NY; Sullivan and Grafton Counties, NH.

NOTE.—Applicant intends to tack the above requested authority with No. MC 111849 (Sub-No. 4) at points in Washington County, New York and Addison County, VT, to provide a through service to Rutland, VT. If a hearing is deemed necessary, the applicant requests that it be held at either Rutland or Burlington, VT.

No. MC 112304 (Sub-No. 125), filed January 16, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., a corporation, 1601 Blue Rock Street, Cincinnati, OH 45223. Applicant's representative: John D. Herbert (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, fittings, valves, hydrants*, and *materials and supplies* used in the installation thereof, from the plantsite and storage facilities of Clow Corp., at or near Pell City, AL, to points in AL, AR, CT, DE, FL, GA, IL, IN, KY, LA, ME, MD, MA, MI, MS, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and DC.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Chicago, IL, or Washington, DC. Common control may be involved.

No. MC 112304 (Sub-No. 127), filed January 23, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., a corporation, 1601 Blue Rock Street, Cincinniti, OH 45223. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum articles* (except in bulk), from: (a) the plantsite and shipping facilities of Eastalco Aluminum Co., at or near Buckeystown, MD, to points in TX, OK, AR, LA, MS, TN, AL, GA, FL, SC, NC, VA, NJ, NY, and PA; (b) the plantsite and shipping facilities of Noranda Aluminum Company, at or near New Madrid, MO, to the plantsites of Howmet Aluminum Corp. at Lancaster, PA, and Magnolia, AR, and Rockwall, TX; (c) the plantsite and shipping facilities of Revere Copper & Brass, Inc., Scottsboro Aluminum Reduction Division, at or near Scottsboro, AL, to the plantsites of Howmet Aluminum Corp. at Lancaster, PA; Magnolia, AR and Rockwall, TX; (d) the plantsite and shipping facilities of National Southwire Aluminum Co., at or near Hawesville, KY, to the plantsites of Howmet Aluminum Corp., at Lancaster, PA, Magnolia, AR and Rockwall, TX; (e) the plantsite and shipping facilities of Intalco Aluminum Company at or near Ferndale, WA, to points in OR, CA, AZ, TX, OK, MN, IA, MO, AR, LA, WI, IL, MS, AL, GA, and WA; (f) Los Angeles, CA, to points in AZ, OK, and TX. (2) *Scrap aluminum* (except in bulk) from: (a) Alexandria, MN and Lawrence and Taunton, MA to Indianapolis, IN; Rockwall, TX; Magnolia, AR; Baltimore, MD; Long Island, NY; and points in KY, OH, TN, and WI and (b) Lawrence and Taunton, MA, to points in PA.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Washington, DC. Common control may be involved.

No. MC 112520 (Sub-No. 349), filed January 23, 1978. Applicant: McKENZIE TANK LINES, INC., P.O. Box 1200, Tallahassee, FL 32302. Applicant's representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Chemical cellulose woodpulp*, restricted to shipments having a subsequent movement by water, from the plant site of ITT Rayonier at or near Jesup, GA to Brunswick and Savannah, GA.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Jacksonville, FL, Atlanta, GA, or Tallahassee, FL. Common control may be involved.

No. MC 112627 (Sub-No. 25), filed January 6, 1978. Applicant: OWENS BROS., INC., P.O. Box 247, Dansville, NY 14437. Applicant's representative: S. Michael Richards, P.O. Box 225, 44 North Avenue, Webster, NY 14580. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from the plantsite of Geo. A. Hormel & Co., located at or near Beloit, WI, to points in OH and NY. Restricted to product originating at the named origin and destined to the named points.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Minneapolis or St. Paul, MN, or Chicago, IL.

No. MC 113434 (Sub-No. 88), filed January 24, 1978. Applicant: GRABELL TRUCK LINE, INC., 679 Lincoln Avenue, Holland, MI 49423. Applicant's representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. Authority is sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from the plantsite and warehouse facilities of Jeno's, Inc. located at or near Sodus, MI, to points in PA, VA, WV, and those in MO on and east of U.S. Hwy 63 and those in NY on and west of Interstate Hwy 81, restricted to traffic originating at and destined to the named points.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, IL or Washington, DC.

No. MC 113624 (Sub-No. 79), filed January 23, 1978. Applicant: WARD TRANSPORT, INC., P.O. Box 735, Pueblo, CO 81001. Applicant's representative: Marion F. Jones, Suite 1600, Lincoln Center, 1660 Lincoln Street, Denver, CO 80264. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Liquid fertilizer solutions*, in bulk, in tank vehicles, from Optic, NE to points in CO and KS.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Denver, CO or Omaha, NE.

No. MC 113651 (Sub-No. 263), filed January 23, 1978. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Riggin Road, Muncie, IN 47305. Applicant's representative: Paul R. Bergant, 10 South LaSalle Street, Suite 1600, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in by Department Stores* (except commodities in bulk): From New York City, NY to Houston and Dallas, TX and New Orleans, LA.

NOTE.—If the application is assigned for oral hearing, applicant requests it be held at New York, NY.

No. MC 113855 (Sub-No. 401), filed January 9, 1978. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Thomas J. Van Osdel, 502 First National Bank Bldg., Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in interstate or foreign commerce, transporting: *Recreational vehicles*, and *equipment, parts, attachments* and *accessories for recreational vehicles and equipment*, and *materials* and *supplies* used in connection with recreational vehicles and equipment, from Crosby, MN, to points in the United States (including AL, but excluding HI).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, MN.

No. MC 113855 (Sub-No. 402), filed January 23, 1978. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Thomas J. Van Osdel, 502 First National Bank Bldg., Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in interstate or foreign commerce, transporting: *Such commodities as are dealt in or used by, equipment and industrial equipment dealers and manufacturers* (except foodstuffs, paper, paper products, and commodities in bulk), between points in WA, MT, WY, ID, OR, NV, CA, UT, CO, NM, AZ, and TX, restricted to movements originating at or destined to the facilities of White Farm Equipment Co. and its dealers, and further restricted to shipments originating at and destined to the involved territory.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at San Francisco, CA, or Salt Lake City, UT.

No. MC 114211 (Sub-No. 335), filed December 19, 1977. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Street, Waterloo, IA 50704. Applicant's representative: Mr. Daniel Sullivan, Suite 1600, 10 South LaSalle, Chicago, IL 60604. Authority sought to operate as a *common carrier*, over irregular routes, by motor vehicle, transporting: *Doors, door parts and equipment, materials and supplies*, between Cameron, TX and Tupelo, MS on the one hand, and, on the other, points in the United States (except AL and HI) including the Ports of Entry located on the International Boundary Line between the United States and Canada for furtherance in foreign commerce.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Phoenix, AZ or Albuquerque, NM.

No. MC 114211 (Sub-No. 342), filed January 19, 1978. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Applicant's representative: Daniel Sullivan, Suite 1600, 10 South LaSalle, Chicago, IL 60604. Authority sought to operate as a *common carrier*, over irregular routes, by motor vehicle, transporting: *Pipe and fittings*, from Anniston, AL, to points in IA, KS, MO, NE, OK, SD, ND, TX, and MN.

NOTE.—If a hearing is deemed necessary, we request it be held at either Birmingham, AL or Washington, DC.

No. MC 114211 (Sub-No. 343), filed January 20, 1978. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Applicant's representative: Daniel Sullivan, Suite 1600, 10 South LaSalle, Chicago, IL 60604. Authority sought to operate as a *common carrier*, over irregular routes, by motor vehicle, transporting: *Such commodities as are dealt in or used by agricultural equipment and industrial equipment dealers and manufacturers* (except commodities in bulk), between Woodbury County, IA, on the one hand, and, on the other, points in the United States, including AL, but excluding HI and including all ports of entry on the International Boundary line between the United States and Canada for furtherance in foreign commerce.

NOTE.—If a hearing is deemed necessary, we request it be held at either Sioux City, IA, or Sioux Falls, SD.

No. MC 114273 (Sub-No. 326), filed January 4, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Applicant's representative: Kenneth L. Core (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products*, and *meat by-products* and *articles distributed* by *meat packinghouses* as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk in tank vehicles), from the plantsite and storage facilities of Swift & Co. plants located at or near Grand Island, and Omaha, NE; Des Moines, Glenwood, Marshalltown and Sioux City, IA to points in NC, SC and TN.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Chicago, IL or Washington, DC.

No. MC 114273 (Sub-No. 332), filed January 10, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Applicant's representative: Kenneth L. Core (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper articles*, (1) from Bettendorf, IA to Carthage, IN (2) from Carthage, IN to Rock Island, IL (3) from Piqua, OH to Cedar Rapids and Des Moines, IA and Lincoln, NE. Restricted to traffic originating at and destined to the named points. The purpose of this application is to substitute single-line service for existing joint-line service.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at either Chicago, IL or Washington, DC.

No. MC 114457 (Sub-No. 349), filed January 16, 1978. Applicant: DART TRANSIT CO., a corporation, 2102 University Avenue, St. Paul, MN 55114. Applicant's representative: James H. Wills, 2102 University Avenue, St. Paul, MN 55114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Welding equipment and welding supplies*, from Troy, OH to points in AR, CO, IL, IA, KS, LA, MN, MO, NE, NM, ND, OK, SD, TX, WI, WY, and MT.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at St. Paul, MN or Columbus, OH.

No. MC 114457 (Sub-No. 350), filed January 18, 1978. Applicant: DART TRANSIT CO., a corporation, 2102 University Avenue, St. Paul, MN 55114. Applicant's representative: James H. Wills, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle,

over irregular routes, transporting: *Containers*, from Atlanta, GA and Erie, PA to points in AR, IL, IN, IA, KS, MN, MO, NE, ND, OK, SD, TX, and WI.

folk, VA, on the one hand, and, on the other, points in the Unites States (except AK and HI). Restricted: (1) To traffic moving for the account of Kawaski Motors Corp., U.S.A., and (2)

No. MC 114632 (Sub-No. 140), filed January 25, 1978. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Applicant's representative:

TRUCK LINES, INC., P.O. Box 639, Perry, FL 32347. Applicant's representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers*, from Atlanta, GA and Erie, PA to points in AR, IL, IN, IA, KS, MN, MO, NE, ND, OK, SD, TX, and WI.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Louis, MO or Chicago, IL.

No. MC 115331 (Sub-No. 447), filed

cant requests that it be held at either Atlanta, GA; Nashville, TN; and Washington, DC.

No. MC 115826 (Sub-No. 286), filed January 10, 1978. Applicant: W. J. DIGBY, INC., P.O. Box 5088 T.A.,

over irregular routes, transporting: *Containers*, from Atlanta, GA and Erie, PA to points in AR, IL, IN, IA, KS, MN, MO, NE, ND, OK, SD, TX, and WI.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at St. Paul, MN or Erie, PA.

No. MC 114457 (Sub-No. 352), filed January 19, 1978. Applicant: DART TRANSIT CO., a corporation, 2102 University Avenue, St. Paul, MN 55114. Applicant's representative: James H. Wills, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), moving in mechanically refrigerated equipment, from the facilities of Terminal Ice & Cold Storage, at or near Bettendorf, IA, to points in AL, CT, DE, DC, FL, GA, ME, MD, MA, NH, NJ, NY, NC, PA, RI, SC, TN, VT, WV, and VA, and returned, refused and rejected merchandise on return, restricted to traffic originating at the facilities of Terminal Ice & Cold Storage, and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at St. Paul, MN or Chicago, IL.

No. MC 114457 (Sub-No. 352), filed January 19, 1978. Applicant: DART TRANSIT CO., a corporation, 2102 University Avenue, St. Paul, MN 55114. Applicant's representative: James H. Wills, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulating material*, (except in bulk), from the facilities of Fibreboard Corp., at or near Grambling, LA to points in the United States, (except AK and HI).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at St. Paul, MN or San Francisco, CA.

No. MC 114569 (Sub-No. 207), filed January 16, 1978. Applicant: SHAFFER TRUCKING, INC. P.O. Box 418, New Kingstown, PA 17072. Applicant's representative: N. L. Cummins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motorcycles, recreational vehicles*, and those commodities used by and dealt in by manufacturers of motorcycles and recreational vehicles (except those commodities which by reason of size and weight require special equipment, commodities in bulk, and self-propelled vehicles weighing individually in excess of 1,500 pounds), between Los Angeles and Orange Counties, CA; Seattle, WA; Houston, TX; Savannah and Atlanta, GA; Edison, NJ; and ports in the States of NY and NJ: Baltimore, MD; Charleston, SC, and Norfolk, VA, on the one hand, and, on the other, points in the Unites States (except AK and HI). Restricted: (1) To traffic moving for the account of Kawaski Motors Corp., U.S.A., and (2) against traffic moving to Lincoln, NE and its commercial zone.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Lincoln, NE or Washington, DC.

No. MC 114632 (Sub-No. 129), filed January 3, 1978. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Applicant's representative: Michael Carter, P.O. Box 287, Madison, SD 57042. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Composition board*, from Coldwater, MI, to points in CO, IL, IA, KS, MN, MT, MO, NE, NM, ND, OK, SD, TX, WI and WY, and (2) *materials used in the manufacture and distribution of composition board* (except commodities in bulk), from points in (1) above to Coldwater, MI.

NOTE.—Applicant holds motor contract carrier authority in No. MC 129706 therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at either Chicago, IL or Detroit, MI.

No. MC 114632 (Sub-No. 131), filed January 3, 1978. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Applicant's representative: Michael L. Carter, P.O. Box 287, Madison, SD 57042. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes; transporting: *Plastic film* (1) From North Andover, MA to IL, IN, IA, KS, MN, NE, ND, OH, OK and SD and (2) from Chicago, IL to IA, MN, NE, ND and SD and (3) from Minneapolis, MN to NE, ND and SD.

NOTE.—Applicant holds motor contract carrier authority in No. MC 129706, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at either Minneapolis, MN or Chicago, IL.

No. MC 114632 (Sub-No. 139), filed January 25, 1978. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Applicant's representative: Michael Carter (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes; transporting: *Clay and clay products and commodities used in the manufacture of the above commodities on return* (except commodities in bulk), from the facilities of Absorbent Clay Products, Inc., at or near Mounds, IL to points in the United States (except AK and HI).

NOTE.—Applicant holds motor contract carrier authority in No. MC 129706, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at either Minneapolis, MN or Chicago, IL.

No. MC 114632 (Sub-No. 140), filed January 25, 1978. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Applicant's representative: Michael Carter (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen Foodstuffs*, from the facilities of the Green Giant Co., located at or near Belvidere, IL to all points in ND.

NOTE.—Applicant holds motor contract carrier authority in No. MC 129706, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at either Minneapolis, MN or Chicago, IL.

No. MC 114632 (Sub-No. 141), filed January 25, 1978. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Applicant's representative: Michael Carter (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from Huron, SD to Oklahoma City, OK. Restricted to product originating at named origin and terminating at named destination, and (2) *hides, green, salted*, from Huron, SD to Kansas City, MO. Restricted to product originating at named origin and terminating at named destination.

NOTE.—Applicant holds motor contract carrier authority in No. MC 129706, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at either Minneapolis, MN or Chicago, IL.

No. MC 114632 (Sub-No. 142), filed January 25, 1978. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Applicant's representative: Michael Carter (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Irrigation systems and pipe, and parts and accessories for irrigation systems*, from Elk Point, SD, to points in the United States in and east of ND, SD, NE, CO, and NM, and (2) *materials, parts, and supplies used in the manufacture, assembly, and distribution of irrigation systems and pipe*, from points in the United States in and east of ND, SD, NE, CO, and NM, to Elk Point, SD.

NOTE.—Applicant holds motor contract carrier authority in No. MC 129706, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at either Sioux City, IA or Omaha, NE.

No. MC 115215 (Sub-No. 28), filed January 20, 1978. Applicant: NEW TRUCK LINES, INC., P.O. Box 639, Perry, FL 32347. Applicant's representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Pre-cut log buildings*, knocked down, and *materials and supplies* used in the construction of such commodities, from the facilities of Beaver Log Homes of FL, Blountstown, FL, to points in the United States in and east of MN, IA, IL, KY, TN, and MS.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Jacksonville, FL or Atlanta, GA.

No. MC 115311 (Sub-No. 259), filed December 19, 1977. Applicant: J & M TRANSPORTATION, CO., INC., P.O. Box 488, Milledgeville, GA 31061. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Composition board*, from Monticello, GA, to points in the United States in and east of the states of ND, SD, NE, CO, OK, and TX.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Atlanta, GA.

No. MC 115331 (Sub-No. 440), filed December 5, 1977. Applicant: TRUCK TRANSPORT, INC., 29 Claytin Hills Lane, St. Louis, MO and 63131. Applicant's representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, IL 62201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Charcoal and hickory chips*, from the facilities of Floyd Charcoal Co. located at or near Howes, MO to points in IL, IN, ND, and SD, and (2) *materials and supplies used in the manufacture and the distribution of charcoal, charcoal briquettes, wood chips, lighter fluid and fireplace logs (wax impregnated)*, from points in AL, AR, CO, IL, IN, IA, KS, KY, LA, MN, MI, MS, NE, ND, NM, OK, SD, TX, TN, WI, and WY to Belle, MO and points within 10 miles thereof.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Louisville, KY or St. Louis, MO.

No. MC 115331 (Sub-No. 446), filed January 16, 1978. Applicant: TRUCK TRANSPORT, INC., 29 Claytin Hills Lane, St. Louis, MO and 63131. Applicant's representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, IL 62201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural pesticides*, in bulk, from the facilities utilized by Shell Chemical Co, a division of Shell Oil Co., at or near El Paso, IL, to points in the United States (except AK and HI).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Louis, MO or Chicago, IL.

No. MC 115331 (Sub-No. 447), filed January 18, 1978. Applicant: TRUCK TRANSPORT, INC., 29 Claytin Hills Lane, St. Louis, MO and 63131. Applicant's representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, IL 62201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid sugar, corn syrup, high fructose corn syrup and blends of liquid sugar with high fructose corn syrup*, in bulk, from Supreme, LA to points in the United States (except AK and HI); and (2) *sugar and molasses*, in bulk, from Gramercy, LA to points in GA, KY, MO, OH, IL, IN, and TN (except Memphis).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at New Orleans, LA.

No. MC 115496 (Sub-No. 80), filed January 23, 1978. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Cochran, GA 31014. Applicant's representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. Authority to operate as a *common carrier*, by motor vehicle, over irregular routes in the transportation of: *Plastic, plastic articles, plastic pipe, tubing, fittings, connections and materials, supplies and accessories* used in the manufacture and installation thereof, between the facilities utilized by Robintech, Inc., at or near Riviera Beach (West Palm Beach), FL, on the one hand, and, on the other, points in the United States on and east of a line beginning at the mouth of the Mississppi River and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the United States and Canada.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, GA, or Fort Worth, TX.

No. MC 115654 (Sub-No. 74), filed January 25, 1978. Applicant: TENNESSEE CARTAGER CO., INC., P.O. Box 23193, Nashville, TN 37202. Applicant's representative: Henry E. Seaton, 915 Pennsylvania Building, 13th and Pennsylvania Avenue NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes; transporting: *Confectionery and confectionery products, chocolate syrup and coca*, in mechanically refrigerated equipment (except in bulk) from Atlanta, GA, to points in that part of AL south of U.S. Hwy 80.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Atlanta, GA; Nashville, TN; and Washington, DC.

No. MC 115826 (Sub-No. 286), filed January 10, 1978. Applicant: W. J. DIGBY, INC., P.O. Box 5088 T.A., Denver, CO 80217. Applicant's representative: Howard Gore, P.O. Box 5088 T.A., Denver, CO 80217. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods and potato products*, from points in ID, OR, UT, and WA to Laramie, WY.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Denver, CO.

No. MC 115826 (Sub-No. 287), January 10 1978. Applicant: W. J. DIGBY INC., 1960 31st Street, P.O. Box 5088 T.A., Denver, CO 80217. Applicant's representative: Howard Gore (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals and adhesive cements*, from Minneapolis and St. Paul, MN, and their commercial zones, to points in AZ, CA, CO, and UT.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis or St. Paul, MN.

No. MC 117119 (Sub-No. 666), filed January 23, 1978. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Applicant's representative: M. M. Geffon, P.O. Box 338, Willingboro, NJ 08046. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Foodstuffs* (except in bulk), from the plantsite or facilities of Rich Products Corp. at or near Murfreesboro, TN, to points in AR, CA, IL, IN, KS, MO, and WI.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Buffalo, NY, or Washington, DC.

No. MC 117644 (Sub-No. 47), filed January 20, 1978. Applicant: D & T TRUCKING CO., INC., P.O. Box 12505, New Brighton, MN 55112. Applicant's representative: James T. Fiescher, 1745 University Avenue, St. Paul, MN 55104. Authority sought to operate as a *contract carrier* by motor vehicle over irregular routes transporting: (1) *Lime juice, cocktail mixes, grenadine syrup, jellies, and marmalade*, from the facilities of Cadbury Schweppes, U.S.A., at Warwick, RI, to Chicago, IL, and Detroit, MI, and points in their commercial zones as defined by the Commission; (2) *Candy*, from the facilities of Cadbury Schweppes, U.S.A., at Hazleton, PA, to the destination points in (1) above; (3) *Candy*, from the plantsite or warehouse facilities utilized by Cadbury Schweppes U.S.A., Inc., at Elizabeth, NJ, and Fogelsville, PA, to points in

OH, MI, IN, KY, IL, KS, MO, IA, NE, ND, SD, MN, and WI. Restriction: The authority granted herein is limited to a transportation service to be performed, under a continuing contract, or contracts, with Cadbury Schweppes U.S.A., Inc., of Stamford, CT.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at St. Paul, MN.

No. MC 118142 (Sub-No. 167), filed January 23, 1978. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Applicant's representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, KS 67202. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: (1) *Pipe, conduit, fittings, couplings, and materials, accessories, and supplies* used in the installation thereof, from points in Geneva County, AL, to points in the United States (except AK and HI), and (2) *Materials, equipment and supplies* used in the manufacture of the commodities named in (1) above, from points in the United States (except AK and HI), to points in Geneva County, AL.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Wichita, KS, or Kansas City, MO.

No. MC 118159 (Sub-No. 237), filed December 8, 1977. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Applicant's representative: Warren Taylor (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Water ices, ice cream, ice milk products, low calorie products, quiescently frozen confection, and yogurt; cultured (frozen) dairy products*, in vehicles equipped with mechanical refrigeration, between points in the United States (except AK and HI).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, IL.

No. MC 118159 (Sub-No. 242), filed January 9, 1978. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Applicant's representative: Warren Taylor (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Charcoal, charcoal briquettes, fireplace logs, wood chips, lighter fluid, spices, sauces, and vermiculite* (except commodities in bulk), from Cotter, AR, to points in the United States (except AK, and HI); (2) *materials, supplies, and equipment* used in connection with the commodities described in (1) above (except commodities in bulk), from points in the United States (except AK and HI) to Cotter, AR.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, IL.

No. MC 118989 (Sub-No. 176), filed: January 23, 1978. Applicant: CONTAINER TRANSIT, INC., 5223 South 9th Street, Milwaukee, WI 53221. Applicant's representative: Albert A. Andrin, 180 North La Salle Street, Chicago, IL 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Containers, container closures, and container ends*, from the plants and warehouse facilities of National Can Corp. located at or near Birmingham, AL, Chicago and Rockford, IL, Michigan City, IN, St. Paul, MN, Warren and Archbold, OH, and Fort Worth, TX, to AL, AR, IL, IN, IA, KS, KY, LA, MI, MN, MO, NE, NM, OH, OK, TN, TX, and WI; and (2) *materials and supplies used in the manufacture and distribution of containers, container closures, and container ends*, from the destination states to the origin points shown above.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, IL.

No. MC 119560 (Sub-No. 17), filed December 12, 1977. Applicant: SOUTHERN BULK HAULERS, INC., P.O. Box 278, Harleyville, SC 29448. Applicant's representative: Harris G. Andrews, P.O. Box 4259, Greenville, SC 29608. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer, and fertilizer materials, anhydrous ammonia, urea and soda ash*, in bulk, in tank vehicles, hopper type vehicles, and dump trucks, from points in Richmond County, GA, to points in KY, NC, SC, TN, VA, and WV.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at either Columbia, SC or Charlotte, NC.

No. MC 119702 (Sub-No. 52), filed December 14, 1977. Applicant: STAHLY CARTAGE CO., a corporation, 130A Hillsboro Avenue, P.O. Box 486, Edwardsville, IL 62025. Applicant's representative: E. Stephen Heisley, Suite 805, 666 Eleventh Street NW., Washington, DC 20001. Authority sought by applicant to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Liquid calcium chloride*, in bulk, in tank vehicles, from the plantsite of and storage facilities utilized by W&W Sales & Leasing Co., located in Pike County, IL, to points in AR, IN, KS, KY, MI, MN, NE, OK, TN, TX, and WI.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in St. Louis, MO.

No. MC 119777 (Sub-No. 341), filed January 13, 1978. Applicant: LIGON SPECIALIZED HAULER, INC., Highway 85, East Madisonville, KY 42431. Applicant's representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board*, from Monticello, GA, to points in the United States in and east of ND, SD, NE, CO, OK, and TX.

NOTE.—Common control and dual operations may be involved. Applicant holds contract carrier authority in MC 126970 Sub-Nos. 1 and 3. If a hearing is deemed necessary, applicant requests it be held at Atlanta, GA.

No. MC 119789 (Sub-No. 416), filed January 24, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, TX 75222. Applicant's representative: James K. Newbold, Jr., P.O. Box 6188, Dallas, TX 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from Oakland, IA, to points in AL, CT, DE, FL, GA, KY, LA, ME, MD, MA, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, and WV.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Omaha, NE.

No. MC 119792 (Sub-No. 68), filed January 9, 1978. Applicant: CHICAGO SOUTHERN TRANSPORTATION CO., a corporation, 3600 South Western Avenue, Chicago, IL 60609. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from the plantsite or facilities of Rich Products Corp., at or near Murfreesboro, TN, to points in AL, AR, FL, GA, IL, IN, IA, KS, KY, LA, MN, MS, MO, NC, OH, OK, SC, TN, TX, VA, and WI.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, IL.

No. MC 121654 (Sub-No. 11), filed December 19, 1977. Applicant: COASTAL TRANSPORT & TRADING CO., a corporation, P.O. Box 7438, Savannah, GA 31408 Applicant's representative: Alan E. Serby, 3379 Peachtree Road NE., Suite 375, Atlanta, GA 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Lumber, plywood*, rough or finished native, from McCormick, SC, to points in AL, FL, GA, MS, NC, and TN.

NOTE.—Dual operations and common control may be involved. If a hearing is deemed to be necessary, applicant requests that it be held at Savannah, GA, or Atlanta, GA.

No. MC 123048 (Sub-No. 386), filed January 23, 1978. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st Street, P.O. Box 1557, Racine, WI 53401. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wheels, rims, hubs, and spindles*, from Davenport and Walcott, IA, to points in CT, MA, NJ, NY, PA, and VA; (2) *materials, supplies, and parts* used in the manufacture of wheel and brake part assemblies, (a) from Rockford, IL, to points in IL, IN, KY, MN, MO, OH, TX, and WI; (b) between Rockford, IL, on the one hand, and, on the other, CA, MI, OK, OR, PA, and WA; (3) *wheels, wheel parts, brakes, brake parts, and brake drums*, between Romulus, MI, on the one hand, and, on the other, CT, DE, DC, IL, IN, IA, KY, MD, MA, MN, MO, NJ, NY, OH, PA, VA, WV, and WI.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held either at Chicago, IL, or Washington, DC.

No. MC 123048 (Sub-No. 388), filed January 23, 1978. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st Street, P.O. Box 1557, Racine, WI 53401. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (I) *Motor graders and attachments, accessories, and parts for motor graders;* and (II) *materials, equipment, and supplies* used in the manufacture, sale and/or distribution of commodities in (I) above, between Lexington County, SC on the one hand, and, on the other, points in the United States (except AK and HI).

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Washington, DC.

No. MC 123061 (Sub-No. 94), filed December 16, 1977. Applicant: LEATHAM BROS., INC., 46 Orange Street, P.O. Box 16026, Salt Lake City, UT 84116. Applicant's representative: Harry D. Pugsley, 310 South Main, Salt Lake City, UT 84101. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Light weight aggregate*, from points in UT to points in ID, OR, and WA.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Salt Lake City, UT, or Portland, OR.

No. MC 123233 (Sub-No. 62), filed January 13, 1978. Applicant: PROVOST CARTAGE, INC., 7887 Grenache Street, Ville d'Anjou, PQ, Canada, H1J1C4. Applicant's representative: J. P. Vermette (same address as applicant). Authority sought to operate as a *common carrier*, over irregular routes, by motor vehicle, transporting: *Dry sodium chlorate*, in bulk, in tank vehicles, from the Ports of Entry on the International Boundary Line between the United States and Canada located at Highgate Springs and Derby Line, VT, to Hinckley, ME, restricted to the transportation of traffic having an immediately prior movement in foreign commerce.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Montpelier, VT, Albany, NY, or Washington, DC.

No. MC 123405 (Sub-No. 56), filed January 24, 1978. Applicant: FOOD TRANSPORT, INC., R.D. No. 1, Thomasville, PA 17364. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and preserved foodstuffs*, from New Iberia, LA, to points in FL, GA, and AL.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, DC, or New Orleans, LA. Common control may be involved.

NO. MC 123407 (Sub-No. 432), filed January 20, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, and wood products* from points in Harding, Butte, and Meade Counties, SD, to points in the United States (except AK, HI, OK, and TX).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Rapid City, SD, or Chicago, IL.

No. MC 123407 (Sub-no. 433), filed January 23, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Applicants representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bagged marble chips*, from Whitestone, GA; Horine (Pevely), MO; Knoxville, TN; and Harrisonburg, VA, to Indianapolis, IN.

NOTE.—Common control may be involved. Hearing site requested: Indianapolis, IN, or Chicago, IL.

No. MC 123407 (Sub-No. 434), filed January 23, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Impregnated sheathing*, from Boonville, MO, to points in SD and WY.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Rapid City, SD.

No. MC 124078 (Sub-No. 775), Filed January 13, 1978. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28 Street, Milwaukee, WI 53215. Applicant's representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Demopolis, AL, to points in LA and TN.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Atlanta, GA. Common control may be involved.

No. MC 124170 (Sub-No. 77), filed January 12, 1978. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Applicant's representative: William J. Boyd, 600 Enterprise Drive, Suite 222, Oak Brook, IL 60521. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages, liquors, and wines*, (1) between Hartford, CT, on the one hand, and, on the other, Detroit, MI, and Paducah, KY; and (2) between Paducah, KY, on the one hand, and, on the other, Detroit, MI.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York, NY, or Washington, DC.

No. MC 124251 (Sub-No. 44), Filed January 25, 1978. Applicant: JACK JORDAN, INC., Hwy 41 South, P.O. Box 689, Dalton, GA 30720. Applicant's representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Toluene-di-isocyanate*, in bulk, from Whitfield County, GA, to points in KS, MO, PA, and TX.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, GA.

No. MC 124306 (Sub-No. 41), Filed January 6, 1978. Applicant: KENAN TRANSPORT CO., INC., P.O. Box 2729, Chapel Hill, NC 27514. Applicant's representative: Richard A. Mehley, 1000 16th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor

vehicle, over irregular routes, transporting: *Terephthalic acid in bulk*, in tank vehicles, *and tote bins* on rack trailers, from Wilmington, NC, to Hopewell, VA.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held in Washington, DC, or Wilmington, NC.

No. MC 125375 (Sub-No. 16), filed January 9, 1978. Applicant: F. B. GUEST, d.b.a. F. B. G. TRANSPORT, Route 5, Box 298, Covington, GA 30209. Applicant's representative: Bruce E. Mitchell, 3379 Peachtree Road NE., Suite 375, Atlanta, GA 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of (1) *Dairy products*, from facilities of Borden, Inc., at or near Watertown, NY, to points in PA, MD, WV, VA, NC, SC, GA, FL, KY, and AL, and; (2) *materials, equipment, and supplies* used in the production and distribution of dairy products, from points in the United States in the east of AL, TN, KY, and OH, to the facilities of Borden, Inc., located at or near Watertown, NY, under a contract or continuing contracts with Borden, Inc., Watertown, NY.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, GA.

No. MC 125433 (Sub-No. 140), filed January 3, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Applicant's representative: David J. Lister (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mailing machines and postage meters and their parts and components* (except in bulk), between Hayward, CA, and Sparks, NV, on the one hand, and, on the other, points in the United States (excluding AK and HI).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either San Francisco, CA, or Salt Lake City, UT.

No. MC 125894 (Sub-No. 3), filed January 3, 1978. Applicant: J. & R. SCHUGEL TRUCKING, INC., 301 North Water Street, New Ulm, MN 56073. Applicant's representative: James H. Malecki, One South State Street, New Ulm, MN 56073. Applicant applies for authority to engage in operation, in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Dry bulk feed and feed ingredients*, such as linseed meal and sunflower meal, from the plantsite or warehouse facilities of Cargill, Inc., at or near Minneapolis, MN, to points in IA, NE, and KS.

NOTE.—Applicant holds motor contract carrier authority in No. MC 116446 (Sub-No. 1), therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held in Minneapolis-St. Paul, MN.

No. MC 125951 (Sub-No. 25), filed January 16, 1978. Applicant: SILVEY REFRIGERATED CARRIERS, INC., 7000 West Center Road, Suite 325, Omaha, NE 68106. Applicant's representative: Robert M. Cimino, 7000 West Center Road, Suite 325, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the plantsite and storage facilities of the Kitchens of Sara Lee, located at or near New Hampton, IA, to Atlanta, GA, and Syracuse, NY, and their respective commercial zones.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Omaha, NE. Applicant holds contract carrier authority in No. MC 135033; therefore dual operations may be involved.

No. MC 126118 (Sub-No. 62), filed January 23, 1978. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, NE 68501. Applicant's representative: Duane W. Acklie, P.O. Box 81228, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Fort Worth, TX to points in AL.

NOTE.—Applicant holds contract carrier authority in MC 128375 and subs thereunder, therefore dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Birmingham, AL or Lincoln, NE.

No. MC 126555 (Sub-No. 56), filed January 18, 1978. Applicant: UNIVERSAL TRANSPORT, INC., P.O. Box 3000, Rapid City, SD 57701. Applicant's representative: Truman A. Stockton, Jr., The 1650 Grant St. Bldg., Denver, CO 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, (1) from points in Boulder County, CO to points in UT, NM and KS, and (2) from Boettcher, CO to points in WY and the following named counties in NE: Sioux, Scotts Bluff, Banner, Kimball, Dawes, Box Butte, Morrill, Cheyenne, Deuel, Garden, and Sheridan.

NOTE.—Applicant holds contract carrier authority in MC 125909 Sub 3, therefore dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Denver, CO.

No. MC 127042 (Sub-No. 200), filed January 16, 1978. Applicant: HAGEN, INC., P.O. Box 98, Leeds Station, Sioux City, IA 51108. Applicant's representative: Robert G. Tessar (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Merchandise* dealt in by wholesale, retail, chain grocery, and food business houses, with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the plantsite and warehouse facilities of Kraft, Inc., at Springfield, MO, to points in AL, AZ, AR, CA, CO, FL, GA, KS, KY, LA, MS, NM, NC, OK, SC, TN, TX, and VA, restricted to traffic originating at the above-named origin, and destined to the above-named destination States.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, MO.

No. MC 127042 (Sub-No. 201), filed January 23, 1978. Applicant: HAGEN, INC., P.O. Box 98, Leeds Station, Sioux City, IA 51108. Applicant's representative: Robert G. Tessar (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning compounds, toilet preparations, permanent hair waving kits, premiums, supplies and advertising matter* (except in bulk), from Iowa City, IA, to points in AZ, CA, CO, ID, KS, MN, MO, MT, NE, NV, NM, ND, OR, OK, SD, TX, UT, WA, and WY.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Cincinnati, OH.

Docket No. MC 127303 (Sub-No. 32), filed January 23, 1978. Applicant: ZELLMER TRUCK LINES, INC., P.O. Box 343, Granville, IL 61326. Applicant's representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Bldg., 666 Eleventh Street NW., Washington, DC 20001. Authority is sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Minneapolis-St. Paul, MN, to Kansas City, KS, and empty containers on return.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Kansas City, KS, or Washington, DC.

No. MC 127752 (Sub-No. 6), filed December 28, 1977. Applicant: WILLIAM P. RALSTON, Box 54, Bern, KS 66408. Applicant's representative: Clyde N. Christey, 514 Capitol Federal Bldg., Topeka, KS 66603. Authority sought to operate as a *common carrier*, by motor vehicles over irregular routes, transporting: (1) *Pet food, animal treats and specialty extruded items for pets*, from the plant site and/or storage facilities of Bern Extrusion, Inc. at or near Bern, KS to points in AL, AZ, CA, ID, LA, MA, MS, MT, NV, ND, OR, SD, UT, WA, and WI; (2) *Pet food and animal treats* from the plant site and/or storage facilities of O. A. Cooper Co. at or near Abilene, KS to points in AL, AZ, AR, CA, CO, ID, IL, IA, LA, MN, MS, MO, MT, NE, NV, NM, ND, OK, OR, SD, TN, TX, UT, WI, and WY; (3) *Pet food ingredients*, from Humboldt, NE to Bern, KS; (4) *Extruded pet food*, from Fall City, NE to Bern, KS.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Kansas City, MO.

Docket No. MC 128273 (Sub-No. 280), filed January 16, 1978. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Applicant's representative: Elden Corban, P.O. Box 189, Fort Scott, KS 66701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum and petroleum products, vehicle body sealer and sound deadener compound* (except commodities in bulk in tank vehicles), from (a) Bradford, Petrolia, Emlenton, Karns City, and Farmers Valley, PA; Buffalo, NY; and St. Marys and Congo, WV; to points in AL, AR, CO, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, ND, OK, SD, TN, TX, and WI; (b) from Cleveland, OH; and Warren, PA; to all points in the United States in and west of MI, IN, KY, TN, and AL (except AK and HI), and (2) *commercial and industrial petroleum lubricants, oils and greases*, and *materials, equipment and supplies* used in connection with the sale and distribution of petroleum oils, lubricants and greases (except commodities in bulk in tank vehicles), from Toledo, OH, to all points in the United States in and west of MI, IN, KY, TN, and AL (except AK and HI).

NOTE.—If oral hearing is deemed necessary, applicant requests that it be held in Philadelphia, PA, or Washington, DC.

No. MC 128527 (Sub-No. 99), filed January 20, 1978. Applicant: MAY TRUCKING CO., a corporation, P.O. Box 398, Payette, ID 83661. Applicant's representative: Timothy R. Stivers, P.O. Box 162, Boise ID 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Solar furnaces, solar collectors and solar apparatus*, from the plantsite of Champion Home Builders Co. (Solar Division) at or near Weiser, ID to points in and west of MN, IA, MO, AR, and LA.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Boise, ID.

No. MC 129643 (Sub-No. 13), filed January 23, 1978. Applicant: GEORGE SMITH d.b.a. GEORGE SMITH TRUCKING CO., 433 Mountain Avenue, Winnipeg MB, Canada, R2W 1K5. Applicant's representative: As above. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Processed frozen potato products*, from points in ID to port of entry on the International Boundary line between the United States and Canada located at or near Raymond, MT. Restricted: To traffic destined to points in the province of MB, Canada.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Fargo, ND.

No. MC 133666 (Sub-No. 20), filed January 23, 1978. Applicant: JACOBSON TRANSPORT, INC., 1112 Second Avenue South, Wheaton, MN 56296. Applicant's representative: Thomas J. Burke, Jr., 1600 Lincoln Center Building, 1660 Lincoln Street, Denver, CO 80264. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer, in bulk, in tank vehicles*, from Alexandria, MN, to points in ND, and SD.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Minneapolis, MN.

No. MC 133689 (Sub-No. 166), filed January 23, 1978. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, MN 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Timberville, VA, to points in ND, SD, NE, KS, MN, IA, MO, MI, WI, IL, OH, IN, KY, TN, AL, GA, SC, and NC. Restriction: Restricted to traffic originating at the named origin.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Minneapolis, MN.

No. MC 133689 (Sub-No. 168), filed January 20, 1978. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, MN 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration (except commodities in tank vehicles), from the plantsite and storage facilities of Kraft, Inc., at New Ulm, MN to points in CT, PA, VA, DE, DC, ME, MD, MA, NH, NY, NJ, RI, VT, OH, IN, MI, WV, KY, IL, ND, SD, NE, IA, MO, and WI. Restricted to the traffic originating at the above named origin and destined to points in the named destination States.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Minneapolis, MN.

No. MC 133841 (Sub-No. 4) (correction), filed September 2, 1977, published, in the FEDERAL REGISTER issue of October 20, 1977, and partially republished February 13, 1978, and republished as corrected this issue. Applicant: DAN BARCLAY, INC., 362 Main Street, Lincoln Park, NJ 07035. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *common carrier*, over irregular routes, transporting: (1) *Filtering machinery, flotation machinery, power pumps* used in conjunction with or independently with same, for sewage treatment plants, industrial plants, all for environmental control and (2) *related materials, equipment and supplies* used in the manufacture or sale of the foregoing commodities (except commodities in bulk), between the facilities of Komline-Sanderson, Inc., located at or near Peapack, NJ, Highbridge, NJ and points on the international boundary line between the United States and Canada located in NY, on the one hand, and, on the other, points in the United States (except AK and HI).

NOTE.—The purpose of this correction is to change the commodity description "fibreing" machinery to "filtering" machinery. If a hearing is deemed necessary, applicant requests that it be held at New York, NY or Washington, DC.

No. MC 134183 (Sub-No. 6), filed January 16, 1978. Applicant: CHARLES ZUMSTEIN, d.b.a. C. E. ZUMSTEIN CO., P.O. Box 27, Lewisburg, OH 45338. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC. 20001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Animal and poultry feed additives and supplements* (except commodities in bulk), from the facilities of Carl S. Akey, Inc., in Preble County, OH to points in the United States (except AK and HI), and (2) *materials, equipment and supplies* (except commodities in bulk) used in the manufacture, production, distribution and sale of animal and poultry feed additives and supplements, from points in the United States (except AK and HI) to the facilities of Carl S. Akey, Inc., in Preble County, OH, under a continuing contract or contracts with Carl S. Akey, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Cincinnati, OH or Columbus, OH.

No. MC 134286 (Sub-No. 39) (correction), filed November 25, 1977, Published in the FEDERAL REGISTER issue of October 20, 1977, and republished as corrected this issue. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Applicant's representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular

routes, transporting: *Meats, meat products, meat byproducts* and *articles* distributed by meat packinghouses as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the plantsites and/or warehouse facilities utilized by Iowa Beef Processors, Inc., located at or near Denison and Fort Dodge, IA; Luverne, MN; Dakota City and West Point, NE, to points in the States of AL, FL, GA, MS, NC, SC, and TN.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Sioux City, IA or Omaha, NE. The purpose of this correction is to change origin point Dodge City to Dakota City, and to correct the spelling of the origin point "Dennison" to "Denison".

No. MC 134477 (Sub-No. 216), filed January 16, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Woodpulp products* and *paper dishes, plates, trays* and *egg cartons* (except commodities in bulk), from Ludlow, Thorndike and Palmer, MA to points in AL, AZ, AR, CA, CO, DE, GA, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, NE, NV, NJ, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WV, WI, and DC.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, MN.

No. MC 134483 (Sub-No. 6), filed January 19, 1978. Applicant: DONALD K. VINES, doing business as DON VINES TRUCKING, 695 East 27th Street, Signal Hill, CA 90806. Applicant's representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods, and commodities*, the transportation of which is exempt from economic regulation under the provisions of section 203(b) of the Interstate Commerce Act when moving in the same vehicle with frozen foods, from points in Santa Cruz County, AZ to points in CA, OR, and WA.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Los Angeles, CA.

No. MC 134645 (Sub-No. 19), filed January 13, 1978. Applicant: LIVESTOCK SERVICE, INC., 1420 Second Avenue South, St. Cloud, MN 56301. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Condensers, equalizers*, and *exchangers, gas or liquid*, (except commodities which because of size and weight require special equipment), from Manchester, OH to the facilities of Franklin Manufacturing Co. at St. Cloud, MN; and (2) *iron* and *steel tubing* (except commodities which because of size and weight require special equipment), from Evansville, Columbus, IN to the facilities of Franklin Manufacturing Co. at St. Cloud, MN; and (3) *compressors, gas or liquid* (except commodities which because of size and weight require special equipment), from Cullman, AL to the facilities of Franklin Manufacturing Co. at St. Cloud, MN; and (4) *Thermostats*, from Athens, AL to the facilities of Franklin Manufacturing Co. at St. Cloud, MN. Restricted in (1), (2), (3) and (4) above to traffic originating at the named origins and destined to the facilities of Franklin Manufacturing Co. at St. Cloud, MN.

NOTE.—Applicant has motor contract carrier authority in MC 124071 therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at St. Paul, MN.

No. MC 134740 (Sub-No. 7), filed December 19, 1977. Applicant: JACK BAULOS, INC., P.O. Box 71, Oak Lawn, IL 60454. Applicant's representative: Albert A. Andrin, 180 North La Salle Street, Chicago, IL 60601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Artificial Christmas trees and related Christmas novelties thereof*, from the facilities of American Tree & Wreath, a division of American Technical Industries, Inc., at Aurora, IL, to points in IA, IN, MI, MN, NE, ND, SD, and WI, under a continuing contract or contracts with American Tree & Wreath, a division of American Technical Industries, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, IL.

No. MC 134922 (Sub-No. 249), filed January 16, 1978. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Applicant's representative: Bob McAdams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals* (except in bulk), from Houston, TX, to points in CA.

NOTE.—Common control may be involved. If a hearing is deemed necessary, it is requested it be held in Washington, DC, or Little Rock, AR.

No. MC 135410 (Sub-No. 14), filed January 18, 1978. Applicant: COURTNEY J. MUNSON, d.b.a MUNSON TRUCKING, P.O. Box 266, North 6th Street Road, Monmouth, IL 61462. Applicant's representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and frozen inedible foodstuffs*, in vehicles equipped with mechanical refrigeration, from the facilities of Terminal Ice & Cold Storage Co., at or near Bettendorf, IA, to points in CT, DE, IL, IN, KY, ME, MD, MA, MN, MI, MO, NH, NJ, NY, OH, PA, RI, VT, VA, WV, WI, and DC, restricted to traffic originating at the named origin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Des Moines, IA, or Chicago, IL.

No. MC 135684 (Sub-No. 65), filed January 24, 1978. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Old Croton Road, Flemington, NJ 08822. Applicant's representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery, chewing gum and novelties*, from Duryea and Scranton, PA, to AL, AR, FL, GA, LA, MS, NC, OK, SC, TN, and TX.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, DC, or Newark, NJ.

No. MC 135797 (Sub-No. 98), filed January 23, 1978. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Applicant's representative: Paul A. Maestri (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wire, cable, spools, and reels*, (a) from points in AL, MI, and PA, to Stillwater, OK, and (b) from Stillwater, OK, to points in AL, IL, KY, MI, PA, SC, and TX; (2) *powdered processing materials*, from points in IL and NY, to Stillwater, OK.

NOTE.—If an oral hearing is deemed necessary, applicant requests that it be held at Tulsa, OK; Fayetteville, AR; or Washington, DC. Common control may be involved.

No. MC 136080 (Sub-No. 4), filed January 6, 1978. Applicant: ELIZABETH S. and BERNIE L. LAFOE, doing business as E. S. LAFOE, R.F.D. No. 1, Box 167, North Ferrisburg, VT 05473. Applicant's representative: Elizabeth S. Lafoe, St. Aid Road No. 1, Monkton Pond, Monkton, VT 05469. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bakery products and empty dollies*, between Burlington, VT, on the one hand, and on the other Manchester, NH, and Portland, ME; (2) *empty dollies*, from Manchester, NH, to Boston, MA; (3) *materials and supplies* used in the manufacture of bakery products, from Boston, MA, to Burlington, VT; (4) *bakery products and empty dollies*, between Albany, NY, on the one hand, and, on the other Burlington, VT, under a continuing contract or contracts with Fassetts Bakery, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held either in Burlington, VT; or Albany, NY; or Concord, NH.

No. MC 136246 (Sub-No. 14), filed January 23, 1978. Applicant: GEORGE BROS., INC., P.O. Box 492, Sutton, NE 68979. Applicant's representative: Arlyn L. Westergren, Suite 530, Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer*, in bulk, and in tank vehicles, from Optic, NE, to points in KS and CO. Applicant holds contract carrier authority in MC 141538, therefore dual operations may be involved.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Omaha, NE.

No. MC 136343 (Sub-No. 122), filed December 19, 1977. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Paper and plastic bags* (except in bulk), from the facilities of Equitable Bag Co., Inc., at or near Florence, KY, to points in CT, DE, MD, MA, NJ, NY, PA, RI, VA, and DC. Restricted to traffic originating at the named origin and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, NY, or Washington, DC.

No. MC 136423 (Sub-No. 7), filed December 19, 1977. Applicant: EMPIRE DIRECT SHIPPERS, INC., 400 Sip Avenue, Jersey City, NJ 07306. Applicant's representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transportating: *Radio or radio receiving sets, talking machines or phonographs, or other related articles, loud speakers, consoles, floor standing, calculators, adding or computing machines and stands and tables*, from Edison, NJ, to points in the United States west of a line beginning at Lake Erie and extending south along the eastern border of OH, KY, TN, AL, and FL near Dorthan, AL and points in FL beginning at the mouth of the Apalachicola River at or near Rosedale, FL, and extending to Apalachicola, FL, at the Gulf of Mexico, under a continuing contract or contracts with Lloyds Electronic, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Washington, DC.

No. MC 136605 (Sub-No. 41), filed January 16, 1978. Applicant: DAVIS BROS. DIST., INC., P.O. Box 8058, Missoula, MT 59807. Applicant's representative: Joe Gerbase, Suite 100, Transwestern Building, Billings, MT 59101. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Lumber, lumber mill products, particleboard, cedar, fencing and wood products*, from Potlatch Corp. mills, located at or near Post Falls, Coeur d'Alene, St. Maries, Santa, Potlatch, Lewiston, Spalding, Kamiah, and Jaype, ID, to all points in IL, IN, IA, MI, MN, ND, OH, SD, and WI.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Spokane, WI, or Missoula, MT.

No. Mc 136774 (Sub-No. 10), filed January 13, 1978. Applicant: MC-MOR-HAN TRUCKING CO., INC., P.O. Box 368, Shullsburg, WI 53586. Applicant's representative: Donald B. Levine, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molasses and blends thereof*, in bulk, in tank vehicles, from the facilities of Cargill, Inc., in Chicago, IL, to points in WI.

NOTE.—Applicant has motor contract carrier authority pending in No. MC 143029 (Sub-No. 1), therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held in Chicago, IL.

MC 138018 (Sub-No. 38), filed January 20, 1978. Applicant: REFRIGERATED FOODS, INC., P.O. Box 1018, Denver, CO 80201. Applicant's representative: Joseph W. Harvey, P.O. Box 1018, Denver, CO 80201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plant site and facilities utilized by Flavorland Industries, Inc., at or near Toppenish, WA, to points in CA, OR, ID, and UT.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Seattle, WA, or Portland, OR.

No. MC 138021 (Sub-No. 5), filed January 16, 1978. Applicant: STAND, INC., P.O. Box 57, Port Washington, OH 43837. Applicant's representative: Richard H. Brandon (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of: *Coal*, in bulk, from the plantsite of Paris Mining Co. located in Salem Township (Tuscarawas County), OH, to Monroe, MI, under a continuing contract or contracts with Paris Mining Co.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Columbus, OH.

No. MC 138126 (Sub-No. 23), filed January 20, 1978. Applicant: WILLIAMS REFRIGERATED EXPRESS, INC., P.O. Box 47, Old Denton Road, Federalsburg, MD 21632. Applicant's representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Downingtown, PA, Clayton, DE, Pocomoke City and Salisbury, MD, and Sumter, SC, to Atlanta, GA.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held in Washington, DC.

No. MC 138144 (Sub-No. 26), filed January 20, 1978. Applicant: FRED OLSON CO., INC., 6022 West State Street, Milwaukee, WI 53213. Applicant's representative: Daniel C. Sullivan, 10 South La Salle Street, Suite 1600, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are manufactured and distributed by manufacturers of (1) auto frames and auto frame parts; (2) railway car parts; (3) iron powder; (4) iron and steel articles; (5) water heaters and boilers; (6) garbage disposal units; (7) livestock feeding equipment; (8) parts and accessories for (1), (2), (3), (4), (5), (6), and (7); and, (9) equipment, materials, and supplies used in the manufacture and distribution of (1), (2), (3), (4), (5), (6), (7), and (8) (except commodities in bulk), between the facilities of A. O. Smith Corp. at Kankakee and Granite City, IL, and Milwaukee, WI, and the facilities of A. O. Smith Corp.—Harvestore Products, Inc., at Eureka and DeKalb, IL, and Elkhorn, WI, on the one hand, and, on the other, points in IL, WI, lake and Porter Counties, IN, and St. Louis, MO.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at either Chicago, IL, or Milwaukee, WI.

No. MC 138308 (Sub-No. 36), filed January 23, 1978. Applicant: KLM, INC., 2102 Old Brandon Road, P.O. Box 6098, Jackson, MS 39208. Applicant's representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Authority sought to operate as a

common carrier, by motor vehicle, over irregular routes, transporting: (1) *Floor covering and materials and supplies* used in the installation thereof (except commodities in bulk), and (2) damaged or rejected shipments of the above commodities on return. From Jackson, MS to points in LA, OK, and TX.

NOTE.—Applicant holds motor contract authority in No. MC 128592 and sub numbers thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Jackson, MS.

No. MC 138313 (Sub-No. 31), filed January 17, 1978. Applicant: BUILDERS TRANSPORT, INC., 409 14th Street SW., Great Falls, MT 59404. Applicant's representative: Miss Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum wallboard, joint systems, and materials and supplies* used in the application thereof, from Great Falls, MT, to Ports of Entry on the International Boundary Line between the United States and Canada located in WA, ID, and MT, restricted to traffic destined in foreign commerce.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Portland, OR, or Washington, DC.

No. MC 138420 (Sub-No. 25), filed January 16, 1978. Applicant: CHIZEK ELEVATOR & TRANSPORT, INC., P.O. Box 147, Cleveland, WI 53015. Applicant's representative: Wayne W. Wilson, 329 West Wilson Street, P.O. Box 8004, Madison, WI 53708. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods, prepared foodstuffs, and artificial sweetener* from Brownsville, WI, to points in AL, FL, GA, KY, LA, MN, MS, NC, SC, TN, and TX.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Chicago, IL, or Madison, WI.

No. MC 138512 (Sub-No. 27), filed January 9, 1978. Applicant: ROLAND'S TRANSPORTATION SERVICES, INC., d.b.a. WISCONSIN PROVISIONS EXPRESS, P.O. Box 477, Cudahy, WI 53110. Applicant's representative: Richard C. Alexander, Suite 412, Empire Building, 710 North Plankinton Avenue, Milwaukee, WI 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cheese and cheese products, and equipment, materials, and supplies* used in the manufacture of cheese and cheese products (except commodities in bulk), from points in WI, to points in OK and TX, under a continuing contract, or contracts, with L. D. Schreiber Cheese Co., Inc., located at Green Bay, WI.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Milwaukee, WI, or Chicago, IL.

No. MC 138875 (Sub-No. 70), filed January 16, 1978. Applicant: SHOEMAKER TRUCKING CO., a corporation, 11900 Franklin Road, Boise, ID 83705. Applicant's representative: F. L. Sigloh, 11900 Franklin Road, Boise, ID 83705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and roofing materials and supplies used in the application thereof*, from Camden, AR, to points in ID, OR, UT, and WA. Restriction: Except commodities in bulk.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Boise, ID, or Washington, DC.

No. MC 138882 (Sub-No. 30), filed December 19, 1977. Applicant: WILEY SANDERS, INC., P.O. Box 707, Troy, AL 36081. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, over irregular routes transporting: (1) *Pipe fittings, valves, hydrants, gaskets, and accessories* (except in bulk), from Holt, AL to points in the United States (except AK and HI). (2) *materials, supplies, and equipment* (except in bulk), used in the operation of a foundry, from points in the United States (except AK and HI) to Holt, AL. Restriction: Restricted to the transportation of shipments originating at or destined to the plant and warehouse facilities of Central Foundry Co. at or near Holt, AL.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Montgomery or Birmingham, AL.

No. MC 138882 (Sub-No. 31), filed December 19, 1977. Applicant: WILEY SANDERS, INC., P.O. Box 707, Troy, AL 36081. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Roofing and roofing products and materials* used or useful in the installation thereof (except commodities in bulk), from the plant and warehouse facilities of the Celotex Corp., located at or near Camden, AR to points in the United States west of and including the states of MT, WY, CO, and NM, (except AK and HI).

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Montgomery or Birmingham, AL.

No. MC 138882 (Sub-No. 36), filed January 5, 1978. Applicant: WILEY SANDERS, INC., P.O. Box 707, Troy, AL 36081. Applicant's representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: (1) *Mayonnaise, salad dressing, and salad dressing products, mustard, catsup, jelly, tartar sauce, gelatin, and gelatin products*, from the facilities of Brundidge Foods, Inc., at or near Troy, AL, to points in the United States (except AK and HI); and (2) *materials, equipment, and supplies* used in the manufacturing and distribution of commodities named in (1) above, from points in the United States (except AK and HI), to the facilities of Brundidge Foods, Inc., at or near Troy, AL.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Montgomery or Birmingham, AL.

No. MC 138882 (Sub-No. 37), filed January 23, 1978. Applicant: WILEY SANDERS, INC., P.O. Box 707, Troy, AL 36081. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, over irregular routes transporting: *Plastic pipe, fittings, valves, and accessories* therefore, from: The facilities of Dave-Tite PVC Pipe Plant, Division of Davis Water and Waste Industries, Inc., located at Thomasville, GA, to: Points in AL, MI, LA, FL, TN, AR, KY, SC, NC, and VA.

NOTE.—If a hearing is deemed necessary, the applicant request it be held at either Montgomery or Birmingham, AL.

No. MC 138882 (Sub-No. 38), filed January 20, 1978. Applicant: WILEY SANDERS, INC., P.O. Box 707, Troy, AL 36081. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Blvd., P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pollution control equipment, steel tanks, concrete tanks, materials and supplies* used in the construction of sewage treatment plants, and pumping stations, from the facilities of Davco-Defiance, Division of Davis Water and Waste Industries, Inc., located at Thomasville, GA, to points in the United States (except AL and HK) and, (2) *Materials equipment and supplies* used in the manufacture and distribution of commodities named in (1) above, from points in the United States (except AK and HI) to the facilities of Davco-Defiance, Division of Davis Water and Waste Industries, Inc., located at Thomasville, GA.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Birmingham, AL or Montgomery, AL.

No. MC 138882 (Sub-No. 43), filed January 7, 1978. Applicant: WILEY SANDERS, INC., P.O. Box 707, Troy, AL 36081. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, NJ 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Building and construction materials*, from the plantsite of the Celotex Corp., located at or near Texarkana, AR, to points in the United States (except AK and HI); and (2) *materials and supplies* used in the manufacture of and the distribution of commodities named in (1) above (except commodities in bulk), from the destination States named in (1) above to the facilities of The Celotex Corp. located at or near Texarkana, AR.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Montgomery or Birmingham, AL.

No. MC 138941 (Sub-No. 26), filed January 9, 1978. Applicant: COUNTRY WIDE TRUCK SERVICE, INC., 1110 South Reservoir Street, Pomona, CA 91766. Applicant's representative: Stuart F. Jaquay (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, shampoo, soap, and toilet articles* (except commodities in bulk), in vehicles equipped with mechanical refrigeration from the facilities of Westwood Pharmaceuticals, Inc., located or near Buffalo, NY, to points in the United States in and west of WI, IL, MO, AR, and LA (except AK and HI) under a continuing contract or contracts with Westwood Pharmaceuticals, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Buffalo, NY or Los Angeles, CA.

No. MC 139460 (Sub-No. 26), filed January 25, 1978. Applicant: FORT EDWARD EXPRESS CO., INC., Route 9, Saratoga Road, Fort Edward, NY 12828. Applicant's representative: J. Fred Relyea (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles from Albany, NY to all points in VT.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held in either New York City or Washington, DC. Common control may be involved.

No. MC 140484 (Sub-No. 27), filed January 23, 1978. Applicant: LESTER COGGINS TRUCKING, INC., 2671 East Edison Avenue, P.O. Box 69, Fort Myers, FL 33902. Applicant's representative: Chester A. Zyblut, 366 Executive Building, 1030 15th Street, NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in and distributed by trading stamp companies (except foodstuffs), (a) from points in OH, MD, IN, MO, NY, WV, and WI to points in NC, SC, AL, GA, FL, IN, IL, MI, OH, MO, TN, KY, LA, NY, and CA. Restriction: Restricted to traffic originating at the facilities of suppliers and distribution centers of Top Value Enterprises, Inc., and destined to Top Value Enterprises, Inc. customers, at the above-named destination states, and (b) from points in NC, SC, AL, GA, FL, IN, IL, MI, OH, MO, TN, KY, LA, NY, and CA, to the distribution centers of Top Value Enterprises, Inc., located at Baltimore, MD, and Dayton, OH. (Hearing site: Cleveland, OH or Washington, DC.)

No. MC 140033 (Sub-No. 39), filed January 23, 1978. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, TX 75220. Applicant's representative: Lawrence A. Winkle, Suite 1125 Exchange Park, P.O. Box 45538, Dallas, TX 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plumbing fixtures, materials and supplies*, from Plano and Abilene, TX to points in NM, AZ, CA, OR, WA, NV, ID, MT, NJ, NY, MA, CT, PA, MD, DE, RI, VA, WV, KY, and DC, and (2) *flexible gas connectors*, from Los Angeles, CA to Abilene and Plano, TX, Louisville, KY, and Carlstadt, NJ.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Dallas, TX.

No. MC 140635 (Sub-No. 7), Filed January 16, 1978. Applicant: COATES FREIGHTLINES, INC., 2619 North Street, Omaha, NE 68107. Applicant's representative: Edward A. O'Donnell, 1004 29th Street, Sioux City, IA 51104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses* as described in sections A and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the facilities of Dubuque Packing Co., at or near Omaha, NE, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, and DC. Restriction: Restricted to the transportation of shipments originating at the above-named plantsites and storage facilities at or near the named origin and destined to the named destination states, except on traffic moving in foreign commerce.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Omaha, NE.

No. MC 140665 (Sub-No. 22), filed January 19, 1978. Applicant: PRIME, INC., Route 1, Box 115-B, Urbana, MO 65767. Applicant's representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electric lamps, lighting fixtures, Christmas tree lamp outfits, electric cord sets, dry cell batteries, portable battery chargers, and materials and supplies* used in the manufacturing or distribution of the above commodities, from Bellevue, Cleveland, Warren, Youngstown, Ravenna, Circleville, and Bucyrus, OH to points in LA, OK, and TX.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Cleveland, OH or Washington, DC.

No. MC 140829 (Sub-No. 74), filed January 20, 1978. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Applicant's representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mops, brooms, brushes, wooden and plastic articles*, (1) from points in NH, NY, and VT to NC, (2) from Greenville, NC to points in CA, IL, IN, MI and TX, restricted to traffic originating or destined to the facilities of Empire Brushes, Inc.

NOTE.—Applicant holds contract carrier authority in MC 136408 and subs thereunder; therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it to be held in Washington, DC.

No. MC 140829 (Sub-No. 73), filed January 13, 1978. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Applicant's representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coffee and beverage preparations*, from Edgewater, NJ to points in AZ, CA, CO, IL, KS, MA, MI, MN, OH, OK, and TX, restricted to the transportation of traffic originating at the named origin and destined to points in the above named destination states.

NOTE.—Applicant holds contract authority in MC 136408 and subs thereunder; therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it to be held in Washington, DC.

No. MC 140829 (Sub-No. 75), filed January 20, 1978. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Applicant's representative: William J. Hanlon, 55 Madison Ave., Morristown, NJ 07960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meat, meat products, meat byproducts and articles* distributed by meat packinghouses, as described in Section A of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766; and (2) *Foodstuffs*, when shipped in mixed loads with the commodities described

in (1) above; from the plantsite and/or storage facilities utilized by Jones Dairy Farm at or near Fort Atkinson and Jefferson, WI to points in the States of CN, DE, NH, NJ, NY, ME, Phoenix and Tucson, AZ; Grand Junction, Denver, and Colorado Springs, CO; and Salt Lake City, UT

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at San

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, NY, or Washington, DC.

No. MC 142600 (Sub-No. 5), filed January 10, 1978. Applicant: DIXIE-

No. MC 142941 (Sub-No. 11), filed December 15, 1977. Applicant: SCARBOROUGH TRUCK LINES, 1313 North 25th Avenue, Phoenix, AZ 85009. Applicant's representative: Dent, P.O. Drawer 528, Columbia, SC 29202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Non-alcoholic beverages and soft* vehicle, over irregular routes, transporting: (1) *Plastic pipe* and *plastic pipe fittings* (except in bulk), between the facilities of Carlon Products Division of Indian Head Corp. located at

in (1) above; from the plantsite and/or storage facilities utilized by Jones Dairy Farm at or near Fort Atkinson and Jefferson, WI to points in the States of CN, DE, NH, NJ, NY, ME, MD, MA, PA, RI, VA, VT, WV, and Washington, DC, restricted to the transportation of traffic originating at the named origins and destined to points in the above named destination States.

NOTE.—Applicant holds contract carrier authority in MC 136408 and subs thereunder; therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it to be held in Washington, DC.

No. MC 141356 (Sub-No. 7), filed January 23, 1978. Applicant: LONE PINE TRUCKING CO., a corporation, 11831 Vose Street, North Hollywood, CA 91605. Applicant's representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, CA 90017. Authority sought as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *expanded shale and bentonite*, in bulk, from the mine and plantsites of Lightweight Processing Co., located at or near Lake of the Woods, Frazier Park, and Ventura, CA, to points in OR and WA.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Los Angeles, CA.

No MC 141376 (Sub-No. 3), filed December 9, 1977. Applicant: CERTARO TRUCKING CO., a corporation, 486–492 12th Ave., Paterson, NJ 07514 Applicant's representative: Joseph R. Siegelbaum, 17 Academy St., Newark, NJ 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or sold by direct sale houses (except commodities in bulk), between the facilities of Amway Corp. located at or near Dayton, NJ on the one hand and, on the other, points in RI, MA, VT, NH, ME, NY (except points in Rockland, Westchester, Putnam, Orange, and Ulster Counties), and those points in PA on or west of U.S. Hwy 220, under a continuing contract with Amway Corp.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at New York, NY.

No. MC 141742 (Sub-No. 4), filed January 3, 1978. Applicant: FLOWERS TRANSPORTATION, INC., P.O. Box B, Station A, Auburn, CA 95603. Applicant's representative: Walter H. Walker, 100 Pine Street, Suite 2550, San Francisco, CA 94111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from points in Shasta, Tahama, Butte, Lassen, Sacramento, and Placer Counties, CA, to Phoenix and Tucson, AZ; Grand Junction, Denver, and Colorado Springs, CO; and Salt Lake City, UT

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at San Francisco, CA or Saramento, CA.

No. MC 141776 (Sub-No. 19), filed January 10, 1978. Applicant: FOOD-TRAIN, INC., Spring and South Center Streets, Ringtown, PA 17967. Applicant's representative: Pauline E. Myers, Suite 407, Walker Building, 734 15th Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs* (except in bulk, in mechanically refrigerated equipment, (1) from the cold storage facility, operated by Genessee Valley Cold Storage, Inc., at Mt. Morris, NY, to points in CT, DE, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, VA, WV, VT, and the DC; and (2) *returned, refused, and rejected merchandise*, from the destination points named in (1) above, to the Gennessee Valley Cold Storage, Inc., at Mt. Morris, NY.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, NY; Philadelphia, PA; or Washington, DC.

No. MC 142096 (Sub-No. 4), filed January 19, 1978. Applicant: MILLER BROS. TRUCKING CO., INC., 4100 West Mitchell Street, Milwaukee, WI 53215. Applicant's representative: Richard C. Alexander, Suite 412, Empire Building, 710 North Plankinton Avenue, Milwaukee, WI 53203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beverages (non-alcoholic)*, in containers, from Watertown, WI, to Galesburg, Peoria, Rockford, Rock Island, and Sterling, IL, Cedar Rapids, Clinton, Davenport, Decorah, Dubuque, and Muscatine, IA, Escanaba, Houghton, Iron Mountain, Marquette, Newberry, and Salt Ste. Marie, MI, and Mankato and Rochester, MN.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Milwaukee, WI.

No. MC 142516 (Sub-No. 5), filed January 16, 1978. Applicant: ACE TRUCKING CO., INC., 1 Hackensack Avenue, South Kearny, NJ 07032. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Overhead Door Hardware and equipment, materials and supplies* used in the manufacture and sale of overhead door hardware (except commodities in bulk), between the facilities of J. G. Schmidt Co., Inc., Green Brook, NJ, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, NY, or Washington, DC.

No. MC 142600 (Sub-No. 5), filed January 10, 1978. Applicant: DIXIE-WEST EXPRESS, INC., P.O. Drawer L, Petal, MS 39465. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Resins, and such other commodities* as are dealt in or distributed by chemical manufacturers (except in bulk), in vehicles equipped with mechancial refrigeration units, from the facilities of Reichhold Chemicals, Inc., located at or near Pensacola, FL, Bay Minette, AL, Gulfport, MS, and Oakdale, LA, to points in CA. Restriction: Restricted to service provided under a continuing contract or contracts with Reichhold Chemicals, Inc.

NOTE.—If an oral hearing is deemed necessary, applicant requests it be held in Washington, DC.

No. MC 142668 (Sub-No. 5), filed January 9, 1978. Applicant: AERO DISTRIBUTING CO., INC., 7259 Delta Circle, Mableton, GA 30336. Applicant's representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is marketed by home products distributors, (1) From Chicago, IL, to points in MI (except Huron, Sanilac, Lapeer, St. Clair, Oakland, Macomb, Wayne, Lenawee, and Monroe Counties); and (2) from Dubuque, IA, to points in ND, SD, and those points in MN on and east of U.S. Hwy 71, under a continuing contract or contracts with Stanley Home Products, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, IL, or Atlanta, GA.

No. MC 142897 (Sub-No. 5), filed January 23, 1978. Applicant: KENNEDY FREIGHT LINES, INC., P.O. Box 332, Lapel, IN 46051. Applicant's representative: Paul F. Beery Co. L.P.A., 275 East State Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes in the transportation of *auto parts, and equipment, materials and supplies* used in the manufacture of auto parts (except commodities in bulk and those requiring special equipment), between Pinola, IN, Toledo, OH, and Grand Haven, MI, on the one hand, and, on the other, points in that part of the United States in and west of AR, IA, LA, MN, and MO (except AK and HI). Under a continuing contract or contracts with Questor Corp.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Columbus, OH.

No. MC 142941 (Sub-No. 11), filed December 15, 1977. Applicant: SCARBOROUGH TRUCK LINES, 1313 North 25th Avenue, Phoenix, AZ 85009. Applicant's representative: Lewis P. Ames, 10th Floor, 111 West Monroe, Phoenix, AZ 85003. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Packinghouse products* (except in bulk), from the plantsite and facilities of Peter Eckrich & Sons located at or near Allen, MI, to Tulsa, OK; Oklahoma City, OK; and points in AZ and TX; Kansas City, KS; Kansas City, MO, Joplin, MO; and Topeka, KS.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Fort Wayne, IN, or Chicago, IL, or Phoenix, AZ.

No. MC 143038 (Sub-No. 1), filed December 16, 1977. Applicant: BAY AREA CARTAGE CO., a corporation, 801 Maritime, Oakland, CA 94607. Applicant's representative: Floyd L. Farano, Suite 705, 2555 East Chapman Avenue, Fullerton, CA 92631. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods* as defined by the Commission, between points in San Francisco, San Mateo, Contra Costa, Alameda, Santa Clara, Marin, Napa, Solano, and Sonoma Counties, CA in nonradial movement. Restriction: the service authorized herein is restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized and further restricted to the performance of pick up and delivery service in connection with packing, crating, and containerization or unpacking, uncrating and decontainerization of such traffic.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Los Angeles or San Francisco, CA.

No. MC 143119 (Sub-No. 2), filed December 13, 1977. Applicant: M. C. COLLINS, P.O. Box 185, Holcomb, MO 63852. Applicant's representative: Warren H. Sapp, 4420 Madison, Suite 230, Kansas City, MO 64111. Authority sought to conduct operations as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, in bulk, from Caruthersville, Hayti, Holland, and Sikeston, MO, to points in Clay, Craighead, Greene, Mississippi, and Poinsett Counties, AR, and Carroll, Crockett, Dyer, Gibson, Lake, Lauderdale, Obion, and Weakley Counties, TN.

NOTE.—If hearing is deemed necessary, applicant requests that it be held at Memphis, TN, St. Louis, MO, or Jefferson City, MO.

No. MC 143161 (Sub-No. 3), filed January 9, 1978. Applicant: BEVERAGE TRANSPORT, INC., Box 13515, 1210 Bluff Road, Columbia, SC 29201. Applicant's representative: Harry S. Dent, P.O. Drawer 528, Columbia, SC 29202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Non-alcoholic beverages and soft drinks and materials, supplies, and equipment* used in the manufacture, mixing, distribution, and sale of non-alcoholic beverages and soft drinks, between the plantsite of Carolina Canners South, Inc., located at Cayce, SC, on the one hand, and on the other, points and places in FL, GA, AL, MS, LA, TX, TN, NC, VA, WV, KY, IL, IN, OH, Washington, DC, MD, DE, PA, NY, NJ, MI, WI, CO, RI, MA, VT, and ME, under a continuing contract or contracts, with Carolina Canners South, Inc.

NOTE.—If hearing is deemed necessary, the applicant requests it be held in Columbia, SC or Atlanta, GA.

No. MC 143209 (Sub-No. 3), filed January 6, 1978. Applicant: HOUSTON FREIGHTWAYS, INC., P.O. Box 473, Galena Park, TX 77547. Applicant's representative: J. G. Dail, Jr., P.O. Box 567, McLean, VA 22101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Coal tar and coal tar products*, in bulk, in tank vehicles, from Houston, TX, to points in AR, LA, and OH; and (2) *petroleum pitch*, in bulk, in tank vehicles, from Houston, TX, to Harbor, LA.

NOTE.—If hearing is deemed necessary, applicant requests that it be held at Washington, DC.

No. MC 143236 (Sub-No. 9), filed December 13, 1977. Applicant: WHITE TIGER TRANSPORTATION, INC., 115 Jacobus Avenue, Kearny, NJ 07032. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, over irregular routes, transporting: *General commodities*, (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the facilities of Mitsubishi International Warehouse Corp., located in South Plainfield, NJ, on the one hand, and, on the other, points in the United States (except AK and HI).

NOTE.—Applicant has contract carrier authority pending in No. MC 142766 (Subs 2 and 7) therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at either New York, NY or Washington, DC.

No. MC 143267 (Sub-No. 8), filed January 23, 1978. Applicant: CARLTON ENTERPRISES, INC., 4588 State Route 82, Mantua, OH 44255. Applicant's representative: Peter A. Greene, 900 17th Street NW, Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic pipe* and *plastic pipe fittings* (except in bulk), between the facilities of Carlon Products Division of Indian Head Corp. located at Mantua Township (Portage County), OH, on the one hand, and, on the other, points in NC, SC, GA, FL, AL, MS, LA, AR, TX, OK, KS and NE; (2) materials used in the manufacture of plastic pipe and plastic pipe fittings, and manufactured plastic pipe and pipe fittings, between facilities of Carlon Products Division of Indian Head Corp., located at Oklahoma City, OK, Nazareth, PA, Aurora, OH, High Springs, FL, Clinton, IA, Paramount, CA and Woodland, CA; and (3) materials used in the manufacture of plastic pipe and pipe fittings, from points in DE, KY, NJ, NY, PA, IL, and TX, to points named in (2) above.

NOTE.—If hearing is deemed necessary applicant requests that it be held at Cleveland, OH, or Washington, DC.

No. MC 143505 (Sub-No. 2), filed December 13, 1977. Applicant: KOMMER BULK FEED SERVICES, INC., 171 Stafford Road, Palmyra, NY 14522. Applicant's representative: Charles A. Schiano, 500 Wilder Building, One East Main Street, Rochester, NY 14614. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dried brewers grain and byproducts of the brewing industry and bran*, in bulk or in bags: from points in Monroe County, NY, to points in PA, and returned and rejected merchandise of the same description in the reverse direction, and, *feed and feed ingredients*, compartmentalized or straight loads: from Marion, OH; Bellville, OH; Fostoria, OH, and Delphos, OH, to points in NY and PA, and returned and rejected merchandise of the same description in the reverse direction.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Rochester or Buffalo, NY.

No. MC 143599 (Sub-No. 1), filed January 10, 1978. Applicant: CENLA CAB CO., INC., 1401 Murray Street, Alexandria, LA 71301. Applicant's representative: Gregory S. Erwin, P.O. Box 906. Alexandria, LA 71301. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Safety valves, safety relief valves, forged steel-globe, gate, and check valves*, from the plantsite and facilities of Dresser Industrial Valve & Instruments, located at or near Alexandria, LA, to points in AL, AR, MS, OK, TN, and TX, under a continuing contract, or contracts with Dresser Industries of Alexandria, LA.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New Orleans, or Alexandria, LA.

No. MC 143616 (Sub-No. 4), filed January 25, 1978. Applicant: M & S

TRANSPORT LINES, INC., P.O. Box 417, Sultana, CA 93666. Applicant's representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Adhesives, spray lubricating oil, caulking compounds, putty, plaster, wood filler,* and *covering and filling materials* (except commodities in bulk), from Bainbridge, NY, to points in TX and CA, under a continuing contract or contracts with Borden Chemical, Division of Borden Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Columbus, OH, or Washington, DC.

No. MC 143616 (Sub-No. 5), filed January 25, 1978. Applicant: M & S TRANSPORT LINES, INC., P.O. Box 417, Sultana, CA 93666. Applicant's representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cabinet drawer slides*, from Tulare, CA, to points in the United States (except AK and HI); and (2) *materials and supplies* (except commodities in bulk), utilized in the production or distribution of cabinet drawer slides, from points in the United States to Tulare, CA, under a continuing contract or contracts with Houck Industries, Inc., of Tulare, CA.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at San Francisco, CA, or Washington, DC.

No. MC 143623 (Sub-No. 1), filed December 15, 1977. Applicant: CITY COAL & SUPPLY CO., INC. South Second Street, Princeton, WV 24740. Applicant's representative: Tony Oney (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, for ice control purposes, in bulk, in dump vehicles, from the plant sites and facilities of Morton Salt Co., at or near Princeton, WV, to points in Bland, Buchanan, Carroll, Craig, Dickinson, Floyd, Giles, Grayson, Henry, Montgomery, Patrick, Pulaski, Russell, Scott, Smythe, Tazewell, Washington, Wise, and Wythe Counties, VA.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Roanoke, VA or Washington, DC.

No. MC 143630 (Sub-No. 3), filed December 15, 1977. Applicant: FLOYD M. GRIEBEL, SR., FLOYD M. GRIEBEL, JR. and WILLIAM F. GRIEBEL, a partnership d.b.a. GRIEBEL TRUCKING, P.O. Box 145, Marengo, IL 60152. Applicant's representative: Robert J. Gill, 29 South La Salle St., Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: such *commodities* as are dealt in, or used by, a manufacturer of magnets or magnetic components (except commodities in tank vehicles and commodities which because of their size or weight require the use of specialized equipment), between the facilities of the Arnold Engineering Co. at or near Marengo, IL on the one hand and, on the other, IA, MO, AR, and all points in the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, thence northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the United States and Canada (except GA and FL), under a continuing contract or contracts with Arnold Engineering Co.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Chicago, IL or Washington, DC.

No. MC 143648 (Sub-No. 2), filed January 16, 1978. Applicant: CORALVILLE TRANSPORT, INC., Rural Route No. 1, Lamont, IA 50650. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizers*, from the facilities of Map-Ren at or near East Dubuque, IL, to points in IA, WI, and MN.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Des Moines, IA or Chicago, IL.

No. MC 143649 (Sub-No. 2), filed January 16, 1978. Applicant: FIGANBAUM TRUCKING, INC., Tripoli, IA 50676. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizers*, from the facilities of Map-Ren at or near East Dubuque, IL, to points in IA, WI, and MN.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Des Moines, IA or Chicago, IL.

No. MC 143660 (Sub-No. 2), filed January 24, 1978. Applicant: CENTURY SERVICES, INC., Suite 852, American Security Bank Building, 1314 South King Street, Honolulu, HI 96814. Applicant's representative: Robert T. Lawley, 300 Reisch Building, Springfield, IL 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, new household appliances, and new household articles*, in home delivery service, from Langhorne, PA, to points in Atlantic, Bergen, Burlington, Camden, Cumberland, Essex, Gloucester, Hudson, Mercer, Middlesex, Monmouth, Morris, Ocean, Passiac, Salem, Somerset, Union, and Warren Counties, NJ; New Castle County, DE, and Cecil and Harford Counties, MD, under a continuing contract or contracts with J. C. Penney Co., Inc., located at New York City, NY.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Philadelphia, PA, or Washington, DC.

No. MC 143675 (Sub-No. 2), filed December 29, 1977. Applicant: PHILLIPS TRUCKING CO., INC., 100 Edison, Alamosa, CO 81101. Applicant's representative: Richard Gibson (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal or poultry feed and exempt commodities*, from Rio Grande County, CO, to all points in NM and AZ, under a continuing contract or contracts with Brown Feed & Seed Co., Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Albuquerque, NM, or Denver, CO.

No. MC 143728 (Sub-No. 1), filed January 13, 1978. Applicant: THEODORE JENSEN, d.b.a. JENSEN TRUCKING, R.R. No. 1, Wheatland, ND 58079. Applicant's representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Inedible offal, grease, and blood*, in drums, from points in ND on and east of U.S. Hwy 281, to Long Prairie and Minneapolis, MN; and (2) *hides*, from the facilities of Jensen Rendering, Inc., located at or near Wheatland, ND, to points in the United States (except AK and HI), under a continuing contract or contracts with Jensen Rendering, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Minneapolis or St. Paul, MN.

No. MC 143847 (Sub-No. 1), filed January 9, 1978. Applicant: HOLIDAY MOVING & STORAGE CO., a corporation, 1111 Vista de Oro, El Paso, TX 79935. Applicant's representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in the city and county of El Paso, TX, restricted to the transportation for traffic having a prior or subsequent movement, in containers, and further restricted to the performance of pickup and delivery service, in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at El Paso, TX.

No. MC 143850 (Sub-No. 1), filed January 13, 1978. Applicant: FREDERICKSON GRAIN CO., INC., P.O. Box 78, Meriden, IA 51037. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Insulation*, from Sioux City, IA, and points in Cherokee County, IA, to points in the United States (except AK and HA); and (2) *materials, equipment, and supplies, utilized in the manufacture, sales, and distribution of insulation*, from points in the United States (except AK and HA) to Sioux City, IA, and points in Cherokee County, IA. Restrictions: Restricted against the transportation of commodities in bulk, in tank vehicles, and further restricted to a transportation service to be performed under a continuing contract, or contracts, with Thermo-Barrier, Inc.

NOTE.—Common control and dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Omaha, NE, or Sioux City, IA.

No. MC 143886 (Sub-No. 2), filed January 19, 1978. Applicant: BEST MOVING SERVICES, INC., 201 Colbert Avenue, P.O. Box 433, Hampton, VA 23669. Applicant's representative: Calvin F. Major, 200 West Grace Street, Richmond, VA 23220. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods* (restricted to the transportation of traffic having a prior or subsequent movement in containers beyond the points authorized and to the performance of pickup and delivery in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic), between Chesapeake, Franklin, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, Virginia Beach, and Williamsburg, VA, and the counties of Gloucester, Isle of Wight, James City, King and Queen, King William, Lancaster, Mathews, Middlesex, Nansemond, New Kent, Southampton, Surry, Sussex, and York, VA.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held in Richmond, VA.

No. MC 143943 (Sub-No. 2), filed January 16, 1978. Applicant: DELTA AGRICULTURAL CO-OP, 925 South 200 West, Salt Lake City, UT 84101. Applicant's representative: Joyce Dickert, 925 South 200 West, Salt Lake City, UT 84101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Heat- and light-sensitive printing plates* used in the printing of newspapers, *and related material, equipment, and supplies*, between Salt Lake City, UT, on the one hand, and, on the other, points in the United States (except AK and HA), under a continuing contract, or contracts, with Dyna-Flex International Corp.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Salt Lake City, UT.

No. MC 143946 (Sub-No. 1) (correction), filed November 7, 1977, published in the FEDERAL REGISTER issue of December 22, 1977, and republished February 13, 1978, and republished again as corrected this issue. Applicant: ROYAL TRANSPORT, INC., P.O. Box 4097, Irving, TX 75061. Applicant's representative: Don Garrison 324 North Second Street, Rogers, AR 72756. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electrical appliances, equipment, and parts*, as defined by the Commission in Descriptions in Motor Carrier Certificates, 61 MCC 283, Appendix VII, from the plantsite and warehouse facilities of the Gibson Metalux Co., at or near Americus, GA, to points in the United States (except AK, FL, GA, and HA).

NOTE.—The purpose of this republication is to indicate applicant's requested authority as "common carrier" not contract carrier as incorrectly published in the FEDERAL REGISTER. If a hearing is deemed necessary, applicant requests that same be held at Atlanta, GA, or Dallas, TX.

No. MC 143969 (Sub-No. 1), filed January 17, 1978. Applicant: V&H TRANSFER, INC., 550 North 19th Street, Murphysboro, IL 69266. Applicant's representative: Robert T. Lawley, 300 Reisch Building, Springfield, IL 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, from the facilities of Anheuser-Busch, Inc., at St. Louis, MO, to Murphysboro, IL, under a continuing contract or contracts with Venegoni Distributing, Inc., located at Murphysboro, IL; and (2) *malt beverages*, from the facilities of Anheuser-Busch, Inc., at St. Louis, MO, to Cairo, IL, under a continuing contract or contracts with Halliday Distributing Co., Inc., located at Cairo, IL.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at St. Louis, MO, or Springfield, IL.

No. MC 144025 (Sub-No. 1), filed January 16, 1978. Applicant: THE BLUE DIAMOND CO., a corporation, 4401 East Fairmount Avenue, Baltimore, MD 21224. Applicant's represent- ative: Chester A Zyblut, 366 Executive Building, 1030 Fifteenth Street NW., Washington, DC 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Corrugated paper and paper products*, from Trenton, NJ, to points in NY, PA, MD, and DE, under a continuing contract or contracts with Union Camp Corp.

NOTE.—Applicant holds common carrier authority in MC 113106 (Sub 2) and other subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, DC.

No. MC 144046 (Sub-No. 1), filed December 16, 1977. Applicant: STEWART'S STONEY ACRES, INC., Rural Route No. 1 Box 112, Johnson Creek, WI 53038. Applicant's representative: Ronald Laitsch, 104 West Main Street, Watertown, WI 53094. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Feeds, and* (2) *Feed ingredients, additives, supplements, and medicine*, in bags, from Howard Lake, MN, to points in WI, under a continuing contract or contracts with American Feeds & Livestock Co., Inc., located in Carpentersville, IL.

NOTE.—If a hearing is deemed necessary, applicant request that it be held at Milwaukee, WI, or Chicago, IL.

No. MC 144140 (Sub-No. 2), filed January 6, 1978. Applicant: SOUTHERN FREIGHTWAYS, INC., P.O. Box 374, Eustis, FL 32726. Applicant's representative: K. Edward Wolcott, P.O. Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpet or rug cushioning or lining, sponge rubber or plastics (urethane-polyurethane)*, from Columbus, MS, to points in DE, FL, GA, IL, IN, KY, MD, MI, NY, OH, PA, and DC.

NOTE.—Applicant holds contract carrier authority in No. MC 104589 (Sub-No. 3) and other subs thereunder; therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held in New York City, NY or Washington, DC.

No. MC 144149, filed December 16, 1977. Applicant: RIM INVESTMENT, INC., d.b.a. B&C TRANSPORTATION, 40575 Salpat Place, Hemet, CA 92343. Applicant's representative: Richard E. Knecht, 4100 MacArthur Boulevard, P.O. Box 2710, Newport Beach, CA 92663. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Heavy machinery and equipment and building materials*, on flatbed vehicles, between points in CA, AZ, NV, UT, WA, OR, and ID; under a continuing contract, or contracts, with (1) Maurer Development Co., (2) Arizona Brick Co., (3) Lumber Specialties, (4) Columbia Building Materials, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Los Angeles or San Francisco, CA.

No. MC 144196, filed January 16, 1978. Applicant: AGUSTIN BLANCO

TRANSFER, INC., Building 2134, Miami International Airport, Miami, FL 33148. Applicant's representative: John P. Bond, 2766 Douglas Road, Miami, FL 33133. Applicant seeks authority to operate as a *common carrier*, over irregular routes in the transportation of: *General commodities* (except commodities in bulk, Class A and B explosives; household goods, livestock; commodities requiring special handling and special equipment and commodities requiring refrigeration), Between points in Dade County, FL; restricted to shipments having a prior or subsequent movement by water.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Miami, FL.

No. MC 144204 (Sub-No. 1), filed January 23, 1978. Applicant: MUD HAULERS, INC., 732 Royal Lane, Yukon, OK 73099. Applicant's representative: G. Timothy Armstrong, Suite 200, Timbergate Office Gardens, 6161 North May Avenue, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drilling mud and gel, drilling mud and gel materials* (except petroleum based products), between points in that part of OK on and west of Interstate Hwy 35, on the one hand, and, on the other, points in that part of TX on and north of Interstate Hwy 20.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Oklahoma City, OK, or Amarillo, TX.

No. MC 144205, filed January 19, 1978. Applicant: TRAVIS TRUCKING CO., INC., RD 1, Benton, PA, 17814. Applicant's representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street NW., Washington, DC 20005. Authority sought to operate as as *common carrier* by motor vehicle, over irregular routes, transporting: *Conoes, kayaks, and accessories* therefore, from Old Town, ME, to points in the United States (except AK, HI, ME, NH, VT, MA, CT, and RI).

NOTE.—Applicant holds contract carrier authority in No. MC 142028 Sub-No. 3, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held in Portland, ME, or Washington, DC.

PASSENGERS

No. MC 2389 (Sub-No. 3), filed January 9, 1978. Applicant: NEVADA CENTRAL MOTOR LINES, INC., 2570 Tacchino, Reno, NV 89512. Applicant's representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers, and their luggage*, in the same vehicles with passengers, in Special and Charter operations, from points in Contra Costa County, CA, to points in the United States, including AK, but excluding HI, and return.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Reno, NV, or at San Francisco, CA.

No. MC 118832 (Sub-No. 8), filed December 20, 1977. Applicant: WESTOURS MOTOR COACHES, INC., 100 West Harrison Plaza, Seattle, WA 98119. Applicant's representative: S. Harrison Kahn, Suite 733, Investment Building, Washington, DC 20005. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes, (1) *Passengers and their baggage*, in the same vehicle with passengers, in special operations, in round trip sightseeing and pleasure tours, beginning and ending at Seattle, WA, Portland, OR, San Francisco, Los Angeles, and San Diego, CA, and Houston and Fort Worth, TX, and extending to New Orleans, LA, and Fort Lauderdale and Miami, FL; (2) *passengers and their baggage*, in the same vehicle with passengers, in special operations, in one-way sightseeing and pleasure tours, from Seattle, WA, Portland, OR, San Francisco, Los Angeles, and San Diego, CA, and Houston and Fort Worth, TX, to New Orleans, LA, and Fort Lauderdale and Miami, FL, and (3) *passengers and their baggage*, in the same vehicle with passengers, in special operations, in one-way sightseeing and pleasure tours from New Orleans, LA, Fort Lauderdale and Miami, FL, to Fort Worth and Houston, TX, San Diego, Los Angeles, and San Francisco, CA, Portland, OR, and Seattle, WA.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Seattle, WA, or Los Angeles, CA.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-5391 Filed 3-1-78; 8:45 am]

[7035-01]

[Notice No. 600]

ASSIGNMENT OF HEARINGS

FEBRUARY 27, 1978.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancallation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 125433 (Sub 142F), F-B Truck Line Co., Inc., now assigned for hearing March 8, 1978, at Salt Lake City, UT, will be held in Room 479, U.S. Post Office and Courthouse, 350 South Main Street.

No. F.D. 28648, Churchill Truck Lines, Inc., now being assigned for continued hearing on April 11, 1978 (4 days), at Dallas, TX, in a hearing room to be later designated.

MC 109397 (Sub 384), Tri-State Motor Transit Co., Inc., now assigned March 8, 1978, at Nashville, TN, and will be held in Room A-440, Federal Building, U.S. Courthouse, 801 Broadway.

MC 19311 (Sub-No. 34), Central Transport, Inc., is now assigned for hearing April 3, 1978, at Room 204A, Dirksen building, 219 South Dearborn Street, April 4, 1978, in Room 834 of the same address and April 5, 1978, to April 15, 1978, in Room 3855A, 230 South Dearborn Street in Chicago, IL.

MC 73165 (Sub 406), Eagle Motor Lines, Inc., is now assigned for hearing May 9, 1978 (2 days), at Louisville, KY, at a hearing room to be later designated.

AB 2 (Sub 19), Louisville & Nashville Railroad Co. abandonment near Greensburg in Taylor and Green Counties, KY, is now assigned for hearing May 11, 1978 (2 days), at Greensburg, KY, at a hearing room to be later designated.

AB 2 (Sub 14), Louisville & Nashville Railroad Co. abandonment between Paris and Maysville in Bourbon, Nicholas, Fleming, and Mason Counties, KY, is now assigned for hearing May 15, 1978 (1 week), at Flemingsburg, KY, at a hearing room to be later designated.

MC 117883, Subler Transfer, Inc., is now assigned for hearing April 3, 1978, at Chicago, IL, and will be held at Room 280, Everett Dirksen Building, 219 South Dearborn Street.

MC 119789 (Sub 367), Caravan Refrigerated Cargo, Inc., now assigned March 20, 1978, at New York, NY, in Room E-2222, Federal Building, 26 Federal Building, is transferred to the Sheraton-Russell Hotel, 45 Park Avenue at 37th, New York, NY.

AB 1 (Sub 62), Chicago & North Western Transportation Co. abandonment near Conover and Phelps, in Vilas County, WI, is now assigned for hearing May 8, 1978 (1 week), at Eagle River, WI, at a hearing room to be later designated.

MC 115651 (Sub 32), Kaney Transportation, Inc., is now assigned for hearing May 2, 1978 (1 day), at Chicago, IL, at a hearing room to be later designated.

MC 138741 (Sub 38), American Central Transport, Inc., is now assigned for hearing May 3, 1978 (3 days), at Chicago, IL, at a hearing room to be later designated.

MC 100666 (Sub-No. 364), Melton Truck Lines, Inc.; MC 74321 (Sub-No. 139), B. F. Walker, Inc.; MC 114211 (Sub-No. 314), Warren Transport, Inc.; and MC 120761 (Sub-No. 20), Newman Bros. Trucking Co., now being assigned March 13, 1978 (2 days), at Dallas, TX, in Room 5A15-17, Federal Building, 1100 Commerce Street.

No. AB 16, San Diego & Arizona Eastern Railway Co. abandonment in San Diego and Imperial Counties, CA, now being assigned for prehearing conference on March 16, 1978 (1 day), at San Diego, CA, Room 310, County Building, 1600 Pacific Highway.

MC 143129, B.J.T. Transport, Inc., now assigned for hearing on March 14, 1978, at Providence, RI, is canceled and reassigned for further prehearing conference, on March 14, 1978, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 124306 (Sub-No. 28), Kenan Transport Co., Inc., now assigned March 6, 1978, at Raleigh, NC, is postponed to March 7, 1978 (4 days), at Raleigh, NC, Room 209, Federal Building, 310 New Bern Avenue.

No. 36514, Florida East Coast Railway Co. v. Seaboard Coast Line Railroad Co., now assigned March 13, 1978, at Washington, DC, is canceled.

MC 85465 (Sub 62), West Nebraska Express, Inc., now being assigned April 5, 1978 (3 days), at Denver, CO, in a hearing room to be later designated.

MC-F-13164, Overnite Transportation Co.—Purchase—Bonifield Bros. Truck Lines, Inc.; is assigned for continued hearing on March 8, 1978 (2 days), at St. Louis, MO, and will be held in Court Room 2, U.S. Court and Customs House, 1114 Market Street.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-5523 Filed 3-1-78; 8:45 am]

[7035-01]

[No. MC-C-10003]

ATLANTA, GA-DALLAS, TX, SUPERHIGHWAY OPERATIONS

Filing of Petition for Declaratory Order

AGENCY: Interstate Commerce Commission.

ACTION: Notice of filing of petition for declaratory order.

SUMMARY: By petition filed February 9, 1978, petitioner Ryder Truck Lines, Inc., seeks a ruling as to whether its operations between Atlanta, GA, and Dallas, TX, including the transfer of freight from one vehicle to another at intermediate points, are in accordance with the Superhighway rules—motor common carriers of property, 49 CFR 1042.3.

DATES: Comments on or before April 3, 1978.

ADDRESS: Send comments to: The Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, 202-275-7292.

SUPPLEMENTARY INFORMATION: Petitioner indicates that it holds regular-route, general commodities (with certain exceptions) authority to operate between Atlanta, GA, and Dallas, TX, as follows: From Atlanta, GA, over U.S. Hwy 78 to Birmingham, AL, then over AL Hwy 5 to junction AL Hwy 195, then over AL Hwy 195 to junction AL Hwy 5, then over AL Hwy 5 to junction AL Hwy 17, then over AL Hwy 17 to junction unnumbered highway (formerly portion AL Hwy 5), then over unnumbered highway (formerly portion AL Hwy 5) via Colbert Heights, AL, to Tuscumbia, AL, then over unnumbered highway (formerly portion U.S. Hwy 72) to junction U.S. Hwy 72, then over U.S. Hwy 72 to Memphis, TN, then over U.S. Hwy 70 to junction U.S. Hwy 65, then over U.S. Hwy 65 to junction U.S. Hwy 64, then over U.S. Hwy 64 to junction AR Hwy 7, then over AR Hwy 7 to junction AR Hwy 22, then over AR Hwy 22, to Fort Smith, AR, then over U.S. Hwy 64 to junction U.S. Hwy 266, then over U.S. Hwy 266 to junction U.S. Hwy 69 near Checotah, OK, then over U.S. Hwy 69 to Atoka, OK, then over U.S. Hwy 75-U.S. Hwy 69 to Durant, OK, then over U.S. Hwy 69 to junction TX Hwy 160, then over TX Hwy 160 to junction TX Hwy 78, then over TX Hwy 78 to Dallas, TX, and return over the same route. Petitioner states that its purchases of the portion of the above-described routes between Memphis, TN, and Dallas, TX, were recently consummated; however, the appropriate certificates have not yet been issued in petitioner's name.

Petitioner performs the following operation pursuant to its interpretation of the property motor carrier superhighway rules: Between Atlanta, GA, and Dallas, TX, as points of departure from and points of return to the authorized regular service route, from Atlanta, GA, over I Hwy 20 to Villa Rica, GA, then over U.S. Hwy 78 to Heflin, AL, then over AL Hwy 49 to junction I Hwy 20, then over I Hwy 20 to Birmingham, AL, then over U.S. Hwy 11 to junction I Hwy 20, then over I Hwy 20 to junction AL Hwy 19, then over AL Hwy 19 to junction U.S. Hwy 11, then over U.S. Hwy 11 to junction AL Hwy 28, then over AL Hwy 28 to junction I Hwy 20 (petitioner describes this uncompleted segment of I Hwy 20 as extending between the junction of I Hwy 20 and AL Hwy 28 and Cuba, AL), then over I Hwy 20 to Vicksburg, MS, then over U.S. Hwy 80 to Tallulah, LA, then over U.S. Hwy 65 to junction I Hwy 20, then over I Hwy 20 to Dallas, TX, and return over the same route. In connection with its operations between Atlanta and Dallas over the above-described superhighway route, petitioner, in some instances, uses its break-bulk station at Birmingham, AL, to consolidate (transfer from one vehicle to another) shipments destined to Dallas. The involved shipments either originate at or move through Atlanta, with break-bulk operations being performed at Atlanta, Birmingham, or at both points. Also, in connection with the above-described superhighway operation the vehicle departs regularly from the superhighway (I Hwy 20) at Birmingham, AL, and Shreveport, LA, to change drivers, and departs periodically from the superhighway at other intermediate points for such purposes as refueling, and meals and rest for the drivers.

Petitioner also holds regular-route, general commodities (with exceptions) authority which parallels superhighway I Hwy 20 between Atlanta and Shreveport as follows: From Atlanta, GA, over U.S. Hwy 78 to Birmingham, AL, then over U.S. Hwy 11 to Meridian, MS, then over U.S. Hwy 80 to Shreveport, LA, and return over the same route. Also, petitioner's map of operating authorities shows that it holds an alternate or deviation route between Shreveport, LA, and Dallas, TX, over U.S. Hwy 80.

It is petitioner's contention that the above-described superhighway operations between Atlanta and Dallas are consistent with the property motor carrier superhighway rules for the following reasons: (1) The distance over the described superhighway route between the alleged point of departure from and the alleged point of return to the petitioner's described underlying certificated regular service route is not less than 80 percent (i.e., petitioner claims 81.4 percent) of the distance between such points over petitioner's underlying authorized regular service route, and petitioner does not seek to receive or deliver freight from or to any person at any point not otherwise specifically authorized to be served by it. See Superhighway rules—motor common carriers of property, 49 CFR 1042.3 (a)(2) and (b); (2) is is petitioner's position that for purposes of applying the so-called "80 percent" provision (49 CFR 1042.3(a)(2)) of the property motor carrier superhighway rules, it should not be deemed to have returned to its regular service routes when operating over those segments of its regular service routes (U.S. Hwys 78, 11, and 80) which parallel the unfinished segments of I Hwy 20, because the definition of a superhighway includes "any direct existing highway, not a limited-access highway, located immediately adjacent to a planned superhighway," Superhighway rules—motor common carriers of property, 49 CFR 1042.3(c); (3) the transfer of freight from one vehicle to another for operating convenience only at an intermediate point (i.e., as here pertinent, Birmingham) on the superhighway route does not constitute a transportation service, and, therefore, is not proscribed by any provision of the property motor carrier superhighway rules; (4) the property motor carrier superhighway rules, as reasonably interpreted, do not require that the "same vehicle" which departs from the underlying regular service route to perform operations pursuant to the rules must also return to said route, notwithstanding the Commission's contrary interpretive ruling in Petition for Declaratory Order—Superhwy. Opers., 125 MCC 688 (1976); and (5) incidental departures at intermediate points along a superhighway for such purposes as fuel, meals, rest stops and changing drivers are permissible when operating over the superhighway pursuant to the "80 percent" provision.

Petitioner requests a formal ruling of the Commission that the above-described superhighway operations are within the scope of the property motor carrier superhighway rules; and that the Commission's prior interpretive ruling, requiring the "same vehicle" to both depart from and return to the underlying regular service route in performing operations under the rules, is contrary to the rules, and, therefore, is without force and effect. Petitioner states that the ruling requested will have no effect of any kind on the quality of the human environment.

No oral hearing is contemplated, however, any person (including petitioner) desiring to participate in this proceeding shall file an original and fifteen (15) copies (wherever possible) of written representations, views, and arguments. A copy of each representation shall be filed on petitioner's representative.

written material or suggestions submitted will be available for public inspection at the Office of the Interstate Commerce Commission, 12th and Constitution Avenue, Washington, DC, during regular business hours.

Notice to the general public of the matters herein under consideration will be given by depositing a copy of this notice in the Office of the Secretary of the Commission for public inspection and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-5524 Filed 3-1-78; 8:45 am]

[7035-01]

[Rule 19; Ex Parte No. 241; Exemption No. 90]

EXEMPTION UNDER PROVISION OF THE MANDATORY CAR SERVICE RULES

TO ALL RAILROADS:

It appearing, That the railroads named below own numerous 50-ft. plain boxcars; that under present conditions, there are substantial surpluses of these cars on their lines; that return of these cars to the owners would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, 50-ft. plain boxcars described in the Official Railway Equipment Register, ICC-R.E.R. No. 406 issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1, 2(a), and 2(b).

Apalachicola Northern Railroad Co.
Reporting Marks: AN
Atlanta & Saint Andrews Bay Railway Co.
Reporting Marks: ASAB
Camino, Placerville & Lake Tahoe Railroad Co.
Reporting Marks: CPLT
City of Prineville
Reporting Marks: COP
The Clarendon and Pittsford Railroad Co.
Reporting Marks: CLP
Duluth, Missabe and Iron Range Railway Co.
Reporting Marks: DMIR
Greenville and Northern Railway Co.
Reporting Marks: GRM
Greenwich & Johnsonville Railway Co.
Reporting Marks: GJ
Lake Erie, Franklin & Clarion Railroad Co.
Reporting Marks: LEF
Louisville and Wadley Railway Co.
Reporting Marks: LW
Louisville, New Albany & Corydon Railroad Co.
Reporting Marks: LNAC
McCloud River Railroad Co.
Reporting Marks: MR
Middletown and New Jersey Railway Co., Inc.
Reporting Marks: MNJ
Minneapolis, Northfield and Southern Railway
Reporting Marks: MNS
Municipality of East Troy, Wisconsin
Reporting Marks: METW
New Orleans Public Belt Railroad
Reporting Marks: NOPB
(1)
Pearl River Valley Railroad Co.
Reporting Marks: PRV
The Pittsburgh and Lake Erie Railroad Co.
Reporting Marks: P&LE
Providence and Worcester Co.
Reporting Marks: PW
Raritan River Rail Road Co.
Reporting Marks: RR
Sacramento Northern Railway
Reporting Marks: SN
St. Johnsbury & Lamoille County Railroad
Reporting Marks: SJL
St. Lawrence Railroad
Reporting Marks: NSL
Sierra Railroad Co.
Reporting Marks: SERA
Terminal Railway, Alabama State Docks
Reporting Marks: TASD
Tidewater Southern Railway Co.
Reporting Marks: TS
Toledo, Peoria & Western Railroad Co.
Reporting Marks: TPW
(2)
WCTU Railway Co.
Reporting Marks: WCTR
Yreka Western Railroad Co.
Reporting Marks: YW

Effective February 22, 1978, and continuing in effect until further order of this Commission.

Issued at Washington, DC, February 16, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-5522 Filed 3-1-78; 8:45 am]

[7035-01]

[Notice No. 299]

MOTOR CARRIER TRANSFER PROCEEDINGS

MARCH 2, 1978.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-77546. By application filed February 15, 1978, BUFFALO HORSE TRANSPORT, INC., Box 699, Streetsville, ON, Canada, seeks temporary authority to transfer a portion of the operating rights of John R. Morgan Co., 19251 McIntyre, Detroit, MI 48219, under section 210a(b). The transfer to Buffalo Horse Transport, Inc., of a portion of the operating rights of John R. Morgan Co., is presently pending.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-5520 Filed 3-1-78; 8:45 am]

[7035-01]

[Notice No. 300]

MOTOR CARRIER TRANSFER PROCEEDINGS

MARCH 2, 1978.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-77552. By application filed February 22, 1978, C. W. SPARKS, d.b.a. KARST'S STAGE, an individual, d.b.a. KARST'S STAGE, 511 North Wallace, Bozeman, MT 59715, seeks temporary authority to transfer the operating rights of Western Transit Co., a corporation, d.b.a. Western Transit Co. and Town and Country G.M.C., P.O. Box No. 1253, Billings, MT 59103, under section 210a(b). The transfer to C. W. SPARKS d.b.a. Karst's Stage, of the operating rights of Western Transit Co., a corporation, d.b.a. Western Transit Co. and Town and Country G.M.C., is presently pending.

By the Commission.

H. G. HOMME, Jr,
Acting Secretary.

[FR Doc. 78-5521 Filed 3-1-78; 8:45 am]

[1] North Louisiana & Gulf Railroad Co., deleted.
[2] Vermont Railway, Inc., deleted.

[4810-33]

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

THE CITIZENS AND SOUTHERN NATIONAL BANK, SAVANNAH, GA.

Suspension of Trading

On my opinion that the public interest and the protection of investors so require, trading in the securities of The Citizens and Southern National Bank, Savannah, Ga., is hereby suspended pursuant to sections 12(i) and 12(k) of the Securities Exchange Act of 1934 for the 10-day period, commencing at 10:15 a.m. (e.s.t.) on February 27, 1978.

Dated: February 27, 1978.

JOHN G. HEIMANN,
Comptroller of the Currency.

[FR Doc. 78-5492 Filed 3-1-78; 8:45 am]

[4810-22]

Office of the Secretary

IMPORTED STEEL MILL PRODUCTS "TRIGGER PRICE MECHANISM"

Revisions of Certain "Extras"

In the FEDERAL REGISTER of February 3, 1978, (43 FR 4703), the Treasury Department announced prices for extras to be used in the trigger price mechanism for monitoring imports of basic steel mill products. The base prices to which these extras apply were published in the FEDERAL REGISTER of January 9, 1978 (43 FR 1463).

I am hereby announcing revisions in some of the trigger price extras previously announced. These revisions have been prepared to take into account additional material made available to the Department by the Japanese Ministry of International Trade and Industry (MITI). In every instanee in which a change has been made in an extra, the entire page on which that extra appeared is being republished. These revised extras will be applied by the Customs Service in monitoring imports of basic steel mill products under the trigger price mechanism which took effect on February 21, 1978, as provided in the "Final Rule" published in the FEDERAL REGISTER on February 13, 1978 (43 FR 6085).

Dated: February 24, 1978.

W. M. BLUMENTHAL,
Secretary of the Treasury.

DEPARTMENT OF THE TREASURY

Steel Trigger Price Handbook

FEBRUARY 1978

NOTE: These prices supersede those issued by the Department of the Treasury in January 1978.

U.S. CUSTOMS SERVICE
Office of Operations · Duty Assessment Division

PREFACE

Please note that all prices given in the Steel Trigger Price Handbook are in metric tons, the standard weight in international trade. Also, the numbering system consists of two parts: the AISI Category (e.g. Wire Rods - Commercial Quality AISI 1008 Category AISI 2) and sequential numbering of pages. As subsequent pages are published, they will be either new pages or replacements for the appropriate numbered page.

The terms "negotiable" or "subject to negotiation" refer to discussion of the price ranges which are appropriate to the practice in extras for steel products.

As regards "interest", the trigger prices assume that payment is required 30 days following delivery to the importer. Accordingly, in monitoring imports an adjustment (up or down) will be made for credit terms which vary in any significant respect from this thirty day period. For example, when payment is required 7 months after delivery to the importer, 6 months of interest will be deducted from the total sales price to allow for a fair comparison with the trigger price.

WIRE RODS - COMMERCIAL QUALITY - AISI 1008 5.5m/m

Category AISI 2

Tariff Schedule Number(s) 608.7000 - 0.1¢/lb. 608.7300 - 0.2¢/lb.
608.7100 - 0.25¢/lb. 608.7500 - 0.375¢/lb.

Wire Rods over 0.74 inch in diameter are classifiable under TSUS 608.4540 - 7% or TSUS 608.4640 - 7%

Base Price per Metric Ton $265

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	$25	$ 3	$ 6
Gulf Coast	26	5	7
Atlantic Coast	31	4	8
Great Lakes	45	4	10

Insurance 1% of base price + extras + ocean freight

Extras

Heat Treatment

Regular Anneal - $40/M.T.

Spherodize Anneal - $60/M.T.

WIRE RODS - COMMERCIAL QUALITY

Extras Per Metric Ton

Sizes 7/32" Thru 35/64"	NIL
Grade (AISI Number)	
1005,1006	$5
1008 - 1020	NIL
Killed	$12

WIRE RODS - WELDING QUALITY - AISI 1008

Category AISI 2

Tariff Schedule Number(s) 608.7000 - 0.1¢/1b/ 608.7300 - 0.2¢/1b.
608.7100 - 0.25¢/1b. 608.7500 - 0.375¢/1b.

Wire Rods over 0.74 inch in diameter are classifiable under TSUS 608.4540 - 7% or TSUS 608.4640 - 7%

Base Price per Metric Ton $266

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	$25	$ 3	$ 6
Gulf Coast	26	5	7
Atlantic Coast	31	4	8
Great Lakes	45	4	10

Insurance 1% of base price + extras + ocean freight

Extras

Heat Treatment

Regular Anneal - $40/M.T.

Spherodize Anneal - $60/M.T.

WIRE RODS - WELDING QUALITY

Extras Per Metric Ton

Size 7/32" Thru 5/16"	NIL
Grade	NIL

WIRE RODS - HIGH CARBON - AISI 1065 5.5m/m

Category AISI 2

Tariff Schedule Number(s) 608.7000-0.1¢/1b. 608.7300-0.2¢/1b.
608.7100-0.25¢/1b. 608.7500-0.375¢/1b.

Wire Rods over 0.74 inch in diameter are classifiable under TSUS 608.4540 - 7% or TSUS 608.4640 - 7%

Base Price per Metric Ton $309

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	$25	$ 3	$ 7
Gulf Coast	26	5	9
Atlantic Coast	31	4	9
Great Lakes	45	4	11

Insurance 1% of base price + extras + ocean freight

Extras

Heat Treatment

Regular Anneal - $40/M.T.

Spherodize Anneal - $60/M.T.

WIRE RODS - HIGH CARBON QUALITY

Extras Per Metric Ton

Sizes 7/32" Thru 35/64" NIL

Grade

AISI NUMBER	EXTRAS
1044, 1059, 1064, 1069, 1074, 1075, 1078, 1086, 1095,	Minus $ 3
1029, 1030, 1035, 1037, 1038, 1039, 1040, 1042, 1043, 1045, 1046, 1049, 1050, 1053, 1055, 1060, 1061, 1065, 1070, 1080, 1084, 1085, 1090,	Base
1048, 1051, 1066, 1072,	$ 3
1027, 1036, 1041, 1047, 1052,	$ 9

Tire Cord Quality $30

WIRE RODS - COLD HEADING QUALITY - AISI 1038 12.7m/m

Category AISI 2

Tariff Schedule Number(s) 608.7000 - 0.1¢/lb. 608.7300 - 0.2¢/lb.
608.7100 - 0.25¢/lb. 608.7500 - 0.375¢/lb.

Wire Rods over 0.74 inch in diameter are classifiable under TSUS 608.4540 - 7% or TSUS 608.4640 - 7%

Base Price per Metric Ton $319

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	$25	$ 3	$ 7
Gulf Coast	26	5	9
Atlantic Coast	31	4	9
Great Lakes	45	4	11

Insurance 1% of base price + extras + ocean freight

Extras

Heat Treatment

Regular Anneal - $40/M.T.

Spherodize Anneal - $60/M.T.

WIRE RODS - COLD HEADING QUALITY

Extras (Sizes / Grade) Per Metric Ton

GRADE (AISI NUMBER)	SIZES			
	7/32" Thru 35/64"	Over 35/64" To Under 39/64"	39/64" To Under 3/4"	3/4" And Over
1005, 1006, 1008 1010, 1011, 1012 1013 (RIMMED STEEL)	Minus $22	$29	$16	NIL
1015, 1016, 1017 1018, 1019, 1020 1021, 1022, 1023 1025, 1026 (RIMMED STEEL)	Minus $22	$40	$28	$8
1005, 1006, 1008 1010, 1011, 1012 1013 (KILLED STEEL)	Minus $7	$41	$28	$9
1015, 1016, 1017 1018, 1019, 1020 1021, 1022, 1023 1025, 1026 (KILLED STEEL)	Minus $6	$52	$40	$20
1029, 1030, 1035 1037, 1038, 1039 1040, 1042, 1043 1044, 1045	NIL	$41	$29	$9
10B18, 10B21 10B22, 10B23 10B30	$19 23 20	$73 77 62	$61 65 49	$39 43 29
1110	Minus $5	$41	$28	$9
1522 1524 1541	NIL $11 9	$56 65 50	$44 52 38	$23 31 18
15B41	$30	$71	$59	$38

Tolerance Extra

If bar tolerances are specified or required for over 35/64" to under 3/4" --- plus $10 per metric ton

WIRE RODS - COLD FINISHED BAR QUALITY

Category AISI 2

Tariff Schedule Number(s) 608.7000 - 0.1¢/lb. 608.7300 - 0.2¢/lb.
608.7100 - 0.25¢/lb. 608.7500 - 0.375¢/lb.

Wire Rods over 0.74 inch in diameter are classifiable under TSUS 608.4540 - 7% or 608.46 - 7%

Base Price per Metric Ton $319

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	$25	$ 3	$ 7
Gulf Coast	26	5	9
Atlantic Coast	31	4	9
Great Lakes	45	4	11

Insurance 1% of base price + extras + ocean freight

Extras

Heat Treatment

Regular Anneal - $40/M.T.
Spherodize Anneal - $60/M.T.

WIRE RODS - COLD FINISHED BAR QUALITY

Extras (Sizes / Grade) Per Metric Ton

GRADE (AISI NUMBER)	SIZES			
	7/32" Thru 35/64"	Over 35/64" To Under 39/64"	39/64" To Under 3/4"	3/4" And Over
1015, 1016, 1017 1018, 1019, 1020 1021, 1022, 1023 1025, 1026	Minus $34	$21	$ 9	Minus $1
1029, 1030, 1035 1037, 1038, 1039 1040, 1042, 1043 1044, 1045, 1046 1049, 1050	Minus $18	$22	$ 9	Minus $9
1117 1141 1144 1151	Minus $5 2 2 4	$48 36 41 43	$36 24 28 30	$16 15 9 11
1212, 1213, 1215	Minus $2	$41	$28	$9
10L18 10L38, 10L45	Minus $15 NIL	$49 41	$37 28	$17 9
11L17 11L37	$21 14	$77 54	$65 42	$43 22
12L14, 12L15	$14	$57	$45	$24

Tolerance Extra

If bar tolerances are specified or required for over 35/64" to under 3/4" --- plus $10 per metric ton

WIDE FLANGE BEAMS AND BEARING PILING - ASTM A36 12" x 12"

Category AISI 3

Tariff Schedule Number(s)	609.8015	0.1¢ per lb.
	609.8005	0.1¢ per lb.

Base Price per Metric Ton $259

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	$27	$ 3	$ 5
Gulf Coast	30	5	7
Atlantic Coast	34	4	7
Great Lakes	47	4	9

Insurance 1% of base price + extras + ocean freight

Extras

1. Size Extras
2. Grade Extras
3. Cut Length Extras
4. Splitting Extras

(1) Size Extras

Series	Lbs./Foot	Extra-$/M.T.	Series	Lbs./Foot	Extra-$/M.T.
4 x 4	13	40	14 x 12	78,84	Nil
5 x 5	16-18.9	35	14 x 14½	87-136	Nil
6 x 4	8.5	51	14 x 16	142-426	Nil
6 x 4	12,16	40	14 x 16	455	72
6 x 6	15.5	26	14 x 16	500	76
6 x 6	20,25	18	14 x 16	550	77
8 x 4	10	42	14 x 16	605	78
8 x 4	13,15	30	14 x 16	665	80
8 x 5¼	17,20	21	14 x 16	730	83
8 x 6½	24,28	15	16 x 5½	26,31	13
8 x 8	31-67	11	16 x 7	36-50	6
10 x 4	11.5	36	16 x 8½	58-78	Nil
10 x 4	15-19	31	16 x 11½	88,96	Nil
10 x 5-3/4	21-29	18	18 x 6	35,40	14
10 x 8	33-45	11	18 x 7½	45-60	5
10 x 10	49-112	5	18 x 8-3/4	64-85	Nil
12 x 4	14	39	18 x 11-3/4	96-114	Nil
12 x 4	16.5-22	32	21 x 6½	44,49	9
12 x 6½	27-36	13	21 x 8½	55-73	Nil
12 x 8	40-50	7	21 x 9	82,96	Nil
12 x 10	53,58	5	21 x 13	112-142	Nil
12 x 12	65-190	Nil	24 x 7	55,61	9
14 x 5	22,26	18	24 x 9	68-94	Nil
14 x 6-3/4	30-38	9	24 x 12	100-120	Nil
14 x 8	43-53	5	27 x 10	84-114	Nil
14 x 10	61-74	Nil	30 x 10½	99-132	Nil

(2) Grade Extras ($/M.T.)

ASTM Grade	Web Thickness In Inches Thru 1-7/8	Over 1-7/8 Thru 2-3/8	Over 2-3/8
A242	111	--	--
A588	111	122	122
A441	49	89	89
A572	42	--	--
G42	42	85	85
G50	49	89	--
G60	66	--	--
A36	0	32	32
A690	77	--	--

(3) Cut Length Extras

Length	$/M.T.
From 10 Up to 20 Feet	10
From 20 Up to 30 Feet	7
From 30 Up to 40 Feet	5
40 Feet	Nil
Over 40 Up to 50 Feet	4
50 Feet	Nil
Over 50 Up to 60 Feet	5
60 Feet	Nil
Over 60 Thru 70 Feet	5

(4) Splitting Extras

Lbs./Foot Over	Thru	$/M.T.
8	12	36
12	15	31
15	22	28
22	45	18
45	100	14
100	150	11
150	200	9

Bearing Piling (H Piles)

Size Extra

Series	Lb/Ft	$/MT Extra
8x8	36	11
10x10	42.57	5
12x12	53.74	Nil or Base
14x14½	73-117	Nil

Grade Extra: See Wide Flange grade extras for 1-7/8" Web Thickness

Cut Length Extra: Same as Wide Flange

Wide Flange Extras

Series	Lbs/Ft	Extra, UDD/MT
24 X 14	130 - 160	10
27 X 14	145 - 177	10
30 X 15	172 - 210	16
33 X 11½	118 - 152	11
33 X 15 3/4	200 - 240	17
36 X 12	135 - 194	11
36 X 16½	230 - 300	17

SHEET PILING - ASTM A328 ARCH WEB PDA-27

Category AISI 4

Tariff Schedule Number(s) 609.96 0.1¢ per lb.
609.98 0.1¢ per lb.
+2% Ad Val + additional duties (See Headnote 4)

Base Price per Metric Ton $292

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	$27	$ 3	$ 6
Gulf Coast	30	5	7
Atlantic Coast	34	4	8
Great Lakes	47	4	10

Insurance 1% of base price + extras + ocean freight

Extras

1. Quality Extras
2. Shape Extras
3. Length Extras

EXTRA FOR SHEET PILING

		USD PER MT
1. QUALITY	SY 30 (EQUIVALENT TO ASTM A-328)	BASE
	SY36	+ 10
	SY40	+ 20
	A690/MARINE TYPE	+ 85
2. SHAPE		
STRAIGHT WEB	F,FA	+ 10
ARCH WEB	1A,U5,5,5L,6L	+ 10
	OTHERS (EQUIVALENT TO PDA-27)	BASE
ZEE	Z14,Z25,Z32,Z38,Z45	+ 10
FABRICATED CONNECTIONS		SUBJECT TO NEGOTIATION
H TYPE		+ 30
3. LENGTH	3M UNDER	SUBJECT TO NEGOTIATION
	3M TO UNDER 6M	+ 10
	6M & OVER	BASE
4. SURFACE TREATMENT (PROTECTIVE COATING)		SUBJECT TO NEGOTIATION
5. HANDLING HOLES		SUBJECT TO NEGOTIATION
6. QUANTITY		NONE

STEEL PLATES - ASTM A-36 ¼" x 80" x 240"

Category AISI 5

Tariff Schedule Number(s) 608.8410 7.5% 608.8525 - 9½% Ad Val
608.8415 7.5% & Additional Duties (see
608.8720 8% Headnote 4 TSUS)
608.8825 - 10% Ad Val
& Additional Duties (see
Headnote 4 TSUS)

Base Price per Metric Ton $266

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	$25	$ 3	$ 6
Gulf Coast	25	5	8
Atlantic Coast	31	4	8
Great Lakes	40	4	10

Insurance 1% of base price + extras + ocean freight

Extras

1. Width/Thickness Extra
2. Specification Extra
3. Other Extras
   - Killed — UST A435, AS78LI
   - Fine Grain — AS78L2
   - Charpy — Checker
   - Normalize — Pickled & Oiled
   - Quench & Temper — Others
   - Normalize & Temper

1 - WIDTH/THICKNESS EXTRA

($/MT)

THICKNESS / WIDTH	3/16" to under 1/4"	1/4" to under 5/16"	5/16" to under 3/8"	3/8" to under 1/2"	1/2" to under 1"	1" thru 1-3/16"	OVER 1-3/16" thru 1-3/8"	1-3/8" thru 1-1/2"	1-1/2" thru 2"	3" thru 6"	6" thru 12"
from 36" up to 48"	27	22	16	12	9	12	14	18	38	40	42
from 48" up to 60"	23	17	13	8	6	8	10	14	32	35	38
from 60" up to 80"	21	14	11	5	NIL	4	6	10	23	27	29
from 80" up to 90"	24	15	9	6	2	6	9	13	23	27	29
from 90" up to 100"	29	20	13	10	8	10	13	16	26	29	31
from 100" up to 110"	34	20	18	14	9	14	17	20	27	30	33
from 110" up to 120"	44	28	23	18	14	17	21	23	30	34	37
from 120" up to 130"	54	38	27	22	17	20	25	29	35	38	40
from 130" up to 140"	64	48	37	28	24	25	29	33	42	44	46
from 140" up to 150"		58	47	35	29	29	33	37	48	51	53
from 150" up to 170"			103	96	84	84	84	84	76		
from 170" up to 180"				105	98	98	98	98			
from 180" up to 185"					103	103	103	103			
from 185" up to 200"					106	106	106	106			

NOTE: (1) Extra for length: NIL

$/MT
130
120
40
95
36
56
58
44
64
66
130
120
130
120
150
130
150
130
70
105
110
110
215
75
75
125

2 - SPECIFICATION EXTRA

Specification	Thickness	$/MT
ASTM & ASME		
A36	1-1/2" or less	Nil
	over 1-1/2"	20
A283 Gr. A, B, C, D	1-1/2" or less	Nil
	over 1-1/2"	20
A285 Gr. A, B, C	1-1/2" or less	17
	over 1-1/2"	20
A515	1-1/2" or less	37
Gr. 55, 60, 65, 70	over 1-1/2" up to 2"	40
Gr. 55, 60, 65	over 2" up to 8"	41
Gr. 70	over 2" up to 8"	43
Gr. 55	over 8" up to 12"	41
A516		
Gr. 55, 60	1/2" or less	43
Gr. 65, 70	1/2" or less	45
Gr. 55, 60, 65, 70	over 1/2" up to 1-1/2"	45
Gr. 55, 60, 65, 70	over 1-1/2" up to 8"	49
Gr. 55	over 8"	49
A455		
Type 1	-	25
Type 2	-	45
A537, Class 1	5/16" or less	170
	over 5/16" up to 1/2"	157
	over 1/2" up to 1"	148
	over 1" up to 1½"	146
	over 1-1/2" up to 3"	154
	over 3" up to 4"	152

Specification	Thickness	$/MT
A537, Class 2	5/16" or less	231
	over 5/16" up to 1/2"	208
	over 1/2" up to 1"	200
	over 1" up to 1-1/2"	198
	over 1-1/2" up to 3"	206
	over 3" up to 4"	203
A612 (ML28B)	3/4" or less	68
	over 3/4" up to 1"	73
A242	1-1/2" or less	95
A588	1-1/2" or less	95
	over 1-1/2"	97
A441	1-1/2" or less	48
	over 1-1/2"	70
A440	1-1/2" or less	48
	over 1-1/2"	70
A572		
Gr. 42	1-1/2" or less	24
	over 1-1/2"	46
Gr. 45	1-1/2" or less	34
	over 1-1/2"	56
Gr. 50	1-1/2" or less	38
	over 1-1/2"	60
Gr. 55	1-1/2" or less	42
Gr. 60	1-1/2" or less	61
Gr. 65	1-1/2" or less	71
A633		
Gr. A	5/16" or less	157
	over 5/16" up to 1/2"	144
	over 1/2" up to 1"	135
	over 1" up to 1-1/2"	133
	over 1-1/2" up to 3"	135
	over 3" up to 8"	160

Specification	Thickness	$/MT
A633		
Gr. C	5/16" or less	174
	over 5/16" up to 1/2"	161
	over 1/2" up to 1"	152
	over 1" up to 1 1/2"	150
	over 1-1/2" up to 3"	152
	over 3" up to 8"	177
Gr. E	5/16" or less	193
	over 5/16" up to 1/2"	190
	over 1/2" up to 1"	171
	over 1" up to 1-1/2"	169
	over 1-1/2" up to 3"	171
	over 3" up to 8"	196
AR		62
AR300, 350 (Q & T Extra included)		225
A202		
Gr. A	All Thickness	130
Gr. B	All Thickness	110
A203		
Gr. A	2" or less	205
	over 2" up to 4"	210
	over 4" up to 6"	200
Gr. B	2" or less	205
	over 2" up to 6"	200
Gr. D	4" or less	285
Gr. E	4" or less	280
A204		
Gr. A	2" or less	135
	over 2" up to 6"	125
Gr. B	1" or less	135
	over 1" up to 6"	125
Gr. C	4" or less	125

Specification	Thickness	$/MT
A387		
Gr. 2	All Thickness	165
Gr. 11	All Thickness	200
Gr. 12	All Thickness	170
Gr. 21	All Thickness	375
Gr. 22	All Thickness	345
A533		
Gr. A	All Thickness	135
Gr. B	All Thickness	170
Gr. C	All Thickness	185
Gr. D	All Thickness	155
A553		
Type 1	All Thickness	740
Type 2	All Thickness	650
AR360 (Q & T Extra included)	1-1/2" or less	235
A514 (Q & T Extra included)		
Type B	5/16" or less	305
	over 5/16" up to 1/2"	270
	over 1/2" up to 1"	265
	over 1" up to 1-1/4"	260
Type F	5/16" or less	415
	over 5/16" up to 1/2"	380
	over 1/2" up to 1"	375
	over 1" up to 3"	370
	over 3" up to 4"	475
Type H	5/16" or less	350
	over 5/16" up to 1/2"	315
	over 1/2" up to 2"	305

Specification	Thickness	$/MT
A517 (Q & T Extra included)		
Gr. B	5/16" or less	320
	over 5/16" up to 1/2"	290
	over 1/2" up to 1-1/4"	280
Gr. F	5/16" or less	335
	over 5/16" up to 1/2"	400
	over 1/2" up to 1"	395
	over 1" up to 3"	390
	over 3" up to 4"	395
	over 4" up to 8"	415
Gr. H	5/16" or less	365
	over 5/16" up to 1/2"	335
	over 1/2" up to 1"	325
	over 1 up to 4"	330
A225		
Gr. A, B	4" or less	115
A302		
Gr. A	1" or less	140
	over 1" up to 4"	130
Gr. B	1" or less	150
	over 1" up to 2"	135
ABS & A131		
Gr. A	1/2" or less	4
	over 1/2" up to 1-1/2"	10
Gr. B	1" or less	10
Gr. CS (Normalized)	1/2" or less	110
	over 1/2" up to 2"	95
Gr. D (Normalized)	1/2" or less	110
	over 1/2" up to 2"	100

Specification	Thickness	$/MT
ABS & A131 (Cont'd)		
Gr. E (Normalized)	1/2" or less	130
	over 1/2" up to 2"	120
Gr. DS (as Rolled Normalized)	1-3/8" or less	40
	over 1-3/8" up to 2"	95
Gr. AH32	1/2" or less	36
	over 1/2" up to 1-1/2"	56
	over 1-1/2" up to 2"	58
Gr. AH36	1/2" or less	44
	over 1/2" up to 1-1/2"	64
	over 1-1/2" up to 2"	66
Gr. DH32 (Killed Normalized)	1/2" or less	130
	over 1/2" up to 2"	120
Gr. DH36 (Killed Normalized)	1/2" or less	130
	over 1/2" up to 2"	120
Gr. EH32 (Killed Normalized)	1/2" or less	150
	over 1/2" up to 2"	130
Gr. EH36 (Killed Normalized)	1/2" or less	150
	over 1/2" up to 2"	130
SAE		
1345	-	70
4130	-	105
4140	-	110
4150	-	110
4340	-	215
5150	-	75
5160	-	75
6150	-	125

Specification	Thickness	$/MT
SAE (Cont'd)		
8615	-	150
8617	-	150
8620	-	135
9260	-	105
Other Specification Extra	To be specified on SSSI	

3 - OTHER EXTRAS

Description	$/MT
• Killed	20
• Fine Grain	6
• Charpy	
+40°F & up	
L	15
T	20
L & T	25
under +40°F	
L	20
T	25
L & T	30
• Normalize	70
• Quench & Temper	120
• Normalize & Temper	120
• U.S.T.	
A578 L2 (over 1/2")	40
A435, A578 L1	15
(9" or higher grid) (over 3/4")	25
(under 9" grid or 100% scanning) (over 3/4")	20
• Checker	
• Pickled & Oiled	
Up to 0.172" Thickness	20
Over 0.172" Thickness	13
• Others	To be specified on SSSI

10-2
Revised 02/21/78

HOT ROLLED CARBON STEEL BARS (CUT LENGTH 4-12 METERS)-- SPECIAL QUALITY

Extra (Sizes/Grade) Per Metric Ton

GRADE (AISI NUMBER)	SIZES: Over 35/64" Through 39/64"	39/64" To Under 3/4"	3/4" Thru 1 1/2"	Over 1 1/2" To Under 3"	3" Thru 4 3/8"	Over 4 3/8"
1013, 1016, 1017 1018, 1019, 1020 1021, 1022, 1023 1025, 1026 (KILLED STEEL)	$12	NIL	NIL	NIL	NIL	NIL
1015, 1016, 1017 1018, 1019, 1020 1021, 1022, 1023 1025, 1026, 1029 1030, 1035, 1037 1038, 1039, 1040 1042, 1043, 1044 1045, 1046, 1049 1050 (KILLED STEEL)	$13	NIL	NIL	NIL	NIL	NIL
1527, 1541	$23	$10	$12	$9	$10	$12
15B37 15B41	$43 50	$32 38	$34 39	$31 37	$32 38	$34 39
1117 1137	$40 28	$28 15	$28 17	$26 14	$27 15	$29 17
1212 1213, 1215	$22 32	$ 9 20	$11 21	$ 8 19	$ 9 19	$11 21
10L30 10L45	$42 32	$29 20	$31 21	$28 19	$29 19	$31 21
12L14, 12L15	$48	$36	$38	$35	$36	$38
15L22	$57	$45	$46	$43	$44	$46

Tolerance Extra
If Bar tolerances are specified or required for over 35/64" to under 3/4"----plus $10 per metric ton

10-1
Revised 02/21/78

HOT ROLLED CARBON BARS: SPECIAL QUALITY - AISI 1045
40 mm round x 4 meters

Category AISI 10

Tariff Schedule Number(s) 608.45 - 7½
608.46 - 9%

608.48 3½

Base Price per Metric Ton $340

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	$14	$ 3	$ 7
Gulf Coast	26	5	10
Atlantic Coast	29	4	10
Great Lakes	35	4	12

Insurance 1% of base price + extras + ocean freight

Extras

Size Extras

25-1
Revised 02/21/78

HOT ROLLED STEEL SHEETS - ASTM A569 0.121" x 48" x C

Category AISI 25

Tariff Schedule Number(s) 608.8440 - 7.5%
608.8742 - 8%
608.8565 -9.5% Ad Val & additional duties (see Headnote 4 TSUS)
608.8865 - 10% Ad Val & additional duties (see Headnote 4 TSUS)

Base Price per Metric Ton $231

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	$23	$ 3	$ 5
Gulf Coast	23	5	7
Atlantic Coast	27	4	7
Great Lakes	35	4	9

Insurance 1% of base price + extras + ocean freight

Extras

A. Width Thickness Extra
B. P/O Extra on Pickled
C. Other Extras
   (1) Quality
   (2) Structural
   (3) Chemistry
   (4) High Strength Carbon Steel
   (5) High Strength Low Alloy Steel

25-2
Revised 02/21/78

HOT ROLLED SHEETS

A- WIDTH/THICKNESS EXTRA ($/M.T.)

Width/ Thickness (inches)	Over 12" Up to 24"	From 24" Thru 36"	Over 36" Thru 48"	Over 48" Thru 72"	Over 72" Thru 76"	Over 76" Thru 84"
Over 0.5		11 + N	11 + N	11 + N	11 + N	14 + N
From 0.312 thru 0.5	25	11	11	11	11	14
From 0.251 thru 0.3119	25	11	11	11	11	12
From 0.230 thru 0.2509	16	0	0	0	7	12
From 0.180 thru 0.2299	16	0	0	0	6	11
From 0.121 thru 0.1799	16	0	0	0	10	11 + N
From 0.081 thru 0.1209	16	12	7	0	10	
From 0.071 thru 0.0809	24	18	13	13	10 + N	
From 0.061 thru 0.0709	36	27	20	20		
From 0.0568 " 0.0609	39	30	29	20 + N		
From 0.0509 " 0.0567	39 + N	30 + N	29 + N	20 + N		

25-4
02/21/78

[illegible]

26-6
d 02/21/78
/T

< W ≤ .72
24
24
20
20
26
32
47
-

.44 < T
21
19
22

ONE
.00
4.00
5.00
5.00

B - P/O Extra on Pickled Thickness	$/M.T.
0.172" & up	20
under 0.172"	13

N = Subject to Negotiation

C - Other Extras	$/M.T.
1. Quality - Drawing Q-Rimmed	10
Killed	23
2. Structural - A570 D/E	15
3. Chemistry (Carbon Range)	
0.26% to 0.34%	23
0.35% & up	23 + N
4. High Strength Carbon Steel	
YP 45,000 to 50,000 P.S.I.	10
YP 50,000 P.S.I. & up	10 + N
5. High Strength Low Alloy Steel	
D - A607 - G45	23
50	26
55	40
D - COR-TEN A	60
6. TMW Extra (Hot Rolled Sheets)	10

CUT LENGTH EXTRA - FOR HOT ROLLED SHEETS CUT TO LENGTH -

Description	$/MT
• To be added to the price of coils	
• Under 3/16" in thickness and thru 72" in width	
(1) 0.070" & thinner	
24" to under 36" long	27
36" to under 48" long	21
48" thru 240" long	19
over 240" long	22
(2) 0.071" & thicker	
24" to under 36" long	24
36" to under 48" long	17
48" thru 240" long	16
over 240" long	19

COLD ROLLED SHEETS - ASTM A366 1.0m/m x 48" x C

Category AISI 26

Tariff Schedule Number(s) 608.8744 8%

Base Price per Metric Ton $297

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	$23	$ 3	$ 7
Gulf Coast	23	5	8
Atlantic Coast	27	4	9
Great Lakes	35	4	11

Insurance 1% of base price + extras + ocean freight

Extras

1. Width & Thickness
2. Cut Length
3. Coil Weight
4. Finish
5. Surface Treatment
6. Quality
7. Chemistry
8. Quantity Extra
9. Restricted Tolerance
10. Theoretical Minimum Weighing
11. Others

EXTRAS FOR COLD ROLLED STEEL SHEET

UNIT: US$ PER M/T

* WIDTH & THICKNESS

Thickness, Inches	Width, Inches				
	24 ≤ W < 36	36 ≤ W < 45	45 ≤ W ≤ 60	60 < W ≤ 68	68 < W ≤ 72
0.097 ≤ T < 0.126	24	18	10	18	24
0.083 ≤ T < 0.097	24	18	8	16	24
0.064 ≤ T < 0.083	20	18	4	12	20
0.054 ≤ T < 0.064	20	14	0	8	20
0.028 ≤ T < 0.054	22	14	0	14	26
0.023 ≤ T < 0.028	36	26	16	20	32
0.019 ≤ T < 0.023	52	47	39	45	47
0.014 ≤ T < 0.019	69	65	57	59	-

* Widths under 24", - Inquire

* CUT LENGTH

Thickness, Inches	Width, Inches	Length, Inches			
		24 < L ≤ 42	42 < L ≤ 60	60 < L ≤ 144	144 < L
0.064 ≤ T	24 ≤ W ≤ 72	22	21	19	21
0.028 ≤ T < 0.064	24 ≤ W ≤ 72	20	19	17	19
T < 0.028	24 ≤ W ≤ 72	23	22	20	22

* COIL WEIGHT

GROSS MAX 10,000 lbs & OVER ..... NONE
GROSS MAX 10,000 lbs UNDER 2.00

* FINISH

DULL ..... NONE
COMMERCIAL BRIGHT 14.00
EMBOSSED NON GEOMETRIC 35.00
GEOMETRIC 45.00

* SURFACE TREATMENT

GREASED EDGES 1.00

SPECIAL CLEANLINESS REQUIREMENT

Thickness, Inches	Width, Inches	
	W ≤ 36	36 < W
0.021 ≤ T	B	B
T < 0.020	-	B

* QUALITY

COMMERCIAL	NONE
DRAWING	10.00
DEEP DRAWING	26.00
FULL HARD (ROCKWELL HARDNESS B-84 MIN)	NONE
1/4 HARD	12.00
1/2 HARD	12.00
STRUCTURAL (PHYSICAL) - CARBON STEEL	15.00
TWO PRIME SIDES	15.00
CLASS II DISCOUNT	9.00

* CHEMISTRY

COPPER BEARING	10.00
RESTRICTED CHEMISTRY	N

* QUANTITY EXTRA

10 S/T ≤ Q < 20 S/T	7.00

* RESTRICTED TOLERANCE	N
* THEORETICAL MINIMUM WEIGHING	10.00
* OTHERS	N

N -- SUBJECT TO NEGOTIATION

Cold Rolled, Full Hard Coiled Sheet Feedstock for Continuous Hot Dip Galvanizing	Minus $9 per M/T

ELECTRO GALVANIZED SHEETS - EGC-10g/M^2 1.0m/m x 48" x C

Category AISI 27

Tariff Schedule Number(s) 608.94 - 9%
608.95 - 0.1¢ per lb. + 8%

Base Price per Metric Ton $343

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	$24	$ 3	$ 8
Gulf Coast	23	5	9
Atlantic Coast	27	4	10
Great Lakes	36	4	12

Insurance 1% of base price + extras + ocean freight

Extras

1. Thickness/Width
2. Length
3. Coating
4. Chemical Treatment
5. Quality
6. Packing
7. Others

EXTRAS FOR ELECTRO GALVANIZED SHEET

1. PRICE BASE

QUALITY: COMMERCIAL

SIZE : MSG 19 (.044" - .039") x 36" - 48" x COIL

COATING: 0.03 OZ/FT^2 (or 10 g/N^2) ON EACH SIDE

CHEMICAL TREATMENT: PHOSPHATED

WEIGHING: ACTUAL

2. EXTRAS FOR OTHER THAN PRICE BASE PRODUCTS (UNIT: US$ PER M/T)

(1) THICKNESS/WIDTH

THICKNESS (INCHES)	WIDTH (INCHES)			
	28≤ W < 30	30≤ W < 36	36≤ W ≤48	48< W≤ 60
.057 and Thicker	5	1	- 3	4
.056 - .051	6	2	- 2	5
.050 - .045	7	3	- 1	6
.044 - .039	8	4	Base	7
.038 - .034	9	5	1	8
.033 - .031	13	9	5	11
.030 - .028	16	12	8	15
.027 - .025	19	15	11	19
.024 - .022	24	20	16	23
.021 - .019	29	25	21	
.018 - .017	39	35	31	
.016 - .015	44	40	36	

(2) LENGTH

60" ≤ L ≤ 168"	15
L < 60"	17

(3) COATING

0.06 OZ/FT² on each side	+ 4
0.03 "	Base
0.01 "	- 2

(4) Chemical Treatment

Phosphated	Base
Chromated	- 2
Oiled	- 2

(5) Quality

Commercial	Base
Drawing	Subject to Negotiation
Drawing, Special Killed	"
Physical (TS, YP, HRB, etc.)	"

(6) Packing

Coil 4ST UNDER	Subject to Negotiation
Sheet 3ST UNDER	"

(7) Others — Subject to Negotiation

GALVANIZED SHEET - ASTM A525G90 0.8m/m x 48" x C

Category AISI 27

Tariff Schedule Number(s) 608.9430 - 9%
608.9530 - 0.1¢ per lb. + 8%

Base Price per Metric Ton - $345

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	$24	$ 3	$ 8
Gulf Coast	23	5	9
Atlantic Coast	27	4	10
Great Lakes	36	4	12

Insurance 1% of base price + extras + ocean freight

Extras

1. Thickness/Width/Coating
2. Length
3. Packing
4. Finish
5. Quality
6. Quantity
7. Others

EXTRAS FOR GALVANIZED STEEL SHEET

1. PRICE BASE

QUALITY: COMMERCIAL

SIZE : GSG25 (UNDER .032" THROUGH .029") x OVER 42" THROUGH 48" x COIL

COATING: G90

WEIGHING: ACTUAL

2. EXTRAS FOR OTHER THAN PRICE BASE PRODUCTS (UNIT: US$ PER M/T)

(1) THICKNESS/WIDTH/COATING

THICKNESS (INCHES)	WIDTH (INCHES)					COATING	
	24≤W<30	30≤W<36	36≤W≤42	42<W≤48	48<W≤60	0.6 OZ/FT²	G60
.130 and Thicker	-67	-67	-67	-67	-	-	- 2
.129 - .116	-55	-55	-55	-55	-53	-	- 2
.115 - .101	-52	-52	-52	-52	-50	-	- 2
.100 - .086	-49	-49	-51	-51	-49	-	- 2
.085 - .075	-37	-37	-39	-39	-37	-	- 3
.074 - .067	-35	-35	-37	-37	-35	-	- 3
.066 - .061	-33	-33	-35	-35	-33	-	- 4
.060 - .055	-24	-24	-26	-26	-24	-	- 4
.054 - .049	-22	-22	-24	-24	-22	-10	- 5
.048 - .043	-18	-18	-20	-20	-18	-12	- 5
.042 - .038	-14	-14	-16	-16	-14	-15	- 6
.037 - .035	- 4	- 4	- 6	- 6	- 3	-15	- 6
.034 - .032	- 1	- 1	- 3	- 3	0	-16	- 7
UNDER .032 THROUGH .029	2	2	0	BASE	4	-16	- 7
.028 - .026	4	4	3	3	9	-18	- 9
.025 - .023	16	16	15	18	25	-18	- 9
.022 - .021	22	22	22	25	33	-19	-12
.020 - .019	32	32	32	41	-	-19	-12
.018 - .017	39	39	39	53	-	-20	-14
.016	50	50	59	68	-	-20	-14
.015	60	60	72	81	-	-22	-16
.014	73	69	75	84	-	-22	-16
.013	83	79	79	88	-	-22	-16

WIDTH UNDER 24" ---------- SUBJECT TO NEGOTIATION

(2) LENGTH

THICKNESS (INCHES)	LENGTH (INCHES)			
	42≤L<60	60≤L≤168	168<L≤198	198<L
.029 and Thicker	10	7	11	14
.028 - .017	12	7	13	
.016 - .013	14	7	-	

(3) PACKING

	W<2.5ST	2.5ST≤W<4ST	4ST<W
COIL	-	4	BASE
SHEET	5	BASE	-

(4) FINISH

REGULAR SPANGLE	BASE
MINIMUM SPANGLE	NONE
EXTRA SMOOTH	
COIL	16
SHEET	32

Revised 02/21/78

27-7

(5) QUALITY	BASE
COMMERCIAL	NONE
LOCK FORMING	10
DRAWING	26
DRAWING SPECIAL KILLED	
STRACTUAL	
GRADE A	3
" B and C	5
" D and E	10

(6) QUANTITY	BASE
20ST ≦ N	1
15ST ≦ N < 20ST	3
10ST ≦ N < 15ST	

(7) THEORETICAL MINIMUM WEIGHING ---------- 15

(8) OTHERS ---------- SUBJECT TO NEGOTIATION

3. REMARKS

Above extra price shall be changed according to the fluctuati-

of zinc price.

[FR Doc. 78-5465 Filed 3-1-78; 8:45 am]

[4810-22]

Office of the Secretary

SORBATES FROM JAPAN

Antidumping Notice of Withholding of Appraisement and Tentative Exclusion from Investigation

AGENCY: U.S. Treasury Department.

ACTION: Withholding of Appraisement and Tentative Exclusion from Investigation.

SUMMARY: This notice is to advise the public that there are reasonable grounds to believe or suspect that there are sales of sorbic acid and potassium sorbate—collectively referred to as "sorbates"—form Japan to the United States at less than fair value within the meaning of the Antidumping Act, 1921, with the exception of that produced by Chisso Corp. and Daicel, Ltd. Sales at less than fair value generally occur when the price of merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries. Appraisement for the purpose of determining the proper duties applicable to entries of this merchandise will be suspended for 6 months, except entries of that merchandise produced by Chisso and Daicel. Interested persons are invited to comment on this action not later than April 3, 1978.

EFFECTIVE DATE: March 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Edward F. Haley, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-5492.

SUPPLEMENTARY INFORMATION: On July 18, 1977, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26 and 153.27), from counsel acting on behalf of the Mansanto Co., St. Louis, Mo., indicating that sorbic acid and potassium sorbate from Japan are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act. 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). On the basis of this information and subsequent preliminary investigation by the Customs Service, an "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER of August 23, 1977 (42 FR 42423-4).

For purposes of this notice, the term "sorbates" includes both sorbic acid and potassium sorbate. Sorbates are chemical compounds in white powder form used as anti-microbial food preservatives, and classifiable under item numbers 425.8720 (sorbic acid) and 426.8420 (potassium sorbate) of the Tariff Schedules of the United States, Annotated.

TENTATIVE DETERMINATION OF SALES AT LESS THAN FAIR VALUE

On the basis of information developed in Customs investigation and for the reasons noted below, pursuant to section 201(b) of the Act (19 U.S.C. 160(b)), I hereby determine that there are reasonable grounds to believe or suspect that the purchase price of sorbates from Japan, except that produced by Chisso Corp. and Daicel, Ltd., is less than the fair value, and thereby the foreign market value, of such or similar merchandise.

STATEMENT OF REASONS ON WHICH THIS DETERMINATION IS BASED

The reasons and bases for the above tentative determination are as follows:

(a) *Scope of the investigation.* Four manufacturers—Ueno Fine Chemical Industries, Ltd.; Nippon Synthetic Chemical Industry Co., Ltd.; Chisso Corp.; and Daicel, Ltd.—accounted for virtually all of the sorbates from Japan which were sold for export to the United States during the period of investigation (approximately 4 million pounds valued at about $5.5 million). Therefore, the investigation was limited to these four manufacturers.

(b) *Basis of comparison.* For the purpose of this tentative determination, the proper basis of comparison appears to be between purchase price and the adjusted home market price of such or similar merchandise. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used since all export sales by the four companies appear to have been made to non-related customers in the United States. Home market prices, as defined in section 153.2, Customs Regulations (19 CFR 153.2(b)), were used for fair value purposes since such or similar merchandise appears to have been sold in the home market in sufficient quantities to provide a basis for comparison.

In accordance with section 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning export and appropriate home market sales of sorbates during the period March-August 1977.

(c) *Purchase price.* For the purposes of this tentative determination, since all of the merchandise was purchased or agreed to be purchased, prior to the time of exportation, by the person by whom or for whose account the merchandise was imported, within the meaning of section 203 of the Act, purchase price has been calculated on the basis of the c.i.f. price to a single U.S. customer in one instance and the price to trading companies for export to the United States in other instances. Deductions have been made for Japanese inland freight, export charges, ocean freight, and marine insurance, where applicable.

(d) *Home market price.* For the purposes of this tentative determination, home market prices have been calculated on the basis of the weighted-average price or the preponderant price during the period of investigation to distributors. Deductions were made for inland freight and handling charges, where applicable. Adjustments were made for direct advertising, selling expenses and commissions, rebates, differences in packing and credit costs, technical and servicing costs, and the cost of returned products, as appropriate.

(e) *Result of fair value comparisons.* Using the above criteria, preliminary analysis suggests that in certain instances the purchase price probably will be lower than the home market price of such or similar merchandise. Comparisons were made on approximately 86 percent of the sorbates sold for exportation to the United States during the period of investigation. Margins were tentatively found on sales made by Nippon and Ueno. With respect to Nippon, the margins ranged from 0.2 to 20.2 percent and the weighted-average margin was 7.0 percent on those sales compared. With respect to Ueno, the margins ranged from 1.4 to 4.0 percent and the weighted-average margin was 1.7 percent on those sales compared. No margins were found with respect to any sales by Chisso or Daicel, of which 87 percent and 100 percent of total sales, respectively, were examined during the investigatory period.

Accordingly, Customs officers are being directed to withhold appraisement of sorbates from Japan, except that produced by Chisso and Daicel, in accordance with section 153.48, Customs Regulations (19 CFR 153.48).

In accordance with §§ 153.40(a) and 153.40(b) Customs Regulations (19 CFR 153.40(a), 153.40(b)), interested persons may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any written request that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 1301 Constitution Avenue NW., Washington, D.C. 20229, in time to be received by his office not later than March 13, 1978. Such requests must be accompanied by a statement outlining the issues to be discussed.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than April 3, 1978.

This notice, which is published pursuant to § 153.35(b), Customs Regulations (19 CFR 153.35(b)), shall become effective March 2, 1978. It shall cease to be effective at the expiration of six months from the date of this publication, unless previously revoked.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

FEBRUARY 24, 1978.

[FR Doc. 78-5474 Filed 3-1-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

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[6740-02]

1

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published March 1, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: March 1, 1978, 10 a.m.

CHANGE IN THE MEETING: The following item has been added:

Item No. Docket No., and Company

ER-4.—ER78-166, Georgia Power Co.

KENNETH F. PLUMB,
Secretary.

[S-457-78 Filed 2-28-78; 2:03 pm]

[6750-01]

2

FEDERAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: FR 43, February 27, 1978, Page No. 8058.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, March 1, 1978.

RESCHEDULED TIME AND DATE OF THE MEETING: 10 a.m., Tuesday, March 7, 1978.

CHANGES IN THE AGENDA: The Federal Trade Commission has changed the agenda of its previously announced closed meeting, to add additional items:

Nonadjudicative matters

(3) Consideration of acceptance of proposed Consent Agreement in Bankers Life and Casualty Company, et al., Docket No. 9075.

(4) Consideration of acceptance of proposed Consent Agreement in Levi Strauss & Co., Docket No. 9081.

Adjudicative matter under part 3 of the Rules of Practice

Consideration of Final Opinion in Grolier, Incorporated, Docket No. 8879.

[S-458-78 Filed 2-28-78; 3:36 p.m.]

[6750-01]

3

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, March 3, 1978.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission has not yet scheduled any matters for discussion at this meeting. If no item is placed on the agenda by 10 a.m., on Wednesday, March 8, 1978, the meeting will automatically be cancelled. Any item that is placed on the agenda before that time will be announced in accordance with the Additional Information procedures posted with Commission Meeting Notices outside Room 130 of the Federal Trade Commission.

CONTACT PERSON FOR MORE INFORMATION:

Wilbur T. Weaver, Office of Public Information: 202-523-3830. Recorded Message: 202-523-3806.

[S-459-78 Filed 2-28-78; 3:36 pm]

[4910-58]

4

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9:30 a.m., Thursday, March 9, 1978 (NM-78-12).

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Pipeline Accident Report.*—Alyeska Pipeline Service Co. explosion and fire, pump station 8 near Fairbanks, Alaska, July 8, 1977.
2. *Recommendation.*—To NHTSA re McAlester, Okla., highway accident.
3. *Recommendation.*—To USCG and American Bureau of Shipping re marine Accident involving *Edmund Fitzgerald.*
4. *Letter.*—To NBAA re flight operations manuals.
5. *Recommendation.*—To FAA re CVR's and FDR's in corporate executive aircraft.
6. *Discussion.*—Candidate special studies for Board approval.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming 202-472-6022.

[S-460-78 Filed 2-28-78; 3:36 pm]

federal register

THURSDAY, MARCH 2, 1978
PART II

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

SUBSONIC TRANSPORT CATEGORY LARGE AIRPLANES AND TURBOJET POWERED AIRPLANES

Noise Limits and Acoustical Change Requirements; Aircraft Noise Measurement and Evaluation Specifications

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION AD-

1. The interim takeoff, sideline, and approach noise limits under Appendix C (§ C36.5(a)(3)) for new airplane types ("Stage 3 airplanes") adopted in Amendment 36-7 (42 FR 12360; March

ble to new airplane types ("Stage 3 airplanes") is amended to provide different requirements, based on the number and type of engines. These requirements govern the altitudes at

garding the expansion of the proposed rule announced in Notice No. 75-37B.

Notice No. 75-37B, a supplemental notice of proposed rulemaking published on February 2, 1976 (41 FR

were not adopted at that time because the regulatory process had not been completed.

The period for submitting written

identified as "Stage 2" noise limits. Thus, a "Stage 2 airplane" is one that has been shown under Part 36 to comply with those requirements but

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 15131, Amdt. No. 36-8]

PART 36—NOISE STANDARDS: AIRCRAFT TYPE AND AIRWORTHINESS CERTIFICATION

Noise Limits and Acoustical Change Requirements for Subsonic Transport Category Large Airplanes and Turbojet Powered Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the aircraft noise standards for certain turbojet airplanes and large transport airplanes (1) to prescribe amended noise limits for new airplane designs, (2) to limit noise level increases of certain older airplane types, if their designs are changed, and (3) to amend noise measuring points and noise test conditions. This amendment complements Federal Aviation Regulation Amendment 36-7 and includes minor modifications to the Stage 3 noise limits which became effective on October 1, 1977. This amendment also brings the U.S. aircraft noise standards into greater conformity with the international stand- ards recently adopted by the International Civil Aviation Organization (ICAO).

DATES: Effective date—April 3, 1978. Compliance/applicability dates—October 28, 1976, for applications for acoustical change approvals for Stage 2 airplanes; and November 5, 1975, for applications for new type certificates for Stage 3 airplanes.

FOR FURTHER INFORMATION CONTACT:

Richard Tedrick, Program Management Branch (AEQ-220), Environmental Technical and Regulatory Division, Office of Environmental Quality, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-755-9027.

SUPPLEMENTARY INFORMATION:

DESCRIPTION OF THE AMENDMENT

The purpose of this amendment to Part 36 of the Federal Aviation Regulations (FARs) is to amend the noise standards for subsonic transport category large airplanes and turbojet powered airplanes. These standards include noise limits, acoustical change requirements, noise measuring points and noise test conditions. This amendment has the following effects:

1. The interim takeoff, sideline, and approach noise limits under Appendix C (§ C36.5(a)(3)) for new airplane types ("Stage 3 airplanes") adopted in Amendment 36-7 (42 FR 12360; March 3, 1977) are amended as follows:

(a) For takeoff, the limits are reduced to 89 EPNdB for those airplanes with three engines and weights less than 63,177 pounds, and for those with more than three engines and weights less than 44,673 pounds.

(b) For sideline, the distinction in noise limits based on the number of engines is eliminated by reducing the limits for airplanes with three or more engines to coincide with the limits for airplanes with fewer than three engines.

(c) For approach, the limit of 105 EPNdB for airplanes with maximum weights of 850,000 pounds or more is applied to airplanes weighing 617,300 pounds or more; the 98 EPNdB limit for weights of 75,130 pounds or less is applied to weights of 77,200 pounds or less; the interim rate of noise reduction (for each 50 percent reduction ("halving") of the 617,300 pound weight in the noise limit provision) is increased from 2 EPNdB to 2.33 EPNdB.

2. The interim "acoustical change" provisions [§ 36.7(d)] which prohibit growth or other design changes that increase noise levels beyond prescribed limits, are amended for applications for approval made on or after October 28, 1976. This amendment prescribes more stringent requirements for older airplane types ("Stage 2 airplanes") that have high bypass ratio turbojet engines before the design change. It also prescribes noise limits applicable after a design change of the affected airplanes by prohibiting noise levels which exceed the Stage 2 noise limit or the Stage 3 noise limit by more than 3 EPNdB, whichever is lower.

3. The noise measuring points requirements for takeoff, sideline, and approach noise tests under Appendix C [§ C36.3] and the corresponding distances and related heights under Appendix A noise measurement provisions are amended as follows:

(a) For takeoff, the "3.5 nautical mile" distance from the start of roll is increased by 59 feet to 21,325 feet (6,500 meters).

(b) For sideline, the "0.25 nautical mile" distance from the extended centerline of the runway is decreased by 43 feet to 1,476 feet (450 meters).

(c) For approach, the "1 nautical mile" distance from the threshold is increased by 486 feet to 6,562 feet (2,000 meters); the related aircraft height above the approach noise measuring station and the reference approach minimum distance are increased by 22 feet to 394 feet and 393 feet, respectively.

4. The noise test conditions provision under Appendix C (§ C36.7(b)) applicable to new airplane types ("Stage 3 airplanes") is amended to provide different requirements, based on the number and type of engines. These requirements govern the altitudes at which power or thrust may be reduced during Part 36 noise compliance tests.

These amendments modify the interim amendments adopted in Amendment 36-7 and bring Part 36 noise standards into greater conformity with the international aircraft noise standards of the International Civil Aviation Organization contained in ICAO Annex 16. The FAA believes that the comparability of noise levels before and after a design change of an affected airplane is not significantly affected by this amendment.

The primary bases for this amendment are the proposals contained in Notice Nos. 75-37, 75-37B, and 75-37C (discussed in further detail under "Regulatory History"), which were issued under § 611(b) of the Federal Aviation Act of 1958, as amended by the Noise Control Act of 1972 (Pub. L. 92-574). In Notice No. 76-22 the U.S. Environmental Protection Agency (EPA) recommended adoption of the proposals in Notice Nos. 75-37, 75-37B, or 75-37C. Accordingly, this amendment accepts that EPA recommendation.

This amendment adopts the proposed changes to noise test distances in Appendix C. Since those distances are referred to in the noise test specifications prescribed under Appendix A, this amendment also adopts the necessary conforming amendments to Appendix A. (The affected provisions and tables, as amended, are also reflected in a separate rulemaking concerning revisions to Appendices A and B currently being considered by the FAA.)

REGULATORY HISTORY

Notice No. 75-37 (40 FR 51476; Nov. 5, 1975) proposed to prescribe Part 36 standards in terms of three stages (or levels) of aircraft noise. It proposed noise limits and definitions for identifying those airplanes classified under each stage. That notice proposed to require those persons applying for new type certificates on or after November 5, 1975, to comply with the more stringent "Stage 3 noise level" limits. It also proposed to increase the stringency of the acoustical change requirements for "Stage 2" airplanes for which application for acoustical change approvals is made on or after November 5, 1975

Notice No. 75-37A, a notice of extension of the comment period, was published December 24, 1975 (40 FR 59447) in response to a petition for additional time for reviewing the proposal and submitting comments to the docket. The extended period also permitted time for commenters to submit views, information, and arguments regarding the expansion of the proposed rule announced in Notice No. 75-37B.

Notice No. 75-37B, a supplemental notice of proposed rulemaking published on February 9, 1976 (41 FR 5641), proposed to apply the proposals in Notice No. 75-37 to the type certification and acoustical change approval of single-engine turbojet powered airplanes and single-engine transport category large airplanes (regardless of engine type).

Notice No. 76-22: On October 1, 1976, pursuant to § 611(c)(1) of the Federal Aviation Act of 1958 (the Act), as amended, the EPA submitted its recommended regulation to amend FAR Part 36 noise standards to the FAA. The EPA proposal incorporated and supplemented the FAA proposals in Notice Nos. 75-37, 75-37B, and 75-37C. It also proposed (among other things) additional stages of noise reduction in 1980 and 1985. It would also extend the applicability of the noise standards to all propeller-driven large airplanes. The EPA recommended regulation, which was published as "Notice No. 76-22" (41 FR 47352; Oct. 26, 1976; as corrected at 41 FR 53807; Dec. 9, 1976), is duscussed in greater detail below.

Notice No. 75-37C, another supplemental notice of proposed rule making regarding FAR Part 36 noise standards, was also published in the FEDERAL REGISTER on October 28, 1976 (41 FR 47375). That notice proposed certain alternatives to the noise limits and acoustical change requirements previously proposed by the FAA. It was based primarily on recommended amendments to ICAO Annex 16 which were subsequently adopted with some modifications by the International Civil Aviation Organization. Those amendments are currently under consideration for implementation by the United States and other member States. Notice No. 75-37C also proposed to amend the noise-measuring-point distances in § C36.3 and to amend § C36.7(b) regarding the minimum altitude at which takeoff power or thrust may be reduced in demonstrating compliance with Part 36 noise limits.

FAR Amendment 36-7: On February 25, 1977, the FAA issued Amendment 36-7 to the Federal Aviation Regulations (42 FR 12360; March 3, 1977). That amendment, based on Notice Nos. 75-37 and 75-37B, revised portions of the Part 36 aircraft noise standards to provide (1) three stages of noise levels with prescribed limits, (2) definitions for classifying airplanes under each stage, and (3) Stage 3 noise limits and acoustical change requirements for new airplane type designs.

The preamble to that amendment discusses the relationship of that action to the proposed rules contained in Notice Nos. 75-37C and 76-22 which were not adopted at that time because the regulatory process had not been completed.

The period for submitting written comments to the Rules Docket on the proposals contained in Notice Nos. 75-37C (as well as Notice No. 76-22) closed on February 28, 1977. Accordingly, interested persons have been afforded an opportunity to participate in this rule making. All comments received have been considered in the issuance of this amendment.

Pursuant to § 611(b)(1) of the Act, the FAA has consulted with the Secretary of Transportation and the EPA prior to adoption of this amendment. A draft final environmental assessment regarding this amendment has been prepared in accordance with the National Environmental Policy Act of 1969 and implementing guidelines and directives. Also, this amendment was submitted to the EPA for review and comment prior to its adoption, pursuant to § 309 of the Clean Air Act, as amended (43 U.S.C. 1857h-7), and the guidelines of the Council on Environmental Quality (40 CFR 1500.9(b)). The FAA has reviewed the proposals adopted in this amendment under Executive Order 11821, as amended by Executive Order 11949, and under OMB Circular A-107 and determined that it does not contain a major proposal requiring preparation of an Economic Impact Statement.

RELATIONSHIP TO PRIOR RULEMAKING

GENERAL

This amendment is a part of the FAA's overall aircraft noise control and abatement program. The adoption of FAR Part 36 in 1969 prohibited further escalation of aircraft noise levels of subsonic civil turbojet and transport category airplanes and required new airplane types to be markedly quieter than the generation of turbojets that were developed in the late 1950's and early 1960's. Since the adoption of Part 36, the FAA has issued a number of notices proposing amendments to its provisions and, subsequent to notice and public procedure, has adopted those amendments which have been found to conform to the statutory authority and responsibility conferred upon the FAA by the Congress. Those amendments have increased the protection of the public health and welfare by providing control and abatement of aircraft noise and sonic boom under § 611 of the Act. Further amendments and proposed amendments are currently under consideration by the FAA for future issuance.

AMENDMENT 36-7

Under Amendment 36-7, the aircraft noise limits prescribed in Part 36 before adoption of the amendment are identified as "Stage 2" noise limits. Thus, a "Stage 2 airplane" is one that has been shown under Part 36 to comply with those requirements but does not conform to the more stringent Stage 3 requirements adopted in Amendment 36-7. A "Stage 1 airplane" means "an airplane that has not been shown under this part (Part 36) to create takeoff, sideline, and approach noise levels required for 'Stage 2 or Stage 3 airplanes.'"

The preamble to Amendment 36-7, stated that the FAA was continuing to consider further amendments based on the outstanding proposals, including (1) an acoustical change rule for Stage 2 airplanes, (2) a modification of Stage 3 noise limits, (3) amended noise test requirements to achieve the appropriate noise level reductions and to bring U.S. aircraft noise standards into closer conformity with international noise standards, and (4) rules based on the several proposals submitted to the FAA by the EPA under § 611(c) of the Act. This amendment augments the requirements adopted in Amendment 36-7 by adopting the proposals contained in Notice No. 75-37C, and without prejudging the final decision regarding the outstanding EPA proposals contained in Notice No. 76-22, discussed in more detail below.

AMENDMENT 91-136

In Amendment 91-136 (41 FR 56046; Dec. 23, 1976), the FAA adopted Subpart E to the Part 91 general operating rules. Subpart E contains an operating noise rule that requires certain previously excepted airplanes be brought into compliance with Federal noise limits in order to operate in the United States after compliance dates prescribed in a phased time schedule beginning in 1981 and ending in 1985. The applicable limits under Subpart E are the 1969 noise limits of Part 36, Appendix C (now called "Stage 2 noise limits"), that applied to applicants for type certificates through the early 1970's. Unlike the noise limits under Part 36, compliance with the Part 91 operating noise limits must be shown, with specific exceptions, without the use of the tradeoff provisions of § C36.5(b) of Part 36, Appendix C. Thus, compliance with the type certification/acoustical change noise rules, as amended herein, does not assure compliance with the continuing requirements of the operating noise rules in Part 91. Each of these rules is separate and distinct from the other, having its own compliance dates and noise limits. Further, FAA approval of an acoustical change under Part 36 does not automatically include authorization to operate that airplane in the United States after 1981 under Subpart E of Part 91, if that airplane is one for which tradeoffs are not permitted under Part 91. In short, when

the compliance dates in § 91.305 come into effect, they apply, notwithstanding the acoustical change provisions of Part 36, so far as operation in the United States is concerned.

Manufacturers, owners, and operators of "Stage 1 airplanes" (that is, airplanes not shown to comply with "Stage 2" noise limits) should note that those airplanes must, under Subpart E to Part 91, become and remain no noisier than the 1969 noise limits of Part 36, (now called "Stage 2 noise limits") without the use of the tradeoff provisions of Part 36 (except as provided in § 91.301(c)) in order to operate in the United States on and after the compliance dates specified in § 91.305. Nothing in this amendment affects this showing of compliance with these 1969 provisions of Part 36. However, for airplanes that are brought into compliance with the "Stage 2 noise limits," pursuant to Subpart E of Part 91, it should be noted that subsequent approvals of a change in type design, like any other "Stage 2 airplanes," are also governed by the Stage 2 acoustical change rule, as amended by this amendment (in addition to the continuing duty to comply with Subpart E of Part 91).

The EPA Recommended Regulation: Notice No. 76-22

As previously stated, on October 1, 1976, the EPA submitted to the FAA its recommended regulation which includes noise limits and acoustical change requirements for turbojet powered airplanes and propeller-driven large airplanes, pursuant to § 611(c)(1) of the Federal Aviation Act of 1958, as amended by the Noise Control Act of 1972 (Pub. L. 92-574). On November 29, 1976, the EPA submitted to the FAA a correction to its recommended regulation. The FAA has compared the EPA proposals with FAR Amendment 36-7 and the provisions of this amendment to determine whether issuance of the amendments would in any manner commit the FAA to a course of action that would conflict with an objective consideration of the EPA proposals under the procedures prescribed in § 611(c) of the Act, or would in other ways impair its ability to discharge its responsibilities under the Noise Control Act of 1972. That review focused primarily on those areas in which the proposals may differ with respect to the protection afforded to the public health and welfare from the noise of airplanes to which each would apply. The review also concerned the EPA's analysis and views regarding the FAA's proposals contained in Notice Nos. 75-37, 75-37B, and 75-37C. The EPA's analysis and views were set forth in Notice No. 76.22. The EPA recommends adoption of its recommended regulation, which it believes is necessary to protect the public health and welfare. A summary of the EPA proposals was presented in the preamble to FAR Amendment 36-7.

Based on its review, the FAA concludes that there is no provision of the EPA proposals submitted on October 1, 1976, or November 29, 1976, that could not be adopted later, if adoption is appropriate under the procedure and standards of § 611 of the Act. Furthermore, the FAA, by issuing this amendment at this time, in no way limits its ability or intent to respond fully to the EPA proposals in a manner contemplated by § 611(c).

The FAA is currently reviewing the EPA recommended regulation and the public comments presented at the hearing and to the Rules Docket. Accordingly, this amendment may be supplemented by further amendments based on the remaining EPA proposals and the comments received in response to those proposals. The FAA has considered the public need for timely action. It has determined that final action on all of the provisions of the remaining EPA proposals that are shown to be appropriate can be fully and objectively taken under § 611(c) of the Act. Therefore, the FAA believes that it would be contrary to the public interest, and to the intent of § 611, not to take this immediately available regulatory action while the regulatory process prescribed in the Act is being completed with respect to the remaining EPA proposals.

The Need for This Amendment

In addition to the reasons stated above and in the preamble to Amendment 36-7, the rules adopted in this amendment are also needed to achieve greater conformity between U.S. and international aircraft noise standards by eliminating any unnecessary discrepancies between the two. The United States, as a matter of international air transportation policy, encourages agreement on international environmental issues through the ICAO. This policy is intended to promote equal treatment for foreign and domestic aircraft manufacturers and operators through international standards and preclude unwarranted economic advantages or disadvantages among competitors which could be created in a world air transportation environment characterized by diverse national noise requirements. In Notice No. 75-37, the FAA stated its belief that, if adopted, the proposed amendments would result in significant improvement in noise levels of newly type certificated airplanes. Further, the FAA stated that the public health and welfare requires that progress be realized by those airplanes that will be using U.S. airports for decades to come. The FAA also stated that it believed that the proposals, if adopted on an international basis, would provide a major contribution to the limitation of aircraft noise nuisance at airports throughout the world. The FAA announced its intention to support adoption of the proposed rule by ICAO to achieve the recognized need for conformity. The FAA believed its responsibilities for the development of civil aviation and those under the Noise Control Act of 1972, nevertheless, required the initiation of regulatory proceedings leading to amendment of U.S. aircraft noise standards. Based on the noise reduction changes to Annex 16, recommended by ICAO CAN Working Group D, the FAA later proposed alternative noise level and acoustical change requirements in Notice No. 75-37C. Those recommended standards were modified and adopted at the fifth meeting of the ICAO Committee on Aircraft Noise. The FAA believes that the noise standards in this amendment are necessary to accomplish the beneficial objectives which were not fully achieved with the adoption of FAR Amendment 36-7. Those objectives include noise standards that are consistent with the purposes and requirements of § 611 of the Act and that are in greater conformity with the ICAO standards.

In order to prescribe appropriate noise limits for the affected aircraft and to achieve greater conformity with the international noise standards, the FAA concludes that it should also adopt the amendments involving aircraft noise test requirements proposed in Notice No. 75-37C. Thus, the noise-measuring-point distances in § C36.3 are amended in this amendment by slightly increasing the distance for the takeoff and approach tests and by decreasing the distance for the sideline noise test. Paragraph C36.7(b) is amended by reducing the altitudes at which takeoff thrust may be reduced to demonstrate compliance under Part 36. Some of these amendments, by themselves, in effect permit small noise level increases (as compared to interim requirements adopted in Amendment 36-7). However, the distances and altitudes were developed in conjunction with the noise limits and acoustical change requirements to ensure that the noise test procedures and the noise limits for different aircraft are adequately reflected in the overall aircraft noise standard. As stated in the preamble to Amendment 36-7, the FAA recognizes the need to cover a large range of airplane weights and designs and, therefore, suitable criteria for distinguishing among airplanes were considered and built into the proposals. Accordingly, the Stage 3 noise limits and Stage 2 acoustical change requirements reflect some refinements due to significant differences in noise emission characteristics among various airplane types. However, contrary to that intention and the previous provisions of § 36.201, some of the words of applicability were inadvertently omitted in the revised § 36.201. Thus, this action includes corrective and clarifying amendments to § 36.201.

Discussion of Comments and the Rule

As previously stated, interested persons have been afforded the opportunity to participate in this rule making by submitting comments to the regulatory docket for Notice Nos. 75-37, 75-37B, and 75-37C. Those written comments have been reviewed and considered before issuing this amendment. A discussion of the comments in response to Notice Nos. 75-37 and 75-37B is presented in the preamble to Amendment 36-7.

Nine comments were received from the public in response to Notice No. 75-37C, including comments from aircraft operators; foreign and domestic aircraft and aircraft engine manufacturers; and aviation trade/industry associations. The FAA also recognizes the public concern for aircraft noise problems expressed in response to other recent FAA regulatory actions and has considered those views to the extent that they are relevant to the issues involved in this amendment.

The issues focused on by commenters included: alternatives to the proposed rule that may be available; the impacts of the proposed acoustical change requirements and noise limits (including costs versus benefits, economic reasonableness, technological practicability, compliance dates, the need for tradeoffs and thrust cutbacks, and the appropriateness to particular aircraft types); conformity with international standards; and other miscellaneous issues. These comments are discussed as follows.

Impact on the Public

Private citizens, citizens' groups, Federal, State, and local authorities, and airport operators and proprietors have stressed the need for present, as well as future, aircraft noise reduction requirements. The noise of transport category large airplanes and turbojet-powered airplanes was cited, in many comments in response to FAA regulatory proposals, as a principal target for such reductions. Those comments have assisted the FAA in determining that, after due consideration of all comments, the economic impacts imposed are reasonable and appropriate in relation to the benefits to be achieved. The FAA agrees that technology must be applied in the further reduction of noise and those aircraft. This amendment, in conjunction with Amendment 36-7, accomplishes that result consistent with the considerations listed in § 611(d) of the Act.

Alternatives to the Proposed Rule

Commenters to this and previous rule-making dockets have expressed their support for the goal of aircraft noise reduction or, more generally, the need for appropriate action to abate the impact of noise annoyance in the airport environment. In responding to the issues involved in the proposals contained in these notices, many commenters recognized the broader issues of aircraft noise control going beyond source noise reduction and discussed the various methods which may be used to achieve noise relief and reduce noise impact on the community. A discussion of those alternatives is contained in the preambles to Amendments 91-136 and 36-7.

Several commenters suggested the adoption of the aircraft noise standards adopted by the ICAO Committee on Aircraft Noise (CAN) at its fifth meeting (CAN V) in late 1976. As previously indicated, the proposals in Notice No. 75-37C were based on the changes to ICAO Annex 16 recommended after CAN IV by Working Group D of that committee. The FAA reviewed in considerable detail the recommendations of Working Group D and supported their adoption at CAN V. The FAA concluded that these recommendations represented appropriate and achievable levels of noise reduction consistent with § 611 of the Act. The adoption of these recommendations by CAN and the FAA would have provided the desirable international uniformity in aircraft noise standards. However, at CAN V, some slight relaxations to the recommended standards were eventually accepted by the committee in the modifications to Annex 16 which it adopted. After a thorough review of the differences involved, the FAA concludes that it should adopt the proposals contained in notice No. 75-37C, since they are in conformity with the purposes and requirements of the Noise Control Act of 1972 and yet achieve a significant level of conformity with the changes to Annex 16 that were adopted.

Stage 2 Acoustical Change Rule

As stated in the preamble to Notice No. 75-37, in proposing to establish reduced noise level standards, the FAA considered the fact that a new airplane design generally is "grown" over its lifetime, by increasing its capacity, its range, or both. While each results in an increased public transportation capacity, it usually also involves an increase in aircraft weight and reduced climb performance. This, in turn, may lead to the need for increased thrust and the potential of increased noise levels. These changes in the aircraft design that create potential noise increases are called "acoustical changes."

Notice No. 75-37C proposed, and this amendment adopts, revised requirements for acoustical changes for Stage 2 airplanes for which application is made on or after October 28, 1976. This amendment prohibits the escalation of noise levels of the affected aircraft above those that the FAA has determined are consistent with the purposes and requirements of § 611 of the Act in providing protection to the public health and welfare.

After careful review of the acoustical change requirements proposed in Notice No. 75-37 and of the economic and technological impacts identified in the comments and the supporting data submitted to the docket, the FAA determined that it should not adopt, as part of Amendment 36-7, the major portion of those Stage 2 airplane acoustical change requirements proposed in Notice No. 75-37. Further review and consideration of the overall Stage 2 airplane acoustical change requirements question in light of the alternative proposal contained in Notice No. 75-37C was believed necessary to ensure that those requirements that are adopted are consistent with the purposes and requirements of the Noise Control Act of 1972.

This amendment adopts, in modified form, the acoustical change requirements for Stage 2 airplanes proposed in Notice No. 75-37C. These requirements apply to a Stage 2 airplane for which an application for acoustical change is made on or after October 28, 1976, and for which the type design change is approved after the effective date of this amendment. Under the rule as adopted herein, an airplane that is not powered by turbojet engines or by low bypass ratio turbojet engines (engines having a bypass ratio of less than 2, including pure jets) must comply with the acoustical change provisions for Stage 2 airplanes adopted in Amendment 36-7 (§ 36.7(d)(2)). Thus, those airplanes are treated under this amendment in the same manner as Stage 2 airplanes under the acoustical change rule adopted in Amendment 36-7; they are restricted to noise level increases by the Stage 2 noise limits. A Stage 2 airplane powered by high bypass turbojet engines (engines having a bypass ratio of 2 or greater) may not exceed either (i) any Stage 3 noise limit by more than 3 EPNdB or (ii) any Stage 2 noise limit, whichever is lower.

Comments received in the docket were generally favorable regarding the substance of the acoustical change requirements for Stage 2 airplanes. Commenters strongly supported a rule that would achieve the greatest possible degree of consistency with ICAO Annex 16, even if they did not agree with all aspects of the standards. As previously stated, the FAA agrees that substantial conformity among the various national and international aircraft noise standards is desirable.

Many of the commenters urged the FAA to adopt standards identical to those which were adopted at the ICAO CAN V meeting, even though those standards differ somewhat from

ed in Amendment 36-7 to ensure that currently achieved noise reductions are preserved and that future aircraft types more fully utilize available noise suppression technology. This amend-

the 77,200 maximum weight up to the noise limit of 103 EPNdB for maximum weights of 882,000 pounds or more.

3. For approach noise, a refinement

are some differences between the proposals in Notice No. 75-37C and the changes to ICAO Annex 16 subsequently adopted at the CAN V meet-

during takeoff noise tests above which power or thrust may be reduced (minimum cutback altitude). Adoption of those proposals in this amendment

tance indicated that the distances of the airplane from the measuring stations would not be significantly increased and that the minor increase in

Many of the commenters urged the FAA to adopt standards identical to those which were adopted at the ICAO CAN V meeting, even though those standards differ somewhat from those proposed by the FAA. Those commenters felt that international uniformity in aircraft noise requirements is essential to avoid severe and unjust economic penalties for some, and confusion for all who are involved in aviation. The FAA does agree that, while uniformity is desirable, the FAA's duties and responsibilities under § 611 of the Act should not be compromised in order to achieve uniform international aircraft noise standards.

The proposals in Notice No. 75-37C to which commenters expressed concern primarily involved the proposed amendments to Stage 3 noise limits and the applicability dates for the requirements. While the Stage 2 acoustical change rule adopted in this amendment is related to both of those matters, each is discussed below under separate headings. One commenter also objected to the possible increased stringency of the acoustical change requirements for airplanes that have already shown compliance with Part 36 noise levels ("Stage 2 airplanes"). The commenter contended that adoption of requirements more stringent than those in effect when the airplane was certificated could seriously and unfairly impede the full realization of the planned-for growth of the airplane type and, thereby, deny a justified economic return on that design type. The FAA disagrees, since it has reviewed the economic and technological aspects of the proposal and concludes that the amendment, as adopted, is economically reasonable and technologically practicable as applied to the affected aircraft. The FAA also concludes that the additional limitation on noise level increases for Stage 2 airplanes adopted in this amendment is adequately supported by the experience under the current acoustical change rule. The FAA has reviewed the details of comments and supplementing data submitted to the docket regarding Stage 2 acoustical proposals in light of the consideration of § 611 of the Act. The FAA concludes: (1) that a firm and potentially lower noise limit applicable to type design changes of airplanes that have been shown to comply with Stage 2 noise limits is needed, and (2) that the acoustical change rule for Stage 2 airplanes adopted by this amendment is economically reasonable, technologically practicable and appropriate to the aircraft to which it applies. Accordingly, this amendment adopts the Stage 2 acoustical change rule proposed in Notice No. 75-37C.

STAGE 3 NOISE LEVEL STANDARDS

This amendment adopts modifications to the interim noise limits adopted in Amendment 36-7 to ensure that currently achieved noise reductions are preserved and that future aircraft types more fully utilize available noise suppression technology. This amendment is a complement of the initial noise level reduction adopted in Amendment 36-7 and prescribes the alternative standards proposed in Notice No. 75-37C. It also corrects and clarifies the applicability provisions under § 36.201 adopted in Amendment 36-7.

Many commenters addressed the Stage 3 noise limits proposed for airplanes for which application for type certification is made on or after November 5, 1975. A discussion of many of those comments is contained in the preamble to Amendment 36-7. Other comments more specifically addressed the alternative noise level requirements proposed in Notice No. 75-37C and adopted in this amendment.

After carefully reviewing the economic and technological aspects of the proposed rule in light of comments and supporting data submitted to the docket, as well as other available economic and technological data, the FAA concludes that a modification of the noise limits adopted in Amendment 36-7 is appropriate. Thus, the noise limits adopted in this amendment reflect a refinement of the noise limits for the different classes of aircraft consistent with the scope of Notice Nos. 75-37, 75-37B, and 75-37C and with the considerations of § 611 of the Act. Under this amendment § C36.5(a)(3) is revised to prescribe Stage 3 noise limits separately for take-off, sideline, and approach noise as follows:

1. For takeoff noise, the distinction based on the number of engines that was adopted in Amendment 36-7 is retained. Additionally, the noise limits at the lower aircraft takeoff weights are reduced 1 EPNdB for airplanes with three or more engines. Thus, the noise limit for all Stage 3 airplanes at or below the prescribed maximum weights is 89 EPNdB. The noise limits at the higher takeoff weights remain at (1) 106 EPNdB for airplanes with more than three engines, (2) 104 EPNdB for airplanes with three engines, and (3) 101 EPNdB for airplanes with fewer than three engines.

2. For sideline noise, the distinction among aircraft based on the number of engines contained in the interim limits is eliminated. The interim noise limits for Stage 3 airplanes with three engines and with more than three engines are reduced to coincide with the limits adopted in Amendment 36-7 for airplanes with fewer than three engines. Under this amendment, the noise limit is prescribed at 94 EPNdB for maximum weights of 77,200 pounds or less; the limit is increased by 2.56 EPNdB for each doubling of the 77,200 maximum weight up to the noise limit of 103 EPNdB for maximum weights of 882,000 pounds or more.

3. For approach noise, a refinement of the noise level requirements (regardless of the number of engines) was proposed in Notice No. 75-37C and is adopted in this amendment. Thus the noise limit of 105 EPNdB at the maximum weights of 850,000 pounds or more is applied to airplanes with maximum weights of 617,300 pounds or more; the noise limit of 98 EPNdB for the maximum weights of 75,130 pounds or less is applied to airplanes with maximum weights of 77,200 pounds or less; and the interim rate of noise reduction for each halving of the 617,300 pound maximum weight is increased from 2 ENPdB to 2.33 EPNdB.

In connection with the Stage 3 noise standards proposed in Notice No. 75-37, many comments suggested that the FAA adopt the noise standards for new airplane types then being recommended by CAN Working Group D for adoption by the ICAO Committee on Aircraft Noise (CAN). The FAA acknowledged that position when it adopted interim Stage 3 noise standards in Amendment 36-7 and indicated that it would consider further amendments to those noise standards based on Notice No. 75-37C (ICAO CAN Working Group D recommendations) under § 611 of the Act.

In that regard, independent FAA and ICAO member state reviews of the economic and technological considerations of the overall noise limits for new type design (Stage 3) airplanes indicated that the standards proposed in Notice No. 75-37C would more fully accomplish the objectives of § 611 of the Act. Thus, the FAA stated that it believed that the noise standards subsequently issued in Amendment 36-7 should be further amended if, after further consideration in the light of comments then being submitted to the regulatory docket, no significant contrary data, views, or arguments were presented. Particular attention has been given to the proposed approach noise limits since economic and technological considerations under § 611 of the Act support refinements to those standards which involve small noise limit increases for some maximum weights together with decreases for some other weights. The unperceivable changes in noise levels involved are reflected in the increase from 2 to 2.33 EPNdB in the rate of noise reduction for each halving of maximum weight and related adjustments to the weight component in the noise limit formula described above.

As previously stated, most commenters urged the FAA to adopt aircraft noise standards that represent the greatest possible uniformity with international standards. While there are some differences between the proposals in Notice No. 75-37C and the changes to ICAO Annex 16 subsequently adopted at the CAN V meeting, the FAA concludes that this amendment substantially achieves the conformity addressed by the commenters. The experience gained in the noise certification of new aircraft types by the FAA and ICAO supports the noise limits proposed in Notice No. 75-37C. Economically reasonable and technologically practicable means are available to achieve those noise limits without unduly inhibiting the reasonable development of new aircraft type designs and with sufficient latitude for subsequent growth of those aircraft. Thus, the FAA does not agree with those commenters who suggested relaxations of the noise standards to levels above those proposed in the supplemental notice.

Before adopting this amendment, each component factor of aircraft design in relation to noise emission was considered in relationship to the applicability and stringency of the noise standard, as well as the consistency of the standard with the purpose and requirements of the Noise Control Act of 1972. Accordingly, this amendment adopts, in modified form but without substantive change, the noise standards proposed in Notice No. 75-37C. In addition, this amendment corrects the language in § 36.201, which describes the applicability of noise limits under Appendix C, to apply those limits to airplanes powered by engines other than turbojet engines as discussed in the preamble to Amendment 36-7. Notice No. 75-37 proposed, and the preamble to the amendment stated, that the FAA intended to apply the Appendix C noise limits to subsonic transport category large airplanes and to subsonic turbojet powered airplanes. The FAA did not propose or intend to revoke any of the substance of the applicability provisions. However, contrary to the proposed rule and the nature of the amendment described in the preamble to the amendment, the amended text of § 36.201 published in Amendment 36-7 inadvertently omitted some of the words of applicability. Thus, this action includes the necessary corrective and clarifying amendment to § 36.201 by revising the headings to paragraphs (b) and (c) and amending the introductory clause under paragraph (c).

NOISE MEASURING POINT AND TEST REQUIREMENTS

Notice No. 75-37C proposed to amend § C36.3(c) to modify the takeoff, sideline, and approach noise measuring point distances. It also proposed to amend § C36.7(b) to provide separate provisions and different requirements governing the altitudes during takeoff noise tests above which power or thrust may be reduced (minimum cutback altitude). Adoption of those proposals in this amendment brings Part 36 into greater conformity with ICAO Annex 16. Comments received regarding these proposals were generally favorable.

Several commenters pointed out that adoption of the proposed minimum cutback altitudes for future versions of Stage 1 and Stage 2 airplanes, as well as for Stage 3 airplanes, could result in some relaxation of the takeoff noise standards. The takeoff noise measurement before the change in type design under the current rule permits a cutback at a specified altitude (700 feet or 1,000 feet, depending on the number and type of engines). Noise measurement after the change in type design under the proposal would generally permit a cutback at a lower altitude (689 feet, 853 feet, 984 feet, or 1,000 feet, depending on the number and type of engines). Thus, in some cases, the measured noise level after the change in type design could be somewhat different from that measured for the aircraft before the change in type design, due primarily to the change in the minimum cutback altitude. However, in proposing the amendment to § C36.7(b), the FAA did not intend to alter the basic comparability of noise measurements before and after a change in type design of Stage 1 and Stage 2 airplanes. The FAA concludes that the proposed minimum cutback altitudes are supported by the available data for Stage 3 airplanes with turbojet engines but that there is no compelling reason for not preserving the comparability of noise measurements for Stage 1 and Stage 2 airplanes or applying the amended altitudes to Stage 3 airplanes not powered by turbojet engines. Accordingly, this amendment adopts the proposal only for Stage 3 airplanes with turbojet engines and § C36.7(b) is revised to provide the appropriate applicability provisions.

While several commenters had some reservation regarding the proposed amendment of the sideline noise measuring point in § C36.3(c), they felt the necessity of conformity in international aircraft noise standards overrode their objections. The FAA also concludes that for uniformity of application the noise measuring distances and related specifications adopted in this amendment should be applied to all noise tests conducted after the effective date of this amendment. The FAA does not believe that the comparability of noise measurements made before and after a change in type design for the affected Stage 1 or Stage 2 airplanes is significantly affected by those amendments. A review of the anticipated effects of the changes in the measuring point distance indicated that the distances of the airplane from the measuring stations would not be significantly increased and that the minor increase in distance would have a negligible impact on the measured noise levels. The nominal differences in measured noise levels that may result at the amended measuring points do not justify making the rule more complex by prescribing separate measuring points for different stages of aircraft. Accordingly, this amendment adopts the changes to § C36.3(b) proposed in Notice No. 75-37C.

The FAA has reviewed those proposals in conjunction with the proposed noise level limits adopted in this amendment and concludes that the amendments to the minimum thrust or power cutback altitudes (§ C36.7(b)) and to the noise measuring point distances (§ C36.3) and related aircraft height specification (Appendix A) are in conformity with the requirements of § 611 of the Act. The primary purposes for these amendments are to achieve appropriate levels of noise reduction under § 611 of the Act and greater conformity with the international aircraft noise standards under ICAO Annex 16. It is noted, however, that more stringent requirements regarding the takeoff test conditions provisions in § C36.7 and noise measuring points provisions in § C36.3 are currently under consideration by the FAA. Those proposals are part of the recommended regulation submitted to the FAA by the EPA and published in Notice No. 76-22. Accordingly, the provisions adopted in this amendment may be amended further after consideration of the EPA proposals in accordance with § 611(c)(1) of the Act. These amendments do not imply any particular final action that may be taken regarding the EPA proposals after they have been fully considered under the prescribed procedure.

ECONOMIC COMMENTS

Some commenters to the regulatory docket expressed concern for the economic impacts of the proposals. In addition to the comments already discussed, the commenters concentrated primarily on the proposals in Notice No. 75-37, regarding the cost impacts of the originally proposed Stage 2 acoustical change rule and the Stage 3 noise limits and acoustical change requirements. Commenters were generally more favorable regarding the impacts of the specific alternative proposals in Notice No. 75-37C. The FAA has fully reviewed those comments and relevant factors and concluded that the regulation adopted in this amendment adequately and properly accounts for the cost impacts involved. Economically reasonable noise reduction technology is available for the affected airplanes. The compliance/ap-

plicability dates of the provisions of this amendment require application of currently available noise reduction technology at the earliest date that is economically reasonable and consistent with the significant and enduring impacts upon the noise abatement benefits the rules are intended to achieve. Deferring the effectivity of the amendments (as suggested by some commenters), and, thus, the environmental benefits, would not be in the public interest or consistent with the FAA's responsibility under the Noise Control Act of 1972 to provide current and future relief from aircraft noise through appropriate noise control and abatement regulations.

As previously discussed, the major concerns for the cost impact addressed by most commenters focussed upon the costs involved in applying the proposed further limitations on the growth versions of Stage 2 airplanes already certificated under Part 36 and in production. Many commenters stated in effect that, since the economic viability of an airplane design program depends in significant measure on the ability to modify the basic design at various times during the life of the aircraft, the proposed rules might not permit the full realization of planned-for growth. According to some commenters, those restrictions, particularly those proposed in Notice No. 75–37, would be economically unreasonable and could have far-reaching economic implications for the aviation industry and the national and international air transportation systems. The FAA has considered the reasoning and views of these comments in light of all matters presented and concludes that it should adopt the proposed alternative Stage 2 acoustic change rule at this time.

The cost impacts resulting from this amendment are associated with its effect upon (1) the Stage 2 aircraft for which acoustical change approvals are applied for on or after October 28, 1976, and (2) the Stage 3 aircraft for which type certification is applied for on or after November 5, 1975, or for which acoustical change approvals are applied for on or after May 5, 1976. As noted by commenters (and discussed in the EIS for Amendment 36–7 and the economic analysis in the NED for this amendment) the identified costs of the rule include those in the following three general categories: (1) Investment costs for the development of a new technology airplane which will comply with the new noise levels; (2) changes in the direct operating costs for the new technology airplanes, including costs due to changes in weight, fuel consumption, and performance as a result of design parameters required to meet the reduced noise levels; and (3) lost productivity arising from decreased payload or range capabilities due to design parameters. The FAA has reviewed cost information and data available to it. Manufacturers of aircraft and aircraft engines were requested to provide the necessary additional data which would be used to consider the economic reasonableness of the proposed rule. The FAA has considered that information and data which were submitted.

The FAA agrees with commenters who noted that the proposed noise standards are not so stringent as to make them economically unreasonable or not technologically achievable at this time. The FAA believes, further, that the recent review of aircraft noise levels by ICAO supports this view. While some commenters recommended that the noise limits should be either significantly higher or lower in certain weight and number of engine combinations, the FAA concludes that the noise limits adopted in this amendment reflect the appropriate modification of the noise standards and are consistent with the purpose and the requirements under § 611 of the Act.

Applicability Dates

Comments were received which suggested that the rule, if adopted, should be restated to clearly indicate that the Stage 3 provisions apply only to future aircraft not already certificated. As discussed in the preamble to Amendent 36–7, the proposed rule does not apply to type certificates which already have been issued or to acoustical changes which already have been approved. The prescribed compliance dates for both type certification and acoustical change approvals are governed by the date the application is made. For example, the Stage 3 noise limits apply to airplanes for which an application for a type certificate is made on or after November 5, 1975 (the publication date of Notice No. 75–37 which proposed to reduce the noise limits); similarly, the Stage 2 acoustical change provisions apply to Stage 2 airplanes for which an application for an acoustical change approval is made on or after October 28, 1976. In that regard, some commenters also objected to what they viewed as enforcing the proposed amendment "retroactively" to applications filed before the issuance of the final rule, or before thirty days after publication of the final rule. One commenter suggested an applicability date six months after publication. As stated in Notice No. 75–37, and in the preamble to Amendment 36–7, "while certain of the proposals specified herein would apply to applications that are made on and after the date of this NPRM (but before the effective date of the final rule), none of these proposals would affect approvals that are actually issued prior to the effective date of the final rule." That form of applicability date has been proposed and adopted before in amendments to Part 36 when the FAA was concerned with the timing of the effective date of proposed rules because of the significant and enduring impact upon the noise abatement benefits the rules are intended to achieve. Thus, the FAA proposed to apply these proposals to applications made on or after a specified date related to the date of publication of the notice. By adopting that part of the proposals, the FAA avoids the possibility of a significant number of applications being submitted in anticipation of the effective date of the final rule but for which issuance or FAA approval could not occur before the rule becomes effective (or for years after the rule becomes effective, since applications for certain type certificates do not expire for five years after they are filed). In effect, the notice announced that it was the FAA's intention to apply the amended rules, if adopted, when they became effective, to certifications and approvals even though the application was received during the period between the publication date of the notice and the effective date of the amended rule. The FAA has concluded that, in those cases, the applicable rules should be those in effect on the date of certification or approval, not the date of application for type certification or acoustical change.

Miscellaneous Comments

A number of comments contained views regarding other aspects of the proposals. Many of those comments involved subjects or issues which are beyond the scope of Notice Nos. 75–37, 75–37B, or 75–37C. To the extent that those comments provided information which is relevant to this regulatory action, those comments have been considered in adopting this amendment. FAA's responses to some of those comments were contained in the preamble to Amendment 36–7 and are not repeated here.

Several comments were received from commenters who felt that the proposed rule changes to Appendices A and B of Part 36 contained in Notice No. 76–21 (41 FR 47342; Oct. 28, 1976) regarding the procedures and conditions for conducting noise tests and evaluating noise test data, might have a significant impact on their comments regarding the proposed noise levels and acoustical change requirements since such things as basic design parameters may be affected. Some of those commenters stated that they were concerned that amendments to the noise test procedures and conditions may significantly increase the stringency of the noise limit proposals. As indicated in Notice No. 76–21, the anticipated impact of the noise test proposals does not involve any significant increase or decrease in the resulting noise level measurements but would contribute substantially to improving the consistency and repeatability of noise data under the proposed requirements.

As stated in the preamble to Amendment 36–7, the FAA recognizes the interaction between noise test methodology and the noise level measurements which result. While no significant change is expected from the proposed amendments to Appendices A and B, the FAA is considering the potential of those impacts in reviewing the proposals and comments to the docket before taking any final action regarding Notice No. 76–21.

Several comments suggested that separate rules should be adopted for turbojet powered airplanes weighing less than 90,000 pounds and another for propeller-driven transport category large airplanes. The rationale presented was that the noise emission characteristics and noise reduction technologies for those airplanes are distinguishable and should be treated separately from the larger turbojet powered airplanes. Comments also stated that, since there has been no recent Part 36 certification experience with propeller-driven large transport category airplanes, the available economic and technological data do not exist to support the proposed noise level reduction rule with regard to those airplanes. As stated in the preamble to Amendment 36–7, the FAA agrees that for some regulatory purposes those classes of aircraft could receive separate treatment. However, the FAA does not agree that, for noise control purposes, the rationale offered in the comments compels separate rules or regulatory action for those classes of aircraft. A full and careful consideration has been given to the aircraft design factors that may tend to distinguish among the various airplane types affected by the amendments.

Thus, the noise level standards adopted in these amendments apply to transport category large airplanes, including turbo-prop and other propeller-driven aircraft, as well as to subsonic turbojet powered airplanes, regardless of category. Although the FAA anticipates that most, if not all, of the aircraft that are certificated under the standards adopted in these amendments will be turbojet (including turbofan) powered, the FAA has concluded that the reductions are also appropriate to current technology propeller-driven large airplanes. However, the FAA notes that the potential exists for transport category airplanes to employ advanced propulsion systems that are neither turbojet (including turbofan) nor conventional propeller/engine combinations. Progress in those developmental programs will be monitored closely to determine whether improved regulations are necessary.

The FAA concludes that, based upon its review of the best available noise reduction technology and the cost impacts of requiring its application on all new type designs, this amendment, including the extent to which it applies to turbojet powered airplanes weighing under 75,000 pounds and to transport category airplanes regardless of the type of engine, is consistent with the purposes and requirements of § 611 of the Act.

Effective Date

Since further rule-making action regarding certain aspects of the amendments being adopted was contemplated when Amendment 36–7 was issued, the FAA considered whether that amendment should be promulgated before the regulatory procedures on Notice Nos. 75–37C and 76–22 had been completed. As previously indicated, the FAA concluded that the benefits achieved under that amendment should not be deferred until that later date. The FAA believed that, since that amendment prescribed new standards for new type designs and acoustical changes, its early publication would provide aircraft manufacturers and operators a better opportunity to consider those standards, and proposed standards still under consideration, in their design and acoustical change planning. The FAA recognized that while such planning is necessary, its regulatory action must be consistent with its responsibilities under § 611 of the Act. Accordingly, the FAA issued Amendment 36–7 and continued to consider additional proposed rules which would alter, in certain areas, the stringency of those interim standards being adopted; it also delayed the effective date of Amendment 36–7 until October 1, 1977, by which time supplementary amendments based on Notice Nos. 75–37, 75–37B, and 75–37C were expected to have been issued. However, completion of the rule-making process, including consideration of comments to the docket and promulgation of those amendments, took somewhat longer than the original estimates. The FAA considered amending the effective date of Amendment 36–7 to coincide with the effective date of this amendment, but concluded that further postponement of the interim standards for noise reduction that it had already determined should be adopted was not warranted. Accordingly, the FAA proceeded to consider and adopt this amendment with the objective of making it effective as soon as practicable after October 1, 1977. During the interim, the FAA encourages voluntary efforts to meet, or exceed, these amendments and thereby minimize any future complication in having demonstrated compliance with slightly different standards which are effective only for a short period of time.

For the reasons stated in response to comments on the subject, the compliance/applicability dates adopted by this amendment are those proposed in the notices. The Stage 3 noise limits adopted in § C36.5(a)(3) apply to applications for type certificates made on or after November 5, 1975, and to applications for acoustical change approvals for Stage 3 airplanes made on or after May 5, 1976. The Stage 2 acoustical change rules adopted in § 36.7(d) apply to applications made on or after October 28, 1976. The remaining provisions regarding noise measuring points and minimum power/thrust cutback altitudes become effective and require compliance on and after the effective date of this amendment.

Evaluation of Impacts

Under the regulatory reform policies of the Secretary of Transportation and the Administrator, a comprehensive evaluation of the impacts of this amendment has been completed. In addition to the regulatory impacts previously discussed, the details of that analysis are shown in the environmental assessment statements for Amendment 36–7, and for this amendment. These analyses considered not only the noise reduction benefit, but also the achievement of other significant national objectives, including energy conservation through improved fuel efficiency, improved engine performance for the aircraft mission, improved engine emission levels, and advantages to the consumer of the more advanced aircraft design and lower operating costs despite the effect of modifications to achieve noise reduction.

Based on forecasted aviation growth, the airport noise problem is expected to remain serious despite the introduction of quieter aircraft. For example, between 1975 and 1990, annual air carrier operations have been forecast to increase from 10 million to 16 million, creating additional noise exposure events that, without Federal action such as this amendment and FAR Amendment 91–136, could seriously retard the benefits of the reduction of noise resulting from an introduction of quieter airplanes. The recent economic trends have brought into question certain aspects of the projected substantial growth in airline traffic. Even in light of the recently adopted requirement to retrofit or retire by 1985 certain turbojet airplanes that have not previously been shown to comply with original Part 36 noise standards, the extent to which new aircraft types will be introduced in response to the requirements of FAR Amendment 91–136 is unclear. However, as stated above, it is hoped that Amendment 36–7, together with this amendment, will create strong incentives for the development of a new generation of airplanes markedly

quieter than the noise limits in original Part 36. In summary, the noise reduction is expected to remain small in terms of actual community annoyance until the aircraft fleets include a sig-

the overall noise reduction. Those impacts have also been evaluated in accordance with OMB Circular A-107 and DOT Order 2050.4. From the evaluation conducted for this amendment,

the Stage 3 noise limit by more than 3 EPNdB, or (2) the Stage 2 noise limit, whichever is lower; and

(B) During the takeoff and sideline noise test conducted before the change

tuting for it the words "21,325 feet (6,500 meters)";

(b) In paragraph (b), by deleting the words "1 nautical mile" and substitut-

(Secs. 313(a), 601(a), 603, 611(b), Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421(a), 1423, 1431(b)); sec. 6(c), Department of Transportation Act (49 U.S.C.

discussed below. Interested persons were invited to participate in this rule making by submitting written comments to the Rules Docket on the pro-

quieter than the noise limits in original Part 36. In summary, the noise reduction is expected to remain small in terms of actual community annoyance until the aircraft fleets include a significant number of Stage 3 airplanes.

The FAA has compared the noise limits adopted in this amendment with the measured noise levels for aircraft certificated under original Part 36. That comparison revealed that some aircraft using the best currently available technology already meet the Stage 3 levels. The available technology permits manufacturers to trade off noise and emission requirements against direct operating cost factors in a manner most appropriate for the aircraft type. Thus, the effect of this amendment is to preserve noise level reductions already achieved by some existing airplane types and to provide the standards and incentives for the introduction of newer and quieter types.

The estimated cost impact of the Stage 2 acoustical change rule is based on its increased stringency for future growth versions of existing aircraft types. This impact was studied under a recently completed contract between the National Aeronautics and Space Administration and Lockheed. The study is discussed in the Negative Environment Declaration (NED) issued in conjunction with this amendment. The study involved the changes required to achieve improvement in the existing performance of aircraft, the associated penalties, and the potential use of mixed flow nozzle technology. A program for developing acoustic nacelles was also considered. The estimated aggregate fleetwide costs for Stage 2 airplanes affected by the acoustical change rule adopted in this amendment would range from approximately $16 to $25 million annually, with initial development costs of approximately $96 million spent over the years development occurs. The projected cost impact of a new technology aircraft designed to meet Stage 3 noise limits as compared to the same aircraft designed to meet Stage 2 noise limits is estimated to represent an approximate increase of 0.1 percent in direct operating costs and a 0.4 percent reduction on return of investment. For each Stage 3 airplane, those costs would amount to a minimal increase over those involved in Amendment 36-7 which were estimated at approximately $330,000 for the largest aircraft and proportionately less for lighter, smaller aircraft. The FAA estimates the aggregate cost during any 7-year period under Amendment 36-7 and this amendment would be less than $100 million. The actual projected costs and offsetting economic benefits analysed in the EIS and the NED in accordance with FAA Order 1050.1B demonstrate the economic impacts of the overall noise reduction. Those impacts have also been evaluated in accordance with OMB Circular A-107 and DOT Order 2050.4. From the evaluation conducted for this amendment, it was determined that it would not significantly increase costs to the private sector, to consumers, or to Federal, State, or local governments. Accordingly, the FAA concludes that the cumulative impact of this amendment is not inflationary in nature and is not a major proposal for which an economic impact statement is required.

The FAA also reviewed the anticipated impact of this amendment of energy consumption. A discussion of that review is presented in the NED. In summary, this amendment could result in a change of less than 1 percent in fuel consumption by the affected aircraft over that of the same aircraft if the amendments were not adopted. Considering the small portion of the civil aircraft fleet affected by this amendment, the anticipated impact represents a negligible change in terms of overall energy consumption.

Drafting Information

The principal authors of this document are Richard Tedrick, Office of Environmental Quality, and Ronn E. Harding, Office of the Chief Counsel.

Adoption of the Amendment

Accordingly, Part 36 of the Federal Aviation Regulations (14 CFR Part 36) is amended, effective April 3, 1978, as follows:

Subpart A—General

1. By amending § 36.7 in the heading and introductory clause in paragraph (d)(2) and by adding a new paragraph (d)(3) to read as follows:

§ 36.7 Acoustical change: Subsonic transport category large airplanes and subsonic turbojet powered airplanes.

• • • • • •

(d) *Stage 2 airplanes.* • • •

(2) *Applications on or after November 5, 1975, and before October 28, 1976.* For an airplane for which an application for acoustical change approval is made on or after November 5, 1975, and before October 28, 1976—

• • • • • •

(3) *Applications on or after October 28, 1976.* For an airplane for which an application for acoustical change approval is made on or after October 28, 1976, the following apply:

(i) *Airplanes with high bypass ratio turbojet engines.* For an airplane that has turbojet engines with a bypass ratio of 2 or more before a change in type design—

(A) The airplane after the change in type design may not exceed either (*1*) the Stage 3 noise limit by more than 3 EPNdB, or (*2*) the Stage 2 noise limit, whichever is lower; and

(B) During the takeoff and sideline noise test conducted before the change in type design, the quietest airworthiness approved configuration available for the highest approved takeoff weight must be used.

(ii) *Airplanes that do not have high bypass ratio turbojet engines.* For an airplane that does not have turbojet engines with a bypass ratio of 2 or more before a change in type design, compliance must be shown under the requirements of paragraphs (d)(2) (i) and (ii) of this section.

2. By amending § 36.201 by revising the headings of paragraphs (b) and (c) and the introductory clause under paragraph (c) to read as follows:

§ 36.201 Noise limits.

• • • • • •

(b) *Airplanes with high bypass ratio turbojet engines.* • • •

(c) *Airplanes that do not have high bypass ratio turbojet engines.* For airplanes that do not have turbojet engines with a bypass ratio of 2 or more, the noise limit requirements are as follows:

• • • • • •

Appendix A [Amended]

3. By amending Appendix A as follows:

(a) In each provision and table in which the takeoff noise measuring point distance appears, by deleting the distance "3.5 nautical miles" and substituting for it the distance "21,325 feet (6,500 meters)";

(b) In each provision and table in which the approach noise measuring point distance appears, by deleting the distance "1.0 nautical mile" and substituting for it the distance "6,562 feet (2,000 meters)";

(c) In each provision and table in which the sideline noise measuring point distance appears, by deleting the distance "0.25 nautical miles" and substituting for it the distance "1,476 feet (450 meters)."

(d) In each provision and table in which the aircraft height above the approach noise measuring station ("aircraft approach height") appears, by deleting the height "370 feet" and substituting the height "394 feet"; and

(e) In each provision and table in which the reference approach minimum distance ("NTr") appears, by deleting the distance "369 feet" and substituting for it the distance "393 feet."

Appendix C [Amended]

4. By amending § C36.3 as follows:

(a) In paragraph (a), by deleting the words "3.5 nautical miles" and substituting for it the words "21,325 feet (6,500 meters)";

(b) In paragraph (b), by deleting the words "1 nautical mile" and substituting for it the words "6,562 feet (2,000 meters)"; and

(c) In paragraph (c), by deleting the words "0.25 nautical miles" and substituting for it the words "1,476 feet (450 meters)."

5. By revising paragraph C36.5(a)(3) to read as follows:

§ C36.5 *Noise levels.*

(a) • • •

(3) *Stage 3* noise limits are as follows:

(i) *For takeoff—*

(A) *For airplanes with more than 3 engines*—106 EPNdB for maximum weights of 850,000 pounds or more, reduced by 4 EPNdB per halving of the 850,000 pounds maximum weight down to 89 EPNdB for maximum weights of 44,673 pounds or less;

(B) *For airplanes with 3 engines*—104 EPNdB for maximum weights of 850,000 pounds or more, reduced by 4 EPNdB per halving of the 850,000 pounds maximum weight down to 89 EPNdB for maximum weights of 63,177 pounds or less; and

(C) *For airplanes with fewer than 3 engines*—101 EPNdB for maximum weights of 850,000 pounds or more, reduced by 4 EPNdB per halving of the 850,000 pounds maximum weight down to 89 EPNdB for maximum weights of 106,250 pounds or less.

(ii) *For sideline*, regardless of the number of engines—103 EPNdB for maximum weights of 882,000 pounds or more, reduced by 2.56 EPNdB per halving of the 882,000 pounds maximum weight down to 94 EPNdB for maximum weights of 77,200 pounds or less.

(iii) *For approach*, regardless of the number of engines—105 EPNdB for maximum weights of 617,300 pounds or more, reduced by 2.33 EPNdB per halving of the 617,300 pounds weight down to 98 EPNdB for maximum weights of 77,200 pounds or less.

6. By revising paragraphs C36.7 (b) and (c) to read as follows:

§ C36.7 *Takeoff test conditions.*

• • • • •

(b) Takeoff power or thrust must be used from the start of takeoff roll to at least the following altitude above the runway:

(1) *For Stage 1 or Stage 2 airplanes*—the following apply:

(i) For airplanes with more than three turbojet engines—700 feet (214 meters).

(ii) For all other airplanes—1,000 feet (305 meters).

(2) *For State 3 airplanes*—the following apply:

(i) For airplanes with more than three turbojet engines—689 feet (210 meters).

(ii) For airplanes with three turbojet engines—853 feet (260 meters).

(iii) For airplanes with fewer than three turbojet engines—984 feet (300 meters).

(iv) For airplanes not powered by turbojet engines—1,000 feet (305 meters).

(c) Upon reaching the altitude specified in paragraph (b) of this section, the power or thrust may not be reduced below that needed to maintain level flight with one engine inoperative, or to maintain a four percent climb gradient, whichever power or thrust is greater.

• • • • •

(Secs. 313(a), 601(a), 603, 611(b), Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421(a), 1423, 1431(b)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Title I, National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and Executive Order 11514, March 5, 1970.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on February 17, 1978.

LANGHORNE BOND,
Administrator.

[FR Doc. 78-5046 Filed 3-1-78; 8:45 am]

[4910-13]

[Docket No. 16221, Amdt. No. 36-9]

PART 36—NOISE STANDARDS: AIRCRAFT TYPE AND AIRWORTHINESS CERTIFICATION

Aircraft Noise Measurement and Evaluation Specifications

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment updates and clarifies the procedures and standards, including noise measurement and evaluation specifications, for conducting certain aircraft noise certification tests. The amendments are based on developments in the state of the art and on aircraft noise test experience. They are also needed to achieve substantial conformity with modifications to the international noise standards in ICAO Annex 16 recommended by the International Civil Aviation Organization (ICAO) Committee on Aircraft Noise.

EFFECTIVE DATE: April 3, 1978.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Regulatory History

On October 28, 1976, the FAA published a notice of proposed rule making (Notice No. 76-21) entitled "Aircraft Noise Measurement and Evaluation Specifications" (41 FR 47342). That notice proposed the amendments to Part 36 described and discussed below. Interested persons were invited to participate in this rule making by submitting written comments to the Rules Docket on the proposals contained in Notice No. 76-21. Based on requests for extension of the comment period, it was extended in a subsequent notice (41 FR 55889; December 23, 1976) to February 28, 1977. All comments received have been given due consideration in the promulgation of this amendment.

Pursuant to § 611(b)(1) of the Federal Aviation Act of 1958, as amended (the Act), the FAA has consulted with the Secretary of Transportation and the United States Environmental Protection Agency (EPA) prior to the adoption of this amendment. A draft final environmental assessment regarding this amendment has been prepared in accordance with the National Environmental Policy Act of 1969, and implementing guidelines and directives. Also, submission of this amendment to the EPA for review and comment prior to its adoption is in accordance with § 309 of the Clean Air Act, as amended (42 U.S.C. § 1857h-7), and the guidelines of the Council on Environmental Quality (40 CFR 1500.9(b)).

Description of the Amendments

The purpose of this amendment to Part 36 of the Federal Aviation Regulations (14 CFR Part 36) is to amend the procedures and standards for conducting aircraft noise type certification and acoustical change tests under Appendices A and B to Part 36, to revise the form by which certain standards and procedures are incorporated by reference in Part 36, and to accomplish editorial changes by designating or redesignating certain provisions, and by providing a table of sections in each appendix to Part 36. This amendment includes specific substantive and clarifying amendments in the instrumentation specifications, calibration procedures, meteorological test conditions, and data correction procedures. As adopted, those amendments apply to Part 36 noise certification tests for transport category large airplanes and turbojet engine powered airplanes conducted on and after the effective date of this amendment. The amendments are based on developments in the state of the acoustic art and on aircraft noise certification experience. They also achieve substantial conformity with the modifications to ICAO Annex 16 recommended by the Committee on Aircraft Noise of the International Civil Aviation Organization (ICAO).

The amendment to Appendix A involves an extensive revision which is accomplished within the general framework of the current appendix. The FAA concludes that some organizational revision is necessary to better accommodate the expanded specifications. However, less extensive amend-

ments are adopted in Appendix B. Certain editorial changes have been made to redesignate certain provisions in Appendices A and B to conform with the style used elsewhere in the Federal Aviation Regulations (FARs). To provide greater ease in identifying and citing the provisions in the appendices to Part 36, this amendment provides a "table of sections" at the beginning of each appendix and designates the respective undesignated provisions of certain paragraphs and sections of Appendix B. Finally, Subpart A of Part 36 is amended by adding a new § 36.6 to prescribe the incorporations by reference contained in Part 36 under 5 U.S.C. 552(a) and 1 CFR Part 51 and to provide the required statements of identification and availability of incorporated published materials. The separate provisions in Appendices A, B, and F, which currently contain incorporations by reference, are amended accordingly.

NEED FOR THE AMENDMENTS

Pub. L. 90-411 and 92-574 were enacted to provide present and future relief and protection to the public health and welfare from noise and sonic boom from civil aircraft. Under these Acts, the Administrator, after consultation with the Secretary of Transportation and the Administrator of the EPA, is responsible for the adoption and amendment of rules which prescribe the necessary standards and regulations. On November 3, 1969, the FAA adopted FAR Part 36 entitled "Noise Standards: Aircraft Type Certification" (34 FR 18355; November 18, 1969). FAR Part 36 contains several appendices in which the technical specifications for demonstrating compliance with Part 36 are prescribed. Appendices A and B to FAR Part 36 contain the specifications for conducting noise type certification tests and for evaluating the noise data in terms of Effective Perceived Noise Level (EPNL). These appendices have been modified only slightly since their adoption in 1969.

COMMENTS AND THE RULE

As previously stated, interested persons have been afforded the opportunity to participate in this rule making by submitting written comments to the public regulatory docket. The period for submitting comments closed February 28, 1977. Those comments received have been reviewed and duly considered in promulgating this amendment.

Eleven commenters submitted comments in response to Notice No. 76-21. Comments were received from an individual private citizen, Federal governmental authorities, foreign governmental bodies and their representatives; aircraft owners and operators; foreign and domestic aircraft and aircraft engine manufacturers; and aviation trade/industry associations.

The issues focused on by the commenters included the technical aspects of the respective proposals, the impact of the noise measurement and evaluation process on the stringency of compliance with the required noise level limits, the practical impact of the proposals on the conducting of noise tests, the economic impact of certain proposals, conformity with international standards, the compliance schedule, and other miscellaneous issues. These comments are discussed as follows:

TEST AND MEASUREMENT CONDITIONS

Proposed § A36.1 would revised the provisions prescribing the conditions under which noise certification tests are conducted and the measurement procedures that are used to measure the noise made by the aircraft for noise tests conducted after March 31, 1977, or 30 days after publication of the final amendment, whichever occurs later.

The FAA proposed to prescribe in a single section all the requirements for an approved test site. While most of the provisions of this proposed section are already contain in Appendix A, it was felt that they should be grouped together. Additional requirements were proposed regarding an independent measurement of sideline noise if test site conditions make simultaneous takeoff and sideline measurements impractical.

A modification of the meteorological specification also was proposed. The temperature and relative humidity conditions under which testing is allowed would be amended to conform with proposed ICAO limits or to adopt a minor variation of the proposed ICAO limits. Basically, those ICAO limits would not allow testing when the sound attenuation rate in the one-third octave band centered at 8 kHz is greater than 12 dB/100 meters. Notice No. 76-21 proposed a limit based on a 10 dB/100 meters sound attenuation rate at the same frequency and an alternative proposal at the 12 dB/100 meters limit. Comments were specifically invited concerning the alternative proposals and the reasons why one sound attenuation rate would be preferable in the test meteorological specification. The FAA stated that it believed that amendments should be adopted to reflect current knowledge and state-of-the-art regarding calculation of atmospheric attenuation of sound energy. Based on its certification experience, the FAA felt that the current weather "window" is too restrictive on some combinations of temperatures and relative humidities while allowing some unsubstantiated corrections in other combinations. The FAA also proposed a new weather specification to require the temperature and relative humidity to be within the "window" from the surface measuring station to the altitude of the aircraft. Under the proposal, more specific restrictions would be placed upon anomalous relative humidity and wind conditions. Each of these proposals grew out of FAA certification experiences and a need to provide regulatory guidance for regulated persons and for use by the FAA regional authorities.

The FAA also stated its belief that to ensure the accuracy of noise level corrections under proposed § A36.11, the requirements for aircraft test weights should be amended to require the takeoff weight to be within five percent of the certification weight and the approach weight to exceed 90 percent of the maximum landing weight.

Several commenters stated that the use of equivalent procedures, including simulated takeoffs and landings, offers several advantages such as wider choice of test sites, expeditious acquisition of test data, and reduced noise and emission pollution at the test site. The FAA agrees that these and other equivalent procedures, when specifically approved by the certificating authority, may facilitate noise certification testing. However, the FAA prefers to control the use of equivalent procedures and assesses each request based on its merits under established policy and guidelines.

Commenters stated that eliminating test points that have obstructions higher than 10 degrees above the ground plane is too stringent. The FAA disagrees. The amendment increases the cone half-angle specification in § A36.1(b)(6) from 75 degrees to 80 degrees (or 10 degrees above the ground plane). The FAA has reviewed the matter and concluded that adoption of the proposal will decrease the impact of obstructions on the measured noise data and increase the uniformity and repeatability of noise tests. Since the increased stringency is reasonable in light of the anticipated benefits and since no supportive technical rationale was presented for retaining the 75 degrees specification, this amendment adopts the increase of 5 degrees in the cone half-angle specification from 75 degrees to 80 degrees.

Several commenters recommended that the FAA adopt the alternative proposal and extend the 8 kHz one-third octave absorption limit in proposed § A36.1(c)(3). The FAA agrees that the limit of 10 dB/100 meters is overly restrictive and is not necessary to preclude unacceptable derogation in the quality of the normalized test data. Thus, the alternative proposal is adopted and the absorption limit is prescribed at 12 dB/100 meters. This amendment conforms to similar action by the ICAO.

Many commenters addressed the proposed meteorological condition specification. Several stated that in general the proposal was too stringent and would add unreasonably to the costs of noise certification. The FAA realizes the impact of the specific restrictions on the applicant imposed by prescribed test-day conditions, including precipitation, temperature, relative humidity, and wind conditions. However, it also recognizes the adverse effects that conditions above the proposed specifications have on the noise test data when they are present between the airplane and the noise measuring station. Thus, the proposed weather conditions are adopted in this amendment to ensure that reliable and representative noise emission data are recorded and are made subject to correction procedures and confidence level requirements.

Several commenters recommended that the wind velocity limits for testing under § A36.1(c) should be relaxed, or eliminated. The FAA does not agree. Since wind conditions above the prescribed limits often affect both the generation of sound and its propagation, thus distorting the measured noise levels, the wind specification is needed to preclude noise data derived under those conditions. That requirement is in the current rule and its amendment was not proposed in the notice.

Another commenter recommended deletion of current and proposed § A36.1(c)(5) dealing with anomalous wind (including turbulence) conditions since the proposed provision is not specific and does not clarify the qualification of meteorological data. The FAA disagrees. That paragraph provides essential limiting factors and guidance to persons involved in aircraft noise certification. Since wind conditions of various kinds may adversely affect measured noise levels, the provision could not practically specify all conditions that would be considered "anomalous." However, if further guidance is found necessary, that information will be developed and made available.

In commenting on the proposed requirements for automatic aircraft position recordings in § A36.1(d), one commenter stated that valid manual methods exist for space position data acquisition, such as a series of synchronized "still" photographs. The FAA agrees. The requirement for automatic recording of aircraft position, as proposed, is not needed and has been deleted in the amendment.

Several commenters stated that various portions of the proposed aircraft testing procedures (§ A36.1(d)) are not needed to increase repeatability (or reduce variability) of test data or to decrease the magnitude of noise corrections. Variability of measured data and the magnitude of corrections of that data to reference conditions can significantly affect the accuracy of noise certification. Based on certification experience, the FAA concludes that the testing standards adopted in this amendment, among other things, substantially reduce the overly broad latitude in the specifications and improve the accuracy and reliability of the noise level computations under the requirements.

Regarding the proposed limits in § A36.1(d) on aircraft weight during noise certification testing, several commenters suggested that the FAA permit a wider range in aircraft test weight than the proposed ±5 percent of maximum takeoff and 90 percent of maximum landing weight. A further suggestion was made to eliminate the proposed requirement to conduct at least one takeoff and one approach noise test at, or above, the maximum weight for which certification is requested. After carefully studying these suggestions, the FAA has concluded that adequate control of aircraft factors can be achieved with takeoff test weights limited between +5 and −10 percent of the maximum weights. However, the proposed requirements for approach noise test weights and for making at least one takeoff and one approach at, or above, the respective maximum weights are appropriate limitations and are, therefore, adopted. Approved data is needed and must be used to determine the variations of EPNL with weight for takeoff and approach test conditions. It is noted that many airplanes burn off fuel at a rate of approximately 1 percent of the aircraft test weight per flyover and as many as 8 or 9 flyovers may be flown for a series of measurements. Thus, it is reasonable to require at least one takeoff and one approach test to be conducted at, or above, the maximum weights for which certification is requested. However, the FAA agrees with those commenters who stated that the limitations on the weight corrections of 2.0 EPNdB is not realistic or needed under the amendment since it adopts the aircraft weight requirements and approved data must be used to determine the variation of EPNL with weight for both takeoff and approach test conditions. Accordingly, the weight correction limitations in proposed paragraphs A36.1(d)(5)(iii) and (d)(7)(iii) are not adopted in this amendment.

NOISE MEASUREMENT SPECIFICATIONS

The measurements prescribed in new § A36.3, like those in prior § A36.2, provide the data for determining the one-third octave band noise produced by aircraft at specific measurement stations, as a function of time. However, the instrumentation performance specifications have been significantly revised over those in the prior rule. These changes incorporate experience with actual certifications by both the FAA and the ICAO.

As stated in the notice, three general guidelines were followed in the preparation of these proposals and considered in their adoption. First, the purpose was to specify both systems and components that would give results with maximum accuracy and repeatability from test-to-test and site-to-site. Second, the proposals were designed to avoid requiring instruments of any single brand name or manufacturer. Third, the specifications prescribe performance requirements that are generally measureable and verifiable in the field, rather than design parameters requiring sophisticated laboratory equipment or technical mathematical analyses. Those specifications enhance compliance by taking greater advantage of readily obtainable FAA approved data and approved manufacturer's specifications.

To achieve these objectives, the rule, as adopted, provides more detailed specifications for microphones (and their accessories), tape recorders, analysis equipment, and calibrators. These revisions are primarily based upon experience with actual certifications and reports of some difficulty in understanding the more general language of the current rule. While the amendments do not substantially change the application of procedures, they prescribe improved or more specific procedures and practices which should result in more uniform and verifiable data. One feature of the amended rule is the introduction of a new paragraph A36.3(e) on calibration. This paragraph requires standardization of both calibration procedures and implementation schedules to provide more uniform and repeatable data by minimizing unaccounted for equipment variability and operator error.

Several commenters suggested clarifications of various aspects of the measurement system, including the sensing, recording reproducing, and analysis equipment. Since the FAA agrees that most of the suggestions clarify the intent and understandability of the provisions, those suggestions have been adopted. It should be noted that system specifications, as proposed and adopted, permit the use of corrections furnished by the equipment manufacturer. In addition, in response to several commenters, that FAA deleted the microphone support component as a part of the combined system for purposes of demonstrating the overall free-field frequency response at grazing incidence. As recommended by several commenters, the provision is also modified to provide two acceptable methods for determining the overall free-field frequency response at 90 degrees (grazing incidence) of the com-

bined microphone (including incidence correction, if applicable), preamplifier, and windscreen. Those methods are (1) the use of an electrostatic calibrator in combination with manufacturer-provided corrections or (2) the use of an anechoic free-field facility.

According to one commenter, an error of 0.3 dB should be allowed between any two settings on attenuators used for range changing. The FAA proposed a 0.1 dB tolerance in § A36.3(b)(6). The commenter stated the relevant IEC specification permits 0.5 dB. FAA review indicated that the 0.5 dB tolerance mentioned was contained in an outdated IEC specification for sound level meters. After reviewing the comment and current industry specifications for noise analyzers, the FAA concluded that it should adopt a specification permitting an 0.2 dB error between any two settings on the attenuators used for range changing. Several commenters also noted the typographical error in the paragraph where the word "integral" appeared instead of the word "interval." This amendment reflects the necessary change.

Some commenters stated that the proposed limits on the magnetic tape recorder in proposed A36.3(c)(3)(ii) were too restrictive. The FAA disagrees. The proposed corrected frequency response specification adopted in this amendment can be met by several currently available types of magnetic tape recorders. The asserted economic burden attributed to requiring the acquisition of new recorders in those cases where it would be necessary has been considered and determined to be reasonable in light of the benefits achieved.

Several commenters suggested that the intent of the calibration specification in § A36.3(b)(4) would be more clearly expressed if the words "in each third octave band" were added to the end of the first sentence. The FAA does not agree that the suggested addition clarifies the technical sense of the provision.

Another commenter stated that the meaning of "pink noise" is not explicit. Since the definition prescribed in § A36.3(e)(1) is widely accepted in acoustic terminology, the FAA does not agree and adopts the definition as proposed.

Several commenters felt that pink noise should be used only for frequency response calibration and that use of a pistonphone is preferable in establishing amplitude response. The FAA disagrees. The defininiton of pink noise and its use to calibrate the specified equipment for both amplitude and frequency response are widely regarded as the technically acceptable and recognized methodology by the acoustics community.

Several commenters stated that certain portions of the proposed equipment requirements in § A36.3(c) would, if adopted, disqualify some "high-quality" and currently acceptable or available commercial equipment. In proposing the requirements, the FAA recognized that some acoustic equipment would be unable to satisfy the more stringent standards. However, since measured data is only as good as the equipment and process used to record and evaluate it, the equipment component of an accurate EPNL computation requires close scrutiny to ensure that it reflects the state of the art. The equipment specifications adopted in this amendment provide considerable assurance that reasonably achievable levels of acoustic accuracy and dependability are provided.

Some commenters also questioned whether the proposed acoustic analysis equipment and calibration requirements (§§ A36.3 (d) and (e)) are appropriate. Several stated the requirements would be overly restrictive, without technical justification, or would eliminate applicant flexibility without sufficiently improving data. The FAA disagrees. Analysis equipment specifications, among other things, provide the means for assuring that the performance of the available quality acoustic equipment required under this amendment is within acceptable margins of its capabilities and achieves the required confidence levels for the data derived through it. While other equipment and procedures are available, some of which were described by commenters, the FAA after reviewing the proposal and available technical information, in light of the comments, concludes that the specifications adopted in this amendment are reasonable and achieve the desired results. In addition, to clarify paragraph (e)(1), the words "as installed in the field," have been added within the parenthetical modifying the complete electronic system. Further, to provide greater flexibility in the systemic calibration schedule, the amendment only requires calibration after the end of a test series which should permit minor deviation from the general five day requirement when circumstances make it necessary and the FAA requires or authorizes otherwise. The last sentence of paragraph (e)(1) reflects that change.

One commenter recommended that the required normal incidence pressure calibration of the microphone/preamplifier system be permitted to be completed within six months before the beginning of each test series. The notice proposed a 30-day requirement for calibration. After considering the purpose of the requirement and in view of the recommendation, the calibration requirement should be relaxed; accordingly, this amendment requires a calibration within 90 days of the beginning of a test series.

Another commenter stated that accountability for tape sensitivity is inherent in FM recording and, therefore, calibration is unnecessary. The commenter also stated that the recording of the calibration signals for a 30-second duration at the beginning and end of each reel of magnetic tape was unreasonable. The FAA feels that for consistency and accuracy in reducing required data, it is necessary to retain the calibration requirement for both AM and FM recording systems. However, after reviewing the proposal and in view of the comments, the FAA concludes that the required calibration signal period should be reduced to a 15-second burst of pink noise at the beginning and end of each reel of magnetic tape. Further, since paragraph (e)(3) requires essentially the same calibration results, redundancy is not needed. This amendment reflects those changes.

One commenter claimed that the total variation requirements of the pink noise test signal levels of 0.5 dB in proposed § A36.3(e)(6) is unreasonable. While it disagrees with that characterization, the FAA notes that the ICAO, in adopting a similar requirement, allows a slightly higher variation—0.75dB. Since this requirement is representative of that achievable for currently available quality equipment, that change is also adopted in this amendment.

In response to proposed § A36.3(e)(7), one commenter recommended permitting the use of any approved random noise generator technique to demonstrate conformity of the one-third octave filters with the recommendations of IEC 225. The FAA agrees. Thus, paragraph (e)(7)(ii) has been rewritten to permit the use of an approved random noise generator technique as an "alternative technique" under the rule.

One commenter recommended that § A36.3(5) require positioning the microphone so that its sensing element provides optimum performance as described by the manufacturer. The FAA disagrees. For the desired results, the microphone should be oriented so that the diaphragm is substantially in the plane defined by the flight path of the aircraft and the measuring station. Two commenters stated that the proposed requirement of recording 20 seconds of ambient noise before and after each measurement is impractical and creates an undue burden. After reviewing the matter, the FAA agrees and concludes that one 10-second recording of ambient noise provides a representative sample of the noise level that existed during the flyover noise measurement. The rule is adopted accordingly.

Another commenter stated that as it appears in § A36.3(f), the word "occasional" before "background noise" was ambiguous and confusing. The FAA agrees. Paragraph A36.3(f)(4) has been rewritten to delete the word "occasional" which is not necessary in the specification as adopted.

Several other minor editorial changes made in § A36.3 from the proposed text include the following matters. In paragraph (c)(3)(ii), the word "corrected" is added to modify the words "frequency response" to more clearly state that the specification contemplates and permits appropriate corrections before applying the response limitations. As suggested by one commenter to clarify the statement in paragraph (c)(3)(iii), the words "make it necessary" have been deleted and the words "are insufficient to obtain adequate spectral information," are substituted for them. In addition, since all analyzer indicating devices are either analog or digital (or a combination of them), the first sentence in paragraph (d)(3) is restated accordingly.

MEASURED DATA REPORTING AND CORRECTING

Under the § A36.5, as proposed and adopted in this amendment, data representing physical measurements, or corrections to measured data (including corrections to measurements for equipment response deviations) must be recorded in permanent form and appended to the record. The rule requires certain estimates of the individual errors inherent in each of the operations employed in obtaining the final data.

This amendment clarifies the established procedure by expressly providing for a correction of any difference between the test engine thrust or power and the reference engine thrust or power. That correction was proposed in terms of "engine rating"; however, upon review of the proposal and its purpose, the required correction is more correctly stated in terms of "engine thrust or power." This amendment adopts that change from the proposal. Additional standards are also provided for determining the validity of test results when more than one test site is used to demonstrate compliance.

Some commenters felt that the proposed requirement in § A36.5(d)(3) that no more than four one-third octave band SPLs be within 5 dB of ambient at any time within the 10 dB-down points would be unreasonable, particularly for aircraft that produce low noise levels. The commenters stated that the requirement would necessitate extensive on-site analysis to determine whether or not the acquired data were acceptable, and thus, would result in over-use of equivalent procedures. One commenter recommended the use of spectral extrapolation. The FAA has reviewed the matter and concludes that the proposed four band limit is not overly restrictive and that the limit is needed to provide a reasonable and appropriate correction requirement to ensure accuracy and repeatability of data. However, the FAA concludes that provision should be changed to allow correction rather than exclusion of the levels in any frequency band provided the correction is made under an FAA approved method. Spectral extrapolation, which achieves the same results, would be considered for approval as an equivalent procedure under the rule. Thus as adopted, § A36.5(d)(3) has been rephrased to permit corrections under an approved method.

Also, the proposed § A36.5(d)(2) misstated that the correction of source noise must be from approved data for the difference "between measured and corrected engine conditions." That provision is corrected in the amendment to reflect the required correction in terms of the difference "between measured and reference engine conditions."

Several commenters stated that requirement for the 90 percent confidence limit to not exceed ±1.0 EPNdB for each of the three average noise certification levels is not justified. They stressed that although many noise certification tests have been accomplished with 90 percent confidence limits less than ±1.0 EPNdB, a reduction to ±1.0 EPNdB from ±1.5 EPNdB, when combined with the current limitations in on-site normalization capabilities, could impose undue penalties on the applicant. For example, to comply with the ±1.0 EPNdB limit, the applicant may have to incur the costs involved in either conducting additional test runs or keeping the test set-up intact until the data processing confirms compliance within the ±1.0 EPNdB limit. The commenters noted that the impact of such a reduction in the limitation has not been fully evaluated or validated under several significant test conditions. The FAA agrees that the confidence interval of ±1.5 EPNdB should be retained at this time. In the absence of significant experience with the lower limit, it is reasonable to anticipate that its adoption is likely to result in an increased sample size, especially for the sideline noise measurements.

Two commenters stated that the proposed duration correction fails to account for the effect of any differences in ground speeds between the reference conditions and the certification test conditions. The FAA disagrees. Proposed § A36.5 clearly specified that the aircraft performance data and the noise measurements must be corrected to reference atmospheric conditions which include the zero wind factor.

SYMBOLS AND UNITS

As part of the revision of Appendix A proposed in Notice No. 76-21, current § A36.4 would be redesignated as "§ A36.7." That proposal is adopted in this amendment. However, since the noise measuring point distances and related flight path heights prescribed in Appendix C are amended in Amendment 36-8, this amendment includes the necessary amendments to the symbols and units to achieve conformity.

One commenter correctly noted that the symbol "LX_c" used in proposed § A36.11(d)(3) although defined in that provision is not provided under § A36.7: "Flight Profile Distances." In addition, the FAA notes that for consistency "X_c" should be provided under the "Flight Profile Identification Positions." Accordingly as adopted, § A36.7 includes the meaning of "LX_c", which is the "Corrected Sideline Noise Path", as: "the distance from station L to the corrected aircraft position X_c." "LX_c" is described as "position on corrected takeoff flight path corresponding to PNLTM at station L."

ATMOSPHERIC ATTENUATION OF SOUND

Under the current provisions of Appendix A (§ A36.5), the measured one-third octave band spectra are corrected to the reference-day conditions. Under revised Appendix A (§ A36.9), this correction is amended to better account for the differences in the atmospheric attenuation of sound between the test-day conditions and the reference-day conditions along the entire sound propagation path between the aircraft and the microphone.

As stated in the notice, experience has shown that the measurement of, and correction for, nonreference meteorological conditions are exceedingly critical to obtaining accurate, consistent, and repeatable test results. The FAA has concluded, after reviewing the proposal and comments submitted to the docket, that the proposed detailed meteorological data are needed and should be required. This amendment accomplishes that purpose. Specifically, current (test-time) meteorological observations of the temperature and relative humidity are required over the whole sound propagation path from the aircraft to the noise measuring station. To avoid localized anomalous conditions that often occur near the ground, the surface meteorological measurements continue to be made 10 meters above the surface.

Under the proposal, if the atmospheric absorption coefficients vary over the sound propagation path by more than ±0.3 dB/1,000 feet in the 3150 Hz one-third octave band from the attenuation rate defined by the surface meteorological measurements,

applicants would have been required to base atmospheric attenuation corrections upon the mean attenuation rate for each one-third octave over the entire length of the sound propagation path. However, the absence of inversions in both temperature and relative humidity during compliance testing would no longer be a limiting factor in the test sequence.

In proposing this amendment, the FAA stated its belief that the amendments would provide technologically adequate means for correcting noise data that are obtained under some atmospheric conditions under which testing is prohibited under the current Appendix A. Taken together, the revisions of proposed §§ A36.1 and A36.9 would provide improved measured data and increase the number of days during which tests may be conducted. Except as discussed below, those proposals are adopted in this amendment.

One commenter recommended deletion of the requirement in proposed § A36.9(b)(2) for recording temperature and humidity levels in the vicinity of each microphone location. The FAA disagrees. These data are necessary to insure that existing atmospheric conditions are measured and that adequate corrections are made to achieve equivalence with the reference atmospheric conditions.

Two commenters stated that the requirement to take meteorological measurements every 45 minutes during any test period implied that once the test period began, meteorological measurements must be taken at least every 45 minutes even though test measurements were temporarily discontinued or delayed. The FAA agrees that clarification is necessary. Under the proposal, noise measurements would always occur within 22.5 minutes of a required meteorological measurement. Comparable accountability for potential changes in meteorological conditions during the test period is achieved under the amendment by restating the provision to require meteorological measurements within 25 minutes of each noise test measurement.

As noted by one commenter, the reference to "corrected flight path" in proposed § A36.9(d)(1)(ii) is in error and the provision should refer only to "reference flight paths." This amendment reflects that change.

Several commenters recommended that the limitation on atmospheric absorption coefficients in § A36.9(d)(2) should be consistent with a constant absolute humidity and a standard lapse rate. The FAA does not agree. The prescribed layering correction procedure is to be used when the coefficients vary by more than the prescribed limit. The FAA concludes that the requirement to use the layering correction procedure, in addition to providing consistent and repeatable test results, will permit compliance testing in the presence of inversions which previously precluded the test sequence.

Several commenters also suggested that the proposed ±.5 dB/1,000 foot limit should be increased to as much as ±1.0 dB/100 meters. After reviewing the proposal in light of the comments and other available technical information, the FAA concludes that the limit should be increased slightly. The provision is also rewritten to clarify that the required comparison is with meteorological measurements obtained at 10 meters above the surface of the noise measuring station. Under the amendment, the limit on atmospheric absorption coefficients is established at ±0.7 dB/1,000 feet in the 3150 Hz one-third octave band.

Another commenter recommended the use of an area-weighted average temperature and relative humidity for the as-measured parameters used in computing the corrections required in proposed § A36.11(d). The FAA considers this method to be an equivalent that could be accepted under § A36.9(d)(3). Accordingly, that comment does not prompt any change from the proposal.

CORRECTION PROCEDURES

The conditions under which noise test are conducted are not always the same and the variations in those conditions affect the comparability of measured data. Accordingly, when the noise certification test conditions do not conform to the prescribed reference conditions, appropriate correction must be made to the EPNL calculated from the measured data. Under the proposed § A36.11, the provisions of current § A36.6 would not be significantly modified.

The proposed rule, as adopted in this amendment, provides an additional procedure which prescribes the corrections for testing at a nonstandard location. For some aircraft which exhibit exceptionally low noise levels during takeoff, the FAA concludes that it may be necessary to bring the takeoff noise measuring station to a point closer to the start of roll to ensure recording the complete flyover noise history. The flyover-noise/time history must include the 10 dB-down points from the maximum tone corrected perceived noise level (PNLTM) both before and after the time of PNLTM, as required under current § B36.5 (proposed § B36.13). The EPNL value computed from these measurements must then be corrected to the value that would have occurred at the prescribed reference takeoff measuring point. The notice proposed separate procedures for making these corrections depending on whether the correction factor exceeds 7.0 dB or results in a final EPNL value which is within 1.5 dB of the prescribed noise level limit. A typographical error in paragraph A36.11(f)(1), regarding the value of the proposed correction limitation (7.0 dB), was noted and is corrected in the amendment.

One commenter suggested that the distinction made in § A36.11(a) between positive and negative correction values should be eliminated. The FAA does not agree. That distinction is prescribed in the current correction procedure and its elimination was not proposed in Notice No. 76-21. In addition, the limitation on the situations in which a negative value (in the difference between reference and test conditions) may be the basis of a correction precludes the interjection of correction factors which may obscure or defeat the purposes of permitting corrections to measured data.

One commenter stated that the integrated procedure (proposed in § A36.11(f)) for normalizing spectra sometimes produces anomalous results because of short term variations that are usually present in actual flight paths. The FAA concludes that the integrated procedure would provide reasonably predictable and verifiable results since the specification includes procedures for normalizing spectra and requires corrections to be made for testing aircraft at a nonstandard location. However, to further avoid anomalous results, the correction limitation on the simple procedure is changed in this amendment to a correction factor value of 8.0 dB and a final EPNL value within 1.0 dB of the prescribed noise limit. The FAA also notes that correction to EPNL to the reference noise measuring point precedes corrections for any differences between test and reference thrust and airspeed. The notice referred to the reference airspeed as "velocity." For clarity and consistency, the reference should be stated as "airspeed." This amendment reflects that change and, except as discussed, the nonstandard takeoff location specification is adopted as proposed.

In proposed § A36.11(b)(2), the takeoff profile parameter changes may be derived from FAA approved manufacturer's data. For consistency and clarity, the requirement of FAA approval as a condition to the use of manufacturer data is added to a related provision in paragraph (a)(3)(i). Also, since for approach tests the reference profile is predetermined by the measuring point distance and 3 degree approach glide slope, the last sentence in paragraph (a)(3)(i) is restated to refer to that description in paragraph (c)(2).

In addition, the proposed description of the process for calculating the duration correction due to differences in the test flight paths from the reference flight paths (proposed

§ A36.11(e)) is rewritten in this amendment without substantive change. As adopted, the clarity of the description is improved and unnecessary repetition of methodology under the separate provisions for takeoff, sideline, and approach has been eliminated.

NOY VALUES

Perceived noisiness is expressed in units of "noys" and is based upon the mathematical formulation given in proposed § B36.13. Table B1 was included in Appendix B to provide a ready reference for those applicants who elect not to calculate noy values from the formula. While the original table contains values down to 1.00 noy, lower values are sometimes required in the calculation of EPNL for low noise aircraft. Thus, the FAA proposed to expand Table B1 to provide those lower values. Such a revised table had been prepared by the Society of Automotive Engineers and published in ARP 865. The International Standards Organization concurred with that revision (ISO/IC 43/SC1, revised March 3, 1975). The ICAO currently has under consideration a similar revision. Table B2 is also amended to conform to the expanded Table B1.

One commenter correctly noted that the constant of 33.3 used in computing PNL(K) (§ B36.3) should be changed in light of the modifications made to the Noy values in deriving Table B1 from the original noy curves. Accordingly, the constant in Step 3 under new § B36.3(c) has been changed from 33.3 to 33.22. As amended, the underlying formula reads: "PNL(K)=40.00+33.22 log N(K)."

PSEUDOTONE ELIMINATION AND SPECTRAL IRREGULARITIES CORRECTION

In the notice, the FAA proposed to add two new paragraphs, (m) and (n), after the last undesignated paragraph of current § B36.3 (proposed § B36.5(1)). The first new paragraph prescribes the exclusion of certain tones (resulting from ground-plane reflection) from calculations of corrections for spectral irregularities. The second paragraph prescribes the evaluation of the five one-half second noise level samples around the initially calculated PNLTM. The FAA stated that it believed that occasionally the prescribed ten-step procedure for calculating corrections for spectral irregularities yields incorrect values since it tends to undercompensate for tones occurring in frequencies near the cross- over point between adjacent one-third octave filters. The FAA, ICAO, SAE and others have considered several methods for overcoming this deficiency. After consideration of the side effects of the other methods, the FAA concluded that the proposed procedure provides the most appropriate and consistent results.

In Notice No. 76-21, the FAA also proposed to amend Table B2 to account for tone level differences less than 3.0 decibels in amplitude, since the current table provides no tone correction for those level difference values. Table B2 was originally constructed to avoid the possibility that small false tones, "pseudotones", would be mistakenly retained during the data processing. These pseudotones result from interference patterns in the sound field near the Earth's surface during an aircraft flyover. However, FAA noise certification experience with the pseudotone problem under current § B36.5 indicates that such precautions are no longer necessary. Since similar action has been taken by the ICAO, the FAA proposed, and in this amendment adopts, the elimination of the 3.0 decibel lower limit on the level difference used to determine the tone correction. The example contained in Table B3 is also amended to reflect the necessary minor changes. Further, a revised and expanded discussion on the methods for identifying and eliminating pseudotones is provided in new paragraphs B36.5(m) and (n) and discussed below. The FAA concludes that these provisions are needed to clarify the prescribed methodology in the noise certification procedure.

One commenter objected to further refinements to the tone correction procedure in proposed § B36.5(m). The commenter stated that in view of its controversial nature, he recommended deletion of the requirement to account for the factors F(i,K), regarding sound pressure level differences between 0 and 3 decibels.

One commenter recommended deletion of the requirement to account for band sharing in the tone correction procedure proposed in § B36.5(n). The commenter recommended that tone corrections should not be applied when the spectral irregularity is caused by the deletion of those one-third octave band sound pressure levels (SPLs) that are within 5 dB of the ambient noise levels. The FAA agrees that the procedure as proposed should not be adopted but does not agree the accountability for band sharing should be deleted altogether. The proposed requirement would have accounted for band sharing in the tone correction procedure and required a judgmental decision on each specific case. Furthermore, the process would have not lent itself to computerized methods of computation since no known procedure consistently obtains a final result for a variety of spectra. Accordingly, the requirement to account for band sharing in the proposed tone correction procedure is modified to eliminate the ad hoc judgment in accounting for band sharing and to substitute an arithmetic analysis using the average value of the five successive time intervals, including two preceding and two succeeding time intervals, in computing a new value for the maximum PNLT.

EFFECT ON NOISE LEVEL LIMITS

Many commenters in response to the notice, and to Notice Nos. 75-37, 75-37C, and 76-22 regarding proposed noise level limit reductions, expressed concern that the proposed change in the procedures and standards for conducting aircraft noise tests proposed in Notice No. 76-21 might effectively increase, or decrease, the stringency of the Part 36 noise level limits. Some commenters objected to the noise test specification proposals because they felt the aircraft noise standards, and particularly the noise limits, would necessarily become more stringent if the proposals were adopted.

The FAA has reviewed the proposals in light of the comments and data presented to the docket, the amended noise level limits and acoustical change requirements for the affected airplanes, and other data and information available to it. The FAA agrees that the stringency of aircraft noise certification requirements for certain portions of the noise measurement and evaluation specifications is increased under this amendment. However, the FAA feels that the increase is reasonable and that most, if not all, of the increase results from the refinements and new methodology reflected by the current state of the art which, when applied, enhances the accuracy, repeatability, and creditability of the aircraft noise test data. The FAA concludes, however, that there is no demonstrated basis for anticipating that the noise level limits prescribed under Appendix C to Part 36 are made significantly more stringent for noise demonstrations than they are under the current Appendices A and B.

The FAA recognizes the interrelation between the test methodology and resulting noise levels. That relationship is a major reason for the proposed amendment. Under this amendment, the latitude permitted under the current specifications is reduced for some procedures and standards and is increased for some others (where adequate precautions, such as corrections and limitations, have been provided). For example, there may be some noise test sites where noise testing is currently conducted under Part 36 that may be limited under the specifications adopted in this amendment. However, some meteorological conditions which currently preclude noise testing under Part 36 will not have that effect under this amendment. Also test conditions are more readily and accurately correctable to the prescribed reference conditions. Under this amendment, the FAA con-

cludes that the unnecessarily broad latitude permitted in the current noise measurement and evaluation specifications is eliminated. Thus, under this amendment, the specifications are

CONFORMITY WITH OTHER RULEMAKINGS

Notice No. 76-21 did not contain any proposals regarding the noise level requirements under Appendix C to Part

conducted as soon after the effective date of the final amendment as practicable.

In light of the discussion in the notice that it intended to achieve the

process. As a result, little or no change is anticipated in the noise levels of aircraft type certificated under this amendment and there is no anticipated change in the amount of fuel used

is amended, effective April 3, 1978, as follows:

1. Subpart A of Part 36 is amended by adding a new § 36.6 to read as follows:

(e) *Availability for inspection.* A copy of each publication incorporated by reference in this part is available for public inspection at the following locations:

cludes that the unnecessarily broad latitude permitted in the current noise measurement and evaluation specifications is eliminated. Thus, under this amendment, the specifications are clarified and up-dated to reflect the current state of the acoustic arts. The FAA does not agree with commenters who suggested that implementation of specifications proposed in Notice No. 76-21 should be delayed in order to gain further experience with them. The benefits of these specifications regarding improved accuracy, repeatability, and creditability of aircraft noise test data under Part 36, have been discussed in the notice and in this preamble. The FAA concludes that it has sufficient technical basis to support the specifications adopted in this amendment and that the public interest would not be served by postponing achievement of the benefit of this amendment as suggested by some commenters. The FAA notes that in several respects the specifications adopted in this amendment have already been adopted, or are being considered for adoption, by the ICAO.

Incorporation by Reference

Currently, published technical materials that are incorporated by reference in Part 36 under 5 U.S.C. 552(a) and 1 CFR Part 51 are separately prescribed in the substantive provisions of the respective appendices. In Notice No. 76-21, the FAA proposed, and this amendment adopts, a new section under the general provisions in Subpart A which executes the incorporations by reference and consolidates the required statements of identification and availability of the incorporated materials. By so doing, the readability of the affected provisions is improved and the need for repetitive material is kept to a minimum. The new section 36.6 (proposed § 36.9) also serves as a technical bibliography and reference source for information regarding the incorporated materials. Under the amendment, the individual referencing provisions in the specifications identify incorporated material that is part of that provision and cross-reference new § 36.6. This amendment adopts the materials incorporated by reference according to the date of the material specified in the reference as proposed. Notice and public procedure will precede the adoption of any subsequent editions of, or changes to, the incorporated materials.

The Director of the Federal Register approved the incorporations by reference contained in this amendment on July 6, 1977, and a copy of each incorporated publication was filed with the Director and is available in the Federal Register Library and as provided in paragraphs 36.6 (d) and (e).

Conformity With Other Rulemakings

Notice No. 76-21 did not contain any proposals regarding the noise level requirements under Appendix C to Part 36. However, amendments to Appendix C regarding takeoff and approach noise measuring point distances were proposed in Notice No. 75-37C (41 FR 47375; October 28, 1976) and adopted in Amendment 36-8. That amendment necessitated certain conforming amendments in Appendix A. Several commenters noted the relationship between the two proposed rules and urged that they be considered together. The FAA agrees. Since this amendment revises Appendix A, the needed changes in the description of the prescribed noise tests adopted in Amendment 36-8 are reflected in this amendment. The basis and purpose of the amendments to Appendix C (§ C36.3 (a) and (b)) are discussed in the preamble to Amendment 36-8 and apply to the complementary amendments in Appendix A. Accordingly, references to the takeoff and approach noise measuring point distances (3.5 and 1.0 nautical miles, respectively) and to the corresponding aircraft approach height and reference approach flight path altitude (370 and 369 feet, respectively) are amended in the various provisions and tables under Appendix A in which they appear. Under this amendment the takeoff and approach noise measuring point distances are 21,325 feet and 6.562 feet, respectively: the related heights, i.e., aircraft approach height (symbol "NH") and reference approach flight path altitude (symbol "NT"), are 394 feet and 393 feet respectively.

Effective Date

In the notice, the FAA proposed to make the proposed rule applicable to noise certification tests conducted after March 31, 1977, or 30 days after publication of the final amendment, which even occurs later.

In proposing a compliance date, the FAA considered that, if adopted, the new provisions could, in some cases, require additional instrumentation or revisions to existing data processing and analysis computer programs. Although the amendments generally follow already established practices and standards, the FAA was aware that some potential applicants may have had little or no recent noise certification experience comparable to that prescribed under the specifications adopted in this amendment. For those persons, the amendments may impose some new burden. To ensure that a reasonable period for these changes to be made and that the earliest effectivity would be achieved, the FAA indicated its intentions and proposed that compliance with the amended Appendices A and B be required for tests conducted as soon after the effective date of the final amendment as practicable.

In light of the discussion in the notice that it intended to achieve the benefits of the proposed amendments at the earliest reasonable date, the FAA does not agree with those commenters who suggested delaying compliance for at least six months after the amendments are adopted. Further, the FAA concludes that there will be significant advantage in having the same effective/compliance date for the several related amendments to the aircraft noise standards adopted in Amendment 36-8 and this amendment. Under the circumstances, the suggested delayed compliance date is not warranted and could result in significant difficulties regarding compliance with, and administration of, the aircraft noise demonstration tests and noise limits.

Regarding the relationship of this amendment to other rulemakings, the FAA notes that the adoption of this amendment is not anticipated to increase or decrease the noise level measurements of aircraft as compared to those obtained from noise tests conducted under the current Appendices A and B. However, the FAA has issued amendments to the noise limits under Appendix C of Part 36 in Amendments 36-7 and 36-8. The latter amendment also amends the noise measuring point distances and minimum altitudes at which thrust or power may be cut back during takeoff noise tests of certain aircraft. Since the provisions under Appendix C regarding those requirements are reflected in provisions under Appendices A and B affected by this amendment, this amendment also includes those additional changes to Appendices A and B.

The FAA also concludes that to avoid unnecessary complexity due to differing effective dates, this amendment should become effective as part of the comprehensive aircraft noise amendments as soon after October 1, 1977 as possible.

Evaluation of Impacts

Under the regulatory reform policies of the Secretary of Transportation and the Administrator, an evaluation of the anticipated impacts of this amendment has been completed. In addition to the regulatory impacts previously discussed, the evaluation included the cumulative effect of the anticipated impacts.

This amendment primarily concerns test procedure amendments which govern the specifics of conducting and reporting noise certification tests. It neither raises nor lowers the prescribed noise levels and does not require retesting of currently certificated airplanes or additional tests to be performed during the certification process. As a result, little or no change is anticipated in the noise levels of aircraft type certificated under this amendment and there is no anticipated change in the amount of fuel used to conduct the tests or the amount of engine emissions produced during the tests. Since this amendment requires no additional limitations on in-service operations or performance, no increase in fuel usage or emissions is anticipated to result from aircraft certificated under the amended specifications.

The amendment is more stringent than the current rule in the requirement for noise certification test equipment, in the specification of the weather conditions, and in correction of test data to standard conditions. The increased stringency could, in some cases, increase the applicant's costs of noise type certification. However, the FAA concludes that those costs are not unreasonable and could be offset by savings that would accrue from increased repeatability of the data and from reducing the likelihood that demonstration tests must be rerun. Current industry practice is to design and build aircraft using a tolerance below the actual noise level goals. The requirement for this tolerance arises largely from uncertainties in the repeatability of the data from tests under the current Part 36 procedures. Therefore, by increasing the repeatability of the data, the amended rule contributes to a reduction in costs by eliminating unnecessary design features or performance limitations which would be introduced solely to meet the tolerance requirements. The increased accuracy and reliability of test data also reduce the likelihood that a test would have to be rerun to demonstrate the requisite confidence level in the noise measurements.

The anticipated increased costs and offsetting economic benefits analyzed in the NED demonstrate the economic impacts of this amendment. These impacts have been evaluated in accordance with Executive Order 11821, as amended by Executive Order 11949, and under OMB Circular A-107 and DOT Order 2050.4. From that evaluation, it was determined that this amendment would not significantly increase costs to the private sector, to consumers, or to Federal, State, or local governments. Accordingly, the FAA has concluded that the cumulative impact of this amendment is not inflationary in nature and is not a major proposal for which an economic impact statement is required.

Drafting Information

The principal authors of this document are Richard Tedrick, Office of Environmental Quality, and Ronn E. Harding, Office of the Chief Counsel.

Adoption of the Amendment

Accordingly, Part 36 of the Federal Aviation Regulations (14 CFR Part 36) is amended, effective April 3, 1978, as follows:

1. Subpart A of Part 36 is amended by adding a new § 36.6 to read as follows:

§ 36.6 Incorporations by reference.

(a) *General.* This part prescribes certain standards and procedures which are not set forth in full text in the rule. Those standards and procedures are contained in published material which is reasonably available to the class of persons affected and has been approved for incorporation by reference by the Director of the Federal Register under 5 U.S.C. § 552 (a) and 1 CFR Part 51.

(b) *Incorporated matter.* (1) Each publication, or part of a publication, which is referenced but not set forth in full-text in this part and which is identified in paragraph (c) of this section is hereby incorporated by reference and made a part of Part 36 of this chapter with the approval of the Director of the Federal Register.

(2) Incorporated matter which is subject to subsequent change is incorporated by reference according to the specific reference and to the identification statement. Adoption of any subsequent change in incorporated matter is made under Part 11 of this chapter and 1 CFR Part 51.

(c) *Identification statement.* The complete title or description which identifies each published matter incorporated by reference in this part is as follows:

(1) *International Electrotechnical Commission (IEC) Publications.* (i) IEC Publication No. 179, entitled "Precision Sound Level Meters," dated 1973.

(ii) IEC Publication No. 225, entitled "Octave, Half-Octave, Third Octave Band Filters Intended for the Analysis of Sounds and Vibrations," dated 1966.

(2) *Society of Automotive Engineers (SAE) Publications.* (i) SAE ARP 866A, entitled "Standard Values of Atmospheric Absorption as a Function of Temperature and Humidity for Use in Evaluating Aircraft Flyover Noise," dated March 15, 1975.

(ii) [Reserved]

(d) *Availability for purchase.* Published material incorporated by reference in this part may be purchased at the price established by the publisher or distributor at the following mailing addresses:

(1) *IEC publications.* (i) The Bureau Central de la Commission Electrotechnique Internationale, 1, rue de Varembe, Geneva, Switzerland.

(ii) American National Standard Institute, 1430 Broadway, New York City, New York 10018.

(2) *SAE publications.* Society of Automotive Engineers, Inc., 400 Commonwealth Drive, Warrentown, Pennsylvania 15096.

(e) *Availability for inspection.* A copy of each publication incorporated by reference in this part is available for public inspection at the following locations:

(1) FAA Office of the Chief Counsel, Rules Docket, Room 916, Federal Aviation Administration Headquarters Building, 800 Independence Avenue, SW., Washington, D.C.

(2) Department of Transportation, Branch Library, Room 930, Federal Aviation Administration Headquarters Building, 800 Independence Avenue, SW., Washington, D.C.

(3) The respective Regional Offices of the Federal Aviation Administration as follows:

(i) New England Regional Office, 12 New England Executive Park, Burlington, Massachusetts.

(ii) Eastern Regional Office, Federal Building, John F. Kennedy (JFK) International Airport, Jamaica, New York.

(iii) Southern Regional Office, 3400 Whipple Street, East Point, Georgia.

(iv) Great Lakes Regional Office, 2300 East Devon, Des Plaines, Illinois.

(v) Central Regional Office, 601 East Twelfth Street, Kansas City, Missouri.

(vi) Southwest Regional Office, 4400 Blue Mound Road, Fort Worth, Texas.

(vii) Rocky Mountain Regional Office, 10255 East 25th Avenue, Aurora, Colorado.

(viii) Northwest Regional Office, FAA Building, 9010 East Marginal Way South, King County International Airport (Boeing Field), Seattle, Washington.

(ix) Western Regional Office, 15000 Aviation Boulevard, Hawthorne, California.

(x) Alaskan Regional Office, 632 Sixth Avenue, Anchorage, Alaska.

(xi) Pacific-Asia Regional Office, 1833 Kolakoua Avenue, Honolulu, Hawaii.

(xii) European Regional Office, Tour Madou Building, 1, Place Madou, 1020 Brussels, Belgium.

(4) The Office of the Federal Register, Room 8401, 1100 "L" Street, NW., Washington, D.C.

Appendix A

2. Appendix A is amended by adding a table of sections and by revising the appendix to read as follows:

Appendix A—Aircraft Noise Measurement Under § 36.101

Sec.

A36.1 *Noise certification test and measurement conditions.*
A36.3 *Measurement of aircraft noise received on the ground.*
A36.5 *Reporting and correcting measured data.*
A36.7 *Symbols and units.*
A36.9 *Atmospheric attenuation of sound.*
A36.11 *Detailed correction procedures.*

A36.1 *Noise certification test and measurement conditions.*

(a) *General.* This section prescribes the conditions under which aircraft noise certification tests must be conducted and the measurement procedures that must be used to measure aircraft noise during each test conducted on or after April 3, 1978.

(b) *Test site requirements.* (1) Tests to show compliance with established aircraft noise certification levels must consist of a series of takeoffs and approaches during which measurements must be taken at noise

measuring stations located at the measuring points prescribed in § C36.3 of Appendix C of this part.

(2) During each test takeoff, simultaneous measurements should be made at the sideline noise measuring stations on each side of the runway and also at the takeoff noise measuring station. However, if test site conditions make it impractical to simultaneously measure takeoff and sideline noise, and if each of the other sideline measurement requirements is met, independent measurements may be made of the sideline noise under simulated flight path techniques. If the reference flight path includes a power cutback before the maximum possible sideline noise level is developed, the reduced sideline noise level which is the maximum value developed by the simulated flight path technique must be the certificated sideline noise value.

(3) If the height of the ground at a noise measuring station differs from that of the nearest point on the runway by more than 20 feet, corrections must be made as prescribed in § A36.5(d) of this appendix.

(4) The location of each noise measuring station must be surrounded by relatively flat terrain having no excessive sound absorption characteristics, such as might be caused by thick, matted, or tall grass, shrubs, or wooded areas.

(5) An airport tower, or other facility, used to obtain required measurements of meteorological conditions at the test site must be approved in accordance with § A36.9(b)(1) of this appendix.

(6) During the period when the flyover noise/time record indicates the noise measurement is within 10 dB of PNLTM, no obstruction that significantly influences the sound field from the aircraft may exist—

(i) For a takeoff, approach, or sideline measuring station, within a conical space above the measuring position (the point on the ground vertically below the microphone), the cone being defined by an axis normal to the ground and by a half-angle 80 degrees from this axis; and

(ii) For a sideline noise measuring station, above the line of sight between the microphone and the aircraft.

(7) A minimum of four sideline noise measuring stations must be used to define the maximum sideline noise with respect to location and level as required by § C36.3 of Appendix C of this part. One of the microphones must be placed symmetrically with respect to one of the other microphones so that the maximum noise on either side of the aircraft can be determined analytically.

(c) *Weather restrictions.* The tests must be conducted under the following atmospheric conditions:

(1) No rain or other precipitation.

(2) Ambient air temperature between 36 degrees F and 95 degrees F (2.2 degrees C and 35 degrees C), inclusively, over that portion of the sound propagation path between the aircraft and a point 10 meters above the ground at the noise measuring station.

(3) Relative humidity and ambient temperature over that portion of the sound propagation path between the aircraft and a point 10 meters above the ground at the noise measuring station is such that the sound attenuation in the one-third octave band centered at 8 kHz is not greater than 12 dB/100 meters and the relative humidity is between 20 percent and 95 percent, inclusively.

(4) Airport reported wind velocity 10 meters above ground does not exceed 10 knots and the crosswind component does not exceed 5 knots.

(5) No anomalous wind conditions (including turbulence) which will significantly affect the noise level of the aircraft when the noise is recorded at each noise measuring station.

(d) *Aircraft testing procedures.*—(1) The aircraft testing procedures and noise measurements must be conducted and processed in an approved manner which yields the noise evaluation measure designated as Effective Perceived Noise Level (EPNL) in units of EPNdB, as prescribed in Appendix B of this part.

(2) The aircraft height and lateral position relative to the extended centerline of the runway must be determined by an FAA approved method which is independent of normal flight instrumentation, such as radar tracking, theodolite triangulation, laser trajectography, or photographic scaling techniques.

(3) The aircraft position along the flight path must be related to the noise recorded at the noise measuring stations by means of synchronizing signals at an approved sampling rate. The position of the aircraft must be recorded relative to the runway during the entire time period in which the recorded signal is within 10 dB of PNLTM. Measuring and sampling equipment must be approved by the FAA.

(4) Each takeoff test must meet the conditions of § C36.7 of Appendix C of this part.

(5) If a takeoff test series is conducted at weights other than the maximum takeoff weight for which noise certification is requested, the following additional requirements apply:

(i) At least one takeoff test must be conducted at a weight at, or above, the maximum certification weight.

(ii) Each test weight must be within +5 percent or −10 percent of the maximum certification weight.

(iii) Approved data must be used to determine the variation of EPNL with weight for takeoff test conditions.

(6) Each approach test must be conducted with the aircraft stabilized and following a 3.0 degree ±0.5 degree approach angle and must meet the requirements of § C36.9 of Appendix C of this part.

(7) If an approach test series is conducted at weights other than the maximum landing weight for which certification is requested, the following additional requirements apply:

(i) At least one approach test must be conducted at a weight at, or above, the maximum landing weight.

(ii) Each test weight must exceed 90 percent of the maximum landing weight.

(iii) Approved data must be used to determine the variation of EPNL with weight for approach test conditions.

(8) Aircraft performance data sufficient to make the correction required under § A36.5 of this appendix must be recorded at an approved sampling rate using FAA approved equipment.

§ A36.3 *Measurement of aircraft noise received on the ground.* (a) *General.*—(1) The measurements prescribed in this section provide the data for determining the one-third octave band noise produced by aircraft during testing at specific noise measuring stations, as a function of time.

(2) Sound pressure level data for aircraft noise certification purposes must be obtained with approved acoustical equipment and measurement practices.

(3) Paragraphs (b), (c), and (d) of this section prescribe the required equipment specifications. Paragraphs (e) and (f) prescribe the calibration and measurement procedures required for each certification test series.

(b) *Measurement system.*—The acoustical measurement system must consist of approved equipment equivalent to the following:

(1) A microphone system with frequency response and directivity which are compatible with the measurement and analysis system accuracy prescribed in paragraph (c) of this section.

(2) Tripods or similar microphone mountings that minimize interference with the sound energy being measured.

(3) Recording and reproducing equipment whose characteristics, frequency response, and dynamic range are compatible with the response and accuracy requirements of paragraph (c) of this section.

(4) Calibrators using sine wave, or pink noise, of known levels. When pink noise (defined in paragraph (e)(1) of this section) is used, the signal must be described in terms of its root-mean-square (rms) value.

(5) Analysis equipment with the response and accuracy which meets or exceeds the requirements of paragraph (d) of this section.

(6) Attenuators used for range changing in sensing, recording, reproducing, or analyzing aircraft sound must be capable of being operated in equal-interval decibel steps with no error between any two settings which exceeds 0.2 dB.

(c) *Sensing, recording, and reproducing equipment.* (1) The sound produced by the aircraft must be recorded in such a way that the complete information, including time history, is retained. A magnetic tape recorder is acceptable.

(2) The microphone must be a pressure-sensitive capacitive type, or its approved equivalent, such as a free-field type with incidence corrector.

(i) The variation of microphone and preamplifier system sensitivity within an angle of ±20 degree of grazing (70–110 degrees from the normal to the diaphragm) must not exceed ±2.0 dB for any frequency within the range of 44 Hz to 11,200 Hz. The variation of microphone sensitivity in the plane of the diaphragm must not exceed ±0.5 dB over the same frequency range.

(ii) The overall free-field frequency response at 90 degrees (grazing incidence) of the combined microphone (including incidence corrector, if applicable) preamplifier, and windscreen must be determined by using (A) an electrostatic calibrator in combination with manufacturer-provided corrections, or (B) an anechoic free-field facility. The calibration unit must include pure tones at each preferred one-third octave frequency from 50 Hz to 10,000 Hz. The frequency response (after corrections based on that determination) must be flat within the following tolerances:

44–3549 Hz	±0.25 dB
3550–7099 Hz	±0.5 dB
7,100–11,200 Hz	±1.0 dB

(iii) Specifications concerning sensitivity to environmental factors such as temperature, relative humidity, and vibration must be in conformity with the recommendations of International Electrotechnical Commission (IEC) Publication No. 179, entitled "Precision Sound Level Meters" (as incorporated by reference under § 36.6 of this part).

(iv) If the wind speed exceeds 6 knots, a windscreen must be employed with the microphone during each measurement of aircraft noise. Correction for any insertion loss produced by the windscreen as a function of frequency, must be applied to the measured data and any correction applied must be reported.

(3) If a magnetic tape recorder is used to store data for subsequent analysis, the record/replay system (including tape) must conform to the following:

(i) The electric background noise produced by the system in each one-third octave must be at least 35 dB below the standard recording level, which is defined as that level which is either 10 dB below the 3 percent harmonic distortion level for direct recording or ±40 percent deviation for frequency modulation (FM) recording.

(ii) At the standard recording level, the corrected frequency response in each selected one-third octave band between 44 Hz and 180 Hz must be flat within ±0.75 dB, and in each band between 180 Hz and 11,200 Hz must be flat within ±0.25 dB.

(iii) If the overall system satisfies the requirements of paragraph (c)(2)(ii) of this section, and if the limitations of the dynamic range of the equipment are insufficient to obtain adequate spectral information, high frequency pre-emphasis may be added to the recording channel with the converse de-emphasis on playback. If pre-emphasis is added, the instantaneously recorded sound-pressure level between 800 Hz and 11,200 Hz of the maximum measured noise signal must not vary more than 20 dB between the levels of the maximum and minimum one-third octave bands.

(d) *Analysis equipment.*—(1) A frequency analysis of the acoustic signal must be performed using one-third octave filters which conform to the recommendations of International Electrotechnical Commission (IEC) Publication No. 225, entitled "Octave, Half-Octave, and Third-Octave Band Filters Intended for Analysis of Sounds and Vibrations" (as incorporated by reference under § 36.6 of this part).

(2) A set of 24 consecutive one-third octave filters must be used. The first filter of the set must be centered at a geometric mean frequency of 50 Hz and the last filter at 10,000 Hz. The output of each filter must contain less than 0.5 dB ripple.

(3) The analyzer indicating device may be either analog or digital, or a combination of both. The preferred sequence of signal processing is:

(i) Squaring the one-third octave filter outputs;

(ii) Averaging or intergrating; and

(iii) Coverting linear formulation to logarithmic.

(4) Each detector must operate over a minimum dynamic range of 60 dB and perform as a true-mean-square device for sinusoidal tone bursts having crest factors of at least 3 over the following dynamic range:

(i) Up to 30 dB below full-scale reading must be accurate within ±0.5 dB;

(ii) Between 30 dB and 40 dB below full-scale reading must be accurate within ±1.0 dB; and

(iii) In excess of 40 dB below full-scale reading must be accurate within ±2.5 dB.

(5) The dynamic response of the analyzer to input signals in both full-scale, and 20 dB less than full-scale, amplitude must conform to the following requirements:

(i) When a sinusoidal pulse of 500 millisecond duration at the geometrical mean frequency of each one-third octave band is applied to the input, the maximum output value must read 4.0 dB (within +0.5 or −1.0 dB) less than the value obtained for a steady state sinusoidal signal of the same frequency and amplitude.

(ii) When a steady state sinusoidal signal at the geometrical mean frequency of each one-third octave band is suddenly applied to the analyzer input and held constant, the maximum output value must exceed the final steady state value by 0.5±0.5 dB.

(iii) When a steady state signal is interrupted, an output value of 2.5±1.0 dB below the initial steady-state response must be achieved within 500 milliseconds after the interruption.

(6) A single value of the root-mean-square (rms) level must be provided every 500±5 milliseconds for each of the 24 one-third octave bands. The levels for all of the 24 one-third octave bands must be obtained within a 50 millisecond period. No more than 5 milliseconds of data from any 500 millisecond period may be excluded from the measurement.

(7) The amplitude resolution of the analyzer must be a least 0.25 dB.

(8) After all systematic errors have been eliminated, each output level from the analyzer must be accurate within ±1.0 dB of the level of the input signal. The total systematic errors for each of the output levels must not exceed ±3.0 dB. For contiguous filter systems, the systematic correction between adjacent one-third octave channels must not exceed 4.0 dB.

(9) The dynamic range capability of the analyzer for display of a single aircraft noise event (in terms of the difference between full-scale output level and the maximum noise level of the analyzer equipment) must be at least 60 dB.

(e) *Calibrations.*—(1) Within the five days before the beginning of each test series, the complete electronic system (as installed in the field, including cables) must be electronically calibrated for frequency and amplitude by the use of a pink noise signal of known amplitudes covering the range of signal levels furnished by the microphone. For purposes of this section, a "pink noise" means a noise whose noise-power/unit-frequency is inversely proportional to frequency at frequencies within the range of 44 Hz to 11,200 Hz. The signal used must be described in terms of its average root-mean-square (rms) values for a nonoverload signal level. This system calibration must be repeated within five days of the end of each test series, or as required by the FAA.

(2) Immediately before and after each day's testing, a recorded acoustic calibration of the system must be made in the field with an acoustic calibrator to check the system sensitivity and provide an acoustic reference level for the analysis of the sound level data. The performance of equipment in the system will be considered satisfactory if, during each day's testing, the variation does not exceed 0.5 dB.

(3) A normal incidence pressure calibration of the combined microphone/preamplifier must be performed with pure tones at each preferred one-third octave frequency from 50 Hz to 10,000 Hz. This calibration must be completed within the 90 days before the beginning of each test series.

(4) Each reel of magnetic tape must:

(i) Be pistonphone calibrated; and

(ii) At its beginning and end, carry a calibration signal consisting of at least a 15 second burst of pink noise, as defined in paragraph (e)(1) of this section.

(5) Data obtained from tape recorded signals are not considered reliable if the difference between the pink noise signal levels, before and after the tests in each one-third octave band, exceeds 0.75 dB.

(6) The one-third octave filters must have been demonstrated to be in conformity with the recommendations of IEC Publication 225 (as incorporated by reference under § 36.6 of this part) during the six calendar months preceding the beginning of each test series. However, the correction for effective bandwidth relative to the center frequency response may be determined for each filter—

(i) By measuring the filter response to sinusoidal signals at a minimum of twenty frequencies equally spaced between the two adjacent preferred one-third octave frequencies; or

(ii) By using an approved alternative technique.

(7) A performance calibration analysis of each piece of calibration equipment, including pistonphones, reference microphones, and voltage insert devices, must have been made during the 12 calendar months preceding the beginning of each day's test series. Each calibration must be traceable to the National Bureau of Standards.

(f) *Noise measurement procedures.* (1) Each microphone must be oriented so that the diaphragm is substantially in the plane defined by the flight path of the aircraft and the measuring station. The microphone located at each noise measuring station must be placed so that its sensing element is approximately 4 feet above ground.

(2) Immediately before and immediately after each series of test runs and each day's testing, a recorded acoustic calibration of the system prescribed in A36.3(e)(2) of this appendix must be made in the field to check the acoustic reference level for the analysis of the sound level data. Ambient noise must be recorded for at least 10 seconds and be representative of the acoustical background, including systemic noise, that exists during the flyover test run. During that recorded period, each component of the system must be set at the gain-levels used for aircraft noise measurement.

(3) The mean background noise spectrum must contain the sound pressure levels, which, in each preferred third octave band in the range of 50 Hz to 10,000 Hz, are the averages of the energy of the sound pressure levels in every preferred third octave. When analyzed in PNL, the resulting mean background noise level must be at least 20 PNdB below the maximum PNL of the aircraft.

(4) Corrections for recorded levels of background noise are allowed, within the limits prescribed in § A36.5(d)(3) of this appendix.

A36.5. *Reporting and correcting measured data.*

(a) *General.* Data representing physical measurements, or corrections to measured data, including corrections to measurements for equipment response deviations, must be recorded in permanent form and appended to the record. Each correction must be reported and is subject to FAA approval. An estimate must be made of each individual error inherent in each of the operations employed in obtaining the final data.

(b) *Data reporting.* (1) Measured and corrected sound pressure levels must be presented in one-third octave band levels obtained with equipment conforming to the standards prescribed in § A36.3 of this appendix.

(2) The type of equipment used for measurement and analysis of all acoustics, air-

craft performance, and meteorological data must be reported.

(3) The atmospheric environmental data required to demonstrate compliance with § A36.1(c) of this appendix, measured throughout the test period under § A36.9(b)(3) of this appendix, must be reported.

(4) Conditions of local topography, ground cover, or events which may interfere with sound recording must be reported.

(5) The following aircraft information must be reported:

(i) Type, model, and serial numbers (if any) of aircraft engines.

(ii) Gross dimensions of aircraft and location of engines.

(iii) Aircraft gross weight for each test run.

(iv) Aircraft configuration, including flap and landing gear positions.

(v) Airspeed in knots.

(vi) Engine performance in pounds of net thrust, engine pressure ratios, exhaust temperatures, and fan or compressor shaft rotational speeds, as determined from aircraft instruments and manufacturer's data.

(vii) Aircraft flight path (above ground level in feet) determined by an FAA approved method which is independent of normal flight instrumentation, such as radar tracking, theodolite triangulation, laser trajectography, or photographic scaling techniques.

(6) Aircraft speed and position, and engine performance parameters must be recorded at an approved sampling rate sufficient to correct to the noise certification reference conditions prescribed in paragraph (c) of this section. Lateral position relative to the extended centerline of the runway, configuration, and gross weight must be reported.

(c) *Noise certification reference conditions*—(1) *Meteorological conditions.* Aircraft position and performance data and the noise measurements must be corrected to the following noise certification reference atmospheric conditions:

(i) Sea level pressure of 2116 psf (76 cm mercury).

(ii) Ambient temperature of 77 degrees F (25 degrees C).

(iii) Relative humidity of 70 percent.

(iv) Zero wind.

(2) *Aircraft conditions.* The reference condition for takeoff is the maximum weight, except as provided in § 36.1581(b) of this part. The reference conditions for approach tests consist of—

(i) Design landing weight, except as provided in § 36.1581(b) of this part;

(ii) Approach angle of 3 degrees; and

(iii) Aircraft height of 394 feet above the ground at the noise measuring station.

(d) *Data corrections.* (1) Aircraft position and performance data and the noise measurement must be corrected to the noise certification reference conditions as prescribed in paragraph (c) of this section. The measured atmospheric conditions must be those obtained in accordance with § A36.1(c) of this appendix and paragraph (b)(3) of sound corrections must be made under § A36.9 of this appendix.

(2) The measured flight path must be corrected by an amount equal to the difference between the applicants predicted flight path for the certification reference conditions and the measured flight path at the test conditions. Necessary corrections relating to aircraft flight path or performance may be derived from approved data other than certification test data. The source noise must be corrected from approved data for the difference between measured and reference engine conditions, together with appropriate allowances for sound attenuation with distance. The Effective Perceived Noise Level (EPNL) correction must be less than 2.0 EPNdB for any combination of the following:

(i) The aircraft's not passing vertically above the measuring station.

(ii) Any difference between 394 feet and the actual minimum distance of the aircraft's ILS antenna from the approach measuring station.

(iii) Any difference between the actual approach angle and the noise certification reference approach flight path.

(iv) Any correction of the measured noise levels which accounts for any difference between the test engine thrust or power and the reference engine thrust or power.

Detailed correction requirements are prescribed in § A36.11 of this appendix.

(3) Aircraft sound pressure levels within the 10 dB-down points (described in § B36.9 of Appendix B) must exceed the mean background sound pressure levels determined under § A36.3(f)(3) by at least 5 dB in each one-third octave band (or be corrected under an FAA approved method) to be included in the computation of the overall noise level of the aircraft. An EPNL may not be computed or reported from data from which more than four one-third octave bands in any spectrum within the 10 dB-down points have been excluded under this paragraph.

(e) *Validity of results.* (1) The test results must produce three average EPNL values within the 90 percent confidence limits, each value consisting of the arithmetic average of the corrected noise measurements for all valid test runs at the takeoff, approach, and sideline measuring stations, respectively. If more than one noise measurement system is used at any single measuring station, the resulting data for each test run (after correction) must be averaged as a single measurement. If more than one test site or noise measuring station location is used, each valid test run must be included in the computation of the average EPNL values and their confidence limits.

(2) The minimum sample size acceptable for each of the three certification measurements (takeoff, approaches, and sideline) is six. The number of samples must be large enough to establish statistically for each of the three average noise certification levels a 90 percent confidence limit which does not exceed ±1.5 EPNdB. No test result may be omitted from the averaging process, unless otherwise specified by the FAA.

(3) The average EPNL values and their 90 percent confidence limits obtained by the procedure described in this paragraph must be those by which the noise emission of the aircraft is assessed against the noise certification criteria, and must be reported.

§ A36.7 *Symbols and units.*

(a) *General.* The symbols used in Appendixes A and B of this Part have the following meanings.

Symbol	Unit	Meaning
ant	—	*Antilogarithm to the Base 10.*
C(k)	dB	*Tone Correction.* The factor to be added to PLN(k) to account for the presence of spectral irregularities such as tones at the k-th increment of time.
d	sec	*Duration Time.* The length of the significant noise time history being the time interval between the limits of t(1) and t(2) to the nearest second.
D	dB	*Duration Correction.* The factor to be added to PNLM to account for the duration of the noise.
EPNL	EPNdB	*Effective Perceived Noise Level.* The value of PNL adjusted for both the presence or discrete frequencies and the time history. (The unit EPNdB is used instead of the unit dB.)
f(i) or fi	Hz	*Frequency.* The geometrical mean frequency for the i-th one-third octave band.
F(i,k)	dB	*Delta-dB.* The difference between the original and background sound pressure levels in the i-th one-third octave band at the k-th interval of time.
h	dB	*dB-Down.* The level to be subtracted from PNLTM that defines the duration of the noise.
H	%	*Relative Humidity.* The ambient atmospheric relative humidity.
(i) or i	—	*Frequency Band Index.* The numerical indicator that denotes any one of the 24 one-third octave bands with geometrical mean frequencies from 50 to 10,000 Hz.
(k)	—	*Time Increment Index.* The numerical indicator that denotes the number of equal time increments that have elapsed from a reference zero.
log	—	*Logarithm to the Base 10.*
log n (a)	—	*Noy discontinuity Coordinate.* The log n value of the intersection point of the straight lines representing the variation of SPL with log n.
M(b), M(c)	—	*Noy Inverse Slope.* The reciprocals of the slopes of the straight lines representing the variation of SPL with log n.
n	noy	*Perceived Noisiness.* The perceived noisiness at any instant of time that occurs in a specified frequency range.
n(i, k)	noy	*Perceived Noisiness.* The perceived noisiness at the k-th instant of time that occurs in the i-th one-third octave band.

Symbol	Unit	Meaning
n(k)	noy	*Maximum Perceived Noisiness.* The maximum value of all of the 24 values of n(i) that occurs at the k-th instant of time.
N(k)	noy	*Total Perceived Noisiness.* The total perceived noisiness at the k-th instant of time calculated from the 24-instantaneous values of n(i, k).
p(b), p(c)	—	*Noy Slope.* The slopes of the straight lines representing the variation of SPL with log n.
PNL	PNdB	*Perceived Noise Level.* The perceived noise level at any instant of time (the unit PNdB is used instead of the unit dB).
PNL(k)	PNdB	*Perceived Noise Level.* The perceived noise level calculated from the 24 values of SPL (i, k) at the k-th increment of time. (The unit PNdB is used instead of the unit dB.)
PNLM	PNdB	*Maximum Perceived Noise Level.* The maximum value of PNL(k) that occurs during the aircraft flyover. (The unit PNdB is used instead of the unit dB.)
PNLT	PNdB	*Tone Corrected Perceived Noise Level.* The value of PNL adjusted for the presence of spectral irregularities (discrete frequencies) at any instant of time. (The unit PNdB is used instead of the unit dB.)
PNLT(k)	PNdB	*Tone Corrected Perceived Noise Level.* The value of PNL(k) adjusted for the presence of discrete frequencies that occurs at the k-th increment of time. (The unit PNdB is used instead of the unit dB.)
PNLTM	PNdB	*Maximum tone Corrected Perceived Noise Level.* The maximum value of PNLT(k) that occurs during the aircraft flyover. (The unit PNdB is used instead of the unit dB.)
s(i, k)	dB	*Slope of Sound Pressure Level.* The change in level between adjacent one-third octave band sound pressure levels at the i-th band for the k-th instant of time.
Δs(i, k)	dB	*Change in Slope of Sound Pressure Level.*
s'(i, k)	dB	*Adjusted Slope of Sound Pressure Level.* The change in level between adjacent adjusted one-third octave band sound pressure levels at the i-th band for the k-th instant of time.
s(i, k)	dB	*Average Slope of Sound Pressure Level.*
SPL	dB re 0.002 microbar.	*Sound Pressure Level.* The sound pressure level at any instant of time that occurs in a specified frequency range.
SPL(a)	dB re 0.002 microbar.	*Noy Discontinuity Coordinate.* The SPL value of the intersection point of the straight lines representing the variation of SPL with log n.
SPL(b)	dB re 0.002 microbar.	*Noy Intercept.* The intercepts on the SPL-axis of the straight lines representing the variation of SPL with log n.
SPL(c)		
SPL(i, k)	dB re 0.002 microbar.	*Sound Pressure Level.* The sound pressure level at the k-th instant of time that occurs in the i-th one-third octave band.
SPL'(i, k)	dB re 0.002 microbar.	*Adjusted Sound Pressure Level.* The first approximation to background level in the i-th one-third octave band for the k-th instant of time.
SPL"(i, k)	dB re 0.002 microbar.	*Background Sound Pressure Level.* The final approximation to background level in the i-th one-third octave band for the k-th instant of time.
SPLi	dB re 0.002 microbar.	*Maximum Sound Pressure Level.* The sound pressure level that occurs in the i-th one-third octave band of the spectrum for PNL-TM.
SPLic	dB re 0.002 microbar.	*Corrected Maximum Sound Pressure Level.* The sound pressure level that occurs in the i-th one-third octave band of the spectrum for PNLTM corrected for atmospheric sound absorption.
t	Sec	*Elapsed Time.* The length of time measured from a reference zero.
t(1), t(2)	Sec	*Time Limit.* The beginning and end of the significant noise time history defined by h.
Δt	Sec	*Time Increment.* The equal increments of time for which PNL(k) and PNLT (k) are calculated.
T	Sec	*Normalizing Time Constant.* The length of time used as a reference in the integration method for computing duration corrections.
T	°F	*Temperature.* The ambient atmospheric temperature
ai	dB/ft	*Test Atmospheric Absorption.* The atmospheric attenuation of sound that occurs in the i-th one-third octave band for the measured atmospheric temperature and relative humidity.
ai'	dB/1000 ft.	
aio	dB/ft	*Reference Atmospheric Absorption.* The atmospheric attenuation of sound that occurs in the i-th one-third octave band for the reference atmospheric temperature and relative humidity.
aio'	dB/1000 ft.	
β	degrees	*First Constant Climb Angle.*
γ	degrees	*Second Constant Climb Angle.*
δ	degrees	*Thrust Cutback Angles.*
ε	degrees	The angles defining the points on the takeoff flight path at which thrust reduction is started and ended respectively.
η	degrees	*Approach Angle.*
θ	degrees	*Takeoff Noise Angle.* The angle between the flight path and noise path for takeoff operation. It is identical for both measured and corrected flight paths.
λ	degrees	*Approach Noise Angle.* The angle between the flight path and the noise path for approach operation. It is identical for both measured and corrected flight paths.
Δl	EPNdB	*PNLT Correction.* The correction to be added to the EPNL calculated from measured data to account for noise level changes due to differences in atmospheric absorption and noise path length between reference and test conditions.
Δ2	EPNdB	*Noise Path Duration Correction.* The correction to be added to the EPNL calculated from measured data to account for noise level changes due to the noise duration because of differences in flyover altitude between reference and test condition.
Δ3	EPNdB	*Weight Correction.* The correction to be added to the EPNL calculated from measured data to account for noise level changes due to differences between maximum and test aircraft weights.
Δ4	EPNdB	*Approach Angle Correction.* The correction to be added to the EPNL calculated from measured data to account for noise level changes due to differences between 3° and the test approach angle.
ΔAB	feet	*Takeoff Profile Changes.* The changes in the basic parameters defining the takeoff profile due to differences between reference and test conditions.
Δβ	degrees	
Δγ	degrees	
Δδ	degrees	
Δ	degrees	

FLIGHT PROFILE IDENTIFICATION POSITIONS

Position	Description
A	Start of takeoff roll.
B	Liftoff.
C	Start of first constant climb.
D	Start of thrust reduction.
E	Start of second constant climb.
Ec	Start of second constant climb on corrected flight path.
F	End of noise certification takeoff flight path.
Fc	End of second constant climb on corrected flight path.
G	Start of noise certification approach flight path.
Gr	Start of noise certification approach on reference flight path.
H	Position on approach path directly above noise measuring station.
I	Start of level off.
Ir	Start of level off on reference approach flight path.
J	Touchdown.
K	Takeoff noise measuring station.
L	Sideline noise measuring station (not on flight track).
M	End of noise type certification takeoff flight track.
N	Approach noise measuring station.
O	Threshold of approach end of runway.
P	Start of noise type certification approach flight track.
Q	Position on measured takeoff flight path corresponding to PNLTM at station K.
Qc	Position on corrected takeoff flight path corresponding to PNLTM at station K.
R	Position on measured takeoff flight path nearest to station K.
Rc	Position on corrected takeoff flight path nearest to station K.
S	Position on measured approach flight path corresponding to PNLTM at station N.
Sr	Position on reference approach flight path corresponding to PNLTM at station N.
T	Position on measured approach flight path nearest to station N.
Tr	Position on reference approach flight path nearest to station N.
X	Position on measured takeoff flight path corresponding to PNLTM at station L.
Xc	Position on corrected takeoff flight path corresponding to PNLTM at station L.

FLIGHT PROFILE DISTANCES

Distance	Unit	Meaning
AB	feet	*Length of Takeoff Roll.* The distance along the runway between the start of takeoff roll and lift off.
AK	feet	*Takeoff Measurement Distance.* The distance from the start of roll to the takeoff noise measurement station along the extended centerline of the runway.
AM	feet	*Takeoff Flight Track Distance.* The distance from the start of roll to the takeoff flight track position along the extended centerline of the runway for which the position of the aircraft need no longer be recorded.
KQ	feet	*Measured Takeoff Noise Path.* The distance from station K to the measured aircraft position Q.

FLIGHT PROFILE DISTANCES—Continued

Distance	Unit	Meaning
KQc	feet	*Corrected Takeoff Noise Path.* The distance from station K to the corrected aircraft position Qc.
KR	feet	*Measured Takeoff Minimum Distance.* The distance from station K to point R on the measured flight path.
KRc	feet	*Corrected Takeoff Minimum Distance.* The distance from station K to point Rc on the corrected flight path.
LX	feet	*Measured Sideline Noise Path.* The distance from station L to the measured aircraft position X.
LXc	feet	*Corrected Sideline Noise Path.* The distance from station L to the corrected aircraft position Xc.
NH	feet	*Aircraft Approach Height.* The vertical distance between the aircraft and the approach measuring station.
NS	feet	*Measured Approach Noise Path.* The distance from station N to the measured aircraft position S.
NSr	feet	*Reference Approach Noise Path.* The distance from station N to the reference aircraft position Sr.
NT	feet	*Measured Approach Minimum Distance.* The distance from station N to point T on the measured flight path.
NTr	feet	*Reference Approach Minimum Distance.* The distance from station N to point Tr on the corrected flight path; it equals 393 feet.
ON	feet	*Approach Measurement Distance.* The distance from the runway threshold to the approach measurement station along the extended centerline of the runway.
OP	feet	*Approach Flight Track Distance.* The distance from the runway threshold to the approach flight track position along the extended centerline of the runway for which the position of the aircraft need no longer be recorded.

§ A36.9 *Atmospheric attenuation of sound.*

(a) *General.* The measured values of the one-third octave band spectra must conform, or be corrected, to the reference-day conditions listed in § A36.5(c) of this appendix. Each correction must account for any differences in the atmospheric attenuation of sound between the test-day conditions and the reference-day conditions along the sound propagation path between the aircraft and the microphone. Unless the meteorological conditions conform to those prescribed in § A36.1(c) of this appendix, the test data are not acceptable.

(b) *Meteorological measurements.* (1) The location of an airport, or other facility, used for meteorological measurements must be approved for use as representative of those atmospheric conditions existing near the surface over the geographical area in which aircraft noise measurements are made. However, for the purpose of making corrections under this section, the wind velocity, temperature, and relative humidity must be measured in the vicinity of the microphones at the takeoff, approach, and sideline measuring stations.

(2) The temperature and relative humidity must be measured from a point 10 meters above the surface at the measuring stations to the altitude of the aircraft, using previously approved equipment and methods.

(3) Meteorological measurements must be obtained within 25 minutes of each noise test measurement. Meteorological data must be interpolated to actual times of each noise measurement.

(c) *Attenuation rates.* The atmospheric attenuation rates of sound with distance for each one-third octave band from 50Hz to 10,000 Hz must be determined in accordance with the formulations and tabulations of SAE ARP 866A, entitled "Standard Values of Atmospheric Absorption as a Function of Temperatures and Humidity for Use in Evaluating Aircraft Flyover Noise" (as incorporated by reference under § 36.6 of this part).

(d) *Correction for atmospheric attenuation.* (1) EPNL values calculated for measured data must be corrected by the methods prescribed in § A36.11(d) of this appendix whenever—

(i) The ambient atmospheric conditions of temperature and relative humidity do not conform to the reference conditions (77 degrees F and 70 percent, respectively), or

(ii) The measured takeoff and approach flight paths do not conform to the reference flight paths.

(2) If the atmospheric absorption coefficients do not vary over the sound propagation path by more than ±0.7 dB/1000 feet in the 3150 Hz one-third octave band from the value of the absorption coefficients derived from the meteorological measurement obtained at 10 meters above the surface of the noise measuring station, the measurements prescribed in paragraph (b)(2) of this section may be used to determine the atmospheric attenuation rates for each one-third octave band.

The resulting atmospheric attenuation rate may be used to compute the PNLT correction under § A36.11(d) of this appendix.

(3) If the conditions do not conform to those prescribed in paragraph (d)(2) of this section, the corrections for atmospheric attenuation must be determined by the following layered-atmosphere procedure:

(i) The sound propagation path must be divided into increments no greater than 100 feet in altitude, and the average temperature and relative humidity that exists within each increment at the time of the test must be calculated from the meteorological data required under paragraph (b) of this section.

(ii) Atmospheric attenuation rates must be determined under paragraph (c) of this section for each one-third octave band in each altitude increment.

(iii) The mean attenuation rate over the complete sound propagation path from the aircraft to the microphone must be computed for each one-third octave band from 50 Hz to 10,000 Hz. These rates must be used in computing the corrections required in § A36.11(d) of this appendix.

§ A36.11 *Detailed correction procedures.*

(a) *General.* If the test conditions do not conform to those prescribed as noise certification reference conditions under § A36.5 of this appendix, the following correction procedure and requirements apply:

(1) If a positive value results from any difference between reference and test conditions, and appropriate positive correction must be made to the EPNL calculated from the measured data. Conditions which can result in a positive value include:

(i) Atmospheric absorption of sound under test conditions which is greater than the reference;

(ii) Test flight path at an altitude which is higher than the reference; or

(iii) Test weight which is less than maximum certification weight.

(2) If a negative value results from any difference between reference and test conditions, no correction may be made to the EPNL calculated from the measured data, unless the difference results from:

(i) An atmospheric absorption of sound under test conditions which is less than the reference; or

(ii) A test flight path at an altitude which is lower than the reference.

(3) The following correction procedures may produce one or more possible correction values which must be added algebraically to the EPNL calculated as if the tests were conducted completely under the noise certification reference conditions:

(i) The flight profiles must be determined for both takeoff and approach, and for both reference and test conditions. The procedures require noise and flight path recording with a synchronized time signal from which the test profile can be delineated, including the aircraft position for which PNLTM is observed at the noise measuring station. For takeoff, the flight profile corrected to reference conditions may be derived from FAA approved manufacturer's data; however, for approach, the reference profile is prescribed under paragraph (c)(2) of this section.

(ii) The sound propagation paths to the microphone from the aircraft position corresponding to PNLTM are determined for both the test and reference profiles. The SPL values in the spectrum of PNLTM must then be corrected for the effects of—

(A) Change in atmospheric sound absorption;

(B) Atmospheric sound absorption on the change in sound propagation path length; and

(C) Inverse square law on the change in sound propagation path length. the corrected values of SPL are then converted to PNLT from which must be subtracted PNLTM. The resulting difference represents the correction which must be added algebraically to the EPNL calculated from the measured data.

(iii) The minimum distances from both the test and reference profiles to the noise measuring station must be calculated and used to determine a noise duration correction due to any change in the altitude of aircraft flyover. The duration correction must be added algebraically to the EPNL calculated from the measured data.

(iv) From approved data in the form of curves or tables giving the variation of EPNL with engine thrust or test speed, corrections are determined and must be added to the EPNL (which is calculated from the measured data) to account for noise level changes due to differences between test conditions and reference conditions.

(v) From approved data in the form of curves or tables giving the variation of EPNL with approach angle, corrections are determined and must be added algebraically to the EPNL (which is calculated from measured data) to account for noise level changes due to differences between 3 degrees and the test approach angle.

(b) *Takeoff profiles.* (1) Figure A1 illustrates a typical takeoff profile.

(i) The aircraft begins the takeoff roll at point A, lifts off at point B, and initiates the first constant climb at point C at an angle β. The noise abatement thrust cutback is started at point D and completed at point E where the second constant climb is defined by the angle γ (usually expressed in terms of the gradient in percent). The end of the noise certification takeoff flight path is represented by aircraft position F whose vertical projection on the flight track (extended centerline of the runway) is point M. The position of the aircraft must be recorded for the entire interval during which the measured aircraft noise level is within 10 dB of PNLTM. Position K is the takeoff noise measuring station whose distance AK is specified as 21,325 feet (6,500 meters). However, if it is necessary to reduce AK to less than 21,325 feet, the procedures prescribed in paragraph (f) of this section must be followed. Position L is the sideline noise measuring station located on a line parallel to, and the prescribed distance from, the runway centerline where the noise level during takeoff is greatest.

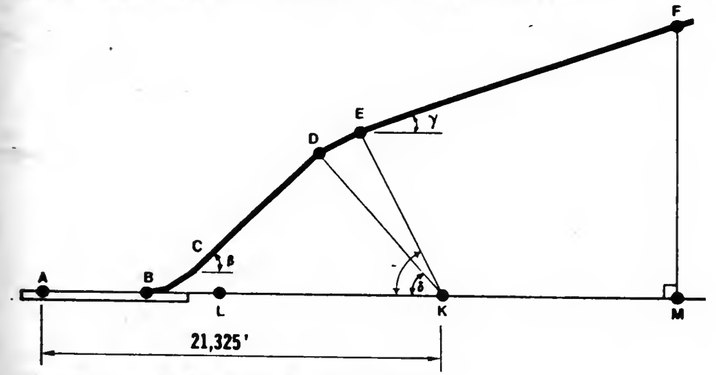


Figure A1. MEASURED TAKEOFF PROFILE

(ii) The take off profile is defined by five parameters—(A) AB, the length of takeoff roll; (B) β, the first constant climb angle; (C) γ, the second constant climb angle; and (D) δ, and ϵ, the thrust cutback angles. These five parameters are functions of the aircraft performance and weight, and the atmospheric conditions of temperature, pressure, and wind velocity and direction.

(2) If the test conditions do not conform to those prescribed as reference conditions under § A36.5 of this appendix, the corresponding test and reference profile parameters will be different, as shown in Figure A2. The profile parameter changes, identifies as ΔAB, $\Delta\beta$, $\Delta\gamma$, $\Delta\delta$, and $\Delta\epsilon$ may be derived from the manufacturer's data (if approved by the FAA) and may be used to define the fight profile corrected to the reference conditions. The relationships between the measured and corrected takeoff flight profiles may then be used to determine the corrections, which, if positive, must be applied to the EPNL calculated from the measured data.

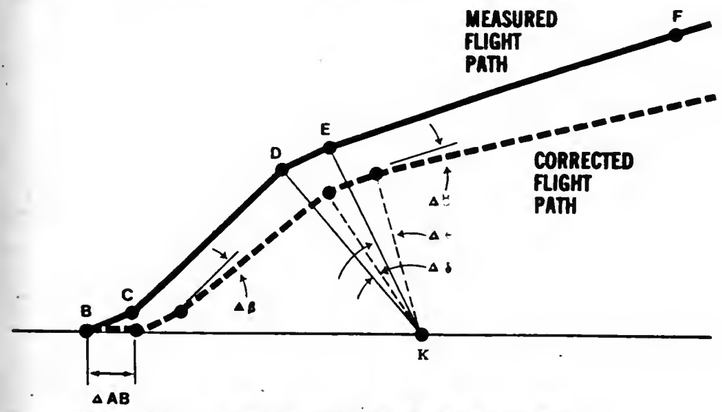


Figure A2. COMPARISON OF MEASURED AND CORRECTED TAKEOFF PROFILES

NOTE.—Under reference atmospheric conditions and with maximum takeoff weight, the gradient of the second constant climb angle (γ) may not be less than 4 percent. However, the actual gradient will depend upon the test atmospheric conditions, assuming maximum takeoff weight and the parameters characterizing engine performance are constant (rpm, epr, or any other parameter used by the pilot).

(3) Figure A3 illustrates portions of the measured and corrected takeoff flight paths including the significant geometrical relationships influencing sound propagation. EF represents the measured second constant flight path with climb angle γ, and EcFc represents the corrected second constant flight path at reduced climb angle $\gamma-\gamma$. Position Q represents the aircraft location on the measured takeoff flight path for which PNLTM is observed at the noise measuring station K, and Qc is the corresponding position on the corrected flight path. The measured and corrected sound propagation paths are KQ and KQc, respectively, which form the same angle θ with their flight paths. Position R represents the point on the measured takeoff flight path nearest the noise measuring station K, and Rc is the corresponding position on the corrected flight path. The minimum distance to the measured and corrected flight paths are indicated by the lines KR and KRc, respectively, which are normal to their flight paths.

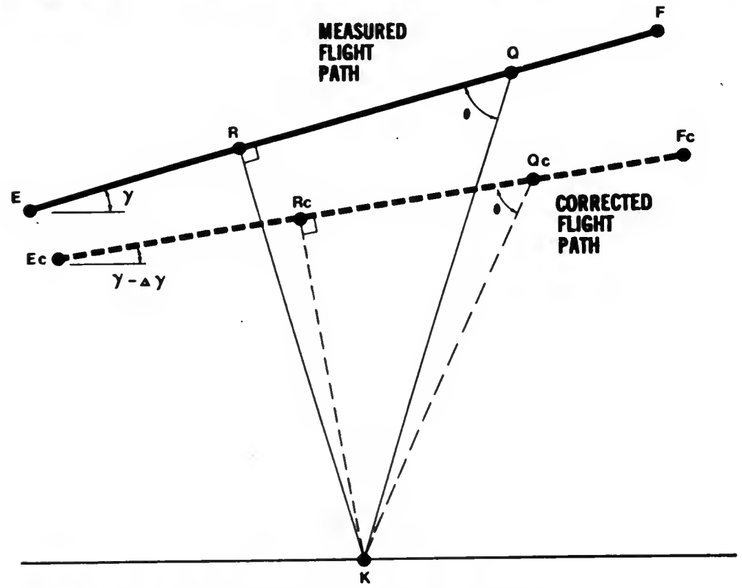


Figure A3. TAKEOFF PROFILE CHARACTERISTICS INFLUENCING SOUND PROPAGATION

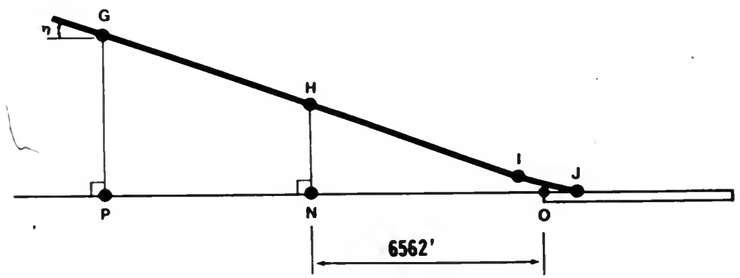


Figure A4. MEASURED APPROACH PROFILE

(c) *Approach profiles.* (1) Figures A4 illustrates a typical approach profile.

(1) The beginning of the noise certification approach profile is represented by aircraft position G whose vertical projection on the flight track (extended centerline of the runway) is point P. The position of the aircraft should be recorded for a distance OP from the runway threshold O to ensure recording of the entire interval during which the measured aircraft noise is within 10 dB of PNLTM.

(ii) The aircraft approaches at an angle passes vertically over the noise measuring station N at a height of NH, begins the level off at position I, and touches down at position J. The distance ON is prescribed as 6,562 feet (2,000 meters).

(iii) The approach profile is defined by the approach angle and the height NH which are functions of the aircraft operating conditions controlled by the pilot. If the measured approach profile parameters do not conform to the corresponding reference approach parameters (3 degrees and 394 feet, respectively, as shown in Figure A5), corrections, if positive, must be applied to the EPNL calculated from the measured data.

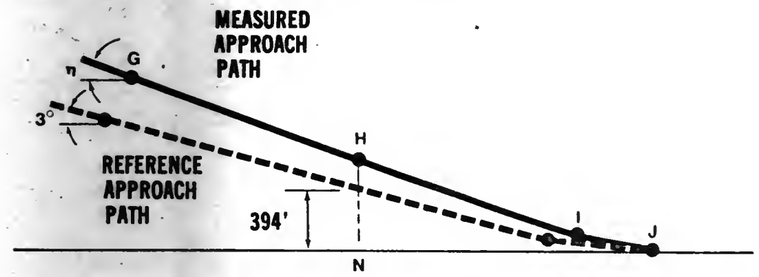


Figure A5. COMPARISON OF MEASURED AND CORRECTED APPROACH PROFILES

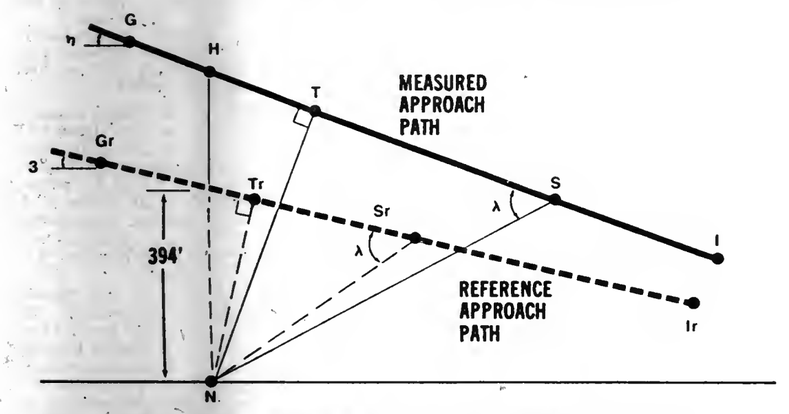


Figure A6. APPROACH PROFILE CHARACTERISTICS INFLUENCING SOUND PROPAGATION

(2) Figure A6 illustrates portions of the measured and reference approach flight paths, including the significant geometrical relationships influencing sound propagation. GI represents the measured approach path with approach angle —, and GrIr represents the reference approach flight path at lower altitude and approach angle of 3 degrees. Position S represents the aircraft location on the measured approach flight path for which PNLTM is observed at the noise measuring station N, and Sr is the corresponding position on the reference approach flight path. The measured and corrected sound propagation paths are NS and NSr, respectively, which form the same angle • with their flight paths. Position T represents the point on the measured approach flight path nearest the noise measuring station N, and Tr is the corresponding point on the reference approach flight path. The minimum distances to the measured and reference flight paths are indicated by the lines NT and NTr, respectively, which are normal to their flight paths. NOTE: The reference approach flight path is defined by —=3 degrees and NH=394 feet. Consequently NTr can also be defined; NTr=393 feet to the nearest foot and is, therefore, considered to be one of the reference parameters.

(d) *PNLT corrections.* If the ambient atmospheric conditions of temperature and

relative humidity are not those prescribed as reference conditions under § A36.5(c) of this appendix (77 degrees F and 70 percent, respectively), corrections to the EPNL values must be calculated from the measured data under paragraph (a) of this section as follows:

(1) *Takeoff flight path.* For the takeoff flight path shown in Figure A3, the spectrum of PNLTM observed at station K for the aircraft at position Q is decomposed into its individual SPLi values.

(i) *Step 1.* A set of corrected values are then computed as follows:

$$SPLic = SPLi \quad + (\alpha i - \alpha io)\,KQ \quad + \alpha io\,(KQ - KQc) \quad + 20 \log (KQ/KQc)$$

where SPLi and SPLic are the measured and corrected sound pressure levels, respectively, in the i-th one-third octave band. The first correction term accounts for the effects of change in atmospheric sound absorption where αi and αio are the sound absorption coefficients for the test (determined under § A36.9(d)) and reference atmospheric conditions, respectively, for the i-th one-third octave band and KQ is the measured takeoff sound propagation path. The second correction term accounts for the effects of atmospheric sound absorption on the change in the sound propagation path length where KQc is the corrected takeoff sound propagation path. The third correction term accounts for the effects of the inverse square law on the change in the sound propagation path length.

(ii) *Step 2.* The corrected values of SPLic are then converted to PNLT and a correction term calculated as follows:

$$\Delta 1 = PNLT - PNLTM$$

which represents the correction to be added algebraically to the EPNL calculated from the measured data.

(2) *Approach flight path.*

(i) The procedure prescribed in paragraph (d)(1) of this section for takeoff flight paths is also used for the approach flight path, except that the value for SPLic relate to the approach sound propagation paths shown in Figure A6 as follows:

$$SPLic = SPLi \quad + (\alpha i - \alpha io)\,NS \quad + \alpha io\,(NS - NSr) \quad + 20 \log (NS/NSr)$$

where NS and NSr are the measured and reference approach sound propagation paths, respectively.

(ii) The remainder of the procedure is the same as that prescribed in paragraph (d)(1)(ii) of this section, regarding takeoff flight path.

(3) *Sideline flight path.* The procedure prescribed in paragraph (d)(1) of this section for takeoff flight paths is also used for the sideline flight path, except that the values of SPLic relate only to the measured sideline sound propagation path as follows:

$$SPLic = SPLi \quad + (\alpha i - \alpha io)\,LX \quad + \alpha i\,(LXc) \quad + 20 \log (LX/LXc)$$

where LX is the measured sideline sound propagation path from station L (Figure A1) to position X of the aircraft for which PNLTM is observed at station L and LXc is the corrected sideline sound propagation path.

(e) *Duration corrections.* If the measured takeoff and approach flight paths do not conform to those prescribed as the corrected and reference flight paths, respectively, under § A36.5(d)(2) it will be necessary, or desirable, to apply duration corrections to the EPNL values calculated from the measured data. Such corrections must be calculated as follows:

(1) *Takeoff flight path.* For the takeoff flight path shown in Figure A3, the correction term is calculated using the formula—

$$\Delta 2 = -10 \log (KR/KRc)$$

which represents the correction which must be added algebraically to the EPNL calculated from the measured data. The lengths KR and KRc are the measured and corrected takeoff minimum distances from the noise measuring station K to the measured and the corrected flight paths, respectively. A negative sign indicates that, for the particular case of a duration correction, the EPNL calculated from the measured data must be reduced if the measured flight path is at a greater altitude than the corrected flight path.

(2) *Approach flight path.* For the approach flight path shown in Figure A6, the correction term is calculated using the formula—

$$\Delta 2 = -10 \log (NT/393)$$

where NT is the measured approach minimum distance from the noise measuring station N to the measured flight path and 393 feet is the minimum distance from station N to the reference flight path.

(3) *Sideline flight path.* For the sideline flight path, the correction term is calculated using the formula—

$$\Delta 2 = -10 \log (LX/LXc)$$

where LX and LX_c are the measured and corrected sideline noise measuring distances, respectively, from the noise measuring station L to the aircraft position X or X_c, respectively on the takeoff flight path.

(f) *Nonstandard takeoff location correction.* All takeoff noise measurements must be conducted at the takeoff noise measurement point prescribed in § 36.1 of Appendix C, except where it is necessary to bring the measuring station to a point closer to the start of takeoff roll to ensure recording the complete flyover noise history required by § B36.9 of Appendix B of this part (i.e., a flyover noise/time record which includes the required period before and after the 10 dB-down points from PNLTM). The EPNL value computed from these measurements must be corrected to the value that would have occurred at the 21,325 foot reference measuring point under one of the following procedures:

(1) *Simplified procedure.* Unless the correction factor exceeds 8.0 dB, or the correction results in a final EPNL value which is within 1.5 dB of the noise levels prescribed in Appendix C of this part, the correction procedure prescribed in paragraphs (d) and (e) of this section may be used. Since this procedure accounts for extrapolation of the PNLTM from the close-in-measurement station to the 21,325 foot reference point, corrections for differences between test and reference thrust and air speed must be made after the EPNL has been corrected to the 21,325 foot reference point.

(2) *Integrated procedure.* If the correction factor exceeds 8.0 dB, or the correction results in a final EPNL value which is within 1.0 dB of the noise levels prescribed in Appendix C of this part, the following correction procedure must be used:

(i) Each ½ second spectrum measured during a flyover at a noise measuring station which is closer to the flight path than the prescribed reference distance must be adjusted under a procedure similar to that prescribed under paragraph (d)(1) of this section, regarding PNLT corrections. However, the distances which must be used are those values of KQ and KQc for the sound propagation path (and hence value of θ) for PNLTM which represents the actual, measured sound propagation path (and path angle), and the corresponding sound propagation path (and path angle) as if the measurements had been made at the 21,325 foot measuring point under reference acoustic-day conditions.

(ii) After the measured ½-second spectra have been corrected to the 21,325 foot reference point, the remaining noise evaluation must be conducted under the procedures prescribed in Appendix B of this part, including the appropriate reference thrust and air speed corrections.

Appendix B

3. The heading to Appendix B is amended by adding a table of sections to read as follows:

Appendix B—Aircraft Noise Evaluation Under § 36.103

Sec.
B36.1 *General.*
B36.3 *Perceived noise level.*
B36.5 *Correction for spectral irregularities.*
B36.7 *Maximum tone corrected perceived noise level.*
B36.9 *Duration correction.*
B36.11 *Effective perceived noise level.*
B36.13 *Mathematical formulation of noy tables.*

4. § B36.2 is amended as follows:

a. Redesignate § B36.2 as "§ B36.3".

b. Designate steps 1, 2, and 3 as paragraphs "(a) *Step 1.*," "(b) *Step 2.*," and "(c) *Step 3.*," respectively.

c. At the end of Step 1. of the prescribed procedure, substitute the reference "§ B36.13 of this Appendix; for the reference "§ B36.7 of this Appendix."

d. In the formula prescribed in Step 3, substitute the constant factor "33.22" for the factor "33.3."

5. § B36.3 is amended as follows:

a. Redesignate § B36.3 as "§ B36.5."

b. Designate Steps 1 through 10 of the prescribed procedure as paragraphs "(a) *Step 1.*" through "(j) *Step 10.*", consecutively.

c. In Step 3 of the prescribed procedure, redesignate paragraphs (a), (b), and (c) as paragraphs "(1)," "(2)," and "(3)," respectively.

d. In Step 4 of the prescribed procedure, redesignate paragraphs (a), (b), and (c) as paragraphs "(1)," "(2)," and "(3)," respectively.

e. Designate the last two undesignated paragraphs of the section as paragraphs "(k)," and "(l)," consecutively.

f. At the end of the current text of the section add two new paragraphs, designated "(m)," and "(n)," to read as follows:

(m) Tones resulting from ground-plane reflections in the 800 Hz and lower one-third

octave bands may be excluded from the calculation of corrections for spectral irregularities. To qualify for this exclusion, the pseudotones must be clearly identified as not being related to the engine noise. This identification may be made either by comparing measured data with data from a flush mounted microphone, or by observing the Doppler shift characteristics of the tone during the flyover-noise/time history. Since pseudotones are related to ground reflections, a microphone mounted flush to the ground will yield a spectral shape which can be distinguished from that produced by the 4-foot high microphone at those frequencies which can be related to ground reflection's geometrical relationships. Identification through Doppler shifting (the symmetric variation of frequency with time) can be made because the Doppler frequency variation yields a frequency increase for an approaching signal and a frequency decrease for a receding signal. Pseudotones at frequencies above 800 Hz generally should not yield significant tone corrections. However, for consistency, each tone correction value must be included in the computation for spectral irregularities. While the tone corrections below 800 Hz may be ignored for the spectral irregularity correction, the SPL values must be included in the noy calculation prescribed in § B36.13 of this appendix.

(n) After the value of PNLTM for each flyover-noise/time history, is identified, the frequency for the largest tone correction factor (C(k)) must be identified for the two preceding and the two succeeding, 500-millisecond time intervals, to identify possible tone suppression at PNLTM as a result of band sharing of the tone. If the value of C(k) for PNLTM is less than the average value of C(k) for those five consecutive time intervals, that average value of C(k) must be used to compute a new value for PNLTM.

6. § B36.4 is amended as follows:

a. Redesignate § B36.4 as "§ B36.7."

b. Designate the two undesignated paragraphs as paragraphs "(a)" and "(b)," consecutively.

c. In the sixth line of the first undesignated paragraph, and in the second and third lines of the second undesignated paragraph, in each case substitute the reference "B36.5 of this appendix" for the reference "B36.3 of this appendix."

7. § B36.5 is amended as follows:

a. Redesignate § B36.5 as "§ B36.9."

b. Designate the six undesignated paragraphs as paragraphs "(a)" through "(f)," consecutively.

8. § B36.6 is amended as follows:

a. Redesignate § B36.6 as "§ B36.11."

b. Designate the two undesignated paragraphs as paragraphs "(a)" and "(b)," consecutively.

c. In the last line of the first undesignated paragraph, substitute the reference "B36.7 and B36.9 of this appendix" for the reference "B36.4 and B36.5 of this appendix."

d. In the second and third line of the second undesignated paragraph, substitute the reference "B36.9 of this appendix" for the reference "B36.5 of this appendix."

9. § B36.7 is amended as follows:

a. Redesignate § B36.7 as "§ B36.13."

b. Designate the 3 undesignated paragraphs as paragraphs "(a)," "(b)," and "(c)," consecutively.

10. Three tables contained in Appendix B are amended by substituting the following tables for Table B1, Table B2, and Table B3, respectively.

1000	0.10 0.11 0.13 0.15 0.17 0.20 0.23 0.26 0.30 0.33 0.37 0.41 0.45 0.50 0.55 0.61 0.67 0.74 0.82 0.90 1.00 1.10 1.21 1.34 1.48 1.63 1.79 1.98 2.18

TABLE B1 - PERCEIVED NOISINESS (NOYs) AS A FUNCTION OF SOUND PRESSURE LEVEL

SPL	1/3 OCTAVE BAND CENTER FREQUENCIES IN Hz (c/s)																						
	50	63	80	100	125	160	200	250	315	400	500	630	800	1000	1250	1600	2000	2500	3150	4000	5000	6300	8000	10000
4																			0.10					
5																		0.10	0.11	0.10				
6																		0.11	0.12	0.11	0.10			
7																		0.12	0.14	0.13	0.11			
8																		0.14	0.16	0.14	0.13			
9																	0.10	0.16	0.17	0.16	0.14			
10																	0.11	0.17	0.19	0.18	0.16	0.10		
11																	0.13	0.19	0.22	0.21	0.18	0.12		
12																0.10	0.14	0.22	0.24	0.24	0.21	0.14		
13																0.11	0.16	0.24	0.27	0.27	0.24	0.16		
14																0.13	0.18	0.27	0.30	0.30	0.27	0.19		
15															0.10	0.14	0.21	0.30	0.33	0.33	0.30	0.22		
16									0.10	0.10	0.10	0.10	0.10	0.10	0.11	0.16	0.24	0.33	0.35	0.35	0.33	0.26		
17									0.11	0.11	0.11	0.11	0.11	0.11	0.13	0.18	0.27	0.35	0.38	0.38	0.35	0.30	0.10	
18									0.13	0.13	0.13	0.13	0.13	0.13	0.15	0.21	0.30	0.38	0.41	0.41	0.38	0.33	0.12	
19									0.11	0.14	0.14	0.14	0.14	0.14	0.17	0.24	0.33	0.41	0.45	0.45	0.41	0.36	0.14	
20									0.13	0.16	0.16	0.16	0.16	0.16	0.20	0.27	0.36	0.45	0.49	0.49	0.45	0.39	0.17	
21								0.10	0.14	0.18	0.18	0.18	0.18	0.18	0.23	0.30	0.39	0.49	0.53	0.53	0.49	0.42	0.21	0.10
22								0.11	0.16	0.21	0.21	0.21	0.21	0.21	0.26	0.33	0.42	0.53	0.57	0.57	0.53	0.46	0.25	0.11
23								0.13	0.18	0.24	0.24	0.24	0.24	0.24	0.30	0.38	0.46	0.57	0.62	0.62	0.57	0.50	0.30	0.13
24							0.10	0.14	0.21	0.27	0.27	0.27	0.27	0.27	0.33	0.40	0.50	0.62	0.67	0.67	0.62	0.55	0.33	0.15
25							0.11	0.16	0.24	0.30	0.30	0.30	0.30	0.30	0.35	0.43	0.55	0.67	0.73	0.73	0.67	0.60	0.36	0.17
26							0.13	0.18	0.27	0.33	0.33	0.33	0.33	0.33	0.38	0.46	0.60	0.73	0.79	0.79	0.73	0.65	0.39	0.20
27						0.10	0.14	0.21	0.30	0.36	0.36	0.36	0.36	0.36	0.41	0.50	0.65	0.79	0.85	0.85	0.79	0.71	0.42	0.23
28						0.11	0.16	0.24	0.33	0.39	0.39	0.39	0.39	0.39	0.44	0.54	0.71	0.85	0.92	0.92	0.85	0.77	0.46	0.26
29						0.13	0.18	0.27	0.36	0.41	0.41	0.41	0.41	0.41	0.49	0.63	0.77	0.92	1.00	1.00	0.92	0.84	0.50	0.30
30					0.10	0.14	0.21	0.30	0.39	0.45	0.45	0.45	0.45	0.45	0.53	0.69	0.84	1.00	1.07	1.07	1.00	0.92	0.55	0.33
31					0.11	0.16	0.24	0.33	0.42	0.49	0.49	0.49	0.49	0.49	0.57	0.76	0.92	1.07	1.15	1.15	1.07	1.00	0.60	0.37
32					0.13	0.18	0.27	0.36	0.45	0.53	0.53	0.53	0.53	0.53	0.62	0.83	1.00	1.15	1.23	1.23	1.15	1.07	0.65	0.41
33					0.14	0.21	0.30	0.39	0.49	0.57	0.57	0.57	0.57	0.57	0.67	0.91	1.07	1.23	1.32	1.32	1.23	1.15	0.71	0.45
34					0.16	0.24	0.33	0.42	0.53	0.62	0.62	0.62	0.62	0.62	0.73	1.00	1.15	1.32	1.41	1.41	1.32	1.23	0.77	0.50
35				0.11	0.17	0.27	0.36	0.46	0.57	0.67	0.67	0.67	0.67	0.67	0.79	1.07	1.23	1.41	1.51	1.51	1.41	1.32	0.84	0.55
36				0.14	0.21	0.30	0.40	0.50	0.62	0.73	0.73	0.73	0.73	0.73	0.86	1.15	1.32	1.51	1.62	1.62	1.51	1.41	0.92	0.61
37				0.16	0.24	0.33	0.44	0.55	0.67	0.79	0.79	0.79	0.79	0.79	0.92	1.23	1.41	1.62	1.74	1.74	1.62	1.51	1.00	0.67
38				0.17	0.27	0.37	0.48	0.60	0.73	0.86	0.86	0.86	0.86	0.86	1.00	1.32	1.51	1.74	1.86	1.86	1.74	1.62	1.10	0.74
39			0.11	0.19	0.30	0.41	0.52	0.65	0.79	0.92	0.92	0.92	0.92	0.92	1.07	1.41	1.62	1.86	1.99	1.99	1.86	1.74	1.21	0.82
40			0.12	0.21	0.33	0.44	0.57	0.71	0.86	1.00	1.00	1.00	1.00	1.00	1.15	1.51	1.74	1.99	2.14	2.14	1.99	1.86	1.34	0.90
41			0.14	0.23	0.37	0.48	0.62	0.77	0.92	1.07	1.07	1.07	1.07	1.07	1.23	1.62	1.86	2.14	2.29	2.29	2.14	1.99	1.48	1.00
42			0.16	0.25	0.41	0.52	0.67	0.84	1.00	1.15	1.15	1.15	1.15	1.15	1.32	1.74	1.99	2.29	2.45	2.45	2.29	2.14	1.63	1.10
43			0.17	0.27	0.44	0.56	0.72	0.90	1.07	1.23	1.23	1.23	1.23	1.23	1.41	1.86	2.14	2.45	2.63	2.63	2.45	2.29	1.79	1.21
44		0.10	0.18	0.29	0.47	0.60	0.77	0.96	1.15	1.32	1.32	1.32	1.32	1.32	1.52	1.99	2.29	2.63	2.81	2.81	2.63	2.45	1.99	1.34
45		0.11	0.20	0.32	0.50	0.64	0.82	1.03	1.24	1.41	1.41	1.41	1.41	1.41	1.63	2.14	2.45	2.81	3.02	3.02	2.81	2.63	2.14	1.48
46		0.14	0.23	0.36	0.53	0.69	0.88	1.10	1.32	1.51	1.51	1.51	1.51	1.51	1.74	2.29	2.63	3.02	3.23	3.23	3.02	2.81	2.29	1.63
47		0.16	0.26	0.40	0.57	0.74	0.94	1.18	1.41	1.62	1.62	1.62	1.62	1.62	1.87	2.45	2.81	3.23	3.46	3.46	3.23	3.02	2.45	1.79
48		0.17	0.29	0.43	0.61	0.79	1.00	1.26	1.51	1.74	1.74	1.74	1.74	1.74	2.00	2.63	3.02	3.46	3.71	3.71	3.46	3.23	2.63	1.98
49	0.10	0.18	0.32	0.46	0.65	0.84	1.06	1.35	1.62	1.87	1.87	1.87	1.87	1.87	2.14	2.81	3.23	3.71	3.97	3.97	3.71	3.46	2.81	2.18

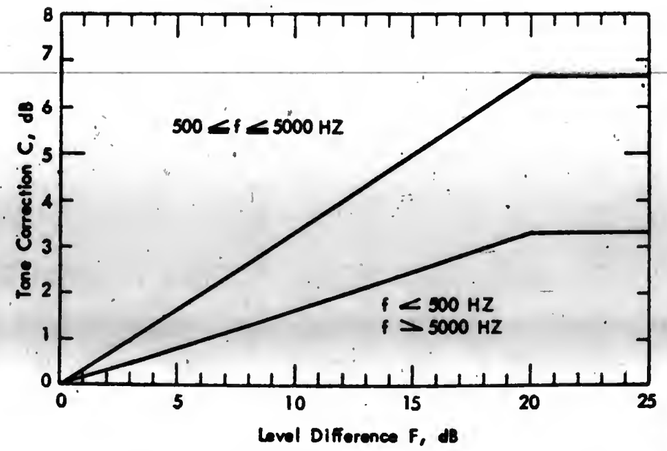
TABLE B1 CONTINUED

SPL	1/3 OCTAVE BAND CENTER FREQUENCIES IN Hz (c/s)																						
	50	63	80	100	125	160	200	250	315	400	500	630	800	1000	1250	1600	2000	2500	3150	4000	5000	6300	8000	10000
50	.12	.26	.49	.72	.50	1.17	1.36	1.56	1.76	2.00	2.00	2.00	2.00	2.00	2.30	3.02	3.46	3.97	4.26	4.26	3.97	3.71	3.02	2.40
51	.14	.30	.55	.80	1.00	1.26	1.47	1.68	1.89	2.14	2.14	2.14	2.14	2.14	2.46	3.23	3.71	4.26	4.56	4.56	4.26	3.97	3.23	2.63
52	.17	.34	.62	.90	1.09	1.36	1.59	1.80	2.09	2.30	2.30	2.30	2.30	2.30	2.63	3.46	3.97	4.56	4.89	4.89	4.56	4.26	3.46	2.81
53	.21	.39	.70	1.00	1.18	1.47	1.71	1.94	2.17	2.46	2.46	2.46	2.46	2.46	2.81	3.71	4.26	4.89	5.24	5.24	4.89	4.56	3.71	3.02
54	.25	.45	.79	1.09	1.28	1.58	1.85	2.09	2.33	2.64	2.64	2.64	2.64	2.64	3.03	3.97	4.56	5.24	5.61	5.61	5.24	4.89	3.97	3.23
55	.30	.51	.89	1.19	1.39	1.71	2.00	2.25	2.50	2.83	2.83	2.83	2.83	2.83	3.25	4.26	4.89	5.61	6.01	6.01	5.61	5.24	4.26	3.46
56	.34	.59	1.00	1.29	1.50	1.85	2.15	2.42	2.69	3.03	3.03	3.03	3.03	3.03	3.48	4.56	5.24	6.01	6.44	6.44	6.01	5.61	4.56	3.71
57	.39	.67	1.09	1.40	1.63	2.00	2.33	2.58	2.89	3.25	3.25	3.25	3.25	3.25	3.73	4.89	5.61	6.44	6.90	6.90	6.44	6.01	4.89	3.97
58	.45	.77	1.18	1.52	1.77	2.15	2.51	2.81	3.10	3.48	3.48	3.48	3.48	3.48	4.00	5.24	6.01	6.90	7.39	7.39	6.90	6.44	5.24	4.26
59	.51	.87	1.29	1.66	1.92	2.33	2.71	3.03	3.32	3.73	3.73	3.73	3.73	3.73	4.29	5.61	6.44	7.39	7.92	7.92	7.39	6.90	5.61	4.56
60	.59	1.00	1.40	1.81	2.08	2.51	2.93	3.26	3.57	4.00	4.00	4.00	4.00	4.00	4.59	6.01	6.90	7.92	8.49	8.49	7.92	7.39	6.01	4.89
61	.67	1.10	1.53	1.97	2.26	2.71	3.16	3.51	3.83	4.29	4.29	4.29	4.29	4.29	4.92	6.44	7.39	8.49	9.09	9.09	8.49	7.92	6.44	5.24
62	.77	1.21	1.66	2.15	2.45	2.93	3.41	3.79	4.11	4.59	4.59	4.59	4.59	4.59	5.28	6.90	7.92	9.09	9.74	9.74	9.09	8.49	6.90	5.61
63	.87	1.32	1.81	2.34	2.65	3.16	3.69	4.06	4.41	4.92	4.92	4.92	4.92	4.92	5.66	7.39	8.49	9.74	10.4	10.4	9.74	9.09	7.39	6.01
64	1.00	1.45	1.97	2.54	2.88	3.41	3.98	4.35	4.73	5.28	5.28	5.28	5.28	5.28	6.06	7.92	9.09	10.4	11.2	11.2	10.4	9.74	7.92	6.44
65	1.11	1.60	2.15	2.77	3.12	3.69	4.30	4.71	5.08	5.66	5.66	5.66	5.66	5.66	6.50	8.49	9.74	11.2	12.0	12.0	11.2	10.4	8.49	6.90
66	1.22	1.75	2.34	3.01	3.39	3.95	4.64	5.07	5.45	6.06	6.06	6.06	6.06	6.06	6.96	9.09	10.4	12.0	12.8	12.8	12.0	11.2	9.09	7.39
67	1.35	1.92	2.54	3.29	3.68	4.30	5.01	5.46	5.85	6.50	6.50	6.50	6.50	6.50	7.46	9.74	11.2	12.8	13.8	13.8	12.8	12.0	9.74	7.92
68	1.49	2.11	2.77	3.57	3.99	4.64	5.41	5.88	6.27	6.96	6.96	6.96	6.96	6.96	8.00	10.4	12.0	13.8	14.7	14.7	13.8	12.8	10.4	8.49
69	1.65	2.32	3.01	3.88	4.33	5.01	5.84	6.33	6.73	7.46	7.46	7.46	7.46	7.46	8.57	11.2	12.8	14.7	15.8	15.8	14.7	13.8	11.2	9.09
70	1.82	2.55	3.28	4.23	4.69	5.41	6.31	6.81	7.23	8.00	8.00	8.00	8.00	8.00	9.19	12.0	13.8	15.8	16.9	16.9	15.8	14.7	12.0	9.74
71	2.02	2.79	3.57	4.60	5.09	5.84	6.81	7.33	7.75	8.57	8.57	8.57	8.57	8.57	9.86	12.8	14.7	16.9	18.1	18.1	16.9	15.8	12.8	10.4
72	2.23	3.07	3.88	5.01	5.52	6.31	7.36	7.90	8.32	9.19	9.19	9.19	9.19	9.19	10.6	13.8	15.8	18.1	19.4	19.4	18.1	16.9	13.8	11.2
73	2.46	3.37	4.23	5.45	5.99	6.81	7.94	8.50	8.93	9.85	9.85	9.85	9.85	9.85	11.3	14.7	16.9	19.4	20.8	20.8	19.4	18.1	14.7	12.0
74	2.72	3.70	4.60	5.94	6.50	7.36	8.57	9.15	9.59	10.6	10.6	10.6	10.6	10.6	12.1	15.8	18.1	20.8	22.3	22.3	20.8	19.4	15.8	12.8
75	3.01	4.06	5.01	6.46	7.05	7.94	9.19	9.85	10.3	11.3	11.3	11.3	11.3	11.3	13.0	16.9	19.4	22.3	23.9	23.9	22.3	20.8	16.9	13.8
76	3.32	4.46	5.45	7.03	7.65	8.57	9.85	10.6	11.0	12.1	12.1	12.1	12.1	12.1	13.9	18.1	20.8	23.9	25.6	25.6	23.9	22.3	18.1	14.7
77	3.67	4.89	5.94	7.66	8.29	9.19	10.6	11.3	11.8	13.0	13.0	13.0	13.0	13.0	14.9	19.4	22.3	25.6	27.4	27.4	25.6	23.9	19.4	15.8
78	4.06	5.37	6.46	8.33	9.00	9.85	11.3	12.1	12.7	13.9	13.9	13.9	13.9	13.9	16.0	20.8	23.9	27.4	29.4	29.4	27.4	25.6	20.8	16.9
79	4.49	5.90	7.03	9.07	9.76	10.6	12.1	13.0	13.6	14.9	14.9	14.9	14.9	14.9	17.1	22.3	25.6	29.4	31.5	31.5	29.4	27.4	22.3	18.1
80	4.96	6.48	7.66	9.85	10.6	11.3	13.0	13.9	14.6	16.0	16.0	16.0	16.0	16.0	18.4	23.9	27.4	31.5	33.7	33.7	31.5	29.4	23.9	19.4
81	5.48	7.11	8.33	10.6	11.3	12.1	13.9	14.9	15.7	17.1	17.1	17.1	17.1	17.1	19.7	25.6	29.4	33.7	36.1	36.1	33.7	31.5	25.6	20.8
82	6.06	7.81	9.07	11.3	12.1	13.0	14.9	16.0	16.9	18.4	18.4	18.4	18.4	18.4	21.1	27.4	31.5	36.1	38.7	38.7	36.1	33.7	27.4	22.3
83	6.70	8.57	9.87	12.1	13.0	13.9	16.0	17.1	18.1	19.7	19.7	19.7	19.7	19.7	22.6	29.4	33.7	38.7	41.5	41.5	38.7	36.1	29.4	23.9
84	7.41	9.41	10.7	13.0	13.9	14.9	17.1	18.4	19.4	21.1	21.1	21.1	21.1	21.1	24.3	31.5	36.1	41.5	44.4	44.4	41.5	38.7	31.5	25.6
85	8.19	10.3	11.7	13.9	14.9	16.0	18.4	19.7	20.8	22.6	22.6	22.6	22.6	22.6	26.0	33.7	38.7	44.4	47.6	47.6	44.4	41.5	33.7	27.4
86	9.05	11.3	12.7	14.9	16.0	17.1	19.7	21.1	22.4	24.3	24.3	24.3	24.3	24.3	27.9	36.1	41.5	47.6	51.0	51.0	47.6	44.4	36.1	29.4
87	10.0	12.1	13.9	16.0	17.1	18.4	21.1	22.6	24.0	26.0	26.0	26.0	26.0	26.0	29.9	38.7	44.4	51.0	54.7	54.7	51.0	47.6	38.7	31.5
88	11.1	13.0	14.9	17.1	18.4	19.7	22.6	24.3	25.8	27.9	27.9	27.9	27.9	27.9	32.0	41.5	47.6	54.7	58.6	58.6	54.7	51.0	41.5	33.7
89	12.2	13.9	16.0	18.4	19.7	21.1	24.3	26.0	27.7	29.9	29.9	29.9	29.9	29.9	34.3	44.4	51.0	58.6	62.7	62.7	58.6	54.7	44.4	36.1
90	13.5	14.9	17.1	19.7	21.1	22.6	26.0	27.9	29.7	32.0	32.0	32.0	32.0	32.0	36.8	47.6	54.7	62.7	67.2	67.2	62.7	58.6	47.6	38.7
91	14.9	16.0	18.4	21.1	22.6	24.3	27.9	29.9	31.8	34.3	34.3	34.3	34.3	34.3	39.4	51.0	58.6	67.2	72.0	72.0	67.2	62.7	51.0	41.5
92	16.0	17.1	19.7	22.6	24.3	26.0	29.9	32.0	34.2	36.8	36.8	36.8	36.8	36.8	42.2	54.7	62.7	72.0	77.2	77.2	72.0	67.2	54.7	44.4
93	17.1	18.4	21.1	24.3	26.0	27.9	32.0	34.3	36.7	39.4	39.4	39.4	39.4	39.4	45.3	58.6	67.2	77.2	82.7	82.7	77.2	72.0	58.6	47.6
94	19.4	19.7	22.6	26.0	27.9	29.9	34.3	36.8	39.4	42.2	42.2	42.2	42.2	42.2	48.5	62.7	72.0	82.7	88.6	88.6	82.7	77.2	62.7	51.0
95	19.7	21.1	24.3	27.9	29.9	32.0	36.8	39.4	42.2	45.3	45.3	45.3	45.3	45.3	52.0	67.2	77.2	88.6	94.9	94.9	88.6	82.7	67.2	54.7
96	21.1	22.6	26.0	29.9	32.0	34.3	39.4	42.2	45.3	48.5	48.5	48.5	48.5	48.5	55.7	72.0	82.7	94.9	102	102	94.9	88.6	72.0	58.6
97	22.6	24.3	27.9	32.0	34.3	36.8	42.2	45.3	48.5	52.0	52.0	52.0	52.0	52.0	59.7	77.2	88.6	102	109	109	102	94.9	77.2	62.7
98	24.3	26.0	29.9	34.3	36.8	39.4	45.3	48.5	52.0	55.7	55.7	55.7	55.7	55.7	64.0	82.7	94.9	109	117	117	109	102	82.7	67.2
99	26.0	27.9	32.0	36.8	39.4	42.2	48.5	52.0	55.7	59.7	59.7	59.7	59.7	59.7	68.6	88.6	102	117	125	125	117	109	88.6	72.0

TABLE B1 CONTINUED

SPL	1/3 OCTAVE BAND CENTER FREQUENCIES IN Hz (c/s)																						
	50	63	80	100	125	160	200	250	315	400	500	630	800	1000	1250	1600	2000	2500	3150	4000	5000	6300	8000	10000
100	27.9	29.9	34.3	39.4	42.2	45.3	52.0	55.7	59.7	64.0	64.0	64.0	64.0	64.0	73.5	94.9	109	125	134	134	125	117	94.9	77.2
101	29.9	32.0	36.8	42.2	45.3	48.5	55.7	59.7	64.0	68.6	68.6	68.6	68.6	68.6	78.8	102	117	134	144	144	134	125	102	82.7
102	32.0	34.3	39.4	45.3	48.5	52.0	59.7	64.0	68.6	73.5	73.5	73.5	73.5	73.5	84.4	109	125	144	154	154	144	134	109	88.6
103	34.3	36.8	42.2	48.5	52.0	55.7	64.0	68.6	73.5	78.8	78.8	78.8	78.8	78.8	90.5	117	134	154	165	165	154	144	117	94.9
104	36.8	39.4	45.3	52.0	55.7	59.7	68.6	73.5	78.8	84.4	84.4	84.4	84.4	84.4	97.0	125	144	165	177	177	165	154	125	102
105	39.4	42.2	48.5	55.7	59.7	64.0	73.5	78.8	84.4	90.5	90.5	90.5	90.5	90.5	104	134	154	177	189	189	177	165	134	109
106	42.2	45.3	52.0	59.7	64.0	68.6	78.8	84.4	90.5	97.0	97.0	97.0	97.0	97.0	111	144	165	189	203	203	189	177	144	117
107	45.3	48.5	55.7	64.0	68.6	73.5	84.4	90.5	97.0	104	104	104	104	104	119	154	177	203	217	217	203	189	154	125
108	48.5	52.0	59.7	68.6	73.5	78.8	90.5	97.0	104	111	111	111	111	111	128	165	189	217	233	233	217	203	165	134
109	52.0	55.7	64.0	73.5	78.8	84.4	97.0	104	111	119	119	119	119	119	137	177	203	233	249	249	233	217	177	144
110	55.7	59.7	68.6	78.8	84.4	90.5	104	111	119	128	128	128	128	128	147	189	217	249	267	267	249	233	189	154
111	59.7	64.0	73.5	84.4	90.5	97.0	111	119	128	137	137	137	137	137	158	203	233	267	286	286	267	249	203	165
112	64.0	68.6	78.8	90.5	97.0	104	119	128	137	147	147	147	147	147	169	217	249	286	307	307	286	267	217	177
113	68.6	73.5	84.4	97.0	104	111	128	137	147	158	158	158	158	158	181	233	267	307	329	329	307	286	233	189
114	73.5	78.8	90.5	104	111	119	137	147	158	169	169	169	169	169	194	249	286	329	352	352	329	307	249	203
115	78.8	84.4	97.0	111	119	128	147	158	169	181	181	181	181	181	208	267	307	352	377	377	352	329	267	217
116	84.4	90.5	104	119	128	137	158	169	181	194	194	194	194	194	223	286	329	377	404	404	377	352	286	233
117	90.5	97.0	111	128	137	147	169	181	194	208	208	208	208	208	239	307	352	404	433	433	404	377	307	249
118	97.0	104	119	137	147	158	181	194	208	223	223	223	223	223	256	329	377	433	464	464	433	404	329	267
119	104	111	128	147	158	169	194	208	223	239	239	239	239	239	274	352	404	464	497	497	464	433	352	286
120	111	119	137	158	169	181	208	223	239	256	256	256	256	256	294	377	433	497	533	533	497	464	377	307
121	119	128	147	169	181	194	223	239	256	274	274	274	274	274	315	404	464	533	571	571	533	497	404	329
122	128	137	158	181	194	208	239	256	274	294	294	294	294	294	338	433	497	571	611	611	571	533	433	352
123	137	147	169	194	208	223	256	274	294	315	315	315	315	315	362	464	533	611	655	655	611	571	464	377
124	147	158	181	208	223	239	274	294	315	338	338	338	338	338	389	497	571	655	702	702	655	611	497	404
125	158	169	194	223	239	256	294	315	338	362	362	362	362	362	416	533	611	702	752	752	702	655	533	433
126	169	181	208	239	256	274	315	338	362	388	388	388	388	388	446	571	655	752	806	806	752	702	571	464
127	181	194	223	256	274	294	338	362	388	416	416	416	416	416	479	611	702	806	863	863	806	752	611	497
128	194	208	239	274	294	315	362	388	416	446	446	446	446	446	512	655	752	863	925	925	863	806	655	533
129	208	223	256	294	315	338	388	416	446	478	478	478	478	478	549	702	806	925	991	991	925	863	702	571
130	223	239	274	315	338	362	416	446	478	512	512	512	512	512	588	752	863	991	1062	1062	991	925	752	611
131	239	256	294	338	362	388	446	478	512	549	549	549	549	549	630	806	925	1062	1137	1137	1062	991	806	655
132	256	274	315	362	388	416	478	512	549	588	588	588	588	588	676	863	991	1137	1219	1219	1137	1062	863	702
133	274	294	338	388	416	446	512	549	588	630	630	630	630	630	724	925	1062	1219	1306	1306	1219	1137	925	752
134	294	315	362	416	446	478	549	588	630	676	676	676	676	676	776	991	1137	1306	1399	1399	1306	1219	991	806
135	315	338	388	446	478	512	588	630	676	724	724	724	724	724	832	1062	1219	1399	1499	1499	1399	1306	1062	863
136	338	362	416	479	512	549	630	676	724	776	776	776	776	776	891	1137	1306	1499	1606	1606	1499	1399	1137	925
137	362	388	446	512	549	588	676	724	776	832	832	832	832	832	955	1219	1399	1606	1721	1721	1606	1499	1219	991
138	388	416	479	549	588	630	724	776	832	891	891	891	891	891	1024	1306	1499	1721	1844	1844	1721	1606	1306	1062
139	416	446	512	588	630	676	776	832	891	955	955	955	955	955	1098	1399	1606	1844	1975	1975	1844	1721	1399	1137
140	446	479	549	630	676	724	832	891	955	1024	1024	1024	1024	1024	1176	1499	1721	1975			1975	1844	1499	1219
141	479	512	588	676	724	776	891	955	1024	1098	1098	1098	1098	1098	1261	1606	1844					1975	1606	1306
142	512	549	630	724	776	832	955	1024	1098	1176	1176	1176	1176	1176	1351	1721	1975						1721	1399
143	549	588	676	776	832	891	1024	1098	1176	1261	1261	1261	1261	1261	1448	1844							1844	1499
144	588	630	724	832	891	955	1098	1176	1261	1351	1351	1351	1351	1351	1552	1975							1975	1606
145	630	676	776	891	955	1024	1176	1261	1351	1448	1448	1448	1448	1448	1664									1721
146	676	724	832	955	1024	1098	1261	1351	1448	1552	1552	1552	1552	1552	1783									1844
147	724	776	891	1024	1098	1176	1351	1448	1552	1664	1664	1664	1664	1664	1911									1975
148	776	832	955	1098	1176	1261	1448	1552	1664	1783	1783	1783	1783	1783	2048									
149	832	891	1024	1176	1261	1351	1552	1664	1783	1911	1911	1911	1911	1911										
150	891	955	1098	1261	1351	1448	1664	1783	1911	2048	2048	2048	2048	2048										

TABLE B2. Tone correction factors.



Frequency f, HZ	Level Difference F, dB	Tone Correction C, dB
50 ≤ f < 500	0 ≤ F < 20 20 ≤ F	F/6 3 1/3
500 ≤ f ≤ 5000	0 ≤ F < 20 20 ≤ F	F/3 6 2/3
5000 < f ≤ 10000	0 ≤ F < 20 20 ≤ F	F/6 3 1/3

TABLE B3. Example of tone correction calculation for a turbofan engine.

① Band (i)	② f HZ	③ SPL dB	④ S dB Step 1	⑤ |ΔS| dB Step 2	⑥ SPL' dB Step 4	⑦ S' dB Step 5	⑧ $\bar{S}$ dB Step 6	⑨ SPL" dB Step 7	⑩ F dB Step 8	⑪ C dB Step 9
1	50	-	-	-	-	-	-	-	-	-
2	63	-	-	-	-	-	-	-	-	-
3	80	70	-	-	70	-8	-2 1/3	70	-	
4	100	62	- 8	-	62	-8	+3 1/3	67 2/3	-	
5	125	(70)	+ (8)	16	71	+9	+6 2/3	71	-	
6	160	80	+10	2	80	+9	+2 2/3	77 2/3	2 1/3	1/3
7	200	82	+ (2)	8	82	+2	-1 1/3	80 1/3	1 2/3	1/3
8	250	(83)	+ 1	1	79	-3	-1 1/3	79	4	2/3
9	315	76	- (7)	8	76	-3	+ 1/3	77 2/3	-	
10	400	(80)	+ (4)	11	78	+2	+1	78	2	1/3
11	500	80	0	4	80	+2	0	79	1	1/3
12	630	79	- 1	1	79	-1	0	79	-	
13	800	78	- 1	0	78	-1	- 1/3	79	-	
14	1000	80	+ 2	3	80	+2	- 2/3	78 2/3	1 1/3	1/3
15	1250	78	- 2	4	78	-2	- 1/3	78	-	
16	1600	76	- 2	0	76	-2	+ 1/3	77 2/3	-	
17	2000	79	+ 3	5	79	+3	+1	78	1	1/3
18	2500	(85)	+ 6	3	79	0	- 1/3	79	6	[2]
19	3150	79	- (6)	12	79	0	-2 2/3	78 2/3	1/3	0
20	4000	78	- 1	5	78	-1	-6 1/3	76	2	2/3
21	5000	71	- (7)	6	71	-7	-8	69 2/3	1 1/3	1/3
22	6300	60	-11	4	60	-11	-8 2/3	61 2/3	-	
23	8000	54	- 6	5	54	-6	-8	53	1	0
24	10000	45	- 9	3	45	-9	-	45	-	
						-9				

Step 1	③(i) - ③(i-1)
Step 2	|④(i) - ④(i-1)|
Step 3	see Instructions
Step 4	see Instructions
Step 5	⑥(i) - ⑥(i-1)

Step 6	[⑦(i) + ⑦(i+1) + ⑦(i+2)] ÷ 3
Step 7	⑨(i-1) + ⑧(i-1)
Step 8	③(i) - ⑨(i)
Step 9	see Table B2

APPENDIX C

PART 9—NOISE MEASUREMENT

Sec.
F36.101 General test conditions.
F36.103 Acoustical measurement system.

11. The heading to Appendix C is amended by adding a table of sections

national Electrotechnical Commission (IEC) Publication No. 179, entitled "Precision Sound Level Meters" as incorporated by reference in Part 36 under § 36.6 of this part.

THURSDAY, MARCH 2, 1978
PART III

APPENDIX C

11. The heading to Appendix C is amended by adding a table of sections to read as follows:

APPENDIX C—NOISE LEVELS FOR SUBSONIC TRANSPORT CATEGORY AND TURBOJET POWERED AIRPLANES UNDER SECTION 36.201

Sec.
C36.1 Noise measurement and evaluation.
C36.3 Noise measuring points.
C36.5 Noise levels.
C36.7 Takeoff test conditions.
C36.9 Approach test conditions.

APPENDIX F

12. The heading to Appendix F is amended by adding a table of sections to read as follows:

APPENDIX F—NOISE REQUIREMENTS FOR PROPELLER-DRIVEN SMALL AIRPLANES

PART A—GENERAL

Sec.
F36.1 Scope.

PART B—NOISE MEASUREMENT

Sec.
F36.101 General test conditions.
F36.103 Acoustical measurement system.
F36.105 Sensing, recording, and reproducing equipment.
F36.107 Noise measurement procedures.
F36.109 Data recording, reporting, and approval.
F36.111 Flight procedures.

PART C—DATA CORRECTION

Sec.
F36.201 Correction of data.
F36.203 Validity of results.

PART D—NOISE LIMITS

Sec.
F36.301 Aircraft noise limits.

13. Paragraph (b) of § F36.105 is revised to read as follows:

§ F36.105 *Sensing, recording, and reproducing equipment.*

• • • • •

(b) The characteristics of the system must comply with the recommendations in International Electrotechnical Commission (IEC) Publication No. 179, entitled "Precision Sound Level Meters" as incorporated by reference in Part 36 under § 36.6 of this part.

• • • • •

(Secs. 313(a), 601, 603, 611(b), Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423, and 1431(b)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Title I of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and Executive Order 11514, March 5, 1970.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on February 17, 1978.

LANGHORNE BOND,
Administrator.

NOTE.—The incorporations by reference in the preceding document were approved by the Director of the FEDERAL REGISTER on July 6, 1977.

[FR Doc. 78-5045 Filed 3-1-78; 8:45 am]

federal register

THURSDAY, MARCH 2, 1978
PART III

THE NATIONAL ARCHIVES OF THE UNITED STATES
LITERA SCRIPTA MANET
1934

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Office of the Secretary

■

AGE DISCRIMINATION

[4110-12]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

[45 CFR Part 90]

AGE DISCRIMINATION REGULATIONS

AGENCY: Office of the Secretary.

ACTION: Notice on intent to issue regulations.[1]

SUMMARY: The Department of Health, Education, and Welfare is planning to develop proposed general government-wide regulations to carry out section 303 of the Age Discrimination Act of 1975. Section 303 provides in part that "No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." Section 304 of the Age Discrimination Act requires the Secretary to publish in the FEDERAL REGISTER general regulations to carry out the provisions of section 303 of the Act. The purpose of the general regulations will be the development of government-wide standards to eliminate unreasonable discrimination on the basis of age in programs and activities receiving Federal financial assistance.

DATES: The proposed regulations will be published in the FEDERAL REGISTER by May 30, 1978. Regulations governing specific programs and activities administered by the Department of Health, Education, and Welfare will be published in the FEDERAL REGISTER in fiscal year 1979.

ADDRESS: As appropriate, the Department will disclose drafts of age discrimination regulations ("disclosure drafts") to interested members of the public. To automatically obtain "disclosure drafts" interested persons should write to Ms. Juliette N. Lester, HEW, Office of the General Counsel, Room 716-E, 200 Independence Avenue SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT:

Ms. Juliette N. Lester, 202-245-7542.

Dated: February 17, 1978.

FRANK PETER S. LIBASSI,
General Counsel, Department of Health, Education, and Welfare.

Dated: February 21, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary, Department of Health, Education, and Welfare.

1. GENERAL PROGRAM DESCRIPTION

Congress enacted the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) as a separate part to the Amendments of the Older Americans Act (Pub. L. 94-135). The purpose of the Age Discrimination Act is to prohibit unreasonable discrimination on the basis of age in programs or activities receiving Federal financial assistance, including programs or activities receiving funds under the State and Local Fiscal Assistance Act of 1972 (revenue sharing). Section 304 of the Age Discrimination Act requires the Secretary to publish in the FEDERAL REGISTER general government-wide regulations to carry out the statutory prohibition of unreasonable age discrimination in Federally-assisted programs and activities.

It will not be a violation of the Age Discrimination Act, if, in the program or activity involved—

(1) "[S]uch action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of such program or activity;" (section 304(b)(1)(A)); or

(2) "[T]he differentiation made by such action is based upon reasonable factors other than age." (Section 304(b)(1)(B).)

In addition, the Age Discrimination Act does "not apply to any program or activity established under authority of any law which: (A) Provides any benefits or assistance to persons based upon the age of such persons; or (B) establishes criteria for participation in age-related terms or describes intended beneficiaries or target groups in such terms." (Section 304(b)(2)(B).)

In addition to these exclusions, the Age Discrimination in Employment Act of 1967, Pub. L. 90-202 (29 U.S.C. 621 et seq.), will continue to be the principal tool for addressing age discrimination in employment practices (section 304(c)(2)). Included under the coverage of the Age Discrimination Act, however, are employment practices involving any program or activity receiving Federal financial assistance for public service employment under the Comprehensive Employment and Training Act (section 304(c)(1)).

2. REGULATORY PROVISIONS

The regulation will establish government-wide standards to eliminate unreasonable discrimination on the basis of age in programs or activities receiving Federal financial assistance. Under the Age Discrimination Act, Congress has stated explicitly its intention to bar only "unreasonable" age discrimination. Since this language indicates a Congressional intention to legitimize at least some forms of age-related criteria and practices, the implementing regulations will set forth the legal criteria for determining whether particular kinds of age classifications in Federal programs or activities are unreasonable.

Regulations governing programs and activities administered by the Department of Health, Education, and Welfare, including specific investigative, conciliation, and enforcement procedures under the Age Discrimination Act will be set forth as part of a separate regulations package to be published after the final general government-wide regulations. The head of each Federal department or agency which extends Federal financial assistance to any program or activity will also publish regulations to carry out the Age Discrimination Act. These regulations will be published after the publication of the general government-wide regulations.

3. SCHEDULE FOR PREPARATION OF THE GENERAL, GOVERNMENT-WIDE AGE DISCRIMINATION REGULATIONS

Prior to the enactment of any regulations, the Age Discrimination Act requires the Commission on Civil Rights to make a study of unreasonable discrimination based on age in programs receiving Federal financial assistance (section 307). Incidental to the study, the Commission on Civil Rights must specifically identify programs in which qualified individuals are excluded from participation because of their age.[2]

The Act also requires the Secretary to publish proposed general regulations (section 304(a)(1)) and under the provisions of the Act, these must be published on or before May 30, 1978. This statutory provision on rulemaking is qualified by the further directive in section 304(a)(2) that the Secretary shall not publish proposed general regulations prior to: (1) The expiration of 45 workdays allowed for Federal departments and agencies to comment on the Commission's Study, and (2) the expiration of an additional 45 days allowed for Committees of the House and the Senate to conduct hearings.

Final general regulations must be published by the Secretary no later than 90 days after publication of the proposed general regulations (section 304(a)(3)).

HEW has developed the following preparation schedule for the general government-wide regulations:

NOTICE OF PROPOSED RULEMAKING

The notice of proposed rulemaking will be published in the FEDERAL REGISTER by May 30, 1978.

FINAL REGULATIONS

The final regulations will be published in the FEDERAL REGISTER by August 30, 1978.

HEW and other Federal departments and agencies which extend Federal financial assistance to any program or activity will publish separate proposed and final regulations to carry out the Age Discrimination Act during fiscal year 1979, which begins October 1, 1978.

4. MAJOR ISSUES

A discussion of the major issues will be set forth in the preamble to the notice of proposed rulemaking. The notice of proposed rulemaking will also invite public comment on the major issues. An analysis of the issues and a summary of the responses received to these issues will be set forth in the final regulations. Interested persons are encouraged to read the report of the Commission on Civil Rights in conjunction with the discussion of the major issues.

It should be noted at the outset that the Commission on Civil Rights Age Discrimination Study recommends that the only age-based criteria that may be considered reasonable should be those for which "Federal legislation contains a specific authorization." However, pending the enactment of an amendment to the Age Discrimination Act which incorporates the Commission on Civil Rights recommendations, HEW will prepare the age discrimination regulations on the basis of the Age Discrimination Act in its present form, which prohibits "unreasonable discrimination" on the basis of age.

Some of the major issues needing resolution include:

(a) What is unreasonable discrimination? The age discrimination regulations must define or explain the concept of "unreasonable discrimination." Therefore, HEW must attempt to determine what Congress meant by using the phrase "unreasonable discrimination." Determining Congressional intent may be a difficult task. For example, one passage from the House Conference Report on the Age Discrimination Act reads:

> "The difficulty, obviously, lies in establishing what age-related distinctions are 'reasonable' with respect to each Federally-assisted program or activity, and on this there is not a clear consensus among the conferees." (Conference Report, H.R. Rep No. 94-670, 94th Cong. 1st Sess. 56, 1975.)

(b) What does "reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of such program or activity" mean?

Section 304(b)(1)(A) provides that:

> It shall not be a violation of any provision of this title, or of any regulation issued under this title, for any person to take any action otherwise prohibited by the provisions of Section 303 if, in the program or activity involved—
>
> (A) Such action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of such program or activity * * *.

The Department will have to determine and explain when age-based criteria are "reasonably necessary to the normal operation of a program," or "reasonably necessary to the achievement of a statutory objective." In other words, the Department will have to determine what age-based distinctions are justifiable, and how broadly the phrase "statutory objective" can be defined. A number of justifications for age-based criteria have been advanced, such as: (a) "limited resources," that is, that programs should be permitted to allocate limited resources to target populations which can be reached at a lesser cost; (b) "cost-benefit," that is, that certain target populations can benefit more from given resources than others (as in providing training or education to individuals with more projected "productive years"); and (c) that categorical programs (such as Medicare) are available to certain target populations, thereby reducing the need to serve them through programs of more general coverage. A determination must be made as to the validity of these and other justifications offered in behalf of age distinctions. The Commission on Civil Rights report rejected all such justification.

(c) How should HEW define "age," "age-related terms," and "differentiations based on reasonable factors other than age"?

The Age Discrimination Act prohibits use of unreasonable "age" and "age-related terms" but allows "differentiations based on reasonable factors other than age." Should HEW adopt the Commission on Civil Rights recommendation to define "age as the number of elapsed years or parts of years from the date of a person's birth"; and "age-related terms" as words that categorize persons within age-based groups (e.g., children, older persons)? What is the distinction between the use of "age-related terms" and "differentiation made on reasonable factors other than age" (e.g., is "school age" and age-related term or a differentiation based on a reasonable factor other than age)?

(d) What programs or activities does the Age Discrimination Act cover?

The Age Discrimination Act applies to "programs or activities receiving Federal financial assistance, including programs or activities receiving funds under the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221 et seq.)." (Section 303.)

The phase, "programs or activities receiving Federal financial assistance," has raised interpretive questions in other civil rights statutes in which it is used, and has been the subject of litigation in Title VI cases (discrimination on the basis of race). Among the questions HEW may have to answer are: Does the phrase, "Federal financial assistance," include non-monetary assistance? What constitutes the receipt of assistance?

Section 304(b)(2) provides that—"The provisions of this title shall not apply to any program or activity established under authority of any law which: (A) provides any benefits or assistance to persons based upon the age of such persons; or (B) establishes criteria for participation in age-related terms or describes intended beneficiaries or target groups in such terms." It will be necessary to determine whether the phrase, "establishes criteria for participation in age-related terms or describes intended beneficiaries or target groups in such terms" exempts State and local laws, and Federal, State, and local regulations and policies.

To what extent under the statute may state and local governments continue to decide when age distinctions are reasonable or unreasonable?

To what extent can the objective of the Act be achieved by the continued exercise of discretion which is now possessed by state and local governments?

(e) What means of enforcement are appropriate under the Age Discrimination Act?

Various provisions of the Act relating to enforcement raise questions which will have to be clarified in the regulations. Some examples follow:

Section 305(d)(1) of the Act authorizes fund terminations as a means of enforcement after reasonable notice and opportunity for hearing. Section 305(a)(2) provides that the Department may seek compliance "by any other means authorized by law." Although this latter provision might provide the basis for additional approaches to civil rights enforcement, alternative means of enforcement may be circumscribed due to the limitation imposed by Section 305(e) which states, "the provisions of this section shall be the exclusive remedy for the enforcement of the provisions of this Title."

The Department needs to decide whether to place enforcement responsibility in the agencies which are responsible for administering federally assisted programs or activities, or to place enforcement responsibility in traditional civil rights enforcement agencies like HEW's Office for Civil Rights. The Commission on Civil Rights Study recommends that responsibility for eliminating age discrimination be placed in "the units within the Federal departments or agencies responsible for administering federally assisted services and benefit programs." (Commission on Civil Rights recommendation No. 7.)

With respect to administrative sanctions available to Federal departments

[1] An explanation of HEW procedures for developing new regulations was published in the FEDERAL REGISTER on November 18, 1977 (42 FR 59555).

[2] The Commission on Civil Rights transmitted its Age Discrimination Study to the President and the Congress on January 10, 1978. Copies of the study are available from the Commission on Civil Rights.

and agencies, HEW needs to determine what sanctions other than fund terminations might be available. An example might be the Commission on Civil Rights recommendation that Federal funds be diverted to other eligible public or private nonprofit agencies when a State or local government has been found in violation of the Age Discrimination Act. (Commission on Civil Rights recommendation No. 4.)

(f) In addition, what affirmative steps should the Federal departments and agencies be required to take to open up opportunities to persons of all ages to participate in programs (e.g., outreach, performance goals, needs assessments)? (Commission on Civil Rights recommendation No. 7.)

(g) To what extent can the objective of the statute be achieved without signficantly increasing the Federal bureaucracy and without extensive Federal regulation and control?

5. COST IMPLICATIONS

The Department will publish an analysis of the cost implications of the regulations.

6. CLASSIFICATION OF REGULATIONS

The Age Discrimination Regulations will be major regulations. The regulations will contain policy decisions of great importance and will have a widespread impact on the country.

7. COORDINATION

The Department has established an Age Discrimination Task Force to draft the regulations required pursuant to section 304 of the Age Discrimination Act. The Age Discrimination Task Force will coordinate the preparation of issue papers and regulations through two separate vehicles, a Policy Group and an Executive Work Group. The Policy Group, chaired by the General Counsel, is composed of high level staff from the major HEW agencies and staff offices. It will advise the General Counsel and Project Manager on the basic issues involved in the development of the regulations. The Executive Work Group, chaired by the Project Manager, is composed of staff members from the various major HEW agencies and staff from the Office of the Deputy General Counsel for Regulation Review. The Executive Work Group will organize, manage, and do the work necessary for the preparation of the regulations. The Age Discrimination Task Force will also carry on consultations with the other Federal Departments during the drafting of the proposed regulations and final regulations.

8. PUBLIC PARTICIPATION

The following steps will be carried out with respect to public participation in the development of the regulations:

(1) As appropriate, "disclosure drafts" will be made available to all interested persons who have asked to receive these drafts.

(2) A meeting with interested groups will be convened in Washington, D.C., to comment on a draft of the regulations.

(3) Copies of the Notice of Proposed Rulemaking will be mailed to interested groups and individuals who have asked to receive this notice.

(4) The public will be given a 45 day period to comment on the Notice of Proposed Rulemaking; this brief period is necessary since the Act specifies that final regulations must be published within 90 days of the proposed regulations.

(5) Public hearings will be held in Washington, D.C., and in a regional office following the publication of the Notice of Proposed Rulemaking.

It should be noted that the Commission on Civil Rights has already conducted hearings on Age Discrimination in San Francisco, Denver, Miami, and Washington, D.C. In addition, Congress has been and will be conducting public hearings on the Commission on Civil Rights Report and the Federal Agencies' responses to the Report.

9. FOR FURTHER INFORMATION CONTACT

Ms. Juliette N. Lester, Director, Age Discrimination Task Force, Office of the General Counsel, Room 716-E, 200 Independence Avenue SW., Washington, D.C. 20201, 202-245-7542.

[FR Doc. 78-5173 Filed 3-1-78; 8:45 am]

federal register

THURSDAY, MARCH 2, 1978
PART IV

DEPARTMENT OF TRANSPORTATION

Coast Guard

CARRIAGE OF SOLID HAZARDOUS MATERIALS IN BULK

[4910-14]

Title 46—Shipping

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 76-198]

PART 148—CARRIAGE OF SOLID HAZARDOUS MATERIALS IN BULK

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment reduces the requirements governing the bulk carriage of metal borings, shavings, turnings, and cuttings which are considered overly stringent for the carriage of these products on the navigable waters of the United States. A special additional requirement for the carriage of unslaked lime is added. The classification in terminology in the Table of Permitted Cargoes has been changed to conform with the terminology used in Title 49, Code of Federal Regulations. The changes also permit the shipping paper required to be carried on board an unmanned barge to be carried on the towing vessel.

EFFECTIVE DATE: March 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1477.

SUPPLEMENTARY INFORMATION: On April 4, 1977, a notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 17889). Interested persons and parties were invited to submit written views, data, or comments to the Coast Guard before May 15, 1977. Five comments were received. Two comments petitioned for the inclusion of additional substances to those proposed; two other comments requested a clarification in the language of the proposed text. A fifth comment recommended a more comprehensive amendment.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: John McAnulty, Project Manager, Office of Merchant Marine Safety, and Michael N. Mervin, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF COMMENTS

Two comments suggested that two nitrogen containing fertilizers should be added to the Table of Permitted Cargoes 46 CFR 148.01-7. These were: (1) Ammonium nitrate fertilizer, formulation or mixture containing less than 75 percent ammonium nitrate with no organic filler and (2) sodium nitrate, potassium nitrate mixture; 67 percent sodium nitrate and 30 percent potassium nitrate with 3 percent miscellaneous inorganic compounds. The Coast Guard has, for some time, allowed bulk shipment, of these fertilizers under the permit process of § 148.01-9. Inclusion of these two items in the Table of Permitted Cargoes eliminates an unnecessary procedural burden. Therefore delaying adoption of the suggestions until notice and an opportunity for comment have been provided is unnecessary and contrary to the public interest.

A comment suggested some note defining "other regulated material" (ORM) in conjunction with the Table of Permitted Hazardous Cargoes of 46 CFR 148.01-7. The suggestion was implemented by a reference to definitions in Title 49 of the Code of Federal Regulations.

Another comment suggested that the special requirements for metal borings, shavings, turnings, or cuttings (§ 148.04-13) be amended to eliminate the requirement of a fixed CO_2 systems for fire-control. Regulation 46 CFR 148.04-13(a)(1) was previously deleted in 42 FR 22145, whereby fixed CO_2 fire control systems were eliminated as a requirement for bulk water transportation of the metal borings, shavings, turnings, or cuttings.

The other comments were critical of the wording of the proposed amendments. Clarification in each instance was made by the Coast Guard and incorporated into the final rule:

a. Proposed paragraph 46 CFR 148.02-1 prescribed keeping the shipping paper onboard towing vessels (moving, pushing, towing or attached to) unmanned barges carrying bulk hazardous materials. A comment pointed out that no identification of the contents of the barge was possible if the barge was moored and a marine incident occurred. A sentence was added to eliminate this defect by providing that if an unmanned barge is not under tow, the shipping paper must remain on board the barge for identification purposes.

b. Another suggestion was made to alter the text of proposed paragraph 46 CFR 148.04-23 to ensure that unslaked lime in bulk would be transported only in unmanned, all steel, double skin barges carrying no other article. The suggestion was adopted and the text revised so as to dispel all doubts.

In consideration of the foregoing, Part 148 of Title 46 Code of Federal Regulations is amended as follows:

1. By revising the part heading to read:

PART 148—CARRIAGE OF SOLID HAZARDOUS MATERIALS IN BULK

2. By revising the table of contents by adding, in proper numerical sequence:

Sec.
148.04-13 Ferrous metal borings, shavings, turnings or cuttings (excluding stainless steel).
148.04-23 Unslaked lime.

3. By revising the table in 46 CFR 148.01-7 to read:

§ 148.01-7 Permitted cargoes.

Shipping name of the hazardous material	Hazard class of the hazardous materials	Characteristic properties of the material
Aluminum dross	Flammable solid	Contact with water may cause self heating and the evolution of flammable gas.
Aluminum nitrate	Oxidizing materials	If involved in a fire will greatly intensify the burning of combustible materials.
Ammonium nitrate containing not more than 80 pct ammonium nitrate and not less than 20 pct calcium carbonate with no more than 2 pct inorganic coating, in the form of uniform and nonsegregatable granular particles.	Oxidizing material	Do.
Ammonium nitrate fertilizer, formulation or mixture containing less than 60 pct ammonium with no organic filler.	do	Do.
Ammonium sulfate nitrate	ORM-C	If involved in a fire will intensify the burning of combustible materials.
Barium nitrate	Oxidizing material	If involved in a fire will greatly intensify the burning of combustible materials.
Calcium nitrate	do	Do.
Charcoal briquets	Flammable solid	Contact with water may cause self heating.
Coconut meal pellets (or copra pellets) containing at least 6 pct and not more than 13 pct moisture and not more than 10 pct residual fat content.	ORM-C	Subject to spontaneous heating by biological decay or by oxidation.
Copra, dry	do	Susceptible to spontaneous heating or fire from spark or open flame.
Ferrophosphorus	ORM-A	May evolve poisonous gas (phosphine) in contact with moisture.

Shipping name of the hazardous material	Hazard class of the hazardous materials	Characteristic properties of the material
Ferrosilicon, containing less than 45 pct or more than 70 pct silicon.	do	May evolve poisonous and flammable gases (arsine/phosphine) in contact with water, acids or alkalines.
Ferrous metal borings, shavings, turnings, or cuttings (excluding stainless steel).	ORM-C	Susceptible to spontaneous heating and ignition.
Fishmeal or scrap ground, containing 6 to 12 pct moisture and no more than 18 pct fat by weight.	do	Do.
Fishmeal or scrap, ground and pelletized (mixture), containing 6 to 12 pct moisture and no more than 18 pct fat by weight.	do	Do.
Lead nitrate	Oxidizing material	If involved in fire will greatly intensify the burning of combustible materials.
Lime, unslaked	ORM-B	Evolves heat on contact with water.
Magnesium nitrate	Oxidizing material	If involved in a fire will greatly intensify the burning of combustible materials.
Petroleum coke, calcined, at 130° F or above.	ORM-C	Susceptible to spontaneous heating and ignition.
Petroleum coke, uncalcined	do	Do.
Potassium nitrate	Oxidizing material	If involved in a fire will greatly intensify the burning of combustible materials.
Radioactive material, low specific activity (LSA).	Radioactive material	Radiation hazard from ingestion, inhalation and contact with mucous membranes.
Sawdust	ORM-C	Susceptible to fire from sparks or open flames.
Sodium nitrate	Oxidizing material	If involved in a fire will greatly intensify the burning of combustible materials.
Sodium nitrate, potassium nitrate mixture; 67 pct Sodium nitrate, 30 pct Potassium nitrate and not more than 3 percent miscellaneous inorganic compounds.	do	Do.
Strontium nitrate (not radioactive)	do	Do.
Sulfur	ORM-C	Dust forms explosive mixtures with air.
Tankage, garbage or rough ammoniate solid, containing 7 pct or more moisture.	do	Susceptible to spontaneous heating and ignition.

NOTE.—Definitions of hazard classes of hazardous materials are found in 49 CFR 171.8 and 49 173.500.

4. By revising § 148.02-1(c) to read:

§ 148.02-1 Shipping paper.

• • • • • •

(c) The shipping paper required in paragraph (a) of this section must be kept on board the vessel along with the dangerous cargo manifest (§ 148.02-3 of this subpart) except when the shipment is by an unmanned barge in which case it may be kept on board the towing vessel. When an unmanned barge is moored, the shipping paper must remain on board the barge, in a readily retrievable location, such as a metal tube attached to the barge.

§ 148.02-3 [Amended]

5. By deleting paragraph (b) in § 148.02-3.

6. By revising the introductory text in § 148.04-13(a) to read:

§ 148.04-13 Ferrous metal borings, shavings, turnings, or cuttings (excluding stainless steel).

(a) This section applies to the stowage and transportation in bulk of hazardous materials described as ferrous metal borings, shavings, turnings, or cuttings on board vessels (excluding stainless steel). However, unmanned barges on which the article is stowed for or transported on a voyage entirely on the navigable waters of the United States are exempt from the requirements of this section. Ferrous metal borings, shavings, turnings, or cuttings (excluding stainless steel) must not be stowed and transported in bulk unless the following conditions are met:

7. By adding a new § 148.04-23 to read:

§ 148.04-23 Unslaked lime.

Unslaked lime in bulk must be transported in unmanned, all steel, double skin barges equipped with weathertight hatches or covers. The barge must not carry any other cargo while unslaked lime is on board.

(46 U.S.C. 170, 49 U.S.C. 1655(b); 49 CFR 1.46).

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: February 16, 1978.

O. W. SILER,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc. 78-5307 Filed 3-1-78; 8:45 am]

federal register

THURSDAY, MARCH 2, 1978
PART V

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

■

FEDERAL DISASTER ASSISTANCE

Temporary Housing Assistance

[4210-01]

Title 24— Housing and Urban Development

CHAPTER XIII—FEDERAL DISASTER ASSISTANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-78-282]

PART 2205—FEDERAL DISASTER ASSISTANCE (Public Law 93-288)

Temporary Housing Assistance

AGENCY: Fedeal Disaster Assistance Administration.

ACTION: Final rule.

SUMMARY: This amendment updates and clarifies requirements governing provisions of temporary housing for victims of Presidentially declared disasters under the Disaster Relief Act of 1974.

EFFECTIVE DATE: April 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Hugh F. Richardson, Federal Disaster Assistance Administration, Room B-133, 451 7th Street SW., Washington, D.C. 20410, 202-634-7860.

SUPPLEMENTARY INFORMATION: On March 10, 1977, 42 FR 13442, the Administrator published a Notice of Proposed Rule Making citing a recent redelegation of authority to the Assistant Secretary for Housing-Federal Housing Commissioner of certain responsibilities for temporary housing of disaster victims. In each major disaster where the Administrator determines that temporary housing is required and issues a notice to proceed to the Department, the Assistant Secretary for Housing-Federal Housing Commissioner is the Administrator's "designee".

The Notice proposed to update temporary housing regulations under 24 CFR Part 2205 in order to reflect this delegation and at the same time clarify and refine program requirements in various other respects. Particularly, the Preamble to the Notice discussed 14 points on which the Administrator sought public comment. Five responses were received, all of which have been considered and some of which have been adopted as changes in the proposed rules. the comments focused principally on the following eight points:

1. Eligibility

There were several suggestions to change the criteria for temporary housing eligibility. Thus, new § 2205.45(d)(1)(vi) now includes among eligible victims those who are evicted because of financial hardship. Section 2205.45(b) is being relaxed to provide that a victim must accept "the first reasonable offer" of housing rather than "the first offer" to accommodate certain classes of applicants such as farmers for whom some housing arrangements may not be appropriate. A suggestion that resources be matched to individual needs of the victim is already covered by § 2205.5(d)(2) which states that temporary housing must meet the particular needs of eligible individuals and families. Another comment requested eligibility for those whose access to property is restricted because of State or local safety codes. This situation is already covered by § 2205.45(d)(1)(iv). A recommendation for examples of "extreme hardship" under § 2205.45(d)(2) has not been adopted. Examples in such instances tend to be taken too literally and are apt to control decisions by program managers rather than guide them. In this instance, we encourage case-by-case determinations, leaving the interpretation of extreme hardship to the manager, although we will furnish guidelines if a need for them becomes evident.

2. Housing Resources-Group Sites

One comment endorsed Federal expenditures for utility development at group sites. We emphasize, however, that this expenditure is discretionary with the Administrator and requires his/her determination that development at Federal expense is in the public interest. See § 2205.45(f)(2).

3. Minimal Repair Program (MRP)

It was suggested that all references to eligible persons be changed to spell out both individuals and families. Families qualify as applicants and we consider the proposed rule clear enough to that effect. See § 2205.45 (d)(2).

In response to another comment, § 2205.45(h) now makes clear that all MRP work must conform to State and local building codes. It should be noted, however, that the overall structure, since it serves as a temporary dwelling, may not necessarily comply and that the responsibility for conforming the permanent structure to code requirements rests with the applicant. It was suggested that victims who obtain their own temporary lodging also be allowed to elect MRP assistance. The present policy is to provide temporary housing applicants with transient accommodations, such as hotels and motels, without precluding them from applying for temporary housing. See § 2205.45(b); hence, no change is necessary.

One comment urged guidelines for when to extend the 30 day period for the completion of repairs. However, this period begins with the work order date and is intended to compel the prompt completion of the contractor's job. If the work cannot be completed within this interval then MRP is very likely not the appropriate form of housing relief, and accordingly we have not adopted this comment.

It was also suggested that there be an express provision for avoiding duplicate benefits to victims by different sources. However, most such duplication is already treated under § 2205.45(h)(1)(v) which requires reimbursement of the Government for repairs and items indemnified by insurance. There may also be instances when two or more governmental agencies provide duplicate compensation to victims. This situation is not presently covered and if we find that it arises frequently enough to cause a problem, we will amend the regulation accordingly.

In response to comment, § 2205.45(h)(2)(ii) now permits repair materials to be furnished to applicants who obtain volunteer labor.

Another comment proposed that the expense of digging a new well be allowed if it is infeasible to repair an existing well or if the well has been condemned by health authorities. Under § 2205.45(h)(3) only prior existing structures are covered and waiver of that paragraph would be necessary to allow payment of new well costs. A provision for waiver has now been included.

Finally, § 2205.45(h)(4), limiting repair costs to the average fair market rental value unless the Administrator determines that waiver of this limitation "is in the best interest of the government", has been questioned. This provision now clarifies that the interest of the Federal government is intended. Paragraph (h)(4) has now also been incorporated in paragraph (h)(1) dealing with the feasibility of the MRP.

4. Furniture and Household Items

One comment suggested that furniture in temporary housing facilities be donated to the occupant after temporary habitation is ended. However, we do not have authority to effect such property transfers. In response to another suggestion, a new § 2205.45(j)(1) now provides for household items for MRP recipients, if needed. One comment asked what recourse is available if special or additional household items are needed because of weather, illness or other extraordinary circumstances. The quantity of items specified in § 2205.45(j)(2) may be adjusted; however, requests for additional or special items would generally be addressed to volunteer agencies, loan programs, or to the Individual and Family Grant Program.

5. Housing Resources

The point was made that mobile homes used as temporary housing must meet State and local codes for the sale of such units. Mobile homes in HUD's storage program manufactured prior to June 15, 1976, meet standards of the American National Standards Institute for the year of manufacture. If a mobile home which does not meet State and local codes is sold to a temporary housing occupant, that occupant is responsible for satisfying code requirements, and this responsibility is now set forth in § 2205.45(m)(1). In this regard, it should be noted that State and local standards may not have applied to the time the units were placed in temporary housing service. It must then be determined by the purchaser what requirements, if any, must be met when the units become permanent housing. All mobile homes manufactured after June 14, 1976, must meet Federal Mobile Home Standards set forth at 24 CFR Part 280, and State codes must conform to these Federal standards.

6. Appeals

One comment suggested that § 2205.45(o) should explain that appeals must be filed within a specified time or the right of appeal is lost. We feel this point is made clear enough in paragraph (o)(1) which states that "* * * an applicant shall have the right to appeal * * * within 15 days following notification of [cancellation]".

7. Federal Responsibility

In response to a suggestion, § 2205.45(r) now specifies that the 18 month period of Federal responsibility starts with the date of the major disaster declaration.

8. Confidentiality

One comment suggested that there should be provision for protecting the confidentiality of MRP clients at the same time allowing sufficient cross-flow of information to prevent the duplication of benefits. This suggestion has not been adopted because the Privacy Act of 1974 and HUD's Privacy Act regulations, 24 CFR Part 15, cover the confidentiality of such information.

Other Changes

In addition, we have made various other clarifying changes. The conditions in § 2205.45(k)(3)(i) governing criteria for continued eligibility have been rearranged so that the first factors to be considered in evaluating alternative housing are now size, safety and location. Thus, factor 4, the financial test, is not reached and does not apply unless the first three conditions are satisfied. The date of occurrence of a major disaster, as referred to in § 2205.45(b) is the date specified in the Federal Register notice of a major disaster. The phrase "other readily fabricated dwellings" has been inserted in § 2205.45(f) to conform to the statute. Finally, § 2205.45(i)(3)(ii)(B) now makes clear that furniture purchased under the temporary housing program belongs to the Federal government.

Findings of inapplicability regarding environmental and economic impact were prepared for the proposed rule and copies are available in the Office of the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410. Since the Department has previously determined that adoption of this rule will not affect the quality of human environment or the national economy and since no change has been made in the substance of this rule which would affect that determination, no further environmental or economic determination is being made.

Accordingly, 24 CFR §§ 2205.45 and 2205.46 are combined as follows into amended § 2205.45, with § 2205.46 being reserved.

§ 2205.45 Temporary housing assistance.

(a) *Purpose.* The purpose of this section is to prescribe the policy, standards, and procedures to be followed in implementing the temporary housing assistance program authorized by Section 404 of the Act.

(b) *General program policies.* Assistance under this program is made available to eligible individuals and families who require temporary housing as a result of a major disaster. The commencement date and the term of temporary housing assistance is that set forth in paragraph (k)(1) of this section. No rental shall be established for the first twelve months of occupancy in temporary housing. An eligible applicant is expected to accept the first reasonable offer of temporary housing; refusal to do so may result in forfeiture of temporary housing assistance. Temporary housing will not be provided to an individual or family for use as a vacation or recreational dwelling. Temporary housing will not be made available to individuals or families who are displaced as a consequence of a redevelopment program undertaken by a community.

(c) *Application period.* Applications for temporary housing will be accepted up to and including sixty (60) days following the date of the declaration of a major disaster, except when additional time for submission of applications is authorized by the Administrator or his/her designee for reasons including:

(1) Uniformity of application periods in contiguous States declared disaster areas as the result of the same or a similar incident;

(2) Extenuating circumstances including, but not limited to, hospitalization, illness, or inaccessibility which prevent an applicant from applying in a timely manner.

(d) *General eligibility guidelines.* (1) Temporary housing assistance may be made available to those disaster victims who, as a result of a major disaster, require temporary housing because:

(i) Their dwelling has been destroyed as a result of a major disaster;

(ii) Their dwelling has been damaged or utility service has been interrrupted to such an extent as to constitute a health or safety hazard which did not exist prior to the disaster;

(iii) Their dwelling has been made inaccessible due to the disruption or destruction of transportation routes or facilities, or due to other impediments to access;

(iv) Their dwelling has been made inaccessible by restrictions on travel or movement imposed or recommended by a responsible official;

(v) Their dwelling is no longer available due to eviction or dispossession of the applicant by the owner because of the owner's personal need for that dwelling as a result of a major disaster;

(vi) They have been evicted from their dwelling by the owner or mortgage holder because of their financial hardship which is a direct result of the disaster; or

(vii) The Administrator or his/her designee determines that other circumstances resulting from a major disaster prevent an individual or family from occupying a dwelling which they occupied immediately prior to the major disaster.

(2) *Provision of temporary housing to eligible applicants.* Applications for temporary housing assistance shall be processed in the order in which they are filed, except that extreme hardship situations shall be recognized and such applications processed on a priority basis. Temporary housing shall be provided to meet the particular needs of eligible individuals and families.

(e) *Temporary housing resources.* The form of temporary housing provided should not exceed that which meets the eligible individual's or family's minimum temporary housing requirement.

(1) Housing units owned by the Veterans Administration, Farmers Home Administration, Department of Housing and Urban Development, or other Federal Agencies may be made available for use as temporary housing.

(2) Private or commercial rental properties whose owners/managers agree to make units available may be used as temporary housing. Such private rentals may include second homes or resort properties not normally available on the private market, and privately owned mobile homes ready for occupancy on existing sites.

Owners/agents may be paid fair market rent for the type and size of the units made available.

(3) Mobile homes, travel trailers, or other readily fabricated dwellings owned or leased by the Government may be used as temporary housing when other resources are unavailable or insufficient.

(4) Motel, hotel or other similar transient accommodations may be provided to eligible temporary housing applicants pending the availability of other temporary housing, or when the duration of the applicant's temporary housing requirement warrants placement in short-term accommodations. Transient accommodations may be provided for a period of thirty days unless this period is extended by the Administrator or his/her designee. The Federal responsibility for transient accommodations shall be limited to the rental cost of such temporary housing, exclusive of food, telephone, or other similar services.

(f) *Use of mobile homes, travel trailers, and other readily fabricated dwellings.* Mobile homes, travel trailers, and other readily fabricated dwellings may be placed on private, group or commercial sites under the following conditions:

(1) *Private sites.* A mobile home, travel trailer, or other readily fabricated dwelling may be placed on a private site, which is a site provided or obtained by the temporary housing applicant at no cost to the Federal Government, if such site can satisfactorily accommodate the mobile home, travel trailer, or other readily fabricated dwelling provided as temporary housing. The Administrator has determined that the installation or repair of essential utilities on private sites is in the public interest, and the cost of such installation and connection of necessary utilities to service the mobile home, travel trailer, or readily fabricated dwelling on such a site is authorized at Federal expense.

(2) *Group sites.* Mobile homes, travel trailers, or other readily fabricated dwellings may be located on group sites, which are sites provided or obtained by a State or local government or other organization completely developed with all essential utilities at no cost to the Federal Government, except that the Administrator may authorize installation of essential utilities at Federal expense or elect to develop group sites at Federal expense when he/she determines such action to be in the public interest. Connection costs are authorized at Federal expense.

(3) *Commercial sites.* Mobile homes, travel trailers, or other readily fabricated dwellings may be placed on commercial sites, which are sites customarily leased for a fee, at no cost to the Federal Government, except that such sites may be leased at Federal expense when the Administrator or his/her designee determines that such lease is in the public interest. Connection costs may be authorized at Federal expense. When the Administrator determines that upgrading of a commercial site or installation of utilities on such a site is in the public interest, he/she may authorize such action at Federal expense.

(g) *Utility use costs.* Utility use costs for all forms of temporary housing other than transient accommodations shall be the responsibility of the occupant, unless the Administrator waives this requirement when such action is in the public interest. In those cases where the Federal Government becomes the guarantor for utility services not metered separately, or where the utility costs are included in rental costs, each recipient will be assessed a monthly amount equivalent to the pro rata cost of utilities services.

(h) *Minimal repair program.* In lieu of providing other types of temporary housing except transient accommodations, minimal repairs may be authorized to repair or restore that portion of an owner-occupied dwelling which will allow the owner and his/her family to reoccupy the dwelling quickly. Installation of utilities or conveniences not available to the owner-occupant in that dwelling prior to the disaster shall not be provided under the Minimal Repair Program, but those repairs which are undertaken shall conform to local or State building codes.

(1) *Feasibility.* The Minimal Repair Program may be offered to those temporary housing applicants:

(i) Who have been determined eligible for temporary housing;

(ii) Who are owner-occupants of the dwelling unit to be repaired;

(iii) Who elect this form of temporary housing, when offered, in lieu of other alternatives which may include rental accommodations, mobile homes, and other available forms of housing;

(iv) Whose property can be repaired within thirty days following the repair authorization, unless the Administrator or his/her designee extends this period throughout the designated disaster area because of local conditions;

(v) Who agree to reimburse the government for the cost of the repairs of items replaced if they receive compensation for such repairs or items from the proceeds of any insurance settlement; and

(vi) Whose property can be repaired within the following cost limitation: the cost of repairs shall not exceed the average fair market rental cost to house a family of similar size and composition in the area for a period of 12 months, unless waived by the Administrator when he/she determines that such waiver is in the best interest of the Federal Government.

(2) *Minimal repair program options.*

(i) Applicants subsequently approved for the Minimal Repair Program under paragraph (h)(1) of this section who elected to perform their own repairs prior to election of the Minimal Repair Program, either by themselves or by contract, may be reimbursed for materials and contract labor for such repairs and for replacement items authorized in paragraph (h)(3) of this section.

(ii) Applicants approved for the Minimal Repair Program under paragraph (h)(1) of this section who elect to perform their own repairs, or are able to utilize the free labor of individual volunteers or volunteer agencies, may be provided with materials and replacement items authorized in paragraph (h)(3) of this section.

(3) *Scope of work.* The type of repair or replacement authorized may vary depending on the nature of the disaster, but will generally include the following: *Provided,* The items listed were a part of the dwelling prior to the disaster, unless the Administrator waives this proviso when he/she determines than such waiver is in the best interest of the Federal Government:

(i) Plumbing system including kitchen sink, lavatory, water closet, bath tub or shower, septic tank, well, and the utility services carrying water, sewer, and gas;

(ii) Electrical system including wiring, weather head, panel box, overhead lights, switches, and receptacles; and

(iii) Heating system including furnace, controls, space heater, ducts, and venting (if permanent repair cannot be accomplished before the season requiring heat);

(iv) Water heater and venting;

(v) Elimination of health and safety hazards existing to wells, floors, stairs, porches, walls, ceilings, and chimneys;

(vi) Doors and windows, including screens;

(vii) Minor repairs to foundations, footings, piers, sills, and exterior walls;

(viii) Minor repairs to stove and refrigerator;

(ix) Temporary or weather proofing repairs to roofs; and

(x) Mud and debris removal from the dwelling unit, if required.

(i) *Furniture Items.*—(1) *Eligibility.* Furniture may be provided to eligible applicants for temporary housing if the individual or family is being placed in an unfurnished housing unit, or has located a suitable unfurnished housing unit, or has elected the Minimal Repair Program, and requires furniture to occupy such temporary housing.

(2) *Items Authorized.* Furniture may be leased, purchased or obtained from federal stocks and will be of simple construction and functional quality and may include the following, adjusted according to family size and composition:

(i) Kitchen furniture to include table and chairs, stove and refrigerator;

(ii) Bedroom furniture to include bed (frame, mattress, spring), night table and lamp or floor lamp, dresser or chest; and

(iii) Living room furniture, including one sofa, one floor lamp, one living room chair, two end tables, and one coffee table.

(3) *Disposition of Furniture Items.*

(i) Furniture made available to temporary housing occupants will be disposed of when temporary housing is no longer required, as determined through the recertification process prescribed in paragraph (k)(2) of this section.

(ii) Furniture will be disposed of in one of the following manners:

(A) Returned to the lessor;

(B) If the furniture has been purchased under authority of these regulations, it is the property of the Federal Government and may be:

(*1*) Sold to the occupant at a fair and equitable price based on the fair market value of the furniture and adjusted to take into consideration the reasonable ability of the purchaser to pay; or

(*2*) Disposed of in accordance with Federal property management procedures at 41 CFR 101-45.5, Abandonment or Destruction of Surplus Property.

(j) *Household Items*—(1) *Eligibility.* Household items may be provided to those determined eligible for temporary housing if they are being placed in a temporary housing unit not already supplied with such items, or have located a suitable housing unit and require household items to occupy the unit, or have elected the Minimal Repair Program, and require household items to occupy the unit. Household items provided under this section are expendable.

(2) *Items Authorized.* Household items provided to occupants of temporary housing shall be of simple, functional quality and may include the following, adjusted according to family size and requirements:

(i) Sheets (2 per bed);

(ii) Pillows (1 per person);

(iii) Pillowcases (1 per person);

(iv) Blankets (1 per bed);

(v) Bath towels (2 per person);

(vi) Hand towels (2 per person);

(vii) Wash cloths (1 per person);

(viii) Dish Cloths (2 per family);

(ix) Dish towels (4 per family);

(x) Dishes (service for 4);

(xi) Flatware (service for 4);

(xii) Glasses (service for 4);

(xiii) Non-electric coffee pot (1 per family);

(xiv) Saucepans (2 per family);

(xv) Skillets (1 large, 1 small, per family);

(xvi) Baking and cooking utensils, one each of the following:

(A) Baking pan;

(B) Baking sheet;

(C) Mechanical can opener;

(D) Kitchen fork;

(E) Kitchen knife;

(F) Paring knife;

(G) Spatula;

(H) Serving spoon;

(xvii) Mop (one);

(xviii) Bucket (one);

(xix) Broom (one); and

(xx) Dustpan (one).

(k) *Period of Assistance*—(1) *Commencement.* Temporary housing may be provided as of the date of the occurrence of the major disaster or emergency as specified in the FR Notice. The assistance period shall commence either with the date the eligible applicant obtained his own temporary housing under this program, or with the date the eligible applicant is provided with temporary housing.

(2) *Recertification.* Recertification is a periodic review of the status of each temporary housing occupant to determine eligibility for continued occupancy in temporary housing. The recertification process results in a notification to the occupant of his/her eligibility or ineligibility for continued assistance. The period of eligibility for continued occupancy in temporary housing shall be determined on the basis of need. Each occupant's eligibility for continued assistance shall be recertified no less frequently than every 90 days.

(3) *Criteria for Continued Eligibility.* A temporary housing occupant shall endeavor to place himself/herself in alternate housing at the earliest possible time. A temporary housing occupant shall be eligible for continued assistance when:

(i) Alternate housing is not available to the occupant. Alternate housing is deemed available when it:

(A) Is sufficient in size to accommodate the family;

(B) Is free of health and safety hazards;

(C) Is located such that the occupants may commute to their place(s) of employment, schools, and other centers of family activity within usual and customary commutation time periods effective in the area;

(D) Is within the financial means of the occupant, based on 25 percent of adjusted household income. Occupants who qualify for available low-income or other government rent subsidies shall be considered able to assume financial responsibility for similar alternate housing. For the purpose of this subparagraph, housing costs shall include utilities costs, and adjusted household income shall be computed using the total gross income of household members (excluding the earnings of persons under 18, except where such persons are head of the household or a spouse), with the following exceptions:

(*1*) $25 per month for each person under 18 or full-time student over 18 except when such an individual is a head of household;

(*2*) $25 per month for each elderly (over 62) or handicapped adult, except where they are head of the household; and

(*3*) Expenses resulting from unusual financial demands upon a household, as approved by the Administrator or his/her designee.

(E) Does not impose an undue burden upon the occupant in his/her plans to secure permanent housing.

(ii) The occupant is in compliance with the terms of the rental contract/agreement including:

(A) Prompt payment of utility, rent, and other appropriate charges;

(B) Reimbursement to the Government where all or a portion of the temporary housing assistance represents a duplication of benefits or for other charges as authorized by the Administrator or his/her designee;

(C) Maintenance of the temporary housing unit in a manner normally expected of a tenant; and

(D) Utilization of the unit for purposes of a family dwelling, solely for the occupant's household.

(4) *Rental Policy.* No rental shall be established for the first twelve months of occupancy in temporary housing. Such twelve months shall include occupancy in transient accommodations. Thereafter, provided alternate housing resources are unavailable, rentals shall be established based on the fair market rent as established by the appropriate official of the Department of Housing and Urban Development (excluding utilities costs) for each type and size of temporary accommodation being furnished. Such rentals shall be adjusted to take into consideration the financial ability of the household as described in paragraph (k)(3)(i)(A) of this section. Based on a recertification review, occupants will be notified of the date and amount of the first rental payment 30 days before the expiration of the first twelve months of occupancy.

(5) *Termination of Assistance.* (i) Temporary housing assistance may be terminated on a 30-day written notice after which 30 days the occupant may be liable for such additional charges as are deemed appropriate by the Administrator his/her designee. Temporary housing assistance may be terminated for reasons including, but not limited to, the following:

(A) A determination has been made through the recertification process that alternate housing is available to the occupant, as described in paragraph (k)(3)(i) of this section.

(B) Failure on the part of the occupant to utilize or maintain the tempo-

rary housing provided in the manner normally expected of a tenant. Normal wear and tear excepted, the occupant shall be liable for all damages to the property.

(C) Failure on the part of the occu-

(m) *Disposition of Temporary Housing Units*—(1) *Sale.* The Administrator or his/her designee may sell any temporary housing unit acquired by purchase directly to occupants of tempo-

for a period not to exceed one year or for the duration of the period of financial hardship, whichever is less. The location of the dwelling of an applicant for assistance under this sec-

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PART VI

rary housing provided in the manner normally expected of a tenant. Normal wear and tear excepted, the occupant shall be liable for all damages to the property.

(C) Failure on the part of the occupant to pay established rent, utilities, or other appropriate charges.

(D) Determination that the temporary housing assistance was obtained either through misrepresentation or fraud.

(ii) Termination of temporary housing may be in the form of eviction from temporary housing or termination of financial assistance. Any appeals by the occupant from a termination notice shall be processed and resolved pursuant to the temporary housing pretermination procedure (24 CFR. Part 470).

(l) *Insured Individuals and Families*—(1) *Provision of Temporary Housing Accommodations.* In order to avoid duplication of benefits, insured individuals and families may be provided temporary housing assistance when:

(i) There is uncertainty as to whether insurance benefits will be paid;

(ii) Payment of insurance benefits may be significantly delayed;

(iii) Insurance benefits have been exhausted;

(iv) Insurance benefits are inadequate to provide the full cost of housing on the private market; or

(v) Housing is not available on the private market.

The insured individual or family shall agree to repay the government from any insurance proceeds they receive in an amount equivalent to the fair market value of assistance provided or that portion of insurance proceeds received for such housing, whichever is less. Minimal Repair Program recipients shall repay the government the cost of any repairs or replacement completed under the Minimal Repair Program which are covered by insurance, or the amount received from insurance proceeds for the damaged item repaired under this program, whichever is less.

(2) *Exhaustion of Insurance Benefits.* (i) Applicants who are determined eligible for temporary housing and who have received benefits may be provided temporary housing upon presentation of proof that insurance has been exhausted and temporary housing remains a need. These applicants shall be eligible for rent free temporary housing assistance not to exceed twelve months following exhaustion of insurance benefits if the criteria for continued assistance, paragraph (k)(3) of this section, are met.

(ii) For applicants determined eligible for temporary housing and who received partial insurance benefits, the period of temporary housing assistance shall commence with the first month of partial assistance.

(m) *Disposition of Temporary Housing Units*—(1) *Sale.* The Administrator or his/her designee may sell any temporary housing unit acquired by purchase directly to occupants of temporary housing for their use as permanent housing. Such sales shall be at prices that are fair and equitable, adjusted to take into consideration the reasonable ability of the purchaser to pay. Such sales shall be made subject to the following conditions:

(i) The unit is to be used as a primary residence;

(ii) The unit is adequate for family size and composition;

(iii) The purchaser has sufficient resources to purchase and relocate the unit; and

(iv) The purchaser has a suitable site for placement of the unit. (A suitable site shall be defined as one that complies with local codes and standards).

The purchaser must be informed that he/she may have to bring the unit up to applicable codes and standards.

(2) *Transfer.* The Administrator may sell, lease, or donate temporary housing units purchased under Section 404(a) of the Act directly to States, other governmental entities, or voluntary organizations. As a condition of such transfer, the Administrator shall require that the recipient:

(i) Comply with the provision of § 2205.13 of the regulations requiring non-discrimination in the distribution and occupancy of temporary housing; and

(ii) Utilize the units provided for the initial purpose of providing temporary housing for victims of major disasters or emergencies.

The Administrator may order returned any temporary housing unit made available under this section which is not used in accordance with the terms of transfer cited above.

(n) *Mortgage and Rental Payments.* Temporary assistance in the form of mortgage or rental payments may be paid to or provided on behalf of applicants who, as a result of major disaster, have received written notice of dispossession or eviction from dwelling by foreclosure of any mortgage or lien, cancellation of any contract of sale, or termination of any lease, entered into prior to the disaster. Written notice, for the purpose of this paragraph, means a communication in writing by a landlord, mortgage holder, or other party authorized under State law to file such notice, the purpose of which is to notify an occupant of impending termination of a lease, foreclosure of a mortgage or lien, or cancellation of any contract of sale, which would result in the occupant's dispossession or eviction from his dwelling. Applications for this type of assistance may be filed up to one year following the date of declaration of the major disaster. This assistance may be provided for a period not to exceed one year or for the duration of the period of financial hardship, whichever is less. The location of the dwelling of an applicant for assistance under this section shall not be a condition of eligibility.

(o) *Appeals*—(1) *Eligibility Determination.* An applicant declared ineligible for temporary housing and whose application is not scheduled for reactivation at a later date, or an applicant whose application has been canceled for cause, shall have the right to appeal such a determination within 15 calendar days following notification of such action. The Administrator or his/her designee shall consider the appeal within two weeks after receipt of the appeal. The applicant shall receive written notice of the disposition of the appeal. The decision of the Administrator or his/her designee is final.

(2) *Termination.* An occupant who has been notified of his/her termination from temporary housing as described in paragraph (k)(5) of this section shall have the right to appeal the decision within five (5) business days after receipt of such notice. Such appeals shall be made and resolved in accordance with pretermination procedures contained in Federal regulations (24 CFR Part 470).

(p) *Receipts.* All monies received from rental charges, insurance proceeds, deposit refunds, proceeds of sale of temporary housing units or furniture, and other receipts as appropriate, shall be deposited as general receipts in the U.S. Treasury under established procedures.

(q) *Reports.* The Administrator or the Federal Coordinating Officer may require such reports, plans and evaluations as they deem necessary to carry out their responsibilities under the Act and these regulations.

(r) *Federal Responsibility.* The Federal responsibility for the operation of a temporary housing program shall not exceed eighteen months from the date of the declaration of the major disaster by the President, unless this period is extended by the Administrator based on his/her determination that such extension is in the public interest. The Administrator may provide government property or other resources to a State, other governmental entity, or voluntary organization for the management and operation of a temporary housing program.

§ 2205.46 [Reserved]

(Sec. 404, Pub. L. 93-288, 88 Stat. 154 (42 U.S.C. 5174); Executive Order 11795, as amended by E.O. 11910, 39 FR 25939; Delegation of Authority, 39 FR 28227.)

Issued at Washington, D.C., February 21, 1978.

WILLIAM H. WILCOX,
Administrator, Federal Disaster Assistance Administration.

[FR Doc. 78-5477 Filed 3-1-78; 8:45 am]

federal register

THURSDAY, MARCH 2, 1978
PART VI

DEPARTMENT OF THE INTERIOR

Land Management Bureau

■

RIGHTS-OF-WAY UNDER THE MINERAL LEASING ACT

Management of Oil and Natural Gas Pipelines and Related Facilities on Federal Lands and Reimbursement of Costs

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 2880]

RIGHTS-OF-WAY UNDER THE MINERAL LEASING ACT

Management of Oil and Natural Gas Pipelines and Related Facilities on Federal Lands and Reimbursement of Costs

ACTION: Proposed rulemaking.

SUMMARY: The purpose of this proposed rulemaking is to establish procedures for the management of oil and natural gas pipelines and related facilities on Federal lands. Section 28 of the Mineral Leasing Act, as amended, places the management responsibilities with the Secretary of the Interior.

DATE: Comments by May 1, 1978.

ADDRESS: Director (210), Bureau of Land Management, 18th and C Streets NW., Washington, D.C. 20240. Comments will be available for public review in Room 5555 at the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Robert C. Bruce, 202-343-8735.

SUPPLEMENTARY INFORMATION: The principal author of this rulemaking is Bruce Conrad of the Bureau of Land Management, Division of Lands and Realty, assisted by the staff of the Division of Lands and Realty and Dave Grayson of the Office of the Solicitor, U.S.D.I.

Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449) as amended (30 U.S.C. 185) was enacted on November 16, 1973. This amendment authorizes the Secretary to grant rights-of-way for the construction of oil and gas pipeline projects with stipulations regulating the construction, operation, maintenance, and termination of the pipeline system. The responsibility for implementing Pub. L. 93-153 was delegated by the Secretary to the Director, Bureau of Land Management under Secretarial Order No. 3003.

Where the surface of the Federal lands involved in a proposed right-of-way or temporary use permit is under the jurisdiction of two or more Federal agencies, the Secretary is authorized, after consultation with the agencies, to grant or renew rights-of-way or temporary use permits through the Federal lands involved. The Secretary may enter into cooperative agreements with the involved Federal agencies for processing applications for right-of-way grants and temporary use permits to avoid duplication, to assign responsibilities, and to assure that decisions are based upon sound environmental, economic, and social considerations.

The Secretary is responsible for determining the right-of-way width, duration of grant, performance bonding, liability limits, safety and health requirements, and environmental protection stipulations. He also is responsible for the collection of administrative costs from the applicant for processing the application and monitoring of the right-of-way grant by the Government, in addition to land rental fees for the use of the right-of-way area on Federal lands. The existing cost reimbursement provisions of 43 CFR 2802.1-2 have been incorporated by reference into these proposed regulations. Subpart 2802.1-2(a)(11)(12) of this title has been deleted to eliminate the duplication of bonding requirements. The Secretary determines the financial and technical capability of the applicant, export limitations, common carrier rules, and the joint use of rights-of-way corridors.

In order to make room for all of the provisions of the new subpart 2880 dealing with rights-of-way under section 28 of the Mineral Leasing Act, it is necessary to redesignate two subparts of Part 2880. We are, therefore, redesignating Subpart 2882 as Subpart 2887 and revising it slightly for clarity. We are also redesignating 2883 as Subpart 2888. These redesignations will not only allow space for the new rewrite, but also for any new subparts pertaining to rights-of-way that might be needed in the future.

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Analysis under Executive Order 11821 and OMB Circular A-107.

It is hereby determined that publication of this proposed rulemaking is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

Under section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), hereinafter referred to as the Act, it is proposed to amend Part 2880, Group 2800, Subchapter B, Chapter II, Title 43 of the Code of Federal Regulations, as follows:

Subpart 2882 [Redesignated Subpart 2887]

1. Subpart 2882 is redesignated Subpart 2887, and is revised to read as follows:

Section 29 of the act of February 25, 1920 (41 Stat. 449, 30 U.S.C. 186), provides in part that any permit, lease, occupation, or use permitted under this act shall reserve to the Secretary of the Interior the right to permit upon such terms as he may determine to be just, for joint or several use, such easements or rights-of-way, including easements in tunnels upon, through, or in the lands leased, occupied, or used as may be necessary or appropriate to the working of the same, or of other lands containing the deposits described in this act, and the treatment and shipment of the products thereof by or under authority of the Government, its lessees, or permittees, and for other public purposes. Application for such easements or rights-of-way shall be filed in accordance with applicable laws and regulations.

Subpart 2883 (§§ 2883.0-3—2883.2-4) [Redesignated as Subpart 2888]

2. Subpart 2883 is redesignated Subpart 2888.

3. The heading to Part 2880 is revised and the following new Subparts 2880, 2881, 2882, 2883, and 2884 supersede existing Subpart 2881:

PART 2880—RIGHTS-OF-WAY UNDER THE MINERAL LEASING ACT

Subpart 2880—Oil and Natural Gas Pipelines and Related Facilities, General

Sec.

2880.0-3 Authority.
2880.0-5 Definitions.
2880.0-7 Scope.

Subpart 2881—Terms and Conditions of Right-of-Way Grants and Temporary Use Permits

2881.1 Nature of interest.
2881.1-1 Nature of right-of-way interest.
2881.1-2 Nature of temporary use permit interest.
2881.1-3 Reservation of rights to the United States.
2881.2 Terms and conditions of interest granted.
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Subpart 2882—Applications

2882.1 Pre-application activity.
2882.2 Requirements for applications for right-of-way grants and temporary use permits.
2882.2-1 Applicant qualifications.
2882.2-2 Application filing.
2882.2-3 Other data required.
2882.3 Application processing.

Subpart 2883—Administration of Rights Granted

2883.1 General requirements.
2883.1-1 Reimbursement of costs.
2883.1-2 Rental payments.
2883.1-3 Bonding.
2883.1-4 Liability.
2883.1-5 Common carrier.
2883.1-6 Export
2883.2 Holder activity.
2883.3 Construction procedures.
2883.4 Operation and maintenance.
2883.5 Immediate temporary suspension of activities.
2883.6 Suspension and termination of right-of-way grants and temporary use permits.
2883.7 Change in Federal jurisdiction or disposal of lands.
2883.8 Restoration of Federal lands.

Subpart 2884—Appeals

2884.1 Appeals procedure.

Subpart 2880—Oil and Natural Gas Pipelines and Related Facilities, General

§ 2880.0-3 Authority.

The provisions of this subpart are issued under the authority of Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), unless otherwise noted.

§ 2880.0-5 Definitions.

(a) "Act" means Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185).

(b) "Agency head" means the head of any Federal department or independent Federal office or agency, other than the Secretary of the Interior, who has jurisdiction over the surface of Federal lands.

(c) "Applicant" means any individual, partnership, corporation, association, or other business entity, or any State or local govenmental entity or agency, which applies for a right-of-way grant or temporary use permit under the Act.

(d) "Authorized officer" means any employee of the Department of the Interior to whom has been delegated the authority to perform the duties described in this part.

(e) "Federal lands" means all lands owned by the United States except lands in the National Park System, lands held in trust for an Indian or Indian tribe, and lands on the Outer Continental Shelf.

(f) "Holder" means any individual, partnership, corporation, association, or other business entity, or any State or local governmental entity or agency which has received a right-of-way grant or temporary use permit under the Act.

(g) "Oil or gas" means oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom.

(h) "Temporary use permit" means a revocable nonpossessory privilege to use specified Federal lands in the vicinity of a right-of-way in connection with the construction, operation, maintenance, or termination of a pipeline or for the protection of the natural environment or public safety.

(i) "Pipeline" means a line of pipe traversing Federal land for transportation of oil or gas. The term includes trunk lines, gathering lines and related facilities.

(j) "Pipeline system" means all facilities, whether or not located on Federal land, used by a holder in connection with the construction, operation, maintenance, or termination of a pipeline.

(k) "Related facilities" means those structures, devices, improvements, and sites, the substantially continuous use of which is necessary for the operation or maintenance of a pipeline, which are located on Federal lands, and which are authorized under the Act, including but not limited to: Supporting structures; airstrips; roads; campsites; gathering lines; pump stations, including associated heliports, structures, yards, and fences; valves, and other control devices; surge and storage tanks; bridges; monitoring and communication devices and structures housing them; terminals, including structures, yards, docks, fences, and storage tank facilities; retaining walls, berms, dikes, ditches, cuts, and fills; structures and areas for storing supplies and equipment.

(l) "Right-of-way" means the Federal land authorized to be occupied pursuant to a right-of-way grant.

(m) "Right-of-way grant" means a nonpossessory, nonexclusive right to use Federal lands for the limited purpose of construction, operation, maintenance, and termination of a pipeline.

(n) "Secretary" means the Secretary of the Interior.

§ 2880.0-7 Scope.

(a) These regulations apply to any application now on file or hereafter filed with Federal agencies for issuance, modification, or renewal of a right-of-way grant or a temporary use permit, except where the surface of the Federal land involved in the right-of-way or temporary use permit area is under the jurisdiction of a single Federal agency, including bureaus and agencies within the Department of the Interior, other than the Bureau of Land Management.

(b) In addition, the provisions of § 2883.5 of this title apply to all right-of-way grants and temporary use permits heretofore issued pursuant to section 28 of the Mineral Leasing Act by the Bureau of Land Management, and to permits, grants, and other authorizations heretofore issued by the Secretary or his delegate in connection with the Trans-Alaska Oil Pipeline System (TAPS).

Subpart 2881—Terms and conditions of right-of-way grants and temporary use permits

§ 2881.1 Nature of Interest.

§ 2881.1-1 Nature of right-of-way interest.

(a) The United States retains a right to use a right-of-way or authorize the use of it to others in any manner not inconsistent with pipeline construction, operation, maintenance, and termination. The holder of a right-of-way grant has no right to any of the products of the land including, but not limited to, timber, forage, mineral, and animal resources. The holder may not allow the use of a right-of-way by others except its contractors, subcontractors, or agents for purposes of construction, operation, maintenance, or termination of the pipeline.

(b) A holder shall not use a right-of-way for any purpose other than for the construction, operation, maintenance, and termination of the pipeline specified in the holder's right-of-way grant. A holder shall not locate or construct any other pipelines, including looping lines, or other improvements within a right-of-way without first securing appropriate authorization therefor.

(c) The width of a right-of-way shall be the width of the pipeline plus 25 feet on each side thereof unless the authorized officer determines that a greater or lesser width should be allowed.

(d) An applicant may apply to the authorized officer for a wider right-of-way in limited areas, if necessary: (1) for the operation and maintenance of the project after construction; (2) to protect the environment; or (3) to provide for the public safety. If the authorized officer finds that the additional width is necessary for one of the above reasons, he may authorize a wider width. Such authorization shall include a written report recording the reasons why the additional width is necessary.

(e) A right-of-way grant issued or renewed under these regulations shall be limited to a reasonable term, not to exceed 30 years. No term shall be longer than is necessary to accomplish the purpose of the grant. The authorized officer shall determine the duration of each right-of-way grant, taking into consideration, among other things: (1) The cost of the facility, (2) its useful life, (3) any public purpose it serves, and (4) potentially conflicting uses of the land.

(f) Except where a right-of-way grant has terminated by its terms upon the occurrence of a fixed or agreed upon condition, event, or time, it shall be renewed if the project is being operated and maintained in accordance with all provisions of the right-of-way grant, these regulations and the Act.

(g) No purported transfer of an interest in a right-of-way grant, a right-of-way, or any portion of a pipeline system located within a right-of-way, shall be valid without the prior written approval of the authorized officer. Applications for such approval shall be directed to the authorized officer. Transferees must meet all the requirements of an original pipeline right-of-way grantee and must assume all of the transferor's responsibility to the United States with respect to the transferred interest and shall agree to be bound by all terms of any outstanding right-of-way grant or temporary use permit. Applications shall be accompanied by a nonrefundable fee of $50.

§ 2881.1-2 Nature of temporary use permit interest.

(a) A temporary use permit does not grant any interest in land and is revocable at will by the authorized officer.

(b) The area covered by a temporary use permit shall be limited to the area required for the operations authorized by the permit. The authorized officer shall require the holder to clear the area of all debris and hazards resulting from the holder's activities under the permit. The authorized officer may require the holder to restore the area to its condition prior to the issuance of the permit.

(c) The authorized officer may require the holder to provide reasonable access across the area covered by the permit to individuals living in the general vicinity of the right-of-way or temporary use permit area who rely on the fish, wildlife, and biotic resources of the area for subsistence purposes.

(b) Right-of-way grants or temporary use permits or other appropriate authorizations.

§ 2882.2 Requirements for applications for

specific references are made to such previous filing by date, place, and case number, and if there have not been any amendments or revisions of the corporation's charter, articles of incorporation, or bylaws.

rior, application shall be filed with any State Office of the Bureau of Land Management that has jurisdiction over the Federal lands involved.

individual, the name and address of the applicant's agent who is authorized to receive notice of actions pertaining to the application.

(2) A general description of the pro-

§ 2881.1-2 Nature of temporary use permit interest.

(a) A temporary use permit does not grant any interest in land and is revocable at will by the authorized officer.

(b) The area covered by a temporary use permit shall be no greater than is necessary to accommodate the authorized use or to protect the environment or provide for public safety.

(c) The duration of a temporary use permit shall ordinarily be short and never longer than is necessary to accomplish the authorized purpose.

(d) A temporary use permit may be renewed at the discretion of the authorized officer, but the permittee has no right of renewal.

(e) A temporary use permit is not transferable.

§ 2881.1-3 Reservation of rights to the United States.

All rights in land subject to a right-of-way grant or temporary use permit not expressly granted are retained by the United States. These rights include but are not limited to: (a) A continuing right of access to all Federal lands (including the subsurface and air space); (b) a continuing right of physical entry to any part of the pipeline system for inspection, monitoring, or for any other purpose or reason consistent with any right or obligation of the United States under any law or regulation; and (c) the right to make, issue, or grant right-of-way grants, temporary use permits, easements, leases, licenses, contracts, patents, permits, and other authorizations to or with third parties for compatible uses on, under, above, or adjacent to the Federal lands subject to a right-of-way grant or temporary use permit.

§ 2881.2 Terms and conditions of interest granted.

(a) All right-of-way grants and temporary use permits issued, renewed, or amended under these regulations shall contain such terms, conditions, and stipulations as may be prescribed by the authorized officer regarding extent, duration, survey, location, construction, operation, maintenance, use, and termination. The authorized officer shall impose stipulations which shall include but shall not be limited to: (1) requirements for restoration, revegetation, and curtailment of erosion of the surface of the land; (2) requirements to insure that activities in connection with the right-of-way grant or temporary use permit will not violate applicable air and water quality standards or related facility siting standards established by or pursuant to law; (3) requirements designed to control or prevent damage to the environment (including damage to fish and wildlife habitat), damage to public or private property, and hazards to public health and safety; and (4) requirements to protect the interests of individuals living in the general vicinity of the right-of-way or temporary use permit area who rely on the fish, wildlife, and biotic resources of the area for subsistence purposes.

(b) Right-of-way grants or temporary use permits issued, renewed, or amended under this Act shall include requirements that will protect the safety and health of pipeline workers and the general public, including, but not limited to, protection against the sudden rupture and slow degradation of the pipeline. Applicants and holders shall design, construct, operate, and maintain all facilities in accordance with all Federal, State, and local laws and ordinances governing pipelines and pipeline construction.

§ 2881.3 Unauthorized occupancy.

No holder of a right-of-way grant or temporary use permit shall use or allow any other person to use the right-of-way or temporary use permit area for any purpose not authorized by the right-of-way grant or temporary use permit. Any person occupying or using Federal land without authorization is subject to prosecution and liability under applicable status prohibiting trespass.

Subpart 2882—Applications

§ 2882.1 Pre-application activity.

(a) Upon determining that a proposed pipeline project is contemplated which would cross Federal lands under the jurisdiction of the Department of the Interior, or two or more Federal agencies, the proponent of such project is encouraged to promptly notify the appropriate office identified in § 2882.2-2 or the Secretary.

(b) The authorized officer will provide guidance to the pipeline project proponent as to: (1) routing constraints which exist because of current land status as reflected in land use plans and land status records; (2) necessary information to be included in applications for right-of-way grants or temporary use permits; (3) qualifications required of applicants; and (4) identification of on-the-ground investigations which will require temporary use permits.

(c) No right-of-way application processing work, other than that incurred in the processing of temporary use permits under paragraph (d) of this section shall be undertaken by the authorized officer prior to the filing of an acceptable application together with advance payment as required by § 2802.1-2 of this title. Such work includes, but is not limited to, special studies such as environmental analyses, environmental impact statements, engineering surveys, resource inventories, and detailed land record analyses.

(d) No surveys or other preconstruction activities may be conducted on Federal lands prior to the issuance of a right-of-way grant except pursuant to temporary use permits or other appropriate authorizations.

§ 2882.2 Requirements for applications for rights-of-way grants and temporary use permits.

§ 2882.2-1 Applicant qualifications.

(a) An applicant for a right-of-way grant or temporary use permit must be a citizen of the United States, an association of such citizens, a corporation organized under the laws of the United States, or of any State or Territory thereof, or a State or local government. Each applicant, other than individual citizen applicants, or State or local governments or agents or instrumentalities thereof, shall state that no citizen of another country whose laws, customs, or regulations deny similar or like privileges to citizens of corporations of this country, shall by stock ownership, stockholding, or stock control, own any interest in the right-of-way if it is authorized. Each applicant corporation shall identify, to the extent of its knowledge, all foreign individuals or entities who directly or indirectly own over 1 percent of its voting shares, or who would by law, directly or indirectly, own any interest in the right-of-way if it were authorized, and shall provide the name, address, and country of citizenship of each such individual or entity.

(b) An application by a private corporation shall be accompanied by a copy of its charter or articles of incorporation, duly certified by the proper State official where the corporation was organized and a copy of its bylaws, duly certified by the secretary of the corporation.

(c) A corporation, other than a private corporation, shall file a copy of the law under which it was formed and provide proof of organization under the same, and a copy of its bylaws, duly certified by the secretary of the corporation.

(d) When a corporation is operating in a State other than that in which it is incorporated, it shall submit a certificate from the Secretary of State or other proper official of that State indicating that it has complied with the laws of the State governing foreign corporations to the extent required to entitle the company to operate in such State, and that the corporation is in good standing under the laws of that State.

(e) A copy of the resolution by the directors of the corporation, authorizing the filing of the application shall also be filed.

(f) If the corporation has previously filed with the Department the papers required by this subsection, the requirements shall be held to be met if, in making subsequent applications, specific references are made to such previous filing by date, place, and case number, and if there have not been any amendments or revisions of the corporation's charter, articles of incorporation, or bylaws.

(g) If the applicant is a partnership, association, or other unincorporated entity, the application shall be accompanied by a certified copy of the articles of association or other similar document creating the entity, if any. The application shall be signed by each partner or member of the entity, and each shall furnish the evidence of qualification which would be required if the partner or member were applying separately.

(h) If the applicant is a State or local government, or agency or instrumentality thereof, the application shall be accompanied by a statement to the effect and a copy of the law, resolution, order, or other authorization under which the application is made.

(i) Each application by a partnership, corporation, association, or other business entity shall disclose the identity of the participants in the entity and shall include where applicable: (1) The name, address, and citizenship of each participant (partner, associate or other); (2) the name, address, and citizenship of each shareholder owning 3 percent or more of each class of shares, together with the number and percentage of any class of voting shares of the entity which each shareholder is authorized to vote; and (3) the name and address of each affiliate controlled by, or that controls, the entity, either directly or indirectly. Where an affiliate is controlled by the entity, the application shall disclose the number of shares and the percentage of each class of voting stock of that affiliate owned, directly or indirectly, by the entity. If an affiliate controls the entity, the number of shares and the percentage of each class of voting stock of the entity owned, directly or indirectly, by the affiliate shall be included. In the case of an affiliate that directly or indirectly controls the entity, the application shall include the name and address of each participant (partner, associate, or other) in the affiliate or, if the affiliate is a corporation, the name, address and citizenship of each shareholder owning 3 percent or more of all shares together with the number and percentage of each class of voting shares of the entity which each shareholder is entitled to vote.

§ 2882.2-2 Application filing.

(a) Applications for right-of-way grants and temporary use permits shall be filed as follows: (1) Where the Federal lands involved are under the jurisdiction of the Bureau of Land Management, Department of the Interior, application shall be filed with any State Office of the Bureau of Land Management that has jurisdiction over the Federal lands involved.

(2) Where the Federal lands involved are under the jurisdiction of two or more agencies of the Department of the Interior, or where the Federal lands involved are under the jurisdiction of one or more agencies of the Department of the Interior and one or more other Federal agencies, or where the Federal lands involved are under the jurisdiction of two or more non-Interior agencies, the initial application may be filed at the most convenient State Office of the Bureau of Land Management, at locations listed in § 1821.2-1 of this title. The Director, Bureau of Land Management will, upon notice of the application by field officials, assign a lead official and notify the applicant where all future communications concerning the project should be directed.

(3) Where the Federal lands involved are under the jurisdiction of but one Federal agency, including Bureaus and agencies with in the Department of the Interior other than the Bureau of Land Management, applications should be directed to that agency.

(b) Applications filed with Federal agencies, such as the Federal Energy Regulatory Commission, to obtain a license, certificate, or other authority for a project which involves rights-of-way over, upon, under, or through Federal lands must be simultaneously filed with the Bureau of Land Management in accordance with the provisions of § 2882.2-2(a).

(c) Each application for a right-of-way grant or temporary use permit will show that the applicant has the technical and financial capability to construct, operate, maintain, and terminate the project for which the right-of-way grant or temporary use permit is requested. The application shall state the facts and contain supporting documents which demonstrate the applicant's capabilities.

(d) If there are any related right-of-way grant or temporary use permit applications pending, or if the applicant's plans include application for additional pipeline rights-of-way or temporary use permits, the application for a right-of-way grant or temporary use permit shall so indicate and refer to any previous applications.

(e) Applications for right-of-way grants and temporary use permits shall be filed on forms approved by the Director or appropriate agency head, shall be legible, and shall set forth the information required by § 2882.2-2(f).

(f) Each application for a right-of-way or temporary use permit shall contain the following:

(1) The name and address of the applicant and, if the applicant is not an individual, the name and address of the applicant's agent who is authorized to receive notice of actions pertaining to the application.

(2) A general description of the proposed pipeline system, including elements of the project which may be constructed on non-Federal lands.

(3) A general description of all Federal lands which would be involved in the pipeline system, with a statement identifying the Federal agencies concerned.

(g) Following the filing of an application for a right-of-way grant or temporary use permit, the authorized officer may require the applicant to furnish such additional information as he deems necessary.

§ 2882.2-3 Other data required.

(a) Each application for a right-of-way grant or temporary use permit shall include high quality and detailed maps of the project.

(b) Each application for a right-of-way grant or temporary use permit shall include a project description which contains plans for construction, operation, maintenance, and termination of the pipeline. The project description shall be in an acceptable format as determined by the authorized officer, and in sufficient detail to enable the authorized officer to determine the feasibility of the pipeline, the benefits to the public from the proposed pipeline, the pipeline safeguards, and whether the proposal complies with these regulations and the Act. The project description shall include at least the following data:

(1) A detailed description of the proposed pipeline system.

(2) A detailed schedule for construction of all facilities including manpower requirements.

(3) A plan for the protection and rehabilitation of the environment during construction, operation, maintenance, and termination of the pipeline.

(4) An oil spill contingency plan to repair any rupture during operation and for containment of effluent and for restoration of damage.

(5) A detailed description of the pipeline construction techniques to be used.

(6) Total estimated construction costs.

(7) A description of the applicant's alternate route considerations.

(c) Each applicant for a right-of-way grant or temporary use permit shall furnish sufficient data to enable the authorized officer to identify the impacts on the environment of the construction, operation, maintenance, and termination phases of the proposed pipeline system, including, but not limited to:

(1) The changes in the surface of the land;

(2) The effect on air quality;

(3) The effect on water quality;

(4) Damages to or changes in vegetation;

(5) Changes in fish and wildlife habi-

the application in the FEDERAL REGISTER and an announcement in a newspaper or newspapers having general circulation in the vicinity of the lands affected, or, if in the opinion of the authorized officer, the pipeline im-

heads for consultation and other appropriate actions.

(h) The authorized officer shall consult as appropriate with other agencies as to the application, any additional information which should be required

Subpart 2883—Administration of rights granted

§ 2883.1 General requirements.

§ 2883.1-1 Reimbursement of costs.

line without regard to whether such oil or gas was produced on Federal or non-Federal lands. In the case of oil or gas produced from Federal lands or from the resources on the Federal lands in the vicinity of the pipeline

(b) An applicant shall promptly notify the authorized officer of any changes in its plans, financial condition, or other factors relevant to the application, and shall modify the ap-

(2) The effect on air quality;
(3) The effect on water quality;
(4) Damages to or changes in vegetation;
(5) Changes in fish and wildlife habitat;
(6) The risk of damage to public or private property;
(7) The risk of hazards to public health and safety;
(8) The effect of the proposed pipeline on individuals living in its general vicinity who rely on the fish, wildlife, and biotic resources of the area for subsistence purposes.

(d) After review of the applicant's project description required under § 2882.2-3(b), the authorized officer may require the applicant to perform additional studies or submit additional environmental data, or both, so as to enable the agency head or the Secretary or his authorized representative to prepare an environmental statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and comply with the requirements of the National Historic Preservation Act of 1966 (16 U.S.C. 470); the Archeological and Historic Preservation Act of 1974 (16 U.S.C. 469 et seq.); Executive Order 11593, "Protection and Enhancement of the Cultural Environment" of May 13, 1971 (36 FR 8921); "Procedures for the protection of historic and cultural properties" (36 CFR Part 300); and other laws and regulations as applicable.

(e) If the proposed right-of-way or temporary use permit area is within a Federal reservation, the applicant shall submit additional data as required by the authorized officer to assist the Secretary in determining whether the right-of-way grant or temporary use permit would be inconsistent with the purposes of the reservation.

§ 2882.3 Application processing.

(a) The Secretary shall notify the House Committee on Interior and Insular Affairs and the Senate Committee on Energy and Natural Resources promptly upon receipt of an application for a right-of-way grant for a pipeline 24 inches or more in diameter and no right-of-way grant for such a pipeline shall be issued until 60 days (not counting days on which the House of Representatives or the Senate has adjourned for more than 3 days) after a notice of intention to issue the right-of-way grant, together with the authorized officer's detailed findings as to terms and conditions he proposes to impose, has been submitted to such committees, unless each committee by resolution waives the waiting period.

(b) Upon receipt of an application for a right-of-way grant, the authorized officer shall publish a notice of the application in the FEDERAL REGISTER and an announcement in a newspaper or newspapers having general circulation in the vicinity of the lands affected, or, if in the opinion of the authorized officer, the pipeline impacts are of a minor nature, the notice of application may be waived or published only in a newspaper having general circulation in the area or areas in the vicinity of the affected Federal lands. The notice shall contain a general description of the application and the Federal lands to be affected, together with such other information as the authorized officer deems pertinent. The notice shall state where the application and related documents will be held available for interested persons to review. Copies of the notice shall be sent to the Governor of each State within which the pipeline system would be located, the head of each local government or jurisdiction within which the pipeline system would be located, and each agency head.

(c) Where an application for a right-of-way grant or temporary use permit is incomplete or not in conformity with the law or regulations, the authorized officer may reject the application or notify the applicant of the deficiencies and afford the applicant an opportunity to correct them. Where deficiency notices have not been adequately complied with, the authorized officer may reject the application or notify the applicant of the continuing deficiencies and afford the applicant an opportunity to correct them.

(d) The authorized officer may require the applicant for a right-of-way grant or temporary use permit to submit such additional information as he deems necessary for review of the application.

(e) An application for a right-of-way grant or temporary use permit which meets the requirements of the Act and of these regulations entitles the applicant only to full review of the application. Such application may be denied if the authorized officer determines that the right-of-way or use applied for would be inconsistent with the purpose to which the Federal lands involved have been committed, or would otherwise not be in the public interest.

(f) The authorized officer shall hold public meetings or hearings on an application for a right-of-way grant or temporary use permit if he determines that sufficient public interest exists to warrant the time and expense of such meetings or hearings. Notice of any such meetings or hearings shall be published in the FEDERAL REGISTER and in local newspapers.

(g) If the application involves a right-of-way through lands under the jurisdiction of two or more Federal agencies, the authorized officer shall refer the application to the agency heads for consultation and other appropriate actions.

(h) The authorized officer shall consult as appropriate with other agencies as to the application, any additional information which should be required from the applicant, conditions or stipulations which should be imposed, and whether the right-of-way grant or temporary use permit should be issued.

(i) No right-of-way grant or temporary use permit over lands under the jurisdiction of two or more Federal agencies and not within the jurisdiction of the agency by which the authorized officer is employed will be issued by the authorized officer without the concurrence of the heads of the agencies administering such lands or his authorized representative.

(j) Where the surface of the Federal lands involved is administered by the Secretary or by two or more Federal agencies, the Secretary may, after consultation with the non-Interior agencies involved, grant or renew a right-of-way or temporary use permit through the Federal lands involved, with or without the concurrence of the heads of the agencies administering such lands. A right-of-way through a Federal reservation shall not be granted if the Secretary determines that it would be inconsistent with the purposes of the reservation.

(k) A right-of-way grant or temporary use permit need not conform to the applicant's proposal, but may contain such modifications, terms, stipulations or conditions including changes in route site location as the authorized officer may deem appropriate.

(l) No right-of-way grant or temporary use permit shall be considered as being in effect until the applicant has accepted in writing the terms and conditions of the grant or temporary use permit. Written acceptance shall constitute a contract between an applicant and the United States that, in consideration of the right to use Federal lands, the applicant shall abide by all terms and conditions contained therein and the provisions of applicable laws and regulations.

(m) at the discretion of the authorized officer, a provision may be placed in a right-of-way grant or temporary use permit requiring that no construction or use shall occur until detailed construction or use plans have been submitted to the authorized officer and a notice to proceed has been issued. This requirement may apply to the entire pipeline or segments thereof.

(n) The authorized officer shall take into consideration and, to the extent practical, comply with applicable State standards for right-of-way construction, operation, and maintenance.

Subpart 2883—Administration of rights granted

§ 2883.1 General requirements.

§ 2883.1-1 Reimbursement of costs.

Reimbursement of costs for application processing and administration of right-of-way grants and temporary use permits shall be made in accordance with § 2802.1-2 of this title.

§ 2883.1-2 Rental payments.

Holders of right-of-way grants and temporary use permits shall pay annually, in advance the fair market rental value of the right-of-way or temporary use permit area as determined by the authorized officer.

§ 2883.1-3 Bonding.

The authorized officer may require a holder of a right-of-way grant or temporary use permit to furnish a bond, or other security satisfactory to him, to secure all or any of the obligations imposed by the right-of-way grant and temporary use permits and applicable laws and regulations.

§ 2883.1-4 Liability.

(a) Holders of right-of-way grants or temporary use permits shall pay the United States the full value for all injury or damages to Federal lands or other property of the United States caused by the holder or by its employees, contractors, or employees of the contractors, and shall indemnify (or hold harmless) the United States against any liability for damage to life or property arising from the authorized occupancy or use: *Provided, however,* That where a right-of-way grant is issued to a State, or local government or any agency or instrumentality thereof, which has no legal power to assume such liability with respect to damages caused by it to lands or property, such State or local government or agency in lieu thereof will be required to repair all damages.

(b) Holders of right-of-way grants and temporary use permits issued under these regulations shall be subject to liability without fault for injury and damage to the land and property of the United States and for costs, such as fire control, abatement of oil spills, etc., up to a specified maximum limit commensurate with the foreseeable risks or hazards presented. The amount of no-fault liability for each occurrence is hereby limited to no more than $1,000,000. Liability for damage, injury, and costs in excess of this amount will be determined by ordinary rules of negligence.

§ 2883.1-5 Common carriers.

(a) Pipelines shall be constructed, operated, and maintained as common carriers. The owners or operators of pipelines shall accept, convey, transport, or purchase without discrimination all oil or gas delivered to the pipeline without regard to whether such oil or gas was produced on Federal or non-Federal lands. In the case of oil or gas produced from Federal lands or from the resources on the Federal lands in the vicinity of the pipeline, the Secretary may, after a full hearing with due notice thereof to interested parties and a proper finding of facts, determine the proportionate amounts to be accepted, conveyed, transported, or purchased.

(b) The common carrier provisions of this section shall not apply to any natural gas pipeline operated by any person subject to regulation under the Natural Gas Act or by any public utility subject to regulation by a State or municipal regulatory agency having jurisdiction to regulate the rates and charges for the sale of natural gas to consumers within the State or municipality. Where natural gas not subject to State regulatory or conservation laws governing its purchase by pipeline companies is offered for sale, each pipeline company shall purchase, without discrimination, any such natural gas produced in the vicinity of the pipeline.

(c) The authorized officer shall require, prior to issuing or renewing a right-of-way grant, that the applicant submit and disclose all plans, contracts, agreements, or other information or material which the authorized officer deems necessary to determine whether a right-of-way grant shall be issued or renewed and the terms and conditions which should be included in the grant. Such information may include, but is not limited to:

(1) Conditions for, and agreements among, owners or operators regarding the addition of pumping facilities, looping, or otherwise increasing the pipeline or terminal's throughput capacity in response to actual or anticipated increases in demand;

(2) Conditions for adding or abandoning intake, offtake, or storage points or facilities; and

(3) Minimum shipment or purchase tenders.

§ 2883.1-6 Export.

With certain exceptions, domestically produced crude oil transported through a pipeline is subject to the provisions of Section 28(u) of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), and the Export Administration Act of 1969 as amended (50 U.S.C. 2401), and may not be exported without Presidential and congressional approval.

§ 2883.2 Holder activity.

(a) The actions of holders of right-of-way grants or temporary use permits shall be regulated by the appropriate agency head having jurisdiction over the Federal lands involved, unless other arrangements are agreed to by the authorized officer and agency head.

(b) An applicant shall promptly notify the authorized officer of any changes in its plans, financial condition, or other factors relevant to the application, and shall modify the application promptly to reflect any such changes. If the requirements of this subsection are not complied with in the opinion of the authorized officer, he may reject the application.

(c) Any proposed change in the route of the pipeline or change in the use of Federal lands under the Act will require an amended or new right-of-way grant or temporary use permit from the authorized officer. Any unauthorized activity may be subject to prosecution under applicable statutes and liability for trespass.

(d) Holders of pipeline right-of-way grants issued before November 16, 1973, must apply under the Act and these regulations for modifications of the route or change in the use of Federal lands in connection with such right-of-way.

(e) The authorized officer may ratify or confirm a right-of-way grant or temporary use permit that was issued under any provision of law if the right-of-way grant or temporary use permit is modified to comply with the provisions of the Act and regulations. Such modifications are subject to the joint approval of the right-of-way holder and the authorized officer.

§ 2883.3 Construction procedures.

(a) Unless otherwise stated in the right-of-way grant or temporary use permit, construction may proceed immediately after delivery to the authorized officer of the applicant's written acceptance of the right-of-way grant or temporary use permit.

(b) If a notice to proceed requirement has been imposed under § 2882.3(m), the holder shall initiate no construction, occupancy, or use until the authorized officer issues an appropriate notice to proceed.

§ 2883.4 Operation and maintenance.

(a) Prior to the beginning of pipeline operations, the holder shall submit to the authorized officer a certification of construction, verifying that the pipeline system has been constructed and tested in accordance with the terms of the right-of-way grant, and in compliance with any required plans and specifications, and applicable Federal and State laws and regulations.

§ 2883.5 Immediate temporary suspension of activities.

(a) If the authorized officer determines that any activity being conducted or tolerated by a holder within a right-of-way or temporary use permit area is endangering public health or safety or the environment, he shall order the immediate suspension of that activity.

(b) The authorized officer may order immediate suspension of an activity irrespective of any section that has been or is being taken by another Federal agency or a State agency.

(c) The authorized officer may give an immediate suspension order orally or in writing at the site of the activity to the holder or a contractor or subcontractor of the holder, or to any representative, agent, employee, or contractor of any of them, and the suspended activity shall cease at that time. As soon as practicable, the authorized officer shall confirm the order by a written notice to the holder addressed to the holder or the holder's designated agent.

(d) An order of temporary suspension of activities shall remain effective until the authorized officer issues an order permitting resumption of activities.

(e) At any time after an order of suspension has been issued, the holder may file with the authorized officer a request for permission to resume. The request shall be in writing and shall contain a statement of the facts supporting the request.

(f) The authorized officer may render an order to either grant or deny the request to resume 5 working days of the date the request is filed. If the authorized officer does not render an order on the request within 5 working days, the request shall be considered denied, and the holder shall have the same right to appeal the denial as if an order denying the request had been issued.

§ 2883.6 Suspension and termination of right-of-way grants and temporary use permits

(a) If the right-of-way grant or temporary use permit provides by its terms that it shall terminate on the occurrence of a fixed or agreed-upon condition or event, the right-of-way grant or temporary use permit shall thereupon automatically terminate by operation of law, unless some other procedure is specified in the right-of-way grant or temporary use permit.

(b) The authorized officer may institute procedures for suspension or termination of a right-of-way grant or temporary use permit if he determines that:

(1) The holder is unwilling, unable or has failed to comply with any term, condition, or stipulation of the right-of-way grant, temporary use permit or applicable laws or regulations.

(2) The holder has deliberately failed to use the right-of-way for the purpose for which it was granted or renewed for a continuous 2-year period.

(c) Where the authorized officer determines that a situation under § 2883.6(b) exists, he shall give notice to the holder, and refer the matter to the Office of Hearings and Appeals for a hearing before an Administrative Law Judge pursuant to 43 CFR Part 4. The authorized officer shall suspend or terminate the right-of-way grant if the Administrative Law Judge determines that grounds for suspension or termination exists and that such action is justified.

§ 2883.7 Change in Federal jurisdiction or disposal of lands.

(a) Where a right-of-way administered under these regulations traverses Federal lands that are transferred from one Federal agency to another, the transfer shall not operate to terminate or modify the right-of-way or the right-of-way grant, unless otherwise provided by law. The Secretary shall continue to administer the right-of-way and the right-of-way grant, including renewals thereof, and collection of rentals and other payments, unless the transfer instrument provides otherwise. Temporary use permits shall likewise continue under the Secretary's administration, except where otherwise provided by law or by the instrument of transfer.

(b) Where a right-of-way administered under these regulations traverses Federal lands that are transferred out of Federal ownership, the transfer shall not operate to terminate or modify the right-of-way, unless otherwise provided by law, and the new owner of the land shall take title thereto subject to the right-of-way. Unless otherwise provided by law or by the instrument of transfer, the Secretary shall continue to administer the right-of-way and the right-of-way grant, including renewals thereof and collection of rentals and other payments. Temporary use permits shall terminate upon such transfer.

§ 2883.8 Restoration of Federal lands.

(a) Upon termination of a right-of-way grant or temporary use permit and in the absence of any agreement to the contrary, if all moneys due the Federal Government thereunder have been paid, the holder of the right-of-way grant or temporary use permit shall be allowed 6 months or such additional time as may be granted in which to remove from the right-of-way or temporary use permit area all property or improvements of any kind placed thereon; but if not removed within the time allowed, all such property and improvements may be removed and disposed of by sale or otherwise by the authorized officer at the holder's sole expense. The holder of the right-of-way grant or temporary use permit shall be liable for all costs incurred by the United States to dismantle and/or remove the property and improvements from Federal lands and to restore the lands to a condition acceptable to the authorized officer.

(b) Upon termination of a right-of-way grant or temporary use permit by expiration or by cancellation, the holder shall restore the lands to a condition satisfactory to the authorized officer. The holder shall furnish the United States security sufficient to assure performance of this obligation; the security shall not be released by the authorized officer until he determines that there has been satisfactory compliance with this obligation.

Subpart 2884—Appeals

§ 2884.1 Appeals procedure.

(a) All appeals under this section shall be taken in accordance with Part 4 of 43 CFR from any final decision of the authorized officer to the Office of the Secretary, Board of Land Appeals.

(b) All actions taken under this section shall remain effective pending any appeal taken unless the Secretary or his delegate rules otherwise, and the provisions of 43 CFR 4.21(a) shall not apply to such appeals.

§ 2802.1-2 [Amended]

4. Section 2802.1-2(a)(11) and (12) of Subpart 2802 of this title are hereby deleted.

GUY R. MARTIN,
Assistant Secretary of the Interior.

FEBRUARY 27, 1978.

[FR Doc. 78-5513 Filed 3-1-78; 8:45 am]

Advance Orders are now being Accepted for delivery in about 6 weeks

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FRIDAY, MARCH, 3, 1978

highlights

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

Reservations for March are being accepted for the free Friday workshops on how to use the FEDERAL REGISTER. The sessions are held at 1100 L Street NW., Washington, D.C. in room 9409 from 9 to 11:30 a.m.

Each session includes a brief history of the FEDERAL REGISTER, the difference between legislation and regulations, the relationship of the FEDERAL REGISTER to the Code of Federal Regulations, the elements of a typical FEDERAL REGISTER document, and an introduction to the finding aids.

FOR RESERVATIONS call: Martin V. Franks, Workshop Coordinator, 202-523-3517.

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AIR POLLUTION
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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
	CSC			CSC
	LABOR			LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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rules and regulations

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[6325-01]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Correction

AGENCY: Civil Service Commission.

ACTION: Correction to final rule.

SUMMARY: This amends the title of the position excepted under schedule C in the U.S. Parole Commission, Department of Justice which was incorrectly given in the document published in the FEDERAL REGISTER of February 17, 1978 on page 6914.

EFFECTIVE DATE: March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly 5 CFR 213.3310(z)(1) should read as follows:

§ 213.3310 Department of Justice.

• • • • • •

(z) *U.S. Parole Commission.*

(1) One Confidential Assistant (Private Secretary) to the Chairman, U.S. Parole Commission.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-5634 Filed 3-2-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare and ACTION

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment to the regulations shows certain positions for Department of Health, Education, and Welfare, and ACTION are excepted under Schedule C because they are confidential in nature.

EFFECTIVE DATE: March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3316(h)(13) and 213.3359(cc) are added as set out below:

§ 213.3316 Department of Health, Education, and Welfare.

• • • • • •

(h) *Office of the Assistant Secretary for Health.* • • •

(13) One Confidential Assistant to the Administrator, Health Services Administration.

• • • • • •

§ 213.3359 ACTION.

• • • • • •

(cc) One Staff Assistant to the Deputy Associate Director for VISTA/ACTION Education Programs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-5635 Filed 3-2-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Energy

NOTE.—This document originally appeared in the FEDERAL REGISTER for Wednesday, March 1, 1978. It is reprinted in this issue to meet requirements for publication on an assigned day of the week. (See the inside cover of this issue for information about agencies publishing on assigned days of the week.)

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: An additional position of Staff Assistant to the Director, Executive Secretariat, is excepted from the competitive service under Schedule C because it is confidential in nature.

EFFECTIVE DATE: March 1, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3331(s)(1) is amended as set out below:

§ 213.3331 Department of Energy.

• • • • • •

(s) *Office of the Director, Executive Secretariat.* (1) Two Staff Assistants to the Director.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-5501 Filed 3-1-78; 8:45 am]

[3410-30]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—CHILD NUTRITION PROGRAMS

PART 247—COMMODITY SUPPLEMENTAL FOOD PROGRAM

Interim Regulations

AGENCY: Food and Nutrition Service, United States Department of Agriculture.

ACTION: Interim rule.

SUMMARY: These regulations promulgate changes, including a change in title of the Supplemental Food Program regulations currently published at 7 CFR 250.14. The major changes concern allocation and use of administrative funds, administration of the Program at the State level, and nutrition education. The changes effectuate recent legislation and ensure Program accountability and operating efficiency.

DATES: This interim rule becomes effective March 3, 1978. Comments will be accepted. To be assured of consideration they should be received by May 3, 1978.

ADDRESSES: Send comments or requests for further information to: Jennifer R. Nelson, Acting Director, Supplemental Food Programs Division,

Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-8206.

tober 1, 1977. Only those administrative costs allowable for programs already in operation will be allowable

to malnutrition, may obtain supplemental nutritious foods donated by the U.S. Department of Agriculture.

mining costs applicable to grants and contracts with State and local governments.

(x) "Value of commodities" means the cost to the Federal government of purchasing and delivering supplemen-

(b) All State agencies, except Indian State agencies, shall submit the Plan of Program Operation and Administra-

Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-8206.

SUPPLEMENTAL INFORMATION: Pub. L. 95-113, approved September 29, 1977, makes a number of significant changes in the Supplemental Food Program. These changes include redesignating the Program as the "Commodity Supplemental Food Program," extending the Program through fiscal year 1981, providing authority for administrative funding including funding for nutrition education for Program participants, and requiring the Secretary annually to evaluate the food package that is distributed to participants.

Until passage of Pub. L. 95-113, the Department had no authority to fund expenses of State and local agencies for administering the Program. Funds had to be obtained from State and local sources or from other Federal grants, such as the Community Services Administration. Pub. L. 95-113 is specific in directing that the administrative funding be used in connection with operation and administration of the Program at the State and local level, including nutrition education efforts. However, it does not prescribe how these funds are to be apportioned between State and local agencies.

After reviewing several alternatives, the Department determined that the most equitable manner of apportioning these funds between State and local agencies is to permit the State agency to retain a certain portion of the monies allocated based on a prescribed formula, with the remaining funds being distributed to local agencies on the basis of respective needs. The formula selected which prescribes proportionate percentage reductions in the funds allocated to State agencies is based on economies of scale. Each State agency will receive in a Letter of Credit a proportionate share of 15 percent of the total value of commodities made available during that fiscal year to State and local agencies and distributed to participants. Of that 15 percent, the State agency will be authorized to retain 15 percent of the first $50,000, 10 percent of the next $100,000 and 5 percent of the next $100,000. When the State agency also functions as the local agency, all administrative funds will remain at the State level.

This will enable the State agency to meet its ongoing responsibilities of guidance, monitoring, and ensuring nondiscrimination, as well as the new requirements of providing for audits in accordance with Office of Management and Budget Circulars A-102 and A-110, approving the fair hearings procedures, and ensuring nutrition education activities. For fiscal year 1978 administrative funds will be made available for the period beginning October 1, 1977. Only those administrative costs allowable for programs already in operation will be allowable for start-up costs. In no case will the administrative funds made available to a State agency exceed actual expenditures.

The integration of nutrition education into Program operations will emphasize the relationship of proper nutrition to the total concept of good health and assist participants in effecting a positive change in food habits. Nutrition education should provide long-lasting benefits to participants which may be carried over to other family members.

Evaluation of the food package currently being used in the Program has not been completed. The Department has made no change in the food package at this time.

Since administrative funds from other sources are no longer available and in view of the urgent need by State and local agencies for administrative funding to assure continuation of Program benefits, these regulations are being issued as an interim rule.

However, because the Department feels that the public should have an opportunity to comment on this interim rule, public comments will be accepted. To be assured of consideration, comments must be received by May 3, 1978. All comments received will be carefully considered before final regulations are published.

Accordingly, a new Part 247, is issued as set forth below.

Sec.

247.1 General purpose and scope.
247.2 Definitions.
247.3 Administration.
247.4 Donation of commodities.
247.5 State agency Plan of Program Operation and Administration.
247.6 Selection of local agencies.
247.7 Eligibility for supplemental foods.
247.8 Nutrition education.
247.9 Administrative funding.
247.10 Administrative costs.
247.11 Records and reports.
247.12 Procurement and property management standards.
247.13 Audits.
247.14 Investigations.
247.15 Closeout procedures.
247.16 Nondiscrimination.
247.17 Fair hearing procedure for participants.
247.18 Miscellaneous provisions.

AUTHORITY: Sec. 32, Pub. L. 74-320, 49 Stat. 774, as amended (7 U.S.C. 612c); Pub. L. 75-165, 50 Stat. 323, as amended (15 U.S.C. 713c); sec. 416, Pub. L. 81-439, 63 Stat. 1058, as amended (7 U.S.C. 1431); sec. 4(a), Pub. L. 93-86, 87 Stat. 249, as amended (7 U.S.C. 612c note); sec. 1304(b), Pub. L. 95-113 (7 U.S.C. 612c note).

§ 247.1 General purpose and scope.

This part announces the policies and prescribes the terms and conditions under which women, infants and children in low-income groups, vulnerable to malnutrition, may obtain supplemental nutritious foods donated by the U.S. Department of Agriculture. The foods will be distributed by States, Indian tribes, bands, groups, or intertribal councils or groups recognized by the Department of the Interior; or by the Indian Health Service (IHS) of the U.S. Department of Health, Education, and Welfare.

§ 247.2 Definitions.

For the purpose of this part and of all contracts, guidelines, instructions, forms, and other documents related hereto, the term:

(a) "A-102" means Office of Management and Budget Circular A-102 which sets forth uniform administrative requirements for grants-in-aid to State and local governments and federally recognized Indian tribal governments.

(b) "A-110" means Office of Management and Budget Circular A-110 which sets forth uniform administrative requirements for grants to, and other agreements with, institutions of higher education, hospitals and other quasi-public and private non-profit organizations.

(c) "Administrative costs" means those direct and indirect costs, allowable under FMC 74-4, which State and local agencies determine to be necessary to support Program operations. Such costs include, but are not limited to, expenses incurred in connection with information and referral, operation, monitoring, nutrition education, local agencies startup costs (during first 3 months or until a Program operation reaches its projected caseload, whichever is first) and administration of the State or local office, including warehousing, transportation, personnel, and insurance.

(d) "Breastfeeding women" means women up to one year postpartum who are breastfeeding their infants.

(e) "Children" means persons who are at least one year of age but have not reached their sixth birthday.

(f) "Department" means the U.S. Department of Agriculture.

(g) "Dual participation" means simultaneous participation by a participant in the Commodity Supplemental Food Program in more than one local agency, or simultaneous participation in the Commodity Supplemental Food Program and in the Special Supplemental Food Program for Women, Infants and Children (7 CFR Part 246).

(h) "Eligible persons" means infants, children and women during and for 12 months after pregnancy.

(i) "Fiscal year" means the period of 12 calendar months beginning October 1 of any calendar year and ending September 30 of the following year.

(j) "FMC 74-4" means Federal Management Circular 74-4, July 18, 1974, which sets forth principles for determining costs applicable to grants and contracts with State and local governments.

(k) "FNS" means the Administrator of the Food and Nutrition Service of the U.S. Department of Agriculture.

(l) "Infants" means persons under one year of age.

(m) "Local agency" means a health facility which is a public or nonprofit private center or agency which provides free or reduced price health service to low-income persons. It also means an IHS service unit, or an Indian tribe, band or group which is recognized by the Department of the Interior and operates a health clinic or is provided health services by an IHS service unit.

(n) "Nonprofit agency" means a private agency which is exempt from income tax under the Internal Revenue Code of 1954, as amended.

(o) "Participants" means persons receiving supplemental foods under the Program.

(p) "Postpartum women" means women up to 12 months after termination of pregnancy.

(q) "Program" means the Commodity Supplemental Food Program (CSFP) of the Food and Nutrition Service of the U.S. Department of Agriculture.

(r) "Secretary" means the Secretary of the U.S. Department of Agriculture.

(s) "State" means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands and the Northern Mariana Islands.

(t) "State agency" means the State distributing agency or an Indian tribe, band or group recognized by the Department of the Interior; or an intertribal council or group recognized by the Department of the Interior and which has an ongoing relationship with Indian tribes, bands or groups for other purposes and has contracted with them to administer the Program; or the appropriate area office of the Indian Health Service of the Department of Health, Education, and Welfare.

(u) "State Agency Plan of Operation and Administration" means the document which describes the manner in which the State agency intends to implement and operate all aspects of Program administration within its jurisdiction.

(v) "State distributing agency" means a State agency which has entered into an agreement with the Department for the distribution of commodities under 7 CFR Part 250.

(w) "Supplemental foods" means foods donated by the Department for use by eligible persons in low-income groups who are vulnerable to malnutrition.

(x) "Value of commodities" means the cost to the Federal government of purchasing and delivering supplemental foods to areas designated by the State agencies.

§ 247.3 Administration.

(a) Within the Department, FNS shall act on behalf of the Department in the administration of the Program. FNS will provide assistance to State and local agencies and evaluate all levels of Program operations to assure that the goals of the Program are achieved in the most effective and efficient manner possible.

(b) The State agency is responsible for all operations under the Program within its jurisdiction and shall administer the Program in accordance with the requirements of this part, FMC 74-4, A-102 and A-110, where applicable, and FNS guidelines and instructions. The State agency shall provide guidance to local agencies on all aspects of Program operations.

(c) Each State agency desiring to take part under the Program shall annually prior to the beginning of the fiscal year enter into a written agreement with the Department for the administration of the Program within its jurisdiction in accordance with the provisions of this part.

(d) The local agency shall provide Program benefits to participants in the most effective and efficient manner, and shall comply with this part, FMC 74-4, A-102 and A-110, where applicable, and State agency and FNS guidelines and instructions.

§ 247.4 Donation of commodities.

The Department shall donate supplemental foods for use in the Program in accordance with the terms and conditions of this part, and, to the extent they are not inconsistent herewith, in accordance with the terms and conditions applicable to State distributing agencies under 7 CFR Part 250.

§ 247.5 State Agency Plan of Program Operation and Administration.

(a) Effective for fiscal year 1979, and subsequent fiscal years, State agencies shall annually submit a Plan of Program Operation and Administration for approval by the appropiate FNS Regional Office. The Plan shall incorporate the procedures and methods to be used in certifying persons as in need of supplemental foods, in making distribution to persons, and in providing a fair hearing to persons whose claims for supplemental foods under the Plan are denied or are not acted upon with reasonable promptness, or who are aggrieved by a State or local agency's interpretation of any provision of the Plan. State plans will be used to monitor State agency performance against stated program goals.

(b) All State agencies, except Indian State agencies, shall submit the Plan of Program Operation and Administration annually to the State Governor, or his delegated authority, for comment as required by Circular A-95 (38 FR 32874) issued by the Office of Management and Budget, September 13, 1973. A period of 45 days from the date the Governor receives the Plan of Program Operation and Administration shall be afforded for comment prior to submission to FNS. The Governor's comments shall be submitted in the Plan of Program Operation and Administration. If the Governor makes no comment, a statement to that effect shall be attached to the Plan of Program Operation and Administration. Amendments to the Plan of Program Operation and Administration need not be submitted to the Governor unless there is significant change. Although not required, Indian State agencies are encourage to consult area-wide Federal Planning offices in the development of their Plan of Program Operation and Administration.

(c) No amendment to the Plan of Program Operation and Administration of a State agency shall be made without prior approval of the FNS Regional Office and the FNS Regional Office may require amendment of any plan as a condition of continuing approval.

(d) As a minimum, the Plan shall include the following:

(1) The name and location of the local agency or agencies which will be responsible for certification of persons.

(2) The manner in which supplemental foods will be distributed, including, but not limited to, the identity of the agency or agencies that will distribute these foods and the storage and distribution facilities to be used.

(3) The specific criteria to be used in certifying persons as in need of supplemental foods and the period of time covered by certifications in each local agency.

(4) The estimated number of persons from low-income groups, vulnerable to malnutrition, who would be eligible for the Program based on the following categories: (i) infants through 3 months; (ii) infants 4 months through 12 months; (iii) children 1 year through 5 years; and (iv) women during and for 12 months after pregnancy.

(5) The plans of each local agency for nutrition education services for the fiscal year, including the procedures to be used at each local agency to meet the special nutrition education needs of migrants and Indians. The nutrition education portion of the Plan shall include an evaluation component which includes a systematic procedure for participant input. Such evaluation

may be conducted directly by State and local agencies or by a contract for such services, so long as the evaluation

complete records with respect to its activities under the Program, and shall retain such records for a period of 3

§ 247.8 Nutrition education.

(a) *General.* Nutrition education shall be thoroughly integrated into

(v) An explanation of the importance of health care.

agency. The State agency shall obtain funds needed through presentation by designated officials of a payment

of certification data), shall be available during normal business hours for

may be conducted directly by State and local agencies or by a contract for such services, so long as the evaluation is directed by a nutrition professional.

(6) The manner in which the State agency plans to provide for monitoring and auditing of each local agency.

(7) A description of a financial management system which will provide an accurate, current and complete disclosure of the financial status of the Program including an accurate accounting of all administrative funds received and expended.

(8) The amounts and sources of State and local support to the Program.

(9) A plan for detection of dual participation within the jurisdiction of the State agency.

(10) When completing the State Plan of Program Operation and Administration, each State agency shall include a Plan for the conduct of audits. The plan shall (i) State the scope and frequency of audits of the State agency and local agencies and delineate the procedures that assure audit frequency of not less than once every two years; (ii) provide a description of the method used by the State agency to assure timely and appropriate resolution of audit findings and recommendations; and (iii) provide a description of the State agency in sufficient detail to demonstrate the independence of the audit organization.

Local agencies under the State agency's jurisdiction may be required to submit similar information to the State agency for its use in assuring compliance with this section.

§ 247.6 Selection of local agencies.

(a) *Application of local agencies.* The State agency shall require each agency which desires approval as a local agency to submit an application which contains sufficient information to enable the State agency to make a determination as to the eligibility of that agency. Such applications are not necessary when the State agency functions as a local agency.

(b) *Agreements with local agencies.* (1) State agencies shall enter into agreements with local agencies which are approved to participate in the Program. Such agreements shall be in writing and shall contain such terms and conditions as the State agency deems necessary to assure that (i) issuance of prescriptions for supplemental food is in accordance with this part; and (ii) local agencies are responsible to the State agency for any loss resulting from improper or negligent issuance by them of prescriptions for supplemental food. Such agreements are not necessary when the State agency functions as a local agency.

(2) Each agreement with a local agency shall provide that the local agency shall maintain accurate and complete records with respect to its activities under the Program, and shall retain such records for a period of 3 years from the close of the fiscal year to which they pertain.

§ 247.7 Eligibility for supplemental foods.

(a) To be certified as eligible to receive supplemental foods under the Program, infants, children and pregnant, postpartum and breastfeeding women in low-income groups vulnerable to malnutrition, shall meet the following requirements:

(1) After consideration of age and income (location and income of parents in the case of a minor) be eligible for benefits under existing Federal, State or local food, health or welfare programs for low-income persons;

(2) Be determined by a physician or other staff member of the local agency, or his designee, or by physicians serving money-payment participants under public welfare programs, to be in need of the nutrients in the supplemental food.

(b) Eligible persons shall be issued prescriptions for supplemental foods by professional or supervisory personnel of a local agency, or by such other personnel the local agency may designate.

(c) The State agency may allow the local agencies under its jurisdiction to accept evidence of certification from migrant farmworker participants or their dependents, who have been participating in the Special Supplemental Food Program for Women, Infants and Children or the Commodity Supplemental Food Program in another local agency within or outside of the jurisdiction of the State agency. Evidence of certification shall include the date certification was performed, the nutritional need of the participant, the name of the participant, the date the certification period expires, and the signature of the local agency official making the certification.

(d) Distribution of supplemental foods shall not be used as a means for furthering the political interest of any person or party.

(e) The local agency shall certify the person, or notify the person of ineligibility for the Program, within 20 days of the person's first visit to the local agency to apply for participation in the Program. A person who is determined eligible shall receive supplemental foods within 10 days of notification of eligibility.

(f) Citizenship or durational residence requirements shall not be imposed as a condition of eligibility.

(g) Participants shall not be required to make any payments in money, materials or services, for or in connection with the receipt of supplemental foods, nor shall they be solicited in connection with the receipt of supplemental foods for voluntary cash contributions for any purpose.

§ 247.8 Nutrition education.

(a) *General.* Nutrition education shall be thoroughly integrated into Program operations. Nutrition education shall be designed to be easily understood by individual participants and shall bear a practical relationship to their nutritional needs and household situations.

(b) *Goals.* Nutrition education shall be based on the following two broad goals:

(1) To emphasize the relationship of proper nutrition to the total concept of good health, with special emphasis on the nutritional needs of pregnant, postpartum, and breastfeeding women, infants and children under six years of age; and

(2) To assist participants in obtaining a positive change in food habits, resulting in improved nutritional status and in the prevention of nutrition-related problems through maximum use of the supplemental and other nutritious foods. This use is to be within the context of ethnic, cultural and geographic preferences. Consideration should also be given to tailoring nutrition education to meet any limitations of groups of participants, such as lack of running water, lack of electricity, limited cooking or refrigeration facilities.

(c) *State agency responsibilities.* The State agency shall ensure that the local agency fully performs its responsibilities as set forth in paragraph (d) of this section.

(d) *Local agency responsibilities.* (1) The local agency shall make nutrition education available to all adult participants and to parents or guardians of infant and child participants. Where appropriate, nutrition education for child participants is encouraged.

(2) The local agency shall direct Program funds for nutrition education to the benefit of participants and local agency staff members in accordance with this part and FNS guidelines.

(3) The local agency shall conduct nutrition education in a manner consistent with the State agency's nutrition education portion of the Plan of Program Operation and Administration.

(4) The local agency shall include the following subject matter areas in the instruction given to participants:

(i) An explanation of the participant's nutritional need condition, and the importance of the supplemental foods being consumed by the participant for whom they are prescribed rather than the whole family.

(ii) Reference to the special nutritional needs of participants and ways to provide them with adequate diets;

(iii) An explanation of the Program as a supplemental rather than a total food program;

(iv) Information on the use of the supplemental foods and on the nutritional value of these foods; and

(v) An explanation of the importance of health care.

§ 247.9 Administrative funding.

(a) This section prescribes the policies and procedures for payment by FNS of funds for administrative costs to participating State agencies and by State agencies to local agencies. As a prerequisite to the receipt of such funds, the State agency shall have executed an agreement with the Department and shall have received approval of its Plan of Program Operation and Administration.

(b) For each fiscal year FNS shall pay to each State agency, based on an approved Plan of Operation and Administration funds for administrative costs in the amount of up to 15 percent of the total value of commodities made available to the State and local agencies and distributed to participants during the year. However, in no case shall the administration funds made available to State agency exceed actual administrative expenditures. The State agency may retain a percentage of the amount paid to it, based on the following formula: 15 percent of the first $50,000; plus 10 percent of the next $100,000; plus five percent of the next $100,000. The remaining funds and any unused funds at the State level shall be distributed to the local agencies. When the State agency also functions as a local agency, all administrative funds will remain at the State level.

(c) The State agency, in disbursing administrative funds to local agencies, shall apportion such funds among the local agencies on the basis of their respective needs so as to ensure that those local agencies evidencing higher administrative costs, while demonstrating prudent management and fiscal controls, receive a greater portion of the administrative funds. The State agency may also redistribute any unused portion of the local administrative funds among local agencies.

(d) All administrative funds made available under this section shall be provided to participating State agencies by means of quarterly Letters of Credit unless other funding arrangements are made with FNS. Letters of Credit to State agencies shall be based on 15 percent of the estimated total value of commodities to be purchased and distributed to States during the fiscal year, subject to adjustment to reflect actual issuance of commodities to participants during that fiscal year. If, at the end of the fiscal year, funds authorized by a Letter of Credit issued to any State agency exceed obligations, FNS shall reduce the amount of the Letter of Credit by the unobligated portion.

(e) Letters of Credit shall be issued to the appropriate Regional Disbursing Office in favor of the State agency. The State agency shall obtain funds needed through presentation by designated officials of a payment voucher on the Letter of Credit to the designated Regional Disbursing Office, in accordance with procedures prescribed by FNS and consistent with the U.S. Treasury Department regulations.

§ 247.10 Administrative costs.

(a) *General.* Funds provided to State and local agencies may be used to cover only administrative costs allowable under FMC 74-4, A-102, and A-110, where applicable, which State and local agencies determine to be necessary to carry out the Program within their jurisdictions.

(b) *Allowable costs.* The following costs are specifically identified as illustrative of costs allowable under the Program:

(1) The cost of nutrution education services provided to participants and parents and guardians of participants, and used for training of local agency staff members;

(2) The cost of administering and monitoring the food delivery and certification systems;

(3) The cost of outreach services;

(4) The cost of certification procedures;

(5) Local agency start-up costs for new programs during the first three months or until such programs reach projected caseloads, whichever is first;

(6) General administration of the State and local offices to include, but not be limited to, personnel, warehousing, and insurance; and

(7) State agency cost of distribution of food to local agencies. The State agency may not charge any part of distribution costs to local agencies.

§ 247.11 Records and reports.

(a) *Recordkeeping requirements.* Each State agency shall maintain accurate and complete records with respect to the receipt, disposal and inventory of supplemental foods, including the determination made as to liability for any improper distribution or use of, or loss of, or damage to, such foods and the result obtained from the pursuit of claims arising in favor of the State agency. Accurate and complete records shall also be maintained with respect to the receipt and disbursement of administrative funds received. State agencies shall require all local agencies to maintain accurate and complete records with respect to the receipt, disposal and inventory of supplemental foods and with respect to any administrative funds received. All records required by this section shall be retained for a period of 3 years from the close of the fiscal year to which they pertain. All records, except medical case records of participants (unless they are the only source of certification data), shall be available during normal business hours for representatives of the Department and the General Accounting Office of the United States to inspect, audit, and copy. Any reports resulting from such examinations shall not divulge names of individuals.

(b) *Financial reports.* All financial data shall be submitted as required by FNS, at a frequency prescribed by FNS.

(c) *Program reports.* All Program performance data shall be submitted as required by FNS, at a frequency prescribed by FNS.

(d) *Inventory reports.* Inventory reports shall be submitted as required by FNS, at a frequency prescribed by FNS.

(e) *Civil rights.* Each local agency participating under the Program shall submit a report of racial and ethnic participation data, at a frequency prescribed by FNS.

(f) *Audit acceptability of reports.* To be acceptable for audit purposes, all financial and Program performance reports shall be traceable to source documentation.

(g) *Certification of reports.* Financial and Program reports shall be certified as to their completeness and accuracy by the person given that responsibility by the State agency.

(h) *Use of reports.* FNS shall use State agency reports to measure progress in achieving objectives set forth in the Plan of Program Operation and Administration. If it is determined, through review of State agency reports, Program or financial analysis, or an audit, that a State agency is not operating according to its Plan of Program Operation and Administration, FNS may request additional information and take other appropriate actions.

§ 247.12 Procurement and property management standards.

(a) State and local agencies shall comply with the requirements of Circulars A-102 and A-110, where applicable, for procurement of supplies, equipment and other services with Program funds. These requirements are adopted by FNS to ensure that such materials and services are obtained for the Program in an effective manner and in compliance with the provisions of applicable law and executive orders.

(b) The standards contained in Circulars A-102 and A-110, where applicable, do not relieve the State or local agency of the responsibilities arising under its contracts. The State agency is the responsible authority, without recourse to FNS, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in connection with the Program. This in-

cludes, but is not limited to: disputes, claims, protests of awards, source evaluation, or other matters of a contractual nature. Matters concerning violations of statutes or regulations, on the part of the State agency or local agency may be referred to the appropriate authority for such violations.

(c) *Termination for cause.* FNS may terminate a State agency's participation under the Program, in whole or in part, whenever FNS determines that

shall take action to ensure that Program information in an appropriate language is provided to such persons.

(d) Complaints of discrimination

mentary evidence presented at the hearing and that such decision be made a part of the hearing record;

(9) That the person, and any designated representative, may examine all documentary evidence and all records, regulations, and guidelines of the State agency and local agency pertaining to the action;

(10) That the person may request, at his own expense, a transcript of the hearing; and

(11) That the person may submit a written statement after the hearing to be considered by the hearing official.

(c) The hearing official shall conduct the hearing in an impartial manner and shall not have participated in any prior decision in the matter. The hearing official shall prepare a written decision based on the hearing record and shall send a copy to the person and any designated representative by certified mail, return receipt requested. The decision shall be final and binding on the State agency and local agency unless the person requests a review by the Secretary within 10 days of receipt of the decision. The Secretary may review the decision at his own motion within 20 days after it is rendered. If the Secretary reviews the decision, he shall make a determination based on the hearing record and shall send a copy to the person and any designated representative by certified mail, return receipt requested. The Secretary's decision shall be final and binding on the State agency and local agency.

(d) During the pendency of the administrative review, the action shall be stayed, except that where the health or welfare of participants is threatened, the Secretary shall expedite the review process.

(e) The State agency shall maintain records of all hearings for a period of 3 years from the date of the decision and shall make them available for inspection and copying by FNS upon request.

(f) The provisions of this section shall not restrict the claim of any person under any other law.

§ 247.14 Civil rights compliance.

(a) The Program shall be conducted in accordance with Title VI of the Civil Rights Act of 1964, as amended, and the regulations issued thereunder by the Secretary of Agriculture, which are found in 7 CFR Part 15. Each State agency shall enter into an agreement with FNS to comply with the requirements of Title VI.

(b) Each State agency shall collect racial and ethnic participation data, at a frequency prescribed by FNS, and shall submit a report of racial and ethnic participation data, at a frequency prescribed by FNS.

(c) Each State agency shall post in conspicuous places available to participants and potential participants a nondiscrimination statement in accordance with 7 CFR 15.3(b)(6).

(d) Each State agency shall include a nondiscrimination statement in all materials announcing or describing the Program that are made available to participants or potential participants.

(e) Each State agency shall take action to ensure that no person is excluded from participation in, denied benefits of, or otherwise subjected to discrimination under the Program on the basis of race, color, national origin, sex, age, or handicap.

(f) Each State agency shall immediately inform FNS of any complaints received alleging discrimination against participants or potential participants on the basis of race, color, national origin, sex, age, or handicap, and shall immediately forward any written complaints received to the Food and Nutrition Service, Office of Equal Opportunity, 1100 Commerce Street, Room 5-C-30, Dallas, Texas 75242, or to the Food and Nutrition Service, Western Region, 550 Kearney Street, Room 400, San Francisco, Calif. 94108.

NOTE.—The reporting and/or recordkeep-

cludes, but is not limited to: disputes, claims, protests of awards, source evaluation, or other matters of a contractual nature. Matters concerning violation of law are to be referred to such local, State or Federal authority as may have proper jurisdiction

(c) The State or local agency may use its own procurement regulations which reflect applicable State and local regulations, provided that procurements made with Program funds adhere to the standards set forth in Circular A-102 and Circular A-110, where applicable.

(d) State and local agencies shall observe the standards prescribed in A-102, Attachment N, and A-110, Attachment N, where applicable, in their utilization and disposition of property acquired in whole or in part with Program funds.

§ 247.13 Audits.

(a) The Secretary, the Comptroller General of the United States, or any of their duly authorized representatives, or State auditors shall have access to any books, documents, papers, and records (except medical case records of individuals unless that is the only source of certification data) of the State and local agencies and their contractors, for the purpose of making surveys, audits, examinations, excerpts, and transcripts.

(b) The State agency may take exception to particular audit findings and recommendations. The State agency shall submit a response or statement to FNS as to the action taken or planned regarding the findings.

(c) FNS shall determine whether Program deficiencies have been adequately corrected. If additional corrective action is necessary, FNS shall schedule a follow-up review, allowing a reasonable time for such corrective action to be taken.

(d) Each State agency shall provide for an independent audit of the financial operations of the State agency and local agencies. Audits may be conducted by State and local government audit staffs or by certified public accountants and audit firms under contract to the State or local agencies. Audits shall conform to "The Standards of Audit of Governmental Organizations, Program Activities and Functions", issued by the Comptroller General of the United States (1972, for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C., 20402). An audit shall be used to determine:

(1) Whether financial operations are properly conducted;

(2) Whether the financial reports are fairly presented;

(3) Whether the State or local agency has complied with applicable laws, regulations, and administrative requirements pertaining to financial management;

(4) Whether proper inventory controls (physical and paper) are being maintained.

(e) Each State agency shall make all State or local agency sponsored audit reports of Program operations under its jurisdiction available for the Department's review upon request. The cost of these audits shall be considered an allowable administrative cost and funded from the State or local agency administrative funds, as appropriate.

§ 247.14 Investigations

(a) The Department may make an investigation of any allegation or noncompliance with this part and FNS guidelines and instructions. The investigation may include, where appropriate, a review of pertinent practices and policies of any State or local agency, the circumstances under which the possible noncompliance with this part occurred, and other factors relevant to a determination as to whether the State of local agency has failed to comply with the requirements of this part.

(b) No State or local agency, participants, or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege under this part because the individual has made a complaint, formal allegation, or testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of every complainant shall be kept confidential except to the extent necessary to carry out the purpose of this part.

§ 247.15 Closeout procedures

(a) *Fiscal year closeout reports.* State agencies shall submit preliminary and final closeout reports for each fiscal year or part thereof. All obligations shall be liquidated before final closure of a fiscal year grant. Obligations shall be reported for the fiscal year in which they occur. State agencies:

(1) Shall submit to FNS, within 30 days after the end of the fiscal year, preliminary financial reports which show cumulative actual expenditures and obligations for the fiscal year, or part thereof, for which Program funds were made available.

(2) Shall submit to FNS, within 120 days after the end of the fiscal year, final fiscal year closeout reports; and

(3) May submit revised closeout reports at any time. However, FNS shall not be responsible for reimbursing unpaid obligations later than one year after the close of the fiscal year in which they were incurred.

(b) *Grant closeout procedures.* Grant closeout procedures for the Program shall be in accordance with Attachment L of OMB Circular A-102.

(c) *Termination for cause.* FNS may terminate a State agency's participation under the Program, in whole or in part, whenever FNS determines that the State agency has failed to comply with the conditions prescribed in this part, and in FNS guidelines and instructions. FNS shall promptly notify the State agency in writing of the termination and the reasons for the termination, together with the effective date. A State agency shall terminate a local agency's participation under the Program by written notice whenever it is determined by FNS or the State agency that the local agency has failed to comply with the requirements of the Program. When a State agency's participation under the Program is terminated for cause, any payments made to the State agency, or any recoveries by FNS from the State agency, shall be in conformance with the legal rights and liabilities of the parties.

(d) *Termination for convenience.* FNS or the State agency may terminate the State agency's participation under the Program, in whole or in part, when both parties agree that continuation under the Program would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date thereof and, in the case of partial termination, the portion to be terminated. The State agency shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. FNS shall allow full credit to the State agency for the Federal share of the noncancellable obligations, properly incurred by the State agency prior to termination.

§ 247.16 Nondiscrimination

(a) The State agency shall comply with the requirements of title VI of the Civil Rights Act of 1964, and the Department's regulations concerning nondiscrimination issued thereunder (7 CFR Part 15), including requirements of racial and ethnic participation data collection, public notification of its nondiscrimination policy and annual reviews to assure compliance with such policy, to the end that no person shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the Program.

(b) The State agency shall further ensure that no person is subject to any discrimination under the Program because of creed, political beliefs, or sex.

(c) Where a significant proportion of the area served by a local agency is composed of non-English or limited English speaking persons who speak the same language, the State agency shall take action to ensure that Program information in an appropriate language is provided to such persons.

(d) Complaints of discrimination filed by applicants or participants shall be referred to the Director, Supplemental Food Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250.

§ 247.17 Fair hearing procedure for participants.

(a) Each potential participant shall be informed of the right to a fair hearing during the initial program certification. Whenever a person is determined to be ineligible to participate in the Program, the person shall be notified in writing of the reason for his ineligibility and his right to a fair hearing.

(b) Each State agency participating in the Program shall establish a hearing procedure under which a person, or the person's parent or guardian, can appeal from a decision made by a local agency denying such person participation in the Program or suspending such person's participation. If the participant was already participating in the Program, he shall continue to receive Program benefits until a decision is reached in the fair hearing proceedings. Such hearing procedure shall provide:

(1) A simple, publicly announced method for a person to make an oral or written request for a hearing;

(2) An opportunity for the person to be assisted or represented by an attorney or other persons;

(3) An opportunity to examine, prior to and during the hearing, the documents and records presented to support the decision under appeal;

(4) That the hearing be held within three weeks from the date of receipt of request, be convenient to the person, and that a minimum of ten days written notice be given to the person as to the time and place of the hearing;

(5) An opportunity for the person or his representative to present oral or documentary evidence and arguments supporting his position in accordance with procedures established by the hearing official, and that such procedures shall not be unduly complex or legalistic, and shall take into consideration the person's background and education;

(6) An opportunity for the person or his representative to question or refute any testimony or other evidence and to confront and cross-examine any adverse witnesses;

(7) That the hearing be conducted and the decision made by a hearing official who did not participate in making the decision under appeal or in any previously held conferences.

(8) that the decision of the hearing official be based on the oral and documentary evidence presented at the hearing and that such decision be made a part of the hearing record;

(9) That the person, and any designated representative, be notified in writing of the decision of the hearing official within 45 days from the date of the request for hearing;

(10) That a written record be prepared with respect to each hearing, which shall include the decision under appeal, any documentary evidence admitted and a summary or verbatim transcript of any oral testimony presented at the hearing, the decision of the hearing official, including the reasons therefor, and a copy of the notification to the family concerned of the decision of the hearing official; and

(11) That such written records of each hearing be preserved for a period of three years and be available for examination by the person, or his representative, at any reasonable time and place during such period.

§ 247.18 Miscellaneous provisions

(a) Any person who wishes information, assistance, records or other public material shall request such information from the State agency, or from the FNS Regional Office serving the appropriate State as listed below:

(1) Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont: U.S. Department of Agriculture, FNS, New England Region, Northwest Part, 34 Third Avenue, Burlington, Mass. 01803.

(2) Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, West Virginia: U.S. Department of Agriculture, FNS, Mid-Atlantic Region, One Vahlsing Center, Robbinsville, N.J. 08691.

(3) Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee: U.S. Department of Agriculture, FNS, Southeast Region, 1100 Spring Street NW., Atlanta, Ga. 30309.

(4) Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin: U.S. Department of Agriculture, FNS, Midwest Region, 536 South Clark Street, Chicago, Ill. 60605.

(5) Arkansas, Louisiana, New Mexico, Oklahoma, Texas: U.S. Department of Agriculture, FNS, Southwest Region, 1100 Commerce Street, Room 5-C-30, Dallas, Tex. 75202.

(6) Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, Wyoming: U.S. Department of Agriculture, FNS, Mountain Plains Region, 2420 West 26th Avenue, Room 430-D, Denver, Colo. 80211.

(7) Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, Trust Territory of the Pacific Islands, Washington: U.S. Department of Agriculture, FNS, Western Region, 550 Kearney Street, Room 400, San Francisco, Calif. 94108.

NOTE.—The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

(Catalog of Federal Domestic Assistance Program No. 10.550.)

NOTE.—The Food and Nutrition Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 and OMB Circular A-107.

Dated: March 1, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc. 78-5772 Filed 3-2-78; 8:45 am]

[3410-05]

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

PART 701—NATIONAL RURAL ENVIRONMENTAL PROGRAMS FOR 1975 AND SUBSEQUENT YEARS

Agricultural Conservation Program

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to revise the regulations for the Agricultural Conservation Program to: (1) Restate program objectives which include control of erosion and sedimentation, voluntary compliance with Federal and State requirements to solve point and non-point sources of pollution, priorities in the National Environmental Policy Act, improvement of water quality, and assurance of a continued supply of necessary food and fiber for a strong and healthy people and economy; (2) reflect that specific national practices, guidelines, and policies have been formulated for meeting these objectives; (3) provide for development of a State program with guidelines to county committees; (4) provide for cost-share levels for annual agreements not to exceed 90 percent of the average cost; (5) provide for long-term agreements on portions of a farm; and (6) delete the small cost-share increase provision. The need for this rule is to satisfy the changes made by Pub. L. 95-113 (91 Stat. 1019) to the Soil Conservation and Domestic Allotment Act, as amended and to reflect 1978 program year policies and operational modifications.

EFFECTIVE DATE: March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

major Federal action significantly affecting the human environment.

[3410-02]

The regulation is designed to permit shipment of ample supplies of fruit of

EFFECTIVE DATE: March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert J. Mondloch (ASCS) 202-447-6221.

SUPPLEMENTARY INFORMATION: The Agricultural Conservation Program provides cost-sharing for agricultural producers to carry out approved soil, water, woodland, and wildlife conservation measures to solve identified conservation or environmental problems which reduce the productive capacity of the nation's land and water resources or cause degradation of environmental quality. Because the changes in this amendment affect farmers and ranchers currently making plans for performing conservation work for the 1978 program year, it is essential that these provisions be effective as soon as possible. Accordingly, it is hereby found and determined that compliance with notice, public procedure, and 30-day effective date provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest.

Accordingly, 7 CFR Part 701 table of contents and §§ 701.2 through 701.26 and 701.70 are amended as follows:

1. The table of contents is amended by changing the titles of §§ 701.10, 701.11, 701.12, and 701.13 and revoking and reserving §§ 701.22.

Subpart—Agricultural Conservation Program

Sec.

. . . . . .

701.10 State programs.
701.11 County programs.
701.12 Selection of practices.
701.13 Levels of cost-sharing.

. . . . . .

701.22 [Reserved]

2. Wherever the title "Deputy Administrator, Programs" appears in the part, it is changed to read "Deputy Administrator, State and County Operations."

§ 701.2 [Amended]

3. Paragraph (c) of § 701.2 is amended by revising the words "Management and Finance" to read "Budget, Planning and Evaluation."

4. Section 701.3 is amended by designating the present paragraph (a) and deleting the last sentence and by adding paragraph (b) as follows:

§ 701.3 Program objectives.

. . . . . .

(b) This will be accomplished through a program that has been formulated and is to be carried out taking into consideration: (1) The need to control erosion and sedimentation from agricultural land and conserve the water resources on such land; (2) the need to control pollution from animal wastes; (3) the need to facilitate sound resources management systems through soil and water conservation; (4) the need to encourage voluntary compliance by agricultural producers with Federal and State requirements to solve point and non-point sources of pollution; (5) national priorities reflected in the National Environmental Policy Act of 1969 and other congressional and administrative actions; (6) the degrees to which the measures contribute to the national objective of assuring a continous supply of food and fiber necessary for the maintenance of a strong and healthy people and economy; and (7) the type of conservation measures needed to improve water quality in rural America.

§ 701.5 [Amended]

5. Section 701.5 is amended to add "approved State water quality plans," between "development projects" and "and other conservation projects."

§ 701.9 [Amended]

6. Section 701.9 is amended by revising the first sentence to read "Practices have been made available nationally for developing State and county programs" and by revising the words "included in county programs must" in the second sentence to read "are designed to."

7. Section 701.12 is redesignated as § 701.10 and amended to read as follows:

§ 701.10 State programs.

(a) The State committee, in consultation with the State program development group, shall develop recommendations for the State program. The chairperson of the State committee may also invite others with conservation interests to participate in such deliberations.

(b) The State program shall consist of the guidelines and practices selected by the State committee after considering the recommendations of the State development group.

§ 701.11 [Redesignated from § 701.10 and Amended]

8. Section 701.10 is redesignated as § 701.11 and the title amended by deleting the words "Development of" and capitalizing "County."

§ 701.12 [Redesignated from § 701.11 and Amended]

9. Section 701.11 is redesignated as § 701.12 and is amended by revising the words "the county program" to read "the State or county program."

10. In § 701.13 the title and paragraph (b) are amended, a new paragraph (c) is added as follows, the present paragraph (c) is redesignated (d), and the present paragraph (d) is deleted.

§ 701.13 Levels of cost-sharing.

. . . . . .

(b) Levels of cost-sharing under annual agreements shall not be in excess of 90 percent of the average cost for all practices as determined by the county committee. (See § 701.19 for special provisions for low-income farmers.)

(c) Levels of cost-sharing under long-term agreements shall not be in excess of 75 percent nor less than 50 percent of the average cost for all practices as determined by the county committee.

§ 701.16 [Amended]

11. Paragraphs (b), (c), (f), and (k) in § 701.16 are amended as follows:

(b) By inserting the words, "or portion thereof," between "ranch" and "which."

(c) By inserting the words "or portion thereof," between "ranch" and "whether."

(f) By inserting the words, "as provided in § 701.13," between "cost-sharing" and "in effect."

(k) By revising "Deputy Administrator, Programs" to read "State committee" wherever it appears.

§ 701.19 [Amended]

12. In § 701.19 paragraph (a) is amended by revising "80" to read "90."

§ 701.21 [Amended]

13. In § 701.21 paragraph (b) is amended by deleting the words "plus any applicable small cost-share increase."

§ 701.22 [Reserved.]

14. Section 701.22 is revoked and reserved.

§ 701.70 [Amended]

15. Paragraph (a) of § 701.70 is amended by deleting the words "but in no case may the cost-share be reduced to less than 50 percent of the contribution of the eligible person."

(Sec. 4, 49 Stat. 164, Secs. 7-15, 16(a), 16(f), 16A, 17, 49 Stat. 1148, as amended, 71 Stat. 176, 71 Stat. 426, 72 Stat. 864, 75 Stat. 233, 86 Stat. 676; (16 U.S.C. 590d, 590g-590o, 590p(a), 590pA, 590q); Secs. 1001-1009, 87 Stat. 241 (16 U.S.C. 1501-1510; Pub. L. 95-26, 91 Stat. 63; Pub. L. 95-113, 91 Stat. 1019).)

NOTE.—The Agricultural Stabilization and Conservation Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

NOTE.—The Agricultural Stabilization and Conservation Service, to meet the requirements of the National Environmental Policy Act (Pub. L. 91-190, 42 U.S.C. 4321 et seq.), has developed an environmental assessment on the program and has determined that the proposed action would not constitute a major Federal action significantly affecting the human environment.

Signed at Washington, D.C., on February 24, 1978.

WELDON B. DENNY,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 78-5709 Filed 3-2-78; 8:45 am]

[3410-05]

PART 722—COTTON

Miscellaneous Deletions

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: The purpose of this document is to delete from the Code of Federal Regulations certain regulations concerning the upland cotton allotment program which are no longer required. The Food and Agricultural Act of 1977 eliminated upland cotton allotments.

EFFECTIVE DATE: March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

George Roach, Production Adjustment Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013, 202-447-3418.

SUPPLEMENTARY INFORMATION: Because this document merely deletes obsolete regulations, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) providing for notice of proposed rulemaking, opportunity for public participation and 30-day effective date requirements are inapplicable. Any obligation or liability incurred, or any rights retained or accrued under these regulations are not affected by their deletion.

The following regulations contained in Title 7 CFR are deleted:

§§ 722.401 through 722.423 and §§ 722.463 through 722.468 [Deleted]

In Part 722—Cotton, Subpart—Regulations pertaining to Base Acreage Allotments for 1974 and Succeeding Crops of Upland Cotton and Base Acreage Allotments for Crop Year 1977 (§§ 722.401 through 722.423 and §§ 722.463 through 722.468) are deleted.

Signed at Washington, D.C., on February 21, 1978.

DONALD L. GILLIS,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 78-5409 Filed 3-2-78; 8:45 am]

[3410-02]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Valencia Orange Reg. 576]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Size Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation requires fresh California-Arizona Valencia oranges shipped to market from District 3 to be at least 2.32 inches in diameter for the period March 3 through April 13, 1978. This requirement is designed to promote orderly marketing in the interest of producers and consumers.

EFFECTIVE DATE: March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation and information submitted by the Valencia Orange Administrative Committee, established under this marketing order, and upon other information, it is found that the regulation of handling of Valencia oranges, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on February 17, 1978, to consider crop and market conditions and other factors affecting the need for regulation, and recommended that Valencia oranges in fresh domestic shipments from District 3 be required to be 2.32 inches in diameter or larger. The 1977-78 season crop of Valencia oranges is currently estimated by the committee at 55,600 carlots. The committee reports that demand in regulated fresh market channels is expected to require about 37 percent of this volume. The remaining 63 percent would be available for utilizaiton in export and processing outlets. The commitee indicates that volume and size composition of the crop of Valencia oranges grown in District 3 are such that ample supplies of the more desirable sizes will be available to satisfy the demand in regulated channels. The regulation is designed to permit shipment of ample supplies of fruit of the more desirable sizes in the interest of growers and consumers, and it reflects the Department's appraisal of the need for regulation based on the current and prospective crop and market conditions.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effecutate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective date.

§ 908.876 Valencia orange regulation 576.

Order. (a) During the period March 3 through April 13, 1978, no handler shall handle any Valencia oranges grown in District 3 which are of a size smaller than 2.32 inches in diameter, which shall be the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit: *Provided,* That not to exceed 5 percent, by count, of the Valencia oranges contained in any type of container may measure smaller than 2.32 inches in diameter.

(b) As used in this section, "handler", "handle", and "District 3" mean the same as defined in the marketing order.

NOTE.—It is hereby certified that the economic and inflatiuonary impacts of this regulation have been carefully evaluated in accordance with OMB Circular A-107.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: February 28, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-5757 Filed 3-2-78; 8:45 am]

[3410-02]

[Lemon Regulation 135]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped

Dated: March 1, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vege-

(5) (vi) is renumbered as (b) (5) (v) and § 1861.1 (b) (5) (iv), and (v) (d), (e) and (f) are amended and read as follows:

maintained in the County Office on forms FmHA 405-1, FmHA 405-5, and FmHA 405-10, as provided in FmHA

Part 1901, Chapter XVIII, Title 7 in the Code of Federal Regulations (41 FR 19967) is amended to reflect a

[3410-34]

Title 9—Animals and Animal Products

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period March 5-11, 1978. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: March 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in CA and AZ, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, and upon other information, it is found that the limitation of handling of lemons, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on February 28, 1978, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is similar to last week.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 533), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.435 Lemon Regulation 135.

Order. (a) The quantity of lemons grown in CA and AZ which may be handled during the period March 5, 1978, through March 11, 1978, is established at 230,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: March 1, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-5861 Filed 3-2-78; 11:00 am]

[3410-07]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER E—ACCOUNT SERVICING

[FmHA Instruction 451.1]

PART 1861—ROUTING

Account Servicing Policies

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations concerning reporting dates. This action is being taken as a result of an administrative decision. The intent of the action is to conform reporting dates with the new fiscal year.

EFFECTIVE DATE: March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Tassie H. Hare, Reports Management Branch, Management Information Systems Staff, telephone 202-447-3011.

SUPPLEMENTARY INFORMATION: Section 1861.1 of Subpart A of Part 1861 of Title 7, Code of Federal Regulations (37 FR 13703) is amended. Paragraphs (b) (5) (iv), and (v) (d) are amended to reflect editorial changes; to change submission dates of Form FmHA 493-7, "Collection-Only Borrower Activity Report," to March 31 and September 30 and to show the designated place to submit the forms to the Finance Office, St. Louis, Mo. Paragraph (b) (5) (v) is deleted and paragraph (b) (5) (vi) is renumbered (b) (5) (v). Other changes included the update of official titles and paragraph (e) and (f) are added to include information inadvertently omitted from previous publication.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. These amendments, however, are not published for proposed rulemaking since the change affects only internal administrative requirements and is of an editorial nature, and, therefore, publication in proposed rulemaking format is unnecessary. Accordingly, § 1861.1 (b) (5) (v) is deleted, and (b) (5) (vi) is renumbered as (b) (5) (v) and § 1861.1 (b) (5) (iv), and (v) (d), (e) and (f) are amended and read as follows:

§ 1861.1 General.

* * * * *

(b) *Accounts of collection-only borrowers.*

* * * * *

(5) * * *

(iv) On each visit to a County Office, District Directors will review the progress being made by County Supervisors to insure that goals will be reached and may make a narrative report of the results of such review to the State Director who will maintain such controls as necessary to accomplish the objective outlined in subparagraph (5) of this paragraph.

(v) State Directors will submit a report on Form FmHA 493-7, "Collection-Only Borrower Activity Report," to the Finance Office as of March 31 and September 30. Form FmHA 493-7 will be prepared in an original and one copy. The original will be submitted to the Finance Office and the copy will be retained by the State Office.

* * * * *

(d) *Subsequent servicing.* If a borrower fails to make a payment as agreed upon, the County Supervisor will write or otherwise contact the borrower to request him to make the payment or request him to come to the office to discuss the reasons why the payment was not made and to develop specific plans for making the payment. Form FmHA 451-32, "Notice of Payment Due," may be used to notify borrowers who make payments directly to the Finance Office that their payment has not been received. Form FmHA 450-13, "Request for Assignment of Income from Trust Property," may be used when other methods of loan collection fail and debt repayment is possible from trust income. In the event the borrower refuses to make the payment when he has the income, or it is determined that the borrower's farming operations will not permit him to make the payment in a reasonable length of time, as well as make future payments, action will be taken to protect the government's security interest in accordance with applicable FmHA requirements. Followup actions for subsequent servicing will be noted on Form FmHA 405-1, "Management System Card—Individual," or Form FmHA 405-5, "Management System Card—Individual (Rural Housing Only—Monthly Payment)," or Form FmHA 405-10, "Management System Card—Association or Organization."

(e) *Maintaining records of accounts in County Offices.* Records of the accounts of FmHA borrowers will be maintained in the County Office on forms FmHA 405-1, FmHA 405-5, and FmHA 405-10, as provided in FmHA Instruction 405.1.

(f) *Correspondence with Finance Office.* County Office correspondence concerning individual borrower transactions which deal directly with Finance Office records including such matters as (1) errors in Form FmHA 450-11, "Detail Analysis of Charges/Credits of Loans Receivable," and Form FmHA 451-31, "Borrower Transaction Record," (2) requests for special statements of accounts, and (3) request for reapplication of repayment except as otherwise provided in this Instruction, will be mailed directly to the Finance Office.

(7 U.S.C. 1989, 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; Sec. 10 Pub. L. 93-357, 88 Stat. 392; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by the Dir., OEO 29 FR 14764, 33 FR 9850).

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: February 10, 1978.

DENTON E. SPRAGUE,
Deputy Administrator, Financial and Administrative Operations, Farmers Home Administration.

[FR Doc. 78-5609 Filed 3-2-78; 8:45 am]

[3410-07]

SUBCHAPTER H—GENERAL

[FmHA Instruction 1901-D]

PART 1901—PROGRAM-RELATED INSTRUCTIONS

Subpart D—Davis-Bacon Act *C*

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration amends it regulation to comply with the Department of Labor requirements regarding the Semiannual Labor Compliance Report. This action changes reporting requirements as it relates to the Government's new fiscal year.

EFFECTIVE DATE: March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Harry Puffenberger, 202-447-3394.

SUPPLEMENTARY INFORMATION: Section 1901.158(f)(1) of Subpart D of Part 1901, Chapter XVIII, Title 7 in the Code of Federal Regulations (41 FR 19967) is amended to reflect a change for reporting projects requiring compliance with the Davis-Bacon Act. In the past, Semi-Annual Labor Compliance Reports (Form FmHA 440-29) were required at the end of each 6-month period during the calendar year. Future reports are now required by the Department of Labor at the end of each 6-month period in the new fiscal year October 1 through September 30. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment not withstanding the exemption in 5 U.S.C. 553 with respect to such rules. This amendment, however, is not published for proposed rulemaking since the purpose of the change is to comply with the requirements of the Department of Labor, and the change itself is procedural and not substantive.

Accordingly, as amended, paragraph (f)(1) of § 1901.158 reads as follows:

§ 1901.158 Determination of compliance with Davis-Bacon Act.

* * * * *

(f) *Semiannual reports.* (1) The County Supervisor will complete Form FmHA 440-29, "Semiannual Labor Compliance Report," for projects requiring compliance with the Davis-Bacon Act, and submit it to the State Director for periods of October 1 through March 31, and April 1 through September 30. Form FmHA 440-29 must reach the State Director no later than April 20 and October 20, respectively.

* * * * *

(7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: February 17, 1978.

GORDON CAVANAUGH,
Administrator, Farmers Home Administration.

[FR Doc. 78-5610 Filed 3-2-78; 8:45 am]

[3410-34]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 78—BRUCELLOSIS

Subpart D—Designation of Brucellosis Areas, Specifically Approved Stockyards, and Slaughtering Establishments

BRUCELLOSIS AREAS

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Animal and Plant Health Inspection Service is amending its Brucellosis Regulations. These amendments update the Brucellosis regulations by providing the current status of various counties and States which have been designated Certified Brucellosis-Free Areas, Modified Certified Brucellosis Areas, or Noncertified Areas for purposes of interstate movement of cattle and bison from such areas. This action is required because of the change in the Brucellosis status of the areas affected.

EFFECTIVE DATE: March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. A. D. Robb, U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, Hyattsville, Md., Room 805, 301-436-8713.

SUPPLEMENTARY INFORMATION: The amendments delete the following areas from the list of Modified Certified Brucellosis Areas in § 78.21 and add such areas to the list designated as Certified Brucellosis-Free Areas in § 78.20 because it has been determined that they now come within the definition of a Certified Brucellosis-Free Area in § 78.1(1): Jefferson County in Iowa; Box Butte and Cheyenne Counties in Nebraska; Borden County in Texas; and Cache County in Utah.

Accordingly, §§ 78.20, 78.21, and 78.22 of Part 78, Title 9, Code of Federal Regulations, designating Certified Brucellosis-Free Areas, Modified Certified Brucellosis Areas, and Noncertified Areas, respectively, are amended to read as follows:

§ 78.20 Certified Brucellosis-Free Areas

The following States, or specified portions thereof, are hereby designated as Certified Brucellosis-Free Areas:

(a) *Entire States.*

Arizona, California, Connecticut, Delaware, Hawaii, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mon-

tana, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota,

Johnson, Jones, Keokuk, Kossuth, Lee, Linn, Louisa, Lucas, Lyon, Madison, Ma-

Hot Springs, Johnson, Laramie, Natrona, Niobrara, Park, Platte, Sheridan, Sublette,

Jackson, Jasper, Jefferson, Jenkins, Jones, Lamar, Lee, Lincoln, Lowndes, Lumpkin, Macon, Madison, Marion, McDuffie, Meriwether, Miller, Mitchell, Montgomery

Marion, McDonald, Mercer, Miller, Mississippi, Monroe, Morgan, New Madrid, Newton, Nodaway, Oregon, Osage, Ozark,

Refugio, Robertson, Rockwall, Runnels, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, San Saba, Scurry, Shackel-

tana, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Virginia, Washington, West Virginia, Wisconsin, Virgin Islands.

(b) *Specific Counties Within States.*

Alabama. Dale, Geneva.

Arkansas. Baxter, Bradley, Carroll, Cleveland, Columbia, Dallas, Drew, Fulton, Garland, Grant, Johnson, Marion, Monroe, Montgomery, Newton, Ouachita, Searcy, Sharp, Stone, Union, Woodruff.

Colorado. Adams, Alamosa, Arapahoe, Archuleta, Baca, Bent, Boulder, Chaffee, Cheyenne, Clear Creek, Conejos, Costilla, Crowley, Custer, Delta, Denver, Dolores, Douglas, Eagle, Elbert, El Paso, Fremont, Garfield, Gilpin, Grand, Gunnison, Hinsdale, Huerfano, Jackson, Jefferson, Kiowa, Kit Carson, Lake, La Plata, Larimer, Las Animas, Lincoln, Logan, Mineral, Moffat, Montezuma, Montrose, Morgan, Otero, Ouray, Park, Phillips, Pitkin, Prowers, Pueblo, Rio Blanco, Rio Grande, Routt, Saguache, San Juan, San Miguel, Sedgwick, Summit, Teller, Washington, Weld, Yuma.

Florida. Baker, Bay, Citrus, Dixie, Escambia, Franklin, Holmes, Jackson, Leon, Liberty, Monroe, Okaloosa, Orange, Santa Rosa, Seminole, St. Johns, Taylor, Wakulla, Walton, Washington.

Georgia. Appling, Atkinson, Bacon, Banks, Brantley, Bryan, Bulloch, Burke, Butts, Camden, Candler, Charlton, Chatham, Chattahoochee, Clarke, Clayton, Cook, Crawford, De Kalb, Echols, Effingham, Evans, Fannin, Franklin, Glascock, Glynn, Greene, Habersham, Jeff Davis, Johnson, Lanier, Laurens, Liberty, Long, McIntosh, Monroe, Peach, Rabun, Richmond, Screven, Stephens, Taylor, Toombs, Treutlen, Twiggs, Upson, Ware, Wayne, Wheeler, White, Wilkinson.

Idaho. Ada, Adams, Bear Lake, Benewah, Blaine, Boise, Bonner, Boundary, Butte, Camas, Canyon, Clark, Clearwater, Custer, Gem, Idaho, Kootenai, Latah, Lemhi, Lewis, Minidoka, Nez Perce, Owyhee, Payette, Power, Shoshone, Valley, Washington.

Illinois. Adams, Alexander, Bond, Boone, Brown, Bureau, Calhoun, Carroll, Cass, Champaign, Christian, Clark, Clay, Clinton, Coles, Cook, Crawford, Cumberland, De Kalb, De Witt, Douglas, Du Page, Edgar, Edwards, Effingham, Fayette, Ford, Franklin, Fulton, Gallatin, Greene, Grundy, Hamilton, Hancock, Hardin, Henderson, Henry, Iroquois, Jackson, Jasper, Jefferson, Jersey, Jo Daviess, Johnson, Kane, Kankakee, Kendall, Knox, Lake, La Salle, Lawrence, Lee, Livingston, Logan, Macon, Macoupin, Madison, Marion, Marshall, Mason, McDonough, McHenry, McLean, Menard, Mercer, Monroe, Montgomery, Morgan, Moultrie, Ogle, Peoria, Perry, Piatt, Pike, Pope, Pulaski, Putnam, Randolph, Richland, Rock Island, St. Clair, Saline, Sangamon, Schuyler, Scott, Shelby, Stark, Stephenson, Tazewell, Union, Vermilion, Wabash, Warren, Washington, Wayne, White, Whiteside, Will, Williamson, Winnebago, Woodford.

Iowa. Adair, Adams, Audubon, Benton, Black Hawk, Boone, Bremer, Buchanan, Buena Vista, Butler, Calhoun, Carroll, Cass, Cedar, Cherokee, Chickasaw, Clarke, Clay, Clinton, Crawford, Dallas, Davis, Decatur, Delaware, Des Moines, Dickinson, Dubuque, Emmet, Fayette, Floyd, Franklin, Fremont, Greene, Grundy, Hamilton, Hancock, Hardin, Harrison, Henry, Howard, Humboldt, Ida, Iowa, Jackson, Jasper, Jefferson, Johnson, Jones, Keokuk, Kossuth, Lee, Linn, Louisa, Lucas, Lyon, Madison, Mahaska, Marion, Marshall, Mills, Mitchell, Monona, Monroe, Montgomery, Muscatine, O'Brien, Osceola, Page, Palo Alto, Pocahontas, Polk, Pottawattamie, Poweshiek, Plymouth, Scott, Shelby, Sioux, Story, Tama, Taylor, Union, Van Buren, Wapello, Warren, Washington, Webster, Winnebago, Winneshiek, Woodbury, Worth, Wright.

Kansas. Barber, Brown, Chase, Cheyenne, Clark, Comanche, Decatur, Doniphan, Edwards, Ellsworth, Ford, Gove, Graham, Grant, Gray, Greeley, Hamilton, Haskell, Hodgeman, Johnson, Kearny, Kingman, Kiowa, Lane, Logan, Marion, Marshall, Meade, Ness, Norton, Pawnee, Phillips, Pottawatomie, Pratt, Rawlins, Republic, Riley, Rooks, Rush, Saline, Scott, Shawnee, Sheridan, Sherman, Smith, Stanton, Thomas, Trego, Wallace, Washington, Wichita.

Kentucky. Bell, Breathitt, Campbell, Clay, Edmonson, Floyd, Harlan, Johnson, Kenton, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Magoffin, Martin, McCreary, Menifee, Morgan, Owsley, Pendleton, Perry, Pike, Robertson, Trimble, Whitley, Wolfe.

Mississippi. Alcorn, Hancock, Harrison, Jackson, Stone, Tishomingo.

Missouri. Audrain, Dunklin, Gasconade, Hickory, Lewis, Moniteau, Montgomery, Perry, Platte, Pulaski, St. Louis, Schuyler, Shelby.

Nebraska. Box Butte, Cheyenne, Deuel.

New Mexico. Catron, Colfax, Dona Ana, Grant, Harding, Hidalgo, Lincoln, Los Alamos, Luna, McKinley, Otero, Rio Arriba, Sandoval, San Juan, Santa Fe, Sierra, Socorro, Taos, Torrance.

South Dakota. Aurora, Beadle, Bennett, Bon Homme, Brookings, Brown, Brule, Buffalo, Butte, Campbell, Charles Mix, Clark, Clay, Codington, Corson, Custer, Davison, Day, Deuel, Dewey, Douglas, Edmunds, Fall River, Faulk, Grant, Gregory, Haakon, Hamlin, Hand, Hanson, Harding, Hughes, Hutchinson, Hyde, Jackson, Jerauld, Kingsbury, Lake, Lawrence, Lincoln, Lyman, Marshall, McCook, McPherson, Meade, Mellette, Miner, Minnehaha, Moody, Pennington, Perkins, Potter, Roberts, Sanborn, Shannon, Spink, Sully, Todd, Tripp, Turner, Union, Walworth, Washabaugh, Yankton, Ziebach.

Tennessee. Anderson, Blount, Campbell, Carter, Claiborne, Davidson, Fentress, Grainger, Greene, Hamblen, Hancock, Jefferson, Johnson, Knox, Lake, Lewis, Meigs, Morgan, Perry, Polk, Roane, Robertson, Scott, Sequatchie, Sevier, Sullivan, Unicoi, Union, Van Buren.

Texas. Armstrong, Borden, Brewster, Childress, Comal, Crane, Culberson, Ector, Gillespie, Glasscock, Gray, Hansford, Hartley, Hemphill, Hudspeth, Hutchinson, Irion, Jeff Davis, Kendall, Kerr, Kimble, Lipscomb, Llano, Loving, Martin, Mason, Menard, Midland, Moore, Newton, Ochiltree, Reagan, Real, Roberts, Schleicher, Sherman, Sterling, Sutton, Terrell, Val Verde, Ward, Winkler, Yoakum.

Utah. Beaver, Cache, Carbon, Daggett, Davis, Duchesne, Emery, Garfield, Grand, Iron, Juab, Kane, Millard, Morgan, Piute, Rich, Salt Lake, San Juan, Sanpete, Sevier, Summit, Tooele, Uintah, Utah, Wasatch, Washington, Wayne, Weber.

Vermont. Bennington, Caledonia, Essex, Grand Isle, Lamoille, Orange, Rutland, Washington, Windham, Windsor.

Wyoming. Albany, Big Horn, Campbell, Carbon, Converse, Crook, Fremont, Goshen, Hot Springs, Johnson, Laramie, Natrona, Niobrara, Park, Platte, Sheridan, Sublette, Sweetwater, Teton, Uinta, Washakie, Weston.

Puerto Rico. Adjuntas, Aguada, Aguadilla, Aguas Buenas, Aibonito, Anasco, Arroyo, Barceloneta, Barranquitas, Bayamon, Cabo Rojo, Caguas, Canovanas (Loiza), Catano, Cayey, Ceiba, Ciales, Cidra, Coamo, Comerio, Corozal, Culebra, Dorado, Fajardo, Guanica, Guayama, Guaynabo, Guayanilla, Hormigueros, Humacao, Jayuya, Juana Diaz, Juncos, Lajas, Lares, Las Marias, Luquillo, Manati, Maricao, Maunabo, Mayaguez, Moca, Morovis, Naranjito, Orocovis, Patillas, Penuelas, Ponce, Rincon, Rio Grande, Rio Piedras, Sabana Grande, Salinas, San German, San Juan, San Lorenzo, Santa Isabel, Toa Alta, Toa Baja, Trujillo Alto, Utuado, Vega Alta, Vega Baja, Vieques, Villalba, Yabucoa, Yauco.

§ 78.21 Modified Certified Brucellosis Areas.

The following States, or specified portions thereof, are hereby designated as Modified Certified Brucellosis Areas:

(a) *Entire States.*

Alaska, Louisiana, Oklahoma.

(b) *Specific Counties Within States.*

Alabama. Autauga, Baldwin, Barbour, Bibb, Blount, Bullock, Butler, Calhoun, Chambers, Cherokee, Chilton, Choctaw, Clarke, Clay, Cleburne, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Cullman, Dallas, De Kalb, Elmore, Etowah, Escambia, Fayette, Franklin, Greene, Hale, Henry, Houston, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Lee, Limestone, Lowndes, Macon, Madison, Marengo, Marion, Marshall, Mobile, Monroe, Montgomery, Morgan, Perry, Pickens, Pike, Randolph, Russell, St. Clair, Shelby, Sumter, Talladega, Tallapoosa, Tuscaloosa, Walker, Washington, Wilcox, Winston.

Arkansas. Arkansas, Ashley, Benton, Boone, Calhoun, Chicot, Clark, Clay, Cleburne, Conway, Craighead, Crawford, Crittenden, Cross, Desha, Faulkner, Franklin, Greene, Hempstead, Hot Spring, Howard, Independence, Izard, Jackson, Jefferson, Lafayette, Lawrence, Lee, Lincoln, Little River, Logan, Lonoke, Madison, Miller, Mississippi, Nevada, Perry, Phillips, Pike, Poinsett, Polk, Pope, Prairie, Pulaski, Randolph, Saline, Scott, St. Francis, Sebastian, Sevier, Van Buren, Washington, White, Yell.

Colorado. Mesa.

Florida. Alachua, Bradford, Brevard, Broward, Calhoun, Charlotte, Clay, Collier, Columbia, Dade, De Soto, Duval, Flagler, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Jefferson, Lafayette, Lake, Lee, Levy Madison, Manatee, Marion, Martin, Nassau, Osceola, Palm Beach, Pasco, Pinellas, Polk, Putnam, St. Lucie, Sarasota, Sumter, Suwanee, Union, Volusia.

Georgia. Baker, Baldwin, Barrow, Bartow, Ben Hill, Berrien, Bibb, Bleckely, Brooks, Calhoun, Carroll, Catoosa, Chattooga, Cherokee, Clay, Clinch, Cobb, Coffee, Colquitt, Columbia, Coweta, Crisp, Dade, Dawson, Decatur, Dodge, Dooly, Dougherty, Douglas, Early, Elbert, Emanuel, Fayette, Floyd, Forsyth, Fulton, Gilmer, Gordon, Grady, Gwinnett, Hall, Hancock, Haralson, Harris, Hart, Heard, Henry, Houston, Irwin

Jackson, Jasper, Jefferson, Jenkins, Jones, Lamar, Lee, Lincoln, Lowndes, Lumpkin, Macon, Madison, Marion, McDuffie, Meriwether, Miller, Mitchell, Montgomery, Morgan, Murray, Muscogee, Newton, Oconee, Oglethorpe, Paulding, Pickens, Pierce, Pike, Polk, Pulaski, Putnam, Quitman, Randolph, Rockdale, Schley, Seminole, Spalding, Stewart, Sumter, Talbot, Taliaferro, Tattnall, Telfair, Terrell, Thomas, Tift, Towns, Troup, Turner, Union, Walker, Walton, Warren, Washington, Webster, Whitfield, Wilcox, Wilkes, Worth.

Idaho. Bannock, Bingham, Bonneville, Caribou, Cassia, Elmore, Franklin, Fremont, Gooding, Jefferson, Jerome, Lincoln, Madison, Oneida, Teton, Twin Falls.

Illinois. Massac.

Iowa. Allamakee, Appanoose, Cerro Gordo, Clayton, Guthrie, Ringgold, Sac, Wayne.

Kansas. Allen, Anderson, Atchison, Barton, Bourbon, Butler, Chautauqua, Cherokee, Clay, Cloud, Coffey, Cowley, Crawford, Dickinson, Douglas, Elk, Ellis, Finney, Franklin, Geary, Greenwood, Harper, Harvey, Jackson, Jefferson, Jewell, Labette, Leavenworth, Lincoln, Linn, Lyon, McPherson, Miami, Mitchell, Montgomery, Morris, Morton, Nemaha, Neosho, Osage, Osborne, Ottawa, Reno, Rice, Russell, Sedgwick, Seward, Stafford, Stevens, Sumner, Wabaunsee, Wilson, Woodson, Wyandotte.

Kentucky. Adair, Allen, Anderson, Ballard, Barren, Bath, Boone, Bourbon, Boyd, Boyle, Bracken, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Carlisle, Carroll, Carter, Casey, Christian, Clark, Clinton, Crittenden, Cumberland, Daviess, Elliott, Estill, Fayette, Fleming, Franklin, Fulton, Gallatin, Garrard, Grant, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harrison, Hart, Henderson, Henry, Hickman, Hopkins, Jackson, Jefferson, Jessamine, Larue, Laurel, Lincoln, Livingston, Logan, Lyon, Madison, Marion, Marshall, Mason, McCracken, McLean, Meade, Mercer, Metcalfe, Monroe, Montgomery, Muhlenberg, Nelson, Nicholas, Ohio, Oldham, Owen, Powell, Pulaski, Rockcastle, Rowan, Russell, Scott, Shelby, Simpson, Spencer, Taylor, Todd, Trigg, Union, Warren, Washington, Wayne, Webster, Woodford.

Mississippi. Adams, Amite, Attala, Benton, Bolivar, Calhoun, Carroll, Chickasaw, Choctaw, Claiborne, Clarke, Clay, Coahoma, Copiah, Covington, De Soto, Forrest, Franklin, George, Greene, Grenada, Hinds, Holmes, Humphreys, Issaquena, Itawamba, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lafayette, Lamar, Lauderdale, Lawrence, Leake, Lee, LeFlore, Lincoln, Lowndes, Madison, Marion, Marshall, Monroe, Montgomery, Neshoba, Newton, Noxubee, Oktibbeha, Panola, Pearl River, Perry, Pike, Pontotoc, Prentiss, Quitman, Rankin, Scott, Sharkey, Simpson, Smith, Sunflower, Tallahatchie, Tate, Tippah, Tunica, Union, Walthall, Warren, Washington, Wayne, Webster, Wilkinson, Winston, Yalobusha, Yazoo.

Missouri. Adair, Andrew, Atchison, Barry, Barton, Bates, Benton, Bollinger, Boone, Buchanan, Butler, Caldwell, Callaway, Camden, Cape Girardeau, Carroll, Carter, Cass, Cedar, Charlton, Christian, Clark, Clay, Clinton, Cole, Cooper, Crawford, Dade, Dallas, Daviess, De Kalb, Dent, Douglas, Franklin, Gentry, Greene, Grundy, Harrison, Henry, Holt, Howard, Howell, Iron, Jackson, Jasper, Jefferson, Johnson, Knox, Laclede, Lafayette, Lawrence, Lincoln, Linn, Livingston, Macon, Madison, Maries, Marion, McDonald, Mercer, Miller, Mississippi, Monroe, Morgan, New Madrid, Newton, Nodaway, Oregon, Osage, Ozark, Pemiscot, Pettis, Phelps, Pike, Polk, Putnam, Ralls, Randolph, Ray, Reynolds, Ripley, St. Charles, St. Clair, St. Francois, St. Genevieve, Saline, Scotland, Scott, Shannon, Stoddard, Stone, Sullivan, Taney, Texas, Vernon, Warren, Washington, Wayne, Webster, Worth, Wright.

Nebraska. Adams, Antelope, Arthur, Banner, Blaine, Boone, Boyd, Brown, Buffalo, Burt, Butler, Cass, Cedar, Chase, Cherry, Clay, Colfax, Cuming, Custer, Dakota, Dawes, Dawson, Dixon, Dodge, Douglas, Dundy, Fillmore, Franklin, Frontier, Furnas, Gage, Garden, Garfield, Gosper, Grant, Greeley, Hall, Hamilton, Harlan, Hayes, Hitchcock, Holt, Hooker, Howard, Jefferson, Johnson, Kearney, Keith, Keya Paha, Kimball, Knox, Lancaster, Lincoln, Logan, Loup, Madison, McPherson, Merrick, Morrill, Nance, Nemaha, Nuckolls, Otoe, Pawnee, Perkins, Phelps, Pierce, Platte, Polk, Redwillow, Richardson, Rock, Saline, Sarpy, Saunders, Scotts Bluff, Seward, Sheridan, Sherman, Sioux, Stanton, Thayer, Thomas, Thurston, Valley, Washington, Wayne, Webster, Wheeler, York.

New Mexico. Bernalillo, Chaves, Curry, De Baca, Eddy, Guadalupe, Lea, Mora, Quay, Roosevelt, San Miguel, Union, Valencia.

South Dakota. Jones, Stanley.

Tennessee. Bedford, Benton, Bledsoe, Bradley, Cannon, Carroll, Cheatham, Chester, Clay, Cocke, Coffee, Crockett, Cumberland, Decatur, DeKalb, Dickson, Dyer, Fayette, Franklin, Gibson, Giles, Grundy, Hamilton, Hardeman, Hardin, Hawkins, Haywood, Henderson, Henry, Hickman, Houston, Humphreys, Jackson, Lauderdale, Lawrence, Lincoln, Loudon, Macon, Madison, Marion, Marshall, Maury, McMinn, McNairy, Monroe, Montgomery, Moore, Obion, Overton, Pickett, Putnam, Rhea, Rutherford, Shelby, Smith, Stewart, Sumner, Tipton, Trousdale, Warren, Washington, Wayne, Weakley, White, Williamson, Wilson.

Texas. Anderson Andrews, Angelina, Aransas, Archer, Atascosa, Austin, Bailey, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Bosque, Bowie, Brazoria, Brazos, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Camp, Carson, Cass, Castro, Chambers, Cherokee, Clay, Cochran, Coke, Coleman, Collin, Collingsworth, Colorado, Comanche, Concho, Cooke, Coryell, Cottle, Crockett, Crosby, Dallam, Dallas, Dawson, Deaf Smith, Delta, Denton, De Witt , Dickens, Dimmitt, Donley, Duval, Eastland, Edwards, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Foard, Fort Bend, Franklin, Freestone, Frio, Gaines, Galveston, Garza, Goliad, Gonzales, Grayson, Gregg, Grimes, Guadalupe, Hale, Hall, Hamilton, Hardeman, Hardin, Harris, Harrison, Haskell, Hays, Henderson, Hidalgo, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hunt, Jack, Jackson, Jasper, Jefferson, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kenedy, Kent, King, Kinney, Kleberg, Knox, Lamar, Lamb, Lampasas, La Salle, Lavaca, Lee, Leon, Liberty, Limestone, Live Oak, Lubbock, Lynn, McCulloch, McLennan, McMullen, Madison, Marion, Matagorda, Maverick, Medina, Milam, Mills, Mitchell, Montague, Montgomery, Morris, Motley, Nacogdoches, Navarro, Nolan, Nueces, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Pecos, Polk, Potter, Presidio, Rains, Randall, Red River, Reeves, Refugio, Robertson, Rockwall, Runnels, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, San Saba, Scurry, Shackelford, Shelby, Smith, Somervell, Starr, Stephens, Stonewall, Swisher, Tarrant, Taylor, Terry, Throckmorton, Titus, Tom Green, Travis, Trinity, Tyler, Upshur, Upton, Uvalde, Van Zandt, Victoria, Walker, Waller, Washington, Webb, Wharton, Wheeler, Wichita, Wilbarger, Willacy, Williamson, Wilson, Wise, Wood, Young, Zapata, Zavala.

Utah. Box Elder.

Vermont. Addison, Chittenden, Franklin, Orleans.

Wyoming. Lincoln.

Puerto Rico. Arecibo, Camuy, Carolina, Gurabo, Hatillo, Isabela, Las Piedras, Naguabo, Quebradillas, San Sebastian.

§ 78.22 Noncertified Areas.

The following States, or specified portions thereof, are hereby designated as Noncertified Brucellosis Areas:

(a) *Entire States.*

Yellowstone National Park.

(b) *Specific Counties Within States.*

Florida. Okeechobee.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132, (21 U.S.C. 111–113, 114a–1, 115, 117, 120, 121, 125, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141, 9 CFR 78.25.)

The amendments impose certain restrictions necessary to prevent the spread of brucellosis in cattle and relieve certain restrictions presently imposed. They should be made effective promptly in order to accomplish their purpose in the public interests and to be of maximum benefit to persons subject to the restrictions which are relieved. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 27th day of February.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

E. A. SCHILF,
Acting Deputy Administrator, Veterinary Services.

[FR Doc. 78-5708 Filed 3-2-78; 8:45 am]

[4110-03]

Title 21—Food and Drugs

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The color additive lead acetate has

February 4, 1977 (42 FR 6992), the closing date was postponed until September 31, 1977, pending completion

ological studies do not associate lead, even at very high blood levels, with an increased evidence of malignancy." In support of its contention, Combe cites

low levels of lead can be tolerated in humans without demonstrable adverse effects, the exact levels of exposure

its use as a hair color. In all the studies, which were designed to assess lead acetate absorption in humans and

[4110-03]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

[Docket No. 76N-0366]

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

Provisional Listing of Lead Acetate; Postponement of Closing Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document postpones the closing date for the provisional listing of lead acetate for use as a component of hair colors. The new closing date will be December 31, 1978. This document is a final rule acting in response to the proposal concerning provisionally listed color additives published in the FEDERAL REGISTER of December 13, 1977 (42 FR 62497). This action provides for the continued marketing of lead acetate as a hair color while a short-term study to resolve definitively questions about percutaneous absorption of the hair color is completed and evaluated.

EFFECTIVE DATE: February 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Gerad L. McCowin, Bureau of Foods (HFF-334, Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204 202-472-5740.

SUPPLEMENTARY INFORMATION: The Color Additive Amendments of 1960 provide that a color additive may be approved only if data establish that it is safe under its permitted conditions of use. Section 203(b) of the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86-618; sec. 203, 74 Stat. 404-407 (21 U.S.C. 376 note)) provides, however, for the provisional listing of color additives in use in 1960 on an interim basis pending completion of scientific investigations needed for determinations about "permanent listing" in accordance with section 706 of the Federal Food, Drug, and Cosmetic Act (sec. 706, 74 Stat. 399-403 (21 U.S.C. 376)). Section 81.1 (21 CFR 81.1) of the color additive regulations designates those color additives that are provisionally listed.

The color additive lead acetate has been used as a hair color for many years, dating back to well before July 12, 1960. With passage of the Color Additive Amendments of 1960 on that day, lead acetate was deemed provisionally listed along with any other metallic salt and vegetable substance hair color then in use. Following the receipt of inquiries regarding the status of metallic salts and vegetable substances, i.e., whether they were eligible for consideration under the coal tar hair dye exemption from the provisions of the Amendments, a notice was published in the FEDERAL REGISTER of December 10, 1963 (28 FR 13374) advising that metallic salt ingredients (e.g., lead acetate preparations) or vegetable substances (e.g., henna) were considered color additives within the meaning of the Amendments. Noting that any ambiguity concerning the color additives status of metallic salts and vegetable substances as hair colorings had only recently been clarified through publication of the provisional color additive regulations, the notice stated "The Food and Drug Administration will not institute regulatory action against them solely because they are not provisionally or permanently listed as color additives for use on the hair, pending appropriate notice of their status in the FEDERAL REGISTER, which will appear after the material received in response to the notice has been reviewed." The only data received in response to this notice were in the form of a petition for henna, which was subsequently permanently listed for use as a hair color.

A second notice was issued in the FEDERAL REGISTER of January 31, 1973 (38 FR 2996) stating that only those metallic salts or vegetable substances for which petitions had been filed by July 30, 1973, could continue to be marketed. By regulation published in the FEDERAL REGISTER of March 15, 1973 (38 FR 7006) metallic salts and vegetable substances were added to the provisional list, with a closing date of December 31, 1973. Subsequently, a petition was received from the Committee of the Progressive Hair Dye Industry for the listing of lead acetate as a color additive in cosmetics that are hair colors. Notice of filing for this petition appeared in the FEDERAL REGISTER of June 29, 1973 (38 FR 17260). Lead acetate was specifically added to the provisional list, effective January 1, 1974, by a regulation published in the FEDERAL REGISTER of March 13, 1974 (39 FR 9657). In the following years, the closing date for the provisional listing of lead acetate was postponed pending completion of the review of the petition. In a regulation published in the FEDERAL REGISTER of February 4, 1977 (42 FR 6992), the closing date was postponed until September 31, 1977, pending completion of a short-term absorption study intended to establish the extent to which absorption occurs from the use of lead acetate as a hair dye. This was further postponed by a regulation published in the FEDERAL REGISTER of November 4, 1977 (42 FR 57686), until January 31, 1978, pending a final decision on whether additional studies would be capable of establishing safe conditions of use. A proposal was published in the FEDERAL REGISTER of December 13, 1977 (42 FR 62497) to postpone the closing date for lead acetate until April 30, 1979, pending the conduct of additional absorption studies intended to measure the degree of percutaneous absorption of lead acetate from its use as a component of hair color. The closing date for lead acetate was postponed until February 28, 1978, by a regulation published in the FEDERAL REGISTER of February 3, 1978 (43 FR 4596) to permit time to evaluate fully a comment to the proposal submitted by the Environmental Defense Fund (EDF) and a subsequent letter analyzing the EDF comment from Combe, Inc., a manufacturer of hair coloring preparations containing lead acetate, and other pertinent scientific material.

ENVIRONMENTAL DEFENSE FUND COMMENT

In its comment of January 19, 1978, on the proposal of December 13, 1977, The Environmental Defense Fund (EDF) contended that the closing date for the provisional listing should not be extended for lead acetate, "a dye which presents no health benefit, which causes cancer in animal studies, and which appears to enter the bloodstream through the skin."

In support of its contention that lead acetate is a carcinogen in animals, EDF cites two studies, Boyland et al. (Ref. 1), and Zawirska and Medras (Ref. 2), preliminary results from an NCI study (Ref. 3), and a statement by the International Agency for Research on Cancer (Ref. 4). Citing Cooper and Gaffey (Ref. 5), EDF also contends that "human epidemiological studies suggest a cause and effect relationship between exposure to lead and an increased incidence of cancer."

Secondly, EDF asserts that the results of three studies—Laug and Kunze (Ref. 6), Rastogi and Clausen (Ref. 7), and Marzulli, Watlington, and Maibach (Ref. 8)—"must be considered highly suggestive if not conclusive evidence of the absorption of lead acetate."

COMBE, INC., COMMENT

In its submission of January 27, 1978, analyzing the EDF comment, Combe asserts that "human epidemiological studies do not associate lead, even at very high blood levels, with an increased evidence of malignancy." In support of its contention, Combe cites a statement attributed to Dr. Cooper, one of the authors of the 1975 epidemiological study relied on by EDF. Dr. Cooper is reported to have stated that "• • • it is unjustified and unwarranted to conclude that lead is a carcinogen in man from this human evidence." Combe's letter contains no direct reference to the studies of lead acetate in animals relied on by EDF.

The second major point in Combe's letter deals with the question of lead absorption. Combe takes issue with EDF's conclusion that the evidence is "highly suggestive, if not conclusive" that lead acetate is absorbed. Combe asserts that the rat is not a good experimental model to predict absorption of lead acetate in man and that the Marzulli study (Ref. 8), relied on by EDF, "is so badly designed that it has no scientific value." Finally, Combe refers to data from a study involving the use of radioactive isotopes in support of its view that lead acetate is not absorbed through the skin. Combe concludes by stating that the safety of hair colorings containing lead acetate has been demonstrated.

DISCUSSION

Two questions must be considered before a decision can be made on the continued provisional listing of lead acetate and whether it can be listed permanently, for use as a hair color. First, the Commissioner of Food and Drugs must consider the toxic effects, including carcinogenicity, of lead acetate. Second, the likelihood that lead would be absorbed as a result of the use of lead acetate as a hair color must be considered.

The toxic effects of lead resulting from high levels of exposure are especially well established. Among the first effects noted historically were the severe and sometimes fatal consequences, such as anemia, palsy, and effects on the nervous system, which followed acute occupational exposure in the mining and smelting industries. Exposure to high concentrations of lead in paints, ink, pesticides, and plumbing have similarly been implicated in cases of severe poisoning in children.

Concern about lead in the environment has stimulated research on the possible effects of longer-term, low-level exposure that is more characteristic of the entire population. Depending on the levels of lead to which a person is exposed, the adverse effects exhibited range from anemia to damage to the kidney and to the nervous systems—the peripheral nervous system in adults, the central nervous system in children. Although it has long been assumed that exposure to low levels of lead can be tolerated in humans without demonstrable adverse effects, the exact levels of exposure that define those thresholds have not been clearly established. It is generally agreed that young children are the most critically sensitive population.

The Commissioner has evaluated the two studies of lead acetate in animals cited by EDF and the preliminary report from NCI. The Commissioner has also considered several other studies not cited by EDF, including Van Esch et al. (Ref. 9), Van Esch and Kroes (Ref. 10), and other studies referenced in IARC, "Monographs on the Evaluation of Carcinogenic Risk of Chemicals to Man," IARC 1:40 (1972).

These studies establish that experimental animals exposed to very high levels of lead salts in their diets have shown carcinogenic effects. The studies, therefore, raise questions relating to the possible carcinogenicity of lead to man. On the basis of these studies the International Agency for Research on Cancer (IARC), World Health Organization, has concluded—and the Commissioner agrees—that lead acetate is carcinogenic when adminstered at high dietary levels in rats and mice; lead subacetate and lead phosphate are carcinogenic in the rat. This same IARC report states, however, that lead does not appear to be a carcinogen in humans. The Commissioner agrees that present scientific evidence does not provide definitive support for a conclusion that lead is a human carcinogen; however, on the basis of the studies that show lead acetate to be a carcinogen in animals, the possibility that lead acetate may be absorbed percutaneously must be explored carefully.

As noted above, EDF cites a human epidemiological study on lead purporting to show an increased incidence of cancer among workers exposed to lead; Combe attributes a contradictory statement to one of the authors of the study cited by EDF. The epidemiological data on workers exposed to lead, of which the Commissioner is aware, are scant and, as the EDF and Combe statements indicate, contradictory. At this date, it is simply not possible to draw any firm conclusion about the possible cancer-producing effects of exposure to lead in humans, based on epidemiologic data.

The animal studies that show lead acetate to be a carcinogen are not directly relevant to the use of lead acetate as a hair color without data showing that absorption of lead acetate through the scalp may occur as a result of such use.

A number of studies have attempted to measure the possibility of percutaneous absorption of lead in humans. These studies do not resolve all the significant questions on the percutaneous absorption of lead acetate from its use as a hair color. In all the studies, which were designed to assess lead acetate absorption in humans and which are discussed in detail below, any apparent increased absorption of lead was minimal. In no case were the apparent values for blood or urinary lead levels raised above the normal range of lead expected in human blood or urine. Two points must be kept in mind in discussing these studies. First, any amount of lead that may have been absorbed percutaneously would have been extremely small; detection and quantification of these levels are difficult. Second, because humans will invariably be exposed to lead from a variety of sources and therefore can have a wide range of lead in their blood and urine, it is difficult to establish what amount of lead in the blood or urine, if any, might be due to percutaneous absorption of the hair color.

An unpublished report by Kendel, Pfitzer, and Kehoe, entitled "An Investigation of the Potentialities for the Absorption of Lead by the Users of a Lead-Containing Hair Dye" (Ref. 15), was submitted with the color additive petition for lead acetate. Kendel et al. studied the potential for the absorption of lead by 10 users of a hair dye formulation containing 2 percent lead acetate. They concluded that under experimental conditions simulating normal use of hair dyes, little, if any, lead absorption occurred. Urinary lead levels increased slightly in the test subjects, however, and, although this was attributed to dietary variations, the authors also concluded "that some lead may have been absorbed by some or, perhaps, by all of the subjects, as the result of the experimental exposure to lead cannot be disproved, but neither can it be affirmed • • •."

The results of a second absorption study, which Biometrics conducted with humans, was submitted to FDA on February 25, 1977. The agency initially considered this study as not showing any noteworthy difference in lead levels between the control groups and those using the lead acetate hair dye. Statistical analysis of the data from this study, however, indicated a statistically significant, but very slight, increase in the amount of lead in the blood from the use of a lead acetate hair color as compared with the controls. The level of percutaneous absorption that appeared to occur was not considered to be of concern as it related to general lead toxicity. In view of the data demonstrating lead acetate to be an animal carcinogen, however, it is necessary to consider whether the study indicates that any absorption might have occurred. The problem of background lead and the relative lack of sensitivity of the detection methods used do not permit resolution of that question. The petitioners have contended that their statistical analysis of the study did not show absorption of lead acetate in

grooming aids may contain mineral or vegetable oils, surfactants, and other substances that may increase the ab-

used in the study was made from a gauze pad containing 2 milliliters of the test solution. Thus, the actual

tion of an increase over normal lead background does not arise since there are no exogenous levels of radioactive

the agency by September 30, 1978.

II, Pub. L. 86-618; sec. 203, 74 Stat. 404-407 (21 U.S.C. 376 note)) and

tioners have contended that their statistical analysis of the study did not show absorption of lead acetate in human subjects. To support their contention, they advised that the study had been reviewed by a number of scientists recognized as experts in the area of lead absorption, who concluded that the study indicated that no absorption had occurred.

In discussing the absorption of lead, EDF refers to an as yet unpublished study by Marzulli, Watlington, and Maibach (Ref. 8) in which a 2-percent lead acetate hair color was applied to the hair of nine human subjects daily for 90 days. Combe criticized this study, stating the study was "• • • so badly designed that it has no scientific value." Marzulli et al. reported in their study that there was an increase in the levels of lead in pubic and axillary hair after the administration of a lead acetate hair color to the hair of the scalp. They concluded that this might indicate lead was absorbed through the skin of the scalp and then deposited in the growing hair of the axillary and pubic regions. No blood or urine measurements of lead absorption were made, however, nor were there measures taken to rule out exogenous deposition, a necessary precaution according to Baloh (Ref. 16). Generally, blood and urine levels are considered reliable indicators of systemic exposure to lead; lead levels in axillary and pubic hair are not generally considered reliable indicators of systemic uptake. The failure to measure blood or urine levels of lead in the subjects and the distinct possibility of exogenous deposition are significant shortcomings in this study and preclude reliance on it to draw any conclusions about the likelihood of lead absorption in humans.

In the FEDERAL REGISTER of December 13, 1977, the Commissioner proposed to extend the closing date of lead acetate because the available data from absorption studies indicated that although lead acetate absorption was unlikely under the test conditions, these data did not permit a conclusion about the safety of lead acetate generally for such use. The limitations of the study presented by the petitioners on February 25, 1977 included the use of a test formulation based on a water and alcohol vehicle, whereas other available formulations may contain other vehicles, e.g., oil-in-water or water-in-oil emulsions containing surfactants, mineral oil, or petroleum vehicles which may enhance percutaneous absorption of lead. In addition, the study did not investigate the possible effect of various hair-grooming aids on percutaneous absorption of lead. Hair-grooming aids may be used in conjunction with lead acetate hair dyes that do not themselves provide sufficient grooming. Because hair-grooming aids may contain mineral or vegetable oils, surfactants, and other substances that may increase the absorption of lead, human absorption studies with the lead acetate hair dyes must also investigate the potential effects of grooming aids.

In addition, the Commissioner found that the conditions of the submitted test were not sufficiently rigorous to provide a degree of exaggeration from which safe conditions of use could be determined. In particular, the Commissioner felt that actual conditions of use may be more extreme than those encountered in this test.

As a condition for the proposed extension, the Commissioner stated the need for additional data for lead acetate involving a human absorption study similar to that study already conducted by the petitioner. However, a new study would have required several necessary revisions in the protocol. First, the study would have involved a formulation or formulations that would permit extrapolation of the results to the variety of lead acetate hair dyes that are marketed and/or for which the petitioners seek listing for lead acetate. Second, any studies that would be conducted would include a degree of exaggeration to reflect also those conditions of use that exceed recommended usage but are still likely to occur.

The fact that lead acetate is an animal carcinogen requires that the most sensitive scientific methods be applied in determining whether lead acetate is absorbed percutaneously. The focus of the scientific inquiry is whether there is absorption and not whether any absorption that may occur raises the lead levels in blood or urine above the normal ranges found in humans. The available data show that lead acetate is absorbed by animals. The human data are conflicting, but suggest only trivial absorption. The issue of potential absorption of lead acetate when used as a hair color necessitates the use of sensitive analytical methods that could differentiate routes of lead uptake in the human body, in particular that lead uptake that may be the direct result of topical application. During the course of the review of the absorption data, Combe submitted a method that uses a radioactive isotope of lead chloride.

Combe has submitted a preliminary report of a radioactive-tracer study, using human volunteers, of the absorption of lead acetate. The investigator reported that the results showed no percutaneous uptake of lead under "idealized" conditions. Review of the preliminary report, however, shows significant deficiencies in the study. In particular, though the radioactivity of the test solution may have been sufficiently high in toto, the application used in the study was made from a gauze pad containing 2 milliliters of the test solution. Thus, the actual amount of lead in contact with the skin, and available for absorption, was very limited. This study could not be expected to be capable of showing the absorption of small quantities of lead. Because of the major deficiencies in the design of the preliminary study, the results obtained do not demonstrate that lead is not absorbed through the human skin from the use of lead acetate as a hair dye.

Because lead is ubiquitous in the environment, a major problem inherent in appraising the likelihood of percutaneous absorption of lead is the variable "background" level that is always present in humans. Humans are exposed to lead from numerous sources, including lead found unavoidably in food, drink, and air. As a result of the possible variation in these sources, body lead intakes have not been precisely defined. Furthermore, although it now appears that exposure levels to lead might be reducible in some cases, it is not possible to totally eliminate lead intake. Estimates based on scientific data indicate that lead intake for food sources for adults can range from 100 to 500 micrograms per day, with an average of approximately 250 micrograms (μg). Current Environmental Protection Agency (EPA) water standards allow a calculation of a maximum intake of approximately 100 μg/day for adults. Estimations of daily lead intake from air sources vary with the geographical location. In the urban setting, estimations of intake range from 20 μg to 400 μg/day, whereas the nonurban areas have an estimated intake of about 2 μg/day. With these estimated values for exposure to lead, it is possible to estimate a daily level of lead absorption of at least 30 μg, with the actual amount possibly being higher depending on the exposure to lead. These fluctuating values represent the "background" against which short-term skin penetration studies with lead acetate must be conducted. It has been the problem of measuring an incremental change against this fluctuating background that has formed the major stumbling block in the previous studies submitted to demonstrate no lead penetration. The question then becomes what level of increase over this background must be detectable to permit a conclusion that no significant absorption will occur from the use of lead acetate as a hair color.

Combe submitted the radioactive tracer study discussed above as an alternative way of determining absorption of lead where the problem of the fluctuating background could be eliminated. Radioactive tracer studies appear to present a method that avoids this difficulty because the question of an increase over normal lead background does not arise since there are no exogenous levels of radioactive lead.

The preliminary study submitted by Combe was capable of detecting 1 percent of the applied dose of radioactive lead. Such a level is not sufficiently sensitive, however, and therefore the results of that study do not establish that there was no absorption of lead. After considering the normal background level of lead exposure, the Commissioner concludes that any study intended to establish that use of lead acetate as a hair color does not result in significant percutaneous absorption of lead must include a method capable of detecting approximately 1 microgram of absorbed lead above and beyond the normal background.

Combe recently submitted a detailed protocol to FDA proposing to use the radioactive isotope ²¹²lead in conjunction with a sensitive radiation measurement instrument, "a whole body counter," capable of detecting radiation emissions throughout the human body. Combe believes that the study defined by the protocol will overcome the deficiencies that were present in the preliminary study and will support the extension of the closing date for lead acetate.

Basically, the protocol outlines a human absorption study using the radioactive isotope ²¹²lead in combination with nonradioactive lead acetate in vehicles composed of ingredients that simulate formulations of lead acetate hair colors or hair-grooming agents likely to be used in conjunction with the hair color formulations, including both hydro-alcoholic vehicles and vehicles of an oil emulsion composition. The measurements of lead absorption will include whole body counts with an instrument capable of a sensitivity of no less than 0.01 percent of the applied dose of lead where the applied dose contains ²¹²lead. The sensitivity of the method has been confirmed by FDA. In addition, blood and urine samples will be analyzed for measurable levels of radioactive and nonradioactive lead.

Having considered the preliminary study using a radioactive tracer technique and the Combe proposal for further tests of increased sensitivity and other pertinent data, the Commissioner concludes that reasonable cause has been shown to support postponement of the closing date for the provisional listing of lead acetate. A postponement of the closing date for lead acetate until December 31, 1978, will provide adequate time for submission of final reports of the required study and for the agency to take final action regarding lead acetate. The regulation set forth below will require that final reports of the study be submitted to the agency by September 30, 1978. The provisional listing of the color will be terminated if the reports are not submitted by that time, or if the Commissioner concludes at any time that continued provisional listing presents a hazard to public health.

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Therefore, under the transitional provisions of the Color Additive Amendments of 1960 to the Federal Food, Drug, and Cosmetic Act (Title II, Pub. L. 86-618; sec. 203, 74 Stat. 404-407 (21 U.S.C. 376 note)) and under authority delegated to the Commissioner (21 CFR 5.1), Part 81 is amended as follows:

§ 81.1 [Amended]

1. In § 81.1 *Provisional lists of color additives*, the entry for the closing date for the color additive "lead acetate" listed in paragraph (g) is changed to read "December 31, 1978."

2. In § 81.27 by revising paragraph (b) to read as follows:

§ 81.27 Conditions of provisional listing.

• • • • •

(b) The closing date for caramel is postponed until October 31, 1977, while a subchronic study is conducted and evaluated, and for lead acetate until December 31, 1978, while a short-term skin penetration study is conducted and evaluated, and subject to compliance with the requirements of this paragraph.

(1) At least one petitioner for caramel shall agree in writing by March 7, 1977 to undertake the subchronic study on the color additive.

(2) A full written report on the subchronic study for caramel shall be submitted by August 3, 1977, and on the short-term skin penetration study for lead acetate by September 30, 1978, to the Division of Food and Color Additives (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204.

(3) The petitioners undertaking the studies shall immediately notify the Division of Food and Color Additives of any findings that indicate a potential of the color additives to cause adverse effects.

• • • • •

Effective date: February 28, 1978.

(Sec. 203, 74 Stat. 404-407 (21 U.S.C. 376 note).)

Dated: February 28, 1978.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc. 78-5721 Filed 3-1-78; 10:00 am]

[4110-03]

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 77N-0085]

PART 101—FOOD LABELING

Saccharin and Its Salts

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document establishes a new regulation prescribing the

form, text, and manner of display of the notices required by statute to be

combination of red and black ink on white card stock at least 11 inches by

tion of consumers. Likewise, the Commissioner is of the opinion that the notice required by this regulation will

which food containing saccharin is sold, a notice shall be displayed in

(e.g., Brand X diet cola is displayed adjacent to Brand X cola and not clus-

establishments. The Commissioner advises that manufacturers who chose to

form, text, and manner of display of the notices required by statute to be displayed in retail establishments that sell food that contains saccharin. The notices will convey to consumers the warning statement about the risks to health presented by the use of saccharin which Congress has required to be on the label and labeling of saccharin-containing food.

EFFECTIVE DATES: This rule takes effect March 3, 1978. The warning notices must be displayed in retail establishments selling food containing saccharin on and after June 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Caesar Roy, Bureau of Foods (HFF-310), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-1186.

SUPPLEMENTARY INFORMATION: Section 4(b)(1) of the Saccharin Study and Labeling Act (SSLA) added section 403(p)(1) to the Federal Food, Drug, and Cosmetic Act ("the act"). That section requires that retail establishments in which food containing saccharin is sold (except restaurants) display a notice conveying to consumers the warning statement required to be on the label and labeling of food containing saccharin. In addition, the SSLA authorizes the Food and Drug Administration (FDA) to promulgate regulations prescribing the form, text, and manner of display of those notices "after an oral hearing but without regard to the National Environmental Policy Act of 1969 and chapter 5 of section 553 of title 5, United States Code."

In a proposal published in the FEDERAL REGISTER of December 9, 1977 (42 FR 62160), the Commissioner of Food and Drugs announced that the hearing contemplated by the SSLA would be held on January 12, 1978. The following trade associations made oral presentations at the hearing: the National Soft Drink Association, Calorie Control Council, National Association of Convenience Stores, Food Marketing Institute, and National Association of Retail Grocers. Also, the National Association of Chain Drug Stores and the National Retail Merchants Association presented written comments. A transcript of the hearing was made and may be obtained, along with copies of the written comments, from the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

The comments have been carefully considered. The main issues raised in the comments and the Commissioner's disposition of them are described below.

1. The Commissioner proposed to require the notices to be printed in a combination of red and black ink on white card stock at least 11 inches by 14 inches in size. A few comments suggested a smaller size notice; one comment proposed that the notices be printed all in black ink.

The alternatives to the proposal have been evaluated and in the Commissioner's opinion the size of the notice and the use of red and black ink are reasonable and necessary to ensure that the notices are highly visible to consumers. This aspect of the proposal is adopted without change.

2. The text and format of the notice were set forth in the December 9 proposal on page 62161 of the FEDERAL REGISTER. No comments were received about the text or format and they are adopted without change.

3. the Commissioner proposed to require generally that three notices be displayed in retail establishments. The proposal also stated, however, that fewer notices might be adequate in small convenience stores. Comments were especially solicited on this point and several were received.

The National Association of Convenience Stores (NACS) recommended that only one notice be required in stores that have 3,200 square feet or less of floor space—the maximum size of the typical convenience store. Additionally, NACS recommended that the one notice be posted near the soft drink section of the store. The National Association of Retail Grocers of the United States (NARGUS) stated that the average size of a convenience store is 2,500 to 3,000 square feet and that there are many small grocery stores that can be as large as 10,000 square feet. Therefore, NARGUS recommended that only one notice be required in retail establishments with 10,000 square feet or less, and that the store have the option to place the notice in any one of the three locations where notices are required to be displayed generally.

The National Association of Chain Drug Stores (NACDS) recommended that notices not be required near the entrance of retail establishments because consumers would frequently not see those notices and because, to the extent that they did notice them, consumers would be distracted and possibly injured when entering through the electronic turnstiles and gates, which are common in drug stores.

The Commissioner is not persuaded by those comments that argued for fewer than three notices in the typical retail establishment that sells food containing saccharin. Many stores, including drug stores, routinely display notices near the entrance of the store announcing sale items and calling the attention of consumers to other matters of interest. Presumably, store managers believe that those notices are effective in attracting the attention of consumers. Likewise, the Commissioner is of the opinion that the notice required by this regulation will be seen by many consumers, assuming that the notice is properly displayed near the entrance of a store. Further, the Commissioner believes that the likelihood is extremely remote that consumers may be injured because of seeing the saccharin warning notice as they enter stores through turnstiles or gates. Although the Commissioner hopes that the notice will attract the attention of consumers, it can hardly be said that the notice is so striking that consumers will be so engrossed in reading it that they will neglect to pay attention to a matter so basic as gaining entry to the store without injuring themselves.

The requirement for three notices to be posted in most retail establishments is adopted as proposed. Issues about the placement of those notices and the special rules that apply to small stores are discussed below.

4. The Commissioner has considered the comments that discussed the question of the number of notices in convenience stores and small retail establishments. The following rules will apply:

a. Stores with 3,200 square feet or less of floor space must display at least one notice. That notice must be located near the entrance to the store so that consumers are likely to see it upon entering.

b. Stores with more than 3,200 but less than 10,000 square feet of floor space must display at least two notices. One notice shall be located near the entrance to the store and the other in the area where diet soft drinks are sold, or if none are sold, where the largest quantity of saccharin-containing foods are located.

5. A comment from the National Retail Merchants Association (NRMA) pointed out that many department and specialty stores, which are not primarily in the business of selling food, nevertheless carry some foods containing saccharin. These stores usually have a section of the store devoted to "gourmet" food items, and it is there that the foods containing saccharin are displayed. Accordingly, the NRMA stated that it would be unnecessary and unfair to require department and specialty stores that incidentally sell some saccharin-containing food to display three notices.

The Commissioner agrees with the NRMA comment. Therefore, department and specialty stores whose primary business consists of selling nonfood items (i.e., the proportion of food sold is extremely small compared to other items) need display only one notice. Ordinarily these stores have a separate food area, and the notice shall be prominently displayed there. If the store has several "food areas" in

which food containing saccharin is sold, a notice shall be displayed in each area.

This provision applies only to department and specialty stores where the sale of food is clearly incidental to the main business in which the store is engaged. It does not apply to stores such as drug stores which often sell diet beverages and a range of other saccharin-containing foods. The latter stores are covered by the rules that apply generally to retail establishments selling food that contains saccharin.

6. An aspect of the proposal adopted below without major change is the requirement that the notices be displayed in the following three locations in retail establishments:

a. Near the entrance to the store and arranged so that consumers are likely to see the notice upon entering;

b. Centrally located in the aisle or area of the establishment in which soft drinks containing saccharin are sold. If there is more than one such place, then in the store area where the greatest quantity of diet soft drinks are sold; and

c. In the area in the establishment where the largest quantity of saccharin-containing foods (including saccharin sold in package form as a sugar substitute) are displayed, other than the area where diet soft drinks are displayed.

The Commissioner recognizes that the precise placement of the notices in retail establishments must be left to the discretion of the individual store manager. The locations specified in the regulation are intended to guide the placement of the notices, not to dictate their exact location in the thousands of retail establishments that sell food that contains saccharin. The Commissioner is confident that common sense and good judgment on the part of store managers will ensure that the notices are displayed prominently in the locations required by the regulation.

7. At the hearing on January 12, 1978, a question was raised about the phrase "centrally located" used in connection with the description of the placement of a notice in the area in the store where diet soft drinks are sold. The regulation does not require that the notice be affixed to a stand placed in the middle of the store aisle or area. Rather, it requires that in placing the notice, be it on a shelf, on a stand, or suspended from the ceiling (or in any other appropriate manner), the store manager locate it approximately in the middle, i.e., equidistant from the ends, of the area where the soft drinks are displayed. Because soft drinks containing saccharin are ordinarily displayed throughout the area (e.g., Brand X diet cola is displayed adjacent to Brand X cola and not clustered with all of the diet soft drinks), centrally locating the notice will make it visible to the largest possible number of consumers before they decide to purchase a particular type of soft drink.

8. One comment suggested that the notices should be posted only until the end of 1978, on the grounds that all foods and beverages that contain saccharin will bear the warning statement required by the SSLA by that time.

The Commissioner rejects the comment. The requirement to display the notices is intended to supplement the warning on the label of the food that contains saccharin. It was not intended by Congress to be an interim measure for the period required to get the warning on the labels. In the judgment of Congress and that of the Commissioner, the warnings on the label and the notices are necessary to ensure that consumers are alerted to the risks to health associated with the use of saccharin.

9. The Commissioner proposed to require that each manufacturer of food containing saccharin supply three notices to each retail establishment in which his products are sold. The Commissioner also proposed to require that on request, each manufacturer make additional notices available to any retail establishment. Finally, the Commissioner solicited comments on alternative arrangements for distributing the notices, "including joint distribution by several manufacturers or distribution through trade associations."

The National Soft Drink Association appeared at the hearing on January 12, 1978 and advised that the soft drink industry was in a unique position to supply notices to retail establishments because, unlike most food distribution, soft drinks are distributed directly to the retail establishment by representatives (driver-salesmen) of the manufacturer. This direct delivery system with frequent contact between the driver-salesman and retail establishment personnel will, said NSDA, enable the soft drink manufacturers to provide the notices to the retail establishments that stock their products. Also, the NSDA said that it will encourage its members to have their driver-salesmen carry additional notices with them so that they may restock retail establishments as necessary.

The Commissioner is encouraged by the spirit of cooperation reflected in the NSDA comment and accepts the NSDA plan as one of the alternative ways (codified in § 101.11 (21 CFR 101.11)) to supply the notices to retail establishments. The Commissioner advises that manufacturers who chose to supply notices in accordance with the system outlined by NSDA are under a continuing obligation to see that retail establishments have an adequate supply of notices. In this regard, the Commissioner encourages manufacturers to have their delivery personnel look for and ask about the notices and not merely carry additional notices to be supplied on request. The regulation does not require that each manufacturer leave three notices at each retail establishment if a retail establishment has already been supplied by another manufacturer. The establishment may properly decline to accept additional signs until they are needed.

10. The Calorie Control Council proposed a system for supplying the notices to retail establishments by manufacturers who do not customarily deliver their products directly to retail establishments. Other persons attending the hearing spoke favorably of the Calorie Control Council suggestion. The Commissioner agrees that it is a well-conceived plan, and it is adopted below, largely without change. The Calorie Control Council plan requires that a trade association that is coordinating a plan to distribute the notices file a statement with FDA about the program (see § 101.11(e)(1)). Those statements should be sent to the contact person listed above.

11. One comment asked whether a drug store chain has the option of having the notices delivered directly to its retail outlets, to the firm's warehousing operation, or to its corporate headquarters.

The Commissioner has no objection to a drug store chain or other group of retail establishments having the notices delivered to a location other than their retail outlets.

This regulation is exempt from the requirements of the National Environmental Policy Act of 1969. Accordingly, an environmental impact assessment has not been prepared.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 403(p), 409, and 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended, 91 Stat. 1453 (21 U.S.C. 321(s), 343(p), 348, and 371(a)), and the Saccharin Study and Labeling Act, 94 Stat. 1451-1454 (21 U.S.C. 301 note), and under authority delegated to the Commissioner (21 CFR 5.1), Part 101 is amended by adding new § 101.11 to read as follows:

§ 101.11 Saccharin and its salts; retail establishment notice.

Each retail establishment (except restaurants) that sells food that contains saccharin shall display the following notice in the locations set forth in paragraph (b) of this section:

SACCHARIN

department store, whose primary business consists of selling nonfood items (i.e., the proportion of food sold is ex-

(7) The association shall consult with participating manufacturers concerning the implementation and pro-

[4110-03]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND

(c) *Sponsor.* See No. 000859 in § 510.600(c) of this chapter.

(d) *Conditions of use.*—(1) *Amount*

SACCHARIN NOTICE

This store sells food including diet beverages and dietetic foods that contain saccharin. You will find saccharin listed in the ingredient statement on most foods which contain it. All foods which contain saccharin will soon bear the following warning:

USE OF THIS PRODUCT MAY BE HAZARDOUS TO YOUR HEALTH. THIS PRODUCT CONTAINS SACCHARIN WHICH HAS BEEN DETERMINED TO CAUSE CANCER IN LABORATORY ANIMALS.

THIS STORE IS REQUIRED BY LAW TO DISPLAY THIS NOTICE PROMINENTLY

Each notice shall be displayed prominently, in a manner highly visible to consumers (e.g., not shielded by other store signs or merchandise displays) and set up to reduce the likelihood that a notice will be torn, defaced, or removed.

(a) The notice shall be printed in a combination of red and black ink on white card stock and be at least 11 inches by 14 inches. The background of the bold heading, "Saccharin Notice," and the boxed warning statement shall be bright red and the lettering, white. The remaining background shall be white with black ink. All lettering shall be in gothic typeface.

(b) Except as provided in paragraph (c) of this section, each retail establishment that sells food that contains saccharin shall display a notice in each of the following three locations:

(1) Near the entrance to the retail establishment and arranged so that consumers are likely to see the notice upon entering.

(2) Centrally located in the area of the retail establishment in which soft drinks containing saccharin are displayed. If there is more than one such place, then in the area where the greatest quantity of diet soft drinks are displayed.

(3) In the area in the establishment in which the largest quantity of saccharin-containing foods (including saccharin sold in package form as a sugar substitute) are displayed, other than the area where diet soft drinks are displayed.

(c) The following are exceptions to the requirements set forth in paragraph (b) of this section:

(1) A retail establishment with 3,200 square feet or less of floor space shall display at least one notice. The notice shall be located near the entrance to the retail establishment and arranged so that consumers are likely to see the notice upon entering.

(2) A retail establishment with more than 3,200 but less than 10,000 square feet of floor space shall display at least two notices. The first notice shall be located near the entrance to the retail establishment and arranged so that consumers are likely to see the notice upon entering. The second notice shall be centrally located in the area of the retail establishment in which soft drinks containing saccharin are displayed. If there is more than one such place, then in the area where the greatest quantity of diet soft drinks are displayed. If diet soft drinks are not sold, then in the area of the establishment in which the largest quantity of saccharin-containing foods (including saccharin sold in package form as a sugar substitute) are displayed.

(3) A large retail establishment, e.g., department store, whose primary business consists of selling nonfood items (i.e., the proportion of food sold is extremely small compared to other items) shall display at least one notice. The notice shall be located in the area of the establishment in which foods containing saccharin are displayed. If there is more than one such area, then a notice shall be displayed in each area.

(d) Each manufacturer of saccharin-containing food who customarily delivers his products directly to retail establishments shall make available at least three notices to each retail establishment in which his products are sold. Each manufacturer shall also arrange to supply additional notices to a retail establishment that asks for them.

(e) Manufacturers who do not customarily deliver their saccharin-containing food products directly to retail establishments may fulfill their obligation to provide notices either in the manner set forth in paragraph (d) of this section or by participating in, and performing the actions required by, a trade association coordinated program that meets the following requirements:

(1) The coordinating association shall have filed notice of the program with the Food and Drug Administration, including the association's name, mailing address, telephone number, and contact person.

(2) Each manufacturer participating in the program shall file notice of its participation with the coordinating association, including its name, mailing address, telephone number, and contact person.

(3) The association shall ensure that retail establishment notices, in the form specified in this section, are readily available to participating manufacturers.

(4) The association shall take affirmative steps to coordinate with retail establishments, their trade associations, and the trade press to disseminate information about the applicable requirements of the Saccharin Study and Labeling Act and these regulations, the existence of the association coordinated program, and the availability of notices through the program.

(5) Each manufacturer shall, in consultation with the association, communicate with its contacts in the distributional chain to inform them of the applicable requirements of the Saccharin Study and Labeling Act and these regulations, and the continued availability of notices.

(6) Each manufacturer shall ensure that notices are promptly provided on request to any retail establishment carrying its products.

(7) The association shall consult with participating manufacturers concerning the implementation and progress of the program and shall disseminate information to facilitate the conduct of the program based on such consultations or consultation with the Food and Drug Administration.

(8) The association shall, on request, permit the Food and Drug Administration to have access to the participation notices filed by manufacturers, samples showing the form of retail establishment notices made available, and typical communication materials used by the association in the course of the program.

Effective date. This regulation shall be effective March 3, 1978; warning notices must be displayed in retail establishments selling food containing saccharin on or after June 1, 1978.

(Secs. 201(s), 403(p), 409, and 701(a), Pub. L. 717, 52 Stat. 1055 as amended, 72 Stat. 1784–1788 as amended, 91 Stat. 1453 (21 U.S.C. 321(s), 343(p), 348, 371(a)) and Pub. L. 95-203, 91 Stat. 1451–1454 (21 U.S.C. 301 note).)

Dated: February 28, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-5722 Filed 3-1-78; 10:02 am]

[4110-03]

[1505-01]

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 75N-0249]

PART 314—NEW DRUG APPLICATIONS

Procedures for Filing Over Protest

Correction

In FR Doc. 77-34039, appearing at page 60737 in the issue for Tuesday, November 29, 1977, on page 60739, middle column, lines 11 through 13 of § 314.110(e) reading: "proved, or the applicant shall be given hearing pursuant to § 314.200 on the written notice of an opportunity for a"; should read as follows: "proved, or the applicant shall be given written notice of an opportunity for a hearing pursuant to § 314.200 on the".

[4110-03]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Febantel Paste

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a new animal drug application (NADA) filed by Bayvet Division of Cutter Laboratories, Inc., providing for use of an anthelmintic paste in treating horses for intestinal worms.

EFFECTIVE DATE: March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert A. Baldwin, Bureau of Veterinary Medicine (HFV-114), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: Bayvet Division of Cutter Laboratories, Inc., P.O. Box 390, Shawnee Mission, Kans. 66201, filed an NADA (107-345V) providing for use of febantel paste orally or in the feed of horses, foals, and ponies for the removal of large strongyles, sexually mature and immature ascarids, pinworms, and the various small strongyles.

In accordance with the freedom of information regulations and § 514.11(e)(2)(ii) of the animal drug regulations, a summary of safety and effectiveness data and information submitted to support the approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFC-20), Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, Monday through Friday, from 9 a.m. to 4 p.m., except on Federal holidays.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 520 (21 CFR Part 520) is amended by adding new § 520.903 to read as follows:

§ 520.903 Febantel paste.

(a) *Chemical name.* Dimethyl [[2-[(methoxyacetyl)amino]-4-(phenylthio)phenyl] carbonimidoyl]bis- [carbamate].

(b) *Specifications.* The drug is a paste containing 45.5 percent febantel.

(c) *Sponsor.* See No. 000859 in § 510.600(c) of this chapter.

(d) *Conditions of use.*—(1) *Amount.* Six milligrams per kilogram (2.73 milligrams per pound) of body weight in horses.

(2) *Indications for use.* For removal of large strongyles (*Strongylus vulgaris, S. edentatus, S. equinus*); ascarids (*Parascaris equorum*—sexually mature and immature); pinworms (*Oxyuris equi*—adult and 4th stage larva); and the various small strongyles in horses, foals, and ponies.

(3) *Limitations.* (i) The paste may be administered on the base of the tongue or well mixed into a portion of the normal grain ration.

(ii) Do not administer to pregnant mares.

(iii) For animals maintained on premises where reinfection is likely to occur, retreatment may be necessary. For most effective results, retreat in 6 to 8 weeks.

(iv) Not for use in horses intended for food.

(v) Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism.

Effective date: March 3, 1978.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: February 22, 1978.

FRED J. KINGMA,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 78-5443 Filed 3-2-78; 8:45 am]

[4210-01]

Title 24—Housing and Urban Development

CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER [FEDERAL HOUSING ADMINISTRATION], DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-78-511]

MORTGAGE INSURANCE AND HOME IMPROVEMENT LOANS

Changes in Interest Rates

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: The change in the regulations increases the FHA maximum interest rate on homes. The change is necessitated by the current realities of high discounts and declining use of FHA financing in the mortgage

market. This action by HUD is designed to bring the maximum interest

[4310-02]

annum with respect to mortgages insured on or after February 28, 1978.

Title 25—Indians

shown on the last quarterly annuity roll. Any fraction of a headright, however, shall be valued as to the first two

§ 191.1 which states that "the Area Director, or his delegated representative, is authorized to fix as well as to ap-

FOR FURTHER INFORMATION:

Cecil A. Wright, Bureau of Indian

market. This action by HUD is designed to bring the maximum interest rate on home mortgages into line with other interest rates currently prevailing in the mortgage market.

EFFECTIVE DATE: February 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Chester C. Foster, Director, Financial and Economic Analysis Division, Office of Policy Development and Evaluation, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-8694.

SUPPLEMENTARY INFORMATION: The following miscellaneous amendments have been made to this chapter to increase the maximum interest rates which may be charged on mortgages insured by this Department. (The maximum interest rate on home mortgage loan and insurance programs has been raised from 8.50 percent to 8.75 percent.) The Secretary has determined that such changes are immediately necessary to meet the needs of the mortgage market, and to prevent speculation in anticipation of a change, in accordance with her authority contained in 12 U.S.C. 1709-1, as amended. The Secretary has, therefore, determined that advance notice and public procedure are unnecessary and that good cause exists for making this amendment effective.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD Handbook 1390.1. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410.

It is hereby certified that the economic and inflationary effects of these amended regulations have been carefully evaluated in accordance with Executive Order No. 11821.

Accordingly, Chapter II is amended as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

Subpart A—Eligibility Requirements

1. In § 203.20 paragraph (a) is amended to read as follows:

§ 203.20 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 8.75 percent per annum with respect to mortgages insured on or after February 28, 1978.

* * * * *

2. In § 203.74 paragraph (a) is amended to read as follows:

§ 203.74 Maximum interest rate.

(a) The loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 8.75 percent per annum with respect to loans insured on or after February 28, 1978.

* * * * *

PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE

Subpart C—Eligibility Requirements—Individual Properties Released From Project Mortgage

1. In § 213.511 paragraph (a) is amended to read as follows:

§ 213.511 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 8.75 percent per annum with respect to mortgages insured on or after February 28, 1978.

* * * * *

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

Subpart A—Eligibility Requirements—Individually Owned Units

1. In § 234.29 paragraph (a) is amended to read as follows:

§ 234.29 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 8.75 percent per annum with respect to mortgages insured on or after February 28, 1978.

* * * * *

(Sec. 3(a), 82 Stat. 113; 12 U.S.C. 1709-1; sec. 7d, Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).)

Issued at Washington, D.C., February 28, 1978.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 78-5706 Filed 3-2-78; 8:45 am]

[4310-02]

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

PART 73—ELECTION OF OFFICERS OF THE OSAGE TRIBE

Amendment

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The Osage Tribal Council has requested that the regulations be amended. The amendment would eliminate the requirement that an Osage voter using an absentee ballot execute a certificate and have two persons witness his signature, and would change the voting age from 21 to 18 years of age to comply with the 26th Amendment to the United States Constitution which is self-executing.

EFFECTIVE DATE: March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Ms. Patricia Simmons, Division of Tribal Government Services, Branch of Tribal Relations, Telephone No. 202-343-4045, who is primary author of this document.

SUPPLEMENTARY INFORMATION: This notice is published in exercise of rulemaking authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 230 DM 2.

The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9).

Part 73, Subchapter G, Chapter 1 of Title 25 of the Code of Federal Regulations is amended by revising §§ 73.21, 73.41 and 73.43. These revisions are made pursuant to the authority contained in the Act of March 2, 1929 (45 Stat. 1481).

Accordingly, 25 CFR Part 73 is amended as follows:

1. By revising § 73.21 to read as follows:

§ 73.21 General.

Only members of the Osage Tribe who will be eighteen years of age or over on election day and whose names appear on the quarterly annuity roll at the Osage Agency as of the last quarterly payment immediately preceding the date of election will be entitled to hold office or vote for any tribal officers. Each such voter shall be entitled to cast one ballot and each ballot shall have exactly the same value as the voter's headright interest shown on the last quarterly annuity roll. Any fraction of a headright, however, shall be valued as to the first two decimals only unless such interest is less than one-hundredth of a share, then it shall have its full value.

2. By revising § 73.41(e) to read as follows:

§ 73.41 Absentee voting.

* * * * *

(e) The absentee voter shall enclose the inner envelope in the outer envelope and after sealing same shall execute the certificate imprinted thereon which certificate shall be in the following form:

I will be unable to appear at the poll in Pawhuska, Okla., on the —— day of June 19— and have enclosed my ballot for the election of officers of the Osage Tribe.[1]
(Voter's signature) ————.

The outer envelope shall be preaddressed as follows: Supervisor, Osage Election Board, Post Office Box ——, Pawhuska, Okla. 74056.

3. By revising § 73.43(b) to read as follows:

§ 73.43 Canvass of election returns.

* * * * *

(b) Should any ballot be marked for more than one principal chief or assistant chief or for more than eight councilmen, only that section of the ballot wherein the error was made shall be declared void and the remaining section or sections shall be counted in the same manner as other ballots. Absentee ballots shall be declared void when items other than the ballot are enclosed in the inner envelope, the voter fails to sign the statement appearing on the outer envelope, and for failure to seal the inner envelope or enclose the inner envelope in the outer envelope. Votes cast for individuals whose names are not printed on the official ballot shall not be counted.

RICK LAVIS,
Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 78-5661 Filed 3-2-78; 8:45 am]

[4310-02]

SUBCHAPTER R—IRRIGATION PROJECTS

PART 191—OPERATION AND MAINTENANCE

Clarification

FEBRUARY 14, 1978.

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Final rule.

SUMMARY: The purpose of this rule change is to clarify paragraph (e) § 191.1 which states that "the Area Director, or his delegated representative, is authorized to fix as well as to announce, by proposed and final public notice published in the FEDERAL REGISTER, * * *." The language of proposed and final notice has been misinterpreted as meaning a proposed and final rule. Notices are not published as proposed and final public notice, but only as a notice.

EFFECTIVE DATE: March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Arlo V. Dalrymple, 202-343-4005.

SUPPLEMENTARY INFORMATION: This rule is published under authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs in 230 DM2.

The primary author of this document is Charles P. Corke, General Engineer (Hydrology), Bureau of Indian Affairs, Department of the Interior, Washington, D.C. 20245, telephone 202-343-2287.

25 CFR Part 191 is amended by amending § 191.1(e) to read as follows:

§ 191.1 Administration.

* * * * *

(e) The Area Director, or his delegated representative, is authorized to fix as well as to announce, by notice published in the FEDERAL REGISTER, the annual operation and maintenance assessment rates for the irrigation projects or units within his area of responsibility. In addition to the rates, the notices will include such * * *

FORREST J. GERARD,
Assistant Secretary, Indian Affairs.

[FR Doc. 78-5608 Filed 3-2-78; 8:45 am]

[4310-02]

PART 221—OPERATION AND MAINTENANCE CHARGES

Uintah Indian Irrigation Project, Utah

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Final rule.

SUMMARY: The purpose of this final regulation is to delete provisions from Title 25 of the Code of the Federal Regulations that are being replaced by a Public Notice to be published in the FEDERAL REGISTER simultaneously with this regulation.

EFFECTIVE DATE: This regulation shall become effective March 1, 1978.

FOR FURTHER INFORMATION:

Cecil A. Wright, Bureau of Indian Affairs, Phoenix Area Office, Phoenix, Ariz., telephone 602-261-4184.

SUPPLEMENTARY INFORMATION: Pursuant to § 191.1(e) of Part 191, Chapter 1, Subchapter T, of Title 25 of the Code of Federal Regulations, this final regulation is published under authority delegated to the Assistant Secretary for Indian Affairs by the Secretary of the Interior in 230 DM 1 and redelegated by the Assistant Secretary of Indian Affairs to the Area Directors, in 10 BIAM 3.

§§ 221.77, 221.78, 221.79, 221.80, and 221.81 [Deleted].

Chapter I, Subchapter T of Title 25, Code of Federal Regulations is amended by deleting §§ 221.77, 221.78, 221.79, 221.80, and 221.81 of Part 221.

NOTE.—It is hereby certified that the economic and inflationary impacts of this final regulation have been carefully evaluated in accordance with Executive Order 11821.

CHARLES WORTHMAN,
Acting Area Director.

[FR Doc. 78-5669 Filed 3-2-78; 8:45 am]

[6560-01]

Title 40—Protection of Environment

[FRL 848-2]

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Revision of Authority Citations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action amends the authority citiations for Standards of Performance for New Stationary Sources and National Emission Standards for Hazardous Pollutants. The amendment adopts the redesignation of classification numbers as changed in the 1977 amendments to the Clean Air Act. As amended, the Act formerly classified to 42 U.S.C. 1857 et seq. has been transferred and is now classified to 42 U.S.C. 7401 et seq.

EFFECTIVE DATE: March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Don R. Goodwin, Emission Standards and Engineering Division, Environmental Protection Agency, Re-

search Triangle Park, N.C. 27711 telephone 919-541-5271.

[6820-24]

Title 41—Public Contracts and

ment under Executive Order 11821 and OMB Circular A-107.

cost of processing the billings, and not related on a percentage basis to the

money to a provider for his accounts receivable which the provider has as-

(g) *Payment to factors specifically prohibited.* Payment under the plan

search Triangle Park, N.C. 27711 telephone 919-541-5271.

SUPPLEMENTARY INFORMATION: This action is being taken in accordance with the requirements of 1 CFR 21.43 and is authorized under section 301(a) of the Clean Air Act, as amended, 42 U.S.C. 7601(a). Because the amendments are clerical in nature and affect no substantive rights or requirements, the Administrator finds it unnecessary to propose and invite public comment.

Dated: February 24, 1978.

DOUGLAS M. COSTLE,
Administrator.

Parts 60 and 61 of Chapter I, Title 40 of the Code of Federal Regulations are revised as follows:

1. The authority citation following the table of sections in Part 60 is revised to read as follows:

AUTHORITY: Sec. 111, 301(a) of the Clean Air Act as amended (42 U.S.C. 7411, 7601(a)), unless otherwise noted.

§§ 60.10 and 60.24 [Amended]

2. Following §§ 60.10 and 60.24(g) the following authority citation is added:

(Sec. 116 of the Clean Air Act as amended (42 U.S.C. 7416)).

§§ 60.7, 60.8, 60.9, 60.11, 60.13, 60.45, 60.46, 60.53, 60.54, 60.63, 60.64, 60.73, 60.74, 60.84, 60.85, 60.93, 60.105, 60.106, 60.113, 60.123, 60.133, 60.144, 60.153, 60.154, 60.165, 60.166, 60.175, 60.176, 60.185, 60.186, 60.194, 60.195, 60.203, 60.204, 60.213, 60.214, 60.223, 60.224, 60.233, 60.234, 60.243, 60.244, 60.253, 60.254, 60.264, 60.265, 60.266, 60.273, 60.274, 60.275, and Appendices A, B, C, and D [Amended]

3. The following authority citation is added to the above sections and appendices:

(Sec. 114, Clean Air Act is amended (42 U.S.C. 7414)).

4. The authority citation following the table of sections in part 61 is revised to read as follows:

AUTHORITY: Sec. 112, 301(a) of the Clean Air Act as amended [42 U.S.C. 7412, 7601(a)], unless otherwise noted.

§ 61.16 [Amended]

5. Following § 61.16, the following authority citation is added:

(Sec. 116, Clean Air Act as amended (42 U.S.C. 7416)).

§§ 61.09, 61.10, 61.12, 61.13, 61.14, 61.15, 61.24, 61.33, 61.34, 61.43, 61.44, 61.53, 61.54, 61.55, 61.67, 61.68, 61.69, 61.70, 61.71, and Appendices A and B [Amended]

5. The following authority citation is added to the above sections and appendices:

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414)).

[FR Doc. 78-5347 Filed 3-2-78; 8:45 am]

[6820-24]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER E—SUPPLY AND PROCUREMENT

[FPMR Amendment E-216]

PART 101-25—GENERAL

Energy Conservation Policy

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: Pursuant to the provisions of section 381(a)(i) of Pub. L. 94-163, Energy Policy and Conservation Act, this directive amends GSA regulations to include an energy policy statement. This directive takes the necessary action to comply with the public law by providing a basis for the promulgation of future directives with respect to energy conservation in supply management.

EFFECTIVE DATE: March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. John I. Tait, Director, Regulations and Management Control Division, Office of the Executive Director, Federal Supply Service, General Services Administration, Washington, D.C. 20406, 703-557-1914.

The table of contents for Part 101-25 is amended by revising the following entry:

Sec.
101-25.112 Energy conservation policy.

Subpart 101-25.1—General Policies

Section 101-25.112 is revised as follows:

§ 101-25.112 Energy conservation policy.

(a) Agency officials responsible for procurement, management, and disposal of personal property and nonpersonal services shall ensure that pertinent procurement and property management documents reflect the policy set forth in (b), below, which has been established pursuant to Pub. L. 94-163, Energy Policy and Conservation Act.

(b) With respect to the procurement or lease of personal property or nonpersonal services, which in operation consume energy or contribute to the conservation of energy, executive agencies shall promote energy conservation and energy efficiency by being responsive to the energy efficiency and/or conservation standards or goals prescribed by the U.S. Government.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c)).

NOTE.—The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: February 16, 1978.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 78-5579 Filed 3-2-78; 8:45 am]

[4110-35]

Title 42—Public Health

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 449—SERVICES AND PAYMENT IN MEDICAL ASSISTANCE PROGRAMS

Prohibition Against Reassignment of Provider Claims

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final rule.

SUMMARY: This is a technical change in existing Medicaid regulations which prohibit reassignment of claims for payment by Medicaid providers. It: (1) Expands the prohibition to cover all providers, (2) allows reassignments to government agencies and reassignments under court orders, and (3) adds a restriction on payment to billing services. These changes are required by Pub. L. 95-142, enacted October 25, 1977, and are intended to prevent fraudulent claims.

DATE: Effective October 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Estelle Seldowitz, 202-245-0233.

SUPPLEMENTARY INFORMATION: Current regulations for the Medicaid program (Title XIX, Social Security Act) prohibit reassignments and use of factors by health care providers other than those reimbursed on a reasonable cost basis (42 CFR 449.31). Section 2(a)(3) of Pub. L. 95-142, the Medicare-Medicaid Anti-Fraud and Abuse Amendments, amended section 1902(a)(32) of the Act to expand this prohibition to all providers.

The current requirements also prohibit a power of attorney arrangement under which the check is payable to the provider, but cashed by a factor. Pub. L. 95-142 now incorporates a power of attorney prohibition. However, the statute allows reassignments to government agencies and reassignments resulting from court orders as an exception to this requirement.

The existing regulation also specifies that provider payments for billing services must be reasonably related to the cost of processing the billings, and not related on a percentage basis to the dollar amounts to be billed or collected. The statute broadens this rule by adding that "compensation * * * is not dependent upon the actual collection of any such payment."

Accordingly, the regulation is revised to: (1) Expand the prohibition against reassignment to all providers, (2) allow power of attorney arrangements with respect to government agencies and court orders, and (3) incorporate the new restriction on payments for billing services.

States are expected to enforce this regulation by taking appropriate administrative action against those providers who continue to use factors.

The Department has found that good cause exists for dispensing with notice and opportunity for public comment, since this regulation only makes technical changes, required by the statute, to existing regulations.

These provisions are effective by law on the date of enactment, October 25, 1977. However, the Department recognizes the need to allow States lead time to amend their State plans and revise administrative procedures, and has had a long-standing policy of setting effective dates with this need in mind. Therefore, States will have until 90 days after publication of these regulations to submit plan amendments. During that period the State Medicaid agencies are expected to comply with these statutory amendments, but the Department will not take any compliance actions under section 1904 of the Act which would otherwise apply.

These prohibitions against factoring are already in effect under the Medicare program as well, by virtue of the amendments to Title XVIII made by sections 2(a) (1) and (2) of Pub. L. 95-142. The Medicare amendments also became effective on the date of enactment, October 25, 1977. Although the statute is in effect, the Department plans to issue a Notice of Proposed Rulemaking that will propose additional administrative enforcement procedures for public comment.

42 CFR 449.31 is revised to read as follows:

§ 449.31 Prohibition against reassignment of claims to benefits.

(a) *Meaning of terms.* For purposes of this section:

(1) "Facility" is a hospital or other institution which furnishes health care services to inpatients.

(2) "Organized health care delivery system" is a public or private organization for delivering health services. The system may include, but is not limited to, a clinic or a group practice prepaid capitation plan.

(3) "Factor" is an organization, i.e., collection agency or service bureau, which, or an individual who, advances money to a provider for his accounts receivable which the provider has assigned or sold, or otherwise transferred, including transfer through the use of power of attorney, to this organization or individual. The organization or individual receives an added fee or a deduction of a portion of the face value of the accounts receivable in return for the advanced money. For purposes of this regulation, the term "factor" does not include business representatives, such as billing agents or accounting firms as described in paragraph (e) of this section.

(b) *State plan requirements.* A State plan for medical assistance under title XIX of the Social Security Act must provide that the requirements of paragraph (c) through (g) of this section are met.

(c) *To whom payment is made.* Except as specified in paragraphs (d), (e), and (f), no payment under the State plan for any care or service furnished to an individual by a health care provider shall be made to anyone other than that individual (if he is eligible to receive this payment under § 449.32 of this chapter) or the provider.

(d) *Assignments.* Payment may be made in accordance with an assignment from the provider to a government agency or an assignment made pursuant to a court order.

(e) *Business agents.* Payment may be made to a business agent (such as a billing service or accounting firm) who renders statements and receives payments in the name of the provider, if the agent's compensation for this service is:

(1) Reasonably related to the cost of processing the billings,

(2) Not related on a percentage or other basis to the dollar amounts to be billed or collected, and

(3) Not dependent upon the actual collection of payment.

(f) *Individual practitioners.* With respect to physicians, dentists, or other individual practitioners, payment may be made:

(1) To the employer of the physician, dentist, or other practitioner if the practitioner is required as a condition of his employment to turn over his fees to his employer; or

(2) To the facility in which the care or service was provided, if there is a contractual arrangement between the practitioner and that facility whereby the facility submits the claim for reimbursement; or

(3) To a foundation, plan, or similar organization, including a health maintenance organization, which furnishes health care through an organized health care delivery system if there is a contractual arrangement between the organization and the person furnishing the service under which the organization bills or receives payments for such person's services.

(g) *Payment to factors specifically prohibited.* Payment under the plan for any care or service furnished to an individual by a provider shall not be made to or through a factor, either directly, or by virtue of a power of attorney given by the provider to the factor.

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).)

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program.)

NOTE.—The Health Care Financing Administration has determined that this document does not require preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: January 26, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: February 25, 1978.

JOSEPH A. CALIFANO, JR.,
Secretary.

[FR Doc. 78-5680 Filed 3-2-78; 8:45 am]

[4110-35]

PART 450—ADMINISTRATION OF MEDICAL ASSISTANCE PROGRAMS

Reasonable Cost Reimbursement of Inpatient Hospital Services

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final rule.

SUMMARY: This rule revises and clarifies current rules and adds new requirements for State payment methods for inpatient hospital services under State Medicaid programs (medical assistance, title XIX of the Social Security Act). State agencies, hospitals, and other interested parties have raised questions about use of Medicare and other methods, and about public review of proposed changes in State payments. The rule clarifies Federal criteria requiring States to provide for public and provider involvement.

EFFECTIVE DATE: June 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Joseph E. Dougherty, 202-245-0048.

SUPPLEMENTARY INFORMATION: Notice of proposed rule making (NPRM) was published on September 3, 1976 (41 FR 37341). The purposes of the proposed rule were to clarify the current regulation on reasonable cost reimbursement of inpatient hospital services under Medicaid, and, where State payment methods differ from those used under Medicare, to add new conditions of approval.

The purpose and effect of the current Medicaid regulations (42 CFR

450.30, previously 45 CFR 250.30(a)(2)) is to require Medicaid State plans to provide for payment of the reasonable cost of inpatient hospital services either in accordance with the Medicare standards and principles, or by other methods and standards meeting specified requirements and approved in advance of implementation by regional officials. We originally intended, and have consistently interpreted the regulations, to require that the State payment plan meet one of these two alternatives, and to require any State which does not have an approved alternative plan to use the Medicare standards and principles. One purpose of the amended regulations thus is simply to state this requirement more clearly and directly. The basis for this is the principle that those affected by the regulation should have no doubt as to what is required.

ALTERNATIVE PAYMENT METHODS—PUBLIC AND PROVIDER REVIEW

The regulation requires that States which do not adopt the Medicare standards and principles (1) allow public review and comment on proposed payment methods before they become effective, and (2) under specified circumstances, permit individual Medicaid providers of inpatient hospital services to obtain administrative review of payment rates applied to them. Such review is to help insure fair and reasonable payment rates by affording those affected by the payment rates an opportunity to present data opposing the rate formulas and rates. At the same time, the regulations do not require the State to undergo the considerable expense of full administrative hearings, although a State is free to do so if it chooses. We do not believe that the incremental benefits of a full hearing are sufficiently large, compared to the incremental costs, to justify mandating such hearings.

PROVIDER ORGANIZATION INVOLVEMENT

The regulation omits the statement contained in the current regulation that:

> State title XIX agencies are encouraged to involve representative provider organizations in the development of reasonable cost payment plans and to work closely with title V grantees, the Social Security Administration, and other Governmental purchasers of hospital care in an attempt to achieve coordination in reimbursement methods within States.

It will remain our policy to encourage States to involve provider organizations in developing reasonable cost payment plans. However, the general statement should not be included in the regulation itself, as it is merely a recommendation and not a specific requirement.

CEILING PAYMENT DETERMINATIONS

The regulation also omits section (a)(2)(iii) of the current regulation, which is redundant (i.e., that payments may not exceed the amount which would be determined under the Medicare cost reimbursement principles). It remains a requirement of the regulation that reimbursement under alternative payment plans not exceed that which would be determined as reasonable cost using the Medicare standards and principles. However, since this requirement is already contained in paragraphs (a)(2)(i) and (ii), its repetition in paragraph (iii) is unnecessary and confusing.

COMMENTS RECEIVED

Of the nineteen comments received, the specific major concerns expressed and our response are as follows:

GENERAL PROVISIONS

Comment. Reimbursement should be on the basis of charges rather than costs.

Response. Section 1902(a)(13)(D) of the Social Security Act requires that reimbursement be made on the basis of reasonable costs.

Comment. The revisions on public review and appeals (proposed 45 CFR 250.30(a)(2)(ii) (D) and (E)) should apply also to skilled nursing and intermediate care facility (SNF and ICF) services.

Response. This regulation applies only to inpatient hospital services. 42 CFR 450.30 (previously 45 CFR 250.30(a)(3)) deals with SNF/ICF reimbursement and public comment provisions.

Comment. The deleted provision encouraging States to involve representative provider organizations in the development of reasonable cost plans should be reinstated. The regulation should be withdrawn.

Response. As explained in the NPRM preamble, it will remain our policy to encourage States to involve provider organizations in the development of reimbursement plans. However, since it is a recommendation and not a requirement, the paragraph remains deleted. The regulation is required to implement the statute.

Comment. State plan approval should be a function of the Secretary rather than the Regional Commissioner.

Response. The Secretary has delegated approval authority for all State plan provisions to the Regional Medicaid Director.

Comment. Each hospital should be allowed to select either the Medicare method or the State's alternative method.

Response. This conflicts with the principal intent of the statute which is to permit States to develop an alternative plan of reimbursement to be implemented statewide.

Comment. Alternative reimbursement plans should be approved only on experimental bases at first.

Response. The statute allows States to use alternative methods acceptable to the Department and does not require a trial period. Where States wish to begin on an experimental basis, section 222 of Pub. L. 92-603 and section 402 of Pub. L. 90-248 provide authority.

Comment. What recourse would providers have in the event that a State implemented a plan without approval?

Response. Providers could bring the State's action to the Department's attention so that the Department could take appropriate measures to achieve compliance. In addition, providers could bring suit for injunctive relief in Federal court and may have other remedies available in State court, depending upon State law.

Comment. The word "allowable" should be substituted for "reasonable" wherever it appears in reference to charges or costs as it is "unreasonable" of the Federal government not to pay its full share of costs or charges. Individuals who are covered by commerical insurance or who pay their own bills do pay their full share.

Response. Payment of reasonable costs is a statutory requirement (section 1902(a)(13)(D) of the Act), and all payment plans must meet HEW criteria in the area.

Comment. Where States set hospital rates through statewide rate review programs, that rate should be the payment rate for the Medicaid agency.

Response. States may submit such rate review programs for approval as alternative methods of payment under Medicaid. There is no authority in the Act for the Secretary to delegate his approval authority to a State rate review commission or similar public agency.

Comment. The regulations should provide a third option in reimbursement, permitting States to view the health care delivery system as one statewide system covering Medicare, Medicaid, and private health care.

Response. These regulations are statutorily confined to reimbursement under Medicaid.

Comment. Why is this proposed regulation characterized in part as one of clarification of previous regulations?

Response. The changes clarify the State's option to use Medicare reimbursement methods or another type of approval payment plan.

Comment. The regulations should mandate States to involve provider organizations in the development of alternative plans.

Response. Although we will continue to encourage provider involvement, a requirement that States must, in all instances, involve provider organizations could effectively impede the development of any alternative plan. Furthermore, the regulations already provide for public review and comment (450.30(a)(2)(iv)(D)).

Comment. There should be no retroactive application of the revisions of this regulation.

Response. There will be no retroactive application of these revisions.

Comment. The regulations should provide a way of measuring the reasonableness of any departure from the Medicare reasonable cost guidelines.

Response. Reasonable cost represents a range of data and not one precise amount. The statute leaves States free to establish separate reasonable cost systems to be judged on their own reasonableness rather than on an item-by-item justification of departures from Medicare. The Medicare formula is only one of a number of acceptable reasonable cost formulas.

Comment. There should be ongoing monitoring and evaluation of alternative plans.

Response. The regulation requires that documentation be available for evaluation of approved plans.

Comment. Allowing two systems of reimbursement is undesirable. Allowing a lower level of reimbursement for Medicaid could cause a double standard of care. One system of reimbursement should be used.

Response. Section 1902(a)(13)(D) of the Social Security Act permits States to develop alternative systems of reimbursement to that used by Medicare.

PAYMENT STANDARDS

Comment. HEW should add language to insure that costs attributable to the program will not be borne by others and vice versa. HEW should add language to insure that all necessary and proper direct and indirect expenses, however widely they vary from institution to institution, are allowable. The above comments also should be added to proposed § 250.30(a)(2)(ii) (criteria for approval of alternative reimbursement plans).

Response. The regulation reiterates the statutory requirement that the State plan provide for payment of the reasonable cost of inpatient hospital services. The Department interprets this requirement to mean that the State's payment methods and standards should provide for payment for all "necessary and proper items of expense" (other wise called "allowable costs") at a reasonable rate, that is, at a rate adequate to reimburse providers who operate economically and efficiently. The comment seems to indicate that the regulation should ensure payment in full of the costs incurred by each provider for allowable cost items, even if such costs are unreasonable. The statute does not permit this.

CRITERIA FOR APPROVAL OF ALTERNATIVE REIMBURSEMENT PLANS

Comment. It appears inconsistent to provide incentives for efficiency and economy and yet require that reimbursement not exceed Medicare standards and principles of reimbursement.

Response. Under the statute (section 1902(a)(13)(D) of the Social Security Act), reimbursement cannot exceed the "reasonable cost" under Medicare. Within this limitation, a State could develop a reimbursement concept that does not embrace the Medicare methodology but does permit a hospital to retain all or a portion of a differential between actual costs and agreed-upon rates of reimbursement. This is the case, for example, where a prospective rate is established, so that there exists an incentive not to incur costs in excess of the established rate.

Comment. Criteria for approval of alternative plans should be broadened to require that plans consider intensity of service, change in service, case mix, patient mix, volume, and type of hospital.

Response. The criteria already identified are minimal criteria to be met and are not intended to be all-inclusive. In the preamble to the Notice of Proposed Rule Making, we invited comments regarding additional criteria, and some suggestions were received. We intend to identify additional specific criteria and publish them for comment in a Notice of Proposed Rule Making.

Comment. Add language that prohibits setting payment rates on a statewide class-basis.

Response. The Regional Office will consider the reasonableness of the various elements of a proposal in its approval process. In a small or homogeneous State, a statewide class might be reasonable.

Comment. There should be exceptions to the Medicare upper limit for payment provision where there are few Medicaid providers in a community, to assure provider availability.

Response. The Medicare upper limit is required by section 1902(a)(13)(D) of the Act.

Comment. The regulation should provide for revocation of approval where a plan is unworkable or inconsistent with the program's goals and objectives.

Response. Meeting the approval criteria indicates that the plan is consistent with the program's goals and objectives.

Comment. The regulation should require payments on a timely basis and interim payments reflecting current costs.

Response. Pub. L. 95-142 contains provisions for timeliness of payment which will be incorporated in regulations. Interim payments requirements will not be added at this time; however, they will be considered for inclusion in the NPRM on specific critera mentioned above. Alternative plans providing interim payments will be reviewed to determine whether the interim payment approximates the projected ultimate reasonable cost.

INCENTIVES FOR EFFICIENCY AND ECONOMY

Comment. How does a State adopt standards and principles which provide incentives for efficiency and economy? This provision is so vague that it appears unenforceable.

Response. There are various approaches to meeting this criterion. One approach, for example, would be to establish prospective payment rates; another approach would be to establish rates based on comparisons with peer groups. In keeping with the flexibility intended for development of alternative plans, we do not mandate specific methods.

OPPORTUNITY FOR PUBLIC REVIEW

Comment. Clarify that providers and other interested members of the public and persons affected must have an opportunity to receive notice of and to comment on a State's proposed method of payment prior to its submission to HEW for approval.

Response. The comment is accepted in principle and the regulation has been clarified accordingly.

Comment. Require State agencies to explain how they resolve problems raised by comments received prior to implementation of a plan.

Response. The recommendation is accepted in principle and the regulation has been revised accordingly.

Comment. The provision for public comment before plans are effective should be deleted. This provision could be used to delay or prevent implementation of an alternative plan.

Response. The Department considers it appropriate to afford providers and other members of the public who will be affected by alternative plans for reimbursement an opportunity to comment on the plans before implementation. The State can limit the comment period so that it does not delay or prevent implementation of an alternative plan.

Comment. The regulations should provide for a formal notification to providers regarding contemplated rate changes and an opportunity for providers and other interested members of the public to comment. Further, States should maintain a written record of comments, including the consideration given them and disposition of them, for transmittal to the Regional Commissioner.

Response. The Department considers a requirement for comment opportunity on State changes excessively bur-

densome on State agencies, particularly since the regulation does require public notice and opportunity for comment on the methods and standards to be used in establishing rates. It also provides for appeals of specific rates in certain circumstances. These requirements should afford adequate protection of the providers' interests.

The proposal for a written record relating to comments has been adopted; however, the record will be retained in the State agency since it is unnecessary for the Regional Office to maintain these State files.

CRITERIA FOR STATE ADMINISTRATIVE REVIEW OF RATES

Comment. The minimum criteria for obtaining review of established payment rates are too limited.

Response. The "Notice of Proposed Rule Making" previously mentioned would include this area also.

Comment. There should be full and prompt administrative review of reimbursement policies, rates, and decisions made under the plan.

Response. The regulations as revised require an opportunity for comment on proposed rate formulas and specify certain opportunities for review of rates. For the reasons set forth above, a State may, but is not obliged to, hold full administrative hearings. Administrative hearings entail expenses which are not necessarily warranted by the incremental benefits.

Comment. Actual time standards should be set for State administrative review of rates rather than merely stating that it must be "prompt".

Response. This is an element to be considered in the review process for approving or disapproving the plan.

Comment. The regulation should provide for administrative review of payment rates with no restrictions as to reasons for such review requests.

Response. Efficient administration requires that the basis for State review of rates be specific.

Comment. It is unclear whether the appeals provision affords review of rates only where the State has not used the specified criteria in setting the rates or whether the provision also affords review of the rates where the State has applied the criteria.

Response. The regulation has been changed to clarify that States must provide appeals where the identified costs were not considered in the rate calculation or where incorrect data were used or an error made in the calculation. A State is free to provide appeals in additional circumstances if it wishes.

Comment. The Medicare regulation at what was 20 CFR 405.490ff (now 42 CFR 405.1801ff) should be adopted to allow provider appeals from the State level to HEW.

Response. This would be inappropriate. Medicare is Federally-administered; Medicaid is State-administered and thus the provider's recourse is to the State.

Comment. Revise provision to permit providers to obtain a formal prompt administrative review of the payment rates established where providers have reason to believe that the revised rates will result in considerably financial hardship to them. Should there be a failure to reconcile their differences, the Secretary or the Regional Medicaid Director should resolve the matter by approving or disapproving the revised plan within 60 days of the plan's submission.

Response. The regulation sets minimum standards for appeals; States may also provide for appeals on the basis of hardship. The State has the authority to determine its methodology under section 1902(a)(13)(D). Once approved, the Secretary has authority only to bring compliance actions where a State is not following approved methodology. The Secretary has no authority to assume a position of adjudication in disputes between providers and the State.

DOCUMENTATION

Comment. The regulation should provide that States submit documentation on a periodic basis to permit evaluation of alternative systems.

Response. The current requirement that States maintain documentation is sufficient; it is available to HEW as necessary. In addition, the regulation has been rewritten to simplify the language. It also incorporates in paragraph (a)(2)(iii) and (iv) other final amendments published on November 22, 1976, in the FEDERAL REGISTER (41 FR 51401), cross-referring to new Medicare cost limit regulations under section 223 of Pub. L. 92-603 (42 USC 1395x, section 1861(v)(1) of the Social Security Act).

Accordingly, 42 CFR 450.30 is amended to incorporate the changes discussed above.

Section 450.30, Part 450, Chapter IV, Title 42, of the Code of Federal Regulations is amended by revising paragraph (a)(2) to read as follows:

§ 450.30 Reasonable charges.

(a) *State plan requirements.* A State plan for medical assistance under title XIX of the Social Security Act must:

* * * * *

(2) Provide for payment of the reasonable cost of inpatient hospital services under methods and standards developed by the State. The methods and standards must be approved by the Regional Medicaid Director in advance of implementation, and must meet the following requirements:

(i) They must be consistent with the capital expenditure provisions of section 1122 of the Social Security Act, as specified in § 450.210 of this chapter, if the State has an agreement under those provisions; and

(ii) They must incorporate the title XVIII standards and principles for determining reasonable cost reimbursement in 42 CFR 405.402 through 405.455 or an acceptable alternative.

(iii) If the title XVIII standards and principles are adopted, they must be modified to:

(A) Exclude the inpatient routine nursing salary cost differential;

(B) Determine payment applying the limits established by the Secretary pursuant to 42 CFR 405.460;

(C) For cost reporting periods beginning after December 31, 1973, base payment on whichever is lower: the reasonable cost of the services or the hospital's customary charges to the general public for the services; and

(D) In the case of public hospitals rendering services free or at a nominal charge, base payments on fair compensation computed in accordance with the regulations for title XVIII.

(iv) If the title XVIII standards and principles are not adopted, the alternative methods and standards must meet all of the following criteria:

(A) They provide incentives for efficiency and economy.

(B) They provide for reimbursement which is no higher than the reimbursement which would be calculated under title XVIII as modified by paragraph (a)(2)(iii) of this section.

(C) They assure adequate participation of hospitals in the State's title XIX program and the availability of hospital services of high quality to title XIX recipients.

(D) They afford providers and other interested members of the public an opportunity to review and comment on proposed methods and standards before the methods and standards are submitted as State plan amendments.

(E) They provide for maintaining a written record of the comments received and the consideration given to them.

(F) At a minimum, they allow individual providers of inpatient hospital services an opportunity to submit evidence and obtain prompt administrative review of payment rates established for them if:

(*1*) Costs of capital improvements were approved by a State's planning agency after the payment rates were set, and those costs were not considered in the rate calculation; or

(*2*) Costs of improvements were incurred due to certification or licensing requirements established after the payment rates were set, and those costs were not considered in the rate calculation; or

(*3*) Incorrect data were used or an error was made in the rate calculation.

(G) They provide for documentation adequate to permit evaluation of experience under the approved reimbursement plan.

* * * * *

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).)

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program.)

NOTE.—The Health Care Financing Administration has determined that this document does not require preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: November 3, 1977.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: February 25, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 78-5679 Filed 3-2-78; 8:45 am]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21411; RM-2879; RM-2914]

PART 73—RADIO BROADCAST SERVICES

Changes Made in Table of Assignments; FM Broadcast Station in Denair and Los Banos, Calif.

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action herein assigns a Class B FM channel as a substitute for a Class A FM channel in Los Banos, Calif. The Class B channel would provide additional FM service to a number of residents in the western portion of Merced County. A Class A channel is being assigned to Denair, Calif., to bring a first full-time local aural broadcast service to that community.

EFFECTIVE DATE: April 5, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau 202-632-7792.

SUPPLEMENTAL INFORMATION:

REPORT AND ORDER—PROCEEDING TERMINATED

Adopted: February 20, 1978.

Released: February 27, 1978.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Los Banos and Denair, Calif.). Docket No. 21411; RM-2879; RM-2914. 42 FR 55107.

1. The Commission has before it the Notice of Proposed Rule Making, adopted October 4, 1977, 42 FR 55107, inviting comments on two proposals; (1) substitution of Class B FM Channel 284 for Channel 240A at Los Banos, Calif., and assignment of Channel 240A to Denair, Calif.; or (2) assignment of Channel 285A to Denair and retaining Channel 240A at Los Banos. The Notice was issued in response to petitions submitted by John R. McAdam ("KLBS"), licensee of Stations KLBS and KLBS-FM, Los Banos, and Denair Broadcasting Co. ("DBC"). KLBS and DBC filed supporting comments in which they reaffirmed their intention to use the channels, if assigned to their respective communities. No oppositions to the proposals were received.

2. Los Banos (pop. 9,188), in Merced County (pop. 104,629)[1] is located approximately 161 kilometers (100 miles) southeast of San Francisco. It is presently served by one daytime-only AM station (KLBS) and one FM station (KLBS-FM, Channel 240A), both licensed to petitioner.

3. Denair (pop. 1,128), an unincorporated community in Stanislaus County (pop. 194,506), is located 144 kilometers (90 miles) east of San Francisco, and 23 kilometers (14 miles) southeast of Modesto, Calif. Denair has no local aural broadcast service.

4. Information concerning both Denair and Los Banos and their need for FM assignments was set forth in the Notice and need not be reiterated herein.

5. Channels 284 and 240A could be assigned to Los Banos and Denair, respectively, in conformity with the minimum distance separation requirements, provided the transmitter site for Channel 284 is located approximately 8 kilometers (5 miles) southeast of Los Banos. Even so, the station would be able to provide the required signal over the community. Three communities (Merced, pop. 22,670; Atwater, pop. 11,640; and Bishop, pop. 3,498) would be precluded as a result of the assignment to Los Banos. Merced has two FM stations and two AM stations, one of which operates full time; Bishop has one FM and one full-time AM station; and Atwater has no local aural broadcast service but is located only 11 kilometers (7 miles) from Merced. No preclusion study was required for Denair since the proposal is for a first Class A FM assignment. A Roanoke Rapids/Anamosa study indicates that KLBS's proposed Class B operation would provide first FM service to 1,879 persons in an area of 298 square kilometers (115 square miles) and a second FM service to 4,350 persons in an area of 479 square kilometers (185 square miles). No first and second aural service would be provided.

6. We believe the public interest would be served by the change in the Los Banos assignment from Channel 240A to Channel 284 since it would permit Station KLBS-FM to improve its operating facilities and enable it to provide first and second FM service to the surrounding area. Preclusion would not be an impediment since two of the three communities in the precluded area have local AM and FM stations and the third community is located within the service area of stations in Merced which has various aural facilities. The change in the assignment at Los Banos will allow Channel 240A to be used in Denair, thus providing that community with its needed first full-time local aural broadcast service.

7. The Notice stated that if no other person expressed an interest in the proposed assignment of Channel 284 at Los Banos, the license of Station KLBS-FM could be modified to the Class B channel.[2] Since no other party has expressed an interest in the proposed channel, Channel 284 will be substituted for Channel 240A at Los Banos, Calif., and the license of Station KLBS-FM will be modified. Station KLBS-FM on Channel 284 must be located at a site complying with the minimum distance separation requirements.

8. Accordingly, pursuant to authority contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, and § 0.281 of the Commission's Rules, *It is ordered,* That effective April 5, 1978, the FM Table of Assignments (§ 73.202(b) of the Rules) is amended with respect to the following communities:

City:	Channel No.
Denair, Calif	240A
Los Banos, Calif	[1]284

[1] Any application for this channel must specify maximum power and antenna height or equivalent.

9. *It is further ordered,* That pursuant to section 316(a) of the Communications Act of 1934, as amended, the outstanding license held by John R. McAdam for Station KLBS-FM, Los Banos, Calif., is modified, effective April 5, 1978, to specify operation on Channel 284 instead of Channel 240A. The licensee shall inform the Commission in writing no later than April 5, 1978, of its acceptance of this modification. Station KLBS-FM may continue to operate on Channel 240A for 1

[1] Population figures are taken from the 1970 U.S. Census.

[2] Cheyenne, Wyoming, 62 FCC 2d 63 (1976).

year from the effective date of this action or until it is ready to operate on Channel 284, or the Commission sooner directs, subject to the following conditions:

(a) At least 30 days before commencing operation on Channel 284 the licensee of Station KLBS-FM shall submit to the Commission the technical information normally required of an applicant for Channel 284, including that connected with a change in the transmitter site;

(b) At least 10 days prior to commencing operation on Channel 284, the licensee of Station KLBS-FM shall submit the measurement data required of an applicant for a broadcast station license; and

(c) The licensee of Station KLBS-FM shall not commence operation on Channel 284 without prior Commission authorization.

10. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; (47 U.S.C. 154, 155, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-5605 Filed 3-2-78; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-37]

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

[9 CFR Parts 317 and 318]

MEAT OR POULTRY PRODUCTS

Proposed Net Weight Labeling; Extension of Time for Comments

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Proposed Rule; Extension of time for comments.

SUMMARY: On December 2, 1977, the Department published in the FEDERAL REGISTER (42 FR 61279) a proposal providing uniform labeling requirements and uniform procedures for determining compliance with label statements of net contents of containers of meat products or poultry products. Comments were to be received on or before March 2, 1978. The comment period is hereby extended until June 2, 1978.

DATES: Comments must be received on or before June 2, 1978.

ADDRESSES: Send written comments to: Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Agriculture Building, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

W. H. Dubbert, Acting Director, Technical Services, Food Safety and Quality Service, U.S. Department of Agriculture, Room 4911, South Agriculture Building, Washington, D.C. 20250. Area Code 202-447-7470.

SUPPLEMENTARY INFORMATION: Since publication of the proposal, the Department has received a number of requests for an extension of the comment period in order that pertinent technical and economic information and data, which may prove useful in the consideration of the proposal, can be compiled and analyzed. The requests in some instances did not suggest specific extension periods. However, the requests from the National Broiler Council, the American Meat Institute, the National Turkey Federation, and the Poultry and Egg Institute indicate they will require an additional 6 months to assemble and submit pertinent technical information and data on the economic impact of the proposal's provisions. The Administrator has considered the requests in relation to the need to promulgate final regulations as soon as possible to assist State and local governments and concluded 3 months is a reasonable extention of time for the presentation of additional comments and data.

Accordingly, the Administrator has determined to reopen and extend the period of time within which written data, views, or arguments may be submitted.

The Department is especially interested in receiving further information concerning the application of the proposed inspection procedures to bulk-packed meat and poultry products.

In particular, the Department solicits comments and data for consideration in adjusting Table I and Table II in the December 2, 1977, proposal to better deal with this class of product.

Finally, the Department is interested in receiving additional information concerning the economic effects to be anticipated by the implementation of the proposal's provisions.

In order that information and data be available to the fullest extent possible in the consideration of this proposal, the period for the submission of comments of any nature concerning this proposal is hereby extended until June 2, 1978.

Done at Washington, D.C., on March 1, 1978.

ROBERT ANGELOTTI,
Administrator,
Food Safety and Quality Service.

[FR Doc. 78-5739 Filed 3-2-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 231, 240, 241, 249]

[Release Nos. 33-5908, 34-14508; File Nos. S7-726, S7-661]

FOREIGN PRIVATE ISSUERS

Proposed Rules, Forms and Guidelines; Extension of Comment Period

AGENCY: Securities and Exchange Commission.

ACTION: Extension of comment period on proposed rules, forms and guidelines.

SUMMARY: The Securities and Exchange Commission today announced extension of the period of comment on its solicitation of public views concerning proposals to adopt or amend certain rules, forms and guidelines relating to disclosure by certain foreign private issuers of securities (Release No. 33-5860, November 2, 1977 (42 FR 58676, November 10, 1977) 34-14128, November 2, 1977 (42 FR 58684, November 10, 1977)). The period for submitting comments on these proposals was due to have expired on February 28, 1978. However, the Commission has received requests for additional time within which to prepare and submit comments thereon. Accordingly, the comment period has been extended to April 30, 1978.

DATES: Comments should be submitted on or before April 30, 1978.

ADDRESS: Comments should refer to Files S7-661 and S7-726 and should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. All comments will be available for public inspection.

FOR FURTHER INFORMATION CONTACT:

Carl T. Bodolus, 202-755-1505 or Charles L. Evans, 202-755-1802, Office of International Corporate Finance, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 28, 1978.

[FR Doc. 78-5713 Filed 3-2-78; 8:45 am]

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 109]

[Docket No. 78N-0048]

AFLATOXINS IN SHELLED PEANUTS AND PEANUT PRODUCTS USED AS HUMAN FOODS

Proposed Tolerance: Reopening of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Commissioner of Food and Drugs is reopening the comment period on the proposed tolerance for aflatoxins in consumer peanut products. The additional comment period is to provide an opportunity for public comment on a report on the assessment of estimated risk resulting from aflatoxins in consumer peanut products and other food commodities.

DATE: Comments by April 17, 1978.

ADDRESS: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Joseph V. Rodricks, Bureau of Foods (HFF-3), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-1564.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of December 6, 1974 (39 FR 42748), the Commissioner of Food and Drugs proposed a formal tolerance under section 406 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346) for aflatoxins in shelled peanuts and peanut products used as human foods without further processing. The proposal would set a 15 parts per billion (ppb) tolerance for total aflatoxins ($B_1+B_2+G_1+G_2$) in these products.

The proposal was accompanied by a detailed preamble, which described the history and current status of the aflatoxin problem and the reasons for the Commissioner's concern. The preamble also explained the scientific and technological basis for the proposal. Public comment was solicited on this proposal, and the comments recieved are currently being considered in preparation for the issuance of a final regulation. In the course of preparing a final regulation, the agency has developed a report containing assessments of the risks from consumption of aflatoxin-contaminated foods.

Although direct proof that aflatoxins ($B_1+B_2+G_1+G_2$) induce cancer in humans does not exist, laboratory tests have demonstrated that they are animal carcinogens. Further, epidemiology studies in Thailand and parts of Africa show a significant relationship between liver cancer incidence and estimated levels of aflatoxin intake. Unfortunately, the direct risks, if any, to humans from ingestion of aflatoxins cannot be measured. Therefore, risk assessments must rely on mathematical treatment of animal toxicology and epidemiology studies. Such risk assessments have been made by FDA.

This notice informs interested persons of the availability of this report on risk assessment concerning aflatoxins in consumer peanut products and other food commodities. The risk assessment will be relied on by FDA in issuing a final regulation. Interested persons are invited to comment on the risk assessment in the context of the proposal to establish a tolerance of 15 ppb for aflatoxins in consumer peanut products.

The report on assessment of estimated risk resulting from aflatoxins in consumer peanut products and other food commodities is available for public examination in the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857. Requests for single copies may be made in writing to the Hearing Clerk, at the above address.

Interested persons may, on or before April 17, 1978 submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this report on the assessment of estimated risk resulting from aflatoxins in consumer peanut products and other food commodities and the proposed tolerance. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Recieved comments may be seen in the above-named office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 28, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-5729 Filed 3-2-78; 8:45 am]

[4110-03]

[21 CFR Parts 172, 182, and 184]

[Docket No. 77N-0039]

ALGINATES

Affirmation of GRAS Status With Certain Limitations; Correction

AGENCY: Food and Drug Administration.

ACTION: Proposal correction.

SUMMARY: This document corrects the proposal to affirm the GRAS status of alginates. The last sentence in the economic impact determination paragraph at the end of the proposal inadvertently states that an assessment is on file with the Hearing Clerk. This document corrects the language in that paragraph.

EFFECTIVE DATE: March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

John A. Richards, Federal Register Writer (HFC-11), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-2994.

SUPPLEMENTARY INFORMATION: In FR Doc. 78-2302 appearing at page 3725 in the FEDERAL REGISTER of Friday, January 27, 1978, on page 3728 in the right column, the second full paragraph is corrected to read as follows:

The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 (as amended by Executive Order 11949) and OMB Circular A-107.

Dated: February 23, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-5444 Filed 3-2-78; 8:45 am]

[4110-03]

[21 CFR Parts 182 and 184]

[Docket No. 77N-0259]

SUCCINIC ACID

Proposed Affirmation of GRAS Status as a Direct Human Food Ingredient; Correction

AGENCY: Food and Drug Administration.

ACTION: Proposal Correction.

SUMMARY: This document corrects the proposal to affirm the GRAS status of suecinic acid. The last sentence in the economic impact determination paragraph at the end of the proposal inadvertently states that an assessment is on file with the Hearing Clerk. This document corrects the language in that paragraph.

EFFECTIVE DATE: March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

John A. Richards, Federal Register Writer (HFC-11), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-2994.

SUPPLEMENTARY INFORMATION: In FR Doc. 78-2723 appearing at page 4635 in the FEDERAL REGISTER of February 3, 1978, on page 4637 in the left column, the second full paragraph is corrected to read as follows:

The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 (as amended by Executive Order 11949) and OMB Circular A-107.

Dated: February 23, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-5442 Filed 3-2-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 862-8]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revisions to the Rules and Regulations of the Monterey Bay Unified Air Pollution Control District in the State of California

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: Revisions to the Monterey Bay Unified Air Pollution Control District (APCD) rules and regulations have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board as revisions to the California State implementation plan (SIP). The intended effect of these revisions is to update the rules and regulations and to correct deficiencies in the SIP. The EPA invites public comments on these rules, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted on or before April 3, 1978.

ADDRESSES: Comments may be sent to:

Regional Administrator, Attn.: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section (A-4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco Calif. 94105.

Copies of the proposed revisions are available for public inspection during normal business hours at the EPA Region IX office at the above address and at the following locations:

Montery Bay Unified Air Pollution Control District, P.O. Box 487, 1270 Natividad Road, Salinas Calif. 93901.

California Air Resources Board, 1709 11th Street, Sacramento Calif. 95814.

Public Information Reference Unit, Room 2922, EPA Library, 401 M Stret SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

David R. Souten, Chief, California SIP Section, EPA, Region IX, 415-556-7288.

SUPPLEMENTARY INFORMATION: The California Air Resources Board submitted on October 3, 1977, proposed revisions to the following rules:

RULE 215—MONTEREY BAY UNIFIED AIR POLLUTION CONTROL DISTRICT CONTINUOUS EMISSIONS MONITORING

RULE 422—BURNING OF WOOD WASTES

The State also submitted on October 13, 1977, rules and regulations for the Monterey Bay Unified APCD CONCERNING NEW SOURCE PERFORMANCE STANDARDS (NSPS) and national emission standards for hazardous air pollutants (NESHAPS). These regulations implement sections 111 and 112 of the Clean Air Act, and are not appropriate for inclusion in a State implementation plan under section 110 of the Act. Therefore, these regulations will be neither approved nor disapproved by EPA as part of an applicable implementation plan. However, under the appropriate provisions of sections 111 and 112, delegation of authority to implement and enforce the NSPS and NESHAPS standards has already been granted to the State on behalf of the Monterey Bay Unified APCD.

The FEDERAL REGISTER notice for this delegation of authority was published on September 11, 1975 (40 FR 42194).

A rule concerning new source review was submitted on October 13, 1977, but will be addressed in a separate FEDERAL REGISTER notice.

Pursuant to section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations submitted as SIP revisions. The Regional Administrator hereby issues this notice setting forth these revisions, including rule deletions caused thereby, as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Comments received on or before April 3, 1978 publication of this notice will be considered. Comments received will be available for public inspection at the EPA Region IX Office and the EPA Public Information Reference Unit.

AUTHORITY: Sections 110 and 301(a) of the Clean Air Act as amended (42 U.S.C. §§ 7410 and 7601(a)).

Dated: January 27, 1978.

PAUL DE FALCO,
Regional Administrator.

[FR Doc. 78-5545 Filed 3-2-78; 8:45 am]

[6560-01]

[40 CFR Part 52]

[FRL 863-1]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revisions to the Rules and Regulations of the Ventura County Air Pollution Control District in the State of California

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: Revisions to the Ventura County Air Pollution Control District (APCD) rules and regulations have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board (ARB) as revisions to the California State Implementation Plan (SIP). The intended effect of the revisions is to update the rules and regulations, and to correct certain deficiencies in the SIP. The EPA invites public comments on these proposed rules, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted on or before April 3, 1978.

ADDRESSES: Comments may be sent to:

Regional Administrator, Attention: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section (A-4), United States Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco Calif. 94105.

Copies of the proposed revisions are available for public inspection during

normal business hours at the EPA Region IX Office at the above address and at the following locations:

sions which change the expiration dates of Regulation 5.1, "Sulfur Content of Fuels and Control Thereof",

sulfur content residual fuel oil). Following is a summary of Regulation 5.1, "Sulfur Content of Fuels and Control

19, 1977 (42 FR 25730). However, certain sources were excluded from implementing the provisions of the re-

The monitoring program being conducted by Mount Tom Generating Station, Holyoke, Massachusetts will

§ 52.1120 Identification of plan.

normal business hours at the EPA Region IX Office at the above address and at the following locations:

Ventura County Air Pollution Control District, 740 E. Main Street, Ventura Calif. 93001.

California Air Resources Board, 1709-11th Street, Sacramento Calif. 95814.

Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

David R. Souten, Chief, California SIP Section, EPA, Region IX, 415-556-7288.

SUPPLEMENTARY INFORMATION: The California Air Resources Board submitted on October 13, 1977 proposed revisions to the following rules:

Rule 71—Transfer of Gasoline into Vehicle Fuel Tanks
Rule 105—Ventura County Air Pollution Control District Continuous Emissions Monitoring

Pursuant to Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approved or disapprove the proposed regulations as SIP revisions. The Regional Administrator hereby issues this notice setting forth these revisions, including rule deletions caused thereby, as proposed rulemaking and advises the public that interested parties may participate by submitting written comments to the EPA Region IX Office. Comments received on or before April 3, 1978 notice will be considered, and made available for public inspection at the EPA Regional Office and the EPA Public Information Reference Unit.

AUTHORITY: Sections 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. §§ 7410 and 7601(a)).

Dated: January [illegible] 1978.

PAUL DE FALCO, Jr.,
Regional Administrator.

[FR Doc. 78-5544 Filed 3-2-78; 8:45 am]

[6560-01]

[40 CFR Part 52]

[FRL 862-5]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Proposed Extension of the Effective Period of the Sulfur in Fuel Regulations in Massachusetts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing approval of three Implementation Plan revisions which change the expiration dates of Regulation 5.1, "Sulfur Content of Fuels and Control Thereof", for the Merrimack Valley Air Pollution Control District (APCD), the Pioneer Valley APCD, and the Central Massachusetts APCD. The regulations, which relax the sulfur limitations for fossil fuels burned by certain sources, were approved on a temporary basis by EPA during the past year. If the revisions presently under consideration are approved, the effective periods of the regulations would expire on July 1, 1979.

DATES: Comments must be received on or before April 3, 1978.

ADDRESSES: Copies of the Massachusetts submittal are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, Room 2113, JFK Federal Building, Boston, Mass. 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460; and the Department of Environmental Quality Engineering, Division of Air and Hazardous Materials, 600 Washington Street, Room 320, Boston, Mass. 02111.

Comments should be submitted to the Regional Administrator, Region I, Environmental Protection Agency, Room 2203, JFK Federal Building, Boston, Mass. 02203.

FOR FURTHER INFORMATION CONTACT:

David Stonefield, Air Branch, EPA, Region I, JFK Federal Building, Room 2113, Boston, Massachusetts 02203, 617/223-5609.

SUPPLEMENTARY INFORMATION: On May 31, 1972 (37 FR 10872), pursuant to Section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved, with exceptions, the Massachusetts Implementation Plan for the attainment of National Ambient Air Quality Standards (NAAQS).

During the past year, the Administrator approved revisions to the State Implementation Plan (SIP) regulations for the Merrimack Valley Air Pollution Control District (APCD), the Pioneer Valley APCD, and the Central Massachusetts APCD, which relaxed the sulfur in fuel limitations. The federal Air Quality Control Regions (AQCR's) corresponding to the APCD's are, respectively, the Massachusetts portion of the Merrimack Valley-Southern New Hampshire Interstate AQCR, the Massachusetts portion of the Hartford-New Haven-Springfield Interstate AQCR, and the Central Massachusetts Intrastate AQCR. The original regulations limited the sulfur content of fuels to not more than 0.55 pounds per million BTU heat release potential (approximately equivalent to 1.0% by weight sulfur content residual fuel oil). Following is a summary of Regulation 5.1, "Sulfur Content of Fuels and Control Thereof", as revised last year for each District.

Merrimack Valley APCD—The regulation permits all sources, except those in the City of Lawrence and the Towns of Andover, Methuen, and North Andover, to burn fossil fuels with a sulfur content not in excess of 1.21 pounds per million BTU heat release potential (approximately equivalent to 2.2% by weight sulfur content residual fuel oil). Sources with a rated energy input capacity larger than 100 million BTU per hour are required to apply for and receive a permit from the Massachusetts Department of Environmental Quality Enginering (the Massachusetts Department) prior to burning the higher sulfur content fuel. Sources in Lawrence, Andover, Methuen, and North Andover must continue to burn lower sulfur content fuel as required by the original SIP regulation.

The revision was approved by EPA on December 30, 1976 (41 FR 56804) and will expire on May 1, 1978.

Pioneef Valley APCD—The regulation permits sources with a rated energy input capacity larger than 100 million BTU per hour to burn fossil fuels with a sulfur content not in excess of 1.21 pounds per million BTU heat release potential (approximately equivalent to 2.2% sulfur content residual fuel oil) until June 1, 1978. All other sources in the APCD must continue to burn the originally-approved lower sulfur content fuel.

In the final rulemaking notice, published on February 1, 1977 (42 FR 5975), EPA excluded certain sources from implementing the provisions of the revised regulation, based on dispersion modeling which predicted violations of the NAAQS for sulfur dioxide (SO_2).

Central Massachusetts APCD—The regulation permits sources with rated energy input capacity larger than 100 million BTU per hour, except those in the City of Worcester, to burn fossil fuel with a sulfur content not in excess of 1.21 pounds per million BTU heat release potential (approximately equivalent to 2.2% sulfur content residual fuel oil) until July 1, 1978. However, if these sources are located in the City of Fitchburg, they may burn the higher sulfur fuel only during April through October, and during November through March must burn lower sulfur content fuel as required by the original SIP regulations. All sources in Worcester, and the smaller sources in the rest of the APCD, must continue to burn the originally-approved lower sulfur content fuel.

EPA approved the revision in FEDERAL REGISTER notices published on February 15, 1977 (42 FR 9176) and May 19, 1977 (42 FR 25730). However, certain sources were excluded from implementing the provisions of the revised regulation, based on dispersion modeling which predicted violations of the NAAQS for SO_2.

The regulations for each District require that sources having an energy input capacity of 100 million Btu per hour or greater be reviewed by the Massachusetts Department and be granted a permit prior to burning the higher sulfur content fuel. Any violation of applicable state regulations or NAAQS within the area of impact of a facility will result in revocation of the permit and a mandatory return by that source to lower sulfur fuel.

On August 22, 1977, the Commissioner of the Massachusetts Department submitted SIP revisions which would change the expiration dates of the regulations in each APCD to July 1, 1979. No other provisions of the regulations would be changed.

The technical review submitted by the Massachusetts Department addresses the impacts of the revisions on SO_2 and total suspended particulate (TSP) levels.

Sulfur Dioxide—Dispersion modeling was performed in support of the revisions previously approved. Where NAAQS violations were predicted by this modeling, sources were disapproved; these disapprovals would remain in effect for the revision extensions presently being considered. Ambient monitoring data collected after the approved sources commenced burning of higher sulfur fuel show no violations of the NAAQS for SO_2.

Two of the nine sources in the Pioneer Valley APCD which were disapproved in EPA's February 1, 1977 final rulemaking notice agreed to conduct a special SO_2 ambient monitoring program designed to collect data for validation of the predictive model used in hilly areas. Deerfield Specialty Papers, Inc., Monroe, Massachusetts established and operated SO_2 monitors and meteorological instruments at locations corresponding to the maximum impact points predicted by the modeling. These data were submitted to EPA on December 27, 1977 by the Massachusetts Department and have been reviewed by both agencies. Ambient levels recorded from June through November, 1977, during which time the source continued to burn 1% sulfur fuel, did not exceed 11% of the primary 24-hour standard of 0.14 ppm (365 ug/m³) or 17% of the secondary 3-hour standard of 0.5 ppm (1300 ug/m³). Consequently, EPA believes that conversion of the source to 2.2% sulfur fuel will not interfere with attainment and maintenance of the NAAQS. Based on this information, EPA now proposes to approve Deerfield Specialty Papers, Inc. to burn the higher sulfur content fuel in accordance with the provisions of Regulation 5.1.

The monitoring program being conducted by Mount Tom Generating Station, Holyoke, Massachusetts will be completed in March 1978. Upon review of the data and evaluation of plant impact, a determination of the approvability of the source will be published as a Notice of Proposed Rulemaking in the FEDERAL REGISTER. Until a final rulemaking is published, the source must continue to burn the lower sulfur content fuel.

Total Suspended Particulates—Violations of the NAAQS for TSP have occurred throughout the state of Massachusetts. Since increased sulfur content of fuels is believed to result in increased particulate emissions, all sources converting to higher sulfur fuel will be stack tested for particulates, and the results of these stack tests will be reviewed in the light of TSP levels recorded throughout the area. In no case will a source be allowed to continue burning higher sulfur fuel if its emissions exceed the regulatory limits of the present SIP.

Ambient monitoring data collected after approved sources commenced burning of higher sulfur fuel show no additional sites in violation of the NAAQS for TSP. The existing standards violations are believed to be largely attributable to reentrainment of road and other fugitive dust. The Massachusetts Department is presently conducting a study to determine the causes of standards violations. The results of the study will be the basis for the January 1, 1979 attainment plan required by the Clean Air Act Amendments of 1977. The extension of the effective periods of the regulations will provide additional time for the data collection essential in the development of the attainment plan and in evaluating the consistency of this emission limitation with TSP standards attainment and maintenance.

The Administrator's decision to approve or disapprove the plan revisions will be based on whether they meet the requirements of Sections 110(a)(2)(A)-(H) and 110(a)(3)(A) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51. EPA proposes to amend 40 CFR Part 52 in the manner set forth below. Interested persons may participate in the rulemaking by submitting comments to the address above. This revision is being proposed pursuant to sections 110(a) and 301 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7601).

Dated: February 21, 1978.

WILLIAM R. ADAMS, Jr.,
Regional Administrator, Region I

Subpart W—Massachusetts

1. In § 52.1120, paragraphs (c)(8) (9), and (10) are revised to read as follows:

§ 52.1120 Identification of plan.

• • • • • •

(c) • • •

(8) Regulation 5.1, Sulfur Content of Fuels and Control Thereof, for the Merrimack Valley Air Pollution Control District submitted on January 28, 1976 by the Secretary of Environmental Affairs and on August 22, 1977 by the Commissioner of the Department of Environmental Quality Engineering, and additional technical information pertinent to the Haverhill Paperboard Corp., Haverhill, Mass., submitted on December 30, 1976 by the Secretary of Environmental Affairs.

(9) Regulation 5.1, Sulfur Content of Fuels and Control Thereof, for the Pioneer Valley Air Pollution Control District submitted on July 22, 1976 by the Secretary of Environmental Affairs and on August 22, 1977 by the Commissioner of the Department of Environmental Quality Engineering, and additional technical information pertinent to Deerfield Specialty Papers, Inc., Monroe, Mass., submitted on December 27, 1977 by the Commissioner of the Massachusetts Department of Environmental Quality Engineering.

(10) Regulation 5.1, Sulfur Content of Fuels and Control Thereof, for the Central Massachusetts Air Pollution Control District submitted on June 25, 1976 by the Secretary of Environmental Affairs and on August 22, 1977 by the Commissioner of the Department of Environmental Quality Engineering.

§ 52.1126 [Amended]

2. In § 52.1126 paragraph (b) is amended by deleting "Deerfield Specialty Papers, Inc., Monroe, Mass." from the list of disapproved sources.

3. In § 52.1126, paragraph (e) is amended by striking out the phrase "submitted on January 28, 1976".

[FR Doc. 78-5546 Filed 3-2-78; 8:45 am]

[6560-01]

[40 CFR Part 228]

[FRL 831-6]

OCEAN DUMPING

Proposed Designation of Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA today proposes to establish a temporary ocean dumping site in the San Nicolas Basin, on the Southern California Outer Continental Shelf, for the disposal of formation cuttings, waste drilling mud and nonperishable solid waste from exploratory oil drilling wells on Tanner Bank.

DATE: Comments must be received on or before April 3, 1978.

corner located at 32°55' north latitude and 119°17' west longitude. The depth

[6560-01]

cuit issued an opinion in response to various legal challenges to EPA's BPT steam electric power industry. See 42 FR 53661 (October 3, 1977).

ginning approximately 2 weeks after publication, Parklawn Building, 5600

DATE: Comments must be received on or before April 3, 1978.

ADDRESS: Send comments to Mr. T. A. Wastler, Chief, Marine Protection Branch (WH-548), EPA, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. T. A. Wastler, 202-245-3051.

SUPPLEMENTARY INFORMATION: In December 1975 the Department of the Interior (DOI) leased an area of the Tanner Bank, located on the Southern California Outer Continental Shelf, for exploratory oil drilling. To protect areas of particular biological significance on the Tanner and Cortes Banks, Stipulation No. 6 of the DOI leases requires that drill cuttings and waste drilling mud generated by wells on leases within five miles of the 80-meter isobath on these banks be transported to an area at least ten miles outside the 80-meter isobath for disposal. In addition, this stipulation prohibits the disposal of garbage and other solid waste within five miles of the isobath.

EPA Region IX has recently received applications from Shell Oil Company, Exxon Company, and Texaco, Inc., for special permits to dump into ocean waters outside the isobath formation cuttings, waste drilling mud, and nonperishable solid waste generated by exploratory wells on Tanner Bank. These materials cannot be discharged directly because of Stipulation No. 6. The maximum volumes proposed for dumping over a three-year period are as follows:

Shell—13,380 cubic meters; Texaco—3,261 cubic meters; and Exxon—6,657 cubic meters.

Because there is no approved EPA Pacific Ocean disposal site for dumping wastes generated by offshore oil drilling rigs, EPA today proposes to approve a new temporary ocean dumping site for the disposal of these materials under Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 et seq., and Section 228.4(b) of EPA's Ocean Dumping Regulations and Criteria, 42 FR 2462 (January 11, 1977). Section 102(c) of the Act authorizes the Administrator of EPA to designate sites where ocean dumping may be permitted. Section 228.4(b) of the criteria provides that the Administrator may designate specific locations to be used on a temporary basis for disposal of small amounts of materials under a special permit without formal site designation studies where such materials satisfy the Criteria and where the Administrator determines that the quantities to be disposed of will not result in significant impact on the environment.

The proposed site is one square nautical mile in size with the northwest corner located at 32°55' north latitude and 119°17' west longitude. The depth at the proposed site is approximately 400 fathoms (2,400 feet).

The proposed disposal area was selected in consultation with the National Marine Fisheries Service, the DOI Fish and Wildlife Service, State of California Department of Fish and Game, United States Navy, and EPA Region IX. Among the factors influencing site selection were the need to avoid both shallow waters, which might be productive spawning areas, and also excessively deep waters which might hinder monitoring efforts. In addition, the site selected would not interfere with the Navy submarine transit zones.

EPA Region IX, after reviewing pertinent toxicity data and other information, has determined that the material proposed for dumping is in compliance with the Criteria and the dumping will not result in unreasonable environmental degradation.

This temporary site designation is being published as proposed rulemaking in accordance with Section 228.4(b) of the Criteria.

Management of the proposed site will be delegated to the Regional Administrator, Region IX.

All comments transmitted to EPA on or before April 3, 1978 will be considered by EPA in determining whether to make a final site designation. All comments should be sent in triplicate to Mr. T. A. Wastler at the address given above.

(33 U.S.C. 1412, 1418.)

Dated: February 24, 1978.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, paragraph (b) of § 228.12 is proposed to be amended by adding subparagraph (4), an ocean dumping site, as follows:

§ 228.12 Delegation of management authority for interim ocean dumping sites.

* * * * * *

(b) * * *

(4) San Nicolas Basin Ocean Dumping Site—Region IX. Location—Latitude and Longitude (northwest corner)—32°55' N., 119°17' W.
Size—1 square nautical mile.
Depth—400 fathoms (2,400 feet).
Primary use—disposal of formation cuttings, waste drilling mud, and non-perishable solid waste.
Period of use—three years after issuance of an ocean dumping permit for use of this site.

[FR Doc. 78-5543 Filed 3-2-78; 8:45 am]

[6560-01]

[40 CFR Part 423]

[FRL 864-1]

EFFLUENT GUIDELINES AND STANDARDS

Steam Electric Power Generating Point Source Category

AGENCY: Environmental Protection Agency.

ACTION: Proposed amendment to rule.

SUMMARY: EPA is proposing to amend regulations under the Clean Water Act which apply to the steam electric power industry. The amendments would provide, contrary to EPA's original position, that economic factors are legally relevant when considering a power plant's request for a variance from national effluent limitations guidelines. EPA has changed its original position in order to comply with a judicial decision.

DATE: Written public comments should be submitted to the person listed immediately below by April 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Richard G. Stoll, Jr., Office of General Counsel (A-131), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-755-0788.

SUPPLEMENTARY INFORMATION: On October 8, 1974, EPA published regulations under the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act) setting forth best practicable control technology (BPT) effluent limitations guidelines for the steam electric power industry. 40 CFR Part 423, 39 FR 3686 et seq.

For each subcategory in the power industry category, there is a "variance clause." 40 CFR 423.12(a), 423.22(a), 423.32(a) and 423.42 (introductory paragraph). This clause allows case-by-case variances from national guidelines where one can show that certain plant-specific factors—such as age or size of the plant—are "fundamentally different" from the factors considered in setting the national guidelines. The variance clause does not specify whether plant-specific economic factors may be considered.

Essentially the same variance clause is included in the BPT effluent limitations guidelines for almost all industries. On August 20, 1974, EPA published a legal interpretation which ruled that economic factors could not be considered in applying this standard variance clause. 39 FR 30073.

On July 16, 1976, the United States Court of Appeals for the Fourth Circuit issued an opinion in response to various legal challenges to EPA's BPT (and other) regulations for the steam electric power industry. *Appalachian Power Co.* v. *Train*, 545 F. 2d 1351. The Court rejected EPA's exclusion of economic factors from the steam electric BPT variance clause. A request by EPA for recall of mandate as to this portion of the Court's opinion was denied (one judge dissenting) on September 26, 1977.

Since the Court's opinion was issued, EPA has in practice changed its position with regard to the steam electric power industry. In fact, EPA is now considering seven variance requests from power plants which raise plant-specific economic issues.

The purpose of this proposal is to formalize EPA's changed position. Appropriate clarifications to the variance clause are proposed below for each steam electric subcategory. In accordance with the Court's opinion, the variance clause would allow the permit issuer to consider "significant cost differentials" and other economic factors applicable to the particular source involved. The clause would also specify that the August 20, 1974 legal interpretation is not applicable to steam electric power plants.

This change applies only to steam electric power plants. EPA continues to believe that with respect to variances from national effluent limitations guidelines, economic factors may be considered only in § 301(c) proceedings to modify the "best available technology" requirements under § 301(b)(2)(A). For categories other than steam electric power plants, economic factors will not be considered in ruling on BPT variance requests and the August 20, 1974 legal interpretation will continue to apply.

It should be emphasized that a State which has permit-issuing authority under the Clean Water Act is not required to consider economic factors when evaluating steam electric BPT variance requests. Section 510 of the Act preserves the States' rights to impose more stringent limitations than required by Federal law.

The Court was also concerned that the August 20, 1974 legal interpretation meant that non-water quality environmental impact could not be considered in BPT variance requests. This is not the case. As I noted in my Decision *In the Matter of Louisiana-Pacific Corp. and Crown Simpson Pulp Co.*, 10 ERC 1841 (September 15, 1977), "[t]here is no reason why, in a proper case, a fundamental difference in non-water quality environmental impact could not justify a variance." That Decision also states, however, that the nature or quality of receiving waters is not a relevant factor with regard to variances from BPT. This applies to all industrial categories, including the steam electric power industry. See 42 FR 53661 (October 3, 1977).

Written public comments (preferably in triplicate) on these proposed regulatory changes should be submitted to the person listed in the introduction no later than April 3, 1978.

AUTHORITY: Sec. 501(a), Clean Water Act, 33 U.S.C. 1361(a).

Dated: February 24, 1978.

DOUGLAS M. COSTLE,
Administrator.

§§ 423.12, 423.22, 423.32 and 423.42 [Amended]

40 CFR Part 423 is proposed to be amended by adding the following two sentences to the end of §§ 423.12(a), 423.22(a), 423.32(a), and 423.42 (introductory paragraph):

* * * * * *

In accordance with the decision in *Appalachian Power Co.* v. *Train*, 545 F. 2d 1351, 1358-60 (4th Cir. 1976), EPA's legal interpretation appearing at 39 FR 30073 (1974) shall not apply to this paragraph. The phrase "other such factors" appearing above may include significant cost differentials and the factors listed in Section 301(c) of the Act.

[FR Doc. 78-5542 Filed 3-2-78; 8:45 am]

[4110-35]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[42 CFR Part 460]

PROFESSIONAL STANDARDS REVIEW

Area Designations

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Proposed regulations.

SUMMARY: HCFA proposes to amend the regulations establishing criteria to be used in designating PSRO areas to allow the Secretary to designate Statewide areas in those States where no PSRO areas have yet been designated, if he has evidence that physicians in the State favor a Statewide area.

DATE: HCFA plans to make the regulations effective on the date that they are published in final form. Consideration will be given to comments or suggestions received on or before April 17, 1978. When commenting, please refer to HSQ-48-P. Agencies and organizations are requested to submit their comments in duplicate. Comments will be available for public inspection, beginning approximately 2 weeks after publication, Parklawn Building, 5600 Fishers Lane, Rockville, Md., Room 16-A-55, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (telephone: area code 301-443-3880).

ADDRESS: Address comments to: Assistant Administrator for Professional Standards Review, room 16-A-55, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Stephen Crane, 301-443-2520.

SUPPLEMENTARY INFORMATION: The Secretary has broad discretion to establish the boundaries of PSRO areas under the Social Security Act. Section 1152(a) of the Social Security Act [42 U.S.C. 1320c-1(a)] provides that the Secretary shall establish "appropriate areas with respect to which Professional Standards Review Organizations may be designated." Under this authority the Secretary has published regulations incorporating six factors to be considered in developing areas. (42 CFR 460.2, formerly 42 CFR 101.2).

The six factors specified in law have not been sufficient to enable PSRO areas to be designated in some parts of the country, even though it is over 5 years since the enactment of the PSRO statute. The reason for these problems, in large measure, has been the inability of the Department under the existing regulations, to accommodate the strong preference of some physicians for the designation of Statewide boundaries of the PSRO area in which they are being asked to function.

While the Department recognizes that various aspects of the legislative history show a Congressional preference for the establishment of local PSRO areas, with Statewide areas being established only "in smaller or more sparsely populated States", S. Rpt. No. 92-1230, 92d Cong., 2d Sess., (1972), p. 258-259, the Department is also cognizant of the more fundamental Congressional objective of rapid implementation of the PSRO program. Section 1152(a) of the Social Security Act [42 U.S.C. 1320c-1(a)] requires the Secretary to enter into PSRO agreements with qualified groups "at the earliest practicable date after designation of an area." At least the spirit of this provision and possibly the letter of it as well, would be violated if the Secretary was unable to enter into an agreement with a PSRO because he had failed to designate a PSRO area.

The Department believes that for a PSRO organization to be effective, it must enlist the participation of a substantial number of doctors in an area. It is reasonable to assume that the support of the doctors on the bound-

aries of the Professional Standards Review area and the type of organization designated will be an accurate in-

the Secretary will take into consideration the following guidelines:

(1) Generally, an area should not

and planning procedures. Comments and suggestions are hereby invited to assist in the development and publica-

[6712-01]

FEDERAL COMMUNICATIONS

AM station KYCA, licensed to petitioner, AM station KNOT (full-time) and station KNOT-FM (channel 252A)

NOTE.—A showing of continuing interest is required by paragraph 2 of the appendix before a channel will be assigned.

aries of the Professional Standards Review area and the type of organization designated will be an accurate indicator of the degree of later participation of these doctors and the effectiveness of the organization after the PSRO is established. In addition, Congress has recognized the importance of obtaining the views of the affected physicians on the administration of the program by enacting a requirement that the Secretary give affected physicians an opportunity to object to the execution of an agreement with a PSRO [42 U.S.C. 1320c-1(f)].

However, neither the statutory language nor the legislative history precludes Statewide designation of populous States. Indeed, a Congressional Report has stated that, while local areas were preferred, "authority to designate Statewide areas was implied" in the original legislation. S. Rpt. No. 93-553, 93d Cong., 1st Sess. (1973), p. 67. A proposed amendment, which would have required the Secretary to give priority to local PSRO areas, was not enacted. Even the history of this amendment explains that it was never intended to "preclude designation of a Statewide area or Statewide PSRO". S. Rpt. No. 93-553, 93d Cong., 1st Sess. (1973), p. 67.

Consistent with the broad authority of the Secretary to designate PSRO areas and the legislative history, the Secretary considers it appropriate to propose regulations which would permit the designation of a single Statewide area in accord with evidence of physician preference. Designation of a single Statewide area would only occur in a State where no areas have been designated as of January 1, 1978, and, hence, no PSRO program progress has been made in over 5 years. (While the Secretary would be authorized to designate multiple areas in such States over the wishes of the physicians, such an approach is not considered appropriate in light of the long term necessity of obtaining their support for the program by organizing it in a manner which they believe will be most effective.)

It is proposed to revise Part 460 of Title 42 of the Code of Federal Regulations to read as follows:

42 CFR Part 460 is amended by revising § 460.2 to read as follows:

§ 460.2 Guidelines for designation of areas.

(a) *General requirements.* The Secretary:

(1) Will designate appropriate areas for which Professional Standards Review Organizations may be designated; and

(2) Will, from time to time, review the area designations and revise those that, in his judgment, need revision.

(b) *Specific guidelines.* In designating areas or revising the designations, the Secretary will take into consideration the following guidelines:

(1) Generally, an area should not cross State lines.

(2) In general, an area should not divide a county. However, in instances of large geographic areas or large county populations, it may be necessary and appropriate to divide a county.

(3) Existing boundaries of local medical review organizations and local health planning areas should be considered.

(4) An area should, to the extent possible, coincide with a medical service area and assure broad, diverse representation of all medical specialties. Consideration should also be given to the location of existing medical centers and to natural geographic barriers.

(5) An area should generally include a minimum of approximately 300 practicing physicians. While the maximum can be expected to vary with local circumstances, generally it should not exceed 2,500 practicing physicians.

(6) The designation of an area should take into account the need for effective cordination with Medicare and Medicaid fiscal agents.

(c) *Exception.* The Secretary will designate a single statewide area, without consideration of the foregoing guidelines, in any State for which:

(1) No areas have been designated as of January 1, 1978, and

(2) The Secretary has obtained suitable evidence that a majority of the physicians in the State favor a statewide area.

(Sec. 1152 of the Social Security Act, 42 U.S.C. 1320c-1; sec. 1102 of the Social Security Act, 42 U.S.C. 1302.)

Dated: January 19, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: February 24, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 78-5681 Filed 3-2-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 1600]

INVENTORY AND PLANNING

Intent To Propose Rulemaking

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to propose rulemaking.

SUMMARY: Proposed rulemaking is to be developed regarding inventory and planning procedures. Comments and suggestions are hereby invited to assist in the development and publication of a proposed rulemaking. The intended effect is to receive the maximum benefit possible from public and other government agency participation in the rulemaking process.

DATES: Written comments should be received by May 15, 1978.

ADDRESS: Written comments may be sent to: Director (210), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert A. Jones, Bureau of Land Management, Washington, D.C., 202-343-5682.

SUPPLEMENTARY INFORMATION: Proposed rulemaking is to be developed to implement the inventory and planning provisions of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711-1712), the Coal Leasing Amendments Act of 1975 (30 U.S.C. 201), and the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.). A discussion package presenting a format of rulemaking for comment purposes will be available for review at all Bureau of Land Management State Offices and the Washington Office (220) after March 5, 1978.

The scope of the rulemaking includes: Conduct and availability of resource inventories; Planning levels for public land planning; Required processes for the land use planning rules; Land use plan maintenance and revision; Public involvement in land use planning; Interagency coordination and consistency of public land use plans with plans of State and local government and Indian Tribes; Interprestation and use of land use plans; Situations where public land management actions can proceed without a Bureau of Land Management land use plan; and Land use planning in relation to other established legal requirements, including wilderness study and designation of areas unsuitable for mining.

All comments and suggestions received will be considered in drafting a proposed rulemaking. The proposed rulemaking will be published in the FEDERAL REGISTER for further comments before final rulemaking is adopted. Resolution of conflicting comments and rejection of comments on policy or legal grounds are the responsibility of the Secretary of the Interior.

Dated: February 27, 1978.

FRANK GREGG,
Director.

[FR Doc. 78-5586 Filed 3-2-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR PART 73]

[BC Docket No. 78-73; RM-2949]

RADIO BROADCAST SERVICES

Changes Made in Table of Assignments; FM Broadcast Station in Prescott, Ariz.

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a second class A FM channel to Prescott, Ariz., in response to a petition filed by Southwest Broadcasting Co.

DATES: Comments must be received on or before April 24, 1978, and reply comments on or before May 15, 1978.

ADDRESSES: Federal Communications commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: February 23, 1978.

Released: March 3, 1978.

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations (Prescott, Ariz.). BC Docket No. 78-73; RM-2949.

By the Chief, Broadcast Bureau:

1. *Petitioner, proposal, comments.* (a) Petition for rulemaking,[1] filed August 22, 1977, by Southwest Broadcasting Co. ("petitioner"), licensee of full-time AM station KYCA, Prescott, Ariz., proposing the assignment of channel 280A to Prescott as its second class A FM assignment. There were no responses to the proposal.

(b) The channel can be assigned without affecting any existing FM assignments in the table.

(c) Petitioner states that it intends to file an application for authority to construct a facility on the proposed channel, if assigned.

2. *Community data.* (a) *Location.* Prescott, seat of Yavapai County, is located in west-central Arizona, approximately 113 kilometers (70 miles) northwest of Phoenix.

(b) *Population.* Prescott—13,039; Yavapai County—36,733.[2]

(c) *Present aural service.* Full-time AM station KYCA, licensed to petitioner, AM station KNOT (full-time) and station KNOT-FM (channel 252A) presently serve Prescott. Noncommercial educational FM channel 215 is assigned to Prescott but is unoccupied.

3. *Population and economic data.* Petitioner indicates that according to the 1976 Arizona Statistical Review, Prescott's population is currently estimated at 17,000, which represents an increase of almost 25 percent over the 1970 Census data. It states that Yavapai County has experienced an even more rapid growth—an increase of 27.4 percent between 1960-1970. We are told that tourism manufacturing, ranching, and mining comprise the major industries. Petitioner claims that retail sales in Yavapai County between 1965-1975 increased by 217.6 percent from $41,606,000 to $132,155,000. Petitioner aserts that the population and economic trends for Prescott and Yavapai County indicate a rapid and continuing expansion of both population and economy.

4. *Preclusion study.* Preclusion would occur affecting four Arizona communities with populations greater than 1,000 (Williams, pop. 2,386; Wickenburg, pop. 2,698; Kingman, pop. 7,312; Bagdad, pop. 2,079). Of the four communities, Kingman has an AM and FM station, and Wickenburg has an AM station and an FM assignment. Williams and Bagdad have no FM assignments, but petitioner states that alternate FM channels are available for assignment to these communities if needed. Since alternative channels are available, this preclusion is not an impediment to the proposed assignment.

5. *Additional considerations.* Since the request is for a second class A assignment, petitioner should submit in its comments a *Roanoke Rapids*, 9 FCC 2d 672 (1967) study showing the number of people who would receive a first or second FM service. In addition, petitioner should show the extent of nighttime service provided by standard broadcast stations so that we can determine whether any first and second aural service would be provided.

6. Comments are invited on the proposal to amend the FM table of asignments (section 73.202(b) of the Commission's rules), with regard to the coummunity of Prescott, Ariz., as follows:

City and Channel No.
Prescott, Ariz., Present—252A; Proposed—252A, 280A.

7. The Commission's authority to institute rulemaking proceedings; showings required; cut-off procedures; and filing requirements are contained in the attached below and are incorporated herein.

NOTE.—A showing of continuing interest is required by paragraph 2 of the appendix before a channel will be assigned.

8. Interested parties may file comments on or before April 24, 1978, and reply comments on or before May 15, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM table of assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the notice of porposed rulemaking to which this appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rulemaking to which this appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures. The following procedures will govern the consideration of filings in this proceeding.*

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rulemaking to which this appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for

[1] Public notice of the petition was given on September 13, 1977 (Rept. No. 1074).

[2] Population figures are taken from the 1970 U.S. Census unless otherwise indicated.

examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters,

2. *Community Data:* (a) *Location.* Ada, seat of Pontotoc County, is situ-

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all com-

ument is to give notice that the Bureau of Economics has been directed to develop data regarding the

issue in this proceeding was held at the Commission's offices in Washington, D.C., in order to aid us in better

examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-5606 Filed 3-2-78; 8:45 am]

[6712-01]

[47 CFR Part 73]

[BC Docket No. 78-69; RM-2980]

FM BROADCAST STATION IN ADA, OKLA.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a Class A FM channel to Ada, Okla., as that community's second FM assignment. Petitioner, Charles M. Davis, states that the proposed channel could provide a local aural broadcast service to Ada.

DATES: Comments must be received on or before April 24, 1978, and reply comments on or before May 15, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: February 23, 1978.

Released: March 2, 1978.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Ada, Okla.), BC Doctet No. 78-69, RM-2980. Notice of proposed rulemaking.

By the Chief, Broadcast Bureau.

1. *Petitioner, Proposal and Comments.* (a) Petition for rule making[1] filed August 9, 1977, by Charles M. Davis ("petitioner"), proposing the assignment of Channel 244A to Ada, Okla., as its second FM assignment.

(b) The channel may be assigned to Ada provided the transmitter site is located approximately 6.4 kilometers (4 miles) south of the community. The station could provide the required coverage of Ada operating from such a site. There were no responses to the proposal.

(c) Petitioner states he will file an application for the channel, if assigned.

2. *Community Data:* (a) *Location;* Ada, seat of Pontotoc County, is situated approximately 97 kilometers (60 miles) southeast of Oklahoma City.

(b) *Population:* Ada—14,859; Pontotoc County—27,867.[2]

(c) *Local Broadcast Service:* Ada is presently served by full-time AM Station KADA and Station KTEN-FM, Class C channel 227.

3. *Economic Considerations:* Petitioner states that there was about a 9% increase in population in Pontotoc County between 1960-1970. We are told that the per capita income in Ada in 1972 was $3,329.

4. *Preclusion Studies:* Petitioner's engineering study showed that preclusion would occur on Channels 244A and 246 as a result of the proposed assignment. The precluded areas contain three communities of over 2,000 population (McAlester, pop. 18,802; Davis, pop. 2,223; Sulphur, pop. 5,158). McAlester has a Class C station and Sulphur has a Class A assignment on which there is a pending application (BPH-10459). Davis is located within the 60 dBu contour of the proposed station at Sulphur.

5. *Additional Considerations:* The proposed assignment would result in intermixing a Class A channel with a Class C channel. The Commission has a policy of avoiding such intermixture in the classes of FM channel assignments, but exceptions have been made when a Class C channel is unavailable and the petitioner is willing to apply for the Class A channel in spite of the intermixture situation. Yakima, Washington, 45 F.C.C. 2d 548, 550 (1973); Key West, Florida, 45 F.C.C. 142, 145 (1974). Since no Class C channel is available and petitioner is willing to apply for and operate on Channel 244A at Ada, Oklahoma, this assignment could be made.

6. In view of the above, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with regard to Ada, Oklahoma, as follows:

City and Channel No.
Ada, Okla. Present: 227; Proposed: 277, 244A.

7. The Commission's authority to institute rulemaking proceedings; showings required; cut-off procedures; and filing requirements are contained in the attached below and are incorporated herein.

NOTE.—A showing of continuing interest is required by paragraph 2 of the attached material before a channel will be assigned.

8. Interested parties may file comments on or before April 24, 1978, and reply comments on or before May 15, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281 (b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the notice of proposed rulemaking to which this appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of proposed rulemaking to which this appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding. (a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rulemaking to which this appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

[1] Public Notice of the petition was given on October 25, 1977, Report No. 1084.

[2] Population figures are taken from the 1970 U.S. Census.

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 78-5672 Filed 3-2-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[49 CFR Parts 1047, 1082]

[No. MC-C-3437]

MOTOR TRANSPORTATION OF PROPERTY INCIDENTAL TO TRANSPORTATION BY AIRCRAFT

Intent to Develop Additional Data

AGENCY: Interstate Commerce Commission.

ACTION: Notice that the Commission's Bureau of Economics has been directed to develop additional data in this matter.

SUMMARY: The purpose of this document is to give notice that the Bureau of Economics has been directed to develop data regarding the motor transportation of property incidental to transportation by aircraft and to submit this information in report form to the Commission as part of the formal record in this proceeding.

DATES: The Bureau will submit its report to the Commission in approximately 3 months.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, 202-275-7292.

Robert G. Rhodes, 202-275-7684.

SUPPLEMENTARY INFORMATION: This proceeding, which formerly embraced No. MC-C-4000, Motor Transportation of Passengers Incidental to Transportation by Aircraft, was instituted by a notice of proposed rulemaking published in the FEDERAL REGISTER on May 25, 1977, at 42 FR 26667. This notice stated that anyone wishing to present views and evidence concerning the matters involved in the notice might do so by the submission of written data, views, or arguments. The deadline ultimately set for the filing of comments was September 19, 1977, although comments received as late as October 6, 1977, were accepted and made part of the record in the proceeding. Numerous and extensive comments were filed.

On December 14, 1977, an informal conference concerning the matters as issue in this proceeding was held at the Commission's offices in Washington, D.C., in order to aid us in better understanding these issues. All parties were invited to participate in this conference, and many did.

The Commission, desiring a more comprehensive understanding of the issues in this proceeding, has by this notice directed its Bureau of Economics to prepare a report to be based on available economic data concerning these issues. The Bureau will submit its report to the commission in approximately 3 months, at which time the public will be given an opportunity to comment on the report. So that we may have the most extensive and detailed record possible, both the report and the comments to the report will be made part of the record in this proceeding.

Notice of the referral of this proceeding to the Bureau of Economics shall be given to the general public by depositing a copy of this notice in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy of this notice to the Director, Office of the Federal Register, for publication therein.

By the Commission, Chairman O'Neal.

Decided February 24, 1978.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-5551 Filed 3-2-78; 8:45 am]

notices

aquaculture operations have been substantially affected in the following

station located south of the Caloosahatchee River to the proposed South

Dated at Washington, D.C., February 28, 1978.

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[4310-10]

ADVISORY COUNCIL ON HISTORIC PRESERVATION 1522 K Street NW., Washington, D.C. 20005

MEETING

Notice is hereby given in accordance with the Council's Procedures for the Protection of Historic and Cultural Properties (36 CFR part 800) that a special meeting of the Advisory Council on Historic Preservation will be held on March 20-21, 1978, in San Franciso, California.

The Council was established by the National Historic Preservation Act of 1966 (Pub. L. 89-665, as amended, Pub. L. 94-422) to advise the President and Congress on matters relating to historic preservation and to comment upon Federal, federally assisted and federally licensed undertakings having an effect upon properties listed in or eligible for inclusion in the National Register of Historic Places. The Council's members are the Secretaries of the Interior; Housing and Urban Development; Treasury; Agriculture; Transportation; State; Defense; Health, Education and Welfare; and Smithsonian Institution; the Attorney General; the Administrator, General Services Administration; Chairman of the Council on Environmental Quality; Chairman of the Federal Council on the Arts and Humanities; Architect of the Capitol; Chairman of the National Trust for Historic Preservation; President of the National Conference of State Historic Preservation Officers; and twelve non-Federal members appointed by the President.

In accordance with Section 106 of the National Historic Preservation Act, the Council will meet to consider the proposed demolition of three buildings—Buildings 51, 53 and 55—that are part of a National Historic Landmark at Mare Island Naval Shipyard in Vallejo, California. The meeting will begin on Monday, March 20, at 9:00 a.m., at Mare Island Naval Shipyard, Vallejo, California, and will continue on Tuesday, March 21, at 9:00 a.m. in the Comstock Room of the Sheraton Palace Hotel, 639 Market Street, San Francisco, Calif. A summary of the meeting agenda follows:

1. Report of the Office of Review and Compliance consideration of 106 Case,
II. Report of the Chairman,
III. Report of the Executive Director,
IV. Report of the Office of Intergovernmental Programs and Planning,
V. Report of the Office of General Counsel,
VI. Report of the Office of Special Studies,
VII. Other Business.

Additional information concerning the meeting is available from the Executive Director, Advisory Council on Historic Preservation, Suite 530, 1522 K Street, NW., Washington, D.C. 20005, 202-254-3967.

Dated: March 1, 1978.

ROBERT M. UTLEY,
Deputy Executive Director.

[FR Doc. 78-5851 Filed 3-2-78; 11:00 am]

[3410-07]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Notice of Designation Number A575]

CALIFORNIA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following California Counties as a result of winds of hurricane force December 20 and 21, 1977:

Riverside, Ventura

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR 1904 Subpart C, Exhibit D, Paragraph V B, including the recommendation of Governor Edmund G. Brown, Jr. that such designation be made.

Applications for emergency loans must be received by this Department no later than August 18, 1978, for physical losses and February 20, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C. this 27th day of February, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-5676 Filed 3-2-78; 8:45 am]

[3410-07]

[Notice of Designation Number A574]

NORTH CAROLINA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Beaufort County, N.C., as a result of excessive rainfall May 24 through May 26, 1977, and prolonged drought June 1 through August 15, 1977.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR 1904 Subpart C, Exhibit D, Paragraph V B, including the recommendation of Governor James B. Hunt, Jr. that such designation be made.

Applications for emergency loans must be received by this Department no later than August 16, 1978, for physical losses and February 15, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C. this 27th day of February, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-5675 Filed 3-2-78; 8:45 am]

[3410-07]

[Notice of Designation Number A573]

TEXAS

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Texas Counties as a result of drought April 1 through December 19, 1977, in Palo Pinto County; and drought June 1, 1977, through January 3, 1978, in Throckmorton and Wilbarger Counties.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR 1904 Subpart C, Exhibit D, Paragraph V B, including the recommendation of Governor Dolph Briscoe that such designation be made.

Applications for emergency loans must be received by this Department no later than August 11, 1978, for physical losses and February 12, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 27th day of February, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-5677 Filed 3-2-78; 8:45 am]

[3410-15]

Rural Electrification Administration

LEE COUNTY ELECTRIC COOPERATIVE

Draft Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration is investigating the environmental effects of a proposed upgrading of the Lee County Electric Cooperative's system and is contemplating the preparation of a draft environmental impact statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 in connection with a possible loan application for Lee County Electric Cooperative, Inc., P.O. Box 3455, North Fort Myers, Fla. 33903. Facilities under consideration for the possible application will include: (1) Approximately 12 miles of transmission line from an existing Florida Power & Light Co. 230 kV line in Lee County in a westerly direction to a substation near the intersection of Littleton Road and Corbett Road. The substation would be a 400,000 kVA 230 kV to 138 kV facility and requires approximately 3 acres; or, (2) approximately 6 miles of 230 kV transmission line from the existing Florida Power & Light Co. Iona Substation located south of the Caloosahatchee River to the proposed South Cape Substation located across the Caloosahatchee River. This alternative would be contingent upon system upgrading of the existing 138 kV line to 230 kV.

Interested persons are invited to submit comments which may be helpful in analyzing the environmental impacts of the proposed system upgrading.

Comments should be forwarded to the Assistant Administrator, Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, with a copy to the borrower whose address was given above. Additional information may be obtained at the borrower's office during regular business hours.

Dated at Washington, D.C., this 27th day of February 1978.

DAVID A. HAMIL,
Administrator.

[FR Doc. 78-5607 Filed 3-2-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket 32162]

DALLAS/FORT WORTH-TUCSON INVESTIGATION

Prehearing Conference

Notice is hereby given that a prehearing conference in this proceeding is assigned to be held on March 21, 1978, at 10 a.m. (local time), in Room 1003, Hearing Room C, North Universal Building, 1875 Connecticut Avenue, Washington, D.C., before Administrative Law Judge Burton S. Kolko.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and six copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evidence; (4) statements of positions; and (5) proposed procedural dates. The Bureau of Pricing and Domestic Aviation will circulate its material on or before March 10, 1978,[1] and the other parties on or before March 17, 1978. The submissions of the other parties shall be limited to points on which they differ with the Bureau, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

[1] Prior to or at the prehearing conference the Bureau will provide to the parties and the Judge service segment data for the most recently available two-year period between Dallas/Fort Worth-Tucson and Dallas/Fort Worth-Atlanta.

Dated at Washington, D.C., February 28, 1978.

BURTON S. KOLKO,
Administrative Law Judge.

[FR Doc. 78-5695 Filed 3-2-78; 8:45 am]

[6320-01]

[Order 78-2-107; Docket 30332; Agreements CAB 26719, R-1 through R-4; 26725, R-1 through R-12; 26848, R-1 through R-9]

IATA

Agreements Relating to Cargo Rates; Order Denying Petition for Reconsideration

By Order 77-11-15, November 3, 1977, the Board, among other things, disapproved increases proposed by the member carriers of the International Air Transport Association in U.S.-Caribbean general commodity rates (GCR's), container rates, and charges for minimum-sized shipments. In that order the Board also disapproved increases in container rates proposed for the U.S.-South/Central America (longhaul) market. Pan American World Airways, Inc. (Pan American) has filed a petition for reconsideration of the Board's action in both markets; Eastern Air Lines, Inc. (Eastern) has filed in support of Pan American's petition insofar as it relates to the Caribbean rates.

Pan American, supported by Eastern, contends that the basis for disapproval of the Caribbean entity rate increases in the face of demonstrated low composite earnings is unclear, and, if based upon excessive capacity, is mistaken; Eastern's passenger load factors on its combination service L-1011 equipment are reasonable and do not support disapproval of cargo rates on the pretext that it is offering excessive capacity in L-1011 bellies; Pan American's forecast of 58.5 percent all-cargo and 71.6 percent belly freight load factors are comparable with its historical performance and indicate that it will not be operating excessive capacity during the forecast year as the Board suggests; therefore, its losses in the Caribbean area are not attributable to excess capacity and, contrary to the Board's conclusion, all-cargo freighter services are warranted; the Board's prediction that Pan American's all cargo return would improve as a result of increased U.S.-Venezuelan traffic is flawed since Venezuela is not within the Caribbean entity either for IATA ratemaking or the Board's analysis; all its Venezuelan data have been included in its forecast of U.S.-South/Central America longhaul operations, and are reflected in the Board's statement of operating results for the longhaul entity; and unlike passenger fares, Venezuelan cargo rates have traditionally been related by IATA and the Board to the longhaul entity.

As for the longhaul U.S./South-Central America area, Pan American contends that the Board's statement of operating results for the longhaul entity is flawed because it includes Venezuela, which is not within the Caribbean entity either for IATA ratemaking or the Board's analysis. Pan American argues that all its Venezuelan data have been included in its forecast of U.S.-South/Central America longhaul operations, and are reflected in the Board's statement of operating results for the longhaul entity. Pan American states that unlike passenger fares, Venezuelan cargo rates have traditionally been related by IATA and the Board to the longhaul entity. Pan American argues that since Venezuela is not within the Caribbean entity for IATA ratemaking or the Board's analysis, there is no practical way for us to isolate the longhaul sub-area justification, there is no practical way for us to isolate the

Under the proposed rates, American forecasts an 18 percent ROI in its com-

cost-related container discounts for general cargo. On the other hand, the

[6320-01]

Justification and supporting data have been submitted by Pan American

As for the longhaul U.S./South-Central America area, Pan American contends that the Board's basis for disapproval of the container rate increases is erroneous; the disapproved rates are reasonable when evaluated under the pricing formula developed in the Domestic Air Freight Rates Investigation (DAFRI); in fact, the cost saving attributable to containerization in the longhaul market is less than recognized under DAFRI methodology because circumstances differ in international cargo transportation, as demonstrated by TWA for North Atlantic container rates, and, in particular, because of local South American airport customs regulations which not only negate the saving in handling costs at destination, but actually increase them; while the effect of local customs requirements on costs has not been quantified, the Board must recognize at least half of the handling cost saving is lost and additional costs are incurred because container shipments must be unloaded at destination and marked separately for later identification and pickup at the customs warehouse; although Pan American has demonstrated that the proposed longhaul Type 3 container discount of 4 percent is comparable to the discount afforded by a similar container in the New York-Los Angeles market, the Board has not explained why the longhaul discount is not acceptable; past experience in the large Miami-Venezuela and New York-Brazil markets indicates the increases would not discourage shipper use of containers; and, finally, disapproval denies the carrier needed revenue.

Upon consideration of the petition, the answer, and all other matters, the Board has decided to deny the requests.

First of all, Pan American appears to have misinterpreted IATA provisions defining sub-areas within the Western Hemisphere (TC1). While the "Provisions for the Regulation and Conduct of the IATA Traffic Conferences" set forth in the second edition of the IATA Traffic Handbook indicate that Venezuela is in the "longhaul" South/Central America sub-area, as Pan American claims, rather than in the Caribbean sub-area, this applies only to the determination of membership voting rights for matters wholly within TC1. IATA's New York Traffic Service Office has confirmed our view that fare and rate resolutions applicable to U.S.-Venezuela fare and rate matters are included in the Caribbean sub-area, as defined under IATA Resolution 012f. The Board follows Resolution 012f definitions in its evaluation of IATA TC1 agreements and expects each carrier to prepare its justification accordingly. Although Pan American suggests that its U.S.-Venezuelan cargo results were included in its longhaul sub-area justification, there is no practical way for us to isolate the results for inclusion into Pan American's Caribbean results. In any event, were this practicable, it is unlikely, for the reasons given, that we would alter our disposition of the Caribbean rate increases.

The problem in considering the appropriateness of fare and rate increases for the Caribbean lies in the continued wide earnings disparity among the four U.S. carriers operating in this market.[1] Delta and, particularly, American forecast relatively high earnings, 7.7 and 18 percent, respectively. Yet, Pan American and Eastern both project substandard returns on investment (ROI) of negative 20.0 and 21.3 percent, respectively, in the face of general commodity rates that appear to be higher than comparable domestic general rates for equivalent mileage blocks. In Eastern's case, the Board believed it was unreasonable for shippers to incur further increases in general rates to support capacity that is scheduled to meet the demands of passenger service and for which they are not causally responsible. This conclusion is strongly supported by the quite favorable passenger load factor data submitted by Eastern in support of the petition.

Pan American's case is more complex. The Board, to the extent possible, tries to evaluate rate proposals on the basis of all-cargo service results. Two carriers, American and Pan American, provide all-cargo service in the Caribbean. American's historical and forecast all-cargo data are not complete;[2] Pan American's operation raises legitimate questions about the viability of its all-cargo service. The carrier forecasts a respectable 58.5 percent weight load factor for this service, yet expects negative 36.2 percent earnings under existing rates, with only marginal improvement to negative 31.3 percent under the proposed rates. Thus, even with the rate increases, Pan American's all-cargo return is only slightly better than without them. In fact, to earn a positive return on investment Pan American would have to achieve a weight load factor of over 80 percent, based upon its forecast data and the proposed rates. Only when the weight load factor approaches 100 percent does it appear that the carrier's all-cargo operation would earn a return slightly in excess of the Board's 12-percent guideline.[3]

Under the proposed rates, American forecasts an 18 percent ROI in its combination belly and all-cargo freight services, well in excess of the Board's 12 percent guideline, as compared to Pan American's negative 20 percent for similar services. While it is uncertain, due to the incompleteness of the data, to what extent American's all-cargo operation contributes to this favorable position, there is no great difference between each carrier's forecast composite (belly and all-cargo) yield under the proposed rates—40.71 cents per revenue ton mile (RTM) for American and 43.77 cents for Pan American. There is, however, a great difference between each carrier's forecast all-cargo cost per RTM—Pan American's at 66.05 cents is 197 percent of American's at 33.57 cents.[4] Therefore, in view of American's cost position and the probability that both carriers earn similar all-cargo yields, it is not unreasonable to assume that the all-cargo operation of American would be in as favorable an earnings posture as its total cargo operations. In these circumstances, we still are not able to conclude that the general commodity and container rate increases in the Caribbean area are warranted.[5]

Turning to the issue of the longhaul container rate increases, Pan American's argument that the 4 percent discounts offered are related to costs is not convincing and, in fact, may be misleading. It is true, as Pan American contends, that 4.0–4.8 percent discounts for general cargo are afforded in the westbound New York-Los Angeles market for a domestic Type A container, which is similar to the IATA Type 3 container. However, it is also true that the discount for the same container type in the eastbound Los Angeles-New York market is 12.2 percent, and that discounts for other general container types in that market range up to 24 percent depending upon direction and container size. Thus, this market provides domestic shippers a wide variety of presumably cost-related container discounts for general cargo. On the other hand, the disapproved longhaul container rates provide no such variety; the discount would be approximately 4.0 percent in many markets regardless of container type. Pan American has simply used the one rate out of many that best suits its purpose.

Although it contends that different circumstances make international cargo transportation more costly than domestic cargo transportation, Pan American has not demonstrated that costs in the longhaul area are significantly higher than costs in other international areas. Existing longhaul container rates offer discounts, ranging from 20 to 27 percent, that are not out of line with the average 25 percent discounts offered in the North Atlantic market and are only slightly higher than the 13 to 20 percent discounts offered in the North/Central Pacific market. The discounts in these two markets have never been characterized by the carriers as unjustifiably great.[6] In short, Pan American has failed to justify increases in longhaul container rate that would result in discounts of only 4 percent to shippers.

Pan American also argues that DAFRI methodology would support a longhaul container discount of 9.8 percent but that the saving is cut in half by local South American customs requirements. Yet, as set forth in applicable tariffs, the carriers assess charges of from $30 to $360 depending upon container size when required to unload a container for customs purposes, presumably to recover the additional costs occasioned by these requirements.[7]

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly sections 102, 204(a), 403, and 1002(j) thereof,

It is ordered, That:

1. The petition of Pan American World Airways, Inc. for reconsideration of Order 77-11-15 in Docket 30332 be denied; and

2. Copies of this order be served upon Pan American World Airways, Inc. and Eastern Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[8]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-5691 Filed 3-2-78; 8:45 am]

[1] Order 77-3-62, March 11, 1977, and Order 77-8-135, August 26, 1977, denying Pan American's petition for reconsideration.

[2] American's data separate costs for its all-cargo service, but not revenue and investment. Consequently, calculation of its all-cargo ROI is not possible.

[3] These comparisons are probably theoretical, since such high weight load factors usually are not attainable because, as a general proposition, the carrier runs out of cargo space before reaching the weight limitations of the aircraft.

[4] To what extent, the poor earnings of Pan American may result from such other factors as the nature of the routes operated, relative carrier efficiency, or imperfections in rate structure is not entirely clear from the data submitted.

[5] We did approve 10 percent increases in specific commodity rates, which should be of some value to Pan American since it forecast that approximately 37 percent of its area revenue would flow from this traffic. Also, in addition to increases in the minimum charge for small shipments, we approved 3–7 percent increases in bulk general commodity rates and 10–12 percent increases in specific commodity rates in the long haul area.

[6] Moreover, the carriers recently proposed and the Board approved U.S.-Colombia container rates which, although increases, offer discounts averaging 25 percent from New York and 37 percent from Miami. See Order 77-12-86, December 15, 1977.

[7] See, e.g., Air Tariffs Corporation, Agent, CAB No. 52, Rule 20 (D).

[8] All Members concurred.

[6320-01]

[Order 78-2-106; Dockets 29123 and 30777; Agreements C.A.B. 26434, R-1, 26886, 27019, R-1 through R-28]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Agreements Relating to Passenger Fares; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 23d day of February 1978.

In the matter of agreement adopted by Traffic Conference 1 of the International Air Transport Association relating to passenger-fare matters (Docket 29123, Agreement C.A.B. 26434, R-1; Docket 30777, Agreement C.A.B. 27019 R-1 through R-28); agreement adopted by the Joint Traffic Conferences of the International Air Transport Association relating to Western Hemisphere long haul passenger fares (Docket 29123, Agreement C.A.B. 26886).

Order 77-12-74, December 13, 1977, described the principal elements of a new fare agreement among the carrier members of Traffic Conference 1 (Western Hemisphere) of the International Air Transport Association (IATA) and established procedures for the receipt of carrier justifications, comments and replies.[1] The agreement was adopted at the 80th meeting of the TC1 Passenger Traffic Conference held in San Diego during September 1977 and encompasses a new U.S.-South/Central America (long haul) fare structure to become effective not later than April 1, 1978, with an expiry date of March 31, 1980.

In general, first-class fares would be increased by amounts ranging from approximately 8 to 10 percent and normal economy fares would be increased by about 5 to 8 percent. Some promotional fares would remain at existing levels while others would be increased by as much as 24 percent. A comparison of existing and proposed fares in typical New York long haul markets is shown in Appendix A.[10] The agreements also propose a number of substantive changes in conditions governing use of existing fares as detailed in Appendix B, as well as a number of new fare programs which are shown in Appendix C.

Justification and supporting data have been submitted by Pan American World Airways, Inc. (Pan American), and Braniff Airways, Inc. (Braniff). Comments opposing the proposed fare increases have been recieved from Donald L. Pevsner, Esq., and Pan American has filed a reply. We will also consider in this order Pan American's petition for reconsideration of Order 77-12-87, December 15, 1977, by which the Board disapproved fuel-related increases in various U.S.-South America fares (Agreement C.A.B. 26886). Pan American argues that the Board's conclusion, that the proposed increases were not warranted by revenue need, was based on erroneous calculations of the carriers' returns on investment by the Board's staff. We agree that the corrected figures argue in favor of approving the fuel-related fare increases. Those have been incorporated into the fare levels contained in the new agreement now before us. We will, therefore, consider them as an integral part of the new fare structure proposed for effectiveness April 1, 1978, which, as discussed below, will be approved in major part. The petition will be dismissed as moot.

Pan American states that the proposed fare increases are reasonable and justified, and that the new discount fares such as the APEX will help develop new traffic, particularly of the ethnic and "VFR" (visiting friends and relatives) variety; its forecast including the proposed fares assumes no change in overall traffic level due to price elasticity of demand, in accordance with the Board's view (with which Pan American disagrees), but a redistribution of traffic by fare category; forecast cost levels are escalated in line with the Board's guidelines for domestic fare increases, except that experienced cost escalations are projected for 6 months beyond the proposed effective date of the new fares in order to reflect the average costs of Pan American's U.S.-South/Central America combination services for at least 1 year;[2] and the forecast return on investment (ROI) is overstated because it assumes that intra-South America fares would be subject to the same increases as longhaul fares, but the increase for the former will average only about 5 percent compared to 7.4 percent for the latter.

Braniff has submitted only a statement of financial and operating results, which, together with Pan American's, is summarized below:

[1] The procedural order also dealt with several separate agreements adopted for expedited effectiveness on dates ranging from November 1, 1977, to January 15, 1978. These agreements were subsequently approved by the Board in Order 78-2-17, February 1, 1978.

[10] Appendices A—D filed as part of the original document.

[2] As noted above, the agreement would be of two years' duration.

[Figures in percent]

	United States-Central/South America scheduled passenger service[1]		
		Forecast year ending Mar. 31, 1979	
	Historical year ending Sept. 30, 1977	Present	Proposed
Pan American:			
Passenger load factor	52.1	54.2	54.2
Return on investment	6.41	.21	6.86
Braniff:			
Passenger load factor	52.7	53.7	53.7
Return on investment	8.43	9.69	14.85

[1] Revenue-offset method.

Mr. Pevsner opposes any increase in United States-South/Central America fares on the ground that they, particularly the promotional fares, are already excessive in relation to fares in other international markets such as the North Atlantic;[4] and states that, as long as the Latin American carriers refuse to conform to the Board's findings and orders on the free baggage allowance and excess-baggage charges, no fare increases should be permitted.

In reply to Mr. Pevsner, Pan American states that it is irrelevant whether the proposed promotional fares are higher than promotional fares in other world areas, which have different traffic characteristics; the sole question to be decided is whether they are cost-related; the Board should leave the appropriate level of promotional fares to the marketing judgment of the carriers; and it would be unreasonable and punitive for the Board to deny the U.S. carriers needed revenue improvement when they have cooperated with the Board on the baggage question, simply because some Latin American countries refuse to follow the Board's mandate.

FINDINGS

The Board has decided to approve the agreement with the exception of the proposed increase in normal economy fares, which we will disapprove, and the increases in first-class fares, on which we will defer action.

The carriers' forecast financial results show a clear need for revenue improvement: the composite ROI under present fares would be 3.37 percent and, under the proposed fares, would rise to 9.52 percent, well below the Board's 12-percent ROI guideline. (See Appendix D.)

We have made no adjustments to the carriers' results. We must, however, comment on two particular aspects. Braniff has excluded intra-South America operations (where it achieved a 10.30 percent ROI for the historical year) from its U.S.-South America results, and has thereby understated its financial position. Braniff offers no explanation for this departure from its previous practice.[5] We must remind the carriers, therefore, that the Board evaluates fares and rate proposals with an eye to the entire ratemaking area involved so that we can gain a true picture of carriers' total financial position and revenue need.

Our second reservation concerns Pan American's forecast for APEX-fare traffic. We welcome the carriers' initiative in introducing new promotional fares for individual passengers in the South America market, which should benefit the carriers as well as the public by generating new business. It is exactly on this point that we disagree with Pan American's forecast, which understates the benefits it will derive from the new APEX fares. Pan American apparently constructed the forecast traffic from portions of its normal economy and excursion-fare traffic—thereby assuming that APEX-fare traffic would be 100 percent diverted—in order to maintain the same total traffic level under both present and proposed fares. Pan American presumably did this in view of the Board's position that price elasticity adjustments to reflect fare increases should not be made to forecast traffic.[6] We continue to hold that view. Our policy on price elasticity, however, cannot be read to disregard the generative capabilities of, and hence traffic growth fostered by, introduction of new promotional fares. In the present context, we must question Pan American's projected diversion of normal economy traffic. It does not explain why this traffic, which has continued to travel at normal economy fares despite availability of a variety of promotional fares should suddenly take on such an added discretionary character with introduction of the APEX fares. We question this scenario on its face, and estimate that Pan American's projected revenues under the proposed fares are understated by at least $610,000.[7]

These two reservations do not, however, substantially affect our conclusion that the fare increases are justified by revenue need. Increasing Pan American's revenue by $610,000, and adding Braniff's experienced intra-South America results to its U.S.-South America forecast would have a minimal effect, and their composite ROI would remain below 10 percent.

Nevertheless, we cannot approve any increase in normal economy fares. Our review of the information supplied by Pan American and Braniff indicates that these fares are already excessive in relation to costs. For both carriers combined, the ROI during the forecast period, at the forecast composite overall load factor of 54 percent, would be over 17 percent if all economy-class traffic moved at the present normal economy fares. At the proposed fares, the composite ROI would rise to more than 23 percent.[8] This indicates that normal economy fares are already above the level required for a reasonable return even at the modest 54-percent forecast load factor, and would be substantially excessive if increased.

We are deferring action on the proposed first-class fare increase because certain IATA carriers in various Western Hemisphere markets are maintaining a baggage-allowance system based on weight, with excess-baggage charges tied to the first-class fare. This is at odds with the Board's decision in *Baggage Allowance Tariff Rules in Overseas and Foreign Air Transportation*, Docket 24869,[9] which found the existing IATA resolutions and carrier tariff rules on baggage to be unjust and reasonable. In Order 76-10-108, October 15, 1976, the Board suspended tariff filings proposing increases in North Atlantic first-class fares because the carriers were still using the first-class fare to assess excess-baggage charges in that market. Subsequently, we approved an IATA agreement which increased North Atlantic first-class fares;[10] the carriers had, in the interim, adopted an agreement which prohibited use of the proposed first-class fares to compute excess-baggage charges, and had also filed a new agreement which

[4] Mr. Pevsner also alleges that illegal discounting is rife in the South America market and fares should therefore be reduced, rather than increased, to ameliorate discrimination among passengers.

[5] Similarly, Braniff's economic justification for the fuel-related fare proposal, supra, construed the Board's direction to exclude "market areas not covered by the agreement" (by which the Board meant, as Pan American understood, the U.S.-Central America/Caribbean/Mexico ratemaking areas) to mean all U.S.-Latin America city-pairs where fares would not be directly affected by the agreement. In justification of the previous U.S.-South/Central America fare agreement, Braniff properly included its intra-South America operations. See Order 77-3-62, March 11, 1977.

[6] For a detailed discussion of our view on this subject, see Order 77-8-119, August 24, 1977.

[7] This figure was reached by restoring the economy traffic level under proposed fares to the level under present fares, while accepting Pan American's promotional traffic yield under proposed fares.

[8] These figures assume no increase in first-class yields, in keeping with our decision to defer action on the proposed first-class fare increases.

[9] See Orders 76-3-81, served March 12, 1976 and 76-5-26, May 10, 1976.

[10] See Order 77-3-54, March 9, 1977.

adopted a piece system for the free allowance, and more reasonable excess-baggage charges, in most markets to and from the United States. That baggage agreement, which the Board approved with conditions in Order 77-4-97, April 20, 1977, excluded travel within the Western Hemisphere, however, and as indicated some carriers have insisted on maintaining the old rules which were found unlawful. The entire matter is now the subject of an enforcement complaint in Docket 31407, and until such time as it is resolved in that context, or all carriers revise their baggage rules in an acceptable manner (individually or by IATA agreement), the least we can do is to hold first-class fares at existing levels so as to prevent any further overcharge to passengers carrying excess baggage.

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, makes the following findings:

1. It is not found that the following resolutions, incorporated in Agreement CAB 27019 as indicated, are adverse to the public interest or in violation of the Act provided that approval is subject, where applicable, to conditions previously imposed by the Board:

	Agreement CAB	IATA No.	Title	Application
27019:				
R-1		001b I	TC1 special effectiveness resolution (tie-in).	1
R-2		001f	Special provisions for review of TC1 long-haul fares structure (new).	1
R-3		001oo	Special escape for TC1 agreement	1
R-4		001h	2-year effectiveness escape—passenger (new).	1
R-5		002 I	Standard revalidation resolution	1
R-7		051x	U.S.A/Canada to Greenland first class fares.	1
R-8		060	Economy-class conditions of service (revalidating and amending).	1
R-10		061x	U.S.A./Canada-Greenland economy-class fares.	1
R-11		070cc	TC1 excursion fares-North and Central America/Caribbean to South America (revalidating and amending).	1
R-12		070ee	TC1 excursion fares U.S.A./Canada to Central America (revalidating and amending).	1
R-13		071x	TC1 advance-purchase excursion fares U.S.A./Canada to South America (new).	1
R-14		075g	TC1 group excursion fares from Brazil to the U.S.A. (revalidating and amending).	1
R-20		084e	TC1 group inclusive-tour fares-U.S.A./Canada/Mexico to South America (revalidating and amending).	1
R-22		084m	TC1 group inclusive tour-fares U.S.A. to Colombia (revalidating and amending).	1
R-23		084mm	TC1 5 day group inclusive-tour fares San Juan to Colombia (revalidating and amending).	1
R-24		084oo	TC1 40 passenger group inclusive-tour fares from the U.S.A. to Comombia (revalidating and amending).	1
R-25		084s	TC1 Group inclusive-tour fares U.S.A. to Central America/Panama (revalidating and amending).	1
R-28		084yy	TC1 special group inclusive-tour fares from the U.S.A. to Brazil (revalidating and amending).	1

2. It is not found that the following resolution, incorporated in Agreement CAB 27019 as indicated, is adverse to the public interest or in violation of the Act, provided that approval is subject to the conditions stated below:

	Agreement CAB	IATA No.	Title	Application
27019:				
R-18		084aa	TC1 7/15 day group inclusive-tour fares San Jose/San Salvador to San Juan (new). Provided that:	1
(a) The provision which at departure would			permit a lesser number of passengers than that prescribed by the Resolution to travel shall not be limited to situations caused by circumstances beyond the control of the passengers dropping out of the group and the balance of the group may travel at no added costs.	
(b) In the event a passenger discontinues			his journey en route for any reason, the amount of the fare paid may be applied as a credit toward the purchase of transportation at the applicable fare calculated from the original point of origin.	
(c) Full refund shall be made in the event			of death or illness of the passenger or of a member of the passenger's immediate family prior to travel.	
(d) The amount of the forfeiture to be			imposed in the event of cancellation by the group or member of the group at depar-	

Agreement CAB	IATA No.	Title	Application

posed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evi-

Dated at Washington, D.C., February 27, 1978.

Act (Pub. L. 92-463), announcement is made of the following committee

Agreement CAB	IATA No.	Title	Application
		fare time for any reason shall not exceed 25 percent of the fare paid and, after departure, the forfeiture shall not exceed 25 percent of the excess of the price of the group fare ticket over the cost of normal fare transportation from point to origin to point of cancellation.	

3. It is found that the following resolutions, incorporated in the agreements indicated, are adverse to the public interest and in violation of the Act insofar as they would increase normal economy-class fares to/from U.S. points:

Agreement CAB	IATA No.	Title	Application
27019: R-9	061c	TC1 economy-class fares	1
26434: R-1	002s	Special amending resolution	1

4. It is not found that the following resolutions, incorporated in Agreement CAB 27019 as indicated, affect air transportation as defined by the Act:

Agreement CAB	IATA No.	Title	Application
27019: R-15	075mm	TC1 group excursion fares Mexico to Brazil (new).	1
R-16	080r	TC1 2/8 day individual inclusive-tour fares Jamaica to Panama (revalidating and amending).	1
R-17	080rr	TC1 2/21-day individual inclusive-tour fares Mexico to Panama (revalidating and amending).	1
R-19	084bb	TC1 group inclusive-tour fares Pointe a Pitre/Fort de France-Lima (revalidating and amending).	1
R-21	084ll	TC1 5/21-day group inclusive-tour fares Lima/Panama to Havana (revalidating and amending).	1
R-26	084ww	TC1 17-day group inclusive-tour fares—Netherlands Antilles to Central/South America (revalidating and amending).	1
R-27	084xx	TC1 group inclusive-tour fares—from Brazil to Barbados/Trinidad (revalidating and amending).	1

Accordingly, *it is ordered*, That:

1. Those portions of Agreement CAB 27019 set forth in finding paragraph 1 above be approved, subject, where applicable, to conditions previously imposed by the Board;
2. That portion of Agreement CAB 27019 set forth in finding paragraph 2 above be approved, subject to the conditions stated therein;
3. Those portions of Agreements CAB 27019 and CAB 26434 set forth in finding paragraph 3 above be disapproved insofar as they would increase normal economy fares to/from U.S. points;
4. Jurisdiction be disclaimed with respect to those portions of Agreement CAB 27019 set forth in finding paragraph 4 above;
5. Action be deferred on Agreement CAB 27019, R-6;
6. Tariffs implementing the approved portions of Agreement CAB 27019 shall be marked to expire not later than March 31, 1980; and
7. The petition of Pan American World Airways, Inc., for reconsideration of Order 77-12-87 be dismissed.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[1]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-5692 Filed 3-2-78; 8:45 am]

[6320-01]

[Docket 32152]

LAS VEGAS-HOUSTON COMPETITIVE SERVICE INVESTIGATION

Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on March 28, 1978, at 9:30 a.m. (local time), in Room 1003, Hearing Room A, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and six copies to the Judge of: (1) Proposed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evidence; (4) statements of positions; and (5) proposed procedural dates. The Bureau of Pricing and Domestic Aviation will circulate its material on or before March 13, 1978, and the other parties on or before March 21, 1978. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Pricing and Domestic Aviation, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., February 27, 1978.

WILLIAM A. KANE, Jr.,
Administrative Law Judge.

[FR Doc. 70-5694 Filed 3-2-78; 8:45 am]

[1] All Members concurred.

[6320-01]

[Docket 24847]

TRANSAVIA HOLLAND B. V.

Postponement of Prehearing Conference

At the request of the applicant the prehearing conference in the above-entitled matter now assigned to be held on March 9, 1978 (43 FR 6826, February 16, 1978), is postponed and will be held on March 23, 1978, at 9:30 a.m. (local time), in Room 1003, Hearing Room D, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned.

Dated at Washington, D.C., February 27, 1978.

WILLIAM A. KANE, Jr.,
Administrative Law Judge.

[FR Doc. 70-5696 Filed 3-2-78; 8:45 am]

[6320-01]

[Docket 30356]

TRANSCONTINENTAL LOW-FARE ROUTE PROCEEDING

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on April 5, 1978, at 10 a.m. (local time), in Room 1003, Hearing Room A, Universal Building North, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned Administrative Law Judge.

For details of the issues involved in this proceeding, interested persons are referred to the Prehearing Conference Report, served on December 23, 1977, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., February 27, 1978.

WILLIAM H. DAPPER,
Administrative Law Judge.

[FR Doc. 78-5693 Filed 3-2-78; 8:45 am]

[1505-01]

[Docket 29123]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Granting Petition and Approving Agreements

Correction

In FR Doc. 78-3287 appearing at page 5399 in the issue for Wednesday, February 8, 1978, in the docket number in the heading, "Order 77-2-17" should be inserted after "29123;".

[6325-01]

CIVIL SERVICE COMMISSION

DEPARTMENT OF COMMERCE

Title Change in Noncareer Executive Assignment

By notice of November 17, 1967, FR Doc. 67-13608, the Civil Service Commission authorized the departments and agencies to fill by noncareer executive assignment, certain positions removed form Schedule C of Civil Service Rule VI by 5 CFR 213.3301a on November 17, 1967. This is notice that the title of one such position so authorized to be filled by noncareer executive assignment has been changed from Deputy Assistant Secretary for Economic Development Planning, Economic Development Administration/to Deputy Assistant Secretary for Economic Development Policy and Planning, Economic Development Administration.

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-5500 Filed 3-2-78; 8:45 am]

[3510-49]

DEPARTMENT OF COMMERCE

National Fire Prevention and Control Administration

ADVISORY COMMITTEE ON FIRE TRAINING AND EDUCATION FOR THE NATIONAL ACADEMY FOR FIRE PREVENTION AND CONTROL

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following committee meeting:

Name: Advisory Committee on Fire Training and Education for the National Academy for Fire Prevention and Control (Committee).
Date of meeting: April 3-4, 1978.
Place: Executive House, 1515 Rhode Island Avenue NW., Washington, D.C.
Time: 9 a.m. to 5 p.m.
Proposed agenda: April 3, 1978: Roll call of members/visitors; announcements; approval of minutes of fifth meeting; correspondence report; unfinished business, review training portion of final report, start review of complete final draft; new business, open university phase I report and proposal, appointments and work of board of visitors. April 4, 1978: Continue review of final draft; committee administration and travel; determine next meeting date.

The meeting will be open to the public with approximately 20 seats available on a first-come-first-served basis. Members of the general public who plan to attend the meeting should contact Ms. Jane Sornberger, National Fire Academy, National Fire Prevention and Control Administration, P.O. Box 19518, Washington, D.C. 20036, 202-634-7541, on or before March 20, 1978.

Minutes of the meeting will be prepared by the Committee and will be available for public viewing in Room 214, National Fire Prevention and Control Administration, 2400 M Street NW., Washington, D.C. Copies of the minutes will be available upon request 30 days after the meeting.

Dated: February 24, 1978.

HOWARD D. TIPTON,
Administrator, National Fire Prevention and Control Administration.

[FR Doc. 78-5705 Filed 3-2-78; 8:45 am]

[3510-49]

BOARD OF VISITORS FOR THE NATIONAL ACADEMY FOR FIRE PREVENTION AND CONTROL

Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following committee meeting:

Name: Board of Visitors for the National Academy for Fire Prevention and Control (Board).
Date of meeting: March 28-29, 1978.
Place: Third floor, 1750 New York Avenue NW., Washington, D.C.
Time: 8:30 a.m. to 5 p.m.
Proposed agenda: March 28, 1978: Introductory remarks; overview of the National Fire Prevention and Control Administration Activities; overview of Academy organization; orientation; Academy activities to date. March 29, 1978: Administrative items; budget; Far West Laboratory report; Academy site; problem areas/questions.

The meeting will be open to the public with approximately 20 seats available on a

Transmittal Memorandum No. 5, this Department is commencing a compre-

tor, NFPCA, regarding the desirability of establishing a mechanism for accreditation of fire training and education programs and

CAC on the Black Population for the 1980 Census provides an organized and continu-

prescribed or authorized by the Fishery Conservation and Management Act of 1976.

Industry Policy Advisory Committee for Multilateral Trade Negotiations (MTN) ad-

The meeting will be open to the public with approximately 20 seats available on a first-come-first-served basis. Members of the general public who plan to attend the meeting should contact Ms. Jane Sornberger, National Fire Academy, National Fire Prevention and Control Administration, P.O. Box 19518, Washington, D.C. 20036, 202-634-7541, on or before March 20, 1978.

Minutes of the meeting will be prepared by the Board and will be available for public viewing in Room 214, National fire Prevention and Control Administration, 2400 M Street NW., Washington, D.C. Copies of the minutes will be available upon request 30 days after the meeting.

Dated: February 24, 1978.

HOWARD D. TIPTON,
Administrator, National Fire Prevention and Control Administration.

[FR Doc. 78-5704 Filed 3-2-78; 8:45 am]

[3510-22]

National Oceanic and Atmospheric Administration

MID ATLANTIC FISHERY MANAGEMENT COUNCIL

Public Meeting

The Mid Atlantic Fishery Management Council, established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet April 12 and 13, 1978 at The Bonhomme Richard Inn, 500 Merrimac Trail, Williamsburg, Va. The meeting starts at 9 a.m. on April 12 and will adjourn at about 3 p.m. on April 13.

Proposed Agenda: (1) Shark Management Plan; (2) Butterfish Management Plan; and (3) Other Administrative Matters.

Meeting is open to the public. For more information on seating, changes to the agenda, or written comments, contact John C. Bryson, Executive Director, Mid Atlantic Fishery Management Council, North and New Streets, Room 2115, Federal Building, Dover, Del. 19901, telephone 302-674-2331.

Dated: February 27, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-5591 Filed 3-2-78; 8:45 am]

[3510-17]

Office of the Secretary

ESSENTIALITY OF ADVISORY COMMITTEES

Solicitation of Public Views

In accordance with Section 7(b) of the Federal Advisory Committee Act, 5 U.S.C. App., and Office of Management and Budget Circular A-63, Transmittal Memorandum No. 5, this Department is commencing a comprehensive review into the essentiality of its advisory committees. To comply with the law, the Department is undertaking this annual review of each advisory committee to determine: (1) Whether such committee is carrying out its purpose; (2) whether, consistent with the provisions of applicable statutes, the responsibilities assigned to it should be revised; (3) whether it should be merged with other advisory committees; or (4) whether it should be abolished. This review will cover each of the 102 advisory committees officially chartered under the Federal Advisory Committee Act, as of December 31, 1977. These 102 committees, by title and brief statement of purpose, are accounted for in the listing below.

Public comment is hereby solicited on the abolishment, consolidation, or continuation of each of these committees. Such comments should be addressed as follows:

U.S. Department of Commerce, Assistant Secretary for Administration, Room 5830, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Comments received by March 24, 1978 in response to this solicitation will be considered by the Department in the course of its comprehensive review. Concurrently, and until March 31, 1978, all comments which are received will be available for public inspection and copying at the Department's Central Reference and Records Inspection Facility, Room 5317, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Any questions regarding this matter may be directed to Mr. Donald Budowsky, Office of Organization and Management Systems, Room 5319, Main Commerce Building, telephone: 202-377-4217.

Dated February 24, 1978.

GUY CHAMBERLIN, Jr.,
Deputy Assistant Secretary for Administration.

DEPARTMENT OF COMMERCE ADVISORY COMMITTEES

Advisory Board to the U.S. Merchant Marine Academy examines the course of instruction and management of the U.S. Merchant Marine Academy and advises the Assistant Secretary for Maritime Affairs on these matters.

Advisory Committee on East-West Trade advises ITA's Deputy Assistant Secretary for East-West Trade on ways to promote, facilitate, and coordinate the expansion of bilateral trade with Socialist countries, and identifies and makes recommendations concerning current and proposed government policies and programs relating to the promotion and expansion of such trade.

Advisory Committee on Fire Training and Education for National Academy for Fire Prevention and Control shall inquire and make recommendations to the Administrator, NFPCA, regarding the desirability of establishing a mechanism for accreditation of fire training and education programs and courses, and the role which DOC's National Academy for Fire Prevention and Control should play if such a mechanism is recommended.

Advisory Committee for International Legal Metrology advises Commerce (through the Director, NBS) on technical and policy matters relating to NBS' assigned general responsibility for the development of U.S. positions on technical issues arising in the International Organization of Legal Metrology.

Advisory Committee on Product Liability advises the Under Secretary (who chairs the Interagency Task Force on Product Liability) on measures that might be taken in the public policy area to facilitate improvements in the product liability process.

Advisory Committee to the White House Conference on Balanced National Growth and Economic Development furnishes advice to the Secretary of Commerce in the planning of the White House Conference and in the preparation of the Conference's interim and final reports.

Board of Visitors for the National Academy for Fire Prevention and Control shall annually review the program of the Academy and make comments and recommendations to the Secretary regarding the operation of the Academy and any improvements therein which the Board deems appropriate.

Building Technology Advisory Committee advises DOC on matters relating to the Nation's needs in building research and technology, and provides a medium for receiving advice from all interests (e.g., construction industry, government, labor, consumers, state building code agencies, etc.) concerning relevant NBS programs and activities.

Census Advisory Committee (CAC) on Agriculture Statistics advises the the Director, Census Bureau, on the kind of information that should be obtained from agricultural respondents; makes recommendations regarding the contents of agricultural reports; and presents the views and needs for data of major agricultural organizations, their members, and other users of agricultural statistics.

CAC of the American Economic Association advises the Director, Census Bureau, on technical matters, accuracy levels, and conceptual problems concerning the economic censuses; reviews major aspects of the Bureau's programs, and advises on the role of analysis within the Bureau and on the need for more detailed data.

CAC of the American Marketing Association advises the Director, Census Bureau, as to the statistics that will help in marketing the Nation's products and services and on ways to make the statistics more useful to users.

CAC of the American Statistical Association advises the Director, Census Bureau, on the Bureau's overall programs, considers priority issues in the planning of censuses; examines guiding principles and advises on policy and procedure issues; and responds to Bureau requests for opinion regarding Bureau operations.

CAC on the Asian and Pacific Americans Population for the 1980 Census provides an organized and continuing channel of communication between the Asian and Pacific Americans community and the Census Bureau on the problems and opportunities of the 1980 Census as they relate to the Asian and Pacific Americans of the U.S.

CAC on the Black Population for the 1980 Census provides an organized and continuing channel of communication between the black community and the Census Bureau on the problems and opportunities of the 1980 Census as they relate to the black population of the U.S.

CAC on Housing for the 1980 Census provides technical advice and guidance on plans for the forthcoming decennial Census of Housing to ensure that the major statistical needs of decision-makers will result therefrom.

CAC on Population Statistics advises the Director, Census Bureau, of current programs and on plans for the decennial census of population.

CAC on the Spanish Origin Population for the 1980 Census, during the planning for the 1980 Census of Population and Housing, advises on such elements as improving the accuracy of the population count, as developing definitions and terminology for better identification and classification of the Spanish-origin population, and suggesting areas of research, subject content, and tabulations which may be of particular use to the Spanish-origin population.

Coastal Zone Management Advisory Committee must, by statute, "advise, consult with, and make recommendations to the Secretary in matters of policy concerning the Coastal Zone."

Commerce Technical Advisory Board (CTAB) reviews and evaluates the technical activities of the Department and recommends measures to increase the value to the business community.

Committee of Industry Sector Advisory Committee (ISAC) Chairmen for Multilateral Trade Negotiations advises the Secretary of Commerce and the (President's) Special Representative for Trade Negotiations on matters which are of common interest to the ISACs and the U.S. in connection with the multilateral trade negotiations being undertaken pursuant to the Trade Act of 1974.

Computer Peripherals, Components, and Related Test Equipment Technical Advisory Committee advises Commerce on issues involving technical matters, worldwide availability, actual use of production and technology, and licensing procedures which may affect the level of export controls applicable to computer peripherals, components, test equipment, and technical data, including those whose export is subject to multilateral controls. (*N.B.* Five other Technical Advisory Committees, marked with an *asterisk* in this listing, have an identical purpose relevant to the hardware identified in their respective titles.)

**Computer Systems Technical Advisory Committee.*

Economic Advisory Board advises the Secretary on economic policy issues, including consideration and discussion of economic data, analyses, forecasts, and related reports made available from time to time by both the public and private sectors.

**Electronic Instrumentation Technical Advisory Committee.*

Exporters' Textile Advisory Committee advises ITA on the identification and surmounting of barriers to the expansion of textile exports and on methods of encouraging textile firms to participate in export expansion.

Fishery Management Councils (FMC) and Their Scientific and Statistical Committees and Advisory Panels—a unique group of advisory committees whose establishment was prescribed or authorized by the Fishery Conservation and Management Act of 1976.

Each FMC has prescribed duties, which are multiple and identical, the primary of which is to prepare and submit to the Secretary a fishery management plan for each fishery within its geographical area. ("Fishery" is defined as one or more stocks of fish—salmon, for example—which can be treated as a unit for purposes of conservation and management.)

Each Scientific and Statistical Committee has prescribed duties to assist its respective Council in the development, collection and evaluation of such statistical, biological, economic, social, and other scientific data as is relevant to the Council's development or amendment of a fishery management plan.

Each Advisory Panel advises its respective Council on the assessments and specifications of each fishery management plan within a given regional area, with special regard to (a) the capacity and extent to which U.S. vessels will harvest the resources, (b) the plan's effect on local economies and social structures, and (c) any potential conflicts between user groups of a given fishery resource.

Caribbean FMC:
- Advisory Panel for the Caribbean FMC
- Scientific and Statistical Committee for the Caribbean FMC

Gulf of Mexico FMC:
- Billfishes/Pelagic Sharks Advisory Panel for the Gulf of Mexico FMC
- Groundfish Advisory Panel for the Gulf of Mexico FMC
- Migratory Coastal Pelagic Fishery Advisory Panel for the Gulf of Mexico FMC
- Reef Fishes Advisory Panel for the Gulf of Mexico
- Scientific and Statistical Committee for the Gulf of Mexico FMC
- Shallow Water Shrimp Fishery Advisory Panel for the Gulf of Mexico FMC

Mid-Atlantic FMC:
- Advisory Panel fo the Mid-Atlantic FMC
- Scientific and Statistical Committee for the Mid-Atlantic FMC

New England FMC:
- Advisory Panel for the New England FMC
- Scientific and Statistical Committee for the New England FMC

North Pacific FMC:
- Advisory Panel for the North Pacific FMC
- Scientific and Statistical Committee for the North Pacific FMC

Pacific FMC:
- Anchovy Advisory Panel for the Pacific FMC
- Groundfish Advisory Panel for the Pacific FMC
- Jack Mackerel Advisory Panel for the Pacific FMC
- Sablefish Advisory Panel for the Pacific FMC
- Salmon Advisory Panel for the Pacific FMC
- Scientific and Statistical Committee for the Pacific FMC

South Atlantic FMC:
- Advisory Panel for the South Atlantic FMC
- Scientific and Statistical Committee for the South Atlantic FMC

Western Pacific FMC:
- Advisory Panel for the Western Pacific
- Scientific and Statistical Committee for the Western Pacific FMC

Importers' Textile Advisory Committee advises ITA of the affects on import markets of cotton, wool, and man-made fiber textile and apparel agreements.

Industry Policy Advisory Committee for Multilateral Trade Negotiations (MTN) advises, consults with, and makes recommendations to the Secretary and the (President's) Special Representative for Trade Negotiations on matters concerning the multilateral trade negotiations of the U.S.

Industry Sector Advisory Committee (ISAC) on Aerospace Equipment for MTN provides the Secretary and the (President's) Special Representative for Trade Negotiations with detailed views and information regarding trade barriers which affect individual products in the Committee's sector of U.S. industry, for use during the multilateral trade negotiations. The following 26 committees serve an identical purpose for their respective industrial sectors:

ISAC on Automotive Equipment for MTN
ISAC on Communication Equipment and Non-Consumer Electronic Equipment for MTN
ISAC on Construction, Mining, Agricultural, and Oil Field Machinery and Equipment for MTN
ISAC on Consumer Electronic Products and Household Appliances for MTN
ISAC on Drugs, Soaps, Cleaners, and Toilet Preparations for MTN
ISAC on Electrical Machinery, Power Boilers, Nuclear Reactors, and Engines and Turbines for MTN
ISAC on Ferrous Metals and Products for MTN
ISAC on Food and Kindred Products for MTN
ISAC on Hand Tools, Cutlery, and Tableware for MTN
ISAC on Other Fabricated Metal Products for MTN
ISAC on Industrial Chemicals and Fertilizers for MTN
ISAC on Leather and Products for MTN
ISAC on Lumber and Wood Products for MTN
ISAC on Machine Tools—Other Metalworking Equipment, and Other Nonelectrical Machinery for MTN
ISAC on Miscellaneous manufactures, Toys, Musical Instruments, Furniture, Etc., for MTN
ISAC on Nonferrous Metals and Products for MTN
ISAC on Office and Computing Equipment for MTN
ISAC on Paint, Gum and Wood Chemicals, and Miscellaneous Chemical Products for MTN
ISAC on Paper and Products for MTN
ISAC on Photographic Equipment and Supplies for MTN
ISAC on Railroad Equipment and Miscellaneous Transportation Equipment for MTN
ISAC on Retailing for MTN
ISAC on Rubber and Plastics Materials for MTN
ISAC on Scientific and Controlling Instruments for MTN
ISAC on Stone, Clay, and Glass Products for MTN
ISAC on Textiles and Apparel for MTN

Management-Labor Textile Advisory Committee advises ITA on problems and conditions in the textile and apparel industries and furnishes relevant world trade information to the (interagency) Committee for the Implementation of Textile Agreements, DOC officials, and U.S. negotiators of Textile trade agreements.

Marine Fisheries Advisory Committee advises the Secretary (through NOAA) on

matters concerning the Department's responsibilities for fisheries resources and on

**Telecommunications Equipment Technical Advisory Committee.*

Washington, D.C. 20230, 202-377-4212.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47 (a)(2), 85 Stat. 77

[6820-33]

PROCUREMENT LIST 1978

gency Toxic Substances Strategy Committee. This committee serves as the

matters concerning the Department's responsibilities for fisheries resources and on means to facilitate cooperation between relevant public and private sector interests.

National Advisory Committee on Oceans and Atmosphere is a Presidential advisory committee, the management of which under the Federal Advisory Committee Act has been specifically delegated to the Secretary by OMB. This committee reviews national ocean policy, coastal zone management, and the progress of U.S. marine and atmospheric science service programs; submits comprehensive annual reports to the President and the Congress, as well as such other reports as may be requisted by them; and advises the Secretary with respect to NOAA's mission and accomplishments.

National Bureau of Standards Visiting Committee visits NBS at least once a year and reports to the Secretary on the efficiency of the Bureau and the condition of the Bureau's labs and equipment.

National Laboratory Accreditation Criteria Committee for Thermal Insulation Materials develops and recommends to the Secretary general and specific criteria to accredit testing laboratories that test thermal insulation materials.

National Public Advisory Committee on Regional Economic Development makes recommendations to the Secretary relative to the carrying out of her duties under the (EDA) Public Works and Economic Development Act of 1965, as amended.

**Numerically Controlled Machine Tool Technical Advisory Committee.*

Patent and Trademark Office Advisory Committee advises on all matters concerning the patent system and the administration of the PAT-TM Office, including: consideration of patent examining operations, proposals involving patent legislation, and proposals requiring new patent treaties.

Presidents Export Council (PEC) serves as a national advisory body to the President on export expansion activities. Through the Secretary, it advises the President, the Counsil on International Economic Policy, and the Interagency Committee on Export Expansion on matters relating to export trade.

PEC Subcommittee on Export Administration advises the Secretary, through the PEC, on matters which deal with U.S. policy of encouraging trade with all countries with which the U.S. has diplomatic relations and of controlling trade for national security and foreign policy reasons.

Public Advisory Committee for Trademark Affairs advises the PAT-TM Office on steps which can be taken to enhance the efficiency and effectiveness of the administration of the Trademark Act, and provides a continuing source of knowledge from the private sector to the government in trademark matters.

Sea Grant Review Panel advises on grant and contract applications, proposals, and performances under the 1976 Sea Grant Program Improvement Act; on the Sea Grant Fellowship Program; on the designation and operations of Sea Grant Colleges and Sea Grant Consortia; and related matters referred to it for review.

**Semiconductor Technical Advisory Committee.*

**Telecommunications Equipment Technical Advisory Committee.*

Travel Advisory Board identifies areas where attainment of U.S. Travel Service goals can be facilitated, and develops relevant policy recommendations; reviews all Federal policies and practices which impact the travel field; and offers guidance and recommendations on issues connected with the implementation of the International Travel Act.

Weather Modification Board advises the Secretary (through Administrator, NOAA) on matters of a national policy, a national research and development program, and other aspects of weather modification as outlined in the National Weather Modification Policy Act of 1976 (Pub. L. 94-490).

NOTE. The abbreviations used above and their meanings are as follows:

ITA—Industry and Trade Administration
EDA—Economic Development Administration
NBS—National Bureau of Standards
NFPCA—National Fire Prevention and Control Administration
NOAA—National Oceanic and Atmospheric Administration
PAT-TM—Patent and Trademark Office

[FR Doc. 78-5740 Filed 3-2-78; 8:45 am]

*See parenthetical note in the description of the *Computer Peripherals, Components, and Related Test Equipment Technical Advisory Committee.*

[3510-25]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

TEXTILE CATEGORY SYSTEM

FEBRUARY 28, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Changes in the correlation: Textile and apparel categories with tariff schedules of the United States annotated.

SUMMARY: A notice, published in the FEDERAL REGISTER on January 4, 1978, Part VI, announced details of the new textile category system which became effective January 1, 1978. On January 25, 1978 a notice in the FEDERAL REGISTER, Vol. 43, No. 17, page 3421, listed certain corrections and changes in the textile category system. There is published below a list further amending the system to reflect changes in the tariff schedules of the United States annotated. Revised copies of the correlation are available upon request.

EFFECTIVE DATE: March 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Leonard A. Mobley, Director, Trade Analysis Division, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-4212.

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development, U.S. Department of Commerce.

CHANGE SHEET—TEXTILE CATEGORY SYSTEM

Correlation page	TSUSA	Action
5	310.5048	Eliminate.
5	310.5049	Add.
5	310.5051	Add.
45	380.0043	Eliminate.
45	380.0041	Add.
45	380.0042	Add.
49	382.8063	Eliminate.
49	382.0059	Add.
49	382.0061	Add.
50	382.0074	Eliminate.
50	382.0072	Add.
50	382.0075	Add.
79	382.0415	Eliminate.
79	382.0414	Add.
79	382.0416	Add.
79	382.7819	Eliminate.
79	382.7818	Add.
79	382.7820	Add.
80	382.0468	Eliminate.
80	382.0467	Add.
80	382.0469	Add.
80	382.0478	Add.
82	382.0480	Add.
83	382.8104	Eliminate.
83	382.8103	Add.
83	382.8105	Add.
101	380.3980	Eliminate.
101	382.3380	Add.
101	386.0470	Add.
101	386.3610	Add.
111	389.6010	Eliminate.
111	389.6210	Add.
111	389.6340	Add.

[FR Doc.78-5622 Filed 3-2-78; 8:45 am]

[6820-33]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1978

Proposed Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed addition to procurement list.

SUMMARY: The Committee has received a proposal to add to procurement list 1978 a commodity to be produced by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: April 5, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Feltcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47 (a)(2), 85 Stat. 77.

If the committee approves the proposed addition, all entities of the Federal Government will be required to procure the commodity listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity to procurement list 1978, November 14, 1977 (42 FR 59015):

CLASS 8430

Pootwear Cover, Radioactive Contaminants, 8430-00-890-2079.

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-5636 Filed 3-2-78; 8:45 am]

[6820-33]

PROCUREMENT LIST 1978

Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to procurement list.

SUMMARY: This action adds to procurement list 1978 a service to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: March 3, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: On December 9, 1977 the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (42 FR 62180) of proposed additions to procurement list 1978, November 14, 1977 (42 FR 59015).

After consideration of the relevant matter presented, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46-48(c), 85 Stat. 77.

Accordingly, the following service is hereby added to procurement list 1978:

SIC 7399, Packaging Services (SH), Portsmouth Naval Shipyard, Portsmouth, N.H.

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-5637 Filed 3-2-78; 8:45 am]

[6820-33]

PROCUREMENT LIST 1978

Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Deletion from Procurement List.

SUMMARY: This action deletes from Procurement List 1978 military resale items produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: March 3, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: On January 6, 1978 the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (43 FR 1117) of proposed deletion from Procurement List 1978, November 14, 1977 (42 FR 59015).

After consideration of the relevant matter presented, the Committee has determined that the military resale items listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46-48(c), 85 Stat. 77.

Accordingly, the following military resale items are hereby deleted from Procurement List 1978:

MILITARY RESALE ITEM NO. AND NAME

No. 998..... Dish, plastic, pet.
No. 999..... Do.

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-5638 Filed 3-2-78; 8:45 am]

[3125-01]

COUNCIL ON ENVIRONMENTAL QUALITY

TOXIC SUBSTANCES STRATEGY COMMITTEE, SUBCOMMITTEE ON TRADE SECRETS AND DATA CONFIDENTIALITY—WORK PLAN

Public Meeting

AGENCY: Council on Environmental Quality.

SUBJECT: Toxic Substances Strategy Committee, Subcommittee on Trade Secrets and Data Confidentiality—Work Plan.

ACTION: Notice of Public Meeting.

SUMMARY: The Council on Environmental Quality, in response to the President's Environmental Message of May 23, 1977, convened the interagency Toxic Substances Strategy Committee. This committee serves as the principal forum for the development of Administration initiatives with respect to government-wide toxic substances strategy and policy. Further information on the background of the Toxic substances Strategy Committee, its goals, work plan, and membership was published on pages 57866-57870 of the FEDERAL REGISTER of November 4, 1977.

Included in the agenda of the Strategy Committee are several tasks, the purpose of which is to develop initiatives to eliminate overlaps and fill gaps in collection of toxic chemicals data. As part of this effort, and outlined generally under Task IIA in the work plan of the Strategy Committee, the Subcommittee on Trade Secrets and Data Confidentiality was established. The subcommittee will examine and make recommendations to the Strategy Committee on the effects of present federal protection afforded trade secrets and similar information on the government's efforts to effectively control health and environment problems caused by toxic substances. The work plan of this subcommittee will constitute the agenda for the public meeting and is published under the Supplemental Information heading of this notice. The Subcommittee will hold an informal public meeting to discuss the work plan and to solicit suggestions and information concerning the Subcommittee's activities. Information obtained at the hearing and by written comment (including those previously received in response to the Toxic Substances Strategy Committee's November 4, 1977, FEDERAL REGISTER notice) will assist the Subcommittee in formulating its recommendations to the Toxic Substances Strategy Committee.

The Subcommittee welcomes comments on its work plan generally but for the purposes of the meeting is particularly interested in obtaining comments concerning those issues to be included in the subcommittee's initial recommendations:

1. Whether federal agencies should be encouraged to share trade secrets and similar data obtained by an agency under specific statutory authority? If yes, under what guidelines? What are the problems (excluding considerations of physical security) and benefits?

2. Whether a federal agency should be permitted to disclose trade secrets and similar data to government contractors? If yes, under what guidelines? What are the problems?

3. Whether safety and efficacy data, health and safety studies and similar data constitute trade secrets or other confidential information? Whether such data should be released to the public and if so, under what guide-

lines? What are the benefits and problems in such cases?

4. What are the issues involved in agency rulemaking on a confidential record which contains trade secrets and similar information? What type of information that is presently kept confidential should be made publicly available? What mechanisms could be utilized to accomplish this purpose?

DATES: The public meeting will be held on Monday, March 20, 1978. The meeting will begin at 1:30 p.m. and extend through the normal business hours. Requests to present a statement at the meeting should be received by March 17, 1978. Comments pertinent to the Subcommittee's activities are welcome at any time, but should be received before March 31, 1978, to be of utility in the formulation of the initial recommendations.

ADDRESS: The hearing will be held in Room 2008 of the New Executive Office Building, 726 Jackson Place NW., Washington, DC. (Entrance is also on 17th Street, north of Pennsylvania Avenue.)

PARTICIPATION: Those persons wishing to present formal statements at the meeting should send their requests to Robert Nicholas, Counsel, Council on Environmental Quality, 722 Jackson Place NW., Washington, DC 20006 or call him at 202-633-7111. Requests should include the name, address, and telephone number of the participant and the approximate time needed for the presentation. For those persons who cannot participate at the meeting, written comments may be submitted.

FOR FURTHER INFORMATION CONTACT:

Robert Nicholas, Counsel, Council on Environmental Quality, 722 Jackson Place NW., Washington, D.C. 20006. Phone: 202-633-7111.

SUPPLEMENTAL INFORMATION: The meeting will be conducted in an informal manner under the Chairmanship of CEQ and other members of the Subcommittee. The meeting will first be limited to presentation of prepared statements by interested persons. It would be helpful if 20 copies of the prepared statement could be provided for distribution. To accommodate all persons wishing to present statements, the Chairperson may limit the time allowed for presentation of each statement. Following presentation of the prepared statement, clarifying questions will be permitted. Any time remaining will be available to receive additional comments. A verbatim record of the meeting will not be made.

Dated: February 28, 1978.

ROBERT B. NICHOLAS,
Counsel, Council on Environmental Quality.

TRADE SECRETS AND DATA CONFIDENTIALITY SUB-COMMITTEE TOXIC SUBSTANCES STRATEGY COMMITTEE

WORK PLAN

In response to the President's Environmental Message of May, 1977, the Council on Environmental Quality convened the Toxic Substances Strategy Committee. The Committee's work plan, published in the FEDERAL REGISTER on November 4, 1977 (42 FR 5866) details a broad program for evaluation and coordination of federal activities pertaining to research, regulation and information on toxic substances. Under the auspices of the Strategy Committee, and outlined generally in the work plan as Task II A, the Trade Secrets and Data Confidentiality Sub-Committee will examine the effects of present federal protection afforded trade secrets and similar information upon the government's efforts to effectively control health and environmental problems caused by toxic substances.

The Sub-Committee will operate within the general scope, objectives and methods of operation of the Strategy Committee as set out in the Work Plan. Initial recommendations will be made by the Sub-Committee to the Strategy Committee in April 1978, supplemented by additional recommendations in July 1978. A list of the members participating in Task II A appears as Appendix A.

BACKGROUND

Most federal agencies which have responsibility for protecting the public health and environment also have authority to obtain from industry safety and efficacy data, product composition, business production and similar information. Various statutes enacted over the years have granted this authority to these agencies. Such authority is essential for intelligent decisionmaking and effective performance of statutory responsibilities. (A list of the statutes to be considered by the Sub-Committee appears as Appendix B.) Some of the informnation provided to the government is believed by the provider to contain trade secrets or comercial or financial information, which the provider considers confidential and valuable, and the interagency transfer or public disclosure of which the provider seeks to restrict. The Freedom of Information Act, 18 U.S.C. 1905, the Federal Reports Act, and the various statutes under whose authority these agencies collect information have all attempted to deal with the question of transfer and disclosure. In varying degrees these statutes provide for limited transfer and disclosure of trade secret and other confidential information though none define what is either a trade secret or what constitutes confidential commercial or financial information. An overall look at these varying authorities and agency interpretations disclose that there is no coherent scheme for dealing with these problems. The absence of definitions, procedures and similar deficiencies has resulted in: duplication, as in the case where two or more agencies must simultaneously collect indentical data since they are prohibited from sharing the data; incongruities, as in the case where one statute mandates the disclosure of certain information and another prohibits it; and similar problems. Uncertainty about the appicability of penalties for disclosure or transfer have also left federal employees confused as to the consequences of their action and companies uneasy about the real protection afforded such information. Justifiably, this ad hoc approach has been subject of criticism from industry, labor and workers, public interest groups and the public generally.

GOALS

The goals of the Task Force are the following:

1. Facilitate agency access to data necessary to perform environmental, health and safety responsibilities.

2. Facilitate public access to data necessary for informed personal decisionmaking and knowledgeable participation in and evaluation of agency decisions, consistent with other legitimate interests: preserving confidentiality of secret information of substantial competitive value, and preserving individual rights of privacy.

3. Generally minimize burdens of duplicate reporting and collecting data, of ad hoc data confidentiality determinations, and otherwise promote efficient use of data by providing clear and, where appropriate, uniform guidance on standards and procedures for sharing, disclosing and protecting data.

ISSUES TO BE ADDRESSED

The Sub-Committee will examine present trade secret law and practice and make initial recommendations concerning the following high priority areas of concern:

1. Inter-agency sharing of data.

2. Agency sharing of data with government contractors.

3. Agency rulemaking and adjudication on a "blind" or secret record.

4. Public disclosure of safety and efficacy data.

Additional recommendations will be developed by the Committee on a longer time frame for some or all of the following areas of concern:

1. The definition of trade secrets and confidential commercial/financial information.

2. Administrative mechanisms and procedures for determination of what constitutes a trade secret and what constitutes confidential commercial/financial information.

3. Public disclosure and nondisclosure of trade secrets: (a) To workers; (b) to state and local governments; (c) in emergency situations; and (d) to the general public.

4. Penalties for unlawful disclosure of protected material.

5. Compensation and other economic protections for the suppliers of information.

(a) In cases involving the use by a company, of data which has been provided by another company, in order to obtain a government benefit, e.g., license. (b) In cases involving disclosure to the public for health and environment purposes.

6. Disclosure of medical records for epidemiological and similar purposes.

7. Public disclosure of information developed by governmental agencies.

TASKS

The Committee tasks will include:

1. Examination of present laws, policies and practices.

2. Analysis of the effects of present positions on stated goals.

3. Proposal of alternatives where appropriate, to implement goals, and evaluation of the effects of the proposals in the following areas: Protection of public health and environment, economic impacts, international, patent, anti-trust and other appropriate areas.

4. Committee recommendations.

JANUARY 15, 1978.

APPENDIX A.—TRADE SECRETS AND CONFIDENTIALITY SUBCOMMITTEE MEMBERS

CHAIRMAN

Robert Nicholas, Counsel, Office of General Counsel, Council on Environmental Quality, 722 Jackson Place NW., Washington, D.C. 20006, Phone 633-7111.

CPSC

Edward Cull, Office of General Counsel, U.S. Consumer Product Safety Commission, Washington, D.C. 20207.

DOC

Dr. Bernard Greifer, Toxic Substances Advisor, Office of Environmental Affairs, Department of Commerce, Room 3424, Washington, D.C. 20230.
Steve Ransdell, Office of General Counsel, Department of Commerce, Washington, D.C. 20230.

EPA

James Nelson, Attorney Advisor, Office of General Counsel, Environmental Protection Agency (A-134), Room 521, West Tower, 401 M Street SW., Washington, D.C. 20460.

HEW

Dr. Lowell T. Harmison, Special Assistant for Science, Office of the Assistant Secretary for Health, Department of Health, Education, and Welfare, Room 713H, Humphrey Building, Washington, D.C. 20201.

FDA

Edward Allera, Associate Chief Counsel for Veterinary Medicine, Office of General Counsel, Food and Drug Administration, Parklawn Building, Room 688, 5600 Fishers Lane, Rockville, Md. 20857.

NIOSH

Jean G. French, Dr.Ph.H., Health Scientist, Office of Extramural Coordination and Special Project, 5600 Fishers Lane, Mailing Room 8-23, Rockville, Md. 20857.
Howard Walderman, Attorney Advisor, Public Health Division, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857.

DOT

Ron Way, Special Assistant to the Assistant Secretary for Fish, Wildlife, and Parks, Department of the Interior, Room 3153, Washington, D.C. 20240.
Dan Edwards, Ph.d., Bureau of Mines, Department of the Interior, Washington, D.C. 20240.

DOJ

Thomas Newkirk, Office of Legal Counsel, Department of Justice, Room 5236, Washington, D.C. 20530.

OSHA

Bert Cottine, Special Assistant to Assistant Secretary for Occupational Safety and Health, Department of Labor, S-2315, Washington, D.C. 20210.

DOT

Bob Ross, Office of General Counsel, Department of Transportation, Washington, D.C. 20590.

STATE

Jack Blanchard, Environmentalist, OES/ENF/EN, Department of State, Room 7820, Washington, D.C. 20520.

OBSERVERS

OMB

Ed Newton, Assistant General Counsel, Office of General Counsel, Office of Management and Budget, Executive Office Building, Washington, D.C. 20503.

APPENDIX B.—LEGISLATION WITHIN SCOPE OF TRADE SECRETS AND CONFIDENTIALITY SUBCOMMITTEE

1. Toxic Substances Control Act, 15 U.S.C. 2601 et seq.
2. Food, Drug and Cosmetic Act, 21 U.S.C. 301-392 (1938) (as amended).
3. Occupational Safety and Health Act, 29 U.S.C. 65 et seq.
4. Consumer Product Safety Act, 15 U.S.C. 2051 et seq.
5. Poison Prevention Packaging Act of 1970, 15 U.S.C. 1471 et seq.
6. Federal Hazardous Substances Act, 15 U.S.C. 1261 et seq.
7. Marine Protection, Research and Sanctuaries Act, 33 U.S.C. 1401 et seq.
8. Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. 135 et seq.
9. Clean Air Act, 42 U.S.C. 1857 et seq.
10. Federal Water Pollution Control Act, 33 U.S.C. 1351 et seq.
11. Safe Drinking Water Act, 42 U.S.C. 300(f) et seq.
12. Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq.
13. Flammable Fabrics Act, 15 U.S.C. 1191 et seq.
14. Hazardous Materials Transportation Act, 49 U.S.C. 1802 et seq.

[FR Doc. 78-5751 Filed 3-2-78; 8:45 am]

[3910-01]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

FEBRUARY 28, 1978.

The USAF Scientific Advisory Board Weapons Panel will hold a meeting on March 21-22, 1978 at the Pentagon, Washington, D.C. from 8:00 a.m. to 5 p.m. The Panel will receive classified briefings and conduct classified discussions on technical issues surrounding cessation of nuclear testing.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at 202-697-8845.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc. 78-5649 Filed 3-2-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

ANNUAL REVIEW OF ADVISORY COMMITTEES

Request for Public Comment

The Department of Energy (DOE) is conducting a comprehensive review of its advisory committees, in accordance with OMB Circular No. A-63, Transmittal Memorandum No. 5. Public Comment is invited.

All agencies have been directed to conduct this review for each committee to determine (a) whether such committee is carrying out its purpose; (b) whether, consistent with the provisions of applicable statutes, the responsibilities assigned to it should be revised; (c) whether it should be merged with other advisory committees; or (d) whether it should be abolished.

DOE is now in the process of conducting this review for the following advisory committees:

Advisory Committee on Geothermal Energy
Bonneville Regional Advisory Council
Coal Industry Advisory Committee
Committee of Senior Reviewers

Consumer Affairs Advisory Committee
Electricity Advisory Committee
Environmental Advisory Committee

Preparation of Phase 1 allocation—Review Reporting Company rules, Hypothetical example of company allocation; Clarification

EC 78-4—Petition of City of Logansport, Ind.

211.65(b). For the allocation period of April 1, 1978 through September 30, 1978, each refiner-buyer shall be enti-

any time for an emergency supplemental allocation for one or more of its eligible refineries for one or more alloca-

period, the ERA may issue one or more directed sales orders that would result in one or more refiner-sellers

Consumer Affairs Advisory Committee
Electricity Advisory Committee
Environmental Advisory Committee
Food Industry Advisory Committee
Fossil Energy Advisory Committee
Fossil Energy Advisory Committee, Lignite Subcommittee
Fuel Oil Marketing Advisory Committee
Gas Policy Advisory Council
Gasoline Marketing Advisory Committee
High Energy Physics Advisory Panel
Inertial Fusion Advisory Committee
LP-Gas Industry Advisory Committee
National Industrial Energy Council
National Petroleum Council
Natural Gas Advisory Committee
Personnel Security Review Board Panel
State Regulatory Advisory Committee
Study Group on Global Effects of Carbon Dioxide

DOE is required to complete its review and submit its determination to the Committee Management Secretariat, General Services Administration, by April 1, 1978. Therefore, any public comments and recommendations should be provided to DOE not later than March 15, 1978. Interested persons should direct their comments to Georgia M. Hildreth, Acting Director, Advisory Committee Management Office, Department of Energy, Room 2138, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Issued at Washington, D.C. on February 27, 1978.

WILLIAM S. HEFFELFINGER,
Director of Administration.

[FR Doc. 78-5667 Filed 3-2-78; 8:45 am]

[3128-01]

VOLUNTARY AGREEMENT AND PLAN OF ACTION TO IMPLEMENT THE INTERNATIONAL ENERGY PROGRAM

Meetings

In accordance with Section 252 (c)(1)(A)(i) of the Energy Policy and Conservation Act (Pub. L. 94-163), notice is hereby provided of the following meetings:

A meeting of the International Energy Agency (IEA) Group of Reporting Companies will be held on March 9 and 10, 1978, at the offices of Exxon Corp., 1251 Avenue of the Americas, New York, N.Y., beginning at 9:30 a.m. on March 9. The agenda is as follows:

1. Opening remarks.
2. Second IEA Allocation Systems Test, including:
(A) Overview of test scope and objectives.
(B) Organization: General overview; Role of Secretariat/ISAG; Functions/responsibilities of Reporting Companies/affiliates.
(C) Participation of NESO's: Summary of key activities; Communications with affiliates; Limitations on product balancing and fair sharing.
(D) Scenario and timing: Review Reporting Company sequence of activities.
(E) Data base and use: Base case definition and reference data; Disruption telex; Preparation of Phase 1 allocation—Review Reporting Company rules, Hypothetical example of company allocation; Clarification of Questionnaire A reporting instructions; Coordination of Questionnaire A with affiliates; Resolution of Questionnaire A/B differences; Phase 2 voluntary offers (timing, procedures, coordination with affiliates, fair sharing considerations); Product imbalance considerations.
(F) Communications procedures: Telephone and telex numbers of participants; Review of data transmission deadlines—Disruption telex, NESO advice on demand restraint, Reporting company transmission schedule for Questionnaire A to Paris and from affiliates to NESO's; Questionnaire B transmission to Paris; Questionnaire A/B reconciliation; AR-AO telex; Telex on voluntary offers.
(G) Test appraisal after each cycle plus entire test.
(H) Legal considerations: Data and information that can be discussed and exchanged with ISAG; Recordkeeping requirements.
3. Closing remarks.

A meeting of Subcommittee A of the Industry Advisory Board to the International Energy Agency (IEA) will be held on March 10, 1978, at the offices of Exxon Corporation, 1251 Avenue of the Americas, New York, New York, beginning following adjournment of the meeting of the IEA Group of Reporting Companies which will be held at New York on March 9 and 10. The agenda is as follows:

1. Opening remarks.
2. Second IEA Allocation Systems Test, including addenda to Test Guide resulting from:
(A) SEQ meeting of February 16.
(B) NESO briefing meetings held to date.
(C) ISAG meeting.
(D) Reporting Company meeting.
3. Future work program.

As provided in section 252 (c)(1)(A)(ii) of the Energy Policy and Conservation Act, this meeting will not be open to the public. As provided by section 209.32 of DOE regulations, IEP requirements and unanticipated procedural delays in processing this notice require the usual seven day notice period to be shortened.

Issued in Washington, D.C., February 27, 1978.

WILLIAM S. HEFFELFINGER,
Director of Administration,
Department of Energy.

[FR Doc. 78-5666 Filed 3-2-78; 8:45 am]

[3128-01]

Economic Regulatory Administration

CITY OF LOGANSPORT, IND.

Petition Filed

The purpose of this Notice is to advise the public that the below listed petition, requesting that the Economic Regulatory Administration exercise its authorities under section 202(c) of the Federal Power Act, 16 U.S.C. section 824(c), has been filed:

EC 78-4—Petition of City of Logansport, Ind.

ERA has this application under consideration and may exercise its statutory responsibilities with or without further hearing but invites comments thereon. Copies of the above listed petition and responses, if any, thereto are available for inspection at the following locations:

Office of Public Information, Federal Energy Regulatory Commission, 825 North Capitol Street NW., Washington, D.C. 20461.
Public Information Reading Room, Department of Energy, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Additional information may be obtained from:

Douglas C. Bauer, Assistant Administrator for Utility Systems, Economic Regulatory Administration, 1111 20th Street NW., Vanguard Building, Room 536, Washington, D.C. 20461.

Written comments may be filed with:

Public Hearing Management, Economic Regulatory Administration, Box SG, Room 2313, 2000 M Street NW., Washington, D.C. 20461.

Issued in Washington, D.C., March 1, 1978.

DOUGLAS C. BAUER,
Assistant Administrator, Utility Systems, Economic Regulatory Administration, Department of Energy.

[FR Doc. 78-5832 Filed 3-2-78; 9:53 am]

[3128-01]

REFINERS' CRUDE OIL ALLOCATION PROGRAM

Allocation Period of April 1 Through September 30, 1978

The notice specified in 10 CFR 211.65(g) of the refiners' crude oil allocation program is hereby issued for the allocation period of April 1, 1978, through September 30, 1978.

The buy/sell list for refiners for the allocation period commencing April 1, 1978 is set forth as an appendix to this notice. The provisions of 10 CFR 211.65 apply to all transactions made under the buy/sell list. Included as part of the list, as required by 10 CFR 211.65(g), are: The names of refiner-buyers and their eligible refineries; the quantity of crude oil each refiner-buyer is eligible to purchase; the total allocation obligation for all refiner-sellers; the fixed percentage share for refiner-seller; and the quantity of crude oil that each refiner-seller is obligated to offer for sale to refiner-buyers.

The allocations shown on the buy-sell list for refiner-buyers were determined in accordance with 10 CFR 211.65(b). For the allocation period of April 1, 1978 through September 30, 1978, each refiner-buyer shall be entitled to purchase, for each of its refineries that is determined by ERA not to have access to imported crude oil, an amount of crude oil equal to the difference between (1) the volume of crude oil runs to stills (not including crude oil processed for other refiners) at the eligible refinery in the period April 1, 1977 through September 30, 1977, and (2) the volume of crude oil runs to stills (not including crude oil purchased pursuant to 10 CFR 211.65 or crude oil processed for other refiners) at the eligible refinery in the period October 1, 1977 through March 31, 1978 (calculated by using the level of the crude oil runs to stills at the particular refinery in the period October 1, 1977 through January 31, 1978 for the entire six-month period).

The buy/sell list sets forth separately the allocations for refiner-buyers with eligible newly constructed refinery capacity and reactivated refineries and refinery capacity. Pursuant to 10 CFR 211.65(a)(1)(iii), ERA has assigned such refinery capacity an allocation equal to twenty-five (25%) percent of the capacity for the allocation period commencing April 1, 1978. The allocations for newly constructed refinery capacity and reactivated refineries and refinery capacity were calculated on the basis of estimated capacities and the assumption that such capacity has commenced operations or will commence operations on or about April 1, 1978. ERA will review each such allocation after the capacity has been certified by ERA pursuant to 10 CFR 211.67(a)(2) and the start-up dates are verified. In the event that ERA subsequently determines that any such allocation is incorrect, ERA will adjust the allocation in this allocation period or in the allocation period commencing October 1, 1978.

Pursuant to 10 CFR 211.65(c)(1), any small refiner may apply to ERA for review of the denial of eligibility of a refinery owned by that refiner where significant changes in the refinery's access to imported crude oil have occurred since the refinery was determined by ERA to be ineligible for an allocation. Any refiner-buyer may apply to ERA for an adjustment to an allocation as to an eligible refinery to compensate for reductions in crude oil runs to stills due to unusual or nonrecurring operating conditions or an unconsummated directed sale under 10 CFR 211.65(j) due to documented delays in delivering allocated crude oil. Applications for review of eligibility for an allocation or adjustment to an allocation for the allocation period commencing October 1, 1978 must be received by ERA no later than August 1, 1978.

Pursuant to 10 CFR 211.65(c)(2), any refiner-buyer may apply to ERA at any time for an emergency supplemental allocation for one or more of its eligible refineries for one or more allocation periods, or for part of an allocation period: *Provided,* That such refiner will be required to demonstrate that it has incurred or will incur a reduction in its crude oil supply (excluding crude oil allocated under 10 CFR 211.65 or under 10 CFR 211.63), for the eligible refinery for which an emergency allocation is sought equal to at least twenty-five (25%) percent of such crude oil supply in the preceding six-month period.

The buy/sell list covers PAD Districts I through V, and amounts shown are in barrels of 42 gallons each, for the specified period. Pursuant to § 211.65(f), each refiner-seller shall offer for sale, directly or through exchange, to refiner-buyers during an allocation period a quantity of crude oil equal to that refiner-seller's sales obligation plus any portion of that refiner-seller's sales obligation as to which ERA directs a sale pursuant to 10 CFR 211.65(j).

Pursuant to 10 CFR 211.65(h), each refiner-buyer and refiner-seller is required to report to ERA in writing or by telex the details of each transaction under the buy/seller list within forth-eight hours of the completion of arrangements therefor. Each report must identify the refiner-seller, the refiner-buyer, the refineries to which the crude oil is to be delivered, the volumes of crude oil sold or purchased, and the period over which the delivery is expected to take place.

The procedures of 10 CFR 211.65(j) provide that if a sale is not agreed upon subsequent to the date of publication of this notice, a refiner-buyer that has not been able to negotiate a contract to purchase crude oil may request ERA to direct one or more refiner-sellers to sell a suitable type of crude oil to such refiner-buyer. Such request must be received by the ERA no later than 20 days after the publication date of the buy/sell notice for the allocation period for which the assignment of a refiner-seller is requested. Upon such request, ERA may direct one or more refiner-sellers that have not completed their required sales to sell crude oil to the refiner-buyer.

In directing refiner-sellers to make such sales, the ERA will consider the percentage of each refiner-seller's sales obligation for the allocation period that has been sold, as reported pursuant to § 211.65(h), as well as the refiner-seller or sellers that can best be expected to consummate particular directed sales. If, in ERA's opinion, a valid directed sale request cannot reasonably be expected to be consummated by a refiner-seller that has not completed all or substantially all of its sales obligation for the allocation period, the ERA may issue one or more directed sales orders that would result in one or more refiner-sellers selling more than their published sales obligations for that allocation period. In such cases, the refiner-seller or sellers will receive a barrel-for-barrel reduction in their sales obligations for the next allocation period pursuant to 10 CFR 211.65(f)(3)(ii).

If the refiner-buyer declines to purchase the crude oil specified by the ERA, the rights of that refiner-buyer to purchase that volume of crude oil are forfeited during this allocation period, provided that the refiner-seller or refiner-sellers have fully complied with the provisions of 10 CFR 211.65.

Refiner-buyers making requests for directed sales must document their inability to purchase crude oil from refiner-sellers by supplying the following information to the ERA:

(i) Name of the refiner-buyer and of the person authorized to act for the refiner-buyer in buy/sell program transactions.

(ii) Name and location of the refineries for which crude oil has been sought, the amount of crude oil sought for each refinery, and the technical specifications of crude oil that have historically been processed in each refinery.

(iii) Statement of any restrictions, limitations, or constraints on the refiner-buyer's purchases of crude oil, particularly concerning the manner or time of deliveries.

(iv) Names and locations of all refiner-sellers from which crude oil has been sought under the buy/sell notice, the refineries for which crude oil has been sought, and the volume and specifications of the crude oil sought from each refiner-seller.

(v) The response of each refiner-seller to which a request to purchase crude oil has been made, and the name and telephone number of the individual contacted at each such refiner-seller.

(vi) Such other pertinent information as the ERA may request.

All reports and applications made under this notice should be addressed to:

Program Manager, Crude Oil Allocation, 20th Steet Postal Station, P.O. Box 19028, Washington, D.C. 20036.

This notice is issued pursuant to Subpart G of DOE's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with DOE's Office of Administrative Review in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before April 3, 1978.

Issued in Washington, D.C., February 26, 1978.

DAVID J. BARDIN,
Administrator, Economic Regulatory Administration.

APPENDIX

The list of refiner-sellers and refiner-buyers for the period April 1, 1978, through September 30, 1978, is as follows. The first part of the list sets forth the identity of each refiner-seller and refiner-buyer, the fixed percentage share of each refiner-seller, and the volumes of crude oil that each such refiner-buyer is eligible to purchase for each eligible refinery, as the case may be.

Allocations for newly constructed refinery capacity and reactivated refineries and refinery capacity are set forth in the second part of the list.

CRUDE OIL ALLOCATION PROGRAM FOR THE PERIOD APR. 1, TO SEPT. 30, 1978

Refiner-sellers	Share	Sales obligation (barrels)
Amoco Oil Co	0.099	964,594
Atlantic Richfield	.072	710,436
Cities Service	.023	1,711,371
Chevron U.S.A	.096	2,963,016
Continental Oil Co	.034	0
Exxon Corp	.112	0
Getty	.020	71,864
Gulf Oil Corp	.066	566,668
Marathon Oil Co	.022	78,660
Mobil Oil Corp	.089	499,537
Phillips Petroleum	.039	143,986
Shell Oil Co	.107	391,884
Sun Oil Co	.062	427,633
Texaco Inc	.107	994,700
Union Oil Co. of California	.043	1,577,581
Total sales		11,072,930

ELIGIBLE REFINERIES, APRIL TO SEPTEMBER 1978

Refiner	Refinery location	Allocation (barrels)
Asamera Oil, Inc	Denver, Colo	290,220
Bi-Petro, Inc	Pana, Ill	0
CRA-Farmland Ind., Inc.	Scottsbluff, Nebr	35,612
Do	Phillipsburg, Kans.	135,260
Dow/Refinery	Bay City, Mich	1,307,653
Evangeline Refinery.	Jennings, La	46,060
Farmers Union Central Exchange.	Laurel, Mont	1,210,535
Giant Industries	Bloomfield, N. Mex.	0
Hunt Oil Co	Tuscaloosa, Ala	0
Kentucky Oil Refining Co.	Betsy Layne, Ky	0
Little America Refinery.	Sinclair, Wyo	0
Do	Casper, Wyo	540,395
Macmillan RP Oil Co.	Norphlet, Ark	0
Marion Corp	Mobile, Ala	0
Mid-Tex Refinery	Hearne, Tex	94,807
Mount Airy	Mount Airy, La	0
Newhall Refinery Co.	Newhall, Calif	0
OKC Corp	Okmulgee, Okla	1,197,695
Pennzoil Co. (Atlas).	Shreveport, La	501,409
Plateau, Inc	Bloomfield, N. Mex.	362,997
Do	Roosevelt, Utah	68,260

ELIGIBLE REFINERIES, APRIL TO SEPTEMBER 1978—Continued

Refiner	Refinery location	Allocation (barrels)
Pride Refinery, Inc.	Abilene, Tex	1,068,836
Somerset Refinery, Inc.	Somerset, Ky	152,382
Southern Union	Lovington, N. Mex.	1,064,900
Do	Monument, N. Mex.	383,062
Southwestern Refinery Co.	La Barge, Wyo	0
Texas American Petrochemicals, Inc.	West Branch, Mich.	0
Thunderbird Resources (Westco).	Cut Bank, Mont	67,063
Thunderbird Resources (Westland).	Williston, N. Dak	0
Western Refinery Co.	Woods Cross, Utah.	109,220
Wyoming Refinery (Tesoro).	Newcastle, Wyo	0
Total		9,375,605

ADDITIONAL ALLOCATIONS FOR NEWLY CONSTRUCTED AND EXPANDED REFINING CAPACITY AND REACTIVATED REFINERIES

Refiner	Refinery location	Capacity*	Allocation (barrels)
Little America.	Sinclair, Wyo	23,000	1,052,250
Mount Airy.	Mount Airy, La	11,600	530,700
Southwestern.	La Barge, Wyo	1,000	45,750
Western Refinery.	Woods Cross, Utah.	1,500	68,625
Total			1,697,325
Total all locations			11,072,930

*Estimated (in barrels per day).

[FR Doc. 78-5587 Filed 2-28-78; 11:03 am]

[3128-01]

[Ex Parte No. 306 (Sub-No. 1)]

INVESTIGATION OF COMMON CARRIER PIPELINES

Issuance of Proposed Decision and Order Concerning Procedures; Extension of Time to Submit Comments

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Extension of time to submit comments.

SUMMARY: By Notice dated February 10, 1978, the Department of Energy issued a Proposed Decision and Order concerning the procedures to be followed by the Economic Regulatory Administration in connection with its current Investigation of Common Carrier Pipelines (Ex Parte No. 306 (Sub-No. 1)). In the Notice, the DOE provided that comments on the Proposed Decision and Order may be submitted to the Office of Administrative Review on or before March 6, 1978. Since the publication of the notice in the FEDERAL REGISTER on February 17, 1978, (43 FR 7017) the Office of Administrative Review has received a number of Motions seeking extensions of time within which to submit comments. Those Motions present valid reasons for extending the comment period. Therefore, interested parties may now submit comments on the Proposed Decision and Order through March 31, 1978.

FOR FURTHER INFORMATION, CONTACT:

George B. Breznay, Assistant Director, Office of Administrative Review, 202-254-9681

Dated: February 27, 1978.

MELVIN GOLDSTEIN,
Director, Office of Administrative Review.

[FR Doc. 78-5590 Filed 3-3-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Project No. 2742—Alaska (Solomon Gulch Project)]

COPPER VALLEY ELECTRIC ASSOCIATION, INC.

Availability of Environmental Impact Statement for Inspection

FEBRUARY 24, 1978.

Notice is hereby given that on or about March 3, 1978, as required by the Commission Rules and Regulations under Order 415-C, issued December 18, 1972, a final environmental impact statement prepared by the Commission's staff pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91-100) was placed in the public files of the Federal Power Commission. This statement deals with the environmental impact of the issuance of a Federal Energy Regulatory Commission license to Copper Valley Electric Association, Inc. which would authorize the construction of the proposed Solomon Gulch Project. The proposed project would be located at the outlet of Solomon Lake in the Third Judicial Division, State of Alaska, in the vicinity of the City of Valdez. The proposed project would consist of a rockfill dam at the site of an existing low dam at the outlet of Solomon Lake, two rockfill dikes, a reservoir with a surface area of 600 acres, a steel penstock, a powerhouse containing two units with a total generating capacity of 12,000 kW, a 138-kV transmission line extending approximately 104 miles to Glennallen, a 25-kV line approximately 5 miles in length to Valdez, and appurtenant facilities.

This statement is available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426, and its San Francisco Regional Office located at 555 Battery Street, San Francisco, Calif. 94111.

Copies may be ordered from the Commission's Office of Public Information, Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5611 Filed 3-2-78; 8:45 am]

[6740-02]

[Docket Nos. G-3894, et al.]

ATLANTIC RICHFIELD CO., ET AL.

Erratum Notice

FEBRUARY 22, 1978.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates

(Issued February 6, 1978)

Tabulation, 43 FR 6645, February 15, 1978, Docket No. CI78-371, Appalachian Exploration & Development, Inc. Under column headed "Price Per Mcf" change "•" to "'" opposite Docket No. CI78-371.

Footnotes, 43 FR 6645, February 15, 1978. Delete footnote "•".

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5618 Filed 3-2-78; 8:45 am]

[6740-02]

[Docket No. E-8121]

GULF STATES UTILITIES CO.

Certification

FEBRUARY 24, 1978.

Take notice that Presiding Administrative Law Judge Allen C. Lande, on January 31, 1978, certified to the Commission a proposed settlement agreement entered into among Gulf States Utilities Co. and the other parties concerned with the proceeding in the above-noted docket. Judge Lande indicates that no party to the proceeding raised objection to the settlement.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Energy Regulatory Commission, 825 Capitol Street NE., Washington, D.C. 20426, on or before March 10, 1978. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5612 Filed 3-2-78; 8:45 am]

[6740-02]

[Docket No. CP76-285, et al.]

MOUNTAIN FUEL RESOURCES, INC., ET AL.

Informal Conference

FEBRUARY 22, 1978.

Take notice that on February 23, 1978, at 2 p.m., an informal conference of all interested persons will be convened concerning the above-captioned matter. The conference will be held at the offices of the Federal Energy Regulatory commission, 825 North Capitol Street NE., Washington, D.C. 20426, in room 8402.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance will not be deemed to authorize intervention. All parties will be expected to appear fully prepared to discuss the issues as determined at the prehearing conference of January 5, 1978, and as encompassed by the order of September 30, 1977. All parties will, additionally, be expected to comment on all procedural matters and make commitments with respect to the issues and any offers of settlement or stipulations discussed at the conference.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5613 Filed 3-2-78; 8:45 am]

[6740-02]

[Docket No. CS77-383]

NATOMAS NORTH AMERICA, INC. (FORMERLY APEXCO, INC.)

Redesignation

FEBRUARY 24, 1978.

By letter of February 8, 1978, Natomas North America, Inc., has advised the Commission that its corporate name has been changed from Apexco, Inc., to Natomas North America, Inc., effective January 1, 1978.

Accordingly, the small producer certificate of public convenience and necessity issued pursuant to Section 7(c) of the Natural Gas Act in Docket No. CS77-383 to Apexco, Inc., is redesignated as that of Natomas North America, Inc.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5614 Filed 3-2-78; 8:45 am]

[6740-02]

[Docket No. RP74-72]

NORTHWEST PIPELINE CORP.

Change in Rates Pursuant to Demand Charge Credit Adjustment

FEBRUARY 24, 1978.

Take notice that Northwest Pipeline Corp., on February 15, 1978, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1, to compensate Northwest for demand charge credits given to certain of its customers due to curtailment of firm contract obligations because of gas supply deficiency.

The notice of change in rates is being filed pursuant to the Commission's Order issued March 29, 1974 at Docket No. RP74-72 and Article 13.4 of Northwest's FERC Gas Tariff, Original Volume No. 1. The change in rates will result in a net decrease of 0.044¢ per therm for Rate Schedules ODL-1, DS-1 and PL-1. The new demand charge credit adjustment of (0.028)¢ per therm is based on a negative balance in the deferred account for demand charge credits of $517,712.

Northwest is concurrently filing notices of change in rates applicable to Article 16, Purchased Gas Cost Adjustment Provision, contained in its Original Volume No. 1 Tariff and Article VI, Advance Payments, contained in Northwest's Stipulation and Agreement. All three rate adjustments are reflected on the tendered Nineteenth Revised Sheet No. 10, which is proposed to become effective April 1, 1978.

Copies of this filing have been served upon Northwest's jurisdictional customers and affected state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the FERC, 825 North Capitol Street, Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before March 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5615 Filed 3-2-78; 8:45 am]

[6740-02]

[Docket No. RP76-115]

NORTHWEST PIPELINE CORP.

Change in Rates Pursuant To Advance Payment Tracking Provision

FEBRUARY 24, 1978.

Take notice that Northwest Pipeline Corp. ("Northwest"), on February 15, 1978 tendered proposed changes in its FERC Gas Tariff, Original Volume No. 1, to track a decrease in advance

payments made by Northwest from the level previously reflected in its rates. The instant filing reflects a decrease in the outstanding advance payments balance of $829,157 which equates to a negative adjustment of 0.003¢ per therm for all the FERC Gas Tariff, Original Volume No. 1 effective jurisdictional sales rate schedules.

The change is filed in accordance with Article VI, Advance Payments, of the Stipulation and Agreement in Settlement of Rate Proceedings in Docket No. RP76-115 and Docket Nos. RP73-109 and RP74-95 (Reserved Issue), as agreed to by all parties in such proceedings.

Northwest is concurrently filing notices of change in rates applicable to Article 16, Purchased Gas Cost Adjustment Provision and Article 13.4 Demand Charge Credits, contained in its Original Volume No. 1 Tariff. All three rate adjustments are reflected on the tendered Nineteenth Revised Sheet No. 10, which is proposed to become effective April 1, 1978.

A copy of this filing is being served on all jurisdictional customers of Northwest and affected state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the FERC, 825 North Capitol Street, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5616 Filed 3-2-78; 8:45 am]

[6740-02]

[Docket No. RP72-154]

NORTHWEST PIPELINE CORP.

Change in Rates Pursuant to Purchased Gas Cost Adjustment

FEBRUARY 24, 1978.

Take notice that Northwest Pipeline Corp., on February 15, 1978, tendered for filing a proposed change in rates applicable to service rendered under rate schedules affected by and subject to Article 16, Purchased Gas Cost Adjustment Provision ("PGAC"), contained in its FERC Gas Tariff, Original Volume No. 1. Such change in rates is for the purpose of (1) reflecting changes in Northwest's cost of purchased gas which will become effective by April 1, 1978, applied to volumes purchased for the twelve (12) month period ending December 31, 1977 and its change in unrecovered purchased gas costs since Northwest's prior semi-annual PGAC filing dated August 16, 1977 as amended September 19, 1977, (2) refunding, pursuant to Article IV, Section A of Northwest's Stipulation and Agreement in Settlement of Rate Proceedings of Docket No. RP76-115, the difference between the Clay Basin storage service charges included in Northwest's base rates for the year 1977 and the actual charges for the year 1977, and (3) eliminating the two (2) special surcharge credit adjustments to reflect the difference between the cost of gas injected into storage and the average purchased gas cost included in the rate charged during the withdrawal season because of the substantial increase in the cost of Canadian gas included in Northwest's previous PGAC filing of August 16, 1977 as amended September 19, 1977.

The current PGAC adjustment, for which notice is given herein, aggregates to an increase of 0.262¢ per therm in all rate schedules affected by and subject to the PGAC. The annualized change in Northwest's purchased gas cost aggregates an increase of $15,610,304. Northwest proposes to recover, through a surcharge, the adjusted negative balance of $2,355,708 in its FERC Account No. 191, as of December 31, 1977. The proposed change in rates would increase Northwest's revenues from jurisdictional sales and service by $13,074,680.

Northwest is concurrently filing notices of change in rates applicable to the currently effective Section 13.4, Change in Rates to Reflect Curtailment Credits, contained in its Original Volume No. 1 Tariff and Article VI, Advance Payments, contained in Northwest's Stipulation and Agreement in Settlement of Rate Proceedings in Docket No. RP76-115 and Docket Nos. RP73-109 and RP74-95 (Reserved Issue). In accordance with the Commission's Order issued March 29, 1974 at Docket No. RP74-72 and the aforementioned Stipulation and Agreement, the rate adjustments under the Demand Charge Credit Adjustment provision and Advance Payment Tracker become effective on Northwest's PGAC adjustment date after 45 days notice. Accordingly, all three rate adjustments are reflected on the tendered Nineteenth Revised Sheet No. 10, which is proposed to become effective on April 1, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5617 Filed 3-2-78; 8:45 am]

[6740-02]

[Project No. 2146]

ALABAMA POWER CO. (LOGAN MARTIN DAM)

Meeting; Correction

FEBRUARY 23, 1978.

In FR Doc. 78-4920, Issued February 17, 1978, and published on page 7687 in the issue of Friday, February 24, 1978. Please change the caption from "Alabama Power Co. (Walter Bouldin Dam)" to read "Alabama Power Co. (Logan Martin Dam)."

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5659 Filed 3-2-78; 8:45 am]

[6740-02]

[Docket No. RP73-65; PGA 78-2]

COLUMBIA GAS TRANSMISSION CORP.

Order Accepting for Filing and Suspending Proposed PGA Rate Increase, Initiating Hearing and Establishing procedures

FEBRUARY 27, 1978.

On January 27, 1978, Columbia Gas Transmission Corp. (Columbia) filed revised tariff sheets[1] to be effective March 1, 1978, to reflect: (1) An increase of $95.4 million annually in the current average cost of gas purchased from pipeline and producer suppliers, and (2) revised surcharges[2] to recover $23.9 million in the Unrecovered Purchased Gas Cost Account. For the reasons set forth below, the referenced tariff sheets are accepted for filing and suspended for one day to become effective March 2, 1978, subject to refund and to the conditions that Columbia file revised tariff sheets as provided herein.

[1] Fortieth Revised Sheet No. 16 and Twentieth Revised Sheet No. 64A to FERC Gas Tariff, Original Volume No. 1.

[2] The surcharges for the different zones vary due to certain supplier refunds which were made on a zone basis.

About $31.9 million of the $95.4 million increase in the current average cost of gas is attributable to producer supplier increases and changes in purchase patterns in the Appalachian and Louisiana areas. The remaining portion of the increase is due mainly to pipeline supplier rate changes.

During the period July through December 1977, Columbia entered into an emergency purchase with Michigan Consolidated Gas Co. (Michigan Consolidated) and an emergency storage service arrangement with Consolidated Gas Supply Corp. (Consolidated) at costs totalling $37.9 million, together with an additional $74,227 for transportation costs. The excess of actual costs for the emergency gas over costs reflected in Columbia's present rates (93.9 cents per Mcf) is reflected in the Unrecovered Purchase Gas Cost Account. The amount is about $24 million.

The Unrecovered Purchased Gas Cost balance of $23.9 million includes, among other things: (1) The $24 million of costs which are applicable to the emergency purchase from Michigan Consolidated and emergency storage service with Consolidated, (2) pipeline supplier refunds of $46.4 million which are credited to the balance, and (3) an adjustment ($455,086 credit) for peak shaving arrangements and emergency gas purchases which occurred during the period January 1, through June 30, 1977.

The emergency purchases which are reflected in Columbia's PGA filing fall into three categories: (1) those emergency purchases made during the period January through June 1977 which are at issue in Docket No. RP77-35,[3] (2) emergency peak shaving arrangements which were made during the period January through June 1977 and are not at issue in Docket No. RP77-35, and (3) emergency purchases which were made after June 30, 1977.

Since those emergency purchases falling into the first category listed above are already subject to the outcome of the Docket No. RP77-35 proceeding, we shall limit the scope of the investigation ordered herein to exclude consideration of those emergency purchases. Pending resolution of the Docket No. RP77-35 proceeding, these costs shall be collected subject to refund pursuant to the one day suspension ordered herein. As to the remaining two categories of emergency purchases, we believe that Columbia should be allowed to include in its purchased gas costs those rates for such purchases which a reasonably prudent pipeline would pay for gas under the same or similar circumstances. Accordingly, we shall institute hearing procedures for the purpose of resolving this issue. The amounts shall also be collected subject to refund pending the outcome of the hearing.

We note that Columbia has included in its proposed PGA surcharge estimated amounts reflecting the effect of Columbia's currently effective PGA surcharge on the deferred account balances for January and February 1978. However, there are no amounts for January and February 1978 reflecting increased purchased gas costs incurred by Columbia which would increase the balance in the deferred account and thus offset the effect of the presently effective PGA surcharge. The net effect of this proposal by Columbia would be to decrease the new surcharge proposed to become effective March 1, 1978, by $37.3 million.

For the reasons set forth below, the Commission shall not adopt Columbia's proposal and shall require Columbia to file revised tariff sheets reflecting elimination of the $37.3 million estimated offsets (amortizations) to the deferred account for January and February 1978 from the new PGA surcharge proposed to become effective March 1, 1978. Section 154.38(d)(4) of the Commission's regulations and Columbia's PGA clause contained in its tariff require Columbia to reflect in its new surcharge the latest available balances of actual figures in its deferred purchased gas cost account. For the instant filing, that would be the actual balances as of December 31, 1977. Estimated balances are not permitted under the Regulations or under Columbia's tariff. Furthermore, as noted above, the estimated figures for January and February 1978, do not reflect any additions to the deferred account but rather reflect only the effects of the currently effective surcharge which is to reduce the deferred account balances by $37.3 million. This $37.3 million reflects, for the most part, surcharges to remove costs from the deferred account related to emergency arrangements entered into in January and February 1977. To flow that amount through in the new proposed surcharge would result in an unfairly reduced surcharge for the March through August 1978 summer period customers when normal operation of the PGA clause would give the benefits to the winter customers by reflecting it in the September 1978 through February 1979 surcharge. Thus Columbia's proposal should be rejected because: (1) it violates its tariff and the Commission's PGA regulations, and (2) in any event, would not represent an equitable distribution of purchased gas costs among Columbia's customers. In view of the fact that Columbia's proposal violates its tariff and § 154.38(d) (4) of the Commission's regulations, no hearing is necessary to dispose of this matter.

Columbia's PGA filing also reflects, in its current average cost of gas, purchases from producer suppliers in Ohio at rates in excess of the producer rate levels prescribed by this Commission for jurisdictional sales by national gas producers. However, by order issued April 18, 1977, in Docket No. RP73-65 (PGA75-5), the Commission found that the majority of sales by Ohio producers to Columbia were not subject to this Commission's rate or certificate jurisdiction. The Commission's August 1, 1977, order in Docket No. RP73-65 (PGA75-5) stated that Columbia could flow through costs from these non-jurisdictional purchasers where the rates for such purchases are reasonable and prudent.

In our September 15, 1977, order issued in Docket No RP73-65 (PGA77-4) we set for hearing the issue of the prudency and reasonableness of Columbia's purchases from non-jurisdictional Ohio producers that were included in Columbia's July 29, 1977, tariff filing. Since that proceeding involves issues of law and fact which are common to those presented herein, we shall make rates charged to the non-jurisdictional Ohio producer purchases reflected in Columbia's instant filing subject to the outcome of the Docket No. RP73-65 (PGA77-4) proceeding.

Public notice of Columbia's January 27, 1978, PGA filing was issued on February 16, 1978, with protests and petitions to intervene due on or before February 28, 1978.

The Commission finds. It is necessary and proper in carrying out the provisions of the Natural Gas Act that: (1) Columbia's proposed PGA rate increase be accepted for filing and suspended for one day to become effective on March 2, 1978, subject to refund, conditioned on Columbia filing, within 15 days of the issuance of this order, revised tariff sheets reflecting the elimination of the estimated amortizations for the months of January and February 1978; (2) a hearing be held to determine the prudency of (a) emergency costs for peak shaving arrangements which occurred during the period January through June 1977, and which are not at issue in Docket No. RP77-35, and (b) the emergency costs incurred during the period July through December 1977;

[3] By order issued March 31, 1977, in *Metzenbaum v. Columbia et al.*, Docket No. RP77-35, the Commission instituted an investigation and hearing to show cause why Columbia should be permitted to pass on to its customers the additional cost incurred by reason of Columbia's alleged errors in judgment resulting in purchases of expensive emergency gas supplies during the winter (1976-1977). The Commission, in its order issued on September 15, 1977, at Docket No. RP73-65 (PGA77-4), directed that the prudency of these emergency purchases be subject to the Commission's final determination in Docket No. RP77-35.

(3) the remaining emergency purchases shall be subject to the outcome of the Docket No. RP77-35 proceeding; and (4) the purchases from non-jurisdictional Ohio producers shall be subject to the outcome of the Docket No. RP73-65 (PGA77-4) proceeding.

The Commission orders. (A) Subject to the condition set forth in Ordering Paragraph (B), Columbia's proposed tariff sheets referenced herein are accepted for filing and suspended for one day until March 2, 1978, at which time such sheets shall be permitted to become effective, subject to refund.

(B) Columbia shall file, within 15 days of the issuance of this order, revised tariff sheets reflecting the elimination of the estimated amortizations for the months of January and February 1978.

(C) Collections of that portion of the PGA surcharge rate designed to recover the costs of emergency purchases and acquisitions, other than those costs incurred for peak shaving arrangements which were not reflected in Columbia's prior semi-annual adjustment (PGA77-4), made by Columbia from January through June 1977 shall be subject to the Commission's final determination in Docket No. RP77-35.

(D) The costs of non-jurisdictional Ohio producer purchases which are reflected in Columbia's filing shall be subject to the Commission's final determination in Docket No. RP73-65 (PGA77-4).

(E) Pursuant to the authority of the Natural Gas Act particularly Sections 4, 5, 7, 14, 15, and 16, and the Commission's rules and regulations, a hearing shall be held in this proceeding to determine the prudency of: (1) emergency costs for peak shaving arrangements which occurred during the period January through June 1977 and which are not at issue in Docket No. RP77-35, and (2) the emergency costs incurred during the period July through December 1977.

(F) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge pursuant to 18 CFR 3.5(d), shall convene a prehearing conference in this proceeding on March 21, 1978, at 10 a.m., e.s.t., in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, for the purposes of establishing procedures for the investigation and hearing to be held pursuant to this order. The Presiding Judge shall be authorized to modify all procedural dates and to establish further procedures as may in his judgment be required for purposes of the investigation and hearing pursuant to this order. The Presiding Judge shall also be authorized to rule upon all motions except motions to consolidate, sever, or dismiss, as provided for in the rules of practice and procedure.

(G) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5650 Filed 3-2-78; 8:45 am]

[6740-02]

[Docket No. RP78-18]

EL PASO NATURAL GAS CO.

Order Clarifying and Modifing Prior Order

FEBRUARY 27, 1978.

On January 27, 1978, El Paso Natural Gas Co. (El Paso) filed a pleading requesting clarification or in the alternative rehearing of the Commission's order issued December 30, 1977, in the captioned docket. For the reasons set forth below, the Commission shall clarify and modify the December 30, 1977, order in this docket.

The Commission's December 30, 1977, order rejected El Paso's revised tariff sheets which reflected increases in gas well royalty and production tax expenses potentially resulting from the passage of the Pearson-Bentsen II deregulation proposal and accepted for filing and suspended lower alternative tariff sheets which incorporated an increase in rates of approximately $112 million annually. The December 30, 1977, order also rejected El Paso's proposal to include in its tariff a provision permitting it to automatically track increases in gas well royalty and production tax expenses occurring subsequent to June 1, 1978, without prejudice to El Paso's right to show the justness and reasonableness of such a provision for possible prospective effectiveness.

In accepting the lower alternate rate tariff sheets, the Commission also granted waiver of § 154.63(e)(2)(i) of the Commission's Regulations under the Natural Gas Act to permit El Paso to retain in its filing, subject to refund, gas well royalty and production tax expenses incurred as of June 1, 1978, which is one day beyond the end of the test period. These expenses, however, were not based on any anticipated legislative changes in natural gas producer rates, but rather were based upon these changes to be triggered by the Commission's producer rate regulations promulgated, inter alia, in Opinion Nos. 770 and 770-A. In accepting and suspending these lower alternate tariff sheets, the Commission stated that increases in costs that could be triggered by deregulation (i.e. passage of the Pearson-Bentsen bill) which could occur prior to and on or after June 1, 1978, were too speculative at this time. However, the Commission's order stated further that:

• • • if El Paso becomes liable for increased production taxes or royalty costs *subsequent to* June 1, 1978, due to deregulation, it may make appropriate filings with this Commission. The Commission's decision with respect to any such filing will be based on the facts and circumstances existing at that time. (emphasis added) (mimeo. p.3)

El Paso's January 27, 1978, pleading expresses concern that the above quoted language would preclude El Paso from making an appropriate filing to recover increased gas well royalty and production tax expenses occurring within the Docket No. RP78-18 test period, and on or before June 1, 1978, as the result of any legislative change in the price of natural gas. El Paso requests that the Commission's December 30, 1977, order be clarified, or in the alternative amended, so as not to automatically preclude the making of such a filing.

It was not the Commission's intention to preclude the making of such a filing by El Paso. Accordingly, El Paso is free to make an appropriate filing to recover increased gas well royalty and production tax expenses occurring as the result of any legislated change in the price of gas sold by producers prior to, on, or after June 1, 1978. However, the Commission's decision with respect to any such filing will be based upon the facts and circumstances existing at that time.

The Commission orders: (A) The Commission's December 30, 1977, suspension order is hereby clarified and modified as set forth in the body of this order.

(B) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5651 Filed 3-2-78; 8:45 am]

[6740-02]

[Docket No. RP78-37]

LAWRENCEBURG GAS TRANSMISSION CORP.

Order Accepting for Filing and Suspending Proposed Rate Increase, Granting Waiver, Initiating Hearing, and Establishing Procedures

FEBRUARY 27, 1978

On January 31, 1978, Lawrenceburg Gas Transmission Corp. (Lawrenceburg) tendered for filing in Docket No. RP78-37 proposed changes to its FERC Gas Tariff[1] which would increase its annual revenues by $33,120 and would amend its PGA clause to include a provision for deferring increases and decreases in purchased gas cost. Lawrenceburg requests that the proposed changes be permitted to become effective on February 28, 1978. For the reasons stated below, the Commission shall accept for filing the proposed rate increase and amended PGA clause, suspend them as discussed herein, and set the matters for hearing.

[1] Lawrenceburg submitted the following sheets to its FERC Gas Tariff, First Revised Volume No. 1: Twelfth Revised Sheet No. 4, First Revised Sheet No. 18, First Revised Sheet No. 20, Original Sheet No. 20A and Original Sheet No. 20B.

In support of its rate increase, Lawrenceburg submitted a cost of service study based on actual operations for the twelve months ending September 30, 1977, adjusted to reflect increased operating costs which are now effective or which may become effective within the test period, increased costs associated with increased curtailment, and a claimed overall rate of return of 10.87 percent. Lawrenceburg states that its rate increase filing was made necessary due to its increased operating costs, the erosion of its volumetric sales resulting from the assigned curtailment by its sole supplier, Texas Gas Transmission Corp., and the continuing reduction in its overall rate of return.

Lawrenceburg asserts that its proposal to amend its PGA clause to include a provision for deferred accounting was occasioned by the rising number of gas purchases and transportation arrangements for emergency gas. Lawrenceburg also states that the reduction in the notice of filing period from 45 days to 30 days will make it more difficult to file changes under its present PGA clause so that they coincide with those of Lawrenceburg's supplier. According to Lawrenceburg, the deferred accounting provision will be beneficial in that Lawrenceburg will be able to reduce administrative costs by accumulating very small tariff changes before filing a revised PGA.

Public notice of Lawrenceburg's filing was issued on February 13, 1978, providing for protests or petitions to intervene to be filed on or before February 24, 1978.

Based upon a review of Lawrenceburg's filing, the Commission finds that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept Lawrenceburg's proposed rate increase for filing, suspend its use for one day, and shall set the matter for hearing. Furthermore, for good cause shown, the Commission shall grant waiver of the notice requirements to permit the filing to become effective on March 1, 1978, subject to refund.

Lawrenceburg, which was classified as a Class A company as of December 31, 1976, requests waiver of that part of § 154.63(b)(3) of the Commission's regulations which requires all Class A companies to file Statements A through M, O, and P. Lawrenceburg filed Statements L, M, N, and O, which Class B companies are required to file in support of a major rate increase. In support of its requests for waiver, Lawrenceburg notes that its request for an increase in annual revenues is due principally to the increase in natural gas prices, charged by its supplier, and it has not grown in size or in volume of gas delivered. Lawrenceburg further states that its cost of service, exclusive of cost of purchased gas, constitutes only 2.7 percent of the total revenues requested in its filing. Finally Lawrenceburg asserts that compliance with the additional filing requirements for Class A companies would impose a severe hardship in terms of cost and manpower. Lawrenceburg also requests waiver of § 154.63(e)(6) of the Commission's Regulations which requires that the rate increase filing be accompanied with an opinion of an independent public accountant. Lawrenceburg notes that an independent auditor's fee, estimated at $2,500, would further increase Lawrenceburg's proposed rates by about 7.5 percent. The Commission finds that good cause exists to waive the requirement, of §§ 154.63(b)(3) and 154.63(e)(6) of the Commission's regulations as requested by Lawrenceburg.

The Commission finds: It is necessary and proper in the public interest and in carrying out the provisions of the Natural Gas Act that a hearing be held concerning the lawfulness of the increased rates and amended PGA clause proposed by Lawrenceburg, that the same be accepted for filing and suspended as hereinafter ordered.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly Sections 4, 5, 8, and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the increased rates and amended PGA clause proposed by Lawrenceburg.

(B) Pending hearing and decision, Lawrenceburg's proposed rate increase and amended PGA clause are accepted for filing and suspended for one day. The notice requirements of the Commission's Regulations are hereby waived to permit the proposals to become effective, subject to refund, on March 1, 1978, upon motion filed by Lawrenceburg in accordance with the provisions of the Natural Gas Act.

(C) The requirements of §§ 154.63(b)(3) and 154.63(e)(6) of the Commissions regulations are hereby waived as requested by Lawrenceburg.

(D) The Commission staff shall prepare and serve top sheets on all parties on or before April 28, 1978.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets by the staff, in a hearing or conference room of the Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, D.C. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary and to rule on all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure.

(F) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5652 Filed 3-2-78; 8:45 am]

[6740-02]

[Docket Nos. ER78-78 and ER78-79]

NEW ENGLAND POWER CO.

Order Denying Application for Rehearing

FEBRUARY 27, 1978.

On January 12, 1978, New England Power Co. (NEP) filed an application for rehearing of our December 30, 1977 order accepting for filing and suspending a proposed rate increase to 30 of NEP's wholesale customers and an amendment to the Service Agreement between NEP and its affiliate, Narragansett Electric Co. (Narragansett). NEP requests rehearing of the five month suspension period required by that order and urges the Commission to reduce the suspension to one month. On February 10, 1978, the Commission issues a notice of Intent to Act on the application.

In support of its application, NEP contends that the Commission has inappropriately relied upon a preliminary analysis of the merits of its filing, and that the Commission has ignored the following important factors:

(1) The relative size of the rate increase represented by the filing;

(2) The fact that virtually 100 percent of NEP's revenues are regulated by this Commission and affected by the rate increase at issue here;

(3) The Company's past inability to earn the return authorized by the Commission; and

(4) The beginning date of the test period which will be used to determine the justness and reasonableness of the rate.

The length of the suspension period is a matter of Commission discretion. *Municipal Light Board of Reading and Wakefield* v. *F.P.C.*, 450 F.2d 1341 (D.C. Cir. 1971). Since suspension of a rate is the first step in initiating the proceedings which will eventually determine whether the fixed rate is just and reasonable the length of the sus-

pension must of necessity be based on a preliminary analysis of the filing. Since there are few practical limits on

procedure. The Rhode Island Intervenors assert that Nepco's application for rehearing is therefore properly

[6740-02]

[Docket Nos. ER78-107; ER78-108; ER78-109; and ER78-219]

such transactions and because of variable operating restrictions in the event such transactions are required.

rules and regulations is waived. The filing requirements not yet complied with are conditionally waived, as de-

(United) during periods ending in 1971 from the Disputed Zone, Southern Louisiana Area. The escrowed funds

pension must of necessity be based on a preliminary analysis of the filing. Since there are few practical limits on the rates a utility may file, a preliminary evaluation of those rates is an essential step in fulfilling our responsibilities under the Federal Power Act which permits rates to go into effect, subject to refund, before they are found to be just and reasonable. 16 U.S.C. 824(e).[1]

NEP's application for rehearing contends that there are undisputed facts to which the Commission should give far greater weight than the preliminary analysis of NEP's filing. It is within the proper bounds of the Commission's discreation to determine the weight to be given each factor relevant to the length of the suspension period. In essence, NEP is asking that the Commission substitute the Company's discreation for its own. This we decline to do.

Finally, NEP argues that the Company will be permanently deprived of the revenues from the increased rates during the suspension period, whereas its customers would not be harmed by a shorter suspension period since they enjoy the protection of refunds. As the United States Supreme Court has stated in regard to the protection offered consumers by the refund provision:

> Experience has shown this to be somewhat illusory in view of the trickling down process necessary to be followed, the incidental cost of which is often borne by the consumer, and in view of the transient nature of our society which often prevents refunds from reaching those to whom they are due.[2]

The five month suspension was based upon our review of NEP's filings, the protests to the filings and NEP's answer to the protests. Upon consideration of the contentions raised by NEP in its application for rehearing, we find no reason to alter our prior determination.

On January 30, 1978, a response to NEP's application was filed by the Rhode Island Intervenors[3] who contend that suspension orders are not of the final and definitive sort for which rehearing lies under Section 1.34 of the Commission's rules of practice and procedure. The Rhode Island Intervenors assert that Nepco's application for rehearing is therefore properly considered a motion for reconsideration, and the Commission may entertain answers to the motion.

A suspension order contains Commission directives which are clearly procedural and interlocutory in nature, and the impact of the suspension period itself will not be fully known until a final determination has been made as to the justness and reasonableness of the proposed rates. For these reasons, the Commission has in the past stated that applications for rehearing of suspension orders will be treated as motions for reconsideration, since rehearing does not lie for interlocutory orders.

We recognize, however, that an order determining whether and for how long a rate should be suspended is definitive (subject only to our redetermination upon review) as to these questions. As a recent court decision noted,[4] there has been increasing recognition of the need for and difficulty of making accurate decisions regarding suspensions. Since our suspension determinations are committed to Commission discretion and are therefore generally not reviewable by the courts,[5] such decisions take on added importance for the affected parties. We have therefore determined that while suspension orders may be treated as interlocutory for purposes of court review, for purposes of Commission review we shall consider our decisions establishing the length of a suspension period to be subject to rehearing under § 1.34 of the Commission's rules of practice and procedure. Our regulations proscribing answers to petitions for rehearing (§ 1.34(d) of the rules) therefore control our treatment of Rhode Island's response.

The Commission finds: Good cause exists to deny NEP's application for rehearing.

The Commission orders: (A) NEP's application for rehearing is denied.

(B) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5653 Filed 3-2-78; 8:45 am]

[1] The courts have stated that the primary aim of the Federal Power Act is "the protection of consumers from excessive rates and charges," and that to effectuate this purpose the Commission is empowered, inter alia, with a suspension authority. *Municipal Light Boards*, supra, 450 F.2d at 1348.

[2] *F.P.C. v. Tennessee Gas Co.*, 371 U.S. 145 at 154-5 (1962).

[3] Julius C. Michaelson, Attorney General of Rhode Island, The Rhode Island Division of Public Utilities and Carriers, and The Rhode Island Consumers Council.

[4] *Central Power & Light Co. v. F.E.R.C.*, D.C. Circuit No. 77-1843 Per Curiam order issued November 30, 1977, slip at 3.

[5] Id. at 2.

[6740-02]

[Docket Nos. ER78-107; ER78-108; ER78-109; and ER78-219]

PENNSYLVANIA-NEW JERSEY-MARYLAND INTERCONNECTION

Order Conditionally Accepting for Filing, Suspending Rate Increase, Waiving Regulations and Consolidating Proceedings

FEBRUARY 24, 1978.

On February 16, 1978, the Pennsylvania-New Jersey-Maryland Interconnection (composed of Public Service Electric and Gas Co., Philadelphia Electric Co., Pennsylvania Power & Light Co., Baltimore Gas and Electric Co., Jersey Central Power & Light Co., Metropolitan Edison Co., Pennsylvania Electric Co. and Potomac Electric Co., hereinafter collectively referred to as PJM) tendered for filing a revised schedule 8.03 (Conservation Energy) to the Interconnection Agreement between Cleveland Electric Illuminating Company (CEI) and PJM dated September 30, 1965. The revised rate schedule is identical to previously filed Conservation Energy Agreements among PJM, the New York Power Pool (NYPP) and the Allegheny Power System (APS)[1] except that a transmission service charge of 1.50 mills/kWh is applied whenever CEI transmits and 1.75 mills/kWh is applied whenever PJM transmits.

Notice of the filing was issued on February —, 1978, with comments due on or before March 6, 1978. To date no comments have been filed.

PJM requests that the Commission waive 18 CFR 35.11 notice requirements and allow the proposed revised schedule to become effective February 16, 1978, in that current uncertainty of fuel supplies associated with the coal miners strike may require imminent transactions under the filed schedule.

PJM also requests that the Commission waive 18 CFR 35.13(b) filing requirements in that estimates of the transactions and revenues under the proposed revised schedule have not been made because of the current uncertainty of the coal miners strike which might determine the need for such transactions and because of variable operating restrictions in the event such transactions are required.

In that the proposed revised schedule is identical to the Energy Conservation Agreements filed by PJM in Docket Nos. ER78-107, ER78-108, and ER78-109, with transmission service exception noted above, the Commission shall waive its notice and filing requirements and condition acceptance of the proposed revised schedule on PJM's submitting the cost support data required by the Commission's order of February 13, 1978 in Docket Nos. ER78-107, ER78-108, and ER78-109.

The proposed revised schedule tendered for filing on February 16, 1978, has not been shown to be just and reasonable and therefore may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful.

The Commission finds that good cause exists to consolidate Docket Nos. ER78-107, ER78-108, ER78-109 and ER78-219. Due to common issues of law and fact, the consolidation of these dockets will save time and expense for all parties.

The Commission finds: (1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission conditionally accept for filing the Schedule filed on February 16, 1978, by Pennsylvania-New Jersey-Maryland, that it be suspended, and the use thereof deferred, all as hereinafter ordered.

(2) Good cause exists to waive the Commission's notice and filing requirements set out in the Commission's Rules and Regulations.

(3) Good cause exists to consolidate Docket Nos. ER78-107, ER78-108, ER78-109 and ER78-219.

The Commission orders: (A) The proposed schedule filed by the Pennsylvania-New Jersey-Maryland Interconnection on February 16, 1978, and identified above, is hereby conditionally accepted for filing as of February 16, 1978, suspended, and the use thereof deferred until February 17, 1978, when it shall become effective subject to refund; provided that PJM shall file the cost support required under the Commission's regulations in accordance with the Commission's order of February 13, 1978 in Docket Nos. ER78-107, ER78-108 and ER78-109.

(B) Docket Nos. ER78-107, ER78-108, ER78-109 and ER78-219 are hereby consolidated.

(C) Upon the filing of the cost support data described in paragraph (A) above, the Commission shall further evaluate all filings in the dockets set forth in paragraph (B) above and shall set a date for a public hearing, should such procedure be appropriate.

(D) The requirement for notice contained in § 35.3 of the Commission's rules and regulations is waived. The filing requirements not yet complied with are conditionally waived, as described in Paragraph (A) above.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5654 Filed 3-2-78; 8:45 am]

[1] On December 13, 1977, PJM filed certain schedules providing for the exchange of Conservation Energy as part of its Interconnection Agreements with NYPP and APS. The foregoing agreements were prompted by the current coal miners strike which has resulted in curtailed fuel receipts and depleted fuel stocks in the area covered by these power pools. By order issued on February 13, 1978, in Docket Nos. ER78-107, ER78-108 and ER78-109, the Commission conditionally accepted these agreements for filing pending submittal by PJM of cost support data required by the Commission's regulations within 30 days, suspended use of the agreements until January 1, 1978, subject to refund and granted waiver of 18 CFR 35.3 Notice Requirements.

[6740-02]

[Docket Nos. CI61-104; CI68-1146; and CI70-102]

SHELL OIL CO.

Order Approving Project Expenditure and Granting Extension of Time

FEBRUARY 27, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of Section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriated component of DOE now responsible for the functions under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by Section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —: *Provided*, That this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above-mentioned authorities.

On March 29, 1976, the Federal Power Commission issued its Order Modifying And Accepting A Settlement Proposal For Payment to Shell Oil Co. (Shell) of approximately $413,000, plus certain interest, in escrowed funds generated by sales of gas by Shell in the captioned dockets to Tennessee Gas Pipeline Co. (Tennessee) and United Gas Pipe Line Co. (United) during periods ending in 1971 from the Disputed Zone, Southern Louisiana Area. The escrowed funds represented a potential severance tax liability that did not accrue because the producing properties involved later were determined by the Supreme Court to be in the Federal Domain. The settlement provided, inter alia, that Shell would add additional funds of it own to the escrow monies on a $3.00 for $2.00 basis and use the total fund for additional drilling on leases previously dedicated to United and Tennessee.

On April 7, 1977, Shell filed a "Report and Motion to Modify Order Accepting Settlement." Therein it stated it has completed its drilling obligation under the settlement relative to the Tennessee sale by drilling Well No. 14 on State of Louisiana Lease No. 2591. Gas from this well is being sold to Tennessee under Shell's Rate Schedule No. 130. Shell stated that the well was completed as a gas producer at a total cost of $403,223; that two-fifths of this amount is $161,293.20; and that the money due to Shell by Tennessee under the settlement was $75,909.25 plus interest from December 31, 1976. Based on this, it requested a finding that its obligation relating to the Tennessee sale under our order of March 29, 1976, has been met.

Shell stated it requested and received the sum of $501,109 from United pursuant to the settlement and that it drilled two wells relative to the United sales, as contemplated in the settlement. However, it stated that these wells turned out to be oil wells and that therefore the funds expended on them could not be credited against drilling expenditures obligation imposed by the settlement ("Project Expenditure") because Paragraph (K) thereof forbids this. Therefore, Shell has proposed to drill certain additional wells on acreage committed to United to meet its United sales settlement obligation.

The proposed wells are as follows:

1. Smith A State Unit F Well No. 3, Weeks Island Field. Sale to United would be under Shell's Rate Schedule No. 206.
2. Peters Well No. 6, South Houma Field. Sale to United would be under Shell's Rate Schedule No. 204.
3. Peters Well No. 10, South Houma Field. Sale to United would be under Shell's Rate Schedule No. 204.
4. J. L. & S. Well No. 1, West Lake Verret Field. Sale to United would be under Shell's Rate Schedule No. 207.

On May 16, 1977, United filed a response in support of Shell's proposal.

Upon analysis of this matter, we have determined to grant Shell's motion, as hereinafter provided.

Since it appears that the two year period provided by the settlement for the escrow funds to be withdrawn and

spent will soon expire (on April 29, 1978) it would appear that an extension of time will be necessary. We will

ern requests that the proposed increase become effective on March 1, 1978. For the reasons stated below, and subject to the conditions set forth

month. Accordingly, Southern requests that we allow a shortened suspension period to apply to that portion of its proposed rate increase

rules and regulations, a public hearing shall be held concerning the lawfulness of the increased rates proposed by Southern.

By the Commission.

KENNETH F. PLUMB,
Secretary.

turing operation at Philadelphia as a principal energy source and for processes and manufacturing purposes. It is further indicated that the subject

spent will soon expire (on April 29, 1978) it would appear that an extension of time will be necessary. We will grant a 6 month's extension *sua sponte*, without prejudice to any further request Shell might make in this regard.

The Commission finds: Shell's total obligation under the settlement relative to the sales to United Gas Pipe Line Company remains.

The Commission orders: (A) Expenditures proposed to be made by Shell on acreage committed to United under Shell's Rate Schedule Nos. 204, 206, and 207, as listed above and described in Shell's report and motion filed herein April 7, 1977, will be eligible for credit against Project Expenditure of the settlement proposal herein, as modified and accepted by our order of March 29, 1976, in accordance with the terms of such settlement, as modified (including the prohibition against crediting expenditures which result in commercial oil wells).

(B) The time period under the settlement agreement within which the escrow funds must be withdrawn and spent is hereby extended for a period of 6 months.

(C) Shell Oil Co. has fulfilled its obligation under the Order Modifying and Accepting Settlement, issued March 29, 1976, relative to sales to Tennessee Gas Pipe Line Co. Such finding is conditioned, *however*, upon the filing of a statement of agreement by Tennessee.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5655 Filed 3-2-78; 8:45 am]

[6740-02]

[Docket No. RP78-36]

SOUTHERN NATURAL GAS CO.

Order Accepting for Filing and Suspending Proposed Rate Increase, Initiating Hearing, and Granting Interventions

FEBRUARY 27, 1978.

On January 30, 1978, Southern Natural Gas Co. (Southern) tendered for filing in Docket No. RP78-36 proposed changes to its FERC Gas Tariff[1] which would increase its jurisdictional revenues by $117,695,037 annually based on costs and volumes for the 12 months ended October 31, 1977, as adjusted for known and measurable changes through July 31, 1978. Southern requests that the proposed increase become effective on March 1, 1978. For the reasons stated below, and subject to the conditions set forth below, the Commission shall accept for filing Southern's proposed rate increase, suspend it as discussed herein, and set the matter for hearing.

Public notice of Southern's filing was issued on February 3, 1978, providing for the filing of protests or petitions to intervene on or before February 15, 1978. Timely petitions to intervene were filed by Chattanooga Gas Co., Carolina Pipeline Co., Mississippi Valley Gas Co., and the Gas Section of the Georgia Municipal Association. The Commission finds that the petitioners have demonstrated an interest in this proceeding warranting their participation, and the petitions to intervene shall accordingly be granted.

Southern states that its proposed higher rates are required because of increased operating expenses, increased cost of capital, increased federal and state income taxes, the cost of new gas supply projects, and increased gas purchase costs due to the initiation of LNG purchases from Southern Energy Company. Of these factors, the one that predominates is the onset of the LNG purchases, which Southern claims may commence on or about August 1, 1978 and may add as much as 92.4 Bcf to Southern's annual gas supply. Southern claims an overall rate of return of 11.39 percent on net investment rate base, including a 14.5 percent return on common equity.

Based upon a review of Southern's filing, the Commission finds that the proposed rate increases have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. Accordingly, the Commission shall accept for filing Southern's proposed tariff sheets and, except as indicated below, shall suspend their use for five months or until August 1, 1978, when they shall be permitted to become effective, subject to refund. Furthermore, we shall set this matter for hearing.

Southern's filing states that the purchases of revaporized LNG from Southern Energy Company are presently expected to commence not later than August 1, 1978, which is the end of the five month suspension period that we have determined to impose on its tariff filing. Since its currently effective rates do not reflect the purchase of LNG volumes, Southern projects that revenue deficiencies will result from those purchases. Southern forecasts a monthly revenue deficiency of $18 million, should it have to sell the revaporized LNG volumes at its currently effective rates, and it states that it is unable to absorb such costs without cost recovery for even a single month. Accordingly, Southern requests that we allow a shortened suspension period to apply to that portion of its proposed rate increase which relates to LNG costs if its purchases of regasified LNG commence prior to August 1, 1978.

Southern's concern in this regard is well founded. Accordingly, we will limit the suspension period on that portion of Southern's proposed rate increase resulting from the purchase of revaporized LNG to the date of commencement of such purchase. However, our action in this regard is conditioned as follows. We will condition the limitation of the suspension period upon the filing by Southern, at least thirty days prior to the commencement date of the purchase, of interim tariff sheets which will be effective from the commencement date of the purchase until August 1, 1978, and which shall reflect only that portion of Southern's proposed rate increase attributable to the revaporized LNG purchase. Subject to the above condition, we shall permit that portion of Southern's proposed rate increase relating to the purchase of revaporized LNG to become effective on the date of commencement of that purchase, subject to refund.

Southern poses a second request regarding the effective date of the LNG portion of its proposed rate increase. In order to accommodate the possibility that the commencement of Southern's LNG purchases may occur later than August 1, 1978, Southern also requests that, if such eventuality occurs, it be permitted to defer placing the LNG portion of its proposed rate increase into effect until such commencement date. Consistent with our orders of October 31, 1977 and February 1, 1978 in *Consolidated Gas Supply Corporation*, Docket No. RP77-140, we shall deny Southern's second request. Our policy, as articulated in the *Consolidated* proceeding, of not permitting companies to reflect in their filing increases in costs which occur beyong the end of the test period, applies equally to the situation confronting Southern here. Accordingly, if the LNG is not onstream by August 1, 1978, Southern will be required to file revised tariff sheets reflecting the elimination of the LNG costs from its proposed rates.

The Commission finds: It is necessary and proper in the public interest and in carrying out the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates proposed by Southern and that the same be accepted for filing and suspended as hereinafter ordered.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8, and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the increased rates proposed by Southern.

(B) Pending hearing and decision, and except as stated in Ordering Paragraph (C) below, Southern's proposed rate increase is accepted for filing and suspended until August 1, 1978, when it shall be permitted to become effective, subject to refund, upon motion filed by Southern in accordance with the provisions of the Natural Gas Act.

(C) Pending hearing and decision, that portion of Southern's proposed rate increase relating to the purchase of revaporized LNG is suspended until the date of commencement of those purchases (but not beyond August 1, 1978), when it shall be permitted to become effective, subject to refund, upon motion filed by Southern in accordance with the provisions of the Natural Gas Act: *Provided, however,* That Southern shall file interim tariff sheets, as least thirty days prior to the commencement date of the LNG purchases, which sheets shall be effective from that commencement date until August 1, 1978, and which shall reflect only that portion of Southern's proposed rate increase attributable to the revaporized LNG purchases.

(D) On or before August 1, 1978, Southern shall file substitute tariff sheets and supplemental cost and revenue data in accordance with the Commission's rules and regulations, reflecting the elimination of all costs associated with facilities which will not be placed in service by August 1, 1978, or with the purchase of LNG if the LNG is not on stream by August 1, 1978.

(E) The above-named petitioners are permitted to intervene in these proceedings, subject to the Commission's rules and regulations.

(F) The Commission shall prepare and serve top sheets on all parties on or before June 1, 1978.

(G) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets by the staff, in a hearing or conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rule of practice and procedure.

(H) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5656 filed 3-2-78; 8:45 am]

[6740-02]

[Docket No. CP78-193]

TEXAS EASTERN TRANSMISSION CORP.

Application

FEBRUARY 27, 1978.

Take notice that on February 17, 1978, Texas Eastern Transmission Corp. (Applicant), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP78-193 an application pursuant to Section 7(c) of the Natural Gas Act and § 2.79 of the Commission's general policy and interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation of up to 300 dekatherms (dths) equivalent of natural gas for Fruehauf Corp. (Fruehauf), an indirect industrial customer of Applicant, receiving gas on a firm basis from Philadelphia Gas Works (PGW), a resale customer of Applicant, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to transport up to 300 dths of natural gas per day pursuant to a transportation agreement dated January 31, 1978, between Applicant and Fruehauf for Fruehauf from wells owned by Fruekel, Inc. (Fruekel), a wholly owned subsidiary of Fruehauf, located in Tuscarawas and Guernsey Counties, Ohio, to Fruehauf's Philadelphia plant. The application indicates that Fruehauf would pay Fruekel $1.95 per Mcf for the subject gas. It is stated that Fruehauf has entered into an agreement, dated January 16, 1978, with Columbia Gas Transmission Corp. (Columbia) in which Columbia would transport the quantities of natural gas to Applicant. Applicant indicates that pursuant to its TS Rate Schedule and the January 31, 1978, service agreement, it would receive from Columbia at the existing interconnection point between the two systems located near Lebanon, Ohio, and transport for Fruehauf's account, up to 300 dth per day of natural gas for redelivery, less 3 percent for gas used in providing such service, to PGW at the existing interconnection point in Philadelphia, Pa. PGW would then deliver the quantities to Fruehauf's plant in Philadelphia, Pa., it is said.

Applicant states that it would charge Fruehauf for the proposed transportation service a rate pursuant to its TS tariff sheets on file with the Commission, which rate is currently 19.56 cents per dth.

It is indicated that the subject gas would be used at Fruehauf's manufacturing operation at Philadelphia as a principal energy source and for processes and manufacturing purposes. It is further indicated that the subject gas is not available to the interstate market.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules or practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5657 Filed 3-2-78; 8:45 am]

[6740-02]

[Docket No. CP78-117]

TEXAS EASTERN TRANSMISSION CORP.

Amendment to Application

FEBRUARY 27, 1978.

Take notice that on February 17, 1978, Texas Eastern Transmission Corp. (Applicant), P.O. Box 2521, Houston, Tex. 77001, filed in Docket No. CP78-117 an amendment to its application filed in the instant docket pursuant to section 7(c) of the Natural Gas Act so as to provide for the transportation of an additional quantity of

[1] Twenty-Eighth Revised Sheet No. 4A and Third Revised Sheet Nos. 10, 17, and 26 to Sixth Revised Volume No. 1; and Fourth Revised Sheet No. 242 to Original Volume No. 2.

natural gas for UCG Energy Corporation (UCG), all as more fully set forth in the amendment on file with the Commission and open to public inspection.

UCG states that the proposed amendment is necessary to provide for the transportation of an additional quantity of natural gas for UCG's industrial customer, Fruehauf Corp. (Fruehauf), which has entered into a new agreement with Columbia Gas Transmission Corp. (Columbia) dated January 16, 1978, in which Columbia would transport the additional quantities of natural gas to Applicant. Applicant indicates that pursuant to its TS Rate Schedule and the January 31, 1978, service agreement, it would receive from Columbia at the existing interconnection point between the two systems located near Lebanon, Ohio, and transport for Fruehauf's account, up to 300 dth per day of natural gas for redelivery, less 3 percent for gas used in providing such service, to PGW at the existing interconnection point in Philadelphia, Pa. PGW would then deliver the quantities to Fruehauf's plant in Philadelphia, Pa., it is said.

Applicant states that it would charge Fruehauf for the proposed transportation service a rate pursuant to its TS tariff sheets on file with the Commission, which rate is currently 19.56 cents per dth.

It is indicated that the subject gas would be used at Fruehauf's manufacturing operation at Philadelphia as a principal energy source and for processes and manufacturing purposes. It is further indicated that the subject gas is not available to the interstate market.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules or practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Dated: February 23, 1978.

DOUGLAS D. CAMPT,
Acting Director,

Final

San Gabriel Unit, Angeles National Forest, San Bernardino and Los Angeles

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Dr. C. Grant Ash, Office of

existence and potential for lead emissions control have been summarized. Emission control strategies have been developed and,

natural gas for UCG Energy Corporation (UCG), all as more fully set forth in the amendment on file with the Commission and open to public inspection.

Applicant indicates that in its original application it sought authorization to transport 15 dekatherms (dths) equivalent of natural gas per day for Delmarva Energy Co., 50 dths per day for Tar Heel Energy Corp., and 2 dths for Rockingham Exploration Co. for a total of 67 dths per day produced from the No. 1 Champion Well, South Gist Field, Newton County, Tex., which gas was to be delivered to Applicant at its existing interconnection located in Newton County, Tex., for redelivery to Transcontinental Gas Pipeline Co. (Transco) at the existing point of interconnection in Beauregard Parish, La., for ultimate redelivery to Delmarva Power & Light Co., Public Service Co. of North Carolina, Inc., and North Carolina Gas Co.

It is stated that this amendment is made pursuant to the conditions stated in the temporary certificate issued Applicant on December 21, 1977, at Docket Nos. CP77-324 and CP77-568, authorizing transportation for other South Gist Field interests, requiring that Applicant file collectively the remaining South Gist Field interests. Applicant indicates that the UCG interest, together with the three interests covered by the original application, will complete the South Gist Field gas supplies to be transported.

It is stated that United Cities Gas Co. (United) has acquired from its producing subsidiary, UCG, gas supplies of approximately 2 dths per day, produced from the No. 1 Champion Well, South Gist Field, Newton County, Tex., which is to be delivered to Applicant at the existing interconnection located in Newton County, Tex., for redelivery to Transco at the existing point of interconnection in Beauregard Parish, La., for ultimate delivery to United. Applicant indicates that it would transport the gas supplies for UCG pursuant to Applicant's FERC Rate Schedule TS-2, Fourth Revised Volume 1.

The addition of UCG's gas volume would make the daily volume to be transported from the South Gist Field by Applicant, in the instant docket, total 69 dths per day, it is said.

Any person desiring to be heard or to make any protest with reference to said petition to amendment on or before March 20, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5658 Filed 3-2-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 863-7; PF-92]

PESTICIDE PROGRAMS

Filing of Pesticide Petition

Ciba-Geigy Corp., P.O. Box 11422, Greensboro, N.C. 27409, has submitted a petition (PP 8F2046) to the Environmental Protection Agency (EPA) which proposes that 40 CFR 180.298 be amended by establishing a tolerance for residues of the insecticide-miticide methidathion (0,0-dimethly phosphorodithioate S-ester with 4-(mercaptomethly)-2-methoxy-delta 2-1,3,4-thiadiazolin-5-one) in or on the raw agricultural commodities corn grain at 0.05 part per million and corn fodder at 2.0 parts per million. The proposed analytical method is by gas chromatography with a flame photometric detector used in the phosphorus or sulfur sensitive modes. Notice of this submission is given pursuant to the provisions of section 408(d)(1) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this petition to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. Inquiries concerning this petition may be directed to Product Manager (PM) 12, Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone at 202-426-9425. Written comments should bear a notation indicating the petition number. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the Office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: February 23, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-5548 Filed 3-2-78; 8:45 am]

[6560-01]

[FRL 863-4]

RECEIPT OF ENVIRONMENTAL IMPACT STATEMENTS

Pursuant to the President's Reorganization Plan No. 1, the Environmental Protection Agency is the official recipient for environmental impact statements (EIS's) and is required to publish the availability of each EIS received weekly. The following is a list of environmental impact statements received by the Environmental Protection Agency from February 21, through February 24, 1978. The date of receipt for each statement is noted in the statement summary. Under the Guidelines of the Council on Environmental Quality the minimum period for public review and comment on draft environmental impact statements is forty-five (45) days; the date for submission of comments is April 17, 1978. The thirty (30) day period for each final statement begins on the day the statement is made available to the Environmental Protection Agency and to commenting parties.

Copies of individual statements are available for review from the origination agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

Dated: February 27, 1978.

JOSEPH M. MCCABE,
Acting Director,
Office of Federal Activities.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 307A, Washington, D.C. 20250, 202-447-6827.

FOREST SERVICE

Draft

Lone Tree Unit Plan, Gifford Pinchot National Forest, Lewis and Skamania Counties, Wash., February 24: This proposed action describes alternative management plans for national forest land in the Lone Tree Planning Unit, located in Lewis and Skamania Counties, Wash. Included is 1,480 acres of private land and 113,370 acres of national forest land administered by the Gifford Pinchot National Forest's Randle Ranger District, The Lone Tree Unit is 1 of 16 such units on the Gifford Pinchot National Forest. The geographic center of the unit is about 65 airline miles northeast of Vancouver, Wash. and Portland, Oreg. metropolitan area and 70 miles southeast of the Seattle/Tacoma area. USDA-FS-R6-FES(ADM)-78-5. (ELR Order No. 80186.)

Final

San Gabriel Unit, Angeles National Forest, San Bernardino and Los Angeles Counties, Calif., February 21: This statement proposes several alternative land use management plans for the 186,570-acre San Gabriel Planning Unit, Angeles National Forest, Calif. The unit includes the 36,000-acre San Gabriel Wilderness, the 5,800-acre Cucamonga inventoried roadless area, the 59,000-acre Sheep Mountain Wilderness study area, the 6,060-acre San Dimas undeveloped area, and the 17,000-acre San Dimas Experimental Forest. Impacts vary according to the alternative selected. USDA-FS-R5-DES(ADM) 77-05. Comments made by: USDA, DOT, HEW, LAB, DOI, COE, EPA, FPC, CGD, State and local agencies, organizations, and individuals. (ELR Order No. 80169.)

Eagle Aspen Unit Plan, White River National Forest, Eagle and Pitkin Counties, Colo., February 22: Proposed is the implementation of a revised land management plan for the 550,000-acre Eagle-Aspen Unit in White River National Forest in Colorado. Opportunities to be provided include 563,000 visitor days of developed recreation and 406,000 visitor days of dispersed recreation. Management of forest stand for wildlife habitat and recreation opportunities are protected to contribute to an estimated annual yield of 2.5 MMbf of timber. Present opportunities for domestic grazing will be maintained, opportunities will also be provided for wildlife solitude and protection or enhancement of big game winter range USDA-FS-RT-FES-(ADM)FY-77-03. Comments made by: DOI, EPA, FEA, State and local agencies, business/organizations, and individuals. (ELR Order No. 80177.)

RURAL ELECTRIFICATION ADMINISTRATION

Draft

Thomas Hill Unit 3, mine expansion and transmission, Randolph and Chariton Counties, Miss., February 23: This action concerns the use of REA guaranteed loan funds to finance the proposed New Thomas Hill Unit 3, 610-MW-net base load, coal-fired steam electric generating unit located in Randolph County, Mo. The mine expansion is located in Chariton and Randolph Counties. The new 125 mile, 345 Kv transmission line will be constructed to interconnect the Thomas Hill plant substation with Franks substation via a new intermediate substation at Kingdom City. The transmission line will traverse several counties in Missouri. USDA-REA-EIS (ADM) 78-2-D. (ELR Order No. 80180.)

SOIL CONSERVATION SERVICE

Final

Canon Watershed Project, Fremont County, Colo., February 21: Proposed is the application and installation of project land treatment and flood prevention structural measures for Canon City, Colo. The project would protect 1,016 acres of agricultural, suburban, and urban land, including 650 residential and 50 commercial properties. The objective of the action is to reduce floodwater runoff, erosion and sediment damage, and repair costs to agricultural lands, residential and commercial properties, and other structures. A temporary increase in sediment would occur on 240 acres and residences and homes would be displaced. Comments made by: DOT, EPA, USDA, DOI, State and local agencies. (ELR Order No. 80170.)

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Department, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-6795.

Draft

Pillar Point Marina, regulatory permit, San Mateo County, Calif., February 21: The San Mateo County Harbor District, El Granada, Calif., has applied for a permit to develop a marina at the north end of Half Moon Bay near the communities of El Granada and Princeton within the confines of the existing breakwaters, built in 1961. The project site is located approximately 20 miles south of San Francisco. Environmental impacts include: change in air and water quality; change in traffic and noise levels; improved aesthetics; enlarged water-related recreational facilities; growth inducement; and change in tax revenue. (ELR Order No. 80172.)

Gulf Intracoastal Waterway, Chocolate Bayou, Brazoria County, Tex., February 23: The proposed Federal action is the improvement of the existing Chocolate Bayou Navigation Channel Project in Brazoria County, Tex., and construction of a saltwater barrier in the Bayou upstream of Liverpool, Tex. The proposed improvements consist of enlargement and all future maintenance of the existing locally constructed shallow-draft channel in Chocolate Bay and the lower reaches of Chocolate Bayou from the Gulf Intracoastal Waterway (GIWW) to channel mile 8.2 and construction of saltwater barrier in Chocolate Bayou about 16.9 miles above the GIWW. (ELR Order No. 80182.)

Final

Davenport Local Flood Protection, Scott County, Iowa, February 21: The recommended plan provides flood control to the Davenport area and floodwalls along the Mississippi River between I-280 and the Government Bridge, modification of the channel of Blackhawk Creek, and selective structural protection for the water treatment plant. Nahant Marsh will be acquired by the city of Davenport and preserved as a natural study area. Installation of water control structures will facilitate environmental enhancement of the marsh. Installation of culverts in the upstream end of the levee crossing Credit Island Slough will restore water flow through the slough. Comments made by: EPA, DOI, DOC, USDA, DOT, HUD, HEW, State and local agencies, groups, and individuals. (ELR Order No. 80167.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Joseph M. McCabe, Director, Office of Federal Activities, Room WSMW 537, 401 M Street SW., Washington, D.C. 20460, 202-755-0780.

Draft

National ambient air quality standard for lead, February 22: Under section 109 of the Clean Air Act, the U.S. Environmental Protection Agency intends to propose a national ambient air quality standard for lead. The sources and 1974 ambient air concentrations of lead, trends in growth, and the existence and potential for lead emissions control have been summarized. Emission control strategies have been developed and, under one strategy developed, the nationwide environmental impacts of establishing the standard have been assessed. (ELR Order No. 80174.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, 202-755-6308.

Draft

Foster Village, Windcrest Park, and Bristol Square, Tarrant County, Tex., February 21: Proposed is the 633-acre development consisting of three independent, but adjacent subdivisions located in Watauga and North Richland Hills, Tarrant County, Tex. The Foster Village, Windcrest Park, and Bristol Square subdivisions are located approximately 12 miles from the Fort Worth central business district, and will be designed to accommodate an ultimate population of approximately 6,500 persons. HUD-R06-EIS-78-12D. (ELR Order No. 80171.)

Final

Riverside Green and Riverside Hills Subdivisions, Franklin County, Ohio, February 23: Proposed is the development of two subdivisions in Columbus, Ohio. Riverside Green development involves the subdivision of a 164 acre tract of land into 880 dwelling units, including school and commercial areas, the Riverside Hills Project involves the developmenmt of a 155 acre tract of land into 568 dwelliing units, including space for schools and commercial use. Adverse effects include the removal of vegetation and wildlife habitat, increased storm water run-off, conversion of agricultural land to urban use, and increased traffic and air and noise pollution levels. HUD-RO6-EIS-77-09-(F). Comments made by: USDA, EPA, HUD, State, and local agencies. (ELR Order No. 80181.)

Willowridge Subdivision, Harris and Fort Bend Counties, Tex., February 21: Proposed is the development of 4,200 acres into a planned community composed of single-family homes, apartments, patio homes and townhouses with some commercial reserves in Fort Bend and Harris Counties, Tex. The development provides for the planning and controlling of a wide range of living accommodations for approximately 50,000 or more people. Comments made by: EPA, COE, DOT, DOI, USDA, State and local agencies, groups and individuals. (ELR Order No. 80168.)

Charterwood Subdivision, Harris County, Tex., February 23: Proposed is the acceptance for mortgage insurance purposes of the Charterwood Subdivision in Harris County, Tex. Project plans call for the development of the 292,608-acre area into a community composed of single-family homes. Adverse effects include the loss of wooded land and an increased demand for fossil fuels through heavy dependence on the automobile for transportation. HUD-R06-EIS-78-6F. Comments made by: USDA, EPA, COE, DOT, DOI, State and local agencies, special groups and individuals. (ELR Order No. 80175.)

Greengate Place and Birnam Wood, Harris County, Tex., February 23: The proposed action is acceptance of, for HUD/FHA home mortgage insurance purposes,

some 723 acres of land (368-acre tract of Greengate Place and 355-acre tract of Birnam Wood) located in the northern part of Harris County, Tex., the development of

in the number and size of associated facilities; (3) reduction in the cooling lake surface area; (4) addition of an external dam along

city of Carbondale, Ill., has been selected as a railroad demonstration site by the U.S. Congress in the Federal Aid Highway Act of

is the close of business one business day preceding the day on which the previously filed application is desig-

AZ—1393-CF-P-78 Same (WDD47) Bear Spring, 12 miles northwest of Huachuca Village (Pima), Ariz. Lat. 31°46'08" N.,

3910V, 3990V, 4070V, and 4150V MHz on azimuth 288.8° toward Medford, Oreg.

OR—1410-CF-P-78 Same (KOG29) 4.2

some 723 acres of land (368-acre tract of Greengate Place and 355-acre tract of Birnam Wood) located in the northern part of Harris County, Tex., the development of the two tracts located within a mile of each other will be composed primarily of single-family dwellings consisting of approximately 3,000 units. Adverse effects will be loss of grazing land and an increased demand for fossil fuels through heavy dependence on the automobile for transportation. HUD-R06-EIS-78-5F. Comments made by: EPA, COE, USDA, State and local agencies, special groups and individuals. (ELR Order No. 80178.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Building, Department of the Interior, Washington, D.C. 20240, 202-343-3891.

BUREAU OF OUTDOOR RECREATION

Final

Missouri River, National Wild and Scenic Rivers System, Montana, February 23: Proposed is the inclusion of a 128-mile segment of the Missouri River and 147,800 acres of adjacent land in the national wild and scenic rivers system. The segment would be classified as follows: 72 miles wild, 39 miles scenic, and 17 miles recreational under the Administration of the Bureau of Land Management and Fish and Wildlife Service. Commercial and residential development would be precluded. FES-78-3. Comments made by: USDA, COE, DOD, DOI, EPA, FPC, DOT, State and local agencies, and interested organizations. (ELR Order No. 80183.)

DEPARTMENT OF LABOR

Contact: Mr. David R. Bell, Chief, Office of Environmental and Economic, Impact Assessment, Room N-3673, Washington, D.C. 20210, 202-523-7076.

Final

DBCP Occupational Exposure Standard, February 23: The Occupational Safety and Health Administration proposes to regulate employee exposure to DBCP by limiting worker exposures to 1 part per billion on an 8-hour time-weighted average, with a ceiling level of 10 parts per billion as averaged over any 15-minute period during the working day, the proposal also provides for exposure measurements, methods of compliance, regulated areas, training, personal protective equipment, medical surveillance, and record-keeping. Comments made by: TREA, LAB, GSA, DOE, DOI, State and local agencies. (ELR Order No. 80179.)

NUCLEAR REGULATORY COMMISSION

Contact: Mr. Voss A. Moore, Assistant Director for Environmental Projects, P-518, Washington, D.C. 20555, 301-492-8446.

Draft Supplement

Allens Creek nuclear generating station unit No. 1, Austin County, Tex., February 24: The proposed action is the issuance of a construction permit to the Houston Lighting & Power Co. for the construction of Allens Creek nuclear generating station, unit 1, located in Austin County, Tex. This draft supplemental statement has been prepared to update a FEIS filed with CEQ in November 1974. Major changes in the station design include: (1) Reduction in gross electrical generating capacity; (2) reduction in the number and size of associated facilities; (3) reduction in the cooling lake surface area; (4) addition of an external dam along the northern lake perimeter; (5) reduction in estimated water use requirements; and (6) redesign of waste systems, (NUREG-0428.) (ELR Order No. 80184.)

VETERANS ADMINISTRATION

Contact: Mr. Lyman T. Miller, Assistant Director for Construction and Evaluation, Veterans Administration, 810 Vermont Avenue, Washington, D.C. 20420, 202-389-2691.

Draft

Bay Pines Veterans Administration Center, improvements, Pinellas County, Fla., February 24: This project proposes construction on the existing site of a 520-bed medical and surgical replacement building with support facilities for the Veterans Administration Center at Bay Pines, Fla. A new 120-bed nursing home care unit to supplement the existing nursing home and a 200-bed domiciliary are also proposed. Building 1, presently serving as a hospital patient building, and building 23, functioning as a clinic, will both be renovated for administration and ancillary services not included in the proposed new medical and surgical building. (ERL Order No. 80185.)

DEPARTMENT OF TRANSPORTATION

Contact; Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590, 202-426-4357.

FEDERAL HIGHWAY ADMINISTRATION

Draft

Northeast inner loop, Sioux City bypass, Woodbury County, Iowa, February 22; The northeast inner loop is a 2.5-mile, 4-lane urban arterial roadway which bypasses downtown Sioux City to the north and east, in Woodbury County, Iowa. The project proceeds from the intersection of 14th Street and Hamilton Boulevard easterly to Floyd Boulevard, then southerly to I-29, FHWA—IA—EIS—77-04-D. (ERL Order No. 80176.)

Final Supplement

I-90- To Bemus Point, 4(f) for Lake Chautauqua, Pa.-N.Y., February 21: This supplement to the final EIS on the southern tier expressway contains significant information in support of the recommended alternative for the Chautauqua Lake 4(f) statement and the southern tier expressway between Bemus Point, N.Y., and Erie, Pa. FHWA—NY—EIS—76—04—F. (ERL Odrer No. 80173.)

CORRECTION

The EPA published the availability of a final EIS on the "Inner Loop, U.S. 54 to I—35W, Wichita, Sedgwick County, Ill." in the FEDERAL REGISTER dated February 3, 1978 (43 FR 4674). This FEIS has not been received by EPA and is not available for review. The statement which should have appeared is listed below.

FEDERAL HIGHWAY ADMINISTRATION

Final

Carbondale railroad relocation demonstration, Jackson County, Ill., January 24: The city of Carbondale, Ill., has been selected as a railroad demonstration site by the U.S. Congress in the Federal Aid Highway Act of 1973. This statement compares the effects and environmental impacts of various actions designed to alleviate the problems associated with railroad-highway conflicts in Carbondale. The actions investigated include railroad relocations, grade separations, signal and warning service improvements, and no action. Adverse effects include those associated with construction. (Region 5.) Comments made by: FEA, HUD, EPA HEW, DOD, DOC, State and local agencies, groups and individuals. (ERL Order No. 80071.)

[FR Doc. 78-5714 Filed 3-2-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 899]

COMMON CARRIER SERVICES INFORMATION

Re: Applications Accepted for Filing

FEBRUARY 27, 1978.

By the Chief, Common Carrier Bureau:

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined that they are defective and not in conformance with the Commission's Rules and Regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (See §309(c) of the Communications Act), applications filed under Part 68, applications filed under Part 63 relative to small projects, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and Section 214 applications within 30 days of the date of this notice and within 20 days for Part 68 applications.

In order for an application filed under Part 21 of the Commission's Rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier: (a) the close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application

is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule. [See §1.227(b)(3) and 21.30(b) of the Commission's Rules.]

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

20744-CD-P-78 South Shore Radio-Telephone, Inc. (KSB591). C.P. for additional facilities to operate on 152.180 MHz at a new site described as Loc. No. 6: 7009 Kennedy Ave., Hammond, Ind.

20851-CD-AL-78 Owen W. and Thomas M. Hand t/a Page Boy Messenger Service, consent to assignment of license from Owen W. and Thomas M. Hand t/a Page Boy Messenger Service, assignor to Page Boy Communications, assignee. Station: KUO645, Swainton, N.J.

20855-CD-P-78 Pacific Northwest Bell Telephone Co. (KOA732). C.P. for additional test facilities to operate on 459.500 MHz at a new site described as Loc. No. 4: 1200 Third Avenue, Seattle, Wash.

INFORMATIVE

Due to the numerous requests for extensions of time to file FCC Form 430, as required by Part 21.11(a) of the Commission's Rule, the time within which to file has been extended to March 31, 1978 for Domestic Public Land Mobile Radio and Rural Radio Services Licensees.

RURAL RADIO

60100-CR-P-78 United Telephone Co. of Florida (WHJ26). C.P. to change antenna system and change frequencies 157.89 157.95 157.86 MHz to 157.98 MHz: Approx. 3.9 miles WNW. of Pineland, Mondongo Island, Fla.

60102-CR-P-78 United Telephone Co. of Florida (WGI57). C.P. to change antenna system and change frequencies 157.89 157.95 157.86 MHz to 157.98 MHz: 4.25 miles west of Pineland, Cabbage Key Island, Fla.

60108-CR-P/L-78 The Mountain States Telephone and Telegraph Co. (new). C.P. for a new rural subscriber station to operate on 158.04 MHz: 6.5 miles north of Hanna, Wyo.

60111-CR-P/L-78 The Mountain States Telephone and Telegraph Co. (new). C.P. for a new rural subscriber station to operate on 157.98 MHz: 12.3 miles northwest of Shoshoni, Wyo.

60110-CR-P-78 The Pacific Telephone and Telegraph Co. (new). C.P. for a new central office to operate on 454.500 MHz: 0.8 miles NE. of Furnace Creek Ranch, Calif.

APPLICATIONS ACCEPTED FOR FILING

POINT-TO-POINT MICROWAVE RADIO SERVICE

AZ—1392-CF-P-78 Mountain States Telephone & Telegraph Co. (KPS88), 1 Garden Avenue, Sierra Vista (Cochise), Ariz. Lat. 31°33'18" N., Long. 110°18'19" W. CP to replace transmitters on 6118.7V and 11115V MHz toward Bear Spring, Ariz.

AZ—1393-CF-P-78 Same (WDD47) Bear Spring, 12 miles northwest of Huachuca Village (Pima), Ariz. Lat. 31°46'08" N., Long. 110°27'25" W. CP to replace transmitters on 6367.7V, 11567 MHz toward Sierra Vista, Ariz., and 6382.6H, 11365V MHz toward Vail, Ariz.

AZ—1394-CF-P-78 Same (KPS84), 3.6 miles east-northeast of Vail (Pima), Ariz. Lat. 32°03'37" N., Long. 110°39'05" W. CP to replace transmitters on 6130.5H, 10915V MHz toward Bear Spring, Ariz., and 5937.8H, 10795H MHz toward Tucson, Ariz.

AZ—1395-CF-P-78 Same (KOS52), 120 East Pennsington Street, Tucson (Pima), Ariz. Lat. 32°13'26" N., Long. 110°58'08" W. CP to replace transmitters on 6189.8H and 11245H MHz toward Vail, Ariz.

AZ—1396-CF-P-78 Same (KOV63), 228 West Adams Street, Phoenix (Maricopa), Ariz. Lat. 33°26'58" N., Long. 112°04'35" W. CP to replace transmitters on 11075V and 10635H MHz toward Shaw Butte, Ariz.

AZ—1397-CF-P-78 Same (KPX35), Shaw Butte, 10 miles north of Phoenix (Maricopa), Ariz. Lat. 33°35'38" N., Long. 112°05'09" W. CP to replace transmitters on 11285H, 11525V MHz toward Phoenix, Ariz., and 11445V, 11685H MHz toward Mount Ord, Ariz.

AZ—1398-CF-P-78 Same (KPX68), Mount Ord, 23 miles south-southwest of Payson (Gila), Ariz. Lat. 33°54'18" N., Long. 111°24'28" W. CP to replace transmitters on 10755H and 10995V MHz toward Shaw Butte, Ariz.

ID—1399-CF-P-78 Same (KPS29), 455 West Lewis Street, Pocatello (Bannock), Idaho. Lat. 42°51'38" N., Long. 112°27'01" W. CP to replace transmitters on 10715V and 10955H MHz toward Chinks Peak, Idaho.

ID—1400-CF-P-78 Same (KPS30), Chinks Peak, 4 miles southeast of Pocatello (Bannock), Idaho. Lat. 42°50'49" N., Long. 112°21'41" W. CP to replace transmitters on 11445V, 11685H MHz toward McCammon, Idaho, and 11405H, 11645V MHz toward Pocatello, Idaho.

ID—1401-CF-P-78 Same (KPS31), 1.7 miles east of McCammon (Bannock), Idaho. Lat. 42°37'48" N., Long. 112°09'56" W. CP to replace transmitters on 10755H, 10995V MHz toward Chinks Peak, Idaho, and 10715H, 10955V MHz toward Fish Creek, Idaho.

ID—1402-CF-P-78 Mountain States Telephone & Telegraph Co. (KPS32), Fish Creek (Bannock), Idaho. Lat. 42°36'46" N., Long. 111°55'10" W. CP to replace transmitters on 11405V, 11645H MHz toward McCammon, Idaho, and 11445H, 11685V MHz toward Soda Springs, Idaho.

ID—1403-CF-P-78 Same (KPS33), 210 North Main Street, Soda Springs (Caribou), Idaho. Lat. 42°39'50" N., Long. 111°36'00" W. CP to replace transmitters on 10755V and 10995H MHz toward Fish Creek, Idaho.

OR—1408-CF-P-78 Pacific Northwest Bell Telephone Co. (new), 502 North Central Street, Medford (Jackson), Oreg. Lat. 42°19'50" N., Long. 122°52'26" W. CP for a new station on 3710V, 3730H, 3790V, 3870V, and 3950V MHz on azimuth 106.7° toward Baldy, Oreg.

OR—1409-CF-P-78 Pacific Northwest Bell Telephone Co. (KOR61), Baldy, 6.7 miles east-southeast of Medford (Jackson), Oreg. Lat. 42°17'56" N., Long. 122°44'55" W. CP to add a new point of communication on 3750V, 3770H, 3830V, 3850H, 3910V, 3990V, 4070V, and 4150V MHz on azimuth 288.8° toward Medford, Oreg.

OR—1410-CF-P-78 Same (KOS29), 4.3 miles east-northeast of Oregon City (Clackamas), Oreg. Lat. 45°22'56" N., Long. 122°31'13" W. CP to add 6375.2H MHz toward Portland, Oreg., and 6404.8H MHz toward Silverton, Oreg.

OR—1411-CF-P-78 Same (KOC65), 819 Southwest Oak Street, Portland (Multnomah), Oreg. Lat. 45°31'22" N., Long. 122°40'42" W. CP to add 6123.1V MHz toward Oregon City, Oreg.

OR—1412-CF-P-78 Same (KOS28), 2.8 miles south-southeast of Silverton (Marion), Oreg. Lat. 44°57'48" N., Long. 122°45'12" W. CP to add 6152.8V MHz toward Oregon City, Oreg.

VA-MD—1434-CF-P-78 American Telephone & Telegraph Co. (KYO63), Arlington, 2900 Walter Reed Drive, Arlington, (Arlington), Va. Lat. 38°51'49" N., Long. 77°05'17" W. CP to add 3770H MHz toward Waldorf, Md.

MD-VA—1435-CF-P-78 Same (KGH26), 1.1 miles south-southeast of Waldorf (Charles), Md. Lat. 38°36'38" N., Long. 76°55'14" W. CP to add 3730H MHz toward Arlington 2, Va.

ID—1451-CF-P-78 Continental Telephone Co. of the West (KPQ35), First and Lenore Streets, McCall (Valley), Idaho. Lat. 44°54'37" N., Long. 116°05'58" W. CP to correct coordinates and add a new point of communication on 10995.V MHz toward North Business Mount, Idaho.

ID—1452-CF-P-78 Continental Telephone Co. of the West (KPQ36), North Business Mount 11.2 miles south-southwest of McCall (Valley), Idaho. Lat. 44°45'54" N., Long. 116°14'41" W. CP to change location and add a new point of communication on 2163.8V MHz toward New Meadows, Idaho, and 11445V MHz toward McCall, Idaho.

ID—1453-CF-P-78 Same (new), alley between Virginia and Nora New Meadows (Adams), Idaho. Lat. 44°58'19" N., Long. 116°17'04" W. CP for a new station on 2113.8V MHz toward North Business Mount, Idaho.

CORRECTIONS

CA—1275-CF-P-78 Continental Telephone Co. of California (KNL84), Quartzite, 5.7 miles north of Victorville (San Bernardino), Calif. Correct entry to read, also changing antennas toward Barstow and Running Springs Road. All other particulars remain the same as reported on public notice No. 897, February 13, 1978.

CA—1277-CF-P-78 Same (KNL86), Running Springs Road, 1.1 miles south of Running Springs (San Bernardino), Calif. Correct frequency 6226.9H MHz toward San Bernardino, Calif., to read 6315.9V. All other particulars remain the same as reported on public notice No. 897, February 13, 1978.

[FR Doc. 78-5604 Filed 3-2-78; 8:45 am]

[6712-01]

[Report No. I-440]

COMMON CARRIER SERVICES INFORMATION

International and Satellite Radio Applications Accepted for Filing

FEBRUARY 27, 1978.

By the Chief, Common Carrier Bureau.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications if, upon further examination, it is determined they are defective and not in conformance with the Commission's rules, regulations, and its policies. Final action will not be taken on any of these applications earlier than 31 days following the date of this notice. Section 309(d)(1).

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

SATELLITE COMMUNICATIONS SERVICES

CORRECTION

VA—313-DSE-P/L-78 The Chirstian Broad- casting Network, Inc., Virginia Beach, Va. Entry should have included trans. freqs. 5925-6425 MHz.

OK—336-DSE-P/L-78 Purcell - Lexington Cable TV, Inc., Purcell, Okla. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 35°02'30" N., Long. 97°21'50" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 4.5 meter antenna.

KS—337-DSE-P-78 Kays, Inc. d.b.a. Goodland Cable TV Co., Goodland, Kans. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 39°20'21" N., Long 101°42'33" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 4.5 meter antenna.

FL—338-DSE-P/L-78 Leon CATV, Associates, Tallahassee, Fla. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 30°21'19" N., Long. 84°15'48" W. Rec. Freq: 3700-4200 MHz. Emission 36000F9. With a 6 meter antenna.

SC—339-DSE-P/L-78 Coastal Cable Co., Ltd., North Myrtle Beach, S.C. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 33°54'47" N., Long. 78°40'00" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 6 meter antenna.

MD—298-CSG-P-78 Communications Satellite Corp., Clarksburg, Md. Comsat hereby applies for a construction permit in order to participate in the second phase of developmental program to investigate the feasibility of high data rate satellite transmission for load sharing and database sharing applications in a network environment. The station will operate a 4.5 meter at the Comsat Laboratories in Clarksburg, Md.

MD—299-CSG-R-78 Communications Satellite Corp. (WA31), Gaithersburg, Md. Renewal of stations developmental license which expires March 2, 1978, to March 2, 1979.

MD—300-CSG-ML-78 Communications Satellite Corp. (WA31), Gaithersburg, Md. Modification of license to add two new points of communications (Clarksburg, Md., and Weilheim, West Germany), and since the programs objectives are being enlarged, we are also expanding the scope of the program to include the second phase.

INFORMATIVE

These applications request authority to participate in the second phase of high data rate satellite transmission for load sharing and data-base sharing applications in a network environment. These facilities would operate via Symphonie satellite in conjunction with three other terminals: An existing antenna of the same dimensions at IBM facilities in Gaithersburg, Md., and with terminals at LaGaude, France (operated by the French PTT), and at Weilheim, West Germany (operated by the German Space Research Agency).

[FR Doc. 78-5602 Filed 3-2-78; 8:45 am]

[6712-01]

[BC Docket No. 78-53; FCC 78-98]

WIGO, INC.

Order To Show Cause and Notice of Apparent Liability Designating Application for Hearing on Stated Issues

Adopted: February 8, 1978.

Released: February 17, 1978.

By the Commission: Commissioner Lee absent.

In the matter of revocation of the license of WIGO, Inc. (WIGO-AM) Atlanta, Ga.

1. The Commission has before it for consideration the outstanding license of the captioned licensee, WIGO, Inc., to operate Station WIGO, Atlanta, Ga., and the Commission's field inquires concerning the operation of that station.

2. Information before the Commission raises the following questions:

(a) Whether Station WIGO has broadcast information concerning a lottery in violation of section 73.1211 of the Commission's Rules;

(b) Whether, in light of all the facts and circumstances pertaining thereto, the broadcast by Station WIGO of programs and/or announcements which offered three-digit numbers to listeners to be used for financial gain, constituted false, misleading or deceptive advertising;

(c) Whether, in light of the evidence adduced under questions (a) and (b), the licensee of WIGO has taken reasonable measures to avoid violating section 73.1211 of the Commission's Rules and has taken reasonable measures to protect WIGO listeners from false, misleading or deceptive advertising;

(d) Whether, in light of the information giving rise to the preceding questions, if found to be true, the licensee possesses the requisite qualifications to remain a licensee of the Commission.

3. Information relating to the above questions has come to the attention of the Commission since the grant of the renewal of license for WIGO. This information would, if substantiated, warrant a refusal to grant a license or permit or an original application, and raises serious questions, best resolved in a hearing, as to whether WIGO, Inc. has the qualifications to be a licensee of the Commission.

4. Accordingly, *It is ordered*, That pursuant to the provisions of section 312(a)(2) and (4) of the Communications Act of 1934, as amended, WIGO, Inc. is directed to show cause why an Order revoking the license of WIGO, Atlanta, Ga., should not be issued and to appear and give evidence as to the matters raised in paragraph two, at a hearing to be held at a time and location specified in a subsequent Order, that time to be no less than thirty (30) days from the receipt of the Order.

5. *It is further ordered*, That the Chief of the Broadcast Bureau is directed to serve upon WIGO, Inc. a Bill of Particulars regarding the matters referred to in Questions (a) through (c) inclusive, set out in paragraph two, within thirty (30) days of the release of this Order.

6. *It is further ordered*, That if it is determined that the hearing record does not warrant an order revoking the license of the captioned station, WIGO, it shall also be determined whether the licensee has repeatedly or willfuly violated section 73.1211 of the Commission's Rules, or the terms of authorization for WIGO and, if so, whether an Order of Forfeiture pursuant to section 503(b) of the Communications Act of 1934, as amended, in the amount of $10,000 or some lesser amount should be issued for violations which occurred within 1 year of the issuance of the Bill of Particulars in this matter.

7. *It is further ordered*, That this document constitutes a Notice of Apparent Liability for forfeiture for violations of section 73.1211 of the Commission's Rules set out in the preceding paragraph and of the terms of the station's authorization. The Commission has determined that, in every case designated for hearing involving revocation or denial of renewal of license for alleged violations which also come within the purview of section 503(b) of the Act, it shall, as a matter of course, include this forfeiture notice so as to maintain the fullest possible flexibility of action. Since the procedure is thus a routine or standard one, we stress, that inclusion of this Notice is not to be taken as in any way indicating what the initial or final disposition of the case should be; that judgment is, of course, to be made on the facts of each case.

8. *It is further ordered*, That pursuant to section 312(d) of the Communications Act of 1934, as amended, both the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the Broadcast Bureau.

9. *It is further ordered*, That to avail itself of the opportunity to be heard, the licensee pursuant to section 1.91(c) of the Commission's Rules, in person or by attorney, shall file with the Commission within 30 days of the receipts of the Order to Show Cause a written appearance stating that he will appear at the hearing and present evidence on the matter specified in the Order. If the licensee fails to file an appearance within the time specified, the right of a hearing shall be deemed to have been waived. See section 1.92(a) of the Commission's Rules. Where a hearing is waived, a written statement in mitigation or justification may be submitted within 30 days of the receipt of the Order to Show Cause. See section 1.92(b) of the Commission's Rules. In the event the right to a hearing is waived, the presiding officer, or the Chief, Administrative Law Judge if no presiding officer has been designated, will terminate the hearing proceeding and certify the case to the Commission in the regular course of business and an appropriate Order will be entered. See sections 1.92(c) and (d) of the Commission's Rules.

10. *It is further ordered*, That the Acting Secretary of the Commission send a copy of this Order to Show Cause by Certified Mail-Return Receipt Requested to WIGO, Inc., licensee of Station WIGO, Atlanta, Ga.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO.
Secretary.

[FR Doc. 78-5603 Filed 3-2-78; 8:45 am]

[6712-01]

[FCC 78-149]

CLOSED CIRCUIT TEST OF EMERGENCY BROADCAST SYSTEM SCHEDULED FOR MARCH 1, 1978

FEBRUARY 28, 1978.

A test of the emergency broadcast system (EBS) has been scheduled for Wednesday, March 1, 1978, between 2:09:00 and 2:14:30 p.m., Washington, D.C., time. Only ABC, CBS, NBC, IMN, MBX, and NPR radio network affiliates, UPI-Audio, and for the first time AP-Radio clients will participate. Television networks are not participating in this test.

Network affiliates will be notified of the test procedures via their network beginning four days in advance of the test. Test messages will also be run by AP and UPI radio press wire services for 4 days in advance of the test to insure wide dissemination of the test announcement and schedule.

Final evaluation of the March test is scheduled to be made by the end of March 1978.

This is a closed circuit test and will not be broadcast over the air.

Action by the Commission, February 27, 1978. Commissioners Ferris (Chairman), Lee, Quello, Washburn, Fogarty, White, and Brown.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-5664 Filed 3-2-78; 8:45 am]

[Report No. 1105]

PETITIONS FOR RECONSIDERATION OF ACTIONS IN RULE MAKING PROCEEDINGS FILED

FEBRUARY 27, 1978.

Docket or RM No.	Rule No.	Subject	Date received
21109	Sec. 73.606(b)	Amendment of section 73.606(b), Table of Assignments, Television Broadcast Stations. (Medford and Grants Pass, Oreg.). Filed by Harry J. Ockershausen and Christopher J. Reynolds, Attorneys for Oregon Broadcasting Co. (KOBI-TV).	Feb. 9, 1978
		Filed by John A. Rafter and Suzanne Meyer, Attorneys for Sierra Cascade Communications, Inc. (KTVL-TV).	Do.

NOTE.—Oppositions to petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the FEDERAL REGISTER. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

FEDERAL COMMUNICATIONS COMMISSION,
William J. Tricarico,
Secretary.

[FR Doc. 78-5663 Filed 3-2-78; 8:45 am]

[6712-01]

SOUND BROADCAST CORP. AND MOBILE BROADCAST SERVICE, INC.

Applications

Adopted: February 21, 1978. Released: February 28, 1978.

In the matter of applications of: Sound Broadcast Corp. (WLPR(FM)), Mobile, Ala., has: 96.1 mHz, No. 241, 38 kW, 420 feet; BC Docket No. 78-74, File No. BRH-1880. For renewal of broadcast license, Mobile Broadcast Service, Inc., Mobile, Ala., req: 96.1 mHz, No. 241, 40 kW, 420 feet; BC Docket No. 78-75, File No. BPH-9796. For construction permit for new FM broadcast station. Memorandum opinion and order designating applications for consolidated hearing on stated issues.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority has before it for consideration, the above-captioned applications of: (i) Sound Broadcast Corp., licensee of station WLPR (FM), Mobile Ala., for renewal of broadcast license (Sound); and (ii) Mobile Broadcast Service, Inc., for a construction permit for a new FM broadcast station at Mobile, Ala. (MBSI). Inasmuch as MBSI has specified the facilities presently licensed to Sound, these applications are mutually exclusive with each other and must be designated for a comparative hearing.[1]

2. MBSI has failed to comply with certain requirements of the Commission's *Primer on Ascertainment of Community Problems by Broadcast Applicants*, 27 FCC 2d 650, 21 RR 2d

[1] Also, Sound filed a letter requesting dismissal of MBSI's application, and MBSI filed a reply in opposition to that request. Sound's request was based on MBSI's delay in responding to Commission correspondence. Although MBSI did not amend its application pursuant to the Commission's November 18, 1976, letter until April 18, 1977, it requested several extensions of time. On March 18, 1977, the Commission, by letter, notified MBSI that if no amendment was received within 30 days, its application would be dismissed pursuant to section 1.568 of the rules. While MBSI's amendment was filed on the 31st day, the Commission finds that the amendment was filed in substantial compliance with the rules and that dismissal is not warranted.

1501 (1971). It does not appear that the applicant has consulted with leaders of all significant groups within the proposed community of license. *Voice of Dixie, Inc.*, 45 FCC 2d 1027, 29 RR 2d 1127 (1974), recon. denied, 47 FCC 2d 526, 30 RR 2d 851 (1974). In its demographic material, MBSI described Mobile as a "Gulf seaport town," and states that its major industries include shipping, shipbuilding, and seafood. The demographics also note the existence of chemical, paper, and rayon production. However, no leaders from any of these aforementioned industries have been consulted. Additionally, none of the persons listed as leaders of the professions appear to be leaders but, rather, are merely members of their respective professions. MBSI's ascertainment effort is further deficient because of its failure to ascertain the outlying communities within its service area. In addition to Mobile, MBSI, states that it plans to serve the nearby communities of Prichard, Chickasaw, Satsuma, and Saraland. However, it has not consulted with any representatives of Chickasaw or Satsuma. MBSI's omission from its leader survey of representatives of these communities is in contravention of questions and answers 6 and 7 of the *Primer* which require consultations with leaders from outlying communities who are expected to have a "broad overview" of those communities' problems. Accordingly an ascertainment issue will be included against MBSI.

3. Except as indicated by the issues specified below, the applicants are qualified to be Commission licensees. However, since these proposals are mutually exclusive, they must be consolidated for a hearing.

4. Accordingly, *it is ordered*, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

(1) To determine the efforts made by Mobile Broadcast Service, Inc., to ascertain the community problems and needs of its area to be served, and the means by which it proposes to meet those problems and needs.

(2) To determine which of the proposals would, on a comparative basis, better serve the public interest.

(3) To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

5. *It is further ordered*, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to section 1.221(c) of the Commission's Rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

6. *It is further ordered*, That, the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and section 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rules, and shall advise the Commission of the publication of such notice as required by section 1.594(g) of the rules.

7. *It is further ordered*, That the Sound Broadcasting Corp.'s letter request for dismissal is denied.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-5665 Filed 3-2-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

VIRGINIA PORT AUTHORITY AND NACIREMA OPERATING CO., INC.

Agreement Filed

The Federal Maritime Commission hereby gives notice that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement and the justification offered therefor at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the field offices located at New York, N.Y.; New Orleans, La.; San Francisco, Calif.; and San Juan, P.R. Interested parties may submit comments on the agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before March 20, 1978. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreement and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. J. Robert Bray, Acting Executive Director, Virginia Port Authority, 1600 Maritime Tower, Norfolk, Va. 23510.

Agreement No. T-3594, between the Virginia Port Authority (Port) and Nacirema Operating Co., Inc. (Nacirema), provides for the parties' 7-year lease (with renewal options) of the Newport News Marine Terminal, Newport News, Va., to Nacirema. Nacirema shall operate the terminal as a general cargo facility and shall provide terminal services for the receipt, delivery, handling, and interchange of import, export, intercoastal and coastwise general cargo, and wharfage, dockage, storage, warehousing, and all other applicable services. As compensation, Nacirema shall pay the Port according to a schedule of rates outlined in the agreement, based partly on percentages of designated tariff items. Nacirema shall publish a tariff comprising a schedule of rates and regulations applicable at the facility and the Port shall establish the rates and charges for dockage, wharfage, wharf demurrage, and lay berth rental.

By order of the Federal Maritime Commission.

Dated: February 28, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-5690 Filed 3-2-78; 8:45 am]

[6325-01]

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

ANNUAL REPORT

Availability

Pursuant to the provisions of section 10(d) of the Federal Advisory Committee Act (P.L. 92-463) and Circular A-63, revised, of the Office of Management and Budget notice is hereby given of the availability of the Federal Prevailing Rate Advisory Committee 1976 Annual Report.

The Report summarizes the activities and recommendations of the Committee to the U.S. Civil Service Commission in dealing with the Federal prevailing rate systems for craft, trade, and labor employees paid from either appropriated or nonappropriated funds during calendar year 1976.

Single copies of the Report will be furnished without charge. Multiple copies can be furnished at a fair and equitable fee upon written request addressed to the Chairman, Federal Prevailing Rate Advisory Committee, Room 1338, 1900 E Street NW., Washington, D.C. 20415.

The Report may be otherwise examined and/or copied at the above office and address between the hours of 8:15 a.m. and 4:45 p.m. Monday through Friday, legal holidays excluded.

JEROME H. ROSS,
Chairman, Federal Prevailing Rate Advisory Committee.

FEBRUARY 27, 1978.

[FR Doc. 78-5491 Filed 3-2-78; 8:45 am]

[6820-25]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.; Temporary Reg. E-42, Supplement 4]

ADP AND TELECOMMUNICATIONS REQUIREMENTS CHECKLIST

1. *Purpose.* This supplement extends the expiration date of FPMR Temporary Regulation E-42 (40 FR 48733, Oct. 17, 1975).

2. *Effective date.* This regulation is effective March 1, 1978.

3. *Expiration date.* This regulation expires March 31, 1979, unless sooner superseded or canceled.

4. *Explanation of changes.* The expiration dates contained in paragraph 3 of FPMR Temporary Regulation E-42 and Supplements 1, 2, and 3 are revised to March 31, 1979 (41 FR 12248, Mar. 24, 1976; 41 FR 43253, Sept. 30, 1976; 42 FR 17179, Mar. 31, 1977).

Dated: February 21, 1978.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 78-5597 Filed 3-2-78; 8:45 am]

[6820-24]

[Federal Property Management Reg.; Temporary Reg. F-462]

CHAIRMAN, ATOMIC ENERGY COMMISSION AND SECRETARY OF DEFENSE—REGULATORY PROCEEDINGS

Revocation of Delegations of Authority

1. *Purpose.* This regulation revokes certain delegations of authority granted to other agencies to represent the consumer interests of the executive agencies of the Federal Government in utility proceedings which have been terminated.

2. *Effective date.* This regulation is effective immediately.

3. *Expiration date.* This regulation expires on February 28, 1978.

4. *Revocation.* This revocation identifies those delegations which are no longer in force due to completion of the proceedings for which they were issued. Accordingly, the following FPMR temporary regulations are hereby revoked:

No.	Date	Subject
F-141	Mar. 22, 1972	Delegation of authority to the Chairman, Atomic Energy Commission.
F-226	July 26, 1974	Delegation of authority to the Secretary of Defense—regulatory proceedings.
F-305	Oct. 10, 1974	Do.
F-325	Jan. 13, 1975	Do.
F-378	Mar. 17, 1976	Do.
F-397	Aug. 19, 1976	Do.
F-431	July 28, 1977	Do.

Dated: February 22, 1978.

JAY SOLOMON
Administrator of General Services.

[FR Doc. 78-5582 Filed 3-2-78; 8:45 am]

[6820-24]

[Federal Property Management Regs., Temporary Reg. F-464]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense, in conjunction with the Administrator of General Services, to represent the interests of the executive agencies of the Federal Government in a proceeding concerning the adoption of energy conservation rules for gas and electric utilities.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the New Mexico Public Service Commission involving the adoption of rules and regulations for energy conservation by gas and electric utilities. The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: February 21, 1978.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 78-5583 Filed 3-2-78; 8:45 am]

[4110-88]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

RESEARCH TRIANGLE INSTITUTE AND OTHER PARTICIPANTS IN THE TREATMENT OUTCOME PROSPECTIVE STUDY

Research on Drug Abuse; Authorization of Confidentiality

Under the authority vested in the Secretary of Health, Education, and Welfare by section 303(a) of the Public Health Service Act [42 U.S.C. 242a(a)], all persons who—

1. Are employed by the Research Triangle Institute, Research Triangle Park, N.C. or drug treatment programs participating in the Treatment Outcome Prospective Study; and

2. Have, in the course of that employment, access to information which would identify individuals who are the subjects of the research on drug abuse which is assisted by the Department of Health, Education, and Welfare contract numbered 271-77-1205, entitled "Treatment Outcome Prospective Study";

are hereby authorized to protect the privacy of the individuals who are the subjects of that research by withholding their names and other identifying characteristics from all persons not connected with the conduct of that research.

As provided in section 303(a) of the Public Health Service Act [42 U.S.C. 242a(a)]:

Persons so authorized to protect the privacy of such individuals may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings to identify such individuals.

This authorization does not authorize employees of the Research Triangle Institute or participating drug treatment programs to refuse to reveal to qualified personnel of the Department of Health, Education, and Welfare, for the purpose of management or financial audits or program evaluation, the names or other identifying characteristics of individuals who are the subjects of the research conducted pursuant to Department of Health, Education, and Welfare contract numbered 271-77-1205. Such personnel will hold any identifying information so obtained strictly confidential in accordance with 45 CFR 5.71.

This authorization is applicable to all information obtained pursuant to

Department of Health, Education, and Welfare contract numbered 271-77-1205 which would identify the individuals who are the subjects of the research conducted under that contract.

Dated: February 14, 1978.

ROBERT L. DUPONT,
Director, National Institute on Drug Abuse.

Dated: February 23, 1978.

GERALD L. KLERMAN,
Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 78-5489 Filed 3-2-78; 8:45 am]

[4110-03]

Food and Drug Administration

[Docket No. 77N-0438]

WITCO CHEMICAL CORP.

Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Witco Chemical Corp. has filed a petition proposing that the food additive regulations be amended to provide for the use of poly[(methylene - p - nonylphenoxy) poly(oxypropylene)(4-12 moles) propanol] in food-contact applications.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 7B3333) has been filed by Witco Chemical Corp., proposing that § 178.3400 Emulsifiers and/or surface active agents provide for the safe use of poly[(methylene-p-nonylphenoxy) poly(oxypropylene)(4-12 moles) propanol] as a surfactant in food-contact applications.

The statement of exemption from the requirement of an environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the statement of exemption may be seen in the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 24, 1978.

HOWARD R. ROBERTS,
Acting Director of Bureau of Foods.

[FR Doc. 78-5441 Filed 3-2-78; 8:45 am]

[4110-03]

[Docket No. 77N-0393; DESI 7245]

CERTAIN INHALATION BRONCHODILATORS

Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Applications

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice proposes to withdraw approval of certain combination products used by inhalation in bronchial spasm because substantial evidence of their effectiveness is lacking, and offers an opportunity for hearing on the proposal.

DATES: Any request for a hearing must be submitted on or before April 3, 1978. In support of such a request, all data and information relied upon to justify a hearing must be submitted on or before May 2, 1978.

ADDRESSES: Communications forwarded in response to this notice should be identified with the number DESI 7245, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857. Request for Hearing (identify with docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC-20), Room 4-65. Request for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

Robert H. Hahn, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice published in the FEDERAL REGISTER of July 28, 1972 (37 FR 15187) (Docket No. FDC-D-498 (now Docket No. 77N-0393)) the Commissioner of Food and Drugs announced that the drug products described below were regarded as effective for the treatment of bronchospasm associated with acute and chronic bronchial asthma, pulmonary emphysema, bronchitis, and bronchiectasis. The drugs were regarded as possibly effective or lacking substantial evidence of effectiveness for their other labeled indications. The notice offered opportunity for hearing concerning the indications lacking substantial evidence of effectiveness. No person requested a hearing, and those indications are no longer allowable in labeling. No data were submitted concerning the possibly effective indications.

1. Duo-Medihaler containing isoproterenol hydrochloride and phenylenphrine bitartrate; Riker Laboratories, 19901 Nordhoff Street, Northridge, Calif. 91324 (NDA 13-296).

2. Aerolone Compound Solution containing cyclopentamine hydrochloride and isoproterenol hydrochloride; Eli Lilly and Co., P.O. Box 618, Indianapolis, Ind. 46206 (NDA 7-245).

3. Nebu-Prel with Phenylephrine containing isoproterenol sulfate and phenylephrine hydrochloride; Thomas J. Mahon, Inc., 19 Sylvan Ave., Englewood Cliffs, N.J. 07632 (NDA 11-726).

Since publication of the July 28, 1972 notice, FDA has (1) reconsidered the information concerning the role of cyclopentamine hydrochloride in the treatment of bronchospasm that was available when the notice was published, and (2) evaluated new information on the role of phenylephrine in the treatment of bronchospasm. The Director of the Bureau of Drugs now concludes that none of these combinations have been shown to comply with the requirements of § 300.50 Fixed-combination prescription drugs for humans (21 CFR 300.50). In particular, the contribution of phenylephrine bitartrate, phenylephrine hydrochloride, or cyclopentamine hydrochloride (none of which are bronchodilators) to the effectiveness of isoproterenol hydrochloride (or sulfate) in bronchospasm has not been demonstrated. Isoproterenol as a single entity, however, has been classified as an effective bronchodilator (DESI 6327; 41 FR 37836; September 8, 1976). Therefore, these combination drug products could be reformulated to single-entity products containing isoproterenol only (with appropriate name changes).

In a letter of May 27, 1976, Eli Lilly and Co. was requested to provide clinical data or cite clinical studies supporting the claimed bronchodilator effect of each of the active ingredients (cyclopentamine hydrochloride and isoproterenol hydrochloride) in Aerolone Compound Solution (NDA 7-245). In response, the firm submitted nothing new, but simply cited the same data that had been submitted to the National Academy of Sciences-National Research Council for review at the beginning of the Drug Efficacy Study. None of the studies cited related to the contribution of each ingredient in the combination. Thus, FDA is not aware of any information that shows that cyclopentamine hydrochloride contributes to the claimed effects of

the combination, as required by 21 CFR 300.50.

With respect to phenylephrine, two examples of new information evaluated since the initial DESI notice was published July 28, 1972, are the following papers: (1) Palmer, K. N. V., "Drugs in the Treatment of Asthma," in "An Asthma Research Council Symposium, London, October 1973," The Trust for Education and Research in Therapeutics, pp. 263-275, 1974, and (2) Spector, S. L., L. Hudson, and T. L. Petty, "Effect of Bronkosol and Its Components on Cardiopulmonary Parameters in Asthmatic Patients," Journal of Allergy and Clinical Immunology 59(5):371-376, 1977. Copies of these references are on display in the office of the Hearing Clerk and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

The results obtained in these studies clearly indicate that the role of phenylephrine in the treatment of bronchial asthma has not been established.

Therefore, the drug products described above are reclassified to lacking substantial evidence of effectiveness for all of their labeled indications that were previously classified as either effective or possibly effective.

On the basis of all of the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 300.50 and 314.111(a)(5), that provides substantial evidence of the effectiveness of the combination drug products.

Therefore, notice is given to the holder(s) of the new drug application(s) and to all other interested persons that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) and all amendments and supplements thereto on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

In addition to the holder(s) of the new drug application(s) specifically named above, this notice of opportunity for hearing applies to all persons who manufacture or distribute a drug product that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice of opportunity for hearing to determine whether it covers any drug product that the person manufactures or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (HFD-310).

In addition to the ground(s) for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6) e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962, or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons subject to this notice pursuant to 21 CFR 310.6 are hereby given an opportunity for a hearing to show why approval of the new drug application(s) should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and of all identical, related, or similar drug products.

An applicant or any other person subject to this notice pursuant to 21 CFR 310.6 who decides to seek a hearing, shall file (1) on or before April 3, 1978, a written notice of appearance and request for hearing, and (2) on or before May 2, 1978, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by the person not to make use of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of any such drug product. Any such drug product may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk between the hours of 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: February 24, 1978.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 78-5557 Filed 3-2-78; 8:45 am]

[4110-83]

Health Resources Administration

ADVISORY COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of March 1978:

Name: National Advisory Council on Health Professions Education.
Date and time: March 28-29, 1978, 8:30 a.m.
Place: Conference Room No. 6, Building 31, National Institutes of Health, 6th Floor, C-Wing, Bethesda, Md. 20014.
Open March 27—8:30 a.m.-12:30 p.m. (10:30 a.m.-12:30 p.m. will be structured study for Council members), closed for remainder of the meeting.
Purpose: The Council advises the Secretary concerning the programs authorized by

the Health Professions Educational Assistance Act of 1976, including recommendations on contracts, grant applications for

DHEW Regional Office I, John F. Kennedy Federal Building, Boston, Mass. 02203.
DHEW Regional Office II, 26 Federal Plaza,

lated to chemical toxicity precluded the evaluation of the carcinogenicity of nitrofen in male rats.

treated for 52 weeks. All survivors were killed after post-administration periods that varied among groups.

Dated: February 21, 1978.

DONALD S. FREDRICKSON,

The Commissioner will consider for funding any activity authorized under

the Health Professions Educational Assistance Act of 1976, including recommendations on contracts, grant applications for construction, capitation, special projects, and financial need. These and other programs are designed to enable the health professions education institutions to meet the Nation's health manpower requirements.

Agenda: Agenda items for the open portion of the meeting will include a report by the Administrator, HRA; Bureau update; Update on 1979 Budget; and discussion of future meeting dates. The remainder of the meeting will be closed to the public for the review of applications submitted under the following programs: Expanded Function Dental Auxiliaries, General Dentistry, Dental TEAM, Physician Assistants, and Training of U.S. Students from Foreign Medical Schools. The closing is in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S. Code, and the Determination by the Administrator, Health Resources Administration, pursuant to Pub. L 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Mrs. Lynn Stevens, Bureau of Health Manpower, Room 9-50, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, telephone 301-436-6508.

Dated:February 21, 1978.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc. 78-5289 Filed 3-2-78; 8:45 am]

[4110-83]

PROPOSED PERFORMANCE STANDARDS FOR STATE HEALTH PLANNING AND RESOURCE DEVELOPMENT PROGRAMS

Availability

Notice is hereby given that the Department of Health, Education, and Welfare regional offices have available for distribution to the public "Proposed Performance Standards for State Health Planning and Resource Development Programs" on which the Department is seeking comments during a 45-day comment period. Final performance standards will be developed based upon comments received on the draft performance standards. Draft copies are being disseminated for review to State health planning and development agencies, Statewide health coordinating councils, health systems agencies, Centers for Health Planning, selected national organizations and other Federal agencies.

Comments or suggestions for improvement of the draft performance standards should be sent to: Bureau of Health Planning and Resources Development, Office of Operations Monitoring, Room 6-27, 3700 East-West Highway, Hyattsville, Md. 20782. Copies of the "Proposed Performance Standards for State Health Planning and Resource Development Programs" may be obtained from the DHEW regional offices listed below:

DHEW Regional Office I, John F. Kennedy Federal Building, Boston, Mass. 02203.
DHEW Regional Office II, 26 Federal Plaza, New York, N.Y. 10007.
DHEW Regional Office III, P.O. Box 13716, Philadelphia, Pa. 19108.
DHEW Regional Office IV, 101 Marietta Tower, Atlanta, Ga. 30323.
DHEW Regional Office V, 300 South Wacker Drive, Chicago, Ill. 60606.
DHEW Regional Office VI, 1200 Main Tower Building, Dallas, Tex. 75202.
DHEW Regional Office VII, 601 East 12th Street, Kansas City, Mo. 64106.
DHEW Regional Office VIII, 1961 Stout Street, Denver, Colo. 80294.
DHEW Regional Office IX, Federal Office Building, 50 United Nations Plaza, San Francisco, Calif. 94102.
DHEW Regional Office X, 1321 Second Avenue, Arcade Plaza, Seattle, Wash. 98101.

Dated: February 15, 1978.

HENRY A. FOLEY,
Administrator.

[FR Doc. 78-5288 Filed 3-2-78; 8:45 am]

[4110-08]

National Institutes of Health

REPORT ON BIOASSAY OF NITROFEN FOR POSSIBLE CARCINOGENICITY

Availability

Nitrofen (CAS 1836-75-5) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

SUMMARY

A bioassay of technical-grade nitrofen for possible carcinogenicity was conducted using Osborne-Mendel rats and B6C3F1 mice. Nitrofen was administered in the feed, at either of two concentrations, to groups of 50 male and 50 female animals of each species. The time-weighted average high and low dietary concentrations of nitrofen were 3656 and 2300 ppm for male rates, 2600 and 1300 ppm for female rats, and 4696 and 2348 ppm for both male and female mice, respectively. After a 78-week treatment period, observation of the low dose and control male and all female rats continued for an additional 32 weeks; observation of the high dose male rats continued for an additional 4 weeks. All mice were observed for an additional 12 weeks after the 78-week treatment period.

For each species, 20 animals of each sex were placed on test as controls. No nitrofen was added to their diet.

The incidence of carcinomas of the pancreas had a statistically significant positive association with concentration of nitrofen in the diet of female rats. The incidence of this tumor in high dose female rats was significant when compared to controls. Poor survival related to chemical toxicity precluded the evaluation of the carcinogenicity of nitrofen in male rats.

In mice of both sexes, the incidence of hepatocellular carcinoma at both high and low dose levels was highly significant when compared to the controls. The incidence of hemangiosarcoma of the liver had a statistically significant relationship with nitrofen concentration in the diet for mice of both sexes, and the incidence in high dose male mice was significant when compared to controls.

The results of this study indicate that orally administered technical-grade nitrofen is a liver carcinogen in B6C3F1 mice of both sexes. Nitrofen is also carcinogenic to female Osborne-Mendel rats.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: February 21, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78-4987 Filed 3-2-78; 8:45 am]

[4110-08]

REPORT ON BIOASSAY OF 3,3'-IMINOBIS-1-PROPANOL DIMETHANESULFONATE (ESTER) HYDROCHLORIDE (IPD) FOR POSSIBLE CARCINOGENICITY

Availability

3,3'-Iminobis-1-propanol dimethanesulfonate (ester) hydrochloride (IPD) (CAS 3458-22-8) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

SUMMARY

A bioassay of 3,3'-iminobis-1-propanol dimethanesulfonate (ester) hydrochloride (IPD) for possible carcinogenicity was conducted by administering the test chemical intraperitoneally to Sprague-Dawley rats and B6C3F1 mice.

The IPD was injected three times per week to groups of 35 animals, using doses of 12, 24, or 48 mg/kg for the rats, and 20 or 40 mg/kg for the mice. Rats at 12 mg/kg were treated for 52 weeks. Because of the toxicity of the chemical, administration of IPD for the group receiving 24 mg/kg was discontinued at week 34. Rats receiving 48 mg/kg were treated until all had died at week 23 (males) and week 27 (females). Both groups of mice were treated for 52 weeks. All survivors were killed after post-administration periods that varied among groups.

With rats, untreated and vehicle-control groups, each consisting of 10 males and 10 females, were started with the high- and mid-dose groups and additional untreated and vehicle-control groups of the same size were started with the low-dose groups. With mice, untreated and vehicle-control groups each consisted of 15 males and 15 females.

The toxicity of IPD was associated with lower mean body weights and lower rates of survival of both the rats and mice. The shortened life spans, particularly in the rats, reduced the likelihood of the development of tumors.

In rats, peritonitis and fibrous adhesions, possible, from direct irritation by the test chemical were observed in most treated rats at necropsy. Sarcoma, fibroma, or fibrosarcoma of the peritoneum occurred in two low-dose male, one mid-dose male, and three mid-dose females rats, but not in any control animals. Because of this low incidence, and because irritation by the test chemical may have been involved in the pathogenesis, these tumors may have been due to local effects of the chemical.

In mice, lymphomas were observed at the following incidences (males: controls 0/14, low-dose 0/26, high-dose 3/21; females: controls 1/15, low-dose 2/29, high-dose 6/27). The Tarone test for life-table analysis of the probability of survival without lymphoma indicated a significant positive dose-related increase of lymphomas with a probability level of 0.011 for male mice and 0.003 for female mice.

Squamous-cell carcinoma was noted in the mice (low-dose males 6/26, high-dose females 2/27). Seven of these tumors were observed in subcutaneous tissue in the inguinal region near the sites of injection. Although not statistically significant, this tumor may be associated with administration of IPD.

Tumors of the peritoneum in rats and tumors in the subcutaneous tissue in mice may have been due to local effects related to administration of the test chemical. The lymphomas in mice, although marginally significant, were too few in number to clearly be related to dosing.

Conclusions from this study are limited by early deaths and toxicity, but the appearance of tumors in the peritoneum near the injection sites in both rats and mice indicate the carcinogenic potential of IPD.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research.)

Dated: February 21, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78-4988 Filed 3-2-78; 8:45 am]

[4110-02]

Office of Education

EMERGENCY SCHOOL AID ACT

Availability of Preimplementation Assistance

Under the authority of section 708(a)(2) of the Emergency School Aid Act (Title VII of Pub. L. 92-318, as amended; 20 U.S.C. 1601-1619) the Commissioner of Education invites applications for assistance to prepare for the implementation of desegregation plans (or other plans described in section 706(a)(1) (A)(i), (B), or (C) (i) or (ii) of the Act, involving the elimination or reduction of minority group isolation in public elementary and secondary schools).

Applications will be accepted from local educational agencies (LEAs), State educational agencies (SEAs), and other public agencies and organizations in connection with plans under which children (or, in the case of required plans described in section 706(a)(1)(A), faculty) will be reassigned to schools in the 1978-79 school year. However, applications will not be accepted from agencies or organizations which engaged in the illegal segregation that gave rise to a required plan.

Applications will be accepted at any time prior to September 30, 1978. However, submission of an application after August 1, 1978 may not permit sufficient time for review prior to the expiration of the period of fund availability. Applications must be prepared and submitted in accordance with regulations, instructions, and forms included in program information packages.

A. *Applications Sent By Mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.532J, Washington, D.C. 20202.

B. *Hand-Delivered Applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time, except Saturdays, Sundays, and Federal holidays.

C. *Program Information.* The Commissioner anticipates that $2,000,000 will be made available for preimplementation grants, and encourages applicants to seek assistance in the amount of $100,000 or less.

The Commissioner will consider for funding any activity authorized under the Act, so long as the activity is reasonably related to preparations for an LEA's implementation of a qualifying plan. The Assistant Secretary for Education has determined that these activities will make substantial progress in achieving the purposes of the Act.

The Commissioner will consider applications for funding when they are received. In evaluating the merits of an application the Commissioner will consider, in addition to the criteria in 45 CFR 185.14(b), the extent to which the need for assistance in the LEA to which the application relates has been met by other applications.

An applicant which is not a local educational agency should include in its application evidence that the LEA to which the application relates will cooperate in carrying out the proposed activities.

D. *Project Periods.* Grants made pursuant to this notice will be for projects starting no earlier than March 1, 1978, and ending no later than December 31, 1978.

E. *For Further Information and Forms Contact:* Dr. Thomas Fagan, U.S. Office of Education, 400 Maryland Avenue SW., Room 2017, Washington, D.C. 20202, telephone 202-245-2465.

F. *Applicable Regulations:* Grants made pursuant to this notice will be subject to the following regulations:

1. Regulations relating only to assistance under the Emergency School Aid Act (45 CFR Part 185) and, in particular, 45 CFR 185.94-185.94-4; and

2. The Office of Education general provisions regulations (45 CFR Parts 100, 100a, and appendixes), except to the extent that these regulations are inconsistent with 45 CFR Part 185.

(20 U.S.C. 1601-1619.)

(Catalog of Federal Domestic Assistance Number 13.532, Special Projects—Emergency School Aid.)

Dated: February 27, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78-5621 Filed 3-2-78; 8:45 am]

[4110-12]

Office of the Secretary

FEDERAL ADVISORY COMMITTEES

Announcement of Annual Comprehensive Review

ACTION: Notice.

SUMMARY: This announces a review of Federal advisory committees in the Department of Health, Education, and Welfare and invites the public to com-

ment on individual committees in terms of the need for each committee, the balance of its membership, and the openness of each committee's proceedings.

DATES: Comments due by March 20, 1978.

SUPPLEMENTARY INFORMATION: The Department of Health, Education, and Welfare is now conducting its annual comprehensive review of advisory committees in connection with advising the Administrator of the General Services Administration, under the Federal Advisory Committee Act (Pub. L. 92-463, as amended), whether each committee is carrying out its purpose; whether, consistent with the provisions of applicable statutes, the responsibilities assigned to the committee should be revised; whether the committee should be merged with other advisory committees; or whether the committee should be abolished.

Pursuant to previous Presidential directive, this year's review will again involve a zero-base analysis of all committees, conducted with the presumption that all committees should be abolished except those (1) for which there is a compelling need; (2) which have truly balanced membership; and (3) which conduct their business as openly as possible. The Department intends to make appropriate recommendations with respect to administrative committees and to confer with Congress about abolishing statutory committees which do not meet these standards.

The public is invited to comment on the need for each committee listed below, how the committee's goals can best be achieved, whether the committee's membership represents a balance in points of view, and to recommend changes in membership, if needed. In addition, comment is welcome on the committee's record of encouraging public participation and on any other changes needed.

The General Services Administration has requested the Department to submit its recommendations by April 1, 1978. This date requires that public comments be received by March 20, 1978 to be included in the Department's review. Comments received after that date will be incorporated in the Department's continuing review of the utility and operation of its Federal advisory committees.

Comment should be directed to the persons listed under the respective headings below.

AGENCY: ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

Address: Mrs. Carolyn T. Evans, Committee Management Officer, 5600 Fishers Lane, Room 13-103, Rockville, Md. 20852, 301-443-4335.

FEDERAL ADVISORY COMMITTEES OF THE HEW/PHS/ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

Alcohol Research Review Committee
Alcohol Training Review Committee
Biological Science Training Review Committee
Board of Scientific Counselors, NIMH
Clinical Program-Projects Research Review Committee
Clinical Projects Research Review Committee
Clinical Psychopharmacology Research Review Committee
Community Alcoholism Services Review Committee
Continuing Education Training Review Committee
Crime and Delinquency Review Committee
Developmental Problems Research Review Committee
Drug Abuse Research Review Committee
Drug Abuse Training Review Committee
Epidemologic Studies Review Committee
Experimental Psychology Research Review Committee
Experimental and Special Training Review Committee
Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism
Mental Health Services Research Review Committee
Mental Health Small Grant Committee
Metropolital Mental Health Problems Review Committee
Minority Advisory Committee
Minority Group Mental Health Programs Review Committee
National Advisory Council on Alcohol Abuse and Alcoholism
National Advisory Council on Drug Abuse
National Advisory Mental Health Council
National Panel on Alcohol, Drug Abuse, and Mental Health
Neuropsychology Research Review Committee
Paraprofessional Manpower Development Review Committee
Personality and Cognition Research Review Committee
Preclinical Psychopharmacology Research Review Committee
President's Commission on Mental Health
Psychiatric Nursing Education Review Committee
Psychiatry Education Review Committee
Psychological Sciences Fellowship Review Committee
Psychology Education Review Committee
Rape Prevention and Control Advisory Committee
Research Scientist Development Review Committee
Social Problems Research Review Committee
Social Sciences Research Review Committee
Social Sciences Training Review Committee
Social Work Education Review Committee

AGENCY: CENTER FOR DISEASE CONTROL

Address: Mrs. Martha S. Brocato, Committee Management Officer, 1600 Clifton Road NE., Room 111, Atlanta, Ga. 30333, 404-633-3311, Extension 6793.

FEDERAL ADVISORY COMMITTEES OF THE HEW/PHS/CENTER FOR DISEASE CONTROL

Center for Disease Control Programs and Policies Advisory Committee (Ad Hoc)
Childhood Lead-Based Paint Poisoning Prevention Ad Hoc Advisory Committee
Coal Mine Health Research Advisory Committee
Immunization Practices Advisory Committee
Medical Laboratory Sciences Advisory Committee
Safety and Occupational Health Study Section

AGENCY: EDUCATION DIVISION

Address: Ms. Barbara Hunter, Committee Management Officer, Office of the Assistant Secretary for Education, 200 Independence Avenue SW., Room 301-H, Washington, D.C., 20201, 202-245-8036.

FEDERAL ADVISORY COMMITTEES OF THE HEW/EDUCATION DIVISION

OFFICE OF THE ASSISTANT SECRETARY FOR EDUCATION

Advisory Council on Education Statistics
Board of Advisors to the Fund for the Improvement of Postsecondary Education

NATIONAL INSTITUTE OF EDUCATION

Panel for the Review of Laboratory and Center Operations

OFFICE OF EDUCATION

Accreditation and Institutional Eligibility Advisory Committee
Advisory Council on Developing Institutions
Advisory Council on Environmental Education
Advisory Council on Financial Aid to Students
Community Education Advisory Council
National Advisory Committee on Black Higher Education and Black Colleges and Universities
National Advisory Council on Adult Education
National Advisory Council on Bilingual Education
National Advisory Council for Career Education
National Advisory Council on Education of Disadvantaged Children
National Advisory Council on Equality of Educational Opportunity
National Advisory Council on Ethnic Heritage Studies
National Advisory Council on Extension and Continuing Education
National Advisory Council on Indian Education
National Advisory Council on Vocational Education
National Advisory Council on Women's Educational Programs

AGENCY: FOOD AND DRUG ADMINISTRATION

Address: Mr. Richard L. Schmidt, Committee Management Officer, 5600 Fishers Lane, Room 7-79, Rockville, Md. 20852, 301-443-2765.

FEDERAL ADVISORY COMMITTEES OF THE HEW/PHS/FOOD AND DRUG ADMINISTRATION

Anesthesiology Advisory Committee
Anesthesiology Device Classification Panel
Anti-Infective Agents Advisory Committee
Arthritis Advisory Committee
Board of Tea Experts
Cardiovascular Device Classification Panel
Cardiovascular and Renal Advisory Committee
Clinical Chemistry Device Classification Panel
Clinical Toxicology Device Classification Panel
Controlled Substances Advisory Committee
Dental Device Classification Panel

Dermatology Advisory Committee
Device Good Manufacturing Practices Advisory Committee
Ear, Nose, and Throat Device Classification Panel
Endocrinology and Metabolism Advisory Committee
FDA/NIDA Drug Abuse Research Advisory Committee
Gastrointerological Urological Device Classification Panel
Gastrointestinal Drugs Advisory Committee
General Hospital and Personal Use Device Classification Panel
General and Plastic Surgery Device Classification Panel
Hematology Device Classification Panel
Immunology Device Classification Panel
Medical Radiation Advisory Committee
Microbiology Device Classification Panel
National Advisory Food and Drug Committee
Neurological Drugs Advisory Committee
Neurological Device Classification Panel
Obstetrical and Gynecological Device Classification Panel
Oncologic Drugs Advisory Committee
Ophthalmiac Device Classification Panel
Ophthalmiac Drugs Advisory Committee
Orthopedic Device Classification Panel
Panel on Review of Allergenic Extracts
Panel on Review of Antimicrobial Agents
Panel on Review of Antiperspirant Drug Products
Panel on Review of Bacterial Vaccines and Bacterial Antigens
Panel on Review of Bacterial Vaccines and Toxoids
Panel on Review of Blood and Blood Derivatives
Panel on Review of Contraceptives and other Vaginal Drug Products
Panel on Review of Dentifrices and Dental Care Agents
Panel on Review of Hemorrhoidal Drugs
Panel on Review of Miscellaneous External Drug Products
Panel on Review of Miscellaneous Internal Drug Products
Panel on Review of Ophthalmiac Drugs
Panel on Review of Oral Cavity Drug Products
Panel on Review of Topical Analgesics Including Antirheumatic, Otic, Burn, Sunburn Treatment and Prevention Drugs
Panel on Review of Viral Vaccines and Rickettsial Vaccines
Panel on Review of Vitamin, Mineral and Hematinic Drug Products
Pathology Device Classification Panel
Physical Medicine Device Classification Panel
Psychopharmacological Agents Advisory Committee
Pulmonary-Allergy and Clinical Immunology Advisory Committee
Radiological Device Classification Panel
Radiopharmaceutical Advisory Committee
Science Advisory Board to the National Center for Toxicological Research
Technical Electronic Product Radiation Safety Standards Committee
Toxicology Advisory Committee

AGENCY: HEALTH CARE FINANCING ADMINISTRATION

Address: Mr. Thomas J. Coleman, Committee Management Officer, 330-C Street SW., Room 4200, Washington, D.C. 20201, 202-245-0621.

FEDERAL ADVISORY COMMITTEE OF THE HEW/HEALTH CARE FINANCING ADMINISTRATION

Pharmaceutical Reimbursement Advisory Committee

AGENCY: HEALTH RESOURCES ADMINISTRATION

Address: Mrs. Irene D. Skinner, Committee Management Officer, 3700 East-West Highway, Room 9-50, Center Building, Hyattsville, Md. 20782, 301-436-7183.

FEDERAL ADVISORY COMMITTEES OF THE HEW/PHS/HEALTH RESOURCES ADMINISTRATION

Federal Hospital Council
Graduate Medical Education National Advisory Committee
National Advisory Council on Health Professions Education
National Advisory Council on Nurse Training
National Council on Health Planning and Development

AGENCY: HEALTH SERVICES ADMINISTRATION

Address: Mrs. Irene D. Skinner, Committee Management Officer, 3700 East-West Highway, Room 9-50, Center Building, Hyattsville, Md. 20782, 301-436-7183.

FEDERAL ADVISORY COMMITTEES OF THE HEW/PHS/HEALTH SERVICES ADMINISTRATION

Indian Health Advisory Committee
Interagency Committee on Emergency Medical Services
Maternal and Child Health Grants Review Committee
National Advisory Council on Migrant Health
PHS-Hospitals Ad Hoc Advisory Committee

AGENCY: NATIONAL INSTITUTES OF HEALTH

Address: Mrs. Suzanne L. Fremeau, Committee Management Officer, National Institutes of Health, Building 01, Room 303, Bethesda, Md. 20014, 301-496-2123.

FEDERAL ADVISORY COMMITTEES OF THE HEW/PHS/NATIONAL INSTITUTES OF HEALTH

Advisory Committee to the Director, NIH
Aging Review Committee
Allergy and Clinical Immunology Research Committee
Allergy and Immunology Study Section
Animal Resources Advisory Committee
Applied Physiology and Orthopedics Study Section
Arteriosclerosis and Hypertension Advisory Committee
Artificial Kidney-Chronic Uremia Advisory Committee
Bacteriology and Mycology Study Section
Behavioral Sciences Research Contract Review Committee
Bioanalytical and Metallobiochemistry Study Section
Biochemistry Study Section
Biomedical Library Review Committee
Biometry and Epidemiology Contract Review Committee
Biophysics and Biophysical Chemistry A Study Section
Biophysics and Biophysical Chemistry B Study Section
Biotechnology Resources Advisory Committee
Bladder and Prostatic Cancer Review Committee
Blood Diseases and Resources Advisory Committee
Board of Regents of the National Library of Medicine
Board of Scientific Counselors, Division of Cancer Biology and Diagnosis
Board of Scientific Counselors, Division of Cancer Cause and Prevention
Board of Scientific Counselors, Division of Cancer Treatment
Board of Scientific Counselors, NEI
Board of Scientific Counselors, NHLBI
Board of Scientific Counselors, NIA
Board of Scientific Counselors, NIAID
Board of Scientific Counselors, NIAMDD
Board of Scientific Counselors, NICHD
Board of Scientific Counselors, NIDR
Board of Scientific Counselors, NIEHS
Board of Scientific Counselors, NINCDS
Breast Cancer Task Force Committee
Cancer Clinical Investigation Review Committee
Cancer Control Community Activities Review Committee
Cancer Control Grant Review Committee
Cancer Control Prevention, Detection, Diagnosis, and Pretreatment Evaluation Review Committee
Cancer Control Treatment, Rehabilitation and Continuing Care Review Committee
Cancer Control and Rehabilitation Advisory Committee
Cancer and Nutrition Scientific Review Committee
Cancer Research Manpower Review Committee
Cancer Special Program Advisory Committee
Carcinogenesis Program Scientific Review Committee
Cardiology Advisory Committee
Cardiovascular and Pulmonary Study Section
Cardiovascular and Renal Study Section
Cell Biology Study Section
Cellular and Molecular Basis of Disease Review Committee
Clearinghouse on Environmental Carcinogens
Clinical Applications and Prevention Advisory Committee
Clinical Cancer Education Committee
Clinical Cancer Program Project and Cancer Center Support Review Committee
Clinical Trials Committee
Clinical Trials Review Committee
Combined Modality Committee
Committee on Cancer Immunobiology
Committee on Cancer Immunodiagnosis
Committee on Cancer Immunotherapy
Committee on Cytology Automation
Committee on Health and Ecological Effects of Increased Coal Utilization
Communicative Disorders Review Committee
Communicative Sciences Study Section
Contraceptive Development Contract Review Committee
Contraceptive Evaluation Research Contract Review Committee
Dental Caries Program Advisory Committee
Dental Research Institutes and Special Programs Advisory Committee
Developmental Behavioral Sciences Study Section
Developmental Therapeutics Committee
Diagnostic Research Advisory Group
Endocrinology Study Section
Epidemiology and Disease Control Study Section
Epilepsy Advisory Committee
Ethical Advisory Board
Experimental Psychology Study Section
Experimental Therapeutics Study Section
Experimental Virology Study Section
General Clinical Research Centers Committee

General Medicine A Study Section
General Medicine B Study Section
General Research Support Program Advisory Committee
Genetics Study Section
Heart, Lung, and Blood Research Review Committee A
Heart, Lung, and Blood Research Review Committee B
Hematology Study Section
Human Embryology and Development Study Section
Immunobiology Study Section
Immunological Sciences Study Section
Large Bowel and Pancreatic Cancer Review Committee
Lipid Metabolism Advisory Committee
Mammalian Cell Lines Committee
Maternal and Child Health Research Committee
Medicinal Chemistry A Study Section
Mental Retardation Research Committee
Metabolism Study Section
Microbial Chemistry Study Section
Microbiology and Infectious Diseases Advisory Committee
Minority Access to Research Careers (MARC) Review Committee
Molecular Biology Study Section
Molecular Cytology Study Section
National Advisory Allergy and Infectious Diseases Council
National Advisory Child Health and Human Development Council
National Advisory Council on Aging
National Advisory Dental Research Council
National Advisory Environmental Health Sciences Council
National Advisory Eye Council
National Advisory General Medical Sciences Council
National Advisory Neurological and Communicative Disorders and Stroke Council
National Advisory Research Resources Council
National Arthritis Advisory Board
National Arthritis, Metabolism, and Digestive Diseases Advisory Council
National Cancer Advisory Board
National Commission on Digestive Diseases
National Diabetes Advisory Board
National Heart, Lung and Blood Advisory Council
Neurological and Communicative Disorders and Stroke Science Information Program Advisory Committee
Neurological Disorders Program-Project Review A Committee
Neurological Disorders Program-Project Review B Committee
Neurological Sciences Study Section
Neurology A Study Section
Neurology B Study Section
Nutrition Study Section
Oral Biology and Medicine Study Section
Pathobiological Chemistry Study Section
Pathology A Study Section
Pathology B Study Section
Periodontal Diseases Advisory Committee
Pharmacology Study Section
Pharmacology-Toxicology Research Program Committee
Physiological Chemical Study Section
Physiology Study Section
Population Research Committee
President's Cancer Panel
Primate Research Centers Advisory Committee
Pulmonary Diseases Advisory Committee
Radiation Study Section
Recombinant DNA Molecule Program Advisory Committee
Reproductive Biology Study Section
Research Manpower Review Committee
Sickle Cell Disease Advisory Committee
Social Sciences and Population Study Section
Surgery, Anesthesiology and Trauma Study Section
Surgery and Bioengineering Study Section
Toxicology Study Section
Transplantation, Biology and Immunology Committee
Tropical Medicine and Parasitology Study Section
Virology Study Section
Virus Cancer Program Scientific Review Committee
Vision Research Program Committee
Visual Sciences A Study Section
Visual Sciences B Study Section

AGENCY: OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH

Address: Mrs. Elena Giallo, Committee Management Officer, 5600 Fishers Lane, Room 17A-55, Rockville, Md. 20852, 301-443-6339.

FEDERAL ADVISORY COMMITTEES OF THE HEW/PHS/OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH

Health Care Technology Study Section
Health Insurance Benefits Advisory Council
Health Services Developmental Grants Study Section
Health Services Research Study Section
National Advisory Health Council
National Commission for the Protection of Human Subjects in Biomedical and Behavioral Research
National Professional Standards Review Council
President's Council on Physical Fitness and Sports
United States National Committee on Vital and Health Statistics

AGENCY: OFFICE OF THE ASSISTANT SECRETARY FOR PLANNING AND EVALUATION

Address: Mr. Henry Aaron, Assistant Secretary for Planning and Evaluation, 200 Independence Avenue, SW., Room 415F, Humphrey Building, Washington, D.C. 20201, 202-245-1858.

FEDERAL ADVISORY COMMITTEES OF THE HEW/OFFICE OF THE ASSISTANT SECRETARY FOR PLANNING AND EVALUATION

Advisory Committee on National Health Insurance Issues, Secretary's Advisory Committee on the Rights and Responsibilities of Women

AGENCY: OFFICE OF HUMAN DEVELOPMENT SERVICES

Address: Ms. Sandra Kolb, Committee Management Officer, Office of the Assistant Secretary for Human Development Services, 200 Independence Avenue, SW., Room 324E, Humphrey Building, Washington, D.C. 20201, 202-245-3072.

FEDERAL ADVISORY COMMITTEES OF THE HEW/OFFICE OF HUMAN DEVELOPMENT SERVICES

Child and Family Development Research Review Committee
Federal Council on the Aging
National Advisory Council on Services and Facilities for the Developmentally Disabled
President's Committee on Mental Retardation.

Dated: March 1, 1978.

FREDERICK M. BOHEN,
Executive Secretary.

[FR Doc. 78-5790 Filed 3-2-78; 8:45 am]

[4110-85]

Public Health Service

CONTINUED REGULATION OF HEALTH MAINTENANCE ORGANIZATIONS

Pursuant to the requirement of section 1312 of the Public Health Service Act (42 U.S.C. 300e-11(b)(1)) that each determination concerning compliance by a qualified health maintenance organization (HMO) with assurances made under section 1310(d)(1) of the Act be published in the FEDERAL REGISTER, notice is hereby given that the following actions have been taken with respect to a qualified HMO.

On May 26, 1977, Florida Health Care, Inc., 350 North Clyde Morris Boulevard, Daytona Beach, Fla. 32104, was officially notified that it was not in compliance with the fiscally sound operation (see section 1301(c)(1) of the Act) assurance provided the Secretary under section 1310(d)(1) of the Act. Subsequently, reports of operations submitted by Florida Health Care, Inc., for the period July through December 1977, show that it has met or exceeded the criteria for successfully initiating a corrective action. The Secretary has determined that effective January 1, 1978, Florida Health Care, Inc., has reestablished compliance with the assurances which it had given under Section 1310(d)(1) of the Act.

Dated: February 23, 1978.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

[FR Doc. 78-5320 Filed 3-2-78; 8:45 am]

[4110-85]

QUALIFIED HEALTH MAINTENANCE ORGANIZATIONS

Notice is hereby given, pursuant to 42 CFR 110.605, that in the month of December 1977 the following entities have been determined to be qualified health maintenance organizations under section 1310(d) of the Public Health Service Act (42 U.S.C. 300e-9(d)).

QUALIFIED HEALTH MAINTENANCE ORGANIZATIONS

NAME, ADDRESS, SERVICE AREA, AND DATE OF QUALIFICATION

(Operational Qualified Health Maintenance Organization: 42 CFR 110.603(a))

1. Health Central, Inc. (Staff Model, see section 1310(b)(1) of the Public Health Service Act), 2316 South Cedar, Lansing, Mich. 48901. Service area: Townships in the following counties: Ionia County: Portland and Danby. Eaton County: Oneida, Delta and Windsor. Clinton County: Westphalia, Eagle, Watertown, DeWitt & Bath. Shiawassee County: Woodhull and Perry. Ingham County: Lansing, Meridan, Williamston, Locke, Delhi, Alaiedon, Wheatfield, Leroy, Aurelius, Vevay, Ingham and White Oak.

Date of operational qualification: December 19, 1977. (Achieved preoperational qualification on December 6, 1977.)

(Transitionally Qualified Health Maintenance Organization: 42 CFR 110.603(b))

2. Anchor Organization for Health Maintenance (Staff Model see section 1310(b)(1) of the Public Health Service Act), 1725 West Harrison Street, Chicago, Ill. 60612. Service area:

The following zip codes in the City of Chicago and suburban areas:

CITY OF CHICAGO

60601, 60602, 60603, 60604, 60605, 60606, 60607, 60608, 60609, 60610, 60611, 60612, 60613, 60614, 60615, 60616, 60618, 60621, 60622, 60623, 60624, 60625, 60626, 60629, 60630, 60631, 60632, 60634, 60635, 60636, 60637, 60638, 60639, 60640, 60641, 60644, 60645, 60646, 60647, 60648, 60650, 60651, 60653, 60654, 60656, 60657, 60659, 60660, 60666, 60670, 60671, 60675, 60684, 60685, 60693

SUBURBAN AREAS

60004, 60005, 60006, 60007, 60008, 60010, 60015, 60016, 60017, 60018, 60023, 60025, 60026, 60029, 60035, 60043, 60047, 60053, 60056, 60060, 60062, 60067, 60068, 60069, 60076, 60090, 60091, 60093, 60101, 60103, 60104, 60106, 60108, 60130, 60131, 60143, 60153, 60160, 60162, 60163, 60164, 60165, 60171, 60172, 60176, 60191, 60201, 60202, 60203, 60204, 60301, 60302, 60303, 60304, 60305, 60401, 60402, 60406, 60409, 60411, 60417, 60419, 60422, 60423, 60425, 60426, 60429, 60430, 60438, 60443, 60445, 60448, 60449, 60452, 60459, 60461, 60462, 60466, 60468, 60469, 60471, 60472, 60473, 60475, 60476, 60477, 60513, 60525, 60534, 60558

Date of Qualification: December 20, 1977.

(Preoperational Qualified Health Maintenance Organization: 42 CFR 110.603(c))

3. Foundation Health Plan (Individual Practice Association Model, see section 1310(b)(2)(A) of the Public Health Service Act), 650 University Avenue, Sacramento, Calif. 95825. Service area: Counties: El Dorado, Nevada, Placer, Sacramento, and Yolo. Date of Qualification: December 22, 1977.

Files containing detailed information regarding qualified health maintenance organizations will be available for public inspection between the hours of 8:30 a.m. and 5 p.m., Monday through Friday, at the Division of health Maintenance Organizations Qualification and Compliance, Office of the Assistant Secretary for Health, Department of Health, Education, and Welfare, Room 16A-08, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.

Questions about the review process or requests for information about qualified health maintenance organizations should be sent to the same office.

Dated: February 23, 1978.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

[FR Doc. 78-5319 Filed 3-2-78; 8:45 am]

[4110-85]

QUALIFIED HEALTH MAINTENANCE ORGANIZATION

Notice of Determination

Notice is hereby given, pursuant to 42 CFR 110.605, that in the month of January 1978 the following entity has been determined to be a qualified health maintenance organization under section 1310(d) of the Public Health Service Act (42 U.S.C. 300e-9(d)).

QUALIFIED HEALTH MAINTENANCE ORGANIZATION

Name, address, service area, and date of qualification. (Operational Qualified Health Maintenance Organization: 42 CFR § 110.603(a).)

1. Foundation Health Plan, (Individual Practice Association Model, see section 1310(b)(2)(A) of the Public Health Service Act), 650 University Avenue, Sacramento, Calif. 95825. Service area: Counties: El Dorado, Nevada, Placer, Sacramento, and Yolo. Date of operational qualification: January 1, 1978. (Achieved preoperational qualification on December 22, 1977.)

Files containing detailed information regarding qualified health maintenance organizations will be available for public inspection between the hours of 8:30 a.m. and 5 p.m., Monday through Friday, at the Division of Health Maintenance Organizations Qualification and Compliance, Office of the Assistant Secretary for Health, Department of Health, Education, and Welfare, Room 16A-08, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.

Questions about the review process or requests for information about qualified health maintenance organizations should be sent to the same office.

Dated: February 27, 1978.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

[FR Doc. 78-5678 Filed 3-2-78; 8:45 am]

[4310-02]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

UINTAH INDIAN IRRIGATION PROJECT, UTAH

Annual Operation and Maintenance Charges

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Public notice.

SUMMARY: The purpose of this public notice is to change the annual per acre assessment rates for the operation and maintenance of the irrigation facilities on the Uintah Indian Irrigation Project to properly reflect the actual costs for labor, materials, equipment and services. The change is from $4.50 to $7.50 per assessable acre per annum.

This public notice will replace §§ 221.77, 221.78, 221.79, 221.80, and 221.81 of Part 221, Chapter 1, Subchapter T of Title 25 of the Code of Federal Regulations which are being deleted by a Final Rule to be published in the FEDERAL REGISTER simultaneously with this public notice.

EFFECTIVE DATE: This public notice shall become effective March 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Cecil Wright, Bureau of Indian Affairs, Phoenix Area Office, Phoenix, Ariz., telephone 602-261-4184.

SUPPLEMENTARY INFORMATION: Studies were made in 1976 to determine the increase in assessments needed to operate and maintain the Uintah Irrigation Project. No action was taken to increase the assessment rate in 1977 due to the severe drought conditions. In 1977, a series of meetings were scheduled to inform the water users of the need to increase the operation and maintenance assessment. The first of the series was on September 21, 1977 with board members from six private irrigation companies. The second meeting was on September 30, 1977, with the Ute Tribal Business Committee and the Tribal Resources Director. The third meeting was on October 26, 1977, at Roosevelt, Utah, for the general public.

Notices were published in local newspapers during November 1977 requesting written comments from the public by December 9, 1977. Several letters were received from individuals. One letter was a petition with seventy-two signatures, another letter contained a petition with sixteen signatures. One water user wrote directly to the Secretary of the Interior, and one was sent to Representative Dan Marriott of Utah. All letters were given careful consideration and answers prepared.

On January 10, 1978, at the invitation of Senator Orrin G. Hatch of Utah, Uintah and Ouray Agency representatives participated in a town meeting held in Vernal, Utah, where they responded to questions concerning the operation and maintenance assessment rate increase of $3.00 per acre.

Pursuant to section 191.1(e) of Part 191, Chapter 1, Subchapter R, of Title 25 of the Code of Federal Regulations,

this public notice is issued under authority delegated to the Assistant Secretary for Indian Affairs by the Secretary of the Interior in 230 DM 1 and redelegated by the Assistant Secretary for Indian Affairs to the Area Directors in 10 BIAM 3.

The Public Notice shall read as follows:

UINTAH INDIAN IRRIGATION PROJECT, UTAH

Annual Operation and Maintenance Charges

1. Basic water charges: Pursuant to the provisions of the Acts of June 21, 1906 (34 Stat. 375), and March 7, 1928 (45 Stat. 210, 25 U.S.C. 387), the reimbursable costs expended in the operation and maintenance of the Uintah Indian Irrigation Project, Utah, are apportioned on a per acre basis against the irrigable lands of all units of the project, and for the calendar year 1978 and each succeeding year unless changed by further public notice, there shall be collected for each acre of irrigable land to which water can be delivered from the constructed works, a uniform basic charge of $7.50 per acre per annum, where not otherwise established by contract. No bill shall be rendered for less than $7.50.

2. Payment and penalties: (a) The assessments fixed by this Public Notice shall be come due on April 1 of each year, and are payable on or before that date.

(b) Assessments remaining unpaid on October 1, following the due date, shall be subject to a penalty of one-half of one percent per month, or fraction thereof, from the due date until paid.

(c) Indian water users who are financially unable to pay the assessment on the due date may be furnished water provided the Superintendent of the reservation certifies to the project engineer that such Indian is not financially able to pay his assessment. Under such conditions, the assessment shall be entered on the accounts as a lien against the land, without penalty.

3. Delivery of water: (a) No water will be delivered to Indians farming their own land, until the Superintendent of the reservation has issued a certificate to the project engineer certifying that the Indian has paid or will pay such charges through the Superintendent or that such Indian is financially unable to pay the charges.

(b) No water will be delivered to a lessee of Indian trust patent land, until the Superintendent of the reservation has furnished the project engineer with a certificate stating that the lessee has fully complied with the terms of the lease relative to the payment of the annual operation and maintenance charges.

(c) No water will be delivered to land under lease to non-Indians until the Superintendent of the reservation certifies to the project engineer that the lessee has fully complied with the lease contract relative to the payment of the operation and maintenance charges.

(d) No water will be delivered to patent in fee land, until at least 50 percent of the annual charges assessed are paid, and water delivery will not be continued after July 1, unless the total charges have been paid

(e) The Superintendent may authorize the delivery of water without payment of the operation and maintenance charges for the leaching of alkali and as an aid in reclaiming temporarily non-assessable land. The amount and delivery of free water will be made only under predetermined terms and conditions that have been mutually agreed to by the land operator and the Superintendent. Use of free water will be terminated and the land will be reclassified as assessable when, in the opinion of the Superintendent, the reclamation work is completed. In no event will free water be delivered for more than two years.

NOTE.—It is hereby certified that the economic and inflationary impacts of this public notice have been evaluated in accordance with Executive Order 11821.

CHARLES WORTHMAN,
Acting Area Director.

[FR Doc. 78-5570 Filed 3-2-78; 8:45 am]

[4310-84]

Bureau of Land Management

[NM 32763]

NEW MEXICO

Application

FEBRUARY 22, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co., has applied for a right-of-way for two 4½-inch natural gas pipelines across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 21 S., R. 22 E.,
Sec. 27, E½SE¼.

These pipelines will convey natural gas across 0.388 miles of public land in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-5584 Filed 3-2-78; 8:45 am]

[4310-55]

Fish and Wildlife Service

KENAI NATIONAL MOOSE RANGE, ALASKA

Pipeline Right of Way Application

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of application for pipeline right-of-way.

SUMMARY: The purpose of this notice is to inform the public that the United States Fish and Wildlife Service will be proceeding with an environmental assessment to consider whether an application to construct a natural gas pipeline across Kenai National Moose Range lands should be approved and, if so, under what terms and conditions.

DATES: Interested persons desiring to express their views should promptly provide comments.

ADDRESS: Kenai National Moose Range, P.O. Box 500, Kenai, Alaska 99611.

FOR FURTHER INFORMATION CONTACT:

James E. Frates, Refuge Manager, 907-283-4877.

SUPPLEMENTARY INFORMATION: The primary author of this document is Robert A. Richey. This 16-inch pipeline will tie-in with an existing buried 16-inch line so as to convey natural gas across 3.8 miles of the Kenai National Moose Range, Kenai Peninsula Borough, Alaska.

Subpart A, Section 29.1—Use of Natural Resources.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449; 30 U.S.C. 185) as amended by Pub. L. 93-153 approved November 16, 1973, the Alaska Pipeline Co., has applied for a thirty (30) foot wide pipeline right-of-way permit across the following lands:

Certain Kenai National Moose Range lands, located 46 miles northeast of the City of Kenai within an existing fifty (50) foot wide pipeline right-of-way that includes portions of sections 5, 8, 17, 18 and 19 of T8N, R4W, Seward Meridian.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: February 17, 1978.

GORDON W. WATSON,
Alaska Area Director,
U.S. Fish and Wildlife Service.

[FR Doc. 78-5581 Filed 3-2-78; 8:45 am]

[4310-70]

National Park Service

TWA SERVICES, INC.

Intention To Negotiate Concession Contract

Pursuant to the provisions of section 5 of the act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that by April 3, 1978, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with TWA Services, Inc., authorizing it to provide concession facilities and services for the public at Scotty's Castle, Death Valley National monument for a period of five (5) years, six (6) months from July 1, 1977, through December 31, 1982.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having a significant impact on the environment under the National Environmental Policy Act of 1969. The environmental assessment may be reviewed in the Office of the Superintendent, Death Valley National Monument.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expired by limitation of time on June 30, 1977, and therefore, pursuant to the act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision, in effect, grants TWA Services, Inc., as the present satisfactory concessioner, the right to meet the terms of responsive offers for the proposed new contract and a preference in the award of the contract, if the offer of TWA Services, Inc., is substantially equal to others received. The Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before April 3, 1978.

Interested parties should contact the Assistant Director, Special Services, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: February 3, 1978.

DAVID J. TOBIN, Jr.,
Director, National Park Service.

[FR Doc. 78-5620 Filed 3-2-78; 8:45 am]

[7020-02]

INTERNATIONAL TRADE COMMISSION

[332-87]

CONDITIONS OF COMPETITION IN THE WESTERN U.S. STEEL MARKET BETWEEN CERTAIN DOMESTIC AND FOREIGN STEEL PRODUCTS

Change of Date and Time and Place of San Francisco Hearing

Notice is hereby given that the public hearing in this matter, previously scheduled to begin on Tuesday, April 11, 1978, will now be held beginning at 9:30 a.m., p.d.t., Tuesday, May 9, 1978, in Room 6, Army Conference facilities, Building No. 35, Presidio of San Francisco, San Francisco, Calif.

Requests for appearances at the hearing should be received, in writing, by the Secretary of the Commission in his office in the United States International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436, not later than noon, Thursday, May 4, 1978.

Notice of the investigation and public hearings was published in the FEDERAL REGISTER of June 15, 1977 (42 FR 30555), and notice of change of date and time and place of the San Francisco hearing was published in the FEDERAL REGISTER of January 31, 1978 (43 FR 4126).

Issued: February 27, 1978.

By order of the Commission:

KENNETH R. MASON,
Secretary.

[FR Doc. 78-5549 Filed 3-2-78; 8:45 am]

[4810-25]

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

ADVISORY COMMITTEE ON JOINT BOARD ACTUARIAL EXAMINATIONS

Meeting

Notice is hereby given that the Advisory Committee on Joint Board Actuarial Examinations will meet in the Red Carpet Room, O'Hare International Airport, Chicago, Ill. on April 3, 1978 at 9:00 a.m.

The purpose of the meeting is to discuss topics and questions which may be recommended for inclusion in the Joint Board's examinations in actuarial mathematics and methodology referred to in Title 29 U.S. Code, sections 1242(a)(1)(B) and (C). A determination as required by section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) has been made that this meeting is for the purpose of considering matters falling within the exemption to public disclosure set forth in Title U.S. Code, section 552(b)(5), and that the public interest requires such meeting be closed to public participation.

Dated: February 27, 1978.

LESLIE S. SHAPIRO,
Advisory Committee Management Officer, Joint Board for the Enrollment of Actuaries.

[FR Doc. 78-5556 Filed 3-2-78; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

MANUFACTURE OF CONTROLLED SUBSTANCES

Notice of Application

Pursuant to 21 U.S.C. 823(a)(1), and section 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 23, 1978, Mallinckrodt Inc., Dept. CB, Mallinckrodt and Second Streets, St. Louis, Mo. 63147, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic class of controlled substances listed below:

Drug	Schedule
Codeine	II.
Dihydrocodeine	II.
Oxycodone	II.
Diphenoxylate	II.
Hydrocodone	II.
Methadone	II.
Methadone-Inter.	II.
Morphine	II.
Thebaine	II.
Opium Extracts	II.
Opium Fluid Extracts	II.
Opium Tinctures	II.
Opium Powders	II.
Opium Granulated	II.

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Administrator, Drug Enforcement Administration, United States Department of Justice, 1402 I Street NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than March 30, 1978.

Dated: February 24, 1978.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc. 78-5631 Filed 3-2-78; 8:45 am]

[4410-01]

MANUFACTURE OF CONTROLLED SUBSTANCES

Registration

By Notice dated December 28, 1977, and published in the FEDERAL REGISTER on January 9, 1978; (43 FR 1410), Knoll Pharmaceutical Co., Production Department, 30 North Jefferson Road, Whippany, N.J. 07981, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of hydromorphone, a basic class of controlled substance listed in schedule II.

No comments or objections having been received, and pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations section 1301.54(e), the Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: February 24, 1978.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc. 78-5632 Filed 3-2-78; 8:45 am]

[4510-23]

DEPARTMENT OF LABOR

Office of the Secretary

ALL ITEMS CONSUMER PRICE INDEX

United States City Average

Pursuant to section 112 of the 1976 amendments to the Federal Election Campaign Act (Pub. L. 94-283, 2 U.S.C. 441a), the Secretary of Labor has certified to the Chairman of the Federal Election Commission and publishes this notice in the FEDERAL REGISTER the fact that the United States City Average All Items Consumer Price Index (1967=100) increased 22.9 percent from its 1974 annual average of 147.7 to its 1977 annual average of 181.5. Using 1974 as a base (1974=100), I certify that the United States City Average All Items Consumer Price Index thus increased 22.9 percent from its 1974 annual average of 100 to its 1977 annual average of 122.9.

Signed at Washington, D.C., on this 23rd day of February 1978.

RAY MARSHALL,
Secretary of Labor.

[FR Doc. 78-5389 Filed 3-2-78; 8:45 am]

[4510-28]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 13, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 13, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 13th day of February 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Nieman Tool & Machine (workers).	Sullivan, Mo	Jan. 13, 1978	Jan. 9, 1978	TA-W-3,154	Precision machining of the atomic energy and guided missile programs.

[FR Doc. 78-5238 Filed 3-2-78; 8:45 am]

[4510-28]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than Mar. 13, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistnace, at the address shown below, not later than Mar. 13, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, D.C. this 16th day of February 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Bird & Son, Inc. (workers)	East Walpole, Mass	Feb. 6, 1978	Feb. 1, 1978	TA-W-3,144	Shoe boxes.
Fairfield Noble Corp. (ILGWU).	Long Island City, N.Y	do	Jan. 31, 1978	TA-W-3,145	Women's knit sweaters.
Fraser-Johnston (International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers & Helpers).	San Lorenzo, Calif	Jan. 19, 1978	Jan. 16, 1978	TA-W-3,146	Fabricated metal.
General Instrument Corp. Jerrold Electronic Div. (IBEW).	Chicopee, Mass	Jan. 30, 1978	Jan. 26, 1978	TA-W-3,147	Cable systems of equipment and master antennas.
Hubbard & Co. (International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers & Helpers).	Emeryville, Calif	Jan. 19, 1978	Jan. 16, 1978	TA-W-3,148	Various kinds of metal including pole attachments.
New England Sportswear (workers).	Peabody, Mass	Feb. 6, 1978	Feb. 2, 1978	TA-W-3,149	Ladies' leather jackets.
Proctor Products, Inc. (United Shoe Workers of America).	Bourbon, Mo	do	Feb. 3, 1978	TA-W-3,150	Shoe counter and heel covers.
SKF Industries, Inc., Nice Bearing Division (USWA).	Kulpsville, and Philadelphia, Pa.	do	Jan. 31, 1978	TA-W-3,151	Ball and spherical bearings.
Uniroyal, Inc., Consumer Products Division, Credit Department (co. attorney).	Middlebury, Conn. and various other locations.	Feb. 2, 1978	Jan. 30, 1978	TA-W-3,152	Men's and women's shoes.
George J. Meyer Mfg. Worcester Plant (USWA).	West Boylston, Mass	Feb. 6, 1978	Jan. 18, 1978	TA-W-3,153	Bottling and labeling machines and packaging equipment.

[FR Doc. 78-5239 Filed 3-2-78; 8:45 am]

[4510-28]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 13, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 13, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 3rd day of January 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition	Articles produced
Tower Fashions (ILGWU)	New York, N.Y.	Jan. 3, 1978	Dec. 14, 1977	TA-W-3,155	Manufacturer and distributor of ladies' coats.
Lafemme Knitting Inc. (workers).	Mills, Weissport, Pa	do	Dec. 28, 1977	TA-W-3,156	Women's and girls' knit shirts and sweaters.
Lafemme Knitting Inc. (workers).	Mills, Lyons Station, Pa	do	do	TA-W-3,157	Women's and girls' knit shirts and sweaters.

[FR Doc. 78-5240 Filed 3-2-78; 8:45 am]

[4510-28]

Office of the Secretary

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened

total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 13, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 13, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 22nd day of February 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
A. S. Mines, Inc. (ACTWU)	New York, N.Y	Feb. 6, 1978	Jan. 31, 1978	TA-W-3,190	Young men's tailored clothing.
Bethlehem Steel Corp. Baltimore Rebar Shop (workers).	Baltimore, Md	Feb. 8, 1978	Feb. 6, 1978	TA-W-3,191	Steel rebars.
Everett Levinson Corp. (ACTWU).	New York, N.Y	Feb. 6, 1978	Jan. 31, 1978	TA-W-3,192	The cutting of garments to be sewn into men's tailored clothing.
Frank Saltz & Sons, Inc. (ACTWU).	Passaic, N.J	do	do	TA-W-3,193	Men's tailored clothing.
Harry Irwin, Inc. (ACTWU)	New York, N.Y	do	do	TA-W-3,194	Do.
Mandlebaum Clothing Co., Inc. (ACTWU).	do	do	do	TA-W-3,195	Men's jackets and sportcoats.
Manhattan Coat Corp. (ACTWU).	do	do	do	TA-W-3,196	Men's tailored clothing.
Mercer Clothing Co., Ltd. (ACTWU).	do	do	do	TA-W-3,197	Men's tailored jackets.
Petrocelli Clothes (ACTWU)	do	do	do	TA-W-3,198	Men's tailored suits.
Primo Mello (ACTWU)	do	do	do	TA-W-3,199	Men's jackets.
Prints-N-Things (workers)	do	Nov. 15, 1977	Nov. 11, 1977	TA-W-3,200	Knitting, printing and finishing fabrics.
Sabel & Schaps (ACTWU)	Long Island City, N.Y	Feb. 6, 1978	Jan. 31, 1978	TA-W-3,201	Men's jackets.
Saint Laurie Ltd. (ACTWU)	New York, N.Y	do	do	TA-W-3,202	Men's tailored clothing.
Shop Contracting Corp. (ACTWU).	do	do	do	TA-W-3,203	Men's trousers.
Sussex Clothes, Ltd. (ACTWU).	do	do	do	TA-W-3,204	Men's jackets and sportcoats.
William B. Kessler, Inc. (ACTWU).	Hammonton, N.J	do	do	TA-W-3,206	Men's tailored clothing.
U.S. Steel Corp., Joliet-Waukegan Works (USWA).	Joliet, Ill	Jan. 16, 1978	Jan. 12, 1978	TA-W-3,205	Carbon steel rods and merchant wire.

[FR Doc. 78-5697 Filed 3-2-78; 8:45 am]

[4510-28]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 13, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 13, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 21st day of February 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Albex Contractors, Inc. (ACTWU).	Brooklyn, N.Y	Feb. 6, 1978	Jan. 31, 1978	TA-W-3,158	Men's jackets.
Ambassador Clothes, Inc. (ACTWU).	New York, N.Y	do	do	TA-W-3,159	Men's and boys' tailored clothing.
Arrow Clothes, Inc. (ACTWU).	do	do	do	TA-W-3,160	Men's jackets.
Baxter Stores, Inc. (ACTWU).	Trenton, N.J	do	do	TA-W-3,161	Men's tailored clothing.
Bruce Ramsey Ltd. (ACTWU).	New York, N.Y	do	do	TA-W-3,162	Men's slacks.
Brookfield Clothes, Inc. (ACTWU).	Long Island City, N.Y	do	do	TA-W-3,163	Men's suits and coats.
Canamex Commodity Corp. (company).	San Francisco, Calif	Feb. 7, 1978	do	TA-W-3,164	Field fence, barbed wire, barbless cable, electric fence wire, rebar tie wire, merchant wire, and baler wire.
Catania Clothing Corp. (ACTWU).	New York, N.Y	Feb. 6, 1978	do	TA-W-3,165	Men's sport coats.
Central Fajardo (company)	Fajardo, P.R	Feb. 7, 1978	Jan. 30, 1978	TA-W-3,166	Unrefined sugar.
Central San Francisco (company).	Guayanilla, P.R	do	do	TA-W-3,167	Do.
Clifton Clothing Co. (ACTWU).	Wallington, N.J	Feb. 6, 1978	Jan. 31, 1978	TA-W-3,168	Men's and ladies' tailored jackets.
Cohen Clothes (ACTWU)	Brooklyn, N.Y	do	do	TA-W-3,169	Men's and boys' tailored clothing.
Delton Clothing, Ltd. (ACTWU).	New York, N.Y	do	do	TA-W-3,170	Men's sport coats and suit coats.
Dino Clothing Co. (ACTWU)	do	do	do	TA-W-3,171	Men's jackets.
Dirsis Products Co., Inc. (ACTWU).	Richmond Hill, N.Y	do	do	TA-W-3,172	Men's tailored clothing.
E. Bonelli & Co., Inc. (ACTWU).	New York, N.Y	do	do	TA-W-3,173	Men's jackets.
F. E. Olds & Son, (USWA)	Fullerton, Calif	Feb. 2, 1978	do	TA-W-3,174	Brass wind musical instruments.
Fine Craft Coat Co., Inc. (ACTWU).	Brooklyn, N.Y	Feb. 6, 1978	do	TA-W-3,175	Men's clothing.
George Heller, Inc. (ACTWU).	New York, N.Y	do	do	TA-W-3,176	Men's trousers.
Futura Fabrics Corp., Hazleton Dyeing Division (ACTWU).	West Hazleton, Pa	Feb. 7, 1978	Feb. 2, 1978	TA-W-3,177	Dyeing and finishing of fabrics.
Futura Fabrics Corp., Hazleton Warp-Knit Division (ACTWU).	do	do	do	TA-W-3,178	Knitting of fabrics.
Hilton Manufacturing Co. (ACTWU).	Linden, N.J	Feb. 6, 1978	Jan. 31, 1978	TA-W-3,179	Men's suits, sports-coats, and slacks.
Hudson Pants Co., Inc. (ACTWU).	Jersey City, N.J	do	do	TA-W-3,180	Men's and boys' trousers.
Hy-Grade Coat Co., Inc. (ACTWU).	New York, N.Y	do	do	TA-W-3,181	Men's tailored coats.
Kaiser Steel Corp., Napa Fabricating Plant (International Hod Carriers, Building & Common Laborers Union of America).	Napa, Calif	do	Jan. 26, 1978	TA-W-3,182	Fabricated steel and steel pipe.
Lefeton Custom Tailoring, Inc. (ACTWU).	New York, N.Y	do	Jan. 31, 1978	TA-W-3,183	Men's and boys' tailored clothing.
M. Ehrenberg Sons, Inc. (ACTWU).	Passaic, N.J	do	do	TA-W-3,184	Men's tailored clothing.
M & S Co., Inc. (workers)	Rayville, La	Feb. 7, 1978	Feb. 2, 1978	TA-W-3,185	Jeans and casual pants for men and women.
Monroe Manufacturing Co. (workers).	do	do	do	TA-W-3,186	Selling of jeans and casual pants for men and women.
Sealand Service, Inc. (workers).	South Kearney, N.J	Feb. 6, 1978	Jan. 31, 1978	TA-W-3,187	Shipping line for various products and goods.
Sealand Service, Inc. (workers).	Elizabeth, N.J	do	do	TA-W-3,188	Shipping line for various products and goods.
Victor Roberts, Inc. (ACTWU).	Passaic, N.J	do	do	TA-W-3,189	Tailored clothing for men.

[FR Doc. 78-5698 Filed 3-2-78; 8:45 am]

[4510-28]

[TA-W-2674]

MAXWELL & ROTHCHILD, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2674: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 29, 1977 in response to a worker petition received on November 17, 1977 which was filed on behalf of workers and former workers engaged in the sponging of cloth at Maxwell & Rothchild, Inc., Cincinnati, Ohio.

The notice of investigation was published in the FEDERAL REGISTER on December 16, 1977 (42 FR 63486). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Maxwell

& Rothchild, Inc., and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met.

None of the criteria are applicable because Maxwell & Rothchild, Inc. does not produce an article within the meaning of Section 222(3) of the Trade Act of 1974.

In this case, the Department's investigation has revealed that Maxwell & Rothchild, Inc. performs a service. The company was an independent, one-plant corporation engaged in cloth sponging until its closure in October, 1977. Maxwell & Rothchild received cloth from its customers, inspected the cloth for damage, and then pre-shrunk or heat-set the cloth. All cloth was then rolled and shipped to the company's customers, who included apparel manufacturers, retailers, tailors, jobbers, contractors, and converters.

The petitioning group of workers employed by Maxwell & Rothchild were engaged solely in these operations and performed no production functions. Workers employed at Maxwell & Rothchild, Inc. perform the service of inspecting, pre-shrinking and heat-setting cloth.

CONCLUSION

After careful review of the issues, I have determined that services of the kind provided by workers employed at Maxwell & Rothchild, Inc., Cincinnati, Ohio are not "articles" within the meaning of Section 222(3) of the Trade Act of 1974. The petition for trade adjustment assistance, therefore, is denied.

Signed at Washington, D.C., this 21st day of February 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-5700 Filed 3-2-78; 8:45 am]

[4510-28]

[TA-W-2926]

McKEESPORT CONNECTING RAILROAD

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on January 12, 1978 in response to a worker petition received on December 20, 1977 which was filed by the United Transportation Union on behalf of workers and former workers at McKeesport Connecting Railroad, McKeesport, Pa. providing rail transportation for the National Tube Works of U.S. Steel Corp.

The Notice of Investigation was published in the FEDERAL REGISTER on February 3, 1978 (43 FR 4695). No public hearing was requested and none was held.

During the course of the investigation, it was established that all workers at the National Tube Works of U.S. Steel Corp. were previously certified eligible to apply for adjustment assistance on June 9, 1977 (See TA-W-1444). The McKeesport Connecting Railroad is an autonomously operated and a wholly owned subsidiary of U.S. Steel Corp. and provides rail services to the National Tube Works. The petitioning workers can be considered employees of the same firm as the employees of the National Tube Works and are thus covered under the existing certification.

The existing certification will expire on June 9, 1979 unless terminated by the Secretary of Labor. Since workers newly separated, totally or partially, are covered by the existing certification provided such separations occurred on or after the impact date (November 15, 1975 and before the certification expiration date, June 9, 1979), a new investigation would serve no purpose; consequently the investigation has been terminated.

Signed at Washington, D.C. this 15th day of February 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-5701 Filed 3-2-78; 8:45 am]

[4510-28]

[TA-W-2181]

TRW/IRC, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2181: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 27, 1977, in response to a worker petition received on June 22, 1977, which was filed by the International union of Electrical, Radio and Machine Workers on behalf of workers and former workers producing carbon composition resistors at TRW/IRC, Inc., Philadelphia, Pa. The investigation was expanded to include a satellite facility located in Downington, Pa.

The Notice of Investigation was published in the FEDERAL REGISTER on July 12, 1977 (42 FR 35904). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of TRW/IRC, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

Increased Imports. Imports of carbon composition resistors increased from 1,271.6 million in the first 9 months of 1976 to 2,297.7 million in the first 9 months of 1977. Imports of carbon composition resistors relative to domestic production increased from 43.5 percent in the first 9 months of 1976 to 86.4 percent in the first 9 months of 1977. Imports of carbon film resistors, which are substitutable for carbon composition resistors increased from 1,524.7 million in the first 9 months of 1976 to 1,915.2 in the first 9 months of 1977. Imports of carbon film resistors relative to domestic production increased from 155.0 percent in the first 9 months of 1976 to 174.2 percent in the first 9 months of 1977.

Contributed Importantly. a major customer of the Philadelphia Division in 1975 significantly reduced purchases in 1976 and in the first 10 months of 1977 while increasing purchases of imported resistors. Another major customer began purchasing imported resistors in November 1977 resulting in layoffs of workers from the Philadelphia Division in that month.

The workers at the Philadelphia Division of TRW/IRC, Inc., were certified eligible to apply for adjustment assistance on June 19, 1975 (TA-W-11). The certification expired on June 19, 1977.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with carbon composition resistors produced by TRW/IRC, Inc., Philadelphia and Downington, PA., contributed importantly to the total or partial separation of workers and to the decline in sales and production at those facilities. In accordance with the provisions of the Act, I make the following certification:

All workers at TRW/IRC, Inc., Philadelphia and Downington, Pa., who became totally or partially separated from employment on or after June 19, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22nd day of February 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-5702 Filed 3-2-78; 8:45 am]

[4510-30]

NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

MEETING

The first meeting of the National Commission on Unemployment Compensation will be held in Room N4437 a, b, and c, U.S. Department of Labor Building, Second and Constitution Avenue NW., Washington, D.C. 20210, beginning at 4 p.m., Thursday, March 9, 1978. This session will conclude at 6 p.m., and resume at 9 a.m., on Friday, March 10. If business requires, the meeting will continue on Saturday, March 11, at a location to be announced at the Friday session. Sessions will be open to the public.

It has been impossible to give the standard period of advance notice because of scheduling difficulties. Future meetings will be subject to regular notice to the fullest extent possible.

AGENDA

THURSDAY, MARCH 9

4 p.m.

1. Preliminary statement by the Chairman.
2. Introduction of key staff members—U.S. Department of Labor.
3. Charge to the Commission: The Secretary (or Under Secretary) U.S. Department of Labor.
4. Organization: Designation of interim senior staff—(a) Interim executive director, (b) Interim research director, and (c) Interim administrative officer.
5. Adoption of preliminary procedures.
6. General information: Interim administrative officer.

FRIDAY, MARCH 10

9 a.m.

7. Presentation: Major current issues in unemployment insurance—Lawrence E. Weatherford, Administrator, Unemployment Insurance Service.
8. Briefing on federal executive and legislative procedures affecting the UI program: Unemployment Insurance Service staff.
9. Current legislative and budget developments: Unemployment Insurance Service staff.

3 p.m.

10. Report on work of the Federal Advisory Council on Unemployment Insurance (FAC/UI): Father Joseph M. Becker, acting chairman, FAC/UI.

4 p.m.

11. Introduction of liaison officers with other Federal agencies.

SATURDAY, MARCH 11

9 a.m.

12. Proposed amendments to basic 1976 law relating to the Commission: (a) Timing of reports, (b) Pay and travel expenses, and (c) Effective date of pension deduction requirement.
13. Appointment of subcommittee on staff personnel.
14. Proposed structure of subcommittees.
15. Adoption of future schedule.
16. Discussion of agenda of future meetings.
17. Discussion of arrangements for public hearings.
18. New business.

BACKGROUND

Creation of the National Commission on Unemployment Compensation was directed by Pub. L. 94-566 dated October 20, 1976. Statutory requirements are as follows:

(1) Seven members appointed by the President.
(2) Three members appointed by the Speaker of the House of Representatives.
(3) Three members appointed by the President pro tempore of the Senate.

In making appointments, the President, the Speaker of the House of Representatives and the President pro tempore of the Senate are to consult with each other to ensure that there will be a balanced representation of interested parties on the Commission.

Members are to consist of at least one representative of labor, industry, the Federal Government, State government, local government, and small business. The President designates one of the members to serve as Chairman of the Commission.

Three members each were appointed by the President pro tempore of the Senate and the Speaker of the House of Representatives during 1977. A charter was filed by the Department with OMB on May 26, 1977. On February 1, 1978, the President appointed six members and designated a chairman, thus making the Commission operative. The 12 members thus far appointed are:

Appointed by the President

Wilbur J. Cohen, Chairman, dean and professor, University of Michigan, former Secretary, U.S. Department of Health, Education and Welfare.
Mrs. Beatrice Coleman, president and board chairman, Maidenform, Inc.
Wilbur Daniels, executive vice president, International Ladies' Garment Workers' Union.
J. Eldred Hill, Jr., executive director, UBA (Employers Advisory Group).
Ken Morris, member, executive board and regional director, United Auto Workers Union.
James R. O'Brien, Assistant director, Department of Social Security, AFL-CIO.
Vacancy.

Appointed by the President Pro Tempore of the Senate

Hon. Alphonse Jackson, educator, member, Louisiana House of Representatives.
Warren Cooper, vice president, Kaiser Aluminum and Chemical Co.
Walter Bivins, retired deputy executive director, Mississippi Employment Security Commission, member several Jackson City and County, Miss., governmental boards and commissions.

Appointed by the Speaker of the House of Representatives

Hon. Mary Rose Oakar, Member, U.S. House of Representatives.
John D. Crosier, Commissioner of Commerce, Massachusetts, former president, Interstate Conference of Employment Security Agencies, Inc.
Edward Sullivan, president, Service Workers Union, Massachusetts.

The Commission's statutory assignments are to study and evaluate the present unemployment compensation programs in order to assess the long-range needs of the programs, to develop alternatives, and to recommend changes in the programs. Such study and evaluation are to include, without being limited to—

(1) Examination of the adequacy, and economic and administrative impacts, of the changes made by Pub. L. 94-566 in coverage, benefit provisions, and financing;

(2) Identification of appropriate purposes, objectives, and future directions for unemployment programs; including railroad unemployment insurance;

(3) Examination of issues and alternatives concerning the relationship of unemployment compensation to the economy, with special attention to long-range funding requirements and desirable methods of program financing;

(4) Examination of eligibility requirements, disqualification provisions, and factors to consider in determining appropriate benefit amounts and duration;

(5) Examination of (a) the problems of claimant fraud and abuse in the unemployment compensation programs, (b) the adequacy of present statutory requirements and administrative procedures designed to protect the programs against such fraud and abuse, and (c) problems of claimants in obtaining prompt processing and payment of their claims for benefits and any appropriate measures to relieve such problems;

(6) Examination of the relationship between unemployment compensation programs and manpower training and employment programs;

(7) Examination of the appropriate role of unemployment compensation in income maintenance and its relationship to other social insurance and income maintenance programs;

(8) Conduct of such surveys, hearings, research, and other activities as it deems necessary to enable it to for-

mulate appropriate recommendations, and to obtain relevant information, attitudes opinions, and recommendations from individuals and organizations representing employers, employees, and the general public;

(9) Review of the present method of collecting and analyzing present and prospective national and local employment and unemployment information and statistics;

(10) Identification of any weaknesses in such method and any problem which results from the operation of such method;

(11) Formulation of any necessary or appropriate new techniques for the collection and analysis of such information and statistics; and

(12) Examination of the feasibility and advisability of developing or not developing Federal minimum benefit standards for a State unemployment insurance program.

Members serve without pay, but, when performing services for the Commission, they are allowed travel expenses and per diem in lieu of subsistence as authorized by law.

DURATION

The Commission is directed by law to submit an interim report to the Congress not later than September 30, 1978, and to submit to the President and the Congress a final report not later than July 1, 1979.

The Commission ceases to exist 90 days after the date of submission of its final report to the President.

The Commission will begin immediately to recruit staff and prepare detailed agenda and timetables for its reports. Hearings will be held throughout the country to have input from all areas and all interests. The Commission will meet monthly and will review preliminary and drafts of reports between sessions.

Telephone inquiries and communications concerning this meeting should be directed to:

Mr. James M. Rosbrow, Interim Executive Director, National Commission on Unemployment Compensation, Room 7000, Patrick Henry Building, 601 D Street NW., Washington, D.C. 20213.

Mr. Rosbrow's telephone number is area code 202-376-7034.

Future Commission notices will be signed by the Executive Director.

Signed at Washington, D.C., this 28th day of February 1978.

WILBUR J. COHEN,
Chairman, National Commission on Unemployment Compensation.

[FR Doc. 78-5699 Filed 3-2-78; 8:45 am]

[3510-12]

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

MEETING

Pursuant to sec. 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a meeting Wednesday and Thursday, March 22-23, 1978. These sessions will be open to the public and will be held in Room 416 of Page Building No. 1, 2001 Wisconsin Avenue NW., Washington, D.C., beginning at 9 a.m. on both days.

The Committee, consisting of 18 non-Federal members, appointed by the President from State and local governments, industry, science, and other appropriate areas, was established by Congress by Public Law 95-63, on July 5, 1977. Its duties are to: (1) Undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to the carrying out of the programs administered by the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to the Congress setting forth an assessment, on a selective basis, of the status of the Nation's marine and atmospheric activities, and submit such other reports as may from time to time be requested by the President or the Congress.

The agenda will include the following topics:

March 22, 1978

0900 NACOA Work Plan and Guidelines—Chairman
1030 Working groups:
Policy, planning, and organization—Mr. Marne Dubs, discussion leader
Atmosphere and climate—Dr. Werner Baum, discussion leader
Ocean R. & D.—Dr. John Knauss, discussion leader
Ocean management and use—Dr. Evelyn Murphy, discussion leader
1200 Lunch
1300 Working groups (continued)
1700 Adjourn

March 23, 1978

0900 Working groups (continued)
1030 (Penthouse) Planning session—Reports of working groups'—Plans for the future
1200 Lunch
1300 Planning session (continued)
1600 Adjourn

DOUGLAS L. BROOKS
Executive Director.

MARCH 1, 1978.

[FR Doc. 78-5810 Filed 3-2-78; 8:45 am]

[7555-01]

NATIONAL SCIENCE FOUNDATION

ADVISORY GROUP REPORT

Availability

The National Science Foundation has filed with the Library of Congress some reports which were prepared by various advisory committees of the NSF:

Report of the Ad Hoc Advisory Panel for the Very Large Array
Report of the Special Advisory Committee to the NSF on the Sacramento Peak Observatory
1976 Annual Report of the Advisory Committee for Science Education
Issues of the Advisory Groups on Anticipated Advances in Science and Technology and Contributions of Technology to Economic Strength

SUBGROUP REPORTS

The Science Court Experiment
Recommendation on Food and Nutrition Basic and Mission Agencies
Subgroup on Regulation—Interim Report

These reports were filed in accordance with the Federal Advisory Committee Act, Pub. L. 92-463, and are available for public inspection and use at the Library of Congress, Rare Book Division, Room 256, Washington, D.C. A copy of the reports are also available for public inspection and use at the National Science Foundation, Committee Management Office, Room 248, Washington, D.C.

Dated: February 28, 1978.

M. REBECCA WINKLER,
Committee Management Coordinator.

[FR Doc. 78-5630 Filed 3-2-78; 8:45 am]

[7555-01]

DOE/NSF NUCLEAR SCIENCE ADVISORY COMMITTEE (NUSAC)

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

DOE/NSF 1978 FACILITIES SUBCOMMITTEE OF THE NUCLEAR SCIENCE ADVISORY COMMITTEE (NUSAC)

Date and Time: March 27, 1978, 9 a.m. to 5 p.m., March 28, 1978, 9 a.m. to 5 p.m.
Place: Conference Room, Room 540, National Science Foundation, 1800 G Street NW., Washington, D.C.
Type of meeting: March 27, 1978—Closed: 9 a.m. to 5 p.m. March 28, 1978—Closed: 9 a.m. to 5 p.m.
Contact person: Dr. Howel G. Pugh, Head, Nuclear Science Section, Room 341, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4318.
Purpose of committee: To provide advice to NUSAC on needs and opportunities for major new facilities and major modification of existing facilities in the field of basic nuclear science in the United States.
Agenda: March 27, 1978—Closed Session (9 a.m. to 5 p.m.). Discussion of projects under consideration for funding. March 28, 1978—Closed Session (9 a.m. to 5 p.m.). Continuation of previous day's activities.
Reason for closing: The projects being reviewed include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer, pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

Dated: February 28, 1978.

M. REBECCA WINKLER,
Committee Management Coordinator.

[FR Doc. 78-5625 Filed 3-2-78; 8:45 am]

[7555-01]

EXECUTIVE COMMITTEE OF THE ADVISORY COMMITTEE FOR OCEAN SCIENCES

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

EXECUTIVE COMMITTEE OF THE ADVISORY COMMITTEE FOR OCEAN SCIENCES

Dates: March 22 and 23, 1978.
Time: March 22, 9 a.m. to 5 p.m., March 23, 9 a.m. to 5 p.m.
Place: Room 540, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.
Type of meeting: Open—March 22, 9 a.m. to 5 p.m. Open—March 23, 9 a.m. to 12 p.m. Closed—March 23, 2 p.m. to 5 p.m.
Contact person: Dr. Lauriston King, IDOE Office, National Science Foundation, Washington, D.C. 20550, 202-632-7356.
Purpose of meeting: To provide advice, recommendations and oversight concerning support for research and research related activities in the ocean sciences area.
Agenda: March 22, 1978 (Open)—9 a.m. Introduction, Procedural Matters. 9:30 a.m. Post-IDOE Project Initiation and Planning. 2 p.m. Long-range OCE Planning and Budgeting. March 23, 1978—9 a.m. Long-range OCE Planning and Budgeting (Open). 2 p.m. Discussion of Project/Proposal Reviews (Closed).
Reason for closing: Discussion of project/proposal reviews will involve information of a proprietary or confidential nature, including technical and financial data. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

Dated: February 28, 1978.

M. REBECCA WINKLER,
Committee Management Coordinator.

[FR Doc. 78-5626 Filed 3-2-78; 8:45 am]

[7555-01]

SUBCOMMITTEE ON ENGINEERING CHEMISTRY AND ENERGETICS OF THE ADVISORY COMMITTEE FOR ENGINEERING

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

SUBCOMMITTEE ON ENGINEERING CHEMISTRY AND ENERGETICS OF THE ADVISORY COMMITTEE FOR ENGINEERING

Date and time: March 20 and 21, 1978—9 a.m. to 5 p.m. each day.
Place: Room 543, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.
Type of meeting: Part open, Open—March 20, 9 a.m. to 11:45 a.m. March 21, 9 a.m. to 4 p.m. Closed—March 20, 1 p.m. to 5 p.m.
Contact person: Dr. Marshall M. Lih, Section Head, Engineering Chemistry and Energetics Section, Room 413, National Science Foundation, Washington, D.C. 20550, telephone 202-632-5867.
Summary minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.
Purpose of subcommittee: To review current program areas and emphasis; to discuss future directions and strategies for research support.
Agenda: Open—March 20, (9 a.m. to 11:45 a.m.). Status of Engineering Division. Report on Engineering Chemistry and Energetics Section with questions and answers. Program reports (Chemical Processes, Heat Transfer, and Particulate and Multiphase Processes) with questions and answers. Closed—March 20, (1 p.m. to 5 p.m.). In depth program review including examination of grant proposal, files, and declination files. Open—March 21, (9 a.m. to 4 p.m.). Discussion on technical subject areas. Discussion on community interaction and program operations.
Reason for closing: The meeting will deal with a review of grants and declinations in which the Subcommittee will review materials containing the names of applicant institutions and principal investigations and privileged information contained in declined proposals. This meeting will also include a review of the peer review documentation pertaining to applicants. Any non-exempt material that may be discussed at this meeting (proposals that have been awarded) will be inextricably interwind with the discussion of exempt material and no further separation is practical. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Director, NSF, in accordance with the provisions of Section 10(d) of Pub. L. 92-463, the Federal Advisory Committee Act.

Dated: February 28, 1978.

M. REBECCA WINKLER,
Committee Management Coordinator.

[FR Doc. 78-5627 Filed 3-2-78; 8:45 am]

[9555-01]

SUBCOMMITTEE ON METALLURGY AND MATERIALS OF THE ADVISORY COMMITTEE FOR MATERIALS RESEARCH

Amended Meeting

The Subcommittee on Metallurgy and Materials is holding a meeting in Washington, D.C., on March 6 and 7, 1978. Please change the time the meeting is to begin on March 7 from 9 a.m. to 8:30 a.m. There are no other changes in the meeting.

The notice for this meeting appeared in the FEDERAL REGISTER on February 17, 1978, FR Doc. 78-4457, Vol. 43, No. 34.

M. REBECCA WINKLER,
Committee Management Coordinator.

FEBRUARY 28, 1978.

[FR Doc. 78-5628 Filed 3-2-78; 8:45 am]

[7555-01]

SUBCOMMITTEE TO REVIEW THE ATOMIC, MOLECULAR, AND PLASMA PHYSICS PROGRAM

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

ADVISORY COMMITTEE FOR PHYSICS; SUBCOMMITTEE TO REVIEW THE ATOMIC, MOLECULAR, AND PLASMA PHYSICS PROGRAM

Date and time: March 20-21, 1978; 9 a.m. to 5 p.m. each day.
Place: Rooms 340 and 341, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.
Type of meeting. Closed.
Contact person: Dr. Laura P. Bautz, Senior Staff Associate, Division of Physics, Room 341, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4175.
Purpose of subcommittee: To provide program oversight concerning NSF support for research in atomic, molecular, and plasma physics.
Agenda: To review NSF Atomic, Molecular, and Plasma Physics Program documentation as part of the program oversight function.
Reason for closing: The meeting will deal with a review of grants and declinations in which the Subcommittee will review materials containing the names of applicant institutions and principal investigators and privileged information from the files pertaining to the proposals. The meeting will

also include a review of the peer review documentation pertaining to applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Director, NSF, pursuant to provisions of section 10(d) of the Federal Advisory Committee Act..

M. REBECCA WINKLER,
Committee Management Coordinator.

FEBRUARY 28, 1978

[FR Doc. 78-5629 Filed 3-2-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

SUBCOMMITTEE ON ELECTRICAL SYSTEMS, CONTROL AND INSTRUMENTATION AND SUBCOMMITTEE ON ARKANSAS NUCLEAR ONE, UNIT NO. 2

Meeting

The ACRS Subcommittee on Electrical Systems, Control and Instrumentation, and the Subcommittee on Arkansas Nuclear One, Unit No. 2 will hold a joint meeting on March 20, 1978, in Room 1046, 1717 H St. NW., Washington, D.C. 20555 to continue the review of the Combustion Engineering Core Protecting Calculator System to be used on Arkansas Nuclear One, Unit No. 2, and other Combustion Engineering-type nuclear powerplants, and to continue the review of the application of the Arkansas Power and Light Co. for an operating license for Arkansas Nuclear One, Unit No. 2.

In accordance with the procedures outlined in the FEDERAL REGISTER on October 31, 1977, page 56972, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the subcommittees, their consultants, and staff. Persons desiring to make oral statements should notify the designated Federal employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows: Monday, March 20, 1978, 8:30 a.m. until the conclusion of business.

The subcommittees may meet in executive session, with any of their consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full committee.

At the conclusion of the executive session, the subcommittees will hear presentations by and hold discussions with representatives of the NRC staff, Combustion Engineering, Inc., the Arkansas Power and Light Co., and their consultants, pertinent to the above topics. The subcommittees may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full committee.

In addition, it may be necessary for the subcommittees to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the designated Federal employee for this meeting, Mr. Gary R. Quittschreiber (202-634-1374), between 8:15 a.m. and 5 p.m., e.s.t.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and, regarding Arkansas Nuclear One, Unit No. 2, at the Arkansas Polytechnic College, Russellville, Ark. 72801.

Dated: February 28, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-5643 Filed 3-2-78; 8:45 am]

[7590-01]

[Docket Nos. 50-329 and 50-330]

CONSUMERS POWER CO. (MIDLAND PLANT, UNITS 1 AND 2)

Receipt of Application for Facility Operating Licenses

Notice is hereby given that the Nuclear Regulatory Commission (the Commission) has docketed a portion of an application for facility operating licenses from Consumers Power Co. (the applicant) which would authorize the applicant to possess, use, and operate two pressurized water nuclear reactors (the facilities), located on the applicant's site in Midland County, Mich. Each unit would operate at a reactor core power level of 2452 megawatts thermal. Construction of the facilities was authorized by Construction Permits Nos. CPPR-81 and CPPR-82, issued by the Atomic Energy Commission[1] on December 15, 1972. Construction of Unit 1 (CPPR-81) is anticipated to be completed by October 1, 1982, and Unit 2 (CPPR-82) by October 1, 1981.

In accordance with an exemption granted the applicant by the Commission on November 10, 1977, the applicant will submit an Environmental Report on March 1, 1978. The portion of the application docketed by the Commission on November 17, 1977 consisted of the Final Safety Analysis Report, which is currently undergoing review. Upon receipt of the Environmental Report, the Commission will notice an opportunity for hearing on radiological safety and environmental issues to be considered during the review. After the Environmental Report has been received and analyzed by the Commission's Director of Nuclear Reactor Regulation or his designee, a draft environmental statement will be prepared by the Commission's staff. Upon preparation of the draft environmental statement, the Commission will cause to be published in the FEDERAL REGISTER a notice of availability of the draft statement, requesting comments from interested persons on the draft statement. The draft environmental statement will focus only on matters which differ from those previously discussed in the final environmental statement prepared in connection with the issuance of the construction permits. Upon consideration of comments submitted with respect to the draft environmental statement, the staff will prepare a final environmental statement, the availability of which will be noticed in the FEDERAL REGISTER.

The Commission will consider the issuance of facility operating licenses to Consumers Power Co. which would authorize the applicant to possess, use, and operate the Midland Plant, Units 1 and 2.

For further details pertinent to the matters under consideration, see the application for the facility operating licenses dated August 29, 1977, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Grace Dow Memorial Library, 1710 West St. Andrews Road, Midland, Mich. 48640. Additionally, all correspondence documenting the staff's review of the application is available at these locations. As they become available, the following documents may be inspected at the above locations: (1) The safety evaluation report prepared by the Office of Nuclear Reactor Regulation; (2) the draft environmental statement; (3) the final environmental statement; (4) the report of the Advisory Committee on Reactor Safeguards (ACRS) on the application for facility operating licenses; (5) the proposed facility operating licenses; and (6) the technical specifications, which will be attached to the proposed facility operating licenses.

[1] Pursuant to the Energy Reorganization Act of 1974, as amended, the Atomic Energy Commission (AEC) was abolished. The Nuclear Regulatory Commission assumed the licensing and related regulatory functions of the AEC.

Dated at Bethesda, Md., this 27th day of February 1978.

For the Nuclear Regulatory Commission.

STEVEN A. VARGA,
Chief, Light Water Reactors Branch 4, Division of Project Management.

[FR Doc. 78-5645 Filed 3-2-78; 8:45 am]

[7590-01]

[Docket Nos. STN 50-510 and STN 50-511]

GULF STATES UTILITIES CO.

Blue Hills Stations, Units 1 and 2

Reconstitution of Board

Frederic J. Coufal, Esq., was Chairman of the Atomic Safety and licensing Board for the above proceeding. Because of a schedule conflict, Mr. Coufal is unable to continue his service on this Board.

Accordingly, Marshall E. Miller, Esq., whose address is Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, is appointed Chairman of this Board. Reconstitution of the Board in this manner is in accordance with § 2.721 of the Commission's Rules of Practice, as amended.

Dated at Bethesda, Md., this 27th day of February 1978.

JAMES R. YORE,
Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 78-5646 Filed 3-2-78; 8:45 am]

[7590-01]

[Docket Nos. 50-498A and 50-499A]

HOUSTON LIGHTING & POWER CO., ET AL.

Receipt of Attorney General's Advice

In the matter of Houston Lighting & Power Co., Public Service Board of San Antonio, City of Austin, and Central Power & Light Co.

The Commission has received, pursuant to section 105c of the Atomic Energy Act of 1954, as amended, a letter of advice from the Attorney General of the United States, dated February 21, 1978, a copy of which is attached as Appendix A.

A notice stating that any person whose interest may be affected by this proceeding will have the opportunity to intervene on the antitrust aspects of this application pursuant to and in accordance with § 2.714 of the Commission's "Rules of Practice," 10 CFR Part 2, will be published at such time as the Commission deems appropriate.

For the Nuclear Regulatory Commission.

JEROME SALTZMAN,
Chief, Antitrust and Indemnity Group, Nuclear Reactor Regulations.

APPENDIX A

HOUSTON LIGHTING & POWER CO., PUBLIC SERVICE BOARD OF SAN ANTONIO, CITY OF AUSTIN, CENTRAL POWER & LIGHT CO., SOUTH TEXAS PROJECT, UNITS NOS. 1 AND 2

[Docket Nos. 50-498A and 50-499A]

This responds to your letter of August 25, 1977, which seeks our advice on the competitive implications of issuing an operating license in the above captioned matter, pursuant to the Commission's determination under section 105(c)(2) of the Atomic Energy Act that changed circumstances in the licensee's activities make further antitrust review advisable.

A. Status of the Houston Lighting & Power Application

The South Texas Project (STP), located southwest of Houston, Tex. in Matagorda County, will consist of two 1,250 mw nuclear powered generating units. There are four participants in the STP, each of whom will own undivided interests as tenants in common: Houston Lighting & Power (HL&P) will own 30.8 percent and is the project manager; the City Public Service Board of San Antonio will own 28 percent; Central Power & Light (CP&L) will own 25.2 percent; and the City of Austin will own 16 percent. The addition of the STP will increase the combined generating capacity of the participants by approximately 15 percent and thus represents an important and substantial addition to the baseload capacity of the participants.

On October 22, 1974, the Department, after conducting an antitrust review of this nuclear plant in connection with HL&P's application for a construction permit, advised the NRC that an antitrust hearing would not be necessary. A construction permit was issued for the plant and, in early 1976 the construction permit proceeding was formally closed.

At the time of our prior letter of advice most of the electric systems in Texas interconnected and coordinated with one another to their satisfaction in the Texas Interconnected System (TIS). TIS was a group of nine electric systems interconnected through high voltage transmission facilities that operated throughout most of the state of Texas. TIS was comprised of six privately-owned and three publicly-owned systems. The privately-owned systems were Dallas Power & Light Co., Texas Electric Service Co., and Texas Power & Light Co.,[1] Houston Lighting & Power Co. (HL&P), Central Power & Light Co. (CP&L), and West Texas Utilities Co. (WTU). The three publicly-owned electric systems were Lower Colorado River Authority, City of Austin, and City Public Service Board of San Antonio.

As of October 22, 1974, TIS was exclusively an intrastate system; none of its members was interconnected with an electric utility outside Texas so as to be subject to the jurisdiction of the Federal Power Commission, and interconnection contracts among TIS members were conditioned specifically to preclude any interstate connections. In the absence of complaints from any source, the Department had expressed no view as to the legality or propriety of this "intrastate only" policy.[2]

In May 1976, two principal members of TIS, CP&L, and WTU, commenced to operate in interstate commerce. HL&P and TU, acting pursuant to the contractual conditions noted above, immediately opened their electrical connections with CP&L, WTU, and other Texas systems which were also interconnected with CP&L and WTU. CP&L then filed a petition at the NRC to intervene and to hold an antitrust hearing. In connection with that petition the NRC, by letter of August 3, 1976, requested the Department's advice as to whether there were compelling circumstances which warranted an antitrust review prior to the filing of an operating license application. The Department responded on January 25, 1977, and advised that, on the basis of the situation then existing

"—with restrictions on interutility coordination resulting from the division of the utilities in the state into two groups, premised on intrastate and interstate operation respectively, with TIS eliminated as a coordinating vehicle, and with questions raised as to the viability of planned participation in the nuclear units—"

an antitrust hearing was warranted.

After transmittal of our January 25, 1977 letter, the Commission, by Memorandum and Order dated June 15, 1977, ruled that it did not have jurisdiction to order a hearing prior to HL&P's filing an application for an operating license. The Commission did, however, make a determination that a further antitrust review would be advisable because of the significant changes in the licensee's activities that accurred after completion of the antitrust review at the construction permit stage. That determination, and HL&P's subsequent filing of an operating license application, provided the basis for you to once more seek the Department's antitrust advice with respect to the South Texas Project.

Your letter of August 25, 1977 requires the Department for the first time to render antitrust advice under the proviso of section 105(c)(2). That proviso states that the Attorney General's antitrust advice will not be sought at the operating license stage where a construction permit has issued, unless the Commission determines such review is "advisable on the ground that significant changes in the licensee's activities or pro-

[1] Dallas Power & Light, Texas Electric Service and Texas Power & Light are the operating subsidiaries of Texas Utilities Co. When used herein, "TU" refers to Texas Utilities Co. and its various operating and service subsidiary companies.

[2] See condition 11 of the license conditions attached to the Comanche Peak Steam Electric Station license, AEC Docket Nos. 50-445 and 50-446.

posed activities have occurred subsequent to the previous review * * * in connection with the construction permit for the facility."[3] Once the Commission has made the requisite determination then the Attorney General must conduct his review as contemplated by section 105(c)(1). That section provides that the Attorney General shall "render such advice to the Commission as he determines to be appropriate in regard to the finding to be made by the Commission pursuant to paragraph (5) of this subsection. Such advice shall include an explanatory statement as to the reasons or basis therefor." Thus, the Department's antitrust review at the operating license stage is no different than the review it would conduct at the construction permit stage and would not require the application of a standard different from that contemplated in section 105(c)(5); that is whether there is a reasonable probability that the activities under the license would create or maintain a situation inconsistent with the antitrust laws.

It should be noted at the outset that since the Department's advice letter of January 25, 1977, the members of TIS have reestablished their interconnections and are operating in much the same manner as they were at the time of our 1974 advice letters. The present situation is not voluntary, however, but is the result of an order of the Texas Public Utility Commission (TPUC), a state regulatory agency established in 1976 pursuant to the Public Utility Regulatory Act.[4] The TPUC, in May of 1977, ordered the members of TIS to reestablish the interconnections that existed prior to May 3, 1976. Since HL&P and TU were refusing to interconnect with any utility operating in interstate commerce, the TPUC ordered the utilities operating in interstate commerce to cease such operations and to reestablish interconnection with HL&P and TU. For the present, this has eliminated the severe operating problems that confronted the interstate utilities at the time of our January 25, 1977, advice letter.

B. The Competitive Situation

1. *The Department's Prior Antitrust Reviews.* Any analysis of present antitrust concerns must begin with the Department's prior antitrust review. The Department of Justice previously submitted to the Nuclear Regulatory Commission or its predecessor, the Atomic Energy Commission, antitrust advice with regard to three different construction permit applications that are relevant to the instant review. The Department first examined competitive relationships of electric utilities within Texas in connection with the application for Comanche Peak Steam Electric Station, AEC Docket Nos. 50-445 and 50-446. In the course of that inquiry, the Department determined that various electric systems in Texas had formed the Texas Interconnected System (TIS).

As noted above, TIS was composed of nine members. HL&P was the dominant member in the southern portion of TIS and TU was the dominant member in the northern portion. Together they owned approximately 75 percent of the generating capacity in TIS, accounted for approximately 75 percent of kwhr sales of electricity, and, more importantly, their service areas and transmission facilities were strategically located between the systems in south and central Texas with with which they were interconnected and other systems that were not members of TIS to the north and east. Thus, HL&P and TU offered the only realistic opportunity for interconnection to these systems.

The members of TIS, up to that time, had not engaged in a great deal of coordinated development outside of that carried on between the integrated systems in TU. The principal reason for such relative independence was that the ready availability of inexpensive natural gas made extensive coordination unnecessary. A utility could produce a low cost reliable source of bulk power and thereby maintain its competitive position simply by installing gas-fired steam generating units. Thus, the Texas utilities enjoyed substantial independence, each installing capacity to meet its own load and reserve needs.

At that time the main function of TIS had been to provide emergency backup between the interconnected utilities and thus to increase the reliability of participants. Some cost savings were also realized. Members of TIS also conducted various studies relating to the need for, and the effects of, any future transmission and generation changes planned by the members. Thus, membership in TIS provided each member system the opportunity to obtain various benefits from coordination that were not available to non-members. For example, the 1962 power interchange agreement between HL&P and TU provided for a form of staggered generation additions to obtain "certain mutual advantages in investment, efficiency and operation."

In the past, membership in TIS had not been available to all of the electric utility systems within Texas. It was the Department's view that membership in TIS was essential if the smaller electric systems were to compete effectively with the larger systems that were members of TIS. Thus, the Department sought to obtain for the smaller systems greater interconnection and coordination opportunities with the larger systems. In the Department's letter of advice concerning the Comanche Peak nuclear units, dated January 17, 1974, we advised that no hearing would be necessary if the Commission would impose certain license conditions, agreed upon by the applicant, that were designed to afford other utilities the opportunity for ownership participation in the Comanche Peak nuclear units, coordination and sharing of reserves with TU, and transmission services over TU facilities. The construction permit was subsequently issued with those license conditions attached.

The Department submitted its second advice letter on May 17, 1974, in connection with the Allens Creek Nuclear Generating Station, AEC Docket Nos. 50-466A and 50-467A. The application to construct the Allens Creek Station was filed by HL&P. In its letter, the Department noted that the restrictions on membership within TIS had recently changed and that membership was being made available to other systems. The Department also stated as follows: The Department has uncovered no evidence that would indicate that Applicant is attempting to prevent participation in the joint ownership of nuclear facilities by any system or is otherwise presently impairing the competitive opportunities of other systems.

The Department's advice letter in Allens Creek concluded that no antitrust hearing was necessary.

The Department rendered its third advice letter on October 22, 1974, with regard to the construction permit application for the instant South Texas Project. In that letter of advice, the Department again noted that the situation involving limitations on membership in TIS had recently changed and that membership in TIS was being made available to other systems, and concluded that no antitrust hearing was warranted.

As noted above, the members of TIS operated wholly within the state and were not interconnected with systems outside the state. Thus, TIS members were not subject to regulation by the Federal Power Commission, (nor at the time, were they subject to any state regulatory authority). In our antitrust reviews of the previous applications, the Department had encountered no claim by any electric system that the intrastate only operation of HL&P or TU was having an anticompetitive effect.

2. *Market Conditions After 1974.* In the past, utilities in Texas have used natural gas as their main and sometimes only source of fuel to generate their power needs. The fuel situation in Texas has changed drastically since our prior letters of advice. The price of natural gas in Texas has increased substantially over what it was in 1973, and the use of natural gas as a boiler fuel must be cut back by 1985 to 75 percent of the greater of a utility's 1974 or 1975 consumption level. This changing fuel situation has had a significant impact on the competitive posture of the various utilities in Texas. While every utility has been faced with rapid increases in its costs of power, the smaller utilities dependent on natural gas have been the hardest hit. These utilities must switch to alternatives, such as coal, lignite, and nuclear fueled generation, if they are to continue in existence, let alone be able to compete with their larger neighbors, such as HL&P and TU. The switch from natural gas to an alternative fuel will require joint participation arrangements in large base load generating resources, since economies of scale will play a much more important role than in the past. These resources must be tied together through transmission service arrangements or the construction of new transmission facilities.

In order to maintain their competitive viability these systems must engage in a degree of coordinated operation and development that has not heretofore existed in the State of Texas. This coordination cannot be done independently of the two dominant Texas utilities, HL&P and TU, without incurring substantially increased cost, decreased reliability and an erosion of the smaller utilities competitive capabilities.

Thus, in a very real sense the changing fuel situation in the State of Texas has increased the dominance of HLP and TU by increasing the dependence of smaller systems on the generation and transmission facilities of HLP and TU.

The monopoly power of HLP and TU was clearly evidenced by the consequences of their disconnection. During the period from May, 1976, to May, 1977, two separate systems operated in Texas: HL&P, TU and the smaller utilities within their service areas constituted a wholly intrastate interconnected system which operated effectively without significant electrical problems; the other system, which included three of the four participants in the South Texas Project (the cities of Austin and San Antonio, and CP&L) and a number of other utilities, operating in interstate commerce, encountered severe operating difficulties. Without the interconnections with HL&P and TU on the eastern end of the interstate system, reliability of the system suffered, spinning reserves had to be increased and the cost of power to these systems increased. In addition, as noted in our January 25, 1977, letter, utilities that were a part of the intrastate system, such as Brazos Electric Membership Cooperative, could not participate in planned joint generation with utilities that were a part of the interstate systems, such as South Texas Electric Cooperative and Medina Electric Cooperative. Thus, members of TIS, as well as any smaller utility in the service area of a member of TIS, were unable effectively to plan and develop large scale bulk power generation, and particularly nuclear generation, either alone or in combination with other utilities, and opportunities to coordinate reserves and to engage in purchases, sales and exchanges of bulk power were restricted.

C. The Competitive Implication of the Intrastate Only Agreement Under Current Market Conditions[5]

It is in the context of changed market conditions—the increased dominance of HL&P and TU, and the effects of their having exercised such power to refuse to deal with utilities operating in interstate commerce—that the intrastate only agreement of HL&P and TU must be analyzed. The clear intent of the agreement is to prevent the parties from entering into interstate commerce. The enforcement mechanism is the underlying right of the dominant utilities to refuse to deal with any utility that breaches the agreement. In short, it is this threat of boycott which reinforces the intrastate only agreement.

The competitive consequences of this agreement are the same as those that flow from any group boycott: Actual and potential competition are injured. Actual competition suffers when existing systems are disconnected from HL&P and TU, as occurred during May 1976 to May 1977. Potential competition is foreclosed by reason of adherence to the unconditional, across-the-board ban of all interstate connections regardless of their technological and economic feasibility.

Because the intrastate only agreement has effectively precluded serious attempts to establish interstate connections, sources of potential competition must be inferred from facts showing the geographic proximity of interstate utilities, and the possible need or incentive to establish connections with such systems.

In the areas in which HL&P and TU face competition or could reasonably compete, there are a number of privately owned and publicly owned systems that generate and market electric power, and a number of distribution-only systems purchasing power at wholesale from one or more generation and transmission systems marketing firm bulk power. Some of these generating entities operate in interstate commerce, such as Southwestern Electric Power Co. (SWEPCO), Gulf States Utilities (GSU), Western Farmers Cooperative (in Oklahoma), and Southwestern Power Administration (an agency of the U.S. Government). These interstate systems are sources of potential competition for the patronage of the approximately 150 distribution systems in Texas that purchase power at wholesale.

In addition to the potential for increased competition at the wholesale level, there appear to exist substantial opportunities for exchanges of power between the interstate and intrastate utilities.

Utilities in the South West Power Pool are faced with declining reserve margins and will need to purchase generating capacity to maintain adequate reliability until additional generation can be constructed. For example, Western Farmers Cooperative sought to purchase 300 to 400 mw of surplus generating capacity from TU but was unable to do so because of the intrastate only restriction. A number of the utilities in Texas, including competitors of HL&P and TU, have a surplus of generating capacity. The intrastate only policy of HL&P and TU would prevent any utilities with which they are interconnected from marketing any surplus capacity to the interstate utilities. For example, the City of Bryan, Tex. has recently installed a new generating unit bringing its total generating capacity to approximately 225 mw. On the other hand, because of its higher power cost the city is losing College Station as a wholesale customer. College Station represents approximately 27 percent of Bryan's electric load. The city's remaining customers will have to absorb the cost of this excess capacity if it is not sold, thus further eroding Bryan's ability to compete. Although Gulf States Utilities will have high voltage transmission lines in the area and may constitute a ready market for the capacity, the city would not be able to sell its surplus capacity to Gulf States without violating the intrastate only restriction and risking disconnection from the other members of TIS.

The intrastate only restrictions could also prevent municipal and cooperative systems in Texas from being able to receive an increased share of low cost Southwestern Power Administration (SPA) power should additional amounts of capacity become available. The SPA may also constitute a market for the surplus capacity noted above since, when it is faced with low water levels on its system, it must purchase deficiency power in order to meet its contractual obligations to its preference customers.

Thus the intrastate only restriction, by preventing utilities within the Texas intrastate system from engaging in power exchange transactions with utilities outside the intrastate system, could foreclose access to a substantial part of the market for power exchange services.

Given current market conditions the intrastate only agreement may serve to unreasonably foreclose a significant degree of potential competition. The nature and extent of such foreclosure can only be established after a full evidentiary proceeding.

So long as HL&P intends that the operation of the jointly owned South Texas Project be in accordance with the terms of the intrastate restrictions imposed by HL&P and the TU system, HL&P's activities under the nuclear license in furtherance of that restriction can maintain and enhance a situation inconsistent with the antitrust laws contrary to section 105 of the Atomic Energy Act.

D. Additional Points Raised in Your Letter Requesting Advice

In your letter of August 25, 1977, you requested that the Department provide "an evaluation of the legal significance of the various facts and contentions dealt with in the Attorney General's letter of January 25, 1977."

At the time of the Department's letter of January 25, 1977, HL&P and TU, the two dominant utilities in Texas, were refusing to interconnect with other utilities (utilities with which they had historically maintained interconnections); that refusal was having a direct and substantial adverse effect on those utilities' power supply costs, reliability and their ability to remain competitive.

HL&P's refusal to deal with any interstate system went beyond a mere unilateral announcement of its decision to that effect. See *United States* v. *Parke, Davis & Co.*, 362 U.S. 29 (1960); *Albrecht* v. *Herald Co.*, 390 U.S. 145, 149-150 (1968). Its action was part of a course of conduct whereby HL&P had joined with the other dominant system within Texas to use their combined power to require other electric utility systems to act in accordance with their direction. The concerted action by HL&P and TU deprived competitors of a valuable business service needed in order to compete effectively and thus raised serious antitrust issues which the Department viewed as warranting a hearing. *Silver* v. *New York Stock Exchange*, 373 U.S. 341 (1969); *Associated Press* v. *United States*, 362 U.S. 1 (1945); *Eastern States Retail Lumber Dealers' Ass'n* v. *United States*, 234 U.S. 600, 612 (1914).

Your letter of August 25, 1977, also asks that the Department "advise as to why enforcement of a contract right, known to all parties and the Assistant Attorney General at the time of the construction permit antitrust review, may constitute 'changed circumstances' such as may justify the imposition of antitrust conditions."

While the Department was aware of the existence of the interstate only restrictions at the time of its prior advice, the Department was not aware of any anticompetitive effect or anticompetitive injury resulting from those restrictions. Nevertheless, the Department did recognize that possible antitrust consequences might flow from such restrictions and included in condition 11 of the Comanche Peak construction permit a statement that continuance of the policy [of intrastate only operation] was not to be interpreted to reflect any view as to the "legality or propriety of said policy."

In evaluating the competitive significance of any course of conduct, careful attention must be given to the commercial context within which that conduct occurs. Changed circumstances necessarily imply that, where a provision may be seen to have had a neutral impact in one set of circumstances, a change in those circumstances later on may reveal the anticompetitive nature of the same provision. The changed circumstances described above show very significant anticompetitive effects have arisen since the Department's original advice letter. While

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[3] The licensee must have caused, or be reasonably responsible or answerable for the significant changes. Joint Committee on Atomic Energy, S. Rep. No. 91-1247, 91st Cong., 2d Sess. 29 (1970).

In addition to requesting our advice pursuant to section 105(c)(2), you have also asked the Department to respond to certain questions raised by the Commission in its June 16, 1977, Order.

[4] Title 32, Art. 1446(c), V.A.C.S.

[5] This section analyzes the competitive implications of a private agreement which includes as parties the dominant utilities in the State of Texas. The significance of the TPUC order, noted supra, which to some extent appears to presently supercede this agreement, is discussed in section E, infra.

HL&P did not cause, or cannot be held answerable for the increased costs of fuel to its competitors, HL&P is the cause and is answerable for the adverse effects of disconnecting from the smaller competitors that were operating in interstate commerce. Moreover, the basis for such action derived from the intrastate only agreement. Thus, on the basis of events occurring after the Department's original advice letter it can now be clearly seen that, with the increased importance of economic coordination brought about by the fuel situation, and the corresponding increased need and opportunity for coordination between interstate and intrastate utilities, HL&P, together with TU, by agreeing not to interconnect with utilities operating in interstate commerce have the power to and may adversely affect the future competitive situation, in or contiguous to the state of Texas, both between the intrastate systems and between the interstate and intrastate systems.

Certainly, as a matter of law, the Commission is not foreclosed from considering at this time the intrastate only restrictions. The mere fact that the Commission may conclude at any particular point in time that antitrust enforcement action is not advisable does not foreclose it from subsequently acting to confront a situation it then finds to be inconsistent with the antitrust laws if it otherwise has jurisdiction to act. *U.S.* v. *New Orleans Chapter, Associated General Contractors of America, Inc.*, 382 U.S. 17 (1965). Not even trade arrangements which have been long tolerated thereby require any vested immunity under the Sherman Act. *Times-Picayune Publishing Co.* v. *U.S., 345 U.S. 594 (1953). Even contemplated actions, such as mergers, once examined and not contested, can later be challenged if the dictates of the public interest so require. U.S.* v. *Jos. Schlitz Brewing Co.*, 253 F. Supp 129 (N.D. Cal. 1966) *Aff'd*, 385 U.S. 37 (1966).

In the Department's letter of January 17, 1974, pertaining to the Commanche Peak Generating Station, it was expressly indicated (in condition No. 11 of that license) that no view was then being taken as to the legality of the policy foreclosing transmission of power in interstate commerce. As the court noted in *U.S.* v. *Grinnell Corp.*, 30 F.R.D. 358 (D. R.I. 1962), whenever the Government reserves its future right to take action, any such communication of policy is not a final disposition of the matter at issue. Put succinctly, the obligation to protect the public interest can never be estopped by inaction at an earlier point.

E. The Proceedings in Other Forums

Your letter of August 25 finally asks that the Department provide "an evaluation of the probable effects of proceedings in other forums, as they have then progressed, in developing his [our] recommendations concerning further antitrust hearings." There are four proceedings in other forums, i.e., the Securities and Exchange Commission (SEC), the Federal Power Commission (FPC), the U.S. District Court in Dallas, Tex., and the Texas Public Utility Commission (TPUC), whose impact must be analyzed.

The proceeding before the SEC commenced in 1974 after several Oklahoma cooperatives and municipalities complained that the operating subsidiaries of Central & South West Corp. (C&SW), which include CP&L and WTU, were not operationally integrated and, therefore, were in violation of the Public Utility Holding Company Act of 1935. The SEC instituted hearings which, under the statute, involve as the sole issue: Whether the electric utilities facilities of subsidiaries of Central & South West Corp. supplemented as planned or proposed are capable of being economically operated as a single integrated and coordinated system and whether the proposals presented by Central & South West Corp. and its subsidiaries, with any amendments or modifications which may be developed during the proceeding, represent a reasonable prospect of achieving such economical operation, and what contingencies, if any, may affect carrying out any of such proposals.

Although HL&P and TU are participating in the hearings, it is clear that the SEC has no statutory authority to require that HL&P implement any interconnection plan with CP&L or any other utility; and that it cannot affect the competitive situation in Texas. Moreover, the SEC could not interfere with the NRC's power to remedy anticompetitive situations. Thus, it is our view that the SEC proceeding has no bearing on the question of whether an antitrust hearing before the NRC is necessary.

A proceeding before the FPC (now FERC) was initiated when CP&L filed a petition in May 1976, requesting the FPC to find that CP&L, WTU, TU, and HL&P were operating in interstate commerce and thus were all under the jurisdiction of the FPC. This contention was grounded on the fact that these systems had been interconnected for approximately 8 hours, during which time WTU transmitted power across the Texas border into Oklahoma. The FPC issued an order, finding that, inter alia, CP&L and WTU were jurisdictional but that TU and HL&P were not.* This decision is on appeal to the U.S. Court of Appeals, D.C. Circuit. Should the Court of Appeals reverse and hold that HL&P and TU are subject to the jurisdiction of the FERC then, as a practical matter, the intrastate only policy of these parties will have been ended. On the other hand, a more likely course for the Court, if it does not affirm, would be to remand to FERC for an evidentiary hearing. Neither affirmance nor remand would relieve the NRC of its statutory duty to remedy an anticompetitive situation nor preclude the Commission from doing so. The Department views the outcome of the FERC proceeding as too speculative to warrant much weight in our recommendation.

The third proceeding involves a civil complaint which has been filed by CP&L in the U.S. District Court in Dallas, Tex. CP&L alleges that HL&P and TU, by refusing to deal with utilities in interstate commerce, have engaged in a conspiracy in violation of section 1 of the Sherman Act and an attempt to monopolize in violation of section 2 of the Sherman Act. The legality of the intrastate only agreement is squarely before the district court. It is conceivable, therefore, that the court could find such agreement unlawful and enter a permanent injunction against it. In that event, NRC action might become unnecessary. On the other hand the proceeding involves two groups of large investor-owned systems each seeking to protect its own private corporate interests. They might settle their differences without resolving any of the antitrust concerns raised by the Department. Moreover, even if the defendants prevail in the district court the question of the legality of intrastate only agreements would not be settled since both the parties and legal standards are different in that case than they would be before the NRC.

While this is the only proceeding which may consider some of the same issues as would be raised before the NRC, we cannot be certain that a decision of the District Court will be dispositive. The Department believes it would be unwise and inappropriate for the NRC to defer to the district court proceeding. It must be remembered that this—the operating license stage—is the last opportunity that the NRC has to carry out its statutory mandate to use its licensing authority to prevent the creation or maintenance of a situation inconsistent with the antitrust laws. If the Commission fails to act now it runs the risk of facing an unremediable anticompetitive situation in the future.

A fourth proceeding arose before the TPUC. Until the TPUC was formed in 1976, electric utilities in Texas were not subject ot any statewide regulatory agency and, outside of retail rate regulation by the governing body of the municipalities within which it operated, an electric utility was essentially unregulated.

In January of 1977, HL&P and other utilities in the TIS area petitioned the TPUC, to require WTU and CP&L to cease interstate operation and to reconnect with the intrastate utilities. The TPUC, on May 2, 1977, without any hearings and contrary to its findings of the year before,* found that the then existing situation, with WTU, CP&L, and the three public systems operating disconnected from TU and HL&P, was having an adverse impact on the power supply situation in Texas, both in terms of reliability and cost of power. An order was issued requiring WTU to cease transmission of power into the State of Oklahoma and for WTU and CP&L to reestablish interconnection with TU and HL&P. The TPUC thereafter held hearings and, by an amended final order dated July 11, 1977, confirmed its earlier order of May 2, 1977.

The final amended order prohibits all TIS members from disconnecting without TPUC authorization and further restrains any utility system connected with TIS from making connections with utility systems not so connected, unless authorized by Texas law or so ordered by the FPC or the TPUC. The order also provides that TPUC decisions on applications seeking relief from these prohibitions are to be governed by a public interest standard.

CP&L has appealed the TPUC order to the Federal District Court in the Western District of Texas and to a State court. It has not yet been decided which court will ultimately act on the appeal.

At the present time, it is clear that to some extent the TPUC order has superseded, but not validated, the intrastate only agreement of the private utilities. The agreement is superseded in the sense that it is no longer the sheer economic power of the parties but rather the force of State law that restrains members of TIS from entering into interstate commerce. The agreement is not validated, however, since the TPUC expressly disclaimed any jurisdiction to determine whether the subject contracts were void or voidable. Therefore, while presently supplanted by a TPUC order, the private intrastate only agreements remain in existance and are capable of future implementation.

There are two reasons why the NRC ought to order an antitrust hearing in spite of the TPUC order. First, the Commission is confronted with a private agreement that raises serious competitive issues, that has not been abandoned by the parties and that has yet to be enjoined or declared unlawful. There is a real question as to whether the TPUC restraint on interstate connections is valid under the commerce clause of the United States Constitution. (Art. 1, section 8, clause 3.)* If on review, a court should abrogate that portion of the TPUC order, the TPUC might lift its injunction against disconnections from TIS. The point is simply that the private agreement may again become fully operative.

Given that the NRC has a nondelegable statutory responsibility to use its licensing authority to prevent the creation or maintenance of a situation inconsistent with the antitrust laws, it cannot ignore or look to others to prevent or correct an anticompetitive situation. Moreover, under its June 11, 1977, order in which it held itself to have only limited continuing antitrust authority the Commission will have no later opportunity to exercise its power since its jurisdiction to act is confined to the licensing stages.

Second, the TPUC may enforce its order in a manner which basically vindicates the operation of the intrastate only agreement. Arbitrary denials of applications for interstate connections can have the same anticompetitive effects as those that result from the threat of boycott. While we do not assert that the TPUC will act arbitrarily we also do not believe that the NRC can ignore its responsibility to protect interstate commerce from unreasonable competitive restraints—even those imposed by a State agency. The NRC can prevent the TPUC from improperly restricting competition by exercising its authority to condemn the intrastate only agreement and by reserving in license conditions the right to review and to countermand unreasonable refusals or failures to interconnect with utilities operating, or desiring to operate in interstate commerce, even where such actions are the result of TPUC decisions. This would not place the NRC in conflict with the TPUC since the Texas Public Utility Regulatory Act expressly provides that "No rule or order of the regulatory authority shall be in conflict with the rulings of any federal regulatory body."*

F. Conclusion

In view of the above legal and factual analysis, and the inability of the Department to conclude that the same issues raised herein will necessarily be resolved satisfactorily in another forum, the Department renews its advice that an antitrust hearing be held on the applicant's operating license. The purpose of the hearing would be to determine whether in order to remedy a situation inconsistent with the antitrust laws HL&P should be precluded from adhering to the intrastate only agreement or from unreasonably refusing to engage in interstate connections. At the time of the hearing, the Department of Justice may wish to participate to elaborate upon its views expressed in this letter, to offer evidence, to connect up legal theories and to evaluate and respond to submissions made by the parties.

[FR Doc. 78-5644 Filed 3-2-78; 8:45 am]

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*The FPC, in a later order denying a petition for reconsideration, specifically declined to consider antitrust issues that CP&L sought to raise.

*After a 1-day hearing in May of 1976, the TPUC made a finding that the situation, with HL&P and TU disconnected from the other TIS members, was not adversely affecting the reliability of any of the utilities. No determination was made as to any economic or competitive effects on any of the utilities.

*See *Penn.* v. *West Virginia*, 262 U.S. 533 (1923); *FPC* v. *Corporation Commission of the State of Oklahoma*, 362 F. Supp. 522 (W. D. Okla. 1973) (three judge court), Sum, aff'd, 415 U.S. 961 (1974).

*Public Utility Regulatory Act, Title 32, Art. 1446(c), § 37 V.A.C.S.

[7590-01]

INTERNATIONAL ATOMIC ENERGY AGENCY DRAFT SAFETY GUIDE

Availability of Draft for Public Comment

The International Atomic Energy Agency (IAEA) is developing a limited number of internationally acceptable codes of practice and safety guides for nuclear power plants. These codes and guides will be developed in the following five areas: Government Organization, Siting, Design, Operation and Quality Assurance. The purpose of these codes and guides is to provide IAEA guidance to countries beginning nuclear power programs.

The IAEA codes of practice and safety guides are developed in the following way. The IAEA receives and collates relevant existing information used by Member Countries. Using this collation as a starting points, an IAEA Working Group of a few experts then develops a preliminary draft. This preliminary draft is reviewed and modified by the IAEA Technical Review Committee to the extent necessary to develop a draft acceptable to them. This draft code of practice or safety guide is then sent to the IAEA Senior Advisory Group which reviews and modifies the draft as necessary to reach agreement on the draft and then forwards it to the IAEA Secretariat to obtain comments from the member States. The Senior Advisory Group then considers the Member State comments, again modifies the draft as necessary to reach agreement and forwards it to the IAEA Director General with a recommendation that it be accepted.

As part of this program, Safety Guide SG—QA6, "Quality Assurance for Design of Nuclear Power Plants," has been developed. An IAEA Working Group, consisting of Mr. S. K. Hellman (The Ralph M. Parsons Co.) of the United States of America, Mr. A. Kakodkar of India and Mr. L. Laurent of France developed this draft from an IAEA collation during a meeting on January 30–February 3, 1978, and we are soliciting public comment on it. Comments on this draft received by March 31, 1978 will be useful to the U.S. representatives to the Technical Review Committee and Senior Advisory Group in evaluating its adequacy prior to the next IAEA discussion.

Single copies of this draft may be obtained by a written request to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 522(a).)

Dated at Rockville, Maryland this 24th day of February 1978.

For the Nuclear Regulatory Commission.

RAY G. SMITH,
Deputy Director
Office of Standards Development.

[FR Doc. 78-5647 Filed 3-2-78; 8:45 am]

[7590-01]

REVISION TO THE STANDARD REVIEW PLAN (NUREG-75/087)

Issuance and Availability

As a continuation of the updating program for the Standard Review Plan (SRP) previously announced (FEDERAL REGISTER notice dated December 8, 1977), the Nuclear Regulatory Commission's (NRC's) Office of Nuclear Reactor Regulation has published Revision No. 1 to Section No. 9.2.4 of the SRP for the NRC staff's safety review of applications to build and operate light-water-cooled nuclear power reactors. The purpose of the plan, which is composed of 224 sections, is to improve both the quality and uniformity of the NRC staff's review of applications to build new nuclear power plants, and to make information about regulatory matters widely available, including the improvement of communication and understanding of the staff review process by interested members of the public and the nuclear power industry. The purpose of the updating program is to revise sections of the SRP for which changes in the review plan have been developed since the original issuance in September 1975 to reflect current practice.

Copies of the Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants, which has been identified as NUREG-75/087, are available from the National Technical Information Service, Springfield,

Va. 22161. The domestic price is $70.00, including first-year supplements. Annual subscriptions for supplements alone are $30.00. Individual sections are available at current prices. The domestic price for Revision No. 1 to Section No. 9.2.4 is $4.00. Foreign price information is available from NTIS. A copy of the Standard Review Plan including all revisions published to date is available for public inspection at the NRC's Public Document Room at 1717 H Street NW., Washington, D.C. 20555.

(5 U.S.C. 552(a).)

Dated at Bethesda this 24th day of February 1978.

For the U.S. Nuclear Regulatory Commission.

ROGER J. MATTSON,
Director, Division of Systems Safety, Office of Nuclear Reactor Regulation.

[FR Doc. 78-5648 Filed 3-2-78; 8:45 am]

[6820-27]

OFFICE OF THE FEDERAL REGISTER

REGULATIONS DRAFTING WORKSHOPS SCHEDULED

May and June 1978

The Regulations Drafting Workshop covers the following material:

1. Drafting conventions, preferred usage, the rule of consistency.
2. Drafting exercises—proposed and final rules and preambles.
3. Review techniques that improve your work.
4. What you can do to make regulations easier to read and to use.

The aim of this workshop is to improve the quality of Federal regulations by teaching you how to design and draft clear documents.

WHO: Any Federal employee who drafts documents or who reviews documents for substance that are published in the FEDERAL REGISTER.

WHEN: May 22, 23, 24, 25, 1978 for people who are familiar with the rulemaking process and want to examine course material in depth.

June 26, 27, 28, 29, 1978, the same course will be given for people who are new to the Federal Government or to the rulemaking process and want a basic course.

WHERE: 1100 L Street NW., Room 9407, Washington, D.C.

COST: $150 for each person. Send a Form 170 or the training authorization form used by your office to: Special Projects Unit, Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.

HOW: Each participant must call the Office of the Federal Register, 202-523-4534 to make a reservation in addition to completing the training form.

FOR MORE INFORMATION: Write: Special Projects Unit, Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408, or phone 202-523-4534.

Dated: February 28, 1978.

FRED J. EMERY,
Director of the Federal Register.

[FR Doc. 78-5601 Filed 3-2-78; 8:45 am]

[7555-02]

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

EARTHQUAKE HAZARDS REDUCTION ADVISORY GROUP

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the Office of Science and Technology Policy announces the following meeting:

Name: Earthquake Hazards Reduction Advisory Group.
Date: March 20, 1978.
Time and place: 9 a.m. to 4 p.m. Room 3104, New Executive Office Building, 17th and Pennsylvania Ave. NW., Washington, D.C. 20500.
Type of meeting: Open.
Contact person: Mr. William Montgomery, Executive Office of the President, Office of Science and Technology Policy, Washington, D.C. 20500, telephone 202-395-4692.
Summary minutes: May be obtained from the Office of Science and Technology Policy, Washington, D.C. 20500.
Purpose of advisory committee: The Office of Science and Technology Policy, in accordance with the statutory mandate to analyze and interpret significant developments and trends in science and technology and relate these to their impact on the achievement of national goals and objectives, is reviewing the activities and plans appropriate to the Federal, State, local governmental units, and the private sector for the implementation of actions derived from a comprehensive program of research in earthquake prediction, earthquake hazards assessment and earthquake disaster mitigation.
Agenda: 9 a.m. to 4 p.m.—A discussion of draft materials prepared as part of the policy review process for the President.

WILLIAM MONTGOMERY,
Executive Officer.

[FR Doc. 78-5703 Filed 3-2-78; 8:45 am]

[3190-01]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

[Docket No. 301-12]

TRADE POLICY STAFF COMMITTEE

Termination of Section 301 Review

Pursuant to the regulations of the Office of the Special Representative for Trade Negotiations, as amended, the Trade Policy Staff Committee hereby terminates its review of a petition alleging unfair trade practices by Japan against United States commerce in thrown silk under section 301 of the Trade Act of 1974 (Docket No. 301-12).

On February 14, 1977, the George F. Fisher Co. filed a petition alleging that Japan was discriminating against United States commerce in thrown silk by effectively preventing the entry of such imports from the United States while permitting imports from Korea, the Peoples Republic of China, and Brazil under agreements negotiated with those countries. The petition was published in the FEDERAL REGISTER for Tuesday, March 1, 1977 (42 FR 11935) and the hearing requested by the petitioner was held on March 29, 1977. The office of the Special Representative for Trade Negotiations, through the section 301 Subcommittee, conducted an extensive review of the allegations in the petition. Prior to this review, the Office of the Special Representative for Trade Negotiations had initiated discussions on this matter with Japan; during and subsequent to the review, these discussions were continued. When the discussions with Japan failed to produce a solution to this problem, the United States instituted a complaint against Japan under the dispute settlement provisions of Article XXIII(2) of the General Agreement on Tariffs and Trade (GATT). Discussions with Japan continued during processing of the United States GATT complaint. As a result of these conversations, Japan has agreed to make adjustments satisfactory to the United States.

On the basis of the Japanese measures, the Trade Policy Staff Committee has concluded that action is no longer required under section 301 of the Trade Act of 1974 and that the purposes of the Act have been fulfilled through a bilateral resolution of the dispute.

Therefore, pursuant to regulations governing procedures for complaints under section 301 of the Trade Act of 1974, the Trade Policy Staff Committee now terminates the review of the petition underlying Docket No. 301-12.

WILLIAM B. KELLY, JR.,
Chairman,
Trade Policy Staff Committee.

[FR Doc. 78-5671 Filed 3-2-78; 8:45 am]

[7715-01]

POSTAL RATE COMMISSION

[Docket No. MC76-5]

BASIC MAIL CLASSIFICATION REFORM SCHEDULE, 1976

FEBRUARY 27, 1978.

Notice is hereby given that pursuant to the Presiding Officer's "Notice Of Deadlines For Filing Objections To Proposed Stipulation And Agreement And Responses Thereto", dated February 27, 1978, a prehearing conference was held on February 23, 1978, to establish procedures for disposition of the settlement agreement submitted to the Commission on January 30, 1978,[1] as provided in the Notice of Proposed Stipulation and Agreement and Ruling Suspending Date for Filing of Testimony Concerning the Scope and Extent of the Domestic Mail Classification Schedule issued on February 3, 1978. During that conference, a tentative schedule for the remainder of the scope and extent phase of this docket was adopted; a copy of that schedule is appended hereto.

Two dates listed on the attached tentative schedule are hereby announced as final and firm deadlines. Parties are put on notice that any objection to the proposed Stipulation and Agreement must be filed by March 15, 1978. As stated on the attached schedule, objections must be accompanied by a brief and/or testimony, which should declare the grounds for the party's opposition with particularity.

As the attached schedule also provides, should any objections with supporting documents be received by the March 15 deadline, reply briefs will be due on April 4, 1978.

DAVID F. HARRIS,
Secretary.

TENTATIVE SCHEDULE SCOPE AND EXTENT PHASE OF DOCKET NO. MC 76-5

February 23—Conference.
February 23—Informal Discovery Begins.
March 15—Deadline for objection to Proposed Settlement. Objections must be accompanied by brief and/or testimony in opposition.
April 4—Reply briefs re Proposed Settlement.
April 11—Deadline for testimony concerning issues in Appendix B of the Stipulation and Agreement.
April 28—Deadline for discovery concerning testimony on Appendix B issues. (Answers due May 18, or 20 days after interrogatory filed, whichever is earlier.)
May 22-26—Hearings.
June 9—Deadline for rebuttal testimony concerning issues in Appendix B of the Stipulation and Agreement.
June 19-23—Hearings on rebuttal testimony.
July 17—Briefs due.
August 4—Reply briefs due.
August 9—Oral Argument (if requested).

[FR Doc. 78-5639 Filed 3-2-78; 8:45 am]

[1] Copies of the Stipulation and Agreement and of the Notice and Ruling issued on February 3, 1978, have been served on the parties of record in this proceeding and are also available for public inspection in the Commission's reading room during regular business hours.

[6820-40]

PRESIDENT'S COMMISSION ON MENTAL HEALTH

TWO-DAY MEETING

In accordance with section 10(a) (2) of the Federal Advisory Committee Act (5 USC Appendix I), announcement is made of the following Presidential Committee meetings scheduled to assemble during the month of March, 1978.

The President's Commission on Mental Health: March 17, 1978—9:30 a.m. to 5:00 p.m.; March 18, 1978—9:30 a.m. to 5:00 p.m. New Executive Office Building, Room 2010, Pennsylvania & 17th Streets NW., Washington, D.C.

Open Meeting

Contact: Mary Ann Orlando, Special Assistant to the Chairman, President's Commission on Mental Health, Room 121, Old Executive Office Building, Washington, D.C. 20500, Telephone 202-456-7100.

Purpose: The President's Commission on Mental Health is a policy recommendation commission composed of 20 members representing a broad spectrum of interested and informed private citizens. The Commission was created by the President by Executive Order No 11973 and was directed to identify the mental health needs of the nation. In particular, the Commission shall seek to identify: how the mentally ill, emotionally distrubed and mentally retarded are being served or underserved and who is affected by such underservice; projected needs for dealing with emotional stress during the next twenty-five years; ways the President, the Congress and the Federal Government may efficiently support the treatment of the underserved mentally ill, emotionally disturbed and mentally retarded; methods for coordinating a unified approach to all mental health services; types of research the Federal Government should support to further prevention and treatment of mental illness and mental retardation; roles of various educational systems, volunteer agencies and other people-helping institutions can perform to minimize emotional disturbance; and what programs will cost, when the money should be spent and how the financing should be divided among Federal, State and local governments, and the private sector. The Commission shall conduct such public hearings, inquiries and studies as may be necessary, and shall submit a preliminary report to the President by September 1, 1977. A final report with recommendations and priorities shall be submitted to the President by April 1, 1978.

Agenda: This meeting will be open to the public. This will be a working session without presentations and the agenda will consist of a general discussion of issues pertaining to the Commission's report to the President.

Substantive program information may be obtained from: Mary Ann Orlando, Special Assistant to the Chairman, The President's Commission on Mental Health, Room 121, Old Executive Office Building, Washington, D.C. 20500, telephone: 202-456-7100.

Attendance by the public will be limited to space available.

Mary Ann Orlando will furnish upon request summaries of the meeting and a roster of the Commission. President's Commission on Mental Health, Room 121, Old Executive Office Building, Washington, D.C. 20500.

BENEDICT J. LATTERI,
Administrative Officer, President's Commission on Mental Health.

FEBRUARY 24, 1978.

[FR Doc. 78-5640 Filed 3-2-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 14500; SR-Amex-77-40]

AMERICAN STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

FEBRUARY 24, 1978.

On January 3, 1978, the American Stock Exchange, Inc. ("AMEX") 86 Trinity Place, New York, N.Y. 10006, filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), and Rule 19b-4 thereunder, copies of a proposed rule change to amend paragraph (c)(vii) of Amex Rule 5 which specifies the circumstances under which an Amex member, acting as principal, may effect transactions over-the-counter in equity securities admitted to dealings on that exchange. The proposed amendment expands the current exemption set forth in rule 5(c)(vii) to include stocks in which the Amex has halted trading for more than thirty (30) days.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission release (Securities Exchange Act Release No. 14388, (January 17, 1978))

and by publication in FEDERAL REGISTER (43 FR 3449 (January 25, 1978)). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were made available to the public at the Commission's Public Reference Room (File No. SR-Amex-77-40).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Amex proposal creates an additional exemption to the exchange's restrictions on off-board principal transactions with respect to any equity security admitted to dealings thereon, and as to which the exchange has halted trading in excess of thirty (30) days. Consequently Amex members may now compete with non-members in making markets, over-the-counter, in such issues. In view of this potential enhancement of competition with respect to market-making in certain Amex-listed issues, the Commission finds good cause for approving the instant proposed rule change prior to the thirtieth day after date of publication of notice of filing thereof.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5558 Filed 3-2-78; 8:45 am]

[8010-01]

[File No. 81-301]

CALIFORNIA FINANCIAL CORP.

Application and Opportunity for Hearing

FEBRUARY 23, 1978.

Notice is hereby given that California Financial Corp. ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act") for exemption from the filing requirements of Sections 13 and 15(d) of the 1934 Act.

The Application states, in part:

1. The Applicant is a Delaware corporation subject to the reporting provisions of Sections 13 and 15(d) of the 1934 Act.

2. On May 24, 1977, the stockholders of the Applicant approved the sale of substantially all of the Applicant's assets and adopted a plan of complete liquidation.

3. The Applicant is no longer an operating business entity and its activities are confined solely to expeditious liquidation.

In the absence of an exemption, Applicant is required to file certain periodic reports with the Commission pursuant to Section 13 and 15(d) of the 1934 Act.

The Applicant argues that no useful purpose would be served in filing the required periodic reports.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street Washington, D.C. 20549.

Notice is further given that any interested person not later than March 20, 1978 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5559 Filed 3-2-78; 8:45 am]

[8010-01]

[Release No. 34-14502; File No. SR-CBOE-78-1]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on January 23, 1978 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Item 1. *Text of Proposed Rule Change*

Day and Hours of Business

Rule 6.1 (no change)

* * * Interpretations and Policies

.01 The Board of Directors has resolved that, *except under unusual conditions as may be determined by the Board,* hours during which transactions may be made on the exchange shall correspond to the *normal hours for business set forth in the rules* [hours of operations] of the primary exchange listing the stocks underlying CBOE options.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The purpose of the proposed change was to clarify an ambiguity in the existing language. Questions were raised as to the meaning of such Interpretation in view of the difficulties which the New York Stock Exchange ("NYSE") experienced in commencing operations due to a snow storm on January 20, 1978.

It was determined that such language was never intended to mean that CBOE would not open for trading whenever the NYSE, the primary market for practically all CBOE stocks, was not open. Instead this language was intended to merely prescribe that the regular business hours of the CBOE would correspond to the regular business hours of the NYSE. Consequently, if the NYSE opened late or closed early, CBOE could exercise its judgment as to whether it should open trading before NYSE or close trading after the NYSE closed trading.

The basis for the proposed rules change is contained in section 6(b)(5) of the Act.

Comments were not solicited from members on this proposed rules change.

The CBOE does not believe this proposed rules change imposes any burden upon competition.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submission will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for

inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before March 24, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 24, 1978.

[FR Doc. 78-5574 Filed 3-2-78; 8:45 am]

[8010-01]

[Release No. 34-14501; File No. SR-CBOE-78-3]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on February 16, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Floor Procedure Committee of the Chicago Board Options Exchange has, in accordance with the provisions of Interpretation .03 of Rule 6.24, substantially amended the Terminal Order Formats Manual. The revised Manual is hereby filed in its entirety with the Securities and Exchange Commission and supersedes the previously filed Manual.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The purpose of this filing is to set forth the changes which have been implemented by the Exchange's Floor Procedure Committee with respect to the uniform manner in which orders for and reports of options transactions are handled by Exchange members and their personnel over telecommunications machinery.

Section 6(b)(5) of the Act provides the basis for the foregoing amendments.

No comments were solicited from the membership of the Exchange regarding the changes to be effected in the Terminal Order Formats Manual.

No burden will be imposed upon competition by the proposed changes to the above manual.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submission will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before March 24, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 24, 1978.

[FR Doc. 78-5575 Filed 3-2-78; 8:45 am]

[8010-01]

[Release No. 10141; 812-4225]

CONNECTICUT GENERAL LIFE INSURANCE CO., ET AL.

Application for an Order of Exemption

FEBRUARY 27, 1978.

Notice is hereby given that Connecticut General Life Insurance Co. ("CG Life"), a Connecticut stock life insurance company, CG Fund, Inc., CG Income Fund, Inc., CG Money Market Fund, Inc., and CG Municipal Bond Fund, Inc. (the "Funds"), open-end diversified management investment companies registered under the Investment Company Act of 1940 ("Act"), and CG Equity Sales Co. ("Equity Sales"), the principal underwriter of the Funds and a wholly-owned subsidiary of Connecticut General Insurance Corp., the parent corporation of CG Life (collectively referred to as "applicants"), have filed an application on November 17, 1977, and an amendment thereto on February 3, 1978, pursuant to section 6(c) of the Act for an order of exemption from section 22(d) of the Act to the extent necessary to permit inclusion of certain accumulated annuity values, or amounts as to which there is a statement of intention in effect for the purchase of such annuities, in determining the sales loads applicable to Fund share purchases where rights of accumulation, statements of intention, or aggregation of amounts invested are employed. Applicants further request an exemption from the provisions of section 22(d) of the Act to the extent necessary to permit the sales of Fund shares at no-load where purchase payments represent transfers of certain accumulated annuity values within those limitations specified herein. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Purchasers of Fund shares are permitted to reduce the applicable sales load through the use of the right of accumulation, a statement of intention, and aggregation of amounts invested in other Funds. Applicants state that these reductions in sales loads are consistent with the provisions of rule 22d-1 under the Act.

A significant portion of Fund sales involves tax qualified accounts (hereinafter referred to as "retirement plans"). CG Life sells annuity products to retirement plans, providing a guarantee of principal and interest as well as significant insurance guarantees including a minimum death benefit and an annuity purchase rate guarantee. The CG Life annuities affected by this application (hereinafter referred to as "retirement annuities") are sold in conjunction with Fund shares as alternative or complementary funding vehicles for retirement plans. Such sales are handled by salesmen registered to sell both life insurance for CG Life and securities for Equity Sales. Consistent with this, the Funds and the retirement annuities are sold with identical sales loads which range from 7.5 percent to 1 percent of their respective public offering prices.

Notwithstanding the fact that the Funds and the retirement annuities apply identical sales loads, the effective aggregate sales load borne by a retirement plan may vary depending upon the amount of assets allocated between the Funds and the retirement annuities. This occurs presently because it is necessary to calculate the sales charge applicable to purchases of Funds without regard to purchases which may have been made of the retirement annuities. As a result, because of applicable breakpoints in the sales load structure and the inability to consider values accumulated under retirement annuities for purposes of the right of accumulation, a statement of intention, or the right of aggregation in the determination of sales load on Fund share purchases, a plan

choosing to split its assets between retirement annuities and Funds will probably pay a higher sales charge

position of any sales load under these circumstances imposes an unnecessary burden upon the fiduciary in meeting

to eliminate any possibility of abuse arising out of the transactions described herein. First, Fund prospec-

quest. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of

for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such

1977, Franklin Equity filed articles of dissolution with the State of Mary-

choosing to split its assets between retirement annuities and Funds will probably pay a higher sales charge than a plan that allocates all of its assets solely to one or the other. Applicants wish to eliminate this unintended result, creating a situation in which the sales load applied to any purchase payment will be the same regardless of present or past allocations between Funds and retirement annuities. Similarly, applicants wish to permit the no-load purchase of Fund Shares with amounts transferred from accumulated retirement annuity values in order to be consistent in their desire to charge only one sales load against present and future allocations of plan assets.

Section 22(d) provides, in part, that no registered investment company shall sell any redeemable security issued by it to any person except either to or through a principal underwriter for distribution or at a current public offering price described in the prospectus, and, if such class of security is being currently offered to the public by or through an underwriter, no principal underwriter of such security and no dealer shall sell any such security to any person except a dealer, a principal underwriter, or the issuer, except at a current public offering price described in the prospectus.

Salesmen normally present information concerning both the Funds and retirement annuities when discussing and assessing a retirement plan's needs with its fiduciary. For the same reasons that rights of accumulation and aggregation and statements of intention are permitted for fund complexes by rule 22d-1, Applicants believe such methods of sales load reduction should be extended to holders of retirement annuities and their interests therein. This is consistent with applicants' intention to consider the sale of retirement annuities and Funds as a single purchase decision. It is also consistent with the concept that the sale of Fund shares to a retirement annuity customer requires less selling effort in view of the salesman's familiarity with the fiduciary and the fiduciary's familiarity with the Funds.

Where Fund shares are purchased with some portion of the accumulated value of a retirement annuity, Applicants wish to avoid the unnecessary duplication of sales charges which would result if such purchases were subject to a sales load. As stated previously, contributions into a retirement annuity will already have been assessed a full sales load and the Funds will already have been described in the initial selling effort. Moreover, applicants anticipate that such transactions will occur not as a result of any selling effort but as a result of changes in a retirement plan's investment objectives. Applicants believe that the imposition of any sales load under these circumstances imposes an unnecessary burden upon the fiduciary in meeting his responsibilities. Finally, by permitting the no-load purchase of Fund shares with retirement annuity cash values, applicants and the Commission will be assured that salesmen are not engaged in the practice of "switching" in order to generate sales commissions.

Consistent with applicants' intentions specified above, applicants state that the retirement annuities will contain certain features which will discourage speculation and extreme shifts between the retirement annuities and the Funds. The retirement annuity contracts currently provide that no-load transfer of proceeds from the redemption of Fund shares to the retirement annuity may not exceed 10 percent of the value of the customer's Fund share account in any 1 year. Applicants state that this is due primarily to two considerations. First, CG Life does not wish to create competing products which could encourage substantial shifts of assets out of the Funds. Any such loss of Fund assets could impair Fund liquidity and thus force the untimely liquidation of portfolio securities and the concomitant incurring of additional portfolio commission expenses. Secondly, substantial shifts of assets into CG Life's general account can cause a lower overall rate of return, since those new assets must frequently be placed into lower yield short-term instruments until such time as they can be properly invested. While it is unlikely that the restrictions on transfer imposed by the retirement annuity contracts will be changed by CG Life, any such change will require the approval of the independent directors of the Funds in order to help assure that such changes are not disadvantageous to the Funds.

Alternatively, the retirement annuity contract limits to 10 percent the amount of its account value which can be withdrawn in any year without penalty to purchase Fund shares. This is so because of the significant insurance guarantees present in the retirement annuities and the potential adverse impact to the retirement annuities which could be caused by annuitants "selecting against" CG Life. Applicants state that, consistent with the Act, no restrictions are placed on the purchase or redemption of Fund shares, and salesmen will not receive any compensation in advising or handling asset reallocations between Funds and retirement annuities. All of the restrictions noted herein are a part of the retirement annuities, which are regulated by state insurance departments and subject to different regulatory requirements and objectives.

Applicants undertake to implement certain safeguards which are intended to eliminate any possibility of abuse arising out of the transactions described herein. First, Fund prospectuses, which are delivered annually to current shareholders, will disclose the applicable sales loads and existence of restrictions on transfers imposed by the retirement annuities. Secondly, all requests for reallocation of retirement plan assets will be accepted only after a request form has been signed by the retirement plan fiduciary and sent to Equity Sales. That form will again disclose restrictions on reallocations present in the retirement annuities. Finally, Equity Sales will subject all requests for reallocation of assets to its routine "compliance check" which includes an examination as to whether such transactions are handled properly, and which helps to assure that the lowest possible sales load is applied against each purchase of Fund shares.

Applicants state that the reductions in or elimination of sales load described above will not be unfair to present Fund shareholders since the per share value of Fund shares will not be diluted by such transactions which affect only the sales load charged. Moreover, to the extent that such incentives results in additional purchases of Fund shares, current shareholders may be advantaged by the increased ability of the Funds to offset redemptions with new purchases and the resulting ability of the Funds to maintain or increase their current level of portfolio investment.

Section 6(c) of the Act provides, in part, that the Commission may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities or transactions from any provision or provisions of the Act or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than March 20, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5560 Filed 3-2-78; 8:45 am]

[8010-01]

[Release No. 10135; 811-2190]

FRANKLIN LIFE BOND FUND, INC.

Proposal To Terminate Registration

FEBRUARY 23, 1978.

Notice is hereby given that the Commission proposes, pursuant to section 8(f) of the Investment Company Act of 1940 ("Act"), to declare, by order on its own motion, that Franklin Life Bond Fund, Inc. ("Franklin Bond"), Franklin Square, Springfield, Ill. 62705, registered under the Act as a diversified, open-end management investment company, has ceased to be an investment company as defined in the Act.

Franklin Bond registered under the Act on May 7, 1971. Commission files indicate that Franklin Bond's shareholders adopted a plan of reorganization on June 21, 1977, pursuant to which substantially all of Franklin Bond's assets were transferred to monthly income shares ("MIS"), a registered investment company, in exchange for shares of the voting stock of MIS. The files further show that on September 27, 1977, the plan of reorganization was consummated and MIS shares were distributed to the then existing Franklin Bond shareholders. On December 15, 1977, Franklin Bond filed articles of dissolution with the State of Maryland, Department of Assessments and Taxation.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission on its own motion finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than March 20, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Franklin Bond at the address stated above. Proof of such service (by affidavit or, in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the matter will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5561 Filed 3-2-78; 8:45 am]

[8010-01]

[Release No. 10136; 811-2175]

FRANKLIN LIFE EQUITY FUND, INC.

Proposal To Terminate Registration

FEBRUARY 23, 1978.

Notice is hereby given that the Commission proposes, pursuant to section 8(f) of the Investment Company Act of 1940 ("Act"), to declare, by order on its own motion, that Franklin Life Equity Fund, Inc. ("Franklin Equity"), Franklin Square, Springfield, Ill. 62705, Registered under the Act as a diversified, open-end management investment company, has ceased to be an investment company as defined in the Act.

Franklin Equity registered under the Act on March 9, 1971. Commission files indicate that Franklin Equity's shareholders adopted a plan of reorganization on June 21, 1977, pursuant to which substantially all of Franklin Equity's assets were transferred to Bullock Fund, Ltd. ("Bullock"), a registered investment company, in exchange for shares of the voting stock of Bullock. The files further show that on September 27, 1977, the plan of reorganization was consummated and said shares of Bullock stock were distributed to the then existing Franklin Equity shareholders. On December 15, 1977, Franklin Equity filed articles of dissolution with the State of Maryland, Department of Assessments and Taxation.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission on its own motion finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than March 20, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Franklin Equity at the Address stated above. Proof of such service (by affidavit or, in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the matter will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5562 Filed 3-2-78; 8:45 am]

[8010-01]

[Release No. 20419; 70-6118]

GEORGIA POWER CO.

Proposed Transactions Related to Financing of Pollution Control Facilities, Exception From Competitive Bidding, and Increase in Amount of First Mortgage Bonds Which May Be Outstanding Under Indenture

FEBRUARY 23,1978.

Notice is hereby given that Georgia Power Co. ("Georgia"), 270 Peachtree Street NW., Atlanta, Ga. 30302, a wholly owned electric utility subsidiary of the Southern Co., a registered holding company, has filed a declaration with this Commission pursuant to the

Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a) and 7 of the Act and rule 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Georgia states that in order to comply with prescribed environmental standards of the State of Georgia with respect to air and water quality, it has been and will be necessary for the company to construct certain pollution control facilities solely for this purpose. The present declaration relates to Georgia's proposal for its financing of the pollution control facilities for use in connection with its Arkwright, Bowen, and Hammond steam plants located, respectively, in Bibb, Bartow, and Floyd Counties, as hereinafter described. Each transaction will be substantially similar. It is intended that a Development Authority of each such county ("Authority") will issue its pollution control revenue bonds and industrial development revenue bonds ("revenue bonds") for the purpose of making loans to Georgia to pay the costs of the acquisition, construction, and equipping of the pollution control facilities at the plant located in its county referred to above ("project"). While the actual amount of revenue bonds to be issued by each Authority has not yet been determined, such amount will be based upon the cost of the project located in its county. It is presently estimated that the aggregate principal amount of revenue bonds to be issued by all three Authorities will not exceed $30,000,000, of which up to $27,000,000 will be pollution control revenue bonds and up to $3,000,000 will be industrial development revenue bonds.

Georgia proposes to enter into two separate loan agreements with each authority ("agreements"), one relating to the pollution control revenue bonds and the other relating to the industrial development revenue bonds of that Authority. Under each agreement, the Authority will loan to Georgia the proceeds of the sale of the Authority's related revenue bonds, and Georgia will issue a nonnegotiable promissory note therefor ("note"). Such proceeds will be deposited with a trustee ("trustee") under an indenture to be entered into between the Authority and such trustee ("trust indenture"), pursuant to which such revenue bonds are to be issued and secured, and will be applied by Georgia to payment of the cost of construction (as defined in the agreement) of the related project. Each Note will provide for payments thereon to be made at times and in amounts which shall correspond to the payments with respect to the principal of, premium, if any, and interest on the related revenue bonds whenever and in whatever manner the same shall become due, whether at stated maturity, upon redemption, or declaration, or otherwise.

Each agreement will provide for the assignment to the trustee of the Authority's interest in, and of the moneys receivable by the Authority under, the agreement and the note. Each agreement will also obligate Georgia to pay the fees and charges of the trustee and will provide that Georgia may at any time, so long as it is not in default thereunder, prepay the amount due under the note, including interest thereon, in whole or in part, such payment to be sufficient to redeem or purchase the related outstanding revenue bonds in the manner and to the extent provided in the trust indenture.

Each trust indenture will provide that the revenue bonds issued thereunder will be redeemable: (i) At any time on or after 10 years from the date of issuance, in whole or in part, at the option of Georgia, initially with a premium of 3 percent of the principal amount and declining by ½ of 1 percent annually thereafter, and (ii) in whole, at the option of Georgia, in certain other cases of undue burdens or excessive liabilities imposed with respect to the related project, its destruction or damage beyond practicable or desirable repairability, or condemnation or taking by eminent domain, or if operation of the related plant is enjoined and Georgia determines to discontinue operation thereof, such redemption of all such outstanding revenue bonds to be at the principal amount plus accrued interest, but without premium. It is proposed that the revenue bonds will mature 30 years from the first day of the month in which they are initially issued and that such revenue bonds will be entitled to the benefit of mandatory redemption sinking funds calculated to retire not less than 25 percent of the aggregate principal amount of the issue prior to maturity.

In order to obtain the benefit of ratings for the revenue bonds equivalent to the rating enjoyed by the first mortgage bonds outstanding under its indenture dated as of March 1, 1941, between Georgia and Chemical Bank, as trustee ("indenture trustee"), as supplemented and amended ("mortgage"), which ratings Georgia has been advised may be thus attained, Georgia proposes to secure its obligations under each note by delivering to the trustee, to be held as collateral, a series of its first mortgage bonds ("collateral bonds") in principal amount equal to the principal amount of the related revenue bonds. Each series of collateral bonds will be issued under an indenture supplemental to the mortgage ("supplemental indenture") to be dated as of the first day of the month in which the collateral bonds are to be issued and delivered, will bear interest at a rate equal to the interest rate to be borne by the related revenue bonds, will mature on the maturity date of such bonds, and will be nontransferable by the trustee.

The supplemental indenture will provide, however, that the obligation of Georgia to make payment with respect to the collateral bonds will be satisfied to the extent that payments are made under the note sufficient to meet payments when due in respect of the related revenue bonds. The supplemental indenture will provide that, upon acceleration by the trustee of the principal amount of all related outstanding revenue bonds under the trust indenture, the trustee may demand the mandatory redemption of the collateral bonds then held by it as collateral at a redemption price equal to the principal amount thereof plus accrued interest, if any, to the date fixed for redemption. The supplemental indenture will also provide that, upon the optional redemption of the related revenue bonds, in whole or in part, at any time after they have been outstanding for 10 years, an equal principal amount of the collateral bonds will be redeemed at an initial premium of 3 percent declining by ½ percent every year. It is stated that, because interest accrues in respect of the collateral bonds until satisfied by payments under the note, "annual interest charges" in respect of the collateral bonds will be included in computing the "interest earnings requirement" of the mortgage which restrict the amount of first mortgage bonds which may be issued and sold to the public in relation to Georgia's net earnings. The collateral bonds will be issued on the basis of unfunded net property additions. The trust indenture will provide that, upon deposit with the trustee of funds sufficient to pay or redeem all or any part of the related revenue bonds, or upon direction to the trustee by Georgia to so apply funds available therefor, or upon delivery of such outstanding revenue bonds to the trustee by or for the account of Georgia, the trustee will be obligated to deliver to Georgia, or for the account of Georgia, the collateral bonds then held as collateral in an aggregate principal amount equal to the aggregate principal amount of such revenue bonds for the payment or redemption of which such funds have been deposited or applied or which shall have been so delivered.

It is contemplated that the revenue bonds will be sold by the Authorities pursuant to arrangements with one or more underwriters. In accordance with the laws of the State of Georgia, the interest rate to be borne by the revenue bonds will be fixed by the Boards of Directors of the Authorities. While Georgia will not be party to the underwriting arrangements for the revenue bonds, such arrangements will provide that the terms of the revenue bonds and their sale by the Authorities shall be satisfactory to Georgia. Bond counsel will issue an opinion that interest on the revenue bonds will be exempt from Federal income taxation. Georgia has been advised that the interest rates on obligations, interest on which is so tax exempt, historically have been, and can be expected at the time of issue of the revenue bonds to be, 1¼ percent to 2½ percent lower than the rates on obligations of like tenor and comparable quality, interest on which is fully subject to Federal income taxation. The obligations of Georgia under the separate agreements relating to the industrial development revenue bonds will be secured by separate series of collateral bonds. Such small issue bonds will be marketed contemporaneously with the other revenue bonds. Georgia will grant each Authority, in connection with its small issue bonds, a lien on certain property of Georgia other than the projects. Each such lien will be subordinate to the lien of the mortgage and will be assigned by the Authority to the trustee. The lien will be created by means of a deed to secure debt.

By orders dated January 21 and September 5, 1972 (HCAR Nos. 17437 and 17684), the Commission authorized Georgia to, among other things, execute a supplemental indenture modifying certain provisions of the mortgage which: (a) Immediately increased the aggregate principal amount of bonds of all series which may be at any one time outstanding under and secured by the indenture from one billion dollars ($1,000,000,000) to two billion dollars ($2,000,000,000), and (b) provided that such aggregate principal amount of bonds may thereafter be increased or decreased from time to time by a supplemental indenture or indentures executed and delivered to the trustee pursuant to authorization by Georgia's Board of Directors and stockholders. At December 31, 1977, Georgia had outstanding an aggregate of $1,865,386,000 principal amount of first mortgage bonds. Georgia proposes to issue additional first mortgage bonds during 1978 which together with the aggregate principal amount of bonds presently outstanding would exceed the maximum aggregate principal amount allowed under the mortgage. Accordingly, Georgia now proposes to increase the aggregate principal amount of bonds of all series which may be at any one time outstanding under and secured by the mortgage from two billion dollars ($2,000,000,000) to three billion dollars ($3,000,000,000). Georgia presently estimates that such increase will satisfy its needs for issuing first mortgage bonds through 1981.

It is stated that the fees, commissions, and expenses to be paid or incurred, directly or indirectly, in connection with the proposed issuance of the notes and collateral bonds (as distinguished from and excluding fees, commissions, and expenses incurred or to be incurred in connection with the sale of the revenue bonds by the Authorities payable out of the proceeds of such sales and in connection with the determination of the tax status of the revenue bonds) will be filed by amendment. It is further stated that the issuance of the collateral bonds, the borrowings under the agreements, and the issuance of the notes in respect thereof have been expressly authorized by the Georgia Public Service Commission and that no Federal commission, other than this Commission, has jurisdiction over the proposed transactions. Georgia has requested a finding of the Commission that competitive bidding is inappropriate under the circumstances inasmuch as the notes and collateral bonds are to be issued and pledged solely to evidence and secure Georgia's obligations to the Authorities and no public offering by Georgia of the notes and collateral bonds is to be made.

Notice is further given that any interested person may, not later than March 20, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5563 Filed 3-2-78; 8:45 am]

[8010-01]

[Adm. Proceeding File No. 3-5386; File No. 81-245]

MARRIOTT CONDOMINIUM DEVELOPMENT CORP. CAMELBACK INN ASSOCIATES

Application and Opportunity for Hearing

FEBRUARY 17, 1978.

Notice is hereby given that Marriott Condominium Development Corp. ("MCDC") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended, (the "Exchange Act") for an order exempting the Camelback Inn Associates (the "Partnership") from filing Part I of Form 10-Q as otherwise required by Section 15(d) of that Act.

MCDC's application discloses in part:

(1) MCDC, a wholly-owned subsidiary of Marriott Corporation ("Marriott"), offered and sold 407 interests (the "Interests") in the Marriott Resort Hotel Condominium—Camelback Inn (the "Condominium") and the Partnership for an aggregate of $23,136,000 pursuant to a registration statement filed under the Securities Act.

(2) Each purchaser of an interest became the direct owner of a unit in the Condominum with certain limited occupancy rights, as well as a limited partner in the Partnership which was organized as an integral part of the Condominium ownership arrangement for the purpose of pooling the Condominium units for rental. The Partnership interests cannot be transferred apart from ownership of the Condominium unit.

(3) Marriott is general partner of the Partnership, manager of the Condominium, and owner and manager of the hotel facilities which are integrally related with the Condominium and of other nearby resort facilities.

(4) These interests are owned by 315 persons, and there is very limited trading.

(5) Each owner, as required by the Partnership Agreement, is furnished annually a statement as to his share of operating income and capital account, together with statements of Partnership operations for the fiscal year and the financial condition at the end thereof, reviewed and certified by an independent public accountant.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street NW., Washington, D.C. 20549.

Notice is further given that any interested person no later than March 14, 1978 may submit to the Commission in writing his view or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact

and law raised by the application which he desires to controvert. At any

eral securities principal) prior to first use and that a separate record be

are 'tax-exempt' may be misleading unless the securities are in fact

sions should refer to the file number

[8010-01]

Borrowing company—Banks or

and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5564 Filed 3-2-78; 8:45 am]

[8010-01]

[Release No. 34-14498; File No. SR-MSRB-78-5]

MUNICIPAL SECURITIES RULEMAKING BOARD

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on February 17, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The text of the proposed rule change is as follows:

Rule G-34. *Product Advertising*—(a) *Product Advertising.* No broker, dealer, or municipal securities dealer shall publish or cause to be published any advertisement or similar communication concerning municipal securities that is, to the knowledge of such broker, dealer, or municipal securities dealer, materially false or misleading.

(b) *Approval by Principal.* Advertisements or similar communications concerning municipal securities must be approved in writing by a municipal securities principal or general securities principal prior to first use. Each broker, dealer, and municipal securities dealer shall make and keep current in a separate file records of all such advertisements and communications.

STATEMENT OF BASIS AND PURPOSE

PURPOSE OF PROPOSED RULE CHANGE

The purpose of the proposed rule change is to prohibit a municipal securities professional from publishing an advertisement or causing an advertisement to be published concerning municipal securities that is, to the knowledge of the municipal securities professional, materially false or misleading. The proposed rule change is further designed to require that all advertisements relating to municipal securities be approved in writing by appropriate supervisory personnel (either a municipal securities principal or general securities principal) prior to first use and that a separate record be maintained of all such advertisements. The reference in the proposed rule change to approval by supervisory personnel prior to "first use" is intended to establish a minimum supervisory requirement. Depending on the length of time an advertisement is published, or other factors, closer supervision may be appropriate.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

The Board has adopted proposed rule G-34 pursuant to section 15B(b)(2)(C) of the Securities Exchange Act of 1934, as amended (the "Act"), which provides that the Board's rules shall be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principals of trade * * * and, in general, to protect investors and the public interest * * *.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS, OR OTHERS ON PROPOSED RULE CHANGE

The Board received letters of comment on its exposure draft relating to the proposed rule change from the following:

Blyth Eastman Dillon & Co. ("Blyth Eastman")
Dupree & Co., Inc. ("Dupree")
Interpacific Investors Services, Inc.
National Association of Securities Dealers, Inc. (the "NASD")
The Northern Trust Co. ("Northern Trust")
Public Securities Association (the "PSA")
Wauterlek & Brown, Inc. ("Wauterlek & Brown")

Copies of the letters of comment are on file at the offices of the Commission and of the Board.

The NASD recommended modification of the proposed rule to prohibit the distribution of advertising material which a municipal securities professional knows or "should have known" was either false or misleading.

Dupree suggested that the requirement for advertisements to be approved in writing by a municipal securities principal or general securities principal be modified either by deleting the "in writing" provision or adding the phrase "if advertising is placed by personnel other than a principal."

Northern Trust suggested that the proposed rule be amended to restrict its application to advertisements desseminated to the general public. As an alternative, Northern Trust suggested that the terms "publish," "advertisement," and "similar communication" should be defined in order to delineate the parameters of the rule.

Blyth Eastman took exception to the statement in the discussion accompanying the exposure draft that "advertisements indicating that securities are 'tax-exempt' may be misleading unless the securities are in fact exempt from all federal, state and local income taxes on ordinary income." On the same point the NASD suggested that the statement in the exposure draft may be too restrictive and that instead the Board should require municipal securities professionals to indicate the extent to which interest on a particular security may be subject to some form of taxation.

Blyth Eastman and the NASD also recommended that the Board provide further guidelines and specific examples for use in conjunction with the proposed rule concerning false or misleading advertising.

The NASD in addition suggested that the Board consider and evaluate their recently proposed new rule on advertising.

Wauterlek & Brown suggested that the three advertising rules (proposed rules G-21, G-33 and G-34) be consolidated into one rule for ease of reference.

Interpacific Investors Services, Inc. and the PSA endorsed the proposed rule change without qualification.

The Board took all of the comments received into consideration, and concluded that no change should be made in the text of the proposed rule as set forth in the exposure draft.

BURDEN ON COMPETITION

The Board does not believe that the proposed rule change will impose any burden on competition in the municipal securities industry inasmuch as such rule will be equally applicable to all participants in the industry.

On or before April 7, 1978, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before April 3, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 23, 1978.

[FR Doc. 78-5576 Filed 3-2-78; 8:45 am]

[8010-01]

[Release No. 20422; 70-6121]

NEW ENGLAND ELECTRIC SYSTEM, ET AL.

Proposed Short-Term Borrowings by Operating Subsidiaries of Holding Company and of Proposed Loans by Holding Company to Subsidiaries and of Proposed Sale of Commercial Paper by Subsidiary and Request for Exemption

FEBRUARY 27, 1978.

Notice is hereby given that New England Electric System ("NEES"), 20 Turnpike Road, Westborough, Mass. 01581, a registered holding company, and Granite State Electric Co. ("Granite"), and New England Power Co. ("NEPCO"), operating subsidiaries of NEES, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7, 9(a), 10 and 12 of the Act and Rules 42, 43, 45 and 50, promulgated thereunder, as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Granite and NEPCO propose during the period from the date of the Commission's order hereunder through March 30, 1979 to issue short-term promissory notes to the below listed banks and/or to NEES, and NEPCO also proposes to issue notes to dealers in commercial paper.

The amounts shown below are the maximum face amounts of notes of each borrowing company to be held by the lenders at any one time pursuant to authority requested hereunder. The amounts shown below, indicating the amount each borrowing company may borrow from a particular bank, may be increased or decreased during the year but at no time will the aggregate amount of short-term borrowings from all banks for each of the borrowing companies exceed the aggregate authorized amount. The maximum amounts of short-term borrowings authorized to be outstanding at any one time by NEPCO ($130,000,000) from banks and NEES will be reduced by the amount of its commerical paper outstanding at that time.

Borrowing company—Banks or NEES[1]

[Thousands of dollars]

Granite: The First National Bank of Boston, Boston, Mass	750
NEPCO:	
Bank of America, North America Division, New York, N.Y.	2,000
Baybank Newton-Waltham Trust Co., Waltham, Mass	2,000
Brown Bros., Harriman & Co., Boston, Mass	2,000
Chase Manhattan Bank, N.A., New York, N.Y.	12,000
Chemical Bank, New York, N.Y.	6,500
Citibank, N.A., New York, N.Y.	17,000
Continental Illinois National Bank & Trust Co., Chicago, Ill	5,000
The First National Bank of Boston, Boston, Mass	30,000
The First National Bank of Chicago, Chicago, Ill	2,000
Irving Trust Co., New York, N.Y.	12,000
Manufacturers Hanover Trust, New York, N.Y.	12,000
Morgan, Guaranty Trust Co., New York, N.Y.	12,000
New England Merchants National Bank, Boston, Mass	5,000
Shawmut Bank of Boston, N.A., Boston, Mass	5,000
State Street Bank & Trust Co., Boston, Mass	3,000
Worcester County National Bank, Worcester, Mass	2,500
Total NEPCO	130,000

[1] Or Commercial paper in the case of NEPCO

NEPCO requests a maximum borrowing authority of $130,000,000 to be reduced by the amount of proceeds of any sales of first mortgage bonds during the period.

The proceeds of such proposed borrowings are to be used to pay then outstanding notes initially issued to banks, dealers in commercial paper and/or to NEES at or prior to maturity and to provide new money for capitalizable expenditures or to reimburse the treasury therefore. Granite as of December 31, 1977, has no outstanding short-term debt and estimates its construction expenditures through March 31, 1979 at $2,415,000. NEPCO, as of December 31, 1977, has $44,325,000 in outstanding short-term debt and estimates its construction expenditures through March 31, 1979 at $134,400,000.

The proposed borrowings from banks and/or NEES will be evidenced by notes payable maturing in less than one year from the date of issuance, and will provide for prior payment in whole or in part without premium. The borrowing companies will maintain funds in the banks which represent balances or in lieu thereof will pay fees to the banks equivalent to such compensating balance requirements. The notes to banks will bear interest at not in excess of the prime rate in effect at the time borrowings are made (not including any fees in lieu of compensating balances). The notes to NEES will bear interest at not in excess of the prime rate in effect at the time borrowings are made. Based on compensating balance requirements of about 10 to 20 percent, or fees equivalent thereto, the effective interest cost of bank borrowing would be approximately 10 percent per annum, based on the current prime rate of 8 percent. The effective interest cost of borrowings from NEES would be the prime rate.

It is proposed that Granite and NEPCO may prepay their notes to

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[8010-01]

[Release No. 14499; SR-MSRB-77-18]

MUNICIPAL SECURITIES RULEMAKING BOARD

Order Approving Proposed Rule Change

FEBRUARY 23, 1978.

On November 25, 1977, the Municipal Securities Rulemaking Board (the "MSRB"), Suite 507, 1150 Connecticut Avenue NW., Washington, D.C. 20036, filed with the Commission, pursuant to section 19(b) of the Securities Exchange Act of 1934 (the "Act"), and Rule 19b-4 thereunder, copies of a proposed rule change. The purpose of the proposed rule change is to amend the provisions of MSRB rule G-3 relating to the respective dates of the MSRB's qualification examination requirements, to establish time periods and limitations for retaking the examinations, and to clarify the scope of certain exemptions from the examination requirements.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 14218 (Nov. 30, 1977)) and by publication in the FEDERAL REGISTER (42 FR 62235 (Dec. 9, 1977)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB, and in particular, the requirements of section 15B and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5565 Filed 3-2-78; 8:45 am]

NEES, in whole or in part, with borrowings from banks or from the sale of

not more than ⅛ of 1 percent per annum less than the prevailing dis-

order a hearing thereon. Any such request should be addressed: Secretary,

be issued pursuant to the Dividend Reinvestment and Stock Purchase Plan, Ohio Edison presently has less than

ate. Persons who request a hearing, or advice as to whether a hearing is or-

the Funds' transfer agent and custodian, the Bank of New York (the

NEES, in whole or in part, with borrowings from banks or from the sale of commercial paper, or that their borrowings from banks may be prepaid, in whole or in part, with borrowings from NEES or from the sale of commercial paper. In the event of borrowings from banks at a higher interest rate or the sale of commercial paper at a higher effective interest cost, to prepay notes to NEES, NEES will credit the borrowers for any excess interest from the date of issuance of the new notes or commerical paper to the normal maturity date of the notes to NEES being prepaid. Conversely, in the event of borrowings from NEES to prepay notes to banks, the interest rate of the notes issued to NEES will be the lower of (1) the interest rate on the notes being prepaid or (2) the prime interest rate in effect, but with respect to (1) only to the maturity date of the notes so prepaid, and thereafter at the prime interest rate in effect at the time the new notes are issued.

NEPCO proposes to issue and sell commercial paper during the period through March 31, 1979, directly to Lehman Commercial Paper Incorporated ("Lehman") and/or A. G. Becker & Co., Inc. ("Becker"), dealers in commerical paper. Lehman and Becker, as principals, will reoffer such commercial paper to not more than 100 of their respective customers whose names appear on non-public lists prepared in advance by Lehman and Becker. No additions will be made to such lists of customers. It is expected that such commercial paper will be held to maturity by the purchasers from the dealers, but, if any such purchaser wishes to resell prior to maturity, Lehman or Becker, as the case may be, pursuant to an oral repurchase agreement will repurchase the paper for resale to others on said lists of customers.

The commercial paper so issued and sold by NEPCO will be in the form of unsecured promissory notes having varying maturities of not in excess of 270 days. Actual maturities will be determined by market conditions, the effective interest cost to the issuer, and the issuer's cash requirements at the time of issuance. The commercial paper will be in denominations of not less than $50,000 and not more than $1,000,000. The terms of the commercial paper do not provide for prepayment prior to maturity. The commercial paper will be purchased by Lehman and Becker from the issuer at a discount which will not be in excess of the discount rate per annum prevailing at the date of issuance for the particular maturity at which prime commercial paper of comparable quality is sold by public utility issuers to commercial paper dealers. Lehman and Becker will initially reoffer the commercial paper at a discount rate not more than ⅛ of 1 percent per annum less than the prevailing discount rate to the issuer.

The effective interest cost to the issuer on such paper will not exceed the effective interest costs at the time of issue for borrowings from The First National Bank of Boston, except that, in order to obtain maximum flexibility, commercial paper may be issued with a maturity of not more than 90 days from the date of issue with an effective cost in excess of such effective interest cost from The First National Bank of Boston.

With respect to the issue and sale of notes by it to Lehman and Becker, NEPCO requests an exemption from the competitive bidding requirements of Rule 50 pursuant to paragraph (a)(5) thereof on the grounds that (a) the commercial paper to be issued will have maturities of not more than nine months; (b) the effective interest cost thereon will not exceed the effective interest costs at the time of borrowings from The First National Bank of Boston, except that, in order to obtain maximum flexibility, commercial paper may be issued with a maturity of not more than 90 days from the date of issue with an effective cost in excess of such effective interest cost, from The First National Bank of Boston; (c) the current rates for commercial paper for a prime borrower such as NEPCO are readily ascertainable by reference to daily financial publications; and (d) it is not practical to publish invitations for bids for commercial paper.

It is stated that there are no fees or commissions, other than a $2,000 filing fee to be paid in connection with the proposed transactions and that incidental services in connection with the proposed transactions will be performed, at cost, by New England Power Service Company, an affiliated service company; such cost is estimated not to exceed $200 for each applicant-declarant, an aggregate of $600. Including their pro rata share of the filing fee, total expenses for each applicant-declarant is approximately $900.

The New Hampshire Public Utilities Commission has jurisdiction over the proposed issuance of short-term promissory notes by Granite and NEPCO. It is stated that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than March 24, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5566 Filed 3-2-78; 8:45 am]

[8010-01]

[Release No. 20421; 70-6123]

OHIO EDISON CO.

Proposed Amendment to Articles of Incorporation To Increase Authorized Common Stock; Order Authorizing Solicitation of Stockholders' Proxies

FEBRUARY 27, 1978.

Notice is hereby given that Ohio Edison ("Ohio Edison"), 76 South Main Street, Akron, Ohio 44308, a registered holding company and an electric utility company, has filed a declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7 and 12(e) of the Act and Rule 62 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, as amended, which is summarized below, for a complete statement of the proposed transaction.

Ohio Edison proposes to amend Article FOURTH of its Articles of Incorporation so as to increase the authorized number of shares of common stock, par value $9 per share, from 55,000,000 to 75,000,000. Its adoption requires the favorable vote of two-thirds of the outstanding shares of common stock of Ohio Edison entitled to vote at the meeting of stockholders. Upon completion of the sale in December 1977 of common stock and registration of shares of common stock to be issued pursuant to the Dividend Reinvestment and Stock Purchase Plan, Ohio Edison presently has less than 3,000,000 of its authorized shares of common stock remaining. The company presently contemplates construction expenditures during 1978, 1979, and 1980, estimated as of January 31, 1978, of at least $1,300,000,000 and additional construction expenditures in the years that follow. The company presently anticipates the issue and sale of approximately 6,000,000 shares in late 1978 and to issue shares through its Dividend Reinvestment and Stock Purchase Plan. In addition to those above-mentioned shares to be issued and sold, the company also anticipates the issue and sale of approximately 6,000,000 shares in the years 1979 and 1980 and expects that by the end of 1980 it will have issued and sold all of the 20,000,000 shares by which it is proposed to increase the authorized amount of common stock.

Ohio Edison further proposes to submit the proposed amendment, the ratification of the appointment of Arthur Andersen & Co. as auditors for 1978, and the election of directors to its stockholders for consideration and vote, and to solicit the proxies from their common stockholders at the annual meeting to be held on April 27, 1978.

The fees, commissions and expenses in connection with the proposed increase of the authorized shares of common stock are estimated at $66,000, including legal fees of $1,500 and state filing fee of $50,075. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than March 24, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulation promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing, or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It appearing to the Commission that the declaration, insofar as it proposes the solicitation of proxies from Ohio Edison's common stockholders, should be permitted to become effective forthwith pursuant to Rule 62:

It is ordered, That the declaration regarding the proposed solicitation of proxies from Ohio Edison's common stockholders be, and it hereby is, permitted to become effective forthwith pursuant to Rule 62 and subject to the terms and conditions prescribed in Rule 24 under the Act.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5567 Filed 3-2-78; 8:45 am]

[8010-01]

[Release No. 10139; 812-4246]

PHILADELPHIA FUND, INC., ET AL.

Filing of Application for an Order of Exemption

FEBRUARY 24, 1978.

Notice is hereby given that Philadelphia Fund, Inc., and Eagle Growth Shares, Inc. (the "Fund(s)"), 110 Wall Street, New York, N.Y. 10005, each of which is registered under the Investment Company Act of 1940 (the "Act") as a diversified, open-end management investment company, and Universal Programs, Inc. ("UPI"; referred to together with the Funds as "Applicants"), investment adviser for the Philadelphia Fund and the principal underwriter of both of the Funds, filed an application on December 9, 1977, and an amendment thereto on February 3, 1978, pursuant to section 6(c) of the Act, for an order exempting from the provisions of section 22(d) of the Act proposed sales of shares of the Funds without sales charges in connection with the "Savings Reinvestment Privilege" discussed below. All interested persons are referred to the application on file with the commission for a statement of the representations contained therein, which are summarized below.

Applicants propose to offer to Fund shareholders, subject to the laws and regulations of the state or other jurisdiction in question, the privilege ("Redemption Deposit Privilege") of redeeming all or part of their investment in a Fund and depositing the proceeds in savings accounts ("Savings Account(s)") to be established with the Funds' transfer agent and custodian, the Bank of New York (the "Bank").

Applicants state that redemptions of Fund shares pursuant to the Redemption Deposit Privilege will be at the Fund's then current net asset value. They propose that amounts so deposited to Savings Accounts which have remained continuously on deposit, plus any interest credited thereon, may be reinvested in shares of either or both of the Funds at the then current net asset value of the Fund in question without payment of any sales charge (the "Savings Reinvestment Privilege," referred to together with the Redemption Deposit Privilege as "Privileges"). The application states that for the purpose of administering the proposed Privileges, the Bank would establish a separate type of savings account administered by its Mutual Fund Department; that deposits to the Savings Accounts would consist only of the proceeds of redemptions of shares pursuant to the exercise of a Redemption Deposit Privilege and interest paid thereon; and that depositors would be issued a statement rather than a passbook.

Applicants further state that only amounts which remain continuously on deposit in a Savings Account will be eligible for reinvestment in the Funds without sales charge, and that, if a shareholder withdrew monies from his Savings Account without so reinvesting, he could not subsequently redeposit them into the Savings Account designed for the proceeds of redemption. Applicants assert that amounts on deposit in both Savings Accounts and passbook accounts will bear interest at the same rate (presently 5 percent per annum, compounded and credited monthly), and that the Savings Accounts will be subject to the same rules and regulations as all "day of deposit to day of withdrawal" passbook acounts maintained with the Bank (except that statements rather than passbooks will be issued on Savings Accounts). Applicants state that no interest presently is credited on a "day of deposit to day of withdrawal" basis unless an account contains a minimum balance of $25 at the end of the month. The application states that the Bank has agreed to perform the services required for administering the Privileges without charge.

The application states that shareholders of each of the Funds presently have the option of exchanging their shares in one Fund into shares of the other Fund on the basis of their respective net assset values, without sales charge (the "Exchange Privilege"); however, under the Exchange Privilege, a service charge in the amount of $5 is imposed by UPI on an exchange of shares. Applicants state that under the proposed Privileges,

shareholders of either Fund may deposit the proceeds of redemption of

issue in the case of Southern and not more than nine months after the date

issue, will be sold in varying denominations of not less than $50,000 and not

paper notes incurred for such purpose, and for other lawful purposes. Con-

shareholders of either Fund may deposit the proceeds of redemption of one Fund into a Savings Account and later reinvest such deposited amounts, plus interest, in shares of the other Fund. They also state that in such circumstances an investor would be considered to be exercising not only the Savings Reinvestment Privilege, but the Exchange Privilege as well; therefore, a $5 charge would be imposed by UPI on such investment. Applicants believe that this procedure will preserve the integrity of the Exchange Privilege by assuring that shareholders who exchange shares of one Fund for shares of the other Fund will be treated alike regardless of whether an exchange of shares is made directly or indirectly via a Savings Account.

The application states that forms for use by shareholders desiring to exercise either a Redemption Deposit Privilege (concurrently authorizing the Bank to open a Savings Account), or a Savings Reinvestment Privilege, will be available from either UPI or the Bank. The application also states that a prospectus for the Fund designated by a shareholder who notifies UPI or the Bank of a desire to exercise a Savings Reinvestment Privilege with respect to a Fund for which such shareholder does not already have an open account will be delivered to such shareholder by UPI. Applicants state that the Privileges may be terminated at any time by the Fund, the Bank or UPI. However, they state also that, in order to afford an opportunity to those investors who have exercised the Redemption Deposit Privilege to reinvest amounts deposited in the Savings Account prior to the effective date of any such termination, UPI will send, at least 60 days prior to the effective date of any such termination, by first-class mail to all such investors at their last addresses as shown in the records of the Bank, a written notice informing them of: (1) the termination of the Privileges, (2) the effective date thereof, and (3) their opportunity to exercise the Savings Reinvestment Privilege prior to the effective date of such termination.

Section 22(d) of the Act provides, in part, that no registered investment company, or its principal underwriter, may sell redeemable securities issued by that investment company except at a current public offering price described in the investment company's prospectus. The application states that shares of the Funds are currently offered to the public at a price based on their net asset value plus a sales charge that varies with the quantity of securities purchased. Applicants state that sales of Fund shares at net asset value, pursuant to the Savings Reinvestment Privilege, may violate section 22(d). They therefore request an order exempting them and the proposed transactions herein from the provisions of that section.

Applicants assert that the purpose of the proposed Savings Reinvestment Privilege is to give shareholders who may desire to shift their investment temporarily from equities to an interest-paying investment the opportunity subsequently to retransfer their investment from the Savings Account to Fund shares without having to pay an additional sales charge, and that the Privileges are designed to encourage the use of the Funds as long-term investment vehicles. Applicants also assert that no sales charge should be required upon exercise of the Savings Reinvestment Privilege because, in connection therewith, (1) no sales effort is involved, and (2) no commission will be paid to any dealer. They submit that granting the requested exemption will be consistent with the purposes of section 22(d) of the Act in that the proposed Privileges would be available to all present or future shareholders of the Funds on precisely the same basis, and will not involve discrimination among investors.

Section 6(c) of the Act provides, in part, that the Commission may, by order upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class of persons, securities or transactions, from any provisions of the Act or the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than March 20, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5568 Filed 3-2-78; 8:45 am]

[8010-01]

[Release No. 20420; 70-6117]

SOUTHERN CO., ET AL.

Proposed Issuance and Sale of Short-Term Notes to Banks and Dealers in Commercial Paper, Capital Contributions to Subsidiaries, and Exception From Competitive Bidding

FEBRUARY 24, 1978.

Notice is hereby given that the Southern Co. ("Southern"), P.O. Box 720071, Atlanta, Ga. 30346, a registered holding company, and three of its wholly-owned electric utility subsidiary companies, Alabama Power Co. ("Alabama"), P.O. Box 2641, Birmingham, Ala. 35291, Gulf Power Co. ("Gulf"), P.O. Box 1151, Pensacola, Fla. 32520, and Mississippi Power Co. ("Mississippi"), P.O. Box 4079, Gulfport, Miss. 39501, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 6(b), 7, and 12 of the Act and Rules 45 and 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Southern, Alabama, Gulf, and Mississippi propose to borrow from banks and to issue and sell commercial paper from time to time on or before March 31, 1979, in the case of Southern, Gulf, and Mississippi and March 31, 1980, in the case of Alabama. These borrowings shall be in the following maximum aggregate principal amounts outstanding at any one time: Southern—$100,000,000; Alabama—$555,000,000; Gulf—$40,000,000; and Mississippi—$36,000,000.

Pursuant to Commission authorization (HCAR No. 19422), Alabama, Gulf, and Mississippi have authority to effect short-term borrowings on or before March 31, 1978. The amount of short-term debt estimated to be outstanding at March 31, 1978, is $3,891,000 for Gulf and $17,075,000 for Mississippi. Neither Southern nor Alabama expects to have any short-term debt outstanding on that date.

The bank borrowings will be evidenced by notes to be dated the date of the borrowing and to mature not more than one year after the date of issue in the case of Southern and not more than nine months after the date of issue in the case of Alabama, Gulf, and Mississippi. On or prior to April 1, 1978, Alabama proposes to enter into an arrangement with Citibank, N.A., the Chase Manhattan Bank, N.A., Chemical Bank, Bankers Trust Co., Continental Illinois National Bank & Trust Co. of Chicago, Irving Trust Co. Manufacturers Hanover Trust Co., the Bank of Nova Scotia, and Bank of America, which provides for a revolving line of credit for a period of two years in the amount of $500,000,000 and supersedes a Revolving Credit Agreement maturing March 31, 1978. Each note evidencing bank borrowing (except those included in Alabama's revolving credit agreement) will bear interest at an effective rate per annum in effect at the lending bank customary for similar companies and will be prepayable, in whole or in part, without penalty or premium. The terms and cost of commitments or lines of credit to the applicants-declarants, except in the case of Alabama from those banks under the proposed revolving credit agreement, have not been finalized by the companies with the proposed lending banks.

Alabama, Gulf, and Mississippi each maintain with the local banks from which borrowings will be made average daily operating balances adequate to meet the requirements of such banks in respect of certain services to such companies. Except in the case of Alabama under the proposed revolving credit agreement, it may reasonably be expected that banks may require the maintenance of balances and/or fees in lieu of balances in respect of any such borrowings. If balances were to be maintained solely for the purpose of satisfying a compensating balance requirement generally not in excess of 20 percent, the effective interest cost of the related borrowings, based on a prime rate of 8 percent, would be 10 percent per annum. In the case of Alabama, giving effect to the fees under the proposed revolving credit agreement, assuming full utilization of the commitment and based on a prime rate of 8 percent per annum and a three-week moving average commercial paper rate of 6.78 percent for the terminal week ending February 1, 1978, the effective interest rate on borrowings would be 9.67 percent per annum.

Southern, Alabama, Gulf, and Mississippi also propose from time to time prior to March 31, 1979, in the case of Southern, Gulf, and Mississippi and March 31, 1980, in the case of Alabama, to issue and sell commercial paper in the form of short-term promissory notes to dealers in commercial paper. The commercial paper notes will have varying maturities of not more than 270 days after the date of issue, will be sold in varying denominations of not less than $50,000 and not more than $5,000,000, and will not by their terms be prepayable prior to maturity. The commercial paper will be sold directly to or through the dealers at a discount which will not be in excess of the discount rate per annum prevailing at the date of issuance for commercial paper of comparable quality and like maturity. No commercial paper note will be issued having a maturity of more than 90 days at an effective interest cost which exceeds the effective interest cost at which the issuer could borrow from banks.

Except for a commission not to exceed ⅛ of 1 percent per annum payable to the dealer in respect of commercial paper sold through the dealer as agent, no commission or fee will be payable in connection with the issuance and sale of commercial paper. The dealer will reoffer such commercial paper at a discount rate of ⅛ of 1 percent per annum less than the prevailing interest rate to the issuer. The commercial paper will be offered by each dealer to not more than 200 customers of the dealer identified and designated in a nonpublic list prepared in advance by the dealer. No additions will be made to such list of customers. It is expected that the commercial paper will be held by customers to maturity, but, if they wish to resell prior thereto, the dealer, pursuant to a verbal repurchase agreement, will repurchase the commercial paper and reoffer the same to others on the customer list.

Southern intends to use proceeds of the bank notes and commercial paper notes to the extent necessary, together with treasury funds and the proceeds from the sale of additional common stock through its dividend reinvestment plan, the employee savings plan and the employee stock ownership plan (the subject of separate filings), to make, from time to time, additional equity investments in the form of capital contributions in Alabama, Georgia Power Co. ("Georgia"), Gulf, and Mississippi, to make loans to Southern Co. Services, Inc., to pay such notes when due, and for other corporate purposes. Southern proposes herein to make capital contributions from April 1, 1978 through March 31, 1979, as follows: $180,000,000 to Alabama; $70,000,000 to Georgia; $6,000,000 to Gulf; and $10,000,000 to Mississippi.

The proceeds from the bank notes and commercial paper notes will be used by Alabama, Gulf, and Mississippi, respectively, to reimburse their treasuries for part of the expenditures in connection with their construction programs and to finance in part their future construction programs, to pay at maturity from time to time outstanding bank notes and commercial paper notes incurred for such purpose, and for other lawful purposes. Construction expenditures for Alabama for 1978 and 1979 are estimated at $494,390,000 and $704,741,000 respectively. Constructions expenditures for 1978 and January-March 1979 are estimated at $64,596,000 and $20,481,000, respectively for Gulf and $37,470,000 and $9,104,000, respectively for Mississippi.

The applicants-declarants request exception from the competitive bidding requirements of Rule 50 in connection with the sale of commercial paper notes pursuant to clause (a)(5) thereof. It is stated, in this connection, that (a) all commercial paper which they propose to issue and sell will have a maturity not in excess of 270 days, (b) current rates for commercial paper for prime borrowers, such as applicants-declarants, are published daily in financial publications, and (c) it is not practical to invite invitations for bids for commercial paper. It is also requested that authorization be granted to file certificates of notification under Rule 24 on a quarterly basis.

Fees and expenses to be incurred by Southern in connection with the proposed transactions are estimated at $3,400, including legal fees of $2,500; Alabama's expenses are estimated at $19,900, including legal fees of $6,000; Gulf's expenses are estimated at $1,400, including legal fees of $500; and Mississippi's expenses are estimated at $1,400, including legal fees of $500.

The Alabama Public Serive Commission has jurisdiction over the issuance of notes to banks and the issuance of commercial paper by Alabama. The Florida Public Service Commission has jurisdiction over the issuance of notes to banks and the issuance of commercial paper by Gulf. No other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than March 23, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may

be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5570 Filed 3-2-78; 8:45 am]

[8010-01]

[Release No. 10138; 812-4257]

SENTINEL BOND FUND, INC., ET AL.

Application for an Order Exempting Proposed Transactions

FEBRUARY 24, 1978.

Notice is hereby given that Sentinel Bond Fund, Inc. ("Bond Fund"), Sentinel Growth Fund, Inc. ("Growth Fund"), Sentinel Trustees Fund, Inc. ("Trustees Fund") (hereinafter collectively referred to as the "Sentinel Funds"), National Life Drive, Montpelier, Vt. 05602, and Sentinel Group Funds, Inc. ("Group Funds"), One Exchange Place, Jersey City, N.J. 07302, (the Sentinel Funds and Group Funds hereinafter collectively referred to as the "Applicant"), Maryland corporations, each of which is an open-end, diversified, management investment company registered under the Investment Company Act of 1940 (the "Act"), have filed an application on January 12, 1978, and an amendment thereto on February 21, 1978, pursuant to section 17(b) of the Act, for an order exempting from the provisions of section 17(a) of the Act proposed mergers of each of the Sentinel Funds into Group Funds. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants propose, in accordance with Maryland law, that Trustee Fund be merged into the Sentinel Common Stock Fund class of stock of Group Funds, one of the three existing classes of stock of Group Funds; that Growth Fund be merged into a new class of stock of Group Funds to be known as "Sentinel Growth Fund"; and that Bond Fund be merged into a new class of stock of Group Funds to be known as "Sentinel Bond Fund." If the proposed mergers are consummated, Group Funds will be the surviving corporation and the separate corporate existence of each of the Sentinel Funds will cease.

National Life Investment Management Co., Inc. ("NLIM"), a wholly owned subsidiary of National Life Insurance Co., is the investment adviser of each of the three Sentinel Funds, and Sentinel Advisors, Inc. ("SAI"), a wholly owned subsidiary of NLIM, is the investment adviser to Group Funds. Of the nine directors of Group Funds and the seven directors of Sentinel Funds, five are the same persons. An additional director of Sentinel Funds has been nominated for election as a director of Group Funds.

The primary reason for the proposed mergers, according to the application, is to combine the present structure of four corporations with two investment advisers into one corporation with five classes of stock and one investment adviser so as to achieve efficiencies and economies of management. Since Group Funds will be the surviving corporation, the surviving adviser will be SAI. Applicants state that SAI's management fees are lower than those charged by NLIM.

The application states that, upon consummation of the respective mergers, the shares of Bond Fund will become an equal number of shares of the Sentinel Bond Fund class of Group Funds with the same aggregate value as prior to the merger; the shares of Growth Fund will become an equal number of shares of the Sentinel Growth Fund class of Group Funds with the same aggregate value as prior to the merger; and Trustees Fund shareholders will exchange their shares for shares of Sentinel Common Stock Fund class of Group Funds having the same aggregate value as the shares they held prior to the merger; except that in each case there may be a small difference because Group Funds values certain securities ("Non-traded Securities") at the mean between bid and ask prices whereas the Sentinel Funds value such securities at the bid price. Non-traded Securities are those securities (1) which were not traded on the day of valuation on a national securities exchange, or (2) for which the primary market is "over-the-counter." Each share of Trustees Fund will be converted into that number of shares of Sentinel Common Stock Fund class of Group Funds determined by dividing the net asset value per share of Trustees Fund as of the close of business on the day preceding the effective date of the merger by the net asset value per share to Sentinel Common Stock Fund class of Group Funds at that time. Applicants state that, for purposes of the mergers, Non-traded Securities will be valued at the mean between bid and ask.

According to the application, Group Funds is a series type company that as of November 30, 1977, had net assets of $289,851,810 in three different series or classes of stock as follows: Sentinel Common Stock Fund, with net assets of $265,820,568 as of November 30, 1977, which seeks a combination of growth of principal and income; Sentinel Balanced Fund, which seeks a conservative combination of stability, income and growth; and Sentinel Apex Fund, which seeks long term growth of principal. The primary investment objective of Bond Fund is to seek a high level of continuing income inconsistent with the preservation of capital; at November 30, 1977, it had $4,906,121 in net assets. Growth Fund has as its primary investment objective the growth of capital; at November 30, 1977 it had $13,470,060 in net assets. Trustees Fund has as its primary objective the achievement of above average investment return, consistent with preservation of capital, irrespective of whether the source of such return is income or capital growth; at November 30, 1977, it had net assets of $15,766,776.

In the opinion of counsel to the Sentinel Funds, and of counsel to Group Funds, no gain or loss will be realized or recognized, for federal income tax purposes, by either the Sentinel Funds or Group Funds or their shareowners by reason of the proposed merger. Prior to the effective date of the mergers, each of the Sentinel Funds will declare a distribution to its shareholders of its accrued income and realized capital gain as may be necessary to maintain its status as a regulated investment company under the Internal Revenue Code of 1954, as amended. No effect has been given to any relative disparities in the tax consequence of unrealized appreciation or depreciation in the respective portfolio securites. Applicants assert that these factor are not material in the case of the proposed mergers because of the speculative nature of the probability that possible tax benefits will be realized in the future.

The incremental cost of holding the annual meetings of shareholders of the Sentinel Funds chargeable to the merger, plus other costs related to the merger, is estimated by Applicants to be $11,952, $40,632 and $38,821 for Bond Fund, Growth Fund and Trustees Fund, respectively, which amounts will be borne by those funds respectively. Applicants assert that this is fair and reasonable because they estimate that, by reason of the mergers, annual savings will result of $9,266, $81,289 and $31,810 for the shareholders of Bond Fund, Growth Fund and Trustees Fund, respectively. The costs in connection with the merger to the present Group Funds is estimated by Applicants to be approximately $49,000, allocated $1,372 to Apex Fund, $2,695 to Balanced Fund and $44,933 to Common Stock Fund. Applicants also assert this to be fair and reasonable in view of annual savings they anticipate of $3,083, $2,587 and $64,492 for Apex Fund, Balanced Fund and common Stock Fund, respectively.

Applicants state that although some reduction in expenses of NLIM and SAI are anticipated, such reduction will be offset by reduced management fees. Applicants conclude that the proposed mergers will not benefit NLIM and SAI economically. Thus, it is not proposed that either SAI or NLIM bear any portion of the merger expenses. However, as discussed below, NLIM has agreed to reimburse the Sentinel Funds an aggregate of $95,919.

According to the application, on February 1, 1976, the Sentinel Funds entered into advisory agreements with NLIM providing for an increase in the advisory fee to 0.75 percent per annum of each Fund's average net assets. However, the charter of each Sentinel Fund limited, inter alia, the amount which each such Fund could pay for investment advisory fees to 0.5 percent per annum of average net assets. Applicants assert that both the Sentinel Funds' Directors and NLIM were unaware of such limitation when those advisory agreements had been submitted for shareholder approval, and that the Directors agree that if they had known of such limitation they would have approved a proposal to amend the charters to eliminate the restriction. The Sentinel Funds state their belief that such amendment would have received approval by the shareholders of each of the Sentinel Funds. According to the application, from February 1, 1976, through November 7, 1977, the net advisory fees paid or accrued by the Sentinel Funds exceeded the 0.5 percent limitation by $125,919 in the aggregate.

The application states that, in view of the fact that the charters had not been amended as described above, a settlement was reached between the Sentinel Funds' Directors and NLIM under which NLIM agreed to waive, after November 7, 1977, its rights under the advisory agreements to the amount of the fee which exceeds the 0.5 percent limitation, pending consummation of the proposed mergers. It also agreed to credit each Sentinel Fund, on a daily basis against its advisory fees, amounts which, in the aggregate, total $30,000. Applicants state that, subsequently, during the course of preparation of the application herein and the related proxy statement and prospectus, NLIM has agreed to reimburse each Sentinel Fund certain additional amounts of the costs of the shareholder meetings and costs relating to the merger. With respect to each Sentinel Fund, Applicants state, such additional amounts, plus the amounts of the settlements described above, equal the entire advisory fees paid in excess of the 0.5 percent charter limit.

According to the application, no person owns beneficially, directly or indirectly, 25 percent of the voting securities of any of the Applicants except that National Life Insurance Co. and its affiliates own 201,564 shares of Bond Fund, representing 32.0 percent of its outstanding stock. Applicants conclude that they are presumed not to be under common control. As noted above, however, SAI, the investment adviser of Group Funds, is a wholly owned subsidiary of NLIM, the investment adviser of the Sentinel Funds, and Applicants have certain directors in common. Applicants state that, consequently, they may be deemed to be under common control (although such common control is not admitted by any of them) and therefore may be deemed to be affiliated persons of each other for purposes of the Act.

Section 17(a) of the Act, in pertinent part, provides that it shall be unlawful for any affiliated person of a registered investment company knowingly to sell to or purchase from such registered investment company any security or other property. Section 17(b) of the Act provides that the Commission, upon application, shall exempt a proposed transaction from the provisions of section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act. Applicants seek an order of the Commission pursuant to section 17(b) of the Act exempting the proposed mergers from the provision of section 17(a) of the Act.

Applicants assert that the terms of the proposed transactions, including the basis for the exchange of shares of each of the Sentinel Funds, are reasonable and fair and do not involve overreaching on the part of any person concerned, since the proposed transactions are to be effected on the basis of their relative net asset values.

Applicants further assert that the proposed transaction will be consistent with the policy of each registered investment company concerned, as recited in its registration statement and reports filed under the Act. They state that nothing in the recited policy of any of the Applicants forbids the proposed reorganization. They state further that the shareholders of each of the Sentinel Funds are being fully advised by its proxy statement and accompanying prospectus of the investment policies of the fund of which they will become shareholders if the merger is effected. Each of the mergers will serve, according to the Applicants, to reduce the per share amount of certain fixed expenses which presently duplicate each other, such as the expense of shareholder reports, legal and auditing, Commission filings, shareholders meetings and other administrative costs. Applicants' managements believe that the savings resulting from the larger size of the merged funds should result in a reduction of the expense ratio of each of them. Applicants also assert that the proposed transaction is consistent with the general purposes of the Act.

Notice is further given that any interested person may, not later than March 21, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the addresses stated above. Proof of such service (by affidavit or, in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5569 Filed 3-2-78; 8:45 am]

[8010-01]

[Release No. 10137; 811-2795]

STERNS HOLDINGS INC.

Filing of Application for an Order Declaring That Applicant has Ceased To Be an Investment Company

FEBRUARY 23, 1978.

Notice is hereby given that Sterns Holdings Inc. ("Applicant"), 1359 Broadway, New York, N.Y. 10018, reg-

istered under the Investment Compa-

upon application, finds that a regis-

quiry service for lost and stolen securi-

[8010-01]

[Release No. 10140; 812-4245]

There is no sales charge imposed on the reinvestment of dividends and capital gains from shares of either

other than the relative net asset values of the respective securities to be exchanged, unless the terms of the

istered under the Investment Company Act of 1940 ("Act") as a closed-end, diversified management investment company, filed an application on February 1, 1978, and an amendment thereto on February 21, 1978, pursuant to section 8(f) of the Act, for an order declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Applicant, formerly operating as Stern & Stern Textiles, Inc., was incorporated as a New York corporation on October 18, 1924, and until recently, was engaged in the business of designing, manufacturing, and selling fabrics. The application states that on November 3, 1977, following approval by Applicant's shareholders, substantially all of the assets of Applicant were sold to CMSS, Inc., a New York Corporation organized by Carl Marks & Co., Inc., for a purchase price of $10,550,000. Proceeds from such sale have been invested by Applicant only in short-term U.S. Government securities. On December 14, 1977, after amending its Certificate of Incorporation to change its name to Sterns Holdings Inc., Applicant registered under the Act by filing a Notification of Registration on Form N-8A with the Commission.

On December 16, 1977, Applicant commenced an offer, which expired on January 30, 1978, to repurchase its outstanding common stock for $23.10 per share. Applicant represents that the total number of beneficial owners of its outstanding securities was reduced to 55 as of February 21, 1978, and that Atwell & Co., a nominee of U.S. Trust Co. of New York, owns of record, as trustee under 10 separate trusts, approximately 55 percent of the outstanding common stock of Applicant for the beneficial interest of 12 individuals. The application states that except for the record ownership of Atwell & Co., no company, as defined in the Act, owns of record, or is known by Applicant to own beneficially, 10 percent or more of the outstanding voting securities of Applicant. Applicant also states that it is not making and does not propose to make a public offering of its securities. Accordingly, Applicant asserts that it is not presently an investment company within the meaning of the Act.

Section 3(c)(1) of the Act provides, in part, that any issuer whose outstanding securities (other than short-term paper) are beneficially owned by not more than 100 persons and which is not making and does not presently propose to make a public offering of its securities is not an investment company within the meaning of the Act.

Section 8(f) of the Act provides, in part, that whenever the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than March 20, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5571 Filed 3-2-78; 8:45 am]

[8010-01]

[Release No. 34-14497; File No. SR-SCCP-78-1]

STOCK CLEARING CORP. OF PHILADELPHIA

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on February 1, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Stock Clearing Corp. of Philadelphia (SCCP) proposes a rule change which will provide for additional fees for users of the indirect inquiry service for lost and stolen securities at $10 per month plus $0.50 per inquiry. In addition, the fee for processing legal transfers has been reduced from $25 per item to $15 per item. SCCP also has indicated that a rule change for its proposed indirect inquiry service for lost and stolen securities will be filed separately.

STATEMENT OF BASIS AND PURPOSE

The purpose of the proposed rule change is to continue to unbundle clearing rates applicable to specific services.

SCCP believes that the proposed rule change provides equitable allocation of fees and charges in accordance with standards set forth in section 17A(b)(3)(D) of the Act.

SCCP has received no comments regarding the rate for lost and stolen securities. Several favorable comments were received for the new rate for legal transfers.

SCCP believes that no burden on competition will be imposed by the proposed rule change. The proposed rate schedule does not discriminate between marketplaces nor does it inhibit clearing interfaces.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty (60) days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should be submitted on or before March 24, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 23, 1978.

[FR Doc. 78-5577 Filed 3-2-78; 8:45 am]

[8010-01]

[Release No. 10140; 812-4245]

TEMPLETON GROWTH FUND, LTD., ET AL.

Filing of Application for an Exemption To Permit Offers of Exchange

FEBRUARY 27, 1978.

Notice is hereby given that Templeton Growth Fund, Ltd. ("Growth Fund"), 155 University Avenue, Toronto, Ontario M5H 3B7, a Canadian corporation registered as an open-end, diversified management investment company under the Investment Company Act of 1940 ("Act"), Templeton World Fund, Inc. ("World Fund"), 50 North Franklin Turnpike, Hohokus, N.J. 07423, a Maryland corporation, registered as an open-end, diversified management investment company under the Act, and Securities Fund Investors, Inc. ("SFI"), 50 North Franklin Turnpike, Hohokus, N.J. 07423, the principal underwriter for Growth Fund and World Fund (collectively, the "Applicants"), filed an application on December 8, 1977, and an amended application on January 24, 1978, for an order of the Commission: (1) pursuant to section 11(a) of the Act to permit both Growth Fund and World Fund to offer to exchange their respective common shares for common shares of the other fund on the basis of their relative net asset values per share at the time of the exchange except for a $5 exchange fee (the "Interchange Privilege"), and (2) pursuant to section 6(c) of the Act to exempt Applicants from the provisions of section 22(d) of the Act and the rules thereunder to the extent necessary to permit such offers of exchange. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Both Growth Fund and World Fund have substantially the same investment policy and investment restrictions; namely, a flexible policy of investing in stocks and debt obligations of companies and governments of any nation, with the investment objective of long-term capital growth. They have the same investment manager, Templeton Investment Counsel Ltd., a company owned by and operated under the direction of John M. Templeton. They also have the same principal underwriter, SFI, and the same transfer agent and custodian bank, New England Merchants National Bank (the "Bank").

SFI, as principal underwriter, maintains a continuous public offering of the shares of Growth Fund and World Fund at their net asset value plus a sales charge. On purchases of less than $10,000, the maximum sales charge for both funds is 8.5 percent of the offering price, with the sales charge reduced on larger purchases. There is no sales charge imposed on the reinvestment of dividends and capital gains from shares of either Growth Fund or World Fund.

Applicants propose to permit a shareholder of either Growth Fund or World Fund to redeem his shares and use the proceeds to purchase shares of the other fund at relative net asset value per share at the time of the exchange and without payment of the customary sales charges. A holder of shares of either of the Templeton Funds (Growth Fund or World Fund) will authorize the Bank to redeem his shares in the fund presently owned and to invest the proceeds of such redemption in shares of the fund to be acquired. Upon receipt by the Bank of such investor's properly executed authorization form, the Bank will redeem the shares of the Templeton Fund to be exchanged; transmit to the investor a confirmation of such redemption; apply the redemption proceeds, less a $5 service fee charged by the Bank each time that the Interchange Privilege is exercised, to the purchase of full and fractional shares of the Templeton Fund to be acquired at net asset value for the investor's account (provided that the minimum initial amount of such investment is $500); and send a confirmation of such purchase to the investor. Although neither Growth Fund nor World Fund nor their principal underwriter, SFI, will impose any charge on an exchange of shares of either one of the Templeton Funds for shares of the other pursuant to the Interchange Privilege, a broker-dealer other than SFI may charge an investor a commission for handling such Interchange.

Applicants state that the proposed Interchange Privilege will not be available to the proceeds from a redemption of shares of either Templeton Fund which are paid directly to the investor or at his direction to any person other than the other Templeton Fund and that the Templeton Funds have reserved the right to establish a limit on the number of exchanges pursuant to the Interchange Privilege which any investor may make within a prescribed period. The Interchange Privilege will be subject to termination or amendment by Growth Fund or World Fund at any time on six months notice. A prospectus of the fund to be acquired will be sent to the shareholder with the form necessary to exercise the Interchange Privilege.

Section 11(a) provides, in part, that it shall be unlawful for any registered open-end company or any principal underwriter for such a company to make or cause to be made an offer to the holder of a security of such company or any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission. Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current offering price described in the prospectus.

Applicants contend that the Interchange Privilege passes on to the investor the cost savings realized by SFI in connection with the sales of those shares of the Templeton Fund acquired by the investor pursuant to the Interchange Privilege. They state that, because any investor eligible for the Interchange Privilege will have been an investor in shares of Growth Fund or World Fund, no additional sales efforts will be incurred by SFI and no sales charge should be imposed on the investor in connection with the exchange of his shares of one fund for those of the other. It is also asserted that the Interchange Privilege will not enable any investor to purchase his original investment in shares of Growth Fund or World Fund at a current offering price other than that described in their prospectuses and that no investor will avoid payment of the applicable sales charge on such original investment. Accordingly, it is asserted that it is fair and equitable that no sale charge be imposed on the investor in connection with his exercise of the Interchange Privilege.

Section 6(c) of the Act provides, in part, that the Commission by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class of persons, securities, or transactions from any provision or provisions of the Act and the rules promulgated thereunder, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than March 21, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an

attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated

market instruments and acts as its own distributor. Reserve imposes no sales or administrative charge in connection with the sale of its shares.

quest a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hear-

visions of sections 12(g), 13 and 15(d) of the Exchange Act.

2. On November 30, 1977, the Applicant was merged with a wholly-owned

[8010-01]

[Rel. No. 10142; 812-4242]

attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5572 Filed 3-2-78; 8:45 am]

[8010-01]

[Release No. 10133; 812-4219]

TEMPLETON WORLD FUND, INC. and SECURITIES FUND INVESTORS, INC.

Filing of Application for an Exemption To Permit an Offer of Exchange

FEBRUARY 23, 1978.

Notice is hereby given that Templeton World Fund, Inc. (the "Fund"), an open-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act"), and Securities Fund Investors, Inc. ("SFI"), 50 North Franklin Turnpike, Hohokus, N.J. 07423, the principal underwriter for the Fund (collectively, the "Applicants"), filed an application on November 14. 1977, for an order of the Commission (1) pursuant to section 11(a) of the Act to permit the Fund to offer its common shares for certain shares of The Reserve Fund, Inc. ("Reserve"), and (2) pursuant to section 6(c) of the Act to exempt Applicants from the provisions of section 22(d) of the Act and the rules thereunder to the extent necessary to permit such an offer of exchange. All interested persons are referred to the application of file with the Commission for a statement of the representations contained therein, which are summarized below.

SFI, as principal underwriter for the Fund, maintains a continuous public offering of the shares of the Fund at their net asset value plus a sales charge. On purchases of les than $10,000, the maximum sales charge is 8.50 percent which is reduced on larger purchases. There is no sales charge imposed on the reinvestment of dividends and capital gains from shares of the Fund. The application states that Reserve, an open-end investment company registered under the Act, invests in short-term money market instruments and acts as its own distributor. Reserve imposes no sales or administrative charge in connection with the sale of its shares.

Applicants propose to permit a Reserve shareholder to exchange shares of Reserve acquired either (1) by investing the net proceeds from a redemption of shares of the Fund and held for such shareholder in a Templeton World Exchange Account ("Account") in the name of such shareholder at Reserve or (2) by the reinvestment of income dividends and capital gain distributions paid on all Reserve shares held in such Account, for shares of the Fund, in either case without the imposition of the customary sales charge described in the prospectus of the Fund (hereinafter referred to as the "Exchange Privilege"). Reserve shares acquired in any other manner than as described above would not qualify for the Exchange Privilege. A $5.00 service fee will be charged by New England Merchants National Bank, the custodian and transfer agent for the Fund, for each investment in shares of Reserve from proceeds of redemption of shares of the Fund.

The participant in an Account would be able to exercise his Exchange Privilege at any time by instructing Reserve to redeem shares of Reserve in his Account and apply the redemption proceeds to the acquisition of shares of the Fund. No charge on the exchange of Reserve shares for shares of the Fund will be imposed by Reserve or Applicants. The Exchange Privilege will not be available to the proceeds from a redemption of Reserve shares which are paid directly to the investor or at his direction to any person other than the Fund. The Fund and Reserve have reserved the right to establish a limit on the number of exchanges pursuant to the Exchange Privilege which any investor may make within a certain period. The Exchange Privilege will be subject to termination by the Fund or by Reserve on not less than six months' prior written notice to holders of an Account. An investor maintaining an Account will receive the current prospectus of both Reserve and the Fund provided the investor remains entitled to the Exchange Privilege. The Exchange Privilege will lapse for an investor if his Account balance of shares of the Fund shows a zero balance for a period of three consecutive years.

Section 11(a) provides, in part, that it shall be unlawful for any registered open-end company or any principal underwriter for such a company to make or cause to be made an offer to the holder of a security of such company or any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission. Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current offering price described in the prospectus.

Applicants state that, because any investor eligible for the Exchange Privilege will have been an investor in shares of the Fund and will continue to receive current prospectuses of the Fund while he holds the Account with Reserve, no additional sales efforts will be incurred by SFI in connection with the reacquisition of shares of the Fund. Accordingly, Applicants contend that it is fair and equitable that no sales charge be imposed on the investor in connection with his reacquisition of shares of the Fund. It is asserted that the Exchange Privilege will not enable any investor to avoid payment of the applicable sales charge on his original investment in shares of the Fund.

Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class of persons, securities, or transactions from any provision or provisions of the Act and the rules promulgated thereunder, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than March 20, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5573 Filed 3-2-78; 8:45 am]

[8010-01]

[Release No. 14496]

EXTENSION OF PUBLIC HEARINGS INTO THE ESTABLISHMENT OF A NATIONAL CLEARANCE AND SETTLEMENT SYSTEM

FEBRUARY 23, 1978.

The Commission today announced that the Public Hearings into the establishment of a National Clearance and Settlement System, announced in Securities Exchange Act Release No. 14411 (January 25, 1978), have been extended. The hearings will commence on March 7, 1978, as announced, and testimony will be received from scheduled witnesses. Thereafter, the hearings will be adjourned and interested persons will be invited to submit supplemental data or prepare responsive testimony. The hearings will reconvene on April 18 for at least two days, and the proceedings will be held open to receive submissions through the end of April. For the convenience of interested persons, transcripts of the March session will be made available for public inspection upon request at Commission regional offices as well as at the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5580 Filed 3-2-78; 8:45 am]

[8010-01]

[File No. 81-306]

LAKE SHORE FINANCIAL CORP.

Application and Opportunity for Hearing

FEBRUARY 27, 1978.

Notice is hereby given that Detroitbank Corp. on behalf of Lake Shore Financial Corp. ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended, (the "Exchange Act") seeking an exemption from the requirements to file reports pursuant to sections 12(g), 13 and 15(d) of the Exchange Act.

The Applicant states, in part:

1. The Applicant is a Delaware corporation subject to the reporting provisions of sections 12(g), 13 and 15(d) of the Exchange Act.

2. On November 30, 1977, the Applicant was merged with a wholly-owned subsidiary of Detroitbank Corp. pursuant to an Agreement and Plan of Merger dated March 31, 1977.

3. As a result of the merger, all the issued and outstanding shares of common stock of the Applicant are now owned by Detroitbank Corp.

In the absence of an exemption, Applicant is required to file pursuant to sections 12(g), 13 and 15(d) of the 1934 Act and the rules and regulations thereunder, an Annual Report on Form 10-k for the year ending December 31, 1977. Applicant believes that its request for an order exempting it from the provisions of sections 12(g), 13 and 15(d) of the 1934 Act is appropriate in view of the fact that Applicant believes that the time, effort and expense involved in preparation of additional periodic reports would be disproportionate to any benefit to the public.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, NW., Washington, D.C.

Notice is further given that any interested person not later than March 24, 1978, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5710 Filed 3-2-78; 8:45 am]

[8010-01]

[Rel. No. 10142; 812-4242]

STATE MUTUAL LIFE ASSURANCE COMPANY OF AMERICA

Filing of Application for Order

FEBRUARY 27, 1978.

Notice is hereby given that State Mutual Life Assurance Co. of America ("Insurance Company") 440 Lincoln Street, Worcester, Mass. 01605, a mutual life insurance company organized under the laws of the Commonwealth of Massachusetts, filed an application on December 5, 1977, for an order, pursuant to Section 17(d) of the Investment Company Act of 1940 ("Act") and Rule 17d-1 thereunder, permitting the acquisition by the Insurance Company of $1,600,000 of Subordinated Notes of Northwest Acceptance Corporation ("Northwest") in exchange for identical notes of Union Investment Co. ("Union"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Pursuant to an order of the Commission issued on February 12, 1973 (Investment Company Act Release No. 7665), corrected on February 27, 1973 (Investment Company Act Release No. 7698), and amended on July 28, 1976 (Investment Company Act Release No. 9371) (collectively referred to as the "Order"), the Insurance Company, which acts as investment adviser for State Mutual Securities, Inc. (hereinafter referred to as "Fund" or "Investment Company"), a closed-end, diversified investment company registered under the Act, is permitted to invest concurrently in each issue of securities purchased by the Fund at direct placement in an amount equal to the amount invested in such issue by the Fund and to exercise warrants, conversion privileges and other such rights at the same time and in the same amount as the Fund unless the security to be purchased is a long-term debt obligation without equity participation. The Order is subject to several conditions, one of which requires, generally, that purchases at direct placement of securities which would be consistent with the investment policies of the Fund be shared equally by the Insurance Company and the Fund. Another condition is that once the Insurance Company and the Fund have acquired interests in an issuer, neither the Insurance Company nor the Fund, unless otherwise permitted by order of the Commission, may acquire any further interest in such issuer or in any affiliated person of such issuer, or in securities issued by such issuer or affiliated person, other than interests in all respects identical.

The Insurance Company represents that the Insurance Company and the

Investment Company each concurrently hold $875,000 principal amount of 8¾ percent Subordinated Notes due 1988 of Northwest issued by Northwest in equal amounts of $437,500 on February 7, 1974 and June 13, 1974 ("Northwest Notes"). The Insurance Company states that it also holds $600,000 of 7½ percent Subordinated Notes due 1983 of Union and $1,000,000 of 9 percent Subordinated Notes due 1987 of Union (collectively, "Union Notes"). The Investment Company owns no Union securities.

Northwest is a wholly-owned subsidiary or Orbanco, Inc. ("Orbanco"), a financial services holding company. The Insurance Company states that Orbanco and Union have approved an agreement providing for the merger of Union and Northwest, subject to approval by shareholders of Union at a meeting scheduled to be held on January 30, 1978. Consummation of the merger is also dependent upon approval by the Board of Governors of the Federal Reserve System, issuance of an Internal Revenue Service tax ruling, and the consent of certain lenders and preferred stockholders of Northwest and Union.

The Insurance Company states that under the merger agreement all of the long-term noteholders of Union will become noteholders of Northwest on the same basis as their present relationships with Union, i.e., there would be no change in interest rate, level of debt, final maturity, or sinking fund requirements with respect to any lenders as a result of the merger.

It is submitted that the issuance of the new Northwest securities to the Insurance Company in exchange for the Union Notes owned by the Insurance Company may be deemed to be an acquisition of further interests in Northwest which will not be shared equally with the Investment Company, and that the Insurance Company would, therefore, not be permitted, within the terms of the Order, to exchange its Union Notes for the new Northwest securities pursuant to the merger unless it obtains a further order specifically permitting such acquisitions.

Section 17(d) of the Act and Rule 17d-1 thereunder provide that an affiliated person of a registered investment company, acting as principal, may not effect any transaction in which such investment company is a joint participant without the permission of the Commission. In passing upon applications for orders granting such permission, the Commission will consider whether the participation of the investment company in such joint enterprise or arrangement on the basis proposed is consistent with the provisions, policies, and purposes of the Act, and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

The Insurance Company submits that its proposed acquisition of the New Northwest securities is not disadvantageous to the Fund and is consistent with the provisions, policies, and purposes of the Act. As a result of the merger, Northwest should have the benefit of increased operating efficiencies, a larger capital base, and increased assets. Accordingly, the Insurance Company asserts the merger should impact favorably upon Northwest's credit standing, and would thereby benefit both the Insurance Company and the Investment Company as current holders of Northwest Notes. It is further stated that the proposed acquisition by the Insurance Company of the new Northwest securities in exchange for its Union Notes pursuant to the merger will not be disadvantageous to the Investment Company because such Northwest securities will have the same subordinated creditor status as the Northwest Notes and because the Investment Company's position as a holder of Northwest Notes should be improved as a result of the merger. The Insurance Company further asserts that the new Northwest securities to be acquired pursuant to the merger should be of higher quality than the Union Notes. Finally, the Insurance Company believes that it would be disadvantaged if it were not permitted to exchange its Union Notes for the new Northwest securities pursuant to the merger.

Notice is further given that any interested person may, not later than March 24, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5711 Filed 3-2-78; 8:45 am]

[8010-01]

[Rel. No. 20423; 70-5964]

SYSTEM FUELS, INC. ET AL.

Proposal by Fuel Supply Subsidiary To Issue Two Year Note to Bank

In the matter of: System Fuels, Inc., 225 Baronne Street, New Orleans, La. 70112; Arkansas Power & Light Co., First National Building, Little Rock, Ark. 72203; Louisiana Power & Light Co., 142 Delaronde Street, New Orleans, La. 70174; Mississippi Power & Light Co., Electric Building, Jackson, Miss. 39205; New Orleans Public Service, Inc., 317 Baronne Street, New Orleans, La. 70112; (70-5964).

Notice is hereby given that Arkansas Power & Light Co., Louisiana Power & Light Co., Mississippi Power & Light Co. and New Orleans Public Service, Inc. (collectively, the "Operating Companies"), all of which are public utility subsidiaries of Middle South Utilities, Inc., a registered holding company, and System Fuels, Inc. ("SFI"), the Middle South system fuel supply subsidiary which is jointly owned by the Operating Companies, have filed a post effective amendment to an application-declaration previously filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7 and 12(b) of the Act and rules 45 and 50(a)(2) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transaction.

By order dated March 8, 1977, in this matter (HCAR No. 19924) SFI was authorized to enter into a Coal Supply Agreement and certain supplemental agreements ("Coal Agreement"), dated as of December 22, 1976, between Antelope Coal Co. ("Antelope") and SFI, to advance to Antelope the total cost of a dragline which Antelope has ordered for use in producing coal for SFI's needs. It is currently expected that the total cost of the dragline will be not less than $15,000,000 and that the dragline will be available for delivery to Antelope in late February 1978. SFI anticipates having to advance to Antelope funds to cover the cost of the dragline shortly thereafter. As the date on which Antelope is to commence delivery of coal to SFI under the Coal Agreement is presently scheduled for January 1, 1983, rather than January 1, 1982, the advance by SFI to Antelope in respect of the dragline will be for a period of two years, rather than one year.

To obtain such funds to advance to Antelope for the cost of the dragline in the manner described above, SFI proposes to enter into a new loan agreement ("Loan Agreement") with Morgan Guaranty Trust Co. of New York ("Bank"), under which SFI will be entitled to borrow from the Bank the principal amount of $15,000,000 for a two-year term. To the extent that the total cost of the dragline, as finally determined, exceeds $15,000,000, SFI will advance the additional funds to Antelope from the proceeds of Borrowings from the Operating Companies or from funds on hand.

To effect the proposed borrowing under the Loan Agreement, SFI will deliver to the Bank an unsecured promissory note ("Note") in the principal amount of $15,000,000. The Note will be payable two years from date of issuance and will bear interest, payable quarterly and at maturity, on the unpaid principal amount thereof at a rate per annum equal to one hundred ten percent (110 percent) of the base rate (currently 8 percent per annum) as announced from time to time by the Bank for 90-day commercial loans in New York City to borrowers of the highest credit standing, with adjustments in the interest rate to be made effective automatically as of the opening of business on the effective date of any change in the Bank's base rate. There is no requirement that SFI maintain compensating balances with, or pay any commitment fee to, the Bank in connection with the borrowing under the Loan Agreement.

Under the terms of the Loan Agreement, the Operating Companies will covenant and agree with the Bank, severally in accordance with their present respective shares of ownership of the common stock of SFI, to take any and all action as, from time to time, may be necessary to keep SFI in a sound financial condition and to place SFI in a position to discharge, and to cause SFI to discharge, its obligations to the Bank pursuant to the Loan Agreement and the Note when due. The Operating Companies will further covenant and agree that they will, unless otherwise consented to in writing by the Bank, maintain their respective shares of ownership of the common stock of SFI, for the period during which the principal amount of the Note remains unpaid, in approximately the same proportions as presently held by them.

A statement of the fees, commissions and expenses to be incurred by the applicants in connection with the proposed transaction will be filed by amendment. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than March 23, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5712 Filed 3-2-78; 8:45 am]

[4710-01]

DEPARTMENT OF STATE

[Public Notice CM-8/19]

STUDY GROUP 8 OF THE U.S. ORGANIZATION FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

Meeting

The Department of State announces that Study Group 8 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on March 23, 1978, at 9:30 a.m. in Room 8210, Federal Communications Commission Building, 2025 M Street NW., Washington, D.C.

Study Group 8 studies matters relating to systems of radiocommunications and radiodetermination for the mobile services. The purpose of the meeting will be the review and adoption of proposed contributions to the CCIR Special Preparatory Meeting (October 1978) for the 1979 World Administrative Radio Conference.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman.

Dated: February 23, 1978.

GORDON L. HUFFCUTT,
Chairman,
U.S. CCIR National Committee.

[FR Doc. 78-5641 Filed 3-2-78; 8:45 am]

[4710-02]

Agency for International Development

UNITED STATES AMBASSADOR TO BARBADOS

Redelegation of Authority No. 165-25

Pursuant to the authority vested in me as Assistant Administrator, Bureau for Latin America, by the Foreign Assistance Act of 1961, as amended, and the delegations of authority issued thereunder, I hereby delegate to the United States Ambassador to Barbados, the Honorable Fred V. Ortiz, authority to executive AID Loan Agreement 538-T-007 (Regional Agribusiness Development). This delegation of authority shall remain effective through March 31, 1978.

Dated: February 21, 1978.

ABELARDO L. VALDEZ,
Assistant Administrator,
Bureau for Latin America.

[FR Doc. 78-5642 Filed 3-3-78; 8:42 am]

[4710-02]

Agency for International Development

HOUSING GUARANTY PROGRAM FOR JAMAICA

Information for Investors

The Agency for International Development (A.I.D.) has advised the Jamaica Mortgage Bank (the Borrower) that upon execution by an eligible U.S. investor acceptable to A.I.D. of an agreement to lend the Borrower an amount not to exceed $15 million and subject to the satisfaction of certain further terms and conditions by the Borrower, A.I.D. will guaranty repayment to the investor of the principal and interest on such loan. The guaranty will be backed by the full faith and credit of the United States of America and will be issued, pursuant to authority contained in section 222 of the Foreign Assistance Act of 1961, as amended. Proceeds of the loan will be used to finance a tenement upgrading program, a squatter settlement improvement program and a rural home improvement program in Jamaica. This project is referred to as 532-HG-010.

Eligible investors interested in extending a guaranteed loan to the Borrower should communicate promptly with:

Mr. David Levermore, Jamaica Mortgage Bank, P.O. Box 950, Kingston 5, Jamaica, telephone 66-322-323.

ACTION: Notice of desire to contest a determination under the Antidumping Act, 1921, as amended.

vinyl chloride sheet and film sold by Ocean Plastics and China Gulf.

LEONARD LEHMAN,

limited to, horns, drivers and tweeters), speaker arrays or systems, mixers, public address systems, and

[4810-25]

Office of the Secretary

Inquiries may be directed to Frederic H. Sweet, Special Assistant to the Secretary (Consumer Affairs), De-

Mr. David Levermore, Jamaica Mortgage Bank, P.O. Box 950, Kingston 5, Jamaica, telephone 66-322-323.

Investors eligible to receive a guaranty are those specified in section 238(c) of the Act. They are: (1) U.S. citizens; (2) domestic corporations, partnerships or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and (4) foreign partnerships or associations wholly owned by U.S. citizens.

To be eligible for a guaranty, the loan must be repayable in full no later than the 13th anniversary of the first disbursement of the principal amount thereof and the interest rate must be fixed at time of offer and may be no higher than the maximum rate to be established by A.I.D.

The Borrower projects a disbursement schedule approximately as follows: $5 million not later than June 15, 1978, $5 million not later than September 15, 1979 and $5 million not later than September 15, 1980, in a maximum of four disbursements.

The investor must provide for the servicing of his loan, i.e., recordation and disposition of loan payments received from the Borrower. The Borrower shall not be required to pay a commitment fee prior to the first disbursement.

Information as to eligibility of investors and other aspects of the A.I.D. housing guaranty program can be obtained from:

Director, Office of Housing, Agency for International Development, Room 625, SA-12, Washington, D.C. 20423.

This notice is not an offer by A.I.D. or by the Borrower. The Borrower and not A.I.D. will select an investor and negotiate the terms of the proposed loan.

Prospective investors are requested to submit offers to the Borrower by March 17, 1978.

Dated: March 1, 1978.

PETER M. KIMM,
Director,
Office of Housing.

[FR Doc. 78-5782 Filed 3-2-78; 8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 78-73]

POLYVINYL CHLORIDE SHEET AND FILM FROM THE REPUBLIC OF CHINA (TAIWAN)

Antidumping; American Manufacturer's Desire To Contest Negative Fair Value Determination

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Notice of desire to contest a determination under the Antidumping Act, 1921, as amended.

SUMMARY: This notice is to advise the public that the Secretary of the Treasury has received notification from certain American producers of polyvinyl chloride sheet and film of their desire to contest a negative fair value determination made under the Antidumping Act of 1921, as amended, with respect to such products sold by two Taiwanese companies.

EFFECTIVE DATE: March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Lublinski, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-2938).

SUPPLEMENTARY INFORMATION: On January 16, 1978, a notice of "Determination of Sales at Less Than Fair Value; Exclusion from and Final Discontinuance of Antidumping Investigation" in the matter of polyvinyl chloride sheet and film from the Republic of China was published in the FEDERAL REGISTER (43 FR 2254). This notice excluded from the determination of sales at less than fair value, polyvinyl chloride sheet and film from the Republic of China produced by Ocean Plastics Co., Ltd. (Ocean Plastics), and discontinued the antidumping investigation with respect to merchandise produced by China Gulf Plastics Corporation (China Gulf). Except for the merchandise sold by these two producers, the case was referred to the United States International Trade Commission for a determination as to whether the sales at less than fair value are causing, or are likely to cause injury to an industry in the United States.

Notification was received by the Secretary of the Treasury on February 9, 1978, of the desire of the Plastic Imports Action Committee (PIAC), a group of American producers of the same class or kind of merchandise as that described in the above determination, to contest in the United States Customs Court the failure to include in the determination of sales at less than fair value, such merchandise sold by Ocean Plastics and China Gulf.

In accordance with the provisions of section 516 of the Tariff Act of 1930, as amended by the Trade Act of 1974 (19 U.S.C. 1516), notice is hereby given that certain American manufacturers, producers or wholesalers have given notice that they desire to contest the failure to include in the determination of sales at less than fair value, polyvinyl chloride sheet and film sold by Ocean Plastics and China Gulf.

LEONARD LEHMAN,
Acting Commissioner of Customs.

Approved: February 27, 1978.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

[FR Doc. 78-5600 Filed 3-2-78; 8:45 am]

[4810-22]

Customs Service

CERTAIN ELECTRICAL SOUND EQUIPMENT AND ELECTRONIC MUSICAL INSTRUMENTS FROM JAPAN

Initiation of Countervailing Duty Investigation and Preliminary Determination

AGENCY: Customs Service, United States Treasury Department.

ACTION: Initiation of Countervailing Duty Investigation and Preliminary Determination.

SUMMARY: This notice is to advise the public that a petition has been received and an investigation is being started for the purpose of determining whether or not benefits are granted by the Government of Japan to manufacturers or exporters of certain electrical sound equipment and electronic musical instruments which constitute a bounty or grant within the meaning of the Countervailing Duty Law. A preliminary determination that the subject merchandise does not benefit from bounties or grants is being issued simultaneously. A final decision will be made not later than August 24, 1978.

EFFECTIVE DATE: March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Edward F. Haley, Operations Officer, Technical Branch, Duty Assessment Division, Office of Operations, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-556-5492.

SUPPLEMENTARY INFORMATION: A petition in satisfactory form was received on August 24, 1977, alleging that payments or bestowals conferred by the Government of Japan upon the manufacture, production or exportation of electrical sound equipment and electronic musical instruments from Japan constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

The electrical sound equipment specified in the petition includes all types of audio frequency electric amplifiers (by themselves or in combination with RF amplifiers), microphones, speakers (including, but not limited to, horns, drivers and tweeters), speaker arrays or systems, mixers, public address systems, and sound amplifier sets, classifiable under items 684.70, 685.25, 685.32, 685.40, 685.50, and 688.40 of the Tariff Schedules of the United States Annotated (TSUSA). The electronic musical instruments specified in the petition are classifiable under items 725.46 and 725.47 of the TSUSA.

For the reasons set forth below, it is deemed appropriate at this time to issue a preliminary determination pursuant to section 303(a)(4) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)), that bounties or grants are not being paid or bestowed on electrical sound equipment and electronic musical instruments from Japan.

The only "bounty or grant" alleged by the petitioner to be countervailable is the forgiveness of the Japanese Commodity Tax upon the export of the subject merchandise. The Department has consistently held that the non-excessive rebate or remission of indirect taxes, directly related to an exported product, does not constitute a bounty or grant within the meaning of the law. The fact that imports into Japan of the subject merchandise are subject to duty does not, in itself, operate to make commodity tax rebates bounties or grants; and there is no evidence before the Department that the commodity tax rebates, either in themselves or in conjunction with Japanese import duties on similar merchandise, operate to confer bounties or grants on exports from Japan of the merchandise in question.

A final decision in this case will be made on or before August 24, 1978. Before a final determination is made, consideration will be given to any relevant data, views, or arguments submitted in writing with respect to this preliminary determination. Submissions should be addressed to the Commissioner of Customs, 1301 Constitution Avenue NW., Washington, D.C. 20229, in time to be received by his office on or before April 3, 1978.

This preliminary determination is published pursuant to section 303(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)).

Pursuant to Reorganization Plan Number 26 of 1950 and Treasury Department Order 190 Revision 14, July 1, 1977, the provisions of Treasury Department Order 165, Revised, November 2, 1954, and § 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the initiation of a countervailing duty investigation and issuance of a preliminary countervailing duty determination by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

FEBRUARY 27, 1978.

[FR Doc. 78-5662 Filed 3-2-78; 8:45 am]

[4810-25]

Office of the Secretary

TREASURY SMALL BUSINESS ADVISORY COMMITTEE

Meeting

Pursuant to the Federal Advisory Committee Act, Pub. L. 92-463, notice is hereby given that a meeting of the Treasury Small Business Advisory Committee will be held on March 20 and 21, 1978.

On Monday, March 20, the Committee's three subcommittees will meet from 9:30 a.m. to 12 p.m. and from 2 p.m. to 5 p.m. Subcommittees on Capital Formation (Room 4125) and Tax Policy (Room 4119) will meet at the Main Treasury Building, 15th and Pennsylvania Avenue NW., Washington, D.C. 20220. The subcommittee on Tax Administration will meet in Room 3313 at the Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20220. The full committee will meet on Tuesday, March 21, at 9:30 a.m. until approximately 12 p.m. in Room 4119 at the Main Treasury Building, 15th and Pennsylvania Avenue NW., Washington, D.C. 20220.

The Committee was formed to provide a means of communication between the small business community and Treasury officials on numerous economic issues, including capital formation, tax policy, tax administration, and governmental regulations. On Monday, March 20, the Capital Formation subcommittee will address Securities Exchange Commission regulations and government assistance programs affecting small business; the Tax Policy subcommittee will focus on the impact of tax policies affecting the small business sector; and the Tax Administration subcommittee agenda will include compliance, Federal tax deposit procedures and ERISA as it affects plans maintained by small business. On March 21 the agenda for the full committee meeting includes reports and action on recommendations of the subcommittees.

The meetings will be open to the public. A limited number of seats will be available on a first come, first serve basis. In order to facilitate admittance, persons interested in attending are asked to call 566-5487 so that confirmation of space and access procedures can be provided.

Interested persons may file a written statement with the Committee before, during or after the meeting. The Chairman will, as time permits, entertain oral comments from members of the public attending the meetings. Persons interested in making oral statements are asked to call 566-5487 before 5 p.m. on March 16.

Minutes of the meeting will be available on request from the Treasury Small Business Advisory Committee.

Inquiries may be directed to Frederic H. Sweet, Special Assistant to the Secretary (Consumer Affairs), Department of the Treasury, Main Treasury Building, Room 4453, 15th and Pennsylvania Avenue NW., Washington, D.C. 20220, telephone 202-566-5487.

Dated: February 28, 1978.

ROBERT CARSWELL,
Deputy Secretary.

[FR Doc. 78-5673 Filed 3-2-78; 8:45 am]

[8320-01]

VETERANS ADMINISTRATION

ADVISORY COMMITTEE ON STRUCTURAL SAFETY OF VETERANS ADMINISTRATION FACILITIES

Meeting

The Veterans Administration gives notice pursuant to Pub. L. 92-463 that a meeting of the Advisory Committee on Structural Safety of Veterans Administration Facilities will be held in Room 442 at the Veterans Administration Central Office, 811 Vermont Avenue NW., Washington, D.C. on March 31, 1978 at 10 a.m. The Committee members will review Veterans Administration construction standards and criteria relating to fire, earthquake, and other disaster resistant construction.

The meeting will be open to the public up to the seating capacity of the room. Because of the limited seating capacity, it will be necessary for those wishing to attend to contact Mr. James Lefter, Director, Civil Engineering Service, Office of Construction, Veterans Administration Central Office, phone 202-389-2864, prior to March 29, 1978.

Dated: February 24, 1978.

MAX CLELAND,
Administrator.

[FR Doc. 78-5623 Filed 3-2-78; 8:45 am]

[8320-01]

CENTRAL OFFICE EDUCATION AND TRAINING REVIEW PANEL

Meeting

The Veterans Administration gives notice pursuant to Pub. L. 92-463 that a meeting of the Central Office Education and Training Review Panel, authorized by section 1790(b), Title 38, United States Code, will be held in Room 306, Veterans Administration Central Office, 810 Vermont Avenue NW., Washington, D.C. on March 21, 1978 at 10 a.m. The meeting will be held for the purpose of reviewing the July 25, 1977 decision of the Director, Veterans Administration Regional Office, Los Angeles, Calif., to continue

the suspension of enrollments of all eligible persons in the National Training College, 4300 Campus Drive, New-

1978, at San Francisco, CA, in room 15022, 15th floor, Federal Building, 450 Golden Gate Avenue; are transferred to room 510,

1978 (1 day), at Columbus, OH, in a hearing room to be later designated.

MC 133566 (Sub-No. 81), Gangloff & Down-

Effective February 17, 1978.

Expires March 3, 1978.

Issued at Washington, D.C., Febru-

service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness

No. MC 59264 (Sub-No. 66TA), filed January 30, 1978. Applicant: SMITH & SOLOMON TRUCKING CO., How

the suspension of enrollments of all eligible persons in the National Training College, 4300 Campus Drive, Newport Beach, Calif. 92660. This hearing was previously scheduled for November 7, 1977 and was vacated at the request of the counsel for the institution.

The meeting will be open to the public up to the seating capacity of the conference room. Because of the limited seating capacity, it will be necessary for those wishing to attend to contact Mr. Bernard D. Duber, Chief, Field Operations, Education and Rehabilitation Service, Veterans Administration Central Office, phone 202-389-2850, prior to March 10, 1978.

Dated: February 24, 1978.

MAX CLELAND,
Administrator.

[FR Doc. 78-5624 Filed 3-2-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 601]

ASSIGNMENT OF HEARINGS

FEBRUARY 28, 1978.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 46219 (Sub-No. 17), Sternberger Motor Corp. now being assigned May 15, 1978 (2 weeks), at New York, NY, in a hearing room to be later designated.

AB 57 (Sub-No. 7), Soo Line Railroad Co. Abandonment in Baraga and Houghton Counties, MI, is assigned for hearing at Houghton, MI, and will be held at the city of Houghton City Council Chambers, 100 Portage Street.

MC 2960 (Sub-No. 9), (Sub-No. 10), (Sub-No. 11), (Sub-No. 13), (Sub-No. 16), and (Sub-No. 18), England Transportation Co. of Texas, Inc., Houston, TX, are now assigned for hearing April 10, 1978 (10 days), at Austin, TX, in a hearing room to be later designated.

MC 113678 (Sub-No. 663), Curtis, Inc., now assigned March 13, 1978, at San Francisco, CA, is transferred from room 112, 555 Battery Street to room 510, 211 Main Street.

MC 43867 (Sub-No. 36), A. Leander McAlister Trucking Co., Inc; MC 113855 (Sub-No. 382), International Transport, Inc.; MC 114211 (Sub-No. 318), Warren Transport, Inc.; and MC 125433 (Sub-No. 133), F-B Truck Line Co., now assigned March 10, 1978, at San Francisco, CA, in room 15022, 15th floor, Federal Building, 450 Golden Gate Avenue; are transferred to room 510, 211 Main Street, San Francisco, CA.

MC 730 (Sub-No. 405), Pacific Intermountain Express Co., Inc., now assigned March 15, 1978, at San Francisco, CA, in room 1730, 17th floor, 211 Main Street, is transferred to room 510, 211 Main Street in San Francisco, CA.

MC-F-12598, Cooper-Jarrett, Inc.—Purchase—Tri-City Express, Inc., and MC 35334 (Sub-Nos. 78 and 79), Cooper-Jarrett, Inc., now assigned March 7, 1978, at Washington, DC, is canceled.

MC 115826 (Sub-No. 270), W. J. Digby, Inc., is now assigned for hearing March 20, 1978, at Phoenix, AZ, and will be held at the Adams Hotel, Adams Street at Central Avenue.

MC 71652 (Sub-No. 11), Byrne Trucking, Inc., now assigned March 20, 1978, at San Francisco, CA, in room 510 at 211 Main Street is transferred to the Holiday Inn, 750 Kearny Street in San Francisco, CA.

MC 119626 (Sub-No. 11), Ill-Pac Coast Transportation Co., now being assigned May 2, 1978 (2 days), at St. Louis, MO, in a hearing room to be later designated.

MC 3101 (Sub-No. 4), Schaum transfer Co., now being assigned May 4, 1978 (2 days), at St. Louis, MO, in a hearing room to be later designated.

MC 124004 (Sub-No. 42), Richard Dahn, Inc., now assigned March 15, 1978, at Washington, DC, is postponed to March 23, 1978, at the Offices of the Interstate Commerce Commission, Washington, DC.

MC 1239 (Sub-No. 9), Pony Trucking, Inc., now being assigned May 11, 1978, at the Offices of the Interstate Commerce Commission in Washington, DC.

MC 120436 (Sub-No. 2), Nussbaum Trucking, Inc., now being assigned April 10, 1978, for prehearing conference at the Offices of the Interstate Commerce Commission in Washington, DC.

MC-F-13163, R. C. Van Lines, Inc.—Purchase—Trans-World Movers, Inc., Transport Clearing of Colorado, Inc., Successor in Interest and MC 128155 (Sub-No. 5), R. C. Van Lines, Inc., Atlanta, GA, are now assigned for hearing April 11, 1978 (4 days), at Denver, CO, at a hearing room to be later designated.

MC 115904 (Sub-No. 81), Grover Trucking Co., is now assigned for hearing April 17, 1978 (2 days), at Denver, CO, at a hearing room to be later designated.

MC 57697 (Sub-No. 11), Lester Smith Trucking, Inc., is now assigned for hearing April 19, 1978 (3 days), at Denver, CO, at a hearing room to be later designated.

MC 141804 (Sub-No. 44), Western Express, division of Interstate Rental, Inc., is assigned for continued hearing April 24, 1978 (1 week), at San Francisco, CA, at a hearing room to be later designated.

MC-F-13341, Truck Transport, Inc.—Purchase—Drum Transport, Inc., by Drum White, Inc., Assignee now being assigned May 8, 1978 (1 week), at St. Louis, MO, in a hearing room to be later designated.

MC 4405 (Sub-No. 560), Dealers Transit, Inc., now being assigned May 2, 1978 (1 day), at Columbus, OH, in a hearing room to be later designated.

MC 73165 (Sub-No. 415), Eagle Motor Lines, Inc., now being assigned May 3, 1978 (1 day), at Columbus, OH, in a hearing room to be later designated.

MC 108119 (Sub-No. 66), E. L. Murphy Trucking Co., now being assigned May 4, 1978 (1 day), at Columbus, OH, in a hearing room to be later designated.

MC 133566 (Sub-No. 81), Gangloff & Downham Trucking Co., Inc., and MC 134286 (Sub-No. 24), Illini Express, Inc., now being assigned May 5, 1978 (1 day), at Columbus, OH, in a hearing room to be later designated.

MC 107012 (Sub-No. 242), North American Van Lines, Inc., now being assigned May 8, 1978 (1 day), at Columbus, OH, in a hearing room to be later designated.

MC 143297, Garn Trucking Co., Inc., now being assigned May 9, 1978 (2 days), at Columbus, OH, in a hearing room to be later designated.

MC 128273 (Sub-No. 263), Midwestern Distribution, Inc., now being assigned May 11, 1978 (2 days), at Columbus, OH, in a hearing room to be later designated.

MC-C-9853, Consolidated Van Lines, Inc.—Investigation and Revocation of Certificate now being assigned May 8, 1978 (1 day), at New York, NY, in a hearing room to be later designated.

MC 133689 (Sub-No. 153), Overland Express, Inc., now being assigned May 9, 1978 (1 day), at New York NY, in a hearing room to be later designated.

MC 78278 (Sub-No. 9), Mazzeo & Sons Express, now being assigned May 10, 1978 (3 days), at New York, NY, in a hearing room to be later designated.

MC 76032 (Sub-No. 329), Navajo Freight Lines, Inc., now assigned April 18, 1978, at Albuquerque, NM, is postponed indefinitely.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-5688 Filed 3-2-78; 8:45 am]

[7035-01]

[Ex Parte No. 241; Rule 19, Exemption No. 145]

CONSOLIDATED RAIL CORP.

Exemption Under Mandatory Car Service Rules

To all railroads:

Because of congestion following severe winter storms, the Consolidated Rail Corp. is unable to furnish shippers gondola cars of suitable ownership to maintain operations thereby threatening to close factories and create substantial economic loss.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19:

The Consolidated Rail Corp. is authorized to accept from shippers general service plain gondola cars less than 61-ft. in length and bearing mechanical designations "GA", "GB", "GD", "GH", "GS", and "GT" as listed in the Offical Railway Equipment Register, ICC-RER No. 406, issued by W. J. Trezise, or successive issues thereof, regardless of the provisions of Car Service Rules 1 and 2.

It is further ordered, That:

This exemption shall not apply to cars of Mexican or Canadian ownership or to cars subject to Interstate Commerce Commission or Association of American Railroads' Orders requiring return of cars to owners.

Effective February 17, 1978.

Expires March 3, 1978.

Issued at Washington, D.C., February 17, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-5689 Filed 3-2-78; 8:45 am]

[7035-01]

FOURTH SECTION APPLICATION FOR RELIEF

FEBRUARY 29, 1978.

This application for long-and-short-haul relief has been filed with the ICC.

Protests are due at the ICC within 15 days from the date of publication of this notice.

FSA No. 43511, Southwestern Freight Bureau, Agent's No. B-733, annual volume rates on 3,4-Dichloronitrobenzene, between East St. Louis, Ill., and St. Louis, Mo., on the one hand, and, on the other, Boutte and Luling, La., in sup. 30 to its tariff 12-K, ICC 5272, to become effective March 27, 1978.

Grounds for relief—market competition.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-5682 Filed 3-2-78; 8:45 am]

[7035-01]

[Notice No. 19TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

FEBRUARY 16, 1978.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field officil named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 26396 (Sub-No. 168TA), filed February 8, 1978. Applicant: POPELKA TRUCKING CO., d.b.a. THE WAGGONERS, P.O. Box 990, Livingston, MT 59047. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Agricultural chemicals* (except in bulk) from Randolph, WI and points in its commercial zone, to points on the International Boundary line between the United States and Canada located in MN, ND, MT, ID, and WA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Bruce E. Ruoff, Transportation Analyst, Eli Lilly Inter-America, Inc., P.O. Box 32, Indianapolis, IN 46206. Send protests to: District Supervisor, Paul J. Labane, Interstate Commerce Commission, 2602 First Ave., North Billings, MT. 59101.

No. MC 51146 (Sub-No. 573TA), filed February 8, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Applicant's representative: Wayne Dowing (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses, and* (2) *foodstuff when moving in mixed loads with the commodities in* (1) *above.* From the facilities of Oscar Meyer & Co., Inc. at Madison WI, to Boston, MA; Portland, ME; Albany, NY; Suffield, CT; and Philadelphia, PA., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Oscar Meyer & Co., Inc., P.O. Box 7188, Madison, WI 53707. Send protests to: John E. Ryden, District Supervisor, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Bldg. & Courthouse, 517 East Wisconsin Ave., Room 619, Milwaukee, WI 53202.

No. MC 59264 (Sub-No. 66TA), filed January 30, 1978. Applicant: SMITH & SOLOMON TRUCKING CO., How Lane, New Brunswick, NJ 08902. Applicant's representative: Herbert Burstein, 2373 1 World Trade Center, New York, NY 10048. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Bakery goods and materials and equipment and supplies related to bakery goods,* from Richmond, VA, and commercial zone to points in the States of ME, NH, VT, MA and RI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Nabisco Inc., East Hanover, NJ 07936, Attention: Robert A. Schulze. Send protests to: Robert S. H. Vance, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

No. MC 61396 (Sub-No. 344TA), filed February 8, 1978. Applicant: HERMAN BROS., INC., 2565 St. Marys Avenue, P.O. Box 189, Omaha NE 68101. Applicant's representative: John E. Smith, II (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Helium, in bulk, in shipper-owned trailers,* from the facilities of the U.S. Department of Interior, Bureau of Mines, at or near Keyes, OK to Chicago, IL, for 180 days. Applicant also has filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): A. J. Sutton, Manager, Distribution, Industrial Gases Division, Chemetron Corp., 111 East Wacker Drive, Chicago, IL 60601. Send protest to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 94265 (Sub-No. 259TA), filed January 30, 1978. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Route 460 West, Windsor, VA 23487. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Road NE, Atlanta, GA 30342. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, dairy products and articles distributed by meat packinghouses* as defined in section A, B, and C of appendix 1 to the report in Descriptions in Motor Carrier Certificates 61 MCC 209 and 766, (except commodities in bulk) in vehicles equipped with mechanical refrigeration, from Chicago, IL, and points within the Chicago, IL, commercial zone to points in NC, for 180 days. Supporting shippers: There are eight (8) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies

thereof which may be examined at the field office named below. Send protests to: District Supervisor, Paul D. Collins, Bureau of Operations, Room

ing up to 90 days of operating authority. Supporting shipper(s): Bird & Son, Inc., East Walpole, MA 02032. Send protests to: C. R. Flemning, District

motion picture film used primarily for commercial theater and television exhibition), between points in WA and OR, for 180 days. Applicant has also

Frozen foods, from storage facilities, Mount Airy Cold Storage, Mount Airy, Md., to points in the States of OH, WV, VA, NC, MD, DE, DC, PA, NY,

ECOFF TRUCKING, INC., 625 East Broadway, Fortville, IN 46040. Applicant's representative: Robert W. Loser II, 1009 Chamber of Commerce Build-

Road, Room CC516, Mart Office Bldg., Charlotte, NC 28205.

No. MC 128196 (Sub-No. 9TA), filed

thereof which may be examined at the field office named below. Send protests to: District Supervisor, Paul D. Collins, Bureau of Operations, Room 10-502 Federal Building, 400 North 8th Street, Richmond, VA 23240.

No. MC 98952 (Sub-No. 51TZ), filed February 1, 1978. Applicant: GENERAL TRANSFER CO., 2880 North Woodford Street, P.O. Box 2203, Decxatur, IL 62526. Applicant's representative: Paul E. Steinhour, 918 East Capitol Avenue, Springfield, IL 62701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, frozen meats, and nonedible foodstuffs*, moving in mechanically refrigerated equipment, from the facilities of Terminal Ice & Cold Storage Co., at or near Bettendorf, IA, to IL, IN, KY, MI, MO, OH, WI, and TN. Restricted to shipments originating at named origin and destined to named destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Larry Christensen, Office Manager, Terminal Ice & Cold Storage Co., P.O. Box 928, Bettendorf, IA, 52722. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

No. MC 99439 (Sub-No. 8TA), filed January 31, 1978. Applicant: SUWANNEE TRANSFER, INC., 1830 East 21st Street, Jacksonville, FL 32206. Applicant's representative: Dan R. Schwartz, 1729 Gulf Life Tower, Jacksonville, FL 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel piling and piledriving equipment*, between Jacksonville, FL, on the one hand, and, on the other points in NC and SC, for 180 days. Supporting shipper: Mississippi Valley Equipment Co., 14401 Old St. Augustine Road, Jacksonville, FL 32224. Send protests to: District Supervisor, G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

No. MC 106603 (Sub-No. 168TA), filed February 9, 1978. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain Street SW., Grand Rapids, MI 49508. Applicant's representative: Martin J. Leavitt P.O. Box 400 Northville, MI 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials, and materials, equipment and supplies used in the manufacture and installation of building materials* (except commodities in bulk), from the facilities of Bird & Son Inc., at Franklin, OH to Rock Hill, MO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Bird & Son, Inc., East Walpole, MA 02032. Send protests to: C. R. Flemning, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 225 Federal Building, Lansing, MI 48933.

No. MC 107107 (Sub-No. 459TA), filed January 30, 1978. Applicant: ALTERMAN TRANSPORT LINES, INC., 12805 Northwest 42nd Avenue, P.O. Box 425, Opa Locka, FL 33054. Applicant's representative: Ford W. Sewell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bananas* and (2) *agricultural commodities* otherwise exempt from economic regulation under section 203(b)(6) of the Act, when transported in mixed loads with bananas, from Charleston, SC, to points in CT, GA, IL, IN, IA, KS, KY, MA, MI, MN, MO, NE, NJ, NY, OH, PA, RI, SD, TN, WV and WI, for 180 days, There is no environmental impact involved in this application, Supporting shipper: Del Monte Banana Co., 1201 Brickell Avenue, Miami, FL 33131. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, BOp, 8410 Northwest 53rd Terrace, Monterey Building, Suite 101, Miami, FL 33166.

No. MC 110410 (Sub-No. 22TA), filed January 30, 1978. Applicant: BENTON BROTHERS FILM EXPRESS, INC., 168 Baker Street NW., Atlanta, GA 30313. Applicant's representative: James L. Fant (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Jacksonville International Airport, at or near Jacksonville, FL, on the one hand, and, on the other, points within the air terminal zones of Charleston, SC, and Savannah, GA, for 180 days. Supporting shipper: Air Cargo Services, Inc., Forbes Field, Topeka, KS. Send protests to: Sara K. Davis, Transportation Assistant, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

No. MC 111729 (Sub-No. 728TA), filed January 24, 1978. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Exposed and processed film and prints, complimentary replacement film, and incidental dealer handling supplies and advertising literature moving therewith* (excluding motion picture film used primarily for commercial theater and television exhibition), between points in WA and OR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately (4) statements of support attached to the application which may be examined at the field office named below. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

No. MC 111729 (Sub-730TA), filed February 8, 1978. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 11040. Applicant's representative: Elizabeth L. Henoch, Staff Vice President, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Business papers, records, audit and accounting media and advertising material of all kinds;* (2) *Plastic, thermal and ceramic home products*, restricted against the transportation of packages or articles weighing in excess of 300 lbs. in the aggregate, on behalf of Genie, Inc., subsidiary of Avon Products, between points in AR, on traffic having or subsequent out-of-State movement by motor vehicle, for 180 days. Supporting shipper(s): Genie, Inc., 12836 East Alondra Boulevard, Cerritos, CA 90701. Send protests to: Maria B. Kejes, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

No. MC 112617 (Sub-No. 383TA), filed February 9, 1978. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, KY 40221. Applicant's representative: Mr. Charles R. Dunford, Vice President, P.O. Box 21395, Louisville, KY 40221. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from points in IL, IN, IA, KS, LA, MI, MO, NJ, OH, PA, TN, and WV, to the plantsite of Millinckrodt Inc., at or near Paris, KY, for 180 days. Supporting shipper(s): Mr. Ronald E. Boling, Traffic Supervisor, Millinckrodt Inc., Paris By-Pass, P.O. Box M, Paris, KY 40361. Send protests to: Mrs. Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 P.O. Building, Louisville, KY 40202.

No. MC 115322 (Sub-No. 139TA), filed January 27, 1978. Applicant: REDWING REFRIGERATED, INC., 9831 S. Orange Avenue, P.O. Box 10177, Taft, FL 32809. Applicant's representative: J. V. McCoy, 8515 Palm River Road, P.O. Box 426, Tampa, FL 33601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

Frozen foods, from storage facilities, Mount Airy Cold Storage, Mount Airy, Md., to points in the States of OH, WV, VA, NC, MD, DE, DC, PA, NY, NJ, MA, CT, NH, and ME. Returned, refused, and rejected merchandise in reverse direction, for 180 days. Supporting shipper: Lamb-Weston, Division of Amfac Foods, Inc., 6600 Southwest Hampton Street, Portland, OR 97223. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

No. MC 115654 (Sub-No. 75TA), filed January 24, 1978. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Candy Lane, Nashville, TN 37202. Applicant's representative: Henry E. Seaton, 915 Pennsylvania Building, 13th and Pennsylvania Avenue NW., Washington DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Candy and confectionery* in mechanically refrigerated equipment and (b) *foodstuffs and pet foods*, when moving in mixed shipments with (a) above, from the plantsites and warehouse facilities of Chicago Candy Shippers Association, Ferrara-Pan Candy Co., Leaf Confectionery, Standard Brands, Inc., and Tootsie Roll Industries, Inc., at or near Chicago, IL, to applicant's terminal and consolidation facility at Cincinnati, OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately (4) statements of support attached to the application which may be examined at the field office named below. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

No. MC 115841 (Sub-No. 603TA), filed February 9, 1978. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Applicant's representative: D. R. Beller (address same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drugs and medicines* from Gulfport, MS to Secaucus, NJ, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Sterling Drug, Inc., 90 Park Avenue, New York, NY 10016. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

No. MC 119934 (Sub-No. 221TA), filed January 20, 1978. Applicant: ECOFF TRUCKING, INC., 625 East Broadway, Fortville, IN 46040. Applicant's representative: Robert W. Loser II, 1009 Chamber of Commerce Building, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acids, chemicals* (except liquified natural gas) and polyethylene resins, in bulk, in tank or hopper-type vehicles, from Tuscola, IL, to points in the United States on and east of U.S. Hwy 85, and to points in UT, restricted to the transportation of traffic originating at the above-named origin and destined to the above-named destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: U.S. Industrial Chemicals Co., P.O. Box 218, Tuscola, IL 61953. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, room 429, Indianapolis, IN 46204.

No. MC 123294 (Sub-No. 43TA), filed January 31, 1978. Applicant: WARSAW TRUCKING CO., INC., 1102 West Winona Avenue, P.O. Box 784, Warsaw, IN 46580. Applicant's representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automatic poultry and animal feeding equipment*, from Milford, IN, to points in the United States in or east of the States of ND, SD, NE, KS, OK, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Chore-Time Equipment, Inc., Road 15 North, Milford, IN 46542. Send protests to: J.H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

No. MC 128117 (Sub-No. 34TA), filed February 9, 1978. Applicant: NORTON-RAMSEY MOTOR LINES, INC., P.O. Box 896, Hickory, NC 28601. Applicant's representative: Francis J. Ortman, 7101 Wisconsin Avenue, Suite 605, Washington, D.C. 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture* from Appomattox, VA, to points and places in AR, LA, OK, TX, NM, CA, and NE, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s); Thomasville Furniture Industries, Inc., P.O. Box 339 Thomasville, NC 27360. Send protests to: District Supervisor, Terrell Price, 800 Brair Creek Road, Room CC516, Mart Office Bldg., Charlotte, NC 28205.

No. MC 128196 (Sub-No. 9TA), filed January 26, 1978. Applicant: KARL ARTHUR WEBER, 2002 West Cypress Street, Phoenix, AZ 85021. Applicant's representative: Karl Arthur Weber (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials and forest products*, A. Building Materials in mixed shipments; B. gypsum and gypsum products; C. roofing and roofing products, insulation; D. forest products, lumber, wood products, plywood, particle board, hard board, pressed wood products, timbers and laminated beams; E. nails, rebar, hardware cloth, barbwire and other steel products; F. cement, cement mixes, sands, lime and lime products, soda ash, pot ash, bricks, blocks, rock and rock products; from points and places in AZ, CA, ID, OR, NM, TX, UT, WA, to points and places in NV and return to above named States. *Gypsum and gypsum products*, from points and places, in CA, NV, NM, TX, UT, to points and places in AZ, NV, OR, WA, and CA; *forest products, lumber, plywood, particle and hard board, timbers and laminated wood products, and recyclable waste products*, from points and places in WA, and AZ, to points and places in AZ, NM, TX, CA; from points and places in CA, OR, to points and places in NM, CA; from points and places in AR, LA, TX, to points and places in AZ, CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shippers: Bath Ace Hardware 588B (or) Bath Lumber & Building Supply, 189 West Aultman, P.O. Box 1290, Ely, NV, 89301; Specialty Forest Products, Inc., 4433 North 19th Avenue, Phoenix, AZ 85015. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020 Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

No. MC 128273 (Sub-No. 284TA), filed February 1, 1978. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, 121 Humboldt Street, Fort Scott, KS 66701. Applicant's representative: Elden Corban (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drums, fibreboard, paper or pulpboard*, other than corrugated, with or without metal tops or bottoms, knocked down, ends detached, bondies folded flat in packages, and sealing machines, from the plantsite and storage facilities of the Mead Corp., located at or near Avondale, GA, to CA, WA, and OR, for 180 days. Applicant has also filed an un-

derlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Mead Corp., Courthouse Plaza Northeast, Dayton, OH 45463.

ture, Division, Gay Products, Inc., P.O. Box 2377, Clearwater, FL. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission,

sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and*

2344 Sagamore North, Lafayette, IN 47902. Applicant's representative: James Robert Evans, 145 West Wisconsin Avenue, Neenah, WI 54956. Au-

will be no significant effect on the quality of the human environment resulting from approval of its applica-

trict Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

derlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Mead Corp., Courthouse Plaza Northeast, Dayton, OH 45463. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, KS 67202.

No. MC 128527 (Sub-No. 100TA), filed January 27, 1978. Applicant: MAY TRUCKING CO., P.O. Box 398, Payette, IN 83661. Applicant's representative: C. Marvin May (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed, feed ingredients, and feed supplements*, from Quincy and Dundee, IL, and Boscobel, WI, to the facilities of Moorman Mfg. Co. of California, Inc., located near Fruitland, ID, and San Gabriel, CA. Applicant does not intend to tack or interline authority, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Moorman Mfg. Co. of California, Inc., P.O. Box 1000, San Gabriel, CA 91778. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Suite 110, 1471 Shoreline Drive, Boise, ID 83706.

No. MC 128638 (Sub-No. 18TA), filed January 30, 1978. Applicant: CENTRAL GRAIN HAULERS, INC., Route 1, Van Meter Road, P.O. Box 746, Winchester, KY 40391. Applicant's representative: George M. Catlett, 708 McClure Building, Frankfort, KY 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizers*, in bulk, from the plantsite of Agrico Chemical Co. at Melbourne, KY, to points in IL, IN, KY, MI, OH, VA, and WV. Restricted to the transportation of traffic originating at the above-mentioned plantsite, for 180 days. Supporting shipper: Agrico Chemical Co., Director, Transportation, Legislation and Research, P.O. Box 3166, Tulsa, OK 74101. Send protests to: Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, KY 40202.

No. MC 129495 (Sub-No. 313TA), filed February 10, 1978. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, Liverla, KS 67901. Applicant's representative: Herbert Alan Dublin, Sullivan, Dublin & Kingsley, 1320 Fenwick Lane, Silver Spring, MD 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lawn and patio furniture, in cartons*, from Louisberg, NC, to points in CT, DE, IL, IN, KY, ME, MD, MA, MI, NY, NH, OH, PA, RI, TN, VT, VA, WV, and WI, for 180 days. Supporting shipper(s): Sun Terrace Casual Furniture, Division, Gay Products, Inc., P.O. Box 2377, Clearwater, FL. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, KS 67202.

No. MC 134286 (Sub-No. 42TA), filed February 2, 1978. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Applicant's representative: Charles J. Kimball, Suite 350, Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in sections A and C of Appendix I to the report in Description in Motor Carrier Certificates 61 MCC 209 and 766 (except hides and commodities in bulk), from the plantsite and/or storage facilities utilized by Sioux Preme Packing Co. located at or near Sioux Center, IA, to Detroit, MI, Champlain, Buffalo, and New York, NY, Boston, MA, Philadelphia, PA, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Larry Walsh, Vice President, Sioux Preme Packing Co., Highway 75 South, Sioux Center, IA 51250. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 139420 (Sub-No. 29TA), filed February 10, 1978. Applicant: ART GREENBERG, d.b.a. GLACIER TRANSPORT, P.O. Box 428, Grand Forks, ND 58201. Applicant's representative: James B. Hovland, P.O. Box 1680, 414 Gate City Building, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potato products* (except in bulk) from the facilities of International Co-op located at or near Grand Forks, ND, to Denver, CO, and points in NE, KS, and SD. Restriction: Restricted to the transportation of traffic originating at the facilities of International Co-op at or near Grand Forks, ND, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): International Co-op, Highway 2, Grand Forks, ND 58201. Send protests to: Ronald R. Mau, District Supervisor, Bureau of operations, Interstate Commerce Commission, Room 268, Federal Building, and U.S. Post Office, 657 2d Avenue, North Fargo, ND 58102.

No. MC 140037 (Sub-No. 6TA), filed January 30, 1978. Applicant: SUNFLOWER CARRIERS, INC., P.O. Box 355, York, NE 68467. Applicant's representative: Scott E. Daniel, Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Siouxland Dressed Beef located in Sioux City, IA, to points in NY. Restriction: Restricted to a transportation service to be performed under a continuing contract or contracts with Sunflower Beef Packers, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: John C. Tasset, General Manager, Sunflower Beef Packers, Inc., York, NE 68467. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Courthouse, 100 Centennial Mall North, Lincoln, NE 68508.

No. MC 142443 (Sub-No. 3TA), filed January 30, 1978. Applicant: HOLSTON BROS., INC., 13711 Travilah Road, Rockville, MD 20850. Applicant's representative: Barry Roberts, Pope Ballard & Loos, 888 17th Street NW., Washington, DC 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bagged limestone, bagged limestone chips, bagged concrete mixes, and bagged sand*, from Buchanan, VA, to Washington, DC, and points in its commercial zone, for 180 days. Supporting shipper(s): James River Limestone Co., Inc., P.O. Box 617, Buchanan, VA 24066. Send protests to: Interstate Commerce Commission, 12th and Constitution Ave. NW., room 1413, District Supervisor, W. C. Hersman, Washington, DC 20423.

No. MC 142765 (Sub-No. 4TA), filed January 31, 1978. Applicant: AMERICAN TRANSPORTATION, INC., P.O. Box 2379, Trenton, NJ 08601. Applicant's representative: Mel P. Booker, Jr., 118 North St. Asaph, Alexandria, VA 22314. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Toilet preparations, soap, cosmetics, printed matter, prizes, premiums and jewelry*, from the facilities of Avon Products, Inc., located at or near Rye, NY, to all points in the state of CT, under a continuing contract or contracts with Avon Products, Inc., for 180 days. Supporting shipper: Avon Products, Inc., Midland and Peck Avenues, Rye, NY 10580. Send protests to: District Supervisor, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, NJ 08608.

No. MC 142925 (Sub-No. 4TA), filed January 20, 1978. Applicant: A.C.B. TRUCKING, INC., P.O. Box 1683, 2344 Sagamore North, Lafayette, IN 47902. Applicant's representative: James Robert Evans, 145 West Wisconsin Avenue, Neenah, WI 54956. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectioneries* in vehicles equipped with mechanical refrigeration (except in bulk), (1) from the facilities of E. J. Brach & Sons Division, American Home Products Corp. at Carol Stream, Chicago, and Sullivan, IL, to points in AZ, CA, NV, OR, UT, and WA, and (2) from Reno, NV, to points in AZ, CA, OR, and WA, under a continuing contract or contracts with E. J. Brach & Sons Division, American Home Products Corp., for 180 days. Supporting shipper: E. J. Brach & Sons Division, American Home Products Corp., 4656 West Kinzie Street, Chicago, IL 60644. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-5683 Filed 3-2-78; 8:45 am]

[7035-01]

[Notice No. 21TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

FEBRUARY 17, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 124071 (Sub-No. 14TA), filed January 19, 1978. Applicant: LIVESTOCK SERVICE, INC., P.O. Box 944, 1420 Second Avenue South, St. Cloud, MN 56301. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 56301. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities of Robel Beef, Packers, Inc., St. Cloud, MN, to Seattle, WA; Portland, OR; Oakland, Los Angeles, and Wilmington, CA; Phoenix and Tucson, AZ; Las Vegas, NV; Albuquerque, NM; Denver and Grand Junction, CO; Augusta and Atlanta, GA; Georgia, Miami, and Fort Lauderdale, FL; Aiken and Columbia, SC; Charlotte and Raleigh, NC; Roanoke, Richmond, and Suffolk, VA; and Tulsa, OK, under a continuing contract, or contracts, with Robel Beef Packers, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Robel Beef Packers, Inc., St. Cloud, MN 56301. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 125023 (Sub-No. 52TA), filed January 16, 1978. Applicant: SIGMA-4 EXPRESS, INC., 3825 Beech Avenue, P.O. Box 9117, Erie, PA 16504. Applicant's representative: Richard G. McCurdy (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, and *malt beverage containers*, from Utica, NY, to points in CT, ME, NH, NJ, PA, and RI, and from points in CT, ME, NH, NJ, PA, and RI, to Utica, NY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: West End Brewing Company, 811 Edward Street, Utica, NY 13502. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

No. MC 135797 (Sub-No. 95TA), filed January 20, 1978. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, U.S. Hwy 71, Lowell, AR 72745. Applicant's representative: Daniel C. Sullivan, 10 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Animal feed* (except in bulk); (2) *animal feed ingredients*, and (3) *advertising and packaging materials* when moving in mixed loads with the commodities named in (1) and (2) from the facilities of Kal Kan Foods, Inc., at Los Angeles, CA, and Indianapolis, IN, to points in CT, DE, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and DC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kal Kan Foods, Inc., 3386 E. 44th Street, Vernon, CA 90058. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 140033 (Sub-No. 38TA), filed January 16, 1978. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, TX 75220. Applicant's representative: Lawrence A. Winkle, Winkle & Wells, P.O. Box 45538, Suite 1125 Exchange Park, Dallas, TX 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plumbing fixtures, materials and supplies*, from Plano and Abilene, TX, to points in NM, AZ, CA, OR, WA, NV, ID, NT, NJ, NY, MA, CT, PA, MD, DE, RI, VA, WV, KY, and the DC; and (2) *flexible gas connectors*, from Los Angeles, CA, to Abilene and Plant, TX; Louisville, KY; and Carlstadt, NJ, for 180 days. Supporting shipper: Eastman Central D, Division of United States Brass Corp., 901 10th Street, Plano, TX 75074. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street Room 13C12, Dallas, TX 75242.

No. MC 140193 (Sub-No. 1TA), filed January 16, 1978. Applicant: RICH B. GRANT, 910 West 24th Street, Ogden, UT 84401. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the Report in Description in Motor Carrier Certificates, 61 M. C. C.

209 and 766, (except hides, inedible tallow and commodities in bulk), from Albert Lea, MN, and Cedar Rapids, IA,

equipment, from the cold storage facility operated by Genesee Valley Cold Storage, Inc., Mt. Morris, NY, to

bulk), as defined in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61

and Spartanburg, SC, to the facilities of Coronet Carpets, Inc., at Dalton, Calhoun, and Gainesville, GA; and (b)

73099. Applicant's representative: G. Timothy Armstrong, 6161 North May Avenue, Oklahoma City, OK 73112.

ations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

209 and 766, (except hides, inedible tallow and commodities in bulk), from Albert Lea, MN, and Cedar Rapids, IA, to the plant site or storage facilities of Country Pride Foods at Salt Lake City, UT, under a continuing contract, or contracts, with Country Pride Foods, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Country Pride Foods, 501 North 2200 West, Salt Lake City, UT, (Dahl T. Warren, director of Wilson Food Sales). Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, UT 84138.

No. MC 140553 (Sub-No. 5TA), filed January 5, 1978. Applicant: ROGERS TRUCK LINE, INC., Box 125, Webster City, IA 50595. Applicant's representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, meat by-products, dairy products and articles distributed by meat packinghouses*, as described in Sections A, B, and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and skins and commodities in bulk), from the plantsite and storage facilities of John Morrell & Co., at Sioux Falls, SD, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, and DC, and (2) *meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and skins and commodities in bulk), from the plantsite and storage facilities of John Morrell & Co., at Estherville, IA, to points in CT, ME, MD, MA, NH, NJ, NY, PA, and RI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: John Morrell & Co., 208 S. LaSalle Street, Chicago, IL 60604. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, IA 50309.

No. MC 141776 (Sub-No. 20TA), filed January 19, 1978. Applicant: FOOD-TRAIN, INC., Spring and South Center Streets, Ringtown, PA 17967. Applicant's representative: Pauline E. Myers, 734 15th Street NW., Suite 406-7, Washington, DC. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods and unfrozen potato products* (except in bulk), in temperature-controlled equipment, from the cold storage facility operated by Genesee Valley Cold Storage, Inc., Mt. Morris, NY, to points in the states of CT, DE, DC, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, VA, and WV, with returned, refused and rejected merchandise in reverse direction for 180 days. Supporting shipper: Lamb-Weston, Division of Amfac Foods, Inc., 6000 S.W., Hampton Street, Portland, OR 97223. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 314 U.S. Post Office Building, Scranton, PA 18503.

No. MC 142715 (Sub-No. 10TA), filed January 11, 1978. Applicant: LENERTZ, INC., 411 Northwestern National Bank Bldg., South St. Paul, MN 55101. Applicant's representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, meat byproducts, dairy products and articles distributed by meat packinghouses*, as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and skins and commodities in bulk), from the plantsite and storage facilities of John Morrell & Co., at Sioux Falls, SD, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, and DC, and (2) *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (excedpt hides and skins and commodities in bulk), from the plantsite and storage facilities of John Morrell & Co., at Estherville, IA, to points in CT, ME, MD, MA, NH, NJ, NY, PA, RI and VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): John Morrell & Co., 208 S. LaSalle Street, Chicago, IL 60604. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 142827 (Sub-No. 2 TA), filed January 18, 1978. Applicant: DE MARLIE TRUCKING, INC., Box 338, Reynolds, IL. 61279. Applicant's representative: Robert H. Levy, 29 S. La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, (except hides and commodities in bulk), as defined in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsite and warehouse facilities of Central Meat Company located in Chicago, IL, to Detroit, MI, St. Louis, MO; Salem, OH; and Sunbury, PA and from the plantsite and warehouse facilities of Dakota Meat Co. located in Chicago, IL, to Cleveland, OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Central Meat Co., William Beck President, 824 W. 38th Place, Chicago, IL (2) Dakota Packing Co., Robert A. Cohn, Secretary, 4040 Normal Avenue, Chicago, IL. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, IL 60604.

No. MC 143790 (Sub-No. 5 TA), filed January 16, 1978. Applicant: FEDERAL FREIGHT SYSTEM, INC., 30650 Carter Road, Solon, OH 44319. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household appliances* such as stoves, ranges, ovens, disposers, dishwashers, compactors, refrigerators, freezers and kitchen equipment and parts for each of such items, from (a) Nashville, TN, to points in the United States (except TN), in and east of the states of MN, IA, MO, AR, LA and (b) from Mansfield, OH to points in the United States, (except OH) in and east of the states of MN, IA, MO, AR, and LA, for 180 days. Supporting shipper(s): The Tappan Co., Tappan Park, 222 Chambers Road, Mansfield, OH 44901. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, 731 Federal Office Bldg., 1240 East Ninth Street, Cleveland, OH 44199.

No. MC 144082 (Sub-No. 1TA), filed January 13, 1978. Applicant: DIST/TRANS MULTI-SERVICES, INC., d.b.a. TAHWHEELALEN EXPRESS, INC., P.O. Box 7191, Charlotte, NC 28217. Applicant's representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are manufactured or distributed by electrical equipment and supply manufacturers, from Anoka, MN, to Charlotte, NC, restricted to the transportation of shipments under a continuing contract, or contracts, with Hoffman Engineering Co., (2) *Such commodities* as are used or distributed by carpet manufacturers (except in bulk), (a) from Martinsville, VA, and Greenville and Spartanburg, SC, to the facilities of Coronet Carpets, Inc., at Dalton, Calhoun, and Gainesville, GA; and (b) from the facilities of Coronet Carpets, Inc., at Dalton, GA, to points in IL, WI, MN, IA, and MI, restricted to transportation of shipments under a continuing contract, or contracts, with Coronet Carpets, Inc., and Hoffman Engineering Co., for 180 days. Supporting shipper(s): (1) Hoffman Engineering Co., Tyler Street, Anoka, MN 55303. (2) Coronet Carpets, Inc., P.O. Box 1248, Dalton, GA 30720. Send protests to: Terrell Price District Supervisor, Tyler St., Anoka, MN 55303.

No. MC 144187TA, filed January 16, 1978. Applicant: FELIX TRANSFER, INC., 7453 Lochness Drive, Miami Lakes, FL 33013. Applicant's representative: John P. Bond, 2766 Douglas Road, Miami, FL 33133. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, Classes A and B explosives, household goods, as defined by the Commission, commodities requiring special handling and cement), between points in Dade County, FL, and shipments having a prior or subsequent movement by water, for 180 days. There is no environmental impact involved in this application. Supporting shipper(s): There are approximately 5 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies therof which may be examined at the field office named below. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Monterey Building, Suite 101, 8410 NW. 53rd Terrace, Miami, FL 33166.

No. MC 144201TA, filed January 17, 1978. Applicant: V.M.P. ENTERPRISES, INC., 3006 South 40th Street, Milwaukee, WI 53215. Applicant's representative: Wm. C. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buses*, in initial movements, in driveaway service, from Brownsville, TX, to points in the United States, including AK and HI, for 180 days. Supporting shipper(s): Eagle International, Inc., 2045 Les Mauldin, Brownsville, TX (Lee R. Vandaveer). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

No. MC 144204TA, filed January 19, 1978. Applicant: MUD HAULERS, INC., 732 Royal Lane, Yukon, OK 73099. Applicant's representative: G. Timothy Armstrong, 6161 North May Avenue, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drilling mud and gel, drilling mud and gel materials* (except petroleum based products), between points in that part of OK on and west of U.S. Hwy 183 on the one hand, and, on the other, points in that part of TX on and north of U.S. Hwy 70, for 180 days. Supporting shipper(s): Tri-State Mud Co., Suite 520, 2809 Northwest Expressway, Oklahoma City, OK 73112. Send protests to: Connie Stanley, Transportation Assistant, room 240, Old Post Office and Courthouse Building, 215 Northwest 3d, Oklahoma City, OK 73102.

No. MC 144210TA, filed January 19, 1978. Applicant: GEORGE L. MCINTOSH TRUCKING, INC., R.D. No. 1, Watertown, NY 13601. Applicant's representative: Herbert M. Canter, Benjamin D. Levine, 305 Montgomery Street, Syracuse, NY 13202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feeds, poultry feeds, ingredients for the same, and animal health products*, from the facilities of Red Rose Feeds Division of Carnation Co. at Circleville, OH, to points in Cayuga, Chenango, Cortland, Franklin, Herkimer, Jefferson, Lewis, Madison, Oneida, Onondaga, and St. Lawrence Counties, NY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Red Rose Feed, Division of Carnation Co., East Mill Street, P.O. Box 380, Circleville, OH 43113. Send protests to: Interstate Commerce Commission, U.S. Courthouse and Federal Building, 100 South Clinton Street, room 1259, Syracuse, NY 13260.

No. MC 144211TA, filed January 20, 1978. Applicant: BROWN & SONS, INC., P.O. Box 55, Gratis, OH 45330. Applicant's representative: Lewis S. Witherspoon, 88 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metals*, in bulk, in dump vehicles, between points and places in Jefferson Township, Montgomery County, OH, on the one hand, and, on the other, points and places on east of U.S. Hwy 31 in IN, under a continuing contract, or contracts, with Pennsylvania Iron & Coal Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Pennsylvania Iron & Coal Co., Lawrence S. Katz, Vice President, P.O. Box 6, Dayton, OH 45401. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-5684 Filed 3-2-78; 8:45 am]

[7035-01]

[Notice No. 18TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

FEBRUARY 15, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 51146 (Sub-No. 572TA), filed February 3, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, 2661 South Broadway, Green Bay, WI 54306. Applicant's representative: Wayne Downing (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese, cheese products, synthetic cheeses, and materials and supplies* used in their manufacture

from points in WI to Logan, UT and points in AZ and CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operat-

FL 32810, Del Monte Banana Co. 1201 Brickel Avenue, Box 011940, Miami, FL 33101, Doric Foods Corp., P.O. Box 986, Mt. Dora, FL 32757, Florida Fish

Frozen foods, from the storage facilities of Mt. Airy Cold Storage, Mt. Airy, MD, to points in the States of OH, WV, VA, NC, MD, DE, DC, PA,

address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* for

issue of January 20, 1978, and republished as corrected this issue. Applicant: DART TRANSIT CO., 2102 University Avenue St. Paul, MN 55114

points in TX, AZ, MO, OK, MS, LA, KS, IA, MN, WI, IL, IN, KY, and TN, for 180 days. Supporting shipper: Hudson Foods, Inc., Thorp Industrial

from points in WI to Logan, UT and points in AZ and CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: L. D. Schreiber Cheese Co., Inc., P.O. Box 610, Green Bay, WI 54305 (Robert Buchberger). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

No. MC 63417 (Sub-No. 124TA), filed January 25, 1978. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Applicant's representative: William E. Bain (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles*, from Rensselaer, NY, to Philadelphia, PA, and High Point, NC, for 180 days. Supporting shipper: Ket Products, Inc., 5 Forbes Road, Rensselaer, NY 12144. Send protests to: Danny R. Beeler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 210, Roanoke, VA 24011.

No. MC 106674 (Sub-No. 281TA), filed February 7, 1978. Applicant: SCHILL MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Applicant's representative: Linda J. Sandy (address same). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper bags and materials* used in the manufacture of cellulose fiber insulation, from Spencerville, OH, to Jonesville, NC; Lee, MA; and Oskaloosa, IA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): U.S. Fiber Corp, 101 South Main, Delphos, OH 45833. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

No. MC 107107 (Sub-No. 460TA), filed February 9, 1978. Applicant: ALTERMAN TRANSPORT LINES, INC. 12805 Northwest 42d Avenue, Opa Locka, FL 33054. Applicant's representative: Ford W. Sewell (address the same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foods and foodstuff*, except in bulk, between points in FL. There is no environmental impact involved in this application, for 180 days. Supporting shipper(s): Albertson International, Inc., Suite 1414, CNA Tower, 255 South Orange Avenue, Orlando, FL 32809, Allsun Juices, Inc., P.O. Box 338, Highland City, FL 33846, Citrus Central, Inc., P.O. Box 17774, Orlando, FL 32810, Del Monte Banana Co. 1201 Brickel Avenue, Box 011940, Miami, FL 33101, Doric Foods Corp., P.O. Box 986, Mt. Dora, FL 32757, Florida Fish Distributors, Inc., P.O. Box 2306 Jacksonville, FL 32203, Hill Stephens Coffee Co., 590 West 84th Street, Hialeah, FL 33528, Leaf Condectionery, Inc. 1155 North Cicero Avenue, Chicago, IL 60651, Lykes Pasco Packing Co., P.O. Box 97, Dade City, FL 33525, The Nestle Co. Inc., 100 Bloomingdale Road, White Plains, NY 10605, Orange Products, Inc., Imperial Flavors, Inc., P.O. Box 1579, Winter Haven, FL 33880, Phoenix Candy Co. Inc., 175 34th Street, Brooklyn, NY 11232, Purity Condiments, Inc., 1800 Northwest 70th Avenue, Miami, FL 33126, The Rath Packing Co., Sycamore and Elm Street, Waterloo, IA 50704, Seafood Center, Inc., 136 N. Myrtle Ave., Jacksonville, FL 32203, Standard Brands, Inc., P.O. Box 2004 Birmingham, AL 35201, Sullivan & Son, Inc., P.O. Box 572, Jacksonville, FL 32201, Tampa Cold Storage & Warehouse, P.O. Box 22666, Tampa, FL 33622, Turbana Banana Corp., 2701 LeJeune Rd., Coral Gables, FL, United States Cold Storage Corp., 2292 Sand Lake Road, Orlando, FL 32809, Vann Warehouse Co., Inc., 1707 Industrial Boulevard, Jacksonville, FL 32203. Send protests to: Donna M. Jones, Transportation Assist., Interstate Commerce Commission, BOP, Monterey Building, Suite 101, 8410 Northwest 53d Terrace, Miami, FL 33166.

No. MC 113651 (Sub-No. 264TA), filed January 23, 1978. Applicant: INDIANA REFRIGERATOR LINES, INC. P.O. Box 552, Riggin Road, Numcie, IN 47305. Applicant's representative: Paul R. Bergant, 10 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by Department Stores (except commodities in bulk), from New York City, NY, to Houston and Dallas, TX, and New Orleans, LA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: American Freight Forwarders, 351 West 38th Street, New York, NY 10018. Send protests to: J. H. Gray District Supervisor, Bueau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

No. MC 113388 (Sub-No. 122TA), filed January 27, 1978. Applicant: LESTER C. NEWTON TRUCKING CO., P.O. Box 618, Seaford, DE 19973. Applicant's representative: Charles Ephraim, Suite 600, 1250 Connecticut Avenue, NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the storage facilities of Mt. Airy Cold Storage, Mt. Airy, MD, to points in the States of OH, WV, VA, NC, MD, DE, DC, PA, CT, NY, NJ, MA, NH, and ME. Returned, refused and rejected merchandise in reverse direction, for 180 days. Supporting shipper(s): Ralph P. Hill, Manager, Corporate Distribution, Lamb-Weston, Div. of AMFAC Foods, Inc., 6600 Southwest Hampton Street, Portland, OR 97223. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814-B Federal Building, Baltimore, MD 21201.

No. MC 114273 (Sub-No. 336TA), filed February 2, 1978. Applicant: CRST, INC., P.O. Box 68, 3930 16th Avenue, Cedar Rapids, IA 52406. Applicant's representative: Kenneth L. Core (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides, pelts and skins*, from St. Cloud, MN, to points in the lower peninsular of MI; Chicago, IL; Gloversville, NY; Luray, VA; Milwaukee, WI; and Westfield, PA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Landy Packing Co., 1st Avenue and 16th Street, St. Cloud, MN 56301. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

No. MC 115716 (Sub-No. 20TA), filed February 7, 1978. Applicant: DENVER - LIMON - BURLINGTON TRANSFER CO., 3650 Chestnut Place, Denver, CO 80216. Applicant's representative: Edward C. Hastings, 666 Sherman Street, Denver, CO 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat biproducts* and *articles* distributed by meat packinghouses, between Limon, CO, on the one hand and Los Angeles, CA and its commercial zones, on the other. Applicant intends to tack the authority here applied for to another authority held by it, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Limon Packing Co., Inc., 474 Wisconsin Avenue, Limon, CO 80828. Send protests to: District Supervisor, Herbert C. Ruoff, I.C.C., 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

No. MC 115841 (Sub-No. 598TA), filed February 3, 1978. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Applicant's representative: Chester G. Groebel (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* for human consumption, in mechanically refrigerated equipment (except commodities in bulk, in tank vehicles), from the plant and warehouse facilities of Kraft, Inc., at Decatur, GA, to points in AL, LA, and MS, for 180 days. Supporting shipper: Kraft, Inc., 500 Peshtigo Court, Chicago, IL 60690. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

No. MC 116254 (Sub-No. 197TA), filed February 6, 1978. Applicant: CHEM-HAULERS, INC., P.O. Box 339, Florence, AL 35630. Applicant's representative: Randy C. Luffman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oil*, in bulk, in tank vehicles, from the plantsite of Cargill, Inc., Gainesville, GA, to points in AL, GA, MS, FL, KY, NC, SC, VA, TN and WV, for 180 days. Supporting shipper: Cargill, Inc., P.O. Box 1298, Gainesville, GA 30501. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

No. MC 111729 (Sub-No. 721TA), (correction) filed December 12, 1977, published in the FEDERAL REGISTER issue of January 20, 1978, and republished as corrected this issue: Applicant: PUROLATOR - COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Business papers, records*, and audit and accounting media of all kinds, between Birmingham and Montgomery, AL, on the one hand, and on the other, Louisville, Owensboro and Paducah, KY for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Durr-Filauer Medical, Inc., 645 S. McDonough Street, Montgomery, AL (2) South Central Bell Telephone Co., 302 Phoenix Bldg., 1706 2d Avenue, North, Birmingham, AL 35203. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007. The purpose of republication is to correct the territorial description sought by applicant.

No. MC 114457 (Sub-No. 342TA) (correction) filed December 14, 1977, published in the FEDERAL REGISTER issue of January 20, 1978, and republished as corrected this issue. Applicant: DART TRANSIT CO., 2102 University Avenue, St. Paul, MN 55114. Applicant's representative: James H. Wills (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry dog food*, from the facilities of Sunshine Feed Mills, Inc., at Tupelo, MS and Red Bay, AL to points in MO, IL, MI, and IN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sunshine Feed Mills, Inc., P.O. Drawer S, Red Bay, AL 35882. Send protests to: Marion L. Cheney, District Supervisor, ICC, BOp, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401. The purpose of this republication is to broaden the destination points.

No. MC 117686 (Sub-No. 201TA) (correction) filed January 5, 1978, published in the FEDERAL REGISTER issue of February 15, 1978, and republished as corrected this issue. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Boulevard, P.O. Box 417, Sioux City, IA 51102. Applicant's representative: Robert A. Wichser (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cloth and materials and supplies* used in the manufacture, sale, and distribution of goods produced from cloth, in mixed loads with cloth, from Osceola, AR; Eufaula, AL; Augusta, Lindale, and Trion, GA; Lawrenceburg, KY; Erwin, Greensboro, Haw River, Mount Holly, Salisbury, and Yadkin, NC; Graniteville, Greenville, Orangeburg, Rock Hill, and Ware Shoals, SC; Centerville, TN; and Brenham and New Braunfels, TX; to LeMars, Sheldon, Sioux City, Spencer, and Storm Lake, IA for 180 days. Supporting shipper(s): Aalfs Manufacturing Co., John W. Aalfs, president, 1005 East 4th Street, Box 3038, Sioux City, IA 51102. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102. The purpose of this republication is to add the portion of the territorial description that was eliminated.

No. MC 119988 (Sub-No. 130TA), file February 3, 1978. Applicant: GREAT WESTERN TRUCKING CO., INC., Hwy 130 E, P.O. Box 1384, Lufkin, TX 75901. Applicant's representative: Clayte Binion, 1108 Continental Life Bldg., Ft. Worth, TX 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* from the facilities utilized by Hudson Foods, Inc., at or near Troy, AL, to points in TX, AZ, MO, OK, MS, LA, KS, IA, MN, WI, IL, IN, KY, and TN, for 180 days. Supporting shipper: Hudson Foods, Inc., Troy Industrial Park, Troy, AL. Send protests to: District Supervisor John F. Mensing, Interstate Commerce Commission, 8610 Federal Bldg., 515 Rusk Avenue, Houston, TX 77002.

No. MC 121372 (Sub-No. 2TA), filed February 7, 1978. Applicant: EXPRESS TRANSPORT CO., 1333 West Seventh Street, Cincinnati, OH 45203. Applicant's representative: Norbert B. Flick, 715 Executive Bldg., Cincinnati, OH 45202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, between Clarksville, OH, on the one hand, and, on the other, points and places in IL, IN, KY, MI, PA, and WV, for 180 days. Supporting shipper(s): Valley Steel Products Co., Richard C. Davis, Transportation Manager, P.O. Box 429, Centralia, IL 62801. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, I.C.C., 5514-B Federal Bldg., 550 Main Street, Cincinnati, OH 45202.

No. MC 123048 (Sub-No. 384TA) (Correction) filed January 10, 1978, published in the FEDERAL REGISTER issue of February 6, 1978, and republished as corrected this issue. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st St., P.O. Box A, Racine, WI 53401. Applicant's representative: Carl S. Pope (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tractors* (except truck tractors), and (2) *parts, implements, attachments and accessories* for tractors (except truck tractors), from Savannah, GA to points in AL, AR, MS, OK, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Deutz Corp., 6429 Crestline Terrace, Norcross, GA 30092 (Dan Ragan). Send protests to: Mrs. Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202. The purpose of this republication is to add the territorial scope that was omitted.

No. MC 123778 (Sub-No. 35TA), filed February 3, 1978. Applicant: JALT CORP., d.b.a. UNITED NEWSPAPER DELIVERY SERVICE, P.O. Box 398, 75 Cutters Dock Road, Woodbridge, NJ 07095. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Maga-*

rises, from carrier's terminal in Edison, NJ, to points in CT, NJ, points in that part of NY on and east of NY Hwy 14, points in that part of MD and PA on and east of U.S. Hwy 15 and Wilmington, DE, under a continuing contract or contracts with Dayton Press, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Dayton Press, Inc., Fred W. Scheidweiler, Jr., traffic manager, 2219 McCall Street, (P.O. Box 700), Dayton, OH 45401. Send protests to: Robert S. H. Vance, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

No. MC 124078 (Sub-No. 779TA) (correction), filed January 26, 1978, published in the FEDERAL REGISTER issue of February 15, 1978, and republished as corrected this issue. Applicant: SCHWERMAN TRUCKING CO., 611 South 28 Street, Milwaukee, WI 53246. Applicant's representative: Richard H. Prevette, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oil*, in bulk, in tank vehicles, from the plantsite of Cargill, Inc., at or near Gainesville, GA, to points in AL, FL, GA, KY, MS, NC, SC, TN, VA, and WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Cargill, Inc., P.O. Box 1298, Gainesville, GA 30501, (Ms. Ellen Jacobs). Send protests to: Mrs. Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202. The purpose of this republication is to add a State that was left out.

No. MC 124692 (Sub-No. 190TA), filed February 7, 1978. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT 59801. Applicant's representative: James B. Hovland, P.O. Box 1680, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, wood products and millwork*, from OR to GA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): R. W. Rickett, Traffic Manager, Publisher Forest Products, 6637 Southeast 100th Avenue, Portland, OR 97266, Michael J. Scott, Manager-Beaverton, Burns Lumber Co., 11200 Southwest Allen Avenue, Suite B, Beaverton, OR 97005, William McCoy, General Manager, Northwest Division, International Forest Products, Inc., 1105 Broadway, Vancouver, WA, Bard Brown, Western International Forest Products, Inc., 8285 Southwest Nimbus Avenue, Suite 131, Beaverton, OR 97005, Kathy Watkins, Traffic Manager, Wood Markets, Inc., Box 669, Portland, OR 97207. Send protests to: District Supervisor, Paul J. Labane, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

No. MC 129086 (Sub-No. 26TA), filed February 1, 1978. Applicant: SPENCER TRUCKING CORP., Route 2, Box 254A, Keyser, WV 26726. Applicant's representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cullet*, in bulk, in dump vehicles, from Cumberland, MD, and its commercial zone, to Barrington, NJ, and its commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Bassichis Co., 2323 West Third Street, Cleveland, OH 44113. Send protests to: J. A. Niggemyer, District Supervisor. Interstate Commerce Commission, Bureau of Operations, 416 Old Post Office Building, Wheeling, WV 26003.

No. MC 129326 (Sub-No. 28TA), filed January 31, 1978. Applicant: CHEMICAL TANK LINES, INC., Highway 60 West, P.O. Box 432, Mulberry, FL 33860. Applicant's representative: Keith Alexander, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Octyl phenol (X-80)*, in bulk, in insulated, heated, shipper-owned semi-trailer tank vehicles, from Mobil Chemical Corp., Charleston, SC, to Mulberry, FL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Uranium Recovery Corp., SR 640, Mulberry, FL 33860. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission—BOp, 8410 Northwest 53rd Terrace, Monterey Building, Suite 101, Miami, FL 33166.

No. MC 133689 (Sub-No. 156TA) (Correction), filed November 23, 1977, published in the FEDERAL REGISTER issue of January 20, 1978, and republished as corrected this issue. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, MN 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Bettendorf, IA, to points in IL, IN, KY, MI, OH, and points in that part of PA on and west of a line beginning at the PA-MD State line (near Hancock, MD), thence along U.S. Highway 522 to junction U.S. Highway 322 (near Lewistown, PA), thence along U.S. Highway 322 to junction PA Highway 144 to U.S. Highway 6, thence along U.S. Highway 6 to PA Highway 449, thence along PA Highway 449 to the PA-NY State line (near Genessee, PA), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: General Foods Corp., 250 North Street, White Plains, NY 10625. Send protests to: Marion L. Cheney, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 14th Street, Minneapolis, MN 55401. The purpose of this republication is to add the portion of the territorial description that was inadvertently eliminated.

No. MC 134755 (Sub-No. 130TA), filed February 10, 1978. Applicant: CHARTER EXPRESS, INC., 1959 East Turner Street, Springfield, MO 65804. Applicant's representative: Larry K. Knox, 600 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuff* (except in bulk, in tank vehicles); in vehicles equipped with mechanical refrigeration, from the plantsite and warehouse facilities of Kraft, Inc. at Decatur, GA to points in AL, LA, and MA., for 180 days. Supporting shipper(s): Kraft, Inc., 500 Peshtigo Ct., Chicago, IL 60690. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission-BOP, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 135874 (Sub-No. 94TA) (Correction), filed December 20, 1977, published in the FEDERAL REGISTER issue of January 20, 1978, and republished as corrected this issue. Applicant: LTL PERISHABLES, INC., 550 East 5th Street South, South St. Paul, MN 55075. Applicant's representative: K. O. Ptrick, 550 East 5th Street South, South St. Paul, MN 55075. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frosen foods*, (except commodities in bulk) from the facilities of terminal Ice & Cold Storage at or near Bettendorf, IA, to points in the States of IN, KY, MI, OH and points in that part of PA on and west of a line beginning at the PA-MD State line (near Hancock, MD), thence along U.S. Highway 522 to junction U.S. Highway 322 (near Lewistown, PA), thence along U.S. Highway 144 (at Potters Mills), thence along PA Highway 144 to U.S. Highway 6, thence along U.S. Highway 6 to PA Highway 449 thence along PA Highway 449 to the PA-NY State line (near Genessee, PA), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: General Foods Corp., 250 North Street, White Plains, NY 10625.

No. MC 135874 (Sub-No. 96TA), filed January 9, 1978. Applicant: LTL PERISHABLES, INC., 550 East 5th Street South, South St. Paul, MN 55075. Applicant's representative: K. O. Petrick (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* from the facilities of The Miami Margarine Co. at or near Albert Lea, MN, to points in IL, IA, KS, MO, NE and Denver, CO, for 180 days. Supporting shipper: Miami Margarine Co., 5226 Vine Street, Cincinnati, OH 45217. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 135874 (Sub-No. 98TA), filed January 24, 1978. Applicant: LTL PERISHABLES, INC., 550 East 5th Street South, South St. Paul, MN 55075. Applicant's representative: K. O. Petrick (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, frozen meats and inedible foods when moving in vehicles equipped with mechanical refrigeration, from the facilities of Terminal Ice and Cold Storage at or near Bettendorf, IA, to points in CT, DE, DC, IN, KY, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA and WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Continental Processors, Inc., P.O. Box 414, Lafayette, CA 94549. Lamb-Weston Division of Amfac Foods, Inc., 6600 Southwest Hampton Street, Portland, OR 97223. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 136357 (Sub No. 3TA) (correction), filed December 15, 1977, published in the FEDERAL REGISTER issue of February 3, 1978, and republished as corrected this issue. Applicant: BEST TRANSPORTATION CORP., South Washington Avenue and River Street, Scranton, PA 18505. Applicant's representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Printed matter*, from Dunmore, Scranton, Bloomsburg, and Allentown, PA, to points in the States of NJ, RI, CT, MA, MI, IL, NH, VT, ME, and NY; and Indianapolis, Crawfordsville, Bloomington, Fort Wayne, Hammond, and Terre Haute, IN; Cincinnati, OH, Kingsport, TN, and Lynchburg, VA; and (2) *materials and supplies used in the manufacture of printed matter*, from points in the states of NJ, RI, CT, MA, MI, IL, NH, VT, ME, and NY; and Indianapolis, Crawfordsville, Bloomington, Fort Wayne, Hammond, and Terre Haute, IN; Cincinnati, OH; Lynchburg, VA, and Kingsport, TN; to Dunmore, Scranton, Bloomsburg, and Allentown, PA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Haddon Craftsmen, Book Manufacturing Division of Intext, Ash Street and Wyoming Avenue, Scranton, PA 18509. Send protests to: District Supervisor, Paul J. Kenworthy, 314 U.S.P.O. Washington Avenue and Linden Street, Scranton, PA 18503. The purpose of this republication is to the District Supervisor and his address so protests may be sent to him.

No. MC 138562 (Sub-No. 2TA), filed February 8, 1978. Applicant: CATES TRUCKING, INC., P.O. Box 518, Swayzee, IN 46986. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Magazines and periodicals*, from Kokomo, IN, to points in FL. Supporting shipper: Hearst Magazine, Division of Hearst Corp., 224 West 57th Street, New York, NY 10019. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commision, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

No. MC 141124 (Sub-No. 14TA) (correction), filed January 1978, published in the FEDERAL REGISTER issue of February 15, 1978, and republished as corrected this issue. Applicant: EVANGELIST COMMERCIAL CORP., Hanger 5, Greater Wilmington Airport, P.O. Box 1709, Wilmington, DE 19899. Applicant's representative: Boyd B. Ferris, 50 W. Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Doors, door parts, panels, hardware, electrical control parts, steel channels, and equipment, materials and supplies used or useful in the manufacture and sale thereof, except commodities in bulk, between the plantsites and facilities of Overhead Door Corp. and its subsidiaries in Cortland, NY; Lewiston, PA; Salem, OR; Grand Island, NE; Sacramento and Los Angeles, CA; Athens, GA; Covington, KY; Dallas and Fort Worth, TX; Marion, OH and Hartford and Shelbyville, IN for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Overhead Door Corp., 6250 LBJ Freeway, Dallas, TX 75240. Send protests to: T. M. Esposito, Trans. Asst., 600 Arch Street, Room 3238, Philadelphia, PA 19106. The purpose of this republication is to correct the territorial origin.*

No. MC 141483 (Sub-No. 3TA), filed February 3, 1978. Applicant: VALCON PACKAGE DELIVERY, INC., 3840 West Street, Landover, MD 20785. Applicant's representative: Martin B. Lessans, 16 Crain Highway NW., Glen Burnie, MD 21062. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Merchandise, equipment and supplies sold, used or distributed by a manufacturer of cosmetics*, for the account of Avon Products, Inc., over irregular routes, between Newark, DE, all points in MD, Washington, DC, and the following VA counties: Arlington, Accomack, Culpeper, Fairfax, Fauquier, King George, Loudoun, Northhampton, Orange, Page, Prince William, Rappahannock, Spotsylvania, Stafford, Warren and Westmoreland, for 180 days. Supporting shipper(s): Avon Products, Inc., 2100 Ogletown Road, Newark, DE 19711. Send Protests to: Interstate Commerce Commission, 12th and Constitution Avenue NW., Room 1413, District Supervisor W. C. Hersman, Washington, DC 20423.

No. MC 142330 (Sub-No. 8TA) (correction), filed December 13, 1977, published in the FEDERAL REGISTER issue of January 16, 1978, and republished as corrected this issue. Applicant: PONY EXPRESS COURIER CORP., P.O. Box 4313, Atlanta, GA 30302. Applicant's representatives: Francis J. Mulcahy, P.O. Box 4313, Atlanta, GA 30302; and John Guandolo, 1000 16th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Advertising media, copy sources of documents and related items*, between Jacksonville, Miami, Orlando and Tampa, FL, on the one hand, and, on the other, all points and places in FL restricted to the transportation of shipments having an immediately prior or immediately subsequent movement by air, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Sun Newspapers, Inc., Division of Cook Publication, 3700 Old Cahaba Beach Road, P.O. Box 10567, Birmingham, AL 35202. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta,

GA 30309. The purpose of this republication is to add the amendment that was requested by the applicant.

No. MC 142516 (Sub-No. 7TA), filed January 30, 1978. Applicant: ACE TRUCKING CO., INC., 1 Hackensack Avenue, Kearny, NJ 07032. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Table sauce*, except in bulk, from Paterson, NJ, to Houston, TX, Dallas, TX, Harahan, LA; Tampa, Miami, Jacksonville, FL; Seattle, WA; Birmingham, Montgomery, AL; Atlanta, GA; Portland, OR; under a continuing contract or contracts with Lea & Perrins, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lea & Perrins, Inc., 1701 Pollott Drive, Fairlawn, NJ. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 618, Newark, NJ 07102.

No. MC 143503 (Sub-No. 9TA), filed February 3, 1978. Applicant: MERCHANTS HOME DELIVERY SERVICE, INC., P.O. Box 5067, Oxnard, CA 93031. Applicant's representative: T. M. BROWN, 223 Ciudad Building, Oaklahoma City, OK. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, new furnishings*, and *accessories*, between the facilities of Rhodes Furniture, Inc., at or near Jacksonville, FL, on the one hand, and, on the other, points in Camden, Glynn, McIntosh, Charlton, Ware, Echols, Clinch, Lawndes, Lanier, Brantley, Pierce, Wayne, Long, Brooks, Cook, Berrien, and Atkinson Counties, GA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Rhodes Furniture, Inc., P.O. Box 41428, Jacksonville, FL 32203. Send protests to: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 143794 (Sub-No. 2TA) (correction), filed December 19, 1977, published in the FEDERAL REGISTER issue of February 6, 1978, and republished as corrected this issue. Applicant: EAST-WEST MOTOR FREIGHT, INC., 7270 Hobgood Road, Fairburn, GA 30312. Applicant's representative: Richard M. Tettlebaum, Serby & Mitchell, P. C., Suite 375, 3379 Peachtree Road NE., Atlanta, GA 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Central heating and air conditioning units, furnances, air coolers, water evaporators, condensing units, compressors*, and (2) *parts, equipment and supplies* used in the manufacture and installation of the commodities in (1) above, from the facilities of Heil-Quaker Corp. in Davidson County, TN, to points in CA, MT, UT, and WA, under a continuing contract or contracts with Heil-Quaker Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Heil-Quaker Corp., 1714 Heil-Quaker Boulevard, Lavergne, TN 37080. Send protests to: E. A. Bryant, District Supervisor, Interstate Commerce Commission, Room 300, 1252 West Peachtree Street NW., Atlanta, GA 30309. The purpose of this republication is to correct the authority requested which is common in lieu of contract authority which was previously published in error.

No. MC 143978 (Sub-No. 1TA) (Correction), filed January 9, 1978, published in the FEDERAL REGISTER issue of February 21, 1978, and republished as corrected this issue. Applicant: EMERSON DELIVERY, INC., 307-12th Street SE., Cedar Rapids, IA 52401. Applicant's representative: James H. Hodge, 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Machine parts* between Cedar Rapids, IA, on the one hand, and, on the other, points in the United States in and east of ND, SD, WY, CO, OK and TX, under continuing contract or contracts with FMC Corp. of Cedar Rapids, IA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days operating authority. Supporting shipper: FMC Corp. Crane & Excavator Division, 1201 6th Street, Cedar Rapids, IA 52406. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309. The purpose of this republication is to correct the territorial scope of the authority sought which was incorrectly worded.

No. MC 143980 (Sub-No. 1TA), filed February 2, 1978. Applicant: GERALD E. SALTSMAN, Box 242, Republic, WA 99166. Applicant's representative: Gerald E. Saltsman (same address as applicant. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Shavings, sawdust and waste*, from Republic, WA, to the international boundary at or near Danville, WA, traffic destined to Grand Forks, BC, under a continuing contract or contracts with Parta Industries Ltd., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Parta Industries Ltd., P.O. Box 129, Grand Forks, BC, Canada V0H 1H0. Send protests to: Hugh H. Chaffee, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, 915 Second Avenue, Seattle, WA 98174.

No. MC 144103 (Sub-No. 2TA), filed February 1, 1978. Applicant: LAWRENCE EVERS, P.O. Box 176, Darby, MT 59829. Applicant's representative: William E. O'Leary, 631 Helena Avenue, Helena, MT 59601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* in bottles, cans and kegs, from Cold Spring Brewing Co. facilities located in or near Cold Springs, MN to MT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Bill White, General Manager, Coors of Missoula, Inc., 3115 West Broadway, Missoula, MT 59801. Send protests to: District Supervisor Paul J. Labane, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

No. MC 144167 (Sub-No. 1TA), filed February 1, 1978. Applicant: K/T RAILROAD EQUIPMENT CO., INC., 29 Pleasant Valley Road, Whippany, NJ 07981. Applicant's representative: Michael R. Werner, P.O. Box 1409, 1607 Fairfield Road, Fairfield, NJ 07006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Contaminated chemicals*, in sealed drums, from Sayreville and Lodi, NJ to the land fill sites of NEWCO Chemical Waste Systems, Inc., at Cincinnati, OH and Niagara, NY, under a continuing contract or contracts with Advanced Environmental Technology Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Advanced Environmental Technology Corp., 97 West Hanover Avenue, Randolph, NJ 07801. Send protests to: Joel Morrows, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Room 618, Newark, NJ 07102.

No. MC 144213 (Sub-No. 1TA), filed January 30, 1978. Applicant: CHANDLER & CLARK, INC., Knobs Road, P.O. Box 94, Union, WV 24983. Applicant's representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, WV 25526. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Crushed and ground limestone*, in bulk, in dump vehicles, from points in Greenbrier County, WV, to points in Bath, Allegheny, Craig, Giles and Highland Counties, VA, under a continuing contract or contracts with Acme Limestone Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Rodney H. Pack, Vice President, Sales and Traffic, Acme Limestone Co., Fort Spring, WV 24936. Send protests to: Miss Francis A. Ciccarello, Secretary, Interstate Commerce Commission, 3108 Federal Office Building, 500 Quarrier Street, Charlestown, WV 25301.

No. MC 144265TA, filed February 1, 1978. Applicant: AID, INC., P.O. Box 53154, Baton Rouge, LA 70805. Applicant's representative: Lynn Lyons or Leonard Cole (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* on a call and demand basis with no shipments moving in bulk or tank trucks and no package express, and with no shipments exceeding 3,000 pounds, between points beginning or ending in the following LA parishes: Lafayette, St. Landry, Pointe Coupee, West Feliciana, East Feliciana, St. Helena, Tangipahoa, Washington, St. Tammany, Livingston, East Baton Rouge, Iberville, St. Martin, Iberia, Ascension, St. James, St. John the Baptist, St. Charles, Assumption, Lafourche, Terrebonne and St. Mary; and beginning or ending in the following States: TX, AZ, and MS, for 180 days. Supporting shippers: There are approximately (7) statements of support attached to the application which may be examined at the field office named below. Send protests to: Ray C. Armstrong, Jr., District Supervisor, T-9038 U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, LA 70113.

No. MC 144266TA, filed February 3, 1978. Applicant: TOURCRAFTER TROLLEY, INC., 3 EAST 4TH Street, Suite 205, Cincinnati, OH 45202. Applicant's representative: Norbert B. Flick, 715 Executive Building, Cincinnati, OH 45202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, between Cincinnati, OH, on the one hand, and on the other, points in IN, KY and OH, under a continuing contract or contracts with Cincinnati Convention & Creative Services, Inc., for 180 days. Supporting shipper: Cincinnati Convention & Creative Services, Inc., Patricia A. Kayser, President, 3 East 4th Street, Cincinnati, OH 45202. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations; Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

WATER CARRIER

No. W 1320TA, filed January 23, 1978. Applicant: CMT Transportation Co., P.O. Box 216, 98th & Calumet River, Chicago, IL 60617. Applicant's representative: Richard W. Casey (same as above). Authority sought to operate as a *common carrier*, by water, transporting: *Commodities* generally, by non-self propelled vessels with the use of separate towing vessels, between ports and points in Lake Michigan, Lake Superior, Lake Huron, Lake Erie and Lake Ontario, and interconnecting waterways, for 180 days. Supporting Shippers: Max Schlossberg Co., J.B. Schlossberg, Board Chairman, 332 South Michigan Avenue, Chicago, IL 60604, Scrap Corp. of America, Dale R. Pinkert, President, 666 North Lake Shore Drive, Chicago, IL 60611. Send protests to: Transportation Assistant, Patricia A. Roscoem Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-5685 Filed 3-2-78; 8:45 am]

[7035-01]

[Notice No. 22TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

FEBRUARY 22, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 1515 (Sub-No. 244TA), filed January 23, 1978. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Suite 1602, Phoenix, AZ. 85077. Applicant's representative: W. L. McCracken, Greyhound Tower, Phoenix, AZ 85077. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* and express and newspapers in the same vehicle with passengers, between Terre Haute, IN, and the junction of U.S. Hwy 41 and U.S. Hwy 52 near Gravel Hill, IN, serving no intermediate points: From Terre Haute, IN, over IN Hwy 63 to junction U.S. Hwy 41, thence over U.S. Hwy 41 to junction U.S. Hwy 52 and return over the same route. Applicant intends to tack authority applied for to MC 1515 Sub 6 and MC 1515 Sub 8, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority, Supporting shipper: Passenger Public (Nine students, Indiana State University). Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, 230 North First Avenue, Room 2020 Federal Building, Phoenix, AZ 85025.

No MC 4963 (Sub-No. 55TA), filed December 20, 1977. Applicant: ALLEGHANY CORP. d.b.a. Jones Motor, Bridge Street and Schuylkill Road, Spring City, PA 19475. Applicant's representative: William H. Peiffer, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, plastic pipe and fittings; cast iron pipe and fittings*, between, Charlotte, NC commercial zone, Bakers and Monroe, NC, on the one hand and on the other points in the state of MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Charlotte Pipe & Foundry Co., 2109 Randolph Road, Charlotte, NC 28202, Metalsource, 7950 Pence Road, Charlotte, NC 28212, Crucible Specialty Metals, Division of Colt Industries, 321 West 32d Street, Charlotte, NC 28206, Reynolds Aluminum Supply Co., 642 Pineville Road, Charlotte, NC, Capitol Pipe & Steel Products, 8200 Henderson Dr., Charlotte, NC. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

No. MC 2982 (Sub-No. 67 TA), filed January 19, 1978. Applicant: A & H TRUCK LINE, INC., 1111 East Louisiana Street, Evansville, IN 47717. Applicant's representative: Robert H.

Kinker, P.O. Box 464, Frankfort, KY 40602. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), serving the facilities of St. Meinrad Archabbey at or near St. Meinrad, IN, as an off-route point in connection with carriers presently authorized regular route operations. Applicant proposes to tack the temporary authority sought herein with applicant's routes contained in Certificate MC 2962 and Subs thereunder at Tell City, IN. Applicant further proposes to interline traffic with other carriers at points at Chicago, IL; Evansville, IN, and Terre Haute, IN; Louisville, and Paducah, KY; St. Louis, MO; Cincinnati, OH; Memphis and Nashville, TN, for 180 days. Supporting shipper: St. Meinrad Archabbey, St. Meinrad, IN 47577. Send protests to: Beverly J. Williams Transportation Assistant, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

No. MC 41406 (Sub-No. 61 TA), filed January 23, 1978. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Avenue, P.O. Box 2176, Hammond, IN 46323. Applicant's representative: Alki E. Scopelitis, 815 Merchants Bank Building, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials, and materials, equipment and supplies* used in the manufacture and installation of building materials, (except commodities in bulk), from Franklin (Warren County), OH, to Rock Hill, MO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Bird & Son, Inc., Fred K. Bauer Corporate Traffic Manager, Washington Street, East Walpole, MA 02032. Send protests to: Patricia A. Roscoe Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

No. MC 95876 (Sub-No. 224TA), filed December 20, 1977. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 North Copper Avenue, P.O. Box 1377, St. Cloud, NM 56301. Applicant's representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, NM 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardwood flooring, hardwood flooring systems and accessories* therefor, from Dollar Bay, MI, to CT, DE, IL, IN, IA, KS, KY, ME, MD, NM, MA, MO, NH, NJ, NY, OH, OK, PA, RI, VT, VA, WV, and WI, for 180 days. Supporting shipper(s): Horner flooring Co., Dollar Bay, MI 49922. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 99365 (Sub-No. 4TA), filed January 23, 1978. Applicant: SHORTY HALL RIG CO., INC., Box 2429, Odessa, TX 79760. Applicant's representative: Q. L. Hall, 2631 E. Pearl Street, Odessa, TX 79760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, materials, equipment and supplies* used in or in connection with the construction, operation, repair, and servicing of utility, electrical, uranium and hydroelectric plants, mines, and disposal and heavy industrial plants, between Odessa, Ector County, TX, and points in NM, OK, and KS, for 180 days. Supporting shipper(s): (1) Arrow Wholesale Supply, Odessa, TX; (2) Barnco, Odessa, TX; (3) X-L Co., Midland, TX; (4) Reda Pump Co., Midland, TX; (5) Continental Products, Odessa, TX. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H-4395, Herring Plaza, Amarillo, TX 79101.

No. MC 108393 (Sub-No. 134TA), filed January 23, 1978. Applicant: SIGNAL DELIVERY SERVICE, INC., 201 E. Ogden Avenue, Hinsdale, IL 60521. Applicant's representative: Thomas B. Hill (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by mail order houses and retail department stores, and equipment, materials and supplies used in the conduct of such business, from New Orleans, LA, to Houston, TX, and from Brenham, TX, to New Orleans, LA, under a continuing contract, or contracts, with Sears, Roebuck and Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Sears, Roebuck & Co., William C. Weeks, Southern Territorial Distribution-Traffic Manager, 675 Ponce de Leon Avenue, NE., Atlanta, GA 30395. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

No. MC 108676 (Sub-No. 117TA), filed December 20, 1977. Applicant: A. J. METLER HAULING AND RIGGING, INC., 117 Chicamauga Avenue NE., Knoxville, TN 37917. Applicant's representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refuse containers and parts, attachments, and accessories for refuse containers* from the plantsite of Harding Machine Co. at or near Lexington, TN to points in ND, SD, NE, KS, OK, TX, NM, CO, WY, MN, ID, UT, AR, NV, CA, OR, and WA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Dempster Dumpster Systems, Division of Carrier Corp., Springdale and North Central Avenues, Knoxville, TN 37917. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-22, U.S. Court House, 801 Broadway, Nashville, TN 37203.

No. MC 111625 (Sub-No. 25TA), filed December 29, 1978. Applicant: BERMAN'S MOTOR EXPRESS, INC., Box 1566-Old Mill Road, Binghamton, NY 13902. Applicant's representative: Michael R. Werner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Authority to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Sensitized reproduction paper, and photo and reprographic articles, cleaning compounds, disinfectants, deodorants, floor sealers, flor cleaners, soaps, and sanitary napkins, foodstuff, insecticides and fertilizers, seeds, onion sets, garden supplies, footwear and materials, supplies, accessories and equipment* used in the manufacture and sale thereof. (1) Between Elmira, NY and Pittsburgh, PA, serving all intermediate points and all off-route points in Allegheny, Armstrong, Beaver, Blair, Butler, Cambia, Fayette, Greene, Indiana, Lawrence, Lycoming, Somerset, Washington, and Westmoreland Counties, PA. (a) From Elmira over NY Hwy 17 to junction U.S. Hwy 15, thence over U.S. Hwy 15 to Williamsport, PA thence over U.S. Hwy 220 to Hollidaysburg, PA thence over U.S. Hwy 22 to Pittsburgh, and return over the same route. (b) From Elmira over NY Hwy 14 to junction NY Hwy 17 thence over NY Hwy 17 to junction U.S. Hwy 15, and thence over the same routes specified in (a) above to Pittsburgh, and return over the same route. (c) From Elmira over NY Hwy 17E or NY Hwy 352 to junction NY Hwy 17, thence over NY Hwy 17 to junction U.S. Hwy 15 and thence over the same routes specified in (a) above to Pittsburgh, and return over the same route. (2) Between junction U.S. Hwy 22 and 219 and the junction of PA Hwy 56 and junction U.S. Hwy 22, serving all intermediate points and all off-route points in Allegheny, Armstrong, Beaver, Blair, Butler, Cambia, Fayette, Greene, Indiana, Lawrence, Lycoming, Somerset, Washington, and Westmoreland Counties, PA: from junction U.S. Hwy 22 and 219 over U.S. Hwy 219 to junction PA Hwy 56 near Johnstown, PA thence over PA Hwy 56 to junction U.S. Hwy 22 at or near Armagh, PA and return over the same route. (3) Between Binghamton, NY and Pittsburgh, PA serving all intermediate points and all off-route points in Allegheny, Armstrong, Beaver, Blair, Butler, Cambia, Fayette, Greene, Indiana, Lawrence, Lycoming, Somerset, Washington, and Westmoreland Counties, PA from Binghamton, NY over NY Hwy 17 to junction U.S. Hwy 221, thence over U.S. Hwy 220 to junction PA Hwy 414, thence over PA Hwy 414 to junction Hwy 14, thence over the same routes specified in (a) above to Pittsburgh, and return over the same route. Restricted against the transportation of interline traffic which has both its interchange point and its origin or destination point within Allegheny, Armstrong, Beaver, Blair, Butler, Cambia, Fayette, Greene, Indiana, Lawrence, Lycoming, Northumberland, Somerset Washington, and Westmoreland Counties, PA for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Azon Corp., P.O. Box 290, Johnson City, NY 13790, Douglas Food Service Corp., P.O. Box 71, Johnson City, NY 13790, Endicott-Johnson Corp., Endicott, NY 13790, GAF Corp., 1361 Apls Road, Wayne, NJ 07407, Page Seed Co., Inc., Greene, NY 13778, Rochester Germicide Co., Box 1515, Rochester, NY 14603. Send protests to: Interstate Commerce Commission, U.S. Courthouse and Federal Building, 100 South Clinton Street, Room 1259, Syracuse, NY 13260.

No. MC 113624 (Sub-No. 80TA), filed January 23, 1978. Applicant: WARD TRANSPORT, INC., P.O. Box 735, Pueblo, CO 81001. Applicant's representative: Marion F. Jones, 1660 Lincoln Street, Suite 1600, Denver, CO 80264. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer solutions*, in bulk, in tank vehicles, from Optic, NE, to points in CO and KS, for 180 days. Supporting shipper: Nutra-Flo Chemical Co., 1919 Grand Avenue, Sioux City, IA 51107. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 721 19th Street, Denver, CO 80202.

No. MC 114632 (Sub-No. 126TA), filed December 21, 1977. Applicant: APPLE LINES, INC., 212 Southwest Second Street, P.O. Box 287, Madison, SD 57042. Applicant's representative: Michael L. Carter (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery* from the facilities of Switzer Candy Co., Division of Beatrice Foods Corp., located at or near St. Louis, MO, to Pheonix, AZ; Cabazon, Los Angeles, Sunnyvale, CA; Denver, CO; Pocatello, ID; Portland, OR; Salt Lake City, UT; and Seattle and Spokane, WA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Switzer Candy Co., Division of Beatrice Foods Corp., 1600 North Broadway, St. Louis, MO 63102, Ms. Shirley James, Traffic Manager. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, SD 57501.

No. MC 119789 (Sub-No. 403TA), filed December 20, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, TX 75222. Applicant's representative: Lewis Coffey, P.O. Box 6188, Dallas, TX 75222. (For telegrams—605 S. Loop 12, Irving, TX 75060). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates 61, MCC 209 and 766 (except hides and commodities in bulk). From Salt Lake City, UT to Dallas, TX, for 180 days. Supporting shipper: Joc Doctorman & Son Packing Co., Inc., 2900 South 300 West, Salt Lake City, UT 84110. Send protests to: Opal M. Jones, Trans., Asst., Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

No. MC 123476 (Sub-No. 32 TA), filed January 23, 1978. Applicant: CURTIS TRANSPORT, INC., P.O. Box 388, 3616 Jeffco Boulevard, Arnold, Mo. 63010. Applicant's representative: David G. Dimit (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Expanded plastic products*, (except in bulk, in tank vehicles), from ports of entry on the U.S.-Canadian Border at Buffalo, NY, Detroit and Port Huron, MI, to points in that part of the United States east of the western borders of MN, IA, and MO north of the southern borders of MO, KY, and WV, and on and west of U.S. Hwy 219 extending from Bluefield, WV, to the ports of entry at Buffalo, NY, restricted to traffic originating at the facilities of Dow Chemical Co. located in Canada, for 180 days. Supporting shipper: Dow Chemical U.S.A., Eastern/Central Divisions, P.O. Box 36000, Strongsville, OH 44136. Send protests to: J. P. Werthmann District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 North 12th Street, St. Louis, MO 63101.

No. MC124887 (Sub-No. 47 TA), filed January 23, 1978. Applicant: SHELTON TRUCKING SERVICES, INC., Route 1, Box 230, Altha, FL 32421. Applicant's representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and fittings*, from the facilities of Samson Plastic Conduit and Pipe Corp., located in Geneva County, Al, to points in FL, GA, KY, LA, MS, NC, SC, TN and VA, for 180 days. Supporting shipper(s): Samson Plastic Conduit and Pipe Corp., Samson, AL 34677. Send protests to : G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

No. MC 128117 (Sub-No. 28 TA), filed January 23, 1978. Applicant: NORTON-RAMSEY MOTOR LINES, INC., P.O. Box 896, Hickory, NC 28601. Applicant's representative: Francis J. Ortman, 7101 Wisconsin Avenue, Suite 605, Washington, DC 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cribs*, from the plantsites of Bassett Furniture of North Carolina, Inc., at or near Statesville and Hickory, NC, to the plantsites and warehouse facilities of Bassett Furniture Industries, Inc., in Henry County, VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 day of operating authority. Supporting shipper(s): Bassett Furniture Industries, Inc., P.O. Box 626, Bassett, VA 24055. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

No. MC 128190 (Sub-No. 13TA), filed January 9, 1978. Applicant: FREMONT CONTRACT CARRIERS, INC., P.O. Box 489, 1520 Railroad Street, Fremont, NE 68025. Applicant's representative: Scott E. Daniel, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal drywall products and products* used in the manufacturing and distribution of metal drywall products, from the plantsite of Phillips Manufacturing Co., located in Omaha, NE, to points in the United States (except NE, AK and HI), restricted to a transportation service to be performed, under a continuing contract, or contracts, with Phillips Manufacturing Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting

shipper(s): Phil Sokolof, President, Phillips Manufacturing Co., 4601 South 76th Street, Omaha, NE 68127. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 133937 (Sub-No. 3 TA), filed January 9, 1978. Applicant: ALL AMERICAN CAB CO., d.b.a. AMERICAN PARCEL EXPRESS, 6123 State Street, Huntington Park, CA 90255. Applicant's representative: Wilmer B. Hill, 666 Eleventh Street NW., Suite 805, Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Radiopharmaceuticals, radioactive chemicals, and diagnostic kits* (1) between Portland International Airport, at or near Portland, OR, on the one hand and on the other points in Benton, Clackamas, Clatsop, Columbia, Coos, Curry, Deschutes, Douglass, Hood River, Jackson, Josephine, Klamath, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Wasco, Washington, and Yamhill Counties, OR. (2) between Seattle-Tacoma International Airport, at or near Seattle, WA, on the one hand and on the other, points in Adams, Benton, Chelan, Clallam, Cowlitz, Douglass, Franklin, Grant, Grays Harbor, Jefferson, King, Kittitas, Lewis, Lincoln, Mason, Pacific, Pierce, Skagit, Snohomish, Spokane, Thurston, Wankiakum, Walla Walla, Whatcom, Whitman, and Yakima Counties, WA, for 180 days. Applicant has also filed an underlying ETA up to 90 days of operating authority. Supporting shipper(s): Medi-Physics, Inc., 5801 Christie Ave., Emeryville, CA 94608, New England Nuclear Corp., 601 Treble Cove Rd., N. Billerica, MA 01862, E.R. Squbb & Sons, Inc., 5 Georges, New Brunswick NY 08903, Amersham Corp., 2636 S. Clearbrook Dr., Arlington Hts., IL 60005, Abbott Laboratories, Abbott Park-Bldg. AP-8, N. Chicago, IL 60064 CIS-Radiopharmaceuticals, Inc., Five DeAngelo Dr., Bedford, MA 01730. Send protests to: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Room 1321 Federal Bldg., 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 134477 (Sub-No. 217 TA), filed January 23, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh meats*, from the facilities of Morris Rifkin & Sons at or near South St. Paul, MN, to Dallas and Fort Worth, TX, restricted to the transportation of traffic originating at the above named origin and destined to the above named destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Morris Rifkin & Sons, Inc., South St. Paul, MN 55075. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 134755 (Sub-No. 129 TA), filed January 19, 1978. Applicant: CHARTER EXPRESS, INC., 1959 East Turner, P.O. Box 3772, Springfield, MO 65804. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and nonedible food products*, (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Terminal Ice & Cold Storage Co., at or near Bettendorf, IA to points in IL, IN, KY, MI, MN, MO, OH, and WI, for 180 days. Supporting shipper(s): Terminal Ice & Cold Storage Co., 1618 Southwest First Avenue, Portland, OR 97201. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 135007 (Sub-No. 65 TA), filed January 23, 1978. Applicant: AMERICAN TRANSPORT, INC., 7850 F Street, Omaha, NE 68127. Applicant's representative: Arthur J. Cerra, P.O. Box 19251, 2100 TenMain Center, Kansas City, MO 64141. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products* and *articles* distributed by meat packinghouses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766, (except hides and commodities in bulk), from the plantsites and facilities of John Morrell & Co., located at or near Arkansas City, KS, and Wichita, KS, to points in CT, DE, DC, ME, MD, MA, NH, NJ, NY, PA, RI, TN, VT, VA, and WV, under a continuing contract, or contracts, with John Morrell & Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Emil Barondeau Traffic and Transportation Manager, John Morrell & Co., 1800 Summit, Arkansas City, KS 67005. Send protests to: Carroll Russell District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 135797 (Sub-No. 90 TA), filed December 16, 1977. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, U.S. Highway 71, Lowell, AR 72745. Applicant's representative: Don Garrison, 324 North Second Street, Rogers, AR 72756. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Poultry and livestock agricultural equipment* from Sulphur Springs, AR and points approximately five (5) miles south of Noel, MO on U.S. Highway 59, to points in the United States (except AK and HI); (2) *Machinery materials and equipment and supplies* used in the manufacture or distribution of the commodities named in (1) above, from points in the United States (except AK and HI); to Sulphur Springs, AR and a point approximately five miles south of Noel, MO on U.S. Hwy 59. Restricted: to the transportation of traffic originating at the plantsite and warehouse facilities of or used by the Sibley engineering and Manufacturing Co., Inc., a wholly owned subsidiary of the Hoyt Corp. and destined to the named points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sibley Engineering & Manufacturing, Inc., Subsidiary of Hoyt Corp., 1020 North Second Street, Rogers, AR 72756. Send protests to: District Supervisor, William H. Land, Jr., 3106 Federal Bldg., 700 West Capitol, Little Rock, AR 72201.

No. MC 135797 (Sub-No. 99 TA), filed January 23, 1978. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, U.S. Hwy 71, Lowell, AR 72745. Applicant's representative: Daniel C. Sullivan, 10 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Animal feed*, (except in bulk), (2) *Animal feed ingredients*, and (3) *advertising and packaging materials* when moving in mixed loads with the commodities named in (1) and (2), from the facilities of Kal Kan Foods, Inc., Ogden, UT, to Denver, CO, and Indianapolis, IN, and points in WA, OR and CA, for 180 days. Supporting shipper: Kal Kan Foods, Inc., 3386 E. 44th Street, Vernon, CA 90058. Send protests to: William H. Land, Jr., District Supervisor, 3106 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 135874 (Sub-No. 97 TA), filed January 23, 1978. Applicant: LTL PERISHABLES, INC., 550 East 5th Street South, South St. Paul, MN 55075. Applicant's representative: K. O. Patrick, 550 East 5th Street South, South St. Paul, MN 55075. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products*, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except in bulk), from National Stockyards, IL, East St. Louis, IL, and St. Louis MO, to points in OH, PA, NY, NJ, CT, DE, ME, MD, MA, NH, VT, RI, and DC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Krey Packing Co., Inc., 3607 North Florissant St., St. Louis, MO 63107; (2) Royal Packing Co., Box 156, St. Clair Avenue and Ice Plant Road, National Stockyards, IL 62071. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 136423 (Sub-No. 6 TA), filed December 19, 1977. Applicant: EMPIRE DIRECT SHIPPERS, INC., 400 Sip Ave., Jersey City, NJ 07306. Applicant's representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Radio or radio receiving sets, talking machines or phonographs, or other related articles, loud speakers, consoles, floor standing, calculators, adding or computing machines and stand and tables.* From Edison, NJ, to points in the U.S. west of a line beginning at Lake Erie and extending south along the eastern border of OH, KY, TN, and FL near Dotham, AL, then over an imaginary line to Apalachia, FL on the Gulf of Mexico under a container contract with Lloyd Electronics, Inc., for 180 days. Supporting shipper: Lloyd's Electronics, Inc., 180 Raritan Center Parkway, Raritan, NJ 08818. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton St., Newark, NJ 07102.

No. MC 138253 (Sub-No. 7 TA), filed January 9, 1978. Applicant: MONFORT TRANSPORTATION CO., Box G, Greely, CO 80631. Applicant's representative: John T. Wirth, 1600 Broadway, 2310 Colorado State Bank Bldg., Denver, CO 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meat* from the port of Newark, NJ, to Lexington, KY; East Bridgewater and Worchester, MA, Trotwood, OH, and Greenwood, PA. Restrictions: (1) Restricted to shipments with prior ocean movements and moving in foreign commerce; (2) Restricted to shipments moving under a continuing contract or contracts with Monfort of Colorado, Inc. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Monfort of Colorado, Inc., P.O. Box G, Greely, CO 80631. Send protests to: District Supervisor, Roger L. Buchanan, Interstate Commerce Commission, 721 19th Street, 492 U.S. Customs House, Denver, CO 80202.

No. MC 138308 (Sub-No. 38TA), filed January 23, 1978. Applicant: KLM, INC., 2102 Old Brandon Road, P.O. Box 6098, Jackson, MS 39208. Applicant's representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Battery boxes, covers and vents, rubber and/or plastic*, from the facilities of the Richardson Co. at or near Philadelphia, MS, to points in AL, AR, FL, GA, LA, NC, TN (except Memphis and points in its commercial zone) and TX; and (2) between the facilities of the Richardson Co. at or near Philadelphia, MS, on the one hand, and, on the other, points in CA and IN; (3) applicant intends to serve all points in the commercial zones of all cities in the States applied for, for 180 days. Supporting shipper: The Richardson Co., 2701 West Lake St., Melrose Park, IL. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, MS 39201.

No. MC 138328 (Sub-No. 55TA), filed January 20, 1978. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, I-80 and Hwy 50, P.O. Box 37308, Omaha, NE 68137. Applicant's representative: Donna Ehrlich (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New boxed cedar products and patio supplies*, from the facilities of Creative Forest Products located at or near Meridian, ID, to points in the United States (except AK and HI), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Brian D. Sopatyk, President, Creative Forest Products, 4388 S. Meridian Road, Meridian, ID. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 138676 (Sub-No. 6TA), filed January 23, 1978. Applicant: O-J TRANSPORT, INC., 2739 Sturtevant, Detroit, MI 48206. Applicant's representative: Robert E. McFarland, McFarland & Bullard, 999 West Big Beaver Road, Suite 1002, Troy, MI 48084. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Detroit, MI, to Hammond, IN, and the commercial zone thereof; and Lansing, Berwyn, and Geneva, IL, with empty containers on return, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately three (3) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Timothy S. Quinn, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building & U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226.

No. MC 139858 (Sub-No. 18 TA), filed December 16, 1977. Applicant: AMSTAN TRUCKING INC., 1255 Corwin Avenue, Hamilton, OH 45015. Applicant's representative: Chandler L. Van Orman, 704 Southern Building, Washington, DC 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Construction and mining equipment parts*, (1) from Indianapolis, IN; and Peoria, IL; to Carlstadt, Newark, and South Plainfield, NJ; New York, NY; Harrisburg and Pittsburgh, PA; Douglas, Tucson, and Phoenix, AZ; Baldwin Park, Hayward, Oakland, San Francisco, and San Leandro, CA; Denver, CO; Ely and Reno, NV; Albuquerque and Farmington, NM; Salt Lake City, UT; and Casper and Gillette, WY. (2) Between Indianapolis, IN; and Peoria, IL; *Crates*, from West Helena, AR; to Peoria, IL. Restrictions: The operations authorized above are subject to the following conditions: (1) The product description does not include commodities which because of their size or weight require the use of special equipment; (2) said operations are limited to a transportation service to be performed, under a continuing contract, or contracts, with Westinghouse Air Brake Co., a subsidiary of American Standard Inc., of New Brunswick, NJ for 180 days. Supporting shipper: American Standard Inc., P.O. Box 2003, New Brunswick, NJ 08903, Gregory J. Decker, Manager, Rates. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

No. MC 143000 (Sub-No. 7 TA), filed December 28, 1978. Applicant: THE HIGH GRAIN CO., INC., East Highway 40, P.O. Box 7, Hays, KS 67601. Applicant's representative: Erle W. Francis, Suite 719, 700 Kansas Avenue, Topeks, KS 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Dry animal and poultry feed in bulk and bags*, from the facilities of Cargill, Inc., McCook, NE to

all points in KS on and west of U.S. Hwy 81; (b) *Dry animal and poultry feed in bulk and bags, in self-unload-*

near Tulsa, OK; (8) the facilities of Floridian Co., at or near Berkeley Springs, WV, and Quincy, FL; (9) the

and accessories used in connection therewith, between Charleston, WV, on the one hand, and, on the other,

be examined at the field office named below. Send protests to: Andrew V. Baylor, District Supervisor, Interstate

CA, which extends from railroad milepost 381.900 near Susanville, CA, to railroad milespost 407.166 at Mason,

all points in KS on and west of U.S. Hwy 81; (b) *Dry animal and poultry feed in bulk and bags, in self-unloading equipment with auger discharge,* from the facilities of Cargill, Inc., at Kansas City, KS and Springdale, AR to all points in OK on and east of U.S. Hwy I-35. Applicant states it does not intend to tack or interline, for 180 days. Applicant has also filed underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Cargill, Inc., Nutrena Feed Division, P.O. Box 9300, Minneapolis, MN 55440. Send protests to: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 147 Federal Building, and U.S. Courthouse, 444 Southeast Quincy, Topeka, KS 66683.

No. MC 142837 (Sub-No. 2 TA), filed January 23, 1978. Applicant: BARBER TRUCKING, INC., 19140 Southeast 35th Place, P.O. Box 685, Sandy, OR 97055. Applicant's representative: Philip G. Skofstad, P.O. Box 594, Gresham, OR 97030. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Heat recovery equipment and components,* from Newberg, OR, to points in SD, MN, MI, IA, WI, IL, MI, IN, OH, PA, NJ, CT, MA, NH, NY, VT, and ME, under a continuing contract, or contracts, with Allied Air Products, Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Allied Air Products Co., 315 E. Franklin, Newberg, OR 97132. Send protests to: A. E. Odoms, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 114 Pioneer Courthouse, 555 Southwest Yamhill Street, Portland, OR 97204.

No. MC 143957TA (second correction), filed November 10, 1977, published in the FEDERAL REGISTER issue of February 6, 1978, and republished as corrected this issue. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Applicant's representative: Charles M. Williams, Kimball and Williams, 350 Capitol Life Center, Denver, CO 80203. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Chemicals, acids, solvents and edible oils,* (except in bulk), (A) from (1) the facilities of Hawkins Chemical Co., and Exxon Chemical Corp., at or near Lawrence, KS; (2) Chicago, IL, and points in its commercial zone; (3) the facilities of Olin Chemical Co., at or near Joliet, IL; (4) the facilities of Sanford Chemical Co., at or near Elk Grove Village, IL; (5) the facilities of Velsicol Chemical Co., and James Barley & Son Co., at or near St. Louis, MI; (6) the facilities of BASF Wyandotte, MI; (7) the facilities of Ozark-Mahoning Co., at or near Tulsa, OK; (8) the facilities of Floridian Co., at or near Berkeley Springs, WV, and Quincy, FL; (9) the facilities of Ash Grove Chemical Co., at or near Springfield, MO; (10) the facilities of Lien Chemical Co., at or near Rapids City, SD; (11) the facilities of Burris Chemical Co., at or near Charleston, SC; (12) the facilities of Barneby Cheney, at or near Columbus, OH; (13) the facilities of Cities Service Co., at or near Copper-Hill, TN; (14) the facilities of Fort Recovery Industries, at or near Fort Recovery, OH; (15) the facilities of Great Lakes Chemical Corp., at or near West Lafayette, IN; (16) the facilities of Keys Fiber Co., at or near Hammond, IN; (17) of facilities of Marathon, Morco, Co., at or near Dickenson, TX; (18) the facilities of Quality Chemical Co., at or near Baltimore, MD; (20) the facilities of Stauffer Chemical Co., at or near Greenriver, WY; (21) the facilities of West Vaco Chemical Division, at or near Covington, VA; (22) the facilities of Lowes Inc., at or near Oran, MO; (23) the facilities of PPG Industries, at or near Barberton, OH and Natrium, WV; (24) the facilities of Diamond Shamrock Chemical Co., at or near Paynesville, OH; (25) the facilities of Allied Chemical Co., at or near North Claymont, DE; Richmond, VA; and Wilmington, DE; (26) the facilities of E. I. DuPont, at or near Midland, MI, to points in IA, NE, CO, NM, TX, OK, KS, IL, and St. Louis, MO, and Phoenix, AZ, and points in their respective commercial zones, from the facilities of Aarren-Douglas Chemical Co., at or near Omaha, NE, and Sioux City, IA, to points in IA, NE, CO, NM, TX, OK, KS, IL, and St. Louis, MO, and Phoenix, AZ, and points in their respective commercial zones, restricted to transportation service performed under a continuing contract, or contracts, with Aarren-Douglas Chemical Co., for 180 days. Supporting shipper: Aarren-Douglas Chemical, Paul Wendte, Traffic Manager, 3002 F Street, Omaha, NE 68107. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102. The purpose of this second republication is to correct the territorial description and typographical errors.

No. MC 144073 (Sub-No. 1TA), filed January 9, 1978. Applicant: COMPUTER TRANSPORT OF GEORGIA, INC., 3914 Shirley Drive, SW., Atlanta, GA 30336. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Reproducing or copying machines, computers, verifiers, collators, sorters, receivers, and transmitters, printers, typewriters, X-ray equipment, and supplies, parts and accessories* used in connection therewith, between Charleston, WV, on the one hand, and, on the other, points in Carter, Elliott, Floyd, Greenup, Harlan, Johnson, Knott, Lawrence, Letcher, Magoffin, Martin, Morgan and Pike Counties, KY; Adams, Athens, Brown, Gallia, Jackson, Lawrence, Meigs, Monroe, Pike, Scioto, and Washington Counties, OH; and Bland, Buchanan, Dickenson, Russell, Smyth, and Tazewell Counties, VA, restricted to service performed under a continuing contract, or contracts, with Xerox Corp., of Arlington, VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Xerox Corp., 1616 North Fort Myer Drive, Arlington, VA 22209. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

No. MC 144145 (Sub-No. 1TA), filed January 23, 1978. Applicant: GILBERT TRUCK LINES, INC., South Alger Road, Route 2, Ithaca, MI 48847. Applicant's representative: James R. Davis, 1018 Michigan National Tower, Lansing, MI 48933. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Soybean meal,* in bulk in hopper-type vehicles, from the facilities of Cargill, Inc., located at 122d and Torrence Avenue, Chicago, IL 60617 to various points and places in MI, south of M-55 and Pickford and Sault Ste. Marie, MI for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Cargill, Inc., Chicago, IL 60617. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, MI 48933.

No. MC 144217 TA, filed January 23, 1978. Applicant: ROBERT HARRIS, d/b/a BODEE TRUCK BROKERS, 5001 North 62 Lane, Glendale, AZ 85301. Applicant's representative: Thomas E. Haney, 2030 Valley Bank Center, Phoenix, AZ 85073. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen foods, frozen prepared foods, frozen juices, and fresh meat,* when moving in mechanical temperature controlled vehicles, for the accounts listed in the appendices herein, between Los Angeles, County and Orange County, CA, and Maricopa County, AZ, for 180 days. Supporting shipper: There are approximately five (5) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020, Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

No. MC 144219 TA, filed January 23, 1978. Applicant: B.I.T., INC., P.O. Box 2665, La Habra, CA 90631. Applicant's representative: Kellner & Steffire, 700 South Flower Street, Suite 1724, Los Angeles, CA 90017. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Glass, mirrors, automobile windows and windshields and the materials and supplies* used in the manufacturing, sale, and installation thereof, from the facilities of Buchmin Industries, Inc., located at or near Reedley, CA, and points in WA, OR, ID, NV, MT, WY, UT, AZ, CO, NM, TX, and OK, under a continuing contract, or contracts, with Buchmin Industries, Inc., for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Buchmin Industries, Inc., 1485 East Curtis, Reedley, CA 93654. Send protests to: Edward P. Henry, Interstate Commerce Commission, Room 1321, Federal Bldg., 300 North Los Angeles Street, Los Angeles, CA 90012.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-5687 Filed 3-2-78; 8:45 am]

[7035-01]

[Docket No. AB-12 (Sub-No. 35)]

SOUTHERN PACIFIC TRANSPORTATION CO.

Abandonment Between Susanville and Westwood in Lassen County, CA; Findings

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on January 12, 1978, a finding, which is administratively final, was made by the administrative law judge, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment—Goshen,* 354 I.C.C. 76 (1977), the present and furture public convenience and necessity permit the abandonment by the Southern Pacific Transportation Co. of that portion of the line of railroad in Lassen County, CA, which extends from railroad milepost 381.900 near Susanville, CA, to railroad milespost 407.166 at Mason, CA, and permit discontinuance of service by the Southern Pacific over that portion of the line between milepost 407.166 and milepost 412.433, near Westwood, in Lassen County, CA. A certificate of abandonment will be issued to the Southern Pacific Transportation Co. based on the above-described finding of abandonment, 30 days after publication of this notice (April 3, 1978), unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a Government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(*a*) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(*b*) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-5686 Filed 3-2-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409), 5 U.S.C. 552b(e)(3).

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[6320–01]

1

[M–103, Feb. 27, 1978]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 4 p.m., February 27, 1978.

PLACE: Room 1011, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Dispute with the United Kingdom over Braniff's Dallas-London fares.

STATUS: Closed.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202–673–5068.

SUPPLEMENTARY INFORMATION: This meeting will concern what if any steps the Board should take to satisfactorily resolve a fare dispute with the United Kingdom regarding Braniff's proposed inauguration of Dallas-London service on March 1, 1978. The United Kingdom has notified Braniff that it would not permit Braniff to inaugurate service at Braniff's proposed fares. This morning it became clear that a Board meeting would be necessary. Premature public disclosure, particularly to the United Kingdom of the options, plans, and opinions of the Board could seriously compromise the Board's ability to successfully negotiate a resolution of the dispute in best interests of the United States. So that the Board can consider this matter and determine what, if any, action should be taken prior to the March 1, 1978, proposed inauguration of services by Braniff, the following Members have voted that agency business requires that the Board meet on Monday, February 27, 1978, on less than seven days notice, and that no earlier announcement of the meeting was possible:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

Additionally, the following members have voted that public observation of this meeting would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9)(B) and 14 CFR section 310b.5(9)(B) and that the meeting will be closed:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

PERSONS EXPECTED TO ATTEND

Board Members: Chairman, Alfred E. Kahn; Vice Chairman, G. Joseph Minetti; Member, Richard J. O'Melia; and Member, Elizabeth E. Bailey.
Assistants to Board Members: Mr. Mike Roach, Mr. Fred Houghteling, Mr. James Casey, Mr. John Goldn, Mr. Elias Rodrigues, Mr. Ford Cole, and Ms. Barbara Clark.
Office of the Managing Director: Mr. Dennis Rapp, Mr. John Hancock.
Bureau of International Aviation: Mr. Donald Farmer, Mr. Donald Litton, Mr. Joseph Chesen, Mr. Tony Largay, and Ms. Mary Pett.
Bureau of Pricing and Domestic Aviation: Mr. Michael Levine.
Bureau of Fares and Rates: Mr. Herbert Aswall, Mr. James Deegan, and Mr. James Greene.
Office of the General Counsel: Mr. Philip Bakes, Mr. Gary Edles, Mr. Peter Schwarzkopf; and Ms. Melissa Osborne.
Office of Economic Analysis: Mr. Darius Gaskins.
Office of the Secretary: Mrs. Phyllis T. Kaylor and Ms. Deborah A. Lee.
Reporter: North American Reporting.

GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9)(B) and 14 CFR section 310b.5(9)(B).

PHILIP T. BAKES, Jr.,
General Counsel.

[S–463–78 Filed 3–1–78; 9:56 am]

[6320–01]

2

[M–102, Amdt. 1, Mar. 24, 1978]

DELETION OF ITEMS FROM THE MARCH 1, 1978 AGENDA

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., March 1, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: (16) Docket 30971, Western Air Lines, Inc. Motion for Hearing on Phoenix-Salt Lake City Competitive Nonstop Authority (Memo No. 7785, BPDA). (17) Docket 31967, Ozark's Petition For Show Cause, or, Alternatively, Motion For Hearing on St. Louis-Washington (Via Dulles Airport) (Memo No. 7784, BPDA).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202–673–5068.

SUPPLEMENTARY INFORMATION: These items are subject to the new procedure established by the Board at its November 23, 1977 meeting which rescheduled deferred and newly-filed route applications for comparative consideration at regular 60-day intervals. These items were inadvertently scheduled for the March 1, 1978 meeting but pursuant to the new procedure will be considered in the early April 60-day review. Accordingly, the following members have voted that agency business requires the deletion of these items from the March 1, 1978 agenda and that no earlier announcement of these deletions was possible:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

[S–464–78 Filed 3–1–78; 9:56 am]

[6320–01]

3

[M–102, Amdt. 2, Feb. 28, 1978]

DELETION OF ITEMS FROM THE MARCH 1, 1978 AGENDA

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., March 1, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

7. Docket 28655, Seattle/Portland-Japan Service Investigation (request for instructions) (Memo No. 7758, 7758–A, OGC).
12. Docket 29186, *Memphis-Twin Cities/Milwaukee Case* (OGC, OEA).
13. Docket 21670, *Frontier Airlines, Inc. Subsidy Mail Rates*—Petitions for discretionary review (OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202–673–5068.

SUPPLEMENTARY INFORMATION: The staff stated that they would like to research the condition requirement in Item 7 further before discussing it at a Board meeting. Item 12 has been rescheduled to the meeting of March 9, 1978 in order to give the Members more time to consider the staff's recommendation. Because of the complex issues in Item 13 and the press of other work, the staff was unable to submit its recommendation to the Board in time for consideration in the March 1, 1978 meeting. Accordingly, the following Members have voted that agency business requires the deletion of items 7, 12, and 13 from the March 1, 1978 agenda and that no earlier announcement of these deletions was possible:

Chairman Alfred E. Kahn
Vice Chairman G. Joseph Minetti
Member Lee R. West
Member Richard J. O'Melia
Member Elizabeth E. Bailey

[S–473–78 Filed 3–1–78; 3:45 pm]

[6715–01]

4

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Thursday, March 9, 1978 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED:

Portions open to the public:

I. Future meetings.
II. Correction and approval of minutes.
III. Advisory opinions: AO 1977–40, AO 1978–5, AOR status report.
IV. FOIA regulations.
V. Appropriations and budget. Budget execution report.
VI. Classification actions.
VII. Pending legislation.
VIII. Pending litigation. Litigation status report.
IX. Liaison with other Federal agencies.
X. Routine administrative matters.

Portions closed to the public (executive session):

Audit reports, compliance, personnel.

PERSON TO CONTACT FOR INFORMATION:

Mr. David Fiske, press officer, telephone, 202–523–4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S–472–78 Filed 3–1–78; 3:17 pm]

[6740–02]

5

MARCH 1, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., March 8, 1978.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda. NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202–275–4166.

This is a list of matters to be considered by the commission. It does not include a listing of all papers relevant to be items on the agenda, howeve, all public documents may be examined in the Office of Public Information, Room 1000.

GAS AGENDA, 80TH MEETING, MARCH 8, 1978, REGULAR MEETING

I. PIPELINE RATE MATTERS

A. Pipeline rates

RP–1.— Docket No. RP72–6 (Ignition Fuel and Flame Stabilization), El Paso Natural Gas Co.

II. PRODUCER MATTERS

A. Producer certificates

CI–1.—Docket Nos. CI75–45, et al., Tenneco Oil Co., et al.
CI–2.—Docket No. CI77–657, American Natural Gas Production Co., et al.
CI–3.—Reserved.
CI–4.—Reserved.

B. Area rates

CI–6.—Docket No. AR70–1 (Phase I), Area Rate Proceeding (Permian Basin II Area)

III. PIPELINE CERTIFICATE MATTERS

A. Pipeline certificates

CP–1.—Docket No. CP76–492, National Fuel Gas Supply Corp., Docket No. CP77–590, National Gas Storage Corp.
CP–2.—Docket No. CP76–136, Tennessee Gas Pipeline Co.
CP–3.—Reserved.
CP–4.—Reserved.

B. Storage

CP–5.—Docket No. CP66–237, Natural Gas Pipeline Co. of America.
CP–6.—Reserved.
CP–7.—Reserved.

C. Curtailment

CP–8.—Docket No. RP77–102, Public Service Co. of North Carolina, Inc., Piedmont Natural Gas Co., Inc., and North Carolina Natural Gas Corp. *v.* Transcontinental Gas Pipe Line Corp., Docket No. RP78–28, Transcontinental Gas Pipe Line Corp. (North Carolina Utilities Commission on Behalf of Farmers Chemical Association).

GAS AGENDA, 80TH MEETING, MARCH 8, 1978, REGULAR MEETING

CAG–1.—Docket Nos. RP72–74 and RP74–8, Southern Natural Gas Co.
CAG–2.—Docket Nos. RP78–39 and RP78–40, Panhandle Eastern Pipe Line Co.
CAG–3.—Docket No. CP78–42, United Gas Pipe Line Co. Docket No. CP78–44, Columbia Gulf Transmission Co. and Tennessee Gas Pipe Line Co.
CAG–4.—Docket No. CP78–43, Trunkline Gas Co.
CAG–5.—Docket No. CP76–260, Consolidated Gas Supply Corp.
CAG–6.—Docket No. CP77–531, Western Interstate Co. Docket No. CP76–410, El Paso Natural Gas Co.
CAG–7.—Docket No. CP72–258, Natural Gas Pipeline Co. of America.
CAG–8.—Docket No. CP78–139, Cities Service Gas Co.
CAG–9.—Docket No. CP78–132, Cities Service Gas Co.
CAG–10.—Docket No. CP77–662, Arkansas Louisiana Gas Co.
CAG–11.—Docket No. CP78–25, United Gas Pipe Line Co.
CAG–12.—Docket No. CP78–115, Northern Natural Gas Co.
CAG–13.—Docket Nos. CI75–201, et al., Atlantic Richfield Co., et al.

MISCELLANEOUS AGENDA, 80TH MEETING, MARCH 8, 1978, REGULAR MEETING

M–1. (A) Docket No. RM76–15, Regulation of Small Producers. (B) Docket No. CS77–767, Emon A. Mahony.

MISCELLANEOUS AGENDA, 80TH MEETING, MARCH 8, 1978, REGULAR MEETING

CAM–1.—Secretary of Energy's proposed rule to amend 10 CFR Subpart K of Part 212, Mandatory Petroleum Price Regulations.

POWER AGENDA, 80TH MEETING, MARCH 8, 1978, REGULAR MEETING

I. ELECTRIC RATE MATTERS

ER–1.—Docket No. ER77–546, Dayton Power & Light Co.
ER–2.—Docket No. ER76–678, Maine Electric Power Co.
ER–3.—Docket No. E–8570 (Fuel Clause), Southern California Edison Co.
ER–4.—Docket No. E–9609, Connecticut Municipal Electric Energy Cooperative, Complainant *v.* Power Authority of the State of New York, Respondent.
ER–5.—Docket No. ER76–818, Northern States Power Co. (Minnesota).
ER–6A.—Docket No. ID–1820, Fred D. Hafer.
B. Docket No. ID–1692, John W. Vaughan.
C. Docket No. ID–1742, James E. Tribble.
D. Docket No. ID–1819, Warren L. Stevens.
E. Docket No. ID–1778, Jack Lloyd.
F. Docket No. ID–1323, R. Leigh Fitzgerald.

G. Docket No. ID-1804, Larry G. McManus.
H. Docket No. ID-1682, Frederick Lange.

II. LICENSED PROJECT MATTERS

P-1.—Emergency Action Plan (Dam Safety) Hydroelectric Licensing Program.
P-2.—Project No. 2301—Montana, the Montana Power Co.

POWER AGENDA, 80TH MEETING, MARCH 8, 1978, REGULAR MEETING

CAP-1.—Docket No. ER78-15, Southwestern Public Service Co.
CAP-2.—Docket Nos. ER78-191 and ER78-206, Mississippi Power & Light Co.
CAP-3.—Docket No. ES78-19, Northwestern Public Service Co.
CAP-4.—Docket No. E-9603, Carolina Power & Light Co.
CAP-5.—Project No. 994, Utah Power and Light Co.
CAP-6.—Project No. 2652, Pacific Power & Light Co.
CAP-7.—Project No. 2333, Rumford Falls Power Co.
CAP-8.—Docket No. DA-510—Colorado, U.S. Forest Service, U.S. Geological Survey.
CAP-9.—Docket No. ER78-25, Kansas City Power & Light Co.

KENNETH F. PLUMB,
Secretary.

[S-469-78 Filed 3-1-78; 2:30 pm]

[6720-01]

6

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., March 8, 1978.

PLACE: 1700 G Street NW., Sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall, 202-377-6679.

MATTERS TO BE CONSIDERED:

Application for approval of two $500,000 lines of credit—Southwestern Group Financial, Inc., Sugar Land, Tex.
Branch office application—First Federal Savings & Loan Association of Lake Worth, Lake Worth, Fla.
Application to include U.S. obligations as liquid assets—bank regulation 531.6(b).
Designation of Anne P. Jones, General Counsel, as a member of the Administrative Conference of the United States.
Consideration of debt application—United Financial Corp. of California, San Francisco, Calif.
Consideration of report to the Board on proposed amendment to § 543.1—Corporate name change.
Concurrent consideration of two branch office applications—(1) Home Federal Savings & Loan Association of San Diego, San Diego, Calif.; and (2) Central Federal Savings & Loan Association, San Diego, Calif.
Agency office application—First Federal Savings & Loan Association of Miami, Miami, Fla.
Consideration of amendment of charter—Change of name—El Reno Federal Savings & Loan Association, El Reno, Okla.
Merger; change of name; maintenance of branch offices; cancellation of membership and insurance and transfer of stock of First Federal Savings & Loan Association of Battle Creek, Battle Creek, Mich., into Ann Arbor Federal Savings & Loan Association, Ann Arbor, Mich.
Branch office application—First Federal Savings & Loan Association of Osceola County, Kissimmee, Fla.
Consideration of FSLIC insurance of trusteed pension plans.
Branch office application—Lincoln Federal Savings & Loan Association, Lincoln, Nebr.
Consideration of termination of insurance and refund of secondary reserve—Niagara Permanent Savings & Loan Association, Niagara, N.Y.
Branch office application—Evansville Federal Savings & Loan Association, Evansville, Ind.
Branch office application—First Federal Savings & Loan Association of Great Falls, Great Falls, Mont.
Branch office application—Rocky Mountain Federal Savings & Loan Association, Cheyenne, Wyo.
Report to the Board on proposed new procedures for suspensions/prohibitions where felony charged (the "Feinberg" Regulations).

[S-466-78 Filed 3-1-78; 9:57 am]

[6720-01]

7

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: March 8, 1978; at the conclusion of the open meeting to be held at 9:30 a.m.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Closed meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall, 202-377-6679.

MATTERS TO BE CONSIDERED: Consideration of Consent To Serve on the Board of Directors of a Savings & Loan Association.

No. 141, February 28, 1978.

[S-467-78 Filed 3-1-78; 9:57 am]

[7030-01]

8

INDIAN CLAIMS COMMISSION.

TIME AND DATE: 10:15 a.m., March 8, 1978.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

PORTION OF THE MEETING OPEN TO THE PUBLIC: Dockets 64, 335, and 338, *Shawnee.* Docket 363, *Lower Sioux.*

PORTION OF THE MEETING CLOSED TO THE PUBLIC: Personnel.

FOR MORE INFORMATION:

David H. Bigelow, Executive Director, Room 640, 1730 K Street NW., Washington, D.C. 20006, 202-653-6174.

[S-468-78 Filed 3-1-78; 9:57 am]

[7035-01]

9

FEBRUARY 28, 1978.

INTERSTATE COMMERCE COMMISSION.

Vice Chairman Christian, Commissioner Brown, and Commissioner Clapp.

TIME AND DATE: 10 a.m., Thursday, March 2, 1978.

PLACE: Room 4225, Interstate Commerce Commission Building, 12th Street and Constitution Avenue NW., Washington, D.C.

STATUS: Short notice of open informal meeting.

MATTERS TO BE DISCUSSED: Rail Abandonments—Options for Consideration.

CONTACT PERSON FOR MORE INFORMATION:

Mrs. Hildred S. Hersman, 202-275-7535.

[S-465-78 Filed 3-1-78; 9:57 am]

[7590-01]

10

NUCLEAR REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 7797.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Thursday, March 2, 1978.

CHANGES IN THE MEETING: Meeting titled "Briefing on Integrated Safeguards Information System" is canceled.

WALTER MAGEE,
Chief, Operations Branch, Office of the Secretary.

[S-470-78 Filed 3-1-78; 2:30 pm]

[7715-01]

11

POSTAL RATE COMMISSION.

TIME AND DATE: Each business day from March 8 through April 7, 1978, at 9 a.m. and 2 p.m.

PLACE: Commission Conference Room, Room 500, 2000 L Street NW., Washington, D.C. 20268.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Issues in Docket No. R77-1. Meetings closed pursuant to 5 U.S.C. § 552b(c)(10).

CONTACT PERSON FOR MORE INFORMATION:

Ned Callan, Information Officer, Postal Rate Commission, Room 500, 2000 L Street NW., Washington, D.C. 20268, telephone 202-254-5614.

[S-471-78 Filed 3-1-78; 2:30 pm]

[8010-01]

12

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of March 6, 1978, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Monday, March 6, 1978, at 3 p.m. and on Thursday, March 9, 1978, immediately following the open meeting. An open meeting will be held on Thursday, March 9, 1978, at 9 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be so considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(9)(9)(A) and (10) and 17 CFR 200.402 (a)(8)(9)(i) and (10).

Chairman Williams, Commissioners Loomis, Evans, Pollack, and Karmel determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Monday, March 6, 1978, at 3 p.m., will be:

Formal orders of investigation.
Referral of investigative files to Federal, State, or self-regulatory authorities.
Chapter XI proceedings.
Institution of injunctive actions.
Settlement of injunctive actions.
Settlement of administrative proceedings of an enforcement nature.
Freedom of Information Act appeals.

The subject matter of the closed meeting scheduled for Thursday, March 9, 1978, immediately following the open meeting, will be:

Opinion.
Other litigation matters.

The subject matter of the open meeting scheduled for Thursday, March 9, 1978, at 9 a.m., will be:

1. Affirmation of action taken by Commissioner Pollack, as Duty Officer, authorizing a Department of Justice attorney to examine documents for which Commission staff attorneys have asserted a privilege in the multidistrict litigation relating to Franklin National Bank.
2. Consideration of a request for authorization to interview and take depositions of a Commission employee and two former Commission employees with respect to certain meetings during a closed investigation.
3. Consideration of the transmittal of comments to the Office of Management and Budget ("OMB") expressing the views of the Commission on OMB's draft bill amending the Independent Offices Appropriations Act of 1952.

FOR FURTHER INFORMATION CONTACT:

Kathy Malfa at 202-376-8004 or Edward A. Scallet at 202-755-1234.

FEBRUARY 28, 1978.

[S-461-78 Filed 3-1-78; 9:56 am]

[8010-01]

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SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be printed February 27, 1978.

CHANGES IN THE MEETING: Additional item to be considered.

The following additional item will be considered by the Commission at the open meeting scheduled for Thursday, March 2, 1978, at 10 a.m.:

Proposed adoption of revisions to Rule 146 and the adoption of related Form 146, relating to exemptions for offers and sales of securities by an issuer not involving a public offering.

Chairman Williams, Commissioners Loomis, Evans, Pollack, and Karmel determined that Commission business required consideration of the matter and that no earlier notice thereof was possible.

FEBRUARY 28, 1978.

[S-462-78 Filed 3-1-78; 9:56 am]

[6325-01]

14

CIVIL SERVICE COMMISSION.

TIME AND DATE OF MEETING: 2 p.m., Thursday, March 9, 1978.

PLACE: Commissioners' Meeting Room, Room 5H09 (fifth floor), 1900 E Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE DISCUSSED: Proposed final regulations to extend the coverage of Part 713 to include complaints of discrimination based on physical or mental handicap. This will establish an administrative complaints process for handicapped applicants and employees in the Federal Government.

CONTACT PERSON FOR MORE INFORMATION:

Lee Willis, Office of Selective Placement, Staffing Resources Division, Bureau of Recruiting and Examining, 202-632-5687.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[S-478-78 Filed 3-2-78; 11:22 am]

[6325-01]

15

CIVIL SERVICE COMMISSION.

TIME AND DATE OF MEETING: 4 p.m., Thursday, March 9, 1978.

PLACE: Commissioners' Meeting Room, Room 5H09 (fifth floor), 1900 E Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE DISCUSSED: Negotiations with insurance carrier under section 890.204 of the Federal Employees Health Benefits Regulations.

CONTACT PERSON FOR MORE INFORMATION:

Georgia Metropulos, Office of the Executive Assistant to the Commissioners, 202-632-5556.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[S-479-78 Filed 3-2-78; 11:22 am]

federal register

FRIDAY, MARCH 3, 1978
PART II

ENVIRONMENTAL PROTECTION AGENCY

NATIONAL AMBIENT AIR QUALITY STANDARDS

States Attainment Status

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 856-5]

PART 81—AIR QUALITY CONTROL REGIONS, CRITERIA, AND CONTROL TECHNIQUES

Section 107—Attainment Status Designations

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rulemaking sets forth the attainment status of all States in relation to the national ambient air quality standards (NAAQS). The tables following this rulemaking indicate, on a State-by-State, pollutant-by-pollutant basis, the attainment status of every area as submitted by the appropriate State agency and approved, or as designated by the Environmental Protection Agency (EPA). No distinctions are made as to the severity of the violations recorded in the areas designated as nonattainment in these tables. These designations are immediately effective. EPA is soliciting comments for 60 days and will republish revised designations as appropriate.

DATES: Effective Date: Immediately. Comments Due: May 2, 1978.

ADDRESS: General comments on these designations should be addressed to Norman L. Dunfee, Chief, Control Programs Operations Branch (MD-15), Office of Air Quality Planning and Standards (OAQPS), Research Trangle Park, N.C. 27711.

Comments relative to specific State designations should be directed to the appropriate EPA Regional Office, contact as listed below:

Tom Devine, Chief, Air Branch, EPA Region I, JFK Federal Building, Boston, Mass. 02203 (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont).

William Baker, Chief, Air Branch, EPA Region II, 26 Federal Plaza, New York, N.Y. 10007 (New York, New Jersey, Puerto Rico, Virgin Islands).

Howard Heim, Chief, Air Branch, EPA Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pa. 19106 (Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia).

Tom Helms, Chief, Air Branch, EPA Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308 (Alabama, Georgia, Florida, Kentucky, Mississippi, North Carolina, Tennessee, South Carolina).

Jack Chicca, Chief, Air Branch, EPA Region V, 230 South Dearborn Street, Chicago, Ill. 60604 (Indiana, Illinois, Michigan, Minnesota, Ohio, Wisconsin).

Jack Divita, Chief, Air Branch, EPA Region VI, 1201 Elm Street, Dallas, Tex. 75270 (Arkansas, Louisiana, Oklahoma, New Mexico, Texas)

Art Spratlin, Chief, Air Branch, EPA Region VII, 1735 Baltimore Street, Kansas City, Mo. 64108 (Nebraska, Iowa, Kansas, Missouri).

Robert DeSpain, Chief, Air Branch, EPA Region VIII, 1860 Lincoln Street, Denver, Colo. 80295 (Montana, Utah, North Dakota, South Dakota, Wyoming, Colorado).

Allyn Davis, Chief, Air Branch, EPA Region IX, 215 Fremont Street, San Francisco, Calif. 94105 (California, Nevada, Arizona, Hawaii, American Samoa, Northern Mariana Islands).

Clark Gaulding, Chief, Air Branch, EPA Region X, 1200 Sixth Avenue, Seattle, Wash. 98101 (Alaska, Washington, Oregon, Idaho).

FOR FURTHER INFORMATION CONTACT:

Norman L. Dunfee, USEPA, Research Triangle Park, N.C. 27711, phone 629-5226 (FTS) or 919-541-5226 (commercial).

SUPPLEMENTARY INFORMATION: The Clean Air Act (CAA) Amendments of 1977 place additional requirements on the States and EPA. Among them, the Amendments added section 107(d), which directed each State, within 120 days after the Amendments were enacted, to submit to the Administrator a list of the NAAQS attainment status of all areas within the State. The Administrator was required under section 107(d)(2) to promulgate the State lists, with any necessary modifications, within 60 days of their submittal.

The States are now preparing revisions to their State implementation plans (SIPs) as required by sections 110(a)(2)(I) and 172 of the Act. This enterprise, which must be completed by January 1, 1979, requires that the States have immediate guidance as to the attainment status of the areas designated under section 107(d). Congress has acknowledged this by imposing a tight schedule on the designation process and requiring EPA to promulgate the list within 180 days of the enactment of the amendments. Under these circumstances it would be impracticable and contrary to the public interest to ignore the statutory schedule and postpone publishing these regulations until notice and comment can be effectuated. For this good cause, the Administrator has made these designations immediately effective.

The Agency recognizes, however, the importance of public involvement in the designation process. It is therefore, soliciting public comment on this rule by May 2, 1978.

Comments received will be considered carefully and revisions to the designations will be made where appropriate. The criteria used in making these designations include the following.

Air Quality Data

Section 107(d) of the CAA specified that designations should be based upon air quality levels as of enactment of the Amendments (August 7, 1977). States were required by EPA guidance to consider the most recent four quarters of monitored ambient air quality data available. If this data showed no standards violations, then the previous four quarters of monitoring data were to be examined to assure that the current indication of attainment was not the result of a single year's data reflecting unrepresentative meteorological conditions. In the absence of sufficient monitored air quality data, other evaluation methods were used, including air quality dispersion modeling.

Geographic Size

The Act specified that the designation areas could be based on air quality control regions (AQCRs) or any subportions of these areas. EPA advised States they could divide AQCRs into various nonattainment, attainment, or unclassified portions, i.e., county, subcounty, or other geographic areas as long as the area could be clearly defined in a written narrative. Additionally, a different geographic area could be used in designating the status for each pollutant.

Pollutant Specific Considerations

Subsections 107(d)(1) (A)-(E) of the CAA Amendments specified the possible categories for area designations. For both total suspended particulates (TSP) and sulfur dioxide (SO_2), an area could be designated as: (1) Not meeting the primary NAAQS, (2) not meeting the secondary NAAQS, (3) unclassifiable, and (4) attainment. For carbon monoxide (CO), photochemical O_x, and nitrogen dioxide (NO_2), designations of: (1) Not meeting the primary NAAQS, and (2) attainment/unclassified were possible. The attainment and unclassified designations for CO/O_x/NO_2 are combined into one column for the tables presented in this notice because both designations are set forth by subsection 107(d)(1)(E) of the CAA. No designations regarding the secondary NAAQS for these pollutants were necessary since the primary standards and secondary standards are identical.

The criteria used in designation of the status of each pollutant used in addition to ambient air quality data is discussed below:

Photochemical Oxidants

There are 105 urban areas in the United States with populations greater than 200,000. These major urban areas (except Honolulu, Hawaii, and Spokane, Wash.) are where the oxidant problem is most severe. Honolulu has recorded eight consecutive quarters of data without a violations justifying and attainment designation. There is sufficient uncertainty regarding conditions in Spokane to warrant an unclassifiable designation for the present time. The other 103 urban areas, where over 100,000,000 people reside, consistently experience photochemical oxidant levels above the NAAQS. Due to these factors, higher priority is being given in the SIP planning process to these urban areas. Of these, only six urban areas do not have oxidant ambient air quality monitoring data. The other 97 urban areas experienced oxidant violations based on ambient data. Since 97 of the 105 urban areas greater than 200,000 with monitoring data recorded violations, the six cities without data were presumed to be nonattainment for oxidants.

Additionally, a comprehensive analysis was performed by OAQPS and other factors considered by EPA for each of the six urban areas. These analyses substantiated the presumptive nonattainment designation and these areas will be required to monitor during the 1978 oxidant season (summer-fall) to determine the magnitude of their oxidant problem.

Total Suspended Particulates

Given the spatially limited nature of TSP violations, no general area size criteria were possible. However, States were advised that designations along political boundaries such as city limits or county lines were practical from an air quality management standpoint.

The problem of designating for rural fugitive dust areas required special consideration. EPA's fugitive dust policy recognizes the generally greater health impact due to fugitive dust in urban areas in contrast to rural areas. In urban areas, the windblown soil contains various manmade toxic pollutants. But, rural windblown dust is usually not significantly contaminated by industrial pollutants. Therefore, for the purposes of these designations, any rural areas experiencing TSP violations which could be attributed to fugitive dust could claim attainment of the TSP NAAQS. Rural areas for this purpose are defined as those which have: (1) A lack of major industrial development or the absence of significant industrial particulate emissions, and (2) low urbanized population densities.

Carbon Monoxide

A designation of nonattainment for the entire urban core area of a city experiencing monitored CO violations was desirable, but smaller area designations were acceptable since CO violations are most pervasive in downtown areas of high traffic density.

Sulfur Dioxide and Nitrogen Dioxide

Generally where EPA promulgated a designation for SO_2, the minimum area was to be the county in which the violating monitoring site was located. If States had monitoring data to substantiate the size areas they designated, they would be acceptable by EPA regardless of size.

Air Quality Control Region (AQCR) Redesignations

Section 107 of the CAA also provided for redesignation of the existing AQCR boundaries where a State determined that the redesignated areas would promote more efficient air quality management. Several States exercised this option in defining their designation areas. Part 81 under Title 40 of the Code of Federal Regulations presently contains descriptions of all existing AQCRs and these descriptions, where feasible, will be modified in a future Federal Register notice to reflect the State revisions. The exact descriptions of all AQCR boundaries are available from either the appropriate State or EPA Regional Office.

Effect of the Designations

Section 107(d)(1)(A)-(E) sets out attainment status categories to which reference is made in Parts C (Prevention of Significant Deterioration (PSD)) and D (Nonattainment) of the CAA. Section 171(2) in Part D defines "nonattainment area" to include any area identified under subparagraphs 107(d)(1) (A)-(C), while giving the Administrator authority to add other areas based on monitoring or calculations. Similarly, areas designated under subparagraphs 107(d)(1) (D) or (E) are described in section 161, Part C, as PSD areas.

The section 107(d) designations are meant to provide a starting point for States in their efforts to correct existing air quality problems and to implement programs under the 1977 CAA Amendments. For example, a designation as a nonattainment area, in general, means that an applicable SIP must be revised, pursuant to section 172, to provide for attainment of the NAAQS as expeditiously as practicable, but not later than December 31, 1982 (December 31, 1987, under certain conditions for photochemical oxidants and/or carbon monoxide). Under section 172(b)(6) the revised SIPs must require permits, in accordance with the provisions of section 173, for the construction and operation of major new or modified stationary sources. To be approved by the Administrator under section 110(a)(2)(I), a SIP must contain a prohibition against major new source construction in nonattainment areas after June 30, 1979, where emissions from the source would contribute to increases in pollutants for which a NAAQS was being exceeded, unless the SIP meets the requirements of Part D at the time of the permit application. Under section 129 of the Amendments, EPA's emission offsets policy, as modified, continues to apply to major new source construction in nonattainment areas prior to July 1, 1979.

But the designation of an area as nonattainment or attainment must be considered only a point of departure and not a final, inflexible end in itself. The designations will have only limited significance for new source preconstruction review, for three reasons. First, new sources, wherever they propose to locate, must be reviewed for their impact on all nearby areas as well as that in which they would locate. If an area on which a new source would impact is designated differently than the one in which it is locating, the designation of the latter would not necessarily determine the rules to which the source would be subject. Second, PSD rules apply in any area where at least one NAAQS is attained, and since virtually every area in the country shows attainment for at least one pollutant, the PSD review will be a requisite virtually everywhere. Finally, case-by-case new source review is necessitated to account for the possibility that an area with a particular designation may encompass "pockets" which do not fit that designation.

These section 107(d) designations are subject to revision under Section 107(d)(5) whenever sufficient data is available to warrant a redesignation. Both the State and EPA can initiate changes to these designations, but any State redesignation must be submitted to EPA for concurrence. EPA will promulgate any revised list in accordance with the requirements for this initial promulgation.

EPA Review

The State submittals were reviewed by EPA for consistency with the criteria set forth in this notice. Where EPA differed with a State designation, section 107 of the CAA provides that EPA should notify the State and allow the submission of additional information. If EPA and the State could not reach agreement, an EPA designation would replace the State submitted designation. Also, in the case where a State failed to designate for any State or portion thereof the EPA would designate for the State as needed.

EPA considered all available monitoring data where it was determined to be valid. All EPA designations contained in the following tables were

made within the criteria contained in this notice except in a limited number of cases where the State designations were replaced by unclassifiable designations by the appropriate Regional Offices on the basis that a major source in each county was utilizing a possibly unauthorized dispersion technique. Since EPA has not finalized its tall stack policy regulations to implement Section 123, it is presently unknown whether the sources can claim full credit for their existing stacks.

EPA designations are indicated in the following tables by the asterisks accompanying the designations: * means a Federal EPA designation replaced a State recommendation. This * is used where either the designation status or the area size was modified by EPA: ** means solely a Federal designation where a State failed to submit their own recommendation. In some instances, the descriptions of the designated areas submitted by the States were so lengthy as to prohibit their publication in the limited space available in the tables presented below. Exact descriptions of all areas designated are available at the appropriate Regional Offices or the State in question. In some of the following tables, States referenced AQCRs by their appropriate number instead of their title. An Appendix A is included in the regulatory section of this rulemaking which gives both the AQCR name and number for ease of reference.

A summary of the approved designations for the 3215 counties or county equivalents covered by these designations is presented below:

	TSP	SO_2	CO	O_3	NO_2
Number of counties either totally or partially approved or designated by EPA as nonattainment	421	101	190	607	8

Dated: February 23, 1978.

DOUGLAS M. COSTLE,
Administrator.

Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended by adding Subpart C and Appendix A as follows:

Subpart C—Section 107 Attainment Status Designations

Sec.
81.300 Scope.
81.301 Alabama.
81.302 Alaska.
81.303 Arizona.
81.304 Arkansas.
81.305 California.
81.306 Colorado.
81.307 Connecticut.
81.308 Delaware.
81.309 District of Columbia.
81.310 Florida.
81.311 Georgia.
81.312 Hawaii.
81.313 Idaho.
81.314 Illinois.
81.315 Indiana.
81.316 Iowa.
81.317 Kansas.
81.318 Kentucky.
81.319 Louisiana.
81.320 Maine.
81.321 Maryland.
81.322 Massachusetts.
81.323 Michigan.
81.324 Minnesota.
81.325 Mississippi.
81.326 Missouri.
81.327 Montana.
81.328 Nebraska.
81.329 Nevada.
81.330 New Hampshire.
81.331 New Jersey.
81.332 New Mexico.
81.333 New York.
81.334 North Carolina.
81.335 North Dakota.
81.336 Ohio.
81.337 Oklahoma.
81.338 Oregon.
81.339 Pennsylvania.
81.340 Rhode Island.
81.341 South Carolina.
81.342 South Dakota.
81.343 Tennessee.
81.344 Texas.
81.345 Utah.
81.346 Vermont.
81.347 Virginia.
81.348 Washington.
81.349 West Virginia.
81.350 Wisconsin.
81.351 Wyoming.
81.352 American Samoa.
81.353 Guam.
81.354 Northern Mariana Islands.
81.355 Puerto Rico.
81.356 U.S. Virgin Islands.

APPENDIX A—Air Quality Control Regions (AQCR's).

AUTHORITY: Secs. 107, 301 of the Clean Air Act, as amended (42 U.S.C. 7407, 7601).

Subpart C—Section 107 Attainment Status Designations

§ 81.300 Scope.

Attainment status designations as approved or designated by the Environmental Protection Agency (EPA) pursuant to Section 107 of the Act are listed in this subpart. Area designations are subject to revision whenever sufficient data becomes available to warrant a redesignation. Both the State and EPA can initiate changes to these designations, but any State redesignation must be submitted to EPA for concurrence.

§81.301 Alabama.

Alabama - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
That portion of Etowah County within the western section of Gadsden	X			
That portion of Jackson County surrounding TVA's Widows Creek plant	X			
Those portions of Jefferson County within central Birmingham and the area surrounding the Universal Atlas Cement plant	X			
That portion of Lauderdale County adjacent to TVA's Colbert plant		X		
That portion of Mobile County within a section of downtown Mobile	X			
A portion of Northern Mobile County		X		

Alabama - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
A portion of Morgan County including portions of the city of Decatur		X		
Rest of State				X

Alabama - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
That portion of Colbert County surrounding TVA's Colbert Plant		X		
That portion of Jackson County surrounding TVA's Widow Creek Plant	X			
That portion of Lauderdale County adjacent to TVA's Colbert Plant		X		
Rest of State				X

Alabama - O_3

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Jefferson County	X	
Madison County	X	
Mobile County	X	
Morgan County	X	
Russel County	X*	
Rest of State		X

* EPA designation replaces State designation

Alabama - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Statewide		X

Alabama - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Statewide		X

§81.302 Alaska.

Alaska - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Entire State				X

Alaska - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Entire State				X

Alaska - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State		X

Alaska - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State		X

Alaska - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Anchorage	X	
Fairbanks	X	
Remainder of State		X

§81.303 Arizona.

Arizona - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Maricopa County	X**			
Pima County	X**			
Pinal County	X**			
Gila County	X**			
Graham County	X**			
Cochise County	X**			
Santa Cruz County	X**			
Yuma County	X**			
Coconino County	X**			
Navajo County		X**		
Apache County		X**		
Mohave County			X**	
Greenlee County			X**	
Yavapai County				X**

**EPA designation only

Arizona - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Cochise County	X**			
Gila County	X**			
Graenlee County	X**			
Pima County	X**			
Pinal County	X**			
Coconino County			X**	
Rest of State				X**

**EPA designation only

Arizona - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Maricopa County	X**	
Pima County	X**	
Rest of State		X**

**EPA designation only

Arizona - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Maricopa County	X**	
Pima County	X**	
Rest of State		X**

**EPA designation only

Arizona - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Whole State		X**

**EPA designation only

881.304 Arkansas.

Arkansas - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 016				
Limited area of Pulaski County		X		
Remainder of AQCR				X
AQCR 017				
Limited area of Sebastian County		X		
Remainder of AQCR				X
AQCR 018				X
AQCR 019				
Limited area of Ashley County		X		
Remainder of AQCR				X
AQCR 020				
Limited area of Arkansas County	X			
Remainder of AQCR				X
AQCR 021				X
AQCR 022				X

Arkansas - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 016		
Pulaski County	X	
Remainder of AQCR		X
AQCR 017		X
AQCR 018		X
AQCR 019		X
AQCR 020		X
AQCR 021		X
AQCR 022		X

Arkansas - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 016				X
AQCR 017				X
AQCR 018				X
AQCR 019				X
AQCR 020				X
AQCR 021				X
AQCR 022				X

Arkansas - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 016		X
AQCR 017		X
AQCR 018		X
AQCR 019		X
AQCR 020		X
AQCR 021		X
AQCR 022		X

Arkansas - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 016		X
AQCR 017		X
AQCR 018		X
AQCR 019		X
AQCR 020		X
AQCR 021		X
AQCR 022		X

§81.305 California.

California - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
North Coast Air Basin:				
Del Norte County				X
Humboldt County	X			
Mendocino County	X			
Sonoma County (North Coast Basin)		X		
Trinity County				X
San Francisco Bay Area Air Basin:				
Basin Wide		X		
Alameda County	X			
Lake County Air Basin				X
North Central Coast Air Basin:				
Monterey County	X			
San Benito County				X
Santa Cruz County				X
South Central Coast Air Basin:				
Salinas Valley-El Pomar Estrella Planning Area		X		

California - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
South Coast Air Basin	X			
San Joaquin Valley Air Basin	X			
Sacramento Valley Air Basin:				
Sacramento County		X		
Solano County (Sacramento Valley Air Basin Portion)		X		
Yolo County	X			
Butte County	X			
Colusa County		X		
Glenn County			X	
Shasta County (Sacramento Valley Portion)		X		
Sutter County	X			
Tehama County		X		
Yuba County		X		
Great Basin Valleys Air Basin			X	
Northeast Plateau Air Basin			X	

California - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Los Angeles County (Portion within S.E. Desert Air Basin)	X			
Riverside County (Portion within S.E. Desert AQMA)	X			
San Bernardino County (Portion within S.E. Desert AQMA)	X			
Riverside County, non-AQMA portion			X	
San Bernardino, non-AQMA portion			X	
Tahoe Air Basin				X

California - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
North Coast Air Basin:				
Del Norte County			X	
Humboldt County			X	
Mendocino County			X	
Sonoma County (North Coast Basin Portion)			X	
Trinity County			X	
Lake County Air Basin			X	
San Francisco Bay Area Air Basin				X
North Central Coast Air Basin:				
Monterey County			X	
San Benito County			X	
Santa Cruz County			X	

California - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Mountain Counties Air Basin:				
AQMA Portion of Placer County		X		
Placer County excluding AQMA portion and Lake Tahoe Portion				X
Amador County				X
Calaveras County			X	
El Dorado County, excluding Lake Tahoe Air Basin Portion				X
Mariposa County			X	
Nevada County			X	
Plumas County				X
Sierra County				X
Tuolumne County		X		
Southeast Desert Air Basin:				
Kern County (S.E. Desert Portion)			X	
Imperial County			X	

California - SO_2 (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
South Central Coast Air Basin:				
San Luis Obispo County			X	
Santa Barbara AQMA			X	
Santa Barbara non-AQMA			X	
Ventura County				X
Channel Islands			X	
San Diego Air Basin:				
West San Diego County				X
East San Diego County				X
South Coast Air Basin:				
South Coast Basin Portion of L.A. County	X			
Orange County				X
South Coast Basin Portion of Riverside County				X

California - SO_2 (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
South Coast Basin Portion of San Bernardino County				X
San Joaquin Valley Air Basin:				
Fresno County			X	
Kern County	X			
Kings County			X	
Madera County			X	
Merced County			X	
San Joaquin County			X	
Stanislaus County			X	
Tulare County			X	
Sacramento Valley Air Basin			X	
Great Basin Valley's Air Basin			X	
North East Plateau Air Basin			X	
Mountain Counties Air Basin			X	
Southeast Desert Air Basin excluding Imperial Co.			X	

California - O_3

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
North Coast Air Basin		X
San Francisco Bay Area Air Basin	X	
Lake County Air Basin		X
North Central Coast Air Basin	X	
South Central Coast Air Basin:		
Ventura County	X	
San Luis Obispo	X	
Santa Barbara AQMA	X	
Santa Barbara non-AQMA Channel Islands	X	X
San Diego Air Basin		
West San Diego County	X	
East San Diego County	X	
South Coast Air Basin	X	
San Joaquin Valley Air Basin	X	
Sacramento Valley Air Basin:		
Sacramento Metropolitan AQMA	X	
Sacramento Valley Air Basin, non-AQMA	X	
Great Basin Valleys Air Basin		X
Northeast Plateau Air Basin		X

California - SO_2 (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Imperial County				X
Lake Tahoe Air Basin				X

California - O_3 (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Mountain Counties Air Basin:		
AQMA portion of Placer County	X	
Placer County excluding AQMA portion and Lake Tahoe portion		X
Amador County		X
Calaveras County		X
El Dorado County, excluding Lake Tahoe Air Basin Portion		X
Mariposa County	X	
Nevada County		X
Plumas County		X
Sierra County		X
Tuolumne County		X
Southeast Desert Air Basin:		
Kern County (S.E. Desert portion)		X
Imperial County	X	
Los Angeles County (portion within S.E. Desert Air Basin)	X	

California - O_3 (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
San Bernardino County (Portion within S.E. Desert AQMA)	X	
Riverside County, non-AQMA portion		X
Riverside County (S.E. Desert AQMA)	X	
San Bernardino, non-AQMA Portion		X
Tahoe Air Basin	X	

California - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
North Coast Air Basin		X
San Francisco Bay Area Air Basin	X	
Lake County Air Basin		X
North Central Coast Air Basin:		
Monterey County		X
San Benito County		X
Santa Cruz County		X
South Central Coast Air Basin:		
San Luis Obispo County		X
Santa Barbara AQMA	X	
Santa Barbara non-AQMA		X
Ventura County		X
Channel Islands		X
San Diego Air Basin		
West San Diego County	X	
East San Diego County		X
South Coast Air Basin	X	

California - CO (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
San Joaquin Valley Air Basin:		
Fresno County	X	
Kern County (SJVAB Portion)	X	
Kings County		X
Madera County		X
Merced County		X
San Joaquin County	X	
Stanislaus County	X	
Tulare County	X	
Sacramento Valley Air Basin:		
Sacramento County	X	
Solano County (Sacramento Valley Air Basin Portion)		X
Yolo County		X
Butte County	X	
Colusa County		X
Glenn County		X
Shasta County (Sacramento Valley Portion)		X
Sutter County	X	
Tehama County		X

California - CO (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Yuba County		X
Great Basin Valleys Air Basin		X
Northeast Plateau Air Basin		X
Mountain Counties Air Basin:		
AQMA Portion of Placer County		X
Placer County excluding AQMA Portion and Lake Tahoe Portion		X
Amador County		X
Calaveras County		X
El Dorado County, excluding Lake Tahoe Air Basin Portion		X
Mariposa County		X
Nevada County		X
Plumas County		X
Sierra County		X
Tuolumne County		X
Southeast Desert Air Basin:		
Kern County (S.E. Desert Portion)		X
Imperial County		X

California - CO (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Los Angeles County (Portion within S.E. Desert AQMA)		X
Riverside County (Portion within S.E. Desert AQMA)		X
San Bernardino County (Portion within S.E. Desert AQMA)		X
Riverside County, non-AQMA Portion		X
San Bernardino County, non-AQMA Portion		X
Tahoe Air Basin	X	

California - NO_2 (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
San Joaquin Valley Air Basin:		
Fresno County		X
Kern County (SJVAB Portion)		X
Kings County		X
Madera County		X
Merced County		X
San Joaquin County		X
Stanislaus County		X
Tulare County		X
Sacramento Valley Air Basin:		
Sacramento County		X
Solano County (Sacramento Valley Air Basin Portion)		X
Yolo County		X
Butte County		X
Colusa County		X
Glenn County		X
Shasta County (Sacramento Valley Portion)		X
Sutter County		X
Tehama County		X

California - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
North Coast Air Basin		X
San Francisco Bay Area Air Basin		X
Lake County Air Basin		X
North Central Coast Air Basin:		
Monterey Portion		X
San Benito Portion		X
Santa Cruz Portion		X
South Central Coast Air Basin:		
San Luis Obispo County		X
Santa Barbara AQMA		X
Santa Barbara non-AQMA		X
Ventura County		X
Channel Islands		X
San Diego Air Basin		
West San Diego County	X	
East San Diego County		X
South Coast Air Basin	X	

California - NO_2 (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Yuba County		X
Great Basin Valleys Air Basin		X
Northeast Plateau Air Basin		X
Mountain Counties Air Basin:		
AQMA Portion of Placer Co.		X
Placer County excluding AQMA Portion and Lake Tahoe Portion		X
Amador County		X
Calaveras County		X
El Dorado County, excluding Lake Tahoe Air Basin Portion		X
Mariposa County		X
Nevada County		X
Plumas County		X
Sierra County		X
Tuolumne County		X
Southeast Desert Air Basin:		
Kern County (S.E. Desert Portion)		X
Imperial County		X

California - NO_2 (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Los Angeles County (Portion within S.E. Desert Air Basin)		X
Riverside County (Portion within S.E. Desert AQMA)		X
San Bernardino County (Portion within S.E. Desert AQMA)		X
Riverside County, non-AQMA Portion		X
San Bernardino, non-AQMA Portion		X
Tahoe Air Basin		X

Colorado - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 11 - Mesa Designated Area and City Limits of Craig	X			
Remainder of AQCR 11			X	
AQCR 12 - City Limits of Aspen, Eagle, Vail, and Steamboat Springs			X	
Remainder of AQCR 12				X
AQCR 13				X

§81.306 Colorado.

Colorado - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 1				X
AQCR 2 - Larimer-Weld Designated Area	X			
Remainder of AQCR 2				X
AQCR 3 - Denver Designated Area	X			
AQCR 3 - City Limits of Castle Rock			X	
Remainder of AQCR 3				X
AQCR 4 - Colorado Springs 3-C Urbanized Area	X			
Remainder of AQCR 4				X
AQCR 5				X
AQCR 6 - City Limits of Lamar			X	
Remainder of AQCR 6				X
AQCR 7 - Pueblo 3-C Urbanized Area	X			
Remainder of AQCR 7				X
AQCR 8				X
AQCR 9 - City Limits of Telluride and Pagosa Springs			X	
Remainder of AQCR 9				X
AQCR 10 - City Limits of Delta			X	
Remainder of AQCR 10				X

Colorado - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Entire State				X

Colorado - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 1		X
AQCR 2	X	
AQCR 3 - Counties of Arapahoe, Adams, Boulder, Denver, Jefferson, and Douglas	X	
Remainder of AQCR 3		X
AQCR 4 - El Paso County	X	
Remainder of AQCR 4		X
AQCR's 5 - 10		X
AQCR 11 - Rio Blanco County	X**	
Remainder of AQCR 11		X
AQCR's 12 and 13		X

**EPA designation only

Colorado - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR's 1 - 2		X
AQCR 3 - Denver 3-C Urbanized Area	X	
Remainder of AQCR 3		X
AQCR 4		X

Colorado - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 1		X
AQCR 2 - Ft. Collins and Greeley AQMA Analysis Areas	X	
Remainder of AQCR 2		X
AQCR 3 - Counties of Arapahoe, Adams, Denver, Jefferson, Boulder, and Douglas	X	
Remainder of AQCR 3		X
AQCR 4 - Colorado Springs 3-C Urbanized Area	X	
Remainder of AQCR 4		X
AQCR's 5 - 13		X

§81.307 Connecticut.

Connecticut - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 41		X		
AQCR 42	X			
AQCR 43		X		
AQCR 44	X			

Connecticut - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 41				X
AQCR 42				X
AQCR 43				X
AQCR 44				X

Connecticut - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 41		X
AQCR 42	X	
AQCR 43	X	
AQCR 44		X

Connecticut - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 41	X	
AQCR 42	X	
AQCR 43	X	
AQCR 44	X	

Connecticut - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 41		X
AQCR 42		X
AQCR 43		X
AQCR 44		X

§81.308 Delaware.

Delaware - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
City of Wilmington			X	
Section within City of Newark bounded by: College Avenue, CSX-RAIL tracks, South Chapel Street and Chestnut Hill Road			X	
Remainder of New Castle County				X
Kent County				X
Sussex County				X

Delaware - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
New Castle County	X	
Kent County		X
Sussex County		X

Delaware - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
New Castle County				X
Kent County				X
Sussex County				X

Delaware - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
New Castle County		X
Kent County		X
Sussex County		X

Delaware - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
New Castle County		X
Kent County		X
Sussex County		X

District of Columbia - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
National Capital Interstate AQCR - District of Columbia Portion				X

§81.309 District of Columbia.

District of Columbia - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
1. Area bounded by: East Capitol Street S.E., District Line (Southern Avenue S.E.), Potomac River and Anacostia River				X
2. Area bounded by: Francis Scott Key Bridge, M Street N.W., 23rd Street N.W., Florida Avenue N.W., U Street N.W., Florida Avenue N.W.-N.E., 4th Street N.E., Interstate Route 95, 15th Street N.W., Constitution Avenue N.W., Theodore Roosevelt Memorial Bridge, Potomac River	X			
3. Remainder of the District of Columbia Portion of the National Capital Interstate AQCR		X		

District of Columbia - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
National Capital Interstate AQCR - District of Columbia Portion	X	

District of Columbia - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
National Capital Interstate AQCR - District of Columbia Portion	X	

District of Columbia - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
National Capital Interstate AQCR - District of Columbia Portion		X

§81.310 Florida.

Florida - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Duval County		X**		
Seminole County		X**		
Polk County		X**		
Hillsborough County		X**		
Rest of State				X**

**EPA designation only

Florida - NO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Duval County			X**	
Pinellas County	X**	X**		
Hillsborough County			X**	
Escambia County			X**	
Rest of State				X**

**EPA designation only

Florida - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Duval County	X**	
Leon County	X**	
Broward County	X**	
Dade County	X**	
Palm Beach County	X**	
Escambia County	X**	
Orange County	X**	
Hillsborough County	X**	
Pinellas County	X**	
Rest of State		X**

**EPA designation only

Florida - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Broward County	X**	
Rest of State		X**

**EPA designation only

Florida - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Statewide		X**

**EPA designation only

§81.311 Georgia.

Georgia - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
That portion of Fulton County within northwest section of Atlanta	X			
That portion of Chatham County within the north central section of Savannah	X			
That portion of the northern part of Walker County which includes Rossville	X			
That portion of Washington County within the southern section of Sandersville	X			
Rest of State				X

Georgia - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Statewide				X

Georgia - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Atlanta Area - those portions of Clayton, Dekalb, and Fulton Counties withio perimeter highway I-285	X	
Rest of State		X

Georgia - O_3

Designatad Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Atlanta Area - Clayton, Cobb, Coweta, Dekalb, Douglas, Fayette, Fultoo, Gwinnet, Heory, Spaulding and Rockdale Counties	X	
Muscogee County	X*	
Rest of State		X

*EPA designation replaces State designation

Georgia - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Thao National Standards
Statewide		X

§81.312 Hawaii.

Hawaii - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Maui Island			X*	
Hawaii Island			X*	
Rest of State				X

*EPA designation replaces State designation

Hawaii - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Whole State		X

Hawaii - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Maui Island			X*	
Oahu Island			X*	
Rest of State				X

*EPA designation replaces State designation

Hawaii - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Whole State		X

Hawaii - SO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Whole State		X

Idaho - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Silver Valley (Shoshone County)	X			
Pocatello	X			
Remainder of State				X

§81.313 Idaho.

Idaho - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Silver Valley (in Shoshone County)	X			
Pocatello	X			
Soda Springs	X			
Lewiston	X			
Remainder of State				X

Idaho - O_3

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State		X

Idaho - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Boise	X	
Remainder of State		X

Idaho - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State		X

§81.314 Illinois.

Illinois - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 65				
Knox County				
Galesburg (City)		X		
All other twps.				X
McDonough County				
Chalmers Twp.			X	X
Emmet			X	X
Macomb			X	X
Scotland			X	X
All other twps.				X
Peoria County				
Kickapoo Twp.	X			
Limestone	X			
Medina		X		
Peoria	X			
Richwoods	X			
All other twps.				X
Taxewell County				
Cincinnati Twp.	X			
Fondulac	X			
Groveland	X			
Pekin	X			
Washington	X			
All other twps.				X
Fulton County				X
Hancock				X
Henderson				X
Mason				X
Warren				X
Woodford				X
Lee				X
AQCR 66				
Champaign County				
Champaion (City)			X	X
Cunningham Twp.			X	X
Ludlow			X	X
Rantoul			X	X
All other twps.				X

Illinois - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classifind	Better Than National Standards
Coles County				
Charleston Twp.			X	X
Lafayette			X	X
Mattoon			X	X
All other twps.				X
McLean County				
Bloomington Twp.		X		
Normal			X	X
All other twps.				X
Vermillion County				
Blount Twp.			X	X
Danville			X	X
Newell			X	X
All other twps.				X
Clark County				X
Cumberlend				X
DeWitt				X
Douglas				X
Edgar				X
Ford				X
Troquois				X
Livingston				X
Moultrie				X
Piatt				X
Shelby				X
AQCR 67				
Cook County				
Calumet Twp.	X			
Hyde Park	X			
Jefferson		X		
Lake	X			
Lakeview		X		
North Town	X			
Rogers Park		X		
South Town	X			
West Town	X			
Barrington			X	X
Berwyn			X	X
Bloom		X		
Bremen	X			
Cicero		X		

Illinois - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Elk Grove Twp.		X		
Lyons	X			
Maine		X		
Niles		X		
Orland	X			
Palestine		X		
Palos		X		
Proviso		X		
Rich		X		
Schaumburg			X	X
Stickney	X			
Thornton	X			
Wheeling		X		
Worth	X			
All other twps.				X
DuPage County				
Addison Twp.	X			
Wayne		X		
Winfield		X		
York		X		
All other twps.				X
Kankakee County				
Bourbonnais Twp.		X		
Kankakee			X	X
Aroma			X	X
All other twps.				X
Kendall County				
Little Rock Twp.		X		
All other twps.				X
Lake County				
Fremont Twp.			X	X
Libertyville			X	X
Shermonde		X		
West Deerfield			X	X
All other twps.				X

Illinois - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Whiteside County				
Coloma Twp.		X		
All other Twps.				X
Carroll County				X
Mercer				X
AQCR 70				
Monroe County				
T.1S.-R.10W		X		
All other				X
Madison County				
Alton Twp.	X			
Chesteen	X			
Collinsville	X			
Godfrey	X			
Granite City	X			
Hamnonti	X			
Venice	X			
Wood River	X			
All other twps.				X
St. Clair County				
Cantaan Twp.	X			
Caseyville	X			
Centerville	X			
St. Clair	X			
Stites	X			
Stookey	X			
Sugar Loaf	X			
All other Twps.				X
Bond County				X
Clinton				X
Randolph				X
Washington				X
AQCR 71				
Bureau County				
Shelby Twp.		X		
All other twps.				X
LaSalle County				
Bruce Twp.			X	X
Deer Park	X			

Illinois - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Will County				
Crete Twp.		X		
DuPage	X			
Frankfort		X		
Joliet	X			
Lockport	X			
Manhe		X		
New Lenox		X		
Plainfield		X		
Troy		X		
All other twps.				X
Grundy County				
Aux Sable Twp.			X	
Morris Twp.			X	
All other twps.				X
Kane County				X
McHenry County				X
AQCR 68				
Jo Daviess County				
East Galena Twp.		X		
Hanlina		X		
West Galena		X		
All other twps.				X
AQCR 69				
Henry County				
Kewanee Twp.			X	X
Whitefield			X	X
All other twps.				X
Rock Island County				
Blackhawk Twp.	X			
Coal Valley	X			
Hampton	X			
Moline	X			
South Moline	X			
So. Rock Island	X			
Rock Island	X			
All other twps.				X

Illinois - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Eagle Twp.			X	X
LaSalle	X			
Ottawa		X		
Otter Creek			X	X
South Ottawa		X		X
All other twps.				X
Lee County				
Dixon Twp.			X	X
South Dixon			X	X
All other twps.				X
Putnam County				
Hennepin Twp.		X		
All other twps.				X
Marshall County				X
Stark County				X
AQCR 72				
Pope County				
T. 14S-R.5E		X		
All other twps.				X
Massac County				
Metropolis Pct.		X		
Grant		X		
Washington		X		
All other Pct.				X
Alexander County				X
Johnson				X
Pulaski				X
Union				X
AQCR 73				
DeKalb County				
DeKalb Twp.		X		
All other twps.				X
Stephenson County				
Freeport Twp.			X	X
All other twps.				X
Winnebago County				
Cherry Valley Twp.		X		
Owen		X		

Illinois - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Rockford		X		
All other twps.				X
Boone County				X
Ogle				X
AQCR 74				
Jackson County				
Carbondale Twp.			X	X
All other twps.				X
Jefferson County				
Dodds Twp.		X		
Mt. Vernon		X		
Shiloh		X		
All other twps.				X
Marion County				
Centralia Twp.			X	X
All other twps.				X
Williamson County				
East Marion Twp.		X		
West Marion		X		
All other twps.				X
Clay County				X
Crawford				X
Edwards				X
Effingham				X
Fayette				X
Franklin				X
Gallatin				X
Hamilton				X
Hardin				X
Jasper				X
Lawrence				X
Perry				X
Richland				X
Saline				X
Wabash				X
Wayne				X
White				X

Illinois - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 65				
Peoria County				
Hollis Twp.	X		X	
Limestone Twp.	X		X	
Medina Twp.	X		X	
Peoria Twp.	X		X	
KickapooTwp.	X		X	
Richwoods Twp.	X		X	
All other twps.				X
Tazewell County				
Cincinnati Twp.	X		X	
Elmgrove Twp.	X		X	
Groveland Twp.	X		X	
Pekin Twp.	X		X	
All other twps.				X
Fulton County				X
Hancock County				X
Henderson County				X
Knox County				X
McDonough County				X
Mason County				X
Warren County				X
Woodford County				X
Lee County				X
AQCR 66				
Champaign County				X
Clark County				X
Coles County				X
Cumberland County				X
DeWitt County				X
Douglas County				X
Edgar County				X
Ford County				X
Iroquois County				X
Livingston County				X
McLean County				X
Moultrie County				X
Piatt County				X

Illinois - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 75				
Adams County				
Ellington Twp		X		
Melrose		X		
Riverside		X		
All other twps.				X
Logan County				
Lincoln Twp.			X	X
West Lincoln			X	X
All other twps.				X
Macon County				
Decatur Twp	X			
Hickory Point		X		
Long Creek		X		
South Wheatland		X		
Whitmore		X		
All other twps				X
Menard County				
Petersburg East Twp		X		
Petersburg North		X		
Petersburg South		X		
All other Twps.				X
Morgan County				
T.15N-R10W			X	X
T.15N-R.11W			X	X
All other twps.				X
Sangamon County				
Capital Twp.	X			
Springfield			X	X
Woodside			X	X
All other twps.				X
Brown County				X
Calhoun				X
Cass				X
Christian				X
Greene				X
Jersey				X
Macoupin				X
Montgomery				X
Pike				X
Schuyler				X
Scott				X

Illinois - SO_2 (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Jersey County				X
Vermillion County				X
AQCR 67				
Cook County				
Bremen Twp.			X	
Calumet Twp.			X	
Thornton Twp.			X	
Worth Twp.			X	
All other Cook County Twps.				X
Will County				
Channahon Twp.			X	
DuPage Twp.			X	
Joliet Twp.			X	
Lockport Twp.			X	
Troy Twp.			X	
All other Will Cty. Twps.				X
DuPage County				X
Grundy County				X
Kane County				X
Kankakee County				X
Kendall County				X
Lake County				X
McHenry County				X
AQCR 68				
Jo Daviess County				X
AQCR 69				
Carroll County				X
Henry County				X
Mercer County				X
Rock Island County				X
Whiteside County				X
AQCR 70				
Madison County				
Wood River Twp.			X	
Alton Twp.			X	
All other Madison C				X
Bond County				X
Clinton County				X
Monroe County				X
Randolph County				X
St. Clair County				X

Illinois - SO_2 (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Washington County				X
Bureau County				
Leepertown Twp.			X	
All other Washington Twps.				X
LaSalle County				X
Lee County				X
Marshall County				X
Putnam County				X
Stark County				X
AQCR 72				
Massac County				
Grant Pct	X	X		
Metropolis Pct	X	X		
Millerman Pct	X	X		
All other Massac CtyPt				X
Alexander County				X
Johnson County				X
Pope County				X
Pulaski County				X
Union County				X
AQCR 73				
Boone County				X
DeKalb County				X
Ogle County				X
Stephenson				X
Winnebago County				X
AQCR 74				
Clay County				X
Crawford County				X
Edwards County				X
Effingham County				X
Fayette County				X
Franklin County				X
Gallatin County				X
Hamilton County				X
Hardin County				X
Jackson County				X
Jasper County				X
Jefferson County				X
Lawrence County				X
Marion County				X

Illinois - SO_2 (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Perry County				X
Richland County				X
Saline County				X
Wabash County				X
Wayne County				X
White County				X
Williamson County				X
AQCR 75				
Christian County				
South Fork Twp.			X	
All other Twps.				X
Sangamon County				
Capital Twp.			X	
Cooper Twp.			X	
Cotton Hill Twp.			X	
Rochester Twp.			X	
Woodside Twp.			X	
All other Twps.				X
Adams County				X
Brown County				X
Calhoun County				X
Cass County				X
Greene County				X
Jersey County				X
Logan County				X
Macon County				X
Macoupin County				X
Menard County				X
Montgomery County				X
Morgan County				X
Pike County				X
Schuyler County				X
Scott County				X

Illinois - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 65		
Fulton County		X
Hancock County		X
Henderson County		X
Knox County		X
McDonough County		X
Mason County		X
Peoria County	X	
Tazewell County	X	
Warren County		X
Woodford County		X
AQCR 66		
Champaign County	X	
Clark County		X
Coles County		X
Cumberland County		X
DeWitt County		X
Edgar County		X
Ford County		X
Iroquois County		X
Livingston County		X
McLean County	X	
Moultrie County		X
Piatt County		X
Shelby County		X
Vermillion County		X
AQCR 67		
Cook County	X	
DuPage County	X	
Grundy County	X	
Kane County	X	
Kankakee County	X	
Kendall County	X	
Lake County	X	
McHenry County	X	
Will County	X	
AQCR 68		
Jo Daviess County		X

Illinois - O_x (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 69		
Carroll County		X
Henry County		X
Mercer County		X
Rock Island County	X	
Whiteside County		X
AQCR 70		
Bond County		X
Clinton County		X
Madison County	X	
Monroe County	X	
Randolph County		X
St. Clair County	X	
Washington County		X
AQCR 71		
Bureau County		X
LaSalle County	X	
Lee County		X
Marshall County		X
Putnam County		X
Stark County		X
AQCR 72		
Alexander County		X
Johnson County		X
Massac County		X
Pope County		X
Pulaski County		X
Union County		X
AQCR 73		
Boone County	X	
DeKalb County	X	
Ogle County		X
Stephenson County		X
Winnebago County	X	

Illinois - O_x (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 74		
Clay County		X
Crawford County		X
Edwards County		X
Effingham County		X
Fayette County		X
Franklin County		X
Gallatin County		X
Hamilton County		X
Hardin County		X
Jackson County		X
Jasper County		X
Jefferson County		X
Lawrence County		X
Marion County		X
Perry County		X
Richland County		X
Saline County		X
Wabash County		X
Wayne County		X
White County		X
Williamson County	X	
AQCR 75		
Adams County	X	
Brown County		X
Calhoun County		X
Cass County		X
Christian County		X
Greene County		X
Jersey County		X
Logan County		X
Macon County	X	
Macoupin County		X
Menard County		X
Montgomery County		X
Morgan County		X
Pike County		X
Sangamon County	X	
Schuyler County		X
Scott County		X

Illinois - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 65		
Peoria County		
City of Peoria (Area bounded by Green St. on the northeast and east, Water Street on the southeast, Liberty Street on the southwest, Franklin St. on the west, and Perry Avenue on the northwest).	X	
Remainder City of Peoria (Portions or all of Peoria, Limestone, Richwoods and Medina Townships)		X
All other townships		X
Tazewell County		
Cities of East Peoria and Creve Coeur (Portions of Pondsdale and Groveland Townships)		X
All other townships		X
Fulton County		X
Hancock County		X
Henderson County		X
Knox County		X
McDonough County		X
Mason County		X
Warren County		X
Woodford County		X
Lee County		X

Illinois - CO (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 66		
Champaign County		
City of Champaign Township		X
Cunningham Township		X
All other townships		X
McLean County		
City of Bloomington Township		X
City of Normal (Portion of Normal Township)		X
All other townships		X
Vermillion County		
City of Danville (Portion of Danville and Newell Townships)		X
All other townships		X
Clark County		X
Coles County		X
Cumberland County		X
DeWitt County		X
Douglas County		X
Edgar County		X
Ford County		X
Iroquois County		X
Livingston County		X
Moultrie County		X

Illinois - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Piatt County		X
Shelby County		X
AQCR 67		
Cook County		
City of Chicago		
Expressway Corridor Area (100 feet from the edge of pavement on either side)		
-Edens Expressway from junction with I-94 to Kennedy Expressway	X	
-Kennedy Expressway from junction with Northwest Tollway to Dan Ryan Expressway	X	
-Eisenhower from junction with East-West Tollway to Kennedy-Dan Ryan Expressway		
-Dan Ryan Expressway from junction with Eisenhower Expressway to Calumet Expressway and I-57	X	
-Stevenson Expressway from junction with Tri-State Tollway to Lake Shore Dr.	X	
Core Area (Define by Lake Shore Drive on the east, Roosevelt Rd. on the south, Halstead St. on the west, and Lake St. and Wacker Drive on the north)	X	

Illinois - CO (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Kennedy-Edens Core Area (Defined by Lawrence Ave. on the north, Kenmore St. on the east, Montrose Ave. on the south, and Cicero Ave. on the west)	X	
Remainder Cook County		X
DuPage County		
Bloomingdale Township		X
Addison Township		X
Milton Township		X
York Township		X
Naperville Township		X
Lisle Township		X
Downers Grove Township		X
All other townships		X
Grundy County		X
Kane County		
Dundee Township		X
Elgin Township		X
St. Charles Township		X
Geneva Township		X
Batavia Township		X
Aurora Township		X
All other townships		X
Kankakee County		X
Kendall County		X
Lake County		
Deerfield Township		X
West Deerfield Township		X
Shields Township		X
Waukegan Township		X

Illinois - CO (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
City of E. St. Louis (Portion of Canteen Township)		X
All other townships		X
Madison County		
City of Alton Township		X
All other townships		X
Bond County		X
Clinton County		X
Monroe County		X
Randolph County		X
Washington County		X
AQCR 71		
Bureau County		X
LaSalle County		X
Lee County		
Marshall County		X
Putnam County		X
Stark County		X
AQCR 72		
Alexander County		X
Johnson County		X
Massac County		X
Pope County		X

Illinois - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Warren Township		X
Cuba Township		X
Libertyville Township		X
All other townships		X
McHenry County		X
Will County		
Joliet Township		X
Lockport Township		X
All other townships		X
AQCR 68		
Jo Daviess County		X
AQCR 69		
Rock Island County		
City of Rock Island, Moline, East Moline and Silvis (all or portions of Rock Island, South Rock Island, Moline, South Moline and Hampton Townships)		X
All other townships		X
Carroll County		X
Henry County		X
Mercer County		X
Whiteside County		X
AQCR 70		
St. Clair County		

Illinois - CO (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Pulaski County		X
Union County		X
AQCR 73		
Winnebago County		
City of Rockford - (Portion of Cherry Valley and Rockford Townships)		X
All other townships		X
Boone County		X
DeKalb County		X
Ogle County		X
Stephenson County		X
AQCR 74		
Clay County		X
Crawford County		X
Edwards County		X
Effingham County		X
Fayette County		X
Franklin County		X
Gallatin County		X
Hamilton County		X
Hardin County		X
Jackson County		X

Illinois - CO (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Jasper County		X
Jefferson County		X
Lawrence County		X
Marion County		X
Perry County		X
Richland County		X
Saline County		X
Wabash County		X
Wayne County		X
White County		X
Williamson County		X
AQCR 75		
Adams County		
City of Quincy (Portions of Melrose, Ellington and Riverside Townships)		X
All other townships		X
Macon County		
City of Decatur (Portions of Decatur, Long Creek and Hickory Point Townships)		X
All other townships		X
Sangamon County		
City of Springfield (all of Capital township)		X

Illinois - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 65		
Fulton County		X
Hancock County		X
Henderson County		X
Knox County		X
McDonough County		X
Mason County		X
Peoria County		X
Tazewell County		X
Warren County		X
Woodford County		X
Lee County		X
AQCR 66		
Champaign County		X
Clark County		X
Coles County		X
Cumberland County		X
DeWitt County		X
Douglas County		X
Edgar County		X
Ford County		X
Iroquois County		X
Livingston County		X
McLean County		X
Moultrie County		X
Piatt County		X
Shelby County		X
Vermillion County		X
AQCR 67		
Cook County - "Central Core Area" (Wacker Drive on the north and west, Michigan Avenue on the east and Harrison St. on the south)	X	
Remainder Cook County		X
DuPage County		X
Grundy County		X
Kane County		X
Kankakee County		X
Kendall County		X

Illinois - CO (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
All other townships		X
Brown County		X
Calhoun County		X
Cass County		X
Christian County		X
Greene County		X
Jersey County		X
Logan County		X
Macoupin County		X
Menard County		X
Montgomery County		X
Morgan County		X
Pike County		X
Schuyler County		X
Scott County		X

Illinois - NO_2 (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Lake County		X
McHenry County		X
Will County		X
AQCR 68		
Jo Daviess County		X
AQCR 69		
Carroll County		X
Henry County		X
Mercer County		X
Rock Island County		X
Whiteside County		X
AQCR 70		
Bond County		X
Clinton County		X
Madison County		X
Monroe County		X
Randolph County		X
St. Clair County		X
Washington County		X
AQCR 71		
Bureau County		X
LaSalle County		X
Lee County		X
Marshall County		X
Putnam County		X
Stark County		X
AQCR 72		
Alexander County		X
Johnson County		X
Massac County		X
Pope County		X
Pulaski County		X
Union County		X

Illinois - NO_2 (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 73		
Boone County		X
DeKalb County		X
Ogle County		X
Stephenson County		X
Winnebago County		X
AQCR 74		
Clay County		X
Crawford County		X
Edwards County		X
Effingham County		X
Fayette County		X
Franklin County		X
Gallatin County		X
Hamilton County		X
Hardin County		X
Jackson County		X
Jasper County		X
Jefferson County		X
Lawrence County		X
Marion County		X
Perry County		X
Richland County		X
Saline County		X
Wabash County		X
Wayne County		X
White County		X
Williamson County		X
AQCR 75		
Adams County		X
Brown County		X
Calhoun County		X
Cass County		X
Christian County		X
Greene County		X
Jersey County		X
Logan County		X
Macon County		X
Macoupin County		X
Menard County		X
Montgomery County		X

Illinois - NO_2 (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Morgan County		X
Pike County		X
Sangamon County		X
Schuyler County		X
Scott County		X

§81.315 Indiana.

Indiana - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Indiana Counties				
Clark County	X			
Dearborn County	X			
Dubois County				
An area within a 10 km radius of the center of Jasper	X			
The remainder of Dubois County				X
Floyd County			X	
Howard County				
An area within a 10 km radius of the center of Kokomo		X		
The remainder of Howard County				X
Lake County	X			
LaPorte County				
An area within a 10 km radius of the City of LaPorte sampling site		X		
Michigan City		X		
The remainder of LaPorte County				X
Marion County	X			
Porter County			X	
St. Joseph County	X			
Sullivan County			X*	
Tippecanoe County			X*	
Vanderburgh County		X*		
Vigo County	X			
Wayne County	X			
All portions of all other Indiana Counties				X

X* EPA designation replaces State designation

Indiana - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Dearborn County			X	
Gibson County			X*	
Jefferson County			X*	
Lake County				
An area bounded by Lake Michigan on the north, the Indiana-Illinois State line on the west, U.S. 30 on the south, and the Lake-Porter County line on the east	X			
The remainder of Lake Co.				X
LaPorte County				
An area bound in the north by Lake Michigan & the Indiana-Michigan State line, in the west by the LaPorte Porter County line, & in the south & east by I-94	X	X		
The remainder of LaPorte County				X
Marion County	X	X		
Porter County				
An area bound in the north by Lake Michigan, in the west by the Lake-Porter Co. line, in the south by I-80-90 & in the east by the LaPorte-Porter County line	X	X		
The remainder of Porter Co.				X
Vigo County	X			
Warrick County			X*	
Wayne County	X			
All portions of all other Indiana Counties				X

X* EPA designations replace State designations

Indiana - O_3

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Allen County	X*	
Clark County	X*	
Floyd County	X	
Lake County	X	
Marion County	X	
Porter County	X*	
St. Joseph County	X*	
Vanderburgh	X	
All portions of all other Indiana counties		X

X* EPA designations replace State designations

Indiana - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Lake County		
City of East Chicago (area bound by Columbus Drive on the north, the Indiana Harbor Canal on the east, 148th St. if extended, on the south, & Euclid Ave. on the east)	X	
The remainder of East Chicago & Lake County		X
Marion County		
City of Indianapolis (area bound by 11th St. on the north, Capitol on the west, Georgia St. on the south, & Delaware on the east)	X	
The remainder of Indianapolis & Marion County		X
All portions of all other Indiana Counties		X

Indiana - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
All portions of all Indiana Counties		X

§81.316 Iowa.

Iowa - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
City of Waterloo		X		
Cedar Falls Township			X	
E. Waterloo Township			X	
Remainder of Black Hawk Co.				X
Lime Creek Township	X			
Mason Township	X			
Falls Township			X	
Lake Township			X	
Lincoln Township			X	
Remainder of CerroGordo Co.				X
Clinton Township		X		
Camanche Township			X	
Remainder of Clinton Co.				X
Burlington Township			X	
Remainder of Des Moines Co.				X
Iowa City Township			X	
Remainder of Johnson Co.				X

Iowa—TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Keokuk Township	X		X	
Jackson Township			X	
Jefferson Township			X	
Madison Township			X	
Remainder of Lee County				X
Rapids Township	X			
Bertram Township			X	
Clinton Township			X	
College Township			X	
Fairfax Township			X	
Marion Township			X	
Monroe Township			X	
Putnam Township				X
Remainder of Linn County				
City of Marshalltown		X		X
Remainder of Marshall County		X		
Muscatine Township			X	
Fruitland Township			X	
Sweetland Township			X	
Montpelier Township				X
Remainder of Muscatine Co.				
Bloomfield Township		X		
Crocker Township	X	X		
Delaware Township				
Des Moines Township	X			
Lee Township	X			
Saylor Township		X		
Walnut Township		X		
Webster Township		X		
Clay Township			X	
Douglas Township			X	
Jefferson Township			X	
Remainder of Polk County				X
Zane Township	X			
Lake Township			X	
Lewis Township			X	
Remainder of Pottawattamie Co.				X
Buffalo Township	X			
City of Davenport Township	X			
Pleasant Valley Township		X		
Remainder of Scott County				X
City of Ames			X	
Remainder of Story County				X

Iowa - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Julien Township	X			X
Remainder of Dubuque County				
Remainder of State				X

Iowa - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Center Township			X	
Remainder of Wapello County				X
Cooper Township	X			
Pleasant Valley Township	X			
Wahkonsa Township	X			
Ocho Township			X	
Remainder of Webster County				X
City of Sioux City	X			
Liberty Township			X	
Woodbury Township			X	
Remainder of Woodbury County				X
Remainder of State				X

Iowa - O_3

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Linn County	X	
Polk County	X	
Pottawattamie County	X*	
Scott County	X	
Remainder of State		X

*EPA designation replaces State designation

Iowa - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Des Moines Township	X	
Lee Township	X	
Remainder of Polk County		X
Remainder of State		X

Iowa - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State		X

381.317 Kansas.

Kansas - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Wyandotte County				
a. Most of the area between I-635 and the Missouri state line	X			
b. An area extending about three miles west of the above area		X		
Topeka, Kansas area bounded by:				
Kansas River on the east and south, Vail Avenue on the west and Lyman Avenue on the north	X			
Remainder of State				X

Kansas - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Entire State				X

Kansas - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Kansas City AQCR (094)		
Wyandotte County	X[a]	
Johnson County	X[a]	
South Central AQCR (099)		
Sedgwick County	X	
Northeast AQCR (095)		
Douglas County	X[a]	
Remainder of State		X

[a]EPA designation replaces State designation

Kansas - SO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State		X

Kansas - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Kansas City, Kansas area bounded by:		
6th Street on the east, Washington Street on the north, 18th Street on the west, and Barnett Street on the south	X	
Wichita, Kansas area bounded by:		
Grove Street on the east, 13th Street on the north, the Arkansas River on the west, and Kellogg Avenue on the south	X	
Remainder of State		X

§81.318 Kentucky.

Kentucky - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Bell County	X			
Boyd County	X			
That portion of Bullitt Co. in Shepherdsville	X			
That portion of Campbell Co. in Newport	X			
That portion of Daviess Co. in Owensboro	X			
Those portions of Henderson County in and around Henderson	X			
Jefferson County	X			
That portion of Lawrence Co. in Louisa	X			
McCracken County	X			
Marshall County		X		
That portion of Madison Co. in Richmond	X			
Muhlenberg County	X			
That portion of Perry Co. in Hazard	X			
That portion of Pike Co. in Pikeville	X			
That portion of Whitley Co. in Corbin	X			
Rest of State				X

Kentucky - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Boyd County	X			
That portion of Daviess Co. in Owensboro	X	X		
Greenup County	X	X		
That portion of Henderson Co in Henderson	X			
Jefferson County	X	X		
McCracken County	X			
Muhlenberg County	X	X		
Webster County	X	X		
Rest of State				X

Kentucky - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Jefferson County	X	
Rest of State		X

Kentucky - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Cincinnati Area - Boone, Kenton, and Campbell Counties	X	
Daviess County	X	
Fayette County	X	
Henderson County	X	
Jefferson County	X	
McCracken County	X	
Boyd County	X	
Rest of State		X

Kentucky - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Statewide		X

§81.319 Louisiana.

Louisiana - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 019				X
AQCR 022				X
AQCR 106				X

Louisiana - O_3

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 019		X*
AQCR 022		
Cado Parish	X*	
Remainder of AQCR		X*
AQCR 106		
Ascension Parish	X	
Iberville Parish	X	
St. James Parish	X	
St. John the Baptist Parish	X	
West Baton Rouge Parish	X	
East Baton Rouge Parish	X	
Calcasieu Parish	X	
Orleans Parish	X	
Jefferson Parish	X	
St. Bernard Parish	X	
Grant Parish	X*	
Beauregard Parish	X*	
Lafourche	X*	
Point Coupee Parish	X*	
Lafayette Parish	X*	
St. Mary Parish	X*	
St. Charles Parish	X	
Remainder of AQCR		X*

*EPA designation replaces State designations

Louisiana - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 019				X
AQCR 022				X
AQCR 106				X

Louisiana - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 019		X
AQCR 022		X
AQCR 106		X

Louisiana - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 019		X
AQCR 022		X
AQCR 106		X

Maine - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 110				X
AQCR 107				X
AQCR 109 - Millinocket	X			
Rest of Region				X
AQCR 108 - Madawaska			X	
Rest of Region				X
AQCR 111				X

§81.320 Maine.

Maine - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 110				X
AQCR 107 -- Augusta		X		
Rockland and Thomaston		X		
Lewiston and Auburn		X		
Rumford and Mexico			X*	
Bath			X	
Rest of Region				X
AQCR 109 -- Bangor & Brewer	X			
Old Town			X	
Belleyville		X		
Rest of Region				X
AQCR 108 - Presque Isle			X	
Rest of Region				X
AQCR 111				X

*EPA designation replaces State designation

Maine - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 110	X	
AQCR 107	X	
AQCR 109	X	
AQCR 108		X
AQCR 111		X

Maine - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 110		X
AQCR 107 - Lewiston (area bounded by and including Main Street, Park Street, Willow Street, and Canal Street)	X	
AQCR 107-Rest of the Region		X
AQCR 109-Bangor (area bounded by and including Kenduskeag Stream, Franklin Street, Columbia Street, and Water Street)	X	
AQCR 109-Rest of the Region		X
AQCR 108		X
AQCR 111		X

Maine - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 110		X
AQCR 107		X
AQCR 109		X
AQCR 108		X
AQCR 111		X

§81.321 Maryland.

Maryland - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Cumberland-Keyser Interstate AQCR				
a) Election District No. 8, Luke, Md.	X			
b) Remainder AQCR				X
Central Maryland Interstate AQCR				X
Metropolitan Baltimore Intrastate AQCR				
a) Baltimore City				
Regional Planning Districts [1]				
#118 Zones 128,129,130, 132 to 137	X			
#119 Zones 138 to 147, 153 to 155	X			
#125 Zones 199,200,201, 203	X			
#121 All zones except 167,169	X			
#120 All zones	X			
#123 All zones	X			
#124 All zones	X			
#126 All zones	X			
#114 to 126 All zones		X		
#110 Zone 53		X		
#111 Zones 57,61,64 to 68		X		
#112 Zone 72		X		
#113 Zones 77,79,80		X		
b) Baltimore County Regional Planning Districts				
#329 Zones 454 to 458	X			
#331 Zone 472	X			
#320 Zone 384		X		
#321 Zones 387, 388		X		

Maryland - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
#325 Zones 416, 417, 418, 421		X		
#326 All zones except 428		X		
#327 Zones 432 to 436		X		
#328 All zones		X		
#329 All zones		X		
#330 All zones		X		
#331 Zones 470, 471, 472		X		
c) Anne Arundel County Regional Planning District				
#201 Zones 208, 209	X			
#201 Zone 211		X		
#203 Zone 220	X			
#203 Zones 224, 227, 228		X		
#204 Zone 229	X			
#204 Zones 229, 230		X		
d) Remainder of AQCR				X
National Capital Interstate AQCR				X
Southern Maryland Intrastate AQCR				X
Eastern Shore-Intrastate AQCR				X

[1] Regional Planning Districts - defined by the Baltimore Regional Planning Council, Maps showing Districts and nonattainment areas available for inspection at the offices of:
EPA, Region III
6th & Walnut Streets
Philadelphia, Pennsylvania 19106

Md. Bureau of Air Quality & Noise Control
201 West Preston Street
Baltimore, Maryland

Maryland - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Cumberland-Keyser Interstate AQCR, Election District No. 8, Luke, Maryland			X*	
Remainder of State				X

*EPA designation replaces State designation

Maryland - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Cumberland-Keyser Interstate AQCR	X	
Central Maryland Intrastate AQCR		X
Metropolitan Baltimore Intrastate AQCR	X	
National Capital Interstate AQCR - Maryland Portion	X	
Southern Maryland Intrastate AQCR		X
Eastern Shore Intrastate AQCR		X

Maryland - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Cumberland-Keyser Interstate AQCR		
City of Cumberland	X	
City of Hagerstown (those areas of high traffic density)	X	
Remainder of AQCR		X
Central Maryland Intrastate AQCR		X
Metropolitan Baltimore Intrastate AQCR		
City of Baltimore (those areas of high traffic density)	X	
Remainder of AQCR		X
National Capital Interstate AQCR - Maryland Portion	X	
Southern Maryland Intrastate AQCR		X
Eastern Shore Intrastate AQCR		X

Maryland - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
State of Maryland		X

§81.322 Massachusetts.

Massachusetts - TSP

Massachusetts - SO_2

Massachusetts - CO

§81.323 Michigan.

Michigan - TSP

§81.322 Massachusetts.

Massachusetts - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Berkshire AQCR				
Adams		X		
North Adams		X		
Pittsfield		X		
Central Massachusetts AQCR				
Worcester	X			
Athol		X		
Fitchburg		X		
Gardner			X	
Grafton			X	
Leominster			X	
Millbury			X	
Shrewsbury			X	
Merrimack Valley AQCR				
Haverhill		X		
Lawrence		X		
Pioneer Valley AQCR				
Springfield	X			
Chicopee			X	
Holyoke			X	
Northampton			X	
South Hadley			X	
West Springfield			X	
Southeastern Massachusetts AQCR				
Fall River		X		
Attleboro			X	
New Bedford			X	
Taunton			X	
Metropolitan Boston AQCR				
Topsfield			X	
Wakefield			X	
Walpole			X	
Watertown			X	
Wayland			X	
Wellesley			X	
Wenham			X	
Weston			X	
Westwood			X	
Weymouth			X	
Winchester			X	
Winthrop			X	

Massachusetts - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Statewide				X

Massachusetts - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Boston	X			
Danvers	X			
Cambridge		X		
Framingham		X		
Lynn		X		
Marblehead		X		
Norwood		X		
Medford		X		
Peabody		X		
Quincy		X		
Revere		X		
Swampscott		X		
Waltham		X		
Arlington			X	
Belmont			X	
Beverly			X	
Braintree			X	
Brockton			X	
Brookline			X	
Canton			X	
Chelsea			X	
Dedham			X	
Everett			X	
Malden			X	
Marlborough			X	
Melrose			X	
Middleton			X	
Milton			X	
Natick			X	
Needham			X	
Newton			X	
Salem			X	
Saugus			X	
Somerville			X	
Southborough			X	
Stoneham			X	

Massachusetts - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Statewide	X	

Massachusetts - H_2S

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Statewide	X	

Massachusetts - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Berkshire AQCR		
All cities and towns		X
Central Massachusetts AQCR		
Worcester	X	
All cities and towns		X
Merrimack Valley AQCR		
Lowell	X	
All other cities and towns		X
Metropolitan Boston AQCR		
Boston	X	
Cambridge	X	
Medford	X	
Waltham	X	
All other cities and towns		X
Pioneer Valley AQCR		
Springfield	X	
All other cities and towns		X
Southeastern Massachusetts AQCR		
All cities and towns		X

§81.323 Michigan.

Michigan - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 82 (Michigan Portion) Except sub-areas defined by range and township numbers:				X
1. Berrien County R18W, T4S, Sections 7, 8, 17-20, 29, 30 R19W, T4S, Sections 12-16 & 23-27		X		
AQCR 122 Except sub-areas defined:				X
1. Bay County R5E, T14N, Sections 14-16 & 21-23		X		
2. Genesee County a. Starting at intersection of Stewart Av. and N. Saginaw St. then E. along Stewart Av. to Bort Highway to Franklin Av. to Hamilton Av. to Saginaw St. to Stewart Av.	X*			
b. Starting at intersection of Carpenter Rd. and DuPont St. then E. on Carpenter Rd. to Center Rd. then S. to M-21 then E. to I-475 to Bristol Rd. then W. to I-75 then N. to Corunna Rd. (M-54) then E. to Flint city limits then N. to Pasadena Av. then E. to DuPont St. to Carpenter Rd.		X*		

*EPA designation replaces State designation

Michigan - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
3. Kent County R11W, T7N, Sections 19, 30, 31 R12W, T7N, Sections 22-27 & 34-36		X		
4. Mason County R18W, T16N, Sections 13, 14, 23 & 24		X		
5. Midland County R2E, T14N, Sections 13-15, 21-23, 26-28 & 33-35		X		
6. Muskegon County R16W, T9N, Sections 21, 22 & 27-34		X		
7. Saginaw County a. R4E, T12N, Sections 2, 12-15, 22-27 & 34-36 R5E, T12N, Sections 4-6, 9, 16, 19-21 & 28-33		X		
b. R5E, T12N, Sections 7, 8, 17 & 18	X			
AQCR 123 Except sub-areas defined:				X
1. Macomb County a. R14E, T4N, Sections 247, 28, 33, & 34		X		
b. All of County South of 20 Mile Rd.		X		

Michigan - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
2. Oakland County a. R10E, T3N, Sections 13, 16, 21, 22, 27 & 28		X		
b. Area included within: Coolidge Rd. 10 Mile Rd. Campbell Rd. 14 Mile Rd. Dequindre Rd. & 8 Mile Rd.		X		
3. St. Clair County R17E, T6N Sections 2-4, 9-11, 14-16, 21, 22 & 28		X		
4. Wayne County a. Area included within: Lake St. Clair 8 mile Rd. to Schaeffer Rd. to McNichols Rd. to Greenfield Av. to Evergreen Rd. to Joy Rd. to Telegraph Rd. to Ford Rd., to Beech-Daly Rd. to Cherry Hill Rd. to Lahster Rd. to Carlysle St. to Middle Belt Rd. to Van Born Rd. to Wayne Rd. to Ecorse Rd. to Haggerty Hwy. to Tyler Rd. to Belleville Rd. to I-94 to Romeoville to Oakville - Waits Rd. to Will-Carlton Rd. to the Huron River to Lake area except for the subarea under b.		X		

Michigan - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
b. Area included within: Lake St. Clair-Moross Rd. to 7 Mile Rd. to Van Dyke Rd. to 8 Mile Rd. to Wyoming Rd. to 7 Mile Rd. to Schaffer Rd. to Fenkell Rd. to Greenfield Av. to Joy Rd. to Southfield Expressway to Ford Rd. to Cherry Hill Rd. to Beech-Daly Rd. to Michigan Av. to Lahster Rd. to Carlysle St. to Middle Belt Rd. to Sibley Rd. to Telegraph Rd. to King Rd. to Grange Rd. to Sibley Rd. to Jefferson Av. to Bridge St. (Cross 11a) extended to Detroit River)	X			
AQCR 124 (Michigan Portion Except sub-area defined by following townships: 1. Monroe County Exeter Ash, Berlin, Raisinville, Monroe & Frenchtown Townships including all incorporated municipalities		X		X
AQCR 125 Except sub-areas defined: 1. Branch County R6W, T8S, Section 22 2. Calhoun County R4W, T2S, Section 34 3. Ingham County R2W, T4N, Sections 2-11 & 14-23	X	X		X

Michigan - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
4. Washtenaw County Area near Ypsilanti within Cross St., Huron St., Harris Rd. & I-94		X		X
AQCR 126 1. Delta County R22W, T38N, Sections 6-8, 17-20, 29-30 R23W, T39N Sections 1, 12, & 13		X		
2. Emmet County R6W, T34N Sections 1-3 & 9-12		X		
3. Manistee County R16W, T21N, Sections 7, 18 & 19 R17W, T21N, Section 12 & 13		X		
4. Marquette County R25W, T48N Section 3 & 2			X	

Michigan - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 82 (Michigan portion)				X
AQCR 122 Except sub-areas defined: 1. Ingham County 2. Midland County	X* X*			X
AQCR 123				X
AQCR 124 (Michigan portion)				X
AQCR 125				X
AQCR 126				X

*EPA designation replaces State designation

Michigan - O_3

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 82 (Michigan portion)	X	
AQCR 122 Except sub-area defined: 1. Muskegon, Ottawa, Allegan, Kent, Montcalm, Ionia, Gratiot Midland, Bay, Saginaw, Shiawassee, Genesee, Tuscola, Lapeer, Sanilac and Huron Counties	X	X
AQCR 123	X	
AQCR 124 (Michigan portion)	X	
AQCR 125	X	
AQCR 126 Except sub-area defined: 1. Marquette County	X*	X

*EPA designations replace State designations

Michigan - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 82 (Michigan portion)		X
AQCR 122 Except sub-area defined: 1. Saginaw County R4E, T12N Sections 1, 12, 13, & 24 R5E, T12N Sections 4-9, 16-21	X	X
AQCR 123 Except sub-area defined: 1. Macomb, Oakland, Wayne Counties Lake St. Clair - 14 Mile Rd. to Wally Rd. S. to 15 Mile Rd. to Hayes Rd. S. to 14 Mile Rd. to Clinton southern city boundary to Royal Oak southern city boundary to 13 Mile Rd. to Evergreen Rd. to Beverly Hills southern city boundary to Bingham Farms southern city boundary to Franklin southern city boundary to Lahster Rd. to 8 Mile Rd. to Livonia western city boundary to Wayne westerly city boundary to Romulus southern city boundary following Pennsylvania Rd. to Detroit River.	X	X
AQCR 124 (Michigan portion)		X
AQCR 125		X
AQCR 126		X

Michigan - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
State of Michigan		X

§81.324 Minnesota.

Minnesota - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 131	X*		*	
City of International Falls	X			
City of Duluth	X*			
City of Red Wing		X		
City of E. Grand Forks		X		
City of Cloquet		X		
City of Silver Bay		X		
Mesabi Iron Range Identified by county and township and range numbers: Itasca County T55N, R24-26W T56N, R22-25W T57N, R22-23W St. Louis County T57N, R12-21W T58N, R14-21W T59N, R13-18W T6-N, R12-13W		X		
Sherburne County		X		
St. Cloud Township (Stearns County)		X		
City of Springfield and Burnstown Township (Brown County)		X		
Remainder of State				X

*EPA designation replaces State designation

Minnesota - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 131	x			
City of Rochester	x		x	
Sherburne County				x
Remainder of State				

Minnesota - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 131	x	
City of Duluth	x	
City of Rochester	x	
City of St. Cloud	x	
Remainder of State		x

Minnesota - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 131	x	
St. Louis County	x*	
Sherburne County	x*	
Carlton County	x*	
Lake County	x*	
Olmsted County	x*	
Remainder of State		

* EPA designation replaces State designation

Minnesota - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
State of Minnesota		x

§81.325 Mississippi.

Mississippi - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
That portion of Jones County in southern section of Laurel	x			
Rest of State				x

Mississippi - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Statewide		x

Mississippi - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Statewide				x

Mississippi - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Statewide		x

Mississippi - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Statewide		x

Missouri - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Northern AQCR (137)				
Kirksville City Limits	x			
Mexico (Township 51 North, Range 9 West	x			
Columbia City Limits		x*		
Remainder of AQCR				x
Southeastern AQCR				
Township 23 North, Range 14 East and Township 22 North, Range 14 East (New Madrid)	x			
Remainder of AQCR				x
Southwestern AQCR				x

* EPA designation replaces State designation

§81.326 Missouri.

Missouri - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
St. Louis AQCR (070)				
St. Louis (an area extending west about two miles from the Mississippi River, north to near I-270 and south to about one mile beyond the city limits)	x			
Remainder of the City of St. Louis		x		
Chambers area				
Beginning at the St. Louis city limits and I-270, west to Highway 367, south to St. Louis city limits and along this boundary to point of origin		x		
St. Ann area				
(An area of about one mile radius located in the City of St. Ann)		x		
Herculaneum (Township 41 North, Range 6 East)		x		
Remainder of AQCR				x
Kansas City AQCR (094)				
Kansas City				
(An area extending about 4 miles north and south from the central business district and from the Kansas state line to Missouri Highway 7)	x			
St. Joseph City Limits	x			
Remainder of AQCR		x		

Missouri - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
St. Louis "Hotspot" (an area of approximately one mile radius at the confluence of River Des Peres and the Mississippi River)	x			
Township 34 North, Range 2 West (Sikeston)	x			
Remainder of State				x

Missouri - O_3

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
St. Louis AQCR (070)		
Entire area	x	
Kansas City AQCR (094)		
Jackson County	x	
Clay County	x	
Platte County	x	
Remainder of AQCR		x
Remainder of State		x

Missouri - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State		x

§81.327 Montana.

Missouri - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
St. Louis AQCR (070)		
The area encompassed by I-270 and the Mississippi River	x	
Remainder of State		x

Montana - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Colstrip Area	x			
City of Columbia Falls	x			
City of Missoula	x			
Missoula Area		x		
Billings Area		x		
Great Falls Area		x		
Butte Area		x		
East Helena Area		x		
Remainder of State				x

Montana - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Laurel Area	x			
East Helena Area	x	x		
Anaconda Area	x	x		
Rest of State				x

Montana - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
City of Billings	x*	
City of Missoula	x	
Rest of State		x

* EPA designation replaces State designation

Montana - O_x

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Yellowstone County	x*			
Rosebud County	x*			
Rest of State			x	

* EPA designation replaces State designation

Montana - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State		x

§81.328 Nebraska.

Nebraska - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 085	x			
AQCR 086			x*	
AQCR 145				x
AQCR 146 (except Cass County and Dawson County)				x
Cass County	x			
Dawson County			x*	

* EPA designation replaces State designation

Nebraska - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 085	x	
Remainder of State		x

Nebraska - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Entire State				x

Nebraska - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
City of Lincoln	x	
City of Omaha	x	
Remainder of State		x

Nebraska - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State		x

Nevada - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
(Township, Range)				
Steptoe Valley (179) (18-29N, 61-67E)	x[a]			
Rest of State				x

[a] EPA designation replaces State designation

§81.329 Nevada.

Nevada - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
(Township, Range)				
Las Vegas Valley (212) (15-24S, 56-64E)	x			
Carson Desert (101) (15-29N, 25-35E)	x			
Winnemucca Segment (70) (36-38N, 36-41E)	x			
Lower Reese Valley (59) (27-32N, 42-46E)		x		
Gabbs Valley (122) (7-15N, 31-37E)	x			
Fernley Area (76) (19-21N, 23-26E)	x			
Truckee Meadows (87) (17-20N, 18-21E)	x			
Mason Valley (106) (9-16N, 24-28E)	x			
San Emido Desert (22) (27-32N, 22-26E)			x[a]	
Colorado River Valley (213) (22-33S, 63-66E)			x[a]	
Steptoe Valley (179) (18-29N, 61-67E)			x[a]	
Clovers Area (64) (32-39N, 42-46E)		x		
Rest of State				x

[a] EPA designation replaces State designation

Nevada - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Las Vegas Valley (212) (15-24S, 56-64E)	x	
Truckee Meadows (87) (17-20N, 18-21E)	x	
Lake Tahoe Basin (90) (13-17N, 18-19E)	x	
Eagle Valley (104) (14-16N, 19-20E)	x	
Rest of State		x

Nevada - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Las Vegas Valley (212) (15-24S, 56-64E)	x	
Truckee Meadows (87) (17-20N, 18-21E)	x	
Lake Tahoe Basin (90) (13-17N, 18-19E)	x	
Rest of State		x

§81.330 New Hampshire.

New Hampshire - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Metropolitan Keene, Manchester		x		
Remainder of New Hampshire portion of So. N.H.M.V. AQCR 121				x
Central N.H. Intrastate AQCR 149				x
Metropolitan Berlin	x[a]			
Remainder of N.H. portion of Androscoggin Valley Interstate AQCR 107				x

[a] EPA designation replaces State designation

Nevada - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Whole State		x

New Hampshire - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
N.H. portion of Merrimack Valley So. N.H. Interstate AQCR 121				x
Central N.H. Intrastate AQCR 149				x
Metropolitan Berlin	x[a]			
Remainder of N.H. portion of Androscoggin Valley Interstate AQCR 107				x

[a] EPA designation replaces State designation

New Hampshire - O_3

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Central N. H. Interstate AQCR 149	x	
N. H. portion of Androscoggin Valley Interstate AQCR 107		x
N. H. portion of Merrimack Valley So. N.H. Interstate AQCR 121	x	

New Hampshire - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Statewide		x

§81.331 New Jersey.

New Hampshire - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Metropolitan Manchester	x	
Remainder of N.H. portion of Merrimack Valley So. N.H. Interstate AQCR 121		x
Central N.H. Interstate AQCR 149		x
N.H. portion of Androscoggin Valley Interstate AQCR 107		x

New Jersey - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
New Jersey-New York-Connecticut Interstate AQCR				
The City of Jersey City	x			
The City of Newark (eastern)		x		
The City of Elizabeth		x		
The City of Linden		x		
The Borough of Carteret		x		
The Town of Woodbridge		x		
The City of Perth Amboy		x		
Remainder of AQCR				x
Metropolitan Philadelphia Interstate AQCR				
The City of Camden	x			
Remainder of AQCR				x
New Jersey Intrastate AQCR				
The City of Bridgeton		x		x
Remainder of AQCR				x
Northeast Pennsylvania-Upper Delaware Valley Interstate AQCR				

New Jersey - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
New Jersey-New York-Connecticut Interstate AQCR				x
Metropolitan Philadelphia Interstate AQCR				x
New Jersey Intrastate AQCR				x
Northeast Pennsylvania-Upper Delaware Valley Interstate AQCR				x

New Jersey - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
New Jersey-New York-Connecticut Interstate AQCR		
The City of Paterson	x	
The City of Hackensack	x	
The City of Jersey City	x	
The City of Newark	x	
The City of Elizabeth	x	
The Town of Morristown	x	
The City of Perth Amboy	x	
The Borough of Somerville	x	
The City of Asbury Park	x	
The Borough of Freehold	x	
Remainder of AQCR		x
Metropolitan Philadelphia Interstate AQCR		
The City of Trenton	x	
The City of Burlington	x	
The City of Camden	x	
The Borough of Penns Grove	x	
Remainder of AQCR		x
New Jersey Intrastate AQCR		
The City of Wildwood	x	
The City of Atlantic City	x	
Toms River (portion of Dover Township	x	
Remainder of AQCR		x
Northeast Pennsylvania-Upper Delaware Valley Interstate AQCR		x

New Jersey - O_3

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
New Jersey-New York-Connecticut Interstate AQCR	x	
Metropolitan Philadelphia Interstate AQCR	x	
New Jersey Intrastate AQCR	x	
Northeast Pennsylvania-Upper Delaware Valley Interstate AQCR	x	

New Jersey - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
New Jersey-New York-Connecticut Interstate AQCR		x
Metropolitan Philadelphia Interstate AQCR		x
New Jersey Intrastate AQCR		x
Northeast Pennsylvania-Upper Delaware Interstate AQCR		x

§81.332 New Mexico.

New Mexico - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 012				
Grant County				
Remainder of AQCR	X*			X*
AQCR 014				X
AQCR 152				
Albuquerque city limits	X*			
Remainder of AQCR				X
AQCR 153				X
AQCR 154				X
AQCR 155				
Portions of Eddy and Lea Counties	X			
AQCR 156				X
AQCR 157				X

* EPA designation replaces State designation

New Mexico - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 012				
Portions of Grant Co.		X*		
Remainder of AQCR				X
AQCR 014				
Portions of San Juan Co.	X			
Remainder of AQCR				X
AQCR 152				X
AQCR 153				X
AQCR 154				X
AQCR 155				X
AQCR 156				X
AQCR 157				X

* EPA designation replaces State designation

New Mexico - N_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 012		X*
AQCR 014		X*
AQCR 152		
Bernalillo Co.	X*	
Remainder of AQCR		X*
AQCR 153		X*
AQCR 154		X*
AQCR 155		X*
AQCR 156		X*
AQCR 157		X*

* EPA designation replaces State designation

New Mexico - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 012		X
AQCR 014		
Central Farmington	X	
Remainder of AQCR		X
AQCR 152		
Bernalillo Co.	X	
Remainder of AQCR		X
AQCR 153		
Borrow Corridor in Las Cruces	X	
Remainder of AQCR		X
AQCR 154		X
AQCR 155		X
AQCR 156		X
AQCR 157		
Narrow Corridor in Santa Fe	X	
Remainder of AQCR		X

* EPA designation replaces State designation

New Mexico - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 012		X
AQCR 014		X
AQCR 152		X
AQCR 153		X
AQCR 154		X
AQCR 155		X
AQCR 156		X
AQCR 157		X

New York - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
The Town of Tonawanda (west of Military Road)		X	X	
The Town of Tonawanda (east of Military Road)			X*	
The City of Niagara Falls (south of Pine Ave, east of Hyde Park Blvd and west of I-190)	X			
The City of Niagara Falls		X		
The Town of Niagara		X		
The City of North Tonawanda		X		
The Village of Bluedall		X		
The Town of Cheektowaga (west of Union Road)		X		
The Town of Cheektowaga (east of Union Road)			X*	
The Town of West Seneca (west of Union Road)		X		
The Town of West Seneca (east of Union Road)			X*	
The Town of Amherst			X*	
The City of Lockport		X		
Remainder of AQCR				X
Genesee-Finger Lakes AQCR				X
Southern Tier West AQCR				
The City of Jamestown		X		

* EPA designation replaces State designation

§81.333 New York.

New York State - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Niagara Frontier AQCR				
The City of Buffalo (south of I-190 and east of a line parallel to and one-half mile inland from Fuhrman Blvd between I-190 and Tifft Street).	X			
The City of Buffalo (excluding an area one-quarter mile inland and parallel to Fuhrman Blvd between K-190 and Tifft Street).		X		
The City of Buffalo (an area bounded on the north by I-190, on the south by Tifft Street, on the west by a line parallel to and one-quarter mile inland from Fuhrman Blvd, and on the east by a line parallel to and one-half mile inland from Fuhrman Blvd).		X	X*	
The City of Buffalo (an area one-quarter mile inland and parallel to Fuhrman Blvd between I-190 and Tifft Street)			X*	
The City of Lackawanna	X			
The City of Tonawanda (west of Military Road)		X	X	
The City of Tonawanda (east of Military Road)			X*	

* EPA designation replaces State designation

New York - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
The City of Dunkirk		X		
Remainder of AQCR				X
Southern Tier East AQCR				X
Central AQCR				
The City of Syracuse (central)	X			
The City of Syracuse		X		
The Village of East Syracuse		X		
The Village of Solvay		X		
Remainder of AQCR				X
Northern (Champlain Valley) AQCR				X

New York - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Hudson Valley AQCR				
The City of Albany (eastern)		X		
The Village of Roosick Falls		X		
The Town of Catskill (except eastern Catskill Village)		X		
Remainder of AQCR				X
New Jersey-New York-Connecticut Interstate AQCR				
The Borough of Manhattan		X	X*	
The Borough of The Bronx (southern)		X	X*	
The Borough of Brooklyn (northern)		X	X*	
The Borough of Queens (northwestern)		X	X*	
The Borough of Staten Island (west-central)		X		
Remainder of AQCR				X

* EPA designation replaces State designation

New York - SO_2 (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Northern (Champlain Valley) AQCR				X
Hudson Valley AQCR				X
New Jersey-New York-Connecticut Interstate AQCR				
The Borough of Manhattan (except between 59th and 125th Sts.)			X	
The Borough of Queens (west-central)			X	
The Borough of the Bronx (southern)			X	
Remainder of AQCR				X

New York - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Niagara Frontier AQCR				
The City of Buffalo (an area bounded on the north by Tifft Street, on the east by Hopkins Street, on the south by the City of Lackawanna and on the west by Lake Erie)	X		X*	
The City of Buffalo (an area bounded by Tifft Street, Hopkins Street, the City of Lackawanna, the Towns of West Seneca and Cheektowaga, I-190 and Lake Erie)			X*	
The City of Lackawanna (west of South Park Avenue)	X		X*	
The City of Lackawanna (east of South Park Avenue)			X*	
Remainder of AQCR				X
Genesee-Finger Lakes AQCR				X
Southern Tier West AQCR				
The Town of Corning			X*	
Remainder of AQCR				X
Southern Tier East AQCR				
The Town of Bainbridge			X*	
Remainder of AQCR				X
Central AQCR				X

New York - O_3

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Niagara Frontier AQCR	X	
Genesee-Finger Lakes AQCR	X	
Southern Tier West AQCR	X	
Southern Tier East AQCR	X	
Central AQCR	X	
Northern (Champlain Valley) AQCR	X	
Hudson Valley AQCR	X	
New Jersey-New York-Connecticut Interstate AQCR	X	

New York - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Niagara Frontier AQCR		
The City of Buffalo (northern)	X*	
The Town of Cheektowaga (northeastern)	X*	
The Town of Amherst (southeastern)	X*	
Remainder of AQCR		X
Genesee-Finger Lakes AQCR		
Monroe County (inside the area bounded by the Seabreeze Expressway, I-490, Elmwood Avenue, Scottsville Road, Paul Road, Dehan Road, Harvard Street, I-490, Mt. Read Boulevard (as far north as Stone Road), a straight line to the intersection of St. Paul Boulevard and Titus Avenue, and Titus Avenue)	X*	
Remainder of AQCR		X
Southern Tier West AQCR		X
Southern Tier East AQCR		X
Central AQCR		
The City of Syracuse (central)	X*	
Remainder of AQCR		X
Northern (Champlain Valley) AQCR		X
Hudson Valley AQCR		
The City of Troy	X*	
The Town of Watervliet	X*	
The City of Watervliet	X*	
The City of Albany (east of Fuller Road)	X*	
The Town of Colonie (inside an area bounded by Sand Creek Road, Wolf Road, Railroad Avenue, and Fuller Road)	X*	

* EPA designation replaces State designation

New York - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Niagara Frontier AQCR		X
Genesee-Finger Lakes AQCR		X
Southern Tier West AQCR		X
Southern Tier East AQCR		X
Central AQCR		X
Northern (Champlain Valley) AQCR		X
Hudson Valley AQCR		X
New Jersey-New York-Connecticut Interstate AQCR		X

New York - CO (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
The City of Schenectady	X*	
Remainder of AQCR		X
New Jersey-New York-Connecticut Interstate AQCR		
The Borough of Manhattan (Midtown and Downtown)	X	
The Borough of Manhattan (remainder)	X*	
The Borough of Staten Island	X*	
The Borough of Queens	X*	
The Borough of Brooklyn	X*	
The Borough of The Bronx	X*	
The City of Yonkers	X*	
The City of Mt. Vernon	X*	
Nassau County (southwestern)	X*	
Remainder of AQCR		X

* EPA designation replaces State designation

881.334 North Carolina.

North Carolina - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Certain portions of Mitchell, Avery and Yancey Counties within and around Spruce Pine	X			
Carteret County			X*	
Forsyth County			X	
Rest of State				X

* EPA designation replaces State designation

North Carolina - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Statewide				X

North Carolina - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Mecklenburg County	X	
Durham County	X*	
Rest of State		X

*EPA designation replaces State designation

North Carolina - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Mecklenburg County	X	
Buncombe County	X*	
Durham County	X*	
Rest of State		X

*EPA designation replaces State designation

North Carolina - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Statewide		X

§81.335 North Dakota.

North Dakota - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Entire State				X

North Dakota - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Entire State				X

North Dakota - O_3

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Burleigh County	X	
Mercer County	X	
Dunn County	X**	
Rest of State		X

North Dakota - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State		X

North Dakota - SO$_2$

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified or Better Than National Standards
Entire State			X

Ohio - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Carroll		Zoo		
Champaigne		X		
Clark		X		
The subarea defined as the area south and east of the line determined by: Route 41 east from the Clark-Miami County line east to Route 235, north to the Clark-Champaigne County line; & bounded by the north-south line determined by: Thackery Bonner Road southeast from the Clark-Champaigne County Line Road to Knollwood Road, south on Knollwood (which becomes Ballentine Pike) to Springfield-N. Hampton Road, south to Sixtz Road, west to Yale Road, south to Lost Row Carlisle Pike, east & southeast across U.S. 40 to Old Mill Road, south to Fairfield Pike, northeast to Cross Road, east to Route 68, south to Jackson Road, east to Moeler Road, south to Clark-Greene County line.					
The remainder of Clark County				X

Ohio - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Clermont				
Pierce Township		Zoo		
The remainder of Clermont County				Zoo
Clinton	X			
Columbiana				
The Cities of East Palestine, East Liverpool & Wellsville, plus the Townships of Fairfield, Unity, Elk Run, Middleton, Madison, St. Clair, Liverpool & Yellow Creek	X			
Knox & West Township				X
The remainder of Columbiana County		X		
Coshocton		Zoo		
Cuyahoga				
The Cities of Brooklyn Hts., Cuyahoga Hts., Newburgh Hts., Brotenahl & the City of Cleveland east of W. 117th St. & Highland Ave.	X			
Olmsted & Chagrin Falls Township & the Cities of Bay Village, Westlake, North Olmsted, Olmsted Falls, Strongsville, North Royalton, Broadview Hts.,				X

Ohio - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Brecksville, Glenwillow, Solon, Bentleyville, Orange, Moreland Hills, Chagrin Falls, Upper Pike, Hunting Valley, Lyndhurst, Mayfield Hts., Highland Hts., Mayfield & Gates Mills				
The remainder of Cuyahoga County		X		
Darke				
The subarea defined as Road T358 east from the Indiana-Ohio line to Richmond Road, south to Moore Road, east to Payne Road, south to Wash Road, east to and thru New Madison (emerging as Wilt Road east of New Madison), east from New Madison on Wilt Road to Preble County Butler Township Road, north to Hollandsburg-Arcanum Road, east to Jaysville-St. John's Road, north to Bellsale-Pearson's Road, east to Goodin Landis Road, north to Painter Creek-Arganon Road,	X			

Ohio - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
converts to St. Rt. 378, south to Bryan Park Road, southeast to Clifton Road southwest to Route 68, south to Route 235, northwest to Hill Top Road, southwest to Fairground Road, west to Beaver Valley Road, south to Lantz Road, west to Fairfield Road, south to Dwelgett Road, west to Montgomery-Greene County line.				
The remainder of Greene County				X
Hamilton				
the subarea bounded on the east by I-71, on the south by the Ohio River, on the west by the Cincinnati City Limits & on the north by the north & west boundaries of the Cities of Cincinnati, Lockland, Lincoln Hts., Evendale & Blue Ash	X			
Area south & east of U.S. 50 & north & east of S.R. 125; & an area to the north including the Cities of Forest Park, Greenhills,				X

Ohio - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
east to Tuscarawas-Beech Road, south to Bellsale-Pearson's Road, east to Darke-Miami County line (where road becomes Fenner Road)				
The remainder of Darke County				X
Defiance	Zoo			
Erie	X			
Franklin				
Includes an area encompassed by Alum Creek on the east, Livingston Ave., Lockbourne Road, Thurman Ave., and Greenlawn Ave. on the south; on the west by I-71 & S.R. 315; & on the north by Leon Ave., South High St., Weber Road, Westerville Pike & Baier Road	X			
The area within I-270 outerbelt excluding primary amusement area		X		
The remainder of Franklin County				X
Gallia		X		
Geauga		X		
Greene				
the subarea defined as Meredith Road south from the Greene-Clark County Line,		X		

Ohio - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Mt. Healthy, North College Hill, Wyoming, Woodlawn, Glendale, Springdale, Sharonville & Loveland & the Townships of Colerain, Springfield, Sycamore & Symmes				
The remainder of Hamilton County		X		
Hancock		X		
Henry	Zoo			
Jackson		X		
Jefferson				
Cities of Scratton, Empire, Toronto, Wintersville, Steubenville, Mingo Junction, New Alexandria, Brilliant, Bayland, Tiltonville, Yorkville & Townships of Salina, Knox, Island Creek, Cross Creek, Steubenville, Wells & Warren	X			
Springfield Township				X
The remainder of Jefferson County		X		
Lake				
Area bounded by the west County lines north of I-90 & west of S.R. 306 in addition to Cities of Painesville,	X			

§81.336 Ohio.

Ohio - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Ohio Counties				
Allen				
Ashtabula	X	X		
City of Ashtabula, Ashtabula Township & portion of Plymouth Township north of I-90				
The remainder of Ashtabula County				X
Belmont				
Cities of Martins Ferry, Bridgeport, Brookside, Bellaire, Shadyside & Powhatan Point in addition to Townships of Pease, Pultney, Mead & York	X			
Townships of Colerain, Richland, Smith & Washington excluding primary mountainous areas		X		
The remainder of Belmont County				X
Butler				
City of Middletown	X			
Cities of Monroe, Trenton, New Miami, Fairfield, and that portion of the City of Hamilton within Fairfield Township & also the Townships of Madison, Lemon, St. Clair, Liberty, Fairfield & Union		X		
The remainder of Butler County				X

Ohio - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Clermont				
Pierce Township		Zoo		
The remainder of Clermont County				Zoo
Clinton	X			
Columbiana				
The Cities of East Palestine, East Liverpool & Wellsville, plus the Townships of Fairfield, Unity, Elk Run, Middleton, Madison, St. Clair, Liverpool & Yellow Creek	X			
Knox & West Township				X
The remainder of Columbiana County		X		
Coshocton		Zoo		
Cuyahoga				
The Cities of Brooklyn Hts., Cuyahoga Hts., Newburgh Hts., Brotenahl & the City of Cleveland east of W. 117th St. & Highland Ave.	X			
Olmsted & Chagrin Falls Township & the Cities of Bay Village, Westlake, North Olmsted, Olmsted Falls, Strongsville, North Royalton, Broadview Hts.,				X

Ohio - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
east to Tuscarawas-Beech Road, south to Bellsale-Pearson's Road, east to Darke-Miami County line (where road becomes Fenner Road)				
The remainder of Darke County				X
Defiance	Zoo			
Erie	X			
Franklin				
Includes an area encompassed by Alum Creek on the east, Livingston Ave., Lockbourne Road, Thurman Ave., and Greenlawn Ave. on the south; on the west by I-71 & S.R. 315; & on the north by Leon Ave., South High St., Weber Road, Westerville Pike & Baier Road	X			
The area within I-270 outerbelt excluding primary amusement area		X		
The remainder of Franklin County				X
Gallia		X		
Geauga		X		
Greene				
the subarea defined as Meredith Road south from the Greene-Clark County Line,		X		

Ohio - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Mt. Healthy, North College Hill, Wyoming, Woodlawn, Glendale, Springdale, Sharonville & Loveland & the Townships of Colerain, Springfield, Sycamore & Symmes				
The remainder of Hamilton County		X		
Hancock		X		
Henry	Zoo			
Jackson		X		
Jefferson				
Cities of Scratton, Empire, Toronto, Wintersville, Steubenville, Mingo Junction, New Alexandria, Brilliant, Bayland, Tiltonville, Yorkville & Townships of Salina, Knox, Island Creek, Cross Creek, Steubenville, Wells & Warren	X			
Springfield Township				X
The remainder of Jefferson County		X		
Lake				
Area bounded by the west County lines north of I-90 & west of S.R. 306 in addition to Cities of Painesville,	X			

Ohio - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Grand River, Fairport Harbor & Painesville Township				
The remainder of Lake County				X
Lawrence				
The Cities of Ironton, Coal Grove & South Point & the Townships of Upper & Perry	X			
Fayette Township		X		
The remainder of Lawrence County				X
Logan	X			
Lorain				
The portion of the City of Lorain north of S.R. 611	X			
The City of Lorain east of S.R. 58, & Sheffield Township excluding primary non attainment areas		X		
Remainder of Lorain County				X
Lucas				
The Cities of Toledo, Maumee & Ottawa Hills	X			
Townships of Waterville, Monclova, Washington & City of Oregon		X		
The remainder of Lucas County				X

Ohio - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
of the line determined by Rte. 40 north from the Montgomery-Miami County line to Rte. 202, north to Rte. 571, east to Rte. 201, north to Rte. 41, east to the Miami-Clark County line & excluding the City of Piqua				
The remainder of Miami County				X
Monroe				
The City of Clarington & the Townships of Salem & Switzerland	X			
Townships of Adams, Greene, Lee, Ohio & Sunbury		X		
The remainder of Monroe County				X
Montgomery				
The Cities of Dayton & Miamisburg	X			
That area bounded by Dunigart Road from the Montgomery-Greene County line west to Wilmington Pike, Wilmington Pike south to Whipp Road, west to Rte. 48, south to the Montgomery-Warren County line & Rte. 440 (U.S. 40) at the Montgomery Miami County line south to Bridgewater		X		

Ohio - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Madison		X**		
Mahoning				
The Cities of Campbell, Struthers & Youngstown & that portion of Poland Township north of U.S. Rte. 224 & that portion of Coitsville Township south of U.S. Rte. 422	X			
Townships of Coitsville (excluding portion south of U.S. Rte. 422), Boardman & Poland (excluding portion north of U.S. Rte 224) & that portion of Austintown Township east of S.R. 46		X		
The remainder of Mahoning County				X
Medina	X*			
Meigs	X			
Miami				
The City of Piqua	X			
That area in Miami County north of the line determined by Pasmar Road from the Darke-Miami County line east to Pemberton Road, south to Horse Shoe Road Road, east to Rte. 55, Rte. 55 northeast thru Troy to Troy-Urbana Road, Troy-Urbana Road northeast to Miami-Champaigne County line & south		X		

Ohio - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Road, south to Taylorsville Road, west to Little York Road, west to Patere Road, south to Frederick Road, northwest to Dog Leg Road, southwest to Woodbrook Road, west to Dlive Road, south to Shiloh Springs Road, west to Haines Road, south to Little Richmond Road, west to Snyder Road, south to Old Dayton Road, west to Lorhorn. Church Road, south to Mile Road, west to Custle Road, south to Havernale Road, west to Clayton Road, south to Chicken Hirshle Road, west to Montgomery-Preble County line; however, excluding the Cities of Dayton & Miamisburg and the area determined by the Montgomery-Warren County line north on Yankee St. north to Rte. 725, east to McEwen Road, north to Alexandersville-Bellbrook Road, northeast to Rte. 741 & south to the Montgomery-Warren County line				
The remainder of Montgomery County				X

Ohio - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Muskingum		X		
Noble			X**	
Portage		X		
Preble				
That area with Preble County southeast of the line described by the Montgomery-Preble County Line Road at Carlton Road, south to Kinsey Road, west to Rte. 503, south to the Preble-Butler County line		X		
The remainder of Preble County				X
Richland	X			
Ross	X*			
Sandusky	X			
Scioto				
The Cities of Portsmouth, New Boston & South Webster & Bloom Township	X			
Township of Harrison excluding primary non attainment areas		X		
The remainder of Scioto County				X
Seneca		X		
Shelby		X		
Stark				
Portion of the City of Canton to the south of 12th Ave.	X			

Ohio - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Trumbull				
The area encompassed on the north by S.R. 82, on the east by S.R. 11, S.R. 304 & S.R. 616, on the south by the County line & on the west by the Mahoning River	X			
The Townships of Warren, Howland, Weathersfield, Liberty & Hubbard; & of Vienna Township the area south of the north boundary of Vienna Township to S.R. 193 & the area of Brookfield Township south of S.R. 82 excluding primary non attainment areas		X		
The remainder of Trumbull County				X
Tuscarawas		X**		
Washington		X		
Wayne		X**		
Wood		X		
Wyandot		X		

* EPA designation replaces State designation

**EPA designation only

Ohio - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
The political boundaries of City of Canton & Canton Township excluding primary non attainment areas		X		
The remainder of Stark County				X
Summit				
Area encompassed on the north by S.R. 261 on the east by S.R. 91, on the south by U.S. Rte. 224 & on the west by S.R. 93.	X			
Area bounded on the north by S.R. 18 from the Medina County line to the Fairlawn city limits, & the city limits of Fairlawn, Akron, Cuyahoga Falls & Brow; on the east by the Summit-Portage, Summit-Stark County lines; on the south by S.R. 619, S.R. 93 & the Summit-Stark County line; & on the west by the Summit-Wayne, Summit-Medina County lines, excluding primary non attainment areas		X		
The remainder of Summit County				X

Ohio - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Athens	X**			
Clermont	X**			
Columbiana	X**			
Coshocton	X**			
Cuyahoga	X**			
Erie	X**			
Franklin	X**			
Gallia		X**		
Greene	X**			
Hamilton	X**			
Jefferson	X**			
Lake	X**			
Lorain	X**			
Lucas	X**			
Mahoning	X**			
Montgomery	X**			
Morgan		X**		
Muskingum	X**			
Pickaway	X**			
Seneca	X**			
Stark	X**			
Summit	X**			
Trumbull	X**			
Washington	X**			
Wood	X**			
All other counties in the State of Ohio				X**

**EPA designation only

Ohio - Q

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Adams		X*
Allen	X*	
Ashland	X	
Ashtabula	X	
Athens		X*
Auglaize		X*
Belmont	X	
Brown	X	
Butler	X	
Carroll	X	
Champaign	X	
Clark	X	
Clermont	X	
Clinton	X	
Columbiana	X	
Coshocton		X*
Crawford		X*
Cuyahoga	X	
Darke	X	
Defiance		X*
Delaware	X	
Erie	X	
Fairfield	X	
Fayette	X	
Franklin	X	
Fulton	X	
Gallia		X*
Geauga	X	
Greene	X	
Guernsey		X*
Hamilton	X	
Hancock	X	
Hardin		X*
Harrison	X	
Henry	X	
Highland	X	
Hocking	X	
Holmes	X	
Huron	X	
Jackson		X*
Jefferson	X	
Knox	X	

*EPA designation replaces state designation

Ohio - Q (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Lake	X	
Lawrence	X	
Licking	X	
Logan	X	
Lorain	X	
Lucas	X	
Madison	X	
Mahoning	X	
Marion	X	
Medina	X	
Meigs		X*
Mercer		X*
Miami	X	
Monroe		X*
Montgomery	X	
Morgan		X*
Morrow	X	
Muskingum		X*
Noble		X*
Ottawa	X	
Paulding		X*
Perry	X	
Pickaway	X	
Pike		X*
Portage	X	
Preble	X	
Putnam		X*
Richland	X	
Ross	X	
Sandusky		X*
Scioto	X	
Seneca	X	
Shelby	X	
Stark	X	
Summit	X	
Trumbull	X	
Tuscarawas	X	
Union		X*
Van Wert		X*
Vinton	X	
Warren		X*
Washington	X	
Wayne		X*
Williams	X	
Wood		X*
Wyandot		X*

*EPA designation replaces state designation

Ohio - QR

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Cuyahoga	X	
Franklin	X*	
Hamilton	X	
Jefferson	X	
Lucas	X	
Mahoning	X	
Montgomery	X	
Summit	X	
All portions of all other counties in State of Ohio		X

*EPA designation replaces state designation

Ohio - RS

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
State of Ohio		X

681.337 Oklahoma.

Oklahoma - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 017				X
AQCR 184				
Portions of Oklahoma Co.	X			
Portions of Oklahoma Co.			X	
Remainder of AQCR				X
AQCR 185				
AQCR 186				
Portions of Tulsa Co.	X			
Portions of Tulsa Co.			X	
Portion of Muskogee Co.			X	
Mayes Co.	X*			
Remainder of AQCR				X
AQCR 187				X
AQCR 188				X
AQCR 189				
Portion of Comanche Co.			X	
Remainder of AQCR				X

*EPA designation replaces state designation

Oklahoma - O

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 017		X
AQCR 184		
Oklahoma Co.	X	
Cleveland Co.	X	
Remainder of AQCR		X
AQCR 185		X
AQCR 186		
Tulsa Co.	X	
Remaining counties in AQCR		X
AQCR 187		X
AQCR 188		X
AQCR 189		X

Oklahoma - SO

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 017				X
AQCR 184				X
AQCR 185				X
AQCR 186				
Washington Co. (Portion of)	X*			
Remainder of AQCR				X
AQCR 187				X
AQCR 188				X
AQCR 189				X

*EPA designation replaces State designation

Oklahoma - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 017		X
AQCR 184		X
AQCR 185		X
AQCR 186		
Portion of Tulsa Co.	X*	
Remainder of AQCR		X
AQCR 187		X
AQCR 188		X
AQCR 189		X

*EPA designation replaces State designation

Oklahoma - SO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 017		X
AQCR 184		X
AQCR 185		X
AQCR 186		X
AQCR 187		X
AQCR 188		X
AQCR 189		X

Oregon - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Entire State				X

§81.338 Oregon.

Oregon - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Portland-Vancouver AQMA (Oregon Portion)		X		
Eugene-Springfield AQMA	X			
Medford-Ashland AQMA		X		
Remainder of State				X

Oregon - O$_3$

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Portland-Vancouver AQMA (Oregon Portion)	X	
Medford-Ashland AQMA	X	
Salem	X	
Eugene-Springfield AQMA	X*	
Remainder of State		X

*EPA designation replaces State designation.

Oregon - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Portland-Vancouver AQMA (Oregon Portion)	X	
Eugene-Springfield AQMA	X	
Medford-Ashland AQMA	X	
City of Salem	X	
Remainder of State		X

Oregon - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State		X

§81.339 Pennsylvania.

Pennsylvania - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
I. Metropolitan Philadelphia Interstate AQCR				
A) City of Philadelphia				
- Census tracts 1-12, 125-142, 144-157, 162-177, 190-205, 293, 294, 298-302, 315-321, 323, 325, 326, 329-332.		X		
- Census tracts 13-75, 143, 158-161, 178-189, 295-297, 322, 324, 327.			X	
- Balance of City				X
B) Montgomery County				
Conshohocken Boro		X		
West Conshohocken Boro			X	
Lower Merion Boro			X	
Narberth Boro			X	
Upper Merion Twp.			X	
Bridgeport Boro			X	
Norristown Boro			X	
Plymouth Twp.			X	
Whitemarsh Twp.			X	
Lansdale Boro		X		
Montgomery Twp.			X	
Upper Gwynedd Twp.			X	
North Wales Boro			X	
Towamencin Twp.			X	
Hatfield Twp.			X	
Hatfield Boro			X	
Pottstown Boro	X			
West Pottsgrove Twp.			X	
Upper Pottsgrove Twp.			X	

Pennsylvania - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
B) Montgomery County cont'd				
Lower Pottsgrove Twp.			X	
Upper Providence Twp.			X	
C) Chester County				
South Coatesville Boro	X			
City of Coatesville			X	
Caln Twp.			X	
East Fallowfield Twp.			X	
Modena Boro			X	
Valley Twp.			X	
North Coventry Twp.			X	
East Coventry Twp.			X	
Phoenixville Boro		X		
Schuylkill Twp.			X	
D) Remaining Pennsylvania Portion of AQCR				X
II. Northeast Pennsylvania Interstate AQCR				
A) Allentown, Bethlehem, Easton Air Basin	X			
B) Reading Air Basin	X			
C) Scranton, Wilkes-Barre Air Basin	X			

Pennsylvania - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
B) Remaining Pennsylvania Portion of AQCR				X
III. South Central Pennsylvania Interstate AQCR				
A) Lancaster Air Basin	X			
B) Harrisburg Air Basin	X			
C) York Air Basin	X			
D) Remainder of AQCR	X			
IV. Central Pennsylvania Interstate AQCR				
A) Johnstown Air Basin	X			
B) Lycoming County/ City of Williamsport	X			
South Williamsport Boro			X	
Duboistown Boro			X	
Armstrong Twp.			X	
Susquehanna Twp.			X	
Woodward Twp.			X	
Old Lycoming Twp.			X	
Loyalsock Twp.			X	
Montoursville Boro.			X	
C) Blair County				
City of Altoona	X			
Logan Twp.			X	
Allegheny Twp.			X	

Pennsylvania - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
1. Metropolitan Philadelphia Interstate AQCR				
A) City of Philadelphia				
- Census tracts 2, 3, 4, 5, 6, 7, 8, 9, 11, 12.	X			
- Balance of City				X
B) Delaware County			X	
C) Remaining Pennsylvania Portion of AQCR				X
II. Northeast Pennsylvania Intrastate AQCR				X
III. South Central Pennsylvania Intrastate AQCR				X
IV. Central Pennsylvania Intrastate AQCR				
A) Northumberland County				
Lower Augusta Twp.	X			
Point Twp.	X			
Little Mahanoy Twp.		X		
Rockefeller Twp.		X		
Shamokin Twp.		X		
Upper Augusta Twp.			X	
Sunbury Boro			X	
Northumberland Boro			X	

Pennsylvania - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
D) Remainder of AQCR				X
V. Southwest Pennsylvania Intrastate AQCR				
A) Monongahela Valley Air Basin	X			
B) Allegheny County Air Basin	X			
C) Beaver Valley Air Basin	X			
D) Remainder of AQCR				X
VI. Northwest Pennsylvania Interstate AQCR				
A) Erie Air Basin	X			
B) Mercer County				
City of Sharon	X			
City of Farrell	X			
Hickory Twp.			X	
Sharpsville Boro			X	
Wheatland Boro			X	
C) Remaining Pennsylvania Portion of AQCR				X

Pennsylvania - SO_2 (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
B) Snyder County				
Shamokin Dam	X			
Monroe Twp.			X	
C) Remainder of AQCR				X
V. Southwest Pennsylvania Intrastate AQCR				
A) Monongahela Valley Air Basin	X			
B) Allegheny County Air Basin	X			
C) Armstrong County				
Madison Twp.	X			
Mahoning Twp.	X			
Boggs Twp.	X			
Washington Twp.	X			
Pine Twp.	X			
D) Remainder of AQCR				X
VI. Northwest Pennsylvania Interstate AQCR				
A) Warren County				
Conewango Twp.	X			
Warren Boro			X	
Mead Twp.			X	
Clarendon Boro			X	
Pleasant Twp.			X	
B) Remaining Pennsylvania Portion of the AQCR				X

Pennsylvania - O

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State	X	

Pennsylvania - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State		X

§81.340 Rhode Island.

Pennsylvania - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
City of Philadelphia - high traffic density areas within the CBD and certain other high traffic density areas	X	
Allegheny County Air Basin - high traffic density areas within the CBD and certain other high traffic density areas	X	
Remainder of State		X

Rhode Island - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Providence	X			
East Providence, Cranston, Warwick, North Providence, Pawtucket, and Central Falls			X	
Remainder of Rhode Island portion of AQCR 120				X

Rhode Island - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Rhode Island portion of AQCR 120				X

Rhode Island - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Providence	X	
Remainder of Rhode Island portion of AQCR 120		X

Rhode Island - O_3

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Rhode Island portion of AQCR 120	X	

Rhode Island - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Rhode Island portion of AQCR 120		X

§81.341 South Carolina.

South Carolina - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
That portion of Charleston County within section of North Charleston just south of U. S. Army Depot		X		
That portion of Charleston County within section of Charleston just west of south end of U.S. Naval Station	X			
That portion of Georgetown County within southern section of Georgetown	X			
Rest of State				X

South Carolina - O_3

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Charleston Area - Charleston and Berkeley Counties	X*	
Columbia Area - Richland and Lexington Counties	X*	
York County	X*	
Rest of State		X

*EPA designation replaces State designation.

South Carolina - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Statewide				X

South Carolina - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
That portion of York County within city limits of Rock Hill	X	
That portion of Richland County within city limits of Columbia	X	
Rest of State		X

South Carolina - SO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Statewide		X

South Dakota - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Entire State				X

§81.342 South Dakota.

South Dakota - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Rapid City Area	X			
Rest of State				X

South Dakota - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Entire State				X

South Dakota - O_3

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State		X

South Dakota - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State		X

South Dakota - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State		X

§81.343 Tennessee.

Tennessee - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Those portions of Anderson and Knox Counties surrounding TVA's Bull Run plant		X		
Those portions of Campbell County within downtown Lafollette and the area surrounding the Carborundum Company's plant at Jacksboro.	X			
That portion of Coffee County within a section of Tullahoma			X	
That portion of Davidson County within the 1964 Urban Services Area of Nashville	X			
That portion of Hamilton County within, approximately, the city limits of Chattanooga	X			
That portion of Maury County within the northern section of Columbia	X			
That portion of Obion County within the downtown section of Union City			X	

Tennessee - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
That portion of Roane County within a downtown section of Rockwood	X			
Those portions of Shelby County within two sections of downtown Memphis	X			
Those portions of Sullivan County within a section of Bristol and a section of Kingsport	X			
That portion of Sumner County surrounding TVA's Gallatin plant		X		
That portion of Washington County within downtown Johnson City			X*	
Rest of State				X

*EPA designation replaces State designation

Tennessee - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Nashville Area - Davidson, Sumner, Rutherford, Wilson and Williamson Counties	X**	
Shelby County	X**	
Maury County	X**	
Hamilton County	X**	
Knox County	X**	
Sullivan County	X**	
Bradley County	X**	
Roane County	X**	
Rest of State		X

**EPA designation only

Tennessee - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
That portion of Polk County surrounding the Cities Service plant at Copperhill	X	X		
That portion of Henry County surrounding the Stauffer Organic Chemical plant at Mt. Pleasant			X	
That portion of Benton and Humphreys Counties surrounding TVA's Johnsonville plant	X	X		
That portion of Roane County surrounding TVA's Kingston plant			X*	
Rest of State				X

*EPA designation replaces State designation

Tennessee - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Davidson County	X	
Knox County	X	
Shelby County	X	
Rest of State		X

Tennessee - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Statewide		X

Texas - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 022				X
AQCR 106				X
AQCR 153				
El Paso County			X*	
Remainder of AQCR				X
AQCR 210				X
AQCR 211				X
AQCR 212				X
AQCR 213				X
AQCR 214				X
AQCR 215				X
AQCR 216				X
AQCR 217				X
AQCR 218				X

*EPA designation replaces State designation

§81.344 Texas.

Texas - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 022				X
AQCR 106				X
AQCR 153				
Limited area in El Paso County	X			
Remainder of AQCR				X
AQCR 210				X
AQCR 211				X
AQCR 212				X
AQCR 213				
Limited areas in Cameron County	X			
Limited areas in Hidalgo County	X			
Remainder of AQCR				X
AQCR 214				
Limited areas in Nueces County	X			
Remainder of AQCR				X
AQCR 215				
Limited areas in Dallas County	X			
Limited areas in Tarrant County		X		
Remainder of AQCR				X
AQCR 216				
Limited areas in Harris County	X			
Limited areas in Galveston County	X			
Remainder of AQCR				X
AQCR 217				
Limited area in Navarro County	X			
Limited area in Bexar County	X			
Remainder of AQCR				X
AQCR 218				X

Texas - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 022		
Gregg County	X*	
Remainder of AQCR		X
AQCR 106		
Jefferson County	X	
Orange County	X	
Remainder of AQCR		X
AQCR 153		
El Paso County	X	
Remainder of AQCR		X
AQCR 210		X
AQCR 211		X
AQCR 212		
Travis County	X	
McLennan County	X*	
Remainder of AQCR		X
AQCR 213		X
AQCR 214		
Portion of Nueces County	X	
Victoria County	X*	
Remainder of AQCR		X
AQCR 215		
Dallas County	X	
Tarrant County	X	
Remainder of AQCR		X
AQCR 216		
Brazoria County	X	
Galveston County	X	
Harris County	X	
Remainder of AQCR		X

Tenne - O_x (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 217		
Beaver County	X	X
Remainder of AQCR		
AQCR 218		
Boter County	X°	X
Remainder of AQCR		

°EPA designation replaces State designation

Tenne - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 022		X
AQCR 106		X
AQCR 153		X
AQCR 210		X
AQCR 211		X
AQCR 212		X
AQCR 213		X
AQCR 214		X
AQCR 215		X
AQCR 216		X
AQCR 217		X
AQCR 218		X

§81.345 Utah.

Tenne - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 022		X
AQCR 106		X
AQCR 153		
Portion of the City Limits of El Paso	X	X
Remainder of AQCR		X
AQCR 210		X
AQCR 211		X
AQCR 212		X
AQCR 213		X
AQCR 214		X
AQCR 215		X
AQCR 216		X
AQCR 217		X
AQCR 218		X

Utah - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Davis County		X		
Salt Lake County	X			
Utah County	X			
Weber County	X			
City of Price	X			
Cedar City		X		
Rest of State				X

Utah - NO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Salt Lake County	X°	X°		
Tooele County	X°	X°		
Cedar City	X	X		
Rest of State				X

°EPA designation replaces State designation

Utah - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Salt Lake City	X	
City of Bountiful	X	
City of Ogden	X	
City of Provo	X	
Rest of State		X

Utah - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Salt Lake County	X	
Davis County	X	
Utah County	X	
Weber County	X	
Uintah County (Southern Half)	X	
Rest of State		X

Utah - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State		X

881.346 Vermont.

Vermont - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Champlain Valley Air Management Area: Consisting of township and cities listed below: Colchester Town, Winooski City, Essex Town, Burlington City, S. Burlington City, Williston Town, Shelburne Town, St. George Town		X		
Vermont Valley Air Management Area: Consisting of township and cities listed below: Rutland Town, Rutland City, Proctor Town, West Rutland Town, Pittsford		X		
Central Vermont Air Management Area: Consisting of township and cities listed below: Barre City, Barre Town		X		
Remainder of the State				X

Vermont - O_3

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 159 (Vermont portion)	X	
AQCR 221 (Vermont portion)	X	

Vermont - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Champlain Valley Air Management Area: Consisting of the townships and cities listed below: Colchester Town, Winooski City, Essex Town, Burlington City, S. Burlington City, Williston Town, Shelburne Town, St. George Town	X	
Remainder of the State		X

Vermont - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 159 (Vermont portion)				X
AQCR 221 (Vermont portion)				X

Vermont - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 159 (Vermont portion)		X
AQCR 211 (Vermont portion)		X

Virginia - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Prince Edward County			X*	
Remainder of the Central Virginia AQCR				X*
Northeastern Virginia AQCR				X
City of Hopewell			X*	
City of Richmond			X*	
Sussex County			X*	
Remainder of the State Capital AQCR				X*
City of Chesapeake			X*	
Remainder of the Hampton Roads AQCR				X*
City of Alexandria		*	X*	
Arlington County			X*	
City of Fairfax			X*	
Fairfax County			X*	
Prince William			X*	
Remainder of the Virginia Portion of the National Capital Interstate AQCR				X*

*EPA designation replaces State designation

881.347 Virginia.

Virginia - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Buchanan County			X*	
City of Galax			X*	
City of Norton			X*	
Tazewell County			X*	
Washington County			X*	
Remainder of the Virginia Portion of Southwest Virginia-Eastern Tennessee Interstate AQCR				X*
Frederick County			X*	
Pulaski County			X*	
Roanoke County			X*	
Warren County			X*	
City of Waynesboro			X*	
Remainder of the Valley of Virginia AQCR				X*
City of Bedford			X*	
Henry County			X*	
Lynchburg			X*	
Patrick County			X*	
Pittsylvania County			X*	

*EPA designation replaces State designation

Virginia - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Virginia Portion of Southwest Virginia-Eastern Tennessee Interstate AQCR				X
Valley of Virginia AQCR				X
Central Virginia AQCR				X
Northeastern Virginia AQCR				X
State Capital AQCR				X
Hampton Roads AQCR				X
Virginia Portion of National Capital Interstate AQCR				X

Virginia - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Virginia Portion of Southwest Virginia-Eastern Tennessee Interstate AQCR	X*	
Valley of Virginia AQCR	X*	
Central Virginia AQCR		X
Northeastern Virginia AQCR	X*	
State Capital AQCR	X*	
Hampton Roads AQCR	X*	
Virginia Portion of National Capital Interstate AQCR	X*	

*EPA designation replaces State designation

Virginia - NO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Virginia Portion of Southwest Virginia-Eastern Tennessee Interstate AQCR				X
Valley of Virginia AQCR				X
Central Virginia AQCR				X
Northeastern Virginia AQCR				X
State Capital AQCR				X
Hampton Roads AQCR				X
Virginia Portion of National Capital Interstate AQCR				X

Virginia - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Virginia Portion of Southwest Virginia-Eastern Tennessee Interstate AQCR		X
Valley of Virginia AQCR		X
Central Virginia AQCR		X
Northeastern Virginia AQCR		X
City of Richmond		X
Remainder of State Capital AQCR		X
Norfolk		X
Hampton		X
Remainder of Hampton Roads AQCR		X
Alexandria	X*	
Fairfax County	X*	
Remainder of the Virginia Portion of National Capital Interstate AQCR		X*

*EPA designation replaces State designation

§81.348 Washington.

Washington - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Seattle - that area including the north protion of the Duwamish industrial area, and extending to the southern boundary of the CBD	X			
Seattle - an area of the Duwamish Valley extending approximately 2 1/2 miles further south than the above area		X		
Renton		X		
Kent		X		
Tacoma - that area including the Tide Flats industrial area, east end of the CBD, and the north end of South Tacoma Way corridor	X			
Port Angeles - small area of the CBD		X		

Washington - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Longview - industrial area		X		
Vancouver - small portion of the industrial port area	X			
Yakima	X			
Tri-Cities (Pasco, Kennewick, Richland)	X			
Walla Walla	X			
Spokane	X			
Clarkston	X*			
Remainder of State				X

*EPA designation replaces State designation

Washington - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Tacoma - a parabolic shaped area extending approximately 3 1/2 miles SSW from the ASARCO copper smelter	X			
Remainder of State				X

Washington - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Greater Seattle - Tacoma Area - in general, from Puget Sound at the west to North Bend at the east, from Puyallup at the south to Edmonds at the north	X	
Portland-Vancouver AQMA (Washington portion)	X*	
Spokane		X*
Remainder of State		X

*EPA designation replaces State designation

Washington - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Greater Seattle - Tacoma Area	X*	
City of Spokane	X*	
Yakima - portion of the CBD	X	
Remainder of State		X

*EPA designation replaces State designation

Washington - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State		X

West Virginia - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
New Manchester - Grant Magisterial District in Hancock County	X			
Wellsburg Magisterial District in Brooke County	X			
Piedmont Magisterial District in Mineral County			X**	
Remainder of State				X

**EPA designation only

§81.349 West Virginia.

West Virginia - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Steubenville-Weirton Wheeling Interstate AQCR	X			
Parkersburg - Tygart Magisterial District in Wood County		X		
Kanawha County, and Falls Magisterial District and Kanawha Magisterial District in Fayette County	X			
In Marion County, all portions of Union and Winfield Magisterial Districts west of Interstate Highway I-79	X			
Ardon Magisterial District in Berkeley County			X	
Remainder of State				X

West Virginia - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Kanawha Valley Interstate AQCR	X	
Remainder of State		X

West Virginia - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
State of West Virginia		X

West Virginia - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
State of West Virginia		X**

**EPA designation only

§81.350 Wisconsin.

Wisconsin - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 68				
Grant County				X
AQCR 73				
Rock County				
Beloit				
Sub-city area defined as follows: North: Woodward Ave. from 3rd St. and Portland east to Park Avenue. West: Corner of 3rd St., Portland and Woodward South on 3rd St. to Second St. Southeast on Second St. to Grand Avenue. Then southeast on Grand to State St. and South on State to the Illinois-Wisconsin Border. South: Illinois-Wisconsin Border. East: Park Avenue from Illinois-Wisconsin Border.	X			
Sub-city area defined as follows: North: From Washburn and Wisconsin Ave. west to the intersection of Chicago Northwestern Railroad tracks and Leamigan Creek. West: From Chicago Northwestern intersection RR tracks and Leamigan Creek South on RR tracks to the Illinois-Wisconsin border. South: Illinois-Wisconsin Border. East: Dearborn Ave. from the Ill-WI border north to Grand Ave. continuing northwest on Grand Ave. to Wisconsin Ave. to Washburn Street.		X		
Remainder of Rock County				X
AQCR 128				
Barron County				X
Buffalo County				X

Wisconsin - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Chippewa County				X
Clark County				X
Crawford County				X
Dunn County				X
Eau Claire County				X
Jackson County				X
LaCrosse County				
LaCrosse				
Sub-city area defined as follows: South: Corner of LaCrosse St. and Second Ave., East on LaCrosse St. to 10th Street. West: Corner of Second St. and Main St. to LaCrosse St. South: Corner 10th St. and Main St., West to Second Street. East: Corner of 10th St. South to Main Street		X[1]		
Remainder of LaCrosse County				X
Monroe County				X
Pepin County				X
Pierce County				X
Polk County				X
St. Croix County				X
Trempealeau County				X
Vernon County				X
AQCR 129				
Ashland County				X
Bayfield County				X
Burnett County				X
Douglas County				X
Superior				
Sub-city areas defined as follows: AREA 1 West: Superior Bay and St. Louis Bay shorelice from intersection with Belknap St. to intersection with E St. East. South: East from intersection of Belknap St. and Minnesota-Wisconsin border to Oaks Ave. south on Oaks Ave. from Belknap		X		

Wisconsin - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Street and 19th Street east on 19th Street from Oaks Ave. to Hill Ave. North on Hill Ave. to E St. East. Northeast on E. St. East to MN-WI border in Superior Bay				
AREA 2				
North: Corner East Eighth St. and 37th St., North along 37th St. to Superior Bay.				
West: Corner east Eighth Street and 37th St., east along East Eighth St. to intersection with last set of railroad tracks.				
South: Intersection of last set of railroad tracks, north to Allouez Bay.				
East: Allouez Bay and Superior Bay North from point where South boundary intersects to intersection of 37th Ave. and shoreline.				
Remainder of Douglas County				X
Iron County				X
Price County				X
Rusk County				X
Sawyer County				X
Taylor County				X
Washburn County				X
AQCR 237				
Brown County				
Green Bay				
Sub-city area defined as follows:		X		
North: Green Bay				
West: Corner west Mason St. and Ashland Ave. north to Mather St., west to Crocker Street, north on Crocker St. to Bylsby St., then to Green Bay.				

Wisconsin - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
continue southeast on Franklin St. to Oak St.				
West: Corner Dixie and Cecil Streets north to Harriese St., continue north on Harrison Street to Caroline Street				
South: Corner Dixie Street and Cecil Street East on Cecil St. to Higgins Ave.				
East: Corner Franklin St. and Oak St. south on Oak St. to Lauden Boulevard, west on Lauden Blvd. to Higgins Ave. to Cecil Street.				
Dehkosh				
Sub-city area defined as follow: North: Corner Irving Ave. and Wisconsin Ave. east to Bowen Street		X		
West: Corner Ohio St. and west 11th Ave. north to Route 26/44, continue northeast along Route 26/44 to intersection with Irving Avenue.				
South: Corner Ohio St. and west 11th Ave., east along west 11th Ave. to Lake Winnebago.				
East: Corner Irving Ave. and Bowen St., South along Bowen to Lake Winnebago.				
Remainder of Winnebago Co.				X
AQCR 238				
Adams County				X
Florence County				X
Forest County				X
Juneau County				X
Langlade County				X
Lincoln County				X
Marathon County				X
Brokaw--corporate limits of Brokaw		X		

Wisconsin - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
South: Corner west Mason St. and Ashland Ave., east along west Mason St. to Irwin Ave.				
East: Corner west Mason St. and Irwin Ave. north along Irwin Ave. to Green Bay.				
Remainder of Brown County				X
Calumet County				X
Door County				X
Fond du Lac County				X
Green Lake County				X
Kewaunee County				X
Manitowoc				
Manitowoc				
Sub-city area defined as follows:				
North: East from Manitowoc River to York St. to Lake Michigan.				
West: 14th St. south from Wollmer St. to Hamilton St. South: Hamilton St. east from 14th St. to Lake Michigan				
East: Lake Michigan				
Remainder of Manitowoc Co.				X
Marinette County				
Marinette--corporate limits of Marinette		X		
Remainder of Marinette Co.				X
Marquette County				X
Menominee				X
Oconto				X
Outagamie				X
Shawano				X
Sheboygan				X
Waupaca				X
Waushara				X
Winnebago				X
Neenah				
Sub-city area defined as follows: North: Corner Caroline St. and Harrison St. east to Franklin St.		X		

Wisconsin - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Remainder of Marathon Co.				X
Oneida County				X
Portage County				X
Vilas County				X
Wood County				
Marshfield				
Sub-city area defined as follows:		X		
North: Chicago and Northwestern railroad track.				
West: Western border of section 18 north to Chicago and Northwestern railroad tracks.				
South: Southern border of section 17 and 18.				
East: Eastern border of section 17 north to Chicago and Northwestern railroad tracks.				
Remainder of Wood County				X
AQCR 239				
Kenosha County				
Kenosha				
Sub-city area defined as follows:		X		
North: 52nd Street east from 39th Avenue to Lake Michigan				
West: 39th Avenue south from 52nd Street to 67th Street.				
South: 67th from 39th Avenue to Lake Michigan.				
East: Lake Michigan				X
Remainder of Kenosha Co.				
Milwaukee County				
Milwaukee				
Sub-city area defined as follows:	X			
North: St. Paul Avenue from corner 16th Street to Lake Michigan				
West: 16th Street south from St. Paul Avenue to Pierce Street, east on				

Wisconsin - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Pierce Street to 6th St., south on 6th Street to Becher Street				
South: Becher Street east from 6th to Lake Michigan				
East: Lake Michigan				
Sub-city area defined as follows:		X		
North: Center Street east from 35th Street to Lake Michigan				
West: 35th Street south from North Avenue extended to 56th Street				
South: Oklahoma Avenue east from 56th St. to 6th St., south on 6th St. to Morgan Ave., east on Morgan Ave. to Lake Michigan.				
East: Lake Michigan				
Remainder of Milwaukee Co.				X
Ozaukee County				X
Racine County				
Racine				
Sub-city area defined as follows:		X		
North: Douglas Avenue north from Marquette St. To Rapida Drive, northwest on Rapida Drive to intersection with Forest Street.				
West: North from corner of Grange Avenue and Washington Avenue north to Prerie Avenue north to intersection with north boundary				
South: Washington Avenue west from Grange Avenue to Marquette Street				
East: Marquette Street north from Washington Avenue to Douglas Ave.				

Wisconsin - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
west on Moreland Blvd. to Waukesha Ave., south on Waukesha Ave. to intersection of railroad tracks and Main St., south along railroad tracks to Arcadian Avenue.				
Remainder of Waukesha Co.				X
AQCR 240				
Columbia County				
Pacific Township				
Sub-township area defined as follows:	X			
North: Northern border of section 22 from USH 16 east to section 23.				
West: C.M. St. P&P Railroad south from northern border of section 22 to southern border of section 22.				
South: Southern border of section 22 east from C.M. St. P&P Railroad to section 23.				
East: Eastern border of section 22.				
Sub-township area defined as follows: Sections 22, 23,26 and 27 of T.12 N.-R.9 E.		X		
Remainder of Columbia Co.				X
Dane County				
Madison				
Sub-city area defined as follows:		X		
North: Corner of Schlimgen Ave. and Packers Ave. west to Lakewood Blvd.				
Northwest: Corner of Lakewood Blvd. and Del Mar Drive south to Lake Mendota, continue along				

Wisconsin - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Remainder of Racine County				X
Walworth County				
Lake Geneva			X	
Remainder of Walworth Co.				X
Washington County				X
Waukesha County				
Waukesha				
Sub-city area defined as follows:	X			
North: West on Kales Ave. from Whiterock Ave. to Niagara St.				
West: Whiterock Avenue north from Main Street to Kales Avenue				
South: Southwest along Main Street from intersection of railroad track and Main Street to Whiterock Avenue.				
East: Southeast from the intersection of Kales Ave. to the intersection of the railroad tracks and Main Street.				
Sub-city area defined as follows:		X		
North: West along Margaret St. from corner of Margaret St. and Highland Ave. to North St.				
West: North St. north from Union St. to intersection with north boundary				
South: West on Arcadian Avenue from intersection of railroad track and Arcadian Ave. to West Ave. to Buckley St., across Fox River to Union St. then to North Street				
East: South on Highland Avenue to Moreland Blvd.				

Wisconsin - TSP (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
eastern shoreline of Lake Mendota to Charter Street				
West: Charter St. north from Vilas St. to Lake Mendota				
South Southeast: Vilas St. east from Charter St. to west Washington Ave., continue southeast to Lake Monona, continue along west shoreline of Lake Monona northeast to Starkweather Creek.				
North Northeast: Western branch of Starkweather Creek northeast to Fair Oaks Ave., then north along Bryan St. to Milwaukee St. continue west to Oak St. then north to Aberg Ave., continue northwest to Packers Ave., then north to Schlimgen Ave.				
Remainder of Dane County				X
Dodge County				X
Green County				X
Iowa County				X
Jefferson County				X
Lafayette County				X
Richland County				X
Sauk County				X

Footnote 1 - The specific boundaries defining the LaCrosse sub-city nonattainment area are interim, pending Wisconsin's submission of adequate justification.

Wisconsin - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
AQCR 68				
Grant County				X
AQCR 73				
Rock County				X
AQCR 123				
Barrne County				X
Buffalo County				X
Chippewa County				X
Clark County				X
Crawford County				X
Dunn County				X
Eau Claire County				X
Jackson County				X
LaCrosse County				X
Monroe County				X
Pepin County				X
Pierre County				X
Polk County				X
St. Croix County				X
Trempealeau County				X
Vernon County				
AQCR 129				
Ashland County				X
Bayfield County				X
Burnett County				X
Douglas County				X
Iron County				X
Price County				X
Rusk County				X
Sawyer County				X
Taylor County				X
Washburn County				X
AQCR 237				
Brown County				
Green Bay-corporate limits of Green Bay			X	
Remainder of Brown County				X
Calumet County				X
Door County				X
Fond du Lac County				X
Green Lake County				X
Kewaunee County				X
Manitowoc County				X
Marinette County				X

Wisconsin - SO_2 (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
West: Sherman Avenue north from Yahara River to Vahlen St. Southwest: Yahara River north from east Washington Ave. to Sherman Ave. South: East Washington Ave. from Yahara River to Aberg Avenue East: Intersection Aberg and Washington Ave. northwest to intersection with Packers Ave., then Packers Ave. north to corner Vahlen St.				
Remainder of Dane County				X
Dodge County				X
Green County				X
Iowa County				X
Jefferson County				X
Lafayette County				X
Richland County				X
Sauk County				X

Wisconsin - SO_2 (continued)

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Marquette County				X
Menominee County				X
Oconto County				X
Outagamie County				X
Shawano County				X
Sheboygan County				X
Waupaca County				X
Waushara County				X
Winnebago County				X
AQCR 238				
Adams County				X
Florence County				X
Forest County				X
Juneau County				X
Langlade County				X
Lincoln County				X
Marathon County				
Brokaw--corporate limits of Brokaw	X	X		
Remainder of Marathon County				X
Oneida County				X
Portage County				X
Vilas County				X
Wood County				
Birom--corporate limits of Birom			X	
Remainder of Wood County				X
AQCR 239				
Kenosha County				X
Milwaukee County				X
Ozaukee County				X
Racine County				X
Walworth County				X
Washington County				X
Waukesha County				X
AQCR 240				
Columbia County				X
Dane County				
Madison--sub-city area defined as follows: North: Corner Sherman Ave. and Vahlen St. east along Vahlen St. to Packers Avenue	X[a]			

[a]EPA designation replaces State designation

Wisconsin - O_3

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 68		
Grant County	X	
AQCR 73		
Rock County		X
AQCR 128		
Barron County		X
Buffalo County		X
Chippewa County		X
Clark County		X
Crawford County		X
Dunn County		X
Eau Claire County		X
Jackson County	X	
LaCrosse County		X
Monroe County		X
Pepin County		X
Pierre County		X
Polk County		X
St. Croix County		X
Trempealeau County		X
Vernon County		X
AQCR 129		
Ashland County		X
Bayfield County		X
Burnett County		X
Douglas County	X	
Iron County		X
Price County		X
Rusk County		X
Sawyer County		X
Taylor County		X
Washburn County		X
AQCR 237		
Brown County	X	
Calumet County		X
Door County		X
Fond du Lac County		X
Green Lake County		X
Kewaunee County		X
Manitowoc County		X
Marinette County		X
Marquette County		X

Wisconsin - O_3 (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Menominee County		X
Oconto County		X
Outagamie County		X
Shawano County		X
Sheboygan County		X
Waupaca County		X
Waushara County		X
Winnebago County		X
AQCR 238		
Adams County		X
Florence County		X
Forest County		X
Juneau County		X
Langlade County		X
Lincoln County		X
Marathon County		X
Oneida County		X
Portage County		X
Vilas County	X	
Wood County		X
AQCR 239		
Kenosha County	X	
Milwaukee County	X	
Ozaukee County	X	
Racine County	X	
Walworth County		X
Washington County		X
Waukesha County	X	
AQCR 240		
Columbia County	X	
Dane County	X	
Dodge County		X
Green County		X
Iowa County		X
Jefferson County		X
Lafayette County		X
Richland County		X
Sauk County		X

Wisconsin - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
AQCR 68		
Grant County		X
AQCR 73		
Rock County		X
AQCR 128		
Barron County		X
Buffalo County		X
Chippewa County		X
Clark County		X
Crawford County		X
Dunn County		X
Eau Claire County		X
Jackson County		X
LaCrosse County		X
Monroe County		X
Pepin County		X
Pierre County		X
Polk County		X
St. Croix County		X
Trempealeau County		X
Vernon County		X
AQCR 129		
Ashland County		X
Bayfield County		X
Burnett County		X
Douglas County		X
Iron County		X
Price County		X
Rusk County		X
Sawyer County		X
Taylor County		X
Washburn County		X
AQCR 237		
Brown County		X
Calumet County		X
Door County		X
Fond du Lac County		X
Green Lake County		X
Kewaunee County		X
Manitowoc County		X
Marinette County		X
Marquette County		X
Menominee County		X

Wisconsin - CO (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Oconto County		X
Outagamie County		X
Shawano County		X
Sheboygan County		X
Waupaca County		X
Waushara County		X
Winnebago County		X
AQCR 238		
Adams County		
Florence County		X
Forest County		X
Juneau County		X
Langlade County		X
Lincoln County		X
Marathon County		X
Oneida County		X
Portage County		X
Vilas County		X
Wood County		X
AQCR 239		
Kenosha County		X
Milwaukee County		
Milwaukee		
Sub-city area defined as follows: North: From 124th St. and Silver Spring Road to Sunny Point Road, north on Sunny Point Road and North River Road to Good Hope Road, east on Good Hope Road to Lombardy Road. East: From Lombardy and Good Hope Roads south on Lombardy to Yates Road, South on Yates and Monica Blvd. to the Milwaukee River, south from the river on Humboldt Blvd. to the Lake Michigan waterfront, south from the waterfront on Clement Avenue to Layton Avenue.	X	

Wisconsin - CO (continued)

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
South: From Layton and Clement Avenues west to Layton to 13th Street, south on 13th to Howson Avenue, west on Howson to 20th Street, north on 20th to Layton Avenue, west on Layton to 108th Street West: From Layton Avenue and 108th to Watertown Plank Road, west on Watertown Plank to 124th St., north on 124th St. to Silver Spring Road.		
Remainder of Milwaukee Co.		X
Ozaukee County		X
Racine County		X
Walworth County		X
Washington County		X
Waukesha County		X
AQCR 240		
Columbia County		X
Dane County		X
Dodge County		X
Green County		X
Iowa County		X
Jefferson County		X
Lafayette County		X
Richland County		X
Sauk County		X

Wisconsin - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
State of Wisconsin		X

Wyoming - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Entire State				X

§81.351 Wyoming.

Wyoming - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Trona Industrial Area (Sweetwater County)	X			
Rest of State				X

Wyoming - O_3

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State		X

Wyoming - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State		X

Wyoming - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Entire State		X

§81.352 American Samoa.

American Samoa - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Whole State				X**

**EPA designation only

American Samoa - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Whole State				X**

**EPA designation only

American Samoa - O_3

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Whole State		X**

**EPA designation only

American Samoa - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Whole State		X**

**EPA designation only

American Samoa - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Whole State		X**

**EPA designation only

§81.353 Guam.

Guam - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Whole State	X*			

*EPA designation replaces State designation

Guam - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Whole State	X*			

*EPA designation replaces State designation

Guam - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Whole State		X

Guam - O_3

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Whole State		X

Guam - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Whole State		X

881.354 Northern Mariana Islands.

Northern Mariana Islands - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Whole State				X**

**EPA designation only

Northern Mariana Islands - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Whole State				X**

**EPA designation only

Northern Mariana Islands - O_3

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Whole State		X**

**EPA designation only

Northern Mariana Islands - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Whole State		X**

**EPA designation only

Northern Mariana Islands - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Whole State		X**

**EPA designation only

Puerto Rico - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Puerto Rico AQCR				
The Municipality of San Juan			X*	
Remainder of AQCR				X

*EPA designation replaces State designation

881.355 Puerto Rico.

Puerto Rico - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Puerto Rico AQCR				
Municipality of Catano	X*	X		
Municipality of Toa Baja (eastern)	X*	X		
Municipality of Guaynabo (northern)	X*	X		
Municipality of Bayamon (northern)		X		
Municipality of Dorado			X	
Municipality of Guaynabilla (southern)		X		
Municipality of Penuelas (central)		X		
Municipality of Ponce			X	
Municipality of Mayaguez			X*	
Remainder of AQCR				X

Puerto Rico - O_3

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Puerto Rico AQCR		X

Puerto Rico - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Puerto Rico AQCR		X

Puerto Rico - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Puerto Rico AQCR		X

§81.356 U.S. Virgin Islands.

Virgin Islands - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Virgin Islands AQCR St. Croix (southern) Remainder of AQCR	X	X		X

*EPA designation replaces State designation

Virgin Islands - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Virgin Islands AQCR St. Croix (southern) Remainder of AQCR			X*	X

*EPA designation replaces State designation

Virgin Islands - O_x

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Virgin Islands AQCR		X

Virgin Islands - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Virgin Islands AQCR		X

Virgin Islands - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Virgin Islands AQCR		X

APPENDIX A.—*Air Quality Control Regions (AQCRs)*

	AQCR No.
Alabama:	
Alabama and Tombigbee Rivers	1
Columbus-Phenix City	2
East Alabama	3
Metropolitan Birmingham	4
Mobile-Pensacola-Panama City-Southern Mississippi (Fla., Miss.)	5
Southeast Alabama	6
Tennessee River Valley-Cumberland Mountains (Tenn.)	7
Alaska:	
Cook Inlet	8
Northern Alaska	9
South Central Alaska	10
Southeastern Alaska	11
Arizona:	
Arizona-New Mexico Southern Border (N. Mex.)	12
Clark-Mohave	13
Four Corners (Colo., N. Mex., Utah)	14
Phoenix-Tucson	15
Arkansas:	
Central Arkansas	16
Metropolitan Fort Smith	17
Metropolitan Memphis	18
Monroe-El Dorado (La.)	19
Northeast Arkansas	20
Northwest Arkansas	21
Shreveport-Texarkana-Tyler (La., Okla., Texas)	22
California:	
Great Basin Valley	23
Metropolitan Los Angeles	24
North Central Coast	25
North Coast	26
Northeast Plateau	27
Sacramento Valley	28
San Diego	29
San Francisco Bay Area	30
San Joaquin Valley	31
South Central Coast	32
Southeast Desert	33
Colorado:	
Comanche	34
Four Corners (Ariz., N. Mex., Utah)	14
Grand Mesa	35
Metropolitan Denver	36
Pawnee	37
San Isabel	38
San Luis	39
Yampa	40
Connecticut:	
Eastern Connecticut	41
Hartford-New Haven-Springfield (Mass.)	42
New Jersey-New York-Connecticut (N.J., N.Y.)	43
Northwestern Connecticut	44
Delaware:	
Metropolitan Philadelphia (N.J., Pa.)	45
Southern Delaware	46
District of Columbia:	
National Capital (Md.)	47
Florida:	
Central Florida	48
Jacksonville-Brunswick (Ga.)	49
Mobile-Pensacola-Panama City-Southern Mississippi (Ala., Miss.)	5
Southeast Florida	50
Southwest Florida	51
West Central Florida	52
Georgia:	
Augusta-Aiken (S.C.)	53
Central Georgia	54
Chattanooga (Tenn.)	55
Columbus-Phenix City (Ala.)	2
Jacksonville-Brunswick (Fla.)	49
Metropolitan Atlanta	56
Northeast Georgia	57
Savannah-Beaufort (S.C.)	58
Southwest Georgia	59
Hawaii:	
Entire State	60
Idaho:	
Eastern Idaho	61
Eastern Washington-Northern Idaho (Wash.)	62
Idaho	63
Metropolitan Boise	64
Illinois:	
Burlington-Keokuk (Iowa)	65
East Central Illinois	66
Metropolitan Chicago (Ind.)	67

APPENDIX A.—*Air Quality Control Regions (AQCRs)*—Continued

Metropolitan Dubuque (Iowa, Wis.)	68
Metropolitan Quad Cities (Iowa)	69
Metropolitan St. Louis (Mo.)	70
North Central Illinois	71
Paducah-Cairo (Ky.)	72
Rockford-Janesville-Beloit (Wis.)	73
Southeast Illinois	74
West Central Illinois	75
Indiana:	
East Central Indiana	76
Evansville-Owensboro-Henderson (Ky.)	77
Louisville (Ky.)	78
Metropolitan Chicago (Ill.)	67
Metropolitan Cincinnati (Ky., Ohio)	79
Metropolitan Indianapolis	80
Northeast Indiana	81
South Bend-Elkhart-Benton Harbor (Mich.)	82
Southern Indiana	83
Wabash Valley	84
Iowa:	
Burlington-Keokuk (Ill.)	65
Metropolitan Dubuque (Ill., Wis.)	68
Metropolitan Omaha-Council Bluffs (Nebr.)	85
Metropolitan Quad Cities (Ill.)	69
Metropolitan Sioux City (Nebr., S. Dak.)	86
Metropolitan Sioux Falls (S. Dak.)	87
Northeast Iowa	88
North Central Iowa	89
Northwest Iowa	90
Southeast Iowa	91
South Central Iowa	92
Southwest Iowa	93
Kansas:	
Metropolitan Kansas City (Mo.)	94
Northeast Kansas	95
North Central Kansas	96
Northwest Kansas	97
Southeast Kansas	98
South Central Kansas	99
Southwest Kansas	100
Kentucky:	
Appalachian	101
Bluegrass	102
Evansville-Owensboro-Henderson (Ind.)	77
Huntington-Ashland-Portsmouth-Ironton (Ohio, W. Va.)	103
Louisville (Ind.)	78
Metropolitan Cincinnati (Ind., Ohio)	79
North Central Kentucky	104
Paducah-Cairo (Ill.)	72
South Central Kentucky	105
Louisiana:	
Monroe-El Dorado (Ark.)	19
Shreveport-Texarkana-Tyler (Ark., Okla., Tex.)	22
Southern Louisiana-Southeast Texas (Tex.)	106
Maine:	
Androscoggin Valley (N.H.)	107
Aroostook	108
Down East	109
Metropolitan Portland	110
Northwest Maine	111
Maryland:	
Central Maryland	112
Cumberland-Keyser (W. Va.)	113
Eastern Shore	114
Metropolitan Baltimore	115
National Capital (D.C.)	47
Southern Maryland	116
Massachusetts:	
Berkshire	117
Central Massachusetts	118
Hartford-New Haven-Springfield (Conn.)	42
Metropolitan Boston	119
Metropolitan Providence (R.I.)	120
Merrimack Valley-Southern New Hampshire (N.H.)	121
Michigan:	
Central Michigan	122
Metropolitan Detroit-Port Huron	123
Metropolitan Toledo (Ohio)	124
South Bend-Elkhart-Benton Harbor (Ind.)	82
South Central Michigan	125
Upper Michigan	126
Minnesota:	
Central Minnesota	127
Southeast Minnesota-La Crosse (Wis.)	128

APPENDIX A.—*Air Quality Control Regions (AQCRs)*—Continued

Duluth-Superior (Wis.)	129
Metropolitan Fargo-Moorhead (N. Dak.)	130
Minneapolis-St. Paul	131
Northwest Minnesota	132
Southwest Minnesota	133
Mississippi:	
Metropolitan Memphis (Ark., Tenn.)	18
Mississippi Delta	134
Mobile-Pensacola-Panama City-Southern Mississippi (Ala., Fla.)	5
Northeast Mississippi	135
Missouri:	
Metropolitan Kansas City (Kans.)	94
Metropolitan St. Louis (Ill.)	70
Northern Missouri	137
Southeast Missouri	138
Southwest Missouri	139
Montana:	
Billings	140
Great Falls	141
Helena	142
Miles City	143
Missoula	144
Nebraska:	
Lincoln-Beatrice-Fairbury	145
Metropolitan Omaha-Council Bluffs (Iowa)	85
Metropolitan Sioux City (Iowa, S. Dak.)	86
Nebraska	146
Nevada:	
Clark-Mohave (Ariz.)	13
Nevada	147
Northwest Nevada	148
New Hampshire:	
Androscoggin Valley (Maine)	107
Merrimack Valley-Southern New Hampshire (Mass.)	121
New Hampshire	149
New Jersey:	
Metropolitan Philadelphia (Del., Pa.)	45
New Jersey	150
New Jersey-New York-Connecticut (N.Y., Conn.)	43
Northeast Pennsylvania-Upper Delaware Valley (Pa.)	151
New Mexico:	
Albuquerque-Mid Rio Grande	152
Arizona-New Mexico Southern Border (Ariz.)	12
El Paso-Las Cruces-Alamogordo (Tex.)	153
Four Corners (Ariz., Colo., Utah)	14
Northeastern Plains	154
Pecos-Permian Basin	155
Southwestern Mountains-Augustine Plains	156
Upper Rio Grande Valley	157
New York:	
Central New York	158
Champlain Valley (Vt.)	159
Genesee-Finger Lakes	160
Hudson Valley	161
New Jersey-New York-Connecticut (N.J., Conn.)	43
Niagara Frontier	162
Southern Tier East	163
Southern Tier West	164
North Carolina:	
Eastern Mountain	165
Eastern Piedmont	166
Metropolitan Charlotte (S.C.)	167
Northern Coastal Plain	168
Northern Piedmont	136
Sandhills	169
Southern Coastal Plain	170
Western Mountain	171
North Dakota:	
Metropolitan Fargo-Moorhead (Minn.)	130
North Dakota	172
Ohio:	
Dayton	173
Greater Metropolitan Cleveland	174
Huntington-Ashland-Portsmouth-Ironton (Ky., W. Va.)	103
Mansfield-Marion	175
Metropolitan Cincinnati (Ind., Ky.)	79
Metropolitan Columbus	176
Metropolitan Toledo (Mich.)	124
Northwest Ohio	177
Northwest Pennsylvania-Youngstown (Pa.)	178
Parkersburg-Marietta (W. Va.)	179
Sandusky	180

APPENDIX A.—*Air Quality Control Regions (AQCRs)*—Continued

Steubenville-Weirton-Wheeling (W. Va.)	181
Wilmington-Chillicothe-Logan	182
Zanesville-Cambridge	183
Oklahoma:	
Central Oklahoma	184
Metropolitan Fort Smith (Ark.)	17
North Central Oklahoma	185
Northeastern Oklahoma	186
Northwestern Oklahoma	187
Shreveport-Texarkana-Tyler (Ark., La., Texas)	22
Southeastern Oklahoma	188
Southwestern Oklahoma	189
Oregon:	
Central Oregon	190
Eastern Oregon	191
Northwest Oregon	192
Portland (Wash.)	193
Southwest Oregon	194
Pennsylvania:	
Central Pennsylvania	195
Metropolitan Philadelphia (Del., N.J.)	45
Northeast Pennsylvania-Upper Delaware Valley (N.J.)	151
Northwest Pennsylvania-Youngstown (Ohio)	178
South Central Pennsylvania	196
Southwest Pennsylvania	197
Rhode Island:	
Metropolitan Providence (Mass.)	120
South Carolina:	
Augusta-Aiken (Ga.)	53
Camden-Sumter	198
Charleston	199
Columbia	200
Florence	201
Greenville-Spartanburg	202
Greenwood	203
Georgetown	204
Metropolitan Charlotte (N.C.)	167
Savannah-Beaufort (Ga.)	58
South Dakota:	
Black Hills-Rapid City	205
Metropolitan Sioux City (Iowa, Neb.)	86

APPENDIX A.—*Air Quality Control Regions (AQCRs)*—Continued

Metropolitan Sioux Falls (Iowa)	87
South Dakota	206
Tennessee:	
Chattanooga (Ga.)	55
Eastern Tennessee-Southwestern Virginia (Va.)	207
Metropolitan Memphis (Ark., Miss.)	18
Middle Tennessee	208
Tennessee River Valley-Cumberland Mountains (Ala.)	7
Western Tennessee	209
Texas:	
Abilene-Wichita Falls	210
Amarillo-Lubbock	211
Austin-Waco	212
Brownsville-Laredo	213
Corpus Christi-Victoria	214
El Paso-Las Cruces-Alamagordo (N. Mex.)	153
Metropolitan Dallas-Ft. Worth	215
Metropolitan Houston-Galveston	216
Metropolitan San Antonio	217
Midland-Odessa-San Angelo	218
Shreveport-Texarkana-Tyler (Ark., La., Okla.)	22
Southern Louisiana-Southeast Texas (La.)	106
Utah:	
Four Corners (Ariz., Colo., N. Mex.)	14
Utah	219
Wasatch Front	220
Vermont:	
Champlain Valley (N.Y.)	159
Vermont	221
Virginia:	
Central Virginia	222
Eastern Tennessee-Southwestern Virginia (Tenn.)	207
Hampton Roads	223
National Capital (D.C., Md.)	47
Northeastern Virginia	224
State Capital	225
Valley of Virginia	226

APPENDIX A.—*Air Quality Control Regions (AQCRs)*—Continued

Washington:	
Eastern Washington-Northern Idaho (Idaho)	62
Northern Washington	227
Olympia-Northwest Washington	228
Portland (Ore.)	193
Puget Sound	229
South Central Washington	230
West Virginia:	
Allegheny	231
Central West Virginia	232
Cumberland-Keyser (Md.)	113
Eastern Panhandle	233
Huntington-Ashland-Portsmouth-Ironton (Ky., Ohio)	103
Kanawha Valley	234
North Central West Virginia	235
Parkersburg-Marietta (Ohio)	179
Southern West Virginia	236
Steubenville-Wierton-Wheeling (Ohio)	181
Wisconsin:	
Duluth-Superior (Minn.)	129
Lake Michigan	237
Metropolitan Dubuque (Ill., Iowa)	68
North Central Wisconsin	238
Rockford-Janesville-Beloit (Ill.)	73
Southeastern Wisconsin	239
Southeast Minnesota-La Crosse (Minn.)	128
Southern Wisconsin	240
Wyoming:	
Casper	241
Metropolitan Cheyenne	242
Wyoming	243
Puerto Rico:	
Puerto Rico	244
American Samoa:	
American Samoa	245
Guam:	
Guam	246
U.S. Virgin Islands:	
U.S. Virgin Islands	247

[FR Doc. 78-5284 Filed 3-2-78; 8:45 am]

federal register

FRIDAY, MARCH 3, 1978
PART III

DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

[4510-27]

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determining in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. the cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

MODIFICATIONS TO GENERAL WAGE DETERMINATIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Alabama:	
AL77-1140	Nov. 25, 1977
California:	
CA78-5003	Feb. 24, 1978
CA78-5005	Jan. 27, 1978
Indiana:	
IN77-2129	Aug. 19, 1977
Louisiana:	
LA78-4001	Jan. 6, 1978
Maryland:	
MD77-3077	June 3, 1977
Minnesota:	
MN77-3048	May 20, 1977
New Jersey:	
NJ77-3079	June 17, 1977
North Dakota:	
ND77-3069	Dec. 2, 1977
Pennsylvania:	
PA77-3065; PA77-3066; PA77-3068	May 13, 1977
PA77-3078	June 24, 1977
PA77-3108	July 15, 1977
PA77-3102; PA77-3103	July 22, 1977
PA77-3107	Aug. 26, 1977
PA77-3124	Sept. 9, 1977
Texas:	
TX77-4262; TX77-4268; TX77-4268.	Sept. 30, 1977
TX77-4289	Oct. 21, 1977
TX78-4003	Jan. 13, 1978
TX78-4008	Jan. 20, 1978
TX78-4014; TX78-4015	Feb. 17, 1978
West Virginia:	
WV77-3101	July 22, 1977

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Georgia:	
GA77-1116 (GA78-1016)	Sept. 30, 1977
Maryland:	
MD77-3021 (MD78-3002)	Jan. 14, 1977
DC77-3108 and MD77-3109 (DC78-3006).	Sept. 16, 1977
Mississippi:	
MS78-1002 (MS78-1019); MS78-1009 (MS78-1020); MS78-1010 (MS78-1017); MS78-1011(MS78-1018); MS78-1012 (MS78-1021).	Feb. 17, 1978
MS78-1013 (MS78-1022)	Feb. 24, 1978
Virginia:	
DC77-3108 and MD77-3109 (DC78-3006).	Sept. 16, 1977
Washington, D.C.:	
DC77-3108 and MD77-3109 (DC78-3006).	Sept. 16, 1977

CANCELLATION OF GENERAL WAGE DETERMINATION DECISIONS

NONE.

Signed at Washington, D.C., this 24th day of February 1978.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

MODIFICATIONS P. 2

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. CA78-5005 - Mod. #2 (43 FR 3853 - January 27, 1978) Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California					
Add: Clean Up Work: General clean-up laborer: (except Vandenberg AFB; Point Arguello and Camp Roberts)	$6.00	$1.05	$2.45		
General clean-up laborer: (Vandenberg AFB; Point Arguello and Camp Roberts)	7.25	1.05	2.45		
DECISION NO. IN77-2129 - Mod. #1 (42 FR 42064 - August 19, 1977) Wayne County, Indiana					
Change: Power equipment operators: Backhoe	$11.15	.55	.55		.08
Bulldozer	11.15	.55	.55		.08

MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. AL77-1140 - Mod. #1 (42 FR 60551 - November 25, 1977) Tuscaloosa County, Alabama					
Change: Bricklayers, Marble masons, & Stonemasons	$ 9.35		.40		.05
Electricians	10.65	.55	3%+.40		¼ of 1%
Ironworkers	9.25	.60	.815		.06
Laborers:					
Laborers	3.80	.20	.15		
Mason tenders	3.80	.20	.15		
Mortar mixers	3.90	.20	.15		
Sheet Metal Workers	10.05	.69	.82		.09
Truck drivers	2.65				
DECISION NO. CA78-5003 - Mod. #1 (43 FR - February 24, 1978) Alameda, Alpine, Amador, Calaveras, Contra Costa, Del Norte, El Dorado, Fresno, Humboldt, Marin, Mariposa, Merced, Monterey, Napa, Nevada, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Sutter, Tehama, Tuolumne, Yolo and Yuba Counties, California					
Omit: Sheet Metal Workers Fresno County	$11.98	.73	$1.22		.14
Add: Carpenters, Drywall Installers (Frame dwellings 2 stories or less) Fresno County	9.00	1.35	1.71	$1.00	.07
Cement masons, Plasterers (Frame dwellings 2 stories or less) Fresno County	9.00	1.30	1.68	1.65	.05
Sheet metal workers (Frame dwellings 2 stories or less) Fresno County	7.43	.73	.73		.14
Sheet metal workers (3-4 stories) Fresno County	11.98	.73	1.22		.14

MODIFICATIONS P. 3

DECISION #LA78-4001 - Mod. #4 (43 FR 1276 - January 6, 1978) Statewide Louisiana	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers & stonemasons:					
Zone 2	$ 9.40	.53			
Carpenters:					
Zone 3 - Carpenters	10.10	.35	.30		
Millwrights	11.75	.35	.30		
Piledrivermen	10.40	.35	.30		
Cement masons (Highway Construction):					
Zone 1	9.00	.45	.30		
Zone 2	6.45				
Zone 3	8.75	.35			
Zone 4	9.10				
Zone 5	8.60				
Zone 6	8.10				
Zone 7	8.60				
On concrete lined ditches	8.60	.50	.50		.05
Zone 8	8.10				
On concrete lined ditches	8.60	.50	.50		.05
Zone 9	6.30				
Zone 10	5.72				
Area Covered by Cement Masons (Highway Construction):					
Zone 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes					
Zone 2 - Ascension, East Baton Rouge, U.S. Hwy. 61 in East Feliciana & West Feliciana Parishes					
Zone 3 - Bossier & Caddo Parishes					
Zone 4 - Calcasieu Parish					
Zone 5 - Cameron & Jefferson Davis Parishes					
Zone 6 - Allen & Beauregard Parishes					
Zone 7 - Acadia, Iberia, Lafayette, St. Landry, St. Martin & Vermilion Pars.					
Zone 8 - St. Mary Parish					
Zone 9 - Assumption, Avoyelles, Bienville, Claiborne, DeSoto, East Feliciana (excluding U.S. Hwy. 61), Evangeline, Iberville, Lafourche, Lincoln, Livingston, Madison, Natchitoches, Ouachita, Pointe Coupee, Rapides, Red River, Richland, St. Helena, St. James, St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne, Vernon, Webster & West Baton Rouge Parishes					
Zone 10 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Grant, Jackson, LaSalle, Morehouse, Sabine, Tensas, Union, Washington, West Carroll & Winn Parishes					
Electricians:					
Zone 1 - Electricians	12.30	5%	8%		3/10%
Cable spliicers	12.55	5%	8%		3/10%
Zone 4 - Electricians	11.90	.35	3%		2/10%
Cable splicers	12.15	.35	3%		2/10%
Zone 8 - Electricians	11.15		3%	.30	1/2%
Cable splicers	11.40		3%	.30	1/2%
Ironworkers (Highway Construction):					
Zone 1	10.92				
Zone 2	8.70				
Zone 3	10.30				
Zone 4	10.36				
Zone 5	8.60				
Zone 6	8.10				

MODIFICATIONS P. 4

DECISION #LA78-4001 (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone 7	$ 6.99				
Zone 8	6.45				
Zone 9	5.84				
Area Covered By Ironworkers (Highway Construction):					
Zone 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes					
Zone 2 - East Baton Rouge Parish					
Zone 3 - Calcasieu Parish					
Zone 4 - Bossier & Caddo Parishes					
Zone 5 - Cameron & Jefferson Davis Parishes					
Zone 6 - Allen & Beauregard Parishes					
Zone 7 - Lafayette, Ouachita & Rapides Parishes					
Zone 8 - Acadia, Ascension, Bienville, DeSoto, Iberia, Iberville, Livingston, Red River, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (that portion north of Iberia), St. Tammany, Tangipahoa, Vermilion, Washington, Webster & West Baton Rouge Parishes					
Zone 9 - Assumption, Avoyelles, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin (that portion south of Iberia), St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Pars.					
Laborers (Building Construction):					
Zone 1 - Group 1	6.45	.15			
Group 2	6.60	.15			
Group 3	6.70	.15			
Laborers (Highway Construction):					
Group 1 - Zone 1	6.13	.20	.27		.05
Zone 2	4.80	.15	.10		.05
Zone 3	5.58	.20	.12		.05
Zone 4	6.28	.20	.12		.05
Zone 5	5.38	.20	.12		.05
Zone 6	5.18	.20	.12		.05
Zone 7	4.10	.15	.10		.05
Zone 8	3.85	.15	.10		.05
Zone 9	3.75	.15	.10		.05
Group 2 - Zone 1	6.23	.20	.27		.05
Zone 2	4.90	.15	.10		.05
Zone 3	5.68	.20	.12		.05
Zone 4	6.38	.20	.12		.05
Zone 5	5.48	.20	.12		.05
Zone 6	5.28	.20	.12		.05
Zone 7	4.20	.15	.10		.05
Zone 8	3.95	.15	.10		.05
Zone 9	3.85	.15	.10		.05
Group 3 - Zone 1	6.68	.20	.27		.05
Zone 2	5.35	.15	.10		.05
Zone 3	6.13	.20	.12		.05
Zone 4	6.83	.20	.12		.05
Zone 5	5.93	.20	.12		.05
Zone 6	5.78	.20	.12		.05
Zone 7	4.65	.15	.10		.05
Zone 8	4.40	.15	.10		.05
Zone 9	4.30	.15	.10		.05

MODIFICATIONS P. 5

DECISION #LA78-4001 (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 4 - Zone 1	$ 6.93	.20	.27		.05
Zone 2	5.60	.15	.10		.05
Zone 3	6.38	.20	.12		.05
Zone 4	7.08	.20	.12		.05
Zone 5	6.13	.20	.12		.05
Zone 6	5.93	.20	.12		.05
Zone 7	4.85	.15	.10		.05
Zone 8	4.60	.15	.10		.05
Zone 9	4.50	.15	.10		.05
Area Covered by Laborers (Highway Construction):					
Zone 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Pars.					
Zone 2 - East Baton Rouge Parish					
Zone 3 - Bossier & Caddo Parishes					
Zone 4 - Calcasieu Parish					
Zone 5 - Cameron & Jefferson Davis Parishes					
Zone 6 - Allen & Beauregard Parishes					
Zone 7 - Lafayette, Ouachita & Rapides Parishes					
Zone 8 - Acadia, Ascension, Bienville, DeSoto, Iberia, Iberville, Livingston, Red River, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (that portion north of Iberia), St. Tammany, Tangipahoa, Vermilion, Washington, Webster & West Baton Rouge Parishes					
Zone 9 - Assumption, Avoyelles, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin (that portion south of Iberia), St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Pars.					
Line Construction:					
Zone 2:					
Linemen, line equipment & line truck ops.	12.30	5%	8%		3/10%
Cable splicers	12.55	5%	8%		3/10%
Zone 4:					
Linemen, equuipment ops.	11.90	.35	3%		
Cable splicers	12.15	.35	3%		
Groundman	50%JR	.35	3%		
Zone 5:					
Linemen & equipment ops.	11.15		3%	.30	1/2%
Cable splicers	11.40		3%	.30	1/2%
Groundmen	60%JR		3%	.30	1/2%
Marble, tile & terrazzo workers & finishers:					
Zone 1 - Tile & terrazzo workers	10.60	.40	.25		.035
Power Equipment Operators (Highway Construction):					
Group 1 - Zone 1	9.76	.65	.55		.05
Zone 2	8.31	.25	.39		.05
Zone 3	9.23	.65	.55		.05
Zone 4	9.41	.65	.55		.05
Zone 5	7.45	.65	.35		.05
Zone 6	6.95	.65	.55		.05
Zone 7	6.69	.25	.30		.05
Zone 8	6.14	.25	.30		.05
Zone 9	5.53	.25	.30		.05

MODIFICATIONS P. 6

DECISION #LA78-4001 (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 2 - Zone 1	$10.01	.65	.55		.05
Zone 2	8.56	.25	.39		.05
Zone 3	9.48	.65	.55		.05
Zone 4	9.66	.65	.55		.05
Zone 5	7.70	.65	.55		.05
Zone 6	7.20	.65	.55		.05
Zone 7	6.94	.25	.30		.05
Zone 8	6.39	.25	.30		.05
Zone 9	5.78	.25	.30		.05
Group 3 - Zone 1	9.51	.65	.55		.05
Zone 2	8.06	.25	.39		.05
Zone 3	8.98	.65	.55		.05
Zone 4	9.16	.65	.55		.05
Zone 5	7.20	.65	.55		.05
Zone 6	6.70	.65	.55		.05
Zone 7	6.44	.25	.30		.05
Zone 8	5.89	.25	.30		.05
Zone 9	5.28	.25	.30		.05
Group 4 - Zone 1	8.26	.65	.55		.05
Zone 2	7.13	.25	.39		.05
Zone 3	7.93	.65	.55		.05
Zone 4	7.94	.65	.55		.05
Zone 5	6.23	.65	.55		.05
Zone 6	5.73	.65	.55		.05
Zone 7	5.58	.25	.30		.05
Zone 8	5.02	.25	.30		.05
Zone 9	4.46	.25	.30		.05
Group 5 - Zone 1	7.91	.65	.55		.05
Zone 2	6.39	.25	.39		.05
Zone 3	7.34	.65	.55		.05
Zone 4	7.33	.65	.55		.05
Zone 5	5.71	.65	.55		.05
Zone 6	5.21	.65	.55		.05
Zone 7	5.02	.25	.30		.05
Zone 8	4.48	.25	.30		.05
Zone 9	3.97	.25	.30		.05
Group 6 - Zone 1	7.11	.65	.55		.05
Zone 2	5.75	.25	.39		.05
Zone 3	6.53	.65	.55		.05
Zone 4	6.53	.65	.55		.05
Zone 5	4.98	.65	.55		.05
Zone 6	4.48	.65	.55		.05
Zone 7	4.86	.25	.30		.05
Zone 8	4.31	.25	.30		.05
Zone 9	3.81	.25	.30		.05
Group 7 - Zone 1	6.80	.65	.55		.05
Zone 2	5.46	.25	.39		.05
Zone 3	6.19	.65	.55		.05
Zone 4	6.19	.65	.55		.05
Zone 5	4.69	.65	.55		.05
Zone 6	4.19	.65	.55		.05
Zone 7	4.86	.25	.30		.05
Zone 8	4.31	.25	.30		.05
Zone 9	3.81	.25	.30		.05

MODIFICATIONS P. 7

DECISION #LA78-4001 (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 8 - Zone 1	$ 8.16	.65	.55		.05
Zone 2	7.13	.25	.39		.05
Zone 3	7.83	.65	.55		.05
Zone 4	7.84	.65	.55		.05
Zone 5	6.18	.65	.55		.05
Zone 6	5.68	.65	.35		.05
Zone 7	5.58	.25	.30		.05
Zone 8	5.02	.25	.30		.05
Zone 9	4.46	.25	.30		.05
Group 9 - Zone 1	8.41	.65	.55		.05
Zone 2	7.38	.25	.39		.05
Zone 3	8.08	.65	.55		.05
Zone 4	8.09	.65	.55		.05
Zone 5	6.43	.65	.55		.05
Zone 6	5.93	.65	.55		.05
Zone 7	5.83	.25	.30		.05
Zone 8	5.27	.25	.30		.05
Zone 9	4.71	.25	.30		.05
Group 10 - Zone 1	7.05	.65	.55		.05
Zone 2	5.71	.25	.39		.05
Zone 3	6.44	.65	.55		.05
Zone 4	6.44	.65	.55		.05
Zone 5	4.94	.65	.55		.05
Zone 6	4.44	.65	.55		.05
Zone 7	5.11	.25	.30		.05
Zone 8	4.56	.25	.30		.05
Zone 9	4.06	.25	.30		.05

Area Covered by Power Equipment Operators (Highway Construction):
Zone 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
Zone 2 - Ascension, East Baton Rouge, Iberville & West Baton Rouge Parishes
Zone 3 - Bossier & Caddo Parishes
Zone 4 - Calcasieu Parish
Zone 5 - Cameron, Jefferson Davis & Red River Parishes
Zone 6 - Allen & Beauregard Parishes
Zone 7 - Lafayette, Ouachita & Rapides Parishes
Zone 8 - Acadia, Bienville, DeSoto, Iberia, Livingston, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (north of Iberia), St. Tammany, Tangipahoa, Vermilion, Washington & Webster Parishes
Zone 9 - Assumption, Avoyelles, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin (south of Iberia), St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Parishes

Truck Drivers (Highway Construction):					
Group 1 - Zone 1	6.38	.45			
Zone 2	5.49				
Zone 3	6.56				
Zone 4	6.99				
Zone 5	5.67				
Zone 6	5.77				
Zone 7	4.45				
Zone 8	4.35				
Zone 9	4.25				

MODIFICATIONS P. 8

DECISION #LA78-4001 (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 2 - Zone 1	$ 6.51	.45			
Zone 2	5.61				
Zone 3	6.66				
Zone 4	7.12				
Zone 5	5.80				
Zone 6	5.90				
Zone 7	4.56				
Zone 8	4.46				
Zone 9	4.36				
Group 3 - Zone 1	6.57	.45			
Zone 2	5.66				
Zone 3	6.89				
Zone 4	7.18				
Zone 5	5.86				
Zone 6	5.96				
Zone 7	4.61				
Zone 8	4.51				
Zone 9	4.41				
Group 4 - Zone 1	6.65	.45			
Zone 2	5.73				
Zone 3	7.10				
Zone 4	7.25				
Zone 5	5.93				
Zone 6	6.03				
Zone 7	4.67				
Zone 8	4.57				
Zone 9	4.47				
Group 5 - Zone 1	6.84	.45			
Zone 2	5.89				
Zone 3	7.52				
Zone 4	7.44				
Zone 5	6.13				
Zone 6	6.22				
Zone 7	4.83				
Zone 8	4.73				
Zone 9	4.63				

Area Covered by Truck Drivers (Highway Construction):
Zone 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
Zone 2 - East Baton Rouge Parish
Zone 3 - Bossier & Caddo Parish
Zone 4 - Calcasieu Parish
Zone 5 - Allen & Beauregard Parishes
Zone 6 - Cameron & Jefferson Davis Parishes
Zone 7 - Lafayette, Ouachita & Rapides Parishes
Zone 8 - Acadia, Ascension, Bienville, DeSoto, Iberia, Iberville, Livingston, Red River, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (north of Iberia), St. Tammany, Tangipahoa, Vermilion, Washington, Webster & West Baton Rouge Parishes
Zone 9 - Assumption, Avoyelles, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin (south of Iberia), St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Parishes

MODIFICATIONS P. 9

DECISION #MD77-3077 - Mod. # 9 (42 FR-28760 - June 3, 1977)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Counties of Anne Arundel (excluding the D.C Training School), Baltimore, and Baltimore City, Maryland, and for Heavy Construction Projects in Harford and Howard Counties, Maryland					
Change:					
Boilermakers	$12.025	1.075	1.00		.02
Lead Burners	11.70	.65		c	.01

DECISION #MN77-2048 - Mod. #5
(42 FR 26157 - May 20, 1977)
Aitken, Anoka, Benton, Blue Earth, Carlton, Carver, Chicago, Cook, Dakota, Dodge, Fairbault, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Isanti, Itasca, Kanebec, Koochiching, Lake, LeSueur, Meeker, McLeod, Mille Lacs, Morrison, Mower, Nicollet, Nobles, Olmstead, Ramsey, Rice, Rock, Scott, Sherburne, Sibley, Stearns, Steel, St. Louis, Wabasha, Waseca, Washington, Winona & Wright Counties, Minnesota

OMIT:
Pine County

MODIFICATIONS P. 10

DECISION #NJ77-3079 - Mod. # 8 (42 FR-31080 - June 17, 1977) Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester Mercer, Monmouth, Ocean & Salem Counties, New Jersey	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Boilermakers	$11.57	8%	20%+.25	10%	.01
Boilermakers helpers	11.04	8%	20%+.25	10%	.01
Laborers, Heavy & Highway Construction:					
ZONE 1					
GROUP 1	8.90	.85	1.00	d	.10
GROUP 2	8.60	.85	1.00	d	.10
GROUP 3	8.55	.85	1.00	d	.10
GROUP 4	8.40	.85	1.00	d	.10
GROUP 5	8.30	.85	1.00	d	.10
GROUP 6	8.05	.85	1.00	d	.10
GROUP 7	8.00	.85	1.00	d	.10
GROUP 8	7.90	.85	1.00	d	.10
ZONE 2					
GROUP 1	9.40	.85	1.00	d	.10
GROUP 2	9.25	.85	1.00	d	.10
GROUP 3	9.00	.85	1.00	d	.10
GROUP 4	8.95	.85	1.00	d	.10
GROUP 5	8.85	.85	1.00	d	.10
GROUP 6	8.75	.85	1.00	d	.10
GROUP 7	8.50	.85	1.00	d	.10
GROUP 8	8.35	.85	1.00	d	.10
GROUP 9	8.30	.85	1.00	d	.10
Laborers, Free Air Tunnel Jobs					
GROUP 1	9.77	.85	1.00	d	.10
GROUP 2	9.37	.85	1.00	d	.10
GROUP 3	9.21	.85	1.00	d	.10
GROUP 4	8.70	.85	1.00	d	.10
Line Construction:					
ZONE 5					
Linemen, Equipment Operators, Technicians, & certified linemen welders	12.55	.25	3%+.60		3/4 of 1%
Truck Drivers	8.90	.25	3%+.60		3/4 of 1%
Groundmen	8.27	.25	3%+.60		3/4 of 1%

DECISION NO. NJ77-3079

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters:					
ZONE 5					
New construction & Major Alteration Work:					
Brush & Roller Rates:					
Any surface except steel	$ 9.25	.55	.25		
Any surface except steel (exotic materials)	10.25	.55	.25		
Steel & swing	9.50	.55	.25		
Steel and swing (exotic material)	10.50	.55	.25		
Steel above 70'	9.90	.55	.25		
Steel above 70' (exotic materials)	10.90	.55	.25		
Spray Rates:					
Any surface except steel	9.30	.55	.25		
Any surface except steel (exotic Materials)	10.30	.55	.25		
Steel & swing	9.55	.55	.25		
Steel (exotic materials)	10.55	.55	.25		
Steel above 70'	9.95	.55	.25		
Steel above 70' (exotic materials)	10.95	.55	.25		
Sandblasting Rates:					
Any surface except steel	9.30	.55	.25		
Steel & swing	9.55	.55	.25		
Steel above 70'	9.95	.55	.25		
Vacuum Blasting Rates:					
Any surface except steel	9.60	.55	.25		
Steel & swing	9.85	.55	.25		
Steel above 70'	10.25	.55	.25		
Repaint work (except Bridges, tank towers & all other open structural steel):					
Any surface	8.25	.55	.25		
Any surface (exotic materials)	8.75	.55	.25		

DECISION #ND77-5099 - Mod. 83
(42 FR 61437 - December 2, 1977)
Statewide, North Dakota

Change:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Group 1: Cableway Operator; Crane operator with over 135' boom, all types; Derrick (guy and stiff leg), (power), (skids and stationary); Front end loader over 10 cu. yds. mfg. rating; Gantry crain operator; Helicopter operator (construction work only); Hole operator, including power supply or tunnel mucking machine; Power shovel and/or other equipment with shovel type controls 3½ cu. yds. mfg. rated capacity and over	8.80	.45	.40		
Group 2: Concrete mixer stationary plant operator over 34E; Dredge operator or Engineer, Dredge operator (power) and engineer; Elevator grader Operator; Hydro crane operator, 15 ton and over; Locomotive crane operator; Master mechanic (the inclusion of the classification of Master Mechanic in this agreement does not mean that a master mechanic must be employed, but if employed, that he shall perform manual work); Mixer (paving) concrete paving operator, road; Power shovels and/or other equipment with shovel type controls up to 3½ cu. yds. mfg. rated capacity; Scraper tandem; Tandem pusher quad 9 or similar; Tractor operator (pipeline) Side boom; Truck crane operator	8.65	.45	.40		

DECISION #ND77-5099 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
Group 3: Dope Machine Operator (pipeline); Drill Rigs, Heavy duty rotary or churn or cable drill; Front end loader operator, 6 cu. yds. and over; Locomotive, all types; Pipeline wrapping, cleaning and bending machine operator; Power actuated horizontal boring machine over 6" operator (pipeline); Pumpcrete operator; Refrigeration plant engineer; Slip form operator (power driven)(paving); Tandem scraper-twin engine, 50 cu. yds. Struck and over	8.50	.45	.40		
Group 4: Asphalt Paving Machine Operator; Asphalt plant operator and console board operator; CMI grading operator; Crushing plant operator (gravel and stone or gravel washing, crushing and screening plant operator); Front end loader operator, 1 cu. yds. up to 6 cu. yds.; Grader or motor patrol, finishing earth work and bituminous; Mechanic or welder (heavy duty); Rubber tired industrial tractor with backhoe attachment (water main sanitary sewer and storm sewer, trunk line construction); Scraper operator; Tractor type or rubber tired dozer, D-6 and over; Trenching machine operator, sewer and water, (except ditch witch or similar use oiler rate); Turnapull operator, (or similar type)	8.45	.45	.40		

DECISION #ND77-5099 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
Group 5: Bituminous Spreader and Bituminous Finishing operator (power); Concrete distrbutor and spreader operator, finishing machine logitudinal float operator, Ft. machine operator and spray operator; Concrete mixer operator on job site 16S or over; Paving breaker or tamping machine operatror or including machine with power shovel attachments (power driven); Power actuated augers and boring machine operator; Power actuated jacks operator; Power plant engineer, 100 K.W.H. and over (when an engineer is in charge of crushing or blacktop plants with the the operation of these plants no power plant engineer shall be required); Push tractor; Self-propelled traveling soil stabilizer; Slip form, curb and gutter operator (electronic or automatic controls); Soil cement stabilizer; Truck mechanic, Rotomill operator	8.20	.45	.40		
Group 6: Bituminous Spreader and Bituminous Finishing Machine Operator (helper) (power); Concrete saw operator (multiple blade) (power operated); Distributor operator; Fine grade operator; Roller, steel and self-propelled rubber, on hot mix asphalt paving; Sheepsfoot packer with dozer attachment; Tractor type or rubber tired dozer under D-6 H.P.	7.97	.45	.40		

DECISION #ND77-5099 (Cont'd)

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 7: Brakeman or Switchman; Concrete Batch plant operator (cement, rock and sand) Electronic; Concrete mixer operator on job site under 16S; Crane truck oiler; Fireman or tank car heater operator; Grader operator (Motor patrol) (haul road); Gravel screening plant operator (portable not crushing or washing); Greaser (truck or tractor); Gunite operator gunall; Hoist Engineer (power); Hydro crane operator, under 15 ton; Launchman (Tankerman or pilot license); Pick-up sweeper, 1 yd. and over hopper capacity; Sheepsfoot roller or compactor (self-propelled); Shouldering machine operator (power) (Apsco or similar type) including self-propelled sand chip spreader flaherty or similar	7.04	.45	.40		
Group 8: Boom Truck Operator; Crawler type and/or steiger or similar tractor pulling compaction or areating equipment; Farm type rubber tired tractor with backhoe attachment; Roller, steel and self-propelled rubber, on other than hot mix asphalt paving; Self-propelled vibrating packer operator pad type (35 HP and over); Off-road self-propelled watering equipment	6.89	.45	.40		

DECISION #ND77-5099 (Cont'd)

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 9: Concrete Batch Operator (cement rock and sand) (manual); Form trench digger (power); Front end loader operator, up to 1 cu. yd.; Hyster carrier or forklift; Leverman; Mechanic's helper or greaser helper; Oiler (power shovel), crane, dragline); Pugmill operator; Pump operator (well points); Self-propelled Broom	6.79	.45	.40		
Group 10: Conveyor Operator; Curb machine operator (manual); Dredge deck hand; Farm tractors, rubber tired for compacting and areating; Front end loader operator (farm type rubber tired tractor); Paint machine striping operator; Stump chipper operator; Tie tamper and ballast machine Op.	6.45	.45	.40		

DECISION #PA77-3055- Mod. # 8 (42 FR 24688 - May 13, 1977) Greene, Somerset & Potter Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change: Cement Masons ZONE 2	$ 9.95	12%	6%		
DECISION #PA77-3056 - Mod. # 9 (42 FR 24698 - May 13, 1977) Lehigh County, Pennsylvania					
Omit: Roofers: Composition & Slate helpers	7.21	.15	.50		
DECISION #PA77-3078 - Mod. # 3 (42 FR 32478 - June 24, 1977) Lawrence & Mercer Counties, PA					
Change: Electricians Lawrence County	11.51	6%	5%	1.00	1½%
Elevator Constructors	11.75	.745	.56	b+c	.025
Elevator Constructors helpers	70%JR	.745	.56	b+c	.025
Elevator Constructors helpers (prob.)	50%Jr				

FOOTNOTES:

b. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as vacation pay credit.

c. Paid Holiday: A through F, plus the Friday after Thanksgiving Day.

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #PA77-3100 - Mod. #5 (42 FR 36775 - July 15, 1977) Columbia, Montour, and Snyder Counties, Pennsylvania					
Change: Glaziers ZONE 3	9.75	.40	.70		
DECISION #PA77-3102 - Mod. # 7 (42 FR 37754 - July 22, 1977) Clinton, Centre, Huntingdon, Fulton, & Mifflin Counties Pennsylvania					
Change: Cement Masons ZONE 2	$10.45	12%	6%		
DECISION #PA77-3103 - Mod. #4 (42 FR 37759 - July 22, 1977) Bradford, Tioga and Union Counties, Pennsylvania					
Change: Glaziers ZONE 1	9.75	.40	.70		
DECISION #PA77-3107 -Mod. #7 (42 FR 43353 - August 26, 1977) Bucks, Chester, Delaware, Montgomery and Philadelphis Counties, Pennsylvania					
Change: Landscape Laborers: Class I	$ 7.50	.95	.65	c	
Class II	8.00	.95	.65	c	
Soft Floor Layers: All other work	9.03	.95	1.30		.12
Omit: Commercial, Roofers Helpers Zone II	4.63	.25	.25		
Zone V					

MODIFICATIONS P. 19

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #PA77-3124 - Mod. # 3 (42 FR 45618 - September 9, 1977) Northampton County, Pennsylvania					
Change: Glaziers	9.19	.40	.40		.01
Omit: Roofers, helpers	7.21	.15	.80		
DECISION #PA77-3058 - Mod. # 6 (42 FR 24702 - May 13, 1977) Erie County, Pennsylvania					
Change: Plumbers & Steamfitters	$11.17	.55	.50		.04
Roofers Composition	9.89	.60	.30		.05
ADD: Truck Drivers	7.12	d	e	e	

FOOTNOTES:
a. One week vacation after 1 year's work; two week's vacation after five years of service.
d. Employee agree to contribute $67.94 per month.
e. Employer agree to contribute $20.00 per week.

MODIFICATIONS P. 20

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX77-4262 - Mod. #4 (42 FR 53167 - September 30, 1977) Smith County, Texas					
Change: Electricians: Electricians	$ 9.40	.60	3%		1/4%
Cable splicers	9.80	.60	3%		1/4%
DECISION #TX77-4263 - Mod. #4 (42 FR 53167 - September 30, 1977) Taylor County, Texas					
Change: Electricians: Electricians	9.40	.60	3%		1/4%
Cable splicers	9.65	.60	3%		1/4%
DECISION #TX77-4280 - Mod. #4 (42 FR 53171 - September 30, 1977) Cameron, Hidalgo, Starr & Willacy Cos., Texas					
Change: Plumbers & pipefitters	8.40	.40	.20		.05
DECISION #TX77-4289 - Mod. #3 (42 FR 56311 - October 21, 1977) Harrison County, Texas					
Change: Bricklayers & stonemasons	9.75		.25		
Electricians: Electricians	9.40	.60	3%		1/4%
Cable splicers	9.80	.60	3%		1/4%
DECISION #TX78-4003 - Mod. #1 (43 FR 2126 - January 13, 1978) Bell, Bosque, Coryell, Falls, Hill & McLennan Cos., Texas					
Change: Building Construction - Glazier	7.10				
DECISION #TX78-4005 - Mod. #2 (43 FR 3029 - January 20, 1978) Bowie County, Texas					
Change: Plumbers & pipefitters	10.70	.50	.65		.05
DECISION #TX78-4014 - Mod. #1 (43 FR 7132 - February 17, 1978) Gregg County, Texas					
Change: Electricians: Electricians	9.40	.60	3%		1/4%
Cable splicers	9.80	.60	3%		1/4%

MODIFICATIONS P. 21

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX78-4015 - Mod. #1 (43 FR 7133 - February 17, 1978) Galveston & Harris Cos., Texas					
Change: Electricians - Galveston Co.	$12.29	.50	3%+.40		.06
DECISION No. WV77-3101 - Mod. #9 (42 FR-37773 - July 22, 1977) State of West Virginia excluding the Counties of Berkeley, Jefferson, Morgan, Nicholas, & Preston					
CHANGE:					
Boilermakers:					
Area 1	$ 9.80	I.05	1.10	1.50	.02
Glaziers:					
Area 1	10.13				
Laborers:					
Area 8					
Group 1	8.40	.55	.40		.05
Group 2	8.50	.55	.40		.05
Group 3	8.565	.55	.40		.05
Group 4	8.60	.55	.40		.05
Group 5	8.75	.55	.40		.05
Group 6	8.73	.55	.40		.05
Group 7					
50' to 100'	8.73	.55	.40		.05
100' to 150'	8.90	.55	.40		.05
over 150'	9.30	.55	.40		.05
Group 8	9.08	.55	.40		.05
Group 9	8.645	.55	.40		.05
Group 10	8.93	.55	.40		.05
Group 11	8.73	.55	.40		.05
Group 12	9.23	.55	.40		.05
Plumbers & Pipefitters:					
Area 7					
Commercial work	10.93	.40	.60		
Repair work	10.74	.40	.60		
Truck Drivers:					
Area 2					
Group 1	7.60	q	r		
Group 2	7.70	q	r		
Group 3	7.85	q	r		
Group 4	8.00	q	r		
Group 5	8.25	q	r		
Group 6	8.35	q	r		

FOOTNOTES:
q. Employer contributes $93.17 per month per employee employed 30 days or more
r. Employer contributes $26.00 per month per employee employed 30 days or more

MODIFICATIONS P. 22

DECISION #WV77-3101 - Mod. #9 (Cont'd)

LABORERS GROUP CLASSIFICATION

GROUP 1 General Laborers

GROUP 2 Rodmen and Chainmen

GROUP 3 All Brick Handlers, Tenders for Brick Masons, Plasterers, Stone Masons Tile Setters, Mortarmen for Masons and Plasterers and Men Mixing Cement for Cement Finishers, Scaffold Builders, Mortar Mixer Machine Operator.

GROUP 4 Laborers Operating Concrete Busters, Jack Hammers, Air Spades, Chipping Hammers, Air Tampers, Vibrators, Power Buggy, Concrete Saw, Power Saw, Sandblaster, Acetylene Burners, Scuba Diver, Panel Cleaning Machine Operators, Signalmen, All Power Driven Tools, Air Pump, Air Blow Pipe, Pipelayer and Helper Working in Ditches or Tunnels and Hand Spikers on Railroads.

GROUP 5 Instrument Men, Laser Beam

GROUP 6 Laborers performing work pertaining to or in connection with and repair of Stoves, Blast Furnaces, Basic Oxygen Process Furnaces and Basic Oxygen Furnaces, Steepls and Stacks, Annealing Process Furnaces, Kilns, Soaking Pits, Coke Batteries on Industrial Work.

GROUP 7 Demolition of Stacks

GROUP 8 Blasterman and Helper, Bellman and Lancer, All Bottom men in Blast Furnaces, Stacks, Stoves and Dust Catchers.

GROUP 9 Ditches, Trenches, Caissons and Coffers over 6' deep, open top

GROUP 10 Miners including Caissons and Coffers, Horizontal or Underground, Mucking Machine Operators.

GROUP 11 Tunnel Laborers, Muckers including Caissons and Coffers, Horizontal and Underground.

GROUP 12 Gunite Nozzleman and Gunite Machine Operator--Grout Nozzleman and Grout Machine Operator.

SUPERSEDEAS DECISION

STATE: GEORGIA

COUNTIES: CLAYTON, DEKALB, & FULTON

DECISION NO.: GA78-1016

DATE: DATE OF PUBLICATION

Supersedes Decision No. GA77-1116, dated September 30, 1977, in 42 FR 52996.

DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.15	.55	.60		.10
BOILERMAKERS	10.25	.75	1.05		.02
BRICKLAYERS & STONE MASONS	9.35	.55	.50		.05
CARPENTERS, DRYWALL HANGERS, & RESILIENT FLOOR LAYERS	9.45	.50	.45		.02
CARPET LAYERS	7.50	.50	.45		.02
CEMENT MASONS	8.70	.45	.55		
ELECTRICIANS:					
Wiremen	10.45	9%	11%		½ of 1%
Cable splicers	11.35	9%	11%		½ of 1%
ELEVATOR CONSTRUCTORS:					
Mechanics	9.595	.745	.56	1&½a+b	.035
Helpers	6.72	.745	.56	1&½a+b	.035
GLAZIERS	9.55	.65	.43		
IRONWORKERS - Structural, Reinforcing, & Ornamental	9.60	.65	.57		.07
LATHERS	8.75	.40	.35		.05
LEAD BURNERS	10.75	.40	.25	c	.01
MARBLE MASONS, TILE SETTERS, & TERRAZZO WORKERS	9.20	.55	.50		
MARBLE, TILE, & TERRAZZO FINISHERS	6.30				
MILLWRIGHTS	9.50	.40	.50		.05
PAINTERS:					
Brush, roller, & drywall finishers	9.45	.45	.65		.05
Paperhangers	9.70	.45	.65		.05
Drywall taping (where pressurised tools are used), boatswain chair & window-jack work, all steel above 25' (where no scaffold is erected), & any scaffold above 25' (where not floored solid)	9.95	.45	.65		.05
Spray, steamcleaning, water-blasting, sandblasting, steeplejack work, gold leafing, stencil designing, & graining, marbelizing	10.45	.45	.65		.05

DECISION NO. GA78-1016

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PILEDRIVERMEN	$ 9.60	.50	.45		.02
PLASTERERS	9.17	.40	.55		
PLUMBERS & PIPEFITTERS	10.75	.65	.50		.11
ROOFERS	6.32				
SHEET METAL WORKERS	10.20	.50	.81		.06
SPRINKLER FITTERS	10.35	.65	.95		.08
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:

a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.

b. Employer contributes 1½ of the basic hourly rate of employees with 5 years or more of service, or 2% of the basic hourly rate of employees with 6 months to 5 years of service as Vacation Pay Credit.

c. Nine Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Eve, and Christmas Day, provided the employee has worked 30 full days during the 90 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

DECISION NO. GA78-1016

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 6.25	.20	.33		.05
Group 2	6.47	.20	.33		.05
Group 3	6.75	.20	.33		.05
Group 4	7.00	.20	.33		.05
Group 5	7.32	.20	.33		.05
Group 6 (25¢ above rate for classification under which employed)					

Group 1 - Batch plant man; buggy rollers (Ga.); cleaners, brick or lumber; clearing of right-of-way & building site (hand tools); concrete curer-sealer and liquid hardner; conveyor operator, used in tending plasterers & bricklayers; electricians laborer; excavator, backfiller, grader, hand; forklift operator, walk-type mech. used in tending plasterers and bricklayers; form oilers; form stripper; metal pan handler; plumber laborer; pipe doper; precast slab layer (floor, roofs, walks, curbs); puddlers, concrete; rail porter; railroad track laborer; reinforcing steel handler; scaffolds and staging for masons & plasterers, erecting & removing; scarifyer, concrete, mech. or hand; sheeting and shoring laborers; steam jennies, used in cleaning equipment; tenders (all crafts); tool room man; truck-spotter dumper; water boy; winch handler (manual); wrecking buildings & miscellaneous structures.

Group 2 - All tool operators: air, electric or gas powered, such as jackhamer, paving breaker, tampers, vibrator, spade, chipping hammer, & barco tamp.; bucket dump man, concrete; burner demolition work; chain saw operator; flagman; form setter, steel; mixer, mortar, cement grout clay, etc. (hand machine oper.); mortar mixer used in connection with hose for gypsum roofs, plastering, asbestos, fiber, soundproofing, etc.; mortorized post hole digger; power saw operator, concrete, outside building; steam cleaning machine operator; sewer pipe layer, yarner, wiper & pot man; slip form raiser, steel or wood, jack or screw type; wheelbarrow operator, motorized.

Group 3 - Powderman helper; wagon drill operator, track or wheel type and other equipment used in drilling for blasting.

Group 4 - Caisson work, hole man; tunnel laborer.

Group 5 - Nozzleman, concrete pneu.; powderman.

Group 6 - Chimneys or stacks, isolated.

DECISION NO. GA78-1016

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$ 8.85	.50	.75		.07
GROUP B	8.50	.50	.75		.07
GROUP C	6.83	.50	.75		.07
GROUP D	7.18	.50	.75		.07
GROUP E	6.28	.50	.75		.07
GROUP F	6.63	.50	.75		.07
GROUP G	5.61	.50	.75		.07

GROUP A: Backhoe operators, clamshell operator, conc. mix operator, cent, mix plant, conc. pump operator-Ridley or similar type, crane operator (truck, tower, crawler, or locomotive), derrick operator, dragline operator, drill operator-caisson foundation type, elevating grader operator, forklift operator that comes within the jurisdiction of the Operating Engineers hoisting engine operator, locomotive operator, mechanics-heavy duty, oilers on cranes with earth boring drill attached with a separate power source, concrete paving mixer operator, pile driver operator, rock crusher operator, shovel operator, trenching machine operator over 6 ft. depth capacity, well point system operator (including the operation of all pumps on project operated by the contractor) generator operator-75 K. VA. and over, tugger hoist operator, winch truck operator, hoisting material, air compressor operator, 365 C.F.M. and over furnishing air simultaneously for more than one contractor.

GROUP B: Bulldozer operator, dozer shovel operator, drill operator-Quarry master type, firemen-sationary or portable, motor grader operator, motor scraper operator (pans), pusher dozer operator, self-propelled compactor operator with blade, tractor operator with special equipment, trenching machine operator up to and including 6 ft. depth capacity.

GROUP C: Air compressor operator 600 cu. ft. and over, air compressor operator batt. of two, 300 cu. ft. and over, hydrohammer operator, concrete batch plant operator.

GROUP D: Oiler-grease truck, truck or locomotive crane.

GROUP E: Oiler-unspecified, pump operator over 4" up to batteries of 4, welding machine operator, batteries of 4 or more, portable, gasoline or diesel driven.

GROUP F: Concrete mixer operator skip types except paving mixers, concrete finishing machine operator, concrete paving machine operator, roller operator, well drill operator

GROUP G: Air compressor operator up to and including 300 cu. ft. or one machine over 300 but less than 600 cu. ft. conveyor operator, belt type, sand blasting machine operator, water pump operator 4" or less, water pump operator over 4" (one only)

SUPERSEDEAS DECISION

STATE: Maryland COUNTIES: Allegany and Garrett
DECISION NO. MD78-3002 DATE: Date of Publication
Supersedes Decision No. MD77-3021 dated January 14, 1977 in 42 FR 3153.
DESCRIPTION OF WORK: Heavy and Highway Construction.

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	$10.54		.40		.02
Carpenters	10.54	.45	.25		
Cement Masons	10.55	.45			1%
Electricians - Allegany Co.	10.75	.70	3%+.25		1%
Electricians - Garrett Co.	11.15	.70	3%+.25		
Ironworkers:					
Structural & reinforcing	10.44	.60	.90		
Laborers:					
Unskilled, landscape workers, tool checkers, dumpmen, handy men & truck spotters	7.79	.80	.90		
Power tool operators, mason & Plasterers tenders, mortar ixer by hand, scaffold builders, hod carriers, concrete puddlers, pipe layers, chainmen-rodmen, rammers & grade checkers	7.91	.80	.90		
Mortar mixer by machine	7.98	.80	.90		
Barko tampers	8.05	.80	.90		
Blaster/dynamite & wagon drill operator (air track)	8.09	.80	.90		
Tunnel workers:					
Caleson, driller & mucker	8.61	.80	.90		
Laborer-unskilled	8.25	.80	.90		
Gunnite workers:					
Nozzlemen & gun operators	8.09	.80	.90		
Piledrivermen	10.83	.45	.25		.02
Welders - receive rate prescribed for craft performing operation to which welding is incidental					

DECISION NO. MD78-3002

HEAVY CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 9.80	.85	.85	a	.10
Hourly additional pay for long boom cranes (including jibs), pile driver machines with leads:					
130' to 169' plus $ .40					
170' to 209' " .60					
210' to 249' " .80					
250' to 299' 1.00					
300' and over 1.25					
GROUP 2	9.38	.85	.85	a	.10
GROUP 3	9.04	.85	.85	a	.10
GROUP 4	8.80	.85	.85	a	.10
GROUP 5	8.72	.85	.85	a	.10
GROUP 6	8.33	.85	.85	a	.10
GROUP 7	10.20	.85	.85	a	.10

CLASSIFICATIONS

GROUP 1 - Backfiller, backhoe, concrete mixing plants, batching plants, cable way, derick, derrick boat, dragline, elevating grader, compressors (2 or more), space heaters, hoist (2 active drums or more), pile driving machine, power crane, power shovel, standard gauge locomotive, trenching machine, tunnel mucking machine, whirley rig, certified welders, concrete paver, double concrete pump, front end loader (over 2 yds.), over 4 welders top scale (more than 6, another man), eimco type overhead loader, wellpoint system, mighty midget with compressor, twin engine scraper (25 yds. and over), mechanic, mechanic's welder, grader
GROUP 2 - Tractor with attachments (2 or more), Bulldozer
GROUP 3 - Concrete mixer, concrete pump, one drum hoist, narrow gauge locomotive, power roller, asphalt spreader, pumps (not exceeding 4), well drill, engine driven welders (not exceeding 4), single compressors (over 210 c.f.m.), steam hammer, pile extractor, conveyor, stone crusher, hi-lift, front end loader (up to and including 2 yds.), excavating scoop
GROUP 4 - Finishing machine, bull float, longitudinal float, screeding machine concrete spreader, sub grader
GROUP 5 - Fireman, truck crane oiler, wheel tractor, grease truck operator
GROUP 6 - Oiler, greaser, mechanic's helper, single compressor (up to 210 c.f.m.)
GROUP 7 - Operators handling or setting steel, prestressed concrete or machinery, Tower Crane

FOOTNOTE: a. 7 paid holidays - New Year'sDay, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day and Christmas Day.

DECISION NO. MD78-3002

HIGHWAY CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	9.62	.85	.85		.10
Hourly additional pay for long boom cranes (including jibs), pile driver machines with leads					
130' to 169' plus $ .40					
170' to 209' " .60					
210' to 249' " .80					
250' to 299' 1.00					
300' and over 1.25					
GROUP 2	9.16	.85	.85		.10
GROUP 3	8.86	.85	.85		.10
GROUP 4	8.63	.85	.85		.10
GROUP 5	8.51	.85	.85		.10
GROUP 6	8.16	.85	.85		.10
GROUP 7	10.02	.85	.85		.10

CLASSIFICATIONS

GROUP 1 - Backfiller, backhoe, concrete mixing plants, batching plants, cable way, derrick, derrick boat, dragline, elevating grader, compressors (2 or more), space heaters, hoist (2 active drums or more), pile driving machine, power crane, power shovel, standard gauge locomotive, trenching machine, tunnel mucking machine, whirley rig, certified welders, concrete paver, double concrete pump, front end loader (over 2 yds.), over 4 welders top scale (more than 6 another man), eimco type overhead loader, wellpoint system, mighty midget with compressor, twin engine scraper (25 yds. and over), mechanic, mechanic's welder, grader
GROUP 2 - Tractor with attachments (2 or more), bulldozer
GROUP 3 - Concrete mixer, concrete pump, one drum hoist, narrow gauge locomotive, power roller, asphalt spreader, pumps (not exceeding 4), well drill, engine driven welders (not exceeding 4), single compressors (over 210 c.f.m.), steam hammer, pile extractor, conveyor, stone crusher, hi-lift, front end loader (up to and including 2 yds.), excavating scoop
GROUP 4 - Finishing machine, bull float, longitudinal float, screeding machine, concrete spreader, sub grader
GROUP 5 - Fireman, truck crane oiler, wheel tractor, grease truck operator
GROUP 6 - Oiler, greaser, mechanic's helper, single compressor (up to 210 c.f.m.)
GROUP 7 - Operators handling or setting steel, stone, prestressed concrete, or machinery, tower crane

DECISION NO. MD78-3002

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
GROUP 1	$ 7.89	.70	.90		
GROUP 2	8.04	.70	.90		
GROUP 3	8.24	.70	.90		
GROUP 4	8.44	.70	.90		
GROUP 5	8.67	.70	.90		

CLASSIFICATIONS

GROUP 1 - Dumpmen and Flagmen
GROUP 2 - Pick-ups, dumps (under 9 yds., capacity), stright trucks
GROUP 3 - Helpers, panel trucks, straight trucks with multiple axle, dumpsters (under 5 yds. capacity), Transit mix, dumps (5 to 9 yd. capacity), flatbody material trucks (straight jobs), greasers, tiremen, mechanics' helpers, rubber-tired (towing & pushing flatbody vehicles), form trucks
GROUP 4 - Dump trucks (10 to 15 yd., capacity)
GROUP 5 - Dump trucks (over 15 yd. capacity), bottom and end dump euclids, all other euclid type trucks, turnarockers, ross carriers, athey wagons, mechanics, semi-trailers or tractor-trailers, low boys, asphalt distributors, agitator mixer, dumpcretes or batch trucks, specialized earth moving equipment, Off-highway tandem back-dump, twin engine equipment and double hitched equipment (where not self-loaded)

SUPERSEDEAS DECISION

STATE: Mississippi COUNTY: *SEE BELOW
DECISION NUMBER: MS78-1017 DATE: Date of Publication
Supersedee Decision No.: MS78-1010 dated February 17, 1978, in 43 FR-7129.
DESCRIPTION OF WORK: Highway Construction (does not include Building Structure in Rest Area Projects; Bridges over Navigable Water; Tunnels and Railroad Construction)

DECISION NO.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayer	$ 5.00				
Carpenters	4.60				
Cement Masons/Finisher	4.25				
Electrician	7.00				
Ironworkers, reinforcing	4.05				
Laborers:					
Unskilled	2.84				
Grade Checker	3.00				
Asphalt Raker	3.25				
Mason Tender	4.00				
Air Tool Operator	3.25				
Pipelayer	3.50				
Painter, Structural Steel	5.00				
Truck Driver	3.00				
Welder	4.10				
POWER EQUIPMENT OPERATORS:					
"A" Frame Truck (Winch)	5.00				
Aggregate Spreader Operator	3.50				
Air Compressor Operator	3.25				
Asphalt Distributor-Spreader Operator	3.50				
Asphalt Plant	4.00				
Backhoe or Shovel Operator	4.90				
Bulldozer Operator	5.25				
Concrete Batch Plant Operator	4.25				
Concrete Finishing Machine Operator	4.45				
Curing Machine Operator	3.00				
Concrete Paving Machine Operator	3.80				
Concrete Spreader Machine Operator	4.25				
Crane, Dragline Operator	5.50				
Guard Rail Post Driver	3.50				
Earth Auger	5.00				
Fireman	3.60				
Joint Filler	2.90				
Joint Setter	3:50				
Loader Operator (All Types)	4.00				
Mechanic	4.95				
Mixer Operator (All Types)	3.60				
Motor Patrol Operator	4.50				
Mulcher Operator	2.90				
Oiler-Greaser	4.00				
Piledriver Operator	4.00				
POWER EQUIPMENT OPERATORS: (CONT'D)					
Roller Operator (Self-propelled)	$ 3.15				
Scales (All types)	3.50				
Scraper Operator	5.00				
Striping Machine Operator	4.00				
Tractor Operator (Track Type)	4.50				
Tractor Operator (Wheel Type)	2.90				
Trenching Machine	3.00				
Concrete Breaker & Hydo-Hammer Operator	2.90				
Crusher Feeder Operator	3.00				

Area III Counties:
Claiborne, Copiah, Hinds, Holmes, Humphreys, Issaquena, Madison, Rankin, Sharkey, Simpson, Warren and Yazoo.

SUPERSEDEAS DECISION

STATE: Mississippi COUNTY: *SEE BELOW
DECISION NUMBER: MS78-1018 DATE: Date of Publication
Supersedea Decision No.: MS78-1011 dated February 17, 1978 in 43 FR-7129.
DESCRIPTION OF WORK: Highway Construction. (Does not include Building Structures in Rest Area Projects, Bridges over Navigable Water, Tunnels and Railroad Construction)

DECISION NO.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayer	$ 5.50				
Carpenters	4.00				
Cement Masons/Finisher	4.00				
Electrician	7.00				
Ironworker, reinforcing	3.50				
Laborers:					
Unskilled	2.60				
Grade Checker	3.50				
Asphalt Raker	3.00				
Air Tool Operator	3.00				
Concrete Saw Operator	4.00				
Pipelayer	3.00				
Painter, Structural Steel	6.00				
Truck Driver	2.75				
Welder	3.00				
POWER EQUIPMENT OPERATORS:					
"A" Frame Truck (Winch)	3.75				
Aggregate Spreader Operator	3.25				
Air Compressor Operator	3.25				
Asphalt Distributor-Spreader Operator	3.25				
Asphalt Plant	3.00				
Backhoe or Shovel Operator	4.75				
Bulldozer Operator	4.00				
Concrete Batch Plant Operator	3.10				
Concrete Finishing Machine Operator	4.50				
Curing Machine Operator	3.00				
Concrete Paving Machine Operator	3.50				
Concrete Spreader Machine Operator	3.25				
Crane, Dragline Operator	5.25				
Guard Rail Post Driver	3.20				
Earth Auger	3.00				
Fireman	3.00				
Joint Setter	3.00				
Loader Operator (All Types)	3:30				
Mechanic	4.00				
Mixer Operator (All types)	2.75				
Motor Patrol Operator	4.00				
Mulcher Operator	2.75				
Oiler-Greaser	3.00				
Piledriver Operator	4.25				
POWER EQUIPMENT OPERATORS: (CONT'D)					
Roller Operator (Self-propelled)	$ 3.00				
Scales (All types)	2.60				
Scraper Operator	4.00				
Striping Machine Operator	4.25				
Tractor Operator (Track Type)	2.85				
Tractor Operator (Wheel Type)	2.75				
Trenching Machine	4.35				
Crusher Feeder Operator	3.50				

Area IV Counties:
Attala, Clarke, Jasper, Kemper, Lauderdale, Leake, Neshoba, Newton, Noxubee, Scott, Smith, and Winston.

SUPERSEDEAS DECISION

STATE: Mississippi COUNTY: *See Below
DECISION NUMBER: MS78-1019 DATE: Date of Publication
Supersedes Decision No. MS78-1002 dated February 17, 1978, in 43 FR-7128.
DESCRIPTION OF WORK: Highway Construction (Does not include Building Structure in Rest Area Projects; Bridges over Navigable Water; Tunnels and Railroad Construction
Area I. Counties:
*Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Itawamba, Lafayette, Lee, Lowndes Marshall, Monroe, Oktibbeha, Pontotoc, Prentiss, Tippah, Tishomingo, Union and Webster.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	$5.50				
Carpenters	4.60				
Cement Mason/Finishers	4.10				
Electricians	5.50				
Ironworkers, reinforcing	5.45				
Laborers:					
Unksilled	2.80				
Mason Tender	3.56				
Asphalt Raker	3.25				
Grade Checker	4.40				
Air Tool Operator	3.25				
Concrete Saw	3.25				
Painters, Structural Steel	4.75				
Pipelayers	3.50				
Welders	4.75				
POWER EQUIPMENT OPERATORS					
Aggregate Spreader Operator	3.75				
Air Compressor Operator	3.50				
Asphalt Distributor-Spreader Operator	3.66				
Asphalt Plant	3.40				
Backhoe or Shovel Operator	4.60				
Bulldozer Operator	4.90				
Concrete Batch Plant Operator	4.25				
Concrete finishing Machine Operator	4.00				
Curing Machine Operator	3.00				
Concrete Paving Machine Operator	4.10				
Concrete Spreader Machine Operator	4.25				
Crane, Dragline Operator	5.25				
Guard Rail Post Driver	3.00				
Earth Auger	4.00				
Fireman	3.00				
Joint filler	2.90				
Joint Setter	2.90				
Loader Operator (All Types)	4.25				
Mechanic	5.10				
Mixer Operator (All Types)	3.65				
Motor Patrol Operator	5.10				
Mulcher Operator	2.90				

MS78-1019 (Continued)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (CONT'D)	$				
Oiler-Greaser	3.95				
Piledriver Operator	4.00				
Roller Operator (Self-propelled)	3.20				
Scales (All Types)	3.00				
Scraper Operator	4.80				
Striping Machine Operator	4.25				
Tractor Operator (Track Type)	3.25				
Tractor Operator (wheel Type)	2.80				
Trenching Machine	3.00				
Concrete Breaker & Hydro-Hammer Operator	2.90				
Subgrade Machine Operator	3.15				

SUPERSEDEAS DECISION

STATE: Mississippi COUNTY: *SEE BELOW
DECISION NUMBER: MS78-1020 DATE: Date of Publication
Supersedes Decision No.: MS78-1009 dated February 17,1978, in 43 FR-7128.
DESCRIPTION OF WORK: Highway Construction, (does not include Building Structure in Rest Area Projects; Bridges over Navigable Water; Tunnels and Railroad Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayer	$ 7.00				
Carpenters	4.50				
Cement Masons/Finisher	5.00				
Electrician	6.00				
Ironworkers: Reinforcing/Structural	3.75				
Laborers:					
Unskilled	2.74				
Asphalt Raker	2.85				
Grade Checker	3.75				
Air Tool Operator	3.25				
Concrete Saw Operator	4.25				
Pipelayer	3.00				
Painter, Structural Steel	4.50				
Truck Driver	2.80				
POWER EQUIPMENT OPERATORS:					
Aggregate Spreader Operator	3.25				
Air Compressor Operator	2.75				
Asphalt Distributor-Spreader Operator	3.36				
Asphalt Plant	3.00				
Backhoe or Shovel Operator	5.00				
Bulldozer Operator	5.00				
Concrete Batch Plant Operator	4.00				
Concrete Finishing Machine Operator	3.50				
Curing Machine Operator	3.00				
Concrete Paving Machine Operator	3.50				
Concrete Spreader Machine Operator	3.00				
Crane, Dragline Operator	6.00				
Guard Rail Post Driver	3.50				
Earth Auger	3.00				
Fireman	3.00				
Joint Filler	2.80				
Loader Operator (All Types)	3.70				
Mechanic	4.85				
Mixer Operator (All Types)	3.50				
Motor Patrol Operator	5.00				
Mulcher Operator	2.75				
Oiler-Greaser	3.65				
Piledriver Operator	4.25				
Roller Operator (Self-propelled)	2.75				
Scales (All types)	3.00				

DECISION NO. MS78-1020

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (CONT'D)					
Scraper Operator	$ 4.50				
Striping Machine Operator	4.00				
Tractor Operator (Track Type)	3.00				
Tractor Operator (Wheel Type)	2.80				
Trenching Machine	4.00				
Concrete Breaker & Hydo-Hammer Operator	2.80				
Subgrade Machine Operator	4.00				
Crusher Feeder Operator	3.00				
Welder	3.70				

Area II Counties:
Bolivar, Carroll, Coahoma, DeSoto, Grenada, Leflore, Montgomery, Panola, Quitman, Sunflower, Tallahatchie, Tate, Tunica, Washington, & Yalobusha.

SUPERSEDEAS DECISION

STATE: Mississippi COUNTIES: *SEE BELOW
DECISION NUMBER: MS78-1021 DATE: Date of Publication
Supersedes Decision No.: MS78-1012 dated February 17, 1978, in 43 FR-7130
DESCRIPTION OF WORK: Highway Construction. (Does not include Building Structures in Rest Area Projects, Bridges over Navigable Waters, Tunnels and Railroad Construction)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayer	$ 5.00				
Carpenters	4.50				
Cement Masons/Finisher	5.00				
Electricians	6.00				
Ironworkers, Reinforcing	4.85				
Ironworkers, Structural	4.55				
Laborers:					
Unskilled	2.74				
Asphalt Raker	3.40				
Grader Checker	3.50				
Air Tool Operator	3.50				
Concrete Saw Operator	3.25				
Painter, Structural Steel	4.00				
Piledriverman	4.25				
Truck Driver	3.06				
Welder	5.50				
POWER EQUIPMENT OPERATORS:					
"A" Frame Truck (Winch)	3.75				
Aggregate Spreader Operator	4.25				
Air Compressor Operator	4.25				
Asphalt Distributor-Spreader Operator	3.30				
Asphalt Plant	4.00				
Backhoe or Shovel Operator	4.25				
Bulldozer Operator	4.54				
Concrete Batch Plant Operator	4.50				
Concrete Finishing Machine Operator	3.75				
Concrete Paving Machine Operator	3.00				
Concrete Spreader Machine Operator	3.00				
Crane, Dragline Operator	5.00				
Guard Rail Post Driver	3.25				
Earth Auger	3.38				
Fireman	3.00				
Joint Filler	3.00				
Joint Setter	3.50				
Loader Operator (All Types)	4.05				
Mechanic	4.50				
Mixer Operator (All types)	3.50				
Motor Patrol Operator	5.50				
Mulcher Operator	2.94				
Oiler-Greaser	3.88				

DECISION NO. MS78-1021

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (CONT'D)					
Piledriver Operator	$ 4.75				
Roller Operator (Self-propelled)	3.25				
Scales (All types)	3.45				
Scraper Operator	4.25				
Striping Machine Operator	4.00				
Tractor Operator (Track Type)	3.75				
Tractor Operator (Wheel Type)	2.75				
Trenching Machine	3.75				
Crusher Feeder Operator	3.25				

Area V Counties:
Adams, Amite, Covington, Forrest, Franklin, Greene, Jefferson, Jefferson Davis, Jones, Lamar, Lawrence, Lincoln, Marion, Perry, Pike, Walthall, Wayne, and Wilkinson.

SUPERSEDEAS DECISION

STATE: Mississippi COUNTY: *SEE BELOW
DECISION NUMBER: MS78-1022 DATE: Date of Publication
Supersedes Decision No.: MS78-1013 dated February 24, 1978 in 43 FR
DESCRIPTION OF WORK: Highway Construction. (Does not include Building Structures in Rest Area Projects, Bridges over Navigable Waters, Tunnels and Railroad Construction)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayer	$ 7.00				
Carpenters	5.20				
Cement Masons/Finisher	5.00				
Electricians	6.00				
Ironworkers, reinforcing	5.70				
Laborers:					
Unskilled	3.00				
Asphalt Raker	3.72				
Pipelayer	3.50				
Air Tool Operator	4.18				
Concrete Saw Operator	5.00				
Grade Checker	3.10				
Painter (Structural Steel)	5.00				
Piledriverman	5.00				
Truck Driver	3.00				
Tugboat Operator	5.50				
Welder	5.00				
POWER EQUIPMENT OPERATORS:					
"A" Frame Truck (Winch)	4.50				
Aggregate Spreader Operator	3.50				
Air Compressor Operator	3.00				
Asphalt Distributor-Spreader Operator	3.80				
Asphalt Plant	4.00				
Backhoe or Shovel Operator	4.75				
Bulldozer Operator	4.50				
Concrete Batch Plant Operator	5.30				
Concrete Finishing Machine Operator	5.12				
Curing Machine	3.00				
Concrete Paving Machine Operator	3.55				
Concrete Spreader Machine Operator	3.25				
Crane, Dragline Operator	5.50				
Guard Rail Post Driver	3.50				
Earth Auger	4.00				
Fireman	3.00				
Joint Filler	3.00				
Loader Operator (All Types)	4.60				
Mechanic	5.50				
Mixer Operator (All types)	3.00				
Motor Patrol Operator	5.16				
Mulcher Operator	3.00				

DECISION NO. MS78-1022

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATOR: (CONT'D)					
Oiler-Greaser	$ 3.50				
Piledriver Operator	6.25				
Roller Operator (Self-propelled)	3.68				
Scales (All types)	3.40				
Scraper Operator	4.00				
Striping Machine Operator	4.10				
Tractor Operator (Track Type)	3.00				
Tractor Operator (Wheel Type)	3.00				
Trenching Machine	4.00				
Sub Grade Machine Operator	3.60				
Crusher Feeder Operator	3.25				

Area VI Counties:
George, Hancock, Harrison, Jackson, Pearl River, and Stone.

SUPERSEDEAS DECISION

STATES: DC, Maryland, Virginia DATE: Date of Publication
DECISION NO. DC78-3006
Supersedes Decision No. DC77-3108, dated September 16, 1977, in 42 FR 46905; & MD77-3109, dated, September 16, 1977, in 42 FR 46872.
DESCRIPTION OF WORK: Building Construction (excluding residential 4 stories, etc., District of Columbia, Arlington County, VIrginia, Prince Georges and Montgomery Counties, Maryland (Only)
Heavy Construction (excluding Water and Sewer Lines)
Highway Construction (District of Columbia (Only)
Water and Sewer Lines (District of Columbia Only)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HEAVY CONSTRUCTION: District of Columbia Only BUILDING CONSTRUCTION: All Areas					
ASBESTOS WORKERS	$11.41	.70	1.29		.03
BOILERMAKERS - BLACKSMITHS	11.15	.70	1.00		.02
BRICKLAYERS	11.65	.80	.70		.10
CARPENTERS	10.45	.80	.60		.05
CARPET LAYERS	7.05	.30			.05
CEMENT MASONS:					
Cement masons	10.50	.805	.60		.11
Grinding machine	10.75	.805	.60		.11
DIVERS	18.125	.50	.49		.07
DIVER TENDER	10.75	.50	.49		.07
ELECTRICIANS	11.40	.65	3%+.80		.13
ELEVATOR CONSTRUCTORS	11.77	.745	.56	a+b	.025
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.745	.56	a+b	.025
ELEVATOR CONSTRUCTORS" HELPERS (PROBATIONARY)	50%JR				
GLAZIERS	11.48	.61	.50		.05
IRONWORKERS:					
Structural, ornamental and chain link fence	10.40	.87	.80		.05
Reinforcing	10.95	.62	1.05		.03
LABORERS (EXCLUDING, HEAVY CONSTRUCTION)					
Common laborers, landscapers	8.46	.60	.45		.05
Acetylene burners used on wrecking	8.96	.60	.45		.05
Air tool op., scaffold builders, paving breakers, towmasters, buggy mobiles, spaders, mortar men and scootcretes	8.61	.60	.45		.05
Pipelayers	8.61	.60	.45		.05
Plasterers' tenders	7.03	.32	.35		.05
Plumbers' laborers	8.31	.60	.45		.05
Powdermen	9.635	.60	.45		.05
Powersaw, well points	8.71	.60	.45		.05
LATHERS	10.36	.50	.50		.025
LEADBURNERS	10.75	.40	.25	c	.01

DECISION NO. DC78-3006

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HEAVY CONSTRUCTION: District of Columbia Only BUILDING CONSTRUCTION: All Areas					
LINE CONSTRUCTION:					
Linemen, cable splicers, equipment operators	12.41	.45	3%		½ of 1%
Truck with winch, truck pole or steel handling	7.53	.45	3%		½ of 1%
Groundmen (0 to 1 year)	6.11	.45	3%		½ of 1%
Groundmen (1 to 2 years)	7.02	.45	3%		½ of 1%
Groundmen (over 2 years)	7.27	.45	3%		½ of 1%
MARBLE SETTERS	11.60	.80	.65		.06
MARBLE SETTERS' HELPERS	7.35				
MILLWRIGHTS	10.94	.80	.60		.05
PAINTERS:					
Brush, spray, paperhangers, tapers	10.54	.81	1.10		.06
Steel, sandblasting, swing stage, power brushing	11.04	.81	1.10		.06
PILEDRIVERMEN	10.68	.80	.60		.05
PLASTERERS	10.40	.60	.75		.06
PLUMBERS	11.12	1.00	1.00		.27
ROOFERS:					
Composition	9.87	.56	.30		
Slate, tile mopmen, waterproofers, sprayers, sprandrel and ironite	10.43	.56	.30		
SHEET METAL WORKERS	11.14	1.07	1.21		.14
SOFT FLOOR LAYERS	10.45	.80	.60		.05
SPRINKLER FITTERS	11.70	.65	.95		.08
STEAMFITTERS, REFRIGERATION AND AIR CONDITION MECHANIC	11.48	.75	1.00		.16
STONE MASONS	11.60	.80	.65		.07
STONE CUTTERS:					
Fitters and trimmers	11.65	.18	.40		
Ornamental carvers	10.38	.18	.40	d	
Figure carvers	11.00	.18	.40	d	

DECISION NO. DC78-3006

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HEAVY CONSTRUCTION: District of Columbia Only BUILDING CONSTRUCTION: All Areas					
TERRAZZO AND MOSAIC WORKERS	12.03	.60	.40		
TERRAZZO WORKERS' HELPERS	9.95	.70	.70		
TILE SETTERS	10.68	.60	.40		
TILE SETTERS' HELPERS	9.30	.50	.40		
TRUCK DRIVERS:					
Boom trucks	8.45	.415	.425	e+f	
Small dump, water sprinkler, grease and oil	8.20	.415	.425	e+f	
Flat, pick-up hauling materials, small Euclids, dump over 8 wheels	8.30	.415	.425	e+f	
Trailers, low boys, tractor pulls	8.50	.415	.425	e+f	
Helpers	8.05	.415	.425	e+f	
Carryalls, large Euclids, Euclid water sprinkler, tunnel work under ground	8.60	.415	.425	e+f	
Mechanics	8.35	.415	.425	e+f	
RIGGERS AND WELDERS - Receive rates prescribed for crafts performing operations to which rigging and welding are incidental.					

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PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F, plus the Friday after Thanksgiving Day.

b. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

c. Holidays: A through F plus Washington's Birthday, Good Friday and Christmas Eve (provided an employee has worked at least 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday).

d. Holidays: A-D-E-F and Veteran's Day.

e. Holidays: A-D-E and F (provided the employee works the regularly scheduled work days immediately preceeding and following the holiday.

f. One weeks paid vacation providing the employee has worked 3 years and a minimum of 1450 hours during any calendar year.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
GROUP I	8.46	.60	.45		.05
GROUP II	8.61	.60	.45		.05
GROUP III	8.66	.60	.45		.05
GROUP IV	8.71	.60	.45		.05
GROUP V	8.91	.60	.45		.05
GROUP VI	9.11	.60	.45		.05
GROUP VII	9.235	.60	.45		.05
GROUP VIII	9.635	.60	.45		.05

CLASSIFICATIONS

LABORERS:

GROUP I - Cerloader, choker setter, concrete crewman, crushed feeder, demolition laborer (including salvaging all material, loading and cleaning up), wrecking, driller helper, dumpman, flagman, fence erector and installer (including installation and erection of fence, guard rails, median rails, reference posts, guide posts and right-of-way markers), form stripper, general laborers, railroad track laborer, riprap man, scale man, stake jumper, structure mover (includes foundation, separation, preparation, cribbing, shoring, jacking and unloading of structures), water nozzleman, timber bucker and faller, truck loader, water boys, tool room man

GROUP II - Combined air and water nozzlemen, cement handler, dope pot fireman (nonmechanical), form cleaning machine, mechanical railroad equipment (includes spiker, puller, tie cleaner, tamper pipe wrapper, power driven wheelbarrow, operators of hand derricks, townmasters, scootcretes, buggymobiles and similar equipment), tamper or rammer operator, trestle scaffold builders over one tier high, power tool operator (gas, electric or pneumatic), sandblast or gunnite tailhose man, scaffold erector (steel or wood), vibrator operator (up to 4'), asphalt cutter, morter men, shorer and lagger, creosote material handler, corrosice enamel or equal, paving breaker and jackhammer operators

GROUP III - Multi-section pipe layer, non-mentallic clay and concrete pipe layer (including caulker, collarman, jointer, rigger and jacker) thermite welder and corrugated metal culvert pipe layer

GROUP IV - Asphalt block pneumatic cutter, asphalt roller, walking chain-saw with attachment, concrate saw (walking), high scalers, jackhammer (using over 6' of steel), vibrator (4' and over), well point installers, air-trac operator

GROUP V - Asphalt screeder, big drills, cut of the hole drills (1½ piston or larger) down the hole drills (3½" piston or larger), gunnite or sandblaster nozzleman, asphalt raker, asphalt tamper, form setter, demolition torch operator, shotcrate nozzlemen and potman

GROUP VI - Powderman, master for setters

GROUP VII - Brick paver (asphalt block paver, asphalt block saw man, asphalt block grinder; hasting block or similar type)

GROUP VIII - Miners

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY - RAPID RAIL TRANSIT SYSTEM (ONLY)

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DECISION NO. DC78-3006

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS					
GROUP I	8.735	.50	.40		.05
GROUP II	9.035	.50	.40		.05
GROUP III	9.685	.50	.40		.05
GROUP IV	9.935	.50	.40		.05

CLASSIFICATIONS

TUNNELS, RAISES AND SHAFTS - FREE AIR

GROUP I
Brakeman, bull gang, dumper, trackman, concrete man

GROUP II
Chuck tender, powdermen in prime houss, form setters and movers, nippers, cableman, hosemen, groutman, bell or signalman, top or bottom vibrator operator, caulkers' helpers

GROUP III
Miners, rodmen, re-bar underground, concrete or gunnite nozzlemen, powderman, timberman and re-timberman, wood steel including liner plate or any other support, material, motorman, caulkers, diamond drill operators, riggers, cement finishers - undergroung, welders and burners, shield driver, air trac operator, shotcrete nozzleman and potman

GROUP IV
Mucking machine operator (air)

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY - RAPID RAIL TRANSIT SYSTEM

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		Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS - COMPRESSED AIR RATES						
Gauge Pressure Pounds	Work Period Hours					
1-14	7	$1.26	a	b		c
14-18	6	94.60	a	b		c
18-22	5-1/2	97.89	a	b		c
22-26	5	101.28	a	b		c
26-32	4	104.61	a	b		c
32-38	3	107.91	a	b		c
38-44	2-1/2	119.29	a	b		c

FOOTNOTES:

a. The employer pays $4.80 to health and welfare per day.

b. The employer pays $3.60 to Pension per day.

c. The employer pay $.40 to training fund per day.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HEAVY CONSTRUCTION: District of Columbia Only BUILDING CONSTRUCTION: All Areas POWER EQUIPMENT OPERATORS:					
GROUP I	11.70	.60	.60		.12
GROUP II	11.45	.60	.60		.12
GROUP III	11.30	.60	.60		.12
GROUP IV	11.12	.60	.60		.12
GROUP V	11.07	.60	.60		.12
GROUP VI	11.05	.60	.60		.12
GROUP VII	11.04	.60	.60		.12
GROUP VIII	10.87	.60	.60		.12
GROUP IX	10.85	.60	.60		.12
GROUP X	10.65	.60	.60		.12
GROUP XI	10.17	.60	.60		.12
GROUP XII	9.99	.60	.60		.12
GROUP XIII	8.55	.60	.60		.12

POWER EQUIPMENTOPERATORS CLASSIFICATIONS

GROUP I - 35 ton cranes and above, tower and climbing cranes

GROUP II - Back hoes, boom-cat, cableways, cranes or derricks, draglinges, elevating gradsrs, hoists, multiple concrete conveyors, elevators (permanent), paving mixers, pile driving engines, power shovels, tunnel shovels, mucking machines, batch plant, concrete pumps, locomotives (standards, narrow guage), power driven wheel scoops and scrapers (50 cu. yd. struck capacity or above), front end loader above 3½ cu. yd., boom trucks, molee, shields, tunnel mining machines, loaders used as muckers in tunnel mining, gradalls, shotcrete machines and grout pumps with discharge of two inches I.D. or more, drill rigs

GROUP III - Hydraulic back hoes of less than ½ yd. capecity, mounted on tractors, front end loader above 2-3/4 to 3½ cu. yd.

GROUP IV - Air compressor on steel

GROUP V - Mechanic, machanic-welder, welder

GROUP VI - Front end loader, highlift, fork lift

GROUP VII - Boilers (skeleton), trenching machines, tug boat, well drilling machines

GROUP VIII - Concrete mixer, tunnel motorman

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POWER EQUIPMENT OPERATORS CLASSIFICATIONS (CONT'D)

GROUP IX - Power driven wheel scoops and scrapers (below 50 cu. yd. struck capacity), blade graders, motor graders, bulldozers

GROUP X - Rollers, saphalt spreaders, bullfloat finishing machines, concrete finishing machines, concrete spreaders, fine graders

GROUP XI - Air compressors (except steel), welding machines, pumps, generators, space heaters, wellpoints, deepwells, hydraulic pumps

GROUP XII - Firemen

GROUP XIII - Oilers

(District of Columbia Only)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DEMOLITION					
Laborers	$ 6.40	.35	.40		.05
Burners	6.90	.35	.40		.05
Power tool operator	6.55	.35	.40		.05
Bobcat operator	7.40	.35	.40		.05

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(DISTRICT OF COLUMBIA ONLY)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAVING AND INCIDENTAL GRADING					
ASPHALT SHOVELER	7.05	.27	.35		
ASPHALT RAKER	7.25	.27	.35		
ASPHALT TAMPER	7.15	.27	.35		
BRICKLAYERS	11.65	.80	.70		.10
CARPENTERS	10.45	.80	.60		.05
CEMENT MASONS	7.50	.27	.35		
CONCRETE SAW OPERATOR	7.25	.27	.35		
CONCRETE SHOVELER	7.15	.27	.35		
FORM SETTER	7.50	.27	.35		
LABORERS:					
Laborers	7.00	.27	.35		
Jackhammer	7.20	.27	.35		
Hand Burner Operator	7.15	.27	.35		
POWER EQUIPMENT OPERATORS:					
Concrete Spreader Operator, Finishing Machine, Roller (rough), Compressor, Rubber-tired Loader (1-½ cu. yds., or less), Asphalt Plant Mixer	7.25	.27	.35		
Loader Operator Tracks (2-½ cu. yds. or less), Burner Planer, Bulldozer, Mechanic or Welder, Rubber Tired Loader (over 1-½ cu. yds.)	7.45	.27	.45		
Asphalt Spreader, Hydraulic Backhoe (½ cu. yd., or less), Asphalt Plant Engineer, Asphalt Roller Operator, Concrete Breaker (machine)	7.50	.27	.35		
Crane Operator, Concrete Paving Operator	7.65	.27	.35		
Shovel Operator	7.75	.27	.35		
Gradall Operator (1-½ cu. yds. or less), Motor Grader, Operator Tracks (over 2-½ cu. yds	8.40	.27	.35		
G-1000 Gradall Operator (over 1½ cu. yds.)	8.65	.27	.35		
Power Broom, Oiler	7.15	.27	.35		
Sand Setter	7.45	.27	.35		
TRUCK DRIVERS:					
Truck Drivers (standard)	7.00	.27	.35		
Tandem	7.12	.27	.35		
Tractor trailer (capable of moving heavy equipment)	7.50	.27	.35		

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(DISTRICT OF COLUMBIA ONLY)

SEWER AND WATER LINES

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	11.65	.80	.70		.10
CARPENTERS	10.45	.80	.60		.05
CEMENT MASONS	10.50	.805	.60		.11
IRONWORKERS; Reinforcing	10.95	.62	1.05		.03
LABORERS:					
Open Cut:					
Laborers, jackhammer, rammers and spaders	5.78	.28	.25		.03
Timbermen, sheeting-men, shoring-men, caulkers, pipelayers helpers	5.93	.28	.25		.03
Bottom man	5.83	.28	.25		.03
Wagon drillers, air track drillers	6.13	.28	.25		.03
Pipelayers	6.13	.28	.25		.03
Rock drillers	5.88	.28	.25		.03
Tunnel:					
Brakeman, bull gang, dumper, trackmen, concrete man	6.415	.28	.25		.03
Chuck tender, powder in prime house, form setters and movers, nippers, cable-men, hosemen, grout men, bell or signal men, top or bottom, vibrator operator, caulkers' helpers	6.715	.28	.25		.03
Miners, rodmen, re-bar under-ground, concrete or gunite nozzlemen, pwermen, timber-men and retimberman wood or steel including liner plate or any other support material, motorman, caulkers, diamond drill riggers, cement finishers (underground), welders and burners, shield driver	7.365	.28	.25		.03
Mucking mschine operator (air)	7.615	.28	.25		.03

DECISION NO. DC77-3108

(DISTRICT OF COLUMBIA)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SEWER AND WATER LINES CONT'D					
COMPRESSED AIR: (All rates per day)					
Gauge Pressure Pounds / Work Period					
From 1 to 14 / 7 hours	72.74	a	b		.03
From 14 to 18 / 6 hours	76.08	a	b		.03
From 18 to 22 / 5½ hours	79.41	a	b		.03
From 22 to 26 / 5 hours	82.76	a	b		.03
From 26 to 32 / 4 hours	86.09	a	b		.03
From 32 to 38 / 3 hours	89.44	a	b		.03
From 38 to 44 / 2½ hours	92.77	a	b		.03
PILEDRIVERMEN	10.68	.80	.60		.05
PLUMBERS	11.12	1.00	1.00		.27
POWER EQUIPMENT OPERATORS:					
Backhoes, cable ways, cranes, draglines power shovels, tunnel shovels, tunnel mucking machines, derricks, 1 cu. yd. and over	8.19	.35	.35		.05
Backhoes, cableways, cranes derricks, dragline, tunnel shovels, tunnel mucking machines up to 1 cu. yd., boom cats, elevating graders, hoists, paving mixers, pile-driving engines, batch plants concrete pumps	7.94	.35	.35		.05
Trenching machines (above 8' 3")	7.74	.35	.35		.05
Backhoes (hydraulic, under ½ c.y.)	7.82	.35	.35		.05
Trenching machines (up to 8' 3"), boilers skeleton, well drilling machines	7.64	.35	.35		.05
Air compressors, tunnel	7.61	.35	.35		.05
Front end loaders (high lift), bulldozers	7.59	.35	.35		.05
Concrete mixers, power sheel scoops and scrapers, motor graders, tunnel motor men, blade graders, tunnel mechanics	7.49	.35	.35		.05

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DECISION NO. DC77-3106 (DISTRICT OF COLUMBIA ONLY)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
SEWER AND WATER LINES CONT'D					
Mechanics	7.47	.35	.35		.05
Bulldozer, hydraulic tampers	7.39	.35	.35		.05
Roller	7.29	.35	.35		.05
Air compressors, pump, welding machine well points	7.215	.35	.35		.05
Apprentice engineers:					
Fireman	6.75	.35	.35		.05
Truck crane oilers	6.60	.35	.35		.05
Oilers	6.55	.35	.35		.05
TRUCK DRIVERS:					
Dump trucks	6.10	.415	c		
Dump trucks over 8 wheels	6.20	.415	c		
Flat trucks	6.20	.415	c		
Trailers	6.45	.415	c		
Fuel and oil trucks	6.10	.415	c		
Euclids	6.60	.415	c		

FOOTNOTES:

a. Employer contributes $2.24 per day to Health and Welfare.

b. Employer contributes $2.00 per day to Pension.

c. $10.00 per week when employee has worked 90 days and work three days in any work week.

[FR Doc. 78-5387 Filed 3-2-78; 8:45 am]

federal register

FRIDAY, MARCH 3, 1978
PART IV

DEPARTMENT OF LABOR

Employment and Training Administration

VETERANS SERVICES

FY 1978 Veterans Preference Indicators of Compliance Levels

[4510-30]

Title 20—Employees' Benefits

CHAPTER V—EMPLOYMENT AND TRAINING ADMINISTRATION, DEPARTMENT OF LABOR

PART 653—SERVICES OF THE EMPLOYMENT SERVICE SYSTEM

Subpart C—Services for Veterans

FY 1978 VETERANS PREFERENCE INDICATORS OF COMPLIANCE LEVELS

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: These regulations are published to establish the FY 1978 levels for the veterans preference indicators of compliance, used by the Department of Labor to monitor State employment service agencies to insure that veteran applicants receive priority service.

EFFECTIVE DATE: March 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Peter Rell, Director, Office of Program Review, U.S. Employment Service, Room 8324, 601 D Street NW., Washington, D.C. 20213, 202-376-6914.

SUPPLEMENTARY INFORMATION: The Department published proposed regulations for the FY 1978 compliance levels on August 26, 1977, at 42 FR 43201. Interested persons were advised to submit comments on the proposed levels until September 26, 1977. The Department received approximately twenty comments from components of the public employment service system and from veterans organizations. The most significant comments and the Department's responses thereto are listed below:

1. Several State employment service agencies commented that the proposed "enrollment in training" indicator was unfair because State agencies lack the authority and ability to enroll veterans in training. The Department has corrected this situation by substituting "referral to training" for "enrollment in training." However, no numerical levels are being set for FY 1978 because statistical data is not yet available to provide a basis for establishing levels for referrals to training. The Department plans to establish such levels for FY 1979.

2. Some commentors objected that the proposed placement floor levels were unfair, being too high for the high performing State agencies and too low for the low performing State agencies. The Department, however, believes that the proposed individualized placement floor levels are necessary to allow for differing economic conditions in different States. The Department anticipates that high performing State agencies will have little difficulty in meeting their assigned floor levels. It should also be remembered that failure to meet either the floor levels or the indicators does not automatically place a State agency into noncompliance with the standards of performance in the regulations, and that changed economic conditions may be taken into account when the Department determines whether or not a State agency is in compliance. Therefore, the placement floor levels have not been changed.

3. Three commentors contended that the proposed indicators were too complex, while one argued that they were too simple. The Department believes the indicators selected are the minimum number necessary to measure the adequacy of services to veterans. Although the Department has simplified the floor level formulas by dropping the mathematically unnecessary "×100 percent" from the left hand side of the equations, the Department has left the compliance indicator formulas unchanged because, as written, they yield easily compared percentages.

4. Some commentors objected to the exclusion of women and youth from the proposed statistical base of comparison for veterans services; that is, to the fact that the indicators compare rates of service to veterans only to rates of service to adult male nonveterans. These commentors expressed two reasons for their concern. First, they feared that State agencies will achieve their service levels on paper by maintaining current levels of service to women, youth, and veterans while decreasing service to adult male nonveterans. In this way, their level of services would measure well on the indicators despite the lack of any improvement in actual services to veterans. Second, even though women and youth do not always compete with veterans for the same jobs, they, like nonveteran men, do compete for staff time and services by the State agencies.

Although the Department believes that these arguments have some merit, two factors weigh against a change in the regulations at this time. First, because State agency funding levels depend in large part on total number of placements, the Department does not expect State agencies to risk funding cuts by lowering service levels to adult male nonveterans simply to meet the veterans preference indicators. Second, the Department believes that the evaluation of services to veterans and other target populations ought to be made on as statistically comparable a basis as possible, taking into account the significant differences in demographic characteristics among such persons and groups. It has long been recognized by evaluators that such characteristics are an important aspect of fair and equitable evaluation. A review of past characteristics of veterans and nonveterans served by the Employment Service shows age and sex to be the most important differences in the demographic characteristics of the two populations. As a result, we excluded youth and women from the nonveteran category to eliminate possible bias in the statistical comparison. In the future, the Department will review its data systems and evaluation methods to take advantage of more sophisticated methods and determine if future revisions are warranted.

5. Two commentors complained that the proposed preference indicators were unfair to those State agencies that provide all applicants, both veterans and nonveterans, with a high level of service. The Department disagrees. Although it is mathematically possible that a State agency providing a high level of service to veterans may measure poorly on the preference indicators while a low performing State agency does not, the purpose of the indicators is to encourage better service to veterans by all State agencies. It should be noted that currently only one high performing State agency does not meet the preference indicators.

6. Several commentors felt that various proposed indicators were either too high or too low. The Department drafted the proposed indicators for FY 1978 after analyzing actual performance data from FY 1976 and FY 1977. The intent was to set the indicators at a level which could be realistically achieved but which would encourage improvement by low performing State agencies. The value of this approach has been demonstrated by the fact that, over the past two years, the number of State agencies not meeting the indicators has dropped from 26 to 11. Furthermore, the Department intends to analyze this year's results carefully so that any appropriate adjustments may be made for FY 1979.

7. Several comments were made concerning the scope of reportable services with respect to the "inactivated with some reportable service" indicators. One comment pointed out that the term "reportable service" is not defined in the regulations. The Department has added a definition of this term to the regulations, based upon present practice under the Employment Service Automated Reporting System. The reference to certain call-ins as reportable services for purposes of review of veterans application files has been deleted because it is inconsistent with the definition used elsewhere in the regulations and the Automated Reporting System.

Some commentors stated that additional services should be reportable, such as registration for unemployment insurance (UI). It should be noted that many services are already reportable in the category "referral to supportive service," which shows up in the indicators as "inactivated with some reportable service." Because of the different nature of the employment service and unemployment insurance programs, however, the Department does not believe it would be appropriate to report UI registration as a service of State employment service agencies.

8. Two comments discussed the problems involved in the special preference for veterans of the Vietnam era. One comment suggested that the preference be treated as temporary and not made a permanent part of the regulations.

Another comment pointed out that the preference for the veteran of the Vietnam era will soon become nearly meaningless because of its definitional limitation to veterans submitting job applications within four years of their discharge from the military. As presently written, the special preference will soon assist only career military personnel who remained in the service both during and after the Vietnam era.

It has always been the position of the Department of Labor that Chapter 41 of Title 38, U.S. Code, contemplates a preference for veterans in employment service referrals to job and job-training opportunities. The preference for the veteran of the Vietnam era is statutory to the extent that it involves referrals to job openings which government contractors are required to list with the employment service under 38 U.S.C. 2012(a), so that any change with regard to such referrals will have to be made by Congress. With regard to the preference for veterans of the Vietnam era in other referrals, the Department has always held that it has the authority under Chapter 41 of Title 38, U.S. Code to establish reasonable preferences among different classes of veterans. Thus, for example, the Department has consistently provided for a preference for disabled over nondisabled veterans. The preference for veterans of the Vietnam era was adopted under this authority in order to implement the Congressional policy expressed in Chapter 42 of Title 38, U.S. Code, the Vietnam Era Veterans Readjustment Assistance Act of 1972. The Department does not believe it would be helpful to change this policy by administrative action at the present time. Accordingly, veterans of the Vietnam era will continue to receive preference over other veterans with respect to all job openings and training opportunities listed with the employment service.

The Department is re-printing the entire 20 CFR Part 653, Subpart C, in order to incorporate the regulatory changes made on December 28, 1976 at 41 FR 56306. In addition, a change has been made in the definition of Veterans Employment Service to indicate that the Veterans Employment Service is no longer a component of the United States Employment Service. Pub. L. 94-502, 38 U.S.C. 2002A, established within the Department of Labor the position of Deputy Assistant Secretary for Veterans' Employment. The Deputy Assistant Secretary has been located within the Employment and Training Administration. The regulations have also been changed to reflect the fact that the position of Director, Veterans Employment Service, has been abolished and the position of Deputy Assistant Secretary substituted. Pub. L. 94-502 designated the Veterans Employment Service as the staff of the Deputy Assistant Secretary. The United States Employment Service, however, retains full authority to enforce the requirements of this subpart with respect to State employment service agencies.

Finally, the definition of "disabled veteran" has been clarified to more clearly define the relationship between the terms "disabled veteran" and "special disabled veteran."

These regulations have been prepared under the direction and control of Peter Rell, Director, Office of Program Review, United States Employment Service.

Accordingly, 20 CFR Chapter V, Part 653, Subpart C, is revised to read as follows:

Subpart C—Services for Veterans

PURPOSE AND DEFINITIONS

Sec.
653.200 Purpose and scope of subpart.
653.201 Definitions of terms used in subpart.

FEDERAL ADMINISTRATION

653.210 Role of the Administrator.
653.211 Role of the Veterans Employment Service (VES).
653.212 Role of Regional Administrator (RA).
653.213 Assignment and role of Regional Veteran' Employment Representatives (RVERs).
653.214 Assignment and role of State Veterans' Employment Representatives (SVERs).

STANDARDS OF PERFORMANCE GOVERNING STATE AGENCY SERVICES TO VETERANS' AND ELIGIBLE PERSONS

653.220 Standards of performance.
653.221 Standards of performance governing State agency services.
653.222 Performance standard on facilities for VES staff.
653.223 Performance standards on reporting.
653.224 Performance standards governing the assignment and role of Local Veterans' Employment Representatives (LVERs).
653.225 Standards of performance governing State agency cooperation and coordination with other agencies and organizations interested in the employment development of verterans and eligible persons.
653.226 Standards of performance governing complaints of veterans and eligible persons.

FEDERAL MONITORING OF STATE AGENCY COMPLIANCE

653.230 Veterans preference indicators of compliance.
653.231 Secretary's annual report to Congress.

AUTHORITY: 38 U.S.C. chapters 41 and 42; Wagner-Peyser Act, as amended, 29 U.S.C. 49 et seq.; sec. 104 of the Emergency Jobs and Unemployment Assistance Act of 1974 Pub. L. 93-567, 88 Stat. 1845.

Subpart C—Services for Veterans

PURPOSE AND DEFINITIONS

§ 653.200 Purpose and scope of subpart.

(a) This subpart contains the Department of labor's regulations for implementing 38 U.S.C. 2001-2008 (Chapter 41) which requires the Secretary of Labor to refer eligible veterans and eligible persons to employment and training opportunities through the public employment service system established pursuant to the Wagner-Peyser Act, as amended, 29 U.S.C. 49 et seq.

(b) This subpart reiterates the requirement contained in the Department of Labor's Office of Federal Contract Compliance Programs' regulation under 38 U.S.C. 2012(a) at 41 CFR 60-250.33. 41 CFR 60-250.33, paragraphs (a) and (b), require State employment service agencies to refer qualified disabled veterans and veterans of the Vietnam era on a priority basis to job openings listed with them by certain Federal contractors pursuant to 38 U.S.C. 2012(a). Section 653.221(a)(7)(i), moreover, goes beyond the requirement of 41 CFR 60-250.33 by requiring State agencies to give priority in referral to qualified disabled veterans and veterans of the Vietnam era with respect to all job openings listed with the State agency's local offices.

(c) This subpart references the Department of Labor's Office of Federal Contract Compliance Programs' regulations under 38 U.S.C. 2012(b) at 41 CFR 60-250.26. That regualtions provides that disabled veterans and veterans of the Vietnam era may file with Local Veterans' Employment Representatives complaints alleging violations of 38 U.S.C. 2012 or of the Department's regulations at 41 CFR Part 60-250.41 CFR 60-250.26 also sets forth the procedures for handling such complaints.

(d)(1) This subpart partially implements section 104 of the Emergency Jobs and Unemployment Assistance

Act of 1974, Pub. L. 93-567, 88 Stat. 1845. Sec. 104 of that Act requires the Secretary of Labor, in consultation and cooperation with the Administrator of Veterans' Affairs and the Secretary of Health, Education, and Welfare, to provide for an outreach and public information program to produce jobs and training opportunities for all persons who were discharged from the Armed Forces within four years of the date they apply for such jobs or job training.

(2) The Department has also implemented section 104 of the Emergency Jobs and Unemployment Assistance Act of 1974 in the regulations under the Comprehensive Employment and Training Act (CETA) at 29 CFR Parts 94-99.

(3) The Secretary has also implemented section 104 of the Emergency Jobs and Unemployment Assistance Act of 1974 by Secretary's Order 17-76, which establishes within the Department of Labor a Secretary's Committee on Veterans' Affairs, and which assigns to the Committee the following functions:

(i) Serving as the principal advisory and coordinating group to the Secretary of Labor on matters affecting veterans;

(ii) Consulting with and providing guidance to the appropriate DOL Agencies and the DOL Program and Budget Review Committee (PBRC) [reconstituted as the Management Review Committee by Secretary's Order 3-77] on the formulation, implementation and redirection of departmental policies and programs as they affect veterans, especially in the areas of unemployment, job training, employment and reemployment;

(iii) Reviewing the operational effectiveness of departmental plans and programs affecting veterans;

(iv) Facilitating DOL executive-level communications on veterans' affairs within the Department and with other governmental agencies, veterans' organizations, labor, management, and the Congress;

(v) Reviewing and suggesting research essential to the implementation of effective departmental programs on behalf of veterans; and

(vi) Coordinating the preparation of any reports to the Congress concerning veterans' affairs which involve the activities of more than one DOL agency.

(e)(1) This subpart also implements 38 U.S.C. Chapter 42 in that:

(i) Title IV of the Vietnam Era Veterans' Readjustment Assistance Act of 1974 amended 38 U.S.C. Chapter 41, section 2007 by adding a new subsection (b) which states:

> The Secretary of Labor shall establish definitive performance standards for determining compliance by State public employment agencies with the provisions of this chapter and chapter 42 of this title. A full report as to the extent and reasons for any noncompliance by any such State agency during any fiscal year, together with the agency's plan for corrective action during the succeeding year, shall be included in the annual report of the Secretary of Labor required by subsection (c) of this section; and

(ii) Title VI of the Veterans' Education and Employment Assistance Act of 1976 amended 38 U.S.C., Chapter 42, section 2012, by adding a new subsection (c) which states:

> The Secretary shall include as part of the annual report required by section 2007(c) of this title the number of complaints filed pursuant to subsection (b) of this section [2012], the actions taken thereon, and the resolutions thereof. Such report shall also include the number of contractors listing suitable employment openings, the nature, types, and number of positions listed and the number of veterans receiving priority pursuant to subsection (a)(2) of this section.

(2) Since section 2012 of 38 U.S.C. Chapter 42 places responsibilities on State employment service agencies, this subpart prescribes performance standards for such agencies. The Department has also prescribed regulatory standards under 38 U.S.C. 2012 for such agencies at 41 CFR Part 60-250.

(f) This subpart references section 205(c)(5) of the Comprehensive Employment and Training Act of 1973 (CETA), as amended, 29 U.S.C. 801 et seq. Section 205(c)(5) requires that applicants for public service employment funds under Title II of CETA must provide the Department of Labor with assurances that they will give special consideration to certain unemployed veterans who served in the Armed Forces in Indochina or Korea on or after August 5, 1964. (See 29 CFR 94.4(zz).)

§ 653.201 Definitions of terms used in subpart.

"Administrator, United States Employment Service (Administrator)" shall mean the chief official of the United States Employment Service (USES).

"Assistant Veterans' Employment Representative (AVER)" shall mean a Federal employee who is designated as an assistant to a State Veterans' Employment Representative (SVER).

"Deputy Assistant Secretary for Veterans Employment (DASVE)" shall mean the Department of Labor official who is the chief official of the Veterans Employment Service.

"Disabled Veteran" shall mean either: (1) a person entitled to disability compensation under laws administered by the Veterans Administration for a disability rated at less than 30 per centum, or (2) a person who is a "special disabled veteran" as defined in this section. (Note: special disabled veterans are a subcategory of disabled veterans. Persons who are special disabled veterans, therefore, are one kind of disabled veterans, but they shall be designated as special disabled veterans for application and referral purposes.)

"Eligible person" shall mean: (1) The spouse of any person who died of a service-connected disability; or (2) The spouse of any member of the armed forces serving on active duty who, at the time of application for assistance under this subpart, is listed, pursuant to 37 U.S.C. 556 and the regulations issued thereunder, by the Secretary concerned, in one or more of the following categories and has been so listed for a total of more than 90 days: (i) Missing in action, (ii) captured in line of duty by a hostile force, or (iii) forcibly detained or interned in line of duty by a foreign government or power; or

(3) The spouse of any person who has a total disability permanent in nature resulting from a service-connected disability or the spouse of a veteran who died while a disability so evaluated was in existence.

"Eligible veteran" shall mean a person who served in the active military, naval or air service and who was discharged or released therefrom with other than a dishonorable discharge.

"Local Veterans' Employment Representative (LVER)" shall mean an official in a local office of a State employment service agency, designated by the State Director to serve veterans and eligible persons pursuant to this subpart.

"Regional Administrator (RA)" shall mean the chief official of the Employment and Training Administration in each Department of Labor region.

"Regional Veterans' Employment Representative (RVER)" shall mean the Federal official designated by the DASVE, in each Department of Labor regional office who serves veterans and eligible persons pursuant to this subpart. The RVER shall report to, be responsible to, and be under the administrative direction of the DASVE. In addition, the RVER shall report to, be responsible to, and be under the operational direction of the RA.

"Reportable service" shall mean counseling, job development, referral to a job, referral to training, enrollment in training, referral to supportive services, testing, and placement.

"Special disabled veteran" shall mean a person entitled to disability compensation under laws administered by the Veterans Administration for a disability rated at 30 per centum or more, or a person whose discharge or release from active duty was for a disability incurred or aggravated in line of duty.

"State Veterans' Employment Representative (SVER)" shall mean a Federal official, designated by the DASVE, who, under the RVER, serves

the employment needs of veterans and eligible persons in a particular State pursuant to this subpart.

"United States Employment Service (USES)" shall mean the component of the Employment and Training Administration of the Department of Labor, established under the Wagner-Peyser Act of 1933 to coordinate a national system of public employment service agencies.

"Veteran" shall mean "eligible veteran", "disabled veteran", "special disabled veteran", and "Veteran of the Vietnam era".

"Veteran of the Vietnam era" shall mean a person (1) who (i) served on active duty for a period of more than 180 days, any part of which occurred during the Vietnam era (August 5, 1964 through May 7, 1975) and was discharged or released therefrom with other than a dishonorable discharge, or (ii) was discharged or released from active duty for a service-connected disability if any part of such active duty was performed during the Vietnam era, and (2) who was so discharged or released within the 48 months preceding the person's application for employment under this subpart.

"Veterans Employment Service (VES)" shall mean the organizational component within the Employment and Training Administration which is concerned with policies and services relating to employment development on behalf of veterans and eligible persons.

Federal Administration

§ 653.210 Role of the Administrator.

The Administrator, USES, shall have overall responsibility for administering this subpart and for monitoring, in coordination with other ETA components, State agency compliance with the regulations under this subpart.

§ 653.211 Role of the Veterans Employment Service (VES).

(a) The Deputy Assistant Secretary for Veterans Employment (DASVE) shall monitor and evaluate the performance of the State agencies under this subpart. The DASVE shall make every effort, in coordinaition with the Veterans Administration, Department of Health, Education, and Welfare, other Federal and State agencies, educational institutions, unions, veterans organizations, and community groups to produce job and training opportunities for veterans and eligible persons through Department of Labor administered programs relating to unemployment, job training, and employment.

(b) The DASVE shall have a VES field staff comprised of Regional Veterans' Employment Representatives (RVERs), State Veterans' Employment Representatives (SVERs), and assistants to the SVERs (AVERs) and their staffs. RVERs, SVERs and AVERs shall provide functional supervision, guidance and assistance to the State agencies pursuant to this subpart.

§ 653.212 Role of the Regional Administrator (RA).

Each RA shall have overall responsibility in the region for administering this subpart and for monitoring State agency compliance with the regulations under this subpart.

§ 653.213 Assignment and role of Regional Veterans' Employment Representatives (RVERs).

(a) The DASVE shall assign an RVER to each Employment and Training Administration (ETA) regional office. Every RVER shall be an eligible veteran, who shall be appointed pursuant to the provisions of 5 U.S.C. which govern appointments in the Federal competitive service, and who shall be paid pursuant to the provisions of 5 U.S.C. Chapter 51, and Chapter 53 of subchapter III.

(b) An RVER shall be stationed in each ETA regional office. The RVER shall be a member of the ETA regional executive staff.

(c) The RVER shall provide advice and expertise to the RA on matters relating to ETA services to veterans and eligible persons. The RVER shall also:

(1) Supervise the activities of all VES field staff within the region;

(2) Provide support for, and assist in the coordination of, all ETA policies and programs as they affect veterans, especially policies and programs relating to unemployment, job training, and employment by:

(i) Providing direction and support to SVERs and AVERs;

(ii) Reviewing SVER and other findings regarding State agency compliance with the regulations under this subpart and recommending appropriate corrective action to the RA;

(iii) Assisting other ETA regional office staff in the coordination of ETA employment and training programs as they affect veterans;

(iv) Coordinating within the region ETA activities relating to veterans' services with other agencies and organizations, such as the Department of Defense, the Veterans Administration, the U.S. Civil Service Commission, the President's Committee on Employment of the Handicapped, the Office of Vocational Rehabilitation and other Department of Health, Education, and Welfare agencies, labor unions, veterans organizations, employers and community organizations;

(v) Cooperating with the Employment Standards Administration of the Department of Labor in the resolution of complaints by veterans under the Department's regulations at 41 CFR Part 60-250; and

(vi) Monitoring and assessing unemployment, job training, employment and other services to veterans under ETA regulations.

(3) Monitor and evaluate State agency performance under this subpart by:

(i) Reviewing and analyzing monthly, quarterly and annual reports required by ETA data systems. RVERs shall compare actual services to veterans by each State agency by comparing the statistics generated by the veterans preference indicators of compliance set forth in § 653.230 against the performance standards set forth at § 653.221-26; and

(ii) With input from SVERs as appropriate, assisting the RA in conducting that portion of periodic and special reviews of State agency performance pertaining to the provision of services to veterans.

§ 653.214 Assignment and role of State Veterans' Employment Representatives (SVERs).

(a) A representative of the VES shall be assigned to each State agency to serve as the State Veterans' Employment Representative (SVER). One Assistant Veterans' Employment Representative (AVER) shall be assigned to each State agency per each 250,000 eligible veterans and eligible persons in the State population and additional AVERs shall be assigned whenever the data collected under this subpart indicates that additional AVERs are necessary.

(b) Each SVER and AVER shall be an eligible veteran, who, at the time of appointment, shall have been a bona fide resident of the State for at least 2 years, and shall be appointed pursuant to the provisions of 5 U.S.C. which govern appointments to the Federal competitive service, and who shall be paid pursuant to the provisions of 5 U.S.C. Chapter 51 and Chapter 53, subchapter III.

(c) The SVER, AVERs, and their VES Federal support staff shall be attached to the State office staff of the State agency to which they are assigned.

(d) Under the direction and supervision of the RVER, and in cooperation with the State agency staff and the staffs of other ETA funded employment and training programs in the State, the AVERs and SVER shall:

(1) Provide support and assist in coordination all ETA policies and all ETA funded programs in the State as they affect veterans and eligible persons, especially policies and programs relating to unemployment, job training, and employment.

(2) Functionally supervise services to veterans by the State agency. Functional supervision shall consist of assisting State agency personnel in carrying out services to veterans and eli-

gible persons and evaluating their performance. Functional supervision shall entail providing technical assistance, making suggestions for improvement

tions, employer associations and other community groups.

(9) Monitor and evaluate State agency performance under this sub-

an and eligible person applicants who say they do not wish to file full applications after the benefits of filing a full application have been explained to

(E) Qualified nonveterans.

(ii) Whenever a State agency or a local office is a subgrantee or contrac-

after they file their applications to job opportunities developed under the mandatory listing requirement of the

rectors shall assure that periodic evaluations are made to determine the adequacy of services provided to veter-

gible persons and evaluating their performance. Functional supervision shall entail providing technical assistance, making suggestions for improvement of services, helping to plan programs and projects, checking for compliance with ETA regulations affecting veterans, helping to correct errors by working with local and State staffs, analyzing work as it affects veterans and eligible persons, training new State agency employees and providing refresher courses for State agency staff, bringing matters which require corrective action to the attention of those State agency personnel who have authority over policy, procedures and staff. Functional supervision does not authorize an SVER or AVER to hire, fire, discipline or issue directives to State agency employees. Nor does it authorize an SVER or AVER to make regulations, change procedures or establish policies for the State agency without specific authority from the State agency;

(3) Engage in job development and job advancement activities on behalf of veterans and eligible persons, including coordination with the Veterans Administration in its carrying out of the Veterans Outreach Services Program under subchapter IV of chapter 3 of 38 U.S.C., and including the conduct of job fairs, job marts and other special programs to match veterans and eligible persons with appropriate job and job-training opportunities;

(4) Assist in securing and maintaining current information on available employment and training opportunities, using, when feasible, electronic data processing and telecommunications systems, and in matching veteran and eligible persons applicants' qualifications with available jobs, training and apprenticeship opportunities;

(5) Promote the interest of employers and labor unions in employing and in conducting on-the-job training and apprenticeship programs for veterans and eligible persons;

(6) Maintain regular contact with employers, labor unions, training program sponsors and veterans organizations to keep them advised of veterans and eligible persons who are available for employment and training;

(7) Keep veterans and eligible persons advised of opportunities for employment and training; and

(8) Coordinate, in conjunction with the RVER as appropriate, ETA activities relating to veterans services within the State with the activities of other agencies and organizations such as the Veterans Administration, the Department of Defense, the U.S. Civil Service Commission, The Department of Health, Education, and Welfare, State agencies such as Vocational Rehabilitation agencies, Governors Committees on Employment of the Handicapped, and unions, veterans organizations, employer associations and other community groups.

(9) Monitor and evaluate State agency performance under this subpart using local office and State agency reports including:

(i) Monthly, quarterly and annual reports of actual activity levels generated by required data systems;

(ii) Reports generated by the State agency Self-Appraisal System; and

(iii) Internal reports prepared by State agency staffs such as field supervisory, technical assistance and research staffs.

(10) Compare actual services to veterans and eligible persons against the standards for State agency performance set forth at § 653.221-26.

(11) Conduct periodic onsite reviews of local offices to assess their performance under this subpart. Such reviews shall include detailed, comprehensive analyses of all local office activities related to serving veterans and eligible persons, and spot-checks of particular local offices to validate information the SVER has obtained through the State agency Self-Appraisal System, regular data systems, field supervisors, technical staff or otherwise. The SVER shall review the performance of large local offices at least once each fiscal year on a formal, comprehensive, in-depth basis, and shall periodically review smaller local offices which evidence problems in providing services to veterans and eligible persons pursuant to this subpart until the problems are resolved.

STANDARDS OF PERFORMANCE GOVERNING STATE AGENCY SERVICES TO VETERANS AND ELIGIBLE PERSONS

§ 653.220 Standards of performance.

Sections 653.221-226 set forth the standards of performance governing services to veterans and eligible persons which must be met by the State employment service agencies.

§ 653.221 Standards of performance governing State agency services.

(a) Each State agency shall assure that all of its local offices, using LVERs and other staff, offer the following services to all veterans and eligible persons:

(1) *Registration.* Local offices shall encourage all veterans and eligible persons to file complete applications for appropriate job or training opportunities by explaining the services they may expect to receive on the filing of a full application. Local offices, however, may take partial applications for veterans and eligible persons if they are job attached, or if they are on strike or layoff and expecting to return to work unless such applicants request the opportunity to file full applications. Local offices may also take partial applications on veteran and eligible person applicants who say they do not wish to file full applications after the benefits of filing a full application have been explained to them.

(2) *Interviewing.* As appropriate, local offices shall interview veterans and eligible persons on a priority basis to review and analyze the information on their application cards, to assure that all of the applicants' qualifications for employment are adequately presented, to determine any need for employment counseling, to evaluate the occupationally significant facts about the applicants, and to select suitable job choices and job-finding techniques.

(3) *Counseling.* As appropriate, qualified local office staff shall discuss with veteran and eligible person applicants on a priority basis their present and potential qualifications for work, alternative vocational choices, and occupational requirements to assist them in formulating a plan to achieve their occupational and/or training goals. As appropriate, the counselors shall also provide such applicants with assistance in solving problems relating to the obtaining or holding of jobs.

(4) *Testing.* As appropriate, qualified local office staff shall administer objective aptitude and proficiency tests to veteran and eligible person applicants on a priority basis.

(5) *Referral to supportive services.* As appropriate, local offices shall refer veteran and eligible person applicants on a priority basis to supportive services available in the community such as medical, legal aid, child care and transportation assistance, which are likely to assist them to obtain employment and/or training.

(6) *Job development.* As appropriate, local offices shall attempt to develop job openings for veteran and eligible person applicants on a priority basis through employer contacts and otherwise whenever suitable job openings are not available in local office files. Such efforts shall include attempts to foster the elimination of hiring requirements not related to job performance.

(7) *Job and training referral.* (i) Whenever there is more than one applicant qualified for a job opening, including a job opening listed under the mandatory listing requirement of 38 U.S.C. 2012, or for a training opportunity, local offices, except as provided in paragraph (a)(7)(ii) of this section, shall observe the following order of priority in making referrals to the job openings or training opportunity:

(A) Qualified special disabled veterans;

(B) Qualified veterans of the Vietnam era;

(C) Qualified disabled veterans other than special disabled veterans;

(D) All other qualified veterans and eligible persons;

(E) Qualified nonveterans.

(ii) Whenever a State agency or a local office is a subgrantee or contractor under the Comprehensive Employment and Training Act (CETA) or Title IV of the Social Security Act (Work Incentive (WIN) Program), the local office shall refer veterans to job and training opportunities under those programs in accordance with the CETA regulations at 29 CFR Parts 94-99 or the WIN regulations at 29 CFR Part 56.

(b) State agencies shall:

(1) Establish outreach programs designed to make veterans and eligible persons aware of the ES services available to them. Such programs shall include contact with veterans organizations, Veterans Administration facilities, military bases, military hospitals and other appropriate organizations. The State agency public information program shall develop and disseminate labor market information to assist veterans and eligible persons in job search activities, using public service announcements in the media as appropriate.

(2) Provide special designation, filing and retrieval procedures in each local office to readily identify veteran and eligible person applications and to monitor the provision of services to veteran and eligible person applicants on a priority basis. Separate special designation shall also be given to applications of disabled veterans.

(c) Local offices shall review veteran and eligible person applications each 30 calendar days and, if no reportable service has been recorded during the previous 30 calendar days, shall, if possible, determine each applicant's current status and desire for further ES assistance by telephone, visit, or mail. If further assistance is desired by the applicant, the local office shall initiate reportable services as appropriate. All reportable services given shall be noted on the applicant's application card.

(d) Local offices shall assure that the applications of veterans and eligible persons are not automatically inactivated in accordance with normal procedures without the following special review:

(1) Identification of the applications of veterans and eligible persons scheduled for inactivation;

(2) A file search for their records; and evidence that warrants inactivation such as placement in a job or training opportunity, an explicit request from an applicant to inactivate an application, notice that applicant has moved out of the local office jurisdiction, etc. If inactivation is scheduled but not warranted, appropriate reinstatement actions should be taken.

(e) Whenever feasible, local offices shall refer qualified veterans and eligible applicants within two working days after they file their applications to job opportunities developed under the mandatory listing requirement of the Department's regulations at 41 CFR Part 60-250, under the Comprehensive Employment and Training Act (CETA), or contained in Job Bank listings. If necessary, local office hours and staff working schedules shall be adjusted so that this requirement can be met.

§ 653.222 Performance standard on facilities for VES staff.

Each State agency shall provide adequate and appropriate facilities including office space, furniture, telephone, etc. to the SVER, AVERs and VES support staff attached to the State agency.

§ 653.223 Performance standards on reporting.

(a) State agencies shall provide RVERs, SVERs, and AVERs with access to regular and special internal State agency reports which relate in whole or in part with services to veterans and/or eligible persons.

(b) No special reporting requirements are established by this subpart. Existing reporting systems include information on services to veterans and eligible persons and shall be used by ETA and the State agencies to administer the provisions of this subpart. ETA, however, may require special reports from State agencies from time to time.

§ 653.224 Performance standards governing the assignment and role of Local Veterans' Employment Representatives (LVERs).

(a) At least one member of each State agency staff, preferably an eligible veteran, shall be assigned by the State Director as a full-time Local Veterans' Employment Representative (LVER) to every local office which:

(1) Has had 1,000 new and renewal applications from veterans and eligible persons during the last Federal fiscal year; or

(2) Has a total of 6,000 veterans and eligible persons in the local office administrative area population.

(b) The State Director may:

(1) Assign additional full-time LVERs to local offices described in paragraph (a) of this section based on the State Director's determination of need; and

(2) Assign less than full-time LVERs to local offices described in paragraph (a) of this section if a lack of need for a full-time LVER is documented to the satisfaction of the DASVE, as evidenced by the written approval of the DASVE.

(c) The State Director shall assign LVERs on a part-time basis to local offices other than those described in paragraph (a) of this section. State Directors shall assure that periodic evaluations are made to determine the adequacy of services provided to veterans and eligible persons, and if necessary, they shall reallocate the time devoted to serving veterans and eligible persons by, for example, assigning additional fulltime LVERs.

(d) Each LVER shall discharge, at the local office level, the duties prescribed for the SVER in paragraph (d) of § 653.214. The LVER may also be delegated line supervision over veterans units, assistant LVERs and veteran aides and may be assigned direct duties with respect to services for veterans and eligible persons by the local office manager.

(e) Each LVER shall be administratively responsible to the local office manager and shall provide functional supervision over all local office services to veterans and eligible persons. The term "functional supervision" as used in this paragraph shall mean evaluating local office personnel in their performance of services to veterans and eligible persons and assisting them to carry out these services more effectively.

(1) Functional supervision entails providing technical assistance, making suggestions for the improvement of services, helping to plan programs, initiating projects, checking for compliance with regulations, helping to correct errors by working with local office staff, analyzing work as it affects veterans and eligible persons, training new local office employees, providing refresher courses for other staff, and assisting all local office personnel to improve services to veterans and eligible persons. It also involves the bringing of matters which the LVER believes require corrective action to the attention of the local office manager and other officials who have line authority to set or change policy and procedure and to supervise staff.

(2) Functional supervision does not entail the right to hire, fire, or discipline any local office employee. Nor does it authorize an LVER to make regulations, change procedures or establish policies for the local office without specific authority from the local office manager.

§ 653.225 Standards of performance governing State agency cooperation and coordination with other agencies and organizations interested in the employment development of veterans and eligible persons.

(a) Each State agency shall establish cooperative working relationships with the Veterans Administration (VA) office serving the State to maximize the use of VA training programs for veterans and eligible persons, particularly on-the-job and other skill training. Such working relationships should provide for the exchange of informa-

tion on available training opportunities and on veterans and eligible persons available to be trained, the placing of job orders with the ES by employers who provide VA-approved on-the-job training, the referral of veterans and eligible persons to such job openings, and joint ES-VA programs to aid VA field staff in providing assistance to employers with VA programs. Each State agency should develop a written agreement with its VA counterpart covering areas of mutual concern and delineating each agency's areas of responsibility.

(b) Each State agency shall develop cooperative arrangements with public agencies and other organizations who are sponsors of programs under the Comprehensive Employment and Training Act of 1973 (CETA). State agencies shall make their staffs aware of the fact that, under section 205(c)(5) of the Comprehensive Employment and Training Act, sponsors of public service employment programs under Title II of that Act are required to make special efforts to acquaint veterans with the public service jobs available under Title II of CETA and to coordinate their efforts on behalf of veterans with ES activities under this subpart.

§ 653.226 Standards of performance governing complaints of veterans and eligible persons.

(a) Any veteran or eligible person may file a complaint with the LVER. The LVER shall handle the complaint in accordance with the provisions of Subpart E of Part 658 of this chapter except that, if the complaint relates to the responsibilities of an employer under 38 U.S.C. 2012, the LVER shall follow the Department's complaint procedures set forth at 41 CFR Parts 60-250.

(b) Each local office shall have information on the complaint system available to veterans and eligible persons at all times, and shall display a poster which advises applicants about the system.

FEDERAL MONITORING OF STATE AGENCY COMPLIANCE

§ 653.230 Veterans preference indicators of compliance.

(a) To help in determining whether the standards of performance set forth in §§ 653.221-226 are being met, the ETA shall use the floor levels and the veterans preference indicators of compliance set forth in this section to compare the level of services provided to veterans and eligible persons with the level of services provided to nonveterans.

(b) The term "applicants" as used in this section shall mean individuals who filed or renewed job applications during the fiscal year. To improve statistical comparability, the term "nonveteran" as used in this section shall not include women and persons 19 years of age or younger. The term "veteran" as used in this section, shall include eligible persons. The term "disabled veteran", as used in this section, shall include "special disabled veteran".

(c) To prevent State agencies, which are actually performing at low levels of accomplishment, from mathematically appearing, according to the veterans preference indicators of compliance, to be doing well, the ETA shall establish a floor (minimum) level of expected accomplishment for each State for each reportable service for each Federal fiscal year. Each year ETA shall consider each State agency's past year's accomplishments as a major factor in establishing the floor level of accomplishment for the next Federal fiscal year. Computation of the floor levels shall also be based on external and other appropriate factors.

(1) The floor levels shall be stated as the ratio of veteran individuals served to the number of veterans applying for service, rather than the number of veterans served, to avoid the difficulties associated with establishing absolute numbers under varying conditions, time periods, and locations. The floor levels of accomplishment for FY 1978 shall be as follows:

(i) A minimum of 6 percent of those veterans applying for service shall be counseled.

Veterans Counseled/Veteran Applicants=6 percent.

(ii) A minimum of 1.5 percent of all veteran applicants shall be referred to in training.

Veterans Referred to Training/Veteran Applicants=1.5 percent.

(iii) A minimum of 7.5 percent of all veteran applicants shall be provided job development.

Veteran Job Development Contacts/Veteran Applicants=7.5 percent.

(iv) A minimum of (individual State values) percent of all veteran applicants shall be placed in jobs.

Veteran Applicants Placed/Veteran Applicants=(see list below for State values).

(v) A minimum of (individual State values) percent of all veteran applicants shall be inactivated with some reportable service.

Veteran Applicants Inactivated With Some Service/Veteran Applicants=(see list below for State values).

	(iv) Percent	(v) Percent
Reg. I (Boston):		
Connecticut	9	36
Maine	22	50
Massachusetts	11	30
New Hampshire	20	39
Rhode Island	14	38
Vermont	20	45
Reg. II (New York):		
New Jersey	14	39
New York	14	40
Puerto Rico	8	34
Reg. III (Philadelphia):		
Delaware	8	29
District of Columbia	12	26
Maryland	10	28
Pennsylvania	14	36
Virginia	17	39
West Virginia	19	38
Reg. IV (Atlanta):		
Alabama	23	37
Florida	23	49
Georgia	20	40
Kentucky	23	42
Mississippi	23	51
North Carolina	22	41
South Carolina	18	42
Tennessee	19	40
Reg. V (Chicago):		
Illinois	14	31
Indiana	15	37
Michigan	12	36
Minnesota	17	29
Ohio	12	34
Wisconsin	18	34
Reg. VI (Dallas):		
Arkansas	23	44
Louisiana	23	42
New Mexico	23	46
Oklahoma	23	51
Texas	23	51
Reg. VII (Kansas City):		
Iowa	23	51
Kansas	23	51
Missouri	20	33
Nebraska	23	51
Reg. VIII (Denver):		
Colorado	17	49
Montana	23	51
North Dakota	23	51
South Dakota	23	51
Utah	20	42
Wyoming	23	51
Reg. IX (San Francisco):		
Arizona	20	40
California	16	39
Hawaii	15	34
Nevada	18	32
Reg. X (Seattle):		
Alaska	23	39
Idaho	23	50
Oregon	23	39
Washington	17	38

(2) Only after a State agency meets three of its five expected levels of accomplishment—one of which must be the floor level for placement—shall the veterans' indicators be applied.

(d) The ETA shall compare the level of State agency services for veterans versus that for nonveterans by examining rates of service rather than the numbers of persons served to compensate for the differing sizes of comparison groups and to avoid the difficulties associated with establishing absolute numbers under varying conditions, time periods and locations. In addition, the two groups, veterans and nonveterans, shall be compared after adjustments for demographic and other appropriate characteristics to make them as comparable as possible within the limitations of available data systems.

(e) ETA shall establish numerical values for the veterans preference indicators of compliance for each Federal fiscal year for:

(1) Veterans versus nonveterans;

(2) Veterans of the Vietnam era versus nonveterans; and

(3) Disabled veterans versus nonveterans.

(f) Veterans preference indicators of compliance for service to all veterans shall be stated as follows:

(1) The ratio of veteran applicants counseled to the total number of veteran applicants shall exceed the ratio of nonveteran applicants counseled to the total number of nonveteran applicants by at least 25 percent.

Veteran's counseled/Veteran applicants÷Nonveterans counseled/Nonveteran applicants−1.00=25 percent.

(2) The ratio of veteran applicants referred to training to the total number of veteran applicants shall exceed the ratio of nonveteran applicants referred to training to the total number of nonveteran applicants by at least 5 percent.

Veterans referred to training/Veteran applicants÷Nonveterans referred to training/Nonveteran applicants−1.00=5 percent.

(3) The ratio of job development contacts made for veterans to the total number of veteran applicants shall exceed the ratio of job development contacts made for nonveterans to the total number of nonveteran applicants by at least 50 percent.

Job development contacts for veterans/Veteran applicants÷Job development contacts for nonveterans/Nonveteran applicants−1.00=50 percent.

(4) The ratio of veteran applicants placed in jobs to the total number of veteran applicants shall exceed the ratio of nonveteran applicants placed in jobs to the total number of nonveteran applicants by at least 10 percent.

Veterans placed/Veteran applicants÷Nonveterans placed/Nonveteran applicants−1.00=10 percent.

(5) The ratio of veteran applicants inactivated with some service to the total number of veteran applicants shall be more than the ratio of nonveteran applicants inactivated with some service to the total number of nonveteran applicants by at least 15 percent.

Veterans inactivated with some service/Veteran applicants÷Nonveterans inactivated with some service/Nonveteran applicants−1.00=15 percent.

(g) Veterans preference indicators of compliance for service to veterans of the Vietnam era are as follows:

(1) The ratio of Vietnam-era veteran applicants counseled to the total number of Vietnam-era applicants shall exceed the ratio of nonveteran applicants counseled to the total number of nonveteran applicants by at least 35 percent.

Vietnam-era veterans counseled/Vietnam-era veteran applicants÷Nonveterans counseled/Nonveteran applicants−1.00=35 percent.

(2) The ratio of Vietnam-era veteran applicants referred to training to the total number of Vietnam-era veteran applicants shall exceed the ratio of nonveteran applicants referred to training to the total number of nonveteran applicants by at least 10 percent.

Veteranm-era veterans referred to training/Vietnam-era veteran applicants÷ Nonveterans referred to training/Nonveteran applicants−1.00=10 percent.

(3) The ratio of job development contacts made for Vietnam-era veterans to the total number of Vietnam-era veteran applicants shall exceed the ratio of job development contacts made for nonveterans to the total number of nonveteran applicants by at least 60 percent.

Job development contacts for Vietnam-era veterans/Vietnam-era veteran applicants÷Job development contacts for nonveterans/Nonveteran applicants−1.00=60 percent.

(4) The ratio of Vietnam-era veteran applicants placed in jobs to the total number of Vietnam-era veteran applicants shall exceed the ratio of nonveteran applicants placed in jobs to the total number of nonveteran applicants by at least 15 percent.

Vietnam-era veterans placed/Vietnam-era veteran applicants÷Nonveterans placed/Nonveteran applicants−1.00=15 percent.

(5) The ratio of Vietnam-era veteran applicants inactivated with some service to the total number of Vietnam-era veteran applicants shall be more than the ratio of non-veteran applicants inactivated with some service to the total number of nonveteran applicants by at least 20 percent.

Vietnam-era veterans inactivated with some service/Vietnam-era veteran applicants÷Nonveterans inactivated with some service/Nonveteran applicants−1.00=20 percent.

(h) Veterans preference indicators of compliance for service to disabled veterans are as follows:

(1) The ratio of disabled veteran applicants counseled to the total number of disabled veteran applicants shall exceed the ratio of nonveteran applicants counseled to the total number of nonveteran applicants by at least 100 percent.

Disabled veterans counseled/Disabled veteran applicants÷Nonveterans counseled/Nonveteran applicants−1.00=100 percent.

(2) The ratio of disabled veteran applicants referred to training to the total number of disabled veteran applicants shall exceed the ratio of nonveteran applicants enrolled in training to the total number of nonveteran applicants by at least 15 percent.

Disabled veterans referred to training/Disabled veteran applicants÷Nonveterans referred to training/Nonveteran applicants−1.00=15 percent.

(3) The ratio of job development made for disabled veterans to the total number of disabled veteran applicants shall exceed the ratio of job development contacts made for nonveterans to the total number of nonveteran applicants by at least 75 percent.

Job development contacts for disabled veterans/Disabled veteran applicants÷Job development nonveterans/Nonveteran applicants−1.00=75 percent.

(4) The ratio of disabled veteran applicants placed in jobs to the total number of disabled veteran applicants shall exceed the ratio of nonveteran applicants placed in jobs to the total number of nonveteran applicants by at least 20 percent.

Disabled veterans placed/Disabled veteran applicants ÷ Nonveterans placed/Nonveteran applicants −1.00=20 percent.

(5) The ratio of disabled veteran applicants inactivated with some service to the total number of disabled veteran applicants shall exceed the ratio of nonveteran applicants inactivated with some service to the total number of nonveteran applicants by at least 25 percent.

Disabled veterans inactivated with some service/Disabled veteran applicants ÷ Nonveterans inactivated with some service/Nonveteran applicants −1.00=25 percent.

(i) The veterans preference indicator of compliance for State agency action under the mandatory job listing requirements of 38 U.S.C. 2012 shall be: The ratio of the total number of veterans of the Vietnam era and special disabled veterans placed in mandatory listing job openings to total number of individuals placed in manadatory listing job openings shall exceed 7 percent.

(j) Following analysis of the past fiscal year's accomplishments, the numerical value for each of the veterans preference compliance indicators for the next fiscal year will be published in the FEDERAL REGISTER as amendments to paragraphs (f)-(i) of this section.

(k) State agency performance under this subpart shall be reviewed on a quarterly basis by the ETA regional offices during the conduct of regular Operational Planning and Review System (OPRS) reviews. In addition, State agency performance under this subpart shall be formally reviewed by the ETA national office on an annual basis using the floor levels of accomplishment and the veterans preference indicators of compliance. The full results of these reviews shall be incorporated into the Secretary's annual report to the Congress. In order to meet the indicators of compliance, a State agency must:

(1) Meet the placement and any two of the remaining four floor levels of accomplishment at paragraph (c) of this section; and

(2) Meet 10 of the 19 veterans preference indicators of compliance at paragraphs (f)-(i) of this section, giving each of the three placement indicators double weight. ETA shall con-

sider failure to meet either of these conditions as evidence that the State agency is not complying with the performance standards at §§ 653.221-226 and shall investigate further to determine whether the State agency is complying with the standards. The ETA shall also investigate further if other information comes to the attention of the ETA which indicates that a State agency is not complying with the requirements of this subpart.

(b) The report shall include any determinations that:

(1) A State agency demonstrated a lack of need for assigning a full-time

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sider failure to meet either of these conditions as evidence that the State agency is not complying with the performance standards at § 653.221-226. Such State agencies shall be required to provide documentary evidence to the ETA that their failure is based on good cause. If good cause is not shown, the ETA, pursuant to Subpart H of Part 658 of this chapter, shall formally designate the State agency as out of compliance, shall require it to submit a corrective action plan for the following Federal fiscal year, and may take other action against the State agency pursuant to Subpart H of Part 658 of this chapter.

(1) Even though a State agency veterans' services statistics, including the floor levels of accomplishment and the veterans preference indicators of compliance, indicate adequate services to veterans, the ETA may take corrective action against a State agency pursuant to Subpart H of Part 658 of this chapter if other information comes to the attention of the ETA which indicates that a State agency is not complying with the requirements of this subpart.

§ 653.231 Secretary's annual report to Congress.

(a) The Secretary shall report, after the end of each Federal fiscal year, on the success of the Department and the State agencies in carrying out the provisions of this subpart. The report shall include, by State:

(1) The number of recently discharged or released eligible veterans, disabled veterans, other eligible veterans and eligible persons who requested assistance through the State agency; and

(2) Of the categories set forth in paragraph (a)(1) of this section, the number placed in employment, placed in job-training opportunities, or otherwise assisted.

(b) The report shall include any determinations that:

(1) A State agency demonstrated a lack of need for assigning a full-time LVER in accordance with § 653.224(b)(2); and

(2) Funds made available under the prior year's appropriations Act were not needed for carrying out the purposes of this subpart.

(c) The report shall include a designation of State agencies which ETA formally designated as out of compliance pursuant to § 653.230(k) with the standards of performance set forth in this subpart along with those agencies' plans for corrective action during the succeeding Federal fiscal year.

Signed at Washington, D.C., this 23rd day of February 1978.

F. RAY MARSHALL,
Secretary of Labor.

[FR Doc. 78-5397 Filed 3-2-78; 8:45 am]

federal register

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PART V

DEPARTMENT OF LABOR

Employment and Training Administration

Preference in Federal Procurement Under Defense Manpower Policy DMP–4A and Executive Order

[4510-30]

Title 20—Employees' Benefits

Administration for evaluation by the Assistant Secretary. This provision has therefore been revised accordingly.

the preambles of both the predecessor DMP-4 and the revised DMP-4A regulations that these programs are concerned primarily with unemployment

Under the proposed regulations, an entire labor market area, which as a whole did not meet the qualifying unemployment rate, nevertheless could

section has been reworded to provide for periodic review using the same criteria applied to initially classify labor market areas resulting from excep-

Sec.
654.2 Description of DMP-4A.
654.3 Definitions.
654.4 Classification of labor surplus areas.

[4510-30]

Title 20—Employees' Benefits

CHAPTER V—EMPLOYMENT AND TRAINING ADMINISTRATION, DEPARTMENT OF LABOR

PREFERENCE IN FEDERAL PROCUREMENT UNDER DEFENSE MANPOWER POLICY DMP-4A AND EXECUTIVE ORDER 10582

New Criteria for Classifying Labor Surplus Areas

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: These regulations establish new criteria for classifying labor surplus areas, published by the Department of Labor for the use of all Federal agencies in directing procurement activity and locating new plants or facilities. Firms which agree to perform most of the work in labor surplus areas are eligible for preference in the award of procurement contracts and grants and the execution of agreements.

EFFECTIVE DATE: Effective March 3, 1978. Comments by May 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Davis A. Portner, Office of Policy and Planning, 601 D Street NW., Room 9420, Washington, D.C. 20213, 202-376-6274.

SUPPLEMENTARY INFORMATION: The Department published proposed regulations on DMP-4A and Executive Order 10582 on December 16, 1977, at 42 FR 63428. Interested persons were invited to submit comments on the proposed regulations until December 31, 1977. In response to these comments, a number of substantive and editorial changes have been made to the proposed rules. The most significant comments and the Department's responses thereto are listed below:

1. A commentor requested that the Department more clearly delineate the responsibilities assigned to the Bureau of Labor Statistics (BLS) under the provisions for classifying labor surplus areas resulting from exceptional circumstances. § 654.4(c). Under the proposed classification scheme, BLS was assigned responsibility for determining affected areas' unemployment rates, without regard to the usual 12-month reference period. Since the State employment security agencies bear the responsibility for collecting the required unemployment data, inclusion of BLS in the determination process is unnecessary; the State agencies can forward data directly to the Employment and Training Administration for evaluation by the Assistant Secretary. This provision has therefore been revised accordingly.

2. A commentor suggested that, due to their limited resources, the Department eliminate responsibilities assigned to the State employment service agencies for identifying occupations and skills which are in "surplus supply" within labor surplus areas and those which are needed by new or expanding industries. § 654.2(d) (3) and (4). These responsibilities were carried over from the former DMP-4 program and assigned to the Secretary of Labor under the revised DMP-4A. Therefore, these activities must still be performed. Since these are ongoing activities, the State agencies should have already established methods for gathering the required information. The final regulations therefore retain the requirement that these responsibilities be carried out by the State agencies. § 654.7 (b), (c), and (d).

In contrast to these ongoing responsibilities assigned to the State agencies, § 654.7(f) of the proposed regulations called for unprecedented evaluations of the numbers and characteristics of unemployed individuals who become employed in firms establishing or expanding plants or facilities in labor surplus areas. The Department has concluded that such evaluations exceed the current capabilities of the State agencies and would require the development of additional data collection procedures for which resources are unavailable. Given these fiscal constraints, and the fact that these evaluations are not required under DMP-4A, these requirements have been dropped from the final regulations.

3. A commentor suggested that the Department clarify the provisions of the proposed regulations relating to Executive Order 10582 to avoid confusion regarding its purpose. In response to this comment, Subpart B of Part 654 has been expanded to include a description of the statutory provisions pursuant to which Executive Order 10582 was promulgated. Against this statutory backdrop, the purpose of the Executive order appears more clearly.

4. Three commentors suggested that the Department utilize broader indicators of economic distress or hardship than the proposed 12-month average unemployment rate as the basic criterion for classifying labor surplus areas to take into consideration the overall economic health of a region. Recommendations included using, in addition to the unemployment rate, such factors as economic growth rates, concentration of elderly, out-migration patterns, and unemployment rates over a 24-month (as opposed to a 12-month) reference period.

While due consideration was given to these proposals, it is apparent from the preambles of both the predecessor DMP-4 and the revised DMP-4A regulations that these programs are concerned primarily with unemployment as opposed to the more general condition of economic distress:

> A primary aim of Federal manpower policy is to encourage full utilization of existing production facilities and workers in preference to creating new plants or moving workers, thus assisting the maintenance of economic balance and employment stability. When large numbers of workers move to already tight areas, heavy burdens are placed on community facilities—schools, hospitals, housing, transportation, utilities, etc. On the other hand, when unemployment develops in certain areas, unemployment compensation costs increase the total cost to the Government, and plants, tools, and workers' skills remain idle and unable to contribute to our national security program.

In view of the clear intention to focus attention on surplus labor, and in view of the fact that other measures of economic distress are not uniformly and consistently available among all labor market areas, the 12-month average unemployment rate has been retained as the sole criterion for classifying labor surplus areas.

Similarly, with respect to the reference period for examining unemployment levels, the 12-month framework was retained. A 12-month reference period indicates relatively current unemployment rates while encompassing a sufficient interval to discount seasonal factors. Conversely, the 24-month reference period suggested by one commentor may tend to mask current unemployment rates and, in a changing economy, obscure the location and identification of available workers and facilities.

5. Several commentors recommended that the Department reduce the required unemployment rate for eligibility from a rate 25 percent above the national average unemployment rate to a rate 20 percent above the national average in order to ensure competitive bidding from firms in labor surplus areas. Substitution of the 1.20 factor results in the inclusion of approximately 83 additional labor market areas in the first quarter classifications for 1978, a change from 371 labor market areas (using the 1.25 factor) to 454 labor market areas (using the 1.20 factor). The Department found that adoption of the 1.20 factor would result in a reasonable number of qualifying areas so as to meet the goal of targeting procurement activity while ensuring that offers of contract performance will be obtained from a sufficient number of eligible concerns so that awards will be made at reasonable prices. Accordingly, § 654.4(a) has been modified to conform to these recommendations.

6. One comment concerned the classification of multi-jurisdictional labor market areas as labor surplus areas. Under the proposed regulations, an entire labor market area, which as a whole did not meet the qualifying unemployment rate, nevertheless could have qualified as a labor surplus area if the area-wide unemployment rate was at least 6 percent, provided that a component political jurisdiction which in itself met the basic criteria had a population of at least 50,000 and accounted for at least 25 percent of the total unemployment for the labor market area. § 654.4(b). The commentor suggested that this classification scheme failed to guarantee that procurement activity would be directed to those component jurisdictions which were responsible for triggering the classification of the labor market area as a labor surplus area. Given the exodus of business and manufacturing from the central cities, this commentor estimated that procurement activity too would be directed away from areas of high unemployment in the inner cities.

Procurement activity directed into any section of a labor market will usually affect surrounding areas, and may be beneficial to the entire area, since labor market areas are defined on the basis of commuting patterns. In view of this fact, the final regulations retain the proposed area-wide classification scheme. The Department is requesting further comments with respect to this provision.

7. Two comments were directed at the provisions at § 654.5 for terminating classifications of labor surplus areas. One commentor recommended that the termination provisions be tied to a 24-month reference period in order to avoid a "yo-yo effect" wherein an area is eligible during one quarter and not the next. As noted in paragraph 4 above concerning the basic classification methodology, the Department has selected a 12-month reference period to reflect relatively current unemployment rates while accounting for seasonal variations in unemployment. The rationale for utilizing a 12-month reference period applies with equal force to the termination provisions.

A second comment concerned the provisions at § 654.5(b) for terminating classifications of labor market areas which qualify as a result of exceptional circumstances. Specifically, the commentor questioned the advisability of declassifying an area following a single quarter for which the unemployment level fell below 6.0 percent.

The Department recognizes that such an inflexible standard could result in declassification during one quarter even though, due to exceptional circumstances, the labor market area is expected to experience qualifying unemployment levels in the next quarter. The 6.0 percent standard has therefore been stricken and this subsection has been reworded to provide for periodic review using the same criteria applied to initially classify labor market areas resulting from exceptional circumstances.

8. One commentor recommended that the Department include a special appeals procedure to enable State employment security agency officials to challenge determinations made pursuant to these regulations. The Department already has an appeals procedure which is applicable to this program at 20 CFR § 658.420-423.

After considering all of the comments, the proposed regulations, as modified, are adopted. In accordance with the provisions of the Administrative Procedure Act (5 U.S.C. § 553(d)) the Secretary of Labor has determined that it is in the public interest for these regulations to become final upon publication. Since these regulations directly affect competitive bidding on Federal government contracts, it is important that they become effective immediately to prevent disruption of the procurement process.

The regulations are final. However, in view of the shortened period for comment on the proposed regulations, additional written comments will be accepted for a period of 60 days after their effective date. All written material received will be considered before taking action on any revision or amendments to these regulations.

Accordingly, Parts 603, 651, 654 and 658, Chapter V, Title 20 of the Code of Federal Regulations are amended as follows:

PART 603—STATE PROGRAM BUDGET PLANS UNDER THE WAGNER-PEYSER ACT

§ 603.3 [Amended]

1. In § 603.3 the comma and the words "and at 29 CFR Part 8" are deleted.

PART 651—GENERAL PROVISIONS GOVERNING THE FEDERAL-STATE EMPLOYMENT SERVICE SYSTEM

§ 651.5 [Amended]

2. In paragraph (d) of § 651.5, the comma and the words "when published, will set forth" are changed to "contains".

§ 651.6 [Amended]

3. In § 651.6, the entry for "Part 654—Special Responsibilities of the Employment Service System," is amended by deleting the word "[Reserved]" and adding the following table of contents:

Subpart A—Responsibilities Under Defense Manpower Policy No. 4A (32A CFR Part 134)

Sec.
654.1 Purpose of subpart.
654.2 Description of DMP-4A.
654.3 Definitions.
654.4 Classification of labor surplus areas.
654.5 Termination of classification.
654.6 Publication of area classifications.
654.7 Services to firms and individuals in labor surplus areas.
654.8 Filing of employment service-related complaints.

Subpart B—Responsibilities Under Executive Order 10582

Sec.
654.11 Purpose of subpart.
654.12 Description of Executive Order 10582.
654.13 Determination of areas of substantial unemployment.
654.14 Filing of employment service-related complaints.

§ 651.7 [Amended]

4. In § 651.7 the definition of the term "ES regulations" is amended by deleting the numeral "8" and the comma which follows it from the citation "29 CFR Parts 8, 26 and 75."

PART 654—SPECIAL RESPONSIBILITIES OF THE EMPLOYMENT SERVICE SYSTEM

5. Part 654 is amended by deleting the word "[Reserved]" and adding a new Part 654 as follows:

Subpart A—Responsibilities Under Defense Manpower Policy No. 4A (32A CFR Part 134)

Sec.
654.1 Purpose of subpart.
654.2 Description of DMP-4A.
654.3 Definitions.
654.4 Classification of labor surplus areas.
654.5 Termination of classification.
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654.7 Services to firms and individuals in labor surplus areas.
654.8 Filing of employment service-related complaints.

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Sec.
654.11 Purpose of subpart.
654.12 Description of Executive Order 10582.
654.13 Determination of areas of substantial unemployment.
654.14 Filing of employment service-related complaints.

AUTHORITY: Pub. L. 95-89; 50 U.S.C. App. 2061, et seq.; 41 U.S.C. 10a et seq.; 29 U.S.C. 49 et seq.; E.O. 11725; E.O. 11051, as amended; E.O. 10582; E.O. 10480; 32A CFR Part 134.

§ 654.1 Purpose of subpart.

This subpart implements the responsibilities of the Secretary of Labor in classifying labor surplus areas in accordance with Defense Manpower Policy No. 4A of the Federal Preparedness Agency, General Services Administration (32A CFR Part 134—Preservation of the Mobilization Base

Through the Placement of Procurement and Facilities in Labor Surplus Areas (DMP-4A)). The Secretary of Labor has delegated responsibilities to the Assistant Secretary, Employment and Training Administration.

§ 654.2 Description of DMP-4A.

(a) Defense Manpower Policy No. 4A (DMP-4A) consists of the federal regulations at 32A CFR Part 134—Preservation of the Mobilization Base Through the Placement of Procurement and Facilities in Labor Surplus Areas.

(b) The DMP-4A regulations were issued pursuant to Pub. L. 95-89; Executive Order 10480; Executive Order 11051, as amended; and Executive Order 11725. Implementation of the regulations is the responsibility of the Federal Preparedness Agency of the General Services Administration.

(c) The purpose of DMP-4A is to encourage the purchase of goods and services by the Federal Government and the placement of Federal facilities in areas of labor surplus.

(d) Under DMP-4A, the Secretary of Labor is required to:

(1) Classify labor surplus areas and disseminate this information on a timely basis to Federal departments and agencies.

(2) In cooperation with State and local authorities and the Secretary of Commerce, provide labor-market data and related economic information in efforts to assist in the initiation of industrial expansion programs in labor surplus areas.

(3) Identify occupations and skills which are in surplus supply within labor surplus areas and make this information available to firms requiring such occupations and skills and interested in establishing new plants and facilities.

(4) Identify occupations and skills for which labor will be needed by new or expanding industries and industries that expand during a mobilization; and, in collaboration with other Government agencies, make assistance available to labor surplus area institutions and users in developing on-the-job, apprentice, or other training programs for developing skills of the work force.

(5) Through the affiliated State employment services, receive job openings on a voluntary basis and/or under the mandatory listing program provided for by section 2012 of Title 38 of the United States Code and by Executive Order 11701, and refer qualified unemployed workers to concerns in labor surplus areas.

(e) Under DMP-4A, all Federal agencies are required to:

(1) Use their best efforts to award all procurement contracts and grants, and execute agreements, greater than $2,500 to concerns that will perform a substantial proportion of the manufacturing, production, or appropriate services on those contracts within labor surplus areas, to the extent that procurement objectives will permit.

(2) Ensure that firms in labor surplus areas that are on appropriate bidders mailing lists are given the opportunity to submit offers on all procurements for which they are qualified. Whenever the number of firms on a bidders mailing list is excessive in relation to size and type of procurement, a representative number of firms from labor surplus areas shall be given the opportunity to submit offers.

(3) Establish programs to encourage prime contractors to award subcontracts to firms that agree to perform a substantial proportion of the production, manufacturing or appropriate services on those subcontracts in labor surplus areas.

(4) Cooperate with other Federal departments and agencies in achieving the objectives of this policy.

(f) Under DMP-4A, the Secretary of Commerce is required to:

(1) In cooperation with State economic development agencies, the Secretary of Defense, the Administrator of General Services, and the Administrator of the Small Business Administration, assist concerns which have agreed to perform contracts in labor surplus areas in obtaining Government procurement business by: (A) Providing such concerns with timely information on proposed Government procurements; and (B) maintaining current information on the manufacturing capabilities of such concerns with respect to Government procurement and disseminating such information to Federal departments and agencies.

(2) Urge concerns planning new production facilities to consider the advantages of locating in labor surplus areas.

(3) Provide technical advice and counsel to groups and organizations in labor surplus areas on planned industrial parks, industrial development organizations, expanding tourist business, and available Federal aids.

(g) Under DMP-4A, the Administrator of the Small Business Administration is required to make available to small business concerns in labor surplus areas all of its services, endeavor to ensure opportunity for maximum participation by such concerns in Government procurement, and give consideration to the needs of these concerns in the making of joint small business set asides with Government procurement agencies.

(h) Under DMP-4A, there is continued in operation within the Federal Preparedness Agency the Surplus Manpower Committee. The Committee is chaired by the Director of the Federal Preparedness Agency or the Director's designee. The Committee includes representation from the Office of Federal Procurement Policy; Department of Defense; Department of Commerce; Department of Labor; General Services Administration; Small Business Administration; Department of Health, Education, and Welfare; Department of Housing and Urban Development; Department of Energy; and other interested departments and agencies. The Committee advises the Director, Federal Preparedness Agency, on policies, procedures, and activities in existence or needed to carry out the purpose of DMP-4A.

(i) When an entire industry that sells a significant portion of its production to the Government is generally depressed or has a significant proportion of its production units located in a labor surplus area, the Committee may make appropriate recommendations relative to that industry in lieu of recommendations relative to specific geographical areas. In such cases, after notice to and hearing of interested parties, the Director, Federal Preparedness Agency, gives consideration to appropriate measures applicable to the entire industry.

(j) Under DMP-4A, all Federal agencies are required to give consideration to labor surplus areas in the selection of sites for Government-financed facilities, including expansion, to the extent that such selection is consistent with existing law and essential economic and strategic factors that must also be taken into account.

§ 654.3 Definitions.

(a) "Assistant Secretary" shall mean Assistant Secretary for Employment and Training, U.S. Department of Labor.

(b) "Labor market area" shall mean a geographic area as determined by the State employment security agencies and approved by the Assistant Secretary, in which there is a concentration of economic activity or labor demand, and in which workers can generally change jobs without changing their residences.

(c) "Labor surplus area" shall mean a labor market area that, in accordance with the criteria specified in § 654.4, has been classified as a labor surplus area for purposes of Defense Manpower Policy No. 4A.

(d) "Reference period" shall mean the 12-month period ending three (3) months prior to the date of quarterly classifications of labor surplus areas; for example, for classifications effective for the eligibility quarter beginning July 1 of a given year, the reference period shall include data for the 12-month period from April 1 of the prior year through March 31 of the given year.

§ 654.4 Classification of labor surplus areas.

(a) *Basic criteria.* The Assistant Secretary shall classify a labor market area as a labor surplus area whenever, as determined by the Bureau of Labor Statistics, the average unemployment rate for the civilian labor force in the labor market area for the reference period is (1) 120 percent of the national average unemployment rate or higher for the reference period as determined by the Bureau of Labor Statistics, or (2) 10 percent or higher: *Provided, however,* That no labor market area shall be classified as a labor surplus area if the average unemployment rate for the reference period is less than 6.0 percent.

(b) *Criteria for component jurisdictions.* The assistant Secretary shall classify a labor market area as a labor surplus area if the Assistant Secretary determines that the area-wide average unemployment rate for the civilian labor force is at least 6.0 percent and the average unemployment rate for the civilian labor force in one or more of the component political jurisdictions meets the criteria specified in § 654.4(a), subject to the following limitations: (1) Such qualifying component jurisdiction—city, county, or county-equivalent—has a population of not less than 50,000 persons on the basis of the most satisfactory current data available to the Assistant Secretary; and (2) the number of unemployed individuals resident in such qualifying component jurisdictions, either singly or in combination, accounts for at least 25 percent of the total number of unemployed individuals resident in the labor market area.

(c) *Criteria for exceptional circumstances.* The Assistant Secretary, upon petition submitted by the appropriate state employment security agency, may classify a labor market area as a labor surplus area without regard to the reference period, whenever the labor market area meets or is expected to meet the unemployment tests established under § 654.4(a) or (b) as a result of exceptional circumstances. For purposes of this paragraph, "exceptional circumstances" shall mean catastrophic events such as natural disasters, plant closings, and contract cancellations expected to have a long-term impact on labor market area conditions, discounting temporary or seasonal factors.

§ 654.5 Termination of classification.

(a) *Basic procedure.* The Assistant Secretary shall terminate the classification of a labor market area as a labor surplus area after any quarter in which the Assistant Secretary determines that the criteria established under § 654.4(a) and (b) are no longer met.

(b) *Procedure for exceptional circumstances.* The Assistant Secretary shall terminate the classification of a labor market area classified as a labor surplus area pursuant to the provisions of § 654.4(c) after any quarter in which the Assistant Secretary determines that the exceptional circumstances criteria of that paragraph are no longer met, and in any event after one year from the date of classification unless the labor market area meets the criteria established under § 654.4(a) or (b).

§ 654.6 Publication of area classifications.

The Assistant Secretary shall publish quarterly a list of labor surplus areas together with geographic descriptions thereof.

§ 654.7 Services to firms and individuals in labor surplus areas.

To carry out the purposes and policy objectives of Defense Manpower Policy No. 4A and Executive Order 10582, the Assistant Secretary shall cooperate with and assist the state employment service agencies and the Secretary of Commerce, as appropriate, to:

(a) Provide relevant labor market data and related economic information to assist in the initiation of industrial expansion programs in labor surplus areas;

(b) Identify upon request the skills and numbers of unemployed persons available for work in labor surplus areas, providing such information to firms interested in establishing new plants and facilities of expanding existing plants and facilities in such areas;

(c) Identify the occupational composition and skill requirements of industries contemplating locating in labor surplus areas and make such information available to training and apprenticeship agencies and resources in the community for purposes of appropriate training and skill development;

(d) Identify unemployed individuals in need of, and having the potential for, training in occupations and skills required by new or expanding industries and refer such individuals to appropriate training opportunities;

(e) Receive job openings on a voluntary basis and/or under the mandatory listing program provided by 38 U.S.C. 2012 and Executive Order 11701 and refer qualified unemployed workers to such openings, making appropriate efforts to refer to such openings qualified individuals who reside in the labor surplus area.

§ 654.8 Filing of employment service-related complaints.

Employment service-related compliants arising under Subpart A of this Part may be filed directly with the appropriate Department of Labor regional office in accordance with the provisions at 20 CFR § 658.420–423. For purpose of § 658.421, a complainant filing a complaint under this subsection shall be deemed to have exhausted the State agency administrative remedies set forth at 20 CFR § 658.410–416.

Subpart B—Responsibilities Under Executive Order 10562

§ 654.11 Purpose of subpart.

This subpart implements the responsibilities of the Secretary of Labor in determining areas of substantial unemployment in accordance with Executive Order 10582 issued pursuant to the Buy American Act, 41 U.S.C. 10a et seq.

§ 654.12 Description of Executive Order 10582.

(a) Under the Buy American Act, heads of executive agencies are required to determine, as a condition precedent to the purchase by their agencies of materials of foreign origin for public use within the United States, (1) that the price of like materials of domestic origin is unreasonable, or (2) that the purchase of like materials of domestic origin is inconsistent with the public interest.

(b) Section 3(c) of Executive Order 10582 issued pursuant to the Buy American Act permits executive agencies to reject a bid or offer to furnish materials of foreign origin in any situation in which the domestic supplier, offering the lowest price for furnishing the desired materials, undertakes to produce substantially all of the materials in areas of substantial unemployment, as determined by the Secretary of Labor.

§ 654.13 Determination of areas of substantial unemployment.

An area of substantial unemployment, for purposes of Executive Order 10582, shall be any area classified as a labor surplus area at § 654.4 of this Part pursuant to the procedures set forth at Subpart A of this Part.

§ 654.14 Filing of employment service-related compliants.

Employment service-related complaints arising under Subpart B of this Part may be filed directly with the appropriate Department of Labor regional office in accordance with the provisions at 20 CFR § 658.420–423. For purposes of § 658.421, a complainant filing a complaint under this subsection shall be deemed to have exhausted the State agency administrative remedies set forth at 20 CFR § 658.410–416.

PART 658—ADMINISTRATIVE PROVISIONS GOVERNING THE EMPLOYMENT SERVICE SYSTEM

§ 658.600 [Amended]

6. In § 658.600 the words "and 29 CFR Part 8" are deleted.

§ 658.701 [Amended]

7. In § 658.701 the words "and at 29 CFR Part 8" are deleted.

Signed at Washington, D.C. this 27th day of February, 1978.

RAY MARSHALL,
Secretary of Labor.

[FR Doc. 78-5529 Filed 3-2-78; 8:45 am]

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federal register

FRIDAY, MARCH 3, 1978
PART VI

DEPARTMENT OF LABOR

Office of the Secretary

FEDERAL MINE SAFETY AND HEALTH ACT OF 1977

Representative of Miners; Notification of Legal Identity; Processing Hazardous Conditions Complaints Procedures; Petitions for Modification of Mandatory Safety Standards and Civil Penalties for Violations

[4310-68]

DEPARTMENT OF LABOR

Office of the Secretary

[30 CFR Parts 40, 81]

REPRESENTATIVE OF MINERS

Proposed Rule

AGENCY: Department of Labor.

ACTION: Proposed rule.

SUMMARY: The Secretary of Labor proposes to promulgate a rule governing the identification of representatives of miners and setting forth certain requirements related to the functions of such representatives. The proposed rule will apply to representatives of coal, metal, and nonmetallic miners. At the present time 30 CFR Part 81—Procedures for Identification of Representatives of Miners at Mines, governs identification of coal miners' representatives, but there is no rule respecting identification of metal/nonmetallic miners' representatives. Interested persons may participate in the rulemaking process by submitting written data, views, or arguments.

DATE: Comments must be received by April 3, 1978.

ADDRESS: Send comments to the Department of Labor Mine Safety and Health Task Force, Room 613, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203.

FOR FURTHER INFORMATION CONTACT:

Frank A. White, Room 613, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203, 703-235-1385.

SUPPLEMENTARY INFORMATION:

I. Analysis

The Federal Mine Safety and Health Act of 1977 (Mine Act), Pub. L. 91-173 as amended by Pub. L. 95-164, applies to coal, metal and nonmetal mines. Pub. L. 95-164, the Federal Mine Safety and Health Amendments Act of 1977, amended the Federal Coal Mine Health and Safety Act of 1969, Pub. L. 91-173, and repealed the Federal Metal and Nonmetallic Mine Safety Act, Pub. L. 89-577. The Mine Act requires the Secretary of Labor to exercise many of his duties under the Act in cooperation with miners' representatives. The Mine Act also establishes miners' rights which must be exercised through a representative. This proposed rule contains procedures which a person or organization must follow in order to be identified by the Secretary as a representative of miners.

The Mine Act does not define the term "representative of miners." The proposed rule defines the term, and also incorporates into the definition similar terms used throughout the Mine Act. The proposed rule contains requirements respecting filing of specified identification data, requirements respecting designation of persons or organizations to exercise the functions of a representative under provisions of the Mine Act, a limitation on designation of a representative to participate in a mine inspection, a requirement that identification data be posted at each mine, and a provision respecting termination of representative status.

II. Effect on Existing Rule

This proposed rule will apply to coal, metal, and nonmetal mines and miners. The Secretary proposes to establish a new Part 40 containing this proposed rule, to establish a new Subchapter G of Chapter I of Title 30 CFR containing this new Part 40, and to revoke 30 CFR Part 81. There is no regulation in Title 30 concerning identification of metal and nonmetal miners' representatives, and therefore the proposal involves no revocation of any regulation applicable to the metal and nonmetal mining industry.

III. Rulemaking Procedure

This rulemaking procedure is governed by 5 U.S.C. 553. Interested persons may participate by submitting data, views, or arguments.

Drafting Information

The principal persons responsible for the drafting of this proposed rule are: Robert G. Peluso, Deputy Assistant Administrator—Technical Support, Mining Enforcement and Safety Administration; and Donald R. Tindal, Assistant Solicitor—Metal and Nonmetallic Mine Health and Safety, Division of Mine Health and Safety, Office of the Solicitor, Department of the Interior.

Impact Statement

Note.—It has been determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: February 27, 1978.

Ray Marshall,
Secretary of Labor.

1. It is proposed to add a new Subchapter G to Chapter I of Title 30 CFR, and a new Part 40 to Subchapter G, as set forth below:

SUBCHAPTER G—FILING AND OTHER ADMINISTRATIVE REQUIREMENTS

PART 40—REPRESENTATIVE OF MINERS

Sec.
40.1 Definitions
40.2 Requirements.
40.3 Filing procedures.
40.4 Posting at mine.
40.5 Termination of designation as representative of miners.

Authority: Secs. 5(f), 101(c), 101(e), 103(c), 103(f), 103(g), 104(c), 105(a), 105(b)(1), 105(c), 105(d), 107(b)(1), 107(e)(1), 109(b), 115(a)(1)(2), 302(a), 305(b), 312(b), 505 and 508 of the Federal Mine Safety and Health Act of 1977 (Pub. L. 91-173, as amended by Pub. L. 95-164) and section 307 of the Federal Mine Safety and Health Amendments Act of 1977 (Pub. L. 95-164).

§ 40.1 Definitions.

As used in this Part 40:

(a) "Act" means the Federal Mine Safety and Health Act of 1977.

(b) "Representative of miners" means:

(1) Any person or organization which represents two or more miners at a coal or other mine for purposes of the Act, and

(2) "Representatives authorized by the miners", "miners or their representatives", "authorized miner representative", and other similar terms as they appear in the Act.

§ 40.2 Requirements.

(a) A representative of miners shall file with the Mine Safety and Health Administration District Managers for the district in which the mine is located the information required by § 40.3.

(b) Miners or their representative organizations may appoint or designate different persons to represent them under the various sections of the Act relating to representatives of miners.

(c) The representative of miners for the purpose of accompanying an inspector on an inspection must be at the mine at the time of the inspection.

(d) Where the presence of multiple representatives of miners at an inspection may impair the performance of the enforcement responsibilities of the Mine Safety and Health Administration, the representatives may be required to designate a single representative to accompany the inspector.

(e) No inspection shall be delayed awaiting the arrival or designation of a representative of miners and the failure of a representative to accompany an inspector shall have no effect upon the enforcement authority and responsibility of the inspector.

(f) All information filed pursuant to this part shall be maintained by the appropriate Mine Safety and Health Administration district office and shall be made available for public inspection.

§ 40.3 Filing procedures.

(a) The following information shall be filed by a representative of miners with the appropraite District Manager, with copies to the operators of the affected mines:

(1) The name, address, and telephone number of the representative of miners. If the representative is an organization, the name, address, and telephone number of the organization and the title of the official or position, who is to serve as the representative and his/her address and telephone number.

(2) The name and address of the operator of the mine where the represented miners work and the name, address, and Mine Safety and Health Administration identification number, if known, of the mine.

(3) A copy of the document evidencing the designation of the representative of miners.

(4) A statement that the person or position named as the representative of miners is the representative for all purposes of the Act; or if the representative's authority is limited, a statement of the limitation.

(5) The names, addresses, and telephone numbers of any delegates of the representative to serve in his absence.

(6) A statement that copies of all information filed pursuant to this section have been served upon the operator of the affected mine.

(7) A statement certifying that all information filed is true and correct followed by the signature of the representative of miners or an official of the organization representing the miners.

(b) The representative of miners shall be responsible for ensuring that the appropriate District Manager has received all of the information required by this part and informing such District Manager of any subsequent changes in the information.

§ 40.4 Posting at mine.

A copy of all information provided the operator pursuant to § 40.3 above shall be posted immediately upon receipt by the operator on the mine bulletin board and maintained in a current status.

§ 40.5 Termination of designation as representative of miners.

(a) A representative of the miners who becomes unable to comply with the requirements of this part shall file a statement with the appropriate District Manager terminating his/her designation and shall serve a copy upon the mine operator.

(b) The Mine Safety and Health Administration shall terminate and remove from its files all designations of representatives of miners which have been terminated pursuant to paragraph (a) of this section or which are not in compliance with the requirements of this part. Appropriate notifications of such terminations shall be made by the Mine Safety and Health Administration.

SUBCHAPTER O—COAL MINE HEALTH AND SAFETY

PART 81—PROCEDURES FOR INDENTIFICATION OF REPRESENTATIVES OF MINERS AT MINES [REVOKED]

1. It is proposed to revoke Part 81.

[FR Doc. 78-5592 Filed 3-2-78; 8:45 am]

[4310-68]

[30 CFR Parts 41, 82]

NOTIFICATION OF LEGAL IDENTITY

AGENCY: Department of Labor.

ACTION: Proposed Rule.

SUMMARY: The Secretary of Labor proposes to promulgate a rule requiring an operator of a coal or other mine (metal and nonmetal) to notify the Secretary of the operator's legal identity, including an address for service of documents upon an operator. At the present time, 30 CFR Part 82 governs notification of the legal identity of a coal mine operator, but there is no rule respecting legal identity of metal and nonmetal mine operators.

DATES: Comments must be received on or before April 3, 1978.

ADDRESS: Send comments to the Department of Labor Mine Safety and Health Task Force, Room 613, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203.

FOR FURTHER INFORMATION CONTACT:

Frank A. White, Room 613, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203, 703-235-1385.

SUPPLEMENTARY INFORMATION:

I. Analysis

The Federal Mine Safety and Health Act of 1977 (Mine Act), Pub. L. 91-173 as amended by Pub. L. 95-164, applies to coal, metal, and nonmetal mnines, Pub. L. 95-164, the Federal Mine Safety and Health Amendments Act of 1977, amended the Federal Coal Mine Health and Safety Act of 1969, Pub. L. 91-173, and repealed the Federal Metal and Nonmetallic Mine Safety Act, Pub. L. 89-577. The Mine Act requires the Secretary to carry out many of his duties under the Act in cooperation with mine operators. In addition, the Mine Act imposes many requirements upon operators. In order for the Mine Act to be administered and enforced effectively, it is essential that the Secretary know the legal identity of the operator of each coal, metal, and nonmetal mine.

The term "operator" is defined in section 3(d) of the Mine Act, and in § 41.1 of this proposed rule. The proposed rule requires each operator to file specified information respecting its status as a corporation, partnership, sole proprietorship, or other entity. Under the proposed rule, operators must use Form No. 2000-7 in complying with the part. A copy of the form is printed below. Failure to comply with the proposed rule may subject the operator to a civil penalty, and falsification of a report may subject an individual to civil and criminal penalties, under § 110 of the Mine Act.

II. Effect on Existing Rule

This proposed rule will apply to coal, metal, and nonmetal mines and mine operators. The Secretary proposes to establish a new Part 41, containing this proposed rule, to be contained in a new Subchapter G of Chapter I of Title 30 CFR, and to revoke 30 CFR Part 82. There is no rule in Title 30 concerning legal identity of metal and nonmetal mine operators, and therefore the proposal involves no revocation of any rule applicable to the metal and nonmetal mining industry.

III. Rulemaking Procedure

This rulemaking proceeding is subject to 5 U.S.C. 553. Interested persons may participate by submitting written data, views, or arguments.

Drafting Information

The principal persons responsible for the drafting of this proposed rule are: Robert G. Peluso, Deputy Assistant Administrator—Technical Support, Mining Enforcement and Safety Administration, Department of the Interior, and Donald R. Tindal, Assistant Solicitor—Metal and Nonmetallic Mine Health and Safety, Division of Mine Health and Safety, Office of the Solicitor, Department of the Interior.

Impact Statement

Note: It has been determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: February 27, 1978.

Ray Marshall,
Secretary of Labor.

1. It is proposed to add a new Part 41 and Subchapter G of Chapter I, Title 30, Code of Federal Regulations as set forth below:

SUBCHAPTER G—FILING AND OTHER ADMINISTRATIVE REQUIREMENTS

PART 41—NOTIFICATION OF LEGAL IDENTITY

Subpart A—Definitions

Sec.
41.1 Definitions.

Subpart B—Notification of Legal Identity

41.10 Scope.

Sec.
41.11 Notification by operator.
41.12 Changes; notification by operator.
41.13 Failure to notify.

Subpart C—Operator's Report to the Mine Safety and Health Administration

41.20 Legal Identity Report.
41.30 Addresses of Record.

AUTHORITY: Secs. 103(h), 109(d) and 508 of the Federal Mine Safety and Health Act of 1977 (Pub. L. 91-173, as amended by Pub. L. 95-164), and under section 307(h) of the Federal Mine Safety and Health Amendments Act of 1977 (Pub. L. 95-164).

Subpart A—Definitions

§ 41.1 Definitions.

As used in this part:

(a) "Operator" means any owner, lessee, or other person who operates, controls, or supervises a coal or other mine or any designated independent contractor performing services or construction at such mine.

(b) "Person" means any individual, sole proprietor, partnership, association, corporation, firm, subsidiary of a corporation, or other organization.

(c) "Coal or other mine" means (a) an area of land from which minerals are extracted in nonliquid form or, if in liquid form, are extracted with workers underground, (b) private ways and roads appurtenant to such area, and (c) lands, excavations, underground passageways, shafts, slopes, tunnels and workings, structures, facilities, equipment, machines, tools, or other property including impoundments, retention dams, and tailings ponds, on the surface or underground, used in, or to be used in, or resulting from, the work of extracting such minerals from their natural deposits in nonliquid form, or if in liquid form, with workers underground, or used in, or to be used in, the milling of such minerals, or the work of preparing coal or other minerals, and includes custom coal preparation facilities. In making a determination of what constitutes mineral milling for purposes of this Act, the Secretary shall give due consideration to the convenience of administration resulting from the delegation to one Assistant Secretary of all authority with respect to the health and safety of miners employed at one physical establishment.

Subpart B—Notification of Legal Identity

§ 41.10 Scope.

Section 109(d) of the Federal Mine Safety and Health Act of 1977 (Pub. L. 91-173, as amended by Pub. L. 95-164), requires each operator of a coal or other mine to file with the Secretary of Labor the name and address of such mine, the name and address of the person who controls or operates the mine, and any revisions in such names and addresses. Section 103(h) of the Act requires the operator of a coal or other mine to provide such information as the Secretary of Labor may reasonably require from time to time to enable the Secretary to perform his functions under the Act. The regulations in this Subpart B provide for the notification to the Mine Safety and Health Administration of the legal identity of the operator of a coal or other mine and the reporting of all changes in the legal identity of the operator as they occur. The submission of the properly completed legal identity report Form No. 2000-7 required under Subpart C of this part will constitute adequate notification of legal identity to the Mine Safety and Health Administration.

§ 41.11 Notification by operator.

(a) Not later than 30 days after (1) the effective date of this part, and (2) the opening of a new mine thereafter, the operator of a coal or other mine shall, in writing, notify the appropriate district manager of the Mine Safety and Health Administration in the district in which the mine is located of the legal identity of the operator in accordance with the applicable provisions of paragraphs (b), (c), (d), or (e) of this section.

(b) If the operator is a sole proprietorship, the operator shall state: (1) His full name and address; (2) the name and address of the mine and the Federal mine identification number; (3) the Federal mine identification numbers of all other mines in which the sole proprietor has any ownership interest, stating the percent the sole proprietor owns; (4) the full name, the address of record, and trade name if any, of the proprietorship; and (5) a telephone number where the proprietor can be reached during normal working hours.

(c) If the operator is a partnership, the operator shall state: (1) The name and address of the mine and the Federal mine identification number; (2) the Federal mine identification numbers of all other mines in which the partnership has any ownership interest, stating the percent the partnership owns; (3) the full name and address of all partners; (4) the trade name, if any, and the address of record of the partnership; (5) a telephone number or numbers, if any, where the partners can be reached during normal working hours; and (6) the Federal mine identification numbers of all other mines in which any partner has any ownership interest.

(d) If the operator is a corporation, the operator shall state: (1) The name and address of the mine and the Federal mine identification number; (2) the Federal mine identification numbers of all other mines in which the corporation has an ownership interest, stating the percent the corporation owns; (3) the full name and address of record of the corporation and the State of incorporation; (4) the full name and address of each officer and director of the corporation; (5) whether such corporation is a domestic or foreign corporation in the State in which the mine is located; (6) the full name and address of the registered or resident agent(s) for service of process pursuant to State law for the mine, if any; (7) if the corporation is a subsidiary corporation, the operator shall state the full name, address, and State of incorporation of the parent corporation; (8) a telephone number or numbers, if any, where the agent can be reached during normal working hours; and (9) the Federal mine identification numbers of all other mines in which any corporate officer has any ownership interest.

(e) If the operator is any organization other than a sole proprietorship, partnership, or corporation, the operator shall state: (1) The nature and type, or legal identity of the organization; (2) the name and address of the mine(s) and the federal mine identification number(s); (3) the Federal identification numbers of all other mines in which the organization has any ownership interest, stating the percent of each such additional mine owned; (4) the name and address of each individual who has an ownership interest in the organization; (5) the name and the address of record of the responsible official(s) of the organization to act as the agent for service of process; (6) the name and address of the principal officials or members; and (7) the Federal mine identification numbers of all other mines in which any official or member has any ownership interest.

§ 41.12 Changes; notification by operator.

Within 30 days after the occurrence of any change in the information required by § 41.11, the operator of a coal or other mine shall, in writing, notify the appropriate district manager of the Mine Safety and Health Administration in the district in which the mine is located of such change.

§ 41.13 Failure to notify.

Failure of the operator to notify the Mine Safety and Health Administration in writing of the legal identity of the operator or any changes thereof within the time required under this part will be considered to be a violation of section 109(d) of the Act and shall be subject to penalties as provided in section 110 of the Act.

Subpart C—Operator's Report to the Mine Safety and Health Administration

§ 41.20 Legal Identity Report.

Each operator of a coal or other mine shall file notification of the legal identity and every change thereof with the appropriate district manager of the Mine Safety and Health Administration by properly completing, mailing, or otherwise delivering Form No. 2000-7 "Legal Identity Report" which shall be provided by the Mine Safety and Health Administration for this purpose. If additional space is required, the operator may use a separate sheet or sheets.

§ 41.30 Address of record.

The address of record required under this part shall be considered the operator's official address for purposes of the Act. Service of documents upon the operator may be proved by a post office return receipt showing that the documents could not be delivered to such operator at the address of record because the operator had moved without leaving a forwarding address or because delivery was not accepted at that address, or because no such address existed. However, operators may request service by delivery to another appropriate address provided by the operator.

SUBCHAPTER O—COAL MINE HEALTH AND SAFETY

PART 82—NOTIFICATION OF LEGAL IDENTITY [REVOKED]

1. It is proposed to revoke Part 82.

Form No. 2000-7
(Jan. 1978)

UNITED STATES
DEPARTMENT OF LABOR
Mine Safety and Health Administration

Form approved.
O.M.B. No.

Legal Identity Report

☐ Initial Notice ☐ Change Notice (If more space is required, in any section below, please use a separate sheet.)

Mine ID No. _____ Name of Mine _____ Commodity _____
Nearest town _____ County _____ Name of operator _____
Office address (No. & St.) _____ City _____ State _____ Zip _____
Please check the appropriate box and complete the applicable section below

☐ Sole Proprietorship ☐ Partnership ☐ Corporation ☐ Other

List affiliated Mine ID No. as required/defined by 30 CFR 41. Separate legal identity report required for each mine.

1. Sole Proprietorship
Trade Name _____ Proprietor _____ Phone No. _____
Address (No. & St.) _____ City _____ State _____ Zip _____

2. Partnership
Trade Name _____ Phone No. _____
Partnership Address (No. & St.) _____ City _____ State _____ Zip _____
Please list below the name and address of each partner

Name	Number and Street	City	State	Zip	Percent of Ownership

3. Corporation
Name _____ State of Incorporation _____
Corp. Address (No. & St.) _____ City _____ State _____ Zip _____
Agent for Service of Process _____ Phone No. _____ Title _____
Agent's Address (No. & St.) _____ City _____ State _____ Zip _____
Is Corporation a Subsidiary ☐ Yes ☐ No If "Yes," give Name and Address of Parent Corporation
Name _____ No. & Street _____ City _____ State _____ Zip _____
Please list below the name, title, and address of each Corporation Officer and Director

Name	Title	Number and Street	City	State	Zip

4. Other
Type of Legal Entity _____ Name of Organization _____
Address (No. & St.) _____ City _____ State _____ Zip _____
Responsible Official to act as Agent for Service of Process: Name _____ Phone No. _____
Title _____ No. & Street _____ City _____ State _____ Zip _____
Please list below the name, title, if any, and address of principal company officials and each individual who has an ownership interest in the company.

Name	Title	Number and Street	City	State	Zip

5. Address of Record (Service of process upon the operator will be considered completed by mailing the documents to this address - see 30 CFR 41.30).

Name	Title	Number and Street	City	State	Zip

All changes should be reported within 30 days to the Mine Safety and Health District Manager of the Mine Safety and Health Administration (MSHA) in the District in which the mine is located. Please return the original and first two copies to MSHA. This report is required by law under the Federal Mine Safety and Health Act of 1977 and 30 CFR Part 41. Failure to report can result in imposition of a civil penalty, and knowingly making a false statement can result in imposition of civil and criminal penalties, under §110 of the Act.

Signature _____ Title _____ Date _____

[FR Doc. 78-5593 Filed 3-2-78; 8:45 am]

[4310-68]

[30 CFR Part 43]

PROCEDURES FOR PROCESSING HAZARDOUS CONDITIONS COMPLAINTS

Proposed Rule

AGENCY: Department of Labor.

ACTION: Proposed rule.

SUMMARY: Section 103(g) of the Federal Mine Safety and Health Act of 1977 provides that the representative of the miners, or any miner at a mine where there is no such representative, shall have the right to an immediate inspection under certain circumstances. The right to an immediate inspection exists if the Secretary or his authorized representative is notified, in writing, that the complaining party has reasonable grounds to believe that there is a violation or an imminent danger. The proposed regulations are designed to provide procedures for requesting such an inspection, and the accompanying procedures for responding to such a request.

DATE: Written comments must be received by April 3, 1978.

ADDRESS: Written comments should be sent to the Department of Labor Mine Safety and Health Task Force, Room 613, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203.

FOR FURTHER INFORMATION CONTACT:

William Sutherland, Mining Enforcement and Safety Administration, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203, 703-235-1358; or Michael V. Durkin, Trial Attorney, Office of the Solicitor, Division of Mine Health and Safety, at the same address, 703-235-1177.

SUPPLEMENTARY INFORMATION: The Federal Mine Safety and Health Act of 1977, Pub. L. 91-173 as amended by Pub. L. 95-164, applies to coal, metal and nonmetal mines. Pub. L. 95-164, the Federal Mine Safety and Health Amendments Act of 1977, amended the Federal Coal Mine Health and Safety Act of 1969, Pub. L. 91-173, and repealed the Federal Metal and Nonmetallic Mine Safety Act, Pub. L. 89-577. The name Mining Enforcement and Safety Administration is changed by the new Act to the Mine Safety and Health Administration (MSHA). Interested persons may participate in the rulemaking process by submitting written data, views, or arguments.

While section 103(g)(2) requires the Secretary to provide informal review procedures by regulation and this proposed rule is a response to that instruction, it should be emphasized that MSHA, as a matter of policy, will take appropriate action on all complaints of hazardous conditions regardless of whether the proposed procedure for notifying the Secretary or his authorized representative is followed. However, in a case where the section 103(g) notice of complaint procedure proposed in these regulations is not followed, MSHA is not required to issue a notice of no action taken, nor is it required to provide informal review.

Proposed § 43.2 sets forth the procedures for notifying the Secretary or his authorized representative if the representative of the miners, or any miner at a mine where there is no such representative, has reasonable grounds to believe that there is a violation or imminent danger. The proposed rule also imposes the positive duty on the Secretary or his authorized representative to make an immediate inspection once such a complaint is received.

Proposed § 43.3 provides the procedure for giving notice to the complaining party if upon the facts alleged there is clearly no basis for conducting an inspection or when it is determined, after an inspection, that the alleged imminent danger or violation is not supported by the evidence. This notice is designated as a "notice of no action taken."

Proposed § 43.4 provides the procedure for informal review of the determination on which the notice of no action taken was based. The proposed rule requires the district manager to review this determination, and to provide a written response to the complaining party.

DRAFTING INFORMATION

The principal persons responsible for preparation of this notice are William Sutherland, Mining Enforcement and Safety Administration, and Michael V. Durkin, Trial Attorney, Office of the Solicitor.

IMPACT STATEMENT

NOTE.—It has been determined that this document does not contain a major proposal requiring the preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: February 27, 1978.

RAY MARSHALL,
Secretary of Labor.

1. It is proposed to add a new Subchapter G to Chapter I of Title 30, CFR, and a new Part 43 to new Subchapter G, as set forth below:

SUBCHAPTER G—FILING AND OTHER ADMINISTRATIVE REQUIREMENTS

PART 43—PROCEDURES FOR PROCESSING HAZARDOUS CONDITIONS COMPLAINTS

Sec.
43.1 Definitions.
43.2 Notice of complaint.
43.3 Notice of no action taken.
43.4 Informal review.

AUTHORITY.—Secs. 103(g) and 508 of the Federal Mine Safety and Health Act of 1977 (Pub. L. 91-173, as amended by 95-164), and sec. 307 of the Federal Mine Safety and Health Amendments Act of 1977 (Pub. L. 95-164).

§ 43.1 Definitions.

(a) As used in this part the term:
(1) "Act" means the Federal Mine Safety and Health Act of 1977; and
(2) "Secretary" means the Secretary of Labor or his delegate.

§ 43.2 Notice of complaint.

(a) Any representative of the miners, or any miner in the case of a coal or other mine where there is no such representative, who has reasonable grounds to believe that a violation of the Act or a mandatory health or safety standard exists, or that an imminent danger exists, shall have a right to obtain an immediate inspection by giving notice to the Secretary or his authorized representative of such violation or danger.

(b) Any such notice shall be in writing, shall set forth the alleged violation or imminent danger and the location of such violation or imminent danger, and shall be signed by the miner or representative of the miners submitting it.

(c) A copy shall be provided to the operator or his agent by the Secretary or his authorized representative no later than the time of the inspection, except that the operator or his agent shall be notified forthwith if the notice of complaint indicates that an imminent danger exists. The name of the person giving such notice and the names of the individual miners referred to therein shall not appear in such copy or notification. This paragraph (c) is applicable only to section 103(g)(1) notices of complaint.

(d) Upon receipt of such notice, the Secretary or an authorized representative of the Secretary shall make a special inspection as soon as possible to determine if a citation or a withdrawal order is appropriate unless on the face of the complaint, the condition complained of, even if it were found to exist, would clearly not constitute a violation or imminent danger.

(e) Where the Secretary or his authorized representative makes an inspection pursuant to notice under this section and finds a violation or imminent danger, he shall issue a citation or withdrawal order, as appropriate.

§ 43.3 Notice of no action taken.

(a) If it is determined that an inspection if not warranted pursuant to § 43.2(d), a notice of no action taken

standard to a coal or other mine, upon petition by the operator or the representative of miners at the mine, if the Secretary determines that the result

the grounds that the bases for the grant no longer exist will be filed with the Chief Administrative Law Judge and will be subject to the same hear-

Mining Enforcement and Safety Administration, Department of the Interior, and Thomas A. Mascolino, Assistant Solicitor—Administrative Litiga-

44.41 Summary decision.

Subpart E—Effect of Initial Decision

of the mine, and any representative of the miners in the affected mine. Any other person claiming a right of par-

§ 43.3 Notice of no action taken.

(a) If it is determined that an inspection if not warranted pursuant to § 43.2(d), a notice of no action taken shall be issued.

(b) After an inspection is completed in response to a notice of complaint, if it is determined that neither a citation nor a withdrawal order is appropriate for the alleged violation or imminent danger, a notice of no action taken shall be issued.

(c) A notice of no action taken shall be in writing and it shall be issued as soon as possible.

§ 43.4 Informal review.

(a) If a notice of no action taken is issued, the complaining party shall have the right to informal review of the determination on which such notice was based.

(b) The complaining party shall initiate the right to informal review by notifying the district manager either orally or in writing of this request for informal review together with any supporting information within 30 days of issuance of the notice of no action taken.

(c) After the receipt of a request for informal review, the district manager or his agent may hold, at the district manager's discretion, an informal conference where the complaining party may present his views.

(d) After review of all the written and oral statements submitted by the complaining party, the district manager shall affirm, modify, or reverse the determination on which the notice of no action was based, and he shall furnish the complaining party with a written statement of the reasons for his final disposition of the request for informal review as soon as possible. The district manager's determination in the matter shall be final.

(e) This Part 43 is applicable only when a notice of complaint is submitted in writing, and, unless otherwise provided, is equally applicable to both section 103(g)(1) and section 103(g)(2) of the Act.

[FR Doc. 78-5594 Filed 3-2-78; 8:45 am]

[4310-68]

[30 CFR Part 44]

MANDATORY SAFETY STANDARDS

Rules of Practice for Petitions for Modification

AGENCY: Department of Labor.

ACTION: Proposed Rule.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 91-173 as amended by Pub. L. 95-164, authorizes the Secretary of Labor to modify the application of any mandatory mine safety standard to a coal or other mine, upon petition by the operator or the representative of miners at the mine, if the Secretary determines that the result of the modification will meet certain criteria. The Secretary proposes the rule below to govern the petition and determination procedure, and solicits comments respecting the proposed rule.

DATES: Comments must be received on or before April 3, 1978.

ADDRESS: Send comments to the Department of Labor Mine Safety and Health Task Force, Room 613, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203.

FOR FURTHER INFORMATION CONTACT:

Frank A. White, Room 613, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington Va. 22203, 703-235-1385.

SUPPLEMENTARY INFORMATION:

I. Discussion of Proposed Rule

Under this proposed rule, operators of coal, metal, and nonmetal mines, and representatives of miners at these mines, may petition the Assistant Secretary for Mine Safety and Health to modify the application of a mandatory mine safety standard to one or more mines. The petition may be granted if it is determined that a proposed alternative to a standard will provide equal protection to miners, or that application of the standard results in a diminution of safety to the miners. Upon receipt of a petition, notice that a petition has been filed will be published in the Federal Register and the appropriate Assistant Administrator for Mine Safety and Health will investigate the merits of the petition and issue a proposed decision. A proposed decision will become final within 20 days of its service unless a hearing is requested on the decision.

If a hearing is requested, the matter will be referred to the Chief Administrative Law Judge, Department of labor. An administrative law judge of the Department of Labor will preside over any hearing, which will be subject to 5 U.S.C. 554, 556, and 557. The administrative law judge will issue an initial decision on the merits of the petition, which will become final unless appealed to the Assistant Secretary within 20 days of service. Only a decision of the Assistant Secretary is a final agency action for the purposes of judicial review under 5 U.S.C. 701-706.

This proposed rule will also apply to petitions for modification of safety standards pending before the Office of Hearings and Appeals, U.S. Department of the Interior, as of March 9, 1978.

Under this rule, a petition to revoke a granted petition for modification on the grounds that the bases for the grant no longer exist will be filed with the Chief Administrative Law Judge and will be subject to the same hearing and appeal procedures as a petition for modification.

II. Applicability

This proposed rule applies only to petitions for modification of mandatory safety standards. The Federal Mine Safety and Health Act of 1977 does not authorize the Secretary to modify the applicability of any mandatory health standard.

III. Replacement and Revocation of Existing Rules; Validity of Granted Modifications and Variances

This proposed rule will replace the provisions of 43 CFR 4.550, 4.551, and 4.552 which now govern petitions for modification of mandatory coal mine safety standards, and revoke section .24, 30 CFR Parts 55 and 56, and sections .24 and .25 of 30 CFR Part 57, which govern variances from mandatory metal and nonmetal mine standards.

Section 301(c)(2) of the Federal Mine Safety and Health Amendments Act of 1977, Pub. L. 95-164, states that all orders, decisions, and determinations granted in the exercise of functions transferred to the Secretary of Labor which are in effect on March 9, 1978, remain effective unless modified or revoked as set forth in section 301(c)(2). Therefore, any petition for modification of the applicability of any mandatory safety standard to a coal mine, and any variance from a mandatory safety standard, granted by the Secretary of the Interior, the Mining Enforcement and Safety Administration (MESA), Department of the Interior, or granted, with MESA's concurrence, by the mine safety and health agency of a State which was a party to a State Plan Agreement under section 16 of the Federal Metal and Nonmetallic Mine Safety Act, Pub. L. 89-577, will remain effective according to its terms unless modified or revoked.

IV. Rulemaking Procedure

This proposed rule is not subject to the procedures in 5 U.S.C. 553 because the proposed rule pertains to agency procedures and is therefore exempt under 5 U.S.C. 553(b)(A). However, the Secretary wishes to afford interested persons the opportunity to comment upon the proposed rule, Therefore, interested persons may participate in the rulemaking process by submitting written data, views, or arguments.

Drafting Information

The principal persons responsible for drafting this proposed rule are: Robert G. Peluso, Deputy Assistant Administrator—Technical Support, Mining Enforcement and Safety Administration, Department of the Interior, and Thomas A. Mascolino, Assistant Solicitor—Administrative Litigation, Division of Mine Health and Safety, Office of the Solicitor, Department of the Interior.

Impact Statement

Note.—It has been determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: February 17, 1978.

Ray Marshall,
Secretary of Labor.

1. It is proposed to add a new Subchapter G to Chapter I of Title 30 CFR, and a new Part 44 to Subchapter G, as set forth below:

SUBCHAPTER G—FILING AND OTHER ADMINISTRATIVE REQUIREMENTS

PART 44—RULES OF PRACTICE FOR PETITIONS FOR MODIFICATION OF MANDATORY SAFETY STANDARDS

Subpart A—General

Sec.
44.1 Scope and construction.
44.2 Definitions.
44.3 Parties.
44.4 Effect of petitions granted.
44.5 Notice of a granted petition for modification.
44.6 Manner of service.
44.7 Transfer of pending petitions for modification.

Subpart B—Initial Filing of Petitions for Modification

44.10 Who may file.
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44.12 Procedure for public notice of petition received.
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44.14 Request for hearing.
44.15 Referral to Chief Administrative Law Judge.

Subpart C—Hearings

44.20 Designation of administrative law judge.
44.21 Filing and form of documents.
44.22 Administrative law judges; powers and duties.
44.23 Prehearing conferences.
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44.25 Depositions.
44.26 Subpoenas; witness fees.
44.27 Consent findings and rules or orders.
44.28 Notice of hearing.
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44.30 Hearing procedures.
44.31 Proposed findings of fact, conclusions and orders.
44.32 Initial decision.
44.33 Departmental review.
44.34 Transmission of record.
44.35 Decision of the Assistant Secretary.

Subpart D—Summary Decisions

44.40 Motion for summary decision.
44.41 Summary decision.

Subpart E—Effect of Initial Decision

44.50 Effect of appeal on an administrative law judge's decision.
44.51 Finality for purposes of judicial review.
44.52 Revocation of modification.

Authority: Secs. 101(c) and 508 of the Federal Mine Safety and Health Act of 1977, Pub. L. 91-173, as amended by Pub. L. 95-164; and under sec. 301(c)(3) of the Federal Mine Safety and Health Amendments Act of 1977, Pub. L. 95-164.

Subpart A—General

§ 44.1 Scope and construction.

(a) The procedures and rules of practice set forth in this part shall govern petitions for modification of the application of mandatory safety standards filed under section 101(c) of the Act and, to the extent applicable, pending petitions for modification initially filed with the Office of Hearings and Appeals of the Department of the Interior.

(b) These rules shall be liberally construed to carry out the purpose of the Act by assuring adequate protection of miners, and to secure the just and prompt determination of all proceedings consistent with adequate consideration of the issues involved.

§ 44.2 Definitions.

As used in this part, unless the context clearly requires otherwise, the term—

(a) "Act" means the Federal Mine Safety and Health Act of 1977, Pub. L. 91-173, as amended by Pub. L. 95-164.

(b) "Secretary", "operator", "person", "agent", "miner" and "coal or other mine", have the meanings set forth in section 3 of the Act.

(c) "Assistant Secretary" means the Assistant Secretary of Labor for Mine Safety and Health.

(d) "Administrative law judge" means an administrative law judge of the Department of Labor appointed under section 3105 of Title 5 of the United States Code.

(e) "Representative of miners" means a person or organization designated by two or more miners to act as their representative for purposes of the Act, and who is in compliance with 30 CFR Part 40.

(f) "Pending petitions for modification" means those proceedings initially filed with the Department of the Interior under section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, prior to March 9, 1978, and in which there had not been a final departmental decision as of March 9, 1978.

§ 44.3 Parties.

Parties to proceedings under this part shall include the Mine Safety and Health Administration, the operator of the mine, and any representative of the miners in the affected mine. Any other person claiming a right of participation as an interested party in a proceeding may become a party upon application to the Assistant Secretary and the granting of such application. Subsequent to the referral of a petition to the Chief Administrative Law Judge, all such applications seeking status as a party shall be made to the Chief Administrative Law Judge for his disposition.

§ 44.4 Effect of petitions granted.

All petitions for modification granted pursuant to this part shall have only future effect. Orders granting petitions for modification may contain special terms and conditions for the purpose of assuring adequate protection to miners. The modification, together with any conditions, shall have the same force and effect as a mandatory safety standard.

§ 44.5 Notice of a granted petition for modification.

(a) Every final action granting a petition for modification under this part shall be published in the Federal Register. Every such final action published shall specify the statutory grounds upon which the modification is based and a summary of the facts which warranted the modification.

(b) Every final action or a summary thereof granting a petition for modification under this part shall be posted by the operator on the mine bulletin board at the affected mine and shall remain posted as long as the modification is effective. If a summary of the final action is posted on the mine bulletin board, a copy of the full decision shall be kept at the affected mine office and made available to the miners.

§ 44.6 Manner of service.

(a) Copies of all documents filed in any proceeding described in this part and copies of all notices pertinent to such proceeding shall be served by the filing party on all other persons made parties to the proceeding under § 44.3. If a request for hearing has been filed by any party, a copy of all subsequent documents filed shall be served upon the Mine Safety and Health Administration through its representative, the Office of the Solicitor, Department of Labor.

(b) Provisions for service of the initial petition are included under § 44.10. All other documents filed subsequent to a request for hearing by any party may be served personally or by first-class mail to the last known address of the party.

(c) Whenever a party is represented by an attorney who has signed any document filed on behalf of such party or otherwise entered an appear-

ance on behalf of such party, service thereafter shall be made upon the attorney.

(d) Any party filing a petition for modification under these rules shall file proof of service in the form of a return receipt where service is by registered or certified mail, or an acknowledgment by the party served or a verified return where service is made personally. A certificate of service shall accompany all other documents filed by a party under these rules.

§ 44.7 Transfer of pending petitions for modification.

(a) On March 9, 1978, all petitions pending before the Office of Hearings and Appeals of the Department of the Interior are transferred to the Department of Labor as provided herein. All transferred cases shall be subject to the regulation of this part, as applicable.

(b) Where an investigation report and amended answer have been filed the case is transferred to the docket of the Chief Administrative Law Judge, Department of Labor for further proceedings.

(c) Where an investigation report has not been filed the case is transferred to the appropriate Assistant Administrator, Mine Safety and Health Administration, for a proposed decision and order pursuant to these regulations.

Subpart B—Initial Filing of Petitions for Modification

§ 44.10 Who may file.

A petition under section 101(c) of the Act for modification of the application of mandatory safety standard may be filed only by the operator of the affected mine or any representative of the miners at such mine. All petitions must be in writing and must be filed with the Assistant Secretary of Labor for Mine Safety and Health, U.S. Department of Labor, 4015 Wilson Boulevard, Arlington, Va. 22203. If the petition is filed by a mine operator, a copy of the petition shall be served by the mine operator upon a representative of miners at the affected mine. If the petition is filed by a representative of the miners, a copy of the petition shall be served by the representative of miners upon the mine operator. Service shall be accomplished personally or by registered or certified mail, return receipt requested.

§ 44.11 Contents of petition.

(a) A petition for modification filed pursuant to § 44.10 shall contain:

(1) The name and address of the petitioner.

(2) The mailing address and mine identification number of the mine or mines affected.

(3) The mandatory safety standard to which the petition is directed.

(4) A concise statement of the modification requested, and whether the petitioner (i) proposes to establish an alternate method in lieu of the mandatory safety standard, or (ii) alleges that the application of the standard will result in a diminution of safety to the miners affected, or (iii) requests relief based on both paragraphs (a)(4)(i) and (ii) of this section.

(5) A detailed statement of the facts the petitioner would show to establish the grounds upon which it is claimed a modification is warranted.

(6) Identification of any representative of the miners at the affected mine, if the petitioner is a mine operator.

(b) A petition for modification shall not include a request for modification of the application of more than one mandatory safety standard. A petition for modification shall not request relief for more than one operator. However, an operator may file a petition for modification pertaining to more than one mine where it can be shown that identical issues of law and fact exist as to the petition for each mine.

§ 44.12 Procedure for public notice of petition received.

(a) Promptly upon receipt of a petition for modification, the Mine Safety and Health Administration will give notice of the petition to each known representative of miners or the operator of the affected mine as appropriate, and shall publish notice of the petition in the FEDERAL REGISTER.

(b) The FEDERAL REGISTER notice shall contain a statement that the petition has been filed, shall identify the petitioner and the mine or mines to which the petition relates, shall cite the mandatory safety standard for which modification of application is sought, shall describe the requested relief, and shall summarize the facts claimed by petitioner to warrant the requested modification.

(c) All such notices shall advise interested parties that they may within 30 days from the date of publication in the FEDERAL REGISTER, in writing, comment upon or provide information relative to the proposed modification.

§ 44.13 Proposed decision.

Upon receipt of a petition for modification, the Mine Safety and Health Administration shall cause an investigation to be made as to the merits of such petition. Within a reasonable time thereafter, the appropriate Assistant Administrator shall make a proposed decision and order based upon all available information, including the results of the investigation. The proposed decision and order shall be served on all parties to the proceeding. The proposed decision shall become final upon the 20th day after service thereof, unless a request for hearing has been filed with the appropriate Assistant Administrator as provided in § 44.14. Service of the proposed decision is complete upon mailing.

§ 44.14 Request for hearing.

A request for hearing filed in accordance with § 44.13 must be filed within 20 days after service of the proposed decision and shall include:

(a) A concise summary of position on the issues of fact or law desired to be raised by the party requesting the hearing, including specific objections to the proposed decision. A party other than petitioner who has requested a hearing shall also comment upon all issues of fact or law presented in the petition, and

(b) An indication of a desired hearing site.

§ 44.15 Referral to Chief Administrative Law Judge.

Upon receipt of a request for hearing as provided in § 44.14 or upon his own initiataive, the appropriate Assistant Administrator shall refer to the Chief Administrative Law Judge the original petition, the proposed decision and order, all information upon which the proposed decision was based, any written request for a hearing on the petition filed, and any other written comments or information received and considered in making the proposed decision.

Subpart C—Hearings

§ 44.20 Designation of administrative law judge.

Upon receipt of a request for hearing in a petition for modification proceeding, the Chief Administrative Law Judge shall designate an administrative law judge appointed under section 3105 of Title 5 of the United States Code to preside over the hearing.

§ 44.21 Filing and form of documents.

(a) *Where to file.* After a petition has been referred to the Office of the Chief Administrative Law Judge, the parties will be notified of the name and address of the administrative law judge assigned to the case when such assignment is made. All further documents shall be filed with the administrative law judge at the address designated or with the Chief Administrative Law Judge if the assignment has not been made. While the petition is before the Assistant Secretary at any stage of the proceeding, all documents should be filed with the Assistant Secretary of Labor for Mine Safety and Health, 4015 Wilson Boulevard, Arlington, Va. 22203.

(b) *Caption, title and signature.* (1) The documents filed in any proceeding

under this part shall be captioned in the name of the operator of the mine to which the proceeding relates and in the name of the mine or mines affected. After a docket number has been assigned to the proceeding by the Office of the Chief Administrative Law Judge, the caption shall contain such docket number.

(2) After the caption each such document shall contain a title which shall be descriptive of the document and which shall identify the party by whom the document is submitted.

(3) The original of all documents filed shall be signed at the end by the party submitting the document or, if the party is represented by an attorney, by such attorney. The address of the party or the attorney shall appear beneath the signature.

§ 44.22 Administrative law judges; powers and duties.

(a) *Powers.* An administrative law judge designated to preside over a hearing shall have all powers necessary or appropriate to conduct a fair, full, and impartial hearing, including the following:

(1) To administer oaths and affirmations;

(2) Issue subpoenas authorized by law;

(3) To rule upon offers of proof and receive relevant evidence;

(4) Take depositions or have depositions taken when the ends of justice would be served;

(5) To provide for discovery and to determine its scope;

(6) To regulate the course of the hearing and the conduct of the parties and their counsel therein;

(7) To consider and rule upon procedural requests;

(8) To hold conferences for the settlement or simplification of the issues by consent of the parties;

(9) To make decisions in accordance with the Act, this part, and section 557 of Title 5 of the United States Code; and

(10) To take any other appropriate action authorized by this part, by section 556 of Title 5 of the United States Code, or by the Act.

(b) *Private consultation.* Except to the extent required for the disposition of ex parte matters, an administrative law judge may not consult a person or a party on any fact at issue, unless upon notice and opportunity for all parties to participate.

(c) *Disqualification.* (1) When an administrative law judge deems himself disqualified to preside over a particular hearing, he shall withdraw therefrom by notice on the record directed to the Chief Administrative Law Judge.

(2) Any party who deems an administrative law judge for any reason to be disqualified to preside, or to continue to preside, over a particular hearing, may file with the Chief Administrative Law Judge of the Department of Labor a motion to be supported by affidavits setting forth the alleged grounds for disqualification. The Chief Administrative Law Judge shall rule upon the motion.

(d) *Contumacious conduct; failure or refusal to appear or obey the rulings of a presiding administrative law judge.* (1) Contumacious conduct at any hearing before the administrative law judge shall be ground for exclusion from the hearing.

(2) If a witness or a party refuses to answer a question after being directed to do so, or refuses to obey an order to provide or permit discovery, the administrative law judge may make such orders with regard to the refusal as are just and appropriate, including an order denying the application of a petitioner or regulating the contents of the record of the hearing.

(e) *Referral to Federal Rules of Civil Procedure and Evidence.* On any procedural question not regulated by this part, the Act, or the Administrative Procedure Act, an administrative law judge shall be guided to the extent practicable by any pertinent provisions of the Federal Rules of Civil Procedure or Federal Rules of Evidence, as appropriate.

§ 44.23 Prehearing conference.

(a) *Convening a conference.* Upon his own motion or the motion of a party, the administrative law judge may direct the parties or their counsel to meet with him for a conference to consider:

(1) Simplification of the issues;

(2) Necessity or desirability of amendments to documents for purposes of clarification, simplification, or limitation;

(3) Stipulations, admissions of fact, and of contents and authenticity of documents;

(4) Limitation of the number of parties and of expert witnesses; and

(5) Such other matters as may tend to expedite the disposition of the proceeding, and to assure a just conclusion thereof.

(b) *Record of conference.* The administrative law judge shall issue an order which recites the action taken at the conference, the amendments allowed to any documents which have been filed, and the agreements made between the parties as to any of the matters considered, and which limits the issues for hearing to those not disposed of by admissions or agreements; and such order when entered controls the subsequent course of the hearing, unless modified at the hearing, to prevent manifest injustice.

§ 44.24 Discovery.

Whenever appropriate to a just disposition of any issue in a hearing, the Chief Administrative Law Judge or the presiding administrative law judge, as appropriate, may allow discovery by any appropriate procedure, such as deposition, written interrogatories, or production of documents by a party. The Chief Administrative Law Judge or the presiding administrative law judge, as appropriate, may order a party to produce and permit inspection and copying or photographing of designated documents relevant to the proceeding.

§ 44.25 Depositions.

(a) *Purpose.* For reasons of unavailability or for purpose of discovery, the testimony of any witness may be taken by deposition.

(b) *Filing of Motion.* Any party desiring to take the deposition of a witness shall file a written motion to the Chief Administrative Law Judge or presiding administrative law judge, as appropriate, setting forth: (1) The reasons why such deposition should be taken; (2) the time when, the place where, and the name and post office address of the person before whom the deposition is to be taken; (3) the name and address of each witness; and (4) the subject matter concerning which each witness is expected to testify.

(c) *Form.* Depositions may be taken before any person having the power to administer oaths. Each witness testifying upon deposition shall be sworn, and the parties not calling him shall have the right to cross-examine him. The questions propounded and the answers thereto, together with all objections made, shall be reduced to writing, read to the witness, subscribed by him, and certified by the officer before whom the deposition is taken, with two copies thereof, in an envelope and mail the same by registered mail to the Chief Administrative Law Judge or the presiding administrative law judge.

(d) *Use of Deposition.* (1) Subject to such objections to the questions and answers as were noted at the time of taking the deposition and would be valid were the witness personally present and testifying, such deposition may be read and offered in evidence by the party taking it as against any party who was present, represented at the taking of the deposition, or who had due notice thereof.

(2) No part of a deposition shall be admitted in evidence unless there is a showing that the reasons for the taking of the deposition in the first instance exist at the time of hearing.

§ 44.26 Subpoenas; witness fees.

(a) On written application of a party or on his own motion, the Chief Administrative Law Judge or the presiding administrative law judge, as appropriate, may issue subpoenas requiring

the attendance of witnesses and the production of relevant papers, books, and documents in their possession and under their control. A subpoena may be served by any person who is not a party and is not less than 18 years of age, and the original subpoena bearing a certificate of service shall be filed with the administrative law judge. A witness may be required to attend a deposition or hearing at a place not more than 100 miles from the place of service.

(b) Witnesses subpoenaed by any party shall be paid the same fees and mileage as are paid for like attendance in the District Courts of the United States. The witness fee and mileage shall be paid by the party at whose instance the witness appears.

§ 44.27 Consent findings and rules or orders.

(a) *General.* At any time before the reception of evidence in any hearing, or during any hearing a reasonable opportunity may be afforded to permit negotiation by the parties of an agreement containing consent findings and a rule or order disposing of the whole or any part of the proceedings. The allowance of such opportunity and the duration thereof shall be in the discretion of the Chief Administrative Law Judge if no administrative law judge has been assigned or of the presiding administrative law judge, after consideration of the nature of the proceeding, the requirements of the public interest, the representations of the parties, and the probability of an agreement which will result in a just disposition of the issues involved.

(b) *Contents.* Any agreement containing consent findings and rule or order disposing of a proceeding shall also provide:

(1) That the rule or order shall have the same force and effect as if made after a full hearing;

(2) That the entire record on which any rule or order may be based shall consist solely of the petition and the agreement;

(3) A waiver of any further procedural steps before the administrative law judge and the Assistant Secretary; and

(4) A waiver of any right to challenge or contest the validity of the findings and of the rule or order made in accordance with the agreement.

(c) *Submission.* On or before the expiration of the time granted for negotiations, the parties or their counsel may:

(1) Submit the proposed agreement to the Chief Administrative Law Judge or presiding administrative law judge as appropriate for his consideration; or

(2) Inform the Chief Administrative Law Judge or the presiding administrative law judge, as appropriate, that agreement cannot be reached.

(d) *Disposition.* In the event an agreement containing consent findings and rule or order is submitted within the time allowed therefor, the Chief Administrative Law Judge or the presiding administrative law judge, as appropriate, may accept such agreement by issuing his decision based upon the agreed findings.

§ 44.28 Notice of hearing.

(a) The administrative law judge shall fix a place and date for the hearing and notify all parties at least 30 days in advance of the date set, unless at least one party requests and all parties consent to an earlier date. The notice shall include:

(1) The time, place, and nature of the hearing;

(2) The legal authority under which the hearing is to be held; and

(3) A specification of issues of fact and law.

(b) In accordance with the provisions of section 554 of Title 5 of the United States Code, a party may move for a transfer of a place of hearing on the basis of convenience to parties and witnesses. Such motion should be filed with the administrative law judge assigned to the case.

§ 44.29 Motions.

Each motion filed shall be in writing and shall contain a short and plain statement of the grounds upon which it is based. A statement in opposition to the motion may be filed by any party within 10 days after the date of the service. The administrative law judge may permit oral motions during the course of proceedings.

§ 44.30 Hearing procedures.

(a) *Order of proceeding.* Except as may be ordered otherwise by the administrative law judge, the petitioner shall proceed first at a hearing.

(b) *Burden of proof.* The petitioner shall have the burden of proof.

(c) *Evidence*—(1) *Admissibility.* A party shall be entitled to present its case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such crossexamination as may be required for a full and true disclosure of the facts. Any oral or documentary evidence may be received, but the administrative law judge shall exclude evidence which is irrelevant, immaterial, or unduly repetitious.

(2) *Testimony of witnesses.* The testimony of a witness shall be upon oath or affirmation administered by the administrative law judge.

(3) *Objections.* If a party objects to the admission or rejection of any evidence, or to the limitation of the scope of any examination or cross-examination, or to the failure to limit such scope, he shall state briefly the grounds for such objection. Rulings on such objections shall appear in the record.

(4) *Exceptions.* Formal exception to an adverse ruling is not required.

(d) *Official notice.* Official notice may be taken of any material fact not appearing in evidence in the record, which is among the traditional matters of judicial notice or concerning which the Department of Labor by reason of its functions is presumed to be expert; provided that the parties shall be given adequate notice, at the hearing or by reference in the presiding administrative law judge's decision, of the matters so noticed, and shall be given adequate opportunity to show the contrary.

(e) *Transcript.* Copies of the transcript of the hearing may be obtained by the parties upon written application filed with the reporter, and upon the payment of fees at the rate provided in the agreement with the reporter.

§ 44.31 Proposed findings of fact, conclusions and orders.

After consultation with the parties, the administrative law judge may prescribe a time not less than 20 days within which each party may file proposed findings of fact, conclusions of law, and rule or order, together with a supporting brief expressing the reasons for such proposals. Such proposals and brief shall be served on all other parties, and shall refer to all portions of the record and to all authorities relied upon in support of each proposal.

§ 44.32 Initial decision.

As soon as practicable after the time allowed for the filing of proposed findings of fact and conclusions of law, the administrative law judge shall make and serve upon each party his decision, which shall become final upon the 20th day after service thereof, unless an appeal is filed thereto, as provided in § 44.33. The decision of the administrative law judge shall include:

(1) A statement of numbered findings of fact and conclusions of law, with reasons and bases therefor, upon each material issue of fact, law, or discretion presented on the record, and

(2) The appropriate rule, order, relief, or denial thereof. The decision of the administrative law judge shall be based upon a consideration of the whole record and shall state all facts officially noticed and relied upon. It shall be made on the basis of a preponderance of reliable and probative evidence.

§ 44.33 Departmental review.

(a) *Notice of appeal.* Any party may appeal from the initial decision of the administrative law judge by filing with the Assistant Secretary a notice of appeal within 20 days after service of

the initial decision. The Assistant Secretary may consolidate related appeals. Copies of a notice of appeal shall be served on all parties to the proceeding in accordance with § 44.6.

(b) *State of objections.* Within 20 days after filing the notice of appeal, the appellant shall file his statement of objections to the decision of the administrative law judge and serve copies on all other parties to the proceeding. Such statement shall refer to the specific findings of fact, conclusions of law, or terms of the order objected to in the initial decision. Where any objection is based upon evidence of record, such objection need not be considered by the Assistant Secretary if specific record citations to the pertinent evidence are not contained in the statement of objections.

(c) *Responding statements.* Within 20 days after service of the statement of objections, any other party to the proceeding may file a statement in response thereto.

(d) *Existing appeals of pending petitions.* The entire record of each pending petition or appeal within the Department of the Interior shall be transferred to the Assistant Secretary for decision in accordance with the provisions of § 44.35.

§ 44.34 Transmission of record.

If an appeal is filed, the administrative law judge shall transmit the record of the proceeding to the Assistant Secretary for review. The record shall include: the application, any request for hearing thereon, motions and requests filed in written form, rulings thereon, the transcript of the testimony taken at the hearing, together with the exhibits admitted in evidence, any documents or papers filed in connection with prehearing conferences, such proposed findings of fact, conclusions of law, rules or orders, and supporting reasons, as may have been filed, and the administrative law judge's decision.

§ 44.35 Decision of the Assistant Secretary.

Appeals from a decision rendered pursuant to § 44.32 or appeals pursuant to § 44.33(d) shall be decided by the Assistant Secretary upon consideration of the entire record of the proceedings transmitted, together with the statements submitted by the parties. The decision may affirm, modify, or set aside, in whole or part, the findings, conclusions, and the rule or order contained in the decision of the presiding administrative law judge, and shall include a statement of reasons or bases for the action taken.

Subpart D—Summary Decisions

§ 44.40 Motion for summary decision.

(a) Any party may, at least 20 days before the date fixed for any hearing under Subpart C of this part, move with or without supporting affidavits for a summary decision in his favor on all or any part of the proceeding. Any other party may, within 10 days after service of the motion, serve opposing affidavits or countermove for summary decision. The administrative law judge may set the matter for argument and call for the submission of briefs.

(b) The filing of any documents under paragraph (a) of this section shall be with the administrative law judge, and copies of any such documents shall be served in accordance with § 44.26.

(c) Any affidavits submitted with the motion shall set forth such facts as would be admissible in evidence in a proceeding subject to 5 U.S.C. 556 and 557 and shall show affirmatively that the affiant is competent to testify to the matters stated therein. When a motion for summary decision is made and supported as provided in this section, a party opposing the motion may not rest upon the mere allegations or denials of such pleading, such response must set forth specific facts showing that there is a genuine issue of fact for the hearing.

(d) The administrative law judge may grant such motion if the pleadings, affidavits, material obtained by discovery or otherwise obtained, or matters officially noticed show that there is no genuine issue as to any material fact and that a party is entitled to summary decision. The administrative law judge may deny such motion whenever the moving party denies access to information by means of discovery to a party opposing the motion.

(e) The denial of all or any part of a motion for summary decision by the administrative law judge shall not be subject to interlocutory appeal to the Assistant Secretary unless the administrative law judge certifies in writing: (1) That the ruling involves an important question of law or policy as to which there is substantial ground for differences of opinion; and (2) that an immediate appeal from the ruling may materially advance the ultimate termination of the proceeding. The allowance of such an interlocutory appeal shall not stay the proceeding before the administrative law judge unless the Assistant Secretary shall so order.

§ 44.41 Summary decision.

(a) *No genuine issue of material fact.* (1) Where no genuine issue of a material fact is found to have been raised, the administrative law judge may issue an initial decision to become final 20 days after service thereof, unless, within such period of time any party has filed an appeal with the Assistant Secretary. Thereafter, the Assistant Secretary, after consideration of the entire record may issue a final decision.

(2) An initial decision and a final decision made under this paragraph shall include a statement of—

(i) Findings and conclusions, and the reasons or bases therefor, on all issues presented; and

(ii) Any terms and conditions of the rule or order made.

(3) A copy of an initial decision and a final decision under this paragraph shall be served on each party.

(b) *Hearings on issues of fact.* Where a genuine material question of fact is raised, the administrative law judge shall, and in any other case he may, set the case for an evidentiary hearing in accordance with Subpart C of this part.

Subpart E—Effect of Initial Decision

§ 44.50 Effect of appeal on an administrative law judge's decision.

The decision of the administrative law judge under this part shall not be operative during the pendency of appeal to the Assistant Secretary under § 44.33.

§ 44.51 Finality for purposes of judicial review.

Only a decision by the Assistant Secretary shall be deemed final agency action for purposes of judicial review. A decision by an administrative law judge which becomes final for lack of appeal is not deemed final agency action for purposes of 5 U.S.C. 704.

§ 44.52 Revocation of modification.

Any party to a proceeding under this part in which a petition for modification of a mandatory safety standard was granted may petition that the relief granted be revoked due to a change in circumstances because findings which justified the relief are no longer valid. Such petition to revoke shall be filed with the Chief Administrative Law Judge for his disposition and shall be subject to all procedures of Subpart C as if it were a petition filed under § 44.10.

SUBCHAPTER N—METAL AND NONMETALLIC MINE SAFETY

PART 55—HEALTH AND SAFETY STANDARDS—METAL AND NONMETALLIC OPEN PIT MINES

§ 55.24 [Revoked]

1. It is proposed to revoke § 55.24 of Part 55.

PART 56—HEALTH AND SAFETY STANDARDS—SAND, GRAVEL AND CRUSHED STONE OPERATIONS

the procedures to be followed to pay a penalty or to request either an informal conference or a formal hearing with respect to any case. As the result is found in nearly 94 percent of the cases. This change serves to place greater emphasis on the seriousness of a finding of ordinary negligence.

proposed penalty, which under section 105(a) of the Mine Act begins the 30-day period within which the party charged may contest the proposed

a new Subchapter P, and to revise Part 100 as set forth below:

achieve rapid compliance after notification of a violation, and

(6) The effect of the penalty on the

PART 56—HEALTH AND SAFETY STANDARDS—SAND, GRAVEL AND CRUSHED STONE OPERATIONS

§ 56.24 [Revoked]

2. It is proposed to revoke § 56.24 of Part 56.

PART 57—HEALTH AND SAFETY STANDARDS—METAL AND NONMETALLIC UNDERGROUND MINES

§§ 57.24 and 57.25 [Revoked]

3. It is proposed to revoke §§ 57.24 and 57.25 of Part 57.

[FR Doc. 78-5596 Filed 3-2-78; 8:45 am]

[4310-68]

[30 CFR Part 100]

FEDERAL MINE SAFETY AND HEALTH ACT OF 1977

Civil Penalties for Violations

AGENCY: Department of Labor.

ACTION: Proposed Rule.

SUMMARY: The Secretary of Labor proposes to promulgate rules governing the assessment of civil penalties against operators of coal or other mines (metal and nonmetal) under the Federal Mine Safety and Health Act of 1977 (Mine Act), Pub. L. 91-173, as amended by Pub. L. 95-164. Since the Mine Act makes civil penalty assessments applicable to metal and nonmetal mines for the first time, this proposed rule will apply to metal and nonmetal mine operators. The proposed rule will also speed up the penalty assessment process and generally raise the penalty assessment amounts.

DATES: Comments must be received on or before April 3, 1978.

ADDRESS: Comments should be sent to: Department of Labor Mine Safety and Health Task Force, Room 613, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203.

FOR FURTHER INFORMATION CONTACT:

Madison McCulloch, Chief, Office of Assessments, Mining Enforcement and Safety Administration, Room 914, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203, 703-235-1464.

SUPPLEMENTARY INFORMATION:

I. Discussion

The current 30 CFR Part 100 sets forth a detailed formula for the determination of an appropriate civil penalty in cases arising under the Federal Coal Mine Health and Safety Act (Coal Act). In addition, it sets forth the procedures to be followed to pay a penalty or to request either an informal conference or a formal hearing with respect to any case. As the result of the enactment of the Mine Act and experience under the current regulations, changes in the rules are necessary.

The most fundamental change in the rules required by the Mine Act is the application of the civil penalty system for violations under the Coal Act not only to coal but to other mining operations. In virtually every respect, the proposed penalty formula for other mines is identical to the formula for coal mines. The only distinction is with respect to that part of the formula which takes into account the size of the operator's business. Where the formula for coal violations has traditionally used annual mine tonnage as the basis for computing size, tonnage is not generally an appropriate measure of production in other mines. Accordingly, the formula under § 100.3(b) relies on annual hours worked for other mines. The formula continues to rely upon annual tonnage for coal mines.

With respect to the annual tonnage schedule applicable to coal mines, a change is proposed which would result in a more equitable distribution of penalty points among all operators. It was found that 25 percent of all violations cited at coal mines were assigned zero penalty points for size. To make more precise and equitable the distinction between the levels of the smaller coal mine operators, three new size categories have been added at the low end of the scale. Also, slight changes have been made in the size categories at the high end of the scale. This proposed change would have the effect of preventing undue hardship on the truly small coal mine operator while recognizing significant size differences in relatively low-production mines. It is also intended to create a greater degree of comparability with the new metal and nonmetal mine size schedule.

The proposed revisions of § 100.3(d) change the penalty point allocation for the negligence category. The current schedule assesses from 1 to 12 points for "ordinary" negligence and from 13 to 25 points for "gross" negligence. The proposed formula would give the assessment office greater flexibility in assigning penalty points where there is a finding of ordinary negligence. Under the proposed formula, from 1 to 20 points could be assigned for ordinary negligence, depending upon the findings. When a finding of gross negligence is made, 21 to 25 points could be assigned. Presently, a finding of sufficient points to constitute gross negligence occurs in only six percent of the total number of cases, whereas ordinary negligence is found in nearly 94 percent of the cases. This change serves to place greater emphasis on the seriousness of a finding of ordinary negligence.

Another important proposed change is in the penalty conversion table contained in § 100.3(g). This is the table which converts penalty points to dollar amounts. The changes in this table can be summarized as follows: First, the proposed table would make no change in assessments based upon 20 or less penalty points. There would then be a steady increase beginning at 21 penalty points. From 47 to 64 penalty points the increase remains just a little over twice the current assessment. At 65 points, the increase begins to lessen until the statutory maximum penalty of $10,000 is reached at 100 penalty points. There are several reasons for these proposed changes. There was a general belief in Congress in considering amendments to the Coal Act that penalties were too low. S. Rep. No. 95-181, 95th Cong., 1st Sess., at p. 41 (May 16, 1977). An effective enforcement system is in part dependent upon a system which imposes penalties of sufficient magnitude to promote future compliance. In general, there is a correlation between the proposed increase in the amount of each point on the conversion table and the number of violations assessed at that point.

Significant changes are also proposed in the procedures for contesting a penalty in order to speed up the process, in accordance with the congressional mandate, without sacrificing the opportunity for reaching a suitable resolution of legitimate issues at an informal level. The informal conference procedure embodied in the current rules has proven to be a successful method of resolving issues and cases without resorting to a more time-consuming and costly formal proceeding. It is proposed that this procedure be retained but modified to expedite the process in view of congressional concerns. To this end, it is proposed that the Office of Assessments make an initial review of the violation(s) and notify the operator charged of the results. The operator will then have seven days to request a conference, rather than the 30 days currently permitted. To further expedite the procedures, a conference must be held within 30 days of the notification of the results of the initial review unless special circumstances are shown. The Office of Assessments has the discretion to deny a request for conference if it does not believe a conference may be fruitful. The nature of the conference is also in the discretion of the Office. In view of the short time frames, a conference by telephone may often be deemed sufficient.

Following the conference, the Office of Assessments will issue a notice of proposed penalty, which under section 105(a) of the Mine Act begins the 30-day period within which the party charged may contest the proposed penalty. Failure to contest will result in the proposed penalty becoming a final order of the Federal Mine Safety and Health Review Commission. The Office of Assessments will also issue a notice of proposed penalty: (1) If the party charged with a violation fails to request a conference (or to request permission to submit information) within 7 days of notification of the results of the initial review; or (2) if a conference cannot be held within the required 30-day period.

II. Effect on Existing Rule

This proposed rule will apply to operators of coal and other mines. The Secretary proposes to establish a new Subchapter P of Chapter I, 30 CFR containing this proposed rule, and to revise and transfer Part 100 of Subchapter O to Subchapter P. There is no regulation in 30 CFR respecting assessment of civil penalties against the operators of other (metal and nonmetal) mines and the proposed regulation therefore involves no revocation of any regulation applicable to the metal and nonmetal mining industry.

III. Rulemaking Procedure

This rulemaking procedure is governed by 5 U.S.C. 553. Interested persons may participate by submitting written data, views, or arguments.

Drafting Information

The principal persons involved in drafting this proposal are: Madison McCulloch, Chief, Office of Assessments, Mining Enforcement and Safety Administration, Department of the Interior, and Frank A. White, Department of Labor, Mine Safety and Health Task Force.

Impact Statement

Note: It has been determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated February 27, 1978.

Ray Marshall,
Secretary of Labor.

1. It is proposed to revise the table of contents of Chapter I of 30 CFR by removing Part 100 from Subchapter O to a new Subchapter P as follows:

SUBCHAPTER P—CIVIL PENALTIES FOR VIOLATIONS OF THE FEDERAL MINE SAFETY AND HEALTH ACT OF 1977

Part
100 Civil penalties for violations of the Federal Mine Safety and Health Act of 1977.

2. It is proposed to remove Part 100 from Subchapter O and transfer it to a new Subchapter P, and to revise Part 100 as set forth below:

PART 100—CIVIL PENALTIES FOR VIOLATIONS OF THE FEDERAL MINE SAFETY AND HEALTH ACT OF 1977

Sec.
100.1 Scope and purpose.
100.2 Applicability.
100.3 Determination of penalty; regular assessment.
100.4 Determination of penalty amount; special assessment.
100.5 Procedures for assessment of civil penalties; initial review and conferences.
100.6 Issuance of notice of proposed penalty; notice of contest.
100.7 Service.

Authority.—Secs. 105, 110 of Federal Mine Safety and Health Act of 1977 (Pub. L. 91-173, as amended by Pub. L. 95-164), and sec. 307 of the Federal Mine Safety and Health Amendments Act of 1977 (Pub. L. 95-164).

§ 100.1 Scope and purpose.

This part sets forth the criteria and procedures for the assessment of civil penalties under sections 105 and 110 of the Federal Mine Safety and Health Act of 1977. It is the purpose of these rules to provide for the prompt and efficient assessment and collection of penalties in order to insure maximum compliance by the coal and metal/nonmetal mining industries with the requirements of the Act and the standards and regulations promulgated pursuant to the Act.

§ 100.2 Applicability.

The criteria and procedures contained in this part are applicable with respect to all initial reviews and proposed assessments issued on or after the effective date of these regulations. The Office of Assessments, Mine Safety and Health Administration, United States Department of Labor, shall review each citation and order and shall make determinations with respect to the liability of the operator or miner for a civil penalty pursuant to this part.

§ 100.3 Determination of penalty amount: regular assessment.

(a) *Generally.* The amount of the civil penalty imposed in a regular case shall be based upon the formula set forth in this section. The formula is based on the general criteria described in sections 105(b) and 110(i) of the Act. These criteria are as follows:

(1) The appropriateness of the penalty to the size of the business of the operator charged,

(2) The operator's history of previous violations,

(3) Whether the operator was negligent,

(4) The gravity of the violation,

(5) The demonstrated good faith of the operator charged in attempting to achieve rapid compliance after notification of a violation, and

(6) The effect of the penalty on the operator's ability to continue in business. (See § 100.3(h).)

The penalty amount in a regular case shall be determined by first assigning the appropriate number of penalty points to the violation for each of the criteria by utilizing the schedules set forth in paragraphs (b) through (f) of this section. The number of penalty points assigned for all criteria will then be totalled. This total point accumulation will be converted into a penalty amount by using the penalty conversion table in paragraph (g) of this section.

(b) *The appropriateness of the penalty to the size of the operator's business.* The appropriateness of the penalty to the size of the operator's business is calculated on both the size of the mine cited and the size of the controlling company of which the mine is a part and may account for a maximum of 15 penalty points. The size of the mine is taken into account by selecting the appropriate number of penalty points from the table contained in subparagraph (1)(i) in the case of a coal mine or (1)(ii) in the case of a non-coal mine. The size of the controlling company is taken into account by selecting the appropriate number of penalty points from the table contained in subparagraph (2)(i) in the case of a coal mine or (2)(ii) in the case of a non-coal mine.

(1)(i) Size of coal mine.

Annual tonnage of mine:	Penalty points
Under 15,000	0
Over 15,000 to 30,000	1
Over 30,000 to 50,000	2
Over 50,000 to 100,000	3
Over 100,000 to 200,000	4
Over 200,000 to 300,000	5
Over 300,000 to 500,000	6
Over 500,000 to 800,000	7
Over 800,000 to 1.1 million	8
Over 1.1 million to 2 million	9
Over 2 million	10

(1)(ii) Size of non-coal mine.

Annual hours worked at mine:	Penalty points
Under 10,000	0
Over 10,000 to 20,000	1
Over 20,000 to 30,000	2
Over 30,000 to 60,000	3
Over 60,000 to 100,00	4
Over 100,000 to 200,000	5
Over 200,000 to 300,000	6
Over 300,000 to 500,000	7
Over 500,000 to 700,000	8
Over 700,000 to 1 million	9
Over 1 million	10

(2)(i) Size of controlling company—coal mine.

Annual tonnage of controlling company—coal mine:	Penalty points
Under 100,000	0
Over 100,000 to 700,000	1
Over 700,000 to 1.5 million	2
Over 1.5 million to 5 million	3
Over 5 million to 10 million	4
Over 10 million	5

(2)(ii) Size of controlling company—non-coal mine:

Annual hours worked—controlling company—non-coal mines:	Penalty points
Under 60,000	0
Over 60,000 to 400,000	1
Over 400,000 to 900,000	2
Over 900,000 to 2 million	3
Over 2 million to 6 million	4
Over 6 million	5

As used in subparagraphs (1) and (2) of this paragraph the terms "annual tonnage" and "annual hours worked" means tonnage produced and hours worked in the previous calendar year or in the case of a mine opened or owned less than one full calendar year the tonnage and hours worked converted to an annual basis.

(c) *History of previous violations.* The history of previous violations of the Act may account for a maximum of 20 penalty points, which are derived from the following schedules:

(1) Average number of violations assessed per year in the preceding 24 months:

Number of violations:	Penalty points
1 to 10	0
11 to 20	1
21 to 30	2
31 to 40	3
41 to 50	4
Over 50	5

(2) Average number of violations assessed per inspection day in the preceding 24 months:

Violations per inspection day:	Penalty points
Under 0.3	0
Over 0.3 to 0.4	1
Over 0.4 to 0.5	2
Over 0.5 to 0.6	3
Over 0.6 to 0.7	4
Over 0.7 to 0.8	5
Over 0.8 to 0.9	6
Over 0.9 to 1.0	7
Over 1.0 to 1.1	8
Over 1.1 to 1.2	9
Over 1.2 to 1.3	10
Over 1.3 to 1.4	11
Over 1.4 to 1.5	12
Over 1.5 to 1.6	13
Over 1.6 to 1.7	14
Over 1.7	15

Previous History means all violations presently assessed that have not been vacated or dismissed.

(d) *Negligence.* Negligence generally means committed or omitted conduct which falls below a standard of care established by law to protect persons against the risks of harm. The standard of care established under the Act is that the operator of a mine owes a high degree of care to the miners employed in that mine. A mine operator is required to be on the alert for conditions and hazards in the mine which affect the safety or health of the employees and to take the steps necessary to correct or prevent such conditions or practices. For purposes of assessing a penalty under this part, failure to do so is negligence on the part of the operator. This criterion may account for a maximum of 25 penalty points and the violation will be categorized as involving either no negligence, ordinary negligence, or gross negligence. A violation which occurs through no negligence of the operator will be assigned no penalty points for negligence. A violation which occurs through ordinary negligence of the operator will be assigned from 1 to 20 points depending of the specific facts involved. A violation which occurs through gross negligence of the operator will be assigned 21 through 25 penalty points depending on the specific facts involved. In determining the degree of negligence involved in a violation and the amount of penalty points to be assessed, the following definitions apply:

(1) "No Negligence" means that the opeator could not reasonably have known of the violation or under the circumstances the operator had taken reaonable precautions to prevent the violation.

(2) "Ordinary Negligence" means the operator failed to exercise reasonable care either to prevent or to correct the conditions or practices which caused the violation and which were known or should have been known to exist.

(3) "Gross Negligence" means an opeator either caused the condition or practice which occasioned the violation by exercising reckless disregard of mandatory health and safety standards or recklessly or deliberately failed to correct an unsafe condition or practice which was known to exist.

(e) *Gravity.* This criterion may contribute a maximum of 30 penalty points. The points will be derived from the following schedules:

(1) Probability of the occurrence of the event against which a standard is directed may account for a mixmum total of 10 penalty points using the listed definitions and schedules.

Probability of occurrence:	Penalty points
Improbable	0
Probable	3
Imminent	7
Occurred	10

As used in this paragraph the following terms have the following meanings:

Improbable: Unlikely to happen.
Probable: That which is likely to occur.
Imminent: That which is likely to occur before the violation can be abated.

(2) Gravity of injury if it occurred or were to occur, using the listed definitions and the following schedule, may account for a maximum of 10 penalty points:

Gravity of injury or illness normally expected:	Penalty points
No lost work days	0
Lost work days or restricted duty	3
Permanent disabling	7
Fatal	10

Types of injury or illness expected if the event caused or could cause injury or illness are defined as follows:

No lost work days: All occupational injuries and illnesses as defined in 30 CFR Part 50 except those listed below.

Lost work days: Any injury or illness which would cause the injured or ill person to lose one full day of work or more after the day of the injury or illness, or which would cause one full day or more of restricted duty.

Permanent disabling: Any injury or illness which results in the total or partial loss of use of any member or function of the body.

Fatal: Any work-related injury or illness resulting in death, or which has a reasonable potential to cause death.

(3) Number of personnel affected if event occured or were to occur.

Number of persons affected:	Penalty points
0	0
1	1
2	2
3	4
4 to 5	6
6 to 9	8
More than 9	10

(f) *Demonstrated good faith of the operator charged in attempting to achieve rapid compliance.* This criterion awards negative points for a manifestly conscientious effort to achieve rapid compliance, and can contribute a maximum of 10 points as indicated in the following schedule and definitions:

Degree of good faith:	Penalty points
Rapid	-10
Normal	0
Lack of good faith	+10

In determining the operator's good faith in attempting to achieve rapid compliance, the following definitions apply:

"Rapid Compliance" means there is demonstrated evidence that the operator has taken extraordinary measures to insure abatement of the violation within the time given for abatement either originally or as extended.

"Normal Compliance" means the operator has abated the violation within the time given for abatement either originally or as extended, pursuant to Section 104(a) of the Act.

"Lack of Good Faith" means the operator has been untimely and has not shown diligence and effort in attempting to abate the violation.

(g) *Penalty conversion table:* The penalty conversion table shall be used to convert the accumulation of penalty points to the appropriate assessment.

PENALTY CONVERSION TABLE

Points	Penalty
1	$2
2	4
3	6
4	8
5	10
6	12
7	14
8	16
9	18
10	20
11	22
12	24
13	26
14	28
15	30
16	32
17	34
18	36
19	38
20	40
21	44
22	48
23	52
24	56
25	60
26	66
27	72
28	78
29	84
30	90
31	98
32	106
33	114
34	122
35	130
36	140
37	150
38	160
39	170
40	180
41	195
42	210
43	225
44	240
45	255
46	275
47	295
48	305
49	325
50	345
51	370
52	395
53	420
54	445
55	470
56	500
57	530
58	560
59	590
60	620
61	655
62	690
63	725
64	760
65	800
66	840
67	880
68	920
69	960
70	1,000
71	1,050
72	1,100
73	1,150
74	1,200
75	1,250
76	1,300
77	1,400
78	1,500
79	1,600
80	1,700
81	1,800
82	2,100
83	2,200
84	2,500
85	2,700
86	3,000

PENALTY CONVERSION TABLE—Continued

Points	Penalty
87	3,400
88	3,800
89	4,200
90	4,800
91	5,000
92	5,500
93	6,000
94	6,500
95	7,000
96	7,500
97	8,000
98	8,500
99	9,000
100	10,000

(h) *The effect on the operator's ability to continue in business.* It is initially presumed that the operator's ability to continue in business will not be affected by the proposed assessment. The operator may submit information to the Office of Assessments concerning his financial status to show that payment of the proposed assessment will affect his ability to continue in business. If the information provided by the operator indicates that the proposed assessment will adversely affect his ability to continue in business, the Office of Assessments may reduce the penalty.

§ 100.4 Determination of penalty amount: Special assessment.

The Office of Assessments may elect to waive in whole or in part the use of the assessment formula contained in § 100.3 if it determines that conditions surrounding the violation warrant such a waiver. Although an effective penalty can generally be derived from the formula in the usual case, some types of violations may be of such a nature or seriousness that it is not possible to arrive at an appropriate penalty by resorting only to the formula. Accordingly, it may be appropriate in certain types of cases, such as fatalities and serious injuries, unwarrantable failures to comply with mandatory health and safety standards or patterns of violations under section 104 of the Act, the operation of a mine in the face of a closure order, the failure to permit an authorized representative of the Secretary of Labor to perform an inspection or investigation, and in other appropriate cases, to make a special assessment without resort to the formula contained in this part. Such special assessments shall take into account the six criteria enumerated in § 100.3(a) and all findings shall be in narrative form.

§ 100.5 Procedures for assessment of civil penalties: Initial review and conferences.

(a) All citations which have been abated and all closure orders, regardless of termination or abatement, will be promptly referred by MSHA to the Office of Assessments for a determination of the fact of the violation and the amount, if any, of the penalty to be proposed.

(b) The Office of Assessments shall make an initial review of the citation or order and shall immediately serve, by regular mail, a copy of the results of the initial review, including the formula computations made by the Office, upon the party to be charged and the miners or their representatives at the mine.

(c) Upon receipt of the results of the initial review, all parties shall have seven (7) days within which to either request a conference or to submit additional evidence for consideration. The Office of Assessments shall provide a return mailing card with the results of the initial review which will permit the party charged to indicate his desire for a conference or a desire to submit additional facts. In requesting a conference, a party must either make reference on the card or immediately contact the appropriate assessment office concerning the date and time proposed for the requested conference. All conferences shall be held at the appropriate assessment field office unless that office agrees to another location.

(d) It is within the sole discretion of the Office of Assessments to conduct a conference or deny a request for a conference and, if a conference is to be conducted, to determine the nature of the conference.

(e) All conferences shall be conducted within 30 days of the service of the results of the initial review by the Office of Assessments unless it is not feasible to conduct a conference within that period and the party requesting a conference demonstrates to the Office a substantial likelihood that a conference will result in a suitable resolution of the issues involved in the case. However, under no circumstances may a conference be conducted or evidence considered later than 30 days after the issuance of a proposed penalty under § 100.6(a) or after the date the Office of Assessments receives a timely notice of contest under § 100.6(b).

(f) (1) The Office of Assessments will consider all relevant information, submitted in a timely manner, presented by all the parties with respect to the alleged violation. When the facts warrant a finding that no violation occurred, a penalty will not be proposed.

(2) If a conference is conducted, the parties may submit any additional relevant information relating to the alleged violation, either prior to or at the conference. To expedite the conference, the official assigned to the case may contact the parties to discuss the issues involved prior to the conference.

(g) With respect to those issues which are resolved either as the result

of a conference or based upon information submitted to the Office of Assessments, payment of any amount agreed upon must be received by the Office within 20 days from the date of receipt of the proposed penalty by the party charged under § 100.6(a). Acceptance by the Office of Assessments of payment tendered by the party charged will close the case.

§ 100.6 Issuance of notice of proposed penalty; notice of contest.

(a) A notice of proposed penalty will be issued and served by certified mail upon the parties under the following circumstances:

(1) Upon the failure of any party to file a timely response to the results of the initial review;

(2) Upon the completion of a conference or upon review of timely submitted information for review by the Office of Assessments;

(3) Upon the expiration of 30 days from the service of the results of the initial review in a case in which no conference can be held within such 30 day period.

(b) Upon receipt of the notice of proposed penalty, the party charged shall have 30 days to notify the Office of Assessments that he wishes to contest the proposed assessment. The Office shall provide a return mailing card with each notice of proposed penalty to allow the person charged to request a hearing before the Federal Mine Safety and Health Review Commission under section 113 of the Act. Such a request should be sent to the field assessment office listed on such notification. When the Office of Assessments receives the notice of contest, it shall immediately forward the case to the Office of the Solicitor, and shall immediately advise the commission of such notice. No proposed penalty which has been contested before the Commission shall be compromised, mitigated or settled except with the approval of the commission.

(c) The failure to contest the proposed penalty within 30 days of receipt of notice thereof shall result in the proposed penalty becoming a final order of the Commission.

§ 100.7 Service.

(a) All operators are required by 30 CFR 41.11 to file with the Mine Safety and Health Administration the name and address of record of the operator. All representatives of the miners are required by 30 CFR Part 40 to file with the Mine Safety and Health Administration the mailing address of the person or organization acting in a representative capacity. Initial findings and proposed penalty assessments delivered to those addresses shall constitute service.

(b) If any of the parties choose to have these documents mailed to a different address, the Office of Assessments must be notified in writing of the new address. Delivery to this address shall constitute service.

[FR Doc. 78-5595 Filed 3-2-78; 8:45 am]

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FRIDAY, MARCH 3, 1978
PART VII

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISCRIMINATION BECAUSE OF RELIGION: WORK SCHEDULE AND EMPLOYEE RELIGIOUS NEEDS

Informational Hearing

[6570-06]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISCRIMINATION BECAUSE OF RELIGION: WORK SCHEDULING AND EMPLOYEE RELIGIOUS NEEDS

Informational Hearing

Notice is hereby given that the Equal Employment Opportunity Commission has scheduled public hearings to gather information concerning the religious needs of employees as they relate to scheduling of work. The Commission seeks this information in order to develop policy regarding the accommodation of religious needs in the workplace as they relate to Title VII of the Civil Rights Act of 1964, as amended.

The hearings are scheduled as follows:

April 6, 1978, New York, New York.
April 18, 1978, Los Angeles, California.
May 1, 1978, Location to be announced.

Information is sought from interested persons who have experience in this area. Specifically, the Commission is soliciting information from members and/or representatives of religious groups who have had experience with the conflict of work schedules and religious needs. For example, Saturday Sabbath observances, religious holidays, religious assemblies et cetera.

Further the Commission desires information from the business and labor communities regarding their experiences in this matter. The Commission is interested in learning about the broadest range of alternatives that have been developed by business and labor for accommodating employee religious needs related to work scheduling as it relates to the effective operation of business. The Commission also is interested in learning about the difficulties experienced by employers in this regard.

Persons wishing to testify before the Commission should submit a request to the Executive Secretariat, at the address shown below.

The request should include a written summary of the testimony to be offered and should specify the hearing at which the person wishes to testify. Individuals who wish to testify on April 6 should submit a request no later than March 17. Individuals who wish to testify in Los Angeles should submit a request no later than March 27.

Because of time limitations not all interested persons may be allowed to testify. The Commission will inform persons who have requested an opportunity to testify whether they are scheduled to testify not later than one week prior to the scheduled hearing date. Individuals not able to testify because of time limitations will be given the opportunity to submit a written statement. Individuals wishing to provide information to the Commission but not wishing to testify are encouraged to submit a written statement to the Commission. Such statement must be submitted no later than May 15, 1978, to the Executive Secretariat at the address shown below.

Any information provided the Commission, either by oral testimony or in writing shall be used only for informational purposes by the Commission.

All statements received by the Commission in connection with these public hearings may be reviewed by members of the public in the Equal Employment Opportunity Commission Reading Room between 9:30 a.m. and 4:30 p.m. Monday through Friday, Library, Room 2303, Equal Employment Opportunity Commission, 2401 E Street NW., Washington, D.C. 20506.

All hearings will be open to the public. Specific locations will be announced in the FEDERAL REGISTER prior to each hearing.

For further information contact: Peter C. Robertson, (Acting) Director, Office of Policy Implementation, Room 4002, 2401 E Street NW., Washington, D.C. 20506, telephone: 202-634-7060 or 202-254-7489, between the hours of 9 a.m. and 5 p.m. eastern standard time.

Requests to testify and written statements should be addressed to: Executive Secretariat, Equal Employment Opportunity Commission, 2401 E Street NW., Washington, D.C. 20506.

All correspondence submitted in connection with this announcement should be marked "Religious Discrimination Hearings" at the lower left hand corner of the envelope. Signed this 28th day of February 1978.

For the Commission.

ELEANOR HOLMES NORTON,
Chair, Equal Employment Opportunity Commission.

[FR Doc. 78-5718 Filed 3-2-78; 8:45 am]

federal register

FRIDAY, MARCH 3, 1978
PART VIII

CIVIL SERVICE COMMISSION

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DEPARTMENT OF JUSTICE

DEPARTMENT OF LABOR

■

UNIFORM GUIDELINES ON EMPLOYEE SELECTION PROCEDURES

Notice of Public Hearing and Meeting on Proposed Rulemaking

[6570-06]

CIVIL SERVICE COMMISSION

[5 CFR Part 300]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

[29 CFR Part 1607]

DEPARTMENT OF JUSTICE

[28 CFR Part 50]

DEPARTMENT OF LABOR

[41 CFR Part 60-3]

PROPOSED UNIFORM GUIDELINES ON EMPLOYEE SELECTION PROCEDURES

Notice of Public Hearing and Meeting

AGENCIES: Civil Service Commission, Equal Employment Opportunity Commission, Department of Justice, Department of Labor.

ACTION: Public Hearing and Meeting on Proposed Uniform Guidelines on Employee Selection Produres.

SUMMARY: This document provides notice of a public hearing on the proposed record keeping obligations of the proposed uniform guidelines on employee selection procedures for the EEOC pursuant to section 709 of Title VII of the Civil Rights Act of 1964, as amended, and EEOC record keeping regulations. A public meeting will be held by all four agencies on the uniform guidelines on employee selection procedures as announced by the notice of proposed rulemaking in the FEDERAL REGISTER, December 30, 1977 (42 FR 65542).

DATE: The public hearing and meeting will be held on April 10, 1978 beginning at 10 a.m.

ADDRESS: The public hearing and meeting will be held in the Auditorium, General Services Administration Building, 18th and F Streets NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Peter C. Robertson, Director, Office of Policy Implementation, Equal Employment Opportunity Commission, 2401 E Street NW., Washington, D.C. 20506, 202-634-7060 or 202-634-7058.

David L. Rose, Chief, Employment Section, Civil Rights Division, Department of Justice, Washington, D.C. 20530, 202-739-3831.

William A. Gorham, Director, Personnel Research and Development Center, Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415, 202-632-5440.

H. Patrick Swygert, General Counsel, Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415, 202-632-4632.

Donald J. Schwartz, Staff Psychologist, OFCCP, Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210, 202-523-9426.

SUPPLEMENTARY INFORMATION: Notice is hereby given that a public hearing and meeting will be held on April 10, 1978, commencing at 10 a.m. in the General Services Administration (GSA) Auditorium, 18th and F Streets NW., Washington, D.C., with respect to the proposed adoption of the Uniform Guidelines on Employee Selection Procedures (42 FR 65543 et seq.). The hearing will cover the proposed record keeping obligations of the proposed guidelines for the Equal Employment Opportunity Commission pursuant to section 709 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e-8, and EEOC record keeping regulations (29 CFR Part 1602). This proceeding will also constitute the public meeting on the uniform guidelines on employee selection procedures by all four agencies in the notice of proposed rulemaking (42 FR 65542, December 30, 1977). Not later than March 21, 1978, the four agencies will publish a notice indicating those issues raised by the proposed uniform guidelines on which oral testimony would be most helpful.

Persons wishing to present their views orally should notify the agencies of their desire to do so in writing, no later than March 31, 1978, by a request to:

Executive Secretariat, Equal Employment Opportunity Commission, 2401 E Street NW., Washington, D.C. 20506.

The phrase "Meeting, Uniform Guidelines on Employee Selection Procedures" should be written at the lower left-hand corner of the envelope.

The request should include a written summary of the remarks to be offered. Because of time limitations, it may not be possible to accommodate all interested individuals. The agencies will inform persons who have requested an opportunity to present views whether they are scheduled to do so prior to the scheduled hearing date. Individuals should include their telephone numbers in their letters. Individuals not able to testify because of time limitations will be given the opportunity to submit a written statement. Any individual who desires to submit a written statement in lieu of testimony should submit that statement to the above address prior to the date of the meeting.

Signed this 28th day of February 1978.

E. NORTON,
(For the Equal Employment Opportunity Commission).

WELDON J. ROUGEAU,
(For the Department of Labor).

DREW S. DAYS III,
(For the Department of Justice).

JULE SUGARMAN,
(For the U.S. Civil Service Commission).

[FR Doc. 78-5801 Filed 3-2-78; 8:45 am]

Advance Orders are now being Accepted for delivery in about 6 weeks

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Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

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FCC—On-board communications in the industrial and maritime mobile services; frequencies, standards and procedures 4260; 2-1-78

Interior/FWS—Listing of Mona boa and Mona ground iguana as threatened species with critical habitat 4618; 2-3-78

USDA/AMS—Handling of onions grown in South Tex 4587; 2-3-78

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410–02]

Title 7—Agriculture

CHAPTER XI—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MISCELLANEOUS COMMODITIES), DEPARTMENT OF AGRICULTURE

[Amdt. 7]

PART 1207—POTATO RESEARCH AND PROMOTION PLAN

Subpart—Rules and Regulations

AMENDMENT REGARDING DESIGNATED HANDLER

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment clarifies the responsibilities of potato handlers regarding assessments on seed potatoes.

EFFECTIVE DATE: March 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, phone 202–447–6393.

SUPPLEMENTARY INFORMATION: The Potato Board is the administrative agency established by the potato research and promotion plan (7 CFR Part 1207). The plan is effective under the Potato Research and Promotion Act (7 U.S.C. 2611–2627).

Notice was published in the January 30 FEDERAL REGISTER (43 FR 3915) inviting written comment by February 15, 1978. None was received.

Findings. On the basis of all considerations it is believed that this amendment will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) Notice was given of the amendment set forth in this section by publication in the January 30 FEDERAL REGISTER, (2) prompt issuance of this amendment will be beneficial to the Potato Board in administering the Potato Research and Promotion Act and plan, and (3) no useful purpose will be served by postponing such issuance.

The amendment is as follows:

In § 1207.512 revise the first sentence in paragraph (a) and revise paragraph (a)(8) to read as follows:

§ 1207.512 Designated handler.

* * * * *

(a) Unless otherwise provided in paragraphs (a)(8), (b), and (c) of this section, the designated handler shall be the first handler of such potatoes. * * *

* * * * *

(8) Producer utilizes potatoes of his own production for seed in planting his subsequent crop. Such seed potatoes do not enter the current of commerce; there is no designated handler in this instance since the potatoes have not been handled as heretofore defined and no assessment is due. However, seed potatoes sold or shipped to other producers for planting or to other persons for subsequent disposition enter the current of commerce and are subject to assessment. The producer of seed potatoes shall be the designated handler of such potatoes shipped to other producers for planting and the assessment is due when he first sells or otherwise handles such potatoes. The first person who acquires seed potatoes from the producer thereof for subsequent disposition other than planting by said person shall be the designated handler of such potatoes.

* * * * * *

(Title III of Pub. L. 91–670; 84 Stat. 2041 (7 U.S.C. 2611–2627).)

Dated March 1, 1978, to become effective March 6, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78–5793 Filed 3–3–78; 8:45 am]

[3410–05]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES AND OTHER OPERATIONS

PART 1464—TOBACCO

Subpart A—Tobacco Loan Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the tobacco price support regulations by changing the planted acreage limitation prescribed as a condition of price support eligibility for Flue-cured tobacco producers. This change in the acreage limitation will enable producers who so desire to increase their production of upper stalk tobacco in substitution for lower stalk tobacco for which demand and prices are expected to be lower.

EFFECTIVE DATE: March 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert P. Hieronymus, 202–447–7601.

SUPPLEMENTARY INFORMATION: On January 9, 1978, notice was published in the FEDERAL REGISTER (43 FR 1351) inviting written comments, not later than February 8, 1978, on a proposal to change the Flue-cured tobacco acreage limitation which may not be exceeded as a condition of price support eligibility. Under present regulations, the limitation is 110 percent of the farm acreage allotments. Under this amendment, the limitation will be 120 percent of the farm acreage allotments of producers who agree not to harvest and do not harvest the 4 bottom leaves and 100 percent of the farm acreage allotments of producers who do not enter into or fail to comply with such agreements.

There is limited demand for Flue-cured tobacco grown on the lower part of the stalks and relatively stronger demand for Flue-cured tobacco grown on the upper stalk positions. The acreage limitation will be increased for producers who do not harvest the 4 lower stalk leaves and decreased for producers who harvest such lower

stalk leaves. The change will enable individual producers to increase their production of the higher priced upper stalk tobacco if they do not harvest the

In three responses the proposal was opposed on the basis that the same limitations should apply to all produc-

Deputy Administrator, State and County Operations, ASCS; and

(3) If acreage allotments and marketing quotas are in effect for a kind

will be governed by the statement of general policy establishing a pilot program for that purpose (42 FR 60729, November 29, 1977).

[4910–13]

Title 14—Aeronautics and Space

It has been determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

stalk leaves. The change will enable individual producers to increase their production of the higher priced upper stalk tobacco if they do not havest the 4 lower leaves so as to have offsetting reductions of the production of lower stalk tobacco for which demand and prices are expected to be lower.

DISCUSSION OF COMMENTS

There were 475 comments received of which 131 favored the proposal, 335 opposed the proposal and 9 were not responsive to the proposal. Seventy of those opposed stated no reasons other than that they would prefer no changes. Forty-four responses proposed other changes.

The belief was stated in 34 of the responses that increasing the acreage limitation to 120 percent of the acreage allotments would result in increased production. It is estimated that an acreage increase of about 15 percent will be necessary to replace the 4 unharvested bottom stalk leaves. Thus, for farms on which the 4 bottom leaves are not harvested, a limitation of 125 percent of the acreage allotment would be comparable to the limitation of 110 percent which would have applied with no change. For producers who harvest the 4 bottom leaves, an acreage limitation of 100 percent of the farm acreage allotment will apply, previously the limitation was 110 percent. Thus, the acreage limitations implemented by this amendment are actually more restrictive or have the effect of being more restrictive than the limitation which would have applied with no change.

The belief that the amendment would not accomplish its objectives largely because of widespread failure of producers to comply with the agreements not to harvest the 4 bottom leaves was the basis for opposition in 15 of the responses. It is contemplated that compliance can be effectively determined by visits to the farms to visually ascertain that the 4 bottom leaves are not harvested.

Increased production cost was the basis of the opposition stated in six responses. While the amendment will result in the cost of producing additional acreage, the additional cost will be offset by higher returns from the additional higher price upper stalk tobacco produced in substitution for the unharvested lower stalk tobacco.

The belief that the proposal is not needed because producers have already adopted the practice of not harvesting lower leaves was expressed in one response. While some farmers may have adopted the practice of not harvesting lower leaves, the quantities of lower leaves marketed in recent years exceeded demand and unduly large percentages of the lower stalk marketings were delivered for price support loans and continue to remain under price support.

In three responses the proposal was opposed on the basis that the same limitations should apply to all producers. The pounds of marketing quota for each farm are not affected by the amendment. The amendment has the effect of enabling producers, at their own voluntary election, to increase the percentage of their marketing quota poundage of the grades for which prices and demand are expected to be the strongest.

In 162 responses, opposition to the proposal was based on two or more of the reasons herein discussed.

After consideration of all the responses received, it has been decided to adopt the proposed rule with one editorial change. When a tobacco plant is removed from the plant bed and transplanted in the field it has leaflets which may remain on the plant during the growing season and grow into semideveloped leaves by the time of harvest. Such semideveloped leaves, commonly referred to as plant bed leaves, usually are not harvested, and were not intended to be included in the 4 lower leaves which, under the proposed change, producers may agree not to harvest. The editorial change clarifies that the plant bed leaves are excluded.

FINAL RULE

Accordingly, 7 CFR 1464.7(a) is amended to read as follows:

§ 1464.7 Eligible producers.

(a) All producers of Puerto Rican tobacco are eligible producers, since Puerto Rican tobacco is not under U.S. marketing quotas. All producers of any kind of tobacco for which marketing quotas have been terminated are eligible producers during the period for which the terminations are effective. Any producer of another kind of tobacco is an eligible producer if:

(1) An acreage allotment or marketing quota has been established for his farm under the applicable regulations issued by the Secretary of Agriculture with respect to marketing quota and acreage allotments (Parts 724, 725, and 726 of this title) for the applicable marketing year.

(2) All the tobacco produced on his farm is produced on acreage which does not exceed the acreage allotment, or if Flue-cured tobacco, does not exceed:

(i) The acreage allotment established for his farm; or

(ii) 120 percent of the acreage allotment established for his farm in instances where the producer has left unharvested the 4 lower leaves, exclusive of plant bed leaves, on each stalk of tobacco produced on his farm and has previously entered into an agreement to do so with the local ASC county committee in accordance with procedures to be established by the Deputy Administrator, State and County Operations, ASCS; and

(3) If acreage allotments and marketing quotas are in effect for a kind of tobacco, the producer has reported the acreage planted to tobacco on his farm to the local ASC county committee in accordance with regulations issued by the Secretary of Agriculture with respect to determinations of acreage and compliance (Part 718 of this title) for the applicable year, and has complied with any agreement which he may have entered into with the local ASC county committee with respect to not harvesting certain lower stalk leaves of Flue-cured tobacco; and

(4) Pesticides containing DDT, TDE, toxaphene, and endrin have not been used on the tobacco in the field or after being harvested, and the absence of such use of the pesticides has been reported to the local ASC county committee in accordance with applicable regulations issued under Parts 724, 725, and 726 of this title.

(Secs. 4 and 5, 62 Stat. 1970 as amended (15 U.S.C. 714b, 714c), sec. 101, 106, 401, 403, 63 Stat. 1051, as amended, (7 U.S.C. 1441, 1445, 1421, 1423).)

NOTE.—The Commodity Credit Corporation has determined that this document contains a major proposal requiring preparation of an economic impact statement under Executive Order 11821 and OMB Circular A-107, and certifies that an economic impact statement has been prepared.

Signed at Washington, D.C. on February 28, 1978.

STEWART N. SMITH,
Acting Executive Vice President,
Commodity Credit Corporation.

[FR Doc. 78-5720 Filed 3-3-78; 8:45 am]

[8025-01]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

[Rev. 5, Amdt. 12]

PART 107—SMALL BUSINESS INVESTMENT COMPANIES

Diversified Investment Policy—Real Estate and Motion Pictures

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This rule adopts a proposed regulation, published on November 29, 1977 (42 FR 60751), prohibiting SBIC's from maintaining more than one-third of their respective portfolios in investments in small concerns engaged in motion picture production and distribution. The licensing of SBIC's to specialize in such financing will be governed by the statement of general policy establishing a pilot program for that purpose (42 FR 60729, November 29, 1977).

EFFECTIVE DATE: As indicated in the notice of proposed rulemaking, the amendment is promulgated effective as of November 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Peter F. McNeish, Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416, 202-653-6584.

SUPPLEMENTARY INFORMATION: No objections or other comments were received by the Agency with respect to the proposed amendment published on November 29, 1977.

Pursuant to the authority contained in Section 308 of the Small Business Investment Act of 1958, as amended, 15 U.S.C. 661, et seq., Part 107 is amended by revising § 107.101(c)(1) to read as follows:

§ 107.101 Operational requirements.

* * * * *

(c) *Diversified investment policy—real estate and motion pictures.* Unless specifically authorized in writing by SBA:

(1) *General rule.* No Licensee shall maintain more than one-third of its portfolio, as of the close of any full fiscal year, in: (i) Permitted real estate investments, or (ii) investments in small concerns engaged in motion picture production and distribution (classified under Industry Nos. 7813, 7814, 7823, and 7824 of the SIC Manual). For further provisions governing real estate investments, see § 107.1001(c). For statement of general policy concerning motion picture specialist—licensees, see 42 FR 60729, November 29, 1977.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 27, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-5794 Filed 3-3-78; 8:45 am]

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 77-EA-24; Amdt. 39-3148]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Aircraft

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to Piper PA-31 type airplanes. It requires compliance with a Piper service bulletin covering an alteration of the door latch assembly which will preclude inadvertent opening of the cabin door in flight. There had been several such occurrences.

EFFECTIVE DATE: March 8, 1978. Compliance is required within 50 hours of service.

ADDRESSES: Piper Service Bulletins may be obtained from the manufacturer at Piper Aircraft Corp., 820 East Bald Eagle Street, Lock Haven, Pa. 11745. A copy of the service bulletin is contained in the docket in the Office of Regional Counsel, FAA Eastern Region, Jamaica, N.Y.

FOR FURTHER INFORMATION CONTACT:

K. Tunjian, Systems & Equipment Section, AEA-213, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430, 212-995-3372.

SUPPLEMENTARY INFORMATION: There have been reports of inadvertent opening of the main cabin door during aircraft flight. This directive will require a replacement of the door latch assembly with one which indicates secure latching by means of a visual indicator flag. Since this condition is likely to exist or develop in other aircraft of similar type design, an airworthiness directive is being issued which will require replacement of the door latch assembly. Since a situation exists which requires the expeditious adoption of this rule, notice or public procedure hereon are impractical and good cause exists for making the amendement effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are K. Tunjian, Flight Standards Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

It has been determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding a new airworthiness as follows:

Piper Aircraft Corp. Applies to PA-31 and PA-31-325 and PA-31-300 aircraft, S/N 31-2 through 31-7512029, and PA-31-350 aircraft, S/N 31-5001 through 31-7552052 certificated in all categories, except airplanes modified to incorporate all three kits denoted in Piper Aircraft Corp. Service Letter 739, dated June 2, 1975.

Compliance required within the next 50 hours in service after the effective date of this AD, unless already accomplished.

To assure proper latching and thereby prevent inadvertent opening of the cabin door in flight, accomplish the modification excepting the compliance time paragraph described in Piper Aircraft Corp. Service Letter No. 803A, dated November 3, 1977, or an equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

Upon request, with substantiating data, submitted through an FAA maintenance inspector, the compliance time specified in this AD may by increased by the Chief, Engineering and Manfacturing Branch, FAA Eastern Region.

Effective Date: This amendment is effective March 8, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, N.Y., on February 22, 1978.

PAUL K. BOHR,
Acting Director, Eastern Region.

[FR Doc. 78-5765 Filed 3-3-78; 8:45 am]

[4910-13]

[Docket No. 77-WE-35-AD; Amdt. 39-3150]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas DC-10 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts an airworthiness directive (AD) which requires the incorporation of an FAA Approved Airplane Flight Manual Limitation prohibiting Category III operation until a specified modification is accomplished on DC-10 Series airplanes. The AD is needed to prohibit Category III landings pending the elimination of a known design deficiency, that is, a single failure which could occur below the alert height and could cause a total Automatic Landing System disengagement. The autoland system was certificated as a fail operational system, i.e., specifically to avoid disengagement due to single failures.

EFFECTIVE DATE: April 8, 1978.

ADDRESSES: The applicable DC-10 service bulletin may be obtained from: McDonnell Douglas Corp., 3855 Lakewood Boulevard, Long Beach, Calif. 90846, Attention: L. A. Eisenberg, CI 750, 54-60.

The applicable Attitude Monitor and Switching Unit (AMSU) service bulletin may be obtained from: Sperry Flight Systems, Sperry Rand Corp., P.O. Box 21111, Phoenix, Ariz. 85036, Attention: Supervisor, Field Engineering Department.

Also, a copy of these service bulletins may be reviewed at, or copies obtained from: Rules Docket, in Room 916, FAA, 800 Independence Avenue SW., Washington, D.C. 20591, or Rules Docket, in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, Calif. 90261.

FOR FURTHER INFORMATION CONTACT:

Jerry J. Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009, telephone 213-536-6351.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring incorporation of an FAA Approved Airplane Flight Manual Limitation prohibiting use of the Automatic Landing System (ALS) in Category III weather conditions unless DC-10 Service Bulletin 34-84 is accomplished was published in the FEDERAL REGISTER at 42 FR 55896. The proposal was prompted by an ALS design deficiency discovered during laboratory testing. Specifically, laboratory testing has revealed a design deficiency in the Attitude Monitor and Switching Unit (AMSU) which is a Line Removable Unit (LRU) built by Sperry Flight Systems as part of the DC-10 ALS equipment. The design deficiency is such that with some single attitude signal failures the AMSU could provide erroneous logic to the ALS which would cause a total ALS disengagement at any altitude of use.

Interested parties have been afforded an opportunity to participate in the making of the amendment.

One comment received stated ATA member DC-10 operators will not have difficulty complying with this AD. All except one operator registered no objections. The one operator who voiced an objection said a problem that has occurred only during laboratory testing and not in service does not justify the AD, considering the number of hours flown and the number of airplanes in service. The FAA disagrees. The AD is necessary for the ALS to meet fail-operational requirements for Category III operations. It is not necessary to await adverse service experience to verify a known design problem exists.

The Douglas Co. did not agree with the need for the AD. In summary, they stated that Advisory Circular AC 120-28A allows single failures of the automatic flight control system to cause a total disengagement, if the failures are sufficiently remote.

The FAA disagrees. The acceptable means of compliance with Federal Aviation Regulations, including FAR 25.1309 Amendment 25-23, are set forth in the Advisory Circular, which requires a redundant operational system. The redundant operational system must have no common failure modes in order to assure that one automatic landing system remains operative.

Finally, Douglas stated that if the AD is adopted, the FAA should require compliance within 12 months of Category III operation rather than incorporate the FAA Approved Airplane Flight Manual Limitation, as proposed.

The FAA does not agree. The equipment to which this AD applies is optional equipment required only if an operator wishes to use the airplane to Category IIIa minimums. Because of the optional nature, the FAA finds it must impose an operating limitation against the use of the ALS for Category IIIa operation until the modification is accomplished. However, as long as the operator chooses not to use the equipment for Category IIIa operations he is not required to modify the system.

After careful review of all available data including the comments above the FAA believes that sufficient evidence exists in the public interest in aviation safety to adopt the proposed rule, with minor editorial and clarifying changes of a non-substantive nature, as a final rule.

DRAFTING INFORMATION

The principal authors of this document are Herbert G. Peters, Aircraft Engineering Division, and Fred C. Woodruff, Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

MCDONNELL DOUGLAS. Applies to DC-10-10, -10F, -30, -30F, and -40 series airplanes, certificated in all categories.

Compliance required within 30 days after the effective date of this AD, unless already accomplished.

a. To prevent a total Automatic Landing System disengagement below the alert height during a Category III approach because of a single failure, accomplish the following:

Incorporate the following revision in the applicable Flight Guidance Appendices IV, IVA and etc., of the FAA Approved Airplane Flight Manual documents MDC-J1010, MDC-J1030, MDC-J5830, MDC-J1040, and MDC-J2140:

Add the following as the last entry in Section I Limitations:

"CATEGORY III AUTOMATIC LANDING

In addition to the Automatic Landing System Limitations listed above, the following limitation applies:

Do not use automatic landing system for Category III operation unless DC-10 Service Bulletin 34-84 or production equivalent is incorporated."

b. Equivalent modifications, procedures, or revisions may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This amendment becomes effective April 8, 1978.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107

Issued in Los Angeles, Calif., on February 23, 1978.

HERMAN C. BLISS,
Acting Director, Federal Aviation Administration Western Region.

[FR Doc. 78-5770 Filed 3-3-78; 8:45 am]

[4910-13]

[Docket No. 78-SO-7]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Redesignation of Control Zone; Chamblee, Ga.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The Airport Traffic Control Tower at De Kalb-Peachtree Airport currently operates from 0700 to 2300 hours, local time, daily. Effective May 18, 1978, the hours of operation will be extended to 0600 to 2300 hours, local time, daily. Therefore, it is necessary to redesignate the control zone to coincide with the new hours of operation of the control tower.

EFFECTIVE DATE: 0901 G.m.t., May 18, 1978.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320.

FOR FURTHER INFORMATION CONTACT:

Donald Ross, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320, 404-763-7648.

SUPPLEMENTARY INFORMATION: The FAA is changing the hours of operation of the De Kalb-Peachtree Airport Traffic Control Tower to provide more efficient service to users of the airport. In order to provide this service, the hours of the control zone must coincide with those of the control tower. As aeronautical activity changes occur at the airport, future adjustments to the effective hours of the control zone may be required. Since this and any future adjustments to operating hours will be minor in nature, the use of the FAA's Notice to Airmen system can be utilized to advertise and establish new hours. Therefore, this provision is to be included in the description of the control zone.

Since this redesignation is minor in nature, notice and public procedure thereon are unnecessary.

DRAFTING INFORMATION

The principal authors of this document are Donald Ross, Airspace and Procedures Branch, Air Traffic Division, and Ronald R. Hagadone, Office of Regional Counsel.

ADOPTION OF AMENDMENT

Accordingly, Part 71 of the Federal Aviation Regulations (14 CFR 71) is amended, effective 0901 G.m.t., May 18, 1978, as follows:

In Subpart F, § 71.171 (43 FR 355), the Chamblee, Ga., control zone is amended as follows:

"• • • This control zone is effective from 0700 to 2300 hours, local time, daily." is deleted and "• • • This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual." is substituted therefore.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in East Point, Ga., on February 22, 1978.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc. 78-5761 Filed 3-3-78; 8:45 am]

[4910-13]

[Airspace Docket No. 77-CE-26]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area; Gideon, Mo.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate a transition area at Gideon, Mo., to provide controlled airspace for aircraft executing a new instrument approach procedure to the Gideon, Mo., Memorial Airport which is based on the Malden, Mo. VORTAC.

EFFECTIVE DATE: May 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Dwaine E. Hiland, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106, 816-374-3408.

SUPPLEMENTARY INFORMATION: To enhance airport usage, a new instrument approach procedure to the Gideon, Mo., Memorial Airport is being established based on the Malden, Mo. VORTAC, a navigational aid. The establishment of an instrument approach procedure based on this navigational aid entails designation of a transition area at Gideon, Mo., at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under instrument flight rules (IFR) and other aircraft operating under visual flight rules (VFR).

DRAFTING INFORMATION

The principal authors of this document are Dwaine E. Hiland, Operations, Procedures, and Airspace Branch, Air Traffic Division and John L. Fitzgerald, Jr., Office of the Regional Counsel.

DISCUSSION OF COMMENTS

On page 64132 of the FEDERAL REGISTER dated December 22, 1977, the Federal Aviation Administration published a notice of proposed rulemaking which would amend section 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Gideon, Mo. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the notice of proposed rulemaking.

Accordingly, subpart G, section 71.181, of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1978 (43 FR 440), is amended, effective 0901 G.m.t. May 18, 1978, by adding the following transition area:

GIDEON, MO.

That airspace extending upward from 700 feet above the surface within a 6.5 mile radius of the Gideon Memorial Airport (Latitude 36°26'45"N., Longitude 89°54'15"W.), excluding the portion which overlies the Malden, Missouri, 700 foot transition area.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Mo., on February 22, 1978.

JOHN E. SHAW,
Acting Director, Central Region.

[FR Doc. 78-5762 Filed 3-3-78; 8:45 am]

[4910-13]

[Airspace Docket No. 77-SW-67]

DRAFTING INFORMATION

The principal authors of this document are Gary W. Tucker, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-

ment under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

terested persons were invited to participate in this rulemaking proceeding

agency. The sole purpose of these airspace designations is to prevent oper-

[4910-13]

[Airspace Docket No. 77-SW-67]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area; Fredericksburg, Tex.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This designates a transition area at Fredericksburg, Tex., to provide controlled airspace for aircraft executing a proposed instrument approach procedure to the Gillespie County Airport, using the newly established Stonewall VHF Omnidirectional Range/Tactical Air Naviation (VORTAC) located east of the airport. Coincident with this action, the airport is changed from Visual Flight Rules (VFR) to Instrument Flight Rules (IFR).

EFFECTIVE DATE: May 18, 1978.

FOR FURTHER INFORMATION CONTACT:

David Gonzalez, Airspace and Procedures Branch (ASW-536), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, 817-624-4911, ext. 302.

SUPPLEMENTARY INFORMATION:

History

On December 22, 1977, a notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 64129) stating that the Federal Aviation Administration proposed to designate the Fredericksburg, Tex. transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Subsequent to the notice of proposed rulemaking, flight inspection of the proposed instrument approach procedure indicated realignment of the transition area extension should be along the 282° (T) bearing. Except for adjustment to compensate for the realignment this amendment is that proposed in the notice.

The Rule

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) designates the Fredericksburg, Tex. transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing instrument approach procedures to the Gillespie County Airport.

Drafting Information

The principal authors of this document are David Gonzalez, Airspace and Procedures Branch, and Robert C. Nelson, Office of the Regional Counsel.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 440) is amended, effective 0901 G.m.t., May 18, 1978, as follows.

In Subpart G, § 71.181 (43 FR 440), the following transition area is added:

FREDERICKSBURG, TEX.

"That airspace extending upward from 700 feet above the surface within a five-mile radius of the Gillespie County Airport (latitude 30°14'56" N., longitude 98°54'37" W.), and within 1.5 miles either side of the 282°R from the Stonewall VORTAC (latitude 30°12'26" N., longitude 98°42'17" W.), extending from the five-mile radius to six miles east of the Gillespie County Airport."

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Tex., on February 21, 1978.

PAUL J. BAKER,
Acting Director,
Southwest Region.

[FR Doc. 78-5768 Filed 3-3-78; 8:45 am]

[4910-13]

[Airspace Docket Number 77-CE-24]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area; Wayne, Nebr.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate a transition area at Wayne, Nebr., to provide controlled airspace for aircraft executing a new instrument approach procedure to the Wayne, Nebr., Municipal Airport which is based on a Non-Directional Raido Beacon (NDB) navigational aid being installed at the airport.

EFFECTIVE DATE: May 18, 1978

FOR FURTHER INFORMATION CONTACT:

Gary W. Tucker, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-538, FAA, Central Region, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106, 816-374-3408.

SUPPLEMENTARY INFORMATION: The city of Wayne, Nebr. is installing a Non-Directional radio Beacon (NDB) on the Wayne, Nebr., Municipal Airport. The establishment of an instrument approach procedure based on this navigational aid entails designation of a transition area at Wayne, Nebr., at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under instrument flight rules (IFR) and other aircraft operating under visual flight rules (VFR).

Drafting Information

The principal authors of this document are Gary W. Tucker, Operations, Procedures and Airspace Branch, Air Traffic Division and John L. Fitzgerald, Jr., Office of the Regional Counsel.

Discussion of Comments

On pages 64127 and 64128 of the FEDERAL REGISTER dated December 22, 1977, the Federal Aviation Administration published a notice of proposed rulemaking which would amend section 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Wayne, Nebr. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the notice of proposed rulemaking.

Accordingly, subpart G, section 71.181, of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1978 (43 FR 440); is amended, effective 0901 G.m.t. May 18, 1978, by adding the following transition area:

WAYNE, NEBR.

That airspace extending upward from 700 feet above the surface within a 5 mile radius of the Wayne Municipal Airport (Latitude 42°14'23"N, Longitude 096°59'01"W) and within 3 miles each side of the 047° bearing from the Wayne Municipal Airport extending from the 5 mile radius to 8.5 miles northeast of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Mo., on February 17, 1978.

C. R. MELUGIN, JR.,
Director, Central Region.

[FR Doc. 78-5764 Filed 3-3-78; 8:45 am]

[4910-13]

[Airspace Docket No. 77-WE-28]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

PART 73—SPECIAL USE AIRSPACE

Temporary Restricted Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments designate temporary restricted areas identified as R-2535A, B, C, D, E, F, G, and R-4818A, B, C, D, E, F, G, and H in the vicinity of Edwards AFB, Calif., and Nellis AFB, Nev., to contain military joint readiness exercise called "BRAVE SHIELD 17." These amendments provide for the safe and efficient use of the navigable airspace by prohibiting unauthorized flight operations of nonparticipating aircraft within the designated areas during the designated period.

EFFECTIVE DATE: March 23, 1978. Period of designation is April 6, 1978, through April 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Huff, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: 202-426-3715.

SUPPLEMENTARY INFORMATION:

History

On January 16, 1978, the FAA proposed to amend Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) to designate temporary restricted areas identified as R-2535A, R-2535B, R-2535C, R-2535D, R-2535E, R-2535F, R-2535G, and R-4818A, R-4818B, R-4818C, R-4818D, R-4818E, R-4818F, R-4818G, and R-4818H in the vicinity of Edwards AFB, Calif., and Nellis AFB, Nev., to contain military joint readiness exercise called "BRAVE SHIELD 17," and to include these restricted areas in the continental control area for the duration of its time of designation (43 FR 2183). Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. We received six responses to the NPRM in which one of the six commenters posed no objections to the proposal. Sections 71.151, 73.25 and 73.48 were published in the FEDERAL REGISTER on January 3, 1978, (43 FR 344, 667 and 690).

The Rule

These amendments to Parts 71 and 73 of the Federal Aviation Regulations designate several temporary restricted areas in the vicinity of Edwards AFB, Calif., and Nellis AFB, Nev., to contain a military joint readiness exercise called "BRAVE SHIELD 17." In addition, those areas encompassing airspace at and above 14,500 feet MSL during the duration of their designation (continuously from 0001 April 6, 1978, through 2400 hours, local time, April 16, 1978) are included in the continental control area. These amendments adopt the airspace actions proposed in the NPRM (43 FR 2183). In accordance with established FAA policies, the using agency has provided the FAA with a statement that the requirements of NEPA have been met.

Discussion of Comments

Five commenters objected to the proposed rule. The primary concern of four of the objectors was based on an economic basis with specific reference to the use of R-2535F from April 6 through April 16, 1978. The FAA agrees that use of R-2535F from April 6 through April 16, 1978, could have an economic effect upon the area which underlies R-2535F. Therefore, the following annotation to temporary Restricted Area R-2535F will be added:

That portion of R-2535F airspace contained within the lateral confines of Complex MOA 1, Complex MOA 1A, Complex MOA 2, and Complex MOA 2A from 3,000 feet AGL up to but not including FL 180 is designated as Temporary Restricted Airspace from April 6 through April 10, 1978, only in contrast to the remainder of the Temporary Restricted Areas designated for BRAVE SHIELD 17 (April 6 through April 16, 1978). Further, it is anticipated that this portion of R-2535F will be used only once for an approximate six-hour period (0530-1130 or 1230-1830 PST) during Phase I of BRAVE SHIELD 17 on either April 8, 9 or 10, 1978. At all other times, the above referenced portion of R-2535F will be released to the controlling agency.

The remaining objector objected to the designation of Restricted Areas R-2535A and R-2535F from April 6 through April 16, 1978, based on the fact that the use of the airspace over areas of the National Park System by the numbers of aircraft proposed presents an intrusion that is not acceptable to park visitors. This comment has been forwarded to the using agency. The sole purpose of these airspace designations is to prevent operations determined to be necessary by the using agency from affecting the safety of nonparticipating aircraft.

Drafting Information

The principal authors of this document are Mr. Richard Huff, Air Traffic Service, and Mr. Richard W. Danforth, Office of the Chief Counsel.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart D of Part 71 and Subpart B of Part 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as republished (43 FR 344, 667 and 690) are amended, effective 0901 G.m.t., March 23, 1978, as follows:

In § 71.151 the following temporary restricted areas are added for the duration of their times of designation from 0001 April 6, 1978, through 2400 hours, local time, April 16, 1978:

R-2535A, R-2535B R-2535C, R-2535D, R-2535E, R-2535F, R-2535G, R-4818A, R-4818B, R-4818C, R-4818E, R-4818F, R-4818G, R-4818H.

In § 73.25 the following temporary restricted areas are added:

R-2535A BRAVE SHIELD XVII, CALIF.

Boundaries. Beginning at Lat. 36°30'N., Long. 116°55'W.; clockwise to Lat. 36°30'N., Long. 116°47'W.; to Lat. 35°39'N., Long. 115°53'W.; to Lat. 35°19'N., Long. 116°19'W.; thence along the eastern boundaries of R-2502E, R-2502N, and R-2508 to point of beginning.
Designated altitudes. 3,000 feet AGL up to FL 500.
Time of designation. Continuous, 0001 April 6 through 2400 local time, April 16, 1978.
Controlling agency. Federal Aviation Administration, Los Angeles Air Route Traffic Control Center.
Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

R-2535B BRAVE SHIELD XVII, CALIF.

Boundaries. Beginning at Lat. 35°07'N., Long. 116°34'W.; clockwise to Lat. 35°01'30"N., Long. 116°41'W.; to Lat. 34°56'N., Long. 117°09'W.; thence along the southern boundaries of R-2515 and R-2502E to the point of beginning.
Designated altitudes. 3,000 feet AGL up to FL 500.
Time of designation. Continuous, 0001 April 6 through 2400 local time, April 16, 1978.
Controlling agency. Federal Aviation Administration, Los Angeles ARTCC.
Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

R-2535C BRAVE SHIELD XVII, CALIF.

Boundaries. Beginning at Lat. 37°12'N., Long. 118°35'W.; clockwise to Lat. 37°15'30"N., Long. 118°35'W.; to Lat. 37°39'N., Long. 117°40'W.; to Lat. 37°12'N., Long. 117°20'W.; to point of beginning.

Designated altitudes. 3,000 feet AGL up to FL 500.
Time of designation. Continuous, 0001 April 6 through 2400 local time, April 16, 1978.
Controlling agency. Federal Aviation Administration, Los Angeles ARTCC.
Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

R-4818C BRAVE SHIELD XVII, NEV.

Boundaries. Beginning at Lat. 37°12'N., Long. 118°35'W.; clockwise to Lat. 37°15'30"N., Long. 118°35'W.; to Lat. 37°39'N., Long. 117°40'W.; to Lat. 37°12'N., Long. 117°20'W.; to point of beginning.
Designated altitudes. 3,000 feet AGL up to FL 500.
Time of designation. Continuous, 0001 April 6 through 2400 local time, April 16, 1978.
Controlling agency. Federal Aviation Administration, Los Angeles ARTCC.
Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

R-4818D BRAVE SHIELD XVII, NEV.

Boundaries. Beginning at Lat. 37°39'N., Long. 117°40'W.; clockwise to Lat. 37°39'N., Long. 117°20'W.; to Lat. 37°12'N., Long. 117°20'W.; to Lat. 37°12'N., Long. 117°40'W.; to point of beginning.
Designated altitudes. 3,000 feet AGL up to FL 500.
Time of designation. Continuous, 0001 April 6 through 2400 local time, April 16, 1978.
Controlling agency. Federal Aviation Administration, Los Angeles ARTCC.
Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

R-4818E BRAVE SHIELD XVII, NEV.

Boundaries. Beginning at Lat. 37°39'N., Long. 117°40'W.; clockwise to Lat. 37°39'N., Long. 117°20'W.; to Lat. 37°12'N., Long. 117°20'W.; to Lat. 37°12'N., Long. 117°40'W.; to point of beginning.
Designated altitudes. 3,000 feet AGL up to FL 500.
Time of designation. Continuous, 0001 April 6 through 2400 local time, April 16, 1978.
Controlling agency. Federal Aviation Administration, Los Angeles ARTCC.
Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

R-4818F BRAVE SHIELD XVII, NEV.

Boundaries. Beginning at Lat. 37°39'N., Long. 118°35'W.; clockwise to Lat. 37°39'N., Long. 118°15'W.; to Lat. 37°12'N., Long. 118°15'W.; to Lat. 37°12'N., Long. 118°35'W.; to point of beginning.
Designated altitudes. 3,000 feet AGL up to FL 500.
Time of designation. Continuous, 0001 April 6 through 2400 local time, April 16, 1978.
Controlling agency. Federal Aviation Administration, Los Angeles ARTCC.
Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

R-4818G BRAVE SHIELD XVII, NEV.

Boundaries. Beginning at Lat. 37°39'N., Long. 118°15'W.; clockwise to Lat. 37°39'N., Long. 117°40'W.; to Lat. 37°12'N., Long. 117°40'W.; to Lat. 37°12'N., Long. 118°15'W.; to point of beginning.
Designated altitudes. 3,000 feet AGL up to FL 500.
Time of designation. Continuous, 0001 April 6 through 2400 local time, April 16, 1978.
Controlling agency. Federal Aviation Administration, Los Angeles ARTCC.
Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

R-4818H BRAVE SHIELD XVII, NEV.

Boundaries. Beginning at Lat. 37°39'N., Long. 118°35'W.; clockwise to Lat. 37°39'N., Long. 118°15'W.; to Lat. 37°12'N., Long. 118°15'W.; to Lat. 37°12'N., Long. 118°35'W.; to point of beginning.
Designated altitudes. 3,000 feet AGL up to FL 500.
Time of designation. Continuous, 0001 April 6 through 2400 local time, April 16, 1978.
Controlling agency. Federal Aviation Administration, Los Angeles ARTCC.
Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Mo., on February 17, 1978.

C. R. MELUGIN, JR.,
Director, Central Region.

[FR Doc. 78-5763 Filed 3-3-78; 8:45 am]

[6750-01]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

SUBCHAPTER B—GUIDES AND TRADE PRACTICE RULES

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Medicinal, Therapeutic, Healthful, Etc.; Reducing, Non-Fattening, Low Calorie, Etc.

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: This action amends the Commission's Rules of Practice by adding new sections 13.170-52 Medicinal, therapeutic, healthful, etc.; 13.170-74 Reducing, non-fattening, low calorie, etc. The new sections prohibit the use of false, misleading or deceptive representations in connection with the offering for sale, sale or distribution of products or services. The new sections are necessary to provide guidance to the public and to industry members as to the Commission's enforcement policy with respect to claims and representations about the medicinal, therapeutic, healthful, reducing, non-fattening, low calorie, etc. properties of products or services.

EFFECTIVE DATE: March 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert Frisby, Division of Enforcement, Federal Trade Commission, Washington, D.C. 20580, (202) 724-1510.

SUPPLEMENTARY INFORMATION: On December 22, 1977, the Commission published a notice of proposed rulemaking in the FEDERAL REGISTER (42 FR 64108) stating that the Commission proposed to add new sections 13.170-52 Medicinal, therapeutic, healthful, etc.; 13.170-74 Reducing, non-fattening, low calorie, etc. to its Rules of Practice. The new sections prohibit the use of false, misleading or deceptive representations in connection with the offering for sale, sale or distribution of products or services. The new sections are necessary to provide guidance to the public and to industry members as to the Commission's enforcement policy with respect to claims and representations about the medicinal, therapeutic, healthful, reducing, non-fattening, low calorie, etc. properties of products or services; 13.170-52 Medicinal, therapeutic, healthful, etc.; 13.170-74 Reducing, non-fattening, low calorie, etc.

Designated altitudes. 3,000 feet AGL up to FL 500.
Time of designation. Continuous, 0001 April 6 through 2400 local time, April 16, 1978.
Controlling agency. Federal Aviation Administration, Los Angeles ARTCC.
Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

R-2535D BRAVE SHIELD XVII, CALIF.

Boundaries. Beginning at Lat. 37°52'N., Long. 117°49'W.; clockwise to Lat. 37°39'N., Long. 117°40'W.; to Lat. 37°15'30"N., Long. 118°35'W.; to Lat. 37°11'N., Long. 119°13'W.; to Lat. 37°04'N., Long. 119°44'W.; to Lat. 37°31'N., Long. 119°57'W.; to point of beginning.
Designated altitudes. FL 180 up to FL 350.
Time of designation. Continuous, 0001 April 6 through 2400 local time, April 16, 1978.
Controlling agency. Federal Aviation Administration, Los Angeles ARTCC.
Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

R-2535E BRAVE SHIELD XVII, CALIF.

Boundaries. Beginning at Lat. 35°30'N., Long. 119°00'W.; clockwise to Lat. 37°04'N., Long. 119°44'W.; to Lat. 37°11'N., Long. 119°13'W.; to Lat. 37°15'30"N., Long. 118°35'W.; to Lat. 35°15'N., Long. 118°25'W.; to Lat. 34°56'N., Long. 118°21'W.; to Lat. 34°58'N., Long. 118°35'W.; to point of beginning.
Designated altitudes. FL 180 up to FL 500.
Time of designation. Continuous, 0001 April 6 through 2400 local time, April 16, 1978.
Controlling agency. Federal Aviation Administration, Los Angeles ARTCC.
Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

R-2535F BRAVE SHIELD XVII, CALIF.

Boundaries. Beginning at Lat. 37°12'00"N., Long. 117°20'00"W.; to Lat. 35°34'00"N., Long. 116°23'00"W.; to Lat. 35°28'35"N., Long. 116°18'45"W.; to Lat. 35°18'45"N., Long. 116°18'45"W.; to Lat. 35°07'00"N., Long. 116°34'00"W.; to Lat. 35°07'00"N., Long. 116°47'45"W.; to Lat. 35°08'50"N., Long. 116°48'40"W.; to Lat. 35°06'30"N., Long. 116°58'40"W.; to Lat. 34°53'30"N., Long. 117°11'50"W.; to Lat. 34°50'20"N., Long. 117°32'00"W.; to Lat. 34°48'30"N., Long. 117°32'00"W.; to Lat. 34°48'00"N., Long. 117°38'00"W.; to Lat. 34°48'00"N., Long. 118°01'00"W.; to Lat. 34°49'40"N., Long. 118°05'45"W.; to Lat. 34°51'30"N., Long. 118°05'45"W.; to Lat. 34°56'00"N., Long. 118°21'00"W.; to Lat. 35°15'00"N., Long. 118°35'00"W.; to Lat. 37°12'00"N., Long. 118°35'00"W.; to the point of beginning.
Designated altitudes. 3,000 feet AGL up to FL 200.
Time of designation. Continuous, 0001 April 6 through 2400 local time, April 16, 1978.
(That portion of R-2535F airspace contained within the lateral confines of Complex MOA 1, Complex MOA 1A, Complex MOA 2, and Complex MOA 2A from 3,000 feet AGL up but not including FL 180 is designated as Temporary Restricted Airspace from April 6 through April 10, 1978, only in contrast to the remainder of the Temporary Restricted Areas designated for BRAVE SHIELD 17 (April 6 through April 16, 1978). Further, it is anticipated that this portion of R-2535F will be used only once for an approximate six-hour period (0530–1130 or 1230–1830 PST) during Phase I of BRAVE SHIELD 17 on either April 8, 9, or 10, 1978. At all other times, the above referenced portion of R-2535F will be released to the controlling agency.)
Controlling agency. Federal Aviation Administration, Los Angeles ARTCC.
Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

R-2535G BRAVE SHIELD XVII, CALIF.

Boundaries. Beginning at Lat. 37°39'N., Long. 117°40'W.; clockwise to Lat. 37°45'N., Long. 117°19'W.; to Lat. 37°27'30"N., Long. 117°05'W.; thence along the western and southern boundaries of R-4807, R-4808N, R-4808S, and R-4806 to Lat. 36°26'N., Long. 115°18'W.; Clockwise to Lat. 35°39'N., Long. 115°53'W.; to Lat. 36°30'N., Long. 116°47'W.; to Lat. 36°30'N., Long. 116°55'W.; thence along the eastern boundary of R-2508 to Lat. 37°12'N., Long. 117°20'W.; to point of beginning.
Designated altitudes. 3,000 feet AGL up to 11,000 feet MSL and 15,000 feet MSL up to FL 500.
Time of designation. Continuous, 0001 April 6 through 2400 local time, April 16, 1978.
Controlling agency. Federal Aviation Administration, Los Angeles ARTCC.
Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

In § 73.25 R-2506 China Lake South, Calif., time of designation, from 0001 local, April 6, 1978, through 2400 local, April 16, 1978, is "Continuous."

In § 73.48 the following temporary restricted areas are added:

R-4818A BRAVE SHIELD XVII, NEV.

Boundaries. Beginning at Lat. 37°53'N., Long. 116°11'W.; Clockwise to Lat. 38°00'N., Long. 114°12'W.; to Lat. 37°53'N., Long. 113°39'W.; to Lat. 36°43'N., Long. 114°36'W.; to Lat. 36°43'N., Long. 115°03'W.; to Lat. 36°26'N., Long. 115°18'W.; Thence along the eastern and northern boundaries of R-4806, R-4808N, R-4807 to point of beginning.
Designated altitudes. 100 feet AGL up to FL 500 (1,200 feet AGL up to FL 500 within a three nautical mile radius from center of Lincoln County and Pioche Airports).
Time of designation. Continuous 0001 April 6 through 2400 local time, April 16, 1978.
Controlling agency. Federal Aviation Administration, Los Angeles ARTCC.
Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

R-4818B BRAVE SHIELD XVII, NEV.

Boundaries. Beginning at Lat. 36°43'N., Long. 114°36'W.; clockwise to Lat. 36°26'N., Long. 114°52'W.; to Lat. 36°26'N., Long. 115°18'W.; to Lat. 36°43'N., Long. 115°03'W.; to point of beginning.
Designated altitudes. FL 180 up to FL 500.
Time of designation. Continuous, 0001 April 6 through 2400 local time, April 16, 1978.
Controlling agency. Federal Aviation Administration, Los Angeles ARTCC.
Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

R-4818C BRAVE SHIELD XVII, NEV.

Boundaries. Beginning at Lat. 37°53'N., Long. 117°01'W.; thence along the western boundary of R-4807 to Lat. 37°27'30"N., Long. 117°05'W.; to Lat. 37°45'N., Long. 117°19'W.; to point of beginning.
Designated altitudes. 3,000 feet AGL up to FL 500.
Time of designation. Continuous, 0001 April 6 through 2400 local time, April 16, 1978.
Controlling agency. Federal Aviation Administration, Los Angeles ARTCC.
Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

R-4818D BRAVE SHIELD XVII, NEV.

Boundaries. Beginning at Lat. 37°39'N., Long. 117°40'W.; clockwise to Lat. 37°45'N., Long. 117°19'W.; to Lat. 37°27'30"N., Long. 117°05'W.; thence along the western and southern boundaries of R-4807, R-4806N and R-4806S to Lat. 36°41'N., Long. 115°56'W.; clockwise to Lat. 36°18'N., Long. 116°34'W.; to Lat. 36°30'N., Long. 116°47'W.; to Lat. 36°30'N., Long. 116°55'W.; thence along the eastern boundary of R-2508 to Lat. 37°12'N., Long. 117°20'W.; to point of beginning.
Designated altitudes. 3,000 feet AGL to 11,000 feet MSL.
Time of designation. Continuous, 0001 April 6 through 2400 local time, April 16, 1978.
Controlling agency. Federal Aviation Administration, Los Angeles ARTCC.
Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

R-4818E BRAVE SHIELD XVII, NEV.

Boundaries. Beginning at Lat. 37°39'N., Long. 117°40'W.; clockwise to Lat. 37°45'N., Long. 117°19'W.; to Lat. 37°27'30"N., Long. 117°05'W.; thence along the western and southern boundaries of R-4807, R-4806N, and R-4806S to Lat. 36°41'N., Long. 115°56'W.; clockwise to Lat. 36°18'N., Long. 116°34'W.; to Lat. 36°30'N., Long. 116°47'W.; to Lat. 36°30'N., Long. 116°55'W.; thence along the eastern boundary of R-2508 to Lat. 37°12'N., Long. 117°20'W.; to point of beginning.
Designated altitudes. 15,000 feet MSL up to FL 210.
Time of designation. Continuous, 0001 April 6 through 2400 local time, April 16, 1978.
Controlling agency. Federal Aviation Administration, Los Angeles ARTCC.
Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

R-4818F BRAVE SHIELD XVII, NEV.

Boundaries. Beginning at Lat. 37°39'N., Long. 117°40'W.; clockwise to Lat. 37°45'N., Long. 117°19'W.; to Lat. 37°27'30"N., Long. 117°05'W.; thence along the western and southern boundaries of R-4807, R-4806N, and R-4806S to Lat. 36°41'N., Long. 115°56'W.; clockwise to Lat. 36°18'N., Long. 116°34'W.; to Lat. 36°30'N., Long. 116°47'W.; to Lat. 36°30'N., Long. 116°55'W.; thence along the eastern boundary of R-2508 to Lat. 37°12'N., Long. 117°20'W.; to point of beginning.
Designated altitudes. FL 250 and FL 260.
Time of designation. Continuous, 0001 April 6 through 2400 local time, April 16, 1978.
Controlling agency. Federal Aviation Administration, Los Angeles ARTCC.
Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

R-4818G BRAVE SHIELD XVII, NEV.

Boundaries. Beginning at Lat. 37°39'N., Long. 117°40'W.; clockwise to Lat. 37°45'N., Long. 117°19'W.; Lat. 37°27'30"N., Long. 117°05'W.; thence along the western and southern boundaries of R-4806, R-4807, R-4806N, and R-4806S to Lat. 36°26'N., Long. 115°18'W.; clockwise to Lat. 35°57'N., Long. 116°11'W.; to Lat. 36°20'N., Long. 116°47'W.; to Lat. 36°30'N., Long. 116°55'W.; thence along the eastern boundary of R-2508 to Lat. 37°12'N., Long. 117°20'W.; to point of beginning.
Designated altitudes. FL 310 up to FL 350.
Time of designation. Continuous, 0001 April 6 through 2400 local time, April 16, 1978.
Controlling agency. Federal Aviation Administration, Los Angeles ARTCC.
Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665

R-4818H BRAVE SHIELD XVII, NEV.

Boundaries. Beginning at Lat. 37°39'N., Long. 117°40'W.; clockwise to Lat. 37°45'N., Long. 117°19'W.; to Lat. 37°27'30"N., Long. 117°05'W.; thence along the western and southern boundaries of R-4806, R-4807, R-4806N, and R-4806S to Lat. 36°26'N., Long. 115°18'W.; clockwise to Lat. 35°57'N., Long. 116°11'W.; to Lat. 36°30'N., Long. 116°47'W.; to Lat. 36°30'N., Long. 116°55'W.; thence along the eastern boundary of R-2508 to Lat. 37°12'N., Long. 117°20'W.; to point of beginning.
Designated altitudes. FL 410 up to FL 500.
Time of designation. Continuous, 0001 April 6 through 2400 local time, April 16, 1978.
Controlling agency. Federal Aviation Administration, Los Angeles ARTCC.
Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

In § 73.48 R-4806 Las Vegas, Nev., and R-4807 Tonopah, Nev., designated altitudes, from 0001 local, April 6, 1978, through 2400 local, April 16, 1978, are "surface to unlimited."

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Issued in Washington, D.C., on February 28, 1978.

B. KEITH POTTS,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-5768 Filed 3-3-78; 8:45 am]

[6750-01]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 9047-o.]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Porter & Dietsch, Inc., et al.

AGENCY: Federal Trade Commission.

ACTION: Final order to cease and desist.

SUMMARY: This order, among other things, requires a St. Paul, Minn. distributor of nonprescription drugs, its Chicago, Ill. advertising agency, and a Seattle, Wash. drugstore chain to cease making unsubstantiated claims or misrepresenting that products contain a unique ingredient, or that users of their weight control products can achieve weight loss without restricting their caloric intake or limiting their choice of foods. Further, the firms are required to include prescribed disclosure statements in promotional materials for products containing certain ingredients, and to recall all advertising data disseminated during the past 2 years for X-11 tablets.

DATES: Complaint issued July 29, 1975; Final Order issued Dec. 20, 1977.[1]

FOR FURTHER INFORMATION CONTACT:

William C. Erxleben, Director, Seattle Regional Office, Federal Trade Commission, 28th Floor, Federal Bldg., 915 Second Ave., Seattle, Wash. 98174, 206–442–4655.

SUPPLEMENTARY INFORMATION: In the Matter of Porter & Dietsch, Inc., a corporation, and William H. Fraser, individually and as an officer of said corporation; Kelly Ketting Furth, Inc., a corporation, and Joseph Furth, individually and as an officer of said corporation; and Pay'n Save Corp., a corporation.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows:

Subpart—Advertising Falsely or Misleadingly: § 13.10 Advertising falsely or misleadingly; § 13.20 Comparative data or merits; § 13.130 Manufacture or preparation; § 13.135 Nature of product or service; § 13.160 Promotional sales plans; § 13.170 Qualities or properties of product or service; 13.170–52 Medicinal, therapeutic, healthful, etc.; 13.170–74 Reducing, non-fattening, low calorie, etc.; § 13.190 Results; § 13.195 Safety; 13.195–60 Product; § 13.205 Scientific or other relevant facts; § 13.265 Tests and investigations; § 13.280 Unique nature or advantages. Subpart—Claiming or Using Endorsements or Testimonials Falsely or Misleadingly: § 13.330 Claiming or using endorsements or testimonials falsely or misleadingly; 13.330–94 Users, in general. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–20 Disclosures; 13.533–45 Maintain records; 13.533–45(a) Advertising substantiation; 13.533–53 Recall of merchandise, advertising material, etc. Subpart—Disseminating Advertisements, etc.: § 13.1043 Disseminating advertisements, etc. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1575 Comparative data or merits; § 13.1605 Content; § 13.1665 Endorsements; § 13.1680 Manufacture or preparation; § 13.1710 Qualities or properties; § 13.1730 Results; § 13.1740 Scientific or other relevant facts; § 13.1762 Tests, purported; § 13.1770 Unique nature or advantages. Subpart—Promotional Sales Plans: § 13.1830 Promotional sales plans. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1850 Content; § 13.1863 Limitations of product; § 13.1865 Manufacture or preparation; § 13.1885 Qualities or properties; § 13.1890 Safety; § 13.1895 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; (15 U.S.C. 45).)

The final order to cease and desist, including further order requiring report of compliance therewith, is as follows:

FINAL ORDER

This matter having been heard by the Commission upon the appeal of respondents from the initial decision, and upon briefs and oral argument in support thereof and opposition thereto, and the Commission for the reasons stated in the accompanying Opinion having determined to sustain the initial decision with certain modifications:

It is Ordered, That the initial decision of the administrative law judge, pages 1-111, be adopted as the Findings of Fact and Conclusions of Law of the Commission, except to the extent modified or otherwise indicated in the accompanying Opinion.

Other Findings of Fact and Conclusions of Law of the Commission are contained in the accompanying Opinion.

It is further ordered, That the following Order to Cease and Desist be, and it hereby is entered:

[1] Copies of the Complaint with Dissenting Statement of Commissioner Thompson, Initial Decision, Opinion, and Final Order with a separate dissenting statement of Commissioner Collier in which Commissioner Clanton concurs, filed with the original document.

ORDER

I.

It is ordered, That respondents Porter & Dietsch, Inc., a corporation, it successors and assigns, and its officers, and William H. Fraser, individually and as an officer of said corporation; and the agents, representatives and employees of the foregoing respondents, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale, or distribution of any "food," "drug," "cosmetic," or "device" (as these terms are defined in the Federal Trade Commission Act) in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, shall forthwith cease and desist from:

A. Representing orally, in writing, or in any manner, directly or by implication, including through the use of testimonials that a user of such a product can lose weight without restricting his or her accustomed caloric intake or while he or she continues to eat the foods of his or her choice (or words or depictions of similar import or meaning);

B. Representing orally, in writing, or in any manner, directly or by implication, including through the use of testimonials that a user of such a product can achieve any result, unless at the time such representation is made it is fully and completely substantiated by competent scientific or medical tests or studies, with the results of the tests or studies, the original data collected in the course of the test or study (if performed by or at the request of or with financial assistance from any respondent), and a detailed description of how the test or study was performed available in written form for inspection by the Federal Trade Commission for at least 3 years following the final use of the representation;

C. Representing orally, in writing, or in any manner, directly or by implication, that any testimonial for any such product represents the typical or ordinary experience of members of the public who use the product unless this is the case.

D. Representing orally, in writing, or in any manner, directly or by implication, that any such product contains one or more unique ingredients or components, unless respondents can establish that any such ingredients or components are unavailable in products sold by others.

E. Disseminating or causing to be disseminated by United States mails or by any means in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement for any such product containing phenylpropanolamine hydrochloride or similar ingredients with similar properties, or methylcellulose (whether or not such products contain other ingredients as well) or any product held out as a diet remedy or other remedy for the reduction of human body weight unless such advertising "clearly and conspicuously" (in print as least as large as the largest print appearing in the advertising or, in an oral presentation, in speech as clear and distinct as that delivered in the rest of the presentation) discloses the following statements, with nothing to the contrary or in mitigation of these statements:

"DIETING IS REQUIRED"

and

"WARNING: THIS PRODUCT POSES A SERIOUS HEALTH RISK FOR SOME USERS. READ THE LABEL CAREFULLY BEFORE USING."

II

It is further ordered, That respondents Kelly Ketting Furth, Inc., a corporation, its successors and assigns, and its officers, and Joseph Furth, individually and as an officer of said corporation; and Pay'n Save Corporation, a corporation, its successors and assigns, and its officers, agents, representatives; and employees of the foregoing respondents, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, of any "food," "drug," "cosmetic," or "device" (as these terms are defined in the Federal Trade Commission Act) held out as a diet remedy or other remedy for the reduction of human body weight, shall forthwith cease and desist from disseminating or causing to be disseminated by United States mails or by any means in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, any advertisement which contains a representation or testimonial for such product prohibited by Paragraph I of this Order, or which omits a disclosure for such product required by Paragraph I of this Order.

III

It is further ordered, That each respondent forthwith deliver a copy of this Order to each of its own operating divisions and subsidiaries, to all present and future personnel of respondents engaged in the preparation, creation or placing of advertising of foods, drugs or devices on behalf of respondents, and to all present and future agencies engaged in the preparation, creation or placing of such advertising for respondents, and that respondents secure from each such person and agency a signed statement acknowledging receipt of said Order.

IV

It is further ordered, That respondents immediately recall and retrieve, from all persons and entities that have engaged in the advertising or promotion of X-11 tablets within the past two years, all advertising mats and promotional material which contain a representation or testimonial prohibited by this Order or which omit a disclosure required by this Order. Respondents Porter & Dietsch, Inc., and William H. Fraser shall also deliver written notice of the requirements of this Order to all distributors and retailers of products marketed by said respondents, and shall institute a program of continuing surveillance adequate to reveal whether they are complying with said requirements including the above recall provision. In the event that nonconformity with any such requirements is discovered, said respondents shall immediately cease supplying all products to said distributors or retailers until adequate, reliable assurance of conformity is obtained.

V

It is further ordered, That all respondents, their successors and assigns, shall maintain complete business records relative to the manner and form of their compliance with this Order. Respondents shall retain each such record for at least three years, and shall retain for at least two years beyond the last dissemination of any representation or testimonial the documentation in support of and on which respondents relied in making such representation or testimonial. Upon reasonable notice, respondents shall make any and all such records available for inspection and photocopying by authorized representatives of the Federal Trade Commission at respondents' place of business. For respondents Porter & Dietsch, Inc., and William H. Fraser, such records shall include (but not be limited to) all advertising, sales memoranda, the substantiation for all applicable advertising claims, correspondence with persons who place advertising, and other pertinent documents.

VI

It is further ordered, That all respondents herein notify the Commission at least thirty (30) days prior to any proposed change in a corporate respondent, such as dissolution, assignment or sale resulting in the emergence of any successor corporation or corporations, the creation or dissolution of subsidiaries, or any other change in said corporations which may affect compliance obligations arising out of this Order.

VII

It is further ordered, That each individual respondent named herein for a period of five (5) years from the effective date of this Order promptly notify the Commission of the discontinuance of his present business or employment and/or of his affiliation with a new business or employment. If applicable each such notice shall include the respondent's new business address and a statement of the nature of the business or employment in which he is newly engaged as well as a description of his duties and responsibilites in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this Order.

VIII

It is further ordered, That the respondents herein shall, within sixty (60) days after service of this Order, and annually for five years thereafter, file with the Commission a written report setting forth in detail the manner and form of their compliance with this Order. The expiration of the obligation to file such reports shall not affect any other obligation arising under this Order.

By the Commission.

CAROL M. THOMAS,[1]
Secretary.

SEPARATE STATEMENT OF COMMISSIONER CALVIN J. COLLIER IN WHICH COMMISSIONER DAVID A. CLANTON CONCURS

There are certain specific portions of the majority decision from which I dissent. They are footnoted in the decision. My reasons follow.

Safety of X-11.—The majority affirms the ALJ's decision that respondents' failure to include FDA's required label warning message in their advertising violated duties imposed by sections 5 and 12 of our statute.

There is little evidence in this record to distinguish this case from all others in which health warnings are required to be or are voluntarily placed on packaging but are absent from advertising. The ALJ found that certain of the contraindicated medical conditions for PPA occur more frequently and with greater severity among the obese and overweight than in the population generally (I.D. 136). However, the correlations were not quantified, and nothing else is revealed about the conduct or behavior patterns of this population in relation to OTC drug use in general or weight reduction preparations in particular.

In other contexts, we have recently determined to deal with the relationships between mandatory labeling and advertising disclosures through rule-making.[1] In the absence of other circumstances, this approach has several important advantages. For example, it permits interested persons to comment on such issues as the comprehensibility of labeling requirements communicated through other media and the net incremental health benefits of advertising disclosures. Finally, PPA, the ingredient of X-11 which precipitated the package insert warning, is found in a variety of over-the-counter drugs including other weight reduction preparations and common decongestants.[2] In sum, I do not believe this case provides a sound factual or jurisprudential foundation for the majority's holding.

[FR Doc. 78-5731 Filed 3-3-78; 8:45 am]

[1] Separate statement of Commissioner Collier.

[1] See Advertising for Over-the-Counter Drugs, 40 FR 52631 (1975); and Advertising for Over-the-Counter Antacids, 41 FR 14534 (1976).

[2] Tr. of oral argument 46 (September 29, 1976). FDA is considering a monograph recognizing the drug as an effective nasal decongestant, 41 FR 38400 (1976).

[6351-01]

Title 17—Commodity and Securities Exchanges

CHAPTER I—COMMODITY FUTURES TRADING COMMISSION

PART 140—ORGANIZATION, FUNCTIONS, AND PROCEDURES OF THE COMMISSION

Delegation of Authority to the Chief of the Opinions Section; Correction

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule of the delegation of authority to the Chief of the Opinions Section by changing certain section numbers.

EFFECTIVE DATE: March 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Richard Graham, Chief, Opinions Section, Office of the General Counsel, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, 202-254-8183.

SUPPLEMENTAL INFORMATION: In the FEDERAL REGISTER of August 1, 1977, Vol. 42, No. 147, appearing on page 39033, paragraph (a)(2) of §140.71 is corrected in the eighth and tenth lines of the paragraph by changing the section number 12.26 to §12.46(c) in the eighth line and §12.46(a) in the tenth line. Paragraph (a)(2) should read as follows:

(a) * * *

(2) With respect to reparation proceedings conducted pursuant to Section 14 of the Commodity Exchange Act, as amended, 7 U.S.C. 18, and subject to the Commission's reparation rules as set forth in Part 12 of this chapter, to consider and grant or deny such motions submitted under §12.46(c) of the reparations rules as may be directed to the Commission pursuant to §12.46(a) of the reparations rules after the initial decision has been filed in the proceeding.

* * * * *

Issued in Washington, D.C., on March 1, 1978.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc. 78-5781 Filed 3-3-78; 8:45 am]

[4910-59; 4910-22]

Title 23—Highways

CHAPTER II—HIGHWAY SAFETY PROGRAM STANDARDS, DEPARTMENT OF TRANSPORTATION

PART 1204—UNIFORM STANDARDS FOR STATE HIGHWAY SAFETY PROGRAMS

Revision of Supplement B and Revocation of Supplement C

AGENCIES: National Highway Traffic Safety Administration, Federal Highway Administration, and Department of Transportation.

ACTION: Final rule.

SUMMARY: This notice revokes the requirement for the States to submit two separate planning documents for their highway safety programs. In place of a multi-year plan, submitted every 4 years, and an annual plan, the notice substitutes a single annual document which will contain the current year's program and a forecast of future plans. The multi-year plan has been viewed as a burdensome task of limited use. The new plan is designed to lighten the work and permit more flexible planning.

EFFECTIVE DATE: March 6, 1978.

ADDRESS: Administrator, National Highway Traffic Safety Administration, and Administrator, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Jerome A. Holiber, Office of State Program Assistance, Traffic Safety Programs, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1770.

SUPPLEMENTARY INFORMATION: Each State carrying out a highway safety program pursuant to 23 U.S.C. 402 has been required under Supplement B to 23 CFR 1204.4 to submit a Comprehensive Plan covering existing and proposed State highway safety activities for a multi-year period and has been required under Supplement C to 23 CFR 1204.4 to submit an Annual Work Program consisting of the State's plan for achieving its objectives for the coming year in the area of highway safety. During Fiscal Year 1977, nine States participated in a pilot Highway Safety Plan in lieu of a Comprehensive Plan and Annual Work Program. For Fiscal Year 1978, all States were afforded the opportunity to voluntarily submit a Highway Safety Plan in lieu of a Comprehensive Plan and Annual Work Program. Beginning with Fiscal Year 1979, all States will be required to submit a Highway Safety Plan covering existing and proposed State highway safety activities for the current year and from 3 to 5 additional planning years.

This Highway Safety Plan will include, in a single State submission, both the plan and program previously submitted as a separate Comprehensive Plan and a separate Annual Work program.

In order to provide guidance and instructions to States a new Supplement B, Volume 102—Highway Safety Plan, has been developed. The new plan is being issued by this notice as a complete revision of Supplement B. The existing Supplement C, Volume 103—Annual Work Program, is revoked by this notice.

In consideration of the foregoing, Supplement C to 23 CFR 1204.4 is revoked, and Supplement B is revised as set forth below:

(Pub. L. 89-564, 80 Stat. 731, 23 U.S.C. 401 et seq., delegations at 49 CFR 1.48, 49 CFR 1.50.)

Issued on February 24, 1978.

WILLIAM M. COX,
Federal Highway Administrator.

JOAN B. CLAYBROOK,
National Highway Traffic Safety Administrator.

SUPPLEMENT B, VOLUME 102—HIGHWAY SAFETY PLAN

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CHAPTER I—INTRODUCTION

1. *Purpose.* This volume establishes NHTSA and FHWA policy and procedures for the submission of each State's Highway Safety Plan (HSP). It supersedes the requirement for the Annual Work Program (AWP) and the Comprehensive Plan (CP).

2. *Definition.* The Highway Safety Plan provides multi-year planning capability and current year program implementation which is the basis for the execution of Federal-aid Agreement. The HSP will be updated on an annual basis.

3. *Authority.* 23 U.S.C. 402(a) requires that each State shall have a highway safety program approved by the Secretary, and that such programs shall be in accordance with uniform standards promulgated by the Secretary. Since inception of the highway safety program, section 402(a) has been interpreted as requiring submission by the States of a general or master plan covering existing and proposed State highway safety activities for a multi-year period. In accordance with 23 U.S.C. 315, the Secretary or his delegate is authorized to promulgate rules and regulations to implement section 402 by prescribing the form, time, manner of submission, and annual updating of State HSPs.

The following sections of Chapter I or Title 23, applicable to Federal-Aid highway funds, apply to the HSP, including: Section 105, as to program and approval; section 106, as to plans, specifications, and estimates, and project approval; section 110, as to the project agreement including provision for maintenance; and section 120 as to the Federal share payable.

Section 402 provides that the Secretary shall not apportion any highway safety funds to any State which is not implementing an approved program. The HSP for any given Federal fiscal year, will serve as a basis for a determination that a State is continuing to implement an approved program. It will also provide State input to the NHTSA Plan (NHTSA Order 510-2, August 22, 1975).

4. *Background.* All States had highway safety programs approved by the Secretary by December 31, 1969, as required by 23 U.S.C. 402. These programs represented each State's Plan covering existing and proposed highway safety activities for the multi-year period. Until the beginning of Fiscal Year 1972, most federally supported State and local highway safety activities required to implement the State's Plan were administered on a project-by-project basis.

In Fiscal Year 1971, a new procedure—The Annual Work Program (AWP)—was initiated. The AWP described the annual goals to be achieved and all work to be done in implementing one year of a State's Plan.

In Fiscal Year 1973, the States were required to prepare a new Comprehensive Plan (CP) of current and proposed highway safety activities, for the 4-year period from Fiscal Year 1974 through Fiscal Year 1977. Revisions to the CP were required for Fiscal Year 1976 to include provision of curb ramps for the handicapped and bicycle safety education programs, in addition to the provisions of the Vehicle-in-Use (VIU) Standards.

In Fiscal Year 1977, nine States pilot tested a new Vol. 102 Highway Safety Management System Plan (HSMSP), designed to supersede the Annual Work Program (AWP) and the Comprehensive Plan (CP). As a result of the pilot program, Vol. 102 is hereby revised as a Highway Safety Plan (HSP). A draft version of Vol. 102 was previously released for optional use by the States as their Fiscal Year 1978 submittal.

5. *General requirements.* 23 U.S.C. 402(b)(1) imposes certain requirements which must be met as a prerequisite to program approval. To attest that it meets these requirements, a State must submit a Certificate of Compliance (Appendix B).

Procedures for implementing the program are contained in the following issuances:

Volume O, Highway Safety Program Manual for Planning and Administration.

Joint NHTSA/FHWA Order 900-4/7-5, August 10, 1971—Guidelines for the Designation of a State Agency Responsible for Highway Safety.

NHTSA Order 460-1, November 2, 1970—State Systems of Administrative and Financial Procedures.

6. *Policy.* a. With reference to the requirements set forth in section 402, State highway safety programs shall be in accordance with the uniform standards, and the Secretary shall not apportion any funds to any State which is not implementing an approved program. 23 U.S.C. 402(c), as amended in the 1976 Highway Safety Act, provides that implementation of a highway program shall not be construed to require the Secretary to require compliance with every uniform standard, or with every element of every uniform standard, in every State.

b. With reference to the statutory requirement that at least 40 percent of all Federal funds apportioned under 23 U.S.C. 402 be expended by political subdivisions in each State, it is DOT policy that political subdivisions must have an active voice in the initiation, development, and implementation of those safety activities so credited to assure that the local participation in highway safety intended by Congress is achieved. NHTSA/FHWA Order No. 462-8/7510.2, Political Subdivision Participation in State Highway Safety Programs, dated June 23, 1976, sets forth this policy in further detail.

7. *Civil rights requirements.* The Governor's Representative for Highway Safety is responsible for assuring that full consideration of Title VI of the Civil Rights Act of 1964 and 23 U.S.C. 324 are included as an integral part of the planning and development of the HSP.

The "Civil Rights Assurances with regard to the State's Highway Safety Program" continue to be incorporated to ensure that no person shall, on the grounds of race, color, sex, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination.

The State and/or sub-grantees must maintain racial/ethnic data and program information sufficient to permit an initial determination by NHTSA/FHWA that recipients will in fact comply with Title VI and 23 U.S.C. 324 requirements, and to enable the appropriate Federal funding agency and its State counterpart, to effectively monitor Title VI and 23 U.S.C. 324 compliance as necessary and appropriate.

Pending issuance of regulations setting forth specific data requirements, each applicant or recipient of 402 funds should determine:

a. The manner in which services are or will be provided by the program in question, and related data necessary for determining whether any persons are or will be denied such services on the basis of prohibited discrimination;

b. The population eligible to be served, by race, color, sex, and national origin;

c. The availability of data regarding covered employment, including use or planned use of bilingual public-contact employees serving beneficiaries of the program, where necessary, to permit effective participation by beneficiaries unable to speak or understand English;

d. The location of existing or proposed facilities connected with the program, and related information adequate for determining whether the location has, or will have, the effect of unnecessarily denying access to any persons on the basis of prohibited discrimination;

e. The present or proposed membership, by race, color, sex, and national origin in any planning or advisory body which is an integral part of the program; and

f. Where relocation is involved, the requirements and steps used or proposed to guard against unnecessary impact on persons on the basis of race, color, sex, or national origin.

Additional data, necessary for understanding the information compiled, such as demographic maps, may be required to the extent that it is readily available or can be compiled with reasonable effort.

CHAPTER II—CONTENT OF HSP

1. *Purpose.* This Chapter provides guidelines and procedures for the preparation of a State's Highway Safety Plan (HSP).

2. *General.* The HSP is a multi-year planning document which: Identifies a State's highway safety problems, establishes goals and objectives to be achieved, estimates the resources required to achieve those goals and objectives, and specifies the activities which are planned to solve identified problems.

The HSP shall cover the current fiscal year program and planning for three, four or five additional years.

3. *Preparation of the Highway Safety Plan.* The HSP consists of the following six (6) parts, two of which are optional:

I. Highway Safety Plan Summary.
II. Overall Statewide Problem Analysis.
III. Overall Statewide Goals.
IV. Program Structure (Optional).
V. Program Modules.
VI. Research/Demonstration Requirements (Optional).

a. *Highway Safety Plan Summary (Part I).* This part should consist of the Certificate of Compliance (Appendix B), a HSP Cost Summary and an Executive Summary which provides a brief multi-year overview of the State's program status, planned activities and anticipated accomplishments, to include: Accident Trends; Significant Statewide Problems Identified; Program Emphasis and Priorities; Statewide Program Goals; Key Legislative Needs and Planned Actions; Planned Administrative Actions.

b. *Overall Statewide Problem Analysis (Part II).* This part should provide sufficient statistical data and analytical process information to define impact and systems support problem areas identified and to establish program priorities. More detailed analysis on specific problems should be described in the related Program Modules, Part V (pg II-5).

The detailed data analysis and resulting reports should be retained by the Governor's Representative and be made available for review by NHTSA Region/FHWA Division Staff as necessary. Problem identification analysis and reporting processes are addressed in detail in the *Problem Identification Manual for Traffic Safety Programs*, NHTSA Vols. I & II.

As part of the data analysis phase of HSP development, the State must give full consideration to the requirements of Title VI of the Civil Rights Act of 1964. Data relating to Civil Rights considerations are to be available for review, as needed, in the Office of the Governor's Representative for Highway Safety.

Two types of problems should be identified from the problem analysis process; i.e., impact problems and systems support problems.

(1) *Impact Problems*—An impact problem is directly related to factors contributing to accidents, fatalities and/or injuries, and may be corrected by application of countermeasures designed to minimize the effect of these factors. Impact problems can be identified from analyses of Statewide traffic records data. The analyses should consider, as a minimum: Pedestrian accidents; Motorcycle accidents; Pedalcycle accidents; Passenger Car accidents; School Bus accidents; Truck accidents; Problem Drivers; Roadside and Roadway Hazards; Alcohol Involvement; Youth Involvement; Defective Vehicle Involvement; Suspended/revoked Driver Involvement; Safety belt usage; Speed Involvement.

(2) *Systems Support Problems.* A systems support problem is a deficiency in a vital traffic safety program function, the correction of which may not be directly related to accident/fatality/injury changes. Systems support problems are identified from an analysis of the existing traffic safety system and a review of legislative and regulatory requirements. An inventory of ongoing programs and an analysis of their characteristics in relation to accepted standards and practices is necessary to identify deficiencies; e.g., an assessment of the Highway Safety Program Standards' status and operational programs' status is often a valuable first step in identifying systems support problems. One example could be a required inventory of State and local agency data files, available equipment and user needs to more fully implement a Statewide traffic records system. Another example would be the lack of an accident location reference system for local roads and streets off the Federal-aid and State highway systems.

(3) *Highway-Related Safety Activities.* Greater coordination between the Section 402 planning process and activities carried out under the safety construction program may be achieved through the problem identification process emphasized in the HSP. The Section 402 highway-related safety funds are used predominately to correct system support problems which when resolved, will provide a basis for the safety construction program. The system support deficiencies may be identified through a review of accident statistics, the effectiveness of the process used to establish priorities for a schedule of safety construction projects, evaluations of the safety program, studies to determine highway-related problems and analysis of ongoing highway safety programs in relation to accepted standards and practices.

Any safety construction improvements which are to be used to correct an impact problem in a Program Module (Part V) should be shown in the Problem Solution Plan (pg II-7). These activities also should be included in the Overall Statewide Problem Analysis and the Overall Statewide Goals.

c. *Overall Statewide Goals (Part III).* This part should address the State's overall HSP goals and objectives for the current year and planning years as documented in the Program Modules (Part V). The overall Statewide goals should represent the cumulative attainment of Program Module goals established for identified impact and systems support problem areas.

Impact Module goal statements should be expressed in terms of predicted change in accidents, fatalities and/or injuries, over time. Systems Support Module goals should be measurable and quantifiable and address levels of long range achievement of activities planned to correct identified deficiencies. The attainment of individual Program Module goals is dependent upon the cumulative achievement of the objectives established for each related Problem Solution Plan (PSP).

The provision for overall Statewide program evaluation, as required in Chapter IV, should be included under this part, insofar as it may be related to attainment of impact and systems support goals. This evaluation overview should describe the methodology and criteria to be used for modules selected for effectiveness evaluation and the administrative evaluation of all program modules.

d. *Program Structure (Part IV) (Optional).* A program structure provides a management framework for assembling the highway safety program activities into logical, manageable groups for State and local implementation. As such, it illustrates interrelationships among highway safety activities and identifies requirements for interagency coordination and organizational responsibilities.

Each State should develop its Program Structure concept and format in accordance with its individual program planning requirements. Program structure formats can be represented by flow diagrams or networks for the following purposes: To tie the human, vehicle and environmental highway factors to related program areas, problem areas and/or countermeasure areas; To subdivide program areas into countermeasures or task activities related to identified problems.

Regardless of format, the value of a Program Structure is its ability to graphically illustrate the total scope of the highway safety programs in terms of the full range of activities which may be implemented depending upon allocated resources and priorities established through problem identification.

e. *Program Modules (Part V).* This part is the foundation of the Highway Safety Plan. It provides the framework for defining, scheduling and estimating the cost of program activities required to solve problems identified from analyses of accident data and existing traffic safety systems. A complete Program Module consists of a Problem Statement, a Problem Solution Narrative (including a Program Module Cost Summary), an Evaluation Plan, Problem Solution Plan(s) (PSPs) and PSP Task Narratives; these components are described in detail in this Chapter and appropriate Appendices.

Each State is urged to submit its HSP with all Program Modules complete. If a State is unable to do so, it is acceptable to present incomplete Program Modules. An incomplete Program Module must contain a

Problem Statement and Problem Solution Narrative which includes proposed PSP objectives and estimated costs. These elements should adequately describe the problem and the general strategy to be used by the State to solve the problem. Upon submission of all PSPs necessary to complete a Program Module, an evaluation Plan for that Module should be addressed.

Although the emphasis of this part is on problem solution, there are program areas that require State action though they may not be identified as problems. These areas—Planning and Administration (Management), legislatively mandated programs (e.g., School Bus Driver Training 23 U.S.C. 406) and administratively mandated programs will require the submission of a Special Program Module for each area which will contain a description of current program status and activities planned to meet operational objectives, together with a PSP(s) and task narrative(s).

The magnitude and area of identified problems will vary, and a number of countermeasures might be applicable in solving a given problem area, each requiring different objectives, tasks and timeframes for implementation.

Program Modules may consist of the following types of activities: (1) Program Modules with Problem Solution Plans involving only NHTSA activities; (2) Program Modules with separate Problem Solution Plans involving FHWA and NHTSA activities; and (3) Program Modules with Problem Solution Plans involving only FHWA activities.

A complete Program Module shall consist of the following five components:

(1) *A Problem Statement.* Contains a description of the problem area and related analyses.

(a) The description should indicate the magnitude of the problem area, its relation to other problems identified in the overall Statewide Problem Analysis, and whether it involves impact and/or systems support problems.

(b) Impact Problem statements should be supported with quantitative information, abstracted from the detailed data analyses, which rationalizes the identification of the problem area and substantiates the selection of countermeasures proposed.

(2) *A Problem Solution Narrative* outlines the countermeasures to be undertaken to meet anticipated Program Module goals, as well as any incremental timetable for meeting the goals over the period covered by the HSP. Impact problem goals are stated in terms of predicted change in accidents, fatalities and/or injuries. Systems support problem goals are stated in terms of the achievement of activities planned to correct identified deficiencies. Each PSP objective should be discussed as it relates to the overall Program Module goal(s). Those programs implemented entirely with State or local funds, and not used for matching, which relate to the problem area addressed by a Program Module, should be described in the Problem Solution Narrative.

Those programs in which 23 U.S.C. 402 funds will not participate, but the costs of which will be credited toward the State's matching share, shall be identified in the Problem Solution Narrative of an appropriate Program Module and be included in a related PSP, regardless of whether or not they contribute to the solution of a problem.

Estimated costs of each PSP should be shown on a Program Module Cost Summary Form. The concepts of Zero Base Budgeting should be applied to justify the resource requirements for all planned activities. To estimate the base level of Federal funds available for the programming year, the State should use the previous year's obligation limitation, plus 10 percent, plus any carryover funds. To estimate the base level of Federal funds available for the planning years, 10 percent should be cumulatively added to the estimated Federal funds available for each planning year.

(3) *An Evaluation Plan* explains how the evaluation will be conducted and identifies the criteria to be used in measuring objectives as they relate to Program Module goals. Administrative (performance) evaluation in accordance with Chapter IV, Paragraph 5, will be made for all Program Modules to determine how efficiently or productively task activities have been carried out in relation to predetermined qualitative and/or quantitative performance criteria. All impact Program Modules should be subjected to some degree of effectiveness (impact) evaluation within the limits of a State's capability.

Chapter IV defines the types of evaluation applicable to a HSP.

(4) *A Problem Solution Plan (PSP)* specifies problem solution objectives, lists the tasks to be implemented within an established time frame and specifies funding resources to be allocated.

Since a PSP should be developed for each major countermeasure to be implemented in a Program Module, it may be necessary to prepare several PSPs with different objectives, tasks and time frames to achieve the goal(s) of a Program Module.

Separate Problem Solution Plans shall be prepared for FHWA and NHTSA activities.

(5) *A PSP Task Narrative* describes the activities to be carried out under each planned task and explains how the task relates to the PSP objective(s).

Where applicable, tasks should be expressed in terms of quantifiable items of activity with milestones for implementation. Target populations to be serviced by each task item should be identified, and performance indicators expressed in terms of a predicted numerical and/or percentage change from a given pre-task baseline.

f. Research/Demonstration Requirements for Problem Solution (Part VI) (Optional). The FHWA and the NHTSA each administer a comprehensive centralized program of research, demonstration, and manpower development with Federal funds under 23 U.S.C. 403 in support of the State and local highway safety programs authorized by 23 U.S.C. 402.

Demonstration projects are developed on the basis of need, likelihood of effectiveness, and the results of prior research and investigation. These projects are awarded on a contract basis with the Federal costs borne by Section 403 funds; supplemental funding by State, local, or Section 402 funds is dependent on individual project circumstances.

The States and local governments are invited to identify research needs and suggest topics for investigation.

CHAPTER III—SUBMISSION AND APPROVAL

1. *Purpose.* This Chapter provides guidelines and procedures for the submission and approval of a State's Highway Safety Plan (HSP).

2. *Submission.* In accordance with Office of Management and Budget (OMB) Circular No. A-95, Part III, the Governor or his delegated agency shall be given the opportunity to review the HSP and to comment on its relationship to comprehensive and other State plans and programs.

The HSP shall be submitted no later than August 1 of each year. Incomplete Program Modules submitted in accordance with Chapter II, 3.e. must be completed and submitted by February 1 of the following year. The Governor or his designated representative shall furnish three copies of the State's HSP to the NHTSA Regional Administrator and two copies to the FHWA Division Administrator.

3. *Environmental impact review.* In accordance with Joint Order FHWA 7550.1/NHTSA 560-2, dated June 30, 1974, the FHWA Division Administrator and the NHTSA Regional Administrator, in consultation with the Governor's Representative shall review that portion of the HSP for which they are responsible to determine potential impact on the environment.

4. *Approval of the Highway Safety Plan.*—a. *Program Approval.* (1) By September 1, unless extended by mutual agreement, written notice of approval of the HSP, in whole or in part, shall be signed jointly by the FHWA Division Administrator and the NHTSA Regional Administrator and issued to the Governor, together with a statement of conditions, if any, on which approval is granted.

(2) Authorization to proceed may be given at the same time as written notice of program approval under the circumstances outlined in subparagraph b of this paragraph. If authorization to proceed is not given at the time of program approval, the written notice to the Governor shall contain the following clause:

Program approval only shall not constitute any commitment of Federal funds nor shall it be construed as creating, in any manner, an obligation on the part of the Federal Government to provide Federal funds to the State's HSP.

(3) In the event that it is necessary to disapprove the HSP, in whole or in part, the FHWA Division Administrator and the NHTSA Regional Administrator shall transmit a jointly signed letter to the Governor's Representative setting forth the reasons for disapproval and the specific corrective action recommended. A copy of the letter shall be sent to the Associate Administrator for Traffic Safety Programs, NHTSA and the Associate Administrator for Safety, FHWA. The Governor's Representative may resubmit the HSP after taking appropriate corrective action.

b. *Authorization to Proceed.* (1) Authorization to proceed with implementation of approved Problem Solution Plans (PSPs) in the HSP shall constitute an obligation of Federal funds for the part of the HSP for which such authorization is given. Program Modules should be complete at the time the HSP is submitted for program approval. However, it is within the discretion of NHTSA and FHWA to grant authorization to proceed with implementation of individual PSPs within an incomplete Program Module.

(2) Federal funds obligated for the HSP shall be subject to availability of Federal obligational authority and any other limitations as may be prescribed by statute, administrative action, or conditions of approval. In all cases Federal reimbursement shall be limited to the Federal pro rata share of costs incurred after the date of authorization to proceed.

(3) If the information submitted by the State permits, and if the State has made provision for the State's pro rata share of the cost of the program, authorization to proceed may be given at the same time as written notice of program approval.

(4) The FHWA Division Administrator and the NHTSA Regional Administrator shall each, unilaterally, give authorization to proceed with implementation of PSPs falling within their respective areas of responsibility by written notice to the Governor's Representative, together with a statement of conditions, if any, controlling the PSP's implementation.

(5) Standard Form 424, Report of Federal Action, will be submitted by the NHTSA Regional Administrator to the State Central Information Reception Agency (SCIRA) in accordance with Treasury Circular 1082, and as prescribed in NHTSA Order 463-1, dated March 21, 1977, Subject: Grant-In-Aid Information.

c. *Federal-Aid Agreement.* (1) The Federal-Aid Agreement, HS Form 62, Appendix H, Exhibit I, shall be executed by the State following approval, in whole or in part, of the current year's portion of the HSP by NHTSA or FHWA. Duly authorized NHTSA or FHWA officials shall sign the Agreement subsequent to signature by the State. The Agreement shall indicate the conditions, if any, upon which authorization to proceed is given. Compliance with these conditions by the State may be acknowledged by the Administration which imposed the conditions, thus making it unnecessary to amend the Agreement for this purpose.

(2) The Federal Funds column on the Agreement under the section entitled, "Obligated Program," shall include those amounts to be funded from the current and prior years' obligational limitation. Those funds carried over from prior years should be shown separately on the Agreement.

(3) The estimated total cost of the program shall include all PSPs.

(4) If State, local or Federal funds for any portion of a HSP are not available for obligation at the time the Agreement is executed, such funds should be retained in the "Approved Program" section.

d. *Agreement Modification.* The Modification of Federal-Aid Agreement, HS Form 62A, is to be used to amend the HSP Agreement each time the State is authorized to proceed with any additional part of the HSP. Such modification will be needed to increase or decrease the amount of Federal funds obligated, to decrease the amount of State and/or local funds obligated or to transfer funds from the approved program section to the "Obligated Program" section. The form is also to be used at the final voucher stage to provide additional Federal funds to cover approved PSP revisions and minor PSP changes made in accordance with the provisions set forth in Par. 5.c.(3) below.

5. *Revision of the HSP.*—a. *Program Modules.* After the HSP is initially approved, a State may revise its HSP by submitting any new Program Module(s) for approval.

b. *Problem Solution Plans.* The State shall revise the current year's portion of its HSP by submitting a revised PSP and, as needed, the related PSP narrative for approval when:

(1) Additional Federal funds become available to fund work not provided within an approved program.

(2) The NHTSA or FHWA approval expresses a condition requiring a change.

(3)[1] The cumulative amount of transfers among direct and indirect cost categories within a PSP or among PSPs exceeds or is expected to exceed:

Five percent or $10,000, whichever is greater, for PSP budgets in excess of $100,000; or

Five percent for PSP budgets of less than $100,000.

(4) The scope or objective of an approved PSP change.

c. *Procedures for revision.* (1) Copies of each revised PSP required by paragraph 5.b. will be submitted as follows:

Three copies to NHTSA Regional Administrator.

Two copies to FHWA Division Administrator.

(2) When a revision of a PSP increases or decreases the amount obligated by either Administration or decreases the amount obligated by the State on the Agreement, the Agreement shall be modified in accordance with Par. 4.d. to reflect the new amounts obligated. No revision shall be made pursuant to this subparagraph without prior approval by FHWA or NHTSA.

(3) When changes in the nature or scope of a PSP do not come within paragraph 5.b., a list of such changes will be submitted at the end of each fiscal year by memorandum to the NHTSA Regional Administrator and FHWA Division Administrator.

6. *Annual updating of the HSP.* Since the HSP provides for advance program planning over a 3 to 5 year period, each successive annual program submitted may represent, in large part, a continuation of Problem Solution Plans implemented in the prior fiscal year. Those PSPs to be continued, in accordance with the Plan, without change from the prior fiscal year, will show only the funding by task for the current program year, with any appropriate changes in the PSP Task Narrative.

Each subsequent annual submittal of the HSP should reflect only those substantive changes in activities and costs resulting from the identification of new problems, the setting of new goals and the development of new Program Modules and Problem Solution Plans.

7. *Matching of Federal Funds.* a. The Federal share of funds payable under the Act as prescribed in 23 U.S.C. 120 and 23 U.S.C. 402(d) shall be computed on the basis of the total costs reported on the Federal-Aid Agreement, HS Form 62, (Exhibit 1, Appendix H).

b. The Federal share shall not exceed 70 percent (or the applicable sliding scale rate) of the total costs of the HSP as authorized by 23 U.S.C. 120(a) and 23 U.S.C. 402(d).

8. *Reimbursement of Federal share.* a. Joint Order 460-4/7510.1 and FMC 74-4 apply to State claims for Federal participation and reimbursement. In addition, specific funding criteria are contained in the Highway Safety Program manuals and/or Supplements, except to the extent restricted or prohibited by 23 U.S.C. 116 and the Agreement with respect to maintenance, and 23 U.S.C. 402b(1)(a) and implementing directives with respect to administrative overhead of the State Agency responsible for administering the State's highway safety program.

b. State claims for reimbursement of the Federal share of the cost incurred under the Agreement shall be submitted on vouchers in accordance with other directives. OMB Circular A-102, Attachment L, provides that States will submit all financial and performance reports within 90 days after the completion date of each PSP. The NHTSA Regional Administrator or the FHWA Division Administrator may grant extensions when requested by the States.

[1] OMB Circular A-102, Attachment K, August 24, 1977.

CHAPTER IV—EVALUATION

1. *Purpose.* This Chapter defines the types of evaluation and provides requirements for evaluation planning. This Chapter does not describe evaluation methods or techniques.

2. *Scope.* This Chapter relates only to the State and Community Highway Safety Program, 23 U.S.C. 402.

3. *General.* Evaluation assists management in measuring countermeasure effectiveness and program performance efficiency and serves as an input to other management functions, such as planning, program redirection, countermeasure selection and the assignment of resources.

Requirements for periodic evaluations are included in each Program Standard.

The number of evaluation requirements as well as the complexity of performing program and project evaluation requires careful and comprehensive evaluation planning.

The "how-to" evaluate highway safety activities is described in the manual entitled The Evaluation of Highway Traffic Safety Programs—A Manual for Managers (Report No. DOT-HS-4-00883-7), dated July 31, 1975. NCHRP Report 162, entitled Methods for Evaluating Highway Safety Improvements, TRB 1975, provides an additional reference for evaluation.

4. *Types of evaluation.* For the purposes of this Chapter, two types of evaluation are identified, Administrative (Performance) Evaluation and Effectiveness (Impact) Evaluation as defined in Appendix A, Glossary of Terms.

5. *Policy.* To be approved, a State's HSP shall contain an overall Statewide evaluation plan, to be included within the discussion under Part III, Overall Statewide Goals.

Administrative (Performance) Evaluation is required for all Program Modules. This administrative evaluation should focus on the contribution of each task to its associated PSP objective. Provision for such administrative evaluations must be made either in the PSPs or in the State's grant agreements with State/local agencies.

Although all impact Program Modules should be subjected to some degree of effectiveness (impact) evaluation, as a minimum the State should perform an in-depth effectiveness evaluation of one (1) selected impact Program Module. The evaluation plan(s) to be used and the criteria for measuring effectiveness will be defined in the Program Module(s).

CHAPTER V.—REPORTING PROCEDURES

1. *Purpose.* The purpose of this Chapter is to define the reporting requirements of the Highway Safety Plan.

2. *HSP reporting requirements.* Each State shall submit the following reports to the NHTSA Regional Administrator (three copies) and the FHWA Division Administrator (two copies):

a. *Semi-Annual Report of HSP Progress.* The Semi-Annual Report, due June 1, of each year, should address any specific problems associated with implementing the HSP, individual Program Modules and/or

PSPs. It should include a discussion of any variances between planned and actual accomplishments and costs, for the first 6 months of the fiscal year and shall include the Title VI reporting requirements contained in paragraph 4.

b. *Annual HSP Report.* This report, due December 1 of each year, will provide a narrative of HSP activities for the preceding fiscal year. It will provide the States with the mechanism for reporting all accomplishments and the degree of attainment of goals and objectives. The overall status of individual Problem Solution Plans, in terms of actual task accomplishments shall be documented on the Problem Solution Plan Annual Report for Administrative Evaluation (Appendix I). This is the administrative evaluation reporting requirement of the Traffic Safety Programs/Management Information System (TSP/MIS). The results of any effectiveness evaluation(s) and overall Statewide evaluations completed during the report period should be included with the Annual Report, along with the Title VI reporting requirements contained in paragraph 4.

3. *Traffic Safety Programs—Management Information System Data Reporting.* Detailed information on Standards Implementation, Program Information and Statewide Statistics will be submitted on a computer turnaround document (OMB No. 04-R-5638). These documents may be submitted at the same time as the HSP submittal, but not later than the following January 1.

4. *Title VI reporting.* The Semi-Annual Report on HSP Progress, and the Annual HSP Report shall include a specific statement on the status of all affirmative action items by Program Module, as well as an overall status report reflecting any change during the Fiscal Year in the State's Title VI compliance posture as stated in the approved HSP submission.

5. *Minority Business Enterprise Reporting.* To assess the minority business enterprise (MBE) activity occurring within the State and Community Highway Safety Program in accordance with Executive Order 11625, October 13, 1971, DOT Order 4000.7, March 26, 1975, and NHTSA Order 420-1, May 12, 1972, the States shall submit semi-annual reports to the NHTSA Office of Civil Rights (NOA-20) through the Regional Offices. The mid-year report should be submitted to the OCR by the end of April and the cumulative annual report by the end of October. Negative reports are required. The reports shall include the following data for all minority business enterprise and non-white colleges: Name and Address of Contractor/sub Grantee; Date of Contract/Grant; Dollar Amount of Contract/Grant; Purpose of Contract/Grant; Race of Contractor/sub Grantee*

APPENDIX A.—GLOSSARY OF TERMS

Administrative (Performance) Evaluation—Administrative evaluation is concerned with measuring the operational efficiency of task activities as they relate to the accomplishment of established goals and objectives. In measuring actual task activities, it compares them to: (a) the baseline or pre-task levels of the same activities; (b) the targeted levels of activity established for the task; and (c) the planned use of funds.

*To be coded as: 1—Black, 2—Spanish Surname, 3—American Indian, 4—Oriental, 5—Aleut and Eskimo, 7—Other.

Apportionment—A term which refers to a legislatively described division of Federal funds among the States based on prescribed formulas.

Appropriation—An Act of Congress which makes funds available for expenditure with specific limitations as to amount, purpose, and duration. Usually, it permits money previously authorized and apportioned to be obligated and payments made. For the highway construction program operating under contract authority, appropriations specify amounts of funds which Congress will make available to liquidate prior obligations.

Authorization—Basic substantive legislation which empowers an agency to implement a particular program and which usually established an upper limit on the amount of funds which can be appropriated for that program.

Countermeasure—A specific activity, or related activities, designed to contribute to the solution of an identified problem.

Effectiveness (Impact) Evaluation—A determination of the extent to which task operations and activity have contributed to the achievement of an objective related to crash involvement. Three aspects of an impact evaluation are:

1. Determination of the change in crash involvement.
2. Determination of the relationship of task activities to achieving this change.
3. Determination of the relationship of costs to benefits derived from the task activities and accomplishments.

Goal—A long term achievement target which may state incrementally the principal changes or outcomes planned. It relates to, and expresses in clearly quantified, time-framed and measurable terms one or more of the purposes of a Program Module. The goal of an Impact Module is expressed in terms of predicted change in accidents, fatalities and/or injuries, over time. Systems Support Module goals relate to the achievement of activities planned to correct identified deficiencies.

Highway Safety Plan—This Plan (formerly Comprehensive Plan and Annual Work Program) is the Governor's combined multi-year legislative, organizational, operational, and financial plan, in accordance with uniform standards promulgated by the Secretary, submitted by the State and approved by the Secretary under 23 U.S.C. 402, designed to reduce traffic accidents and deaths, injuries and property damage.

Impact Problem—Highway safety problems that can be related to accidents/fatalities/injury change through the application of countermeasures.

Milestone—A major identifiable and recognizable event in a program which can be measured in time. Milestones are essential characteristics of any scheduled activity which denote advancement toward the goals and objectives.

Objective—A shorter term safety target than a goal, expressing in clearly quantified, time-framed and measurable terms the planned levels of program performance to be achieved. The objective thus supports a goal and relates to a problem solution.

Obligations—Commitments made by Federal agencies to pay out money, as distinct from the actual payments or disbursement of funds for repayment of obligations incurred. Generally, obligations are incurred after the enactment of budget authority by the Congress.

Performance Indicator—A quantifiable measure of the planned results of activity inputs (i.e., training, equipment, manpower, and facilities) expressed in terms of change in level of activity. They provide the base for determining the degree of achievement of established objectives.

Problem Area—A grouping of impact or systems support problems possessing common contributory characteristics.

Problem Identification—A process of analyzing: (1) Traffic records and other informational resources to isolate impact problems; and (2) the existing traffic safety system to isolate systems support problems.

Problem Solution Plan—As the basic highway safety programming unit, it specifies the objective(s) which relates to the Program Module goal, the specific tasks to be undertaken and the estimated costs to be incurred.

Program Module—A planning/programming unit describing an identified problem area, proposed solutions and the details for implementation of corrective action.

Systems Support Problem—A deficiency in a vital traffic safety program function, the correction of which may not be directly related to a change in accidents, fatalities and/or injuries.

Task—An activity or activities representing a readily identifiable basic unit of work identified with only one standard area and capable of being scheduled and costed.

APPENDIX B.—STATE OF ————

CERTIFICATE OF COMPLIANCE WITH REQUIREMENTS OF 23 U.S.C. 402(b)(1)

I hereby certify that:

(a) The Governor is responsible for the administration of the State's highway safety program through the ———— (Name of Stage Agency) in accordance with ———— (Statute, Executive Order, Directive) dated ————.

(b) The political subdivisions of the State are authorized by ———— (Statute, Executive Order, Directive) dated ————, to carry out local highway safety programs within their jurisdictions as a part of the State highway safety program if such local highway safety programs are approved by the Governor and are in accordance with the uniform standards promulgated by the Secretary of Transportation under 23 U.S.C. 402.

(c) At least 40 per centum of all Federal funds apportioned to the State under 23 U.S.C. 402 for any fiscal year will be expended by the political subdivisions of the State in carrying out local highway safety programs authorized in accordance with 23 U.S.C. 402(b)(1)(B), except to the extent that this requirement has been waived by the Secretary of Transportation in accordance with 23 U.S.C. 402(b)(2).

(d) The aggregate expenditure of funds of the State and its political subdivisions, exclusive of Federal funds, for highway safety programs will be maintained at a level which does not fall below the average level of such expenditures for Fiscal Years 1965 and 1966.

(e) The State's highway safety program provides for a comprehensive driver training program which includes the elements specified in 23 U.S.C. 402(b)(1)(E).

(f) The State's highway safety program provides adequate and reasonable access for the safe and convenient movement of physically handicapped persons, including those in wheelchairs, across curbs constructed or replaced after July 1, 1976, at all pedestrian crosswalks throughout the State.

————

(Official Authorized by the Governor)

————

(Title)

————

(Date)

[FR Doc. 78-5563 Filed 3-3-78; 8:45 am]

[1505-01]

Title 49—Transportation

CHAPTER I—MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

[Docket No. HM-139; Amdt. Nos. 172-40, 173-114, 174-29, 176-4, 179-22]

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

Conversion of Individual Exemptions to Regulations of General Applicability

Correction

In FR Doc. 78-5410, appearing at page 8519 in the issue of Thursday, March 2, 1978, the fourteenth line of the paragraph designated "8." in column three on page 8521 should read, "Dichlorodifluoromethane-trichlorotrifluoroethane mixture, Difluoroethane,"

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[4910-59]

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Air Brake Reservoir Integrity—Withdrawal of Interpretation

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Withdrawal of interpretation.

SUMMARY: This notice announces the withdrawal of the NHTSA's December 27, 1977 (42 FR 64630), clarification of the requirement in Standard No. 121, Air Brake Systems (49 CFR 571.121), that reservoirs "withstand" specified pressure. Inadvertently, the clarification had the effect of increasing the severity of the requirement by not allowing any temporary significant pressure drops during hydrostatic pressurization of the reservoir. For this reason, the agency will continue to adhere to the existing interpretation of "withstand" that there be no rupture or permanent circumferential deformation of the reservoir exceeding one percent. Further notice will precede any modification of this interpretation.

DATES: The withdrawal of the clarification is effective immediately.

FOR FURTHER INFORMATION CONTACT:

Mr. Duane Perrin, Office of Vehicle Safety Programs, National Highway Traffic Safety Administration, Washington, D.C. 20590, 202-426-2153.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50.)

Issued on: February 23, 1978.

JOAN CLAYBROOK,
Administrator.

[FR Doc. 78-5598 Filed 3-3-78; 8:45 am]

[4910-59]

[Docket No. 73-3; Notice 12]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

School Bus Passenger Seating and Crash Protection

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Final rule.

SUMMARY: This notice amends Standard No. 222, School Bus Passenger Seating and Crash Protection, increasing the allowable rearward deflection of seats from 8 to 10 inches. The action is taken in response to petitions that indicated the current rearward deflection requirement is unnecessarily restrictive in that it would require costly retooling of school bus seats with no measurable safety advantage over a somewhat greater deflection distance that would not entail significant retooling. Additionally, a minor modification of the standard is made clarifying the meaning of "absorbed energy" consistent with an agency interpretation of that term.

EFFECTIVE DATE: April 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Timothy Hoyt, Crashworthiness Division, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 202-426-2264.

SUPPLEMENTARY INFORMATION: On November 10, 1977, the NHTSA published a notice proposing to amend the rearward deflection requirement of Standard No. 222, School Bus Passenger Seating and Crash Protection. The impetus for that proposal came from several petitions from school bus manufacturers claiming that the rearward deflection requirement was unnecessarily restrictive since it would require significant retooling of school bus seats which would not be measurably superior, in terms of safety, to seats designed to meet a slightly greater deflection distance. They stated that seats produced in compliance with a somewhat greater rearward deflection requirement, as opposed to the currently specified 8-inch requirement, would not require retooling. The NHTSA agreed with the petitioners and, accordingly, proposed to increase the allowable rearward deflection of seats from 8 to 10 inches. By the same notice, the NHTSA proposed a minor modification of the standard clarifying the agency's meaning of absorbed energy.

Only one comment was received in response to that notice of proposed rulemaking. The Vehicle Equipment Safety Commission did not submit comments.

The only commenter, Blue Bird Body Company, took issue with the agency's proposed method for limiting rearward seat deflection. It asserted that the requirement expressed in S5.1.4(c) of the standard should be the only limitation on rearward seat deflection. That section provides that a seat shall not, when tested, come within 4 inches of any portion of another passenger seat.

Blue Bird's comment is not persuasive. The requirement of S5.1.4(c) addresses an entirely separate safety concern than the requirement of S5.1.4(b). Section S5.1.4(b) limits the rearward deflection of a seat, by this notice, to a maximum of 10 inches. That requirement functions as part of the compartmentalization scheme of Standard 222. Limiting the degree of seat back deflection helps to contain a child within the seat structures in the event of an accident. This requirement should be distinguished from that contained in S5.1.4(c), which is intended to ensure that a minimum amount of space remains between seats following an accident so that a child does not become trapped. Since both requirements are necessary to maintain the safety level considered necessary for school buses, Blue Bird's request is denied.

Blue Bird stated in its comments a preference for specifiying maximum rearward seat deflection in terms of inches rather than angle. This comment suggests that Blue Bird misinterpreted the statements in the notice of proposed rulemaking as indicating that the NHTSA was contemplating an amendment that would limit the

angle of seat deflection. The reference in the notice to a 40° seat angle was made only to justify the proposed 10-inch maximum seat deflection. A 40° seat angle roughly translates to 10 inches of rearward seat deflection. There was no intention to suggest that an angle limitation was under consideration. In fact, the preamble stated that the NHTSA had abandoned, in earlier rulemaking, attempts to adopt an angular measurement owing to the difficulty of making such a measurement.

The agency concludes that the extension of the allowable rearward deflection of seats from 8 to 10 inches assures passenger safety while minimizing the cost impact of compliance with the school bus regulations. Since this amendment relieves a restriction, it should result in no increase in costs.

In consideration of the foregoing, part 571, of title 49, Code of Federal Regulations, is amended to read:

1. Paragraph S5.1.3.4 of 49 CFR § 571.222 is amended to read:

S5.1.3.4 Apply additional force horizontally in the forward direction through the upper bar until 4,000W inch-pounds of energy have been absorbed in deflecting the seat back (or restraining barrier). Apply the additional load in not less than 5 seconds nor more than 30 seconds. Maintain the pivot attachment point in the maximum forward travel position for not less than 5 seconds nor more than 10 seconds and release the load in not less than 5 nor more than 30 seconds. (For the determination of S5.1.3.4 the force/deflection curve describes only the force applied through the upper loading bar, and the forward and rearward travel distance of the upper loading bar pivot attachment point measured from the position at which the initial application of 10 pounds of force is attained.)

2. Paragraph S5.1.4(b) of 49 CFR § 571.222 is amended by substituting "10 inches" for "8 inches".

3. Paragraph S5.1.4.2 of 49 CFR § 571.222 is amended to read:

S5.1.4.2 Apply additional force horizontally rearward through the loading bar until 2,800W inch-pounds of energy have been absorbed in deflecting the seat back. Apply the additional load in not less than 5 seconds nor more than 30 seconds. Maintain the pivot attachment point in the maximum rearward travel position for not less than 5 seconds nor more than 10 seconds and release the load in not less than 5 seconds nor more than 30 seconds. (For determination of S5.1.4.2 the force/deflection curve describes the force applied through the loading bar and the rearward and forward travel distance of the loading bar pivot attachment point measured from the position at which the initial application of 50 pounds of force is attained.)

The principal authors of this proposal are Timothy Hoyt of the Crashworthiness Division and Roger Tilton of the Office of Chief Counsel.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); Sec. 203, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1392); delegation of authority at 49 CFR 1.50.)

Issued on March 1, 1978.

JOAN CLAYBROOK,
Administrator.

[FR Doc. 78-5901 Filed 3-3-78; 8:45 am]

[7035-01]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER B—PRACTICE AND PROCEDURE

PART 1127—STANDARDS FOR DETERMINING COMMUTER RAIL SERVICE CONTINUATION SUBSIDIES AND EMERGENCY OPERATING PAYMENTS

Petition for Mediation and/or Rulemaking Denied and Publication of Interpretation

AGENCY: Rail Services Planning Office, Interstate Commerce Commission.

ACTION: Petition for mediation and/or rulemaking denied and publication of interpretation.

SUMMARY: RSPO reaffirms that Congress did not intend to limit the obligation of commuter authorities to reimburse the railroad only for the strictly avoidable cost of providing commuter service. Rather RSPO concluded that Congress intended significant users to share equitably in the cost of common services and facilities, including their entire share of long-term variable costs.

FOR FURTHER INFORMATION CONTACT:

David S. Rind, Cost Evaluation Branch, Rail Services Planning Office, Interstate Commerce Commission, 1900 L Street NW., Washington, D.C. 20036, area code 202-254-7552.

SUPPLEMENTAL INFORMATION: There is presently pending before the Office a Petition for Mediation and/or Revision of the RSPO standards tendered October 26, 1977 by Southeastern Pennsylvania Transportation Authority (SEPTA), and a Request for Interpretation of RSPO Commuter Standards tendered November 28, 1977 by the State of New Jersey. Consolidated Rail Corporation (ConRail) responded to SEPTA's Petition on November 23, 1977 and to New Jersey's Request on December 28, 1977. SEPTA filed a Reply December 19, 1977.

RSPO Staff conferred informally with SEPTA and its consultant, R. L. Banks & Associates, Inc., on November 18, 1977. (ConRail declined to participate in this session.) The Office also met with representatives of SEPTA, New Jersey and ConRail on January 6, 1978. SEPTA's Petition and New Jersey's Request were consolidated for disposition because they raise a common question of law concerning the methodology for apportioning common costs among freight, intercity, and commuter users. (49 CFR Part 1127.) In brief, SEPTA asserts that the RSPO standards obligate it to pay more than the avoidable cost of providing passenger service, contrary to Congressional intent. In support of its position, SEPTA relies upon a Banks Report, dated September 15, 1977, which estimates the amount of SEPTA's purported overpayment at $4.3 million. According to SEPTA, the Banks Report concludes that the common costing methodology of the standards is the most important departure from avoidable cost principles, because it erroneously assumes that all common costs are 100 percent variable with one or another measure of use. SEPTA argues that avoidable costs should include all costs incurred solely for the commuter service, a share of the variable portion of common costs, and none of the constant portion of common costs.

New Jersey similarly asserts that the term common costs, as defined in § 1127.1 of the standards, should be interpreted to mean the variable, but not the fixed portion of common costs. In its Reply, SEPTA concurs fully with New Jersey, and suggests that the issuance of such an interpretation would be an appropriate response to SEPTA's Petition as well.

The Office has carefully considered the legal and factual recitals of the parties. It acknowledges that the issues raised are fundamental and warrant a detailed response. The Office concludes:

(1) Congress intended that significant users share equitably the cost of common services and facilities; and

(2) The commuter authorities are obligated to pay their entire share of common variable costs as viewed from a long-term perspective, but no significant portion of common fixed costs.

SEPTA's Petition for Mediation and/or Revision of RSPO's Standards

EXCLUSIVE REMEDIES

Whether Section 205(d)(5) or 205(d)(6) governs commuter rail continuation payments. Section 304(c)(2)(A) of the RRR Act provides in pertinent part that ConRail may not discontinue rail service if a financially responsible person offers to provide a "continuation payment" designed to cover net avoidable costs. Section 205(d)(6) of the RRR Act directs the Office to issue standards for determining "avoidable costs" as that phrase is used in Section 304.

Section 304(e)(4) further provides that ConRail shall continue to provide rail passenger service if a state or a local or regional transportation authority offers a "rail continuation payment, pursuant to subsection (c)(2)(A) of (this) section and under regulations issued by the Office pursuant to Section 205(d)(5)." Section 205(d)(5) directs the Office to issue "standards for the computation of subsidies for rail passenger service * * * which are consistent with the compensation principles described in the final system plan and which avoid cross-subsidization among commuter, intercity, and freight rail services."

SEPTA first asserts that Sections 304(c)(2)(A) and 205(d)(6) "are completely sufficient to require ConRail to continue commuter rail service * * * if costs are reimbursed on an avoidable cost basis." SEPTA argues that the Office, ConRail, and to some extent prospective subsidizers have proceeded on the apparently erroneous premise that the standards called for by Section 205(d)(5)(A) govern the calculation of payment required to continue commuter service notwithstanding the facts that:

(1) Section 304(c)(2)(A) does not refer to Section 205(d)(5), and Section 205(d)(5) does not refer to Section 304(c)(2)(A);

(2) The continuation payments required under Section 304(c)(2)(A) would be fully defined under Section 205(d)(6); and

(3) Section 205(d)(5) does not refer to any part of Section 304, and uses the term "subsidies for rail passenger service" rather than the term "rail service continuation payment" which is used consistently in Section 304.

SEPTA asserts that "because of the legislative structure ConRail is required to continue commuter service if it is reimbursed on an avoidable cost basis."

The Office agrees with SEPTA that in the absence of Section 304(e), Sections 304(c)(2)(A) and 205(d)(5) are arguably sufficient to compel the continuation of commuter rail service, if a financially responsible person were to offer to reimburse ConRail for its net avoidable costs. The fact remains, however, that Congress did not confine itself to the general "continuation of rail services" obligations set forth in subsection (c) of Section 304 of the RRR Act. Rather, in succeeding subsections, it spelled out in detail ConRail's obligations to continue "rail freight service" (Section 304(d)) and "rail passenger service" (Section 304(e)). Based on this legislative structure, it is patent that Congress did not intend subsection (c)(2)(A) to be read in a vacuum, but to the contrary expressly incorporated this subsection by reference in subsections (d) and (e) of Section 304. And while it may be that subsections (c) and (e) are arguably redundant in some respects, there is no indication on the face of the statute or in the legislative history that they were intended to provide for mutually exclusive remedies.

Nor does the Office perceive a material distinction between the terms "subsidies for rail passenger service" and "rail service continuation payment". Prior to the enactment of the commuter rail legislation, the Office issued freight standards which used the phrase "rail service continuation subsidy" when referring to "rail service continuation payments" under Section 304(c)(2)(A). See for example, the definition of a "person offering a subsidy" in 49 CFR 1125.2. Indeed the freight regulations are entitled "Standards for Determining Rail Service Continuation *Subsidies*" (emphasis supplied).

The Office would point out that assuming SEPTA could (and did) elect to proceed under subsection (c) rather than (e) of Section 304, it would not be eligible for emergency operating assistance. That is, Section 17(a)(2) of the Urban Mass Transportation Act of 1964 authorizes the Secretary of Transportation to reimburse "states, local public bodies, and agencies thereof for additional costs incurred by (them) with respect to rail passenger service required by Section 304(e)(4)" (emphasis supplied). Section 304(e)(4) in turn refers to offers to provide rail continuation payments made pursuant to "subsection (c)(2)(A) of (this) section *and* under regulations issued by the Office pursuant to Section 205(d)(5)" (emphasis supplied). Thus SEPTA cannot have it both ways: if it could (and were) to elect to proceed exclusively under Section 304(c)(2)(A), it would not be eligible for emergency assistance funding. If, however, it were to invoke the rail passenger service remedies spelled out in Section 304(e), it must adhere to the standards adopted pursuant to Section 205(d)(5).

In sum, the Office concludes that subsections (c) and (e) of Section 304 do not specify mutually exclusive remedies; that Congress intended to spell out in subsection (e) the manner in which rail passenger service should be continued; and that to insure the continuation of commuter service, a subsidy offer must conform with the standards issued under Section 205(d)(5).

THE PROPER STANDARD

Whether, assuming subsection 205(d)(5) applies, the proper standard is avoidable costs. SEPTA further asserts that assuming Section 205(d)(5) of the RRR Act applies, Congress did not intend to abandon the use of avoidable costs in determining rail service continuation payments under Sections 304 (c) and (e) by imposing the requirement that the cost methodology be consistent with the principles of the final system plan and avoid cross-subsidization. In support of this argument, SEPTA points out that the Congress long ago rejected the "fully distributed" costing methodology for determining continuation subsidies and chose instead "avoidable costs." SEPTA argues that based on its review of the legislative history, Congress has not strayed from this central theme and that the conclusion is inescapable that Congress viewed avoidable costing methodology as consistent with FSP principles and the absence of cross-subsidization.

The Office set forth its views regarding avoidable costs in its Further Notice of Proposed Rulemaking (41 FR at 20107-08), its Second Further Notice of Proposed Rulemaking (41 FR at 26396-97), and its Report and Order adopting the commuter standards (41 FR at 32548-49). The Office adheres to the views stated and the conclusions reached in those documents. Suffice it to say, while Congress undoubtedly rejected a "fully distributed" costing methodology as an exclusive method of allocating costs, it did intend that the Office issue avoidable cost standards which "will reflect the relative use of any line by the type of services being provided thereon and will also provide that the cost will be shared equitably by the users of any individual line." Furthermore, while affording the Office discretion as to whether "long-term" or "short-term" avoidable costs are the appropriate measure in any given situation, Congress clearly indicated that the long range costing principles reflected in the final system plan are "most appropriately used for determining the level of assistance required to continue (commuter) service." It was with these admonitions in mind that in developing the commuter standards the Office undertook to steer a reasonable course between short-term and long-term avoidable costs, and to base its formulae for apportioning common costs on a concept of equitable sharing among significant users (see 41 FR at 26936-37 and at 35249).

The Office believes that its resolution of the avoidable cost issue is consistent with legislative intent for the following reasons:

First, as observed in the Second Notice, the House and Senate versions of Section 205(d)(5) seemed to enounce different principles for determining commuter service continuation subsidies. The House version provided that the standards for computing commuter rail service subsidies must assure compensation to ConRail "at the level of avoidable costs of providing service, plus a reasonable management fee and an allowance for depreciation of equipment" (House Report No. 94-725, dated December 12, 1975, pp. 178-79). This formulation seemed to propose a short-range avoidable cost methodology plus allowances for a management fee and equipment depreciation. (In the regional freight rulemaking, the Office acknowledged that while depreciation is not an avoidable cost of abandoning service, it is an avoidable cost of providing service (40 FR at 1427). Moreover, prior to the enactment of the 4-R Act, the freight standards made no allowance for a management fee (41 FR at 12836). Hence, the House version of Section 205(d)(5) apparently tacked on these allowances to amplify the intent of the legislative proposal.)

In contrast, the Senate version of Section 205(d)(5) omitted reference to "avoidable costs" specifying instead that the commuter standards were to be consistent with the compensation principles described in the final system plan and avoid cross-subsidization (Senate Report No. 94-449, dated November 26, 1975, p. 303). The conference substitute adopted "guidelines RSPO must follow" as provided for in the Senate Bill (Conference Report No. 94-595, dated January 27, 1976, pp. 226-27).

Second, the Office is firmly convinced that its commuter subsidy standards are consistent with FSP compensation principles and do avoid cross-subsidization among freight, intercity, and commuter users. Thus, for reasons set forth in its Report, in the final commuter regulations the Office imposed strictly avoidable standards in computing certain costs associated with the value of the properties as well as the reasonable return (41 FR at 32549-51). Freight, intercity and commuter users are, however, directed to share equitably other cost of providing rail service based upon their relative use. In its Report, the Office recognized that neither the buyers nor the suppliers of commuter rail service would be completely satisfied with these results (41 FR at 32549). Nonetheless, Congress afforded the Office discretion to determine whether long-term or short-term avoidable costs are the appropriate measure in any given situation, and for the reasons outlined in its Report, the Office concluded that an equitable sharing of the costs of using rail facilities required the adoption of standards which veered toward a long range costing horizon (Ibid.).

This determination not only conforms with the Senate's instructions (Senate Report No. 94-449, p. 114), it mirrors the apparent intent of the House which (1) recognized that RSPO's strictly avoidable freight regulations have a short range costing horizon and do not "fully compensate the operator especially if the service is to be provided over a long period * * *"; (2) mandated that ConRail should not "cross subsidize" the

commuter operation which should "pay its own way"; and (3) expected that the commuter standards adopted by the Office "will be formulated in such a way so as to provide that costs will be shared equitably by the users of any individual line" (House Report No. 94-725, dated December 12, 1975, pp. 94-97).

FULLY-DISTRIBUTED COSTS

Whether RSPO standards impermissibly approach fully-distributed costs. SEPTA asserts that the Office, while expressly disavowing a fully-distributed costing methodology nonetheless has adopted standards which approach the full distribution of the variable and constant common costs of providing commuter service. SEPTA accedes that a shorter or longer term perspective will effect the variability of common costs. Nonetheless, SEPTA asserts that the Office has imposed certain common costs which are not avoidable under the RRR Act. Since Congress intended to refine but not abandon the avoidable cost methodology, SEPTA argues that the standards must be revised.

The Office adheres to its conclusion that the Congress simply did not intend for the commuter services to be governed by the same strict avoidability criteria adopted for the regional freight services operating under subsidy. The Office has no apology because its commuter apportionment formulae arguably approach fully-distributed costs in certain areas. Logically, all costs of providing commuter service are on a continuum: They range in the near term from out of pocket to strictly avoidable costs, the "constant" base for which, if continued indefinitely, must be cross-subsidized by some other source. They range over the long-term from the shared use concept, typified by the commuter standards, to a full distribution of common and fixed costs. Undoubtedly, had SEPTA been entrusted with the responsibility of developing the commuter standards, it would not have arrived at the same point on the costing continuum as did RSPO. The fact remains, however, that Congress delegated to the Office the discretion to develop a cost methodology suitable to the commuter services, and in its view, the RSPO standards conform with the FSP principle of the equitable sharing of common costs by significant intercity, commuter and freight users.

FSP PRINCIPLES

Whether RSPO standards are inconsistent with the compensation principles of the final system plan and require cross-subsidization of freight services by commuter service. SEPTA asserts that the policies set forth in the final system plan expressly refer to avoidable costs principles and that by failing to base its commuter standards on those principles, the Office did not comply with either Section 304 or Section 205(d)(5) of the RRR Act. SEPTA further asserts that RSPO's standards violate the prohibition against cross-subsidization. SEPTA concedes that there is no generally accepted meaning of this term in the fields of railroad accounting or economics. However, SEPTA argues that legislative history and FSP compensation principles yield a rather clear interpretation of the meaning of cross-subsidization; that is, as a freight operator, ConRail should not, by reason of its commuter operations, be placed in a worse position than if it did not operate commuter services. SEPTA says that clearly freight and commuter services were not to be treated as "equal partners" with each sharing the benefits of the others existence through the full distribution of fixed common costs. And SEPTA submits that by requiring commuter subsidizers to pay a portion of fixed common costs, the Office has sanctioned the kind of cross-subsidization prohibited by Section 205(5)(A).

The Office addressed this issue in its Second Further Notice of Proposed Rulemaking (41 FR at 26936-37) and perceives no reason to change its views. The Office agrees with SEPTA that the FSP policies expressly refer to the avoidability method of distributing common costs. The policies recommend that minority users of common facilities pay avoidable costs, while dominant and equal users of common facilities should share costs on an equitable basis. The commuter standards call for a parallel dichotomy: "significant" (dominant or equal) users share common costs equitably, while insignificant (minority) users are expected to pay their direct costs, plus a negotiated allowance for overhead (Ibid.). SEPTA does not assert that it is an insignificant user of the rail properties with which ConRail provides its commuter service. Nor does it come to grips with the shared cost concept plainly reflected in the FSP and the legislative history. Rather, SEPTA simply argues that the commuter service subsidizes freight service, if it pays anything more than strictly avoidable costs.

This approach was clearly rejected by the House in its consideration of the freight aspects of the rail service continuation subsidy legislation. Specifically, the House Committee gave extensive consideration to a number of bills which would have imposed a two year moratorium on abandonments and compensated ConRail with a 100 percent federal subsidy predicated on RSPO's freight regulations. The House Committee concluded that such provisions would have a debilitating effect on ConRail, stating:

"The [freight] subsidy regulations promulgated by the Rail Service Planning Office base the amount to be paid to the operator on the difference between revenue received and the avoidable costs attributed to the branch line. *This amount, however, does not fully compensate the operator especially if the service to be provided is over a long period since most costs can only be deferred for short periods. The Committee believes that it would be unfair to impose these costs on the carriers, especially ConRail.* In addition, the imposition of these costs would be contrary to the policy of eliminating cross-subsidization between services even though this would be freight to freight" (emphasis supplied) (House Report No. 94-725, dated December 12, 1975, p. 97).

In sum, based on our interpretation of the 4-R Act, the legislative history, and the FSP, the Office concludes that it would have been incorrect for it to have adopted strictly avoidable costing methodology for the commuter services.

BANKS REPORT

Whether the apportionment formulae would require SEPTA to pay about $4.3 million in excessive costs. As noted above, R. L. Banks & Associates was commissioned by SEPTA to conduct a comprehensive analysis of the RSPO standards to determine if the formulae for apportioning common costs require SEPTA to pay subsidies in excess of avoidable costs. In its Report, Banks concludes that the apportionment formulae represent a most important departure from avoidable cost principles; that of 24 apportionment standards which it analyzed, only three produce reasonable approximations of avoidable costs; that the remaining 21 standards share a common defect, that is, the reliance on fully allocated costing techniques; that these 21 standards assume that all common costs are 100 percent variable with use; and that as a result, the constant or fixed portions of common costs are improperly allocated to the commuter service. Banks estimates that SEPTA's overpayment will approximate about $4.3 million or on the order of 5.6 percent of total costs.

Banks arrived at this figure by applying the variability percentages contained in the ICC's 1974 "Rail Carload Cost Scales," Statement No. ICI-74 (Appendix F). These percentages undertake to gauge the variable cost of freight service for rate making purposes. The variability percentages were derived from a cross section analysis of freight expenses of all Class I linehaul railroads for 5 years (1966-70). The variability of these freight expenses are measured by various units of service, e.g., maintenance of running tracks by freight gross ton miles, freight car repairs by freight car-miles, train expenses (transportation) by freight train miles, and tax accruals by tons of revenue freight. The variable percentages range from 44 percent (transportation—other accounts) to 97 percent (transportation—train expenses). In its Report (Table A), Banks applied these variability percentages to comparable groups of passenger accounts. Banks states that the $4.3 million estimate is only a "ballpark" number and that the individual estimates are meant only to serve as indicators of the degree of overpayment.

The Office is not convinced that the apportionment formulae require SEPTA to pay excessive costs. Preliminarily, we would point out that five of the 21 standards which purportedly rely on fully allocated costing techniques (running tracks, water stations, fuel stations, locomotive repairs, and servicing train locomotives) were not evaluated for excessive costs because ConRail's initial subsidy estimate did not contain individual estimates for these groups of accounts. A second group of five standards (shop and engine houses, miscellaneous maintenance of equipment accounts, station employees, station supplies and expenses, and train supplies and expenses) were not evaluated for excessive costs because the amount of expense was insignificant, or the expense appeared reasonable, or because a detailed study would be required. Thus, in actuality Banks' estimate is based upon an evaluation of eleven rather than 21 standards.

The Banks Report is also marred because (1) it erroneously relies upon traditional avoidability criteria as the litmus for testing the validity of the apportionment formulae; (2) it assumes but does not demonstrate that there is a correlation between the variability of freight costs and comparable passenger costs; and (3) it fails to reckon with thirteen standards which disallow any apportionment of common costs. (Section 1127.5(e)(11-14); (f)(2), (5); (g); (h)(6), (7), (11); (i); (j); (l) and (m).)

INTERPRETATION No. 8

FEBRUARY 23, 1978.

WHETHER THE APPORTIONMENT FORMULAE WERE DESIGNED TO CAPTURE COMMON VARIABLE COSTS, BUT NO PORTION OF COMMON FIXED COSTS

In its request for interpretation, New Jersey relies upon four excerpts from the Office's rulemaking opinions to buttress its thesis that under the apportionment formulae, the commuter authorities are only supposed to share in those portions of common costs which vary with use. SEPTA concurs, relying upon a fifth excerpt that would deem the payment of certain fixed costs by the commuter service as resulting in cross-subsidization of other services.

In devising the standards, it was the Office's expectation that the accounts to be allocated by apportionment formulae would be comprised primarily of common costs which vary with use (41 FR at 26937). The Office recognized that such common costs would be difficult to measure. Therefore, it directed the railroad and the subsidizer to adopt and "to the maximum extent practicable" implement a comprehensive manpower utilization plan and a facilities utilization plan (49 CFR 1127.5(e)) in order to "remove, most, if not all of the problems of assigning common variable costs" (41 FR at 26937). Although the parties were allowed to agree to reasonable variations from the standards (49 CFR 1127.3(d)), the Office assumed that the manpower and facilities utilization plans would be an integral part of the costing process insofar as significant users were concerned.

In theory then, the standards were premised on the possibility that all costs could be distributed through the manpower and facilities utilization plans. The Office expected that in practice there would be a minimum of costs allocated under the apportionment formulae, ConRail is correct that the standards themselves do not distinguish between the variable and fixed portions of common costs (49 CFR 1127.1). The Office anticipated that the apportionment formulae would be applied without refinement to those cost categories involving relatively insubstantial sums and/or having a relatively high variability ratio. Conversely, the Office did expect that special studies would be used to separate fixed and variable common costs in those categories which have a relatively low variability ratio and involve substantial sums.

It now appears that the Office's expectations were unduly optimistic. SEPTA and ConRail have not implemented manpower and facilities utilization plans, but rather agreed to assign all common costs on the basis of the apportionment formulae. While New Jersey and ConRail have negotiated facilities and manpower utilization plans, these parties are at loggerheads on the issue of special studies with New Jersey proposing studies in numerous areas and ConRail resisting such studies across the board.

The Office observes that ConRail drafted preliminary manpower and facilities utilization plans, which are annexed to its agreement with SEPTA. The Office recommends that these parties undertake to negotiate final plans which will be used as the primary tools for assigning costs. As for special studies, the Office considers as patently unreasonable the apparent inclination of SEPTA and New Jersey to subject all common costs to indepth analyses. Rather, both commuter authorities should be circumspect in their requests for special studies. In that connection, the Banks' Report singles out five groups of standards which account for over 80 percent of the purported excessive costs. It may be that special studies in these areas would reduce to a minimum the possibility for overpayment.

In conclusion, the Office believes that the procedure in the regulations provide a fair method for resolving the differences of the parties. Long-term variable costs should be the standard for assigning costs when significant sums are involved; however, the Office recognizes that there are accounts where the effort to determine the variable portion may exceed the fixed costs involved. In those situations, the apportionment formulae should be used.

The Office will be available to mediate disputes concerning the nature and scope of any special studies. Furthermore, in the event of impasse, the dispute may be submitted to the Office for resolution and its decision will be final (see 49 CFR 1127.5(d)).

This is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

Issued February 23, 1978, by Alan M. Fitzwater, Director, Rail Services Planning Office.

By the Commission.

H. GORDON HOMME, Jr.
Acting Secretary.

[FR Doc. 78-5784 Filed 3-3-78; 8:45 am]

[3510-22]

Title 50—Wildlife and Fisheries

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 255—FISHING VESSEL OBLIGATION GUARANTEE PROGRAM PROCEDURES

Increase In Useful Life

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Fishing Vessel Obligation Guarantee program provides long-term financing of the debt portion of fishing vessel construction costs by guaranteeing private credit given for that purpose. This document amends program procedures to increase from 15 to 20 years the maximum useful life and, thus, the maturity of guaranteed financing of certain fishing vessels participating in the program.

DATE: Effective for all new guaranteed financings resulting from applications on hand as of the date of publication of this notice and all new applications received thereafter.

FOR FURTHER INFORMATION CONTACT:

Michael L. Grable, Chief, Financial Assistance Division, National Marine Fisheries Service, Washington, D.C. 20235, 202-634-7496.

SUPPLEMENTARY INFORMATION: On November 15, 1977, the National Oceanic and Atmospheric Administration published a proposed amendment (42 FR 58963) to increase from 15 years to 20 years the maximum useful life of certain fishing vessels participating in the program. This increase is intended to recognize the correlation between the longer economically useful life and higher cost of certain fishing vessels. Repayment of qualifying obligations guaranteed under this program, therefore, will be allowed over a period of time more closely matching the economically useful life of the vessel. The vessels which will ordinarily be eligible for 20-year financing will be vessels whose cost exceeds $300,000 and whose economically useful life can be demonstrated to be at least 20 years. Additionally, the Secretary, considering criteria enumerated below, may identify other vessels which may also be eligible for the 20 year maturities. Criteria to be used include: (a) vessels whose cost does not exceed $300,000, but whose economically useful life exceeds 20 years, (b) the earnings capability of any particular fishery, (c) the status of the fishery resource, (d) the number of vessels operating in any fishery, and (e) such other factors the Secretary may find pertinent to approving the use of longer maturities for financing vessels under $300,000.

This amendment additionally increases the minimum vessel cost for which competitive bids are required from $300,000 to $500,000.

The amendment follows:

Substitute the following for § 255.1 (f) and (g):

§ 255.1 Definitions.

* * * * *

(f) *Useful Life.* For purposes of guarantee under this Part 255: The useful life of new vessels costing less than $300,000 shall not ordinarily exceed 15 years from delivery date; the useful life of new vessels costing more than $300,000 shall not ordinarily exceed 20 years from delivery date; and the useful life of reconstructed or reconditioned vessels shall not ordinarily exceed 10 years from redelivery date. The Secretary may designate vessels costing less than $300,000 in certain fisheries as being eligible for maturities up to 20 years. Criteria used in such determinations may include, but shall not be limited to the following: (a) vessels whose economically useful lives do exceed 15 years, (b) the earn-

ings capability of any particular fishery, (c) the status of any fishery resource, (d) the number of vessels operating in any fishery and (e) such other factors as the Secretary may find pertinent. Useful life shall be reduced by 1 year for each full 1-year interval elapsed from vessel delivery and/or redelivery date. Intervals of less than a full 1 year will not be considered for the purpose of determining remaining useful life.

(g) *Maturity Date.* This term means the date upon which a guaranteed obligation matures. The maturity date shall not exceed the date upon which useful life ends. When a guaranteed obligation matures more than 15 years from inception, the associated vessel mortgage shall require, at the tenth year, completion (at the mortgagor's expense) of a survey of the mortgaged vessel by a qualified marine surveyor acceptable to the Secretary and accomplishment of the surveyor's recommendations within 6 months of their rendition (unless the Secretary allows a longer period or waives some or all of the surveyor's recommendations).

At the Secretary's discretion, this same provision may be extended to maturities of 15 years or less and the Secretary may, depending on the circumstances of each case, require additional protection for maturities in excess of 15 years. The consequence of failing to fulfill these provisions shall, at the Secretary's discretion, be mortgage default, debt acceleration, and mortgage foreclosure.

* * * * *

§ 255.3 [Amended].

In § 255.3(e) (1) (i), Substitute "$500,000" for "$300,000".

T. P. GLEITER,
Assistant Administrator for Administration.

FEBRUARY 27, 1978.

[FR Doc. 78-5732 Filed 3-3-78; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-02]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1049]

MILK IN THE INDIANA MARKETING AREA

Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rules.

SUMMARY: This notice invites written comments on a proposal to suspend certain provisions of the Indiana milk marketing order. The provisions relate to the "takeout-payback" plan in the order. The cooperative association that proposed the suspension contends that the adverse weather conditions this winter have placed a financial burden on producers and that suspension is necessary to avoid depression of producer blend prices during the "takeout" period. The proposed suspension would apply during the months of April through December 1978.

DATE: Comments are due not later than March 21, 1978.

ADDRESS: Comments (4 copies) should be filed with the Hearing Clerk, U.S. Department of Agriculture, Room 1077-S, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, 202-447-7311.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), the suspension of certain provisions of the order regulating the handling of milk in the Indiana marketing area is being considered for the months of April through December 1978.

All persons who desire to submit written data, views, or arguments in connection with the proposed suspension should file the same with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250, not later than March 21, 1978. Four copies of all documents should be filed.

All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The provisions proposed to be suspended are as follows:

In § 1049.61 that part of paragraph (f) which reads, "except for the months specified below, shall be," and the provisions contained in paragraphs (g) through (k) in their entirety.

STATEMENT OF CONSIDERATION

The proposed suspension would make inoperative those provisions of Order No. 49 that provide for the accumulation and disbursement of money due producers with the intent of encouraging seasonal adjustments in milk production. Under such provisions (the "takeout-payback" plan), money withheld from the pool during the months of April through July (20 cents per hundredweight during each month) is paid back to producers for deliveries of milk during September through December (25 percent in September, 33⅓ percent of the remainder in October, 50 percent of the remainder in November and the remaining amount in December).

Suspension of the seasonal payment plan for 1978 is requested by Associated Milk Producers, Inc. The basis for the request is to provide the highest possible blend price to producers during the spring months. The cooperative contends that extremely adverse weather conditions this winter have placed a financial burden upon producers that would be intensified if blend prices for the coming months of April through July were reduced by means of the takeout provisions.

The cooperative states further that maintaining the blend prices by this means will provide producers with the confidence of continuing orderly marketing conditions for the period of the suspension because they will not suffer additional loss of revenue during the takeout months.

Signed at Washington, D.C., on February 28, 1978.

WILLIAM T. MANLEY,
Deputy Administrator, Marketing Program Operations.

[FR Doc. 78-5755 Filed 3-3-78; 8:45 am]

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 37]

[Docket No. 17677; Notice No. 78-5]

TECHNICAL STANDARD ORDER AUTHORIZATIONS

Minimum Performance Standards for Aircraft Cargo Pallets, Nets, and Containers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to amend the existing Technical Standard Order (TSO) applicable to aircraft cargo pallets, nets, and containers (TSO-C90). The proposed amendment would update the minimum performance standards that such equipment must meet in order for a manufacturer to identify it with the applicable TSO marking. Advances in the state-of-the-art of aircraft cargo pallets, nets, and containers are reflected in a recent revision of National Aerospace Standard, NAS 3610, which would be incorporated by reference.

DATES: Comments must be received on or before May 5, 1978.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn.: Rules Docket (AGC-24), Docket No. 17677, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Mr. Raymond E. Ramakis, Regulatory Projects Branch, Safety Regulations Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-755-8716.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

AVAILABILITY OF NPRMS

Any person may obtain a copy of this notice of proposed rulemaking (RPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

DISCUSSION OF THE PROPOSED RULE

The Federal Aviation Administration is considering amending § 37.199 of Part 37 of the Federal Aviation Regulations (14 CFR 37.199), Technical Standard Order TSO-C90, to update the minimum performance standards for aircraft cargo pallets, nets, and containers. The existing regulation incorporates by reference National Aerospace Standard NAS, 3610, Revision 1, approved April 30, 1970, entitled "Cargo Unit Load Devices—Specification For." However, NAS 3610 has been revised six times in the last seven years to reflect advances in the state-of-the-art for aircraft cargo pallets, nets, and containers.

The FAA has received a number of requests to amend TSO-C90 to include the current performance standards of Revision 6 to NAS 3610 which incorporates all previous revisions. Upon a review of all pertinent material, the FAA believes that § 37.199 should be updated to reflect current standards. The proposal would, therefore, revise the minimum performance standards for aircraft cargo pallets, nets, and containers to include the advances in the state-of-the-art reflected in Revision 6 to the National Aerospace Standard, NAS 3610, dated April 30, 1977. That revised NAS standard would be incorporated by reference in TSO-C90a, as set forth in the proposed amendment to FAR § 37.199.

Among the changes included in the later revisions to NAS 3610 is the replacement of the maximum gross weight column of the ultimate load criteria tables with a numerical code which reflects loading conditions. In addition, to better correlate the requisite standards, the later revisions to NAS 3610 have revised the tables establishing container load values. Moreover, since technological changes have produced containers of greater strength than had been commercially available when Revision 1 to NAS 3610 was adopted, the recent revisions to NAS 3610 set corresponding standards of usage. The FAA believes that the cumulative substantive changes to NAS 3610 justify amending § 37.199.

DRAFTING INFORMATION

The principal authors of this document are Francis Schmidt, Flight Standards Service, and Richard J. Burton, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 37.199 of the Federal Aviation Regulations (14 CFR 37.199) by amending the title and paragraphs (a), (b)(7), and (d) to read as follows:

§ 37.199 Cargo pallets, nets, and containers, TSO-C90a.

(a) *Applicability*—(1) *Minimum performance standards.* This Technical Standard Order prescribes the minimum performance standards that aircraft cargo pallets, nets, and containers must meet in order to be identified with the applicable TSO marking. New models of such equipment which are so identified that are manufactured on or after [effective date of this amendment] must meet the minimum performance standards for cargo pallets, nets, and containers as set forth in National Aerospace Standard, NAS 3610, Revision 6, dated April 30, 1977. National Aerospace Standard, NAS 3610, Revision 6, entitled "CARGO UNIT LOAD DEVICES SPECIFICATION FOR", is incorporated by reference herein in accordance with 5 U.S.C. 552(a)(1) and § 37.23 and is available as indicated in § 37.23. Additionally, National Aerospace Standard NAS 3610, Revision 6, may be examined at any FAA regional office of the Chief, Engineering and Manufacturing Branch (or in the case of the Western Region, the Chief, Aircraft Engineering Division), and may be obtained from the National Standards Association, Inc., 1321 14th Street NW., Washington, D.C. 20005, at a cost of twenty-nine dollars and forty cents ($29.40).

• • • • •

(b) *Markings.* • • •

(7) The burning rate determined for the article under paragraph 3.7 of NAS 3610, Revision 6, dated April 30, 1977.

• • • • •

(d) *Previously approved equipment.* Cargo pallets, nets, and containers approved prior to (effective date of this amendment), may continue to be manufactured under the provisions of their original approval.

(Secs. 313(a), 601, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a) and 1421); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.45.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on February 28, 1978.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc. 78-5771 Filed 3-3-78; 8:45 am]

[4910-13]

[14 CFR Part 39]

[Docket No. 78-NE-3]

AIRWORTHINESS DIRECTIVES

Pyrotector, Inc., Radiation Sensing Type Fire Detectors, P/Ns 30-207, 30-207-4B, 30-212, 30-215, and 30-216

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an Airworthiness Directive (AD) to prevent the operation of aircraft with possible inoperative fire detectors. The AD would require: removal of the TSO label from the affected detectors and repetitive inspections of those detectors, and removal and replacement of affected detectors on those aircraft required to be equipped with a fire detector system.

DATE: Comments must be received on or before April 7, 1978.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, New England Region, Attention: Rules Docket No. 78-NE-3, 12 New England Executive Park, Burlington, Mass. 01803.

The applicable advisory bulletin may be obtained from: Chloride Pyrotector, 333 Lincoln Street, Hingham, Mass. 02043.

A copy of the advisory bulletin is contained in the Rules Docket, Office of the Regional Counsel, New England Region, 12 New England Executive Park, Burlington, Mass. 01803.

FOR FURTHER INFORMATION CONTACT:

Donald F. Perrault, Propulsion Section, ANE-214, Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Mass. 01803, telephone 617-273-7337.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

There has been a reported incident which occurred on a new production light airplane equipped with Pyrotector, Inc., P/N 30-215 fire detectors. The airframe manufacturer's production check-out of the fire detector installation using the self-contained integrity test feature yielded positive results. However, the detector power line had not yet been connected. Review of the system circuitry indicated that a break in the power line to the detector would render the unit inoperative, but cockpit test procedures would not indicate this condition. No other reports pertaining to this particular malfunction have been received.

Detectors of the above type are known to have been installed on the following type certificated model aircraft: Beech Model 90, Beech Model 99, Bell Model 205, Boeing Vertol V-107, Sikorsky Aircraft S-58T series, and Sikorsky Aircraft S-64E/F. Installation of these detectors may have been approved on other certificated aircraft. Since this condition is likely to exist or develop on other aircraft incorporating the affected detectors, the proposed AD would require: removal of the TSO label from the affected detectors and repetitive inspections of those detectors; and removal and replacement of affected detectors on those aircraft required to be equipped with a fire detector system.

DRAFTING INFORMATION

The principal authors of this document are Donald F. Perrault, Engineering and Manufacturing Branch, Flight Standards Division, and George L. Thompson, Associate Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

PYROTECTOR INC. Applies to Models 30-207, 30-207-4B, 30-212, 30-215, and 30-216 radiation sensing type fire detectors.

Compliance is required as indicated.

To prevent operation of aircraft with fire detectors having undetected open main power lines, accomplish the following by June 1, 1978:

1. Remove the "TSO-C79" label from the affected detectors.

2. Perform a repetitive integrity check inspection of the fire detection system at every 100 hours time in service in accordance with Chloride Pyrotector Advisory Bulletin No. PY 78-1, dated February 1, 1978, or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA, New England Region.

NOTE.—The owner/operator may perform the repetitive inspection.

3. Aircraft required by Parts 25, 27, 29, 121, or 135 of the Federal Aviation Regulations (14 CFR 25, 27, 29, 121, or 135) to have fire detection systems installed must have the affected detectors removed and replaced with current FAA approved detectors by December 30, 1978.

NOTE.—The aircraft may be continued in service until December 30, 1978, provided the affected fire detectors are inspected in accordance with (2.), above.

4. Equivalent methods of compliance may be approved by the Chief, Engineering and Manufacturing Branch, FAA, New England Region.

The manufacturer's advisory bulletin identified and described in this directive is incorporated herein and made a part hereof pursuant to 5 U.S.C. 522(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Chloride Pyrotector, 333 Lincoln Street, Hingham, Mass. 02043. These documents may also be examined at Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Mass. 01803, and at FAA Headquarters, 800 Independence Avenue SW., Washington, D.C.

A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its Headquarters in Washington, D.C., and at New England Region.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949, and OMB Circular A-107.

Issued in Burlington, Mass., on February 23, 1978.

J. STIGLIN,
Acting Director,
New England Region.

NOTE.—The incorporation by reference provisions of this document were approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 78-5766 Filed 3-3-78; 8:45 am]

[4910-13]

[14 CFR Parts 71 and 75]

[Airspace Docket No. 77-EA-91]

PROPOSED ALTERATION, REVOCATION AND DESIGNATION OF JET ROUTES, CONTROL AREAS, TRANSITION AREAS, AND COMPULSORY REPORTING POINTS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to: (1) Alter jet routes No. 62 and No. 97; (2) revoke jet routes No. 63 and No. 153; the CODDS, HADDY, SHADS, and TUNNA reporting points; Barnegat, N.J., Bethany Beach, Del., Hog Island, Va., Nantucket, Mass., Narragansett, R.I., Patchogue, N.Y., and Pendleton, Va., control areas; Fire Island, N.Y., and South Island, N.Y., transition areas; and (3) designate the North Atlantic control area. These proposed actions would provide for more efficient use of the navigable airspace.

DATES: Comments must be received on or before April 3, 1978.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Eastern Region, Attention: Chief, Air Traffic Division, Docket No. 77-EA-91, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Indepen-

dence Avenue SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Huff, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-3715.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received on or before April 3, 1978, will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination of interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering amendments to subparts E, G, and I of Part 71 and subpart B of Part 75 of the Federal Aviation regulations (14 CFR Parts 71 and 75) to alter jet routes 62 and 97, revoke jet routes 63 and 153, the CODDS, HADDY, SHADS, and TUNNA reporting points; the Barnegat, N.J., Bethany Beach, Del., Hog Island, Va., Nantucket, Mass., Narragansett, R.I., Patchogue, N.Y., and Pendleton, Va., contol areas; and the Fire Island, N.Y., and South Island, N.Y., transition areas; and to designate a North Atlantic control area. The proposed action would: (1) Realign jet route 62 from Nantucket, Mass., VORTAC (ACK) to Lat. 41°08'00" N., Long. 67°00'00" W., via the ACK 108° M (93° T) radial; (2) realign jet route 97 from ACK to Lat. 39°07'00" N., Long. 67°00'00" W., via the ACK 147° M (132° T); (3) revoke the Barnegat, N.J., Bethany Beach, Del., Hog Island, Va., Nantucket, Mass., Narragansett, R.I., Patchogue, N.Y., and Pendleton, Va., control areas; (4) revoke the Fire Island, N.Y., and South Island, N.Y., transition areas; (5) revoke CODDS, HADDY, SHADS, and TUNNA compulsory points; (6) revoke jet route 63 from TUNNA to the Kennedy, N.Y., VORTAC; (7) revoke jet route 153 from SHADS to Sea Isle, N.J.; (8) designate the North Atlantic control area with a 2,000-food MSL floor bounded on the south by the South Atlantic control area; on the west along a line 3 NM east of and parallel to the shoreline; on the north by Lat. 41°40'00" N.; on the east by Lat. 41°40'00" N., Long. 67°00'00" W.; Lat. 39°00'00" N., Long. 67°00'00" W.; Lat. 38°35'00" N., Long. 68°53'00" W.; Lat. 38°20'00" N., Long. 69°57'00" W.; Lat. 37°31'00" N., Long. 71°41'00" W.; Lat. 37°15'00" N., Long 73°00'00" W.; and the New York Oceanic Control Area Flight Information Region (CTA/FIR) boundary. In addition, the following nonregulatory actions would be taken:

(a) Atlantic Route (AR) 101 from the Nantucket, Mass., NDB direct to Lat. 41°08'00" N., Long. 67°00'00" W., via the 107° M (092° T) bearing from the NDB would be established.

(b) AR-102 from the Nantucket, Mass., NDB direct to Lat. 39°07'00" N., Long. 67°00'00" W., via the 145° M (130° T) bearing from the NDB would be established.

(c) AR-103 from the Kennedy, N.Y., VORTAC to the intersection of Kennedy 142° M (130° T) and the Newark, N.J., NDB 135° M (124° T) bearing outbound, to Lat. 38°20'00" N., Long. 69°57'00" W., via the Newark 135° M (124° T) would be established.

(d) AR-104 from the Kennedy, N.Y., VORTAC to the intersection of Kennedy 154° M (142° T) and Hampton, N.Y., 184° M (171° T) radials; to Lat. 37°31'00" N., Long. 71°41'00" W., via the Hampton 184° M (171° T) radial, would be established.

(e) AR-105 from the Sea Isle, N.J., VORTAC to the intersection of Sea Isle, 143° M (134° T) and Salisbury, Md., VORTAC 113° M (105° T) radials; to Lat. 37°31'00" N., Long. 71°41'00" W., via the Salisbury 113° M (105° T) radial, would be established.

(f) AR-106 from the intersection of Newark, N.J., 135° M (124° T) and Rainbow, N.J., 100° M (091° T) bearing to Lat. 39°14'00" N., Long. 70°00'00" W., via the Rainbow 100° M (091° T) bearing would be established.

(g) The following warning areas would be altered as follows:

(1) W-105A Altitudes. Surface to FL 500.

Boundaries. Beginning at Lat. 40°08'30" N., Long. 72°51'00" W.; to Lat. 40°26'00" N., Long. 72°30'00" W.; to Lat. 40°34'00" N., Long. 72°20'00" W.; to Lat. 40°38'00" N., Long. 72°00'00" W.; to Lat. 41°00'00" N., Long. 70°18'00" W.; to Lat. 41°00'00" N., Long. 69°55'00" W.; to Lat. 40°39'50" N., Long. 69°23'30" W.; to Lat. 39°58'30" N., Long. 68°30'00" W.; to Lat. 39°52'00" N., Long. 69°34'00" W.; to Lat. 39°40'45" N., Long. 71°15'00" W.; to Lat. 39°36'30" N., Long. 71°53'30" W.; to Lat. 39°57'30" N., Long. 72°30'00" W.; to point of beginning.

(2) W-105B Altitudes. Surface to 17,000 feet MSL.

Boundaries. Beginning at Lat. 39°34'00" N., Long. 72°30'00" W.; to Lat. 39°57'30" N., Long. 72°30'00" W.; to Lat. 39°36'30" N., Long. 71°53'30" W.; to Lat. 39°40'45" N., Long. 71°15'00" W.; to Lat. 39°07'00" N., Long. 71°53'00" W.; to point of beginning.

(3) W-105C Altitudes. Surface to 17,000 feet MSL.

Boundaries. Beginning at Lat. 40°38'00" N., Long. 72°00'00" W.; to Lat. 40°44'00" N., Long. 72°00'00" W.; to Lat. 41°07'00" N., Long. 70°22'20" W.; to Lat. 41°05'00" N., Long. 70°10'00" W.; to Lat. 41°00'00" N., Long. 69°55'00" W.; to Lat. 41°00'00" N., Long. 70°18'00" W.; to point of beginning.

(4) W-105D Altitudes. FL 180 to FL 500.

Boundaries. Beginning at Lat. 40°38'00" N., Long. 72°00'00" W.; to Lat. 40°44'00" N., Long. 72°00'00" W.; to Lat. 41°07'00" N., Long. 70°22'20" W.; to Lat. 41°05'00" N., Long. 70°10'00" W.; to Lat. 41°00'00" N., Long. 69°55'00" W.; to Lat. 41°00'00" N., Long. 70°18'00" W.; to point of beginning.

(5) W-106A Altitudes. Surface to 3,000 feet MSL.

Boundaries. Beginning at Lat. 40°08'00" N., Long. 73°09'30" W.; to Lat. 40°13'00" N., Long. 73°15'00" W.; to Lat. 40°24'00" N., Long. 73°15'00" W.; to Lat. 40°33'00" N., Long. 73°04'00" W.; to Lat. 40°40'00" N., Long. 72°30'00" W.; to Lat. 40°15'20" N., Long. 73°01'30" W.; to point of beginning.

(6) W-106B Altitudes. Surface to 8,000 feet MSL.

Boundaries. Beginning at Lat. 40°08'00" N., Long. 73°09'30" W.; to Lat. 40°15'20" N., Long. 73°01'30" W.; to Lat. 40°40'00" N., Long. 72°30'00" W.; to Lat. 40°41'30" N., Long. 72°10'30" W.; to Lat. 40°42'00" N., Long. 72°07'00" W.; to Lat. 40°44'00" N., Long. 72°00'00" W.; to Lat. 40°38'00" N., Long. 72°00'00" W.; to Lat. 40°34'00" N., Long. 72°20'00" W.; to Lat. 40°26'00" N., Long. 72°30'00" W.; to Lat. 40°08'30" N., Long. 72°51'00" W.; to Lat. 39°59'40" N., Long. 73°00'30" W.; to point of beginning.

(7) W-106C Altitudes. Surface to 10,000 feet MSL.

Boundaries. Beginning at Lat. 39°59'40" N., Long. 73°00'30" W.; to Lat. 40°08'30" N., Long. 72°51'00" W.; to Lat. 39°57'30" N., Long. 72°30'00" W.; to Lat. 39°34'00" N., Long. 72°30'00" W.; to Lat. 39°44'00" N., Long. 72°44'00" W.; to point of beginning.

(8) W-107A Altitudes. Surface to FL 500.

Boundaries. Beginning at Lat. 39°09'00" N., Long. 74°37'00" W.; to Lat. 39°44'00" N., Long. 73°41'00" W.; to Lat. 39°44'00" N., Long. 73°17'00" W.; to Lat. 39°41'00" N., Long. 73°10'00" W.; to Lat. 38°50'00" N., Long. 72°20'00" W.; to Lat. 38°16'30" N., Long. 72°50'30" W.; to Lat. 38°40'30" N., Long. 73°53'30" W.; to point of beginning.

(9) W-107B Altitudes. Surface to FL 230.

Boundaries. Beginning at Lat. 38°40'30" N., Long. 73°53'30" W.; to Lat. 38°16'30" N., Long. 72°50'30" W.; to Lat. 38°03'00" N., Long. 73°02'00" W.; to point of beginning.

(10) W-107C Altitudes. FL 230 to FL 500.

Boundaries. Beginning at Lat. 38°40'30" N., Long. 73°53'30" W.; to Lat. 38°16'30" N., Long. 72°50'30" W.; to Lat. 38°03'00" N., Long. 73°02'00" W.; to point of beginning.

(11) W-107D Altitudes. Surface to 2,000 feet MSL.

Boundaries. Beginning at Lat. 39°09'00" N., Long. 74°37'00" W.; along a line 3 NM east of and parallel to the shoreline to Lat. 39°54'00" N., Long. 74°01'00" W.; to Lat. 40°00'00" N., Long. 73°52'00" W.; to Lat. 40°00'00" N., Long. 73°37'00" W.; to Lat. 39°52'00" N., Long. 73°29'00" W.; to Lat. 39°44'00" N., Long. 73°41'00" W.; to point of beginning.

(12) W-506 Altitudes. Surface to FL 500.

Boundaries. Beginning at Lat. 41°00'00" N., Long. 69°28'00" W.; to Lat. 41°00'00" N., Long. 68°00'00" W.; to Lat. 40°07'00" N., Long. 68°00'00" W.; to Lat. 40°48'00" N., Long. 69°06'00" W.; to point of beginning.

ICAO CONSIDERATIONS

As parts of these proposals relate to the navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to, the Convention on International Civil Aviation, which pertains to the establishment of air navigation facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since these actions involve, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

DRAFTING INFORMATION

The principal authors of this document are Mr. Richard Huff, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend §§ 71.161, 71.163, 71.181, and 71.209 of Part 71 and § 75.100 of Part 75 of the Federal Aviation regulations (14 CFR Parts 71 and 75) as republished (43 FR 347, 348, 440, 641, and 714) as follows:

1. In § 71.161 "jet route No. 63 and 153" would be deleted. In jet route No. 62 "the INT of the Nantucket 089° radial and the western boundary of the New York Oceanic Control Area." would be deleted and "Lat. 41°08'00" N., Long. 67°00'00" W." would be substituted therefor. In jet route No. 97 "the INT of the Nantucket 157° radial and the western boundary of the New York Oceanic Control Area." would be deleted and "Lat. 41°08'00" N., Long. 67°00'00" W." would be substituted therefor. In jet route No. 97 "the INT of the Nantucket 157° radial and the western boundary of the New York Oceanic Control Area." would be deleted and "Lat. 39°07'00" N., Long. 67°00'00" W." would be substituted therefor.

2. In § 71.163 "Barnegat, N.J.," "Bethany Beach, Del.," "Hog Island, Va.," "Nantucket, Mass.," "Narragansett, R.I.," "Patchogue, N.Y.," "Pendleton, Va." would be deleted and "North Atlantic—that airspace extending upward from 2,000 feet MSL bounded on the south by the South Atlantic control area; on the west along a line 3 NM east of and parallel to the U.S. shoreline; on the north by Lat. 41°40'00" N.; on the east by a line from Lat. 41°40'00" N., Long. 67°00'00" W.; to Lat. 39°00'00" N., Long. 67°00'00" W.; to Lat. 38°35'00" N., Long. 68°53'00" W.; Lat. 38°20'00" N., Long. 69°57'00" W.; to Lat. 37°31'00" N., Long. 71°41'00" W.; to Lat. 37°15'00" N., Long. 73°00'00" W.; and the New York Oceanic CTA/FIR." would be added:

3. § 71.181 "Fire Island, N.Y.," "South Island, N.Y." would be deleted.

4. In § 71.209 "CODDS," "HADDY," "SHADS," "TUNNA" would be deleted.

5. In § 75.100, within jet route No. 62 "the INT of the Nantucket 089° radial and the western boundary of the New York oceanic control area (CODDS)." would be deleted and "Lat. 41°08'00" N., Long. 67°00'00" W." would be substituted therefor. In jet route No. 97 "the INT of the Nantucket, Mass., 157° radial and the western boundary of the New York oceanic control area," would be deleted and "Lat. 39°07'00" N., Long. 67°00'00" W." would be substituted therefor.

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510; Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on February 24, 1978.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-5767 Filed 3-3-78; 8:45 am]

[4910-13]

[14 CFR Part 121]

[Docket No. 17326; Reference Notice No. 77-26]

CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

Compensation for Required Security Measures in Foreign Air Transportation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting for the purpose of discussing certain public comments received in response to Notice 77-26. This meeting is necessary because of views expressed by certain commenters, which must be resolved before a decision can be made as to further rulemaking action.

DATE AND TIME: March 21, 1978, at 9:30 a.m.

PLACE: Federal Aviation Administration, 800 Independence Avenue SW., Room 1010, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Robert P. Jones, Regulations Branch (ACS-130), Air Operations Security Division, Civil Aviation Security Service, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-8798.

SUPPLEMENTARY INFORMATION: Under section 24 of Pub. L. 94-353 (49 U.S.C. 1358a), the Secretary of Transportation is directed to provide, under certain circumstances, compensation to air carriers for the cost of screening passengers and carry-on baggage. In order to implement this statutory requirement, the FAA issued Notice of Proposed Rulemaking No. 77-26 (42 FR 56957; October 31, 1977) proposing a procedure for compensating air carriers for the cost of screening passengers, and their carry-on baggage, moving in foreign air transportation.

The FAA received five comments in response to the notice. Two comments

were from professional associations, supporting the proposal. Two were from U.S. air carriers. Both air carriers supported the proposal and one suggested changes in the proposed formula and procedures for payment.

The fifth comment was from the Civil Aeronautics Board, which expressed the belief that the plan for payment which was proposed in the notice is essentially unworkable. The Board also expressed the view that its current policies have been "adequate to permit recovery of foreign security costs and that, if implemented, the FAA's program has a good chance of providing duplicate payment for costs that were recouped as part of the carriers' passenger fares."

Before a decision can be made as to further rulemaking action in the matter, the substantive problems with the notice raised by the Board must be resolved. To assist in this, the FAA will hold a public meeting on March 21, 1978, at 9:30 a.m. for the purpose of discussing with the commenters and any other interested person, the points raised by the Civil Aeronautics Board in its comment. The meeting will be held in room 1010 at FAA Headquarters, 800 Independence Avenue SW., Washington, D.C.

A transcript of the meeting will be made and placed in the Rules Docket for examination by interested persons. Copies of the transcript will be available from the reporter.

The principal authors of this document are Robert P. Jones, Civil Aviation Security Service, and Donald P. Byrne, Office of the Chief Counsel.

(Sec. 24, Airport and Airway Development Act Amendments of 1976 (49 U.S.C. 1356a); sec. 1.47(f)(3), Regulations of the Office of the Secretary of Transportation (49 CFR 1.47(f)(3)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on March 2, 1978.

RICHARD F. LALLY,
Director, Civil Aviation Security Service.

[FR Doc. 78-5978 Filed 3-3-78; 9:06 am]

[4910-13]

[14 CFR Parts 121 and 129]

[Docket No. 17676; Notice No. 78-4]

AIRCRAFT AND AIRPORT SECURITY

Proposed Rulemaking

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the regulations pertaining to aircraft security by extending them to cover: (a) charter flights conducted by domestic, flag, supplemental and foreign air carriers; and (2) all intrastate operations conducted by a commercial operator who engages in common carriage with a specified frequency between two points entirely within any State. In addition, this proposal would require that these flights be provided with appropriate law enforcement support by either airport operators or certificate holders to support passenger screening operations. Because of the increased threat of criminal violence and air piracy, the FAA believes that the security requirements should be extended to cover these additional operations.

DATE: Comments must be received on or before April 6, 1978.

ADDRESS: Send comments on the proposals in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Docket No. 17676, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Robert P. Jones, Air Operations Security Division, Civil Aviation Security Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-8409.

SUPPLEMENTARY INFORMATION:

I. COMMENTS INVITED

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impact that might result from adoption of the proposals contained in this notice are invited. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591. All communications received on or before April 6, 1978, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rule making will be filed in the docket.

II. AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

III. CURRENT SECURITY REQUIREMENTS

Under § 121.538 of the Federal Aviation Regulations (FARs), United States domestic and flag air carriers engaging in scheduled air transportation and commercial operators engaging in common carriage between two points entirely within any State with the frequency set forth in § 121.7 are required to adopt and use a screening system which is designed to prevent the carriage aboard their aircraft of any weapon, explosive or incendiary device on or about the person or in the carry-on baggage of passengers.

The affected certificate holders are also required to adopt a security program designed to prevent the unauthorized access to aircraft and to assure the security of checked baggage and cargo. In addition, § 129.25 requires foreign air carriers landing or taking off large aircraft in scheduled passenger operations in the United States to utilize a security program designed to accomplish the same objectives.

At the present time, air carriers engaging in charter operations are not required to comply with the provisions of § 121.538 or § 129.25 nor are commercial operators engaging in common carriage between two points entirely within any State that are not governed by § 121.7.

IV. PETITION FOR RULE MAKING

On November 15, 1977, the National Air Carrier Association (NACA), an organization composed of three supplemental air carriers (Evergreen International Airline, Trans International Airlines and World Airways) petitioned the FAA for expedited rule making to amend §§ 121.538 and 129.25 of the FARs by extending the applicability of FAA security regulations to cover charter flights conducted by domestic, flag, supplemental and foreign air carriers. On November 18, 1977, Overseas National Airways joined in NACA's petition for rule making.

V. PROPOSED SECURITY REQUIREMENTS

The FAA agrees with NACA and believes that this proposal is necessary

to respond to an increase in the number of hijackings and associated terrorist activities occurring throughout the world. In the United States, the number of attempted hijackings increased from two in 1976 to five in 1977. During 1977, 69 criminal acts against civil aviation occurred throughout the world, resulting in 129 deaths and 68 injuries. Of this number, 17 incidents, resulting in two deaths and three injuries, involved U.S. civil aviation.

In addition, recent changes in the regulations of the Civil Aeronautics Board (CAB) relating to certain types of charter operations have resulted in greater public access to these services. Consequently, some of the procedures which had served to protect charter flights without the necessity of a formal security program have been eliminated.

Recognizing the need for security protection for charter operations, some air carriers and airport operators have initiated or are about to initiate voluntary screening of charter passengers. Moreover, the FAA has received letters from numerous, different sources urging implementation of security screening procedures for these operations.

In light of these considerations and the NACA petition, the FAA believes that there is adequate justification to support the issuance of a notice of proposed rule making.

Accordingly, this notice proposes that the definition of certificate holder in current § 121.538(a) be amended to encompass a domestic, flag or supplemental air carrier when it engages in scheduled or charter operations and a commerial operator governed by § 121.7 when it engages in any intrastate operations governed by part 121.

In addition, this notice proposes to amend § 129.25(a) by requiring foreign air carriers to implement appropriate security procedures for all scheduled and charter flights conducted in large aircraft taking off or landing in the United States.

Air carriers conducting all-cargo operations pursuant to a certificate issued by the CAB under section 418 of the Federal Aviation Act of 1958, and air taxi operators of large aircraft governed by § 135.2 will not, however, be required to comply with the provisions of § 121.538 for those operations.

The agency wishes to emphasize that this proposal would continue to require affected certificate holders to have a security program for their cargo operations that meets the applicable requirements set forth in § 121.538(c). Additionally, supplemental and foreign air carriers and commercial operators governed by § 121.7 will be required to have, or continue in effect, a security program for their cargo operations that meets the requirements set forth in § 121.538(c) and § 129.25(b). However, the screening requirements contained in §§ 121.538(b) and 129.25(a) and the law enforcement requirements specified in part 107, and proposed herein, will apply or continue to apply only to passenger-carrying operations.

VI. LAW ENFORCEMENT SUPPORT

A. CURRENT REQUIREMENTS

Section 316(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1357(a)) imposes upon the administrator the duty to prescribe reasonable rules and regulations requiring such practices, methods, and procedures as he may deem necessary to protect persons and property aboard aircraft operating in air transportation or intrastate air transportation against acts of criminal violence and aircraft piracy. Section 316(b) of that act specifies that regulations prescribed under section 316(a) shall require operators of airports regularly serving air carriers certificated by the Civil Aeronautics Board to establish air transportation security programs providing a law enforcement presence and capability at such airports adequate to insure the safety of persons traveling in air transportation or intrastate air transportation from acts of criminal violence and aircraft piracy.

Under the current regulations, part 107 airport operators are required by § 107.4 to furnish law enforcement support for each flight conducted by a certificate holder required to have a security program by § 121.538 and for each foreign air carrier that requests such support. Accordingly, all scheduled flights conducted by domestic and flag air carriers and by commercial operators engaging in common carriage governed by § 121.7 are being provided law enforcement officers by part 107 airport operators to support the passenger screening operation. In addition, at the request of foreign air carriers, law enforcement support is also being provided for those scheduled flights specified in § 129.25.

B. PROPOSED REQUIREMENTS FOR FLIGHTS CONDUCTED OUT OF AIRPORTS COVERED BY PART 107

In light of this proposal to include additional flights within the scope of §§ 121.538 and 129.25, the agency has a statutory responsibility, pursuant to § 316(b) of the Federal Aviation Act of 1958, to require part 107 airport operators to provide law enforcement support for these operations. Moreover, regardless of this statutory responsibility, the agency believes that part 107 airport operators are in the best position to provide law enforcement support, since appropriate procedures have already been established at these airports to support scheduled operations. As part of their approved security program, however, certificate holders will be required to give the airport operator adequate notice prior to the departure of non-scheduled flights so that a law enforcement officer can be provided to support the passenger screening operation.

This proposal would increase the number of flights for which part 107 airport operators would be required to provide law enforcement support during the passenger screening process. Section 107.4 currently requires law enforcement support to be furnished for those flights covered by § 121.538 and, upon request, § 129.25. Therefore, if the number of operations covered by § 121.538 and § 129.25 is increased, the current provisions of part 107 will require part 107 airport operators to provide law enforcement support to cover these additional flights.

It should be noted that the agency is in the process of evaluating comments received in response to notice No. 77-8 (42 FR 30766, June 16, 1977), which proposed to revise part 107 in its entirety. Included in notice No. 77-8 was a proposal to revise this requirement for law enforcement support. In addition, notice No. 77-8 also proposed to require law enforcement support for flights conducted by foreign air carriers. Currently, part 107 operators must provide this support only if requested by the foreign air carrier.

Although the agency expects to issue a final rule revising part 107 in the near future, it is not necessary, for purposes of the instant proposals, to arrive at a decision concerning the proposals contained in notice No. 77-8. If the amendments proposed herein are adopted, the extent and type of law enforcement support required for these operations will, of course, be governed by the requirements of part 107.

C. PROPOSED REQUIREMENTS FOR FLIGHTS CONDUCTED OUT OF AIRPORTS NOT COVERED BY PART 107

Although the vast majority of these additional flights operate out of airports covered by part 107, there are some operations conducted out of airports which do not regularly serve scheduled air carriers and accordingly are not governed by part 107. Since this proposal would also require affected certificate holders to screen their passengers prior to boarding at airports not covered by part 107, the agency believes that adequate law enforcement support should be available to respond to actual or suspected violations of law occurring during the passenger screening process.

Because of the relatively small number of these operations conducted out of airports which do not regularly serve scheduled air carriers, the

agency does not believe it necessary to require these airport operators to comply with part 107. However, at those airports not governed by part 107 this proposal would require the individual certificate holder to provide for law enforcement officers to support passenger screening operations. This would be accomplished by adding a new paragraph (l) to § 121.538 and a new paragraph (f) to § 129.25. Since the FAA believes that law enforcement support is essential to any passenger screening operation, including that which is provided by the certificate holder at airports not covered by part 107, this support should be the same as that provided by part 107 airport operators. Accordingly, the nature of this support and the LEO qualification requirements will be dependent upon the requirements set forth in part 107.

VII. COMPLIANCE DATES

This proposal, if adopted, would require U.S. certificate holders to submit new security programs or amendments to existing programs no later than 30 days after the effective date of this amendment. The agency expects to be able to review these programs and ultimately approve them within 30 days after they are submitted.

Accordingly, passenger screening and law enforcement support for these additional operations would begin 60 days after the effective date of the proposed amendment. The agency believes that these compliance dates would allow sufficient time for the agency, certificate holders and airport operators to implement these proposals while assuring that appropriate security measures are provided as soon as practicable.

DRAFTING INFORMATION

The principal authors of this document are Robert P. Jones, Civil Aviation Security Service and Marshall S. Filler, Office of the Chief Counsel.

THE PROPOSED AMENDMENTS

Accordingly, the Federal Aviation Administration proposes to amend parts 121 and 129 of the Federal Aviation Regulation (14 CFR parts 121 and 129) as follows:

1. By amending paragraphs (a) and (d) of § 121.538 and by adding a new paragraph (l) to the same section to read as follows:

§ 121.538 Aircraft security.

(a) For purposes of this section, "certificate holder" means a domestic, flag or supplemental air carrier, when it engages in scheduled or charter operations and a commercial operator that engages in operations governed by § 121.7 when it engages in any intrastate operations governed by this part, whether with or without the frequency specified in § 121.7. It does not include an air carrier when it engages in all-cargo operations under the authority of a certificate issued by the Civil Aeronautics Board pursuant to section 418 of the Federal Aviation Act of 1958 or an air taxi operator of large aircraft governed by § 135.2.

• • • • •

(d) Each certificate holder shall submit its security program to the Administrator. Each air carrier that is operating on or before (the effective date of this amendment) shall submit its security program relating to charter operations no later than (30 days after the effective date of this amendment). Each commercial operator that is conducting operations governed by § 121.7 on or before (the effective date of this amendment) shall submit its security program for all operations conducted under this part no later than (30 days after the effective date of this amendment). Each certificate holder issued a certificate under this part after (the effective date of this amendment) shall submit its entire program at least 60 days before the date of intended operations.

• • • • •

(l) Unless otherwise authorized by the administrator, each certificate holder engaging in operations from airports within the United States not governed by part 107 of this chapter shall, as part of its security program, provide for law enforcement officers as defined in part 107, to support passenger screening operations required by this section for charter flights at those airports.

2. By amending paragraph (a) of § 129.29 and by adding a new paragraph (f) to the same section to read as follows:

§ 129.25 Aircraft security.

(a) Each foreign air carrier landing or taking off a large aircraft in the United States shall:

(1) In scheduled operations; and

(2) After (60 days after the effective date of this amendment), in charter operations,

use a security program in the conduct of those operations that requires all passengers and all property intended to be carried in the aircraft cabin to be screened by weapon-detecting procedures or facilities prior to boarding, and meets the requirements prescribed in paragraph (b) of this section.

• • • • •

(f) Unless otherwise authorized by the administrator, each foreign air carrier engaging in the operation of large aircraft from airports within the United States not governed by part 107 of this chapter shall, as part of its security program, provide for law enforcement officers as defined in part 107, to support passenger screening operations required by this section for charter flights at those airports.

(Secs. 313(a), 315, 316, 601, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1356, 1357, 1421), sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c))).

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on February 28, 1978.

RICHARD F. LALLY,
Director,
Civil Aviation Security Service.

[FR Doc. 78-5769 Filed 3-3-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 51]

[FRL 862-6]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Maryland State Proposed Revision

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This proposed rule, if approved, would grant a request for an exception to state regulations submitted to EPA by the State of Maryland on behalf of the Westvaco Corp., Luke, Md. The request would except Westvaco from the applicable State and Federal sulfur content-in-fuel regulations. At the same time, the Westvaco Corporation would be required to limit sulfur dioxide (SO_2) emissions to a total of 49 tons/day from all fuel burning equipment located at this facility. In addition, the Westvaco Corp. would be required to expand meteorological and SO_2 air quality monitoring in the vicinity of the Luke, Md., facility to permit verification of the adequacy of the 49 ton/day emission limit.

EFFECTIVE DATE: Comments must be received by April 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Harold Frankford, (3AH11) Region III, Environmental Protection Agency, Curtis Building, Sixth & Walnut Streets, Philadelphia, Pa. 19106; phone 215-597-8392.

SUPPLEMENTARY INFORMATION: On July 16, 1975, the State of Maryland submitted to the Regional Administrator a proposed revision of the Maryland State Implementation Plan for the attainment and maintenance of national ambient air quality standards (NAAQS). The proposed revision was defined in an Order issued by the Maryland Secretary of the Department of Health and Mental Hygiene on July 8, 1975. The proposal consisted of a request to grant an exception to the Westvaco Corp., Luke, Md., from Maryland's sulfur-in-fuel regulation (10.03.36.04B) which requires the use of fuel containing 1% or less sulfur by weight. The purpose of this request for an exception was to allow the Westvaco Corp., to burn coal with a higher sulfur content. At the same time the Westvaco Corp., would be allowed to emit up to 58 tons/day of sulfur dioxide (SO_2) from all fuel burning equipment. The State of Maryland justified this request with the following:

1. Westvaco desires to remain on coal firing, but has been unable to secure an adequate supply of 1 percent sulfur coal.

2. Desulfurization alternatives were not yet available to the company.

3. Such an exception would not cause violation of federal or state standards in the vicinity of the plant.

The State of Maryland submitted proof that a public hearing with adequate public notice was held on May 26, 1975, pursuant to 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

The State of Maryland, on behalf of the Westvaco Corp., submitted a modeling analysis intended to demonstrate that the exception requested would not result in violations of NAAQS for SO_2. Upon review of the analysis, EPA determined that it was incorrect in a number of respects and underpredicts the impact of SO_2 emissions. Therefore EPA concluded that the analysis did not provide a demonstration that air quality standards would be attained or maintained if the exception were to be approved as a SIP revision. Subsequent meetings were held with the State of Maryland and Westvaco in attempts to resolve differences between the company's modeling approach in support of the request for exception and that which EPA believes to be appropriate. Although some minor differences were resolved, EPA maintained that, overall, the modeling analysis did not demonstrate that the SO_2 limitations specified in the exception request will not violate the NAAQS for SO_2. Accordingly, EPA informed the State of Maryland, in a letter dated February 28, 1977, that the exception request was unapprovable as a revision of the Maryland SIP.

On November 18, 1977, the State of Maryland submitted to the Regional Administrator an Amendment to the aforementioned Secretarial Order. This submittal alters the originally proposed revision of the SIP in that the Westvaco Corp. would be limited to 49 tons/day of SO_2 instead of 58 tons/day. Also, under the terms of the Amendment, the Westvaco Corp. consents to its installing two meteorological stations and additional SO_2 monitors. The stated purposes of the additional equipment is to provide information regarding air quality levels and to verify the adequacy of the 49 ton/day emission limitation as determined by the Company's modeling analysis, or to establish with any new data, a different emission limitation. After evaluating the revised submittal, EPA maintains that the modeling analysis, including the most current revision dated June 14, 1977, does not demonstrate that the 49 ton/day SO_2 limitation will not violate NAAQS for SO_2. This determination is not altered by an evaluation of information contained in a February 2, 1978 report forwarded directly to EPA by Westvaco. Thus the agency believes that the revised request for an exception on behalf of the Westvaco Corporation is also unapprovable as a revision of the Maryland SIP.

The State of Maryland submitted proof that a public hearing on the Amendment to the Secretarial Order of July 8, 1975 was held on October 7, 1977, after adequate public notice, pursuant to 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of State Implementation Plans.

This notice is to advise the public of receipt of Maryland's request for an exception, and to request public comment on it. Only comments received before April 5, 1978, will be considered. The Administrator's decision to approve or disapprove this proposed revision will be based on whether it meets the requirements of Section 110 of the Clean Air Act and EPA regulations in 40 CFR Part 51.

Copies of the proposed revision, together with supporting documentation and correspondence, are available for public inspection during normal business hours at the offices of:

U.S. Environmental Protection Agency, Region III, Air Programs Branch, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pa. 19106, ATTN: Mr. Harold Frankford (3AH11).

Maryland State Bureau of Air Quality and Noise Control, 201 West Preston Street, Baltimore, Md. 21201, ATTN: Mr. George Ferreri.

Public Information Reference Unit, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

All comments should be addressed to:

Mr. Howard R. Heim (3AH10), Chief, Air Planning Branch, Environmental Protection Agency, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pa. 19106, ATTN: AH006MD.

(42 U.S.C. 7401 et seq.)

Dated: February 27, 1978.

JACK J. SCHRAMM,
Regional Administrator.

[FR Doc. 78-5707 Filed 3-3-78; 8:45 am]

[1505-01]

[40 CFR Part 141]

[FRL 851-5]

INTERIM PRIMARY DRINKING WATER REGULATIONS

Control of Organic Chemical Contaminants in Drinking Water

Correction

In FR Doc. 78-3414 appearing at page 5756 in the issue for Thursday, February 9, 1978, on page 5777, second column, (c) of § 141.12 should read as follows:

(c) Total trihalomethanes [the sum of the concentrations of bromodichloromethane, dibromochloromethane, tribromomethane (bromoform) and trichloromethane (chloroform)]." 0.10 mg/1

[6560-01]

[40 CFR Part 180]

[FRL 863-4; PP 7E2001/P64]

PESTICIDE PROGRAMS

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Proposed Tolerances for The Pesticide Chemical Malathion

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that the insecticide malathion be used on birdsfoot trefoil. The proposal was submitted by the Interregional Research Project No. 4. This amendment to the regulations would establish a maximum permissible level for residues of malathion on birdsfoot trefoil.

DATE: Comments must be received on or before April 5, 1978.

ADDRESS COMMENTS TO: Federal Register Section, Technical Services Division (WH-569), Office of Pesticide

Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mrs. Patricia Critchlow, Registration Division (WH-567), Office of Pesticide Programs, EPA, 202-755-2516.

SUPPLEMENTARY INFORMATION: Dr. C. C. Compton, Interregional Research Project No. 4, New Jersey State Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, N.J. 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of New York has submitted a pesticide petition (PP 7E2001) to the EPA. This petition requests that the Administrator propose that 40 CFR 180.111 be amended by the establishment of a tolerance for residues of the insecticide malathion (*O,O*-dimethyl dithiophosphate of diethyl mercaptosuccinate) in or on the raw agricultural commodity birdsfoot trefoil at 135 parts per million (ppm).

The data submitted in the petition and all other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought, and it is concluded that the tolerance of 135 ppm established by amending 40 CFR 180.111 will protect the public health.

The toxicological data considered in support of the proposed tolerance included rat and mouse oral acute toxicity determinations, recombinant assay and reversion assay mutagenicity studies, a delayed neurotoxocicity study, a single-dose intraperitoneal teratology study, a one-generation reproduction study, two 2-year rat-feeding studies, and a 47-day human-feeding study. Since birdsfoot trefoil is not a human food but a substitute forage crop for alfalfa on which a tolerance is already established and since tolerances are also established in meat, milk, and meat byproducts, the Toxicology Branch concludes that there will be no increase in residues contributed to the human diet resulting from the proposed use. Oncogenic studies in two species, a multigeneration reproduction study, and a teratology (feeling) study, are lacking.

An adequate analytical method (gas chromatography using electron capture detection) is available for enforcement purposes, and the nature of the residues is adequately delineated. Tolerances have previously been established (40 CFR 180.111) for residues of malathion on a variety of raw agricultural commodities ranging from 135 ppm to 0.1 ppm.

There is no reasonable expectation of residues in eggs and poultry from the proposed use. The established tolerances for residues in meat and milk are adequate to cover secondary residues resulting from the proposed use as delineated in 40 CFR 180.6(a)(2).

It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered, or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein may request, on or before April 5, 1978, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control number, "PP7E2001/P64". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of the Federal Register from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: February 27, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

STATUTORY AUTHORITY: Sec. 408(e), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 345a(e)).

It is proposed that Part 180, Subpart C, section 180.111 be revised in its entirety by editorially reformatting the section into an alphabetized columnar listing and alphabetically inserting the new tolerance of 135 ppm on birdsfoot trefoil, as follows:

§ 180.111 Malathion; tolerances for residues.

Tolerances are established for residues of the insecticide malathion (*O,O*-dimethyl dithiophosphate of diethyl mercaptosuccinate) in or on the following raw agricultural commodities:

Commodity	Parts per million
Alfalfa (PRE-H)	135
Almond hulls (PRE-H)	50
Almonds (PRE- and POST-H)	8
Apples (PRE-H)	8
Apricots (PRE-H)	8
Asparagus (PRE-H)	8
Avocadoes (PRE-H)	8
Barley, grain (PRE- and POST-H)	8
Beans (PRE-H)	8
Beets (including tops) (PRE-H)	8
Beets, sugar, roots (PRE-H)	1
Beets, sugar, tops (PRE-H)	8
Birdsfoot trefoil, forage (PRE-H)	135
Birdsfoot trefoil, hay (PRE-H)	135
Blackberries (PRE-H)	8
Blueberries (PRE-H)	8
Boysenberries (PRE-H)	8
Broccoli (PRE-H)	8
Brussels sprouts (PRE-H)	8
Cabbage (PRE-H)	8
Carrots (PRE-H)	8
Cattle, fat (PRE-S)	4
Cattle, meat[1] (PRE-S)	4
Cauliflower (PRE-H)	8
Celery (PRE-H)	8
Cherries (PRE-H)	8
Chestnuts (PRE-H)	1
Clover (PRE-H)	135
Collards (PRE-H)	8
Corn, forage (PRE-H)	8
Corn, fresh (including sweet K + CWHR) (PRE-H)	2
Corn, grain (POST-H)	8
Cottenseed (PRE-H)	2
Cowpea, forage (PRE-H)	135
Cowpea, hay (PRE-H)	135
Cranberries (PRE-H)	8
Cucumbers (PRE-H)	8
Currants (PRE-H)	8
Dandelions (PRE-H)	8
Dates (PRE-H)	8
Dewberries (PRE-H)	8
Eggplants (PRE-H)	8
Eggs (from application to poultry)	0.1
Endive (escarole) (PRE-H)	8
Figs (PRE-H)	8
Filberts (PRE-H)	1
Garlic (PRE-H)	8
Goats, fat (PRE-S)	4
Goats, mbyp[1] (PRE-S)	4
Goats, meat[1] (PRE-S)	4
Gooseberries (PRE-H)	8
Grapefruit (PRE-H)	8
Grapes (PRE-H)	8
Grass (PRE-H)	135
Grass, hay (PRE-H)	135
Guavas (PRE-H)	8
Hogs, fat (PRE-S)	4
Hogs, mbyp[1] (PRE-S)	4
Hogs, meat[1] (PRE-S)	4
Hops (PRE-H)	1
Horseradish (PRE-H)	8
Horses, fat (PRE-S)	4
Horses, mbyp[1] (PRE-S)	4
Horses, meat[1] (PRE-S)	4
Kale (PRE-H)	8
Kohlrabi (PRE-H)	8
Kumquats (PRE-H)	8
Leeks (PRE-H)	8
Lemons (PRE-H)	8
Lentils (PRE-H)	8
Lespedeza, hay (PRE-H)	135
Lespedeza, seed (PRE-H)	8
Lespedeza, straw (PRE-H)	135
Lettuce (PRE-H)	8
Limes (PRE-H)	8
Loganberries (PRE-H)	8
Lupine, hay (PRE-H)	135
Lupine, seed (PRE-H)	8
Lupine, straw (PRE-H)	135
Macadamia nuts (PRE-H)	1
Mangos (PRE-H)	8
Melons (PRE-H)	8
Milk, fat (from application to dairy cows)	0.5
Mushrooms (PRE-H)	8
Mustard greens (PRE-H)	8
Nectarines (PRE-H)	8
Oats, grain (PRE- and POST-H)	8
Okra (PRE-H)	8
Onions (including green onions) (PRE-H)	8
Oranges (PRE-H)	8
Papayas (PRE-H)	1
Parsley (PRE-H)	8
Parsnips (PRE-H)	8
Passion fruit (PRE-H)	8
Peaches (PRE-H)	8
Peanut, forage (PRE-H)	135
Peanut, hay (PRE-H)	135
Peanuts (PRE- and POST-H)	8
Pears (PRE-H)	8
Peas (PRE-H)	8
Peavine, hay (PRE-H)	8
Peavines (PRE-H)	8
Pecans (PRE-H)	8
Peppermint (PRE-H)	8
Peppers (PRE-H)	8
Pineapples (PRE-H)	8
Plums (PRE-H)	8
Potatoes (PRE-H)	8
Poultry, fat (PRE-S)	4
Poultry, mbyp[1] (PRE-S)	4
Poultry, meat[1] (PRE-S)	4
Prunes (PRE-H)	8
Pumpkins (PRE-H)	8
Quinces (PRE-H)	8
Radishes (PRE-H)	8
Raspberries (PRE-H)	8
Rice, grain (PRE- and POST-H)	8
Rutabagas (PRE-H)	8
Rye, grain (PRE- and POST-H)	8
Safflower, seed (PRE-H)	0.2
Salsify (including tops) (PRE-H)	8
Shallots (PRE-H)	8
Sheep, fat (PRE-S)	4
Sheep, mbyp[1] (PRE-S)	4
Sheep, meat[1] (PRE-S)	4
Sorghum, forage (PRE-H)	8
Sorghum, grain (PRE- and POST-H)	8
Soybeans (dry and succulent) (PRE-H)	8
Soybeans, forage (PRE-H)	135
Soybeans, hay (PRE-H)	135
Spearmint (PRE-H)	8
Spinach (PRE-H)	8
Squash, summer and winter (PRE-H)	8
Strawberries (PRE-H)	8
Sweet potatoes (PRE-H)	1
Swiss chard (PRE-H)	8
Tangerines (PRE-H)	8
Tomatoes (PRE-H)	8
Turnips (including tops) (PRE-H)	8
Vetch, hay (PRE-H)	135
Vetch, seed (PRE-H)	8
Vetch, straw (PRE-H)	135
Walnuts (PRE-H)	8
Watercress (PRE-H)	8
Wheat, grain (PRE- and POST-H)	8

[1] The tolerance level shall not be exceeded in any cut of meat or in any meat byproduct from cattle, goats, hogs, horses, poultry, or sheep.

[FR Doc. 78-5716 Filed 3-3-78; 8:45 am]

[6560-01]

[40 CFR Part 180]

[FRL 863-5; PP 6E1747/P62]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Proposed Tolerances for the Pesticide Chemical 5-ethoxy-3-trichloromethyl-1,2,4-thiadiazole

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for residues of the fungicide 5-ethoxy-3-trichloromethyl-1,2,4-thiadiazole. The proposal was submitted by the California State Dept. of Food and Agriculture. This amendment will establish a maximum permissible level for residues of the subject fungicide on avocados.

DATE: Comments must be received on or before April 5, 1978.

ADDRESS COMMENTS TO: Federal Register Section, Technical Services Division (WH—569), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mrs. Patricia Critchlow, Registration Division (WH-567), Office of Pesticide Programs, Environmental Protection Agency, 202-755-2516.

SUPPLEMENTARY INFORMATION: The California State Dept. of Food and Agriculture, Agricultural Chemicals and Feed, 1220 N Street, Sacramento, Calif. 95814, has submitted a pesticide petition (PP 6E1747) to the EPA. The petition requests that the Administrator propose that 40 CFR Part 180 be amended by the establishment of a tolerance for combined residues of the fungicide 5-ethoxy-3-trichloromethyl-1,2,4-thiadiazole and its monoacid metabolite 3-carboxy-5-ethoxy-1,2,4-thiadazole in or on the raw agricultural commodity avocados at 0.15 part per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicology data considered in support of the proposed 0.15 ppm tolerance were a two-year rat and dog-feeding study with no-effect levels (NEL) of 80 ppm based on systemic effects in the rat study and 100 ppm based on the dog study, a three-generation rat reproduction study with an NEL of 80 ppm, and an oral lethal dose (LD_{50}) study in rats.

There is no reasonable expectation of residues in eggs, meat, milk, or poultry, as delineated in 40 CFR 180.6(a)(3). The nature of the residue is adequately understood, and adequate analytical methods (electron capture gas-liquid chromatography and liquid chromatography using a UV detector) are available for enforcement purposes. An interim tolerance has previously been established (40 CFR 180.319) for residues of the subject fungicide on cottonseed at 0.3 ppm.

A second oncogenicity study and a teratogenicity study are lacking. However, based on: (1) The above information considered by the Agency; (2) the fact that there is no expectation of residues on avocados; and (3) the insignificance of avocados in the diet, it is concluded that the tolerance of 0.15 ppm established by amending 40 CFR Part 180 would protect the public health. Should any information develop to show adverse effects from the fungicide on man or the environment, the petitioner has agreed not to contest a revocation of the tolerance by this Agency. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered, or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein may request, on or before April 5, 1978 that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control number, "PP6E1747/P62". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Office of the Federal Register from 8:30 a.m. to 4 p.m., Monday through Friday.

Dated: February 27, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

(Sec. 408(e), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).)

It is proposed that Part 180, Subpart C, be amended by adding the new § 180.370 to read as follows:

§ 180.370 5-Ethoxy-3-trichloromethyl-1,2,4-thiadiazole; tolerances for residues.

Tolerances are established for combined residues of the fungicide 5-ethoxy - 3 - trichloromethyl - 1,2,4-thiadiazole and its monoacid metabolite 3-carboxy-5-ethoxy-1,2,4-thiadiazole in or on the following raw agricultural commodities:

Commodity:	Parts per million
Avocados	0.15

[FR Doc. 78-5717 Filed 3-3-78; 8:45 am]

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Part 4]

[CCD 77-036]

VESSEL REPORTING REQUIREMENTS

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard is considering amending the Marine Investigation regulations in order to eliminate dual reporting requirements imposed upon certain vessels. Vessels that do not hold a Certificate of Inspection and that are either numbered under the provisions of the Federal Boat Safety Act of 1971, or used by their operators for recreational purposes are presently subject to dual reporting requirements for accidents or casualties. This proposed amendment will eliminate the undue burden currently imposed upon the owners of these vessels.

DATES: Comments must be received on or before April 23, 1978.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/

81) (CGD 77-036), U.S. Coast Guard, Washington, D.C. 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1477.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Each comment should include the name and address of the person submitting the comment, reference this notice (CGD 77-036), identify the specific section of the proposal to which each comment applies, and give the reasons for each comment. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned but one may be held at a time and place to be set in a later notice in the FEDERAL REGISTER if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are: Lieutenant Anthony Regalbuto, Project Manager, Office of Merchant Marine Safety, and Edward J. Gill, Jr., Project Attorney, Office of the Chief Counsel.

DISCUSSION OF THE PROPOSED REGULATIONS

An operator of a vessel that does not hold a Certificate of Inspection and that is either numbered under the provisions of the Federal Boat Safety Act of 1971, or used by the operator for recreational purposes, is required by 33 CFR 173.55 to submit Coast Guard Form CG-3865, Boating Accident Report, or an equivalent form prescribed by state authorities whenever the vessel or equipment is involved in any occurrence specified in 33 CFR 173.55. If such a vessel is involved in a casualty which meets the reporting criteria in 46 CFR 4.05-1, then the operator is also required to submit Coast Guard Form CG-2692, Report of Vessel Casualty or Accident and Coast Guard Form CG-924E, Report of Personal Injury. The reporting criteria for 46 CFR 4.05-1 and 33 CFR 173.55 overlap whenever a vessel or its equipment is involved in a casualty or accident where there is loss of life, injury causing any persons to remain incapacitated for a period in excess of 72 hours, or actual physical damage to property in excess of $1,500.00

In consideration of the foregoing, it is proposed that part 4 of Title 46 of the Code of Federal Regulations be amended by adding a new §4.01-3 to read as follows:

§ 4.01-3 Reporting exclusion.

Vessels subject to 33 CFR 173.51 are excluded from the requirements of Subpart 4.05.

(Sec. 10, 18 Stat. 128, as amended (33 U.S.C. 361); R.S. 4462, as amended (46 U.S.C. 416); Sec. 17, 54 Stat. 166, as amended (46 U.S.C. 526p); Sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1); 49 CFR 1.46(b)).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: March 1, 1978.

O. W. SILER,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc. 78-5799 Filed 3-3-78; 8:45 am]

[4910-22]

Federal Highway Administration

[49 CFR Part 393]

[BMCS Docket No. MC-82; Notice No. 78-5]

PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATIONS

Proposed Rulemaking

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: There is concern that the Federal Motor Carrier Safety Regulations (FMCSR) which are applicable to users of commercial vehicles in interstate and foreign commerce, and the Federal Motor Vehicle Safety Standards which are applicable to manufacturers of new motor vehicles and new vehicle equipment do not conform in certain instances resulting in the appearance of inconsistency. This document proposes changes to the Federal Motor Carrier Safety Regulations to coordinate the FMCSR and the FMVSS, and also to resolve the inconsistencies in the regulations.

DATES: Comments must be received on or before August 3, 1978.

ADDRESSES: BMCS Docket Number MC-82, Bureau of Motor Carrier Safety, Federal Highway Administration, Room 3402, 400 Seventh Street SW., Washington, D.C. 20590.

All comments and suggestions received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. e.s.t., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Mr. D. W. Morrison, Chief, Vehicle Requirements Branch, Bureau of Motor Carrier Safety, 202-426-1700; or Mrs. K. S. Markman, Attorney, Office of the Chief Counsel, 202-426-0786, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. e.s.t., Monday through Friday.

SUPPLEMENTARY INFORMATION: The Federal Motor Carrier Safety Regulations apply to users of commercial vehicles in interstate or foreign commerce, while the Federal Motor Vehicle Safety Standards apply to manufacturers of new vehicles and vehicle equipment. Concern has been expressed that the two sets of regulations do not conform in certain instances, resulting in the appearance of inconsistency.

The principal reasons for the issuance of this notice are to coordinate the FMCSR and the FMVSS and to resolve inconsistencies in the requirements where they may exist. In instances in which the two sets of regulations, FMCSR and FMVSS, are not complementary, confusion could arise among commercial vehicle owners, operators, and manufacturers as to which set of regulations should be adhered to. The possibility exists that a vehicle may be manufactured in accordance with FMVSS requirements but once that same vehicle is put in operation, it may be in violation of a particular FMCSR. In order to eliminate possible discrepancies, it is recommended that 49 CFR 393.45, 393.48, 393.60 and 393.80 be amended. In §393.45(a)(6), the proposed change is the inclusion of FMVSS 106 as a requirement for commercial vehicles in use. In §393.48, the addition of a new paragraph, §393.46(e), is proposed. The new paragraph, (e), would require compliance with FMVSS 106 where applicable for vehicles manufactured on and after April 1, 1979. In §393.60, the proposed change would amend §393.60(a) by deleting the American Safety Standard Code year of "1964" and substituting in its place "1966" and supplements through March 1969. Changing the Safety Code reference date in the subject FMCSR would bring BMCS requirements into line with those of NHTSA. Presently, the FMCSR, following 1964 Safety Code guidelines, requires fewer samples of glass to be used in vehicles' windows be subjected to the prescribed tests. The newer guidelines, on which the NHTSA regulations are based, include

an additional test for safety glazing material used anywhere in a vehicle. Under the existing FMCSR based on the 1964 Safety Code, this newer test, for penetration resistance, is not required to be performed. This proposed change is primarily for purposes of statutory conformity since the existing FMVSS, the more stringent of the two regulations, is an equipment standard, therefore, all glazed materials intended for specific use in vehicles should be in compliance with the NHTSA standard at present.

In §393.80, the proposed amendment would require truck rearview mirrors which had been in compliance with then existing NHTSA standards at the time of vehicle manufacture to remain in compliance unless replaced with mirrors meeting later, stricter regulations. Presently, the relevant FMVSS (111) differs from the counterpart FMCSR §393.80 in that it includes size specifications and requirement for unit magnification for all rearview mirrors, whether located on the interior of the cab or on either side. This proposed amendment should have little or no impact upon the trucking industry since the new requirements for rearview mirrors on vehicles in operation would be met by the original equipment as manufactured under NHTSA guidelines.

In consideration of the foregoing, it is hereby proposed to amend Title 49, Code of Federal Regulations, Chapter III, Part 393 as follows:

1. Paragraph (a)(6) of §393.45 is amended to read as follows:

§ 393.45 Brake tubing and hose, adequacy.

(a) • • •

(6) Conform to the applicable requirements of paragraph (b) or (c) of this section and to those relevant portions of FMVSS 106.

• • • • •

2. A new paragraph (e) is added to §393.46 to read:

§ 393.46 Brake tubing and hose connections.

• • • • •

(e) Meet requirements under applicable subsections of FMVSS 106 issued by the NHTSA.

3. Paragraph (a) of §393.60 is revised to read as follows:

§ 393.60 Glazing in specified openings.

(a) *Kind of glass.* Whenever glazing is used in the windshield, window, door, or any other opening into a bus, truck, or truck tractor, except vehicles engaged in armored car service, such glazing shall conform to the requirements contained in the "American Standard Safety Code of Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways" Z26.1-1966, July 15, 1966, as supplemented by Z26.1a-1969, March 7, 1969, of the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018; *Provided however,* That glazing conforming to ASA Code Z26.1-1950 is acceptable for vehicles manufactured prior to January 1, 1966.

• • • • •

4. Section 393.80 is revised to read as follows:

§ 393.80 Rear-vision mirrors.

Every bus, truck, and truck-tractor shall be equipped with two rear-vision mirrors, one at each side firmly attached to the outside of the motor vehicle and so located as to reflect to the driver a view of the highway to the rear along both sides of the vehicle: *Provided, however,* That only one side mirror shall be required, which shall be on the driver's side, on trucks which are so constructed that the driver has a view to the rear by means of an interior mirror; and *Provided further,* That in driveaway-towaway operations the driven vehicle shall have at least one mirror furnishing a clear view to the rear. All such regulated rear-vision mirrors and their replacements shall meet as a minimum, the standards in force at the time of manufacture under FMVSS 111 issued by the NHTSA. Replacement parts for a vehicle must be in compliance with FMVSS 111 standards as written subsequent to the date of that vehicle's manufacture.

Interested persons are invited to submit written data, views, or arguments pertaining to adoption of the amendments proposed above.

All comments should refer to the docket number and notice number that appear at the top of this document and should be submitted in three copies to the above address.

(Sec. 204, 49 Stat. 546, as amended (49 U.S.C. 304), Sec. 6, Pub. L. 89-670, 80 Stat. 937 (49 U.S.C. 1655); 49 CFR 1.48 and 49 CFR 301.60).)

NOTE.—The Federal Highway Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, Executive Order 11949, and OMB Circular A-107.

Issued: February 21, 1978.

ROBERT A. KAYE,
Director, Bureau of
Motor Carrier Safety.

[FR Doc. 78-5752 Filed 3-3-78; 8:45 am]

[4910-59]

National Highway Traffic Safety Administration

[49 CFR Part 567]

[Docket No. 73-19; Notice 22]

BUMPER STANDARD CERTIFICATION

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes amendment of the regulation governing certification of motor vehicles to applicable safety standards to permit simultaneous certification of compliance with the new motor vehicle bumper standard. Replacement of the existing bumper Standard No. 215 with the more comprehensive Part 581 Bumper Standard on September 1, 1978, prompts this proposal. The proposed modification would fulfill a statutory requirement for certification of compliance in as simple a manner as possible.

DATES: Comment closing date: April 20, 1978. Proposed effective date: Date of publication of the final rule in the FEDERAL REGISTER.

ADDRESSES: Comments should refer to the docket number and be submitted to Docket Section, Room 5108 Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Tad Herlihy, Office of Chief Counsel, National Highway Traffic Safety Administration, Washington, D.C. 20590, 202-426-9511.

SUPPLEMENTARY INFORMATION: A new bumper standard limiting damage to the safety-related and non-safety related components of motor vehicles has been promulgated, to become effective on September 1, 1978 (42 FR 24056; May 12, 1977). The standard (Part 581 Bumper Standard) was issued under the authority of Title I of the Motor Vehicle Information and Cost Savings Act (the Act) (15 U.S.C. 1901, et seq.), which provides that the manufacturer or distributor of a regulated vehicle shall provide a certification of compliance with the bumper standard to the distributor or dealer at the time of delivery (15 U.S.C. 1915(c)(1)). The same provision of the Cost Savings Act authorizes the Secretary of Transportation to issue rules prescribing the manner and form of the certification.

It is the NHTSA's view that the required certification can be made most simply by supplementing the existing

certification statement required by the National Traffic and Motor Vehicle Safety Act (the Vehicle Safety Act) (15 U.S.C. 1381, et seq.) for Federal motor vehicle safety standards. The manner and form of safety standard certification is familiar to all manufacturers and could be easily modified to also constitute bumper certification. The existing certification for safety standards is specified by part 567 of NHTSA regulations (49 CFR Part 567, Certification) and reads:

"This vehicle conforms to all applicable Federal motor vehicle safety standards in effect on the date of manufacture shown above"

This certification would be expanded to cover the bumper standard by the addition of "and bumper" following the word "safety." A comparable change is proposed for the vehicle alterer's statement that is specified in §567.7 of the regulation. A conforming change to the next of the "Purpose and scope" section of Part 567 would also be made.

In the case of both sections, the changed language would be limited to passenger cars, the only class of motor vehicle to which the Part 581 bumper standard is applicable. In this regard, it is noted that Part 567 calls for specification of the type classification of the vehicle established under the Vehicle Safety Act. Although the Cost Savings Act establishes different type classifications (e.g., passenger motor vehicle), Part 581's applicability only to that portion of the passenger motor vehicle category which, under the Vehicle Safety Act, is defined as "passenger cars" permits the currently prescribed certification classification to be maintained without modification.

In consideration of the foregoing, it is proposed that Part 567 (49 CFR 567) be amended as follows:

1. Section 567.1 (Purpose and scope) would be amended by the addition of "and by section 105(c)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1915(c)(1)) (the Cost Savings Act)," following the parenthetical phrase "(the Act)".

2. Section 567.3 (Definitions) would be amended by the addition of a new sentence at the end of the text to read: "The term 'bumper' has the meaning assigned to it in Title I of the Cost Savings Act and the rules and standards issued under its authority."

3. Paragraphs 567.4(g)(5) and 567.7(a) would be amended by the addition of the new sentence at the end of the text to read: "However, in the case of passenger cars, the expression 'and bumper' shall be included in the statement following the word 'safety'."

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a succinct and concise fashion.

In the case of comments that contain materials for which confidential treatment is requested, those materials should be deleted from the copies submitted to the docket. A copy of the complete comments should be submitted to the Office of Chief Counsel at the above address, with an indication of which portions of the comments are the subject of the request for confidentiality.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

The lawyer principally responsible for this document is Tad Herlihy.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); secs. 102, 105, Pub. L. 92-513, 86 Stat. 947 (15 U.S.C. 1912, 1915); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8).)

Issued on: February 24, 1978.

ELWOOD T. DRIVER,
Acting Associate Administrator for Rulemaking.

[FR Doc. 78-5599 Filed 3-3-78; 8:45 am]

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 23]

SURVEY OF NATIVE SPECIES PROTECTED BY THE ENDANGERED SPECIES CONVENTION

Proposed Rulemaking

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Fish and Wildlife Service requests help in collecting information on Wildlife species native to the United States that are currently protected by the Convention on International Trade in Endangered Species of Wild Fauna and Flora. This information will be used at the next meeting of party countries (early 1979 in Costa Rica) to determine the proper appendix, if any, in which each species should be listed. Information will be most useful if received by April 15, 1978, because the Service must publish any proposed changes in the FEDERAL REGISTER by May 15, 1978, and send any formal proposals to the Convention Secretariat by July 31, 1978.

DATE: Submit information in writing by April 15, 1978.

ADDRESSES: Please send information to the Director, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Dr. Richard L. Jachowski, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, phone 202-254-8100.

SUPPLEMENTARY INFORMATION: The Fish and Wildlife Service requests help in collecting all available information on the topics listed below. These topics are arranged in the format the Service will follow in submitting documentation to the Convention Secretariat. Please cite references to published data and append any unpublished data.

1. Taxonomy—Order, family, scientific name, including author and year common name(s) when applicable.

2. Biological data—Distribution (current and historical), population (estimates and trends), habitat (trends).

3. Trade data—National utilization, legal international trade, illegal trade, potential trade threats; (a) live specimens, (b) parts and derivatives.

4. Protection status—national, international, additional protection needs.

5. Information on similar species.

6. Comments from countries of origin other than the United States.

7. Additional remarks.

8. References.

Species for which information is needed are listed below. They include species native to the United States, its territories and the open sea.

[06]2029

Classification	Appendix I	Appendix II
MAMMALIA		
RODENTIA		
Heteromyidae		*Dipodomys phillipsii phillipsii* (Phillip's Kangaroo rat)
CETACEA		
Eschrichtidae	*Eschrichtius robustus* (glaucus) (Gray whale)	
Balaenopteridae	*Balaenoptera borealis* *Balaenoptera musculus* (Blue whale)	*Balaenoptera borealis* (Sei whale)
	Balaenoptera physalus	*Balaenoptera physalus* (Fin whale)
	Megaptera novaeangliae (Humpback whale)	
Balaenidae	*Balaena mysticetus* (Bowhead whale) *Eubalaena glacialis* (Right whale) *Eubalaena australis* (Right whale)	
CARNIVORA		
Canidae		*Canis lupus* (Gray wolf) *Ursus arctos* (Grizzly & brown bears)
	Vulpes velox hebes (Northern kit fox)	
		Ursus (Thalarctos) maritimus (Polar bear)
Mustelidae	*Enhydra lutris nereis* (Southern sea otter) *Mustela nigripes* (Black-footed ferret)	*Lutra canadensis* (River otter)
Felidae	*Felis concolor coryi* (Florida puma) *Felis concolor cougar* (Eastern puma)	*Felis concolor* (Puma)
		Lynx canadensis (Lynx) *Lynx rufus* (Bobcat)
	Felis pardalis (Ocelot) *Felis wiedii* (Margay) *Felis yagouaroundi cacomitli* (Jaguarundi) *Felis yagouaroundi tolteca* (Jaguarundi) *Panthera onca* (Jaguar)	
Otariidae		*Arctocephalus townsendi* (Guadelupe fur seal)
Phocidae	*Mirounga angustirostris* (Northern elephant seal) *Monachus tropicalis* (West Indian monk seal) *Monachus schauinslandi* (Hawaiian monk seal)	
SIRENIA		
Dugongidae	*Dugong dugon* (Dugong)	
Trichechidae	*Trichechus manatus* (Florida manatee)	
ARTIODACTYLA		
Antilocapridae		*Antilocapra americana mexicana* (Mexican pronghorn)
	Antilocapra americana sonoriensis (Sonoran pronghorn)	
Bovidae		*Ovis canadensis* (Bighorn sheep)
AVES		
ANSERIFORMES		
Anatidae	*Anas diazi* (Mexican duck) *Anas laysanensis* (Laysan teal) *Anas oustaleti* (Marianas mallard)	*Anser albifrons gambelli* (Tule white-fronted goose)

Classification	Appendix I	Appendix II
	Branta canadensis leucopareia (Aleutian Canada goose)	
	Branta sandvicensis (Hawaiian goose)	*Cygnus buccinator* (Trumpeter swan)
FALCONIFORMES		
Cathartidae	*Gymnogyps californianus* (California condor)	
Accipitridae		*Accipiter gentilis* (Goshawk)
		Aquila chrysaetos (Golden eagle)
	Haliaeetus leucocephalus (Bald eagle)	*Circus cyaneus* (Marsh hawk)
Pandionidae		*Pandion haliaetus* (Osprey)
Falconidae	*Falco peregrinus* (Peregrine falcon)	*Falco columbarius* (Pigeon hawk)
		Falco femoralis (Aplomado falcon)
		Falco mexicanus (Prairie falcon)
		Falco rusticolus (Gyrfalcon)
		Falco sparverius (Sparrow hawk)
GALLIFORMES		
Tetraonidae	*Tympanuchus cupido attwateri* (Attwater's greater prairie chicken)	*Tympanuchus cupido pinnatus* (Greater prairie chicken)
Phasianidae	*Colinus virginianus ridgwayi* (Masked bobwhite)	*Cyrtonyx montezumae mearnsi* (Mearn's quail)
GRUIFORMES		
Gruidae	*Grus americana* (Whooping Crane)	
	Grus canadensis pulla (Mississippi sandhill crane)	*Grus canadensis pratensis* (Florida sandhill crane)
CHARADRIIFORMES		
Scolopacidae	*Numenius borealis* (Eskimo curlew)	
PSITTACIFORMES		
Psittacidae	*Amazona vittata* (Puerto Rican parrot)	
	Rhynchopsitta pachyrhyncha (Thick-billed parrot)	
STRIGIFORMES		
Strigidae		*Otus nudipes newtoni* (Virgin Islands screech owl)
		Nyctea scandiaca (Snowy owl)
REPTILIA		
TESTUDINATA		
Emydidae		*Clemmys muhlenbergi* (Muhlenberg turtle)
Testudinidae		*Gopherus agassizii* (Gopher tortoise)
		Gopherus berlandieri (Gopher tortoise)
		Gopherus flavomarginatus (Gopher tortoise)
		Gopherus polyphemus (Gopher tortoise)
		Geochelone carbonaria (Red-footed tortoise)
Cheloniidae	*Caretta caretta* (Loggerhead sea turtle)	
	Chelonia mydas (Green sea turtle)	
	Eretmochelys imbricata (Hawkbill sea turtle)	
	Lepidochelys kempii (Atlantic ridley sea turtle)	
	Lepidochelys olivacea (Olive ridley sea turtle)	
Dermochelyidae	*Dermochelys coriacea* (Leatherback sea turtle)	
CROCODYLIA		
Alligatoridae	*Alligator mississippiensis* (American alligator)	
Crocodylidae	*Crocodylus novaeguineae mindorensis* (Philippine crocodile)	*Crocodylus acutus* (American crocodile)
		Crocodylus novaeguineae (New Guinea crocodile)
		Crocodylus porosus (Saltwater crocodile)
SAURIA		
Iguanidae		*Iguana iguana* (Iguana)
		Cyclura cornuta (Ground Iguana)
		Phrynosoma coronatum blainvillei (San Diego horned lizard)

Classification	Appendix I	Appendix II
Teiidae		*Cnemidophorus hyperythrus* (Orange-throated whiptail lizard)
Helodermatidae		*Heloderma suspectum* (Gila monster)
Varanidae		*Varanus indicus* (Monitor lizard)
SERPENTES		
Boidae	*Epicrates inornatus* (Puerto Rican boa)	*Epicrates monensis* (Mona Island boa)
		Charina bottae (Rubber boa)
		Lichanura trivirgata (Rosy boa)
		Exygrus carinatus (Pacific island boa)
		Thamnophis elegans hammondi (Two-striped garter snake)
Clubridae		
AMPHIBIA		
SALIENTIA		
Bufonidae		*Bufo retiformis* (Sonoran green toad)
PISCES		
ACIPENSERIFORMES		
Acipenseridae	*Acipenser brevirostrum* (Shortnosed sturgeon)	
	Acipenser oxyrhynchus (Atlantic sturgeon)	*Acipenser fulvescens* (Lake sturgeon)
SALMONIFORMES		
Salmonidae	*Coregonus alpenae* (Longjaw cisco)	
CYPRINIFORMES		
Catostomidae	*Chasmistes cujus* (Cui-ui)	
Cyprinidae		*Plagopterus argentissimus* (Woundfin)
		Ptychocheilus lucius (Colorado squawfish)
PERCIFORMES	*Stizostedion vitreum glaucum* (Blue pike)	
Percidae		
MOLLUSCA		
NAIADOIDA		
Unionidae	*Conradilla caelata* (Birdwing pearly mussel)	*Cyprogenia alberti* (Edible pearly mussel)
	Dromus dromas (Dromedary pearly mussel)	
	Epioblasma (=*Dysnomia*) *florentina curtisi* (Curtis' pearly mussel)	
	Epioblasma (=*Dysnomia*) *florentina florentina* (Yellow-blossom pearly mussel)	
	Epioblasma (=*Dysnomia*) *sampsoni* (Sampson's pearly mussel)	
	Epioblasma (=*Dysnomia*) *sulcata perobliqua* (White cat's paw)	
	Epioblasma (=*Dysnomia*) *torulosa gubernaculum* (Green-blossom pearly mussel)	*Epioblasma* (=*Dysnomia*) *torulosa rangiana* (Tan-blossom pearly mussel)
	Epioblasma (=*Dysnomia*) *torulosa torulosa* (Tuberculed-blossom pearly mussel)	
	Epioblasma (=*Dysnomia*) *turgidula* (Turgid-blossom pearly mussel)	
	Epioblasma (=*Dysnomia*) *walkeri* (Brown-blossom pearly mussel)	
	Fusconaia cuneolus (Pine-rayed pigtoe)	
	Fusconaia edgariana (Shiny pigtoe)	*Fusconaia subrotunda* (Long solid)
	Lampsilis higginsi (Higgins eye)	*Lampsilis brevicula* (Ozark lamp pearly mussel)
	Lampsilis orbiculata orbiculata (Pink mucket)	
	Lampsilis satura (Plain pocketbook)	

Classification	Appendix I	Appendix II
	Lampsilis virescens (Alabama lamp pearly mussel)	*Pleurobema clava* (Club pearly mussel)

hibitions imposed on "the taking of gray or right whales," provided that the meat and products of such whales were used exclusively for local consumption by Alaskan Natives. The amendment further limited the number of whales from the Bering Sea stock: 12 whales landed or 18 whales struck, whichever comes first. The amendment also established a quota of 5 whales from the Chukchi Sea stock. The 1977 amendment was based on the best scientific information available at the time. Since then, however, new information has become available which indicates that the bowhead population is smaller than previously thought and that the level of mortality and serious injury to the bowhead population has occurred or is occurring as a result of native whaling activities in 1978, be

CLASSIFICATION	APPENDIX I	APPENDIX II
	Lampsilis virescens (Alabama lamp pearly mussel)	*Pleurobema clava* (Club pearly mussel)
		Lexingtonia dolabelloides (Slab-sided pearly mussel) *Pleurobema clava* (Club pearly mussel)
	Plethobasis cicatricosus (White wartyback) *Plethobasis cooperianus* (Orange-footed pimpleback) *Pleurobema plenum* (Rough pigtoe) *Potamilus capax* (Fat paybook) *Quadrula intermedia* (Cumberland monkey face) *Quadrula sparsa* (Appalachian monkey face) *Toxolasma* (=*Carunculata*) *cylindrella* (Pale lilliput pearly mussel) *Villosa* (=*Micromya*) *trabilis* (Cumberland bean)	

This document was prepared by Dr. Richard L. Jachowski, Federal Wildlife Permit Office.

NOTE.—The Service has determined that this document does not contain a major action requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: February 24, 1978.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

[FR Doc. 78-5750 Filed 3-3-78; 8:45 am]

[3510-22]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 230]

NATIVE SUBSISTENCE

Taking of bowhead whales by Indians, Aleuts, or Eskimos for Subsistence Purposes

AGENCY: National Marine Fisheries Service.

ACTION: Proposed rule.

SUMMARY: The aboriginal exemption to the Schedule of International Whaling Convention (the "Convention") which allows the taking of either 12 bowhead whales landed or 18 struck is allocated among the nine Alaskan Eskimo whaling villages which have traditionally participated in the hunt. In implementing the obligation of the United States under the Convention, these proposed regulations require appropriate licensing, call for reporting of various data, proscribe certain acts, set out penalties, and provide for, to the extent possible, the maximum utilization of all whales taken.

DATES: Comments must be received on or before March 20, 1978.

ADDRESSES: Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street NW., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

William P. Jensen, Marine Mammal and Endangered Species Division, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C. 20235, phone: 202-634-7461.

SUPPLEMENTARY INFORMATION: Whaling activities conducted by persons subject to the jurisdiction of the United States are governed by the Whaling Convention Act (WCA, 16 U.S.C. §§ 916a-l) which implements the Convention domestically. The body of the Convention sets out the rights and duties of Contracting Governments, and the Schedule to the Convention (the "Schedule"), which is deemed to be a part thereof, contains regulations adopted by the International Whaling Commission (the "Commission").

Until recently, the Schedule expressly exempted aborigines, which includes Alaskan Eskimos, from the prohibitions imposed on "the taking of gray or right whales," provided that the meat and products of such whales were used exclusively for local consumption by the aborigines. The hunting of bowhead whales, a species of right whale, has been an important part of the culture and subsistence lifestyle of Alaskan Eskimos for centuries. Hunting occurs in U.S. waters off the coast of Alaska during the spring and fall as the bowhead whales migrate north and east through near shore leads (openings in the ice) in the spring and then west and south as ice forms in the fall. Residents of nine villages participate in the hunt as the bowhead whales pass their respective village. Weapons used in the hunt, the darting and shoulder guns, have not changed substantially since the peak of the commercial whaling era in the middle part of the last century. Skin covered whaling vessels known as umiaks remain the most commonly used vessel.

In June 1977, the Commission amended the Schedule to impose a prohibition on the taking of bowhead whales by deleting the words "or right" from the quoted provision of the Schedule. Since such a prohibition would have had a severe impact on Alaskan Eskimos, the United States considered objecting to the amendment, as permitted by the Convention. In aid of reaching a decision on what was considered to be a "major Federal action significantly affecting the quality of the human environment," an environmental impact statement was prepared, entitled "International Whaling Commission Deletion of Native Exemption for the Subsistence Harvest of Bowhead Whales", pursuant to the National Environmental Policy Act (42 U.S.C. §§ 4321-4347).

In October 1977, the United States decided not to object in light of its commitment to international conservation. Recognizing both the need to preserve the central elements of the Eskimo culture and to conserve the bowhead whale stocks, the United States believed that a limited subsistence hunting of bowhead whales should be permitted. Therefore, the United States set out to develop a comprehensive research program and conservation regime to control subsistence hunting for presentation to the Commission's Scientific Committee at its meeting of November 21-25, 1977. In addition, the conservation regime was published as proposed regulations in the FEDERAL REGISTER (42 FR 60185) on November 25, 1977, under the authority of the Marine Mammal Protection Act ("MMPA," 16 U.S.C. §§ 1361-1407).

At a special meeting on December 6-8, 1977, the Commission adopted an amendment to the Schedule which allowed a limited taking of bowhead whales from the Bering Sea stock: 12 whales landed or 18 whales struck, whichever comes first. The amendment further prohibited the taking of any calf or any bowhead whale accompanied by a calf. The United States received official notice of this action on December 29, 1977. By the terms of the convention, this amendment to the Schedule enters into effect at 12 (noon), March 20, 1978. In light of the commission's action, the conservation regime published as proposed regulations under the MMPA was withdrawn on January 30, 1978 (43 FR 3921).

Pursuant to section 916k of the WCA, amendments to the Schedule must be published in the FEDERAL REGISTER. As the present Schedule now embraces whaling operations carried on by persons subject to the jurisdiction of the United States, the entire revised Schedule as amended is being published as 50 CFR Part 351. This will appear in a separate document.

Under the Convention, the United States has an obligation to "take appropriate measures to ensure the application of the provisions of this Convention and the punishment of infractions against the said provisions." Such an obligation is effectuated through regulations promulgated under the authority of the WCA. The proposed regulations contained herein are considered necessary to carry out the purposes and objectives of the convention and the WCA in a fair, equitable, and practical manner. These regulations will be effective until December 31, 1978. They contain provisions dealing with the following issues:

Quotas. Due to the historic village by village participation in either the spring or fall hunt, the documented dependence on the bowhead whale to meet the nutritional needs of the Alaskan Eskimo in these villages, as well as the cultural significance attached to the hunt which pervades the social fabric of each village, the number of whales which may be landed or struck has been allocated on a village-by-village basis. Once the quota for a village has been reached, whaling for bowhead whales from that village ceases, and individual licenses and certificates of inclusion held by native whaling captains domiciled in that village are no longer valid. This arrangement complies with the obligation of the United States under the Convention to punish infractions against the provisions of the Convention by assuring that all landings or strikes in excess of the 12/18 quota, as allocated, will be subject to sanction.

If for some reason the quota in one village is not reached, it may be reassigned to a second village by the Administrator, provided that the quota for no other village is exceeded at the time. If the Administrator determines that an emergency affecting the viability of the bowhead population has occurred or is occurring as a result of native whaling activities in 1978, he may suspend whaling for bowhead whales.

Licenses. A license may be issued to any individual native whaling captain or to a person or organization representing a number of native whaling captains. If a native whaling captain applies through a representative, he is issued a certificate of inclusion following issuance of a license to the representative. The fee for a license is $100. There is no fee associated with the certificate of inclusion.

Prohibited acts. This section limits those who may engage in whaling and proscribes certain acts. Only a licensed or certificated native whaling captain and his whaling crew may engage in whaling for bowhead whales. Those who may engage in whaling may not do so for a calf or a bowhead whale accompanied by a calif, without weapons which bear a distinctive identifying mark, or in a wasteful manner. Since the number of bowhead whales that may be landed or struck is limited, controls on the manner of hunting are considered to be necessary to implement the requirement of the Schedule that whales which are taken are fully utilized, and to provide the greatest benefit to the entire Alaskan Eskimo population. The proscription of wasteful manner contemplates the prohibition of whaling activities generally recognized as wasteful such as shooting a bowhead whale with a rifle or shooting a bowhead whale with a shoulder gun without the use of a darting gun.

Salvage of stinkers. To avoid waste, it is permissible to salvage a dead unclaimed bowhead whale found upon a beach or on the ice, stranded in shallow water, or floating at sea (a "Dauhval" under the terms of the Convention). Such salvage must be reported, and all harpoons, lances, or explosive darts found in or attached to the stinker must be given to the appropriate authority. Due to the requirement of a distinctive identifying mark on the weapons it will be possible in most instances to determine which captain struck the whale. This will act as a check on the reported strikes, and will provide added data to the research program on the bowhead whale presently being undertaken. A primary concern is that the whale not be wasted. Any stinker which is salvaged will not be counted as a landed whale.

Penalties. Except for reporting and record keeping violations, the WCA prescribes criminal penalties for violations of these regulations: up to $10,000 fine or up to one year in jail, or both. Further, a court may prohibit a violator from whaling for an indefinite period, and/or may order forfeited, in whole or in part, any whales taken, any whale products derived

therefrom, or the monetary value thereof.

It is anticipated that some Eskimo villages will begin whaling in late March. If these regulations are not in effect at that time, the native subsistence hunt of bowhead whales will be subject only to the basic provisions of the Schedule with no controls on reporting, allocation, or wasteful methods under the WCA. This could result in an inequitable situation for those whaling villages unable to engage in whaling until later in the season as they would not be assured an opportunity of meeting critical nutritional needs. It would also undermine effective enforcement and the gathering of valuable data in aid of the bowhead whale research program. Therefore, it is for good cause shown that an extended public comment period is unnecessary and may in fact jeopardize the promulgation of effective final rules by the beginning of the spring hunt. Consequently, comments must be received on or before March 20, 1978.

PART 230—NATIVE SUBSISTENCE

It is proposed to amend Part 230 by amending § 230.10 and by adding a new heading, entitled Native Subsistence, §§ 230.70 through 230.77.

§ 230.10 Licenses and scientific permits.

(a) • • •

(b) No license shall be issued except as provided in § 230.13 and §§ 230.70 through 230.77. Licenses issued under § 230.73 shall be governed solely by the requirements of §§ 230.70 through 230.77

§ 230.70 General.

The provisions of §§ 23.70 through 230.77 which govern native subsistence whaling for bowhead whales shall expire on December 31, 1978.

§ 230.71 Definitions.

(a) As used in §§ 230.70 through 230.77 of this Part 230:

(1) "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration;

(2) "Assistant Administrator" means the Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration;

(3) "Bowhead" means a whale of the Bering Sea stock of bowhead whales, *Balaena mysticetus;*

(4) "Calf" means any bowhead which is less than 21 feet in length as measured from the point of the upper jaw and the notch between the tail flukes;

(5) "Landing" means bringing a bowhead or any parts thereof onto the ice or land in the course of whaling operations;

(6) "Native whaling captain" or "captain" means any Indian, Aleut, or Eskimo domiciled in a whaling village who is in charge of a vessel and a whaling crew;

(7) "Stinker" means a dead unclaimed bowhead found upon the ice, or a beach, stranded in shallow water, or floating at sea;

(8) "Strike" means hitting a bowhead with a harpoon, lance, or explosive dart;

(9) "Whaling" means the hunting, striking, harassing, killing, or landing of bowheads, but does not include the salvage or processing of any stinker;

(10) "Whaling crew" means those persons under the control of a captain, who collectively participate as a unit in whaling;

(11) "Whaling village" means any of the villages of Gambell, Savoonga, Whales, Kivalina, Point Hope, Wainwright, Barrow, Nuigsut, and Kaktovik in the State of Alaska; and

(12) "Wasteful manner" means a method of whaling which is not likely to result in the landing of a struck whale or which does not include all reasonable effort to retrieve the whale.

§ 230.72 Prohibited acts.

(a) No person shall engage in whaling except:

(1) A native whaling captain licensed in accordance with the provisions of § 230.73;

(2) A native whaling captain included under the terms of a license issued in accordance with the provisions of § 230.73: or

(3) A member of a whaling crew under the control of a captain referred to in (1) and (2) of this paragraph.

(b) No native whaling captain shall engage in whaling for any calf or any bowhead whale accompanied by a calf.

(c) No native whaling captain shall engage in whaling in a wasteful manner.

(d) No native whaling captain shall continue to whale after, (1) the quota set forth in § 230.74 for his village of domicile is reached or, (2) the license under which he is whaling is suspended as provided in § 230.73(a)(6).

(e) No native whaling captain shall claim domicile in more than one whaling village.

(f) No person may salvage a stinker without complying with the provisions of § 230.75.

(g) No native whaling captain shall engage in whaling with a harpoon, lance, or explosive dart which does not have permanently affixed thereto or engraved thereon the distinctive marking described by the captain pursuant to § 230.73(iv) to identify the captain as the owner thereof.

§ 230.73 Licenses and certificates of inclusion.

(a) A license may be issued to a native whaling captain or a representative of one or more captains who applies on their behalf.

(1) Applications for a license shall contain:

(i) Name, address, and telephone number, if any, of the applicant. If the applicant is an organization or corporate entity, a copy of the corporate or organizational charter shall be included;

(ii) The name and village of domicile of the applicant (if he is a native whaling captain) and of each captain represented by the applicant;

(iii) A statement by the applicant (if he is a native whaling captain) and each native whaling captain represented by the applicant;

(A) That he understands and will comply with the regulations of this Part;

(B) That the whaling crew contains at least five members;

(C) That any vessel to be used contains adequate equipment for whaling and that there are adequate provisions for the whaling crew;

(D) That no member of the whaling crew will receive money for participation in the native subsistence whaling; and

(E) That he consents to reasonable inspection, upon notice at his village domicile, by authorized employees of the National Marine Fisheries Service of the equipment to be employed in whaling operations;

(iv) A description of the distinctive marking to be placed on each harpoon, lance, and explosive dart of each captain covered by the application.

(v) A certification in the following wording signed by the applicant: I certify that the foregoing information is complete, true, and correct to the best of my knowledge and belief. I understand that this information is submitted for the purpose of obtaining a license under the Whaling Convention Act, and that any false statement may subject me to the penalties set forth therein.

(2) The original and four copies of the application for a license shall be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D.C. 20235.

(3) A license fee of $100 is required. A check in this amount made payable to the National Marine Fisheries Service must accompany the application.

(4) The Assistant Administrator shall determine the adequacy and completeness of an application, and if found to be inadequate or incomplete will promptly notify the applicant.

(5) A license shall contain a limitation on the number of whales that may be landed or struck, as provided in section 230.74.

(6) A license issued under this heading shall expire on December 31, 1978. The Administrator may suspend any license issued pursuant to this heading if he, in his discretion, determines that a change in circumstance resulting from unauthorized native whaling activities in 1978 creates an emergency presenting an imminent hazard to the viability of the bowhead population. Immediately upon such determination, the Administrator shall advise all holders of licenses and certificates of inclusion of the suspension and the reasons therefor. Any affected license holder shall, upon request, be entitled forthwith to a informal hearing to determine whether the suspension should be modified or lifted.

(b) Upon issuance of a license, the Assistant Administrator shall issue a certificate of inclusion to each native whaling captain represented by the license holder. Each certificate shall state the whaling village of domicile claimed by the captain and describe the distinctive mark to be permanently affixed to or engraved on the equipment of the captain. Such certificates are not transferable.

§ 230.74 Quotas.

(a) During the calendar year 1978, the quotas for bowheads is allocated among whaling villages as follows:

(1) Kaktovik—1 whale landed or 2 struck, whichever occurs first; (2) Nuigsut—1 whale landed or 2 struck, whichever occurs first; (3) Barrow—3 whales landed or 3 struck, whichever occurs first; (4) Wainwright—2 whales landed or 2 struck, whichever occurs first; (5) Point Hope—2 whales landed or 2 struck, whichever occurs first; (6) Kivalina—1 whale landed or 2 struck, whichever occurs first; (7) Gamble—1 whale landed or 2 struck, whichever occurs first; (8) Savoonga—1 whale landed or 2 struck, whichever occurs first; (9) Wales—0 whale landed or 0 struck.

An additional strike may be allocated by the Administrator after consultation with all license holders.

(b) When the number of bowheads struck or landed by native whaling captains domiciled in a whaling village equals the quota for such whaling village as set forth in paragraph (a), whaling by all captains domiciled in that whaling village shall cease. All license holders shall be notified promptly by the Assistant Administrator. All license holders shall notify immediately all affected certificate holders. Licenses and certificates of inclusion held by native whaling captains domiciled in a whaling village which has reached its quota shall not be valid after the quota for that whaling village has been reached.

(c) If for any reason the landing or struck quota for whaling village is not reached, the part of the quota which remains may be reassigned to a second whaling village by the Administrator, provided that no other whaling village has exceeded its quota at the time of the reassignment. In making such reassignment the Administrator shall consult with all license holders.

§ 230.75 Salvage of stinkers.

Any person salvaging a stinker shall submit to the Assistant Administrator of his representative an oral or written report describing the circumstances of the salvage within 12 hours of such salvage. He shall provide promptly to the Assistant Administrator or his representative each harpoon, lance, or explosive dart found in or attached to the stinker.

§ 230.76 Reporting by native whaling captains.

(a) All native whaling captains who hold either a license or a certificate of inclusion shall provide to the Assistant Administrator or his representative an oral or written report within 12 hours of the striking, attempted striking, or landing of a bowhead. The Assistant Administrator is authorized to provide technological assistance to facilitate prompt reporting. The report shall include at least the following information:

(1) The number, dates, and locations of each strike, attempted strike or landing;

(2) The length (as measured from the point of the upper jaw and the notch between the tail flukes) the extreme width of the flukes, and the sex of the bowhead(s) landed;

(3) The length and sex of a fetus, if present;

(4) An explanation of circumstances associated with the striking or attempted striking of any bowhead not landed; and

(5) The number of bowheads sighted by the native whaling captain or any member of the whaling crew.

(b) Each license holder shall keep a written record of the information required in paragraph (a), and shall forward the record to the Assistant Administrator within a reasonable time after whaling for bowhead whales has ceased for the season. In any event the report shall be submitted by July 15 for the preceding spring whaling season and by December 15 for the preceding fall whaling season.

§ 230.77 Penalties.

Any person who whales in contravention of these regulations, or violates any other provision of the Whaling Convention Act or of these regulations shall be subject to the penalties set forth in 16 U.S.C. 916e and 916f, and any other penalties provided by law.

Dated: March 2, 1978.

TERRY LEITZELL,
Acting Assistant Administrator for Fisheries.

[FR Doc. 78-5925 Filed 3-3-78; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6110-01]

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

COMMITTEE ON AGENCY DECISIONAL PROCESSES

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Commitee on Agency Decisional Processes of the Administrative Conference of the United States, to be held at 10 a.m., Wednesday, April 12, 1978, in the office of Ginsburg, Feldman and Bress, 1700 Pennsylvania Avenue NW., Suite 300, Washington, D.C.

The Committee will meet for further discussion of Professor Edward Tomlinson's study of statutory time limits for agency action and Professor Michael Baram's study of the use of cost-benefit analysis in federal energy regulation.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least two days in advance. The Committee Chairman, if he deems appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting contact David Pritzker 202-254-7020. Minutes of the meeting will be available on request.

RICHARD K. BERG,
Executive Secretary.

FEBRUARY 27, 1978.

[FR Doc. 78-5786 Filed 3-3-78; 8:45 am]

[3410-02]

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

FEDERAL GRAIN STANDARDS ACT ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of the following Committee meeting:

Name: Federal Grain Standards Act Advisory Committee.

Date, place and time: April 4, 1978. U.S. Department of Agriculture, 1400 Independence Avenue SW., Room 2096, South Building, Washington, D.C. 20250, 9 a.m.

Purpose: The purpose of this meeting is for members to make recommendations on issues discussed at our December 14, 1977, meeting; also, to further review the U.S. Grain Standards Act of 1976 as amended.

The meeting is open to the public but space and facilities are limited. Public participation will be limited to written statements submitted before or at the meeting unless their participation is otherwise requested by the Committee Chairman. Persons, other than members, who wish to address the Committee at the meeting should contact Dr. Leland E. Barteit, Administrator, FGIS, U.S. Department of Agriculture, Washington, D.C. 20250, telephone, 202-447-9170.

Dated: February 28, 1978.

L. E. BARTELT,
Administrator.

[FR Doc. 78-5756 Filed 3-3-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket No. 32126]

TWIN CITIES-KANSAS CITY-OKLAHOMA-TEXAS ROUTE PROCEEDING

Prehearing Conference

Notice is hereby given that a prehearing conference in this proceeding is assigned to be held on April 4, 1978, at 9:30 a.m. (local time), in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and six copies to the judge of: (1) Proposed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evidence; (4) statements of positions; and (5) proposed procedural dates. The Bureau of Pricing and Domestic Aviation will circulate its material on or before March 7, 1978, and the other parties on or before March 28, 1978. The submissions of the other parties shall be limited to points on which they differ with the Bureau, and shall follow the numbering and lettering used by the Bureau to facilities cross-referencing.

Dated at Washington, D.C., March 1, 1978.

JANET D. SAXON,
Administrative Law Judge.

[FR Doc. 78-5796 Filed 3-3-78; 8:45 am]

[6320-01]

[Docket No. 31946]

SINGAPORE AIRLINES, LTD.

Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on March 30, 1978, at 10 a.m. (local time), in Room 1003 Hearing Room B, Universal Building North, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned Administrative Law Judge.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before March 17, 1978.

Dated at Washington, D.C., March 1, 1978.

WILLIAM H. DAPPER,
Administrative Law Judge.

[FR Doc. 78-5795 Filed 3-3-78; 8:45 am]

[6335-01]

COMMISSION ON CIVIL RIGHTS

DELAWARE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Delaware Advisory Committee (SAC) of the Commission will convene at 12 noon and will end 2 p.m. on March 30, 1978, YMCA, 11th and Washington Streets, Wilmington, Del.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street NW. Room 510, Washington, D.C. 20037.

The purpose of this meeting is for the Delaware State Advisory Committee will meet to plan Committee Activities for 1978.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 28, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-5733 Filed 3-3-78; 8:45 am]

[6335-01]

ILLINOIS ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Illinois Advisory Committee (SAC) of the Commission will convene at 10 a.m. and will end at 3 p.m. on March 13, 1978, in the Conference Room 3280, 230 South Dearborn Street, Chicago, Ill. 60604.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Ill. 60604.

The purpose of this meeting is to discuss report from the Regional Conference and plan SAC activities for the remainder of fiscal 1978.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 27, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-5734 Filed 3-3-78; 8:45 am]

[6335-01]

KANSAS ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Kansas Advisory Committee (SAC) of the Commission will convene at 9 a.m. April 7, 1978 and will end at 5 p.m. April 8, 1978, in the Ramada Inn, 3rd and Delaware, Leavenworth, Kans. 66048.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Central States Regional Office of the Commission, Old Federal Office Building, Room 3103, 911 Walnut Street, Kansas City, Mo. 64106.

The purpose of this meeting is to discuss Regional Planning Conference.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 27, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-5735 Filed 3-3-78; 8:45 am]

[6335-01]

MICHIGAN ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a conference of the Michigan Advisory Committee (SAC) of the Commission will convene on Thursday, March 9, 1978 at 5 p.m. to 7 p.m. and again on March 10, 1978 at 9 a.m. and will end at 7 p.m. and will convene again on March 11, 1978 at 9 p.m. and will end at 12 p.m. in the Kalamazoo Hilton Inn, Kalamazoo Center, Kalamazoo, Mich. 49006.

Persons wishing to attend this conference should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Ill. 60604.

The purpose of this meeting is reorganization of committees and future activity planning.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C. February 27, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-5736 Filed 3-3-78; 8:45 am]

[6335-01]

VIRGINIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Virginia Advisory Committee (SAC) of the Commission will convene at 7 p.m. and will end at 9:30 p.m. on April 5, 1978, Richmond Human Relations Commission, 900 East Broad Street, 5th Floor Conference Room, Richmond, Va.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street NW., Room 510, Washington, D.C. 20037.

The purpose of this meeting is for the Virginia State Advisory Committee will meet to plan Committee activities for 1978.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 27, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-5737 Filed 3-3-78; 8:45 am]

[3510-25]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

[Order No. 43-1; D.O.O. Reference 10-3, 43-1]

BUREAU OF EXPORT DEVELOPMENT

Statement of Organization, Functions and Delegation of Authority

SECTION 1. *Effect on other orders.* This order supersedes DIBA Organization and Function Orders 43-1 of March 25, 1974, as amended (39 FR 20621 and 39 FR 32339) and 43-2 of March 25, 1974, as amended (39 FR 20622; 39 FR 35694; 40 FR 41160; and 41 FR 34333).

SEC. 2. *Purpose.* This order delegates authority to the Deputy Assistant Secretary for Export Development and prescribes the organization and assignment of functions within the Bureau of Export Development.

SEC. 3. *Delegation of authority.* .01 *Pursuant to Department Organization* Order 10-3 of December 4, 1977, the following authorities delegated to the Assistant Secretary for Industry and Trade by the Secretary of Commerce are hereby delegated to the Deputy Assistant Secretary for Export Development.

a. Such provisions of the Act of February 14, 1903, (15 U.S.C. 1512 et seq.; 15 U.S.C. 171 et seq.) as amended, to foster, promote, and develop the foreign commerce of the United States, as are necessary to the performance of the Bureau's functions;

b. Section 6.01(b) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2151 et seq.), and Section 302 of Executive Order 10973 of November 3, 1961, issued pursuant thereto, relating to drawing the attention of private enterprise to investment opportunities in less developed friendly countries;

c. Such portions as are necessary to the performance of the Bureau's functions of the delegation of authority, dated June 25, 1962 from the United States Information Agency under Section 5(e) of Executive Order 11034 of June 25, 1962, as amended by Executive Order 11380 of November 8, 1967, insofar as said delegation pertains to U.S. participation in trade missions abroad under the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.);

d. Executive Order 10978 of December 5, 1961 regarding the Presidential "E" Award, "E" Certificate of Service, and "E Star" Award, except final selection of recipients;

e. The Act of October 18, 1962, as amended (46 U.S.C. 1122b), which authorized mobile trade fairs;

f. The China Trade Act of 1922, as amended (15 U.S.C. 141 et seq.), and Section 941 of the Internal Revenue Code of 1954, as amended (26 U.S.C.

.04 Commerce Action Group for the Near East (CAGNE) includes a Director, who shall direct the Group and be the principal support officer for the

vice to U.S. business-persons and other agencies on boycott related issues; develop programs for and provide De-

and actual allocation of the Bureau's promotional resources reflect the targeting guidelines; and consult with other offices of the Bureau in order to

.02 The Major Export Projects Division shall serve as the focal point in the Department for providing government-wide assistance to U.S. firms

bership; serve as Washington liaison with ITA's District Offices in support of the Export Assistance Masters Pro-

f. The China Trade Act of 1922, as amended (15 U.S.C. 141 et seq.), and Section 941 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 941), as it relates to certification of special dividend distributions.

g. Other authorities of the Assistant Secretary applicable to performing the functions assigned in this Order.

.02 The Deputy Assistant Secretary for Export Development may redelegate authorities listed in Section 3.01 to any employee of the Bureau of Export Development or to any other appropriate officer or agency of the Government subject to such conditions in the exercise of such authorities as he may prescribe.

SEC. 4. *Organization structure and line of authority.* .01 The organization structure and line of authority of the Bureau of Export Development (the "Bureau") shall be as depicted in the attached organization chart.[1]

.02 The Bureau shall be headed by the Deputy Assistant Secretary for Export Development who shall be the Director and who shall report and be responsible to the Assistant Secretary for Industry and Trade. The Deputy Assistant Secretary shall be assisted by a Deputy Director.

SEC. 5. *Office of the Deputy Assistant Secretary.* .01 The Deputy Assistant Secretary for Export Development shall direct the Bureau and shall assist and advise the Assistant Secretary for Industry and Trade on export expansion; serve as the National Export Expansion Coordinator; provide counseling, marketing information services and promotional assistance to U.S. business firms and organize and conduct overseas sales events, trade missions and trade promotions in specific foreign countries excluding those countries which are the responsibility of the Deputy Assistant Secretary for East-West Trade; and provide a coordinated response to the economic situation and business opportunities in Near East countries including Saudi Arabia, Iran, Egypt, Israel, Lebanon, Syria, Iraq, Jordan, Kuwait, the United Arab Emirates, Libya, Morocco, Tunisia, and Algeria. The functions of the DAS shall be carried out through the principal organizational elements prescribed below:

.02 The Deputy Director shall assist in the direction of the Bureau and perform the functions of the Deputy Assistant Secretary in the latter's absence.

.03 The Deputy Assistant Secretary shall supervise and direct the following organizational components:

Office of the Deputy Assistant Secretary
Commerce Action Group for the Near East
Office of Market Planning
Office of Export Development
Office of International Marketing

[1] Filed as part of the original document.

.04 Commerce Action Group for the Near East (CAGNE) includes a Director, who shall direct the Group and be the principal support officer for the Department's Bilateral Joint Commission responsibilities and the Bureau's Arab Boycott policy role; and the Deputy Director, who shall share in the direction of the Office and perform the functions of the Director in the latter's absence and provide principal direction to the overseas operation and coordinate the development of individual Country Commercial Programs, the scheduling of trade promotion events, and the major projects dissemination and the follow up activities of the Group. CAGNE shall be responsible for the content and management of each individual country marketing program for the 19 country Near East/North Africa region within global export priorities and targets established by the Office of Market Planning. These countries are:

Arab States: Saudi Arabia, Kuwait, Bahrain, Qatar, United Arab Emirates, Oman, Yemen, Syria, Iraq, Jordan, and Lebanon
Iran/Israel/Egypt.
North Africa: Morocco, Tunisia, Algeria, and Libya

a. CAGNE shall serve as the focal point for the development of the Country Commercial Program; provide overseas marketing information and counseling services to the U.S. business community and to other U.S. Government agencies; identify key economic, trade and financial, and marketing problems in overseas country or country groupings; provide to the U.S. business community a regular review of the prospects for increased U.S. exports in the regional markets; provide guidance and direction to overseas personnel engaged in commercial activities; maintain contact with foreign government representatives in the United States on commercial matters.

b. CAGNE shall serve as the focal point in the Department for providing Government-wide assistance to U.S. firms on major international business transactions in the Near East and North Africa; serve as the coordinator of the Department's programs aimed at improving the competitiveness of U.S. firms vis-a-vis foreign competition for major Near East contract awards; identify specific projects of special interest to U.S. industry through direct communications with the foreign service and conduct sectoral research on a regional basis; inform industry of specific project opportunities on a regular basis; provide assistance on contracting practices and procedures; and coordinate U.S. Government support efforts on behalf of U.S. firms competing for major project contracts.

c. CAGNE shall also be responsible for the Bureau's contribution to Arab Boycott policy; provide counseling service to U.S. business-persons and other agencies on boycott related issues; develop programs for and provide Department of Commerce support to the Near East Joint Commissions and related organizations as may be established, including representation in interagency planning sessions; coordination of input to Joint Commission Groups from elements both within and outside the Industry and Trade Administration and support of executive level Department of Commerce participation in these meetings; perform region wide economic and trade analysis for the Group; and develop and procure (except for trade missions and seminars) trade promotion events in the 19 country area with each country within the framework of the approved country program using techniques such as trade centers, trade fairs, missions, seminars, etc. Market research support shall be provided by the Office of International Marketing.

SEC. 6. *Office of Market Planning.* .01 The Office of the Director includes the Director who shall direct the Office and provide principal direction to export policy planning and strategy development for the Bureau and to the analysis of ongoing and proposed Bureau programs to ensure their viability and effectiveness. The Deputy Director shall assist in the direction of the Office and perform the functions of the Director in the latter's absence. The Director shall direct the following organizational components:

.02 The Strategic Planning Division shall analyze factors and developments in the U.S. and world economies likely to impede or stimulate U.S. export growth in the long run; provide long range projections and outlooks for U.S. exports to the world and to major foreign markets; analyze motivations, objectives and capabilities of existing and potential exporters to determine their needs for export promotion assistance; and formulate and recommend export promotion objectives, goals, strategies and new initiatives for the Bureau in the short and long term to better enable it to respond to emerging situations and exporter needs and to expand U.S. exports.

.03 The Targeting Division shall analyze trends and developments in U.S. industry and world markets, and identify those particular industries and markets on which to target the Bureau's export promotion resources; prepare statistical data on exports of target industry products to target markets; prepare planning guides on the state-of-the-art and export outlook for each target industry; prepare guidelines for the allocation of the Bureau's overseas export promotion resources on an industry-by-industry and country-by-country basis; and monitor the extent to which proposed

and actual allocation of the Bureau's promotional resources reflect the targeting guidelines; and consult with other offices of the Bureau in order to reconcile and minimize any major differences.

.04 The Program Evaluation Division shall measure, analyze and evaluate the effectiveness of ongoing and proposed export expansion programs of the Bureau; develop and maintain measurement criteria by which all Bureau export expansion programs are to be evaluated; advise and make recommendations to Bureau and Office management on issues bearing on program performance, priorities, and resource allocations to enhance the efficiency and effectiveness of the Bureau's export expansion programs; make recommendations to improve efficiency and effectiveness of Bureau programs, and monitor compliance with and implementation of recommendations; and coordinate the setting of program objectives, and forecast accomplishments for short and long range planning purposes.

SEC. 7. *Office of Export Development.* .01 The Office of the Director includes the Director who shall direct the Office; provide direction to conducting activities designed to stimulate export marketing in all segments of the domestic economy which have the capability to export; and develop potentials and benefits. The Deputy Director shall assist in the direction of the Office and perform the functions of the Director in the latter's absence. The Director shall direct the following organizational components:

a. The President's Export Council (PEC)/President's Interagency Committee on Export Expansion (PICEE) Secretariat shall promote Government dialogue with U.S. business by providing coordination, program guidance and support services for the President's Export Council and the District Export Councils; shall assist the PEC in communicating its recommendations through the Secretary of Commerce to the President, the President's Interagency Committee on Export Expansion and appropriate Government agencies; and provide coordination and support services for the PICEE.

b. The Domestic Investment Services Staff shall carry out the Department's "Invest in the U.S.A." program, designed to encourage and facilitate foreign direct capital investment and licensing by foreign firms in the United States as one of the continuing Department programs to improve the U.S. balance of payments; develop domestic investment, joint ventures and licensing opportunities and proposals for transmission to interested foreign businesspersons; and obtain specific investment and licensing proposals from potential foreign investors for presentation to the U.S. community.

.02 The Major Export Projects Division shall serve as the focal point in the Department for providing government-wide assistance to U.S. firms on major international business transactions; identify foreign capital projects with major export potential which should be brought to the attention of U.S. industry or which are likely to require special U.S. Government assistance for successful participation by American firms; and inform U.S. firms of specific large-scale projects overseas with significant potential for exports of U.S. goods and services and assist them on a case-by-case basis in competing for such projects. The Division communicates directly with other Washington agencies and with U.S. Missions abroad as appropriate to obtain the quick reaction needed to assist U.S. firms in winning major foreign contract awards.

.03 The Export Information Division shall identify and maintain basic data on foreign agents/distributors and licensees through Trade Lists, Exporters Mailing lists, and Agency Distributor Service; help U.S. businesspersons evaluate foreign firms through the provision of the World Traders Data Reports; maintain the Foreign Traders Index to identify customers for U.S. firms; maintain a U.S. exporter-importer index to assist firms in developing trade and investment opportunities abroad and to provide information for the export development and international marketing programs of the Bureau; provide individual counseling services to U.S. exporters and prospective exporters; process trade inquiries from U.S. firms; assist in the resolution of commercial trade disputes; disseminate reports containing information on foreign production and commercial data to U.S. firms; arrange for Foreign Service assistance to U.S. businesspersons traveling abroad; and arrange meetings and other facilitation as appropriate for foreign business and government visitors.

.04 The Domestic Export Programs Division shall serve as the focal point for conducting domestic programs which stimulate an interest in exporting and provide information and assistance to firms interested in international trade. In this regard it shall organize conferences, seminars and other promotional techniques to familiarize U.S. industry with the advantages of exporting; develop promotional literature to acquaint U.S. firms with export opportunities and procedures and with Bureau programs; direct the national multiplier program which enlists the support of service organizations such as banks and airlines in delivery of informational material on overseas marketing opportunities to carefully identified elements of industry; work with trade associations to promote exporting among their membership; serve as Washington liaison with ITA's District Offices in support of the Export Assistance Masters Program (TEAM) which utilizes graduate university students to prepare foreign market surveys for individual U.S. firms; stimulate and arrange visits to expositions and industry for foreign businesspersons and Government officials; identify, with the assistance of the Foreign Service, prospective foreign buyers and direct these buyers to appropriate domestic trade shows and arrange for meetings with U.S. manufacturers in order to facilitate sales; provide development, scheduling and displays for and participate in selected domestic trade shows to promote ITA and Departmental programs; administer the President's "E" and "E Star" Award and other national incentive programs; direct national marketing and advertising efforts undertaken to stimulate export awareness; and serve as liaison for the Bureau with the Bureau of Field Operations for the preparation of comprehensive prepackaged sales programs for the District Offices to use in their calls on target industries.

.05 The Overseas Business Opportunities Division shall be responsible for the dissemination of foreign investment and foreign trade opportunity data and for providing assistance to firms in obtaining overseas business. In this regard it shall be responsible for the collection of specific foreign trade opportunity leads and their dissemination to interested U.S. firms through the Trade Opportunity Program; identify major equipment export sales opportunities which should be brought to the attention of U.S. firms or which are likely to require special U.S. Government assistance and to assist U.S. industry to obtain the sales by coordinating U.S. Government expertise and assistance on a case-by-case basis; and provide information and counsel, consistent with U.S. balance of payments policies and objectives, to U.S. businesspersons concerning their existing and planned overseas investments; identify and disseminate for the benefit of the U.S. business community, foreign investment, licensing and joint venture proposals; and furnish information to U.S. foreign investors on private and public sources of investment capital, particularly foreign sources, guarantees and related types of investment and loan capital available for financing investment abroad, particularly developing countries.

SEC. 8. *Office of International Marketing.* .01 The Office of the Director includes the Director who shall direct the Office, and the Deputy Director who shall provide principal direction to overseas operations, coordinate the development of individual Country Commercial Programs and

the scheduling of trade promotion events, assure concurrence with Government policy and program documents such as Policy Analysis and Re-

programs for assigned territory within global export priorities and targets established by the Office of Market Planning; serve as the focal point in

vide technical administration of contracts with private design firms; provide for the leasing, construction, operation, and promotional support of

15 U.S.C. 171 et seq.) as amended, to foster, promote, and develop the foreign and domestic commerce of the

the District Offices and Bureau headquarters in an advisory capacity. The Council shall formulate recommenda-

cities of the United States as may be deemed appropriate and shall exercise

the scheduling of trade promotion events, assure concurrence with Government policy and program documents such as Policy Analysis and Resource Allocation (PARA) and Country Analysis and Strategy Papers (CASP), and perform the functions of the Director in his absence. The Director shall direct the following organizational components:

.02 The Assistant Director for Program Development shall develop and coordinate information programs for industry; collect and disseminate foreign market data; be responsible for developmental planning of international trade promotion events; and maintain the planning interface with U.S. industry for all international trade promotion events.

a. The Operational Planning Division shall have responsibility for all phases of planning and market research specification development for all international trade promotion events including trade fairs, trade center exhibitions, trade missions, the joint export expansion program, technical sales seminars and catalog events; analyze manufacturer/end-user relationships to develop new themes and precise definitions of targeted event participants; plan and prepare Global Market Surveys within each industry segment; establish international market research requirements; and develop and maintain a working relationship with U.S. industry to insure that the business community needs and desires are reflected in all planning.

b. the Market Research Division shall analyze market research bids received from contractors, determine the contractor, and arrange for the printing and production of Global Market Surveys and sectoral studies which are multiple product studies in a country and prepare or coordinate the preparation of OIM publications, including the Commercial News of the Foreign Service.

.03 The Assistant Director for Developed Markets shall have responsibility for the following areas:

Northern Europe (Scandinavia, United Kingdom, Canada, Benelux)
Western Europe (France, Germany, Austria)
Southern Europe (Italy, Greece, Yugoslavia, Switzerland, Portugal, Spain)
Japan, Australia, New Zealand

.04 The Assistant Director for Emergent Markets shall have responsibility for the following areas:

Far East (including South Asia)
Latin America
Africa (exclusive of Egypt, Morocco, Tunisia, Algeria, and Libya)

.05 The Developed Markets and Emergent Markets areas shall each be responsible for the content and overall management of country marketing programs for assigned territory within global export priorities and targets established by the Office of Market Planning; serve as the focal point in ITA for the development of the Country Commercial Program; provide overseas marketing information and counseling services to the U.S. business community and to other U.S. Government agencies; identify key economic, trade, financial and marketing problems in overseas country or country groupings; provide to the U.S. business community a regular review of the prospects for increase U.S. exports in significant overseas markets on a geographical basis; provide for development in detail of the annual country commercial programs; schedule and direct trade promotional activities within the country, including Trade Centers and commercial fairs; within the framework of Bureau-approved country programs, provide guidance and direction to overseas personnel engaged in commercial activities, i.e., the Commercial Foreign Service, Trade Center staffs, commercial fair staffs, and other trade promotion personnel; and maintain contact with foreign government representatives in the United States on matters concerning the marketing programs developed for their countries.

.06 In addition to the functions set forth in paragraph .05, the Office of the Assistant Director for Emergent Markets shall administer the Department's responsibilities pursuant to the China Trade Act of 1922, as amended.

.07 The Assistant Director for Resources shall plan, develop and manage the fiscal and physical resources supporting and complementing the various programs of the Office: specifically it shall provide logistical support for overseas promotional activities; provide for exhibition design; prepare specifications and provide technical administration of contracts with private design firms; provide for the leasing, construction, operation, and promotional support of overseas exhibitions and seminars; provide for leasing, design, and construction of U.S. Trade Center facilities; and coordinate the shipment of exhibition products and support material. It shall also provide for program allocation of resources; coordinate the development of operational budgets and fiscal plans; plan and develop promotional techniques and activities as required by the Emergent Markets and Developed Markets areas to meet special export marketing needs of U.S. industry such as catalogue fairs, trade missions, in-store consumer products promotions, and seminars.

a. The Support Services Division shall provide logistical support for overseas promotional activities. In this regard, it shall provide for exhibition design; prepare specifications and provide technical administration of contracts with private design firms; provide for the leasing, construction, operation, and promotional support of overseas exhibitions and seminars; provide for the leasing, design, and construction of U.S. Trade Center facilities; and coordinate the shipment of exhibition products and support material. It shall also provide for program allocation of resources; coordinate the development of operational budgets and fiscal plans; and provide facilitative services and coordination for Office printing, supplies, equipment, and space requirements.

b. The Special Activities Division shall plan and develop promotional techniques and activities as required by the geographic divisions to meet special export marketing needs of U.S. industry such as catalogue fairs, trade missions, in-store products promotions, and seminars.

SEC. 9. *Administrative, public affairs, and field support.* .01 Management, budget, personnel travel and administrative services, and public affairs and information services for the Bureau will be provided by Offices reporting to the Deputy Assistant Secretary for Administrative and Legislative Policy.

.02 Field support necessary to Bureau activities will be provided by the Bureau of Field Operations.

Effective Date: December 4, 1977.

FRANK A. WEIL,
Assistant Secretary for Industry and Trade.
W. DEAN MORAN,
Deputy Assistant Secretary for Export Development.

[FR Doc. 78-5724 Filed 3-3-78; 8:45 am]

[3510-25]

[Order No. 48-1; D.O.O. Reference 10-3, 40-1]

BUREAU OF FIELD OPERATIONS

Statement of Organization, Functions and Delegation of Authority

SECTION 1. *Effect on other orders.* This Order supersedes DIBA Organization and Function Order 48-1 of July 26, 1976 (41 FR 34334).

SEC. 2. *Purpose.* This order delegates authority to the Deputy Assistant Secretary for Field Operations, and prescribes the organization and functions of the Bureau.

SEC. 3. *Delegations of authority.* .01 *Pursuant to Department Organization* Order 10-3, the following authorities delegated to the Assistant Secretary for Industry and Trade by the Secretary of Commerce are hereby delegated to the Deputy Assistant Secretary for Field Operations:

a. Such provisions of the Act of February 14, 1903 (15 U.S.C. 1512 et seq.; 15 U.S.C. 171 et seq.) as amended, to foster, promote, and develop the foreign and domestic commerce of the United States, as are necessary to the performance of the Bureau's functions;

b. Other authorities of the Assistant Secretary applicable to performing functions assigned in this order.

.02 The Deputy Assistant Secretary for Field Operations may redelegate authorities listed in section 3.01 to any employee of the Bureau of Field Operations or to any other appropriate officer or agency of the Government, subject to such conditions in the exercise of such authority as he may prescribe.

SEC. 4. *Organization structure and line of authority.* .01 The organization structure and line of authority of the Bureau of Field Operations (the "Bureau") shall be as depicted in the attached organization chart.[1]

.02 The Bureau shall be headed by the Deputy Assistant Secretary for Field Operations who shall report and be responsible to the Assistant Secretary for Industry and Trade. The Deputy Assistant Secretary shall be assisted by a Deputy Director.

SEC. 5. *Office of Deputy Assistant Secretary.* .01 The Deputy Assistant Secretry for Field Operations shall direct the Bureau and shall assist and advise the Assistant Secretary for Industry and Trade in the development, implementation, and evaluation of domestic and international business assistance programs of the Department assigned to the Bureau for field implementation, and shall determine the objectives of the Bureau, formulate related policies and procedures and direct the implementation of all assigned domestic and international business assistance programs of contact with the U.S. business community at local levels throughout the United States. The DAS shall direct the Program Planning and Resources activity, including financial management, program analysis and policy review, and publication of the Commerce Business Daily; and shall also direct the Federal procurement programs, including Business Development Conferences, Federal/State relations, and the Associate Office program.

.02 The Deputy Director shall assist in the direction of the Bureau and perform the functions of the Deputy Assistant Secretary in the latter's absence, and shall supervise and coordinate external and internal communications.

.03 The Deputy Assistant Secretary shall be assisted by a Field Advisory Council, composed of selected Directors of District Offices, as designated by the Deputy Assistant Secretary, which shall serve as liaison between the District Offices and Bureau headquarters in an advisory capacity. The Council shall formulate recommendations related to policy matters and operational systems and procedures affecting program implementation; shall consult with and advise District Directors in the resolution of field administrative and operational problems; shall coordinate field task groups as necessary; and shall perform such other special assignments in furtherance of the mission, objectives and goals of the Bureau as directed.

.04 The Deputy Assistant Secretary shall supervise and direct the following organizational components:

Office of the Deputy Assistant Secretary
International Field Programs Staff
Domestic Marketing Services Staff
District Offices

SEC. 6. *International Field Programs Staff.* The International Field Programs Staff shall be headed by a Director, who shall supervise and coordinate the field implementation of the international business assistance programs of the Industry and Trade Administration (ITA) and related programs of other Departmental and Governmental agencies in accordance with the objectives, policies and procedures of the Bureau. The Director shall maintain liaison with the ITA and other related program entities; provide promotional support and technical guidance to the District Offices; establish procedures for program review and evaluation; and perform such other related duties as may be directed by the Deputy Assistant Secretary.

SEC. 7. *Domestic Marketing Services Staff.* The Domestic Marketing Services Staff shall be headed by a Director, who shall supervise and coordinate the field implementation of the domestic business assistance programs of ITA and related programs of other Departmental and Governmental agencies in accordance with the objectives, policies and procedures of the Bureau. The Director shall maintain liaison with ITA program entities; provide promotional support and technical guidance to the District Offices relative to domestic marketing services, business reference assistance, statistical data, technology transfer, productivity, consumerism, metrication, energy conservation, federal procurement opportunities, business development assistance, and industrial reporting; coordinate the implementation of Federal Preparedness Programs, Crisis management and Emergency Operations; establish procedures for program review and evaluation; and perform such other related duties as may be directed by the Deputy Assistant Secretary.

SEC. 8. *District Offices.* The District Offices of the Bureau shall be established and headquartered in principal cities of the United States as may be deemed appropriate and shall exercise functional responsibility within such contiguous areas as may be specifically designated by the Deputy Assistant Secretary. Each District Office shall be headed by a District Director who shall be responsible for the direction and supervision of program implementation, office administration, staff assignments and utilization of allocated resources in accordance with objectives, policies and procedures established by the Deputy Assistant Secretary. District Offices shall perform the primary role in the implementation of ITA's programs in the field as directed by the Deputy Assistant Secretary; shall serve the business community as a principal source of marketing information, data and services based on the related resources of the Department of Commerce; serve as a conduit for business feedback to the Department and coordinate within the districts, Departmental initiatives in response to critical issues affecting the economic structure; and, when so directed, serve as Sales Agents for the Government Printing Office. District Offices located in the ten Uniform Federal Regional Council Cities shall serve as the Department's principal coordinating mechanism at the regional level for Federal preparedness Planning, Crisis management and Emergency Operations. Accordingly, District Directors of Boston, New York, Philadelphia, Atlanta, Chicago, Dallas, Kansas City, Denver, San Francisco, and Seattle shall act as designated Regional Emergency Coordinators in accordance with instructions and guidance issued by the Departmental Office of Emergency Readiness through the Deputy Assistant Secretary for Field Operations, and shall represent the Secretary and serve as the principal advisory and contact point for the Department for emergency readiness matters in their respective areas.

SEC. 9. *Administrative and public affairs support.* Management, budget, personnel, travel and administrative services, and public affairs and information services for the Bureau will be provided by Offices reporting to the Deputy Assistant Secretary for Administrative and Legislative Policy.

Effective date: December 4, 1977.

FRANK A. WEIL,
Assistant Secretary for Industry and Trade.

J. RAYMOND DEPAULO,
Deputy Assistant Secretary for Field Operations.

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[1] Filed as part of the original document.

[3510-25]

[Order No. 46-1; D.O.O. Reference 10-3, 40-1]

[3510-25]

[Order No. 46-1; D.O.O. Reference 10-3, 40-1]

BUREAU OF EAST-WEST TRADE

Statement of Organization, Functions and Delegation of Authority

SECTION 1. *Effect on other orders.* This Order supercedes DIBA Organization and Function Orders 46-1 of November 17, 1975, as amended (40 FR 59764, 41 FR 28335); and 46-2 of November 17, 1975, as amended (40 FR 59761, 41 FR 11592, 41 FR 28335).

SEC. 2. *Purpose.* This order delegates authority to the Deputy Assistant Secretary for East-West Trade, and prescribes the organization and functions of the Bureau.

SEC. 3. *Delegations of authority.* .01 *Pursuant to Department Organization* Order 10-3 of December 4, 1977, the following authorities delegated to the Assistant Secretary for Industry and Trade by the Secretary of Commerce are hereby delegated to the Deputy Assistant Secretary for East-West Trade:

a. Such provisions of the Act of February 14, 1903, (15 U.S.C. 1512 et seq.; 15 U.S.C. 171 et seq.) as amended, to foster, promote, and develop the foreign commerce of the United States, as are necessary to the performance of the Bureau's functions;

b. Such portions as are necessary to the performance of the Bureau's functions of the delegations of authority, dated June 25, 1962, from the United States Information Agency under section 5(e) of Executive Order 11034 of June 25, 1962, as amended by Executive Order 11380 of November 8, 1967, insofar as said delegation pertains to U.S. participation in trade missions abroad under the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.); and

c. Other authorities of the Assistant Secretary applicable to performing the functions assigned in this Order.

.02 The Deputy Assistant Secretary for East-West Trade may redelegate authorities listed in Section 3.01 to any employee of the Bureau of East-West Trade or to any other appropriate officer or agency of the Government, subject to such conditions in the exercise of such authority as he may prescribe.

SEC. 3. *Organization structure and line of authority.* .01 The organization structure and line of authority of the Bureau of East-West Trade (the "Bureau") shall be as depicted in the attached organization chart.[1]

.02 The Bureau shall be headed by the Deputy Assistant Secretary for East-West Trade who shall report and be responsible to the Assistant Secretary for Industry and Trade. The Deputy Assistant Secretary shall be assisted by a Deputy Director.

SEC. 4. *Office of the Deputy Assistant Secretary.* .01 The Deputy Assistant Secretary for East-West Trade shall direct the Bureau and shall assist and advise the Assistant Secretary for Industry and Trade on Bureau programs. The objectives, policies and programs of the Bureau shall relate to the U.S.S.R., People's Republic of China, Poland, Romania, Czechoslovakia, Hungary, Bulgaria, Albania and the German Democratic Republic, Socialist Republic of Vietnam, Cuba, Mongolia and certain other areas of the world with similar economic/political structures.

.02 The Deputy Director shall assist in the direction of the Bureau and perform the functions of the Deputy Assistant Secretary in the latter's absence.

.03 The Deputy Assistant Secretary shall be assisted by a Special Projects Staff which shall develop and implement strategy to increase public understanding of the issues involved in the expansion of East-West trade; develop new activities for integration into the work of Bureau offices; and coordinate special projects in support of the overall Industry and Trade Administration mission such as increasing economic literacy in the U.S. and promoting corporate social responsibility.

.04 The Deputy Assistant Secretary shall supervise and direct the following principal organizational components:

Office of the Deputy Assistant Secretary
Office of East-West Trade Development
Office of East-West Country Affairs
Office of East-West Policy and Planning

SEC. 5. *Office of East-West Trade Development.* .01 The Office of the Director includes the Director who shall be responsible for direction of the office and shall prepare appropriate market assessments on the centrally planned economy countries to provide both general and specific guidance for the activities of the Trade Promotion and Trade Development Assistance Divisions for use by U.S. firms in the further development of their own market surveys and to stimulate U.S. firms' interest in new market areas for detailed study. The primary emphasis of this effort shall address East-West trade from the perspective of U.S. industry. Other offices of the Bureau shall provide appropriate input for such studies which shall be basically guided by the Director of the Office. The Office of the Director shall supervise and direct overseas East-West Trade Development Centers and Offices in Moscow, Warsaw, and Vienna. The Director shall direct the following organizational components:

.02 The Trade Promotion Division shall be responsible for the formulation of promotional programs responsive to the needs of U.S. firms interested in initiating or expanding commercial relationships with the countries and areas specified in Section 5.01 above. The Division shall:

a. Plan and procure commercial trade fair exhibitions for the specified countries and areas, identify qualified U.S. firms and arrange for their participation, and undertake appropriate follow-up activities to facilitate the establishment and/or development of permanent and productive trade relationships by participants;

b. Plan and conduct, where appropriate, U.S. trade missions, seminars, exhibits and other events to promote international trade and investment and encourage and facilitate private utilization of these trade promotion techniques by U.S. business with the sponsorship of the Department;

c. Establish Business Information Offices and Business Development Offices at selected international trade fairs and at other appropriate locations in these countries and areas and plan and conduct appropriate technical seminars and symposia and other useful trade promotional techniques;

d. In conjunction with other ITA organizational components, as appropriate, test new trade promotion techniques, such as reverse trade missions and single company-sponsored catalog and product shows, and recommend appropriate action for Bureau consideration; and

e. Maintain and disseminate market data and project information pertaining to fairs and exhibits in these countries and areas which can be used by U.S. firms to promote the international trade interests of the United States.

.03 The Trade Development Assistance Division shall facilitate trade between the United States and the countries and areas specified in Section 4.01 above, by acquiring information on how trade is actually conducted, counseling the U.S. business community on how to go about such trade, and assisting U.S. firms to pursue business transactions. Specifically the Division shall:

a. Obtain from U.S. businessmen who have had personal experience in doing business with specified countries, detailed information on how such business is conducted, including contract terms and conditions, the roles played by foreign government trade and ministerial organizations, methods of financing, problems to be anticipated and pitfalls to be avoided in doing business;

b. Advise U.S. firms wishing to do business with the specified countries on methods used to conduct such trade, names of decision makers and channels of access to them, contract clauses required, negotiating factors likely to be used, alternative methods of financing, and other specific information;

c. Assist U.S. firms on a case-by-case basis to compete for business transactions with these countries by calling the attention of U.S. firms to specific sales, joint-venture, barter and other opportunities, arranging contacts between U.S. businessmen and officials of these countries and when needed participating in business discussion, suggesting methods for obtaining U.S. Government approvals and clearances, and in general making every effort to advance trade between the United States and these countries without actually becoming a party to transactions;

d. Develop and provide appropriate guidance and information on business related issues for official meetings between U.S. Government and Socialist country officials; and

e. Maintain broad East-West trade contacts and two-way information flow with trade and industry associations and the Bureau of Field Operations Distrct Offices.

SEC. 6. *Office of East-West Country Affairs.* .01 The Office of the Director includes the Director who shall be responsible for direction of the office and the Joint Commission Secretariat which shall, in conjunction with appropriate geographic divisions, provide executive secretariat services to U.S. joint commissions with the U.S.S.R., Poland, Romania, and others as may be established with other countries and to official meetings between high-level government representatives of the Centrally Planned Economies (CPEs) and officials of the Bureau and Department; and coordinate all aspects of the preparation for meetings of such commissions and their follow-up. The Director shall direct the following organizational components:

.02 The geographic divisions as listed below shall maintain full familiarity with the economy and the economic and political policies of the county and area for which each is responsible, and with U.S. trade and other commercial relations involved:

U.S.S.R. Affairs Division Eastern European Affairs Division People's Republic of China Division

In carrying out this responsibility, each division shall:

a. Assemble, analyze and disseminate information on foreign economic conditions, tariffs, laws, and regulations, including support to the Office of East-West Trade Development market assessment effort and responsibility by furnishing analytical surveys on individual country markets, as well as information on specific industries. Materials shall be disseminated to the U.S. business community primarily through the Office of East-West Trade Development and also made available for use by other Government agencies and other interested parties;

b. Develop recommendations with respect to the positions of the Department on policy and legislative matters regarding bilateral problems of international trade and investment with Socialist countries, and on international economic integration activities in the region, e.g., Council for Economic Mutual Assistance (CEMA), and intergovernmental organizations involving those countries or regions;

c. Develop and provide appropriate country-oriented information and advice for use by the U.S. co-chairmen of joint trade commissions, and participate appropriately in their deliberations and activities;

d. Provide appropriate liaison with and/or participation in private sector bilateral joint commissions or groups with these countries, the U.S. Chamber of Commerce as it relates thereto, and develop and provide relevant country oriented information and advice reflecting the Bureau's interests;

e. Initiate and pursue, directly or through the Foreign Service of the United States and other channels, representation on behalf of U.S. business interests for the maintenance of full rights under terms of treaties and international agreements of the United States, and identify and evaluate foreign impediments to U.S. commercial interests and take action to eliminate or alleviate their adverse impact;

f. Maintain centralized contacts and communications control on country and regional economic and trade matters with foreign government representatives in the United States and in various economic and commercial organizations in each CPE, the Department of State, U.S. Foreign Service Posts abroad and other U.S. Government agencies, and inter-governmental organizations;

g. Develop and provide country and regional information and guidance to the Office of East-West Policy and Planning on relevant policy studies and projects and to the Office of East-West Trade Development for use in determining which CPE markets should be addressed by the Bureau's Trade Promition efforts;

h. Develop appropriate guidance on matters under their jurisdiction for Departmental and Bureau officials for use at meetings of the East-West Foreign Trade Board (and its Working Groups) and other inter-agency groups concerned with such matters; and

i. Participate in seminars, conferences, and briefing sessions arranged by the Office of East-West Trade Development for businessmen or country/regional specialists to provide relevant information on the area involved and on the activities of the Bureau with respect thereto.

SEC. 7. *Office of East-West Policy and Planning.* .01 The Office of the Director includes the Director who shall direct the Office.

.02 The Office shall:

a. Coordinate for the Bureau the information and analysis of overall policy issues arising in East-West trade activities, the development of policy options, objectives, goals, benefits and costs relating thereto and the formulation of recommendations thereon;

b. Coordinate the Bureau's review of recommendations on existing and proposed East-West trade related legislation;

c. Coordinate overall East-West trade policy review with international trade, monetary, finance, research and technical organizations. Maintain liaison with international organizations concerned with the making of special analyses on overall East-West matters;

d. Monitor East-West trade activities of national and international organizations such as the Economic Commission for Europe, the General Agreement on Tariff and Trade (GATT), the International Monetary Fund (IMF) and the International Energy Program (IEP). Advise interested parts of the Department of policy developments regarding international organizations and programs concerned with the countries and areas involved;

e. Carry out macro-analytic studies in support of policy on such topics as trade projections, balance of payments, econometric modeling of trading economies, U.S. policy regarding government and/or private financing of East-West trade, and the determination of the economic and social impact of East-West trade on the U.S., its trading partners, and relevant third countries;

f. Coordinate for the Bureau and the Department the development of analyses and recommendations on matters for consideration by the East-West Foreign Trade Board (and its Working Group), and the National Security Council and their sub groups in matters of concern to the Bureau and provide support to other interagency working groups and task forces concerned with East-West trade, other than individual CPE countries and U.S.-CPE bilateral issues;

g. Develop statistical data resources on East-West trade and make them available to the Office of East-West Trade Development for distribution to U.S. businessmen together with appropriate analysis; provide the statistical support for analyses, publications, general studies and market assessments by the relevant Offices of the Bureau;

h. Maintain broad East-West trade contacts and two-way information flow

[1] Filed as part of the original document.

with academic institutions and cultural organizations, and provide necessary support for the Advisory Committee on East-West Trade; and

i. Organize and coordinate, in cooperation with the Department of State and other offices of the Bureau, periodic meetings abroad between Washington agency representatives and economic/commercial officers from U.S. Missions in the Socialist countries and in Western countries with important interests in Socialist country economic/commercial affairs for the purpose of improving communications, reviewing existing or new policy approaches and reviewing the Bureau's trade development and other existing or proposed programs.

SEC. 8. *Administrative, Public Affairs, and Field support.* .01 Management, budget, personnel, travel and administrative services, and public affairs and information services for the Bureau will be provided by Offices reporting to the Deputy Assistant Secretary for Administrative and Legislative Policy.

.02 Field support necessary to bureau activities will be provided by the Bureau of Field Operations.

Effective Date: December 4, 1977.

FRANK A. WEIL,
Assistant Secretary for Industry and Trade.
ALAN A. REICH,
Deputy Assistant Secretary for East-West Trade.

[FR Doc. 78-5725 Filed 3-3-78; 8:45 am]

[3510-25]

[Order No. 42-1; D.O.O. Reference; 10-3, 40-1]

DEPUTY ASSISTANT SECRETARY FOR ADMINISTRATIVE AND LEGISLATIVE POLICY

Statement of Organization, Functions and Delegation of Authority

SECTION 1. *Effect on other orders.* This Order supersedes DIBA Organization and Function Orders 41-1 of December 15, 1975 as amended, (41 FR 1935 and 41 FR 54971); and 42-1 of February 28, 1975, as amended, (40 FR 12694; 40 FR 44345; 41 FR 20201; 41 FR 46895; and 41 FR 54016); and 49-1 of November 16, 1976 (42 FR 3673).

SEC. 2. *Purpose.* This order delegates authority to the Deputy Assistant Secretary for Administrative and Legislative Policy and prescribes the organization and assignment of functions within the organizational elements reporting to the Deputy Assistant Secretary for Administrative and Legislative Policy.

SEC. 3. *Delegation of authority.* .01 *Subject to such policies, directives,* and delegations of authority as may be issued by the Secretary of Commerce and by the Assistant Secretary for Industry and Trade, and in accordance with applicable Department Organization Orders and Department Administrative Orders, the Deputy Assistant Secretary for Administrative and Legislative Policy is hereby delegated the authorities of the Assistant Secretary as necessary to provide for all administrative management, public affairs, congressional and commercial representation activities and direct such activities for all organizational elements in the Industry and Trade Administration.

.02 The Deputy Assistant Secretary for Administrative and Legislative Policy may redelegate authorities to any employee subject to such conditions in the exercise of such authority as may be prescribed.

SEC. 4. *Organization and line of authority.* .01 The Office of the Deputy Assistant Secretary for Administrative and Legislative Policy shall consist of the following organizational elements:

Congressional Relations Staff
Commercial Representation Staff
Office of Personnel
Office of Management and Systems
Office of Administrative Support
Office of Budget
Office of Public Affairs

.02 The organizational structure and line of authority shall be as depicted in the attached organization chart.[1]

SEC. 5. *Office of the Deputy Assistant Secretary.* .01 The Deputy Assistant Secretary for Administrative and Legislative Policy shall be the principal advisor to the Assistant Secretary for Industry and Trade on legislative and management policy. In this respect, the Deputy Assistant Secretary shall enhance ITA's effectiveness in carrying out its mission of domestic business development and export expansion through securing the necessary legislative and interagency support for ITA programs, as well as through effecting the necessary syntheses of program policy development among the bureaus of ITA.

.02 The Deputy Assistant Secretary shall coordinate and monitor politically sensitive legislative issues regarding domestic and international business; provide the Assistant Secretary with detailed evaluations of the potential or actual impact of legislative matters and confidential recommendations as to alternative means of furthering support of beneficial proposals; represent the Assistant Secretary in meetings with the Department of State and other agencies to further the interests of the Department with regard to the official representation of U.S. commercial interests abroad; and coordinate ITA administrative matters with the Assistant Secretary for Administration and other Department officials. The Deputy Assistant Secretary shall direct the following organizational components:

SEC. 6. *The Congressional Relations Staff.* .01 The Congressional Relations Staff shall be headed by a *Director* who shall be responsible for coordinating congressional matters within the Industry and Trade Administration, and serve as liaison with the Department's Office of Congressional Affairs.

.02 The Congressional Relations Staff shall provide timely and effective reporting on Congressional activities, (committee hearings, markup sessions, conferences, etc.) and serve as a focal point for coordinating requests for testimony, Congressional inquiries and correspondence, legislative initiatives and related support. The staff shall provide support to the individual ITA Bureaus.

SEC. 7. *Commercial Representation Staff.* .01 The Commercial Representation Staff shall be headed by a *Director* who shall represent the Department of Commerce to the Department of State and other agencies on the management of Foreign Service resources, officers and posts abroad; develop, coordinate and present Departmental views on the allocation of economic/commercial (E/C) resources abroad; assignments of individual E/C officers; recruitment, training and career progression of E/C officers; and the effectivesness of Foreign Service posts and of E/C officers; in supporting the Department of Commerce programs and meeting the needs of U.S. business; and assure that all organizational elements of the Department comply with pertinent legislation, executive orders and interagency agreements and programs relating to overseas commercial representation.

.02 This shall include responsibility for the Department's activities regarding the assignment of Foreign Service officers to economic, commercial and related positions; the administration of the State/Commerce Exchange Program; the maintenance of Foreign Service economic, commercial and related personnel rosters; the input to the Department of State's budget and manpower resource allocations; the Department's activities regarding the Foreign Service Imspections Corps; the end-user evaluation of Foreign Service officers and posts; the end-user evaluation of Foreign Service reporting; the administration of the Combined Economic Reporting Program (CERP) and the Foreign Affairs Manual (FAM); and support for Commerce's Member and Liaison Officer to the Board of the Foreign Service. The Commercial Representation Staff shall also be responsible for the Department's activities regarding Foreign Service Officer recruitment; training of Foreign Service Officers and local employees; administration of the domestic consultation program for Foreign Service officers and local employees; administration of Departmental recognition and certificates of award to Foreign Service personnel; staff support for the Departmental Member to the Board of Examiners for the Foreign Service; and coordination of its participation on the Foreign Service Officer Selection Boards.

SEC. 8. *Office of Personnel.* .01 The Office of Personnel shall be headed by a *Director* who shall plan, coordinate and conduct the Personnel Management Program for the Industry and Trade Administration; interpret personnel policies and procedures established by higher authority; and act as liaison with the Department's Office of Personnel. The Director shall direct the following Divisions:

.02 The Compensation Division shall administer a position classification program for all organizational components of ITA; classify positions through grade GS-15; recommend to the Department and Civil Service Commission the classification of supergrade positions; conduct classification maintenance review surveys; conduct annual review of positions required by the Whitten Amendment; provide advice to management regarding classification implications of proposed new organizations and of realignment of functions within existing organizations; and in cooperation with the Industry and Trade Administration's Office of Management and Systems and Office of Budget, operate the position management program.

.03 The Employee Relations Division shall plan and coordinate ITA-wide programs in the areas of employee performance evaluations, employee recognition and incentives, employee and supervisory counseling, equal employment opportunity counseling, employee benefits and welfare, and labor-management relations; advise management on employee relations problems and needs; advise supervisors on methods of dealing with poor work performance or behavior problems and inform them of regulatory and other requirements in effecting satisfactory resolutions either through administrative or disciplinary actions; conduct inquiries and implement actions leading to resolution of employee complaints, grievances and appeals, and process proposed adverse actions; keep employees informed of their rights, privileges, obligations and responsibilities; administer program for disclosure of outside employment and financial interest of employees in order to prevent conflicts of interests; interpret and clarify policies, administrative orders and procedures with respect to personnel management; coordinate the Alcoholism and Drug Abuse Program; and process requests for security clearance of employees.

.04 The Employment Division shall plan, develop and execute a complete program of staffing and placement services for the Industry and Trade Administration, which includes recruitment, merit promotion, equal employment opportunity, and affirmative action program; provide interpretation and advice to management, employees, and applicants on employment policies and procedures; establish and maintain custody of official personnel folders and records; and monitor utilization of assigned ceiling.

.05 The Employee Development Division shall have responsibility for all functions related to training and career development which includes development and implementation of ITA sponsored programs for Executives, First-Level Supervisors, Management Interns, Upward Mobility Candidates, professional and clerical employees; coordination of employee training at non-Commerce facilities, such as the Civil Service Commission and local universities; and counseling of employees on training opportunities and career planning.

SEC. 9. *Office of Management and Systems.* .01 The Office of Management and Systems shall be headed by a Director who shall plan, coordinate and direct all management and systems programs for the Industry and Trade Administration and act as liaison with the Department's Office of Organization and Management Systems and the Office of ADP Management. The Office of the Director shall be the liaison for GAO and Departmental audit reports, surveys, and inquiries and plan and coordinate ITA's emergency readiness functions. The Director shall direct the following Divisions:

.02 The Systems Management Division shall coordinate and direct planning, analysis, development, design and evaluation of Industry and Trade Administration systems; conduct or coordinate feasibility studies of proposed ADP systems and microform applications and equipment needs and usage; provide management coordination and control, technical guidance, assistance and support to all ITA elements with regard to systems, data communications, data processing and data retrieval; design, evaluate, develop, and install the application of all systems to ITA operations; and develop an integrated ITA data base. The Division shall be responsible for establishment of production schedules for and maintenance of operational automated systems, and for the maintenance of systems documentation and support for all new existing automated systems; review, evaluate, approve and coordinate the acquisition and use of ADP word processing and microform equipment and support services; be responsible for the preparation and submission of ADP planning, budgeting and evaluation information as required by ITA, the Department and by other Federal agencies; and be the point-of-contact within the Industry and Trade Administration for all ADP and systems questions and consultations.

.03 The Management Analysis Division shall conduct studies and surveys to effect improved management practices, manpower distribution, organization alignments, procedures and work methods; review and coordinate all proposed organizational changes; administer the forms management program and reports management program; perform the committee management function and records management function; in cooperation with the Industry and Trade Administration's Office of Personnel and Office of Budget operate the position management program; maintain a system for the issuance of all Announcements, Administrative Instructions, Organization and Function Orders, Delegations of Authority and other issuances prepared for the administration of the Industry and Trade Administration; coordinate the administration of the Freedom of Information Act and the Privacy Act; and maintain boycott reports for public inspection.

SEC. 10. *Office of Administrative Support.* .01 The Office of Administrative Support shall be headed by a Director who shall plan and direct all administrative support, security, safety and communications services for the Industry and Trade Administration. The Director shall serve as the Department's alternate member of the NSC/SCC Working Group on Terrorism. He shall be responsible for ensuring that assignments and/or requests made by the NSC/SCC Working Group on Terrorism are accomplished in a timely and orderly fashion. The Director shall maintain liaison with the Department's Office of Administrative Services and Procurement, the Office of Investigations and Security and the Department of State's Office of Communications. The Terrorism Working Group Staff within the Office of the Director shall provide a quick reaction, direct support capability within the Department to help the business community understand and counteract the effects of terrorism on its domestic and international operations; provide an official channel for access to assistance from Federal agencies dealing with terrorism; provide staff support to the Deputy Assistant Secretary for Administrative and Legislative Policy, who is the Department's member of the NSC/SCC Working Group on Terrorism, and in this capacity serve as a

[1] Filed as part of the original document.

link between the private sector and the United States Government in the development of future U.S. policies on terrorism; coordinate all available expertise in the area of terrorism against business to help the private sector deal with specific management problems created by the threat of terrorist activities; host corporate forums and seminars on behalf of various elements of the business community; and serve as a "clearing house" to collect, evaluate, and distribute terrorism related information of interest to the business community. The Director shall direct the following Divisions:

.02 The Communications Management Division shall provide communications and security services for ITA personnel and organizational elements. These services shall include security orientations for all employees; security briefings; maintaining the NATO document sub-registry for the Department of Commerce; conducting inspections and evaluating document security and physical security; controlling and issuing credentials, building passes and keys, and maintaining and/or controlling classified-documents coming from the Department of State and other Federal Agencies. The Director shall direct the following branches:

a. The Message Analysis Branch shall analyze, assign action and distribute information copies on all overseas communications coming into the Department; review format and compliance with established procedures and dispatch all outgoing Commerce communications to Government establishments overseas; develop and maintain end-user profiles to assist in the appropriate distribution of messages; maintain research files and provide research assistance to officials on overseas communications; provide guidance to operating officials on matters relating to communications systems; direct and maintain the Combined Economic Reporting Program (CERP) publications and maintain working relationships with counterpart organizations in other Federal Agencies.

b. The Distribution Branch shall receive, sort, and distribute all correspondence; receive, long, control, and distribute all classified and registered documents; provide for the distribution of bulk materials; provide special messenger service to Industry and Trade Administration elements; monitor mailing practices and monitor ITA convenience copying facilities in Washington and its field activities.

c. The ITA Secretariat Branch shall receive, review and assign for appropriate action, and follow-up on controlled correspondence, White House bulk mail, and Congressional correspondence directed to ITA; and shall provide assistance on correspondence procedures. The ITA Secretariat shall also review all replies for proper format and compliance with established procedures.

.03 The Acquisition and Facilities Division shall provide ITA with Paymaster services and safety services and direct the following branches:

a. The Travel Branch shall provide comprehensive travel services for ITA personnel which shall include itinerary plans, modes of travel, reservations for transportation, security clearances, tickets, passports and visas, hotel accommodations for international travel, and where possible, domestic hotel reservations. The Travel Branch shall preaudit all travel vouchers; and maintain liaison with the Department's Travel Unit, the Passport Office, and any other organizations necessary to making travel arrangements.

b. The Acquisition and Inventory Branch shall receive and process all procurement requests for furniture, furnishings, office equipment, office supplies, subscriptions, publications and printing; arrange for the repair or renovation of office equipment and furniture; maintain a current inventory of property; monitor the use of furniture and equipment to insure that its use is maximized; voucher all transactions to insure that the terms of purchases and contracts are fully met; and maintain liaison with the Office of Administrative Services and Procurement, GSA's Federal Supply Service and all other agencies, private vendors and contractors with which ITA deals.

c. The Facilities and Design Branch shall provide a comprehensive facilities management program to include a continuing inventory of ITA space; the review and analysis of space utilization to insure compliance with GSA guidelines; developing short and long range plans for space assignments in light of anticipated increases or decreases in the requirements of organizational elements; design office layouts and initiate improvements of office appearance and working conditions in accordance with the Office Excellence Program; initiate work orders for telephones, electrical service, alterations and renovations and monitor contracts to insure that standards for the quality of the work are met and that work is performed within established time frames and does not exceed cost estimates; and maintain liaison with Office of Administrative Services and Procurement, GSA and all other agencies providing services within the frame work of Facilities Management.

SEC. 11. *Office of Budget.* .01 The Office of Budget shall be headed by a Director who shall be the ITA Budget Officer and who shall plan, coordinate and direct the budget and program planning functions of the Industry and Trade Administration including the obligation and expenditure of ITA appropriations and funds; the collection of contributions and receipts, approval of reimbursable agreements and agreements for special statistical studies; establish standards, criteria and procedures for the preparation of budget estimates; interpret budgetary and financial procedures established by higher authority and maintain liaison with counterpart budget, program evaluation and fiscal offices in the Office of the Secretary, the Office of Management and Budget, and, as necessary other Federal agencies. The Director shall direct the following Divisions:

.02 The Program Planning and Analysis Division shall analyze and evaluation ITA programs and program plans; assist ITA organizational elements to develop and improve program plans, including statements of objectives, descriptions of projects and indicators of outputs, results or workload and accomplishments; coordinate and oversee the MBO process and the development of long-range goals and objectives; coordinate or prepare program issue and evaluation studies and analyses, assist the Budget Formulation and Operations Division in the indentification of major issues and problems to be addressed in program proposals and budget requests; and maintain a tracking system for legislative proposals which may have budgetary impact.

.03 The Budget Formulation and Operations Division shall provide continuous liaison with ITA program managers and technical assistance to organizational units on all budget matters; participate in the identification of major issues and problems to be addressed in program proposals and budget requests; participate in the review of legislative proposals affecting ITA's plans and programs; examine and analyze all budget proposals in terms of effective allocation of ITA resources, conformance to policies, adequacy of justification and appropriation language, existence of statutory authorization, feasibility and economy of operations and accuracy and consistency of budget and accomplishment schedules; prepare Preview Estimates and the Secretarial, OMB, and Congressional budget justifications; prepare witnesses to testify on budget requests and complete materials for hearing transcripts; analyze fiscal and program plans and reprogramming proposals for conformance to Departmental and ITA policies and commitments, and maintain a continuous review of the status of obligations, expenditures and program progress by organization and budget structure; review and evaluate ITA program structure and recommend modifications as necessary; develop and maintain instructions governing the operations of ITA's budgetary processes; prepare technical and other supporting schedules and review such schedules, as well as budget justifications for conformance with Departmental and OMB instructions governing submission of budget estimates; assure administrative control over the obligation and expenditure of ITA appropriations and other funds; assure validity of planned and actual data included in financial reports; prepare special reports or briefings for the Office of the Secretary, the Assistant Secretary for Industry and Trade and ITA program managers regarding significant fiscal budget and program execution related problems, incorporating materials provided by other Divisions of the Office of budget; prepare overseas direct project budget authorizations and advices of fund availability, and collect and deposit contributions and receipts; negotiate and prepare reimbursable agreements and billings related thereto; maintain liaison with the Central Accounting Division of the Department of Commerce's Office of Financial Management Services; coordinate the Office of Budget's participation in ITA's Program Management Information System; and maintain ITA's budget history.

SEC. 12. *The Office of Public Affairs.* .01 The Office of Public Affairs shall be headed by a Director who shall be responsible for furnishing public affairs and information services to the Industry and Trade Administration. The Director shall direct the following Divisions:

.02 The Public Information Division shall develop long-range plans, programs and goals; develop, prepare, clear and release press releases; develop and produce audio visual information material intended for public consumption including slide presentations, motion pictures, and television production, audio (cassette) presentation, exhibit displays, advertising material (radio-TV-print), and scripts and record material for distribution; draft speeches, public statements, and messages for the President and Secretary of Commerce; write articles, often for signature by Department officials, for publication in national press and journals; develop questions and answers and briefing papers for Presidential and Secretarial news conferences and other purposes; arrange news conferences for Departmental officials; develop speaking forums for ITA officials designed to support Departmental and Administration objectives; perform editorial services including research and editorial assistance in the preparation and publication of technical articles; and maintain mailing lists, biographical data, business information and other reference material.

.02 The Publications Division shall assist in the development of Industry and Trade Administration publications for internal as well as public consumption, including gathering of material, writing, and preparation for printing; promote ITA publications; prepare and arrange for placement of display and advertising for ITA promotional events in the U.S. and abroad; maintain liaison with the Department's Office of Publications and the Government Printing Office and with other Government agencies concerned with ITA reports and publications.

Effective date: December 4, 1977.

FRANK A. WEIL,
Assistant Secretary for Industry and Trade.
LISBETH K. GODLEY,
Deputy Assistant Secretary for Administrative and Legislative Policy.

[FR Doc. 78-5723 Filed 3-3-78; 8:45 am]

[3510-25]

ELECTRONIC INSTRUMENTATION TECHNICAL ADVISORY COMMITTEE

Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (1976 ed.), notice is hereby given that a meeting of the Electronic Instrumentation Technical Advisory Committee will be held on Tuesday, March 21, 1978, at 9:30 a.m. in Room 5230, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Electronic Instrumentation Technical Advisory Committee was initially established on October 23, 1973. On October 7, 1975 and October 21, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which may affect the level of export controls applicable to electronic instrumentation, including technical data or other information related thereto, and (D) exports of the aforementoned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on October 21, 1977, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government. In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the meeting have been properly classified under Executive Order 11652. All Committee members have appropriate security clearances.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-4196.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Electronic Instrumentation Technical Advisory Committee and of any subcommittees thereof was published in the FEDERAL REGISTER on October 28, 1977 (42 FR 56767).

Dated: March 1, 1978.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of Trade Regulation, Department of Commerce.

[FR Doc. 78-5779 Filed 3-3-78; 8:45 am]

[3510-25]

EXPORT MONITORING REPORT FOR COAL AND COKE OF COAL

Week Ending January 27, 1978

Total bituminous coal exports for this week were 262,585 short tons compared with average weekly exports for the preceding four weeks of 178,000 short tons. Actual weekly exports during this time period fluctuated between a high of 311,331 short tons and a low of 97,800 short tons, respectively. Reported contract data indicates that, with adequate supplies of coal available, exports for the week ending January 27 would have been approximately 423,000 short tons.

All coal exports for this week were of metallurgical grades. The average reported price of this coal was $51.71 per short ton, with a high price of $61.00 and a low of $45.50 per short ton. No trend is indicated by these data since average weekly prices for the past four weeks have been within a range of $48.94 to $57.60 per short ton.

Exports of coke manufactured from coal for this week were 30,634 short tons compared with 29,143 short tons exported during the preceding week. Shipments during these two weeks represent the highest levels of weekly exports of this product during the strike period. Average weekly exports of coke for January 1977 and November 1977, two base months representing non-strike periods, were 20,514 and 33,179 short tons, respectively. As current exports are within the range indicated by these months, it appears that the coal strike has had little if any effect on coke exports to date.

The high price reported for coke exports for this week was $142.79 per short ton, with the average and low prices again distorted by the inclusion of low value breeze coke exports. As the current high price is the same as reported for the preceding week, no price trend is indicated.

Domestic coal production for the week was 4,825,000 short tons compared with 5,045,000 short tons produced during the preceding week. Total coal consumption was 12,078,000 short tons, essentially the same level as the 12,183,000 short tons consumed a week earlier. Total coal inventories for the week ending January 28 were 121,577,000 short tons, a decrease of 7,975,000 short tons from the preceding week. All domestic coal prices remained stable with the exception of other bituminous (steam) coal spot prices. Average prices in this category for the week were $20.31 per short ton, an increase from $18.87 per short ton reported for the preceding week. This increase may indicate that consumers facing coal shortages are bidding up the spot price of available steam coal stocks.

STANLEY J. MARCUSS,
Deputy Assistant Secretary for Trade Regulation.

TABLE 1.—*U.S. export of bituminous coal and coke of coal, in short tons*
[For Week Ending Jan. 27, 1978]

Commodity	Export: Weekly average December 1975	December 1976	November 1977	Week ending Dec. 9, 1977	Dec. 16, 1977	Dec. 23, 1977	Dec. 30, 1977
Low volatile [1] metallurgical coal	NA	NA	*** 133,877	199,136	96,895	(*)	9[*]
Medium volatile [2] metallurgical coal	NA	NA	NA	283,420	118,632	(*)	(*)
High volatile [3] metallurgical coal	NA	NA	NA	47,055	176,827	(*)	(*)
Total metallurgical coal	NA	NA	889,125	[4] 550,450	** 436,605	521,109	128,822
Other bituminous coal	NA	NA	158,326	129,424	351,669	59,500	
Total bituminous coal	1,023,827	1,044,281	1,047,451	679,593	788,274	580,609	128,822
Coke of coal	16,646	7,287	33,179	3,922	9,624	2,843	3,922

Commodity	Average: January 1976	January 1977	Week ending Jan. 6, 1978	Jan. 13, 1978	Jan. 20, 1978	Jan. 27, 1978
Low volatile [1] metallurgical coal		NA	NA	(*)	(*)	(*)	(*)
Medium volatile [2] metallurgical coal		NA	NA	(*)	(*)	(*)	(*)
High volatile [3] metallurgical coal		NA	NA	(*)	(*)	(*)	(*)
Total metallurgical coal		NA	NA	174,709	311,331	97,800	262,585
Other bituminous coal		NA	NA				
Total bituminous coal		834,857	483,983	174,709	311,331	97,800	262,585
Coke of coal		12,326	20,514	4,466	5,062	29,143	30,634

[1] 22 pct or less volatile matter.
[2] 31 pct or less and more than 22 pct volatile matter.
[3] More than 31 pct volatile matter.
[4] Due to a limited number of firms reporting this data, precise figures have been withheld to prevent disclosure of information deemed to be confidential pursuant to sec. 7(c) of the Export Administration Act of 1969, as amended.
* Includes 20,849 short tons of metallurgical grade coal not identified as to volatility.
** Includes 44,251 short tons of metallurgical grade coal not identified by volatility.
*** Partial, in content tons.

NA—Not available.
Sources: Office of Export Administration and Bureau of the Census.

TABLE 2.—*Contracts for export of bituminous coal and coke of coal, in short tons*
[For week ending Jan. 27, 1978]

Commodity	Contracts: Week ending Feb. 3, 1978	Feb. 10, 1978	Feb. 17, 1978	Feb. 24, 1978	Mar. 3, 1978	Mar. 10, 1978	Next 6 weeks	Total for 12 weeks
Low volatile [1] metallurgical coal	143,497	99,017	79,977	102,977	104,227	120,587	961,208	1,611,490
Medium volatile [2] metallurgical coal	319,055	194,500	217,750	184,850	278,650	211,450	2,360,111	3,766,366
High volatile [3] metallurgical coal	57,106	26,075	36,510	39,310	36,710	36,710	311,602	544,023
Total metallurgical coal	519,658	319,592	334,237	327,137	419,587	368,747	3,632,921	5,921,879

TABLE 2.—*Contracts for export of bituminous coal and coke of coal, in short tons*—Continued

Commodity	Contracts: Week ending Feb. 3, 1978	Feb. 10, 1978	Feb. 17, 1978	Feb. 24, 1978	Mar. 3, 1978	Mar. 10, 1978	Next 6 weeks	Total for 12 weeks
Other bituminous coal	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Coke of coal	66,223	2,848	61,613	80,713	2,688	22,813	15,918	252,816

[1] 22 percent or less volatile matter.
[2] 31 percent or less and more than 22 percent volatile matter.
[3] More than 31 percent volatile matter.
[4] Less than 100,000 tons. Due to a limited number of firms reporting this data, precise figures have been withheld to prevent disclosure of information deemed to be confidential pursuant to sec. 7(c) of the Export Administration Act of 1969, as amended.

Sources: Office of Export Administration and Bureau of the Census.

TABLE 3.—*U.S. Exports by commodity and area of destination, in short tons*
[For week ending Jan. 27, 1978]

Commodity and area of destination	Exports: Weekly average December 1975	December 1976	November 1977	Week ending Dec. 9, 1977	Dec. 16, 1977	Dec. 23, 1977	Dec. 30, 1977
Low volatile [1] metallurgical coal:							
Asia			7,458	111,525	24,808	(*)	(*)
Europe			43,463	40,893	69,440	(*)	(*)
Western Hemisphere			82,956	46,718	2,647	(*)	(*)
Total	NA	NA	** 133,877	199,136	96,895	(*)	(*)
Medium volatile [2] Metallurgical coal:							
Asia			102,906	93,291	(*)	(*)	
Europe			173,711	15,958	(*)	(*)	
Western Hemisphere			6,803	9,383	(*)	(*)	
Total	NA	NA	NA	283,420	118,632	(*)	(*)
High volatile [3] metallurgical coal:							
Asia			11,331		(*)	(*)	
Europe				76,532	(*)	(*)	
Western Hemisphere			35,724	100,295	(*)	(*)	
Total	NA	NA	NA	47,055	176,827	(*)	(*)
Total metallurgical coal:							
Asia			377,151	225,762	118,099	134,389	(*)
Europe			269,606	214,604	161,930	206,831	(*)
Western Hemisphere			224,411	[4] 110,093	[4] 112,325	136,928	(*)
Total	NA	NA	*** 889,125	[4] 550,459	[4] 436,605	521,109	128,822

Commodity and area of destination	Week ending Jan. 6, 1978	Jan. 13, 1978	Jan. 20, 1978	Jan. 27, 1978
Low volatile [1] metallurgical coal:				
Asia	(*)	(*)	(*)	(*)
Europe	(*)	(*)	(*)	(*)
Western Hemisphere	(*)	(*)	(*)	(*)
Total	(*)	(*)	(*)	(*)
Medium volatile [2] metallurgical coal:				
Asia	(*)	(*)	(*)	(*)
Europe	(*)	(*)	(*)	(*)
Western Hemisphere	(*)	(*)	(*)	(*)
Total	(*)	(*)	(*)	(*)
High volatile [3] metallurgical coal:				
Asia	(*)	(*)	(*)	(*)
Europe	(*)	(*)	(*)	(*)

TABLE 3.—*U.S. Exports by commodity and area of destination, in short tons*—Continued

Commodity and area of destination	Exports: Weekly average December 1975	December 1976	November 1977	Week ending Dec. 9, 1977	Dec. 16, 1977	Dec. 23, 1977	Dec. 30, 1977
Total metallurgical coal:							
Western Europe			1,000	1,000			
Total	NA	NA	1,000	1,000			
Coke of coal:							
Asia			1,000	1,000			
Europe			1,000	1,000			
Western Hemisphere			1,000	1,000			
Total	NA	NA	1,000	1,000			

Commodity and area of destination	Week ending Jan. 6, 1978	Jan. 13, 1978	Jan. 20, 1978	Jan. 27, 1978
Total metallurgical coal:				
Western Europe				
Total				
Coke of coal:				
Asia				
Europe				
Western Hemisphere				
Total				

TABLE 5.—*Export prices of bituminous coal and coke of coal, in dollars per short ton*
[Week ending Jan. 27, 1978]

Commodity	Average: January 1976	January 1977	Week ending Jan. 6, 1978	Jan. 13, 1978	Jan. 20, 1978	Jan. 27, 1978
Low volatile [1] metallurgical coal		NA	NA	(*)	(*)	(*)	(*)
Medium volatile [2] metallurgical coal		NA	NA	(*)	(*)	(*)	(*)
High volatile [3] metallurgical coal		NA	NA	(*)	(*)	(*)	(*)
Total metallurgical coal		NA	NA	174,709	311,331	97,800	262,585
Other bituminous coal		NA	NA				
Total bituminous coal		834,857	483,983	174,709	311,331	97,800	262,585
Coke of coal		12,326	20,514	4,466	5,062	29,143	30,634

[1] 22 pct or less volatile matter.
[2] 31 pct or less and more than 22 pct volatile matter.
[3] More than 31 pct volatile matter.
[4] Due to a limited number of firms reporting this data, precise figures have been withheld to prevent disclosure of information deemed to be confidential pursuant to sec. 7(c) of the Export Administration Act of 1969, as amended.
* Includes 20,849 short tons of metallurgical grade coal not identified as to volatility.
** Includes 44,251 short tons of metallurgical grade coal not identified by volatility.
*** Partial, in content tons.

NA—Not available.
Sources: Office of Export Administration and Bureau of the Census.

TABLE 3.—*U.S. Exports by commodity and area of destination, in short tons*—Continued

Commodity and area of destination	Exports: Weekly average			Week ending			
				Jan. 6, 1978	Jan. 13, 1978	Jan. 20, 1978	Jan. 27, 1978
High volatile[4] metallurgical coal:							
Western Hemisphere				(*)	(*)	(*)	(*)
Total				(*)	(*)	(*)	(*)
Total metallurgical coal:							
Asia				(*)	(*)	(*)	(*)
Europe				(*)	(*)	(*)	(*)
Western Hemisphere				(*)	(*)	(*)	(*)
Total				174,709	311,331	97,800	262,585
Other bituminous coal				(*)	(*)	(*)	(*)
Total bituminous coal				174,709	311,331	97,800	262,585
Coke of coal				4,466	5,062	29,143	30,634
	Weekly average			Week ending			
	December 1975	December 1976	November 1977	Dec. 9, 1977	Dec. 16, 1977	Dec. 23, 1977	Dec. 30, 1977
Other bituminous coal	NA	NA	158,326	129,424	351,669	59,500	
Total bituminous coal	1,023,827	1,044,281	1,047,451	679,883	766,274	580,509	128,822
Coke of coal	16,646	7,287	33,179	3,922	9,624	2,843	3,922

[1] 22 percent or less volatile matter.
[2] 31 percent or less and more than 22 percent volatile matter.
[3] More than 31 percent volatile matter.
[4] Due to a limited number of firms reporting this data, precise figures have been withheld to prevent disclosure of information deemed to be confidential pursuant to sect. 7(c) of the Export Administration Act of 1969, as amended.
*Includes 44,251 short tons of metallurgical grade coal not identified by volatility.
**Partial, in content tons
***Includes 17,957 short tons of metallurgical grade coal to destinations not listed above.

NA—Not available

Sources: Office of Export Administration and the Bureau of the Census.

TABLE 4.—*Anticipated exports by commodity and area of destination, in short tons*

[For week ending Jan. 27, 1978]

Commodity and area of destination	Contracts: Week ending							
	Feb. 3, 1978	Feb. 10, 1978	Feb. 17, 1978	Feb. 24, 1978	Mar. 3, 1978	Mar. 10, 1978	Next 8 weeks	Total for 12 weeks
Total metallurgical coal:[1]								
Asia	234,306	103,095	136,055	151,055	207,455	185,055	1,617,648	2,634,669
Europe	263,106	192,076	113,226	146,226	158,026	153,226	1,347,703	2,373,589
Western Hemisphere	22,246	24,421	84,956	29,856	54,106	30,466	404,570	650,621
Other bituminous coal	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Total bituminous coal								(*)
Coke of coal	66,223	2,848	61,613	80,713	2,688	22,813	15,918	252,816

[1] Volatility data by destination have been withheld to prevent disclosure of information deemed to be confidential pursuant to sec. 7(c) of the Export Administration Act of 1969, as amended.
[2] Less than 100,000 tons. Due to a limited number of firms reporting this data, precise figures have been withheld to prevent disclosure of information deemed to be confidential pursuant to sec. 7(c) of the Export Administration Act of 1969, as amended.
[3] Data withheld to avoid disclosure of data withheld above. See footnote 2.

Sources: Office of Export Administration and Bureau of the Census.

TABLE 5.—*Export prices of bituminous coal and coke of coal, in dollars per short ton*

[Week ending Jan. 27, 1978]

Commodity	Average: January 1976	January 1977	November 1977	Weighted	High	Low
Low volatile metallurgical coal[1]	NA	NA	NA	(*)	(*)	(*)
Medium volatile metallurgical coal[2]	NA	NA	NA	(*)	(*)	(*)
High volatile metallurgical coal[3]	NA	NA	NA	(*)	(*)	(*)
Total metallurgical coal	NA	NA	53.84	51.71	61.00	45.50
Other bituminous coal	NA	NA	35.01			
Total bituminous coal	49.16	54.34	50.99	51.71	61.00	45.50
Coke of coal	61.22	45.25	79.70	61.54	142.79	50.00

[1] 22 pct or less volatile matter.
[2] 31 pct or less and more than 22 pct volatile matter.
[3] More than 31 pct volatile matter.
[4] Due to a limited number of firms reporting this data, precise figures have been withheld to prevent disclosure of information deemed to be confidential pursuant to sec. 7(c) of the Export Administration Act of 1969, as amended.

NA—Not available.

TABLE 6.—*U.S. trade in bituminous coal and coke of coal, in short tons*

For week ending Jan. 27, 1978

	Weekly average: December 1975	December 1976	November 1977	Week ending: Dec. 9, 1977	Dec. 16, 1977	Dec. 23, 1977	Dec 30, 1977
Imports:							
Bituminous coal[1]	20,097	21,452	31,158	NA	NA	NA	NA
Coke of coal	20,774	28,903	41,267	NA	NA	NA	NA
Exports:							
Bituminous coal[1]	1,023,827	1,044,281	1,047,451	679,883	788,274	580,609	128,822
Coke of coal	16,646	7,287	33,179	3,922	9,624	2,843	3,922
	Average: January 1976	January 1977		Week ending: Jan. 6, 1978	Jan. 13, 1978	Jan. 20, 1978	Jan. 27, 1978
Imports:							
Bituminous coal[1]	16,346	27,198		NA	NA	NA	NA
Coke of coal	3,483	5,987		NA	NA	NA	NA
Exports:							
Bituminous coal[1]	834,857	483,983		174,709	311,331	97,800	262,585
Coke of coal	12,326	20,514		4,466	5,062	29,143	30,634

[1] Includes both metallurgical grade and steam coal.

NA—Not available.

Sources: Office of Export Administration and Bureau of the Census.

TABLE 7.—*Bituminous coal and coke of coal[1] production, consumption, and stocks, in thousand short tons*

[For week ending Jan. 28, 1978]

	Weekly average: December 1975	December 1976	November 1977	Week ending: Dec. 10, 1977	Dec. 17, 1977	Dec. 24, 1977	Dec. 31, 1977
Total bituminous coal production[2]	12,019	12,593	14,798	9,100	5,080	(R)5,515	5,700
Consumption:							
Metallurgical[3]	1,519	1,568	NA	1,290	1,368	1,364	1,324
Other bituminous:							
Electric utility	8,414	9,387	NA	9,228	9,550	9,398	8,928
General industry	1,358	1,421	NA	1,330	1,252	1,163	1,146
Total other	9,772	10,808I31NA		10,558	10,802	10,561	10,074
Total bituminous	11,291	12,376	NA	11,848	12,170	11,925	11,398

TABLE 7.—*Bituminous coal and coke of coal[1] production, consumption, and stocks, in thousand short tons*—Continued

	Weekly average: December 1975	December 1976	November 1977	Week ending: Dec. 10, 1977	Dec. 17, 1977	Dec. 24, 1977	Dec. 31, 1977
Stocks, end of period:							
Producer/distributor	29,000	29,000	NA	29,000	29,000	29,000	29,000
Consumer	29,000	29,000	NA	29,000	29,000	29,000	29,000
Total	58,000	58,000	NA	58,000	58,000	58,000	58,000
Days' supply[4]	36	36	NA	36	36	36	36
Exports	1,040	1,052	1,081	680	788	581	129
Imports	41	50	72	NA	NA	NA	NA
Net exports	999	1,002	1,009	680	788	581	129
Total bituminous coal supply[5]	12,060	12,643	14,870	9,100	5,080	5,515	5,700
Total bituminous coal demand[6]	11,332	12,426	14,798	9,100	5,080	5,515	5,700
Average mine price (dollars per short ton)	18.61	20.00	NA				

[1] Includes anthracite and lignite.
[2] Includes production of coal consumed at mines.
[3] Includes coke and coal used for direct reduction and miscellaneous industrial uses.
[4] Producer/distributor stocks only.
[5] Total production plus imports.
[6] Consumption plus exports.

NA—Not available.

Sources: Energy Information Administration, Department of Energy, Mineral Industry Surveys, "Weekly Coal Production," "Quarterly Coal Report," and "Monthly Publication of Coal Data."

[3510-25]

IMPORTERS' TEXTILE ADVISORY COMMITTEE

[3510-22]

National Oceanic and Atmospheric Administration

3. Consideration of reports from ad hoc committees.
4. Review of communications from other agencies and organizations.

TABLE 7.—*Bituminous coal and coke of coal* production, consumption, and stocks, in thousand short tons*—Continued

	Weekly average			Week ending			
	December 1975	December 1976	November 1977	Dec. 10, 1977	Dec. 17, 1977	Dec. 24, 1977	Dec. 31, 1977
Bituminous coal stocks (end of specified periods):							
Metallurgical * * *	8,671	9,804	NA	(R)15,084	14,776	13,962	13,088
Other bituminous:							
Electric utility	109,707	117,468	NA	(R)146,171	141,691	136,993	131,308
General industry	8,504	6,900	NA	9,495	9,248	8,896	8,425
Total other	118,211	124,368	NA	155,666	150,939	145,889	139,713
Total bituminous	126,882	134,172	NA	170,750	165,715	159,871	152,801

	Weekly average		Week ending			
	January 1976	January 1977	Jan. 7, 1978	Jan. 14, 1978	Jan. 21, 1978	Jan. 28, 1978
Total bituminous coal production**	11,627	9,520	5,755	(R)5,260	(R)5,045	4,825
Consumption:						
Metallurgical***	1,505	1,428	1,291	1,192	1,221	1,161
Other bituminous:						
Electric utility	9,009	9,730	9,359	9,652	9,763	9,765
General industry	1,211	1,442	1,220	1,298	1,199	1,152
Total other	10,220	11,172	10,579	10,950	10,962	10,917
Total bituminous	11,725	12,600	11,870	12,142	12,183	12,078
Bituminous coal stocks (end of specified periods):						
Metallurgical * * *	8,115	8,107	11,992	10,900	9,771	8,821
Other bituminous:						
Electric utility	104,456	103,883	126,268	119,399	112,535	105,945
General industry	6,425	5,960	8,046	7,579	7,246	6,811
Total other	110,881	109,843	134,314	126,978	119,781	112,756
Total bituminous	118,996	117,950	146,306	137,878	129,552	121,577

*Data on coke of coal production, consumption, and stocks are not available on a weekly basis.
**More detailed production data are not available.
***More detailed data in terms of volatile content are not available.
(R) Revised.
Data source: Department of Energy.

TABLE 8.—*Representative domestic bituminous coal and coke of coal prices, dollars per short tons FOB mine or coke plant*

[For week ending Jan. 28, 1978]

		Metallurgical coal			Other	Coke	
		Low volume	Medium volume	High volume	Bituminous	Furnace	Foundry
December 1975	Spot		(46.38)	29.28	17.37	NA	110/117
	Contract	NA	NA	NA	NA	NA	NA
December 1976	Spot	33/50	28/33	27/33	16.12	85/97	121/125
	Contract	45.75/49.50	40/46.50	34/40	17.37	NA	NA
November 1977	Spot	42/51	31/37	29/36	18.75	85/90	129/132.50
	Contract	43/50	40/43	31/38	18.81	NA	NA
Week ending Dec. 10, 1977	Spot	44/51	31/37	29/38	18.87	85/90	129/134
	Contract	43/50	40/43	31/38	19.12	NA	NA
Week ending Dec. 17, 1977	Spot	44/51	31/37	29/38	18.87	85/90	129/134
	Contract	43/50	40/43	31/38	19.12	NA	NA
Week ending Dec. 24, 1977	Spot	44/51	31/37	29/36	18.87	80/90	129/134
	Contract	43/50	40/43	31/38	19.12	NA	NA
Week ending Dec. 30, 1977	Spot	44/51	31/37	29/36	18.87	80/90	129/134
	Contract	43/50	40/43	31/38	19.12	NA	NA
Week ending Jan. 7, 1978	Spot	44/51	31/37	29/36	18.87	80/90	129/134
	Contract	43/50	40/43	31/38	19.12	NA	NA
Week ending Jan. 14, 1978	Spot	44/51	31/37	29/36	18.87	80/90	129/134
	Contract	43/50	40/43	31/38	19.12	NA	NA
Week ending Jan. 21, 1978	Spot	44/51	31/37	29/36	18.87	80/90	129/134
	Contract	43/50	40/43	31/38	19.12	NA	NA
Week ending Jan. 28, 1978	Spot	44/51	31/37	29/36	20.31	80/90	129/134
	Contract	43/50	40/43	31/38	19.12	NA	NA

NA: Not available.
Source: McGraw-Hill's "Coal Week." Prices shown for the years 1975 and 1978 represent single quotes selected at random, as does the price shown for November 1977. Metallurgical coal source is Central Appalachia. Prices for "Other Bituminous Coal" are averaged from Northern Appalachian steam coal quotes.

[FR Doc. 78-5540 Filed 3-3-78; 8:45 am]

[3510-25]

IMPORTERS' TEXTILE ADVISORY COMMITTEE

Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (1976 ed.) notice is hereby given that a meeting of the Importers' Textile Advisory Committee will be held on March 22, 1978, at 10:30 a.m. in Room 4833, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C. 20230.

The Committee was established by the Secretary of Commerce on August 13, 1963, to advise U.S. Government officials of the effects on imports markets of cotton, wool, and man-made fiber textile agreements.

The agenda for the meeting will be as follows:

1. Review of import trends.
2. Implementation of textile agreements.
3. Report on conditions in the domestic market.
4. Other business.

A limited number of seats will be available to the public on a first-come basis. The public may file written statements with the Committee before or after each meeting. Oral statements may be presented at the end of the meeting to the extent time is available.

Copies of the minutes of the meeting will be made available on written request addressed to the ITA Freedom of Information Officer, Freedom of Information Control Desk, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

Further information concerning the Committee may be obtained from Arthur Garel, Director, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-5078.

Dated: March 1, 1978.

ROBERT E. SHEPHERD,
Deputy Assistant Secretary for Domestic Business Development.

[FR Doc. 78-5791 Filed 3-3-78; 8:45 am]

[3510-22]

National Oceanic and Atmospheric Administration

PACIFIC FISHERY MANAGEMENT COUNCIL AND SCIENTIFIC AND STATISTICAL COMMITTEE

Public Meeting With Partially Closed Session

Pursuant to section 10(a)(2) of the Federal Advisory Committee, 5 U.S.C., Appendix I, as amended, notice is hereby given of a meeting of the Pacific Fishery Management Council established by section 302(a) of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), and its Scientific and Statistical Committee established under section 302(g) of the Act.

The Council meeting will take place Thursday and Friday, April 13-14, 1978, at the Cosmopolitan Motor Hotel located at 1030 Northeast Union, Portland, Oreg.

The Scientific and Statistical Committee will meet on Wednesday and Thursday, April 12-13, 1978, also at the Cosmopolitan Motor Hotel in Portland, Oreg.

The Scientific and Statistical Committee will meet at 1 p.m. and adjourn about 5 p.m. on April 12. The Committee will tentatively reconvene, dependent on Council developments, at 8 a.m. and adjourn about 5 p.m. on April 13. The proposed agenda for the Committee is as follows:

APRIL 12-13

1. Consideration of development of fishery management plans.
2. Organization of the Council, including fishery advisory panel and management development teams, and operational procedural matters.
3. Other Committee business.

The Pacific Fishery Management Council will convene at 10 a.m. and adjourn about 5 p.m. an April 13. The Council will reconvene at 8 a.m. and adjourn about 5 p.m. on April 14. The meeting may be extended or shortened depending on progress on the agenda. The proposed agenda is as follows.

APRIL 13

1. Closed 2-hour session (8 a.m. to 10 a.m.) to discuss classified material on the status of current maritime boundary and resource negotiations between the United States and Canada.
2. Organization of the Council, including its staff, advisory panels, and committees, and operational and procedural matters.
3. Consideration of reports from ad hoc committees.
4. Review of communications from other agencies and organizations.
5. Consideration of fishery management plans under development.

APRIL 14

1. Organization of the Council, including its staff, advisory panels, and committees, and operational and procedural matters.
2. Consideration of reports from ad hoc committees.
3. Review of communications from other agencies and organizations.
4. Consideration of fishery management plans under development.

The SSC meeting will be open to the public, as will all but the first agenda item of the Council meeting. For more information on seating arrangements, changes to the agenda, and/or written comments, contact: Mr. Lorry M. Nakatsu, Executive Director, Pacific Fishery Management Council, 526 Southwest Mill Street, Second Floor, Portland, Oreg. 97201, telephone 503-221-6352.

The closed session of the Council is planned for the early morning of the first day, April 13, from 8 a.m. through 10 a.m. to hear and discuss Department of State security classified material on the status of current maritime boundary and resource negotiation between the United States and Canada. Only those Council members and staff having security clearances will be allowed to attend this closed session.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined, on February 21, 1978, pursuant to section 10(d) of the Federal Advisory Committee Act, that the agenda items covered in closed session may be exempt from the provisions of the Act relating to open meetings and public participation therein, because items will be concerned with matters that are within the purview of 5 U.S.C. 552b(c)(1) as information which is properly classified pursuant to Executive Order 11652. A copy of the determination is available for public inspection and copying in the Public Reading Room, Central Reference and Record Inspection Facility, Room 5317, Department of Commerce.

March 1, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[3810-70]

Office of the Secretary

FLOODPLAIN MANAGEMENT

tection of Wetlands) restrict Federal activities in floodplains and wetlands for two different but complementary reasons.

a. To minimize the destruction, loss or degradation of wetlands; and to preserve

quirements for eligibility under the Flood Insurance program even though DoD projects are not insured under this program. Individual projects must be separately as-

velop procedures to assure that the provisions of this Section are fully carried out.

MAURICE W. ROCHE,
Director, Correspondence and

Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.s.t., except Federal holidays.

March 1, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-5774 Filed 3-3-78; 8:45 am]

[3510-22]

PACIFIC FISHERY MANAGEMENT COUNCIL'S ANCHOVY ADVISORY SUBPANEL AND SALMON ADVISORY SUBPANEL

Meeting Time Change and Cancellation

Notice is hereby given of a change in the meeting time as published in the FEDERAL REGISTER, February 27, 1978, Volume 43, No. 39, for the Pacific Fishery Management Council's Anchovy Advisory Subpanel.

The meeting is now scheduled for Thursday, March 9, 1978, in the Rubicon Room of the Red Lion Inn located at 2001 Point West Way, Sacramento, Calif., convening at 10 a.m. and adjourning at about 1 p.m. The date, location and agenda will remain unchanged.

Notice is also hereby given that the meeting of the Salmon Advisory Subpanel, scheduled for Wednesday, March 8, 1978, also at the Red Lion Inn, Sacramento, Calif., has been cancelled.

Dated: March 1, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-5773 Filed 3-3-78; 8:45 am]

[3910-01]

DEPARTMENT OF DEFENSE

DEPARTMENT OF THE AIR FORCE

USAF Scientific Advisory Board

FEBRUARY 28, 1978.

The USAF Scientific Advisory Board Tactical Panel will hold a meeting at Langley Air Force Base, Va., on March 23, 1978, from 8:30 a.m. to 5 p.m.

The Panel will review candidate proposals for classified tactical strike concept of operations.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraphs (1) thereof, and accordingly the meeting will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at 202-697-4811.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc. 78-5738 Filed 3-3-78; 8:45 am]

[3810-70]

Office of the Secretary

FLOODPLAIN MANAGEMENT

Notice of Intent

AGENCY: Office of the Secretary of Defense.

ACTION: Notice of Intent.

SUMMARY: The Deputy Assistant Secretary of Defense (Installations & Housing) is planning to implement those portions of Executive Orders 11988 and 11990 which apply to direct Military Construction by amending the DoD Construction Criteria Manual (DoD 4270.1-M). This Manual sets forth general policy, criteria and standards for DoD Military Construction projects.

DATE: Comments must be received on or before April 5, 1978.

ADDRESS: Send written comments on the draft implementation in duplicate to: Deputy Assistant Secretary of Defense (I&H), ATTN: ID, Room 3E763, Pentagon, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT:

Howard L. Metcalf, ODASD (I&H)-ID, Room 3E763, Pentagon, Washington, D.C. 20301, 202-695-2713.

SUPPLEMENTARY INFORMATION: Executive Orders 11988 and 11990 establish Federal policy to minimize the destruction, loss or degredation of wetlands; to preserve and enhance the natural and beneficial values of wetlands; to reduce the risk of flood loss and to minimize the impact of floods on human safety, health and welfare. Federal agencies are required to implement these executive orders with respect to acquisition and disposal of property, direct federal construction, federally assisted construction and other actions. The publication that establishes general policy criteria and standards for DoD military construction program is the DoD Construction Criteria Manual, DoD 4270.1-M. Chapter 4 of this Manual on site planning criteria is considered the appropriate place to implement these Executive Orders and a new section 4-10, "Construction in floodplains and wetlands" will be inserted for this purpose. It is emphasized that this section applies only to direct DoD construction as authorized in Annual Military Construction Authorization Acts. It does not apply to civil works programs and projects of the Department of the Army, nor to the acquisition and disposal of land. The proposed implementation follows:

4-10 CONSTRUCTION IN FLOODPLAINS OR ON WETLANDS

4-10-1 *General.* Executive Orders 11988 (Floodplain Management) and 11990 (Protection of Wetlands) restrict Federal activities in floodplains and wetlands for two different but complementary reasons.

a. To minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands.

b. To reduce the risk of flood loss and to minimize the impact of floods on human safety, health and welfare. To achieve these objectives construction projects and substantial rehabilitation or modification projects (including MILCON, O&M, nonappropriated fund, other than appropriated fund, and contractor construction where DoD funding is involved) will conform to the following criteria. Civil works projects and civil works actions of the U.S. Army Corps of Engineers will be governed by separate guidance prepared by the Secretary of the Army. The phrase "construction and substantial rehabilitation or modification projects" includes, draining, dredging, channelizing, filling, diking, impounding and related activities in addition to structures and facilities.

4-10.2 *Definitions.* A. Floodplains: The lowland and relatively flat areas adjoining inland and coastal waters including flood prone areas of offshore islands, including at a minimum, that area subject to a one percent or greater chance of flooding in any given year.

B. Wetlands: These areas that are inundated by surface or ground water with a frequency sufficient to support and under normal circumstances does or would support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs and similar areas such as sloughs, potholes, wet meadows, river outflows, mud flats and natural ponds. Wetlands may be but are not necessarily located in floodplains.

4-10.3 Requirements. A. Before undertaking a construction project the responsible DoD component must determine whether or not the project will be sited in a floodplain or on wetlands. Guidance for such determination is contained in the Water Resources Council's "Guidance for Floodplains Management" FEDERAL REGISTER, Vol. 42, No. 190, pages 52590 through 52599, Friday, Septermber 1977 and will be followed.

B. If the proposed siting is in a floodplain or wetland the project may be undertaken only if no practicable alternative exists. Alternatives that will be considered include the following:

(1) Carrying out the proposed action at a location outside the floodplain (alternative sites).

(2) Other means which accomplish the purpose of the proposed action (alternative actions:)

(3) No action.

In evaluating these alternatives the head of the responsible agency shall take into account economic, environmental and other pertinent factors. If the project is undertaken it must be in accordance with the standards and criteria and consistent with the intent of the National Flood Insurance Program 24 CFR 1909 through 1925 (Part II, FEDERAL REGISTER, Vol. 41, No. 207, Tuesday, October 26, 1978) and may deviate from this only to the extent that the standards of the Flood Insurance Program are demonstrably inappropriate for the project. This means that projects will be designed and carried out as they would be to meet the full requirements for eligibility under the Flood Insurance program even though DoD projects are not insured under this program. Individual projects must be separately assessed but examples of a situation where the "demonstrably inappropriate" criteria might apply could be an aircraft hangar (which cannot be raised above the aircraft apron elevation) at an existing installation in a floodplain or a waterfront facility such as a pier to support naval ships. However, even in such cases, all reasonable actions must be taken to "flood proof" the project and to design or modify the project to minimize potential harm to or within the floodplain. Elevation of the structure above the flood level is always to be preferred to filling in land.

C. Prior to undertaking a project in a floodplain certain other actions must be taken.

(a) A notice containing an explanation of why the project is proposed to be located in the floodplain must be prepared and circulated. The FEDERAL REGISTER is considered the most appropriate means of such circulation. An opportunity for early public review of the plans and proposals must be provided, in accordance with Section 2(b) of E.O. No. 11514, as amended, even if the project is not significant enough to require the preparation of an Environmental Impact Statement under Section 102(2)(c) of the National Environmental Policy Act of 1969, as amended. Environmental Impact Statements are required for projects meeting the criteria of DoDD Directive 6050.1 "Environmental Considerations in DoD Actions" and the EIS process if used is considered to meet the requirement of circularization and review required by this subparagraph.

(b) For programs subject to OMB Circular A-95, a notice, not to exceed three pages in length, must be sent to state and area-wide clearing houses. The notice must include the reasons why the project is to be sited in a floodplain, a statement indicating whether the action conforms to applicable state or local floodplain protection standards and a list of alternatives considered. See DoD 4165.61 "Intergovernmental Coordination of Department of Defense Land and Facility Plains and Projects" for policy on the A-95 coordination process.

(c) After public review, the EIS process and A-95 coordination have been accomplished, if the decision is to proceed with the project in a floodplain or wetland, further notice must be sent to A-95 agencies and to all requesters, stating that the decision has been made and explaining why.

4-10.4 *Programming.* When all of the above actions have been completed and a decision to proceed with the project in the floodplain or wetland has been made, requests for authorizations and/or appropriations for that project transmitted to OMB and the Congress (DD Form 1391) shall indicate that that proposed project is located in a floodplain or wetland and, that it has complied with the requirements of this Section and Executive Orders 11988 and 11990.

4-10.5 *Implementation.* Each DoD component with design and construction responsibilities (except the U.S. Army Corps of Engineers Civil Works organization) shall develop procedures to assure that the provisions of this Section are fully carried out.

MAURICE W. ROCHE,
Director, Correspondence and Directives Washington Headquarters Services, Department of Defense.

MARCH 1, 1978.

[FR Doc. 78-5760 Filed 3-3-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

NOTICE OF ISSUANCE OF PROPOSED DECISIONS AND ORDERS BY THE OFFICE OF ADMINISTRATIVE REVIEW

February 6 through February 10, 1978

Notice is hereby given that during the period February 6 through February 10, 1978, the Proposed Decisions and Orders which are summarized below were issued by the Office of Administrative Review of the Economic Regulatory Administration of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Amendments to the DOE's procedural regulations, 10 CFR, Part 205, were issued in proposed form on September 14, 1977 (42 FR 47210 (September 20, 1977)), and are currently being implemented on an interim basis. Under the new procedures any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within 10 days of service. For purposes of the new procedures, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The new procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Administrative Review, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.s.t., except Federal holidays.

MELVIN GOLDSTEIN,
Director, Office of Administrative Review.

FEBRUARY 28, 1978.

PROPOSED DECISIONS AND ORDERS

Common carrier pipelines, Washington, D.C., Ex Part No. 308 (Sub-No. 1) pipelines

On February 10, 1978, the DOE issued a Proposed Decision and Order in which it described the procedures the Economic Regulatory Administration would follow in connection with its Investigation of Common Carrier Pipelines (Ex Part No. 308 (Sub-No. 1)).

Hanson Oil Co., Roswell, N. Mex., FEE-4365, FEE-4395, crude oil

On July 21, 1977, the Hanson Oil Co. (Hanson) filed two Applications for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception requests, if granted, would permit Hanson to sell at upper tier ceiling prices the crude oil which it may produce from wells which it proposes to drill on two properties located in Washikie County, Wyo. On February 10, 1978, the Department of Energy issued a Proposed Decision and Order which dismissed Hanson's exception requests without prejudice to a refiling at a later date.

Laketon Asphalt Refining, Inc., Evansville, Ind., DXE-0424, crude oil.

Laketon Asphalt Refining, Inc., filed an Application for Exception from the provisions of 10 CFR 211.67. The exception request, if granted, would relieve Laketon of the requirement that the firm purchase entitlements for a 6 month period. On February 10, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

Monsanto Co., Houston, Tex., DEE-0423, crude oil

The Monsanto Co. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Monsanto to sell the crude oil it produces from the Hendrick "C" Property at upper tier ceiling prices. On February 10, 1978, the DOE issued a Proposed Decision and Order which determined that the Monsanto exception application be granted in full.

Monsanto Co., Houston, Tex., FEE-4155, crude oil

The Monsanto Co. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Monsanto to sell the crude oil it produces from the Buckman well at upper tier ceiling prices. On February 10, 1978, the DOE issued a Proposed Decision and Order which determined that the Monsanto exception application be granted in part.

Newhall Refining Co., Inc., Dallas, Tex., DXE-0418, crude oil

Newhall Refining Co., Inc., filed an Application for Exception from the provisions of 10 CFR 211.67. The exception request, if granted, would relieve Newhall of the re-

quirement that the firm purchase entitlements for a 6 month period. On February 10, 1978, the DOE issued a Proposed Decision and Order which determined that the

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[3128-01]

NOTICE OF CASES FILED WITH THE OFFICE OF ADMINISTRATIVE REVIEW

with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of

APPENDIX.—*List of cases received by the Office of Administrative Review*—Continued

[Week of Feb. 10 through Feb. 17, 1978]

quirement that the firm purchase entitlements for a 6 month period. On February 10, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be granted in part.

Total Petroleum, Inc., Apco Oil Corp., Oklahoma Refining Corp., Washington, D.C., FEE-4753, FEE-4774, FEE-4832, crude oil and refined products

Apco Oil Corp., Total Petroleum, Inc., and Oklahoma Refining Corp., filed Applications for Exception in which the firms requested various types of administrative relief to facilitate the sale by Apco of its two refineries to Total Petroleum, Inc., and Oklahoma Refining Corp. On February 8, 1978, the DOE issued a Proposed Decision and Order which determined that various types of administrative relief should be granted to the firms.

[FR Doc. 78-5778 Filed 3-3-78; 8:45 am]

[3128-01]

NOTICE OF CASES FILED WITH THE OFFICE OF ADMINISTRATIVE REVIEW

Week of February 10 Through February 17, 1978.

Notice is hereby given that during the week of February 10 through February 17, 1978, the appeals and applications for exception or other relief listed in the appendix to this notcie were filed with the Office of Administrative Review of the Economic Regulatory Administration of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Administrative Review, Economic Regulatory Administration, Department of Energy, Washington, D.C. 20461.

MELVIN GOLDSTEIN,
Director, Office of Administrative Review.

FEBRUARY 27, 1978.

APPENDIX.—*List of cases received by the Office of Administrative Review*

[Week of Feb. 10 through Feb. 17, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Feb. 10, 1978	Akin, Gump, Hauer & Feld, Washington, D.C. If granted: Akin, Gump, Hauer & Feld would receive access to DOE data regarding the certification of refinery capacity.	DFA-0145	Appeal of the DOE's information request denial.
Do	B & M Motor Service, Egg Harbor City, N.J. If granted: B & M Motor Service would not be required to file form EIA-8 (Retail Motor Fuels Service Station Survey).	DEE-0257	Exception to the reporting requirements.
Do	John H. Cathey, Kimball, Nebr. If granted: The refund requirements of the Mar. 14, 1977 remedial order issued to John H. Cathey by FEA region VII would be stayed pending judicial review.	DRS-0030	Stay request.
Do	Estes Engineering Co., Midland, Tex. If granted: Estes Engineering Co. would be permitted to sell the crude oil produced from the Atlantic "B" well at upper tier ceiling prices.	DEE-0531	Price exception (sec. 212.73).
Do	Funding Systems Corp., et al., Washington, D.C. If granted: The June 17, 1977 order issued by the FEA Office of Regulatory Programs would be rescinded and funding systems would be permitted to include the crude oil runs to stills at the Adobe Refinery in calculating its obligations under the entitlements program.	DEA-0144	Appeal of FEA's Office of Regulatory Programs June 17, 1977 Order.
Do	Glen's Texaco, Madison, S. Dak. If granted: Glen's Texaco would not be required to file form EIA-8 (Retail Motor Fuels Service Station Survey).	DEE-0528	Exception to the reporting requirements.
Do	J. V. Andrews Texaco Station, Stone Mountain, Ga. If granted: J. V. Andrews Texaco Station would not be required to file form EIA-8 (Retail Motor Fuels Service Station Survey).	DEE-0529	Do.
Do	Mapco, Inc., Washington, D.C. If granted: Mapco, Inc., would be permitted to increase its first sale price of natural gas liquids in order to provide the firm with adequate economic incentive to undertake construction of a new gas plant.	DEE-0532	Price exception (sec. 212.164).
Feb. 13, 1978	Cabot Corp., Houston, Tex. If granted: Cabot Corp. would receive an extension of the exception relief granted in the DOE's Nov. 4, 1977 decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal. for natural gas liquid products produced at its Beaver and Estes plants.	DXE-0535 and DXE-0536	Extension of the relief granted in *Cabot Corp.*, case Nos. FXE-4507 and FXE-4508 (decided Nov. 4, 1977) (unreported decision).
Do	R. H. Engelke, San Antonio, Tex. If granted: The Dec. 1, 1977, remedial order issued by DOE region VI would be rescinded and R. R. Engelke would not be required to refund overcharges made in its sales of crude oil produced from the Bertha Copsey Lease located in Jackson County, Tex.	DRA-0146	Appeal of remedial order issued by DOE region VI.
Do	McCulloch Gas Processing Corp., Washington, D.C. If granted: McCulloch Gas Processing Corp. would receive an extension of the exception relief granted in the DOE's Nov. 4, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal. for natural gas liquid products produced at its Belle Fourche, Gillette, and Oedekoven plants.	DXE-0537 through DXE-0539	Extension of relief granted in *McCulloch Gas Processing Corp.*, case Nos. FXE-4529 through FXE-4531 (decided Nov. 4, 1977) (unreported decision).
Do	Tenneco Oil Co. (Blue Flame Gas Co.), Washington, D.C. If granted: The DOE's interpretation 1977-39 regarding Kellermyer's Inc. status as a wholesale purchaser-reseller would be rescinded.	DIA-0147	Appeal of DOE interpretation 1977-39.

APPENDIX.—*List of cases received by the Office of Administrative Review*—Continued

[Week of Feb. 10 through Feb. 17, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Do	Allied Chemical Corp., Houston, Tex. If granted: Allied Chemical Corp. would receive an extension of the exception relief granted in the DOE's Nov. 4, 1977 decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal. for natural gas liquid products produced at its Benedum, Sligo, and Walnut Bend plants.	DXE-0540 through DXE-0542	Extension of the relief granted in *Allied Chemical Corp.* case Nos. FXE-4504 through FXE-4506 (decided Nov. 4, 1977) (unreported decision).
Do	Atlantic Richfield Co., Los Angeles, Calif. If granted: The Dec. 23, 1977, remedial order issued by DOE region IX would be rescinded and Atlantic Richfield Co. would not be required to refund overcharges made in its sales of diesel fuel to Fleet Supplies, Inc.	DRA-0107	Appeal of remedial order issued by DOE region IX.
Do	Capitol Oil Co., Inc., Baltimore, Md. If granted: The Jan. 5, 1978, modified remedial order issued by DOE region III would be rescinded and Capitol Oil Co., Inc., would not be required to refund overcharges made in its sales to the Coast Guard of No. 2 heating oil.	DRA-0148	Appeal of the modified remedial order issued by DOE region III.
Do	Commonwealth Oil Refining Co., Inc., Washington, D.C. If granted: Commonwealth Oil Refining Co., Inc., would be granted a stay of the license fee requirements set forth in pt. 213 pending a final determination on its application for exception.	DES-0038	Stay request.
Do	Edwin L. Cox, Lafayette, La. If granted: The FEA's May 23, 1977, decision and order would be modified to permit Edwin L. Cox to sell additional crude oil produced from the Seward LeJeune Lease located in the Woodlawn Field in Jefferson Davis Parish, La., at upper tier ceiling prices.	DEX-0037	Supplemental order to *Edwin L. Cox*, 5 FEA par. 83,163 (May 23, 1977).
Do	Damson Oil Corp., Houston, Tex. If granted: Damson Oil Corp. would be permitted to sell the crude oil produced from the City of Los Angeles Lease No. 135 ("Venice each Lease") at upper tier ceiling prices.	DXE-0533	Extension of the relief granted in *Damson Oil Corp.*, 5 FEA par. 83,073 (Feb. 24, 1977).
Do	Enkay Corp., Shreveport, La. If granted: Enkay Corp. would receive an extension of the exception relief granted in the DOE's Nov. 2, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal. for natural gas liquid products produced at the East Texas plant.	DXE-0544	Extension of the relief granted in *Enkay Corp.*, case No. FXE-4521 (decided Nov. 2, 1977) (unreported decision).
Do	Estates of Inez and Loyce Phillips, Austin, Tex. If granted: Estates of Inez and Loyce Phillips would receive an extension of the exception relief granted in the DOE's Aug. 3, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal. for natural gas liquid products produced at the Nan-su-Gail plant.	DXE-0545	Extension of the relief granted in *Estates of Inez and Loyce Phillips*, case No. FEE-4342 (decided Aug. 3, 1977) (unreported decision).
Do	H. W. Bass & Sons, Inc., Dallas, Tex. If granted: H. W. Bass & Sons, Inc. would receive an extension of the exception relief granted in the DOE's Dec. 5, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal. for natural gas liquid products produced at the Walnut Bend plant.	DXE-0543	Extension of the relief granted in *H. W. Bass & Sons, Inc.*, case No. FXE-4807 (decided Dec. 4, 1977) (unreported decision).
Do	Hewit & Dougherty, Austin, Tex. If granted: Hewit & Dougherty would receive an extension of the exception relief granted in the FEA's Dec. 28, 1976, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal. for natural gas liquid products produced at the Roche plant.	DXE-0545	Extension of the relief granted in *Hewit & Dougherty*, 5 FEA par. 83,006 (Dec. 23, 1976).
Do	Kerr-McGee Corp., Oklahoma City, Okla. If granted: Kerr-McGee Corp., would receive an extension of the exception relief granted in the DOE's Nov. 4, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal. for natural gas liquid products produced at its Beaver, Beaver Creek, Maysville, and Pampa plants.	DXE-0547 through DXE-0550	Extension of the relief granted in *Kerr-McGee Corp.*, case Nos. FXE-4522 through FXE-4526 (decided Nov. 4, 1977) (unreported decision).
Do	Mapco, Inc., Tulsa, Okla. If granted: Mapco, Inc., would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal. for natural gas liquid products produced at the Westpan plant.	DEE-0559	Price exception (sec. 212.165).
Do	Marathon Oil Co., Findlay, Ohio. If granted: Marathon Oil Co. would receive an extension of the exception relief granted in the DOE's Nov. 4, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal. for natural gas liquid products produced at its Rock River, Welder, West Forelands and West Sidney plants.	DXE-0551 through DXE-0554	Extension of relief granted in *Marathon Oil Co.*, case Nos. FXE-4848 through FXE-4851 (decided Nov. 4, 1977) (unreported decision).

APPENDIX.—*List of cases received by the Office of Administrative Review*—Continued

[Week of Feb. 10 through Feb. 17, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Do	M. J. Mitchell, Dallas, Tex. If granted: M. J. Mitchell would be permitted to sell the crude oil produced from the Pickrel Ranch Minnelusa sand unit located in Campbell County, Wyo., at market prices.	DXE-0534	Extension of the relief granted in *M. J. Mitchell*, 1 DOE par. —— (Dec. 2, 1977).
Do	Shell Oil Co., Houston, Tex. If granted: Shell Oil Co. would receive an extension of the exception relief granted in the Mar. 21, June 17, June 24, Sept. 22, and Oct. 14, 1977, decisions and orders which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal. for natural gas liquid products produced at the Bayou Goula, Camargo, Chalkley, Enville, Fashing, Halley, KNDU, Lirette, Mermentau, O'Keene, Person, Prentice, Red Fish Bay, Sea Robin, Selling, Timbalier, TXL, Van, Weeks Island, and West Seminole plants.	DXE-0591 through DXE-0610	Extension of the relief granted in *Shell Oil Co.*, case No. FEE-4682-4683 (decided Oct. 14, 1977) (unreported decision). *Shell Oil Co.*, case Nos. FXE-4665-4681 (decided Sept. 22, 1977) (unreported decision). *Shell Oil Co.*, case No. FXE-4225 (decided June 24, 1977) (unreported decision). *Shell Oil Co.*, case No. FEE-4232 (decided June 17, 1977) (unreported decision). *Shell Oil Co.*, case Nos. FXE-3786, FXE-3795 (decided Mar. 21, 1977) (unreported decision).
Do	Wei-Gas, Inc. of Texas, Dallas, Tex. If granted: Wei-Gas, Inc. of Texas would receive an extension of the exception relief granted in the DOE's Oct. 31, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal. for natural gas liquid products produced at the Possum Kingdom plant.	DXE-0555	Extension of the relief granted in *Wei-Gas, Inc. of Texas*, case No. FXE-4736 (decided Oct. 31, 1977) (unreported decision).
Feb. 15, 1978	Beacon Gasoline Co., Washington, D.C. If granted: Beacon Gasoline Co. would receive an extension of the exception relief granted in the DOE's Nov. 2, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal. for natural gas liquid products produced at the Minden plant.	DXE-0556	Extension of the relief granted in *Beacon Gasoline Co.*, case No. FXE-4503 (decided Nov. 2, 1977) (unreported decision).
Do	Commonwealth Oil Refining Co., Inc., San Antonio, Tex. If granted: Commonwealth Oil Refining Co., Inc., would receive an extension of the entitlement relief granted in FEA's Apr. 14, 1977, decision and order.	DXE-0611	Extension of the relief granted in *Commonwealth Oil Refining Co., Inc.*, 5 FEA par. 83,132 (Apr. 14, 1977).
Do	El Paso Natural Gas Co., El Paso, Tex. If granted: El Paso Natural Gas Co. would receive an extension of the exception relief proposed in the DOE's Oct. 17, 1977, proposed decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal. for natural gas liquid products produced at the Jal No. 4 and San Juan plants.	DXE-0557 and DXE-0558	Extension of the relief proposed in the DOE's Oct. 17, 1977, proposed decision and order.
Do	Gulf Oil Corp., Tulsa, Okla. If granted: Gulf Oil Corp. would receive an extension of the exception relief granted in the DOE's Nov. 22 and Dec. 6, 1977, decisions and orders which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal. for natural gas liquid products produced at the Adena, Bluebell, Breckenridge, Camrick, Chesterville, Como, Delhi, Encinal, Enville, Eunice, Fannett, Fashing, Gladewater, Headlee, Kalkaska, Krotz Springs, Lake Washington, Maysville, Mermentau, Monahans, Monument, Moores Orchard, North Port Neches, Saunders, Shackelford, South Fullerton, Spear, Vada, Waddell, Worsham, and Yates plants.	DXE-0560 through DXE-0590	Extension of the relief granted in *Gulf Oil Corp.*, case Nos. FXE-4620 through FXE-4647 (decided Nov. 22, 1977) (unreported decision). *Gulf Oil Corp.*, case Nos. FEE-4612, FEE-4614, FEE-4615, FEE-4617, FEE-4639, and FEE-4646 (decided Dec. 6, 1977) (unreported decision).
Do	Gulf Oil Corp., Tulsa, Okla. If granted: Gulf Oil Corp. would be permitted to sell the crude oil produced from the Kiefer unit located in Creek County, Okla., at upper tier ceiling prices.	DEE-0612	Price exception (sec. 212.73).
Do	Gulf Oil Corp., Tulsa, Okla. If granted: Certain provisions of the proposed decision and order issued on Jan. 23, 1978, to Gulf Oil Corp. would be approved in an interim order.	DEX-0040	Supplemental order.
Feb. 16, 1978	Akin, Gump, Hauer & Feld, Washington, D.C. If granted: The DOE's Dec. 9, 1977, information request denial would be rescinded and Akin, Gump, Hauer & Feld would receive access to additional DOE data regarding applications submitted by firms seeking to qualify to receive entitlements benefits.	DFA-0149	Appeal of DOE's Dec. 9, 1977, information request denial.
Do	Aminoil USA, Inc., Houston, Tex. If granted: Aminoil USA, Inc., would receive an extension of the exception relief granted in the DOE's Nov. 4, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal. for natural gas liquid products produced at the Aline, Fox, Huntington Beach, Inglewood, Taloga, and Tioga plants.	DXE-0623 through DXE-0628	Extension of the relief granted in *Aminoil USA, Inc.*, case Nos. FXE-4515 through FXE-4520 (decided Nov. 4, 1977) (unreported decision).
Do	Associated Programs, Inc., Boca Raton, Fla. If granted: Associated Programs, Inc., would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal. for natural gas liquid products produced at the Yenter plant.	DEE-0622	Price exception (sec. 212.165).

APPENDIX.—*List of cases received by the Office of Administrative Review*—Continued

[Week of Feb. 10 through Feb. 17, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Do	Champlin Petroleum Co., Fort Worth, Tex. If granted: Champlin Petroleum Co. would receive an extension of the exception relief granted in the DOE's Nov. 2, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal. for natural gas liquid products produced at the Witcher plant.	DXE-0629	Extension of the relief granted in *Champlin Petroleum Co.*, case No. FXE-4664 (decided Nov. 2, 1977) (unreported decision).
Do	Continental Oil Co., Houston, Tex. If granted: Continental Oil Co. would receive an extension of the exception relief granted in the DOE's Nov. 4 and Nov. 10, 1977, decisions and orders which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal. for natural gas liquid products produced at the Acadia, Burnell North Pettus, Edmond, Hamlin, Maljamar, North Cowden, North Okarche, Rincon, Sussex, West Seminole, and West World plants.	DXE-0630 through DXE-0640	Extension of the relief granted in *Continental Oil Co.*, case Nos. FXE-4591 through FXE-4600 (decided Nov. 4, 1977) (unreported decision). *Continental Oil Co.*, case No. FEE-4584 (decided Nov. 10, 1977) (unreported decision).
Do	D & R Service, Inc., Arlington, Mass. If granted: D & R Service, Inc., would not be required to file Form EIA-8 (Retail Motor Fuels Service Station Survey).	DEE-0618	Exception to the reporting requirements.
Do	GTE Sylvania, Danvers, Mass. If granted: GTE Sylvania would receive an increase in its base period use of propane at its Hillsboro facility.	DEE-0530	Allocation exception.
Do	Hunt Industries, Dallas, Tex. If granted: Hunt Industries would receive an extension of the exception relief granted in the FEA's Apr. 29, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal. for natural gas liquid products produced at the Zoller plant.	DXE-0642	Extension of the relief granted in *Hunt Industries*, case No. FEE-3939 (decided Apr. 29, 1977) (unreported decision).
Do	J. C. Barnes Oil Co., Midland, Tex. If granted: J. C. Barnes Oil Co.'s A-R No. 2 well located in Gains County, Tex., would be classified as a stripper well property.	DEE-0614	Price exception (sec. 212.73).
Do	D. C. Latimer, Jackson, Miss. If granted: D. C. Latimer would be permitted to sell the crude oil produced from the Vyron Womack No. 1 well located in Simpson County, Miss., without regard to the current cumulative deficiency which pertained during the period April through November 1974.	DEE-0613	Price exception (sec. 212.71).
Do	Lynn's Texaco Service, Vernal, Utah. If granted: Lynn's Texaco Service would not be required to file Form EIA-8 (Retail Motor Fuels Service Station Survey).	DEE-0619	Exception to the reporting requirements.
Do	W. N. McMurray, Casper, Wyo. If granted: W. N. McMurray would receive an extension of the DOE's Nov. 16, 1977, decision and order which would permit the firm to sell the crude oil produced from the Wagner-Fredricks well at upper tier ceiling prices.	DXE-0615	Extension of the relief granted in *W. N. McMurray*, 1 DOE par. —— (Nov. 16, 1977).
Do	Neu's Service Station, Farmington, Iowa. If granted: Neu's Service Station would not be required to file Form EIA-8 (Retail Motor Fuels Service Station Survey).	DEE-0620	Exception to the reporting requirements.
Do	P & M Petroleum Management, Denver, Colo. If granted: P & M Petroleum Management would be permitted to sell the crude oil produced from the Track No. 1 well located in Roosevelt County, Mont., at upper tier ceiling prices.	DXE-0616	Extension of the relief granted in *P & M Petroleum Management*, 1 DOE par. —— (Nov. 23, 1977).
Do	Penn-Flat Service Centre, Inc., Brooklyn, N.Y. If granted: Penn-Flat Service Centre, Inc. would not be required to file Form EIA-8 (Retail Motor Fuels Service Station Survey).	DEE-0621	Exception to the reporting requirements.
Do	Phillips Petroleum Co., Bartlesville, Okla. If granted: Phillips Petroleum Co. would be permitted to sell the crude oil produced from the Foote Lease located in Oklahoma County, Okla., at upper tier ceiling prices.	DXE-0617	Extension of the relief granted in *Phillips Petroleum Co.*, 1 DOE par. 81,004 (Nov. 2, 1977).
Do	Standard Oil Co. (Indiana), Chicago, Ill. If granted: Standard Oil Co. (Indiana) would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal. for natural gas liquid products produced at the Kinsler plant.	DEE-0643	Price exception (sec. 212.165).
Do	Standard Oil Co. (Indiana), Chicago, Ill. If granted: Standard Oil Co. (Indiana) would receive an extension of the exception relief granted in the Mar. 31, July 25, Nov. 11, and Nov. 16 decisions and orders which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal. for natural gas liquid products produced at the Beaver Creek, Burnell-North Pettus, Calumet, Cotton Valley, Edgewood, Luby, Old Ocean, Patterson, South Gillock, South Pecan, Thibodaux, Vermillion, and West Bastian plants.	DXE-0644 through DXE-0656	Extension of the relief granted in *Standard Oil Co. (Indiana)*, case Nos. FEE-4765 and FEE-4766 (decided Nov. 16, 1977) (unreported decision). *Standard Oil Co. (Indiana)*, case Nos. FXE-4606-FXE-4610, FXE-4552, FXE-4659 (decided Nov. 11, 1977) (unreported decision). *Standard Oil Co. (Indiana)*, case No. FEE-4302 (decided July 25, 1977) (unreported decision). *Standard Oil Co. (Indiana)*, case Nos. FXE-3613 and FXE-3623 (decided Mar. 31, 1977) (unreported decision).

APPENDIX.—*List of cases received by the Office of Administrative Review*—Continued

[Week of Feb. 10 through Feb. 17, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Do	Texas American Oil Corp., Midland, Tex. If granted: The DOE would modify the Feb. 6, 1978, decision and order issued to Texas American Oil Corp. which required certain adjustments in United Refining Co.'s entitlement purchase obligations for November 1976.	DEX-0038	Supplemental order to *Texas American Oil Corp.*, 1 DOE par. — (Feb. 6, 1978).
Do	Total Petroleum, Inc., and Apco Corp., Washington, D.C. If granted: Certain provisions of the proposed decision and order issued on Feb. 6, 1978, to Total Petroleum, Inc., Apco Corp., and Oklahoma Refining Co. would be approved in an interim order in order to permit the completion of the proposed refinery transfer.	DEX-0039	Supplemental order.
Do	Union Oil Co. of California, Los Angeles, Calif. If granted: Union Oil Co. of California would receive an extension of the exception relief granted in the DOE's Dec. 6, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal. for natural gas liquid products produced at the Bakke, Bell, Bryans Mill, Caddo, Camrick, Coalinga, Como, Cotton Valley, Dollarhide, Gillette, Houma, Kettleman Hills, Lisbon, Mermentau, North Okarche, Putnam Oswego, Santa Maria Valley, Stearns, Timballer Bay, Van, and Worland plants.	DXE-0657 through DXE-0677	Extension of the relief granted in *Union Oil Co. of California*, case Nos. FXE-4481 through FXE-4502 (decided Dec. 6, 1977) (unreported decision).
Feb. 17, 1978	Bunting Oil Co., Lancaster, Pa. If granted: The DOE would stay the requirements of the Nov. 15, 1977, remedial order issued to the Bunting Oil Co. by DOE region III pending a final determination on its appeal.	DRS-0067	Stay request.
Do	Diamond Shamrock Corp., Amarillo, Tex. If granted: Diamond Shamrock Corp. would receive an extension of the exception relief granted in the DOE's Nov. 2, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal. for natural gas liquid products produced at the McKee plant.	DXE-0641	Extension of relief granted in *Diamond Shamrock Corp.*, case No. FXE-4472 (decided Nov. 2, 1977) (unreported decision).

NOTICES OF OBJECTION RECEIVED

[Week of Feb. 10 through Feb. 17, 1978]

Date	Name and location of applicant	Case No.
Feb. 10, 1978	Union Oil Co. of California, Los Angeles, Calif	FEE-4411
Feb. 14, 1978	Ginther Gas Processing, Cheyenne, Wyo	FEE-4371
Do	Rebholz Gas & Electric, Inc., Edgerton, Wis	FEE-4801
Do	Mid-Michigan Truck Service, Inc., Kalamazoo, Mich	DXE-0155
Do	Smith's Gas & Appliance, Inc., Mountain View, Mo	DRC-0015
Do	Smith's Lumber Co., Inc., Van Buren, Mo	DRC-0016
Feb. 15, 1978	Apco Oil Corp., Washington, D.C	FEE-4774
Do	Oklahoma Refining Corp., Washington, D.C	FEE-4832
Feb. 16, 1978	Evans Oil Co., Hugoton, Kans	DRC-0017
Do	Phillips Petroleum Co., Bartlesville, Okla	DEE-0386

PROPOSED REMEDIAL ORDERS

Feb. 16, 1978	Brownfield Oil Co., Jefferson City, Mo	DRO-0004

[FR Doc. 78-5777 Filed 3-3-78; 8:45 am]

[3128-01]

Office of the Secretary

INTERGOVERNMENTAL AND INSTITUTIONAL RELATIONS CONSUMER AFFAIRS ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Consumer Affairs Advisory Committee will meet Thursday, March 30, 1978, from 1:30 p.m. to 5 p.m. and Friday, March 31, 1978, beginning at 9:30, in Room 2010, New Executive Office Building, 17th and Pennsylvania Avenue NW., Washington, D.C.

The purpose of the Committee is to provide the Department of Energy with advice concerning the impact of DOE policies and programs on consumers and special impact groups.

The agenda for the meeting is as follows:

MARCH 30, 1978

1. Discussion of role of Advisory Committee.
2. DOE status report on: Office of Consumer Affairs (OCA) priorities; OCA/competition; supply strategy/NEP II; coal emergency; Sun day.
3. New business: Agenda priorities; subcommittee structure.
4. Public comment (3-4 p.m.).
5. New business (continued).

MARCH 31, 1978

1. General discussion: Energy issues.
2. Committee comments on potential subcommittee structure.
3. Public comment (1-2 p.m.).
4. Advisory committee resolutions.

The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Georgia Hildreth, Acting Director, Advisory Committee Management Office, 202-566-9969, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

The transcript of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 2107, DOE, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington D.C., on February 27, 1978.

WILLIAM S. HEFFELFINGER,
Director of Administration.

[FR Doc. 78-5775 Filed 3-3-78; 8:45 am]

[1505-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 852; OPP-66041]

PESTICIDE PROGRAMS

Cancellation of Registration of Pesticide Products

Correction

In FR Doc. 78-3358, appearing at page 5567 in the issue for Thursday, February 9, 1978, on page 5569, first column, last line, "W.F." should read "N.F." and in the last two lines at the bottom of column two, ".1526-441" should be removed.

On page 5571, first column, "0159-45" should read "9159-45".

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[BC Docket No. 78-60; FCC 78-108]

HANDLING OF PUBLIC ISSUES UNDER THE FAIRNESS DOCTRINE AND THE PUBLIC INTEREST STANDARDS OF THE COMMUNICATIONS ACT

Inquiry

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry.

SUMMARY: The Commission is instituting an inquiry into several proposals for achieving licensee compliance with the fairness doctrine. The inquiry will focus on but not be limited to:

A proposal by the Committee for Open Media, which would be deemed presumed compliance with the fairness doctrine, that would permit stations to set aside 1 hour a week for spot announcements and longer programming that would be available for presentation of messages by the public, with half of the time allocated on a first-come-first-served basis on any topic whatsoever, and the other half being apportioned on a representative spokesperson system.

A proposal by Henry Geller that TV licensees annually list the 10 (or some other specific number) local and national controversial issues of public importance that they chose for the most coverage in the prior year list their offers to the public for response and note the representative programming that was presented on each issue.

DATES: Comments must be received on or before May 3, 1978, and reply comments must be received on or before June 2, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Milton O. Gross, Fairness/Political Broadcasting Branch, Complaints and Compliance Division, Broadcast Bureau, 202-632-7586.

Adopted: February 16, 1978.

Released: March 2, 1978.

By the Commission: Commissioner Lee absent.

In the matter of the handling of public issues under the fairness doctrine and the public interest standards of the Communications Act (BC Docket No. 78-60, FCC 78-108); notice of inquiry.

I. INTRODUCTION

1. By notice issued July 11, 1971, 30 FCC 2d 26 (1971), the Commission instituted a "broad ranging inquiry" into the function and applicability of the Fairness Doctrine and other related Commission policies to determine their efficacy in light of the public's right to be informed of contrasting views on controversial issues of public importance. This inquiry focused on the Fairness Doctrine's general application, on its specific application to the broadcast of paid "commercial" announcements, and on the general questions of access to the broadcast media for the discussion of controversial issues of public importance.

2. On July 12, 1974, the Commission released its *Fairness Report*, 48 FCC

2d 1 (1974) which reassessed and clarified the basic principles of the Fairness Doctrine. There we carefully examined numerous proposals relating to the two affirmative responsibilities the Fairness Doctrine imposes on the broadcaster: adequate coverage of controversial issues of public importance, and the affording of reasonable opportunities for presentation of contrasting viewpoints on such issues.

3. With respect to the licensee's "first part obligation" under the Fairness Doctrine, several parties to the proceeding filed comments urging the Commission to adopt a system of either paid or free access for persons or groups wishing to express a viewpoint on a controversial issue of public importance. Although we had no specific direct access proposal before us, our investigation into the need for such a policy did not reveal "any scheme of government dictated access" which could be utilized as a substitute for or alternative to current Fairness Doctrine enforcement which we considered "both practicable and desirable." We felt that, on the contrary, the public interest would best be served by continued reliance on the present Fairness Doctrine structure, "which leaves questions of access and the specific handling of public issues to the licensee's journalistic discretion." *Fairness Report*, supra, 48 FCC 2d at 28.

4. The Commission also gave serious attention to, but rejected, a proposal by Mr. Henry Geller that Commission television licensees list annually the 10 (or some other specific number) local and national controversial issues of public importance, which they chose for the most coverage in the prior year. Under the Geller proposal, licensees would also be required to set forth their offers to the public for response and to note the representative programming that was presented on each issue.[1]

5. Subsequent to issuance of its Fairness Report the Commission received petitions urging the Commission to reconsider several conclusions that we reached therein. Among the petitions received was that of the Committee for Open Media (COM) which urged the Commission to reconsider or clarify its position with regard to right of access to broadcast facilities. Mr. Geller also filed a petition which reiterated his suggestion that the Commission adopt a ten controversial issue approach to the licensee's Fairness Doctrine obligations. See *Reconsideration of the Fairness Report*, 58 FCC 2d 691 (1976) (hereinafter cited as Fairness Reconsideration).

6. COM's access proposal, which it asserted would be adopted by licensees on a voluntary basis and would be deemed presumptive compliance with the Fairness Doctrine, was summarized by the Court as follows:

> (1) A licensee would set aside 1 hour per week for spot announcements and lengthier programming which would be available for presentation of messages by members of the public.
>
> (2) Half of this time would be allocated on a first-come, first-served basis on any topic whatsoever; the other half would be apportioned "on a representative spokesperson system."
>
> (3) Both parts of the allocation scheme would be "nondiscretionary as to content with the licensee."
>
> (4) However, the broadcaster would still be required to ensure that spot messages or other forms of response to "editorial advertisements" are broadcast.

NCCB, supra, Slip Op. at 36.

7. Having carefully considered the elements of the COM proposal we concluded that while it offered a potential format which would serve to complement the Fairness Doctrine, it could not be utilized as a substitute for fairness obligations.

8. On November 11, 1977, the United States Court of Appeals for the District of Columbia Circuit ruled on three consolidated petitions for review challenging various aspects of the Fairness Report and the Fairness Reconsideration.

9. Petitioner COM challenged "the Commission's failure, on reconsideration of the Fairness Report, to adopt, or order further inquiry into its access proposal as an alternative to current Fairness Doctrine enforcement." *National Citizens Committee for Broadcasting et al.* v. *FCC*, Civil Nos. 74-1700, 76-1351, 76-1360, Slip Op. at 5 (hereinafter cited as *NCCB*). Intervenor Geller opposed, inter alia, the Commission's "failure to consider and adopt his '10-issue' proposal relating to the Fairness Doctrine requirement that a broadcaster devote a reasonable amount of time to coverage of public issues." Id. The Court concluded that it was necessary to remand the Fairness Report to the Commission so that it may "undertake further inquiry" into these two "alternative courses of action."

10. In view of the foregoing, notice is hereby given of the initiation of an inquiry into the "right of access" policy submitted by COM, the "ten issue approach" to the Fairness Doctrine proposed by Mr. Geller and, as suggested by the Court, into "other ways of achieving compliance with the Fairness Doctrine's first obligation that deserve critical consideration, either in conjunction with, or as alternatives to, the procedures referred to above." *NCCB*, supra; Slip Op. at 41. Comments are requested on the questions raised below.

II. The Fairness Doctrine and Access to Broadcast Facilities

11. Compliance with the Fairness Doctrine is "the sine qua non of every licensee." *Office of Communications of the United Church of Christ* v. *FCC*, 359 F. 2d 994, 1009 (D.C. Cir. 1966). By requiring sufficient exposition of controversial issues of public importance and guaranteeing a reasonable opportunity for the broadcast of contrasting views on those issues, the Fairness Doctrine promotes informed discussion and protects the public's right to "receive suitable access to social, political, esthetic, moral and other ideas and expressions." 47 U.S.C. 315(a); *Red Lion Broadcasting Co.* v. *FCC*, 395 U.S. 367, 390 (1969). The basis for the Fairness Doctrine is that the public must not be left uninformed. *Green* v. *FCC*, 447 F. 2d 323, 329 (1971). Therefore, an important question concerning the COM or any other access proposal is whether such schemes would better serve the public interest by more actively promoting the principles inherent in the Fairness Doctrine. Could a direct access plan be utilized as a substitute for the present methods of complying with the Fairness Doctrine or could it be used only in conjunction with other methods of achieving fairness?

12. Both an access substitute and an optional access system supplemented by present Fairness Doctrine procedures must, as noted in the Fairness Reconsideration, make adequate provisions for assuring the timely discussion of controversial issues of public importance and the presentation of contrasting viewpoints on those issues. How can this essential requirement be achieved in an access framework? How would an access alternative or substitute compare or contrast with existing Fairness Doctrine administration in terms of this "timeliness" requirement?

13. The Fairness Doctrine is designed to protect the right of the people to be informed rather than the right of any person or group to broadcast a particular viewpoint. *Green* v. *FCC*, supra at 328. It would not promote the public interest to have that period of time which is to be devoted to the satisfaction of a licensee's Fairness Doctrine obligations utilized for the promotion of the private interests of those who seek access. Consequently, the question arises as to how a licensee using an access scheme can insure that the time devoted to free speech messages-access on a "first come, first served basis" will be dedicated to the presentation of significant viewpoints and replies on important public issues rather than to personal opinion on matters of purely private concern? As stated by the Court of Appeals in *NCCB*, supra, Slip Op. at 40:

> We recognize, of course, that there may be significant difficulties with the COM access proposal. For instance, there is no absolute assurance that the issues addressed during access time will be the most important or controversial issues facing the licensee's community, and even less assurance of balance in presentation of opposing viewpoints. In its further inquiry into the COM proposal, we expect the Commission to ascertain how serious these potential defects are and to examine whether they can be overcome. Throughout this process, it is especially important that the nature and scope of issue coverage under the proposed access scheme be compared to the degree of coverage actually achieved under the current system of fairness doctrine implementation, not to the coverage that would be achieved were both fairness obligations currently complied with and enforced.

Comments are requested on the above-quoted passage of the Court's opinion. Also, should the Commission alter its longstanding policy that no right of access accrues to a particular individual or group? Moreover, given the need to present service which is useful to the community and to the interests of the many, how will an access system still preserve licensee discretion and maintain non-involvement by the Commission in the day-to-day determination of who should be given access and when? Would an access system be likely to achieve the same degree of issue coverage currently attained under existing Fairness Doctrine adminstration?

14. Under an access plan, including free speech messages, a licensee would presumably have no control over the selection of speakers or subject matter. How would the decision in *FECUA* v. *WDAY*, 360 U.S. 525 (1959) affect such an access plan? How could a licensee prevent the dissemination of material that would be contrary to the Commission's rules or the public interest, e.g., lottery information; the use of station facilities to obtain money under false pretenses; obscene or indecent language? Would the station have authority to prohibit such broadcasts or prevent its facilities from being used for personal attacks? Should legally qualified candidates for public office or their spokesmen be prohibited from utilizing the licensee's access facilities?[2] Would licensee control over the contents of the "first come, first served" free speech messages be consistent with the primary goals of an access system? In addition, what safeguards or review procedure would be developed to prevent a licensee who selects a "representative spokesperson" from controlling not only the subject matter to be discussed initially, but also the advocate and therefore potentially the content of any contrasting viewpoint? If such review procedures were established, what benefits would accrue over the present fairness system which involves the Commission as a judge of the licensee's reasonableness?

15. In administering the Fairness Doctrine the Commission is sensitive to the need to limit its intervention and to respect the broadcaster's journalistic discretion. Thus, the Commission will not substitute its judgment for that of the licensee but will review a licensee's decisions pursuant to the Fairness Doctrine only to determine whether the broadcaster acted reasonably and in good faith under all of the facts and circumstances presented. What would the Commission's role be if access is to be utilized as a total or partial substitute for or supplement to present Fairness Doctrine procedures? Under the foregoing, would the Commission be removed entirely from its "review" role and, if so, what assurance would there be that a licensee would carry out its stated access procedures in good faith and comply with the Fairness Doctrine?

16. What is the likelihood that free access and/or access on a representative spokesperson basis would substantially contribute to "robust, wide-open" debate on controversial issues of public importance? In this regard, we request the comments of all stations which have adopted a "first come, first served" access plan which gives only limited or no control to the licensee over the selection of spokespersons or the subject matter of their presentations. Specifically, we seek comments as to whether such existing access plans have contributed significantly to the presentation of contrasting views on important public issues. Also, if records of such plans exist, licensees are requested to provide the Commission with a list of the subjects discussed and by whom, and the length of the broadcasts.

17. In light of the problems raised herein, would it be feasible for the Commission to attempt an experiment using a form of access as a substitute for or supplement to present Fairness Doctrine procedures? The Commission could invite applications from radio and television stations in different sized markets, and then choose a representative number of stations in these services to engage in a two-year test of access as contrasted to present fairness methods. To determine the results of such experiments at the end of this period the Commission could require licensees adopting such an access system to submit a report as to (1) how many controversial issues of public importance were discussed (2) how many issues which the licensees considered not to be of consequence to the public were discussed; and (3) if controversial issues of public importance were discussed, whether contrasting viewpoints were adequately presented. The Commission could also examine comments received from the listening public on the overall programming and the access systems of those licensees participating in the experiment.

18. Additionally, the Commission solicits comments on Mr. Geller's "ten issue" proposal (outlined in paragraph 4, supra) and on similar approaches which would utilize an annual report basis to determine licensees compliance with the Fairness Doctrine. According to Mr. Geller, the Commission should require its television licensees to list a certain number of controversial issues which they had chosen for the most coverage in the prior year and briefly detail the programming devoted to each issue, the partisan spokesman presented, and the source and time of broadcast. "Routine" news coverage would be excluded. Mr. Geller proposes that the list not be sent to the Commission but rather be retained by the licensee and made available for public inspection. The licensee would then submit its report to the Commission as part of its renewal application.[3]

19. While it appears that Mr. Geller's proposal might assist a licensee in determining how it has met its Fairness Doctrine obligations, it is unclear what role the Commission is to have under such a system. Should the Commission review these lists on a regular basis (annually or at renewal) or only upon receipt of a prima facie complaint alleging a licensee's failure to meet its Fairness Doctrine obligations? Could a method of review be devised which would not draw the Commission further into the day-to-day journalistic determinations of licensees? Could a "ten issue" proposal be utilized in conjunction with an access scheme, or act itself as a substitute for or complement to present Fairness Doctrine procedures? If so, how would its application comport with the statu-

[1] As noted above, our inquiry also dealt with the Fairness Doctrine and its relation to broadcast commercials. We determined to withhold application of the Fairness Doctrine from commercials which promote only the sale of commercial products and do not 'obviously and meaningfully address a controversial issue of public importance." This conclusion was subsequently "left undisturbed" by the Court of Appeals decision referred to, infra.

[2] COM concludes that it would be necessary for the Commission to amend its personal attack rules to exempt spot access announcements. Also, the COM proposal would include licensee restrictions against defamation, profanity and obscenity and would prohibit appearances by legally qualified candidates.

[3] Mr. Geller's ten issue proposal was submitted as part of a package which included, *inter alia*, a suggestion that questions regarding Fairness Doctrine compliance be considered only at renewal. The Commission's rejection of this approach in the *Fairness Report* and *Fairness Reconsideration* was upheld by the Court of Appeals. See *NCCB, supra*, Slip. Op. at 42-44.

tory mandate of section 315(a)? Would the adoption of such a proposal further the public interest? Would it constitute an undue burden on the licensee and impose an unnecessary and arduous administrative burden on the Commission? Does the Geller proposal constitute an unnecessary intrusion into the journalistic discretion of broadcasters? Is there any justification for it in terms of failure of the present Fairness Doctrine procedures to achieve coverage of significant issues?

20. The questions raised above, both with respect to a direct access proposal and a "ten issue-annual report" approach to the Fairness Doctrine are by no means exhaustive, but may serve to highlight several areas which we believe call for further elucidation. We welcome comments on these specific proposals and the questions raised herein and if there are any other areas of interest or concern it is hoped that they will be brought to our attention.[1]

21. Pursuant to applicable procedures set out in §§ 1.4, 1.415, 1.419 and 1.430 of the Commission's Rules and Regulations, interested parties may file comments on or before May 3, 1978 and reply comments on or before June 2, 1978. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such reply comments shall be accompanied by a certificate of service (See Sections 1.420(a), (b) and (c) of the Commission's Rules).

22. In accordance with the provisions of Section 1.419 of the Commission's Rules and Regulations, an original and 5 copies of all comments, reply comments, pleadings, briefs or other documents shall be furnished the Commission. Members of the general public who wish to participate informally in the proceeding may submit one copy of their comments, specifying the docket number in the hearing. All filings in this proceeding will be available for public inspection by interested persons during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

23. Authority for this inquiry is contained in Sections 4(i), 303, 307, 309, 315(a) and 403 of the Communications Act of 1934, as amended.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-5719 Filed 3-3-78; 8:45 am]

[1] The Commission is also in receipt of a "Petition for Further Inquiry and Rulemaking," filed February 13, 1978, by COM. It raises several questions with regard to the desirability of an access system, the majority of which are subsumed in the Notice of Inquiry that we are adopting today and which will be considered during the course of this Inquiry. COM is, of course, free to raise these matters in any comments it files during this proceeding including its suggestion that the Commission hold panel discussions. However, since the Commission has wide discretion in issuance of the Notice of Inquiry we do not believe it necessary to grant COM's February 13 Petition at this time.

[6730-01]

FEDERAL MARITIME COMMISSION

AGREEMENTS FILED

Correction

In FR Doc. 78-4545 appearing at page 7266 in the issue of Tuesday, February 21, 1978, on page 7267 in the second column, the notice of the filing of "Agreement No. T-2880-15" is corrected to read "Agreement No. T-2880-16." That notice is further corrected by inserting designation "Agreement No. T-2880-16" in all instances where "Agreement No. T-2880-15" now appears. The notice is correct in all other respects. Time for comments remains unchanged.

Dated: March 1, 1978.

By Order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-5787 Filed 3-3-78; 8:45 am]

[6730-01]

AGREEMENT FILED

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126, or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Juan, Puerto Rico and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before March 16, 1978. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement No. 10027-6.

Filing party: Frank R. A. Levier, Executive Administrator, Inter-American Freight Conference, Av. Rio Branco, 156-270, Andar-Grupos 2707/2711, Rio de Janeiro, Brazil.

Summary: Agreement No. 10027-6, between the member lines of the Brazil/U.S. Atlantic Ports Pooling Agreements, is a restatement of the basic agreement in its entirety. This restatement incorporates several key changes such as (1) providing for separate accounting for container cargo, general cargo, coffee in bags, and cocoa in bags; (2) the inclusion of transshipment cargo in the pooling of revenues; and (3) that the agreement shall continue in force until December 31, 1980.

Dated: February 28, 1978.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-5788 Filed 3-3-78; 8:45 am]

[6730-01]

AGREEMENTS FILED

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, La.; San Francisco, Calif.; and San Juan, P.R. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before March 27, 1978. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

AGREEMENT NO. 50-34.

FILING PARTY: F. Conger Fawcett, Esquire, Graham & James, One Maritime Plaza, San Francisco, Calif. 94111.

SUMMARY: Agreement No. 50-34, entered into among the member lines of the Pacific Coast-Australasian Tariff Bureau, modifies the basic agreement by the addition of a new Article VII which reads as follows:

VII. RATIONALIZATION OF SAILINGS AND TONNAGE

The parties hereto may from time to time discuss and, by their unanimous vote, agree upon and establish, coordinated scheduling of their respective vessels in the trade, so as to afford better-spaced conference service to the trade. The parties may also from time to time discuss and, by the same vote agree upon and implement reductions in numbers of vessels and/or tonnage to be provided by one or more of the parties. This provision does not cover or contemplate any pooling or sharing of profits or losses, and revenues earned by the respective parties' vessels shall accrue to the owners or operators thereof, solely. The parties may from time to time publish joint advertisements of their services, sharing in the costs thereof as shall be contemporaneously agreed.

Existing Articles VII through XXIV are redesignated as Articles VIII through XXV, respectively.

AGREEMENT NO. 10122-2.

FILING PARTY: Jose Vicente Valdez, Executive Administrator, Inter-American Freight Conference, Area River Plate/Puerto Rico and, U.S. Virgin Islands/River Plate, Lavalle 381-8 Piso, Buenos Aires, Argentina.

SUMMARY: Agreement No. 10122-2, among the members of the Inter-American Freight Conference Area River Plate/Puerto Rico and U.S. Virgin Islands/River Plate, increases the non-refundable conference admission fee to $5,000.

AGREEMENT NO. 10322.

FILING PARTY: David Ainsworth, Senior Counsel, Law Department, Matson Navigation Co., 100 Mission Street, San Francisco, Calif. 94105.

SUMMARY: Agreement No. 10322, a cooperative working arrangement entered into between Matson Navigation Company and Pacific Far East Line, Inc., and denominated a Reciprocal Equipment Lease Agreement, would permit the parties to lease containers, trailers and other container equipment from each other for use in the various trades served by them. Matson operates primarily in the domestic offshore trades between ports on the U.S. Pacific Coast and ports in Hawaii and Guam. Pacific Far East Line, Inc. operates primarily between ports on the U.S. Pacific, Atlantic and Gulf Coasts and foreign ports. Per diem lease charges shall apply to all equipment leased between the parties in accordance with the charges specified in the agreement.

AGREEMENT NO. 10324.

FILING PARTY: F.C. Wendt, Senior Vice President, Traffic and Sales, Delta Steamship Lines, Inc., 1700 International Trade Mart, New Orleans, La. 70150.

SUMMARY: Agreement No. 10324, between Delta Steamship Lines, Inc. and Prudential Lines, Inc., establishes (1) the appointment of Prudential Lines as the exclusive sales agent in the states of Arizona, New Mexico, Nevada, Montana, Utah, California, Oregon, Washington and the Canadian province of British Columbia on behalf of Delta Line's Gulf/Latin America Service and Gulf/West African Service; (2) defines services to be performed and payment therefore and (3) sets forth other matters pertaining to competitive services, effectiveness and termination.

AGREEMENT NO.: T-3589.

FILING PARTY: Joe H. Hamner, Jr., Attorney, Board of Commissioners of the Port of New Orleans, Post Office Box 60046, New Orleans, La. 70160.

SUMMARY: Agreement No. T-3589, between the Board of Commissioners of the Port of New Orleans (Port) and Container Lift International, Inc., (CLI), is a permit under which CLI will install, maintain, and operate at its own cost, container cranes at Berths 4 and 5 of the Port's France Road Terminal. Agreement No. T-3589 shall supersede FMC approved Agreement No. T-2728, as amended, which provides for CLI's permit to purchase, install, maintain, and operate a container crane at Berth No. 5. Agreement No. T-3589 includes the entire contract between the Port and CLI, maintaining the original provisions of T-2728 and providing for CLI's acquisition and installation of a container crane at Berth No. 4. Both cranes shall be made available to vessels at either berth when such use does not conflict with the priority rights of vessels at the other berth. Charges for the use of the cranes are to be competitive and/or comparable to similar services now provided at New Orleans and other modern container ports. These charges are to be published in the Port's Dock Department Tariff (FMC T-No. 1), provided that CLI shall have the right to change such charges in accordance with sound business practices, subject to the review and approval of the Port. The Port's obligation to acquire the cranes in the event of CLI's bankruptcy or default will be at the residual value of each crane as set forth in the agreement.

AGREEMENT NO.: T-3590.

FILING PARTY: David Ainsworth, Senior Counsel, Matson Navigation Co., 100 Mission Street, San Francisco, Calif. 94105.

SUMMARY: Agreement No. T-3590, between Matson Terminals, Inc., (Matson) and Nippon Yusen Kaisha (NYK), is a year-to-year chassis preventive maintenance contract whereby Matson shall furnish all materials, supplies, equipment, labor, supervision and transportation necessary within Matson's Oakland and Los Angeles Terminals to perform the preventive maintenance services itemized in the agreement on the NYK owned/leased chassis. As compensation for Matson's chassis maintenance inspection, NYK shall pay Matson according to a schedule of rates listed in the agreement. NYK shall have the option to contract for the repair of its damaged equipment with either Matson or another contractor.

AGREEMENT NO.: T-3591.

FILING PARTY: H. H. Wittren, Manager, Waterfront Real Estate, Port of Seattle, P.O. Box 1209, Seattle, Wash. 98111.

SUMMARY: Agreement No. T-3591, between Port of Seattle (Port) and Foss-Alaska Line, Inc., (Foss), provides for the renewable, five-year lease of premises consisting of 629,724 square feet of land and water areas located at Terminal 115, Seattle, Wash. Foss has the option to add two parcels of adjacent land consisting of an additional 88,875 square feet. The premises will be used for barge loading and unloading, van stuffing and unstuffing, container repair and general offices. As compensation, Foss will pay $308,895.00 a year as rental based on a square footage rate of area used plus a return on amortized improvement costs. In addition to the payment of rent, Foss will file a report setting forth its activities in marine commerce. In the event Port needs the use of the premises for a major capital improvement for public or private use in connection with its business, Port may relocate Foss to a suitable area comparable to the premises. Agreement No. T-3591 will supersede Agreement No. T-2697, as amended, between the same parties.

AGREEMENT NO.: T-3592.

FILING PARTY: Mr. William C. Shrader, Hutcheson & Grundy, 2110 Tenneco Building, Houston, Tex. 77002.

SUMMARY: Agreement No. T-3592, between Port of Houston Authority and Energy Terminals of Houston, Inc., provides for the 20-year lease, with options to extend the term for two additional periods of 10 years, of premises consisting of 32 acres of land including not more than 800 lineal feet of frontage along the Houston Ship Channel for the construction of a dry bulk loading berth and a 100 foot wide access easement to a train loop track. The premises will be used for the development, construction and operation of a coal transshipment terminal, for the construction and of a docking facility for the handling of bulk coal. Compensation will be based on a four stage term defined and set forth in the agreement, plus a thruput charge.

AGREEMENT NO.: T-3593.

FILING PARTY: Robert C. Engram, Port Director, Mississippi State Port Authority at Gulfport, P.O. Box 40, Gulfport, Miss. 39501.

SUMMARY: Agreement No. T-3593, between Mississippi Agricultural and Industrial Board and Mississippi Port Authority at Gulfport (collectively known as Port) and Standard Fruit and Steamship Company (Standard), provides for the 15-year lease of premises known as the Banana Terminal at Gulfport, Miss. The premises will be used for the loading and unloading of bananas and other cargoes. As compensation, Standard will pay $166,500 per annum, operating and maintenance costs, utility charges and a fee of one-half cent per box for the loading or unloading of all bananas and other cargoes. United Brands may use the premises on a nonscheduled basis as long as it does not interfere with Standard's operations. United Brands will be charged for its use of the facility at the then current rates published in the Port's tariff and Port will credit all wharfage collected to the account of Standard.

Dated: March 1, 1978.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-5789 Filed 3-3-78; 8:45 am]

[1610-01]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on February 27, 1978. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CPSC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposd request, comments (in triplicate) must be received on or before March 24, 1978, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, U.S. General Accounting Office, Room 5106, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

CONSUMER PRODUCT SAFETY COMMISSION

The CPSC requests clearance of a new reporting requirement contained in its proposed general order concerning consumer products containing nitrobenzene, which will be issued under section 27(b)(1) of the Consumer Product Safety Act, 15 U.S.C. 2076(b)(1). The CPSC believes that nitrobenzene may be used in some shoe dyes, inks, floor and furniture polishes, shoe polishes, shoe paste wax, gun cleaners, chrome and glass cleaners, glues, cements, greases, and as an artificial flavor and scent in food and perfume. In addition, nitrobenzene is used as an intermediate in chemical synthesis.

The CPSC order will require manufacturers of consumer products containing nitrobenzene to furnish the Commission with the brand names, concentration of nitrobenzene, package sizes, functions or purposes of nitrobenzene and the functions or uses for the product. Also if nitrobenzene is believed to be present as a contaminant in any consumer product, manufacturers should state the brand names of the products, as well as the concentration of nitrobenzene in the product if that information is available.

The CPSC reporting requirement is designed to provide the Commission with information that will assist the Commission in determining whether appropriate regulatory action is necessary for consumer products containing nitrobenzene. The information will be required to be submitted to the CPSC within 90 days, but there will be a continuing requirement to report changes in the data to the CPSC as changes occur. The continuing requirement extends until the expiration of the order, 1 year after its issuance. The CPSC estimates the number of potential respondents will be less than 3,000 manufacturers of products and that reporting time will average less than one hour per product.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc. 78-5811 Filed 3-3-78; 8:45 am]

[6820-24]

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPR 32]

FEDERAL PROCUREMENT

Current Interest Rate; Renegotiation Board

To: Heads of Federal agencies.

Subject: Current interest rate of 8¼ percent pursuant to Pub. L. 92-41.

1. *Purpose.* This bulletin provides, for the information of executive agencies, the current interest rate established by the Secretary of the Treasury pursuant to Pub. L. 92-41 (50 U.S.C. App. 1215(b)(2)) for the Renegotiation Board.

2. *Expiration date.* This bulletin expires June 30, 1978, unless sooner revised or superseded.

3. *Background.* Pub. L. 92-41 provides that the Secretary of the Treasury shall set the interest rate to be paid by contractors on excessive profits as determined by the Renegotiation Board. Various provisions of the FPR require contractors to pay interest on amounts owed the Government at the rate established by the Secretary of the Treasury pursuant to Pub. L. 92-41. The FPR also provides that the same rate of interest shall be paid by the Government when a contractor's claim is decided in his favor under the Disputes clause. The interest rate for the July 1-December 1, 1977, period was set forth in GSA Bulletin FPR 29.

4. *Agency information.* The Secretary of the Treasury has established an interest of 8¼ percent as applicable to the 6-month period beginning on January 1, 1978, and ending on June 30, 1978. The following sections of the Federal Procurement Regulations are affected by the interest rate:

Sections 1-1.322, 1-7.203-15, 1-8.212-1(f), 1-8.701(j), 1-8.702(j), 1-8.703(j), 1-8.704-1(f), 1-8.706(h), 1-8.804-2(b), 1-8.806-4 (article 6, paragraph (e)), 1-30.403, 1-30.414-2(k)(2), and 1-30.414-2(n)(3).

ROBERT P. GRAHAM,
Commissioner,
Federal Supply Service.

FEBRUARY 15, 1978.

[FR Doc. 78-5780 Filed 3-3-78; 8:45 am]

[4110-08]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

POPULATION RESEARCH COMMITTEE

Amended Meeting

Notice is hereby given of a change in the March 8-10, 1978, meeting of the Population Research Committee, National Institute of Child Health and Human Development, which was published in the FEDERAL REGISTER on December 30, 1977, 42 FR 65274.

The open portion of the meeting was originally scheduled to begin at 9 a.m. and end at 10:30 a.m. on March 8. This has now been changed and the open portion of the meeting will be from 1 p.m. to 2 p.m. on March 8.

Dated: February 28, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-5841 Filed 3-3-78; 8:45 am]

[4110-08]

WORKSHOP ON RISK ASSESSMENT OF AGRICULTURAL PATHOGENS

Notice is hereby given of a Workshop on Risk Assessment of Agricultural Pathogens jointly sponsored by the U.S. Department of Agriculture, National Science Foundation and National Institutes of Health at the National Science Foundation, Room 338, 1800 G Street NW., Washington, D.C. 20550, on March 20-21, 1978 from 9 a.m. to 5 p.m.

The Workshop will discuss the feasibility of developing a scheme for classification or agricultural pathogens.

Further information may be obtained from Dr. Clarence Grogan, Leader, Plant Sciences Group, Cooperative Research, SEA, USDA, Washington, D.C., telephone 202-447-6096, Dr. Mary Clutter, Program Director, Developmental Biology, National Science Foundation, Washington, D.C., telephone 202-632-4304, and Dr. William J. Gartland, Executive Secretary, Recombinant DNA Molecule Program Advisory Committee, NIGMS, NIH, Bethesda, Md., telephone 301-496-6051.

The meeting will be open to the public. Attendance by the public will be limited to space available.

Dated: February 23, 1978.

THOMAS E. MALONE,
Deputy Director, NIH.

[FR Doc. 78-5840 Filed 3-3-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Wyoming 58828]

WYOMING

FEBRUARY 23, 1978.

Application

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Wexpro Co. of Salt Lake City, Utah, filed an application to amend its existing right-of-way to construct an additional 8 inch water disposal pipeline for the purpose of transporting salt water across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYO.

T. 27 N., R. 113 W.,
Sec. 5, E½NE¼, SW¼NE¼, SE¼NW¼, N½SW¼;
Sec. 6, lots 6 and 7, NE¼SW¼, N½SE¼.
T. 28 N., R. 113 W.,
Sec. 32, lot 6, NE¼SE¼;
Sec. 33, NW¼SW¼, SW¼NW¼.
T. 27 N., R. 114W.,
Sec. 1, SE¼SW¼, S½SE¼;
Sec. 11, NE¼NE¼;
Sec. 12, N½NW¼.

The proposed 8 inch water disposal pipeline will be placed 10 feet from an existing 4 inch water disposal pipeline and will transport salt water from Wexpro Co.'s existing facilities at their Dry Piney Unit Camp located in the NE¼NE¼ of Section 11, T. 27 N., R. 114 W., Sublette County and will parallel the existing 4 inch water disposal pipeline and will terminate at the BNG Well No. 4 located in the SW¼NW¼ of Section 33, T. 28 N., R. 113 W., Sublette County, Wyo. The salt water being transported through this pipeline will be reinjected at the BNG Well No. 4.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and
Minerals Operations.

[FR Doc. 78-5727 Filed 3-2-78; 8:45 am]

[4310-84]

[Wyoming 62848]

WYOMING

Applicotion

FEBRUARY 23, 1978.

Notice is hereby given that pursuant to Section 28 of the Minerals Leasing Act of 1920, as amended (30 U.S.C. 185) Northwest Pipeline Corp. of Salt Lake City, Utah, filed an application for a right-of-way to construct an 8⅝ inch O.D. buried pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYO.

T. 23 N., R. 112 W.,
Secs. 30 and 31.
T. 22 N., R. 113 W.,
Secs. 1, 2, 3, 4, 5, and 6.
T. 23 N., R. 113 W.,
Sec. 36.

The pipeline is a proposed addition to the applicant's gathering system and will connect with an existing 16-inch pipeline located in section 6, T. 22 N., R. 113 W. in Lincoln County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 1869, Highway 187 North, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and
Minerals Operations.

[FR Doc. 78-5728 Filed 3-3-78; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

NATIONAL CRIME INFORMATION CENTER; FEDERAL ADVISORY COMMITTEE

Annual Review

In accordance with Office of Management and Budget (OMB) Transmittal Memorandum No. 5, Circular No. A-63, dated March 7, 1977, captioned "Review of Federal Advisory Committees," the FBI National Crime Information Center (NCIC) hereby announces that a review of its Federal Advisory Committee, the National Crime Information Center Advisory Policy Board, is under way.

A brief summary of the significant activities of the NCIC Advisory Policy Board includes the reviewing and the considering of the rules, regulations,

and procedures for the operation of the NCIC; the considering of the operational needs of criminal justice agencies in light of public policies, and local, state, and Federal statutes and the Department of Justice Regulations on criminal justice information systems; the reviewing and considering of security and privacy aspects of the NCIC system; and the recommending of standards for participation by criminal justice agencies in the NCIC system.

The review includes: (1) The number of times the committee has met in the past year; (2) the number of reports submitted by the committee in the past year; (3) a description of how the committee's reports, recommendations, or advice have been used; (4) an explanation of why the recommendations or information cannot be obtained from other sources; (5) an explanation of any degree of duplication; (6) the relationship of the cost of the committee to the reports, recommendations, or information provided; and (7) a description of the membership in relation to the functions to be performed and views to be represented.

Public comments and recommendations concerning the annual review may be directed to Mr. Frank B. Buell, Chief, NCIC Section, Technical Services Division, FBI Headquarters, Washington, D.C. 20535, telephone 202-324-2606.

WILLIAM H. WEBSTER,
Director.

[FR Doc. 78-5783 Filed 3-3-78; 8:45 am]

[7532-01]

NATIONAL COMMISSION ON NEIGHBORHOODS

MEETING

Correction

ACTIQN: Correction of notice of meeting.

SUMMARY: This notice, required under the Federal Advisory Committee Act (5 U.S.C. Appendix I), corrects a notice of meeting announced in the FEDERAL REGISTER on February 24, 1978, at page 7747. Prior notice indicated public meetings to be held on March 10, 11, 12, 1978. This document announces a public meeting will be held March 11, 1978.

TIME AND DATE: 1 p.m. (Eastern Standard time) on Saturday, March 11, 1978.

PLACE: The Board Room, Shoreham Americana Hotel, 2500 Calvert Street NW., Washington, D.C.

AGENDA: Commission meets to hear reports on research agenda from the following Task Forces:

1. Reinvestment.
2. Human Services.
3. Economic Development.
4. Citizen Participation.
5. Fiscal and Structural Obstacles.

STATUS: Open to the public.

CONTACT PERSON: Ms. Frances Phipps, Deputy Director. Telephone number: 202-632-5200.

JONATHAN STEIN,
Administrative Officer.

[FR Doc. 78-5887 Filed 3-3-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-295 and 50-304]

COMMONWEALTH EDISON CO.

Issuance of Amendments to Facility Operating Licenses and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 33 and 30 to Facility Operating Licenses Nos. DPR-39 and DPR-48 issued to Commonwealth Edison Company (the licensee) which revised Technical Specifications for operation of the Zion Station Units Nos. 1 and 2, located in Zion, Illinois. The amendments are effective as of the date of issuance.

These amendments revise the Environmental Technical Specification to waive until April 1, 1978, thermal discharge limits and alarms associated with (1) maximum allowed condenser differential temperature and (2) maximum allowed condenser discharge temperature during the deicing mode of operation.

The application for these amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has prepared an Environmental Impact Appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action.

For further details with respect to this action, see (1) the application for amendments dated December 13, 1977, (2) Amendment Nos. 33 and 30 to License Nos. DPR-39 and DPR-48, and (3) the Commission's related Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Zion Benton Public Library District, 2600 Emmaus Avenue, Zion, Ill. 60099. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 30th day of January 1978.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-5742 Filed 3-3-78; 8:45 am]

[7590-01]

[Docket No. 50-255]

CONSUMERS POWER CO.

Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 35 to Provisional Operating License No. DPR-20 issued to Consumers Power Company (the licensee), which revised technical specifications for operation of the Palisades Plant, (the facility) located in Covert Township, Van Buren County, Mich. The amendment is effective as of its date of issuance.

This amendment allows the movement of a 10-ton shielded shipping cask in the Palisades Plant fuel storage building and in containment.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment. For further details with respect to this action, see (1) the application for amendment dated January 4, as supplemented January 16, 1978, (2) Amendment No. 35 to License No. DPR-20, and (3) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Mich. 49006. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 8th day of February 1978.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-5746 Filed 3-3-78; 8:45 am]

[7590-01]

[Docket Nos. 50-269, 50-270, and 50-287]

DUKE POWER CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued amendments Nos. 58, 58, and 55 to Facility Operating License Nos. DPR-38, DPR-47 and DPR-55, respectively, issued to Duke Power Co. which revised the Technical Specifications for operation of the Oconee Nuclear Station, Units Nos. 1, 2, and 3, located in Oconee County, S.C. The amendments are effective within 30 days after the date of issuance.

These amendments revise the Technical Specifications Table 4.18-1 by adding shock suppressors and changing the classification of the location of certain shock absorbers.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated July 18, 1977, (2) Amendment Nos. 58, 58, and 55 to License Nos. DPR-38 and DPR-47, and DPR-55, respectively, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Oconee County Library, 201 South Spring Street, Walhalla, S.C. 29691. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 16th day of February 1978.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-5743 Filed 3-3-78; 8:45 am]

[7590-01]

[Docket Nos. 50-269, 50-270, and 50-287]

DUKE POWER CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 59, 59, and 56 to Facility Operating License Nos. DPR-38, DPR-47, and DPR-55, respectively, issued to Duke Power Co. for operation of the Oconee Nuclear Station, Unit Nos. 1, 2, and 3, located in Oconee County, S.C. The amendments are effective as of the date of issuance.

During startup tests of Cycle 4 of the Oconee Unit No. 1 reactor a core flux tilt, not predicted nor understood at that time, as observed. NRC issued a license amendment in November 1977 restricting core operations to 100 effective full power days in order for the licensee to gain an understanding of the reasons for the tilt. The tilt has since decreased and the licensee made a submittal on January 23, 1978 with an acceptable explanation of the phenomenon. These amendments revise the Oconee Nuclear Station's common Technical Specifications to allow Cycle 4 operation of Oconee Unit No. 1 past 100 effective full power days.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated January 23, 1978, (2) Amendment Nos. 59, 59, and 56 to License Nos. DPR-38, DPR-47, and DPR-55, respectively, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Oconee County Library, 201 South Spring Street, Walhalla, S.C. 29691. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 17th day of February 1978.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-5744 Filed 3-3-78; 8:45 am]

[7590-01]

[Docket Nos. 50-269, 50-270, and 50-287]

DUKE POWER CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 57, 57, and 54 to Facility Operating Licenses Nos. DPR-38, DPR-47, and DPR-55, respectively, issued to Duke Power Co. which revised Technical Specifications for operation of the Oconee Nuclear Station Unit Nos. 1, 2, and 3, located in Oconee County, S.C. The amendments are effective within 20 days of the date of issuance.

The amendment incorporates fire protection Technical Specification on the existing fire protection equipment and adds administrative controls related to fire protection at the facility. This action is being taken pending completion of the Commission's overall fire protection review of the facility.

The application for these amendments complies with the standards and requirements of the Atomic

Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, negative declaration, or environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated March 1, 1977, as supplemented December 15, 1977, (2) Amendment Nos. 57, 57, and 54 to Licenses Nos. DPR-38, DPR-47, and DPR-55, respectively, and (3) the Commission's related Safety Evaluation dated November 25, 1977. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Oconee County Library, 201 South Spring, Walhalla, S.C. 29691. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 13th day of February 1978.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-5747 Filed 3-3-78; 8:45 am]

[7590-01]

INTERNATIONAL ATOMIC ENERGY AGENCY DRAFT SAFETY GUIDE

Availability of Draft for Public Comment

The International Atomic Energy Agency (IAEA) is developing a limited number of internationally acceptable codes of practice and safety guides for nuclear power plants. These codes and guides will be developed in the following five areas: Government Organization, Siting, Design, Operation, and Quality Assurance. The purpose of these codes and guides is to provide IAEA guidance to countries beginning nuclear power programs.

The IAEA Codes of Practice and Safety Guides are developed in the following way. The IAEA receives and collates relevant existing information used by member countries. Using this collation as a starting point, an IAEA Working Group of a few experts then develops a preliminary draft. This preliminary draft is reviewed and modified by the IAEA Technical Review Committee to the extent necessary to develop a draft acceptable to them. This draft Code of Practice or Safety Guide is then sent to the IAEA Senior Advisory Group which reviews and modifies the draft as necessary to reach agreement on the draft and then forwards it to the IAEA Secretariat to obtain comments from the Member States. The Senior Advisory Group then considers the Member State comments, again modifies the draft as necessary to reach agreement and forwards it to the IAEA Director General with a recommendation that it be accepted.

As part of this program, Safety Guide SG-S10A, "Design Basis Floods for Nuclear Power Plants on River Sites," has been developed. The Working Group, consisting of Mr. P. Giuliani, Italy; Mr. D. L. Milliken (U.S. Nuclear Regulatory Commission), United States of America and Mr. S. I. Solomon, World Meteorological Organization, developed the initial draft of this Safety Guide from an IAEA collation during a meeting on September 19-30, 1977. The Working Group draft of this Safety Guide was modified by the IAEA Technical Review Committee on Siting which met November 7-11, 1977, and we are soliciting public comments on this modified draft. Comments on this draft received by April 24, 1978 will be useful to the U.S. representatives to the Technical Review Committee and Senior Advisory Group in evaluating its adequacy prior to the next IAEA discussion.

Single copies of this draft may be obtained by a written request to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 522(a).)

Dated at Rockville, Md., this 23rd day of February 1978.

For the Nuclear Regulatory Commission.

RAY G. SMITH,
Deputy Director, Office of Standards Development.

[FR Doc. 78-5748 Filed 3-3-78; 8:45 am]

[7590-01]

[Docket Nos. 50-282 and 50-306]

NORTHERN STATES POWER CO.

Issuance of Amendments to Facility Operating Licenses and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 27 and 21 to Facility Operating License Nos. DPR-42 and DPR-60, issued to the Northern States Power Co. (the licensee), which revised Technical Specifications for operation of Unit Nos. 1 and 2 of the Prairie Island Nuclear Generating Plant (the facilities) located in Goodhue County, Minn. The amendments are effective as of their date of issuance.

The amendments changed those sections of the Environmental Technical Specifications contained in Appendix B to the licenses relating to chemicals to include All Volatile Treatment System for water chemistry control of the steam generator system and to delete (a) the chlorination calibration programs which have been completed, and (b) the limiting requirement for daily averages of other chemicals. In addition, minor wording changes were included for clarification.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for the proposed changes on the above subject and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action.

For further details with respect to this action, see (1) the application for amendments dated June 25, 1976, (2) Amendments Nos. 27 and 21 to License Nos. DPR-42 and DPR-60, respectively, and (3) the Commission's concurrently issued related Safety Evaluation and Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at The Environmental Conservation Library of the Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minn. 55401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 27th day of February, 1978.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-5741 Filed 3-3-78; 8:45 am]

[7590-01]

[Docket Nos. 50-443; 50-444]

PUBLIC SERVICE CO. OF NEW HAMPSHIRE, ET AL. (SEABROOK STATION, UNITS 1 AND 2)

Oral Argument

Notice is hereby given that, in accordance with the Appeal Board's order of February 27, 1978, oral argument on (1) the appeals from two supplemental initial decisions of the Licensing Board and (2) motions for a declaration of invalidity and for suspension of the outstanding construction permits is calendared for 9:30 a.m., Thursday, March 16, 1978 in the NRC Public Hearing Room, 5th floor, East-West Towers, 4350 East West Highway, Bethesda, Md.

Dated: February 28, 1978.

For the Atomic Safety and Licensing Appeal Board.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc. 78-5749 Filed 3-3-78; 8:45 am]

[7590-01]

[Docket No. STN 50-546 and STN 50-547]

PUBLIC SERVICE CO. OF INDIANA, INC. AND WABASH VALLEY POWER ASSOCIATION, (MARBLE HILL NUCLEAR GENERATING STATION, UNITS 1 AND 2)

Issuance of Revision to Limited Work Authorization

Pursuant to the provisions of 10 CFR 50.10(e) (1) and (2) of the Nuclear Regulatory Commission's (Commission) regulations, the Commission has authorized the Public Service Co. of Indiana, Inc. on behalf of itself and the Wabash Valley Power Association to conduct further site activities in connection with the Marble Hill Nuclear Generating Station, Units 1 and 2, in addition to those activities previously authorized in the Commission's letter of authorization dated August 24, 1977, as amended, prior to a decision regarding the issuance of construction permits.

The additional activities authorized are within the scope of those authorized by 10 CFR 50.10 (e)(1) and the potential environmental impacts are within the scope of those considered by the Atomic Safety and Licensing Board in its Partial Initial Decision referenced below. The additional activities involve receiving and storing equipment for the Marble Hill Station. The LWA Amendment is effective 15 days after issuance.

Any activities undertaken pursuant to this additional authorization are entirely at the risk of the applicants and, except as to matters determined under §§ 50.10 (e)(2) and (e)(3)(ii), the grant of the authorization has no bearing on the issuance of construction permits with respect to the requirements of the Atomic Energy Act of 1954, as amended, and rules, regulations, or orders promulgated pursuant thereto.

A partial initial decision on matters relating to the National Environmental Policy Act and site suitability from the standpoint of radiological health and safety was issued by the Atomic Safety and Licensing Board in the above captioned proceeding on August 22, 1977. A copy of (1) the Partial Initial Decision; (2) the applicants' Preliminary Safety Analysis Report and amendments thereto; (3) applicant's Environmental Report and amendments thereto; (4) the staff's Final Environmental Statement dated September 1976; (5) the staff's Site Suitability Report dated July 1976; (6) the Limited Work Authorization (LWA-1) dated August 24, 1977; (7) Amendment No. 1 to LWA-1 dated October 14, 1977, and (8) Amendment No. 2 to LWA-1 dated February 28, 1978 are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. and the Madison-Jefferson County Public Library, 420 West Main Street, Madison, Indiana.

Dated at Bethesda, Md., this 28th day February 1978.

For the Nuclear Regulatory Commission.

GEORGE W. KNIGHTON,
Chief, Environmental Projects Branch No. 1, Division of Site Safety and Environmental Analysis.

[FR Doc. 78-5745 Filed 3-3-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

HANDICAPPED ASSISTANCE LOANS AND BUSINESS LOANS

Waiver of Administrative Ceilings

Pursuant to §§ 118.31(a)(3) and 122.5(c)(2) of title 13 of the Code of Federal Regulations, SBA published a notice, 42 FR 61906 (December 7, 1977), listing National, Agency, or regional program objectives, the furtherance of any two of which would justify a waiver of the administrative ceilings imposed upon handicapped assistance and business loans by §§ 118.31 and 122.5 respectively. That list is amended by the addition of the following program objective:

• • • • • •

9. Construction, acquisition, expansion, modernization, or operation of a radio or TV broadcasting facility, or of a Cable TV facility.

(Catalog of Federal Domestic Assistance Program Nos. 59.012 and 59.021.)

Dated: February 27, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-5797 Filed 3-3-78; 8:45 am]

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

AIRCRAFT ENGINEERING ACTIVITIES

Change in Areas of Responsibility

Notice is hereby given that on or about March 1, 1978, responsibility for aircraft engineering activities in the State of Nevada, which were previously handled by WE-AEDO-42, Los Angeles, Calif., will be assumed by WE-AEDO-48, Long Beach, Calif.

(Sec. 313(a) of the Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(2).)

Issued in Los Angeles, Calif., on February 22, 1978.

HERMAN C. BLISS,
Acting Director, Western Region.

[FR Doc. 78-5759 Filed 3-3-78; 8:45 am]

[4910-60]

Materials Transportation Bureau

SPECIFICATION DOT-3T CYLINDERS

Precautionary Notice to Shippers and Carriers

In response to a recent accident involving the failure and subsequent explosion of a Specification DOT-3T cylinder (22-inch outside diameter), the Office of Hazardous Materials Operations (OHMO), of the Materials Transportation Bureau, has conducted inspections of the failed cylinder as well as other 3T cylinders to determine the cause of the accident and the potential for similar failures in other 3T cylinders currently in service. Initial findings of those inspections indicate that shippers and carriers must be made aware of the need to determine that the 3T cylinders they use do in fact comply with the specification requirements in § 178.45.

The OHMO inspections, using ultrasonic testing and other means, revealed that several 3T cylinders marked with service pressures above 2400 psig had sidewall thicknesses less than prescribed in § 178.45-7 for the

marked service pressure. The inadequate wall thicknesses were found in areas where grinding had been performed.

In light of the initial OHMO findings, and a potential for failure in 3T cylinders, this notice calls to the attention of shippers and carriers the immediate need to examine each 3T cylinder to assure compliance with the specification requirements prescribed in § 178.45. Cylinders which do not meet this specification are not qualified for use, and if a shipper or carrier uses them to transport hazardous materials he may be subject to the penalties prescribed in § 110 of the Hazardous Materials Transportation Act (49 U.S.C. 1809), including civil penalties of $10,000 for each violation, and criminal penalties of $25,000 or 5 years imprisonment or both, for a willful violation of the regulations.

(49 U.S.C. 1801 et seq., 49 CFR 1.53(e).)

Issued in Washington, D.C. on February 28, 1978.

ALAN I. ROBERTS,
Director, Office of
Hazardous Materials Operations.

[FR Doc. 78-5633 Filed 3-3-78; 8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

Office of the Secretary

CERTAIN CARBON STEEL SHEETS, PLATES, PIPES AND TUBES, AND STRUCTURAL PRODUCTS, FROM JAPAN

Terminations of Antidumping Investigations

AGENCY: United States Treasury Department.

ACTION: Terminations of Antidumping Investigations.

SUMMARY: This notice is to advise the public that antidumping investigations of certain carbon steel products from Japan are being terminated. The terminations are based on the withdrawal of the original antidumping petition, as detailed in the body of this notice and appendices hereto.

EFFECTIVE DATE: March 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Linda F. Potts, Assistant to the Director, Office of Tariff Affairs, United States Treasury Department, 15th and Pennsylvania Avenue NW., Washington, D.C. 20220, 202-566-2951.

SUPPLEMENTARY INFORMATION: On September 20, 1977, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from United States Steel Corp., alleging that certain steel products from Japan are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.). This information was the subject of four "Antidumping Proceeding Notices" involving certain carbon steel sheets, certain carbon steel plates, certain carbon steel pipes and tubes, and certain structural carbon steel products, all from Japan, which were published in the FEDERAL REGISTER of October 25, 1977 (42 FR 56403-56405).

On February 28, 1978, the United States Steel Corp. submitted a letter indicating a willingness to withdraw its petition if the Treasury agreed with certain understandings. On March 1, 1978, the Treasury Department confirmed these understandings and, also on March 1, 1978, the United States Steel Corp. submitted a letter formally withdrawing its petition. These letters are reproduced as appendices to this notice.

Accordingly, I hereby conclude that based upon the withdrawal of the antidumping petition and in view of the fact that the carbon steel products described therein are subject to the "trigger price mechanism" recently implemented by this Department, it is appropriate to terminate these investigations. These terminations are without prejudice to the filing of a subsequent antidumping petition concerning the same products.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

MARCH 1, 1978.

APPENDIX

UNITED STATES STEEL CORP.,
Pittsburgh, Pa., February 28, 1978.

Mr. ROBERT H. MUNDHEIM,
Department of the Treasury,
Washington, D.C.

DEAR MR. MUNDHEIM: On September 20, 1977, United States Steel Corp. filed an antidumping petition with the Commissioner of Customs charging that the six largest Japanese steel producers had been and were continuing to dump steel products in substantial volume in this country. Effective October 25, 1977, the Treasury Department accepted the petition and by notice in the FEDERAL REGISTER initiated formal investigation into the allegations of the U.S. Steel petition.

Subsequent to the filing of the U.S. Steel antidumping petition, the President appointed a Special Steel Task Force, chaired by Anthony Solomon, Under Secretary of the Treasury, to recommend a solution to the problem of unfair foreign trade practices impacting the domestic steel industry. Mr. Solomon's report to the President of December 6, 1977, recommended a program, referred to as the "trigger price mechanism," for more effective administration by Treasury of the antidumping statute. Pursuant to such recommendation, Treasury is committed to continuously monitor steel imports to ascertain whether there exists prima facie evidence of dumping and, in such event, Treasury is further committed to initiate on its own motion antidumping proceedings on an accelerated basis.

At this time it may be neither feasible nor practical for Treasury to devote the resources required to investigate and adjudicate the U.S. Steel petition while concurrently completing the development of the "trigger price mechanism," providing for the continuing evaluation and updating of Japanese cost data on which it is grounded, monitoring import prices and enforcing the terms of the program.

In view of these considerations, U.S. Steel is willing to agree to withdraw its antidumping petition involving Japanese steel provided it is understood that:

(a) Such withdrawal is withouth prejudice;

(b) Should U.S. Steel hereafter and during the continuance of the "trigger price mechansim" file an antidumping petition charging the dumping of Japanese steel mill products, Treasury, in view of the accumulated expertise attained from the administration of the "trigger price mechanism," will expeditiously conclude its investigation of such charges and render its determination on the merits of such petition.

Upon receipt of your advice that the foregoing understandings are acceptable to Treasury, we will promptly provide you with a letter confirming the withdrawal of the petition.

Very truly yours,

M. G. HEATWOLE.

APPENDIX

THE GENERAL COUNSEL OF THE TREASURY,
Washington, D.C., March 1, 1978.

DEAR MR. HEATWOLE: Thank you for your letter of February 28, 1978, in which you indicate that based on certain understandings, U.S. Steel would withdraw its antidumping petition relating to carbon steel sheet, carbon steel plate, carbon steel structurals, and carbon steel pipe and tubing produced by Japanese steel mills.

I want to confirm to you that U.S. Steel's withdrawal of its petition would be without prejudice to its right to re-file an antidumping petition against the Japanese steel industry at any time in the future. Moreover, I want to confirm that if U.S. Steel should re-file an antidumping petition against the Japanese steel industry, Treasury expects to conclude its proceeding with respect to that petition well within the time limits normally required for reaching determinations in such a case because it should be able to analyze the information contained in the petition in the light of the expertise it will have amassed in establishing, filing, updating and implementing the trigger price mechanism.

We will act on your withdrawal as soon as you give me formal notification that U.S. Steel is withdrawing its antidumping petition on Japanese steel.

Sincerely,

ROBERT H. MUNDHEIM.

APPENDIX

UNITED STATES STEEL CORP.,
Pittsburgh, Pa., March 1, 1978.

Mr. ROBERT H. MUNDHEIM,
General Counsel,
U.S. Treasury Department, Washington, D.C.

DEAR MR. MUNDHEIM: Thank you for your letter of March 1, 1978, in which you confirm the understandings contained in our letter of February 28.

Accordingly, I hereby notify you that U.S. Steel is withdrawing its antidumping petition dated September 20, 1977, involving Japanese steel.

Very truly yours,

M. G. HEATWOLE.

[FR Doc. 78-5812 Filed 3-3-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 602]

ASSIGNMENT OF HEARINGS

MARCH 1, 1978.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 108375 (Sub-No. 41), LeRoy L. Wade & Son, Inc., is now assigned for hearing May 2, 1978 (2 days), at Omaha, NE, at a hearing room to be later designated.

MC 127303 (Sub-No. 24), Zellmer Truck Lines, Inc., is now assigned for hearing May 4, 1978 (2 days), at Omaha, NE, at a hearing room to be later designated.

AB 43 (Sub-No. 47), Illinois Central Gulf Railroad Co. Abandonment at Cherokee, IA, and Sioux Falls, SD, in Cherokee, O'Brien, Sioux, and Lyon Counties, IA, Rock County, MN, and Minnehaha County, SD, is now assigned for hearing May 8, 1978 (1 week), at Cherokee, IA, at a hearing room to be later designated.

MC 1255 (Sub-No. 12), McGinn Bus Co., Inc., is now assigned for hearing May 8, 1978 (1 week), at Boston, MA, at a hearing room to be later designated.

AB 83 (Sub-No. 1), Maine Central Railroad Co. Abandonment between Ayers Junction and Eastport, in Washington County, ME, is now assigned for hearing May 3, 1978 (3 days), at Eastport, ME, at a hearing room to be later designated.

MC 144002, One Seventy Two Union Ave., Inc., d.b.a. Henry's Citgo, is now assigned for hearing June 6, 1978 (2 days), at Boston, MA, at a hearing room to be later designated.

MC 143553 (Sub-No. 2), WY Trucking, Inc., is now assigned for hearing June 8, 1978 (2 days), at Boston, MA, at a hearing room to be later designated.

MC 130468, Summer Sites, Inc., is now assigned for hearing June 12, 1978 (2 days), at New York, NY, at a hearing room to be later designated.

MC 130457, W. J. Condren, Inc., is now assigned for hearing June 14, 1978 (3 days), at New York, NY, at a hearing room to be later designated.

MC 111231 (Sub-No. 214), Jones Truck Lines, Inc., is now assigned for hearing May 9, 1978 (9 days), at Little Rock, AR, at a location to be later designated.

MC 80289 (Sub-No. 13), Red Line Furniture Carriers, Inc., now assigned May 8, 1978, at New York, NY, is canceled, application dismissed.

MC 119789 (Sub-No. 373), Caravan Refrigerated Cargo, Inc., MC 135283 (Sub-No. 27), Grand Island Moving & Storage Co., Inc., MC 124774 (Sub-No. 100), Midwest Refrigerated Express, Inc., MC 124896 (Sub-No. 28), Williamson Truck Lines, Inc., MC 114274 (Sub-No. 44), Vitalis Truck Lines, Inc., MC 125951 (Sub-No. 24), Silvey Refrigerated Carriers, Inc., MC 125368 (Sub-No. 22), Continental Coast Trucking Co., Inc., MC 118202 (Sub-No. 76), Schultz Transit, Inc., MC 119765 (Sub-No. 48), Eight Way Xpress, Inc., MC 117940 (Sub-No. 233), Nationwide Carriers, Inc., MC 30844 (Sub-No. 595), Kroblin Refrigerated Xpress, Inc. MC 140024 (Sub-No. 76), J. B. Montgomery, Inc. MC 136786 (Sub-No. 120), Robco Transportation, Inc., MC 140635 (Sub-No. 4), Coates Freight Lines, Inc., MC 140553 (Sub-No. 4), Rogers Truck Line, Inc., MC 139091 (Sub-No. 24), Logan Motor Lines, Inc., MC 142672 (Sub-No. 6), David Beneux Produce & Trucking, Inc., MC 140717 (Sub-No. 5), Julian Martin, Inc., MC 134105 (Sub-No. 21), Celeryvale Transport, Inc., MC 140389 (Sub-No. 20), Osborn Transportation, Inc., and MC 134286 (Sub-No. 32), Illini Express, Inc., now being assigned May 11, 1978 (2 days), at Omaha, NE, in a hearing room to be later designated.

MC 115730 (Sub-No. 37), The Mickow Corp. now being assigned May 10, 1978 (1 day), at Omaha, NE, in a hearing room to be later designated.

MC 114569 (Sub-No. 200), Shaffer Trucking, Inc., now being assigned May 9, 1978 (1 day), at Omaha, NE, in a hearing room to be later designated.

AB 68 (Sub-No. 2), Lake Superior & Ishpeming Railroad Co. Abandonment between Munising and Marquette and between Lawson and Little Lake in Marquette and Alger Counties, is assigned for hearing March 13, 1978, at Marquette, MI, and will be held at Don H. Bottum, Universitie Conference Center North Michigan Universitie, K Avenue Entrance.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-5808 Filed 3-3-78; 8:45 am]

[7035-01]

Docket No. AB-19 (Sub-No. 32)

BALTIMORE AND OHIO RAILROAD CO.

Abandonment Near Green Spring and Petersburg in Hampshire, Hardy and Grant Counties, W. Va.; Findings

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on December 23, 1977, and the decision and order of the Commission, Division 2, served February 27, 1978, which adopted the initial decision and order of the Administrative Law Judge, which is administratively final, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Oregon Short Line R. Co.—Abandonment—Goshen, 354 ICC 76 (1977), the present and future public convenience and necessity permit the abandonment by The Baltimore and Ohio Railroad Co. of a portion of the South Branch rail line between Valuation Station 32+11 at or near Green Spring, W. Va., and Valuation Station 274+11 at or near Petersburg, W. Va., located in Hampshire, Hardy, and Grant Counties, W. Va. A certificate of abandonment will be issued to The Baltimore and Ohio Railroad Co. based on the above-described finding of abandonment, on or before April 5, 1978, unless on or before April 5, 1978, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-5806 Filed 3-3-78; 8:45 am]

[7035-01]

[Finance Docket No. 28531]

GOODWIN RAILROAD INC.

Operation—Over Certain Tracks Owned by State of New Hampshire from Concord to Lincoln, in Merrimack, Belknap and Grafton Counties, N.H.

Goodwin Railroad, Inc., P.O. Box 1423, Concord, N.H. 03301, represented by Herbert W. Goodwin, President, Goodwin Railroad Inc., P.O. Box 1423, Concord N.H. 03301, hereby give notice that it filed with the Interstate Commerce Commission at Washington, D.C., an application under Section 1(18) of the Interstate Commerce Act for an order approving and authorizing the operation over a line of railroad owned by the State of New Hampshire from Concord to Lincoln, in Merrimack, Belknap, and Grafton Counties, N.H., a distance of 76.4 miles, which application is assigned Finance Docket No. 28531.

Applicant is operating a railroad line from Concord to Lincoln, N.H., owned by the State of N.H. connecting with the Boston and Maine Corp. at Concord, N.H. The above mentioned line was formerly owned by the Boston and Maine Corp.

Under Service Order No. 1272, decided September 1, 1977, as amended by Service Order No. 1272, decided February 14, 1978, Goodwin Railraod, Inc. was directed to operate the line of railroad in question.

In the opinion of the Goodwin Railroad Inc., the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 4), Implementation—National Environmental Policy Act, 1969, 352 ICC 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See Implementation—National Environmental Policy Act, 1969, supra, at p. 487.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue, NW., Washington, D.C. 20423, and the aforementioned counsel for applicant, within 30 days after date of first publication in a newspaper of general circulation. Any interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-5803 Filed 3-3-78; 8:45 am]

[7035-01]

[AB 62 (SDM)]

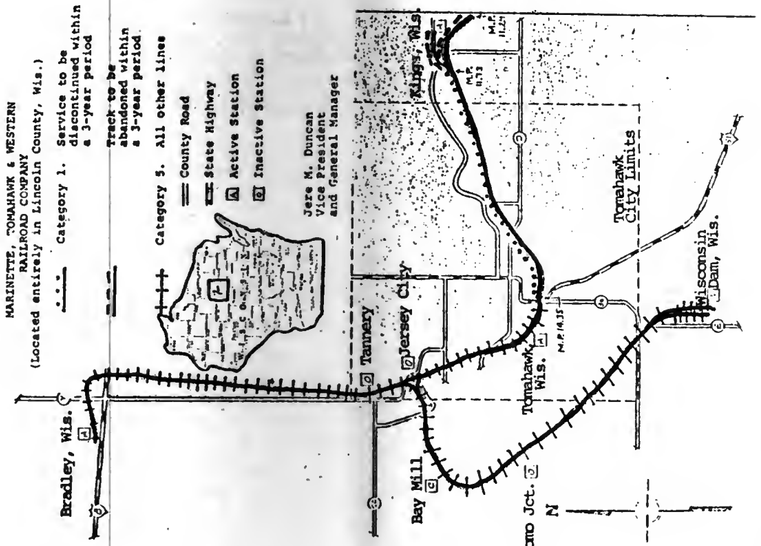
MARINETTE, TOMAHAWK & WESTERN RAILROAD CO.

Revised System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Marinette, Tomahawk & Western Railroad Company, has filed with the Commission its revised color-coded system diagram map in Docket No. AB 62 (SDM). The maps reproduced here in black and white are reasonable reproductions of that revised system diagram map and the Commission on December 20, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the revised system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 62 (SDM).

H. G. HOMME, Jr.
Acting Secretary.



I certify that this is a
true copy of the original document.

Gerald J. Bechtel
Attorney for MT&W

[FR Doc. 78-5808 Filed 3-3-78; 8:45 am]

MARINETTE, TOMAHAWK and WESTERN RAILROAD COMPANY

AB Number 62

Description of Lines on Accompanying color coded System Diagram Map.

Category 1 - (a) Kings Line

(b) Wisconsin

(c) Lincoln

(d) Portion of track to be abandoned.

From eastern end of Kings Line at Mile Post 11.24 to #7 switch at Mile Post 11.73.

Portion of track for discontinuance of service. From #7 switch at Mile Post 11.73 to eastern side of Highway 51, at Mile Post 14.35.

(e) Terminal Station. Kings, Wisconsin at Mile Post 11.73.

Category 2, 3 and 4 - None.

Category 5 - All other track.

[7035-01]

[Docket No. AB-55 (Sub-No. 17)]

SEABOARD COAST LINE RAILROAD CO.

Abandonment Near Astatula and Frank's Farms, in Lake County, Fla.; Findings

Notice is hereby given pursuant to Section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by an Certificate and Order dated February 21, 1978, a finding, which is administratively final, was made by the Commission, Review Board No. 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment—Goshen*, 354 ICC 76 (1977) and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Seaboard Coast Line Railroad Co. of a portion of its line of railroad known as the Astatula Spur, extending from railroad milepost STA-7.00 near Astatula, FL, to milepost STA-8.09 near Frank's Farms, FL, a distance of 1.09 miles, and 1.56 miles of sidings in Lake County, Fla. A certificate of public convenience and necessity permitting abandonment was issued to the Seaboard Coast Line Railroad Co. Since no investigation was instituted, the requirement of § 1121.38(a) of the regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than March 21, 1978. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 45 days from the date of this publication.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-5802 Filed 3-3-78; 8:45 am]

[7035-01]

[Finance Docket No. 28693]

SEABOARD COAST LINE RAILROAD CO. AND WINSTON-SALEM SOUTHBOUND RAILWAY CO.

Construction of Connecting Track—in Anson County, N.C.

Seaboard Coast Line Railroad Co. (SCL) and Winston-Salem Southbound Railway Co. (WSS), 500 Water Street, Jacksonville, Fla., 32202, represented by Wandaleen Poynter, Assistant General Attorney, 500 Water Street, Jacksonville, Fla. 32202, hereby give notice that on the 21st day of February 1978, they filed with the Interstate Commerce Commission at Washington, D.C., a joint application under section 1(18) of the Interstate Commerce Act for an order approving and authorizing the construction of a connecting track between the two carriers, which application is assigned Finance Docket No. 28693.

Applicants propose to construct a 3,042-foot track connecting the Hamlet-Monroe main track of the SCL with the terminal point of the WSS. The proposed track to be constructed is located in Anson County, the city limits of Wadesboro, N.C.

SCL will provide the funds for the construction of the entire track from system revenues with the WSS reimbursing them for their agreed proportion.

This application is made contingent upon the issuance of an appropriate certificate of public convenience and necessity by the Commission in Docket No. AB-149 (Sub-No. 1) of the Winston-Salem Southbound Railway Co. to abandon its line of railroad known as Winston-Salem Southbound Mainline extending from railroad milepost 87.18 to milepost 88.41, a distance of 1.23 miles in Anson County, N.C.

In the opinion of the applicants, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's Regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 4), *Implementation-National Environmental Policy Act, 1969*, 352 ICC 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See Implementation-National Environmental Policy Act, 1969, supra, at p. 487.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C., 20423, and the aforementioned counsel for applicant, within 30 days after date of first publication in a newspaper of general circulation. Any interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-5804 Filed 3-3-78; 8:45 am]

[7035-01]

[Docket No. AB-55 (Sub-No. 19)]

SEABOARD COAST LINE RAILROAD CO.

Abandonment Near Okahumpka and Croom, in Lake and Sumter Counties, FLA., Findings

Notice is hereby given pursuant to section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by a Certificate and Order dated February 21, 1978, a finding, which is administratively final, was made by the Commission, Review Board No. 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment—Goshen*, 354 ICC 76 (1977) and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Seaboard Coast Line Railroad Co. of a portion of a line of railroad known as the Ocala Subdivision, extending from railroad milepost AS-808.62 near Okahumpka, Fla., to milepost AS-833.6 at Croom, Fla., a distance of 24.44 miles, and 3.03 miles of sidings in Lake and Sumter Counties, Fla. A certificate of public convenience and necessity permitting abandonment was issued to the Seaboard Coast Line Railroad Co. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I(§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than March 21, 1978. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective April 20, 1978.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-5807 Filed 3-3-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6320-01]

1

[M-102, Amdt. 3, Feb. 28, 1978]

NOTICE OF DELETION OF ITEM FROM THE MARCH 1, 1978 AGENDA

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., March 1, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 8. Docket 29790, Dallas-Fort Worth-Western Mexico—Order of Discretionary Review (OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: The staff was unable to forward Item 8 to the Board to review prior to the March 1, 1978 meeting. Accordingly, the following Members have voted that agency business requires the deletion of Item 8 from the March 1, 1978 agenda and rescheduled for the March 9, 1978 agenda and that no earlier announcement of this deletion was possible:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

[S-483-78 Filed 3-2-78; 3:46 pm]

[6320-01]

2

[M-102, Amdt. 4, Mar. 3, 1978]

NOTICE OF DELETION OF ITEM FROM THE MARCH 1, 1978 AGENDA

CIVIL AERONAUTICS BOARD

TIME AND DATE: 10 a.m., March 1, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 4. Docket 31737, Amendment of Part 300 on Separation of functions (request for instructions). (Memo 7473-G, OGC, OEA)

STATUS: Open.

PERSON TO CONTACT:

. Phyllis T. Kaylor, the secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Due to errors in the staff document, Item 4 was deleted from the March 1, 1978 meeting agenda. Accordingly, the following Members have voted that agency business requires the deletion of Item 4 from the March 1, 1978 agenda and that no earlier announcement of this deletion was possible.

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

[S-482-78 Filed 3-2-78; 3:46 pm]

[6351-01]

3

COMMUNITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., March 7, 1978.

PLACE: 2033 K Street, NW., Washington, D.C., 5th floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement matters/proposed civil action and settlement offer.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-477-78 Filed 3-1-78; 4:27 pm]

[6355-01]

4

CONSUMER PRODUCT SAFETY COMMISSION.

LOCATION: 3rd Floor Hearing Room, 1111 18th Street, NW., Washington, D.C.

TIME AND DATE: 9:30 a.m., March 9, 1978.

STATUS: Partly open; partly closed.

MATTERS TO BE CONSIDERED:

9:30 a.m.—Open to the public.

I. DECISION ITEMS

1. *Petition on Architectural Glazing, CF 77-12.*—The Commission will consider a petition from the Stained Glass Association of America requesting an amendment to the Safety Standard for Architectural Glazing Materials to exempt certain decorative (stained) glass.

2. *Draft Policy on Exemptions from Commission Regulations.*—If approved, this FEDERAL REGISTER document would issue a policy statement-setting-forth criteria which the Commission considers in deciding whether to grant or deny a request for exemption from a Commission regulation.

3. *Recommendation to Close Possible Substantial Product Hazard Case: Whem-O Manufacturing Co., "Silly String"—ID 77-72.*—This case involves certain cans of "Silly String" which might burst due to improper construction of the cans. The staff has determined that there is insufficient evidence to support the belief that these products present a substantial product hazard and therefore has recommended that the Commission close this case, both as to the possible hazard and the timeliness of reporting.

4. *Recommendation to Accept Corrective Action Plan: Speed Queen, Division of McGraw Edison Co., coin-operated washer/extractor—ID 77-88.*—The staff has recommended that the Commission accept the corrective action plan which Speed Queen has implemented to deal with a possible failure of the door lock mechanism on certain coin-operated washers used in laundromats.

5. *Recommendation to Accept Corrective Action Plan: Bombardier Limited, snowmobiles—ID 77-80.*—The staff has recommended that the Commission accept the corrective action plan which Bombardier, Ltd. has implemented to deal with a possible hazard associated with certain snowmobiles containing incorrect length ski assembly parts. The staff also recommends closing the timeliness investigation in this case.

6. *Recommendation to Close Possible Substantial Product Hazard Case: Mervyn's (retail stores) boys' fisherman knit sweaters—ID 78-10.*—The staff has recommended that the Commission close this case involving a possible toxicity or skin irritation hazard associated with these sweaters, based on its evaluation that the products do

not present a substantial product hazard. The staff also recommends closing the case as to timeliness of reporting.

7. *Recommendation to Close Possible Substantial Product Hazard Case: McGraw Edison Co., four-slice electric toaster—ID 77-66.*—Based on its evaluation that the possible defect in the wiring of certain toasters manufactured by McGraw Edison does not present a substantial product hazard, the staff has recommended that the Commission close this case, both as to the possible hazard and the timeliness of reporting.

8. *Recommendation to Close Possible Substantial Product Hazard Case: Dazey Products Co., whirlpool baths—ID 78-8.*—This case involves a possible shock hazard in certain whirlpool baths. Because the Food and Drug Administration considers these products medical devices and is conducting a recall, the staff recommends that the Commission defer to FDA in the matter and close this section 15 case.

9. *Recommendation to Close Possible Substantial Product Hazard Case: True Temper Corp., hand-held weed cutters—ID 76-138.*—Based on its evaluation that the possible shank-to-handle failure in certain weed cutters does not present a substantial product hazard, the staff has recommended that the Commission close this case, both as to the hazard and the timeliness of reporting.

10. *Draft Proposed Amendments to Electrical Toy Regulation for Power Cords.*—The Commission will consider proposed amendments to the electrical toy regulation to allow the use of several types of acceptable cords with hand-held educational or hobby-type products intended for heating, such as wood-burning sets, rather than the one type cord currently specified in the regulation. The proposed amendments would also require cords used on all products subject to the regulation to be a minimum of No. 18 AWG (American Wire Gage) for adequate short circuit protection.

11. *Final Sharp Edge Toy Regulation.*—The Commission will consider a final regulation establishing technical requirements to identify potentially hazardous sharp metal or glass edges on toys and other articles intended for use by children under 8 years of age. The Commission proposed the regulation on September 1, 1977.

12. *Proposed Financial Compensation Program.*—The Commission will consider a proposal to initiate a temporary program for the financial compensation of participants in rulemaking proceedings pending the establishment and staffing of an Office of Public Participation.

Lunch.

2 p.m.—Open to the public.

II. BRIEFING ITEM

13. *CPSC Carcinogen Policy, a briefing by staff.*—The staff will brief the Commission on optional policy and procedural guidelines for proceeding when presented with information on a substance that may present a potential carcinogenic hazard to humans if it is present in consumer products.

Closed to the public.

III. DECISION ITEM

Recommendation to Initiate Adjudicatory Proceeding, FFA Case (BCM1 No. 770016).—The Commission will consider a staff recommendation to initiate an adjudicatory proceeding in a Flammable Fabrics Act case involving a carpet manufacturer.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, telephone 202-634-7700.

[S-474-78 Filed 3-1-78; 4:27 pm]

[6740-02]

5

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published, March 3, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., March 8, 1978.

CHANGE IN THE MEETING: The following item has been added:

Item No., Docket No., and Company

CP-3-(A)—CP77-363, Columbia Gas Transmissions Corp. and National Fuel Gas Supply Corp.

CP-3-(B)—CP77-38, Tennessee Gas Pipeline Co., a Division of Tenneco Inc. and National Fuel Gas Supply Corp.

CP-(C)—CI76-432, Cabot Corp. CP76-19, Columbia Gas Transmission Corp. and the Sylvania Corp. CP-78-361, Columbia Gas Transmission Corp. CP-3-(D)—CP77-477, Panhandle Eastern Pipe Line Co.

KENNETH F. PLUMB
Secretary.

[S-485-78 Filed 3-2-78; 3:50 pm]

[6730-01]

6

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 8345, March 1, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., March 9, 1978.

CHANGES IN THE MEETING: Addition of the following items to the open session:

9. Sea-Land Service, Inc.—Deletion of free time and demurrage in Puerto Rican trades.
10. Matson Navigation Co.—Elimination of minimum quantity rates applicable to refrigerated cargo.

[S-480-78 Filed 3-2-78; 3:46 pm]

[4910-58]

7

NATIONAL TRANSPORTATION SAFETY BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 7520, February 23, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. [NM-78-11], Thursday, March 2, 1978.

CHANGE IN THE MEETING: A majority of the Board has determined by recorded vote that the business of the Board requires revising the agenda of this meeting and that no earlier announcement was possible. The agenda as now revised is set forth below:

STATUS: The first four items will be open to the public; the fifth item will be closed under Exemption 10 of the Government in the Sunshine Act.

1. Safety Effectiveness Evaluation of the National Accident Sampling System.
2. Railroad Special Study: A review of Pedestrian Fatalities on the Nation's Railroad—Phase I.
3. Letter to the Federal Aviation Administration reproposed airworthiness directives 76-SW-41 and 76-SW-52.
4. Closeout of Recommendation No. A-72-226.
5. Opinion and Order.—Administrator v. Sumrall, Dkt. SE-3739; disposition of respondent's appeal.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-472-6022.

[S-476-78 Filed 3-1-78; 4:27 pm]

[7710-12]

8

POSTAL SERVICE.

BOARD OF GOVERNORS

NOTICE OF VOTE TO CLOSE A MEETING

On March 1, 1978, the Governors of the U.S. Postal Service who were present unanimously voted to close to public observation a portion of their meeting of that date. The portion of the meeting to be closed was to consist of discussion of the possible appointment of a new Postmaster General. This action was taken by the Governors, rather than the Board of Governors, because only the Governors have the responsibility for appointing the Postmaster General under the Postal Reorganization Act (39 U.S.C. 202(c)). The Governors voting in favor of closing this portion of the meeting were: Messrs. Wright, Holding, Ching, Codding, and Hardesty. Governor Robertson was unable to attend any part of the Board meeting of March 1, 1978, and did not participate in the vote.

Prior to the March 1 meeting, the Board of Governors gave due public notice of its intention to hold the meeting, the notice and the proposed agenda for the meeting having been published in the FEDERAL REGISTER on February 23, 1978 (43 FR 7520). The agenda noted the possibility that the Governors might decide to take action which might result in the appointment of a new Postmaster General. On March 1, 1978, the Governors who were present unanimously decided that agency business required them to decide to take this action and that, insofar as this decision involves a change in the agenda, no earlier announcement of the change was possible.

The only persons to attend this closed portion of the meeting were Governors Wright, Holding, Ching, Codding, and Hardesty, and—for very brief intervals—Postmaster General Bailar and Chief Postal Inspector Benson.

The Governors were of the opinion that free and candid discussion of possible appointees to the position of Postmaster General would be likely to disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. In making this determination, the Governors were conscious both of the need to balance the public interest in disclosure against any likely invasion of personal privacy, and of the obligation to determine that the public interest does not require that such discussions be disclosed to the public. In this regard, the Governors recognized the possibility that their discussions were likely to involve consideration of individuals who may presently occupy positions in Government or in the private sector. Further, they noted the obligation under the Government in the Sunshine Act (5 U.S.C. 552b(f)(2)) to make promptly available to the public a transcript or recording of the closed portion which discloses their discussion, except for such items of the discussion as they determine to contain information which may be withheld under the Sunshine Act. In the circumstances, the Governors determined that the public interest in the fullest practicable information regarding the decisionmaking processes of the Government will be satisfied by subsequent disclosure of information which does not constitute a clearly unwarranted invasion of personal privacy, and that the legitimate privacy interests of individuals who may be discussed would best be protected by closing this portion of the meeting.

The Governors also recognized that their function of selecting a Postmaster General involves, in a most literal sense, an internal personnel matter, and that information relating solely to internal personnel practices is exempt from mandatory disclosure under the Government in the Sunshine Act (5 U.S.C. 552b(c)(2)). The Governors were of the opinion that the policy and purpose of the Sunshine Act are most completely accomplished if free discussion of the personal attributes and affairs of prospective candidates, and discussion of relevant personnel matters, is not inhibited by considerations of possible unnecessary embarrassment or unwarranted invasion of personal privacy.

Accordingly, the Governors determined, pursuant to 5 U.S.C. 552b(c) (2) and (6) and 39 CFR § 7.3 (b) and (f), that the portion of the meeting to be closed is exempt from the open meeting requirement of the Sunshine Act in that it is likely to disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, and in that in a literal sense it relates solely to internal personnel practices of the agency; and that the public interest does not require this portion of the meeting to be open.

In accordance with 5 U.S.C. 552b(f)(1) and 39 CFR 7.6(a), the General Counsel of the U.S. Postal Service has certified that in his opinion the portion of the meeting to be closed may properly be closed to public observation.

LOUIS A. COX,
Secretary.

[S-481-78 Filed 3-2-78; 3:46 pm]

[3810-70]

9

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

TIME AND DATE: 8 a.m., March 13, 1978.

PLACE: Uniformed Services University of the Health Sciences, 4301 Jones Bridge Road, Bethesda, Md. 20014 (Rooms A1-024, A1-017 and A2-052).

STATUS: Open.

MATTERS TO BE CONSIDERED:

8 a.m. Meeting—Educational Affairs Committee

(1) Graduate Program Update; (2) Admissions Committee Report; (3) Faculty Appointments; (4) Faculty Assembly Report.

8 a.m. Meeting—Administrative Affairs Committee

(1) Report—Director of Administrative Affairs: (2) Financial Report; (3) Construction Costs and Changes: (4) Budget Justification Statement (Draft).

10 a.m. Meeting—Board of Regents

(1) Report—Educational Affairs Committee; (2) Report—Administrative Affairs Committee; (3) Report—Acting President; (4) Report—Dean, School of Medicine; (5) Report on Continuing Medical Education Visit; (6) Service Obligation of Students Who Fail to Graduate—Update; (7) Proposed Calendar for Board of Regents of 1978.

New Business.

SCHEDULED MEETINGS: May 8, 1978.

CONTACT PERSON FOR MORE INFORMATION:

Tor Richter, Capt., MC USN, Executive Secretary of the Board, AC 202-295-2106.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

MARCH 2, 1978.

[S-484-78 Filed 3-2-78; 3:46 pm]

federal register

MONDAY, MARCH 6, 1978
PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

GRADUATE AND PROFESSIONAL STUDY FELLOWSHIPS AND INSTITUTIONAL GRANTS

Final Rules

[4110-02]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 100a—DIRECT PROJECT GRANT AND CONTRACT PROGRAMS

PART 179—GRADUATE AND PROFESSIONAL STUDY FELLOWSHIPS AND INSTITUTIONAL GRANTS

Final Rules

AGENCY: Office of Education, HEW.

ACTION: Final Regulation.

SUMMARY: The Commissioner issues final regulations to establish rules, procedures, and criteria governing the award of fellowships for graduate and professional study and the award of institutional grants to expand or improve graduate or professional study programs. The regulations are intended to implement legislation which enlarged the scope of the graduate study program.

EFFECTIVE DATE: Pursuant to section 431(d) of the General Education Provision Act, as amended (20 U.S.C. 1232(d)), this regulation has been transmitted to the Congress concurrently with the publication in the FEDERAL REGISTER. That section provides that regulations shall become effective on the forty-fifth day following the date of the transmission, subject to the provisions concerning Congressional action and adjournment.

FOR FURTHER INFORMATION CONTACT:

Dr. Donald N. Bigelow, Bureau of Higher and Continuing Education, 7th and D Streets SW., Regional Office Building No. 3, Room 3709, Washington, D.C. 20202. Telephone 202-245-2347.

SUPPLEMENTARY INFORMATION: Pub. L. 94-482, The Education Amendments of 1976, amended Title IX-B of the Higher Education Act of 1965, to enlarge the scope of the program which provides fellowships for graduate study. The program may now award fellowships for professional study as well. The Commissioner is issuing regulations to govern the award of those fellowships and to govern the award of institutional grants under Title IX-A to strengthen and improve the quality of graduate and professional programs.

SUMMARY OF COMMENTS AND RESPONSES

In the Notice of Proposed Rulemaking published in the FEDERAL REGISTER of October 11, 1977 (42 FR 54926), the Commissioner invited comments on the proposed regulations for the graduate and professional study fellowship program and the institutional grant program. Public hearings were held in New York City; Denver, Colo.; and Atlanta, Ga. The following is a summary of the comments received and the responses of the Office of Education:

COMMENTS ON SUBPART A—GENERAL PROVISIONS

Comment. Several commenters asked whether consortia may apply for institutional grants under Title IX-A and for fellowship allocations under Title IX-B.

Response. Combinations of institutions may apply for institutional grants. Sections 179.3(c) and 179.22 were amended to clarify this issue. However, fellowships will be allocated to individual institutions of higher education only for use by students in approved graduate or professional study programs.

Comment. Several people recommended that students be allowed to pursue master's degrees at an institution which does not offer doctoral degrees provided the institution has an arrangement with another institution which does grant the doctoral degree for the transfer of the student after completion of the master's degree.

Response. The Commissioner has determined that students may pursue a master's degree in those professional fields in which the master's degree is considered to be the necessary post-baccalaureate degree to obtain the credential for professional practice. Students training for academic careers in specific disciplines in higher education must pursue study leading to a doctoral level degree. However, where cooperative arrangements are made in advance between institutions of higher education, students may pursue their first year of academic work at one institution (which may award a master's degree for such work) and then continue their work leading to a Ph. D., or its equivalent, at the other cooperating institution.

Comment. One commenter indicated that the Graduate and Professional Opportunities Program seemed to have three purposes which may be conflicting: to strengthen and improve graduate courses, to support compensatory programs, and to support innovation.

Response. Subpart B of the regulation concerns institutional grants. One of its purposes is to strengthen and improve graduate and professional programs (§ 179.21). One of the activities eligible for an institutional grant is "needed innovation in graduate and professional programs" (§ 179.24 (b)(7)). However, the regulation places no special emphasis on innovation or on new programs.

Subpart C of the regulation concerns the fellowship program. Its purpose is to award fellowships to eligible students studying in approved programs. It contains no reference to innovation. It is expected that most institutions will apply for an institutional grant to fund activities which will be related to and assist in the development of the fellowship program. Neither the institutional grant program nor the fellowship program is intended to be a compensatory program. Fellowship recipients are expected to be fully qualified to pursue graduate or professional level study.

Comment. One commenter asked for greater clarification about the relationship between a request for an institutional grant and a request for an allocation of fellowships.

Response. An institution's application may include a request for either an institutional grant or an allocation of fellowships, or both. If an institution applies for an institutional grant to fund activities related to its fellowship program, that relationship should be stated clearly in the application narrative.

Comment. Several commenters recommended that the definitions of "graduate study" and "professional study" be changed to allow individuals pursuing master's degrees to be eligible for fellowships. Others recommended that master's degree candidates not be eligible, particularly those preparing for careers in higher education or for careers in other professional fields.

Response. The Commissioner has revised the definition of "professional study" to indicate more clearly that individuals eligible for such fellowships must be in a post-baccalaureate course of study leading to the degree necessary for obtaining the credential which qualifies the individual for professional practice. In some professions this means the master's degree. Institutions which request an allocation of fellowships for students pursuing master's degrees in a professional field should show with appropriate documentation that the professional study meets the definition in § 179.3(h). However, students who are planning careers in postsecondary education and in other fields in which the doctoral degree is normally required must be enrolled in a course of study leading to a doctoral degree. This requirement is based on a provision in the statute which requires that fellowship recipients be pursuing "a course of study leading to a degree of doctor of philosophy, doctor of arts, or an equivalent degree." (20 U.S.C. 1134f.) While in some cases a master's degree may be "an equivalent degree" in a professional field, it is not "an equivalent degree" in a graduate field.

Comment. One commenter expressed concern that the program may be "overregulated". Establishing specific criteria and assigning arbitrary values to them may not allow enough flexibility for the Commissioner to approve the proposals that offer the greatest promise of meeting the goals of the program.

Response. The Commissioner has established funding criteria and assigned point values to them so that applicants will be fully aware of the standards by which their proposals will be evaluated and of the relative relationships among the criteria. The Commissioner will rely heavily, but not entirely, upon the ratings by the proposal readers. However, as the final regulation clearly indicates, in addition to the ratings, the Commissioner will also take into account other considerations in making the awards and allocations. Those considerations appear in §§ 179.26 and 179.44. The Commissioner retains the authority to make the final decisions and will make those decisions based on his best judgment about the most effective way to accomplish the goals of the program.

COMMENTS ON SUBPART B—INSTITUTIONAL GRANTS

Comment. Several commenters asked for further clarification regarding the appropriate role of the State Postsecondary Education Commissions ("1202" Commissions) in these programs.

Response. Although the State 1202 Commission is not responsible for approving the proposals, a Commission must have an opportunity to comment on a copy of all proposals submitted from its State which request institutional grants as well as those which request both institutional grants and fellowship allocations. The Commissions are not required to clear or review proposals which request only fellowship allocations.

Comment. One commenter asked for further clarification about including personnel benefits and indirect costs in proposals for institutional grants.

Response. Section 179.25 has been revised in response to this comment. It indicates that institutional grant funds awarded under this program may not be used for payment of indirect costs. Personnel benefits may be included in the amount requested from the Federal funds.

Comment. One commenter asked whether institutional grant funds could be used for summer programs designed to allow undergraduates to explore the nature of graduate level research and study and to encourage those who are qualified to pursue graduate study. Another commenter questioned the wisdom of funding programs for undergraduates when such a small amount of money is available and when the program is focused on graduate programs.

Response. Section 179.24(a)(2) states that institutional grant funds may be used for activities "to strengthen undergraduate programs when the Commissioner determines that strengthened undergraduate programs will contribute to the purposes of Title IX-A". Summer programs of undergraduates are eligible under this provision. The purposes and activities of the summer programs should be consistent with the development of potential doctoral or professional degree candidates. A proposed undergraduate program would be evaluated on the basis of the funding criteria in § 179.26. However, since funds are limited, very few such proposals are likely to be funded in the first year.

Comment. One commenter recommended that the regulation be specific about the types of activities allowed under the institutional grants.

Response. Section 179.24(a) of the final regulation indicates the basic purposes of the institutional grant program and § 179.24(b) provides more specific information about eligible activities. The list of eligible activities is from the statute. The Commissioner believes that the list is general enough to allow institutions flexibility in developing projects, such as recruitment efforts designed to address the needs of underrepresented minority groups, which will meet the criteria in § 179.26.

Comment. One commenter recommended that predominantly white graduate institutions form a cooperative arrangement with several traditionally black institutions for the purpose of offering graduate and professional programs which are not currently available in the traditionally black institutions.

Response. The proposed regulation was revised to indicate that combinations of institutions are eligible to apply for institutional grants for joint projects and activities among institutions of higher education. However, the Commissioner will allocate fellowships only to individual institutions with approved graduate or professional study areas.

Comment. One commenter recommended that the grants not support the further proliferation of graduate and professional programs, but only support the improvement of existing programs.

Response. The Commissioner agrees that new graduate and professional study programs are probably not needed in most fields and that the grants should be used primarily for improving existing programs to meet the purposes of the Graduate and Professional Opportunities Program. However, the Commissioner will consider an application proposing a new or innovative program which carries out the purposes of the Act.

Comment. One commenter suggested that there be a regional and a national consortium for name exchanges. It was suggested that academic advisors and counselors at major "black undergraduate centers" should develop lists of their students interested in graduate study and distribute them to graduate institutions.

Response. The Commissioner encourages the development by institutions of higher education of more effective methods for the identification and recruitment of talented individuals from underrepresented groups which can be supported under the institutional grant provisions of the Graduate and Professional Opportunities Program. The program, however, provides no support for the development of such lists by the Office of Education.

Comment. One person recommended that the criterion in § 179.26(a) concerning geographical distribution of institutional grants be eliminated.

Response. The Commissioner has determined that a broad geographical distribution of strong graduate and professional study programs is important to increase opportunities for access to quality post-baccalaureate education for underrepresented groups. One of the target populations of this program consists of individuals who have demonstrated their competencies in a setting outside of higher education for several years. These individuals and others often have geographic restrictions because of family responsibilities or financial limitations. The Commissioner plans to increase access to high quality advanced training by awarding grants to institutions in as many geographical regions of the country as possible.

Comment. It was suggested that the maximum points allowed for the criterion in § 179.26(b)(1) concerning underrepresented groups be increased since it reflects the primary purpose of the program.

Response. The Commissioner agrees that the criterion does reflect one of the major purposes of the program. However, the distribution of points allowed in the proposed regulation is intended to provide an appropriate balance among all the purposes of the institutional grant program. In the final regulation the criterion concerning underrepresentation received 20 points out of a total of 87.

Comment. One commenter recommended that the criterion in § 179.26(b)(4) require consistency with "national priorities" rather than "state or regional priorities". Another person suggested that student representatives be included in the process of determining "state and regional" priorities.

Response. The Commissioner has modified the requirement in the final regulations to include national priorities as well as State and regional priorities. This provision is mandated by

the statute. Each applicant will demonstrate in its proposal that the project is consistent with State or regional or national priorities, or any combination of these. The Office of Education welcomes as broad a viewpoint as can be provided. The State 1202 Commission will have an opportunity to comment on all sections of the proposal, including this one. The readers will rate each proposal on how well it demonstrates consistency with the priorities and will assign between 1 and 10 points.

Comment. One person suggested that the word "new" be eliminated from the criterion for institutional grants in § 179.26(b)(5) concerning programmatic arrangements since some institutions may need funds to expand or improve existing arrangements.

Response. The Commissioner agrees with the suggestion and has deleted the word "new" in the final regulation in § 179.26(b)(5). As indicated above, the major emphasis in this program is not on new or innovative activities.

Comment. One person indicated that the criteria in § 179.26 (b)(7) and (b)(8) seemed to be contradictory. If the institution's program is strong enough to assure the success of the project, then why must the project be innovative?

Response. The Commissioner does not view the two provisions as contradictory. An institution with a well established strong graduate program may choose to propose an innovative project which has the potential for further strengthening the program. In addition, the criterion clearly provides that the project activities must either enhance the institution's program or be innovative. In other words, a project could score well on this measure if the application demonstrates that the activities would clearly enhance the existing program. Innovation is not a mandated requirement.

Comment. It was recommeded that the final regulation allow for institutional grants for periods longer than 1 year.

Response. The final regulation in § 179.27 does provide for an application for a multi-year project. However, at this time, grants awards can be made only on an annual basis. Continuation grants are subject to the availability of funds and to the provisions in § 179.27(c) (1) and (2) concerning compliance with the grants terms and conditions, the regulations and the accomplishment of the projects' goals.

Comment. One person asked how an applicant could know whether its program "will assist in attaining a wider distribution of graduate and professional study programs throughout the United States," as required in the funding criteria.

Response. Institutions are not required to respond to this consideration. In making the final decision about allocation and awards, the Commissioner will determine how best to insure broad geographical distribution.

COMMENTS ON SUBPART C—GRADUATE AND PROFESSIONAL STUDY FELLOWSHIPS—§ 179.42 APPLICATION CONTENTS AND § 179.43 FELLOWSHIP AWARD PROCEDURE

Comment. Several commenters recommended that institutions not be limited to requesting an allocation of fellowships in only one or two fields of study. One commenter suggested that the institutions be allowed to use the fellowships in a number of different academic departments so that more departments would develop commitments to addressing the needs of underrepresented groups.

Response. The Commissioner agrees that an institution should not be limited to seeking approval for only one or two program areas in which fellowships could ultimately be awarded. Therefore, the final regulation indicates that an institution may seek approval for as many as five different program areas. An "area" may be a professional school or a single discipline or department or other organizational unit in a graduate school provided it is clearly identified as a graduate or professional post-baccalaureate program within the total curriculum of the graduate or professional school. Institutions should propose only those areas which are clearly defined, offering strong, high quality programs of study in which there is a distinct shortage of individuals from underrepresented minority groups and in which there is a demonstrated need for more highly trained personnel. In the program narrative of the application the institution should explain and defend its choice of areas in which it proposes to offer fellowships. Ultimately, the total number of fellowships allocated to a successful applicant may be used, as required, in any of the approved programs.

Comment. One commenter recommended that individuals pursuing the Ph. D. degree in religious studies not be declared ineligible for the fellowship program.

Response. Providing fellowships for the study of divinity is specifically prohibited under Title IX-B of the Higher Education Act, as amended, which states "No fellowship shall be awarded under this part for study at a school or department of divinity."

(20 U.S.C. 1134f(c).)

Comment. Several commenters asked for further clarification about the meaning of an approved program.

Response. The Commissioner has made several changes in the proposed regulation to indicate more clearly the meaning of an approved program. Section 179.42 was changed from "approved programs" to "application contents." The criteria which were in § 179.42 are now included in § 179.44, criteria for allocating fellowships.

An "approved program" applies specifically to an institution's proposal for an allocation of fellowships which has been approved by the Commissioner. The proposal requests a certain number of fellowships (usually 5-15) for use in one to five graduate or professional study areas. The Commissioner allocates a certain number of fellowships which the institution may use in any of the one to five areas of study approved by the Commissioner. The content of the proposal is outlined in § 179.42 and the criteria by which the content will be judged are found in § 179.44.

Comment. One commenter suggested that the Commissioner award the fellowships to individuals and allow them to attend any institution of their choice to assure that the fellowships will result in a net increase in the amount of support available for graduate students.

Response. As indicated in the preamble of the Notice of Proposed Rulemaking (42 FR No. 196, p. 54926-27), the Commissioner has determined that the method of operation most likely to accomplish the purposes of the program is to allocate the fellowships to institutions which will recommend individuals to receive the fellowships. This method will allow close cooperation between the Office of Education and the institution in achieving the goals of the fellowship program. It will also allow the Commissioner to provide for broad geographic distribution of the fellowships as required by the statute. This method also provides for greater involvement by the institutions. It permits them to identify the most appropriate underrepresented minority groups and the particular fields in which there is a need for more highly trained individuals.

Comment. One commenter asked whether institutions would be limited to an absolute minimum of 5 fellowships or an absolute maximum of 15 fellowships.

Response. The Commissioner has suggested the 5 to 15 range as a guide or direction in making applications, but it is not viewed as absolute. However, it is anticipated, that an institution would require at least 5 fellowships to justify the development of an active and aggressive recruitment effort and to begin to achieve a clearly identifiable net increase in the enrollment of individuals from underrepresented minority groups. An upper limit of 15 has been suggested because of limited funds.

Comment. One commenter urged that § 179.43 be amended to allow individual faculty members and private organizations to nominate students to the Commissioner.

Response. The Commissioner has determined that the most effective way to operate this program will be to allocate the fellowships to institutions and allow the institutions to nominate specific individuals to the Commissioner for award of the fellowships. This method ensures that fellowship recipients meet the admissions requirements of the institution and the specific purpose of the Graduate and Professional Opportunities Program. Individual faculty members and private organizations can provide valuable assistance to the institutions by recommending talented and qualified individuals for the fellowships. The Commissioner will make awards only to individuals nominated by institutions which have received an allocation of fellowships.

Comment. One person recommended that the Commissioner not award the fellowships but rather allocate a certain number to an institution and allow the institution to award them to qualified students. The institutions could recruit more effectively if they could guarantee the award of the fellowships.

Response. The Commissioner plans to award the fellowships to those individuals who are nominated by the institutions if the nominees are fully qualified. The Commissioner intends to make prompt decisions on the nominations so that potential fellows could receive early notification of the awards.

Comment. It was noted that there does not appear to be a mechanism for increasing the number of fellowships once an institution assigns those allocated to it. No new fellowships could be awarded unless the current fellowships are not renewed by the institution.

Response. The Commissioner plans to allocate a definite number of fellowships to each institution which has approved graduate or professional study areas to receive the fellowships. Once the fellowships are awarded, it is not likely that additional fellowships will be available that year.

However, in subsequent years, institutions may request an allocation of fellowships to continue the support for previous recipients and additional fellowships for new students. The number of fellowships allocated for new students in succeeding years will depend on the availability of funds. Therefore, the number of fellowships allocated during the first year will not necessarily limit the number which may be allocated to that institution in a succeeding year.

COMMENTS ON SUBPART C—GRADUATE AND PROFESSIONAL STUDY FELLOWSHIPS—§ 179.44 CRITERIA FOR ALLOCATING FELLOWSHIPS

Comment. One commenter recommended eliminating the special consideration in § 179.44(a) given to those who previously received fellowships. Another commenter suggested that the regulation clearly state that renewal fellowships will have a higher priority than new fellowships.

Response. The Commissioner has determined that while initially a fellowship will be awarded on an annual basis, it may be renewed subject to the availability of funds and the continuing eligibility of the recipient. Each fellowship is considered to be an award for at least 3 years. The intention of § 179.44(a) is to allow fellows to continue their studies until they complete their training up to a maximum of 3, or in some cases, 4 years. The provision has been revised to indicate specifically that requests for renewal fellowships in the second and succeeding years of the program will have priority over requests for new fellowships.

Comment. Several commenters suggested that fellowships should be allocated to institutions which have an excellent record of recruiting, retaining, and graduating individuals from underrepresented groups and which have a demonstrated commitment to graduate education for minority students.

Response. All institutions of higher education with graduate or professional study programs are eligible to apply. However, the Commissioner agrees that some consideration should be given to institutions which have already demonstrated their commitment to providing graduate and professional education for underrepresented groups. Therefore, the final regulation includes a revised criterion for evaluating applications in § 179.44(c)(1), (formerly § 179.44(c)(6)). This criterion requires an institution to present in its application a description of past and present projects, programs, and activities and future plans which reveal the institution's commitment or ability to serve the needs of particular underrepresented groups.

Comment. One commenter asked for further clarification about the responsibilities of the coordinator of the fellowship program. Another commenter asked for the definition of "other barriers" as the phrase was used in the proposed regulation.

Response. Section 179.44(c)(2) of the final regulation provides some clarification of the responsibilities of the coordinator, who should be a member of the regular staff of the institution. The responsibilities should include supervision of coordination of the recruitment process for each of the graduate and professional study areas in which fellowships may be awarded. The coordinator should have the skills and experience as well as the authority and funds necessary to provide the fellows with such supportive services as are needed to overcome academic, cultural, financial, personal, or similar barriers which may interfere with completion of the degree program. The coordinator will also be responsible for maintaining and submitting appropriate records and should be allowed adequate time and sufficient authority to fulfill successfully these significant and varied responsibilities.

Comment. One commenter expressed concern about whether the institutions were limited to recruiting older students for the fellowships. Another commenter asked for additional information about the criterion in § 179.44 concerning the recruitment of persons who have demonstrated their competence outside of higher education and who have varied backgrounds and experiences.

Response. The statute requires that special consideration be given to individuals who have had varied backgrounds and experiences in other than academic settings and who have demonstrated their competencies in settings outside of higher education for at least 2 years subsequent to the completion of their undergraduate studies. This consideration is reflected in the criteria in § 179.44(c). Institutions should make a distinct effort to identify and recruit individuals in these categories. However, this does not suggest that recent college graudates are ineligible for fellowships.

Comment. Several commenters asked for further clarification of the meaning of the statutory restriction against granting preference or disparate treatment to minorities.

Response. The Commissioner interprets the statute to mean that an institution, in the selection of fellows and in the operation of the fellowship programs, may not be required to grant preference or disparate treatment to the members of any particular minority group. The regulation does not contain any such requirements. Institutions are asked to identify and define the minority group(s) they will serve and to recommend any qualified student for award of a fellowship.

Comment. One commenter suggested that the fellowship be awarded only to individuals not receiving other financial assistance so that the number of individuals from underrepresented groups increases. Another person recommended that the fellowships be awarded only to new graduate or professional students. Another commenter recommended that institutions receiving an allocation of fellowships be required to maintain at least their percentage of minority students currently enrolled within a narrow range

of variance. The institution should not be allowed to replace existing financial support with these new fellowships.

Response. The major purpose of the program is to increase the number of individuals from underrepresented groups, including women, who engage in graduate or professional training. The fellowships are intended primarily for new graduate students. Institutions are expected not to reduce the amount of non-Federal funds currently available to students in a particular field of study. Section 179.44(c)(4) reflects this expectation. In both the institutional plan for the fellowship program and the annual reports the institution should document progress in increasing the number of graduates from underrepresented groups.

Comment. Several commenters asked how "underrepresented" would be defined and how "academic and professional career fields of high national priority" will be determined. One person recommended that women be included as an "underrepresented group."

Response. The Commissioner has made several changes in the proposed regulation to allow greater flexibility and more responsibility for institutions submitting proposals for an allocation of fellowships. In its application an institution may identify up to five fields which it believes to be of high national priority and must identify the groups which have been traditionally underrepresented in those fields. In some fields men or women may be an underrepresented group. The proposals will be evaluated by the readers and by the Office of Education partly on the effectiveness of the proposal in demonstrating the national need for additional highly trained persons in specific fields, and the extent of underrepresentation of certain groups in those fields. (See § 179.44(d) (1) and (2).)

Comment. It was suggested by one person that the needs of handicapped persons be considered in this program and that they be included as an eligible minority group.

Response. The final regulation places the responsibility on the institution for identifying those minority groups which have been traditionally underrepresented and which it plans to serve. The case for handicapped individuals must be made and defended by the institution in its application.

Comment. Several commenters raised questions about whether fellowship recipients could seek degrees in professional fields such as medicine, veterinary medicine, law, social work, pharmacy, library service, physical therapy, and others. One person asked whether the fellowships could be used in fields in which other Federal fellowship programs are available and whether a list of these fields is available.

Response. The only field of study which is specifically excluded is divinity. The criteria in § 179.44(d) establish high priority for fields of study in which minority groups have traditionally been underrepresented, for fields of study for which there is a known high national need, and for high quality graduate and professional study programs. In an application an institution must support with appropriate data its contention that each particular field of study it proposes meets these criteria.

Less favorable consideration will be given to fields for which substantial Federal funds are available, such as in the field of medicine. In addition, this policy would apply to master's level programs eligible for support under the Public Service and the Domestic Mining and Mineral and Mineral Fuel Conservation programs authorized by Title IX of the Higher Education Act of 1965, as amended.

Comment. One commenter recommended that the Commissioner make a clear statement indicating the importance of the human service profession to the national interest.

Response. The Commissioner will allow eligible institutions to choose graduate or professional study areas which they maintain are of high national interest. The institutions must defend their choices with appropriate data. In this new program the Commissioner is not emphasizing the development of new or innovative programs. A major thrust of this program is to make available excellent graduate and professional training for underrepresented minority groups. A panel of consultants will rate each proposal on the effectiveness of its presentation. The Commissioner will allocate the fellowships based on the ratings and the other considerations in § 179.44.

Comment. Several commenters recommended that the funding criteria for the institutional grants and the fellowship allocations include some consideration for the economically disadvantaged such as the criteria used in the TRIO programs. Another person proposed that this program work in close cooperation with the Special Programs for Disadvantaged Students.

Response. The program is intended to help meet the national needs for more highly trained individuals in certain fields and to serve individuals from underrepresented minority groups. In its recruitment efforts an institution is encourage to establish a close relationship with the Special Programs for Disadvantaged Students.

Comment. Section 179.44(c)(9) of the proposed regulation referred to special orientation and practical experiences. Several commenters indicated the meaning of these terms was not clear.

Response. These terms appear in the statute and the Office of Education interprets them to mean a variety of special programs, activities, and opportunities in addition to traditional classroom and research activities which will help prepare a student to perform more effectively in the academic program and, later, in the profession. The terms are general to allow for institutional flexibility and creativity.

Comment. One commenter suggested that too many points may be assigned to § 179.44(c)(9) (now designated (d)(3)(i)) concerning special orientations and practical experiences, since the primary thrust of the fellowship program is not toward innovation.

Response. The Commissioner does not consider special orientations and practical experiences to constitute innovative aspects of the fellowship program, but rather as a means of enhancing the academic careers of the students.

Comment. One individual suggested that the Commissioner increase the number of points allowed for the proposed criterion in § 179.44(c)(6) concerning underrepresented minority groups.

Response. In the final regulation the Commissioner has made substantial changes in the funding criteria in § 179.44. The final criteria allow greater flexibility and responsibility for the institution. They also provide for an appropriate balance of points among the criteria consistent with the major emphases of the program.

Comment. One commenter recommended that the fellowships be allocated to the traditional universities with high quality programs so that the fellows will obtain the credentials for upward mobility in any academic circle.

Response. The statute specified that only those academic programs approved by the Commissioner are eligible for fellowship support. The criteria in § 179.44 establish priority for strong academic and professional programs which have well qualified faculty, excellent facilities and libraries, and high academic requirements. The Commissioner is concerned that fellows receive a high quality education so they will be competitive in the job market and will have opportunities for advancement. The fellowship allocation will not be limited to the traditional universities.

Comment. One commenter asked whether there would be any bias against a specific graduate or professional study program which did not have full accreditation.

Response. The final regulation does not indicate that full program accreditation is necessary for approval by the Commissioner of a graduate or professional area. However, an institution of higher education must be institutionally eligible through accreditation, or other statutory equivalents, to receive an allocation of fellowships. The Commissioner will evaluate each graduate or professional study area on the basis of the criteria in § 179.44(d).

COMMENTS OF SUBPART C—GRADUATE AND PROFESSIONAL STUDY FELLOWSHIPS—179.45 LENGTH OF FELLOWSHIPS; 179.46 ELIGIBILITY FOR FELLOWSHIPS; 179.50 AMOUNT OF THE FELLOWSHIPS; 179.51 INSTITUTIONAL ALLOWANCE; 179.52 PAYMENT PROCEDURE; AND 179.53 RECORDS AND REPORTS

Comment. The proposed regulations provide that fellowships will be awarded annually. Several commenters recommended that the fellowships be awarded for longer than one year periods.

Response. Since funds are appropriated by Congress on an annual basis, fellowships are usually awarded on an annual basis. However, if Congress continues to provide funding for the program in succeeding years, priority in the award of fellowships will be given to previous recipients who are making satisfactory progress in their course of study.

Comment. One respondent expressed concern about the obligation of an institution to continue funding the fellowships after the Office of Education support terminates.

Response. The regulation contains no requirement that an institution continue to fund the fellowships after the Office of Education support ceases. However, an institution which could provide assurance of continuing support would strengthen its demonstration of the institutional commitment to graduate education for minority students as requested in § 179.44(c)(1).

Comment. Several persons stated that the $3,900 stipend for the student is too small to attract qualified minorities, and others indicated that the $3,900 institutional allowance would not cover tuition and fees in some institutions.

Response. The statute requires the Commissioner to set the stipend and the institutional allowance rates at a level comparable to other Federally supported fellowship programs. The rates were established after reviewing the amounts paid in other Federal programs. The regulations do not prohibit an institution from awarding funds from other sources to individuals who receive a fellowship under this program.

Additional Federal funds are not available under this program to increase the institutional allowance for those institutions which charge tuition and fees in excess of $3,900. The statute provides that if tuition or fees are charged a fellow, an equal amount will be deducted from the institutional allowance.

Comment. One commenter suggested that the regulation should assure that the Internal Revenue Service will view the tuition remissions and the stipends as tax exempt income.

Response. The Internal Revenue Service tax policies for fellowship programs are beyond the scope of the authority of the Commissioner.

Comment. It was recommended that restrictions be placed on the use of the institutional allowance. The money should be used for specific activities such as educational innovation, orientation programs, and counseling. The money should not be used for construction or capital improvements.

Response. The Commissioner has determined that an institution may use its educational allowance for any purpose it chooses. The allowance is intended to cover expenses the institution incurs as a result of its participation in this program.

Comment. One person suggested that the Commissioner pay an institutional allowance equal to the amount of the tuition and fees at each institution rather than a set rate of $3,900 per fellowship.

Response. The institutional allowance is intended to cover institutional expenses incurred as a result of its participation in this program. Since it would be virtually impossible to determine that exact amount for each institution a set amount of $3,900 was established.

Comment. It was recommended that the fellows have a travel allowance for attending scientific meetings and an allowance for preparing and typing theses and dissertations. One person suggested a provision for a dependency allowance.

Response. The Commissioner recognizes the value to graduate students of attending scientific and professional meetings. He also is aware of the additional expenses incurred in the preparation of theses or dissertations and in the support of dependents. Each fellow may use the stipend in the manner that will most effectively accomplish the goal of successfully completing the graduate or professional training. In addition, the institution, at its own discretion, may use the institutional allowance to pay for such expenses as travel and thesis or dissertation preparation. No special dependency allowance is paid, however, under this program to meet the statutory requirement of consistency with other similar federally funded programs.

Comment. One commenter indicated that a State statute required the institution to charge tuition and fees to all enrolled students. He recommended that § 179.51 be amended so that the Commissioner would not deduct from the institutional allowance the amount charged to the student for tuition and fees.

Response. The statute requires the Commissioner to deduct the amount of tuition and fees which an institution charges a fellowship recipient from the amount of that institution's allowance.

Comment. One individual recommended that § 179.47 (b) and (c) not require full-time study since the urban universities have many students for whom full-time study is impractical.

Response. The Commissioner recognizes that some graduate students find it necessary to pursue their studies on a part-time basis because of financial need or personal obligations. However, the statute requires that fellowship recipients be essentially full-time students. Students are allowed to work part-time for the institution in teaching, research, or similar activities which are approved by the Commissioner.

Comment. It was recommended that § 179.52(c) be changed so that institutions would not be responsible for the collection of excess fees, and that § 179.52(d) be removed so institutions would not be responsible for the repayment of the institutional allowance if a student withdrew near the end of the term of the fellowship.

Response. The Commissioner interprets excess fees to mean those stipend funds paid to the student to which the student was not entitled according to § 179.50. The section provides that a fellow earns entitlement to the stipend on a monthly basis. Since the institution is in direct contact with the fellow it is responsible for both the disbursement of the stipends and the collection of any excess payments.

The provision in § 179.52(d) concerning the institutional allowance provides for repayment of only a pro rata share of the institutional allowance if a vacated fellowship is not reawarded. If a fellow withdraws near the end of a term, only a small percentage of the institutional allowance would be refundable to the Federal Government. Section 179.52(d) has also been amended to require the institution to refund the remaining pro rata share of the stipend for a vacated fellowship.

Comment. One commenter suggested that the regulation allow the institution to delay payment of the monthly stipend until the student has been on campus for a month or two to reduce the problems of the recovery of excess payments.

Response. Section 179.52 of the final regulation indicates that the institution is responsible for disbursing stipends to the fellows. It also indicates that the institution will determine the frequency with which payments will be made to the fellows. The only limitation is that no fewer than two payments a year shall be made.

Comment. It was suggested that the fellows not be responsible for main-

taining and submitting reports or records since it would duplicate information obtained from institutional reports.

Response. The Commissioner has

Sec.
179.47 Fellowship conditions.
179.48 Interruption of fellowship tenure.
179.49 Vacated fellowships.
179.50 Amount of the fellowship.
179.51 Institutional allowance.

(20 U.S.C. 1141 (a), (b).)

(h) "Professional study" means postbaccalaureate study leading to the advanced degree necessary for obtaining the credential which qualifies the indi-

(b) Provide an assurance that the State Commission established or designated under Section 1202 of the Act has been given an opportunity to offer

professional study programs throughout the United States,

(b) The extent to which the proposed project ranks high on the criteria set forth below, with maximum

(2) The project has met its original goals to date, or will do so as the result of constructive changes proposed by the on-going evaluation.

taining and submitting reports or records since it would duplicate information obtained from institutional reports.

Response. The Commissioner has been statutorily provided the authority to require records and reports from fellows as needed. However, the Commissioner will seek to avoid unnecessary duplication and will request reports only when there is a clearly demonstrated need for them.

NOTE.—The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance No. 13.580; Graduate and Professional Study Fellowships and Institutional Grants.)

Dated: January 18, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

Approved: February 23, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

Title 45 of the Code of Federal Regulations is amended as follows:

1. Part 100a is amended by adding a new paragraph (a)(41) to § 100a.10. As revised, § 100a.10 reads as follows:

§ 100a.10 Scope.

(a) *Programs.* Unless inconsistent with a statute or regulation, the regulations in this part apply to the following programs;

* * * * *

(41) Grants to institutions for graduate and professional study under Title IX-A of the Higher Education Act of 1965, as amended (20 U.S.C. 1134 et seq.).

2. A new Part 179 is added, to read as follows:

Subpart A—General Provisions

Sec.
179.1 Introduction.
179.2 Purpose.
179.3 Definitions.
179.4 Review of applications.

Subpart B—Institutional Grants

179.21 Purpose.
179.22 Eligible institutions.
179.23 Application contents
179.24 Authorized activities.
179.25 Grant limitations.
179.26 Criteria for institutional grants.
179.27 Duration of program assistance.
179.28 General provisions regulations.

Subpart C—Graduate and Professional Fellowship Program

179.41 Purpose.
179.42 Application contents.
179.43 Fellowship award procedures.
179.44 Criteria for allocating fellowships.
179.45 Length of fellowships.
179.46 Eligibility for fellowships.
179.47 Fellowship conditions.
179.48 Interruption of fellowship tenure.
179.49 Vacated fellowships.
179.50 Amount of the fellowship.
179.51 Institutional allowance.
179.52 Payment procedures.
179.53 Records and reports.

AUTHORITY: Title IX (Parts A and B) of the Higher Education Act of 1965, secs. 901-904; 921-925, as amended (20 U.S.C. 1134-1134b, 1134d-1134h), unless otherwise noted.

Subpart A—General Provisions

§ 179.1 Introduction.

These regulations govern the award of institutional grants for graduate and professional programs under Title IX-A of the Higher Education Act, as amended, and of fellowships for graduate and professional programs under Title IX-B of the Higher Education Act, as amended.

(920 U.S.C. 1134-1134b; 1134d-1134h.)

NOTE.—Institutional and fellowship awards for public service programs under title IX-A and Title IX-C are governed by 45 CFR Part 194.

§ 179.2 Purpose.

The Commissioner is authorized:

(a) To make awards to institutions of higher education to strengthen, improve, and expand the quality of graduate and professional programs leading to an advanced degree (other than a medical degree); and

(b) To award fellowships to be used in approved graduate or professional programs at institutions of higher education.

(20 U.S.C. 1134-1134b; 1134d-1134h.)

§ 179.3 Definitions.

As used in this part:

(a) "Academic career beyond high school" means a career at some level of postsecondary education as a teacher, administrator, or educational specialist.

(b) "Act" means the Higher Education Act, as amended.

(c) "Combination of institutions of higher education" means a group of institutions of higher education that have entered into a cooperative arrangement for the purpose of carrying out projects under Subparts B and C of this part.

(d) "Fellow" means a fellowship recipient.

(e) "Fellowship" means an award by the Commissioner to a person for graduate or professional study under Title IX-B of the Act.

(f) "Graduate study" means study leading to a degree of doctor of philosophy, doctor of arts, or an equivalent degree which prepares the individual for an academic or professional career.

(g) "Institution" means an institution of higher education as defined in section 1201 (a) and (b) of the Act.

(20 U.S.C. 1141 (a), (b).)

(h) "Professional study" means post-baccalaureate study leading to the advanced degree necessary for obtaining the credential which qualifies the individual for a professional career.

(i) "Project" means the activity or a combination of activities proposed and carried out under an institutional grant.

(j) "Title IX-A" means Title IX-A of the Act, which authorizes grants for institutional support at both the graduate and undergraduate levels related to graduate and professional study programs.

(k) "Title IX-B" means Title IX-B of the Act, which authorizes fellowships for graduate and professional study in approved programs in institutions of higher education.

(20 U.S.C. 1134; 1134d.)

§ 179.4 Review of applications.

(a) Applications for institutional grants for graduate and professional study programs under Title IX-A will be reviewed in accordance with the criteria in § 179.26.

(b) Applications for allocations of fellowships to approved programs under Title IX-B will be reviewed in accordance with the criteria in § 179.44.

(c) Applications will be received and reviewed only in response to a Notice of Closing Date which the Commissioner publishes in the FEDERAL REGISTER.

(20 U.S.C. 1134-1134b; 1134d-1134h.)

Subpart B—Institutional Grants

§ 179.21 Purpose.

The Commissioner makes grants to institutions of higher education under Title IX-A to strengthen and improve graduate and professional programs leading to advanced degrees (other than medical degrees). The Commissioner also makes grants to strengthen undergraduate programs when he determines that strengthened undergraduate programs will contribute to the purposes of Title IX-A.

(20 U.S.C. 1134(a)(1) and (3).)

§ 179.22 Eligible institutions.

Only institutions or combinations of institutions of higher education as defined in § 179.3 are eligible to receive grants under this subpart.

(20 U.S.C. 1134a.)

§ 179.23 Application contents.

An application, under this subpart must:

(a) Describe a graduate or professional study project and propose activities for conducting the project which are likely to make substantial progress towards achieving the program goals;

(b) Provide an assurance that the State Commission established or designated under Section 1202 of the Act has been given an opportunity to offer recommendations on the application both to the institution and to the Commissioner; and

(c) Include information which enables the Commissioner to evaluate the project on the basis of the criteria in § 179.26.

(20 U.S.C. 1134a.)

§ 179.24 Authorized activities.

(a) Funds may be used for activities:

(1) To strengthen, expand, and improve academic programs of graduate and professional education; and

(2) To strengthen undergraduate programs when the Commissioner determines that strengthened undergraduate programs will contribute to the purposes of Title IX-A.

(b) Eligible activities are:

(1) Faculty improvement;

(2) Expansion of graduate and professional programs of study;

(3) Acquisition of appropriate instructional equipment and materials;

(4) Cooperative arrangements among graduate and professional schools;

(5) Strengthening graudate and professional school administration;

(6) Development of proposed graduate and professional programs; and

(7) Needed innovation in graduate and professional programs.

(20 U.S.C. 1134b.)

§ 179.25 Grant limitations.

No funds provided under this subpart may be used for:

(a) Payment in excess of 66⅔ percent of the total cost of the project or activity described in the institution's application;

(b) Payment in excess of 50 percent of the cost of the purchase or rental of books, audiovisual aids, scientific apparatus, or other materials or equipment, less any percent of that cost, as determined by the Commissioner, which is paid from sums received (other than those under this part) as Federal financial assistance;

(c) Sectarian instruction or religious worship, or primarily in connection with any part of the program of a school or department of divinity;

(d) Construction or renovation of buildings, or the cost of leasing space;

(e) Fellowship assistance to students.

(20 U.S.C. 1134, 1134b(c).)

§ 179.26 Criteria for institutional grants.

The Commissioner shall take into account the following considerations when evaluating applications for institutional grants:

(a) The extent to which the funding helps to provide, as far as practicable, a wide distribution of graduate and professional study programs throughout the United States,

(b) The extent to which the proposed project ranks high on the criteria set forth below, with maximum point scores for each criterion as shown. The criteria replace the general criteria for direct project grant and contract programs contained in 45 CFR 100a.26(b).

(1) The project proposes activities which would assist in providing graduate and professional education to persons with varied backgrounds and experiences including, but not limited to, members of minority groups which are underrepresented in colleges and universities and in the academic and professional career fields to which the education leads (20);

(2) Procedures are incorporated in the project scheme to evaluate its effectiveness (5);

(3) The estimated budget is sufficient in relation to the project objectives and is adequate to support its successful completion (10);

(4) The project is consistent with State, regional, or national priorities (10);

(5) The project includes arrangements related to the thrust of the institution's program. These may be arrangements involving undergraduate, professional, or other graduate units within the institution, or arrangements with outside institutions or agencies (10);

(6) The educational and other related experiences of the personnel conducting the project qualify them to participate, and the director or coordinator is given clear responsibility, ample time, and sufficient authority (15);

(7) The project provides activities which clearly enhance the institution's program emphasis or are innovative (5); and

(8) The overall graduate or professional academic program of the institution is strong enough to assure the success of the project (12).

(20 U.S.C. 1134b.)

§ 179.27 Duration of program assistance.

(a) Grant awards made pursuant to this subpart will be for a period of one year.

(b) A grant application may be filed proposing a project with a duration in excess of one year. This application must include an explanation of the need for multi-year support and the plans of the institution to assume in each subsequent year an increasing percentage of the project costs.

(c) Continuation grants are subject to availability of funds and, are made upon a determination by the Commissioner that:

(1) The grantee has complied with the grant terms and conditions, the Act, and the regulation;

(2) The project has met its original goals to date, or will do so as the result of constructive changes proposed by the on-going evaluation.

(20 U.S.C. 1134.)

§ 179.28 General provisions regulations.

Assistance under Title IX-A for institutional grants for graduate and professional study projects is subject to provisions contained in Subchapter A of this chapter (relating to fiscal, administrative, property management, and other matters).

(20 U.S.C. 1134-1134b.)

Subpart C—Graduate and Professional Fellowship Program

§ 179.41 Purpose.

The purpose of this program is to award fellowships for study leading to an advanced degree in a graduate or professional study program approved by the Commissioner.

(20 U.S.C. 1134e and 1134f.)

§ 179.42 Application contents.

An application under this subpart must include the following:

(a) A description of the institution's plan for the administration and operation of the fellowship program based on the criteria in § 179.44(c);

(b) A description of no more than five proposed academic areas of graduate or professional study, listed in clear priority order, based on the criteria in § 179.44(d), in which the institution plans to recommend students for the award of fellowships (an academic area may be a professional school, a single discipline or department, or a similar organizational unit which offers a graduate program); and

(c) If the application also includes a proposal for a project under subpart B, a description of the relationship between the project and the proposed allocation of fellowships.

(20 U.S.C. 1134f.)

§ 179.43 Fellowship award procedures.

(a) An institution of higher education submits an application which responds to the criteria set out in § 179.44 and identifies up to five graduate or professional academic areas in which fellows would receive training.

(b) The Commissioner approves an application which ranks high on the criteria and meets the purposes of Title IX-B of the Act, and allocates fellowships to the institution for use in any academic or professional study area listed in the application as approved.

(c) An institution receiving an allocation of fellowships (usually 5-15) recommends eligible students to the Commissioner for the award of fellowships in a graduate or professional study

area contained in its approved application.

(20 U.S.C. 1134e.)

§ 179.44 Criteria for allocating fellowships to institutions of higher education.

The Commissioner evaluates applications for fellowship allocations in accordance with the following considerations:

(a) Whether a request for fellowships is for continuation of support for qualified students who are maintaining satisfactory proficiency as determined by the institution and who were awarded fellowships under this program in a previous year (such a request to have priority over request for new fellowships);

(b) Whether funding the application will assist in attaining a wide geographical distribution of graduate and professional study programs throughout the United States;

(c) The extent to which the application for an allocation of fellowships ranks high, based on the maximum point scores as shown, on the following criteria:

(1) the institution presents persuasive evidence documenting the strength of its previous or current commitment to meet the needs of students it proposes to serve from minority groups which have been traditionally underrepresented in colleges or universites and academic and professional career fields (25);

(2) The institution's plan to designate a coordinator of the fellowship program who is responsible for the overall administration of the program (as distinct from departmental or other officials), and who has ample time, clear responsibilities, and sufficient authority to coordinate the appropriate institutional or departmental supportive services required to assist the fellows in overcoming personal, academic, financial, and similar barriers to completing their courses of study (15);

(3) The institution describes a recruitment plan which includes:

(i) An active and aggressive effort to identify and attract qualified individuals,

(ii) Consideration to the need to prepare a larger number of individuals from minority groups, especially from among such groups which have been traditionally underrepresented in colleges and universities and academic and professional career fields, and

(iii) Opportunities for persons who have demonstrated their competence outside of higher education for at least two years subsequent to the completion of their undergraduate studies and for those individuals who have varied backgrounds and experiences in other than academic settings (33);

(4) The institution proposes adequate arrangements to assign the fellowships to the approved graduate or professional study areas which will result in a net increase of students in a given area and will not result in a decrease in the amount of the institution's own financial support available for other such students in such programs (15);

(5) The institution outlines its plans to measure the effectiveness of the fellowship program, distinguishing between the evaluation of the overall efforts made by the institution (as delineated in the above four criteria), and the more specific efforts made by each of the departments or professional areas of study that receive fellowships in accordance with the five criteria listed below in paragraph (d) of this section (12);

(d) The extent to which the institution has one or more, up to maximum of five, approved graduate or professional study areas each of which is described and ranks high based on the maximum point scores as shown on the following criteria:

(1) Evidence is provided which demonstrates that one or more minority groups which the institution proposes to serve have been traditionally underrepresented in the proposed graduate or professional study area (20);

(2) Evidence is provided which demonstrates that there is a need for more highly trained individuals in the proposed graduate or professional study area (15);

(3) Satisfactory assurances are given for each proposed study area that—

(i) Special orientations and practical experiences designed to prepare fellowship recipients for academic careers or for other professional careers of importance to the national interest will be provided (12),

(ii) The background, education, research interests, and relevant experiences of the faculty qualify them to conduct a strong program of high quality (18);

(iii) The program components such as course offerings, facilities, equipment, and library resources are adequate and available to support the particular program (15).

(20 U.S.C. 1134f.)

§ 179.45 Length of fellowships.

(a) Fellowship awards are for a period not in excess of twelve months.

(b) Fellows who maintain satisfactory proficiency in their course of study may have their fellowships renewed subject to the availability of funds, but no fellow may receive more than 36 months of support except as noted in paragraph (c) of this section.

(c) The Commissioner may award a fellowship for an additional 12 month period beyond the initial 36 months in special circumstances when the Commissioner determines that the extension would serve the purposes of the fellowship program.

(20 U.S.C. 1134e.)

§ 179.46 Eligibility for fellowships.

A recipient of a fellowship under this part must:

(a) Have been accepted or enrolled for post-baccalaureate study leading to an advanced degree of doctor of philosophy, doctor of arts, or an equivalent degree, or a post-baccalaureate professional degree necessary for professional practice in a given field, at an institution of higher education that has received an allocation of fellowship;

(b) Plan to pursue an academic career or some other professional career of importance to the national interest as determined by the Commissioner; and

(c) Be a national of the United States or be in the United States for other than a temporary purpose and intend to become a permanent resident, or be a permanent resident of the Trust Territories of the Pacific Islands.

(20 U.S.C. 1134f(a).)

§ 179.47 Fellowship conditions.

In order to continue to receive payments under a fellowship, a fellow must:

(a) Maintain satisfactory proficiency as determined by the institution;

(b) Devote essentially full time to study or research in the field in which the fellowship was awarded; and

(c) Not engage in gainful employment during the period of the fellowship, except on a part-time basis in teaching, research, or similar activities approved by the Commissioner.

(20 U.S.C. 1134h.)

§ 179.48 Interruption of fellowship tenure.

(a) A fellow may take a leave of absence for a period up to 12 months for the purpose of work, travel, or independent study away from the campus, if:

(1) The leave of absence is approved by the institution at which the fellow is enrolled and by the Commissioner; and

(2) The work, travel, or independent study is supportive of the fellow's academic program.

(b) The Commissioner makes no payments to the fellow or the institution during this period.

(20 U.S.C. 1134e(c).)

§ 179.49 Vacated fellowships.

(a) If a fellowship is vacated prior to the end of a period for which it was awarded, the institution to which the fellowship is allocated may recommend to the Commissioner another individual to receive the fellowship. This individual must meet all the eligibility requirements and be chosen in accordance with the institution's fellowship award procedures.

(b) The duration of the reawarded fellowship shall be for the completion of the period of any award year remaining in the vacated fellowship.

(c) A fellow awarded a vacated fellowship may apply for renewal of the fellowship in the same manner and to the same extent as the original fellow.

(20 U.S.C. 1134e (a) and (b).)

§ 179.50 Amount of the fellowship.

(a) The maximum stipend to any fellow is $3,900 for a 12 month year payable at the monthly rate of $325 for any period the fellow is enrolled in the program.

(b) The fellow learns entitlement to the stipend on a monthly basis. A fellow who is enrolled in the program for less than 12 months receives a pro rata share of the stipend. A fellow who is enrolled in the program for the entire academic year (including summer sessions) shall be considered to be enrolled in the program for the full 12 months.

(20 U.S.C. 1134g(a); 1134h(a).)

§ 179.51 Institutional allowance.

(a) The Commissioner pays an institutional allowance to an institution of higher education that is equal to the total sum of stipends paid to fellows attending that institution.

(b) If the institution charges a fellow for tuition or nonrefundable fees which are required by the institution as part of the fellow's instructional program, the Commissioner will deduct that amount from the institutional allowance.

(c) Although the institutional allowance accrues on a monthly basis, the institution is entitled to claim one-half of this amount as soon as the fellow has been enrolled for two weeks. It is entitled to claim the remaining amount when the fellow has been enrolled for six and one-half months.

(20 U.S.C. 1134g(b).)

§ 179.52 Payment procedures.

(a) The Commissioner pays to the institution the fellowship stipends and the institutional allowances. The institution is responsible for disbursing stipends to the fellows.

(b) The institution determines the frequency with which payments of the stipend will be made to fellows, except that no fewer than two payments a year shall be made.

(c) If a fellow, for any reason, fails to complete the period of study for which any payment under the fellowship has been made, the institution is responsible for recovery of excess payments.

(d) If a vacated fellowship is not reawarded to another qualified student, the institution must refund to the Federal government the remaining pro rata share of the institutional allowance and the stipends.

(20 U.S.C. 1134g(a); 1134h(a).)

§ 179.53 Records and reports.

(a) Each institution of higher education which receives an allocation of fellowships under this part shall make such reports as are required by 45 CFR 100a.432.

(b) Each individual who is awarded a fellowship shall keep such records and submit such reports as are required by the Commissioner. Such reports shall include a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Commissioner, stating that the fellow is making satisfactory progress in and is devoting essentially full time to the program for which the fellowship was awarded. Such certification from the institution must indicate that the fellow is not engaging in gainful employment other than part-time employment (approved by the institution) in teaching, research, or similar activities.

(20 U.S.C. 1134h.)

[FR Doc. 78-5354 Filed 3-3-78; 8:45 am]

MONDAY, MARCH 6, 1978
PART III

federal register

MONDAY, MARCH 6, 1978
PART III

ENVIRONMENTAL PROTECTION AGENCY

TOXIC SUBSTANCES CONTROL

Inventory Reporting Regulations; Supplemental Clarification; Notice of Meetings

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER R—TOXIC SUBSTANCES CONTROL

[FRL 863-2]

PART 710—INVENTORY REPORTING REGULATIONS

Supplemental Clarification and Notice of Meetings

AGENCY: Environmental Protection Agency.

ACTION: Supplemental clarification and notice of meetings.

SUMMARY: This supplement clarifies certain aspects of the inventory reporting regulations promulgated on December 23, 1977 in the FEDERAL REGISTER (42 FR 64572). Specifically, this supplement extends the reporting period for voluntary reporting of trade- marked products on Form D until July 15, 1978, and allows persons to make certain modifications to the certification statement on Form D. In addition, this supplement clarifies several aspects of the reporting requirements in response to questions EPA has received over the past several weeks. Finally, this supplement announces several meetings in U.S. cities during the weeks of March 6 and March 13. These meetings are open to manufacturers, importers and any other persons interested in these regulations.

DATES: This supplement provides that persons who voluntarily report trademarked products have until July 15, 1978 to submit Form D. The deadline for manufacturers and importers of bulk chemical substances to submit Forms A, B, and C is May 1, 1978 for the initial inventory, as promulgated in the final regulations.

For the dates and locations of the meetings see below.

FOR FURTHER INFORMATION CONTACT:

Mr. John B. Ritch, Jr., Director, Office of Industry Assistance, Office of Toxic Substances (TS-788), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-755-0535. To obtain reporting forms and instructions, call this toll-free number 800-424-9065. In Washington, D.C., please call 554-1404.

REPORTING BY PROCESSORS

As discussed in Comment 28 (42 FR 64584), § 710.3(c) provides that processors are not subject to the initial inventory. Accordingly persons who solely process chemical substance should not report those substances during the initial reporting period. For example, if a person buys a substance for use as a raw material in the manufacture of other chemical substances or mixtures, he should not report the purchased chemical substance during the initial inventory reporting period between January 1, 1978 and May 1, 1978. He is considered a processor of that purchased substance. Only manufacturers and importers should report during the initial reporting period. EPA will not process substances reported by processors for inclusion on the initial inventory. Processors may report any chemical substances not included on the initial inventory during a seven-month special reporting period beginning with the publication of the initial inventory. EPA will then publish a revised inventory based on these reports from processors. (See preamble to the regulations 42 FR 64573).

FORM D: VOLUNTARY REPORTING OF TRADEMARKS

I. EXTENSION OF FORM D REPORTING PERIOD

Section 710.6(a) of the regulations provides that all reports for the initial inventory must be submitted by May 1, 1978. Several manufacturers have requested an extension beyond May 1, 1978 for reporting trademarked products on Form D. In many cases, manufacturers will have to exchange letters with their suppliers in order to cerify that all the reportable component chemical substances have been reported for the inventory. Extending the reporting period for Form D will enable persons to concentrate on reporting for the inventory on Forms A, B, and C until May 1, 1978. After this reporting period, they could exchange letters of certification, if necessary, and submit Form D reports.

Accordingly, EPA has extended the reporting period for Form D only to July 15, 1978. The list of trademarked products reported on Form D will be published at the same time as the initial inventory is published.

II. ELIGIBILITY TO REPORT PRODUCTS ON FORM D

Many manufacturers of trademarked products are processors only and do not manufacture the component chemical substances. Because the initial reporting period does not apply to processors, many are uncertain whether thay are eligible to report trademarks on Form D during the initial reporting period.

This notice clarifies that any person who applies a trademark to a chemical product is eligible to report on Form D if he can sign the certification statement on the Form. Accordingly, manufacturers of trademarked products may report those products on Form D even though they are processing, not manufacturing, some or all of the component chemical substances.

III. CERTIFICATION STATEMENT

The certification statement on Form D as published provides as follows "I hereby certify that, to the best of my knowledge and belief, each trademark listed below identifies a product which I manufacture or import and that all component chemical substances that are permitted to be reported for the inventory (40 CFR Part 710) have been reported either by me or by others." Many manufacturers have recommended that EPA amend the certification statement so that it reads as follows "I hereby certify that, to the best of my knowledge and belief, each trademark listed below identifies a product which I manufacture or import and that all component chemical substances that are permitted to be reported for the inventory (40 CFR Part 710) have been reported either by me or by others, or *will be reported by me as a processor of the substances during the revised inventory reporting period*".

EPA agrees with this modification. Accordingly, any person who submits Form D may modify this statement to include "or will be reported by me as a processor of the substance during the revised inventory reporting period". Any person who so modifies the statement must of course report any chemical substance not included on the initial inventory during the revised inventory reporting period. No other changes may be made to this certification statement and no other certification statement (Form A, B, or C) may be amended.

DOCUMENTS TO SUPPORT REPORTING

Section 710.1(c) of the inventory reporting regulations provides that each person who reports under the regulations must maintain records that document reported information and, in accordance with the Act permit access to, and the copying of records, by a duly authorized representative of the EPA Administrator. The substance of this provision is also included in the certification statements. EPA has received several requests to clarify this provision.

The main purpose of the provision is to enable EPA to bring enforcement actions against persons who falsify reports. For example, EPA would expect a manufacturer who reports a chemical substance for the inventory to be able to show that he had manufactured the chemical substance for a commercial purpose since January 1, 1975. Before signing the certification statement, a manufacturer should be able to demonstrate that each of the reported chemical substances is eligible for inclusion on the inventory in accordance with the regulations.

IV. SUBSTANCES PRODUCED IN QUANTITIES OF LESS THAN 1,000 POUNDS

For chemical substances manufactured in quantities of less than 1,000 pounds, the mere fact that a manufacturer has sold the chemical substance for general commercial use is insufficient evidence that it is used for a purpose other than for research and development. If a manufacturer does not have independent knowledge that the chemical substance was used for a commercial purpose other than for research and development, he could secure a letter from a customer or other person, for example. The letter would certify that the person is using the chemical substance for purposes other than for research and development.

V. HOW LONG DOCUMENTS MUST BE KEPT

Several manufacturers have asked how long they must keep the documents required under § 710.1(c) as evidence of compliance with the inventory reporting requirements. EPA is considering amending the regulations to provide that these documents should be kept for five (5) years as of January 1, 1978.

VI. CONFIDENTIALITY OF DOCUMENTS

Some manufacturers have expressed concern whether the documents that EPA may inspect will be held confidential. EPA will treat as confidential that information a manufacturer claims as confidential in accordance with the procedures in 40 CFR Part 2 Subpart B (41 FR 36902). Even if a manufacturer does not claim the broad production range required for Form A, B, or C as confidential, he may claim the specific production obtained during a plant inspection as confidential.

CONTRACTOR OR TOLL MANUFACTURERS

VIII. CONTRACTOR OR TOLL MANUFACTURER

Many firms manufacture chemical substances under contract for other firms who are responsible for the commercial distribution of the substance and who may purchase the raw materials. Irrespective of what company actually provides the resources for the manufacture of the chemical substance, the corporation or company which is actually in charge at the plant site when the substance is being manufactured is responsible for reporting that substance. For example, if Company A contracts with Company B to provide facilities, labor, and raw materials necessary to manufacture a substance, and Company A sends his supervisor to Company B to be in charge of the actual manufacture of the substance, Company A would be considered the manufacturer and responsible for reporting for the inventory since Company A is actually in charge at the plant site when the substance is being manufactured. (See also Comment 17, 42 FR 64582).

IMPORTERS

IX. REPORTING BY BUSINESS ADDRESS

Many importers have asked what address they must provide on the inventory reporting form. Section 710.2(w) and Comment 19 (42 FR 64582) in the December 23, 1977 regulations make clear that an importer need not report by plant site or port of entry. Accordingly, an importer may report all imported chemical substances using his corporate headquarters address.

X. CALCULATION OF TOTAL ANNUAL SALES IN DETERMINING "SMALL MANUFACTURERS OR IMPORTERS"

As provided in § 710.2(x), "small manufacturer or importer" means a manufacturer or importer whose total annual sales is less than "$5 million, based on the manufacturer's or importer's latest complete fiscal year as of January 1, 1978 * * *. In the case of the company which is owned or controlled by another company, total annual sales shall be based on the total annual sales of the owned or controlled company, the parent company, and all companies owned or controlled by the parent company taken together." For purposes of these regulations, a company is "owned or controlled" by another if the parent company owns or controls fifty percent or more of the company's voting stock. In the case of an importer which is owned by a foreign company, the importer must determine whether he is a "small importer" based on the total annual sales of the importing company, the foreign parent company, and all companies owned or controlled by the foreign parent company.

XI. IMPORT FOR A COMMERCIAL PURPOSE

Many importers have asked whether if a firm imports a chemical substance into the United States but does not have a customer for that chemical substance, the importer can report the chemical substance for the inventory.

In order to be eligible for the inventory, an imported chemical substance must be "imported for a commercial purpose". Physical importation into the United States does not alone constitute importation for a commercial purpose. The purpose for which the chemical substance is imported is determinative. Any person who reports a chemical substance for the inventory must be able to document that the substance has been imported for a commercial purpose. See § 710.2(p). A chemical substance can be imported for a commercial purpose if the importer does not yet have a customer.

XII. REPORTING OF ARTICLES

Persons who import chemical substances as part of an article are permitted, though not required, to report chemical substances for both the initial and revised inventory (§ 710.3(a)(3); § 710.3(b)(1)(ii)). EPA has postponed the final decision on whether importers of chemical substances as part of articles will be required to submit premanufacture notification for those substances. (See Comment 21, 42 FR 64582.) The Agency's current thinking is to require premanufacture notification on a selected basis where there is particular concern, i.e., either for certain articles or classes of articles or classes of chemical substances which comprise articles.

XIII. REPORTING BY FOREIGN MANUFACTURERS

Several representatives of foreign manufacturers have asked whether foreign manufacturers could report chemical substances exported to the United States on Forms A and B directly to EPA. Comment 18 (42 FR 64582) explains that § 710.5(e) of the regulations permits an importer to authorize a foreign manufacturer or agent to report on behalf of the importer. Because the jurisdiction of TSCA reaches the importer and not the foreign manufacturer, EPA must hold the importer liable.

Foreign manufacturers may not report directly to EPA unless the importer liable for reporting those chemical substances signs the certification statement in Block I of the form and reports the importer's name and address in Block III of the Form. If the reported information is not confidential, the foreign manufacturer may fill out Forms A and B, as appropriate, and send them to the U.S. importing firm to sign before submitting to EPA. In the case of information that is a trade secret, importers and foreign manufacturers must use Form C. The instruction book, "Reporting for the Chemical Substances Inventory," sets forth special procedures that importers must use if a foreign supplier is reporting the chemical identity directly to EPA on Form C. (See page 53 of the instruction book.)

INTERMEDIATES

XIV. COMMENT 68, 42 FR 64588

In Comment 68 of the December 23, 1977 FEDERAL REGISTER, EPA addressed reporting of an "intermediate." Specifically, the response to the Comment reads "a chemical substance may be an intermediate and also appear later as a byproduct or as an impurity. In such circumstances, the substance should be reported for the inventory." This appeared to contradict § 710.4(b) which excludes from the inventory byproducts which have no commercial purpose and impurities.

A chemical substance which is an intermediate (as defined at § 710.2(n)) should be reported for the inventory, regardless of whether it is also a by-product or an impurity. If a chemical substance is manufactured or imported for commercial purposes as defined in § 710.2(p), it is subject to the regulations as provided in § 710.4(a). Accordingly, that substance should be included on the inventory. In such cases, the fact that it may be an impurity or by-product as well, in no way makes it ineligible or excluded from the inventory.

XV. DEFINITION OF INTERMEDIATE

In § 710.2(m) the term "intermediate" is defined in part as any chemical substance "intentionally removed from the equipment in which it is manufactured." This phrase is clarified in a note to include "the reaction vessel in which the substance was manufactured and other equipment which is strictly ancillary to the reaction vessel, and any other equipment through which the chemical may flow during a continuous flow process, but does not include tanks or other vessels in which the chemical substance is stored after its manufacture."

Some manufacturers have questioned whether "storage" for a period of two or three hours is still considered to be part of a "continuous flow process." Without a complete description of the manufacturing operation, it is difficult to give a precise answer. In general, any chemical substances which are held temporarily in an otherwise continuous flow process for purposes that are clearly related to the necessity of the manufacturing process—such as heating, cooling, filtration or reaction—are not considered reportable, while those that are held principally for purposes of storage would be considered reportable. If manufacturers have further questions, they should consult EPA individually.

Naturally Occurring Substances

XVI. COMMENT 72, 42 FR 64589

Several questions have arisen concerning the response to Comment 72. It needs to be amended in two respects. First, the Comment States that "natural rubber" which is formed after chemical coagulants are added to the latex are not in the category of "naturally occurring substances," and thus, that importers of "natural rubber" must report under the regulations. EPA recognizes that such a position would be inconsistent with § 710.4(d) which excludes from the inventory any chemical substance which results from a chemical reaction which occurs when a coagulant functions as intended. Accordingly, coagulated natural latex will be considered for inventory reporting purposes to be the same as natural latex without a coagulant. Importers do not need to report the "natural rubber"; it will be treated under the category of "naturally occurring substances."

Comment 72 also refers to "calcined clays," which were identified as "calcinated clays."

Excluded Substances

XVII. SUBSTANCES REGULATED UNDER FFDCA

Some manufacturers have asked whether they should report animal foods and food additives for the inventory. Animal foods and food additives are included within the meaning of "food and food additives" under the Federal Food, Drug, and Cosmetic Act (FFDCA). Chemical substances which are manufactured solely for use as foods and food additives are excluded from the inventory and must not be reported. (See §§ 710.2(h) and 710.4(c)(1); and Comments 37, 40, 41, and 42.)

Chemical substances which are manufactured for both food and non-food purposes should be reported for the inventory (unless they are "naturally-occurring chemical substances" as defined in § 710.4(b)) (See Comment 37). In reporting the production volume of a chemical substance which is manufactured both for a TSCA purpose(s) as well as an excluded purpose(s), manufacturers should report only the volume which is manufactured for non-exempt use(s).

Reporting Forms

XVIII. CORPORATE NAME AND AUTHORIZED OFFICIAL

Several persons have asked whether the name of a subsidiary or its controlling corporation should be used for the "corporate name" in Block II of the report forms. Who should sign the Certification Statement, an official of the subsidiary or the controlling corporation? Will EPA accept a cover letter with the certification statement written to apply to all attached forms?

The name of the domestic corporation's "top domestic tier" (i.e., the parent domestic controlling corporation) should be reported in Block II. Do not enter the name of any non-domestic corporation in Block II. Any person authorized by the subsidiary may sign the certification statement. Each form submitted must be separately signed. EPA will not accept a cover letter in lieu of signatures on each form.

XIX. POSTCARD ADDRESS

The report forms are designed so that the address entered in Block III will carbon copy onto the attached postcard. This postcard will be returned to that address to verify EPA's receipt of the form. The postcard may be sent to an address other than that entered in Block III.

To address the postcard with an alternative address, remove the carbon paper which is interleaved between the Submitting Company Copy and the postcard before completing Block III of the Form. On the postcard, enter the address to which the card should be sent. Do not, however, detach the postcard from the rest of the form to insert separately in a typewriter, for example. The postcard must remain attached to the forms.

XX. REPORT 1977 PRODUCTION ONLY

If a reported chemical substance was not manufactured during 1977 but was manufactured in 1976, several persons have asked whether a manufacturer or importer may voluntarily report the 1976 production range (i.e., N2 for 1976).

Manufacturers and importers should report only the production for calendar year 1977. They should enter only "N" in the production range column if they did not manufacture or import the substance during 1977. EPA does not plan to record 1975, 1976, or 1978 production ranges which are voluntarily reported. Production range entries such as "N2" could be easily misinterpreted to mean "X2" (i.e., a production range reported by a small manufacturer).

XXI. CLARIFICATION OF § 710.4(d)(7)

Section 710.4(d)(7)(i) of the December 23, 1977, regulations excludes from the inventory chemical substances which result from a chemical reaction that occurs when a number of specific classes of materials function as intended. This provision lists many additives, such as stabilizers, anti-oxidants, surfactants, corrosion inhibitors, and chelating agents. Paragraph (d)(7)(ii) of § 710.4 excludes from the inventory chemical substances formed when other additives, intended solely to impart specific physico-chemical characteristics, function as intended.

Consistent with paragraph (d)(7)(ii), the chemical substance formed when cotton is bleached would be excluded. The bleach is intended solely to change a specific physico-chemical characteristic of the cotton, and not to make a major compositional change which alters its general character. In contrast, the reaction of sodium hydroxide with hydrochloric acid, forming sodium chloride results in a chemical substance which differs in many respects from its basic and acidic precursors. Sodium chloride, thus formed, would not be excluded from the inventory under § 710.4(d)(7) even if its manufacturers solely intended to achieve a specific physico-chemical characteristic of the salt. Similarly, the sodium salt of a fatty acid, formed by saponification of a triglyceride is reportable, and is not excluded from the inventory by this section. The two examples in this paragraph are applicable when the intent is to manufacture the chemical substances themselves for commercial purposes and not when the chemical substances are formed incidental to the use of additives as described in § 710.4(d)(7).

XXII. SUBSTANCES MANUFACTURED FROM UNKNOWN REACTANTS

The following problem has been raised. Manufacturer B buys substance X from Manufacturer A. B does not know what X is. B produces substance Y using X as a raw material. B cannot name Y because B does not know what X is. B is able to describe Y in terms of its process of manufacture, including a description of the precursor X. B would have to report Y on Form C. How should B report Y?

B should ask A to identify X. If A refuses to identify X, B would describe the process by which it makes Y on Form C. In describing X, B would have to state everything that B knows about X including the identity of A, the person from whom B purchases the substance X; any trade names or identities under which B knows X; any chemical identity information B knows about X; and the statement that A refuses to divulge the identity of X.

In order to determine the identity of Y, EPA would contact A using the information provided by B. EPA would ask A to identify X after informing A of the purpose for which the request was made. Knowing the identification of X, EPA would further identify Y and place the specific identity of Y on the inventory (unless covered by a claim that the identity of Y is confidential for purposes of the inventory; and unless the identity of X is confidential for purposes of the inventory and this identity needs to be revealed in describing Y.)

EPA would not tell B the identity of X if that is considered confidential by A (either because the identity is confidential for purposes of the inventory or because the link between X and A is confidential). EPA would simply place the identity of Y on the inventory and inform B that this action had been taken. EPA would not tell B the identity of Y that was derived from the information provided by A.

It might be possible for B to later determine the identity of X by deciding which identity on the inventory is that of Y and by reverse-engineering the substance to surmise the identity of X. This would mean that in some situations B would be able to surmise the identity of X. If manufacturers are concerned about this, one possible solution would be for A to disclose the identity of X to B under some type of contractual confidentiality agreement. In this way A would be protected and B would be able to describe Y more precisely for reporting to EPA.

Confidentiality

XXIII. FORM C: CONFIDENTIALITY CLAIMS

Many manufacturers have raised questions concerning the meaning of the 11 questions asked on pages 57 and 58 of the instruction book, "Reporting for the Chemical Substance Inventory" (December 1977). These questions address substantiation of a claim that the specific chemical identity of the chemical substance reported on Form C is confidential. The questions are designed to obtain information from the manufacturer that will enable the EPA General Counsel to make a final confidentiality determination under EPA's regulations in 40 CFR Part 2 Subpart B (41 FR 36902).

EPA must make individual decisions upon each claim of confidentiality. The confidentiality determinations made by the General Counsel will be the final EPA decisions on the claims of confidentiality. Consequently, if EPA receives Freedom of Information Act (FOIA) requests for the specific identities of confidential chemical substances, these determinations will constitute EPA's final denial of those requests. Since a requester who has been denied information under FOIA may sue EPA, EPA must make the best case possible to support a denial based on confidentiality. The information supplied by the manufacturer will be the basis of the decision made by EPA and will be used to support the decision. Therefore, it is in the manufacturer's best interest to answer all these questions in detail and as specifically as possible.

EPA is approaching this problem of confidential identities with a presumption that each chemical identity should appear on the inventory by name unless there is a good case for keeping it off the inventory. The questions on pages 57 and 58 do not indicate a bias on the matter of confidentiality, but they do raise the questions that the public and the courts will ask when EPA decides to treat certain chemical identities as confidential for purposes of the Inventory.

Question 1: "What harmful effects to your competitive position, if any, do you think would result from the identity of the chemical substance appearing on the Inventory? How could a competitor use such information, given the fact that the identity of the substance would otherwise appear on the Inventory of chemical substances with no link between the substance and your company or industry? Would the effects of disclosure be substantial? What is the causal relationship between the disclosure and the harmful effects?"

The answer to this question is the key to the claim of confidentiality. The person answering this question must explain the significance of placing the specific identity on the Inventory and how that will hurt the person. In answering this question, the person should specify exactly what secret the person is trying to protect and how putting the name of the chemical substance on the inventory will give that secret away.

Question 2: "How long should confidential treatment be given? Until a specific date, the occurrence of a specific event, or permanently? Why?"

Self explanatory.

Question 3: "Has the chemical substance been patented? If so, have you granted licenses to others with respect to the patent as it applies to the chemical substance? If the chemical substance has been patented and therefore been disclosed through the patent, why should it be treated as confidential for purposes of the Inventory?"

If a chemical substance identity has been disclosed in a patent, it is available to anyone who searches the patent literature. If the chemical substance identity for which the person is responding has appeared in a patent, the person must explain why the specific identity is still confidential for purposes of the Inventory. EPA recognizes that there are cases where the chemical identity has appeared in a patent and yet would still be eligible for confidential treatment on the Inventory.

Question 4: "Has the identity of the chemical substance been kept confidential to the extent that your competitors do not know it is being manufactured or imported for a commercial purpose by anyone?"

This question is necessary because the appearance of the specific chemical identity on the inventory will tell the public that someone in the United States has manufactured or imported that specific chemical substance for commercial purposes. If this fact is already known, placement of the specific identity on the inventory would not reveal anything further because the Inventory will not contain company names or identification of the specific industry in which the particular chemical substance is manufactured.

Question 5: "Is the fact that the chemical substance is being manufactured or imported for a commercial purpose publicly available, for example in technical journals, libraries, or state, local, or federal agency public files?"

Self-explanatory.

Question 6: "What measures have you taken to prevent undesired disclosure of the fact that this chemical substance is being manufactured or imported for a commercial purpose?"

Self-explanatory.

Question 7: "To what extent has the fact that this chemical substance is manufactured or imported for a commercial purpose been revealed to others? What precautions have been taken regarding these disclosures? Have there been public disclosures or disclosures to competitors?"

There may be situations where the fact that the specific chemical substance has been manufactured for commercial purposes has been disclosed to other persons. If these disclosures were made without any safeguards against further disclosure, the fact may be available to the public. However, if the person has taken measures to safeguard this information, through limiting disclosure by use of confidentiality agreements for example, it may still be confidential. If there have been disclosures, EPA must know if they have been controlled so as to preserve the confidentiality.

Questions 8 and 9: "Does this particular chemical substance leave the site of manufacture in any form, either as product, effluent, emission, etc.? If so, what measures have you taken to guard against discovery of its identity?" "If the chemical substance leaves the site in a product that is available to the public or your competitors, can the substance be identified by analysis of the product?"

If the particular chemical substance leaves the site of manufacture, it is potentially available to the public or competitors. They might be able to ascertain its identity. If the substance does leave the site of manufacture, EPA needs to know whether and how the person maintains its confidentiality. This is particularly important in cases where samples of the substance would be available to competitors who could run analytical tests and discover the identity. In some cases while this analysis can be done, it could be prohibitively expensive. In those cases the confidentiality could still be recognized, but if the substance would be readily ascertainable from simple analytical tests it could not be considered a secret. Accordingly, in answering these questions the person should address these problems as they relate to the situation of the specific substance.

Question 10: "For what purpose do you manufacture or import the substance?"

This question relates to the others above. The purpose for which the substance is manufactured may bear on the answers to questions 1, 2, 3, 4, 6, 7, 8, and 9. If the purpose has not been discussed under one of the previous questions it should be mentioned here.

Question 11: "Has EPA, another federal agency, or any federal court made any pertinent confidentiality determinations regarding this chemical substance? If so, please attach copies of such determinations."

Self-explanatory.

XXIV. DISCLOSURE TO PERSONS WITH A BONA FIDE INTENT TO MANUFACTURE

Several manufacturers have indicated that under the published procedures they may never know if EPA has disclosed the fact that their confidential substance is on the Inventory to a person with a bona fide intent to manufacture the particular substance. Accordingly, EPA is considering the following approach. After EPA has made such a disclosure, EPA would notify the original submitter in the following manner: "EPA has disclosed the fact that the specific chemical substance that you reported on Form Number ——— and which is covered by the generic chemical name ———— is on the Inventory to a person that EPA determined has a bona fide intent to manufacture that substance." This solution would place the original submitter and the bona fide manufacturer in the same relative position.

NOTICE OF MEETINGS

XXV. REGIONAL TRAINING SESSIONS

EPA has scheduled the following one-day public seminars for manufacturers and importers of chemical substances and other persons interested in the inventory reporting regulations published under section 8 (a) and (b) of TSCA. EPA will present the major aspects of the regulations and provide an opportunity for questions and answers concerning the requirements and how to report. The meetings are free and open to the public. Anyone interested may pre-register by calling the appropriate number listed below.

Northeastern Area: 212-557-9898

3/7-8 Newark—Newark-International Airport Holiday Inn, 160 Holiday Plaza, exit 14 from New Jersey Tpk.
3/9 Philadelphia—Philadelphia-City Line Holiday Inn, Rte. 1 and I-76 City Avenue exit, or north from Amtrak 30th Street Sta.

North Central Area: 312-986-4830

3/14 Pittsburgh—Pitts.-Allegheny Valley Holiday Inn, 180 Gamma Drive at R.I.D.C. Park, Allegheny Expwy. off I-80 and I-76.
3/15 Cincinnati — Cincinnati - Riverfront Holiday Inn, 600 West 3d Street, Covington, on I-75 at 5th Street exit.
3/17 Indianapolis — Ind. - Speedway - N.W. Holiday Inn, 6330 Debonair La., Jct. I-465, I-74 and U.S. 136.

South Central Area: 214-387-0404

3/7 Kansas City—Kansas City-City Center Holiday Inn, 1301 Wyandotte Street, Jct. I-70, U.S. 71 and Alt. 69.
3/8 St. Louis—St. Louis-North Holiday Inn, 4545 North Lindbergh Boulevard, on U.S. 140 at I-70, 3 miles east of I-270.
3/9-3/10 Houston—Houston-NASA Holiday Inn, 1300 NASA Boulevard, on Rte. 528 off I-45 (NASA exit) or Rte. 146.
3/17 Baton Rouge—Baton Rouge-South Holiday Inn, 9940 Airline Street, Jct. U.S. 61 and I-12.

Southeastern Area: 404-393-0140

3/14 Atlanta—Atlanta-Airport Holiday Inn, 1380 Virginia Avenue, off I-85S.
3/15 Nashville—Nashville-Vanderbilt Holiday Inn, 3613 West End Avenue, on U.S. 70S, off I-40 at Broadway (No. 49) exit.
3/16 Winston-Salem—Win.-Sal. Coliseum (North) Holiday Inn, North Cherry-Marshal Expressway.

Western Area: 408-275-8110

3/7 Los Angeles—Laguna Hills Holiday Inn, 25205 La Paz Road, Jct. I-5 and I-405 south of Orange Co. airport.
3/8 San Jose—San J.-Park Center Plaza Holiday Inn, 282 Almaden Boulevard.
3/8 San Jose—San J.-Park Center Plaza Holiday Inn, 282 Almaden Boulevard at West San Carlos Avenue.
3/9 Oakland—Marriott Motor Inn-Berkeley, on Rte. 17 and I-80 at University Avenue exit.
3/10 Portland—Cosmopolitan Airtel., 6221 Northeast 82d Avenue, off Columbia Boulevard and 80th Avenue.

Dated: February 27, 1978.

STEVEN D. JELLINEK,
Assistant Administrator for Toxic Substances.

[FR Doc. 78-5715 Filed 3-3-78; 8:45 am]

federal register

MONDAY, MARCH 6, 1978
PART IV

DEPARTMENT OF TRANSPORTATION

Coast Guard

STANDARDS FOR FLOTATION MATERIALS

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 183]

[CGD 77-145]

FLOTATION MATERIALS

Standards

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard is proposing to amend the flotation standards for monohull boats under 20 feet in length, by establishing performance specifications for flotation materials. Present standards do not specify how performance characteristics can be determined. This amendment will enable a manufacturer to determine if his flotation material is able to meet minimum safety standards.

DATES: Comments must be received on or before April 23, 1978.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/81) (CGD 77-145), U.S. Coast Guard, Washington, D.C. 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1477.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Each person submitting a comment should include this name and address, identify this notice (CGD 77-145) and the specific section of the proposal to which his comment applies, and give the reasons for his comment. The proposal may be changed in light of comments received. All comments received will be considered before final action is taken on this proposal. Copies of all written comments received will be available for examination by interested persons. No public hearing is planned but one may be held at a time and place to be set in a later notice in the FEDERAL REGISTER if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are: Lars E. Granholm, Project Manager, Office of Boating Safety, and Lieutenant William R. Kerivan, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF THE PROPOSED REGULATIONS

This amendment proposes different performance specifications for flotation materials based upon their location in the boat. Flotation materials installed in different locations in the boat are subjected to different deteriorating influences. Flotation materials in bilges are exposed to gasoline, oil and bilge cleaning solvents. Flotation materials in engine compartments are exposed to heat and fuel vapors. These standards reflect the minimum performance characteristics for these flotation materials based upon their location in the boat. The National Boating Safety Advisory Council was consulted on February 22, 1977, regarding the substance of this proposed amendment. The Council concurs that the proposed amendment should be included in the flotation standard. Transcript of the proceedings of the National Boating Safety Advisory Council at which this amendment was discussed are available for examination in Room 4224, U.S. Coast Guard Headquarters, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590. The minutes of the meetings are available from the Executive Director, National Boating Safety Advisory Council, c/o U.S. Coast Guard (G-BA/TRPT), Washington, D.C. 20590.

The ASTM standard referenced in this proposed amendment has been approved for incorporation by reference by the Director of the Federal Register and the standard is on file in the Federal Register Library.

AUTHORITY

This amendment is proposed under authority of the Federal Boat Safety Act of 1971 (46 U.S.C. 1454). The authority vested in the Secretary of the Department of Transportation by the Act is delegated to the Commandant of the Coast Guard at 49 CFR 1.46(n)(1).

In consideration of the foregoing it is proposed to amend Part 183 of Title 33 of the Code of Federal Regulations as follows:

1. By revising § 183.110 to read as follows:

§ 183.110 Definitions.

For the purpose of this subpart—

"ASTM" means American Society for Testing and Materials.

NOTE.—The ASTM standard in this subpart may be examined at Coast Guard Headquarters, Room 4314, Trans Point Building, 2100 2nd Street SW., Washington, D.C. 20590, and may be obtained from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pa. 19103.

"Bilge" means the area in the boat, below a height of 4 inches measured from the lowest point in the boat where liquid can collect when the boat is in its static floating position, except engine rooms.

"Connected" means allowing a flow of water in excess of one-quarter ounce per hour from the engine room bilge into any other compartment.

"Engine room bilge" means the area in the engine room or a connected compartment below a height of 12 inches measured from the lowest point where liquid can collect in these compartments when the boat is in its static floating position.

"Engine room" means the compartment where a permanently installed gasoline or diesel engine is installed, including connected compartments.

"Open to atmosphere" means a compartment that has at least 15 square inches of open area directly exposed to the atmosphere for each cubic foot of net compartment volume.

"Sealed compartment" means an enclosure that can resist an exterior water level of 12 inches without seppage of more than one-quarter fluid ounce per hour.

2. By adding a new § 183.112 to read as follows:

183.112 Flotation material and air chambers.

(a) Flotation materials must meet the requirements in § 183.114 as listed in table 5 when used in the: (1) Engine room bilge, (2) engine room, or (3) bilge, unless located in a sealed compartment.

(b) Air chambers used to meet the flotation requirements of this subpart must not be integral with the hull.

3. By adding a new § 183.114 to read as follows:

§ 183.114 Test of flotation materials.

(a) *Vapor test.* The flotation material must not reduce in volume by more than 5 percent after being immersed in a fully saturated gasoline vapor atmosphere for 30 days at 38° C.

(b) *24-hour gasoline test.* The flotation material must not reduce in volume by more than 5 percent after being immersed for 24 hours at 29° C in reference fuel B, of ASTM D-471, dated March 28, 1975.

(c) *30-day gasoline test.* The flotation material must not reduce in volume by more than 5 percent after being immersed for 30 days at 29° C in reference fuel B, of ASTM D-471, dated March 28, 1975.

(d) *24-hour oil test.* The flotation material must not reduce in volume by more than 5 percent after being immersed for 24 hours at 29° C in reference oil No. 2, of ASTM D-471, dated March 28, 1975.

(e) *30-day oil test.* The flotation material must not reduce in volume by more than 5 percent after being immersed for 30 days at 29° C in reference oil No. 2, of ASTM D-471, dated March 28, 1975.

(f) *24-hour bilge cleaner test.* The flotation material must not reduce in volume by more than 5 percent after being immersed for 24 hours at 29° C in a 5-percent solution of trisodium phosphate in water.

(g) *30-day bilge cleaner test.* The flotation material must not reduce in volume by more than 5 percent after being immersed for 30 days at 29° C in a 5-percent solution of trisodium phosphate in water.

4. By revising § 183.222 to read as follows:

§ 183.222 Flotation material and air chambers.

(a) Flotation materials must meet the requirements in § 183.114 as listed in table 5 when used in the: (1) Engine room bilge, (2) engine room, or (3) bilge, unless located in a sealed compartment.

(b) Air chambers used to meet the flotation requirements of this subpart must not be integral with the hull.

5. By revising § 183.322 to read as follows:

§ 183.322 Flotation materials.

(a) Flotation materials must meet the requirements in § 183.114 as listed in table 5 when used in the: (1) Engine room bilge, (2) engine room, or (3) bilge, unless located in a sealed compartment.

6. By adding a new table 5 to follow § 183.335 to read as follows:

TABLE 5 - FLOTATION PERFORMANCE TESTS

Test 183.114 \ Area 183.110		(b) Engineroom Bilge	(c) Engineroom Unless Open to Atmosphere	(d) Bilge
(a)	Vapor Test		X	
(b)	24 Hour Gasoline Test			X
(c)	30 Day Gasoline Test	X		
(d)	24 Hour Oil Test			X
(e)	30 Day Oil Test	X		
(f)	24 Hour Bilge Cleaner Test			X
(g)	30 Day Bilge Cleaner Test	X		

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: March 1, 1978.

O. W. SILER,
Admiral, U.S. Coast Guard Commandant.

[FR Doc. 78-5798 Filed 3-3-78; 8:45 am]

federal register

MONDAY, MARCH 6, 1978
PART V

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Departmental Grant Appeals Board

Health Care Financing Administration

Social Security Administration

Office of Human Development Services

■

RECONSIDERATION OF DISALLOWANCES UNDER PUBLIC ASSISTANCE PROGRAMS

[4110-12]

Title 45—Public Welfare

SUBTITLE A—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE (GENERAL ADMINISTRATION)

PART 16—DEPARTMENT OF GRANT APPEALS PROCESS

Reconsideration of Disallowances Under Public Assistance Programs

AGENCY: Department of Health, Education, and Welfare Grant Appeals Board.

ACTION: Interim final rule.

SUMMARY: The regulations issued herein amend the rules of the HEW Departmental Grant Appeals Board so as to vest that Board with authority to issue (pursuant to its own procedures) the final administrative decision with respect to reconsideration of disallowances arising under the various Federal-State public assistance programs (title I, IV, VI, X, XIV, XVI (AABD), XIX and XX) of the Social Security Act. In addition, the rules of the Grant Appeals Board are amended to provide that in such cases, the decision of the Grant Appeals Board is the final administrative decision.

DATES: Effective date: March 6, 1978. Comments received on or before April 5, 1978, will be considered and appropriate changes will be made in the regulations.

ADDRESSES: Comments should be submitted in writing to Thomas Reynolds, Executive Secretary, Departmental Grant Appeals Board, Room 3760, 330 Independence Avenue SW., Washington, D.C. 20201, and will be available for public inspection between the hours of 9 a.m. and 5:30 p.m. in Room 3760, 330 Independence Avenue SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Thomas Reynolds, 202-245-7342.

SUPPLEMENTARY INFORMATION: Published concurrently herewith elsewhere in this Part of the FEDERAL REGISTER is an interim final amendment to the existing reconsideration procedures at 45 CFR 201.14 making those procedures inapplicable to reconsiderations requested after its effective date. The regulations issued herein encompass the remainder of the process of transferring such reconsiderations to the Departmental Grant Appeals Board for processing under the regulations of that Board. The reasons the Department believes such a transfer to be desirable and in the public interest are fully set out in the Preamble to the amendment of § 201.14, and they will not be repeated here. However, the Department does wish to call specific attention to modifications of the general rules of the Grant Appeals Board which are applicable solely to these reconsiderations under the public assistance titles of the Social Security Act. Under these modifications, the agency determination to disallow will be made by the head of the constituent agency or someone he designates for that purpose. In addition, the decision of the Grant Appeals Board is the final administrative decision in the matter.

The basis for this proposal is the Department's belief that such automatic finality will assure States that there will be no lengthy or undue delay in issuing a final administrative decision, as may occur under the procedures of 45 CFR 201.14. It is believed that the States will also be afforded greater procedural protections and safeguards under the rules of practice of the Grant Appeals Board than have been provided by § 201.14, although the Department continues to believe that § 201.14 is fully in accord with the requirements of the Social Security Act. Finally, requiring the disallowance to be made by the head of the Principal Operating Component involved or someone he designates for that purpose will assure that States have an opportunity for their claims to be reviewed by an official at a high enough level in the agency to be familiar with the overall operation of the program under which the claim arose.

The Department finds that good cause exists for dispensing with a Notice of Proposed Rulemaking and for making these regulations effective upon publication. States with reconsiderations currently in progress will have the option of using the new procedure (the Board, of course, being free to utilize any materials previously submitted by the parties) or continuing to be subject to the procedural rules under 45 CFR 201.14, except that, by Secretarial Order issued concurrently herewith, the Chairman of the Grant Appeals Board is substituted for the Administrator of the Social and Rehabilitation Service (which no longer exists) as the official issuing the final administrative decision, and that the Chairman may modify or waive any procedural rule upon a determination that no party will be prejudiced and that the ends of justice will be served. In order to avoid a repetition of the current situation under § 201.14 where one or two officials face great difficulty in scheduling their participation in all requested reconsideration conferences and in issuing final administrative decisions expeditiously, the Secretarial Order substitutes for the Deputy Administrator of SRS such member or members of the Grant Appeals Board as the Chairman may designate for a particular reconsideration. Such designee will both conduct any reconsideration conference requested by the State involved and issue the final administrative decision. The Department wishes to note that provision for a determination by the agency head or his designee prior to submission of a matter to the Board (see new § 16.91(a)) will be applicable even where States desire to continue having their reconsiderations processed pursuant to § 201.14. Thus, in this narrow category of cases the agency head (or his designee) must still make a determination based on the record as it exists or is augmented under whatever procedures the agency might have, before further processing is transferred to the Chairman of the Grant Appeals Board. Accordingly, since States will be given their choice of procedures, no State will suffer any prejudice by the issuance of a final rule.

States which request reconsideration after the date these regulations are published will obtain the greater procedural benefits available under 45 CFR Part 16. Not only will no State be prejudiced by operating under the Grant Appeals Board regulations, but a distinctly greater amount of procedural protection will be obtained.

The Department also wishes to call attention to new § 16.91(c) applicable solely to reconsideration of disallowances. The existing regulation, § 16.11, prohibits ex parte communications between, *inter alia*, the head of the constituent agency and any person participating in the preparation or presentation of a case to the Board. This is a desirable provision with respect to existing cases being handled by the Board, since the agency head has ultimate decisional authority under § 16.81. However, the Board and not the agency head will have the authority to issue final administrative decisions on reconsiderations of disallowances under the Social Security Act. When such a case is submitted to the Board, the agency head becomes one of the parties to the Board proceedings and is no longer a decision maker. It may well be necessary—and, if necessary, is desirable—for the staff presenting the agency's case to the Board to consult with the agency head on matters of policy. Accordingly, § 16.91(c) removes the prohibition on such communications in this limited class of Board proceedings where the prohibition serves no valid purpose.

Finally, in order to reflect the abolition of the Social and Rehabilitation Service and the transfer of its programs to other principal operating components of the Department (42 FR 13262, March 9, 1977), Appendix B is being retitled.

45 CFR Part 16, Appendix B is redesignated as follows:

APPENDIX B—ASSISTANCE, SOCIAL SERVICE AND REHABILITATION PROGRAMS

45 CFR Part 16, Appendix B is amended by adding at the end thereof the following:

(10) Sections 3, 403, 422, 455, 605, 1003, 1403, 1603 (AABD), 1903, and 2002 of the Social Security Act (42 U.S.C. 303, 603, 622, 655, 803, 1203, 1353, 1383 (AABD), 1396b, and 1397a).

45 CFR Part 16 is amended by adding at the end thereof:

Subpart C—Special Provisions Applicable to Reconsiderations of Disallowances

§ 16.90 Scope of subpart.

This subpart governs the conduct of reconsiderations of disallowances arising under sections 3, 403, 422, 455, 603, 1003, 1403, 1603 (AABD), 1903, and 2002 of the Social Security Act (42 U.S.C. 303, 603, 622, 655, 803, 1203, 1353, 1383 (AABD), 1396b, and 1397a).

§16.91 Applicability of other rules.

All provisions of subparts A and B of Part 16 shall be applicable to reconsideration proceedings under this subpart C, except that—

(a) In place of § 16.5 the following applies:

Determinations subject to the jurisdiction of the Board. Subject to § 16.2 and this paragraph, the Board shall have jurisdiction over any disallowance described in § 16.90. That disallowance may not be reviewed by the Board unless the head of the constituent agency or someone he has designated for that purpose has notified the grantee in writing of such disallowance. The notification shall set forth the reasons for the disallowance in sufficient detail to enable the grantee to respond and shall inform the grantee of this opportunity for review under this part.

(b) In place of § 16.10 the following applies:

Decision. The Panel shall issue a written decision, which shall include findings of fact and conclusions based thereon. When a hearing is conducted before a hearing officer alone, the hearing officer shall separately find and state the facts and conclusions which shall be incorporated in the decision issued by the Panel. Copies of the decision shall be mailed promptly by the Panel to each party, or his counsel. The decision of the Panel constitutes the final administrative action on the matter.

(c) In place of § 16.11 the following applies:

Separation of functions. No person who participated in prior administrative consideration, or in the preparation or presentation of, a case submitted to the Board shall advise or consult with, and no person having an interest in such case shall make or cause to be made an ex parte communication to the Panel or Board with respect to such case, unless all parties to the case are given timely and adequate notice of such advice, consultation, or communication, and reasonable opportunity to respond is given all parties.

(d) In place of § 16.71 the following applies:

Interlocutory Appeals. Except as specifically provided in these rules, rulings of the hearing officer may be appealed only to the panel, following the entire hearing and the hearing officer's findings, conclusions, and recommended decision.

(e) Sections 16.80 and 16.81 do not apply.

Effective date: These regulations are effective with respect to reconsiderations requested after the date of publication. (3-6-78) At State option, exercised by written notice to the Executive Secretary, Departmental Grant Appeals Board (with proof of service on the head of the appropriate HEW constituent agency), within 30 days after mailing to the State of the confirmation by the agency head of the disallowance, these regulations are effective with respect to reconsiderations in process on the date of publication of these regulations. (Such written notice by the State shall constitute the application required by § 16.6(a)).

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).

(Catalog of Federal Domestic Assistance Program No. 13.761, Public Assistance-Maintenance Assistance (State Aid).) 13.679 Child Support Enforcement; 13.707 Child Welfare Services; 13.714 Medical Assistance Program; 13.754 Public Assistance—Social Services; 13.771 Social Services for Low Income and Public Assistance Recipients.

NOTE.—The Department has determined that this document does not require preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107

Dated: December 12, 1977.

MALCOLM S. MASON,
Chairman, Departmental Grant Appeals Board.

Approved: February 17, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 78-5926 Filed 3-3-78; 8:45 am]

[4110-12]

CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS) DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 201—GRANTS TO STATES FOR PUBLIC ASSISTANCE

Reconsideration of Disallowances

AGENCIES: Health Care Financing Administration, Social Security Administration, Office of Human Development Services.

ACTION: Interim final amendment.

SUMMARY: The public assistance programs under the Social Security Act which were formerly administered by the Social and Rehabilitation Service were transferred to other operating components within the Department of Health, Education, and Welfare. Existing procedures governing the reconsideration of disallowances under these programs have caused problems with the issuance of administrative decisions on a timely basis. (By another document published elsewhere in this part of the FEDERAL REGISTER, the authority to issue those final administrative decisions is now vested in the Grant Appeals Board in HEW.) This document provides that those reconsiderations of disallowances now in process may at State option be recommenced under the Grant Appeals Board procedures (45 CFR Part 16) or may continue to be processed under reconsideration procedures used in the past (45 CFR 201.14).

DATES: Effective date: March 6, 1978. Comments received on or before April 5, 1978 will be considered and appropriate changes will be made in the regulations.

ADDRESSES: Comments should be submitted, in writing, to Thomas Reynolds, Executive Secretary, Departmental Grant Appeals Board, Room 3760, 330 Independence Avenue SW., Washington, D.C. 20201, and will be available for public inspection between the hours of 9 a.m. and 5:30 p.m. in Room 3760, 330 Independence Avenue SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Thomas Reynolds, 202-245-7342.

SUPPLEMENTARY INFORMATION: At present, the procedures to be followed in reconsiderations under the public assistance titles of the Social Security Act, (previously administered by the Social and Rehabilitation Service (SRS)) are specified in regulations at 45 CFR 201.14. By Secretarial order published on March 9, 1977 (42 FR 13262), the Social and Rehabilitation Service was abolished. Its programs were transferred to other principal operating components of the Department of Health, Education, and Welfare. The AFDC program (title IV-A of the Act), as well as cash assistance programs in Guam, Puerto Rico and the Virgin Islands under titles I, X, XIV and XVI (AABD) were transferred to the Social Security Administration; the Commissioner of Social Security was named the Director of the Office of Child Support Enforcement, which administers the child support enforcement program under title IV-D of the Act. The Social Services programs under titles IV-B and XX of

the Social Security Act (and titles I, IV-A, X, XIV, and XVI (AABD), for Guam, Puerto Rico, and the Virgin Islands), as well as the WIN social services program under section 402(a)(19) of the Act, were transferred to the Office of Human Development Services. The Medicaid program (title XIX) was transferred to the newly created Health Care Financing Administration.

The Department believes that the reconsideration procedures set forth at 45 CFR 201.14 represent a substantial improvement over SRS' previous, uncodified procedures for handling reconsiderations. Nevertheless, while preliminary stages of the process have worked well, final reconsideration decisions were generally not issued expeditiously, because of the competing claims on the SRS Administrator's time.

It was thus difficult to schedule the reconsideration conference and to analyze promptly and completely the entire administrative record in order to issue a final administrative decision. The basis of this amendment is the belief of the Department that it would be desirable for all existing and future reconsiderations in these areas to be handled by an entity within HEW which has been established for the purpose of adjudicating matters of this type, and has expertise in this area. Accordingly, the Department is concurrently issuing elsewhere in this Part of the FEDERAL REGISTER separate regulations providing that the reconsiderations which would otherwise be processed under 45 CFR 201.14 be handled by the Departmental Grant Appeals Board. All reconsiderations requested after the publication of this amendment and the amendments to the Grant Appeals regulations issued concurrently will be processed pursuant to the rules and regulations of the Grant Appeals Board, which are currently found at 45 CFR Part 16. Reconsiderations now in process will, at State option, be recommenced under the new procedures or continue to be processed under existing procedures of 45 CFR 201.14 but, in the latter case, a Secretarial Order issued today substitutes the Chairman of the Grant Appeals Board for the Administrator of the Social and Rehabilitation Service as the official issuing the final administrative decision. Pursuant to the rules of the Grant Appeals Board, and to further assure that no State electing to continue under § 201.14 will be prejudiced by the substitution of officials, the head of the appropriate operating agency (described below) or someone he designates will be required to make a determination on the allowability of the claim, and to notify the State and the Chairman before the § 201.14 process continues under the aegis of the Chairman of the Grant Appeals Board.

(It is anticipated that action to revoke 45 CFR 201.14 will occur upon completion of all reconsiderations now in process which States elect to have processed under that regulation.)

The Department also wishes to call specific attention to 45 CFR 16.91(a), as set forth elsewhere in this Part of the FEDERAL REGISTER with respect to these reconsiderations. This provision requires the head of the constituent agency or someone he designates to make a determination of the allowability of a claim prior to its submission to the Grant Appeals Board (or to the Chairman thereof with respect to existing reconsiderations that the States choose to have processed pursuant to 45 CFR 201.14). These determinations will be made by: The Commissioner of the Social Security Administration (or his designee) for all cash assistance claims and penalty impositions (except pursuant to section 403(f) and section 403(g) and matters relating to WIN social services under section 402(a)(19)) arising under titles I, IV-A, X, XIV, and XVI (AABD), as well as under title IV-D of the Act (in his capacity as Director of the Office of Child Support Enforcement); the Administrator of the Health Care Financing Administration (or his designee) for all claims and penalty impositions arising under title XIX of the Act, as well as imposition of the penalty pursuant to section 403(g); and, the Assistant Secretary for Human Development Services (or his designee) for all claims and penalty impositions arising under titles IV-B, VI and XX of the Act, and for all social services claims and penalty impositions arising under titles I, IV-A (including section 403(f)), X, XIV, and XVI (AABD) of the Act. It is expected that such determinations will be made expeditiously in all cases where reconsiderations have already been requested and where reconsideration will be requested in the future.

The Department believes that the agency determination with respect to the imposition of the penalty under section 403(g) of the Act (for failure to comply with requirements for providing early and periodic screening, diagnosis and treatment (EPSDT)) should be made by the Administrator of the Health Care Financing Administration, even though the penalty is assessed against the title IV-A grant award. EPSDT is actually provided under the State's Medicaid (title XIX) plan and the Administrator of HCFA is in a better position to assess State compliance with EPSDT requirements than is the Commissioner of Social Security.

Similarly, responsibility for the agency determination with respect to the imposition of the penalty under section 403(f) of the Act (for failure to comply with requirements for providing family planning services) should rest with the Assistant Secretary for Human Development Services since such family planning services are actually provided under the State's title XX Social Services Plan. Lastly, responsibility for the agency determination of the allowability of claims relating to social services under the WIN program, section 402(a)(19) of the Act, 42 U.S.C. 602(a)(19), should also rest with the Assistant Secretary for Human Development Services, who has the substantive responsibility in this area.

The Department finds that good cause exists to dispense with Notice of Proposed Rulemaking with respect to the amendment and to make the amendment effective on date of publication for the reasons stated in the Preamble to the amendments to the Grant Appeals Board regulations issued concurrently herewith.

45 CFR Part 201 is amended as follows:

1. Section 201.14(a) is revised to read as follows:

§ 201.14 Reconsideration under section 1116(d) of the Act.

(a) *Applicability.* This section applies to any disallowance of any item or class of items for which FFP is claimed under title I, IV, VI, X, XIV, XVI (AABD), XIX, or XX of the Act, with respect to which reconsideration was requested prior to March 6, 1978, unless the State by filing a written notice to that effect with the Executive Secretary, Departmental Grant Appeals Board (with proof of service on the head of the constitutent agency), within 30 days after mailing of the confirmation of the disallowance by the agency head, elects to have the reconsideration governed by 45 CFR Part 16.

* * * * *

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).)

2. The Secretarial Order relating to the transfer of functions is carried in an appendix and is inserted at the end of § 201.14 to read as follows:

APPENDIX—RECONSIDERATION OF DISALLOWANCES UNDER SECTION 1116(d) OF THE SOCIAL SECURITY ACT

TRANSFER OF FUNCTIONS

Under the authority of Reorganization Plan No. 1 of 1953, and pursuant to the authorities vested in me as Secretary of Health, Education, and Welfare, I hereby order that, with respect to reconsiderations of disallowances imposed under titles I, IV, VI, X, XIV, XVI (AABD), XIX and XX of the Social Security Act, 42 U.S.C. 301 *et seq.*, 601 *et seq.*, 801 *et seq.*, 1201 *et seq.*, 1351 *et seq.*, 1381 *et seq.* (AABD), 1396 *et seq.* and 1397 *et seq.*, all references to "Administrator" appearing in 45 CFR 201.14 shall be deemed to read "Chairman, Departmental Grant Appeals Board" and all references to "Deputy Administrator" appearing therein shall be deemed to refer to one or more members of the Departmental Grant Appeals Board, designated by the Chairman to decide a reconsideration. States which have previously had or requested a conference pursuant to 45 CFR 201.14(d)(7) will be entitled to a conference with the Chairman of the Departmental Grant Appeals Board acting (as provided above) as successor to the Administrator of the Social and Rehabilitation Service (SRS), or with a member or members of the Board designated by the Chairman to decide the matter, acting as successor to the Deputy Administrator of SRS. The Chairman may, at his option, utilize a Grant Appeals Panel, designated pursuant to 45 CFR 516.4(b), to decide the matter, and may supplement the § 201.14 procedures by utilizing the procedures of 45 CFR Part 16 including the authority provided in 45 CFR 16.51 to waive or modify any procedural provision upon a determination that no party will be prejudiced and that the ends of justice will be served.

Effective date: This Order shall be effective March 6, 1978.

Dated: February 17, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

(Catalog of Federal Domestic Assistance Program No. 13.761, Public Assistance-Maintenance Assistance (State Aid).) 13.679 Child Support Enforcement; 13.707 Child Welfare Services; 13.714 Medical Assistance Program; 13.754 Public Assistance-Social Services; 13.771 Social Services for Low Income and Public Assistance Recipients.)

NOTE.—The Department has determined that this document does not require preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: November 28, 1977.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Dated: December 5, 1977.

J. B. CARDWELL,
Commissioner of Social Security.

Dated: December 5, 1977.

J. B. CARDWELL,
Director, Office of Child Support Enforcement.

Dated: September 16, 1977.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services.

Approved: February 17, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 78-5927 Filed 3-3-78; 8:45 am]

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[3195-01]

Title 3—The President

Executive Order 12042 • **March 6, 1978**

Creating a Board of Inquiry to Report on Labor Disputes Affecting the Bituminous Coal Industry in the United States

The existing labor disputes between coal mine operators engaged in the production of bituminous coal in the United States or coal mine contractors engaged in construction work in and around coal mines in the United States and certain of their employees represented by the United Mine Workers of America and its locals and affiliates have resulted in strikes in a substantial portion of the coal industry. In my judgment these strikes affect a substantial portion of the bituminous coal industry, an industry engaged in trade, commerce, transportation and transmission among the States and with foreign nations, and will, if permitted to continue, imperil the national health and safety.

NOW, THEREFORE, by virtue of the authority vested in me by Section 206 of the Labor Management Relations Act of 1947, 61 Stat. 155, as amended (29 U.S.C. 176), I hereby create a Board of Inquiry to inquire into the issues involved in the dispute. I appoint as members of that Board:

John N. Gentry, Chairman
Eva Robins
Carl A. Warns

The Board shall have the powers and duties set forth in Title II of the Labor Management Relations Act and shall report to me, in accordance with the provisions of the Act, as expeditiously as possible. Upon submission of its report, the Board shall continue in existence to perform the functions required of it under the Act.

Jimmy Carter

THE WHITE HOUSE,
March 6, 1978.

[FR Doc. 78-6170 Filed 3-6-78; 1:34 pm]

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[8010-01]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-14513]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Uniform Net Capital Rule

AGENCY: Securities and Exchange Commission.

ACTION: Extension of temporary rule amendments.

SUMMARY: This release extends until August 1, 1978, temporary provisions of the rule relating to the (i) inclusion in net capital of certain good faith deposits and syndicate or joint account receivables arising in connection with municipal securities underwritings; and (ii) undue concentration deductions, "haircuts," on positions in municipal securities. This action is necessary since the temporary amendments noted above will otherwise expire on March 1, 1978. The extension provides the Commission with additional time to formulate permanent amendments pertaining to municipal securities with regard to the treatment of certain receivables and undue concentration deductions.

EFFECTIVE DATE: March 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Nelson S. Kibler, Assistant Director, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549, 202-755-1390.

SUPPLEMENTARY INFORMATION: In Securities Exchange Act Release No. 13806, July 28, 1977; 42 FR 38902, August 1, 1977, the Commission extended until March 1, 1978, the temporary provisions of Rule 15c3-1 (17 CFR 240.15c3-1) under the Securities Exchange Act of 1934 dealing with the items summarized above. The Commission took such action to afford itself an opportunity to correlate the comments and statistical data it had received from interested members of the public prior to proposing permanent amendments to the rule. The Commission is in the process of formulating such permanent amendments. In the interim, the Commission has determined that it is appropriate to extend until August 1, 1978, the temporary amendments relating to the treatment of certain receivables and undue concentration.

The Commission finds, pursuant to 5 U.S.C. 553(b)(3)(B), that further notice and public procedure respecting these amendments is impracticable and unnecessary to the public interest. The Commission finds further that these amendments relieve regulatory restrictions within the meaning of U.S.C. 553(d)(1) and may therefore become effective less than 30 days from their publication.

Introduction

As originally written, Rule 15c3-1(c)(2)(iv)(C) required the deduction from net worth of good faith deposits arising in connection with an underwriting and outstanding longer than eleven business days. In addition, profits derived from participation in an underwriting syndicate were treated as "unsecured receivables" which pursuant to Rule 15c3-1(c)(2)(iv)(E) were deducted from net worth. In Securities Exchange Act Release No. 11854 the Commission adopted temporary amendments to Rule 15c3-1(c)(2)(iv)(C) permitting the inclusion in net worth, for ninety (90) days after settlement of the underwriting with the issuer, good faith deposits and receivables arising from participation in municipal securities underwritings. This release extends until August 1, 1978, those temporary amendments.

Rule 15c3-1(c)(2)(vi)(M) in general provides that a deduction from net worth equal to half the appropriate haircut shall be taken against long or short positions in the securities of an issuer of a single class or series, the market value of which positions exceed ten percent of tentative net capital. A similar provision, Rule 15c3-1(f)(3)(iii), applies to computations under the alternative net capital requirement. In Release No. 11854, the Commission exempted positions in municipal securities from the undue concentration provisions of Rule 15c3-1. This release continues that exemption until August 1, 1978.

Statutory Basis and Competitive Consideration and Effective Date

Pursuant to the Securities Exchange Act of 1934, and particular sections 15(c)(3) and 23(a) thereof, 15 U.S.C. 78o(c)(3), w(a) the Commission amends § 240.15c3-1 of Chapter II of Title 17 of the Code of Federal Regulations in the manner set forth below, effective March 1, 1978. The Commission finds that any burden imposed upon competition by the amendments is necessary and appropriate in furtherance of the purposes of the Act, and particularly to implement the Commission's mandate under section 15(c)(3) thereof, 15 U.S.C. 78o(c)(3), to establish minimum financial responsibility standards for all brokers and dealers.

Text of Amendments to § 240.15c3-1

The text of the amendments to § 240.15c3-1 is as follows:

§ 240.15c3-1 Net capital requirements for brokers or dealers.

* * * * * * * * * * *

(c) * * *
(2) * * *
(iv) * * *

(C) Interest receivable, floor brokerage receivable, commissions receivable from other brokers or dealers (other than syndicate profits which shall be treated as required in paragraph (c)(2)(iv)(E) of this section), mutual fund concessions receivable and management fees receivable from registered investment companies, all of which receivables are outstanding longer than thirty (30) days from the date they arise; dividends receivable outstanding longer than thirty (30) days from the payable date; good faith deposits arising in connection with an underwriting, outstanding longer than eleven (11) business days from the settlement of the underwriting with the issuer; and, until August 1, 1978, receivables due from participation in municipal securities underwriting syndicates and municipal securities joint underwriting accounts which are outstanding longer than ninety (90) days from settlement of the underwriting with the issuer and good faith deposits arising in connection with an underwriting of municipal securities, outstanding longer than ninety (90) days

from settlement of the underwriting with the issuer;

• • • • •

In § 240.15c3-1, the last sentence of paragraphs (c)(2)(vi)(M) and (f)(3)(iii) is amended to read as follows:

Provided further, That until August 1, 1978, this provision shall not apply to municipal securities.

• • • • •

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 28, 1978.

[FR Doc. 78-5831 Filed 3-6-78; 8:45 am]

[4110-03]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 76N-0217]

PART 103—QUALITY STANDARDS FOR FOODS WITH NO IDENTITY STANDARDS

Subpart B—Standards of Quality

FROZEN READY-TO-EAT BANANA, COCONUT, CHOCOLATE, OR LEMON CREAM-TYPE PIES; GELATIN; WITHDRAWAL OF STANDARDS

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The agency is withdrawing standards of microbiological quality for cream pies and for gelatin. This is being done to provide opportunity in the future to establish consistent domestic and international standards for these food products.

EFFECTIVE DATE: March 7, 1978.

FOR FURTHER INFORMATION CONTACT:

R. B. Read, Bureau of Foods (HFF-120), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-245-1217.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of August 2, 1973 (38 FR 20726), the Commissioner of Food and Drugs issued a final order establishing under subpart B of part 11 (21 CFR part 11) standards of quality for frozen ready-to-eat banana, coconut, chocolate, and lemon cream-type pies (21 CFR 11.5) and for food-grade gelatin (21 CFR 11.6). Persons who would be adversely affected by the order were invited to submit written objections thereto specifying the provisions of the order deemed objectionable and stating the grounds for the objection. Part 11 was recodified as part 103 (21 CFR part 103) in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302); hereafter it will be referred to by its new designation, part 103. Likewise, §§11.5 and 11.6 will be referred to by their new designations, §§103.23 and 103.29 (21 CFR 103.23 and 103.29), respectively.

Objections to the standards for cream-type pies and gelatin were received. The fact that objections were received and that the effective dates of these standards have been stayed in accordance with section 701(e) of the Federal Food, Drug, and Cosmetic Act has previously been noted in the FEDERAL REGISTER of August 9, 1976 (41 FR 33249).

It is not the Commissioner's intention to respond in this document to each of the objections to the cream pies and gelatin standards since these standards are being withdrawn for reasons other than issues of disputed fact.

In consideration of the recent trend designating microbiological specifications for foods in internationl trade and the desire that standards for domestic and import foods be the same, the Commissioner may establish future microbiological quality standards using methods for expressing standards consistent with those being used internationally. The Commissioner therefore is of the opinion that to provide the desired consistency in standards, the standards for cream pies and gelatin should be withdrawn.

The Commissioner concludes that it would not not be in the public interest to hold a hearing and that the standards, which never became effective, should be deleted without prejudice to the possibility of the institution of new proceedings at a later date to establish microbiological quality standards for cream pies and gelatin and for other products.

Accordingly, the Commissioner hereby deletes §§ 103.23 and 103.29 from the regulations promulgated by the final order published in the FEDERAL REGISTER of August 2, 1973 and terminates the rule making proceeding in the above-identified matter.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 403, 701, 52 Stat. 1046-1048 as amended, 1055-1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 341, 343, 371)) and under authority delegated to the Commissioner (21 CFR 5.1), Part 103 is amended by deleting § 103.23 *Frozen ready-to-eat banana, coconut, chocolate, or lemon cream-type pies* and § 103.29 *Food-grade gelatin.*

Effective date. This rule shall be effective March 7, 1978.

Dated: February 28, 1978.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc. 78-5730 Filed 3-6-78; 8:45 am]

[4110-03]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FROM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Spectinomycin Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a supplemental new animal drug application (NADA) filed by Abbott Laboratories for use of an injectable antibiotic to control airsacculitis in turkey poults.

EFFECTIVE DATE: March 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Adriano R. Gabuten, Bureau of Veterinary Medicine (HFV-149), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: Abbott Laboratories, North Chicago, Ill. 60064, filed a supplemental NADA (40-040V) for subcutaneous injection of 10 milligrams of spectinomycin in 1- to 3-day-old turkey poults as an aid in control of airsacculitis associated with *Mycoplasma meleagridis* sensitive to drug.

Amendment of the regulations to reflect this change does not require a reevaluation of the NADA, nor does it constitute a reaffirmation of the safety and effectiveness data supporting the NADA.

In accordance with the Freedom of Information Regulations and § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFC-20), room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, from 9 a.m. to 4 p.m., Monday through Friday, except on Federal holidays.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), part 522 is amended in § 522.2120 by revising paragraph (a)(3) and adding new paragraph (d)(4), to read as follows:

§ 522.2120 Spectinomycin injection.

(a) • • •

(3) 100 milligrams when used as provided in paragraph (d)(3) and (4) of this section.

• • • • •

(d) • • •

(4) Administer single injection of 0.1 milliliter (10 milligrams) subcutaneously in nape of neck of 1- to 3-day-old turkey poults as an aid in control of airsacculitis associated with *M. meleagridis* sensitive to spectinomycin.

Effective date. This regulation becomes effective March 7, 1978.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: February 27, 1978.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc. 78-5838 Filed 3-6-78; 8:45 am]

[4210-01]

Title 24—Department of Housing and Urban Development

CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-78-512]

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOMEOWNERSHIP AND PROJECT REHABILITATION

Changes in Downpayment Requirements and Maximum Subsidy Payments Under Section 235 of the National Housing Act

AGENCY: Department of Housing and Urban Development.

ACTION: Interim rule.

SUMMARY: This interim rule will lower the downpayment required under the section 235 program relating to mortgage insurance and assistance payments for homeownership and project rehabilitation and will increase the maximum subsidy payment. The result of these changes will be to make participation in the program possible for many eligible families which cannot meet the current program requirments.

DATES: Effective date: March 7, 1978. Comments due: June 5, 1978.

ADDRESS: Send comments to Rules Docket Clerk, Office of General Cousel, Room 5218, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

William A. Rolfe, Director, Single Family Mortgage Insurance Division, Office of Insured and Direct Loan Programs, Department of Housing and Urban Development, Washington, D.C. 20410, 202-426-8914.

SUPPLEMENTARY INFORMATION: This interim rule will reduce the minimum downpayment to 3 percent of the cost of acquisition instead of 3 percent of the first $25,000 plus 5 percent of the acquisition cost in excess of $25,000. It will also increase the maximum subsidy level to reduce the effective interest rate from 5 percent to 4 percent. The result of these changes will be to make participation in the program possible for many eligible families which cannot meet the current program requirements.

Since the existing downpayment requirement and maximum interest subsidy level may constrain certain otherwise eligible lower income families from obtaining assistance, the Department has determined that these revisions in the section 235 program should be available to the public as soon as possible and that it is, therefore, impractical and contrary to the public interest to provide for comment and public participation before making these amendments effective. Good cause also exists for providing that §§ 235.2, 235.35, and 235.335, as amended, be effective upon publication.

Interested persons may participate in this rulemaking by submitting written data, views or arguments to the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410. Each person submitting a comment should include his name and address and refer to the document by the docket number indicated in the heading and give reasons for any recommendations. Comments received by June 5, 1978, will be considered before final action is taken on these interim regulations. Copies of all written comments received will be available for examination by interested persons in the Office of the Rules Docket Clerk at the address listed above. This interim rule will be adopted as final, revoked or amended at the end of the stated comment period.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the address listed above.

NOTE.—It is hereby certified that the economic and inflationary impacts of these amendments have been carefully evaluated in accordance with Executive Order 11821.

Accordingly, the Secretary of Housing and Urban Development amends Chapter II of 24 CFR as follows:

1. In § 235.2, paragraphs (a) and (d) are revised to read as follows:

§ 235.2 Basic program outline.

• • • • •

(a) Assistance will be in the form of monthly payments by the Secretary to the mortgagee to reduce effective interest costs to a homeowner on an insured market rate home mortgage to as low as four percent if the homeowner cannot afford the full mortgage payment with 20 percent of this income.

• • • • •

(d) The mortgagor must have paid in cash or its equivalent at least 3 percent of the acquisition cost.

• • • • •

2. In § 235.35 paragraph (b) is revised to read as follows:

§ 235.35 Mortgagor's investment.

• • • • •

(b) The mortgagor shall have paid, at the time the mortgage is insured, on account of the property, in cash or its equivalent, at least 3 percent of the Secretary's estimate of the cost of acquisition.

• • • • •

3. § 235.335 is amended to read as follows:

§ 235.335 Assistance payments and handling charges.

(a) • • •

(2) (i) • • •

(ii) With respect to mortgages approved for insurance under this Part by the Secretary on or after January 5, 1976, but before March 7, 1978, the difference between the required monthly payment under the mortgage for principal, interest, and mortgage insurance premium and the monthly payment which would be required for principal and interest if the mortgage bore an interest rate of 5 percent.

(iii) With respect to mortgages approved for insurance under this Part by the Secretary on or after March 7, 1978, the difference between the required monthly payment under the mortgage for principal, interest, and mortgage insurance premium and the

monthly payment which would be required for principal and interest if the mortgage bore an interest rate of 4 percent.

• • • • •

Issued at Washington, D.C., March 2, 1978.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 78-6060 Filed 3-6-78; 8:45 am]

[8320-01]

Title 38—Pensions, Bonuses and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 36—LOAN GUARANTY

Increase in Maximum Permissible Interest Rate on New, Guaranteed, Insured and Direct Loans

AGENCY: Veterans Administration.

ACTION: Final Regulations.

SUMMARY: The amended regulations increase the maximum permissible interest rate on new, guaranteed, insured and direct loans.

The Administrator is required to establish a maximum interest rate for loans guaranteed, insured or made by the Veterans Administration as he finds the loan market demands. All recent indicators have shown that the loan market has become more restrictive. The maximum rate in effect for VA guaranteed loans has not been sufficiently competitive to induce private sector lenders to make VA guaranteed or insured loans without imposing substantial discounts. To assure a continuing supply of funds for home mortgages through the VA loan guaranty program it has been determined that an increase in the maximum permissible rate is necessary. The increased return to the lender will make VA loans competitive with other available investments and assure a continuing supply of funds for VA guaranteed and insured mortgages.

At present no change is being made in the maximum interest rate applicable to the mobile home loan program except as to loans to purchase mobile home lots. The lender's return on mobile home unit loans appears competitive with other forms of consumer financing to which this type of loan is comparable and no change in rate is justified at this time.

However, a loan to purchase a mobile home lot is similar to other real estate loans and for the purpose of assuring a continuing supply of funds and consistency with other real estate programs, the rate on these loans is also being increased.

EFFECTIVE DATE: February 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. George D. Moerman, Loan Guaranty Service (264), Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420; 202-389-3042.

SUPPLEMENTARY INFORMATION: The increase in the maximum allowable rate of interest is accomplished by amending Title 38, Code of Federal Regulations §§ 36.4212(a) (2) and (3), 36.4311(a) and 36.4503(a). Compliance with the procedure for publication of proposed regulations prior to final adoption is waived because compliance would create an acute shortage of mortgage funds pending the final date which would necessarily be more than 30 days after publication in proposed form.

APPROVED: February 27, 1978.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

1. In § 36.4212, paragraph (a) (2) and (3) is revised to read as follows:

§ 36.4212 Interest rates and late charges.

(a) The interest rate charged the borrower on a loan guaranteed pursuant to 38 U.S.C. 1819 may not exceed the following maxima except on loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration prior to February 28, 1978. (38 U.S.C. 1819(f).)

• • • • •

(2) 8¾ percent simple interest per annum for that portion of the loan which finances the purchase of a lot and the cost of necessary site preparation, if any.

(3) 8¾ percent simple interest per annum on that portion of a loan which will finance the cost of the site preparation necessary to make a lot owned by the veteran acceptable as the site for the mobile home purchased with the proceeds of the loan except that a rate of not to exceed 12 percent may be charged if the portion of the loan to pay for the cost of such necessary site preparation does not exceed $2,500.

• • • • •

2. In § 36.4311, paragraph (a) is revised to read as follows:

§ 36.4311 Interest rates.

(a) Excepting loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration which specify an interest rate in excess of 8¾ per centum per annum, effective February 28, 1978, the interest rate on any loan guaranteed or insured wholly or in part on or after such date may not exceed 8¾ per centum per annum on the unpaid principal balance. (38 U.S.C. 1803(c)(1).)

• • • • •

3. In § 36.4503, paragraph (a) is revised to read as follows:

§ 36.4503 Amount and amortization.

(a) The original principal amount of any loan made on or after October 1, 1976, shall not exceed an amount which bears the same ratio to $33,000 as the amount of the guaranty to which the veteran is entitled under 38 U.S.C. 1810 at the time the loan is made bears to $17,500. This limitation shall not preclude the making of advances, otherwise proper, subsequent to the making of the loan pursuant to the provisions of § 36.4511. Loans made by the Veterans Administration shall bear interest at the rate of 8¾ percent per annum. (38 U.S.C. 1811(d)(1).)

• • • • •

[FR Doc. 78-5821 Filed 3-6-78; 8:45 am]

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 857-1]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Oklahoma; Administrative Revisions

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rule approves administrative revisions to the following parts of the Oklahoma State Implementation Plan (SIP): Chapter 1, Summary of Oklahoma Air Quality Standards, which includes standards the same as Federal Standards; Chapter 8, Source Surveillance and Enforcement Systems, which relates to installation and operating permits; and the addition to the SIP of Appendix Q, which relates to state ambient air quality standards. All of the changes are considered administrative in nature and minor in substance. No changes to regulations or control strategies are involved. This action is being taken to update the SIP to reflect current operating procedures and the description of air quality standards in Oklahoma. The procedures will provide for administrative details required to notify the Environmental Protection Agency of notice of public availability of application for permit to construct along with the State Agency's evaluation of a project's impact upon air quality, and the intent to approve or disapprove an application. Changes also incorporate current titles and the name of the agency.

EFFECTIVE DATE: April 6, 1978.

ADDRESS: A copy of the State's submittal is available at the following locations: Environmental Protection Agency, Region VI, Air Program Branch, 1201 Elm Street, Dallas, Tex. 75270; and Environmental Protection Agency, Public Information Reference Unit, Room 2922, EPA Library, 401 M Street Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

George I. Kennedy, Air Program Branch, Environmental Protection Agency, Region VI, 1201 Elm Street, Dallas, Tex. 75270, 214-749-3837.

SUPPLEMENTARY INFORMATION: On January 28, 1972, the Governor of Oklahoma submitted the SIP for attainment and maintenance of national ambient air quality standards. Provisions within EPA regulations permit the States to update or revise the SIP as needed. Administrative or minor revisions of the SIP may be submitted by the State agency rather than the Governor, and normally they do not have to be subjected to public hearing. On May 16, 1975, the Oklahoma State Department of Health submitted a series of administrative revisions to Chapters 1 and 8, and added Appendix Q; these were clarified by letter on June 17, 1977.

In Chapter 8 of this revision, in section 8 A, B, and C, the State describes the procedures for processing permit applications and provides for a copy of the notice of public availability of permit application and review to be provided to the Administrator.

The revision of Chapter 1 is the correction of Table 2, summarizing the standards. The addition of Appendix Q incorporates the National Ambient Air Quality Standards, deleting the secondary sulfur dioxide annual and 24-hour standard, and describing all of the standards. A reserved section in Appendix Q provides for future development of significant deterioration standards. Appendix Q provides for applicability, effective date, monitoring, reference conditions, and air quality standards for particulates, sulfur oxides (sulfur dioxide), non-methane hydrocarbons, carbon monoxide, nitrogen dioxide, and photochemical oxidants. A summary table of standards is provided in Appendix Q which is the same as Table 2.

Some of the reference methods have been changed since Oklahoma first submitted this SIP revision. The methods for determining compliance with the ambient standards are to be those currently approved by EPA, and by approving this revision EPA recognizes that certain FEDERAL REGISTER cites in the Oklahoma submission of 1975 are no longer applicable.

While all revisions in this approval are considered administrative and minor substance, and as such as routine updates of the Oklahoma SIP, they were subjected to public hearing on January 14, 1975, having been publicly announced on November 22, 1974. The revisions were approved by the Oklahoma Air Quality Council on March 11, 1975. The public having been given ample opportunity for review previously, and considering the administrative nature of these revisions, the Administrator finds that these revisions should be approved without proposal.

The rulemaking is made under authority of section 110(a) of the Clean Air Act as amended, 42 U.S.C. 1857c-5(a).

Dated: March 1, 1978.

DOUGLAS M. COSTLE,
Administrator.

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart LL—Oklahoma

1. In § 52.1920, paragraph (c) is amended by adding paragraph (9) as follows:

§ 52.1920 Identification of plan.

• • • • •

(c) • • •

(9) Administrative revisions to Oklahoma SIP Chapter 1, Table 2, Oklahoma Ambient Air Quality Standards, Chapter 8, Source Surveillance and Enforcement System, section 8 A, B, and C relating to permits, and addition of Appendix Q, relating to Oklahoma Air Quality Standards, were submitted by the Oklahoma State Department of Health on May 16, 1975, with clarification submitted on June 17, 1977 (non-regulatory).

[FR Doc. 78-5817 Filed 3-6-78; 8:45 am]

[6560-01]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revisions to Section IX of the Texas Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rule approves minor revisions to section IX of the Texas State implementation plan (SIP) for modifications to the State air quality surveillance system. Approval is being given to a request by the Texas Air Control Board (TACB) for changing the designation and location of several SIP air quality monitoring sites. These changes improve the information produced by the air quality surveillance network and allow the TACB surveillance system to be fully operational.

EFFECTIVE DATE: March 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Oscar Cabra, Jr., Air Program Branch, Environmental Protection Agency, Region VI, Dallas, Tex. 75270, 214-767-2745.

SUPPLEMENTARY INFORMATION: On August 12, 1977, the TACB submitted a number of minor revisions to section IX of the Texas SIP. After EPA's review of the submittal, a proposed approval was published in the FEDERAL REGISTER on December 13, 1977 (42 FR 62504). Specific changes to the air quality surveillance networks in several air quality control regions were discussed in detail in that publication and will not be repeated here.

PUBLIC COMMENTS

In the proposed approval of the revisions to section IX of the Texas SIP, interested persons were given 30 days to submit comments for consideration by EPA in making a final approval/disapproval decision. No comments on the proposed approval were received. Therefore, there is no information which conflicts with a decision to approve the revisions as proposed.

CURRENT ACTION

In this action, approval of the revisions to section IX of the Texas SIP is being promulgated as proposed.

This notice of final rulemaking is issued under the authority of section 110(a) of the Clean Air Act, as amended, 42 U.S.C. 1857c-5(a).

Dated: February 28, 1978.

DOUGLAS M. COSTLE,
Administrator.

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart SS—Texas

1. In § 52.2270, paragraph (c) is amended by adding paragraph (15) as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

(15) Revisions to section IX, air quality surveillance plan, which include changes in the designation and location of several air quality monitoring sites were submitted by the Texas Air Control Board on August 12, 1977.

[FR Doc. 78-5818 Filed 3-6-78; 8:45 am]

[6560-01]

SUBCHAPTER C—AIR PROGRAMS

[FRL 841-5]

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Lignite-Fired Steam Generators

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule establishes standards of performance for new or modified lignite-fired steam generators with heat input rates greater than 73 megawatts (250 million Btu per hour) and limits emissions of nitrogen oxides to 260 ng/J of heat input except that 340 ng/J of heat input is allowed from cyclone-fired units which are fired with lignite mined in North Dakota, South Dakota, or Montana. Steam generators contribute significantly to air pollution, and the intended effect of this final rule is to require new steam generators which burn lignite to use the best control system for reducing emissions of nitrogen oxides.

EFFECTIVE DATE: March 7, 1978.

ADDRESSES: The "Standards Support and Environmental Impact Statement (SSEIS), Volume 2: Promulgated Standards of Performance for Lignite-Fired Steam Generators" (EPA-450/2-76-030b) may be obtained by writing the U.S. EPA Library (MD-35), Research Triangle Park, N.C. 27711. Volume 1 of the SSEIS, "Proposed Standards of Performance for Lignite-Fired Steam Generators" (EPA-450/2-76-030a), is also available at the same address. Please specify both the title and EPA number of the document desired. These documents and all public comments may be inspected at the Public Information Reference Unit (EPA Library), Room 2922, 401 M Street SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Don R. Goodwin, Director, Emission Standards and Engineering Division (MD-13), Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone 919-541-5271.

SUPPLEMENTARY INFORMATION: On December 23, 1971 (36 FR 24877), EPA established under Subpart D of 40 CFR Part 60 standards of performance for new steam generators with heat input rates greater than 73 megawatts (250 million Btu per hour). Steam generators which burn lignitie were exempted from the emission standards for nitrogen oxides (NO_x) because too little operating experience was available to adequately characterize NO_x emissions. (Lignite-fired steam generators were not exempted from the standards for sulfur oxides and particulate matter, however.) Since 1971, EPA has gathered additional information on lignite-fired facilities, and on December 22, 1976 (41 FR 55791), the Agency proposed to amend Subpart D by establishing a standard of performance of 260 nanograms per joule (ng/J) of heat input (0.6 pound per million Btu) for NO_x emissions from new lignite-fired steam generators. Supporting information for the proposed standard was published in Volume 1 of the SSEIS for lignite-fired steam generators. After reviewing issues raised during the public comment period which followed the proposal, EPA decided to promulgate standards which will permit the limited use of cyclone-fired facilities to burn lignite mined in North Dakota, South Dakota, and Montana (which causes severe fouling and slagging in pulverized-fired units). Supporting information for these final standards of performance appears in Volume 2 of the SSEIS.

Final Standards

NO_x emissions from lignite-fired steam generators are limited to 260 ng/J of heat in put (0.6 lb/10^6 Btu) except that 340 ng/J (0.8 lb/10^6 Btu) is allowed from cyclone-fired steam generators burning lignite mined in North Dakota, South Dakota, and Montana. Both standards apply only to boilers which burn lignite, with heat input rates greater than 73 megawatts (250 million Btu per hour), and for which construction or modification began after December 21, 1976.

Rationale for Final Standards

The NO_x standard originally proposed by EPA, 260 ng/J, may have prevented the use of cyclone-fired boilers, since it has not been demonstrated that emisisons from these units can be consistently controlled to levels below 260 ng/J. During the public comment period, several commenters argued that the utilization of cyclone-fired boilers is necessary to overcome the serious fouling and slagging problems which develop whenever the sodium content of the lignite burned exceeds about 5 percent, by weight. These high sodium content reserves are believed to be widespread, especially in North Dakota, and the utilities claim that their low sodium content reserves are being rapidly depleted. The commenters said that cyclones have inherently lower fouling and slagging rates than other large boiler designs because much less ash is carried through the boiler convective passes. In addition, they contended that in the Dakotas there has actually been very little operating experience with pulverized-fired boilers, the alternative to large cyclones, and it is doubtful that these units can burn high sodium lignite without experiencing severe problems. Thus, the commenters concluded that the proposed standard might restrict the use of valuable resources of high sodium lignite fuel by prohibiting the utilization of cyclone-fired boilers. The commenters also argued that the proposed standard would place an economic burden on the electirc power utilities which burn lignite by limiting competitive bidding for new boilers.

EPA agrees that at present there is too little operating experience with pulverized- or cyclone-fired boilers to be able to predict their reliability when burning high sodium lignite. Furthermore, the Agency does not want to establish a standard which might inhibit future efforts to find a successful way to burn this troublesome fuel. Consequently, EPA has established a separate nitrogen oxides emission standard of 340 ng/J (0.8 lb/10^6 Btu) for new cyclone-fired boilers which burn North Dakota, South Dakota, or Montana lignite. This standard will permit the limited utilization of cyclone-fired boilers and assure the continued use of our country's abundant resources of lignite. Lignite mined in Texas, the only other known major lignite formation, generally has low sodium content and has been successfully burned in pulverized-fired units for years. The standard is supported by emission test data and other information contained in Volume I of the SSEIS. Nitrogen oxides emissions from pulverized-fired boilers will be limited to 260 ng/J (0.6 lb/10^6 Btu), as originally proposed.

Cyclone-fired boilers could account for 10 to 20 percent of all new lignite-fired steam generators, based on EPA estimates of lignite consumption for the year 1980. EPA estimates that NO_x emissions from new cyclone-fired boilers may be reduced by as much as 20 percent as a result of the standard. The combined effect of both standards will be to reduce total NO_x emissions from all new boilers which burn lignite by about 25 percent.

It should be noted that standards of performance for new sources established under section 111 of the Clean Air Act reflect the degree of emission limitation achievable through application of the best adequately demonstrated technological system of continuous emission reduction (taking into consideration the cost of achieving such emission reduction, any nonair quality health and environmental impact and energy requirements). State implementation plans (SIPs) approved or promulgated under section 110 of the Act, on the other hand, must provide for the attainment and maintenance of national ambient air quality standards (NAAQS) designed to protect public health and welfare. For that purpose, SIPs must in some cases require greater emission reductions than those required by standards of performance for new sources. Section 173 of the Act requires, among other things, that a new or modified source constructed in an area which exceeds the NAAQS must reduce emissions to the level which reflects the "lowest achievable emission rate" for such category of source as defined in section 171(3), unless the owner or operator demonstrates that the source cannot achieve such an emission rate. In no event can the emission rate exceed any applicable standard of performance.

A similar situation may arise when a major emitting facility is to be constructed in a geographic area which falls under the prevention of significant deterioration of air quality provisions of the Act (Part C). These provisions require, among other things, that major emitting facilities to be constructed in such areas are to be subject to best available control technology. The term "best available control technology" (BACT) means "an emission limitation based on the maximum degree of reduction of each pollutant subject to regulation under this Act emitted from or which results from any major emitting facility, which the permitting authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such facility through application of production processes and available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of each such pollutant. In no event shall application of 'best available control technology' result in emissions of any pollutants which will exceed the emissions allowed by any applicable standard established pursuant to section 111 or 112 of this Act."

Standards of performance should not be viewed as the ultimate in achievable emission control and should not preclude the imposition of a more stringent emission standard, where appropriate. For example, while cost of achievement may be an important factor in determining standards of performance applicable to all areas of the country (clean as well as dirty), costs must be accorded far less weight in determining the "lowest achievable emission rate" for new or modified sources locating in areas violating statutorily-mandated health and welfare standards. Although there may be emission control technology available that can reduce emissions below those levels required to comply with standards of performance, this technology might not be selected as the basis of standards of performance due to costs associated with its use. This in no way should preclude its use in situations where cost is a lesser consideration, such as determination of the "lowest achievable emission rate."

In addition, States are free under section 116 of the Act to establish even more stringent emission limits than those established under section 111 or those necessary to attain or maintain the NAAQS under section 110. Thus, new sources may in some cases be subject to limitations more stringent than EPA's standards of performance under section 111, and prospective owners and operators of new sources should be aware of this possibility in planning for such facilities.

Environmental and Economic Impacts

The impact of the NO_x emission standards will be most significant in North Dakota and Texas where most new lignite-fired boilers will be located. Although ambient NO_x levels in these areas are now low, emission regulations are important because: (1) The standards will maintain low ambient NO_x concentrations in areas where population and industrial growth is expected in the future; (2) the standards will reduce the potential for development of rural smog which can form in regions having initially low ambient NO_x concentrations; and (3) the standards will reduce long distance transport of NO_x to areas having air pollution problems. In addition, since nationwide levels of NO_x are expected to rise in the future despite NO_x control regulations, the NO_x emission standards for lignite-fired boilers will help to alleviate this problem.

The standards will cause total NO_x emissions from all new lignite-fired steam generators to be reduced by about 25 percent. By comparison, NO_x emissions would have been reduced by about 29 percent if the use of cyclones had been restricted by the standard originally proposed. Thus, the continued use of cyclone-fired boilers will have only a minor adverse impact on air quality.

The NO_x emission standards will have no impact on water pollution, solid waste disposal, sulfur dioxide and particulate emissions, or energy consumption at new lignite-fired steam generators. In addition, the standards will not prohibit the use of any lignite reserves or adversely affect any other natural resources. Additional information about the environmental impact of the standards appears in Volumes 1 and 2 of the SSEIS.

The NO_x emission standards will cause capital costs for new lignite-fired plants to increase by, at most, only 0.5 percent and operating costs will rise even less. Therefore, capital and operating expenses will rise only nominally. Since the price consumers pay for electric power is generally proportional to the electric utility's operating costs, consumer power price increases will be negligible. The boiler manufacturers will experience no significant market disadvantages because the standards effectively permit the sale of all boiler designs and provide no sales advantages for any manufacturer. The small increases in capital costs resulting from the standards will not affect the boiler industry's overall sales. More information about the economic impact of the standards can be found in Volumes 1 and 2 of the SSEIS.

Public Comments

Seventeen comment letters were received during the public comment period. Many of the comments were critical of the information EPA used to support restriction of the cyclone-fired boiler. In particular, these arguments were made: (1) None of the pulverized-fired boilers which EPA tested operate reliably when burning lignite with a sodium content above about 5 percent; (2) the front-wall-fired plant cited by EPA has never burned lignite with an 8 percent sodium content for an extended period of time, as EPA has reported. Also, the plant's capacity factor has averaged about 72 percent, not 86 percent as stated by EPA; (3) although it is true that a North Dakota electric utility has recently agreed to purchase two tangentially-fired boilers, these units are guaranteed to burn lignite containing no more than 4.8 percent sodium. Also, the decision to purchase these boilers may have been influenced by the utility's concern that EPA might prohibit the use of cyclones; (4) recent experiments by the Energy Research and Development Administration have demonstrated that cyclone-fired boilers have significantly lower ash deposition rates than pulverized-fired boilers. This confirms arguments that cyclones have much lower fouling and slagging potentials when burning high sodium content lignite.

EPA agrees that there has not been enough successful operating experience with pulverized-fired boilers

which burn high sodium content lignite to justify eliminating cyclones from the market. Consequently, the Agency has decided to establish a separate NO_x emission standard for cyclones burning Dakota lignite which permits their use.

Another issue raised during the comment period concerned the potentially high NO_x emissions which could occur when Texas lignite with a high nitrogen content is burned. It was argued that these emissions could exceed the standard even if the best system of emission reduction were employed. In support of this contention, a commenter submitted data which indicate that the fuel-nitrogen content of Texas lignites ranges well above expected values. EPA has determined, however, that these data were accumulated around the turn of the century and are inconsistent with present-day values. Information from the Bureau of Economic Geology at the University of Texas and the Texas Railroad Commission indicates that Texas lignite nitrogen contents are typically low and should not cause NO_x emissions from a well controlled plant to exceed the standard.

These and all other comments are discussed in detail in Volume 2, Chapter 2 of the SSEIS.

The effective date of this regulation is (date of publication), because section 111(b)(1)(B) of the Clean Air Act provides that standards of performance or revisions thereof become effective upon promulgation.

NOTE.—The Environmental Protection Agency has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Analysis under Executive Orders 11821 and 11949 and OMB Circular A-107.

Dated: March 2, 1978.

DOUGLAS M. COSTLE,
Administrator.

Part 60 of Chapter I, Title 40 of the Code of Federal Regulations is amended by revising Subparts A and D as follows:

Subpart A—General Provisions

1. Section 60.2 is amended by substituting the International System of Units (SI) in paragraph (1) as follows:

§ 60.2 Definitions.

• • • • •

(1) "Standard conditions" means a temperature of 293 K (68° F) and a pressure of 101.3 kilopascals (29.92 in Hg).

• • • • •

Subpart D—Standards of Performance for Fossil Fuel-Fired Steam Generators

2. Section 60.40 is amended by revising paragraph (c) and by adding paragraph (d) as follows:

§ 60.40 Applicability and designation of affected facility.

• • • • •

(c) Except as provided in paragraph (d) of this section, any facility under paragraph (a) of this section that commenced construction or modification after August 17, 1971, is subject to the requirements of this subpart.

(d) The requirements of §§ 60.44(a)(4), (a)(5), (b), and (d), and 60.45(f)(4)(vi) are applicable to lignite-fired steam generating units that commenced construction or modification after December 22, 1976.

3. Section 60.41 is amended by adding paragraph (f) as follows:

§ 60.41 Definitions.

• • • • •

(f) "Coal" means all solid fuels classified as anthracite, bituminous, subbituminous, or lignite by the American Society for Testing Material. Designation D 388-66.

4. Section 60.44 is amended by adding paragraphs (a)(4) and (a)(5), by revising paragraph (b), and by adding paragraphs (c) and (d) as follows:

§ 60.44 Standard for nitrogen oxides.

(a) • • •

(4) 260 nanograms per joule heat input (0.60 lb per million Btu) derived from lignite or lignite and wood residue (except as provided under paragraph (a)(5) of this section).

(5) 340 nanograms per joule heat input (0.80 lb per million Btu) derived from lignite which is mined in North Dakota, South Dakota, or Montana and which is burned in a cyclone-fired unit.

(b) Except as provided under paragraphs (c) and (d) of this section, when different fossil fuels are burned simultaneously in any combination, the applicable standard (in ng/J) is determined by proration using the following formula:

$$PS_{NO_x} = \frac{w(260) + x(86) + y(130) + z(300)}{w + x + y + z}$$

where:

PS_{NO_x} = is the prorated standard for nitrogen oxides when burning different fuels simultaneously, in nanograms per joule heat input derived from all fossil fuels fired or from all fossil fuels and wood residue fired;

w = is the percentage of total heat input derived from lignite;

x = is the percentage of total heat input derived from gaseous fossil fuel;

y = is the percentage of total heat input derived from liquid fossil fuel; and

z = is the percentage of total heat input derived from solid fossil fuel (except lignite).

(c) When a fossil fuel containing at least 25 percent, by weight, of coal refuse is burned in combination with gaseous, liquid, or other solid fossil fuel or wood residue, the standard for nitrogen oxides does not apply.

(d) Cyclone-fired units which burn fuels containing at least 25 percent of lignite that is mined in North Dakota, South Dakota, or Montana remain subject to paragraph (a)(5) of this section regardless of the types of fuel combusted in combination with that lignite.

(Sections 111 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7411, and 7601).)

5. Section 60.45 is amended by adding paragraph (f)(4)(vi) as follows:

§ 60.45 Emission and fuel monitoring.

• • • • •

(f) • • •

(4) • • •

(vi) For lignite coal as classified according to A.S.T.M. D 388-66, $F = 2.659 \times 10^{-7}$ dscm/J (9900 dscf/million Btu) and $F_c = 0.516 \times 10^{-7}$ scm CO_2/J (1920 scf CO_2/million Btu).

(Sections 111, 114, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7411, 7414, and 7601).)

[FR Doc. 78-5975 Filed 3-6-78; 8:45 am]

[6560-01]

Title 41—Public Contracts and Property Management

CHAPTER 15—ENVIRONMENTAL PROTECTION AGENCY

[FRL 824-8]

PART 15-7—NEW CONTRACT CLAUSES

Confidential Business Information

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rule adds two new clauses to be used when applicable and substitutes the appropriate "authorization and consent" clause for research and development contracts. The objective of the two new clauses, entitled "Treatment of Confidential Business Information" and "Screening Business Information for Claims of Confidentiality" is to provide the same degree of protection to commercial or financial information as provided under the Freedom of Information Act when, either the Agency may furnish confidential business information to an agency contractor necessary to the performance of his work; or an agency contractor is required to collect information that may be considered as proprietary or confidential by the business that has the right to the information. The substitute "authorization and consent" clause was adopted from the Armed Services Procurement Regulation.

EFFECTIVE DATE: March 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank Boyer, Contracts Policy and Review Branch, Environmental Protection Agency, Washington, D.C. 20460, 202-755-0900.

SUPPLEMENTARY INFORMATION: It is the general policy of the Environmental Protection Agency to provide time for interested persons to participate in the rulemaking process. However, the amendment herein implements the previously published Environmental Protection Agency regulations on confidentiality of business information in 40 CFR Part 2, Subpart B, and merely reflects the requirements stated therein. Therefore the public rulemaking process is waived in this instance and the amendment stated herein is effective immediately.

(5 U.S.C. 301; 40 U.S.C. 486(c).)

DOUGLAS M. COSTLE,
Administrator,
Environmental Protection Agency.

FEBRUARY 28, 1978.

The table of contents for Part 15-7 is amended to provide new entries as follows:

Sec.
15-7.350 Clauses to be used when applicable.
15-7.350-1 Treatment of confidential business information.
15-7.350-2 Screening business information for claims of confidentiality.
15-7.403-51 Treatment of confidential business information.
15-7.403-52 Screening business information for claims of confidentiality.
15-7.451-2 Treatment of confidential business information.
15-7.451-3 Screening business information for claims of confidentiality.

Subpart 15-7.3—Fixed-Price Research and Development Contracts

1. Section 15-7.302-55 is revised as follows:

§ 15-7.302-55 Authorization and consent.

Insert the following clause in fixed-price research and development contracts:

AUTHORIZATION AND CONSENT

The Government hereby gives its authorization and consent for all use and manufacture of any invention described in and covered by a patent of the United States in the performance of this contract or any part hereof or any amendment hereto or any subcontract hereunder (including any lower-tier subcontract).

2. Section 15-7.350 is added as follows:

§ 15-7.350 Clauses to be used when applicable.

3. Sections 15-7.350-1 and 15-7.350-2 are added as follows:

§ 15-7.350-1 Treatment of confidential business information.

Insert the following clause in fixed-price research and development contracts when the contracting officer has determined that in the performance of a contract EPA may furnish confidential business information to the contractor that EPA obtained under the Clean Air Act (42 U.S.C. 1857 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136 et seq.), the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.), or the Toxic Substances Control Act (15 U.S.C. 2601 et seq.). EPA regulations on confidentiality of business information in 40 CFR Part 2 Subpart B require that the contractor agree to the Clause entitled "Treatment of Confidential Business Information" before any confidential business information may be furnished to the contractor:

TREATMENT OF CONFIDENTIAL BUSINESS INFORMATION

(a) The Contracting Officer, after a written determination by the appropriate program office, may disclose confidential business information to the Contractor necessary to carry out the work required under this contract. The Contractor agrees to use the confidential information only under the following conditions:

(1) The Contractor and Contractor's Employees shall: (i) Use the confidential information only for the purposes of carrying out the work required by the contract; (ii) not disclose the information to anyone other than EPA employees without the prior written approval of the Deputy Associate General Counsel for Contracts and General Administration; and (iii) return to the Contracting Officer all copies of the information, and any abstracts or excerpts therefrom, upon request by the Contracting Officer, whenever the information is no longer required by the Contractor for the performance of the work required by the contract, or upon completion of the contract.

(2) The Contractor shall obtain a written agreement to honor the above limitations from each of the Contractor's Employees who will have access to the information, before the employee is allowed access.

(3) The Contractor agrees that these contract conditions concerning the use and disclosure of confidential information are included for the benefit of, and shall be enforceable by, both EPA and any affected business having a proprietary interest in the information.

(4) The Contractor shall not use any confidential information supplied by EPA or obtained during performance hereunder to compete with any business to which the confidential information relates.

(b) The Contractor agrees to obtain the written consent of the Contracting Officer, after a written determination by the appropriate program office, prior to entering into any subcontract that will involve the disclosure of confidential business information by the Contractor to the subcontractor. The Contractor agrees to include this clause, including this paragraph (b), in all subcontracts awarded pursuant to this contract that require the furnishing of confidential business information to the subcontractor.

§ 15-7.350-2 Screening business information for claims of confidentiality.

Insert the following clause in fixed-price research and development contracts when the contracting officer has determined that during performance of this contract the contractor may be required to collect information to perform the work required under this contract. Some of the information may consist of trade secrets or commercial or financial information that would be considered as proprietary or confidential by the business that has the right to the information. The following clause enables EPA to resolve any claims of confidentiality concerning the information that the contractor will furnish under a contract. The clause entitled "Treatment of Confidential Business Information" shall also be included in the contract:

SCREENING BUSINESS INFORMATION FOR CLAIMS OF CONFIDENTIALITY

(a) Whenever collecting information under this contract, the Contractor agrees to comply with the following requirements:

(1) If the Contractor collects information from public sources, such as books, reports, journals, periodicals, public records, or other sources that are available to the public without restriction, the Contractor shall submit a list of these sources to the appropriate program office at the time the information is initially submitted to EPA. The Contractor shall identify the information according to source.

(2) If the Contractor collects information from a State or local government or from a Federal agency, the Contractor shall submit a list of these sources to the appropriate program office at the time the information is initially submitted to EPA. The Contractor shall identify the information according to source.

(3) If the Contractor collects information directly from a business or from a source that represents a business or businesses, such as a trade association:

(i) Before asking for the information, the Contractor shall identify itself, explain that it is performing contractual work for the U.S. Environmental Protection Agency, identify the information that it is seeking to collect, explain what will be done with the information, and give the following notice:

(A) You may, if you desire, assert a business confidentiality claim covering part or all of the information. If you do assert a claim, the information will be disclosed by EPA only to the extent, and by means of the procedures, set forth in 40 CFR Part 2, Subpart B, 41 FR 36906, September 1, 1976.

(B) If no such claim is made at the time this information is received by (the Contractor), it may be made available to the public by the Environmental Protection Agency without further notice to you.

(ii) Upon receiving the information, the Contractor shall make a written notation that the notice set out above was given to the source, by whom, in what form and on what date.

(iii) At the time the Contractor initially submits the information to the appropriate program office, the Contractor shall submit

a list of these sources, identify the information according to source, and indicate whether the source made any confidentiality claim and the nature and extent of the claim.

(b) The Contractor shall keep all information collected from nonpublic sources confidential in accordance with the clause in this contract entitled "Treatment of Confidential Business Information" as if it had been furnished to the Contractor by EPA.

(c) The Contractor agrees to obtain the written consent of the Contracting Officer, after a written determination by the appropriate program office, prior to entering into any subcontract that will require the subcontractor to collect information. The Contractor agrees to include this clause, including this paragraph (c), and the clause entitled "Treatment of Confidential Business Information" in all subcontracts awarded pursuant to this contract that require the subcontractor to collect information.

Subpart 15-7.4—Cost-Reimbursement Type Research and Development Contracts

1. Section 15-7.402-54 is revised as follows:

§ 15-7.402-54 Authorization and consent.

Insert the clause set forth in § 15-7.302-55.

2. Section 15-7.403-51 and 15-7.403-52 are added as follows:

§ 15-7.403-51 Treatment of confidential business information.

Insert the clause set forth in § 15-7.350-1 under the conditions prescribed therein.

§ 15-7.403-52 Screening business information for claims of confidentiality.

Insert the clause set forth in § 15-7.350-2 under the conditions prescribed therein.

3. Section 15-7.450-8 is revised as follows:

§ 15-7.450-8 Authorization and consent.

Insert the clause set forth in § 15-7.302-55.

4. Sections 15-7.451-2 and 15-7.451-3 are added as follows:

§ 15-7.451-2 Treatment of confidential business information.

Insert the clause set forth in § 15-7.350-1 under the conditions prescribed therein.

§ 15-7.451-3 Screening business information for claims of confidentiality.

Insert the clause set forth in § 15-7.350-2 under the conditions prescribed therein.

[FR Doc. 78-5816 Filed 3-6-78; 8:45 am]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21455; RM-2917]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in Moses Lake, Wash.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: This action assigns a class A FM channel to Moses Lake, Wash. The channel provides for a second FM station which could render a fourth local aural broadcast service to the community.

EFFECTIVE DATE: April 12, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER—(PROCEEDING TERMINATED)

Adopted: February 27, 1978.

Released: March 1, 1978.

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations. (Moses Lake, Wash.), Docket No. 21455, RM-2917.

1. The Commission has before it the notice of proposed rulemaking adopted October 26, 1977, 42 FR 57695, proposing the assignment of Channel 257A to Moses Lake, Wash., as its second FM assignment. The proceeding was instituted on the basis of a petition filed by KSEM, Inc. ("petitioner"), licensee of full-time AM Station KSEM, Moses Lake, Wash. Supporting comments were filed by petitioner, reaffirming its intention to file for the channel, if assigned. No oppositions were received.

2. Moses Lake (pop. 10,310), in Grant County (pop. 41,881),[1] is located approximately 160 kilometers (100 miles) southwest of Spokane, Wash. It presently receives local broadcast service from full-time AM Station KSEM (licensed to petitioner), daytime-only AM Station KWIQ, and Class C FM Station KWIQ-FM (Channel 262).

3. Petitioner states that Moses Lake's population, according to the Chamber of Commerce, has increased from 10,310 (1970 Census) to 13,000 persons as of April, 1976. It points out that Moses Lake and Grant County are the hub of the Columbia Basin which area produces top yields of sugar beets, alfalfa, corn and wheat. We are told that these outstanding crop yields have drawn processing plants, fertilizer and chemical companies, farm equipment dealers and irrigation and sprinkler system distributors to the area.

4. Preclusion of otherwise possible assignments would occur only on the proposed channel. Eleven communities[2] are located in the precluded area. Of these eleven, four (Warden, Soap Lake, Cashmere and Coulee Dam) are without local aural broadcast service. Coulee Dam is located within 8 kilometers (5 miles) of Grand Coulee which has two unused FM assignments. An alternate channel is available for assignment to Soap Lake. The proposed channel, if assigned, could be used at Cashmere as well as Moses Lake, so long as the Cashmere transmitter site were located 4.8 kilometers (3 miles) northwest of the community. The preclusion of an assignment to Warden (pop. 1,254) is not sufficient to warrant refusal of the proposed assignment to Moses Lake.

5. While the proposed assignment would contravene the usual policy of avoiding intermixture of a Class A with a Class C channel, we have deviated from this policy where there is a demand for a Class A channel and the proponent has expressed a willingness to compete under such circumstances. Since petitioner is willing to apply for and operate Channel 257A at Moses Lake, in spite of the intermixture situation, we will make the assignment. The channel would provide for a second local FM broadcast service to the community.

6. The Canadian Government has given its concurrence to the proposed assignment of Channel 257A to Moses Lake, Wash.

7. Authority for the action taken herein is contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

8. In view of the foregoing, *it is ordered*, That effective April 12, 1978, § 73.202(b) of the Commission's rules, the FM Table of Assignments, is amended with respect to the community listed below:

City and Channel No.
Moses Lake, Wash., 257A, 262.

[1] Population figures are taken from the 1970 U.S. Census unless otherwise indicated.

[2] Washington: Othello (pop. 4,122), Warden (1,254), Quincy (3,237), Chelan (2,430), Ephrata (5,255); Soap Lake (1,064); Cashmere (1,976), Wenatchee (16,912), Ellensburg (13,568), Coulee Dam (1,425), Grand Coulee (1,302).

9. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083 (47 U.S.C. 154, 303, 307).)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-5836 Filed 3-6-78; 8:45 am]

[7035-01]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Corrected S.O. No. 1304]

PART 1033—CAR SERVICE

Distribution of Covered Hopper Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (corrected service order No. 1304).

SUMMARY: There is a shortage of jumbo covered hopper cars for transporting shipments of grain. A large number of these cars have been placed in unit-train service. Service order No. 1304 provides that no common carrier by railroad shall permit the use in unit-grain train service of more than 20 percent of its ownership of jumbo covered hopper cars.

DATES: Effective 11:59 p.m., March 1, 1978. Expires 11:59 p.m., April 30, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION: The order is printed in full below.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 24th day of February 1978.

An acute shortage of covered hopper cars for transporting shipments of grain, grain products, soybeans, or soybean meal exists in certain sections of the country. Some carriers have placed substantial numbers of large-capacity covered hopper cars in unit-train service for the movement of grain under tariff provisions which require that these cars remain in this service for five or more consecutive trips in the service of a single shipper. Such practices are depriving shippers, unable to ship to the destinations to which such services are available or unable to comply with tariff provisions applicable to such movements with respect to availability of tonnage in a single day or ability to receive grain in such quantities, of an equitable share of the supply of large covered hoppers thus creating great economic loss.

The Commission on July 28, 1977, in docket ex parte No. 307, ordered, and the carriers have incorporated in their tariffs, rules requiring that, in periods of shortages in the supplies of covered hopper cars, such cars assigned to the use of a shipper for five or more consecutive trips in unit-grain train service be returned to the control of the carrier for redistribution in a fair and equitable manner.

It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1304 Service order No. 1304.

(a) *Distribution of covered hopper cars.* Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) *Restrictions on use of covered hopper cars.* Effective March 1, 1978, no common carrier by railroad shall permit the use in unit-grain train service of more than twenty percent (20%) of its ownership of jumbo covered hopper cars. (See exception.)

(2) *Repetitive trips.* After completion of five consecutive trips or of the minimum number of trips required by applicable tariffs to qualify for unit-grain train rates, whichever is the lesser, unit-grain trains comprised of jumbo covered hopper cars shall be returned to the origin carrier for distribution. In distributing cars so returned to the control of the carrier, consideration shall be given to the sequence of car orders, the amount of grain immediately available for shipment and the ratio of grain cars ordered to grain cars furnished during the previous 7-day period.[1] Nothing in this paragraph shall prohibit the reallocation of jumbo covered hopper cars to unit-grain train services provided the limitations of paragraph (1) and (5) of this section are not exceeded.

(3) *Completion period.* The period specified in applicable tariffs for completion of the total volume requirements of any unit-grain train shipment on which the required number of consecutive trips has been interrupted because of the provisions of paragraph (2) of this section, shall be extended by addition of the number of days of such interruption, to the total number of days allowed to fulfill such volume requirements.

(4) *Railroad cars mixed with private cars.* (i) Jumbo covered hopper cars of railroad ownership may be substituted for similar cars of private ownership in unit-grain trains normally consisting of cars of private ownership to replace cars which have been damaged by the railroad, provided such substitution does not exceed ten percent (10%) of the total number of cars in such train, fractions of a car to be computed by the next higher whole number of cars. The total of such railroad-owned cars shall be included in the total number of cars authorized herein to be used in unit-grain train service. (See exception (iii).)

(ii) Carrier may operate unit-grain trains comprised of cars of both railroad and private ownership. (See exception (iii).) The railroad-owned cars used in such unit train of mixed ownerships shall remain subject to the provisions of paragraph (2) of this section.

(iii) *Exception.* The provisions of parts (i) and (ii) of this paragraph shall not apply to unit-grain trains subject to tariff provisions requiring the exclusive use of cars of private ownership.

(5) *Increased use in unit trains prohibited.* No common carrier by railroad shall increase the proportion of its ownership of covered hopper cars operated in unit-grain train service above the proportion operated in unit-grain train service on February 15, 1978.

(6) *Exception.* Exceptions to this order may be authorized to carriers by the Railroad Service Board, Interstate Commerce Commission, Washington, D.C. 20423, upon written application stating the number of additional cars to be used in unit-grain train service, the points between which such cars are to be used and the effect upon the carrier's ability to supply cars to other grain shippers who are dependent on it for their car supplies.

(7) *Substitution of small cars for jumbo cars prohibited.* No common carrier shall substitute smaller covered hopper cars for jumbo covered hopper cars for use in unit-grain train service.

(8) *Monthly reports required.* Each common carrier by railroad owning jumbo covered hopper cars shall report to Mr. Joel E. Burns, Chairman, Railroad Service Board, Interstate Commerce Commission, Washington, D.C. 20423, on or before the 10th day of each month the number of jumbo covered hopper cars owned, as of the first of the month, the total number in unit-grain train service; by trains, the number of railroad-owned and privately owned cars in unit-grain trains of mixed ownership; by trains, the number of railroad owned cars substituted for private cars which have been damaged by railroad and the number of private cars in such unit-grain

[1] Addition for clarification purposes.

trains; the number of railroad-owned cars in general grain service, the number in other services, the number of unit-grain trains operated during the previous month, and the number of trips made by such trains.

(b) *Definitions.*—(1) *Unit-grain train.* Unit-grain trains are hereby defined as trains of twenty (20) or more covered hoppers organized and operated as a unit from a single point of origin or concentration point, to one destination or distribution point in order to comply with published tariff requirements.

(2) *Jumbo covered hopper cars of railroad ownership.* Jumbo covered hopper cars of railroad ownership are hereby defined as cars listed in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 406, issued by W. J. Trezise, or successive issues thereof as bearing reporting marks issued to railroads and having mechanical designation "LO", and having cubical capacities of 4,000 cu. ft. or larger and weight-carrying capacities of 180,000 lbs. or greater.

(3) *Cars of private ownerships.* Cars of private ownership are hereby defined as cars listed in the section entitled "Private Car Owners," pages 709-1099, inclusive, of the Official Railway Equipment Register, I.C.C.-R.E.R. No. 406, issued by W. J. Trezise, or successive issues thereof.

(c) *Rules and regulations suspended.* In the event that the operation of any unit-grain train is discontinued by the shipper prior to March 15, 1978, as a result of this order, the discontinuance of such a train shall be deemed to have completed the tariff responsibility as to total volume required to be shipped and as to the number of consective trips required to be made by such unit-grain train. The operation of all other tariff provisions or of other rules and regulations, insofar as they conflict with the provisions of this order, is hereby suspended.

(d) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(e) *Effective date.* This order shall become effective at 11:59 p.m., March 1, 1978.

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., April 30, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1(10-17).)

It is further ordered, That a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-5815 Filed 3-6-78; 8:45 am]

[7035-01]

[S.O. 1240; Amdt. 4]

PART 1033—CAR SERVICE

Chicago & North Western Transportation Co. Authorized To Operate Over Tracks of the Kansas City Southern Railway Co.

AGENCY: Interstate Commerce Commission.

ACTION: Extension of emergency order (amendment No. 4 to service order No. 1240).

SUMMARY: This amendment extends for 6 months an emergency order issued April 9, 1976, which authorized the Chicago & North Western Transportation Co. (CNW) to operate an unused yard of the Kansas City Southern Railway Co. (KCS) at Kansas City, Mo. Increases in traffic on the CNW in the Kansas City area have resulted in severe congestion and delays to shipments in the Kansas City terminals of that line. The adjoining Hennig Street yard of the KCS is no longer needed by that line because of changes in operating patterns. Use of this yard by the CNW enables that line to move traffic through Kansas City without the excessive delays previously encountered.

DATES: Effective 11:59 p.m., February 28, 1978. Expires 11:59 p.m., August 31, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION: The order is printed in full below.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 28th day of February, 1978.

Upon further consideration of service order No. 1240 (41 FR 15698, 48343; 42 FR 22367 and 44546), and good cause appearing therefor:

It is ordered, That:

§ 1033.1240, service order No. 1240, Chicago & North Western Transportation Co. authorized to operate over tracks of the Kansas City Southern Railway Co., is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provision of this order shall expire at 11:59 p.m., August 31, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date: This amendment shall become effective at 11:59 p.m., February 28, 1978.

(49 U.S.C. 1(10-17).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association and that notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael. Member Joel E. Burns not participating.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-5814 Filed 3-6-78; 8:45 am]

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 26—PUBLIC ENTRY AND USE

Eastern Neck National Wildlife Refuge, Md.

AGENCY: United States Fish and Wildlife Service, Department of the Interior.

ACTION: Special Regulation.

SUMMARY: The director has determined that public access and specified recreational uses on Eastern Neck National Wildlife Refuge are compatible with the objectives for which the area was established and will provide additional recreational opportunity to the public.

DATES: January 1, 1978 through December 31, 1983.

FOR FURTHER INFORMATION CONTACT:

Phillip Feiger, Refuge Manager, Eastern Neck National Wildlife Refuge, Route 2, Box 225, Rock Hall, Md. 21661, 301-639-7415.

SUPPLEMENTARY INFORMATION:

§ 26.34 Special regulations concerning public access, use, and recreation for individual wildlife refuge areas.

MARYLAND

EASTERN NECK NATIONAL WILDLIFE REFUGE

Entry into and travel on the Eastern Neck National Wildlife Refuge is permitted year-round during daylight hours for photography, hiking, nature study, bicycling, and for access to public waters for fin fishing, shellfishing, and crabbing on areas designated by signs as open. These open areas are delineated on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Mass. 02158.

Recreational uses shall be in accordance with all State and Federal regulations, subject to the following special regulations:

1. Bicycles and registered motor vehicles are permitted only on designated roads and parking areas. Parking and leaving vehicles unattended along refuge roads is not permitted.

2. Designated nature trails, boardwalks and recreation sites are closed during refuge deer hunts for safety purposes.

3. Boat access is permitted yearround at Bogle's Wharf for commercial and sport fin fishing, shellfishing, and crabbing.

4. The Ingleside Recreation Area and associated picnicking and boat launching sites are open from May 1, 1978 through September 30, 1978.

5. Pets are not permitted out of cars except in designated parking areas where they must be on a leash not exceeding ten feet in length.

6. Camping on the refuge is specifically prohibited.

7. During the period May 1 through September 30, 1978, the following activities are not permitted in an area delineated by posting at Eastern Neck Narrows: stopping or parking vehicles; standing on or fishing and crabbing from the roadside or shoreline; launching or removing boats.

The provisions of this special regulation supplement the regulations which govern public entry and use on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 26. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

WILLIAM C. ASHE,
Acting Regional Director, United States Fish and Wildlife Service.

FEBRUARY 27, 1978.

[FR Doc. 78-5915 Filed 3-6-78; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making jprior to the adoption of the final rules.

[3410-37]

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

[7 CFR Part 2853]

MEATS, PREPARED MEATS, AND MEAT PRODUCTS

Grading, Certification, and Standards

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Revision and addition of locations for public hearings.

SUMMARY: The locations where the public hearings in San Francisco and Omaha were scheduled for persons to present oral comments on the proposed revisions in certain official U.S. standards for grades of meat and the related meat grading regulations and a companion rule to revise Federal meat inspection regulations pertaining to marking and labeling requirements have been changed to different sites. In addition, to provide a more easily accessible location for persons in the south-central United States to present oral comments, a fifth session is now scheduled for March 30, 1978, in Dallas, Tex.

DATES: See below.

FOR FURTHER INFORMATION CONTACT:

Mr. Jerry Goodall, Acting Director, Meat Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-4727.

SUPPLEMENTARY INFORMATION: The hearing sessions' locations and dates as listed in the January 23, 1978, FEDERAL REGISTER (43 FR 3140) are now revised as follows:

1. March 16, 1978, Washington, D.C. 20250, Jefferson Auditorium, South Agriculture Building, 14th and Independence Avenue SW.

2. March 21, 1978, San Francisco, Calif. 94102, State Office Building, Room 1194, 455 Golden Gate Avenue.

3. March 23, 1978, Omaha, Nebr. 68102, Civic Auditorium, Assembly Hall, 17th Street and Capitol Avenue.

4. March 28, 1978, Atlanta, Ga. 30303, Federal Office Building, Room 556, 275 Peachtree Street NW.

5. March 30, 1978, Dallas, Tex. 75202, Federal Building, Room 7A23, 1100 Commerce Street.

Persons who wish to be heard at the Dallas session are requested to notify the Administrator, Food Safety and Quality Service, Washington, D.C. 20250, on or before March 14, 1978, stating how much time they will need to present their statement. Although advance notice will facilitate the conduct of the hearing, any person who wishes to be heard will be afforded such opportunity, whether or not that person has given advance notice.

Dated: March 2, 1978.

ROBERT ANGELOTTI,
Administrator,
Food Safety and Quality Service.

[FR Doc. 78-5837 Filed 3-6-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

Office of Conservation and Solar Application

[10 CFR Part 1010]

ELECTRIC AND HYBRID VEHICLE RESEARCH DEVELOPMENT, AND DEMONSTRATION PROJECT

Cancellation of Public Hearing

AGENCY: Department of Energy.

ACTION: Cancellation of public hearing.

SUMMARY: The Department of Energy is canceling the public hearing on proposed regulations for per- formance standards for electric and hybrid vehicles which was announced in a Notice of Proposed Rulemaking and Public Hearing issued on February 6, 1978 (43 FR 5841, February 10, 1978). The public hearing is canceled due to the lack of sufficient interest in the hearing. The deadline for comments remains the same as set forth in the February 6 notice.

FOR FURTHER INFORMATION CONTACT:

Charles E. Pax, Office of Conservation and Solar Applications, 20 Massachusetts Avenue NW., Washington, D.C. 20545, 202-376-4893.

Issued in Washington, D.C., March 3, 1978.

WILLIAM S. HEFFELFINGER,
Director of Administration.

[FR Doc. 78-6055 Filed 3-6-78; 8:45 am]

[4110-07]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Parts 404, 416]

[Regs. No. 4, 16]

FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS AND SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Rules for Adjudicating Disability Claims in Which Vocational Factors Must Be Considered

AGENCY: Social Security Administration, HEW.

ACTION: Notice of Proposed Rule Making.

SUMMARY: The proposed amendments will expand existing regulations to include additional detailed criteria for the evaluation of those cases involving claims based on disability under title II and title XVI of the Social Security Act in which the determination as to disability cannot be made on medical severity alone or on the ability to do past work. In such instances the individual's impairment will be considered in conjunction with the individual's age, education, and work experience to determine his or her ability to engage in substantial gainful activity. In publishing the proposed amendments, the Social Security Administration intends to consolidate and elaborate upon longstanding medical-vocational evaluation policies for adjudicating disability claims in which an individual's age, education, and work experience must be considered in addition to the medical condition.

DATES: Comments must be received on or before May 8, 1978.

ADDRESSES: Prior to final adoption of the proposed amendments to the regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Md. 21203.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 5131, 330 Independence Avenue SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT:

William J. Ziegler, Legal Assistant, Office of Policy and Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Md. 21235, telephone 301-594-7415.

SUPPLEMENTARY INFORMATION: The proposed amendments will expand existing regulations to include additional detailed criteria for the evaluation of those cases involving claims based on disability under title II and title XVI of the Social Security Act in which the determination as to disability cannot be made on medical severity alone or on the ability to do past work. In such instances the individual's impairment will be considered in conjunction with the individual's age, education, and work experience to determine his or her ability to engage in substantial gainful activity. The rules in Appendix 2 consider only impairments which result in exertional limitations. They do not apply where the impairment(s) causes only nonexertional limitations; e.g., certain mental, sensory or skin impairments. The regulations text provides the framework in which to evaluate impairments resulting only in nonexertional limitations. In any case where a numbered Appendix 2 rule does not apply, full consideration must be given to all the facts of the case in accordance with the definitions and discussions of each factor in the regulations.

These proposed amendments have no applicability in determining whether or not statutory blindness exists under title II or title XVI of the Social Security Act, or whether children under age 18 are disabled for purposes of title XVI or in determining disability of applicants for widows' or widowers' benefits under title II.

In order to obtain the public's views and comments before proceeding with the proposed amendments, public meetings were held in Baltimore, Md. (41 FR 51471), Dallas, Tex., and San Francisco, Calif. (42 FR 8223) on December 8, 1976, March 1, and March 3, 1977, respectively. All comments pertaining to the proposed amendments have been carefully considered and all issues identified in the comments are addressed in the preamble.

In publishing the proposed amendments, the Social Security Administration intends to consolidate and elaborate upon longstanding medical-vocational evaluation policies for adjudicating disability claims in which an individual's age, education, and work experience must be considered in addition to the medical condition. These policies have in the past been reflected in fragmented guides and have not been readily available in the same format at all levels of adjudication. While the majority of disability cases are resolved on the basis of medical considerations alone, or the ability to do past work, those cases that require the full consideration of an individual's age, education, and work experience are the most difficult to resolve at all levels of adjudication as well as for the general public to understand. Consolidating and incorporating these policies into the regulations will serve to make clearer to claimants and their representatives how disability is determined where vocational factors must be considered. In addition, it will serve to better assure the soundness and consistency of disability determinations in all claims that are filed regardless of the level at which adjudicated; and finally, it should promote better understanding and acceptance by the public and the courts of disability determinations that are made.

BACKGROUND

Congress first amended the Social Security Act in 1954 to preserve the insurance rights of individuals who have periods of total disability before reaching retirement age. The 1954 provision defined disability, in pertinent part, as:

> inability to engage in any substantial gainful activity by reason of any medically determinble physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration * * *

(Section 106(d), Act of September 1, 1954, C. 1206, 68 Stat. 1080.)

The law, on its face, did not initially mandate consideration of any vocational factors. However, the Congress envisaged that the determination in every case be an individual one. Accordingly, since the inception of the social security disability program in 1954, in applying the statutory test, consideration has been given to the individual's vocational capacity, where pertinent, in determining whether the individual is disabled. However, because of the clearly limited statutory definition, those factors which relate primarly not to disability but to an individual's ability to obtain employment have been excluded from consideration.

The Social Security Administration's first effort in developing rules for disability determinations was in February 1955 when the Commissioner of Social Security appointed a Medical Advisory Committee to provide technical advice on administering guides and standards designed to provide equal consideration to all individuals in the evaluation of their disabilities under the 1954 law. This committee suggested that age, education, training, experience, and other individual factors would need consideration in any case requiring evaluation of facts beyond the medical report and work record even though the law did not specifically require consideration of such factors.

In 1956, the law was further amended to provide for payment of disability insurance benefits to insured individuals who were disabled; the above quoted statutory definition of disability was adopted for this purpose (Social Security Act as amended by section 103(a) of Pub. L. 84-880, approved August 1, 1956; (C836, 70 Stat. 815)). Regulations promulgated in 1957 to implement the statute also provided for the consideration of vocational factors. Section 404.1501 of Regulations No. 4 provided in pertinent part:

> "(b) In determining whether an individual's impairment makes him unable to engage in such activity [substantial gainful activity] primary consideration is given to the severity of his impairment. *Consideration is also given to such other factors as the individual's education, training and work experience.*
>
> "(c) It must be established by medical evidence, and where necessary by appropriate medical tests, that the applicant's impairment results in such a lack of ability to perform significant functions—such as moving about, handling objects, hearing or speaking, or, in a case of mental impairment, reasoning or understanding—*that he cannot, with his training, education and work experience, engage in any kind or substantial gainful activity.*" (Emphasis added.)

The initial years of operatin of the disability program were reviewed by the Subcommittee on the Administration of the Social Security Laws of the Committee on Ways and Means. This Subcommittee's Preliminary Report, issued on March 11, 1960, stated, in commenting on "nonmedical standards" in the disability program, that:

> The Subcommittee believes it is essential that there be a clear distinction between this program and one concerned with unemployment. It also believes it is desirable that disability determinations be carried out in as realistic a manner as possible, and that theoretical capacity in a severely impaired individual can be somewhat meaningless if it cannot be translated into an ability to compete in the open labor market.

In August 1960 the regulations were further amended. Among other things, the amended regulations continued to provide for the consideration of vocational factors including age, education, training, and work experience, in determining disability, and specifically stated:

> The physical or mental impairments must be the primary reason for the individual's inability to engage in substantial gainful ac-

tivity. Where for instance, an individual remains unemployed for a reason or reasons not due to his physical or mental impairment but because of the hiring practices of certain employers, technological changes in the industry in which he has worked, or local or cyclical conditions, such individual may not be considered under a disability
• • •

Reflecting concern about the disability insurance benefit program and the way the definition was being interpreted by the courts, the 1967 amendments to the law clarified the definition of disability. This legislation emphasized the role of medical standards in determining disability by stating that an individual is not to be considered under a disability unless the individual's impairment is of such severity that he or she is not only unable to do his or her previous work but cannot (considering his or her age, education, and work experience) engage in any other kind of substantial gainful work which exists in the national economy.

Specifically, the statutory definition of disability in section 223 of the Act was amended by the 1967 amendments to read, in pertinent part, as follows:

(d)(1) the term 'disability' means—
(A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; or
(B) [blindness].
(2) For purposes of paragraph (1)(A)—
(A) an individual (except a widow, surviving divorced wife, or widower for purposes of section 202 (e) or (f)) shall be determined to be under a disability *only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any kind of substantial gainful work which exists in the national economy,* regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work. For purposes of the preceding sentence (with respect to any individual), 'work which exists in the national economy' means work which exists in significant numbers either in the region where such individual lives or in several regions of the country. (Emphasis added.)

• • • • •

(3) For purposes of this subsection, a 'physical or mental impairment' is an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.

• • • • •

(5) An individual shall not be considered to be under a disability unless he furnishes such medical and other evidence of the existence thereof as the Secretary may require. (Section 158(b), Pub. L. 90-248, January 2, 1968.)

The legislative history of this amendment indicates that the Congress clearly intended that medical factors be given predominant importance in making disability determinations. The House Report (H.R. Rep. No. 544, 90th Cong., 1st Sess. (1967)) states, at page 30:

• • • In most cases the decision that an individual is disabled can be made solely on the basis that his impairment or impairments are of a level of severity (as determined by the Secretary) to be sufficient so that, in the absence of an actual demonstration of ability to engage in substantial gainful activity, it may be presumed that he is unable to so engage *because* of the impairment or impairments. (Emphasis in original.)

Further, for the first time, albeit in a limited fashion, Congress specifically alluded to vocational factors in the statutory language (Section 223(d)(2)(A)) to provide guidance as to their applicability. In discussing such factors which must be applied to individuals whose medical impairments are not of a sufficient level of severity so that the presumption of disability would apply, the House Report went on to state, on the same page:

• • • that such an individual would be disabled only if it is shown that he has a severe medically determinable physical or mental impairment or impairments; that if, despite his impairment or impairments, an individual still can do his previous work, he is not under a disability; and that if, considering the severity of his impairment together with his age, education, and experience, he has the ability to engage in some other type of substantial gainful work that exists in the national economy even though he can no longer do his previous work, he also is not under a disability regardless of whether or not such work exists in the general area in which he lives or whether he would be hired to do such work. It is not intended, however, that a type of job which exists only in very limited numbers or in relatively few geographic locations would be considered as existing in the national economy. While such factors as whether the work he could do exists in his local area, or whether there are job openings, or whether he would or would not actually be hired may be pertinent in relation to other forms of protection, they may not be used as a basis for finding an individual to be disabled under this definition. It is, and has been, the intent of the statute to provide a definition of disability which can be applied with uniformity and consistency throughout the nation, without regard to where a particular individual may reside, to local hiring practices or employer preferences or to the state of the local or national economy.

Except for the existing appendix to the regulations listing specific medical impairments which are presumptive of disability due to the severity involved, the existing regulations have provided general guidance in the determination of disability. They have been supported by a wide array of specific administrative materials which have been used primarily at the initial and reconsideration levels in the making of each decision. Such materials (provided primarily from surveys of industry by the Department of Labor, the Bureau of the Census and State employment services) include a variety of specific, published documentations of jobs existing in the local and national economy and specific physical, mental and skill requirements of such jobs (e.g., the County Business Patterns, published by the Bureau of the Census, which show distribution of employment in the United States by locality and by industry; the Census Reports, published by the Bureau of the Census, which give detailed characteristics of the working population on a national, regional, and local level; occupational analyses of light and sedentary jobs prepared for the Social Security Administration by various State employment agencies; the Occupational Outlook Handbook, published by the Bureau of Labor Statistics, which shoes the nature of work, the training and other qualifications needed and working conditions and employment outlook for certain occupations; and the third edition of the Dictionary of Occupational Titles, published by the Department of Labor, which provides job definitions, requirements, worker traits, industry designations and indicators of skills). Thus, the relationsip between the physical abilities of specific individuals and the physical, mental, and skill requirements of specific jobs available in the national economy has been administratively determinable. The administrative notice which is taken of the mentioned reference materials is based on the fact that they are generally recognized in business, industry, and government as representing authoritative sources on jobs throughout the national economy. As later editions are published, e.g., the fourth edition of the Dictionary of Occupational Titles now being prepared by the Department of Labor, they will be used in the same manner.

Consistent with the definition of disability prescribed by the law and regulations issued thereunder, and the relationship between the physical abilities of specific individuals and the physical, mental, and skill requirements of specific jobs available in the national economy, detailed guides for determining whether disability exists have been developed by the Social Security Administration and have been provided in the form of administrative issuances at the initial and reconsideration levels for use in the adjudication of each case. Thousands of such cases are adjudicated each year under these evaluation guides. These guides are now proposed as rules for incorporation into the regulation. Their publication in this form will facilitate a sound determination of disability in those cases where the vocational impact of age, education, and work experience must be assessed in conjunction with the severity of an individual's medical impairment(s), better assure consistency of determinations, and better serve to advise the public, adjudicatory personnel within the Social Security Administration, and the courts, of the specific rules followed by the Social Security Administration.

This need for publication of additional, more definitive medical-vocational rules has been further heightened by the advent of the recent title XVI (Supplemental Security Income) legislation which introduced into general adjudicative consideration for the first time a factor not normally present in the title II disability program—the vocational impact upon adult individuals who have no relevant work experience at all.

Under title II, the "insured status" requirement, which applies to most disability claimants, requires that the claimant have a significant and recent work history covered under the title II program. Under title XVI, the same test of disability is used as under title II, but the collateral requirements are directed to financial need rather than participation in a work-related contributory system. Therefore, needy disabled individuals may qualify under title XVI even if they have no work history.

PROPOSED AMENDMENTS EXPANDING THE REGULATIONS

GENERAL

For consistency with the statutory definition of disability, the proposed regulations contain a technical clarification of the language in Regulations No. 4 and Regulations No. 16 to reflect that an impairment that is "not severe" would support a finding that an individual is not disabled.

The proposed regulations specifically define the adjudicative weight to be given to impairment severity, age, education, and work experience. They emphasize that the adjudicative judgment is to be based on consideration of the interaction of all of the individual factors. They also add a new Appendix 2 which is composed of rules that reflect the major functional and vocational patterns that are encountered in cases where an individual with a severe medically determinable physical or mental impairment(s) is not engaging in substantial gainful activity and the individual's impairment(s) prevents the performance of his or her vocationally relevant past work. The rules in Appendix 2 also reflect the analysis of the various vocational factors in combination with the individual's residual functional capacity in evaluating the individual's ability to engage in substantial gainful activity in other than vocationally relevant past work. These rules are not presumptive, but are conclusive where the necessary findings with regard to each individual establish that a particular rule is met. That is, where the findings of fact made with respect to a particular individual's vocational factors and residual functional capacity coincide with all of the criteria of a particular rule, the rule directs a factual conclusion as to whether the individual is or is not disabled. However, these individual findings of fact are subject to rebuttal and the individual may present evidence to refute such findings. Where any one of the findings of fact does not coincide with the corresponding criterion of a rule, the rule does not apply in that particular case and, accordingly, does not direct a factual conclusion.

Because the rules consider only impairments which result in exertional limitations, they are not applicable where an individual's impairment(s) cause only non-exertional limitations, e.g., certain mental, sensory, or skin impairments. Further, the rules may not apply where a combination of impairments significantly limits the range of work an individual can perform at a given exertional level; nor do the rules apply where a finding of fact concerning age, education, or work experience differs from the vocational charcteristics required by a rule. The rules, however, are useful as adjudicative guides in considering borderline cases and cases involving combinations of impairments. In any case where a rule does not apply, full consideration must be given to all the facts of the case in accordance with the definitions and discussions of each factor in the regulations.

The proposed criteria are considered in appropriate sequence in the context of the overall disability sequential evaluation process. This sequence, conforming to existing social security regulations, and left substantially unchanged by the proposed amendments, is applied in the following manner.

1. *Determinations based on an individual engaging in substantial gainful activity.* Where an individual is actually engaging in substantial gainful activity, a finding will be made that such an individual is not under a disability without consideration of either medical or vocational factors.

2. *Determinations based solely on the medical severity of impairments.* a. Medical considerations alone can justify a finding that the individual is not under a disability where the medically determinable physical or mental impairment(s) is not severe, e.g., does not significantly limit the individual's physical or mental capacity to perform basic work-related functions.

b. On the other hand, medical considerations alone would (except where other evidence rebuts a finding of disability, e.g., the individual is actually engaging in substantial gainful activity) justify a finding of disability where the impairment meets the duration requirement (i.e., is expected to last at least 12 months or result in death) and meets or equals the severity of a listed impairment published in the Appendix (to be designated "Appendix 1") of the disability regulations.

3. *Determinations based on vocational as well as medical considerations.* a. Where an individual with a marginal education and long work experience (e.g., 35 to 40 years or more) limited to the performance of arduous unskilled physical labor, is not working and is no longer able to perform such labor because of a significant impairment or impairments, such an individual may be found to be under a disability.

b. Where a finding of disability (or its absence) is not made under any of the foregoing steps, the individual's impairment(s) is evaluated in terms of physical and mental demands of the individual's past revelant work. If the impairment(s) does not prevent the performance of past relevant work, disability will be found not to exist.

c. If an individual cannot perform his or her past relevant work but the individual's physical and mental capacities are consistent with his or her meeting the demands of a significant number of jobs in the national economy and the individual has the vocational capabilities (considering his or her age, education, and past work experience) to make an adjustment to work different from that which the individual has performed in the past, it will be determined that such an individual is not under a disability. However, if such an individual's physical and mental capacities in conjunction with his or her vocational capabilities (considering his or her age, education, and work experience) are not consistent with making an adjustment to work differing from that which the individual has performed in the past, it will be determined that such an individual is under a disability.

The proposed amendments and the addition of Appendix 2 primarily concern the last two steps of the process (3 b and c above) and principally the last step (3c above). They provide a logical sequence for evaluating disability within the last step, the step where it is necessary to evaluate the severity of the individual's impairment(s) in conjunction with his or here vocational profile (i.e., his or her age, education, and work experience). These rules apply only after a determination has been made that the individual's impairment(s), although severe, does not meet or equal the listing of impairments in Appendix 1 and the individual is unable to perform past relevant work. Moreover, the rules apply only

after the impairments have been translated into the individual's physical and mental ability to perform functions necessary for the performance of work. In the determination of the individual's impairments and ability to function, all medical evidence is evaluated. The individual has the burden of proving his or her case by furnishing evidence of disability, but all evidence adduced in the case from any source is fully considered. If, however, nothing in the evidence raises a question regarding a particular impairment or function, such as seeing or hearing, the individual is considered to be able, in that respect, to perform work activities.

The proposed amendments focus on the vocational factors of age, education, and work experience. They are premised on the necessity to adjudicate each case individually to determine exactly what work a specific individual is able to do. This includes a specific consideration of the individual's vocational profile. In making determinations of disability, administrative notice is taken of authoritative publications and studies which identify the kinds and numbers of jobs that exist in the national economy and their skill and exertional requirements.

Most sources not connected with the Social Security Administration which deal with the vocational implications of limitations resulting from impairments, age, education, and work experience do so from the standpoint of job placement rather than the social security concept of disability, which is concerned with the physical and mental ability to engage in jobs that exist. Such sources entail consideration of elements such as employer hiring practices which are precluded from consideration in social security disability adjudication. Thus, most of their findings are not directly applicable. Such data do, however, provide an overview of the realities of the labor market and some specific reference points that can be utilized. The extensive experience of the Social Security Administration is also used as a basis for consideration of vocational factors.

Recognizing the primary importance of the individual's impairment(s) and any limitations resulting therefrom, the proposed amendments require first that sound professional judgments be made as to an individual's maximum sustained work capability as a result of his or her impairment(s)—the individual's residual functional capacity. Then, a reliable basis is needed to relate the individual's residual functional capacity to what he or she could be expected to do in terms of work at various exertional levels. The individual has the burden of proving that he or she is disabled and where no issue is raised by his or her allegations or the evidence adduced as to specific physical or mental capacities, findings as to such capacities are not required.

In order to consider the individual's residual functional capacity in terms of the level of work his or her exertional capabilities would represent, the designations of sedentary, light, medium, heavy and very heavy work are used as such terms are defined in the third edition of the Dictionary of Occupational Titles published by the Department of Labor. This provides a "bridge" between assessment of residual functional capacity and the identification of ranges of work and types of jobs that remain within the individual's functional capabilities. The rules attach vocational significance to the functional capability for various ranges of work in terms of the relative numbers of jobs represented by the various capabilities.

The functional ability to perform heavy work, which includes the functional capability for work at all of the lesser functional levels as well, indicates the functional capability for almost all work that is listed in the third edition of the Dictionary of Occupational Titles. The functional ability to perform very heavy work includes the functional capability for all work that is listed in the third edition of the Dictionary of Occupational Titles.

The functional capacity to perform medium work includes the functional capacity to perform sedentary, light, and medium work and indicates a substantial work capability. Approximately 2,500 separate unskilled sedentary, light and medium occupations are identified in the Selected Characteristics of Occupations, a supplement to the third edition of the Dictionary of Occupational Titles. Each occupation represents numerous jobs found throughout the national economy.

The functional ability to perform a full or wide range of light work represents substantial work capability in diverse jobs and industries at all skill levels. Approximately 1,600 separate unskilled light and sedentary occupations can be identified in the Supplement to the Dictionary of Occupational Titles (third edition), each occupation representing numerous jobs found throughout the national economy.

Most sedentary occupations are skilled or semi-skilled, and fall within the professional, administrative, technical, clerical, machine trade, and benchwork classifications. There are also approximately 200 separate unskilled sedentary occupations which can be identified in the Supplement to the Dictionary of Occupational titles (third edition), each occupation representing numerous jobs found throughout the national economy. While sedentary work represents a significantly restricted range of work, this range itself is not so restricted as to negate work capability for substantial gainful activity. As with the other factors, the functional level of work which an individual can perform is not, in itself, determinative of disability but must be considered in conjunction with the individual's age, education, and work experience.

The proposed Appendix 2 considers the functional level of work which an individual can perform in relation to the individual's age, education, and work experience. Various combinations of these functions are arranged to direct a factual conclusion as to whether the individual is disabled. Where findings of fact as to the individual's remaining functional capacity, age, education and work experience coincide with the criteria of a specific rule, the indicated factual conclusion obtains. Where any one of the individual findings of fact does not coincide with a criterion specified in a particular rule, the rules does not apply in that particular case and, therefore, does not direct a factual conclusion of disabled or not disabled. In such instances the Appendix 2 rules will provide a guide for decision-making along the discussions of each factor in the body of the regulations.

If it is found that an individual does not have the physical-mental capacity to perform work even at a sedentary level—the level requiring the least exertion—disability will be determined to exist, absent specific evidence to the contrary (e.g., the individual is working in substantial gainful activity). (In such a situation, the individual should ordinarily have been determined to be disabled based solely on consideration of the medical severity of impairment under Step 2b in the sequential process described above.) If, on the other hand, it is found that the individual, although severely impaired, does have the physical-mental capacity to perform work at some exertional level (i.e., sedentary through heavy), consideration then must be given, as provided in the law, to whether "jobs exist in the national economy" that are within the individual's capability, considering his or her residual functional capacity in the light of his or her age, education, and work experience.

As previously set out, the law provides that "jobs exist in the national economy" when they exist in significant numbers either in the region where an individual lives or in several regions of the country. Further, in defining what constitutes disability, under sections 223(d) and 1614(a)(3) of the Social Security Act, the Congressional intent is that where an individual's physical or mental impairment(s) and his or her age, education, and past work experience are compatible with the performance of substantial gainful

activity, the individual cannot be considered under a disability because he or she is unsuccessful in obtaining work he or she can do; or because work he or she could do does not exist in his or her local area; or because of the hiring practices of employers, technological changes in the industry in which the individual has worked, or cyclical economic conditions; or because there are no job openings for the individual or the individual would not actually be hired to do work he or she could otherwise perform. On the other hand, an individual may be determined to be under a disability if the individual's physical or mental impairments are of such severity that the individual is not only unable to do his or her previous work but cannot, considering his or her age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy.

In view of the provisions of the law and data which show that significant numbers of unskilled jobs do exist in the "national economy" at each of the levels of required exertion from sedentary through heavy and very heavy, an individual would not meet the requirements for disability if the individual has the residual functional capacity to do work at any of these levels and the individual's vocational capabilities, considering his or her age, education, and work experience, are not so adverse as to preclude his or her ability to engage in such work. Thus, for example, an individual who retains the physical ability to do a wide range of light work, who is not of advanced age, and is able to communicate, read, and write on an elementary level, would generally be considered to still be in the competitive labor market for light, unskilled work, despite the absence of special experience or skills. This is a longstanding guide used by social security disability program adjudicators and has been available in administrative issuances.

Within the context of the preceding discussion concerning the overall impact of vocational considerations in assessing disability, the expanded regulations also provide specific rules for assessing each of the vocational factors of age, education, and work experience. The bases for these rules are discussed below:

AGE

Reference sources and materials dealing with chronological age in terms of vocational relationship deal principally with employment and rehabilitation activities, basing their conclusions mainly on the rate of participation in the labor force, the unemployment rate, duration of unemployment, and the proportion of hires to applicants. It appears from such materials that the "older worker" is usually considered as an individual 45 years of age and older. See, for example "Services to Older Workers" by the Public Employment Service (May 1957), page 9; Training and Employment of the Older Worker, Recent Findings and Recommendations Based on Older Worker Experimental and Demonstration Projects by Sarah F. Leiter (February 1968), pages 1 and 2; The Productive Years Age 45-65 (undated) published by the National Association of Manufacturers; Meeting the Manpower Challenge of the Sixties with 40-plus Workers, a November 1960 Department of Labor publication, page 12.

It is further noted in publications that age 55 represents a critical point in the attempts of "older workers" to obtain employment. See, for example, A Survey of the Employment of Older Workers (1965) by the State of California, Department of Employment and Citizens' Advisory Committee on Aging, page 96; The Vocational Adjustment of the Older Disabled Worker, A Selective Review of the Recent Literature, by Herbert Rusalen, Ed. D. (a study for the Vocational Rehabilitation Administration), pages 9, 10, and 12; Services to Older Workers by the Public Employment Service (May 1957).

In viewing the overall implications of the data in the sources cited, it must be recognized that there is a direct relationship between age and the likelihood of employment. However, the statutory definition of disability provides specifically that vocational factors must be viewed in terms of their effect on the ability to perform jobs rather than the ability to obtain jobs—in essence, in terms of how the progressive deteriorative changes which occur as individuals get older affect their vocational capacities to perform jobs. Since no data or sources are available which relate varyng specific chronological ages to specific vocational limitations for performing jobs, it has been necessary to analyze and interpret for performing jobs, it has been necessary to analyze and interpret the available age—employment data to ascertain a point where it would be realistic to ascribe vocational limitations based on chronological age.

Prior experience of the Social Security Administration in determining when age makes a difference in disability determinations has also been considered, e.g., as shown in the Social Security Disability Applicant Statistics/1970 published by the U.S. Department of Health, Education, and Welfare, Social Security Administration, Office of Research and Statistics, September 1974, as well as the Veterans Administration Schedule for rating disabilities (38 CFR 4.17).

In this respect, while the data reflect employment problems as developing at age 45, they recognize that this problem becomes significantly intensified at age 55. It is at this point, age 55, where it can reasonably be anticipated, therefore, that the deteriorative changes which occur in older persons which affect vocational capacities would most likely occur. Further, the vocational adversity of age 55 was recognized in Report of the 1971 Advisory Council on Social Security published by the U.S. Government Printing Office, April 5, 1971; and age 55 has already gained Congressional recognition in legislation establishing special provisions for disability because of blindness (see 42 U.S.C. 423(d)(1)(B)).

Thus, from the standpoint of chronological age, the proposed amendments reflect age 55 and over as advanced age representing the point when age could be expected to be an adverse consideration in determining an individual's vocational adaptability to work differing from that of his or her past experience. This designation of age is an expectancy only and not an arbitrary limit and may not be crucial in a particular case. Indeed, whatever disadvantage "advanced age" may have generally may be offset in a specific case by an advantage such as skills or training. Further, no general application or inferences are intended regarding employer hiring practices with respect to age. (The Age Discrimination in Employment Act of 1967 prohibits discrimination in hiring practices because of age.) As noted earlier, employer hiring practices, regardless of their legality, are excluded from consideration in social security disability adjudication. The ultimate finding of whether an individual of advanced age can or cannot reasonably be expected to adjust to work other than that which the individual has performed in the past, is dependent upon an evaluation of the extent of the individual's limitations resulting from medically determinable impairments in interaction with his or her age, education, training, past work experience (or lack of work experience), and skills. In addition, these amendments take cognizance of the fact that the vocational impact of age does not abruptly change from a favorable to an adverse vocational consideration precisely at the point of attaining age 55. Therefore, the proposed amendments provide for consideration of a lesser, but nevertheless significant, degree of vocational adversity as advanced age is approached. The chronological ages shown in the Appendix 2 Rules (45, 50, 55, 60) as representative of the increasing adversity of age within the scope of consideration of this factor in social security disability adjudication are intended as specific indicators, but are not intended to be applied mechanically in borderline situations.

EDUCATION

Formal education is given adjudicative weight to the extent that it relates to an individual's ability to meet reasoning abilities, language, and arithmetical requirement of jobs. Reasoning ability would affect the individual's ability to follow instructions and make judgments in a work situation. Language competence relates to ability to read, write, and speak. The inability to meet the language requirements at an elementary level would restrict even the number of unskilled jobs a person would be able to do. Similarly, the inability to perform single calculations in addition and subtraction would represent vocational restrictions in performing some unskilled jobs. On the other hand the Dictionary of Occupational Titles, third edition, and particularly the supplement thereto, Selected Characteristics of Occupations published by the Department of Labor, reflects that individuals with basic competences in speaking, reading, writing, and making simple calculations do have the educational capabilities for performing unskilled work. The Occupational Outlook Handbook, published by the Bureau of Labor Statistics (page 778, 1970–1971 edition and page 764, 1974–1975 edition), also reflects that people who have less than a high school education and no previous experience often can qualify for unskilled jobs. Other materials indicate similar correlations and reflect that employability tends to increase with education. See, for example, in the Occupational Outlook Handbook, published by the Bureau of Labor Statistics (1974–1975 edition), the section within each occupational listing entitled "Training Other Qualifications, and Advancement," for example, see page 764; The Long Term Unemployed, Educational Attainment (October 1964) published by the Manpower Administration of the Department of Labor in cooperation with the Oklahoma Employment Security Commission (pages vi, and 18); Monthly Labor Review of January 1974, an article entitled "Educational Attainment of Workers, March 1973" (pages 58–61); Atuomation Manpower Services Program Report by the New Jersey State Employment Service entitled "The 'Mack' Worker, The Impact of His Job Loss 2½ Years Later (December 1965) (pages 14 and 15); A Survey of the Employment of Older Workers (1965), by the State of California Department of Employment and Citizens' Advisory Committee on Aging; The Impact of Technological Change in the Meatpacking Industry, published by the Division of Employment, Department of Labor in March 1966 (page 16). Illiteracy as an adverse factor has also been discussed in certain sources (e.g., Rehabilitation of the Aging prepared by Portland State College under auspices of Vocational Rehabilitation; Monthly Labor Review, September 1972, an article titled "How Employers Screen Disadvantaged Job Applicants").

An education of high school level or above may serve as a partial substitute for loss of physical capacity, i.e., better educated individuals are more likely to be engaged in sedentary and professional jobs. Thus, they are not as likely to apply for benefits or to be classified as disabled. In support of this, the data do not show the better educated to be heavily represented among the disabled; see, for example, Social Security Disability Applicant Statistics/1970, DHEW Pub. No. (SSA) 75-11911, pages 45, 46, 47, tables 18, 19, and 20.

In viewing the overall implications of the data in the sources cited, it must be recognized that there is a direct relationship between the level of education attained and the likelihood of employment. These sources indicate that young prople who have less than a high school education and no previous work experience often can only qualify for employment in unskilled jobs such as kitchen workers, dishwashers, or construction laborers. Also, it is noted that individuals with the least schooling tend to have the most unemployment. In the blue collar classification, skilled workers tend to have a higher educational attainment than semi-skilled workers. In the white collar classification, most employees are high school graduates. Additionally, upon becoming unemployed or laid off, individuals with at least a high school education have better success in finding new employment. As a corollary, the chronically unemployment tend to be functional illiterates since most employers require that prospective employees at least be able to read and write. This is true even in the case of some unskilled work.

Thus, it can be seen that employability tends to increase and unemployent tends to decrease as the level of education increases. Increasing adaptability to canging working conditions and acquisition of more readily transferable skills occurs with increased education. Further, when jobs require a specified minimal educational background, the lack of an adequate education, especially if illiteracy exists, serves to exclude such individuals from consideration for such jobs even though they might otherwise be able to perform satisfactorily. In considering the impact of education in social security disability adjudication, judgments must be made beyond the mere use of the number of grades of formal schooling an individual has achieved. In applying the rules in appendix 2, the factor of education must represent the individual's demonstrated competences in addition to or instead of a particular number of years of formal schooling or a lack of formal schooling.

WORK EXPERIENCE

An individual's past work experience is considered as demonstrating most persuasively the kinds of work and skill level at which an individual is qualified to perform. In the proposed regulations, previous experience, particularly if it resulted in work skills that are transferable to other jobs, is treated as a substantial vocational asset in accordance with sources which reflect that workers with skills tend to have fewer and shorter periods of unemployment, and that skilled workers are often in demand, even at age levels when some workers without acquired skills are experiencing difficulty in the labor market. Some of these sources are: *Counseling and Placement Services for Older Workers* (September 1956) published by the Department of Labor, Page 4, Section C.2.c; page 12, No. 14; page 15, No. 8, page 77, Section H.1; *A Survey of the Employment of Older Workers 1964*, published by the State of California, Department of Employment and Citizens' Committee on Aging, Page 9, Section B.1; Page 10, under the heading "Experience"; Page 49, Section A.; Page 70, Section 2.a.; and *Services to Older Workers* by the Public Employment Service (May 1957), published by the U.S. Department of Labor; Page 7, Section C. However, to be under a disability an individual must not only be unable to do his or her customary work but also must be unable to do any other kind of work that exists in significant numbers in the national economy. Although past work experience provides an individual with familiarity with certain work environments, as previously noted the third edition of the *Dictionary of Occupational Titles* and other sources identify many unskilled jobs in the national ecconomy at all levels of exertion which do not require skills or previous work experience, and even individuals without past work experience may vocationally qualify for such jobs. Notwithstanding this fact, the expanded regulations do recognize that where the applicant has had no prior work experience (a significant number of applicants for Supplemental Security Income benefits fall in this category) this is an adverse vocational factor which must be taken into consideration, particularly for individuals of advanced age.

PUBLIC COMMENTS

In order to obtain the public's views and comments before proceeding with the proposed amendments, public meetings were held in Baltimore, Md. (41 FR 51471), Dallas, Tex., and San Francisco, Calif. (42 FR 8223) on December 8, 1976, March 1, 1977, and March 3, 1977, respectively. All comments pertaining to the proposed amendments have been carefully considered.

Several significant changes have been made as a result of written comments from members of the public and statements by persons who attended the public meetings. First, we have made it clear that the rules in Appendix 2 direct a factual conclusion of disabled or not disabled only where the findings of fact made with respect to a particular individual's vocational factors and residual functional capacity coincide with all of the criteria of a particular rule. Therefore, a disability claimant, or his or her representative, may introduce evidence to show that the criteria embodied in any rule in respect to age, education, previous work experience, and residual functional capacity do not apply in his or her specific case. Second, we have also explained that the rules do not preclude a younger individual from being found disabled and have included examples reflecting allowances of disability claims of younger persons. Third, we have emphasized that the number of grades of formal schooling does not always reflect educational accomplishments. Fourth, we have revised the proposed regulations to reflect existing policy in that the inability to communicate in English will generally represent a vocational handicap regardless of where the claimant resides. It should at the same time be emphasized strongly that inability to speak English will in no way cause an individual to be considered uneducated. Finally, we have deleted the word "objective" in describing the type of evidence necessary for an individual to establish inability to engage in substantial gainful activity. Using this word led many people to believe that the regulations would implement more rigid requirements for findings of disability. We have also made other changes of a clarifying nature.

There follows a discussion of issues which were identified from comments made by the public as a result of the public meetings held in Baltimore, Md. (December 8, 1976), Dallas, Tex. (March 1, 1977), and San Francisco, Calif. (March 3, 1977). These issues were identified both from oral testimony which was made during the course of the meetings and from written comments which were submitted. A number of the comments that were received pertain to social security matters which are not within the purview of these proposed regulatory amendments. All such comments have been referred for consideration to the appropriate components of the Social Security Administration.

The major objections to these proposed regulations are discussed. Some of the objections were repeatedly made at the Baltimore, Dallas, and San Francisco public meetings and in written comments submitted to the Social Security Administration. Other objections were only made by one or two members of the public. However, there is no significance to the order in which the objections are discussed. Many of the written comments received and statements made by individuals who spoke at the public meetings necessarily had to be condensed, summarized or paraphrased. However, we have tried to adequately express everyone's views and to respond to the issues raised.

The proposed regulations provide for making disability determinations on the basis of an "average man" concept. The question was raised by many commenters as to whether the proposed regulations—specifically Appendix 2—represent a change from individualized adjudication to an "average man" concept. Other writers described this in terms of "computerized" adjudication. It was suggested that this change would be brought about by treating claimants according to categories or classes rather than as individuals, and by forcing them into "pigeon holes" or "slots," whether or not they individually fit such classifications. One writer stated that this would impact most heavily on supplemental security income claimants, who are generally less sophisticated and less able to protest an attemt to force them into a "pigeon hole." Another commenter stated that the proposed regulations provide an excuse for the Social Security Administration not to gather all facts pertinent to an individual.

The proposed regulations, including Appendix 2, do not represent a departure from the concept of individualized adjudication and are not intended to promote expediency. They provide for individual assessments of each claimant's remaining functional capacity, age, education, and work experience, as presently required, while additionally setting out the policy guides in the form of rules showing the interaction of various combinations of these individual factors. It is not contemplated that all individuals will meet the criteria of a particular rule. The Social Security Administration's years of experience in the disability program supports the position that many will not. However, it must be recognized that it would be impossible to administer the social security disability program without guides and standards, whether in the form of medical standards alone as in the existing appendix to the regulations, or as medical-vocational standards as set out in the proposed regulations. The rules in Appendix 2 represent such standards and provide all adjudicative levels a regulatory structure for assuring more equitable, uniform assessment of individuals with similar factors wherever in the country they may file a claim, without loss of individualized assessment.

In light of the public concerns that the proposed regulations represent a change in policy to an "average man" concept with a loss of individualized adjudication, the proposed amendments have been modified to more clearly show the continuity of the Social Security Administration's commitment to individualized adjudication; and guard against any misuses of the proposed regulations—particularly Appendix 2. The modifications are:

(1) The addition of language in the explanatory material to emphasize the nature and use of the rules in Appendix 2; and

(2) The addition of language to preclude any tendency to cite a specific rule as justifying a finding of disabled or not disabled when all of the judgments resulting from individual assessments of all factors do not coincide with all of the criteria of that rule.

The proposed regulations will result in more denials of disability claims. The additional clarification and explanations of the intent and usage of the proposed amendments also serve to respond to the concerns of the many commenters who believe that the proposed amendments would result in a marked increase in denials of disability claims to the disadvantage of some claimants, as well as to various State assistance programs that would require additional funding to aid denied disability claimants. It is not intended—and not expected, based on extensive past experience—that the proposed amendments will result in any significant change in evaluating vocational factors under the disability programs. Existing policy is being set out in the same manner in the proposed amendments as it has been understood and practiced in the past. Past emphasis, however, has been on the initial and reconsideration levels of adjudication since statements of policy in administrative materials and internal guides and training sessions may not have been fully shared with the Bureau of Hearings and Appeals. However, recognizing the rather complex types of claims that are ordinarily dealt with at the hearing level, it would not be anticipated that any marked changes would take place on a national basis.

The proposed regulations discriminate against the younger person. Comments were received from several sources contending that the proposed amendments will force a denial of all claimants under 45 years of age unless they meet or equal the criteria of the medical listings. This, in fact, is not the case; no change of policy is involved in this area. In view of the ap-

parent misunderstanding, however, it has been further emphasized by additional language in the proposed amendments that any rule in Appendix 2 will apply in the case of a particular individual and, therefore, direct a factual conclusion of disabled or not disabled only where that individual's particular circumstances as reflected in the judgments made as to his or her remaining functional capacity, age, education, and work experience coincide with the criteria of that rule. Otherwise, the rule does not apply in the case of that particular individual and full consideration must be given to all of the relevant facts of the case in arriving at a decision as to disability. Since most of the examples of case situations of individuals under age 45 suggested by the commenters would not fit any of the numbered rules in proposed Appendix 2, they could not be denied on the basis of any of the rules—in effect the rule would not apply, as indicated above, and adjudication would proceed as set out in the explanatory material in Appendix 2. In order to additionally ensure that individual claims will be handled in the manner intended, the explanation of the consideration of individuals under age 45 has been expanded to include two specific case examples in which such claimants would be found disabled—as in the past—under the proposed regulations.

The proposed regulations, in using the word "objective" in describing necessary evidence, exclude consideration of subjective symptoms. Multiple comments were received expressing concerns about the addition of the word "objective" in describing the evidence necessary for an individual to establish inability to engage in substantial gainful activity. The commenters believe that the inclusion of this word would result in excluding subjective symptoms—particularly pain—from consideration in arriving at a disability decision.

The types of evidence needed to establish disability, the individual's responsibility for furnishing such evidence, and other rules concerning evidence are set forth in 20 CFR 404.1523 through 404.1530 and 20 CFR 416.923 through 416.930. The administrative law judge's responsibilities for inquiring fully into a case and establishing a sound record on which to base the decision are detailed in 20 CFR 404.927 and 416.1434. None of these regulatory sections are affected by the proposed amendments.

Inclusion of the word "objective" was in no way intended to alter the evidentiary requirements or to violate the established disability adjudicative process concerning subjective symptoms. Rather, the word was added to give emphasis to the need for evidence that is consistent with the requirements set forth in the regulations. However, since the use of "objective" in this sense has apparently caused some apprehension that more stringent evidence requirements would be employed, it has been removed from the proposed amendments.

The proposed regulations are unrealistic in evaluating non-English speaking peoples. Some commenters noted the change from existing policy in the proposed regulations regarding the adjudicative consideration of an individual's inability to communicate in English. One of these commenters stated that consideration of such a factor in regard to employability is racist in nature and to the detriment of non-English speaking persons. The Social Security Administration does not consider the additional adversity imposed upon an impaired individual by virtue of the inability to communicate in English, the predominant language in the national economy, in terms of employer hiring practices or preferences. Such considerations are, in fact, prohibited. However, in considering ranges of work and numbers of jobs that exist because of a medically determinable impairment, factors which diminish that range of work or preclude the performance of certain types of jobs must be recognized. Since individuals who are unable to communicate in English are further restricted in the range and types of work for which they are functionally capable of performing, this adverse factor should remain as an adjudicative consideration. Thus, it is not the racial or prejudicial factor that is being considered, but rather the reduced capability reflected by the inability to satisfactorily carry out the duties of those jobs which require communication in English. As the proposed regulations have now been revised, an individual's inability to communicate in English may be a decisive factor resulting in a finding of disabled but will not direct a finding of not disabled.

Other commenters questioned the policy as set out in the proposed amendments which is based upon the incidence of individuals with similar language capabilities in the area in which he or she resides. One writer asked what change in the Social Security Administration's experience brought about the change in this policy from the previously held position that inability to communicate in English was generally considered equally adverse in the terms of work remaining in the national economy regardless of the individual's place of residence. There has, in fact, been no change in the experience regarding this policy; accordingly, upon further consideration and in response to the public comments, the policy regarding the adjudicative treatment of the inability to communicate in English has been restored in the proposed amendments to agree with existing policy; i.e., the factor is generally considered a handicap to work adjustment without regard to an individual's place of residence. It has also been emphasized that the factor for adjudicative consideration is the inability to communicate in English in even a basic manner and that the particular non-English language in which an individual may be fluent is immaterial.

The proposed regulations will reduce the use of vocational witnesses at hearings. Several persons indicated that under the proposed regulations, vocational experts would be used much less frequently at the hearing level, particularly in relation to the taking of administrative notice of the existence of significant numbers of unskilled, entry-level sedentary and light jobs in the national economy. One individual concluded that the proposed regulations would entirely eliminate the need for vocational evidence of the existence of particular jobs which a particular individual can perform. Some pointed out that making judgments on issues such as the transferability of skills is beyond the expertise of an administrative law judge. Others commented that vocational experts are "preferable to a set of appendices," and that the basic due process guarantee of the right to cross-examine adverse witnesses might be eliminated or undermined.

The proposed regulation amendments do not contravene the basic social security regulations, 20 CFR 404.927 and 416.1434, which provide that the administrative law judge's responsibility is to inquire fully into the case before him or her and to establish a sound record on which to base his or her decision. In the past, not every disability hearing which involved vocational factors has included the testimony of a vocational expert (approximately one in four disability cases decided on their merits involve live vocational expert testimony); and, in several judicial districts, administrative notice of the existence of unskilled, entry-level sedentary and light jobs has been permitted in certain circumstances. Use of a vocational expert is at the discretion of the administrative law judge; this discretion is not being abridged. However, when the sole issue is one of a claimant's exertional limitation to sedentary or light work as defined by the Department of Labor and quoted in these proposed regulations, the services of a vocational expert should not be necessary merely to establish that the national economy contains significant numbers of these jobs. In such cases, the use of the regulations rather than vocational experts to support the conclusion is valid and does not conflict with any "due process" guarantees. On the other hand, the medical findings of fact may be complex and lead to difficult judgments; e.g., a claimant may have one condition which limits him or her to light exertion, another which prevents him or her from being in contact with certain substances encountered in his or her usual occupation, and yet another which narrows the range of light work which the individual can perform. In situations such as this, it would be the proper function of a vocational expert to determine whether there are, in fact, significant numbers of appropriate light jobs in the national economy which are compatible with the claimant's impairments. A further complexity would be added where the claimant was older and had done skilled work, for then an allowance or denial would depend upon whether he or she could readily transfer his or her work skills to specific occupations within his or her remaining functional capacity; a vocational expert would have the expertise to determine this and to testify as to the existence in significant numbers of such jobs in the national economy. Hence, it is anticipated that many issues on hearing will continue to require the services of vocational experts.

In view of the considerable public misapprehension about the intent of prior references to lessening the need for vocational testimony, all such references have been deleted from the proposed amendments.

Rule 201.05, pertaining to "education" in the proposed regulations is erroneous. Two commenters stated that Rule 201.05 in proposed Appendix 2 is excessively harsh—that an unfavorable decision in this situation cannot but be an erroneous conclusion. Another indicated that this rule is illustrative of faulty "legal reasoning" on the Secretary's part and suggested that if this rule is erroneous, there may also be "errors in other categories." This rule provides that an advanced age claimant whose sustained work capability is limited to sedentary work and who has a high school education or more—education that provides for direct entry into skilled work—will be found not disabled whether or not he previously worked.

Rule 201.05 is consistent with the other rules in Appendix 2 that provide for the weighing of education and/or skills to offset unfavorable vocational considerations. Where an individual, even though of advanced age, possesses education or skills that permit direct entry into skilled work, he or she possesses significant advantages for effecting adjustment to new work over an uneducated, unskilled, older worker.

While the particular situation set forth in Rule 201.05 occurs rarely, the provision for this situation is included as a rule in recognition of the possibility that it may occur. We concur, however, that additional clarifications of the intent of the rule to prevent misapplication is indicated. This has been done by the inclusion of additional explanatory language in section 201.00(d) of proposed Appendix 2. The explanatory language clearly indicates that in order for education, in and of itself, to provide for direct entry into skilled work (in the absence of skilled work experience), the education must have been recently acquired.

The proposed regulations are outside the legal authority of the Secretary. The Social Security Act (the "Act") has given the Secretary very broad authority to make rules and regulations. Section 205(a) of the Act provides that

> The Secretary shall have full power and authority to make rules and regulations and to establish procedures, not inconsistent with the provisions of (title II), which are necessary or appropriate to carry out such provisions, and shall adopt reasonable and proper rules and regulations to regulate and provide for the nature and extent of the proofs and evidence and the method of taking and furnishing the same in order to establish the right to benefits hereunder.

Section 1613(d)(1) of the Act states that the provisions of section 205(a) shall apply with respect to title XVI to the same extent as they apply in the case of title II. In addition, section 1102 of the Act provides that the Secretary shall make and publish such rules and regulations, not inconsistent with the Act, as may be necessary to the efficient administration of the functions with which he is charged under the Act.

The statute, thus, bestows very broad authority upon the Secretary to issue regulations to discharge his responsibilities for administering the social security programs, subject only to the limitation that the Secretary's rules, regulations and procedures should not be "inconsistent" with the provisions of the Act. There is nothing in the legislative history of the Act's disability provisions to indicate that Congress intended to remove from this broad grant of authority the power to issue rules for adjudicating disability claims or, more specifically, rules for relating a claimant's impairment, age, education, and work experience to his or her ability or inability to engage in substantial gainful activity.

Indeed, it is apparently the view of the staff of the House Ways and Means Committee that Congress intended the Secretary to have not only the power, but also the duty, to issue regulations in this area. The staff, commenting on the broad language of the disability definition enacted by Congress, concluded that:

> the original idea was that the broad language of the statutory definition would be amplified by regulations based on operational experience. (Staff of the House Committee on Ways and Means, 93d Cong., 2d Sess., Committee Staff Report on the Disability Insurance Program 6 (July 1974).)

The staff went on to suggest that the Department

> • • • should explore the possibilities as to whether the definition of disability can be stated more specifically in the law or regulation, and whether more operational presumptions may be incorporated into its administration • • •

The staff also endorsed the conclusion of the 1960 Harrison Subcommittee report which urged the Department to develop and refine criteria for the weight to be given vocational factors and make them available to the evaluators and to the public in the form of published regulations.

Thus, in the view of the staff of the House Committee directly responsible for social security legislation, the Secretary does have statutory authority to promulgate regulations which establish rules, including presumptions, guidelines and procedural and evidentiary rules concerning the effect of vocational factors.

Not only does the Social Security Act authorize the issuance of such regulations but, under the Administrative Procedure Act, important policies governing claims adjudication (such as the current vocational guidelines) are required to be published as regulations. 5 U.S.C. 552(a)(1), 553.

The clear language of the Social Security Act, apparent Congressional intent, and the provisions of the Administrative Procedure Act, all support a conclusion that regulations in some form are "necessary or appropriate" to carry out the disability provisions of titles II and XVI and are thus within the Secretary's power to issue as long as they are not inconsistent with the Act.

The proposed regulations are not clear on how transferable work skills are determined. With respect to transferable work skills, one question at a public meeting related to how they are determined, and whether a decision is made by comparing two specific jobs or a specific job with a broad range of work. A writer suggested that, to make the fact-finding process more objective, the words "definite relationship" should be included in the proposed regulations to clarify the connection between a person's previous occupation and other occupations for which he or she has transferable skills. Transferability of skills is determined by comparing the essential elements and functions of jobs in a person's past experience with those required in other, specific occupations he or she may reasonably be expected to perform. Where the skill is so specialized or was acquired in such an isolated work setting that it is not readily usable in other industries, jobs and work environments, an individual's vo-

cational outlook may be as limited as if he or she had no skills. Conversely, skills such as clerical ones are generally transferable to a great number of occupations in varied industries, while very specialized skills such as those in nuclear physics may be highly marketable but only in a narrow range of work. To compensate for the adversity of advanced age, a finding of transferability of skills should be made only where very little adjustment is required by someone at age 55 or older. Transferability is most probable and meaningful among jobs in which (a) the same or a lesser degree of skill is required; (b) the same or similar tools and machines are used; and (c) the same or similar raw materials, products, processes or services are involved. This does not contemplate a direct relationship between the occupations themselves but does necessarily imply a similarity of these factors as they relate to past work and other potential work under consideration; however, a complete similarity of all three factors is not necessary to warrant the inference of transferability. To require that there be a "definite relationship" between a person's previous occupation and other occupations for which he or she has transferable skills would be an abridgement of sections 223(d)(2)(A) and 1614(a)(3)(B) of the Social Security Act, which state that an individual "• • • shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy • • •." Therefore, no change is being made as a result of this comment.

The proposed regulations are not a codification of existing vocational evaluation policies. Several commenters were concerned as to whether the proposed amendments are actually a codification of existing vocational evaluation policies. As now explained elsewhere in this preamble, the proposed regulations do, in fact, represent a consolidation and elaboration of longstanding medical-vocational evaluation policies which have their bases in the Social Security Act and are in accordance with Congressional intent. These policies, however, have heretofore been reflected in fragmented guides and have not been readily available in the same format at all levels of adjudication. For example, at the initial and reconsideration levels, the existing regulations are supplemented by vocational evaluation guides published by the Bureau of Disability Insurance. While these supplemental guides are all reflective of existing vocational evaluation policies, the risk of variance in policy interpretations is obviously enhanced by the fact that the guides are not consolidated and fully explained in a common, structured format which is binding at all adjudicative levels. The Social Security Administration is convinced that implementation of the proposed amendments will promote greater consistency in the disability determination process at all levels of adjudication and will provide a better understanding of the social security disability programs by all concerned.

The proposed regulations do not consider a person's personal preference for kinds of work. One commenter indicated that the proposed regulations are remiss in that they provide no consideration for personal preference of work along with the consideration of age, education and work experi- ence. Sections 223(d)(2)(A) and 1614(a)(3)(B) of the Social Security Act state that disability shall be determined if physical or mental impairments are of such severity that an individual cannot, *considering his age, education and work experience,* engage in substantial gainful work existing in the national economy (italic added).

The proposed regulations are not clear as to what impact they will have on the workloads of administrative law judges. One participant in a public meeting asked what impact the proposed regulations would have on administrative law judges' workloads. In the long run, when applicants know what facts are to be at issue and adjudicative personnel have definitive and comprehensive vocational evaluation instructions which they must follow, it is expected that fewer claims will be pursued beyond the initial and reconsideration levels. Of course, there will always be cases involving complex issues which will be pursued to the hearing level, as well as others where the claimant simply believes that an erroneous decision has been made. However, it is likely that a hearing decision can be made more promptly in those cases not involving highly complex issues once the necessary findings of fact have been made.

The proposed regulations do not consider employers' hiring practices. Two commenters expressed concern about the Social Security Administration's failure to consider employer attitudes and hiring practices in the disability adjudication process and, further, that there is no concession made to this consideration in the proposed revision of regulations. Another writer suggested that a separate and distinct set of vocational factors regulations is needed for title XVI claimants which would consider employer attitudes toward the developmentally dis- abled. Sections 223(d)(2)(A) and 1614(a)(3)(B) of the Social Security Act state that a finding of disabled may not be made if work exists in the national economy that an individual can physically and mentally do, regardless of whether "• • • a specific job vacancy exists for him or *whether he would be hired if he applied for work*" (italic added). This statutory provision effectively precludes from consideration all hiring practices of employers, whether by reason of certain attitudes, local current (cyclical) conditions, technological changes or employer interpretation of insurance restrictions or of what constitutes a safety hazard. While it is recognized that economic conditions, local cyclical business conditions, technological conditions, employer attitudes and employer hiring practices contribute to unemployment, these conditions represent non-disability reasons for unemployment.

Under the proposed regulations, not all of a claimant's impairments would be properly evaluated. To commenters expressed the fear that not all of a claimant's impairments would be identified, delinated and considered if findings are to be made only with respect to issues of specific physical or mental capacities raised by the individual or in the evidence adduced. One suggested, as an example, that a deep depression might be overlooked unless it were detected by attentive observation at a hearing.

This matter does not pertain to vocational factors, *per se,* but to the preliminary medical issue of identifying a claimant's impairments and establishing the level of severity of the impairments including, in appropriate cases, the residual functional capacity. There are countless physical and mental abnormalities which a person may have. However, where an applicant does not refer to a certain physical or mental condition, and it is not mentioned in any of the medical reports or other evidence obtained, and the evidence pertaining to that claimant appears to be complete, it must be presumed that the evidence accurately portrays the situation and that such abnormality does not affect the person's ability to work. In the administration of the Social Security disability programs which process over 2,000,000 cases annually, it has not proved necessary nor would it be administratively or fiscally sound, to give each claimant a comprehensive general physical and mental examination in order to learn what other abnormalities may be present in addition to those detectable by our usual and customary development practices. In the event that a claimant alleged only a heart condition, for example, but also suffered from a deep depression, the second abnormality probably would not escape notation in medical reports since a physician is a trained medical observer and has competence in understanding when his or her patient has difficulty in speaking of certain problems.

The proposed regulations are being promulgated for the purpose of conserving trust fund reserves. Several commenters suggested that the proposed amendments were drafted in response to "short falls" in the trust fund reserves and represent an effort by the Social Security Administration to conserve the trust fund. There has been a great deal of concern and attendant publicity about the depletion of the social security trust funds and efforts to deal with that problem. These proposed regulations, however, are in no way related to those efforts and concerns. As explained in greater detail elsewhere in this preamble, the proposed regulations are intended as a consolidation and elaboration of longstanding medical-vocational evaluation policies. Since the purpose of the proposed regulations is not to increase nor decrease the allowance/denial ratio, it is anticipated that their publication would virtually have no effect on the trust funds.

The proposed regulations will require more detailed medical reports. One commenter was concerned that the proposed regulations will require additional medical evidence, particularly for the purpose of establishing range of motion and related information. The evidence requirements for establishing disability, which are set forth in the existing regulations (20 CFR 404.1523 through 404.1530 and 416.923 through 416.930) have not been altered by the proposed amendments. Further, the existing regulations require evaluation of an individual's ability to perform such significant functions as moving about, handling objects, hearing, speaking, reasoning and understanding, for the purpose of assessing whether such individual can do previous work or work commensurate with previous work or any other kind of substantial gainful work which exists in the national economy. The provisions in the proposed regulations clarify and refine these guidelines for considering such functions in order to assist an adjudicator in reaching a decision about an individual's ability to do past or other work in the economy while providing for greater uniformity in the adjudicative process. They do not, however, affect the requirements for that decision. In view of the foregoing, there should be no need for claimants to furnish more evidence under the proposed amendments than has been required in the past.

Administrative law judges were not asked for their views on these proposed regulations. One participant in a public meeting inquired whether administrative law judges have been asked for their views on the proposed regulatory amendments and, if so, what is their concensus. Individual administrative law judges have not had the proposed regulations officially submitted to them for comments. However, through the administrative process, the draft was made available to some administrative law judges and, as a consequence, the Association of Administrative Law Judges provided comments on the proposed regulations. Additionally, individual administrative law judges, one of whom provided testimony, were present at the public meetings. Their comments, which expressed some of the same concerns which were voiced by members of the public, are being afforded the same careful consideration as the public comments and are being addressed in this preamble.

The proposed regulations rely too much upon the Dictionary of Occuptional Titles, which is out of date and does not apply to impaired workers. One speaker at a public meeting noted that the "Dictionary of Occuptional Titles (DOT), Third Edition," was published in 1966 and suggested that it is out of date. The DOT, published by the Department of Labor in 1965, provides the most comprehensive information available concerning jobs in the national economy. Supplements to the publication have been issued by the Department of Labor, and a thoroughly updated and revised edition is soon to be published. The fourth edition and subsequent editions will be used as they become available.

Another commenter on the "Dictionary of Occuptional Titles" wrote that it is not directly applicable for use as indicated in the proposed regulations. He feared that a claimant would have an unreasonable burden of proof to rebut the presumption that he could do light work, as an example, rather than specific light occupations which are known to exist currently. In the adjudication of a claim in which a finding of fact is that the claimant can do a wide range of light work, the claimant does have have an opportunity to present evidence showing that the finding of fact was incorrect. Aside from the possibility of an erroneous conclusion, however, a conclusion that an individual can do light work at the entry level does not mean that the person can do each and every unskilled light job in the national economy; the import is that he or she would have a reasonable employment opportunity among all the 1,400 unskilled light occupations, each representing many jobs in the country. Furthermore, since the functional capacity to perform a full range of light work encompasses the capacity to perform sedentary work, such a claimant would also be expected to adjust to the approximately 200 separate unskilled sedentary occupations, each again representing numerous jobs in the national economy. When a claimant has slight limitations within light work, such as the need to avoid hazards or certain environmental substances he may present evidence to show that he is unable to perform selected occupations. However, this would not necessarily establish that he is unable to perform the preponderance of light and sedentary jobs.

Still another writer asked if, in view of the generalizations and partial outdatedness shortly after publication of the "Dictionary of Occuptional Titles" and "Occupational Outlook Handbook," a claimant's eligibility status would fluctuate from year to year with the occupational outlook. There must, of course, be a certain amount of stability and predictability in a program such as disability under social security so that neither persons already receiving benefits nor individuals applying for them would be subjected to year-by-year fluctuations in standards. The test in this program is whether a person retains the physical and mental capacity to do a job, not whether there is a job opening for him or her. Within these limitations, experience has shown that these resource materials, which are the most complete and authoritative sources available on the subject, are adequate for the purpose and that little would be gained by having daily, monthly or otherwise more current reference works.

The proposed regulations are unrealistic in using a "national economy test" when jobs do not exist locally. Three inquiries focused on the use of a national economy test in determining ability to work, indicating that taking administrative notice of jobs available in the nation, when none exist locally, is not realistic.

The disability definition in sections 223(d)(2)(A) and 1614(a)(3)(B) of the Social Security Act is comprised of multiple considerations. One of these considerations is ability (or inability) to do work "which exists in the national economy." Job availability is addressed on a national basis by design, since it was intended by the Congress that the statute provide a definition of disability which could be uniformly and consistently applied throughout the nation without regard to the place of an individual's residence. For this reason, the issue of job availability is satisfied when work which the individual can perform "exists in significant numbers either in the region where such individual lives *or* in several regions of the country," regardless of whether such work exists in the immediate area where the individual lives (italic added). While provisions of the law specifically preclude application of local economy criteria, provisions of regulations have been extended to ex-

clude from consideration isolated jobs of types that exist only in very limited numbers or that exist in relatively few geographic locations.

The proposed regulations are not clear as to vocational rehabilitation services. One writer commented on the lack of identifiable relationships and referral mechanisms to State vocational rehabilitation regulations. The Administration for Handicapped Individuals of the Department's Office of Human Development Services and the Social Security Administration jointly promulgate regulations (45 CFR 1361.110–1361.118 and 45 CFR 1361.120–1361.128) which govern rehabilitation programs pertaining to disability claimants under titles II and XVI of the Social Security Act. However, 20 CFR 416.1703 describes the referral mechanism for title XVI cases; the referral mechanism for title II cases is described in operating instructions. Additionally, 20 CFR 404.422 and 20 CFR 416.1705 describe the nonpayment of benefits when an individual refuses, without good cause, to accept vocational rehabilitation services. The proposed regulations presented here are not addressed to the rehabilitation aspects of the disability programs.

The proposed regulations do not give sufficient consideration to the impact of multiple impairments. A writer commented that the amendments should contain specific language to the effect that the combined impact of multiple impairments shall be considered in determining whether an individual is disabled. Existing regulations provide considerable scope for the exercise of sound judgment in determining the severity of an individual's condition as a result of a combination of impairments. With respect to determining the impact of an individual's medical condition, proposed regulations are quite explicit in requiring that limitations imposed by multiple impairments, both physical and mental, be considered.

The proposed regulations were not submitted to Congress for approval. One commenter asked if Congress had been requested to provide opinions on the proposed regulatory amendments. As discussed in this preamble, the proposed amendments are considered to reflect Congressional intent as expressed in the Social Security Act, rather than being representative of a change of direction in policy. However, the draft amendments were provided on request to the staff of the Subcommittee on Social Security of the Committee on Ways and Means, House of Representatives, and were subsequently included in two of the Subcommittee's publications:

(1) "Reports of Consultants on Actuarial and Definitional Aspects of Social Security Disability Insurance," dated May 17, 1976; and

(2) "Disability Insurance Program, Public Hearings Before the Subcommittee on Social Security of the Committee on Ways and Means, House of Representatives, Nineth-Fourth Congress, Second Session," May 17, 21, 24; June 4, 11, 1976.

While this does not imply Congressional endorsement of the proposed regulations, it does indicate a general awareness of the Social Security Administration's intent to proceed with the proposed amendments. It has not generally been the practice to solicit Congressional opinions before drafting a proposed regulation.

The proposed regulations do not give proper consideration to non-exertional impairments. A number of commenters indicated that under the proposed amendments non-exertional impairments would not be considered, or if considered would not be accorded proper adjudicative weight. One writer was specifically concerned that the charts in Appendix 2 relate only to strength requirements of jobs, and that using the Appendix 2 rules would result in summary decisions of not disabled on the basis of strength requirements alone, effectively precluding consideration of other than strength limitations. One physician's comments included suggestions as to how skin impairments could be evaluated in terms of the exertional levels of work defined in the proposed amendments.

In fact, the proposed amendments represent no change in the adjudication of non-exertional impairments, and language in the proposed amendments has been modified and supplemented to emphasize this point. The specific rules in proposed Appendix 2 are to be used as sole indicators of disabled or not disabled only where the judgments as to each individual factor coincide with the criteria of a specific rule. For example, the rules do not apply to non-exertional impairments. However, even where a rule does not apply, as was the case in most of the examples cited by the commenters, a reference to the rules in many instances would aid an adjudicator in assessing the extent of a claimant's limitations in relation to other claimants. For example, reference to the rule nearest the individual's exertional limitations (or absence thereof) resulting from a medically determinable impairment(s) would provide an adjudicator with a frame of reference in which to evaluate the effect of any additional limitations resulting from medically determinable non-exertional impairments. As has been explained in this preamble, the Social Security Administration intends to continue to work on more definitive standards for medical-vocational evaluation of non-exertional impairments.

In a related comment, one writer stated that the rules in proposed Appendix 2 would "regulate" only a small number of claims—those in which an impairment has resulted in a limitation of an individual's weight-lifting capacity. Exertional limitations, as set out in the definitions in the proposed amendments, encompass more than an individual's ability to life weight, although such ability is a basic requirement of work, varying only in the amount and frequency of lifting required.

The proposed regulations, in adding the words "not severe" will result in a substantially larger percentage of claims being denied on medical considerations alone. Two writers expressed concern that proposed regulations, which provide that an individual is not under a disability where the medically determinable impairment(s) is "not severe," would result in a substantially larger percentage of claims that are denied based on medical consideration alone. Similarly, a few writers asked if the use of the word "severe" in describing impairment(s) throughout the proposed regulations contemplates a more serious impairment(s) than previously needed for a finding of disability when vocational factors are adverse. One writer suggested that a physician's classification of an individual's impairment(s) as "moderate" would not meet the "severe" requirement. Another writer foresees no problem with the use of the term.

The Social Security Act, Sections 223(d)(2)(A) and 1614(a)(3)(B) provide, in pertinent part, that an individual shall be determined to be under a disability *only if his physical or mental impairment(s) is of such severity* that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other substantial gainful work which exists in the national economy. (Also, see H.R. Rep. 544, 90th Cong., 1st Sess., p. 30 and Senate Rep. No. 744, 90th Cong. 1st Sess., pp. 46–50.) There are, of course, various levels of impairment severity. On the basis of the statutory provisions, existing regulations provide that medical considerations alone can justify a finding of disabled (absent rebutting evidence) where the requisite duration requirement is met and the impairment(s) is listed in the appendix to the regulations or is medically the equivalent of a listed impairment. This, in effect, represents the upper range of impairment severity. Conversely, there is a point in the range of impairment severity below which the effects of the impairment(s) have such a minimal effect on the individual that they would not be expected to interfere with his or her ability to work, irrespective of his or her age, education, and work experience.

Introducing the term "not severe" in the proposed amendments and the word "severe" when describing impairments elsewhere in the proposed amendments, was not intended to alter the levels of severity for a finding of disabled or not disabled on the basis of medical considerations alone, or on the basis of medical and vocational considerations. Rather, it was intended only to clarify the circumstances under which a finding of not disabled would be justified on the basis of medical considerations alone.

The proposed regulations are contradictory in requiring a mentally impaired individual to submit evidence to establish his disability. Another commenter stated that a contradiction exists in proposed regulations in that a mentally impaired individual, on the one hand, must be mentally capable of filing an application and submitting the necessary evidence in support of his or her claim but, on the other hand, must be mentally disabled in order to qualify for benefits. Many mentally impaired individuals are capable of filing an application for benefits, raising issues with respect to their impairments, and submitting evidence in support of their claim. This does not preclude a finding a disabled on the basis of a mental impairment. In other instances, a mentally impaired person may have a representative, e.g., a family member or guardian, who will act on his or her behalf by filing an application and providing the necessary information in support of the claim. Lastly, should a mentally impaired individual file an application on his or her own behalf, but appear to require assistance in prosecuting his or her claim, operating procedures provide for rendering special assistance to that individual.

The proposed regulations will not result in fair and consistent disability decisions. One commenter asked if there are guarantees that implementation of the proposed amendments will result in fair and consistent decisions. It is expected that publication of the proposed amendments will result in a higher degree of consistency and equity of medical-vocational adjudication throughout the country at all adjudicative levels. This expectation stems from the Social Security Administration's extensive experience with the disability program and with the policy concepts set out in the proposed amendments. However, careful monitoring of the proposed amendments will ensure that any unforeseen undesirable effects are identified and corrected.

Another commenter questioned whether lack of uniformity in the adjudication of social security disability claims may be partly due to "prolonged case processing;" and whether uniformity resulting from the proposed amendments will assure correctness of decisions. It is possible that a claimant's medical condition may worsen during the time that he or she is pursuing his or her claim. The change in medical condition may result in a finding of disabled at the next level of appeal. This does not mean the prior finding of not disabled was incorrect nor is it indicative of a lack of adjudicative consistency. Lack of uniformity or lack of adjudicative consistency as used in this preamble relates to decisions of disabled and not disabled which are based on essentially the same degree of impairment and similar vocational factors, regardless of the level of adjudication or where the application has been filed—not to differing decisions because of different factual circumstances. The proposed amendments are intended to improve adjudicative consistency by promoting decisions at all adjudicative levels that are consistent with the Social Security Act and Congressional intent thus helping to improve the uniformity of decisions throughout the country.

The proposed regulations "shift" the burden of proof from the Secretary to the claimant where the issue is "ability to do work other than past work". Several commenters questioned whether the proposed regulations shift the burden of proof from the Secretary to the claimant where the issue is ability to do other than relevant past work. Three of these commenters indicated that it is particularly disadvantageous to a claimant for the Secretary to take administrative notice of ranges of work a claimant can do rather than be required to identify specific jobs. One additional commenter stated that numbers of jobs within ranges of work should be omitted to allow matching of specific jobs to a particular individual.

Where a claimant has established inability to perform relevant past work, the burden shifts to the Secretary to establish that other work exists in the national economy that the claimant can do. The Secretary fulfills this burden by providing definitive documentation in support of his decision that an individual has the capacity for work that represents reasonable and realistic vocational opportunities for that individual. The Secretary is responsible to establish that such work exists for an individual who can do only what the claimant can do in the region where he or she lives or in several regions of the country (referred to as the national economy test). This is true under both the existing regulations and the proposed amendments.

The major recognized authorities for labor market statistics and job information are the U.S. Department of Labor and the U.S. Department of Commerce, both of which prepare comprehensive information published in the "County Business Patterns," "Occupational Outlook Handbood" and the "Dictionary of Occupational Titles." These publications supplemented by other materials provide information that can be translated into kinds and ranges of work in the economy. By utilizing this information and, as required, the services of vocational experts and work evaluation centers, the Secretary satisfies the requirements of law that he provide proof of reasonable job opportunities for the individual.

The proposed regulations will disadvantage disability claimants who do not know their age or understate it. One writer suggested that applicants who do not know their age and underestimate it will be disadvantaged by the proposed amendments. Existing regulations (20 CFR 404.703 and 416.801) provide that an applicant shall file supporting evidence showing the date of his or her birth if his or her age is a condition of eligibility for benefits or is otherwise relevant to the payment of benefits. In disability claims in which vocational factors must be considered, age is a factor for consideration. It is not anticipated that the incidence of material age discrepancies would increase with the proposed amendments. However, should it be necessary to resolve a material age discrepancy in a particular case, the means of doing so exist both in existing regulations and operating instructions.

The proposed regulations are inconsistent with title XVI of the Social Security Act. One writer suggested that the legislative history of title XVI may indicate a more liberal treatment for title XVI claimants which the proposed regulations do not encompass. Another questioned how the definition of disability under both titles II and XVI would be affected by the proposed regulations. Congressional direction provided that the basic definition of disability under title II would apply under title XVI. This definition provides a "• • • reasonable, objective, and fair (test) of disability • • • which (is) appropriate • • •" (Report of the Committee on Ways and Means on House of Representatives 1, May 26, 1971, p. 147.) The Senate report stated that the definition of disability which is used in the disability insurance program "• • • would be generally applicable to disabled • • • people under the new supplemental income program." (Report of the Committee on Finance, United State Senate, to accompany House of Representatives 1, September 26, 1972, p. 384.) Consequently, the title XVI statutory language defining disability is identical to the basic definition of disability described in the title II statutory language. It is not within the purview of the Secretary to promulgate regulations which would provide a different interpretation, i.e., more liberal treat-

ment for title XVI claimants than for title II claimants; or which would alter the statutory definition of disability. Accordingly, the proposed regulations will have no effect on the statutory definition of disability.

Another commenter suggested that a title XVI claimant's ability to obtain a job specifically be judged as a part of the basis for determining whether the individual is disabled. In elaborating on the statutory definition of disability, Sections 223(d)(2)(A) and 1614(a)(2)(B) of the Social Security Act specifically state that "• • • an individual shall be determined to be under a disability only if • • • he is • • • not only unable to do his previous work but cannot, considering his age, education and work experience, engage in any other kind of substantial gainful work which exists in the national economy, *regardless of • • • whether a specific job vacancy exists for him, or whether he would be hired if he applied for work*" (emphasis added). Thus, the consideration of an individual's ability to obtain a job is specifically precluded by the Act.

The proposed regulations do not reflect the standards established by the courts. One writer suggested that case law be incorporated into the regulations and that standards set by courts be applied to the initial and reconsideration adjudicative phases. All court decisions are reviewed for program implications and to determine whether an appeal is in order. The Social Security Administration is bound by law to follow standards which are enunciated by the Supreme Court. However, in some instances, a lower court, by its interpretation of the Social Security Act and regulations, sets standards which are recognized as sound principles and adopted as program policy. An example of this is *Kerner* v. *Fleming*, 283F 2nd 916 (2nd Cir. 1960), which enunciated the standard of determining "what an applicant can do and what employment opportunities there are for someone who can do only what the applicant can do". In those situations where a court advances standards which are considered to be incompatible with the Act, the Social Security Administration may recommend an appeal.

The proposed regulations are not clear as to how they will apply to a person who is physically limited to less than a full range of sedentary work. One person asked whether a person who is physically limited to less than a full range of sedentary work activity will be deemed disabled. The capacity to do no more than a full range of sedentary work represents a fairly restrictive range of work capability; less than such capability generally means that the impairment(s) is so severe that a finding of disabled is warranted on medical grounds alone because the impairment(s) is listed in the Listing of Impairments immediately following 20 CFR 404.1539 and 416.985, or is medically the equivalent of a listed impairment. Accordingly, a very careful assessment of severity should be made on a purely medical basis before vocational factors are considered. Even in those exceptional situations where such a claimant is not found disabled on medical grounds alone and vocational factors must be considered, a finding of disabled would generally be expected following assessment of the individual's functional capacity.

The proposed regulations will affect disability claims already adjudicated. Another writer questioned how cases already adjudicated would be affected by the proposed regulations. Upon implementation, the proposed regulations would, of course, apply at all levels of adjudication. However, since the proposed regulations are representative of long-standing policy guides, it is not intended that disability claimants or persons already on the rolls would be adversely affected by their implementation. Persons on the rolls will be subject to a continuing disability investigation only on the same bases as they are at present, i.e., where there is reported or expected improvement in the beneficiary's medical condition or the individual is working and such work may represent a capacity to engage in substantial gainful activity.

The proposed regulations will disadvantage unskilled workers applying for disability benefits. One commenter stated that by using a national availability criteria, particularly at the unskilled job level, many potential disabled individuals would be excluded from disability benefits because of the "glut of unskilled jobs on the market." It would not be reasonable to discount unskilled work from consideration, since large numbers of disability applicants have performed only unskilled work throughout their working lives. These individuals would not qualify for work involving skills; thus, if the capability for unskilled work were not considered, the disability definition would be altered to an occuptional definition (i.e., the inability to do past work) for many applicants, particularly those who are unskilled. This would have far-reaching program ramifications and, moreover, would be inconsistent with the legal definition of disability in the Social Security Act which provides that if an individual is unable to do previous work, consideration must be given to whether he can do *any other kind of substantial gainful work* (italic added) which exists in the national economy. Skills would, in many instances, enhance an applicant's work capability. Where an applicant possesses skills, such skills are, of course, taken into consideration.

The proposed regulations violate the Administrative Procedure Act. One commenter indicated that the proposed amendments are representative of existing guidelines which have been used only at the initial and reconsideration levels, and that claimants who have been found not disabled at the reconsideration level and failed to appeal have been subjected to a more stringent standard in violation of the Federal Administrative Procedure Act. This commenter further suggested that the requirements of the Federal Administrative Procedure Act would be satisfied if the Social Security Administration would provide a hearing for each claimaint who has been denied benefits at the reconsideration level and did not appeal. This commenter has assumed that two entirely separate and distinct tests of disability are used depending upon the level at which the claim is being considered, and that a more stringent test of disability is employed at the initial and reconsideration levels. Another writer stated that use of the charts in proposed Appendix 2 would be appropriate at the lower levels of adjudication where rigid categories would promote more efficient adjudication of cases, but that less rigid criteria should be used at the hearing level.

The Social Security Act does not provide for different standards of disability at different adjudicative levels, and the same definition of disability has been used at all levels. Existing medical-vocational evaluation policy as embodied in the proposed amendments is reflective of the Social Security Act and is not different from the policies intended for use at all other levels of adjudication, even though as previously stated, some of the policies may not have been available in specific form beyond the initial and reconsideration levels. The policies being promulgated in these regulations may generally be found in operating instructions used at the initial and reconsideration levels, but these instructions were not binding upon administrative law judges at the hearing level or upon the Appeals Council, because they were not issued as regulations or rulings. One of the major purposes of the proposed amendments is to help improve the consistency and equity of disability decisions at all levels of adjudication in all parts of the nation, but the proposed amendments in no way abridge the Social Security Act which has always been determinative of adjudicative standards.

The proposed regulations do not provide sufficient guidance for documenting or assessing residual functional capacity. Four commenters expressed concern about the lack of uniformity of residual functional capacity assessments and indicated that it is imperative that guidelines for documenting and assessing residual functional capacity be made a part of the regulations. Each disability decision involving vocational factors requires an assessment of residual functional capacity with respect to those specific physical or mental capacities that are in doubt by reason of the individual's allegations or evidence submitted on his or her behalf. Where such doubt does not exist with respect to particular physical or mental capacities, there is no reason to believe that those capacities are diminished. Residual functional capacity assessment may be based solely on medical evidence where such evidence included sufficient findings, e.g., signs, symptoms, and laboratory findings, to support judgments about the individuals capacity for work-related physical capacities, mental demands, and sensory requirements. Where the medical findings, in and of themselves, are not supportive of an adequate assessment of residual functional capacity, such additional factors as the claimant's description of his or her impairment, recorded observations of the claimant, and any other evidence of record may be considered in conjunction with the medical findings. Assessments that describe an individual's ability to sustain work-related activities in terms of an ordinary work day on a continuous day-to-day basis can be matched to the physical and mental demands of jobs, and may be supportive of conclusions that such an individual can perform his or her previous work or other work that exists in the national economy. Conversely, where an assessment establishes that the individual does not have the capacity for work-related functions associated with his previous work or other work that exists in the national economy, or establishes that he or she has the capacity for such functions only on an erratic or irregular basis, such findings are supportive of inability to perform substantial gainful work. The assessment of residual functional capacity is a highly individualized process and must take into account all relevant factors involving a particular claimant. The proposed amendments clarify the considerations in assessing residual functional capacity.

In the proposed regulations the 15-year period, which is used in determining the relevance of an individual's past work, does not have any logical basis. One writer noted that the period of fifteen years which is considered in determining the relevance of an individul's past work shows no reference nor identifiable rationale. The 15-year period is predicated on the assumption that in our economic system, a gradual transition occurs in the job functions of most jobs so that by the time fifteen years have elapsed, the change is such that it is no longer realistic to assume that skills and abilities acquired in a job performed more than fifteen years ago continue to be relevant. This period is designated essentially as a safeguard in the interest of the claimant to insure that current vocational relevance is not imputed to remote work experience which could not reasonably be expected to enhance an individual's vocational outlook at the present time.

The proposed regulations are inaccurate in using grade levels as a measure of education. One writer stated that whether a particular individual's education has provided him or her with skills can only be determined by actually measuring his or her performance and is only roughly indicated by the grade level the individual has completed, and that this rough indicator will often be inaccurate. Adjudicative weight is ascribed to formal education only to the extent that such education contributes to the individual's ability to meet the vocational requirements of jobs; e.g., reasoning ability, communications skills or language competence, arithmetical ability. Lack of formal education is not necessarily proof that the individual is uneducated or lacks such capacities; and, conversely, the significance of an individual's educational background may be materially affected by the time lapse between the completion of his or her formal education and the onset of physical or mental impairment(s) and by what the individual has done with his or her education in a work context. Thus the judgment must be an individualized one and pertain to the facts presented about the claimant being evaluated. Grade level is only determinative in absence of evidence to the contrary.

Contrary to the proposed regulations, there is usually insufficient evidence in the record to assess job skills before the hearing level. One commenter stated that below the hearings level there is never enough evidence to decide the degree of job-acquired skills. The Social Security Administration's operating experience has shown that a large number of the individuals who file for social security disability benefits are unskilled, and that the issue of transferability of skills is the decisive factor in only a relatively small number of cases. Further, transferability of skills may not be an issue even in cases involving skilled workers (e.g., an individual not of advanced age who can do medium work and who has a high school education). Where transferability of skills is not at issue, evidence supporting such considerations is unnecessary. In setting out the definitions and rules, the proposed amendments prescribe the evidence required to reach the necessary judgments as to each individual factor at all adjudicative levels while directing the consideration of the factors in proper sequence, thereby aiding the adjudicators in determining when sufficient evidence for a disability decision has been obtained. The same commenter noted, as has been found in the Social Security Administration's experience, that job titles in themselves are not reliable determinants of skills and that evidence relating to an individual's job duties must be used in reaching such conclusions.

The proposed regulations do not consider motivation for work. Three writers stated that while the regulations require a physician to look at the exertional limitations of an individual, there is no way to consider the individual's motivational level, particularly the impact of a medical problem which can reduce the functional level but not eliminate employability. Motivation is not a factor for consideration in determining whether a claimant is disabled under the provisions of the Social Security Act, nor is the factor of "employability." The individual must be unable to engage in any substantial gainful activity by reason of a medically determinable impairment(s). The physical or mental impairment(s) must be the primary reason for the inability to engage in substantial gainful activity although such other factors as the age, education, and work experience of the individual must also be considered in addition to the functional limitations imposed by the physical or mental impairment(s) in those instances where a decision of disabled or not disabled is not warranted solely on the basis of medical findings. The assessment to determine an individual's functional limitations (and his residual functional capacity) must be based on all relevant evidence which pertains to his or her capacity for work-related physical functions, mental demands, and sensory requirements. This precludes consideration of the individual's motivational level.

The proposed regulations are not clear as to how they will be applied where an individual has limitations in the ability to reach, pull, push, or engage in sustained activity. Several commenters expressed concern that even though a claimant may be able to meet the exertional demands for the performance of a particular range of work, e.g., light, such individual may have limitations with respect to the ability to reach, pull, push, or engage in sustained activity which would restrict the number of jobs within that range that he or she could perform. One commenter suggested that there should be a mechanism for sorting out those jobs which a claimant would not be able to perform because of specific limitations; another indicated that this might be done by considering vocational rehabilitation success rates in retraining people with specified exertional limitations and percentages of hearing and appeals reversal decisions in various categories.

All of these comments suggest that the commenters believe that only the

primary strength requirements (i.e., lifting, carrying, pushing, and pulling) are considered in determining the range of work which a claimant would be capable of performing. Also considered, however, are physical capacities (or specified physical traits) such as climbing, balancing, stooping, bending, kneeling, crouching, fingering, feeling, talking, hearing and seeing. While some of these physical capacities may be more critical than others to the performance of jobs within a particular range of work, the individual must possess physical capacities equal to the strength requirements for the majority of jobs within a particular range of work in order to be so classified. Thus, where an individual has the capacity to meet the strength requirements for a particular range of work, but is unable to perform such activities on a sustained basis, he or she would not be deemed capable of performing work within that range. On the other hand, where the physical capacities normally required for a particular range of work are not appreciably diminished, it would be appropriate to conclude that the individual does have the capacity to perform work within the range being contemplated. It would not, however, be appropriate to assess an individual's anticipated job success based on the job success of other individuals who, though similarly impaired, have been rehabilitated to a work situation. Projecting such expectations on this basis would be contrary to the individualized adjudicative concept. Similarly, the individualized adjudicative approach would preclude comparison with percentages of hearing and appeal reversal decisions.

The proposed regulations will disadvantage persons who improve their skills and education and will be a disincentive to such improvement. A person appearing at a public meeting indicated that an adjudicator must be extremely wary of making a finding of not disabled on the basis that a claimant can perform work for which he or she has recently been trained unless he or she has actually engaged in substantial gainful activity in the new occupation. The commenter observed, on the other hand, that a beneficiary may be found to be no longer disabled and his or her benefits terminated if he or she demonstrated his or her newly acquired skills or abilities in productive work activity. Similarly, another person observed that a beneficiary might abandon plans to pursue an education if faced with the possible loss of benefits because of the attainment of new skills.

As noted, when an applicant for disability benefits is shown to have had vocational training or special education without it being reflected in his work history, care must be taken to ascertain that the applicant did, in fact, satisfactorily complete the training or education, and the reasons for not making use of it. A handicapped person cannot legitimately be expected to make use of training or education where there are good reasons for not having been able to do so before the onset of his disability.

The same caution is exercised where a beneficiary has successfully completed vocational rehabilitation or training but has not used the skills acquired in productive work. Benefits may not be terminated on the basis that the individual has become a "skilled" worker. In the absence of work activity, a finding that disability ceased would be justified only where the evidence establishes that the individual no longer meets the definition of disability. Thus, in the absence of medical recovery, benefits would be continued until the individual has completed a trial work period and has demonstrated the ability to engage in substantial gainful activity. The recent acquisition of skills, by itself, would not be convincing of regained ability to engage in substantial gainful activity.

The proposed regulations are unrealistic in attributing labor market adaptability to persons between ages 18 and 49, as "so called younger individuals". One writer objected to the use of the term "younger individual" to denote ages 18 through 49, and said that the age level should be 18 through 40. It is recognized that progressive deteriorative changes, which affect the vocational capacity to perform jobs, occur as individuals get older. Since no conclusive data which relate varying specific chronological ages to specific vocational limitations for performing jobs are available, it was necessary to analyze and interpret the available age and employment data to ascertain points where it would be realistic to ascribe vocational limitations based on chronological age. Past experience of the Social Security Administration in determining when age makes a difference in disability determinations has also been considered. The consensus resulting from such data and prior experiences is that employment problems develop at age 45; intensify at age 50; and are significantly evident at age 55. The considerations given to age are appropriately reflected in proposed Appendix 2 but are not to be applied mechanically in borderline situations.

Rule 203.10, in the proposed regulations, discriminates against title II disability claimants in comparison with title XVI disability claimants. One commenter stated that Rule 203.10 of proposed Appendix 2 would place more emphasis on the absence of previous work experience than on medical factors as the primary reason for inability to engage in substantial gainful activity. (This rule provides for a finding of disabled where the claimant's maximum sustained work capability is limited to medium work as a result of a medically determinable impairment(s), and such person is of advanced age, has a limited (or less) education, and has no previous work experience.) The commentor noted that the capacity to perform medium work activity represents a substantial vocational opportunity regardless of a person's age, education, and previous work experience, or lack thereof. It was also pointed out that a finding of not disabled would be made in a situation where, all other factors being equal, the claimant had a history of unskilled work (Rule 203.11). This, in the commenter's view, would create an inequity in the handling of title II and title XVI claimants.

As stated in the Social Security Act, in existing regulations, and in the proposed regulations, an individual's physical or mental impairment(s) must be the primary reason for the inability to engage in any substantial gainful activity. Rule 203.10 does not change that requirement. Rather, the rule takes into account the absence of any work experience as an adverse vocational factor. While this factor is always recognized as a particular vocational handicap, the ability to compensate is inverse to other characteristics such as age, education, and skill attainment. The proposed rules, therefore, provide for the same treatment, up to a point, of claimants without work experience and those who have performed only unskilled work, all other factors being equal. As a person grows older, however, the ability to compensate diminishes. The claimant without work experience, on reaching advanced age, may have a significantly more adverse vocational outlook than his or her counterpart who has engaged in unskilled work. The latter, contrary to the former, will have developed worker characteristics such as the basic knowledge of a product or service; an ability to relate and communicate to supervisors and coworkers; the work habits of scheduling of time, use of time clocks or other elements of time usage; and other worker habits and abilities to aid in adjusting to a new work situation, even through at the older age level.

A General Accounting Office study found disability determinations made by the various State agencies to be inconsistent. Several persons commented on the findings of a General Accounting Office (GAO) study which indicated that disability claimants are receiving unequal treatment because their claims are being handled in an inconsistent manner by the various State agencies which make disability determinations under an agreement with the Social Security Administration. GAO attributed this, in part, to the Social Security Administration's failure to provide clear, concise criteria and instructions upon which to render decisions. In line with this criticism, GAO specifically criticized the absence of comprehensive vocational factors evaluation criteria in published form. Although the Social Security Administration took exception to the methodology employed in the study and questioned the validity and accuracy of the study findings, it should nevertheless be stressed that one of the objectives of the proposed regulations is to assure consistency in the disability determination process. This would meet the criticism of the GAO study by providing timely, clear, concise criteria and instructions upon which to render decisions based on medical-vocational factors.

The proposed regulations permit "administrative notice" of unsubstantiated conclusions and disputed findings without allowing for rebuttal of these findings and conclusions. One writer suggested that the conclusive effect of administrative notice will be given to disputable facts. Another stated that noticed facts which are contained in various reference and source materials, (e.g., the "Dictionary of Occupational Titles," "County Business Patterns," "Census Reports") are adjudicative facts and, as such, are subject to rebuttal, though no provision is made for rebuttal in the proposed regulations.

Administrative notice is taken of the various source and reference materials, themselves, on the basis that they are generally recognized in business, industry, and government as representing authoritative sources on jobs throughout the national economy. However, any rule in proposed Appendix 2 which is reflective of facts contained in the administratively noticed reference materials will direct a factual conclusion as to whether an individual is or is not disabled only where all of the findings of fact made with respect to the individual's vocational factors and residual functional capacity coincide with all of the criteria of a particular rule. The individual findings of fact are subject to rebuttal; and where any one of the findings of fact does not coincide with the corresponding criterion of a rule, the rule does not apply in that particular case and, accordingly, does not direct a factual conclusion of disabled or not disabled. This principle is discussed in § 200.00(a) of proposed Appendix 2. However, where the findings of fact are determined to coincide with a particular rule, the conclusion established by the rule is not subject to rebuttal. These conclusions rest, in part, on various source and reference materials which are being considered in the rule-making process and which form part of the factual basis for the proposed rules. The law does not require the Social Security Administration to permit rebuttal of these legislative facts in the determination of individual claims.

The proposed regulations will increase the need for legal representation in order for a claimant to be allowed disability benefits at a hearing. Two persons asked if the proposed regulations place an increased premium on the need for legal representation at a disability hearing. It is difficult to predict what effect publication of the proposed regulations would have on attorney representation. There has been a steady increase in the incidence of attorney representation over the past five years, possibly due in part to the increased value of the disability benefit and the greater accessibility of legal services. This trend may continue regardless of what action is taken on the proposed regulations. Hence, attorney representation may be perceived as becoming more valuable when vocational criteria are available to the public and the legal profession. On the other hand, one of the purposes of the regulations is to make available to the public the guides for adjudicating disability cases that require full consideration of an individual's age, education and work experience.

If the proposed regulations are implemented, denied claimants should be advised that the determination is binding and that legal assistance should be obtained. One writer suggested that where a claimant is found not disabled, the notice should advise that the determinaton is a binding conclusion and that he or she should seek legal assistance. The commenter also suggested that the Social Security Administration should refer denied claimants to the bar association or legal aid groups, and then proceed at the next adjudicative level only after the claimant has been advised that the previous decision is binding and waives his or her right to legal representation.

Unless an appeal is timely filed, every determination is final and conclusive of individual benefit rights with respect to the application under consideration. The denial notice at each adjudicative level clearly informs the claimant of appeal rights and furnishes instructions as to the procedures to be followed if he or she disagrees with the decision. Although the Social Security Administration assists a claimant to pursue his or her claim, a claimant has the right to be represented by a person of his or her own choice, and if he or she expresses interest in having such representation, the interviewer explains the right to be represented; how to appoint a representative; what a representative may do; and fee regulations.

The proposed regulations do not take cognizance of the fact that some individuals, especially younger persons, are temporarily disabled for at least 12 months. One writer stated that the proposed regulation fails to recognize the concept of a "closed or temporary" period of disability and ignores (for example) the entitlement of young wage earners who are well-educated, but who are temporarily severely injured or ill for 12 or more months. On the basis of the example cited, it appears that the writer believes that the proposed regulations would impinge upon the 12-month duration requirement, which is an integral part of the statutory definition of disability, and that a finding of disabled would be precluded in any case where a claimant's impairment(s) is no longer disabling at the time of adjudication or where it can be projected that the impairment(s) will no longer be disabling in the near future. As explained elsewhere in this preamble, the proposed regulation in no way effects the severity and duration requirements of the definiton of disability, and it would be beyond the scope of the Secretary's authority to promulgate a regulation which would be inconsistent with the statute. (For a specific discussion of the adjudicative treatment of younger workers, see § 201.00(h) of proposed Appendix 2.)

The proposed regulations should provide that vocational factors will not be evaluated without the claimant's consent and the evaluation should be done by a professional vocational consultant. Two commenters stated that the applicant's consent should be obtained where it is necessary that vocational factors be evaluated to determine disability, and that such evaluation be conducted by trained vocational evaluators or other trained professionals.

Section 223(d)(2)(A) of the Social Security Act requires consideration of an applicant's physical and mental capacity for previous and other work. Assessment of work capacity is based on independent evidence and information—obtained from treating and other examining physicians, hospitals, clinics, and other medical sources as well as the claimant himself. The interpretation of this information is perfored by an evaluation team composed of a physician employed by the State Disability Determination Services, and a lay disability adjudicator who is a professional evaluator by reason of specialized training and experience. Both the physican and lay adjudicator are uniquely equipped to translate functional and vocational evidence in terms of demands of jobs in the economy and to assess the individual's remaining capacity for such work. The evaluation of vocational and function-

al evidence is governed by the Social Security Act and regulations. Thus, while information pertinent to an individual's claim may be receved from any source, the evaluation of such evidence requires persons who not bnly possess medical-legal qualifications but are also well versed in the law and regulations. In some cases where vocational qualifications are difficult to measure, claimants are referred to work evaluation centers and professional vocational consultants for an evaluation at Government expense.

The proposed regulations are not based on any scientific studies or pretesting. A question was raised by several commenters as to whether the Social Security Administration has done research and studies regarding the bases for the policies and definitions of terms set out in the proposed regulations. One writer noted that it might be advisable to provide more recent data in support of the adverse vocational presumptions embodied in the proposed regulations, particularly in regard to advanced age. The bases for the policies and definitions in the proposed regulations are the Social Security Act itself, and Congressional intent as expressed over the years. This is fortified by the Social Security Administration's experience in adjudicating hundreds of thousands of disability claims over a period of many years. The definitions are those that have been used for a number of years. Most derive from pre-existing outside sources and research, such as data complied by the Department of Labor (some of which was specifically arranged for use by the Social Security Administration), which are authoritative and generally accepted, and which are compatible with the social security disability program. The reference sources and materials which are cited in support of the adverse vocational presumptions in regard to advanced age reflect a consistency over the period 1957-1974, which is shown to be continuing.

Likewise, pretesting is considered unnecessary, since pretesting for some limited period of time would not provide as good a test of validity as the Social Security Administration's adjudicatory experience in handling hundreds of thousands of cases over many years from which these rules are derived. Only actual operating experience, court experience and careful monitoring will, in the final analysis, prove the effect of the proposed regulations.

SUMMATION

In essence, the proposed regulations and Appendix 2 identify and define the individual medical-vocational factors which Congress intended to be considered in appropriate cases and illustrate the relative weights to be ascribed to each factor in conjunction with all of the other variables in determining an individual's ability or inability to perform substantial gainful activity. Proposed Appendix 2 sets forth these interactions in the form of individual profiles demonstrating the changing adjudicative weights to be accorded each factor in relation to the others. The determination of disabled or not disabled shown in a rule reflects whether or not a severely impaired individual with that particular combination of individual characteristics is able to engage in substantial gainful activity. The determination is predicated on the basis of a medical-vocational determination of capacity for the performance of ranges of work, rather than singular or isolated occupations and, therefore, inherently considers the performance of a significant number of jobs that exist in the national economy.

The publication of Appendix 2 is not intended to direct the adjudication of social security disability claims on the basis of an "average man" approach. Rather, the rules make the process of determining the ability to engage in substantial gainful work more uniform and definitive while preserving the individuality of the determination. While the standards for evaluation included in Appendix 2 are rules whereby each case is evaluated, they do not detract from the requirement that the determination in every case be an individual one. To the contrary, the rules require that individualized findings of fact be made with respect to each individual's age, education, work experience, and physical and mental limitations, and that all factors resulting from those findings of fact coincide with the criteria of a particular rule in order for that rule to direct a factual conclusion of disabled or not disabled in the individual case. Thus, the rules require that each individual's age, education, work experience, and physical and mental limitations personal to him or her, be taken through account of before the rules are applied to the facts in the case. The rules need to be definitive so that the claims of all individuals similarly situated are handled in a consistent manner and to assure that determinations made by one set of adjudicators on the basis of the same facts will be handled the same way by another group of adjudicators, wherever in the country they are located. The necessity for each determination to be an individual one does not eliminate the need for consistency and uniformity in determinations. The way that is achieved administratively is by the regulations and the Appendices (1 and 2).

With respect to those claims not covered within the specific parameters of a rule in Appendix 1 or 2, a determination will have to be made on the basis of the discussions and definitions in the main body of the regulations, taking appropriate account of the rules in Appendix 2.

The rules stated herein represent a consolidation and elaboration of long-standing medical-vocational evaluation policies, which heretofore have been reflected in fragmented guides not readily available in the same format at all levels of adjudication. The proposed regulations and Appendix 2 take appropriate account of the Social Security Administration's extensive experience to date in administering disability programs. Proposed Appendix 2 will help insure individual consideration of all appropriate factors in each case, while providing meaningful rules for soundness, consistency and equity of disability adjudications.

The proposed amendments, if adopted in full or in part, will not become effective until 90 days after they are published in final form in the FEDERAL REGISTER.

The proposed amendments are to be issued under the authority contained in sections 205, 223, 1102, 1614, and 1631, of the Social Security Act, as amended; 53 Stat. 1368, as amended; 70 Stat. 815, as amended; 49 Stat. 647, as amended; 86 Stat. 1471; 86 Stat. 1475; 42 U.S.C. 405, 423, 1302, 1382c, 1383.

(Catalog of Federal Domestic Assistance Program No. 13.802, Disability Insurance; No. 13.807, Supplemental Security Income Program.)

NOTE.—The Social Security Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: January 23, 1978.

DON WORTMAN,
Acting Commissioner of Social Security.

Approved: February 21, 1978.

JOSEPH A. CALIFANO, JR.,
Secretary of Health, Education, and Welfare.

Part 404 and Part 416 of Chapter III of Title 20 of the Code of Federal Regulations are amended as follows:

1. Section 404.1502 is revised to read as follows:

§ 404.1502 Evaluation of disability in general.

The provisions of §§ 404.1502 through 404.1513 apply to cases involving disability insurance benefits (except statutory blindness) under section 223 of the Act, child's insurance benefits based on disability under section 202(d) of the Act, and a period of disability under section 216(i)(1)(A) of the Act. In general, the individual has the burden of proving that he or she is disabled and of raising every issue with respect to his or her alleged disability. Whether an impairment in a particular case constitutes a disability, is determined from all the pertinent facts of that case. The determination of disability may be based on medical considerations alone, or on medical considerations and vocational factors as follows:

(a) *Disability determinations on the basis of medical considerations alone.* Medical evidence (i.e., signs, symptoms and laboratory findings) alone, can justify a finding that an individual is or is not under a disability, absent evidence to the contrary.

(b) *Disability determinations in which vocational factors must be considered along with the medical evidence.* In those cases where a finding of disabled or not disabled cannot be made based on medical evidence alone, other evidence is required. This other evidence may include information about:

(1) The individual's residual functional capacity;

(2) The individual's age, education, and work experience; and

(3) The kinds of substantial gainful activity (work) which exist in significant numbers in the national economy for someone who can do only what the individual can do.

(c) *Disability determinations in which vocational factors are extremely adverse.* Where an individual with a marginal education and long work experience (e.g., 35 to 40 years or more) limited to the performance of arduous unskilled physical labor is not working and is no longer able to perform such labor because of a significant impairment or impairments, such an individual may be found to be under a disability.

§§ 404.1503 through 404.1507 [Redesignated as § 404.1514 through 404.1518]

2. Sections 404.1503 through 404.1507 are redesignated as §§ 404.1514 through 404.1518 respectively.

3. New §§ 404.1503 through 404.1513 are added to read as follows:

§ 404.1503 Considerations in the sequential evaluation of disability.

(a) *General.* In the determination of whether or not an impairment in a particular case constitutes a disability as defined in § 404.1501, consideration is given to all the pertinent facts of that case. If the individual is engaging in substantial gainful activity, a determination that he or she is not disabled shall be made. In all other cases, primary consideration is given to the physical or mental impairment(s), which must be severe. The impairment(s) must also meet the duration requirement before disability can be found to exist. However, in determining whether an individual is disabled, a sequential evaluation process shall be followed, whereby current work activity, severity of the impairment(s), and vocational factors are assessed in that order. The following evaluation steps shall be followed in the sequence shown, but when a determination that an individual is or is not disabled can be made at any step, evaluation under a subsequent step shall be unnecessary.

(b) *Is the individual currently engaging in substantial gainful activity?* Where an individual is actually engaging in substantial gainful activity, a finding shall be made that the individual is not under a disability without consideration of either medical or vocational factors.

(c) *Does the individual have any severe impairment?* Where an individual does not have any impairment(s) which significantly limits his or her physical or mental capacity to perform basic work-related functions, a finding shall be made that he or she does not have a severe impairment and therefore is not under a disability without consideration of the vocational factors.

(d) *Does the individual have any impairment(s) which meets or equals those listed in Appendix 1?* Where an individual's impairment(s) meets the duration requirement and is either listed in Appendix I or is determined to be medically the equivalent of a listed impairment, a finding of disability shall be made without consideration of the vocational factors.

(e) *Does the individual have any impairment(s) which prevents past relevant work?* Where a finding of disability or no disability cannot be made based on current work activity or on medical considerations alone, and the individual has a severe impairment(s), his or her residual functional capacity and the physical and mental demands of his or her past relevant work shall be evaluated. If the impairment(s) does not prevent the individual from meeting the physical and mental demands of past relevant work, including arduous unskilled physical labor, disability shall be found not to exist.

(f) *Does the individual's impairment(s) prevent other work?* If an individual cannot perform any past relevant work because of a severe impairment(s), but the individual's remaining physical and mental capacities are consistent with his or her meeting the physical and mental demands of a significant number of jobs (in one or more occupations) in the national economy, and the individual has the vocational capabilities (considering age, education, and past work experience) to make an adjustment to work different from that which he or she has performed in the past, it shall be determined that the individual is not under a disability. However, if an individual's physical and mental capacities in conjunction with his or her vocational capabilities (considering age, education, and past work experience) do not permit the individual to adjust to work different from that which he or she has performed in the past, it shall be determined that the individual is under a disability.

§ 404.1504 Determining whether disability exists—medical and other considerations.

(a) *Medical considerations—(1) Finding individual not disabled.* Medical considerations alone can justify a finding that an individual is not under a disability where the medically determinable impairment is not severe. A medically determinable impairment is not severe if it does not significantly limit an individual's physical or mental capacity to perform basic work-related functions.

(2) *Finding individual disabled.* Medical considerations alone (including the physiological and psychological manifestations of aging) can justify a finding that an individual is under a disability, absent evidence to the contrary. Medical considerations which justify a finding that an individual is under a disability are those that bring an individual's impairment(s) under the listing in Appendix 1 of this subpart or which justify a determination by the Secretary that the impairment(s) is the medical equivalent of an impairment listed in Appendix 1 of this subpart.

(b) *Additional considerations.* Any medically determinable impairment(s) may justify a finding that an individual is under a disability if the impairment(s) is severe and prevents an individual from engaging in substantial gainful activity. In determining whether impairment(s) not listed in Appendix 1 of this subpart (nor found to be the equivalent of an impairment listed in Appendix 1) meet this test, additional considerations are evaluated. These include determining whether an individual can qualify because he or she has only performed arduous unskilled work for a long period of time or, if not, whether he or she can perform vocationally relevant past work. In those cases in which an individual is found unable to perform vocationally relevant past work, age, education, and work experience must then be considered in addition to the functional limitations imposed by the individual's physical or mental impairment(s).

§ 404.1505 Residual functional capacity.

(a) *General.* Physical or mental impairment(s) may impose functional limitations on an individual's ability to engage in substantial gainful activity. The kind and severity of the

impairment(s) determine the individual's work limitations and residual functional capacity. The manner in which the impairment(s) affects the individual's ability to perform work-related physical and mental activities, and the kind and extent of function the individual retains, are assessed in determining the individual's residual functional capacity. Where multiple impairments are involved, the assessment of residual functional capacity reflects the totality of restrictions resulting from all impairments. Assessments of residual functional capacity may be based solely on medical evidence where such evidence includes sufficient findings (e.g. signs, symptoms and laboratory findings) to permit and support the necessary judgments where relevant, with respect to the individual's physical, mental, and sensory capabilities. Where all reasonably obtainable relevant medical findings alone are not sufficient for an adequate assessment of residual functional capacity, additional factors may be considered. Such additional factors as the individual's description of the impairment, recorded observations of the individual, and any other evidence of record may be considered in conjunction with the medical findings.

(b) *Physical capacities.* Assessment of physical capacities (e.g., strength and exertional capabilities) includes an evaluation of the individual and indicates the individual's maximal residual functional capacity for sustained activity on a regular basis. The assessment also includes the evaluation of the individual's ability to perform significant physical functions such as walking, standing, lifting, carrying, pushing or pulling. The assessment includes the evaluation of other physical traits and sensory characteristics such as reaching, handling, seeing, hearing, and speaking, insofar as limited capacity to perform these functions may also affect the individual's capacity for work for which the indiviual would otherwise be qualified.

(c) *Mental impairments.* The assessment of impairments because of mental disorders includes a consideration of such factors as the capacity to understand, to carry out and remember instructions, and to respond appropriately to supervision, co-workers and customary work pressures in a routine work setting.

(d) *Non-exertional limitations.* Any medically determinable impairments resulting in non-exertional limitations (such as certain mental, sensory, or skin impairments) must be considered in terms of the limitations resulting from the impairment. When an individual has a non-exertional impairment in addition to an exertional impairment(s), the residual functional capacity must be assessed in terms of the degree of any additional narrowing of the individual's work-related capabilities.

(e) *When assessment is required.* An assessment of residual functional capacity is required only with respect to those specific physical or mental capacities that are in doubt by reason of the individual's allegations or the evidence adduced. Where such doubt does not exist with respect to particular physical or mental capacities, the individual is considered to have no restrictions with respect to those capacities.

(f) *Relationship of residual functional capacity to ability to do work.* Where the residual functional capacity so determined is sufficient to enable the individual to do his or her previous work (i.e., usual work or other vocationally relevant past work), a determination is made that the individual is not under a disability. Where the residual functional capacity so determined is not sufficient to enable the individual to do his or her previous work, it must be determined what work, if any, the individual can do, taking into consideration the individual's residual functional capacity, age, education, and work experience and whether work that the individual can do exists in significant numbers in the national economy.

§ 404.1506 Age as a vocational factor.

(a) *General.* The term "age" refers to chronological age and the extent to which it affects the individual's capability to engage in work in competition with others. However, the factor of age in itself is not determinative of disability; the residual functional capacity and the education and work experience of the individual must also be considered. An individual who is unemployed because of age cannot be found incapable of engaging in substantial gainful activity when the individual's impairment and other vocational considerations, e.g., education and work experience, would enable the individual to perform a significant number of jobs which exist in the national economy.

(b) *Younger individual.* In the case of a younger individual (under age 50), age in itself is ordinarily not considered to affect significantly the individual's ability to adapt to a new work situation.

(c) *Individual approaching advanced age.* For the individual not of advanced age but who is closely approaching advanced age (age 50–54), the factor of age, in combination with a severe impairment and limited vocational background may substantially affect the individual's adaptability to a significant number of jobs in a competitive work environment.

(d) *Individual of advanced age.* "Advanced" age (age 55 or over) represents the point where age significantly affects the ability to engage in substantial work. Where a severely impaired individual is of advanced age, such ability may be adversely affected except where the individual has skills that are readily transferable to jobs which exist in significant numbers in the national economy.

§ 404.1507 Education as a vocational factor.

(a) *General.* The term "education" is primarily used in the sense of formal schooling or other training which contributes to the individual's ability to meet vocational requirements, e.g., reasoning ability, communication skills, and arithmetical ability. Lack of formal schooling is not necessarily proof that the individual is uneducated or lacks such capacities. For individuals with past work experience, the kinds of responsibilities assumed when working may indicate the existence of such intellectual capacities although their formal education is limited. Other evidence of such capacities, for individuals with or without past work experience, may consist of daily activities, hobbies, or the results of testing. The significance of an individual's educational background may be materially affected by the time lapse between the completion of the individual's formal education and the onset of physical or mental impairment(s) and by what the individual has done with his or her education in a work context. Formal education that was completed many years prior to onset of impairment or unused skills and knowledge that were a part of such formal education may no longer be useful or meaningful in terms of the individual's ability to work. The term "education" also indicates whether an individual has the ability to communicate in English, since that ability is often acquired or enhanced through educational exposure. In evaluating the educational level of an individual, the following classifications are used:

(b) *Illiteracy.* Illiteracy refers to the inability to read or write. An individual who is able to sign his or her name, but cannot read or write a simple communication (e.g., instructions, inventory lists), is considered illiterate. Generally, and illiterate individual has had little or no formal schooling.

(c) *Marginal education.* Marginal education refers to competence in reasoning, arithmetic, and language skills which are required for the performance of simple, unskilled types of jobs. Absent evidence to the contrary, formal schooling at a grade level of sixth grade or less is considered a marginal education.

(d) *Limited education.* Limited education refers to competence in reasoning, arithmetic, and language skills which, although more than that which is generally required to carry out the duties of unskilled work, does not provide the individual with the educational qualifications necessary to perform the majority of more complex job duties involved in semi-skilled or skilled jobs. Absent evidence to the contrary, a seventh grade through the eleventh grade of formal education is considered a limited education.

(e) *High school education and above.* High school education and above refers to competence in reasoning, arithmetic, and language skills acquired through formal schooling at a level of grade twelve or above. Absent evidence to the contrary, these educational capacities qualifiy an individual for work at a semi-skilled through a skilled level of job complexity.

(f) *Inability to communicate in English.* Ability to communicate in English is often acquired or enhanced through educational exposure, and this may be considered an educational factor. Where there is inability to communicate in English, the dominant language of the national economy, this may be considered a vocational handicap because it often narrows an individual's vocational scope. For example, the inability to communicate in English may preclude an individual from performing jobs which require conversing with peers and supervisors in English, or reading instructions, signs, forms, etc., which are printed in English. However, the inability to communicate in English in no sense implies that an individual lacks formal schooling or intelligence. A person unable to communicate in English has a vocational handicap which must be considered in assessing what work, if any, the individual can do. The particular non-English language in which an individual may be fluent is generally immaterial.

§ 404.1508 Work experience as a vocational factor.

The term "work experience" means skills and abilities acquired through work previously performed by the individual which indicates the type of work the individual may be expected to perform. Work for which the individual has demonstrated a capability is the best indicator of the kind of work that the individual can be expected to do. Such work experience has current vocational relevance where the recency of the work and the skills acquired demonstrate the individual's ability to perform work which exists in the national economy. Work performed 15 years or more prior to the point at which the claim is being considered for adjudication (or when the earnings requirement was last met) is ordinarily not considered vocationally relevant. In our economic system, a gradual transition occurs in the job functions of most jobs so that by the time 15 years have elapsed, it is no longer realistic to assume that skills and abilities acquired in a job performed more than 15 years ago continue to be relevant. The 15-year guide is essentially intended to insure that current vocational relevance is not imputed to remote work experience which could not reasonably be expected to enhance an individual's vocational prospect as of the point of adjudication. An individual who has no prior work experience or has worked only sporadically or for brief periods of time during the 15-year period may be considered to have no relevant work experience. Any skills acquired through work experience are vocational assets unless they are not transferable to other skilled or semi-skilled work within the individual's current capacities. When acquired skills are not transferable, the individual is considered capable of only unskilled work. However, an individual need not have work experience to qualify for unskilled work which requires little or no judgment in the performance of simple duties which can be learned in a short period of time.

§ 404.1509 Work which exists in the national economy.

(a) *General.* Work is considered to exist in the national economy when it exists in significant numbers either in the region where such individual lives or in several other regions of the country, regardless of whether such work exists in the immediate area in which the individual lives, or whether a specific job vacancy exists for the individual, or whether the individual would be hired if the individual applied for work. A finding that work exists in the national economy is made when there is a significant number of jobs (in one or more occupations) having typical requirements which do not exceed the individual's physical or mental capacities and vocational qualifications. Isolated jobs of a type that exist only in very limited number or in relatively few geographic locations outside of the region where the individual resides are not considered to be "work which exists in the national economy" for purposes of determining whether an individual is under a disability; an individual is not denied benefits on the basis of the existence of such jobs. If such work that the individual can do does not exist in the national economy, disability shall be determined to exist. If such work does exist in the national economy, disability shall be determined not to exist.

(b) *Inability of individual to obtain work.* If an individual's residual functional capacity and vocational capabilities are consistent with the performance of work which exists in the national economy but the individual remains unemployed because the individual is unsuccessful in obtaining such work or because such work does not exist in the individual's local area; or because of the hiring practices of employers, technological changes in the industry in which the individual has worked, or cyclical economic conditions; or because there are no job openings for the individual or the individual would not actually be hired to do work the individual could otherwise perform, the individual is considered not to be under a disability as defined in § 404.1501.

(c) *Administrative notice of job data.* In the determination of whether jobs, as classified by their exertional and skill requirements, exist in significant numbers either in the region or the national economy, administrative notice shall be taken of reliable job information available from various governmental and other publications; e.g., "Dictionary of Occupational Titles," published by the Department of Labor; "County Business Patterns", published by the Bureau of the Census; "Census Reports", also published by the Bureau of the Census; occupational analyses prepared for the Social Security Administration by various State employment agencies; and the "Occupational Outlook Handbook", published by the Bureau of Labor Statistics.

§ 404.1510 Exertional requirements.

(a) *General.* For the purpose of determining exertional requirements of work in the national economy, jobs are classified as "sedentary," "light," "medium," "heavy," and "very heavy." Such terms have the same meaning as they have in the "Dictionary of Occupational Tities", published by the Department of Labor, and when used in making disability determinations under this subpart are defined as follows:

(b) *Sedentary work.* Sedentary work entails lifting 10 pounds maximum and occasionally lifting or carrying such articles as dockets (e.g., files), ledgers, and small tools. Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met.

(c) *Light work.* Light work entails lifting 20 pounds maximum with frequent lifting or carrying of objects weighing up to 10 pounds. Even though the weight lifted may be only a negligible amount, a job is in this category when it requires walking or standing to a significant degree, or when it involves sitting most of the time with a degree of pushing and pulling of arm or leg controls. To be considered capable of performing a

full or wide range of light work, an individual must be capable of performing substantially all of the foregoing activities. The functional capacity to perform light work includes the functional capacity to perform sedentary work.

(d) *Medium work.* Medium work entails lifting 50 pounds maximum with frequent lifting or carrying of objects weighing up to 25 pounds. The functional capacity to perform medium work includes the functional capacity to perform sedentary work and light work as well.

(e) *Heavy work.* Heavy work entails lifting 100 pounds maximum with frequent lifting or carrying of objects weighing up to 50 pounds. The functional capacity to perform heavy work include the functional capacity to perform work at all of the lesser functional levels.

(f) *Very heavy work.* Very heavy work entails lifting objects in excess of 100 pounds with frequent lifting or carrying of objects weighing 50 pounds or more. The functional capacity to perform very heavy work includes the functional capacity to perform work at all of the lesser functional levels.

§ 404.1511 Skill requirements.

(a) *General.* For purposes of assessing the skills reflected by an individual's work experience, and of determining the existence in the national economy of work the individual is competent to do, occupations are classified as unskilled, semi-skilled, and skilled. When used in making disability determinations under this subpart, these terms are used in the following sense:

(b) *Unskilled work.* Unskilled work denotes work which requires little or no judgment in the performance of simple duties that can be learned on the job in a short period of time. Considerable strength may or may not be required. As an example, where the primary work function of occupations consists of handling, feeding and offbearing (i.e., placing or removing materials from machines which are automatic or operated by others), or machine tending, and average successful job performance can ordinarily be achieved within 30 days, such occupations are considered unskilled. Other types of jobs requiring little specific vocational preparation and little judgment are likewise unskilled. No acquired work skills can be attributed to individuals who have performed only unskilled work.

(c) *Semi-skilled work.* Semi-skilled work denotes work in which some skills are involved but the more complex work functions are not required. Semi-skilled jobs may require alertness and close attention to watching machine processes; or inspecting, testing or otherwise detecting irregularities; or tending or guarding equipment, property, materials, or persons against loss, damage or injury; or other types of activities involving less complex work functions. A job may be classified as semi-skilled where coordination and dexterity are necessary as in the use of the hands or feet for the rapid performance of repetitive tasks.

(d) *Skilled work.* Skilled work requires qualifications in which the independent judgment of the individual determines the machine and manual operations to be performed in obtaining the proper form, quality, or quantity of material to be produced. The individual may be required to lay out work, to estimate quality, suitability and needed quantities of materials, to make precise measurements, to read blueprints or other specifications, and to make necessary computations or mechanical adjustments to control or regulate processes. Other skilled jobs may require dealing with personnel, data, or abstract ideas at a high level of complexity.

(e) *Transferable work skills.* An individual is considered to have transferable skills when the skilled or semi-skilled work functions which he has demonstrated in his or her past work can be applied to meet the requirements of skilled or semi-skilled work functions of other jobs or kinds of work. Transferability depends largely on the similarity of occupationally significant work functions among jobs. Transferability is most probable and meaningful among jobs in which the same or a lesser degree of skill is required; and the same or similar tools and machines are used; and the same are similar raw materials, products, processes, or services are involved. There are degrees of transferability ranging from a close approximation of work functions involving all three factors to only remote and incidental similarities among jobs. A complete similarity of all three factors is not necessary to warrant the inference of transferability. (Also, see Appendix 2, § 201.00(e), (f), and § 202.00(e), (f).)

§ 404.1512 Effect of performance of arduous unskilled physical labor.

Where an individual with a marginal education and long work experience (e.g., 35 to 40 years or more) limited to the performance of arduous unskilled physical labor is not working and is no longer able to perform such labor because of a significant impairment or impairments and, considering his or her age, education, and vocational background is unable to engage in lighter work, such individual may be found to be under a disability. On the other hand, a different conclusion may be reached where it is found that such individual is working or has worked despite his or her impairment or impairments (except where such work is sporadic or is medically contraindicated) depending upon all the facts in the case. In addition, an individual who was doing heavy physical work at the time he or she suffered such impairment might not be considered unable to engage in any substantial gainful activity if the evidence shows that he or she has the training or past work experience which qualifies him or her for substantial gainful work in another occupation consistent with his or her impairment, either on a full-time or a reasonable regular part-time basis.

Example. B, a 60-year old miner, with a fourth grade education, after a life-long history of arduous physical labor alleged that he was under a disability because of arthritis of the spine, hips, and knees and other impairments. Medical evidence shows a combination of impairments and establishes that these impairments prevent B from performing his usual work or any other type of arduous physical labor. His vocational background does not disclose, either through performance of by similarly persuasive evidence that he has skills or capabilities needed to do lighter work which would be readily transferrable to another work environment. Under these circumstances, B may be found to be under a disability.

§ 404.1513 Listing of medical-vocational guidelines in Appendix 2.

In light of information that is available about jobs (classified by their exertional and skill requirements) that exist in the national economy, Appendix 2 sets forth rules reflecting the major functional and vocational patterns which are encountered in cases which do not fall within the criteria of § 404.1504(a) and (b) or § 404.1512, where an individual is not engaging in substantial gainful activity and is prevented by a medically determinable impairment from performing his or her vocationally relevant past work. The Appendix 2 rules do not encompass all possible variations of factors and, as explained in § 200.00 of Appendix 2, are not applicable in any case where any one of the findings of fact made with respect to the individual's vocational factors and residual functional capacity does not coincide with the corresponding criterion of a rule. In such instances, full consideration must be given to all relevant facts in accordance with the definitions and discussions of each factor in §§ 404.1505–404.1511. However, when the findings of fact made as to all factors coincide with the criteria of a rule, that rule directs a factual conclusion of disabled or not disabled.

Appendix (Listing of Impairments) [Redesignated as Appendix 1]

4. Subpart P of part 404 is further amended by designating the Appendix (Listing of Impairments), appearing at the end thereof, as Appendix 1, and by adding a new Appendix 2, to read as follows:

APPENDIX 2—MEDICAL—VOCATIONAL GUIDELINES

Sec.

200.00 Introduction.
201.00 Maximum sustained work capability limited to sedentary work as a result of severe medically determinable impairment(s).
202.00 Maximum sustained work capability limited to light work as a result of severe medically determinable impairment(s).
203.00 Maximum sustained work capability limited to medium work as a result of severe medically determinable impairment(s).
204.00 Maximum sustained work capability limited to heavy work (or very heavy work) as a result of severe medically determinable impairment(s).

200.00 *Introduction.* (a) The following rules reflect the major functional and vocational patterns which are encountered in cases which do not fall within the criteria of § 404.1504 (a) and (b) or § 404.1512, where an individual with a severe medically determinable physical or mental impairment(s) is not engaging in substantial gainful activity and the individual's impairment(s) prevents the performance of his or her vocationally relevant past work. They also reflect the analysis of the various vocational factors (i.e., age, education, and work experience) in combination with the individual's residual functional capacity (used to determine his or her maximum sustained work capability for sedentary, light, medium, heavy, or very heavy work) in evaluating the individual's ability to engage in substantial gainful activity in other than his or her vocationally relevant past work. Where the findings of fact made with respect to a particular individual's vocational factors and residual functional capacity coincide with all of the criteria of a particular rule, the rule directs a factual conclusion as to whether the individual is or is not disabled. However, each of these findings of fact is subject to rebuttal and the individual may present evidence to refute such findings. Where any one of the findings of fact does not coincide with the corresponding criterion of a rule, the rule does not apply in that particular case and, accordingly, does not direct a factual conclusion of disabled or not disabled. In any instance where a rule does not apply, full consideration must be given to all of the relevant facts of the case in accordance with the definitions and discussions of each factor in §§ 404.1505–404.1513.

(b) The existence of jobs in the national economy is reflected in the "Decisions" shown in the rules; i.e., in promulgating the rules, administrative notice has been taken of the numbers of unskilled jobs that exist throughout the national economy at the various functional levels (sedentary, light, medium, heavy, and very heavy) as supported by the "Dictionary of Occupational Titles" and the "Occupational Outlook Handbook," published by the Department of Labor; the "County Business Patterns" and "Census Surveys" published by the Bureau of the Census; and occupational surveys of light and sedentary jobs prepared for the Social Security administration by various State employment agencies. Thus, when all factors coincide with the criteria of a rule, the existence of such jobs is established. However, the existence of such jobs for individuals whose remaining functional capacity or other factors do not coincide with the criteria of a rule must be further considered in terms of what kinds of jobs or types of work may be either additionally indicated or precluded.

(c) In the application of the rules, the individual's residual functional capacity (i.e., the maximum degree to which the individual retains the capacity for sustained performance of the physical-mental requirements of jobs), age, education, and work experience must first be determined.

(d) The correct disability decision (i.e., on the issue of ability to engage in substantial gainful activity) is found by then locating the individual's specific vocational profile. If an individual's specific profile is not listed within this Appendix 2, a factual conclusion of disabled or not disabled is not directed. Thus, for example, an individual's ability to engage in substantial gainful work where his or her residual functional capacity falls between the ranges of work indicated in the rules (e.g., the individual who can perform more than light but less than medium work), is decided on the basis of the principles and definitions in the regulations, giving consideration to the rules for specific case situations in this Appendix 2. These rules represent various combinations of exertional capabilities, age, education and work experience and also provide an overall structure for evaluation of those cases in which the judgments as to each factor do not coincide with those of any specific rule. Thus, when the necessary judgments have been made as to each factor and it is found that no specific rule applies, the rules still provide guidance for decisionmaking, such as in cases involving combinations of impairments. For example, if strength limitations resulting from an individual's impairment(s) considered with the judgments made as to the individual's age, education and work experience correspond to (or closely approximate) the factors of a particular rule, the adjudicator then has a frame of reference for considering the jobs or types of work precluded by other, nonexertional impairments in terms of numbers of jobs remaining for a particular individual.

(e) Since the rules are predicated on an individual's having an impairment which manifests itself by limitations in meeting the strength requirements of jobs, they may not be fully applicable where the nature of an individual's impairment does not result in such limitations, e.g., certain mental, sensory, or skin impairments. In addition, some impairments may result solely in postural and manipulative limitations or environmental restrictions. Environmental restrictions are those restrictions which result in inability to tolerate some physical feature(s) of work settings that occur in certain industries or types of work, e.g., an inability to tolerate dust or fumes.

(1) In the evaluation of disability where the individual has solely a nonexertional type of impairment, determination as to whether disability exists shall be based on the principles of §§ 404.1505–404.1513, giving consideration to the rules for specific case situations in this Appendix 2. The rules do not direct factual conclusions of disabled or not disabled for individuals with solely nonexertional types of impairments.

(2) However, where an individual has an impairment or combination of impairments resulting in both strength limitations and nonexertional limitations, the rules in this subpart are considered in determining first whether a finding of disabled may be possible based on the strength limitations alone and, if not, the rule(s) reflecting the individual's maximum residual strength capabilities, age, education, and work experience provide a framework for consideration of how much the individual's work capability is further diminished in terms of any types of jobs that would be contraindicated by the nonexertional limitations. Also, in these combinations of nonexertional and exertional limitations which cannot be wholly determined under the rules in this subpart, full consideration must be given to all of the relevant facts in the case in accordance with the definitions and discussions of each factor in §§ 404.1505–404.1513, which will provide insight into the adjudicative weight to be accorded each factor.

201.00 *Maximum sustained work capability limited to sedentary work as a result of severe medically determinable impairment(s).* (a) Most sedentary occupations fall within the skilled, semi-skilled, professional, administrative, technical, clerical, and benchwork classifications. Approximately 200 separate unskilled sedentary occupations can be identified, each representing numerous jobs in the national economy. Approximately 85 percent of these jobs are in the machine trades and benchwork occupational categories. These jobs (unskilled sedentary occupations) may be performed after a short demonstration or within 30 days.

(b) These unskilled sedentary occupations are standard within the industries in which they exist. While sedentary work represents a significantly restricted range of work, this range in itself is not so prohibitively restricted as to negate work capability for substantial gainful activity.

(c) Vocational adjustment to sedentary work as defined in § 404.1510(b) may be expected where the individual has special skills or experience relevant to sedentary work or where age and basic educational competences provide sufficient occupational mobility to adapt to the major segment of unskilled sedentary work. Inability to engage in substantial gainful activity would be indicated where an individual who is restricted to sedentary work because of a severe medically determinable impairment lacks special skills or experience relevant to sedentary work, lacks educational qualifications relevant to most sedentary work (e.g., has a limited education or less) and the individual's age, though not necessarily advanced, is a factor which significantly limits vocational adaptability.

(d) The adversity of functional restrictions to sedentary work at advanced age (55 and over) for individuals with no relevant past work or who can no longer perform vocationally relevant past work and have no transferable skills, warrants a finding of disabled in the the absence of the rare situation where the individual has recently completed education which provides a basis for direct entry into skilled sedentary work. Advanced age and a history of unskilled work or no work experience would ordinarily offset any vocational advantages that might accrue by reason of any remote past education, whether it is more or less than limited education.

(e) The presence of acquired skills that are readily transferable to a significant range of skilled work within an individual's residual functional capacity would ordinari-

ly warrant a finding of ability to engage in substantial gainful activity regardless of the adversity of age, or whether the individual's formal education is commensurate with his or her demonstrated skill level. The acquisition of work skills demonstrates the ability to perform work at the level of complexity demonstrated by the skill level attained regardless of the individual's formal educational attainments.

(f) In order to find transferability of skills to skilled sedentary work for individuals who are of advanced age (55 and over), there must be very little, if any, vocational adjustment required in terms of tools, work processes, work settings, or the industry.

(g) Individuals approaching advanced age (age 50–54) may be significantly limited in vocational adaptability if they are restricted to sedentary work. When such individuals have no past work experience or can no longer perform vocationally relevant part work and have no transferable skills, a finding of disabled ordinarily obtains. However, recently completed education which provides for direct entry into sedentary work will preclude such a finding. For this age group, even a high school education or more (ordinarily completed in the remote past) would have little impact for effecting a vocational adjustment unless relevant work experience reflects use of such education.

(h) The term "younger individual" is used to denote an individual age 18 through 49. For those within this group who are age 45–49, age is a less positive factor than for those who are age 18–44. Accordingly, for such individuals; (1) who are restricted to sedentary work, (2) who are unskilled or have no transferable skills, (3) who have no relevant past work or who can no longer perform vocationally relevant past work, and (4) who are either illiterate or unable to communicate in the English language, a finding of disabled is warranted. On the other hand, age is a more positive factor for those who are under age 45 and is usually not a significant factor in limiting such an individual's ability to make a vocational adjustment; even an adjustment to unskilled sedentary work, and even where the individual is illiterate or unable to communicate in English. However, a finding of disabled is not precluded for those individuals under age 45 who do not meet all of the criteria of a specific rule and who do not have the ability to perform a full range of sedentary work. The following examples are illustrative: Example 1: An individual under age 45 with a high school education can no longer do past work and is restricted to unskilled sedentary jobs because of a severe medically determinable cardiovascular impairment (which does not meet or equal the listings in Appendix 1). A permanent injury of the right hand limits the individual to sedentary jobs which do not require bilateral manual dexterity. None of the rules in Appendix 2 are applicable to this particular set of facts, because this individual cannot perform the full range of work defined as sedentary. Since the inability to perform bilateral manual dexterity significantly compromises the only range of work for which the individual is otherwise qualified (i.e., sedentary), a finding of disabled would be appropriate. Example 2: An illiterate 41 year old individual with mild mental retardation (IQ of 78) is restricted to unskilled sedentary work and cannot perform vocationally relevant past work, which had consisted of unskilled agricultural field work; his or her particular characteristics do not specifically meet any of the rules in Appendix 2, because this individual cannot perform the full range of work defined as sedentary. In light of the adverse factors which further narrow the range of sedentary work for which this individual is qualified, a finding of disabled is appropriate.

(i) While illiteracy or the inability to communicate in English may significantly limit an individual's vocational scope, the primary work functions in the bulk of unskilled work relate to working with things (rather than with data or people) and in these work functions at the unskilled level, literacy or ability to communicate in English has the least significance. Similarly the lack of relevant work experience would have little significance since the bulk of unskilled jobs require no qualifying work experience. Thus, the functional capability for a full range of sedentary work represents sufficient numbers of jobs to indicate substantial vocational scope for those individuals age 18–45 even if they are illiterate or unable to communicate in English.

TABLE No. 1.—*Residual functional capacity, maximum sustained work capability limited to sedentary work as a result of severe medically determinable impairment(s)*

Rule	Age	Education	Previous work experience	Decision
201.01	Advanced	Limited or less	Unskilled or none	Disabled.
201.02	do	do	Skilled or semiskilled—skills not transferable[1].	Do.
201.03	do	do	Skilled or semiskilled—skills transferable[1].	Not disabled.
201.04	do	High school graduate or more—does not provide for direct entry into skilled work[2].	Unskilled or none	Disabled.
201.05	do	High school graduate or more—provides for direct entry into skilled work[3].	Unskilled or none	Not disabled.
201.06	do	High school graduate or more—does not provide for direct entry into skilled work[2].	Skilled or semiskilled—skills not transferable[1].	Disabled.
201.07	do	High school graduate or more—does not provide for direct entry into skilled work[2].	Skilled or semiskilled—skills transferable[1].	Not disabled.
201.08	do	High school graduate or more—provides for direct entry into skilled work[3].	Skilled or semiskilled—skills not transferable[1].	Do.
201.09	Closely approaching advanced age.	Limited or less	Unskilled or none	Disabled.
201.10	do	do	Skilled or semiskilled—skills not transferable.	Do.
201.11	do	do	Skilled or semiskilled—skills transferable.	Not disabled.
201.12	do	High school graduate or more—does not provide for direct entry into skilled work[2].	Unskilled or none	Disabled.
201.13	do	High school graduate or more—provides for direct entry into skilled work[3].	do	Not disabled.
201.14	do	High school graduate or more—does not provide for direct entry into skilled work[2].	Skilled or semiskilled—skills not transferable.	Disabled.
201.15	do	do	Skilled or semiskilled—skills transferable.	Not disabled.
201.16	do	High school graduate or more—provides for direct entry into skilled work[3].	Skilled or semiskilled—skills not transferable[1].	Do.
201.17	Younger individual age 45–49.	Illiterate or unable to communicate in English.	Unskilled or none	Disabled.
201.18	do	Limited or less—at least literate and able to communicate in English.	do	Not disabled.
201.19	do	Limited or less	Skilled or semiskilled—skills not transferable.	Do.
201.20	do	do	Skilled or semiskilled—skills transferable.	Do.
201.21	do	High school graduate or more.	Skilled or semiskilled—skills not transferable.	Do.
201.22	do	do	Skilled or semiskilled—skills transferable.	Do.
201.23	Younger individual age 18–44.	Illiterate or unable to communicate in English.	Unskilled or none	Do.[4]
201.24	do	Limited or less—at least literate and able to communicate in English.	do	Do.[4]
201.25	do	Limited or less	Skilled or semiskilled—skills not transferable.	Do.[4]

TABLE No. 1.—*Residual functional capacity, maximum sustained work capability limited to sedentary work as a result of severe medically determinable impairment(s)*—Continued

Rule	Age	Education	Previous work experience	Decision
201.26	do	do	do	Do.[4]
201.27	do	High school graduate or more.	Unskilled or none	Do.[3]
201.28	do	do	Skilled or semiskilled—skills not transferable.	Do.[4]
201.29	do	do	do	Do.[3]

[1] See 201.00(f). [2] See 201.00(d). [3] See 201.00(g). [4] See 201.00(h).

202.00 *Maximum sustained work capability limited to light work as a result of severe medically determinable impairment(s).* (a) The functional capacity to perform a full range of light work as defined in §404.1510(c) includes the functional capacity to perform sedentary as well as light work. Approximately 1,600 separate sedentary and light unskilled occupations can be identified in eight broad occupational categories, each occupation representing numerous jobs in the national economy. These jobs can be performed after a short demonstration or within 30 days, and do not require special skills or experience.

(b) The functional capacity to perform a wide or full range of light work represents substantial work capability compatible with making a work adjustment to substantial numbers of unskilled jobs and, thus, generally provides sufficient occupational mobility even for severely impaired individuals who are not of advanced age and have sufficient educational competences for unskilled work.

(c) However, for individuals of advanced age who can no longer perform vocationally relevant past work and who have a history of unskilled work experience, or who have only skills that are not readily transferable to a significant range of skilled work that is within the individual's functional capacity, or who have no work experience, the limitations in vocational adaptability represented by functional restriction to light work warrant a finding of disabled. Ordinarily, even a high school education or more which was completed in the remote past will have little positive impact on effecting a vocational adjustment unless relevant work experience reflects use of such education.

(d) Where the same factors in paragraph (c) of this section regarding education and work experience are present, but where age, though not advanced, is a factor which significantly limits vocational adaptability (i.e., closely approaching advanced age, 50–54) and an individual's vocational scope is further significantly limited by illiteracy or inability to communicate in English, a finding of disabled is warranted.

(e) The presence of acquired skills that are readily transferable to a significant range of skilled work within an individual's residual functional capacity would ordinarily warrant a finding of not disabled regardless of the adversity of age, or whether the individual's formal education is commensurate with his or her demonstrated skill level. The acquisition of work skills demonstrates the ability to perform work at the level of complexity demonstrated by the skill level attained regardless of the individual's formal educational attainments.

(f) For a finding of transferability of skills to light work for individuals of advanced age who are closely approaching retirement age (age 60–64), there must be very little, if any, vocational adjustment required in terms of tools, work processes, work settings, or the industry.

(g) While illiteracy or the inability to communicate in English may significantly limit an individual's vocational scope, the primary work functions in the bulk of unskilled work relate to working with things (rather than with data or people) and in these work functions at the unskilled level, literacy or ability to communicate in English has the least significance. Similarly, the lack of relevant work experience would have little significance since the bulk of unskilled jobs require no qualifying work experience. The capability for light work, which includes the ability to do sedentary work, represents the capability for substantial numbers of such jobs. This, in turn, represents substantial vocational scope for younger individuals (age 18–49) even if illiterate or unable to communicate in English.

TABLE No. 2.—*Residual functional capacity maximum sustained work capability limited to light work as a result of severe medically determinable impairment(s)*

Rule	Age	Education	Previous work experience	Decision
202.01	Advanced age	Limited or less	Unskilled or none	Disabled.
202.02	do	do	Skilled or semiskilled—skills not transferable.	Do.
202.03	do	do	Skilled or semiskilled—skills transferable[1].	Not disabled.
202.04	do	High school graduate or more—does not provide for direct entry into skilled work[2].	Unskilled or none	Disabled.
202.05	do	High school graduate or more—provides for direct entry into skilled work[3].	do	Not disabled.
202.06	do	High school graduate or more—does not provide for direct entry into skilled work[2].	Skilled or semiskilled—skills not transferable.	Disabled.
202.07	do	do	Skilled or semiskilled—skills transferable[1].	Not disabled.
202.08	do	High school graduate or more—provides for direct entry into skilled work[3].	Skilled or semiskilled—skills not transferable.	Do.
202.09	Closely approaching advanced age.	Illiterate or unable to communicate in English.	Unskilled or none	Disabled.
202.10	do	Limited or less—At least literate and able to communicate in English.	do	Not disabled.
202.11	do	Limited or less	Skilled or semiskilled—skills not transferable.	Do.
202.12	do	do	Skilled or semiskilled—skills transferable.	Do.
202.13	do	High school graduate or more.	Unskilled or none	Do.
202.14	do	do	Skilled or semiskilled—skills not transferable.	Do.
202.15	do	do	Skilled or semiskilled—skills transferable.	Do.
202.16	Younger individual.	Illiterate or unable to communicate in English.	Unskilled or none	Do.
202.17	do	Limited or less—At least literate and able to communicate in English.	do	Do.
202.18	do	Limited or less	Skilled or semiskilled—skills not transferable.	Do.
202.19	do	do	Skilled or semiskilled—skills transferable.	Do.
202.20	do	High school graduate or more.	Unskilled or none	Do.
202.21	do	do	Skilled or semiskilled—skills not transferable.	Do.
202.22	do	do	Skilled or semiskilled—skills transferable.	Do.

[1] See 202.00(f). [2] See 202.00(c).

203.00 *Maximum sustained work capability limited to medium work as a result of severe medically determinable impairment(s).* (a) The functional capacity to perform medium work as defined in §404.1510(d) includes the functional capacity to perform sedentary, light, and medium work. Approximately 2,500 separate sedentary, light, and medium occupations can be identified, each occupation representing numerous jobs in the national economy which do not require skills or previous experience and which can be performed after a short demonstration or within 30 days.

(b) The functional capacity to perform medium work represents such substantial work capability at even the unskilled level that a finding of disabled is ordinarily not warranted in cases where a severely impaired individual retains the functional ca-

pacity to perform medium work. Even the adversity of advanced age (55 or over) and a work history of unskilled work may be offset by the substantial work capability represented by the functional capacity to perform medium work. (Note that the provisions of §404.1512 must have been given prior consideration.)

(c) However, the absence of any relevant work experience becomes a more significant adversity for individuals of advanced age (55 and over). Accordingly, this factor, in combination with a limited education or less, militates against making a vocational adjustment to even this substantial range of work and a finding of disabled is appropriate. Further, for individuals closely approaching retirement age (60–64) with a work history of unskilled work and with marginal education or less, a finding of disabled is appropriate.

TABLE No. 3.—*Residual functional capacity maximum sustained work capability limited to medium work as a result of severe medically determinable impairment(s)*

Rule	Age	Education	Previous work experience	Decision
203.01	Closely approaching retirement age.	Marginal or none	Unskilled or none	Disabled.
203.02	do	Limited or less	None	Do.
203.03	do	Limited	Unskilled	Not disabled.
203.04	do	Limited or less	Skilled or semiskilled—skills not transferable.	Do.
203.05	do	do	Skilled or semiskilled—skills transferable.	Do.
203.06	do	High school graduate or more.	Unskilled or none	Do.
203.07	do	High school graduate or more—does not provide for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.
203.08	do	do	Skilled or semiskilled—skills transferable.	Do.
203.09	do	High school graduate or more—provides for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.
203.10	Advanced age	Limited or less	None	Disabled.
203.11	do	do	Unskilled	Not disabled.
203.12	do	do	Skilled or semiskilled—skills not transferable.	Do.
203.13	do	do	Skilled or semiskilled—skills transferable.	Do.
203.14	do	High school graduate or more.	Unskilled or none	Do.
203.15	do	High school graduate or more—does not provide for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.
203.16	do	do	Skilled or semiskilled—skills transferable.	Do.
203.17	do	High school graduate or more—provides for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.
203.18	Closely approaching advanced age.	Limited or less	Unskilled or none	Do.
203.19	do	do	Skilled or semiskilled—skills not transferable.	Do.
203.20	do	do	Skilled or semiskilled—skills transferable.	Do.
203.21	do	High school graduate or more.	Unskilled or none	Do.
203.22	do	High school graduate or more—does not provide for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.
203.23	do	do	Skilled or semiskilled—skills transferable.	Do.
203.24	do	High school graduate or more—provides for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.
203.25	Younger individual.	Limited or less	Unskilled or none	Do.
203.26	do	do	Skilled or semiskilled—skills not transferable.	Do.
203.27	do	do	Skilled or semiskilled—skills transferable.	Do.
203.28	do	High school graduate or more.	Unskilled or none	Do.
203.29	do	High school graduate or more—does not provide for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.
203.30	do	do	Skilled or semiskilled—skills transferable.	Do.
203.31	do	High school graduate or more—provides for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.

204.00 *Maximum sustained work capability limited to heavy work (or very heavy work) as a result of severe medically determinable impairment(s).* The residual functional capacity to perform heavy work as defined in §404.1510(e), or very heavy work as defined in §404.1510(f), included the functional capability for work at the lesser functional levels as well, and represents substantial work capability for jobs in the national economy at all skill and physical demand levels. Individuals who retain the functional capacity to perform heavy work (or very heavy work) ordinarily will not have a severe impairment or will be able to do their past work—either of which would have already provided a basis for a decision of "not disabled." Environmental restrictions ordinarily would not significantly affect the range of work existing in the national economy for individuals with the physical capability for heavy work (or very heavy work). Thus an impairment which does not preclude heavy work (or very heavy work) would not ordinarily be the primary reason for unemployment, and generally is sufficient for a finding of not disabled, even though age, education, and skill level of prior work experience may be considered adverse.

5. Section 416.902 is revised to read as follows:

§416.902 Evaluation of disability in general.

The provisions of §§416.902 through 416.913 apply to cases involving supplemental security income benefits based on disability under §1614 of the Act (except for statutory blindness and children under age 18). In general, the individual has the burden of proving that he or she is disabled and of raising every issue with respect to his or her alleged disability. Whether an impairment in a particular case constitutes a disability is determined from all the pertinent facts of that case. The determination of disability may be based on medical consideration alone, or on medical considerations and vocational factors as follows:

(a) *Disability determinations on the basis of medical considerations alone.* Medical evidence i.e., signs, symptoms and laboratory findings alone, can justify a finding that an individual is or is not under a disability, absent evidence to the contrary.

(b) *Disability determinations in which vocational factors must be considered along with the medical evidence.* In those cases where a finding of disabled or not disabled cannot be made based on medical evidence alone, other evidence is required. This other evidence may include information about:

(1) The individual's residual functional capacity;

(2) The individual's age, education, and work experience; and

(3) The kinds of substantial gainful activity (work) which exist in significant numbers in the national economy for someone who can do only what the individual can do.

(c) *Disability determinations in which vocational factors are extremely adverse.* Where an individual with a marginal education and long work experience (e.g., 35 to 40 years or more) limited to the performance of arduous unskilled physical labor is not working and is no longer able to perform such labor because of a significant impairment or impairments, such an individual may be found to be under a disability.

§416.903 through 416.907 [Redesignated §§416.914 through 416.918]

6. Sections 416.903 through 416.907 are redesignated as sections 416.914 through 416.918 respectively.

7. New §§416.903 through 416.913 are added to read as follows:

§416.903 Considerations in the sequential evaluation of disability.

(a) *General.* In the determination of whether or not an impairment in a particular case constitutes a disability as defined in §416.901, consideration is given to all the pertinent facts of that case. If the individual is engaging is substantial gainful activity, a determination that he or she is not disabled shall be made. In all other cases, primary consideration is given to the physical or mental impairment(s), which must be severe. The impairment(s) must also meet the duration requirement before disability can be found to exist. However, in determining whether an individual is disabled, a sequential evaluation process shall be followed, whereby current work activity, severity of the impairment(s), and vocational factors are assessed in that order. The following evaluation steps shall be followed in the sequence shown, but when a determination that an individual is or is not disabled can be made at any step, evaluation under a subsequent step shall be unnecessary.

(b) *Is the individual currently engaging in substantial gainful activity?* Where an individual is actually engaging in substantial gainful activity, a finding shall be made that the individual is not under a disability without consideration of either medical or vocational factors.

(c) *Does the individual have any severe impairments?* Where an individual does not have any impairment(s) which significantly limits his or her physical or mental capacity to perform basic work-related functions, a finding shall be made that he or she does not have a severe impairment and therefore is not under a disability without consideration of the vocational factors.

(d) *Does the individual have any impairment(s) which meets or equals those listed in Part A of Appendix 1?* Where an individual's impairment(s) meets the duration requirement and is either listed in Part A of Appendix 1 or is determined to be medically the equivalent of a listed impairment, a finding of disability shall be made without consideration of the vocational factors.

(e) *Does the individual have any impairment(s) which prevents past relevant work?* Where a finding of disability or no disability cannot be made based on current work activity or on medical consideration alone, and the individual has a severe impairment(s), his or her residual functional capacity and the physical and mental demands of his or her past relevant work shall be evaluated. If the impairment(s) does not prevent the individual from meeting the physical and mental demands of past relevant work, including arduous unskilled physical labor, disability shall be found not to exist.

(f) *Does the individual's impairment(s) prevent other work?* If an individual cannot perform any past relevant work because of a severe impairment(s), but the individual's remaining physical and mental capacities are consistent with his or her meeting the physical and mental demands of a significant number of jobs (in one or more occupations) in the national economy, and the individual has the vocational capabilities (considering age, education, and past work experience) to make an adjustment to work different from that which he or she has performed in the past, it shall be determined that the individual is not under a disability. However, if an individual's physical and mental capacities in conjunction with his or her vocational capabilities (considering age, education, and past work experience) do not permit the individual to adjust to work different from that which he or she has performed in the past, it shall be determined that the individual is under a disability.

§416.904 Determining whether disability exists—medical and other considerations.

(a) *Medical considerations.*—(1) *Finding individual not disabled.* Medical consideration alone can justify a finding that an individual is not under a disability where the medically determinable impairment is not severe. A medically determinable impairment is not severe if it does not significantly limit an individual's physical or mental capacity to perform basic work-related functions.

(2) *Finding individual disabled.* Medical consideration alone (including the physiological and psychological manifestations of aging) can justify a finding that an individual is under a disability, absent evidence to the contrary. Medical considerations which justify a finding that an individual is under a disability are those that bring an individual's impairment(s) under the listing in Part A of Appendix 1 of this subpart or which justify a determintion by the Secretary that the impairment(s) is the medical equivalent of an impairment listed in Part A of Appendix 1 of this subpart.

(b) *Additional considerations.* Any medically determinable impairment(s) may justify a finding that an individual is under a disability if the impairment(s) is severe and prevents an individual from engaging in substantial gainful activity. In determining whether impairment(s) not listed in Part A of Appendix 1 of this subpart (nor found to be the equivalent of an impairment listed in Part A of Appendix 1) meet this test, additional

considerations are evaluated. These include determining whether an individual can qualify because he has only performed arduous unskilled work for

as reaching, handling, seeing, hearing, and speaking, insofar as limited capacity to perform these functions may also affect the individual's capacity for

found incapable of engaging in substantial gainful activity when the individual's impairment and other vocational consideration, e.g., education

often acquired or enhanced through educational exposure. In evaluating the educational level of an individual, the following classifications are used:

§416.908 Work experience as a vocational factor.

The term "work experience" means skills and abilities acquired through

individual's physical or mental capacities and vocational qualifications. Isolated jobs of a type that exist only in

considerations are evaluated. These include determining whether an individual can qualify because he has only performed arduous unskilled work for a long period of time or, if not, whether he or she can perform vocationally relevant work. In those cases in which an individual is found unable to perform vocationally relevant past work, age, education, and work experience must then be considered in addition to the functional limitations imposed by the individual's physical or mental impairment(s).

§ 416.905 Residual functional capacity.

(a) *General.* Physical or mental impairment(s) may impose functional limitations on an individual's ability to engage in substantial gainful activity. The kind and severity of the impairment(s) determine the individual's work limitations and residual functional capacity. The manner in which the impairment(s) affects the individual's ability to perform work-related physical and mental activities, and the kind and extent of function the individual retains, are assessed in determining the individual's residual functional capacity. Where multiple impairments are involved, the assessment of residual functional capacity reflects the totality of restrictions resulting from all impairments. Assessments of residual functional capacity may be based solely on medical evidence where such evidence includes sufficient findings (e.g., signs, symptoms, and laboratory findings) to permit and support the necessary judgments where relevant, with respect to the individual's physical, mental, and sensory capabilities. In establishing disability for purposes of title XVI, the Secretary will assist the individual in meeting that burden by securing and paying for medical evidence needed for a sound determination. Where all reasonably obtainable relevant medical findings alone are not sufficient for an adequate assessment of residual functional capacity, additional factors may be considered. Such additional factors as the individual's description of the impairment, recorded observations of the individual, and any other evidence of record may be considered in conjunction with the medical findings.

(b) *Physical capacities.* Assessment of physical capacities (e.g., strength and exertional capabilities) includes an evaluation of the individual and indicates the individual's maximal residual functional capacity for sustained activity on a regular basis. The assessment also includes the evaluation of the individual's ability to perform significant physical functions such as walking, standing, lifting, carrying, pushing or pulling. The assessment includes the evaluation of other physical traits and sensory characteristics such as reaching, handling, seeing, hearing, and speaking, insofar as limited capacity to perform these functions may also affect the individual's capacity for work for which the individual would otherwise be qualified.

(c) *Mental impairments.* The assessment of impairments because of mental disorders includes a consideration of such factors as the capacity to understand, to carry out and remember instructions, and to respond appropriately to supervision, co-workers and customary work pressures in a routine work setting.

(d) *Non-exertional limitations.* Any medically determinable impairments resulting in non-exertional limitations (such as certain mental, sensory, or skin impairments) must be considered in terms of the limitations resulting from the impairment. When an individual has a non-exertional impairment in addition to an exertional impairment(s), the residual functional capacity must be assessed in terms of the degree of any additional narrowing of the individual's work-related capabilities.

(e) *When assessment is required.* An assessment of residual functional capacity is required only with respect to those specific physical or mental capacities that are in doubt by reason of the individual's allegations or the evidence adduced. Where such doubt does not exist with respect to particular physical or mental capacities, the individual is considered to have no restrictions with respect to those capacities.

(f) *Relationship of residual functional capacity to ability to do work.* Where the residual functional capacity so determined is sufficient to enable the individual to do his or her previous work (i.e., usual work or other vocationally relevant past work), a determination is made that the individual is not under a disability. Where the residual functional cpacity so determined is not sufficient to enable the individual to do his or her previous work, it must be determined what work, if any, the individual can do, taking into consideration the individual's residual functional capacity, age, education, and work experience and whether work that the individual can do exists in significant numbers in the national economy.

§ 416.906 Age as a vocational factor.

(a) *General.* The term "age" refers to chronological age and the extent to which it affects the individual's capability to engage in work in competition with others. However, the factor of age in itself is not determinative of disability; the residual functional capacity and the education and work experience of the individual must also be considered. An individual who is unemployed because of age cannot be found incapable of engaging in substantial gainful activity when the individual's impairment and other vocational consideration, e.g., education and work experience, would enable the individual to perform a significant number of jobs which exist in the national economy.

(b) *Younger individual.* In the case of a younger individual (under age 50), age in itself is ordinarily not considered to affect significantly the individual's ability to adapt to a new work situation.

(c) *Individual approaching advance age.* For the individual not of advanced age but who is closely approaching avanced age (age 50-54), the factor of age, in combination with a severe impairment and limited vocational background, may substantially affect the individual's adaptability to a significant number of jobs in a competitive work environment.

(d) *Individual of advanced age.* "Advanced" age (age 55 or over) represents the point where age significantly affects the ability to engage in substantial work. Where a severely impaired individual is of advanced age, such ability may be adversely affected except where the individual has skills that are readily transferable to jobs which exist in significant numbers in the national economy.

§ 416.907 Education as a vocational factor.

(a) *General.* The term "education" is primarily used in the sense of formal schooling or other training, which contributes to the individual's ability to meet vocational requirements, e.g., reasoning ability, communication skills, and arithmetical ability. Lack of formal schooling is not necessarily proof that the individual is uneducated or lacks such capacities. For individuals with past work experience, the kinds of responsibilities assumed when working may indicate the existence of such intellectual capacities although their formal education is limited. Other evidence of such capacities, for individuals with or without past work experience, may consist of daily activities, hobbies, or the results of testing. The significance of an individual's educational background may be materially affected by the time lapse between the completion of the individual's formal education and the onset of physical or mental impairment(s) and by what the individual has done with his or her education in a work context. Formal education that was completed many years prior to onset of impairment or unused skills and knowledge that were a part of such formal education may no longer be useful or meaningful in terms of the individual's ability to work. The term "education" also includes whether an individual has the ability to communicate in English, since that ability is often acquired or enhanced through educational exposure. In evaluating the educational level of an individual, the following classifications are used:

(b) *Illiteracy.* Illiteracy refers to the inability to read or write. An individual who is able to sign his or her name, but cannot read or write a simple communication (e.g., instructions, inventory lists), is considered illiterate. Generally, an illiterate individual has had little or no formal schooling.

(c) *Marginal education.* Marginal education refers to competence in reasoning, arithmetic, and language skills which are required for the performance of simple, unskilled types of jobs. Absent evidence to the contrary, formal schooling at a grade level of sixth grade or less is considered a marginal education.

(d) *Limited education.* Limited education refers to competence in reasoning, arithmetic, and language skills which, although more than that which is generally required to carry out the duties of unskilled work, does not provide the individual with the educational qualifications necessary to perform the majority of more complex job duties involved in semi-skilled or skilled jobs. Absent evidence to the contrary, a seventh grade through the eleventh grade of formal education is considered a limited education.

(e) *High school education and above.* High school education and above refers to competence in reasoning, arithmetic, and language skills acquired through formal schooling at a level of grade twelve or above. Absent evidence to the contrary, these educational capacities qualify an individual for work at a semi-skilled through a skilled level of job complexity.

(f) *Inability to communicate in English.* Ability to communicate in English is often acquired or enhanced through educational exposure, and this may be considered an educational factor. Where there is inability to communicate in English, the dominant language of the national economy, this may be considered a vocational handicap because it often narrows an individual's vocational scope. For example, the inability to communicate in English may preclude an individual from performing jobs which require conversing with peers and supervisors in English, or reading instructions, signs, forms, etc., which are printed in English. However, the inability to communicate in English in no sense implies that an individual lacks formal schooling or intelligence. A person unable to communicate in English has a vocational handicap which must be considered in assessing what work, if any, the individual can do. The particular non-English language in which an individual may be fluent is generally immaterial.

§ 416.908 Work experience as a vocational factor.

The term "work experience" means skills and abilities acquired through work previously performed by the individual which indicates the type of work the individual may be expected to perform. Work for which the individual has demonstrated a capability is the best indicator of the kind of work that the individual can be expected to do. Such work experience has current vocational relevance where the recency of the work and the skills acquired demonstrate the individual's ability to perform work which exists in the national economy. Work performed 15 years or more prior to the point at which the claim is being considered for adjudication (or when the earnings requirement was last met) is ordinarily not considered vocationally relevant. In our economic system, a gradual transition occurs in the job functions of most jobs so that by the time 15 years have elapsed, it is no longer realistic to assume that skills and abilities acquired in a job performed more than 15 years ago continue to be relevant. The 15-year guide is essentially intended to insure that current vocational relevance is not imputed to remote work experience which could not reasonably be expected to enhance an individual's vocational prospect as of the point of adjudication. An individual who has no prior work experience or has worked only sporadically or for brief periods of time during the 15-year period may be considered to have no relevant work experience. Any skills acquired through work experience are vocational assets unless they are not transferable to other skilled or semi-skilled work within the individual's current capacities. When acquired skills are not transferable, the indivdual is considered capable of only unskilled work. However, an individual need not have work experience to qualify for unskilled work which requires little or no judgment in the performance of simple duties which can be learned in a short period of time.

§ 416.909 Work which exists in the national economy.

(a) *General.* Work is considered to exist in the national economy when it exists in significant numbers either in the region where such individual lives or in several other regions of the country, regardless of whether such work exists in the immediate area in which the individual lives, or whether a specific job vacancy exists for the individual, or whether the individual would be hired if the individual applied for work. A finding that work exists in the national economy is made when there is a significant number of jobs (in one or more occupations) having typical requirements which do not exceed the individual's physical or mental capacities and vocational qualifications. Isolated jobs of a type that exist only in very limited number or in relatively few geographic locations outside of the region where the individual resides are not considered to be "work which exists in the national economy" for purposes of determining whether an individual is under a disability; an individual is not denied benefits on the basis of the existence of such jobs. If such work that the individual can do does not exist in the national economy, disability shall be determined to exist. If such work does exist in the national economy, disability shall be determined not to exist.

(b) *Inability of individual to obtain work.* If an individual's residual functional capacity and vocational capabilities are consistent with the performance of work which exists in the national economy but the individual remains unemployed because the individual is unsuccessful in obtaining such work or because such work does not exist in the individual's local area; or because of the hiring practices of employers, technological changes in the industry in which the individual has worked, or cyclical economic conditions; or because there are no job openings for the individual or the individual would not actually be hired to do work the individual could otherwise perform, the individual is considered not to be under a disability as defined in § 416.901.

(c) *Administrative notice of job data.* In the determination of whether jobs as classified by their exertional and skill requirements exist in significant numbers either in the region or the national economy, administrative notice shall be taken of reliable job information available from various governmental and other publications; e.g., "Dictionary of Occupational Titles," published by the Department of Labor; "County Business Patterns," published by the Bureau of the Census; "Census Reports," also published by the Bureau of the Census; occupational analyses prepared for the Social Security Administration by various State employment agencies; and the "Occupational Outlook Handbook," published by the Bureau of Labor Statistics.

§ 416.910 Exertional requirements.

(a) *General.* For the purpose of determining exertional requirements of work in the national economy, jobs are classified as "sedentary," "light," "medium," "heavy," and "very heavy." Such terms have the same meaning as they have in the "Dictionary of Occupational Titles," published by the Department of Labor, and when used in making disability determinations under this subpart, are defined as follows:

(b) *Sedentary work.* Sedentary work entails lifting 10 pounds maximum and occasionally lifting or carrying such articles as dockets (e.g., files), ledgers, and small tools. Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met.

(c) *Light work.* Light work entails lifting 20 pounds maximum with frequent lifting or carrying of objects weighing up to 10 pounds. Even though the weight lifted may be only a negligible amount, a job is in this category when it requires walking or standing to a significant degree, or when it involves sitting most of the time with a degree of pushing and pulling of arm or leg controls. To be considered capable of performing a full or wide range of light work, and individual must be capable of performing substantially all of the foregoing activities. The functional capacity to perform light work includes activities. The functional capacity to perform light work includes the functional capacity to perform sedentary work.

(d) *Medium work.* Medium work entails lifting 50 pounds maximum with frequent lifting or carrying of objects weighing up to 25 pounds. The functional capacity to perform medium work includes the functional capacity to perform sedentary work and light work as well.

(e) *Heavy work.* Heavy work entails lifting 100 pounds maximum with frequent lifting or carrying of objects weighing up to 50 pounds. The functional capacity to perform heavy work includes the functional capacity to perform work at all of the lesser functional levels.

(f) *Very heavy work.* Very heavy work entails lifting objects in excess of 100 pounds with frequent lifting or carrying of objects weighing 50 pounds or more. The functional capacity to perform very heavy work includes the functional capacity to perform work at all of the lesser functional levels.

§ 416.911 Skill requirements.

(a) *General.* For purposes of assessing the skills reflected by an individual's work experfence, and of determining the existence in the national economy of work the individual is competent to do, occupations are classified as unskilled, semi-skilled, and skilled. When used in making disability determinations under this subpart, these terms are used in the following sense:

(b) *Unskilled work.* Unskilled work denotes work which requires little or no judgment in the preformance of simple duties that can be learned on the job in a short period of time. Considerable strength may or may not be required. As an example, where the primary work function of occupations consists of handling, feeding, and offbearing (i.e., placing or removing materials from machines which are automatic or operated by others), or machine tending, and average successful job performance can ordinarily be achieved within 30 days, such occupations are considered unskilled. Other types of jobs requiring little specific vocational preparation and little judgment are likewise unskilled. No acquired work skills can be attributed to individuals who have performed only unskilled work.

(c) *Semi-skilled work.* Semi-skilled work denotes work in which some skills are involved but the more complex work functions are not required. Semi-skilled jobs may require alertness and close attention to watching machine processes; or inspecting, testing or otherwise detecting irregularities; or tending or guarding equipment, property, materials, or persons against loss, damage or injury; or other types of activities involving less complex work functions. A job may be classified as semi-skilled where coordination and dexterity are necessary as in the use of the hands or feet for the rapid performance of repetitive tasks.

(d) *Skilled work.* Skilled work requires qualifications in which the independent judgment of the individual determines the machine and manual operations to be performed in obtaining the proper form, quality, or quantity of material to be produced. The individual may be required to lay out work, to estimate quality, suitability and needed quantities of materials, to make precise measurements, to read blueprints or other specifications, and to make necessary computations or mechanical adjustments to control or regulate processes. Other skilled jobs may require dealing with personnel, data, or abstract ideas at a high level of complexity.

(e) *Transferable work skills.* An individual is considered to have transferable skills when the skilled or semi-skilled work functions which he has demonstrated in his past work can be applied to meet the requirements of skilled or semi-skilled work functions of other jobs or kinds of work. Transferability depends largely on the similarity of occupationally significant work functions among jobs. Transferability is most probable and meaningful among jobs in which the same or a lesser degree of skill is required; and the same or similar tools and machines are used; and the same or similar raw materials, products, processes, or services are involved. There are degrees of transferability ranging from a close approximation of work functions involving all three factors to only remote and incidental similarities among jobs. A complete similarity of all three factors is not necessary to warrant the inference of transferability. (Also see Appendix 2, § 201.00 (e), (f), and § 202.00 (e), (f).)

§ 416.912 Effect of performance of arduous unskilled physical labor.

Where an individual with a marginal education and long work experience (e.g., 35 to 40 years or more) limited to the performance of arduous unskilled physical labor is not working and is no longer able to perform such labor because of a significant impairment or impairments and, considering his or her age, education, and vocational background is unable to engage in lighter work, such individual may be found to be under a disability. On the other hand, a different conclusion may be reached where it is found that such individual is working or has worked despite his or her impairment or impairments (except where such work is sporadic or is medically contraindicated) depending upon all the facts in the case. In addition, an individual who was doing heavy physical work at the time he or she suffered such impairment might not be considered unable to engage in any substantial gainful activity if the evidence shows that he or she has the training or past work experience which qualifies him or her for substantial gainful work in another occupation consistent with his or her impairment, either on a full-time or a reasonably regular part-time basis.

Example. B, a 60-year old miner, with a fourth grade education, after a life-long history of arduous physical labor alleged that he was under a disability because of arthritis of the spine, hips, and knees and other impairments. Medical evidence shows a combination of impairments and establishes that these impairments prevent B from performing his usual work or any other type of arduous physical labor. His vocational background does not disclose either through performance or by similarly persuasive evidence that he has skills or capabilities needed to do lighter work which would be readily transferable to another work environment. Under these circumstances, B may be found to be under a disability.

§ 416.913 Listing of medical-vocational guidelines in Appendix 2.

In light of information that is available about jobs (classified by their exertional and skill requirements) that exist in the national economy, Appendix 2 sets forth rules reflecting the major functional and vocational patterns which are encountered in cases which do not fall within the criteria of § 416.904 (a) and (b) or § 416.912 where an individual is not engaging in substantial gainful activity and is prevented by medically determinable impairment from performing his or her vocationally relevant past work. The Appendix 2 rules do not encompass all possible variations of factors and, as explained in § 200.00 of Appendix 2, are not applicable in any case where any one of the findings of fact made with respect to the individual's vocational factors and residual functional capacity does not coincide with the corresponding criterion of a rule. In such instances, full consideration must be given to all relevant facts in accordance with the definitions and discussions of each factor in §§ 416.905–416.911. However, when the findings of fact made as to all factors coincide with the criteria of a rule, that rule directs a factual conclusion of disabled or not disabled.

8. Subpart I of Part 416 is further amended by adding a new Appendix 2, to read as follows:

APPENDIX 2—MEDICAL—VOCATIONAL GUIDELINES

Secs.

200.00 Introduction.
201.00 Maximum sustained work capability limited to sedentary work as a result of severe medically determinable impairment(s).
202.00 Maximum sustained work capability limited to light work as a result of severe medically determinable impairment(s).
203.00 Maximum sustained work capability limited to medium work as a result of severe medically determinable impairment(s).
204.00 Maximum sustained work capability limited to heavy work (or very heavy work) as a result of severe medically determinable impairment(s).

200.00 *Introduction.* (a) The following rules reflect the major functional and vocational patterns which are encountered in cases which do not fall within the criteria of § 416.904 (a) and (b) or § 416.912, where an individual with a severe medically determinable physical or mental impairment(s) is not engaging in substantial gainful activity and his or her impairment(s) prevents the performance of his or her vocationally relevant past work. They also reflect the analysis of the various vocational factors (i.e., age, education, and work experience) in combination with the individual's residual functional capacity (used to determine his or her maximum sustained work capability for sedentary, light, medium, heavy, or very heavy work) in evaluating his or her ability to engage in substantial gainful activity in other than his or her vocationally relevant past work. Where the findings of fact made with respect to a particular individual's vocational factors and residual functional capacity coincide with all of the criteria of a particular rule, the rule directs a factual conclusion as to whether the individual is or is not disabled. However, each of these findings of fact is subject to rebuttal and the individual may present evidence to refute such findings. Where any one of the findings of fact does not coincide with the corresponding criterion of a rule, the rule does not apply in that particular case and, accordingly, does not direct a factual conclusion of disabled or not disabled. In any instance where a rule does not apply, full consideration must be given to all of the relevant facts of the case in accordance with the definitions and discussions of each factor in §§ 416.905–416.913.

(b) The existence of jobs in the national economy is reflected in the "Decisions" shown in the rules; i.e., in promulgating the rules, administrative notice has been taken of the numbers of unskilled jobs that exist throughout the national economy at the various functional levels (sedentary, light, medium, heavy, and very heavy) as supported by the "Dictionary of Occupational Titles" and the "Occupational Outlook Handbook," published by the Department of Labor; the "County Business Patterns" and "Census Surveys" published by the Bureau of the Census; and occupational surveys of light and sedentary jobs prepared for the Social Security Administration by various State employment agencies. Thus, when all factors coincide with the criteria of a rule, the existence of such jobs is established. However, the existence of such jobs for individuals whose remaining functional capacity or other factors do not coincide with the criteria of a rule must be further considered in terms of what kinds of jobs or types of work may be either additionally indicated or precluded.

(c) In the application of the rules, the individual's residual functional capacity (i.e., the maximum degree to which the individual retains the capacity for sustained performance of the physical-mental requirements of jobs), age, education, and work experience must first be determined.

(d) The correct disability decision (i.e., on the issue of ability to engage in substantial gainful activity) is found by then locating the individual's specific vocational profile. If an individual's specific profile is not listed within this Appendix 2, a factual conclusion of disabled or not disabled is not directed. Thus, for example, an individual's ability to engage in substantial gainful work where his or her residual functional capacity falls between the ranges of work indicated in the rules (e.g., the individual who can perform more than light but less than medium work), is decided on the basis of the principles and definitions in the regulations, giving consideration to the rules for specific case situations in this Appendix 2. These rules represent various combinations of exertional capabilities, age, education and work experience and also provide an overall structure for evaluation of those cases in which the judgments as to each factor do not coincide with those of any specifc rule. Thus, when the necessary judgments have been made as to each factor and it is found that no specific rule applies, the rules still provide guidance for decisionmaking. The rules are useful in cases involving combinations of impairments. For example, if the strength limitations resulting from an individual's impairment(s) considered with the judgments made as to his or her age, education and work experience correspond to (or closely approximate) the factors of a particular rule, the adjudicator then has a frame of reference for considering the jobs or types of work precluded by other, non-exertional impairments in terms of numbers of jobs remaining for a particular individual.

(e) Since the rules are predicated on an individual's having an impairment which manifests itself by limitations in meeting the strength requirements of jobs, they may not be fully applicable where the nature of an individual's impairment does not result in such limitations, e.g., certain mental, sensory, or skin impairments. In addition, some impairments may result solely in postural and manipulative limitations or environmental restrictions. Environmental restrictions are those restrictions which result in inability to tolerate some physical features(s) of work settings that occur in certain industries or types of work, e.g., an inability to tolerate dust or fumes.

(1) In the evaluation of disability where the individual has solely a nonexertional type of impairment, determination as to whether disability exists shall be based on the principles of §§ 416.905–416.913, giving consideration to the rules for specific case situations in this Appendix 2. The rules do not direct factual conclusions of disabled or not disabled for individuals with solely nonexertional types of impairments.

(2) However, where an individual has an impairment or combination of impairments resulting in both strength limitations and nonexertional limitations, the rules in this subpart are considered in determining first whether a finding of disabled may be possible based on the strength limitations alone and, if not, the rule(s) reflecting the individual's maximum residual strength capabilities, age, education, and work experience provide a framework for consideration of how much the individual's work capability is further diminished in terms of any types of jobs that would be contraindicated by the nonexertional limitations. Also, in these combinations of nonexertional and exertional limitations which cannot be wholly determined under the rules in this subpart, full consideration must be given to all of the relevant facts in the case in accordance with the definitions and discussion of each factor in §§ 416.905–416.913, which will provide insight into the adjudicative weight to be accorded each factor.

201.00 *Maximum sustained work capability limited to sedentary work as a result of severe medically determinable impairment(s).* (a) Most sedentary occupations fall within the skilled, semiskilled, professional, administrative, technical, clerical, and benchwork classifications. Approximately 200 separate unskilled sedentary occupations can be identified, each representing numerous jobs in the national economy. Approximately 85 percent of these jobs are in the machine trades and benchwork occupational categories. These jobs (unskilled sedentary occupations) may be performed after a short demonstration or within 30 days.

(b) These unskilled sedentary occupations are standard within the industries in which they exist. While sedentary work represents a significantly restricted range of work, this range in itself is not so prohibitively restricted as to negate work capability for substantial gainful activity.

(c) Vocational adjustment to sedentary work as defined in § 416.910(b) may be expected where the individual has special skills or experience relevant to sedentary work or where age and basic educational competences provide sufficient occupational mobility to adapt to the major segment of unskilled sedentary work. Inability to engage in substantial gainful activity would be indicated where an individual who is restricted to sedentary work because of a severe medically determinable impairment lacks special skills or experience relevant to sedentary work, lacks educational qualifications relevant to most sedentary work (e.g., has a limited education or less), and his or her age, though not necessarily advanced, is a factor which significantly limits vocational adaptability.

(d) The adversity of functional restriction to sedentary work at advanced age (55 and

over) for individuals with no relevant past work or who can no longer perform vocationally relevant past work, and have no transferable skills, warrants a finding of disabled in the absence of the rare situation where the individual has recently completed education which provides a basis for direct entry into skilled sedentary work. Advanced age and a history of unskilled work or no work experience would ordinarily offset any vocational advantages that might accrue by reason of any remote past education, whether it is more or less than limited education.

(e) The presence of acquired skills that are readily transferable to a significant range of skilled work within an individual's residual functional capacity would ordinarily warrant a finding of ability to engage in substantial gainful activity regardless of the adversity of age, or whether the individual's formal education is commensurate with his or her demonstrated skill level. The acquisition of work skills demonstrates the ability to perform work at the level of complexity demonstrated by the skill level attained regardless of the individual's formal educational attainments.

(f) In order to find transferability of skills to skilled sedentary work for individuals who are of advanced age (55 and over), there must be very little, if any, vocational adjustment required in terms of tools, work processes, work settings, or the industry.

(g) Individuals approaching advanced age (age 50–54) may be significantly limited in vocational adaptability if they are restricted to sedentary work. When such individuals have no past work experience or can no longer perform vocationally relevant past work and have no transferable skills, a finding of disabled ordinarily obtains. However, recently completed education which provides for direct entry into sedentary work will preclude such a finding. For this age group, even a high school education or more (ordinarily completed in the remote past) would have little impact for effecting a vocational adjustment unless relevant work experience reflects use of such education.

(h) The term "younger individual" is used to denote an individual age 18 through 49. For those within this group who are age 45–49, age is a less positive factor than for those who are age 18–44. Accordingly, for such individuals (1) who are restricted to sedentary work, (2) who are unskilled or have no transferable skills, (3) who have no relevant past work or who can no longer perform vocationally relevant past work, and (4) who are either illiterate or unable to communicate in the English language, a finding of disabled is warranted. On the other hand, age is a more positive factor for those who are under age 45 and is usually not a significant factor in limiting such an individual's ability to make a vocational adjustment; even an adjustment to unskilled sedentary work, and even where the individual is illiterate or unable to communicate in English. However, a finding of disabled is not precluded for those individuals under age 45 who do not meet all of the criteria of a specific rule and who do not have ability to perform a full range of sedentary work. The following examples are illustrative: Example 1: An individual under age 45 with a high school education can no longer do past work and is restricted to unskilled sedentary jobs because of a severe medically determinable cardiovascular impairment (which does not meet or equal the listings in Part A of Appendix 1). A permanent injury of the right hand limits the individual to sedentary jobs which do not require bilateral manual dexterity. None of the rules in Appendix 2 are applicable to this particular set of facts, because this individual cannot perform the full range of work defined as sedentary. Since the inability to perform bilateral manual dexterity significantly comprises the only range of work for which the individual is otherwise qualified; (i.e., sedentary), a finding of disabled would be appropriate. Example 2: An illiterate 41 year old individual with mild mental retardation (IQ of 78) is restricted to unskilled sedentary work and cannot perform vocationally relevant past work, which had consisted of unskilled agricultural field work; his or her particular characteristics do not specifically meet any of the rules in Appendix 2, because this individual cannot perform the full range of work defined as sedentary. In light of the adverse factors which further narrow the range of sedentary work for which this individual is qualified, a finding of disabled is appropriate.

(i) While illiteracy or the inability to communicate in English may significantly limit an individual's vocational scope, the primary work functions in the bulk or unskilled work relate to working with things (rather than with data or people) and in these work functions at the unskilled level, literacy or ability to communicate in English has the least significance. Similarly, the lack of relevant work experience would have little significance since the bulk of unskilled jobs require no qualifying work experience. Thus, the functional capability for a full range of sedentary work represents sufficient numbers of jobs to indicate substantial vocational scope for those individuals age 18–45 even if they are illiterate or unable to communicate in English.

TABLE No. 1.—*Residual functional capacity maximum sustained work capability limited to sedentary work as a result of severe medically determinable impairment(s)*

Rule	Age	Education	Previous work experience	Decision
201.01	Advanced age	Limited or less	Unskilled or none	Disabled.
201.02	do	do	Skilled or semiskilled—skills not transferable[1]	Do.
201.03	do	do	Skilled or semiskilled—skills transferable[1]	Not disabled.
201.04	do	High school graduate or more—does not provide for direct entry into skilled work[2]	Unskilled or none	Disabled.
201.05	do	High school graduate or more—provides for direct entry into skilled work[2]	do	Not disabled.
201.06	do	High school graduate or more—does not provide for direct entry into skilled work[2]	Skilled or semiskilled—skills not transferable[1]	Disabled.
201.07	do	do.[3]	Skilled or semiskilled—skills transferable[1]	Not disabled.
201.08	do	High school graduate or more—provides for direct entry into skilled work[2]	Skilled or semiskilled—skills not transferable[1]	Do.
201.09	Closely approaching advanced age.	Limited or less	Unskilled or none	Disabled.
201.10	do	do	Skilled or semiskilled—skills not transferable	Do.
201.11	do	do	Skilled or semiskilled—skills transferable	Not disabled.
201.12	do	High school graduate or more—does not provide for entry into skilled work[2]	Unskilled or none	Disabled.
201.13	do	High school graduate or more—provides for direct entry into skilled work[2]	do	Not disabled.
201.14	do	High school graduate or more—does not provide for direct entry into skilled work[2]	Skilled or semiskilled—skills not transferable	Disabled.
201.15	do	do.[3]	Skilled or semiskilled—skills transferable	Not disabled.
201.16	do	High school graduate or more—provides for direct entry into skilled work[2]	Skilled or semiskilled—skills not transferable	Do.
201.17	Younger individual, age 45 to 49.	Illiterate or unable to communicate in English.	Unskilled or none	Disabled.
201.18	do	Limited or less—at least literate and able to communicate in English.	do	Not disabled.
201.19	do	Limited or less	Skilled or semiskilled—skills not transferable	Do.
201.20	do	do	Skilled or semiskilled—skills not transferable	Do.
201.21	do	High school graduate or more.	Skilled or semiskilled—skills not transferable	Do.
201.22	do	do	Skilled or semiskilled—skills transferable	Do.
201.23	Younger individual, age 18 to 44.	Illiterate or unable to communicate in English.	Unskilled or none	Do.[4]
201.24	do	Limited or less—at least literate and able to communicate in English.	do	Do.[4]
201.25	do	Limited or less	Skilled or semiskilled—skills not transferable.	Do.[4]
201.26	do	do	Skilled or semiskilled—skills transferable.	Do.[4]
201.27	do	High school graduate or more.	Unskilled or none	Do.[4]
201.28	do	do	Skilled or semiskilled—skills not transferable.	Do.[4]
201.29	do	do	Skilled or semiskilled—skills transferable.	Do.[4]

[1] See 201.00(f). [2] See 201.00(d). [3] See 201.00(g). [4] See 201.00(h).

202.00 *Maximum sustained work capability limited to light work as a result of severe medically determinable impairment(s).* (a) The functional capacity to perform a full range of light work as defined in § 416.910(c) includes the functional capacity to perform sedentary as well as light work. Approximately 1,600 separate sedentary and light unskilled occupations can be identified in eight broad occupational categories, each occupation representing numerous jobs in the national economy. These jobs can be performed after a short demonstration or within 30 days, and do not require special skills or experience.

(b) The functional capacity to perform a wide or full range of light work represents substantial work capability compatible with making a work adjustment to substantial numbers of unskilled jobs and, thus, generally provides sufficient occupational mobility even for severely impaired individuals who are not of advanced age and have sufficient educational competences for unskilled work.

(c) However, for individuals of advanced age who can no longer perform vocationally relevant past work and who have a history of unskilled work experience, or who have only skills that are not readily transferable to a significant range of skilled work that is within the individual's functional capacity, or who have no work experience, the limitations in vocational adaptability represented by functonal restriction to light work warrant a finding of disabled. Ordinarily, even a high school education or more which was complete in the remote past will have little positive impact on effecting a vocational adjustment unless relevant work experience reflects use of such education.

(d) Where the same factors in paragraph (c) of this section regarding education and work experience are present, but where age, though not advanced, is a fsctor which significantly limits vocational adaptability (i.e., closely approaching advanced age, 50–54) and an individual's vocational scope is further significantly limited by illiteracy or inability to communicate in English, a finding of disabled is warranted.

(e) The presence of acquired skills that are readily transferable to a significant range of skilled work within an individual's residual functional capacity would ordinarily warrant a finding of not disabled regardless of the adversity of age, or whether the individual's formal education is commensurate with his or her demonstrated skill level. The acquisition of work skills demonstrates the ability to perform work at the level of complexity demonstrated by the skill level attained regardless of the individual's formal educational attainments.

(f) For a finding of transferability of skills to light work for individuals of advanced age who are closely approaching retirement age (age 60–64), there must be very little, if any, vocational adjustment required in terms of tools, work processes, work settings, or the industry.

(g) While illiteracy or the inability to communicate in English may significantly limit an individual's vocational scope, the primary work functions in the bulk of unskilled work relate to working with things (rather than with data or people) and in these work functions at the unskilled level, literacy or ability to communicate in English has the least significance. Similarly, the lack of relevant work experience would have little significance since the bulk of unskilled jobs require no qualifying work experience. The capability for light work, which includes the ability to do sedentary work, represents the capability for substantial numbers of such jobs. This, in turn, represents substantial vocational scope for younger individuals (age 18–49) even if illiterate or unable to communicate in English.

TABLE No. 2.—*Residual functional capacity maximum sustained work capability limited to light work as a result of severe medically determinable impairment(s).*

Rule	Age	Education	Previous work experience	Decision
202.01	Advanced age	Limited or less	Unskilled or none	Disabled.
202.02	do	do	Skilled or semiskilled—skills not transferable.	Do.
202.03	do	do	Skilled or semiskilled—skills transferable[1].	Not disabled.
202.04	do	High school graduate or more—does not provide for direct entry into skilled work[2].	Unskilled or none	Disabled.
202.05	do	High school graduate or more—provides for direct entry into skilled work[2].	do	Not disabled.
202.06	do	High school graduate or more—does not provide for direct entry into skilled work[2].	Skilled or semiskilled—skills not transferable.	Disabled.
202.07	do	do.[3]	Skilled or semiskilled—skills transferable[1].	Not disabled.
202.08	do	High school graduate or more—provides for direct entry into skilled work[2].	Skilled or semiskilled—skills not transferable.	Do.
202.09	Closely approaching advanced age.	Illiterate or unable to communicate in English.	Unskilled or none	Disabled.
202.10	do	Limited or less—at least literate and able to communicate in English.	do	Not disabled.
202.11	do	Limited or less	Skilled or semiskilled—skills not transferable.	Do.
202.12	do	do	Skilled or semiskilled—skills transferable.	Do.
202.13	do	High school graduate or more.	Unskilled or none	Do.
202.14	do	do	Skilled or semiskilled—skills not transferable.	Do.
202.15	do	do	Skilled or semiskilled—skills transferable.	Do.
202.16	Younger individual.	Illiterate or unable to communicate in English.	Unskilled or none	Do.
202.17	do	Limited or less—at least literate and able to communicate in English.	do	Do.
202.18	do	Limited or less	Skilled or semiskilled—skills not transferable.	Do.
202.19	do	do	Skilled or semiskilled—skills transferable.	Do.
202.20	do	High school graduate or more.	Unskilled or none	Do.
202.21	do	do	Skilled or semiskilled—skills not transferable.	Do.
202.22	do	do	Skilled or semiskilled—skills transferable.	Do.

[1] See 202.00(f) [2] See 202.00(c)

203.00 *Maximum sustained work capability limited to medium work as a result of severe medically determinable impairment(s).* (a) The functional capacity to perform medium work as defined in 416.910(d) includes the functional capacity to perform sedentary, light, and medium work. Approximately 2,500 separate sedentary, light, and medium occupations can be identified, each occupation representing numerous jobs in the national economy which do not require skills or previous experience and which can be performed after a short demonstration or within 30 days.

(b) The functional capacity to perform medium work represents such substantial work capability at even the unskilled level that a finding of disabled is ordinarily not warranted in cases where a severely impaired individual retains the functional capacity to perform medium work. Even the adversity of advanced age (55 and over) and a work history of unskilled work may be offset by the substantial work capability represented by the functional capacity to perform medium work. (Note that the provisions of §416.912 must have been given prior consideration.)

(c) However, the absence of any relevant work experience becomes a more significant adversity for individuals of advanced age (55 and over). Accordingly, this factor, in combination with a limited education or less, militates against making a vocational adjustment to even this substantial range of work and a finding of disabled is appropriate. Further, for individuals closely approaching retirement age (60–64) with a work history of unskilled work and with marginal education or less, a finding of disabled is appropriate.

TABLE No. 3.—*Residual functional capacity maximum sustained work capability limited to medium work as a result of severe medically determinable impairment(s)*

Rule	Age	Education	Previous work experience	Decision
203.01	Closely approaching retirement age.	Marginal or none	Unskilled or none	Disabled.
203.02	do	Limited or less	None	Do.
203.03	do	Limited	Unskilled	Not disabled.
203.04	do	Limited or less	Skilled or semiskilled—skills not transferable.	Do.
203.05	do	do	Skilled or semiskilled—skills transferable.	Do.
203.06	do	High school graduate or more.	Unskilled or none	Do.
203.07	do	High school graduate or more—does not provide for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.
203.08	do	do	Skilled or semiskilled—skills transferable.	Do.
203.09	do	High school graduate or more—provides for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.
203.10	Advanced age	Limited or less	None	Disabled.
203.11	do	do	Unskilled	Not disabled.
203.12	do	do	Skilled or semiskilled—skills not transferable.	Do.
203.13	do	do	Skilled or semiskilled—skills transferable.	Do.
203.14	do	High school graduate or more.	Unskilled or none	Do.
203.15	do	High school graduate or more—does not provide for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.
203.16	do	do	Skilled or semiskilled—skills transferable.	Do.
203.17	do	High school graduate or more—provides for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.
203.18	Closely approaching advanced age.	Limited or less	Unskilled or none	Do.
203.19	do	do	Skilled or semiskilled—skills not transferable.	Do.
203.20	do	do	Skilled or semiskilled—skills transferable.	Do.
203.21	do	High school graduate or more.	Unskilled or none	Do.
203.22	do	High school graduate or more—does not provide for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.
203.23	do	do	Skilled or semiskilled—skills transferable.	Do.
203.24	do	High school graduate or more—provides for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.
203.25	Younger individual.	Limited or less	Unskilled or none	Do.

TABLE No. 3.—*Residual functional capacity maximum sustained work capability limited to medium work as a result of severe medically determinable impairment(s)*—Continued

Rule	Age	Education	Previous work experience	Decision
203.26	do	do	Skilled or semiskilled—skills not transferable.	Do.
203.27	do	do	Skilled or semiskilled—skills transferable.	Do.
203.28	do	High school graduate or more.	Unskilled or none	Do.
203.29	do	High school graduate or more—does not provide for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.
203.30	do	do	Skilled or semiskilled—skills transferable.	Do.
203.31	do	High school graduate or more—provides for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.

204.00 *Maximum sustained work capability limited to heavy work (or very heavy work) as a result of severe medically determinable impairment(s).* The residual functional capacity to perform heavy work as defined in §416.910(e), or very heavy work as defined in §416.910(f) includes the functional capability for work at the lesser functional levels as well, and represents substantial work capability for jobs in the national economy at all skill and physical demand levels. Individuals who retain the functional capacity to perform heavy work (or very heavy work) ordinarily will not have a severe impairment or will be able to do their past work—either of which would have already provided a basis for a decision of "not disabled". Environmental restrictions ordinarily would not significantly affect the range of work existing in the national economy for individuals with the physical capability for heavy work (or very heavy work). Thus, an impairment which does not preclude heavy work (or very heavy work) would not ordinarily be the primary reason for unemployment; and generally is sufficient for a finding of not disabled even though age, education, and skill level or prior work experience may be considered adverse.

[FR Doc. 78-5475 Filed 3-6-78; 8:45 am]

[6560-01]

Food and Drug Administration

[21 CFR Part 193]

[FAP 3H5030/P10; FRL 865-1]

TOLERANCES FOR PESTICIDES IN FOOD ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Proposed Food Additive Tolerance for Dalapon

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice reproposes that a tolerance be established for residues of the herbicide dalapon in potable water. The proposal was submitted by the U.S. Department of the Interior. This amendment to the regulations would establish a maximum permissible level for residues of dalapon in potable water.

DATE: Comments must be received by April 6, 1978.

ADDRESS COMMENTS TO: Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mrs. Patricia Critchlow, Registration Division (WH-567), Office of Pesticide Programs, EPA, 202-755-2516.

SUPPLEMENTARY INFORMATION: On July 8, 1977, a notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 35171) announcing that the U.S. Department of the Interior, Bureau of Reclamation, Washington, D.C. 20240, had submitted a petition (FAP 3H5030). This petition proposed that 21 CFR 193 be amended by the establishment of a food additive tolerance for residues of the herbicide dalapon (2,2-dichloropropionic acid) in potable water at 0.2 part per million (ppm) when present therein as a result of the application of dalapon sodium-magnesium salt mixtures to irrigation canal and ditch banks.

No requests for referral to an advisory committee were received in response to this notice of proposed rulemaking. One comment was received from the USDI Bureau of Reclamation, objecting to the unnecessary restrictiveness of the proposed regulation. Under the regulation as proposed, dalapon could not be used on irrigation ditch and canal banks of irrigation projects or systems having no connection with the Bureau of Reclamation's projects. However, the Bureau's water conveyance and distribution facilities serve only 20 percent of the approximately 50 million irrigated acres in the western United States, the rest being privately served.

Thus, the Agency concludes that the restriction limiting dalapon application to only those programs of the USDI Bureau of Reclamation should be deleted. Since the removal of this restriction could result in increased exposure to dalapon residues than there otherwise might have been, the regulation is being reproposed at this time. The scientific data and other information used to support the proposed regulation are included in this document by reference to the previous proposal of July 8, 1977. It is concluded that the pesticide may be safely used in the prescribed manner when such use is in accordance with the label and labeling registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (86 Stat. 973, 89 Stat. 751; 7 U.S.C. 136(a) et seq.). (A related document establishing tolerances for residues of dalapon on a variety of crops and crop groupings appears elsewhere in today's FEDERAL REGISTER.)

It is also noted that the proposed regulation provided for the use of dalapon to irrigation canal banks as well as irrigation ditch banks. In order to be consistent with the labeling, it is concluded that the use on irrigation canal banks be deleted from the regulation.

Any person who has registered, or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein may request, by April 6, 1978, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. The comments must bear a notation indicating both the subject and the petition/document control number, "FAP 3H5030/P10". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of the Federal Register from 8:30 a.m. to 4 p.m. Monday through Friday.

(Section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346(e)).)

Dated: February 28, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

It is proposed that Part 193, Subpart A, be amended by adding the new § 193.105 as follows:

§ 193.105 Dalapon.

A tolerance of 0.2 part per million is established for residues of the herbi-

cide dalapon (2,2-dichloropropionic acid) in potable water when present therein as a result of the application of dalapon sodium-magnesium salt mixtures to irrigation ditch banks in the western United States.

[FR Doc. 78-5676 Filed 3-6-78; 8:45 am]

[4110-03]

[21 CFR Part 820]

[Docket No. 75N-0140]

CURRENT GOOD MANUFACTURING PRACTICES FOR MEDICAL DEVICES

Availability of the Second Draft Final Regulation; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice of meetings on draft regulations.

SUMMARY: This notice announces the availability of the second draft final good manufacturing practice regulation for medical devices. This notice also announces 12 meetings to explain the draft final regulation.

FOR FURTHER INFORMATION CONTACT:

Edward J. McDonnell, Bureau of Medical Devices (HFK-130), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, Md. 20910, 301-427-8120.

SUPPLEMENTARY INFORMATION:

Since December 1, 1973, the Food and Drug Administration (FDA) has been involved in the development of regulations concerning good manufacturing practices (GMP's) for medical devices. A proposed device GMP regulation was published in the FEDERAL REGISTER of March 1, 1977 (42 FR 11998). A notice of availability of a draft final GMP regulation was published in the FEDERAL REGISTER of October 25, 1977 (42 FR 56348). This first draft final regulation was reviewed at a meeting of FDA's Device GMP Advisory Committee, held on October 27-28, 1977. A notice of this meeting was published in the FEDERAL REGISTER of September 13, 1977 (42 FR 45955).

After this meeting, FDA prepared a second draft final regulation. FDA and the American Society for Quality Control (ASQC) are holding 12 two-day meetings across the country to explain this draft final regulation to manufacturers. Speakers will be drawn from FDA headquarters and field offices and the membership of ASQC. The dates and locations of the meetings are as follows:

Date (1978)	City	Site	Program chairman
Mar. 6, 7	Seattle	Washington Plaza, Fifth Ave. at Westlake, 206-624-7400.	Ralph Anderson, Physio-Control, 206-833-1181, ext. 305.
Mar. 9, 10	Denver	Airport Hilton Inn, I-70 at North Peoria St. exit, 303-373-5730.	Bruce Murray, Valleylab, 303-449-2340, ext. 511.
Mar. 13, 14	Atlanta	Peachtree Plaza, Peachtree at Cain, 404-659-1400.	Joseph Silbereis, McDonough Power Equipment, 404-957-9141.
Mar. 16, 17	Minneapolis	Curtis Hotel, 10th St. and 4th Ave. South, 612-340-5300.	Hartley Erickson, Searle Diagnostics, 312-635-3146.
Mar. 20, 21	Chicago	Sheraton O'Hare, 6810 North Mannheim Rd., 312-297-1234.	Jim Sayre, Abbott Laboratories, 312-688-7718.
Mar. 22, 23	Kansas City	Granada Royale, 220 West 43d St., 816-756-1720.	James Gillingham, Marion Laboratory, 816-761-2500.
Apr. 3, 4	Los Angeles	Ambassador Hotel, 3400 Wilshire Blvd., 213-387-7011.	Sanford Hoffman, Shiley Scientific, 714-979-0503.
Apr. 6, 7	San Francisco	Hyatt Regency, Embarcadero, 5 Embarcadero Center, 415-788-1234.	Dorothy Biggs, Cutter Laboratories, 415-841-0123.
Apr. 17, 18	Dallas	Holiday Inn North, Highway 114 and Esters Rd., 214-255-7147.	Suzanne Teboy, Precept, Inc., 817-283-6641.
Apr. 19, 20	Philadelphia	Holiday Inn, Center City, 1800 Market St., 215-561-7500.	Harvey Schock, Product Assurance Consultant, 609-428-6170.
Apr. 24, 25	New York	Americana of New York, 801 7th Ave., 212-581-1000.	Marvin Rosenbaum, Photovolt Corp., 212-989-2900.
Apr. 26, 27	Boston	Copley Plaza, Copley Square, 617-267-5300.	Phillip Spergel, Instrumentation Laboratory, 617-861-0710.

Copies of the second draft final regulation will be available at these meetings. In addition, the document is on display in the office of the Hearing Clerk, Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, and may be seen from 9 a.m. to 4 p.m., Monday through Friday.

The draft regulation is still being reviewed within FDA. The draft regulation regulation is being made available solely to enable meaningful discussion, at the FDA-ASQC meetings, of future FDA requirements.

Dated: March 1, 1978.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc. 78-5834 Filed 3-2-78; 9:58 am]

[4810-28]

DEPARTMENT OF TREASURY

Office of Revenue Sharing

[31 CFR Part 51]

EMPLOYEE SELECTION PROCEDURES

Proposed Amendments

FEBRUARY 24, 1978.

AGENCY: Office of Revenue Sharing.

ACTION: Proposed rulemaking.

SUMMARY: The Department of the Treasury proposes to adopt the Uniform Guidelines on Employee Selection Procedures, when such guidelines are adopted by the Equal Employment Opportunity Commission, the Civil Service Commission, the Department of Justice and the Department of Labor. Those four agencies have published a draft of such guidelines for comment (42 FR 65542, Dec. 30, 1977). The proposed language adopting such guidelines will replace 31 CFR 51.53(b). The Uniform Guidelines when finalized will be published as an appendix to 31 CFR Part 51.[1]

DATES: Written comments should be received by April 6, 1978.

ADDRESSES: Written comments on the question of whether the Office of Revenue Sharing should adopt the Uniform Guidelines or the manner in which it should do so should be addressed to: Office of Revenue Sharing, Department of the Treasury, Washington, D.C. 20226. Written comments on the substance of the Uniform Guidelines should be addressed to Executive Secretariat, Equal Employment Opportunity Commission, 2401 E Street NW., Washington, D.C. 20506. "Uniform Guidelines on Employee Selection Procedures" should appear at the lower left hand corner of the envelope. Comments so addressed will be shared with the Office of Revenue Sharing.

[1] Proposed Uniform Guidelines filed as a part of original document.

SUPPLEMENTARY INFORMATION: The Department of the Treasury agrees with the position of the Equal Employment Opportunity Commission, the Civil Service Commission, the Department of Justice and the Department of Labor that the Federal government should speak with one voice on the important subject of equal employment opportunity. See 42 FR 65542 (Dec. 30, 1977). For that reason, the Treasury Department intends to amend its existing regulations to adopt the uniform guidelines on employee selection procedures at the same time they are adopted by the other agencies.

Pursuant to the authority contained in the State and Local Fiscal Assistance Act of 1972 (Title I of Pub. L. 92-512) as amended by the State and Local Fiscal Assistance Amendment of 1976 (Pub. L. 94-488) 31 U.S.C. 1221, et seq.) and 5 U.S.C. 301, notice is hereby given that the Department of the Treasury proposes to amend 31 CFR 51.53 by striking paragraph (b) and substituting therefore the following as set forth below.

BERNADINE DENNING,
Director, Office of Revenue Sharing.

Approved:

ROGER C. ALTMAN,
Assistant Secretary.
MARCH 1, 1978.

§ 51.53 Employment discrimination.

* * * * *

(b) The Equal Employment Opportunity Commission, the Civil Service Commission, the Department of Justice and the Department of Labor in carrying out their responsibilities in ensuring compliance with Federal equal employment opportunity law have promulgated Uniform Guidelines on Employee Selection Procedures to assist in establishing and maintaining equal employment opportunities. 29 CFR Part 1607; 990-1 (Book 3) of the Federal Personnel Manual; 28 CFR 50.14, and 41 CFR 60.3. The Uniform Guidelines on Employee Selection procedures appear as appendix A to this part. Among other things, these guidelines recognize the unlawfulness of the use of any employee selection procedures (including tests and minimum education levels) which disqualify a disporportionate number of persons on grounds of race, color, religion, sex or national origin and which have not been properly validated or otherwise justified in accordance with Federal law. Recipient governments may not use a selection procedure in a manner which is inconsistent with the Uniform Guidelines on Employee Selection Procedure.

[FR Doc. 78-5883 Filed 3-6-78; 8:45 am]

[4310-70]

DEPARTMENT OF THE INTERIOR

National Park Service

[36 CFR Part 7]

YELLOWSTONE NATIONAL PARK, WYOMING, MONTANA, IDAHO

Fishing Regulations

AGENCY: National Park Service.

ACTION: Proposed rule.

SUMMARY: The proposed regulations set forth below are a partial revision of existing regulations promulgated to control sport fishing within Yellowstone National Park. Controls are necessary to protect native fish species, to provide for sport fishing with adequate replenishment of fish populations through natural reproduction, and to minimize conflicts of the fishing activity with other park resources. Research findings and field experience indicate the need for further protection of native species, for correction of difficult law enforcement situations, and for reduction of confrontations between fishermen and the threatened grizzly bear.

DATES: Written comments, suggestions, or objections regarding this proposal will be accepted until April 6, 1978.

ADDRESS: Comments should be directed to: Superintendent, Yellowstone National Park, P.O. Box 168, Yellowstone National Park, Wyo. 82190.

FOR FURTHER INFORMATION CONTACT:

Edmund J. Bucknall, Resources Management Specialist, Yellowstone National Park, Wyo. 82190, 207-344-7381.

SUPPLEMENTARY INFORMATION: The purpose of this amendment is to reset the opening date on Yellowstone Lake tributaries from August 1 to July 15; to establish a catch limit on these waters of two fish, under 13 inches in length; to extend the closure on the Yellowstone River from the Upper Falls upstream to the Chittenden Bridge to protect a domestic water intake; to establish catch-and-release restrictions on the entire Pelican Creek Drainage, the entire Slough Creek Drainage and on Pocket, Sylvan, and Cascade Lakes; to extend the five fish limit to the entire Gardner River Drainage; and to prevent removal of the heads and tails of fish taken on waters with maximum length limits.

The 13 inch maximum length protects larger, more productive spawners while permitting some fish to be taken. Resetting the opening date to July 15 reduces confusion with other opening dates in this drainage and relieves early season pressure on this drainage outside the park.

Cutthroat runs on Pelican Creek have been reduced by heavy fishing pressure over the years. Catch-and-release restrictions protect native cutthroat populations jeopardized by heavy fishing. In addition, the catch-and-release program may be beneficial to the grizzly bear by reducing public use thus protecting this species from undue harassment and lessening the chance of human injury.

(Sec. 3 of the Act of August 25, 1916 (39 Stat. 535, as amended: 16 U.S.C. 3); the Act of May 7, 1894 (Stat. 73, as amended; 16 U.S.C. 26); 245 DM 1 (42 FR 12931), as amended; and National Park Service Order No. 77 (38 FR 7478) as amended.)

IMPACT ANALYSIS: The National Park Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107. An Environmental Statement for the Master Plan for Yellowstone National Park has been prepared by the National Park Service which discusses, among other things, the impacts of controlling the fishing within the park. This statement is available for review at the address given above, or interested parties may request copies of it from the Superintendent.

DANIEL J. TOBIN, Jr.,
Associate Director, National Park Service.

FEBRUARY 24, 1978.

In consideration of the foregoing, it is proposed that paragraph (e) of § 7.13 of Title 36, Code of Federal Regulations, be amended as follows:

§ 7.13 Yellowstone National Park.

* * * * *

(e) *Fishing* * * *

(2) *Open fishing season.* (i) All rivers and creeks in the Yellowstone River drainage above the Upper Falls at Canyon, except as otherwise provided in paragraph (e)(3) of this section, are open to fishing from 5 a.m. on July 15 to 10 p.m. on October 31. Rivers and creeks include those portions of Yellowstone Lake within 100 yards of the

river or creek inlet, as marked by buoys.

• • • • •

(3) *Closed waters.* • • •

• • • • •

(iv) The Yellowstone River from the Chittenden Bridge downstream to a point directly below the overlook known as Inspiration Point.

• • • • •

(x) Fishing is prohibited from the shores of Yellowstone Lake within 100 yards of the mouth of any stream that is closed to fishing.

• • • • •

(5) *Catch and release waters.* • • •

• • • • •

(iii) Slough Creek and all its tributaries including McBride Lake.

• • • • •

(vii) Pelican Creek and all its tributaries.
(viii) Pocket Lake.
(ix) Sylvan Lake.
(x) Cascade Lake.
(6) *Daily limits by waters.* • • •

• • • • •

(iii) Yellowstone Lake and all its tributaries (except as provided in subparagraph (3) of this paragraph) including the upper Yellowstone River and Riddle Lake: Two fish, under 13 inches. Removal of the heads or tails of any fish caught in the park waters with a maximum length limit is prohibited until the angler is off the lake or stream and has returned to his auto, camp or the established fish cleaning station at Bridge Bay.

(iv) The entire Gardner River Drainage and Blacktail Deer Creek Drainage including Blacktail Ponds: Five fish any size, of which at least three must be brook trout.

• • • • •

[FR Doc. 78-5865 Filed 3-6-78; 8:45 am]

[8320-01]

VETERANS ADMINISTRATION

[38 CFR Part 21]

EDUCATION BENEFITS

Medical-Dental Courses

AGENCY: Veterans Administration.

ACTION: Proposed rules.

SUMMARY: The clinical portion of a medical or dental technician course may only be approved as institutional training if substantial professional training is included. The existing provisions do not make clear that the type of program with which the provisions are concerned does not include courses primarily in the secretarial, clerical or receptionist area. The change is intended to bar status for courses primarily directed to clerical, administrative, secretarial, or receptionist duties. Also the rule pertaining to programs for full-time physicians' or dentists' assistants is restricted to those offered by the Veterans Administration and dentists' assistants are renamed expanded-function dental auxiliaries in keeping with the new terminology. The existing provisions erroneously implied that the regulation applied to such programs when offered by organizations other than the Veterans Administration.

DATES: Comments must be received on or before April 6, 1978. It is proposed to make these amendments effective date of final approval.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. Comments will be available for inspection at the address shown above during normal business hours until April 17, 1978.

FOR FURTHER INFORMATION CONTACT:

June C. Schaeffer, Assistant Director for Policy and Program Administration, Education and Rehabilitation Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420, 202-389-2092.

SUPPLEMENTARY INFORMATION: The Administrator of Veterans Affairs proposes regulatory changes to Part 21 of Title 38, Code of Federal Regulations, relating to approval and measurement of courses in the medical and dental technical fields.

Section 21.4265(c) provides guidelines for the approval and assessment of certain medical and dental technician training courses. The proposed rule makes the requirement that the course consist substantially of professional type training, i.e., in medical and dental technology rather than in office management areas.

Sections 21.4265(d) and 21.4275(d) are amended to accord with the provisions of section 4114, Title 38, United States Code, as to training in the medical-dental field offered in Veterans Administration facilities or in facilities under contract to the Veterans Administration for the purposes of training veterans.

Subsection (e) was added to the provisions of section 4114, Title 38, United States Code, to grant to the Administrator the right to prescribe a program of training for such persons and to determine the manner of measurement of full-time training for payment purposes under chapter 34, Title 38, United States Code. When the provisions of §§ 21.4265(d) and 21.4275(d) were added to the regulations, the language used was not sufficiently specific to indicate that the program had to be one directly under Veterans Administration auspices and the proposed rules will make clear that programs offered under the auspices of other entities must meet the requirements of different rules, such as § 21.4265 (c) or (f).

Additional Comment Information

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays), until April 17, 1978. Any person visiting central office for the purpose of inspecting any such comments will be received by the central office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in central office and furnished the address and the above room number.

Approved: February 28, 1978.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

1. In § 21.4265, paragraphs (c)(1) and (d) are revised to read as follows:

§ 21.4265 Practical training approved as institutional training or on-job training.

• • • • •

(c) *Medical and dental specialty courses.* (1) Required clinical training included in a school course given in an affiliated hospital, clinic, laboratory, or medical center as a part of a medical or dental specialty course whether accredited or nonaccredited offered by a school such as X-ray technician, medical technician, medical records administrator, physical therapist, or dental technician shall be assessed as institutional training provided:

(i) The student remains enrolled in the course during the clinical period;

(ii) The clinical training is;

(*a*) An integral part of the course;

(*b*) A prerequisite to the successful completion of the course; and

(c) Under the direction and supervision of the school; and

(iii) The course includes substantial professional training and does not consist of training primarily directed to clerical, administrative, secretarial, or receptionist duties.

• • • • •

(d) *Medical and dental assistants coursed for the Veterans Administration.* A course prescribed by the Administrator for full-time physicians' assistants or for full-time expanded-function dental auxiliaries (formerly referred to as dentists' assistants) may be approved as institutional training, if the course is conducted at Veterans Administration facilities or in facilities operated by hospitals, medical schools, or medical installations pursuant to a contract with the Veterans Administration. (38 U.S.C. 4114(e).)

• • • • •

2. In § 21.4275, paragraph (d) is revised to read as follows:

§ 21.4275 Practical training courses; measurement.

• • • • •

(d) *Medical and dental assistants courses for the Veterans Administration.* Programs approved in accordance with the provisions of § 21.4265(d) will be measured on a clock-hour basis as appropriate in accordance with § 21.4270, however, the program will be regarded as full-time institutional training: *Provided,* The combined total of the classroom and other formal instruction portion of the program and the on-job-training portion of the program requires 30 or more clock hours of attendance per week.

• • • • •

[FR Doc. 78-5902 Filed 3-6-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 180]

[FRL 865-2; PP 3E1385/P71]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Proposed Tolerances for the Pesticide Chemical Dalapon

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice reproposes that tolerances be established for residues of the herbicide dalapon on a variety of crops and crop groupings. The proposal was submitted by the U.S. Department of the Interior. This amendment to the regulations would permit the safe use of dalapon on irrigation ditch banks in the western United States.

DATE: Comments must be received by April 6, 1978.

ADDRESS COMMENTS TO: Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, room 401, East Tower, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mrs. Patricia Critchlow, Registration Division (WH-567), Office of Pesticide Programs, EPA, 202-755-2516.

SUPPLEMENTARY INFORMATION: On July 8, 1977, a notice of proposed rulemaking was published (42 FR 35173) announcing that the U.S. Department of the Interior (USDI), Bureau of Reclamation, Washington, D.C. 20240, had submitted a pesticide petition (PP 3E1385) to the EPA. This petition requested that the Administrator propose that 40 CFR 180.150 be amended by the establishment of tolerances for residues of the herbicide dalapon (2,2-dichloropropionic acid) resulting from application of dalapon sodium-magnesium salt mixtures to irrigation ditch banks in the western United States in programs of the USDI Bureau of Reclamation in or on the raw agricultural commodities and commodity groups flaxseed, forage grasses, forage legumes, and wheat at 2 parts per million (ppm); cucurbits, grain crops (except wheat), leafy vegetables, and seed and pod vegetables at 0.5 ppm; and avocados, citrus fruits, cottonseed, fruiting vegetables, hops, nuts, pome fruits, root crop vegetables, small fruits, and stone fruits at 0.2 ppm.

No requests for referral to an advisory committee were received in response to this notice of proposed rulemaking. One comment was received from the USDI Bureau of Reclamation, objecting to the unnecessary restrictiveness of the proposed regulation. Under the regulation as proposed, dalapon could not be used on irrigation ditch banks of irrigation projects or systems having no connection with the Bureau of Reclamation's projects. However, the Bureau's water conveyance and distribution facilities serve only 20 percent of the approximately 50 million irrigated acres in the western United States, the rest being privately served.

Thus, the Agency concludes that the restriction limiting dalapon application to only those programs of the USDI Bureau of Reclamation should be deleted. Since the removal of this restriction could result in increased exposure to dalapon residues than there otherwise might have been, the regulation is being reproposed at this time. It has been concluded that the reproposed tolerance will protect the public health. The scientific data and other information used to support the proposed regulation are included in this document by reference to the previous proposal of July 8, 1977. (A related document establishing a food additive regulation for residues of dalapon in potable water appears elsewhere in today's FEDERAL REGISTER.)

Any person who has registered, or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein may request, by April 6, 1978, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. The comments must bear a notation indicating both the subject and the petition/document control number, "PP 3E1385/P71". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of the Federal Register from 8:30 a.m. to 4 p.m. Monday through Friday.

(Section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).)

Dated: February 28, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

It is proposed that Part 180, Subpart C, Section 180.150 be revised (1) by designating the existing tolerances as paragraph (a), (2) by deleting the negligible residue designation ("N"), (3) by establishing the new paragraph (b) containing tolerances for residues of dalapon resulting from application of delapon sodium-magnesium salt mixtures to irrigation ditch banks in the western United States, and (4) by editorially restructuring paragraph (a) into a tabular alphabetized listing, to read as follows:

§ 180.150 Dalapon; tolerances for residues.

(a) Tolerances are established for residues of the herbicide dalapon (2,2-dichloropropionic acid) resulting from application of dalapon sodium salt or sodium-magnesium salt mixtures in or on the following raw agricultural commodities:

Commodity	*Parts per million*
Almonds	10.0
Almonds, hulls	50.0

Commodity:	Parts per million
Apples	3.0
Apricots	1.0
Asparagus	30.0
Bananas	5.0
Beans	1.0
Beans, straw	1.0
Beets, sugar (roots)	5.0
Beets, sugar (tops)	5.0
Cattle, mbyp	0.2
Cattle, meat	0.2
Coffee beans	2.0
Corn, ear, dried (K+C)	10.0
Corn, fodder	5.0
Corn, forage	5.0
Corn, fresh (including sweet K+CWHR)	5.0
Corn, grain	10.0
Cottonseed	35.0
Cranberries	5.0
Eggs	0.3
Flaxseed	75.0
Goats, mbyp	0.2
Goats, meat	0.2
Grapefruit	5.0
Grapes	3.0
Grasses, pasture	10.0
Grasses, range	10.0
Hogs, mbyp	0.2
Hogs, meat	0.2
Lemons	5.0
Limes	5.0
Macadamia nuts	1.0
Milk	0.1
Oranges	5.0
Peaches	15.0
Pears	3.0
Peas, shelled	15.0
Peas, unshelled	15.0
Peas, vine, with pod	15.0
Peas, vine, without pod	15.0
Pecans	0.1
Pineapples	3.0
Plums	1.0
Potatoes	10.0
Poultry, (excluding kidney)	2.0
Poultry, kidney	9.0
Sheep, mbyp	0.2
Sheep, meat	0.2
Sorghum	1.0
Sorghum, forage	5.0
Soybeans	1.0
Soybeans, straw	1.0
Sugarcane	0.1
Tangerines	5.0
Walnuts	5.0

(b) Tolerances are established for residues of dalapon (2,2-dichloropropionic acid) resulting from application of dalapon sodium-magnesium salt mixtures to irrigation ditch banks in the western United States in or on the following raw agricultural commodities. Where tolerances are established at higher levels from other uses of dalapon on the subject crops, the higher tolerance applies also to residues from the irrigation ditch bank use.

Commodity:	Parts per million
Avocados	0.2
Citrus fruits	0.2
Cottonseed	0.2
Cucurbits	0.5
Flaxseed	2.0
Fruits, pome	0.2
Fruits, small	0.2
Fruits, stone	0.2
Grain crops (exc wheat)	0.5
Grasses, forage	2.0
Hops	0.2
Legumes, forage	2.0
Nuts	0.2
Vegetables, fruiting	0.2
Vegetables, leafy	0.5
Vegetables, root crop	0.2
Vegetables, seed and pod	0.5
Wheat	2.0

[FR Doc. 78-5977 Filed 3-6-78; 8:45 am]

[1505-01]

[40 CFR Part 413]

[FRL 853-5]

ELECTROPLATING POINT SOURCE CATEGORY

Pretreatment Standards for Existing Sources

Correction

In FR Doc. 78-3843, appearing at page 6560 in the issue of Tuesday, February 14, 1978, the fourth entry in the middle and right hand columns of the table in column two on page 6570 should read, "1.0" and "0.5" respectively.

[4910-06]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[49 CFR Chapter II]

[Docket No. RSGC-2; Notice 1]

STROBE LIGHTS ON LOCOMOTIVES

Advance Notice of Proposed Rulemaking

AGENCY: Federal Railroad Administration (FRA), Department of Transportation.

ACTION: Advance Notice of Proposed Rulemaking (ANPRM).

SUMMARY: In an effort to reduce the number of grade crossing accidents occurring throughout the nation, the FRA is considering development of proposed safety regulations to require locomotives to be equipped with lighted devices that are more effective than the standard headlights now in use in alerting motorists that a train is approaching a grade crossing. FRA solicits public comment to assist it in assessing the merits of this approach to reducing the number of grade crossing accidents.

DATES: Written comments must be received by May 1, 1978. Comments received after that date will be considered to the extent practicable.

ADDRESSES: (1) Submission of written comments. Written comments should identify the docket number and notice number and be submitted in triplicate to the docket clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street SW., Washington, D.C. 20590. (2) Examination of written comments. All written comments received will be available for examination, both before and after the closing date for written comments, during regular business hours in Room 5101, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FUTHER INFORMATION CONTACT:

Principal Program Person: John A. McNally, Office of Safety, Federal Railroad Administration, Washington, D.C., 20590, 202-426-9178. Principal Attorney: Edward F. Conway, Jr., Office of Chief Counsel, Federal Railroad Administration, Washington, D.C. 20590, 202-426-8836.

SUPPLEMENTAL INFORMATION:

BACKGROUND

The National Grade Crossing Inventory indicates the following number of crossings: 219,082 public; 142,338 private; and 3,601 pedestrian. During the 10-year period 1967 through 1976, an annual average of 1,328 fatalities and 3,680 injuries resulted from rail-highway grade crossing accidents involving collisions between rail equipment and motor vehicles, other vehicles or machines and pedestrians. In 1976, the most current year for which data has been finalized, there was a total of 12,114 crossing accidents of all types resulting in 1,168 fatalities and 4,887 injuries. Of the total number of accidents, 11,700 involved collisions between rail equipment and motor vehicles which are the accidents most pertinent to this proceeding. The 11,700 accidents consisted of 8,352 collisions where a train struck a motor vehicle (resulting in 846 fatalities, 2,941 injuries) and 3,348 collisions in which a motor vehicle ran into the side of a train (resulting in 182 fatalities and 1,473 injuries). Of the 11,700 collisions, 7,121 or 60.9 percent occurred in daylight and 4,579 or 39.1 percent took place at night. A breakdown of the types of protection at the crossings where these accidents occurred indicates that 929 occurred at crossings protected by gates, 4,505 at crossings protected by flashing lights, wigwags or bells and 6,266 at crossings protected by passive warning signs only.

The FRA presently has in effect a regulation (49 CFR 230.231) which requires each locomotive used in road service to be equipped with a headlight "which shall afford sufficient illumination to enable a person in the cab of such locomotive who possesses the usual visual capacity required of locomotive enginemen, to see in a clear atmosphere, a dark object as large as a man of average size standing erect at a distance of at least 800 feet ahead and in front of such headlight; and such headlight must be maintained in good condition." In the case of locomotives used in yard service, the distance requirement is reduced to 300 feet. Additionally, FRA requires that each locomotive be provided with a "suitable whistle or its equivalent" (49 CFR 230.234).

The Association of American Railroads (AAR) Standards Code of Operating Rules is the foundation for the operating rules and practices of most railroads, including rules governing the display of a locomotive headlight and use of the locomotive bell and whistle. Using the AAR Code as a guideline, each railroad constructs, interprets, applies, and expands upon the Code rules as it sees fit according to conditions or operating practices prevailing on the individual railroad. Rule 17 of the AAR Code provides that: "The headlight must be displayed brightly to the front of every train by day and by night. When an engine is running backward, a white light must be displayed by night on the leading end." Rule 18 of the AAR Code provides that: "Yard engines will display the headlight to the front and rear by night. When not provided with a headlight at the rear, a white light must be displayed".

A number of railroads have equipped some of their locomotives with lighting devices other than the conventional headlight. These devices generally afford greater visual conspicuity. Three types are now being utilized by a number of railroads: the oscillating white headlight, the oscillating emergency red headlight and the revolving colored dome warning light mounted on the locomotive roof. The oscillating white headlight is utilized to provide an increased degree of visual conspicuity over and above that of a stationary white headlight for vehicular traffic at grade crossings; it supplements the standard fixed beam headlight which is burning at the same time. The red emergency oscillating light is actuated to provide maximum conspicuity when emergency circumstances prevail. The revolving colored dome light mounted on the roof of a locomotive provides added conspicuity at a maximum height calling attention to the locomotive movement not only to the front and rear, but also to the sides. While the oscillating headlight and the revolving color dome light may have a positive effect on grade crossing safety, FRA has no statistical data available to substantiate this. Each railroad's operating rules govern the use of these devices as well as locomotive whistles, horns and bells as trains approach and pass over public crossings.

FRA has conducted research to determine means of enhancing the visibility of trains at grade crossings. Several types of devices including strobe lights were investigated. This research is documented in the following reports:

"The Visibility and Audibility of Trains Approaching Grade Crossings," J. P. Aurelius and N. Korobow, System Consultants, Inc., FRA-RP-71-2; May 1971 (NTIS No. PB-202-668). "Field Evaluation of Locomotive Conspicuity Lights," D. B. Devoe and C. N. Abernethy, Transportation Systems Center, FRA-ORD-75-54; May 1975 (NTIS No. PB-244-532). "Guidelines for Enhancement of Visual Conspicuity of Trains at Grade Crossings," John B. Hopkins and A. T. Newfell, Transportation Systems Center, FRA-ORD-71; May 1975 (NTIS No. PB-244-551).

Copies of these reports may be obtined from the National Technical Information Service, Springfield, Va. 22161.

The research up to this point had included both laboratory and field testing, but had not included any operational tests of strobe lights. For this reason, a joint project was initiated in fiscal year 1977 with Amtrak, Santa Fe, Chessie, and Boston and Maine Railroads to evaluate the effectiveness of the strobe lights, and to identify and remedy any operational problems associated with their operation. This project should be completed in fiscal year 1979.

Members of Congress have also expressed their interest in the use of strobe lights to improve grade crossing safety. Congressman Paul Simon has introduced a bill on this subject (H.R. 8017). If enacted, it would require the Secretary of Transportation to issue regulations that would require the locomotive of all freight, passenger, and commuter trains to be equipped with strobe lights. These regulations must also require that the strobe lights be operated at grade crossings and at other locations where the Secretary finds that their operation is required in the interest of safety.

PUBLIC PARTICIPATION REQUESTED

The purpose of this advance notice is to solicit public participation and comment on the need for and the specific requirements of regulations that FRA may develop governing the application and operation of lighted devices on locomotives to warn the public of trains approaching grade crossings.

Specific advice is requested on the following points:

1. What types of lights should FRA consider requiring on locomotives to increase their conspicuity? Strobe lights, more powerful or oscillating headlights, or revolving dome lights? Could any of these lights be confused with other lights in the present railroad environment and result in potentially dangerous situations? Could any of these lights have a negative or distracting effect on railroad employees, motorists, pedestrians or persons who reside near a railroad? Describe and explain.

2. Should these lights be required on all locomotives or only on road locomotives? Should these lights be required to be installed only on locomotives that operate independently of other locomotives or that are used as the lead unit of locomotive consists?

3. How many lights should be required on each locomotive? What color should they be? What values should be specified for light intensity, frequency of flashing, and width and height of beam or angular coverage? Explain.

4. How effective would each type of light be in alerting motorists and preventing grade crossing accidents? Explain. Based upon available statistics, what percentage of accidents that occurred in 1977 could have been avoided by each type of light?

5. How costly would each type of light be to install and maintain? What would be the labor and material costs per locomotive to install each type? What would be the annual maintenance cost for each type? Is each type readily available in sufficient number? How much time would be required to equip all locomotives with each type?

6. If regulations were promulgated requiring locomotives to be equipped with two strobe lights that flash alternatively, each with an effective intensity of between 800 and 3,000 candela over the forward 270 degrees of the lamp with a vertical beam width of 5+ degrees and with a flash rate of between 60 and 90 flashes/minutes for each lamp, what would be the labor and material costs per locomotive to install these lights? What would be the annual maintenance costs for these lights per locomotive? Are these lights readily available in sufficient supply? How much time would be required to equip locomotives with these lights?

7. Should these lights be illuminated at all times when the locomotive is in motion? Only at night or during reduces visibility? Only when approaching grade crossings that are not protected by flashing lights or gates? When approaching all grade crossings regardless of the type of grade crossing protection provided? What discretion, if any, should railroads and localities be allowed in this respect? If these lights are to be activated only when approaching grade crossings, should they be installed so that they are automatically activated whenever the locomotive bell or horn is used or should they be independently activated?

8. What State and local jurisdictions have laws, ordinances and regulations in effect that:

(a) Require locomotives to diplay strobe lights, flashing lights or any other type of lights to alert motorists at grade crossings?

(b) Prohibit or limit the use of strobe lights, flashing lights or any other type of lights?

(c) Prohibit or limit the use of horns, bells, whistles or other types of audible warning devices?

Please provide a copy of each law, ordinance or regulation or summarize it and provide the appropriate legal citation. What percentage of grade crossings are subject to these laws, ordinances and regulations?

9. How many of the following grade crossing accidents occurred in 1977:

(a) A locomotive equipped only with a standard fixed headlight struck a motor vehicle or pedestrian?

(b) A locomotive equipped with an oscillating headlight, strobe light, or revolving light struck a motor vehicle or pedestrian?

(c) A motor vehicle struck the side of a locomotive or one of the first 20 cars in a train when the locomotive was equipped with a standard fixed headlight? When the locomotive was equipped with an oscillating headlight, strobe light, or revolving light?

10. For each accident category in question 9,

(a) What was the grade crossing accident rate based on locomotive miles?

(b) How many fatalities resulted?

(c) How many injuries resulted? Categorize injuries as permanently disabling, major and minor or superficial to the extent possible.

(d) How much damage resulted to railroad and other private property?

(e) How many accidents occurred at grade crossings protected by gates? By flashing lights with and without bells? By wigwags with and without bells? By passive warning signs?

(f) How many accidents occurred in daylight, dawn/dusk, and in darkness?

(Sec. 202, Federal Railroad Safety Act of 1970 (45 U.S.C. 431), as amended by sec. 5(b), Federal Railroad Authorization Act of 1976, Pub. L. 94-348, 90 Stat. 817, July 18, 1976; sec. 209, Federal Railroad Safety Act of 1970, as amended (45 U.S.C. 438; §1.49(m) of the regulations of the Office of the Secretary, 49 CFR 1.49(n).)

Issued in Washington, D.C., on February 28, 1978.

JOHN M. SULLIVAN,
Administrator.

[FR Doc. 78-5820 Filed 3-6-78; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket No. 30332; Agreement CAB 26883]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Agreement Relating to North and Central Pacific Cargo Rates; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 1st day of March, 1978.

By Order 77-9-82, September 21, 1977, the Board established procedural dates for the receipt of justification, comments, and replies regarding a mail vote agreement among the carrier members of the International Air Transport Association (IATA). In general, the agreement would increase North and Central Pacific cargo rates to compensate for rising fuel costs. While leaving minimum charges unchanged, it would increase all general cargo rates (GCR's) and specific commodity rates (SCR's) by 1.5 percent of the 45-kilogram-and-over general cargo rates between Los Angeles and points common-rated with Los Angeles, on the one hand, and the various points in Asia and the Pacific, on the other. The agreement would also increase the minimum charge for unit load devices (ULD's) by an amount equal to the product of this bulk rate increment and the pivot weight of the ULD; the over-pivot weight charge for ULD's would be increased by the same increment per kilogram.

Flying Tiger Line Inc. (FTL), Northwest Airlines, Inc. (Northwest), and Pan American World Airways, Inc. (Pan American), submitted economic justifications of the increase. Emery Air Freight Corporation (Emery) and the Puget Sound Traffic Association (PSTA) filed objections.

Northwest presents no information on its unit fuel costs, and Pan American notes only that it paid an average price of 40.78 cents per gallon in August 1977. FTL asserts that its average fuel cost has risen by 2.41 cents per gallon since the last North/Central Pacific rate increase (from 38.59 cents/gallon in 1974 to 41.00 in August 1977), but concedes that the revenue produced by the proposed rate increase in the forecast period would significantly exceed the increase in fuel costs along.[1]

All three carriers argue nevertheless that a North/Central Pacific cargo rate increase is warranted on the basis of overall costs and generally low returns on investment. Pan American, Northwest, and FTLK report historical ROI's of −6.27, 3.00, and 5.92 percent, respectively, in their North/Central Pacific scheduled cargo operations for the year ended June 30, 1977. For the forecast year ending September 30, 1978, they project ROI's of −1.52, 1.43, and 7.45 percent, respectively, at present cargo rates, and 0.26, 2.27, and 9.22 percent, respectively, with the proposed increase.

Emery objects that the proposed rate increase, in effect, would raise lower cargo rates (SCR's and rates for ULDs) by a larger percentage than higher general cargo rates, discriminate against shippers with heavyweight shipments by disproportionately increasing the lower-level rates, and weaken incentives for shippers to use more efficient containerized shipments at ULD rates. PSTA objects to the common-rating of Seattle and the more distant California points, which this agreement would maintain, and contends that this common-rating of west coast ports is unlawful, subjects Seattle to undue prejudice, and provides undue preference to the California gateways.

We will approve the agreement.

While the proposed rate increase is ostensibly intended to compensate for rising fuel prices, we will not consider it in that context. Previous fuel-related fare and rate increases were approved only as emergency measures during a period of rapidly escalating fuel prices, and our special attention to fuel costs in those cases represented a major departure from our long-standing policy of evaluating fare and rate proposals on the basis of the carrier's overall financial results rather than individual cost items. The carriers have provided no evidence that present circumstances justify such extraordinary treatment. We have, therefore, evaluated the proposal in terms of the carriers' overall costs, revenues, and ROI's.

We find that an increase in North/Central Pacific cargo rates is warranted in light of the carriers' low rates of return on scheduled cargo services. Pan American, Northwest, and FTL achieved a composite ROI of only 2.65 percent for the year ending June 30, 1977, and at present rates are projected to earn 4.01 percent for the year ending September 30, 1978. Even with the full rate increase proposed in this agreement, the carriers' composite ROI for the forecast period would be only 5.6 percent—well below the Board's 12-percent guideline.[2]

In response to Emery's objections, we note that the increase proposed here is relatively small—1.5 percent of the 45-kilogram-and-over GCR to/from Los Angeles. While the increase would have a proportionately greater impact on the lower-level rates, as Emery contents, this slight differential does not constitute sufficient grounds for disapproval of the agreement.

The issues raised by PSTA about the common-rating of Seattle and other west coast points are similar to the ones it has raised in Docket 30938, and have been addressed by the Board in that forum. By Order 77-11-127, November 23, 1977, the Board decided to defer investigation of transpacific cargo common-rating until the current investigation of transpacific common passenger fares has been concluded.

Pursuant to the Federal Aviation Act of 1958, and particularly sections 102, 204(a), and 412:

It is not found that Resolution JT31,123(Mail 95)003ff, incorporated in Agreement CAB 26883, is adverse to the public interest or in violation of the Act.

Accordingly, *it is ordered*, That:

1. Agreement CAB 26883 is approved; and

2. Tariffs implementing Agreement CAB 26883 shall be marked to expire not later than September 30, 1978.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[3]

PHYLLIS T. KAYLOR,
Secretary.

[1] FTL forecasts a revenue increase of $3,829,000 and a fuel cost increase of $2,195,919.

[2] See Appendix.

[3] All Members concurred except Member West who did not participate.

Historical and forecast financial results, North/Central Pacific scheduled cargo services

[Dollars in thousands]

	Historical year ended June 30, 1977				Forecast year ending Sept. 30, 1978							
					Present rates				Proposed rates			
	Flying Tiger	Northwest	Pan American	Composite	Flying Tiger	Northwest	Pan American	Composite	Flying Tiger	Northwest	Pan American	Composite
Operating revenue	$124,396	$53,141	$59,808		$137,074	$46,579	$63,314		$160,902	$47,847	$64,490	
Operating expense	117,226	51,737	65,687		146,041	45,182	65,870		146,057	45,182	65,911	
Operating profit (loss)	7,170	1,404	(5,879)		11,033	1,397	(2,556)		14,846	2,665	(1,421)	
Nonoperating income and expense (net)	(2,370)	(278)	(1,813)		(5,426)	(800)	(1,719)		(5,426)	(800)	(1,719)	
Taxable income	4,800	1,126	(7,692)		5,607	597	(4,275)		9,420	1,865	(3,140)	
Income tax at 48 pct	2,034	541	(3,692)		2,691	287	(2,052)		4,522	895	(1,508)	
Net income after taxes	2,496	585	(4,000)		2,916	310	(2,223)		4,898	970	(1,632)	
Plus: Interest expense	2,370	1,385	1,813		5,426	800	1,719		5,426	800	1,719	
Return	4,866	1,970	(2,187)	$4,649	8,342	1,110	(504)	$8,948	10,324	1,770	87	$12,181
Investment	74,700	65,619	34,873	175,192	112,000	77,859	33,080	222,939	112,000	77,859	33,080	222,939
Return on investment (ROI) (in percent)	6.51	3.00	(6.27)	2.65	7.46	1.43	1.52	4.01	9.22	2.27	0.26	5.46

[1] FTL's computation of its historical financial results included income tax at $2,745,000, as reported in form 242, rather than $2,304,000, as computed at the 48-pct ratemaking standard, and has been adjusted accordingly. Use of the ratemaking tax figure raises FTL's ROI from 5.92 pct to 6.51 pct for the year ended June 30, 1977.

[FR Doc. 78-5916 Filed 3-6-78; 8:45 am]

[3510-07]

DEPARTMENT OF COMMERCE

Bureau of the Census

SPECIAL CENSUSES

The Bureau of the Census conducts a program whereby a local or State government can contract with the Bureau to conduct a special census of population. The content of a special census is ordinarily limited to questions on household relationship, age, race, and sex, although additional items may be included at the request and expense of the sponsor. The enumeration in a special census is conducted under the same concepts which govern the decennial census.

Summary results of special censuses are published semiannually in the Current Population Reports—Series P-28, prepared by the Bureau of the Census. For each area which has a special census population of 50,000 or more, a separate publication showing data for that area by age, race, and sex is prepared. If the area has census tracts, these data are shown by tracts.

The data shown in the following table are the results of special censuses conducted since December 31, 1976, for which tabulations were completed between February 1, 1978, and February 28, 1978.

Dated: March 2, 1978.

MANUEL D. PLOTKIN,
Director,
Bureau of the Census.

State/place or special area	County	Date of census	Population
Arkansas:			
Greenwood city	Sebastian	Dec. 2, 1977	2,753
Lavaca city	...do	Nov. 21, 1977	873
Nashville city	Howard	Nov. 29, 1977	4,385
Illinois:			
Barrington Hills village	Cook, Kane Lake, and McHenry.	Nov. 17, 1977	3,251
Hampton village	Rock Island	Nov. 21, 1977	1,767
Highland city	Madison	Nov. 11, 1977	6,652
New Baden village	Clinton and St. Clair	Nov. 30, 1977	2,278
St. Charles city	DuPage and Kane	Nov. 16, 1977	16,145
Sycamore city	DeKalb	Nov. 30, 1977	6,864
Tower Lakes village	Lake ...do		1,115
Vienna city	Johnson	Dec. 13, 1977	1,420
Indiana:			
Newburgh town	Warrick	Nov. 29, 1977	2,472
Santa Claus town	Spencer	Nov. 30, 1977	426
North Carolina:			
Hope Mills town	Cumberland	Dec. 5, 1977	4,016
North Dakota:			
Morton County		Nov. 3, 1977	23,796
Ohio:			
Lebanon city	Warren	Nov. 30, 1977	8,402

[FR Doc. 78-5888 Filed 3-6-78; 8:45 am]

[3510-24]

Economic Development Administration

AMERICAN PILLOW COMPANY, INC., AND ABBOT CLOSURES, INC.

Petitions for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions were accepted for filing on February 28, 1978, from two firms: (1) American Pillow Co., Inc., 99 Willie Street, Lowell, Mass. 01852, a producer of outerwear jackets and vests; and (2) Abbot Closures, Inc., 111 Eight Avenue, New York. N.Y. 10001, a producer of slide fasteners. The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the adustment assistance regulations for firms and communities (13 CFR Part 315).

Consequently, the U.S. Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

CHARLES L. SMITH,
Acting Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc. 78-5899 Filed 3-6-78; 8:45 am]

[3510-25]

Industry and Trade Administration

MANAGEMENT-LABOR TEXTILE ADVISORY COMMITTEE

Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5, U.S.C. App. I (1976 ed.) notice is hereby given that a meeting of the Management-Labor Textile Advisory Committee will be held on March 30, 1978, at 1:30 p.m., Room 4833, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C. 20230.

The Committee was established by the Secretary of Commerce on October 18, 1961, to advise U.S. Government officials on problems and conditions in the textile and apparel industry and furnish information on world trade in textiles and apparel.

The agenda for the meeting will be as follows:

1. Review of import trends.
2. Implementation of textile agreements.
3. Report on conditions in the domestic market.
4. Other business.

A limited number of seats will be available to the public on a first-come basis. The public may file written statements with the Committee before or after each meeting. Oral statements may be presented at the end of the meeting to the extent time is available.

Copies of the minutes of the meeting will be made available on written request, addressed to the ITA Freedom of Information Officer, Freedom of Information Control Desk, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

Telephone requests for the minutes of the meetings and further information concerning the Committee may be directed to Arthur Garel, Director, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-5078.

Dated: March 2, 1978.

ROBERT E. SHEPHERD,
Deputy Assistant Secretary for Domestic Business Development.

[FR Doc. 78-5898 Filed 3-6-78; 8:45 am]

[3510-25]

SEMICONDUCTOR TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (1976 ed.), notice is hereby given that a meeting of the Semiconductor Technical Advisory Committee will be held on Friday, March 31, 1978, at 9:30 a.m. in Room 4833, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Semiconductor Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration approved for recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to semiconductor products, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee meeting agenda has five parts:

GENERAL SESSION

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Review of membership status and suggestions for new members.
4. Review of critical technologies and determination of course of action.

EXECUTIVE SESSION

5. Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (5), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under Executive Order 11652. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Room 3012, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-4196.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Semiconductor Technical Advisory Committee and of any subcommittees thereof was published in the FEDERAL REGISTER on March 2, 1977 (42 FR 12078).

Dated: March 2, 1978.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 78-5919 Filed 3-6-78; 8:45 am]

[3510-25]

TELECOMMUNICATIONS EQUIPMENT TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5

U.S.C. App. I (1976 ed.), notice is hereby given that a meeting of the Telecommunications Equipment Technical Advisory Committee will be held discussed in the executive session should be exempt from the provisions of the Federal Advisory Committee Act, relating to open meetings and

[3510-13]

National Bureau of Standards

TFE-FLUOROCARBON

number and representational category of the vacancies occurring on each committee in June 1978; the representational categories and expertise of

category a deputy director in the Governor's Office of Consumer Protection in Baton Rouge, La., and assistant at-

The remaining industry members on the National Advisory Committee are the manager of a testing laboratory at

U.S.C. App. I (1976 ed.), notice is hereby given that a meeting of the Telecommunications Equipment Technical Advisory Committee will be held on Thursday, March 23, 1978, at 10 a.m., in room 5611, Main Commerce Building, 14th Street and Constitution Avenue NW., Washington, D.C.

The Telecommunications Equipment Technical Advisory Committee was initially established on April 5, 1973. On March 12, 1975, and March 16, 1977, the Acting Assistant Secretary for Administration approved the recharter and extension of the Committee pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving: (A) Technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to telecommunications equipment, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee meeting agenda has six parts:

GENERAL SESSION

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Review of February 9, 1978, meeting.
4. Report on recent technical developments and foreign availability in the Eastern Bloc since the last meeting.
5. Discussion and finalization of the 1977 annual report.

EXECUTIVE SESSION

6. Discussion of matters properly classified under Executive Order 11652, dealing with the United States and COCOM control program and strategic criteria related thereto.

The general session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item 6, the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the general counsel, formally determined on April 22, 1977, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the executive session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the executive session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the executive session of the meeting have been properly classified under the Executive order. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Industry and Trade Administration, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone area code 202-377-4196.

The complete notice of determination to close meetings or portions thereof of the series of meetings of the Telecommunications Equipment Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on May 25, 1977 (42 FR 26682).

Dated: March 2, 1978.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 78-5918 Filed 3-6-78; 8:45 am]

[1505-01]

NORTHWESTERN UNIVERSITY MEDICAL SCHOOL

Decision on Application for Duty-Free Entry of Scientific Article

Correction

In FR Doc. 78-4374 appearing at page 6987 in the issue for Friday, February 17, 1978, in the first column, first line of the third paragraph of the document, "Docket No. 77-00024 * * *" should have read "Docket No. 78-00024 * * *".

[3510-13]

National Bureau of Standards

TFE-FLUOROCARBON (POLYTETRAFLUOROETHYLENE) RESIN SHEET

Commercial Standard; Intent To Withdraw

In accordance with § 10.12 of the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10), notice is hereby given of the intent to withdraw Commercial Standard CS 239-63, "TFE-Fluorocarbon (Polytetrafluoroethylene) Resin Sheet."

This withdrawal action is being proposed for the reason that CS 239-63 is adequately covered by the American Society for Testing and Materials' standard ASTM D3293-74, "standard Specification for TFE-Fluorocarbon Resin Sheet," and duplication is inappropriate and not in the public interest.

Any comments or objections concerning this intended withdrawal of this standard should be made in writing to the Standards Development Services Section, National Bureau of Standards, Washington, D.C. 20234, on or before April 6, 1978. The effective date of withdrawal will not be less than 60 days after the final notice of withdrawal. Withdrawal action terminates the authority to refer to a published standard as a voluntary standard developed under the Department of Commerce procedures from the effective date of withdrawal.

Dated: March 2, 1978.

ERNEST AMBLER,
Director.

[FR Doc. 78-5884 Filed 3-6-78; 8:45 am]

[6355-01]

CONSUMER PRODUCT SAFETY COMMISSION

ADVISORY COMMITTEES

Invitation For Membership Application

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of Advisory Committee vacancies and invitation to apply for membership.

SUMMARY: The purpose of this notice is to invite application for membership on three advisory committees of the Consumer Product Safety Commission for vacancies that will occur in June 1978. The advisory committees are: (1) the Product Safety Advisory Council, (2) the National Advisory Committee for the Flammable Fabrics Act, and (3) the Technical Advisory Committee on Poison Prevention Packaging. This notice contains information on the function and composition of the advisory committees; the number and representational category of the vacancies occurring on each committee in June 1978; the representational categories and expertise of members remaining on the committees; general criteria for selection of members on Consumer Product Safety Commission advisory committees; and procedures for making application or nomination of candidates for membership.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Dee Wilson, Committee Management Officer, Office of the Secretary, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, 202-634-7700.

CLOSING DATE: May 19, 1978. Applications received after that date will be considered too late for consideration for June 1978 vacancies.

SUPPLEMENTARY INFORMATION:

PRODUCT SAFETY ADVISORY COUNCIL

Section 28 of the Consumer Product Safety Act (15 U.S.C. 2077) provides that the Commission shall establish a 15-member Product Safety Advisory Council to be composed of: (1) Five Members selected from governmental agencies including Federal, State and local governments; (2) five members selected from consumer product industries including at least one representative of small business; and (3) five members selected from among consumer organizations, community organizations, and recognized consumer leaders.

The Council functions in an advisory capacity providing the Commission with diverse viewpoints on major policy issues, proposed rulemaking, and approaches to special problems and issues in implementing the Commission's legislative mandate to protect the public against unreasonable risks of injury associated with consumer products. The Council may also propose safety rules for the Commission's consideration.

The Commission anticipates seven (7) vacancies in June 1978; two (2) in the consumer category, two (2) in the government category and (3) three in the industry category.

The eight (8) members remaining on the Product Safety Advisory Council include: In the consumer category, a former United States Senator from Portland, Oreg. with expertise in consumer affairs and women's programs; a professor from Yale University with expertise in marketing, and a consumer specialist with the Virginia Citizens Consumer Council. In the industry category there remains an assistant vice president of AMFAC, Inc., San Francisco; and the President of Skil Corp., a manufacturer of portable power tools; and in the government category a deputy director in the Governor's Office of Consumer Protection in Baton Rouge, La., and assistant attorney general for consumer affairs for the state of Vermont, and a health education officer for the State of Hawaii. The Commission in evaluating candidates for membership, will seek those individuals who will provide additional diversity of qualifications, experience, and background to that now present on the advisory council.

NATIONAL ADVISORY COMMITTEE FOR THE FLAMMABLE FABRICS ACT

The National Advisory Committee for the Flammable Fabrics Act was first established in 1968 by the Department of Commerce under Section 17 of the Flammable Fabrics Act, as amended (Pub. L. 83-88, U.S.C. 1204). Functions under the Act, including administration of the National Advisory Committee, were transferred, effective May 14, 1973, to the Commission by Section 30(b) of the Consumer Product Safety Act (15 U.S.C. 2079 (b)).

The National Advisory Committee provides the Commission with advice, opinions, and recommendations on its proposed regulations or other programs to reduce the frequency and severity of burn injuries involving flammable fabrics. The Flammable Fabrics Act provides that the Commission shall consult with the Committee before prescribing flammability standards pursuant to the Act.

The National Advisory Committee for the Flammable Fabrics Act is composed of 20 members, ten (10) of whom are representative of the consuming public and ten (10) of whom are representatives of manufacturers and distributors, with manufacturers to include the natural fiber producing industry, the man-made fiber producing industry, and manufacturers of fabrics, related materials, apparel or interior furnishings.

Nine (9) vacancies are anticipated in June 1978 on the National Advisory Committee—four (4) in the consumer category and five (5) in the industry category.

The eleven (11) members remaining on the National Advisory Committee include among the consumer representatives three academicians: An assistant dean of graduate nursing education at the University of Kentucky; a teacher educator in consumer science technology at Florida A & M University; and an assistant professor of textile science at the University of Washington. The other consumer members include a community volunteer affiliated in the past with the Girl Scouts and the YWCA; and two medical practitioners—a nurse with the Bothin Burn Unit, St. Francis Memorial Hospital in San Francisco and the Chairman of Plastic and Reconstructive Surgery, George Washington University Medical Center, Washington, D.C.

The remaining industry members on the National Advisory Committee are the manager of a testing laboratory at Marshall field & Company, a retailer; the president of Guilford Laboratories, N.C., a scientist in research and development with GAF Corp., a manufacturer of felt and filter products; the president of Loomtext Corp., a converter of fabrics; and a vice-president of a carpet manufacturer.

The Commission, in evaluating candidates for membership will seek those individuals who will provide additional diversity of qualifications, experience and background to that now present on the committee.

TECHNICAL ADVISORY COMMITTEE ON POISON PREVENTION PACKAGING

The Technical Advisory Committee on Poison Prevention Packaging was First established in 1971 by the Department of Health, Education, and Welfare under the Poison Prevention Packaging Act of 1970 (Pub. L. 91-601; 15 U.S.C. 1471, et seq.). Functions under this Act including administration of the Technical Advisory Committee on Poison Prevention Packaging, were transferred, effective May 14, 1973, to the Commission by section 30(a) of the Consumer Product Safety Act (15 U.S.C. 2079(a)).

The Technical Advisory Committee provides advice and recommendations to the Commission on the establishment of packaging standards to protect children from serious personal injury or illness resulting from handling, using or ingesting household substances. Further, an important function of the Technical Advisory Committee is to review and evaluate petitions requesting exemption from Poison Prevention Packaging regulations. The Poison Prevention Packaging Act provides that the Commission shall consult with the committee in making findings and in establishing standards pursuant to the Act.

The Poison Prevention Packaging Act specifies that the Technical Advisory Committee shall be composed of not more than 18 members who are representatives of (1) the Department of Health, Education, and Welfare, (2) the Department of Commerce, (3) manufacturers of household substances subject to the Act, (4) scientists with expertise related to the Act and licensed practitioners in the medical field, (5) consumers, and (6) manufacturers of packages and closures for household substances. In order to achieve maximum balance of views on the committee, the Commission by regulation established that, excepting the two specified government representatives, the remaining 16 members of the committee are equally divided among consumer and industry interests, with scientists and medical practitioners included in either the con-

sumer or industry category depending upon their employment affiliation.

The Commission anticipates eight (8) vacancies on the Technical Advisory Committee: three (3) representatives of the consuming public; and five (5) representatives of industry interest.

The eight (8) members remaining on the committee, in addition to the representatives from DHEW and DOC, include among the consumers a pediatric cardiologist, Spokane, Wash., a public health physician assigned to the Nevada Nuclear Test Site; a professor of pharmacology and toxicology at the University of Louisville; a director of pharmacy, Strong Hospital, Rochester; and the Chief Toxicologist, Medical Examiner's Office, Philadelphia. The industry members remaining on the Technical Advisory Committee are a manufacturer of pump sprays; a pharmacist; and a manufacturer of pharmaceuticals and chemicals.

The Commission, in evaluating candidates for membership, will seek those individuals who will provide additional diversity of qualifications, experience, and background to that now present on the committee.

Membership Criteria and Application Procedure

The membership of the Commission's advisory committees shall be, insofar as practicable, fairly balanced in terms of geographic location, age, sex, and minorities. Further, within the representational categories specifically mandated by law, the Commission seeks in the selection of individual members to ensure an advisory committee of the widest possible diversity of experience, expertise, background, and interests. Examples of such diversity are provided below for each of the advisory committees.

Product Safety Advisory Council. Among consumer representatives such diversity would include past or current involvement in the areas of consumer protection and consumer information; activities directed to the special needs of children, the handicapped, minorities, low-income, elderly, etc., teaching and/or research in safety of consumer products, public interest law, and educational programs for consumers. Diversity among industry representatives would include occupational responsibilities such as quality control, product testing, product engineering and design, marketing experience, voluntary standards development, trade associations, policy level corporate executives, import/export of products, etc. Among government representatives, such diversity would include involvement in activities at the Federal, State, or local level related to product safety regulatory activities, community groups and/or programs, product-related research and/or testing, etc.

National Advisory Committee for the Flammable Fabrics Act. Among consumers on this committee, such diversity would include past or current involvement in burn treatment programs, fire prevention programs, teaching and/or research relating to textiles and home furnishings, consumer organization or local citizen group activities relating to flammability, public interest law, homemaking, etc. Diversity among industry representatives within the basic categories provided for by law would include past or current activities related to voluntary standards development in the area of fabric/textile flammability, fire-prevention programs, trade associations, research and/or teaching, occupational responsibilities such as quality control, product testing, product engineering, export/import of consumer products, etc.

Technical Advisory Committee on Poison Prevention Packaging. Diversity among consumer representatives would include past or current involvement in activities related to poison control centers, data gathering research and analysis of incidents of poisoning in children, pediatrics, public interest law, home accident prevention efforts, teaching and/or research relating to household substances and drugs, homemaking, childrearing, etc. Diversity among industry representatives within the basic categories provided for by law would relate to specific types of products dealt with, past or current occupational responsibilities such as quality control, product testing, product engineering and design, marketing, voluntary standards development, practicing pharmacists, medical practitioners and scientists with industry employment affiliation, etc.

Interested persons may apply for committee membership by submitting the information requested at the end of this notice on or before May 19, 1978. Persons wishing to nominate another individual to serve on an advisory committee should submit the same information on the nominee for consideration and should include a statement that the person nominated has agreed to serve if selected by the Commission.

Privacy Act Notice

In accordance with the requirements of "The Privacy Act of 1974" (Pub. L. 93-579), persons from whom personal information is collected by a Federal Agency are to be advised of the authority which authorizes the solicitation of information, whether disclosure is mandatory or voluntary, the principal purpose for which the information is collected and the routine use to which it will be put, and the effects, if any, of not providing all or any part of the requested information. Accordingly, applicants for membership on the Consumer Product Safety Commission's advisory committees are advised of the following: (1) The authority for collecting the requested information is the Consumer Product Safety Act, sections 28, 30(a) and 30(b), (15 U.S.C. 2077, 2079(a)) and 2079(b), the Flammable Fabrics Act, section 17 (15 U.S.C. 1204) and the Poison Prevention Packaging Act of 1970, section 6 (15 U.S.C. 1475). The submission of applications for advisory committee membership is on a voluntary basis. (2) The purpose for which the requested information is collected and the routine use to which it will be put is to evaluate and select candidates for filling vacancies on advisory committees. (3) The effect of not providing the requested information is to preclude the Commission from properly evaluating a candidate for membership on an advisory committee.

Application Format

Note.—If applying for more than one CPSC Advisory Committee, please submit separate application for each Committee. Please use typewriter or black ink to prepare application.

1. Name of advisory committee for which application is submitted:
   - Product Safety Advisory Council
   - National Advisory Committee for the Flammable Fabrics Act
   - Technical Advisory Committee on Poison Prevention Packaging
2. Name of applicant
3. Sex
4. Age
5. Home address and telephone number (include area code)
6. Employment affiliation:
   a. Current position and description of duties.
   b. Employer's name, address, and telephone number (include area code).
   c. Do you perform consulting work? If yes, specify kind of consulting work, for whom, and if paid or volunteer.
   d. Are you involved in the performance of work under a contract of grant awarded by CPSC? If yes, specify contract title and number and describe your involvement.
7. If not employed, please state if homemaker, retired, student, etc.
8. Category of Representation (specify product):
   —Industry
   a. Manufacturer
   b. Importer
   c. Distributor
   d. Retailer
   e. Small business
   f. Self-employed
   g. Trade association
   h. Other (specify)

   Consumer: Specify membership and/or involvement in national or local consumer groups, public interest groups, community service groups, etc. or other activities indicating consumer participation and interest.

   Scientist/Medical practitioner: indicate specialty. Applicants in this category may be representatives of industry or consumers depending on employment affiliation.

   Government: Specify Federal, State, or local.

9. Experience/Expertise: Specify and describe experience or extracurricular activities related to product safety generally and the activities of the advisory committee for which you are applying.

   Check applicable areas and provide descriptive comments for each area checked.

   - ☐ Product safety regulatory activities
   - ☐ Hazardous substances
   - ☐ Flammable fabrics
   - ☐ Poison prevention packaging
   - ☐ Voluntary standards development
   - ☐ Burn treatment programs
   - ☐ Fire prevention programs
   - ☐ Poison control centers
   - ☐ Trade association
   - ☐ Product design
   - ☐ Product testing
   - ☐ Product related research
   - ☐ Quality control
   - ☐ Accidents in the home
   - ☐ Problems of elderly or handicapped
   - ☐ Public interest law
   - ☐ Import/export activities
   - ☐ Consumer education/information
   - ☐ Consumer protection
   - ☐ Teaching
   - ☐ Marketing
   - ☐ Corporate policy development
   - ☐ Health/safety programs
   - ☐ Other relevant experience/expertise

10. Interest Questions:
    a. Why are you interested in serving on the Committee?
    b. What contribution do you believe you can make?
    c. Would you be able to attend approximately four two-day sessions annually in Washington, D.C. Travel expenses are reimbursable in accordance with Federal Regulations.
11. Other affiliations. Without restating information given above, specify all affiliations, past and current, either paid or as a volunteer, that bear any relationship to the subject area of product safety or to membership on the Advisory Committee for which you are applying.
12. Signature of Applicant.
13. Signature of Person Making Nomination if Application Submitted by other than the Applicant.

Applications should be submitted not later than May 19, 1978 to the Committee Management Officer, Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

Dated: March 2, 1978.

Sadye E. Dunn,
Acting Secretary.

[FR Doc. 70-5917 Filed 3-6-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

ISSUANCE OF PROPOSED DECISIONS AND ORDERS BY THE OFFICE OF ADMINISTRATIVE REVIEW

February 13 Through February 17, 1978

Notice is hereby given that during the period February 13, 1978 through February 17, 1978, the Proposed Decisions and Orders which are summarized below were issued by the Office of Administrative Review of the Economic Regulatory Administration of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Amendments to the DOE's procedural regulations, 10 CFR Part 205, were issued in proposed form on September 14, 1977 (42 FR 47210 (September 20, 1977)), and are currently being implemented on an interim basis. Under the new procedures any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of the new procedures, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The new procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Administrative Review, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.s.t., except federal holidays.

Dated: February 28, 1978.

Melvin Goldstein,
Director, Office of Administrative Review.

Proposed Decisions and Orders

Keener Oil Co., Tulsa, Okla., FEE-4513, crude oil

Keener Oil Co. filed an Application for Exception from the provisions of 10 CFR 212.73 which, if granted, would permit the firm to sell the crude oil produced from the Lizzie-Orwig No. 1 well in Seminole County, Okla. at upper tier ceiling prices. In a Proposed decision and order which it issued to Keener on February 17, 1978, the DOE determined that Keener should be permitted to sell 29 percent of the crude oil produced from the Lizzie-Orwig well at upper tier ceiling prices.

Koch Exploration Co., Duchesne County, Utah, DXE-0410, DXE-0411, crude oil

Koch Exploration Co. filed two Applications for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception requests, if granted, would result in extensions of the exception relief which the DOE previously granted Koch and would permit the firm to sell certain quantities of the crude oil produced from the Sink Draw No. 1 Lease and the Cedar Rim No. 3 Lease at upper tier ceiling prices. On February 14, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request regarding the Sink Draw No. 1 Lease be denied and that the exception request regarding the Cedar Rim No. 3 Lease be granted.

Monsanto Co., Houston, Tex., DEE-0422, crude oil

The Monsanto Co. filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. The exception request, if granted, would permit Monsanto to sell the crude oil it produces from the Hendrick "A" Property at upper tier ceiling prices. On February 13, 1978 the DOE issued a Proposed Decision and Order which determined that Monsanto should be permitted to sell 100 percent of the crude oil produced from the Hendrick "A" Property at upper tier ceiling prices.

Tonkawa Refining Co., Washington, D.C., FEE-4604, refining petroleum products

Tonkawa Refining Co. filed an Application for Exception from the provisions of 10 CFR 212.83. The exception request, if granted, would permit Tonkawa to be considered as a new refiner subsequent to July 1, 1975. The firm would therefore be permitted to establish the prices which it charged for covered products subsequent to that date pursuant to the new item rule. On February 13, 1978, the DOE issued a Proposed Decision and Order in which it determined that the exception request should be granted.

A. H. Wadsworth, Jr., Houston, Tex., DEE-0033, crude oil

A. H. Wadsworth, Jr. filed an Application for Exception from the provisions of 10 CFR 212.73, which, if granted, would permit the working interest owners to sell the crude oil produced from the Moody Ranch lease, located in Jackson County, Tex. at upper tier ceiling prices. On February 17, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be granted in part.

Requests for Exception Received From Natural Gas Processors

The Office of Administrative Review of the Department of Energy has issued Proposed Decisions and Orders granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The proposed exception relief permits the firms involved to increase the prices of the production of the gas plants listed below to reflect certain non-product cost increases:

Company	Case No.	Plant	Location	Amount of price increase (dollars in gallons)
Allied Chemical Corp	DEE-0323	Chaney Dell	Major County, Okla	$0.0261
	DEE-0324	Toca	Plaquemines Parish, La	.0143
Atlantic Richfield Co	DEE-0322	Stevens-Calidon	Kern County, Calif	.0087
Gas Systems, Inc	DEE-0164	McGregor	Archer County, Tex	.29175
Getty Oil Co	DEE-0295	Calumet	St. Mary Parish, La	.0062
	DEE-0296	Camrick	Beaver County, Okla	.0160
	DEE-0297	Coalinga Nose	Fresno County, Calif	.0060
	DEE-0298	Cosodrie	Evangeline Parish, La	.0153
	DEE-0299	Elmwood	Beaver County, Okla	.0067
	DEE-0300	Fashing	Atascosa County, Tex	.0297
	DEE-0301	Grand Chenier	Cameron Parish, La	Denied
	DEE-0302	Headlee	Midland County, Tex	.0262
	DEE-0303	Hitchcock	Blaine County, Tex	Denied
	DEE-0304	Hulldale	Schleicher County, Tex	.0307
	DEE-0305	Katy	Harris County, Tex	Denied
	DEE-0306	Levelland	Hockley County, Tex	.0161
	DEE-0307	Medicine Lodge	Barber County, Tex	.0078
	DEE-0308	North Cowden	Ector County, Tex	Denied
	DEE-0309	Red Fish Bay	San Patricia County, Tex	Denied
	DEE-0310	South Coles Levee	Kern County, Calif	Denied
	DEE-0311	Yacloskey	St. Bernard Parish, La	Denied
Standard Oil Co. (Indiana)	DEE-0252	Bairoil	Sweetwater County, Wyo	.0064
	DEE-0253	Elmwood	Beaver County, Okla	.0102
	DEE-0259	Hitchcock	Blaine County, Okla	.0065
Texaco, Inc	DEE-0062	Henry	Vermillion Parish, La	.0062
	DEE-0102	Fairway	Henderson County, Tex	.0099
	DEE-0103	Pordoche	Pointe Coupee Parish, La	.0346
	DEE-0426	Crossett	Upton County, Tex	.0377
	DEE-0427	Floodway	St. Mary Parish, La	.0059
	DEE-0428	Kittie	Live Oak County, Tex	.0173
	DEE-0429	Levelland	Hockley County, Tex	.0106
	DEE-0430	Mabee	Andrews County, Tex	.0246
	DEE-0431	Maurice	Vermillion Parish, La	.0488
	DEE-0432	Montebello	Los Angeles County, Calif	.0670
	DEE-0433	Putnam-Oswego	Dewey County, Okla	.0280
Union Oil Co. of Calif	DEE-0238	Coyanosa	Pecos County, Tex	.0164
	DEE-0239	Indian Basin	Eddy County, N. Mex	.0125
	DEE-0240	Laverne	Harper County, Okla	.0062
	DEE-0241	O'Keene	Woodward County, Okla	.0316
	DEE-0359	Santa Clara Valley	Ventura County, Calif	.0097

[FR Doc. 78-5778 Filed 3-6-78; 8:45 am]

[6740-02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. E-9611]

COLUMBUS WATER & LIGHT DEPARTMENT VS. WISCONSIN POWER & LIGHT CO.

Order Determining Refund Obligation, Granting Late Intervention and Denying Motion

FEBRUARY 27, 1978.

On October 17, 1977, the Columbus Water & Light Department of the City of Columbus, Wis. (Columbus) tendered for filing with this Commission a complaint directed against the Wisconsin Power and Light Co. (WP&L) , in which Columbus states its belief that WP&L has violated Section 205(d) of the Federal Power Act by changing the rate at which it sells electric power to Columbus without providing thirty days prior notice to the Commission and to the public. Columbus requests that WP&L be directed to refund to Columbus all amounts collected from Columbus in excess of the rate schedule on file with the Commission for Columbus, together with interest at the rate of 9% per annum.

Public notice of Columbus' complaint was issued on November 15, 1977, with all protests or petitions to intervene due on or before December 12, 1977. On December 23, 1977, the Public Service Commission of Wisconsin filed an untimely Notice of Intervention stating its desire to participate in the event that a formal hearing is convened.

A copy of the complaint was forwarded to WP&L by letter dated November 15, 1977, with an answer required to be filed within thirty days pursuant to § 1.9 of the Commision's rules of practice and procedure. On December 19, 1977, WP&L filed a late answer in which the Company denies that it has violated Section 205(d) or any other section of the Federal Power Act, and requests that the Commission dismiss the complaint or take other appropriate action.

Columbus, contending that WP&L's answer had contained certain misleading implications, tendered a reply to WP&L's answer on January 3, 1978, together with a motion for leave to file such reply. In this accompanying motion, Columbus states that its reply raises no new allegations, but attempts to clarify the issue before the Commission. Because the nature of the controversy is sufficiently clear from a reading of Columbus' complaint and WP&L's answer thereto, we shall deny Columbus' motion for leave to file its reply.

The events giving rise to the instant controversy involve two independent rate increases which WP&L tendered for filing on December 30, 1974,[1] and December 4, 1975, in Docket Nos. E-9198 and ER76-331, respectively. WP&L's filing in Docket No. E-9198 proposed certain changes in WP&L's W-2 and W-3 Electric Service Tariff, Wholesale For Resale. Among the customers to be affected by the proposed rate increases were Columbus and five other customers each having fixed price and fixed term contracts with WP&L.[2] By order issued February 19, 1975, the Federal Power Commission (FPC) determined, inter alia, that with respect to these six customers, the proposed revisions, unilaterally filed by WP&L, were inconsistent with the subject contracts and thus contravened the Mobile-Sierra doctrine.[3] Accordingly, while accepting the proposed rate increases for filing as to the remaining customers encompassed by the revised tariff, subject to suspension and a refund obligation, the FPC rejected the proposed terms, conditions, and charges insofar as they would have applied to the six fixed price, fixed term customers (here- inafter collectively referred to as fixed rate customers).

[1] WP&L was notified by Commission letter that its December 30, 1974 filing was deficient and, in response to this deficiency letter, WP&L, on January 20, 1975, submitted additional information in order to complete its tender for filing as of that date.

[2] See the following table:

Customer	FPC rate schedule No.	Contract expiration date
City of Columbus	66	June 26, 1977.
City of Stoughton	59	Feb. 13, 1977.
City of Princeton	68	Oct. 21, 1977.
City of Shullsburg	104	July 30, 1978.
Pioneer Power & Light.	60	Oct. 14, 1976.
Cross Plains Electric Co.	67	Sept. 16, 1977.

On April 18, 1975, the FPC issued a second order in Docket No. E-9198, denying a petition for rehearing filed by WP&L on March 20, 1975. The FPC therein rejected WP&L's contention that its fixed rate customers had waived future rights to contest unilaterally filed rate increases by virtue of their concurrence in an earlier settlement agreements.[4] However, the FPC further noted that waiver of the ninety-day notice provision of the Commission's Regulations was appropriate with respect to the fixed rate customers.[5] Citing the decision of the United States Court of Appeals for the District of Columbia in *Municipal Electric Utility Association of Alabama* v. *FPC*,[6] the FPC stated:

[3] *United Gas Pipeline Co.* v. *Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *FPC* v. *Sierra Pacific Power Co.*, 350 U.S. 348 (1956).

[4] This Settlement Agreement was approved by FPC order of September 4, 1974, in Docket No. E-8158. Although the fixed rate customers therein waived any objections they may have had under the Mobile-Sierra rule, this waiver was limited to the rate increase involved in Docket No. E-8158, and did not extend to future rate change proposals.

[5] As discussed infra, at pp. 7-8, the FPC's waiver of the notice requirement applicable to the filing of rate schedules was not intended to concurrently waive the ninety-day notice provision of § 35.15 of the Commission's regulations which pertains to the cancellation or termination of rate schedules.

[6] 485 F.2d 967 (D.C. Cir. 1973).

[W]e will require that as each of the abovementioned fixed rate contracts expires, WP&L will file with the Commission a superseding service agreement capable of serving as a notice of termination of contractual service required by 16 [sic] CFR 35.15 and an amended list of purchasers. Upon review of this material, we shall then make a determination whether additional data is necessary to demonstrate the continuing validity of the proposed rate and, if necessary, we shall suspend extension of the rate schedule to the additional customers.

On December 4, 1975, WP&L again filed proposed rate revisions applicable to a number of its customers, including the six fixed rate customers. Those proceedings were assigned Docket No. ER76-331. WP&L requested that the increased rates become effective on the expiration dates of the contracts governing service to each of the fixed rate customers. By order issued December 31, 1975, the FPC, noting that the proposed rate changes were premature as applied to the fixed rate customers, rejected the revisions as to these customers, without prejudice to WP&L's right to timely file such rate change proposals upon expiration or cancellation of the existing contracts.[7]

Columbus states in its October 17, 1977 complaint that since the June 26, 1977 expiration date of Columbus' contract with WP&L, the Company has billed Columbus under the W-3 rates in effect for other customers of WP&L as a result of the rate increase proceedings in Docket No. ER76-331. Columbus further states that it has paid the amounts billed by WP&L since that date but has done so under protest. In support of its allegation that WP&L has violated Section 205(d) of the Federal Power Act, Columbus asserts that the FPC order issued on December 31, 1975, in Docket No. ER76-331, rejected the proposed increased rates and charges as to WP&L's fixed rate customers, and that the Company did not exercise its right to "timely file" the proposed rate change for Columbus as required by that order. Columbus concludes that the only rate on file with the Commission which would apply to Columbus for the period immediately following expiration of its contract with WP&L is the rate designated in the expired contract.[8]

In contrast, WP&L states in its December 19, 1977 answer, that the only rate schedule under which it could render service to Columbus following the expiration of the City's contract, was the W-3 schedule as revised in Docket No. ER76-331. WP&L, however, arrives at this conclusion through misinterpretation of the FPC orders previously issued in Docket Nos. E-9198 and ER76-331. The Company initially concedes that the rate increase involved in Docket No. ER76-331 was rejected insofar as it concerned Columbus. However, WP&L contends that the only impediment to the application of that rate to Columbus was the existence of the fixed rate contract. The Company then resorts to language contained in the FPC's order of April 18, 1975, in Docket No. E-9198,[9] in an effort to justify its application of the subsequently filed rate which was rejected for Columbus in Docket No. ER76-331. Relying on the order issued in the prior docket, WP&L asserts that when it mailed a notice terminating the existing contract to Columbus and to the FPC on March 2, 1976, the single impediment to the application of the then filed W—3 rate schedule was removed and, in the absence of a subsequent FPC order suspending or rejecting the revised W-3 rate, this rate became effective for Columbus immediately upon termination of the fixed rate contract.

The fallacy inherent in WP&L's reasoning is readily apparent. The rates filed by WP&L Docket No. ER76-331 were unconditionally rejected to the extent that they were to apply to Columbus. The order of December 31, 1975, in that docket, placed an affirmative burden on WP&L to refile such rate changes upon expiration of Columbus' fixed rate contract. Because WP&L made no such timely filing, we find that the Company has improperly sought to collect from Columbus the W-3 rate approved by the FPC in Docket No. ER76-331.[10]

In order to avoid future controversy, it is appropriate to further note that WP&L may not bill Columbus for the period following its contract expiration under the rate level approved in Docket No. E-9198 for certain of WP&L's customers. We believe that the Company's selective reading of the April 18, 1975 order issued in Docket No. E-9198, distorts the clear intent of the FPC in issuing that order. As noted above, that order granted waiver of the Commission's ninety-day notice reqirement so as to conditionally

[7] A Settlement Agreement arrived at in Docket No. ER76-331 was approved by order issued July 1, 1977. In that order, the FPC repeated that WP&L's rate increase filing had been rejected for the six fixed rate customers by order of December 31, 1975. Thus, the fixed rate customers were not parties to the Settlement Agreement.

[8] The billings disputed by Columbus in the instant proceedings involve the locked-in period between June 26, 1977—the expiration date of Columbus' fixed rate contract—and December 1, 1977. On May 2, 1977, WP&L tendered for filing another rate increase applicable to 39 wholesale customers, including Columbus. By order issued July 1, 1977, in Docket No. ER77-347, those rates were accepted for filing and suspended until December 1, 1977, when they became effective subject to refund. Consequently, the increased rates proposed in Docket No. ER77-347 have applied to Columbus since December 1, 1977.

[9] See language quoted at p. 4 supra.

[10] P&L contends that the application of any rate to Columbus other than the W-3 rate would constitute discrimination against the Company's other customers. We cannot, however, permit WP&L to benefit from its failure to act in accordance with the FPC's directive, by subsequently asserting that its neglect may have created a discriminatory situation.

permit WP&L to apply the rate proposed in Docket No. E-9198 to its fixed rate customers upon the expiration of their respective contracts. This waiver of notice, however, was expressly conditioned upon the requirement that WP&L file a suitable notice of termination of contractual service "when each of their respective contracts expiers." WP&L asserts in its answer to Columbus' complaint that the letter of termination which it forwarded to Columbus and to the FPC on March 2, 1976, satisfied this condition and precluded the necessity for any additional notification to the FPC. We repeat, however, that the contract between WP&L and Columbus expired on June 26, 1977, some fifteen months after the aforementioned termination letter was transmitted to the FPC. Even assuming, arguendo, that the format of this notice was sufficient,[11] it is readily apparent that the FPC, by use of the phrase "when each of their respective contracts expires," contemplated notification at some point in relatively close proximity to the actual expiration date, so as to apprise the Commission and the public of the imminent application of the revised rate schedule to Columbus.

This conclusion is consistent both with the Commission's Regulations and with the *Municipal Electric Utility Association of Alabama* case, *supra*, upon which the FPC relied in its order of April 18, 1975, in Docket No. E-9198. The notice of termination which that order required WP&L to submit was to be filed pursuant to the provisions of § 35.15 of the regulations. Significantly, §§ 35.3 and 35.15 contain independent ninety-day notice requirements, the former pertaining to the filing of rate schedules and the latter relating to the filing of termination notices. Although the FPC waived the notice provision of § 35.3 so as to permit WP&L to tender for filing its proposed rate increases more than ninety days prior to the expiration dates of the various fixed rate contracts, the FPC neither expressly nor impliedly waived the requirement that WP&L file notices of termination within ninety days of the respective expiration dates.

In Municipal Electric Utility Association of Alabama, the Court of Appeals aptly explained the rationale for continuing Commission review as each fixed rate customer becomes subject to rates which were filed well in advance of their applicability to that customer:

> The effect of filing—at the time of conversion from contractual to tariff schedule service—of the necessary amendments to Alabama Power's index of purchasers and the new service agreements will be to afford each affected customer a renewed opportunity to seek FPC review under Section 205(e), as contemplated in the Act * * * opportunity must be given the customers having late-expiring contracts to call on the utility to show that the assumptions underlying the FPC's earlier determination of the tariff's lawfulness have been validated by experience * * *. The procedures outlined above do no more than to require continuing agency supervision of the tariff as its scope is enlarged to include all of Alabama Power's wholesale municipal customers, thus assuring that the regulatory premises upon which approval was based retain their validity as the tariff is applied in practice.

WP&L's failure to file a notice of termination reasonably close to the date on which service was to commence to Columbus under the revised rate prevented both Columbus and the FPC from taking the "second look" at that rate which the Court of Appeals contemplated.

Our review of the matter herein at issue indicates that the only rate properly chargeable by WP&L for sales and service to Columbus for the period immediately following the June 26, 1977 expiration date of its contract was that rate provided for in the expired contract. We will therefore direct WP&L to refund to Columbus all amounts collected from that City for service rendered by the Company between June 26, 1977 and December 1, 1977,[12] which are in excess of the rate incorporated in Columbus' fixed rate contract, together with interest, all as hereinafter ordered.

The Commission finds: (1) Good cause exists to direct WP&L to refund to Columbus all amounts collected for service rendered between June 26, 1977 and December 1, 1977, which exceed the amount properly collectable by WP&L under the rate schedule on file with the Commission for Columbus, with interest.

(2) Good cause exists to grant late intervention status to the Public Service Commission of Wisconsin.

(3) Good cause exists to deny Columbus' motion for leave to file its January 3, 1978 reply in this proceeding.

The Commission orders: (A) Within thirty days of the date of this order, WP&L is hereby directed to refund to Columbus all amounts collected from Columbus for service rendered by the Company between June 26, 1977 and December 1, 1977, which are in excess of the rate incorporated in the contract between Columbus and WP&L that expired on June 26, 1977, together with interest at the rate of 9% per annun.

(B) Within thirty days after refunds have been made, WP&L shall file with the Commission a compliance report showing monthly billing determinants and revenues under the contract rates and the rates collected. The report shall also show the monthly rate refund, and the monthly interest computation together with a summary of such information for the total refund period. A copy of such report shall also be furnished to each State Commission within whose jurisdiction the wholesale customer distributes and sells electric energy at retail.

(C) The Public Service Commission of Wisconsin is hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That participation of such intervenor shall be limited to the matters affecting asserted rights and interests specifically set forth in the petition to intervene; and *Provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved by any orders entered in this proceeding.

(D) Columbus' motion for leave to file its January 3, 1978 reply to WP&L's answer is hereby denied.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission. Chairman Curtis voted present.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5873 Filed 3-6-78; 8:45 am]

[11] WP&L acknowledges that the FPC had "contemplated that a new service agreement under the filed rate could be filed as a notice of termination." The Company, however, suggests that it did not file such an agreement because Columbus had not yet executed a written contract. We need not reach this issue since we believe that WP&L's notification was otherwise deficient.

[12] As indicated in footnote 8, supra, WP&L filed a superseding rate increase in Docket No ER77-347 which became effective, subject to refund, on December 1, 1977.

[6740-02]

[Docket No. RP72-149; PGA77-10]

MISSISSIPPI RIVER TRANSMISSION CORP.

Order Granting Rehearing, Vacating Prior Order, Granting Intervention, and Terminating Proceeding

FEBRUARY 27, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission (FPC ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC or Commission) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC By section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer on Proceedings to the Secretary of Energy and the FERC," 10 CFR ——: *Provided,* That this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above-mentioned authorities.

On August 31, 1977, Mississippi River Transmission Corp. (MRT) tendered for filing with the Federal Power Commission (FPC) certain revised tariff sheets to its gas tariff setting forth increased rates proposed by MRT to become effective on October 1, 1977. The proposed rates reflect MRT's share of costs flowed-through by its supplier, United Gas Pipe Line Co. (United) attributable to emergency gas purchases made by United under the Emergency Natural Gas Act of 1977 (ENGA).[1] The proposed rates also include carrying charges on MRT's share of the emergency gas costs.

On September 27, 1977, Laclede Gas Co. (Laclede) filed a protest and petition to intervene that objected on two grounds to MRT's treatment of the costs associated with ENGA gas purchases by United as allocated to MRT. First, Laclede questions the appropriateness of recovering ENGA costs, and carrying charges thereon, which have been allocated to storage and requests that MRT be required to modify its filing so as to exclude these costs. Second, Laclede challenges the allocation of the balance of the gas costs associated with the ENGA gas purchased by United. Because MRT owns and operates substantial storage facilities, Laclede alleged that the monthly assignment of gas costs may well represent a misallocation of costs that is unduly prejudicial to MRT's jurisdictional customers.

MRT's proposed rates were suspended by the FPC by letter order dated September 30, 1977, and were permitted to become effective on October 2, 1977, subject to refund. The letter order permitted Laclede to intervene in the proceeding and provided, in addition, that: "A hearing shall be held in this proceeding at a later date to be established by this Commission."

On October 27, 1977, MRT filed an application for rehearing, questioning the Commission's actions in the September 30, 1977, letter order.[2] On November 14, 1977, Laclede filed a response to MRT's application for rehearing.[3] Rehearing for purposes of further consideration was granted on Novemger 28, 1977. For the reasons set forth in this order, the Commission shall grant MRT's application for rehearing.

MRT argues that the Commission erred because it lacks jurisdiction to take action with respect to recovery of ENGA costs, because the Commission did not permit MRT to respond to Laclede's protest of September 27, 1977, and because the Commission does not have the substantive authority to preclude the full recovery of ENGA purchases paid by United.

In its response to the MRT application for rehearing, Laclede argues that it is not seeking outright disallowance of ENGA costs but it does contest the view that there should be automatic flow-through under ENGA of capitalized costs associated with gas storage or that nonjurisdictional purchasers of ENGA gas should not be made to bear some portion of the costs. Also, Laclede asserts that since MRT did not directly purchase ENGA gas, it should not proceed under the recoupment provisions of the ENGA enacted regulations; rather, MRT must justify its purchased gas costs under the Natural Gas Act, appropriate Commission regulations, and MRT's tariff.

ISSUE

During the 1977 winter emergency, United utilized ENGA to purchase volumes of natural gas for its system supply. As part of the authorized ENGA procedures, which will be discussed later, United allocated to its customers, one of whom is MRT, a portion of the cost incurred in entering into the emergency sales. The first question then, is whether MRT is a qualified party to flow-through to its customers the share of ENGA costs allocated to MRT by United. Secondly, if flow-through is permissible, did MRT properly assign its costs among the MRT customers?

Whether ENGA applies to MRT in this situation depends on an interpretation of the statute. Section 6(a) of the law provides:

> The President may authorize any interstate pipeline or local distribution company served by an interstate pipeline (or class or category of such pipelines or companies) to contract upon such terms and conditions as the President determines to be appropriate (including provisions respecting fair and equitable prices), for emergency supplies of natural gas for delivery before August 1, 1977—
>
> (1) From any producer of natural gas (other than a producer who is affiliated with the purchaser as determined by the President) if (A) such natural gas is not produced from the Outer Continental Shelf and (B) the sale or transportation of such gas was not, immediately before the date on which such contract was entered into, certificated under the Natural Gas Act, or
>
> (2) From any intrastate pipeline, local distribution company, or other person (other than in interstate pipeline or a producer of natural gas).

Purchases made under section 6(a) were exempt from the provisions of the Natural Gas Act[4] and the costs incurred could not be disallowed for flow-through by the Federal Power Commission.[5] Thus, it is clear that United, the contracting party, was entitled to recover its ENGA expense from MRT, the customer. But, since MRT was not the contracting party, and is not a "local distribution company served by an interstate pipeline" under section 6(a), can MRT pass through the ENGA costs allocated to it by United?

A literal reading of the statutory language could lead to the conclusion that MRT, as an intermediary, is not covered by section 6(a) of ENGA. We decline to adopt this limited view because the result would not be consistent with the Congressional intent in enacting the emergency legislation nor with the orders of the Administrator in running the program.[6]

[1] Pub. L. No. 95-2, 91 Stat. 4 (1977).

[2] On November 16, 1977, Illinois Power a customer of MRT, filed an untimely petition to intervene. Illinois Power Company cites Laclede's September 27, 1977, protest and states that the increase sought by MRT is excessive and may be unjust and unreasonable. We grant this petition to intervene hereinafter.

[3] On November 23, 1977, MRT also filed a motion to strike Laclede's response to the application for rehearing. On December 16, 1977, MRT filed a response in opposition to Laclede's response of November 14. Because of the Commission's disposition on rehearing in favor of MRT, the motion to strike is rendered moot.

[4] Section 6(b)(1) of ENGA states in pertinent part: The provisions of the Natural Gas Act shall not apply—(A) to any sale of natural gas to an interstate pipeline or local distribution company under the authority of subsection (a) or to any transportation by an intrastate pipeline in connection with any such sale * * *.

[5] Section 6(b)(2) of ENGA states: In exercising its authority under the Natural Gas Act, the Federal Power Commission shall not disallow, in whole or in part, recovery by any interstate pipeline, through the rates and charges made, demanded, or received by such pipeline, the amounts actually paid by it for natural gas purchased, transported, or other costs incurred pursuant to subsection (a).

[6] *See U.S.* v. *American Trucking Ass'ns Inc.*, 310 U.S. 534, 543 (1940). There is, of course, no more persuasive evidence of the purpose of a statute than the words by which the legislature undertook to give expression to its wishes. Often these words are sufficient in and of themselves to determine the purpose of the legislation. In such cases we have followed their plain meaning. When that meaning has led to absurd or futile results, however, this Court has

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The severe weather conditions during the 1976-77 winter season raised the prospect of curtailment into priority one if additional supplies could not be made available to interstate market.[7] The Federal Power Commission's emergency purchase provisions were not deemed adequate to meet the emergency, largely because of the legal consequences of an intrastate company making an interstate sale in excess of 60 days.[8]

The proposed ENGA legislation was designed to authorize:

> • • • emergency sales of intrastate natural gas to the interstate market through July 31, 1977, at prices that are fair and equitable, thereby ending legal uncertainties presently connected with such sales.[9]

It is our intention to provide price certainty so that once a specific transaction has been authorized by the President, there would be no risk of a roll-back for that transaction.

• • • • •

In any event, there would be no roll-back of the price for a specific transaction once it had been authorized by the President.[10]

Furthermore, the bill was passed on the express representation that prices approved by the President would not be subject to subsequent tampering.

Continued

looked beyond the words to the purpose of the act. Frequently, however, even when the plain meaning did not produce absurd results but merely an unreasonable one "plainly at variance with the policy of the legislation as a whole" this Court has followed that purpose, rather than the literal words.

[7] See Statement of Harley O. Staggers, Cong. Rec. H514 (January 26, 1977), introducing the ENGA legislation.

[8] Letter from President Carter to the Honorable Walter F. Mondale, President of the Senate, January 26, 1977, transmitting the ENGA legislation to the Senate, introduced into the Congressional Record by Senator Robert C. Byrd, Cong. Rec. S. 1538-39. The President stated: The natural gas pipelines and the Federal Power Commission are attempting to cope with this emergency, but both agree that existing laws may be inadequate to prevent further human suffering in February. The Federal Government lacks clear and effective authority to allocate supplies needed to meet these needs. In addition, surplus gas may be available in the intrastate market that would not flow into interstate commerce under existing law. See *Houston Pipe Line Company, Order Interpreting Section 2.68 Of The Commission's General Policy And Interpretations*, Docket No. CP77-117 (January 14, 1977), *rehearing denied* (March 10, 1977).

[9] President Carter's letter of January 26, 1977, *supra*, note 8.

[10] Conference Report to accompany S. 474, Report No. 95-7, 95th Cong., 1st Sess. (February 2, 1977) at 10, citing a letter dated January 31, 1977, from James R. Schlesinger, Assistant to the President, to the Honorable Adlai E. Stevenson.

From this we conclude that ENGA ensured price certainty to emergency purchases made thereunder by the initial purchaser. Also, we find that since the legislation was intended to protect end users, it was those persons who would bear the costs incurred. Obviously, if the argument of Laclede is accepted, not only would there be no price certainty for the ENGA purchases at issue here, but there would also be the possibility that in a rate review under the Natural Gas Act the actual users of the gas purchased would not be assessed the full value of the ENGA costs. This result is patently alien to the statutory purpose and is rejected.

Our interpretation of ENGA is supported by the actions taken thereunder by its Administrator, then FPC Chairman Richard Dunham.[11]

In Order No. 2[12] the Administrator interpreted Section 6(a) of ENGA and declared that:

> (n)o subsequent action by the Administrator may require a refund of any monies collected or the reduction of prices in any transaction complying with the Act.[13]

In addition, Order No. 7,[14] which will be discussed in greater detail later, dealt with the allocation and billing method of the ENGA costs. The Order refers in footnote two to Section 7 of the Act, part of which reads:

> (c)ompensation paid by an interstate pipeline for deliveries or emergency purchases of natural gas pursuant to • • • section 6 shall be charged to such interstate pipeline's local distribution companies in porportion to their share of such natural gas deliveries or purchases.

The Administrator interpreted that language to mean that:

> (s)uch allocation shall apply to sales made to direct customers and *pipeline purchases*, as well as distribution companies.[15]

It is apparent then that the Administrator viewed the ENGA costs as inviolate, and that the purchases of one interstate pipeline for system supply that includes service to another interstate pipeline would still qualify for untouched flow-through to the end user.

For these reasons, we are compelled to reject Laclede's interpretation that the flow-through provisions of ENGA extend only to costs incurred by the pipeline who contracts for the emergency gas, in this case United. To so find would be to conclude that Congress intended that the allocation and recovery of ENGA-related costs could stop at a certain level and therafter be subject to regulation under statutory authority other than ENGA. Yet, Section 6(b)(2) of ENGA, by its terms, indicates that no such limitation applies. Recovery of *all* costs by *any* interstate pipeline is not to be denied under the authority of the Natural Gas Act. We believe that Congress did not intend to impose restrictions other than those contained in ENGA. Congress intended that the ENGA gas and the costs therefor would flow-through to the burner tip governed only by the provisions of ENGA and actions of the Administrator pursuant thereto. The construction of ENGA urged by Laclede is neither a fair construction nor consistent with the intent of Congress.

Laclede's second assertion is that proper ENGA costs do not include capitalized costs incurred in filling storage, and that ENGA costs must be allocated to nonjurisdictional as well as jurisdictional customers. Order No. 7 delineates the procedures by which ENGA costs would be recovered. In that Order the Administrator determined that ENGA charges attributable to gas purchased for general system supply, as in the instant case, would be billed proportionately according to the pipeline's applicable curtailment plan.[16] Regulations had already been enacted to define the proper billing procedures.[17] Order No. 7 also provided for the allocation of costs between sales for resale, direct sales and storage injection on the basis of volumes delivered for each month that ENGA purchases were made.

United billed MRT $8,105,866 as its share of United's emergency gas purchases under ENGA. MRT then allocated that amount among its various services according to the following categories: jurisdictional sales for resale, $4,162,343; nonjurisdictional direct sales, $1,938,960; and storage injections, $2,004,564. Laclede alleges that because of the interposition of storage between MRT's purchases and deliveries, the allocation of costs for individual monthly periods may represent a misallocation of costs that is unduly prejudicial to the company's jurisdictional customers.

Laclede's concern appears to be with the differing circumstances (customers and gas usage change between winter and summer) between the time that gas is purchased for injection into storage and the time these volumes are withdrawn from storage for delivery to distributors. For example, the second allocation by MRT occurs when the cost previously assigned to storage, $2,004,564, are divided between jurisdictional ($1,754,512) and nonjurisdictional ($250,052) customers, based upon projected winter season volumes. Thus, MRT has sought herein to recover the $4,162,342 originally assigned to sales for resale and the $1,754,512 originally assigned to storage and later allocated to jurisdictional customers.

As to the $4,162,342, MRT elected to bank its costs, pursuant to Order No. 7, for recovery over the eleven-month period commencing October 1, 1977. MRT computed a surcharge for each of its customers based on their purchases during the months when the costs were incurred and the customer's anticipated purchases for the proposed recovery period, October 1, 1977 to August 31, 1978. In order to recover the $1,754,512, MRT set a separate uniform storage surcharge, also to be effective for the October to August period. Both surcharges will remain in effect according to Order No. 7 until the banked ENGA costs, plus applicable carrying charges, have been fully repaid.

Natural gas injected during the summer months is withdrawn during the winter heating season. Lower priority and nonjurisctional interruptible customers that may be served in the summer would normally be cut off during the winter. Thus, in allocating costs for ENGA purchases made to fill depleted storage in anticipation of the coming (1977-78) winter, using the actual withdrawals for this winter as the measure of payment assigns the burden of payment to those that benefit from the storage. We recognize that during certain of the winter months both ENGA gas and storage withdrawals were required to meet market requirements; since both sources were used for system supply, it is equitable to assign the ENGA gas costs on the basis of monthly deliveries or sales.

ENGA was enacted to help alleviate a critical natural gas shortage that had the potential for endangering life and property. Storage balances were critically low and there was uncertainty as to whether sufficient gas supply would be available during the ensuing summer to replenish these reservoirs. Section 6 of ENGA provided for emergency purchases through July 31, 1977, for the express purpose of filling storage.[18] In acknowledgement of this goal, the Administrator provided for the allocation, on a volumetric basis, of emergency gas costs between storage and sales. Our review of the MRT rate filings and the other filings in this docket results in the conclusion that the company's method of allocation, which was, in our judgment, consistent with Order No. 7, properly assigned to its jurisdictional customers a reasonable level of costs.

Laclede has also argued that carrying costs on storage injection under the existing curtailment plan is not properly recoverable under ENGA. The regulations enacted in Order No. 7 provide specifically to the contrary.

§ 1000.9(e)(i) The following billing procedures may be utilized by interstate pipeline companies to *flow-through all authorized costs* of ENGA purchases pursuant to Section (6) of the Act:

If an interstate pipeline company's monthly ENGA purchases exceed 2 percent of its forecasted monthly sales in its September 1976 FPC Form No. 16 for the months of February and March 1977 and for ensuing months its April 1977 FPC Form No. 16, alternate billing options are available to the company. ENGA purchases would be allocated pro rata to its customers and *storage* on the basis of total sales and *general system storage injections* for the billing month and may be recovered as follows:

• • • • •

The Company may elect to bank the ENGA costs allocated to each customer through July 31, 1977. These banked costs, *plus carrying costs* computed at nine (9) percent per annum, would be recovered from each customer over an eleven month period beginning October 1, 1977 and ending August 31, 1978. Individual surcharges for each customer would be computed by dividing each customer's banked costs by each customer's forecasted eleven month sales included in the pipeline company's September 1977 FPC Form No. 16.

(3) If an interstate pipeline company elects to utilize the revenue recovery procedures provided in 2(ii) above, each individual surcharge will remain in effect until the interstate pipeline company recovers banked costs, *plus applicable carrrying charges.* (Footnote omitted—emphasis added.)

Since MRT is seeking merely to flow-through authorized ENGA costs according to the procedures instituted by the Administrator, Laclede's allocation argument has no basis and is rejected.

Based on the foregoing considerations, the Commission concludes that under the circumstances presented by this case the Commission is without authority to suspend or disallow rates derived from authorized ENGA purchases calculated in accordance with the Administrator's Order No. 7. The Commission's letter order of September 30, 1977, shall be vacated, and MRT's proposed tariff sheet shall be accepted for filing, effective October 1, 1977.

The Commission finds: (1) It is appropriate and in the public interest that MRT's application for rehearing be granted as hereinafter ordered.

(2) The issues raised by Laclede in its September 27, 1977, filing would require Commission action which is in excess of its authority or which is inconsistent with the provisions of the Emergency Natural Gas Act of 1977 and orders issued pursuant thereto. The issues raised by Laclede in its September 27, 1977, filing are without merit.

The Commission orders: (A) MRT's application for rehearing is granted.

(B) The FPC's letter order of September 30, 1977, in this docket, is vacated.

(C) Alternate Original Sheet No. 3B to MRT's Gas Tariff, First Revised Volume No. 1 is accepted for filing effective October 1, 1977.

(D) This proceeding is terminated.

(E) Illinois Power Company is hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission: *Provided,* That participation by the specifically set forth in the petition to intervene: *Provided, further,* That the admission of petitioner shall not be construed as recognition by the Commission that petitioners might be aggrieved by any order or orders entered in this proceeding.

(F) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5874 Filed 3-6-78; 8:45 am]

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[11] Chairman Dunham was delegated the authority reserved by ENGA to the President, except under Section 3 authorizing the declaration or termination of a natural gas emergency, by Executive Order No. 11969, 42 FR 6791 (February 4, 1977). The President declared a natural gas emergency in Proclamation No. 4485, 42 FR 6789 (February 4, 1977), stating:

> Abnormal weather conditions have caused prevailing temperatures in the United States, particularly in the East and Midwest, to be well below normal for the past three months. Many interstate natural gas pipeline and local natural gas distribution companies do not have sufficient supplies of flowing or stored gas to meet current demand. The shortage of natural gas available to some interstate pipelines and local distribution companies has been so severe as to cause them to curtail or to be in imminent danger of curtailing natural gas supplies to residences, small commercial establishments and other high priority users, so as to endanger life or health, and risk damage to plant or other facilities.

[12] 42 FR 7946 (February 8, 1977).

[13] See Order No. 5, 42 FR 9673 (February 17, 1977) further interpreting Order No. 2.

When a transaction is made under that order, including all delivery or transportation arrangements, whether or not covered by an express authorization of the Administrator in a specific order, the transaction shall be deemed to be "authorized" and "ordered" for purposes of Sections 6 and 9 of the Act.

[14] 42 FR 22146 (May 2, 1977).

[15] Id. (emphasis added).

[16] This allocation method was decided upon as the fairest method of balancing the costs incurred and the benefits derived by the pipeline's customers. Order No. 7 at mimeo pp. 4-5.

[17] 18 CFR § 1000.9, entitled Allocation of Charges for Emergency Purshase. See also, Order Establishing Accounting and Billing Procedures for Interstate Natural Gas Pipelines, Docket No. RM77-10 (February 5, 1977).

[18] Senator Stevenson, Senate manager of ENGA, stated, Cong. Rec. S1670 (January 31, 1977): This measure, which we act upon today, is also a measure to protect the country for next winter because it will, through its pricing provisions, enable the interstate pipeline companies to buy such stores of natural gas as are available and restock their depleted natural gas storage facilities.

[6740-02]

[Docket No. RI72-250; Rate Schedule Nos.

rate was applicable. By instituting rate renewal pricing in Opinion No. 639 and the subsequent filing or replace-

excess of the flowing gas ceiling rate for the period involved prior to the acceptance of the new contracts.[16] Sales

By the Commission. Commissioner Sheldon voted present.

York State and that the power pool's proposed increased rates and charges may affect the retail sales under its ju-

has designated the Oceanography International COD procedure as an approved alternate procedure for nation-

[6740-02]

[Docket No. RI72-250; Rate Schedule Nos. 318 and 415]

MOBIL OIL CORP.

Order Terminating Suspension Proceeding and Directing Refunds

FEBRUARY 27, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by Section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977 by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR——: *Provided,* That this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

On May 25, 1972, the Commission[1] issued an order in Docket No. RI72-250 which suspended Mobil Oil Corp.'s (Mobil) proposed changes in rate under its Rate Schedule Nos. 318 and 415[2] and permitted Mobil to collect these rates subject to refund pending a determination as to whether under Opinion No. 595[3] the old or new gas rate was applicable. By instituting rate renewal pricing in Opinion No. 639[4] and the subsequent filing or replacement contracts by Mobil, the question of applicable rate ceiling has been resolved.

Specifically, Mobil has filed for unilateral increases[5] in their Rate Schedule Nos. 318 and 415 from 19¢ to 24¢ which was the new gas ceiling rate established in Opinion No. 595. Mobil claimed that the gas sold subsequent to the expiration of their contracts was surplus gas and as a new dedication was entitled to the new gas rate. These filings were made prior to the Commission's adoption of its "rollover" policy. The Commission suspended Mobil's proposed changes[6] and permitted Mobil to collect these increased rates subject to refund pending determination of the appropriate rate.

Following these suspensions, the Commission issued Opinion No. 639, announcing its intention to apply literally the vintaging provisions of previous area rate opinions. "The new gas ceiling may be applied upon execution of a new contract for deliveries of gas previously certificated and dedicated to the interstate market under a contract which has expired by its own terms."[7]

Under the vintage policy set forth in Opinion No. 639, Mobil would not be entitled to collect the new gas price for these sales until it had entered into new replacement contracts with purchasers and such contracts had been filed with and accepted by the Commission. Mobil filed the appropriate replacement contracts under Rate Schedule Nos. 318 and 415; these contracts were accepted by the Commission.[8]

Therefore, it is now appropriate to terminate the suspension proceedings and require Mobil to refund with interest, those amounts collected in excess of the flowing gas ceiling rate[9] for the period involved prior to the acceptance of the new contracts.[10] Sales made from newly discovered reservoirs pursuant to Opinion No. 567[11] filings during such period are exempt from this refund requirement.

The Commission orders: (A) The suspension proceeding in Docket No. RI72-250 is terminated, without further Commission order, upon compliance by Mobil with the provisions of this order.

(B) Within thirty days of the issuance of this order, Mobil must refund, with 7 percent interest per annum for the period prior to October 10, 1974, and with 9 percent for the period thereafter all amounts collected for the subject sales, except insofar as such sales were made pursuant to Opinion No. 567 filings, in excess of 19¢ per Mcf until October 1, 1973 and 20¢ per Mcf thereafter for the periods prior to November 16, 1973 under Rate Schedule No. 318 and prior to June 21, 1974, under Rate Schedule No. 415.

(C) With respect to such refunds mentioned in ordering paragraph (B), Mobil must:

(1) File three copies of a refund report showing all amounts collected in excess of the above rates, plus interest from the dates of collection to the date of the refund report,

(2) Disburse the respective refunds to the purchasers,

(3) File a copy of a release from each purchaser with respect to the refunds received.

(D) Upon notification by the Secretary, each purchaser is required (1) to credit the refunds received to their deferred purchase gas cost accounts: (2) to notify the Commission's Secretary: (3) to send a copy of the notifications to each of their customers and interested state regulatory commission.

(E) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

[1] Prior to October 1, 1977, "the Commission" refers to the Federal Power Commission; subsequent to that date, it refers to the Federal Energy Regulatory Commission.

[2] Rate Schedule No. 318 involves a sale to Transcontinental Gas Pipeline Corp. from LaGloria Field, Jim Wells and Brooks Counties, Tex. Rate Schedule No. 415 involves a sale to Natural Gas Pipeline Co. of America from the TCB Field in Jim Wells County, Tex.

[3] Opinion No. 595, Opinion and Order Determining Just and Reasonable Rates for Natural Gas produced in the Texas Gulf Coast Area, issued May 6, 1971 in Docket Nos. AR64-2, et al.

[4] Opinion No. 639, Opinion and Order Denying Petitions To Amend Regulations Governing Sales in Interstate Commerce of Natural Gas Produced in the Appalachian and Illinois Basin Areas, issued December 12, 1972 in Docket No. R-371.

[5] Mobil's basic contracts had expired by their own terms at the time Mobil requested a rate increase.

[6] The proposed increase under Rate Schedule No. 318 was suspended until June 1, 1972, and the proposed increase under Rate Schedule No. 415 was suspended until May 28, 1972.

[7] Order Denying Applications for Rehearing and Granting Petitions to Intervene, Issued February 8, 1973 in Docket No. R-371.

[8] Rate Schedule No. 318 replacement contract was effective on November 16, 1973. Rate Schedule No. 415 replacement contract was effective on June 21, 1974.

[9] The flowing gas ceiling rate would be 19¢ until October 1, 1973 and 20¢ thereafter.

[10] The period should run from the date Mobil was permitted to collect these rates subject to refund to the date of acceptance of the replacement contract by the Commission. (June 1, 1972 to November 16, 1973 for Rate Schedule No. 318; May 28, 1972 to June 21, 1974 for Rate Schedule No. 415.)

[11] Opinion and Order Promulgating Statement of Policy Prescribing Base Area Rates and Initial Rates for Previously Committed Acreage, Amending Regulations and Denying Motion for Reconsideration, issued October 3, 1969 in Docket No. AR64-1 et al. The rate ceiling for producers drilling in newly discovered reservoirs on previously committed acreage was not determined by the contract date but by the date of discovery of the reservoir.

By the Commission. Commissioner Sheldon voted present.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5875 Filed 3-6-78; 8:45 am]

[6740-02]

[Docket No. ER77-511]

NEW YORK POWER POOL

Order Granting Late Intervention

FEBRUARY 28, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——, *provided,* That this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above-mentioned authorities.

On August 1, 1977, the Federal Power Commission issued an order in the above-captioned docket accepting for filing and suspending for one day the effectiveness of the superseding New York power pool agreement containing increased rates and charges for power pool members. By order issued January 18, 1978, the Federal Energy Regulatory Commission set dates for the submittal of power pool's case-in-chief and the prehearing conference.

On February 1, 1978, the New York Public Service Commission (NYPSC) filed a late petition to intervene in this docket. The NYPSC states that it has jurisdiction over the retail sales of electric energy and power within New York State and that the power pool's proposed increased rates and charges may affect the retail sales under its jurisdiction. The Commission believes that the interests of petitioner are sufficient to warrant intervention.

The Commission finds: It is desirable and in the public interest to allow the above-named petitioner to intervene.

The Commission orders: (A) The above-named petitioner is hereby permitted to intervene in these proceedings subject to the rules and regulations of the Commission: *Provided, however,* That participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intevene; and *Provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that the intervenor might be aggrieved because of any order or orders of the Commission entered in this proceeding and that the Petitioner accept the record as it presently stands.

(B) The intervention granted herein shall not be the basis for delaying or deferring any procedural schedules heretofore established for the orderly and expeditious disposition of this proceeding.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5876 Filed 3-6-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 863-7]

APPROVAL OF ALTERNATE WATER POLLUTANT TESTING PROCEDURE

Chemical Oxygen Demand (COD)

In accordance with § 136.5, 40 CFR Part 136, "Guidelines for Test Procedures for the Analysis of Pollutants" (FEDERAL REGISTER, Vol. 41, No. 233, Wednesday, December 1, 1976, pp. 52780-52786), the Oceanography International Corp. applied for approval of a new test procedure for the measurement of COD. The new procedure incorporates a modification of the digestion technique of the approved procedure in that it uses a semimicro volume of sample and reagents, sealed in a glass ampule, with reflux digestion performed in an oven.

After a through review and evaluation by the Environmental Protection Agency (EPA) of the results of a comparability testing study and other information submitted by the applicant in accordance with § 136.5, the EPA has designated the Oceanography International COD procedure as an approved alternate procedure for nationwide use. All information submitted by the applicant is on file and available for public inspection, to the extent consistent with 40 CFR Part 2 (the EPA's regulation implementing the Freedom of Information Act) at the Environmental Monitoring and Support Laboratory, 26 West St. Clair Street, Cincinnati, Ohio 45268.

As an approved alternate test procedure, the Oceanography International COD procedure is acceptable for use by any person required to use approved procedures under § 304(g) of the Federal Water Pollution Control Act Amendments of 1972. For such use, the procedure must be used in strict accordance with the methods descriptions. The approved methods descriptions and prepackaged reagent ampules are available for the standard, low value, and high chloride ampule COD procedures from Oceanography International Corp., P.O. Box 2980, 512 West Loop, College Station, Tex. 77840.

Additional information concerning this action may be obtained by writing to the Director, Environmental Monitoring and Support Laboratory, 26 West St. Clair Street, Cincinnati, Ohio 45268.

Dated: March 2, 1978.

STEPHEN J. GAGE,
Acting Assistant Administrator for Research and Development.

[FR Doc. 78-5965 Filed 3-6-78; 8:45 am]

[6560-01]

[OPP-180177; 864-2]

ARIZONA COOPERATIVE EXTENSION SERVICE

Issuance of a Specific Exemption To Use Paraquat To Desiccate Okra

The Environmental Protection Agency (EPA) has granted a specific exemption to the Arizona Cooperative Extension Service (hereafter referred to as the "Applicant") to use paraquat to desiccate 100 acres of okra in that State. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WM-567), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460.

According to the Applicant, one application of the herbicide paraquat is

needed because there has been insufficient frost in November; the frost usually matures the plants. The okra to be treated is being grown for seed purposes. Okra is a minor crop in Arizona. Approximately 1,000 acres are grown annually. Paraquat is registered for use on okra grown for seed purposes. Paraquat is not registered for use on okra grown for pod purposes.

[6560-01]

[OPP-50359; FRL 864-7]

CHEMBAR CHEMICAL CO.

Issuance of Specific Exemption To Use Endothall To Control Bermudagrass and Crabgrass

The Environmental Protection Agency (EPA) has granted a specific exemption to the Chembar Chemical Co. to use endothall to control bermudagrass and crabgrass. A total of 675 acres is involved; the program is authorized only in the States of Alabama, Arkansas, Arizona, California, Colorado, Connecticut, Florida, Georgia,

These files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

(Section 5 of the Federal Insecticide, Fungi-

Dated: March 1, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division

[6560-01]

[OPP-30140A; FRL 864-5]

PESTICIDE PROGRAMS

needed because there has been insufficient frost in November; the frost usually matures the plants. The okra to be treated is being grown for seed purposes only, and therefore, will not be consumed by man or animals. According to the Applicant, the State of Arizona produces 80 percent of the Nation's okra seed on 100 acres in Maricopa County; these acres must be desiccated to provide uniform drying of the okra seed. The entire crop, valued at $50,000 by the Applicant, may be lost if a desiccant is not applied immediately. No adverse effects on man or the environment are anticipated as a result of this use pattern.

After reviewing the application and other available information, EPA has determined that (a) an emergency situation does exist in Arizona; (b) there is no pesticide presently registered and available for use to control the okra seed situation in Maricopa County; (c) there are no alternative methods of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the okra seed are not desiccated; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until January 31, 1978, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. Paraquat may be aerially applied at a dosage rate of 0.5 pound active ingredient per acre. All applicators must be State-certified;

2. Only okra grown for seed production is to be treated with paraquat;

3. All precaution must be taken to minimize drift to nontarget areas. Applications are not to be made where runoff is likely to occur;

4. All applicable label use directions, precautions, and restrictions must be adhered to;

5. The EPA shall be immediately informed of any adverse effects resulting from the use of paraquat in connection with this exemption; and

6. The State Board of Pesticide Control will be advised by the Applicant of the time and date of the application of paraquat. The Board is to assure that such application is in compliance with the conditions of this exemption.

STATUTORY AUTHORITY: Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136 et seq.).

Dated: March 2, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-5966 Filed 3-6-78; 8:45 am]

[6560-01]

[OPP-50359; FRL 864-7]

CHEMPAR CHEMICAL CO.

Issuance of Experimental Use Permit

The Environmental Protection Agency (EPA) has issued an experimental use permit to the following applicant. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 7173-EUP-8. Chempar Chemical Co., Inc., New York, N.Y. 10016. This experimental use permit allows the use of .015 pound of the rodenticide 3-[3-(4'-Bromo[1,1'-biphenyl]4-yl)3-hydroxy-1-phenylpropiy]-4-hydroxy-2*H*-1-benzopyran-2-one baits to evaluate control of rats and mice. The test is to be conducted on 12 indoor sites and 6 outdoor sites; the program is authorized only in the States of California, Florida, Michigan, New Jersey, New Mexico, New York, Ohio, and Texas. The experimental use permit is effective from January 26, 1978 to January 26, 1979.

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460. It is suggested that such interested persons call 202-755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. This file will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

(Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: February 28, 1978.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc. 78-5970 Filed 3-6-78; 8:45 am]

[6560-01]

[OPP-50360; FRL 864-8]

ELANCO PRODUCTS CO.

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 1471-EUP-48. Elanco Products Co., Indianapolis, Ind. 46206. This experimental use permit allows the use of 1,558 pounds of the herbicide N-[[4(Dipropylamino)-3,5-dinitrophenyl]sulfonyl]-S, S-dimethylsul- filimine on turfgrasses to evaluate control of crabgrass. A total of 675 acres is involved; the program is authorized only in the States of Alabama, Arkansas, Arizona, California, Colorado, Connecticut, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Missouri, Nebraska, Nevada, New Jersey, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Virginia, Washington, and Wisconsin. The experimental use permit is effective from February 1, 1978 to February 1, 1979.

No. 10464-EUP-3. Weyerhaeuser Co., Centralia, Wash. 98531. This experimental use permit allows the use of 1.5 pounds of the rodenticide Strychnine alkaloid in forest gopher holes to evaluate control of gophers. A total of 600 acres is involved; the program is authorized only in the State of Oregon. The experimental use permit is effective from February 25, 1978 to February 25, 1979.

No. 100-EUP-57. Ciba-Geigy Corp., Greensboro, N.C. 27409. This experimental use permit allows the use of 3,000 pounds of the insecticide/miticide Methidathion in or on stone and pome fruits and walnuts to evaluate control of various pests. A total of 1,000 acres is involved; the program is authorized only in the States of California, Oregon, Utah, and Washington. The experimental use permit is effective from February 8, 1978 to February 8, 1979. Temporary tolerances for residues of the active ingredient in or on pome fruits and stone fruits (except peaches) have been established.

No. 1016-EUP-34. Union Carbide Corp., Washington, D.C. 20006. This experimental use permit allows the use of 198 pounds of the insecticide Aldicarb on oranges to evaluate control of nematodes. A total of 25.9 acres is involved; the program is authorized only in the States of Arizona, California, Florida, and Texas. The experimental use permit is effective from January 30, 1978 to January 30, 1979. A permanent tolerance for residues of the active ingredient in or on oranges has been established (40 CFR 180.269). Food additive regulations for residues of the active ingredient in dried citrus pulp have been established (21 CFR 561.30).

No. 476-EUP-87. Stauffer Chemical Co., Richmond, Calif. 94804. This experimental use permit allows the use of 472.5 pounds of the herbicide S-Propyl dipropylthio- carbamate and 270 pounds of the herbicide N-Butyl-N-ethyl-alpha, alpha, alpha-trifluoro-2,6-dinitro-p-toludine through a center pivot application on peanuts to evaluate control of various annual grasses, broadleaf weeds, and perennial weeds. A total of 180 acres is involved; the program is authorized only in the States of Alabama, Florida, and Georgia. The experimental use permit is effective from January 27, 1978 to March 11, 1979. A permanent tolerance for residues of the active ingredient in or on peanuts has been established (40 CFR 180.240 and 40 CFR 180.208).

Interest parties wishing to review the experimental use permits are referred to Room E-315 Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460. It is suggested that such interested persons call 202-755-4851 before visiting the EPA Headquarters Office so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

(Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: February 28, 1978.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc. 78-5971 Filed 3-6-78; 8:45 am]

[6560-01]

[PFT-25; FRL 864-6]

PESTICIDE PROGRAMS

Filing of Food Additive Petition

Chemagro Agricultural Division, Mobay Chemical Corp., P.O. Box 4913, Kansas City, Mo. 64120, has submitted a petition (FAP 8H5177) to the Environmental Protection Agency (EPA) which proposes that 21 CFR 193 and 21 CFR 561 be amended by establishing regulations relating to food and feed additives. Notice is given pursuant to the provisions of section 409(b)(5) of the Federal Food, Drug, and Cosmetic Act. The proposed amendments are as follows:

21 CFR 193.25. Proposes establishing a tolerance limitation of 2 parts per million (ppm) in sugarcane molasses for residues of the herbicide 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4*H*)-one and its triazinone metabolites resulting from application of the herbicide to growing sugarcane in connection with a proposed experimental program.

21 CFR 561.41. Proposes establishing a tolerance limitation of 0.5 ppm in sugarcane bagasse for residues of the above herbicide and its triazinone metabolites resulting from application of the herbicide to growing sugarcane in connection with a proposed experimental program.

Interested persons are invited to submit written comments on this petition to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, room 401, East Tower, 401 M Street SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. Inquiries concerning this petition may be directed to the Special Registration Branch, Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone 202-755-4851. Written comments should bear a notation indicating the petition number "FAP 8H5177". Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the Office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: March 1, 1978.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc. 78-5969 Filed 3-6-78; 8:45 am]

[6560-01]

[PF-90; FRL 864-4]

PESTICIDE PROGRAMS

Filing of Food Additive Petition

Chemagro Agricultural Division, Mobay Chemical Corp., P.O. Box 4913, Kansas City, Mo. 64120, has submitted a petition (FAP 8H5176) to the Environmental Protection Agency (EPA) which proposes that 21 CFR 193 and 21 CFR 561 be amended by establishing regulations relating to food and/or feed additives. Notice is given pursuant to the provisions of section 409(b)(5) of the Federal Food, Drug, and Cosmetic Act. The proposed amendments are:

21 CFR 193.145. Proposes establishing regulation for residues of the bird repellent 3,5-dimethyl-4-(methylthio) phenol methylcarbamate and its cholinesterase inhibiting metabolites in or on raisins with a tolerance limitation of 25 parts per million.

21 CFR 561.175. Proposes establishing regulation for residues of the bird repellent 3,5-dimethyl-4-(methylthio) phenol methylcarbamate and its cholinesterase inhibiting metabolites in or on grape pomace (wet and dry) and raisin trash with a tolerance limitation of 75 parts per million.

Interested persons are invited to submit written comments on this petition to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, room 401, East Tower, 401 M Street SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. Inquiries concerning this petition may be directed to the Special Registration Branch, Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone at 202-755-4851. Written comments should bear a notation indicating the petition number "FAP 8H5176". Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m., Monday through Friday.

Dated: February 22, 1978.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc. 78-5968 Filed 3-6-78; 8:45 am]

[6560-01]

[OPP-30140A; FRL 864-5]

PESTICIDE PROGRAMS

Notice of Receipt of Applications To Register Pesticide Products Containing New Active Ingredients; Correction

In FR Doc. 77-34635 appearing at page 61516 in the issue of December 5, 1977, for Technical Pydrin Insecticide, EPA File Symbol 201-UNE, the name of the active ingredient is corrected from "Cyano (3-phenoxy-phenyl)-methyl-4-chloro-alpha-(1-methylethyl) benzene 90 percent" to "Cyano (3-phenoxyphenyl)methyl - 4 - chloro-alpha-(1-methylethyl) benzene-acetate 90 percent".

Dated: February 28, 1978.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc. 78-5967 Filed 3-6-78; 8:45 am]

[6560-01]

[OPP-30000/22A; FRL 865-3]

REBUTTABLE PRESUMPTION AGAINST REGISTRATION AND CONTINUED REGISTRATION OF CERTAIN PESTICIDE PRODUCTS CONTAINING ETHYLENE OXIDE

Extension of Period for Submission of Rebuttal Evidence and Comments

On January 17, 1978, the Environmental Protection Agency (EPA) issued a notice of presumption against registration and continued registration of pesticide products containing the ingredient ethylene oxide. This notice was published in the FEDERAL REGISTER on January 27, 1978 (42 FR 3801). The regulations governing rebuttable presumptions provide that the applicant or registrants of such pesticide products shall have forty-five (45) days from the date such notice is sent to submit evidence in rebuttal of the presumptions. However, for good cause shown, an additional sixty (60) days may be granted in which such evidence may be submitted (40 CFR 162.11(a)(1)(i)).

The Agency has received numerous requests for a 60-day extension of the rebuttal period. Specifically these requests are supported by several stated needs for the additional time:

1. Generating exposure data through on-site monitoring;
2. Compiling available data on exposure, benefits, extent of use, and costs impacts;
3. Developing data concerning advantages or disadvantages of alternative methods of sterilization;
4. Collecting and analyzing the numerous references; and
5. Making available the proceedings from a recent symposium on the hospital use of ethylene oxide as a sterilant.

The Agency agrees that additional time would be beneficial to ensure the submission of a complete and accurate response to the notice of presumption. Therefore, because good cause has been shown, interested persons shall have until May 15, 1978, to submit rebuttal evidence and other comments or information. Such evidence, comments, or other information relevant to the presumption against registration and continued registration should be submitted to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, room 401, East Tower, 401 M Street SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the efforts of the Agency and of others interested in them. All comments should bear the identifying notation "OPP-30000/22A". Comments and information received on or before May 15, 1978, shall be considered before it is determined whether a notice shall be issued in accordance with 40 CFR 162.11(a)(5)(ii) and 7 U.S.C. 135(a)(c)(6) or 7 U.S.C. 136(d)(b)(1). Comments received after May 15, 1978, shall be considered only to the extent feasible consistent with the time limits imposed by 40 CFR 162.11(a)(5)(ii). All written comments filed pursuant to this notice will be available for public inspection in the Office of the Federal Register Section at the above address from 8:30 a.m. to 4 p.m. on normal business days. The file supporting the Agency's presumption against this presticide is available for public inspection in the Office of Special Pesticide Reviews, room 447, East Tower, during the same time period.

Dated: March 1, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-5972 Filed 3-6-78; 8:45 am]

[6560-01]

[FRL 863-6]

STATE GRANTS FOR SURFACE IMPOUNDMENT ASSESSMENT PITS, PONDS, AND LAGOONS

Grant Availability

This is to provide notice that the Environmental Protection Agency (EPA) will accept grant applications from those States that are interested in participating in a national study to be known as the Surface Impoundment Assessment. A "surface impoundment" is a natural topographic depression, artificial excavation, or dike arrangement which: (1) is used primarily for storage, treatment, or disposal of wastes in the form of fluid, (2) is constructed above, below, or partially in the ground, and (3) may or may not have a permeable bottom and/or sides allowing infiltration of its contents. Examples of surface impoundments are pits, ponds, and lagoons.

EPA, with the assistance of participating States, will conduct a national assessment to include: a compilation of national data on existing and potential ground water contamination attributable to surface impoundments; an evaluation of existing and potential ground water pollution problems resulting from the use of surface impoundments; a recommended national approach to address ground water contamination resulting from surface impoundments; and identification of any additional necessary areas of study. EPA will insure that this is coordinated with the open dump inventory to be conducted under the authority of the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act (Pub. L. 94-580).

Grants will be made under section 1442(b)(3)(C) of the Safe Drinking Water Act, Pub. L. 93-523. The total amount available to the States for this program is $5,000,000, which will be distributed among the States by a formula taking into consideration ground water use, population, number of manufacturing establishments, area, oil and gas sites and mining sites. However, a State's and Territories allotment will not be less than $50,000 and $30,000, respectively, nor greater than $200,000. EPA will provide 100 percent grant funding up to the amount of the State's Allotment.

Guidelines regarding application submission and program information will be made available to the States by the respective Regional Administrator. The grant application shall include the State's program plan which sets forth the tasks, resources, outputs and schedule for completing the assessment of surface impoundments.

EPA Regional Offices will provide assistance to the States in the development of these plans and will negotiate with the States to allow maximum State flexibility in accomplishing the assessment. The deadline for receipt of the grant application in the Regional Office is 90 days from the date of this notice. All grants awarded are subject to the EPA General Regulations (40 CFR Part 30) and special grant conditions. EPA will conduct several Regional training sessions for State participants following the grant application period. State participation in the assessment is scheduled for completion by October 1, 1979. During that period semi-annual reports are required from participating States. The final national report is scheduled for completion in June 1980. Those States interested in participating in the assessment and desiring more information on available grants should contact their EPA Regional Office, Water Supply Program.

Dated: March 2, 1978.

THOMAS C. JORLING,
Assistant Administrator for Water and Hazardous Materials.

[FR Doc. 78-5964 Filed 3-6-78; 8:45 am]

[6560-01]

[OPP-00069; FRL 863-8]

STATE-FEDERAL FIFRA IMPLEMENTATION ADVISORY COMMITTEE (SFFIAC)

Meeting

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Notice of open meeting.

SUMMARY: There will be a meeting of the State-Federal FIFRA Implementation Advisory Committee on Monday, April 3, 1978, from 8:30 a.m. to 4:30 p.m. The meeting will be held in Room 3906-3908 Waterside Mall, 401 M Street SW., Washington, D.C., and will be open to the public.

FOR FURTHER INFORMATION CONTACT:

Mr. P. H. Gray, Jr., SFFIAC Executive Secretary, Operations Division (WH-570), Office of Pesticide Programs, Room E-507, EPA, 401 N Street SW., Washington, D.C. 20460, telephone 202-755-7014.

SUPPLEMENTARY INFORMATION: This is the ninth meeting of the full Committee. The draft agenda thus far includes the following topics:

1. Action items from previous meeting;
2. Regional reports;
3. Report of Chairman of Task Group for Pesticide Tolerance Grouping;
4. Working Group reports; and
5. Future of Federal-State relationship following expiration of the SFFIAC charter.

Dated: March 1, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-5963 Filed 3-6-78; 8:45 am]

[6560-01]

[FRL 853-4]

CALIFORNIA STATE MOTOR VEHICLE POLLUTION CONTROL STANDARDS

Waiver of Federal Preemption

I. INTRODUCTION

By this decision, issued under section 209(b) of the Clean Air Act, as amended (hereinafter "the Act"),[1] I am granting the State of California a waiver of Federal preemption with regard to the following enforcement procedures:

(1) Assembly line test procedures set forth in section 2056 of title 13 of the California Administrative Code, adopted January 25, 1977, and in "California Assembly Line Test Procedures for 1978 Model Year Passenger Cars, Light Duty Trucks and Medium Duty Vehicles," adopted January 25, 1977, for 1978 model year medium duty vehicles and diesel-powered light duty trucks;

(2) California's compliance testing program under section 2100 et seq. of title 13 of the California Administrative Code and "California New Motor Vehicle Compliance Test Procedures," adopted June 24, 1976 (hereinafter "13 C.A.C. § 2100 et seq."), for 1978 through 1982 model year medium duty vehicles and diesel-powered light duty trucks and for 1979 through 1982 model year gasoline-powered light duty trucks; and

(3) California's new motor vehicle inspection program under 13 C.A.C. § 2100 et seq., adopted June 24, 1976, as amended June 30, 1977, for 1978 through 1982 model year medium duty vehicles and diesel-powered light duty trucks, for 1979 through 1982 model year gasoline-powered light duty trucks and for 1978 and subsequent model year heavy duty motor vehicles and engines.

Under section 209(b)(1) of the Act, when California requests a waiver of Federal preemption as to enforcement procedures which will accompany standards for which a waiver has already been granted and is still in effect, I must grant the requested waiver unless I find that (1) the procedures may cause the California standards, in the aggregate, to be less protective of public health and welfare than the applicable Federal standards[2] or (2) the California standards and accompanying enforcement procedures are not consistent with section 202(a) of the Act. With regard to the first finding, if the public record of the proceedings before me contains plausible evidence that the California enforcement procedures may cause the California standards, in the aggregate, to be less protective than the corresponding Federal standards, then I may deny the waiver if: (1) California did not make a positive determination as to the protectiveness of the standards when coupled with the new enforcement procedures of (2) California did make such a determination, and the record contains clear and compelling evidence that its determination is arbitrary and capricious. With regard to the second finding, State enforcement procedures are deemed not to be consistent with section 202(a) if there is inadequate lead time to permit the implementation of the requisite procedures, giving appropriate consideration to the cost of compliance within that time frame, or if the Federal and California test procedures are inconsistent. I cannot make the findings required for the denial of the waiver under section 209(b)(1) of the Act with respect to any of the foregoing California enforcement procedures.

II. BACKGROUND

On January 25, 1977, the California Air Resources Board (CARB) adopted assembly line test procedures, one of the three separate programs under consideration herein, for 1978 model year light duty trucks and medium duty vehicles and gasoline-powered passenger cars.[3] These procedures consist of an inspection of every vehicle, including a steady state or "short" emissions test, and quality audit testing of two percent of production, conducted according to the full California exhaust emission test procedures. California requested a waiver of Federal preemption for assembly line testing on February 14, 1977.[4] Prior to the public hearing regarding this waiver request, I determined that these procedures as they apply to 1978 model year gasoline-powered passenger cars and light duty trucks fall within the scope of a waiver currently in effect and, thus, do not require a new waiver.[5] Therefore, this decision only concerns assembly line test procedures applicable to 1978 model year medium duty vehicles and diesel-powered light duty trucks.[6]

On June 24, 1976, CARB adopted compliance testing and inspection procedures applicable to 1977 and subsequent model year motor vehicles.[7] Compliance testing consists of exhaust emission tests conducted by the CARB on randomly selected production vehicles. The procedures are restricted to vehicle classes subject to quality audit testing.[8] California requested a waiver of Federal preemption for these procedures and for its program to inspect production vehicles, discussed below, on July 19, 1976.[9]

Several subsequent actions served to narrow and revise this waiver request. First, I determined that both compliance testing and inspection, as they applied to 1977 and 1978 gasoline-powered passenger cars and light duty trucks fell within the scope of a waiver currently in effect and, thus, did not require a public hearing or a new waiver.[10] Secondly, the CARB decided

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[1] 42 U.S.C. § 7543(b)(1977).

[2] Since section 209(b)(1) of the Clean Air Act refers explicitly to enforcement procedures only in subparagraph (C), one might argue that it requires only a numerical comparison of California and Federal standards for a determination of their relative protectiveness. Some enforcement procedures, however, could conceivably cause the California standards to be less protective, in the aggregate, then the applicable Federal standards. The spirit of section 209(b)(1) and its legislative history indicate that, in such cases, California should make, and I should review under section 209(b)(1)(A), a determination that the California standards are at least as protective, in the aggregate, when coupled with the new enforcement procedures, as the applicable Federal standards. See H.R. Rep. No. 95-294, 95th Cong., 1st Sess. 301-302 (1977); S. Rep. No. 403, 90th Cong., 1st Sess. 33-34 (1967).

[3] 13 Cal. Admin. Code § 2056 and "California Assembly-Line Test Procedures for 1978 Model Year Passenger Cars, Light Duty Trucks and Medium Duty Vehicles" (January 25, 1977). For the 1978 model year, diesel-powered passenger cars are not subject to assembly line testing.

[4] Letter from Mr. William H. Lewis, Jr., Executive Officer, California Air Resources Board (CARB), to Administrator, Environmental Protection Agency (EPA) (February 14, 1977).

[5] 42 FR 19372 (April 13, 1977); Letter from Stanley W. Legro, [Former] Assistant Administrator for Enforcement, EPA, to Mr. William H. Lewis, Jr., Executive Officer of the CARB (April 8, 1977). California had previously been granted a waiver of Federal preemption with respect to its assembly line test requirements applicable to 1976 and subsequent model year gasoline-powered passenger cars and light duty trucks. 40 FR 23102, 23105 (May 28, 1975). EPA subsequently determined that certain minor technical and administrative amendments to the California assembly line test procedures for the 1977 model year fell within the scope of that waiver and did not require a new waiver prior to being enforced by California. 42 FR 1503, 1504 (January 7, 1977).

[6] With the exception of minor language changes and restructuring, the only changes in the 1978 model year California assembly line test procedures pertaining to gasoline-powered passenger cars and light duty trucks concerned the selection of four wheel drive vehicles and the inclusion of statutory penalties if an engine family fails a quality audit test. The two options for evaluating quality audit testing were continued for an additional year since insufficient data precluded an evaluation of the comparative benefits of the two options. Because the foregoing items involve revisions of a minor technical or administrative nature, they fall within the scope of waivers presently in effect and do not require a new waiver. See note 3, supra.

[7] 13 Cal. Admin. Code § 2100 et seq. and "California New Motor Vehicle Compliance Test Procedures" (June 24, 1976). These procedures do not apply to diesel-powered passenger cars until the 1980 model year.

[8] "California New Motor Vehicle Compliance Test Procedures" 1-3 (June 24, 1976).

[9] Letter from Mr. William H. Lewis, Jr., Executive Officer, CARB, to Mr. Russell Train, [Former] Administrator, EPA (July 19, 1976).

[10] 42 FR 19372 (April 13, 1977); Letter from Stanley W. Legro, [Former] Assistant Administrator for Enforcement, EPA, to Mr. William H. Lewis, Jr., Executive Officer,

to revise these procedures as they apply to motorcycles and asked the

I am currently considering waiver requests for exhaust emission standards applicable to 1979 and subsequent

quired to make any additional public health and welfare determinations in conjunction with these waiver re-

of available technology usually focuses on the ability to meet a standard by controlling emissions. General Motors'

With regard to compliance testing, Ford objected to the possibility that 1978 medium duty vehicles, which

Lastly, in the absence of lead time or technology objections to California's inspection program, I cannot find that

to revise these procedures as they apply to motorcycles and asked the Environmental Protection Agency (EPA) to exclude motorcycles from the compliance testing and inspection waiver request.[11]

Pursuant to notice published in the FEDERAL REGISTER,[12] a public hearing was held on May 16, 1977, to consider these waiver requests. Following the hearing, in response to concerns about the scope of the new motor vehicle inspection program,[13] the CARB amended its regulations to limit the actual inspection to a check for the presence of specified emissions related components and for the accuracy of certain adjustments, parts numbers and labels.[14] Also, after the May 16, 1977 public hearing, the CARB notified the EPA of its intention to exclude heavy duty vehicles and engines from its compliance testing program.[15]

Thus, despite the use of the broad term "motor vehicles" in 13 C.A.C. § 2100 et seq., the scope of the compliance testing and inspection waiver request had been limited to the following items:

(1) Compliance testing for 1978 and subsequent model year medium duty vehicles and diesel-powered light duty trucks,

(2) Compliance testing for 1979 model year gasoline-powered passenger cars and light duty trucks and for 1980 and subsequent model year passenger cars and gasoline-powered light duty trucks,

(3) Inspection procedures for the vehicle classes in items (1) and (2), and

(4) Inspection procedures for 1978 and subsequent model year heavy duty vehicles and engines.

Continued

CARB (April 8, 1977). I determined that the compliance testing and inspection of 1977 and 1978 model year gasoline-powered passenger cars and light duty trucks fall within the scope of the waiver of Federal preemption pertaining to assembly line test requirements applicable to 1976 and subsequent model year gasoline-powered passenger cars and light duty trucks. See 40 FR 23102, 23105 (May 28, 1975).

[11] Mailgram from Kingsely Macomber, Chief Counsel for the CARB, to Benjamin Jackson [Director], Mobile Source Enforcement Division, EPA (May 2, 1977).

[12] 42 FR 19372 (April 13, 1977).

[13] Transcript of Public Hearing on California Waiver Request 28-35, 50-52, 63-64 (May 16-20, 1977) [hereinafter "Tr."].

[14] Amendments to 13 Cal. Admin. Code § 2101(d) (June 30, 1977). I have previously determined that these amendments fall within the scope of this waiver request, and/or within the scope of waivers currently in effect, and therefore do not require further opportunity for public hearing. 42 FR 36009 (July 13, 1977); Letter from Norman D. Shutler, Deputy Assistant Administrator for Mobile Source and Noise Enforcement, EPA, to Mr. William H. Lewis, Jr., Executive Officer, CARB (July 7, 1977).

[15] Letter from Mr. William H. Lewis, Jr., Executive Officer, CARB, to Douglas, Costle, Administrator, EPA (July 6, 1977).

I am currently considering waiver requests for exhaust emission standards applicable to 1979 and subsequent model year passenger cars and to 1983 and subsequent model year light duty trucks and medium duty vehicles. Accordingly, the waiver request with regard to compliance testing and inspection for these classes of motor vehicles will be considered in connection with the underlying standards.

Prior to my acting on the assembly line testing and the compliance testing and inspection waiver requests, Congress enacted the Clean Air Act Amendments of 1977 (hereinafter "the Amendments").[16] EPA determined that the Amendments applied to the consideration of each of the foregoing waiver requests and held a public hearing on October 13, 1977.[17]

III. DISCUSSION

Public Health and Welfare. When California requests a waiver of Federal preemption for enforcement procedures designed to assure compliance with standards for which a waiver of Federal preemption is currently in effect, I must grant the waiver unless the public record of the proceedings before me contains plausible evidence that the adoption of the enforcement procedures may cause the underlying standards to be less protective, in the aggregate, than the applicable Federal standards. In this latter event, section 209(b)(1) of the Act would require California to have made a positive public health and welfare determination. If it had done so, I would be able to deny the waiver only if the record contained clear and compelling evidence that California's determination was arbitrary and capricious.

All exhaust emission standards to be enforced by the enforcement procedures under consideration in this decision have received waivers of Federal preemption which are still in effect.[18] The public record contains no evidence that these procedures reduce the protectiveness of these standards. Accordingly, California was not required to make any additional public health and welfare determinations in conjunction with these waiver requests. And, I find no basis for denying the waivers on this issue.

Consistency. Under section 209(b)(1)(C) of the Act, I also must deny a California waiver request if I find that California's "accompanying enforcement procedures are not consistent with section 202(a)" of the Act. For the purpose of clarity, I will address each enforcement procedure separately.

With regard to assembly line testing, all lead time concerns raised by the manufacturers only apply to medium duty vehicles and have been resolved by the CARB's agreement, reiterated at the hearing, to limit assembly line testing for enforcement purposes to those 1978 medium duty vehicle configurations selected for certification testing.[19] For the remaining medium duty vehicle configurations, the CARB will only use assembly line test data for informational, rather than for enforcement, purposes.[20] Under these circumstances, I cannot find that there is unavailable to the manufacturers sufficient lead time to permit California to use assembly line testing for enforcement purposes.

Turning to the questions of available technology, General Motors contended that problems existed in measuring hydrocarbon emissions from diesel-powered medium duty vehicles and light duty trucks under each of the two types of tests performed in the assembly line test program.[21] The issue of available technology usually focuses on the ability to meet a standard by controlling emissions. General Motors' objection herein, concerning variabilities in making meaningful hydrocarbon measurements, is only of secondary concern. In any case, based on the following discussion, I find that General Motors' contentions have been resolved.

With regard to quality audit testing, General Motors argued that uncertainties in diesel hydrocarbon measurements under the certification test procedures justified using the quality audit data for these diesel-powered motor vehicles for informational purposes only during the 1978 model year.[22] However, recent improvements in the heated hydrocarbon sampling system have considerably reduced the variability in diesel hydrocarbon measurement to the extent that the variability is less than that commonly observed in gasoline engine emission measurement.[23] These improvements have been communicated to the manufacturers to aid in improving correlation in their laboratories.[24] Thus, the degree of certainty in diesel hydrocarbon measurement which is needed for certification should also be attainable by the manufacturers while performing quality audit testing.

Second, GM contends that nondispersive infrared (NDIR) analyzers with unheated sample lines, presently used in idle test gasoline hydrocarbon measurement, do not yield meaningful hydrocarbon measurements for diesel engines.[25] GM felt this tendency might lead to California initiating enforcement proceedings when the vehicles in question did not in fact exceed the applicable hydrocarbon standard. However, current NDIR diesel hydrocarbon measurements tend to indicate a lesser hydrocarbon concentration than is actually present or than would be shown by a more sophisticated flame ionization detector, especially when using a heated sampling system.[26] Thus, General Motor's concern is unfounded.

With regard to compliance testing, Ford objected to the possibility that 1978 medium duty vehicles, which were not tested during certification or on the assembly line, would be subjected to compliance testing.[27] Two statements made on the hearing record[28] by the CARB, and acknowledged by Ford,[29] resolve this matter. First, the CARB agreed to restrict compliance testing of 1978 model year medium duty vehicles to those configurations tested for certification.[30] Second, the California New Vehicle Compliance Test Procedures apply only to an engine family or subgroup evaluated in accordance with the quality audit evaluation procedure used during assembly line testing.[31] Thus, because these medium duty vehicle subgroups, which are not subject to certification testing, are not subject to a quality audit evaluation for enforcement purposes,[32] they are not subject to compliance testing for enforcement purposes. Therefore, the alleged lead time problems associated with the 1978 medium duty vehicle subgroups not subject to certification or assembly line testing do not present an issue herein.

GM contended that the statistical possibility of an entire engine family failing a compliance test as a result of the CARB's authority to compliance test an engine family subgroup created a consistency problem.[33] However, such an argument, pertaining to a statistical consistency between California's certification and enforcement testing programs, is not germane to the consistency issue as I have interpreted it in prior decisions as GM failed to demonstrate a conflict between California and Federal test procedures.[34] Therefore, I cannot find California's compliance testing program to be inconsistent with section 202(a) of the Act.

Lastly, in the absence of lead time or technology objections to California's inspection program, I cannot find that it is inconsistent with section 202(a) of the Act.

Objections to granting the waivers. Initially, General Motors contended the inspection procedures included unspecified broad inspection authority, including the right to conduct steady state emission testing.[35] However, the CARB's subsequent comments at the hearing, incorporated in California's June 30, 1977, amendments, clarified the nature of the inspection procedures and allayed General Motors' concern.[36]

Ford contended that EPA must take into consideration the possibility of other States adopting assembly line testing under section 177 of the Act.[37] I cannot accept this contention because the assembly-line waiver request herein does not extend to assembly line testing for model years with respect to which section 177 would permit States other than California to adopt California standards. In any event, I have previously held that section 209(b) of the Act sets forth the only grounds on which I can deny a waiver request. The possibility of other states acting under section 177 is not one of those grounds.[38]

IV. FINDINGS AND DECISION

Having given due consideration to the record of the public hearings, all material submitted for the record, and other relevant information, I have determined that I cannot make the findings required for a denial of a waiver under section 209(b)(1) of the Act, and therefore, I hereby waive application of section 209(a) of the Act to the State of California with respect to the following enforcement procedures:

(1) Assembly line test procedures set forth in section 2056 of title 13 of the California Administrative Code adopted January 25, 1977, and in "California Assembly Line Test Procedures for 1978 Model Year Passenger Cars, Light Duty Trucks and Medium Duty Vehicles," adopted January 25, 1977, for 1978 model year medium duty vehicles and diesel-powered light duty trucks,

(2) California's compliance testing program under section 2100 et seq. of

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[16] Pub. L. 95-95, 91 Stat. 685 (August 7, 1977).

[17] 42 FR 45942, 45943 (September 13, 1977).

[18] See 42 FR 1503 (January 7, 1977) pertaining to 1978 model year diesel-powered light duty trucks; 42 FR 2337 (January 11, 1977) pertaining to 1978 model year medium duty vehicles; 43 FR 1829 (January 12, 1978) pertaining to 1979 through 1982 model year light duty trucks and medium duty vehicles; Letter from Stanley W. Legro, [Former] Assistant Administrator for Enforcement, EPA, to Mr. William H. Lewis, Jr., Executive Officer, CARB (October 15, 1975) pertaining to 1978 model year heavy duty vehicles and engines; 42 FR 31639 (June 22, 1977) pertaining to 1979 model year heavy duty motor vehicles and engines; and 42 FR 31637 (June 22, 1977) pertaining to 1980 and subsequent model year heavy duty motor vehicles and engines.

[19] Tr. 21-22. Under section 7 of the California exhaust emission standards and test procedures for 1978 model year medium duty vehicles, the only medium duty vehicles actually tested for certification are those prototypes projected to have the highest sales volume. This limitation recognized the manufacturers' contention that inadequate lead time prevented certification testing for each medium duty vehicle engine family. See CARB Staff Report 77-12-2 at 5 (May 26, 1977).

[20] Tr. 22. A change in the selection procedures for medium duty vehicles, brought to my attention after the public hearing, allows random selection as opposed to continuous or stratification selection, of the quality audit test data vehicles as long as 65 percent of the chosen vehicles are from certification configurations. *See* "Notice from the CARB to all Light and Medium Duty Manufacturers" (May 27, 1977). I have previously determined that this change is of an administrative nature and falls within the scope of the waiver request under consideration herein. 42 FR 36009 (July 13, 1977).

[21] See generally Tr. 36-47; Letter from T. M. Fisher, Director, Automotive Emission Control for General Motors to Benjamin R. Jackson, Director, Mobile Source Enforcement Division, EPA, 4-6 (June 17, 1977) [hereinafter "GM Submission"]. General Motors is the only manufacturer of diesel-powered light duty trucks and diesel-powered medium duty vehicles. Tr. 22.

[22] Tr. 37; GM Submission 4. General Motors contended that problems with heating of the continuous hydrocarbon sample line and with the filter placed in the line to remove particulate matter from the exhaust sample led to results in its testing laboratories which failed to correlate with the results obtained in EPA laboratories. See Tr. 37, 39-44, 46-47; GM Submission 4-6.

[23] Memorandum on Light and Medium Duty Diesel Hydrocarbon Measurement from Charles Gray, Chief, Standards Development and Support Branch, EPA, to James McNab III, Mobile Source Enforcement Division, EPA, 2-3 (June 30, 1977) [hereinafter "Technical Memo"].

[24] Id.

[25] Tr. 37-38, 44.

[26] Technical Memo 1.

[27] Tr. 62; see generally Tr. 59-62.

[28] Tr. 24, 64-66.

[29] Tr. 65-66.

[30] Tr. 24.

[31] 13 Cal. Admin. Code § 2101(b) which incorporates by reference "California New Vehicle Compliance Test Procedures" (June 24, 1976).

[32] Tr. 24, 64-66; see "California Assembly Line Test Procedures for the 1978 Model Year Passenger Cars, Light Duty Trucks and Medium Duty Vehicles," incorporated by reference in Cal. Admin. Code § 2056 (January 25, 1977).

[33] Tr. 48-50, 53-56. GM Submission 1-3. General Motors contended that a subgroup whose engine family passed the 90 percent quality audit option of assembly line testing had a probability from zero to over 60 percent of failing a compliance test. Id. Instead of viewing this as an unfair penalty as General Motors did, I feel this argument supports the need for a compliance test to insure the accuracy of assembly line testing.

[34] 43 FR 1829, 1830 (January 12, 1978).

[35] Tr. 50-52; GM Submission 1.

[36] GM Submission 1.

[37] Statement of Ford Motor Co.: Effect of section 177 of the Clean Air Act (Act), as amended, on Proceedings Conducted Pursuant to section 209(b) of the Act (October 13, 1977); Transcript of Public hearing on California Waiver Request 144-148 (October 13, 1977).

[38] 43 FR 1829, 1833 (January 12, 1978).

title 13 of the California Administrative Code and "California New Motor Vehicle Compliance Test Procedures," adopted June 24, 1976, for 1978 through 1982 model year medium duty vehicles and diesel-powered light duty trucks and for 1979 through 1982 model year gasoline-powered light duty trucks, and

(3) California's new motor vehicle inspection program under section 2100 et seq. of title 13 of the California Administrative Code adopted June 24, 1976, as amended June 30, 1977, for 1978 through 1982 model year medium duty vehicles and diesel-powered light duty trucks, for 1979 through 1982 model year gasoline-powered light duty trucks and for 1978 and subsequent model year heavy duty motor vehicles and engines.

A copy of the above standards and procedures, as well as the record of the hearing and those documents used in arriving at this decision, is available for public inspection during normal working hours (8 a.m. to 4:30 p.m.) at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2933 (EPA Library), 401 M Street SW., Washington, D.C. 20460. Copies of the standards and test procedures are also available upon request from the California Air Resources Board, 1102 Q Street, P.O. Box 2815, Sacramento, Calif. 95812.

Dated: February 28, 1978.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc. 78-5822 Filed 3-6-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 78-122; Transmittal No. 4300]

RCA GLOBAL COMMUNICATIONS

Memorandum Opinion and Order

Adopted: February 17, 1978.

Released: February 27, 1978.

In the Matter of RCA Global Communications, Inc., proposed revisions to Tariff F.C.C. No. 58 establishing charges for certain leased channel services between San Francisco, Calif., and Honolulu, Hawaii.

1. Before the Commission for consideration is RCA Global Communications, Inc. (Globcom) Transmittal No. 4300, filed December 14, 1977, containing proposed tariff revisions reducing the monthly rate for Alternate Voce/Data (AVD) leased channel service between San Francisco, Calif., and Honolulu, Hawaii, from $2,920 to $2,735.[1] The proposed reduced rates are the same as those filed by Western Union International, Inc. (WUI) which were to become effective January 23, 1978. Globcom's proposed rates are scheduled to become effective February 23, 1978.

2. By Memorandum Opinion and Order, FCC 78-37, released January 27, 1978, we suspended the WUI proposed rated reduction for the maximum statutory period for the reasons set forth in the order. A review of the Globcom transmittal reveals that the concerns we noted regarding the WUI filing also exist in Globcom's filing. Moreover, the deficiency between Globcom's own estimated revenue requirement and the proposed rate is greater than that identified by WUI. Thus, it is clear, the Commission cannot conclude that the proposed rate is reasonable as contemplated by the Communications Act, 47 U.S.C. 201. Although legitimate questions exist as to the reasonableness of the rate, we do not believe that the Globcom filing warrants rejection. However, we believe that this filing should be treated the same as the WUI filing which it proposes to match.[2]

3. *Accordingly, it is ordered,* That pursuant to section 204 of the Communications Act of 1934, as amended, the tariff revisions filed by RCA Global Communications, Inc., in Transmittal No. 4300, are hereby suspended until July 23, 1978;

4. *It is further ordered,* That by separate order, an investigation into the lawfulness of the tariff revisions filed by RCA Global Communications, Inc., in Transmittal No. 4300 including any revisions thereof shall be instituted;

5. *It is further ordered,* That the Secretary shall send a copy of this order by certified mail, return receipt requested, to RCA Global Communications, Inc., and shall cause a copy to be published in the FEDERAL REGISTER.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-5833 Filed 3-6-78; 8:45 am]

[6712-01]

[FCC 78-37; Transmittal No. 1192]

WESTERN UNION INTERNATIONAL, INC.

Memorandum Opinion and Order

Adopted: January 19, 1978.

Released: January 27, 1978.

In the matter of Western Union International, Inc., proposed revisions to Tariff FCC No. 4 establishing charges for certain leased channel services between San Francisco, Calif., and Honolulu, Hawaii.

1. Before the Commission for consideration are: (a) Tariff Transmittal No. 1192 of Western Union International, Inc. (WUI); (b) a Petition to Reject, filed November 9, 1977, by Hawaiian Telephone Co. (HTC); (c) Comments, filed November 9, 1977, by American Telephone & Telegraph Co. (AT&T); (d) an Opposition, filed December 9, 1977, by WUI; and (e) Comments, filed December 9, 1977, by WUI. Transmittal No. 1192 contains proposed tariff revisions reducing the monthly per channel rate for Alternate Voice/Data (AVD) leased channel service between San Francisco, Calif. and Honolulu, Hawaii from $2,965 to $2,735. The proposed tariff revisions are scheduled to become effective on January 20, 1978.

2. In support of its Petition to Reject HTC refers to our Order on WUI Transmittal No. 1142 released on September 15, 1977, which permitted the existing rate to become effective, but which stated that the reasonableness of the rate, including the rate of return, would be set for investigation by separate order.[1] HTC argues that since we were unable to determine whether the existing rate was just and reasonable and made the rate subject to hearing, that the present proposal is a challenge to the Commission's regulatory authority and the orderly dispatch of the Commission's business. HTC asserts that the preservation of the Commission's process is, in and of itself, sufficient reason for rejection of the present proposal. HTC also argues that WUI's cost support data fails to show actual costs it will incur for maintenance and operations, utilizes a fictitious 100 percent fill factor, and that modifications to the cost support data submitted to justify the existing rate are not supported. HTC concludes that such deficiencies demonstrate that WUI ratemaking standards are mere mathematical exercises which should be rejected.

3. In its comments, AT&T also refers to that same Order, "Western Union International", supra, which calls for an investigation of the current rate. AT&T suggests, that if the proposed rate becomes effective, the rate be included in the consolidated hearing we have called for concerning the recent reductions in the AVD rate between Hawaii and the Mainland.[2] AT&T asserts that WUI's use of the General

[1] The current rate of $2,920 is presently subject to investigation as to its reasonableness. "RCA Global Communications", FCC 77-749, released November 2, 1977.

[2] See paragraphs 6 and 7 of our January 27, 1978, order, supra, for a broader discussion of the basis of our action.

[1] "Western Union International," FCC 77-621, released September 15, 1977. Transmittal No. 1142 contained tariff revisions implementing a rate reduction from $3,770 to $2,965 per month.

[2] ITT World Communications, FCC 77-671, released October 4, 1977; RCA Global Communications, FCC 77-749, released November 2, 1977.

Lease Agreement (GLA) rates for entrance facilities rather than the tariff rates filed by AT&T for such facilities is not supportable. In the period since the previous filing, AT&T continues, the Commission has denied petitions for reconsideration of its decision in Docket No. 20452[3] and the Court has denied a stay of that decision. Thus, the tariffs filed as a result of that Docket, which include higher rates for entrance facilities than the GLA rates, should have been used by WUI for cost justifications. AT&T also points out that the proposed rate is less than the "Indicated Monthly Revenue Requirement," a deficiency not present in WUI's previous filing. AT&T asserts that the concerns it raised as to the existing rate, as well as the additional factors it has pointed out concerning the instant proposal, warrant Commission action. As a final note, AT&T points out that in our November 2, 1977, action on Hawaii-Mainland AVD rate reductions we stated that in the event WUI and ITT Worldcom file to match RCA Globcom's proposed rate of $2,920, the consolidated hearing would include the lower rate rather than the then effective rates of those carriers. The instant proposal is substantially lower than the rate which the Commission stated it would permit to be matched, thus, AT&T concludes, if it becomes effective it must be included in any resulting consolidated hearing.

4. WUI argues that the proposed rate is compensatory, fully justified, and should be permitted to become effective. WUI asserts that HTC's arguments concerning the cost support for the rate were rejected by the Commission when the existing rate was permitted to become effective. In addition, WUI asserts, that since 94 percent of its total capacity in voice-grade circuits between the Mainland and Hawaii will be activated regardless of actual circuit destination, the use of a 100 percent fill factor is proper. As to the challenge to its projected maintenance and operations expenses, WUI states that the new figure represents an average employing both cable and satellite facilities. The reduction from WUI's earlier filing is merely the result of five fewer circuits in the domestic satellite system. WUI asserts that it has employed the most recent cost data available and can logically support its rate-making computations. Thus, WUI concludes, HTC's criticism appears to be wholly invalid. WUI asserts that its use of the GLA rates for entrance facilities is proper and reflects the current status of the proposed AT&T tariff rates. WUI states that AT&T, at the request of the United States Court of Appeals for the Second Circuit, has stayed the effectiveness of the tariff rates. Moreover, WUI asserts, the AT&T tariff is illegal and the increase of 386 percent over the GLA rates will not be upheld by the Court. Therefore, WUI concludes, it is entitled to use the GLA rates rather than the tariff charges to develop the instant proposal.[4] As a final point WUI argues that the proposed rate is only $9 per month below its revenue requirement and that such a miniscule deficiency highlights the paucity of AT&T's arguments. In conclusion WUI asserts that the proposed rate is fully compensatory and should be permitted to go into effect.

5. The instant filing raises substantial questions as to whether the proposed tariff revisions are lawful within the meaning of section 201 of the Communications Act, 47 U.S.C. 201. Initially, we note that in our order dealing with WUI's present rate, we indicated that while the support material submitted could be interpreted as showing that the rate may cover WUI's estimated costs we were unable to determine the reasonableness of the rate. While we did not suspend that rate, we stated that an investigation of the rate including the rate of return for the service, would be set by separate order. We did not, as asserted by WUI, accept the carrier's ratemaking assumptions and principles. In fact, our prior order expressed concerns which are compounded by the current proposal. WUI's claimed reduction in maintenance and operations expenses based on its claimed reduction of five circuits in the domestic satellite system without further explanation appears to support HTC's argument that the proposed rate is not properly supported. Moreover, WUI's assertion that the proposed rate reduction will have no impact on other services appears incongruous. A rate that does not recover a carrier's claimed revenue requirement, as WUI concedes to be the case with the proposed rate, cannot be considered not to affect other services. While this factor alone may not at that time make IRC rates unreasonable it does raise a substantial question as to whether the rate is "reasonable" as contemplated by Section 201 of the Communications Act.

6. Assuming arguendo that all other asumptions made by WUI are supportable, the use of the GLA rates alone supports the action we take herein. WUI's conclusory assertions that the tariff rates proposed by AT&T are illegal and will not be upheld by the Court are without support. On December 21, 1977, the United States Court of Appeals for the Second Circuit rejected the arguments of the IRCs and refused to overturn our decision in Docket No. 20452.[5] Neither the Court nor this Commission has given support to the proposition of WUI that the tariff rates would not become effective. Since the entrance facility tariff rates are higher than the GLA rates and are now effective, the deficiency in WUI's proposed rate and its stated revenue requirement will be more than the amount claimed by WUI.

7. We have also considered the petitioners' arguments for rejection. As noted, HTC contends that the integrity of Commission regulatory authority depends on our precluding, via tariff rejection, a WUI downward revision of the existing rate which we indicated in our prior order would be set for investigation. Western Union International, supra. Since we fully intend to institute the investigation referred to therein, enlarged to the extent it will examine both the existing and revised rate levels as well as other issues, we fail to see how the Commission's process will be disturbed by our decision that rejection is not proper in this case. In dismissing this argument, we note that our prior order establishing an investigation neither suspended the effectiveness of the existing tariff nor made any findings of lawfulness or unlawfulness with respect to it. HTC's additional allegations for rejection go to the nature of the cost justification provided in the WUI filing. Although legitimate questions have been raised concerning WUI's use of 100% full factor, its maintenance and operations expense projection, and the adequacy of support for certain cost data modifications, we believe that on an overall basis and in light of existing statutory and decisional requirements WUI's filing does not warrant rejection.[6] Finally, we agree with AT&T that relevant cost justification for hearing purposes with respect to this filing must account for the now effective AT&T entrance facility tariff rates rather than the GLA rate.

8. Thus, in light of our expressed concerns relative to the existing rates and the additional questions raised by this filing, the Commission cannot conclude that the rate is reasonable as

[3] Interconnection Facilities Provided to the International Record Carriers, FCC 77-694, released October 25, 1977, aff'd sub nom *WUI et. al. v. FCC*, Case Nos. 564, 565, and 566, opinion released December 21, 1977 (2nd Cir.).

[4] In its December 9, 1977, comments WUI states that, at the request of the Court during oral argument, AT&T agreed to maintain the GLA rates until the Court renders a decision on the merits of the IRCs' appeal to Docket No. 20452.

[5] The United States Supreme Court on January 9, 1978, denied the request of WUI for a Stay of Mandate of the Court of Appeals ruling.

[6] Unlike our rejection of AT&T's DDS filing, Transmittal No. 12790, the material filed in support of this tariff is not subject to the requirements of a Commission Decision issued after a prior hearing.

contemplated by the Communications Act. While as set forth above rejection is not proper in this case, we find that

[6715-01]

FEDERAL ELECTION COMMISSION

Greenup National Bank, Greenup, Ill. The factors that are considered in acting on the application are set forth

Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank

Number, date, and subject
F-340—June 10, 1975—Delegation of authority to the Secretary of Defense. Regula-

contemplated by the Communications Act. While as set forth above rejection is not proper in this case, we find that an investigation is necessary to determine the lawfulness of the filing. We shall also suspend the proposed revisions for the maximum statutory period. We believe such action best protects the public interest. Unlike a proposed increase where a shorter suspension and imposition of an accounting order would be appropriate, an accounting order on a rate reduction would not be appropriate. This is so since a carrier cannot collect any deficiency from its customers who pay the legal tariff rate and a refund could not be ordered if the rate is found to be unreasonably low. In the instant case we can reasonably determine that a deficiency exists between the rate and the service's revenue requirement. Unless the carrier elects to make up this deficiency from stockholders' equity, it seems obvious that the service may have to be subsidized by some other service, e.g., Telex or TWX. WUI has not shown how the deficiency will be satisfied. By suspending the rate for the maximum statutory period we delay the possibility of this subsidization for a least five months. Moreover, by delaying the effective date, we may avoid the same problems of possible cross-subsidization among services and revenue deficiencies which arise in the case of WUI's filing with respect to any carriers filing matching rates out of competitive necessity.

9. *Accordingly, it is ordered,* That pursuant to section 204 of the Communications Act of 1934, as amended, the tariff revisions contained by Western Union International, Inc., in Transmittal No. 1192, are hereby suspended until June 20, 1978;

10. *It is further ordered,* That by separate order, an investigation into the lawfulness of the tariff revisions filed by Western Union International, Inc. in Transmittal No. 1192 including any revisions thereof shall be instituted;

11. *It is further ordered,* That the Petition to Reject, filed November 9, 1977, by Hawaiian Telephone Co. is denied;

12. *It is further ordered,* That the Secretary shall send a copy of this order by certified mail, return receipt requested, to Western Union International, Inc., and shall cause a copy to be published in the FEDERAL REGISTER.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-5835 Filed 3-6-78; 8:45 am]

[6715-01]

FEDERAL ELECTION COMMISSION

[Notice 1978-2]

FEDERAL ADVISORY COMMITTEES

Announcement of Annual Comprehensive Review

AGENCY: Federal Election Commission.

ACTION: Notice.

SUMMARY: This announces a review of the Clearinghouse Advisory Panel of the Federal Election Commission and invites the public to comment on the need for the Panel, the balance of its membership, and openness of Panel proceedings.

DATES: Comments due by March 13, 1978.

ADDRESS: Mr. Orlando Potter, Staff Director, Federal Election Commission, 1325 K Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Dr. Gary Greenhalgh, Director, Clearinghouse, 202-523-4183 (address same as above).

SUPPLEMENTARY INFORMATION: In accordance with established procedures, the Federal Election Commission is now conducting its annual, zero-base review on the need for the Clearinghouse Advisory Panel, and how the Panel's goals can best be achieved. In addition, the public is asked to comment on whether the Panel's membership represents a balance in points of view and to recommend changes in membership if needed. Finally, comment is welcome on the Panel's record of encouraging public participation and any changes needed.

The President has set April 1, 1978, as the date for submission of recommendations by the Commission. This deadline requires that comments be received by March 13, 1978, to be included in this review. Comments received after that date will be incorporated in the Commission's continuing review of the utility and the operation of the Clearinghouse Advisory Panel.

Dated: March 2, 1978.

THOMAS E. HARRIS,
Chairman for the Federal Election Commission.

[FR Doc. 78-5958 Filed 3-6-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

FIRST CITY BANCORPORATION OF TEXAS, INC.

Acquisition of Bank

First City Bancorporation of Texas, Inc., Houston, Tex., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent (less director's qualifying shares) of the voting shares of Lewisville State Bank, Lewisville, Tex. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than March 24, 1978.

Board of Governors of the Federal Reserve System, February 28, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-5877 Filed 3-6-78; 8:45 am]

[6210-01]

F & M NATIONAL CORP.

Acquisition of Bank

F & M National Corp., Winchester, Va., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Apple Capital Bank, the successor by merger to the Stonewall Jackson Bank & Trust Co., Mount Jackson, Va. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the applicaion should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than March 23, 1978.

Board of Governors of the Federal Reserve System, February 28, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-5878 Filed 3-6-78; 8:45 am]

[6210-01]

GREENUP NATIONAL CORP.

Formation of Bank Holding Company

Greenup National Corp., Collinsville, Ill., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 93.6 percent or more of the voting shares (less directors' qualifying shares) of the Greenup National Bank, Greenup, Ill. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 28, 1978.

Board of Governors of the Federal Reserve System, February 28, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-5879 Filed 3-6-78; 8:45 am]

[6210-01]

OAKLAND FINANCIAL SERVICES, INC.

Formation of Bank Holding Company

Oakland Financial Services, Inc., Oakland, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Citizens State Bank, Oakland, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than March 27, 1978.

Board of Governors of the Federal Reserve System, February 28, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-5880 Filed 3-6-78; 8:45 am]

[6210-01]

TEXAS COMMERCE BANCSHARES, INC.

Acquisition of Bank

Texas Commerce Bancshares, Inc., Houston, Tex., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of Richmond Commerce Bank, Houston, Tex. (a de novo bank). The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than March 13, 1978.

Board of Governors of the Federal Reserve System, February 28, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-5881 Filed 3-6-78; 8:45 am]

[6210-01]

UNION BANCGROUP & CO.

Formation of Bank Holding Company

Union Bancgroup & Co., St. Louis, Mo., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1843(a)(1)) to become a bank holding company by acquiring 81 percent of the voting shares of the First National Bank of Cobden, Cobden, Ill. The factors that are considered in action on the application are set forth in section 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than March 23, 1978.

Board of Governors of the Federal Reserve System, February 28, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-5882 Filed; 3-6-78; 8:45 am]

[6820-25]

GENERAL SERVICES ADMINISTRATION

[Temporary Regulation F-463]

SECRETARIES OF DEFENSE AND TREASURY

Revocation of Delegations of Authority

Subject: Revocation of delegations of authority.

1. *Purpose.* This regulation revokes certain delegations of authority granted to other agencies to represent the consumer interests of the executive agencies of the Federal Government in communications proceedings which have been terminated.

2. *Effective date.* This regulation is effective immediately.

3. *Expiration date.* This regulation expires on February 28, 1978.

4. *Revocation.* This revocation identifies those delegations which are no longer in force due to completion of the proceedings for which they were issued. Accordingly, the following FPMR temporary regulations are hereby revoked:

Number, date, and subject
F-340—June 10, 1975—Delegation of authority to the Secretary of Defense—Regulatory Proceedings.
F-398—August 19, 1976—Delegation of authority to the Secretary of Defense—Regulatory Proceedings.
F-407—December 30, 1976—Delegation of authority to the Secretary of the Treasury—Regulatory Proceedings.

Dated: February 27, 1978.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 78-5903 Filed 3-6-78; 8:45 am]

[6820-29]

NATIONAL HEALTH RESOURCES ADVISORY COMMITTEE

Meeting

Notice is hereby given, pursuant to the Federal Advisory Committee Act, Pub. L. 92-463, that the next meeting of the Presidentially-appointed National Health Resources Advisory Committee will be held, in cooperation with the University of Texas Health Science Center at Houston, on May 25-26, 1978, from 8 a.m. to 5 p.m. each day at the Shamrock Hilton Hotel, Houston, Tex.

The meeting will be an overview of the status of emergency health preparedness education and training activities in the United States. It will focus on the role of Federal, State, and local governments, and the private sector, and develop recommendations concerning the proper scope and nature of their future emergency health preparedness education and training fuctions.

The meeting will be open to the public and should be of special interest to educators, emergency planners, government officials, health and medical associations and institutions, and the media, as well as the general public.

The meeting will be structured to provide maximum participation by attendees with an opening plenary session featuring keynote speakers on national and international civil emergency preparedness, followed by workshops on the health education and training aspects, and closing with workshop reports.

In order to assure adequate seating arrangements, persons planning to attend are asked to notify Fredrick J. Haase, Staff Director, telephone 202-566-0517 or 566-0763, as soon as possible.

Dated: February 24, 1978.

JOSEPH A. MITCHELL,
Director, Federal Preparedness Agency, General Services Administration.

[FR Doc. 78-5904 Filed 3-6-78; 8:45 am]

[6820-34]

ADVISORY COMMITTEE FOR THE PRESIDENT'S

will be held at project headquarters, 1815 North Lynn Street, Rosslyn, Va.

The Committee will review and

[4110-03]

ONCOLOGIC DRUGS ADVISORY COMMITTEE

tee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration (FDA) announced in a notice pub-

[4110-84]

Health Services Administration

Application kits, including all necessary forms, instructions, and informa-

tion relating to the grant application,

[6820-34]

ADVISORY COMMITTEE FOR THE PRESIDENT'S ADMINISTRATIVE SERVICES REORGANIZATION PROJECT

Establishment of Advisory Committee

Establishment of Advisory Committee. This notice is published in accordance with the provisions of section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) and advises of the establishment of an Advisory committee for review and recommendation of work processes relating to the President's Administrative Services Reorganization Project. The Administrator of General Services has determined that this Advisory Committee is in the public interest.

Designation. Advisory Committee for the President's Administrative Service Reorganization Project.

Purposes. To provide broader perspective and insight, utilizing private expertise, for imporving delivery of administrative services within the federal establishment.

Dated: March 3, 1978.

JAY SOLOMAN,
Administrator of General Services.

[FR Doc. 78-6158 Filed 6-11-78; 11:17 am]

[6820-34]

ADVISORY COMMITTEE FOR THE PRESIDENT'S ADMINISTRATIVE SERVICES REORGANIZATION PROJECT

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the convening of the Advisory Committee for the President's Administrative Services Reorganization Project from 9 a.m. to 3:30 p.m. on March 31, 1978. The meeting will be held at project headquarters, 1815 North Lynn Street, Rosslyn, Va.

The Committee will review and make recommendations relating to the delivery of Administrative Services within the federal establishment. This meeting will be open to the public.

Dated: March 3, 1978.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 78-6159 Filed 3-6-78; 11:17 am]

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

CARDIOVASCULAR AND RENAL ADVISORY COMMITTEE

Meeting Change

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Cardiovascular and Renal Advisory Committee meeting scheduled for March 16 and 17, 1978, with a closed session scheduled for March 16 from 10 a.m. to 5 p.m., has been changed to be closed only from 11 a.m. to 1 p.m. Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration (FDA) announced in the FEDERAL REGISTER of February 17, 1978 (43 FR 7027), meetings of FDA public advisory committees and other required information in accordance with provisions set forth in section 10(a) (1) and (2) of the act. The changed meeting notice should read as follows:

Committee name	Date, time, and place	Type of meeting and contact person
Cardiovascular and Renal Advisory Committee.	Mar. 16 and 17, 9 a.m., Conference Room F, Parklawn Building, 5600 Fishers Lane, Rockville, Md.	Open public hearing Mar. 16, 9 a.m. to 10 a.m.; open committee discussion Mar. 16, 10 a.m. to 11 a.m.; closed presentation of data/closed committee deliberations Mar. 16, 11 a.m. to 1 p.m.; open committee discussion Mar. 16, 1 p.m. to 4:30 p.m., Mar. 17, 9 a.m. to 12 m.; Joan C. Standaert, (HFD-110), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4730.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in cardiovascular and renal disorders.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of Anturane (NDA 18-111), Ciba-Geigy; Sufinpyrazone for secondary prevention of myocardial infarction; and Dobutamine (NDA 17-820).

Closed presentation of data/closed committee discussion. Presentation by sponsor on Minoxidil. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Dated: March 2, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-6042 Filed 3-6-78; 8:45 am]

[4110-03]

ONCOLOGIC DRUGS ADVISORY COMMITTEE

Meeting Cancellation

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Oncologic Drugs Advisory Committee meeting scheduled for March 30, 1978 has been canceled.

FOR FURTHER INFORMATION CONTACT:

Robert S. Young, Bureau of Drugs (HFD-150), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md 20857, 301-443-5197

SUPPLEMENTARY INFORMATION:

Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App I)), the Food and Drug Administration (FDA) announced in a notice published in the FEDERAL REGISTER of February 24, 1978 (43 FR 7710), meetings of FDA public advisory committees and other required information in accordance with provisions set forth in section 10(a) (1) and (2) of the act.

Notice is hereby given that the meeting of the Oncologic Drugs Advisory Committee scheduled for March 30, 1978, has been canceled.

Dated: March 2, 1978.

WILLIAM F RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-6044 Filed 3-6-78; 8:45 am]

[4110-03]

ORAL CAVITY PANEL

Meeting Cancellation

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Oral Cavity Panel meeting scheduled for March 20 and 21, 1978, has been canceled.

FOR FURTHER INFORMATION CONTACT:

John T. McElroy, Bureau of Drugs (HFD-510), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION:

Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration (FDA) announced in a notice published in the FEDERAL REGISTER of February 17, 1978 (43 FR 7029) meetings of FDA public advisory committees and other required information in accordance with provisions set forth in section 10(a) (1) and (2) of the act.

Notice is hereby given that the meeting of the Oral Cavity Panel scheduled for March 20 and 21, 1978, has been canceled.

Dated: March 2, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-6043 Filed 3-6-78; 8:45 am]

[4110-03]

FOOD AND DRUG ADMINISTRATION

MISCELLANEOUS EXTERNAL DRUG PRODUCTS PANEL

Meeting Cancellation

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Miscellaneous External Drug Products Panel meeting scheduled for March 10 and 11, 1978, has been cancelled.

FOR FURTHER INFORMATION CONTACT:

Armond M. Welch, Bureau of Drugs (HFD-510), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration (FDA) announced in a notice published in the FEDERAL REGISTER of February 17, 1978 (43 FR 7029) meetings of FDA public advisory committees and other required information in accordance with provisions set forth in section 10(a) (1) and (2) of the act.

Notice is hereby given that the meeting of the Miscellaneous External Drug Products Panel scheduled for March 10 and 11, 1978, has been cancelled.

Dated: March 2, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-6041 Filed 3-6-78; 8:45 am]

[4110-84]

Health Services Administration

ASSISTANCE UNDER THE PUBLIC HEALTH SERVICE ACT PROJECT GRANTS FOR FAMILY PLANNING TRAINING

Announcement of Availability of Grant

The Health Services Administration announces that competitive applications are now being accepted for a training grant in fiscal year 1978 for nurse practitioner training for Region X. The grant is offered pursuant to section 1003(a), Title X, of the Public Health Service Act (42 U.S.C. 300a-1) which authorizes the Secretary of Health, Education, and Welfare to make grants to public or non-profit private entities to provide training for personnel to carry out family planning service programs described in Sections 1001 and 1002 of the Public Health Service Act (42 U.S.C. 300, 300a). The amount available for the family planning training grant under this announcement is $50,000. The area to be served is Alaska, Idaho, Oregon, and Washington.

The Secretary will make the grant to an eligible applicant to assist in the establishment and operation of a project which will promote the purposes of section 1003 of the Act, taking into account:

1. The extent to which the training program will increase the delivery of services to people, particularly low-income groups with a high percentage of unmet need for family planning services;

2. The extent to which the training program promises to fulfill the family planning services delivery needs of the area to be served, which may include among other things:

(a) Development of a capability within family planning service projects to provide pre- and in-service training to their own staffs;

(b) Improvement of the family planning services delivery skills of family planning health services personnel;

(c) Improvement in the utilization and career development of paraprofessional and paramedical manpower in family planning services; and

(d) Expansion of family planning services, particularly in rural areas, through new or improved approaches to program planning and deployment of resources.

3. The capacity of the applicant to make rapid and effective use of such assistance;

4. The administrative and management capability and competence of the applicant;

5. The competence of the project staff in relation to the services to be provided; and

6. The degree to which the project provides for the stipulated requirements as set forth in the Regulations (42 CFR 59.205).

Application kits, including all necessary forms, instructions, and information relating to the grant application, may be obtained upon written request from, and completed applications returned to:

Grants Management Branch, Bureau of Community Health Services, Health Services Administration, Room 6-49, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.

Consultation and technical assistance relative to the development of an application are available from the staff of the Office for Family Planning, Room 7-49, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.

Completed applications must be received by April 1, 1978.

Dated: February 24, 1978.

GEORGE I. LYTHCOTT,
Administrator, Health Services Administration.

[FR Doc. 78-5825 Filed 3-6-78; 8:45 am]

[4110-02]

Office of Education

DOMESTIC MINING AND MINERAL AND MINERAL FUEL CONSERVATION FELLOWSHIPS

Extension of Closing Date for Receipt of Applications

Notice is given that the March 17, 1978, deadline for filing applications by institutions of higher education for a fellowship allocation under the Domestic Mining and Mineral and Mineral Fuel Conservation Fellowships Program is extended by May 12, 1978.

Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about March 13, 1978.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

(A) *Applications sent by mail:* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.567, Washington, D.C. 20202.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than May 8, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the

Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt

[4110-02]

NATIONAL ADVISORY COUNCIL ON ADULT

public inspection at the Office of the National Advisory Council on Adult Education, Room 323, Pennsylvania

SUPPLEMENTARY INFORMATION: The National Library of Medicine proposes to offer through a contractor, a management internship program to

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a panel

REGISTER, September 29, 1977, p. 52348.

Record access procedures:

Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(B) *Hand delivered applications:* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

(C) *Program information:* The purpose of this program is to assist graduate students of exceptional ability who demonstrate a financial need in advanced study in domestic mining and mineral and mineral fuel conservation including oil, gas, coal, oil shale, and uranium. During the 1977-78 academic year, 424 one-year fellowships and 76 two-year fellowships at 52 participating institutions are being supported by a fiscal year 1977 appropriation of $4,500,000. The amount available for fiscal year 1978 is $4,500,000 and will permit a similar number of awards for both one-year and multi-year fellowships for the 1978-79 academic year. An applicant institution will apply for an allocation of a specific number of fellowships. Only one application per institution will be accepted. Students currently receiving assistance under this program who were making satisfactory progress in their courses of study will be given high priority for reaward of a fellowship for the 1978-79 fellowship year. It is expected that about half of the 500 fellows supported in 1977-78 will continue on into 1978-79.

(D) *For further information contact:* Dr. Clarence B. Lindquist, Bureau of Higher and Continuing Education, U.S. Office of Education, 7th and D Streets SW., Regional Office Building Three, Room 3060, Washington, D.C. 20202. Telephone: 202-245-2347.

(E) *Applicable regulations:* The regulations applicable to this program are the Office of Education General Provisions Regulations (45 CFR Part 100a) and the regulations for Domestic Mining and Mineral and Mineral Fuel Conservation Fellowships (45 CFR Part 196) published on August 3, 1977, in the FEDERAL REGISTER.

(20 U.S.C. 1134n-1134r.)

(Catalog of Federal Domestic Assistance Number 13.567; Domestic Mining and Mineral and Mineral Fuel Conservation Fellowship Program.)

Dated: March 1, 1978.

ERNEST L. BOYER,
Commissioner of Education.

[FR Doc. 78-5839 Filed 3-6-78; 8:45 am]

[4110-02]

NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION

Meeting

AGENCY: National Advisory Council on Adult Education.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92-463, Section 10(a)(2)).

DATES: April 5, 1978, 4 p.m. to 6:30 p.m., Executive Committee Meeting; April 6-7, 1978, 8:30 a.m. to 5 p.m.; April 8, 1978, 8:30 a.m. to 1:30 p.m.

ADDRESS: Holiday Inn, 4000 South Ocean Drive, Hollywood Beach, Fla. 33509.

FOR FURTHER INFORMATION CONTACT:

Dr. Gary A. Eyre, Executive Director, National Advisory Council on Adult Education, 425 13th Street NW., Washington, D.C. 20004, 202-376-8892.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under Section 311 of the Adult Education Act (80 Stat. 1216.20 U.S.C. 1201). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Council shall be open to the public.

The proposed agenda includes:

Educational programs for the elderly.
Committee meetings and reports.
USOE report on administration's legislative proposal.
1978 Annual Report.
Long-range committee activities.
Chairman and Executive Director's reports.

Records shall be kept of all Council proceedings, and shall be available for public inspection at the Office of the National Advisory Council on Adult Education, Room 323, Pennsylvania Building, 425 13th Street NW., Washington, D.C. 20004.

Signed at Washington, D.C., on March 1, 1978.

GARY A. EYRE,
Executive Director, National Advisory Council on Adult Education.

[FR Doc. 78-5906 Filed 3-6-78; 8:45 am]

[4410-08]

Office of the Secretary

PRIVACY ACT OF 1974

Systems of Records and Notice of Proposed Routine Uses

AGENCY: Department of Health, Education, and Welfare.

ACTION: Notification of a new system of records, Medical Library Management Intern Program, HEW/NIH/NLM, 09-25-0137.

SUMMARY: A new system of records of the National Institutes of Health is hereby published in accordance with the requirements of 5 U.S.C. 552a(e)(4). In accordance with the provisions of 5 U.S.C. 552a(e)(11), the routine uses of this additional system are set out for public comment. Interested persons are invited to submit written comments with respect to these routine uses.

DATES: The routine uses will be adopted as proposed without further notice April 6, 1978, unless comments are received on or before April 6, 1978, which would result in a contrary determination. A new system report was filed for this new system with the Director, Office of Management and Budget, the Speaker of the House, and the President of the Senate on February 3, 1978. Because of the requirement in OMB Circular A-108, however, the entire notice will not be put into effect until 60 days after this new system report filing date.

ADDRESS: Comments should be addressed to Acting Director, Fair Information Practice Staff, Department of Health, Education, and Welfare, 200 Independence Avenue SW., Washington, D.C. 20201. Comments received will be available for inspection in Room 526-E, Hubert H. Humphrey Building, at the above address.

FOR FURTHER INFORMATION CONTACT:

Robert Slevin, NIH Privacy Act Coordinator, Building 31, Room 3B07, 9000 Rockville Pike, Bethesda, Md. 20014, or call 301-496-2461.

SUPPLEMENTARY INFORMATION: The National Library of Medicine proposes to offer through a contractor, a management internship program to qualify appropriate individuals for top-level management positions in health science libraries. Since the criteria for selection are based upon personal qualifications, the maintenance of personal identifiers is the only rational method for the System of Records. The purpose of the System of Records is solely to facilitate the processing and review of applications.

The program is expected to continue for a three-year period, with three interns selected each year. The number of records in the system depends on the initiative of applicants. It is estimated that no more than 81 records will be maintained in the system at any one time. Applications for unsuccessful candidates will be destroyed after such determination is made, but in no case, will be retained for more than one year from date of final selection of successful candidates. Interns will not be employed in a federal agency during the period of internship.

Records will be retained in a locked filing cabinet in an office of the contractor. Only authorized personnel will have access to the files. Files will be managed in accordance with DHEW regulations. Authorized personnel will include the officials selected to review the applications and the project staff responsible for processing the files.

LEONARD D. SCHAEFFER,
Assistant Secretary for Management and Budget.

09-25-0137

System name:

Medical Library Management Intern Program, HEW/NIH/NLM.

Security classification:

None.

System location:

Council on Library Resources, One Dupont Circle NW., Suite 620, Washington, D.C. 20036.

Categories on individuals covered by the system:

Persons applying for admission to the Medical Library Management Intern Program.

Categories of records in the system:

Qualifications statements based on education, experience, and training; evaluations; correspondence; references; and the panel recommendations.

Authority for maintenance of the system:

42 U.S.C. 276(a)(6); 42 U.S.C. 280b(b)(1).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a panel of non-Federal employees for the purpose of evaluating the applicants. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of it components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records will be stored in file folders.

Retrievability:

By name or code number. HEW use: To determine the eligibility and desirability of applicants to the intern program. The applications will be reviewed by a panel of experts selected by the contractor.

Safeguards:

The DHEW Contractor will comply with the provisions of the Privacy Act and with Department Regulations. Data will be kept in secured areas with access limited to authorized personnel.

Retention and disposal:

File of unsuccessful applicants will be retained for not more than one year, then destroyed. Those of successful candidates may be maintained for up to three years.

System manager and address:

Project Officer, Medical Library Management Intern Program, Office of Extramural Programs, National Library of Medicine, Federal Building, 7550 Wisconsin Avenue, Bethesda, Md. 20014.

Notification procedures:

Write to System Manager. These procedures are in accordance with Departmental Regulations 45 CFR, section 5b.5, published in the FEDERAL REGISTER, September 29, 1977, p. 52348.

Record access procedures:

Written requests should be made to the System Manager providing identity verification consisting of either a notarization of the request of a certification that the individual is who he or she claims to be, and understands that the knowing and willful request for acquisition of a record pertaining to the individual under false pretenses is a criminal offense under the Act, subject to $5,000 fine. These procedures are in accordance with Departmental Regulations 45 CFR, section 5b.5, published in the FEDERAL REGISTER, September 29, 1977, p. 52348.

Contesting record procedures:

Write to System Manager and specify the record and the part(s) to be contested. These procedures are in accordance with Departmental Regulations 45 CFR, section 5b.7 published in the FEDERAL REGISTER, September 29, 1977, p. 52349.

Record source categories:

Applicant and applicant's personal references.

Systems exempted from certain provisions of the Act:

None.

[FR Doc. 78-5987 Filed 3-3-78; 10:08 am]

[4110-03]

PRIVACY ACT OF 1974

Systems of Records and Notice of Proposed Routine Uses

AGENCY: Department of Health, Education, and Welfare.

ACTION: Notification of new systems of records: Blood Donors for Tissue Typing Sera and Cell Analysis and Related Research, HEW/FDA/HFB, 09-10-0015. Cancer Patients on Laetrile and Physicians, HEW/FDA/HFD, 09-10-0016.

SUMMARY: Two new systems of records of the Food and Drug Administration are hereby published in accordance with the requirements of 5 U.S.C. 552a(e)(4). In accordance with the provisions of the 5 U.S.C. 552a(e)(11), the routine uses of these additional systems are set out for public comment. Interested persons are invited to submit written comments with respect to these routine uses.

DATES: The routine uses will be adopted as proposed without further notice April 6, 1978, unless comments are received on or before April 6, 1978, which would result in a contrary determination. A new system report was

filed for these new systems with the Director, Office of Management and Budget, the Speaker of the House, and the President of the Senate on Febru-

fidavits are received at the Bureau of Drugs; each affidavit contains the names of the patient and doctor, and usually the address of both. Rather than reproducing the affidavits and

Administration, 8800 Rockville Pike, Bethesda, Md. 20014.

Categories of individuals covered by the system:

request, but will contain no specific reference to the individuals whose records are on file.

Categories of individuals covered by the system:

Cancer patients and their medical doctors who supervise the Laetrile

with the purpose for which the records were collected.

Policies and practices for compiling, stor-

filed for these new systems with the Director, Office of Management and Budget, the Speaker of the House, and the President of the Senate on February 3, 1978, for system No. 09-10-0015, and on February 10, 1978, for system No. 09-10-0016. Because of the requirement in OMB Circular A-108, however, the entire notices will not be put into effect until 60 days after the new system reports filing dates.

ADDRESS: Comments should be addressed to Acting Director, Fair Information Practice Staff, Department of Health, Education, and Welfare, 200 Independence Avenue SW., Washington, D.C. 20201. Comments received will be available for inspection in Room 526-E, Hubert H. Humphrey Building, at the above address.

FOR FURTHER INFORMACTION CONTACT:

Kamal K. Mittal, Ph. D. (for system No. 09-10-0015), Microbiologist, Division of Blood and Blood Products, Bureau of Biologics (HFB-200), U.S. Food and Drug Administration, 8800 Rockville Pike, Bethesda, Md. 20014 or call 301-496-5241.

George Kenter (for system No. 09-10-0016), Assistant to the Director, Division of Drug Labeling Compliance, Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857 or call 301-443-1940.

SUPPLEMENTARY INFORMATION: The purpose of system No. 09-10-0015 is to provide data to be used in evaluating histocompatibility testing sera submitted by manufacturers for approval and release on the market. Human organ transplantation is a relatively new field of medical treatment. Scientists have determined that its success or failure in saving lives depends almost entirely upon the histocompatibility of the donor and the receipient. Histocompatibility is the condition in which tissues from a donor are acceptable to a recipient.

The proposed system of records will be comprised of information regarding the cell types of at least 150 individuals. in order to perform the quality assurance testing, a minimum of 150 individuals' cell types must be available.

The purpose of system No. 09-10-0016 is to permit the orderly retrieval of patient names and of their medical doctors to determine compliance with the orders signed by Federal Judge Bohanon, Western District of Oklahoma, in *Rutherford* vs. *United States*, CIV 75-0218-3. These orders permitted the importation of an unapproved experimental drug laetrile, upon a notarized affidavit that a cancer patient will receive it under the supervision of a doctor of medicine. Copies of the affidavits are received at the Bureau of Drugs; each affidavit contains the names of the patient and doctor, and usually the address of both. Rather than reproducing the affidavits and filing the copies alphabetically, it is proposed that an index card be created for each individual, both the patient and the doctor, to be filed alphabetically by the name of each individual, to monitor compliance with the Judge's orders. These orders required, among other things, that FDA perform spot checks of these affidavits to ensure their accuracy. The monitoring of compliance with the order will be conducted in accordance with the agency's normal investigative techniques using any that are appropriate to the situation. When inaccuracies are found, follow-up investigations will be made and whatever action is necessary will be taken. The index card system will facilitate the recording of this information and the affidavits can be maintained without additional notations being made upon them. It is anticipated that when this issue is resolved, this record system will no longer be needed and will be destroyed.

It is estimated that there will be approximately 500 individuals in the system; however, the actual number will depend upon the number of terminal cancer patients who seek the drug through importation and the number of physicians signing the affidavits. The number of individuals in the system is the minimum necessary to accomplish the objectives of the system.

The index cards will be kept in the office space occupied by the Litigation and Recall Staff of the Associate Director for Compliance, Bureau of Drugs, in the Parklawn Building. Only authorized agency personnel will have access to these cards. The door to this area is locked when employees are not present. During nonworking hours, the corridors of this building are patrolled and the doors routinely checked by security personnel to assure that the doors are locked.

LEONARD D. SCHAEFFER,
Assistant Secretary for Management and Budget.

09-10-0015

System name:

Blood Donors for Tissue Typing Sera and Cell Analysis and Related Research—HEW/FDA/HFB.

Security clearance:

None.

Location:

Histocompatibility Laboratory, Division of Blood and Blood Products, Bureau of Biologics, Food and Drug Administration, 8800 Rockville Pike, Bethesda, Md. 20014.

Categories of individuals covered by the system:

Volunteer blood donors and patients of the National Naval Medical Center and the National Institutes of Health Clinical Center requiring tissue typing who also volunteer to be part of the system.

Categories of records:

Records contain name, address, phone number, sex, race, age, disease (if any), number of pregnancies, number of children, and the results of blood typing.

Authority:

Public Health Service Act, section 351, 42 U.S.C. 262, which requires that all biologic products intended for human use must meet certain safety, purity and potency standards.

Routine uses of records maintained in the system:

On occasion, the National Institutes of Health Clinical Center and the National Naval Medical Center request that the Bureau perform tissue typing for their patients. In these instances, it is, of course, necessary to provide the physician involved with precise data to properly identify the patient.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

Disclosure may be made to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual (Appendix B, Departmental Regulations (45 CFR Part 5b, Item 100)).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records:

Storage:

Standard filing equipment, magnetic tapes, and disks.

Retrievability:

Usually by an assigned "cell number." Also, alphabetically, by name. The purpose of this system of records is to provide data to be used in evaluating histocompatibility testing sera submitted by manufacturers for approval and release on the market. These records will be used only within the Agency. Any statistical data developed from the records and subsequent tissue typing may be distributed upon request, but will contain no specific reference to the individuals whose records are on file.

Safeguards:

Forms in locked filing equipment. Tapes and disks in secure computer facility with access limited to individuals having knowledge of "password" which is changed periodically.

Retention and disposal:

Records are retained indefinitely.

System manager:

Dr. Kamal K. Mittal, Histocompatibility Laboratory, Division of Blood and Blood Products, Bureau of Biologics, 8800 Rockville Pike, Bethesda, Md. 20014.

Notification procedure:

FDA Privacy Act Coordinator (HFC-18), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

Record access procedures:

Same as notification procedure. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with FDA Regulations (21 CFR 21.40), published in the FEDERAL REGISTER, March 22, 1977, page 15629.)

Contesting record procedures:

Write to the official at the address specified under "Notification Procedure" above and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with FDA Regulations (21 CFR 21.50), published in the FEDERAL REGISTER, March 22, 1977, page 15631.)

Record source categories:

Volunteer blood donors and patients of the National Naval Medical Center and the National Institutes of Health Clinical Center.

Systems exempted from certain provisions of the Act:

None.

09-10-0016

System name:

Cancer Patients on Laetrile and Physicians HEW/FDA/HFD.

Security classification:

None.

Location:

Litigation and Recall Staff, Associate directorate for Compliance, Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

Categories of individuals covered by the system:

Cancer patients and their medical doctors who supervise the Laetrile treatment.

Categories of records:

A separate index card will be established for each terminal cancer patient and each medical practitioner, containing their name and complete address. The patient index card will also contain the name of the patient's doctor and the import entry number(s) covered by the affidavit. The doctor's card will list all patients by import entry number. The patient's card may contain other information, as the discontinuance of the patient from the program, phone numbers, change of doctors, or any other information as appropriate to facilitate compliance with Federal court orders which permitted the importation of an unapproved experimental drug, Laetrile, upon a notarized affidavit that a cancer patient will receive it under the supervision of a doctor of medicine. Copies of the affidavits are received at the Bureau of Drugs; each affidavit contains the names of the patient and doctor, and usually the address of both.

Authority:

The Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 372.

Routine use of records maintained in the system:

Records that indicate violation or potential violation of law may be (1) referred for investigation and possible enforcement action under the Federal, State, or foreign laws to the Department of Justice, an appropriate State food and drug enforcement health agency or licensing authority, or the government of a foreign country or (2) disclosed in administrative or court proceedings. Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for compiling, storing, and retrieving the records:

Storage:

On index cards in boxes.

Retrievability:

Alphabetically, by name. The index cards will be used to record information from affidavits and then be used to spot check compliance with the court order concerning Laetrile.

Safeguards:

Index cards will be kept in the work area of the Litigation and Recall Staff. This area is locked outside of normal working hours and accessible only by authorized personnel during working hours.

Retention and disposal:

No longer than 3 years after the system is established; disposal will be made by shredding or tearing and dumping the residue into trash containers.

System manager:

Associate Director for Compliance (HFD-300), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

Notification procedure:

FDA Privacy Act Coordinator (HFC-18), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

Record access procedures:

Same as notification procedure. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with FDA Regulations (21 CFR 21.40), published in the FEDERAL REGISTER, March 22, 1977, page 15629.)

Contesting record procedures:

Write to the official at the address specified under "Notification Procedure" above and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with FDA Regulations (21 CFR 21.50), published in the FEDERAL REGISTER, March 22, 1977, page 15631.)

Record source categories:

Individuals on whom the records are maintained are derived from affidavits and agency investigational reports.

Systems exempted from certain provisions of the Act:

None.

[FR Doc. 78-5988 Filed 3-3-78; 10:08 am]

[4110-08]

National Institutes of Health

Dr. Michael Potter, head, immunochemistry section, immunology program, Laboratory of Cell Biology, Building 8, Room B-18, Division of

[4110-08]

PULMONARY DISEASES ADVISORY COMMITTEE

Dates: April 11, 1978, 9:30 a.m.-adjournment.
Place: Building 31C, Conference Room 7, National Institutes of Health.
Times: Open for the entire meeting.

at either of two concentrations to groups of 50 male and 50 female animals. The high and low dietary concentrations used were 0.12 and 0.06 administered 2-methyl-1-nitroanthraquinone is carcinogenic in male Fischer 344 rats, producing hepatocellular carcinomas. Increased incidences of

[4110-08]

National Institutes of Health

DENTAL RESEARCH INSTITUTES AND SPECIAL PROGRAMS ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Dental Research Institutes and Special Programs Advisory Committee, National Institute of Dental Research, on April 18, 1978, in Building 31-C, Conference Room 9, National Institutes of Health, Bethesda, Md. This meeting will be open to the public from 9 a.m. to 10 a.m. to discuss administrative details relating to Committee business and general discussion. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 United States Code, and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 10 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications.

Dr. Emil L. Rigg, Chief of Scientific Review Branch, National Institute of Dental Research, National Institutes of Health, Westwood Building, Room 504, Bethesda, Md. 20014, phone 301-496-7658, will provide summaries of meetings, rosters of committee members, and substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.845, National Institutes of Health.)

Dated: March 1, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-5849 Filed 3-6-78; 8:45 am]

[4110-08]

FUNCTIONAL PROPERTIES OF TUMORS OF T AND B LYMPHOCYTES

WORKSHOP

Notice is hereby given of the Workshop on Functional Properties of Tumors of T and B Lymphocytes sponsored by the immunology program, Division of Cancer Biology and Diagnosis, April 3-5, 1978, Building 31, Conference Room 6, National Institutes of Health, Bethesda, Md.

This meeting will be open to the public on April 3-5, 1978, from 8:30 a.m. to 5 p.m., for presentation of scientific papers. Attendance by the public will be limited to space available.

Dr. Michael Potter, head, immunochemistry section, immunology program, Laboratory of Cell Biology, Building 8, Room B-18, Division of Cancer Biology and Diagnosis, National Cancer Institute, National Institutes of Health, Bethesda, Md. 20014, 301-496-2777, will provide additional information.

Dated: February 27, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-5845 Filed 3-6-78; 8:45 am]

[4110-08]

MENTAL RETARDATION RESEARCH COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Mental Retardation Research Committee, National Institute of Child Health and Human Development, on April 6-7, 1978, in the Landow Building, Room 4C18, 7910 Woodmont Avenue, Bethesda, Md.

This meeting will be open to the public on April 6, from 1 p.m. to 3:30 p.m., to discuss items relative to the Committee's activities including announcements by the Chief of the Mental Retardation and Developmental Disabilities Branch and the Acting Executive Secretary of the Committee.

In accordance with the provisions set forth in Title 5, United States Code 552b(c)(4) and 552b(c)(6) and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on April 6 from 3:30 p.m. to adjournment on April 7 for the review, discussion, and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications.

Mrs. Marjorie Neff, Committee Management Officer, NICHD Building 31, Room 2A-04, National Institutes of Health, Bethesda, Md., area code 301-496-1848, will provide a summary of the meeting and roster of committee members. Dr. Jane Showacre, Acting Executive Secretary, Mental Retardation Research Committee, NICHD, Landow Building, Room 7C04, National Institutes of Health, Bethesda, Md., area code 301-496-1383, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.865, National Institutes of Health.)

Dated: March 1, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-5846 Filed 3-6-78; 8:45 am]

[4110-08]

PULMONARY DISEASES ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Pulmonary Diseases Advisory Committee, National Heart, Lung, and Blood Institute, on May 13, 1978, at the Boston-Sheraton Hotel, Boston, Mass.

The entire meeting, from 8:30 a.m. to 5 p.m., will be open to the public. The Committee will review initiatives proposed by the division of Lung Diseases for fiscal 1979, and will plan Committee activities for the coming year. Attendance by the public will be limited to the space available.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 5A03, National Institutes of Health, Bethesda, Md. 20014, phone 301-496-4236, will provide summaries of the meeting and rosters of the committee members.

Dr. Malvina Schweizer, Executive Secretary of the Committee, Westwood Building, Room 6A16, National Institutes of Health, Bethesda, Md. 20014, phone 301-496-7208, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13.838, National Institutes of Health.)

Dated: February 27, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-5850 Filed 3-6-78; 8:45 am]

[4110-08]

PRESIDENT'S CANCER PANEL, ET AL.

Open Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be entirely open to the public to discuss issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available. Meetings will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Md. 20014, unless otherwise stated.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Md. 20014, 301-496-5708, will furnish summaries of the meetings and rosters of committee members upon request.

Other information pertaining to the meeting can be obtained from the Executive Secretary indicated.

Name of committee: President's Cancer Panel.

Dates: April 11, 1978, 9:30 a.m.-adjournment.
Place: Building 31C, Conference Room 7, National Institutes of Health.
Times: Open for the entire meeting.
Agenda: To hear reports of the Chairman, President's Cancer Panel and the Director, National Cancer Program, NCI.
Executive Secretary: Dr. Richard A. Tjalma, Building 31, Room 11A46, National Institutes of Health, 301-496-5854.

Name of committee: Data Evaluation Risk Assessment Subgroup of the Clearinghouse on Environmental Carcinogens.
Dates: April 26, 1978, 8:30 a.m.-adjournment.
Place: Building 31C, Conference Room 6, National Institutes of Health.
Times: Open for the entire meeting.
Agenda: To review available bioassay reports and other matters relevant to data evaluation and risk assessment.
Executive Secretary: Dr. James M. Sontag, Building 31, Room 3A16, National Institutes of Health, 301-496-5108.

Name of committee: Chemical Selection Subgroup of the Clearinghouse on Environmental Carcinogens.
Dates: April 27, 1978, 9 a.m.-adjournment.
Place: Building 31C, Conference Room 6, National Institutes of Health.
Times: Open for the entire meeting.
Agenda: To consider chemicals for bioassay and other matters relevant to chemical selection.
Executive Secretary: Dr. J. Dan Recer, Landow Building, Room 8C25, National Institutes of Health, 301-496-4663.

Name of committee: Experimental Design Subgroup of the Clearinghouse on Environmental Carcinogens.
Dates: April 28, 1978, 8:30 a.m.-adjournment.
Place: Building 31C, Conference Room 6, National Institutes of Health.
Times: Open for the entire meeting.
Agenda: To discuss experimental design for bioassay and other matters relevant to experimental design.
Executive Secretary: Dr. J. Dan Recer, Landow Building, Room 8C24, National Institutes of Health, 301-496-4663.

Dated: February 27, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-5847 Filed 3-6-78; 8:45 am]

[4110-08]

REPORT ON BIOASSAY OF 2-METHYL-1-NITROANTHRAQUINONE FOR POSSIBLE CARCINOGENICITY

Availability

2-methyl-1-nitroanthraquinone (CAS 129-15-7) has been tested for cancer-causing activity with rats in the carcinogenesis program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary. A bioassay of 2-methyl-1-nitroanthraquinone for possible carcinogenicity was conducted using Fischer 344 rats. 2-methyl-1-nitroanthraquinone was administered in the feed at either of two concentrations to groups of 50 male and 50 female animals. The high and low dietary concentrations used were 0.12 and 0.06 percent, respectively, for the male and female rats. After a 78-week treatment period, observation of the rats continued for an additional 31 weeks. Fifty rats of each sex were placed on test as controls. No 2-methyl-1-nitroanthraquinone was added to their diet.

Survival in both the male and female rats was adequate for a meaningful statistical analysis of tumors; however, there was a significant positive association between increased dosage and elevated mortality in female rats.

Hepatocellular carcinomas and neoplastic nodules of the liver occurred in both the male and female treated rats. A statistically significant association between increased dosage and an elevated incidence of hepatocellular carcinomas was indicated by the Cochran Armitage test for the males (1/48, 5/48, and 9/49 in control, low dose, and high dose, respectively); however, the Fisher exact tests confirmed these results only for the high dose males. The incidence of neoplastic nodules was statistically significant in the male rats (0/48, 2/48, and 6/49 in control, low dose, and high dose, respectively), as indicated by the Cochran-Armitage test and supported by the Fisher exact test for the high dose group. When those rats having either hepatocellular carcinomas or neoplastic nodules of the liver were combined and evaluated simultaneously, the Cochran-Armitage tests indicated statistically significant associations between increased dosages and elevated tumor incidences in both the males and females. This was supported by the Fisher exact tests for males but not for females. The incidences of one tumor type, subcutaneous fibroma, were found to be statistically significant in both male and female rats. No other tumors occurred in treated animals in statistically significant incidences when compared to controls.

Squamous-cell papillomas and squamous-cell carcinomas of the forestomach were observed only in high dose rats. Although the incidences of these gastric tumors were not statistically significant, historical data indicate that these tumors are rare in Fischer 344 rats. The occurrence of these tumors in high dose rats, together with the frequent occurrence of nonneoplastic proliferative lesions of the forestomach in treated rats, indicates that the occurrence of these tumors was related to administration of 2-methyl-1-nitroanthraquinone. An increased incidence of bladder tumors (papillomas, transitional-cell papillomas, and sarcomas) was observed among female rats.

Under the conditions of this bioassay, the results indicate that orally administered 2-methyl-1-nitroanthraquinone is carcinogenic in male Fischer 344 rats, producing hepatocellular carcinomas. Increased incidences of subcutaneous fibromas in both male and female Fischer 344 rats were also associated with the administration of the compound. Tumors of the forestomach and bladder in these animals may also have been related to the administration of the test chemical.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalog of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: February 28, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78-5842 Filed 3-6-78; 8:45 am]

[4110-08]

REPORT ON BIOASSAY OF 1,1,2,2-TETRACHLOROETHANE FOR POSSIBLE CARCINOGENICITY

Availability

1,1,2,2-tetrachloroethane (CAS 79-34-5) has been tested for cancer-causing activity with rats and mice in the carcinogenesis program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary. A bioassay for possible carcinogenicity of technical-grade 1,1,2,2-tetrachloroethane was conducted using Osborne-Mendel rats and B6C3F1 mice. At initiation of the study the rats were approximately 7 weeks old, and the mice were approximately 5 weeks old. 1,1,2,2-tetrachloroethane in corn oil was administered by gavage, at either of two dosages, to two groups of 50 male and 50 female animals of each species, 5 days a week. Treatment was over a period of 78 weeks, followed by observation periods of 32 weeks for the rats and 12 weeks for the mice. The high and low time-weighted average dosages were, respectively, 108 and 62 mg/kg/day for male rats, 76 and 43 mg/kg/day for female rats, and 282 and 142 mg/kg/day for the mice of both sexes.

For each species, 20 animals of each sex were placed on test as vehicle controls. These animals were intubated with corn oil at the same rate as the high dose animals. Twenty animals of each sex were placed on test as untreated controls for each species. These animals were not intubated.

Among mice, hepatocellular carcinomas were observed in 2/16 (13 percent) male untreated controls, 1/18 (6 per-

cent) male vehicle controls, 13/50 (26 percent) low dose males, 44/49 (90 percent) high dose males, 0/18 female untreated controls, 0/20 female vehicle controls, 30/48 (63 percent) low dose

Notice is hereby given of a change in the March 8-10, 1978, meeting of the Population Research Committee, National Institute of Child Health and

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[4310-84]

[Colorado 8879]

COLORADO

1. On Page 4463, first column, third line under the heading "T. 26 S., R. 45 E.,": change "SE¼NW¼, NE¼SW¼," to read "S½NW¼, N½SW¼".

cent) male vehicle controls, 13/50 (26 percent) low dose males, 44/49 (90 percent) high dose males, 0/18 female untreated controls, 0/20 female vehicle controls, 30/48 (63 percent) low dose females, and 43/47 (91 percent) of the high dose females. This incidence of hepatocellular carcinoma indicated a highly significant ($P<0.001$) positive dose-related trend in mice of both sexes.

No statistically significant incidence of neoplastic lesions was observed in male or female rats. However, two hepatocellular carcinomas and one neoplastic nodule, which are rare tumors in the male Osborne-Mendel rat, were observed in the high dose males.

Under the conditions of this study, orally administered 1,1,2,2-tetrachloroethane is a liver carcinogen in B6C3F1 mice of both sexes. The results do not provide conclusive evidence for the carcinogenicity of 1,1,2,2-tetrachloroethane in Osborne-Mendel rats.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalog of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: February 28, 1978.

DONALD S. FREDRICKSON,
Director, National Institutes of Health.

[FR Doc. 78-5843 Filed 3-6-78; 8:45 am]

[4110-08]

RESEARCH MANPOWER REVIEW COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Research Manpower Review Committee, National Heart, Lung, and Blood Institute, on March 23-24, 1978, Conference Room 4, Building 31, Bethesda, Md.

This meeting will be open to the public on March 23, 1978 from 8 p.m. to approximately 10 p.m. to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, United States Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on March 24, 1978 from 8:30 a.m. until adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications.

Mr. York E. Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, NIH, Room 5A03, Building 31, Bethesda, Md. 20014, phone 301-496-4236, will provide summaries of the meeting and rosters of the committee members.

Dr. Charles L. Turbyfill, Executive Secretary, NHLBI, NIH, Room 553, Westwood Building, Bethesda, Md. 20014, phone 301-496-7351, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, National Institutes of Health.)

Dated: March 1, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-5844 Filed 3-6-78; 8:45 am]

[4110-08]

SICKLE CELL DISEASE ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Sickle Cell Disease Advisory Committee, National Heart, Lung, and Blood Institute, April 13 and 14, 1978. The meeting will be held in Conference Room 9, C-Wing, Building 31, National Institutes of Health, Bethesda, Md. 20014. The entire meeting will be open to the public from 8:30 a.m. to 5 p.m. on both days, to discuss recommendations on the implementation and evaluation of the Sickle Cell Disease Program. Attendance by the public will be limited to space available.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, NIH, Building 31, Room 5A03, 301-496-4236, will provide summaries of the meeting and rosters of Committee members.

Mr. Howard F. Manly, Executive Secretary, Sickle Cell Disease Advisory Committee, NHLBI, NIH, Building 31, Room 4A29, 301-496-6931, will furnish substantive program information.

Dated: February 27, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-5848 Filed 3-6-78; 8:45 am]

[4110-08]

POPULATION RESEARCH COMMITTEE

Meeting

NOTE.—This document originally appeared in the FEDERAL REGISTER for Monday, March 6, 1978. It is reprinted in this issue to meet requirements for publication on an assigned day of the week. (See the inside cover of this issue for information about agencies publishing on assigned days of the week.)

Notice is hereby given of a change in the March 8-10, 1978, meeting of the Population Research Committee, National Institute of Child Health and Human Development, which was published in the FEDERAL REGISTER on December 30, 1977, 42 FR 65274.

The open portion of the meeting was originally scheduled to begin at 9 a.m. and end at 10:30 a.m. on March 8. This has now been changed and the open portion of the meeting will be from 1 p.m. to 2 p.m. on March 8.

Dated: February 28, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-5841 Filed 3-3-78; 8:45 am]

[4110-08]

RISK ASSESSMENT OF AGRICULTURAL PATHOGENS

Workshop

NOTE.—This document originally appeared in the FEDERAL REGISTER for Monday, March 6, 1978. It is reprinted in this issue to meet requirements for publication on an assigned day of the week. (See the inside cover of this issue for information about agencies publishing on assigned days of the week.)

Notice is hereby given of a Workshop on Risk Assessment of Agricultural Pathogens jointly sponsored by the U.S. Department of Agriculture, National Science Foundation and National Institutes of Health at the National Science Foundation, room 338, 1800 G Street NW., Washington, D.C. 20550, on March 20-21, 1978, from 9 a.m. to 5 p.m.

The Workshop will discuss the feasibility of developing a scheme for classification of agricultural pathogens.

Further information may be obtained from Dr. Clarence Grogan, Leader, Plant Sciences Group, Cooperative Research, SEA, USDA, Washington, D.C., telephone 202-447-6096, Dr. Mary Clutter, Program Director, Developmental Biology, National Science Foundation, Washington, D.C., telephone 202-632-4304, and Dr. William J. Gartland, Executive Secretary, Recombinant DNA Molecule Program Advisory Committee, NIGMS, NIH, Bethesda, Md., telephone 301-496-6051.

The meeting will be open to the public. Attendance by the public will be limited to space available.

Dated: February 23, 1978.

THOMAS E. MALONE,
Deputy Director, National Institutes of Health.

[FR Doc. 78-5840 Filed 3-3-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Colorado 14442]

COLORADO

Partial Termination of Proposed Withdrawal and Reservation of Lands

FEBRUARY 27, 1978.

Notice of a Forest Service, U.S. Department of Agriculture application, Colorado 14442, for withdrawal and reservation of lands for public purposes was published as FR Doc. 692, on pages 745, 746 of the issue of January 18, 1972. It was republished as F.R. Doc. 78-117 on pages 1012, 1013 of the issue of January 5, 1978. The applicant agency has cancelled its application insofar as it affects the following described lands:

NEW MEXICO PRINCIPAL MERIDIAN, HENDERSON LAKE CAMPGROUND

T. 37 N., R. 8 W., Protraction Diagram No. 27, dated November 12, 1964.

That part of Section 2 described as follows:

Beginning at the SW corner of Section 35, T. 38 N., R. 8 W., thence due south 15 chains, thence easterly 40 chains on a line parallel with the north section line of Section 2, thence due north 15 chains to a point on the north boundary of Section 2, thence westerly 40 chains along the north boundary of Section 2 to the point of beginning.

T. 38 N., R. 8 W.,
Sec. 35, S½S½SW¼, E½SE¼, SW¼SW¼SE¼, and E½W½SE¼.

MINERAL CREEK CAMPGROUND SITE

T. 41 N., R. 8 W., Protraction Diagram No. 24, and 24B, dated May 5, 1965.

A parcel of land in Sections 11 and 14 beginning at a point in the NE¼ of Section 14 from which the junction of U.S. Highway 550 and Forest Road 585 bears S. 70° E. 60 chains, thence due North 16 chains, thence due West 20 chains, thence due North 12 chains, thence due West 20 chains, thence due South 24 chains, thence due East 20 chains, thence due South 4 chains, thence due East 20 chains, to the point of beginning.

The above described areas aggregate 310 acres.

Therefore, pursuant to the regulations contained in 43 CFR, Part 2311, such lands, at 10 a.m., on April 4, 1978, will be relieved of the segregative effect of the above-mentioned application.

MERRILL G. ANDERSON,
Leader, Montrose Team, Branch of Adjudication.

[FR Doc. 78-5823 Filed 3-6-78; 8:45 am]

[4310-84]

[Colorado 8879]

COLORADO

Partial Termination of Proposed Withdrawal and Reservation of Lands

FEBRUARY 27, 1978.

Notice of a Forest Service, U.S. Department of Agriculture application, Colorado 8879, for withdrawal and reservation of lands for public purposes, was published as FR Doc. 69-6905, on pages 9291-9292 of the issue of June 12, 1969. It was republished as FR Doc. 77-37087 on pages 65280-65281 of the issue of December 30, 1977. The applicant agency has cancelled its application insofar as it affects the following described lands:

SIXTH PRINCIPAL MERIDIAN WHITE RIVER NATIONAL FOREST

A strip of land which lies 200 feet on each side of the centerline of Forest Highway 16 (the Marvine-Phippsburg Road) through Government lands within the following legal subdivisions:

T. 2 N., R. 88 W., Unsurveyed (Protraction Diagram No. 3),
Sec. 29 south of the Routt-White River National Forest boundary at Ripple Creek Divide;
Sec. 31;
Sec. 32;
T. 1 N., R. 88 W., Unsurveyed (Protraction Diagram No. 3),
Sections 6 and 7;
T. 1 N., R. 89 W., Unsurveyed (Protraction Diagram No. 3),
Sec. 1;
Sec. 7;
Sections 8, 9, and 10 except portions of the roadside zone which lie within privately owned H.E.S. 143, H.E.S. 145, E.S. 358A, and H.E.S. 295;
Sections 11 and 12.

The above described areas aggregate 430 acres.

Therefore, pursuant to the regulations contained in 43 CFR, Part 2311, such lands, at 10 a.m., on April 4, 1978, will be relieved of the segregative effect of the above-mentioned application.

ANDREW W. HEARD, Jr.,
Leader, Craig Team, Branch of Adjudication.

[FR Doc. 78-5824 Filed 3-6-78; 8:45 am]

[1505-01]

[OR 7281]

OREGON

Order Providing for Opening of Public Lands

Correction

In FR Doc. 78-2858, appearing at page 4462 in the issue for Thursday, February 2, 1978, make the following corrections:

1. On Page 4463, first column, third line under the heading "T. 26 S., R. 45 E.,": change "SE½NW¼, NE½SW¼," to read "S½NW¼, N½SW¼".

2. On Page 4463, second column, sixth line under the heading "T. 26 S., R. 46 E.,": change "N½,SW¼" to read "N½, SW¼."

[4310-84]

[NM 32906]

NEW MEXICO

Application

FEBRUARY 24, 1978.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINICPAL MERIDIAN, NEW MEXICO

T. 27 N., R. 8 W.,
Sec. 24, NE¼SW¼.

This pipeline will convey natural gas across 0.045 miles of public land in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of land management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-5907 Filed 3-6-78; 8:45 am]

[4310-84]

UTAH

Filing of Plats of Survey and Order Providing for Openings of Public Lands

1. Plats of survey of the lands described below will be officially filed in the Utah State Office, Salt Lake City, Utah effective at 10 a.m., on April 3, 1978:

SALT LAKE MERIDIAN

PLATS OF SURVEY APPROVED JANUARY 3, 1978

T. 28½ S., R. 18 E.,
Sec. 31, Lots 1 to 4, inclusive, E½, E½W½.
The area described aggregates 630.72 acres.

T. 29 S., R. 19 E.,

Sec. 12, Lots 1 to 5, inclusive, E½, SE¼NW¼, NE¼SW¼, S½SW¼;
Sec. 13, E½;
Sec. 24, E½;
Secs. 25 and 36, all.
The area described aggregates 2,527.57 acres.

T. 30 S., R. 19 E.,
Sec. 1, Lots 1 to 4, inclusive, S½N½, S½.
The area described aggregates 639.50 acres.

T. 30½ S., R. 20 E.,
Sec. 35, Lots 1 to 4, inclusive, S½S½.
The area described aggregates 331.88 acres.

Subject to valid existing rights, the provisions of existing withdrawals and classifications, and the requirements of applicable law, the lands are hereby opened to such applications and petitions as may be permitted.

2. The following plats represent the survey and resurvey of a portion of the subdivisional lines:

T. 27 S., R. 18 E.
T. 28½ S., R. 18 E.
T. 29 S., R. 18 E.
T. 30 S., R. 18 E.
T. 30½ S., R. 18 E.
T. 31 S., R. 18 E.
T. 27 S., R. 19 E.
T. 29½ S., R. 19 E.
T. 31 S., R. 19 E.
T. 32 S., R. 19 E.
T. 27 S., R. 20 E.
T. 28 S., R. 20 E.
T. 29 S., R. 20 E.
T. 31 S., R. 20 E.
T. 32 S., R. 20 E.

3. The above surveys were executed at the request of the National Park Service, under Group No. 485, Utah.

4. Inquiries concerning the lands should be addressed to the Chief, Division of Management Services, Utah State Office, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

GARY F. GEORGE,
Chief, Division of Management Services.

FEBRUARY 27, 1978.

[FR Doc. 78-5905 Filed 3-6-78; 8:45 am]

[4310-31]

Geological Survey

COLORADO

Proposed Approval of Coal Mining Plan

In accordance with the requirements of 30 CFR 211.5(c)(2), notice is hereby given that Colorado Westmoreland, Inc., P.O. Box 7607, Colorado Springs, Colo. 80933, has submitted a mining plan which proposes to mine coal by underground mining methods on a proposed Federal Coal Lease, C-25079 in Delta County, Colo.

The proposed underground mining operation on Federal lands is an extension of an existing underground mining operation on private land and coal and includes 310.51 acres of the following described lands in T. 13 S., R. 92 W., 6th P.M., Sec. 24, N½N½ (Lots 1, 2, 3, and 4), S½NW¼ (Lots 5 and 6), N½SW¼ (Lots 8 and 9). The plan proposes to mine approximately 1,966,667 tons of coal over a 3-year period as allowed by the terms of the lease.

The purpose of this notice is to inform the public that the Mining Supervisor proposes to approve the mining plan contingent upon the issuance of the lease and upon review by the Department of Justice for situations inconsistent with the antitrust laws.

Any person having an interest which is or may be adversely affected by this action may request a public meeting in writing. Requests should include name and address of requestor and a description of the requestor's interest which is or may be adversely affected. All requests should be submitted to the Area Mining Supervisor, Conservation Division, U.S. Geological Survey, Box 25046, Stop 602, Denver Federal Center, Denver, Colo. 80225, by March 27, 1978. No decision on the mining plan will be made prior to 20 days from the day of publication of this notice.

Public meetings have been held by the Bureau of Land Management in cooperation with the U.S. Geological Survey on an Environmental Assessment Record (EAR) prepared by the Bureau of Land Management for these lands under application for a lease by Colorado Westmoreland, Inc. A public meeting to consider the effects of recovering coal by alternate mining methods in order to achieve maximum economic recovery of the coal on the proposed lease tract will be held by the Geological Survey in the local area prior to issuance of the lease. Notices of the date of this meeting will be published locally.

Dated: March 1, 1978.

W. A. RADLINSKI,
Acting Director.

[FR Doc. 78-5962 Filed 3-6-78; 8:45 am]

[4310-70]

Heritage Conservation and Recreation Service

NATIONAL REGISTER OF HISTORIC PLACES

List of Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before February 24, 1978. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, Office of Archeology and Historic Preservation, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by March 17, 1978.

RONALD M. GREENBERG,
Acting Keeper of the National Register.

ARIZONA

Pima County

Lukeville vicinity, *Bull Pasture*, E of Lukeville on Organ Pipe Cactus National Monument.

IOWA

Lee County

Fort Madison, *Albright House*, 716-718 Avenue F.

Polk County

Des Moines, *Owl's Head Historic District*, Ridge Rd., Forest Dr., 28th and 29th Sts.

Shelby County

Harlan, *St. Paul's Episcopal Church*, 712 Farnham St.

KENTUCKY

Jefferson County

Louisville, *Selema Hall*, 2837 Riedling Dr.

MISSISSIPPI

Monroe County

Athens, *Monroe County Jail*, off MS 8.

MISSOURI

Adair County

Kirksville, *Adair County Courthouse*, Washington St.

Audrain County

Mexico, *Ross House*, 501 S. Muldrow.

Clay County

Liberty, *Jewell Hall*, Jewell St. between Kansas and Mississippi Sts.

Jackson County

Kansas City, *Bixby, Walter E., House*, 6505 State Line Rd.
Kansas City, *Row House Building*, 1-7 E. 34th St., 3401 Main St.

Morgan County

Versailles, *Martin Hotel*, 118 N. Monroe St.

Platte County

Platte City, *Krause, Frederick, Mansion*, 3rd and Harrel Ferrel Dr.

St. Louis (independent city)

Chatillon-DeMenil House, 3352 DeMenil Pl.
Midtown Historic District, Lindell and Grand Blvds.

MONTANA

Beaverhead County

Dillon, *Dillon City Library*, 121 S. Idaho.

Cascade County

Belt, *Belt Jail*, Castner St.

Deer Lodge County

Anaconda, *Deer Lodge County Courthouse*, U.S. Alt. 10.
Anaconda, *St. Mark's Episcopal Church*, 601 Main St.

Fergus County

Lewistown, *St. James Episcopal Church and Parish House*, 502 W. Montana St.

Flathead County

West Glacier, *Belton Chalets*, U.S. 2.

Lewis and Clark County

Helena, *Hauser Mansion*, 720 Madison Ave.

Prairie County

Terry, *Grandey Elementary School*, off U.S. 10.

NEBRASKA

Douglas County

Omaha, *Omaha Public Library*, 1823 Harney St.

Red Willow County

McCook, *Sutton, H. P., House*, 602 Norris Ave.

NORTH CAROLINA

Carteret County

Portsmouth, *Portsmouth Village*, N end of Portsmouth Island.

PENNSYLVANIA

Schuylkill County

Pottsville, *Cloud Home (John Bannan House)*, 351 S. 2nd St.

SOUTH DAKOTA

Fall River County

Edgemont vicinity, *Flint Hill Aboriginal Quartzite Quarry*, E of Edgemont.

TENNESSEE

Franklin County

Winchester, *Bank of Winchester Building*, 1st Ave.

Hamblen County

Morristown vicinity, *Barton Springs*, 3 mi. (5 km) E of Morristown.

Shelby County

Memphis, *Elmwood Cemetery Office and Entrance Bridge*, 824 S. Dudley St.
Memphis, *Linden Station and Reichman-Crosby Warehouse*, 245, 281, 291 Wagner Pl.

TEXAS

Bell County

Salado, *Rose, Maj. A. J., House*, Wm. Rose Way and Royal St.

Harrison County

Marshall, *Hagerty House*, 505 E. Rusk St.

Tom Green County

San Angelo, *San Angelo National Bank, Johnson & Taylor, Schwartz & Raas Buildings*, 20-22, 24, 26 E. Concho Ave.

UTAH

Emery County

Castle Dale, *Castle Dale School*, 100 North and 100 East.
Ferron, *Ferron Presbyterian Church and Cottage*, Mill Rd. and 3rd West.

Sanpete County

Mt. Pleasant, *Wasatch Academy*, off U.S. 89.

WISCONSIN

Columbia County

Columbus vicinity, *Leopold, Aldo, Shack*, central Wisconsin (also in Sauk County).

Milwaukee County

Milwaukee, *Walker's Point Historic District*, roughly bounded by the freeway, Menomonee Canal, Scott, 2nd and W. Va. Sts.

The following property is a boundary revision requested for a property presently listed on the National Register of Historic Places.

MINNESOTA

LeSueur County

Cleveland vicinity, Geldner Sawmill, S of Cleveland (boundary revision).

[FR Doc. 78-5466 Filed 3-6-78; 8:45 am]

[4310-70]

Heritage Conservation and Recreation Service

NATIONAL REGISTER OF HISTORIC PLACES

Additions, Deletions, and Corrections

By notice in the FEDERAL REGISTER of February 7, 1978, part II, there was published a list of the properties included in the National Register of Historic Places. Further notice is hereby given that certain amendments or revisions in the nature of additions, deletions, or correction to the previously published list are adopted as set out below.

It is the responsibility of all Federal agencies to take cognizance of the properties included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Preservation Act of 1966, 80 Stat. 16 U.S.C. 470 et seq. (1970 ed.), and the procedures of the Advisory Council on Historic Preservation, 36 CFR Part 800.

WILLIAM J. MURTAGH,
Keeper of the National Register.

The following properties were added to the National Register of Historic Places since February 7, 1978. National Historic Landmarks are designated by NHL; properties recorded by Historic American Buildings Survey are designated by HABS; properties recorded by Historic American Engineering Record are designated by HAER; properties receiving grants-in-aid for historic preservation are designated by G.

ALASKA

Dallas County

Selma vicinity, *Carlowville*, 17 mi. (27 km) S of Selma on AL 89 (1-18-78).

Hale County

Greensboro, *Erwin, John, House*, 705 Erwin Dr. (1-18-78) HABS.

Henry County

Abbeville, *Kennedy House*, 300 Kirkland St. (1-5-78).

Lee County

Opelika vicinity, *Spring Villa*, 6 mi. (9.6 km) SE of Opelika on Spring Villa Rd. (1-3-78) HABS.

ALASKA

Matanuska-Susitna Division

Palmer, *Palmer Depot*, AK 1 (1-9-78).

ARIZONA

Maricopa County

Glendale, *Beet Sugar Factory*, 5243 W. Glendale Ave. (1-30-78).
Tempe, *Our Lady of Mount Carmel Catholic Church*, College and University Ave. (1-30-78).
Tempe, *Petersen, Niels, House*, Southern Ave. and Priest St. (1-5-78).

ARKANSAS

Benton County

Bentonville, *Elliott House*, 303 SE 3rd St. (1-20-78).

Crawford County

Van Buren, *Bryan House*, 105 Fayetteville St. (1-9-78).

Jefferson County

Pine Bluff, *Ferguson House*, 902 E. 4th Ave. (1-8-78).
Pine Bluff, *Trulock-Gould-Millis House*, 704 W. Barraque St. (1-3-78). Pine Bluff, *Yaunch-Ragar House*, 625 State St. (1-20-78).

Pulaski County

Little Rock, *Ish House*, 1600 Scott St. (1-3-78).
North Little Rock, *Faucette, James Peter, House*, 316 W. 4th St. (1-4-78).
North Little Rock, *Howell-Garner-Monfee, House*, 300 W. 4th St. (1-4-78).

Sebastian County

Fort Smith, *Foster, Josiah, Building*, 222 Garrison Ave. (1-20-78).

CALIFORNIA

Inyo County

Little Lake vicinity, *Coso Hot Springs*, NE of Little Lake off U.S. 395 (1-3-78).

Mariposa County

El Portal, *Hetch Hetchy Railroad Engine No. 6*, CA 140 (1-30-78).
Yosemite Village and vicinity, *Yosemite Valley Archeological District*, Yosemite National Park (1-20-78).

Santa Clara County

Stanford, *Hoover, Lou Henry, House*, 623 Mirada Rd. (1-30-78).

COLORADO

Chaffee County

Buena Vista, *Grace Episcopal Church*, Main

Jasper County

Monticello, *Jordan-Bellew House*, Madison Hwy. (1-20-78).

Linn County

Cedar Rapids, *Calder Houses*, 1214 and 1216 2nd Ave., SE (1-18-78).

Washington County

Machias, *Porter Memorial Library*, Court St. (1-20-78).

Wayne County

Detroit, *Engine House No. 11*, 2737 Gratiot Ave. (1-9-78).

NEW JERSEY

Atlantic County

COLORADO

Chaffee County

Buena Vista, *Grace Episcopal Church*, Main and Park Ave. (1-20-78).

Clear Creek County

Idaho Springs, *Argo Tunnel and Mill*, 2517 Riverside Dr. (1-31-78).

Custer County

Westcliffe, *Hope Lutheran Church*, 310 S. 3rd St. (1-31-78).

Denver County

Denver, *Denver Dry Goods Company Building*, 16th and California Sts. (1-9-78).
Denver, *Equitable Building*, 730 17th St. (1-9-78).
Denver, *Foster, A. C., Building*, 912 16th St. (1-9-78).
Denver, *Ghost Building*, 500-518 15th St. (1-9-78).
Denver, *Tramway Building*, 1100 14th St. (1-5-78).

Larimer County

Fort Collins, *Fort Collins Post Office*, 201 S. College Ave. (1-30-78).
Fort Collins, *Spruce Hall*, Colorado State University campus (1-9-77).

Pueblo County

Pueblo, *Bowen Mansion*, 229 W. 12th St. (1-9-78).
Pueblo, *Pitkin Place Historic District*, S side of 300 block W. Pitkin Pl. (1-31-78).
Pueblo, *Pueblo Federal Building*, 421 N. Main St. (1-3-78).

Weld County

Greeley, *Weld County Courthouse*, 9th St. and 9th Ave. (1-9-78).

CONNECTICUT

Hartford County

Granby, *Rowe and Weed Houses*, 208 Salmon Brook St. (1-18-78).
Hartford, *Charter Oak Place*, 7-40 Charter Oak Pl. (1-20-78).
Hartford, *Second Church of Christ*, 307 Main St. (1-9-78).

New London County

New London, *Williams Memorial Institute*, 110 Broad St. (1-30-78).

DELAWARE

Sussex County

Concord, *Pine Grove Furnace Industrial Complex* (1-26-78).

FLORIDA

Hillsborough County

Tampa, *Tampa Theater and Office Building*, 711 Franklin St. (1-3-78).

GEORGIA

Bryan County

Ellabelle vicinity, *Glen Echo*, 2 mi. (3.2 km) E of Ellabelle on GA 204 (1-9-78).
Richmond Hill vicinity, *Richmond Hill Plantation*, E of Richmond Hill on Ford Neck Rd. (1-30-78).

Jasper County

Monticello, *Jordan-Bellew House*, Madison Hwy. (1-20-78).

IDAHO

Bear Lake County

Montpelier, *Bagley, John A., House*, 155 N. 5th St. (1-20-78).

Elmore County

Mountain Home, *Anchustegui, Pedro, Pelota Court*, W. 2nd North St. (1-30-78).

Jerome County

Jerome, *Jerome National Bank*, 100 E. Main St. (1-9-78).

Latah County

Moscow, *Lieuallen, Almon Asbury, House*, 101 S. Almon St. (1-3-78).

Washington County

Weiser, *Drake, Col. C. F., House*, 516 E. Main St. (1-20-78).
Weiser, *Galloway, Thomas C., House*, 1120 E. 2nd St. (1-26-78).

ILLINOIS

Cook County

Chicago, *Gold Coast Historic District*, roughly bounded by North Ave., Lake Shore Dr., Clark and Oak Sts. (1-30-78).

DuPage County

Wheaton, *Trinity Episcopal Church*, 130 N. West St. (1-9-78).

Kankakee County

Kankakee, *Hickox, Warren, House*, 687 S. Harrison Ave. (1-3-78).

Lake County

Lake Forest, *Lake Forest Historic District*, roughly bounded by Western, Westleigh, Lake Michigan, and N city limits (1-26-78).

Sangamon County

Chatham vicinity, *Sugar Creek Covered Bridge*, SE of Chatham off I-55 (1-9-78).

Shelby County

Shelbyville, *Chatauqua Auditorium*, Forest Park and NE. 9th St. (1-30-78).

Winnebago County

Rockton vicinity, *Macktown Historic District*, W of Rockton on Pecatonica River (1-5-78).

INDIANA

Wayne County

Hagerstown, *Hagerstown I.O.O.F. Hall*, Main and Perry Sts. (1-3-78).

IOWA

Bremer County

Waverly, *Wartburg Teachers' Seminary*, Wartburg College campus (1-20-78).

Dubuque County

Dubuque, *Kelley House*, 274 Southern Ave. (1-30-78).

Linn County

Cedar Rapids, *Calder Houses*, 1214 and 1216 2nd Ave., SE (1-18-78).

Van Buren County

Bonaparte, *Aunty Green Hotel*, 602 Washington St. (1-20-78).

KENTUCKY

Ballard County

Lovelaceville vicinity, *Lovelace, Andrew Jr., House*, W of Lovelaceville off U.S. 62 (1-3-78).

Bath County

Owingsville, *Owings, Col. Thomas Deye, House*, Main St. and Courthouse Sq. (1-9-78).

Breckinridge County

Falls of Rough, *Falls of Rough Historic District*, KY 110 (1-31-78).

Fayette County

Lexington, *Elley Villa (Aylesford)*, 320 Linden Walk (1-9-78).
Lexington, *Morton, Will, Tavern Stand*, 137 S. Limestone St. (1-3-78).

Henderson County

Henderson, *Barret House*, 204 S. Elm St. (1-5-78).

Jefferson County

Harrods Creek vicinity, *Wolf Pen Branch Mill*, E of Harrods Creek on Wolf Pen Branch Rd. (1-5-78).
Louisville, *Calvary Episcopal Church*, 821 S. 4th St. (1-18-78).
Louisville, *U.S. Marine Hospital*, 2215 Portland Ave. (1-9-78).

Scott County

Georgetown vicinity, *Elkwood (Offutt House)*, NW of Georgetown (1-20-78).

MAINE

Androscoggin County

Auburn, *Day, Holman, House*, 2 Goff St. (1-20-78).
Lewiston, *Savings Bank Block*, 215 Lisbon St. (1-20-78).

Cumberland County

Portland, *Fifth Maine Regiment Community Center*, Seashore Ave., Peaks Island (1-5-78).
Yarmouth, *Mitchell House*, 40 Main St. (1-20-78).

Hancock County

Deer Isle, *Haskell, Squire Ignatius, House*, ME 172A (2-3-78).

Knox County

Owls Head vicinity, *Owls Head Light Station*, NE of Owls Head on W. Penobscot Bay (1-18-78).
Rockland, *Security Trust Building*, Elm and Main Sts. (1-20-78).

Penobscot County

Newburgh vicinity, *Knowlton, Jabez, Store*, W of Newburgh on ME 9 (1-18-78).

Sagadahoc County

Topsham, *Topsham Historic District*, Elm, Maine, and Green Sts. (1-9-78).

Washington County

Machias, *Porter Memorial Library*, Court St. (1-20-78).

MARYLAND

Allegany County

Cumberland, *Butler, Wright, House*, 205 Columbia St. (1-31-78).

Caroline County

Federalsburg vicinity, *Exeter*, N of Federalsburg on MD 630 (1-3-78).

Frederick County

Point of Rocks vicinity, *St. Paul's Episcopal Church*, N of Point of Rocks off U.S. 15 (1-31-78).

Harford County

Bel Air vicinity, *Thomas Run Church*, NE of Bel Air off MD 136 (1-3-78).

Howard County

Guilford vicinity, *Christ Church, Guilford*, N of Guilkford at 6800 Oakland Mills Rd. (1-30-78).

St. Marys County

Great Mills vicinity, *Cecil's Mill Historic District*, N of Great Mills on Indian Bridge Rd. (1-30-78).

Washington County

Williamsport vicinity, *Sprechers Mill House*, NE of Williamsport on Hopewell Rd. (1-5-78).

MASSACHUSETTS

Hampden County

East Longmeadow, *First Congregational Church of East Longmeadow*, 7 Somers Rd. (1-3-78).
Springfield, *Republican Block*, 1365 Main St. (1-26-78).
Springfield, *Union Trust Company Building*, 1351 Main St. (1-9-78).

Middlesex County

Cambridge, *Harvard Square Subway Kiosk*, Massachusetts Ave. and Boylston St. (1-30-78).
Cambridge, *Hasty Pudding Club*, 12 Holyoke St. (1-9-78).
Newton, *Allen, Nathaniel Topliff, Homestead*, 25 Webster St. (1-9-78).
Newton Centre, *Colby Hall*, 141 Herrick Rd. (1-30-78).
Weston vicinity, *Allen, Abel, House*, S of Weston at 1 Chestnut St. (1-9-78).

Worcester County

Fitchburg, *Fay Club*, 658 Main St. (1-31-78).

MICHIGAN

Antrim County

Bellaire, *Richardi, Henry, House*, 402 N. Bridge St. (1-18-78).

Calhoun County

Marshall, *National House*, 102 S. Parkview (1-3-78).

Leelanau County

Leland vicinity, *Hutzler's Barn*, W of Leland on South Manitou Island (1-3-78).

Wayne County

Detroit, *Engine House No. 11*, 2737 Gratiot Ave. (1-9-78).
Detroit, *St. Albertus Roman Catholic Church*, 4231 St. Aubin St. (1-18-78).

MINNESOTA

Ramsey County

St. Paul, *Hinkel-Sullivan House*, 531 Brainerd Ave. (1-3-78).

Rock County

Jasper, *Jasper Stone Company and Quarry*, off MN 23 (1-5-78).

Winona County

Elba vicinity, *Marnach, Nicholas, House* N of Elba (1-30-78).

MISSISSIPPI

Harrison County

Biloxi, *U.S. Post Office, Courthouse, and Customhouse*, 216 Lameuse St. (1-30-78).

Madison County

Canton vicinity, *Doak's Stand Treaty Site*, NE of Canton (1-30-78).

Washington County

Greenville, *First National Bank of Greenville*, Main and Walnut Sts. (1-30-78).

MISSOURI

Jackson County

Kansas City, *Corrigan, Bernard, House*, 1200 W. 55th St. (1-18-78).

Marion County

Hannibal, *Mark Twain Historic District*, Bird, Main, and Hill Sts. (1-4-78).

Nodaway County

Graham, *Simpson's College*, 515 E. Jackson St. (1-30-78).

Shelby County

Bethel vicinity, *Hebron*, 0.8 mi. (1.3 km) NW of Bethel (1-31-78).

NEBRASKA

Lincoln County

North Platte vicinity, *Scout's Rest Ranch*, NW of North Platte off U.S. 30 (1-30-78).

NEVADA

Carson City (independent city)

Lakeview House, U.S. 395 S of E. Lake Blvd. (1-5-78).
Roberts, James D. House, 1217 N. Carson St. (1-3-78).HABS.
St. Peter's Episcopal Church, 312 N. Division St. (1-3-78) HABS.

Washoe County

Reno, *Glendale School*, S. Virginia St. and Lietzke Lane (1-30-78).

White Pine County

Ely vicinity, *Sunshine Locality*, NW of Ely (1-30-78).

NEW HAMPSHIRE

Rockingham County

Portsmouth, *St. John's Church*, 105 Chapel St. (1-31-78).

NEW JERSEY

Atlantic County

Atlantic City, *Holmhurst Hotel*, 121 S. Pennsylvania Ave. (1-18-78).

Burlington County

Columbus vicinity, *Newbold, Barzillai, House*, E of Columbus on Columbus-Georgetown Rd. (1-26-78).
Moorestown, *French, Thomas Jr., House*, 512 Camden Ave. (1-9-78).
Wrightstown vicinity, *Oakwood (Newbold-Hutchinson House)*, W of Wrightstown on Springfield Meeting Rd. (1-30-78).

Camden County

Camden, *Whitman, Walt, Neighborhood*, 326-332 Mickle St. (1-20-78).
Haddonfield vicinity, *Barclay Farm House*, NE of Haddonfield near jct. of I-295 and NJ 70 (1-26-78).

Essex County

Newark, *James Street Commons Historic District*, roughly bounded by Halsey, Warren, Boyden, Bleeker, Orange, and Broad Sts. (1-9-78).

Mercer County

Princeton vicinity, *Tusculum*, N of Princeton on Cherry Hill Rd. (1-5-78) HABS.
Trenton, *Trenton City Hall*, 309 E. State St. (1-30-78).

Ocean County

Seaside Park vicinity, *U.S. Lifesaving Station No. 14*, S of Seaside Park on Island Beach State Park (1-30-78).

Somerset County

Neshanic, *Neshanic Mills*, Main Rd. and Mill Lane (1-9-78)

NEW MEXICO

Bernalillo County

Albuquerque, *Hodgin Hall*, University of New Mexico campus (1-30-78).
Albuquerque, *Occidental Life Building*, 119 3rd Ave., SW. (1-30-78).
Albuquerque, *Superintendent's House, Atlantic & Pacific Railroad*, 1023 S. 2nd St. (1-20-78).

Colfax County

Raton vicinity, *Catskill Charcoal Ovens*, 35 mi. (56 km) W of Raton (1-30-78).
Raton vicinity, *St. John's Methodist Episcopal Church*, 17 mi. (27 km) E of Raton on NM 72 (1-18-78).

Dona Ana County

Mesilla, *Barela-Reynolds House*, off NM 292 (1-20-78).

NEW YORK

Albany County

Albany, *Church of the Holy Innocents*, 275 N. Pearl St. (1-31-78).
Cohoes, *Harmony Mill Historic District*, between Mohawk River and RR tracks (1-12-78).

Allegany County

Angelica, *Angelica Park Circle Historic District*, Main and White Sts. and Allegany County Fairgrounds (1-31-78).

Broome County

Binghamton, *South Washington Street Parabolic Bridge*, S. Washington St. (1-

OREGON

Benton County

SOUTH CAROLINA

Aiken County

Aiken, *Cohen Springs, Cohen Spring Rd.* (1

Montgomery County

Clarksville vicinity, *Whitehall*, NW of Clarksville off TN 12 on Mill Rd. (1-31-78).

Chittenden County

Burlington, *Old Ohavi Zedek Synagogue*, Archibald and Hyde Sts. (1-31-78).
Jericho vicinity, *Chittenden, Martin, House*, W of Jericho on VT 117 (1-9-78).

WASHINGTON

Kitsap County

Winslow vicinity, *Fort Ward Historic District*, S of Winslow (1-12-78).

Broome County

Binghamton, *South Washington Street Parabolic Bridge*, S. Washington St. (1-30-78).

Cortland County

Solon, *Hatheway Homestead*, NY 41 (1-20-78).

New York County

New York City, *Apthorp Apartments*, 2201-2219 Broadway (1-30-78).

Orange County

Montgomery vicinity, *Hill, Nathaniel, Brick House*, E of Montgomery on NY 17 K (1-5-78).

NORTH CAROLINA

Buncombe County

Asheville, *Manor and Cottages*, 265 Charlotte St. (1-26-78).

Chatham County

Pittsboro, *Pittsboro Presbyterian Church*, N. East St. (1-30-78).

Dare County

Duck vicinity, *Caffeys Inlet Lifesaving Station*, N of Duck on SR 1200 (1-30-78).

Durham County

Durham, *Hill, John Sprunt, House*, 900 S. Duke St. (1-30-78).

Forsyth County

Bethania vicinity, *Jones, Dr. Beverly, House*, SR 1611 (1-20-78).

Mecklenburg County

Charlotte, *Duke, James Buchanan, House*, 400 Hermitage Rd. (1-20-78).

Orange County

Oaks, *Bingham School*, NC 54 and SR 1007 (1-18-78).

Washington County

Creswell vicinity, *Belgrade and St. David's Church*, E of Creswell (1-26-78).

NORTH DAKOTA

Ramsey County

Devils Lake, *Ramsey County Sheriff's House*, 420 6th St. (1-31-78).

Ward County

Minot, *Soo Line Passenger Depot*, 11 N. Main St. (1-20-78).

OHIO

Warren County

Lebanon, *Golden Lamb*, 27-31 S. Broadway (1-12-78) HABS.

OKLAHOMA

Comanche County

Lawton, *Meers Mining Camp*, 20 mi. (32 km) NW of Lawton (1-20-78).

Kingfisher County

Kingfisher, *Kingfisher Post Office*, Main and Robberts Sts. (1-20-78).

OREGON

Benton County

Corvallis, *Benton County Courthouse*, NW. 4th St. between Jackson and Monroe Sts. (1-30-78).

Multnomah County

Portland, *Loeb, Nathan, House*, 726 NW. 22nd Ave. (1-20-78).
Portland, *Trenkmann Houses*, 525 NW. 17th Ave., 526 NW. 18th Ave., 1704, 1710, 1716, 1720, 1728, 1734 NW. Hoyt St. (1-30-78).

PENNSYLVANIA

Berks County

Reading, *Astor Theatre*, 730-742 Penn St. (1-5-78).
Wernersville vicinity, *Old Dry Road (Staudt Farm)*, 3 mi. (4.8 km) NW of Wernersville on Highland Rd. (1-23-78).

Bucks County

New Hope vicinity, *Smith Family Farmstead*, S of New Hope on River Rd. (1-30-78).
Quakertown, *Liberty Hall*, 1237 W. Broad St. (1-26-78).

Chester County

Kimberton vicinity, *Strickland-Roberts Homestead*, 3 mi. (4.8 km) S of Kimberton on St. Matthews Rd. (1-30-78).
Pottstown vicinity, *Coventryville Historic District*, S of Pottstown on PA 23 (1-31-78).

Delaware County

Concordville, *Handwrought*, Concord and Station Rd. (1-18-78).

Franklin County

St. Thomas vicinity, *Chambersburg and Bedford Turnpike Road Company Toll House*, W of St. Thomas on U.S. 30 (1-3-78).

Lancaster County

Mount Joy vicinity, *Donegal Mills Plantation*, SW of Mount Joy on Trout Run Rd. (1-20-78).

Schuylkill County

Rock vicinity, *Schuylkill County Bridge No. 113*, E of Rock off PA 895 (1-3-78).
Rock vicinity, *Schuylkill County Bridge No. 114*, W of Rock off PA 895 (1-3-78).

Wayne County

Bethany, *Wilmot Mansion*, Wayne and Sugar Sts. (1-26-78).

Westmoreland County

Latrobe vicinity, *St. Vincent Archabbey Gristmill*, SW of Latrobe off U.S. 30 (1-18-78)

RHODE ISLAND

Providence County

Central Falls, *Holy Trinity Church Complex*, 134 Fuller Ave. (1-3-78).

Washington County

Westerly, *Main Street Historic District*, 113-132 Main St., 8, 7-13 School St., 3-14 Maple St. (1-9-78).

SOUTH CAROLINA

Aiken County

Aiken, *Coker Spring*, Coker Spring Rd. (1-18-78).

Charleston County

Charleston, *Bennett, Gov. Thomas, House*, 69 Barre St. (1-31-78).

Georgetown County

Georgetown vicinity, *Arcadia Plantation*, 5 mi. (8 km) E of Georgetown off U.S. 17 (1-3-78).

Greenville County

Greenville, *Wesley, John, Methodist Episcopal Church*, 101 E. Court St. (1-20-78).

Sumter County

Pinewood vicinity, *St. Mark's Church*, W of Pinewood on SR 51 (1-20-78).

SOUTH DAKOTA

Brown County

Aberdeen vicinity, *Wylie Park Pavilion*, N of Aberdeen off U.S. 281 (1-26-78).

Butte County

Belle Fourche, *Scotney, John Aaron, House*, 830 9th St. (1-3-78).

Clay County

Vermillion vicinity, *Rice Farm*, W of Vermillion (1-20-78).

Douglas County

Armour, *Armour Historic District*, Main St. between 3rd and 7th Sts. (1-30-78).

Edmunds County

Ipswich, *Ipswich Baptist Church*, Main St. and 3rd Ave. (1-30-78).

Lake County

Madison, *Luce, Herman, Cabin*, Lake Herman State Park (1-30-78).

Minnehaha County

Sioux Falls, *Phillips Block*, 333-335 N. Main Ave. (1-18-78).

Perkins County

Bison, *Carr, Anna, Homestead*, off SD 20 (1-20-78).

Spink County

Ashton vicinity, *Norwood, James, Round Barn*, SE of Ashton on Snake Creek (1-3-78).

TENNESSEE

Davidson County

Nashville, *Fisk University Historic District*, roughly bounded by 16th and 18th Aves., Hermosa, Herman, and Jefferson Sts. (2-9-78).
Nashville, *Geddes, James, Engine Company No. 6*, 629 2nd Ave. S. (1-9-78).
Nashville, *Litterer Laboratory*, 631 2nd Ave. S. (1-9-78).

Greene County

Chuckey vicinity, *Mauris-Earnest Fort House*, S of Chuckey on Nolichucky River (1-30-78).

Montgomery County

Clarksville vicinity, *Whitehall*, NW of Clarksville off TN 12 on Mill Rd. (1-31-78).

Robertson County

Springfield, *Mansfield Cheatham House*, 7th Ave. W. (1-30-78).

Sullivan County

Kingsport vicinity, *Looney, Moses, Fort House*, 5436 Old Island Rd. (1-18-78).

Sumner County

Cottontown vicinity, *King Homestead*, W of Cottontown off TN 25 (1-30-78).
Hendersonville vicinity, *Shackle Island Historic District*, N of Hendersonville at Shackle Island Rd. and Long Hollow Pike (1-30-78).
Westmoreland, *Westmoreland Tunnel*, off Tn 52 (1-20-78).

TEXAS

Caldwell County

Lockhart, *Caldwell County Courthouse Historic District*, Courthouse Sq. and environs (1-3-78).

Dallas County

Dallas, *Magnolia Building*, 108 S. Akard St. (1-3-78).

Garza County

Post vicinity, *O.S. Ranch Petroglyphs*, 12 mi. (19 km) E of Post (1-31-78).

Harris County

Houston, *Old Sixth Ward Historic District*, bounded by Washington, Union, Houston, Capitol and Glenwood Cemetery (1-23-78).

Jefferson County

Beaumont, *Jefferson Theatre*, 345 Fannin St. (1-30-78).

Sutton County

Sonora, *Old Mercantile Building*, 222 Main St. (1-30-78).

UTAH

Carbon County

Price, *Notre Dame de Lourdes Catholic Church*, 200 N. Carbon Ave. (1-9-78).

Salt Lake County

Salt Lake City, *Henderson Block*, 375 West 200 South (1-30-78).
Salt Lake City, *Hotel Utah*, S. Temple and Main St. (1-3-78).

Sevier County

Elsinore, *Elsinore White Rock Schoolhouse*, 25 South 100 East (1-18-78).

VERMONT

Addison County

Monkton vicinity, *Monkton Town Hall*, N of Monkton on Monkton Ridge Rd. (1-3-78).

Caledonia County

Stannard, *Methodist-Episcopal Church*, off VT 16 (1-5-78).

Chittenden County

Burlington, *Old Ohavi Zedek Synagogue*, Archibald and Hyde Sts. (1-31-78).
Jericho vicinity, *Chittenden, Martin, House*, W of Jericho on VT 117 (1-9-78).
Winooski vicinity, *Winooski Archeological Site*, W of Winooski (1-5-78).

Orleans County

Albany vicinity, *Hayden, William, House*, S of Albany of VT 14 (1-31-78).

Rutland County

East Poultney, *East Poultney Historic District*, Village Green and environs (1-31-78).

Washington County

East Barre vicinity, *Nichols House*, SW of East Barre off VT 110 (1-31-78).
Waterbury Center, *Green Mountain Seminary*, off VT 100 (1-30-78).
Waterbury Center, *Waterbury Center Methodist Church*, VT 100 (1-9-78).

Windsor County

Gaysville, *Gay, Daniel, House*, VT 107 (1-9-78).

VIRGINIA

Albemarle County

Powell Corner vicinity, *Estouteville*, SE of Powell Corner off VA 712 (1-30-78).

Botetourt County

Buchanan, *Wilson Warehouse*, Lower and Washington Sts. (1-26-78).

Fauquier County

Warrenton, *Old Fauquier County Jail*, Fauquier County Courthouse Sq. (1-20-78).
Warrenton, *Spilman-Mosby House (Brentmoor)*, 173 Main St. (1-20-78).

Grayson County

Independence, *Grayson County Courthouse*, Main St. (1-26-78).

King William County

Aylett vicinity, *Burlington*, NW of Aylett (1-30-78).

Loudoun County

Taylorstown, *Taylorstown Historic District*, Catoctin Creek and VA 663 (1-30-78).

Montgomery County

Christiansburg, *Christiansburg Presbyterian Church*, 107 W. Main St. (1-30-78).

New Kent County

Providence Forge vicinity, *Olivet Presbyterian Church*, 2.7 mi. (4.3 km) NW of Providence Forge on VA 618 (1-26-78).

Nottoway County

Blackstone vicinity, *Oakridge*, W of Blackstone off VA 626 (1-30-78)

Rockingham County

Singers Glen, *Singers Glen Historic District*, jct. of VA 613 and VA 712 (1-20-78).

Wythe County

Wytheville vicinity, *St. John's Lutheran Church and Cemetery*, NW of Wytheville at jct of U.S. 21/52 and I81 (1-26-78).

WASHINGTON

Kitsap County

Winslow vicinity, *Fort Ward Historic District*, S of Winslow (1-12-78).

WISCONSIN

Columbia County

Wisconsin Dells, *Wever, Jacob, House*, 825 Oak St. (1-20-78).

Dane County

Madison, *Lamp, Robert M., House*, 22 N. Butler St. (1-3-78).

Jackson County

Black River Falls, *Union High School*, N. 3rd St. (1-20-78).

Kenosha County

Kenosha, *McCaffary, John, House*, 5732 13th Court (1-31-78).

Portage County

Stevens Point, *Kuhl, Christina, House*, 1416 Main St. (1-9-78).

Price County

Ogema vicinity, *Johnson, Albin, Log House*, E of Ogema (1-20-78).

Walworth County

East Troy, *Buena Vista House*, 2090 Church St. (1-18-78).

* * * * *

The following is a list of corrections to properties previously listed in the FEDERAL REGISTER.

ALABAMA

Hale County

Greensboro, *Greensboro Historic District*, Main St. From Hobson to 1st Sts., includes both sides (8-13-76) boundary increase (1-23-78).

ALASKA

Sitka Division

Sitka, *Russian Bishop's House (Russian Mission Orphanage)*, Lincoln and Monastery Sts. (10-15-66).

MONTANA

Powell County

Deer Lodge, *Montana Territorial and State Prison*, 925 Main St. (9-376) (mistakenly listed in Deer Lodge Co.).

SOUTH CAROLINA

Anderson County

Anderson, *Orr, Dr. Samuel Marshall, House*, 809 W. Market St. (4-13-73).

Greenville County

Greenville, *Downtown Baptist Church*, 101 W. McBee Ave. (8-16-77) (formerly listed as *Greenville Baptist Church*).

* * * * *

The following properties were omitted from February 7, 1978, listing of properties in the FEDERAL REGISTER.

ALASKA

Sitka Division

Sitka vicinity, *Old Sitka Site*, 6 mi. (9.6 km)

NOTICES

The following properties have been determined to be eligible for inclusion in the National Register. All determi-

Little Diomede Island, *Iyapanc, John House*.

Sitka Division

ARKANSAS

Archeological Sites, Black River Watershed (also in Missouri).

Calaveras County

New Melones Historical District, New Melones Lake Project area, Stanislaus River (also in Tuolumne County)

Van Norman Reservoir, Site CA-LAN 646, CA-LAN 643, Site CA-LAN 499, and a cluster made up of Sites CA-LAN, 475, 491, 492 and 493.

ALASKA

Sitka Division

Sitka vicinity, *Old Sitka Site*, 6 mi. (9.6 km) N of Sitka on Starrigavan Bay (10-15-66) NHL.

WYOMING

Teton County

Jackson vicinity, *Miller Cabin*, 1 mi. (1.6 km) NE of Jackson (4-16-69) G.
Moose, *Menor's Ferry*, Across Snake River just above park headquarters, Grand Teton National Park, (4-16-69).
Moose vicinity, *Cunningham Cabin*, NE of Moose off U.S. 26/89/187 in Grand Teton National Park, (10-2-73).
Moran vicinity, *Leek's Lodge*, 10 mi (16.1 km) NW of Moran in Grand Teton National Park, off U.S. 89/287, (9-5-75).
West Thumb vicinity, *Old Faithful Inn*, W of West Thumb at Old Faithful on Grand Loop Rd., (7-23-73).

Uinta County

Evanston, *Uinta County Courthouse*, Courthouse Sq. (7-14-77).
Evanston vicinity, *Bridger Antelope Trap*, E of Evanston off U.S. 189, (1-21-71).
Fort Bridger vicinity, *Fort Bridger*, On Black's Fork of Green River, near the town of Fort Bridger, (4-16-69) G.
Hilliard vicinity, *Piedmont Charcoal Kilns*, 14 mi. (22.5 km) NE of Hilliard, (6-3-71) G.

Weston county

Newcastle vicinity, *Jenney Stockade site*, (9-30-69).

Z OUTER CONTINENTAL SHELF

Cape Hatteras vicinity, U.S.S. Monitor, S of Cape Hatteras, (3-18-75).
Galveston vicinity, *U.S.S. Hatteras*, S of Galveston (1-28-77).
Plantation Key vicinity, *San Jose Shipwreck site*, 4 mi. (6.4 km) SE of Plantation Key, Monroe County, FL, (3-18-75).

• • • • •

The following properties have been demolished and/or removed from the NATIONAL REGISTER OF HISTORIC PLACES.

KANSAS

Dickinson County

Solomon, *Union Pacific Railroad Depot.*

Jackson County

Grass Lake, *Smith, Sidney T., House*, Michigan Ave.

Wayne County

Detroit, *Harper Hospital*, John R St. Grosse Pointe Farms, *Dodge Mansion, (Rose Terrace)*, 12 Lakeshore Dr.

Athens County

The Plains, *Hartman Mound.*

Hamilton County

Elizabethtown vicinity, *Fort Hill.*

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NOTICES

The following properties have been determined to be eligible for inclusion in the National Register. All determinations of eligibility are made at the request of the concerned Federal Agency under the authorities in section 2(b) and 1(3) of Executive Order 11593 as implemented by the Advisory Council on Historic Preservation, 36 CFR Part 800. This listing is not complete. Pursuant to the authorities discussed herein, an Agency Official shall refer any questionable actions to the Director, Office of Archeology and Historic Preservation, Department of the Interior, for an opinion respecting a property's eligibility for inclusion in the National Register.

Historical properties which are determined to be eligible for inclusion in the National Register of Historic Places are entitled to protection pursuant to section 106 of the National Historic Preservation Act of 1966, as amended, and the procedures of the Advisory Council on Historic Preservation, 36 CFR Part 800. Agencies are advised that in accord with the procedures of the Advisory Council on Historic Preservation, before an agency of the Federal Government may undertake any project which may have an effect on such a property, the Advisory Council on Historic Preservation shall be given an opportunity to comment on the proposal.

ALABAMA

Green County

Gainesville vicinity. *Archeological Sites in Gainesville Project*, Tombigbee Waterway (also in Pickens and Sumter counties).
*Tombigbee River Multi-Resource District**, also in Pickens Co., AL and Tishomingo, Prentiss, Tawamba, Monroe, Clay, Lowndes, Noxubee Cos., MS.

Jefferson County

Pleasant Hill vicinity, *Site 1Je36*. Project I-459-4(4).

Lowndes County

Jones Bluff Park Site (1 Au 139), Jones Bluff Lake Project.

Montgomery County

Gunter Hill Park Site (1 MT 134), Jones Bluff-Lake Project.

Washington County

Sunflower vicinity, *Dr. Williams Home*, AL project RF-98(7).

ALASKA

Aleutian Islands Division Unalaska vicinity, *Amaknak Bridge Site (UNL-050).*

Fairbanks Division

Faith Greek vicinity, *Davidson Ditch*, Steese Hwy.

Nome Division

Cape Nome vicinity, *Nuk Site*, Nome-Council Rd.
Little Diomede Island, *Iyapanc, John House.*

Sitka Division

Crab Bay, *Crab Bay Petroglyph.*

ARIZONA

Apache County

Grand Canyon National Park, *Old Post Office.*

Apache County

Painted Cliffs Archeological District (Arizona K:12:3, K:12:87, K12:238, K:12:239), Lupton Interchange of I-40.

Coconino County

Gray Mountain Site (AR-02-020-946).
House Rock Springs, Upper Houserock Valley.
Paria Plateau Archeological District.

Graham County

Foote Wash—No name Wash Archeological District.

Maricopa County

Cave Creek Archeological District.
Glendale vicinity, *Cave Creek Dam.*
New River Dams Archeological District.
Phoenix, *Beth Israel Synagogue*, 120 E. Culver.
Phoenix, *Brooks, M. B., House*, 334B 75th Ave.
Phoenix, *Ellis-Shackleford House*, 1242 N. Central.
Phoenix, *Evans Barn*, 67th Ave., between Van Buren and McDowell.
Phoenix, *Fennemore House*, 501 E. Moreland.
Phoenix, *Hidden-Porcher House*, 763 E. Moreland.
Phoenix, *Ivy House*, 111 W. Monroe St.
Phoenix, *Kenilworth Elementary School*, 1210 N. 5th Ave.
Phoenix, *La Ciudad Archeological Site.*
Phoenix, *Las Colinas (Arizona T:12810)*, 1200 block of N. 27th Ave.
Phoenix, *Pieri-Elliott House*, 767 E. Moreland.
Phoenix, *Steward House*, 1115 N. Central.
Phoenix, *Wilcox Property*, 2222 W. Washington St.
Carefree vicinity, *Site T:4:6.*
Carefree vicinity, *Site U:1:30 (A.S.U.).*
Carefree vicinity, *Site U:1:31 (A.S.U.).*
Skunk Creek Archeological District.

Mohave County

Colorado City vicinity, *Short Creek Reservoir States, NA 13,257 and NA 13,258.*

Navajo County

Holbrook vicinity, *Cholla-Saguero-Transission Line, Archeological Sites APS-CS-2; APS-CS-3; CS-221; APS-CS-61; CS-218; CS-219; CS-224; CS-220; APS-CS-222.*
Polacca vicinity, *Walpi Hopi Village*, adjacent to Polacca.

Pima County

Tucson, *Convento Site.*

Yavapai County

Copper Basin Archeological District, Prescott National Forest.

Yuma County

Eagle Trail Mountains Archeological Site.

ARKANSAS

Archeological Sites, Black River Watershed (also in Missouri).

Clay County

Site 3CY34, Little Black River Watershed.

Craighead County

Jonesboro, *U.S. Post Office*, Church and Jackson Sts.
Mangrum Site (State Site Number 3CG636).

Faulkner County

Site, 3WH145, E Fork of Cadron Creek Watershed (also in White County).
Site 3VB49-3VB51, N Fork Cadron Creek Watershed.

Hempstead County

Archeological Sites in Ozan Creeks Watershed.

Lonoke County

Scott vicinity, *William S. Pemberton House.*

Ouachita County

Camden, Old Post Office, Washington St.

Pointsett County

Rivervale Site (State Site Number 3P0395).

Sabastian County

Boonville, *Sliding Slab Shelter Site (3SB29).*

CALIFORNIA

Alameda County

Oakland, *First Unitarian Church*, 685 14th St.
Oakland, *Ginn, Frederick B., House*, 660 13th St.
Oakland, *Greene, Charles S., Library Building*, 659 14th St.
Oakland, *Mahoney, Thomas, House*, 669 8th St.
Oakland, *Preservation Park Historic District*, bounded by 10th, 14th, Castro, and Grove Sts.
Oakland, *Quinn, William H., House*, 1425 Castro St.
Oakland, *Rectory, Church of the Immaculate Conception*, 662 7th St.
Oakland, *Remillard, Pierre, House*, 654 13th St.
Oakland, *St. Mary's Church*, Jefferson and 8th Sts.
Oakland, *St. Mary's Church Rectory*, 707 Jefferson St.
Oakland, *White, James, House*, 702 11th St.
Oakland, *920 Brush Street.*
Oakland, *1811-1813 Brush Street.*
Oakland, *716 Castro Street.*
Oakland, *1416 Castro Street.*
Oakland, *905 Grove Street.*
Oakland, *669 Ninth Street.*
Oakland, *576 Sixth Street.*
Oakland, *782-784 Twelfth Street.*
Oakland, *1226-1228 West Street.*

Alpine County

Woodsford vicinity, *Archeological Site 4-Alp-105.*

Amador County

Amador City, 35 mi. (58 km) SE of Sacramento.

Benito County

Chalone Creek Archeological Sites, Pinnacles National Monument.

Calaveras County

New Melones Historical District, New Melones Lake Project area, Stanislaus River (also in Tuolumne County).

Colusa County

Princeton, *Princeton Ferry Site*, Rte. 45.
Stoneyford vicinity, *Upper and Lower Letts Valley Historical District*, 12 mi. (19.2 km) SW of Stoneyford.

Del Norte County

Chimney Rock, Six Rivers National Forest.
Doctor Rock, Six Rivers National Forest.
Peak No. 8, Six Rivers National Forest.

El Dorado County

Columa vicinity, *Site Eld-58.*
Placerville, *Giebenhahn House and Mountain Brewery Complex.*

Fresno County

Helms Pumped Storage Archeological Sites, Sierra National Forest.

Glenn County

Mendocino National Forest, *Black Saddle Site, 05-08-53-89.*
Willows vicinity, *White Hawk Top Site*, Twin Rocks Ridge Road Reconstruction Project.

Humboldt County

Eureka, *Eureka Historic District.*

Imperial County

Glamis vicinity, *Chocolate Mountain Archeological District.*
Holtville vicinity, *Archeological Sites 4-IMP-318, 322, 324, 1747, 1748, 1749, 1750.*
Lake Cahuilla, *Lot 1.*
Lake Cahuilla, *Lot 5.*

Inyo County

Scotty's Castle, Death Valley National Monument.
Scotty's Ranch, Death Valley National Monument.
The Twenty Mule Team Borax Wagon Road (also in Kern and San Bernardino counties).

Kern County

Site Ca-Ker-322.

Lassen County

Archeological Site HJ-1 and HJ-5 (also in Sierra County).

Los Angeles County

Big Tujunga Prehistoric Archeological Site, I 210 Project.
Los Angeles, *Fire Station No. 26*, 2475 W. Washington Blvd.
Los Angeles, *Venice Short Line Tract*, Venice Blvd. from Lincoln Blvd. to Pacific Ave.
Pico Rivera, *National Bank of Pico*, 9235 Whittier Blvd.
South Pasadena, *Buena Vista District*, 917-1005 Buena Vista St.
South Pasadena, *Oaklawn District*, Oaklawn Ave.
South Pasadena, *Rhodes House*, 365 W. Bellevue Dr.
South Pasadena, *West Bellevue Drive District*, portions of Naverley Dr., Bellevue Dr., Palmetto Dr., and Pasadena Ave.
South Pasadena, *West Del Mar District*, 320-380 W. Del Mar Blvd; 280, 310 S. Orange Grove Blvd.
Van Norman Reservoir, Site CA-LAN 646, CA-LAN 643, Site CA-LAN 499, and a cluster made up of Sites CA-LAN, 475, 491, 492, and 493.

Madera County

Archeological Sites, Buchanan Dam at Chowchilla River.
Bass Lake Archeological Sties.
Hensley Dam vicinity, *CA-MAD 176-185.*
Hensley Dam vicinity, *Lower China Crossing.*
Hensley Darn Vicinity, *New Site.*

Marin County

Point Reyes, *P. E. Booth Company Pier*, Point Reyes National Seashore.
Point Reyes, *Point Reyes Light Station.*

Mendocino County

Stick Lake Prehistoric Site, Case No. 05-08-67, Mendocino National Forest.
Upper Leach Lake Prehistoric Site, Case No. 05-08-67, Mendocino National Forest.

Modoc County

Alturas vicinity, *Rail Spring*, about 30 mi. (48 km) N. of Alturas in Modoc National Forest.
Johnson Slough Site (Site 1).
Tulelake vicinity, *Lava Bed National Monument Archeological District*, S. of Tulelake (also in Siskiyou County).

Mono County

Archeological Site CA-MNO-584.

Monterey County

Big Sur, *Point Sur Light Station.*

Napa County

Archeological Sites 4-Nap—14, 4-Nap-261. Napa River Flood Control Project.

Plumas County

Archeological Sites 05-11-55-11, 28, 33, 43, 44, Plumas National Forest.
Mineral, *Hay Barn and Cook's Cabin, Drakesbad (Sifford Family) Guest House*, Lassen Volcanic National Park.
Mineral, *Summit Lake Ranger Station*, Lassen Volcanic National Park.

Riverside County

La Quinta vicinity, *Archeology District La Quinta Evacuation Channel*, Covers a 240 ft. easement from La Quinta to the white water at Indio.
Twentynine Palms, *Cottonwood Oasis (Cottonwood Springs)*, Joshua Tree National Monument.
Twentynine Palms, *Lost Horse Mine*, Joshua Tree National Monument.

Sacramento County

Sacramento River Bank Protection Project, Site 1, Sacramento River.
Sacramento Weir.
Sacramento, *Tower Bridge*, M St. over Sacramento River (also in Yolo County).

San Bernardino County

Ontario, *Euclid Avenue Railroad Grade Separation-Properties.*
Squaw Spring Well Archeological District.
Steam Well Petroghlyph Archeological District.
Trona Pinnacles Railroad Camp.
Twentynine Palms, *Twentynine Palms Oasis*, Joshua Tree National Monument.

San Diego County

Campo, *Campo Railroad Station.*
Escondido vicinity, *Caltrans' Project (Archeological Site 4-SDi-4558).*

Cattle Cabins, Sequoia National Park.
Quinn Ranger Station.
Tharp's Log, Sequoia National Park.

Ventura County

Windsor, *Mills, Elijah, House*, 45 Deerfield Rd.

Middlesex County

FLORIDA

Broward County

Hillsboro Inlet, *Coast Guard Light Station.*

Fulton County

Atlanta, *Cottingin Building*, 97 Broad St. SW.
Atlanta, *Downtown Atlanta Historic District*, beginning at jct. Atlanta St. and
Moanalua Valley.

IDAHO

Ada County

San Diego County

Campo, *Campo Railroad Station.*
Escondido vicinity, *Caltrans' Project (Archeological Site 4-SDi-4558).*
North Island, *Camp Howard, U.S. Marine Corps,* Naval Air Station.
North Island, *Rockwell field,* Naval Air Station.
San Diego, *Marine Corps Recruit Depot,* Barnett Ave.

San Francisco County

San Francisco, *The Federal Building,* 100 McAllister St.
Forest Hill Station.
North Point Park/Marina (Eagle Cafe and Pier Facades), San Francisco northern waterfront.
San Francisco, *Twin Peaks Tunnel.*

San Luis Obispo County

New Cuyana vicinity, *Caliente Mountain Aircraft Lookout Tower, 13 mi. (20.8 km) NW. of New Cuyana off Rte. 166.*
San Luis Obispo, *San Luis Obispo Light Station.*

San Mateo County

Hillsborough, *Point Montara Light Station.*

Santa Barbara County

Santa Barbara, *Site SBa-1330,* Santa Monica Creek.
Site CA-Sba-1325.

Santa Clara County

Archeological Sites 4-SCL-163 236, 237, 178, 241, 242, 54.
Coyote, *The Johnson House Complex,* Monterey Rd.
Coyote vicinity, *The Dairy.*
Coyote vicinity, *The Fisher Ranch,* 0.25 mi. (0.3 km) E of Monterey Rd.
Coyote vicinity, *The Stevens Ranch.*

Shasta County

Mineral, *Park Entrance Station and Residence,* Lassen Volcanic National Park.
Mineral, *Park Naturalist's Residence,* Lassen Volcanic National Park.
Mineral, *Sumit Lake Ranger Station,* Lassen Volcanic National Park.
Mineral, *Warner Valley Ranger Station,* Lassen Volcanic National Park.
Redding vicinity, *Squaw Creek Archeological Site,* NE of Redding.
Whiskeytown, *Irrigation System (165 and 166),* Whiskeytown National Recreation Area.

Sierra County

Properties in Bass Lake Sewer Project

Siskiyou County

Thomas-Wright Battle Site, Lava Beds National Monument.

Sonoma County

Dry Creek-Warm Springs Valley Archeological District.
Petaluma, *Ferrell Home,* 500 E. Washington St.
Santa Rosa, *Santa Rosa Post Office.*

Tehama County

Los Molinos vicinity, *Ishi Site (Yahi Camp).* E of Los Molinos in Deer Creek Canyon.

Tulare County

Atwell's Mill, Sequoia National Park.
Cattle Cabins, Sequoia National Park.
Quinn Ranger Station.
Tharp's Log, Sequoia National Park.

Ventura County

Los Padres National Forest, *Archeological Sites 4 Ven-367 and 4-Ven-368.*
Simi Valley, *Archeological Site Vern-341.*

COLORADO

Douglas County

Keystone Railroad Bridge, Pike National Forest.

Larimer County

Estes Park, *Beaver Meadows Maintenance Area,* Rocky Mountain National Park Utility area.
Sites 5-LR-257 and 5-LR-263, Boxelder Watershed Project

Montezuma County

Dolores vicinity, *Anasazi Archeological District.*

Pitkin County

Emma, *Emma Historic District*

Pueblo County

Pueblo, *Pueblo Federal Building (U.S. Post Office),* 5th and main Sts.

CONNECTICUT

Fairfield County

Bridgeport *Pequonnock River Bridge,* crosses Pequonnock River.
Bridgeport Harbor, *Bridgeport Canal Barges.*
Cos Cob, *Cos Cob Bridge,* over Mianus River.
Devon, *Devon Bridge,* over Housatonic River between Stratford and Devon.
Greenwich, *Merritt Parkway,* transportation corridor also through towns of Stanford, New Canaan, Norwalk, Fairfield, Trunball and Stratford.
Norwalk, *Washington Street—S. Main Street Area.*
South Norwalk, *Norwalk River Bridge.*
Westport, *Saugatuck River Bridge,* over Saugatuck River.

Hartford County

Farmington, *Gridley-Parsons-Staples Homestead,* Rt. 4, Farmington Ave.
Granby, *Granby Center.*
Hartford, *Christ Church Cathedral and Cathedral House,* 955 Main St. and 45 Church St.
Hartford, *Flat Iron Building (Motto Building)* (also in Congress St. Historic District).
Hartford, *Hartford Main Post Office,* 135-149 High St.
Hartford, *Houses on Wethersfield Ave.,* between Morris and Wyllys Sts., particularly Nos. 97-81, 65 (also in NR South Green Historic District).
Manchester, *Batson Farm House,* Burnham St.
Manchester, *Portions of Cheney Silk Mills Industrial Complex* (Cheney Homes Area).
Simsbury vicinity, *Farmington Canal,* Granby Sewer facility (Simsbury portion).
South Windsor, *Greek Revival House,* 87 Long Hill Rd.
South Windsor, *Late Federal House,* 78 Long Hill Rd.
Southington, *Lewis, Salley, House,* 500 N. Main St.
Windsor, *Mills, Elijah, House,* 45 Deerfield Rd.

Middlesex County

Middletown, *Cookson, John, House, S. Main St.*
Middletown, *Fuller, Caleb, House,* Upper Williams St.
Middletown, *Main Street Firehouse,* 533 Main St.
Middletown, *Main Street South Historic District,* Mansion Block.
Middletown, *Mather-Douglas-Santangelo House,* 11 S. Main St. (also listed in NR South Green Historic District.)
Middletown, *Middletown High School,* Court and Pearl Sts.
Middletown, *Middletown Main Post Office,* 291 Main St.
Middletown, *Southmayd, William, House,* Lower Williams St.
Old Saybrook, *Connecticut River Bridge,* Connecticut River between Old Saybrook and Old Lyme.

New Haven County

Cheshire and Southington vicinity, the Farmington Canal, section of canal about 1100 ft. S of Ten Mile River culvert.
Waterbury, H. H. Peck Carriage House, Harrison Ave.

New London County

East Lyme, *Niantic River Bridge,* crosses Niantic River.
Croton, *Groton Bridge,* over Thames River between Groton and New London.
Mystic, *Mystic River Railroad Bridge,* Mystic River between Mystic and Groton.
New London, *Bank Street Historic District.*
Norwich, *Buckingham Memorial Building,* 307 Main St.
New London, *Shaw's Cove Bridge,* over Shaw's Cove.
New London, *Starr Street Area,* Starr St.
New London, *Williams Memorial Institute Building,* 110 Broad St.
Norwich, *Washington Street Historic District,* Project 103-159.

New Haven County

Ansonia Opera House, 100 Main St.
New Haven, *Grand Avenue Drawbridge,* over Quinnipiac River.

Windham County

Brooklyn, *Quebec Historic District (Quebec Village).*

DELAWARE

New Castle County

Newark, *Robert Ferguson House,* 636 Chestnut Hill Rd.
Newark, *Walnut Lane,* 4133 Ogletown Rd.

DISTRICT OF COLUMBIA

Auditors' Building, 201 14th St. SW.
Brick Sentry Tower and Wall, along M St. (also in NR Wash. Navy Yard Historic Precinct).
Central Heating Plant, 13th and C Sts. SW. SE between 4th and 6th Sts. SE.
Envoy Towers, 2400 16th St., NW.
1700 Block Q Street NW, 1700-1744, 1746, 1748 Q St. NW.; 1536, 1538, 1540, 1602, 1604, 1606, 1608, 17th St. NW.
Washington Navy Yard Annex, buildings 74, 137, 158, 159, 159E, 160, 167, 173, 187, 197, 202.

FLORIDA

Broward County

Hillsboro Inlet, *Coast Guard Light Station.*

Collier County

Marco Island, *Archeological Sites on Marco Island.*

Monroe County

Knights Key Moser Channel—Packet Channel Bridge (Seven Mile Bridge).
Long Key Bridge, between Long Key and Conch Key.
Old Bahia Honda Bridge, between Spanish Harbor and Bahia Keys.

Pinellas County

Bay Pines, *VA Center,* Sections 2, 3, and 11 TWP 31-S, R-15E.

Polk County

Tampa vicinity *Archeological Site PO 89.*
Tampa vicinity *Archeological Site PO 90.*

St. Johns County

St. Augustine, *St. Augustine National Cemetery.*

GEORGIA

Bibb County

Macon, *Vineville Avenue Area,* both sides of Vineville Ave. from Forsyth and Hardman Sts. to Pio Nono Ave.

Camden County

Kings Bay, *Mill Creek Shell Midden A.*
Kings Bay, *King Plantation Outbuilding Site.*

Carroll County

Carroll, *Jordan-Hampton House,* Route 1.

Chatham County

Archeological Site, end of Skidaway Island.
Savannah, *516 Ott Street.*
Savannah, *908 Wheaton Street.*
Savannah, *914 Wheaton Street.*
Savannah, *920 Wheaton Street.*
Savannah, *928 Wheaton Street.*
Savannah, *930 Wheaton Street.*
Skidaway Island, *Priest's Landing Mounds.*

Clay County

Archeological Site WGC-73, downstream from Walter F. George Dam.

Cobb County

Marietta, *Bostwich, Charles C., House,* 325 Atlanta St.
Marietta, *Clay, Alexander Stephens, House,* 353 Atlanta St.
Mareitta, *McCullock-Wellons' House,* 348 Powder Springs Rd.
Marrietta, *Marietta National Cemetery,* 500 Washington Ave.
Marietta, *Waterman Street School (Joseph T. Walker School),* 205 Waterman St.
Marietta, *Slaughter, M.G., Cottage,* 216 Fraser St.

De Kalb County

Atlanta, *Atkins Park Subdivision,* St. Augustine, St. Charles, and St. Louis places.
Decatur, *Sycamore Street Area.*
Stone Mountain, *Evans-Williams House,* 459 Hairston Rd.

Fulton County

Atlanta, *Cottingin Building,* 97 Broad St. SW.
Atlanta, *Downtown Atlanta Historic District,* beginning at jct. Atlanta St. and Central Ave.
Atlanta, *The Farlinger,* corner of Ivy and Peachtree Sts.
Atlanta, *First Methodist Church,* 360 Peachtree St.
Atlanta, *Howard Apartments,* 4-10 Prescott St.
Atlanta, *Crawford W. Long Memorial Hospital,* Linden Ave.
Atlanta, *Mitchell-Peachtree Street Historic District,* 127, 129, 133 Peachtree; 143, 165-167, 168, 170, 176 Mitchell; N and W corners of Mitchell and Peachtree Sts.
Atlanta, *W. W. Orr Doctors' Building,* Peachtree St. at Pine St.
Atlanta, *E. R. Parker Motor Company,* 560 W. Peachtree St.
Roswell, *Smith House,* 935 Alpharetta St.

Gordon County

Calhoun vicinity *Haynes, Cleo, House and Frame Structure,* University of Georgia.
Redbud Creek, *Moss-Kelly House,* Sallacoa Creek area.

Greene County

Wallace Reservoir Archeological District, (also in Hancock, Morgan, and Putnam counties).

Gwinnett County

Duluth, *Hudgins, Scott, Home (Charles W. Summerour House),* McClure Rd.

Hancock County

Wallace Dam vicinity, *Archeological Site 9 Pm 215 (Wallace Dam Trailrace Project),* SE of Wallace Dam on Oconee River (also in Putnam County).
Wallace Dam vicinity, *Archeological Site 9 Pm 247 (Wallace Dam Trailrace Project),* SW of SR 16 bridge (also in Putnam County).

Heard County

Philpott Homesite and Cemetery, on bluff above Chattahoochee River where Grayson Trail leads into river.

Richmond County

Augusta, *Archeological Sites Project F-117-1 (7).*
Augusta, *Blanche Mill.*
Augusta, *Enterprise Mill.*
Augusta, *Green Street.*

Sumter County

Americus, *Aboriginal Chet Quarry,* Souther Field.
Plains, *Plains Historic District.*

HAWAII

Hawaii County

Hawaii Volcanoes National Park, *Mauna Loa Trail.*
Kealakekua Bay, *Kona Field System.*
South Kona vicinity, *Great Wall of Kuaktni.*

Maui County

Hana vicinity, *Kipahulu Historic District,* SW of Hana on Rts. 31.

Oahu County

Barber's Point Harbor.
Moanalua Valley.

IDAHO

Ada County

Boise, *Alexanders,* 826 Main St.
Boise, *Falks Department Store,* 100 N. 8th St.
Boise, *Idaho Building,* 216 N 8th St.
Boise, *Simplot Building (Boise City National Bank),* 805 Idaho St.
Boise, *Union Building,* 712½ Idaho St.

Power County

Snake River, *American Falls Power, Light, and Water Company Island Power Plant.*

Clearwater County

Orofino vicinity, *Canoe Camp—Suite 18,* W of Orofino on U.S. 12 in Nez Perce National Historical Park.

Gem County

Marshs and Ireton Ranch, Montour Flood project.
Town of Montoru, Montour Flood project.

Idaho County

Kamiah vicinity, *East Kamiah*—Suite 15 SE of Kamiah on U.S. 12 in Nez Perce National Historical Park.

Lemhi County

Tendoy, *Lewis and Clark Trail, Pattee Creek Camp.*

Nez Perce County

Lapwai, *Fort Lapwai Officer's Quarters,* Phinney Dr. and C St. in Nez Perce National Park.
Lapwai, *Spalding.*
Lewiston, *Fix Building,* 211-213 Main St.
Lewiston, *Lower Snake River Archeological District.*
Lewiston, *Moxley Building,* 215 Main St.
Lewiston, *Scully Building,* 209 Main St.
Lewiston vicinity, *Hatwayma Village Site,* vicinity of Hatwai Creek on U.S. 12.

Power County

American Falls vicinity, *Register Rock.*

Illinois

Bureau County

I & M Canal (also in Henry, Rock Island, and Whiteside counties) (nhl).

Carroll County

Savanna vicinity, *Spring Lake Cross Dike Island Archeological Site,* 2 mi. (3.2 km) SE of Savanna.

Cook County

Chicago, *Oliver Building,* 159 N. Dearborn St.
Chicago, *Springer Block (Bay, State, and Kranz Buildings),* 126-146 N. State St.
Chicago, *Unity Building,* 127 N. Dearborn St.

De Kalb County

De Kalb, *Haish Barbed Wire Factory,* corner of 6th and Lincoln Sts.

Henry County

Genesco, *Ristau Brewery.*

Lake County

Fort Sheridan, *Museum Bldg. 33, Lyster Rd.*

Madison County

American Bottoms, 69 archeological sites in Madison, Monroe, and St. Clair counties.

Pike County

Flint Township, *Napoleon Hollow Village Site and Associated Russell Mound Group.*

Rock Island County

Archeological Site 11-Ri-337, East Moline Mississippi and Rock Rivers.

St. Clair County

East St. Louis, *U.S. Post Office and Courthouse*, 750 Missouri Ave.

Sangamon County

Springfield vicinity, *Archeological Site 11 Sg 385.*

Scott County

Naples vicinity, *Naples-Castle Site*, SW of Naples.

Williamson County

Wolf Creek Aboriginal Mound, Crab Orchard National Wildlife Refuge.

INDIANA

Clark County

Jeffersonville, *Clark Maritime Archeological District.*

Crawford County

Leavenworth, *Cole Site (12Crl).*

Lawarence County

Bedford, *Main Post Office*, 1324 K St.
Mitchell, *Riley School.*

Marion County

Indianapolis, *Lockfield Gardens Public Housing Project*, 900 Indiana Ave.
Indianapolis, *Garfield Park Pagoda*, 2 mi (3.2 km) S of center of Inidanapolis in Garfield Park.

Monroe County

Bloomington, *Carnegia Library.*

Orange County

Paoli vicinity, *Cox Site*, Lost River Watershed.
Paoli vicinity, *Half Moon Spring*, Lost River Watershed.
Jackson, *Ten Prehistoric Sites in the Patoka Lake.*

Parke County

Montezuma vicinity, *Leatherwood Greek Covered Bridge.*

St. Joseph County

Mishawaka, *100 NW Block*, properties fronting N. Main St. and W. Lincoln Way.

Switzerland County

Vevay, *612 Ferry Street*, also known as 608 Ferry St.
Vevay, *508 Liberty Street*, also known as 512 Liberty St.
Vevay, *510 Liberty Street.*
Vevay, *410 Pearl Street.*
Vevay, *504 Pike Street.*
Vevay, *506 Pike Street.*
Vevay, *403 Seminary Street.*
Vevay, *305 Tell Street.*
Vevay, *506 Walnut Street.*

Vanderburgh County

Evansville, *Alhambra Theater*, 50 Adams St.
Evansville, *Pollard Maier House.*
Evansville, *Riverside Neighborhood.*

Vermillion County

Crawforsville and Terre Haute vicinity, *Houses in SR 63/32* Project, jct. of SR 32 and SR 63 and 1st rd. S of jct.

IOWA

Allamakee County

Marquette vicinity, *Fire Point Site (Nine Foot Channel Navigation Project).*

Boone County

Saylorville Archeological District (also in Polk and Dallas counties).

Ida County

Ida Grove, *Muri Brown Site (13-IA-4)*, County Courthouse.

Johnson County

Iowa City vicinity, *Indian Lookout.*

Louisa County

Toolesboro vicinity, *Poison Ivy Site*, IA 99.

Plymouth County

Hinton vicinity, *Archeological Site 13 PM 91.*

KANSAS

Douglas County

Lawrence, *Curtis Hall (Kiva Hall)*, Haskell Institute (nhl).

KENTUCKY

Bell County

Pineville, *Cumberland Ford*, Walnut St.

Boone County

Rabbit hash, *Sites 15Be75 and 15Be76.*

Jefferson County

Ashville vicinity, *McCollough Estate*, 8300 Bardstown Rd.
Louisville, *Archeological Sites:* Section 2, SW Jefferson County Local Protection Project.
Louisville, *Levin Bates House*, Bardstown Rd.

Johnson County

Win vicinity, *Fishtrap United Methodist Church.*
Volga, *McKenzie Log Cabin*, McKenzie Branch.

Lawrence County

Louisa, *Fort Ancient Archeological Site.*

Nelson County

Highgrove vicinity, *Hibbs Home*, jct. of U.S. 31E/10 and KY 480.

Spence County

Taylorsville vicinity, *McClain-Prevallet Site (Archaeological Site 15-Sp-243).*

LOUISIANA

Cameron Parish

Hackberry, *Black lake Site (16-Cm-87).*
Hackberry, *Ellender House.*
Hackberry, *Sanner House.*

East Baton Rouge Parish

Baton Rouge, *Spanish Town*, Baton Rouge.

Lasalle Parish

White Sulfer Springs Vicinity, *Whatley Site (16-LA-37)*, SW of White Sulphur Springs.

Orleans Parish

New Orleans, *Algiers Point Historic District*, bounded by Mississippi River, Atlantic St., and Opelousas St.
New Orleans, *Beauregard Square*, bounded by St. Peter, Rampart, St. Anne Sts., and Municipal Auditorium Building.
New Orleans, *Bienville Hotel*, 1040 St. Charles Ave.
New Orleans, *Bradfield House*, 1236 Annunciation.
New Orleans, *Bradford, Mary, Rental Property*, 1238 Annunciation.
New Orleans, *Brooklyn Cooperage Company*, 1200 St. Peters St.
New Orleans, *Casey Kate, House*, 932-934 Howard.
New Orleans, *Central City District.*
New Orleans, *Cochran and Mims Foundry*, 1101 S. Peters St.
New Orleans, *Cordes, John, House*, 3027-3029 Royal St., Square 170.
New Orleans, *Deyron, Dr. J.A., House* 3037 Royal St., Square 170.
New Orleans, *Dunn, Andrew Jackson, House*, 928-930 Calliope St., Square 119.
New Orleans, *Duyer, James, House*, 933-935 Galenne St., Square 119.
New Orleans, *Gasquet, William, Houses*, 1128-1130 Constance St., Square 119.
New Orleans, *Hart, James S., House*, 615 Erato St., Square 71.
New Orleans, *I-Sea Storage and Transfer Company Building*, 2201 Clio St., Square 348.
New Orleans, *Israelite Divine Spiritual Church*, 631 S. Roman St.
New Orleans, *Jahucke Building*, 814 Howard Ave., Square 237.
New Orleans, *Kohlman Cotton Mill and Manufacturing*, 1226 St. Thomas St.
New Orleans, *Lee Circle and Lee Monument*, St. Charles Ave. at Howard Ave.
New Orleans, *Maginnis Cotton Mills*, 1054 Constance St., Square 120.
New Orleans, *Malloy House*, 1228-1230 Annuciation.
New Orleans, *Malloy Rental Property*, 1232 Annunciation.
New Orleans, *McLaughlin, M.A., House*, 1122-1126 Constance St., Square 119.
New Orleans, *McLeod, Euphenia Napir House*, 1523-1525 Calliope St., Square 183.
New Orleans, *Murray, Thomas, House*, 1131 S. Rampart St., Square 290.
New Orleans, *O'Brien, Thomas, House*, 1244 Annunciation.
New Orleans, *Old Firehouse*, 1045 Magazne St., Square 158.
New Orleans, *Peyton, William H., House*, 1135 S. Rampart St., Square 290.
New Orleans, *Roper, George W., House*, 1032 St. Charles Ave., Square 183.
New Orleans, *St. John the Baptist Church*, 1139 Dryedes St., Square 277.
New Orleans, *Saulet, Marie Theresa, House*, 1218-1222 Annunciation St., Square 100.
New Orleans, *Schwegmann, G. A., House*, 3044 Royal St., Square 142.
New Orleans, *Sincer, Louis, House*, 1061 Camp St., Square 183.
New Orleans, *Sport, C. J., House*, 3015 Royal St., Square 142.
New Orleans, *Talen, Aaldemar Appollonius, Studio-House*, 1029 Calliope St., Square 137.

New Orleans, *Temple Sinai*, 1032 Ceroudelet St., Square 215.
New Orleans, *Verret, Theodore, House*, 1216 Annunciation St., Square 109.
New Orleans, *Tourae, Nicholas, House*, 1169 Tchoupitoulas St., Square 71.
New Orleans, *Wells Fargo Building*, 1055 Dryades St.
New Orleans, *Zangel, Frederick, House*, 1118 Constance St., Square 119.

Ouachita Parish

Logtown vicinity, *Filhiol Mound Complex*, 1 mi. (1.6 km) S. of jct. of SR165 and SR841.

Red River County

Hanna, *Hanna Site (16RR4).*

St. Martins Parish

Morgan City vicinity, *Site 16, Sm—45*, Atchafalaya Basin Floodway.

Vernon Parish

Ft. Polk, *Site 16 VN 18 and 16 VN 24.*

West Feliciana Parish

Illinois Central Gulf RR Abandonment, Hardwood, AL to Woodville, MS (also in Wilkinson Co. MS).

MARYLAND

Allegany County

Cumberland, *Hinkle Farm Group.*
Flintstone, *Breakneck Road Historic District.*
Flintstone vicinity, *Martin Gordon Farm*, Breakneck Rd. (Rte. 1).
Flintstone vicinity, *Martins Mountain Farm*, Breakneck Rd. (Rte. 1).

Anne Arundel County

Claiborne, *Bloody Point Bar Light*, on Chesapeake Bay.
Skidmore, *Sandy Point Shoal Light*, on Chesapeake Bay.

Baltimore (independent city)

Baltimore Belt (Baltimore and Ohio) Railroad (Howard Street Tunnel and Power House).
Barre Circle Historic District, Lombard St., Fremont Ave., Scott St.
Eastern Avenue Sewage Pumping Station, SW corner of Eastern Ave. and President St.
Fayette Street Methodist Episcopal Church, 745 West Fayette St.
Mount Calvary Church Historic District, Biddle St., Madison Ave., N. Eutaw St.
601-607 Chase Street.

Baltimore County

Federal Hill-Riverside Park Historic District, Federal Hill and Riverside Park areas.
Fort Howard, *Craighill Channel Upper Range Front Light*, on Chesapeake Bay.
Hollins-Lombard Historic District, 800 blocks of Hollins and Lombard Sts., bet. Fremont and Callender: unit block of Parkin St.
New Owings Mills Railroad Station, W. of Reisterstown Rd.
Old Western Police Station (Old Pine Street Station).
Reisterstown, *Reisterstown Historic District*, Butler and Walston Rds.
Baltimore, *Ridgely's Delight Historic District.*
Sparrows Point, *Craighill Channel Range Front Light*, on Chesapeake Bay.
Baltimore, *St. Paul's Cemetery, Union Block*, Fremont Ave.

Carroll County

Finksburg vicinity, *Bridge No. 10141 on Hughes Rd.*

Cecil County

Havre de Grace, *Susquehanna River Bridge.*
Perryman, *Bush River Bridge.*
Sassafras Elk Neck, *Turkey Point Light*, at Elk River and Chesapeake Bay.

Dorchester County

Hoopersville, *Hooper Island Light*, Chesapeake Bay-Middle Hooper Island.

Frederick County

Fort Detrick, *Horton Test Sphere (One-Million-Liter Test Sphere).*

Montgomery County

Rockville, *Third Addition to Rockville and Old St. Mary's Church and Cemetery.*

St. Marys County

St. Inigoes, *St. Inigoes Manor House*, Naval Electronic System Test and Evaluation Detachment.
St. Mary City, *Point No Point Light*, on Chesapeake Bay.

Talbot County

Tilghman Island, *Sharps Island Light*, on Chesapeake Bay.

Massachusetts

Barnstable County

Rider, Samuel, House, Gull Pond Rd. off Mid-cape Hwy. 6.
Truro, *Highland Gold Course*, Cape Cod Light area.

Berkshire County

Adams, *Quaker Meetinghouse*, Maple St. Cemetery.

Bristol County

Mansfield, *School Street Site*, I 495 and relocated SR 140.
New Bedford, *Fire Station No. 4.*

Hampden County

Chicopee, *Indian Crossing Site*, confluence of Chicopee and Connecticut rivers.
Holyoke, *Caledonia Building (Crafts Building)*, 185-193 High St.
Holyoke, *Cleary Building (Stiles Building)*, 190-196 High St.
Holyoke, *Steamer Company No. 3.*

Middlesex County

Farmingham, *Danforth Street Bridge*, on road from Saxonville to Wayland.

Suffolk County

Boston, *Dudley House*, 167 Centre St.
Boston, *Dudley Station and the Elevated North of Dudley*, Dudley and Washington Sts.
Boston, *Elevated South of Dudley Station.*
Boston, *Northern Avenue Bridge*, Fort Point Channel.
Boston, *Roxbury Highlands Area.*
Boston, *St. Botolph Street Area.*
Boston, *Police Station No. 10*, 1170 Columbus Ave.

Worcester County

Leicester, *Shaw Site (Sites 4, 5, and 6)*, Upper Quaboag River Watershed project.
North Brookfield, *Meadow Site No. 11*, Upper Quaboag River Watershed.

MICHIGAN

Kalamazoo County

Kalamazoo, *Masonic Temple*, corner Rose and Eleanor Sts.

Marquette County

Ottawa National Forest, *White Deer Lake Camp*, buildings on the Cyrus H. McCormick Experimental Forest.

Midland County

Midland, *Little Forks Archeological District.*

Wayne County

Detroit, *David Mackenzie House*, 4735 Cass Ave.

MINNESOTA

Hennepin County

Minneapolis, *Minnesota Veterans Home*, E. 51st St. and Minnehaha Ave.

Itasca County

Deer River, *Lake Winnibigoshish Dam Archeological Site.*

St. Louis County

Duluth, *Morgan Park Historic District.*

Winona County

Winona, *Second Street Commercial Block.*

MISSISSIPPI

Lowndes County

Columbus vicinity, *Tibbee Creek Archelogical site, Columbus lock and dam project.*

Monroe County

Aberdeen vicinity, *East Aberdeen Site (22Mo819).*

Tishomingo County

Tennessee—Tombigbee Waterway.

MISSOURI

Dent County

Lake Spring, *Myer, John, House.*

Franklin County

Leslie, *Noser's Mill and adjacent Miller's House*, Rural Rte. 1.

Henry County

La Due, *Batschelett House*, near Harry S Truman Dam and Reservoir.
Little Black River Watershed (also in Ripley County.)

Monroe County

Florida vicinity, *Archeological District No. 1 (Clarence Cannon Dam and Reservoir Project)*, (also in Ralls County.)
Florida vicinity, Archeological District No. 2 (Clarence Cannon Dam and Reservoir Project), (also in Ralls County.)
Florida vicinity, *Archeological District No. 3 (Clarence Cannon and Reservoir Project)*, (also in Ralls County.)

Florida vicinity, *Archeological District No. 4 (Clarence Cannon Dam and Reservoir Project)*, (also in Ralls County.)
Florida, *Violette, Alexander, House.*

Manchester, *Smyth Tower.*

Rockingham County

Rye, *Pulpit Rock Observation Station*, Portsmouth Harbor.

Elizabeth, *Bender Building (Plainfield Corridor Service Project)*, 251-267 N. Broad St.
Elizabeth, *Freight Station (Plainfield Corridor Service Project)* 520-532 North Ave.

Erie County

Erie Canal.

Waterford, *Waterford Industrial Complex.*

Schoharie County

Yanceyville vicinity, *Womack's Mill*, in County Creek Watershed Project (also in Rockingham County).

Florida vicinity, *Archeological District No. 4 (Clarence Cannon Dam and Reservoir Project)*, (also in Ralls County.)
Florida, *Violette, Alexander, House.*

Newton County

Racine, *Smith Cabin Ruins (Lost Creek Watershed Archeological Site).*

MONTANA

Big Horn County

Decker vicinity, *Bunny Chase Archeological Site*, 10 mi. (16 km) W. of Decker.

Cascade County

Great Falls, Building at 108 Central Avenue, 108 Central Avenue.

Custer County

Miles City vicinity, *"Old Fort" at Fort Keogh.*

Fergus County

Lewis & Clark, Campsite, May 24, 1805.

Lewis and Clark County

Marysville, *Marysville Historic District.*

NEBRASKA

Cherry County

Valentine vicinity, *Fort Niobrara National Wildlife Refuge.*
Valentine vicinity, *Newman Brothers House.*

Knox County

Niobrara, *Niobrara Historic Properties.*

NEVADA

Clark County

Las Vegas vicinity, *Blacksmith Shop*, Desert National Wildlife Range.
Las Vegas vicinity, *Las Vegas Wash Archeological District.*
Las Vegas vicinity, *Mesquite House*, Desert National Wildlife Range.

Elko County

Carlin vicinity, *Archeological Sites 26EK1669, 26EK1672.*

Nye County

Las Vegas vicinity, *Emigrant's Trail*, about 75 mi. NW. of Las Vegas on U.S. 95.

Pershing County

Lovelock vicinity, *Adobe in Ruddell Ranch Complex.*
Lovelock vicinity, *Lovelock Chinese Settlement Site.*

Storey County

Sparks vicinity, *Derby Diversion Dam*, on the Truckee River 19 mi. (30.4 km) E. of Sparks, along I80 (also in Washoe County).

Washoe County

Reno vicinity, *Site 26Wa2065.*

NEW HAMPSHIRE

Cheshire County

Arch Bridge, between N. Walpole and Bellows Falls (also in Windham County, Vt.).

Hillsborough County

Manchester, *Amoskaag Millyard Complex.*
Manchester, *Smyth Tower.*

Rockingham County

Rye, *Pulpit Rock Observation Station*, Portsmouth Harbor.

Strafford County

Dover, *Odd Fellow's Hall (Morning Star Block).*
Dover, *O'Neill House (Cocheco Co. Housing).*
Dover, *Public Market (Morrill Block).*
Dover, *Trella House (Dover Manufacturing Co. Housing).*
Dover, *Veteran's Building (Central Fire House).*
Dover, *Western Auto Block (Merchants Row).*

NEW JERSEY

Essex County

Montclair, *Montclair Railroad Station Historic District*, Bloomfield Ave., Lackawanna Plaza, and Grove St.
Newark, *Pennsylvania Station*, bounded by Raymond Plaza on W, Raymond Blvd. on N, and Market St. on S.

Hudson County

S.S. Newton, midway between Ellis and Liberty islands.
Kearney, *Portal Bridge.*

Mercer County

Bordentown, *Blacks Creek Prehistoric Archeological Site.*
Hamilton and West Windsor Townships, *Assunpink Historic District.*
Trenton, *Champale Brewing Company Office Building.*
Trenton, *Lamberton Interceptor.*
Trenton, *Maddock China Company Dump Site.*
West Windsor Township Wastewater Facilities (Archeological Site 3313.14)—Extended.

Middlesex County

Cranbury Historic District.
Metuchen, *Metuchen Railroad Station.*
Monroe Township, *Ten Eycks Forge Site.*
New Brunswick, *Delaware Raritan Canal.*
Spotwood Borough, *Cedar Brook Site.*

Monmouth County

Long Branch, *The Reservation*, 1-9 New Ocean Ave.
Sandy Hook, *Fort Hancock and the Sandy Hook Proving Ground Historic District*, NJ 36.
Sandy Hook, *Ordnance/Quartermaster Wharf No. 536.*

Morris County

Morristown, *Abbett Avenue Bridge.*

Ocean County

Forked River, *Joseph Holmes Mill (the Mill Site)*, SW corner of intersection of Mill and Parker Sts.

Passaic County

Wayne Township, *Forsberg House*, 3 Edgemont Crescent.

Union County

Berkeley Heights Township, *Feltville (Deserted Village).*
Elizabeth, *Bender Building (Plainfield Corridor Service Project)*, 251-267 N. Broad St.
Elizabeth, *Freight Station (Plainfield Corridor Service Project)* 520-532 North Ave.
Elizabeth, *Slaughterhouse (Plainfield Corridor Service Project)*, 247 Morris Ave.
Springfield Township, *Sayre House (I-78 Project).*
Elizabeth, Tannery *(Plainfield Corridor Service Project)*, 244-246 N. Broad St.

Warren County

Oxford, *Oxford Industrial Complex.*

NEW MEXICO

Chaves County

Artesia vicinity, *Sites LA11809-LA11822*, Cottonwood-Walnut Creek Watershed (also in Eddy County).

Dona Ana County

Olasitas Arroyo, *Sites SCSPA 1-8.*

Guadalupe County

Los Esteros Resevoir, *Los Esteros Lake Archeological Site.*

Lee County

Santa Fe vicinity, *Laguna Plata Archeological District.*

McKinley County

Zuni, Zuni Pueblo Watershed, *Oak Wash Sites N.M.G.:13:19–N.M.G.:13:37.*

Otero County

Three Rivers Petroglyphs.

Rio Arriba County

Ghost Ranch, vicinity *Cerrito Recreation Site Archeological District.*

Sandoval County

Tetilla Peak Recreation Area, *Tetilla Peak Site.*

NEW YORK

Albany County

Guilderland, *Lizzi 2 Site.*
Guilderland, *Nott Prehistoric Site.*
Owego, *Subi 677 Site and Subi 672 Site.*

Bronx County

Hell Gate Bridge and Approach Viaducts and Bridges (also in New York and Queens Counties).
New York, *Bronx Post Office.*
New York, *North Brothers Island Light Station*, in center of East River.
Pelham Bay, *Pelham Bay Railroad Bridge.*

Broome County

Endicott, *Endicott-Johnson Workers Arch.*
Maine Township, *Mill Site at Site 7-A*, Manticoke Creek project (also in Tioga County).
Vestal, *Vestal Nursery Site*, Vestal Project (also in Union County).

Cattaraugus County

Olean, *Forness Park Development-Archeological Sites.*

Chautauqua County

Dunkirk, *Properties in the city of Dunkirk.*
Loomis Archeological Site, South and Central Chautauqua Lake.

Erie County

Erie Canal.

Greene County

New York, *Hudson City Light Station*, in center of Hudson River.

Herkimer County

Little Falls, *Dunn Property Buildings*, W. Mill St.

Kings County

New York City, *Rheingold Office Building (Brooklyn Industrial Park)*, Forest and Stanwix Sts.
New York City, *Steeplechase Parachute Jump.*

Nassau County

Greenville, *Toll Gate House*, Northern Blvd.
Long Island, *Seafood Park Archeological Site*

New York County

New York, *Colonial Park Pool Complex*, Branhurst Ave.
New York, *Harlem Courthouse*, 170 E. 121st St.
New York, *New York Cancer Hospital (Tower's Nursing Home)*, 2 W. 108th St.
New York, *Old Produce Exchange (Army Building Reervation)*, 39 Whitehall.

Onondaga County

Syracuse, *Armos Block*, 208-220 W. Water St.

Orange County

Port Jervis, *Church Street School*, 55 Church St.
Port Jervis, *Farnum, Samuel, House*, 21 Ulster Pl.
Newburgh, *Brewster Hook and Ladder Company No. 1*, 75 Broadway.
New Windsor, *Hazard's Mill Lott*, between Forge Hill Rd. and Moodina Creek and E of U.S. 9W.

Oswego County

Mexico Village, *Gustin-Earle Factory site.*
Oswego, *Musico Motors Building*, W. First and W. Seneca Sts.

Otsego County

Swart-Wilcox House

Putnam County

Carmel, *Lake Secor Historic and Archeological Cabin.*

Queens County

New York City, *Fort Totten Officer's Club.*
Queens, *Astoria Studio.*

Richmond County

New York, *Romer Shoal Light Station*, located in lower bay area of New York Harbor.
Staten Island, *U.S. Coast Guard Base, St., George.*
Totenville vicinity, *Ward's Point*, Oakwood Beach Project.

Saratoga County

Saratoga Springs, *Yaddo House and Gardens, District.*
Saratoga Springs, Saratoga Springs Historic District.
Schuylerville, *Archeological Site*, Schuylerville Water pollution Control Facility.
Waterford, *Waterford Industrial Complex.*

Schoharie County

Breakabeen vicinity, *Valley Between The Villages of Breakabeen and North Blenheim.*

Suffolk County

Jamesport vicinity, *East End Site.*
Jamesport vicinity, *Hallock's Pond Site.*
New York, *Fire Island Light Station*, U.S. Coast Guard Station.
New York, *Little Gull Island Light Station*, off North Point of Orient Point, Long Island.
New York, *Plum Island Light Station*, off Orient Point, Long Island.
New York, *Race Rock Light Station*, S. of Fishers Island 10 mi. N. of Orient Point.
Jamesport, *Northville Historic District*, houses along Sound Ave.

Ulster County

Kingston vicinity, *Esopus Meadows Light Station*, Middle of Hudson River.
Lloyd, *Christiana House*, 24 River Rd.
Lloyd, *Mid-Hudson Hotel*, jct. of River and Willow Dock Rds., and Maple Ave.
Lloyd, *Palmateer House*, 26 River Rd.
Lloyd, *Yelverton House*, 39 Maple Ave.
New York, *Rondout North Dike Light*, center of Hudson River at jct. of Rondout Creek and Hudson River.
New York, *Saugerties Light Station*, Hudson River.
Wildmere Resort Hotel (Minnewaska Acquisition Project), towns of Gardiner and Rochester.
Saugerties, *Upper Dock Site*, Esopus Creek.
Sleightsburg, *First Avenus Site*, confluence of Rondout Creek and Hudson River.
Sleightsburg, *Second Avenue Site*, Parsell St.

Warren County

Lake George, *Boyau*, portion of Montcalm St.

Washington County

Greenwich, *Palmer Mill (Old Mill)*, Mill St.

Westchester County

Ossining, *Old Ossining Furniture Store*, 1-3 S. Highland Ave.
Ossining, *Snowden Court*, 89 Snowden Ave.
Port Washington vicinity, *Execution Rocks Light Station*, lower SW portion of Long Island Sound.
Tarrytown, *Tarrytown Light Station.*
Yonkers, *Women's Institute Building.*
Yorktown, *Yorktown Railroad Station.*

NORTH CAROLINA

Alamance County

Burlington, *Clapp's Mill and Dam Site* (also in Guilford County).
Burlington, *Faust Mill* (also in Guilford County).
Burlington, *Low House* (also in Guilford County).
Burlington, *Southern Railway Passenger Depot*, NE Corner Main and Webb Sts.

Camden County

South Mills vicinity, *Burnham House*, US Route 17.

Caswell County

Yanceyville vicinity, *Archeological Sites CS-12*, County Line Creek Watershed Project (also in Rockingham County).
Yanceyville vicinity, *Womack's Mill*, in County Creek Watershed Project (also in Rockingham County).

Cleveland County

Archeological Resources in Second Brood River Watershed Project (also in Rutherford County).

Cumberland County

Fayetteville, *Veterans Administration Hospital Confederate Breastworks*, 23 Ramsey St.

Dare County

Buxton, *Cape Hatteras Light*, Cape Hatteras National Seashore.
Nags Head, *Bodie Island Lifesaving/Coast Guard Station District*, 5.3 mi. (6.5 km) S of jct. of U.S. 64 and SR 12.
Wanchese, *Site 31DR35*, Wanchese Harbor Development.

Forsyth County

Winston-Salem, *Atkins, Dr. Simon Green, House*, 346 Atkins St.
Winston-Salem, *Col. William Allen Blair House*, 210 Cherry St.
Winston-Salem, *Fries, John Williams, House*, 224 S. Cherry St.
Winston-Salem, *Hill, James S., House*, 914 Stadium Dr.
Winston-Salem, *Old Salem Single Brothers' Brewery and Stillhouse*, off Academy and Marshall Sts.
Winston-Salem, *Old Salem Single Brothers' Slaughterhouse-Stable*, off Salem and Academy Sts.
Winston-Salem, *Old Salem Single Brothers' Red Tannery Site*, off Marshall and Academy Sts.
Winston-Salem, *Paisley, J. W., House*, 934 Stadium Dr.
Winston-Salem, *Patterson, Ackerman, and Sussdorf Houses*, 434, 440 448 S. Trade St.

Guilford County

Greenboro, *Buick Motor Company*, 309 N. Elm St.
Greenboro, *Greensboro Motor Company*, 315 N. Elm St.
Greenboro, *O'Henry Hotel*, SW corner of intersection of N. Elm and Bellemeade Sts.
Greenboro, *Wafco Mill (Greensboro Roller Mill)*, 801 McGee St.

Hyde County

Ocracoke, *Ocracoke Lighthouse.*

Mecklenburg County

Charlotte, *U.S. Post Office and Courthouse*, 401 W. Trade St.

Onslow County

Swansboro, *Uniflite Site (31 ON 33)*, just beyond end of SR 1507.

Wayne County

Goldsboro, *Mouse Lodge No. 6—International Order of Odd Fellows*, 113-115 S. John St.

NORTH DAKOTA

Burleigh County

Bismarck, *Fort Lincoln Site.*

OHIO

Adams County

Wrightsville vicinity, *Grimes Site (33 AD 39)*, Killen Electric Generating Station.

Wrightsville vicinity, *Killen Bridge Site (33 AD 36)*, Killen Electric Generating Station.

OKLAHOMA

Atoka County

Wapanucka vicinity Estep Shelter, Lower

Wheeler County

Antone, *Antone Mining Town*, Barite 1901-1906.

Lancaster County

Bainbridge township, *Haldeman Mansion.*

Lehigh County

Cayce, *Manning*, 38LX50.

SOUTH DAKOTA

Minnehaha County

UTAH

Emery County

Site ML-2145, Manti-LaSal National Forest.

Wrightsville vicinity, *Killen Bridge Site (33 AD 36)*, Killen Electric Generating Station.

Astabula County

Astabula, *West Fifth Street Bridge*, over Astabula River.

Athen County

Shade, *Colburn Residence*, Route 1.

Belmont County

Bellaire, *Bergundthal, Rose, House*, 4710 Jefferson St.
Bellaire, *Guernsey Street Historic Grouping, 4711-4825* Guernsey St.
Bellaire, *Independent Hose Company No. 3, The*, 19th and Belmont Sts.
Bellaire, *Mitchell Residence*, 4363 Guernsey St.
Bellaire, *Union Street Bridge*, Union St. over McMahon's Creek.

Clark County

Pike Township, *Hallock, Mertie, House.*

Crawford County

Crestline Calvary Reformed Church, *First United Methodist Church, Crestline Shunk Museum.*

Darke County

Union City DAR-*S.R.-571-0.00*

Licking County

Health, *DiGiondomenico Site (Ohio LIC 343-0-0.00).*

Montgomery County

Dayton Columbia Bridge Works.
Farmersville vicinity Lower Cratis Road Bridge.

Richland County

Mansfield, *Ritter, William, House*, 181 S. Main.

Seneca County

Tiffin, *Old U.S. Post Office*, 215 S. Washington St.

Summit County

Akron, *United Way Building*, Perkins St.

Tuscarawas County

Warren Township Conotton Creek Bridge, CR 90 over Conotton Creek.

Warren County

Corwin, *Shaffer Mound*, S of New Burlington Rd.
Harveysburg, *E. L. Anderlee Mound*, S of new Burlington Rd. in Caesar Creek Lake Project.
Massie, *Car Mill Site (33Wa 75)*, Caesar Creek Lake Project.
Massie, *King Road Site (33Wa 112)*, Caesar Creek Lake Project.
Massie, *Wood 73 Site (33Wa 92)*, Caesar Creek Lake Project.
Massie, *Pipeline Site (33Wa 78)*, Caesar Creek Lake Project.
Massie, *Oglesby-Harris Site (33Wa 83)*, Caesar Creek Lake Project.
Massie, *Jonah's Run Site (33Wa 82)*, Caesar Creek Lake Project.

Wayne County

Wooster, *Thorne House*, 1576 Beall Ave.

OKLAHOMA

Atoka County

Wapanucka vicinity Estep Shelter, Lower Clear Boggy Watershed.
Watson Creek Graham Site, Lower Clear Boggy Watershed.

Caddo County

Delaware Canyon Sites Cd-257 and Cd-258, West Branch Delaware Creek.

Comanche County

Fort Sill, *Blockhouse on Signal Mountain* off Mackenzie Hill Rd.
Fort Sill, *Chief's Knoll, Post Cemetery*, N of

Kay County

Newkirk vicinity, *Bryson Archeological Site*, NE of Newkirk.

OREGON

Baker County

Baker vicinity, *Virtue Flat Mining District*, 10 mi. (16 km) E of Baker off Hwy. 86.

Columbia County

Scappose vicinity, *Portland and Southwestern Railroad Tunnel*, 13 mi. (20.8 km) NW of Scappose.

Coos County

Charleston, *Cape Arago Light Station.*

Curry County

Port Orford, *Cape Blanco Light Station.*

Gilliam County

Olex vicinity, *Archeological Sites (Ghost Camp Reservoir).*
Arlington vicinity, *Four Mile Canyon Area (Oregon Trail)*, 10 mi. (16 km) SE of Arlington.
Olex vicinity, *Crum Gristmill*, Ghost Camp Reservoir area.
Olex vicinity, *Old Wagon Road*, Ghost Camp Reservoir area.
Olex vicinity, *Olex School*, Ghost Camp Reservoir area.
Olex vicinity, *Steel Truss Bridge*, Ghost Camp Reservoir area.

Jackson County

Medford, *McCredie House*, 2606 Old Stage Rd.

Kalmath County

Crater Lake National Park, *Crater Lake Lodge.*

Lane County

Coburg vicinty, *McKenzie River Railroad Bridge.*
Roosevelt Beach, *Heceta Head Lighthouse.*
Roosevelt Beach, *Heceta Head Light Station.*

Lincoln County

Agate Beach, *Yakuina Head Lighthouse.*

Polk County

Salem, *Chemawa Indian School.*

Tillamook County

Tillamook, *Cape Meares Lighthouse.*

Wasco County

Memaloose Island, River Mile 177.5 in Columbia River.

Wheeler County

Antone, *Antone Mining Town*, Barite 1901-1906.

PENNSYLVANIA

Adams County

Kuhn's Fording Bridge, spans Conewago Creek.

Allegheny County

McJunkin Site, New Texas Rd.
Pittsburgh, *St. Boniface Church*, 2208 East St.

Berks County

Brownsville vicinity, *Lauer-Gerhart Farm*, Mt. Pleasant, *Berger-Stout Log House*, near jct. of Church Rd. and Tulephocken Creek.
Mt. Pleasant, *Conrad's Warehouse*, near jct. of Rte. 183 and Powder Mill Rd.
Mt. Pleasant, *Heck-Stamm-Unger Farmstead*, Gruber Rd.
Mt. Pleasant, *O'Bolds-Billman Hotel and Store*, Gruber Rd. and Rte. 183.
Mt. Pleasant, *Union Canal*, Blue Marsh Lake Project area.
Reading vicinity, *Blue Marsh Archeological District.*

Butler County

Butler, *Bonnie Brook Archeological Site.*

Chester County

Charlestown Township, *Nature Center of Charlestown*, State Rd.
Charlestown, *Nesspor House (Thomas Davis House)*, State Rd.
Charlestown, *Pickering Creek Ice Dam*, State Rd.
Chester vicinity, *Lock Aerie.*
Schuylkill township, *The Blackewell House*, State Rd.
Schuylkill township, *The Showalter House*, State Rd.

Clinton County

Lockhaven, *Apsley House*, 302 E. Church St.
Lockhaven, *Harvey, Judge, House*, 29 N. Jay St.
Lockhaven, *McCormick, Robert, House*, 234 E. Church St.
Lockhaven, *Mussina, Lyons, House* 23 N. Jay St.

Cumberland County

Hanpden township, *Croghan Site*, Route 1067.
Hampden township, *Weibly House*, Route 1067.

Delaware County

I 476 Historic Sites (20 Historic Sites), Mid-County Expwy., between Conshohocken and Chester (also in Montgomery County).
Media Borough, *Minshall House.*

Fayette County

Washington, *Cook Joseph H., House*, Cook Rd.

Huntingdon County

Brumbaugh Homestead, Raystown Lake Project.

Lackawanna County

Carbondale, *Miners and Mechanics Bank bldg.*, 13 N. Main St.

Lancaster County

Bainbridge township, *Haldeman Mansion.*

Lehigh County

Colesville vicinity, *Site 1: Farmhouse, barn, and outbuildings*, I-78.
Dorneyville, *King George Inn and two other stone houses*, Hamilton and Cedar Crest Blvds.

Lyconing County

Williamsport, *Fazon Co., Inc.*, Williamsport Beltway.

Northampton County

Bethleham, *Lehigh Canal.*
Easton, *Easton Historic District.*
Site 3: Farmhouse, barn, and outbuildings, I-78.
Site 4: Farmhouse, barn, and outbuildings, I-78.

Philadelphia County

Philadelphia, *Bridge on "I" Street*, over Tacony Creek.
Philadelphia, *Courthouse and Post Office*, 9th St., between Chestnut and Market Sts.
Philadelphia, *Franklin Square*, 6th, 7th, Vine, and Franklin Sts.
Philadelphia, *New Forest Theatre*, 1108-1114 Walnut St.
Philadelphia, *Poth, Frederick, House*, 216 N. 33rd St.
Philadelphia, *3400 Block of Sanson St.*
Philadelphia, *Tremont Mills*, Wigonocking St. and Adams Ave.
Philadelphia, *Woodland Car Barn*, 49th St. and Woodland Ave.

Pike County

Delaware Township, *Emery House, I-316.*

Washington County

Somerset Township, *Wright No. 22 Covered Bridge.*

York County

Wellsville, *Wellsville Historic District.*

RHODE ISLAND

Providence County

Pawtucket, *Lorenzo Crandall House*, 221 High St.
Pawtucket, *The Modern Diner*, 13 Dexter St.
Providence, *Woonesquatucket Bridge.*
Woonsocket, *Club Marquette Building (St. Anne's Gymnasium)*, Cumberland St.

Washington County

Narragansett, *Sprague, Gov., Bridge*, Boston Neck Rd.

SOUTH CAROLINA

Beaufort County

Parris Island, *Marine Corps Recruit Depot.*

Charleston County

Charleston, *139 Ashley St.*
Charleston, *69 Barre St.*
Charleston, *69r Barre St.*
Charleston, *316 Calhoun St.*
Charleston, *316r Calhoun St.*
Charleston, *268 Calhoun St.*
Charleston, *274 Calhoun St.*
Charleston, *Old Rice Mill*, off Lockwood Dr.

Lexington County

Cayce, *Godley*, 38LX141.
Cayce, *Manning*, 38LX50.

SOUTH DAKOTA

Minnehaha County

Sioux Falls, *Orpheum Theater*, 315 N. Phillips Ave.

Pennington County

Rapid City, *612-632 Main St.*

Walworth County

Mobridge vicinity, *Travis II Site.*

TENNESSEE

Davidson County

Nashville, *Ancient Indian Village and Burial Ground*, section 203(b).

Jackson County

Gainsboro, *Cordell Hull Reservoir Archeological Sites (40JK27; 40JK30).*

TEXAS

Bexar County

Fort Sam Houston, *Eisenhower House*, Artillery Post Rd.

Concho County

Middle Colorado River Watershed, *Prehistoric Archeology in the Southwest Laterals Subwatershed* (also in McCulloch County).

Delta County

Klondike vicinity, *Copper Lake Archeological District* (also in Hopkins County).

Denton County

Hammons, George House, between Sangers and Pilot Point.

Galveston County

Galveston, *U.S. Customhouse*, bounded by Avenue B, 17th, Water, and 18th Sts.

Hardeman County

Quanah, *Quanah Railroad Station*, Lots 2, 3, and 4 in Block 2.

Uvalde County

Uvalde vicinity, *Leona River Watershed, Archeological Sites.*

Webb County

Laredo, *Bertani, Paul Prevost House*, 604 Iturbide St.
Laredo, *De Leal, Viscaya, House*, 620 Zaragoza St.
Laredo, *Zoila De La, House*, 500 Iturbide St.
Laredo, *Leyedecker/Salinas House*, 702 Iturbide St.
Laredo, *Montemayor, Jose A., House (Carols Vela House)*, 601 Zaragosa St.

Williamson County

Archeological districts of North Fork and Granger Lake.

TRUST TERRITORY OF THE PACIFIC ISLANDS

Kosrea District

Lele Village, *Lele Archeological Sites.*

Truk District

Sapore Village, *Aikei/Wines*, Pefen Island.

UTAH

Emery County

Site ML-2145, Manti-LaSal National Forest.

VERMONT

Chittenden County

Milton, *Clark Memorial Building.*

Franklin County

Swanton, *Swanton Village Historic District*, portions of Church, Canada, Academy and Second Sts. and Grand Ave.

Windham County

Rockingham, *Bellows Falls Armory*, 72 Westminster St., Bellows Falls.

Windsor County

Windsor, *Post Office Building* (also listed in NR Windsor Historic District).

VIRGINIA

Charlottesville (independent city)

U.S. Post Office and Courthouse (Old Post Office).

Accomack County

Greenbackville vicinity, *Captain's Cove Development, Archeological Sites* (Chincoteague Bay).

Allegheny County

Greenwood vicinity, *Gathright Lake Project (Archeological sites)* (also in Bath County).

Lynchburg (independent city)

Lynchburg, *Lynchburg Hill District.*
Lynchburg, *College Hill Neighborhood Development Area.*

Wythe County

Fort Criswell.

WASHINGTON

Benton County

Richland vicinity, *Paris Archeological Site*, Hanford Works Reservation.

Callam County

Cape Alava vicinity, *White Rock Village Archeological Site*, S of Cape Alava.
Olympic National Park Archeological District, Olympic National Park (also in Jefferson County).
Segium, *New Dungeness Light Station.*

King County

Burton, *Point Robinson Light Station.*
Seattle, *Alki Point Light Station.*
Seattle, *Home of the Good Shephers.*

Kitsap County

Hansville, *Point No Point Light Station.*

Pierce County

Longmire, *Longmire Cabin*, Mount Rainier National Park.

Skamania County

North Bonneville, *Site 44SA11*, Bonneville Dam Second Powerhouse Project.

Wahkiakum County

Skamokawa village, *Archeological site 45-WK-5.* (also in NR Skamokawa Historic

Outagamie County

Greenville, *The Culbertson Farmstead.*

Rock County

[4310-70]

SLEEPING BEAR DUNES NATIONAL LAKESHORE, MICHIGAN

himself to the rib in an attempt to completely control the coal hauler.

2. Due to Petitioner's full roof bolt-

mine, under subsection (c) whether, on the basis of the allegations set forth in the complaint and the evidence ad-

therein, is available for inspection by interested persons at the Office of the Secretary, U.S. International Trade

Wahkiakum County

Skamokawa village, *Archeological site 45-WK-5.* (also in NR Skamokawa Historic District).

WEST VIRGINIA

Barbour County

Covered Bridge across Rooting Creek, Elk Creek, Watershed (also in Harrison County).

Cabell County

Huntington, *Old Bank Building,* 1208 3rd Ave.

Kanawha County

Charleston, *Kanawha County Courthouse.*
St. Albans, *Chilton House,* 439 B St.

Ohio County

Wheeling, *U.S. Post Office, Courthouse, and Customhouse,* 12th and Chapline Sts.

Pendleton County

Pendleton, *Wayside Inn (Site's Inn),* Monongahela National Forest.

Wood County

Parkersburg, *Wood County Courthouse.*
Parkersburg, *Wood County Jail.*

WISCONIN

Ashland County

Ashland vicinity, *Madeline Island Site 7302.*

Dane County

Darlington, *Darlington Depot.*
Madison, *Lake Farms Arechelogical District.*
Mount Horeb, *Mount Horeb Depot.*

Fond du Lac County

Fond du Lac, *Aetna Station No. 5,* 193 N. Main St.

Green County

Madison, *Pratt Truss Bridge,* between Madison, WI and Freeport, IL (also in Dade Co. WI).
Madison, *Tunnel, Illinois Central Gulf RR,* between Freeport, IL and Madison, WI (also in Dade Co, WI).
Monroe, *Illinois Central Freight House.*

Jefferson County

Watertown, *German Methodist Episcopal Church and Parsonage,* 201 N. 5th St.

LaCrosse County

LaCrosse, *LaCrosse Post Office.*

Milwaukee County

Milwaukee, *Abbot Row,* 1019-1043 Ogden Ave.
Milwaukee, *Elwell, Edward, House,* 1363 N. Prospect Ave.
Milwaukee, *First Ward Triangle Historic District,* in irregular pattern around the intersection of N. Prospect, E. Juneau, N. Franklin, and E. Knapp.
Milwaukee, *Graham Row,* 1501-1507 N. Marshall St.
Milwaukee, *Puddlers' Hall,* 2461-2463 S. St. Clair St.
Milwaukee, *Richards, Edwards, House,* 2419-2421 S. Wentworth Ave.
Victor Schlitz House (Highland Community School), 2004 W. Highland Ave.

Outagamie County

Greenville, *The Culbertson Farmstead.*

Rock County

Portion of Evansville Historic District.

WYOMING

Albany County

Woods Landing vicinity, *Boswell Ranch,* WY 10.

Fremont County

Pilot Butte Powerplant, Wind River Basin.

Johnson County

Kaysee, *Castle Rock Archeological Site.*
Kaysee, *Dull Knife Battlefield.*
Kaysee, *Middle Fork Pictograph-Petroglyph Panels.*
Kaysee, *Portuguese Houses.*

Lincoln County

Smoot vicinity, *Lander Cutoff of the Oregon Trail.*

Park County

Mammouth, *Chapel at Fort Yellowstone,* Yellowstone National Park.

PUERTO RICO

Mona Island, *Sardinero Site and Ball Courts.*

San Juan County

San Juan, *Paseo Munoz Rivera Archeological Site.*

[FR Doc. 78-5800 Filed 3-6-78; 8:45 am]

[4310-70]

National Park Service

[Order No. 6, Amdt. No. 3]

MIDWEST REGION SUPERINTENDENTS

Delegation of Authority Regarding Purchasing Authority

Order No. 6, approved February 25, 1977, and published in the FEDERAL REGISTER May 17, 1977 (42 FR 25386), sets forth limitations on contracting and procurement authority. This amendment changes the delegated authority of Superintendents.

SECTION 1—Add: (o) Approval of Assignment as Incidental Pilot.

(National Park Service Order No. 77, 38 FR 7478 published March 22, 1973, as amended.)

Dated: December 30, 1977.

MERRILL D. BEAL,
Regional Director,
Midwest Region.

[FR Doc. 78-5868 Filed 3-6-78; 8:45 am]

[4310-70]

SLEEPING BEAR DUNES NATIONAL LAKESHORE, MICHIGAN

Availability of Environmental Assessment Land Acquisition

The National Park Service has prepared an environmental assessment to consider the effects of the acquisition of the remaining lands authorized by Congress, within the prescribed boundary of Sleeping Bear Dunes National Lakeshore.

The assessment describes the existing situation, components of the local and regional environment which may affect, or be affected by, the alternative proposals and discusses two alternatives.

Copies of the assessment are available at Sleeping Bear Dunes National Lakeshore, 400 Main Street, Frankfort, Mich. 49635; and the Midwest Regional Office, National Park Service, 1709 Jackson Street, Omaha, Nebr. 68102. Anyone wishing to comment on this document should submit such comments in writing to the Lakeshore Superintendent or to the Regional Director at the above addresses on or before April 6, 1978.

Dated: January 31, 1978.

MERRILL D. BEAL,
Regional Director,
Midwest Region.

[FR Doc. 78-5869 Filed 3-6-78; 8:45 am]

[4310-10]

Office of Hearings and Appeals

[Docket No. M 78-36]

HIYSOTA FUEL COMPANY, INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Hiysota Fuel Co., Inc., Box 336, Jerome, Pa. 15937, has filed a petition to modify the application of 30 CFR 75.1710-1, cabs or canopies, to its Ralphton No. 1 Mine, located in Somerset County, Pa.

The substance of Petitioner's statement is as follows:

1. At present, Petitioner has installed an S&S No. 75.1710-1 PARA-V, 41-inch canopy on its S&S 270 coal hauler. This is the lowest canopy offered by the S&S Co. for this machine. Because of rolling and uneven floor conditions, the canopy causes the coal hauler to wedge against the roof. If this canopy had to be cut to a lower height, it would be impossible to operate the coal hauler safely because of obstructed vision and crowded conditions, forcing the operator to expose himself to the rib in an attempt to completely control the coal hauler.

2. Due to Petitioner's full roof bolting plan, and in the interest of safety, Petitioner is requesting a variance permitting it not to use a canopy on its S&S coal hauler until such time that the coal height permits Petitioner to do so.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before April 6, 1978. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that adrress.

DAVID TORBETT,
Deputy Director,
Office of Hearings and Appeals.

MARCH 2, 1978.

[FR Doc. 78-5908 Filed 3-6-78; 8:45 am]

[7020-02]

INTERNATIONAL TRADE COMMISSION

Investigation No. 337-TA-49]

CERTAIN ATTACHE CASES

Investigation

Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on January 30, 1978, under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), on behalf of Samsonite Corp., 11200 East Forty-Fifth Avenue, Denver, Colo. 80239, alleging that unfair methods of competition and unfair acts exist in the importation of certain attache cases into the United States, or in their sale, by reason of the alleged coverage of such attache cases by claims 1-3, 5-14 and 16-17 of U.S. Letters Patent 3,198,299 and by all the claims of U.S. Letters Patent 3,828,899. The complaint alleges such unfair methods of competition and unfair acts have the effect or tendency to destroy or substantially injure an industry, efficiently and economically operated, in the United States. Complainant requests permanent exclusion from entry into the United States of the articles in question. Complainant also requests exclusion from entry into the United States, except under bond, of the articles in question during the investigation of this matter.

Having considered the complaint, the U.S. International Trade Commission on March 1, 1978, *Ordered:*

1. That, pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), an investigation be instituted to determine, under subsection (c) whether, on the basis of the allegations set forth in the complaint and the evidence adduced, there is a violation or reason to believe that there is a violation of subsection (a) of this section in the unauthroized importation of certain attache cases into the United States, or in their sale, by reason of the alleged coverage of such attache cases by claims 1-3, 5-14 and 16-17 of U.S. Letters patent 3,198,299 and/or by all the claims of U.S. Letters Patent 3,828,899, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

2. That, for the purpose of the investigation so instituted, the following persons alleged to be involved in the unauthorized importation of such articles into the United States, or in their sale, are hereby named as respondents upon which the complaint and this notice are to be served:

C. Robert Shaffer, 167 Sanders Road, Buffalo, N.Y. 14216.
Domex International Pty., Ltd., 8 Gwingana Crescent, Glen Waverly, Victoria, Australia, 3150.
Tony E. Wallace, One Embarcader Center, Suite 3811, San Francisco, Calif. 94111.
Ceno Times Co., Ltd., P.O. Box 1839, Taipei, Taiwan, Republic of China.

3. That, for the purpose of the investigation so instituted, Judge Donald K. Duvall, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby appointed as presiding officer.

4. That, for the purpose of the investigation so instituted, Edward M. Lebow, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby named Commission investigative attorney.

Responses must be submitted by the named respondents in accordance with section 210.21 of the Commission's Rules of Practice and Procedure, as amended (19 CFR 210.21). Pursuant to section 201.16(d) and 210.21(a) of the Rules, such reponses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good and sufficient cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and of this notice, and will authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both a recommended determination and a final determination, respectively, containing such findings.

The complaint, with the exception of confidential information referred to therein, is available for inspection by interested persons at the Office of the Secretary, U.S. International-Trade Commission, 701 E Street NW., Washington, D.C. 20436, and in the New York City Office of the Commission, 6 World Trade Center.

By order of the Commission.

Issued: March 2, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-5960 Filed 3-6-78; 8:45 am]

[7020-02]

[Investigation No. 337-TA-41]

CERTAIN CERAMIC TILE SETTERS

Preliminary Conference

Notice is hereby given that a Preliminary Conference will be held in connection with Investigation No. 337-TA-41, Certain Ceramic Tile Setters, at 10 a.m., on Thursday, March 16, 1978, in the ALJ Hearing Room, Room 610 Bicentennial Building, 600 E Street NW., Washington, D.C. Notice of this investigation was published in the FEDERAL REGISTER on February 10, 1978, (43 F.R. 5901). The purposes of this preliminary conference are to review outstanding discovery and objections thereto, to establish a discovery schedule, to discuss the procedures to be followed in pursuing such discovery, to set the dates for the Prehearing Conference and Temporary Relief Hearing, and to resolve any other matters necessary to the conduct of this investigation.

If any questions should arise not covered by these instructions, the parties or their counsel shall call the chambers of the undersigned Presiding Officer.

The Secretary shall serve a copy of this Notice upon all parties of record and shall publish it in the FEDERAL REGISTER.

Issued March 2, 1978.

JUDGE DONALD K. DUVALL,
Presiding Officer.

[FR Doc. 78-5959 Filed 3-6-78; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

J. R. SIMPLOT CO.

Proposed Consent Decree in Action to Enjoin Discharge of Water Pollutants

In accordance with Department Policy, 28 CFR § 50.7, 38 FR 19029, notice is hereby given that on February 21, 1978, a proposed consent decree in *United States* v. *J. R. Simplot Co.*, was lodged with the United States District Court for the District of Idaho. The proposed decree re-

quires the Company to achieve compliance with the effluent limitations in its NPDES permit by one of two methods: (1) A land disposal system or (2) a physical/chemical treatment system. For each alternative, the decree establishes a detailed compliance schedule and daily penalties during the period of noncompliance. The penalty for the land disposal alternative is $180 per day of violation, while the penalty for the physical/chemical alternative is $10,000 plus $430 per day of violation.

The proposed consent decree may be examined at the office of the United States Attorney, Room 693, Federal Building, Box 037, 550 West Fort Street, Boise, Idaho 83724; at the Region X Office of the Environmental Protection Agency, Enforcement Division, 1200 6th Avenue, Seattle, Wash. 98101; and at the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2625, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the consent decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

The Department of Justice will receive for a period of thirty (30) days from the date of this notice written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *J. R. Simplot Co.*, D.J. Ref. 90-5-1-1-931.

JAMES W. MOORMAN,
Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 78-5909 Filed 3-6-78; 8:45 am]

[4410-01]

Drug Enforcement Administration

MANUFACTURE OF CONTROLLED SUBSTANCES

Application

Pursuant to 21 U.S.C. 823(a)(1), and § 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on February 1, 1978, Ganes Chemicals, Inc., Lessee of Siegfried Chemical, Inc., Industrial Park Road, Pennsville, N.J. 08070, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the schedule II controlled substances listed below:

	Schedule
Drugs:	
Amobarbital	II
Pentobarbital	II
Secobarbital	II
Methaqualone	II

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (room 1203), and must be filed no later than April 6, 1977.

Dated: February 28, 1978.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc. 78-5785 Filed 3-6-78; 8:45 am]

[4510-26]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

NATIONAL ADVISORY COMMITTEE ON OCCUPATIONAL SAFETY AND HEALTH

Request for Nomination of Members

Nominations are requested for membership on the National Advisory Committee on Occupational Safety and Health. The Committee was established under section 7(a) of the Occupational Safety and Health Act of 1970 to advise the Secretary of Labor and the Secretary of Health, Education and Welfare on matters relating to the administration of the Act.

The terms of 6 members of the 12 member committee will expire on June 30, 1978. There will be vacancies in the following categories: three public representatives, one employe representative, one employer representative, and one safety representative. Terms of office are 2 years.

Any interested person or organization may nominate one or more qualified persons for membership. Nominees should be identified by name, occupation or position, address, and telephone number. The field or group which the candidate would represent should be specified and a resume of the nominee's background, experience, and qualifications included. In addition, the nomination should state that the nominee is aware of the nomination and is willing to serve as a committee member.

Nominations should be submitted to Stephen Kaffee, Division of Consumer Affairs, Occupational Safety and Health Administration, Room N-3635, U.S. Department of Labor, Washington, D.C. 20210, no later than April 30, 1978.

Signed at Washington, D.C. this 1st day of March, 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 78-5928 Filed 3-6-78; 8:45 am]

[4510-28]

Office of the Secretary

[TA-W-2266; TA-W-2267]

ALAN WOOD STEEL CO.

Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 222 of the Trade Act of 1974 and in accordance with Section 223(a) of such Act, on October 21, 1977, the Department of Labor issued a certification of eligibility to apply for adjustment assistance applicable to workers and former workers at Alan Wood Steel Co., Conshohocken, Pa. TA-W-2266, TA-W-2267.

The notice of certification was published in the FEDERAL REGISTER (42 FR 57175) November 1, 1977.

Subsequent to the publication of the determination, the Office of Trade Adjustment Assistance received an inquiry on behalf of workers and former workers at the District Sales Offices of Alan Wood Steel Co.. located in Syracuse, N.Y.; Boston, Mass.; Charlotte, N.C.; and Philadelphia, Pa.

Further investigation revealed that workers in the district sales offices were engaged in employment related to the production of steel products manufactured at the Conshohocken, Pa. plant of Alan Wood Steel Co. and should have been included in the original certification as eligible to apply for worker adjustment assistance. The subject workers were not identified in the initial investigation and the certification of workers at the Coshohocken, Pa. plant of Alan Wood Steel Co. because the company maintained separate records and ledgers for field staff.

CONCLUSION

Based on additional evidence, a review of the entire record, and in accordance with the provisions of the act, I make the following certification:

All workers of the Alan Wood Steel Co., Conshohocken, Pa. and the district sales offices of that firm who became totally or partially separated from employment on or after July 15, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of February, 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

FR Doc. 78-5929 Filed 3-6-78; 8:45 am]

[4510-28]

[TA-W-2734]

ARP INSTRUMENTS, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2734: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 7, 1977, in response to a worker petition received on November 28, 1977, which was filed on behalf of workers and former workers producing electronic musical instruments at ARP Instruments, Inc., Lexington, Mass.

The Notice of Investigation was published in the FEDERAL REGISTER on December 30, 1977 (42 FR 65308). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of ARP Instruments, Inc., industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply to adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

ARP Instruments, Inc. was established in 1969 in Newton, Mass. to manufacture electronic keyboard synthesizers. Because of the growth of the company, ARP moved to another location in Newton in the 1970's. ARP continued to expand and in April 1977 moved into its current facility in Lexington, Mass.

The average number of workers at ARP Instruments increased yearly from 1975 through 1977. Average employment increased steadily from the third quarter of 1975 through the first quarter of 1977. The decline in company employment from the first to the second quarter of 1977 was attributable to employee resignations which occurred when the company relocated in April 1977 from Newton to Lexington. Company employment then increased steadily from the second through the fourth quarters of 1977. Average employment was higher in each quarter of 1977 compared to the respective quarters of 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that significant total or partial separations of workers at ARP Instruments, Inc., Lexington, Mass. have not occurred as require for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 24th day of February 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-5930 Filed 3-6-78; 8:45 am]

[4510-28]

[TA-W-2608]

BAKER NAIL CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2608: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 15, 1977 in response to a worker petition received on November 7, 1977, which was filed on behalf of former workers producing nails and fasteners at the Baker Nail Co., Framingham, Mass.

The notice of investigation was published in the FEDERAL REGISTER on January 10, 1978 (43 FR 1557). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Baker Nail Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met.

That increases of imports like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Baker Nail Co. markets specialty nails which it produces to customer order. All production and production-related employment at Baker Nail's Framingham, Mass. location was terminated on August 31, 1977. Baker Nail relocated its production facilities in Lillington, N.C., with production start-up beginning in September 1977.

The Department surveyed customers of Baker Nail who purchased specialty nails. Respondents did not substitute purchases of imported specialty nails for purchases of specialty nails produced by Baker Nail. Customers who decreased purchases from Baker Nail either purchased the specialty nails from other domestic manufacturers or began to manufacture the nails themselves.

Several factors led the management of Baker Nail to close down the Framingham, Mass. plant and to move to Lillington, N.C.; chief among them were the dilapidated condition of the Framingham plant, state corporate tax structures, rising fuel costs and a citation from OSHA (Office of Safety and Health administration) requiring the modification of certain excessively noisy machinery at the Framingham plant. The North Carolina locations proximity to Baker Nail's market area provided additional incentive for the move.

CONCLUSION

After careful review, I conclude that all workers at the Baker Nail Co., Framingham, Mass. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of February 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-5931 Filed 3-6-78; 8:45 am]

[4510-28]

[TA-W-2286]

BERT PALEY LTD., INC.

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2286: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 25, 1977, in response to a worker petition received on August 22, 1977, which was filed on behalf of workers and former workers producing men's and women's jackets and men's sportswear at Bert Paley Ltd., Inc., Dorchester, Mass. During the course of the investigation, it was established that the workers produce men's tailored leather outercoats.

The notice of investigation was published in the FEDERAL REGISTER on September 8, 1977 (42 FR 44615). No

public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Bert Paley Ltd., Inc.

[4510-28]

[TA-W-2249]

BETHLEHEM MINES CORP.

Imports of hot rolled alloy steel bars increased to 69.5 thousand tons in 1976 from 63.4 thousand tons in 1975. Imports increased to 85.5 thousand tons in the first 9 months of 1977 from

ports to domestic shipments increased to 16.7 percent in the last quarter of 1976 from 9.3 percent in 1975. In the

Diemakers Independent Union on behalf of workers and former workers producing watch movements at the

Heights, N.Y. who became totally or partially separated from employment on or after February 21, 1977 are eligible to apply for

public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Bert Paley Ltd., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' outercoats and jackets increased from 20,034 thousand units in 1975 to 22,060 thousand units in 1976. U.S. imports increased from 16,055 thousand units in the first 9 months of 1976 to 20,344 thousand units in the first 9 months of 1977.

The ratio of imports to production of men's and boys' outercoats and jackets increased from 28.1 percent in 1975 to 31.3 percent in 1976.

U.S. imports of men's, boys', women's, misses', juniors' and children's leather coats and jackets increased from $154.3 million in 1975 to $236.6 million in 1976. Imports increased from $195.5 million in the first 10 months of 1976 to $203.7 million in the same period of 1977.

The ratio of imports to production of leather coats and jackets increased from 67.1 percent in 1975 to 81.6 percent in 1976.

A survey of major customers purchasing men's leather coats from Bert Paley Ltd., Inc., indicated that some customers increased purchases of imported leather coats while decreasing purchases from Bert Paley Ltd., Inc., in the first half of 1977.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's leather outercoats produced by Bert Paley Ltd., Inc., Dorchester, Mass., contributed importantly to the decrease in sales and production and to the total or partial separation of workers at the firm. In accordance with the provisions of the Act, I make the following certification:

All workers at Bert Paley Ltd., Inc., Dorchester, Mass., who became totally or partially separated from employment on or after April 1, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of February 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-5932 Filed 3-6-78; 8:45 am]

[4510-28]

[TA-W-2249]

BETHLEHEM MINES CORP.

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2249: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 10, 1977, in response to a worker petition received on August 8, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing iron ore pellets at the Cornwall, Pa., plant of Bethlehem Mines Corp., division of Bethlehem Steel Corp.

The notice of investigation was published in the FEDERAL REGISTER on August 23, 1977 (42 FR 42397). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Bethlehem Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

The Department's investigation revealed that the iron ore pellets produced at the Cornwall plant were shipped only to the Johnstown, Pa., plant of Bethlehem Steel Corp., for use in the production of various steel products.

Carbon and alloy bars, rods, wire, plates, wheels, axles, and circular forgings, accounted for almost all of the finished product sales at the Johnstown plant in 1976 and in the first 10 months of 1977.

Bars

The bars produced at the Johnstown plant are hot rolled carbon steel and alloy steel.

Imports of hot rolled carbon steel bar decreased in 1976 to 369.1 thousand tons from 418.6 thousand tons in 1975. In the first 9 months of 1977 imports increased to 528.8 thousand tons from 223.9 thousand tons in the first 9 months of 1976. The ratio of imports to domestic shipments decreased in 1976 to 6.7 percent from 8.1 percent in 1975, then increased in the first 9 months of 1977 to 11.6 percent from 5.2 percent in the first 9 months of 1976.

Imports of hot rolled alloy steel bars increased to 69.5 thousand tons in 1976 from 63.4 thousand tons in 1975. Imports increased to 85.5 thousand tons in the first 9 months of 1977 from 48.0 thousand tons in the first 9 months of 1976. The ratio of imports of alloy steel bars to domestic shipments increased in 1976 to 3.1 percent from 2.9 percent in 1975. For the first 9 months of 1977 the ratio increased to 5.0 percent from 2.7 percent in the first 9 months of 1976.

Rods

Imports of wire rods increased in 1976 to 1032.9 thousand tons from 1027.6 thousand tons in 1975. In the first 9 months of 1977 imports increased to 899.8 thousand tons from 722.1 thousand tons in the first 9 months of 1976. The ratio of imports to domestic shipments of rods decreased from 52.5 percent in 1975 to 35.7 percent in 1976. The ratio of imports to domestic shipments increased in the first 9 months of 1977 to 43.4 percent from 30.7 percent for the first 9 months of 1976.

Carbon Steel Wire

Imports of carbon steel wire increased from 349.6 thousand tons in 1975 to 371.8 thousand tons in 1976. Imports increased from 263.5 thousand tons in the first 9 months of 1976 to 359.1 thousand tons in the first 9 months of 1977. The ratio of imports to domestic shipments of wire decreased from 22.0 percent in 1975 to 19.9 percent in 1976. The ratio of imports to domestic shipments increased from 18.1 percent in the first 9 months of 1976 to 25.5 percent in the first 9 months of 1977.

Plates

Imports of carbon steel plate increased to 1555.4 thousand tons in 1976 from 1353.0 thousand tons in 1975. In the first 9 months of 1977 imports increased to 1355.9 thousand tons from 1083.2 thousand tons in the first 9 months of 1977. The ration of imports to domestic shipments increased to 27.7 percent in 1976 from 19.4 percent in 1975. In the first 9 months of 1977 the ratio increased to 30.6 percent from 24.8 percent in the first 9 months of 1976.

Wheels, Axles, and Circular Forgings

More than 90 percent of the circular forgings produced at the Johnstown plant are wheels and axles. Imports of steel wheels and axles for railway applications increased in the last quarter of 1976 to 9,090 tons from 8,308 tons in the last quarter of 1975. Imports increased in the first 9 months of 1977 to 44,195 tons from 23,107 tons in the first 9 months of 1976. The ratio of imports to domestic shipments increased to 16.7 percent in the last quarter of 1976 from 9.3 percent in 1975. In the first 9 months of 1977, the ratio increased to 17.6 percent from 10.3 percent in the first 9 months of 1976.

The Department conducted a survey of bar, rod, wire, plate, wheels, axles, and circular forgings customers of the Johnstown plant. Several of those responding had decreased purchases from the Johnstown plant and increased purchases of imports during 1976 or 1977. These customers indicated that the lower price of foreign steel products was affecting the marketing of the products.

All workers at the Johnstown, Pa., plant have been previously certified eligible to apply for adjustment assistance. (See TA-W-2556 cert. 2/13/78.)

Bethlehem Steel Corp. closed the Cornwall, Pa., plant permanently in September 1977. Major layoffs began in July 1977.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with carbon bars, alloy bars, rods, plates, wire, wheels, axles, and circular forgings produced at the Johnstown, Pa., plant of Bethlehem Steel Corp. contributed importantly to the total or partial separation of the workers producing iron ore pellets at the Cornwall, Pa., plant of the Bethlehem Mines Corp. In accordance with the provisions of the Act, I make the following certification.

All workers at the Cornwall, Pa., a plant of Bethlehem Mines Corp., who became totally or partially separated from employment on or after July 1, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of February 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-5933 Filed 3-6-78; 8:45 am]

[4510-28]

[TA-W-2268]

BULOVA WATCH CO., INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2268: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 17, 1977 in response to a worker petition received on August 16, 1977, which was filed by the Tool and Diemakers Independent Union on behalf of workers and former workers producing watch movements at the Watch Manufacturing Division of Bulova Watch Co., Inc., Jackson Heights, N.Y.

The notice of investigation was published in the FEDERAL REGISTER on August 26, 1977 (42 FR 43155). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Bulova Watch Co., Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

Imports of nonconventional watches, which include electronic watches, increased each year, from 29,000 units in 1973 to 5.158 million units in 1976. Imports increased from 2.081 million units in the first six months of 1976 to 3.195 million units in the same period of 1977. The ratio of imports to domestic production increased from 5.3 percent in 1973 to 11.3 percent in 1974 and to 60.4 percent in 1975. The ratio declined to 55.7 percent in 1976.

Stelux Manufacturing Co., a firm based in Hong Kong, acquired 26.7 percent of Bulova's stock in 1976. In order to remain competitive with the growing number of imported electronic watches, Bulova has been importing watch movements from Stelux Co.'s Hong Kong plant and Bulova's facilities in Switzerland. Company imports of these watch movements increased 12.2 percent from 1975 to 1976 and 114.7 percent in the first six months of 1977 compared to the first six months of 1976. All production of tuning fork movements and part of the production of electronic quartz movements at Jackson Heights is being phased out by 1978 and replaced with company imports.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with nonconventional watches produced by Bulova Watch Co., Inc., contributed importantly to the decline in production of watch movements at the Watch Manufacturing Division of Bulova, Jackson Heights, N.Y., and to the total or partial separation of the workers at that division. In accordance with the provisions of the Act, I make the following certification:

All workers at the Watch Manufacturing Division of Bulova Watch Co., Inc,. Jackson Heights, N.Y. who became totally or partially separated from employment on or after February 21, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of February 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-5934 Filed 3-6-78; 8:45 am]

[4510-28]

[TA-W-2269]

BULOVA WATCH CO., INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2269: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 17, 1977 in response to a worker petition received on August 16, 1977 which was filed by the Tool and Diemakers Independent Union on behalf of workers and former workers producing watch crystals at the Crystal Department of Bulova Watch Co., Inc., Woodside, N.Y.

The notice of investigation was published in the FEDERAL REGISTER on August 26, 1977 (42 FR 43155). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Bulova Watch Co., Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

Imports of nonconventional watches, which include electronic watches, increased each year, from 29,000 units in 1973 to 5.158 million units in 1976. Imports increased from 2.081 million units in the first 6 months of 1976 to 3.195 million units in the same period of 1977. The ratio of imports to domestic production increased from 5.3 percent in 1973 to 11.3 percent in 1974 and to 60.4 percent in 1975. The ratio declined to 55.7 percent in 1976.

Due to increasing imports of nonconventional watches and growing competition from Japanese manufacturers of watch crystals, Bulova began importing electronic quartz crystal watch

movements from its plants in Hong Kong and Switzerland in 1976 and commenced importing watch crystals

[4510-28]

[TA-W-2610]

totally or partially separated from employment on or after October 19, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Conclusion

After careful review of the facts obtained in the investigation, I conclude

been met the following criterion has not been met.

movements from its plants in Hong Kong and Switzerland in 1976 and commenced importing watch crystals from Japan in the first quarter of 1977 for assembly into watches at domestic facilities. Company imports of watch crystals replaced production at the Woodside plant by the end of May 1977. Imports of electronic watches replaced domestic production of those watches by the end of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with nonconventional watches produced by Bulova Watch Co., Inc., contributed importantly to the decline in production of watch crystals at the Crystal Department of the Woodside, N.Y. plant of Bulova and to the total or partial separations of the workers of that department. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of watch crystals at the Crystal Department of Bulova Watch Co., Inc., Woodside, N.Y., who became totally or partially separated from employment on or after August 11, 1976 and before July 31, 1977 are eligibile to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All workers totally or partially separated on or after July 31, 1977 are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C. this 28th day of February 1978.

HARRY GRUBERT,
Director, Office of
Foreign Economic Research.

[FR Doc. 78-5935 Filed 3-6-78; 8:45 am]

[4510-28]

[TA-W-2478]

CONTRACT KNITTER

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2478: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 17, 1977 in response to a worker petition received on October 5, 1977, which was filed by the workers of The Contract Knitter on behalf of workers and former workers producing polyester double knit fabric at The Contract Knitter, Northport, Ala.

The notice of investigation was published in the FEDERAL REGISTER on November 8, 1977 (42 FR 58210). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Speizman Industries, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met.

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Inasmuch as all types of unfinished fabric, greige goods, are generally interchangeable and substitutable in their end uses, all types of unfinished fabric must be considered like or directly competitive with the fabric produced at The Contract Knitter, Northport, Ala. Depending on the blend of fabrics used, all types of greige cloth could be used in the production of men's and women's apparel.

Aggregate imports of unfinished fabric, which includes polyester, acetate, rayon, nylon, and cotton greige, increased from 1975 to 1976 from 608 million square yards to 1,002.7 million square yards. Imports were recorded at 176.9 million square yards in the first quarter of 1977, compared to 279.9 million square yards in the first quarter of 1976. The ratio of imports to domestic production increased from 5.5 percent in 1975 to 8.2 percent in 1976 and then declined from 8.9 percent in the first quarter of 1976 to 6 percent in the first quarter of 1977.

The Contract Knitter closed on July 2, 1977 following the severence of a contract with its major customer. This customer did not import any unfinished (greige) fabric. Although it did purchase finished fabric from foreign sources, such purchases had been steadily declining since 1975.

CONCLUSION

After careful review, I conclude that all workers at The Contract Knitter, Northport, Ala., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of February 1978.

HARRY GRUBERT,
Director, Office of
Foreign Economic Research.

[FR Doc. 78-5936 Filed 3-6-78; 8:45 am]

[4510-28]

[TA-W-2610]

DELTA ELECTRIC CO., INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2610: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 15, 1977 in response to a worker petition received on November 3, 1977 which was filed by Local 1171 of the International Brotherhood of Electrical Works on behalf of workers and former workers producing smoke detector horns at the Marion, Indiana plant of the Delta Electric Co., Inc.

The notice of investigation was published in the FEDERAL REGISTER on January 10, 1978 (43 FR 1557). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Delta Electric Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

United States imports of smoke detector horns were recorded at 3.1 million units in 1975, increased to 7.1 million units in 1976 and increased in 1977 to 10 million units.

The ratio of imports of smoke detector horns to domestic production was 155 percent in 1975 increased to 177.5 percent in 1976 and increased in 1977 to 322.6 percent.

The results of a survey of customers who purchased smoke detector horns from the Delta Electric Co. indicated that some of these customers had decreased purchases from Delta Electric and increased their purhases of imports.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with smoke detector horns produced at the Marion, Indiana plant of the Delta Electric Co., Inc., contributed importantly to the decline in sales and to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Marion, Indiana plant of the Delta Electric Co. Inc. who became totally or partially separated from employment on or after October 19, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 24th day of February 1978.

HARRY GRUBERT,
Director, Office of
Foreign Economic Research.

[FR Doc. 78-5938 Filed 3-6-78; 8:45 am]

[4510-28]

[TA-W-2311]

GOLDSTEIN FOOTWEAR, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2311: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 31, 1977 in response to a worker petition received on August 26, 1977, which was filed by the United Shoe Workers of America on behalf of workers and former workers producing ladies' shoes at Goldstein Footwear, Inc., Brooklyn, N.Y.

The notice of investigation was published in the FEDERAL REGISTER on September 20, 1977 (42 FR 47271). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Goldstein Footwear, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of women's nonrubber footwear with nonleather uppers increased from 102.6 million pairs in 1975 to 103.8 million pairs in 1976 and increased from 82.7 million pairs in the first nine months of 1976 to 83.7 million pairs in the same period of 1977. Imports, relative to domestic production, declined from 166.6 percent in 1975 to 166.3 percent in 1976. The ratio increased from 168.1 percent in the first nine months of 1976 to 194.7 percent in the same period in 1977.

A survey of Goldstein Footwear's major customers indicated that some customers decreased purchases from the subject firm while increasing their purchases of imported women's shoes in 1976 and the first six months of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the women's shoes produced at Goldstein Footwear, Inc., Brooklyn, N.Y., contributed importantly to the decline in production and to the total or partial separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at Goldstein Footwear, Inc., Brooklyn, N.Y., who became totally or partially separated from employment on or after August 22, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 28th day of February 1978.

HARRY GRUBERT,
Director, Office of
Foreign Economic Research.

[FR Doc. 78-5939 Filed 3-6-78; 8:45 am]

[4510-28]

[TA-W-2392]

F/V LITTLE INFANT

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2392: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on September 28, 1977, in response to a worker petition received on September 23, 1977, which was filed on behalf of workers and former workers engaged in the catching of fin and shellfish aboard the F/V Little Infant of Provincetown, Mass. The investigation revealed that in October 1976, the Little Infant began fishing exclusively for sea scallops. Prior to this date, the Little Infant had fished for ground and flatfish.

The notice of investigation was published in the FEDERAL REGISTER on October 14, 1977 (42 FR 55316). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of F/V Little Infant, the National Marine Fisheries Service, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met.

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become separated or are threatened to become totally or partially separated.

The Department's investigation revealed that the average number of crew per trip made by the F/V Little Infant increased 33.3 percent in 1975 compared with 1974, increased 50 percent in 1976 compared with 1975 and increased 125 percent in the period January through April 1977 compared with the like period in 1976. During each year's summer months, the Little Infant is idled so that its owner and captain may operate a second vessel, referred to as a "headboat," the Ranger II. In operating this other vessel, no fish is caught or landed commercially.

In October 1976, the Little Infant began fishing exclusively for sea scallops. Prior to this date, the Little Infant had fished for groundfish and flatfish. In scalloping, as opposed to flat and groundfishing, a larger crew is required. This is necessitated by the longer duration of trips made by the boat and by the greater degree of labor intensiveness required in scalloping. As a result, the number of crew aboard the F/V Little Infant has approximately doubled in size since October 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that significant total or partial separations, or threat thereof, of workers aboard the F/V Little Infant of Provincetown, Mass. have not occurred as required for certification under section 222 of the Trade Act of 1974.

Signed in Washington, D.C., this 28th day of February 1978.

HARRY GRUBERT,
Director, Office of
Foreign Economic Research.

[FR Doc. 78-5940 Filed 3-6-78; 8:45 am]

[4510-28]

[TA-W-2374]

MACON SHIRT CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2374: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on September 22, 1977, in response to a worker petition received on September

20, 1977 which was filed on behalf of workers and former workers producing men's dress shirts at the Macon Shirt

Signed at Washington, D.C. this 28th day of February 1978.

HARRY GRUBERT,
Director, Office of

from 28.2 percent and 22.0 percent, respectively, in 1975 to 32.4 percent and 24.5 percent, respectively in 1976.

Imports of men's and boys' suits in-

[4510-28]

[TA-W-2357]

MICHAELS STERN & CO.

Imports of men's and boys' dress and sport slacks declined in absolute terms, increased 32 percent from 1975 to 1976 and increased 7 percent in the

tition received on September 30, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing

20, 1977 which was filed on behalf of workers and former workers producing men's dress shirts at the Macon Shirt Co., Macon, Ga.

The notice of investigation was published in the FEDERAL REGISTER on October 4, 1977 (42 FR 54032). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Publix Shirt Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

INCREASED IMPORTS

Imports of men's and boys' dress shirts declined from 70,666 thousand in 1972 to 30,800 thousand in 1975 and then increased to 64,283 thousand in 1976. Imports of men's dress shirts increased from 29,906 thousand in the first six months of 1976 to 32,443 thousand in the first six months of 1977. The ratio of imports to domestic production declined from 49.7 percent in 1972 to 36.2 percent in 1975 and then increased to 67.1 percent in 1976.

CONTRIBUTED IMPORTANTLY

Customers representing a substantial proportion of the Macon Shirt Co.'s production increased purchases of imported dress shirts directly and from domestic sources supplying imported shirts while reducing purchases from Macon Shirt in the first nine months of 1977 compared to the same period in 1976. The Macon Shirt Co. ceased production in September 1977 and subsequently closed.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's dress shirts produced at the Macon Shirt Co., Macon, Ga., contributed importantly to the decline in sales or production and to the total or partial separations of workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers at the Macon Shirt Co., Macon, Ga. who became totally or partially separated from employment on or after October 11, 1976, and before November 1, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All workers separated on or after November 1, 1977 are denied eligibility.

Signed at Washington, D.C. this 28th day of February 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-5941 Filed 3-6-78; 8:45 am]

[4510-28]

[TA-W-2354 and 2355]

MICHAELS STERN AND CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2354 and 2355: Investigations regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigations were initiated on September 15, 1977 in response to a worker petition received on September 12, 1977, which was filed by the Amalgamated Clothing and Textile Workers Union on Behalf of workers and former workers producing men's suits, slacks and sportcoats at the North Clinton Avenue plant and Bridge Drive plant of Michaels Stern & Co., Rochester, N.Y.

The notice of investigation was published in the FEDERAL REGISTER on October 4, 1974 (42 FR 54032). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Michaels Stern & Co., its customers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

The workers at the North Clinton Avenue plant, Rochester, N.Y. and at the Hand Street plant, Rochester, N.Y., of Michaels Stern & Co. were previously certified as eligible to apply for Trade Adjustment Assistance. The certification was signed on December 8, 1975 (TA-W-185).

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the Group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

INCREASED IMPORTS

Imports of men's and boys' tailored dress coats and sportcoats increased in absolute terms, increased 27 percent from 1975 to 1976 and declined 18 percent in the first nine months of 1977 compared to the same period in 1976. The ratio of imports to domestic production and consumption increased from 28.2 percent and 22.0 percent, respectively, in 1975 to 32.4 percent and 24.5 percent, respectively in 1976.

Imports of men's and boys' suits increased in absolute terms, increased 15 percent from 1975 to 1976 and increased 24 percent in the first nine months of 1977 compared to the same period in 1976. The ratios of imports to domestic production and consumption increased from 18.3 percent and 15.5 percent, respectively, in 1975 to 20 percent and 16.7 percent, respectively in 1976.

Imports of men's and boys' dress and sport slacks declined in absolute terms, increased 32 percent from 1975 to 1976 and increased 7 percent in the first nine months of 1977 compared to the same period in 1976. The ratios of imports to domestic production and consumption increased from 34.1 percent and 25.4 percent, respectively, in 1975 to 41.9 percent and 29.5 percent, respectively, in 1976.

CONTRIBUTED IMPORTANTLY

A survey of customers of Michaels Stern & Co. revealed that customers decreased purchases from Michaels Stern and increased purchases of imported men's suits, slacks and sportcoats in 1976 and 1977.

Michaels Stern & Co. ceased production in May 1977. Subsequent to that data, sales have been made from accumulated company inventory. An existing certification for all workers of Michaels Stern & Co. expired on December 8, 1977. As of December 8, 1977 workers assisting in closeout operations at the Bridge Drive plant and North Clinton Avenue plant, Rochester, N.Y. were still employed by Michaels Stern & Co.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's suits, slacks and sportcoats produced at the North Clinton Avenue plant, and Bridge Drive plant, Rochester, N.Y. of Michaels Stern & Co. contributed importantly to the decline in sales or production and to the total or partial separations of workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers at the North Clinton Avenue plant, and Bridge Drive plant, Rochester, N.Y. of Michaels Stern & Co. who became totally or partially separated from employment on or after December 8, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of February 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-5942 Filed 3-6-78; 8:45 am]

[4510-28]

[TA-W-2357]

MICHAELS STERN & CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2357: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on September 15, 1977, in response to a worker petition received on September 12, 1977, which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's suits, slacks and sportcoats at the Penn Yan, N.Y. plant of Michaels Stern & Co.

The notice of investigation was published in the FEDERAL REGISTER on October 4, 1977 (42 FR 54032). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Michaels Stern & Co., its customers, the National Cotton Council of America, U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

The workers at the Penn Yan, N.Y. plant of Michaels Stern & Co. were previously certified as eligible to apply for Trade Adjustment Assistance. The certification was signed on December 8, 1975 (TA-W-185).

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

INCREASED IMPORTS

Imports of men's and boys' tailored dress coats and sportcoats increased in absolute terms, 27 percent from 1975 to 1976 and declined 18 percent in the first nine months of 1977 compared to the same period in 1976. The ratios of imports to domestic production and consumption increased from 28.2 percent and 22.0 percent, respectively, in 1975 to 32.4 percent and 24.5 percent, respectively, in 1976.

Imports of men's and boys' suits increased in absolute terms, increased 15 percent from 1975 to 1976 and increased 24 percent in the first nine months of 1977 compared to the same period in 1976. The ratios of imports to domestic production and consumption increased from 18.3 percent and 15.5 percent, respectively, in 1975 to 20.0 percent and 16.7 percent, respectively, in 1976.

Imports of men's and boys' dress and sport slacks declined in absolute terms, increased 32 percent from 1975 to 1976 and increased 7 percent in the first nine months of 1977 compared to the same period in 1976. The ratios of imports to domestic production and consumption increased from 34.1 percent and 25.4 percent, respectively, in 1975 to 41.9 percent and 29.5 percent, respectively, in 1976.

CONTRIBUTED IMPORTANTLY

A survey of customers of Michaels Stern & Co. revealed that customers decreased purchases from Michaels Stern and increased purchases of imported men's suits, slacks and sportcoats in 1976 and 1977.

Michaels Stern & Co. ceased production in May 1977. Subsequent to that date, sales have been made from accumulated company inventory. An existing certification for all workers of Michaels Stern & Co. expired on December 8, 1977. As of December 8, 1977 workers assisting in close out operations at the Penn Yan, N.Y. plant were still employed by Michaels Stern & Co.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's suits, slacks and sportcoats produced at the Penn Yan, N.Y. plant of Michaels Stern & Co. contributed importantly to the decline in sales and production and to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Penn Yan, N.Y. plant of Michaels Stern & Co. who became totally or partially separated from employment on or after December 8, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of February 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-5943 Filed 3-6-78; 8:45 am]

[4510-28]

[TA-W-2411]

MISSION DIVISION OF ASARCO, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2411: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

Investigation was initiated on October 4, 1977, in response to a worker petition received on September 30, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing copper concentrate at the Mission Division of Asarco, Inc., Sahuarita, Ariz.

The notice of investigation was published in the FEDERAL REGISTER on October 25, 1977 (42 FR 56374). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Asarco, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the U.S. Department of the Interior, The American Metals Market, Metal Bulletin, Metals Week, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

INCREASED IMPORTS

U.S. imports of refined copper increased from 147 thousand short tons in 1975 to 384 thousand short tons in 1976. U.S. imports declined from 313 thousand short tons in the first three quarters of 1976 to 275 thousand short tons in the first three quarters of 1977. U.S. imports increased from 101 thousand short tons in the third quarter of 1976 to 111 thousand short tons in the third quarter of 1977.

The ratio of imported refined copper to domestic production increased from 8.6 percent in 1975 to 21.0 percent in 1976.

U.S. imports of copper ore, concentrate, precipitates and mattes increased each year from 44 thousand tons in 1973 to 89 thousand tons in 1976. The ratio of imports to domestic production increased from 2.6 percent in 1973 to 5.5 percent in 1976.

CONTRIBUTED IMPORTANTLY

The evidence developed during the Department's investigation revealed that while imports of refined copper had increased by 161 percent in 1976 compared to 1975, domestic demand increased at only a fraction of that rate. Inventory levels of domestic and imported copper on consignment at domestic refineries in December 1976 were 31.4 percent above December 1975 levels and were 143.2 percent above December 1974 levels. Asarco, Inc. and other domestic producers of refined copper lost sales in 1977 because of the excessive inventories of domestic and imported refined copper.

Imports of copper are affected by the differential between the domestic price of copper established by COMEX (Commodity Metal Ex-

change) and the price established by the LME (London Metal Exchange). When the LME price drops more than the estimated transportation costs of

gible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly

aration from the firm occurred more than 12 months before the signature date of the petition.

The signature date of the petition in

other criteria have been met the following criterion has not been met:

That increases of imports of articles like

eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of

change) and the price established by the LME (London Metal Exchange). When the LME price drops more than the estimated transportation costs of 5–8 cents per pound below the COMEX price, the demand for imported copper increases. During May and June 1977 the LME price was almost 11 cents per pound below the COMEX price and in July and August 1977 the LME price was almost 12 cents per pound below the COMEX price. At the same time, the abundant supply of copper stocks in the foreseeable future provides no reason for domestic consumers of copper to maintain ties with domestic producers for purposes of a guarantee against copper shortages. Consequently, in the third quarter of 1977, when many domestic copper producers curtailed production because of the depressed market price for copper, imports of refined copper increased 9.9 percent compared to the third quarter.

Price pressure from imported copper has reduced the ability to profitably mine domestic ore and convert it to copper concentrate and refined copper. Industry sources state that the weighted average production costs of the lowest cost domestic copper mines are 63 cents per pound. The weighted average costs for the highest cost domestic copper mines are $1.05 per pound. Thus, with a current domestic market price of 60 cents per pound, domestic producers lose, on the average, 3 to 45 cents on each pound of refined copper they choose to sell.

Asarco's decision to layoff workers and suspend its Mission Division's operations in September 1977 and its subsequent decision to resume operations on a curtailed basis in November 1977 were based mainly on an attempt to minimize losses which the company could not avoid were it to run at normal production levels at the current market prices for copper.

Comments made by customers purchasing copper from Asarco substantiate the fact that increased imports have contributed to record inventory levels which have driven the price of domestic copper below the level at which many domestic firms can profitably produce copper.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with refined copper produced by Asarco, Incorporated contributed importantly to the decrease in production and to the total or partial separation of workers at the Mission Division of Asarco, Inc. In accordance with the provisions of the Act, I make the following certification:

All employees at the Mission Division of Ascaro, Inc., Sahuarita, Ariz., who became totally or partially separated from employment on or after September 6, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of February 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-5944 Filed 3-6-78; 8:45 am]

[4510-28]

[TA-W-2908]

NATIONAL CAN CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2908: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 11, 1978, in response to a worker petition received on December 28, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing cans at the Lenexa, Kans. plant of National Can Corp.

The Notice of Investigation was published in the FEDERAL REGISTER on January 27, 1978 (43 FR 3776). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from National Can Corp., the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other critieria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Lenexa plant produced four lines of three-piece cans: two 12 ounce beer and beverage lines and two lines of coffee cans (3 and 1 pounds, respectively).

Imports of cans are not separately identifiable within TSUSA Classifications 640.2000 and 640.2500. Industry sources estimate that cans represent a small portion of those categories. Cans are generally produced near the plant where they are to be filled. As a result, imports of cans are negligible.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with cans produced at the Lenexa, Kans. plant of National Can Corp. did not increase, either absolutely or relative to domestic production, as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of February 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-5945 Filed 3-6-78; 8:45 am]

[4510-28]

[TA-W-2678]

NORTH AMERICAN REFRACTORIES CO., INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2676: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 29, 1977, in response to a worker petition received on November 17, 1977, which was filed by United Steelworkers of America on behalf of workers and former workers producing refractories at the Womelsdorf, Pa. plant of North American Refractories Co., Inc.

The notice of investigation was published in the FEDERAL REGISTER on December 16, 1977 (42 FR 63486). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of North American Refractories Co., the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

Section 223(b)(1) of the Trade Act of 1974 states that a certification under this section shall not apply to any worker whose last total or partial separation from the firm occurred more than 12 months before the signature date of the petition.

The signature date of the petition in this case is November 15, 1977. Thus, workers separated prior to November 15, 1976, are not eligible to apply for program benefits.

The Department's investigation revealed that the number of production workers increased in four consecutive quarters from the fourth quarter of 1976 to the fourth quarter of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that significant total or partial separations of workers at the Womelsdorf, Pa., plant of North American Refractories Co. have not occurred as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of February 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-5946 Filed 3-6-78; 8:45 am]

[4510-28]

[TA-W-2825]

PINTO ISLAND METALS CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2825: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 28, 1977, in response to a worker petition received on December 12, 1978, which was filed by the Industrial Union of Marine and Shipbuilding Union of America, Local 18 on behalf of workers and former workers producing ferrous and nonferrous metals at the Pinto Island Metals Co., Mobile, Ala.

The notice of investigation was published in the FEDERAL REGISTER on January 10, 1978 (43 FR 1554). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Pinto Island Metals Co., the U.S. Department of commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the Department's investigation revealed that workers at the Pinto Island Metals Co. are engaged in the preparation of ferrous and nonferrous metals.

The ratio of imports to domestic production of iron and steel scrap metal has been less than 1 percent for the 1972 to 1977 period. Industry experts indicated that imports consist largely of convenience sales and interplant transfers with Canada.

CONCLUSION

After careful review of the facts I conclude that all workers at the Pinto Island Metals Co., Mobile, Ala., are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of February 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-5947 Filed 3-6-78; 8:45 am]

[4510-28]

TA-W-2640]

RAINBOW GIRL COAT CO., INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2640: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 21, 1977, in response to a worker petition received on November 11, 1977, which was filed on behalf of workers and former workers producing girls' outer garments at Rainbow Girl Coat Co., Inc., Springfield, Mass.

The notice of investigation was published in the FEDERAL REGISTER on December 6, 1977 (42 FR 61696). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Rainbow Girl Coat Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

INCREASED IMPORTS

Imports of women's, misses', and children's coats and jackets increased in 1975 to 1,517,000 dozen, increased in 1976 to 2,252,000 dozen, and increased to 2,081,000 dozen in the first 9 months of 1977 compared to 1,680,000 dozen for the same period of 1976. The ratios of imports to domestic production and consumption increased from 38.9 percent and 28.0 percent, respectively, in 1975 to 57.5 percent and 36.5 percent, respectively, in 1976.

Imports of women's, misses', and children's raincoats increased in 1975 to 191,000 dozen, increased in 1976 to 261,000 dozen, and then declined to 180,000 dozen in the first 9 months of 1977 compared to the same period in 1976. The ratios of imports to domestic production and consumption increased from 36.8 percent and 26.9 percent, respectively, in 1975 to 50.4 percent and 33.5 percent, respectively, in 1976.

CONTRIBUTED IMPORTANTLY

Imports of women's, misses', and children's coats and jackets and raincoats have captured an increasing share of the domestic market, as evidenced by the significant import/domestic production and consumption ratios. For coats and jackets, as well as raincoats, imports constituted 1 out of every 3 coats sold in the United States in 1976.

A survey of Rainbow Girls' customers revealed that customers reduced purchases from Rainbow Girl while increasing purchases of imported girls' coats in 1976 and 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with girls' coats produced at Rainbow Girl Coat Co., Inc., Springfield, Mass., contributed importantly to the decline in sales or production and to the total or partial separations of workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers at Rainbow Girl Coat Co., Inc., Springfield, Mass., who became totally or partially separated from employment on or after November 4, 1976, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of February 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-5948 Filed 3-6-78; 8:45 am]

[4510-28]

[TA-W-2319]

RIVERSIDE METALS CO.

Exchange (LME) price. Riverside and other domestic producers of copper alloy products could not profitably compete with substantially lower priced imports. After sustaining financial losses in 1975 and 1976, Riverside Metals Co. ceased operations in January 1977.

sumers of copper to maintain ties with domestic producers for purposes of a guarantee against copper shortages. Consequently, in the third quarter of 1977, when many domestic copper pro-

[4510-28]

[TA-W-2410]

SILVER BELL DIVISION OF ASARCO, INC.

Certification Regarding Eligibility to Apply for

that while imports of refined copper had increased by 161 percent in 1976, compared to 1975, domestic demand increased at only a fraction of that rate. Inventory levels of domestic and

[4510-28]

[TA-W-2319]

RIVERSIDE METALS CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2319: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on September 6, 1977, in response to a worker petition received on September 1, 1977, which was filed on behalf of workers and former workers producing wire and strip copper alloys at the Riverside Metals Co., Riverside, N.J.

The notice of investigation was published in the FEDERAL REGISTER on September 23, 1977 (42 FR 48418). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Riverside Metals Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

INCREASED IMPORTS

Imports of alloyed copper wire increased from 4,482 thousand pounds in 1975 to 27,137 thousand pounds in 1976. Imports increased from 14,778 thousand pounds in the first 9 months of 1976 to 15,734 thousand pounds in the first 9 months of 1977. The ratio of imports to domestic production increased from 8.4 percent in 1975 to 36.5 percent in 1976.

Imports of alloyed copper sheets, plates, and strips increased from 54,298 thousand pounds in 1975 to 97,977 thousand pounds in 1976. Imports declined from 78,412 thousand pounds in the first 9 months of 1976 to 64,558 thousand pounds in the first 9 months of 1977. The ratio of imports to domestic production increased from 8.3 percent in 1975 to 13.0 percent in 1976.

CONTRIBUTED IMPORTANTLY

The dramatic increase in imports of alloyed copper wire, sheet, plate, and strip in 1976 and of alloyed copper wire in the first 9 months of 1977 from comparable prior periods was a result of the price disparity between the U.S. producer price and the London Metal Exchange (LME) price. Riverside and other domestic producers of copper alloy products could not profitably compete with substantially lower priced imports. After sustaining financial losses for a prolonged period, Riverside was forced to close in September 1977. These facts were substantiated in comments made by customers purchasing copper alloy products produced by Riverside.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with wire and strip copper alloys produced at the Riverside Metals Co., Riverside, N.J., contributed importantly to the decline in sales or production and to the total or partical separations of workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All hourly and salaried workers at the Riverside Metals Co., Riverside, N.J., who became totally or partially separated from employment on or after August 29, 1976, and before October 31, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974. All workers separated on or after October 31, 1977, are denied eligibility.

Signed at Washington, D.C., this 27th day of February 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-5949 Filed 3-6-78; 8:45 am]

[4510-28]

[TA-W-2490]

SACATON DIVISION OF ASARCO, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2490: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 20, 1977, in response to a worker petition received on October 12, 1977, which was filed by three workers on behalf of workers and former workers producing copper concentrate at the Sacaton Division of Asarco, Inc., Casa Grande, Ariz.

The notice of investigation was published in the FEDERAL REGISTER on October 25, 1977 (42 FR 56374). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Asarco, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, The U.S. Department of the Interior, The American Metals Market, Metal Bulletin, Metals Week, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

INCREASED IMPORTS

U.S. imports of refined copper increased from 147 thousand short tons in 1975 to 384 thousand short tons in 1976. U.S. imports declined from 313 thousand short tons in the first three quarters of 1976 to 275 thousand short tons in the first three quarters of 1977. U.S. imports increased from 101 thousand short tons in the third quarter of 1976 to 111 thousand short tons in the third quarter of 1977.

The ratio of imported refined copper to domestic production increased from 8.6 percent in 1975 to 21.0 percent in 1976.

U.S. imports of copper ore, concentrate, precipitates and mattes increased each year from 44 thousand tons in 1973 to 89 thousand tons in 1976. The ratio of imports to domestic production increased from 2.6 percent in 1973 to 5.5 percent in 1976.

CONTRIBUTED IMPORTANTLY

The evidence developed during the Department's investigation revealed that while imports of refined copper had increased by 161 percent in 1976 compared to 1975, domestic demand increased at only a fraction of that rate. Inventory levels of domestic and imported copper on consignment at domestic refineries in December 1976 were 31.4 percent above December 1975 levels and were 143.2 percent above December 1974 levels. Asarco and other domestic producers of refined copper lost sales in 1977 because of the excessive inventories of domestic and imported refined copper.

Imports of copper are affected by the differential between the domestic price of copper established by COMEX (Commodity Metal Exchange) and the price established by the LME (London Metal Exchange). When the LME price drops more than the estimated transportation costs of 5-8 cents per pound below the COMEX price, the demand for imported copper increases. During May and June 1977, the LME price was almost 11 cents per pound below the COMEX price and in July and August 1977, the LME price was almost 12 cents per pound below the COMEX price. At the same time, the abundant supply of copper stocks in the foreseeable future provides no reason for domestic consumers of copper to maintain ties with domestic producers for purposes of a guarantee against copper shortages. Consequently, in the third quarter of 1977, when many domestic copper producers curtailed production because of the depressed market price for copper, imports of refined copper increased 9.9 percent compared to the third quarter of 1976.

Price pressure from imported cooper has reduced the ability to profitably mine domestic ore and convert it to copper concentrate and refined copper. Industry sources state that the weighted average production costs of the lowest domestic copper mines are 63 cents per pound. The weighted average costs for the highest cost domestic copper mines are $1.05 per pound. Thus, with a current domestic market price of 60 cents per pound, domestic producers lose, on the average, 3 to 45 cents on each pound of refined copper they choose to sell.

Asarco's decision to suspend operations and layoff workers at its Sacaton Division in September 1977, and its subsequent decision to resume operations on a curtailed basis at the end of October 1977, were based mainly on an attempt to minimize losses which the company could not avoid were it to run at normal production levels at the current market prices for copper.

Comments made by customers purchasing copper from Asarco substantiate the fact that increased imports have contributed to record inventory levels which have driven the price of domestic copper below the level at which many domestic firms can profitably produce copper.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with refined copper produced by Asarco, Inc., contributed importantly to the decrease in production and to the total or partial separation of workers at the Sacaton Division of Asarco, Inc. In accordance with the provisions of the Act, I make the following certification:

All employees at the Sacaton Division of Asarco, Inc., Casa Grande, Ariz., who became totally or partially separated from employment on or after September 6, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of February 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-5950 Filed 3-6-78; 8:45 am]

[4510-28]

[TA-W-2410]

SILVER BELL DIVISION OF ASARCO, INC.

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2410: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 4, 1977, in response to a worker petition received on Septenber 30, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing copper concentrate at the Silver Bell Division of Ascaro, Inc., Silver Bell, Ariz.

The notice of investigation was published in the FEDERAL REGISTER on October 25, 1977 (42 FR 56374). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Asarco, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, U.S. Department of the Interior, The American Metals Market, Metal Bulletin, Metals Week, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

INCREASED IMPORTS

U.S. imports of refined copper increased from 147 thousand short tons in 1975 to 384 thousand short tons in 1976. U.S. imports declined from 313 thousand short tons in the first three quarters of 1976 to 275 thousand short tons in the first three quarters of 1977. U.S. imports increased from 101 thousand short tons in the third quarter of 1976 to 111 thousand short tons in the third quarter of 1977.

The ratio of imported refined copper to domestic production increased from 8.6 percent in 1975 to 21 percent in 1976.

U.S. imports of copper ore, concentrate, precipitates and mattes increased each year from 44 thousand tons in 1973 to 89 thousand tons in 1976. The ratio of imports to domestic production increased from 2.6 percent in 1973 to 5.5 percent in 1976.

CONTRIBUTED IMPORTANTLY

The evidence developed during the Department's investigation revealed that while imports of refined copper had increased by 161 percent in 1976, compared to 1975, domestic demand increased at only a fraction of that rate. Inventory levels of domestic and imported copper on consignment at domestic refineries in December 1976 were 31.4 percent above December 1975 levels and were 143.2 percent above December 1974 levels. Asarco and other domestic producers of refined copper lost sales in 1977 because of the excessive inventories of domestic and imported refined copper.

Imports of copper are affected by the differential between the domestic price of copper established by COMEX (Commodity Metal Exchange) and the price established by the LME (London Metal Exchange). When the LME price drops more than the estimated transporation costs of 5-8 cents per pound below the COMEX price, the demand for imported copper increases. During May and June 1977, the LME price was almost 11 cents per pound below the COMEX price and in July and August 1977, the LME price was almost 12 cents per pound below the COMEX price. At the same time, the abundant supply of copper stocks in the foreseeable future provides no reason for domestic consumers of copper to maintain ties with domestic producers for the purposes of a guarantee against copper shortages. Consequently, in the third quarter of 1977, when many domestic copper producers curtailed production because of the depressed market price for copper, imports of refined copper increased 9.9 percent compared to the third quarter of 1976.

Price pressure from imported copper has reduced the ability to profitably mine domestic ore and convert it to copper concentrate and refined copper. Industry sources state that the weighted average production costs of the lowest cost domestic copper mines are 63 cents per pound. The weighted average costs for the highest cost domestic copper mines are $1.05 per pound. Thus, with a current domestic market price of 60 cents per pound, domestic producers lose, on the average, 3 to 45 cents on each pound of refined copper they choose to sell.

Asarco's decision to layoff workers and suspend its Silver Bell Division's operations in September 1977, and its subsequent decision to resume operations on a curtailed basis in November 1977, were based mainly on an attempt to minimize losses which the company could not avoid were it to run at normal production levels at the current market prices of copper.

Comments made by customers purchasing copper from Asarco substantiate the fact that increased imports have contributed to record inventory levels which have driven the price of domestic copper below the level at

which many domestic firms can profitably produce copper.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with refined copper produced by Asarco, Inc., contributed importantly to the decrease in production and to the total or partial separation of workers at the Sacaton Division of Asarco, Inc. In accordance with the provisions of the Act, I make the following certification:

All employees at the Sacaton Division of Asarco, Inc., Casa Grande, Ariz., who became totally or partially separated from employment on or after September 6, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of February 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-5950 Filed 3-6-78; 8:45 am]

United States imports of children's footwear totalled 11.1 millions of pairs in 1975 which increased to 15.8 millions of pairs in 1976. During the first

[4510-28]

[TA-W-2698]

TORNETTA'S MOTOR TRUCKS, INC.

Driveaway, Inc. (TA-W-393, 41 FR 12749).

No customer of Tornetta's Motor Trucks or the subject firm is financial-

must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

and Welfare Benefit Programs, c/o the U.S. Department of Labor/Labor-Management Services Administration, Room 4334, Federal Building, 300

which many domestic firms can profitably produce copper.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with refined copper produced by Asarco, Inc., contributed importantly to the decrease in production and to the total partial separation of workers at the Silver Bell Division of Asarco, Inc. In accordance with the provisions of the Act, I make the following certification:

All employees at the Silver Bell Division of Asarco, Inc., Silver Bell, Ariz., who became totally or partially separated from employment on or after September 6, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of February 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-5951 Filed 3-6-78; 8:45 am]

[4510-28]

[TA-W-2377]

STRIDE RITE MANUFACTURING CORP.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2377: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on September 26, 1977, in response to a worker petition received on September 20, 1977, which was filed by the Boot and Shoe Workers' Union on behalf of workers and former workers producing children's footwear at Stride Rite Manufacturing Corp., Newburyport, Mass.

The Notice of Investigation was published in the FEDERAL REGISTER on October 14, 1977 (42 FR 55315). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Stride Rite Manufacturing Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

United States imports of children's footwear totalled 11.1 millions of pairs in 1975 which increased to 15.8 millions of pairs in 1976. During the first nine months of 1976, imports were 12.5 millions of pairs which declined to 11.4 millions of pairs during the first nine months of 1977.

The imports to domestic production and consumption ratios for children's footwear increased from 60 percent and 37.5 percent, respectively, in 1975 to 75.2 percent and 42.9 percent, respectively, in 1976. The imports to domestic production and consumption ratios increased from 74.4 percent and 42.7 percent, respectively, during the first nine months of 1976 to 94.2 percent and 48.5 percent, respectively, during the first nine months of 1977.

In its report to the President on February 8, 1977, the U.S. International Trade Commission found that certain footwear articles including children's footwear are being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing such articles. The Commission considered other factors that have been alleged as more important causes than imports of injury to the domestic footwear industry such as the recent recession, inability to keep pace with technological and style changes, and decreased productivity. However, the Commission concluded that, although such factors may have contributed in part, imports have been the most important cause of injury.

Customers surveyed indicated that they increased purchases of imported children's footwear either absolutely or relative to their purchases from the Stride Rite Manufacturing Corp.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with children's footwear produced at the Newburyport, Mass., plant of the Stride Rite Manufacturing Corp., contributed importantly to the decline in production and to the total or partial separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Stride Rite Manufacturing Corp., Newburyport, Mass., who became totally or partially separated from employment on or after September 13, 1976, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of February 1978.

JAMES F. TAYLOR,
Director Office of Management, Administration, and Planning.

[FR Doc. 78-5952 Filed 3-6-78; 8:45 am]

[4510-28]

[TA-W-2698]

TORNETTA'S MOTOR TRUCKS, INC.

Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2698: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 1, 1977, in response to a worker petition received on November 23, 1977, which as filed by the Internationa Brotherhood of Teamsters, Chauffers, Warehousemen, and Helpers of America (Ind.) Local 384 on behalf of workers and former workers engaged in transportation operations at Tornetta's Motor Trucks, Inc., Conshohocken, Pa.

The notice of investigation was published in the FEDERAL REGISTER on December 16, 1977 (42 FR 63485). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Tornetta's Motor Trucks, Inc. and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. If any of the criteria is not met, a negative determination must be made.

The Department's investigation revealed that tornetta's Motor Trucks, Inc., is a transport firm which operates a single terminal in Conshohocken, Pa. Founded in 1937 and incorporated in Ohio in 1959, the company has no parent company and no subsidiaries. The firm is licensed and regulated by the Interstate Commerce Commission as a contract carrier.

Tornetta's Motor Truck transports steel products for several customers. Workers at Tornetta's Motor Trucks are engaged in transport operations and perform no production operations. Workers at Tornetta's Trucks, Inc., do not produce an article within the meaning of section 222(3) of the Act and this Department has already determined that the performance of services is not covered by the adjustment assistance program. See Notice of Determination in Pan American World Airways, Inc. (TA-W-153, 40 FR 54639). The only question in this case is whether customers of Tornetta's Motor Trucks, i.e., firms which produce an article, namely steel, and for whom the service is provided, can be considered the "workers' firm." See Notice of Determination in Nu-Car Driveaway, Inc. (TA-W-393, 41 FR 12749).

No customer of Tornetta's Motor Trucks or the subject firm is financially, corporately, or otherwise involved in the business of the other. The workers on whose behalf this petition was filed were hired and are paid by and subject to the authority of Tornetta's Motor Trucks personnel only. All employment benefits which they enjoy are provided and maintained by Tornetta's Motor Trucks.

CONCLUSION

After careful review of the issues and facts involved, I have determined that services of the kind provided by workers at Tornetta's Motor Trucks, Inc., Conshohocken, Pa., are not "articles" within the meaning of section 222(3) of the Trade Act of 1974, and that no customers of Tornetta's Motor Trucks, Inc., can be considered the "workers' firm." The petition for trade adjustment assistance is, therefore, denied.

Signed at Washington, D.C., this 24th day of February 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-5953 Filed 3-6-78; 8:45 am]

[4510-28]

[TA-W-2503]

ZUCKERMAN CO., INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein peresents the results of TA-W-2503: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 25, 1977, in response to a worker petition received on October 17, 1977, which was filed on behalf of workers and former workers producing foundry grade metal scrap at Zuckerman Co., Inc., Winchester, Va.

The notice of investigation was published in the FEDERAL REGISTER on November 8, 1977 (42 FR 58209). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Zuckerman Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increased imports have "contributed importantly" to the separations, or threat thereof, and to the decrease in sales or production of the firm or subdivision.

The Department's investigation revealed that imports of foundry grade scrap metal equal less than one percent of domestic production of scrap metal. A survey of customers of Zuckerman Co., Inc., revealed only insignificant purchases of imported foundry grade ferrous metal scrap. That customer began purchasing from the subject firm in 1977. Foundry grade ferrous metal scrap represents eighty percent of the subject firm's sales.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that significant total or partial separations of workers have not occurred at Zuckerman Co., Inc., Winchester, Va., as required for certification under section of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of February 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-5954 Filed 3-6-78; 8:45 am]

[4510-29]

Pension and Welfare Benefit Programs

ADVISORY COUNCIL ON EMPLOYEE WELFARE AND PENSION BENEFIT PLANS

Meeting

Pursuant to section 512 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1142) a meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 9:30 a.m. on Tuesday, April 4, 1978, in the Ambassador Ballroom, the Ambassador Hotel, 3400 Wilshire Boulevard, Los Angeles, Calif.

The purpose of the meeting is to discuss the items listed below and to invite public comment on any aspect of the administration of the pension reform law.

1. Department of Labor Progress Report.
2. Small Plans Impact Work Group Report.
3. Seasonal Industries Work Group Report.
4. ERISA Preemption of State Law.
5. Statements from the Public.

Members of the public are encouraged to file a written statement concerning one of the above topics, or any topic concerning ERISA, by submitting 30 copies on or before March 27, 1978, to the Administrator of Pension and Welfare Benefit Programs, c/o the U.S. Department of Labor/Labor-Management Services Administration, Room 4334, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

Persons desiring to attend should notify Edward F. Lysczek, Executive Secretary of the Advisory Council, either in care of the above address or at the national office, U.S. Department of Labor, Room S-4522, 200 Constitution Avenue NW., Washington, D.C. 20216. This notification may also be made by calling area code 202-523-8753.

Signed at Washington, D.C., this 1st day of March 1978.

IAN D. LANOFF,
Administrator of Pension and Welfare Benefit Programs.

[FR Doc. 78-5900 Filed 3-6-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON THE FLOATING NUCLEAR PLANT

Meeting

The ACRS Subcommittee on the Floating Nuclear Plant will hold an open meeting on March 22, 1978 in room 1046, 1717 H Street, N.W., Washington, D.C. 20555, to continue its review of the Liquid Pathway Generic Study for the Floating Nucler Plant. The primary source of information to be discussed at this meeting is NUREG-0440, "Liquid Pathway Generic Study," dated February 1978, regarding the impacts of accidental radioactive releases to the hydrosphere from floating and land-based nuclear powerplants.

In accordance with the procedures outlined in the FEDERAL REGISTER on October 31, 1977, page 56972, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the designated Federal employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

WEDNESDAY, MARCH 22, 1978

8:30 A.M. UNTIL THE CONCLUSION OF BUSINESS

The subcommittee may meet in executive session, with any of its consul-

tants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommen-

Working Group, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropri-

relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to the Northern States Power Co. The relief relates to

For the Nuclear Regulatory Commission.

GEORGE E. LEAR,
Chief, Operating Reactors Branch No. 3, Division of Op-

6. Bross, I. D. J. Strategies of Science in Human Affairs: How to Assure the Quality of Scientific Statements. Clinical Pharmacology and Therapeutics. June 1974, 15:6 pp. 543-550.

[7590-01]

REVISION TO THE STANDARD REVIEW PLAN (NUREG-75/087)

tants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full committee.

At the conclusion of the executive session, the subcommittee will hear presentations by and hold discussions with representatives of the NRC staff, Offshore Power Systems, and their consultants, pertinent to this review. The subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the designated Federal employee for this meeting, Mr. Gary Quittschreiber, 202-634-1920, between 8:15 and 5:00 p.m.

Background information concerning items to be considered at this meeting can be found in NUREG-0440, on file and available for public inspection at the NRC public document room 1717, H Street, N.W., Washington, D.C. 20555, at the Jacksonville Public Library, 122 North Ocean Street, Jacksonville, Fla. 32204, at the New Orleans Public Library, Business and Science Division, 219 Loyola Avenue, New Orleans, La. 70240, and at the Stockton State College Library, Pomona, N.J. 08240.

Dated: March 2, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-5892 Filed 3-6-78; 8:45 am]

[7590-01]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS WORKING GROUP ON SAFETY OF OPERATING REACTORS

Meeting

The ACRS Working Group on Safety of Operating Reactors will hold a meeting on March 22, 1978 in Room 1062, 1717 H Street NW., Washington, D.C. 20555, to discuss the review of requests for operating reactors to operate at "stretch" power.

In accordance with the procedures outlined in the FEDERAL REGISTER on October 31, 1977, page 56972, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Working Group, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

WEDNESDAY, MARCH 22, 1978

8:30 A.M. UNTIL THE CONCLUSION OF BUSINESS

The Working Group may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Working Group will hear presentations by and hold discussions with representatives of the NRC Staff and their consultants, pertinent to this review.

The Working Group may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

In addition, it may be necessary for the Working Group to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. John C. McKinley, telephone 202-634-1371 between 8:15 a.m. and 5 p.m., e.s.t.

Dated: March 2, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-5891 Filed 3-6-78; 8:45 am]

[7590-01]

[Docket No. 50-263]

NORTHERN STATES POWER CO.

Granting of Relief From ASME Section XI Inservice Inspection (Testing) Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to the Northern States Power Co. The relief relates to the inservice inspection and testing program for the Monticello Nuclear Generating Plant (the facility) located in Wright County, Minn. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance.

The relief is granted, on an interim basis, pending completion of our detailed review, from those inservice inspection and testing requirements of the ASME Code that the licensee has determined to be impractical within the limitations of design, geometry, and materials of construction of components, because compliance would result in hardships and unusual difficulties without a compensating increase in the level of quality or safety.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief. Prior public notice of this action was not required since the granting of this relief from ASME Code requirements does not involve a significant hazards consideration.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the request for relief dated December 14, 1977, and (2) the Commission's letter to the licensee dated February 28, 1978.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minn. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 28th day of February, 1978.

For the Nuclear Regulatory Commission.

GEORGE E. LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-5889 Filed 3-6-78; 8:45 am]

[7590-01]

OFFICE OF STANDARDS DEVELOPMENT

Public Meeting

The Office of Standards Development will conduct a public meeting at 9 a.m. to 5 p.m. on April 7, 1978, in the General Services Administration Auditorium 18th and F Streets, Washington, D.C.

The purpose of this meeting is for the presentation of an analysis by Dr. I. D. J. Bross, Jr., Roswell Park Memorial Institute, Buffalo, N.Y., of the biological effects of low level ionizing radiation in children exposed in utero and in the parents and offspring of parents receiving preconception exposure.

Dr. Kenneth J. Rothman, Harvard School of Public Health, will give an independent analysis of Dr. Bross' presentation.

The opportunity will be presented for representatives of national, state and local units of government, representatives of public and private organizations, and interested citizens to receive information and question Drs. Bross and Rothman about their analyses and conclusions. The formal presentations will be limited to the material in the following specific documents:

1. Bross, I. D. J. and N. Natarajan. Genetic Damage from Diagnostic Radiation. J. Am. Med. Association. May 30, 1977, 237:22 pp. 2399-2401.

2. Bross, I. D. J. "Hazards to Persons Exposed to Ionizing Radiation (and to Their Children) From Dosages Currently Permitted by the Nuclear Regulatory Commission." For presentation at a U.S. NRC public meeting, April 7, 1978.

Dr. Bross has provided the following documents as background information—not to be included specifically in his presentation.

1. Bross, I. D. J. and N. Natarajan. Leukemia From Low-Level Radiaton Identification of Susceptible Children. New England J. Med., July 20, 1972, 287: 107-110.

2. Bross, I. D. J., R. Bertell and R. Gibson. Pets and Adult Leukemia, Am. J. Public Health, 1972, 62:11 pp. 1520-1531.

3. Natarajan, N. and I. D. J. Bross. Preconception Radiation and Leukemia. J. Med. 1973, 4: 278-281.

4. Bross, I. D. J. and N. Natarajan. Risk of Leukemia in Susceptible Children Exposed to Preconception, In Utero and Postnatal Radiation. Preventive Med. 1974, 3: 361-369.

5. Viadana, E. and I. D. J. Bross. Use of the Medical History to Predict the Future Occurrence of Leukemias in Adults. Preventive Med. 1974, 3: 165-170.

6. Bross, I. D. J. Strategies of Science in Human Affairs: How to Assure the Quality of Scientific Statements. Clinical Pharmacology and Therapeutics. June 1974, 15:6 pp. 543-550.

7. Blumenson, L. E. A Comprehensive Modeling Procedure for the Human Granulopoietic System: Detailed Description and Application to Cancer Chemotherapy. Mathematical Biosciences, 1975, 28:217-239.

8. Bross, I. D. J. and L. E. Blumenson, Screening Random Asymptomatic Women Under 50 By-annual Mammographies: Does It Make Sense? J. Surgical Oncology. 1976, 8:437-445.

9. Bross, I. D. J. Right Answers From Wrong Assumptions, Preventive Med. 1976, 5:203-206.

10. Bross, I. D. J. Scientific Strategies in Human Affairs: Explaining Statistics to the Public. Am. Statistician, Nov. 1976, 30:4:171-175.

Copies of Dr. Bross' and the other publications are available in the open literature. Copies of "Hazards to Persons Exposed to Ionizing Radiation (and to Their Children) From Dosages Currently Permitted by the Nuclear Regulatory Commission" can be obtained by written request to Dr. Michael A. Parsont, U.S. NRC, Washington, D.C. 20555.

The agenda for the meeting will be as follows:

I. Welcoming comments, definition of scientific terminology and introduction of participants (approximately 15 minutes).
II. Presentation by Dr. Irwin D. J. Bross, Jr. (approximately 1 hour).
III. Presentation by Dr. Kenneth J. Rothman (approximately 1 hour).
IV. Comments on Dr. Rothman's presentation by Dr. Bross (time as necessary).
V. Discussion by participants of points to be resolved (time as necessary).
VI. Questions from the public.
VII. Closing remarks.

A recess for lunch will be taken at approximately 12 to 1:30 p.m.

A transcript of the meeting will be made and information about availability of copies will be given at the meeting and upon written request.

Written requests for information concerning this public meeting should be addressed to Dr. Michael A. Parsont, U.S. NRC, Washington, D.C. 20555.

(5 U.S.C. 552(a).)

Dated at Rockville, Md. this 27th day of February 1978.

For The Nuclear Regulatory Commission.

R. G. SMITH,
Acting Director, Office of Standards Development.

[FR Doc. 78-5890 Filed 3-6-78; 8:45 am]

[7590-01]

REVISION TO THE STANDARD REVIEW PLAN (NUREG-75/087)

Issuance and Availability

As a continuation of the updating program for the Standard Review Plan (SRP) previously announced (FEDERAL REGISTER notice dated December 8, 1977), the Nuclear Regulatory Commission's (NRC's) Office of Nuclear Reactor Regulation has published revision No. 1 to section No. 13.2 of the SRP for the NRC staff's safety review of applications to build and operate light-water-cooled nuclear power reactors. The purpose of the plan, which is composed of 224 sections, is to improve both the quality and uniformity of the NRC staff's review of applications to build new nuclear powerplants, and to make information about regulatory matters widely available, including the improvement of communication and understanding of the staff review process by interested members of the public and the nuclear power industry. The purpose of the updating program is to revise sections of the SRP for which changes in the review plan have been developed since the original issuance in September 1975 to reflect current practice.

Copies of the Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants, which has been identified as NUREG-75/087, are available from the National Technical Information Service, Springfield, Va. 22161. The domestic price is $70, including first-year supplements. Annual subscriptions for supplements alone are $30. Individual sections are available at current prices. The domestic price for revision No. 1 to section No. 13.2 is $4. Foreign price information is available from NTIS. A copy of the Standard Review Plan including all revisions published to date is available for public inspection at the NRC's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555 (5 U.S.C. 552(a)).

Dated at Bethesda, Md. this 27th day of February, 1978.

For the U.S. Nuclear Regulatory Commission.

ROGER S. BOYD,
Director, Division of Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 78-5895 Filed 3-6-78; 8:45 am]

[7590-01]

REVISION TO THE STANDARD REVIEW PLAN (NUREG-75/087)

Issuance and Availability

As a continuation of the updating program for the Standard Review Plan (SRP) previously announced

(FEDERAL REGISTER notice dated December 8, 1977), the Nuclear Regulatory Commission's (NRC's) Office of Nuclear Reactor Regulation has pub-

located in Ottawa County, Ohio. The amendment is effective as of its date of issuance.

The amendment will delete the re-

(Yankee-Rowe) (the facility) located in Rowe, Franklin County, Mass. The amendment is effective as of its date of issuance.

in collecting information from the public received by the Office of Management and Budget on February 21, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL

cation, federally reorganized Indian tribes, 500 responses, 250 hours, C. Louis Kincannon, 395-3211.

EXTENSIONS

bined as a single document) setting forth the terms and provisions governing the certificates which may be issued under the New Indenture are

(FEDERAL REGISTER notice dated December 8, 1977), the Nuclear Regulatory Commission's (NRC's) Office of Nuclear Reactor Regulation has published revision No. 1 to section No. 13.5 of the SRP for the NRC staff's safety review of applications to build and operate light-water-cooled nuclear power reactors. The purpose of the plan, which is composed of 224 sections, is to improve both the quality and uniformity of the NRC staff's review of applications to build new nuclear powerplants, and to make information about regulatory matters widely available, including the improvement of communication and understanding of the staff review process by interested members of the public and the nuclear power industry. The purpose of the updating program is to revise sections of the SRP for which changes in the review plan have been developed since the original issuance in September 1975 to reflect current practice.

Copies of the Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants, which has been identified as NUREG-75/087, are available from the National Technical Information Service, Springfield, Va. 22161. The domestic price is $70, including first-year supplements. Annual subscriptions for supplements alone are $30. Individual sections are available at current prices. The domestic price for revision No. 1 to section No. 13.5 is $4. Foreign price information is available from NTIS. A copy of the Standard Review Plan including all revisions published to date is available for public inspection at the NRC's Public Document Room at 1717 H Street NW., Washington, D.C. 20555 (5 U.S.C. 552(a)).

Dated at Bethesda, Md., this 27th day of February 1978.

For the U.S. Nuclear Regulatory Commission.

ROGER S. BOYD,
Director, Division of Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 78-5896 Filed 3-6-78; 8:45 am]

[7590-01]

[Docket No. 50-346]

TOLEDO EDISON CO. AND CLEVELAND ELECTRIC ILLUMINATING CO., DAVIS-BESSE NUCLEAR POWER STATION, UNIT NO. 1

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued amendment No. 8 to the Facility Operating License No. NPF-3, issued to the Toledo Edison Co. and the Cleveland Electric Illuminating Co., for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility) located in Ottawa County, Ohio. The amendment is effective as of its date of issuance.

The amendment will delete the requirement for an annual operating report in order to be consistent with Commission guidance.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51(d)(4) an environmental statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) Amendment No. 8 to License No. NPF-3, and (2) the Commission's related safety evaluation supporting amendment No. 8 to License No. NPF-3. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Ida Rupp Public Library, 310 Madison Street, Port Clinton, Ohio 43452. A copy of items (1) and (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Md., this 28th day of February 1978.

For the Nuclear Regulatory Commission.

JOHN F. STOLZ,
Chief, Light Water Reactors Branch No. 1, Division of Project Management.

[FR Doc. 78-5893 Filed 3-6-78; 8:45 am]

[7590-01]

[Docket No. 50-29]

YANKEE ATOMIC ELECTRIC CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 45 to Facility Operating License No. DPR-3, issued to Yankee Atomic Electric Co. (the licensee), which revised Technical Specifications for operation of the Yankee Nuclear Power Station (Yankee-Rowe) (the facility) located in Rowe, Franklin County, Mass. The amendment is effective as of its date of issuance.

The amendment revises the provisions in the Technical Specifications by deleting the requirements for submittal of an annual operating report while retaining the requirement to submit occupational exposure data on an annual basis.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 31, 1977, (2) the Commission's letter to the licensee, dated September 16, 1977, (3) Amendment No. 45 to License No. DPR-3, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Greenfield Public Library, 422 Main Street, Greenfield, Mass. 01581. A copy of items (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 22d day of February 1978.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-5894 Filed 3-6-78; 8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on February 21, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Head-Up Display Survey, single time, 4,000 members of Commercial Pilots Association, Caywood, D. P., 395-3443.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Center for Education Statistics:
Survey of Adult Education, May 1978, NCES-2412, single time, 53,000 interviewed households in May 1978 CPS sample, Laverne V. Collins, 395-3214.
Survey of Free Universities and Learning Centers, NCES-2411, single time, 250 free universities, Office of Federal Statistical Policy and Standard, Laverne V. Collins, 395-3214.

REVISIONS

NATIONAL SCIENCE FOUNDATION

Exploratory Study of Scientific Activities of Science and Engineering Faculty at a Large, Public Non-Doctoral College, single time, science faculty at a college, Laverne V. Collins, 395-3214.

EXTENSIONS

NATIONAL ENDOWMENT FOR THE ARTS

Fellowship Report, annually, fellowship recipients, 450 responses, 562 hours, Lowry, R. L., 395-3772.
Summer Seminars for College Teachers Application Instructions, annually, college professors, 500 responses, 4,000 hours, Lowry, R. L., 395-3772.

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis, Survey of U.S. Travelers Visiting Canada, BE-536, other (see SF-83), U.S. residents visiting Canada, 40,000 responses, 2,680 hours, Office of Federal Statistical Policy and Standard, C. Louis Kincannon, 395-3211.
Economic Development Administration, Request for Excess Property, ED-733, on occasion, federally reorganized Indian tribes, 500 responses, 250 hours, C. Louis Kincannon, 395-3211.

EXTENSIONS

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation:
Law Enforcement Officers Killed or Assaulted, 12-108, monthly, all law enforcement agencies in the U.S., 114,000 responses, 22,800 hours, Laverne V. Collins, 395-3214.
Number of Full-Time Law Enforcement Employees as of October 31, 12-78, 12-78A, 12-78B, annually, all law enforcement agencies in U.S., 11,000 responses, 5,500 hours, Laverne V. Collins, 395-3214.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-6081 Filed 3-6-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[File No. 3-5380]

AMERICAN AIRLINES, INC.

Application and Opportunity for Hearing

FEBRUARY 28, 1978.

Notice is hereby given that American Airlines, Inc. (the "Applicant") has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939, as amended (the "Act"), for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeships of Bankers Trust Co. under a trust indenture and mortgage dated as of June 1, 1970 between Bankers Trust Co. and the Applicant qualified under the Act (as amended and supplemented, the "1970 Indenture") and under an equipment trust agreement dated as of December 15, 1977 between Bankers Trust Co. and the Applicant not so qualified (the "New Indenture") are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Bankers Trust Co. from acting as trustee under the New Indenture.

The Applicant alleges the following:

(1) The Applicant, a Delaware corporation, intends to finance a part of the acquisition cost of four Boeing Model 727-223 aircraft and three McDonnell Douglas DC-10 aircraft (the "Aircraft") through the placement with institutional investors of approximately $107 million principal amount of equipment trust certificates, due April 1, 1993, to be issued pursuant to the New Indenture. Such certificates will be secured by the Aircraft and the Applicant's obligation to pay rent therefor, all as provided in the New Indenture. Copies of the equipment trust agreement and other documents (combined as a single document) setting forth the terms and provisions governing the certificates which may be issued under the New Indenture are annexed to the Applicant's application as Exhibit A. The New Indenture was executed in January 1978 and it is anticipated that the initial issuance of equipment trust certificates thereunder will occur in February 1978.

(2) The Applicant has appointed Bankers Trust Co., a New York corporation, to act as trustee under the New Indenture.

(3) The 1970 Indenture relates to the financing of seven Boeing Model 747-123 Aircraft leased to the Applicant. Under the 1970 Indenture, Guaranteed Loan Certificates Series A, B, Interim C, Second Interim C and C were issued and remain outstanding in the following respective principal amounts: $47,850,000 original principal amount of 11% Series A, due December 1, 1988, presently outstanding in the principal amount of $38,545,000; $31,800,000 original principal amount of 10⅛% Series B, due December 1, 1988, presently outstanding in the principal amount of $25,550,000; $15,564,000 original principal amount of 9½% Interim Series C, due June 1, 1989, none of which is presently outstanding; $15,689,999 original principal amount of 9½% Second Interim Series C, due June 1, 1989, none of which is presently outstanding; and $32,000,000 original principal amount of 10% Series C, due June 1, 1989, presently outstanding in the principal amount of $26,035,000. Copies of the trust indenture and mortgage, lease and other documents, as amended and supplemented, setting forth the terms and provisions governing the certificates issued under the 1970 Indenture were filed as exhibits to the Applicant's Registration Statements under the Securities Act of 1933 (Nos. 2-37401, 2-38352, and 2-39380) and are incorporated herein by reference.

(4) The certificates issued under the 1970 Indenture are, and the certificates to be issued under the New Indenture will be, secured by separate lots of identified aircraft, so that should the trustee have occasion to proceed against the security under one of these trusts, such action would not affect the security, or the use of any security, under the other. Thus, the existence of the other trusteeship should in no way inhibit or discourage the trustee's actions. The Commission has made similar findings with respect to the trusteeships of Bankers Trust Co. under other indentures of the Applicant not qualified under the Act and the 1970 Indenture is issuing the following Orders:

Application Date	Administrative Proceeding File No.	Order Date

promulgated thereunder, to withdraw the specified security from listing and registration on the Pacific Stock Exchange, Inc. ("PSE") and the Boston

this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7 and 12(e) of the Act and Rule

gated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons

by such members to other members or member organizations as a result of losses arising from the closing out of contracts entered into on the floor of the Exchange. In practice such losses

sibility. Thus, the equal protection concept serves to prevent unfair discrimination between brokers or dealers.

COMMENTS RECEIVED FROM MEMBERS,

Application Date	Administrative Proceeding File No.	Order Date
Mar. 3, 1970	3-2388	May 20, 1970
Nov. 12, 1971	3-3435	Jan. 21, 1972
Mar. 25, 1976	3-4640	May 7, 1976
Apr. 2, 1976	3-5005	May 26, 1976
June 8, 1976	3-5041	July 28, 1976
Mar. 2, 1977	3-5191	Apr. 29, 1977
June 6, 1977	3-5240	Aug. 1, 1977
Oct. 31, 1977	3-5338	Jan. 4, 1978

(5) The Applicant is not in default under any of its equipment obligations or promissory notes.

The Applicant has waived notice of hearing, hearing on the issues raised by its application and all rights to specify procedures under Rule 8(b) of the Commission's rules of practice in connection with this matter.

For a further statement of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the Commission's Public Reference Section, 1100 L Street NW., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than March 23, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as to the Commission may seem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5826 Filed 3-6-78; 8:45 am]

[8010-01]

[File No. 1-2793]

CANADA SOUTHERN PETROLEUM LTD.

Application To Withdraw From Listing and Registration

FEBRUARY 15, 1978.

The above named issuer has filed an application with the Securities and Exchange Commission, pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the Pacific Stock Exchange, Inc. ("PSE") and the Boston Stock Exchange, Inc. ("BSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The capital stock of Canada Southern Petroleum Ltd. (the "Company") has been listed on the PSE since 1957 and on the BSE since 1975. On June 30, 1977 there were 8,851,465 outstanding shares of the Company's capital stock. At that time there were 15,945 shareholders of record, of which approximately 80 percent were United States residents.

Based upon discussions with its shareholders, and brokers and traders in the United States, the Company has determined that its capital stock would attain better coverage and broader representation by being listed on the National Association of Securities Dealers Automated Quotation System ("NASDAQ"). The Company has thereby concluded that it would be in the best interests of the Company and its shareholders to effect the inclusion of its capital stock in NASDAQ as soon as possible.

Any interested person may, on or before March 17, 1978 submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D. C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission will, on the basis of the application and any other information submitted to it, issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5827 Filed 3-6-78; 8:45 am]

[8010-01]

[Release No. 20425; 70-6115]

CENTRAL AND SOUTH WEST CORPORATION

Proposed Charter Amendment To Increase Authorized Common Stock; Order Authorizing Solicitation of Proxies in Connection Therewith

FEBRUARY 28, 1978.

Notice is hereby given that Central and South West Corporation ("CSW"), P.O. Box 1631, Wilmington, Delaware 19899, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7 and 12(e) of the Act and Rule 62 promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

CSW proposes to amend its Restated Certificate of Incorporation, as heretofore amended, to increase its authorized common stock, par value $3.50, from 65,300,000 to 80,000,000 shares. It is stated that the increase of 14,700,000 in its authorized common stock is proposed to permit the issuance and sale of additional common stock during the next two or three years. Proceeds from the sale of such additional shares will be used to help finance planned construction expenditures of its subsidiaries, which expenditures are estimated at $1,837,429,000 for 1978-1980. Approximately 57,939,921 shares of common stock are now outstanding.

CSW proposes to submit the amendment to its stockholders at its annual meeting to be held on April 20, 1978. CSW proposes to submit proxies from its shareholders, through the use of proposed soliciting material, to obtain the required approval of the proposed amendment, to elect directors and to select auditors. An affirmative vote of the holders of a majority of the outstanding shares of common stock issued and entitled to vote at the annual meeting is required for adoption of the amendment.

The fees and expenses to be incurred in connection with the proposed transaction, including proxy solicitation costs, are estimated at $36,900. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than March 27, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It appearing to the Commission that the declaration, insofar as it proposes to solicitation of proxies from CSW's stockholders, should be permitted to become effective forthwith pursuant to Rule 62:

It is ordered, That the declaration, regarding the proposed solicitation of proxies of CSW's stockholders be, and it hereby is, permitted to become effective forthwith pursuant to Rule 62 and subject to the terms and conditions prescribed in Rule 24 under the Act.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-5828 Filed 3-6-78; 8:45 am]

[8010-01]

[Release No. 34-14504; File No. SR-NYSE-78-6]

NEW YORK STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on February 13, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change requires each lessee and physical access annual member who executes orders on the floor of the Exchange to demonstrate financial responsibility in the amount of $25,000 for sums due the Exchange and as a guarantee to stand behind their floor trades.

The text of the proposed rule change is attached as Exhibit I-A.

PURPOSE OF PROPOSED RULE CHANGE

Each lessee and physical access annual member who executes orders on the floor of the Exchange must present to the Exchange evidence of his financial responsibility in the amount of $25,000 for sums due the Exchange and such sums as the Board of Directors shall determine are due by such members to other members or member organizations as a result of losses arising from the closing out of contracts entered into on the floor of the Exchange. In practice such losses are most likely to be from errors by a member for which he is individually responsible. The $25,000 requirement may be met by one of the following methods:

(1) Agreement by a lessor stating that the leased membership may be disposed of by the Board of Directors for the aforementioned claims;

(2) A written guarantee by a member organization which is a member of a qualified clearing agency and has excess net capital of not less than $25,000;

(3) $25,000 held by an independent agent in escrow;

(4) A letter of credit issued by a bank or other party acceptable to the Exchange in the amount of $25,000.

In addition to the above, the rule provides that the Exchange will consider alternate methods of complying with the requirement.

A member holding an equity interest in the Exchange has the proceeds of the transfer of his membership to serve as a guarantee standing behind his floor trades or for any sums due the Exchange. Leased and annual memberships are not transferable and thus will not generate any proceeds. While the membership of a lessor may be disposed of by the Board of Directors for moneys owned the Exchange by the lessee, a lessee will not have the value of a membership as a guarantee for his floor trades. Annual members will not have the value of a membership as a guarantee for either floor trades or sums due the Exchange. Therefore, the financial responsibility requirement is necessary to provide equal protection for members holding an equity interest in the Exchange when they trade with lessees and physical access annual members.

Without such assurance of financial responsibility, all members of the Exchange may be unwilling to trade freely with other members without individual financial responsibility investigations. This would substantially impede interaction of members in Exchange trading and be an operating handicap for lessees and annual members.

BASIS UNDER THE ACT

The basis under the Act for the proposed rule change is Section 6(b)(5).

The proposed Financial Responsibility Requirement is designed to facilitate transactions in securities and remove impediments to a free and open market by insuring that all NYSE members are equally protected financially when trading with each other and that each will consequently be willing to trade with other members without consideration of the contra brokers financial responsibility. Thus, the equal protection concept serves to prevent unfair discrimination between brokers or dealers.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS

No comments were solicited or received with respect to the subject rule change.

BURDEN ON COMPETITION

None.

On or before April 11, 1978, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before March 28, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 27, 1978.

EXHIBIT I-A

1. Text of proposed rule change
New language *italicized*

CAPITAL REQUIREMENTS FOR INDIVIDUAL MEMBERS AND MEMBER ORGANIZATIONS—RULE 325

* * * * *

(e) In addition to the net capital requirement prescribed in Rule 15c3-1 promulgated under the Securities Exchange Act of 1934, each member described in Section 1(b) or Section 2 of Article IX of the Constitution who executes orders on the floor of the Exchange must present evidence of his financial responsibility by one of the following methods:

(1) A written guarantee by a member organization which is a member of a

qualified clearing agency and has excess net capital of not less than $25,000, or

(2) $25,000 held by an independent

[8025-01]

IOWA

Change in Computation of Loan Amounts for

Dated: February 27, 1978.

A. VERNON WEAVER,
Administrator.

Dated: February 27, 1978.

A. VERNON WEAVER,
Administrator.

qualified clearing agency and has excess net capital of not less than $25,000, or

(2) $25,000 held by an independent agent in escrow, or

(3) a letter of credit issued by a bank or other party acceptable to the Exchange in the amount of $25,000, or

(4) in the case of a member described in Section 2 of Article IX of the Constitution, his exchange membership, provided however, that such written guarantee, escrow account, letter of credit or exchange membership is available solely for sums due the Exchange and such sums as the Board of Directors shall determine are due by such member to other members or member organizations as the result of losses arising directly from the closing out under the Constitution and Rules adopted pursuant thereto of contracts entered into in the ordinary course of business in the market on the floor of the Exchange for the purchase, sale, borrowing or loaning of securities. The Exchange will consider alternate methods of compliance with the financial responsibility standard.

[FR Doc. 78-5830 Filed 3-6-78; 8:45 am]

[8010-01]

[File No. 1-3791]

UNITED CANSO OIL & GAS LTD.

Application to Withdraw From Listing and Registration

FEBRUARY 15, 1978.

The above named issuer has filed an application with the Securities and Exchange Commission, pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12(d)-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the Pacific Stock Exchange, Inc. ("PSE") and the Boston Stock Exchange, Inc. ("BSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The capital stock of United Canso Oil & Gas Ltd. (the "Company") has been listed on the PSE since 1958 and on the BSE since 1975. On September 30, 1977 there were 5,922,402 outstanding shares of the Company's capital stock. At that time there were 12,005 shareholders of record, of which approximately 70 percent were United States residents.

Based upon discussions with its shareholders, and brokers and traders in the United States, the Company has determined that its capital stock would attain better coverage and broader representation by being listed on the National Association of Securities Dealers Automated Quotation System ("NASDAQ"). The Company has thereby concluded that it would in the best interests of the Company and its shareholders to effect the inclusion of its capital stock on NASDAQ as soon as possible.

Any interested person may, on or before March 17, 1978 submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission will, on the basis of the application and any other information submitted to it, issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A FITZSIMMONS,
Secretary.

[FR Doc. 78-5829 Filed 3-6-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

CAPITAL MARKETING CORP.

[License No. 06/10-0150]

Filing of Application for Approval of Conflict of Interest Transactions Between Associates

Notice is hereby given, pursuant to § 107.1004 of the regulations governing small business investment companies (13 CFR 107.1004 (1977)), by the Small Business Administration (SBA) of conflict of interest transactions between Capital Marketing Corp. (CMC), 9001 Ambassador Row, Dallas, Tex. 75247, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 et seq.), and two of its Associates.

CMC was licensed by SBA on June 24, 1968. There are approximately 415 individual shareholders of CMC with each owning less than 5 percent. Most of these shareholders are members of Affiliated Food Stores, Inc. (Affiliated), a wholesale food cooperative having approximately 675 members. The business address of Affiliated is the same as CMC's Affiliated and its members own CMC.

CMC proposes to loan Mr. Jerry Smith approximately $220,000, to expand a retail grocery store in Azle, Tex. Mr. Smith is a director of CMC and, therefore, an Associate of CMC as defined by § 107.3(a) of SBA's rules and regulations. As such, the proposed financing by CMC would contravene the provisions of § 107.1004(b)(1) of the regulations.

In the second instance CMC proposes to loan approximately $130,000, to Mr. John McCarter, a former employee of Affiliated, to purchase a retail grocery store from Affiliated Federal Credit Union, which is considered to be an Associate of the Licensee. Also, Mr. McCarter is considered to be an Associate of CMC pursuant to § 107.3(g) of the regulations.

Both proposed financings are subject to the provisions of § 107.1004(b)(1) and, in Mr. McCarter's case, also § 107.1004(b)(5) and require SBA exemptions for their validity. SBA is considering a request for these exemptions.

Notice is further given that any person may, not later than March 22, 1978, submit to SBA, in writing, comments on these transactions. Any such comments should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street NW., Washington, D.C. 20416.

A copy of this notice shall be published by the Licensee in a newspaper of general circulation in Dallas, Tex. and Azle, Tex.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: February 28, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-5860 Filed 3-6-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1438]

CALIFORNIA

Declaration of Disaster Loan Area

Sonoma County and adjacent counties within the State of California constitute a disaster area as a result of damage caused by heavy rains and flooding which occurred on January 15-20, 1978. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on April 24, 1978, and for economic injury until the close of business on November 22, 1978 at:

Small Business Administration, District Office, 211 Main Street, San Francisco, Calif. 94105

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59.002 and 59.008.)

Dated: February 22, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-5853 Filed 3-6-78; 8:45 am]

[8025-01]

IOWA

Change in Computation of Loan Amounts for Drought Disaster Losses

The Small Business Administration establishes the amount of crop disaster loans, in part, on Farmers Home Administration (FmHA) published commodity (market) prices. FmHA revised many of its published prices for the 1977 crop year for the State of Iowa on January 19, 1978.

SBA will, upon the written request of the disaster loan borrower, adjust all crop disaster loans made as a result of SBA drought disaster declarations in Iowa for the 1977 crop year affected by the FmHA changes. Requests for adjustments will be accepted by the office action on the original loan or the

Small Business Administration, District Office, 210 Walnut Street, Des Moines, Iowa 50309

until close of business on April 27, 1978.

(Catalog of Federal Domestic Assistance Program Nos. 59.002 and 59.008.)

Dated: February 27, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-5858 Filed 3-6-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1442]

MAINE

Declaration of Disaster Area

As a result of the President's major disaster declaration, I find that Cumberland, Lincoln, Washington and York Counties constitute a disaster area because of damage resulting from high winds, tidal surge, and coastal flooding beginning about February 6, 1978, and snow and ice beginning about February 7, 1978. The Small Business Administration will accept applications for disaster relief loans from disaster victims within the above-named counties, and adjacent counties within the State of Maine. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on April 20, 1978, and for economic injury until the close of business on November 17, 1978, at:

Small Business Administration, District Office, 40 Western Avenue, Augusta, Maine 04330

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: February 27, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-5854 Filed 3-6-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1444]

NEW HAMPSHIRE

Declaration of Disaster Area

As a result of the President's major disaster declaration, I find that Rockingham County constitutes a disaster area because of damage resulting from high winds, ice, snow, tidal surge and coastal flooding beginning about February 6, 1978.

The Small Business Administration will accept applications for disaster relief loans from disaster victims within the above-named county, and adjacent counties within the State of New Hampshire.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on April 17, 1978, and for economic injury until the close of business on November 16 1978, at:

Small Business Administration, District Office, 55 Pleasant Street, Concord, N.H. 03301

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: February 27, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-5855 Filed 3-6-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1439]

NEW YORK

Declaration of Disaster Loan Area

Bronx, Kings, New York, Nassau, Queens, Richmond, Suffolk and Westchester and adjacent counties within the State of New York, constitute a disaster area as a result of damage caused by ice, snow, high winds and flooding beginning about January 9, 1978 through February 10, 1978. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on April 27, 1978, and for economic injury until the close of business on November 27, 1978, at:

Small Business Administration, District Office, 26 Federal Plaza, Room 3100, New York, N.Y. 10007

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: February 27, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-5856 Filed 3-6-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1445]

RHODE ISLAND

Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that Bristol, Kent, Newport, Providence and Washington Counties constitute a disaster area because of damage resulting from snow and ice beginning about February 6, 1978.

The Small Business Administration will accept applications for disaster relief loans from disaster victims within the above-named counties and adjacent counties within the State of Rhode Island.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on April 17, 1978, and for economic injury until the close of business on November 16, 1978, at:

Small Business Administration, District Office, 57 Eddy Street, Providence, R.I. 02903

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: February 27, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-5857 Filed 3-6-78; 8:45 am]

[8025-01]

[License No. 04/04-0115]

RIO INVESTMENT CORP.

Issuance of License

On December 19, 1977, a notice was published in the FEDERAL REGISTER (42 FR 63669) stating that an application had been filed by RIO Investment Corp., 1415 Industry Avenue, Albany, Ga., 31702, with the Small Business Administration (SBA), pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1977)), for a license as a small business investment company (SBIC).

Interested parties were given until the close of business January 3, 1978, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent in-

formation, the SBA issued License No. 04/04-0115 to RIO Investment Corp. to operate as an SBIC.

Dated: February 24, 1978.

(b) Authority to review the approve documents and other evidence submitted by borrowers or grantees in satisfaction of conditions precedent to fi-

Requirements Funds for Zambia unless it is determined that such assistance would further the foreign policy interest of the United States.

[4810-22]

DEPARTMENT OF THE TREASURY

Office of the Secretary

Avtex Fibers, Inc., Valley Forge, Pa. requesting that the Treasure Department reopen this investigation and issue a simultaneous "Withholding of

[7035-01]

INTERSTATE COMMERCE COMMISSION

formation, the SBA issued License No. 04/04-0115 to RIO Investment Corp. to operate as an SBIC.

Dated: February 24, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-5859 Filed 3-6-78; 8:45 am]

[4710-02]

DEPARTMENT OF STATE

Agency for International Development

MISSION DIRECTOR, USAID/AFGHANISTAN

[Redelegation of Authority No. 162-6]

Redelegation of Authority

Pursuant to the authority delegated to me by AID Delegations of Authority No. 5, dated December 29, 1961 (27 FR 449), as amended, with respect to Loan Agreements; No. 38, dated June 21, 1977 (42 FR 31511), as amended, with respect to Project Agreements, Trust Fund Agreements, and Grant Agreements; No. 99, dated April 27, 1973 (38 FR 12834), with respect to Contracting and Related Functions, and No. 113, dated October 15, 1975, I hereby redelegate to the Mission Director, USAID/Afghanistan, authority to exercise any of the following functions assigned to me for Afghanistan, retaining for myself concurrent authority to exercise any of the functions herein redelegated:

1. Authority to negotiate loan and grant agreements and amendments thereto, with the Government of Afghanistan or agencies thereof with respect to loans and grants authorized under the Foreign Assistance Act of 1961, as amended (the Act) in accordance with the terms of the authorizations of such loans or grants.

2. Authority to execute and deliver such loan and grant agreements and amendments thereto, with respect to loans and grants authorized under the Act in accordance with the terms of the authorizations of such loans or grants.

3. Authority to implement loan and grant agreements with the Government of Afghanistan or agencies thereof, with respect to loans and grants authorized under the Act and loans authorized by the Board of Directors of the corporate Development Loan Fund, in accordance with Regulations, Policies and Procedures now or hereafter established or modified and promulgated within AID. This authority is subject to direction by the office in AID/Washington having primary responsibility for implementation of the activity and shall include the following:

(a) Authority to prepare, negotiate, sign and deliver letters of implementation;

(b) Authority to review the approve documents and other evidence submitted by borrowers or grantees in satisfaction of conditions precedent to financing under such loan or grant agreements;

(c) Authority to negotiate, execute and implement all agreements and other documents ancillary to such loan and grant agreements;

(d) Authority to sign or approve Project Implementation Orders; and

(e) Authority to approve contractors, review and approve the terms of country contracts, amendments, and modifications thereto, and invitations for bids with respect to such contracts financed by funds made available under such agreements.

4. The authorities herein redelegated shall be exercised after consultation with the Regional Legal Advisor serving Afghanistan or GC/NE, as appropriate.

5. The authorities herein redelgated may be exercised by a person who is performing the functions of Director in an "Acting" capcacity within USAID/Afghanistan.

6. The authorities enumerated above in paragraph 2 are also hereby redelegated under the same terms and conditions set forth herein to the U.S. Ambassador to Afghanistan and to any person acting in his official capacity.

7. The authorities enumerated above may be redelegated but not successively redelegated, except that the authorities enumerated in paragraph 2 may not be redelegated.

This redelegation of authority is effective immediately.

Dated: February 23, 1978.

JOSEPH O. WHEELER,
Assistant Administrator, Bureau for Near East.

[FR Doc. 78-5911 Filed 3-6-78; 8:45 am]

[4710-02]

Agency for International Development

ZAMBIA IMPORT PROGRAM LOAN

Determination and Waiver Pursuant to Section 533(c)(2) of the Foreign Assistance Act of 1961, as Amended, Relating to Zambia

FEBRUARY 27, 1978.

The Agency for International Development has proposed a commodity import program loan to Zambia in the amount of $30 million from Security Assistance funds on standard concessional AID terms. The primary purpose of the loan is to provide balance of payments assistance by financing high-priority imports of equipment, materials and spare parts. Funding for the loan will be drawn from the Southern African Special Requirements Funds (FAA section 533).

FAA section 533(c)(2) prohibits the utilization of Southern African Special Requirements Funds for Zambia unless it is determined that such assistance would further the foreign policy interest of the United States.

Zambia occupies a key geographic and political position in Southern Africa. As a frontline state, Zambia has a major role in efforts aimed at a peaceful solution to majority rule in Southern Rhodesia (Zimbabwe) and Namibia. Zambia has experienced severe economic problems by adhering strictly to U.N. sanctions imposed by the U.N. against Southern Rhodesia. These have been compounded by a sharp and continuing decline in world copper prices, Zambia's main export. The significant economic dislocations have created a substantial need for increased capital and development assistance for Zambia.

United States foreign policy in Southern Africa is to support self-determination, majority rule, equal rights and human dignity for all people of the region. It is United States policy that the region have an opportunity to establish the foundations for economic growth and to become a full-fledged participant in the evolving international economic system.

The economic stability of Zambia is extremely important in contributing to the economic stability of Southern Africa, which reflects the basic United States concerns and objectives. The proposed AID loan will have a direct bearing on helping the country meet its critical economic needs and move towards implementing its plans for increasing agricultural production and rural development.

Pursuant to the authority set forth in section 533(c)(2) of the Foreign Assistance Act of 1961, as amended, and delegated to me by Executive Order 10973 and Department of State Delegation of Authority 104, and for the reasons stated above, I hereby determine that it would further the foreign policy interests of the United States to provide assistance to Zambia from the Southern African Special Requirements Funds and hereby waive the prohibition set forth in the above cited provision of law with respect to Zambia.

This determination and waiver shall be reported to the Congress and shall be published in the FEDERAL REGISTER.

Dated: February 27, 1978.

JOHN J. GILLIGAN,
Administrator, Agency for International Development.

[FR Doc. 78-5910 Filed 3-6-78; 8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

Office of the Secretary

VISCOSE RAYON STAPLE FIBER FROM AUSTRIA

Antidumping; Reopening of Discontinued Investigation

AGENCY: U.S. Treasury Department.

ACTION: Reopening of discontinued antidumping investigation.

SUMMARY: This notice is to advise the public that it has been determined that the discontinued antidumping proceeding concerning viscose rayon staple fiber from Austria should be reopened. The proceeding is being reopened to complete a detailed analysis of the production costs of the sole Austrian exporter in order to determine if sales in the home market are being made at prices below the cost of production. A preliminary analysis already conducted had not revealed that such below cost sales are in fact being made, but additional inquiry is necessary before any final conclusions can be reached with regard to this issue.

EFFECTIVE DATE: March 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Mary S. Clapp, Operations Officer, U.S. Customs Service, Office of Operations, Duty Assessment Division, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On January 23, 1978, a notice of "Discontinuance of Antidumping Investigation" with respect to viscose rayon staple fiber from Austria was published in the FEDERAL REGISTER (43 FR 3234-3235). That notice states in part:

> It has been determined that all differences between home market price and purchase price would have been eliminated if an adjustment for the export processing discount had been allowed. In a prior antidumping investigation involving this product from Austria in 1961, an adjustment was granted to Lenzing's (the sole Austrian exporter in the present case) home market prices for this discount and a "Determination of No Sales at Less Than Fair Value" was issued (26 FR 6276). Lenzing has operated since that time under the assumption that an adjustment for this discount would be made in ay future investigation under section 201(a) of the Act. Upon notification at the time of the Tentative Determination in the instant case that Treasury had changed its interpretation regarding this discount, Lenzing eliminated the export processing discount, thereby eliminating all price differentials between home market price and purchase price. Formal assurances were submitted through counsel that no future sales at less than fair value within the meaning of the (Antidumping) Act would be made.

On January 23, 1978, information was received from counsel on behalf of Avtex Fibers, Inc., Valley Forge, Pa. requesting that the Treasure Department reopen this investigation and issue a simultaneous "Withholding of Appraisement." The request was based upon the allegation that the lower home market price for viscose rayon staple fiber which Lenzing adopted when it eliminated the export processing discount was below the cost of production as defined in section 205(b) of the Antidumping Act, 1921, as amended (19 U.S.C. 164(b)) (hereinafter referred to as "the Act"). Based upon this information, petitioner requests that home market prices be disregarded and that constructed value be used for fair value comparisons to determine whether or not the merchandise in question is or is likely to be sold at less than fair value.

Based upon a preliminary on-site verification and analysis of a submission by Lenzing with respect to its cost of producing viscose rayon staple fiber, it has been determined that it would be inappropriate to reopen this investigation and simultaneously issue a "Withholding of Appraisement." This preliminary analysis did not reveal the apparent existence of below cost sales. However, the investigation is being reopened to enable the U.S. Customs Service to conduct a thorough analysis of Lenzing's production costs, according to the information gathering and verification procedures followed in antidumping cases. A determination will then be made whether home market sales have been made at prices below the cost of producing that merchandise pursuant to § 153.5 of the Customs regulations (19 CFR 153.5) and if there are sales at less than the cost of production, whether there are or are likely to be sales to the United States at less than fair value.

The reopened investigation will allow the Treasury to explore this new issue, which arose, in part, as a result of the Treasury's determination to discontinue the original investigation on the basis of the respondents adjustments to home market price to eliminate previously existing dumping margins. A determination will be announced as expeditiously as possible but in any event within the time limits specified in section 201(b)(1) of the Act.

This notice is being published pursuant to the provisions of § 153.33(g) of the Customs regulations (19 CFR 153.33(g).

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

MARCH 1, 1978.

[FR Doc. 78-5852 Filed 3-6-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 603]

ASSIGNMENT OF HEARINGS

MARCH 2, 1978.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publishe notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC-F-13340, Consolidated Freightways Corp. of Delaware—purchase (portion)—Ringsby Truck Lines, Inc. now being assigned May 15, 1988 (1 week) at Omaha, Nebr. in a hearing room to be later designated.

MC 118130 Sub 80, South Eastern Xpress, Inc., now assigned March 8,1978 at Dallas, Tex., is canceled; application dismissed.

MC 117565 Sub 97, Motor Service Co., Inc., is now assigned for hearing April 10, 1978 (1 week) at Columbus, Ohio, at a location to be later designated.

MC 125433 Sub 122, F-B Truck Line Co., now assigned April 5, 1978 at San Francisco, Calif., will be held in Room 510, 211 Main Street.

MC 124211 Sub 299, Hilt Truck Line, Inc., now assigned for hearing April 6, 1978 at San Francisco, Calif., will be held in Room 510, 211 Main Street.

MC 119789 Sub 352, Caravan Refrigerated Cargo, Inc., now assigned April 7, 1978 at San Francisco, Calif., will be held in Room 510, 211 Main Street.

MC 115826 Sub 267, W. J. Digby, Inc. and MC 128273 Sub 256, Midwestern Distribution, Inc., now assigned April 10, 1978 at San Francisco, Calif., will be held in Room 510, 211 Main Street.

MC 109780 Sub 74, Continental Trailways, Inc., is assigned for hearing May 8, 1978, at San Francisco, Calif., and will be held at Room No. 510, 211 Main Street.

MC 125433 Sub 123, F-B Truck Line Co., is assigned for hearing May 2, 1978, at San Francisco, Calif., and will be held at Room No. 510, 211 Main Street.

MC 30837 Sub 478, Kenosha Auto Transport Corp., is assigned for hearing May 3, 1978, at San Francisco, Calif., and will be held at Room No. 510, 211 Main Street.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-5924 Filed 3-6-78; 8:45 am]

To all railroads:

In the opinion of Joel E. Burns, Agent, the Chicago, Milwaukee, St. Paul and Pacific Railroad Co. is unable to transport traffic currently over its line between Chicago, Ill., and Louisville, Ky., because of congestion caused by track conditions and a shortage of locomotive power.

It is ordered, That: (a) *Rerouting traffic.* The Chicago, Milwaukee, St. Paul and Pacific Railroad Co. being unable to transport traffic currently over its line between Chicago, Ill., and Louisville, Ky., because of congestion caused by track conditions and a shortage of locomotive power, that line is authorized to divert or reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., February 27, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-5920 Filed 3-6-78; 8:45 am]

[7035-01]

[ICC Order No. 49; Rev. S.O. 1252; Amdt. 2]

CHICAGO AND NORTH WESTERN TRANSPORTATION CO.

Rerouting of Traffic

To all railroads:

Upon further consideration of ICC Order No. 49 (Chicago and North Western Transportation Co.) and good cause appearing therefor:

It is ordered, That: ICC Order No. 49 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., March 17, 1978, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., February 28, 1978, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., February 22, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-5922 Filed 3-6-78; 8:45 am]

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 134 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 is amended to continue in effect until further order of this Commission.

This amendment shall become effective February 28, 1978.

Issued at Washington, D.C., February 22, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-5921 Filed 3-6-78; 8:45 am]

[7035-01]

FOURTH SECTION APPLICATION FOR RELIEF

MARCH 2, 1978.

This application for long- and short-haul relief has been filed with the ICC.

Protests are due at the ICC within 15 days from the date of publication of this notice.

FSA No. 43512, Karlander (Australia) Pty. Ltd.'s No. 1, on intermodal rates on general commodities, from ports in Australia, to rail terminals on the U.S. Gulf Coast by way of U.S. Pacific Coast ports, in its tariff No. 2, ICC No. 2, to become effective March 26, 1978.

Grounds for relief—water competition.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-5923 Filed 3-6-78; 8:45 am]

[1505-01]

[Volume No. 57]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

Correction

In FR Doc. 78-2822, appearing at page 4515 in the issue of Thursday, February 2, 1978, the word that runs from the last line of the second column to the first line of the third column on page 4517 should read, "BILLINGS".

CONTENTS

	Item
Consumer Product Safety Commission	1
Federal Communications Commission	2, 3
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Federal Election Commission	7
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Tennessee Valley Authority	11
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[6355-01]

1

CONSUMER PRODUCT SAFETY COMMISSION.

Commission briefing, Friday, March 10, 1978, 2 p.m.; third floor hearing room, 1111 18th St., NW., Washington, D.C.

AGENDA

Open to the public.

1. *Home Insulation Safety.*—Staff from the Office of Communications will present a showing of recently developed television "spots" on home insulation safety.

2. *Power Lawn Mower Standard.*—The staff will brief the Commission on the status of the staff's work on the proposed safety standard for power lawn mowers. The Commission proposed the standard in May, 1977, and has extended until June 3, 1978, the time by which the Commission must issue a final standard or withdraw the notice of proceeding.

3. *Long-Range Plan.*—Staff from the Office of Strategic Planning will brief the Commission on long-range planning options and on the development of a long-range plan for the next 5 years.

CONTACT PERSON:

Sheldon Butts, Assistant Secretary, 202-634-7700.

[S-490-78 Filed 3-3-78; 12:05 pm]

[6712-01]

2

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: Follows 9:30 a.m., open Commission meeting, Wednesday, March 8, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission meeting.

MATTER TO BE CONSIDERED:

Agenda, Item No., and Subject

Hearing—1—Petition for leave to intervene and alternative motion for leave to file amicus brief in the Philadelphia, Pa., FM renewal proceeding (Docket No. 20677).

The prompt and orderly conduct of Commission business requires that less than 7-days notice be given for the following items:

Agenda, Item No., and Subject

Complaints and Compliance—1—Results of investigation concerning the broadcast by the CBS Television Network of the four "Heavyweight Championship of Tennis" matches.

Complaints and Compliance—2—Results of investigation concerning the broadcast by the ABC Television Network of the "United States Boxing Championships".

This meeting may be continued the following day to allow the Commission to complete appropriate action.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Office, telephone 202-632-7260.

Issued: March 1, 1978; March 2, 1978.

[S-498-78 Filed 3-3-78; 3:41 pm]

[6712-01]

3

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, March 8, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Safety and Special Radio Services—1—Amendment of Part 81 of the Commission's Rules to permit limited coast station licenses who service ship radio stations to use, for brief ship radio station checks any frequency authorized to be used by the ship station being serviced (Docket No. 21465);

Safety and Special Radio Services—2—Amendment of Parts 91 and 93 of the Commission's Rules to permit interservice geographic sharing of certain 450 MHz band Taxicab Radio Service Channels (Docket No. 21395).

Common Carrier—1—Complaint of Tele-Valuation, Inc., against A. T. & T. File No. TS 3-77.

Common Carrier—2—Application of A. T. & T. and IRCs for submarine cables between the continental United States and St. Thomas, U.S. Virgin Islands, between St. Thomas and Brazil and between St. Thomas and Venezuela (File No. S-C-L-47).

Common Carrier—3—Amendment of Section 64.233 of the Commission's Rules governing domestic telegraph speed of service studies (RM-2965).

Common Carrier—4—Western Union Tariff FCC No. 254 revising rates and rate structure for low-speed private line services.

Common Carrier—5—Western Union Tariff FCC Nos. 240 and 258 revising domestic telex and TWX.

Common Carrier—6—Notice of inquiry and proposed Rulemaking to establish a policy on the offering of public message service by entities other than Western Union Telegraph Co.

Common Carrier—7—Reconsideraton of authorization granted in Graphnet Systems et al., order.

Common Carrier—8—Reconsideration of tariff revisions filed by Graphnet Systems, Inc., under transmittal No.28.

Common Carrier—9—Graphnet Systems, Inc., Transmittal No. 38.

Agenda, Item No., and Subject

Cable Television—1—Petition for special relief, filed by Fresno County Board of Education (KMTF-TV), Fresno, Calif.

Cable Television—2—Request for declaratory ruling, filed by Warner Cable Corp., operator of a cable television system at Columbus, Ohio.

Cable Television—3—Motion for declaratory ruling (CSR-1140), filed by Oceanic Cablevision, Inc., operator of cable television system in Hawaii.

Cable Television—4—Applications filed by San Joaquin Cable TV, Inc., for certificates of compliance to serve Fresno, Calif., (CAC-05821, CAC-06971).

Cable Television—5—Application for modification of certificate of compliance (CAC-8180) to add KERA-TV, Dallas, Tex., to existing cable TV operations at Norman, Okla.

Assignment of License and Transfer of Control—1—Assignment of License for WEZE, Boston, Mass., from McCormick Communications to New England Continental Media (BAL-9136); and a petition to deny the assignment filed by Media Advocasy Center.

Assignment of License and Transfer of Control—2—Petition for stay and reconsideration of applications to exchange ownership of TV Stations in Washington, D.C. (WJLA) and Oklahoma City, Okla. (KOCO).

Renewal—1—Petition to deny renewal application of Gaylord Broadcasting Co.

stations proposing less than 8 percent nonentertainment programing.

Renewal—3—Petition for reconsideration filed by the Syracuse Coalition for the Free Flow of Information in the Broadcast Media, of a Commission decision granting the 1975 license at Newhouse Broadcasting Corp. for WSYR-TV, Syracuse, N.Y. (File No. BRCT-91).

Broadcast—1 and 2—Amendment of Section 73.1206 of the Commission's Rules regarding the broadcast of recorded telephone conversations (RM-2564 and RM-2571).

Broadcast—3—Amendment of the Commission's Multiple Ownership Rule to include educational FM and TV stations.

Broadcast—4 and 5—Amendment of Part 74, Subpart L, of the Commission's Rules pertaining to FM radio broadcast translator stations (Docket No. 19918)

Agenda Item No. and Subject

Complaints and Compliance—1—Appeal from an interlocutory ruling of an Administrative Law Judge denying a request for an open session permitting the public or counsel for certain persons to be present during testimony in a closed hearing in the payola/plugola inquiry (Docket No. 16648).

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Office, telephone 202-632-7260.

Issued: March 2, 1978.

[S-497-78 Filed 3-3-78; 3:41 pm]

[6714-01]

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of change in subject matter of agency meeting: At its closed meeting held at 1:30 p.m. on Thursday, March 2, 1978 (originally scheduled for 2 p.m. on that same date), the Corporation's Board of Directors determined, on motion of Chairman George A. LeMaistre, seconded by Director John G. Heimann, that Corporation business required its addition of the following matters to the agenda for the meeting, on less than 7 days' notice to the public:

Recommendations regarding liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets

Case No. 43,428-L.—The Drovers' National Bank of Chicago, Chicago, Ill.

Case No. 43,429-L.—The Drovers' National Bank of Chicago, Chicago, Ill.

Appeals pursuant to the Freedom of Information Act from the Corporation's earlier partial denial of requests for records

Complaints and Compliance—1—Appeal from an interlocutory ruling of an Administrative Law Judge denying a request for an open session permitting the public or counsel for certain persons to be present during testimony in a closed hearing in the payola/plugola inquiry (Docket No. 16648).

The Board further determined, on motion of Chairman LeMaistre, with Director Heimann seconding the motion, that no earlier notice of the changes in the subject matter of the meeting was practicable.

Dated: March 2, 1978.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-491-78 Filed 3-3-78; 1:48 pm]

[6714-01]

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of change in subject matter of agency meeting: At its open meeting held at 2 p.m. on Thursday, March 2, 1978 (originally scheduled for 2:30 p.m. on that same date), the Corporation's Board of Directors determined, on motion of Chairman George A. LeMaistre, seconded by Director John G. Heimann, that Corporation business required withdrawing the following matters from the agenda for consideration at the meeting:

Memorandum and resolution proposing the final adoption of a new Part 338 of the Corporation's rules and regulations, entitled "Fair Housing Advertising, Poster, and Recordkeeping Requirements"

Appeals, pursuant to the Freedom of Information Act, from the Corporation's earlier partial denial of requests for records

Resolution creating an Office of Congressional Relations and establishing the office's orgainzation and Manning Table

Memorandum proposing a change in the grade level and title of the Legal Division's Administrative Officer position

The Board further determined, by the same vote, that no earlier notice of the changes in the subject matter of the meeting was practicle.

Dated: March 2, 1978.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-492-78 Filed 3-3-78; 1:48 pm]

[6714-01]

6

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of change in times of agency meetings: Pursuant to the provisions of subsection (e)(8) and (e)(9)(B) thereof (5 U.S.C. 552b(e)(8) and (e)(9)(B)) and that the public interest did not require consideration of the matters in a meeting open to public observation.

The Board further determined, on motion of Chairman LeMaistre, with Director Heimann seconding the motion, that no earlier notice of the changes in the subject matter of the meeting was practicable.

Dated: March 2, 1978.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-493-78 Filed 3-3-78; 1:48 pm]

[6715-01]

7

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Monday, March 6, 1978, at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: Reports analysis review criteria.

DATE AND TIME: Tuesday, March 7, 1978, at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: Reports analysis review criteria.

The Commission determined at the meeting of March 2, 1978, by a vote of 6-0 that the above-named meetings be held with less than 7 days notice in that the situation requires the earliest possible review of the subject matter.

PERSONS TO CONTACT FOR INFORMATION:

Mr. David Fiske, Press Officer, telephone 202-523-4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S-486-78 Filed 3-3-78; 12:05 pm]

[6210-01]

8

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Monday, March 13, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

SUMMARY AGENDA

Because of their routine nature, no substantive discussion of the following items is anticipated. This notice does not include consideration of the Board's regulations relating to its own organization, practice and procedure.

1. Routine revisions and extensions of the following Federal Reserve forms: "Monthly Report on Foreign Branch Assets and Liabilities" (FR 502) and "Quarterly Report on Foreign Branch Assets and Liabilities" (FR 5025).

2. Proposed report to the Federal Deposit Insurance Corporation regarding the competitive factors involved in the proposed merger of The Edinburg State Bank, Edinburg, Ind., with Franklin Bank and Trust Co., Franklin, Ind.

3. Proposed amendments to Regulations G (Securities Credit by Persons Other Than Banks, Brokers, or Dealers), T (Credit by Brokers and Dealers), and U (Credit by Banks for the Purpose of Purchasing or Carrying Margin Stocks) to provide that only those dealers submitting bid and offer quotations to an automated quotation system will be counted in preparing the Board's Over the Counter list of margin stocks.

DISCUSSION AGENDA

1. Proposed supervisory letter or amendment to Regulation H (Membership of State Banking Institutions in the Federal Reserve System) with respect to the use of material non-public information in member bank personnel in the purchase or sale of securities.

2. Proposed clarifying amendment to Regulation Z (Truth in Lending) regarding applicability of the right or rescission to open-end credit plans. (Proposed earlier for public comment; Docket No. R-0134).

3. Proposed adoption of an amendment to Regulation B (Equal Credit Opportunity) that would clarify the definition of "adverse action". (Proposed earlier for public comment; Docket No. R-0117).

4. Reconsideration of official staff interpretation EC-0007 of Regulation B (Equal Credit Opportunity) permitting creditors, for marketing purposes, to ask for information on a credit application that would otherwise be barred by the Regulation.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: March 3, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-495-78 Filed 3-3-78; 2:31 pm]

[4910-58]

9

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Monday, March 6, 1978 (NM-78-13).

PLACE: NTSB Board room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Closed under Exemption 10 of the Government in the Sunshine Act. Board requests that an item be moved to the discussion agenda.

1. Routine revisions and extensions of the following Federal Reserve forms: "Monthly Report on Foreign Branch Assets and Liabilities" (FR 502) and "Quarterly Report on Foreign Branch Assets and Liabilities" (FR 5025).

2. Proposed report to the Federal Deposit Insurance Corporation regarding the competitive factors involved in the proposed merger of The Edinburg State Bank, Edinburg, Ind., with Franklin Bank and Trust Co., Franklin, Ind.

3. Proposed amendments to Regulations G (Securities Credit by Persons Other Than Banks, Brokers, or Dealers), T (Credit by Brokers and Dealers), and U (Credit by Banks for the Purpose of Purchasing or Carrying Margin Stocks) to provide that only those dealers submitting bid and offer quotations to an automated quotation system will be counted in preparing the Board's Over the Counter list of margin stocks.

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2. Proposed clarifying amendment to Regulation Z (Truth in Lending) regarding applicability of the right or rescission to open-end credit plans. (Proposed earlier for public comment; Docket No. R-0134).

3. Proposed adoption of an amendment to Regulation B (Equal Credit Opportunity) that would clarify the definition of "adverse action". (Proposed earlier for public comment; Docket No. R-0117).

4. Reconsideration of official staff interpretation EC-0007 of Regulation B (Equal Credit Opportunity) permitting creditors, for marketing purposes, to ask for information on a credit application that would otherwise be barred by the Regulation.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: March 3, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-495-78 Filed 3-3-78; 2:31 pm]

[4910-58]

9

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Monday, March 6, 1978 (NM-78-13).

PLACE: NTSB Board room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Closed under Exemption 10 of the Government in the Sunshine Act and that no earlier notice was possible.)

MATTERS TO BE CONSIDERED: Opinion and Order.—*Administrator* v. *Sumrall*, Dkt. SE-3739; disposition of respondent's appeal.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-472-6022.

[S-488-78 Filed 3-3-78; 12:05 pm]

[4910-58]

10

NATIONAL TRANSPORTATION SAFETY BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 8682, March 2, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: Thursday, March 9, 1978, 9:30 a.m. [NM-78-12].

CHANGE IN THE MEETING: A majority of the Board has determined by recorded vote that the business of the Board requires revising the agenda of this meeting and that no earlier announcement was possible. The agenda as now revised is set forth below:

STATUS: Open.

1. *Pipeline Accident Report.*—Alyeska Pipeline Service Co. Explosion and Fire, Pump Station 8 near Fairbanks, Alaska, July 8, 1977.

2. *Recommendation.*—To NHTSA re McAlester, Okla., Highway Accident.

3. *Recommendation.*—To USCG and American Bureau of Shipping re Marine Accident involving *Edmund Fitzgerald.*

4. *Letter.*—To NBAA re flight operations manuals.

5. *Recommendation.*—To Federal Aviation Administration re CVR's and FDR's in corporate executive aircraft.

6. *Discussion.*—Candidate Special Studies for Board approval.

7. *Discussion.*—Closeout of Recommendation No. A-72-226.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-472-6022.

[S-489-78 Filed 3-3-78; 12:05 pm]

[8120-01]

11

[Meeting No. 1191]

TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 10:30 a.m., Thursday, March 9, 1978.

PLACE: Conference Room B-32, West Tower, 400 Commerce Avenue, Knoxville, Tenn.

STATUS: Open.

B. Consulting and personal service contracts—None.

C. Purchase awards:

1. Req. No. 559523—Crawler cranes for construction pool equipment.

2. Req. No. 147455—Self-loading tractor-scraper unit for Paradise Steam Plant.

3. Req. No. 148691—Feedwater nozzle machining and sparger changeout for Browns Ferry Nuclear Plant Unit 2.

4. Req. No. 566200—Heavy construction equipment for Construction Services Branch warehouse, Muscle Shoals, Ala.

5. Amendment to contract 70P60-92203 with General Electric Co. for spare parts for Browns Ferry Nuclear Plant.

6. Req. No. 772420—Indefinite quantity term contract for riprap, rockfill and filter material for Sequoyah Nuclear Plant.

D. Project authorizations—None.

E. Fertilizer items—None.

E. Power items.:

1. Mandatory emergency energy curtailment plan.

2. Agreement with Tennessee Valley Electric Cooperative—establishment of 26-kV delivery point at TVA's Waynesboro substation.

3. Lease and amendatory agreement with city of Lenoir City, Tenn.—power supply near TVA's Lovell 69-kV substation.

4. New power contract with the city of Starkville, Miss.

5. New power contract with the city of Newbern, Tenn.

6. Amendment to option agreement with Ewing-Northern Coal Association for purchase of coal rights underlying certain lands in Franklin, Hamilton, and Jefferson Counties, Ill. (extends expiration date for option on additional acreage to permit completion of title work).

7. Bill of sale and quitclaim deed to North Alabama Electric Cooperative—Sale of portion of deenergized Huntsville-Scottsboro 46-kV transmission line.

G. Real property transactions:

1. Grant of permanent easement to Cumberland Utility District of Roane and Morgan Counties, Tenn. for water intake structure, affecting 0.9 acre of Watts Bar Reservoir land, Roane County, Tenn. (tract XTWBR—128WI).

Filing of condemnation suits.

H. Unclassified:

1. Budget plan for fiscal year 1978.

Dated: March 2, 1978.

CONTACT PERSON FOR MORE INFORMATION:

John Van Mol, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615-632-3257, Knoxville, Tenn. Information also is available at TVA's Washington Office, 202-566-1401.

[S-487-78 Filed 3-3-78; 12:05 pm]

[8240-01]

12

UNITED STATES RAILWAY ASSOCIATION.

TIME AND DATE: 9 a.m., March 14, 1978.

FEDERAL REGISTER, VOL. 43, NO. 45—TUESDAY, MARCH 7, 1978

PLACE: Board Room, Room 2200, Trans Point Building, 2100 Second Street SW., Washington, D.C.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED BY THE BOARD OF DIRECTORS:

Portions closed to the public (9 a.m.).

1. Consideration of internal personnel matters.
2. Review of ConRail proprietary and financial information for monitoring and investment purposes.
3. Review of Delaware and Hudson Railway Co. proprietary and financial information for monitoring and investment purposes.
4. Review of Missouri-Kansas-Texas Railroad Co. proprietary and financial information for monitoring and investment purposes.
5. Litigation Report.

Portions open to the public (1 p.m.).

6. Approval of minutes of the February 14, 1978, Board of Directors meeting.
7. Report on ConRail monitoring.
8. Consideration of second quarter 1978 investment commitment.
9. Consideration of ConRail drawdown request for April 1978.
10. Status report of advance to D. & H.
11. Consideration of selection of USRA's nominees to serve on ConRail's Board.
12. Contract actions (extensions and approvals).

CONTACT PERSON FOR MORE INFORMATION:

Alex Bilanow, 202-426-4250.

[S-494-78 Filed 3-3-78; 2:06 pm]

federal register

TUESDAY, MARCH 7, 1978
PART II

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

■

ANIMAL WELFARE

List of Licensed Exhibitors

[3410-34]

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

ANIMAL WELFARE

List of Licensed Exhibitors

Pursuant to the provisions of the Animal Welfare Act (7 U.S.C. 2131, et seq.), and the regulations thereunder (9 CFR Part 2), notice is hereby given that the following exhibitors are licensed under said Act:

(Sec. 3, 80 Stat. 351, as amended (U.S.C. 2133).)

Done at Washington, D.C., this 27th day of February 1978.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

J. K. ATWELL,
Acting Deputy Administrator,
Veterinary Services.

NAME	DOING BUSINESS AS	ADDRESS	CITY AND ZIP CODE
		ALABAMA	
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* BOWMAN, N	NOAH'S ARK	PO BOX 521	AUBURN 36830
* CITY OF BIRMINGHAM	BIRMINGHAM ZOO	2630 CAHABA RD	BIRMINGHAM 35223
* MONTGOMERY ZOO		329 VANDIVER BLVD	MONTGOMERY 36109
* UNIV OF NORTH ALABAMA			FLORENCE 35630
		ALASKA	
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* FULBRUCH INC.		529 C ST	ANCHORAGE 99501
		ARIZONA	
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* ARIZONA ZOOLOGICAL SOCIETY	PHOENIX ZOO	PO BOX 5155	PHOENIX 85010
* ARIZONA-SONORA DESERT MUSEUM		RT 9 BOX 900	TUCSON 85704
* BROWN K & FIVELSON S	OCEANSIDE HARLEY-DAVIDSON	11300 N 98TH ST	SCOTTSDALE 85260
* JACOBSON, M		7630 E FAYETTE	TUCSON 85703
* RANDOLPH PARK ZOO		900 SO RANDOLPH WAY	TUCSON 85716
* TROPIC GARDENS ZOO		6232 N 7TH ST	PHOENIX 85014
* WHITMAN, P	DEER FARM	P.O. BOX 204	WILLIAMS 86046
		ARKANSAS	
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* ANIMAL WONDERLAND	SPA ATTRACTIONS, INC	HWY 270 WEST	HOT SPRINGS 71901
* BRIDGES, J	ARKANSAS ALLIGATOR FARM	847 WHITTINGTON AVE	HOT SPRINGS 71901
* DOGPATCH ANIMAL WORLD	DOGPATCH USA		DOGPATCH 72648
* HOLIDAY ISLAND EXOTIC ANIMAL PARK			HOLIDAY ISLAND 72632
* I.O. ZOO, INC		4800 ALBERT PIKE	HOT SPRINGS 71901
* JACOBS, RD			HUNT 72640
* LITTLE ROCK ZOOLOGICAL GARDEN		JONESBORO ST	LITTLE ROCK 72205
* WILLIAMS, HR	FUNLAND PARK ZOO	ROUTE 3	JONESBORO 72401
* WILMOTH, RL	WILD WILDERNESS	RT 3 BOX 309	GENTRY 72734
		CALIFORNIA	
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* ALIEN'S PET ZOO INC		12170 AVE 118	PIXLEY 93256
* ALPINE VILLAGE INC		833 W TORRANCE BLVD	TORRANCE 90502
* ARLEN, D	R.C.&ME	PO BOX 1492	STUDIO CITY 91604
* BABY ZOO, INC		PO BOX 5426	OAKLAND 94605
* BALDWIN, JR	BALDWINS CHARMING CHIMPS	2384 TNCELON CT	THOUSAND OAKS 91360
* BAUMAN, T		660 SAN FERNANDO RD	LOS ANGELES 90065
* BECK, CR		801 EL TORO DR,	BAKERSFIELD 93304
* BERWICK, P		UNIVERSAL STUDIO TOURS	UNIVERSAL CITY 91603
* BIG BEAR VALLEY PARK DIST	MOONRIDGE ZOO	PO BOX 2832	BIG BEAR LAKE 92315
* BIG JOHN A. STRONG & SON CIRCUS, INC.		BOX 600	THOUSAND OAKS 91360
* BLAIR RUNCH INC	BLAIR RUNCH, INC	7561 WOODMAN PL	VAN NUYS 91405
* BOZURICH, F		PO BOX 437	TORRANCE 90503
* BULLOUGH, DR		409 WEST MAIN ST	BRAWLEY 92227
* BURKE MALCOLM INC		PO BOX 638	SKY FOREST 92385
* CAMPOLONGO, J	ENCHANTED VILLAGE	909 KNOTT AVE#9	ANAHEIM 92804
* CHILDS ESTATE FOUNDATION		PO BOX 4758	SANTA BARBARA 93103
* CIRCUS VARGAS CORP		1308 OLD BAYSHORE HWY 200	SAN LEANDRO 94578
* CITY OF EUREKA	SEQUOIA PARK ZOO	PO BOX 1018	EUREKA 95501
* CITY OF FOLSOM ZOO	CITY OF FOLSOM	50 NATOMA STREET	FOLSOM 95630
* CITY OF MERCED APPLEGATE PARK ZOO		2525 O STREET	MERCED 95340
* CITY OF NATIONAL CITY		1243 NATIONAL AVE	NATIONAL CITY 92050
* CITY OF OAKLAND	OAKLAND ZOO/KNOWLAND PARK	1520 LAKESIDE DR	OAKLAND 94612
* CITY OF ROSEVILLE	ROVER PARK	316 VERNON ST	ROSEVILLE 95678
* CITY OF WHITTIER		13230 E PENN ST	WHITTIER 90602
* CLAY, C & LUTTRELL, J	C R L RANCH	8351 KIOWA RD	APPLE VALLEY 92307
* COUNTY OF ORANGE EMA/DEVEL		PO BOX 1078	SANTA ANA 92702
* COX, L	THE LION HI AN RENTALS	PO BOX 259	VENTURA 93001
* CUNNINGHAM, RAD	CUNNINGHAMS CHILD PET ZOO	2151-12TH AVE	SAN FRANCISCO 94116
* DI SESSO, M	TRAINED WILDLIFE	24233 THE OLD RD	NEWHALL 91321
* DOWNEY, M		PO BOX 221	ACTON 93510
* DRAKE, E		STAR RT PO BOX 336	TEHACHAPI 93561
* DRISCOLL, HH		16555 LASSEN ST	SEPULVEDA 91343
* DUNN, IE	ZUFARI	8234 SOLEDAD CYN RD	ACTON 93510
* EARNEST, FV	CALIFORNIA ALLIGATOR FARM	7671 LA PALMA AV	BUENA PARK 90620
* EGAN, L & R		844 14TH AVE	MENLO PARK 94025

NAME	DOING BUSINESS AS	ADDRESS	CITY AND ZIP CODE
	CALIFORNIA —Continued		
* FOEDT, KW		1526 GRAND AVE	FILLMORE 93015
* ENCHANTED VILLAGE, INC		6122 KNOTT AVE	BUENA PARK 90621
* FANCETT, R		21719 BARTON RD	COLTON 92324
* FISHER, F		BOX 1170 STAR RT	TEHACHAPI 93561
* FOERDER, LJ		RT 2 BOX 605M	ARROYO GRANDE 93420
* FRANK INN, INC.		12265 BRANFORD	SUN VALLEY 91352
* FRESNO HUS OF NATURAL HIS T		1944 N WINERY	FRESNO 93703
* GALLO ZOOLOGICAL GARDENS		P.O. BOX 1230	MODESTO 95353
* GATTI-CHARLES PRODUCTIONS INC		PO BOX 611	ORANGE 92666
* GENTLE JUNGLE, INC		6122 KNOTT AVE	BUENA PARK 90621
* GROS, P	MARINE WORLD/AFRICA USA	MARINE WORLD PARKWAY	REDWOOD CITY 94065
* HENRY, IRC	HENRY'S CHIMPS	19102 BECHARD AV	GERRITOS 90701
* HOLTER, M&R	HOLTER'S MOVIELAND ANIMALS	10940 RIVERSIDE AV	BLOOMINGTON 92316
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* HORNOK, JR		25955 BOOTLEGGER CANYON RD	ACTON 93510
* HORTON, RR		302 17TH STREET	SAN DIEGO 92101
* HORTON, RROOK		302-17TH ST	SAN DIEGO 92101
* HUNTER, FRAUST, MT		1625 ABRAMSON RD	SANTA ROSA 95401
* JETT, A	JETT'S PETTING ZOO	11025 CYPRESS	FONTANA 92335
* JOHNSON, G & L	JOHNSON BROS ELEPHANTS	701 W 9TH ST	CORONA 91720
* JOHNSON, H		20715 NANDINO	PERRIS 92570
* JOHNSON, R	RONI'S PET SHOP	7788 CYPRESS AV	RIVERSIDE 92503
* JONES, RW	HOLTER'S RANCH	PO BOX 588	BLOOMINGTON 92316
* KAYE ENTERTAINMENT ENTERPRISES, INC		1680 N. VINE ST	HOLLYWOOD 90028
* KAYE, PV	ENTERTAINMENT ENTERPRISES & KAYE CONT. CIR	1680 N VINE ST, SUITE 519	HOLLYWOOD 90028
* KNOTT, SP	KNOTT'S BERRY FARM	8039 BEACH BLVD	BUENA PARK 90620
* KRAUTER, CRL	KRAUTER'S NURSERY	2006 KENTUCKY ST	BAKERSFIELD 93305
* KUTCHELL, J		319 HAWTHORN ST	RIALTO 92376
* LA TORRES, JM		1968 MARIN AV	BERKELEY 94707
* LOS ANGELES COUNTY FAIR ASSOCIATION		BOX 2250	POMONA 91766
* LOS ANGELES ZOO		5333 ZOO DR	LOS ANGELES 90027
* MADONNA, A	MADONNA INN	MADONNA RD & HIGHWAY 101	SAN LUIS 93401
* MAGANA, AR		1036 SO ONTARIO	OXNARD 93030
* MAGIC MOUNTAIN		PO BOX 5500	VALENCIA 91355
* MARAVEIAS, EL		PO BOX 585	INDEPENDENCE 93526
* MARINE WORLD AFRICA USA	RESORTS INTL, INC	MARINE WORLD PARKWAY	REDWOOD CITY 94065
* MARSHALL, N	LION'S ETC	6867 SOLEDAD CANYON	ACTON 93510
* MARTIN, S	STEVE MARTIN'S WORKING WILDLIFE	PO BOX 65	ACTON 93510
* MCDERMOTT, CD	THE COLD NOSE FIVE DOG ACT	4515 HARRISON AVE	REDDING 96001
* MCMILLAN, R		6122 KNOTT AVE	BUENA PARK 90621
* MCMILLAN, D		306 OUEY LANE	REDWOOD CITY 94065
* MEREDITH, G	JUNGLE EXOTICS	12137 LOPEZ CANYON RD	SAN FERNANDO 91342
* MEYER, L	ICE CAPADES, INC	6121 SANTA MONICA BLVD	HOLLYWOOD 90038
* MICKE GROVE PARK & ZOO		11793 N MICKE GROVE RD	LODI 92540
* MILHOUS, D	MILHOUS BOYS RANCH	ALLEGHANY ST RT	NEVADA 95959
* MILLER, KR		14611 E DANBROOK DR	WHITTIER 90604
* MOSLEY, C R G	DEMAYNE BROS CIRCUS	PO BOX 9621	N HOLLYWOOD 91609
* OXLEY, RL		7833 SOLEDAD CANYON RD	ACTON 93510
* PAT DERBY ENTERPRISES, INC.		PO BOX 212	LOS OLIVOS 93441
* PRENTICE PARK ZOO		1700 E FIRST ST	SANTA ANA 92705
* REYNOLDS, A		5023 E LAUREL	FRESNO 93727
* RIVERS, R		10900 RIVERSIDE AVE	BLOOMINGTON 92316
* ROBERTSON, CF		1193-8TH ST	NORCO 91760
* ROEDING PARK ZOO		809 W. BELMONT	FRESNO 93728
* SACRAMENTO CITY ZOO		3930 W LAND PARK DR	SACRAMENTO 95822
* SACRAMENTO SCIENCE CENTER & JR. MUSEUM		3615 AUBURN BLVD.	SACRAMENTO 95831
* SAN FRANCISCO ZOOLOGICAL GARDENS		ZOO ROAD & SKYLINE BLVD	SAN FRANCISCO 94132
* SAN LUIS OBISPO COUNTY	CHARLES PADDOCK ZOO	1009 MONTEREY ST	SAN LUIS OBISPO 93408
* SANTA'S VILLAGE INC		P.O. BOX 584	SAN BERNARDINO 92402
* SCHUMACHER, LH		PO BOX 642	BALDWIN PARK 91706
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* SCOBLE, DR AG		2367 MORRILL RD	MODESTO 95355
* SEA WORLD INC		1720 S SHORES DR	SAN DIEGO 92109
* SHANVER, C		1221 GRANT ST	SANTA MONICA 90405
* SMIEVA-BLASZAK, A & BLASZAK, W		PO BOX 1	FILLMORE 93015
* SMITH, P	HIGARDE PETTING ZOO	18150 OCEAN DR	FORT BRAGG 95437
* SNYDER, F	YVETTES MINI CIRCUS REVUE	PO BOX 5343	N HOLLYWOOD 91605
* STEEPLES, F		864 CARLISLE RD	THOUSAND OAKS 91359
* SWANSON, J&C		8707 PROSPECT AVE	SANTEE 92071
* TOTH, GN	COUGAR HILL RANCH	P.O. BOX 132	LITTLEROCK 93543
* TREMBLEY, F	MR CHRISTMAS TREE	349 W WILSON BLVD APT 9	COSTA MESA 92627
* TWOMEY, D&J	HAPPYTIME CIRCUS	PO BOX 269	WINDSOR 95492
* UNIVERSAL STUDIO TOUR		3900 LANKERSHIM BLVD	UNIVERSAL CITY 91608
* WALLER PARK		600 GOODWIN RD	SANTA MARIA 93454
* WALT DISNEY PRODUCTIONS		500 S BUENA VISTA	BURBANK 91521

NAME	DOING BUSINESS AS	ADDRESS	CITY AND ZIP CODE
	CALIFORNIA —Continued		
* WELLS, HORKARAT, RG	ANIMAL ACTORS OF HOLLYWOOD	868 CARLISLE RD	THOUSAND OAKS 91359
* WENDELL, C		PO BOX 350	ACTON 93510
* WHITE, DRJ		8722 WINTER GDNS BLVD	LAKESIDE 92040
* WHITFIELD, RW		MARINE WORLD PARKWAY	REDWOOD CITY 94065
* WILDS, JRR	WILDS PERFORMING ANIMALS	PO BOX 4102	SANTA CLARA 95054
* WOLF, REC		284 FRONT ST	EL CAJON 92020
* ZANGER, H	CASA DE FRUTA	6680 PACHECO PASS HWY	HOSSISTER 95023
* ZOOLOGICAL SOCIETY OF SAN DIEGO		PO BOX 551	SAN DIEGO 92112
* ZUKIN, JR., J	FRONTIER VILLAGE	4885 MONTEREY RD	SAN JOSE 95111
	COLORADO		
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* CHEYENNE MOUNTAIN ZOOLOGICAL PARK		BOX 158	COLORADO SPRINGS 80901
* DENVER ZOOL FDN	DENVER ZOOLOGICAL FOUND.	DENVER CITY PARK	DENVER 80205
* FOSSDECO, A	GRANDS CANYON GAS&CURIO SHOP	PO BOX 29	COLORADO CITY 81019
	CONNECTICUT		
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* BECKER, SR	THE BRUCE MUSEUM	467 STEAMBOAT RD	GREENWICH 06830
* BOMY A R SILVESTRO A		165 PONUS AVENUE	NORWALK 06850
* CHILDREN'S MUSEUM OF HARTFORD	CHILDREN'S MUSEUM OF HARTFORD	950 TROUT BROOK RD	W HARTFORD 06119
* CITY OF BRIDGEPORT	BEARDSLEY ZOOLOGICAL GARDENS	NOBLE AVE	BRIDGEPORT 06604
* CITY OF NEW LONDON	NATURE CENTER & ZOO	MUNICIPAL BLDG	NEW LONDON 06320
* CITY OF NORWICH	MOHEGAN PARK ZOO	CITY HALL ANNEX	NORWICH 06360
* CONNECTICUT PACKING CO.		335 COTTAGE GROVE RD	BLOOMFIELD 06002
* DEPT OF PARKS & REC	HUBBARD PARK ZOO	460 LIBERTY ST	MERIDEN 06450
* EMERSON, RL	EMERSONS CIRCUS & MENAGRIE EXHS	2545 BERLIN TPKE	NEWINGTON 06111
* GOODWIN R		RT 5 BOX 223	WAREHOUSE PT 06088
* NATURE CENTER FOR ENVIRONMENTAL ACTIVITIES		PO BOX 165	WESTPORT 06880
* NEW BRITAIN YOUTH MUSEUM		30 HIGH ST PO BOX 11	NEW BRITAIN 06051
* NEW HAVEN DEPT OF PARKS, PEC, HORT & TREES	WEST ROCK NATURE REC CTR	PO BOX 2969	NEW HAVEN 06515
* OLD MACDONALDS FARM INC		768 POST RD	NORWALK 06854
* R.W. COMMERFORD & SONS INC		RTE 4	GOSHEN 06756
* SHELDEN, DD		33 PENNY DR	MONROE 06468
* STAMFORD MUSEUM & NATURE CTR		39 SCOFIELDTOWN RD	STAMFORD 06903
* STEMPIEN, AC	WILLINGTON GAME FARM	OLD FARMS RD	WILLINGTON 06279
* THE DENISON PEA. NATURE CTR		PO BOX 122 PEQUOTSEPOS RD	MYSTIC 06355
* WATERMAN, ME		193 NORTH GRAND ST	W SUFFIELD 06093
* WAWRZYNOWICZ, P	BORN FREE GAME FARM	PO BOX 11	MONTVILLE 06353
	FLORIDA		
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* ARC SCENIC & WILDLIFE ATTRAC.		P.O. BOX 367	SILVER SPRINGS 32688
* ADAMS, E		PO BOX 595	GIBSONTON 33534
* ALEXANDER, R		PO BOX 247	GENEVA 32732
* ALLEN, V	PET & HOBBY DEN	8369 BIRD RD	MIAMI 33155
* ALLIGATOR LAND SAFARI		P.O. BOX 819	KISSIMMEE 32741
* ANTALEK, M		PO BOX 1	GIBSONTON 33534
* ANTHONY, P		P.O. BOX 355	RIVERVIEW 33569
* ANTONUCCI, A		P.O. BOX 554	GIBSONTON 33534
* BAUDY, RF	RARE FELINE BREEDING COMPOUND	PO BOX 132	CENTER HILL 33514
* BENGTSSON, K & LINARES, K		BOX 125 RT 3	SARASOTA 33578
* BERGSINI, R&J		P.O. BOX 16523	TEMPLE TERRACE 33687
* BERDUSEK, O		2075 RAMIA VISTA	SARASOTA 33579
* BERTEI, M		RR 2 BOX 297P	SARASOTA 33577
* BERTINI, HS	ERNA'S CHIMPANZEES	725 N CONRAD AVE	SARASOTA 33580
* BLANCHARD, D&P		85 ARAPAHO AVE	ST AUGUSTINE 32084
* BOARD OF COUNTY COMM-HARDEE COUNTY	HARDEE COUNTY PIONEER PARK	PO BOX 458	WAUCHULA 33873
* BOWEN, JC	EVERGLADES GATORLAND	BOX 279	SOUTHBURG 33493
* BRADDOCK, A	GRT AMLS OF THE 7 CONTINENTS	RT 1 BOX 162	BUSHNELL 33513
* BROOKS, HW	GATOR JUNGLE	P.O. BOX 209	CHRISTMAS 32709
* CENTRAL FLA ZOOLOGICAL SOCIETY		PO BOX 2078	SANFORD 32771
* CHRISTIAT, L		1024 STOERER LANE	SARASOTA 33580
* CHRISTIE, D&E		P.O. BOX 336	ASPREY 33559
* CITY OF JACKSONVILLE	JACKSONVILLE ZOOLOGICAL PARK	8605 700 ROAD	JACKSONVILLE 32218
* CITY OF ST. PETERSBURG PR & P DEPT	BOYD HILL NATURE PARK	1450 16 ST NO	ST PETERSBURG 33704

NAME	DOING BUSINESS AS	ADDRESS	CITY AND ZIP CODE
	FLORIDA —Continued		
* CITY OF TAMPA-PARK DEPT	LOWRY PARK ZOO	NORTH BLVD & SITGH AVE	TAMPA 33604
* CLYDE BEATTY-COLE BROS CT RCUS		P.O. BOX 1570	WINTER PARK 32789
* CREIGHTON, R	KING KONG ZOO	RT 1 BOX 567220	BROOKSVILLE 33513
* CRISTIANI, DR	CONSOLIDATED AMUSEMENT CO	PO BOX 877	RIVERVIEW 33569
* CRISTIANI, D		1747 RIVIERA CIRCLE	SARASOTA 33580
* CRISTIANI, PRI		L723 LARAMIE ST	SARASOTA 33581
* DADE COUNTY PARK & REC DE PT	CRANDON PARK ZOO	4000 CRANDON BLVD	KEY BISCAYNE 33149
* DURSKY, M	GINA'S ROYAL PALACE LEOPARDS	3110 47TH ST	SARASOTA 33580
* DURSKY, J	JANOS & COMPANY	4103 BRAZILNUT AV	SARASOTA 33580
* EDWARDS, TR		PO BOX 336 3256 C RD	LOXAHATCHEE 33470
* ELLIS, DF	DESHER PARK ZOO GARDENS	PO BOX 6597	N PALM BEACH 33405
* ENGESSER, DRP	WESTERN WILD CATS SHOW & RANCH	RT 1 BOX 286E	FLORA CITY 32636
* FEE,HW		BOX 493	GIBSONTON 33534
* FOSSETT, T		637 NO CONRAD AV	SARASOTA 33580
* FRANCIS, FA		510 2ND AVE	MELBOURNE 32951
* GARDNER, RC		P.O. BOX 313	PLYMOUTH 32768
* GARVIN, C	FLORIDA REPTILE LAND	RT 16	BOWLING GREEN 82101
* GATORLAND		PO BOX 518	ST. AUGUSTINE 32084
* GOODING'S GATORLAND, INC		HWY 441 NORTH	KISSIMMEE 32741
* GOLDEN, J&D	GOLDENS ZOO	RT 1A BOX 592	FT MYERS 33903
* GOSSING, G & STEVENS, G	SHRINE CIRCUS	SINGLETARY RD BOX 9	MYAKKA CITY 33551
* HANNEFORD, G		BOX 909	NOKOMIS 33555
* HANNEFORD, T&G	HANNEFORD CIRCUS, INC		OSPREY 33559
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* HARRELL, GC	GATOR WORLD OF FLAMINGO GARDEN S	3782 FLAMINGO RD	DAVIE 33330
* HERRIOTT, JMRM	HERRIOTT'S PERFORMING ANIMALS	RR3 BOX 94	SARASOTA 33580
* HOWDOSASSA SPRINGS INC	NORIN CORP	P.O. BOX R	HOWDOSASSA SPRINGS 32647
* HOOVER, DC		665 W 38TH ST	HIALEAH 33012
* HOUSER, F		9230 NEW HAVEN AVE	MELBOURNE 32901
* HOXIE BROS CIRCUS	HOXIE BROS. CIRCUS	9140 SW 59TH AV	SO MIAMI 33156
* JOHNS, MRT		6073 STIRLING RD	HOLLYWOOD 33024
* JOHNSON, RA		BOX 936 9812 MASS AVE	GIBSONTON 33534
* JOYCE, E	WONDERFUL WORLD OF DOGS	BOX 302	GIBSONTON 33534
* JUNGLE LARRY'S SAFARI LAN D, INC		P.O. BOX 7129	NAPLES 33940
* JUNGLE QUEENS INC,		800 E BROWARD BLVD #301	FT LAUDERDALE 33312
* KANANGA, R		6073 STIRLING RD	HOLLYWOOD 33024
* KELLY, P	NATIONAL AMUSEMENT	RR 1	BUNKERHILL 46914
* KING BROS CIRCUS	SELLS & GRAY CIRCUS	BOX 1570	WINTER PARK 32790
* KIT CIRCUS OPERATING CO, INC		PO DRAWER 1570	WINTER PARK 32790
* KRAUSE, J		PO BOX 2512	SARASOTA 33578
* KRAUSE, JR., RP	THE KRAUSE HOUSE ZOO	RT 1 BOX 126	FT PIERCE 33450
* KRISTENSEN, S		PO BOX 725	BRANDON 33511
* KUHN & LUPFER	ALLIGATOR ALLEY JUNGLE ZOO	PO BOX 802	KISSIMMEE 32741
* MARINE ATTRACTIONS INC	SHARK WORLD	6500 BEACH PLAZA RD	ST PETERSBURG 33736
* MARINELAND, INC		RFD 1, BOX 122	ST. AUGUSTINE 32084
* MASTERPIECE GARDENS, INC		PO BOX 1230	LAKE WALES 33853
* METRO-GOLDWYN-MAYER, INC	MGM'S BOUNTY EXHIBIT	102020 W WASHINGTON BLVD	CULVER CITY 90230
* MIDWAY PET CENTERS INC		7771 W FLAGER ST	MIAMI 33144
* MIRACLE STRIP AMUS. CO. I NC	MIRACLE STRIP JUNGLELAND	P.O. BOX 2000	PANAMA CITY 32401
* MONKEY JUNGLE, INC.		14805 SW 216TH ST	MIAMI 33170
* NATIONAL REC. SERVICE	SIX GUN TERRITORY	P.O. BOX 307	SILVER SPRINGS 32688
* NEID, PM		620 NE 2ND ST	POMPANO 33060
* NOCK, P&K	KANITKA'S POODLES	PO BOX 968	SARASOTA 33578
* OCEAN WORLD INC		1701 SE 17TH ST	FT LAUD 33316
* PARNELL, G		PO BOX 998	GIBSONTON 33534
* PARROT JUNGLE, INC.		11000 SW 57TH AVE	MIAMI 33156
* PEDLEY, S		2219 SW 60 CT	MIAMI 33155
* PIERCE, AM	KING'S SHETLAND PONY FARM	1700 NE 184 ST	MIAMI 33181
* PIPER, L & R			BONITA SPRINGS 33923
* POTTER, D		PO BOX 1092	GIBSONTON 33534
* RINGLING BROS BM & BLY CO MBINED SHOWS		1015-18TH ST NW	WASHINGTON DC 20036
* ROBERTS, D	ROBERTS GULF STATION	822 N CHARLESTON	FT MEADE 33841
* ROBINSON, RABS	HOLLYWOOD'S BEST DRESSED MONKE YS	BOX 1176	GIBSONTON 33534
* ROSS ALLEN SOUTH INC,	ROSS ALLEN WILD LIFE PARK	2805 N TAMIAMI TRAIL	N FT MEYERS 33903
* ROTH, R	ANIMALS OF DISTINCTION	RT 4 BOX 241	FT PIERCE 33450
* SALISBURY, DL	ROYAL PANTHERS	1519 CAMBRIDGE DR	COCOA 32922
* SANTA FE TEACHING ZOO		3000 NW 83RD ST	GAINSVILLE 32601
* SCARPUZZI, L	AQUARAMA WALTZING WATERS	339 RIVERSIDE DR	FORT MYERS 33905
* SCHACHT, F & P		PO BOX 1333	BRANDON 33511
* SCHAPPACHER, P	DIAMOND RODEO & WILD WEST	3515-63 AVE E	BREDENTON 33505
* SCHILE, FRRDJ	MUSEUM OF THE SEA & INDIAN	STAR ROUTE BOX 611	DESTIN 32541
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* SCHMIDT, PRM		318 HOWELL PL	SARASOTA 33580
* SCHREIBER, B	CAPT SCHEIBER CHIMPANZEES	RT 3 BOX 4A	ST AUGUSTINE 32084
* SEA WORLD OF FLORIDA		7007 SEA WORLD DR	ORLANDO 32809
* SEROLT, D	SNAKE-A-TORIUM	PO BOX 9253	PANAMA CITY 32401
* SEIDEN'S EXOTIC FELINES		8425 SW 108TH ST	MIAMI 33156

NAME	DOING BUSINESS AS	ADDRESS	CITY AND ZIP CODE
	FLORIDA —Continued		
* SEIGLE, A		732 NW 29TH TERRACE	MIAMI 33127
* SIPEK, S		3384 C RD	LOXAHATCHEE 33470
* SPYKE, MM		7250 GRIFFIN RD	DAVIE 33314
* SQUIRRELS		RT 1, US HWY 98	GULF BREEZE 32561
* ST AUGUSTINE ALLTG. FARM INC		PO BOX DRAWER E	ST AUGUSTINE 32084
* STEARNS ROYAL EUR. CIRCU S INC		PO BOX 249	SARASOTA 33578
* STEELE, R	BOB STEELE ANIM PROMOTIONS	RT 5 BOX 131 H	ORLANDO 32807
* SUNKEN GARDENS OF ST PETE RSBURG		1825 4TH ST NO	ST PETERSBURG 33704
* SZYMONSKI, K		2022 DODGE AVE	SARASOTA-33580
* TALLAHASSEE JR MUSEUM		3945 MUSEUM DR	TALLAHASSEE 32304
* THE R-I-EFS,		2075 RANIA VISTA	SARASOTA 33579
* THOMAS, HD		PO BOX 281	RIVERVIEW 33569
* TIKI GARDENS INC		19601 GULF BLVD	INDIAN SHORES 33535
* TOOLE, EH		PO BOX 126	CHATTAHOOCHEE 32324
* VIELE, CF	VIELE GROVES	6990 GRIFFIN RD	FORT LAUDERDALE 33314
* WALT DISNEY WORLD CO		P.O. BOX 40, ATTN: LEGAL DEPT	LAKE BUENA VISTA 32830
* WATSON, W		RT 1, BOX 117	TAMPA 33612
* WEED, F		13900 W ST RD 84	FT LAUDERDALE 33325
* WEEKI WACHEE SPRINGS INC	ARC SCENIC & WILDLIFE ATTACS.	PO BOX 97	BROOKSVILLE 33512
* WELDE, J		PO BOX 547	GIBSONTON 33534
* WILLIAMS, RRF		RT 1 BOX 556C	MYAKKA CITY 33551
* WILNER, F & A		861 OAK STREET	FT MYERS BEACH 33931
* WILSHIRE CORPORATION	LION COUNTRY SAFARI INC	PO BOX 16066	N PALM BEACH 33406
* WOMETCO ENTERPRISES INC	FLIPPERS SEA SCHOOL	PO BOX DOLPHIN	MARATHON SHORES 33052
* WONDERLAND OF FLORIDA, IN C	MARCO POLO PARK	BOX 54 STAR ROUTE	BONNELL 32010
* WYNN, F			
* ZERAINT, T		400 E ORANGE AVE	LONGWOOD 32750
		RT 2 BOX B	SARASOTA 33580
	GEORGIA		
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* ALVES, JF	MILLSIDE CHIMP FARM	PO BOX 66	CLERMONT 30527
* BAUMANN, RRL	LINDRICH ANIMAL CIR & PET FM Z OO	RT 1 BOX 74	ELLERSLIE 31807
* CITY OF ALBANY	TIFT ZOOLOGICAL PARK	1314 NO MONROE ST	ALBANY 31705
* CITY OF ATLANTA	ATLANTA ZOO, PARK	800 CHEROKEE AV, SE	ATLANTA 30315
* SNOWDEN, R	CHICO'S MONKEY FARM	RT 1 BOX 118	RICHMOND 31324
* STONE SOUTHERN GROUP INC	KINGDOMS 3	LION COUNTRY PARKWAY	STOCKBRIDGE 30281
* STONE MOUNTAIN GAME RANCH INC		1 PORT, E, LEE BLVD	STONE MOUNTAIN 30086
* THOMAS, MORRM		PO BOX 281	RIVERVIEW 33569
	HAWAII		
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* COUNTY OF HAWAII	PANAEWA RAINFOREST ZOO	25 AUPINI ST	HILO 96720
* HONOLULU ZOO	HONOLULU 96815	151 KAPAHULU AVE	HONOLULU 96804
* ISLAND FEDERAL SAVING & L OAN ASSN OF HONOLULU		PO BOX 2521	
* ISLAND HOLIDAYS, LTD	COCO PALMS RESORT HOTEL	PO BOX 631	LIHUE 96766
* MAUI ZOOLOGICAL AND BOTAN NICAL GARDEN	DEPT OF PARKS & RECREATION		WAILUKU,96793
* MEADOW GOLD DAIRIES-HAWAI I		R1 BOX 224	HALEIWA 96712
* PEARL CITY TAVERN		PO BOX 246	PEARL CITY 96782
	IDAHO		
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* BOISE CITY ZOO		1104 ROYAL BLVD	BOISE 83706
* CUMMINGS R & CORDELL S	DEER FARM	BOX 711	POST FALLS 83854
* EDEN-P	ALASKA WILD BERRY PRODUCTS	BOX 374	HOMER 99603
* HAZEN, VD	HAZEN'S DEER FARM	RT 2	JEROME 83338
* HAZEN, VD	HAZEN'S PETTING ZOO	RT 2	JEROME 83338
* NORLE, ER	COWBOY JOE & HIS ANIMAL SHOW	PO BOX 303	NAMPA 83651
* ROSS PARK ZOO		BOX 4169	POCATELLO 83201
* TAUTPHAUS PARK ZOO		PO BOX 220	IDAHO FALLS 83401
* W F ARRINGTON, INC		BOX 881	IDAHO FALLS 83401
	ILLINOIS		
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* AVILES MARTINEZ, C		436 4TH ST	NORTHFIELD 60093
* BUTKEMA, C	BUIKEMA ACE HARDWARE	1030 N WASHINGTON	NAPERVILLE 60540
* CANTON PARK DISTRICT		250 S AVE D	CANTON 61520
* CHAMPAIGN PK DISTRICT		706 HOLIDAY PK DR	CHAMPAIGN 61820

NAME	DOING BUSINESS AS	ADDRESS	CITY AND ZIP CODE
	ILLINOIS —Continued		
* CHICAGO ZOOLOGICAL PARK		3300 S GOLF RD	BROOKFIELD 60513
* CITY OF AURORA PARK DEPT	PHILLIPS PARK ZOO	44 EAST DOWNER PLACE	AURORA 60504
* CITY OF ELGIN		150 DEXTER CT	ELGIN 60120
* DECATUR PK DIST		PO BOX 1136	DECATUR 62525
* DEPT OF VETERANS AFFAIRS	ILLINOIS VETS HOME	126 N JEFFERSON ST	SPRINGFIELD 62705
* DUNCANSON, J	HOUSE OF PISCES PET SHOP	344 MILL ST	WAUCONDA 60084
* DUNDEE TOWNSHIP PARK DIST RICT	RANDALL OAKS PARK & ZOO	21 N WASHINGTON ST	CARPENTERSVILLE 60110
* EDLUND, RD R MJ	WHITE PINES DEER PARK	R 3 BOX 259	OREGON 61061
* ELLIOTT, R	HEE HAW FARM	2180 SANDERS RD	NORTHBROOK 60062
* FISHER, L		2200 N CANNON DR	CHICAGO 60614
* FLORIST, D		NORTH MAIN ST	MASON CITY 62664
* FOREST PRESERVE DIST OF C OOK CO		536 NO HARLEM AV	RIVER FOREST 60305
* FRISCO, JT		RR 2 BOX 329	PEORIA 61614
* GLEN OAK ZOO		2218 NO PROSPECT RD	PEORIA 61603
* HOFFMAN, CR	ANIMAL KINGDOM, INC	2980 N MILWAUKEE AV	CHICAGO 60618
* HUME'S EXOTIC WILD LIFE R ANCH		401 W GULF RD	ARLINGTON HTS 60005
* JOLAS, K & S	SAFARI PETS	3145 W 111	CHICAGO 60607
* LAMBS INC.		BOX 520	LIBERTYVILLE 60048
* LASALLE COUNTY PARKS ENVT R. CTR		RT 4	OTTAWA 61350
* LILLE, G		909 KNOTT AVE	ANAHEIM 92804
* MATHENA W		RT 4 BOX 151	ELGIN 60120
* MILLER PARK ZOO		109 E OLIVE	BLOOMINGTON 61701
* NAGUIB, M		436 4TH ST	NORTHFIELD 60093
* NIABI ZOOLOGICAL PRESERVE		13010 NIABI RD	COAL VALLEY 61240
* POLAR DOME CORPORATION	SANTA'S VILLAGE	RT 72 & 25	E DUNDEE 60118
* POZEN, G	PEACE, INC	RT 1 BOX 239	HUNDELEIN 60060
* REDING, W	FISHERMAN'S DUDE RANCH	9600 GULF RD	DES PLAINS 60016
* ROCKFORD PARK, DISTRICT C HILDREN'S FARM	CHILDREN'S FARM	1401 N SECOND ST	ROCKFORD 61107
* SHAFTON, S	THE AMAZING MR. SHAFTON	616 WICKER AV	STREAMWOOD 60103
* SHEPARD, JU		NORTH LAKE RD	SPRINGFIELD 62707
* SOCIAL DYNAMICS INC		2 S 661 ROUTE 53	GLEN ELLYN 60137
* SPRINGFIELD PARK DISTRICT	HENSON C. ROBINSON ZOO	PO BOX 5052	SPRINGFIELD 62705
* TALBOTT, G		RR2	MANITO 61546
* VOKOUN, W	PINE HILL BIRD FARM & ZOO	2605 63RD ST	DOWNERS GROVE 60515
* WATSON, L	PLAINSMEN ZOO	RT 4 BOX 151	ELGIN 60120
* WHEATON PARK DIST,	COSLEY CHILDREN'S PARK	666 SO MAIN ST	WHEATON 60187
* WILDLIFE PARK FOUNDATION	WILDLIFE PRAIRIE PARK	RR 1	MANNA CITY 61536
* WILHELMI'S LANDING, INC		PO BOX 934	JOILET 60434
* WILLOW BROOK WILDLIFE HAV EN	WILLOW BROOK WILDLIFE HAVEN	25101 PARK BLVD	GLEN ELLYN 60137
	INDIANA		
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* BIGGS, M		BOX 18	RUSSELLVILLE 46175
* BOOKER, C	STORYBOOK VILLAGE	RR 2, BOX 98	DUGGER 47848
* BOYD, RD	SILVERMOON ROLLER RINK	3000 N. MERIDIAN	WATERLOO 46793
* CHILDRENS MUSUEM, INC.		REMENT AVE	INDIANAPOLIS 46208
* CITY OF EVANSVILLE	MESKER PARK ZOO	LAKE FRONT	EVANSVILLE 47712
* CITY OF MICHIGAN CITY	PARK & REC. DEPT	PARK & REC DEPT	MICHIGAN CITY 46360
* CITY OF RICHMOND	GLEN MILLER PARK	R 1 BOX 101	RICHMOND 47374
* CLARK, R		616 STATE OFFICE BLDG	CLARKS HILL 47930
* DEPARTMENT OF NATURAL RES OURCES			INDIANAPOLIS 46204
* DRAKE, RWJ	HILL HAVEN GAME FARM & ZOO	RR 51 BOX 699	TERRE HAUTE 47805
* FAWN LAKE APTS		PO BOX 2010	KOKOMO 46901
* FORT WAYNE CHILDRENS ZOO GARD		3411 SHERMAN ST	FORT WAYNE 46808
* HARDING, ME		382 W MAIN ST	PERU 46970
* IND DEPT OF NATURAL RESOU RCES	JASPER-PULASKI FISH & WILD ARE A	607 STATE OFFICE BLG	INDIANAPOLIS 46204
* INDIANAPOLIS ZOOLOGICAL S OC INC		3120 E 30TH ST	INDIANAPOLIS 46218
* KELLY, PB	KELLY WINTER CIRCUS		PERU 46970
* KENNORTHY, SR, D	DONTS AMUSEMENTS	PO BOX 179	CLAYTON 46118
* LAFAYETTE BOARD OF PARKS & REC	COLUMBIAN PARK ZOO	1915 SCOTT ST	LAFAYETTE 47904
* LAKE COUNTY FAIRGROUNDS		889 S COURT ST	CROWN POINT 46307
* N AM. WILDLIFE PARK FNDN. INC	HOLE PARK		BATTLE GROUND 47920
* PARISH, R		RT 1	KINGMAN 47952
* PICKETT, N		23A NORTH DEPOT ST	BRAZIL 47834
* POTAWATOMI PARK ZOO		301 S ST. LOUIS BLVD	SOUTH BEND 46617
* SANTA CLAUS LAND INC		BOX 36	SANTA CLAUS 47579
* SCHAEFER, EV & M		RR 1 BOX 357	WESTFIELD 46074
* SMITH, K		RT 3 BOX 43	MUNCIE 47302
* SPRUCE MILL FARMS, INC.		RR 7 BOX 206	MARTINSVILLE 46151
* STRONG, D	BEARCREEK FARMS	R 1	BRYANT 47326
* TAYLOR, MJ		RT 1 BOX 151	CARBON, 47837

NAME	DOING BUSINESS AS	ADDRESS	CITY AND ZIP CODE
	INDIANA—Continued		
* TURNER, RK		RR 1 BOX 223	WALTON 46994
* UHL, J		RR3	PERU 46970
* VOLZ, MC		RR 2 BOX 430	PATFSVILLE 47006
* WARNER, J		2915 MORRIS AVE	TERRE HAUTE 47805
* WEBERDING, W		RT 3 BOX 117	BATFSVILLE 47006
* WISE, D		R 1 BOX 416	MUNCIE 47302
* ZOPPF, JRD		RS	ROCHESTER 46975
	IOWA		
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* BLAIR, JI	DEERLAND ZOO		LAKE PARK 51347
* DES MOINES CHILDREN'S ZOO		7401 SW 9TH ST	DES MOINES 50315
* ELDORA CITY PARK		1702 15TH ST	ELDORA 50627
* LYON COUNTRY CONSERVATION LEAGUE			ROCK RAPIDS 51246
* MUSCATINE PARK COMMISSION	WEED PARK ZOO		MUSCATINE 52761
* SEABOLD, J	SEABOLD ANIMAL FARM	VALLEY RD RT 1	KEOKUK 52632
	KANSAS		
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* ARTT SPANGH PARK & ZOO		BOX 215	GREAT BEND 67530
* CITY OF INDEPENDENCE	RALPH MITCHELL ZOO	RT 4	INDEPENDENCE 67301
* DAVIS, ARK	HAPPY HOLLOW ZOO	101 HAPPY HOLLOW LANE 300	FORT SCOTT 66701
* FARMER, LR	PRAIRIE DOG TOWN	I-70 & HWY 83	OAKLEY 67748
* LEE RICHARDSON ZOO	FINNUP ZOO	P.O. BOX 499	GARDEN CITY 67846
* LEONARD, RF		BOX 332	MANHATTAN 66502
* SEDGWICK COUNTY ZOOLOGICA L SOCIETY		5555 700 BLVD	WICHITA 67212
* TOPEKA ZOOLOGICAL PARK	GAGE PARK ZOO	635 GAGE BLVD	TOPEKA 66606
	KENTUCKY		
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* LOUISVILLE ZOO, GARDEN		1100 TREVILIAN WAY	LOUISVILLE 40213
	LOUISIANA		
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* ALEXANDRIA ZOOLOGICAL PAR K		PO BOX 71	ALEXANDRIA 71301
* AUDUBON PARK COMMISSION	AUDUBON PARK		NEW ORLEANS 70118
* BOESCH, M & BURROWS, LP	GUPPIES TO PUPPIES PET SHOP	5050 W ESPLANADE AVE-RAY E	METAIRE 70002
* CITY OF GRAND PRAIRIE		BOX11	GRAND PRAIRIE 75050
* CITY OF MONROE	LOUISIANA PURCHASE GARDENS & Z OO	P.O. BOX 123	MONROE 71201
* GREATER BATON ROUGE ZOO		PO BOX 458	BATON ROUGE 70821
* LEBLANC, RJ	CRITTER CORNER PET SHOP	PO BOX 458	CUT OFF 70345
* WHITE, G	ANIMAL LAND	RT 1 BOX 455	SLIDELL 70458
	MAINE		
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* ANIMAL FOREST PARK		BOX 404	YORK BEACH
* DEPT OF INLAND FISH & WIL D		284 STATE ST	AUGUSTA 04333
* FRASER, CH	LUDLOW BEAR FARM	RT 1	HOULTON 04730
* GALLOP, V	GALLOP'S ANIMAL RANCH	RFD 2	HOULTON 04730
* MCKENNA, E	RUMFORD ZOO	RT 2	RUMFORD POINT 04279
* MERRILL, CHE		RFD 2	LISBON FALLS 04252
* SEALAND OF CAPE COD INC.	AQUALAND	ROUTE 3	BAR HARBOR 04609
* SKIATCKI, J		S SAYWARD ST	KENNEBUNK 04043
	MARYLAND		
***			
* DAVIS, ERS	TRIO-D-FARM SUPPLY	PO BOX 325 RR STATION	PASADENA 21122
* ENCHANTED FOREST		10040 BALTO NATL PIKE	ELLICOTT CITY 21043
* HAHN, PA	CATOCTIN MOUNTAIN ZOO		THURMONT 21788
* HAHN, PA	COLUMBIA CHILDRENS ZOO	RT 3 BOX 126	THURMONT 21788
* HINKLE, J		1396 DUAL HWY	HAGERSTOWN 21740
* LEWIS, JI	BIG VALLEY RANCH	PO BOX 1156	PASADENA 21122
* SALISBURY ZOO		750 S. PARK DRIVE	SALISBURY 21801

NAME	DOING BUSINESS AS	ADDRESS	CITY AND ZIP CODE
	MASSACHUSETTS		
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* AQUARIAUM OF CAPE COD		RT 28	WEST YARMOUTH 02673
* BASSETT, HW	BASSETT WILD ANIMAL FARM	TUPHAM RD	BREWSTER 02631
* BLUE HILLS TRAILSIDE MUSEUM	COMMONWEALTH OF MASS M.D.C.	1904 CANTON AVE	MILTON 02186
* BOSTON MUSEUM OF SCIENCE		SCIENCE PARK	BOSTON 02114
* BUTTONWOOD ZOO		1208 PURCHASE ST	NEW BEDFORD 02740
* CAPRON PARK ZOO		COUNTY ST	ATTLEBORO 02703
* CHILDRENS MUSEUM		THE JAMAICA WAY	BOSTON 02130
* CITY OF PITTSFIELD	DEPT OF PARKS & RECREATION	874 NORTH ST	PITTSFIELD 01201
* CITY OF SPRINGFIELD	FOREST PARK ZOO		SPRINGFIELD 01108
* CITY OF WORCESTER	GREEN HILL PARK	455 MAIN STREET	WORCESTER 01608
* EDAVILLE CORP	MOHAWK TREE GIFT SHOP	BOX 7 RTE 5A	SOUTH CARVER 02366
* ESTES, KL		RT 2 MOHAWK TRAIL	SHELBURNE FALLS 01370
* FOREST PARK ZOO, SOCIETY		SOUTH GREETING RD	SPRINGFIELD 01108
* FRANK NEWHALL LOOK MEMORIAL PARK		300 N MAIN ST	NORTHAMPTON 01060
* FRANKLIN PK ZOO CONS			DORCHESTER 02121
* H.H.HERSTER CO INC		32 WEST ST	LAWRENCE 01842
* HAMPDEN COUNTY COMMISSIONERS	ROBERT COLE MUSEUM	50 STATE ST	SPRINGFIELD 01103
* HUBBARDSTON WILD ANIMAL FARM	MT WACHUSETT ANIMAL FOREST	BOX 51	HUBBARDSTON 01452
* JOHN SONS INC	SANTAS LOOKOUT	RT 114	MIDDLETON 01949
* MASS AUDUBON SOC			LINCOLN 01773
* NEW ENGLAND AC CORP		CENTRAL WHARF	BOSTON 02110
* SPRINGFIELD SCI MUS		236 STATE ST	SPRINGFIELD 01103
* TOWN OF NORTH ATTLEBORO	WORLD WAR I MEMORIAL PARK	ELMWOOD ST	N ATTLEBORO 02745
* WALTHAM PK & REC DEPT		314 TOTTEN POND RD	WALTHAM 02154
* WARDS NURSERY INC		610 SOUTH MAIN ST	GREAT BARRINGTON 01230
* WORCESTER SCIENCE CTR	WORCESTER NAT HIS SOC	222 HARRINGTON WAY	WORCESTER 01608
	MICHIGAN		
***			
* CITY OF DETROIT ZOO PARK DEPT		BOX 39	ROYAL OAK 48068
* DEER FOREST PARK INC			
* DEER PARK FUNLAND INC		BOX 817	COLOMA 49038
* METOF, K		8750 WHITEHALL RD	MUSKEGON 49445
* JOHN BALL ZOO, GDNS	GAME HAVEN	13750 SHIRE RD	WOLVERINE 49799
* PLANK ROAD FARM	CORBELL SEEDS INC	301 MARKET ST SW	GRAND RAPIDS 49502
			BRADLEY 49311
	MINNESOTA		
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* CALL OF THE WILD, INC		8908 THREE POINTS BLVD	MOUND 55364
* COOK, VAN	COLD SPRINGS 66		ORR 55771
* EAGLESTON, HRD		DEER VALLEY	WALKER 56484
* MOONMAYR, FAT	DEER FOREST	BOX 44	NISSWA 56468
* KLETTENBERG, CF & M		ITASCA STAR ROUTE	PARK RAPIDS 56470
* LABARGE, LRR	SMOKEY HOLLOW ANIMAL HAVEN	RT 1 BOX 59	CHISHOLM 55719
* LOSS, MT	TOTAL LOSS GAME FARM	RT 10 BOX 63	BRAINERD 56401
* MARKKANEN, P	10,000 SEA SHELLS	RT 1 BOX 282	EVELETH 55734
* POTAMI, D	RIVERSIDE INN		SIDE LAKE 55781
* ROLLIE WESTMAN ENT INC	WILDWOOD	ROUTE 1	CENTER CITY 55012
* TANK, THEGA	DEERLAND ENT	RT 7 BOX 11	BRAINERD 56401
* TYRIN, R	HIGH TOWN DEER PARK	RT 3 BOX 160	BEMIDJI 56601
* VALLEY PARK, INC		ONE VALLEYFAIR DR	SHAKOPEE 55379
	MISSISSIPPI		
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* BOELAND, MA	THE CABIN STORE	HWY 29-NORTH	WIGGINS 39577
* CITY OF HATTIESBURG	KAMPER PARK & ZOO	107-17TH AVE	HATTIESBURG 39401
* JACKSON ZOOLOGICAL PARK		2918 N CAPITOL ST	JACKSON 39209
* MARINE ANIMAL PRODUCTIONS INC		150 DEBUYS RD	BILOXI 39531
* MERIDIAN PARKS & RECREATION	MERIDIAN ZOO	PO BOX 4153	MERIDIAN 39301
	MISSOURI		
***			
* ACTION ADVERTISING CO.		2819 WILCOX RD.	POPLAR BLUFF 63901
* AFRICAN LION SAFARI INC		RR 1	LINN CREEK 65049
* ANHEUSER-BUSCH, INC.		721 PESTALOZZI ST	ST. LOUIS 63118
* CATHCART, C & R	OLMACDONALD FARM	HWY 71 SOUTH	KANSAS CITY 64132

NAME	DOING BUSINESS AS	ADDRESS	CITY AND ZIP CODE
	MISSOURI—Continued		
* JONES, D	ROARING ACRES ZOO RANCH	PO BOX 127	CAPE GIRARDEAU 63701
* KANSAS CITY ZOO	KANSAS CITY ZOO GARDEN	SWOPE PARK	KANSAS 64132
* KRUSE, M		RT 1 BOX 204	BLUE SPRINGS 64015
* SIX FLAGS OVER MID-AMERIC A INC		PO BOX 666	EUREKA 63025
* SPRINGFIELD PARK BOARD	DICKERSON PARK ZOO	1923 NORTH KELLER	SPRINGFIELD 65803
* ST. LOUIS ZOOLOGICAL PARK		FOREST PARK	ST. LOUIS 63110
	MONTANA		
***			
* THE TRAP INC	THE TRAP INC.	5850 HWY 2 EAST	COLUMBIA FALLS 59912
	NEBRASKA		
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* BOYKIN, GL	SILVER VALLEY ACRES KENNEL	P.O. BOX 276	EDGAR 68935
* CHILDRENS ZOO		2800 A ST	LINCOLN 68502
* CITY OF NORTH PLATTE		211 WEST 3RD ST	NORTH PLATTE 69101
* DETTENEYER OIL CO.			ALDA 68810
* HENRY DOORLY ZOO	RIVERVIEW PARK		OMAHA 68107
	NEVADA		
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* AUBAIN, CL		115 E WIGWAM	LAS VEGAS 89119
* AUGSPURG, C		6772 EASTERN AV	LAS VEGAS 89119
* DAVIS, J & BIRCHFIELD, W	BIG JOHN A STRONG CIRCUS	185 SERGEI	SUN VALLEY 89431
* DETRAY, G	MARQUIS CHIMPANZEES	2971 SANTA MARGARITA	LAS VEGAS 89102
* EVANS, K	CATS	5938 BARRY LA	LAS VEGAS 89119
* LEE, RJ		3660 LONG TREE LA	RENO 89511
* LEVINSON, ARR	RONNIE SPRINGS RANCH		BONNIE SPRINGS 89008
* SIEGFRIED & ROY		1639 NO VALLEY DR	LAS VEGAS 89108
* SPARKS NUGGET, INC.		PO BOX 797	SPARKS 89431
* VINICKY, J		3131 S JONES BLVD	LAS VEGAS 89114
* ZOOLOGICAL SOCIETY OF NEVADA	LAS VEGAS VALLEY ZOO	PO BOX 8036	LAS VEGAS 89106
	NEW HAMPSHIRE		
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* BALDT, L	ENCHANTED FOREST	RT SHOE DR	LACONIA 03246
* BENSON WILD ANIMAL FARM			HUDSON 03051
* BRADY, J	SIX GUN CITY	BOX 1	JEFFERSON 03583
* CLARK'S TRADING POST		BOX 76	NO. WOODSTOCK 03262
* FOX, R	THE FRIENDLY FARM INC	PO BOX 98	RUMLIN 03448
* FRANCIS, AR	CIRCUS TOWNE	RT 3	TWIN MT 03595
* LINWOOD INVESTORS, INC	NATURELAND'S FANTASY FARM	BOX 381	LINCOLN 03251
* MORRELL, P	STORYLAND, INC	PO BOX 8	N CONWAY 03860
* SANTA'S VILLAGE INC.		PO BOX 146	JEFFERSON 03583
* SQUAM LAKES SCIENCE CENTER			HOLDERNESS 03245
* WEIRS SPORT CENTER, INC	STORYBROOK FOREST	PO BOX 278	WEIRS BEACH 03246
	NEW JERSEY		
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* ANIMAL ACTORS INT INC		RD 3 BOX 221	WASHINGTON 07882
* ASHWORTH, JR		PO BOX 120	JACKSON 08527
* BERGEN CO. PARK COMM.	CADWALADER PARK	575 MAIN STREET	MACKENSACK 07601
* CITY OF TRENTON		CITY HALL E STATE ST	TRENTON 08608
* COMANZICK ZOO		CITY PARK	BRIDGETON 08302
* COLLINS, B		RT 23	OAK RIDGE 07438
* DAWN ANIMAL AGENCY, INC		CROSS RD	COLTS NECK 07722
* ESSEX COUNTY PARK COMM	TURTLE BACK ZOO	560 NORTHFIELD AV	W ORANGE 07052
* FALLON, REL	FALLONWAY	285 CLEAR STREAM RD	JACKSON 08527
* GIORDANO, SER		RD 1 BOX 109-F	FRANKLIN 07416
* HUNT, MT	HUNT'S CIRCUS	P.O. BOX 170	KENTON 19955
* JONES, RE		151 NO ANNAPOLIS AV	ATLANTIC CITY 08401
* MARASEK, JR		42 BROWNSTONE WAY	UPPER SADDLE RIVER 07458
* MCMILLAN, D		RT 1 OPP RD	ALLENTOWN 08501
* MIDDLESEX CO. DEPT OF PARKS & REC		PO BOX 601	NEW BRUNSWICK 08903
* MORGAN, R	ANIMALAND EXHIBITS	164 WESTMINSTER	ATLANTIC CITY 08401
* ROBINSON, R	BOUINK THE CLOWN	627 CAYUGA	PLEASANTVILLE 08232
* SILS, JR		PO BOX 123	ROBBINSTOWN 08505
* SOMERSET CO. PARK COMMISSION		PO BOX 837	SOMERVILLE 08876

NAME	DOING BUSINESS AS	ADDRESS	CITY AND ZIP CODE
NEW JERSEY—Continued			
* SPACE WILD ANIMAL FARM IN C		RFD 3 BEEMERVILLE RD	SUSSEX 07461
* TERRY, ETHEL	TERRY LOU ZOO	1451 RARITAN RD	SCOTCH PLAINS, 07070
* TOWN OF KEARNY			KEARNY 07032
* UNION COUNTY PARK COMM	TRAILSIDE NATSCI CTR	BOX 275	ELIZABETH 07207
* WHITCRAFT, JR	MONKEY BUSINESS	109 DELAWARE AV	MT HOLLY 08060
* WINTERS, R		23 AIMERLANE RD	UPPER SADDLE RIVER 07458
NEW MEXICO			
***			
* CITY OF ALBUQUERQUE	RIO GRANDE ZOOL PK	PO BOX 1293	ALBUQUERQUE 87103
NEW YORK			
***			
* ALL-TIME ANIMALS INC		37 W 57 STREET	NEW YORK CITY 10019
* ANIMAL LAND INC	ANIMAL LAND, INC	RD 2	GLEN FALLS 12801
* BARRA, JE		1721 ST. PAUL ST	ROCHESTER 14621
* BURNET PARK ZOO		412 SPENCER ST	SYRACUSE 13204
* CATSKILL GAME FARM INC	CATSKILL GAME FARM, INC	RD 1 BOX 92	CATSKILL 12414
* CHATEAU STABLES, INC.		608 W 48TH ST	NEW YORK 10036
* CINEMANS, INC.		736 BROADWAY	NEW YORK CITY 10003
* CITY OF MONROE	SENECA PARK ZOO	2222 ST PAUL ST	ROCHESTER 14621
* CITY OF NY, DEPT. PARKS,R EC & CUL AFF.	CENTRAL PARK ZOO	830 FIFTH AV	NEW YORK 10021
* CITY OF UTICA & UTICA ZOO SOC.		STEEL HILL RD	UTICA 13501
* CITY OF WATERTOWN	THOMPSON PARK ZOO	WASHINGTON ST	WATERTOWN 13601
* FANTASY ISLAND, INC		2400 ISLAND BLVD	GRAND ISLAND 14072
* FESS KJ & VOSLER SJ	HARMONSET BREEDING FARM	362 MOSLEY RD	ROCHESTER 14616
* FRONTIER TOWN PROD., INC			NO HUDSON 12855
* FULTON-DARBY, INC		353 W 56TH STRN	NEW YORK 10019
* GARLER, JM	FT.RICKEY GAME FARM	808 NO GEORGE ST	ROME 13440
* GILLETTE, AE	MAGIC FOREST	151 SAMPSON PKWY	PITTSFIELD 01201
* HERMAN'S NURSERY, INC.	HERMAN'S NURSERY, INC	660 DUTCHESS TNPK	POUGHKEEPSIE 12603
* HIRES, DM		171 SO PORTAGE ST	WESTFIELD 14787
* KELLY, J	KELLY'S CHIMPANZEES	77 CLAYWOOD DR	BRENTWOOD 11717
* KINGSTON RECREATION COMM	FORSYTH PARK ZOO	467 BROADWAY	KINGSTON 12401
* LEROY, W	GREAT ADVENTURE	320 E 65TH ST	NEW YORK 10021
* LONG ISLAN GAME FARM, INC		CHAMPMAN BLVD	MANORVILLE 11949
* LOOMYS, LJ	ROSS PARK ZOO	BOX 1513	BINGHAMTON 13902
* MILLBROOK SCHOOL		MILLBROOK SCH RD	MILLBROOK 12545
* MOREAU, MM	JOY & THE MOREAU BOYS	1807 18TH ST	NIAGARA FALLS 14305
* MUS. OF THE HUDSON HIGH		THE BOULEVARD	CORNWALL-ON-HUDSON 12520
* NEW YORK ZOOLOGICAL SOC		185TH STSOUTHERN BLVD	BRONX 10460
* OPPENHIEM ZOO SOC OF NIAG ARA CO INC		2697 NIAGARA FALLS BLVD	NIAGARA FALLS 14304
* PALISADES INTERSTATE PARK COMM	BEAR MOUNTAIN TRAILSIDE MUS		BEAR MOUNTAIN 10911
* POPOLIZIO, GR		RT 1	HOLMES 12531
* RIX, A	RIX PERFORMING BEARS	RD 1	MIDDLETOWN 10940
* ROSH, R		BOX 3	WAVERLY 14892
* SARO, D		RT 44 BOX 181	AMENIA 12501
* SANTA'S WORKSHOP,INC			NORTH POLE 12966
* SERGENT, D		RT 44 BOX 181	AMENIA 12501
* SNYDER'S DARIEN LAKE		9993 ALLEGHENY RD	CORFU 14036
* STATEN ISLAND ZOOLOGICAL SOC.	STATEN ISLAND ZOO SOC	614 BROADWAY	STATEN ISLAND 10310
* STEINHERR, S		RR 1 BOX 152	WINDHAM 12496
* STERLING ALASKA FUR & GAM E FARM INC		17 SARANAC AV	LAKE PLACID 12946
* VETT, JM	CANDY CANE VILLAGE	1945 EDEN EVANS RD	EDEN 14057
* VITABEL, ABJ		RR 1 BOX 251	WINDHAM 12496
* WILDCLIFF NATU. SCI CTR		WILDCLIFF RD	NEW ROCHELLE 10805
* WOOD, CR	STORYTOWN USA	BOX 511	LAKE GEORGE 12845
* ZOOLOGICAL SOCIETY OF BUF FALO INC		BUFFALO ZOO GAR.	BUFFALO 14214
NORTH CAROLINA			
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* CAROMINDS	FAMILY LEISURE CENTERS	PO BOX 15514	CHARLOTTE 28210
* CITY OF ASHEVILLE	NATURE CENTER	GASHES CREEK ROAD	ASHEVILLE 28805
* HOFF, W	NO CAROLINA ZOO PARK	RT 4 BOX 73	ASHEBORO 27203
* JETT, CE	JETT'S PETTING ZOO	1200 WEST RD	KINSTON 28501
* JOHNSON, SR, CH		BUFFALO RD RT 3 BOX 864	SMITHFIELD 27577
* RITTER, T & C	SOCO GARDENS	RT 1 BOX 355	MAGGIE VALLEY 28751
* TOMS, I	RUTHERFORD CO ZOO	RT 3 BOX 306	FOREST CITY 28043
* TREGEMBO, GRJ	TOTE-EM-IN-ZOO	5845 CAROLINA BCH RD	WILMINGTON 28401
* TRUESDELL, T	VICTOR PROMOTIONS	P.O. BOX 795	CHEROKEE 58715
* WERTHEIMER	THE DEER FARM	PO BOX 7	DEEP GAP 28618

NAME	DOING BUSINESS AS	ADDRESS	CITY AND ZIP CODE
NORTH DAKOTA			
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* CHAMINKAPA ZOO ASSO	CHAMINKAPA ZOO	BOX 101	WAMPETON 58075
* DAKOTA ZOOLOGICAL SOCIETY , INC.	DAKOTA ZOO	PO BOX 711	BISMARCK 58501
* GOLD SEAL CO MEDORA DIV	MEDORA ZOO		MEDORA 58645
* ROOSEVELT PARK ZOO	MINOT PK DISTRICT	BOX 538	MINOT 58701
* SPRING LAKE ZOO	WILLISTON PK DIST	BOX 1306	WILLISTON 58801
OHIO			
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* BISCHOFF RJ	HIGHWAY ANIMAL FARM	RT 1 BOX 97A	ADA 45810
* CITY OF AKRON PARKS & REC BUREAU	AKRON CHILDRENS ZOO	1436 TRIPLETT BLVD BLG 1A	AKRON 44306
* CITY OF COLUMBUS	COLUMBUS ZOO		COLUMBUS 43215
* CULLISON, K		1949 KIM DR	AKRON 44312
* DIAMOND K DONKEY BALL CO		R 1	WAPAKONETA 45895
* DONGE, EC	GORDANS AMUSEMENTS	PO BOX 104	BURTON 44021
* EGGERS, DG	MOTHER NATURES MENAGERIE	695 WEBER AVENUE	AKRON 44303
* FALLIN, AJ	A-1 DONKEY BALL CO	BOX 159	UNIOPOLIS 45888
* HOSKINSON, SP	HOSKINSON'S ANIMALS OF DISTINC TION	4 HOMESTEAD	SEVILLE 44273
* LAGOON DEER PARK INC	LAGOON DEER PARK INC	1502 MARTIN'S PT RD	SANDUSKY 44870
* LAWYER, JERLA		175 ELM ST	ANDOVER 44003
* LIPKO, COL. J	LIPKO'S CHIMPS	PO BOX 113	SEVILLE 44273
* LONG, MH		1342 HOME AVE	AKRON 44310
* METROPARKS ZOOLOGICAL PAR K	BROOKSIDE PARK	BOX 09000	CLEVELAND 44109
* SAUDER MUSEUM			
* SEDIVY, R		R 2	ARCHBOLD 43502
* SEELEY, DV	LION WRECKING YARD	252 SPRINGDALE LANE	MORELAND HILLS 44022
* TAFT BROADCASTING CO.	KINGS ISLAND	PO BOX 314	LISBON 44432
* THE HIRAM HOUSE		BOX 400	KINGS MILLS 45034
* THOMAS, C		33775 HIRAM TRAIL	CHAGRIN FALLS 44022
* TOLEDO ZOO GARDENS		RT 2	CIRCLEVILLE 43113
* WILLIAMS, BE		2700 BROADWAY	TOLEDO 43609
* ZOO SOC OF CINCINNATI		955 N STATELINE RD	SHARON 16146
		3400 VINE ST	CINCINNATI 45220
OKLAHOMA			
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* BARREDA, J		PO BOX 381	EDMOND 73034
* CITY OF ALVA ZOO		415 4TH ST	ALVA 73717
* CITY OF OKLAHOMA CITY	OKLAHOMA CITY ZOO TRUST	RT 1 BOX 1	OKLAHOMA CITY 73111
* GADIENT, DF	DRIPPING SPRINGS SAFARI	RT A	STROAM SPRINGS 72761
* MILLER, DR	CARSON & BARNES CIRCUS	PO BOX J	HUGO 74743
* TULSA ZOO PARK		5701 E 36TH ST, NO	TULSA 74115
* WARD, R		RT 1 BOX 110	LOCUST GROVE 74352
OREGON			
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* CITY OF KLAMATH FALLS	MOORE PARK	226 S FIFTH ST	KLAMATH FALLS 97601
* FIBER, R	NEMANA RANCH WILDLIFE PRES.		SILETZ 97380
* FRITSCHMANN, OJ	WOODLAND DEER PARK	27893 REDWOOD HWY	CAVE JUNCTION 97523
* HOLLAND, LD	DEERLAND PARK	BOX 77	CHILDOUIN 97624
* INDIAN FOREST INC		ROUTE 1 BOX 654	FLORENCE 97439
* J&J INVESTMENTS INC	CANDYLAND CIRCUS	204 SW YAMHILL	PORTLAND 97204
* JACOBS, JR., T	ANIMAL ACTORS RANCH	RT 4, BOX 652	GRESHAM 97030
* KARAT, RG	WASHINGTON PARK ZOO	13260 HWY 238	JACKSONVILLE 97530
* METROPOLITAN SERVICE DIST RICT		4001 SW CANYON RD	PORTLAND 97221
* ORGAN GRINDER INC	BISON-TEN-YAL ZOO	1303 SW 16TH AVE	PORTLAND 97201
* SCHROEDER DJ & HURD R	OPERATION SANTA CLAUS	175 MT VIEW DRIVE	EUGLUE 97001
* TROUTMAN, R	WEST COAST DEER PARK	90434 HILL RD	SPRINGFIELD 97477
* WEST COAST DEER PARK INC		RT 1, BOX 1330	BRANDON 97411
* WORLD SAFARI, INC	J.Z. REINDEER RANCH	PO BOX 600	WINSTON 97496
* ZUMSTEIN, J&D		11480 W HWY 126	REDMOND 97756
PENNSYLVANIA			
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* ACDMY OF NAT SCIENCES		19TH & THE PARKWAY	PHILADELPHIA 19103
* ALLEGHENY CY PK RE CN		345 COUNTY OFF BLDG	PITTSBURGH 15219
* ANIMAL GARDENS		HERSHEY PARK	HERSHEY 17033
* ANIMAL KINGDOM TALENT BER VICE		RD 2 BOX 61	TIOGA 16946
* BLUMAUGH, CR	TWIN DRIVE IN	RT 1 BOX 311	WAYNESBORO 17268
* BODINE, SR., GS	ANIMALAND	RD 6 BOX 225	BELLSBORO 16901
* BOR OF NORRISTOWN	ELMWOOD PK ZOO	235 EAST AIRY ST	NORRISTOWN 19401

NAME	DOING BUSINESS AS	ADDRESS	CITY AND ZIP CODE
	PENNSYLVANIA—Continued		
* BREEDMORE INTERNATIONAL LTD		HWY 434	SHOMOLA 18458
* BRUBAKER, RM			MANHEIM 17545
* BUTTON, DE	BUTTONS PRE X-MAS SANTA CLAUS SER	PENRYN RD RD 1	MILLERTOWN 16936
* CITY OF SCRANTON	MAY AUG PARK ZOO	CITY HALL	SCRANTON 18510
* CLYDE PEELING'S REPTILAND LTD		BOX 66	ALLENTOWN 17810
* CORNELL, JR., PA			WARREN 16365
* DAVIS, RI		20 RIVERSIDE DR	WASHINGTON 15301
* DEMAROSKY, MP		36 BRADDOCK DR	NAZARETH 18064
* ERIE ZOO SOC		RD 3 BOX 323	ERIE 16508
* EXHIBITS INC		653 SHUNPIKE RD	ALLENTOWN 18108
* FAIRYLAND FOREST		DORNEY PARK ZOORAMA	CONNEAUT LAKE PK 16316
* FANTASYLAND, INC			GETTYSBURG 17325
* FOREST ZOO INC		RD 1,RT 134 SO	ASHVILLE 16613
* FORKER, T		RD BOX 79	TIONESTA 16353
* FUNCK, RS		STAR RT 3	ANNVILLE 17003
* GREGG, PP		BOX 309	BRADFORD 16701
* HALL, V	KLONDIKE GIFT SHOP	KINZUA HTS	HAMLEY 18828
* HARRY M STEVENS INC	CLAWS & PAWS WILD ANIMAL FARM	206 MAPLE AV	NEW YORK 10017
* HAVERSACK, MC	BUSHKILL FALLS	521 FIFTH AV	HYDE 16843
* HEASLEY, JE			LEWIS RUN 16738
* HILTS, LR	HEASLEY'S TRADING POST	RD 1	MIDDLEBURY CENTER 16935
* HOCK, R		RD 2	BLOOMSBURG 17815
* HOLLER, J	PEACOCK CNR GAME FARM	RD4	EASTON 18042
* HOLMBERG, MC	DEER STOP	RD 1	LIGONIER 15658
* KIRACOFE, JM	FRONTIER ZOO	BOX C	BOILING SPRINGS 17007
* KISER, LL	BOILING SPG ZOO	RD 1	CAIRNBROOK 15924
* KISTLER R	KISER WILDLIFE RANCH	RD 1 BOX 117	E WATERFORD 17021
* LEHMAN, HM &FM		RD 1	ULYSSES 16948
* MARCONI, INC	BLACK FOREST TRADING POST	RD 1 BOX 130	DINGMAN'S FERRY 18328
* MAYES, GT		WILD ACRES LAKES	ANTES FORT 17720
* MCDANIEL,JM	GT MAYES DEER PARK	BOX 25	MELLAN BRANCH 17806
* MCINTOSH, RT	JIM MACK'S ICE CREAM	RD 11	COVINGTON 16917
* MEALY, RF	BIRDLAND PARK	RD 1 BOX 326	TIONESTA 16353
* MERCERBURG SPORTSMENS ASS N.,INC.	LAKE LUCY PARK	RD 1 BOX 121	MERCERSBURG 17236
* MONTGOMERY CO COMM		BOX 33	NORRISTOWN 19404
* MOON VALLEY PK INC	UPPER SCHUYLKILL VALLEY FARM PK	AIRY & SWEDE STS	MILFORD 18337
* MORRISON, PN			TIONESTA 16353
* MOUNT AIRY LODGE	MORRISONS GROCERY STORE	RR 1 BOX 50	MT POCONO 18344
* NO AMER OPERATING CO		RT 1 BOX 19	E BERLIN 17316
* POCONO SNAKE COUNTRY INC			MARSHALLS CREEK 18335
***		PO BOX 181	
* POCONO WILD ANIMAL FARM, INC.		PO BOX 238	STROUDSBURG 18360
* PYMATUNING DEER PK		RD 1	
* RICE SR, DN	STEVE'S WESTERN & TACK SHOP	RD 2 BOX 397 HWY 58	JAMESTOWN 16134
* ROSATRE FAMILY		RD BOX 382	BEDFORD 15522
* STILLS, C		9590 PEACH ST	WATERFORD 16441
* SIMPSON, RR		185 GRANDVIEW RD	CENTRE HALL 16828
* STORY BOOK FOREST, INC		R 5	GETTYSBURG 17325
* THE PITTSBURGH ZOO	LAKE TOBIAS & ANIMAL HAVEN	BOX F	LIGONIER 15658
* TOBIAS, SR., ER		CITY-COUNTY BLDG	PITTSBURGH 15219
* TREXLER LEHIGH CO COMM		RD 4	MALIFAX 17032
* UNION CO CLUB, INC		455 HAMILTON ST	ALLENTOWN 18105
* WAMPLER, GR	WAMPLERS WILD ANIMALS	RD 1	MILLMONT 17845
* WAYNESBORO FISH & GAME PROT ASSOC INC		RD 2 BOX 358	ANNVILLE 17003
* WEAVER, IS		PO BOX 368 RT 5	WAYNESBORO 17268
* YEAGLE, NG	CHUKAR HILL WILD ANIMAL		
* YOUNG, L	ANIMAL PARADISE	RD 1 BOX 883	EAST EARL 17519
* YOUNG, RC	STORYLAND	3020 PENNA AV W	WARREN 16365
* ZIMMERMAN, RJ			SCHELLSBURG 15559
* ZOOLOGICAL SOC OF PHILADELPHIA	GETTYSBURG GAME PK	RD1 BOX 81	NICHOLSON 18446
		RD 1	FAIRFIELD 17320
		38TH ST & GIRARD AV	PHILADELPHIA 91104
	RHODE ISLAND		
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* CITY OF PAWTUCKET		137 ROOSEVELT AVE	PAWTUCKET 02860
* CITY OF PROVIDENCE	SLATER MEMORIAL PARK ZOO		PROVIDENCE 02905
* RECORDS, LM	ROGER WILLIAMS PARK ZOO	RT 13A	WYOMING 02898
* ROCKY POINT AMUSEMENTS, INC	RECORDS BROS SHOWS		WARWICK 02889
	SOUTH CAROLINA		
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* COLLINS, RH	CIRCLE C AN FXH	RT 1	CAMPOBELLO 29322
* COLUMBIA ZOOLOGICAL PK		PO BOX 1183	COLUMBIA 29202

NAME	DOING BUSINESS AS	ADDRESS	CITY AND ZIP CODE
	SOUTH DAKOTA		
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* ABERDEEN PKS & REC DEPT	WYLIE PARK ZOO	MUNICIPAL BL	ABERDEEN 57401
* BEAR COUNTRY USA		R 2 BOX 620	RAPID CITY 57701
* CITY OF WATERTOWN	BRAMBLE PARK ZOO		WATERTOWN 57201
* GREAT PLAINS ZOO		224 W 19TH ST	SIOUX FALLS 57102
* HOLM, JC		615 E DAKOTA AVE	PIERRE 57501
* JOHNSON, CJ	JOHNSON FARM	4109 THUNDERBIRD TRAIL	SIOUX FALLS 57103
	TENNESSEE		
***			
* CITY OF KNOXVILLE	KNOXVILLE ZOOLOGICAL PARK	CITY HALL PARK	KNOXVILLE 37901
* CUMBERLAND MUS. & SCI. CENTER		800 RIDLEY AVE	NASHVILLE 37203
* HANNA JR-LANGYN INC	BABY ANIMAL KINGDOM		
* LIBERTYLAND (MID-SOUTH FAIR)	ANIMAL PALS PETTING ZOO	ROUTE 317 EXECTIVE PARK DRIVE	KNOXVILLE 37919
* MILLS, R		PO BOX 18808	MEMPHIS 38118
* OPRYLAND USA		RT 1	ROCKWOOD 37854
* OVERTON PK ZOO & AQUAR		PO 2138	NASHVILLE 37210
* RUCKER, M	RUCKERS UNCAGED LEOPARD		MEMPHIS 38112
* SORELL, P	RUCK SORELL ENTERPRIZES INC		WATERTOWN 37188
* TALLEY, CR	TENN-ALABAMA GIFT SHOP	850 LOUISVILLE HWY	GOODLETTSVILLE 37072
* TYTLANDSVIK, L & PETERSON, L	TENN GAME FRM	PO BOX 27	S. PITTSBURG 37380
		R 2 BOX 192	JOELTON 37080
	TEXAS		
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* AMARILLO PKS REC DIV	AMARILLO STORY ZOO	PO BOX 1971	AMARILLO 79106
* CALDWELL SCHOOLS INC		PO BOX 428	TYLER 75701
* CENTRAL TX ZOO & BOT SOC		RT 10 BX 173 E	WACO 76708
* CITY OF DALLAS	DALLAS ZOO	621 E CLARENDON DR	DALLAS 75203
* CITY OF LUFKIN	ELLEN TROUT PARK ZOO	PO BOX 190	LUFKIN 75901
* CRAWFORD, RC	SLATON ZOO	107 N 9TH	SLATON 79364
* DAILEY BROTHERS CIRCUS		PO BOX 613	GONZALES 78629
* EL PASO ZOOL PARK	EL PASO 79905	EVERGREEN & PAISANO	EL PASO 79905
* FRANK BUCK MEMORIAL ZOO			GAINESVILLE 76240
* FT WORTH ZOOL PK		2727 ZOOL PK DR	FORT WORTH 76110
* GLADYS PORTER ZOO		500 RINGGOLD ST	BROWNSVILLE 78520
* HIX, RM & MORROW, FM	SNAKES ANIMALS & THINGS	RT 4 BOX 4384T	BELTON 76513
* HOUSTON ZOOL GARDENS		PO BOX 1562	HOUSTON 77001
* LYNCH, C	GATOR'S ISLAND	STAR RT 1 BOX 624 A	ROCKPORT 78382
* MANTZEL, T	WATERFALL RANCH	2500 FT WORTH NATIONAL BANK BLDG	FT WORTH 76102
		5405 EAST BELKNAP	HALTOM CITY 76117
* MORROW, JF		3903 N ST MARY'S ST	SAN ANTONIO 78212
* SAN ANTONIO ZOOLOG SOC	SAN ANTONIO ZOO GARAG	PO BOX 3068	GALVESTON 77551
* SEA ARAMA MARINEWORLD		110 MEMORIAL DR	VICTORIA 77901
* SOUTH TEXAS ZOOLOGICAL SOCIETY	TEXAS ZOO		
* SPRING LAKE PARK ZOO		PO BOX 1967	TEXARKANA 75501
* TESKA, J	SNAKE FARM	RT 6 BOX 887	NEW BRAUNFELS 78130
* TOWN OF PECOS CITY		PO BOX 929	PECOS 79772
* WALKER, ME	ZOOLAND PETTING ZOO	PO BOX 3704	ODESSA 79760
* WILD ANIMAL INTERNATIONAL		RT 5 BOX 22	BRYAN 77801
	UTAH		
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* ADAMAC FILM PROD LTD		BOX 200	OAKLEY 84055
* CITY OF LOGAN	WILLOW PARK ZOO	PO BOX 527	LOGAN 84321
* DAVIS, T	NO AMERICAN WILDLIFE FARM	BOX 325	LEHI 84043
* GLEDHILL, J	BIG ROCK CANDY MT RESORT		MARYSVALE 84750
* HOGLE ZOOLOGICAL GARD		PO BOX 8475	SALT LAKE CITY 84108
* LAGOON CORP	WILD KINGDOM TRAIN	PO BOX N	FARMINGTON 84025
* SUN INTL MOV AN HAVEN		BOX 231	SPRINGDALE 84767
* WASATCH WILDLIFE		RT 1 BOX 648A	HEBER CITY 84032
	VERMONT		
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* SANTA'S LAND INC.		RT 5	PUTNEY 05346
* TRUSTEES, VT VETS HOME		325 NORTH ST	BENNINGTON 05201
	VIRGINIA		
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* CITY OF HAMPTON	BLUE BIRD GAP FARM		HAMPTON 23669
* CITY OF NORFOLK	LAFAYETTE ZOOLOGICAL PARK	3500 GRANBY ST	NORFOLK 23501

NAME	DOING BUSINESS AS	ADDRESS	CITY AND ZIP CODE
		VIRGINIA—Continued	
• CITY OF STAUNTON		P.O. BOX 58	STAUNTON 24401
• G.S. COLEMAN CO., INC		914 MAIN ST	LYNCHBURG 24505
• KINGS MOUNTAIN		RFD 160	DOSWELL 23047
• MARMONT FOUNDATION		1700 HAMPTON ST	RICHMOND 23220
• MILL MOUNTAIN ZOO, INC.		PO BOX 13048	ROANOKE 24038
• NATURAL BRIDGE ZOOLOGICAL PARK	NATURAL BRIDGE ZOO	BOX 117	NATURAL BRIDGE 24578
• PENINSULA NATURE & SCIENCE CENTER		582 J. CLYDE MORRIS BLVD	NEWPORT NEWS 23601
• PET-A-PET FARM PARK INC		1228 HUNTERMILL RD	VIENNA 22180
• WAITSMYER, RD	ALL STAR ANIMAL ATTRACTIONS	PO BOX 142	TROUTVILLE 24175
• WILSON, SH	WILSON'S PET FARM	RT 1 BOX 272-A	WINCHESTER 22601
		WASHINGTON	
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• BETTS, B		36201 KIT CORNER RDS	FEDERAL WAY 98003
• DAILY, ME		N7120 SMITH	SPOKANE 99207
• LORD MOIR FOUNDATION	LORD LAND USA	PO BOX 340	GARDINER 98334
• METRO PARK DIST TACOMA	POINT DEFIANCE ZOO	POINT DEFIANCE PK	TACOMA 98407
• NIEMELA		RT 1 BOX 838A	SEQUIM 98382
• NORTHWEST TREK			EATONVILLE 98328
• OLYMPIC GAME FARM		RT 3 BOX 903	SEQUIM 98382
• PEDERSEN, D		PO BOX 26	GRAHAM 98338
• WOODLAND PARK ZOOLOGICAL GAR		5500 PHINNEY AVE N	SEATTLE 98103
		WEST VIRGINIA	
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• CROSIER, JW	MARKS WEST ZOO		AMSTEAD 25812
• RICE, JM	PONDEROSA ZOO	RT 2 BOX 108	PATNFILE 25962
		WISCONSIN	
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•	LACROSSE COUNTY FARM	WEST SALEM ROD & GUN CLUB	WEST SALEM 54669
• BLOM, ME	FINN'S INN	RT 2 BOX 273F	LADYSMITH 54848
• CARLINO, CJ		RT 2	OXFORD 53952
• CARSON INTERNATIONAL INC	HONEY BEAR FARM		POWERS LAKE 53159
• CHEVIER, MF	CHEVERIER'S BAIT SHOP	RT 5 BOX 85	CHIPPEWA FALLS 54729
• CITY OF MARSHFIELD	WILDWOOD PARK & ZOO	112 E 2ND ST	MARSHFIELD 54449
• CITY OF OSHKOSH		215 CHURCH AVE	OSHKOSH 54901
• CITY OF RACINE	RACINE ZOOLOGICAL PARK	2131 N MAIN ST	RACINE 53402
• CITY OF WISCONSIN RAPIDS MUN ZOO		211-12TH AVE SOUTH	WISCONSIN RAPIDS 54494
• DAVID A HELLMAN FOUNDATION, INC	RANCH PETTING ZOO	PO BOX 502	MENOMONEE FALLS 53051
• FAWN-DOE-ROSA			ST. CROIX FALLS 54024
• FRANZEN N		RT 1, BOX 195	RIPON 54971
• HANSEN, RH	FAWN DUE RUSH	BOX 328	ST CROIX FALLS 51624
• HENRY VILAS PARK ZOO		500 SO RANDALL AVE	MADISON 53715
• HINDERMUTZ, M & PFEIL, J R, R		GLEN FLORA 54526	RACINE 53406
• IRVINE PARK ZOO	CITY OF CHIPPEWA FALLS	JEFFERSON AVE	CHIPPEWA FALLS 54729
• TSENRING, LRD	BLACKHAWK RIDGE	PO 92	SAUK CITY 53583
• JO-DON FARMS INC		1834 E OAKWOOD ROAD	OAK CREEK 53154
• JOHNSON, LO		106 HIGHLAND AVE	HARTLAND 53029
• JOHNSON, N		RT 2	POYNETTE 53955
• LAKESIDE PARK ZOO	RAMHILAND	74 EAST 2ND ST	FOND DU LAC 54935
• LAYMAN, MRS		BOX 694	MERCER 54547
• MILWAUKEE COUNTY ZOO		10001 WEST BLUEMOUND RD	MILWAUKEE 53226
• NELSON, AC		233 KEDZIE ST	MADISON 53704
• OCHSNER PARK		903 PARK ST	BARABOO 53913
• POWERS, R	P.A.W.S.	15393 N GRANGE AVE	NEW BERLIN 53151
• SETDON, A	MURRY HILL ENTERPRISES	RT 5 BOX 9	BURLINGTON 53105
• WARDONNET ZOO INC		STAR RT-BOX 69	HAZELHURST 54531
• WETSEN, A		RT 3	HAYWARD 54843
• WILKINSON GIFT SHOP INC			WASCOTT 54890
		PUERTO RICO	
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• AMADOR, EJ	EL AROA DE NOE	BOX 93	QUEBRADILLAS 00782
• CONGREGACION MITA, INC		CUARTE ST235	HATO REY 00917
• FAMILANDIA INC	MINI-ZOO	PO BOX 633	YAUCU 00768
• HERNANDEZ, JV	KIMMA SHOP	BOX 171	MOCA 00716
• LEONELLI, PD		905 ALONDRA ST	RIO PIEDRAS 00924
• MARCAN, CM		RTA 13TH AVE	GREEN BAY 54308
• MUNICIPAL ANIMAL PARK		BOX 1345	CAROLINA 00630
• OCEAN LIFE PARK AQUARIUM		MOCA DE CANGREJOS	SAN JUAN 00914
• RIVERO, EV	MINIPARQUE DANTARI	RIZON M-32	JAYUYA 00668
• SAFARI PARK INC		BOX 777	RAYAMON 00619

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federal register

TUESDAY, MARCH 7, 1978
PART III

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

POLICY TOWARD RAIL TRANSIT

[4910-57]

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

POLICY TOWARD RAIL TRANSIT

AGENCY: Urban Mass Transportation Administration, Department of Transportation.

ACTION: Statement of policy.

SUMMARY: This Statement is issued to clarify the Department's policy toward urban rail transit investments and to furnish applicants and the public with a more explicit statement of principles and procedures governing the evaluation and award of Federal grants for the design and construction of rail transit facilites.

EFFECTIVE DATE: March 7, 1978.

FOR FURTHER INFORMATION CONTACT:

C. Kenneth Orski, Associate Administrator for Policy and Program Development, Urban Mass Transportation Administration, 400 Seventh, SW., Washington D.C. 20590.

SUPPLEMENTARY INFORMATION: On September 22, 1976 the Department issued a Statement of Policy outlining the considerations and procedures it intended to follow in approving grant awards for the design and construction of major mass transportation investments (41 FR 41512). The aim of those guidelines was to improve the quality of the local transit planning process and to promote the development of soundly conceived, cost-effective and economically viable fixed guideway transit systems.

To this end, the policy statement promulgated an "alternatives analysis" requirement and set forth certain principles that should guide the planning and design of major transit projects. Key among these principles was the requirement to consider combinations of transit modes and technologies appropriate to the needs of specific corridors; the need to plan and construct fixed guideway systems incrementally; and the need to support new facility construction with complementary transportation system management (TSM) actions.

Since the issuance of the policy statement the Department has adopted a nunber of additional principles and procedures aimed at ensuring the sound conception and execution of Federally-aided rail transit projects. These principles and procedures are contained in the following supplementary Statement of Policy. It is hoped that the publication of this statement will contribute to a better public understanding of the Federal position on rail transit and serve to convey the Department's resolve to promote the future development of this mode in an orderly, effective and prudent manner.

Issued on: February 28, 1978.

BROCK ADAMS,
Secretary.

RICHARD S. PAGE,
Urban Mass Transportation Administrator.

POLICY TOWARD RAIL TRANSIT

For purposes of this policy statement "rail transit" means all forms of rail passenger transportation serving metropolitan areas. It includes "rail rapid transit", "light rail" and "commuter (or regional) rail" technology operating on surface, elevated or subsurface rights-of-way. The definition excludes busways and "people movers" or other types of automated guideway technolohy (AGT), although similar rigorous standards are also applicable to those investments.

"Rail lines" means both extensions to existing metropolitan rail systems and initial segments of new urban or metropolitan rail systems.

I. THE RATIONALE FOR FEDERAL SUPPORT OF RAIL TRANSIT

Rail transit possesses certain qualities and attributes which make it suitable in certain circumstances and inappropriate in others. Thus:

Rail transit is a highly efficient carrier of large numbers of people, and in heavily traveled corridors it is a cost-effective transportation solution. However, the number of such corridors is limited. They are likely to be found mostly in densely populated cities that possess well-defined core areas containing large concentrations of employment and retail activities. In the newer metropolitan areas that have grown in the past fifty years and have been shaped by highways, travel patterns are more diffuse and fewer trips begin or end in the city center. These cities are likely to have fewer corridors whose traffic density is sufficient to warrant rail transit service. Nationwide, therefore, there is a fairly well-defined limit to the number of rail projects that could be justified as meritorious and deserving of Federal support in the foreseeable future.

Rail transit can vary considerably in the type and level of service, performance capabilities, design characteristics and costs. While rapid transit or commuter rail service can be justified only in very intensively used corridors, light rail transit could be an appropriate solution in corridors at the lower end of the traffic density spectrum.

Careful, site-specific planning and analysis is, of course, necessary to determine whether rail transit is warranted and, if warranted, what type of rail technology and service is most appropriate.

Rail transit can be a supportive tool of urban revitalization. When properly coordinated with land use planning and real estate development, rail investment can help rejuvenate declining core areas, increase the city's tax base, create a more attractive investment climate and promote a more efficient, livable urban environment. For older urban centers rail transit can thus be part of a strategy to arrest center city decline and stimulate economic recovery. For newer, auto-based cities, on the other hand, with multiple growth centers scattered throughout the metorpolitan area, an efficient bus system may be the most effective means of maintaining urban mobility and a healthy urban economy.

Rail transit has a demonstrated capacity to influence patterns of development and foster more intensive uses of land. Many decades after streetcars went out of existence one can still trace their routes by the higher density corridors they created, often from undeveloped land. While today rail facilities are less effective in shaping land use, because automobiles have given people much greater freedom to live and work where they choose, evidence shows that, when supported by appropriate zoning policies and development incentives, rail transit can still exert a strong shaping influence on the patterns of urban growth. To the extent that it can foster higher density, clustered development, rail transit can be a means to more efficient forms of urban settlement and an instrument of long range energy conservation efforts.

In short, rail transit is and will continue to be a valuable form of urban transportation in selected circumstances, provided that local public and private leaders and interests recognize and learn to exploit its unique contributions. In particular, rail transit should be viewed as part of a strategy to promote broader national purposes. Its effectiveness should be measured not just in terms of its ability to move people, but in terms of its positive influence on the urban economy and on the long term patterns of urban growth. Specifically, rail transit can help in our nation's efforts to revitalize distressed cities and prepare the way for a gradual transition to an energy-constrained future.

In light of the above, the Department intends to pursue the following policy toward rail transit investment:

The Department will continue to finance the construction of new rail lines and extensions to existing rail systems in those urban corridors whose population densities, travel volumes and growth patterns indicate a need for high-capacity, high-performance mass transportation service. In making decisions on initial rail segments, preference will be given to corridors serving densely populated central portions of metropolitan areas, including central cities and close-in suburbs.

Preference will also be shown to metropolitan areas which view rail transit investment as part of a long-term regional strategy to protect the environment, conserve energy, promote urban economic development and support orderly patterns of metropolitan growth.

Localities building or planning to build new rail lines or extensions to existing systems with Federal assistance will be required to commit themselves to (1) the development of a financial plan to meet capital and operating expenses; and (2) a program of local supportive actions to enhance the project's cost-effectiveness, patronage and prospect for economic viability. Such actions may include: zoning and other incentives that stimulate private real estate development around transit stations; provision of coordinated feeder services and adequate parking facilities at transit stations to expand the service area of the rail system; local land use plans and policies that are compatible with the objectives of the rail investment; and pricing and regulatory measures designed to manage automobile use during peak hours in corridors where rail service is to be introduced.

II. CONTROLLING THE COST AND INCREASING THE EFFECTIVENESS OF RAIL TRANSIT

The Federal Government has a strong obligation to ensure that the Federal assistance dollars are spent prudently and with maximum effectiveness. To this end the Department will adhere to the following set of policies, which will apply to all rail transit proposals:

1. Any approval of a rail transit proposal must be preceded by a federally ratified, rigorous analysis of alternatives which considers rapid transit, light rail, busway, people mover and transportation system management (TSM) options. *Applicants will be required to show clearly and convincingly the need for partially or fully grade-separated transit service and to demonstrate that the proposed transit solution is, on balance, superior to other options* in terms of ridership, capital and operating expenses, transportation service, and environmental, urban revitalization and energy conservation objectives.

2. *Urban areas will have to demonstrate a compelling need for high-capacity, high-performance transit service in order to obtain Federal assistance for rail rapid transit.* Light rail transit operating partially or fully on surface rights-of-way, may offer a substantially less costly, less disruptive and more flexible rail transit option, and should be seriously considered, especially in places where extensive underground or elevated construction would otherwise be required.

3. Where the long range plan of a metropolitan region calls for the construction of an area-wide network of rail lines, *the Department will require that the system be approved and built in stages—one segment at a time.* Federal financial support will be limited to such staged projects. This incremental approach to construction of urban rail transit is aimed to ensure that the burden of financing the system is spread out in time, that high volume corridors receive priority attention, that benefits of the public investment begin to accrue as soon as possible, and that maximum flexibility is preserved to modify the system in response to advances in technology, changes in growth patterns, and other unforeseen circumstances. Each successive line segment will normally be subject to a further alternatives analysis. This analysis must contain an assessment of the effectiveness of the initially funded segments in reaching stated objectives and a method for identifying and correcting problems encountered in the construction or operation of those line segments. This policy aims to encourage the construction of the most cost effective segments first, and to discourage localities from relying on a continued flow of federal funding to complete unworthy or marginally justified segments of a system.

4. *The Department will give preference to initial rail segments serving densely populated central portions of metropolitan areas including central cities and close-in suburbs.* This policy is designed to target Federal transit investment on areas with the greatest potential payoff in terms of ridership, relief of congestion, help to transit dependents and positive real estate development and revitalization impact.

5. *Localities proposing to build rail transit with Federal assistance will be required to commit themselves to the development and implementation of a program of local supportive policies and actions designed to enhance the proposed system's cost-effectiveness, patronage and prospect for economic viability.* The Department will require evidence of reasonable progress in carrying out this program of supportive policies as a condition of initial and subsequent construction funding approvals.

The supportive actions shall include the following:

Zoning policies and development incentives to stimulate high density private real estate development around selected transit stations;

Land use plans that support or reinforce the developmental impact and shaping influence of the rail transit system;

Station area improvements in the form of plazas, malls, walkways, open spaces and other pedestrian amenities that might help reverse the physical deterioration of the central business district or revitalize declining residential neighborhoods;

Coordinated bus and/or paratransit feeder services to the rail system, especially in low density suburban areas;

Adequate parking and other mode transfer facilities at suburban transit stations;

Pricing, regulatory or traffic control measures aimed at managing the peak-period use of automobiles with rail corridors (e.g., traffic metering, tolls, higher parking fees, elimination of employer-subsidized parking).

6. *The Department will require localities to develop realistic estimates of future operating expenses and to identify and reach a local concensus on the specific means of funding these expenses.* In particular, the Department will require, as a condition of Federal capital assistance, the development of a stable and reliable source of local revenue to cover operating deficits.

7. *Construction grant contracts will be negotiated with a fixed ceiling on the federal contribution,* subject to a defined method of adjustment for inflation. Localities will be required to complete the project as defined, and absorb any additional costs incurred, except under certain specified extraordinary circumstances.

8. The Department will strengthen its role in monitoring projects during the planning and design stages in order to prevent over-design, the introduction of unnecessary embellishments, and the use of untested technologies, subsystems and components which might adversely affect system performance and future operating and maintenance costs.

III. PROCEDURES FOR THE APPROVAL OF RAIL TRANSIT AND OTHER MAJOR FIXED GUIDEWAY TRANSIT INVESTMENTS

The Department's procedures for the approval of major capital grant requests are governed by the Statement of Policy on "Major Urban Mass Transportation Investment" published in the FEDERAL REGISTER on September 22, 1976, as supplemented by the following clarifications:

1. Explicit UMTA authorization must be obtained by any locality wishing to undertake the detailed phase (Phase II) of alternative analysis.

2. After a locality has completed an alternatives analysis and an environmental impact analysis, the Department will review the analysis to determine whether a clear and convincing case has been made for a major capital investment, i.e., a partially or fully grade-separated fixed guideway project. If DOT concludes that a persuasive case for investment has been made, it will approve a preliminary engineering grant to develop a more precise specification of the selected alter-

native and an estimate of its expected cost. Approval of the preliminary engineering grant will not imply any commitment to finance construction of the project. This will be made clear in the letter to the grantee.

3. If, after a careful review of the preliminary engineering data, the Department determines that the project warrants Federal support, a formal pledge, to be called a "letter of intent," will be issued to the locality. This letter will (1) fix the total amount of the Federal contributions, subject to a defined method of adjusting for inflation; (2) include a mutually agreeable schedule for anticipating Federal contributions during the life of the project; and (3) require the locality to complete construction of the project as defined, and to absorb any additional cost incurred, except under certain specified "extraordinary" circumstances.

4. Specific annual contributions under the letter of intent will be made subject to the availability of appropriations and the ability of the grant recipient to use the funds effectively.

5. The sum total of all the pledges will be a basis for estimating the DOT's 5-year discretionary grant assistance requirements and its authorization request to Congress, and for guiding DOT's multi-year programming effort. However, the Department will limit the issuance of letters of intent so that the sum of annual payments under them does not exceed the total appropriation authorizations enacted for each future year by the Congress, after allowing sufficient amounts in each of those years to cover projected costs of the standing bus and rail modernization programs.

6. Preliminary engineering grants and letters of intent will be reported annually to the Authorization and Appropriation committees of the Congress.

7. During the transition to the new authorization/budget system, however, no letters of intent will be issued until new appropriation authorizations have been approved by Congress.

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federal register

TUESDAY, MARCH 7, 1978
PART IV

DEPARTMENT OF AGRICULTURE

Science and Education Administration

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PLANT BIOLOGY AND HUMAN NUTRITION

Competitive Grants for Basic Research

[3410-22]

DEPARTMENT OF AGRICULTURE

Science and Education Administration

PLANT BIOLOGY AND HUMAN NUTRITION

Competitive Grants for Basic Research

Notice is hereby given that pursuant to the authority contained in section 2 of the Act of August 4, 1965, Pub. L. 89-106, as amended by section 1414(b) of Pub. L. 95-113, the Science and Education Administration through its Competitive Grants Office (CGO) will award competitive grants for mission-oriented basic research in four areas of plant biology (biological nitrogen fixation, biological stress on plants, photosynthesis, and genetic mechanisms of crop impovement) and in human nutrition. Proposals may be submitted through their parent organizations by scientists associated with State Agricultural Experiment Stations, colleges and universities, other public or private research organizations, or Federal agencies.

A total of $15 million is available for such grants and necessary operational expenses during Fiscal Year 1978 (October 1, 1977-September 30, 1978). Of that amount, $5 million (less operational expenses) is reserved for human nutrition research. These competitive grants are in addition to the special grants administered by the Directorate for Cooperative Research (formerly Cooperative State Research Service), guidelines for which were published in the FEDERAL REGISTER of December 20, 1977.

The initial CGO staff currently is located in Rooms 404W/405W of the U.S. Department of Agriculture administration building, at 14th and Indpendence Avenues, Washington, D.C. (telephone 202-447-6040 or 202-447-6050). It is anticipated that, on or about March 6, 1978, the staff will move to the first floor, Rosslyn Commonwealth Building, 1300 Wilson Blvd., Arlington, Va. (opposite the Rosslyn Station of the Metrorail Blue Line).

Therefore, proposals in response to this notice should be submitted no earlier than March 15, 1978. Proposals received by April 15, 1978, will be considered for funding during Fiscal Year 1978.

Each proposal will be reviewed by a scientist serving as a CGO program officer, and by an assembled panel of scientists who constitute a spectrum of expertise for the category in which the proposal is reviewed.

Guidelines for these competive grants consist of four parts:

I. TYPES OF RESEARCH TO BE SUPPORTED IN FY 1978

II. PROPOSAL SUBMISSION

III. CRITERIA FOR THE SELECTION OF PROJECTS

IV. POST-AWARD ADMINISTRATION

Parts I through III are published in this Notice, which incorporates suggestions from various agencies of the U.S. Department of Agriculture (USDA), from liaison representatives of other Federal agencies and propective performing organizations, and from ad hoc committees on the plant sciences and on human nutrition.

Part IV will be the subject of a subsequent Notice.

Dated: March 1, 1978.

JAMES NIELSON,
Action Director,
Science and Education.

GUIDELINES FOR COMPETITIVE GRANTS

FOREWORD

For many years the U.S. Department of Agriculture (USDA) has conducted agricultural research in its various laboratories and has supported cooperative Federal-State efforts, largely through grants-in-aid to State Agricultural Experiment Stations with funds provided under the Hatch and McIntire Stennis Acts.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 (Title XIV of Pub. L. 95-113) firmly established the USDA as the lead agency in the Federal Government for the food and agricultural sciences, and emphasized that agricultural research, extension, and teaching are distinct missions of the Deaprtment. Among other things, it established a new program of grants for high-priority agricultural research to be awarded on the basis of competition. It stated the intent of Congress to augment, corrdinate, and supplement the planning, initiation, and conduct of agricultural research programs existing prior to the enactment of Title XIV.

Section 1414 of Pub. L. 95-113 amended the authority for awarding research grants contained in Pub. L. 89-106 and distinguished between "competitive" and "special" grants. Subsection 1414(b) states that competitive grants are for high priority research to further the programs of the Department. It emphasizes that, both in seeking research proposals and in performing peer review evaluations of such proposals, USDA should seek the widest participation of qualified scientists in the Federal Government, all colleges and universities, State agricultural experiment stations, and the private sector.

During Fiscal Year 1978, $15 million is available for competitive grants in areas critical to food production and human nutrition, described in Part I, below. The areas selected for initial support are ones which possess exceptional opportunities for discovery of knowledge vital to the basic understanding in important biological process and which can contribute to applied research on problems having great impact on food production and human nutrition.

In keeping with the recommendations of the June 1977 report to the Congress by the Office of Technology Assessment, and of the June 1977 report to the President of the National Research Council's World Food and Nutrition Study, the new USDA Science and Education Administration (SEA) includes a new Competitive Grants Office, organizationally separate from the former Agricultural Research Service, Cooperative State Research Service, and Extension Service. The competitive grants to be administered by this new Office are to complement the ongoing efforts of the USDA agencies and the States, by replenishing the storehouses of basic talent and knowledge in the food and agricultural sciences. It is hoped that these grants may result in:

- Additional scientists and research organizations investigating the fundamental processes needed to meet the rising demand for food and fiber;
- Increasing cooperation and coordination among performing scientists and organizations involved in the various stages of agricultural research and development;
- Improvements and innovations of investigative methodology in the food and agricultural sciences;
- Dissemination and diffusion of both technical results and standards of excellence;
- Significant future breakthroughs in food production and human nutrition.

I. TYPES OF RESEARCH TO BE SUPPORTED

The Competitive Grants Office will award research grants, on a competitive basis, to support basic research underlying the mission of the USDA as the lead Federal agency in food and agriculture. Basic research grants initially will be considered in selected areas of plant biology, and in certain areas of human nutrition which have been considered by a number of scientific groups to possess exceptional opportunity for fundamental scientific discovery and for contributing, in the long run, to applied research and development vitally needed on important food and nutrition problems. This grants program results from the recognition that new innovative approaches and enhanced levels of funding are needed as we seek ways to increase U.S. and world food production and to improve human nutrition.

During the initial year of the competitive grants program, consideration will be given to research proposals which address fundamental questions

in the six areas noted below and which are consistent with the long range missions of USDA. While a basic guideline for each of the six programs is provided to assist the scientific community in assessing their interest in the program areas and to delineate certain important areas where new information is vitally needed, the guidelines are not meant to provide boundaries or to detract from the creativity of potential investigators. Accordingly, it is hoped that innovative projects in the so-called "high risk" category as well as those which may have a higher payoff potential will be submitted.

Clinical research, action or demonstration projects, or research requiring security classification will not be supported. No funds will be provided for the construction or major alteration of facilities, although a modest amount of funds may be approved for needed minor renovations or alterations.

The following guidelines are thus provided as a base from which proposals may be developed.

A. Plant Biology

1. *Biological nitrogen fixation.* The most commonly limiting nutrient for plant growth is nitrogen. Normally, nitrogen fertilizer also represents the largest single energy input involved in cropping. Thus, the enhancement of biological nitrogen fixation capacity in plant-soil microbial associations is of major importance. Research aimed at understanding nitrogen fixing mechanisms in both symbiotic and free living organisms is of high priority. In general, the objectives of this program include building a foundation of basic information concerning nitrogen fixation as it relates to enhancing the process in currently known systems and in providing a base for developing new nitrogen fixing associations, by genetic transfer or other means, for crop species not now possessing such capability.

Examples of research areas encompassed in this program include: (a) Structure and mechanism of action of nitrogenase; the regulation of nitrogenase activity and synthesis; the relationship between nitrogenase and hydrogenase activities in nitrogen fixing organisms; (b) energetics of the nitrogen fixation process including competitive processes within the plant; (c) infection by Rhizobium and conditions for effective nodulation; bases of the recognition process between symbiotic organisms; factors controlling symbiont specificity; (d) identification of additional organisms capable of nitrogen fixation and quantitation of their contribution; and (e) transfer and utilization of the fixed nitrogen; relation between the fixation process and the processes of assimilation.

Emphasis in program priorities will be on innovative approaches which may contribute to a thorough understanding of biological nitrogen fixation encompassing biochemistry, cellular and developmental biology, genetics and genetic manipulation, and other relevant life science disciplines.

2. *Photosynthesis.* There are many indications that crop productivity may be increased through basic research leading to increased photosynthetic efficiency of crop plants. In order to increase our knowledge of the photosynthetic and associated carbon metabolism processes which could assist in reaching that objective, expansion of research is needed, but not exclusively, in three major subareas: (a) The identification of aspects of photosynthesis which limit the conversion of solar energy into stable chemical products which include such areas as the mechanisms of energy capture and conversion, structure and regulation of the photosynthetic apparatus, CO_2 fixation, photorespiration and dark respiration; (b) the relation of plant development to photosynthesis including the development of photosynthetic competence, translocation and partition of photosynthetic products and attendant energetic considerations, and design of whole leaf and whole plant structures best suited for photosynthetic productivity; and (c) the design of new methods of genetic and cellular manipulation to improve photosynthetic efficiency in plants to include studies of the chloroplast genome, of nuclear genes regulating photosynthesis, and the application of a wide spectrum of techniques that may be used as screening procedures for use in acquiring improved yield. However, research designed to generate new information in areas that relate to photosynthesis and its accompanying processes in the context of the objectives of the program may be considered a part of this area.

3. *Genetic mechanisms for crop improvement.* The major aim of this program is to encourage cellular and molecular research directed to the development of genetically superior varieties of agricultural crops. The approaches should be aimed at obtaining novel genetic combinations or gene modifications difficult or impossible to achieve using conventional techniques of plant breeding. This research program thus will emphasize the following: (a) Cell culture studies including the regeneration of plants from single cells, cell/protoplast fusion, mutagenesis, and incorporation of foreign DNA, chromosome or organelle; (b) development of effective cellular and molecular methods for identification of plant characteristics or genes which are significant targets for genetic manipulation; (c) development of methods for producing, selecting and transferring desired genetic traits; and (d) acquisition of basic information on plant gene expression to facilitate application to plant improvement. These guidelines are not meant to exclude other innovative or unique genetic approaches to crop improvement.

4. *Biological stress on plants.* Plants are exposed to many stresses that may adversely affect their productivity and usefulness to man. Initially this grants program will focus on stresses on plants arising from their interactions with other plants or with other biological agents such as insects, nematodes, and microorganisms. Its aim is to enhance our understanding of how such interactions generate stresses in plants and how the stresses damage plants. The ultimate goal is to reduce losses in plant productivity from damage caused by biologically generated stresses. The program will emphasize studies on (a) how stressful interactions are established between plants and other biological agents, (b) how such interactions are influenced by environmental and other factors inherent to the interacting organisms, (c) how the interactions reduce plant productivity and usefulness to man, (d) how plants react to stresses generated by such interactions, and (e) how damage from such interactions may be reduced or eliminated. The interactions may be studied at any number of levels; i.e. population, organismal, and molecular; and by various approaches including genetics, molecular biology, and biochemistry. This would not exclude studies on plants apart from their interacting partners, or on biological agents apart from their target plants and their interrelations with other organisms in their environment. However, such studies should provide information that will help explain the capabilities of the plant and other organisms for participating in the interactions. A key to the program will be the identification of new approaches to reduction of plant stress caused by biological agents. approaches that will be both effective and compatible with social and environmental concerns.

B. Human Nutrition

Proposals are invited in the following two subject matter areas. Support will not be provided for clinical research nor for demonstration and action projects.

1. *Human requirements for nutrients.* Research in this program is intended to contribute to the improvement of human nutritional status by increasing our understanding of requirements for nutrients in relation to different patterns of food intake. The objective is to support basic, creative research that will help to fill gaps in the knowledge about nutrient requirements, bioavailability, the interrelationships of nutrients, and the nutritional value of foods that are consumed in the U.S. Innovative ap-

proaches designed to improve methods of research and investigation that will increase the reliability and validity of research results will be given special consideration.

2. *Behavioral factors affecting food preferences and buying habits.* Research in this area should focus on the basis behavioral factors which relate to food preferences and habits with emphasis on identifying and analyzing the demographic, cultural, social, institutional and economic variables and conditions determining consumer behavior. Development of methodology for identifying and measuring such behavioral relations and their interactions will be basic to significant progress in this area of research.

II. PROPOSAL SUBMISSION

A. Proposal Purpose

The purpose of a proposal is to persuade the CGO staff and reviewing peer scientists that the proposed project is feasible and sufficiently meritorious to warrant support under the criteria enumerated in Part III. It should be clear, concise, and technically correct, but sufficiently inclusive to cover the:

Overall objectives and long-term goals of the project
Relationship of the research to other previous and current investigations
Relevance and significance of the work to long-range improvements in the food and agricultural sciences
Suitability and feasibility of proposed approaches and methodology
Qualifications of the investigator and supporting staff
Adequacy of facilities, equipment, and instrumentation
Level of funding needed from USDA

B. Who May Submit Proposals

Unsolicited proposals for support under the competitive grants program may be submitted through their parent organizations by scientists associated with State Agricultural Experiment Stations, colleges and universities, other public or private research organizations whether or not operating for profit, or Federal agencies. Proposals from scientists at non-U.S. organizations will not be considered for support. Only in special situations, where it can be demonstrated that a proposed project will contribute directly to breakthroughs in the food and agricultural sciences, will proposals from unaffiliated scientists be given favorable consideration.

C. When and Where to Submit

Proposals must be received by April 15, 1978, to be considered for funding during fiscal year 1978.

If copies of the proposal are mailed in more than one package, the number of packages should be marked on the outside of each. The acknowledgment of receipt of the proposal will contain a control number, and identify the cognizant CGO program. Later inquiries, addenda, revised budgets, etc. should be addressed to the cognizant program office and reference the CGO control number.

D. What to Submit

The grant proposal should be prepared on standard sized paper (no larger than 8½"x11"), range from 8–12 single spaced pages in its text, with pages numbered at the bottom, and printed only on one side of each sheet. Twenty copies of the proposal, including a signed original, are required for review by the staff and by peer scientists.

Complete proposals, arranged in a standard sequence, help to expedite review and assist the applicant to meet a planned program. General instructions for the various parts of the proposal are contained in succeeding sections F through L. To assure that research proposals submitted to the CGO are complete, an administrative check should be made prior to mailing, to ensure that the following is included, in the sequence indicated:

Cover page
Project summary
Project description
Vitae and bibliographies
Budget
Current and pending support
Appendices (if any)

In addition to submitting proposals for support of specific projects, each prospective performing organization should submit, on a one-time basis, the organizational information and assurances contained in Appendix III.

E. Considerations in Submitting Proposals

A number of situations frequently encountered in the conduct of research require special information and supporting documentation before funding can be approved for the project. Among these are the following, some mandated by Federal law:

1. Research which has an actual and/or potential impact on the environment;
2. Research by a U.S. investigator at a non-U.S. site;
3. Research at a registered historic or cultural property;
on the status of any special permissions, clearances, or provisions. Further, before submitting a proposal, the endorsing administrative official should ensure that:

1. The proposed project is consistent with the policies and goals of the submitting organization;
2. The organization can make available the necessary facilities, general purpose equipment, special purpose equipment, and services for the conduct of the project;
3. The organization can make available the necessary personnel for tha amounts of time estimated to be required;
4. The organization has legal authority to accept grants and the requisite policies, procedures, and personnel to meet the standards shown in Appendix III;
5. The total costs estimated to be required for the conduct of the project are reasonable and there is a plan for meeting such costs either from grant funds or from some other source;
6. The costs which CGO is being asked to support are allowable and the treatment of direct or indirect costs in the proposal budget is consistent with Federal cost principles and with the policies of the submitting organization.

If the submitting organization does not already have an indirect cost base and rate recognized by USDA or by the cognizant Federal negotiating agency, an indirect cost proposal should be separately submitted to the Grants Officer, CGO.

If not previously done, the submitting organization should also separately furnish the organizational information and assurances contained in Appendix III.

F. Cover Page

1. *Purpose.* The format for the cover page to be placed on top of each proposal to CGO is illustrated in Appendix I. It serves four purposes:
(a) Provides basic data for statistical purposes;
(b) Flags research involving special considerations, such as those enumerated in E, above;
(c) Contains necessary assurances and acceptances, and
(d) Expedites referral to the appropriate program.

2. *Format.* Attachment M to OMB Circular A-110 prescribes a standard form (SF 424) for use in programs covered by Part I, Attachment A to OMB Circular A-95 and for grant-in-aid reporting required by Treasury Circular

the problems of a particular State, area, or locality, does not include demonstration or pilot research projects which might have an impact on local communities or areas, and does not involve capital construction. Therefore, CGO projects are not subject to the Project Notification and Review System procedures of OMB Circular A-95. Further, CGO grants are awarded directly and on similar terms to all qualifying organizations, whether public or private. They are not grants-in-aid to States or political subdivisions for which Reports of Federal Action are required under the provisions of Treasury Circular 1082.

Therefore, CGO does not require the use of the standard form. Nor does it provide an "application kit." Instead, CGO prescribes a cover page designed to present key infirmation in optimum format both for the purposes outlined above and for compatibility with the Department's Current Research Information System (CRIS), by means of which the progress of ongoing research projects is made readily avialable to the scienfific community.

3. *Instructions.* If the proposing principal investigator believes that the project would be of special interest to a particular one of the program areas described in Part I, referral to that program can be expedited by inserting "Attention: ———— Program" immediately below the cover page heading.

Instructions for other items to be inserted in the format illustrated in Appendix I follow:

(a) *Submitting organization.* The name and address of the performing organization should include any relevant branch or component title. Normally, if a grant is awarded in support of the proposal, it will be made to performing organization. In the event that the organization which will be legally and financialy responsible and accountable for the use and disposition of any funds awarded is different from that of the organzation under whose auspices the research will be performed, the name of such prospective grantee organization should be separately listed. List the complete address of the grantee organization, its employer identification (IRS) number, and the Congressional District in which the headquarters is located.

For statistical purposes the type of performing organization should be idenfified as follows:

State Agricultural Experiment Station—"SAES."
Land Grant College or University—"1862" or "1890."

(b) *Proposal title.* Titles must be not more than 100 typewriter spaces long (including punctuation and spaces between words), and preferably 80 spaces or less. Phrases such as "research on." "investigation of," etc. should be avoided.

(c) *Principal investigator.* List the name of the scientist who will be responsible to the performing organization for the scientific or technical direction of the proposed project. Normally only one individual should be so designated. In the event that more than one scientist shares equal responsibility, no more than one principal investigator and two co-principal investigators may be listed, for compatibility with CRIS. Please list last name first, followed by first name and middle initial. Indicate the staff position, or if more than one staff position is held, show the one most relevant to the proposed research, e.g., Professor of Biochemistry, Director of Laboratory, etc. List the departmental affiliation and address if different from that of the grantee organization. Enter the telephone number (including area code) at which the principal investigator usually can be reached.

(d) *Proposed project period.* The lenght of time for which support is requested should be consistent with the nature and complexity of the proposed research. Normally competitive research projects will be supported for periods of up to three years, but support may be provided for periods up to five years. The means by which support may be provided beyond the initial year is under consideration.

Specification of a desired starting date for the research is important and helpful to the staff. Normally the desired starting date should be at least six months subsequent to the time the proposal is submitted, to allow for peer evaluation and decision. If the project is judged sufficiently meritorious to warrant USDA support, within the limitations of available funds, the effective date of the grant will be established on or before the desired starting date, if practicable. Grant funds may not be expended by the institution for any costs associated with the project before the effective date designated in the grant instrument.

(e) *Amount requested.* As indicated in section J, concerning the budget, the SEA will reimburse grantee organizations for the direct cost amount for the initial year.

(f) *Proposal type.* During fiscal year 1978, type the word "New" in item *1*, to indicate a proposed project not currently receiving support through a CGO grant.

(g) *Performance sites.* Please indicate where the research actually will be conducted. Commonly used abbreviations or acronyms will suffice. Example: "Performance Site: Botany Dept., Nutrition Lab., etc." If more than one site will be involved, please so indicate, showing city and State if this is not readily apparent.

(h) *Research involving special considerations.* Section E summarized research situations which require special information and supporting documentation before funding can be approved for the project. If special information or supporting documentation is involved, item h of the cover page should so indicate. Since some types of research targeted for CGO support have a high probability of involving either recombinant DNA molecules or human subjects, special instructions follow.

(1) *Research involving recombinant DNA molecules.* Principal investigators and endorsing grantee officials must comply with the guidelines of the National Institutes of Health published in FEDERAL REGISTER Vol. 41, No. 131, dated July 7, 1976. USDA will issue a "Notice Regarding Research Involving Recombinant DNA Molecules," instructing grantee organizations on the required Memorandum of Understanding and Agreement and Biohazards/Biosafety Committee Certification.

The cover page of each proposal must contain one of the following two statements:

"This project involves recombinant DNA research. It was approved by the institutional Committee on ————." or
"This project does not involve recombinant DNA research."

(2) *Research involving human subjects.* Safeguarding the rights and welfare of human subjects involved in research supported by CGO grants is the responsibility of the grantee. The informed consent of the individual is a vital element in this process. Guidance is contained in Public Law 93-348, as implemented by Part 46, Subtitle A of Title 45 of the Code of Federal Regulations, as amended (45 CFR Part 46).

The cover page of each proposal must contain one of the following two statements:

tifically valid, intelligible to the nonscientist, and suitable for use in the public press. For compatibility with the Department's Current Research Information System (CRIS), titles

If the project does involve human subjects at risk, the grantee must furnish CGO with a statement that the research plan has been reviewed and approved by the appropriate Institutional Review Board at the grantee organization, and that the grantee assures CGO that it will comply with DHEW policies, as amended, regarding the use of human subjects.

(i) *Principal investigator assurance.* The following statement should be inserted:

The undersigned agrees to accept responsibility for the scientific and technical conduct of the research project and for provision of required progress reports if a grant is awarded as the result of this proposal.

Dated: ————.

————,
Principal Investigator."

(j) *Certification and acceptance.* The following statement should be inserted and signed by an authorized official of the prospective grantee organization;

"The undersigned certifies that, if a grant is awarded, the above-listed organization will make available the necessary facilities, equipment, services, and personnel to conduct the project substantially as outlined in the proposal or such modifications thereof as may be mutually agreed and accepts the obligation to comply with the Science and Eduaction Administration Grant General Conditions is effect at the time of the award.

————
(Signature)

————
(Typed name and title)

————
(Date)

G. Project Summary

Immediately following the cover page should be a Project Summary, about a page or two in length, to focus on:

Overall objectives and project goals; Relevance and significance of the project; Scientific approaches.

The Project Summary is *not* intended for publication, so should be couched in language which will be meaningful to others in the field of science. If a grant is awarded in support of the project, the grantee organization will be furnished with a USDA "Project Description/Research Resume" (Form AD-416), for entry into the USDA Current Research Information System (CRIS). CRIS is a computer based information storage and retrieval system designed to provide ready access to information regarding on-going research projects being conducted by USDA, the State Agriculture Experiment Stations and other cooperating institutions, and by USDA grantees. Data on such projects, including annual reports of progress, are readily available world-wide to subscribers of the Lockheed DIALOG Service.

Please note that, if a grant is awarded, neither the phenomenon or phenomena under study nor the overall objectives and project goals stated in the project summary and project description, or agreed modifications thereto, may be changed without the prior written approval of CGO.

H. Project Description

The project summary should be followed by a more detailed statement of the research to be undertaken and how it will relate to the program objectives. Such a statement should include: objectives and expected significance; relation to the present state of knowledge in the field and to previous work done on this project and to related work in progress elsewhere; and a bibliography of pertinent literature. The general plan of work, including the design of experiments to be undertaken, should be described. An adequate description of experimental methods and procedures should be included. The project description should be a carefully prepared and self contained document. Brevity is desired but not at the sacrifice of important information needed for evaluation.

Reviewing groups are assisted materially in their evaluation of proposals when the project description is arranged under a uniform pattern of captions. They will consider the information provided as an example of the principal investigator's approach to a research objective and as an indication of ability in this area of scientific expertise. The principal investigator should prepare the project description according to the suggested outline insofar as possible.

1. *Introduction*—(a) *Objectives and goals.* State the overall objective(s) and long-term goal(s) of the proposed research.

(b) *Relationship to other research.* Review the most significant previous work, including your own, and describe the current status of research in this field. Document with references.

2. *Rationale and significance.* Present concisely the rationale behind the proposed research and list specific objectives for the total period of requested support. Show how these objectives relate to potential long range improvements in food production or human nutrition. What is the potential importance of the proposed research? Discuss any noval ideas or contributions which the project offers.

3. *Methodology.* Give details of the research plan, including a description of the experiments or other work proposed; the methods and techniques to be employed and their feasibility; the kinds of results expected; and the means by which the data will be analyzed or interpreted. Include, if appropriate, a discussion of pitfalls that might be encountered, and limitations of the procedures proposed. Point out any procedures, situations, or materials that may be hazardous to personnel and the precautions to be exercised.

Insofar as possible, describe the principal experiments or observations in the sequence in which it is planned to carry them out, and indicate, if possible, a tentative schedule of the main steps of the investigations within the project period requested.

4. *Facilities and equipment.* Describe the facilities available for this project including laboratories. List major items of instrumentation and equipment which reasonably could be made available by the parent institution for this research.

5. *Collaborative arrangements.* If the proposed project requires collaboration with other research organizations, describe the collaboration and provide evidence to assure the reviewers that the organizations involved agree. Indicate specifically whether or not such collaborative arrangements might have the potential for any conflict of interest.

I. Vitae and Bibliographies

Vitae and bibliographies of the principal investigator, senior associates, and other professional/professorial personnel should be provided to assist reviewers in evaluating the competence and experience of the project staff. This section should include curricula vitae on all key persons who will work on the project, whether or not Federal funds are sought for their support.

Provide for each person a chronological list of the most representative publications during the preceding 5 years. List the authors in the same order as they appear on the paper, the full title, and the complete reference as these usually appear in journals.

J. Budget

1. *General.* A detailed budget, in the format of Appendix II, should be provided for the first year of the proposed project. Funds may be requested under any of the categories listed so long as the item is considered necessary to conduct the research. A less detailed estimate of funds requested for subsequent years, together with a total for the entire proposed project, should be provided. Section 2 of Pub. L. 89-106, as amended by Section 1414 of Pub. L. 95-113, states that these competitive grants shall be awarded without regard to matching funds by the recipient(s) of such grants.

2. *Instructions.* Instructions follow for the items to be inserted in the format illustrated in Appendix II:

(a) *Salaries and wages.* Salaries of the principal investigator and other personnel associated directly with the research constitute appropriate direct costs in proportion to their effort devoted to the research. Charges by academic institutions for work performed by faculty members during the summer months or other periods outside the base salary period are to be at a montly rate not in excess of that which would be applicable under the base salary and to other provisions of section J. 7 to the cost principles for educational institutions (FMC 73-8).

The submitting organization may request that senior personnel salary data not be released to persons outside the government. In this case, the item for senior personnel salaries in the formal proposal may be expressed as a single figure and the man-months represented by that amount omitted. If this option is exercised, however, senior personnel salaries and man-months must be itemized in a separate statement, two copies of which should accompany the proposal. This statement must include all of the information requested in Appendix II for each person involved. The detailed information will not be forwarded to reviewers and will be held privileged to the extent permitted by law.

For research associates and other professional personnel, each position must be listed, with the number of full-time equivalent man-months and rate of pay (hourly, monthly or annual) indicated. For other personnel (graduate students, technical, clerical, etc.) only the total number of persons and total amount of salaries per year in each category are required. Salaries requested must be consistent with the regular practices of the institution.

Grant funds may not be used to augment the total salary or rate of salary of project personnel or to reimburse them for consulting or other time in addition to a regular full-time salary covering the same general period of employment. The performing organization is the grantee, and responsibility for work performed by a faculty member or any other employee under a grant rests with the grantee.

b. *Fringe Benefits.* If the usual accounting practices of the grantee institution provide that the organizational contributions to employee "benefits" (social security, retirement, etc.) be treated as direct costs, grant funds may be requested to defray such expenses as a direct cost.

c. *Total Salaries and Benefits.* Self-explanatory.

d. *Consultant Services.* Grantees normally are expected to utilize the services of their own staff to the maximum extent in managing and performing the activities supported by grants. Where it is necessary for a grantee to contract for the services of persons who are not its officials or employees, it is expected to do so in accordance with written organizational standards which provide for consideration of the factors outlined in the governing Federal cost principles.

If the need for consultant services is anticipated, the proposal narrative should provide appropriate rationale, and the Proposal Budget should estimate the amount of funds which may be required for this purpose. To the extent possible, consultant rates should show separate amounts for actual services and each of the components of the rate.

e. *Equipment.* Equipment is defined as an item of property which has an acquisition cost of $300 or more and an expected service life of 1 year or more. Organizations performing research with the support of a CGO grant are expected to have appropriate facilities, suitably furnished and equipped. Only under very unusual circumstances should grant funds be requested for office equipment and furnishings, air conditioning, automatic data processing equipment, or other "general purpose" equipment which is usable for other than research purposes.

Items of needed scientific equipment or instrumentation should be individually listed by description and estimated cost, and adequately justified. Allowable items ordinarily will be limited to scientific equipment and apparatus which is not already available for the conduct of the work. The purchase of each item of equipment costing $1,000 or more requires prior written approval by CGO which, where given, may be indicated on the grant budget or in subsequent correspondence.

If purchase or lease of expensive, special-purpose equipment having a unit acquisition cost exceeding $10,000 is planned, the proposal must contain a certification that the equipment (a) is essential and not reasonably available or accessible to the proposed project, and (b) will be subject to reasonable inventory controls, maintenance procedures, and organizational policies designed to enhance multiple or shared use on other projects if such use will not interfere with the project for which the equipment is being acquired.

f. *Materials and Supplies.* The types of expendable materials and supplies required should be indicated in general terms with estimated costs. Where substantial funds are requested there should be a more detailed breakdown.

g. *Travel.* The type and extent of travel and its relationship to the research should be briefly specified. Funds may be requested for field work or for travel, including subsistence, associated with the proposed research.

Travel in Canada, Puerto Rico, the United States or its possessions is considered domestic travel. All other travel is considered foreign. If foreign travel is planned in connection with the research, the proposal should include relevant information (including countries to be visited) and justification. Each foreign trip, not specifically authorized in the grant budget, must be approved in writing by the CGO in advance of the trip.

Allowances for air fare will not normally exceed round-trip jet economy air accommodations. Persons traveling under Federal grants must travel by U.S. flag carriers, if available, unless:

1. The traveler, while en route has to wait 6 hours or more and no U.S. carrier is available during this period.

2. The flight by a U.S. flag carrier takes 12 or more hours longer than a foreign carrier.

h. *Computer (ADPE) Costs.* The cost of computer services, including computer based retrieval of scientific and technical information, may be requested. A justification based on the established computer service rates at the proposing institution should be provided. Reasonable costs of leasing automatic data processing equipment may be requested, if justified.

i. *Publication Costs.* Costs of preparing and publishing the results of research conducted under the grant, including cost of reports, reprints, page charges or other journal costs, and necessary illustrations, may be included.

j. *Other Direct Costs.* Other anticipated direct costs not included above should be itemized. Examples are: space rental at research establishments away from the performing organization, minor alterations, and service charges. Reference books and periodicals may be charged to the grant only if they are related specifically to the research project. Proposed subawards should be disclosed in the proposal so that the grant instrument may contain prior approval, if appropriate. None of the research effort under a CGO grant may be contracted or transferred to another organization without prior CGO approval.

k. *Total Direct Costs.* Self explanatory.

l. *Indirect Costs.* The indirect cost rate negotiated by the performing organization with the cognizant Federal negotiating agency must be used in computing indirect costs for a research proposal. Determination of the appropriate indirect cost rate is dependent upon a combination of factors including but not limited to physical location of the work. The official responsible for Federal business relations should review this part of the proposal to see that it properly describes any particular factors which may have a bearing upon the indirect cost rate applicable to the project. If an organization has no established indirect cost rate it should consult the Grants Officer, CGO, who will establish liaison with

the cognizant Federal negotiating agency.

m. *Total Amount Requested.* Self explanatory.

K. Current and Pending Support

The proposal must list all current public or private research support, in addition to the proposed project, to which the principal investigator and other senior personnel have committed a portion of their time, whether or not salary for the person involved is included in the budgets of the various projects. The proposal must also provide analogous information for all proposed research which is being considered by, or which will be submitted in the near future to, other possible sponsors including other USDA programs.

If the project submitted for support has previously been funded from a source other than USDA, the items of information requested in the foregoing paragraph should be furnished for the immediately preceding funding period. This information will help the USDA analyze shifts in research support. Concurrent submission of a proposal to other organizations will not prejudice its review by CGO.

L. Appendices

The submission of appendix material instead of a fully developed proposal is not in the best interest of the applicant since each proposal is expected by the members of review committees and the staff to be complete in itself. Distribution of appendix material, other than for the records, is limited to the principal reviewers. In those instances where appendix material is necessary (as for example: photographs which do not reproduce well, and reprints or other especially pertinent material which are not suitable for inclusion in the proposal), 6 copies or sets, identified by title of the research project and name of the principal investigator, should accompany the proposal. If mailed separately, a copy of the cover page must accompany for identification purposes any appendix material that is submitted.

III. PROPOSAL REVIEW AND EVALUATION

A. Proposal Review

Research proposal received by CGO are acknowledged and assigned to the appropriate program for scientific evaluation. One copy is furnished to a grants specialist for preliminary review of conformance with government-wide policies. Proposing institutions or organizations which have not previously done so must furnish the basic organizational information and assurances prescribed by appendix III.

All proposals are carefully reviewed by a scientist serving as a CGO program officer and usually by three or more additional scientists who are expert in the particular field represented by the proposal. Program officers also obtain comment from assembled peer panels of scientists before recommending which proposals should be funded.

b. Criteria for Selection of Projects

The following criteria or factors are considered in the evaluation of competitive research proposals:

1. The scientific merit of the proposal, including the suitability and feasibility of its proposed approaches and methodology.

2. The probability that the research will contribute to important discoveries or significant breakthroughs in food production or human nutrition.

3. The qualifications of the principal investigator and other senior personnel, such as training, demonstrated awareness of previous and alternative approaches to the problem, and performance record and/or potential for future accomplishment.

4. The probable adequacy of available or obtainable facilities, equipment, instrumentation, and technical support.

C. REVISIONS TO PROPOSALS DURING REVIEW PROCESS

Prior to recommending whether or not CGO should support a particular project, the Program Officer may engage in discussions with the proposing Principal Investigator. Should such discussions result in proposed changes which exceed 10 percent of the proposed grant amount or $10,000, whichever is less, a revised proposal budget, signed by both the proposing Principal Investigator and by the authorized organizational representative, must be submitted, in an original and two copies, to the cognizant Program Officer for incorporation into the proposal file.

Should such discussions result in changes in the basic objectives or scope of the project as originally proposed, an appropriate proposal modification, signed and endorsed as above, must be submitted to the Program Officer.

D. GRANT AWARDS

The proposals judged most meritorious under the criteria in B above, will be awarded grants, within the limitations of available funds. In order to provide optimum freedom for scientific inquiry, CGO grants will be awarded under terms and conditions which are as minimal and flexible as possible, consistent with the need to ensure that Federal funds are wisely spent for the intended purposes. Post award administrative requirements, consistent with those contained in OMB circular A-110, are outlined in part IV.

APPENDIX I

COVER PAGE FORMAT

PROPOSAL TO THE USDA/SEA COMPETITIVE GRANTS OFFICE

Attention

Program

a. Submitting organization

Grantee Organization (if different)

Address

Employer identification Number

Congressional District

Performing Organization Type

b. Project Title

c. Principal Investigator's Name and Title

Department

Telephone

Address (If Different)

d. Proposed Project Period

Desired Starting Date

e. Total Direct Costs Requested

First Year

f. Proposal Type

g. Performance Sites

h. Research Involving Special Considerations

i. Principal Investigator Assurance

j. Certifications and Acceptance

APPENDIX II

PROPOSAL BUDGET

Each proposal should include a detailed budget of the amount of support, by categories, requested from CGO, in the following format for the first year of support. Items not pertinent to the project may be omitted.

PROPOSAL BUDGET

From (month, year) through (month, year)

Organization .....
Principal Investigator .....

	Estimated man-months	Amount requested
A. Salaries and wages		
1. Senior personnel (list by name)		
a. Principal Investigator		
b. Senior associates		
2. Research assistants (numbers)		
3. Technical personnel (numbers)		
4. Clerical, labor and other (numbers)		
B. Fringe Benefits (if charged as direct costs)		
C. Total salaries, wages, and fringe benefits (A plus B)		
D. Consultant services		
E. Equipment		
(List items costing $1,000 or more)		
Total equipment		
F. Materials and supplies		
(List by major type)		
G. Travel		
1. Domestic		
2. Foreign		
H. Computer (ADPE) costs		
I. Publication costs/page charges		
J. Other direct costs		
K. Total direct costs (C through J)		
L. Indirect costs (specify rate and base, name of cognizant Federal agency, and date of agreement)		
M. Total amount requested		

Each proposal for a multi-year project should, in addition, include a summary budget, of the amounts requested for direct costs only, in the following format:

SUMMARY BUDGET

From (year) through (year)

Organization .....
Principal investigator .....

	1st Year	2nd Year	3rd Year, etc.
C. Salaries, wages and fringe benefits			
D. Consultant service			
E. Equipment			
F. Materials and supplies			
G. Travel			
1. Domestic			
2. Foreign			
H. Computer costs			
I. Publication costs			
J. Other direct costs			
K. Total direct costs			
L. Total estimated direct costs for entire periods			

APPENDIX III

ORGANIZATIONAL INFORMATION AND ASSURANCES

A. Federal Standards

1. *OMB standards.* Although not specifically applicable to research support under grants, Subpart 1-1.12 of the Federal Procurement Regulations (FPR) establishes the policy that contracts shall be awarded only to responsible prospective contractors. It prescribes minimum standards and requires acceptable evidence of a contractor's ability to obtain equipment, facilities, and personnel. Comparable standards applicable to colleges and universities, hospitals, and other quasi-public and private nonprofit organizations are contained in three attachments to OMB Circular A-110. These are:

F—Standards for Financial Management Systems,

O—Procurement Standards, and,

N—Property Management Standards.

2. *Title VI of the Civil Rights Act of 1964.* Title VI of the Civil Rights Act of 1964 provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A USDA regulation implementing this requirement is published at 7 CFR Part 15, Subpart A. Every submitting organization is required to have an Assurance of Compliance (CSRS Form 135, copy attached) on file with the Grants Office, CGO, before a grant may be made to that organization.

Prospective grantees may either reproduce the Assurance of Compliance form or request copies from the Grants Officer, CGO. The "applicant" referred to in the form is the organization itself whose Chief Executive Officer or comparable official should sign the Assurance. The name and title of the organization and of the official should be typed on the form. The signed original should be mailed as in 3, below. Once a properly executed form has been filed with CGO, it will cover all future proposals to CGO. Acceptance of a subsequent grant constitutes affirmation that the Assurance of Compliance will be fully applicable to the grant.

3. *OCG requirements.* Whether or not an organization currently is the recipient of a formula or special grant from the Cooperative State Research Service or of a contract, cooperative agreement, or grant from any agency of USDA, CGO requires that each prospective grantee organization furnish, on a one-time basis, the prospective grantee organizational information outlined in B, below, together with the certification contained in C, below. The information and certification should be mailed to Grants Officer, Competitive Grants Office, USDA/SEA, 1300 Wilson Blvd., Arlington, Va. 22209.

B. Prospective Grantee Organizational Information

The following information is to be submitted:

(a) The commonly-used name of the organization, together with the legal (registered) name, if different, and mailing address.

(b) Organization type. Indicate the organizational type, e.g., private university, etc. If a U.S. college or university, show the Federal Interagency Committee on Education (FICE) code and category of control or affiliation as shown in the most recent DHEW Education Directory of Colleges and Universities.

(c) Federal Employer Identification No. Employer identification number as assigned by Internal Revenue Service.

(d) Congressional District.

(e) Organization Affiliations. Describe relationship of the organization to a parent organization or to subsidiaries or other affiliates. If the organization is a successor in interest to a predecessor or if changes in organizational affiliation are anticipated, describe briefly.

(f) Statement of Purposes and Powers. Enclose an official or published statement of the major purposes of the organization and certify as required in C, below, as to the powers which have been granted to it to enter into contractual relationships and/or to accept grants (e.g., articles of incorporation, terms of reference, or by-laws).

(g) Key officials. List the name, title, address, and telephone number of the following officials and their alternates (if any):

(1) Chief Executive Officer;

(2) Authorized Organizational Representative; and

(3) Business Officer.

(h) Affiliations of Key Officials. If the organization is other than a college or university or a State or local government, indicate whether or not each official listed in (g) above is affiliated with any Federal, State, or local agency or with any college or university. If so, describe such affiliation.

(i) Whether or not the organization currently is a grantee or contractor of any component of the U.S. Department of Health, Education, and Welfare.

NOTE.—This information will assist in implementing certain interagency procedures for which DHEW is the lead agency.

(j) A copy of the most recent indirect cost agreement negotiated between the organization and some Federal agency or, if lacking such an agreement, an indirect cost rate proposal.

(k) If other than a college or university or a State or local government, also submit the following:

(1) A certified statement of financial condition covering at least the preceding 2 years; and

(2) Bank or other references.

C. Required Certifications

In addition to the basic information described above, CGO requires that a prospective grantee organization submit a certification substantially as follows, signed by the Chief Executive Officer or authorized organizational representative:

(a) I certify that (name of institution or organization) has legal authority to accept grants as evidenced by the attached (describe document), and the requisite policies, procedures, and personnel to ensure stewardship of Federal funds and management of Federally supported projects, specifically including standards for financial management, procurement, and property management, which meet those described in Attachments F, O, and N to OMB Circular A-110. (Note: in the event this is not the case, list exceptions and provide a realistic estimate of when such standards might be met.)

(b) Each proposal to the USDA Competitive Grants Office will be consistent with the policies and goals of ———— and will be submitted in accordance with its procedures and pursuant to appropriate authority.

(c) In the event that a grant is awarded as a result of any such proposal, I agree that ———— will:

(1) Make available the necessary facilities, equipment, services, and personnel to conduct the project substantially as outlined in the proposal or such modifications thereof as may be mutually agreed;

(2) Conduct such project oversight as may be appropriate, manage the Federal funding with probity and prudence, and comply with the terms and conditions of the grant; and

(3) Comply with applicable laws and regulations.

(d) I further affirm that the "Assurance of Compliance with Department of Agriculture Regulations under Title VI of the Civil

Rights Act of 1964," attached, will be fully applicable to any such grants.

_____
(Signature.)

_____
(Typed name and title.)

_____
(Date.)

ASSURANCE OF COMPLIANCE WITH THE DEPARTMENT OF AGRICULTURE REGULATIONS UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

_____ (hereinafter called the "Applicant") hereby agrees that it will comply with Title VI of the Civil Rights Act of 1964 and all requirements imposed by or pursuant to the Regulations of the Department of Agriculture, 7 CFR Part 15, Subpart A, issued pursuant thereto, to the end that, in accordance with Title VI of that Act and the regulations, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Applicant receives Federal financial assistance from the Department of Agriculture; and hereby gives assurance that it will immediately take any measures necessary to effectuate this agreement.

This assurance is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Applicant by the Department, including installment payments after such date on account of applications for Federal financial assistance which were approved before such date. The Applicant recognizes and agrees that such Federal financial assistance will be extended in reliance on the representation and agreements made in this assurance, and that the United States shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Applicant, its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Applicant.

Dated: _____.

_____
(Applicant.)

By _____
(Signature of director, administrative-technical representative or research coordinator.)

_____
_____
_____
(Applicant's mailing address.)

[FR Doc. 78-5792 Filed 3-6-78; 8:45 am]

federal register

TUESDAY, MARCH 7, 1978
PART V

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

■

ANIMAL WELFARE

List of Registered Exhibitors

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

ANIMAL WELFARE

List of Registered Exhibitors

Pursuant to the provisions of the Animal Welfare Act (7 U.S.C. 2131 et seq.), and the regulations thereunder (9 CFR Part 2), notice is hereby given that the following exhibitors are registered under said Act:

(Sec. 3, 80 Stat. 351, as amended (7 U.S.C. 2133).)

Done at Washington, D.C., this 1st day of March 1978.

NOTE—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

E. A. SCHILF,
Acting Deputy
Veterinary Services.

NAME	DOING BUSINESS AS	ADDRESS	CITY AND ZIP CODE
		ALASKA	
***			
* ALASKA CHILDREN'S ZOO		BOX 17308 STAR ROUTE	ANCHORAGE 99507
* BROWN, JR., LT		3001 MOUNTAINVIEW DR.	ANCHORAGE 99503
* CITY OF FAIRBANKS		POB 790	FAIRBANKS 99701
		ARIZONA	
***			
* ZAUATTA, R		15520 N 38TH ST	PHOENIX 85032
		ARKANSAS	
***			
* ARKANSAS COMMUNITIES, INC		PO BOX 1506	HOT SPRINGS 71901
* HALLIE'S		PO BOX 303	CLINTON 72031
		CALIFORNIA	
***			
* COUNTY OF LOS ANGELES		DEPT. OF PARKS & RECREATIONS 155 N WASHINGTON BLVD.	LOS ANGELES 90015
		COLORADO	
***			
* CITY OF ENGLEWOOD	BELLEVIEW PARK	DEPT OF PARKS & RECREATION #3 400 S ELATI	ENGLEWOOD 80110
* CITY OF GREELEY	ISLAND GROVE PARK ZOO	PARKS DEPT.	GREELEY 80631
* CITY OF PUEBLO		PARKS & RECREATION DEPT. CITY PARK PAVILION	PUEBLO 81005
* DRAKE, D	ANIMAL WORLD	333 6TH ST.	PENROSE 81240
* ENGEL, HJ			WRAY 80758
* ERNEST'S TAXIDERMY		ROUTE 3 BOX 62	MONTE VISTA 81144
* JUNIOR, AL & LE	SANTA'S SUMMER HOME	921 LONG'S PEAK AVE	LONGMONT 80501
* KROHN, JC	THE FORT	SR BOX 204A	MORRISON 80465
* LA CHAUMIERE FRENCH RESTAURANT		PINEWOOD SPRINGS	LYONS 80540
* LA FRANCE RESTAURANT, INC		BOX 2217	DILLON 80435
* NATIONAL PARK VILLAGE		4600 FALL RIVER RD.	ESTES PARK 80517
* POTTER, M	WAGON WHEEL RANCH	BOX 526	DELTA 81416
* SANTA'S WORKSHOP			NORTH POLE 80901
		FLORIDA	
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* MILLER, PROFESSOR		2364 FRUITVILLE ROAD	SARASOTA 33577
* SARASOTA JUNGLE GARDENS		3701 BAYSHORE RD	SARASOTA 33580
* SWAMPARIUM		RT 5 BOX 39	CANTONMENT 32533
* WILDLIFE TRUST OF BROWARD COUNTY		2070 GRIFFIN RD	FORT LAUDERDALE 33302
		GEORGIA	
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* BEVERLY, CM		PO BOX 724	MOULTRIE 31768
* BUCKNER, G		PO BOX 73	JONESBORO 30237
* CITY OF ATHENS	MEMORIAL PARK	RECREATION & PARKS DEPT	ATHENS 30601
* EDWARDS, L		3653 DIAL DRIVE	STONE MOUNTAIN 30083
* GEORGIA CUMBERLAND ASSOCIATION		PO BOX 12000	CALHOUN 30701
* KETCHAM, LF		BOX 604 RT 3	WOODSTOCK 30188
* LUNSFORD, D		RT 2	DOUGLAS 31533
* MOGYOROS, F	SIX FLAGS OVER GEORGIA	PO BOX 43187	ATLANTA 30336
* OKEFENOKEE ASSOCIATION, INC.	OKEFENOKEE SWAMP PACK		OKEFENOKEE 31501
* SCHLEENTZ, DR		PO BOX 1712	VALDOSTA 31601
* SIX FLAGS OVER GEORGIA		PO BOX 43187	ATLANTA 30336
* TANDY, EM		PO BOX 1712	VALDOSTA 31601
		IDAHO	
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* WILD WILD WEST, INC.		ROUTE #7	CALDWELL 83605
* Y-J FOODS INC		BOX 357	COEUR D'ALENE 83814
		ILLINOIS	
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* ILLINOIS DEPARTMENT OF CONSERVATION		602 STATE OFFICE BUILDING	SPRINGFIELD 62706
* STONE, LR		BOX 349 ROUTE 1	EAST MOLINE 61244

NAME	DOING BUSINESS AS	ADDRESS	CITY AND ZIP CODE
	INDIANA		
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* BAIRD, CRK		PO BOX 102	SALEM 47167
* TRANSCONTINENTAL CIRCUS		2228 N. EDMONDSON	INDIANAPOLIS 46219
	IOWA		
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* BOARD OF PARK COMMISSIONERS	CHILDREN'S ZOO	236 N CENTRAL PARK AVE	DAVENPORT 52803
* BUFFALO RANCH MUSEUM		310 LOVERS LANE	FAYETTE 52142
* CITY OF CEDAR RAPIDS	BEVER PARK MUNICIPAL ZOO	PARK DEPARTMENT CITY HALL	CEDAR RAPIDS 52401
* CITY OF FORT DODGE		PARK DEPT, 1450 OLESON PK AVE	FORT DODGE 50501
* CITY OF MASON CITY		PARK DEPT, 19 S. DELAWARE AVE	MASON CITY 50401
* HANKEYE ZOOLOGICAL SOCIETY		PO BOX 1482	CEDAR RAPIDS 52406
* IOWA STATE CONSERVATION COMM		WILDLIFE EXHIBIT STATON	BOONE 50036
* OSBORNE CONSERVATION CENTER			ELKADER 52043
* POLK COUNTY CONSERVATION BOARD	ESTER PARK		GRANGER 50109
	KANSAS		
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* BEAR HOUSE TRUCK STOP, INC.			BUNKER HILL 67626
* BOARD OF PARK COMMISSIONERS	CENTRAL RIVERSIDE PARK	503 CITY BLDG ANNEX,104 S MAIN	WICHITA 67202
* CITY OF ST. MARYS			ST. MARYS 66536
* DODGE CITY WRIGHT PARK ZOO			DODGE CITY 67801
* MARKLEY, JF			SENECA 66538
* NOEL, F	NOEL'S SPECIALTY ACTS	RR #1, BOX 1130	HULVANE 67110
* OLD ABILENE TOWN, INC.		BOX 438	ABILENE 67410
* RIPP'S MINI ZOO		1201 N. BROADWAY	LEAVENWORTH 66048
	KENTUCKY		
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* BLAINE, JM		34 ARCADIA	LAKESIDE PARK 41017
* CARVIN, C.	BEECH BAND PARK		BOWLING GREEN 42101
* MAMMOTH ONYX CAVE		BOX 527	HORSE CAVE 42749
* OTTER CREEK PARK			VINEGROVE 40175
	LOUISIANA		
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* ALFRED BONNAREL HIGH SCHOOL		BRUIN DR.	METAIRIE 70003
* COLACURCIO, R		522 BOURBON ST.	NEW ORLEANS 70130
* PLAYLAND AMUSEMENTS, INC.		PONTCHARTRAIN BEACH	NEW ORLEANS 70122
* SNAKE FARM		PO BOX 96	LA PLACE 70068
	MARYLAND		
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* BALTIMORE ZOO		DRUID HILL PARK	BALTIMORE 21217
* DYKES BROS. ATTRACTION		MERRITT MILL RD	SALISBURY 21801
* ENCHANTED FOREST ENTERPRISES, INC.		10040 BALTIMORE NATIONAL PIKE	ELLICOTT CITY 21043
* JACKSON, HL	TRADE LEE'S VILLAGE	RT.50	W OCEAN CITY 21842
* MARJEC, INC	SHAWNEE-LAND		OLNEY 20832
* STARRUH PARK		RD 1 BOX 234	WHALEYSVILLE 21872
	MASSACHUSETTS		
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* EASTOVER FARM		EAST STREET	LENOX 01240
	MICHIGAN		
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* BERTHA BROCK PARK		R #3, BOX 295	IONA 48846
* BINDER PARK ZOOLOGICAL SOCIETY, INC.		7500 DIVISION DR	BATTLE CREEK 49017
* BITELY, G	BIRCH SHORES RESORT	R 1	MCMILLAN 49853
* BLANNICK, JR., MJ	GARBAGE & HATCHERY		CARNEY 49812
* CARL G. FENNER ARBORETUM		2020 E. MT. HOPE	LANSING 48910
* CEDERBERG, EW	DEER ACRES, INC.	2093 COGGINS RD	PINCONNING 48650
* CITY OF KALAMAZOO	MILHAM PARK ZOO	DEPT OF PARKS & RECREATION 24 1 W SOUTH ST.	KALAMAZOO 49006
* CITY OF MIDLAND	CURRIE-WILSON ENTERPRISES, INC	PO BOX 227	MIDLAND 48640
* CITY OF MT. PLEASANT	NELSON PARK ZOO	120 S. UNIVERSITY	MT. PLEASANT 48858
* CLAERHOUT, E. & SCHUSTER, M.	EMIL THE BUFFALO	8887 GRATIOT RD	RICHMOND 48062
* CLINCH PARK ZOO		GRAND VIEW PKWY.	TRAVERSE CITY 49684
* CLOUGH, L&J	EVERGREEN RESORT	R 2,M-65	HALE 48736
* DICKEY, DL	PINE RIDGE AMUSEMENT	7784 MAIN ST.	BIRCH RUN 48415
* DRAYTON PLAINS NATURE CENTER, INC.		2125 DENBY DR	DRAYTON 48020

NAME	DOING BUSINESS AS	ADDRESS	CITY AND ZIP CODE
	MICHIGAN—Continued		
* EDISON INSTITUTE	GREENFIELD VILLAGE		DEARBORN 48121
* ELM REST SERVICE		1507 S LAKE MITCHELL DR.	ADILLAC 49601
* ERICKSON, S		R 2, BOX 2334	GRAYLING 49738
* FINLEY, M	LONGHORN RANCH	7684-25 MILE ROAD	WASHINGTON 48094
* FLATH, J	DELLS SUPPER CLUB		ESCANABA 49837
* FOUNTIAN, LJ & PA		306 E. JOHN ST.	NEWBERRY 49868
* GREENWOOD ACRES		2801 WILTON RD RT 2	JACKSON 49201
* HAFEMAN, R		R 2 BOX 75	WALLACE 49893
* HARRINGTON, TN	DEER RANCH	238 N. STATE	ST. IGNACE 49781
* HERSON, K		RT 1 BOX 139	WALLACE 49893
* HINES, I		RT 2,1781 COLDWATER RD	MT. PLEASANT 48858
* HOLBROOK, S	GERMFASK 49836	R 1	GERMFASK 49836
* HOUSEMAN, MR		RT 1 BOX 43	STEPHENSON 49887
* HULKO, SF		110A CRYSTAL AVE	CRYSTAL FALLS 49920
* HUMAN SOIETY OF MACOMB CO.		11350-22 MILE RD	UTICA 48087
* INDUSTRIAL MUTUAL ASSN	I.M.A. CHILDRENS FARM	901 E. SECOND ST	FLINT 48503
* IRON MOUNTAIN CITY PARK		A&B STS.	IRON MOUNTAIN 49801
* JENSEN, RJ		R 1	POWERS 49874
* JOHN MENES PARK		202 MENES PARK DR	MENOMINEE 49858
* JOHNSON, RM	JOHNNY'S FISH & GAME PARK	5511 E, 46 1/2 RD	CADILLAC 49601
* KALAMAZOO NATURE CENTER		7000 N. WESTNEDGE	KALAMAZOO 49007
* KING ANIMALAND PARK, INC.		62000 GRATIOT AVE.	RICHMOND 48062
* LOFTIS, AUDREY LEE	MENAGERIE MANOR ANIMAL PARK	14140 NORDEN RD	GREGORY 48137
* MAY, H		394 CAMBRIA RD	MILLSDALE 49242
* MAYER, MG		7606 MIX RD	WESTLAND 48185
* MERCIER, FR	SANTA'S GIFT SHOP	BOX 75	MUNISING 49862
* MOE, AG	THE RED BARN	R 1 BOX 210	MUNISING 49862
* MOTT FARM PROGRAM		66140 BRAY RD	FLINT 48505
* N.F. ISAACSON OF MICHIGAN, INC.		5477 SUGAR RIVER RD	GLADWIN 48624
* NANKIN MILLS NATURE CENTER		33175 ANN ARBOR TRAIL	WESTLAND 48185
* NEWLIN, G		PO BOX 1	WALLACE 49893
* OGEMAN GAME REFUGE	TEN LAKES SPORTSMEN CLUB	5626 W. ROSE CITY RD.	WEST BRANCH 48661
* PALMER, B	PRESQUE ISLE PARK ZOO	PRESQUE ISLE PARK	MARQUETTE 49855
* PEEBLES, G		18810 CARDONI	DETROIT 48203
* PICLNET, N	NORM'S BALD MOUNTAIN RIDING STABLE	3085 S. LAPREC RD.	PONTIAC 48057
* PLESSCHER, R		ROUTE 1	MCMILLAN 49853
* POTTER PARK ZOO		1301 S. PENN. AVE.	LANSING 48933
* QUAS, G	BAMBI PARK	PO BOX 215	IRON MOUNTIAN 49801
* RICE, E		539 GOLF RD	LAPEER 48446
* SAGINAW CHILDREN'S ZOO		1694 S WASHINGTON	SAGINAW 48601
* SCIDMORE PARK			THREE RIVERS 49093
* SMITH, C		PO BOX 204	BALDWIN 49304
* SPICKERMAN, M		R 1	ROSE BUSH 48878
* STEELE, D&S	ANIMAL LAND	BATTERSON RD.	FREDERIC 49733
* STEPHENS, VR	YVONNE AND HER FRIENDS	BOX 37	WILLIAMSBURG 49690
* TESCH, H	LENAWEE INSTITUTE	3046 SUTTON RD	ADRIAN 49221
* WAFFLE, FJ		2416 ALDRICH RD	TEKONSHA 49092
* WALTON, WBJ	ANIMAL WORLD	8619 S TRAVERSE RD	KINGSLEY 49649
* WALTZ, DR		625 LINWOOD BCH. RD.	LINWOOD 48634
* WEBTRA, JC	ANIMAL KINGDOM WILDLIFE REFUGE	9320 S DIVISION	BYRON CENTER 49315
* WILDER, D	WHOOPEE BOWL	9580 DIXIE HWY.	CLARKTON 48016
	MINNESOTA		
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* AMRENDT, DT			JASPER 56144
* ALEXANDRIA DEER PARK		RT 4	ALEXANDRIA 56308
* ANDERSON, AE	HIWAY TRADING POST		HACKENSACK 56452
* ASANNER, P	SCHMIDT CIRCUS	RR 1	DALTON 56324
* BLUE MOUND INN			LUVERNE 56156
* BOELTER, JF		ROUTE 3	MCGREGOR 55760
* BRAINERD BAXTER CORP.	PAUL BUNYAN AMUSEMENT CENTER	BOX 563	BRAINERD 56401
* BUFFALO HOUSE		2500 GUSS RD.	DULUTH 55810
* CITY OF MANKATO		DIV. OF PARKS & FORESTRY, 202 E. JACKSON ST.	MANKATO 56001
* CITY PARK BOARD	RAMSEY PARK ZOO	C/O MUNICIPAL OFFICE BLDG. 20 7 EAST FOURTH	REDWOOD FALLS 56283
* COOK, VS			ORR 55771
* COUGARVILLE CASTLE			QUAMBA 55068
* DEER TOWN, INC.		HWY 71 NO.	PARK RAPIDS 56470
* DULUTH ZOO		7210 FREMONT ST.	DULUTH 55807
* EGGLESTON, OC			WALKER 56484
* FORT DETROIT		PO BOX 66	DETROIT LAKES 56501
* GOPHER CAMPFIRE CLUB		C/O M.P. MCQUADE SR. 122 N. MAIN ST	HUTCHINSON 55350
* GRANFOR, J	FRONTIERLAND		PERLEY 56574
* HANSEN MT	ANIMAL ACRES ZOO	44 #3, BOX 203	MADENA 56462
* HAUGHLAND, V	IKE'S CHICKEN SHACK		BROWNS VALLEY 56219
* HIMES, AL	TRAPPER HIMES WILD ANIMAL FARM		RAY 56669
* JAEGERS, BW		RR #1	BUFFALO 55314

NAME	DOING BUSINESS AS	ADDRESS	CITY AND ZIP CODE
MINNESOTA—Continued			
* KLEVEN, L	BIG K TRAILER CAMP	3500-6TH ST N.	MINNEAPOLIS 55412
* MCGREGOR DAIRY QUEEN, INC		BOX 66	MCGREGOR 55760
* NELSON, I		R #2	ST. PETER 56082
* OOFALE, D			COMFREY 56019
* OHLGREN, EJ			CLEAR LAKE 55319
* OLMSTED COUNTY PARK & REC. DIVN.	OXBOW PARK WILDLIFE EXHIBIT	1421-3RD AVE. S.E.	ROCHESTER 55901
* PINE GROVE PARK	MUNICIPAL ZOO	727-3RD ST. NE	LITTLE FALLS 56345
* SHEPPARD, D	SPLIT ROCK TRADING	510 WILSON AVE. N.E.	ST. CLOUD 56301
* SMUDA'S WILDLIFE ZOO			LITTLE FALLS 56345
* ST. PAUL'S COMO ZOO			ST. PAUL 55103
* THE FARM SUPPER CLUB, INC.		RR 4	PRINCETON 55371
* VILLAGE OF LE CENTER		21 N. LEXINGTON	LE CENTER 56057
* VILLAGE OF WADENA	SUNNYBROOK PARK	BOX 30	WADENA 56482
* VIRGINIA PARK COMMISSION			OLCOTT 55792
* WALL BROS.			COMFREY 56019
MISSISSIPPI			
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* MCWILLIAMS, EC		ROUTE 1, BOX 108	PICAYUNE 39466
MISSOURI			
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* GOLD NUGGETS JUNCTION			OSAGE BEACH 65065
* JACKSON CO. DEPT. OF PARKS & RECREATION	LAKE JACOMO PARK	RT. 2, BOX 408	BLUE SPRINGS 64015
* JONES, JH	RUENA VISTA'S EXOTIC ANIMAL PARADISE	R 1	STRAFFORD 65757
* MAX ALLEN'S ZOOLOGICAL GARDENS		US 54 S	ELDON 65026
* OZARK DEER FARM		ROUTE 3	ELDON 65026
* SILVER DOLLAR CITY			SILVER DOLLAR CITY 65616
* ST. LOUIS CO. PARKS DEPT.	LONE ELK PARK	7900 FORSYTH	ST. LOUIS 63105
* SZASZ, AR		RT 1	GERALD 63037
* WORLDS OF FUN		4545 WORLDS OF FUN AVE.	KANSAS CITY 64161
MONTANA			
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* SVELSTAD, NELS			WISE RIVER 59762
NEBRASKA			
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* MUNICIPAL ZOO		DEPT. OF PARKS & RECREATION, 1 300 S. 27TH ST.	LINCOLN 68502
* RYAN, KP			BLAIR 68008
NEW MEXICO			
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* CARLSBAD BOTANNICAL-ZOOLOGICAL PK OF THE SW		BOX 1569	CARLSBAD 88220
* CITY OF ALAMOGORDO		511-10TH ST.	ALAMOGORDO 88310
* CITY OF CLOVIS	MILLCREST & ZOO	PO BOX 760	CLOVIS 88101
* LIVING DESERT STATE PARK		BOX 1569	CARLSBAD 88220
* SPRING RIVER PARK & ZOO		CITY HALL	ROSWELL 88201
NEW YORK			
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* LOLLYPOP FARM OF ROCHESTER & MONROE CO.		99 VICTOR RD	FAIRPORT 14450
* MEDEROS, A	ALFREDO COMEDY ACT	1710-2ND AVE., APT. 3	NEW YORK 10028
NORTH CAROLINA			
***			
* CARRADO, JR., N.		PO BOX 894	CARTHAGE 28327
* CHARLOTTE NATURE MUSEUM, INC.		1658 STERLING RD.	CHARLOTTE 28209
* CITY OF GREENSBORO	COUNTY PARK ZOO & NATURAL SCIENCE CTR.	4301 LAWNDALE DR.	GREENSBORO 27408
* ENVIRONMENTAL ED., REC., & RES. CTR.		RT. 1, BOX 401	HIGH POINT 27260
* GRANDFATHER MOUNTAIN, INC.			LINVILLE 28646
* GREAT SMOKY MOUNTAINS NATURAL HISTORY ASSN.			GATLINBURG 37738
* KIDDIE ZOO	GREENFIELD GARDENS	PO BOX 1810	WILMINGTON 28401
* MCADENVILLE FOUNDATION, INC.	AVIARY GARDENS		MCADENVILLE 28101
* NATIONAL RECREATION SERVICE, DIV. OF NATL. SERV. IND., INC.	FRONTIERLAND	PO BOX 307	SILVER SPRINGS 32688
* NORTH CAROLINA MUSEUM OF LIFE & SCIENCE		PO BOX 8177	DURHAM 27704
* RIMER DEVELOPMENT CO. INC.		RT. 2, BOX 182	KANNAPOLIS 28081
* WOODY, M.W.		RT. 2 BOX 303	SYLVA 28779

NAME	DOING BUSINESS AS	ADDRESS	CITY AND ZIP CODE
OHIO			
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* REFBF, R		ROUTE 3	PATASKALA 43062
* CHILDREN'S HOSP. RES. FND N.		PO BOX 237	AURORA 44202
* CLARENCE FAFLIK SHOES, INC.		26242 GREAT NORTHERN	NORTH OLMSTEAD 44070
* CLEVELAND MUSEUM OF NATURAL HISTORY		WADE OVAL, UNIVERSITY CIRCLE	CLEVELAND 44106
* CLEVLAND, L.	CLELAND'S DEER ACRES	ROUTE #1	BAINBRIDGE 45612
* CONLEY, CE	CIRCUS WILLIAMS	4689 ST. RT. 276	BATAVIA 45103
* DAYTON MUSEUM OF NATURAL HISTORY		2629 RIDGE AVE	DAYTON 45414
* DIAMOND RANCH, INC.	WILD ANIMAL ZOO	1000 WARNER RD. S.E.	CANTON 44707
* ECKENRODE, HN	AMAZING AMAZONIA	1596 GRANDVIEW AVE., APT. 8	COLUMBUS 43212
* ELYRIA PARKS & RECREATION DEPT.		1101 PROSPECT ST.	ELYRIA 44035
* FANTASY FARM		RT. 1	MIDDLETOWN 45052
* HINEY, KM		1034 HOME AVE.	AKRON 44310
* KHOL, R	KOL'S GAME FARM	30770 CANNON RD.	SOLON 44139
* LAKE ERIE JUNIOR NATURE & SCIENCE CENTER		28728 WOLF RD.	CLEVELAND 44140
* MASINO, GA		13305 JAYNEVIEW AVE.	UNIONTOWN 44685
* NAFZIGER, DL		ROUTE 1, BOX 18	ARCHBOLD 43502
* OHIO STATE UNIVERSITY		BOX 154	RIO GRANDE 45674
* ROGER, M. & IRENE S., WORK, INC.	NELSON LEDGE PARK 44231	R 2, BOX 292	GARRETTSVILLE 44231
* SIFOFL'S FUN FARM, INC.		21897 WESTWOOD DR.	STRONGSVILLE 44136
* SINK, P.		38 JASPER ST.	DAYTON 45409
* THE CLEVELAND AQUARIUM		601 E. 72ND ST.	CLEVELAND 44103
* TRAILSIDE NATURE CENTER		PO BOX 27	CINCINNATI 45220
* TWIN SHOES, INC.		8350 MARYLAND AVE.	LOUIS 63105
* UNIVERSAL PRINTING, INC.		1192 E. 40 ST.	CLEVELAND 44114
* WELDNER, TO		RT 1, WEIDNER'S CORNERS	BALTIMORE 43105
* WOHL SHOE CO.		8350 MARYLAND AVE.	LOUIS 63105
OKLAHOMA			
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* CARDEN-JOHNSON CIRCUS		14105 CONSTITUTION PO BOX 570	DEMONT 73034
* SHEARER, WV		ROUTE 1	MOORLAND 73852
* THE FRANK PHILLIPS FOUNDATION, INC.	WOOLAROC WILDLIFE REFUGE	402 PROFESSIONAL BLDG.	BARTLESVILLE 74003
SOUTH CAROLINA			
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* ANIMAL FOREST		CHARLES TOWNE LANDING 1500 OLD TOWNE LANDING	CHARLESTOWN 29407
* BROOKGREEN GARDENS			MURRELLS INLET 29576
* CROMER'S P-NUTS, INC.	CROMER'S P-NUTS DUTCH SQUARE	PO BOX 163	COLUMBIA 29201
* GREENVILLE ZOO		CLEVELAND PARK DR.	GREENVILLE 29601
* MARVIN, FM			HOLLYWOOD 29449
* SESSIONS, CW	WONDERLAND ZOO & GIFT SHOP	RT. 3, BOX 102	CONWAY 29526
* SMITH, MC	WILSON'S TRUCK STOP		WINNSBORO 29180
* WALL, JA		116 CHESTER ST.	SPARTANBURG 29301
TENNESSEE			
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* OLIVE, BL & MILLER, DR	VILLAGE OF 1800	HWY #411N.	ETOWAH 377331
TEXAS			
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* ALLEN, DW		PO BOX 971	DONNA 78537
* BAYLOR CHAMBER OF COMMERCE		BOX 225 UNION BLDG. BAYLOR UNIV.	WACO 76706
* CAVERNS OF SONORA		PO BOX 213	SONORA 76950
* CITY OF ANDREWS		MUNICIPAL ADM. BLDG	ANDREWS 79714
* CITY OF CHILDRESS		CITY HALL	CHILDRESS 79201
* CITY OF SINTON		PO BOX 1395	SINTON 78387
* CLARK, MR		RT. 5	MCKINNEY 75069
* CONNER, JH		806 ANTHONY ST.	GAINESVILLE 76240
* DODD, CE		5116 808 DR.	FT. WORTH 76118
* DUKE, R.		RR 3, BOX 187	SEAGOVILLE 75159
* ENGESSER, GG		RT. 3, BOX 179	SEAGOVILLE 75159
* FISHER, R	FISHER ENTERPRISES	PO BOX 180	BARKER 77413
* FT. WORTH MUSEUM OF SCIENCE & HISTORY		1501 MONTGOMERY ST	FORT WORTH 76107
* GIBBS, B		RT. 4, BOX 550	MISSION 78572
* HALL, CA		RT. 1, BOX 762	MESQUITE 75149
* HALL, JK		RT. 1, BOX 762	MESQUITE 75149
* HARMON, DR. R.		401 E. PINECREST DR.	MARSHALL 75670
* HENRY, GG		BOX 3	GAINESVILLE 76240
* HENRY, GM		BOX 292	GAINESVILLE 76240
* INNER SPACE		HWY 358	GEORGETOWN 78626
* JONES, MR		232 N. LBJ DR.	SAN MARCUS 78666
* LEWKE, J		LAKE JUNE & PEACHTREE RD.	MESQUITE 75149

NAME	DOING BUSINESS AS	ADDRESS	CITY AND ZIP CODE
		TEXAS —Continued	
* LENZ, WILLEM		1960 PEAVEY RD. C/O HUBERT CA STLE CIRCUS	DALLAS 75228
* LUCIA, T.			WEATHERFORD 76086
* PINSON, J&D		RT 1	GAINESVILLE 76240
* RICE, R		PO BOX 264 COMBINE RD.	SEAGOVILLE 75159
* RICHMAN, DT		PO BOX 3068	GALVESTON 77550
* RUCKER, L.		C/O CON E. JOHNSON 12824 NOEL RD. APT. 2052	DALLAS 75230
* RUCKER, R.		GEN. DEL.	GAINESVILLE 76240
* SAPP, MI		27150 O'KENT	SAN ANTONIO 78216
* SMITH, J.A.H.		1960 PEAVEY RD.	DALLAS 75228
* STEELE, RR		BOX 179 HAYMARKET RD	SEAGOVILLE 75159
* STODGILL, TD	STODGILL'S RANCH	RT. 2	QUINLAN 75474
* UNIVERSITY OF HOUSTON		BOX 240 UNIV. CTR.	HOUSTON 77004
* WONDER WORLD		PO BOX 1369	SAN MARCOS 78666
		VIRGINIA	
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* BENNET, WM		BOX 356	CHRISTIANSBURG 24073
* CHILDRESS, FR		ROUTE 1, BOX 214	NEW MARKET 22844
* CITY OF HAMPTON	BLUEBIRD GAP FARM	CITY HALL, DEPT. OF PARKS	HAMPTON 23369
* CITY OF NEWPORT NEWS		DEPT. OF RECREATION & PARKS, 2400 WASHINGTON AVE.	NEWPORT NEWS 23607
* COLEMAN CO., GA		916 MAIN ST.	LYNCHBURG 24505
* HOFHEIMER'S, INC.		325 GRANBY ST.	NORFOLK 23510
* HUTCHINGS, EG & L	THE WISHING WELL GIFT SHOP	US 522-340	WHITE POST 22663
* MARTIN, JR		8725 COMMODORE DR.	NORFOLK 23503
* OCEAN VIEW AMUSEMENT PARK		GRANBY ST.	NORFOLK 23503
		WASHINGTON	
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* BERCHTOLD, EC		601 LAKE RD.	WOODLAND 98674
* CITY OF CENTRALIA PARK DE PT.	FORT BORST PARK	CITY HALL	CENTRALIA 98531
* EVERETT PARK & RECREATION DEPT.		FOREST PARK	EVERETT 98203
* INLAND EMPIRE ZOOLOGICAL SOCIETY		BOX 14258	OPPORTUNITY 99214
		WEST VIRGINIA	
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* MEADOWS, ER		RT. 4, BOX 107	GRAFTON 26354
		WISCONSIN	
***			
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* BELSHAW, RD			EARL 54833
* BILL'S LANDING DEER FARM		RT. 3	HAYWARD 54843
* BLACKHAWK RIDGE		PO 92	SAUK CITY 53583
* BOB'S CHUCK WAGON, INC.	ENCHANTED FOREST		WISCONSIN DELLS 53965
* BODIN'S, INC.		LAKESHORE DR.	ASHLAND 54806
* BROWN COUNTY REFORESTATIO N CAMP		RT. 4	GREEN 54301
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[FR Doc. 78-5864 Filed 3-6-78; 9:58 am]

TUESDAY, MARCH 7, 1977
PART VI

federal register

TUESDAY, MARCH 7, 1977
PART VI

ENVIRONMENTAL PROTECTION AGENCY

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Lime Manufacturing Plants

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL

Standards and Engineering Division (MD-13), Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone 919-541-5271.

(Part 60, Appendix A), the accuracy of the method and any potential error must be taken into account when determining possible violations of the

from any major emitting facility, which the permitting authority, on a case-by-case basis, taking into account energy, environmental, and economic

Dated: March 1, 1978.

DOUGLAS M. COSTLE,
Administrator.

(1) From any rotary lime kiln any gases which:

(i) Contain particulate matter in excess of 0.15 kilogram per megagram

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 835-2]

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Lime Manufacturing Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes standards of performance which limit emissions of particulate matter from new, modified, and reconstructed lime manufacturing plants. The standards implement the Clean Air Act and are based on the Administrator's determination that lime manufacturing plant emissions contribute significantly to air pollution. The intended effect of setting these standards is to require, new, modified, and reconstructed lime manufacturing plants to use the best demonstrated system of continuous emission reduction.

EFFECTIVE DATE: March 7, 1978.

ADDRESSES: A support document entitled, "Standard Support and Environmental Impact Statement, Volume II: Promulgated Standards of Performance for Lime Manufacturing Plants" (EPA-450/2-77-007b), October 1977, has been prepared and is available. This document includes summary economic and environmental impact statements as well as EPA's responses to the comments on the proposed standards. Also available is the supporting volume for the proposed standards entitled, "Standard Support and Environmental Impact Statement, Volume I: Proposed Standards of Performance for Lime Manufacturing Plants" (EPA-450/2-77-007a), April 1977. Copies of these documents can be ordered by addressing a request to the EPA Library (MD-35), Research Triangle Park, N.C. 27711. The title and number for each or both of the documents should be specified when ordering. These documents as well as copies of the comment letters responding to the proposed rulemaking published in the FEDERAL REGISTER on May 3, 1977 (42 FR 22506) are available for public inspection and copying at the U.S. Environmental Protection Agency, Public Information Reference Unit (EPA Library), Room 2922, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Don R. Goodwin, Director, Emission Standards and Engineering Division (MD-13), Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone 919-541-5271.

SUPPLEMENTARY INFORMATION: There are two minor changes in the standards from those proposed on May 3, 1977. The first of these is the specific exclusion of lime production units at kraft pulp mills [§ 60.340(b)]. Emission standards for kraft pulp mills were proposed in the FEDERAL REGISTER on September 24, 1976, which cover emissions from the lime production units at these mills.

The second change is the addition of § 60.344(c) (Test methods and procedures). The addition recommends a testing technique which would more accurately test exhaust gases from hydrators in those cases where high moisture content is a problem.

During the 60-day comment period following publication of the proposed emission standards in the FEDERAL REGISTER on May 3, 1977, 23 comment letters were received, 10 from industry, 7 from State or local pollution control agencies, and 6 from other government agencies. In addition, on June 16, 1977, a public meeting was held at the EPA facility at Research Triangle Park, N.C., that provided an opportunity for oral presentations and comments on the standards. None of the comments warranted a change of the emission standards nor did any comments justify any significant changes in the standards support document.

Major comments focused on three areas: (1) criticism of the testing procedures and the supporting emission data, (2) the opacity standard, and (3) the requirement for continuous monitoring. These and other comments are summarized and addressed in Volume II of the standards support document.

The most significant of the three areas of comments was the questioning of the testing procedures and the data base. More specifically, it was asserted that when data were gathered upon which to base the standard, standard testing procedures were not followed in every case, which consequently biased the data. A careful review of the procedures and the resulting data revealed that, although there were minor miscalculations, the errors did not affect the emission standards that were set.

The opacity standard (10 percent), was questioned because it was thought to be too stringent and in a range where observer error would result in unfair violation decisions. A review of the opacity data indicated that of the 1,056 six-minute averages of opacity, less than one percent exceeded the visible emission level of 10 percent, thus EPA considers the 10 percent opacity standard reasonable. As for observer error, as indicated in the introduction to Reference Method 9 (Part 60, Appendix A), the accuracy of the method and any potential error must be taken into account when determining possible violations of the standards.

Some commenters questioned the requirement for continuous monitoring of multiple stack baghouses, believing it to be unnecessary and excessively expensive to place a monitor on each stack. In establishing the continuous monitoring requirement, it was not the intention of EPA that emission monitors be installed at each stack at a multiple stack baghouse. The proposed regulation has been revised to reflect this intent. It is believed that in most cases one monitor, or two in certain situations, can be installed to simultaneously monitor emissions from several stacks. With such a monitoring system, the plant must demonstrate that representative emissions are monitored on a continuous basis.

It should be noted that standards of performance for new sources established under section 111 of the Clean Air Act reflect the degree of emission limitation achievable through application of the best adequately demonstrated technological system of continuous emission reduction (taking into consideration the cost of achieving such emission reduction, any nonair quality health and environmental impact and energy requirements). State implementation plans (SIPs) approved or promulgated under section 110 of the Act, on the other hand, must provide for the attainment and maintenance of national ambient air quality standards (NAAQS) designed to protect public health and welfare. For that purpose, SIPs must in some cases require greater emission reductions than those required by standards of performance for new sources. Section 173 of the Act requires, among other things, that a new or modified source constructed in an area which exceeds the NAAQS must reduce emissions to the level which reflects the "lowest achievable emission rate" for such category of source. In no event can the emission rate exceed any applicable standard of performance.

A similar situation may arise when a major emitting facility is to be constructed in a geographic area which falls under the prevention of significant deterioration of air quality provisions of the Act (part C). These provisions require, among other things, that major emitting facilities to be constructed in such areas are to be subject to best available control technology for all pollutants regulated under the Act. The term "best available control technology" (BACT), as defined in section 169(3), means "an emission limitation based on the maximum degree of reduction of each pollutant subject to regulation under this Act emitted from or which results from any major emitting facility, which the permitting authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such facility through application of production processes and available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of each such pollutant. In no event shall application of 'best available control technology' result in emissions of any pollutants which will exceed the emissions allowed by any applicable standard established pursuant to section 111 or 112 of this Act."

Standards of performance should not be viewed as the ultimate in achievable emission control and should not preclude the imposition of a more stringent emission standard, where appropriate. For example while cost of achievement may be an important factor in determining standards of performance applicable to all areas of the country (clean as well as dirty), statutorily, costs do not play such a role in determining the "lowest achievable emission rate" for new or modified sources locating in areas violating statutorily-mandated health and welfare standards. Although there may be emission control technology available that can reduce emissions below those levels required to comply with standards of performance, this technology might not be selected as the basis of standards of performance due to costs associated with its use. This in no way should preclude its use in situations where cost is a lesser consideration, such as determination of the "lowest achievable emission rate."

In addition, States are free under section 116 of the Act to establish even more stringent emission limits than those established under section 111 or those necessary to attain or maintain the NAAQS under section 110. Thus, new sources may in some cases be subject to limitations more stringent than EPA's standards of performance under section 111, and prospective owners and operators of new sources should be aware of this possibility in planning for such facilities.

MISCELLANEOUS: The effective date of this regulation is March 7, 1978. Section 111(b)(1)(B) of the Clean Air Act provides that standards of performance or revisions of them become effective upon promulgation and apply to affected facilities, construction or modification of which was commenced after the date of proposal (May 3, 1977).

NOTE.—The Environmental Protection Agency has determined that this document does not contain a major proposal requiring an Economic Impact Analysis under Executive Orders 11821 and 11949 and OMB Circular A-107.

Dated: March 1, 1978.

DOUGLAS M. COSTLE,
Administrator.

Part 60 of Chapter I of Title 40 of the Code of Regulations is amended as follows:

1. By adding subpart HH as follows:

Subpart HH—Standards of Performance for Lime Manufacturing Plants

Sec.
60.340 Applicability and designation of affected facility.
60.341 Definitions.
60.342 Standard for particulate matter.
60.343 Monitoring of emissions and operations.
60.344 Test methods and procedures.

AUTHORITY: Sec. 111 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7411, 7601), and additional authority as noted below.

§ 60.340 Applicability and designation of affected facility.

(a) The provisions of this subpart are applicable to the following affected facilities used in the manufacture of lime: rotary lime kilns and lime hydrators.

(b) The provisions of this subpart are not applicable to facilities used in the manufacture of lime at kraft pulp mills.

(c) Any facility under paragraph (a) of this section that commences construction or modification after May 3, 1977, is subject to the requirements of this part.

§ 60.341 Definitions.

As used in this subpart, all terms not defined herein shall have the same meaning given them in the Act and in subpart A of this part.

(a) "Lime manufacturing plant" includes any plant which produces a lime product from limestone by calcination. Hydration of the lime product is also considered to be part of the source.

(b) "Lime product" means the product of the calcination process including, but not limited to, calcitic lime, dolomitic lime, and dead-burned dolomite.

(c) "Rotary lime kiln" means a unit with an inclined rotating drum which is used to produce a lime product from limestone by calcination.

(d) "Lime hydrator" means a unit used to produce hydrated lime product.

§ 60.342 Standard for particulate matter.

(a) On and after the date on which the performance test required to be conducted by § 60.8 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere:

(1) From any rotary lime kiln any gases which:

(i) Contain particulate matter in excess of 0.15 kilogram per megagram of limestone feed (0.30 lb/ton).

(ii) Exhibit 10 percent opacity or greater.

(2) From any lime hydrator any gases which contain particulate matter in excess of 0.075 kilogram per megagram of lime feed (0.15 lb/ton).

§ 60.343 Monitoring of emissions and operations.

(a) The owner or operator subject to the provisions of this subpart shall install, calibrate, maintain, and operate a continuous monitoring system, except as provided in paragraph (b) of this section, to monitor and record the opacity of a representative portion of the gases discharged into the atmosphere from any rotary lime kiln. The span of this system shall be set at 40 percent opacity.

(b) The owner or operator of any rotary lime kiln using a wet scrubbing emission control device subject to the provisions of this subpart shall not be required to monitor the opacity of the gases discharged as required in paragraph (a) of this section, but shall install, calibrate, maintain, and operate the following continuous monitoring devices:

(1) A monitoring device for the continuous measurement of the pressure loss of the gas stream through the scrubber. The monitoring device must be accurate within ±250 pascals (one inch of water).

(2) A monitoring device for the continuous measurement of the scrubbing liquid supply pressure to the control device. The monitoring device must be accurate within ±5 percent of design scrubbing liquid supply pressure.

(c) The owner or operator of any lime hydrator using a wet scrubbing emission control device subject to the provisions of this subpart shall install, calibrate, maintain, and operate the following continuous monitoring devices:

(1) A monitoring device for the continuous measuring of the scrubbing liquid flow rate. The monitoring device must be accurate within ±5 percent of design scrubbing liquid flow rate.

(2) A monitoring device for the continuous measurement of the electric current, in amperes, used by the scrubber. The monitoring device must be accurate within ±10 percent over its normal operating range.

(d) For the purpose of conducting a performance test under § 60.8, the owner or operator of any lime manufacturing plant subject to the provisions of this subpart shall install, calibrate, maintain, and operate a device for measuring the mass rate of limestone feed to any affected rotary lime

kiln and the mass rate of lime feed to any affected lime hydrator. The measuring device used must be accurate to within ±5 percent of the mass rate over its operating range.

(e) For the purpose of reports required under §60.7(c), periods of excess emissions that shall be reported are defined as all six-minute periods during which the average opacity of the plume from any lime kiln subject to paragraph (a) of this subpart is 10 percent or greater.

(Sec. 114 of the Clean Air Act, as amended (42 U.S.C. 7414).)

§60.344 Test methods and procedures.

(a) Reference methods in Appendix A of this part, except as provided under §60.8(b), shall be used to determine compliance with §60.322(a) as follows:

(1) Method 5 for the measurement of particulate matter,

(2) Method 1 for sample and velocity traverses,

(3) Method 2 for velocity and volumetric flow rate,

(4) Method 3 for gas analysis,

(5) Method 4 for stack gas moisture, and

(6) Method 9 for visible emissions.

(b) For Method 5, the sampling time for each run shall be at least 60 minutes and the sampling rate shall be at least 0.85 std m^3/h, dry basis (0.53 dscf/min), except that shorter sampling times, when necessitated by process variables or other factors, may be approved by the Administrator.

(c) Because of the high moisture content (40 to 85 percent by volume) of the exhaust gases from hydrators, the Method 5 sample train may be modified to include a calibrated orifice immediately following the sample nozzle when testing lime hydrators. In this configuration, the sampling rate necessary for maintaining isokinetic conditions can be directly related to exhaust gas velocity without a correction for moisture content. Extra care should be exercised when cleaning the sample train with the orifice in this position following the test runs.

(Sec. 114 of the Clean Air Act, as amended (42 U.S.C. 7414).)

[FR Doc. 78-5974 Filed 3-6-78; 8:45 am]

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rules and regulations

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-02]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Subpart—Rules and Regulations

HANDLING PROCEDURES

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The principal amendment establishes procedures governing the handling of "organically-produced" oranges, grapefruit, tangerines, and tangelos grown in Florida. Requirements applicable to the handling of such citrus recognize cultural practices employed in the production of such fruit and the outlets to which such fruit is shipped. Another change revises procedure which would facilitate nomination of membership of the Citrus Administrative Committee.

DATE: Effective March 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905 42 FR 59367, 61853); regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Citrus Administrative Committee, it is found that amendments of Subpart—Rules and Regulations (§§ 905.120-905.145), as hereafter set forth, are in accordance with the provisions of the order and will tend to effectuate the declared policy of the act.

Requirements applicable to shipments of "organically-produced" citrus fruit specify, among other things, that handlers file applications with the committee for authorization to handle such fruit under a Certificate of Privilege and receivers certify that the fruit will be distributed to authorized outlets. The amendment of nomination procedure empowers the committee to convene nomination meetings and permits voting for committee member and alternate member nominees by acclamation or by written ballot.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which these amendments are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the amendments at an open meeting. It is necessary to effectuate the declared purposes of the act to make these amendments effective as specified, and the regulatory provisions relieve restrictions. Therefore, said rules and regulations are hereby amended by amending § 905.120 and by adding new §§ 905.146 through 905.148 to read as follows:

§ 905.120 Nomination procedure.

Meetings shall be called by the committee in accordance with the provisions of § 905.22, for the purpose of making nominations for members and alternate members of the Citrus Administrative Committee. The manner of nominating members and alternate members of said committee shall be as follows:

(a) At each such meeting the committee's representative shall announce the requirements as to eligibility for voting for nominees and the procedure for voting, and shall explain the duties of the committee.

(b) A chairman and a secretary of each meeting shall be selected.

(c) At each meeting there shall be presented for nomination and there shall be nominated not less than the number of nominees required under the provisions of § 905.19, all of whom shall have the qualifications as specified in § 905.22.

(d) At the meetings of handlers, any person authorized to represent a handler may cast a ballot for such handler.

(e) At each meeting each eligible person may cast one vote for each of the persons to be nominated to represent the district or group, as the case may be.

(f) Voting may be by written ballot. If written ballots are used, all ballots shall be delivered by the chairman or the secretary of the meeting to the agent of the Secretary. If ballots are not used, the committee's representative shall deliver to the Secretary's agent a listing of each person nominated and a count of the number of votes cast for each nominee for grower member and alternate. Said representative shall also provide the agent the register of eligible voters present at each meeting, a listing of each person nominated, the number of votes cast, and the weight by volume of shipments voted for each nominee for shipper member and alternate.

§ 905.146 Special purpose shipments.

A Special Purpose Shipper is one who certifies that he will deal only with citrus fruit which he knows of his own personal knowledge is produced on trees on which only compost, nonacidulated fertilizer such as rock phosphate, dolomite or ground limestone is used, and to which no chemical insecticide or fungicide has been applied. The shipper also shall certify that he will limit shipments to only registered and approved outlets handling such citrus fruits. Any such shipments shall be made subject to a Certificate of Privilege.

To qualify for a Certificate of Privilege, each such shipper must notify the committee prior to the first shipment of such fruit in the fiscal period of his intent to ship such citrus, submit an application on forms supplied by the committee, and agree to other requirements as set forth in §§ 905.147 and 905.148, inclusive, with respect to such shipments. The shipper shall certify that he will make no claims, written or verbal, concerning any alleged advantages of using, or any alleged superiority of, fruit shipped under a Certificate of Privilege, compared to other Florida produced citrus.

Citrus shipped under this provision must, other provisions notwithstanding, meet the following requirements:

(a) The applicable grade and size requirements as recommended by the

committee and approved by the Secretary.

(b) All such citrus shall be inspected as required by § 905.53 by the Federal or Federal-State Inspection Service prior to the time such citrus is shipped from the packing facility, and certified as meeting the applicable requirements.

(c) Be reported as required in § 905.148.

§ 905.147 Certificate of privilege.

(a) *Application.* Application for a Certificate of Privilege by a Special Purpose Shipper shall be made on forms furnished by the committee. Each application may contain, but need not be limited to, the name and address of the handler; a list of citrus suppliers, including addresses and grove locations; a list of receivers (who handle only so-called "natural" foodstuffs); the quantity and variety of citrus to be shipped; a certification to the Secretary of Agriculture and to the committee as to the truthfulness of the information shown thereon; and any other appropriate information or documents deemed necessary by the committee or its duly authorized agents for the purposes stated in § 905.146.

(b) *Approval.* The committee or its duly authorized agents shall give prompt consideration to each application for a Certificate of Privilege. Approval of an application based upon a determination as to whether the information contained therein and other information available to the committee supports approval, shall be evidenced by the issuance of a Certificate of Privilege to the applicant. Each certificate shall expire at the end of the fiscal period.

(c) *Disqualification.* The committee, from time to time, may conduct surveys of handling Special Purpose Shipments under Certificates of Privilege to determine whether handlers are complying with the requirements and regulations applicable to such certificates. Whenever the committee finds that a handler or consignee is failing to comply with these requirements, the Certificate of Privilege issued such handler may be rescinded and further certificates denied. Such disqualification shall apply to, and not exceed, a reasonable period of time as determined by the committee, but in no event shall it extend beyond the end of the current fiscal period. Any handler who has a certificate rescinded or denied may appeal to the committee in writing for reconsideration of his disqualification.

§ 905.148 Reports of special purpose shipments under certificates of privilege.

(a) Each handler of citrus shipping under Certificates of Privilege shall supply the committee with reports on each shipment as requested by the committee, on forms supplied by the committee, showing the names and addresses of the shipper; name and address of the grower or growers supplying fruit for such shipment; truck or other conveyance identification; the loading point; destination; consignee; the inspection certificate number; and any other information deemed necessary by the committee.

(b) One copy of the report on each such shipment shall be forwarded to the committee promptly; two copies of the report shall be forwarded to the registered receiver. Upon the receipt of each shipment, the receiver shall complete the applicable portion of the form and return one copy to the committee within ten days. Such completion shall contain a certification to the Secretary and the committee that the citrus described shall be distributed in the outlets described. Failure to complete and return such forms will be cause to remove that receiver's name from the committee's list of eligible receivers.

Dated: March 3, 1978.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-5819 Filed 3-7-78; 8:45 am]

[3410-05]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1468—MOHAIR

Subpart—Payment Program for Mohair (1978-1981)

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to announce the Commodity Credit Corporation's price support payment program to producers for mohair marketed during the 1978, 1979, 1980, and 1981 marketing years. The payment program for the 4 marketing years is authorized by the Food and Agriculture Act of 1977 which amended the National Wool Act of 1954, as amended (7 U.S.C. 1782). The payment program will increase the support price for mohair from the statutory level for the 1971-1976 marketing years and is intended to encourage the continued domestic production of mohair at prices fair to both producers and consumers.

EFFECTIVE DATE: March 8, 1978.

ADDRESS: Emergency and Indemnity Payments Division, ASCS, USDA, room 4095, South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Gerald Schiermeyer (ASCS), 202-447-4428.

SUPPLEMENTARY INFORMATION: For the 4 marketing years, 1978, 1979, 1980, and 1981, the rule provides for the Secretary of Agriculture to establish a support price for mohair at a comparable rate to the support price of shorn wool.

The rate of payment each year for mohair is to be based on the difference between the announced national average price for mohair received by producers and the announced support price for mohair. Pursuant to section 708 of the Act, as amended (7 U.S.C. 1787), the Secretary of Agriculture entered into an agreement with the Mohair Council of America in July 1971 for deductions from support payments to producers to conduct advertising and sales promotion programs for the development and dissemination of information for mohair and/or goats, or their products. The agreement, which was approved in a referendum among producers, expired on December 31, 1973. The rule provides for deductions from the support payments if an agreement authorizing such deductions is in effect.

This rule is identical to the rules covering price support payment programs for mohair in prior years except for the statutory method of determining the support price for mohair for the 1978-1981 marketing years prescribed by the National Wool Act of 1954, as amended. Therefore, it is found upon good cause that compliance with the notice of proposed rulemaking and public participation procedure is unnecessary, impracticable, and contrary to public interest. Therefore, this rule is issued without compliance with such procedure.

FINAL RULE

Part 1468 of 7 CFR is amended by adding a new Subpart—Payment Program for Mohair (1978-1981) to read as follows:

Subpart—Payment Program for Mohair (1978-81)

PROGRAM OPERATIONS

Sec.
1468.101 General.
1468.102 Administration.
1468.103 Announcement of price support level.
1468.104 Definitions.
1468.105 Price support payments.
1468.106 Eligibility for payments.
1468.107 Marketing within a specified marketing year.
1468.108 Rate of payment.
1468.109 Computation of payment.
1468.110 Preparation of application.
1468.111 Contents of sales documents.

GENERAL PROVISIONS

1468.112 Filing application for payment.
1468.113 Signature of Applicant.
1468.114 Joint applicants.
1468.115 Disability.
1468.116 Payment.
1468.117 Deductions for promotion.
1468.118 Set off.
1468.119 Liens on goats or mohair.
1468.120 Requests for reconsideration and appeals.
1468.121 Assignments.
1468.122 Records and inspection thereof.
1468.123 Violations of program.
1468.124 Forms.
1468.125 Authorization by Executive Vice President, CCC, or other official.
1468.126 Expiration of time limitations.

AUTHORITY: Secs. 4 and 5, 62 Stat. 1070 as amended (15 U.S.C. 714 b and c); secs. 702-708, 68 Stat. 910-912, as amended (7 U.S.C. 1781-1787).

PROGRAM OPERATIONS

§ 1468.101 General.

This subpart sets forth the policies, procedures, and requirements governing price support payments by Commodity Credit Corporation (referred to in this subpart as "CCC") for mohair for the 1978, 1979, 1980, and 1981 marketing years.

§ 1468.102 Administration.

The program will be carried out by the Agricultural Stabilization and Conservation Service (referred to in this subpart as "ASCS") under the general supervision and direction of the Executive Vice President of CCC. In the field, the program will be administered through the ASCS State and county offices. ASCS State and county offices do not have authority to modify or waive any of the provisions of this subpart or any amendments or supplements thereto unless the power to modify or waive is expressly included in the pertinent provision.

§ 1468.103 Announcement of price support level.

(a) *General.* Pursuant to the National Wool Act of 1954, as amended, the Secretary of Agriculture shall announce a price support level for mohair which has been determined to meet the requirements of the Act for each of the 4 marketing years, 1978, 1979, 1980, and 1981. Such announcement shall, to the extent practicable, be made sufficiently in advance of each marketing year as will permit producers to plan their production for such marketing year.

(b) *1978 marketing year.* For the 1978 marketing year, the price support level was announced on December 1, 1977, as $1.647 per pound of mohair, grease basis.

§ 1468.104 Definitions.

As used in the regulations in this subpart and in the forms and documents related thereto, the following terms shall have the meanings assigned to them in this section:

(a) "Financing agency" means any bank, trust company, or Federal lending agency. It also includes any other financing institution which customarily makes loans or advances to finance production of goats or mohair.

(b) "Goat" means an Angora goat and the term also includes a kid of an Angora goat.

(c) "Joint producers" means two or more producers who are joint owners of mohair, or who are producers of mohair under a caretaking agreement pursuant to which one producer owns the goats and the other producer furnishes labor in connection with mohair production in return for which the producer is entitled to share either in the mohair produced or in the proceeds from the sale of such mohair.

(d) "Joint owners" means two or more persons who own the mohair in question, regardless of the special nature of their relationship or how it came into being, and shall include owners in common.

(e) "Local shipping point" means the point at which the producer delivers mohair to a common carrier for further transportation or, if the mohair is not delivered to a common carrier, the point at which the producer delivers it to the marketing agency or a purchaser. The term "common carrier" includes any carrier that serves the public in transporting goods for hire whether or not such carrier is required to be licensed by some Government authority to do so.

(f) "Marketing agency" with reference to mohair means a person who sells a producer's mohair for the producer's account.

(g) "Marketing year" means the period beginning January 1 and ending the following December 31, both dates inclusive.

(h) "Mohair" means the hair of the Angora goat and also includes the hair of a kid of a Angora goat.

(i) "Person" means an individual, partnership, association, business trust, corporation, or any organized unincorporated group of individuals, and includes a State and any subdivision thereof.

(j) "Producer" of mohair means a person who either owns, individually or jointly, the goat from which the mohair is shorn or is a joint producer of the mohair under a caretaking agreement described in paragraph (c) of this section.

(k) "Sales document" means the account of sale, bill of sale, invoice, and any other document evidencing the sale by the producer of mohair.

(l) "Specified marketing year" is the marketing year which the Department of Agriculture has announced that marketings of mohair by a producer during that year will entitle the producer to a payment under this program.

§ 1468.105 Price support payments.

Price support on mohair will be furnished for each specified marketing year in accordance with the provisions of this subpart by means of payments to the producer on mohair marketed in that specified marketing year. Payments will not be made on marketings of the pelts of goats or on the marketings of mohair removed from such pelts.

§ 1468.106 Eligibility for payments.

Before payments under this subpart can be approved pursuant to any application for payment covering any lot or lots of mohair, the following requirements must be satisfied:

(a) Except as provided in § 1468.115, the applicant must be the producer, and in the case of a joint application each applicant must be a producer, of the mohair which must have been marketed during the specified marketing year.

(b) The mohair must have been shorn in the United States.

(c) The producer, or in the case of joint producers at least one of the producers, must have owned the mohair at the time of shearing and must have owned in the United States the goats from which the mohair was shorn for not less than 30 days at any time prior to the filing of the application. Ownership of mohair or goats as used in this paragraph does not include the ownership which is some States is held by a person having a security interest, such as a mortgage or other lien.

(d) Beneficial interest in the mohair must always have been in the producer from the time the mohair was shorn up to the time of its sale. A producer has beneficial interest in mohair: (1) When the producer owns it and has not authorized any other person to sell or otherwise dispose of it, or (2) when the producer has, by transfer of legal title to such other person or otherwise, authorized another person to sell or otherwise dispose of the mohair but continues to be entitled to the proceeds from any such sale or other disposition thereof. Such beneficial interest is not changed by a mortgage or other lien on the mohair.

(e) Payments under this subpart shall only be made on bona fide marketings in a specified marketing year.

§ 1468.107 Marketing within a specified marketing year.

(a) Marketing shall be deemed to have taken place in a specified marketing year if, pursuant to a sale or contract to sell in the process of marketing, the last of the following three

events, in whatever order they occur, was completed in that marketing year: (1) Title passed to the buyer; (2) the mohair was delivered to the buyer (physically or through documents which transfer control to the buyer); and (3) the last of the factors (price per pound, weight, etc.) needed to determine the total purchase price payable by the buyer is known to the marketing agency, if the applicant markets directly. In addition the full amount due the producer in connection with the marketing of mohair must be paid to the applicant in cash, merchandise, or services rendered before the producer may include it in the application for payment.

(b) A promissory note or other promise to pay, as well as a check not honored for any reason, shall not be considered a payment to the producer unless the Deputy Administrator, State and County Operations, ASCS, makes a determination that: (1) The producer acted in good faith in the marketing of the mohair, (2) the mohair was not returned to the producer, (3) the producer was not aware and did not suspect that the document tendered in payment for the mohair was not worth its face value at the time the producer accepted the document as payment for the mohair, and (4) the producer has made a diligent effort to obtain payment for the mohair from the purchaser. This determination shall be deemed to constitute a determination that the acceptance of such a document as payment for the mohair is consistent with the purposes of the National Wool Act. Notwithstanding the provisions of this paragraph (b), the price utilized for the purpose of computing the net sales proceeds pursuant to § 1468.109 shall not exceed the fair market value of the mohair as determined by CCC.

(c) A sale by one producer to another shall not constitute a bona fide marketing unless: (1) The selling producer usually markets mohair in that way, or (2) the buying producer is also engaged in the business of buying and selling mohair and buys the mohair in the course of that business. An exchange of mohair between the producers thereof or a sale of mohair conditioned on the acquisition by the selling producer from the buyer of the same mohair or other mohair shall not constitute a bona fide marketing. A sale of mohair by a producer to a person not previously engaged in the business of buying mohair also shall not constitute such a marketing unless evidence is submitted to the satisfaction of CCC that there was a bona fide sale. Any document representing a sale, transfer, or other arrangement with respect to the mohair which is fictitious or not legally binding or solely a scheme or device for obtaining a price support payment shall not constitute evidence of a bona fide marketing. Examples of such schemes are sales of mohair wherein a part of all of the purchase price is returned to the purchaser in the form of money, merchandise, or otherwise either directly from the seller or through other persons.

(d) The exchange of mohair for merchandise or services (for instance, shearing) will be considered a marketing, provided a definite price for the mohair is established by the parties to the exchange. Such price, or whatever other price CCC determines is the fair market value for such mohair, whichever is lower, shall be utilized for the purpose of computing the net sales proceeds pursuant to § 1468.109 upon which payment under this subpart is based.

(e) Delivery of mohair on consignment to a marketing agency to be sold for the producer's account does not constitute a marketing, whether or not a minimum sales price is guaranteed or an advance against the prospective sales price is given by the consignee, except that the mohair is deemed marketed if the marketing agency has guaranteed a minimum sales price, is unable to sell to mohair for more, and with the producer's consent takes it over at the minimum sales price. The producer shall be deemed to have consigned the mohair when title to the mohair is transferred to a marketing agency and the producer provides that such agency shall market the mohair and that the producer shall be entitled to the proceeds of such marketing.

§ 1468.108 Rate of payment.

At the end of a specified marketing year and after the Department of Agriculture has determined the national average price for mohair received by producers in that marketing year, the Department will announce the rate of the payment under this subpart. The rate of payment will be the percentage of the national average price per pound received by producers in a specified marketing year which is required to bring such national average price up to the support price for mohair.

§ 1468.109 Computation of payment.

(a) The amount of the payment due to a producer shall be computed by applying the rate of payment to the net sales proceeds for the mohair marketed during the specified marketing year.

(b) Except as provided in §1468.111(a)(6) with respect to a guaranteed minimum sales price, the net sales proceeds shall be determined by deducting from the gross sales proceeds of the mohair all marketing expenses, such as any charges paid by or for the account of the producer for transportation, handling (including commissions), grading, scouring, or carbonizing. The figure so arrived at will express the net proceeds received by the producer at the farm, ranch, or local shipping point. Charges for furnishing bags or storing the mohair, as well as any other charges not directly related to the marketing of the mohair, such as interest on advances, shall not be considered marketing charges.

(c) All applications filed by a producer in the same county office for payments due on mohair marketed during the specified marketing year shall be considered together for the purpose of determining the total amount of payment due. All such applications filed in different county offices may be considered together in determining such total payment.

§ 1468.110 Preparation of application.

(a) *Preparation.* The application for payment on the sale of mohair shall be prepared on Form CCC-1155, "Application for Payment (National Wool Act)." Marketing agencies may assist producers in filling out applications by inserting the information on sales of mohair and sending the sales documents to the appropriate ASCS county office, but the producer must sign the application and is responsible for the requirements as to the time and manner of filing the application. If the producer paid marketing charges not shown on the sales document, such charges shall be considered with the marketing charges shown on the sales document in arriving at the net proceeds.

(b) *Supporting documents.* The application shall be supported by the original sales documents covering the mohair sold.

(c) *Original sales document retained.* If the applicant does not wish the original sales document to remain with the ASCS county office, a photostat, carbon, or other copy of the original document may be submitted. However, the applicant must show the original document to the ASCS county office where the statements on the copy will be confirmed by comparison with the original. The original sales document will be appropriately stamped or marked to indicate that it had been used in support of an application for payment under this program and will be returned to the applicant, who shall retain it in accordance with § 1468.122.

(d) *Practice of issuing carbon or photostat copies.* If it is the practice of the person or firm preparing the sales document to furnish a carbon or other copy to the seller in the place of the original, the producer may submit that copy in support of his application, provided the copy bears a signature, in accordance with § 1468.111 (a)(10), of the person or of the representative of the firm preparing the original sales document. Such copy shall be treated as an original for the purposes mentioned in this section.

(e) *Lost or destroyed sales document.* If the original sales document has been lost or destroyed, the applicant may submit a copy, certified by the buyer or the applicant's marketing agency, and such certified copy shall be treated as an original for the purposes mentioned in this section.

§ 1468.111 Contents of sales documents.

The sales documents attached to each application for payment must contain a final accounting and meet the requirements of paragraph (a) or (b) of this section, for the mohair covered by the sales document. Contracts to sell as well as tentative or pro forma settlements will not be acceptable as sales documents meeting such requirements. Except as provided in § 1468.115, sales documents must cover mohair sold by the producer.

(a) *Sales other than at farm, ranch, or local shipping point.* Each sales document, except a document covering an outright sale at the producer's farm, ranch, or local shipping point, must be prepared by the purchaser or the applicant's marketing agency and must contain at least the following information:

(1) Name and address of seller.

(2) Date of sale. In case the producer's shipment to a marketing agency is sold in parts within a marketing year, the date when final settlement is made within that marketing year for the mohair that was sold within that marketing year may be shown on the sales document as the date of sale instead of the various dates on which the sales actually took place.

(3) Net weight of mohair sold. If the mohair was sold as scoured mohair, the original grease weight must be shown as well as the scoured weight.

(4) Except as otherwise provided in paragraph (a)(5) of this section, the gross sales proceeds or sufficient information from which the gross sales proceeds can be determined.

(5) Marketing deductions, if any (see § 1468.109(b)), except as otherwise provided in this subparagraph. The marketing deductions may be itemized or they may be shown on the sales document as a composite figure for all marketing charges with an explanation of what services are included in that figure. If it is the practice of a marketing agency to show on the sales document only the net proceeds after marketing deductions, the gross sales proceeds and the amount of the marketing deductions need not be shown, provided the sales document contains a statement reading substantially as follows:

The net sales proceeds after marketing deductions shown herein were computed by deducting from the gross sales proceeds charges for the following marketing services:

.....

Details of these charges will be furnished on request.

All the services for which deductions are made shall be enumerated in the blank space indicated. If a sales document shows charges without specifying their nature, they will be considered marketing charges and will thus diminish the net proceeds on which the payment is computed. Association dues are to be considered marketing deductions if they include compensation for marketing services.

(6) Net proceeds after marketing deductions. If a sales document contains a figure for net proceeds after marketing deductions computed for a location other than the producer's farm, ranch, or local shipping point, the person preparing the sales document shall show thereon the name of the location for which the net proceeds have been computed. If a marketing agency has guaranteed a minimum sales price for the mohair, is unable to sell the mohair for a higher price, and therefore settles with the producer on the basis of such guaranteed minimum price, the sales document should be on the basis of guaranteed minimum price, regardless of a lower price at which the agency may sell the mohair. In such a case, the marketing agency may indicate on the sales document that the price is the guaranteed minimum sales price.

(7) Additional deductions, such as charges for bags, storage, interest, association dues which do not include compensation for marketing services, or other charges not directly related to the marketing of the mohair.

(8) Amount paid to the seller.

(9) Name and address of the purchaser or marketing agency, whichever issues the sales document.

(10) *Signature.* The sales document must bear a handwritten signature by or on behalf of the person or firm issuing the sales document. Acceptable signatures will consist of at least one initial or name by which the person is generally known, followed by the last name in full. A carbon impression or facsimile of a handwritten signature is not acceptable.

(11) A sales document issued by a marketing agency and covering sales made on various dates within a specified marketing year shall contain a statement that the mohair was marketed during that marketing year.

(12) A sales document covering mohair exchanged for merchandise or services (§ 1468.107(d)), shall contain a clear statement that the transaction is an exchange rather than a cash sale.

(b) *Sales at farm, ranch, or local shipping point.* Each sales document covering an outright sale at the producer's farm, ranch, or local shipping point, and attached to an application for payment shall be prepared by the purchaser and must contain at least the following information:

(1) Name and address of seller.

(2) Date of sale.

(3) Net weight of mohair sold.

(4) Net amount received by the seller for the mohair at the farm, ranch, or local shipping point.

(5) Any applicable nonmarketing deductions, such as charges for bags, storage, interest, association dues which do not include compensation for marketing services, or other charges not directly related to the marketing of the mohair.

(6) Name and address of the purchaser.

(7) *Signature.* The sales document must bear a handwritten signature by or on behalf of the person or firm issuing the sales document. Acceptable signatures will consist of at least one initial or name by which the person is generally known, followed by the last name in full. A carbon impression or facsimile of a handwritten signature is not acceptable.

(8) A sales document covering mohair exchanged for merchandise or services (§ 1468.107(d)) shall contain a clear statement that the transaction is an exchange rather than a cash sale.

GENERAL PROVISIONS

§ 1468.112 Filing application for payment.

(a) *Place of filing.* Applications for payment shall be filed by the applicant with the ASCS county office serving the county where the headquarters of the producer's farm or ranch, as the case may be, is located. If the producer has more than one farm or ranch, with headquarters in more than one county, separate applications for payments shall be filed with the ASCS county office serving each such headquarters covering only the mohair produced at each such farm or ranch, except that if the producer sells the entire clip of mohair in a single sale or if the entire clip is sold for the producer's account by one marketing agency, the producer may file the application(s) for payment on mohair in any one of those ASCS county offices. In the event all business transactions are conducted from the producer's residence or office and the farm or ranch has no other headquarters, the office or residence may be considered the farm or ranch headquarters.

(b) *Time of filing.* An application for payment shall be filed as soon as possible after completion of the producer's sales of mohair in a specified marketing year, but in no event shall an application be filed later than 3 years after the end of that specified marketing year.

§ 1468.113. Signature of applicant.

No payment will be made unless an application for payment on mohair is signed. Each person who signs an application for payment in a representa-

(c) If an Indian who is incompetent earned a payment under this subpart, an application therefor may be filed on the Indian's behalf by the Superintendent of the Indian Field Service of

or any part thereof, the ASCS county office shall mail a notice to the applicant, or, in the case of a joint application, to each applicant, that the applica-

include all such payments due and to become due for that specified marketing year. The assignment shall be executed by the producer, or in the case

ment in an application for payment or other document, for the purpose of enabling the applicant to obtain a pay-

[3410-05]

PART 1472—WOOL

§ 1468.113. Signature of applicant.

No payment will be made unless an application for payment on mohair is signed. Each person who signs an application for payment in a representative or fiduciary capacity as agent, attorney-in-fact, officer, executor, etc., must be properly authorized to sign in such capacity.

§ 1468.114. Joint applicants.

When the applicant for a mohair payment is a joint producer of the mohair, all of the joint producers (except those who sign a release as provided below in this section) must sign an application based on the sale of such mohair regardless of whether the mohair was divided among such producers prior to sale or was sold without division. CCC will not be responsible for a division among the applicants of a payment made to all of them jointly. When the application shows such joint production and one or more of the joint producers refuses to join in the application, if each such joint producer signs a form prescribed by CCC releasing CCC from any obligation to make a payment to such a joint applicant, CCC shall make payment of the amount due the remaining joint producers who sign the application. Such release(s) shall be attached to the application. When any joint producer is entitled to join in an application but fails to do so, and the application does not show this interest as a joint producer, the producer shall have no claim against CCC for any portion of the payment made pursuant to the application.

§ 1468.115. Disability.

(a) If a producer who is otherwise eligible to receive a payment under this subpart dies, disappears, or is declared incompetent, before marketing the mohair or before filing an application, the successors or representatives authorized to receive payment in the order of precedence set forth in part 707 of this title may complete the eligibility requirements and make application for such payment on Form CCC-1155. The applicant shall also file Form ASCS-325, "Application for Payment of Amounts Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent," in accordance with part 707 of this title.

(b) If a producer who earned a payment under this subpart and filed an application therefor dies, disappears, or is declared incompetent, either before CCC has issued a draft in payment or after CCC has issued a draft in payment but before the draft is negotiated, the successors or representatives authorized to receive such payment in the order of precedence set forth in part 707 of this title may apply therefor on Form ASCS-325, in accordance with part 707 of this title.

(c) If an Indian who is incompetent earned a payment under this subpart, an application therefor may be filed on the Indian's behalf by the Superintendent of the Indian Field Service of the reservation on which the Indian resides or by the authorized representative of such Superintendent. Such application for payment will be filed in the ASCS county office where the headquarters of the Indian's farm or ranch is located.

(d) In all other cases of disability, including bankruptcy and dissolution, payments will be made to a representative only in accordance with specific directions issued by CCC.

§ 1468.116. Payment.

(a) Payment will be made under this subpart after the ASCS county office has reviewed the application and attached supporting documents and has approved payment in whole or in part, and after the appropriate rate of payment for the specified marketing year has been announced by the Department of Agriculture.

(b) Payments under this subpart shall be made only on the basis of the net sales proceeds received for mohair. No payment shall be made on that part of any sale which has been canceled or on the basis of prices or weights which have been fraudulently increased for the purpose of obtaining higher payments. No payment shall be made on sales to a mohair growers association (as distinguished from a cooperative marketing association) by its producer-members on the basis of net sales proceeds in excess of the fair market value of the mohair (grease basis) as determined by CCC.

(c) If it is determined by the ASCS State or county office that an applicant knowingly made a false statement in the application, no payment shall be made with respect to such application.

(d) If CCC subsequently determines that available evidence does not sustain the applicant's right to all or any part of the payment made, the amount of the payment not so sustained shall immediately become due and repayable to CCC, and CCC may, without limitation upon any of the Government's rights in the matter, deduct such amount from any other payment due the applicant under this subpart. If the right to such amount becomes involved in a lawsuit between the Government and the applicant or the assignee, the applicant or the assignee shall have the burden of proving that the applicant was entitled to such amount.

(e) If the ASCS county office rejects in whole or in part an application for payment on mohair, or, after a payment has been made, determines that the available evidence does not sustain the applicant's right to the payment or any part thereof, the ASCS county office shall mail a notice to the applicant, or, in the case of a joint application, to each applicant, that the application has been rejected, specifying the reason therefor, or that the available evidence does not sustain the applicant's right to the payment or any part thereof, as the case may be.

§ 1468.117 Deductions for promotion.

If the Department of Agriculture has approved deductions for an advertising and sales promotion program in accordance with section 708 of the National Wool Act of 1954, as amended, the rate of such deductions for the specified marketing year will be announced and the appropriate deduction will be made from each payment due under this subpart for such specified marketing year.

§ 1468.118 Set off.

If the county office records show that the producer is indebted to CCC, to any other agency within the U.S. Department of Agriculture, or to any other agency of the United States, such indebtedness will be set off against the payment due to the producer in accordance with part 13 of this title.

1468.119 Liens on goats or mohair.

If a producer grants a lien on the goats or mohair, such lien shall not be deemed to extend to payments made to the producer pursuant to this subpart.

§ 1468.120 Requests for reconsideration and appeals.

Any applicant who is notified that the application has been rejected in whole or in part, or that any other action has been taken by the ASCS county office which unfavorably affects a payment, may obtain reconsideration and review of the determination in accordance with part 780 of this title. In the request for reconsideration, the applicant shall identify the application by number and date. When a joint application is involved, the request for reconsideration and review may be filed by all applicants jointly or by any of the applicants, in which case it shall be considered a request in behalf of all the joint applicants.

§ 1468.121 Assignments.

(a) *Form.* An assignment of a payment due or to become due under this subpart on mohair may be given to a financing agency or a mohair marketing agency as security for cash advanced or to be advanced on goats or mohair. The assignee shall not reassign such payments. An assignment may only include payments due or to become due on the sale of mohair for a specified marketing year and must include all such payments due and to become due for that specified marketing year. The assignment shall be executed by the producer, or in the case of joint producers by all such producers, on Form CCC-1157 "Assignment of Payment Under the National Wool Act of 1954." The producer's signature shall be witnessed by a member of the county or community ASC committee, for the county where the farm is located, or by an employee of the county committee.

(b) *Payment.* CCC will make payment pursuant to an accepted assignment unless the ASCS county office is furnished evidence that the assignment has been released by the assignee.

§ 1468.122 Records and inspection thereof.

(a) The applicant for a payment under this subpart, as well as the marketing agency and any other person who furnishes evidence to such applicant for use in connection with the application, shall maintain books, records, and accounts pertaining to the marketing of the mohair on which the application is based, for 3 years following the end of the specified marketing year during which the marketing took place. The applicant shall maintain books, records, and accounts pertaining to the production and sheering of mohair, with respect to which the applicant applies for payment, for 3 years following the end of the specified marketing year during which the marketing took place.

(b) With respect to any application for payment filed after the end of the specified marketing year, instead of maintaining the books, records, and accounts for the time specified in paragraph (a) of this section, such books, records, and accounts shall be maintained for 3 years following the date on which the application is filed.

(c) At all times during the regular business hours, authorized representatives of CCC or USDA shall have access to the premises of the applicant, of the marketing agency, and of the person who furnished evidence to an applicant for use in connection with the application, in order to inspect, examine, and make copies of the books, records, and accounts, and other written data as specified in paragraphs (a) and (b) of this section.

§ 1468.123 Violations of program.

(a) Whoever issues a false sales document or otherwise acts in violation of the provisions of this program so as to enable an applicant to obtain a payment to which such person is not entitled, shall become liable to CCC for any payment which CCC may have made in reliance on such sales document or as a result of such other action.

(b) The issuance of a false sales document or the making of a false statement in an application for payment or other document, for the purpose of enabling the applicant to obtain a payment to which such person is not entitled, will subject the person issuing such document or making such statement to liability under applicable Federal civil and criminal statutes.

§ 1468.124 Forms.

Form CCC-1155, "Application for Payment (National Wool Act)," Form CCC-1157, "Assignment of Payment Under the National Wool Act of 1954," Form ASCS-325, "Application for payment of Amounts Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent," and other forms issued by the U.S. Department of Agriculture for use in connection with this program may be obtained from ASCS county offices.

§ 1468.125 Authorization by Executive Vice President, CCC, or other official.

If the applicant is unable to furnish the documentary evidence of sale required by this subpart, the Executive Vice President, CCC, or the Deputy Administrator, State and County Operations, ASCS, may authorize the submission of other evidence which establishes to the satisfaction of the authorizing official the information required by § 1468.111.

§ 1468.126 Expiration of time limitations.

Whenever the final date for filing an application falls on a Saturday, Sunday, national holiday, or State holiday, or on any other day on which the appropriate ASCS State or county office is not open for the transaction of business during normal working hours, the time for filing the application shall be extended to the close of business on the next working day. If the filing is by mail, it shall be considered timely if it is postmarked by midnight of such next working day.

NOTE.—The reporting and recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Signed at Washington, D.C., on February 28, 1978.

STEWART N. SMITH,
Acting Executive Vice President,
Commodity Credit Corporation.

[FR Doc. 78-6056 Filed 3-7-78; 8:45 am]

[3410-05]

PART 1472—WOOL

Subpart—Payment Program for Shorn Wool and Unshorn Lambs (Pulled Wool) (1978-1981)

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to announce the Commodity Credit Corporation's price support payment program to producers for shorn wool and unshorn lambs (pulled wool) marketed during the 1978, 1979, 1980, and 1981 marketing years. The payment program for the four marketing years is authorized by the Food and Agriculture Act of 1977 which amended the National Wool Act of 1954, as amended (7 U.S.C. 1782). The payment program will increase the support price for shorn wool from the statutory level for the 1971-1976 marketing years and is intended to encourage the continued domestic production of wool at prices fair to both producers and consumers.

EFFECTIVE DATE: March 8, 1978.

ADDRESS: Emergency and Indemnity Payments Division, ASCS, USDA, Room 4095 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Gerald Schiermeyer (ASCS), 202-447-4428.

SUPPLEMENTARY INFORMATION: For the four marketing years 1978, 1979, 1980, and 1981, the rule provides for the Secretary of Agriculture to announce in advance of each marketing year the support price for shorn wool. The Secretary is also authorized to establish a support price for pulled wool at a comparable rate to the support price of shorn wool. The rate of payment each year for shorn wool is to be based on the difference between the annual national average price received by all producers and the support price for shorn wool. Pursuant to section 708 of the Act, as amended (7 U.S.C. 1787), the Secretary of Agriculture entered into an agreement on January 20, 1975, with the American Sheep Producers Council for deductions from incentive payments to producers to conduct advertising and sales promotion programs for the development and dissemination of information for wool and sheep, or their products. The agreement which was approved in a referendum among producers will expire with the 1977 marketing year unless renewed. This rule provides for

appropriate deductions from the incentive payments to producers if an agreement authorizing such deduction is in effect.

This rule is identical to the rules covering price support payment programs for shorn wool and pulled wool in prior years except for the statutory method of determining the support price for shorn wool for the 1978–1981 marketing years prescribed by the National Wool Act of 1954, as amended. It is, therefore, found upon good cause that compliance with the notice of proposed rulemaking and public participation procedure is unnecessary, impracticable and contrary to the public interest. Therefore, this rule is issued without compliance with such procedure.

FINAL RULE

Part 1472 of 7 CFR is amended by adding a new Subpart—Payment Program for Shorn Wool and Unshorn Lambs (Pulled Wool) (1978–1981) to read as follows:

PROGRAM OPERATIONS

Sec.

1472.1501 General.
1472.1502 Administration.
1472.1503 Announcement of price support level.
1472.1504 Definitions.

SHORN WOOL

1472.1505 Price support payments.
1472.1506 Eligibility for payments.
1472.1507 Marketing within a specified marketing year.
1472.1508 Computation of payment.
1472.1509 Preparation of application.
1472.1510 Contents of sales documents.
1472.1511 Report of purchases of unshorn lambs.

UNSHORN LAMBS (PULLED WOOL)

1472.1521 Price support payments.
1472.1522 Eligibility for payments.
1472.1523 Computation of payment.
1472.1524 Preparation of application.
1472.1525 Contents of sales documents and scale tickets.
1472.1526 Report of purchases of unshorn lambs.

GENERAL PROVISIONS

1472.1541 Filing application for payment.
1472.1542 Signature of applicant.
1472.1543 Joint applicants.
1472.1544 Disability.
1472.1545 Payment.
1472.1546 Deductions for promotion.
1472.1547 Setoff.
1472.1548 Liens on sheep or wool.
1472.1549 Requests for reconsideration and appeals.
1472.1550 Assignments.
1472.1551 Records and inspection thereof.
1472.1552 Violations of program.
1472.1553 Forms.
1472.1554 Authorization by Executive Vice President, CCC or other official.
1472.1555 Expiration of time limitation.

AUTHORITY: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); Secs. 702–708, 68 Stat. 910–912, as amended (7 U.S.C. 1781–1787).

PROGRAM OPERATIONS

§ 1472.1501 General.

This subpart sets forth the policies, procedures, and requirements governing price support payments by the Commodity Credit Corporation (referred to in this subpart as "CCC"), for shorn wool and unshorn lambs (pulled wool) for the 1978, 1979, 1980, and 1981 marketing years.

§ 1472.1502 Administration.

The program will be carried out by the Agricultural Stabilization and Conservation Service (referred to in this subpart as "ASCS") under the general supervision and direction of the Executive Vice President of CCC. In the field, the program will be administered through the ASCS State and county offices. ASCS State and county offices do not have authority to modify or waive any of the provisions of this subpart or any amendments or supplements thereto unless the power to modify or waive is expressly included in the pertinent provisions.

§ 1472.1503 Announcement of price support level.

(a) *General.* Pursuant to the National Wool Act of 1954, as amended, the Secretary of Agriculture shall announce a price support level for wool which has been determined to meet the requirements of the Act for each of the four marketing years, 1978, 1979, 1980, and 1981. Such support price level shall, to the extent practicable, be announced sufficiently in advance of each marketing year as will permit producers to plan their production for such marketing year.

(b) *1978 Marketing year.* For the 1978 marketing year, the price support level for shorn wool was announced on December 1, 1977, as $1.08 per pound, grease basis.

§ 1472.1504 Definitions.

As used in the regulations in this subpart and in the forms and documents related thereto, the following terms shall have the meaning assigned to them in this section.

(a) "Financing agency" means any bank, turst company, or Federal lending agency. It also includes any other financing institution which customarily makes loans or advances to finance production of sheep, lambs, or wool.

(b) "Joint producers" means two or more producers who are joint owners of shorn wool or unshorn lambs, or who are producers of shorn wool or unshorn lambs under a caretaking agreement pursuant to which one producer owns the sheep or lambs and the other producer furnishes labor in connection with lamb or wool production in return for which the producer is entitled to share either in the wool or lambs produced or in the proceeds from the sale of such wool or lambs.

(c) "Joint owners" means two or more persons who own the wool or lambs in question, regardless of the special nature of their relationship or how it came into being, and shall include owners in common.

(d) "Lamb" means a young ovine animal which has not cut the second pair of permanent teeth. The term includes animals referred to in the livestock trade as lambs, yearlings, or yearling lambs.

(e) "Liveweight" is the weight of live lambs which a producer purchases or sells. In the event the price for the lambs is based on weight, the weight actually used in determining the total amount payable shall be considered the liveweight.

(f) "Local shipping point" means the point at which the producer delivers wool to a common carrier for further transportation, or if the wool is not delivered to a common carrier, the point at which a producer delivers it to the marketing agency or a purchaser. The term "common carrier" includes any carrier that serves the public in transporting goods for hire whether or not such carrier is required to be licensed by some Government authority to do so.

(g) "Marketing agency" with reference to shorn wool means a person who sells a producer's wool for the producer's account, and with reference to lambs, it means a commission firm, auction market, pool manager, or any other person who sells lambs for the account of a producer.

(h) "Marketing year" means the period beginning January 1 and ending the following December 31, both dates inclusive.

(i) "Person" means an individual, partnership, association, business trust, corporation, or any organized unincorporated group of individuals, and includes a State and any subdivision thereof.

(j) "Producer" of shorn wool means a person who either owns, individually or jointly, the sheep or lambs from which the wool is shorn or is a joint producer of the wool under a caretaking agreement as described in paragraph (b) of this section. "Producer" of lambs means a person who either owns the lambs, individually or jointly, or is a joint producer of the lambs under a caretaking agreement as described in paragraph (b) of this section.

(k) "Sales document" means the account of sale, bill of sale, invoice, and any other document evidencing the sale by the producer of shorn wool or unshorn lambs.

(l) "Slaughterer" means a commercial slaughterer, that is, a person who slaughters for sale as distinguished from a person who slaughter for home consumption.

(m) "Specified marketing year" is the marketing year as to which the Department of Agriculture has announced that marketings of shorn wool and unshorn lambs by a producer during that year will entitle the producer to a payment under this program.

(n) "Unshorn lambs" means lambs which have never been shorn.

SHORN WOOL

§ 1472.1505 Price support payments.

(a) *General.* Price support on shorn wool will be furnished for each specified marketing year in accordance with the provisions of this subpart by means of payments to the producer on the shorn wool marketed in that marketing year. Payments will not be made on marketings of the pelts of sheep or lambs, or on the marketings of wool removed from such pelts.

(b) *Rate of payment.* At the end of a specified marketing year and after the Department of Agriculture has determined the national average price for shorn wool received by producers in that marketing year, the Department will announce the rate of payment under this subpart. The rate of payment will be the percentage of the national average price per pound received by producers in a specified marketing year which is required to bring such national average price up to the support price for shorn wool.

§ 1472.1506 Eligibility for payments.

Before payments under this subpart can be approved pursuant to any application for payment covering any lot or lots of wool, the following requirements must be satisfied:

(a) Except as provided in § 1472.1544, the applicant must be the producer, and in the case of a joint application each joint applicant must be a producer, of the shorn wool which must have been marketed during the specified marketing year.

(b) The wool must have been shorn in the United States. If wool is shorn from imported sheep or lambs while they are held in quarantine in connection with their importation, such wool is not considered to have been shorn in the United States. For the purpose of this program, shorn wool is deemed to include murrain and other wool removed from dead sheep and other off wools such as black wool, tags, and crutchings.

(c) The producer, or in the case of joint producers, at least one of the producers must have owned the wool at the time of shearing and must have owned in the United States the sheep or lambs from which the wool was shorn for not less than 30 days at any time prior to the filing of the application. Ownership of wool or animals as used in this paragraph does not include the ownership which in some States is held by a person having a security interest, such as a mortgage or other lien. If sheep or lambs are imported into the United States, the 30-day period of required ownership shall begin after their importation and, if they were quarantined in connection with such importation, the period shall begin after their release from quarantine.

(d) Beneficial interest in the wool must always have been in the producer from the time the wool was shorn up to the time of its sale. A producer has beneficial interest in wool (1) when the producer owns it and has not authorized any other person to sell or otherwise dispose of it, or (2) when the producer has, by transfer of legal title to such other person or otherwise, authorized another person to sell or otherwise dispose of the wool but continues to be entitled to the proceeds from any such sale or other disposition thereof. Such beneficial interest is not changed by a mortgage or other lien on the wool.

(e) The applicant shall either report purchases of unshorn lambs as required by § 1472.1511 (a)(1) or (b)(1), or make the statement provided for in § 1472.1511 (a)(2) or (b)(2).

(f) Payments will not be made on the marketing of wool shorn from imported sheep or lambs if the permit for the importation of the sheep or lambs or a communication connected with such permit, issued by the Animal and Plant Health Inspection Service of this Department states that the importation is for slaughter.

(g) Payments under this subpart shall only be made on bona fide marketings in a specified marketing year.

§ 1472.1507 Marketing within a specified marketing year.

(a) Marketing shall be deemed to have taken place in a specified marketing year if, pursuant to a sale or contract to sell in the process of marketing, the last of the following three events, in whatever order they occur, was completed in that marketing year: (1) Title passed to the buyer; (2) the wool was delivered to the buyer (physically or through documents which transfer control to the buyer); and (3) the last of the factors (price per pound, weight, etc.) needed to determine the total purchase price payable by the buyer is known to the applicant's purchase price payable by the buyer is known to the applicant's marketing agency, or is known to the applicant, if the applicant markets directly. In addition, the full amount due the producer in connection with the marketing of wool must be paid to the producer in cash, merchandise, or services rendered before the producer may include it in the application for payment.

(b) A promissory note or other promise to pay, as well as a check not honored for any reason, shall not be considered a payment to the producer unless the Deputy Administrator, State and County Operations, ASCS, makes a determination that (i) the producer acted in good faith in marketing the wool, (ii) the wool was not returned to the producer, (iii) the producer was not aware and did not suspect that the document tendered in payment for the wool was not worth its face value at the time of acceptance of the document as payment for the wool, and (ix) the producer has made a diligent effort to obtain payment for the wool from the purchaser. This determination shall be deemed to constitute a determination that the acceptance of such a document as payment for the wool is consistent with the purposes of the National Wool Act. Notwithstanding the provisions of this paragraph (b), the price utilized for the purpose of computing the net sales proceeds pursuant to § 1472.1508 shall not exceed the fair market value of the wool as determined by CCC.

(c) A sale by one producer to another shall not constitute a bona fide marketing unless (1) the selling producer usually markets wool in that way, or (2) the buying producer is also engaged in the business of buying and selling wool and buys the wool in the course of that business. An exchange of wool between the producers thereof or a sale of wool conditioned on the acquisition by the selling producer from the buyer of the same wool or other wool shall not constitute a bona fide marketing. A sale of wool by a producer to a person not previously engaged in the business of buying wool also shall not constitute such a marketing unless evidence is submitted to the satisfaction of CCC that there was a bona fide sale. Any document representing a sale, transfer, or other arrangement with respect to the wool which is fictitious or not legally binding or solely a scheme or device for obtaining a price support payment shall not constitute evidence of a bona fide marketing. Examples of such schemes are sales of wool wherein a part or all of the purchase price is returned to the purchaser in the form of money, merchandise, or otherwise either directly from the seller or through other persons.

(d) The exchange of wool for merchandise or services (for instance, shearing) will be considered a marketing, provided a definite price for the wool is established by the parties to the exchange. Such price, or whatever other price CCC determined is the fair market value for such wool, whichever is lower, shall be utilized for the purpose of computing the net sales proceeds pursuant to § 1472.1508 upon which payment under this subpart is based.

(e) Delivery of wool on consignment to a marketing agency to be sold for the producer's account does not constitute a marketing, whether or not a minimum sales price is guaranteed or an advance against the prospective sales price is given by the consignee, except that the wool is deemed marketed if the marketing agency has guaranteed a minimum sales price, is unable to sell the wool for more, and with the producer's consent takes it over at the minimum sales price. The producer shall be deemed to have consigned the wool when title to the wool has been transferred to a marketing agency and the producer provides that such agency shall market the wool and that the producer shall be entitled to the proceeds of such marketing.

§ 1472.1508 Computation of payment.

(a) The amount of the payment due a producer shall be computed by applying the rate of payment to the net sales proceeds for the wool marketed during the specified marketing year. The resultant amount shall be reduced, because of the purchase by the producer of unshorn lambs, by an amount resulting from multiplying the liveweight of such lambs reported in the application for payment by the announced rate of payment on unshorn lambs during said marketing year. If the amount of the reduction exceeds the payment computed on the shorn wool marketed, the liveweight of lambs which corresponds to the excess amount shall be carried forward and used to reduce payments on unshorn lambs marketed or slaughtered or shorn wool marketed in the current or future years.

(b) Except as provided in § 1472.1510(a)(6) with respect to a guaranteed minimum sales price, the net sales proceeds shall be determined by deducting from the gross sales proceeds of the wool all marketing expenses, such as any charges paid by or for the account of the producer for transportation, handling (including commissions), grading, scouring, or carbonizing. The figure so arrived at will express the net proceeds received by the producer at the farm, ranch, or local shipping point. Charges for wool bags or storage, as well as any other charges not directly related to the marketing of the wool such as interest on advances, shall not be considered marketing charges.

(c) All applications filed by a producer in the same county office for payments due on wool marketed during the specified marketing year shall be considered together for the purpose of determining the total net amount of payment due. All such applications filed in different county offices may be considered together in determining such total payment.

§ 1472.1509 Preparation of application.

(a) *Preparation.* The application for payment on the sale of shorn wool shall be prepared on Form CCC-1155, "Application for Payment (National Wool Act)." Marketing agencies may assist producers in filling out applications by inserting the information on sales of shorn wool and sending the sales documents to the appropriate ASCS county office, but the producer must sign the application and is responsible for the requirements as to the time and manner of filing the application. If the producer paid marketing charges not shown on the sales document, such charges shall be considered with the marketing charges shown on the sales document covering the wool sold.

(b) *Supporting documents.* The application shall be supported by the original sales document covering the wool sold.

(c) *Original sales document retained.* If the applicant does not wish the original sales document to remain within the ASCS county office, the applicant may submit a photostat, carbon, or other copy of the original document. However, the applicant must show the original document to the ASCS county office where the statements on the copy will be confirmed by comparison with the original. The original sales document will be appropriately stamped or marked to indicate that it had been used in support of an application for payment under this program and will be returned to the applicant, who shall retain it in accordance with § 1472.1551.

(d) *Practice of issuing carbon or photostat copies.* If it is the practice of the person or firm preparing the sales document to furnish a carbon or photostat copy to the seller in place of the original, the producer may submit that copy in support of the application, provided the copy bears a signature, in accordance with § 1472.1510 (a)(10), of the person or of the representative of the firm preparing the original sales document. Such copy shall be treated as an original for the purposes mentioned in this section.

(e) *Lost or destroyed sales documents.* If the original sales document has been lost or destroyed, the applicant may submit a copy, certified by the buyer or the applicant's marketing agency, and such certified copy shall be treated as an original for the purposes mentioned in this section.

§ 1472.1510 Contents of sales documents.

The sales documents attached to each application for an incentive payment must contain a final accounting and meet the requirements of paragraph (a) or (b) of this section, for the wool covered by the sales document. Contracts to sell as well as tentative or pro forma settlements will not be acceptable as sales documents meeting such requirements. Except as provided in § 1472.1544, sales documents must cover wool sold by the producer.

(a) *Sales other than at farm, ranch, or local shipping point.* Each sales document, except a document covering an outright sale at the producer's farm, ranch, or local shipping point, must be prepared by the purchaser or the applicant's marketing agency and must contain at least the following information:

(1) Name and address of seller.

(2) Date of sale. In case the producer's shipment to a marketing agency is sold in parts within a marketing year, the date when final settlement is made within that marketing year for the wool that was sold within the marketing year may be shown on the sales document as the date of sale instead of the various dates on which the sales actually took place.

(3) Net weight of wool sold. If the wool was sold as scoured or carbonized wool, the original grease weight must be shown as well as the scoured or carbonized weight.

(4) Except as otherwise provided in subparagraph (5) of this paragraph, the gross sales proceeds or sufficient information from which the gross sales proceeds can be determined.

(5) Marketing deduction, if any (see § 1472.1508(b)), except as otherwise provided in this subparagraph. The marketing deductions may be itemized or they may be shown on the sales document as a composite figure for all marketing charges with an explanation of what services are included in that figure. If it is the practice of a marketing agency to show, on the sales document, only the net proceeds after marketing deductions, the gross sales proceeds and the amount of the marketing deductions need not be shown, provided the sales document contains a statement reading substantially as follows: "The net sales proceeds after marketing deductions shown herein were computed by deducting from the gross sales proceeds charges for the following marketing services: ———. Details of these charges will be furnished on request." All the services for which deductions are made shall be enumerated in the blank space indicated. If a sales document shows charges without specifying their nature, they will be considered marketing charges and thus diminish the net proceeds on which the incentive payment is computed. Association dues are to be considered marketing deductions if they include compensation for marketing services.

(6) Net proceeds after marketing deductions. If a sales document contains a figure for net proceeds after marketing deductions, computed for a location other than the producer's farm, ranch, or local shipping point, the person preparing the sales document shall show thereon the name of the location for which the net proceeds have been computed. If a marketing agency has guaranteed a minimum sales price for the wool, is unable to sell the wool for a higher price, and therefore settles with the producer on the basis of such guaranteed minimum price, the sales document should be on the basis of that guaranteed minimum price regardless of a lower price at which the agency may sell the wool. In such a case, the marketing agency may indicate on the sales document that the price is the guaranteed minimum sales price.

(7) Additional deductions, such as charges for bags, storage, interest, association dues which do not include compensation for marketing services, or other charges not directly related to the marketing of the wool.

(8) Amount paid to the seller.

(9) Name and address of the purchaser or marketing agency, whichever issues the sales document.

(10) Signature. The sales document must bear a handwritten signature by or on behalf of the person or firm issuing the sales document. Acceptable signatures will consist of at least one initial or name by which the person is generally known, followed by the last name in full. A carbon impression or facsimile of a handwritten signature is not acceptable.

(11) A sales document issued by a marketing agency and covering sales made on various dates within a specified marketing year shall contain a statement that the wool was marketed during the marketing year.

(12) A sales document covering wool exchanged for merchandise or services (§ 1472.1507(d)), shall contain a clear statement that the transaction is an exchange rather than a cash sale.

(b) *Sales at farm, ranch, or local shipping point.* Each sales document covering an outright sale at the producers' farm, ranch, or local shipping point, and attached to an application for incentive payment shall be prepared by the purchaser and must contain at least the following information:

(1) Name and address of seller.

(2) Date of sale.

(3) Net weight of wool sold. If the wool was sold as scoured or carbonized wool, the original grease weight must be shown as well as the scoured or carbonized weight.

(4) Net amount received by the seller for the wool at the farm, ranch, or local shipping point.

(5) Any applicable nonmarketing deductions, such as charges for bags, storage, interest, association dues which do not include compensation for marketing services, or other charges not directly related to the marketing of the wool.

(6) Name and address of the purchaser.

(7) Signature. The sales document must bear a handwritten signature by or on behalf of the person or firm issuing the sales document. Acceptable signatures will consist of at least one initial or name by which the person is generally known, followed by the last name in full. A carbon impression or facsimile of a handwritten signature is not acceptable.

(8) A sales document covering wool exchanged for merchandise or services (§ 1472.1507(d)), shall contain a clear statement that the transaction is an exchange rather than a cash sale.

§ 1472.1511 Report of purchases of unshorn lambs.

(a) *Report on actual basis.* (1) If the application includes wool removed in the first shearing of lambs purchased unshorn, and the applicant is able to identify the lambs from which such wool was shorn, the applicant shall report the number and liveweight of such lambs at time of purchase, including those from which wool was removed after death.

(2) If the applicant knows that the application does not include any wool which was removed in the first shearing of lambs purchased unshorn, the applicant shall state that there are no purchases of unshorn lamb related to the sale of such wool.

(b) *Report on "first in, first out" basis.* (1) If an applicant does not know whether the application includes wool removed in the first shearing from lambs purchased unshorn, or an applicant knows that such wool is included but is unable to identify the lambs from which such wool was shorn, the applicant shall report on a "first, in, first out" basis, that is, in chronological order, the number and liveweight at the time of purchase of a quantity of lambs purchased unshorn equal to the number of sheep and lambs from which wool was shorn and included in the application. This reporting of purchased lambs shall be continued in applications for the current and subsequent marketing years for payments on shorn wool and for payments on unshorn lambs until the applicant has accounted for all lambs purchased unshorn on or after April 1, 1956, not reported in previous applications. However, the applicant need not report those lambs with respect to which the applicant can show no application has been made for a payment for the 1956 or a subsequent marketing year on their sale or on the sale of wool shorn from them.

(2) If the application for payment on the sale of shorn wool is made after an applicant has accounted for the total purchases of unshorn lambs, the applicant shall state that there are no purchases of unshorn lambs related to such sale.

(c) *Imported lambs.* If purchased lambs which the applicant is required to report were imported, the liveweight required to be reported shall be the liveweight of the lamb at the time of import, or if they were quarantined in connection with the importation, at the time of release from quarantine. For the purpose of reporting imported lambs, whether they were purchased or raised by the producer they shall be treated as if they had been purchased. Any report in an application of purchased lambs and their liveweights as required by this paragraph shall be deemed to include lambs both purchased and raised by the producer.

(d) *Additional information.* The applicant shall furnish any additional details requested by ASCS State and county offices concerning any report made pursuant to this section.

UNSHORN LAMBS (PULLED WOOL)

§ 1472.1521 Price support payments.

(a) *Level of payments.* For each marketing year, price support will be furnished on pulled wool at such level, in relationship to the support price for shorn wool, as the Secretary determines will maintain normal marketing practices for pulled wool, by means of payments to the producer in accordance with this subpart on live unshorn lambs that are sold or moved to slaughter in a specified marketing year. Payments will not be made on the sale of the pelts or sheep or lambs or wool removed from such pelts.

(b) *Rate of payment.* The rate of payment will be 80 percent of the difference between the national average price per pound received by producers for shorn wool during a specified marketing year and the support price per pound of shorn wool multiplied by the average weight of wool per hundredweight of animals (5 pounds). The exact rate of payment will be determined and announced, after the end of that marketing year, as a specified amount per hundredweight of live animals.

§ 1472.1522 Eligibility for payments.

Before payments under this program can be approved pursuant to an application covering any lot or lots of lambs, the following requirements must be satisified:

(a) Except as provided in § 1472.1544, the applicant must be the producer, and in the case of a joint application each applicant must be a producer, of the lambs.

(b) The producer, or in the case of joint producers, at least one of the producers must have owned the lambs for 30 days or more in the United States and title must have passed to the buyer within the specified marketing year. If a slaughterer is to qualify

for a payment, the slaughterer must have owned the lambs for 30 days or more in the United States prior to their moving to slaughter and they must have moved to slaughter within the specified marketing year. Ownership of lambs, as used in this paragraph, does not include the ownership which in some States is held by a person having a security interest, such as a mortgage or other lien. If lambs are imported into the United States, the 30-day period of required ownership shall begin after their importation, and, if they were quarantined in connection with such importation, the period shall begin after their release from quarantine.

(c) The lambs must never have been shorn at the time of sale, or, in the case of an application by a slaughterer, at the time of moving to slaughter.

(d) The applicant shall either report purchases of unshorn lambs as required by § 1472.1526 (a)(1) or (b)(1), or make the statement provided for in § 1472.1526 (a)(2) or (b)(2).

(e) Payments will not be made on the marketing of imported lambs if the permit for the importation of the lambs or a communication connected with such permit, issued by the Animal and Plant Health Inspection Service of this Department, states that the importation is for slaughter.

(f) Payments under this subpart shall only be made on bona fide marketings in a specified marketing year.

§ 1472.1523 Computation of payment.

(a) The amount of the payment due to an applicant shall be computed by applying the rate of payment to the liveweight of the lambs sold or moved to slaughter during the specified marketing year, reduced, on account of the purchase or importation by the applicant of unshorn lambs, by the liveweight of such lambs reported in the application for payments. If the amount of the reduction exceeds the liveweight of the unshorn lambs sold or moved to slaughter during said marketing year, such excess liveweight shall be carried forward and used to reduce payments on unshorn lambs marketed or slaughtered or shorn wool marketed in the current or future years.

(b) All applications filed by a producer in the same county office for payments due on unshorn lambs marketed or moved to slaughter during the specified marketing year shall be considered together for the purpose of determining the total net amount of payment due. All such applications filed in different county offices may be considered together in determining such total payment.

§ 1472.1524 Preparation of application.

(a) *Preparation.* The application for payment on the sale or slaughter of unshorn lambs shall be made on Form CCC-1155, "Application for Payment (National Wool Act)."

(b) *Supporting documents.* The application for payment on the sale of unshorn lambs shall be supported by the original sales documents covering the sale. The application for payment on the slaughter of unshorn lambs shall be supported by the scale ticket covering the movement to slaughter.

(c) *Original sales document retained.* If the applicant does not wish the original sales document to remain with ASCS county office, the applicant may submit a photostat, carbon, or other copy of the original document. However, an applicant must show the original document to the ASCS county office where the statements on the copy will be confirmed by comparison with the original. The original sales document will be appropriately stamped or marked to indicate that it had been used in support of an application for payment under this program and will be returned to the applicant. The applicant is required to retain it in accordance with § 1427.1551.

(d) *Practice of issuing carbon or photostat copies.* If it is the practice of the person or firm preparing the sales document to furnish a carbon or photostat copy to the seller in place of the original, the applicant may submit that copy in support of the application, provided the copy bears a signature in accordance with § 1472.1525(a)(6), of the person or the representative of the firm preparing the original sales document. Such copy shall be treated as an original for the purpose mentioned in this section.

(e) *Lost or destroyed sales document.* If the original sales document or scale ticket has been lost or destroyed, the applicant may submit a copy, certified by the person who issued the original, and such certified copy shall be treated as an original for the purposes mentioned in this section.

§ 1472.1525 Contents of sales documents and scale tickets.

(a) *Sales documents.* Each sales document supporting an application must cover lambs sold by the producer except as provided in § 1472.1444, must be issued by the purchaser or the producer's marketing agency, and must show the following:

(1) Name and address of seller.

(2) Date of sale.

(3) Number of unshorn lambs sold. If the sales document does not clearly identify the animals as lambs that had never been shorn at the time of sale, the person issuing the sales document shall add a statement to that effect. If the sales document refers to the animals as "unshorn lambs," this will indicate that the lambs were never shorn. If the document issued in connection with the sale of unshorn lambs also covers the sale of other animals, the person preparing the sales document shall clearly indicate therein the number and the liveweight of unshorn lambs included in the sale.

(4) Liveweight of unshorn lambs sold. If the weight is not determined by scales, this weight may be an estimated weight agreed to by the purchaser and the producer.

(5) Name and address of the purchaser or marketing agency, whichever issues the sales document.

(6) Signature. The sales document must bear a handwritten signature by or on behalf of the person or firm issuing the sales document. Acceptable signatures will consist of at least one initial or name by which the person is generally known, followed by the last name in full. A carbon impression or facsimile of a handwritten signature is not acceptable.

(b) *Scale tickets.* The scale ticket supporting an application must cover unshorn lambs moved to slaughter by the applicant and must show the information normally appearing on scale tickets issued by stockyards (that is, date, number of head, classification(s), weight by classification, scale ticket number, if any, place of weighing, and name of weigher).

§ 1472.1526 Report on purchases of unshorn lambs.

(a) *Report on actual basis.* (1) If the application is based on the sale or slaughter of lambs purchased unshorn and the applicant is able to identify such lambs, the applicant shall report the number of lambs purchased and their liveweight at the time of purchase.

(2) If the applicant knows that the application is not based on the sale or slaughter of such lambs purchased unshorn, the applicant shall state that there are no purchases of unshorn lambs related to the sale or slaughter of such lambs.

(b) *Report on "first in, first out" basis.* If an applicant does not know whether the application is based on the sale or slaughter of lambs purchased unshorn, or knows that such lambs are included but is unable to identify such lambs, the applicant shall report on a "first in, first out" basis, that is, in chronological order, the number and liveweight at the time of purchase of a quantity of lambs purchased unshorn equal to the number of lambs on which the application is based. This reporting of purchased lambs shall be continued in applications for the current and subsequent marketing years for payments on unshorn lambs and shorn wool until the applicant has accounted for all lambs purchased unshorn on or after April 1, 1956, not reported in previous applications. However, the applicant need not report any lambs when it can be shown that no application has been made for a payment for the 1956 or a subsequent marketing year on their sale or on the sale of wool shorn from them.

(2) If the Application for payment on the sale or slaughter of unshorn lambs is made after an applicant has accounted for the total purchases of unshorn lambs, the applicant shall state that there are no purchases of unshorn lambs related to such sale or slaughter.

(c) *Imported lambs.* If purchased lambs which the applicant is required to report were imported, the liveweight required to be reported shall be the liveweight of the lambs at the time of import, or, if they were quarantined in connection with the importation, at the time of release from quarantine. For the purpose of reporting imported lambs, whether they were purchased or raised by the producer, they shall be treated as if they had been purchased. Any report in an application of purchased lambs and their liveweight as required by this paragraph shall be deemed to include lambs both purchased and raised by the producer.

(d) *Additional information.* The applicant shall furnish any additional details requested by ASCS State and county offices concerning any report made pursuant to this section.

General Provisions

§ 1472.1541 Filing application for payment.

(a) *Place of filing.* Applications for payment shall be filed by the applicant with the ASCS county office serving the county where the headquarters of the producer's farm, ranch, or feed lot, as the case may be, is located. If the producer has more than one farm, ranch, or feed lot, with headquarters in more than one county, separate applications for payment shall be filed with the ASCS county office serving each such headquarters covering only the wool and lambs produced at each such farm, ranch, or feed lot, except that: (1) If the producer sells the entire clip of wool in a single sale or if the entire clip is sold for the producer's account by one marketing agency, the producer may file the application(s) for payment on shorn wool in any one of those ASCS county offices, or (2) if the producer includes in one sale unshorn lambs that were ranged, pastured, or fed in more than one county, the producer may file the application(s) for payment on such lambs in any one of those ASCS county offices. In the event all business transactions are conducted from the producer's residence or office, and the farm or ranch has no other headquarters, the office or residence may be considered the farm or ranch headquarters.

(b) *Time of filing.* An application for payment shall be filed as soon as possible after completion of the sales of shorn wool or unshorn lambs for the specified marketing year, or in the case of slaughter, as soon as possible after the last of the lambs moved to slaughter in the specified marketing year, but in no event shall an application be filed later than 3 years after the end of the specified marketing year.

(c) *Withdrawal or amendment of application for payment on shorn wool.* (1) An applicant may request permission from the ASC county committee to withdraw an application for payment on shorn wool which constitutes the full first shearing of purchased unshorn lambs when, as a result of such application containing the necessary report of purchases of unshorn lambs on an "actual basis," there is excess liveweight carried forward which would be used to reduce payment in the current or future marketing years. An applicant may also request permission to amend the application by omitting sales of those lots of wool constituting the full first shearing of purchased unshorn lambs reported on an "actual basis." These requests must be accompanied by such supporting evidence as may be required by the ASC county committee. If the application was signed jointly by two or more producers, the request for withdrawal or amendment must be signed by each such producer. To be considered a full shearing, the wool must constitute the complete fleece, and not merely tags, clippings, trimmings around the eyes, or other offwools.

(2) If the ASC county committee is satisfied that the conditions described in paragraph (c)(1) of this section exist, the committee may grant the request. If the applicant has filed additional shorn wool applications in other ASCS county offices, the request may be granted only if it is determined that such additional applications do not include any wool removed in the full first shearing of the lambs which will not be reported as a result of the withdrawal or amendment.

§ 1472.1542 Signature of applicant.

No payment will be made unless an application for payment on shorn wool or unshorn lambs is signed. Each person who signs an application for payment in a representative or fiduciary capacity as agent, attorney-in-fact, officer, executor, etc., must be properly authorized to sign in such capacity.

§ 1472.1543 Joint applicants.

When the applicant for a shorn wool payment is a joint producer of the wool, all of the joint producers (except those who sign a release as provided below in this section) must sign any application based on the sale of such wool regardless of whether the wool was divided among such producers prior to sale or was sold without division. When the applicant for a payment of unshorn lambs is a joint producer of the lambs, all of the joint producers (except those who sign a release as provided below in this section) must sign any application based on the sale of such lambs regardless of whether the lambs were divided among such producers prior to sale or were sold without division. CCC will not be responsible for a division among the applicants of a payment made to all of them jointly. When the application shows such joint production, and one or more of the joint producers refuse to join in the application, if each such joint producer signs a form prescribed by CCC releasing CCC from any obligation to make a payment to such a joint producer, CCC shall make payment of the amount due the remaining joint producers who sign the application. Such release(s) shall be attached to the application. When any joint producer is entitled to join in an application but fails to do so, and the application does not show this interest as a joint producer, the producer shall have no claim against CCC for any portion of the payment made pursuant to the application.

§ 1472.1544 Disability.

(a) If a producer who is otherwise eligible to receive a payment under this subpart dies, disappears, or is declared incompetent, before marketing the shorn wool or unshorn lambs or before filing an application, the successors or representatives authorized to receive payment in the order of precedence set forth in Part 707 of this title may complete the eligibility requirements and make application for such payment on Form CCC-1155. The applicant shall also file Form ASCS-325, "Application for Payment of Amounts Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent," in accordance with Part 707 of this title.

(b) If a producer who earned a payment under this subpart and filed an application therefor dies, disappears, or is declared incompetent, either before CCC has issued a draft in payment or after CCC has issued a draft in payment but before the draft is negotiated, the successors or representatives authorized to receive such payment in the order of precedence set forth in Part 707 of this title may apply therefor on Form ASCS-325, in accordance with Part 707 of this title.

(c) If an Indian who is incompetent earned a payment under this subpart,

an application therefor may be filed on behalf of the Indian by the Superintendent of the Indian Field Service of the reservation on which the Indian resides or by the authorized representative of such Superintendent. Such application for payment will be filed in the ASCS county office where the headquarters of the Indian's farm or ranch is located.

(d) In all other cases of disability, including bankruptcy dissolution, payments will be made to a representative only in accordance with specified directions issued by CCC.

§ 1472.1545 Payment.

(a) Payment will be made under this subpart after the ASCS county office has reviewed the application and attached supporting documents and has approved payment in whole or in part, and after the appropriate rate of payment for the specified marketing year has been announced by the Department of Agriculture.

(b) Payments under this subpart shall be made only on the basis of the net sales proceeds received for shorn wool and on the liveweight of lambs sold or moved to slaugher. No payment shall be made on that part of any sale which has been cancelled or on the basis of prices or weights which have been fraudulently increased for the purpose of obtaining higher payments. No payment shall be made on sales to a wool growers association (as distinguished from a cooperative marketing association) by its producer-members on the basis of net sales proceeds in excess of the fair market value of the wool (grease basis) as determined by CCC.

(c) If it is determined by the ASCS State or county office that an applicant knowingly made a false statement in the application, including failure to report accurately purchases of unshorn lambs, no payment shall be made with respect to such application.

(d) If CCC subsequently determines that available evidence does not sustain the applicant's right to all or any part of a payment made, the amount of the payment not so sustained shall immediately become due and repayable to CCC, and CCC may, without limitation upon any of the Government's rights in the matter, deduct such amount from any other payment due the applicant under this subpart. If the right to such amount becomes involved in a lawsuit between the Government and the applicant or the assignee, the applicant or the assignee shall have the burden of proving that the applicant was entitled to such amount.

(e) If the ASCS county office rejects in whole or in part an application for payment on shorn wool or unshorn lambs, or, after a payment has been made, determines that the available evidence does not sustain the applicant's right to the payment or any part thereof, the ASCS county office shall mail a notice to the applicant, or, in the case of a joint application, to each applicant, that the application has been rejected, specifying the reason therefor, or that the available evidence does not sustain the applicant's right to the payment or any part thereof, as the case may be.

§ 1472.1546 Deductions for promotion.

If the Department of Agriculture has approved deductions for an advertising and sales promotion program in accordance with sections 708 of the National Wool Act of 1954, as amended, the rate of such deductions for the specified marketing year will be announced and the appropriate deduction will be made from each payment due under this subpart for such specified marketing year.

§ 1472.1547 Setoff.

If the county office records show that the producer is indebted to CCC, to any other agency within the U.S. Department of Agriculture, or to any other agency of the United States, such indebtedness will be set off against the payment due to the producer in accordance with Part 1408 of this chapter.

§ 1472.1548 Liens on sheep or wool.

If a producer grants a lien on sheep, lambs, or wool, such lien shall not be deemed to extend to payments made to the producer pursuant to this subpart.

§ 1472.1549 Requests for reconsideration and appeals.

Any applicant, who is notified that the application has been rejected in whole or in part or that any other action has been taken by the ASCS county office which unfavorably affects a payment, may obtain reconsideration and review of the determination in accordance with Part 780 of this title. In the request for reconsideration, the applicant shall identify the application by number and date. When a joint application is involved, the request for reconsideration and review may be filed by all applicants jointly or by any of the applicants, in which case it shall be considered a request in behalf of all the joint applicants.

§ 1472.1550 Assignments.

(a) *Form.* An assignment of a payment due or to become due under this subpart on shorn wool or on unshorn lambs may be given to a financing agency or a wool marketing agency as security for cash advanced or to be advanced on sheep, lambs, or wool. The assignee shall not reassign such payment. One assignment may cover payments due or to become due on the sale of shorn wool or unshorn lambs or both. An assignment may only include payments due or to become due for a specified marketing year and must include all payments due and to become due for that specified marketing year on the commodity or commodities for which payment is being assigned. The assignment shall be executed by the producer or in the case of joint producers by all such producers, on Form CCC-1157, "Assignment of Payment Under the National Wool Act of 1954." The applicant's signature shall be witnessed by a member of the county or community ASC committee for the county where the farm is located, or by an employee of the county committee.

(b) *Payment.* CCC will make payment pursuant to an accepted assignment unless the ASCS county office is furnished evidence that the assignment has been released by the assignee.

§ 1472.1551 Records and inspection thereof.

(a) The applicant for a payment under this subpart, as well as the marketing agency and any other person who furnishes evidence to such applicant for use in connection with the application, shall maintain books, records, and accounts pertaining to the marketing of the commodity on which the application is based, for 3 years following the end of the specified marketing year during which the marketing took place. The applicant shall maintain books, records, and accounts pertaining to the production of wool, sheep, and lambs and the shearing thereof, with respect to which the applicant applies for payment, for 3 years following the end of the specified marketing year during which the marketing took place. The applicant shall also maintain books, records, and accounts showing the purchases of lambs on or after April 1, 1956, for 3 years following the end of the specified marketing year during which any such lambs have been marketed, as the case may be. If the applicant is required to report purchases of unshorn lambs on a "first in, first out" basis, the applicant shall maintain such books, records, and accounts of such lambs for 3 years following the end of the specified marketing year for which such lambs are to be reported.

(b) If an application is based on the sale of wool shorn from imported sheep or lambs, or on the sale of imported lambs, or if lambs required to be reported as purchased unshorn were imported, the books, records, and accounts required by paragraph (a) of this section to be maintained by the applicant shall show the details of such importation, including the date of arrival of the lambs in the United States and the liveweight on such date, and if the lambs were quarantined, the date when they were released from quarantine and their liveweight on such date.

(c) With respect to any application for payment filed after the end of the specified marketing year, instead of maintaining the books, records, and accounts for the time specified in paragraph (a) of this section, such books, records, and accounts shall be maintained for 3 years following the date on which the application is filed.

(d) At all times during regular business hours, authorized representatives of CCC or the Department of Agriculture shall have access to the premises of the applicant, of the marketing agency, and of the person who furnished evidence to an applicant for use in connection with the application, in order to inspect, examine, and make copies of the books, records, and accounts, and other written data as specified in paragraphs (a), (b), and (c) of this section.

§ 1472.1552 Violations of program.

(a) Whoever issues a false sales document or otherwise acts in violation of the provisions of this Drogram so as to enable an applicant to obtain a payment to which such person is not entitled, shall become liable to CCC for any payment which CCC may have made in reliance on such sales document or as a result of such other action.

(b) The issuance of a false sales document or the making of a false statement in an application for payment or other document, for the purpose of enabling the applicant to obtain a payment to which such pereson is not entitled, will subject the person issuing such document or making such statement to liability under applicable Federal civil and criminal statutes.

§ 1472.1553 Forms.

(a) Form CCC-1155, "Application for Payment (National Wool Act)," Form CCC-1157, "Assignment of Payment Under the National Wool Act of 1954," Form ASCS-325, "Application for Payment of Amounts Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent," and other forms issued by the U.S. Department of Agriculture for use in connection with this program may be obtained from ASCS county offices.

§ 1472.1554 Authorization by Executive Vice President, CCC, or other official.

If the applicant is unable to furnish the documentary evidence of sale required in this subpart, the Executive Vice President, CCC, or the Deputy Administrator, State and County Operations, ASCS, may authorize the submission of any other evidence which establishes to the satisfaction of the authorizing official the information required by §§ 1472.1510 and 1472.1525.

§ 1472.1555 Expiration of time limitations.

Whenever the final date for filing an application falls on a Saturday, Sunday, national holiday, or State holiday, or on any other day on which the appropriate ASCS State or county office is not open for the transaction of business during normal working hours, the time for filing the application shall be extended to the close of business on the next working day. If filing is by mail, it shall be considered timely if it is postmarked by midnight of such next working day.

NOTE.—The reporting and recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Signed at Washington, D.C., on February 28, 1978.

STEWART N. SMITH,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 78-5956 Filed 3-7-78; 8:45 am]

[6750-01]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 8958-o]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Boise Cascade Corp. et al.

AGENCY: Federal Trade Commission.

ACTION: Final order to cease and desist.

SUMMARY: This order, among other things, requires a Boise, Idaho manufacturer and seller of softwood plywood, and four of its competitors, to cease, in connection with sales and transportation of their products, employing weight estimates to determine freight charges; and using any rate of freight, other than that applicable to particular business transactions. The order further requires that the firms, when offering delivered prices, provide purchasers of their products the option of obtaining point of origin prices and furnishing their own transportation. Additionally, firms must advise persons responsible for sales and policy of the terms of the order, and publish such terms as prescribed.

DATES: Complaint issued April 18, 1974; Final Order issued January 11, 1978.[1]

FOR FURTHER INFORMATION CONTACT:

Alfred F. Dougherty, Jr., Director, Bureau of Competition, Federal Trade Commission, Room 376, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580, 202-523-3475.

SUPPLEMENTARY INFORMATION: In the Matter of Boise Cascade Corp., a corporation, Champion International Corp., a corporation, Georgia-Pacific Corp., a corporation, Weyerhaeuser Co., a corporation, and Williamette Industries, Inc., a corporation. The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows:

Subpart—Combining or Conspiring: § 13.395 To control marketing practices and conditions; § 13.400 To discriminate or stabilize prices through basing point or delivered price systems; § 13.432 To fix and maintain uniform freight charges; § 13.470 To restrain or monopolize trade. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures; 13.533-40 Furnishing information to media. Subpart—Discriminating in Price Under Section 5, Federal Trade Commission Act: § 13.880 Delivered price systems. Subpart—Selling and Quoting on Systematic, Price Matching Basis: § 13.2193 Zone, freight equalization, and other delivered price systems.

(Sec. 6, 38 Stat. 721 (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended (15 U.S.C. 45).)

The final order to cease and desist, including further order requiring report of compliance therewith, is as follows:

FINAL ORDER

This matter has been heard by the Commission upon the appeal of respondents' counsel from the initial decision and upon briefs and oral argument in support thereof and opposition thereto, and the Commission, for the reasons stated in the accompanying Opinion, has denied the appeal.

It is ordered, That pages 1-132 of the initial decision of the administrative law judge are hereby adopted as the Findings of Fact and Conclusions of Law of the Commission, to the extent not inconsistent with the accompanying Opinion. Other Findings of Fact and Conclusions of Law of the Commission are contained in the accompanying Opinion.

[1] Copies of the Complaint, Initial Decision, Opinion and Final Order, filed with the original document.

It is further ordered, That the following Order to Cease and Desist be hereby entered:

order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

sion and order in this matter. Addenda to the petition were filed on April 7, 1977 and on May 25, 1977. The Bureau

accounts established before June 1, 1977, which remain undesignated.

Interpretation 600.8 defines the per-

By the Commission.

CAROL M. THOMAS,
Secretary.

It is further ordered, That the following Order to Cease and Desist be hereby entered:

ORDER

I

Definitions

For the purposes of this Order, the following definitions shall apply:

"Point of origin price."—A price set by a respondent for a purchase by a customer at a mill or distribution point from which a delivered price is quoted to that customer. The "point of origin price" shall be no greater than the delivered price offered to the customer less the actual transportation cost which would have been incurred by the seller if the sale were made on a delivered price basis.

"Delivered price."—A price set by a respondent for a purchase by a customer which includes the cost of transportation to a designated point.

II

It is ordered, That respondents Boise Cascade Corp., Champion International Corp., Georgia-Pacific Corp., Weyerhaeuser Co. and Williamette Industries, Inc.; their subsidiaries, any concern controlled by a respondent, including joint ventures; their successors and assigns, and their officers, agents, representatives, and employees, directly or indirectly, through any corporate or other device, individually or in combination, in connection with the sale or distribution of softwood plywood, shall forthwith cease and desist:

1. From using, in any manner whatever, any rate of freight or freight factor other than the acutal rate of freight applicable to a given sale or purchase when calculating, negotiating, or quoting the price for such sale or purchase.

2. From using, in any manner whatever, any rate of freight or freight factor other than the actual rate of freight applicable to a given intra-corporate transfer when calculating, negotiating, or quoting the value to be assigned to such transfer.

3. From using, in any manner whatever, any estimated weights as a basis for arriving at freight charges applicable to a given sale or purchase when calculating, negotiating, or quoting the price for such sale or purchase unless such estimates are based upon experience with the actual weight of softwood plywood produced by the mill from which shipment is to be made. Such experience shall be accumulated and updated by representative sampling or by other reasonable methods at least once a year.

4. From using, in any manner whatever, any estimated weights as a basis for arriving at freight charges applicable to a given intra-corporate transfer when calculating, negotiating, or quoting the value to be assigned to such transfer unless such estimates are based upon experience with the acutal weight of softwood plywood produced by the mill from which shipment is to be made. Such experience shall be accumulated and updated by representative sampling or by other methods at least once a year.

III

It is further ordered, That when a delivered price is offered by a respondent to a customer for the purchase of softwood plywood in quantities of at least a truckload, that respondent shall also allow such customer the option of obtaining a point of origin price and of arranging or furnishing transportation from the mill from which shipment would have been made had the delivered price been accepted.

IV

It is further ordered, That each respondent shall, when a sale of softwood plywood is made on a delivered price basis and is shipped in truckload or carload quantities by common or contract carriers, state on the invoice the amount of actual freight charged the customer, the common or contract carrier rate from the place of shipment to the customer's destination, the specified estimated weights, if and when used, and the point of origin price.

V

It is further ordered, That each respondent shall notify all persons having sales and policy responsibilities in its organization of the terms of the order and publish same in at least two major trade journals or periodicals twice annually for each of 2 years from the effective date of this order.

VI

It is further ordered, That each respondent notify the Commission at least thirty (30) days prior to any proposed change in said respondent which may affect compliance obligations arising out of the order, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, or the creation or dissolution of subsidiaries or joint ventures.

VII

It is further ordered, That within sixty (60) days after the effective date of this order, each respondent shall file with the Federal Trade Commission a written report setting forth in detail the manner and form of its compliance with this order.

By the Commission.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-5982 Filed 3-7-78; 8:45 am]

[6750-01]

[Docket No. 9101]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Lancaster Colony Corp. et al.

AGENCY: Federal Trade Commission.

ACTION: Order to cease and desist.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires a Columbus, Ohio manufacturer and seller of machine-made glassware, and a Montvale, N.J. firm, similarly engaged, to present the Commission with evidence that their acquisition agreement has been terminated, and to return to each other all exchanged confidential documents. Further, during periods set forth in the order, these firms would be required to provide the Commission with prescribed advance notice of any intention to acquire a machine-made glassware business, and refrain from consummating any such transaction, pending final Commission decision.

DATES: Complaint, June 17, 1977; Decision, February 1, 1978.[1]

FOR FURTHER INFORMATION CONTACT:

Alfred F. Dougherty, Jr., Director, Bureau of Competition, Federal Trade Commission, Room 376, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580, 202-523-3475.

SUPPLEMENTARY INFORMATION: On Friday, November 25, 1977, there was published in the FEDERAL REGISTER, 42 FR 60164, a proposed consent agreement with analysis in the matter of Lancaster Colony Corp., a corporation, and Federal Paper Board Co., Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its

[1] Copies of the Complaint, and the Decision and Order filed with the original document.

order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows:

Subpart—Acquiring Corporate Stock or Assets: § 13.5 Acquiring corporate stock or assets; 13.5-20 Federal Trade Commission Act.

(Sec. 6, 38 Stat. 721 (15 U.S.C. 46). Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended (15 U.S.C. 45, 18).)

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-5981 Filed 3-7-78; 8:45 am]

[6750-01]

[Docket No. C-2583]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Norlic Import Co., Inc. et al.

AGENCY: Federal Trade Commission.

ACTION: Modification of order to cease and desist.

SUMMARY: This is an order modifying order to cease and desist issued October 22, 1974, by substituting for subparagraph 2 of the first *"It is ordered"* paragraph, one that inserts the words "reprocessed or reused" before the first usage of the term "wool products."

DATES: Decision issued October 22, 1974; Modifying order issued January 25, 1978.[1]

FOR FURTHER INFORMATION CONTACT:

John F. Dugan, Acting Director, New York Regional Office, Federal Trade Commission, 2243-EB Federal Building, 26 Federal Plaza, New York, N.Y. 10007, 212-264-1207

SUPPLEMENTARY INFORMATION: In the matter of Norlic Import Co., Inc., a corporation, and Norman Lichtenstein, individually and as an officer of said corporation. The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, 40 FR 6777, remain unchanged.

(Sec. 6, 38 Stat. 721 (15 U.S.C. 46). Interpret or apply sec. 5, 38 Stat. 719, as amended; secs. 2-5, 54 Stat. 1128-1130 (15 U.S.C. 45, 68).)

The order modifying order to cease and desist, is as follows:

ORDER MODIFYING ORDER TO CEASE AND DESIST

On March 28, 1977, respondents petitioned to reopen and modify the decision and order in this matter. Addenda to the petition were filed on April 7, 1977 and on May 25, 1977. The Bureau of Consumer Protection has filed an answer wherein it advises that it does not oppose respondents' request, as modified by respondents' filing of May 25, 1977.

The Commission has duly considered respondents' request and has determined that it should be granted.

It is ordered, That the proceeding be, and it hereby is, reopened;

It is further ordered, That the order to cease and desist be, and it hereby is, modified by striking subparagraph 2 of the first *"It is further ordered"* paragraph and substituting therefor the following:

"Importing or participating in the importation of reprocessed or reused wool products into the United States except upon filing a bond with the Secretary of the Treasury in a sum double the value of said wool products and any duty thereon, conditioned upon compliance with the provisions of the Wool Products Labeling Act of 1939."

By the Commission.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-5980 Filed 3-7-78; 8:45 am]

[1] Copies of the modifying order filed with the original document.

[6750-01]

SUBCHAPTER F—STATEMENT OF GENERAL POLICY OR INTERPRETATIONS UNDER THE FAIR CREDIT REPORTING ACT

PART 600—STATEMENTS OF GENERAL POLICY OR INTERPRETATIONS

Relationship of Fair Credit Reporting Act, With Equal Credit Opportunity Act

AGENCY: Federal Trade Commission.

ACTION: Final interpretations.

SUMMARY: Interpretation 600.7 prohibits a credit bureau from automatically incorporating undesignated information from the file of the applicant's spouse in the report on the applicant. (Information is considered "undesignated" when: (1) It is in a married consumer's credit file, (2) it is from an account open prior to June 1, 1977, and (3) it contains no indication whether it refers to the consumer's joint or individual credit experience.) The Interpretation suggests alternative procedures which would allow credit bureaus to designate credit history information on accounts established before June 1, 1977, and include this information in the applicant's report. The Interpretation furnishes guidance on how consumer reporting agencies should respond to the problem of reporting credit history from accounts established before June 1, 1977, which remain undesignated.

Interpretation 600.8 defines the permissible purposes for a creditor's access to credit reports on a nonapplicant spouse during the course of a consumer credit transaction. Regulations under the Equal Credit Opportunity Act permit a creditor to consider information about a nonapplicant spouse in five specific circumstances. The Interpretation concludes that in three of the five instances, a creditor may obtain a credit report on the nonapplicant spouse without that spouse's written instruction because the nonapplicant spouse is sufficiently involved in the credit transaction. The effective date of this interpretation has been delayed for 60 days to allow for filing and consideration of additional public comment.

DATES: Interpretation 600.7 is effective March 8, 1978. Interpretation 600.8 is to become May 8, 1978, during which period additional public comments may be filed.

FOR FURTHER INFORMATION CONTACT:

C. Lee Peeler, Fair Credit Reporting Act Program Director, or Rena Steinzor, Attorney, Division of Credit Practices, Federal Trade Commission, Washington, D.C. 20580, 202-724-1568 or 724-1119.

SUPPLEMENTARY INFORMATION: A total of 30 comments were received from individual consumers, consumer organizations, government agencies, creditors, consumer reporting agencies and trade associations. The following major substantive issues were raised by the comments. All comments are available for public inspection.

INTERPRETATION § 600.7

(1) Several creditors and credit bureaus requested that the Commission issue guidelines indicating when undesignated information could be transferred to the nonapplicant spouse's file. The interpretation has been clarified to state that the designation may be made upon the consumer's request and any reasonable reinvestigation which the credit bureau deems necessary. The credit bureau may choose to rely on the representations of the requestor. The interpretation states that where a credit bureau has been using a "joint file" system of reporting, the presumption of joint use, when buttressed by a specific request for designation, is a reasonable procedure to ensure accuracy given the unique circumstances in which this question arises. A creditor may conduct any reasonable additional investigation which it deems necessary and could, for example, check with the creditor to determine if the creditor's records reflect the joint or individual status of

the account. If, however, the creditor's records merely show that the account was undesignated, information about the account should be made available

(6) Several commentators opposed the proposed interpretation on the grounds that it would limit the availability of credit history information to

guish between denials based on information in the applicant's file or in the nonapplicant spouse file, notices sent pursuant to that section will not

creditor is on clear notice that the applicant is relying on separate property.

(6) One commentator questioned

established prior to and in existence on June 1, 1977, are joint or separate accounts and adjust their reporting of

credit history information in a married consumer's file which was not reported to the consumer reporting

the account. If, however, the creditor's records merely show that the account was undesignated, information about the account should be made available under the consumer's name as requested. The credit bureau would also have the option of reverifying whether additional undesignated information in the spouse's file represents the credit history of the consumer. This investigation need not be limited to accounts claimed by the consumer. However, to insert accounts not claimed by the consumer in the file, the credit bureau would be required to verify that the account in fact represented an account on which the applicant was jointly liable or a user.

(2) Several commentators requested clarification of whether credit bureaus may charge a fee for creating a separate credit history from undesignated information. Since creation of a separate credit history from undesignated information in response to a request by the Consumer is a remedy for past discrimination, the interpretation states that no fee may be imposed. The interpretation does not address the question of whether a fee may be imposed for placing additional information, not reported to the credit bureau in the name of the consumer's spouse, in a separate file.

(3) One commentator stated the belief that credit bureaus have no obligation to clarify the credit record of the consumer and that the bureaus are responsible only for the information as reported from the creditor. Other commentators stated the belief that credit bureaus have an affirmative duty to inform women that their files may be incomplete and could be deemed in violation of section 607(b) if they issue incomplete reports. Neither position is adopted by the interpretation which requires credit bureaus to designate information upon request but does not require them to affirmatively notify married and previously married women that their files may be incomplete.

(4) Several commentators stated that they believed the final paragraph of the interpretation, which states that creditors may be found in violation of § 202.4 of Regulation B if they rely on biased data bases, incorrectly interprets that section. The interpretation has retained the paragraph which states the Commission's intention to challenge users unless credit bureaus make an effort to correct any existing bias against women in their data banks.

(5) Several commentators stated that while they supported the interpretation's resolution of the problem, they believed the interpretation would be ineffective without consumer education efforts. The Commission agrees with this position and has directed preparation of such materials.

(6) Several commentators opposed the proposed interpretation on the grounds that it would limit the availability of credit history information to creditors. Special concern was raised by creditors in community property States. However, the commentators offered no new evidence which would justify reversal of the proposed interpretation. In addition, it should be noted that where an applicant resides in a community property State, Interpretation 600.8 allows access to the files of both spouses, thus eliminating possible problems in these States.

(7) One commentator pointed out that the actual issue addressed by the interpretation was the problem of creating separate credit histories and not of creating separate files. While the creation of separate files is one method of establishing separate credit histories, it is not necessarily required by the interpretation. The interpretation does not address physical storage arrangements so long as the system in use can produce individual credit histories in response to a request under either spouse's name.

INTERPRETATION 600.8

(1) The analysis of this section has been revised to exclude reliance on section 604(3)(E) of the Fair Credit Reporting Act. The interpretation is now based in its entirety on section 604(3)(A) which specifies permissible purposes for which a consumer report must be made in connection with a credit transaction. This change was made as part of a general reexamination of the section in light of concern expressed by some commentators concerning the nonapplicant spouse's right to privacy.

(2) The proposed interpretation has been changed to delete reliance on the income of the spouse in a separate property state as a permissible purpose. This change is responsive to comments concerning the noncomplicant spouse's right to privacy, to comments requesting guidance on the question of what information a credit bureau should disclose to a consumer in the interview process and to changes in Regulation B. On the basis of the comments received and further considerations of this interpretation in response to questions raised by commentators, the Commission, determined that when a consumer who has been denied credit based on a consumer report seeks a disclosure under the FCRA, he or she should be entitled to disclosure of all information use to deny credit. This procedure is necessary to ensure that the overriding purpose of the Act to prevent declinations based on erroneous or inaccurte information is achieved. Since the notification of adverse action requirement contained in section 615 of the Fair Credit Reporting Act does not distinguish between denials based on information in the applicant's file or in the nonapplicant spouse file, notices sent pursuant to that section will not inform the consumer that the spouse's file may have been used. Thus, automatic access to all information which has been supplied to the creditor by the reporting agency is essential where the consumer application was denied. The automatic access procedure significantly increases the impact on privacy of the proposed interpretation since disclosure of the nonapplicant spouse's file is made not only to the creditor but also the applicant spouse. Mere reliance is, in separate property states, thought insufficient involvement to support this degree of disclosure and therefore has been deleted. Due to the nature of this deletion, the effective date of this interpretation has been delayed for 60 days during which time all additional comments received will be considered.

(3) Comments opposing the interpretation centered the deletion of § 202.5(c)(2)(v) (reliance on alimony and child support) from the list of permissible purposes. These commentators generally proposed that the right of privacy should give way to the purposes of the Equal Credit Opportunity Act in these instances. The exclusion is retained in the interpretation.

(4) One commentator pointed out that the scope of the interpretation could be construed to prohibit consideration by the creditor of any information concerning the payor or alimony or child support. The interpretation deals only with the creditor's right to obtain a consumer report on a divorced or separated spouse without the written instructions of that individual. Information concerning the divorced or separated spouse can still be obtained directly from other sources such as the spouse's employer, and language has been added to clarify this point.

(5) Commentators suggested that the final Interpretation incorporate the language of revised Regulation B concerning residence in a community property state which was issued after the proposed Interpretation was published for public comment. This change has been made and the final Interpretation allows a creditor to request a report on a nonapplicant spouse residing in a community property state unless the creditor receives information clearly indicating that the applicant is relying only on separate property to repay the credit extended. If the applicant is relying on community property, the spouse is considered to be involved in the extension of credit. The presumption of reliance on community property if the applicant resides in a community property state would qualify as a reasonable procedure under section 607(a) unless the creditor is on clear notice that the applicant is relying on separate property.

(6) One commentator questioned whether a creditor could obtain a credit report on a separated spouse in a community property state if, under the law of that state, the community exists until legal dissolution. The creditor would have a permissible purpose to obtain a consumer report in that instance since the applicant would be relying on community property.

(7) One commentator questioned the applicability of the interpretation to state privacy laws which may be more protective of the privacy of the nonapplicant spouse. There is no intent to preempt state laws which are more protective of privacy than the Fair Credit Reporting Act, and a footnote, similar to that found in Regulation B, has been added to that effect.

Therefore, pursuant to section 621 of the Fair Credit Reporting Act (15 U.S.C. 1681s) and § 1.73 of the Commission's Procedures and Rules of Practice (16 CFR 1.71-.73), 16 CFR Chapter I, Subchapter F is amended by adding new §§ 600.7 and 600.8[1] reading as follows:

§ 600.7 Reasonable procedures to assure maximum possible accuracy of information concerning individuals—Undesignated information in credit transactions. (Interprets 15 U.S.C. 1681e (1970).)

(a) *Need for Interpretation.* (1) For many years most credit history of joint accounts or user accounts was reported to credit bureaus only in the name of the husband. The information was stored in a file under the identifier: "John Doe, spouse: Mary." The file could be accessed only by the husband's name ("John Doe") while the wife's name ("Mary") served as an identifier to distinguish John Doe from others of the same name in the same manner as his street address, birthdate and social security number. In some instances the files were termed "joint files," but the practical effect of the storage systems appears to have been the merger of all credit history from the marriage into the husband's file.

(2) Section 202.10 of Regulation B, which implements the Equal Credit Opportunity Act, addresses itself to this problem by requiring creditors on or after June 1, 1977, to report account information to credit bureaus in a manner which will reflect the participation of both spouses in the accounts and which will enable the agencies to provide access to the information in the name of each spouse.[2] In addition, the regulation requires that creditors ascertain whether accounts established prior to and in existence on June 1, 1977, are joint or separate accounts and adjust their reporting of these accounts accordingly.[3] This determination can be made either from the creditor's records or by mailing of the notice provided by the regulation. For accounts opened after June 1, 1977, creditors are required to determine how the credit history is to be reported when the accounts are opened.[3] Finally, § 202.6(b)(6)(iii) requires creditors, to the extent to which they consider credit history, to consider the credit history, when available, of any account reported in the name of the applicant's spouse or former spouse which the applicant can demonstrate accurately reflects the applicant's ability or willingness to repay.[4]

(3) Regulation B does not resolve the problem of how credit history not designated by the § 202.10 procedure is to be treated. In most automated credit reporting systems this information is currently reported in the name of only one spouse, usually the husband, and retrievable only in his name even if the information reflects the history of a joint account or an account on which the wife was a user. The resulting lack of affirmative credit history can render the wife uncreditworthy as effectively as derogatory information. Ultimately, the "undesignated information"[5] problem will be resolved prospectively by the operation of § 202.10, which will establish separate credit histories for married women. For the next few years, however, unavailability of undesignated information could restrict the ability of women to obtain credit.

(4) There appear to be two possible solutions to the problem presented by the current reservoir of undesignated information. The first solution is to allow a credit bureau to automatically incorporate undesignated information from the file of the applicant's spouse in its report on the applicant and rely on the Fair Credit Reporting Act's correction mechanism to remove information which does not reflect the applicant's credit history.

(5) The second solution is to prohibit the reporting of undesignated information from the file of the applicant's spouse unless the consumer reporting agency has some indication that the information in fact relates to the applicant other than the mere "undesignated" status of the particular information in the spouse's file. Such an approach would include setting up separate credit histories on request of the consumer, using undesignated information previously reported in the spouse's name and allowing creditors to verify by telephone that particular accounts listed on an application are reported as undesignated information in the spouse's file.

(b) *Interpretation.* (1) The term undesignated information refers to all credit history information in a married consumer's file which was not reported to the consumer reporting agency with a designation indicating that the information relates to either the consumer's joint or individual credit experience. This would include most file information compiled up to June 1, 1977 (when the Regulation B designation requirement goes into effect), and most information reported to pre-June 1977 accounts which have not been designated either by the creditor, through the process set forth in § 202.10(b) of Regulation B, or by the consumer's direct request to the credit bureau. The question arises as to what procedures an automated consumer reporting agency should follow to make undesignated information available to either spouse when it was previously reported in the name of only one spouse.

(2) Under the Fair Credit Reporting Act a consumer reporting agency may report information contained in the file of spouse A when spouse B applies for a separate extension of credit if such information relates to accounts on which spouse B was either a joint user or contractually liable. Conversely, however, a consumer reporting agency may not report information from spouse A's file which relates only to his or her individual credit history when spouse B applies for credit, unless the creditor otherwise has a permissible purpose for the report under § 604(3)(A)[1] of the Fair Credit Reporting Act.

(3) While this principle is simple to state, it is difficult to apply since most credit grantors have in the past reported the credit history of accounts on which two spouses are jointly liable or on which one is liable and the other a user, only in the name of one spouse and in most instances in the name of the husband. Although § 202.10 of Regulation B, which interprets the Equal Credit Opportunity Act, 12 CFR Part 202,[3] is designed to provide a prospective solution to this problem, it appears to be commercially impracticable for consumer reporting agencies to reinvestigate all existing information to determine whether it reflects the participation of both spouses. Consumer reporting agencies are thus faced with a choice of either reporting all undesignated information in the husband's file on the assumption that most of it relates to both spouses or initiating procedures to reinvestigate undesignated information upon the request of the consumer and establish a separately accessible record in those instances in which the consumer's participation can be verified.

(4) The Commission believes a credit bureau which responds to a request for information on a consumer by supplying all undesignated information from the file of the consumer's spouse

[1] Footnotes to §§ 600.7 and 600.8 appear at end of document.

would not be in compliance with Section 607(b)[1] of the Fair Credit Reporting Act, which requires the credit bureau to follow reasonable procedures to ensure the maximum possible accuracy of the information it reports, since some or all of the information reported may not relate to both spouses.

(5) An acceptable alternative method of ensuring access by both spouses to undesignated information would be for credit bureaus to allow married or divorced individuals who wish undesignated information to be segregated to contact the credit bureau in order to have undesignated information which was previously reported only in their spouse's names placed in a separate file which is accessible under their names. This procedure, currently in use by some credit bureaus, should ensure greater accuracy and protection of the privacy of individual spouses than automatic reporting of undesignated information. Such a procedure affords the credit bureau some additional indication, through the individual's own word plus any reinvestigation the credit bureau deems it advisable to conduct, that the undesignated information belongs to the consumer. The presumption that all information in one spouse's file covering the period of the marriage belongs to both spouses, when buttressed by a specific request by the other spouse, is a reasonable procedure to insure the accuracy of the information under section 607(b) of the Fair Credit Reporting Act.

(6) Finally, the Commission believes that credit bureaus, consistently with this interpretation, must adopt some procedure to ensure that undesignated information can be accessed in the name of either spouse who wishes to rely on it. If such a procedure is not adopted and offered without charge to consumers by credit bureaus, creditors who rely on information supplied by those bureaus to grant or deny credit may be subject to challenge under the general prohibition of discrimination against applicants on the basis of sex or marital status which is contained in § 202.4 of Regulation B.[4] A credit bureau's failure to create a separate credit history on request as described in the preceding paragraph may render its data base discriminatory and unusable by creditors unless the bureau can satisfy the Commission that it has a nondiscriminatory justification for its practice.

§ 600.8 Permissible purposes for reports on nonapplicant spouses in consumer credit transactions (Interprets 15 U.S.C. 1681b (1970)).

(a) *Need for Interpretations.* The provisions of the Equal Credit Opportunity Act create a right to a separate credit identity for married women. The creation of this separate credit identity has produced uncertainty concerning the requirements of Section 604 of the Fair Credit Reporting Act[1] which limits the distribution of consumer reports on "individuals" to specified permissible purposes. Specifically, the question is whether a creditor has a permissible purpose to obtain a consumer report on an applicant's spouse in instances in which the creditor is allowed under Regulation B to request information about the applicant's spouse.[2]

(b) *Interpretation.* (1) Because of the many types of accounts offered by creditors which contemplate reliance by the creditor on the resources of both spouses, a question arises as to when a creditor has a permissible purpose to access the consumer report of the nonapplicant spouse.[3]

(2) Whether a creditor would have a permissible purpose to access the consumer report of the nonapplicant spouse turns on the extent of that spouse's involvement in the credit transaction. In order to make such a determination it is appropriate to look to § 202.5(c)(2) of Regulation B which implements the Equal Credit Opportunity Act.[3] That Section governs the circumstances under which a creditor may request information about the applicant's spouse. The Commission interprets Section 604(3)(A)[5] of the FCRA to permit a creditor to access the consumer report of the applicant's spouse in those cases in which § 202.5(c)(2) (i), (ii) and (iv)[4] permit the creditor to request information about the spouse.[5]

(3) In our view, a creditor may access the consumer report of the applicant's spouse when the applicant is applying for an account which the spouse will be permitted to use,[6] or an account for which the spouse will be contractually liable.[7] In these instances a creditor would have a permissible purpose to access the nonapplicant spouse's report because, as to those two types of accounts, the creditor "intends to use the information in connection with a credit transaction involving the extension of credit to the consumer".[8] Since the nonapplicant spouse in both situations is receiving, in effect, an extension of credit, the creditor has a permissible purpose to receive the consumer report of both the applicant and nonapplicant spouse.

(4) Where the applicant is relying on community property as a basis for repayment of the obligation,[9] the creditor would also have a permissible purpose under Section 604(3)(A)[10] of the FCRA to obtain the consumer report of the nonapplicant spouse. This interpretation is based on the assumption that the applicant is acting as an agent for his or her spouse in committing either the community property or the spouse's income as a basis for establishing creditworthiness. Revised Regulation B allows the creditor to request information whenever the applicant resides in a community property state or property on which the applicant is relying as a basis of repayment of the credit requested is located in a community property state. The Commission believes that a creditor can rely on these two criteria (residence of the consumer and location of property) to determine reliance on community property. However, if the creditor receives information clearly indicating that the applicant is relying only on separate property to repay the credit extended, then a permissible purpose would not exist and a consumer credit report on the nonapplicant spouse could not be obtained.

(5) The rationales described above do not apply to the situation set forth in § 202.5(c)(2) (iii) and (v)[11] of Regulation B. The Commission believes that the fact of a marriage, or previous marriage, standing alone, is not sufficient to establish a permissible purpose to obtain a consumer report on a spouse or former spouse under Section 604. Although § 202.5(c)(2)(v)[12] allows the creditor to request information on a former spouse where the applicant is relying on alimony or child support, a former spouse cannot be deemed to have consented to the distribution of his consumer report as can a participant in an ongoing marriage. Where a spouse is legally separated or has otherwise indicated an intent to legally disassociate with the marriage the Commission believes that no permissible purpose to obtain a consumer report exists.[13]

(6) The same is true where the only involvement of the spouse is the decision of the applicant to rely on the spouse's income.[14] In this instance there is no contractual liability[15] or extension of credit to the spouse, or clear extension of liability either in fact or by operation of state law.[16] Therefore the Commission believes that no permissible purpose exists to obtain a report under Section 604(3)(A).[16]

(7) Finally it should be noted that a permissible purpose for making a consumer report on a nonapplicant spouse can never exist under section 604(3)(A)[17] of the Fair Credit Reporting Act where Regulation B prohibits the creditor from requesting information on the spouse.

By direction of the Commission dated February 8, 1978.

CAROL M. THOMAS,
Secretary.

FOOTNOTES FOR § 600.7

(a) NEED FOR INTERPRETATION

[1] 12 CFR 202.10(a) (1977).
[2] 12 CFR 202.10(b) (1977).
[3] 12 CFR 202.10(a) (1977).
[4] 12 CFR 202.6(b)(6)(iii) (1977).

[1] The term "undesignated information" refers to all credit history information in a married consumer's file which was not reported to the consumer reporting agency with a designation indicating that the information relates to either the consumer's joint or individual credit experience. This would include most file information compiled up to June 1, 1977 (when the Regulation B designation requirement goes into effect) and most information reported to credit bureaus after that date which relates to pre-June 1977 accounts that have not been designated either by the creditor, through the process set forth in § 202.10(b) of Regulation B, or by the consumer's direct request to the credit bureau.

(b) INTERPRETATION

[1] 15 U.S.C. 1681b(3)(A) (1970). See also, Proposed Interpretation 600.8, infra.
[2] 12 CFR 202.10 (1977).
[3] 15 U.S.C. 1681e(b) (1970).
[4] 12 CFR 202.4 (1977).

FOOTNOTES FOR § 600.8

(a) NEED FOR INTERPRETATION

[1] 15 U.S.C. 1681b (1970).
[2] 12 CFR 202.5(c)(2)(i-v) (1977): (c) Information about a spouse or former spouse: (1) Except as permitted in this subsection a creditor may not request any information concerning the spouse or former spouse of an applicant.
(2) A creditor may request any information concerning an applicant's spouse (or former spouse under (v) below) that may be requested about the applicant if:
(i) The spouse will be permitted to use the account; or
(ii) The spouse will be contractually liable upon the account; or
(iii) The applicant is relying on the spouse's income as a basis for repayment of the credit requested; or
(iv) The applicant resides in a community property State or property upon which the applicant is relying as a basis for repayment of the credit requested is located in such a State; or
(v) The applicant is relying on alimony, child support, or separate maintenance payments from a spouse or former spouse as a basis for repayment of the credit requested.

(b) INTERPRETATION

[1] The term "nonapplicant spouse" is used here for identification purposes and refers to a spouse not actually signing or otherwise completing the application.
[2] Pub. L. 93-495, 88 Stat. 1521 (1974), as amended Pub. L. 94-239 (1976). 12 CFR 202.5(c)(2) (1977).
[3] 15 U.S.C. 1681b (3)(A) (1970).
[4] 12 CFR 202.5(c)(2) (i), (ii), and (iv) (1977).
[5] This interpretation is not intended to limit or abrogate any State law regarding privacy, privileged information, credit reporting limitations, or similar restrictions on obtainable information.
[6] 12 CFR 202.5(c)(2)(i) (1977).
[7] 12 CFR 202.5(c)(2)(ii) (1977).
[8] See section 604(3)(A). 15 U.S.C. 1681b(3)(A) (1970).
[9] 12 CFR 202.5(c)(2)(iv) (1977).
[10] 15 U.S.C. 1681b(3)(A) (1970).
[11] 12 CFR 202.5(c)(2) (iii) and (v) (1977).
[12] 12 CFR 202.5(c)(2)(v) (1977).
[13] 12 CFR 202.5(c)(2)(iii) (1977).
[14] 12 CFR 202.5(c)(2)(i) (1977).
[15] 12 CFR 202.5(c)(2) (ii) and (iv) (1977).
[16] 15 U.S.C. 1681b(3)(A) (1970). Nothing in this interpretation should be read to prohibit the creditor from considering information about the former spouse which is presented by the applicant or obtained from a source other than a consumer reporting agency.
[17] Id.

[FR Doc. 78-5988 Filed 3-7-78; 8:45 am]

[4210-01]

Title 24—Housing and Urban Development

CHAPTER II—ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-78-513]

PART 200—INTRODUCTION

Minimum Property Standards

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner (Federal Housing Administration), Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: Revision No. 5 to the Minimum Property Standards for One- and Two-Family Dwellings 4900.1; MPS for Multifamily Housing 4910.1; and MPS for Care-Type Housing 4920.1 has been completed and distributed to the field offices of the Department of Housing and Urban Development. The revision contains minor technical amendments made to: (1) Clarify criteria and make them more specific in response to field office and user needs, requests and questions, (2) Add, delete and update reference material as necessary, (3) Delete redundancies such as procedural, guidance and program material contained in other handbooks.

EFFECTIVE DATE: March 8, 1978.

DATES: Revision No. 5 was transmitted to appropriate HUD field offices in April 1977. This revision became effective upon issue.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard A. Gray, Acting Chief, Standards Branch, Office of Housing, Department of Housing and Urban Development, Washington, D.C. 20410, telephone 202-755-6590.

SUPPLEMENTARY INFORMATION: A copy of Department of Housing and Urban Development Minimum Property Standards to which these changes apply is available for examination in each HUD field office and in Room 6160 of HUD Headquarters at the above address, during business hours. A copy is also maintained in the Office of the Federal Register, Room 8401, 1100 L Street NW., Washington, D.C. 20408.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the Secretary, Room 5218, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410.

These changes were made to clarify existing information and to make needed editorial corrections. Substantive changes are negligible. Due to the nature of these changes, public comments are unnecessary and the changes have been adopted in final form.

NOTE.—It is hereby certified that the economic and inflationary effects of 24 CFR Part 200.993 have been carefully evaluated in accordance with Executive Order No. 11821.

(Sec. 7(d) of the Department of HUD Act (42 U.S.C. 3535(d)).)

Issued at Washington, D.C., March 1, 1978.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 78-6006 Filed 3-7-78; 8:45 am]

[1505-01]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7528]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Certain Controlled Corporations

Correction

In FR Doc. 78-36813, appearing at page 64690 in the issue of Wednesday, December 28, 1977, and corrected at page 4603 in the issue of Friday, February 3, 1978, the second line of the second amendment under paragraph 10 (in small print) in the first column on page 64694 should read, "leting '§ 1.161-2' in the last sentence and in-".

[6315-01]

Title 45—Public Welfare

CHAPTER X—COMMUNITY SERVICES ADMINISTRATION

[CSA Notice 6143-7]

PART 1061—EMERGENCY ENERGY CONSERVATION PROGRAM

Subpart—Funding Requirements for Emergency Energy Assistance Program

AGENCY: Community Services Administration.

ACTION: Final rule.

SUMMARY: The Community Services Administration is filing its final rule on the Emergency Energy Conservation Program: Funding Requirements for Emergency Energy Assistance Program. This rule is required in order to immediately implement the fiscal year 1978 Supplemental Appropriation which includes $200 million for the Community Services Administration to operate a one-time funded Emergency Energy Assistance Program. This rule details how these supplemental energy funds will be allocated and sets forth project application and reporting requirements.

DATES: This rule becomes effective March 8, 1978. This rule expires December 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard M. Saul or Mr. Wallace W. Lumpkin, Community Services Administration, Office of Program Development, Energy Programs, 1200 19th Street NW., Washington, D.C. 20506, tel. 202-254-5460.

SUPPLEMENTARY INFORMATION: The fiscal year 1978 Supplemental Appropriation includes $200 million for the CSA Emergency Energy Conservation Program which would go to operate a one-time Emergency Energy Assistance Program (EEAP).

This rule informs the public of the procedures CSA will implement to allocate the $200 million of the fiscal year 1978 supplemental energy programs funds which might be appropriated under section 222(a)(12) of the Economic Opportunity Act of 1964 as amended for the one-time funded Emergency Energy Assistance Program (EEAP). This rule also sets forth the application process and procedures CSA grantees will follow in requesting and qualifying for funding under this program; and the procedures CSA will use in determining the existence of an emergency that will trigger the release of funds for expenditure by grantees.

This final rule is effective immediately as a thirty day comment period would be impracticable and contrary to the public interest, in view of the congressional intent that this program operated during the winter months and the May 1, 1978, program termination date.

AUTHORITY: The provisions of the subpart issued under section 602, 78 Stat. 530, 42 U.S.C. 2942.

GRACIELA (GRACE) OLIVAREZ,
Director.

45 CFR 1061 is amended to add the following:

Sec.
1061.51-1 Applicability.
1061.51-2 Policy.
1061.51-3 Circumstances under which EEAP funds may be expended.
1061.51-4 Who is eligible for funding under the EEAP.
1061.51-5 What can these funds be used for.
1061.51-6 Maintenance of effort.
1061.51-7 Who can be served by this program.
1061.51-8 Length of program.
1061.51-9 Role of Governor.
1061.51-10 How to obtain funds.
1061.51-11 CSA regional offices; procedures.
1061.51-12 CSA headquarters procedures.
1061.51-13 Project requirements.
1061.51-14 Limitation of project expenditures.

§ 1061.51-15 Non-Federal Share Requirements

§ 1061.51-1 Applicability.

This subpart is applicable to grantees funded under section 222(a)(12) of the Economic Opportunity Act of 1964 as amended if the assistance is administered by the Community Services Administration.

§ 1061.51-2 Policy.

This one-time funded Emergency Energy Assistance Program (EEAP) is not intended to be an income transfer program; nor does it entitle any person or household to a certain amount and/or form of assistance. Rather, the primary intent of the EEAP is to make available to ongoing CSA-funded energy programs additional funds which will enable them to respond to crisis situations which endanger the health and survival of eligible low-income households. Funds obligated under this program will only be released upon a finding by the Director of CSA that an Energy Related Emergency exists; and if no such finding is made, EEAP funds will be deobligated and returned to the Treasury.

§ 1061.51-3 Circumstances under which EEAP funds may be expended.

(a) *Basis for expenditure of funds.* (1) In order to receive approval for release and expenditure of funds, eligible grantees (1061.51-4) must demonstrate the presence of an Energy Related Emergency in their state or locality which creates a need for direct assistance and which exceeds presently available resources. Resources under this program can be applied to situations existing or occurring after December 31, 1977, which are found by the Director to have been Energy Related Emergencies in accordance with the provisions of this rule.

(2) An Energy Related Emergency is defined as any action or condition which would endanger the health and/or cause severe hardship to eligible low-income individuals and households through the lack of fuel or energy supply needed for adequate warmth and household needs.

(b) Who Determines That An Energy Related Emergency Exists And Criteria For Determination

The Director of CSA will make a finding that an Energy Related Emergency exists on the basis of a determination that one or more of the following criteria has been met:

(1) In any state or locality where weather conditions, such as a blizzard, have been declared by the Federal Government to constitute an emergency or a disaster, or where it has been determined by the Governor of any state that an energy emergency exists whereby substantial state funds are made available to provide assistance, then an Energy Related Emergency will be deemed to exist for the purpose of release and expenditure of funds provided under this program.

(2) If neither of the conditions stated in (b)(1) exists, then a local or state grantee may submit evidence to support the existence of one or more of the following conditions, which shall be deemed by the Director of CSA to constitute an Energy Related Emergency:

(i) Low-income or elderly households without adequate fuel or heat, whose needs exceed that which can be met with available resources;

(ii) Natural disaster such as a flood or a fire that leaves eligible households without access to fuel or utilities or with inadequate or damaged housing, or the necessity for conversion to alternate fuels at extraordinary expense;

(iii) Shortage or unavailability of normal fuels necessitating costly conversion to other fuels on a temporary or permanent basis by low-income households; and/or

(iv) Widespread unemployment due to industrial or commercial shut-down caused by natural gas or other energy shortages.

(3) In applying for these funds the grantee agency will be required to demonstrate the extent of the need and the lack of readily available resources to meet that need.

§ 1061.51-4 Who is eligible for funding under the EEAP.

CSA intends to fund its existing Emergency Energy Conservation grantees or their delegates to supplement their ongoing crisis intervention activities. The only anticipated exceptions will be agencies identified by CSA Regions to serve non-CAA covered areas, Migrants/Farmworkers, or Native Americans. In order to expedite the funding process, grants will be made only to existing CSA grantees. However, grantees may enter into delgate agency agreements with other agencies to carry out part or all of the work program. Funds under this program will be assigned a separate Program Account (80); however, they will be governed by the provisions of § 1061.30-1 through 1061.30-14 and any changes thereto, which govern the ativities carried out under the regular Crisis Intervention Program Account (22), to the extent that they do not conflict with this rule.

§ 1061.51-5 What can these funds be used for.

Funds made available under the EEAP shall be used only to respond to the needs of eligible households which arise out of the Energy-Related Emergency which has been found to exist. Within these limits, funds shall be available to cover such items as blankets and warm clothing, temporary loan of space heaters, emergency furnace repairs, firewood, fuel oil delivery, temporary shelter, nutrition, health and other supportive services, replacement of broken window panes, and temporary/emergency repairs to housing otherwise unfit for habitation, as well as the payment of outstanding utility/fuel bills where necessary to obtain continued service or needed deliveries and where reconnection or delivery in fact occurs. As in the past, cash assistance will be limited to voucher payments and payments directly to suppliers of fuel or other assistance.

§ 1061.51-6 Maintenance of effort.

Services provided with funds made available under the EEAP shall be in addition to and not in substitution for services previously provided without Economic Opportunity Act assistance.

§ 1061.51-7 Who can be served by this program.

(a) No person and/or household can receive any form of assistance under this program if it has access to direct assistance through other supportive service networks, such as welfare, except in cases when such networks cannot respond in an effective and timely manner.

(b) All households assisted by this program must meet both income and program eligibility requirements.

(1) Income Eligibility. Only households with incomes no higher than 125 percent of the CSA Poverty Guidelines and elderly individuals and couples (age 60 and over) living alone whose income is no higher than 150 percent of the CSA Poverty Guidelines may be assisted by this program. (See attached Income Chart)

(2) Determination Of Income Eligibility Required Of Grantees. Proof of income eligibility is required. The period for determining eligibility will be not more than 12 months nor less than the 90 day period preceding the request for assistance. When proof of eligibility is unavailable applicant must sign a declaration of income eligibility. In such cases, grantees must make a reasonable number of spot checks to verify income eligibility.

(3) Program Eligibility. If a person meets income eligibility guidelines, program eligibility must be determined, i.e. that an emergency energy need exists and that the person lacks fiscal resources to meet this need. A person should be asked to provide proof of program eligibility where the need can be documented (e.g. notice of disconnection, overdue fuel bills, notice of refusal to deliver, etc.). If such documentation does not exist, it will be the responsibility of the grantee to determine program eligibility.

(4) Priorities. Priority shall be given to persons facing life threatening situations and to elderly persons (age 60 and over) who meet all eligibility requirements.

(5) Income Disregard. No payment made under this program shall be considered income for the purpose of determining eligibility for benefits under any income transfer program including, but not limited to, public assistance, veterans benefits, food stamps, or Supplemental Security Income.

§ 1061.51-8 Length of program.

No funds under the EEAP may be obligated after May 1, 1978. For this program, "obligation" shall mean certification for assistance by the grantee of a specific eligible household.

§ 1061.51-9 Role of governor.

In anticipation of the need to request EEAP funds, the Governor of each state shall be given the opportunity to request of the appropriate CSA Regional Director revised within-state allocations based on last year's Special Crisis Intervention Program experience and this winter's weather. The Governors also will be requested to waive the thirty-day review and disapproval period set out in section 242 of the Economic Opportunity Act of 1964 as amended.

§ 1061.51-10 How to obtain funds.

(a) *Pre-application action by CSA.* (1) In order to make possible the quickest response to emergencies as they occur, upon receipt of the appropriated funds CSA immediately will issue a new grant to existing grantees (subject to the conditions set forth in § 1061.51-4) in amounts corresponding to twenty-five percent (25%) of the 1977 Special Crisis Intervention Program (SCIP) funds allocated to each locality or state served by the grantee.

(2) Funds will be obligated to eligible grantees immediately but release and expenditure of these grant funds shall be permitted only after a declaration by the Director of CSA that an Energy Related Emergency exists in the locality or state served by the grantee.

(3) In addition, an additional amount equal to ten percent (10%) of the SCIP funds allotted to each Federal Region will be allotted to each CSA Regional Office to be applied to proposals received from Migrant/Farmworker Organizations and Native American Organizations which can demonstrate the existence of Energy Related Emergencies in accordance with the procedures outlined in this rule. Again, release and expenditure of these grant funds shall be permitted only after a declaration by the Director of CSA that an Energy Related Emergency exists in the area served by the grantee.

(4) Supplemental funds will be made available for obligation through May 1, 1978, to eligible grantees upon certification of a continuing need in which the existence of an energy-related emergency is determined to exist, or the effects of a previous emergency continue.

(b) *Application process—Grantee action.* When an eligible grantee can demonstrate that an energy-related emergency exists in the locality or State served or designated to be served by its agency, it will submit to the appropriate CSA Regional Office CSA Form 419, Summary of Work Program and Budget, requesting funds under Program Account 80, EEAP. The Form 419 shall include the following:

(1) The criterion or criteria on which the grantee bases its determination that an energy-related emergency exists in the locality or State it serves with attached documentation. (See § 1061.51-3(b).);

(2) The availability of existing local or State resources to deal with this emergency (e.g., local or State funding of crisis intervention activities, emergency fuel supplies, other supportive services, etc.);

(3) The extent of need in measurable terms; and

(4) The amount of CSA funds being requested under this program.

(c) *Request for additional funds.* (1) Request for additional funds shall be submitted on CAP Form 25b, Justification For Program Account Amendment. The "Grantee Explanation" sec-

tion shall be used to indicate whether the request results from a continuation of the crisis or that a new area served by the grantee; and (ii) that he recommends approval of the release and expenditure of funds

(2) Number of households whose utility/fuel bills were paid and total amount obligated for this purpose;

occur in the liquidation of obligations outstanding at the end of the grant period, these become part of the unob-

pected to exceed $5,000 must receive prior approval by the appropriate CSA Regional Office.

(f) *Administrative costs.* Combined

tion shall be used to indicate whether the request results from a continuation of the crisis or that a new energy-related emergency does in fact exist.

(2) In every case, grantees should address items b(1)–(4) above on the CAP Form 25b. In addition, the Form 25b will be forwarded to CSA Headquarters for determination by the Director of CSA that an energy-related emergency exists. Procedures outlined in § 1061.51-11(b) will be followed.

(d) *Clearinghouse review procedures (A-95).* CSA has requested and received from the Office of Management and Budget (OMB) a waiver of the clearinghouse review procedures required under OMB Circular A-95. However, grantees are requested to submit an information copy of their application(s) to the appropriate clearinghouses.

§ 1061.51-11 CSA regional offices' procedures.

(a) *Preapplication activities.* (1) Prepare for immediate submission to CSA Headquarters, Attention: Energy Programs, a list of which grantees will serve the non-CAA covered areas as well as those which will serve migrants/farmworkers and/or native Americans.

(2) Prepare and submit to CSA Headquarters completed Forms 314 for each eligible grantee in your region with a termination date of May 1, 1978. The 314s should provide funding to eligible grantees in the amount equal to 25 percent of what they would have been eligible for under the 1977 special crisis intervention program. (This should be accomplished after consultation with the Governor of each State, who shall be given the opportunity to recommend revised within-State allocations based upon last year's special crisis intervention program experience and this winter's weather (§ 1061.51-9). The program account number is 80.

(3) The following statement will be inserted on the face of each initial CSA Form 314: "Withdrawals from the Letter of Credit provided under this grant shall not be made prior to the receipt of written approval from the Director of CSA."

(4) Upon receipt of the signed 314s from CSA Headquaters, immediately forward to grantee for acceptance. Upon acceptance, grants will be made in the usual manner, i.e., by letter of credit for those grantees who received $250,000 or more from CSA during a 12-month period and by check for all other grantees.

(b) *Processing of applications.* (1) Upon review of the CSA Form 419 submitted by the grantee, the appropriate CSA Regional Director will indicate in item 20: (i) that in his opinion an energy-related emergency exists in the area served by the grantee; and (ii) that he recommends approval of the release and expenditure of funds under the grant. The amount of funds recommended to be released shall not exceed the amount requested by the grantees in the Form 419.

(2) This document will then be forwarded to CSA Headquarters utilizing the most expeditious means of delivery and will provide the basis for a finding by the Director of CSA that an energy-related emergency exists that will permit release and expenditure of funds.

§ 1061.51-12 CSA headquarters procedures.

(a) *Preapplication process.* The appropriate CSA Headquarters official will sign the statement of CSA grant, CSA Forms 314, and return them to the appropriate CSA Regional Offices.

(b) *Declaration of an energy-related emergency.* (1) Upon receipt of the CSA Form 419 from the CSA Regional Office, the Director of CSA shall determine if an energy-related emergency in fact exists in the locality or State served by the grantee applying for funds.

(2) Once this determination is made, CSA Headquarters will simultaneously notify the appropriate CSA Regional Office and the applicant of the Director's decision and the amount of funds that may be released and expended to respond to the emergency.

§ 1061.51-13 Project requirements.

(a) *Financial reporting.* Grantees must submit a separate SF-269, Financial Status Report, covering monthly activities for this program only. Report will be due April 15, May 15, and a final report on June 15. Grantees shall follow normal procedures for submission of the SF-269, i.e., one copy to the appropriate CSA Regional Office and one copy to Grants Accounting Branch, Finance and Grants Management Division, CSA Headquarters, 1200 19th Street NW., Washington, D.C. 20506.

(b) *Project progress review reports.* Grantee also will be required to submit separate project progress review reports, CSA Form 440, to the appropriate CSA Regional Office with a copy forwarded to CSA Headquarters, Attention: Energy Programs. Reports will cover activities undertaken in January, February, March, and April. These reports will be due April 15, May 15, and a final report on June 15. The follow activities completed during the reporting period shall be addressed in section 1A of each month's submission:

(1) Total number of households which were assisted under all of the eligible activities of this program. This should be a nonduplicative count, and of this number;

(2) Number of households whose utility/fuel bills were paid and total amount obligated for this purpose;

(3) Number of households which received other forms of emergency energy assistance under this program and total amount obligated for this purpose; and

(4) Total number of individuals residing in households served as accounted for in (b)(1) above.

(c) *Audit requirement.* Grantees must complete and submit an audit of the emergency energy assistance program by September 1, 1978. If any project activities have been delegated, the grantee shall impose the same audit requirements on its delegate agencies. However, the grantee is reminded that it remains responsible to CSA for the proper expenditure of and accounting for all grant funds whether or not delegated to other agencies.

(2) Five copies of the audit shall be submitted by the auditor to the appropriate CSA Regional Auditor concurrent with his/her submission to the grantee.

§ 1061.51-14 Limitation of project expenditures.

(a) *Limitation on payments to any eligible household.* The sum of all forms of assistance made to and/or on behalf of any eligible household under this program may not exceed the actual amount needed to remedy the crisis situation or $250, whichever is less.

(b) *Obligation time-frame.* (1) Program expenditures may be made only during the grant period as set forth on the statement of CSA grant. Expenditures made before or after these dates shall be disallowed. Funds obligated but not disbursed at the end of the grant period shall be liquidated (paid out) within 30 days.

(2) Funds under this grant which are not obligated for emergency energy assistance prior to the expiration date shall be returned to CSA for refund to the U.S. Treasury.

(3) CSA also retains the authority to recover the funds at any time if no emergency has been declared or if large sums remain unobligated after the energy-related emergency has terminated and/or its effects are no longer felt. These recovered funds may be reallocated to any eligible locality or State at the discretion of the Director of CSA for purposes outlined in this rule.

(c) *Prohibition against transfer to another grant.* Funds remaining unobligated after May 1, 1978, cannot be transferred by the grantee to another grant. The amount of the free or unobligated cash balance remaining with the grantee and its delegate agencies at the close of the grant period shall be accounted for in the required financial report (see § 1061.51-13). If savings

occur in the liquidation of obligations outstanding at the end of the grant period, these become part of the unobligated balance.

(d) *Overexpenditures.* If the grantee incurs expenditures in excess of the total amount of the approved grant, the amount of the overexpenditure must be absorbed by the grantee.

(e) *Procurement.* In accordance with OMB Circulars A-110 and A-102 all proposed sole source contracts where only one bid or proposal is received in which the aggregate expenditure is expected to exceed $5,000 must receive prior approval by the appropriate CSA Regional Office.

(f) *Administrative costs.* Combined personnel and administrative costs may not exceed fifteen percent (15%) of EEAP grant funds.

§ 1061.51-15 Non-Federal Share Requirement.

The non-Federal share requirement for the Emergency Energy Assistance Program (EEAP) under Program Account (80) is waived.

FOR EMERGENCY ENERGY ASSISTANCE PROGRAM

I. CSA POVERTY GUIDELINES FOR ALL STATES EXCEPT ALASKA AND HAWAII (4/77)

[3510-22]

Title 50—Wildlife and Fisheries

CHAPTER III—INTERNATIONAL REG-

United States developed a comprehensive research program and regulations to control subsistence hunting. The research program and regulatory pro-

Subpart D—Treatment

Sec.
351.51 Processing of whales.
351.52 Regulation of processing.

FOR EMERGENCY ENERGY ASSISTANCE PROGRAM

I. CSA POVERTY GUIDELINES FOR ALL STATES EXCEPT ALASKA AND HAWAII (4/77)

Family Size	Non-Farm Family			Farm Family		
	100%[a]	125%[b]	150%	100%[a]	125%[b]	150%
1	$2,970	$3,713	$4,455	$2,550	$3,188	$3,825
2	3,930	4,913	5,895	3,360	4,200	5,040
3	4,890	6,113		4,170	5,213	
4	5,850	7,313		4,980	6,225	
5	6,810	8,513		5,790	7,238	
6	7,770	9,713		6,600	8,250	

a. For family units with more than 6 members, add $960 each additional member in a non-farm family and $810 for each additional member in a farm family.

b. For family units with more than 6 members, add $1,200 for each additional member in a non-farm family and $1,013 for each additional member in a farm family.

II. CSA GUIDELINES FOR ALASKA (4/77)

Family Size	Non-Farm Family			Farm Family		
	100%[a]	125%[b]	150%	100%[a]	125%[b]	150%
1	$3,720	$4,650	$5,580	$3,200	$4,000	$4,800
2	4,920	6,150	7,380	4,210	5,263	6,315
3	6,120	7,650		5,220	6,525	
4	7,320	9,150		6,230	7,788	
5	8,520	10,650		7,240	9,050	
6	9,720	12,150		8,250	10,313	

a. For family units with more than 6 members, add $1,200 for each additional member in a non-farm family and $1,010 for each additional member in a farm family.

b. For family units with more than 6 members, add $1,500 for each additional member in a non-farm family and $1,263 for additional member in a farm family.

III. CSA GUIDELINES FOR HAWAII (4/77)

Family Size	Non-Farm Family			Farm Family		
	100%[a]	125%[b]	150%	100%[a]	125%[b]	150%
1	$3,430	$4,288	$5,145	$2,940	$3,675	$4,410
2	4,530	5,663	6,795	3,870	4,830	5,805
3	5,630	7,038		4,800	6,000	
4	6,730	8,413		5,730	7,163	
5	7,830	8,788		6,660	8,325	
6	8,930	11,163		7,590	9,488	

a. For family units with more than 6 members, add $1,100 for each additional member in a non-farm family and $930 for each additional member in a farm family.

b. For family units with more than 6 members, add $1,375 for each additional member in a non-farm family and $1,163 for each additional member in a farm-family.

[FR Doc. 78-6178 Filed 3-7-78; 8:45 am]

[3510-22]

Title 50—Wildlife and Fisheries

CHAPTER III—INTERNATIONAL REGULATORY AGENCIES (FISHING AND WHALING)

Current Schedule of the International Whaling Convention

PART 351—WHALING

Subpart B—International Whaling Commission

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Final rule.

SUMMARY: This final rule consists of the current Schedule of the International Whaling Convention, including the latest amendment to the Schedule, which sets limits on the native subsistence harvest of bowhead whales during 1978.

DATES: The Schedule, including the amendment thereto, will be effective at 12 noon, March 20, 1978.

FOR FURTHER INFORMATION CONTACT:

William P. Jensen, Marine Mammal and Endangered Species Division, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C. 20235, telephone 202-634-7461.

SUPPLEMENTARY INFORMATION: The International Whaling Convention (the Convention) and the Schedule thereto, govern the whaling activities of all nations signatory to the Convention, including the United States. The Convention is implemented domestically by the Whaling Convention Act (WCA, 16 U.S.C. § 916 a-1). Until 1977, the Schedule to the Convention (the Schedule) exempted aboriginal subsistence whaling from the general prohibition on the taking of bowhead whales. Because of this aboriginal exemption, the Convention has never before affected the subsistence hunting of bowhead whales by Alaskan Eskimos. However, at its June 1977 meeting, the International Whaling Commission (IWC) voted to remove the aboriginal exemption which, once effective, would prohibit all bowhead whaling. Since such an amendment to the Schedule would have had a severe impact on the Alaskan Eskimos, the United States deliberated whether to object to the ban. In October 1977, the United States decided not to object because of its commitment to international conservation.

It was also determined, that the limited subsistence hunting of bowhead whales should be allowed in order to preserve the central elements of the Eskimo culture. Therefore, the United States developed a comprehensive research program and regulations to control subsistence hunting. The research program and regulatory proposal were presented to the IWC Scientific Committee at its meeting of November 21-25, 1977. In addition, the regulatory regime was published as a proposal in the FEDERAL REGISTER (42 FR 60185) on November 25, 1977, under authority of the Marine Mammal Protection Act (MMPA).

At a special meeting on December 6-8, 1977, the IWC adopted an amendment to the Schedule which allowed a limited taking of bowhead whales from the Bering Sea stock by aborigines exclusively for local comsumption, provided that in 1978 hunting would cease when either 18 whales have been struck or 12 landed, and further provided that no calf or any bowhead whale accompanied by a calf would be taken.

The United States received official notice of this action on December 29, 1977. By the terms of the Convention, this amendment to the Schedule becomes effective at 12 noon, March 20, 1978. As a result of the IWC action, the regulatory regime proposed under the MMPA was withdrawn on January 30, 1978 (43 FR 3921).

Pursuant to section 916k of the Whaling Convention Act, the amendment to the Schedule is published herein. Also, because the Schedule now includes whaling operations carried on by persons subject to the jurisdiction of the United States, the entire revised Schedule, including the amendment (see § 351.36), is being published to inform the public of the scope of the IWC's regulations. Regulations under the WCA, which will implement the amendment to the Schedule, will be published at a later date, and will appear in 50 CFR Part 230. Consequently, 50 CFR Part 351 is revised and amended as follows:

Subpart A—Interpretation

Sec.
351.1 Definitions.

Subpart B—Seasons

351.21 Use of factory ships and whale catchers.
351.22 Use of land stations and whale catchers.
351.23 Use of factory ships in waters other than south of 40° south latitude.

Subpart C—Capture

351.31 Area limits for factory ships.
351.32 Factory ships in territorial waters.
351.33 Classification of areas and divisions.
351.34 Classification of stocks.
351.35 Catch limits for baleen whales.
351.36 Limitations on the taking of humpback, gray, and bowhead whales.
351.37 Size limits for sei, Bryde's, and fin whales.
351.38 Catch limits for sperm whales.
351.39 Taking of calves or suckling whales prohibited.
351.40 Size limits for sperm whales.

Subpart D—Treatment

Sec.
351.51 Processing of whales.
351.52 Regulation of processing.

Subpart E—Supervision and Control

351.61 Inspection.
351.62 Remuneration of employees.
351.63 Measurement of whales.

Subpart F—Information Required

351.71 Reports and records.
351.72 Submission of catch data and notification of closure.
351.73 Submission of statistical data.
351.74 Collection of specimens.
351.75 Submission of laws and regulations.

AUTHORITY: The provisions of this Part of 351 are issued under Article V, 62 Stat. 1718, sections 2-14, 64 Stat. 421-425; 16 U.S.C. 916 et seq.

Cross Reference: For regulations of the Department of Commerce, implementing the Whaling Convention Act of 1949, see Part 230 of this title.

Subpart A—Interpretation

§ 351.1 Definitions.

(a) The following expressions have the meanings respectively assigned to them, that is to say:

"Baleen whale" means any whale which has baleen or whale bone in the mouth, i.e., any whale other than a toothed whale.

"Beaked whale" means any whale belonging to the genus *Mesoplodon*, or any whale known by the name of Cuvier's beaked whale (*Ziphius cavirostris*), or Shepherd's beaked whale (*Tasmacetus shepherdi*).

"Blue whale" (*Balaenoptera* or *Sibbaldus musculus*) means any whale known by the name of blue whale, Sibbald's rorqual, or sulphur bottom.

"Bottlenose whale" means any whale known by the name of Baird's beaked whale (*Berardius bairdii*), Arnoux's whale (*Berardius arnuxii*), Southern bottlenose whale (*Hyperoodon planifrons*), or Northern bottlenose whale (*Hyperoodon ampullatus*).

"Bryde's whale" (*Balaenoptera edeni* or *brydei*) means any whale known by the name of Bryde's whale.

"Dauhval" means any unclaimed dead whale found floating.

"Fin whale" (*Balaenoptera physalus*) means any whale known by the name of common finback, common rorqual, finback, finner, fin whale, herring whale, razorback, or true fin whale.

"Gray whale" (*Rhachianectes glaucus*) means any whale known by the name of gray whale, California gray, devil fish, hard head, mussel digger, gray back, or rip sack.

"Humpback whale" (*Megaptera nodosa* or *novaeangliae*) means any whale known by the name of bunch, humpback, humpback whale, hump whale, or hunchbacked whale.

"Killer whale" means any whale known by the name of killer whale or orca (*Orcinus orca*).

"Minke whale" (*Balaenoptera acutorostrata, B. davidsoni, B. huttoni*) means any whale known by the name of lesser rorqual, little piked whale,

Subpart B—Seasons

§ 351.21 Use of factory ships and whale catchers.

under its jurisdiction, and whale catchers attached to such land stations, one open season during which the taking or killing of baleen whales,

tracting Government to exceed nine continuous months of any twelve months.

(e) The prohibitions contained in

governing the operation of land stations and not to the regulations governing the operation of factory ships.

(b) Such factory ship shall not

MINKE WHALE STOCKS

1. *Canadian East Coast*—West of a line through: 75° N. 73°30′ W., 69° N. 59° W., 61° N. 59° W., 52°20′ N. 42° W., 20° N. 42° W.

"Minke whale" (*Balaenoptera acutorostrata, B. davidsoni, B. huttoni*) means any whale known by the name of lesser rorqual, little piked whale, minke whale, pike-headed whale, or sharp headed finner.

"Pilot whale" means any whale known by the name of long-finned pilot whale (*Globicephala melaena*) or short-finned pilot whale (*Globicephala macrorhynchus*).

"Right whale" (*Balaena mysticetus, Eubalaena glacialis, E. australis*, etc.; *Neobalaena marginata*) means any whale known by the name of Atlantic right whale, Arctic right whale, Biscayan right whale, bowhead, great polar whale, Greenland right whale, Greenland whale, Nordkaper, North Atlantic right whale, North Cape whale, Pacific right whale, pygmy right whale, Southern pygmy right whale, or Southern right whale.

"Sei whale" (*Balaenoptera borealis*) means any whale known by the name of sei whale, Rudolphi's rorqual, pollack whale, or coalfish whale.

"Sperm whale" (*Physeter catodon*) means any whale known by the name of sperm whale, spermacet whale, cachalot, or pot whale.

"Toothed whale" means any whale which has teeth in the jaws.

"Lost whale" means any whale that has been taken but not delivered to the factory ship or land station.

"Whales taken" means whales that have been killed and either flagged or made fast to catchers.

"Lactating whale" means (1) with respect to baleen whales—a female which has any milk present in a mammary gland, (2) with respect to sperm whales—a female which has milk present in a mammary gland the maximum thickness (depth) of which is 10 cm or more. This measurement shall be at the mid ventral point of the mammary gland perpendicular to the body axis, and shall be logged to the nearest centimetre; that is to say, any gland between 9.5 cm and 10.5 cm shall be logged as 10 cm. The measurement of any gland which falls on an exact 0.5 centimetre, shall be logged at the next 0.5 centimetre, e.g., 10.5 cm shall be logged as 11.0 cm. However, notwithstanding these criteria, a whale shall not be considered a lactating whale if scientific (historical or other biological) evidence is presented to the appropriate national authority establishing that the whale could not at that point in its physical cycle have had a calf dependent on it for milk.

"Small-type whaling" means catching operations using powered vessels with mounted harpoon guns hunting exclusively for minke, bottlenose, beaked, pilot, or killer whales.

Subpart B—Seasons

§ 351.21 Use of factory ships and whale catchers.

(a) It is forbidden to use a factory ship or whale catcher attached thereto for the purpose of taking or treating baleen whales except minke whales, in any waters south of 40° South Latitude, except during the period from December 12 to April 7 following, both days inclusive.

(b) It is forbidden to use a factory ship or whale catcher attached thereto for the purpose of taking or treating sperm or minke whales, except as permitted by the Contracting Governments in accordance with paragraphs (c), (d) and (e) of this section.

(c) Each Contracting Government shall declare for all factory ships and whale catchers attached thereto under its jurisdiction, an open season or seasons not to exceed eight months out of any period of twelve months during which the taking or killing of sperm whales by whale catchers may be permitted; provided that a separate open season may be declared for each factory ship and the whale catchers attached thereto.

(d) Each Contracting Government shall declare for all factory ships and whale catchers attached thereto under its jurisdiction one continuous open season not to exceed six months out of any period of twelve months during which the taking or killing of minke whales by the whale catchers may be permitted provided that:

(1) A separate open season may be declared for each factory ship and the whale catchers attached thereto;

(2) The open season need not necessarily include the whole or any part of the period declared for other baleen whales pursuant to paragraph (a) of this section.

(e) Each Contracting Government shall declare for all whale catchers under its jurisdiction not operating in conjunction with a factory ship or land station one continuous open season not to exceed six months out of any period of twelve months during which the taking or killing of minke whales by such whale catchers may be permitted. Notwithstanding this section, one continuous open season not to exceed nine months may be implemented so far as Greenland is concerned.

§ 351.22 Use of land stations and whale catchers.

(a) It is forbidden to use a whale catcher attached to a land station for the purpose of killing or attempting to kill baleen and sperm whales except as permitted by the Contracting Government in accordance with paragraphs (b), (c) and (d) of this section.

(b) Each Contracting Government shall declare for all land stations under its jurisdiction, and whale catchers attached to such land stations, one open season during which the taking or killing of baleen whales, except minke whales, by the whale catchers shall be permitted. Such open season shall be for a period of not more than six consecutive months in any period of twelve months and shall apply to all land stations under the jurisdiction of the Contracting Government; provided that a separate open season may be declared for any land station used for the taking or treating of baleen whales, except minke whales, which is more than 1,000 miles from the nearest land station used for the taking or treating of baleen whales, except minke whales, under the jurisdiction of the same Contracting Government.

(c) Each Contracting Government shall declare for all land stations under its jurisdiction and for whale catchers attached to such land stations, one open season not to exceed eight continuous months in any one period of twelve months, during which the taking or killing of sperm whales by the whale catchers shall be permitted, provided that a separate open season may be declared for any land station used for the taking or treating of sperm whales which is more than 1,000 miles from the nearest land station used for the taking or treating of sperm whales under the jurisdiction of the same Contracting Government.

(d) Each Contracting Government shall declare for all land stations under its jurisdiction and for whale catchers attached to such land stations one open season not to exceed six continuous months in any period of twelve months during which the taking or killing of minke whales by the whale catchers shall be permitted (such period not being necessarily concurrent with the period declared for other baleen whales, as provided for in paragraph (b) of this section; provided that a separate open season may be declared for any land station used for the taking or treating of minke whales which is more than 1,000 miles from the nearest land station used for the taking or treating of minke whales under the jurisdiction of the same Contracting Government. Except that a separate open season may be declared for any land station used for the taking or treating of minke whales which is located in an area having oceanographic conditions clerly distinguishable from those of the area in which are located the other land stations used for the taking or treating of minke whales under the jurisdiction of the same Contracting Government; but the declaration of a separate open season by virtue of the provisions of this paragraph shall not cause thereby the period of time covering the open seasons declared by the same Contracting Government to exceed nine continuous months of any twelve months.

(e) The prohibitions contained in this section shall apply to all land stations as defined in Article II of the Whaling Convention of 1946 and to all factory ships which are subject to the regulations governing the operation of land stations under the provisions of § 351.32 of this Part.

§ 351.23 Use of factory ships in waters other than south of 40° South Latitude.

(a) It is forbidden to use a factory ship which has been used during a season in any waters south of 40° South Latitude for the purpose of treating baleen whales, except minke whales, in any other area except the North Pacific Ocean and its dependent waters north of the Equator for the same purpose within a period of one year from the termination of that season; provided that catch limits in the North Pacific Ocean and dependent waters are established as provided in §§ 351.35 and 351.38 of this part and provided that this section shall not apply to a ship which has been used during the season solely for freezing or salting the meat and entrails of whales intended for human food or feeding animals.

Subpart C—Capture

§ 351.31 Area limits for factory ships.

(a) It is forbidden to use a factory ship or whale catcher attached thereto, for the purpose of taking or treating baleen whales, except minke whales, in any of the following areas:

(1) In the waters north of 66° North Latitude, except that from 150° East Longitude eastwards as far as 140° West Longitude, the taking or killing of baleen whales by a factory ship or whale catcher shall be permitted between 66° North Latitude and 72° North Latitude;

(2) In the Atlantic Ocean and its dependent waters north of 40° South Latitude;

(3) In the Pacific Ocean and its dependent waters east of 150° West Longitude between 40° South Latitude and 35° North Latitude;

(4) In the Pacific Ocean and its dependent waters west of 150° West Longitude between 40° South Latitude and 20° North Latitude;

(5) In the Indian Ocean and its dependent waters north of 40° South Latitude.

§ 351.32 Factory ships in territorial waters.

(a) A factory ship which operates solely within territorial waters in one of the areas specified in paragraph (c) of this section, by permission of the Government having jurisdiction over those waters, and which flies the flag of that Government shall, while so operating, be subject to the regulations governing the operation of land stations and not to the regulations governing the operation of factory ships.

(b) Such factory ship shall not, within a period of one year from the termination of the season in which she so operated, be used for the purpose of treating baleen whales in any of the other areas specified in paragraph (c) of this section or south of 40° South Latitude.

(c) The areas referred to in paragraphs (a) and (b) are:

(1) On the coasts of Australia, namely on the whole east coast and on the west coast in the area known as Shark Bay and northward to Northwest Cape and including Exmouth Gulf and King George's Sound, including the Port of Albany.

(2) On the Pacific coast of the United States of America between 35° North Latitude and 49° North Latitude.

§ 351.33 Classification of areas and divisions.

(a) Areas in the Southern Hemisphere are those waters between the ice-edge and the equator and lying between the meridians of longitude listed in Table 1.

(b) Divisions relating to the catch limits for Southern Hemisphere sperm whales are those waters lying between the ice-edge and the equator and between the meridians of longitude listed in Table 2.

(c) The geographical boundaries for the fin, sei and minke whale stocks in the North Atlantic are:

FIN WHALE STOCKS

1. *Nova Scotia*—South and West of a line through: 47° N. 54° W., 46° N. 54°30′ W., 46° N. 42° W., 20° N. 42° W.

2. *Newfoundland-Labrador*—West of a line through: 75° N. 73°30′ W., 69° N. 59° W., 61° N. 59° W., 52°20′ N. 42° W., 46° N. 42° W. and North of a line through: 46° N. 42° W., 46° N. 54°30′ W., 47° N. 54° W.

3. *West Greenland*—East of a line through: 75° N. 73°30′ W., 69° N., 59° W., 61° N. 59° W., 52°20′ N. 42° W., and West of a line through: 52°20′ N. 42° W., 59° N. 42° W., 59° N. 44° W., Kap Farvel.

4. *East Greenland-Iceland*—East of a line through: Kap Farvel (South Greenland), 59° N. 44° W., 59° N. 42° W., 20° N. 42° W., and West of a line through: 20° N. 18° W., 60° N. 18° W., 68° N. 3° E., 74° N. 3° E., and South of 74° N. latitude.

5. *North Norway*—North and East of a line through: 74° N. 22° W., 74° N. 3° E., 68° N. 3° E., 67° N. 0°, 67° N. 14° E.

6. *West Norway and Faroe Islands*—South of a line through: 67° N. 14° E., 67° N. 0°, 60° N. 18° W., and North of a line through: 61° N. 16° W., 61° N. 0°, Thyboron (western entrance to Limfjorden, Denmark).

7. *British Isles*—Spain and Portugal South of a line through: Thyboron (Denmark), 61° N. 0°, 61° N. 16° W., and East of a line through: 63° N. 11° W., 60° N. 18° W., 20° N. 18° W.

MINKE WHALE STOCKS

1. *Canadian East Coast*—West of a line through: 75° N. 73°30′ W., 69° N. 59° W., 61° N. 59° W., 52°20′ N. 42° W., 20° N. 42° W.

2. *West Greenland*—East of a line through: 75° N. 73°30′ W., 69° N. 59° W., 61° N. 59° W., 52°20′ N. 42° W., and West of a line through: 52°20′ N. 42° W., 59° N. 42° W., 59° N. 44° W., Kap Farvel.

3. *East Greenland-Iceland-Jan Mayen*—East of a line through: Kap Farvel (South Greenland), 59° N. 44° W., 59° N. 42° W., 20° N. 42° W., and West of a line through: 20° N. 18° W., 60° N. 18° W., 68° N. 3° E., 74° N. 3° E., and South of 74° N. latitude.

4. *Svalbard-Norway-British Isles*—East of a line through: 20° N. 18° W., 60° N. 18° W., 68° N. 3° E., 74° N. 3° E., and North of a line through : 74° N. 3° E., 74° N. 22° W.

SEI WHALE STOCKS

1. *Nova Scotia*—South and West of a line through: 47° N. 54° W., 46° N. 54° W., 46° N. 54°30′ W., 46° N. 42° W., 20° N. 42° W.

2. *Iceland-Denmark Strait*—East of a line through: Kap Farvel (South Greenland), 59° N. 44° W., 59° N. 42° W., 20° N. 42° W., and West of a line through: 20° N. 18° W., 60° N. 18° W., 68° N. 3° E., 74° N. 3° E., and South of 74° N. latitude.

(d) Geographical boundaries in the North Pacific.

(1) *Western Division.* West of a line from the ice edge south along the 180° meridian of longitude to 130° W., 50° N., then east along the 50° N. parallel of latitude to 170° W., 50° N., then south along the 170° W. meridian of longitude to 170° W., 40° N., then east along the 40° N. parallel of latitude to 160° W., 40° N., then south along the 160° W. meridian of longitude to the equator.

(2) *Eastern Division.* East of the line described in (1).

§ 351.34 Classification of stocks.

(a) All stocks of whales shall be classified in one of three categories according to the advice of the Scientific Committee as follows:

(1) A Sustained Management Stock (SMS) is a stock which is not more than 10 percent of Maximum Sustainable Yield (hereinafter referred to as MSY) stock level below MSY stock level, and not more than 20 percent above that level; MSY being determined on the basis of the number of whales.

(i) When a stock has remained at a stable level for a considerable period under a regime of approximately constant catches, it shall be classified as a Sustained Management Stock in the absence of any positive evidence that it should be otherwise classified.

(ii) Commercial whaling shall be permitted on Sustained Management Stocks according to the advice of the Scientific Committee. These stocks are listed in Tables 1 and 2 of this Part.

(iii) For the 1977–78 pelagic season and the 1978 coastal season in the Southern Hemisphere and for the 1978 season in all other areas for stocks between the MSY stock level and 10 percent below that level, the permitted catch shall not exceed the number of whales obtained by taking

90 percent of the MSY and reducing that number by 10 percent for every 1 percent by which the stock falls short of the MSY stock level. For stocks at level in an efficient manner and without risk of reducing them below this level. The permitted catch for such stocks will not be more than 90 per- mence until an estimate of stock size has been obtained which is satisfactory in the view of the Scientific Committee. Stocks classified as Initial

90 percent of the MSY and reducing that number by 10 percent for every 1 percent by which the stock falls short of the MSY stock level. For stocks at or above the MSY stock level, the permitted catch shall not exceed 90 percent of the MSY.

(2) An Initial Management Stock (IMS) is a stock more than 20 percent of MSY stock level above MSY stock level. Commercial whaling shall be permitted on Initial Management Stocks according to the advice of the Scientific Committee as to measures necessary to bring the stocks to the MSY stock level and then optimum level in an efficient manner and without risk of reducing them below this level. The permitted catch for such stocks will not be more than 90 percent of MSY as far as this is known, or where it will be more appropriate, catching effort shall be limited to that which will take 90 percent of MSY in a stock at MSY stock level.

(i) In the absence of any positive evidence that a continuing higher percentage will not reduce the stock below the MSY stock level no more than 5 percent of the estimated initial exploitable stock shall be taken in any one year. Exploitation should not commence until an estimate of stock size has been obtained which is satisfactory in the view of the Scientific Committee. Stocks classified as Initial Management Stock are listed in Tables 1 and 2 of this Part.

(3) A Protection Stock (PS) is a stock which is below 10 percent of MSY stock level below MSY stock level. There shall be no commercial whaling on species or stocks whilst they are classified as Protection Stocks. Species and stocks so classified are listed in Tables 1 and 2 of this Part.

TABLE 1. BALEEN WHALE STOCK CLASSIFICATIONS AND CATCH LIMITS

SOUTHERN HEMISPHERE—1977/78 pelagic season and 1978 coastal season

AREA	LONGITUDES	SEI Classification	SEI Catch limit	MINKE Classification	MINKE Catch limit	BRYDE'S Classification	BRYDE'S Catch limit	FIN Classification	FIN Catch limit	BLUE Classification	HUMPBACK Classification	RIGHT Classification	GRAY Classification	BOTTLENOSE Classification
I	120°W–60°W	SMS	368	—	704	IMS	0	PS	0	PS	PS	PS	PS	—
II	60°W–0°	PS	0	—	150	IMS	0	PS	0	PS	PS	PS	PS	—
III	0°–70° E	PS	0	SMS	1,825	IMS	0	PS	0	PS	PS	PS	PS	—
IV	70°E–130° E	SMS	469	SMS	963	IMS	0	PS	0	PS	PS	PS	PS	—
V	130°E–170° W	PS	0	SMS	930	IMS	0	PS	0	PS	PS	PS	PS	—
VI	170°W–120° W	PS	771	SMS	688	IMS	0*	PS	0	PS	PS	PS	PS	—
Total catch not to exceed—					5,690									
NORTHERN HEMISPHERE—1978 season														
NORTH PACIFIC						IMS	524	PS	0	PS	PS	PS	PS	PS‡
Whole region			0	—	400									
Okhotsk Sea-West Pacific Stock				SMS	—									
Sea of Japan Stock				SMS	—									
Remainder				IMS	0*									
NORTH ATLANTIC								—	4	PS	PS	PS	PS	PS‡
Whole region				—	397**			SMS***	90					
West Greenland Stock				SMS	—			IMS						
Newfoundland-Labrador Stock				SMS	48			PS	0					
Canadian East Coast Stock			0	—				SMS	304**					
Nova Scotia Stock				SMS	320									
East Greenland-Iceland-Jan Mayen Stock				—				SMS†						
East Greenland-Iceland Stock			84	—										
Iceland-Denmark Strait Stock				SMS	1,790			PS	0					
Spain-Portugal-British Isles Stock				—				SMS**	61					
Svalbard-Norway-British Isles Stock														
West Norway-Faroe Islands Stock														
North Norway Stock														

* Pending a satisfactory estimate of stock size.
** The total catch of fin whales shall not exceed 1,524 in the six years 1977 to 1982 inclusive.
*** Provisionally listed as SMS for 1978, catches not to exceed present catch levels.
† Provisionally listed as PS for 1978, pending the accumulation of sufficient information for classification.
‡ Provisionally listed as PS for 1978, pending the accumulation of sufficient information for classification.

TABLE 2. SPERM WHALE STOCK CLASSIFICATIONS AND CATCH LIMITS

SOUTHERN HEMISPHERE—1977/78 pelagic season and 1978 coastal season

NORTHERN HEMISPHERE – 1978 Season

DIVISIONS	LONGITUDES	MALES Classification	MALES Catch limit	FEMALES Classification	FEMALES Catch limit
1	60°W–30°W	SMS	111	SMS	784
2	30°W–20°E	IMS	295	SMS	555
3	20°E–60°E	IMS	343	IMS	
4	60°E–90°E	SMS	0		
5	90°E–130°E	SMS	195		
6	130°E–160°E	IMS	101		
7	160°E–170°W	SMS	143		
8	170°W–100°W	IMS	319		
9	100°W–60°W	PS	0		
Total quota not to exceed			1,370		

	MALES Classification	MALES Catch limit	FEMALES Classification	FEMALES Catch limit
North Pacific				
Western Division	SMS	2,987	SMS	784
Eastern Division	IMS	2,118	IMS	555
	Total Classification	Total Catch limit		
North Atlantic	SMS	685		

§ 351.35 Catch limits for baleen whales.

(a) The number of baleen whales taken during the open season in the Southern Hemisphere by factory that, in each case the meat of such whales is to be used for local consumption as human or animal food.

cases where the meat or bone of such whales is in bad condition.

§ 351.52 Regulation of processing

hauling out wire and grasping device have been released, by means of a tape-measure made of a non-stretching material. The zero end of the tape

(d) A record similar to that described in paragraph (b) of this section shall be maintained by "small-type whaling" operations conducted from shore

the date and approximate latitude and longitude of taking, the species and sex of the whale, its length and, if it contains a foetus, the length and sex

§ 351.35 Catch limits for baleen whales.

(a) The number of baleen whales taken during the open season in the Southern Hemisphere by factory ships, land stations or whale catchers attached thereto under the jurisdiction of the Contracting Governments shall not exceed 771 sei whales and 5,690 minke whales and 0 Bryde's whales (pending a satisfactory estimate of stock size), in the 1977/78 pelagic season and the 1978 coastal season. The total catches taken in any of the Areas I to VI shall not exceed the limits shown in Table 1. However, in no circumstances shall the sum of the Area catches exceed the total quotas for each species.

(b) The number of baleen whales taken in the North Pacific Ocean and dependent waters in 1978 and in the North Atlantic Ocean in 1978 shall not exceed the limits shown in Table 1.

§ 351.36 Limitations on the taking of humpback, gray, and bowhead whales.

(a) Notwithstanding the provisions of § 351.34, the taking of 10 humpback whales not below 35 feet (10.7 metres) in length per year is permitted in Greenland waters provided that whale catchers of less than 50 gross register tonnage are used for this purpose, and the taking of gray whales, and of bowhead whales from the Bering Sea stock, by aborigines or a Contracting Government on behalf of aborigines is permitted, but only when the meat and products of such whales are to be used exclusively for local consumption by the aborigines and further provided, with respect to the Bering Sea stock of bowhead whales that:

(1) In 1978, hunting shall cease when either 18 have been struck or 12 landed,

(2) It is forbidden to strike, take or kill calves or any bowhead whale accompanied by a calf.

§ 351.37 Size limits for sei, Bryde's and fin whales.

(a) It is forbidden to take or kill any sei or Bryde's whales below 40 feet (12.2 metres) in length except that sei and Bryde's whales of not less than 35 feet (10.7 metres) may be taken for delivery to land stations, provided that, the meat of such whales is to be used for local consumption as human or animal food.

(b) It is forbidden to take or kill any fin whales below 57 feet (17.4 metres) in length in the Southern Hemisphere, and it is forbidden to take or kill fin whales below 55 feet (16.8 metres) in the Northern Hemisphere; except that fin whales of not less than 55 feet (16.8 metres) may be taken for delivery to land stations in the Southern Hemisphere and fin whales of not less than 50 feet (15.2 metres) may be taken for delivery to land stations in the Northern Hemisphere, provided that, in each case the meat of such whales is to be used for local consumption as human or animal food.

§ 351.38 Catch limits for sperm whales.

(a) The number of sperm whales taken in the Southern Hemisphere in the 1977/78 pelagic season and the 1978 coastal season shall not exceed 4,538 males and 1,370 females. The total catch in any of the Divisions 1 to 9 shall not exceed the limits shown in Table 2. However, in no circumstances shall the sum of the Division catches exceed total quotas.

(b) The number of sperm whales taken in the North Pacific Ocean and dependent waters in 1978 and in the North Atlantic Ocean in 1978 shall not exceed the limits shown in Table 2.

§ 351.39 Taking of calves or suckling whales prohibited.

(a) It is forbidden to take or kill suckling calves or female whales accompanied by calves.

§ 351.40 Size limits for sperm whales.

(a) It is forbidden to take or kill any sperm whales below 30 feet (9.2 metres) in length except in the North Atlantic Ocean where it is forbidden to take or kill any sperm whales below 35 feet (10.7 metres).

(b) It is forbidden to take or kill any sperm whale over 45 feet (13.7 metres) in length in the Southern Hemisphere north of 40° South Latitude during the months of October to January inclusive.

Subpart D—Treatment

§ 351.51 Processing of whales.

(a) It is forbidden to use a factory ship or a land station for the purpose of treating any whales (whether or not taken by whale catchers under the jurisdiction of a Contracting Government) which are classified as Protection Stocks in section 351.34 or are taken by whale catchers under the jurisdiction of a Contracting Government in contravention of §§ 351.21, 351.22, 351.31, 351.35, 351.38 of this Part.

(b) All other whales, except minke whales, taken shall be delivered to the factory ship or land station and all parts of such whales shall be processed by boiling or otherwise, except the internal organs, whale bone and flippers of all whales, the meat of sperm whales and parts of whales intended for human food or feeding animals. A Contracting Government may in less developed regions exceptionally permit treating of whales without use of land stations, provided that such whales are fully utilized in accordance with this section.

(c) Complete treatment of the carcasses of "dauhval" and of whales used as fenders will not be required in cases where the meat or bone of such whales is in bad condition.

§ 351.52 Regulation of processing.

(a) The taking of whales for treatment by a factory ship shall be so regulated or restricted by the master or person in charge of the factory ship that no whale carcass (except of a whale used as a fender, which shall be processed as soon as is reasonably practicable) shall remain in the sea for a longer period than thirty-three hours from the time of killing to the time when it is hauled up for treatment.

(b) Whales taken by all whale catchers, whether for factory ships or land stations, shall be clearly marked so as to identify the catcher and to indicate the order of catching.

Subpart E—Supervision and control

§ 351.61 Inspection.

(a) There shall be maintained on each factory ship at least two inspectors of whaling for the purpose of maintaining twenty-four hour inspection provided that at least one such inspector shall be maintained on each catcher functioning as a factory ship. These inspectors shall be appointed and paid by the Government having jurisdiction over the factory ship; provided that inspectors need not be appointed to ships which, apart from the storage of products, are used during the season solely for freezing or salting the meat and entrails of whales intended for human food or feeding animals.

(b) Adequate inspection shall be maintained at each land station. The inspectors serving at each land station shall be appointed and paid by the Government having jurisdiction over the land station.

(c) There shall be received such observers as the member countries may arrange to place on factory ships and land stations or groups of land stations of other member countries. The observers shall be appointed by the Commission acting through its Secretary and paid by the Government nominating them.

§ 351.62 Remuneration of employees.

Gunners and crews of factory ships, land stations, and whale catchers, shall be engaged on such terms that their remuneration shall depend to a considerable extent upon such factors as the species, size and yield of whales taken and not merely upon the number of the whales taken. No bonus or other remuneration shall be paid to the gunners or crews of whale catchers in respect of the taking of lactating whales.

§ 351.63 Measurement of whales.

(a) Whales must be measured when at rest on deck or platform after the

hauling out wire and grasping device have been released, by means of a tape-measure made of a non-stretching material. The zero end of the tape-measure shall be attached to a spike or stable device to be positioned on the deck or platform abreast of one end of the whale. Alternatively, the spike may be stuck into the tail fluke abreast of the apex of the notch. The tape-measure shall be held taut in a straight line parallel to the deck and the whale's body, and other than in exceptional circumstances along the whale's back, and read abreast of the other end of the whale. The ends of the whale for measurement purposes shall be the tip of the upper jaw or, in sperm whales, the most forward part of the head and the apex of the notch between the tail flukes.

(b) Measurements shall be logged to the nearest foot or 0.1 metres. That is to say, any whale between 75 feet 6 inches and 76 feet 6 inches shall be logged as 76 feet, and any whale between 76 feet 6 inches and 77 feet 6 inches shall be logged as 77 feet. Similarly, any whale between 10.15 metres and 10.25 metres shall be logged as 10.2 metres, and any whale between 10.25 metres and 10.35 metres shall be logged as 10.3 metres. The measurement of any whale which falls on an exact half foot or 0.05 metre shall be logged at the next half foot or 0.05 metre, e.g. 76 feet 6 inches precisely shall be logged as 77 feet and 10.25 metres precisely shall be logged as 10.3 metres.

Subpart F—Information Required

§ 351.71 Reports and records.

(a) All whale catchers operating in conjunction with a factory ship shall report by radio to the factory ship:

(1) The time when each whale is taken;

(2) Its species; and

(3) Its marking effected pursuant to § 351.52(b).

(b) The information specified in paragraph (a) of this section shall be entered immediately by a factory ship in a permanent record which shall be available at all times for examination by the whaling inspectors; and in addition there shall be entered in such permanent record the following information as soon as it becomes available:

(1) Time of hauling up for treatment;

(2) Length, measured pursuant to section 351.63;

(3) Sex;

(4) If female, whether lactating;

(5) Length and sex of foetus, if present; and

(6) A full explanation of each infraction.

(c) A record similar to that described in paragraph (b) of this section shall be maintained by land stations, and all of the information mentioned in the said paragraph shall be entered therein as soon as available.

(d) A record similar to that described in paragraph (b) of this section shall be maintained by "small-type whaling" operations conducted from shore or by pelagic fleets, and all of this information mentioned in the said paragraph shall be entered therein as soon as available.

§ 351.72 Submission of catch data and notification of closure.

(a) Notification shall be given in accordance with the provision of Article VII of the Convention, within two days after the end of each calendar week, of data on the number of fin, sei, Bryde's and minke whales taken in any waters south of 40° South Latitude by all factory ships or whale catchers attached thereto under the jurisdiction of each Contracting Government, provided that when the number of each of these species taken is deemed by the Bureau of International Whaling Statistics to have reached 85 percent of whatever total catch limit is imposed by the Commission notification shall be given as aforesaid at the end of each day of data on the number of each of these species taken.

(b) If it appears that the maximum catches of whales permitted by section 351.35 may be reached before 7th April of any year, the Bureau of International Whaling Statistics shall determine, on the basis of the data provided, the date on which the maximum catch of each of these species shall be deemed to have been reached and shall notify the master of each factory ship and each Contracting Government of that date not less than four days in advance thereof. The taking or attempting to take baleen whales, so notified, by factory ships or whale catchers attached thereto shall be illegal in any waters south of 40° South Latitude after midnight of the date so determined.

(c) Notification shall be given in accordance with the provisions of Article VII of the Convention of each factory ship intending to engage in whaling operations in any waters south of 40° South Latitude.

§ 351.73 Submission of statistical data.

(a) Notification shall be given in accordance with the provisions of Article VII of the Convention with regard to all factory ships and land stations of statistical information (1) concerning the number of whales of each species taken, the number thereof lost, and the number treated at each factory ship or land station, and (2) as to the aggregate amounts of oil of each grade and quantities of meal, fertiliser (guano), and other products derived from them, together with (3) particulars with respect to each whale treated in the factory ship, land station or "small-type whaling" operations as to the date and approximate latitude and longitude of taking, the species and sex of the whale, its length and, if it contains a foetus, the length and sex, if ascertainable, of the foetus. The data referred to in (1) and (2) above shall be verified at the time of the tally and there shall also be notification to the Commission of any information which may be collected or obtained concerning the calving grounds and migration of whales.

(b) In communicating this information there shall be specified:

(1) The name and gross tonnage of each factory ship.

(2) For each catcher ship attached to a factory ship or land station:

(i) The dates on which each is commissioned and ceases whaling for the season.

(ii) The number of days on which each is at sea on the whaling grounds each season.

(iii) Where possible the total number of hours spent each day searching for, chasing and catching whales, but not including time spent picking up or towing.

(iv) The gross tonnage, horsepower and length of each and the list of those equipped with asdic; vessels used only as tow boats should be specified.

(v) Any modifications of the above measures or data from other suitable indicators of fishing effort for "small-type whaling" operations.

(3) A list of the land stations which were in operation during the period concerned, and the number of miles searched per day by aircraft, if any.

§ 351.74 Collection of specimens.

(a) Where possible all factory ships and land stations shall collect from each whale taken:

(1) The combined weight of both testes, and tissue samples from one testis; or both ovaries.

(2) At least one ear plug, or one tooth (preferably first mandibular).

(b) Where possible similar collections to those described in paragraph (a) of this section shall be undertaken by small-type whaling operations conducted from shore or by pelagic fleets.

(c) All specimens colected under paragraphs (a) and (b) shall be properly labelled with the platform or other identification number of the whale and be appropriately preserved.

§ 351.75 Submission of laws and regulations.

(a) A Contracting Government shall transmit to the Commission copies of all its official laws and regulations relating to whales and whaling and changes in such laws and regulations.

Dated: March 2, 1978.

JACK W. GEHRINGER,
Deputy Director, National Marine Fisheries Service.

[FR Doc. 78-5961 Filed 3-7-78; 8:45 am]

proposed rules

Dated: February 17, 1978.

PATRICIA M. CLOHERTY,
Acting Administrator.

(c) It is the intention of the Administrator that the prohibitions in this part supplement those in Part 112 of this chapter, that the two parts be

illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as or-

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3128-01]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Parts 211, 212]

HEAVY CALIFORNIA CRUDE OIL

Additional Entitlement and Pricing Measures; Change of Hearing Location

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of change of hearing location.

SUMMARY: The Economic Regulatory Administration of the Department of Energy hereby gives notice of a change in the location of the public hearing on Additional Entitlement and Pricing Measures Concerning Heavy California Crude Oil previously set forth in a Notice of Proposed Rulemaking and Public Hearing issued on February 22, 1978 (43 FR 8150, February 28, 1978). This hearing, which is scheduled for March 30 and 31, 1978, will be held at the Huntington Beach City Council Chambers, City Hall, 2000 Main Street, Huntington Beach, Calif., rather than at the location indicated in the February 22 notice. All other addresses, and all dates, remain the same as set forth in the February 22 notice.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures), Economic Regulatory Administration, 2000 M Street NW., Room 2214B, Washington, D.C. 20461, 202-254-5201.

Judith Garfield (Office of General Counsel), Department of Energy, 12th and Pennsylvania, Avenue NW., Room 7132, Washington, D.C. 20461, 202-566-2085.

Issued in Washington, March 3, 1978.

DOUGLAS G. ROBINSON,
Assistant Administrator, Regulations and Emergency Planning, Economic Regulatory Administration.

[FR Doc. 78-6093 Filed 3-7-78; 8:48 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 112]

NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS: EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Proposed Addition of a Federal Financial Assistance Program

AGENCY: Small Business Administration.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This proposed amendment will add a new financial assistance program of the Agency which is subject to the nondiscrimination provisions of this part to the listing in Appendix A.

DATE: Comments must be received on or before April 7, 1978.

ADDRESS: 1441 L Street NW., Suite 1200, Vermont Building, Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT:

J. Arnold Feldman, Chief, Compliance Division, Office of Equal Employment Opportunity and Compliance, 202-653-6054.

Part 112 of Chapter I of Title 13 CFR would be amended by:

Adding the following financial assistance program to Appendix A:

Disaster Loans: Economic Dislocation, Small Business Act, Section 7(b)(9).

Dated: February 27, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-6052 Filed 3-7-78; 8:45 am]

[8025-01]

[13 CFR Part 113]

[Rev. 1]

NONDISCRIMINATION IN FINANCIAL ASSISTANCE PROGRAMS OF SMALL BUSINESS ADMINISTRATION—EFFECTUATION OF POLICIES OF FEDERAL GOVERNMENT AND SBA ADMINISTRATOR

Proposed Inclusion of the Nondiscrimination Sanctions Contained in Section 504 of the Rehabilitation Act of 1973, as Amended, and the Addition of Federal Financial Assistance Programs Which Are Covered by This Part to Appendix A

AGENCY: Small Business Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed revision would put into effect the requirements of section 504 of the Rehabilitation Act of 1973, as amended, by making it unlawful for any recipient or subrecipient of Federal financial assistance to discriminate against a qualified handicapped person, on the basis of handicap, in employment or the receipt of services. It also adds to the listing of the types of Federal financial assistance programs which are covered by this part.

DATE: Comments must be received on or before April 7, 1978.

ADDRESS: 1441 L Street NW., Suite 1200, Vermont Building, Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT:

J. Arnold Feldman, Chief, Compliance Division, Office of Equal Employment Opportunity and Compliance, 202-653-6054.

SUPPLEMENTARY INFORMATION: Copies of this proposal are available in braille and tape by contacting the above office.

Dated: February 17, 1978.

PATRICIA M. CLOHERTY,
Acting Administrator.

PART 113—NONDISCRIMINATION IN FINANCIAL ASSISTANCE PROGRAMS OF SBA—EFFECTUATION OF POLICIES OF FEDERAL GOVERNMENT AND SBA ADMINISTRATOR

Sec.
113.1 Purpose.
113.2 Definitions.
113.3 Discrimination prohibited.
113.3-1 Consideration of race, color, religion, sex, marital status or national origin.
113.3-2 Accommodations to religious observance and practice.
113.3-3 Structural accommodations for qualified handicapped employees and clients.
113.4 Assurances required.
113.5 Compliance information.
113.6 Conduct of investigations.
113.7 Procedure for effecting compliance.
113.8 Hearings.
113.9 Decisions and notices.
113.10 Effect on other regulations; forms and instructions.

AUTHORITY: The provisions of this Part 113 issued under secs. 5, 308, 72 Stat. 385, 694, as amended; 15 U.S.C. 634, 687.

§ 113.1 Purpose.

(a) Part 112 of this chapter, issued pursuant to Title VI of the Civil Rights Act of 1964, prohibits discrimination on the basis of race, color, or national origin by some recipients of financial assistance from SBA. The purpose of this part is to reflect to the fullest extent possible the nondiscrimination policies of the Federal Government as expressed in the several statutes, Executive orders, and messages of the President dealing with civil rights and equality of opportunity, and in the previous determination of the Administrator of the Small Business Administration that discrimination based on race, color, religion, sex, marital status, qualified handicap or national origin shall be prohibited, to the extent that it is not prohibited by Part 112 of this chapter, to all recipients of financial assistance from SBA.

(b) In accordance with Pub. L. 94-239, 15 U.S.C. 1691, cited as the Equal Credit Act Amendments of 1976, it is unlawful for any recipient creditor to discriminate against any applicant, with respect to any aspect of a credit transaction because of race, color, religion, national origin, sex, marital status, age; *Provided*, The applicant has the capacity to contract, because all or part of the applicant's income derives from any public assistance program, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act.

(c) It is the intention of the Administrator that the prohibitions in this part supplement those in Part 112 of this chapter, that the two parts be read in pari materia, and that the procedures established herein be harmonized to the maximum extent feasible with those established in Part 112 of this chapter.

§ 113.2 Definitions

As used in this part:

(a) The term "financial assistance" means any financial assistance extended pursuant to any authorizing legislation administered by the Small Business Administration, whether extended directly or in cooperation with banks or other lenders through agreements to participate on an immediate basis, or under guaranty agreements.

(b) The terms "applicant" and "recipient" mean, respectively, one who applies for and one who receives any of the financial assistance under any of the statutes referred to in paragraph (a) of this section. The term "recipient" also shall be deemed to include "subrecipients" of SBA financial assistance, i.e., concerns which secondarily receive financial assistance from the primary recipients of such financial assistance. For the purposes of this part, a paragraph (b) lender (13 CFR 120.4(b)) shall be deemed a recipient of financial assistance.

(c) The term "religion" includes all aspects of religious observance and practice, as well as belief.

(d) The term "qualified handicapped person" means (1) with respect to employment, a handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question and (2) with respect to services, a handicapped person who meets the essential eligibility requirements for the receipt of such services.

(e) The term "handicapped person," as defined by the guideline set forth by the Department of Health, Education and Welfare in § 85.31 of Title 45 of the CFR (43 FR 2137, dated January 13, 1978), means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

(f) As used in paragraph (e) of this section, the phrase:

(1) "Physical or mental impairment" means (i) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or (ii) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, and drug addiction and alcoholism.

(2) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) "Is regarded as having an impairment" means (i) has a physical or mental impairment that does not substantially limit major life activities but is treated by a recipient as constituting such a limitation; (ii) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or (iii) has none of the impairments defined in paragraph (f)(1) of this section but is treated by a recipient as having such an impairment.

§ 113.3 Discrimination prohibited.

To the extent not covered or prohibited by Part 112 of this chapter, recipients of financial assistance may not:

(a) With regard to employment practices within the aided business or other enterprise, whether or not operated for profit, fill or refuse, because of race, color, religion, sex or national origin of a person, to seek his or her services, or retain the person's services or to provide the person with opportunities for advancement or promotion, or accord an employee the rank and rate of compensation, including fringe benefits, merited by the employee's services and abilities.

(b) With regard to employment practices within the aided business or other enterprise, whether or not operated for profit, fail or refuse, because of handicap, discriminate against a qualified handicapped person, to seek or retain the person's services or to provide the person with opportunities for advancement or promotion, or accord an employee the rank and rate of compensation, including fringe benefits merited by the employee's services and abilities. In accordance with the foregoing, recipients shall:

(1) Not use employment tests or criteria that discriminate against handicapped persons, and such tests shall be adapted for use by persons who have handicaps that impair sensory, manual, or speaking skills, when necessary;

(2) Not conduct a preemployment medical examination or make a preemployment inquiry as to whether an applicant is a handicapped person or as to the nature or severity of a handicap, except that the recipient may make preemployment inquiry into an applicant's ability to perform job-related functions;

(3) Not use employment criteria that discriminate against handicapped persons on the basis of handicap unless the criteria have been shown to be job-related for the position in question and are consistent with business necessity;

(4) Not deny a handicapped person the benefits of, or subject a handicapped person to discrimination in, any program or activity, including any employment activity, that is the recipient's own program or activity, even if the program or activity is not receiving Federal financial assistance;

(5) Not place a handicapped person in a separate or different program or activity unless necessary to provide the person with a program or activity that is as effective as that provided to others;

(6) Not deny a handicapped person the opportunity to participate in programs or activities that are not separate or different, even if the person can participate in the regular program or activity only with the help of special arrangements;

(7) Not use architectural, transportation, or communication barriers that have the effect of restricting handicapped persons in their use of a program or activity receiving Federal financial assistance.

§ 113.3-1 Consideration of race, color, religion, sex, marital status or national origin.

(a) In determining the site or location of a facility, an applicant for or recipient of financial assistance may not make selections with the effect of excluding persons from, denying them the benefits of, or subjecting them to discrimination under any program to which this part applies, on the grounds of race, color, religion, sex, marital status or national origin, or with the purpose of defeating or substantially impairing the accomplishment of the objectives of this part.

(b) In the selection of sites or locations of facilities, consideration should be given to the availability of transportation, accessibility of residences and employment opportunities, and other factors which may affect the impact of the project with respect to the objectives of this part.

§ 113.3-2 Accommodations to religious observance and practice.

(a) A recipient shall reasonably accommodate an employee's religious observance or practice that conflicts with a bona fide work requirement, unless the recipient demonstrates that accommodation would result in undue hardship on the conduct of the recipient's business.

(b) For example, a recipient has the burden of proving undue hardship in the case of an employee who regularly observes Friday evening and Saturday, or some other day of the week, as Sabbath and/or who observes certain religious holidays during the year and cannot perform work on such days.

(c) Undue hardship may not be established by showing only that there would be a cost in accommodating an employee's religious observance or practice. It must be shown that the cost would be substantial in relation to the conduct of the recipient's business. Factors that may be considered in determining whether the cost of an accommodation is undue include the overall size of the recipient's business with respect to the number of employees and number and type of facilities, and the type of the recipient's operations, including the composition and structure of the recipient's workforce.

§ 113.3-3 Structural accommodations for qualified handicapped employees and clients.

(a) A recipient shall make structural accommodations to its facilities when such accommodations are necessary to afford a qualified handicapped person an opportunity to participate as an employee or client, unless the recipient demonstrates that accommodation would result in undue hardship on the conduct of the recipient's business.

(b) Undue hardship may not be established by showing only that there would be a cost in accommodating a handicapped person. It must be shown that the cost would be substantial in relation to the conduct of the recipient's business. Factors that may be considered in determining whether the cost of an accommodation is undue include the overall size of the recipient's business with respect to the number of employees and number and type of facilities, and the type of the recipient's operations, including the composition and structure of the recipient's workforce.

§ 113.4 Assurances required.

(a) Every application for financial assistance shall contain or be accompanied by an assurance that the applicant will comply with this part. Each recipient shall maintain such assurance for the period during which it retains ownership or possession of the property, or for the period during which the recipient retains the financial assistance, whichever is longer. The assurance shall bind the recipient, its successors in interest, and other participants in the program.

§ 113.5 Compliance information.

(a) Each recipient shall keep such records and submit to the Administrator timely, complete and accurate compliance information as the Administrator may determine to be necessary to ascertain whether the recipient has complied or is complying with this part. In general, recipients should have available for the Administrator racial, handicapped, or nationality data showing the extent to which members of minority groups are beneficiaries of the program.

(b) In general, recipients should have available for the Administrator racial, handicapped, or nationality data showing the extent to which members of minority groups are beneficiaries of the program.

(c) Each recipient shall make its policies, the opportunities in the business it operates may not in fact be equally available to some racial, qualified handicapped or nationality

§ 113.7 Procedure for effecting compli-

tion, hearing, or judicial proceeding arising thereunder.

(2) Not conduct a preemployment medical examination or make a preemployment inquiry as to whether an applicant is a handicapped person or as to the nature or severity of a handicap: Except (i) when a recipient is taking remedial action to overcome the effects of conditions which resulted in past discrimination, or (ii) when a recipient is taking affirmative action pursuant to Section 503, of the Rehabilitation Act of 1973, as amended;

(3) Take appropriate steps to ensure that communications with their applicants and employees are available to persons with imparied vision and hearing;

(4) Make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped applicant or employee unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of the business.

(c) Discriminate on the basis of race, color, religion or national origin in the use of toilets or any facilities for rest or comfort. Discriminate on the basis of race, color, religion, sex, handicap, or national origin in the use of cafeterias, recreational programs or other programs sponsored by the applicant or recipient.

(d) With regard to services or accommodations offered or provided by the aided business or other enterprise, whether or not operated for profit, fail or refuse, because of the race, color, religion, sex, handicap, or national origin of a person, to accept a person on a nonsegregated basis as a patient, student, visitor, guest, customer, passenger, or patron.

(e) With regard to all recipients offering credit, such as Small Business Investment Companies and Community Development Companies, discriminate against debtors on the basis of race, color, religion, sex, martial status, qualified handicap, or national origin.

(f) With regard to the granting of credit by all recipient creditors, discriminate against any applicant, with respect to any aspect of a credit transaction, because of race, color, religion, national origin, sex, marital status, age; *Provided*, The applicant has the capacity to contract, because all or part of the applicant's income derives from any public assistance program, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act.

§ 113.3-1 Consideration of race, color, religion, sex, marital status or national origin.

(a) This regulation does not prohibit the consideration of race, color, religion, sex, marital status, qualified handicap, or national origin if the purpose and effect are to remove or overcome the consequences of practices or impediments which have restricted the availability of, or participation in, the program or activity receiving Federal financial assistance, on the grounds of race, color, religion, sex, marital status, handicap, or national origin. Where previous discriminatory practices or usage tends, on the grounds of race, color, religion, sex, marital stratus, qualified handicap, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this regulation applies, the applicant or recipient has an obligation to take reasonable action to remove or overcome the consequences of the prior discríminatory practice or usage, and to accomplish the purposes of this regulation.

(b) Nothing in this part shall prohibit the restriction of certain jobs to qualified handicapped persons or to members of one sex if a bona fide occupational qualification can be demonstrated by the applicant or recipient. Custom or tradition is not a bona fide occupational qualification.

(c) Recipients shall administer programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons; and shall not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped applicants or employees to discrimination prohibited by this subpart. The relationships referred to in this paragraph include referral agencies, with labor unions, with organizations providing or administering fringe benefits to employees of the recipient, and with organizations providing training and apprenticeship programs.

(d) Nothing in this part shall apply to a religious corporation, association, educational institution or society with respect to the membership or the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution or society of its religious activities.

§ 113.3-2 Accommodations to religious observance and practice.

A recipient of financial assistance must accommodate to the religious observances and practices of an employee or prospective employee unless the recipient demonstrates that it is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business. As part of this obligation, recipient must make reasonable accommodations to the religious observances and practices of an employee or prospective employee who regularly observes Friday evening and Saturday, or some other day of the week, as Sabbath and/or who observes certain religious holidays during the year and who is conscientiously opposed to performing work or engaging in similar activity on such days, when such accommodations can be made without undue hardship on the conduct of the employer's business. In determining the extent of a recipient's obligations under this section, at least the following factors shall be considered: (as) Business necessity, (b) financial costs and expenses, and (c) resulting personnel problems.

§ 113.3-3 Structural Accommodations for Qualified Handicapped Employees and Clients.

(a) Recipients in preexisting structures shall make reasonable accommodations with respect to making their goods or services accessible to qualified handicapped employees and clients unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of the business.

(b) Those businesses which receive Federal financial assistance, but which exceed the size standards set forth in 13 CFR Part 121 are required to comply with accessibility standards set forth in the "American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," published by the American National Standards Institute, Inc. (ANSI A117.1-1961 (R1971)). Departures from particular requirements of those standards by the use of other methods shall be permitted when it is clearly evident that equivalent access to the facility or part of the facility is thereby provided.

(c) All new facilities shall be designed and constructed to be readily accessible to and usable by handicapped persons in accordance with the provisions set forth in paragraph (b) of this section.

§ 113.4 Assurances required.

An application for financial assistance shall, as a condition to its approval and the extension of such assistance, contain or be accompanied by an assurance that the recipient will comply with this part. Such an assurance shall contain provisions authorizing the acceleration of the maturity of the recipient's financial obligations to SBA in the event of a failure to comply, and provisions which give the United States a right to seek judicial enforcement of the terms of the assurance. SBA shall specify the form of the foregoing assurance for each program, and the extent to which like assurances will be required of contractors and subcontractors, transferees,

successors in interest, and other participants in the program.

§ 113.5 Compliance information.

(a) Cooperation and assistance: SBA shall to the fullest extent practicable seek the cooperation of applicants and recipients in obtaining compliance with this part and shall provide assistance and guidance to applicants and recipients to help them comply voluntarily with this part.

(b) Compliance reports: Each applicant or recipient shall keep such records and submit to SBA timely, complete and accurate compliance reports at such times, and in such form and containing such information, as SBA may determine to be necessary to enable SBA to ascertain whether the applicant or recipient has complied or is complying with this part. In the case of a small business concern which receives financial assistance from a development company or from a small business investment company, such concern shall submit to the company such information as may be necessary to enable the company to meet its reporting requirements under this part.

(c) Access to sources of information: Each applicant or recipient shall permit access by SBA during normal business hours to such of its books, rec- ords, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance with this part. Where any information required of an applicant or recipient is in the exclusive possession of any other agency, institution or person and this agency, institution or person and this agency, institution or person shall fail or refuse to furnish this information, the applicant or recipient shall so certify in its report and shall set forth what efforts it has made to obtain this information.

(d) *Information to the public.* Each recipient shall make available to persons entitled under this part to protection against discrimination by the recipient such information as SBA may find necessary to apprise them of their rights to such protection.

(1) In some situations even though past discriminatory practices have been abandoned, the consequences of such practices continue to impede the full availability of equal opportunity. If the efforts required of the applicant or recipient under § 113.3(d) to provide information as to the availability of equal opportunity, and the rights of individuals under this regulation, have failed to overcome these consequences, it will become necessary for such applicant or recipient to take additional steps to make equal opportunity fully available to racial, qualified handicapped, and nationality groups previously subjected to discrimination.

(2) Even though an applicant or recipient has never used discriminatory policies, the opportunities in the business it operates may not in fact be equally available to some racial, qualified handicapped, or nationality groups. In such circumstances a recipient may properly give special consideration to race, color, religion, sex, marital status, qualified handicap or national origin to make the opportunities more widely available to such groups.

§ 113.6 Conduct of investigations.

(a) *Periodic compliance reviews.* SBA shall from time to time review the practices of recipients to determine whether they are complying with this part.

(b) *Complaints.* Any person who believes that he, she or any class of individuals has been subjected to discrimination prohibited by this part may, personally or through a representative, file with SBA a written complaint. A complaint must be filed not later than 180 days from the date of the alleged discrimination, unless the time for filing is extended by SBA.

(c) *Investigations.* SBA will make a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with this part. The investigation should include, where appropriate, a review of the pertinent practices and policies of the applicant or recipient, the circumstances under which the possible noncompliance with this part occurred, and other factors relevant to a determination as to whether the applicant or recipient has failed to comply with this part.

(d) *Resolution of matters.* (1) If an investigation pursuant to paragraph (c) of this section indicates a failure to comply with this part, SBA will so inform the applicant or recipient and the matter will be resolved by informal means whenever possible. If it has been determined that the matter cannot be resolved by informal means, action will be taken as provided for in § 113.7.

(2) If an investigation does not warrant action pursuant to paragraph (d) (1) of this section, SBA will so inform the applicant or recipient and the complainant, if any, in writing.

(e) *Intimidatory or retaliatory acts prohibited.* No applicant or recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by this part or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

§ 113.7 Procedure for effecting compliance.

(a) *General.* (1) If there appears to be a failure or threatend failure to comply with this part and if the noncompliance or threatended noncompliance cannot be corrected by informal means, compliance with this part may be effected by suspending, terminating, or refusing any financial assistance approved but not yet disbursed to an applicant. In the case of loans partially or fully disbursed, compliance with this part may be effected by calling, canceling, terminating, accelerating repayment, or suspending in whole or in part the financial assistance provided. In addition compliance may be effected by any other means authorized by law.

(2) Such other means may include but are not limited to (i) legal action by SBA to enforce its rights, embodied in the assurances described in § 113.4; (ii) a reference to the Department of Jutice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States; and (iii) any applicable proceedings under State or local law.

(b) *Noncompliance with § 113.4.* If an applicant fails or refuses to furnish an assurance required under § 113.4 or otherwise fails or refuses to comply with a requirement imposed by or pursuant to that section, Federal financial assistance may be refused in accordance with the procedures of paragraph (c) of this section. SBA shall not be required to provide assistance in such a case during the pendency of the administrative proceedings under such paragraph except that SBA shall continue assistance during the pendency of such proceedings where such assistance is due and payable pursuant to an application therefor approved prior to the effective date of this part.

(c) *Condition precedent.* Under this Part 113, no order suspending, terminating, refusing, calling, canceling, or accelerating repayment of financial assistance in whole or in part shall become effective until (1) SBA has advised the applicant or recipient of the failure to comply and has determined that compliance cannot be secured by voluntary means; (2) there has been an express finding on the record after an opportunity for hearing, of a failure by the applicant or recipient to comply with a requirement imposed by or pursuant to this part; and (3) the action has been approved by the Administrator of SBA pursuant to § 113.9.

(d) Other means authorized by law. No action to effect compliance by any other means authorized by law shall be taken until:

(1) SBA has determined that compliance cannot be secured by voluntary means.

(2) The action has been approved by

conducted in conformity with 5 U.S.C. 554 through 557 (sections 5-8 of the Administrative Procedure Act), and in accordance with such rules or proce-

if any. In the absence of either exceptions or a notice of review the initial decision shall constitute the final decision of the Administrator.

(3) If the Administrator denies any such request, the applicant or recipient may submit a request for a hear-

APPENDIX A

Name of program	Authority

(1) SBA has determined that compliance cannot be secured by voluntary means.

(2) The action has been approved by the Administrator or the Administrator's designee.

(3) The applicant or recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance.

(4) The expiration of at least 10 days from the mailing of such notice to the applicant or recipient or other person. During this period of at least 10 days, additional efforts shall be made to persuade the applicant or recipient or other person to comply with this part and to take such corrective action as may be appropriate.

§113.8 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by ¶ 113.7, reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected applicant or recipient. This notice shall advise the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for this action, and either (1) fix a date not less than 20 days after the date of such notice within which the applicant or recipient may request of SBA that the matter be scheduled for hearing or (2) advise the applicant or recipient that the matter in question has been set down for hearing at a stated place and time. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing under this paragraph or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing and as consent to the making of a decision on the basis of such information as is available.

(b) *Time and place of hearing.* Hearing shall be held at the offices of SBA in Washington, D.C., at a time fixed by SBA unless SBA determines that the convenience of the applicant or recipient or of SBA requires that another place be selected. Hearings shall be held before a hearing examiner designated in accordance with section 11 of the Administrative Procedure Act.

(c) *Right to counsel.* In all proceedings under this section, the applicant or recipient and SBA shall have the right to be represented by counsel.

(d) *Procedures, evidence, and record.* (1) The hearing, decision and any administrative review thereof shall be conducted in conformity with 5 U.S.C. 554 through 557 (sections 5–8 of the Administrative Procedure Act), and in accordance with such rules or procedures as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, argument and briefs, request for findings and other related matters. Both SBA and the applicant or recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing at the outset of or during the hearing.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the officer conducting the hearing. The hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

§113.9 Decisions and notices.

(a) *Decision by a hearing examiner.* If the hearing is held by a hearing examiner, such hearing examiner shall either make an initial decision, if so authorized, or certify the entire record including the hearing examiner's recommended findings and proposed decision to the Administrator for a final decision, and a copy of such initial decision or certification shall be mailed to the applicant or recipient and the complainant. Where the initial decision is made by the hearing examiner the applicant or recipient may within 30 days of the mailing of such notice of initial decision file with the Administrator exceptions to the initial decision, with reasons therefor. In the absence of exceptions, the Administrator may on his or her own motion within 45 days after the initial decision serve on the applicant or recipient a notice that he or she will review the decision. Upon the filing of such exceptions or of such notice of review the Administrator shall review the initial decision and issue his or her own decision thereon including the reasons therefor. The decision of the Administrator shall be mailed promptly to the applicant or recipient and the complainant, if any. In the absence of either exceptions or a notice of review the initial decision shall constitute the final decision of the Administrator.

(b) *Decisions on record or review by the Administrator.* Whenever a record is certified to the Administrator for decision or the Administrator reviews the decision of a hearing examiner pursuant to paragraph (a) of this section, or whenever the Administrator conducts the hearing, the applicant or recipient shall be given reasonable opportunity to file with the Administrator briefs or other written statements of its contentions, and a copy of the final decision of the Administrator shall be given in writing to the applicant or recipient and the complainant, if any.

(c) *Decisions on record where a hearing is waived.* Whenever a hearing is waived pursuant to §113.8 a decision shall be made by the Administrator on the record and a copy of such decision shall be given in writing to the applicant or recipient, and to the complainant, if any.

(d) *Rulings required.* Each decision of a hearing officer or the Administrator shall set forth the ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to this part with which it is found that the applicant or recipient has failed to comply.

(e) *Contents of orders.* The final decision may provide for a refusal to extend financial assistance or, in the event that such assistance has already been granted, for acceleration of the recipient's obligation in accordance with the provisions of §113.7(a)(1). The decision may contain such further terms, conditions and provisions as are consistent with, and will effectuate the purposes of this part.

(f) *Post-termination proceedings.* (1) An applicant or recipient adversely affected by an order issued under paragraph (e) of this section shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this regulation and provides reasonable assurance that it will fully comply with this regulation.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (e) of this section may at any time request the Administrator to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of subparagraph (1) of this paragraph. If the Administrator determines that those requirements have been satisfied, eligibility shall be restored.

(3) If the Administrator denies any such request, the applicant or recipient may submit a request for a hearing in writing, specifying why it believes such official to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with rules of procedure issued by the Administrator. The applicant or recipient will be restored to such eligibility if it proves at such a hearing that it satisfied the requirements of paragraphs (f)(1) of this section. While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (e) of this section shall remain in effect.

§113.10 Effect on other regulations; forms and instructions.

(a) *Effect on other regulations.* All regulations, orders or like directions heretofore issued by SBA which impose requirements designed to prohibit any discrimination against individuals on the grounds of race, color, religion, sex, qualified handicap, or national origin and which authorize the suspension or termination or a refusal to grant to or to continue financial assistance to any applicant for or recipient of such assistance for failure to comply with such requirements, are hereby superseded to the extent that such discrimination is prohibited by this part, except that nothing in this part shall be deemed to relieve any person of any obligation assumed or imposed under any such superseded regulation, order, instruction or like direction prior to the effective date of this part.

(b) *Forms and instructions.* SBA shall issue and promptly make available to interested persons forms and detailed instructions and procedures for effectuating this part.

(c) *Supervision and coordination.* The Administrator may from time-to-time assign to officials of SBA or to officials of other agencies of the Government, with the consent of such agencies, responsibilities in connection with the effectuation of the purposes of this part (other than responsibility for first decisions as provided in §113.9) including the achievement of effective coordination and maximum uniformity within SBA and within the executive branch of the Government in the application of this part and of comparable regulations issued by other agencies of the Government to similar situations. Any action taken, determination made, or requirement imposed by an official of another department or agency acting pursuant to an assignment of responsibility under this subsection shall have the same effect as though such action had been taken by the Administrator of SBA.

APPENDIX A

Name of program	Authority
Regular business loans	Small Business Act, sec. 7(a)
Economic opportunity loans	Small Business Act, sec. 7(1) (formerly Title IV of the Economic Opportunity Act).
Pool loans	Small Business Act sec. 7(a)(5).
Displaced business loans	Small Business Act sec. 7(b)(3).
Handicapped assistance loans	Small Business Act, sec. 7(h).
Debtor small business investment companies and their small business concerns.	Small Business Investment Act, Title III.
Debtor local development company loans (502) and their small business concerns.	Small Business Investment Act, sec. 502.
Debtor State development company loans (501) and their small business concerns.	Small Business Investment Act, sec. 501.
Lease guarantees	Small Business Investment Act, Title IV.
Surety bond guarantees	Small Business Investment Act, Title IV, Part B.
Disaster loans:	
Physical, including riot	Small Business Act, sec. 7(b)(1) as amended by secs. 231, 234, as amended by secs. 231 and 234 of the Disaster Relief Act of 1970. Public Law 92-385, Public Law 93-24, and Public Law 94-68.
Economic injury	Small Business Act, sec. 7(b)(2) as amended by sec. 231 and 234 of the Disaster Relief Act of 1970. Public Law 92-385, Public Law 93-24, and Public Law 94-68.
Product disaster	Small Business Act, sec. 7(b)(4); Public Law 92-385, Public Law 93-24, and Public Law 94-68.
Coal mine health and safety loans	Small Business Act, sec. 7(b)(5).
Consumer protection	Small Business Act, sec. 7(b)(5).
Occupational safety and health	Small Business Act, sec. 7(b)(5).
Other regulatory	Small Business Act, sec. 7(b)(5).
Strategic arms economic injury loans	Small Business Act, sec. 7(b)(6).
Air pollution control loans	Small Business Act, sec. 7(b)(5).
Base closing economic injury	Small Business Act, sec. 7(b)(7).
Water pollution control loans	Small Business Act, sec. 7(g)(1).
Emergency energy shortage economic injury	Small Business Act, sec. 7(b)(8).
Economic dislocation	Small Business Act, sec. 7(b)(9).
Small business lending companies and their small business concerns.	Small Business Act, sec. 7(a); also see 13 CFR 120.4(b).
Pollution control financing guarantee	Small Business Investment Act, sec. 404(b).

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[6750-01]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[Docket No. 9070]

HARPER SALES, INC., ET AL.

Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require a Rush, N.Y., mobile home dealer and its affiliates to cease conditioning the leasing or renting of space in their trailer parks to the purchase of mobile homes and accessories from Harper Sales, Inc., or other designated sources.

DATE: Comments must be received on or before May 5, 1978.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

John F. Dugan, Acting Director, New York Regional Office, Federal Trade Commission, 2243-EB Federal Building, 26 Federal Plaza, New York, N.Y. 10007, 212-264-1207.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's rules of practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof,

having been filed with and provisionally accepted by the Commission, has been placed on the public record, together with material submitted to the

Harper Sales, Inc. Said individual Respondents are also partners in the partnership Respondent, Harper Park-

fied or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mail-

standards concerning the appearance of mobile homes and acceptance of tenants in Respondents' mobile home

It is further ordered, That the Respondents herein shall within sixty (60) days after service upon them of

agreement and proposed order or to modify in any way their terms.

CAROL M. THOMAS,

having been filed with and provisionally accepted by the Commission, has been placed on the public record, together with material submitted to the Commission that is not exempt from public disclosure under the Freedom of Information Act, for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

[Docket No. 9070]

HARPER SALES, INC., ET AL.

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

In the matter of Harper Sales, Inc., a corporation, and Edgewood Park Estates, Inc., a corporation, and, Harper Park-Avon, a partnership, and Ralph R. Harper, and John R. Harper, individually, and as officers of said corporations and as partners in Harper Park-Avon.

The Federal Trade Commission having issued its complaint on December 19, 1975 ("Complaint"), charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act, as amended, and it now appearing that Harper Sales, Inc., and Edgewood Park Estates, Inc., corporations, and Harper Park-Avon, a partnership, and Ralph R. Harper and John R. Harper, individually and as officers of said corporations and partners in said partnership, ("Respondents") are willing to enter into an agreement containing a Consent Order to Cease and Desist, it is hereby agreed that the agreement herein by and between the Respondents named in the caption hereof, their attorney and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's rule governing consent order procedure.

I. Respondent Harper Sales, Inc., is a corporation organized under the laws of the State of New York, with its principal office located at 7500 West Henrietta Road, Rush, N.Y.

Respondent Edgewood Park Estates, Inc., is a corporation organized under the laws of the State of New York, with its principal place of business located at 4000 Brick Schoolhouse Road, Hamlin, N.Y.

Respondent Harper Park-Avon is a partnership organized under the laws of the State of New York with its principal office located at 6150 East Avon-Lime Road, Avon, N.Y.

Respondents Ralph R. Harper and John R. Harper are officers of corporate Respondents Harper Sales, Inc., and Edgewood Park Estates, Inc. They formulate, direct, approve, authorize and control the acts and practices of Harper Sales, Inc. Said individual Respondents are also partners in the partnership Respondent, Harper Park-Avon. They formulate, direct, approve, authorize and control the acts and practices of the partnership Respondent. Their business address is the same as that of corporate Respondent Harper Sales, Inc.

2. Respondents have been served witha copy of the complaint the Commission has issued charging them with violation of the Federal Trade Commission Act, as amended, together with notice of the nature of the relief the Commission believes warranted in the circumstances.

3. Respondents admit that the Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of Respondents and that the proceeding is in the public interest.

4. Respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

5. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the Complaint, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper or inadequate. The Commission may, at any time pending final acceptance of this order, require hearings on the relief requirements provided by this order.

6. This agreement is for settlement purposes only and does not constitute an admission by Respondents that the law has been violated as alleged in the said copy of the Complaint the Commission has issued.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(d) of the Commission's rules, the Commission may, without further notice to the Respondents, (1) issue its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the Complaint and decision containing the agreed to order to Respondents' addresses as stated in this agreement shall constitute service. Respondents waive any right they may have to any other manner of service. The Complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or to contradict the terms of the order.

8. Respondents have read the Complaint and order contemplated hereby, and they understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order, and that they may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

ORDER

It is ordered, That Harper Sales, Inc. and Edgewood Park Estates, Inc., corporations, and Harper Park-Avon, a partnership, their successors and assigns, and their officers and partners and Ralph R. Harper and John R. Harper, individually and as officers of said corporations and as partners in said partnership, and Respondents' agents, representatives and employees, directly or through any corporation, subsidiary, partnership, division or other device, in connection with the sale of mobile homes or the rental or lease of mobile home sites, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

The offering, execution, maintenance or enforcement of any lease, agreement, understanding or other arrangement which, directly or indirectly, conditions the lease or rental of a mobile home site upon the purchase of a mobile home from a Respondent, or a source designated by a Respondent. For the purposes of the foregoing sentence a transfer of conveyance of a mobile home site by any Respondent to anyone not a Respondent which grants any Respondent the option or right to purchase such site, shall be deemed to be a lease; and the lease or rental of a mobile home under which the lessor has the option or right to require the lessee to purchase such mobile home as a condition for the continued use of such mobile home, shall be deemed to be a purchase.

Provided, however, That Respondents may freely exercise their rights as businessmen, including the right to set reasonable rules, regulations and

standards concerning the appearance of mobile homes and acceptance of tenants in Respondents' mobile home parks and the operation, maintenance, and appearance of mobile homes, mobile home parks and mobile home sites, except insofar as limited by the provisions of this order; and

Provided further, That nothing in this order shall exempt any person or firm from the duty to comply with all applicable laws or regulations which are consistent with the provisions of this order.

It is further ordered That Respondents shall, within thirty (30) days of service of this order, distribute, and obtain a signed receipt therefor, a copy of this order to each of their operating divisions and Respondents' employees engaged in the sale or rental of mobile homes or mobile home sites.

It is further ordered, That each individual Respondent named herein promptly notify the Commission of the discontinuance of his present business or employement, and of his affiliation with a new business or employment. In addition, for a period of ten years from the effective date of this order, each individual Respondent shall promptly notify the Commission of each affiliation with a new business or employment whose activities include the sale of mobile homes or the rental or lease of mobile home sites or of his affiliation with a new business or employment in which his own duties and responsibilities involve the sale of mobile homes or the rental or lease of mobile home sites. Such notice shall include this Respondent's new business address and a statement of the nature of the business or employment in which the Respondent is newly engaged, as well as a description of Respondent's duties and responsibilities in connection with the business or employment.

The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this order.

It is further ordered, That Respondents notify the Commission at least thirty (30) days prior to any proposed change in any corporate Respondent, or the partnership Respondent, such as dissolution, assignment, or sale resulting in the emergence of a successor corporation or partnership, the creation or dissolution of subsidiaries or any other change in the corporation or partnership which may affect compliance obligations arising out of this order.

It is further ordered, That Respondents maintain complete business records relative to the manner and form of their continuing compliance with the terms and provisions of this order. Each record shall be retained by Respondents for at least three years after it is made.

It is further ordered, That the Respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

HARPER SALES, INC., ET AL.

[Docket No. 9070]

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement to a proposed consent order from Harper Sales, Inc., Edgewood Park Estates, Inc., Harper Park-Avon and Ralph R. Harper and John R. Harper, officers of Harper Sales, Inc., and Edgewood Park Estates, Inc., and partners in Harper Park-Avon.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by the public. Comments received during this period will become a part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw the agreement or make final the agreement's proposed order.

Edgewood Park Estates, Inc., a New York corporation, and Harper Park-Avon, a New York partnership, are engaged in the development and operation of mobile home parks. Harper Sales, Inc., a New York corporation, is a dealer in mobile homes and mobile home accessories.

Ralph R. Harper and John R. Harper control and are responsible for the acts and practices of Harper Sales, Inc. and Harper Park-Avon.

The complaint alleges that the above firms and individuals have violated section 5 of the Federal Trade Commission Act by refusing to rent sites in mobile home parks under their control for the accommodation of mobile homes which have not been purchased from Harper Sales, Inc.

The consent order in this matter prohibits the above companies and individuals from conditioning the lease or rental of a mobile home site upon the purchase of a mobile home from Harper Sales, Inc., or a source designated by any respondent.

The consent order is generally designed to protect consumers and competitors by preventing respondents from unfairly using their power over mobile home sites to influence decisions relating to the acquisition of mobile homes.

The purpose of this analysis is to facilitate public comment on the proposed order and is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-5983 Filed 3-7-78; 8:48 am]

[6750-01]

[16 CFR Part 13]

[Docket No. 9068]

MacLEOD MOBILE HOMES, INC., ET AL.

Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require a Riverhead, N.Y. mobile homes dealer and its affiliates to cease entering into, or enforcing any arrangement or rule which restricts the availability of mobile home sites to only those parties who purchase, lease or rent mobile homes, accessories and services from MacLeod Mobile Homes, Inc. or other designated sources.

DATE: Comments must be received on or before May 5, 1978.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

John F. Dugan, Acting Director, New York Regional Office, Federal Trade Commission, 2243-EB Federal Building, 26 Federal Plaza, New York, N.Y. 10007, 212-264-1207.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's rules of practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record, together with material submitted to the Commission that is not exempt from public disclosure under the Freedom of Information Act, for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance

with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

[Docket No. 9068]

of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest

ORDER

It is ordered, That MacLeod Mobile Homes, Inc., and Pashisha, Inc., corpo-

the purchase, rental or lease of a mobile home by such a prospective tenant;

thirty (30) days prior to any proposed change in any corporate respondent such as dissolution, asssignment, or

make substantial payments to respondents;

3. Requiring tenants in their parks

with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

[Docket No. 9068]

MACLEOD MOBILE HOMES, INC., ET AL.

CONSENT AGREEMENT CONTAINING ORDER TO CEASE AND DESIST

In the matter of MacLeod Mobile Homes, Inc., a corporation, and Pashisha, Inc., a corporation, and Myron T. MacLeod, individually and as an officer of said corporations, and John J. Couch, individually and as an officer of said corporations.

The Federal Trade Commission having issued its complaint on December 19, 1975, charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act, as amended, and it now appearing that MacLeod Mobile Homes, Inc. and Pashisha, Inc., corporations, and Myron T. MacLeod and John J. Couch, individually and as officers of said corporations, are willing to enter into an agreement containing a Consent Order to Cease and Desist, it is hereby agreed that the agreement herein by and between the respondents named in the caption hereof, their attorney and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's rule governing consent order procedure.

1. Respondent MacLeod Mobile Homes, Inc., is a corporation organized under the laws of the State of New York, with its principal office located at 525 Riverleigh Avenue, Riverhead, N.Y.

Respondent Pashisha, Inc., an affiliate of MacLeod Mobile Homes, Inc., is a corporation organized under the laws of the State of New York, with its principal office located at 525 Riverleigh Avenue, Riverhead, N.Y.

Respondents Myron T. MacLeod and John J. Couch, individuals, are officers of said corporations. They formulate, direct, approve, authorize and control the acts and practices of said corporations, including the acts and practices hereinafter set forth. Their business address is the same as that of the corporate respondents.

2. Respondents have been served with a copy of the complaint the Commission has issued charging them with violation of the Federal Trade Commission Act, as amended, together with notice of the nature of the relief the Commission believes warranted in the circumstances.

3. Respondents admit that the Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of respondents and that the proceeding is in the public interest.

4. Respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

5. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the complaint, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper or inadequate. The Commission may, at any time pending final acceptance of this order require hearings on the relief requirements provided by this order.

6. This agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in the said copy of the complaint the Commission has issued.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(d) of the Commission's rules, the Commission may, without further notice to the respondents, (1) issue its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed to order to respondents' addresses as stated in this agreement shall constitute service. Respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or to contradict the terms of the order.

8. Respondents have read the complaint and order contemplated hereby, and they understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order, and that they may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

ORDER

It is ordered, That MacLeod Mobile Homes, Inc., and Pashisha, Inc., corporations, their successors and assigns, and their officers and Myron T. MacLeod and John J. Couch, individually and as officers of said corporations, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the sale, lease, or rental of mobile homes, mobile home sites or any other product, service, real estate or thing, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

1. The offering, execution, maintenance or enforcement of any lease, agreement, understanding or other arrangement which, directly or indirectly, conditions the lease, rental or sale of a mobile home site upon the lease, rental or purchase of a mobile home from a respondent, or a source designated by a respondent.

2. The offering, execution, maintenance or enforcement of any lease, agreement, understanding or other arrangement, which, directly or indirectly, conditions the lease, rental or sale of any product, service, real estate or thing upon the lease, rental or purchase of any other product, service, real estate or thing from a respondent, or a source designated by a respondent.

3. Refusing to offer, enter into, or maintain a lease or any other arrangement relating to the sale, lease or rental of any mobile home site unless or until the prospective tenant leases, rents, acquires or purchases, or promises or agrees to lease, rent, acquire or purchase a mobile home, or any other product, service, real estate or thing, from a respondent, or a source designated by a respondent.

4. Establishing, maintaining or enforcing any rule, practice or arrangement in a mobile home park owned, controlled or operated by a respondent whereby:

(a) A mobile home sold, rented or leased by a tenant of a respondent must be removed from its site for the reason that said mobile home was not sold, rented or leased by, through or with the cooperation of a respondent or the designee of a respondent;

(b) A mobile home park tenant who sells, rents or leases a mobile home is required to subscribe to or purchase or accept the services of a respondent or person or firm designated by a respondent;

(c) A mobile home park tenant or prospective tenant is required to compensate a respondent, or a person or firm designated by a respondent, who has not provided any services in connection with the sale, rental or lease of a mobile home by such tenant or

the purchase, rental or lease of a mobile home by such a prospective tenant;

(d) A prospective tenant purchasing a mobile home from any tenant of a respondent is not permitted to rent the mobile home site occupied by such mobile home; or

(e) A tenant of a respondent is threatened with or subjected to eviction or any coercive action or detriment for refusal or failure to agree to lease, rent, acquire or purchase any product, service, real estate or thing from a respondent or a source designated by a respondent.

Provided, however, That respondents may exercise their lawful rights as businessmen, including the right to set reasonable rules, regulations and standards concerning the appearance of mobile homes and acceptance of tenants in respondents' mobile home parks and the operation, maintenance and appearance of mobile homes, mobile home parks and mobile home sites, except insofar as limited by the provisions of this order; and

Provided further, That nothing in this order shall exempt any person or firm from the duty to comply with all applicable laws or regulations which are consistent with the provisions of this order.

It is further ordered, That respondents shall, within thirty (30) days of service of this order, distribute, and obtain a signed receipt therefor, a copy of this order to each of their operating divisions and respondents' employees engaged in the sale or rental of mobile homes or mobile home sites.

It is further ordered, That each individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment, and of his affiliation with a new business or employment. In addition, for a period of ten years from the effective date of this order, each individual respondent shall promptly notify the Commission of each affiliation with a new business or employment whose activities include the sale of mobile homes or the rental of mobile home sites or of his affiliation with a new business or employment in which his own duties and responsibilities involve the sale of mobile homes or the rental of mobile home sites. Such notice shall include this respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged, as well as a description of respondent's duties and responsibilities in connection with the business or employment.

The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this order.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in any corporate respondent such as dissolution, asssignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That respondents maintain complete business records relative to the manner and form of their continuing compliance with the terms and provisions of the order. Each record shall be retained by respondents for at least three years after it is made.

It is further ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

MACLEOD MOBILE HOMES, INC., ET AL.

[Docket No. 9068]

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement to a proposed consent order from MacLeod Mobile Homes, Inc., Pashisha, Inc., and Myron T. MacLeod and John J. Couch, officers of the above companies.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by the public. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw the agreement or make final the agreement's proposed order.

The above corporations are dealers in mobile homes and mobile home accessories. MacLeod Mobile Homes, Inc. is also engaged in the development and operation of a mobile home park.

Myron T. MacLeod and John J. Couch, officers of the above corporations, control and are responsible for their acts and practices.

The complaint alleges that the above firms and individuals have violated section 5 of the Federal Trade Commission Act by:

1. Refusing to rent sites in their mobile home park for the accommodation of mobile homes which have not been purchased from them, thereby making the rental of these sites conditional and dependent upon the purchase of mobile homes from said respondents;

2. Refusing to rent sites to persons who have purchased their mobile homes directly from park tenants, unless such tenants or purchasers make substantial payments to respondents;

3. Requiring tenants in their parks to purchase heating fuel and bottled gas from suppliers designated by respondents.

The consent order in this matter principally prohibits the respondents from:

1. Requiring that someone buy or rent a mobile home from them or anyone else they name, in order to obtain a mobile home site;

2. Refusing to rent or sell a mobile home site to anyone who will not agree to buy a mobile home from them, or anyone else they name;

3. Requiring mobile homes which have been sold without their cooperation to be removed from their sites;

4. Refusing to allow a person who buys a mobile home directly from a tenant without their cooperation to continue to rent the site occupied by the home;

5. Evicting or threatening to evict or injure in any fashion any person who does not agree to buy or rent any service, land or other property from them or anyone else they name;

6. Requiring a mobile home park tenant to use their services or the services of anyone they name;

7. Requiring a mobile home park tenant, or someone seeking to become a tenant, to pay anyone who has not provided services in connection with the sale or purchase of their mobile home.

The consent order is generally designed to protect consumers and competitors by preventing respondents from unfairly using their power over mobile home sites to influence decisions relating to the acquisition or use of mobile homes, and to assure that respondents do not similarly use any power they have or may acquire over any other product, service, real estate or thing.

The purpose of this analysis is to facilitate public comment on the proposed order and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-5984 Filed 3-7-78; 8:45 am]

[6750-01]

[16 CFR Part 13]

[Docket No. 9069]

MOBILE HOMES—MULTIFLEX CORP., ET AL.

Consent Agreement with Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair

Corp., Mobile Estates, Inc., Mobile Estates of Southampton, Inc., and Tower Trailer Park, Inc., corporations,

each violation of the order after it becomes final.

ORDER

uct, service, real estate or thing from a respondent or a source designated by a respondent.

change in the corporation which may affect compliance obligations arising out of the order.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require a Mount Holly, N.J., mobile home dealer and its subsidiaries to cease entering into, or enforcing any arrangement or rule which restricts the availability of mobile home sites to only those parties who purchase, lease or rent mobile homes, accessories and services from Mobile Homes-Multiflex Corp. or other designated sources.

DATE: Comments must be received on or before May 5, 1978.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

John F. Dugan, Acting Director, New York Regional Office, 2243-EB Federal Building, 26 Federal Plaza, New York, N.Y. 10007, 212-264-1207.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's rules of practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record, together with material submitted to the Commission that is not exempt from public disclosure under the Freedom of Information Act, for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

[Docket No. 9069]

MOBILE HOMES-MULTIPLEX CORP., ET AL.

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

In the matter of Mobile Homes-Multiplex Corp., a corporation, and Mobile Estates, Inc., a corporation, and Mobile Estates of Southampton, Inc., a corporation, and Tower Trailer Park, Inc., a corporation, and George R. Searle, individually and as an officer of said corporations.

The Federal Trade Commission having issued its complaint on December 19, 1975, charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act, as amended, and it now appearing that Mobile Homes-Multiplex Corp., Mobile Estates, Inc., Mobile Estates of Southampton, Inc., and Tower Trailer Park, Inc., corporations, and George R. Searle, individually and as an officer of said corporations, are willing to enter into an agreement containing a Consent Order to Cease and Desist, it is hereby agreed that the agreement herein by and between the respondents named in the caption hereof and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's rule governing consent order procedure.

1. Respondent Mobile Homes-Multiplex Corp. is a corporation organized under the laws of the State of Delaware with its principal office located at Mobile Estates, Inc., Route 206, Mount Holly, N.J.

Respondent Mobile Estates, Inc., is a corporation organized under the laws of the State of New Jersey with its principal office located at Route 206, Mount Holly, N.J.

Respondent Mobile Estates of Southampton, Inc., is a corporation organized under the laws of the State of New Jersey with its principal office located at Route 206, Mount Holly, N.J.

Respondents Mobile Estates, Inc., and Mobile Estates of Southampton, Inc., are wholly-owned subsidiaries of respondent Mobile Homes-Multiplex Corp., a holding company, which dominates and controls the acts and practices of said wholly-owned subsidiaries, including the acts and practices hereinafter set forth.

Respondent Tower Trailer Park, Inc., is a corporation organized under the laws of the State of New Jersey with its principal office located at 26 Dalbert Street, Carteret, N.J.

Respondent George R. Searle, an individual, is the president of respondents Mobile Homes-Multiplex Corp., Mobile Estates, Inc., Mobile Estates of Southampton, Inc., and Tower Trailer Park, Inc. He formulates, directs, approves, authorizes, and controls the acts and practices of said corporate respondents, including the acts and practices hereinafter set forth. His business address is the same as that of corporate respondent Mobile Estates, Inc.

2. Respondents have been served with a copy of the complaint the Commission has issued charging them with violation of the Federal Trade Commission Act, as amended, together with notice of the nature of the relief the Commission believes warranted in the circumstances.

3. Respondents admit all the jurisdictional facts set forth in the said copy of the complaint the Commission has issued.

4. Respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

5. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the complaint, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper or inadequate. The Commission may, at any time pending final acceptance of this order, require hearings on the relief requirements provided by this order.

6. This agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in the said copy of the complaint the Commission has issued.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(d) of the Commission's rules, the Commission may, without further notice to the respondents, (1) issue its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed to order to respondents' addresses as stated in this agreement shall constitute service. Respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or to contradict the terms of the order. This agreement shall not bind respondents unless and until the Commission finally accepts the agreement as set forth above.

8. Respondents have read the complaint and order contemplated hereby, and they understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order, and that they may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

ORDER

It is ordered, That respondents Mobile Homes-Multiplex Corp., Mobile Estates, Inc., Mobile Estates of Southampton, Inc., and Tower Trailer Park, Inc., corporations, their successors and assigns, and their officers and George R. Searle, individually and as an officer of said corporations, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the sale, lease or rental of mobile home sites or any other product, service, real estate or thing, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

1. The offering, execution, maintenance or enforcement of any lease, agreement, understanding or other arrangement which, directly or indirectly, conditions the lease, rental or sale of a mobile home site upon the lease, rental or purchase of a mobile home from a respondent, or a source designated by a respondent.

2. The offering, execution, maintenance or enforcement of any lease, agreement, understanding or other arrangement, which, directly or indirectly, conditions the lease, rental or sale of any product, service, real estate or thing upon the lease, rental or purchase of any other product, service, real estate or thing from a respondent, or a source designated by a respondent.

3. Refusing to offer, enter into, or maintain a lease or any other arrangement relating to the sale, lease or rental of any mobile home site unless or until the prospective tenant leases, rents, acquires or purchases, or promises or agrees to lease, rent, acquire or purchase a mobile home, or any other product, service, real estate or thing, from a respondent, or a source designated by a respondent.

4. Establishing, maintaining or enforcing any rule, practice or arrangement whereby:

(a) A mobile home sold, rented or leased by a tenant of a respondent must be removed from its site for the reason that said mobile home was not sold, rented or leased by, through or with the cooperation of a respondent or the designee of a respondent;

(b) A prospective tenant purchasing, renting or leasing a mobile home from any tenant of a respondent is not permitted to rent the mobile home site occupied by such mobile home; or

(c) A tenant of a respondent is threatened with or subjected to eviction or any coercive action or detriment for refusal or failure to agree to lease, acquire or purchase any product, service, real estate or thing from a respondent or a source designated by a respondent.

Provided, however, That except insofar as limited by the provisions of this order, respondents may exercise their lawful rights as businessmen, including, for example, the right to advertise and sell their products and services, and the right to set reasonable rules, regulations, and standards concerning the appearance of mobile homes and acceptance of tenants in respondents' mobile home parks, and the operation, maintenance and appearance of mobile homes, mobile home parks, and mobile home sites; and

Provided further, That nothing in this order shall exempt any person or firm from the duty to comply with all applicable laws or regulations which are consistent with the provisions of this order.

It is further ordered, That respondents shall, within thirty (30) days of service of this order, distribute, and obtain a signed receipt therefor, a copy of this order to each of their operating divisions and respondents' employees engaged in the sale or rental of mobile homes or mobile home sites.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. In addition, for a period of ten years from the effective date of this order, the respondent shall promptly notify the Commission of each affiliation with a new business or employment. Each such notice shall include the respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged as well as a description of respondent's duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this order. This paragraph shall not prohibit the individual respondent from discontinuing his present business or employment or from affiliating with a new business or employment.

It is further ordered, That respondents maintain complete business records relative to the manner and form of their continuing compliance with the terms and provisions of this order. Each record shall be retained by respondents for at least three years after it is made.

It is further ordered, That respondents notify the commission at least thirty (30) days prior to any proposed change in any corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

MOBILE HOMES-MULTIPLEX CORP., ET AL.

[Docket No. 9069]

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement to a proposed consent order from Mobile Homes-Multiplex Corp., Mobile Estates, Inc., Mobile Estates of Southampton, Inc., Tower Trailer Park, Inc., and George R. Searle, an officer of the above companies.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by the public. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw the agreement or make final the agreement's proposed order.

Tower Trailer Park, Inc., and Mobile Estates of Southampton, Inc., New Jersey corporations, are engaged in the development and the operation of mobile home parks. Mobile Estates, Inc., a New Jersey corporation, is a dealer in mobile homes and mobile home accessories. Mobile Homes-Multiplex Corp., a Delaware corporation, is a holding company which owns all of the stock of Mobile Estates, Inc., and Mobile Estates of Southampton, Inc.

George R. Searle is President of each of the above corporations, and controls and is responsible for their acts and practices.

The complaint alleges that the above firms and their President have violated section 5 of the Federal Trade Commission Act by refusing to rent sites in their mobile home parks for the accommodation of mobile homes which have not been purchased from them, and that certain of such firms and their President have further violated the Act by:

1. Refusing to rent sites to persons who have purchased their mobile homes directly from park tenants;

2. Requiring tenants desiring to sell their mobile homes to consign such homes to them for resale or to have such homes removed from the park upon resale.

The consent order in this matter principally prohibits the respondents from:

1. Requiring that someone buy or rent a mobile home from them or anyone else they name, in order to

CARS facilities. Also included is an Inquiry to the merits of establishing like technical standards for both the Cable Television Relay Service and the

CARS stations are presently authorized to use, on a primary co-equal shared basis, the 12.7-12.95 GHz band. The changes proposed by TPT would

Realistically, and from the standpoint of the viewing public, CATV systems are part of the nation's television service and have

GHz CARS allocation, shared on a primary basis with the Broadcast Auxiliary Service, is inadequate to satisfy

ties." A twelfth party, LVO Cable, Inc., limits its support to an expansion of the CARS allocation only within a

1. Requiring that someone buy or rent a mobile home from them or anyone else they name, in order to obtain a mobile home site;

2. Refusing to rent or sell a mobile home site to anyone who will not agree to buy a mobile home from them, or anyone else they name;

3. Requiring mobile homes which have been sold without their cooperation to be removed from their sites;

4. Refusing to allow a person who buys a mobile home directly from a tenant without their cooperation to continue to rent the site occupied by the home;

5. Evicting or threatening to evict or injure in any fashion any person who does not agree to buy or rent any service, land or other property from them or anyone else they name.

The consent order is generally designed to protect consumers and competitors by preventing respondents from unfairly using their power over mobile home sites to influence decisions relating to the acquisition or use of mobile homes, and to assure that respondents do not similarly use any power they have or may acquire over any other product, service, real estate or thing.

The purpose of this analysis is to facilitate public comment on the proposed order and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-5985 Filed 3-7-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 2, 74, 78]

[Docket No. 21505; RM-2208; FCC 77-856]

CABLE TELEVISION RELAY SERVICE (CARS)

Proposed Rules Expanding Available Frequencies; Inquiry

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule Making and Notice of Inquiry.

SUMMARY: In response to a petition filed by the TelePrompTer (TPT) Corp., the Commission is proposing to expand the frequencies available to Cable Television Relay Service (CARS) from 12.7-12.95 GHz to 12.7-13.20 GHz. This Notice also proposes setting aside 13.15-13.20 GHz for exclusive usage of Television and Cable Pickup stations and limits maximum bandwidth to 12.5 MHz for all new CARS facilities. Also included is an Inquiry to the merits of establishing like technical standards for both the Cable Television Relay Service and the Broadcast Auxiliary Service in the 12.7-13.20 GHz band.

DATES: Comments must be received on or before May 12, 1978, and reply comments must be received on or before June 12, 1978.

ADDRESS: Federal Communications Commission, 2025 M Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Raymond E. Daly, Microwave Branch, Cable Television Bureau, 202-254-3420.

Melvin Murray, Spectrum Allocation Division, Office of Chief Engineer, 202-632-6350.

Adopted: December 21, 1977.

Released: March 1, 1978.

In the matter of Amendment of Parts 2 and 78 of the Commission's rules and regulations to expand the frequencies available for use by Cable Television Relay Service Stations and, amendment of Parts 74 and 78 of the Commission's rules and regulations to set aside 13.15-13.20 GHz for usage by Television and Cable Television Relay Service Pickup Stations on a coequal basis and, an inquiry to determine public interest and need to establish similar technical standards for both the Cable Television Relay Service and the Broadcast Auxiliary Service in the 12.7-13.20 GHz band, Docket No. 21505, RM-2208.

1. Notice is hereby given of inquiry and proposed rule making in the above entitled matter.

2. On June 6, 1973, the Commission received a petition for rule making (RM-2208), filed by the TelePrompTer (TPT) Corporation [1] to amend §2.106, Table of Frequency Allocations, and 78.18, Frequency Assignments for the Cable Television Relay Service (CARS), of the Commission's rules. The petitioner seeks to expand the band of frequencies available for assignment to CARS stations from 12.70-12.95 GHz to 12.70-13.25 GHz.[2] CARS stations are presently authorized to use, on a primary co-equal shared basis, the 12.7-12.95 GHz band. The changes proposed by TPT would make available to CARS stations all Band D frequencies that are now assigned for use by Television Auxiliary Broadcast Stations under Section 74.602.[3]

[1] TelePrompTer Corp. presently serves over 1,073,000 subscribers in some 113 communities. Moreover, it is currently authorized to operate a total of 75 CARS microwave stations, about 10 percent of the total of all CARS stations. It also is the licensee of 36 earth receiving stations used for relaying programming to cable television systems.

[2] At the present time, the Fixed, Fixed-Satellite, and Mobile services share the 12.7-12.75 GHz band. Stations operating in those services are cable television relay, earth, and television auxiliary broadcast.

The 12.75-12.95 GHz band is currently shared between the Fixed and Mobile services. Stations operating in those services include cable television relay and television auxiliary broadcast.

In the 12.95-13.20 GHz band, television auxiliary broadcast stations operate in the Fixed and Mobile Services.

The 13.20-13.25 GHz band is shared by television auxiliary broadcast stations, the Point-to-Point Microwave Radio Service, the Local Television Transmission Service, and the Private Operational-Fixed Microwave Service, for developmental operation.

[3] Band D is 12.7-13.25 GHz.

BACKGROUND

3. In 1965, the Commission created the Community Antenna Relay Service, or as it is presently called—the Cable Television Relay Service (CARS), a non-common carrier point-to-point microwave radio relay service, to serve cable television systems, and allocated to it on a shared basis the 250 MHz between 12.70 and 12.95 GHz. It also adopted rules prohibiting authorizations in the common carrier Point-to-Point Microwave Radio Service (Part 21, Subpart I of the Commission's Rules) to serve cable television systems unless more than 50 percent of the carrier's customers were wholly unaffiliated with the carrier.[4]

At the same time, the Commission proscribed any new service authorizations in the Business Radio Service (Part 91 of the Commission's rules).[5] In 1970, the Commission issued an Order effective February 1, 1970, to terminate cable television systems' eligibility to use frequencies in the Business Radio Service.[6] The effective date of this Order was subsequently extended to August 1, 1980.[7]

4. In selecting the 12.7-12.95 GHz portion of the 12.7-13.20 GHz band for CARS, the Commission indicated in 1965 that there was no congestion, and the growth potential of Broadcast Auxiliary stations appeared to be comparatively less than that for CARS. It further pointed out that:[8]

[4] "First Report and Order" and "Further Notice of Proposed Rule Making" in "Docket No. 15586", 1 FCC 2d 897 (1965).

[5] Prior to the Cable Television Relay Service, stations using microwave frequencies to relay television broadcast signals to cable television systems were exclusively authorized in the Domestic Public Point-to-Point Microwave Radio Service and the Business Radio Service.

[6] "Report and Order in Docket No. 18916", 26 FCC 2d 689 (1970).

[7] "Report and Order in Docket No. 19869", 56 FCC 2d 646 (1975).

[8] "Supra", note 4, page 909.

> Realistically, and from the standpoint of the viewing public, CATV systems are part of the nation's television service and have an interrelationship with television broadcast service * * *. Although CATV relay stations are not television auxiliaries as contemplated by the original allocation, their relationship to the overall television broadcasting system appears to justify partial sharing of the television auxiliary band.[9]

Moreover, in response to comments filed in that proceeding claiming that the 250 MHz allocation would be inadequate, the Commission stated that "upon an appropriate showing, we would consider requests for a waiver of the rule to permit use of such adjacent frequencies in the upper portion of the 12700-13200 Mc/s band as might be required to supplement the interim CAR allocation."[10]

5. In 1969, the Commission authorized CARS stations to relay program material originated by cable television systems. Also, at that time, the rules were amended to permit the licensing of certain auxiliary CARS stations for use within a cable television system.[11] These stations, CARS Studio to Headend Link (SHL) and CARS Pickup stations, serve to aid in the production and presentation of locally originated and non-broadcast programs. CARS pickup stations, like television pickup stations, usually operate on a mobile basis subject to the condition that no harmful interference is caused to fixed television auxiliary or CARS stations.

6. In November 1969, the Commission established Local Distribution Stations (LDS)[12] in the 12.7-12.95 GHz band for relaying program material within a cable television system from a transmitter site to multiple receiving sites. From these latter sites, the programming is carried via cable to the premises of the subscribers. To maximize the number of video channels that could be distributed, vestigial sideband AM transmission with a possible number of forty 6 MHz channels was also permitted. As an alternative to using AM, the employment of frequency-division multiplexed FM transmission by LDS stations was concurrently authorized under Section 78.101(b) of the Commission's Rules. Accordingly, that rulemaking enabled cable television service to expand to some suburban and rural population areas not previously served due to the cost of running cable. As of July 1, 1977, there were 133 LDS stations licensed under Part 78, the Cable Television Relay Service Rules.

TELEPROMPTER'S PETITION

7. TPT contends that the 12.7-12.95 GHz CARS allocation, shared on a primary basis with the Broadcast Auxiliary Service, in inadequate to satisfy the requirements of cable television. It cites a number of areas where frequency congestion limits expansion of CARS. It suggests that increasing congestion will lead to waiver requests to access the 12.95-13.25 GHz segment. TPT claims this procedure is cumbersome, wasteful of the staff's time, and causes harmful delay in the institution of new cable television services requiring CARS facilities.

8. TPI cites a number of Commission actions which it claims have contributed, directly or indirectly, to an increased demand for CARS stations. In brief, these adopted rules:

Require program origination by cable television systems with 3,500 or more subscribers.[13]

Allow transmission of cablecasting (i.e. programming, exclusive of broadcast signals) over CARS facilities.[14]

Establish local distribution CARS stations for distributing signals within a cable television system.[15]

Intend to stimulate cable television growth in the major television markets.[16] Under these rules certain systems are to have available for use at least 20 channels and maintain access channels for public, educational, local government, and leased usage.

9. Through these proceedings, TPT contends:

> "The Commission has fully recognized the promise of cable television as a means for increasing the number of outlets for community self-expression and for augmenting the public's choice of programs and services. In order for cable television to carry out the Commission's mandate of program origination and to fulfill its access obligations, the Commission must provide cable television with the necessary tools to do the work, and one of the most important and critical tools is expansion of the CARS band."

Although the Commission is attempting to stimulate cable television growth in the top 100 markets, it is at the same time, TPT alleges, frustrating such growth by not providing CARS stations with adequate spectrum space.

10. Comments supporting TPT's petition *in toto* were filed by eleven parties.[17] A twelfth party, LVO Cable, Inc., limits its support to an expansion of the CARS allocation only within a 35-mile zone in each of the top 100 markets. The National Association of Educational Broadcasters (NAEB) alone opposes TPT's proposal, claiming its members have encountered problems in securing adequate STL, remote pickup and inter-city relay frequencies, and that favorable action on this petition would further diminish the frequencies which are available.

BASIS FOR PROPOSAL

11. As aforementioned, TelePrompTer claims in its petition filed in 1973 that additional spectrum is needed to alleviate congestion in several metropolitan areas. An analysis of our records at that time did not support TPT's allegation. However, a recent study conducted by the Commission's staff now reflects definite saturation of the CARS band at 38 locations.[18] At these locations the present 250 MHz CARS allocation, 12.7-12.95 GHz, is fully loaded. No additional signals can be relayed through these locations under the present allocation and technical standards. At 16 other locations the 12.7-12.95 GHz is nearing saturation.[19] In four instances the Commission has granted waivers to applicants to operate in the 12.95-13.25 GHz band.[20] In another instance, the Com-

[9] "Notice of Proposed Rule Making in Docket No. 15586", FCC 64-720, 29 FR 11458, August 8, 1964.

[10] "Supra", note 4, page 910.

[11] "Report and Order in Docket No. 17999," 20 FCC 2d 422 (1969).

[12] "Report and Order in Docket No. 18452," 20 FCC 2d 415 (1969).

[13] "First Report and Order in Docket 18397," 20 FCC 2d 201 (1969). The Commission revised these requirements in its "Report and Order in Docket 19988" FCC 74-1279, 49 FCC 2d 1090 (1974) where it deleted the mandatory origination rule and required, instead, that cable television systems with 3500 or more subscribers make local origintion equipment available.

[14] Supra, note 11.

[15] Supra, note 12.

[16] "Report and Order in Docket 18397," 36 FCC 2d 141 (1972). Subsequently, in its "Report and Order in Docket 20363," FCC 75-821 54 FCC 2d 207 (1975), the Commission substantially reduced these requirements.

[17] American Television and Communications Corp., Athena Cablevision Corp., Colony Communications, Inc., Commission on Cable Television of the State of New York, Community Tele-Communications, Inc., Cox Cablevision Corp., Microwave Associates, Inc., National Cable Television Association, Inc., Sammons Communications, Inc., Archer S. Taylor, and the Theta-Com of California.

[18] Green Peak, Ariz., Hayden Peak, Ariz., Smith Peak, Ariz., Broadcast Peak, Calif., Dublin/San Ramon, Calif., El Cajon, Calif., Excondido, Calif., Mt. Sanhedrin, Calif., Oakland, Calif., Poway, Calif., Santa Maria, Calif., North Branford, Conn., Woodtick, Conn., Kailua-Kona, Hawaii, Maunakea, Hawaii, Olinda, Hawaii, Des Moines, Iowa, Columbia, Mo., Fayette, Mo., Fulton, Mo., Reno, Nev., Hempstead, N.Y., Ruthville, N. Dak., Headrick, Okla., Lamar, Okla., Batesville, Tex., Eden, Tex., Harlingen, Tex., Miles, Tex., Mt. Vernon, Tex., Ozona, Tex., Pharr, Tex., Weslaco, Tex., Aberdeen, Wash., Olympia, Wash., Lynch, Wyo., Story, Wyo., Wheatland, Wyo.

[19] Hartford, Conn., Manchester, Conn., Fort Myers, Fla., Kaupulehu, Hawaii, Springfield, Mass., Wayne, N.J., West Orange, N.J., Central Islip, N.Y., Manhattan, N.Y., Mohall, N. Dak., Columbus, Ohio, Wyndmoor, Pa., Greenville, S.C., Ballinger, Tex., Flat, Tex., Seattle, Wash.

[20] a. "Southwest CATV, Inc." (Pharr, Tex.), FCC 74-951, 48 FCC 2d 851 (1974). b. "Redwood Cablevision, Inc." (Fortuna, Calif.), FCC 75-1420, 57 FCC 2d 745 (1975). c. "Tele-vue Systems, Inc." (Bremerton, Wash.), FCC 77-593, FCC 2d (1977). d. "Harbor Communications Joint Venture" (Aberdeen, Wash.), FCC 77-723, FCC 2d (1977).

mission granted a waiver to a CATV system in Columbus, Ohio, to operate three CARS stations on channels in the 2 GHz Television Auxiliary Broad-

duction of a recently type accepted, low powered transmitter for usage under Part 78 of our rules at about 25 percent of the cost of other transmit-

since attenuation due to atmospheric conditions is comparatively less for these bands. As of December 1, 1976, there were 824 BAS licensees operat-

making proceeding[21] establishing this limitation, the Commission indicated its purpose was "to preserve the avail-

width, emission, power, antenna limitations and frequency tolerance.

22. At the present time, equipment

less congested areas, less directive, category B antennas are permitted. For similar reasons, we are requesting spe-

[21] "Report and Order in Docket 18397," 36 FCC 2d 141 (1972). Subsequently, in its "Report and Order in Docket 20363," FCC 75-821 54 FCC 2d 207 (1975), the Commission substantially reduced these requirements.

mission granted a waiver to a CATV system in Columbus, Ohio, to operate three CARS stations on channels in the 2 GHz Television Auxiliary Broadcast band.[21]

12. In other instances, due to the time required to file and act upon such requests for waivers, it is our understanding that CARS operators have chosen alternative means. For example, at some locations where frequency saturation is occurring, common carriers are contracted to carry additional signals. Other operators have chosen to establish new relay paths by constructing facilities at locations in such a manner as to by-pass frequency saturated routes.

GROWTH

13. A review of the Commission's records as of October 1, 1977, shows that there were 781 individual CARS stations licensed and operating and 298 construction permits granted in the 12.7–12.95 GHz band. Since each station may be licensed to use between 1 and 42 separate channels, it is important to examine the total amount of bandwidth assigned. As of January 1, 1976, approximately 30,000 MHz of bandwidth had been assigned. Growth in this band over the past three years has been constant at an approximate rate of 680 MHz assigned monthly. On a yearly basis, this converts to a growth rate of about 27 percent. During this three year period CARS has experienced an average increase of eleven new stations per month.

14. It is anticipated that the present CARS growth rate will increase due to several currently emerging trends in the cable television industry. Utilization of common-carrier domestic satellites is becoming increasingly popular for relaying independent broadcast TV signals, as well as motion pictures and other programing, to cable television systems throughout the U.S. A recent review of the Commission's records shows that in many cases the signals received by the associated earth stations are relayed over CARS stations to cable television systems throughout the U.S. In several regions of the U.S., pay TV programing (movies, sports, etc.) is being distributed directly to a number of systems via CARS stations from a centrally located studio. In Columbus, Ohio, a cable television operator recently indicated that it was going to provide a variety of two-way services to 100,000 subscribers. For cable television systems which are intra- and inter-connected by microwave facilities, the advent of 2-way services may make a further imposition on the CARS spectrum. Moreover, the introduction of a recently type accepted, low powered transmitter for usage under Part 78 of our rules at about 25 percent of the cost of other transmitters, may further increase the use of CARS microwave by cable television operators.

[21] "Warner Cable of Columbus, Inc." (Columbus, Ohio), FCC 77-733, FCC 2d (1977).

PROPOSED ALLOCATION

15. From the foregoing discussion, we believe that the increased use of the CARS band, coupled with the continued growth and popularity of cable television systems, are contributing to a saturation, or full occupancy, of the present CARS 250 MHz allocation at many locations in the 12.7–12.95 GHz band. Accordingly, to relieve existence saturation at certain points and to provide adequate spectrum space for future expansion, we feel that it is warranted at this time to propose a further allocation

16. TelePrompTer's petition asks the Commission to open the entire band 12.7–13.25 GHz for the operation of CARS stations.[22] While we could look to other regions of the spectrum for a future allocation, it would seem logical to first consider allowing the service to expand its sharing with broadcast auxiliary stations in the upper portion of the 12.7–13.20 GHz band just as it presently shares the lower portion of that band. We believe such an expansion has definite economic and operational advantages for the CARS operator, in contrast to an allocation elsewhere in the spectrum. Specifically, equipment operational for the 12.95–13.20 GHz band is available and may be utilized with existent hardware (i.e., antennas, waveguides, etc.). Moreover, since both the cable and broadcast services benefit the public in essentially the same manner, we see no overall public interest reason to favor one over the other when a need has been clearly demonstrated for microwave spectrum.

17. In this connection, we would like to point out that in addition to the 12.70–13.25 GHz band, designated Band D in Section 74.602, Broadcast Auxiliary Stations (BAS) also utilize two other allocations at 1990–2110 MHz, 2450–2500 MHz (Band A) and 6875–7125 MHz (Band B). We note that broadcast licensees have generally favored Band A and Band B, the two lower frequency bands for their operations. This is understandable since attenuation due to atmospheric conditions is comparatively less for these bands. As of December 1, 1976, there were 824 BAS licensees operating in Bands A and B. We are also proposing to allow television auxiliary broadcast stations to provide signals to cable television systems on a non-profit cost-sharing basis, just as in the "Report and Order in Docket 20539," we permitted CARS stations to feed translators.

18. We note that until 1974, BAS Band D experienced little growth. At that time there were 42 broadcast auxiliary licensees. In 1975 the number had increased to 139. As of December 1, 1976, there were 182 licensees operating in Band D, of which approximately 65 percent were authorized as TV Pickup stations. TV Pickup stations generally use shorter parth lengths compared to fixed stations. As an example of a typical operating situation, many TV Pickup stations employ a low-power microwave transmitter operating in Band d to relay a signal from a portable camera to an equipment truck, in most cases over a path length much less than a kilometer. From the truck back to the studio, channels in either, or both of the other two lower frequecny band are used.

19. Accordingly, we recognize that TV Pickup stations, as well as CARS pickup stations, many of which operate in an Electronic News Gathering (ENG) capacity, should be afforded protection from harmful interference cuased by fixed BAS's and CARS. As a consequence, we are proposing to set aside 50 MHz exclusively for this type of mobile operation. These proposed channels for CARS pickup usage are 13.1500–13.1625 GHz (channel designation, K37), 13.1625–13.1750 GHz (channel designation, K38), 13.1750–13.1875 GHz (channel designation, K39), 13.1875–13.2000 GHz (channel designation, K40). Television Pickup stations would also be assigned channels in the 13.1500–13.2000 GHz band on a co-equal basis under proposed footnote 1 of § 74.602(a) (See Appendix). Existing fixed stations presently licensed in the 13.15–13.20 GHz band would be permitted to continue operation under a grandfather clause.

CHANNELIZATION PLAN

20. Under existing § 78.18 rules, a number of channel assignment plans are available to the CARS operator. Twenty-five MHz bandwidth channels are generally used by conventional FM stations in this service to relay TV signals over path lengths exceeding 10 miles. For path lengths under 10 miles, all CARS stations are required to employ no more than a 12.5 MHz bandwidth per channel, except as permitted under § 78.18(i). In the rule making proceeding[23] establishing this limitation, the Commission indicated its purpose was "to preserve the availability and increase the efficiency in use of the increasingly congested spectrum * * *." Since 1973, FM equipment using a 12.5 MHz bandwidth has been developed and is available with specifications comparable to that of older 25 MHz equipment. Accordingly, based upon our experience with CARS operations and technical information we have studied from various CARS equipment manufacturers, we are proposing a deletion of § 78.18(i)(2) and (3) so that *any new* CARS facility would be limited to using a maximum of 12.5 MHz authorized bandwidth per channel.[24]

Then, for the 12.95–13.20 GHz segment, only Group K channels would be extended to the upper band edge, 13.20 GHz. Group D channels would be extended to 13.0057 GHz.[25] We believe the proposed rule amendment will encourage a more efficient utilization of this spectrum.

INQUIRY

TECHNICAL STANDARDS

21. As a related matter of concern, we are requesting that the public submit information relative to the merits of establishing like technical standards for both the Cable Television Relay Service and Broadcast Auxiliary Service in the 12.7–13.20 GHz band. At present, the Television Auxiliary Service is governed by the technical standards set out in Subpart F of Part 74, of the Commission's Rules. Since both services currently share the 12.7–12.95 GHz spectrum, and will share the entire 12.7–13.20 GHz band if the proposed rules are enacted, we believe it may be in the public interest to implement similar technical regulations for purposes of maximizing the efficient and compatible usage of the spectrum. Specifically, we request technical information and data which would assist in drafting technical standards proposals for modulation, bandwidth, emission, power, antenna limitations and frequency tolerance.

22. At the present time, equipment employed in the CARS service is required to be type accepted, pursuant to § 78.107(b). While much of the equipment being used in the BAS service is type accepted, there is as yet no requirement for type acceptance. Accordingly, we ask the public to comment on the desirability of establishing type acceptance requirements for equipment to be used in the BAS service in Band D, as well as Bands A and B.

23. With regards to bandwidth, we point out that under § 74.602 of the Commission's rules, in the 12.7–13.25 GHz band, broadcast auxiliary stations presently are assigned 25 MHz channels. As indicated before, based on several technical reports of newly developed 12.5 MHz channel FM equipment, which show performance comparable to older 25 MHz channel FM equipment, we believe it opportune to solicit comments relative to splitting the 25 MHz Band D channels. If this were to be carried out, the present twenty-two 25 MHz channels would then be split, or divided, to make forty-four 12.5 MHz channels. This action would put BAS operations with respect to channel bandwidth on a parity with the proposal we are making to limit all new CARS stations regardless of path length to use channels with 12.5 MHz bandwidth or less. If we find this proposal has merit, we may delay the effective date of the 12.5 MHz bandwidth limitation for CARS until final action could be taken on this matter for the Broadcast Auxiliary Service.

24. In the Common Point-to-Point Microwave Service (Subpart I of Part 21) and Private Operational Fixed Microwave Service (Part 94), the Commission found it necessary to implement performance standards for directional microwave antennas to accomplish a more efficient use of the microwave spectrum. Under those rules there are two categories of performance standards (A and B), for antennas. In areas of frequency congestion, category A antennas, exhibiting a higher degree of directivity, are required to be employed by stations. In less congested areas, less directive, category B antennas are permitted. For similar reasons, we are requesting specific proposals, based on sound, technical information and data, that could be used to establish rules and radiation characteristics for governing the operation of antennas in both the BAS and CARS (12.7–13.20 GHz) band.

25. Authority for the proposed rule making instituted herein is contained in Sections 4(i), 303 and 403 of the Communications Act of 1934, as amended.

26. All interested persons are invited to file written comments on the rule making proposal and inquiry on or before May 12, 1978, and reply comments on or before June 12, 1978. The Commission shall decide this matter solely on the basis of comments and other material that are made a part of the record in this proceeding.

27. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 5 copies of all comments, replies, pleadings, briefs, or other documents filed in this proceeding shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its Headquarters in Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,[26]
WILLIAM J. TRICARICO,
Secretary.

Parts 2, 74, and 78 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

Part 2—Frequency Allocations and Radio Treaty Matters: General Rules and Regulations

A. Part 2 is amended as follows:

§ 2.10 [Amended]

(1) In § 2.106, the Table of Frequency Allocations is amended in columns 7 through 11 for the band 12.95–13.20 GHz as follows:

Band (GHz)	Service	Class of station	Frequency (gigahertz)	Nature of service and station
7	8	9	10	11
• • • • • • •				
12.95–13.20 (NG 11)	Fixed mobile.	Cable television relay. Television pickup. Television STL.		
• • • • • • •				

[22] It is noted that the 13.2–13.25 GHz band segment is presently allocated to the Broadcast Auxiliary Service, the Point-to-Point Microwave Radio Service, the Local Television Transmission Service, and the Private Operational-Fixed Microwave Service for developmental operation. We believe a proposal to reallocate 13.20–13.25 GHz would be outside the scope of this proceeding. Accordingly, we are in this Notice proposing an expansion of CARS to include only 12.7–13.20 GHz.

[23] "Report and Order in Docket No. 19623," FCC 73-633, 41 FCC 2d 464 (1973).

[24] Currently authorized CARS facilities employing bandwidths in excess of 12.5 MHz per channel would be permitted renewal of license.

[25] The Group C and D channels, as delineated in § 78.18(a)(2) of the Commission's rules, are assigned for use by CARS stations using 6.0 MHz vestigial sideband AM transmission. Group K channels, pursuant to § 78.18(a)(4), are available for assignment to CARS stations using double sideband AM and FM transmission requiring a necessary bandwidth of no more than 12.5 MHz.

[26] Chairman Ferris concurring in part and dissenting in part and issuing a statement in which Commissioner Brown joins; Commissioner White absent.

Part 74—Experimental, Auxiliary, and Special Broadcast, and Other

tor relay station is authorized for the purpose of relaying the programs and signals of a television broadcast sta-

audio signals, the signals of AM and FM broadcast stations, signals of instructional, television fixed stations,

GROUP C CHANNELS—Continued

Designation	Channel boundaries (GHz)

GROUP K CHANNEL—Continued

Designation	Channel boundaries (GHz)

(2) The station was authorized or an application was on file therefore prior to

Part 74—Experimental, Auxiliary, and Special Broadcast, and Other Program Distributional Services

B. Part 74 is amended as follows: (1) In §74.601, paragraph (d) is amended to read as follows:

§74.601 Classes of television auxiliary broadcast stations.

• • • • • •

(d) *Television translator relay station.* A fixed station used for relaying programs and signals of television broadcast stations to television broadcast translator stations and to other communications facilities that the Commission may authorize.

• • • • •

(2) In §74.602, paragraph (a) is amended and the frequency assignment table is amended by adding a new footnote 2 as follows:

§74.602 Frequency assignment.

(a) The following frequencies are available for assignment to television pickup, television STL, television intercity relay stations and television translator relay stations:

Band A, MHz, 1990–2008, 2008–2025, 2025–2042, 2042–2059, 2059–2076, 2076–2093, 2093–2110,[1] 2450–2467, 2467–2484, and 2484–2500.

Band B, MHz, 6875–6900, 6900–6925, 6925–6950, 6950–6975, 6975–7000, 7000–7025, 7025–7050, 7050–7075, 7075–7100, and 7100–7125.

Band D, MHz, 12700–12725, 12725–12750, 12750–12775, 12775–12800, 12800–12825, 12825–12850, 12850–12875, 12875–12900, 12900–12925, 12925–12950, 12950–12975, 12975–13000, 13000–13025, 13025–13050, 13050–13075, 13075–13100, 13100–13125, 13125–13150, 13150–13175,[2] 13175–13200,[2] 13200–13225, and 13225–13250.

• • • • •

(3) In §74.602 (f) and (h) the frequency 12,950 MHz cited in lines 2 and 9 is deleted. In its place, the frequency 13,200 MHz is substituted.

• • • • •

(4) In §74.631, paragraph (g) is amended and new paragraph (h) is added to read as follows:

§74.631 Permissible Service.

• • • • •

(g) Except as provided in paragraph (d) of this section, a television translator relay station is authorized for the purpose of relaying the programs and signals of a television broadcast station to television broadcast translator stations for simultaneous retransmission.

(h) Television auxiliary broadcast stations authorized pursuant to this subpart may additionally be authorized to supply programs and signals of television broadcast stations to cable television systems or CARS stations. Where the licensee of a television auxiliary broadcast station supplies programs and signals to cable television systems or CARS stations, a written contract between the parties involved shall be in effect which provides that the television auxiliary licensee shall have exclusive control over the operation of the television auxiliary stations licensed to it and that contributions to capital and operating expenses are accepted only on a cost-sharing, non-profit basis, prorated on an equitable basis among all parties being supplied with program material. Informal requests to provide the additional service to cable television or CARS stations as discussed above may be made by letter addressed to the Federal Communications Commission with a copy of the contract attached. Records showing the cost of the service and its non-profit, cost-sharing nature shall be maintained by the television auxiliary licensee and held available for inspection by the Commission.

5. In §74.632, paragraph (e) is amended to read as follows:

§74.632 Licensing requirements.

• • • • •

(e) A license for a television translator relay station will be issued only to the licensee of a television broadcast translator station. The application for construction permit shall designate the television broadcast station to be relayed, the source of the television broadcast station's signals, and the television broadcast translator station with which it is to be operated. However, a television translator relay station license may be issued to a cooperative enterprise wholly owned by licensees of television broadcast translators and cable television owners or operators upon a showing that the applicant is qualified under the Communications Act of 1934, as amended.

Part 78—Cable Television Relay Service

C. Part 78 is amended as follows:

(1) In §78.11 paragraph (a) is amended to read as follows:

§78.11 Permissible service.

• • • • •

(a) CARS stations are authorized to relay television broadcast and related audio signals, the signals of AM and FM broadcast stations, signals of instructional television fixed stations, and cablecasting intended for use by one or more cable television system. LDS stations are authorized to relay television broadcast and related audio signals, the signals of AM and FM broadcast stations, signals of instructional television fixed stations, cablecasting, and such other communications as may be authorized by the Commission. Relaying includes retransmission of signals by intermediate relay stations in the system. CARS licensees may interconnect their facilities with those of other CARS, common carrier, or television auxiliary licensees, and may also retransmit the signals of such CARS, common carrier, or television auxiliary stations, provided that the program material retransmitted meets the requirements of this paragraph.

• • • • •

(2) In §78.18, paragraphs (a), (a)(2), (a)(4), (b) and (i) are amended and a new paragraph (m) is added to read as follows:

§78.18 Frequency assignments.

• • • • •

(a) The Cable Television Relay Service is assigned the band of frequencies from 12.70 to 13.20 GHz. This band is shared with the Fixed-Satellite Service (earth-to-space) from 12.70 to 12.75 GHz and Television Auxiliary Broadcast Stations from 12.70 to 13.20 GHz. The following channels may be assigned to CARS stations for the propagation of radio waves with the indicated polarization:

(1) • • •

(2) CARS stations using vestigial sideband AM transmission and FM transmission requiring a necessary bandwidth of no more than 6 MHz.

GROUP C CHANNELS

Designation	Channel boundaries (GHz)
C01[1]	12.7005–12.7065
C02[1]	12.7065–12.7125
C03[1]	12.7125–12.7185
C04[1]	[2]12.7185–12.7225
C05[1]	12.7225–12.7285
C06[1]	12.7285–12.7345
C07[1]	12.7345–12.7405
C08[1]	12.7405–12.7465
C09[1]	12.7465–12.7525
C10[1]	12.7525–12.7585
C11[1]	12.7585–12.7605
C12[1]	12.7605–12.7665
C13[1]	12.7665–12.7725
C14[1]	12.7725–12.7785
C15[1]	12.7785–12.7845
C16[1]	12.7845–12.7905
C17[1]	12.7905–12.7965
C18[1]	12.7965–12.8025
C19[1]	12.8025–12.8085
C20[1]	12.8085–12.8145
C21[1]	12.8145–12.8205
C22[1]	12.8205–12.8265
C23[1]	12.8265–12.8325
C24[1]	12.8325–12.8385
C25[1]	12.8385–12.8445

[1] • • •

[2] These channels are reserved for the assignment of CARS pickup and Television pickup stations on a co-equal basis. Fixed Television Auxiliary Stations licensed before , may continue operation on channels in the 13.15–13.20 GHz band, pursuant to periodic license renewals.

GROUP C CHANNELS—Continued

Designation	Channel boundaries (GHz)
C26[1]	12.8445–12.8505
C27[1]	12.8505–12.8565
C28[1]	12.8565–12.8625
C29[1]	12.8625–12.8685
C30[1]	12.8685–12.8745
C31[1]	12.8745–13.8805
C32[1]	12.8805–12.8865
C33[1]	12.8865–12.8925
C34[1]	12.8925–12.8985
C35[1]	12.8985–12.9045
C36[1]	12.9045–12.9105
C37[1]	12.9105–12.9165
C38[1]	12.9165–12.9225
C39[1]	12.9225–12.9285
C40[1]	12.9285–12.9345
C41[1]	12.9345–12.9405
C42[1]	12.9405–12.9465

GROUP D CHANNELS

Designation	Channel boundaries (GHz)
D01[1]	12.7597–12.7657
D02[1]	12.7657–12.7717
D03[1]	12.7717–12.7777
D04[1]	[2]12.7777–12.7817
D05[1]	12.7817–12.7877
D06[1]	12.7877–12.7937
D07[1]	12.7937–12.7997
D08[1]	12.7997–12.8057
D09[1]	12.8057–12.8117
D10[1]	12.8117–12.8137
D11[1]	12.8137–12.8197
D12[1]	12.8197–12.8257
D13[1]	12.8257–12.8317
D14[1]	12.8317–12.8377
D15[1]	12.8377–12.8437
D16[1]	12.8437–12.8497
D17[1]	12.8497–12.8557
D18[1]	12.8557–12.8617
D19[1]	12.8617–12.8677
D20[1]	12.8677–12.8737
D21[1]	12.8737–12.8797
D22[1]	12.8797–12.8857
D23[1]	12.8857–12.8917
D24[1]	12.8917–12.8977
D25[1]	12.8977–12.9037
D26[1]	12.9037–12.9097
D27[1]	12.9097–12.9157
D28[1]	12.9157–12.9217
D29[1]	12.9217–12.9277
D30[1]	12.9277–12.9337
D31[1]	12.9337–12.9397
D32[1]	12.9397–12.9457
D33[1]	12.9457–12.9517
D34[1]	12.9517–12.9577
D35[1]	12.9577–12.9637
D36[1]	12.9637–12.9697
D37[1]	12.9697–12.9757
D38[1]	12.9757–12.9817
D39[1]	12.9817–12.9877
D40[1]	12.9877–12.9937
D41[1]	12.9937–12.9997
D42[1]	12.9997–13.0057

[1] See paragraph (a)(1) of this section.

[2] For transmission of pilot subcarriers or other authorized narrow band signals.

(3) • • •

(4) For CARS stations using AM and FM transmission requiring a necessary bandwidth of no more than 12.5 MHz.

GROUP K CHANNEL

Designation	Channel boundaries (GHz)
K01[1]	12.7000–12.7125
K02[1]	12.7125–12.7250
K03[1]	12.7250–12.7375
K04[1]	12.7375–12.7500
K05[1]	12.7500–12.7625
K06[1]	12.7625–12.7750
K07[1]	12.7750–12.7875
K08[1]	12.7875–13.8000
K09[1]	12.8000–12.8125
K10[1]	12.8125–12.8250
K11[1]	12.8250–12.8375
K12[1]	12.8375–12.8500

GROUP K CHANNEL—Continued

Designation	Channel boundaries (GHz)
K13[1]	12.8500–12.8625
K14[1]	12.8625–12.8750
K15[1]	12.8750–12.8875
K16[1]	12.8875–12.9000
K17[1]	12.9000–12.9125
K18[1]	12.9125–12.9250
K19[1]	12.9250–12.9375
K20[1]	12.9375–12.9500
K21[1]	12.9500–12.9625
K22[1]	12.9625–12.9750
K23[1]	12.9750–12.9875
K24[1]	12.9875–13.0000
K25[1]	13.0000–13.0125
K26[1]	13.0125–13.0250
K27[1]	13.0250–13.0375
K28[1]	13.0375–13.0500
K29[1]	13.0500–13.0625
K30[1]	13.0625–13.0750
K31[1]	13.0750–13.0875
K32[1]	13.0875–13.1000
K33[1]	13.1000–13.1125
K34[1]	13.1125–13.1250
K35[1]	13.1250–13.1375
K36[1]	13.1375–13.1500
K37[1] [2]	13.1500–13.1625
K38[1] [2]	13.1625–13.1750
K39[1] [2]	13.1750–13.1875
K40[1] [2]	13.1875–13.2000

[1] See paragraph (a)(1) of this section.

[2] Channels K37–K40 are reserved for assignment of Cable Television Relay (CARS) Pickup and Television Pickup stations on a co-equal basis. Fixed Television Auxiliary Broadcast Stations licensed before ——, may continue operation on channels in the 13.15–13.20 GHz band, pursuant to periodic license renewals.

(b) Television Auxiliary Broadcast Service stations may be assigned channels in the band 12.70–12.95 GHz subject to the condition that no harmful interference is caused to fixed CARS stations authorized at the time of such grants. Translator Relay stations are assigned on a secondary basis. New CARS stations shall not cause harmful interference to television STL and intercity relay stations authorized at the time of such grants. Television pickup stations and CARS pickup stations will be assigned channels in the band on a co-equal basis subject to the condition that they accept interference from and cause no interference to existing or subsequently authorized television STL, television intercity relay, or fixed CARS stations. Channels in the 13.150–13.200 GHz band will be assigned exclusively to television pickup and CARS pickup stations on a co-equal basis. A cable television system operator will normally be limited in any one area to the assignment of not more than three channels for CARS pickup use: *Provided, however,* That additional channels may be assigned upon a satisfactory showing that additional channels are necessary and are available.

• • • • • •

(i) All stations shall employ no more than a 12.5 MHz authorized bandwidth per channel except in any one or more of the following circumstances:

(1) The frequency-division multiplexed/FM system of transmission is used;

(2) The station was authorized or an application was on file therefore prior to

(3) Other good cause has been shown that use of a bandwidth of 12.5 MHz or less per channel would be inefficient, impractical, or otherwise contrary to the public interest.

STATEMENT OF CHARLES D. FERRIS, CHAIRMAN, CONCURRING IN PART AND DISSENTING IN PART IN WHICH COMMISSIONER TYRONE BROWN JOINS

I support this decision to expand the Cable Television Relay Service (CARS) spectrum allocation. I am troubled, however, by my fellow Commissioner's unwillingness to expand this Inquiry to consider the possibility of allowing the frequencies in the 2 and 7 GHz range to be used by Cable Television Systems. Such inquiry, I believe, would be reasonable and appropriate in view of the availability of these frequencies to other video services—such as television auxiliary and translators. Moreover, secondary use of these frequencies for cable relay might provide for significant improvement in television service to rural areas. In these areas the frequencies in question are apparently now underutilized.

I, of course, recognize that not all potential users of these frequencies can be accommodated. However, to the extent that different users providing essentialy the same service—video programming—to the public can be accommodated, I believe it is in the public interest for this Commission to provide for such services.

[FR Doc. 78-6079 Filed 3-7-78; 8:45 am]

[6712-01]

[47 CFR Part 63]

[CC Docket No. 78-72; FCC 78-144]

MTS AND WATS MARKET STRUCTURE

Proposed Rulemaking; Inquiry

AGENCY: Federal Communications Commission.

ACTION: Inquiry and proposed rulemaking.

SUMMARY: The FCC has begun a proceeding to determine whether the market structure for long distance telephone service (MTS) and wide area telephone service (WATS) should be on a sole source basis or open to competition. Areas to be explored include the compensation paid by interstate services to local operating companies for use of exchange facilities, and the practices of rate averaging and uniform charges nationwide for MTS. Before specifying other questions in a further notice, the agency is seeking suggestions on issues from interested persons.

DATE: Suggestions on issues due on April 25, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT:

Ruth Reel, Policy and Rules Division, Common Carrier Bureau, 202-632-6363.

Adopted: February 23, 1978.

Released: March 3, 1978.

In the matter of MTS and WATS market structure, CC Docket No. 78-72.

1. Notice is hereby given of inquiry and proposed rulemaking in the above matter.

2. The purpose of this proceeding is to determine whether the public interest requires that interstate message toll telephone service (MTS)[1] and/or wide area toll telephone service (WATS),[2] or their functional equivalents, should be provided on a sole source basis (i.e., free from direct competition). Should any such public interest requirement exist, the proceeding shall also explicitly define the characteristics, boundaries, and scope of any such sole source services, and establish criteria for determining which entity or entities should be authorized to provide them. The immediate need for such determinations is occasioned by the recent decision of the U.S. Court of Appeals for the District of Columbia Circuit in the "Execunet" case.[3] Moreover, in view of the rapid evolution of communications and related technologies and the expanding and increasingly complex needs of communications consumers, we believe that this is an appropriate time to examine those interstate services which we have not affirmatively evaluated in recent years to ascertain what industry structure would best serve the public interest in current circumstances.

3. We are not proposing to reexamine in this proceeding those services which have been the subject of affirmative public interest findings as to industry structure, e.g., specialized interstate services including private line services, video transmission, switched data services, resale services, etc.[4] Rather, we will focus here on a question we have never specifically addressed: What delineation of single source and competitive markets is in the public interest for long distance MTS and WATS.[5] In considering this question, of course, the fact that we have authorized competition in other areas may be taken into account to the extent that it is relevant.

4. Briefly by way of background, in the Execunet case the Court of Appeals reversed the Commission's decision that MCI was not authorized to offer Execunet, which we found to be essentially MTS, on he grounds that MIC's authority as a specialized carrier was limited to private line services. *MCI Telecommunications, Inc.*, 60 FCC 2d 25 (1976). We had concluded that MCI's authority was so limited because of our view that *Specialized Common Carrier Services*, 24 FCC 2d 318 (1970), authorized competition "only in the limited portion of AT&T's and Western Union's business represented by private line services" (60 FCC 2d at 36). The Court, while sustaining the Commission's authority to place service limitations on common carrier facility authorizations pursuant to section 214 and title III of the Communications Act, held that the Commission cannot impose any such restriction unless we have affirmatively determined that the public interest, convenience and necessity so require. As the Court read *Specialized Common Carrier Services*, this decision found that specialized or private line service competition was in the public interest, but did not consider or make any affirmative public interest findings as to whether MTS should be open or closed to competition. The Court concluded that "the Commission has not so far determind that the public interest would be served by creating an AT&T monopoly in the interstate MTS field." In considering this question, the Court said, "the Commission must be ever mindful that, just as it is not free to create competition for competition's sake, it is not free to propagate monopoly for monopoly's sake.

5. The Commission has not in the past undertaken to protect any established position that AT&T occupies in the MTS field by granting it a de jure monopoly. The de facto monopoly status exists only because until the recent past no one has sought authority to provide MTS. In determining whether the public interest would be better served by conferring single source status upon MTS and WATS, in whole or in part, or by authorizing some other kind of industry structure, we will weigh all of the relevant factors normally considered in resolving sole source versus competition questions[6] as well as any special public considerations that may be uniquely pertinent to the national telephone service.

6. In view of the importance and complexity of this matter, and the possibility that it may entail special considerations, we will afford interested persons an opportunity to suggest relevant issues and pertinent areas for exploration. Upon consideration of these recommendations, we will by further notice specify the key issues and the principal areas that concern us in this proceeding. To stimulate the thinking of the parties we indicate below some preliminary views on relevant questions.

7. It is clearly pertinent to examine the present structure and operations of the telephone industry. AT&T and the associated Bell operating companies are not, of course, the sole providers of MTS. Besides the Bell companies, the MTS tariff lists more than 40 independent concurring carriers, over 70 participating carriers, and over 1,500 connecting carriers. All of these carriers have interconnected their facilities with those of the Bell system, share the revenues in the settlements process, and have their needs taken into account in the network planning process. However, while many entities are coordinating and cooperating to provide an integrated service, each of these participants is the sole provider of MTS within its particular service area.

8. A principal question we intend to explore has to do with the industry's division of revenues and settlements. While the Commission has approved jurisdictional separations—the procedures for allocating plant operating and investment costs between State and Federal jurisdictions—and there is presently pending a Federal-State Joint Board proceeding (Docket No. 20981) looking toward possible revisions in the current jurisdictional separations, the division of revenues and settlements have traditionally been industry devised. It may be timely to exercise our jurisdiction under section 201(a) of the Communications Act to establish the divisions of charges. Although the question of possible subsidies between State and interstate services has not been definitively resolved, it has been frequently alleged that MTS is providing a subsidy for local exchange service and that competition in the provision of interstate MTS and WATS would therefore necessitate an increase in local exchange rates. We think it necessary to formulate policy in this area. We therefore propose to determine what reimbursement interstate services should make to local operating companies for the use of local plant, on a cost causational basis; what additional charges, if any, should be levied on interstate services to support local exchange services; and whether and how these charges can be equitably imposed on all interstate services. For the purposes of this issue we will be examining all interstate services of all carriers, not just MTS and WATS. With these questions satisfactorily resolved, we will be able to examine the industry structure question for MTS and WATS on its intrinsic merits, unbeclouded by an issue that can be independently resolved.

9. Another area that warrants attention is the industry practice of rate averaging for MTS so that uniform rates prevail nationwide. The Commission has never approved or prescribed any particular rate structure for MTS.[7] It appears essential to reach a public interest determination on this rate averaging practice here, since a finding in favor of a uniform rate structure nationwide—at least for some kind of basic MTS service available to all persons—would seem to imply a single integrated offering and possibly foreclose competitive offerings of the same kind of MTS service.

10. A further important area concerns the extent to which the MTS facilities and service may be severable. Although the MTS network involves use of local exchange facilities, we are not here concerned with any question of possible duplication of local exchange facilities or service. The sole question in this proceeding goes to the possible duplication of inter-city facilities and the feasibility of competition in the provision of the inter-city portion of interstate services. Within the latter framework, questions arise as to whether the MTS and WATS services are a monolithic whole or whether WATS could feasibly be provided on a competitive basis even if the public interest should decree that MTS, or at least basic MTS, must be a single, integrated offering.[8] If we should decide that the public interest requires a single, integrated offering of basic MTS service, a question would remain as to whether competition should be permitted in the fringe areas of MTS. To the extent that WATS and fringe MTS services may now siphon off traffic from the basic MTS service, is such siphoning in the public interest and should this determination vary depending on whether the WATS and fringe MTS services are open or closed to competition?

11. We will, of course, be exploring such factors as the best means of achieving low costs and charges to the public, technical and operational efficiency, network planning and management, innovation, and how best to satisfy the service needs and desires of the public.[9] The public benefits and detriments entailed in single source supply of MTS and WATS must be identified and weighed against the potential public benefits and detriments of diverse sources to determine how, on balance, the public interest will best be served. In the event of a determination that some measure of competition would be in the public interest, the associated question of interconnection under section 201 of the Act would also be determined. We anticipate that interested persons will direct their attention towards further identifying and refining specific factors that should be considered in deciding what industry structure of MTS and WATS is likely to result in the most overall benefit for the public. Our formulation of the issues will be better assisted by suggestions of concrete specificity than by broad generalities that are not tied directly to the facts and circumstances of MTS and WATS.

12. Authority for this inquiry and proposed rulemaking is contained in sections 1, 4 (i) and (j), 201 (a) and (b), 214, 218, 303(b), and 403 of the Communications Act.

13. Interested persons may file suggestions on issues and areas of exploration on or before April 25, 1978. Pursuant to the procedures set forth in § 1.51 of the Commission's rules, an original and nine copies of all filings shall be furnished to the Commission. All material received in response to this Notice will be available for public inspection in the Docket Reference Room in the Commission's Offices in Washington, D.C. In reaching its determinations in this proceeding, the Commission may also take into account other relevant material before it, in addition to the specific comments invited by this notice. The Commission may spin-off for separate determination one or more of the issues specified in this proceeding.

FEDERAL COMMUNICATIONS COMMISSION,[10]
WILLIAM J. TRICARICO,
Secretary.

SEPARATE STATEMENT OF CHAIRMAN CHARLES D. FERRIS

RE: SOUTHERN PACIFIC COMMUNICATIONS CO. TARIFF REVISIONS, INQUIRY INTO MTS AND WATS MARKET STRUCTURE, AND PETITION OF AMERICAN TELEPHONE & TELEGRAPH CO. FOR DECLARATORY RULING

I join in the three related opinions the Commission adopts today with regard to telephone service competition and interconnection because I believe they are responsible approaches to difficult and vital policy questions and because I am convinced that they apply the law correctly. Although I subscribe fully to the rationale stated in the opinions, I add my separate remarks as a personal overview of where we are in telephone service competition and where I believe we are going.

I. WHERE WE ARE

For about ten years now, the Commission has been opening segments of the interstate and foreign communications market to competition. Starting with an industry that traditionally had been monopolistic, the Commission has looked to see where competition would serve the public and has taken the appropriate regulatory steps to make that competition possible. In 1969, my predecessors here authorized MCI to get into the intercity private line service business on the Chicago-St. Louis route.[1] Two years later, at the end of a broad policymaking proceeding, the Commission adopted its specialized common carrier decision, opening a substantial segment of the specialized intercity communications

[1] MTS is a long distance communications service which permits subscribers to local exchange telephone service in separated exchange areas to establish two-way telephone communications among one another on a message by message basis, via the local exchange facilities serving their respective exchange areas and interconnected interexchange communications lines.

[2] WATS is defined as "a public service for dial-type telecommunications between a station associated with a WATS access line and stations in specified service areas" in AT&T's Tariff FCC No. 259.

[3] *MCI Telecommunications Corp.* v. *FCC*, 561 F. 2d 365 (D.C. Cir. 1977), cert. den. —— U.S. —— (January 13, 1978), 46 U.S.L.W. 3448.

[4] *Specialized Common Carrier Services*, 24 FCC 2d 318 (1970) considered competition in private line services and switched data; miscellaneous common carriers have been providing video transmission service on an open entry basis for many years, report and order in Docket No. 20003, 61 FCC 2d 766, 805 (1976). In addition to the telephone carriers other carriers have been authorized to engage in switched data operations, e.g., Data Transmission Co., now defunct; Southern Pacific Communications, Co.; Telenet Communications Corp., and Tymnet.

[5] We will consider in a separate proceeding the public message service of Western Union Telegraph Co.

[6] *RCA Communications, Inc.*, 346 U.S. 86 (1953), *Hawaiian Telephone Co.* v. *FCC*, 498 F. 2d 771 (D.C. Cir. 1974); *Washington Utilities & Transportation Communication* v. *FCC*, 513 F. 2d 1142 (9th Cir. 1975), cert. den. 423 U.S. 836 (1975).

[7] While an MTS rate structure issue was included in Docket No. 19129, the record in that proceeding was not such as to permit any determination on the merits. Report and order in Docket No. 19129, 64 FCC 2d 1, 95-101 (1977).

[8] We do not think that the status of WATS depends on the outcome of Docket No. 21402 concerning whether MTS and WATS are like or unlike services for purposes of section 202(a) of the Act. Docket No. 21402 turns on rate making principles whereas this proceeding deals with industry structure questions which may involve different considerations.

[9] While the above discussion has concentrated on rate averaging and division of revenues, there may be alternative means to reach one or both of the same ends. These possible alternatives include, but are not limited to, imposition of a revenue tax on all interstate services or use of a network access charge or some other approach which focuses on the relationship of AT&T and the specialized carriers to the provision of intercity service.

[10] See attached separate statement of Chairman Ferris and statement of Commissioner Washburn.

[1] Microwave Communications, Inc., 18 FCC 2d 953 (1969), 21 FCC 2d 190 (1970).

market to competition nationwide.[3] In 1972, the Commission extended the same policy to the domestic satellite communications industry, which appeared to be on the verge of exploiting new space technology in a manner that could revolutionize voice and data communications in this country.[4] In 1976, the Commission removed the monopoly carriers' restrictions on "resale and sharing" of private line services to open the way: (1) For brokerage of communications service in competition with the established carriers, and (2) for more flexible sharing arrangements in which small users will be able to pool their needs and buy large packages of service to be shared according to individual needs at lower unit costs.[5]

While I cannot share in the credit for these initiatives because I came to the Commission only recently, I applaud and enthusiastically endorse them.[6] I firmly believe that the marketplace should have as big a voice as possible in deciding such questions as the rates to be charged for services, what kinds of services will be offered, and who shall serve. Moreover, I am committed to extension of our present policies favoring competition to any area of communications in which we can conscientiously and responsibily find that such competition would benefit the public.

Having said this much, I must go back and underscore the words "conscientiously" and "responsibly." Our mandate under the Communications Act is to establish policy and implement it in such a way as to ensure a rapid and efficient communications system in this country at reasonable charges to the public.[7] As I understand that mandate, it requires us to evaluate the consequences of significant regulatory actions so that we are in a position to make knowledgeable decisions. That is why the so-called "expert" agency was created.

The Commission, I believe, has been faithful to that mandate in developing the policies that have opened selected common carrier markets to competition. It has conscientiously and responsibly evaluated the possible public costs and benefits of competition in discrete services and technologies, and has made significant and orderly progress toward opening this historically monopoly market.

The matters that are before us today challenge our resolve to maintain control of the developing competition. As a result of the District of Columbia Circuit's ruling in the *Execunet* case,[8] the specialized carriers now have authority to provide classes of service (with their existing facilities) that the Commission never has evaluated for purposes of deciding whether competition will serve the public interest. This resulted, in the Court's view, from the Commission's failure in its seminal specialized common carrier proceeding to take the appropriate procedural steps and make the requisite findings that would justify restrictions on the carriers' service offerings. I do not agree with the Court's ruling, but that is beside the point. The Supreme Court declined to grant our petition for writ of certiorari, and we are thus bound to respect the mandate of the Court of Appeals.

I do not understand the Court's mandate, however, as requiring us to abdicate our continuing responsibility to evaluate the role of competition in common carrier markets before we take regulatory actions. Nor do I understand the *Execunet* opinion to have vitiated the decision of the Third Circuit in the *Bell of Pennsylvania* case,[9] which construed our orders requiring AT&T to interconnect with the specialized common carriers as limited to private line services. I regard our decisions today as consistent with our obligations under the mandates of both Courts. Moreover, I view these actions as consistent with our obligations under the Communications Act and as a reassertion of our commitment to orderly consideration of the vital public interest questions surrounding the competitive offering of communications services.

First, we are rejecting the tariff of Southern Pacific Communications Co., which would offer an MTS-like service despite the absence of requisite interconnection privileges, because we have not decided as a matter of policy whether the public interest requires such interconnection. Second, we are declaring that AT&T has no present obligation under any of our outstanding orders to interconnect with the specialized carriers for purposes of providing MTS and WATS services, because, once again, we have not decided as a matter of policy whether the public interest requires such interconnection. Third, we are initiating a new rulemaking proceeding to determine, on an appropriate record, whether we should open MTS and WATS to competition, and, if so, whether to require interconnection with the telephone companies.

I have struggled with the issues raised by these three items and have considered all the possible alternatives. In the end, there simply is no way to get around the crucial facts that: (1) The services involved in the Southern Pacific tariff and the AT&T petition for declaratory ruling are not private line but are the functional equivalent of MTS or WATS, and (2) our outstanding orders requiring AT&T to interconnect with the specialized carriers, as construed and affirmed by the Third Circuit,[9] do not provide the basis for interconnection with services that are not private line. In those circumstances, the only intellectually honest decision was to grant AT&T's request for declaratory ruling and recognize the flaw in Southern Pacific's tariff.

There were possible options for dealing with Southern Pacific. Instead of rejecting, we might arguably have suspended the tariff for 5 months pending an ad hoc hearing on its claim to interconnection rights. Or we might have allowed the tariff to become "effective" with a notation that the service could not actually be provided unless and until Southern Pacific acquired the requisite interconnection. But the practical result would have been the same: Southern Pacific could not have offered or provided the service without getting interconnection with the essential terminal facilities. Our order rejecting the tariff without prejudice to refiling seems to me to be a more straight-forward and a cleaner resolution of the matter than either of the options, both of which are legally suspect at best.[10]

[3] *Specialized Common Carrier Services*, 29 FCC 2d 870, 31 FCC 2d 1106 (1971), aff'd sub nom. *Washington Util. & Transp. Comm.* v. *FCC*, 153 f. 2d 1142 (9th Cir.), cert. denied, 423 U.S. 836 (1975).

[4] *Domestic Communications-Satellite Facilities*, 35 FCC 2d 844, 38 FCC 2d 665 (1972).

[5] *Resale and Shared Use of Common Carrier Services and Facilities*, 60 FCC 2d 261 (1976), 62 FCC 2d 588 (1977), aff'd sub nom. *AT&T* v. *FCC*, No. 77-4057, 2d Circuit (decided January 26, 1978).

[6] I also am proud of this agency's initiatives in the area of terminal equipment competition. See, e.g., *Interstate and Foreign Message Toll Telephone Service*, 56 FCC 2d 593 (1975), 58 FCC 2d 736 (1976), aff'd sub nom. *North Carolina Util. Comm.* v. *FCC*, 552 F. 2d 1036 (4th Cir. 1977), cert. denied, 46 U.S. L. Wk. 3219 (October 3, 1977).

[7] 47 U.S.C. 151.

[8] *MCI Telecommunications Corp.* v. *FCC*, 561 F. 2d 365 (D.C. Cir. 1977), cert. denied, 46 U.S.L. Wk. 3448 (January 16, 1978).

[9] *Bell Telephone Co. of Pennsylvania* v. *FCC*, 503 F. 2d 1250 (3rd Cir. 1974), cert. denied, 422 U.S. 1026, reh. denied, 423 U.S. 886 (1975). The Third Circuit affirmed and construed the Commission's order in *Bell System Tariff Offerings*, 46 FCC 2d 412 (1974).

[10] *Bell Telephone Co. of Penn.* v. *FCC*, 503 F. 2d at 1273-74.

[10] Without going into detail, I point out that hearings on tariffs normally do not go into such public interest questions as whether interconnection should be ordered. Compare 47 U.S.C. 204 with 47 U.S.C. 201(a). I point out also the fiction in allowing a tariff to become "effective" even though the carrier as a practical matter cannot provide the service the tariff purports to offer. See 47 U.S.C. 201(a), 203.

These actions are not a retreat from our sound policy favoring competition where it is feasible; nor do they constitute a freeze or a lid on further expansion of competition, since they leave unimpaired the carriers' ability to develop new private line services. Rather, they recognize our need to compile the appropriate record for making decisions that may affect the quality and price of communications for many years to come. I believe this is entirely consistent with the Court's mandate in the *Execunet* case.

II. WHERE WE ARE GOING

In its concluding paragraph, in *Execunet*, the Court of Appeals stated:

[W]e have not had to consider, and have not considered, whether competition like that posed by *Execunet* is in the public interest. That will be the question for the Commission to decide should it elect to continue these proceedings. In that eventuality the Commission must be ever mindful that, just as it is not free to create competition for competition's sake, it is not free to propagate monopoly for monopoly's sake. The ultimate test of industry structure in the communications common carrier field must be the public interest, not the private financial interests of those who have until now enjoyed the fruits of de facto monopoly.

MCI Telecommunications Corp. v. *FCC*, 561 F. 2d at 380. I have absolutely no quarrel with this statement; in fact, I wish I had said it myself.

But the statement reveals a crucial truth: Neither the Court nor this agency ever has considered "whether competition like that posed by *Execunet* is in the public interest." Yet, it is evident that someone must consider that question if we are to have a competition policy that rests on sound evaluation of the consequences of various alternatives.

We have begun that evaluation in the inquiry initiated today. The very fact that we are looking into MTS and WATS, in my view, means that we are meeting the toughest problems head-on. Our inquiry will address all aspects of whether sound public interest objectives would be served by a continuation of the de facto monopoly in MTS and WATS, full competition in those services, or some middle position.

The approach we are taking in the inquiry will enable us to get away from the tedious task of deciding whether particular services fit into the definition of private line. It is my hope that we will be able to isolate those services—if any—that are to remain free from competition for now, and that the questions we will face in future ad hoc disputes will go to whether the proposed services are in the zone we have not yet opened to competition. This still may involve scrutiny of service characteristics and comparisons with definitions; but our inquiry should result in definitions that are specific enough to resolve all but the closest cases almost ministerially.

The inquiry will visit the crucial policy issues outlined in today's notice, including questions about separations and settlements and the possible impact of MTS and WATS competition on local rates and on national rate averaging. It will also consider ways to minimize that impact, if the record established that there will be any, so that competition may extend as far as possible consistently with the public interest. We will not entertain any presumptions in favor of continuing any de facto monopoly situations;[11] nor will we create or promote competition for its own sake.[12] Our sole guide and objective must be the public interest.

In the meantime, we will entertain petitions for ad hoc consideration of requests for interconnection for discrete services over particular routes, such as the services and routes contemplated in Southern Pacific's tariff. I have no intention of allowing our competitive initiatives to grind to a halt while we consider pushing the frontiers still farther. I also expect—and will demand—that the inquiry and any ad hoc proceedings move forward expeditiously and that no interested party benefit from delay.

I fully expect these actions to be challenged in Court. For myself, I welcome judicial review in this instance, because I believe the reviewing Court will recognize and respect our need to do our job. We have no authority to abdicate our responsibilities under the Communications Act.[13] We also have no desire to do so.

This Commission's policies over the past decade of introducing competition into a monopoly market have been highly innovative and reflect a significant departure from traditional utility regulation. These policies have significantly changed the status quo in the telephone industry and resulted in new services and benefits to the public. They have also resulted both in rethinking of old assumptions and in resistance to new ideas and change.

The courts and the Congress have given attention to these important public policy developments, as it is their role to do. I am committed, however, to assuring that this agency carry out effectively its responsibilities as the expert agency in this dynamic field within its present flexible mandate from the Congress and within the framework of judicial oversight.

STATEMENT OF COMMISSIONER ABBOTT WASHBURN

RE: MTS AND WATS MARKET STRUCTURE

FEBRUARY 23, 1978.

Last November at the conclusion of our Docket 18128, I commented that the clear, traditional definition between relatively independent classes of service—private line service and message toll telephone service—is breaking down. In the end it may well become a distinction without a difference.

In economic terms, the two types of service are almost substitutes for one another, especially for large-volume business users, who constitute a significant portion of the MTS market. In technological terms, too, with the increasing use of digital technology throughout the nationwide network, these facilities are becoming increasingly interchangeable and the differentiations between "private line service" and "public message service," as well as between "voice" and "data," are tending to disappear.

To now premise basic market structure decisions on these rapidly eroding type-of-service distinctions may turn out to be an unrewarding approach. I hope we are not creating here a dilemma very much like our ongoing attempt to find some rational way to distinguish between data processing and data communications.

Accordingly I hope there will be informed comments from knowledgeable parties during the initial and formative stage of this important Inquiry that will suggest alternative frameworks for analysis which do not depend upon drawing market-share boundaries on the shifting sands of service distinctions.

[FR Doc. 78-6075 Filed 3-7-78; 8:45 am]

[11] *MCI Telecommunications Corp.* v. *FCC*, 561 F. 2d at 380.

[12] Id. See also *FCC* v. *RCA Communications, Inc.*, 346 U.S. 86, 96-97 (1953); *Hawaiian Telephone Co.* v. *FCC*, 498 F. 2d 771, 776-77 (D.C. Cir. 1974).

[13] *AT&T* v. *FCC*, No. 77-4057, Second Circuit, slip opinion, p. 6549. Cf. *Federal Power Commission* v. *Texaco, Inc.*, 417 U.S. 380 (1974).

[6712-01]

[47 CFR Part 73]

[BC Docket No. 78-28]

RELATIVE PHASE TOLERANCE FOR DIRECTIONAL AM STATIONS

Order extending time for filing comments and reply comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the time for filing comments and reply comments in a proceeding concerning relative phase tolerance for directional AM stations. Petitioner, Association of Federal Communica-

tions Consulting Engineers, states that the additional time is needed so that it can adequately respond to the issues posed in the proceeding.

DATES: Comments must be filed on or before June 14, 1978, and reply comments on or before July 7, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: March 1, 1978.

Released: March 3, 1978.

In the matter of amendment of § 73.52 of the Commission's rules and regulations with respect to relative phase tolerance for directional AM stations, BC Docket No. 78-28.

1. On January 25, 1978, the Commission adopted a Notice of Proposed Rule Making, 43 FR 4647, in the above-entitled proceeding. The dates for filing comments and reply comments are presently March 14, and April 4, 1978, respectively.

2. On February 21, 1978, the Association of Federal Communications Consulting Engineers ("AFCCE") filed a request seeking a 90-day extension in which to file comments.

3. AFCCE states that its Executive Board voted to review the comments previously supplied by AFCCE and also voted to request additional time to solicit further comments from the Association members. AFCCE states that the additional time is needed in order to amplify the earlier filings to more adequately respond to the issues posed in this matter.

4. We are of the view that the additional time is warranted in order to assure development of a sound and comprehensive record on which to base a decision in this proceeding. Accordingly, *It is ordered*, That the dates for filing comments and reply comments in BC Docket No. 78-28 are extended to and including June 14, and July 7, 1978, respectively.

5. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-6076 Filed 3-7-78; 8:45 am]

[6712-01]

[47 CFR — PART 73]

[BC Docket No. 78-79; RM-3006]

FM BROADCAST STATION IN ROSAMOND, CALIF.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a Class A FM channel to Rosamond, Calif., as a first FM assignment. Petitioner, Israel Sinofsky, states that the proposed station could bring a first local aural broadcast service to the community.

DATES: Comments must be received on or before April 25, 1978, and reply comments on or before May 16, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTAL INFORMATION:

Adopted: February 24, 1978.

Released: March 2, 1978.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, Rosamond, Calif., BC Docket No. 78-79, RM-3006.

1. *Petitioner, Proposal, Comments.* (a) Petition for rulemaking,[1] filed on October 28, 1977, by Israel Sinofsky ("Petitioner"), proposing the assignment of Channel 288A, as a first FM assignment to Rosamond, Calif. No responses were made to the petition.

(b) The channel could be assigned in conformity with the minimum distance separation requirements.

(c) Petitioner states he will file an application for authority to construct an FM broadcast station if the channel is assigned.

2. *Community Data*—(a) *Location.* Rosamond, an unincorporated community in Kern County, is located approximnately 84 kilometers (52 miles) north of Los Angeles and 95 kilometers (59 miles) southeast of Bakersfield, Calif.

(b) *Population.* Rosamond—2,281; Kern County—329,162.[2]

(c) *Present Aural Service.* There is no local broadcast service in Rosamond. Petitioner states that it receives service from stations in Lancaster, Palmdale, and Mojave, Calif.

3. *Economic Considerations.* Petitioner claims that Rosamond's population has increased 50 percent between 1970 and 1977, and a tentative master plan for the community calls for a planned population of 15,000 in 1995. He states that its continuing growth is attributable to its ideal climate which also makes it an attractive area for tourists. Petitioner states that the major employer in the Rosamond area is Edwards Air Force Base which employs 9,600 people with an annual payroll of $79,000,000. We are told that other employers include United Carbon Corp., Desert Rock Milling & Calcite Corp., and Great Lakes Carbon Corp.

4. Petitioner notes that Rosamond, an unincorporated community, is not located near any urbanized area. He adds that the community has churches of various denominations, a library, and a community recreation park with swimming pools and picnic grounds. Petitioner asserts that the proposed channel would afford Rosamond and surrounding areas with a first local radio source for information, expression and advertising.

5. Since Rosamond is located within 320 kilometers (199 miles) of the United States-Mexico border, the proposed assignment of Channel 288A to that community requires coordination with the Mexican Government.

6. In view of the apparent need for a first local aural broadcast service in Rosamond, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, as follows for the community listed:

City and Channel No.	
Rosamond, Calif.;	Present: —; Proposed: 288A.

7. Authority to institute rulemaking proceedings; showings required; cutoff procedures; and filing requirements are contained in the attached Appendix below and are incorporated herein.

NOTE.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before April 25, 1978, and reply comments on or before May 16, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[1] Public Notice of the petition was given on December 14, 1977, Report No. 1093.

[2] Population figures were taken from the 1970 U.S. Census.

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-6077 Filed 3-7-78; 8:45 am]

[6712-01]

[47 CFR Part 73]

[BC Docket No. 78-71; RM-3010]

FM BROADCAST STATION IN CRESSON, PA.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a Class A FM channel to Cresson, Pa., as that community's first FM assignment. Petitioner, the Great American Wireless Signal Co., Inc., states that the proposed station would bring a first local aural broadcast service to Cresson.

DATES: Comments must be received on or before April 24, 1978, and reply comments on or before May 15, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: February 23, 1978.

Released: March 2, 1978.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Cresson, Pa.), BC Docket No. 78-71, RM-3010.

1. *Petitioner, proposal, comments.*—(a) Petition for rulemaking,[1] filed by The Great American Wireless Signal Co., Inc. ("petitioner"), proposing the assignment of Channel 232A to Cresson, Pa., as a first FM assignment to that community. No responses to the proposal were received.

(b) The Channel can be assigned in conformity with the minimum distance separation requirements, provided the transmitter site is located 1.6 kilometers (1 mile) south of the community. The preclusion of assignments would occur only on the proposed channel involving a small area adjacent to Cresson.

(c) Petitioner states it intends to apply for a construction permit if the proposed channel is assigned.

2. *Community data.*—(a) *Location.* Cresson, Cambria County, is located approximately 16 kilometers (10 miles) southwest of Altoona and approximately 32 kilometers (20 miles) northeast of Johnstown, Pa.

(b) *Population.* Cresson—2,446; Cambria County—186,785.[2]

(c) *Local broadcast service.*—There is no local aural broadcast service in Cresson.

3. *Economic data.*—Petitioner states that the economic mainstay of Cresson is manufacturing, with such employers as Niagara Plastics, GEM Stamping Co., and Warner Laboratories. We are told that Cresson is governed by a Board of Supervisors, one of whom is Mayor, and that it has a volunteer fire company and police department.

4. In view of the above information, and the fact that the proposed FM channel would bring a first local aural broadcast service to the community, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the rules, with regard to Cresson, Pa., as follows:

City and Channel No.	
Cresson, Pa.;	Present: —; Proposed: 232A.

5. Authority to institute rulemaking proceedings; showings required; cutoff procedures; and filing requirements are contained in the attached Appendix below and are incorporated herein.

NOTE.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before April 24, 1978, and reply comments on or before May 15, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rulemaking to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced

[1] Public Notice of the petition was given on December 14, 1977 (Rept. No. 1093).

[2] Population figures are taken from the 1970 U.S. Census.

in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission

SUMMARY: On February 28, 1978 the Federal Railroad Administration (FRA) issued a notice scheduling a public meeting on March 15, 1978 in

NPRM. Additionally, FRA has been receiving a steady volume of requests for waivers of compliance with certain provisions of this regulation. Public

notices

in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rulemaking to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-6078 Filed 3-7-78; 8:45 am]

[4910-06]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[49 CFR Part 218]

[Docket No. RSOR-3 Notice 16]

RAILROAD OPERATING RULES, BLUE SIGNAL PROTECTION OF WORKMEN

Public Meeting

AGENCY: Federal Railroad Administration, DOT.

ACTION: Rescheduling of Public Meeting.

SUMMARY: On February 28, 1978 the Federal Railroad Administration (FRA) issued a notice scheduling a public meeting on March 15, 1978 in Washington, D.C. (43 FR 8162). In response to a number of recent railroad accidents involving hazardous materials, Congressional hearings have been scheduled for the date originally selected by FRA. In order to eliminate the conflicting dates for the hearings and the public meeting FRA has rescheduled the public meeting for March 22, 1978, in Washington, D.C.

DATES: The public meeting will be held on March 22, 1978 at 10 a.m.

ADDRESSES: The public meeting will be held in Room 3201, Trans Point Building, 2100 Second Street SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Principal Authors: Principal Program Person: John A. McNally, Office of Safety, Federal Railroad Administration, Washington, D.C. 20590 202-426-9178. Principal Attorney: Lawrence I. Wagner, Office of the Chief Counsel. Federal Railroad Administration, Washington, D.C. 20590 202-426-8836.

SUPPLEMENTARY INFORMATION: On September 28, 1977, the Federal Railroad Administration (FRA) issued a notice of proposed rulemaking (NPRM) proposing to amend the rules governing blue signal protection of railroad workemen (42 FR 49813). The NPRM proposed to amend section 218.25 (49 CFR 218.25) by deleting the present paragraph (a) and inserting new paragraphs (a)(1) and (2) to expressly apply procedures for the control of remotely-controlled switches when such switches are located on other than hump yard tracks. It also proposed amending section 218.29 (49 CFR 218.29) by adding a new cross reference to section 218.25(a)(2). Interested persons were invited to participate in a public hearing on November 1, 1977 and to file written comments prior to November 14, 1977. The period for filing written comments was subsequently extended until December 14, 1977 (42 FR 59310).

The comments received by FRA in response to this NPRM raised issues about the scope and the effectiveness of the regulaton that appear to go beyond the subject matter of the NPRM. Additionally, FRA has been receiving a steady volume of requests for waivers of compliance with certain provisions of this regulation. Public notices, which were published on December 8, 1977 (42 FR 62059) and December 20, 1977 (423 FR 63986), illustrate the types of problems being encountered by the railroads which are forming the basis for the waiver requests.

The information gained through the responses to the NPRM, as well as that obtained from the waiver requests, has convinced FRA that there is a need to hold a public meeting to explore the issues about the existing regulation and the issues about the proposed amendment of the regulation. Consequently, FRA scheduled a public meeting to be held on March 15, 1978.

In response to a number of railroad accidents, which occurred between February 23, 1978 and March 2, 1978, Congressional hearings have been scheduled for the week beginning March 13, 1978 and it is currently anticipated that these hearings will commence on March 15, 1978. This commencement date presents a direct conflict with the public meeting previously scheduled by FRA. Futhermore, FRA has been advised that a number of the individuals who had originally intended to participate at the public meeting will not be able to attend the FRA meeting since they must be present at the Congressional hearings. Several of these parties have specially asked FRA to reschedule the public meeting in order to eliminate this scheduling conflict.

FRA desires to permit all interested parties to participate in the public meeting and believes that by rescheduling the public meeting increased public participation will result. Consequently FRA has changed the date of the meeting and has now scheduled the public meeting for March 22, 1978 at 10 a.m. in Room 3201, Trans Point Building, 2100 Second Street SW., Washington, D.C.

Issued in Washington, D.C. on March 6, 1978.

RAYMOND K. JAMES,
Chief Counsel.

[FR Doc. 78-6302 Filed 3-7-78; 11:23 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-02]

U.S. DEPARTMENT OF AGRICULTURE

FEDERAL GRAIN INSPECTION SERVICE

KANSAS GRAIN INSPECTION POINT

Grain Standards; Correction

Statement of considerations. In the February 15, 1978, issue of the FEDERAL REGISTER (43 FR 6641), the closing comment period date was inadvertently omitted from the notice announcing that the Kansas State Department of Agriculture has requested that its designation be amended to revoke Newton, Kansas, as a designated inspection point.

The corrected sentence should read: All materials should be in duplicate and mailed to the Hearing Clerk not later than April 7, 1978.

Done in Washington, D.C., on March 2, 1978.

D. R. GALLIART,
Acting Administrator.

[FR Doc. 78-6048 Filed 3-7-78; 8:45 am]

[3410-02]

MARYLAND GRAIN INSPECTION AREA

Grain Standards

Statement of considerations. Pursuant to sections 7(e)(1) and 7A(c)(1) of the U.S. Grain Standards Act, as amended October 21, 1976, and September 29, 1977 (7 U.S.C. 71 et seq.) (Act), the Federal Grain Inspection Service (FGIS) is required to provide official inspection and weighing services for all grains required or authorized to be inspected and weighed by the Act, at those export port locations where a State is not delegated to perform these official services (7 U.S.C. 79(e)(1) and 7 U.S.C. 79a(c)(1)).

Notice is hereby given that, on February 26, 1978, the FGIS will assume responsibility for providing official inspection services at those export elevators located in the area previously serviced by the Baltimore Chamber of Commerce. The export elevators involved are the Canton Elevator, operated by the Central Soya Co., Inc.; the Locust Point Grain Elevator, operated by the Indiana Grain Corp.; and the Port Covington elevator, operated by the Louis Dreyfus Corp., all of which are located within the corporate limits of the city of Baltimore. Along with the takeover of official inspection services, the FGIS will also provide official weighing services at these elevators, except for the Indiana Grain Corp. elevator, at which official FGIS weighing services were commenced on June 21, 1977.

In addition to these export elevators FGIS will also be providing official nonexport inspection and weighing services as requested from the area previously serviced by the Baltimore Chamber of Commerce. These inspection and weighing services may be obtained by contacting the FGIS field office at 503 Appraisers Stores Building, 103 South Gay Street, Baltimore, Md.

The official inspection agency designation of the Baltimore Chamber of Commerce is canceled effective at the time of the FGIS takeover.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 9, Pub. L. 94-582, 90 Stat. 2875 (7 U.S.C. 79a); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note).)

Effective date: This notice shall become effective March 8, 1978.

Done in Washington, D.C., on March 2, 1978.

D. R. GALLIART,
Acting Administrator.

[FR Doc. 78-6047 Filed 3-7-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Dockets 31870, 31981, 31984; Order 78-3-9]

ALLEGHENY AIRLINES AND CONTINENTAL AIRLINES

Baltimore/Washington-Houston Low-Fare Route Case

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of March 1978.

By order 77-12-115, December 22, 1977, the Board instituted the *Baltimore/Washington-Houston Low-Fare Route Case*, Docket 31870. At that time we deferred consideration on how to proceed with the investigation pending the receipt of additional applications, motions to consolidate, and petitions for reconsideration.

Two applications were filed in addition to the original one submitted by Texas International Airlines (TXI). Allegheny Airlines has filed an application and motion to consolidate requesting Baltimore/Washington-Houston nonstop authority. Continental Air Lines has submitted an application and motion to consolidate for standby authority in the Washington-Houston market which would become effective only if low-fare service is not introduced or is later terminated by a successful applicant in this case.

Answers to Continental's motion for consolidation were filed by the State of Maryland and Eastern Air Lines. Maryland also answered Allegheny's motion. Eastern opposes the grant of standby authority to Continental without a formal evidentiary hearing. Maryland, noting that Continental's standby authority is limited to Washington-Houston authority, requests that the motion for consolidation be denied unless Continental's application is amended to include Baltimore. The State also argues that, while Allegheny's motion to consolidate must be granted as a matter of law, the proposal should be denied ab initio unless it includes low fares such as those proposed by TXI.

The Antitrust Division of the Department of Justice (DOJ) filed an answer to the motions to consolidate of Allegheny and Continental, along with a motion for leave to file.[1] DOJ contends that *Ashbacker* does not necessarily require consolidation of the applications of Allegheny and Continental if the Board adopts an entry policy which interprets the certification process as entitling a carrier to a nonexclusive, rather than an exclusive, right to compete. DOJ also recommends that, even if the Board consolidates the two carriers' applications, it should employ modified hearing procedures to lessen the delay involved in a subpart A evidentiary hearing. (Part 302 of the Board's procedural regulations.)

Allegheny filed a reply to DOJ, along with a motion for leave to file.[2]

In view of the significant potential consumer benefit that could result from the low-fare proposal, we add this case to the list of high priority Board matters[3] and the Board commits itself to issue a final decision by January 15, 1979. In order to avoid the uncertainty and potential delay which may result from the consideration of petitions for discretionary review, the Board now announces, in accordance with rule 28 of it rules of practice,

[1] We will grant DOJ's motion.
[2] We will grant Allegheny's motion.
[3] Cf. Order 77-11-126.

that it will exercise its right of review on its own initiative in this case. Such an approach is consistent with our belief that this case, selected for priority treatment, presents substantial and important questions of law, policy, or discretion within the meaning of rule 28. Briefs will be entertained in all cases and will be due 21 days after the service of the Judge's decision, but decisions on whether or not to hold an oral argument will await the receipt of briefs. Because of the expedition we are granting to this case, extensions of time at all stages shall be granted by the administrative law judges, other staff members, or the Board only in the most extreme circumstances. We have every confidence that the Judge and the staff recognize the need for both expedition and a sound record in this case. In any instance where the deadline will be missed, the administrative law judge or the Board shall order a new date and state, with particularity, the reason for delay.

Both motions to consolidate will be granted. Even though Continental's application is more limited than the scope of the order, one issue in the case is whether any authority granted by this proceeding should be limited to specific airports. Thus, any party is free to argue that an application be disapproved if it does not propose service to a particular point.

Accordingly, *it is ordered*, that: 1. The motions of Allegheny Airlines in Docket 31981 and Continental Air Lines in Docket 31984 be consolidated with the Baltimore/Washington-Houston Low-Fare Route Case, Docket 31870; 2. The motion of the U.S. Department of Justice for leave to file a late-filed answer be granted;

3. The motion of Allegheny Airlines to file an otherwise unauthorized reply be granted;

4. The proceeding in Docket 31870 be set for hearing before an administrative law judge of the Board;

5. A prehearing conference will be held before the Judge on March 14, 1978, when further procedural dates, inter alia, will be established;

6. A final decision in this case will be issued by January 15, 1979;

7. This order shall be served on all parties to the proceeding in Docket 31870 and all persons contained in the service list attached to the motion of TXI for hearing, in Docket 31791.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[4]
Secretary.

[FR Doc. 78-6072 Filed 3-7-78; 8:45 am]

[4] All Members concurred.

[6320-01]

[Docket 31870]

BALTIMORE/WASHINGTON-HOUSTON LOW-FARE ROUTE CASE

Prehearing Conference

Notice is hereby given that a prehearing conference in this proceeding is assigned to be held on March 14, 1978,[1] at 2:30 p.m. (local time), in Room 1003, Hearing Room D, North Universal Building, 1875 Connecticut Avenue, Washington, D.C., before Administrative Law Judge Burton S. Kolko.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and six copies to the Judge of: (1) Proposed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evidence; (4) statements of positions; and (5) proposed procedural dates. All parties will circulate the requested material on or before March 9, 1978.

Dated at Washington, D.C., March 2, 1978.

BURTON S. KOLKO,
Administrative Law Judge.

[FR Doc. 78-6071 Filed 3-7-78; 8:45 am]

[1] At the prehearing conference the Bureau will provide to the parties and the Judge service segment data for the most recently available 2-year period between Baltimore/Washington-Houston.

[3510-25]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

EXPORTERS' TEXTILE ADVISORY COMMITTEE

Public Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Exporters' Textile Advisory Committee will be held at 10 a.m., on April 6, 1978, in Room 3708, U.S. Department of Commerce, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

The Committee, which is comprised of members involved in textile and apparel exporting, advises Department officials concerning ways of increasing U.S. exports of textile and apparel products.

The agenda for the meeting is as follows:

1. Review of Export Data.
2. Report on Conditions in the Export Market.
3. Recent Foreign Restrictions Affecting Textiles.
4. Other Business.

A limited number of seats will be available to the public on a first come basis. The public may file written statements with the Committee before or after the meeting. Oral statements may be presented at the end of the meeting to the extent time is available.

Copies of the minutes of the meeting will be made available on written request addressed to the ITA Freedom of Information Officer, Freedom of Information Control Desk, Room 3100, U.S. Department of Commerce, Washington, D.C. 20230.

Further information concerning the Committee may be obtained from Arthur Garel, Director, Office of Textiles, Main Commerce Building, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-5078.

Dated: March 2 1978.

ROBERT E. SHEPHERD,
Deputy Assistant Secretary for Domestic Business Development.

[FR Doc. 78-6053 Filed 3-7-78; 8:45 am]

[3510-03]

Maritime Administration

[Docket Nos. S-544, Sub. 1; and S-547, Sub. 2]

AMERICAN EXPORT LINES, INC.

Amended Application

Notice is hereby given that American Export Lines, Inc. (the operator), a New York corportation, has filed with the Maritime Subsidy Board by letters dated February 9, February 13, and February 15, 1978, an amendment to its application of February 3, 1977, for a modification of its trade route 18 service description under its existing contract and its application of February 10, 1977, as substantially amended on June 6, 1977, for a long-term operating-differential subsidy agreement to cover operations of trade route 18 under Title VI (46 U.S.C. 1171-1183) of the Merchant Marine Act, 1936, as amended. The application of February 3, 1977, was noticed in the FEDERAL REGISTER on February 9, 1977 (42 FR 8176), under Docket No. S-544 and provided for the modification of the operator's subsidized trade route 18 (line E) U.S. Atlantic/India service to include a port or ports in the Persian Gulf and Gulf of Oman. The application of February 10, 1977, was noticed in the FEDERAL REGISTER on March 4, 1977 (42 FR 12452), under Docket No. S-547. The June 6, 1977, amendment to the application was noticed in the FEDERAL REGISTER on July 15, 1977 (42 FR 36541), under Docket No. S-547, Sub. 1, and provided for the following:

A maximum of 30 sailings annually, with six existing C3-type vessels, between U.S. Atlantic and Gulf ports (Maine-Texas) and, via the Suez Canal, ports in the Gulf of Suez, Gulf of Aqaba, Red Sea, Gulf of Aden, Gulf of Oman, Persian or Arabian Gulf, West Pakistan, India, East Pakistan, Burma and Sri Lanka, and a port or ports in the Mediterranean Sea (including the seas which are arms of or tributaries to the Mediterranean).

In the February 9, February 13, and February 15, 1978, letters amending the February 3, 1977, application and the February 10, 1977, application, as amended June 6, 1977, the operator proposes to provide the requested modified service under its existing contract and service under the requested long-term operating-differential subsidy agreement with 8 to 12 vessels, which could include its existing fully containerized vessels, combination Ro/Ro and container vessels, and breakbulk vessels, as well as any vessels constructed or otherwise acquired by the operator to replace its existing vessels. The operator has also requested authority to operate Lash vessels on the proposed service.

Interested parties may inspect this application in the Office of the Secretary, Maritime Subsidy Board, Room 3099-B, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20230.

Any person, firm, or corporation having an interest in such application who desires to offer views and comments thereon for consideration by the Maritime Subsidy Board should submit such views and comments in writing, in triplicate, to the Secretary, Maritime Subsidy Board, by the close of business on March 17, 1978. The Maritime Subsidy Board will consider such views and comments and take such action with respect thereto as may be deemed appropriate.

All parties who are presently intervenors in Docket No. S-544 will be deemed to have standing in Docket No. S-544, Sub. 1, and all parties who are intervenors in Docket Nos. S-547 and S-547, Sub. 1, will be deemed to have standing in Docket No. S-547, Sub. 2.

(Catalog of Federal Domestic Assistance Program No. 11.504, Operating-Differential Subsidy (ODS).)

By order of the Maritime Subsidy Board.

Dated: March 3, 1978.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 78-6092 Filed 3-7-78; 8:45 am]

[1505-01]

National Oceanic and Atmospheric Administration

COD FISHERY

Closure of the Directed Commercial Fishery for Cod in the Gulf of Maine

Correction

In FR Doc. 78-5421 appearing at page 8282 in the issue for Wednesday, March 1, 1978, on page 8283, the twenty-first line of the first column now reading, "March 31, 1978," should read, "March 1, 1978."

[3510-12]

WEATHER MODIFICATION ADVISORY BOARD

Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C., App. 1 (Supp. V, 1975), notice is hereby given of the ninth meeting of the Weather Modification Advisory Board.

The Weather Modification Advisory Board will meet from 9 a.m. to 5 p.m. on April 4-5, 1978, in conference rooms at the Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. On April 4 and the morning of April 5, the meeting will be in Room 4830, and on the afternoon of April 5, in Room 5230.

The Board was established in January 1977 (42 FR 4512, January 25, 1977), to advise the Secretary of Commerce on matters of a national policy, a national research and development program, and other aspects of weather modification as outlined in the National Weather Modification Policy Act of 1976 (Pub. L. 94-490), enacted on October 13, 1976. The Board consists of 17 members, with a balanced representation selected from scientific, academic, commercial, consumer, legal, and environmental groups, who are appointed by the Secretary of Commerce.

The purpose of this meeting is to consider draft sections that have been prepared for use in the Board's Final Report. The sections deal with Federal organizational structure to manage a weather modification program, environmental aspects of weather modification and the statistical evaluation of experimental and operational weather modification. A short session on plans for future meetings and writing assignments will be held.

The agenda for the meeting is:

TUESDAY, APRIL 4, 1978, ROOM 4830

9 a.m. to 12:30 p.m.—Discussion of draft statements to be considered for inclusion in the final report of the Board. Subjects include Federal organization, environmental aspects and statistical evaluation.
12:30 to 1:30 p.m.—Recess for lunch.
1:30 to 5 p.m.—Continuation of discussions.

WEDNESDAY, APRIL 5, 1978, ROOM 4830

9 a.m. to 12 p.m.—Discussion of plans for preparing final report of the Board, of assignments for individual studies, and of meetings' schedule. Continuation of review of draft statements.
12 Noon to 1 p.m.—Recess for lunch.
1 p.m. to 5 p.m. (Room 5230)—Continuation of discussions on draft statements.
5 p.m.—Adjournment.

The meeting will be open to the public and a period will be set aside at the discretion of the Chairman for oral comments or questions by the public which do not exceed 10 minutes each. More extensive questions or comments should be submitted in writing before April 3. Other public statements regarding Board affairs may be submitted at any time before or after the meeting. Seating will be available for the public on a first-come, first-served basis in Rooms 4830 and 5230 of the Main Commerce Building.

Copies of the minutes will be available on request 30 days after the meeting.

Inquiries may be addressed to Dr. Ronald L. Lavoie, Director, Science and Academic Affairs Office, National Oceanic and Atmospheric Administration, Rockville, Md. 20852, phone: 301-443-8721.

Dated: March 1, 1978.

T. P. GLEITER,
Assistant Administrator for Administration.

[FR Doc. 78-6033 Filed 3-7-78; 8:45 am]

[3810-70]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON CRUISE MISSILES

Advisory Committee Meeting

The Defense Science Board Task Force on Cruise Missiles will meet in closed session on April 4 and 5, 1978, at the National Security Agency, Fort Meade, Md.

The Mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

The Task Force will provide an analysis of the major issues concerning strategic cruise missile employment, and potential defenses to the U.S. deployment of cruise missile systems.

In accordance with section 10(d) of appendix I, title 5, United States Code,

it has been determined that this Task Force meeting concerns matters listed in section 552b(c) of title 5 of the

tlement agreement between Boston and Reading Municipal Light Board (Reading). Boston indicates that the

protest and petition to intervene on December 27, 1977. We were unable to review properly the Cities' filing prior

Cities also raise cost of service issues relating to the rate of return and rate design proposed by CIPS. These issues

it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

ly limited to approximately 213,000 Mcf due to restrictions in the storage pipeline system and the master mea-

it has been determined that this Task Force meeting concerns matters listed in section 552b(c) of title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Directives, Correspondence and Directives DoD/WHS.

MARCH 3, 1978.

[FR Doc. 78-6031 Filed 3-7-78; 8:45 am]

[3810-70]

DEFENSE SCIENCE BOARD TASK FORCE ON COMMAND AND CONTROL SYSTEMS MANAGEMENT

Advisory Committee Meeting

The Defense Science Board Task Force on Command and Control Systems Management will meet in closed session on April 20-21, in the Pentagon, room 3E282.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

The Task Force is examining possible improvements in the process by which the Department of Defense plans for, develops and acquires Defense command and control systems.

In accordance with section 10(d) of appendix I, title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in section 552b(c) of title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

MARCH 3, 1978.

[FR Doc. 78-6032 Filed 3-7-78; 8:45 am]

[6740-02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. E-8885, etc.]

BOSTON EDISON CO.

Notice of Settlement Agreement and Joint Motion

FEBRUARY 28, 1978.

Take notice that Boston Edison Co. (Boston) (Docket Nos. E-8855, ER76-90, ER76-854 and ER77-84) on January 16, 1978, tendered for filing a settlement agreement between Boston and Reading Municipal Light Board (Reading). Boston indicates that the agreement resolves the parties' differences in two all requirements rate proceedings (Rate S-2, Docket No. E-8855 and Rate S-4, Docket No. ER76-90) and in the consolidated proceedings involving Boston's partial requirements contract demand and nonfirm transmission rates (Docket Nos. ER76-854 and ER77-84). In addition, the parties jointly move that the Commission accept this proposed settlement agreement.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such protests should be filed on or before March 15, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6015 Filed 3-7-78; 8:45 am]

[6740-02]

[Docket No. ER78-80]

CENTRAL ILLINOIS PUBLIC SERVICE CO.

Order Accepting Unconditionally Rates for Filing, Denying Motion to Reject, Denying Application for Rehearing, Granting Petition to Intervene, and Establishing Price-Squeeze Procedures

FEBRUARY 28, 1978.

On December 30, 1977, the Commission issued an order conditionally accepting for filing proposed increased rates, suspending proposed increased rates, accepting without suspension proposed rate, granting waiver and providing for hearing in this docket. The proposed rates, filed by Central Illinois Public Service Co. (CIPS), affected its Cooperative (W-1), municipal (W-2) and partial requirements (W-3) customers.

The Commission accepted the W-1 rates for filing without suspension. The Commission conditionally accepted the W-2 and W-3 rate schedules for filing, and suspended for 1 day the effectiveness of the W-2 and W-3 rates, until January 1978, after which they became effective, subject to refund. "Conditional" acceptance was based on the filing by the Illinois Municipal Group (Cities),[1] of a motion to reject, protest and petition to intervene on December 27, 1977. We were unable to review properly the Cities' filing prior to approval and issuance of the December 30 order. Thus, we stated in a footnote in the order, "we will conditionally accept for filing those rates pending determination of the issues raised by the Municipal Group's filing."

On January 30, 1978, CIPS filed an application for rehearing of the December 30, 1977, order. The application challenges the Commission's exercise of its suspension authority and responds to the allegations raised in Cities' filing.

Cities moves to reject the CIPS filing on three grounds: (1) CIPS' entering into long-term fixed-rate increases to other customers in the same class results in undue discrimination; (2) the proposed rate of return is unduly discriminatory in placing "an undue share of capital costs on the wholesale customers of the Company vis-a-vis its retail customers"; (3) the proposed W-3 rates are higher than the rates CIPS charges for similar services under its existing interconnection contracts.

CIPS, in its application for rehearing, responds to these three assertions, denying the existence of any rate discrimination. Contentions (2) and (3) raise factual issues which must be resolved in the course of the hearing previously ordered in this docket to determine the just and reasonable rate levels to the W-2 and W-3 customers.

Cities contention (1), that CIPS cannot increase rates to some customers if other customers in the same class are subject to long-term, fixed-rate contracts, can be disposed of as a matter of law.

The Federal Power Act "expressly recognizes that rates to particular customers may be set by individual contracts. *United Gas Pipe Line Company v. Mobile Gas Service Corp.*, 350 U.S. 332 (1965);[2] section 205 and 206 of the Federal Power Act. In two recent opinions the Federal Power Commission has held that "the existence of a fixed-rate agreement is a relevant factual distinction which may justify a difference in rate level."[3] Thus, Cities' contention of undue discrimination created by the rate increase filing as well as Cities' Motion to Reject, must be dismissed and the W-2 and W-3 rate schedules shall be accepted for filing unconditionally.

[1] Cities of Altamont, Bushnell, Cairo, Carmi, Rantoul, Roadhouse, and Sullivan, Ill.

[2] Quoting *Mobile*, supra; the Supreme Court in *Mobile* applied Natural Gas Act provisions which are identical to the Federal Power Act's provisions.

[3] *Philadelphia Electric Company*, Docket Nos. E-7795, E-7989, Opinion 791, issued April 6, 1977, mimeo p. 21; *Public Service Company of Indiana*, Docket Nos. E-8586 and E-8589, Opinion 783, issued November 10, 1976, mimeo p. 11-12.

Cities also raise cost of service issues relating to the rate of return and rate design proposed by CIPS. These issues may be litigated in the course of a public hearing which we have previously ordered.

In addition, Cities claim that the proposed rate increase creates a discriminatory price-squeeze. *Conway Corp.* v. *F.P.C.*, 510 F.2d 1264 (1975), aff'd, *F.P.C.* v. *Conway Corp., et al.* 426 U.S. 271 (1976). To adhere to the procedural policy set forth in Order No. 563, we shall order the convening of a prehearing conference by the Presiding Administrative Law Judge within 15 days from the date of the issuance of this order for the purpose of hearing Cities' requests for data in preparation for the required prima facie showing on the price-squeeze issue.

Both Cities and CIPS object to the 1-day suspension period established for the W-2 and W-3 rates. Cities claims that the Commission should have suspended the rates for 5 months; CIPS claims that no suspension is warranted. The Commission's decision to set a particular length for suspension of rates, up to 5 months, is committed to the agency's discretion. *Municipal Light Boards* v. *F.P.C.*, 450 F.2d 1341 (1971). None of the arguments raised by the Cities or by CIPS persuades us to alter our prior suspension-length determination. Consequently, the application for rehearing by CIPS must be denied.

The Commission finds: (1) Good cause exists to accept unconditionally for filing the proposed full requirements (W-2) rates to municipalities and the proposed partial requirements (W-3) rates.

(2) Good cause exists to deny Cities' motion to reject the CIPS filing.

(3) Good cause exists to deny CIPS' application for rehearing of the December 30, 1977 order.

(4) Participation of Cities in this proceeding may be in the public interest.

(5) Good cause exists to establish "price-squeeze" procedures to effectuate the Commission's policy announced in Order No. 563.

The Commission orders: (A) CIPS' proposed full requirements (W-2) and partial requirements (W-3) rates are hereby accepted unconditionally for filing.

(B) Cities' motion to reject the filing of CIPS is hereby denied.

(C) CIPS' application for rehearing of the December 30, 1977, order in this docket is hereby denied.

(D) Cities' petition to intervene is hereby granted; *Provided, however,* That participation of such intervenor shall be limited to matters set forth in the petition to intervene; and *Provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(E) The Presiding Administrative Law Judge shall convene a prehearing conference within 15 days from the date of this order for the purpose of hearing Cities' request for data required to present it case, including a prima facie showing, on the price-squeeze issue.

(F) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6016 Filed 3-7-78; 8:45 am]

[6740-02]

[Docket No. CP78-195]

COLUMBIA GAS TRANSMISSION CORP.

Notice of Application

MARCH 1, 1978.

Take notice that on February 21, 1978, Columbia Gas Transmission Corp. (Applicant), 1700 MacCorkle Avenue SE., Charleston, W. Va. 25314, filed in Docket No. CP78-195 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities in Donegal Storage Field located in Washington County, Pa., all as more fully set forth in the application on file with the Commission and open to public inspection.

Specifically, Applicant requests authorization: (1) to drill and operate 10 additional storage wells; and (2) to replace partially existing master measurement; and (3) to construct and operate approximately 7 miles of well and field pipelines.

Applicant states that the total cost of the proposed construction is estimated to be $3,210,000, which cost would be financed with funds generated from internal sources.

The application states that the existing facilities of Donegal Storage Field consist of 101 storage wells, 6 observation wells, approximately 18.6 miles of various sized pipelines, master measuring and regulating facilities and a 2,000 horsepower compressor station, all located within 17,684 acres of lease rights.

The application further states that the estimated maximum stored gas inventory of Donegal Storage Field is 9,500,000 Mcf at an average shutin wellhead pressure of 1,260 psig, and that the estimated annual turnover is 4,255,000 Mcf with an estimated peak delivery of 255,000 Mcf. However, operating experience has established that peak day deliverability is currently limited to approximately 213,000 Mcf due to restrictions in the storage pipeline system and the master measuring facility, it is stated.

Applicant states that in order to eliminate the restrictions in the storage pipeline system and the master measuring facility, it proposes to construct approximately 5 miles of pipeline, varying in size from 6-inch to 20-inch, to loop partially the existing well and field pipeline system and to replace partially the existing master measuring facility, all in 1978. Applicant indicates that it is anticipated that this construction would provide the ability to withdraw the 255,000 Mcf at design peak day conditions. Applicant also proposes during 1978 to connect 2 existing observation wells to the storage field pipeline system by constructing 0.5 mile of 4-inch well pipeline, which construction would increase peak day deliverability 500 Mcf.

Applicant further proposes to drill 10 additional storage wells, 5 during 1979 and 5 during 1980. Applicant states that as the wells are completed, a total of 1.5 miles of 4-inch well pipeline would be constructed to connect the wells to the storage system, and that this construction would increase peak day deliverability by approximately 13,000 Mcf.

It is stated that the total construction proposed herein would result in a total peak day deliverability of 286,500 Mcf from Donegal Storage Field, and that in comparison with the 213,000 Mcf of peak day deliverability currently available from Donegal Storage Field, the estimated peak day deliverability after completion of the proposed construction represents an increase of 55,500 Mcf.

Applicant asserts that the enhanced peak day capability in Donegal Storage Field for a given volume in storage would be fully integrated with Applicant's overall storage operations to optimize the winter withdrawal/peak deliverability relationship, which would assist in mitigating the adverse impacts of anticipated continuing deficiencies in annual flowing gas supplies. It is estimated that as a result of the project proposed herein, approximately 2 million Mcf of additional seasonal withdrawals from storage when fully integrated with existing storage can be made available to Applicant's high priority end-use customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 28, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with

the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6010 Filed 3-7-78; 8:45 am]

[6740-02]

[Docket No. RP-71-77 (Remand), etc.]

CONSOLIDATED GAS SUPPLY CORP.

Notice Granting in Part and Denying in Part Extension of Time

FEBRUARY 28, 1978.

On January 30, 1978, Consolidated Gas Supply Corp. (Consolidated) (Docket Nos. RP71-77 (Remand), RP72-104, and RP73-107, RP74-90, and RP75-91), filed a motion for an extension of time to comply with Ordering Paragraphs (B) and (C) of Opinion Nos. 3 and 3-A, issued November 10, 1977, and January 11, 1978, respectively, in the captioned proceeding.[1] On February 10, 1978, the Public Service Commission of the State of New York (New York) filed a timely response to Consolidated's motion.

In its response, New York states that it does not oppose the Consolidated motion as it relates to Docket Nos. RP73-107, RP74-90, and RP75-91, but New York does oppose further delay in Consolidated's obligation to make refunds in Docket No. RP71-77.

Under consideration, notice is hereby given that an extension is granted to and including May 31, 1978, within which Consolidated shall comply with Ordering Paragraphs (B) and (C) of Opinion Nos. 3 and 3-A as they relate to Docket Nos. RP73-107, RP74-90, and RP75-91. However, the refunds required in Docket No. RP71-77 pursuant to Ordering Paragraph (C) of Opinion No. 3, as modified by Opinion No. 3-A, shall be made immediately.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6009 Filed 3-7-78; 8:45 am]

[1] By Order issued June 2, 1976, in Docket Nos. RP72-104 and RP72-157, the Commission approved a settlement agreement resolving the issues in Docket No. RP72-104 without further refund obligations, and terminated that Docket. Therefore, Docket No. RP72-104 should be removed from the caption of Opinion Nos. 3 and 3-A.

[6740-02]

[Docket No. CP78-194]

CORONADO TRANSMISSION CO.

Notice of Application

MARCH 1, 1978.

Take notice that on February 21, 1978, Coronado Transmission Co. (Applicant), 1200 Bank and Trust Tower, Corpus Christi, Tex. 78477, filed in Docket No. CP78-194 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas to Natural Gas Pipeline Co. of America (Natural) in Wise, Willacy, and Zapata Counties, Tex., all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to sell to Natural, pursuant to a gas sales contract dated February 9, 1978, between the two parties, such quantities of gas as Applicant would have available at existing measuring points located on Natural's system in Wise, Willacy, and Zapata Counties, Tex., from time to time, over a five-year period, commencing on the date of first delivery. It is stated that Natural has advised Applicant that Natural needs the additional volumes of gas on its system to help maintain deliveries to its existing customers.

The application states that Applicant has contracted for volumes of gas for its system supply which it would sell and deliver to Natural over the five-year period of this contract, and that this service would not constitute any profession or obligation of Applicant to serve Natural beyond the term of the gas sales contract or in any manner or under any conditions other than provided for in the subject application or in the gas sales contract.

Applicant states that it is an intrastate company, and that inasmuch as its gas supply basically is obtained from producers whose sales are not subject to Commission regulation, it is necessary that there be no assertion of jurisdiction by the Commission over said producers during the term of this sale. Applicant further states that it is essential to the operation of its system that it be assured that (1) its facilities continue to be exempt from FERC regulations; (2) Applicant be relieved from any accounting and reporting requirements to the FERC other than reporting the volumes sold and the price paid for gas pursuant to this certification; (3) the sale be terminated without further action by Applicant and without further order by the Commission five years from the date of first delivery; and (4) any independent producer or other supplier of gas to Applicant remain exempt from FERC regulation.

Consequently, Applicant requests the following:

(1) A certificate of public convenience and necessity authorizing Applicant to sell natural gas for transportation and resale in interstate commerce to Natural at an initial price of $2.25 per million Btu's for the five-year term; and for the transportation of natural gas in interstate commerce, all in accordance with the terms of the gas sales contract and section 7(c) of the Natural Gas Act. Applicant states that the price of the gas specified herein is based upon the cost of replacement gas plus a reasonable gathering and transportation charge;

(2) The Commission waives its accounting and reporting requirements with respect to Applicant for the term of the certificate, provided that Applicant would report the volumes of gas sold and the price for the gas pursuant to said certificate;

(3) The facilities, transportation, and sales by suppliers of gas to Applicant, including but not limited to any producers, and all of the existing facilities of, transportation of gas, and sales by Applicant with the exception of the proposed instant sale to Natural and the related interconnecting facilities would remain exempt from Commission jurisdiction and their non-jurisdictional status would not be affected by the certificate issued herein;

(4) Applicant is permitted and required to abandon the sale, transportation, and facilities referred to at the end of five years from the date of first delivery without further action by Applicant and without further Commission action; such pre-granted abandonment would be equally applicable to any suppliers to Applicant for the purpose of making this sale.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 24, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance

with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6011 Filed 3-7-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Docket No. RI77-117]

ENERGY RESERVES GROUP, INC.

Order Granting Special Relief

FEBRUARY 28, 1978.

Before Commissioners: Charles B. Curtis, Chairman; Don S. Smith, Georgiana Sheldon, Matthew Holden, Jr., and George R. Hall.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977 by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

On June 3, 1977, Energy Reserves Group, Inc. (Energy) filed a petition for special relief in Docket No. RI77-117 pursuant to section 2.76 of the Commission's General Policy and Interpretations. Energy requests a rate of 48.1743 cents per Mcf for 100 percent of the gas sold to Natural Gas Pipeline Co. (Natural) from the De Weese Gas Unit No. 1, Harper County, Okla. Natural, by contract amendment dated April 26, 1977, has agreed to pay Energy the requested rate.

Energy's petition was noticed on August 16, 1977, with the period for filing interventions ending on August 31, 1977. No petitions to intervene have been filed.

Energy proposes to invest a total of $50,749 to install compresion facilities. Energy states that these facilities are necessary to continue production of the subject gas. Staff estimates that 226,800 Mcf of gas can be recovered over a period of 5 years.

Staff estimates Energy's annual production expense to be $10,797 and applies a 5 percent inflation factor to arrive at total estimated production expense of $59,661. No current investment is carried on Energy's financial records.

Staff has conducted a traditional cost study based on information filed by Energy in its petition and in its November 7, 1977 response to a staff data request. This study indicates that the proposed rate is cost supported.[1] Upon consideration of the data submitted and staff's analysis thereof, we conclude that Energy's petition should be granted.

The Commission orders: (A) The petition for special relief filed by Energy is hereby granted.

(B) Energy is authorized to collect a total rate of 48.1743 cents per Mcf at 14.65 psia for all gas produced from the De Weese Unit No. 1 effective as of the date of issuance of this order or the date of installation of the proposed compression facilities, whichever is later, subject to the condition set forth in paragraph (c) below.

(C) Within 30 days of the effective date of the rate approved herein Energy shall file a statement signed by Natural that the compression facilities have been installed to its satisfaction.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[1] See Appendix A, attached hereto.

APPENDIX A.—*Schedule 1 of 3, Energy Reserve Group, Inc., docket No. RI77-117, DeWeese gas unit No. 1, Harper County, Okla.*

[Unit Cost of Gas]

Line No. and item (a)	Amount (b)
1. Net working interest volumes:	
2. Gas—M ft³ at 14.65 lb/in²a[1]	185,160
3. Liquids—barrels[2]	4,144
4. Cost of production:	
5. Return of rate base at 15 percent[3]	$38,012
6. DD&A[4]	2,987
7. Production expense[5]	59,661
8. Subtotal	$100,000
9. Allocated to gas[6]	86.407
10. Regulatory expense[7]	185
11. Total cost of production	$86,592
12. Unit cost of gas cents per M ft³	
13. Cost of production[8]	46.77
14. Production tax[9]	3.57
15. Total unit cost	50.34

[1] 226,800 M ft³ times 0.8164 net working interest.
[2] 5,078 barrels times 0.8164 net working interest.
[3] Line 12 of schedule 3 times 0.15 times 5 yr. productive life.
[4] From line 4 schedule 2.
[5] Estimated 1st year expense of $10,797 escalated 5 percent per year.
[6] Line 8 times line 10 of schedule 2.
[7] 1 cent per M ft³.
[8] Line 11 divided by line 2.
[9] 7 percent plus 0.05 cents per M ft³.

APPENDIX A—*Schedule 2 of 3, Energy Reserves Group, Inc., docket No. RI77-117, DeWeese gas unit No. 1, Harper County, Okla.*

[Investment and allocation of costs]

Line No. and item (a)	Amount (b)
1. Investment:	
2. Installation of compressor	$50,749
3. Less salvage[1]	47,762
4. Depreciable investment	$2,987
5. Depreciation per unit[2]	.0161319
6. Allocation of costs[3]	
7. Gas—MMBTU[4]	$205,342
8. Liquids—MMBTU[5]	33,865
9. Total	$239,207
10. Percentage allocated to gas[6]	85.84

[1] 94.114 percent of line 2.
[2] Line 4 divided by 185.160 M ft³
[3] Modified Btu method.
[4] 185,160 M ft³ times 1.109 MMBTU/M ft³.
[5] 4,144 barrels times 5.448 MMBTU/barrels times 1.5 modifier.
[6] Line 7 divided by line 9.

APPENDIX A.—*Energy Reserves Group, Inc., docket No. RI77-117, DeWeese gas unit No. 1, Harper County, Okla.*

On January 30, 1978, Sidney L. Moore, Jr., Consumers' Utility Counsel of Georgia[1] filed a petition to intervene on behalf of the residential and

On January 25, 1978, OEMC also filed a motion to reject the rate filing. In support of this motion, OEMC argues that the filing was deficient

cates that it is in the public interest to suspend the proposed rates and charges for four months and to order

the Commission's policy announced in Order No. 563.

The Commission orders: (A) OEMC's

APPENDIX A.—*Energy Reserves Group, Inc., docket No. RI77-117, DeWeese gas unit No. 1, Harper County, Okla.*

Line No.	Year	Annual N.W.I. production (Mft³)	Beginning of year investment	Depreciation[1]	End of year investment	Average investment
(a)	(b)	(c)	(d)	(e)	(f)	(g)
1	Average Investment:					
2	1	$41,147	$50,749	$664	$50,085	$50,417
3	2	39,187	50,085	632	49,453	49,769
4	3	36,738	49,453	593	48,860	49,157
5	4	34,779	48,860	561	48,299	48,580
6	5	33,309	48,299	537	47,762	48,031
7	Total	185,160		2,987		245,954
8	Average annual investment[2]					49,191
9	Average annual rate base:					
10	Average annual investment					49,191
11	Average annual working capital allowance[3]					1,492
12	Total annual rate base					50,683

[1] Col. (c) times line 5 of schedule 2.
[2] Col. (d) plus col. (f) divided by 2.
[3] Line 7 of col. (g) divided by 5 yr productive life.
[4] 0.125 times line 7 of schedule 1 divided by 5 yr productive life.

[FR Doc. 78-5871 Filed 3-7-78; 8:45 am]

[6740-02]

[Docket No. ER76-587]

GEORGIA POWER CO.

Notice of Compliance Filing

FEBRUARY 28, 1978.

Take notice that Georgia Power Co. (Company) on February 24, 1978 tendered for filing the Third Revised Sheet No. 6 and Second Revised Sheet No. 9 of Georgia Power's FERC Electric Tariff, Original Volume No. 2. Company indicates that this filing is made in compliance with the Commission order issued February 6, 1978 in the above-noted docket modifying the Settlement Agreement and conditionally approving the Settlement Agreement as modified.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such protests should be filed on or before March 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6018 Filed 3-7-78; 8:45 am]

[6740-02]

[Docket No. ER78-166]

GEORGIA POWER CO.

Order Accepting for Filing and Suspending Proposed Rate Increase, Denying Motion To Reject, Granting Interventions, Requiring Supplemental Filing, Establishing Price Squeeze Procedure and Providing for Hearing

FEBRUARY 28, 1978.

On December 30, 1977, Georgia Power Co. (Georgia Power) tendered for filing revised tariff rates for partial requirements service to Oglethorpe Electric Membership Corporation (OEMC), Municipal Electric Authority of Georgia (MEAG) and the City of Dalton, and for full requirements service to the Cities of Acworth and Hampton. The filing would increase the Company's revenues in the amount of $27,995,767 for the partial requirements customers and $250,765 for the full requirements customers, thereby totaling $28,246,532 (13.8 percent) for the 12 month period ending February 28, 1979. Georgia Power requested an effective date of March 1, 1978 for the proposed changes.

Notice of the filing was issued January 6, 1978, with responses due on or before January 31, 1978. On January 10, 1978, the City of Dalton[1] filed a petition to intervene stating that it is opposed to the proposed increase in rates which it contends is not fully justified.

On January 30, 1978, Sidney L. Moore, Jr., Consumers' Utility Counsel of Georgia[2] filed a petition to intervene on behalf of the residential and small commercial utility consumers of the State of Georgia. He contends that Georgia Power's expenses, profits and rate of return are overstated and excessive.

On January 25, 1978, OEMC[3] filed a Petition to Intervene, Protest, Request for Suspension of Rate and for a Hearing. In support of its request for a 5 month suspension period and a hearing, OEMC stated that: (1) the filing does not comply with section 35.13(b)(1) of the Commission's Regulations in that Statement P does not support the proposed capacity charges; (2) the filing lacks any billing calculations showing the derivation of the test year revenues produced by the PR-3 capacity changes; (3) no data is supplied concerning the proposed rate impact on the test year revenues; (4) the 14.5 percent claimed rate of return on equity is too high; (5) the proposed rates raise a "price-squeeze" situation;[4] (6) the tariff language does not give proper credit to PR customers for the energy portion of the $128,711,000 that Georgia Power projects it will receive from Southern Co. Pool during the test year; (7) Georgia Power has overstated its rate base and understated its revenues; and (8) OEMC's demand responsibilities have been overstated.

[1] The petition of the City of Dalton was submitted by the Board of Water, Light, and Sinking Fund Commissioners of the City of Dalton which operates a municipally-owned system and is the sole distributor of water, electric power and natural gas to residential, commercial and industrial consumers of the City of Dalton and its environs.

[2] Mr. Moore is the Consumers' Utility Counsel of Georgia, appointed pursuant to the Consumers' Utility Counsel Act of 1977 and has the right, under state law, to appear in federal administrative proceedings representing and as counsel for the residential and small commercial utility consumers of the State of Georgia.

[3] OEMC is an electric membership corporation which consists of 39 electric membership corporations, corporately sited and operating in Georgia. The members are: Altamaha, Amicalola, Canoochee, Carroll, Central Georgia, Coastal, Cobb County Rural, Colquitt, Coweth-Fayette, Douglas County, Execelsion, Flint, Grady County, Habersham, Hart County, Irwin County, Jackson, Jefferson County, Lamar, Little Ocmulgee, Middle Georgia, Mitchell, Ocmulgee, Ocmee, Okefenoke, Pataula, Planters, Rayle, Satilla Rural, Sawnee, Slash Pine, Snapping Shoales, Sumter, Three Notch, Tri-County, Troup County, Upsam County, Walton, and Washington County.

[4] OEMC argues that the proposed rate increase will result in rates to OEMC which are higher than those Georgia Power Co. will be charging its retail industrial customers, thereby creating a "price squeeze," citing in support of this contention, *FPC* v. *Conway Corp.*, 426 U.S. 271, Aff'g 510 F. 2d 1264 (D.C. 1975); *Otter Tail Power Co.*, 2 FPC 134 (1940).

On January 25, 1978, OEMC also filed a motion to reject the rate filing. In support of this motion, OEMC argues that the filing was deficient under section 35.13(b)(1) and cites *Municipal Light Boards, etc., Mass.* v. *FPC*[5] as authority for its argument.

Georgia Power filed, on February 3, 1978, a motion in response to OEMC's motion to reject, which contends that the Company has fully complied with section 35.13(b)(1).

On January 27, 1978, MEAG[6] filed a Petition to Intervene, Protest and Request for Suspension of Rate Schedule. In support of its request for a 5 month suspension MEAG alleges that: (1) the proposed rate of return is excessive; (2) the Company's capital structure is inflated; (3) the allowance for cash working capital is too high; (4) the investment and expenses for the coal burning facility have been incorrectly allocated; and (5) credit was not given for off-system energy sales.

We now turn to the issues raised in the various pleadings. First, OEMC's motion to reject is predicated solely on the contention that Georgia Power has not complied with our filing Regulations. However, we find that Georgia Power has substantially complied with our Regulations. Accordingly, rejection of its filing is not warranted.[7]

Based on our review of the filing and the pleadings herein, we find that the proposed increase in rates and charges have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful under the Federal Power Act. Further, our review indicates that it is in the public interest to suspend the proposed rates and charges for four months and to order a hearing to determine their lawfulness. The various factual issues raised in the pleadings of OEMC, MEAG, the City of Dalton and Consumers' Utility Counsel are proper inquiries for the hearing in this docket.

OEMC has raised a "price squeeze" allegation. To conform with FPC Order No. 563, additional procedures must be set so as to effectuate the policy announced in that order. We shall direct the Administrative Law Judge to convene a prehearing conference within 15 days from the date of this order for the purpose of hearing OEMC's request for data necessary to present its prima facie showing on the price squeeze issue.

Finally, the Commission does not have on file service agreements between Georgia Power, MEAG and the City of Dalton for PR 2 service under Georgia Power's FPC Electric Tariff, Original Volume No. 2.[8] Since the filing of service agreements is required by section 35.1 of the Commission's Regulations, we shall order Georgia Power to file them as well as an associated index of purchasers for its service under FPC Electric Tariff, Original Volume No. 2, within fifteen (15) days of the issuance of this order.

The Commission finds: (1) Good cause exists to deny OEMC's motion to reject.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provision of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the proposed increased rates and charges tendered by Georgia Power on December 30, 1977, establishing procedures for that hearing and that the proposed increased rates and charges be accepted for filing, suspended, and the use thereof deferred, as hereinafter ordered.

(3) Participation by petitioners in this proceeding may be in the public interest.

(4) Good cause exists to require Georgia Power to file service agreements with MEAG and the City of Dalton with an associated index of purchasers for its service under FPC Electric Tariff, Original Volume No. 2 as hereinafter ordered.

(5) Good cause exists to establish price-squeeze procedures to effectuate the Commission's policy announced in Order No. 563.

The Commission orders: (A) OEMC's motion to reject is hereby denied.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the DOE Act and by the Federal Power Act, particularly sections 205, 206, 301, 307, 308, and 309 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates proposed by Georgia Power in this proceeding.

(C) Pending such hearing and decision thereon, the proposed increased rates and charges filed by Georgia Power on December 30, 1977, are hereby accepted for filing, suspended, and the use thereof deferred until July 1, 1978, when they shall become effective, subject to refund.

(D) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before May 10, 1978.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge (see, Delegation of Authority, 18 CFR 33.5 (d)) for that purpose, shall convene a conference in this proceeding to be held within 10 days after the serving of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Captiol Street NE., Washington, D.C. 20426. Said Law Judge is authorized to establish all procedural dates and to rule upon all motions (except petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(F) Nothing contained herein shall be construed as limiting the rights of the parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to Section 1.18 of the Commission's Rules of Practice and Procedure.

(G) Petitioners, OEMC, MEAG, Consumers' Utility Counsel of Georgia, and the City of Dalton are hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission: *Provided, however,* That participation of such intervenors shall be limited to the matters affecting asserted rights and interests specifically set forth in the petition to intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any orders entered in this proceeding.

[5] 450 F. 2d 1341 (D.C. Cir. 1971).

[6] MEAG, a public corporation, has entered into contracts to supply electric power and energy in bulk to the following 47 entities: the Cities of Adel, Albany, Barvesville, Blakely, Brinson, Buford, Calmo, Calhoun, Camilla, Cartersville, College Park, Commerce, Covington, Doerun, Douglas, East Point, Elberton, Ellaville, Fairburn, Fitzgerald, Forsyth, Fort Valley, Grantville, Griffin, Hogansville, Jackson, La Fayette, La Grange, Lawrenceville, Mansfield, Marietta, Monroe, Monticello, Moultrie, Newan, Noncross, Palmetto, Quitman, Sandersville, Sylvanie, Sylvester, Thomaston, Thomasville, Washington, West Point, Whigham Georgia, and the Crisp County Power Commission, Crisp County Georgia.

[7] *Municipal Light Boards, Etc., Mass* v. *FPC*, supra.

[8] Docket No. ER76-587. By Commission order, dated April 30, 1976, in Docket No. ER76-587, PR-2 became effective August 1, 1976, subject to refund. At the time of the original filing, only OEMC was receiving PR-2 service. Prior to the approval of the settlement by Commission order dated February 6, 1978, both MEAG and the City of Dalton became customers for PR-2 service.

(H) Georgia Power shall submit for filing within fifteen (15) days service agreements with MEAG and the City

[6740-02]

[Docket No. ER78-229]

[6740-02]

[Docket No. ES78-22]

March 15, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, petitions or protests in

filed a petition for special relief pursuant to section 2.76 of the Commission's General Policy and Interpretations. Jacobs requests a rate of 62.85 cents

Upon consideration of the data submitted by Jacobs and Staff's analysis thereof, we conclude that Jacobs' petition should be granted insofar as it ap-

(H) Georgia Power shall submit for filing within fifteen (15) days service agreements with MEAG and the City of Dalton for PR-2 service with an associated index of purchasers for its service under the FPC Electric Tariff, Original Volume No. 2.

(I) The Administrative Law Judge shall convene a prehearing conference on March 15, 1978, at 10 a.m. in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, for the purpose of hearing petitioners' request for data required to present their case, including a prima facie showing, on the price squeeze issue. Georgia Power shall be required to respond to the discovery requests authorized by the Administrative Law Judge within 30 days, and the petitioners shall file their case-in-chief on the price squeeze issue within 30 days after Georgia Power's response.

(J) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6019 Filed 3-7-78; 8:45 am]

[6740-02]

[Docket No. ID-1824]

ROBERT W. HARTWELL

Notice of Application

FEBRUARY 28, 1978.

Take notice that on February 8, 1978, Robert W. Hartwell, filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

President and Director, Cliffs Electric Service Co., public utility.
Director, Upper Peninsula Generating Co., public utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions and protests should be filed on or before March 17, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6026 Filed 3-7-78; 8:45 am]

[6740-02]

[Docket No. ER78-229]

INDIANA & MICHIGAN ELECTRIC CO.

Notice of Agreement

MARCH 1, 1978.

Take notice that American Electric Power Service Corp. (AEP) on February 24, 1978 tendered for filing on behalf of its affiliate, Indiana & Michigan Electric Co. (I & M), Modification No. 10 dated February 22, 1978 to the Interconnection Agreement dated November 27, 1961 between I & M and Illinois Power Co. (Illinois) designated I & M Rate Schedule FPC No. 23.

AEP indicates that the Modification includes a new Schedule which provides that, for the purpose of conserving energy resources during extended fuel shortages either party may arrange to obtain Conservation Energy from the other. AEP further indicates that when supplied, the charge for Conservation Energy generated by the supplying party will be 110 percent of the out-of-pocket replacement cost of generating the energy, plus 5.00 mills per kilowatt-hour. AEP states that the new Schedule also provides for a transmission service charge of 1.7 mills per kilowatt-hour for deliveries of Conservation Energy from systems interconnected with I & M or Illinois.

AEP states that because the current uncertainty of fuel supplies associated with the coal miner's strike, and the possibility that transactions will be required imminently under the proposed Schedule, the parties have requested that the Commission waive its notice requirements and that the proposed Schedule become effective as soon as possible. Its stated termination date is February 22, 1979.

According to AEP, copies of the filing were served upon Illinois Power Co., the Public Service Commission of Indiana, the Michigan Public Service Commission and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before March 13, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken. Any person wishing to become a party must file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6020 Filed 3-7-78; 8:45 am]

[6740-02]

[Docket No. ES78-22]

IOWA PUBLIC SERVICE CO.

Notice of Application

FEBRUARY 28, 1978.

Take notice that on February 21, 1978, Iowa Public Service Co. (Applicant) filed an application seeking an order pursuant to section 204 of the Federal Power Act authorizing the issuance of up to 100,000 shares of Common Stock (par value $5 per share), in the manner, and at prices determined pursuant to a formula, described below.

Applicant is incorporated under the laws of the State of Iowa, with its principal business office in Sioux City, Iowa, and is engaged in the electric utility business in northwestern, north central and east central Iowa and a few small communities in South Dakota.

Applicant proposes to sell the Common Stock pursuant to its Dividend Reinvestment and Stock Purchase Plan, a voluntary plan whereby employees and stockholders are able to (a) have dividends on their shares of Common and/or Preferred Stock automatically reinvested in additional shares of the Applicant's Common Stock or (b) continue to receive their cash dividends on shares registered in their names and invest in the Applicant's Common Stock by making optional cash payments of not less than $10 per payment nor more than $10,000 per quarter or (c) invest both their cash dividends and such optional cash payments. Employee participants are able to make optional cash payments through payroll deductions. No service charge or commission is paid by participants in connection with purchases under this plan. The purchase price of shares is the average of the high and low sales prices of Applicant's Common Stock on the New York Stock Exchange on each investment date (or the next preceding day on which the New York Stock Exchange is open, if it is closed on the investment date). If no trading occurs in the Applicant's Common Stock on the investment date, the purchase price is the average of the reported bid and asked prices on the New York Stock Exchange on that date. Participants are able to withdraw from the plan at any time.

Applicant proposes to use the proceeds from the issuance of the Common Stock to reduce short-term loans incurred and to be incurred prior to the sales of the Common Stock to secure funds for construction purposes and for other lawful corporate purposes.

Any person desiring to be heard or to make any protest with reference to said application should on or before

March 15, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6021 Filed 3-7-78; 8:45 am]

[6740-02]

[Docket No. RI77-46]

CHARLES D. JACOBS

Order Granting and Denying Special Relief

FEBRUARY 28, 1978.

Before Commissioners: Charles B. Curtis, Chairman; Don S. Smith, Georgiana Sheldon, Matthew Holden, Jr., and George R. Hall.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

On February 11, 1977, Charles D. Jacobs (Jacobs), a small producer, filed a petition for special relief pursuant to section 2.76 of the Commission's General Policy and Interpretations. Jacobs requests a rate of 62.85 cents per Mcf for the sale of gas to Columbia Gas Transmission Corp. (Columbia) from 10 wells located on four leases in Pike County, Ky.

Notice of Jacobs' petition was published in the FEDERAL REGISTER. No interventions have been filed.

The subject sales are being made pursuant to Jacobs' small producer certificate issued in Docket No. R-371 on October 2, 1970. The relevant contracts are as follows: (1) the Weddington Lease-Sales Contract No. 1256, dated July 12, 1933, (2) the Bowles Lease-Sales Contract No. 1347, dated October 8, 1934, (3) the Varney Lease-Sales Contract No. 2065, dated July 31, 1940, and (4) the Johnson Lease-Sales Contract No. 6187, dated December 23, 1958. Jacobs is currently receiving a rate of 35 cents per Mcf for these sales.

Jacobs proposes to install new gathering lines on the Weddington, Johnson, and Varney leases at a total investment of $46,650. It is anticipated that the expenditure will enable Jacobs to recover the estimated 99,937 Mcf of gross remaining reserves over the next 7 years. A new gathering line is also being laid on the Bowles Lease, at no cost to Jacobs, which will allow the recovery of the estimated 798,993 Mcf of gross remaining reserves over the next 17 years.

Based on data filed by Jacobs in his petition and in responses to Staff requests for additional information, Staff has determined that Jacobs has no remaining book investment. Staff has also determined that the operating expenses associated with the Varney, Johnson, and Weddington leases total $38,846 and that the operating expenses associated with the Bowles Lease total $239,365.

In accordance with a May 2, 1974, agreement between Jacobs and the Department of Transportation's Bureau of Highways of the State of Kentucky, the two-inch gathering line servicing the Bowles Lease will be installed by the Bureau of Highways at no cost to Jacobs. Thus, because of the lack of additional investment, the gas produced from the Bowles Lease is eligible for special relief consideration only under section 2.56(b)(h) and not section 2.76.

Staff's cost study for the Weddington, Johnson, and Varney Leases follows traditional methodology and indicates that the requested rate is cost justified. Staff's cost study for the Bowles Lease is based on out-of-pocket expenses and indicates that a rate of 34 cents per Mcf would permit Jacobs to recoup all out-of-pocket costs associated with the lease.[1]

Upon consideration of the data submitted by Jacobs and Staff's analysis thereof, we conclude that Jacobs' petition should be granted insofar as it applies to the Weddington, Johnson, and Varney Leases. We will deny relief to Jacobs for gas produced from the Bowles Lease since Staff's cost study indicates that the out-of-pocket cost of operating that lease is less than the 35 cents per Mcf applicable ceiling rate currently being collected by Jacobs.

The Commission orders. (A) The petition for special relief filed by Jacobs in Docket No. RI77-46 is granted insofar as it applies to the Weddington, Johnson, and Varney Leases.

(B) Jacobs is authorized to collect a total rate of 62.85 cents per Mcf for the sale of gas produced from the Weddington, Johnson, and Varney Leases to Columbia effective as of the date of this order or the date of completion of the proposed work, whichever is later, subject to the conditions set forth in paragraph (C) below.

(C) Within 30 days of the effective date specified in paragraph (B) above, Jacobs shall file a statement signed by Columbia setting forth the date the proposed work has been completed to its satisfaction, and within 30 days of the date of this order, Jacobs shall file an amended contract signed by Jacobs and Columbia providing for payment of the rate approved.

(D) The petition for special relief, insofar as it relates to gas produced from the Bowles Lease, is denied.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-5870 Filed 3-7-78; 8:45 am]

APPENDIX A.—*Charles D. Jacobs, docket No. RI77-46, Bowles lease, unit cost of gas (based on out-of-pocket costs)*

Line No. and item (a)	Amount (b)
1. Net working interest volumes:	
2. Gas, thousand cubic feet at 14.73 lb/in ² a [1]	699,119
3. Liquids—barrels [2]	.....
4. Cost of production:	
5. Production expense [3]	$239,365
6. Allocated to liquids	.....
7. Subtotal	239,365
8. Regulatory expense [4]	699
9. Total cost of production	240,064
10. Unit cost of gas (cents per M ft ³):	
11. Cost of production	34.34
12. Production tax	.....
13. Total unit cost	34.34

[1] 798,993 M ft ³ times 0.875 net working interest.
[2] No liquid production is credited back to the lease.
[3] Based on estimated 1978 production expense escalated 5 pct/year for the first 5 yr.
[4] Line 2×0.1¢/M ft ³ per opinion No. 749.

[1] See Appendix A, attached hereto.

[6740-02]

[Docket No. ER78-218]

According to KG&E copies of this filing were served upon Omaha Public Power District and The Kansas Power

Any person desiring to be heard or to make any protest with reference to said petition should on or before

practice and procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in de-

United Gas Pipeline Co. (United) from the G. B. Spradley No. 1 Well, Ramirena North Field, Line Oak County,

medial work or the date of issuance of this order (whichever is later), provided Mueller files within 30 days of

[6740-02]

[Docket No. ER78-218]

KANSAS CITY POWER & LIGHT CO.

Notice of Filing of Rate Schedule

FEBRUARY 28, 1978.

Take notice that on February 16, 1978, Kansas City Power & Light Co. (KCPL) tendered for filing a Municipal Participation Agreement dated January 30, 1978, between KCPL and the city of Baldwin City, Kans., proposed to become effective thirty (30) days after filing. KCPL indicates that this Agreement provides for the interconnection of their systems and rates and charges for certain wholesale service by KCPL to the city.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C., 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 6, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6022 Filed 3-7-78; 8:45 am]

[6740-02]

[Docket No. ER78-225]

KANSAS GAS & ELECTRIC CO.

Notice of Filing

FEBRUARY 28, 1978.

Take notice that Kansas Gas and Electric Co. (KG&E) on February 21, 1978, tendered for filing proposed changes in its Federal Energy Regulatory Commission Electric Service Tariff No. 92.

KG&E states that the filing is a Letter Agreement, Participation Power Service which provides electric power and accompanying energy to be supplied May 1, 1978, through April 30, 1979, to the Omaha Public Power District as a result of the installation of a specific 630 MW steam electric generating unit identified as La Cygne Unit No. 2. KG&E further states that it desires to sell 100 MW of capacity to Omaha Public Power District to reduce its excess reserves. KG&E proposes an effective date of May 1, 1978.

According to KG&E copies of this filing were served upon Omaha Public Power District and The Kansas Power and Light Co.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, and 1.10). All such petitions or protests should be filed on or before March 20, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6023 Filed 3-7-78; 8:45 am]

[6740-02]

[Docket No. RI78-26]

LEEDE EXPLORATION

Notice of Application for Special Relief

MARCH 1, 1978.

Take notice that on January 13, 1978, Leede Exploration (Leede), 516 Building of the Southwest, Midland, Tex. 79701, filed a petition for special relief in Docket No. RI78-26 pursuant to section 2.56a of the Commission's rules of practice and procedure.

Leede, a small producer is seeking special relief from the just and reasonable rates established in Opinion No. 770, as amended, in order to be reimbursed by its purchaser, Northern Natural Gas Co. (Northern) for the higher royalty rates[1] Leede must pay the State of Texas pursuant to the February 25, 1976, Final Judgment No. 243,718 recorded in the Travis County District Court, Texas 53rd Judicial District. The gas involved is produced from State Lease M-42942, University 30 No. 1 Gas Unit, Quito E. Field, Ward County, Tex.; Leede acquired the lease by assignment from Texaco, Inc., on April 1, 1977.

Included in the November 5, 1976 agreement ratifying Gas Purchase Contract with Northern is a provision which states that Northern will reimburse 90 percent of any excess royalty payments as determined by a final, non-appealable order. In this application Leede now requests authorization to collect 90 percent of the "excess in royalty" payments from Northern that it is required to pay to the State of Texas.

[1] Gas royalty of $1.989 MMBtu effective April 1, 1977.

Any person desiring to be heard or to make any protest with reference to said petition should on or before March 23, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6012 Filed 3-7-78; 8:45 am]

[6740-02]

[Docket No. ES78-20]

MONTANA-DAKOTA UTILITIES CO.

Notice of Application

FEBRUARY 28, 1978.

Take notice that on February 17, 1978, Montana-Dakota Utilities Co. (Applicant), a corporation organized under the laws of the State of Delaware and qualified to do business in the States of Minnesota, Montana, North Dakota, South Dakota, and Wyoming, with its principal business office at Bismark, N.D., filed an application with the Federal Energy Regulatory Commission, pursuant to section 204, Part II of the Federal Power Act, seeking an order for authority to issue 750,000 shares of Common Stock, par value $10. The Company presently has issued and outstanding 4,709,476 shares of Common Stock with the par value of $10 per share.

If approved by the appropriate regulatory agencies, the Common Stock will be offered at competitive bidding on March 21, 1978. The price per share to be paid to the Company for the Common Stock will be determined by competitive bidding. The net proceeds from the issuance and sale of the Common Stock are to be used for the repayment of a portion of promissory notes, due not more than one year after the dates of their respective issue, which were (or will be) issued in 1977 and 1978 to provide temporary financing for part of the cost of Applicant's 1977 and 1978 Construction Programs.

Any person desiring to be heard or to protest said application should on or before March 13, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6024 Filed 3-7-78; 8:45 am]

[6740-02]

JOSEPH P. MUELLER

[Docket No. RI77-45]

Order Granting Petition for Special Relief

FEBRUARY 28, 1978.

Before Commissioners: Charles B. Curtis, Chairman; Don S. Smith, Georgiana Sheldon, Matthew Holden, Jr., and George R. Hall.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977 by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

On March 14, 1977, Joseph P. Mueller (Mueller), a small producer, filed a petition for special relief in Docket No. RI77-45 pursuant to section 2.76 of the Commission's General Policy and Interpretations requesting a rate of $1.80 per Mcf for gas sold to United Gas Pipeline Co. (United) from the G. B. Spradley No. 1 Well, Ramirena North Field, Line Oak County, Tex. On October 11, 1977, Mueller amended his petition to reduce the requested total rate to 60 cents per Mcf at 14.65 psia. Mueller's petition covers his own 25 percent working interest in the lease as well as the 75 percent working interest of the Estate of George H. Coates.

Mueller's sale to United is being made under a gas purchase contract dated July 12, 1972, pursuant to Mueller's small producer certificate issued in Docket No. CS71-269. United has agreed to amend the contract to provide for the 60 cents per Mcf rate herein requested by Mueller. Mueller is currently collecting 35 cents per Mcf for the subject gas.

Mueller states that production from the well has dropped below 100 Mcf per day. He therefore proposes to open up two new sands to production which will involve additional drilling, a squeeze job, perforating, and 300 feet of additional tubing. The total estimated cost of this work is $27,324. There is no remaining net book investment or salvage ascribable to this well.

Notice of Mueller's petition was issued on March 29, 1977, and appeared in the FEDERAL REGISTER. A timely petition to intervene was filed by United on April 12, 1977.

Staff estimates that 132,392 Mcf of gas and 397 Bbls of liquids remain to be produced over a period of 5¼ years. Mueller's production expenses are estimated by Staff to be $26,145 and are based on an average of the latest two years' figures which were escalated 5 percent per annum to allow for inflation. Most of the data used by Staff in its cost study was included in Mueller's original filing. In response to a Staff deficiency letter, Mueller filed additional data on May 16, 1977, and supplied further information by telephone on June 15, 1977, and August 12, 1977.

Based on its review of the cost information supplied by Mueller, Staff has determined that the proposed rate is cost supported.[1] Upon consideration of the data submitted and Staff's analysis thereof, we conclude that the proposed rate is justified.

The Commission finds: The petition for special relief filed by Mueller in Docket No. RI77-45 meets the criteria set forth in section 2.76 of the Commission's General Policy and Interpretations.

The Commission orders: (A) For the above-stated reasons, the petition for special relief filed by Mueller in Docket No. RI77-45 is hereby granted. Mueller is authorized to collect from United a total rate of 60 cents per Mcf at 14.65 psia for all gas produced from the G. B. Spradley No. 1 Well effective as of the date of completion of the remedial work or the date of issuance of this order (whichever is later), provided Mueller files within 30 days of said effective date a statement signed by United that the remedial work has been completed to United's satisfaction.

(b) United is permitted to intervene in the above-entitled proceeding, subject to the rules and regulations of the Commission: *Provided, however,* That its participation shall be limited to matters affecting asserted rights and interests specifically set forth in its petition for leave to intervene; and *Provided, further,* that the admission of United in the manner provided shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders entered in this proceeding, and that United agrees to accept the record as it now stands.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[1] See Appendix A, attached hereto.

APPENDIX A—*Schedule 1 of 3, Joseph P. Mueller, docket No. RI77-45*

[Unit cost of gas]

Line No. and item	Amount
1. Net working interest volume	
2. Gas—M ft³ at 14.65 lb/in²a [1]	107,569
3. Liquids—barrels[2]	323
4. Cost of production:	
5. Return on rate base [3]	$7,945
6. DD&A [4]	27,324
7. Production expense [5]	26,145
8. Subtotal	$61,414
9. Allocated to gas [6]	60,051
10. Regulatory expense [7]	108
11. Total cost of production	$60,159
12. Unit cost of production cents per M ft³.	
13. Cost of production [8]	55.93
14. Production tax at 7.5 percent [9]	4.53
15. Total unit cost	60.46

[1] Staff reserve estimate of 132,392 M ft³ times 81.25—pct.
[2] Staff reserve estimate of 397 barrels times 81.25 pct.
[3] Line 11, schedule 3×15 pct times 5¼ yrs.
[4] Applicant's estimate of cost of workover.
[5] Estimate of future production costs based on average of latest 2 yrs' costs, adjusted 5 pct per year.
[6] Line 8 times line 4, schedule 2.
[7] Line 2 times $0.001/M ft³ per opinion No. 749.
[8] Line 11 divided by line 2.
[9] Line 15 times 7.5 pct.

APPENDIX A—*Schedule 2 of 3, Joseph P. Mueller, docket No. RI77-45*

[Allocation of cost]

Line No. and item	Amount
1. Gas—MMBtu [1]	116,174
2. Liquids—MMBtu [2]	2,636
3. Total—MMBtu	118,810
4. Percent allocated to gas [3]	97.78

[1] 107,569 M ft³ times 1.08 MMBtu/M ft³.
[2] 323 bbls. times 5.448 MMBtu/barrels times 1.5 modifier.
[3] Line 1 divided by line 3.

APPENDIX A.—*Joseph P. Mueller, Docket No. RI77-45*

Average investment and annual rate base

Line No. (a)	Year (b)	Annual N.W.I. production[1] (c)	Depreciation[2] (d)	Beginning investment (e)	Final investment (f)	Average investment[3] (g)
1	1	39,165	$9,948	$27,324	$17,376	$22,350
2	2	27,136	6,893	17,376	10,483	13,930
3	3	18,799	4,775	10,488	5,708	8,096
4	4	13,010	3,305	5,708	2,403	4,056
5	5	9,028	2,293	2,403	110	1,256
6	*6	431	110	110		*14
7	Total	107,569	27,324			49,702
8	Annual rate base:					
9	Average annual investment[4]					9,467
10	Average annual working capital allowance[5]					622
11	Total annual rate base					10,089

*3 months only.
[1] Staff estimates times 81.25 pct (N.W.I.).
[2] Col. (c) times depreciation factor of $0.254014 M ft³.
[3] Cols. (e) plus (f) divided by 2.
[4] Col. (g), line 7 divided by 5¼ yrs productive life.
[5] 12.5 pct times line 7, schedule 1 divided by 5¼ yrs.

[FR Doc. 78-5872 Filed 3-7-78; 8:45 am]

[6740-02]

[Docket No. CP78-196]

NORTHERN NATURAL GAS CO.

Notice of Application

MARCH 1, 1978.

Take notice that on February 22, 1978, Northern Natural Gas Co. (Applicant), 2223 Dodge Street, Omaha, Nebr. 68102, filed in Docket No. CP78-196 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain small volume sales measuring stations and the sale of natural gas or direct deliveries of gas in Montana, South Dakota, Minnesota, Iowa, Nebraska, Kansas, Oklahoma, and Texas, to 59 of its right-of-way grantors, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that it has received numerous requests for service from right-of-way grantors whose easements provide for the contractual right to gas service as partial consideration for the easement to construct and operate pipeline facilities across their property. Consequently, Applicant requests authorization to install and operate 52 small volume sales measuring stations in Minnesota, South Dakota, Iowa, Nebraska, Kansas, and Texas which stations are required to make sales of natural gas to customers through its Peoples Division.

The application states that Applicant presently has in operation certain minor sales measuring stations in the State of Oklahoma through which the sale and delivery of natural gas is made to Southern Union Gas Co. (So. Union) pursuant to Rate Schedule X-46 of Applicant's FERC Gas Tariff, original volume No. 2. The application further states that such gas is resold by So. Union to Applicant's right-of-way grantors and others for use as irrigation engine fuel, residential and other high priority uses.

Applicant indicates that one of its pipeline right-of-way grantors located in So. Union's service areas in Oklahoma has requested natural gas service from Applicant's pipeline, and that granting of such request would result in an increase in annual sales to So. Union, under Rate Schedule X-46, of 5,800 Mcf, requiring an increase in the authorized annual sales from 720,709 Mcf to 726,509 Mcf.

It is stated that Applicant presently operates certain pipeline facilities in Hill and Blaine Counties, Mont., for the purpose of gathering and transporting natural gas volumes purchased from the Tiger Ridge and Sherard Areas. Applicant states that it has received requests from 6 individuals located in rural areas of Hill and Blaine Counties, Mont., who, being right-of-way easement grantors, desire natural gas service from Applicant's pipeline. Consequently, Applicant requests authorization to install and operate the required delivery stations and make direct delivery of natural gas volumes to the new Montana customers. Such service would be rendered pursuant to terms of a farm tap service contract between Applicant and the customers, it is said.

Applicant asserts that the small volume industrial, commercial and residential service would provide necessary natural gas volumes for individual rural dwellings for space heating, cooking, water heating and clothes drying applicances; seasonal use by farms as irrigation engine fuel; seasonal use by farms in direct firing of agricultural crop drying equipment and for space heating farm buildings.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 24, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 167.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6025 Filed 3-7-78; 8:45 am]

[6740-02]

[Docket No. CP74-158; CP74-83]

NORTHWEST PIPELINE CORP. AND UTAH GAS SERVICE CO.

Notice of Petition to Amend

MARCH 1, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

Take notice that on February 21, 1978, Northwest Pipeline Corp. (Northwest), 315 East Second South, Salt Lake City, Utah 84111, and Utah Gas Service Co. (Utah Gas), 2334 East Third Avenue, Denver, Colo. 80206 (Petitioners), filed in Docket Nos. CP74-158 and CP75-83 a joint petition to amend the order of May 28, 1974 (FPC), as amended, issued by the Federal Power Commission (FPC) in the instant dockets pursuant to section 7(c) of the National Gas Act so as to authorize the continued exchange of natural gas between Petitioners for an additional 10-year all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

The petition states that Utah Gas, a distributor customer of Northwest, distributes natural gas in the four eastern counties of the States of Utah (Daggett, Uintah, Grand, and San Juan). The petition further states that Utah Gas purchases natural gas at the outlets of the Altonah gas plant in Duchesne County, Utah, and the Bluebell gas plant in Uintah County, Utah, as well as making intermittent purchases from two small producers in Uintah County, Utah. Utah Gas purchases such intrastate gas from the Althonah and Bluebell gas plants pursuant to contracts which are subject to termination in the event these sales become subject to FERC or any successor agency jurisdiction, it is asserted.

It is stated that during the warmer months the intrastate gas purchased by Utah Gas is more than sufficient to meet the demand of its consumers in the Vernal area, and that since Utah Gas has no storage facilities, the surplus gas over and above such demand must either enter Northwest's pipeline near Vernal or be flared unless some other arrangement for the sale of such gas can be made. If the suppliers of Utah Gas are required to file for FERC certificate authorization they will, it is stated, pursuant to the terms of the gas purchase contracts under which Utah Gas purchases such gas, terminate said contracts. Petitioners state that if such termination occurs, Utah Gas would be forced to curtail service to both priority one and two users in the Vernal area during a significant portion of the 1978-79 heating season as well as during heating seasons thereafter, since its firm contract demand from Northwest at the Vernal delivery point is limited to 26,780 therms per day.

It is indicated that pursuant to the FPC order of May 28, 1974, Northwest, at Docket No. CP74-158, and Utah, at Docket No. CP74-83, were authorized to exchange natural gas pursuant to a gas exchange agreement dated September 19, 1973, between Petitioners. It is further indicated that pursuant to the FPC order of June 2, 1977, Petitioners were authorized to exchange natural gas for an extended term ending May 1, 1978. The order of June 2, 1977, also continued for the extended term the waiver of the Commission's accounting and reporting requirements and the exemption from Commission jurisdiction of the facilities, transportation, and sales by suppliers of gas to Utah Gas and of the existing facilities, transportation of gas and sales by Utah Gas. Accordingly in the absence of a further Commission authorization to exchange gas between Petitioners, the subject exchange of gas must be terminated on May 1, 1978, it is stated.

Petitioners state that they have entered into a gas exchange agreement dated February 7, 1978, providing for the exchange of gas having an equal number of therms at the following delivery points and in the manner set forth below;

1. Utah Gas delivers gas to Northwest's pipeline in the vicinity of Vernal, Utah, at an existing delivery point in section 4-5S-23E in Uintah County, which delivery point is owned, operated and maintained by Northwest.

2. The gas is redelivered to Utah Gas on a volumetric exchange basis at four existing delivery points on Northwest's pipeline in San Juan County and Grand County, Utah. These redelivery points are upstream from the delivery point in Unitah County, Utah, referred to in 1 above at the following locations:

San Juan County—Monticello Meter Station, section 25-32S-25E; Rio Algom Meter Station, section 35-29 1/ 2S-23E.

Grand County—Moab Meter Station, section 2-26S-21E; Uranium Reduction Meter Station, section 27-25S-21E.

It is indicated that if Utah Gas is unable to carry out the proposed exchange arrangement with Northwest so as to receive gas from Northwest at the Uranium Reduction Meter Station in Grand County, the Atlas Minerals uranium processing plant at that location would probably be closed for the entire winter of 1978-79. It is further indicated that since Utah Gas currently makes approximately 40 percent of its gas purchases from intrastate sources, the loss of these sources coupled with curtailments in the Vernal area and a loss of sales to industrial customers would result in retail prices to residential customers being increased by approximately 33 percent or 9.61 cents per therm.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 24, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing

therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6026 Filed 3-7-78; 8:45 am]

[6740-02]

[Docket No. CP78-197]

NORTHWEST PIPELINE CORP.

Notice of Application

MARCH 1, 1978.

Take notice that on February 22, 1978, Northwest Pipeline Corp. (Applicant), 315 East Second South, Salt Lake City, Utah 84111, filed in Docket No. CP78-197 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain small volume sales measuring stations and the sale of natural gas or direct deliveries of gas in Montana, Wyoming, Idaho, Utah, Nevada, Oregon, Washington, Arizona, New Mexico, Colorado, and California, to 59 of its right-of-way grantors, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that it has received numerous requests for service from right-of-way grantors whose easements provide for the contractual right to gas service as partial consideration for the easement to construct and operate pipeline facilities across their property. Consequently, Applicant requests authorization to install and operate 52 small volume sales measuring stations in Montana, Wyoming, Idaho, Utah, Nevada, Oregon, Washington, Arizona, New Mexico, Colorado, and California which stations are required to make sales of natural gas to customers through its Northwest Division.

The application states that Applicant presently has in operation certain minor sales measuring stations in the State of Oklahoma through which the sale and delivery of natural gas is made to Southern Union Gas Co. (So. Union) pursuant to Rate Schedule X-46 of Applicant's FERC Gas Tariff, original volume No. 2. The application further states that such gas is resold by So. Union to Applicant's right-of-way grantors and others for use as irrigation engine fuel, residential and other high priority uses.

Applicant indicates that one of its pipeline right-of-way grantors located in So. Union's service areas in Oklahoma has requested natural gas service from Applicant's pipeline, and that granting of such request would result in an increase in annual sales to So. Union, under Rate Schedule X-46, of 5,800 Mcf, requiring an increase in the authorized annual sales from 720,709 Mcf to 726,509 Mcf.

It is stated that Applicant presently operates certain pipeline facilities in Hill and Blaine Counties, Mont., for the purpose of gathering and transporting natural gas volumes purchased from the Tiger Ridge and Sherard Areas. Applicant states that it has received requests from 6 individuals located in rural areas of Hill and Blaine Counties, Mont., who, being right-of-way easement grantors, desire natural gas service from Applicant's pipeline. Consequently, Applicant requests authorization to install and operate the required delivery stations and make direct delivery of natural gas volumes to the new Montana customers. Such service would be rendered pursuant to terms of a farm tap service contract between Applicant and the customers, it is said.

Applicant asserts that the small volume industrial, commercial and residential service would provide necessary natural gas volumes for individual rural dwellings for space heating, cooking, water heating and clothes drying applicances; seasonal use by farms as irrigation engine fuel; seasonal use by farms in direct firing of agricultural crop drying equipment and for space heating farm buildings.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 24, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 167.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any party wishing to

before April 1, 1978. Based on estimated sales in the 12-month period ending December 31, 1977, this increase in

PSD permits should be conducted in an orderly manner and that review activity within the Regional offices

v. *Costle*, which specifies that EPA is not to issue any PSD permits (not in conformity with section 165) pending

therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6013 Filed 3-7-78; 8:45 am]

[6740-02]

[Project No. 137]

PACIFIC GAS & ELECTRIC CO.

Notice of Application for Approval of Change in Land Rights

FEBRUARY 28, 1978.

Public notice is hereby given that an application was filed on July 12, 1977, under the Federal Power Act (16 U.S.C. §§ 791a-825r), by Pacific Gas & Electric Co. (Correspondence to: Mr. W. M. Gallavan, Vice President-Rates and Valuation, Pacific Gas & Electric Co., 77 Beale Street, San Fransisco, Calif. 94106) for Commission approval of a change in land rights at FERC Project No. 137, known as the Mokelumne Project. Project No. 137 is located on the North Fork Mokelumne River in Alpine, Amador, and Calaveras Counties, Calif.

Pacific Gas & Electric Co. proposes to lease a 10-foot wide strip of project land to the Central Amador County Water Agency (Agency) to permit the Agency to divert up to 2,200 acre-feet of water per year through a pipeline from the Tiger Creek Afterbay, a part of Project No. 137, for use in the Agency's Central Amador Water Project. The total area of Project No. 137 land involved would be approximately 0.44 acre.

Any person desiring to be heard or to make protest with reference to said application should, on or before May 11, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR § 1.8 or § 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

The application is on file with the Commission and is available for public inspection.

The public should take further notice that on October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the Federal Power Commission on the date the DOE Act takes effect shall not be affected, and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued, and further actions shall be taken by the appropriate component of DOE now responsible for the functions under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October, 1, 1977, by the Secretary of Energy and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6014 Filed 3-7-78; 8:45 am]

[6740-02]

[Docket No. RI78-31]

DAVID A. SCHLACHTER

Notice of petition for Special Relief

MARCH 1, 1978.

Take notice that on February 9, 1978, David A. Schlachter (Petitioner), P.O. Box 8278, Dallas, Tex. 75205, filed a petition for special relief in Docket No. RI78-31 pursuant to section 2.76 of the Commission's Rules.

Petitioner seeks a rate increase to $1.70 per Mcf. Currently Petitioner sells gas at the authorized rate of $0.750765 per Mcf. Petitioner states that due to increased operating cost he will operate at a loss if the rate increase is not granted.

Any person desiring to be heard or to make any protest with reference to said petition should on or before March 24, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6017 Filed 3-7-78; 8:45 am]

[6740-02]

[Docket Nos. RP75-13, etc.]

TENNESSEE GAS PIPELINE CO.

Notice of Filing of Stipulation and Agreement

MARCH 1, 1978.

Take notice that on February 24, 1978, Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Tennessee) (Docket Nos. RP75-13, RP75-113, RP76-137, and RP77-62) filed a Stipulation and Agreement which reflects a settlement of the issues in Docket Nos. RP75-13, RP75-113, and RP76-137 and certain issues in Docket No. RP77-62. Tennessee states that all parties to this proceeding, including the Commission Staff, either concur in or do not object to this Stipulation. Tennessee requests that the Commission promptly approve the Stipulation without condition in order that it can become effective as soon as possible.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before March 17, 1978. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6027 Filed 3-7-78; 8:45 am]

[6740-02]

[Docket No. RP76-35]

UTAH GAS SERVICE CO.

Notice of Proposed Change in FERC Gas Tariff

MARCH 1, 1978.

Take notice that Utah Gas Service Co., on February 13, 1978, tendered for filing a Notice of Rate Change pursuant to the Purchased Gas Cost Adjustments provision of its Special Rate Schedule No. X-1 under which surplus gas is sold to Northwest Pipeline Corp.

The purpose of the filing according to Utah Gas Service Co. is to recover the jurisdictional portion of the increase in purchased gas costs which have or will become effective on or before April 1, 1978. Based on estimated sales in the 12-month period ending December 31, 1977, this increase in revenues on an annual basis attributable to the jurisdictional sales would be $3,558 subject to Btu adjustment. In addition, the filing provides for a surcharge to permit the recovery of an additional amount of $84,280 which is the balance of Account No. 191, Jurisdictional Portion of Unrecovered Gas Purchase Cost, at December 31, 1977.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 17, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition ot intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6028 Filed 3-7-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 864-1]

PREVENTION OF SIGNIFICANT AIR QUALITY DETERIORATION

Permit Review

AGENCY: Environmental Protection Agency.

ACTION: Notice relating to review of PSD Permit Applications.

SUMMARY: This notice relates to the March 1 deadline for reviewing applications to construct under the Agency's existing prevention of significant deterioration (PSD) regulations. By final Agency action dated November 3, 1977 (42 FR 57459), EPA advised the public that it would not apply the review requirements of section 165 of the Clean Air Act Amendments of 1977 on an immediately effective basis. Also on that date, in related actions, the Agency proposed to apply section 165 to certain PSD applicants which had either failed to obtain a PSD permit prior to March 1, 1978, or had not commenced construction prior to December 1, 1978 (see 42 FR 57471 and 42 FR 57479). By memorandum dated February 22, 1978, EPA's regional offices were advised that review of PSD permits should be conducted in an orderly manner and that review activity within the Regional offices should not be influenced, one way or the other, by the approach of the March 1 date. As March 1 grew closer, the Agency was required to made decisions regarding requests for extensions of the public comment period in the case of certain applications. To avoid any possible inequities in such situations, the Administrator, on February 28, 1978, advised each of EPA's Regional offices that EPA's existing PSD regulations would continue to apply in cases where, by March 1, 1978, the normal comment period would have ended and EPA review of a permit would have been completed but for an extension of the public comment period in response to a valid request for additional comment time.

FOR FURTHER INFORMATION CONTACT:

Darryl D. Tyler, Chief, EPA Standards Implementation Branch (MD-15), Research Triangle Park, N.C. 27711, phone 919-541-5425.

SUPPLEMENTARY INFORMATION: The text of the Administrator's statement, as communicated to the Regional offices, follows:

As some of you are aware, significant public comment has been generated in the case of certain sources that have submitted applications for PSD permits. In some of these cases, interested persons have requested additional time to comment on the propriety of granting the permit. While I do not believe that the situations are many, I am concerned about the completion of any PSD review of any case where an extension of the comment period has been requested on meritorious grounds. Accordingly, by this notification I am announcing a policy change regarding the March 1 PSD deadline. This policy change will be applicable only to those situations where the normal public comment period has ended and EPA review of a permit would have been completed by March 1, were it not for a request for additional comment time requested by interested parties.

In the case of any such situation, described above, the comment period involved may be extended as provided by EPA's current PSD regulations. Where such an extension is granted, the March 1 date now designated as the effective date of the new PSD requirements will not apply to that permit application. Instead, the permit application may continue to be processed (and granted or denied) under EPA's current PSD regulations.

I intend to put a notice in the FEDERAL REGISTER to the above effect. I wish to re-emphasize that the policy set forth above only applies to those situatilons where review would have been completed by March 1 absent our action granting a request for additional comment time.

Related to the above is the fact that Judge Parker of the District Court for the District of Columbia has issued an order, dated February 24, 1978, in the case of *Environmental Defense Fund v. Costle*, which specifies that EPA is not to issue any PSD permits (not in conformity with section 165) pending further order from that Court. Instead, EPA is to set up a logging system noting the date when it completes its PSD review. If and when issued, PSD orders subject to Judge Parker's order will be considered issued as of the date marked.

During the pendancy of the District Court order, EPA will process those applications subject to the Administrator's February 28th determination in the same way it is processing all other PSD permit applications that do not satisfy section 165. Accordingly, once review is completed in any such case, the permit will be so marked, but will not be released pending further order of the District Court.

Dated: March 2, 1978.

DAVID G. HAWKINS,
Assistant Administrator for Air and Waste Management.

[FR Doc. 78-5979 Filed 3-7-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20290; FCC 78-147]

AERONAUTICAL MOBILE SERVICE

Order Regarding Single Sideband Techniques; Proceeding Terminated (42 FR 3705)

Adopted: February 27, 1978.

Released March 1, 1978.

In the matter of preparation for a proposed International Telecommunication Union World Administrative Radio Conference on the Aeronautical Mobile (R) Service to review and revise appendix 27 of the international radio regulations pertaining to the Aeronautical Mobile (R) Service, as necessary, to provide for the possibility of adopting single sideband techniques.

By the Commission:

1. The Commission released a third notice of inquiry in the above-captioned proceeding on December 10, 1976 (FCC 76-1077).

2. Following receipt of comments in response to the third notice, the Commission forwarded its proposals for changes to the international radio regulations to the Department of State. Because those proposals are not substantively different from those set forth in the third notice and because the 1978 Aeronautical WARC is now in session, it is appropriate to terminate this inquiry. The Commission appreciates the participation of the public throughout the process preparatory to the 78 Aeronautical WARC.

3. Accordingly, *It is ordered*, That

the inquiry in Docket 20290 is terminated.

FEDERAL COMMUNICATIONS

tivities of H. F. International, an organization which advocated and promoted illegal CB radio operation.

operator license to the Commission in Washington, D.C., before the expiration of 30 days.[2] (See enclosure 2.)

Dated: ———, 1978.

CHARLES W. WILSON, JR.,
Respondent.

ton, D.C., you may request that the hearing be near your residence. Such request should be supported by whatever facts you feel necessary.

2. RCA Americom states that it has a firm requirement from a customer to utilize two part-time transponders and

the inquiry in Docket 20290 is terminated.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-6069 Filed 3-7-78; 8:45 am]

[6712-01]

[SS Docket Nos. 78-76; 78-77; 78-78]

CHARLES W. WILSON, JR.

Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: February 28, 1978.

Released: March 3, 1978.

In the matter of revocation of license of Charles W. Wilson, Jr., 7675 Rotherton Way, Sacramento, Calif. 95823; licensee of station WB6VMB in the amateur radio service, SS Docket No. 78-76; suspension of license of amateur novice class operator licensee, SS Docket No. 78-77; and application for technician class amateur radio operator license, SS Docket No. 78-78.

The Chief, Safety and Special Radio Services Bureau, has under consideration the license for amateur radio station WB6VMB, held by Charles W. Wilson, Jr. Also under consideration is Wilson's novice class operator license and his application for a technician class operator license.

On December 8, 1977, an initial decision (FCC 77D-63) was released in Docket No. 21123, which revoked Wilson's license for citizens band radio station KDZ-0878, effective January 27, 1978. The initial decision concluded that on March 19, 1976, Wilson operated his CB radio on the frequency 27.425 MHz, a frequency outside the CB service, without a license, in wilful violation of section 301 of the Communications Act of 1934, as amended.

The initial decision concluded that Wilson failed to make his radio station available for inspection by Commission engineers on March 20, 1976, in wilful violation of § 95.103 of the Commission's Rules.[1] The decision also concluded that Wilson did not identify his radio transmissions on March 19, 1976, by call sign, but instead used the designation "X-Ray 4203," in wilful violation of § 95.95(c) of the Commission's rules.

[1] Certain sections of the Commission's rules have been renumbered. The sections cited are shown as they were numbered on the date of the radio operation.

The initial decision further concluded that Wilson had modified his CB equipment to enable him to transmit on frequencies not authorized for the CB service, and that he possessed various equipment which was not permissible for use under a CB license. It was concluded that Wilson had used this equipment for participation in the activities of H. F. International, an organization which advocated and promoted illegal CB radio operation.

Section 312(a)(4) of the Communications Act of 1934, as amended, provides that wilful or repeated violations of the Commission's rules or the Communications Act are grounds for revocation of the station license.

Accordingly, *It is ordered*, pursuant to section 312 (a)(4) and (c) of the Communications Act of 1934, as amended, and § 0.331 of the Commission's rules, that Wilson show cause why the license for Amateur Radio Station WB6VMB should not be revoked, and appear and give evidence in respect thereto at a hearing to be held at a time and place before an Administrative Law Judge, to be specified by subsequent order. (See enclosure 1.)

It is further *Ordered*, under authority contained in section 303(m)(1)(A) of the Communications Act and § 0.331 of the rules that the novice class amateur operator license of Charles W. Wilson, Jr., is suspended for the remainder of the license term.

It is further *Odered*, That, pursuant to section 309(e) of the Communications Act and §§ 1.973(b) and 0.331 of the rules, that Wilson's application for a technician class amateur operator license is designated for hearing at a time and place to be specified by subsequent Order upon these issues:

(1) To determine the effect of the initial decision in docket 21123 upon Wilson's qualifications to be a Commission licensee.

(2) To determine in light of the evidence adduced under issue (1), whether Wilson possesses the requisite qualifications to be a licensee of the Commission.

(3) To determine, in light of the foregoing issues, whether the public interest, convenience and necessity would be served by a grant of the technician class operator application of Charles W. Wilson, Jr.

It is further *Ordered*, That the burden of proceeding with the introduction of evidence and the burden of proof for revocation of station license (SS Docket No. 78-76) and suspension of operator license (SS Docket No. 78-77) is on the Bureau, pursuant to section 312(d) of the Communications Act; and the burden of introduction of evidence and the burden of proof for grant of the application (SS Docket No. 78-78) is on the respondent, pursuant to section 309(e) of the Act.

It is further *Ordered*, That, in order to obtain a hearing on the suspension matter, Wilson shall within 30 days after receipt of the suspension order, make a written request for a hearing, whereupon the suspension will be held in abeyance until the conclusion of the proceedings on the suspension; that if Wilson elects not to make such a request, he shall mail his amateur radio operator license to the Commission in Washington, D.C., before the expiration of 30 days.[2] (See enclosure 2.)

It is further *Ordered*, That, in order to obtain a hearing on his application, Wilson, in person or by attorney, shall within 30 days of the mailing of this order, file with the Commission in triplicate a written appearance stating an intent to appear on a date fixed for hearing to present evidence on the issues specified in the foregoing paragraph.[3] Failure to file a written appearance within the time specified will result in the dismissal of the application with prejudice. (See enclosure 3.)

It is further *Ordered*, pursuant to the provisions of § 1.227 of the Commission's rules, that the proceedings on the order to show cause, the suspension and the application are consolidated for hearing.

It is further *Ordered*, That a copy of this order shall be sent by certified mail—return receipt requested and by regular mail to the licensee at his address of record as shown in the caption.

Chief, Safety and Special Radio Services Bureau.

GERALD M. ZUCKERMAN,
Chief, Legal, Advisory and Enforcement Division.

Enclosures.

ENCLOSURE 1

SECRETARY, FEDERAL COMMUNICATIONS COMMISSION, WASHINGTON, D.C.

In the matter of Revocation of License of Charles W. Wilson, Jr., 7675 Rotherton Way, Sacramento, Calif. 95823, Licensee of Station WB6VMB in the Amateur Radio Service, SS Docket No. 78-76.

Suspension of License of Charles W. Wilson, Jr., 7675 Rotherton Way, Sacramento, Calif. 95823, Amateur Novice Class Operator Licensee, SS Docket No. 78-77.

Application of Charles W. Wilson, Jr., 7675 Rotherton Way, Sacramento, Calif. 95823, for Technician Class Amateur Radio Operator License, SS Docket No. 78-78.

RESPONDENT'S REPLY TO ORDER TO SHOW CAUSE WHY AMATEUR RADIO STATION LICENSE WB6VMB SHOULD NOT BE REVOKED

In this matter, Respondent takes the action indicated below:

☐ 1. Respondent will appear and give evidence at the hearing.

☐ 2. Respondent waives his right to a hearing and does not submit a statement.

☐ 3. Respondent waives his right to a hearing and submits the attached statement.[3]

[2] The 15-day time limit of section 1.85 of the rules and the 20-day time limit of section 1.221(c) are waived.

[3] If this statement is intended to be in mitigation, it should include information as to (1) the corrective action, if any, that has been taken in connection with each of the related violations; (2) the reasons, if any, why you believe that your radio station license should not be revoked.

Dated: ————, 1978.

CHARLES W. WILSON, JR.,
Respondent.

ENCLOSURE 2

SECRETARY, FEDERAL COMMUNICATIONS COMMISSION, WASHINGTON, D.C.

In the matter of Revocation of License of Charles W. Wilson, Jr., 7675 Rotherton Way, Sacramento, Calif. 95823, Licensee of Station WB6VMB in the Amateur Radio Service, SS Docket No. 78-76.

Suspension of License of Charles W. Wilson, Jr., 7675 Rotherton Way, Sacramento, Calif. 95823, Amateur Novice Class Operator Licensee, SS Docket No. 78-77.

Application of Charles W. Wilson, Jr., 7675 Rotherton Way, Sacramento, Calif. 95823, for Technician Class Amateur Radio Operator License, SS Docket No. 78-78.

RESPONDENT'S REPLY TO ORDER SUSPENDING NOVICE CLASS AMATEUR RADIO OPERATOR LICENSE

In this matter, Respondent takes the action indicated below:

☐ 1. Respondent will appear at a hearing on the suspension order.

☐ 2. Repondent does not desire a hearing on the suspension order, and encloses his Amateur Radio Operator license to be held by the Commission for duration of the suspension.

Dated: ————, 1978.

CHARLES W. WILSON, JR.,
Respondent.

ENCLOSURE 3

SECRETARY, FEDERAL COMMUNICATIONS COMMISSION, WASHINGTON, D.C.

In the matter of Revocation of License of Charles W. Wilson, Jr., 7675 Rotherton Way, Sacramento, Calif. 95823, Licensee of Station WB6VMB in the Amateur Radio Service, SS Docket No. 78-76.

Suspension of License of Charles W. Wilson, Jr., 7675 Rotherton Way, Sacramento, Calif. 95823, Amateur Novice Class Operator Licensee, SS Docket No. 78-77.

Application of Charles W. Wilson, Jr., 7675 Rotherton Way, Sacramento, Calif. 95823, for Technician Class Amateur Radio Operator License, SS Docket No. 78-78.

RESPONDENT'S REPLY TO THE ORDER DESIGNATIONG TECHNICIAN CLASS OPERATOR APPLICATION FOR HEARING

In the matter, Respondent takes the action indicated below:

☐ 1. Respondent will appear on the date fixed for the hearing and present evidence on the issues specified in the order of designation.

☐ 2. Respondent will not present evidence on the issues specified in the order of designation and understands that, as a result, his application will be dismissed with prejudice.

Dated: ————, 1978.

CHARLES W. WILSON, JR.,
Respondent.

EXPLANATION OF PRODCEDURES

1. *Revocation.* Section 1.91 of the Commission's Rules provides that in order to have a hearing before an Administrative Law Judge, you have 30 days from the Issue date of this Order in which to state that you will appear and present evidence on the matters specified in the Order. If you are unable to appear at a hearing in Washington, D.C., you may request that the hearing be near your residence. Such request should be supported by whatever facts you feel necessary.

You right to a hearing is waived if you (1) fail to file a timely appearance, or (2) file within 30 days a statement waiving the right to a hearing. When hearing is waived, you may submit a statement denying or seeking to mitigate or justify the matters alleged in the Order to Show Cause. The Chief Administrative Law Judge will then certify the case to the Commission. The matter wil be handled by the Chief, Safety and Special Radio Services Bureau, who will determine whether a revocation order should be issued or the matter should be dismissed. This determination will be made using all information available, including statements you have filed and your past violation record. See Enclosure 1.

2. *Suspension.* If you want a hearing on the suspension you have 30 days from the Issue date in which to request it in writing. Section 1.85 of the Rules provides that if you have a hearing, the suspension will be held in abeyance until the conclusion of the proceedings. If yu do not want a hearing, the suspension will go into effect in 30 days, and during that 30 days you must send you operator license to the Commission to hold during the suspension. See Enclosure 2.

3. *Application.* In order to have a hearing on you application, you have 30 days from the Issue date of this Order to request it. Section 1.221(c) of the Rules provides that if you do not request a h earing, the application will be dismissed with prejudice. See Enclosure 3.

[FR Doc. 78-6070 Filed 3-7-78; 8:45 am]

[6712-01]

[CC Docket No. 78-68; Transmittal No. 61; FCC 78-120]

RCA AMERICAN COMMUNICATIONS, INC.

Memorandum Opinion and Order Instituting Investigation

Adopted: February 14, 1978.

Released: March 3, 1978.

In the matter of RCA American Communications, Inc., Revisions to Tariff FCC No. 1: Fixed Term Transponder Service.

By the Commission:

1. We here consider revisions to RCA American Communications, Inc.'s (RCA Americom) Tariff FCC No. 1 filed on November 1, 1977, to become effective February 23, 1978, the Petition for Suspension and Investigation of these revisions filed by The Western Union Telegraph Co. (WU) on November 28, 1977, and RCA Americom's Reply thereto. By the instant revisions, RCA Americom proposed new rates and regulations for transponder service which will be available on a part-time basis on two unprotected, non-preemptible transponders.[1]

[1] As used here, the term "unprotected transponder" refers to transponders provided without reserve or backup capability for use in the event of transponder failure. The term "non-preemptible" means service over a transponder will not be preempted for higher priority service except for certain emergency situations (e.g., a national emergency).

2. RCA Americom states that it has a firm requirement from a customer to utilize two part-time transponders and two associated terrestrial uplinks located at the company's Vernon Valley, N.Y., earth station. Under this tariff each transponder will be available for use 63 hours per week or an average of 9 hours per day, over the six-year commitment term. The proposed service will be offered at rates which are graduated over the fixed term, i.e., from $62,500 per month in year 1, to $137,500 in year 6. In addition, RCA Americom's proposal has other optional provisions to be used in conjunction with this service, which include an occasional overtime rate of $190/hr. for contiguous hours and $290/hr. for non-contiguous time. Also, a customer may use the company's microwave link operated between the customer's service point and carrier's earth station at the rate of $7,500/month/channel. Finally, the proposal requires a substantial charge for premature termination of the six-year service obligation, i.e., $1.25 million during the first 48 months and $750 thousand during the 5th year of service.

CONTENTIONS OF THE PARTIES

3. WU raises what it characterizes as deficiencies in RCA Americom's filing which require suspension and an evidentiary investigation into the lawfulness and propriety of these tariff revisions. Among these are: (1) that this part-time transponder service has many of the same characteristics of the television services already offered by RCA Americom and "* * * appears to be a case of like services being offered under different schedules.";[2] (2) that an escalating rate level is proposed which appears to have been questioned by a prior Commission ruling in connection with a somewhat similar WU tariff provision;[3] (3) that RCA Americom fails to explain or justify its reliance on the allocation of 60 percent of the costs of the carrier's terrestrial and space facilities to this service when the service will constitute only 37.5 percent of the usage of the facilities; and (4) that RCA Americom has failed to explain the costs or the rates of its newly established tape editing and playback facility and its relationship to this proposed communications service.

[2] WU's Petition p. 9. While not actually stated, we assume WU is alleging a violation of section 202(a) of the Communications Act, 47 U.S.C. § 202(a), which prohibits unreasonable discrimination among like communication services.

[3] WU's Transmittal No. 7314. See FCC 77-782, released November 22, 1977.

4. In reply, RCA Americom initially argues that although the current primary use of its transponder services is

itself does not opposed such a concept. Finally, the carrier contends that this "grow with" rate structure was devised

ment, this service does not usually include use of the carrier's terrestrial fa-

different rates without justification for the differences. Therefore, we require further investigation into these

It appears from any reasonable construction of paragraph 4.6.2(D) that when a customer terminates this obli-

first three years, we believe the public interest is best served by not suspend-

4. In reply, RCA Americom initially argues that although the current primary use of its transponder services is for television signals and related systems, there are potential technical differences between television service and transponder service. RCA Americom states in its Reply at page 2:

> Television service is provided under technical specifications contained in the tariff. As long as RCA Americom is able to meet these specifications, it may use the transponder over which television is provided for other purposes. Indeed, we expect in the near future to be able to provide two television channels over one transponder. If the customer takes transponder service, however, he receives the entire bandwidth and power of the transponder • • • it has been assumed in the cost support for television service that it occupies the entire transponder and the costs assigned accordingly.

But the primary distinguishing factor between transponder and television services, RCA Americom states, has been the length of service commitment, i.e., television service for a one-year term and transponder service on a six-year basis. RCA Americom then states that if the Commission is concerned with the classification of the instant service it has no objection to reclassifying the service under the tariff's television provisions "• • •as long as the date on which service is available is not affected." (Reply, footnote p. 3.) The carrier also contends that the § 61.38 information[1] supplied indicates that the rates are consistent with its previous filings and are cost supported.

5. With regard to WU's second contention, RCA Americom states that its part-time transponder offering is structured so that the rates "grow" over the six-year term corresponding to the expected growth in the customer's business. The similar tariff provisions in WU's tariff filing (Long Term Multi-Schedule television service) which the Commission questioned, it argues, proposed two different offerings with a three-year commitment; one was a 5-hour minimum per day rate which escalated over the three-year period and the other a single rate per hour based on a minimum for each of the three years. RCA Americom argues that the Commission questioned only why the rates for the former escalated while the rates for the latter remained constant. Its tariff does not suffer from this defect, RCA Americom contends, for it has reserved the escalating rate structures for the long-term customers and flat rates for short-term customers. The Commission did not say that the escalating rate, per se, was questionable, RCA Americom states, and even WU itself does not opposed such a concept. Finally, the carrier contends that this "grow with" rate structure was devised as a means of permitting customers to take advantage of satellite technology while their market is building, and while the rate structure results in a considerable revenue deficiency during the first two years, all expenses are nonetheless covered and some profit contribution is achieved. In subsequent years the revenue requirement is exceeded and an average 12.3 percent return on investment is achieved over the full six-year period.

6. RCA Americom states further that its use of a 60 percent cost allocation factor, which accounts for some prime time use of the transponders, is reasonable and is consistent with its past filings. While mathematically the nine hours committed to each part-time transponder represents only 37.5 percent of a 24-hour day, the relative value of the different hours during these periods are different according to RCA Americom. This increase from 37.5 percent to 60 percent allocation was arrived at by means of its business judgement based on the reasonable expectations of its experienced marketing people, and RCA American restates that it believes this approach is reasonable.

7. WU's remaining contention concerning its obligation under § 61.38 (supra) to provide support information for its tape editing and playback facility is misplaced, RCA Americom contends, because the Commission's rules do not call for information concerning its non-common carrier activities. The carrier states:

> • • • RCA Americom Services, Inc., (is) a wholly-owned subsidiary of RCA Americom that was incorporated to provide services related to communications but of a non-common carrier nature.[2] • • •

Discussion

Like Communications Services:

8. Transponder service has generally been used by most carriers to denote the actual space segment facility which the carrier leases to its customer. In the transponder service, a customer is free to use the transponders for any number of different communications signals, including television and is limited only by the bandwidth and power of the transponder itself or the technical specifications within the carrier's tariff. Since transponders pertain only to the carrier's space segment, this service does not usually include use of the carrier's terrestrial facilities.

9. Television service on the other hand, usually involves the transmission of video and associated audio channels and generally denotes a single purpose service offering. Unlike transponder service, television service comtemplates an end-to-end service arrangement which includes both transmission (or uplink) channels, reception (or downlink) channels and the testing and monitoring equipment located at either the telephone company's or the carrier's operating center. While television service customers may provide downlink channels through their receiving earth stations, the customer is normally required to use the carrier's uplink facilities (i.e., to use the carrier's transmit earth station and entrance link). The rate elements for television service then reflect both terrestrial and space segment revenue requirements. As we view RCA Americom's proposal, it has combined use of both space segment facilities and terrestrial uplink facilities with its transponder service so that there is little apparent difference in this regard between this part-time transponder and its television service offerings.

10. The essential element in holding tariff provisions in violation of the section 202(a) prohibition against unreasonable discrimination between like services is that there be two like services each having different rates or regulations without adequate justification for the differences. It previously has been determined that one test for determining whether two services are "like" is whether they differ in "any material functional respect."[3] Thus, even if two services use a different transmission technology, they may be like services if they are functionally equivalent. We are persuaded that even though there are some potential technical differences between transponder service and television service, the part-time transponder services proposed here will be used solely for the provision of television service. However, we are unable to make the determination at this time of whether this service is or is not functionally equivalent to the carrier's other part-time television services. The proposed part-time transponder service is sufficiently similar to the carrier's other television service, we believe, to raise substantial questions of whether these are in all practical respects "like" communications services, within the meaning of section 202(a) of the Act and, if so, whether they are being offered at

[1] This section requires the filing carrier to supply the supporting cost information and other material necessary to evaluate tariff filings. 47 CFR 61.38.

[2] The carrier states that RCA Americom Services, Inc. a non-common carrier facility, will provide video-taping, production editing and playback services, upon request, to program distributors in the cable television, broadcast and closed circuit TV industries independent of its tariffed services. (Reply p. 8.)

[3] *American Trucking Association, Inc.* v. FCC 377 F. 2d 121, 127 (D.C. Cir. 1967), cert. denied 386 U.S. 943 (1967).

different rates without justification for the differences. Therefore, we require further investigation into these and the other questions discussed below in the context of an evidentiary hearing.

Escalating Rate Structure:

11. In our recent decision in Western Union (FCC 77-782) (supra) we questioned WU's escalating rate structure but we did not hold it ulawful per se. Included in the questions raised for subsequent investigation in that proceeding, we emphasized at para. 43:

> WU must • • • (3) provide us with justification for rate plateauing in the first two years of (its) Program Distribution Channels • • •

We have consistently maintained that the cost of providing service constitutes the most reliable criterion available for determining just, reasonable and non-discriminatory rates.[1] Under limited circumstances, however, the Commission has been willing to accept other ratemaking factors which depart from strict cost of service principles in order to further our statutory objectives.[2] Nonetheless, we believe that a rate structure which is based on a class of customers' demand or ability to pay, such as RCA Americom apparently proposes, appears to be discriminatory and unless fully justified and shown to be reasonable may be in violation of section 202(a) of the Act (supra).

Termination Charges:

12. In addition to the other questions raised by WU regarding the carrier's cost allocation and non-common carrier activities, we believe that RCA Americom has failed to supply us with any meaningful cost support material which justifies the "Termination of Obligation" charges contained in paragraphs 4.6.2(D) of its revision. This provision states that:

> The customer may cancel part-time daily service at any time, upon 30 days prior written notice to the Company, based on the following termination obligation.

Duration of service	*Termination charge*
0 to 48 months	$1,250,000
48 to 60 months	750,000

> The cancellation of service shall not relieve the customer from its liability to pay for all service provided by the company through and including the date of disconnection.

It appears from any reasonable construction of paragraph 4.6.2(D) that when a customer terminates this obligation, he must not only pay for service rendered through the date of termination, but also pay $1.25 million if such termination occurs within the first 4 years and $750 thousand if termination occurs within the 5th year. RCA Americom's single explanation in support of these charges is that "Termination Liabilities are structured to insure that the Company meets its average revenue requirement." (Support material p. 6). We note that this charge appears to go beyond any reasonable costs incurred by the carrier as a result of the early termination of service and may include a return for services not rendered. We are equally concerned that the lengthy service commitment offered in conjunction with this substantial charge for early termination could severely restrict the customer's choice of service alternatives offered by other competing carriers and thus may have an undesirable effect on competition among carriers. Therefore, these provisions are highly suspect under the standards of section 201(b) of the Act[4], which prohibits unjust and unreasonable charges and regulations.

Other:

13. WU's remaining contention that RCA Americom's support material should have included the impact of its newly established non-common carrier affiliate RCA Americom Services, Inc., is erroneous and our rules do not require such information. In addition, while we do question the principle of RCA Americom's use of a weighted percentage of costs to reflect peak-hour pricing, because of the other questions raised by its filing, we will leave the question of the reasonableness of this factor to the Administrative Law Judge's initial decision.

Conclusions

14. Upon a careful analysis of WU's contentions, the RCA Americom pleadings and on our own examination of the proposed revisions and support data, it appears that substantial questions exist as to the lawfulness of these tariff changes. Therefore, the proposed tariff changes filed by RCA Americom under letter of Transmittal No. 61 will be set for hearing and further investigation. Because it appears that the tariff revisions will involve service to only a limited number of customers and the revisions will not result in increased charges for the first three years, we believe the public interest is best served by not suspending the provisions. In the event these revisions are found to be unlawful, customers may seek restitution through our complaint proceedings. See section 208 of the Act, 47 U.S.C. 208.

15. Accordingly, *it is ordered,* That pursuant to the provisions of section 4(i), 201-205, and 403 of the Communications Act of 1934, as amended, a limited investigation and hearing consistent with this order is hereby instituted into the lawfulness of the tariff charges filed by RCA American Communications, Inc., under letter of Transmittal No. 61.

16. *It is further ordered,* That a hearing be held in this proceeding at the Commission's offices in Washington, D.C. at a time to be specified, before an Administrative Law Judge to be designated.

17. *It is further ordered,* A separated Trial Staff of the Common Carrier Bureau will participate in the above-captioned proceeding. The Chief, Hearing Division, and his staff will be separated in accordance with section 1.1209 of the Commission's rules, 47 CFR § 1.1209.

18. *It is further ordered,* That the Administrative Law Judge shall upon closing of the record prepare and issue an initial decision, which shall be subject to the submission of exceptions and requests for oral argument as provided in § 1.276 and 1.277 of the Commission's rules, 47 CFR 1.276 and 1.277 after which the Commission shall issue its decision as provided in section 1.282 of those rules, 47 CFR 1.282.

19. *It is further ordered,* That the issues with respect to the tariff changes shall include, but not be limited to, the following:

(a) Whether any of these revisions, discussed in paras. 10, 11 and 12, will make an unjust or unreasonable discrimination or will subject any person or class of persons to undue or unreasonable prejudice or disadvantage or will give undue or unreasonable preference or advantage to any person or class of persons, within the meaning of section 202(a) of the Communications Act;

(b) Whether any of these charges discussed in paras. 13 and 14, classifications, regulations or practices discussed herein are, or will be, unjust or unreasonable within the meaning of section 201(b) of the Communications Act;

(c) Whether the Commission should prescribe just and reasonable charges, classifications, regulations and practices to be hereafter followed with respect to the services governed by such tariff revisions and, if so, the charges, classifications, regulations and practices that shall be prescribed.

20. *It is further order,* That RCA American Communications, Inc., is

[1] Private Line Rate Cases, 34 FCC 244, 297 (1961) and 34 FCC 217, 231 (1963); ITT World Communications, Inc. et al., 29 FCC 2d 493, 495 (1971); WATS, 59 FCC 2d 671, 675 (1976); and AT&T (Telpak Rates) 61 FCC 2d 587, 609 (1969).

[2] For example, competitive necessity can justify differential rates. See Telpak Rates, 38 FCC 320 (1964), aff'd *American Trucking Association, Inc.* v. FCC, (supra) and ATR, 63 FCC 2d 911, 925-926 (1977).

[4] Section 201(b) provides that: All charges, practices, classifications and regulations for and in connection with such communication service, shall be just and reasonable, and any such charge, practice, classification or regulation that is unjust or unreasonable is hereby declared to be unlawful.

made a party respondent hereto and that any other carrier or interested person shall be given leave to intervene herein upon the filing of a notice of intent to appear and participate on or before March 28, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-6070 Filed 3-7-78; 8:45 am]

[1610-01]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on February 28, 1978 (NRC), and March 1, 1978 (ICC). See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed ICC and NRC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before March 27, 1978, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, U.S. General Accounting Office, Room 5106, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

INTERSTATE COMMERCE COMMISSION

The ICC requests clearance of revisions to Form OP-F-44, Application for Authority Under Section 5, Interstate Commerce Act, To Consolidate, Merge, Purchase, or Lease Operating Rights and Properties, or any Part Thereof, of a Motor Carrier; Form OP-F-45, Application for Authority Under Section 5, Interstate Commerce Act, To Acquire Control of a Motor Carrier or Motor Carriers Through Ownership of Stock, or Otherwise; and Form OP-F-46, Application for Approval Under Section 210a(b), Interstate Commerce Act, of the Temporary Operation of Motor Carrier Properties Sought To Be Acquired Under Separately Filed Applications Under Section 5 or Transfers of Motor Carrier Certificates and Permits Under Section 212(b).

Changes to the application forms OP-F-44, OP-F-45 and OP-F-46 are made necessary by recent procedural revisions adopted formally by the Commission. In Ex Parte No. MC-100 (Sub. No. 2), decided January 9, 1978, the Commission adopted final rules eliminating the requirement that applicants serve upon the designated official of a State in or through which they operate a copy of the application form. Applicants will be required to serve upon the designated official of the States in which their headquarters are located, only a summary of the application. The purpose of this rule is to save applicants the time and expense associated with copying and mailing little used information.

In Ex Parte No. MC-99, In the Matter of Regulations Governing Applications Under Section 5(2) To Consolidate, Merge, Purchase or Lease Operating Rights and Properties, or any Part Thereof, of a Motor Common Carrier, the Commission, Division 3, modified Appendix D of Form OP-F-44 to include question D-6 "Vendee affirms that if the authority herein being sought is granted, it shall not restrict, halt, or curtail service to and/or from any points previously served by vendor whether by tariff or otherwise ( ) yes ( ) no. If no explain." The purpose of the modification was to preserve and guarantee comparable service after an acquisition.

The title of Forms OP-F-44, OP-F-45, and OP-F-46 provide a detailed description of the various financial transactions under the Commission's jurisdiction for which approval is sought. The ICC states that it is imperative that Commission procedures afford due process to all parties to the proceedings while alleviating any unnecessary burden upon applicants. The ICC estimates that approximately 800 to 1,000 applications will be filed annually for each of the forms and that burden will average between 80 and 120 hours for each application on Forms OP-F-44 and OP-F-45. ICC estimates burden will average between 20 and 50 hours per application on Form OP-F-46.

NUCLEAR REGULATORY REPORTS

The NRC requests clearance of the application, recordkeeping and reporting requirements contained in new 10 CFR Part 110—Export and Import of Nuclear Facilities and Materials. Section 110.30-33 contains requirements for filing an export license application; section 110.34 contains requirements for contents of an import license application; section 110.35(b) contains a requirement for an applicant to file an amendment to an application when there is any substantive change in the information in his application; section 110.50(b)(4) requires that each licensee must promptly return any license which has expired or is revoked, unused, partially used and not intended for further use; and section 110.53 requires licensees to furnish a United States address where papers may be served and where NRC required records will be maintained. This section also specifies that export and import records be maintained for 5 years and byproduct material records for 2 years and that records be available for NRC inspection when necessary. The NRC estimates potential respondents to be approximately 425 licensees and applicants for export and import licenses and that burden for part 110 application, recordkeeping and reporting requirements will average 300 hours annually per respondent.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc. 78-6038 Filed 3-7-78; 8:45 am]

[4110-35]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

PHARMACEUTICAL REIMBURSEMENT ADVISORY COMMITTEE

Cancellation of Meeting

Notice is hereby given of the cancellation of the meeting of the Pharmaceutical Reimbursement Advisory Committee previously scheduled March 14 and 15, 1978, Auditorium, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201, which was published in the FEDERAL REGISTER on February 21, 1978 (43 FR 7270).

Dated: March 2, 1978.

PETER J. RODLER,
Acting Executive Secretary, Pharmaceutical Reimbursement Advisory Committee.

[FR Doc. 78-6049 Filed 3-7-78; 8:45 am]

[4110-83]

Health Resources Administration

NATIONAL COUNCIL ON HEALTH PLANNING AND DEVELOPMENT

Change of Meeting Date

In FEDERAL REGISTER Document 78-5135 appearing at page 7715 in the issue for Friday, February 24, 1978, the March 10, 1978 meeting of the "National Council on Health Planning and Development" has been changed to April 14, 1978. All other information is correct as appears.

Dated: March 6, 1978.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc. 78-6304 Filed 3-7-78; 11:36 am]

[4110-02]

Office of Education

NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION

Meeting

AGENCY: National Advisory Council on Adult Education, HEW.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Committee on Program Planning and Development of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92-463), Sec. 10(a)(2)).

DATE: March 20, 1978, 8:30 a.m. to 3:30 p.m.

ADDRESS: National Advisory Council on Adult Education, 425 13th Street NW., Suite 323, Washington, D.C. 20004

FOR FURTHER INFORMATION CONTACT:

Dr. Gary A. Eyre, Executive Director, National Advisory Council on Adult Education, 425 13th St. NW., Washington, D.C. 20004, 202-376-8892.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under section 311 of the Adult Education Act (80 Stat. 1216.20 U.S.C. 1201). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Committee shall be open to the public.

The proposed agenda includes: National Client Succuess Stories, 1978 Annual Report, Committee Long Range Objectives, Council Meeting Survey.

Records shall be kept of all Council proceedings, and shall be available for public inspection at the Office of the National Advisory Council on Adult Education, Room 323, Pennsylvania Bldg., 425 13th Street NW., Washington, D.C., 2004.

Signed at Washington, D.C. on March 3, 1978.

GARY A. EYRE,
Executive Director, National Advisory Council on Adult Education.

[FR Doc. 78-6080 Filed 3-7-78; 8:45 am]

[4110-92]

Office of Human Development Services

CHILD WELFARE SERVICES TRAINING GRANTS PROGRAM

Availability of Training Grants Announcement No. 13.648-781

The Children's Bureau of the Administration for Children, Youth and Families, Office of Human Development Services announces the availability of funds for Fiscal Year 1978 for grants under the Child Welfare Services Training Program authorized under section 426 of the Social Security Act (part B of title IV, 42 U.S.C. 626).

Applications must be received by May 19, 1978, or postmarked by May 15, 1978, by the U.S. Postal Service in order to be considered. Applications received by the closing date, which are complete and conform to the requirements of this program announcement, will be competitively reviewed for the award of (1) teaching grants, (2) traineeship grants, and (3) short-term training grants of national significance which respond to training needs and social service conditions on a national or multi-regional basis.

A. OBJECTIVES OF THE CHILD WELFARE SERVICES TRAINING PROGRAM

1. To improve the quality of service delivery to children and families, and the quality of management of child and family service programs through education and training which achieves the following Children's Bureau goals:

a. Reducing the dysfunction and providing support to families, in order to prevent separation of children from their families;

b. Where separation of children from their families is necessary, developing permanent plans and providing support services to enable children to be restored to their families; where that is inappropriate or impossible, to place them in adoptive homes or, where appropriate to plan for "permanent" foster care;

c. Where adoption is the plan, providing the quality of services to waiting children, adoptive families and biological parents which enable the children to find the best possible permanent home.

2. To develop and maintain an adequate supply of personnel qualified for professional, technical, or other work in the field of child and family services;

3. To provide educational and training opportunities to personnel currently employed in child and family services to raise their level of competence and broaden their expertise;

4. To strengthen and improve educational programs and resources for preparing personnel for the field of child and family services; and

5. To support experimentation with new methods of education and training.

B. ELIGIBLE APPLICANTS

1. TEACHING GRANTS

Public or other nonprofit institutions of higher learning accredited by the recognized authority;

2. TRAINEESHIP GRANTS

Public or nonprofit private colleges and universities offering baccalaureate degree programs in social work which are accredited by the Council on Social Work Education, and graduate schools of social work accredited by the Council or accepted as candidates for accreditation;

3. SHORT-TERM TRAINING GRANTS OF NATIONAL SIGNIFICANCE

Public or nonprofit institutions of higher learning accredited by the recognized authority.

Grants are not made to individuals even though they may be affiliated with an institution of higher learning, or to public or private agencies or organizations other than institutions of higher learning.

C. AVAILABLE FUNDS

Of the total appropriation of $8,150,000 available in fiscal year 1978, approximately $1,630,000 is expected to be awarded for between 15 and 20 short-term training grants for projects of national significance. Grants for national projects generally have amounted to approximately $100,000 each but will be made for lesser or greater amounts than that average. Approximately $3,260,000 will be for teaching grants and the same amount for traineeship grants. About 150 teaching and training grants will be awarded for the full cost of each project with no cost sharing involved.

All grants will be awarded for a period of one year. Applications for new and for continuing projects will be considered competitively. It is an-

ticipated that no more than four new short-term training grants of national significance will be funded under any

(b) Developing new methods for using and combining field placement in child welfare settings with in-depth

if well executed, will be capable of attaining project objectives;

(3) That project personnel are or

tively. Short-term training may be provided through courses, institutes, workshops, and seminars that are not

ing the specific training program objectives defined in section A;

(3) That the proposed procedures

Management, Room 1427, Switzer Building, 330 C Street SW., Washington, D.C. 20201.

ticipated that no more than four new short-term training grants of national significance will be funded under any one specific priority area as listed in Section E, Part 3-b.

D. APPLICATION REVIEW PROCESS

Applications will be reviewed by a panel independent of the program office, composed of a minimum of three Federal and/or non-Federal reviewers having expertise in child welfare service training programs and needs. Final authority for selection of short-term training grants of national significance is the Commissioner for Children, Youth and Families, and for selection of teaching and traineeship grants are the Acting Heads, Children, Youth and Families Units in the Regional Offices.

E. DESCRIPTION OF GRANT PROGRAM AND EVALUATION CRITERIA

1. TEACHING GRANTS

a. *Description.* Grants will be made for the purpose of developing, expanding, and improving educational programs and resources for preparing personnel for work in the field of child and family welfare. These grants are intended to defray part of the costs of institution and program development including salaries of faculty and supporting services. They may be made to initiate new or experimental programs, to expand existing programs in order to prepare more students for work in the field, or to strengthen instructional resources, curriculum offerings, and educational methods.

b. *Criteria for evaluating teaching grant proposals.* Grant applications will be reviewed and evaluated against the following criteria:

(1) That the project objectives are identical with or are capable of achieving the specific training program objectives in Section A;

(2) That insofar as practicable, the proposed procedures and work program, if well executed, will be capable of attaining project objectives, including:

(a) The plan for accomplishing the purposes and objectives;

(b) Timetables for their accomplishment; and,

(c) Information about the number of students to be directly affected by the teaching and their degree program.

(3) Extra weight will be given to applications which incorporate one or more of the following activities:

(a) Developing teaching aids such as case studies, audio-visuals, role plays or games; special teaching methodologies or laboratory learning experiences learning experiences which are particularly designed to teach the special skills and knowledge needed by social workers providing services to children and their families;

(b) Developing new methods for using and combining field placement in child welfare settings with in-depth academic training in the direct provision of social services to children and families, or in the development of basic social work casework skills; and,

(c) Integrating into the overall required social work sequence of courses special units which deal with key service delivery problems or treatment issues particularly relevant to child welfare.

(4) That, if applicable, the application describes the replicable materials and/or methodologies which will result from the project;

(5) That project personnel are or will be well-qualified and the applicant organization has or will have adequate facilities and resources to conduct the project;

(6) That the project is related to the basic institutional program, including the institution's course offering and resources directly related to child welfare services;

(7) That the applicant has consulted with State and local public social service agencies and other cooperating groups to plan the project and has submitted a written agreement from each of them, as appropriate, to participate in the project as described in the application;

(8) That the applicant describes plans for project evaluation and follow-up, including plans to publish and disseminate results to academic and service providing agencies, organizations, groups and/or individuals; and

(9) That the estimated cost to the government of the project is reasonable considering the anticipated results.

2. TRAINEESHIP GRANTS

a. *Description.* Grants will be made for the purpose of providing financial support for students preparing for work in the field of child and family services. Trainee support in the form of stipends, tuition and educational fees, and dependency allowances may be provided by institutions to students with career goals in child and family services who are enrolled in appropriate educational programs. Such support may be provided to students in the junior and senior years at the undergraduate level, in master's degree programs, and in doctoral programs. Traineeship funds, which are available for Regionally funded projects, are not available for national projects.

b. *Criteria for evaluating traineeship grant proposals.* Grant applications will be reviewed and evaluated against the following criteria:

(1) That the project objectives are identical with or are capable of achieving the specific training program objectives in Section A;

(2) That insofar as practicable, the proposed procedures or work program if well executed, will be capable of attaining project objectives;

(3) That project personnel are or will be well-qualified and the applicant organization has or will have adequate facilities and resources to conduct the project, with specific reference to:

(a) How the trainee's academic work and specific field placement will be enriched by these resources during the traineeship award period; and

(b) Description of academic courses that trainees will be required to take or select from which place special emphasis on child welfare services;

(4) That the application states the number of traineeships requested and provides specific information about each one. Extra weight will be given to applicants which specifically plan to award traineeships to students with limited financial resources and to minority students;

(5) That the institution's plan for selecting candidates demonstrates that all requirements of the grant program are met;

(6) That for each traineeship requested, there is a speific description of and commitment from an agency for a full academic year of field placement in a child welfare setting which will enable the trainee:

(a) To carry a caseload or participate in the management of a caseload primarily involving child welfare services; and,

(b) To work under the direction of a trained supervisor; and,

(7) That the estimated cost to the government of the project is reasonable considering the anticipated results.

3. SHORT-TERM TRAINING GRANTS OF NATIONAL SIGNIFICANCE

a. *Description.* Projects of national significance are expected to approach educational training needs from a national or multi-regional perspective, respond to the diverse range of conditions in social service and educational programs throughout the nation, take an innovative and developmental approach, and promote the dissemination and utilization of training programs, products, and materials on a national or multi-regional basis. Materials, therefore, should be useful beyond a single state or region.

Short-term training grants will be awarded for the purpose of increasing the competence of personnel currently employed in the field of child and family welfare. The grants are intended to strengthen the capacity of state and local public social service agencies—and of other public and private agencies and organizations that provide services in association with the public agencies under purchase-of-service or other agreements—to manage child and family social service programs and deliver services more effectively. Short-term training may be provided through courses, institutes, workshops, and seminars that are not degree-oriented; however, education institutions may grant academic credit for completion of short-term courses. Short-term training can be provided to a wide range of personnel-administrators, mid-level managers, supervisors, caseworkers, paraprofessionals and aides, specialists, lawyers, law enforcement and court personnel, and others. Foster parents, institutional personnel, homemakers, day care staff, and volunteers also may be provided training.

Grant proposals for short-term training grants of national significance must address one of the following specific priority areas and will be evaluated using the criteria listed in Part c below.

b. *Priority areas.* (1) Conduct Leadership Training Institutes and Seminars on child welfare issues for commissioners and other top level administrators of state welfare programs, state legislators, attorneys general, juvenile and family court judges, advocacy groups, etc.;

(2) Develop materials to train child welfare serving Native American and Spanish-speaking populations to:

(a) Be more sensitive and culturally aware of the particular needs, values, life styles and family practices of these groups; and,

(b) Use this cultural awareness to provide improved services to children and families in a manner which encourages and supports their ethnic, family and community life;

(3) Train foster care workers and supervisors in achieving permanence for children by developing new training resources, adopting existing resources or conducting training in the use of effective methods of casework services to achieve permanent placement of children in the foster care system;

(4) Conduct training needs assessments by developing replicable processes and instruments which will enable states to assess their child welfare training needs; and,

(5) Facilitate adoption of children with special needs by developing new training resources and materials, adopting existing materials or conducting training to improve the capacity of public social service agencies to work with special needs children.

c. *Criteria for evaluating proposals for short-term training grants of national significance.* Grant applications will be reviewed and evaluated against the following criteria:

(1) Understanding of the problems and related issues of the priority area for which the application is made and their relationship to needs of the geographical area served;

(2) That the project objectives are identical with or are capable of achieving the specific training program objectives defined in section A;

(3) That the proposed procedures and work program, if well executed, will be capable of attaining project objectives; and that all aspects of the design of the project are addressed in detail, including such areas as training or curricula design, content, methodology, logistics, developmental processes and a timetable for each task;

(4) Identification and description of training participants and criteria for selection (as appropriate);

(5) That the applicant has consulted with State and local public social service agencies and other cooperating groups to plan the project and has submitted a written agreement from each of them, as appropriate, to participate in the project as described in the application;

(6) That the project personnel are or will be well-qualified and the applicant organization has or will have adequate facilities and resources to conduct the project;

(7) That the applicant describes a plan for assessing or evaluating the results of the project;

(8) That the applicant describes, as appropriate, any special qualifications or relevant similar experiences which pertain to the requirements of the priority area;

(9) That if applicable, the applicant describes the replicable materials and/or methodologies which will result from the project;

(10) That the applicant describes plans for project evaluation and follow-up, including plans to publish and disseminate results to academic and service providing agencies, organizations, groups and/or individuals; and,

(11) That the estimated cost to the government of the project is reasonable considering the anticipated results.

F. AVAILABILITY OF APPLICATION FORMS

Application forms, instructions and program information, including the complete Program Guidance for FY 1978, may be obtained as follows:

1. *Short-term training grants of national significance* from the Associate Chief, Children's Bureau, P.O. Box 1182, Washington, D.C. 20013.

2. *Teaching and traineeship grants* from the appropriate Regional Office of the Administration for Children, Youth and Families (see addresses at end of this Notice).

G. APPLICATION SUBMISSION

1. *Short-term training grants of national significance* should be addressed to:

Department of Health, Education, and Welfare, Office of Human Development Services, Division of Grants and Contracts Management, Room 1427, Switzer Building, 330 C Street SW., Washington, D.C. 20201.

2. *Teaching and traineeship grants* should be sent to the Grants Management Office in the appropriate Regional Office. The address of this office will be provided in the application kit.

H. CLOSING DATE FOR RECEIPT OF APPLICATIONS

An application will be considered to be received on time if:

1. Application was sent by registered or certified mail not later than May 15, 1978, as evidenced by the U.S. Postal Service postmark, or on the original receipt from the U.S. Postal Service; or,

2. Application is received on or before May 19, 1978, in the Department of Health, Education, and Welfare, in Washington, D.C., or as appropriate, a Regional Office mailroom. (In establishing the date of receipt, consideration will be given to the time date stamps of such mailrooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare.)

I. LATE APPLICATIONS

Applications which do not conform to this announcement, are received late or are not complete will not be accepted for review.

(Catalog of Federal Domestic Assistance Project No. 13.648—Training Grants in the Field of Child Welfare.)

Dated: February 28, 1978.

BLANDINA CARDENAS,
Commissioner for Children, Youth and Families.

Approved: March 6, 1978.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services.

APPENDIX

ACTING HEADS OF THE CHILDREN, YOUTH AND FAMILIES UNIT, OFFICE OF HUMAN DEVELOPMENT SERVICES, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, REGIONS I-X

REGION I

Mr. Roy Fleischer, Acting Head, Room 2000, JFK Federal Building, Government Center, Boston, Mass. 02203, 617-223-6450-.

REGION II

Mrs. Elaine Danavall, Acting Head, Federal Building, 26 Federal Plaza, Room 3900, New York, N.Y. 10007, 212-264-2974.

REGION III

Mr. Fred Digby, Acting Head, P.O. Box 13716, 3535 Market Street, Philadelphia, Pa. 19101, 215-596-6763.

REGION IV

Mr. John Jordan, Acting Head, 101 Marietta Tower, Suite 903, Atlanta, Ga. 30323, 404-221-2291.

REGION V

Mr. Hilton Baines, Acting Head, 300 South Wacker Drive, 15th Floor, Chicago, Ill. 60606, 312-353-1781.

REGION VI

Mr. Gerald Hastings, Acting Head, Fidelity Union Tower, Room 500, 1507 Pacific Avenue, Dallas, Tex. 75201, 214-749-2492.

REGION VII

Mrs. Linda Carson, Acting Head, Federal Building, 601 East 12th Street, 3rd Floor, Kansas City, Mo. 64106, 816-374-5401.

REGION VIII

Mr. John Garcia, Acting Head, 1961 Stout Street, Room 7417, Denver, Colo. 80202, 303-837-3106.

REGION IX

Mr. Samuel Miller, Acting Head, Federal Office Building, 50 United Nations Plaza, Room 143, San Francisco, Calif. 94102, 415-556-6153.

REGION X

Ms. Enid Welling, Acting Head, Mail Stop 622, Arcade Plaza Building, 1321 2nd Avenue, Seattle, Wash. 98101, 206-442-0838.

[FR Doc. 78-6237 Filed 3-7-78; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-78-848]

SMALL CITIES DISCRETIONARY GRANTS UNDER THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

Dates for Submission of Preapplications

AGENCY: Department of Housing and Urban Development.

ACTION: Notice.

SUMMARY: HUD is issuing a notice of the dates of submission of preapplications to HUD Area Offices for the Small Cities Discretionary Grant program under the Community Development Block Grant program for Fiscal Year 1978.

FINAL DATE FOR SUBMISSION: May 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. James N. Forsberg, Program Standards Division, Office of Community Planning and Development, Department of Housing and Urban Development, Washington, D.C. 20410, 202-755-6306.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in accordance with 24 CFR § 570.420(h)(2) the Department of Housing and Urban Development (HUD) has established dates for submission of preapplications for Small Cities Discretionary Grants to be accepted by HUD for Fiscal Year 1978.

For applicants from both metropolitan and nonmetropolitan areas, the earliest date for submission is May 1, 1978, and the latest date will be May 15, 1978. Preapplications for funding under the Single Purpose and Comprehensive Grant provisions of the Small Cities Discretionary Grant program will be accepted during this time period.

Applicants are hereby advised to submit three copies of the preapplication for Single Purpose Grants pursuant to 24 CFR § 570.429, or three copies of the preapplication for Comprehensive Grants pursuant to 24 CFR § 570.425, to the appropriate HUD Area Office serving the applicant's jurisdiction.

Issued at Washington, D.C., February 22, 1978.

ROBERT C. EMBRY, Jr.,
Assistant Secretary for Community Planning and Development.

[FR Doc. 78-5990 Filed 3-7-78; 8:45 am]

[4210-01]

Office of the Secretary

[Docket No. N-78-847]

TASK FORCE ON HOUSING COSTS

Meeting

AGENCY: Department of Housing and Urban Development.

ACTION: Notice is given of the second meeting of the entire Task Force on Housing Costs, whose functions were published at 42 FR 42383.

SUMMARY: This meeting of the full Task Force will be held on March 22 and 23, 1978. The Task Force will convene each day at 9:30 a.m. in the Departmental Conference Room, 10th Floor (Room 10233), Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. This meeting will be open to the public.

SUPPLEMENTARY INFORMATION: The purpose of and agendas for this meeting may include, but are not limited to, the following:

1. Review of the minutes of the last committee meetings,
2. Discussion of, and action upon draft written materials prepared by the Task Force Staff that contain housing cost problem analyses, findings and proposed recommendations developed through Task Force Committee meetings,
3. Testimony, if any, from members of the general public,
4. Discussion of other issues and ideas not previously considered, and
5. Consideration of other Task Force business.

ADDRESS: Task Force on Housing costs, Staff Chairman Edward J. Cachine, Room 7110, U.S. Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Edward J. Cachine, 202-755-7362 (substantive inquiries), Thomas Bacon, 202-755-5277 (press inquiries), or Donald K. McLain, 202-755-5333.

Issued at Washington, D.C., March 2, 1978.

WILLIAM J. WHITE,
Chairman, Task Force on Housing costs.

[FR Doc. 78-5889 Filed 3-7-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[S. 1491]

CALIFORNIA

Partial Termination of Proposed Withdrawal and Reservation of Land

FEBRUARY 27, 1978.

Notice of a Department of the Army Corps of Engineers application S-1491 for withdrawal and reservation of lands for construction, operation, and maintenance of the new Melones Reservoir on the Stanislaus River was published as FR Doc. 68-5541 on pages 6992 and 6993 of the issue of May 9, 1968. The applicant agency has cancelled its application insofar as it affects the following lands.

MOUNT DIABLO MERIDIAN

T. 1 N., R. 13 E.,
Sec. 23, SW¼SW¼
Sec. 25, E½NE¼

The area aggregates 120 acres.

Therefore, pursuant to the regulations contained in 43 CFR Part 2350, such lands at 10 a.m. on April 10, 1978, will be relieved of the segregative affect of the above mentioned application.

JOAN B. RUSSELL,
Chief, Lands Section Branch of Lands and Minerals Operations.

[FR Doc. 78-6034 Filed 3-7-78; 8:45 am]

[4310-84]

FEDERAL COAL LEASING PROGRAM

Continued Request for Public Comment

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice for Continued Request of Public Comment.

SUMMARY: In the November 17, 1977, FEDERAL REGISTER (Vol. 42, FR No. 222, 57424), the Bureau of Land Management, Department of the Interior invited the public to comment on the Final Environmental Impact Statement (EIS) on the Proposed Federal Coal Leasing Program (FES 75-80) that was originally filed with the Council on Environmental Quality on September 19, 1975. The public comments were requested to comply with an order given by the District Court for the District of Columbia which concluded that the final EIS on the Federal coal leasing program was inadequate. Although the closing date for acceptance of comments was January 31, 1978, the Bureau of Land management is announcing that comments will continue to be accepted until March 31, 1978, during the early phases of preparation of a new draft coal programmatic EIS.

DATE: Comments will continue to be accepted until March 31, 1978.

ADDRESS: Director (731), Bureau of Land Management, Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240

FOR FURTHER INFORMATION CONTACT:

Bruce A. Powers, Bureau of Land Management (731), 18th and C Streets NW., Washington, D.C. 20240, 202-343-8638.

SUPPLEMENTARY INFORMATION: The Department of the Interior requests the public to comment on the final environmental impact statement (EIS) on the Proposed Federal Coal Leasing Program (FES 75-80) which was originally filed with the Council on Environmental Quality on September 19, 1975. Comments will continue to be accepted until March 31, 1978, during the early phases of preparation of a new draft coal programmatic EIS. Comments should be submitted to the Director (731), Bureau of Land Management Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240.

The Department is requesting these comments in compliance with an order given September 27, 1977, by the U.S. District Court for the District of Columbia on the case *Natural Resources Defense Council* v. *Royston B. Hughes*, Civil Action No. 75-1749, whereby the Court ruled that the final EIS filed in 1975 on the Federal coal program was inadequate. Several inadequacies were cited, including (1) the description of the proposal in the final EIS was insufficient to allow informed comment, (2) the alternatives to a new Federal coal leasing program were inadequately presented, and (3) the need for new Federal leasing was not properly analyzed. The Court ordered the Department to remedy these inadequacies by asking for comments on the final EIS.

After comments have been received and analyzed, the Department will prepare and publish a new draft coal programmatic EIS which will discuss whether a new coal leasing program should be undertaken and, if such a program is found to be necessary, what types of leasing systems could be utilized. The new statement will respond to the significant issues raised in the comments received, including previous comments received on the earlier draft and final coal programmatic EIS's. The new statement will specifically propose policies and procedures for government management of the Federal coal program in an environmentally sound manner. The draft statement will be made available to the public, as announced in the FEDERAL REGISTER, and public hearings will be held and comments will be received for at least 45 days after the notice of the release of the statement.

Thereafter, the Department will prepare a new final coal programmatic EIS that combines and integrates the material in the draft with the final EIS previously released in September 1975, and which fully responds to the comments received on the draft statement. After the new final EIS has been made available to the public, and is on file with the Environmental Protection Agency for at least 30 days, the Secretary of the Interior will personally re-evaluate the Federal coal management policy based on the information contained in the new final EIS, and shall adopt a new Federal coal management policy.

Single copies of the final coal programmatic EIS are available from the Bureau of Land Management (731), Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240. Copies of the EIS are available for review at the Bureau of Land Management State Offices as well as selected libraries throughout the Nation designated as depositories for government publications.

FRANK GREGG,
Director, Bureau of Land Mangement.

MARCH 1, 1978.

Approved: March 1, 1978.

GUY MARTIN,
Secretary of the Interior.

[FR Doc. 78-6029 Filed 3-7-78; 8:45 am]

[4310-84]

VALE DISTRICT GRAZING ADVISORY BOARD

Meeting

Notice is hereby given that the Vale District, Bureau of Land Management Grazing Advisory Board will meet April 5, 1978 at 1:30 p.m. MST in the conference room of the Vale District Office at 365 "A" Street West, Vale, Oreg. 97918.

The board will discuss and offer recommendations on the expenditure of range betterment funds for fiscal year 1979 (October 1, 1978 to September 30, 1979).

The public is invited to attend and may make written or oral statements which should not exceed 15 minutes in length. Public statements will be accepted after 3 p.m.

Further information concerning the meeting may be obtained from Grant Baugh, Vale District, Bureau of Land Management.

WILLIAM R. PAPWORTH,
Acting District Manager.

FEBRUARY 24, 1978.

[FR Doc. 78-6035 Filed 3-7-78; 8:45 am]

[4310-84]

WILDERNESS REVIEW

Notice of Intent To Develop Wilderness Review Procedure

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Proposed policies and methods are to be developed to implement the inventory, study, and reporting of those roadless areas of five thousand acres or more and roadless islands of the public lands identified as having wilderness characteristics, as required under section 603 of the Federal Land Policy and Management Act of 1976. Comments and suggestions are hereby invited to assist in the development and publication of a review procedure. Public meetings will also be held to explain a draft of a proposed review procedure. The intended effect is to receive the maximum benefit from public and other governmental agency participation in the development of wilderness policy and review procedures to be used on public lands managed by the Bureau of Land Management (BLM).

DATE: Written comments should be received by May 17, 1978.

ADDRESS: Written comments may be sent to: Director (370), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert H. Lund, Bureau of Land Management, Washington, D.C., 202-343-9353.

SUPPLEMENTARY INFORMATION: A copy of a draft paper presenting the

the FEDERAL REGISTER and newspapers of general circulation in the States most affected by the wilderness review of areas and islands of public lands under the jurisdiction of the BLM.

[4310-84]

[Wyoming 62840]

WYOMING

Application

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets NW., Washington, D.C. 20240, telephone 202-343-4151.
Oregon State Office, Bureau of Land Management, 1002 NE Holladay Street, Portland, Oreg. 97208, telephone 503-231-6251.
Grants Pass Hearing—District Manager, Bureau of Land Management, 310 West 6th Street, Medford, Oreg. 97501, prior to close of business on April 7, 1978.
Salem Hearing—State Director (911), Bureau of Land Management, Interior Building, 18th and C Streets NW., Washington, D.C. 20240, prior to close of business on April 7, 1978.

Issued: March 3, 1978.

Judge, DONALD K. DUVAL
Presiding Officer.

[FR Doc. 78-6095 Filed 3-7-78; 8:45 am]

Mr. Robert H. Lund, Bureau of Land Management, Washington, D.C., 202-343-9353.

SUPPLEMENTARY INFORMATION: A copy of a draft paper presenting the concepts of the Wilderness Policy and Review Procedure, i.e., the inventory, study, and reporting of wilderness study areas for purposes of comment, will be available for your use at all BLM State Offices and the Washington Office (370), after March 13, 1978.

The scope of the Draft Wilderness Policy and Review Procedure includes:

A. Summary of mandates.

B. Location of public land requiring wilderness review.

C. Wilderness review policy.

D. Priorities and scheduling methods.

E. Wilderness review procedure by the following components:

1. Inventory: (a) Roadless areas and island identification procedures, (b) wilderness characteristics inventory procedures, (c) public involvement requirement, and (d) selecting final wilderness study area list composed of areas and islands that must be reported to the President for their wilderness suitability.

2. Study of specific wilderness preservation opportunities through the BLM Planning System and public involvement.

3. Reporting of specific study areas as being suitable or nonsuitable for inclusion in the National Wilderness Preservation System.

F. Summary of public involvement contacts in the entire wilderness program.

G. Interim management policy and procedure while areas are under study for wilderness preservation.

Public meetings will be held in States where most of the public lands are located, with one national meeting in Washington, D.C., in March and April. The purpose of the meetings will be to discuss the Draft Wilderness Policy and Review Procedure and to fully inform the public on its scope and content. Written comment on the draft will be solicited within a 60-day comment period before the review procedure is finalized for field implementation. The meetings are not to gather specific wilderness area recommendations; such meetings will be held later. After each meeting, a workshop will be available for the public to see and participate in a prototype of the technical approach being considered to implement the review procedure.

Although a broad cross section of representative individuals, organizations, and corporations will be specifically invited to the meetings and to comment on the draft procedures, attendance at the meetings and the opportunity to comment are available to anyone wishing to do so.

The date, time, and location of public meetings will be published in the FEDERAL REGISTER and newspapers of general circulation in the States most affected by the wilderness review of areas and islands of public lands under the jurisdiction of the BLM.

All comments and suggestions will be considered in drafting the final Wilderness Policy and Review Procedure. The final Wilderness Policy and Review Procedure will be published in the FEDERAL REGISTER. The resolution of conflicting comments or their utilization or rejection based on policy and legal grounds is the responsibility of the Secretary of the Interior.

FRANK GREGG,
Director,
Bureau of Land Management.

MARCH 2, 1978.

[FR Doc. 78-6059 Filed 3-7-78; 8:45 am]

[4310-84]

[Wyoming 62575]

WYOMING

Application

FEBRUARY 24, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northern Gas Co. of Casper, Wyo. has filed an application for a right-of-way to construct a 4 inch pipeline and appurtenant facilities for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 28 N., R. 93 W.,
Sec. 1, SW¼, S½SE¼;
Sec. 2, NE¼SE¼.

This proposed natural gas gathering line, together with the necessary metering facilities, will gather, dehydrate and deliver natural gas from a point in section 2, T. 28 N., R. 93 W. in the Jade Ridge Field to the transmission line of said Northern Gas Co. in section 6, T. 28 N., R. 92 W., Fremont County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-6036 Filed 3-7-78; 8:45 am]

[4310-84]

[Wyoming 62840]

WYOMING

Application

FEBRUARY 24, 1978.

Notice is hereby given that pursuant to section 28 of the Minerals Leasing Act of 1920, as amended (30 U.S.C. 185) Northwest Pipeline Corp. of Salt Lake City, Utah, filed an application for a right-of-way to construct a 4½-inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 22 N., R. 113 W.,
Sec. 3, E½SE¼;
Sec. 10, E½NE¼, SW¼NW¼, NW¼SE¼.

The pipeline will transport natural gas from a well in the NW¼SE¼, section 10 into a proposed pipeline in the NE¼SE¼, section 3, T. 22 N., R. 113 W., in Lincoln County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 1869, Highway 187 North, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-6037 Filed 3-7-78; 8:45 am]

[4310-84]

Office of the Secretary

[INT DES 78-4]

OREGON

Availability of Draft Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior, Bureau of Land Management, has prepared an environmental statement for its proposed ten-year timber management plan for public lands administered by the BLM in the Josephine Sustained Yield Unit, southwestern Oregon.

The proposal involves the annual harvest of 20.67 million cubic feet (approximately 106 million board feet Scribner log rule) of timber from BLM-administered lands in the Josephine unit.

Copies of the draft statement are available for inspection at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets NW., Washington, D.C. 20240, telephone 202-343-4151.
Oregon State Office, Bureau of Land Management, Room 100, 729 Northeast Oregon Street, Portland, Oreg. 97208, telephone 503-234-3361, ext. 4024.
Medford District Office, Bureau of Land Management, 310 West 6th Street, Medford, Oreg. 97501, telephone 503-779-2351.
Medford District Office, Bureau of Land Management, Grants Pass Information Office, Room 3, Post Office Building, Grants Pass, Oreg. 97526.

LIBRARIES

Josephine County Library, Illinois Valley Branch, Cave Junction, Oreg. 97523.
Curry Public Library, Colvin Street, Gold Beach, Oreg. 97444.
City of Glendale Library, Courthouse, Glendale, Oreg. 97442.
Douglas County Library, Courthouse, Roseburg, Oreg. 97470.
Medford Public Library, 413 West Main, Medford, Oreg. 97501.
Josephine County Library, 506 Northwest 5th, Grants Pass, Oreg. 97526.
University of Oregon Library, Eugene, Oreg. 97403.
Oregon State University Library, Corvallis, Oreg. 97331.
Multnomah County Library, 801 Southwest 10th, Portland, Oreg. 97204.

A limited number of single copies may be obtained from the Oregon State Director, Bureau of Land Management, the Office of Public Affairs, Bureau of Land Management (Washington, D.C.), and District Manager, Bureau of Land Management, 310 West 6th Street, Medford, Oreg. Copies will also be available at the Bureau of Land Management, Grants Pass Information Office, Room 3, Post Office Building, Grants Pass, Oreg. Written comments or statements should be submitted to the State Director, Bureau of Land Management, Oregon State Office, P.O. Box 2965, Portland, Oreg. 97208.

Notice is also given that public hearings on the draft environmental statement will be held at:

4-H Building, 215 Ringuette, Grants Pass, Oreg. on April 10, 1978, starting at 1 and again at 7 p.m.
Board Room, Oregon State Forestry Department, 2600 State Street, Salem, Oreg., on April 13, 1978, starting at 1 and again at 7.

Oral testimony of ten minutes maximum duration will be accepted from each witness at the hearings in lieu of written comments or in addition to any written comments submitted by such witnesses. The ten minute time limit will be strictly enforced.

Complete text of prepared testimony may be filed with the presiding officer at the hearing whether or not the speaker has been able to finish with oral delivery in the allotted ten minutes.

Written requests to testify orally should be filed as follows:

Grants Pass Hearing—District Manager, Bureau of Land Management, 310 West 6th Street, Medford, Oreg. 97501, prior to close of business on April 7, 1978.
Salem Hearing—State Director (911), Bureau of Land Management, P.O. Box 2965, Portland, Oreg. 97208, prior to close of business on April 11, 1978.

Requests to present testimony should be signed by the prospective witness and should state the approximate time preference for giving oral testimony. The cut-off dates are necessary so that a witness list can be made available prior to the public hearings.

Speakers will be heard, if present, in their established order of precedence. After the last witness present has been heard, the presiding officer will consider the request of any other person present and wishing to testify. The presiding officer may continue the hearing into a subsequent session if necessary to hear all prospective witnesses. Only one witness will be allowed to represent the viewpoints of a single organization. However, any witness will be permitted to give germane testimony if offered as the views or opinion of a private citizen.

Dated: March 3, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc. 78-6030 Filed 3-7-78; 8:45 am]

[7020-02]

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 337-TA-44; 337-TA-45]

CERTAIN ROLLER UNITS AND CERTAIN COMBINATION LOCKS

Consolidated Preliminary Conference

Notice is hereby given that a Preliminary Confernece will be held in connection with the two above-styled investigations at 10 a.m. on Tuesday, March 14, 1978, in the ALJ Hearing Room, Room 610, Bicentennial Building, 600 E Street NW., Washington, D.C. The consolidation is for the convenience of the parties and is limited to this conference. The purposes of this preliminary conference are to establish discovery schedules, to discuss the procedures to be followed in pursuing such discovery, to set the dates for the Prehearing Conference and Temporary Relief Hearing, and to resolve any other matters necessary to the conduct of these investigations.

If any questions should arise not covered by these instructions, the parties or their counsel shall call the chambers of the undersigned Presiding Officer.

The Secretary shall serve a copy of this Notice upon parties of record and shall publish this notice in the FEDERAL REGISTER.

Issued: March 3, 1978.

Judge, DONALD K. DUVAL
Presiding Officer.

[FR Doc. 78-6095 Filed 3-7-78; 8:45 am]

[7537-01]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

ARCHITECTURE+ENVIRONMENTAL ARTS ADVISORY PANELS

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Architecture+Environmental Arts Advisory Panel to the National Council on the Arts will take place March 27, 1978, from 9 a.m. to 5 p.m.; March 28, 1978, from 9 a.m. to 5 p.m.; March 29, 1978, from 9 a.m. to 5 p.m.; March 30, 1978, from 9 a.m. to 5 p.m.; and March 31, 1978, from 9 a.m. to 5 p.m.; in the 11th Floor Conference Rooms of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

The meeting is for the purpose of Panel review, discussion, evaluation, and recommendation of applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6), and 9(B) of section 552 of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6378.

Dated: March 2, 1978.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc. 78-5998 Filed 3-7-78; 8:45 am]

[7537-01]

VISUAL ARTS ADVISORY PANEL

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is herby given that a meeting of the Visual Arts Advisory Panel (Services to the Field) to the National Council on the Arts will take place March 28, 1978,

from 9:30 a.m. to 5:30 p.m.; March 29, 1978, from 9:30 a.m. to 5:30 p.m.; and March 30, 1978, from 9:30 a.m. to 5:30 p.m. in Room 1115 of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c) (4), (6), and 9(B) of section 552 of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6378.

Dated: March 2, 1978.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc. 78-5937 Filed 3-7-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket No. PRM-51-4]

BOSTON EDISON CO., ET AL.

Filing of Petition For Rulemaking

Notice is hereby given that Robert Lowenstein, Esq., by letter dated February 8, 1978, has filed with the Nuclear Regulatory Commission on behalf of the Boston Edison Co., Florida Power & Light Co., and Yankee Atomic Electric Co. a petition for rulemaking to amend the Commission's regulation "Licensing and Regulatory Policy and Procedures for Environmental Protection," 10 CFR Part 51.

The petitioners request the Commission to amend §§ 51.21 and 51.23(e) of 10 CFR Part 51. The petitioners state that the amendments which they propose seek to limit the scope of the environmental review conducted at the operating license stage for section 103 applicants, and that the proposed amendments would limit this review to those matters of environmental significance which have not been resolved in the environmental review conducted at the construction permit stage. The petitioners state that the proposed amendments would exclude from consideration at the operating license stage such matters as need for power, alternatives to the plant (such as alternate sites and alternate fuels) and other matters which are determined before issuance of a construction permit.

As a basis for the petition the petitioners state that section 51.21 of the Commission's regulations requires that the environmental report at the operating license stage discuss the same matters as were covered in the environmental report at the construction permit stage, but, as the regulation provides,

only to the extent that they differ from those discussed or reflect new information in addition to that discussed in the final environmental impact statement prepared by the Commission in connection with the construction permit.

The petitioners state further that any matter which is a subject for review under the National Environmental Policy Act of 1969 (NEPA) is a proper subject for review under NEPA at the operating license stage if changed or if "additional" information becomes available. The petitioners also state that similar language is contained in 10 CFR 51.23(e) with respect to the contents of the Commission's draft environmental impact statement prepared in connection with the issuance of an operating license and the subjects considered in the final environmental statement at the operating license stage are to be coextensive with the scope of the environmental impact statement (§ 51.26).

The petitioners state the intent of the proposed amendments as follows:

The proposed amendments to Part 51 of the Commission's regulations are intended to encourage Part 50 applicants for licenses, the regulatory staff and Atomic Safety and Licensing Boards to pursue a more realistic and prac tical course in evaluating the environmental impact of the "proposed action" of licensing the operation of a nuclear generating facility; and one which is more consonant with the philosophy and requirements of the 1954 Act and of NEPA.

Thus, this petition proposes that the Commission delete language from §§ 51.21 and 51.23(e) which presently calls for an updating of the construction permit environmental report and staff draft environmental impact statement at the operating license application stage. By listing specific topics to be covered by these documents, petitioners seek to insure that these environmental documents are tailored to fit the underlying safety review. The specific exclusion from the operating license environmental review of need for power, alternate sites and alternate energy sources is in recognition of the fact that those issues were, and indeed must have been resolved at the construction permit stage, and that reopening these issues for reconsideration at the operating license stage would serve no useful purpose and would, in fact, be counter productive.

The amendments to 10 CFR Part 51 proposed by the petitioners and set out as an exhibit to the petition are as follows:

1. Amend § 51.21 to read as follows:

APPLICANT'S ENVIRONMENTAL REPORT—OPERATING LICENSE STAGE

Each applicant for a license to operate a production or utilization facility covered by § 51.5(a) shall submit with its application the number of copies as specified in § 51.40, of a separate document, to be entitled 'Applicant's Environmental Report—Operating License Stage,' which discusses those matters pertaining to radiological, thermal, and chemical discharges, environmental monitoring, environmental technical specifications for operation, and such other aspects of the plant design or proposed procedures for operation (including alternatives to such plans and procedures) as are of environmental significance and were not determined at the construction permit stage. In addition, the environmental report—operating license stage should describe any design changes having a significant environmental impact incorporated into the facility since issuance of the construction permit. If there are such changes or previously undetermined matters, identified but not resolved at the construction permit stage, having a significant environmental impact, the draft environmental report—operating license stage should describe the environmental impacts of these changes or matters, identify potential alternatives to them and include, if appropriate, a cost-benefit analysis of the alternatives. Specifically excluded from the operating license stage report are such considerations as need for the plant or need for power, alternate sites and alternate energy sources, since such matters are considered and resolved at the construction permit stage.

2. Amend § 51.23(e) to read as follows:

(e) *Other considerations.* (1) A draft environmental impact statement prepared in connection with the issuance of an operating license will cover only those matters pertaining to radiological, thermal, and chemical discharges, environmental monitoring, environmental technical specifications for operating, and other aspects of the plant design and proposed procedures for operation (including alternatives to those plans and procedures) which are of environmental significance and which were not determined at the construction permit stage. In addition, the draft environmental impact statement—operating license stage should describe any design changes having a significant environmental impact incorporated into the facility since issuance of the construction permit. If there are such changes or previously undetermined matters, identified but not resolved at the construction permit stage, having a significant environmental impact, the draft environmental impact statement—operating license stage should describe the environmental impacts of these changes or matters, identify potential alternatives to them and include, if appropriate, a cost-benefit analysis of the alternatives. Specifically excluded from the operating license draft environmental impact statement and regulatory review are such considerations as need for the plant or need for power, alternate sites, and alternate energy sources, since such matters are considered and resolved at the construction permit stage. (2) The draft statement may incorporate by reference any information contained in the final environmental statement prepared in connection with the issuance of a construction permit. With respect to the operation of nuclear reactors, unless otherwise determined by the Commission, the draft statement will be prepared only in connection with the first licensing action that authorizes full power operation of the facility.

A copy of the petition for rulemaking is available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of the petition may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

All persons who desire to submit written comments or suggestions concerning the petition for rulemaking should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by May 8, 1978.

Dated at Washington, D.C., this 2d day of March 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-6147 Filed 3-7-78; 8:45 am]

[7590-01]

[Project Nos. P-657 and P-657A]

NEW YORK STATE ELECTRIC & GAS CORP. AND LONG ISLAND LIGHTING CO.

Receipt of Partial Application for Construction Permit and Facility License; Time for Submission of Views on Antitrust Matters

New York State Electric & Gas Corp. and the Long Island Lighting Co. (applicants), pursuant to section 103 of the Atomic Energy Act of 1954, as amended, filed one part of an application, dated January 10, 1978, in connection with their plans to construct and operate two pressurized water reactors at either the New Haven site, near Lake Ontario, or the Stuyvesant site, near the Hudson River in New York State. The designated site will be identified in the preliminary safety analysis report and environmental report, which are scheduled to be submitted in October and November 1978, respectively. Upon receipt of the remaining portions of the application dealing with radiological health and safety and environmental matters, separate notices of receipt will be published by the Commission including an appropriate notice of hearing.

The portion of the application filed contains the information requested by the Attorney General for the purpose of an antitrust review of the application as set forth in 10 CFR 50, Appendix L.

A copy of the partial application is available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555. Project Nos. P-657 and P-657A have been assigned to the application and should be referenced in any correspondence relating to it.

Any person who wishes to have their views on the antitrust matters of the application presented to the Attorney General for consideration or who desires additional information regarding the matter covered by this notice, should submit such views or requests for additional information to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation, on or before April 24, 1978.

Dated at Bethesda, Md., this 14th day of February 1978.

For the Nuclear Regulatory—Commission.

OLAN D. PARR,
Chief, Light Water Reactors Branch No. 3, Division of Project Management.

[FR Doc. 78-4538 Filed 2-21-78; 8:45 am]

[4910-58]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 78-10]

ACCIDENT REPORTS: SAFETY RECOMMENDATIONS: AND RESPONSES

Availability and Receipt

Aviation Accident Report.—The National Transportation Safety Board announces that copies of its investigation report, No. NTSB-AAR-77-12, on the December 12, 1976, accident at Cape May County Airport, New Jersey, are now available. The accident occurred when an Atlantic City Airlines, Inc., DeHavilland DHC-6 Twin Otter, crashed about 4,000 feet short of the approach end of runway 19. Four persons died of injuries received in the crash; the aircraft was destroyed.

The National Transportation Safety Board determines that the probable cause of this accident was the flightcrew's lack of altitude awareness during a circling approach which permitted the aircraft's flightpath to deviate below a safe approach profile. The aircraft's rate of descent and descent flightpath angle increased as a result of wind shear encountered during the visual approach below minimum descent altitude. The flightcrew did not recognize these flightpath deviations because they were relying on visual references which were degraded by nonhomogeneous fog and on kinesthetic cues which were adversely affected by the aircraft's forward center of gravity resulting from the improperly loaded aircraft. Contributing to the accident was the lack of company procedures requiring altitude-callouts during the visual portion of an instrument approach.

SAFETY RECOMMENDATION

Aviation: A-78-13 and 14.—On November 15, 1977, a Cessna 441 Conquest crashed 7.8 nautical miles north of Greensboro, Alabama. On February 28, 1978, as a result of the accident, the Safety Board recommended that the Federal Aviation Administration:

Issue an Airworthiness Directive applying to all Cessna multi-engine aircraft to require that the trim system inspection criteria issued in Cessna Service Letter ME-77-34, dated December 23, 1977, be made mandatory and that the initial inspection interval on the model 404 be modified to require compliance within the next 25 flight-hours. (Class I, Urgent Action) (A-78-13)

Assess the need for modification of the Cessna 404 elevator trim tab actuating system to incorporate redundancy so that no failure, malfunction, or disconnection of any single element can result in the initiation of destructive flutter. (Class II, Priority Action) (A-78-14)

RESPONSES TO SAFETY RECOMMENDATIONS

Aviation: A-77-67.—This recommendation asked the Federal Aviation Administration to require that each air traffic control facility depict on the map portion of its radar displays, those airports immediately outside of that facility's jurisdiction to the extent that adjacent facilities depict those airports on their displays.

FAA, in a letter dated February 7 advises that all radar facilities have been directed to depict on their video displays all airports that are within adjacent airspace which is used to effect radar handoffs, to the extent they are displayed by the facility controlling that airspace.

Aviation: A-77-136 and 137.—These recommendations proposed regulatory guidance and interim measures for pavement surface testing and maintenance. The Board in its letter of February 28 to the FAA agrees that the long-term project to treat at least one runway at 224 airports serving turbojet aircraft is commendable and acceptable action. However, the Board states that action should be augmented by incorporating the guidelines of AC 150/5320-12 into 14 CFR 139 which would greatly enhance the effectiveness of the extensive testing and research resulting in technical improvements in airport pavement design, construction, and maintenance. The Board also states that a logical follow-on to the runway surface treat-

ment project at 224 airports would be the provision of suitable regulatory guidelines which would assure consistent procedures for pavement testing, treatment, and maintenance.

Highway: H-74-25.—The Board in its letter of February 23 to the National Highway Traffic Safety Administration, states that this recommendation dealing with seatback latch location and operation is still in an "open" status. Through recent staff level contact with NHTSA, the Safety Board has learned that a number of vehicle manufacturers are turning to the newly developed inertial system and doing away with the latch. The Safety Board would appreciate further informatin concerning the industry trend in using this inertial system, the proposed evaluation of this system, and its viability as an alternate to the mechanical latch.

Highway: H-77-25.—As a result of an accident involving the Chicago, Rock Island and Pacific Railroad Company near Des Moines, Iowa, on July 1, 1976, the Safety Board recommended that the National Safety Council (NSC) serve as a national focal point and coordinator for the total development, implementation, and evaluation of a nationwide "Operation Lifesaver" railroad/highway grade crossing safety program.

On January 3, NSC advised that they were extremely pleased to accept the assignment as the umbrella organization for the development, implementation, and evaluation of a standard railroad-highway grade crossing education program.

Railroad: R-75-32.—This recommendation asked the Federal Railroad Administration to promulgate regulations to require that if radios are to be utilized for directing rearward movement of trains, the radios must be installed so that they can be used by an employee from the leading platform.

On January 30 FRA states that Section 220.49 of the Radio Standards and Procedures issued by FRA adequately addresses the subject of radio communication in a switching, backing or pushing operation. FRA does not contemplate further amendment. FRA points out that in those instances in which a reverse move is being made without a radio on the leading platform, there is available to the trainman on that platform an emergency brake valve which can be used to control the movement of the train.

Railroad: R-75-37.—This recommendation asked the FRA to promulgate regulations to establish minimum physical standards and require periodic physical examinations of all crewmembers responsible for the movement of trains.

In its letter of February 8, FRA advises that the question of minimum physical standards and periodic physical examination of all crew members was referred to the Railroad Operating Rules Advisory Committee (RORAC) for discussion. RORAC determined that physical standards were not railroad operating rules and, therefore, were beyond the scope of the RORAC charter. Further, FRA states that in keeping with the President's and Secretary's policies to eliminate promulgation of unjustifiable Federal regulations, they do not presently have data which would justify establishment of minimum Federal physical standards for all crewmembers responsible for the movement of trains and, therefore, cannot justify such a regulation.

Pipeline: P-72-53.—This recommendation asked the American Gas Association (AGA) to study the flow of gas through various construction fill media and recommend methods and types of fill to be used in installation of underground utility lines.

On January 26 AGA states that a survey of a number of member companies conducted by a Task Group indicated that a preponderance of the companies did not believe it either practical or desirable at this time to develop backfill techniques which would tend to inhibit gas migration. The Task Group recommended that no further research be initiated on controlling underground migration of gas through the use of various types of construction fill. The Task Group further reviewed a proposal that a research project be initiated to study the flow of gas through various basement wall materials and types of construction. It was recommended that no research in this area be undertaken at this time on the basis that the selection of building materials and methods, as well as the installation of other underground utilities, is beyond the control of the gas industry.

However, the Task Group did recommend that the gas industry: (1) continue to design and build sound pipeline systems; (2) emphasize the protection of the system from damage by outside forces through an on-going program of excavation education and investigation; (3) conduct intense and thorough leak detection and cathodic programs; and (4) establish and train sufficient maintenance crews to insure integrity of the system.

Intermodal: I-76-9, 10, and 11.—The Board in its letter of February 24 to the Secretary, U.S. Department of Transportation, states it is considering closing its files on these recommendations with action by DOT classified as unacceptable because the Materials Transportation Bureau of DOT has steadfastly refused to initiate any action to redesign its reporting procedure that would:

Generate information about emergency actions taken, why they were taken, and the effect of the actions (I-76-9);

Develop a procedure to report such information to Federal and State agencies responsible for hazardous material emergency training programs (I-76-10); or

Develop a review procedure to evaluate hazardous materials transportation advice promulgated by the Department of Transportation (I-76-11).

The Board asks the Secretary to reevaluate the Department's position on this matter and requests a meeting to discuss the matter.

NOTE: The above notice consists of summaries of Safety Board documents made available, and recommendation responses received, during the week preceding publication of the notice in the FEDERAL REGISTER. The accident report in its entirety is available to the general public; single copies are obtainable without charge while limited supplies last. Copies of the full text of the response letters and Board correspondence may be obtained at a cost of $4.00 for service and 10¢ per page for reproduction.

Multiple copies of the accident report may be purchased by writing to: National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

All requests to the Board for copies must be in writing, identified by the report or recommendation number and the date of publication of this notice in the FEDERAL REGISTER. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

BARBARA BUSH,
Acting Federal Register Liaison Officer.

MARCH 3, 1978.

[FR Doc. 78-6061 Filed 3-7-78; 8:45 am]

[4910-58]

DERAILMENTS AND CARRIAGE OF HAZARDOUS MATERIALS

Independent Safety Board Act of 1974, En Banc Public Hearing; Correction

AGENCY: National Transportation Safety Board.

ACTION: Notice of correction.

SUMMARY: In FR Doc. 78-5555, appearing at page 8601, March 2, 1978, under "Supplementary Information" in paragraph 3, line 9 on page 8602, the date "• • • March 27 • • •." is incorrect and is changed to "• • • March 20 • • •."

BARABARA BUSH,
Acting Federal Register Liaison Officer.

[FR Doc. 78-6057 Filed 3-7-78; 8:45 am]

[3190-01]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

TRADE POLICY STAFF COMMITTEE

Welded Stainless Steel Pipe and Tube: Solicitation of Public Views

Pursuant to section 337 of the Trade Act of 1974 (19 U.S.C. 1337), and Executive Order 11846, the Office of the Special Representative for Trade Negotiations received on February 23, 1978, on behalf of the President, the determination of the United States International Trade Commission (USITC) concerning welded stainless steel pipe and tube.

The USITC determined that section 337 was violated by the importation or sale of welded stainless steel pipe and tube having a circular cross-sectional configuration with an actual outside diameter of from 0.375 to 4.5 inches inclusive at prices lower than the average variable cost of production without commercial justification. The USITC has issued an order under section 337(f) directing eleven named respondents, manufacturers, exporters, and importers of Japanese welded stainless steel pipe and tube, to cease and desist from such practice as follows:

No respondent manufacturer shall sell for export to the United States, without commercial justification, any welded stainless steel pipe and tube manufactured in Japan at a price that is below the reasonably anticipated marginal cost. In determining whether costs are "reasonably anticipated," the Commission will assume that prices above average variable cost, as calculated by methods that are reasonably consistent for each respondent manufacturer from year to year, are above reasonably anticipated marginal cost.

No respondent exporter or importer shall sell of offer for sale in the United States, without commercial justification, welded stainless steel pipe and tube manufactured in Japan at a price that is below the reasonably anticipated marginal cost of the manufacturer plus incidental costs of said respondent exporter or importer. In determining whether a respondent exporter and importer has complied with this Order, the Commission will impute knowledge of suppliers' costs to respondent exporters and importer, which may be rebutted by the suppliers' affidavit under oath that (1) it will not supply its costs to the respondent exporters or importer, and (2) its price in the transaction in question is not less than the original manufacturer's reasonably anticipated marginal cost.

The USITC order also set forth requirements for reporting, compliance and inspection. Further information on the USITC's determination is available from the Secretary of the USITC, Washington, D.C.

Section 337(g)(2) provides that:

(2) If, before the close of the 60-day period beginning on the day after the day on which he receives a copy of such determination, the President, for policy reasons, disapproves such determination and notifies the Commission of his disapproval, then, effective on the date of such notice, such determination and the action taken under subsection (d), (e), or (f) with respect thereto shall have no force or effect.

The Office of the Special Representative for Trade Negotiations chairs the interagency Trade Policy Committee structure that makes recommendations to the President as to what action, if any, he should take under section 337(g)(2) on determinations submitted by the USITC.

In developing information on possible action which may be taken by the President to approve or disapprove of the USITC's determination for policy reasons under section 337(g), the Trade Policy Staff Committee (TPSC) welcomes written submissions from interested parties.

Written submissions should be submitted in twenty (20) copies to the Secretary, Trade Policy Staff Committee, Room 728, Office of the Special Representative for Trade Negotiations, 1800 G Street NW., Washington, D.C. 20506.

To be considered, submissions should be received in the Office of the Special Representative for Trade Negotiations at the earliest possible date, but in any event, not later than the close of business Monday, March 31, 1978.

WILLIAM B. KELLY,
Chairman, Trade Policy Staff Committee.

[FR Doc. 78-6050 Filed 3-7-78; 8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

DEVELOPMENT OF A SINGLE GOVERNMENT-WIDE PROCUREMENT REGULATION

Public Meeting; Invitation for Public Comment

The Office of Federal Procurement Policy (OFPP) will hold a public meeting April 5, 1978, to obtain comment on public participation in an OFPP project to develop a single government-wide procurement regulation. This public meeting will commence at 10 a.m. in Room 2008, New Executive Office Building, 726 Jackson Place NW., Washington, D.C. 20503. Entrance to the building may be facilitated by telephoning 202-395-4946.

One of the most consistent and widewpread criticisms of the Federal procurement process, both in the public and private sectors, has concerned the proliferation and inconsistency of procurement regulations throughout the executive agencies. These are the regulations that control government contracting with private industry and others for products and services. Ever increasing complexity, inconsistency, and proliferation of these regulations among Federal agencies is making it more and more difficult (some say impossible) to do business with the government.

The Commission on Government Procurement documented this problem and recommeded that an Office of Federal Procurement Policy be created in the Executive Office of the President to, among other things, create a uniform and consistent regulatory system. By Pub. L. 93-400, the Congress created the OFPP with just such a mission. President Carter has also placed a high priority on the need to clean out burdensome Federal regulations, redtape, and paperwork.

The objective of the OFPP project is to replace the Armed Services Procurement Regulation, the Federal Procurement Regulation and the National Aeronautics and Space Administration Procurement Regulation with a single, uniform regulation to be called the Federal Acquisition Regulation (FAR). The fundamental purpose is to reduce the proliferation of regulations; eliminate conflicts, redundancies, and inconsistencies; provide a regulation that is simple, clear, and understandable; provide one face to industry; and eliminate unnecessary burdens on the economy, organizations, and individuals.

The Department of Defense (DOD) and the General Services Administration (GSA) have been assigned the principle roles of drafting the Federal Acquisition Regulation (FAR) in cooperation with the other executive agencies. As major parts or separable sections are completed they will be sent the the OFPP for review. The OFPP will then request official agency views and private sector comments on these parts as they become available. Time targets for completion of drafts on specific subject areas and the assignments of subjects between DOD and GSA will be made available as soon as those schedules have been agreed upon. However, a schedule for completion of the entire project has been established. All drafts will be completed and forwarded to OFPP by January 31, 1979, and all reviews completed with the FAR ready for publication by August 30, 1979.

Comments on public participation in the FAR project should be submitted to the Administrator for Federal Procurement Policy, Room 9001, New Executive Office Building, 726 Jackson Place NW., Washington, D.C. 20503, before March 30, 1978. Any person, organization, or Government agency desiring to make an oral presentation at the public meeting on April 5, 1978, must provide an advance copy of their comments, with a request to be heard, on or before March 30, 1978. Oral presentations should be limited to a sum-

mary of the views expressed in writing. Presentations should be limited to suggestions on how associations and other interested organizations or individuals can best handle the drafts and contribute to the purpose of the FAR project as opposed to comments on specific procurement regulation issues or substantive content. For example, views may be expressed on the need for industry liaison representatives, adequate timing of requests for industry comment, advance information needed by interested parties, etc. As indicated in the project plan, opportunity to comment on individual sections of the regulation will be provided at the time the OFPP requests official agency views and private sector comments.

Dated: March 1, 1978.

LESTER A. FETTIG,
Administrator.

[FR Doc. 78-6108 Filed 3-7-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1441]

CALIFORNIA

Declaration of Disaster Area

As a result of the President's major disaster declaration, I find that Kern, Los Angeles, Orange, Riverside, San Bernardino, Santa Barbara, Tulare, and Ventura Counties constitute a disaster area because of damage resulting from severe storms, high tides, wave action, high winds, mudslides, and flooding beginning about February 5, 1978.

The Small Business Administration will accept applicatons for disaster relief loans, from disaster victims within the above-named counties, and adjacent counties within the State of California. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on April 17, 1978, and for economic injury until the close of business on November 15, 1978, at:

Small Business Administration, District Office, 880 Front Street, Federal U.S. Building, Room 4-S-33, San Diego, Calif. 92188,
Small Business Administration, District Office, 350 South Figueroa Street, 6th Floor, Los Angeles, Calif. 90071,
Small Business Administration, Branch Office, Federal Office Building, 1229 North Street, P.O. Box 828, Fresno, Calif. 93712,

or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs No. 59002 and 59008.)

Dated: February 28, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-6063 Filed 3-7-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1365; Amendment No. 4]

IOWA

Declaration of Disaster Loan Area

The above numbered Declaration (see 42 FR 44862) and Amendments (see 42 FR 52589 and 59341, and 43 FR 6666)) are amended by extending the termination date for filing applications for physical damage until close of business on March 23, 1978, and for economic injury until November 23, 1978.

Dated: February 28, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-6064 Filed 3-7-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1440]

NEW JERSEY

Declaration of Disaster Loan Area

Monmouth County and adjacent counties within the State of New Jersey constitute a disaster area as a result of damage due to severe weather conditions (ice, snow, high tides, high winds) and coastal flooding beginning about February 5-6, 1978. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on April 27, 1978, and for economic injury until the close of business on November 24, 1978, at:

Small Business Administration, District Office, 970 Broad Sreet, Room 1635, Newark, N.J. 07102,

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: February 24, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-6065 Filed 3-7-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1446]

TENNESSEE

Declaration of Disaster Loan Area

The Town of Waverly in the State of Tennessee, constitutes a disaster area due to a fire caused by a railroad tank car explosion on February 24, 1978. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on May 1, 1978, and for economic injury until the close of business on November 28, 1978, at:

Small Business Administration, District Office, Parkway Towers, Room 1012, 404 James Robertson Parkway, Nashville, Tenn. 37219,

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: February 28, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-6066 Filed 3-7-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1443]

VIRGINIA

Declaration of Disaster Loan Area

Tazewell County and adjacent counties within the State of Virginia constitute a disaster area as a result of heavy rains and severe flooding which occurred on January 28 and 29, 1978. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on April 27, 1978, and for economic injury until the close of business on November 24, 1978 at:

Small Business Administration, District Office, Federal Building, Room 3015, 400 North Eighth Street, Richmond, Va. 23240,

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: February 24, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-6067 Filed 3-7-78; 8:45 am]

[4710-02]

DEPARTMENT OF STATE

Agency for International Development

BOARD FOR INTERNATIONAL FOOD AND AGRICULTURAL DEVELOPMENT

Notice of Meeting

Pursuant to Executive Order 11769 and the provisions of section 10(a)(2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the seventeenth meeting of the Board for International Food and Agricultural Development on March 23, 1978.

The purpose of the meeting is to review proposed guidelines for the strengthening of minority institutions' capacities for participation in title XII activities; to consider a proposal requesting U.S. assistance to the International Center for Living Aquatic Resources Management; to hear reports on the activities of the Joint Committee on Agricultural Development and the Joint Research Committee, including a specific report on the development of an agenda of research priorities by the latter; and to hear special presentations by the Director of ACTION and by the Director of the Linkage Study Group.

The meeting will begin at 9 a.m., adjourn at 4:30 p.m., and will be held in room 1107, State Department Building, 21st and C Streets NW., Washington, D.C. The meeting is open to the public. Any interested person may attend, may file written statements with the Board before or after the meeting, or may present oral statements in accordance with procedures established by the Board, and to the extent the time available for the meeting permits.

Dr. Erven J. Long, Associate Assistant Administrator, Development Support Bureau, A.I.D., is designated as A.I.D. Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at 703-235-2243.

Dated: March 3, 1978.

ERVEN J. LONG,
A.I.D. Advisory Committee Representative Board for International Food and Agricultural Development.

[FR Doc. 78-6058 Filed 3-7-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 604]

ASSIGNMENT OF HEARINGS

MARCH 3, 1978.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 33641 (Sub-No. 96M1), IML Freight, Inc., is now assigned for prehearing conference April 24, 1978, at the offices of the Interstate Commerce Commission, Washington, DC.

MC 26825 (Sub-No. 16), Andrews Van Lines, Inc., now being assigned April 12, 1978 (3 days), at Omaha, NE, in a hearing room to be later designated.
MC 124211 (Sub-No. 308), Hilt Truck Line, Inc., now being assigned April 10, 1978 (2 days), at Omaha, NE, in a hearing room to be later designated.
MC 115826 (Sub-No. 270), W. J. Digby, Inc., is now assigned for hearing March 13, 1978, at Denver, CO, and will be held at OSHRC Courtroom, suite 1718, 1050 Seventeenth Street.
MC 143236 (Sub-No. 11), White Tiger Transportation, Inc., now being assigned April 27, 1978, at the Offices of the Interstate Commerce Commission in Washington, DC.
FD 28611, Southern Pacific Transportation Co. to Discontinue the Operation of Passenger Trains Between San Francisco and San Jose and Intermediate Points now being assigned April 25, 1978 (4 days), at San Francisco, CA, and continued to May 1, 1978 (1 day), at San Mateo, CA, May 2, 1978 (1 day), at Redwood, CA, May 3, 1978 (1 day), at Palo Alto, CA, May 4, 1978 (1 day), at Mountain View, CA, May 5, 1978 (1 day), at San Jose, CA, and May 8, 1978 (1 week), at San Francisco, CA, in hearing rooms to be later designated.
AB 1 (Sub-No. 41), Chicago & North Western Transportation Co. Abandonment between Klevenville and Fennimore, including Lancaster Junction to Lancaster, Monfort Junction to Cuba City, and Ipswich to Platteville, in Dane, Iowa, Lafayette, and Grant Counties, WI, now assigned April 10, 1978, at Dodgeville, WI, is postponed to May 8, 1978 (5 days), at Dodgeville, WI, at a location to be later designated.
AB 43 (Sub-No. 28), Illinois Central Gulf Railroad Co. Abandonment between Freeport, IL, and Madison, WI, now assigned April 10, 1978, at Monroe, WI, is postponed to May 15, 1978 (1 week), at Monroe, WI, at a location to be later designated.
MC 67121 (Sub-No. 10), Harp Transportation Line, now assigned March 21, 1978, at Denver, CO, is postponed to April 3, 1978 (2 days), at Denver, CO, at a location to be later designated.
MC 114552 (Sub-No. 135), Senn Trucking Co. now assigned March 14, 1978, at Little Rock, AR, is canceled, transferred to Modified Procedure.
Fourth Section Order No. 20541, Sheet Steel, Chicago, IL, to Ft. Smith, AR, now assigned March 14, 1978, at Washington, DC, is canceled and reassigned to April 25, 1978, at the Offices of Interstate Commerce Commission, Washington, DC.
MC 133966 (Sub-No. 49), North East Express, Inc., now assigned March 8, 1978, at Washington, DC, is canceled.
MC 144002, One Seventy Two Union Ave., Inc., d.b.a. Henry's Citgo, now assigned June 6, 1978, at Boston, MA, is canceled.
MC 113678 (Sub-No. 692), Curtis, Inc., now assigned March 7, 1978, at Chicago, IL, is canceled, application dismissed.
MC 61592 (Sub-No. 405), Jenkins Truck Line, Inc., now assigned March 13, 1978, at Little Rock, AR, is canceled, application dismissed.
MC 118989 (Sub-No. 165), Container Transit, Inc., now assigned March 17, 1978, at Chicago, IL, is postponed indefinitely.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-6083 Filed 3-7-78; 8:45 am]

[7035-01]

[Docket No. AB-7 (Sub-No. 46)]

CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD CO.

Abandonment in Gallatin County, MT; Notice of Findings

Notice is hereby given pursuant to section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by an Certificate and Order dated February 24, 1978, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Oregon Short Line R. Co.—Abandonment—Goshen, 354 ICC 76 (1977) and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Chicago, Milwaukee, St. Paul & Pacific Railroad Co. of a line of railroad known as the Three Forks to Bozeman Line, including the Bozeman Hot Springs to Gallatin Gateway Branch. The line is located in Gallatin County, MT. The line extends from railroad milepost 0.0 near Three Forks, MT, to milepost 40.3 near Bozeman, a distance of 40.3 miles. The line also includes a branch extending from railroad milepost 0.0 near Bozeman Hot Springs to railroad milepost 4.9 near Gallatin Gateway, MT, a distance of 4.9 miles. The total distance of the line proposed to be abandoned is 45.2 miles. A certificate of public convenience and necessity permitting abandonment was issued to the Chicago, Milwaukee, St. Paul & Pacific Railroad Co. Since no investigation was instituted, the requirement of section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served on or before March 23, 1978. The offer, as filed, shall contain information required pursuant to section 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective April 24, 1978.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-6084 Filed 3-7-78; 8:45 am]

[7035-01]

[Docket No. AB-7 (Sub-No. 40)]

CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD CO.

Abandonment Near Minnesota Lake and Mankato, in Blue Earth and Faribault Counties, Minn.; Notice of Findings

Notice is hereby given pursuant to section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by a Certificate and Order dated February 17, 1978, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Oregon Short Line R. Co.—Abandonment—Goshen, 354 ICC 76 (1977) and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Chicago, Milwaukee, St. Paul & Pacific Railroad Co. of its line of railroad known as the Wells to Mankato Branch extending from railroad milepost 8.5 near Minnesota Lake in a northerly direction to railroad milepost 38.0 near Mankato, a distance of 29.5 miles, in Faribault and Blue Earth Counties, Minn. A certificate of public convenience and necessity permitting abandonment was issued to the Chicago, Milwaukee, St. Paul & Pacific Railroad Co. Since no investigation was instituted, the requirement of section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served on or before March 23, 1978. The offer, as filed, shall contain information required pursuant to section 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective April 24, 1978.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-6085 Filed 3-8-78; 8:45 am]

[7035-01]

[Exemption No. 140-A]

EXEMPTION UNDER PROVISION OF RULE 19 OF THE MANDATORY CAR SERVICE RULES ORDERED IN EX PARTE NO. 241

To: All railroads: Upon further consideration of Exemption No. 140 issued July 18, 1977.

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 140 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 be, and it is hereby, vacated and set aside.

This order shall become effective February 22, 1978.

Issued at Washington, D.C., February 17, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-6082 Filed 3-7-78; 8:45 am]

[7035-01]

[No. 36845]

NORTH CAROLINA INTRASTATE FREIGHT RATES AND CHARGES—1978

Petition for Investigation of Intrastate Freight Rates and Charges Within the State of NC

By joint petition authorized under section 13(3) of the Interstate Commerce Act, filed February 13, 1978, petitioners class I carriers by railroad[1] subject to Part I of the Interstate Commerce Act, and also operating in intrastate commerce in the State of NC, request that this Commission institute an investigation of their NC intrastate freight rates and charges, under sections 13 and 15a of the Interstate Commerce Act, wherein they will seek an order authorizing them to increase such rates and charges in the same amounts approved for interstate application by this Commission in Ex Parte No. 343.

By application filed October 11, 1977, with the NC Utilities Commission, petitioners sought to make the increases granted in Ex Parte No. 343 applicable on NC intrastate traffic. Said Commission dismissed the application by order dated January 30, 1978.

Petitioners contend that present interstate freight rates from, to, and within NC are just and reasonable and that the proposed intrastate rates will not exceed a just and reasonable level; that transportation conditions for intrastate traffic in NC are not more favorable than for interstate traffic; that traffic moving under present NC intrastate rail freight rates and charges fails to provide its fair share of earnings; and, that the present NC intrastate rail freight rates and charges create undue and unreasonable advantage, preference, and prejudice between persons and localities in intrastate commerce within NC and interstate and foreign commerce, and result in undue, unreasonable and unjust discrimination against and an undue burden on interstate commerce in violation of sections 13 and 15a of the Interstate Commerce Act, among others, to the extent that they do not include the increases authorized in Ex Parte No. 343.

Under section 13 of the Interstate Commerce Act, this Commission may institute an investigation into the lawfulness of intrastate rail freight rates and charges for the purpose of determining and if warranted, prescribing rates and charges that are not unduly preferential, prejudicial or discriminatory. This Commission may act not withstanding the laws or constitution of any State.

It is ordered: The petition is granted. An investigation, under sections 13 and 15a of the Interstate Commerce Act, is instituted to determine whether the NC intrastate rail freight rates in any respect cause any unjust discrimination against or any undue burden on interstate or foreign commerce, or cause undue or unreasonable advantages, preference, or prejudice as between interstate or foreign commerce, or are otherwise unlawful, by reason of the failure of such rates and charges to include the full increases authorized for interstate application by this Commission in Ex Parte No. 343. The investigation shall also determine if any rates or charges, or maximum or minimum charges, or both, shall be prescribed to remove any unlawful advantages, preference, discrimination, undue burden, or other violation of law, found to exist.

All common carriers by railroad operating in the State of NC subject to the jurisdiction of this Commission are made respondents in this proceeding.

All persons who wish to actively participate in this proceeding and to file and receive copies of pleadings shall make known that fact by notifying the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423, on or before 15 days from the FEDERAL REGISTER publication date. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentations to the greatest extent possible. The Commission desires participation of only those who intend to take an active part in the proceeding.

As soon as practicable after the date of indicating a desire to participate in the proceeding has passed, the Commission will serve a list of names and addresses of all persons upon whom service of all pleadings must be made and that thereafter this proceeding will be assigned for oral hearing or handling under modified procedure.

A copy of this order shall be served upon each of the petitioners and respondents herein. The State of NC shall be notified of the proceeding by sending copies of this order of the instant petition by certified mail to the Governor of the State of NC and the NC Utilities Commission. Further notice of this proceeding shall be given to the public by depositing a copy of this order in the Office of the Secretary of the Interstate Commerce Commission, at Washington, DC, and by filing a copy with the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

This is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

Decided: February 28, 1978.

By the Commission, Robert J. Brooks, Director, Office of Proceedings.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-6088 Filed 3-8-78; 8:45 am]

[1] Carolina, Clinchfield & Ohio Railway, Louisville & Nashville Railroad Corp., Norfolk & Western Railway Co., Seaboard Coast Line Railroad Co., and Southern Railway Co

[7035-01]

TRANSPORTATION OF "WASTE" PRODUCTS FOR REUSE OR RECYCLING

Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of "waste" products for reuse or recycling in furtherance of a recognized pollution control program under the Commission's regulations (49 CFR 1062) promulgated in "Waste" Products, Ex Parte No. MC 85, 124 MCC 583 (1976).

An original and one copy of protests (including protestant's complete argument and evidence) against applicant's participation may be filed with the Interstate Commerce Commission March 29, 1978, from the date of this publication. A copy must also be served upon applicant or its representative. Protests against the applicant's participation will not operate to stay commencement of the proposed operation.

If the applicant is not otherwise informed by the Commission, operations may commence April 10, 1978, subject to its tariff publication effective date.

P-31-77 (Special Certificate—Waste Products) (Correction), filed November 22, 1977, published in the FEDERAL REGISTER issue of February 15, 1978, and republished this issue. Applicant: PALMER MOTOR EXPRESS, INC., P.O. Box 103, Old Dean Forest Road, Savannah, GA 31402. Applicant's representative: W. W. Palmer, Jr. (same address as applicant). Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Waste products*, for recycling or reuse, between points in the United States including AK and HI, in furtherance of a recognized pollution control program sponsored by Union Camp Corp. of Savannah, GA for the purpose of recycling waste paper.

NOTE.—The purpose of this republication is to indicate applicant's correct address as P.O. Box 103 in lieu of P.O. Box 130 as previously published.

By the Commission.

H. G. HOMME Jr.,
Acting Secretary.

[FR Doc. 78-6086 Filed 3-7-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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	Item
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Commodity Futures Trading Commission	2
Federal Election Commission	3
Indian Claims Commission	4
International Trade Commission	5
National Science Board	6
Occupational Safety and Health Review Commission	7

[6320-01]

1

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., March 9, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.

2. Docket 31737, proposed amendment of separation of functions rule (section 300.4) (memo No. 7473-B, OGC).

3. Docket 29419, review of decision of the Director, BOE, dismissing the third-party complaint in *Quantas Airways* v. *Air New Zealand and Foremost International Tours* (memo No. 7794, OGC).

4. Docket 29186, *Memphis-Twin Cities/Milwaukee Case*, (memo No. 7793, OGC, OEA).

5. Docket 28655, *Seattle/Portland-Japan Service Investigation* (request for instructions) (memo No. 7758, 7758-A, OGC).

6. Docket 25476, *Agreement to Reorganize Airline Tariff Publishers, Inc.* (OGC).

7. Docket 29790, Dallas-Fort Worth-Western Mexico, order of discretionary review (OGC).

8. Part 221, notice of proposed rulemaking to reduce the amount of economic data required in tariff justifications for domestic air freight service (memo No. 7796, OGC, BPDA).

9. Docket 31551, notice of proposed rulemaking to require a statement on live animal shipment airbills that extra-tariff conditions are illegal; EDR-337 (memo No. 7328-C, OGC, BPDA).

10. Docket 29056. Globus-Gateway Tours, Ltd. (Switzerland), foreign indirect air carrier permit; advance notice of proposed rulemaking regarding treating U.S. corporations as U.S. citizens for purposes of section 408(a)(4) (OGC, BOE, BPDA, BIA).

11. Docket 21670, *Frontier Airlines, Inc., Subsidy Mail Rates*—Petitions for discretionary review (memo No. 7798, OGC).

12. Docket 31459, request of Edward Katz and Arthur Rosenblatt d.b.a. Choice Air Courier Service, an air freight forwarder, for an exemption from section 403 of the Act and Parts 296.11(a) and 296.72 of the Board's economic regulations (memo No. 7735, BPDA, BAS).

13. Dockets 31978, 31980, and 32051, increased excess valuation charges proposed by Delta, Eastern, and TWA (memo No. 7799, BPDA).

14. Docket 31920, complaint by Grand Circle Travel, Inc., against Iberia's increased add-on fares for construction of through APEX and non affinity/incentive group fares between U.S. interior points and Spain (BPDA).

15. Docket 23456, termination of investigation of reduced specific commodity rates of WTC air freight (memo No. 2368-A, BPDA).

16. Docket 31462, Eastern's application to delete Binghamton, N.Y., from segment 1 of route 71 (memo No. 7703-A, BPDA).

17. Docket 31446, Piedmont's petition for a show cause order changing two-stop restrictions to one-stop in these markets: Chicago-Atlanta/Baltimore-Charlotte/Greensboro-High Point/New York/Raleigh-Durham/Washington, D.C. (memo No. 7786, BPDA).

18. Docket 31071, Delta's petition for show-cause order proposing Los Angeles-San Francisco fill-up rights (memo No. 6980-I, BPDA, OGC).

19. Docket 30458, application of Robert W. Hall for approval or exemption of control and interlocking relationships (memo No. 7790, BOR, OGC, BOE).

20. Dockets 31821, 30223, 31583, 31116, 31762, 31757, 28366, 30971, 28273, 28475, 30267, 31699, assignment of dockets for immediate hearing (memo No. 7795, BLJ).

21. Docket 31574, *California-Nevada Low-Fare Route Proceeding*—Consolidate applications within scope of proceeding (memo No. 7433-b, BLJ).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

[S-504-78 Filed 3-6-78; 3:46 pm]

[6351-01]

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., March 10, 1978.

PLACE: 8th Floor Conference Room, 2033 K Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market surveillance matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-501-78 Filed 3-6-78; 3:26 pm]

[6715-01]

3

FEDERAL ELECTION COMMISSION

FEDERAL REGISTER NO: S-472-78.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, March 9, 1978 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

CHANGE IN MEETING: Please add under "Portions Open to the Public": response to loan memo (Commission memorandum No. 25) from Orlando B. Potter to Commissioners, dated February 21, 1978.

PERSON TO CONTACT FOR INFORMATION:

Mr. David Fiske, Press Officer; telephone 202-523-4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S-502-78 Filed 3-6-78; 3:26 pm]

[7030-01]

4

INDIAN CLAIMS COMMISSION.

TIME AND DATE: March 15, 1978, 10:15 a.m.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open to the public: Dockets 64, 335, and 338, *Shawnee;* Docket 363, *Lower Sioux.*

FOR MORE INFORMATON:

David H. Bigelow, Executive Director, Room 640, 1730 K Street NW., Washington, D.C. 20006, telephone 202-653-6174.

[S-498-78 Filed 3-6-78; 10:22 am]

[7020-02]

5

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 9:30 a.m., Friday, March 17, 1978.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints (if necessary): (a) Copper (Document No. 499); (b) Cigarette holders (Docket No. 498).
5. Offset paper (Inv. AA1921-Inq.-10)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-499-78 Filed 3-6-78; 11:29 am]

[7555-01]

6

NATIONAL SCIENCE BOARD.

TIME AND DATE: MARCH 16, 1978, MARCH 17, 1978.
Open session—1 p.m. to 4 p.m.
Closed session—4 p.m. to 5 p.m.
Open session—8:30 a.m. to 10:30 a.m.
Closed session—10:30 a.m. to 1 p.m.

PLACE: Room 540, 1800 G Street NW., Washington, D.C. 20550.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Program Review—Computer Sciences.
2. Minutes—Open Session—195th Meeting.
3. Chairman's Report.
4. Director's Report.
5. Reports of Board Committees.
6. NSF Advisory Group—Report on Meeting.
7. Grants, Contracts, and Programs.
8. Other Business.
9. Next Meetings.
10. Presentation by Ambassador Jean Wilkowski, U.S. Coordinator for United Nations Conference on Science and Technology for Development.

Portions closed to public:

A. Minutes—Closed Session—195th Meeting.
B. Grants and Contracts.
C. Report on NSB Nominees.
D. NSB Annual Reports.
E. NSF Budgets for fiscal years 1980 and subsequent years.
F. Recommendations Requiring Negotiations with NSF Contractor.

CONTACT PERSON FOR MORE INFORMATION:

Miss Vernice Anderson, Executive Secretary, 202-632-5840.

[S-503-78 Filed 3-6-78; 3:30 pm]

[7600-01]

7

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

Pursuant to the Government in the Sunshine Act and implementing regulations, the Occupational Safety and Health Review Commission announces that there will be a meeting of the Commissioners on March 9, 1978, at 10 a.m., in Room 1101, 1825 K Street NW., Washington, D.C.

Under 29 CFR 2203.3(c)(4), this meeting is subject to being closed by a vote of the Commissioners taken at the beginning of such meeting. Two Commissioners must vote to close or the meeting will remain open. The only matters to be discussed at this meeting will be specific cases in the Commission adjudication process. Under 29 CFR 2203.3(b)(10), the identity of the cases to be discussed is exempt from disclosure, and the meeting may be closed upon a proper vote taken.

For information on this meeting and all other Commission meetings, call Ms. Lottie Richardson 202-634-7970.

Dated: March 2, 1978.

For the Commission.

THOMAS B. FLYNN,
Chief Counsel to the Chairman.

[S-500-78 Filed 3-6-78; 1:12 pm]

FEDERAL REGISTER, VOL. 43, NO. 46—WEDNESDAY, MARCH 8, 1978

federal register

WEDNESDAY, MARCH 8, 1978
PART II

INTERSTATE COMMERCE COMMISSION

■

SEABOARD COAST LINE RAILROAD CO.

Revised System Diagram Map

[7835-01]

INTERSTATE COMMERCE COMMISSION

[AB 55 (SDM)]

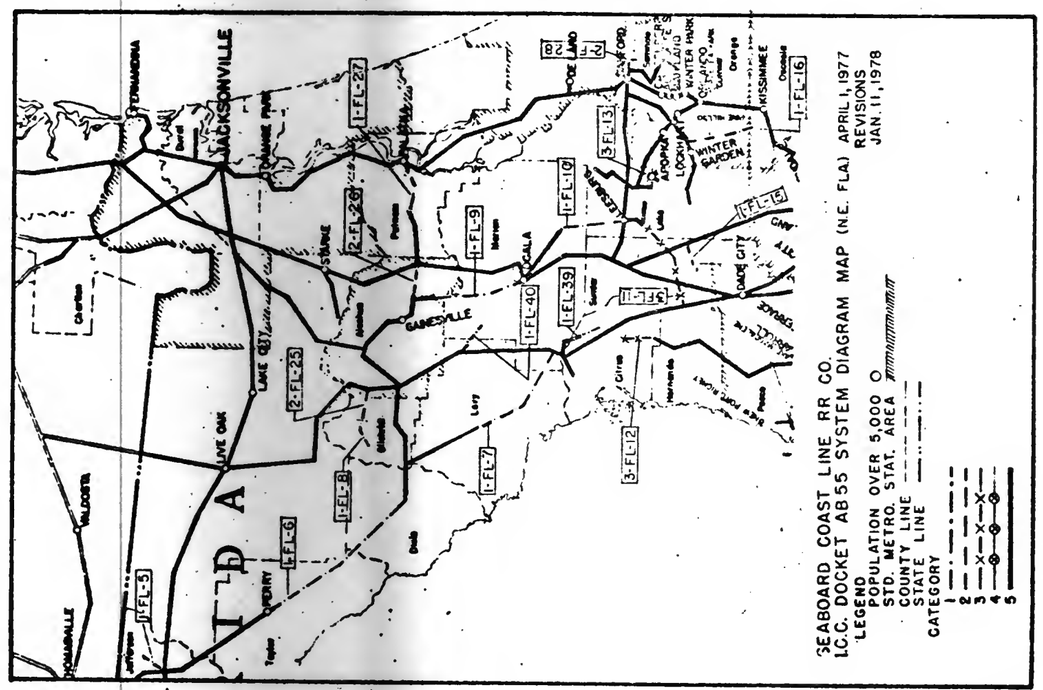
SEABOARD COAST LINE RAILROAD CO

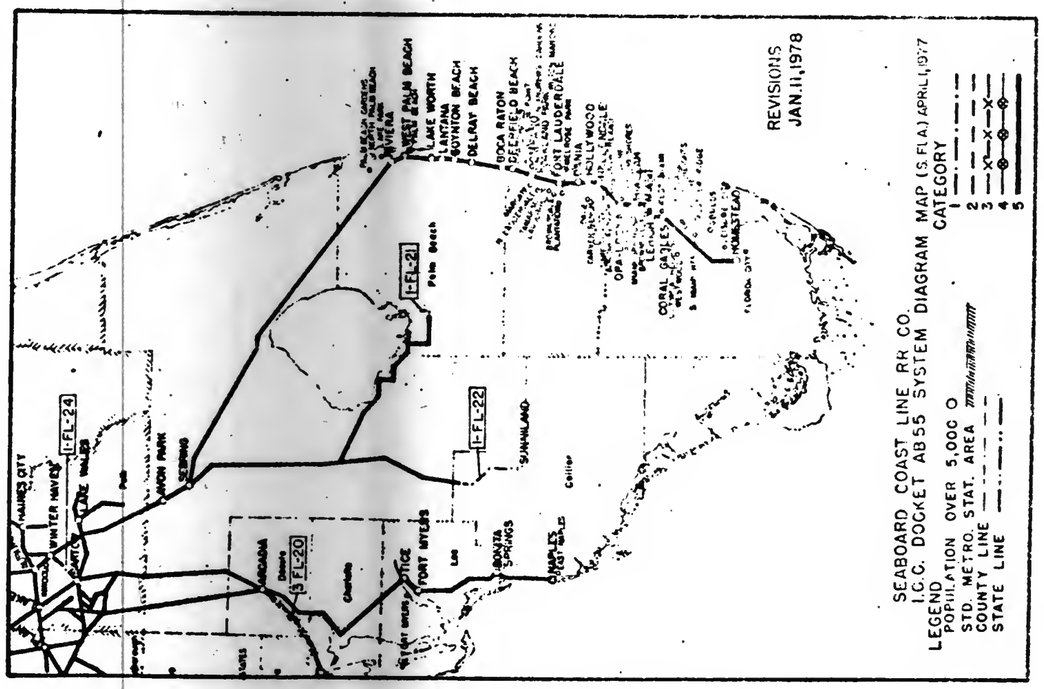
Revised System Diagram Map

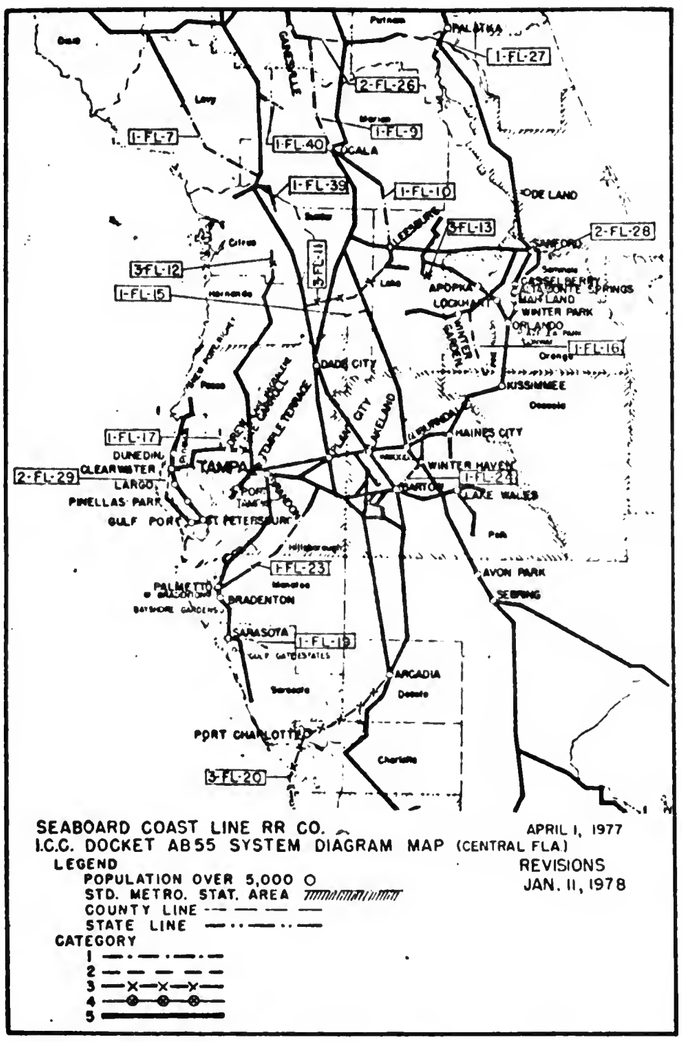
Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Seaboard Coast Line Railroad Co., has filed with the Commission its revised color-coded system diagram map in Docket No. AB 55 (SDM). The maps reproduced here in black and white are reasonable reproductions of that revised system diagram map and the Commission on February 21, 1978, received a certificate of publication as required by said regulation which is considered the effective date on which the revised system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 55 (SDM)

H. G. HOMME, Jr.
Acting Secretary






SEABOARD COAST LINE RR CO.
I.C.C. DOCKET AB55 SYSTEM DIAGRAM MAP (CENTRAL FLA.)
APRIL 1, 1977
REVISIONS
JAN. 11, 1978
LEGEND
POPULATION OVER 5,000
STD. METRO. STAT. AREA
COUNTY LINE
STATE LINE
CATEGORY
1
2
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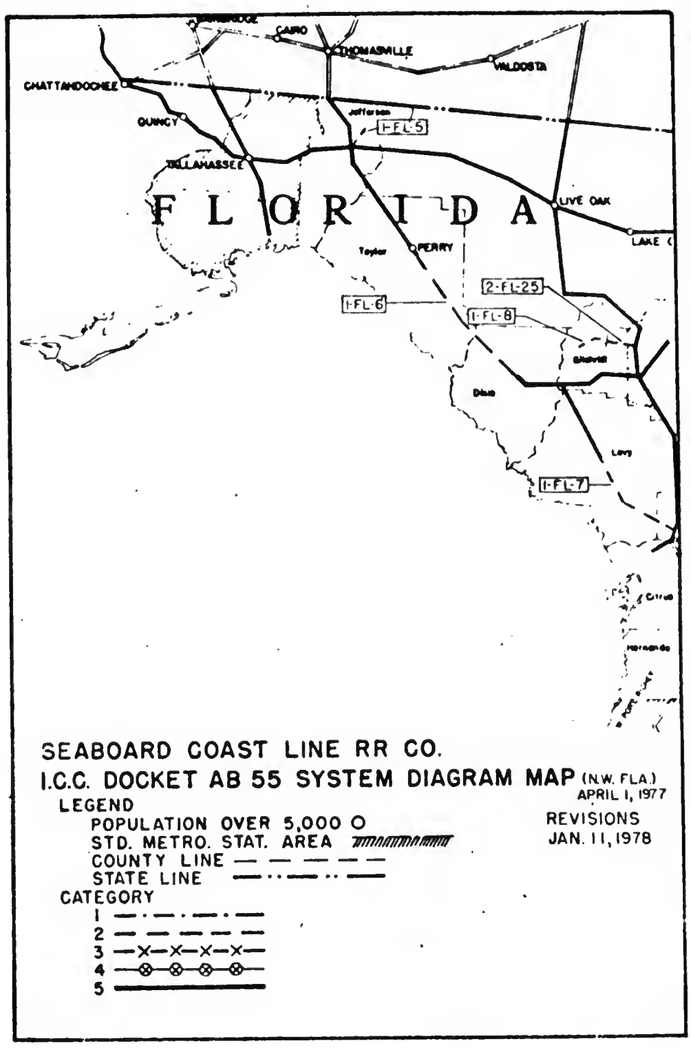
4
5
1-FL-27
2-FL-26
1-FL-9
1-FL-40
1-FL-39
1-FL-10
3-FL-13
2-FL-28
3-FL-12
1-FL-15
1-FL-16
1-FL-17
2-FL-29
1-FL-21
1-FL-23
1-FL-19
3-FL-20
TAMPA
DADE CITY
KISSIMMEE
WINTER HAVEN
BRADENTON
SARASOTA
SEBRING
ARCADIA
PORT CHARLOTTE


SEABOARD COAST LINE RR CO.
I.C.C. DOCKET AB 55 SYSTEM DIAGRAM MAP (N.W. FLA.)
APRIL 1, 1977
REVISIONS
JAN. 11, 1978
LEGEND
POPULATION OVER 5,000
STD. METRO. STAT. AREA
COUNTY LINE
STATE LINE
CATEGORY
1
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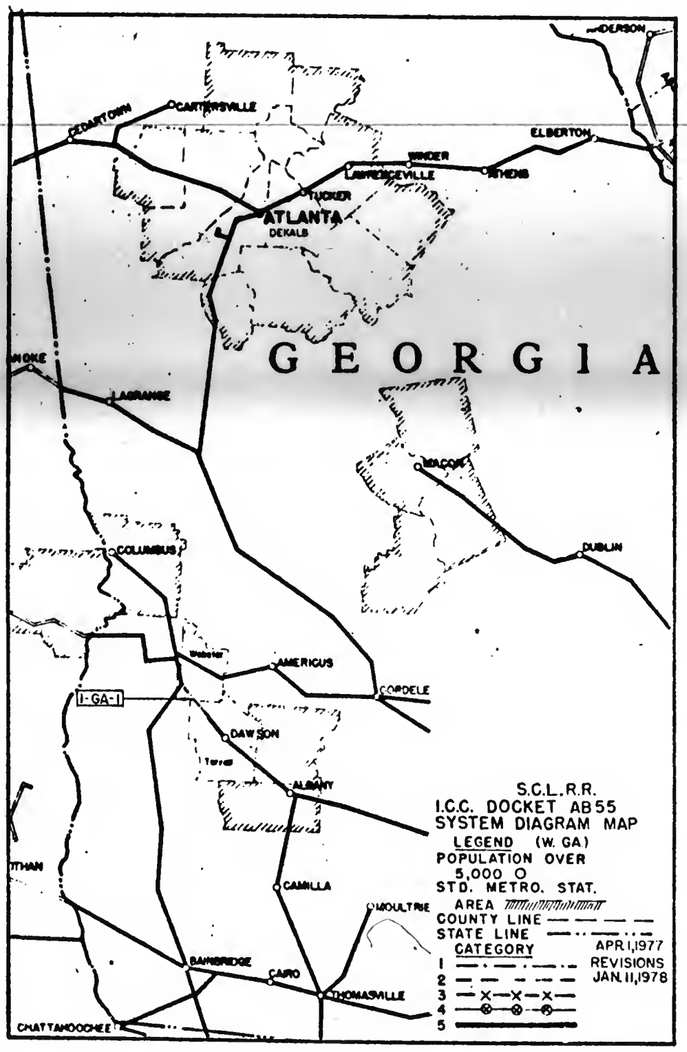
FLORIDA
CAIRO
THOMASVILLE
VALDOSTA
QUINCY
TALLAHASSEE
LIVE OAK
PERRY
1-FL-5
1-FL-6
2-FL-25
1-FL-8
1-FL-7


GEORGIA
S.C.L.R.R.
I.C.C. DOCKET AB55
SYSTEM DIAGRAM MAP
LEGEND (W. GA)
POPULATION OVER 5,000
STD. METRO. STAT. AREA
COUNTY LINE
STATE LINE
CATEGORY
1
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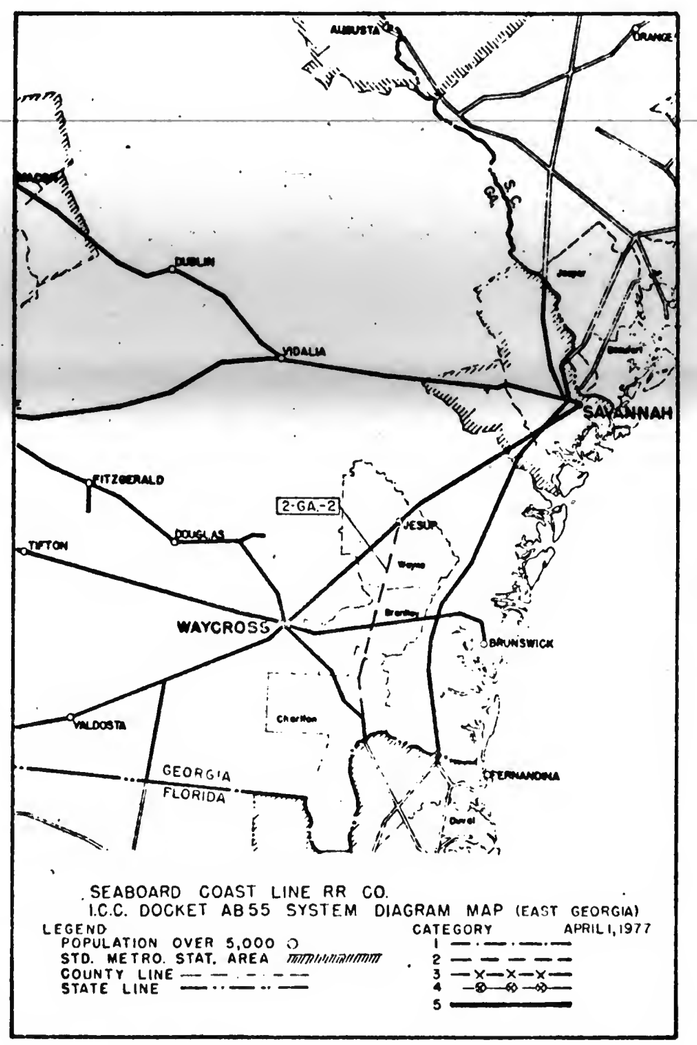
APRIL 1, 1977
REVISIONS
JAN. 11, 1978
ATLANTA
DEKALB
CARTERSVILLE
CEDARTOWN
ELBERTON
LAWRENCEVILLE
TUCKER
LAGRANGE
MACON
COLUMBUS
DUBLIN
AMERICUS
CORDELE
1-GA-1
DAWSON
ALBANY
CAMILLA
MOULTRIE
BAINBRIDGE
CAIRO
THOMASVILLE
CHATTAHOOCHEE


SEABOARD COAST LINE RR CO.
I.C.C. DOCKET AB55 SYSTEM DIAGRAM MAP (EAST GEORGIA)
APRIL 1, 1977
LEGEND
POPULATION OVER 5,000
STD. METRO. STAT. AREA
COUNTY LINE
STATE LINE
CATEGORY
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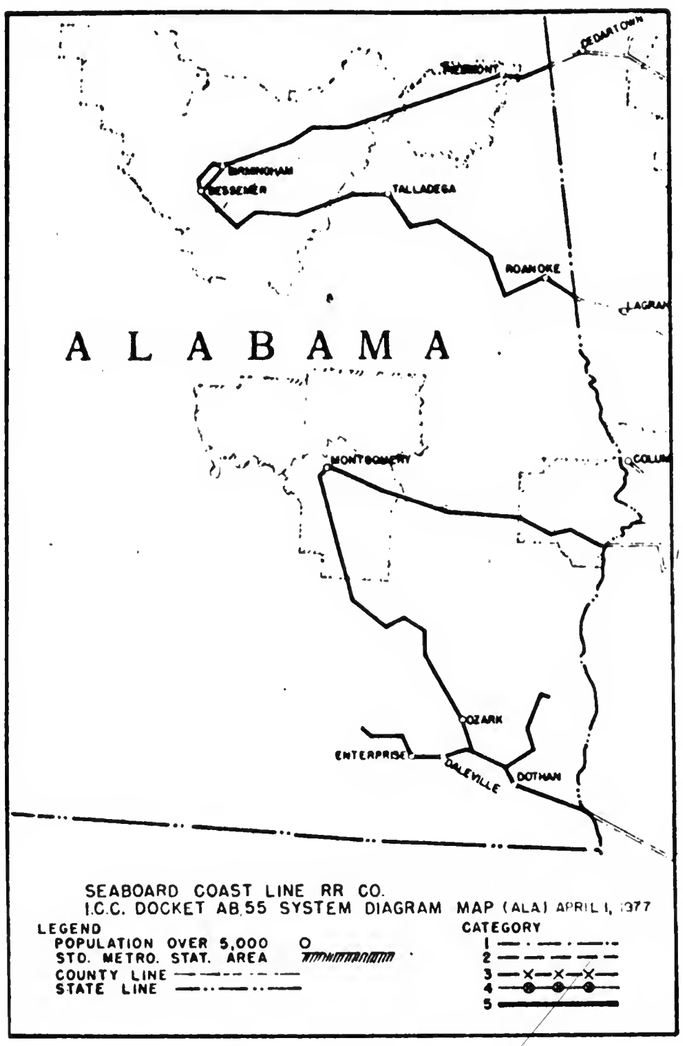
S.C.
GA.
DUBLIN
VIDALIA
SAVANNAH
FITZGERALD
2-GA-2
DOUGLAS
JESUP
TIFTON
WAYCROSS
BRUNSWICK
VALDOSTA
GEORGIA
FLORIDA
FERNANDINA


ALABAMA
BIRMINGHAM
BESSEMER
TALLADEGA
ROANOKE
MONTGOMERY
OZARK
ENTERPRISE
DALEVILLE
DOTHAN
SEABOARD COAST LINE RR CO.
I.C.C. DOCKET AB 55 SYSTEM DIAGRAM MAP (ALA) APRIL 1, 1977
LEGEND
POPULATION OVER 5,000
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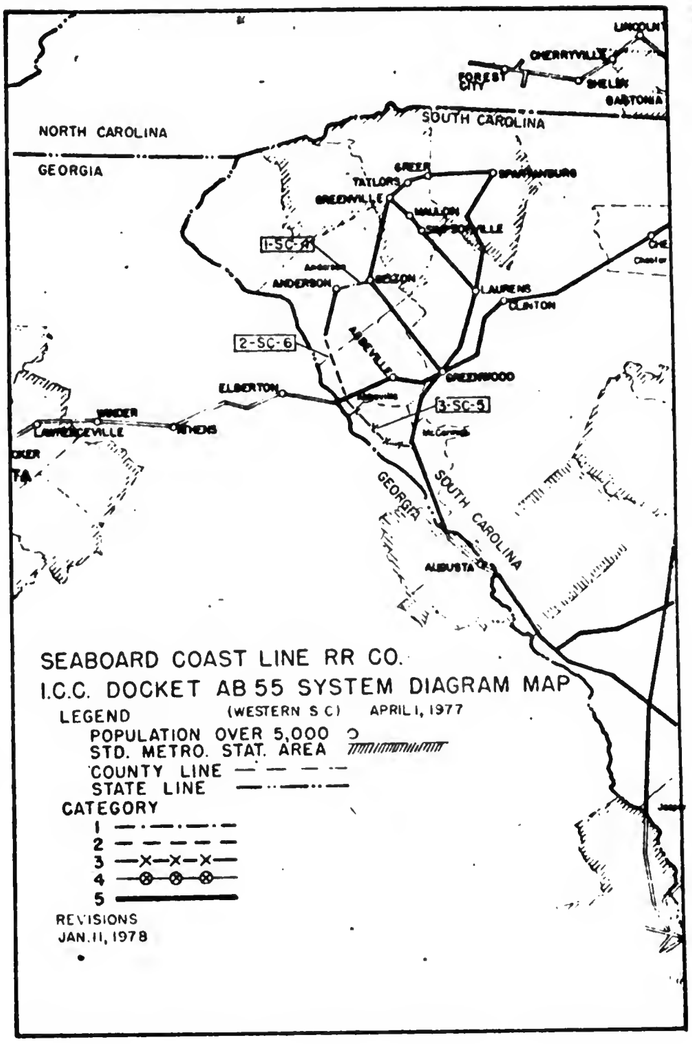
NORTH CAROLINA
SOUTH CAROLINA
GEORGIA
GREENVILLE
SPARTANBURG
ANDERSON
GREENWOOD
CLINTON
LAURENS
ELBERTON
ATHENS
AUGUSTA
1-SC-4
2-SC-6
3-SC-5
SEABOARD COAST LINE RR CO.
I.C.C. DOCKET AB 55 SYSTEM DIAGRAM MAP
LEGEND (WESTERN S C) APRIL 1, 1977
POPULATION OVER 5,000
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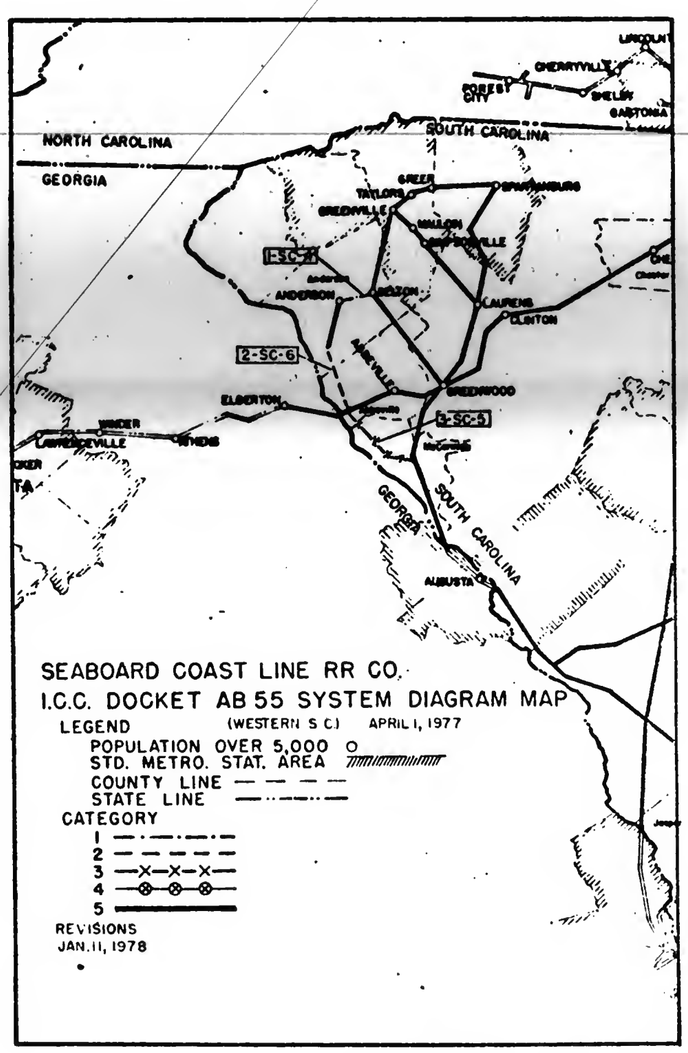
REVISIONS
JAN. 11, 1978


NORTH CAROLINA
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ANDERSON
GREENWOOD
CLINTON
LAURENS
ELBERTON
ATHENS
AUGUSTA
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2-SC-6
3-SC-5
SEABOARD COAST LINE RR CO.
I.C.C. DOCKET AB 55 SYSTEM DIAGRAM MAP
LEGEND (WESTERN S C) APRIL 1, 1977
POPULATION OVER 5,000
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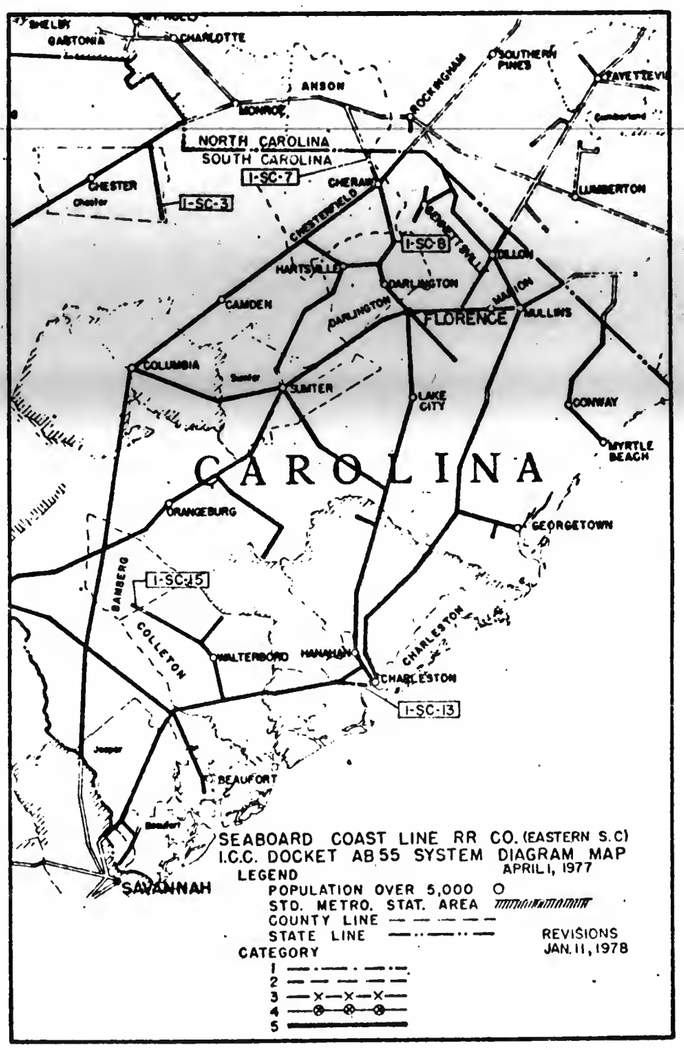
JAN. 11, 1978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NORTH CAROLINA
SOUTH CAROLINA
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CHESTERFIELD
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HARTSVILLE
CAMDEN
DARLINGTON
FLORENCE
COLUMBIA
SUMTER
LAKE CITY
MYRTLE BEACH
ORANGEBURG
GEORGETOWN
1-SC-15
BARNBERG
COLLETON
WALTERBORO
CHARLESTON
1-SC-13
BEAUFORT
SAVANNAH
SEABOARD COAST LINE RR CO. (EASTERN S.C)
I.C.C. DOCKET AB 55 SYSTEM DIAGRAM MAP
APRIL 1, 1977
LEGEND
POPULATION OVER 5,000
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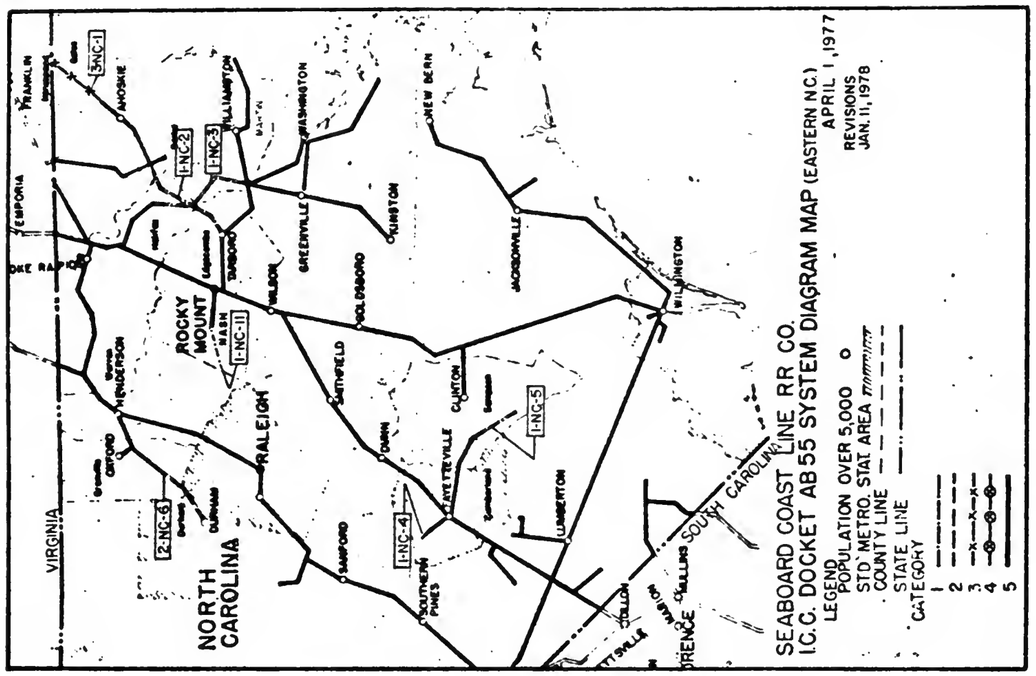
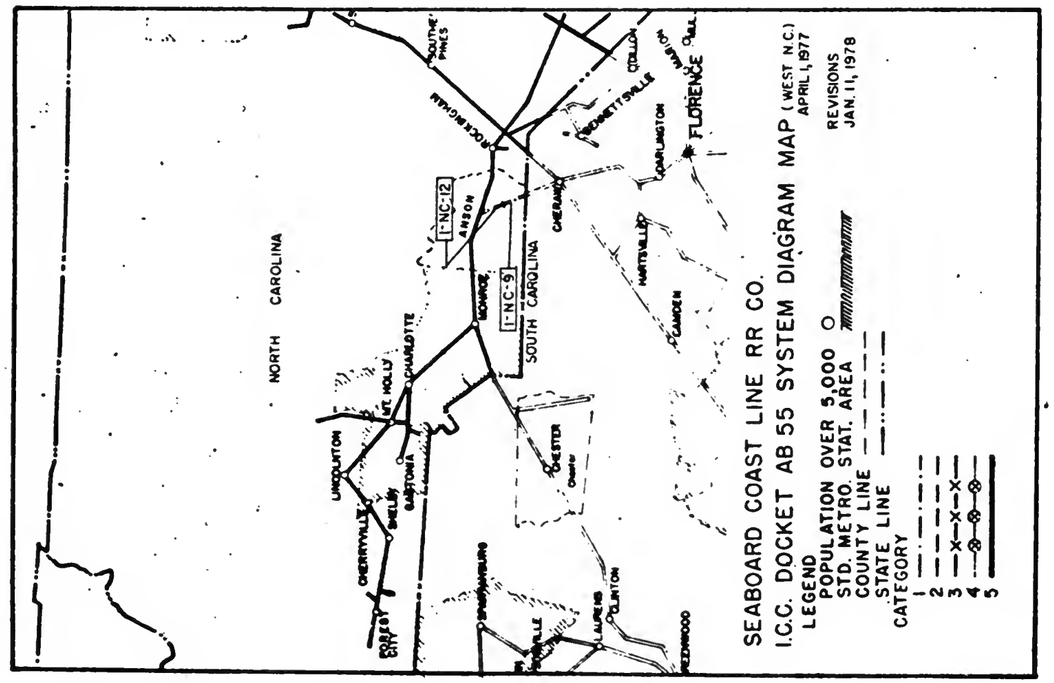
REVISIONS
JAN. 11, 1978





SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 1 State:	Florida Segment: 5
1121.21 (a) (Designation)	Monticello Subdivision - Jacksonville Division
1121.21 (b) (State)	Florida
1121.21 (c) (Counties)	Jefferson
1121.21 (d) (Mile Posts)	SPB-772.15 to SPB-776.69 - 4.54 miles
1121.21 (e) (Agencies)	
Terminal Points:	Drifton to Monticello
Agency Stations:	None

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 1 State:	Florida Segment: 7
1121.21 (a) (Designation)	Portion of Perry Subdivision - Jacksonville Division
1121.21 (b) (State)	Florida
1121.21 (c) (Counties)	Levy - Marion
1121.21 (d) (Mile Posts)	AND-837.00 to AND-855.00 - 18.00 miles
1121.21 (e) (Agencies)	
Terminal Points:	Lebanon Junction to Dunellon
Agency Stations:	None

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 1 State:	Florida Segment: 6
1121.21 (a) (Designation)	Portion of Perry Subdivision - Jacksonville Division
1121.21 (b) (State)	Florida
1121.21 (c) (Counties)	Taylor - Dixie
1121.21 (d) (Mile Posts)	AND-754.83 to AND-793.00 - 38.17 miles
1121.21 (e) (Agencies)	
Terminal Points:	Bucell Junction to Shamrock
Agency Stations:	None

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 1 State:	Florida Segment: 8
1121.21 (a) (Designation)	Portion of Bell Spur - Jacksonville Division
1121.21 (b) (State)	Florida
1121.21 (c) (Counties)	Gilchrist
1121.21 (d) (Mile Posts)	SN-722.20 to SN-730.30 - 8.10 miles
1121.21 (e) (Agencies)	
Terminal Points:	Craggs Track to Bell
Agency Stations:	Bell (SN-730) (Served by Mobile Agency with base station at Gainesville, Fla.)

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 1 State: Florida Segment: 9

1121.21 (a) (Designation) Portion of Ocala Subdivision - Jacksonville Division

1121.21 (b) (State) Florida

1121.21 (c) (Counties) Alachua - Marion

1121.21 (d) (Mile Posts) AS-742.59 to AS-756.00 - 13.41 miles

1121.21 (e) (Agencies)

Terminal Points: Micanopy Jct. to Lowell

Agency Stations: Reddick, Fla. (AS-754) (Agent); Evinston (AS-745); McIntosh (AS-748) (Served by Mobile Agency with base station at Gainesville, Fla.)

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 1 State: Florida Segment: 15

1121.21 (a) (Designation) Tarrytown Spur - Jacksonville Division

1121.21 (b) (State) Florida

1121.21 (c) (Counties) Sumter

1121.21 (d) (Mile Posts) AT-826.52 to AT-832.00 - 5.48 miles

1121.21 (e) (Agencies)

Terminal Points: Mabel to Tarrytown

Agency Stations: Tarrytown (AT-831) (Served by Mobile Agency with base station at Dade City, Fla.)

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 1 State: Florida Segment: 10

1121.21 (a) (Designation) Portion of Ocala Subdivision - Jacksonville Division

1121.21 (b) (State) Florida

1121.21 (c) (Counties) Marion - Lake

1121.21 (d) (Mile Posts) AS-781.19 to AS-800.79 - 19.60 miles

1121.21 (e) (Agencies)

Terminal Points: Candler to Leesburg

Agency Stations: None

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 1 State: Florida Segment: 16

1121.21 (a) (Designation) Dr. Phillips Subdivision - Tampa Division

1121.21 (b) (State) Florida

1121.21 (c) (Counties) Orange

1121.21 (d) (Mile Posts) AVB-832.07 to AVB-821.74 - 10.33 miles

1121.21 (e) (Agencies)

Terminal Points: Ocoee to Dr. Phillips

Agency Stations: None

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 1 State: Florida Segment: 23

1121.21 (a) (Designation) Portion of Parrish Subdivision Tampa Division

1121.21 (b) (State) Florida

1121.21 (c) (Counties) Hillsborough - Manatee

1121.21 (d) (Mile Posts) SW-842.50 to SW-854.17 - 11.67 miles

1121.21 (e) (Agencies)

Terminal Points: South Boyette to Willow

Agency Stations: Balm (SW-845); Wimauma (SW-848) (Served by Mobile Agency with base station at Bradenton, Fla.)

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 1 State: Florida Segment: 27

1121.21 (a) (Designation) Portion of Palatka Subdivision - Jacksonville Division

1121.21 (b) (State) Florida

1121.21 (c) (Counties) Putnam

1121.21 (d) (Mile Posts) AS-701.00 to AS-716.00 - 15.00 miles

1121.21 (e) (Agencies)

Terminal Points: Palatka to Interlachen

Agency Stations: None

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 1 State: Florida Segment: 24

1121.21 (a) (Designation) Portion of Bartow Subdivision - Tampa Division

1121.21 (b) (State) Florida

1121.21 (c) (Counties) Polk

1121.21 (d) (Mile Posts) AW-848.00 to AW-851.05 - 3.05 miles

1121.21 (e) (Agencies)

Terminal Points: Gordonville to Bartow

Agency Stations: None

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 1 State: Florida Segment: 39

1121.21 (a) (Designation) Dunnellon Spur Jacksonville Division -

1121.21 (b) (State) Florida

1121.21 (c) (Counties) Citrus

1121.21 (d) (Mile Posts) SR-759.80 to SR-768.70 8.90 miles

1121.21 (e) (Agencies)

Terminal Points: Dunnellon, Fl. to Mincoll, Fl.

Agency Stations: Mincoll (SR-769) served by Mobile Agency with base station at Ocala, Fl.

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 1 State: Florida Segment: 17

1121.21 (a) (Designation) Cosme Spur - Tampa Division

1121.21 (b) (State) Florida

1121.21 (c) (Counties) Hillsborough

1121.21 (d) (Mile Posts) SYA-856.32 to SYA-860.53 - 4.21 miles

1121.21 (e) (Agencies)

Terminal Points: Tarpon Jct. to Cosme

Agency Stations: None

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 1 State: Florida Segment: 21

1121.21 (a) (Designation) Portion of Okeelanta Subdivision - Jacksonville Division

1121.21 (b) (State) Florida

1121.21 (c) (Counties) Palm Beach

1121.21 (d) (Mile Posts) AVF-972.21 to AVF-978.11 - 5.90 miles

1121.21 (e) (Agencies)

Terminal Points: Cane to Duda

Agency Stations: None

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 1 State: Florida Segment: 19

1121.21 (a) (Designation) Belspur Branch-Tampa Division

1121.21 (b) (State) Florida

1121.21 (c) (Counties) Sarasota

1121.21 (d) (Mile Posts) AZA-930.30 to AZA-933.44 - 3.14 miles

1121.21 (e) (Agencies)

Terminal Points: Sarasota to Belspur

Agency Stations: None

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 1 State: Florida Segment: 22

1121.21 (a) (Designation) Portion of Immokalee Subdivision - Jacksonville Division

1121.21 (b) (State) Florida

1121.21 (c) (Counties) Collier

1121.21 (d) (Mile Posts) AVC-955.00 to AVC-967.90 - 12.90 miles

1121.21 (e) (Agencies)

Terminal Points: Immokalee to Sunniland

Agency Stations: None

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 1 State: Florida Segment: 40

1121.21 (a) (Designation) Portion of Early Bird Spur Jacksonville Division - Florida

1121.21 (b) (State)

1121.21 (c) (Counties) Marion

1121.21 (d) (Mile Posts) SR-743.82 to SR-745.00 1.18 miles

1121.21 (e) (Agencies)

Terminal Points: Minehead, Fl. to Early Bird, Fl.

Agency Stations: Early Bird (SR-744) served by Mobile Agency with base station at Ocala, Fl.

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 1 State: North Carolina Segment: 2

1121.21 (a) (Designation) Portion of East End Subdivision - Rocky Mount Division

1121.21 (b) (State) North Carolina

1121.21 (c) (Counties) Edgecombe-Halifax-Bertie

1121.21 (d) (Mile Posts) AB-137.30 to AB-161.73 - 24.43 miles

1121.21 (e) (Agencies)

Terminal Points: Tarboro, N.C. to Kelford, N.C.

Agency Stations: Speed (AB-143); Palmyra (AB-152) (Served by Mobile Agency with base station at Tarboro, N. C.)

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 1 State: Georgia Segment: 1

1121.21 (a) (Designation) Portion of Kimbrough Subdivision - Savannah Division

1121.21 (b) (State) Georgia

1121.21 (c) (Counties) Webster - Terrell

1121.21 (d) (Mile Posts) SLB-45.35 to SLB-56.10 - 10.75 miles

1121.21 (e) (Agencies)

Terminal Points: Kimbrough, Ga. to Parrott, Ga.

Agency Stations: None

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 1 State: North Carolina Segment: 3

1121.21 (a) (Designation) Portion of Kinston Subdivision - Rocky Mount Division

1121.21 (b) (State) North Carolina

1121.21 (c) (Counties) Halifax - Marine

1121.21 (d) (Mile Posts) AA-110.50 to AA-134.77 - 24.27 miles

1121.21 (e) (Agencies)

Terminal Points: Scotland Neck, N.C. to Parmele, N. C.

Agency Stations: Hobgood (AA-117); Oak City (AA-124); Hassell (AA-128) (Served by Mobile Agency with base station at Tarboro, N. C.)

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 1 State: North Carolina Segment: 4

1121.21 (a) (Designation) Portion of Fayetteville Subdivision - Rocky Mount Division

1121.21 (b) (State) North Carolina

1121.21 (c) (Counties) Cumberland

1121.21 (d) (Mile Posts) AE-201.05 to AE-197.53 - 3.52 miles

1121.21 (e) (Agencies)

Terminal Points: Fort Junction, N.C. to Manchester, N.C.

Agency Stations: None

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 1 State: North Carolina Segment: 9

1121.21(a) (Designation) Portion of Wadesboro Subdivision - Florence Division

1121.21(b) (State) North Carolina

1121.21(c) (Counties) Anson

1121.21(d) (Mile Posts) AJ-342.16 to AJ-346.0 3.84 miles

1121.21(e) (Agencies)

Terminal Points: S.C. State Line to Morven, N.C.

Agency Stations: None

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 1 State: North Carolina Segment: 5

1121.21 (a) (Designation) Portion of Fayetteville Subdivision - Rocky Mount Division

1121.21 (b) (State) North Carolina

1121.21 (c) (Counties) Sampson

1121.21 (d) (Mile Posts) AF-232.64 to AF-246.00 - 13.36 miles

1121.21 (e) (Agencies)

Terminal Points: Roseboro, N.C. to Garland, N.C.

Agency Stations: Minta (AF-236); Garland (AF-245) (Served by Mobile Agency with base station at Fayetteville, N.C.)

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 1 State: North Carolina Segment: 11

1121.21(a) (Designation) Portion of Nashville Subdivision - Rocky Mount Division

1121.21(b) (State) North Carolina

1121.21(c) (Counties) Nash - Franklin

1121.21(d) (Mile Posts) ABA-139.5 to ABA-148.05 8.55 miles

1121.21(e) (Agencies)

Terminal Points: Spring Hope, N.C. to Bunn, N.C.

Agency Stations: Bunn (ABA-148) served by Mobile Agency with base station at Wilson, N.C.

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 1 State: North Carolina Segment: 12

1121.21(a) (Designation) Portion of Wadesboro Subdivision - Florence Division

1121.21(b) (State) North Carolina

1121.21(c) (Counties) Anson

1121.21(d) (Mile Posts) AJ-346.00 to AJ-354.04 8.04 miles

1121.21(e) (Agencies)

Terminal Points: Morven, N.C. to Wadesboro, N.C.

Agency Stations: Morven (AJ-346) served by Mobile Agency with base station at Hamlet, N.C.

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 1 State: South Carolina Segment: 4

1121.21 (a) (Designation) Belton Subdivision of Florence Division

1121.21 (b) (State) South Carolina

1121.21 (c) (Counties) Anderson

1121.21 (d) (Mile Posts) AKM-2.0 to AKM-10.0 - 8.0 miles

1121.21 (e) (Agencies)

Terminal Points: Anderson, S.C. to Belton, S.C.

Agency Stations: None

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 1 State: South Carolina Segment: 3

1121.21 (a) (Designation) Portion of Catawba Subdivision - Atlanta Division

1121.21 (b) (State) South Carolina

1121.21 (c) (Counties) Chester

1121.21 (d) (Mile Posts) SGA-347.89 to SGA-351.68 - 3.79 miles

1121.21 (e) (Agencies)

Terminal Points: Flick, S.C. to Great Falls, S.C.

Agency Stations: Great Falls (SGA-352) (Served by Mobile Agency with base station at Chester, S. C.)

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 1 State: South Carolina Segment: 7

1121.21(a) (Designation) Portion of Wadesboro Subdivision Florence Division

1121.21(b) (State) South Carolina

1121.21(c) (Counties) Chesterfield

1121.21(d) (Mile Posts) AJ-335.0 to AJ-342.16 7.16 miles

1121.21(e) (Agencies)

Terminal Points: Cheraw, S.C. to N.C. State Line

Agency Stations: None

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 1 State: South Carolina Segment: 8

1121.21(a) (Designation) Portion of Wadesboro Subdivision Florence Division

1121.21(b) (State) South Carolina

1121.21(c) (Counties) Darlington

1121.21(d) (Mile Posts) AJ-309.14 to AJ-319.61 10.47 miles

1121.21(e) (Agencies)

Terminal Points: Floyd, S.C. to Society Hill, S.C.

Agency Stations: None

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 1 State: South Carolina Segment: 15

1121.21(a) (Designation) Portion of Walterboro Sub-Division - Florence Division

1121.21(b) (State) South Carolina

1121.21(c) (Counties) Bamberg

1121.21(d) (Mile Posts) AMF-461.62 to AMF-467.00 4.99 miles

1121.21(e) (Agencies)

Terminal Points: Lodge, S.C. to Ehrhardt, S.C.

Agency Stations: Ehrhardt (AMF-467) served by Mobile Agency with base station at Denmark, S.C.

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 1 State: South Carolina Segment: 13

1121.21(a) (Designation) St. Andrews Spur - Florence Division

1121.21(b) (State) South Carolina

1121.21(c) (Counties) Charleston

1121.21(d) (Mile Posts) AM-399.17 to AM-408.01 8.61 miles

1121.21(e) (Agencies)

Terminal Points: Johns Island, S.C. to Croghan, S.C.

Agency Stations: Horis (AM-406), Croghan (AM-408) served by Mobile Agency with base station at Charleston, S.C.

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 1 State: Virginia Segment: 3

1121.21 (a) (Designation) State College Spur - Rocky Mount Division

1121.21 (b) (State) Virginia

1121.21 (c) (Counties) Chesterfield-Dinwiddie

1121.21 (d) (Mile Posts) S-21.98 to S-22.96 - 0.98 miles

1121.21 (e) (Agencies)

Terminal Points: Spur

Agency Stations: None

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 2 State: Florida Segment: 25

1121.21 (a) (Designation) Portion of Bell Spur - Jacksooville Division

1121.21 (b) (State) Florida

1121.21 (c) (Counties) Alachua - Gilchrist

1121.21 (d) (Mile Posts) SN-714.90 to SN-722.20 - 7.30 miles

1121.21 (e) (Agencies)

Terminal Points: Buda to Cragga Track

Agency Stations: None

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 2 State: Florida Segment: 28

1121.21 (a) (Designation) Beck Hammock Spur - Tampa Division

1121.21 (b) (State) Florida

1121.21 (c) (Counties) Seminole

1121.21 (d) (Mile Posts) AUA-770.00 to AUA-773.93 - 3.93 miles

1121.21 (e) (Agencies)

Terminal Points: S&E Junction to Beck Hammock

Agency Stations: None

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 2 State: Florida Segment: 26

1121.21 (a) (Designation) Portion of Palatka Subdivision - Jacksonville Division

1121.21 (b) (State) Florida

1121.21 (c) (Counties) Alachua

1121.21 (d) (Mile Posts) AS-728.6 to AS-737.4 - 8.80 miles

1121.21 (e) (Agencies)

Terminal Points: Rochelle to Hawthorne

Agency Stations: None

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 2 State: Florida Segment: 29

1121.21 (a) (Designation) Portion of Bay Pines Subdivision - Tampa Division

1121.21 (b) (State) Florida

1121.21 (c) (Counties) Pinellas

1121.21 (d) (Mile Posts) SY-876.00 to SY-879.31 - 3.31 miles

1121.21 (e) (Agencies)

Terminal Points: Clearwater to Largo

Agency Stations: None

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 2 State: Georgia Segment: 2

1121.21 (a) (Designation) Portion of Nahunta Subdivision - Waycross Division

1121.21 (b) (State) Georgia

1121.21 (c) (Counties) Wayne-Brantley-Charlton

1121.21 (d) (Mile Posts) A-548.59 to A-602.19 - 53.60 miles.

1121.21 (e) (Agencies)

Terminal Points: Jesup, Ga. to Folkston, Ga.

Agency Stations: Shepherd (A-552), Hortense (A-567)

(Served by Mobile Agency with base station at Jesup, Ga.)

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 2 State: South Carolina Segment: 6

1121.21 (a) (Designation) Portion of Anderson Subdivision - Florence Division

1121.21 (b) (State) South Carolina

1121.21 (c) (Counties) Abbeville - Anderson

1121.21 (d) (Mile Posts) AKH-527.90 to AKH-543.25 - 15.35 miles

1121.21 (e) (Agencies)

Terminal Points: Calhoun Falls, S.C. to Iva, S.C.

Agency Stations: None

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 2 State: North Carolina Segment: 6

1121.21 (a) (Designation) Portion of Durham Subdivision - Raleigh Division

1121.21 (b) (State) North Carolina

1121.21 (c) (Counties) Granville - Durham

1121.21 (d) (Mile Posts) SB-139.00 to SB-150.00 - 11.00 miles

1121.21 (e) (Agencies)

Terminal Points: Creedmoor, N.C. to Joyland, N.C.

Agency Stations: None

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 3 State: Florida Segment: 11

1121.21 (a) (Designation) Portion of Ocala Subdivision - Jacksonville Division

1121.21 (b) (State) Florida

1121.21 (c) (Counties) Lake-Sumter-Hernando

1121.21 (d) (Mile Posts) AS-808.62 to AS-833.06 - 24.44 miles

1121.21 (e) (Agencies)

Terminal Points: Okahumpka to Croom

Agency Stations: Webster (AS-822) (Served by Mobile Agency with base station at Dade City, Fla.)

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 3 State: Florida Segment: 12

1121.21 (a) (Designation) Portion of Brooksville Subdivision - Tampa Division

1121.21 (b) (State) Florida

1121.21 (c) (Counties) Citrus

1121.21 (d) (Mile Posts) SR-783.00 to SR-791.71 - 8.72 miles

1121.21 (e) (Agencies)

Terminal Points: Landrum to Lake Stafford

Agency Stations: None

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 3 State: Florida Segment: 20

1121.21 (a) (Designation) Portion of Boca Grande Subdivision - Tampa Division

1121.21 (b) (State) Florida

1121.21 (c) (Counties) Desoto-Sarasota-Charlotte-Lee

1121.21 (d) (Mile Posts) SVC-885.47 to SVC-932.34

1121.21 (e) (Agencies)

Terminal Points: Arcadia to Port Boca Grande

Agency Stations: Port Boca Grande, Fla. (SVC-932) (Agent); Port Charlotte (SVC-909) (Served by Mobile Agency with base station at Fort Myers, Fla.)

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 3 State: Florida Segment: 13

1121.21 (a) (Designation) Portion of Astatula Spur - Tampa Division

1121.21 (b) (State) Florida

1121.21 (c) (Counties) Lake

1121.21 (d) (Mile Posts) STA-7.00 to STA-8.09 - 1.09 miles

1121.21 (e) (Agencies)

Terminal Points: Astatula to Frank Farm

Agency Stations: None

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 3 State: North Carolina Segment: 1

1121.21 (a) (Designation) Portion of East End Subdivision - Rocky Mount Division

1121.21 (b) (State) North Carolina

1121.21 (c) (Counties) Gates, N. C.

1121.21 (d) (Mile Posts) AB-185.70 to AB-201.66 - 15.96 miles

1121.21 (e) (Agencies)

Terminal Points: Tunis, N. C. to N. C. State Line

Agency Stations: Eure (AB-190); Roduco (AB-194); Gates (AB-197) (Served by Mobile Agency with base station at Conway, N.C.)

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 3 State: North Carolina Segment: 2

1121.21 (a) (Designation) Portion of Durham Subdivision - Raleigh Division

1121.21 (b) (State) North Carolina

1121.21 (c) (Counties) Granville - Durham

1121.21 (d) (Mile Posts) SB-139.00 to SB-150.00 - 11.00 miles

1121.21 (e) (Agencies)

Terminal Points: Creedmoor, N.C. to Joyland, N.C.

Agency Stations: None

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 3 State: North Carolina Segment: 3

1121.21 (a) (Designation) Portion of Durham Subdivision - Raleigh Division

1121.21 (b) (State) North Carolina

1121.21 (c) (Counties) Granville - Durham

1121.21 (d) (Mile Posts) SB-150.00 to SB-161.00 - 11.00 miles

1121.21 (e) (Agencies)

Terminal Points: Joyland, N.C. to Durham, N.C.

Agency Stations: None

WEDNESDAY, MARCH 8, 1978
PART III

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 3	State: South Carolina	Segment: 5
1121.21 (a) (Designation)	Portion of Anderson Subdivision - Florence Division	
1121.21 (b) (State)	South Carolina	
1121.21 (c) (Counties)	McCormick - Abbeville	
1121.21 (d) (Mile Posts)	AKH-503.63 to AKH-527.86 - 24.65 miles	
1121.21 (e) (Agencies)		
Terminal Points:	McCormick, S.C. to Calhoun Falls, S.C.	
Agency Stations:	None	

SEABOARD COAST LINE RAILROAD COMPANY

ICC DOCKET AB - 55

Description of Lines shown on System Diagram Map

In Categories 1, 2, or 3

Category: 3	State: Virginia	Segment: 2
1121.21 (a) (Designation)	Portion of East End Subdivision - Rocky Mount Division	
1121.21 (b) (State)	Virginia	
1121.21 (c) (Counties)	Nansemond, Va.	
1121.21 (d) (Mile Posts)	AB-201.66 to AB-210.00 - 8.34 miles	
1121.21 (e) (Agencies)		
Terminal Points:	N. C. State Line to Nurney, Va.	
Agency Stations:	None	

[FR Doc. 78-5809 Filed 3-7-78; 8:45 am]

federal register

WEDNESDAY, MARCH 8, 1978
PART III

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

■

IMPROVING GOVERNMENT REGULATIONS

Procedures for Simplification, Analysis, and Review

[4910-62]

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Notice 78-1]

IMPROVING GOVERNMENT REGULATIONS

Policies and Procedures for Simplification, Analysis, and Review

Improvement of government regulations have been a prime goal of the Carter Administration. There should be fewer regulations, and those that are issued should be simpler, more comprehensible, and less burdensome. Regulations should not be issued without appropriate involvement of the public; once issued, they should be periodically reviewed and revised as needed, to assure that they continue to meet the needs for which they originally were designed.

To help the Department of Transportaion achieve these goals, I issued on January 31, 1978, to take effect March 1, 1978, the following statement of Policies and Procedures for Simplification, Analysis, and Review of Regulations, the product of many months of work by all elements of the Department. These policies have been issued initially as an internal memorandum, rather than as a formal Department Order, for two reasons. One, so that we might gain a working familiarity with them and make any required changes before issuing them as an Order. Two, so that we might more easily make any changes that may be required when the draft Executive Order addressing these concerns is issued in final form.

Issued in Washington, D.C., on March 1, 1978.

BROCK ADAMS,
Secretary of Transportation.

JANUARY 31, 1978.

To: Secretarial Officers, Heads of Operating Administrations.
From: The Secretary.
Subject: Policies and Procedures for Simplification, Analysis, and Review of Regulations.

Improvement of government regulations has been a prime goal of the Carter Administration. There should be fewer regulations, and those that are issued should be simpler, more comprehensible, and less burdensome. Regulations should not be issued without appropriate involvement of the public; once issued, they should be periodically reviewed and revised as needed, to assure that they continue to meet the needs for which they originally were designed.

To help us achieve these goals I am today issuing the attached statement of Policies and Procedures for Simplification, Analysis, and Review of Regulations, the product of many months of work by all elements of the Department. These policies are being issued initially as an internal memorandum, rather than as a formal Department Order, for two reasons. One, so that we might all gain a working familiarity with them and make any required changes before issuing them as an Order. Two, so that we might more easily make any changes that may be required when the draft Executive Order addressing these concerns is issued in final form.

BROCK ADAMS.

Attachment.

POLICIES AND PROCEDURES FOR SIMPLIFICATION, ANALYSIS, AND REVIEW OF REGULATIONS

1. *Purpose.* This memorandum establishes objectives to be pursued in reviewing existing regulations and in issuing new regulations; prescribes procedures and assigns responsibilities to meet those objectives; and establishes a Department Regulations Council to assist and advise the Secretary in achieving those objectives and improving the quality of regulations and the policies and practices which affect the formulation of regulations.

2. *Cancellation.* (a) The following documents are superseded and canceled:

(1) The Secretary's memorandum of March 23, 1976, on the subject of "Departmental Regulatory Reform".

(2) Notice 76-5 entitled "Policies to Improve Analysis and Review of Regulations" issued April 13, 1976, and published in the FEDERAL REGISTER on April 16, 1976 (41 FR 16200-01).

(3) The Secretary's memorandum of February 8, 1977, on the subject of "DOT Regulations".

(4) The Deputy Secretary's memorandum of March 9, 1977, on the subject of "Review of Regulations—Interim Regulations".

(b) The controls listed in the table of "Controls of Certain Powers and Duties" in the DOT Organization Manual (DOT Order 1100.23A, Figure I—C) requiring the head of an operating administration to coordinate notices of proposed rulemaking and regulations with the Office of the Secretary before issuance are superseded and suspended pending their cancellation by amendment to the Organization Manual. The controls requiring the head of an operating administration to coordinate regulatory documents with another operating administration are not affected by this memorandum and continue to be the responsibility of the originating operating administration.

3. *Effective date.* This memorandum is effective March 1, 1978.

4. *Reference.* (a) Title 5, United States Code, sections 552(a)(1) and 553 prescribe general procedural requirements of law applicable to all Federal agencies regarding the formulation and issuance of regulations.

(b) Office of Management and Budget (OMB) Circular A-85 regarding consultation with heads of State and local governments in development of Federal programs.

5. *Definitions.* (a) Initiating office means an operating administration or other organizational element within the Department, the head of which is authorized by law or delegation to issue regulations or to formulate regulations for issuance by the Secretary.

(b) Regulation means a statement of general or particular applicability and future effect for publication in the FEDERAL REGISTER and designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of the initiating office or the Department, except that if such statement implements a financial assistance program, it need not be published in the FEDERAL REGISTER to come under this definition.

(c) Major regulation means a regulation which is not an emergency regulation and which in the judgment of the head of the initiating office or the Secretary or the Deputy Secretary—

(1) Requires a Regulatory Analysis under paragraph 10(a) of this memorandum or is otherwise costly;

(2) Concerns a matter on which there is substantial public interest or controversy;

(3) Has a significant impact on another operating administration or other parts of the Department or other Federal Agency; or

(4) Otherwise involves important Department policy.

(d) Emergency regulation means a regulation which, in the judgment of the head of the initiating office, circumstances require to be issued without notice and opportunity for public comment or made effective in less than 30 days after publication in the FEDERAL REGISTER.

(e) Non-major regulation means a regulation which in the judgment of the head of the initiating office is neither a major nor an emergency regulation.

6. *Objectives.* To simplify and improve the quality of regulations, it is the policy of the Department that the following objectives be pursued in issuing new regulations and continuing existing regulations:

(a) *Necessity.* A regulation should not be issued or continue in effect unless it is based on a well-defined need to address a specific problem.

(b) *Clarity.* A regulation and any supplemental material explaining it should be clear, precise, and understandable to all who may be affected by it.

(c) *Simplicity.* A regulation should be as short and uncomplicated as possible and before issuance should be coordinated as may be required within the Department and between the Department and other Federal Agencies to eliminate or minimize unnecessary duplication, inconsistency, and complexity.

(d) *Timeliness.* A regulation should be issued in time to respond to the circumstances which require it, and should be modified or canceled as those circumstances change.

(e) *Reasonableness.* A regulation should provide a feasible and effective means for producing the desired results and should be developed giving adequate consideration to the alternatives and anticipated safety, environmental, social, economic, and legal consequences.

(f) *Fairness.* Except in an emergency, a regulation should be issued only after a reasonable and timely opportunity—generally not less than 45 days—has been provided for all interested persons to comment on it.

7. *Department Regulations Council.* (a) *Membership; Chairman and Vice-Chairman.* A Department Regulations Council is hereby established comprised as follows:

Regular members

(1) The Deputy Secretary—Chairman.
(2) General Counsel—Vice-Chairman.
(3) Assistant Secretary for Policy and International Affairs.
(4) Assistant Secretary for Budget and Programs.
(5) Assistant Secretary for Administration.
(6) Assistant Secretary for Governmental Affairs.
(7) Director, Office of Public and Consumer Affairs.
(8) Director, Departmental Office of Civil Rights.

Ex officio members

(1) Commandant of the Coast Guard.
(2) Federal Aviation Administrator.
(3) Federal Highway Administrator.
(4) Federal Railroad Administrator.
(5) National Highway Traffic Safety Administrator.
(6) Urban Mass Transportation Administrator.
(7) Administrator, Saint Lawrence Seaway Development Corporation.
(8) Director, Research and Special Programs Directorate.

(b) *Functions and responsibilities.* The Council shall—

(1) Monitor initiating offices' programs for reviewing and revising their existing regulations and make recommendations to the heads of initiating offices and the Secretary when appropriate with regard to the conduct and effectiveness of those programs;

(2) Consider each major regulation referred to it and make such recommendations as the members consider appropriate regarding the advisability of the Secretary's concurring in its issuance;

(3) On its own initiative or upon request, review, discuss, and make such recommendations to the Secretary as the members consider appropriate regarding Department regulatory policies and procedures; and

(4) In coordination with the initiating office(s) concerned, designate such task forces or require the preparation of such reports, analyses, or options papers as it may consider necessary for proper Council consideration of any regulatory matter or inquiry referred to or initiated by the Council.

(c) *Staff support.* The General Counsel shall provide regular staff support to the Council and designate an Assistant General Counsel to be responsible for performing the functions assigned to the General Counsel's office. These shall include the coordination of the staffing, analysis, and review of items coming before the Council or on which the Council requires additional information: the convening and management of task forces designed to review and improve significant categories of existing regulations; and such additional duties as the Council may specify.

(d) *Meetings; attendance of members.* The Council will meet on a regular bi-monthly basis and on special occasions, at the call of the Chairman, either on his or her own initiative or at the request of the head of an initiating office. Attendance by ex officio members is optional. Any member who is unable to attend a meeting may be represented at the meeting but only by the member's principal deputy or Chief Counsel. A member may be accompanied by supporting staff for purposes of briefing the Council or assisting the member with respect to an agenda item or major regulation scheduled for discussion.

(e) *Agenda.* The General Counsel's office shall prepare an agenda for each meeting and distribute it to the members in advance of the meeting, together with any documents to be discussed at the meeting. When the agenda includes consideration of a major regulation, the General Counsel's office shall make such arrangements with the initiating office as may be appropriate for briefing the Council and responding to questions concerning the regulation.

(f) *Minutes.* The General Counsel's office shall prepare summary minutes following each meeting and distribute them to the members.

8. *Responsibilities of initiating offices.* (a) The head of each initiating office has primary responsibility for—

(1) Reviewing proposed regulations to ensure that they meet the objectives set forth in paragraph 6. of this memorandum;

(2) Issuing regulations within the scope of his or her statutory or delegated authority;

(3) Coordinating its proposed regulations with other Federal agencies and other operating administrations and organizational elements within the Department; and

(4) In conjunction with the Assistant Secretary for Governmental Affairs, consulting with State and local governments as required under OMB Circular A-85 in the development of regulations to be issued by that office.

(b) To improve the quality of existing and future regulations in accordance with the purposes and policies set forth in this memorandum, the head of each initiating office shall—

(1) Establish and carry out a program for reviewing and revoking or revising existing regulations in accordance with paragraph 11. of this memorandum;

(2) Include in the public docket for each proposed regulation a draft Regulatory Analysis if required under paragraph 10(a) of this memorandum, otherwise a draft evaluation quantifying, to the extent practicable, its estimated cost to the private sector, consumers, Federal, State, and local governments, as well as its anticipated benefits and impacts;

(3) Include in the public docket for each final regulation a final Regulatory Analysis or evaluation;

(4) Submit Regulations Reports to the Department Regulations Council in accordance with paragraph 13(a) of this memorandum;

(5) Submit for the Secretary's concurrence before issuance regulatory documents pertaining to major regulations, together with such supporting documentation as may be requaired by paragraph 9. of this memorandum;

(6) Advise the Secretary by memorandum, before issueance if possible, of the circumstances requiring emergency issuance of an otherwise major regulation;

(7) Name a Regulations Officer to coordinate the review of regulations and act as principal staff liaison with the Council; and

(8) Inform the Deputy Secretary or the General Counsel of any regulatory matter which should be reviewed by or coordinated with the Council.

9. *Review of major regulations.* (a) Before committing substantial resources to the development of a major regulation, the head of the initiating office shall have prepared and approved a Work Plan which states or describes—

(1) The need for the regulation;
(2) The objective(s) of the regulation;
(3) The legal authority for the regulation;
(4) The major issues to be considered and the alternative approaches to be explored for solving the problem;
(5) The name of the individual or organizational unit primarily responsible for developing the regulation and of the accountable policy official;
(6) Whether or not a Regulatory Analysis is likely to be required and how and where it will be produced;
(7) The probable reporting requirements that may be involved;
(8) How and when the Congress, interest groups, other agencies, and the public will have opportunities to participate in the regulatory process; and
(9) The tentative target dates for completing each step in the development of the regulation

(b) Before issuing for publication in the FEDERAL REGISTER any regulatory document of substantive significance (e.g., advance notice of proposed rulemaking, notice of proposed rulemaking, notice of withdrawal or amendment of a proposed final rule) pertaining to a major regulation, the initiating office shall submit it to the Secretary for concurrence.

(c) To receive Secretarial concurrence for issuance of an advance notice of proposed rulemaking, a notice of proposed rulemaking, a substantive amendment to an outstanding proposal, or a final rule pertaining to major regulation, the initiating office shall submit it together with its approved Work Plan, a draft Regulatory Analysis or the evaluation required by paragraph 8(b)(2) and (3) of this memorandum and a summary of the results of any coordination outside the initiating office to the General Counsel's office at least 30 days before the proposed date of issuance. Once a Work Plan and Regulatory Analysis or evaluation is developed for a particular major regulation, it need only be updated and supplemented for successive regulatory documents pertaining to that major regulation. In the case of a final rule being submitted for Secretarial concurrence, there should be an accompanying summary of significant public comments received.

(d) Before submitting a final rule for Secretarial concurrence, the head of the initiating office shall, at a minimum:

(1) Review the Work Plan and determine that the direct and indirect effects of the regulation have been adequately considered and that the least burdensome of the acceptable alternatives has been chosen;

(2) Determine that the regulation is written clearly and is understandable to those subject to or affected by its provisions;

(3) Assure an estimate has been made of the number of individuals and/or organizations that will be subject to new reporting burdens or recordkeeping requirements; and

(4) Determine that a plan for evaluating the regulation after its issuance has been developed.

(e) The General Counsel's office shall distribute each regulatory document and accompanying supporting documents received from an initiating office under paragraph 9(c) of this memorandum to all appropriate Secretarial Officers for review and shall coordinate their comments and recommendations for transmittal, together with a staff analysis, to the Secretary through the Deputy Secretary.

(f) If, in the judgment of the Deputy Secretary or the General Counsel, the views of the Department Regulations Council on a major regulation are desirable or likely to assist the Secretary in determining whether to concur in issuance of that regulation, it shall be referred to the Council for consideration at its next regular or special meeting. Council consideration of a major regulation is in addition to and not in lieu of Secretarial staff review, both of which shall be scheduled and coordinated so as to minimize delay in transmitting the resulting recommendations to the Secretary.

(g) In the case of a notice of an exclusively procedural nature (e.g., extension of time for comments, scheduling, or rescheduling of a public hearing) pertaining to a major regulation, the initiating office shall submit a copy of the notice, together with a cover-

ing memorandum, to the General Counsel's office at least 10 days before the intended date of issuance. The memorandum shall specify the intended date of issuance and include a statement as to why the notice is re-

public docket at the time of or before issuing the final regulation.

11. *Review and revision of existing regulations.* (a) Each initiating office shall establish a program for reviewing its existing reg-

procedures should be used only when they will serve to clarify the issues and enhance effective public participation. They should not be used if they would delay the process of developing the regulation unless signifi-

ing memorandum, to the General Counsel's office at least 10 days before the intended date of issuance. The memorandum shall specify the intended date of issuance and include a statement as to why the notice is required and any changes that it will cause in the previously anticipated schedule of action dates on the major regulation concerned.

(h) The General Counsel's office shall advise the Secretary through the Deputy Secretary of each procedural regulatory document received from an initiating office under paragraph 9(g) of this memorandum. Unless otherwise notified before the intended date of issuance, Secretarial concurrence may be presumed.

10. *Regulatory analyses.* (a) An initiating office shall prepare and place in the public docket a draft Regulatory Analysis for each of its proposed regulations which—

(1) Could produce a major effect on the general economy in terms of costs, consumer prices, or production;

(2) Could produce a major increase in costs of prices for individual industries, levels of government, geographic regions, or specific elements of the population; or

(3) The Secretary or head of the initiating office determines deserves such analysis.

(b) Each draft Regulatory Analysis shall contain—

(1) A succinct statement of the problem necessitating Federal action;

(2) The major alternative ways of dealing with the problem that will be considered by the initiating office;

(3) An analysis of the economic consequences of the proposed regulation and major alternative approaches considered; and

(4) An assessment of the approach selected in relation to other alternatives.

(c) A draft Regulatory Analysis should address all salient points to the maximum extent possible. If data are lacking or there are questions about how to determine or analyze points of interest, the problem should be noted in the draft Regulatory Analysis so as to help elicit the necessary information during the public comment period on the advance notice or notice of proposed rulemaking.

(d) The initiating office shall include in each advance notice or notice of proposed rulemaking on a proposal requiring a Regulatory Analysis, an explanation of the regulatory approach being considered or proposed, a short description of the alternative approaches, and a statement announcing the availability of a draft Regulatory Analysis for public review and comment.

(e) When a regulation for which a draft Regulatory Analysis is required is finalized, the initiating office shall prepare a final Regulatory Analysis and place it in the public docket at the time of or before issuing the final regulation.

11. *Review and revision of existing regulations.* (a) Each initiating office shall establish a program for reviewing its existing regulations and revoking or revising those regulations which it determines are not achieving their intended purpose.

(b) In identifying existing regulations for review and possible revocation or revision and in determining the order in which they are to be reviewed, an initiating office shall consider—

(1) The nature and extent of complaints received from other agencies, State and local governments, and the public;

(2) The need for simplification and clarification;

(3) The potential for consolidating overlapping or repetitive regulations in the same general subject area;

(4) The need for eliminating conflicts and inconsistencies in its own regulations or those of other initiating offices or other agencies;

(5) The length of the time since the regulations were last reviewed or evaluated; and

(6) The significance and continued relevance of the problem the regulations were originally intended to solve.

(c) Each initiating office shall submit to the Department Regulations Council, through the General Counsel, a list of the existing regulations it has selected for review and possible revocation or revision together with a brief description of the reasons for each selection and a target date for completing the review and determining the course of corrective action to be taken. The list of existing regulations initially selected shall be submitted to the General Counsel not later than May 15, 1978, and updated as part of the initiating office's semi-annual Regulations Report and the bi-monthly supplements required under paragraph 13 of this memorandum.

12. *Opportunity for public participation.* In addition to publishing proposals and notices of regulatory actions in the FEDERAL REGISTER, initiating offices should, in appropriate circumstances, provide a clear, concise notice to publications likely to be read by those affected, and to the extent practical, notify interested parties directly. If the subject is unusually complex, or if there is a significant potential for adverse effects from a failure to provide an opportunity for early public participation, initiating offices should consider supplementing the minimum rulemaking steps required by section 553 of title 5, United States Code. For example, an advance notice of proposed rulemaking may be employed to solicit comments and suggestions on an upcoming notice of proposed rulemaking or an open conference may be held at which a discussion between all interested parties would help narrow or clarify issues. However, such supplementary procedures should be used only when they will serve to clarify the issues and enhance effective public participation. They should not be used if they would delay the process of developing the regulation unless significant additional information is to be gained by the agency or the public.

13. *Reporting requirements.* (a) Each initiating office shall submit a semi-annual Regulations Report to the Department Regulations Council summarizing each proposed and each final regulation that office expects to publish in the FEDERAL REGISTER during the succeeding 12 months or such longer projected period as may be anticipated. This report shall be delivered to the General Counsel not later than March 31, 1978, and the last working day of June and December each year thereafter and supplemented with a bi-monthly updating report not later than the last working day of February, April, August, and October each year. The report shall specify, for each proposed and final regulation expected to be published, a short descriptive title; the earliest expected publication date; a contact office or official who can provide additional information; and whether it is a major or a non-major regulation.

(b) In the case of a major regulation, the report shall include a brief statement as to why it is considered major and the past and anticipated chronology of the development of the regulation. In the case of non-major regulations issued routinely and frequently as part of an established body of technical requirements (such as the Federal Aviation Administration's Airspace Rules) to keep those requirements operationally current, only the general category of the regulations, the identity of a contact office or official and an indication of the expected volume of issuance need be included: individual regulations need not be listed.

(c) The General Counsel's office shall consolidate the initiating offices' Regulations Reports for the Council and from that consolidation prepare a semi-annual Department Regulations Agenda for publication in the FEDERAL REGISTER. FEDERAL REGISTER publication will be for the stated purpose of sharing with interested members of the public the Department's preliminary expectations regarding its future regulatory actions and will not impose any binding obligation on the Department or initiating offices with regard to any specific item in the report or preclude regulatory action on any unspecified item.

14. *Applicability.* This memorandum does not apply to any rulemaking in which a notice of proposed rulemaking was issued before the effective date of this memorandum and which was still in progress on that date.

[FR Doc. 78-6062 Filed 3-7-78; 8:45 am]

NOW AVAILABLE

NOW AVAILABLE

SUPPLEMENT TO THE 1977/78 UNITED STATES GOVERNMENT MANUAL

A Special Edition of the Official Handbook of the Federal Government

The *Supplement* contains the changes in personnel and organization of the Federal Government which have occurred since May 1, 1977, the revision date of the 1977/78 *Manual*. Updated personnel listings for all agencies are included in the *Supplement* as well as descriptions of the programs and activities of the recently established Department of Energy and the Office of Administration within the Executive Office of the President.

Also included is a listing in Appendix A of the Federal agencies and functions affected by President Carter's reorganization of the Executive Office of the President and the establishment of the Department of Energy.

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federal register

THURSDAY, MARCH 9, 1978

highlights

CHICAGO, ILLINOIS WORKSHOPS

HOW TO USE THE FEDERAL REGISTER

FOR: Any person who must use the Federal Register and Code of Federal Regulations.

WHAT: Free public workshop (approximately 3 hours) to present:

1. Brief history of the Federal Register system.
2. Difference between legislation and regulations.
3. Relationship of Federal Register and the Code of Federal Regulations.
4. Important elements of a typical Federal Register document.
5. An introduction to the finding aids of the FR/CFR system.

WHEN: April 12, 13, and 14, 1978 at 9 a.m. (Each session identical)

WHERE: Everett M. Dirksen Federal Building, Conference Room 572, 219 S. Dearborn Street, Chicago, Illinois.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in government actions. There will be no discussion of specific agency regulations.

RESERVATIONS: Call Ardean Merrifield, Area Code 312-353-4242 or 353-0339.

SUNSHINE ACT MEETINGS 9761

ENDANGERED AND THREATENED WILDLIFE

Interior/FWS reclassifies the gray wolf in the United States and Mexico; effective 4-10-78 9607

ROUGH-TOOTHED DOLPHIN

Commerce/NOAA issues a prohibition of take incidental to commercial fishing operations; effective 3-15-78 9632

CONTINUED INSIDE

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
	CSC			CSC
	LABOR			LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

federal register

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The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $5.00 per month or $50 per year, payable in advance. The charge for individual copies is 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing **202–523–5240.**

FEDERAL REGISTER, Daily Issue:	
Subscription orders (GPO)	202–783–3238
Subscription problems (GPO)	202–275–3050
"Dial - a - Regulation" (recorded summary of highlighted documents appearing in next day's issue).	202–523–5022
Scheduling of documents for publication.	523–3187
Copies of documents appearing in the Federal Register.	523–5240
Corrections	523–5237
Public Inspection Desk	523–5215
Finding Aids	523–5227
Public Briefings: "How To Use the Federal Register."	523–3517
Code of Federal Regulations (CFR)	523–3419
	523–3517
Finding Aids	523–5227

PRESIDENTIAL PAPERS:	
Executive Orders and Proclamations.	523–5286
Weekly Compilation of Presidential Documents.	523–5284
Public Papers of the Presidents	523–5285
Index	523–5285
PUBLIC LAWS:	
Public Law dates and numbers	523–5266 523–5282
Slip Laws	523–5266 523–5282
U.S. Statutes at Large	523–5266 523–5282
Index	523–5266 523–5282
U.S. Government Manual	523–5287
Automation	523–5240
Special Projects	523–4534

HIGHLIGHTS—Continued

AIR CARRIER CERTIFICATION AND OPERATION

DOT/FAA amends crewmember qualification requirements regarding operating experience; effective 3–9–78 9598

FEDERAL MOTOR VEHICLE SAFETY STANDARDS

DOT/NHTSA adds labeling requirement for intermediate manufacturers who perform work on chassis—cabs; effective 7–2–78 9604

DOT/NHTSA amends definition of "unloaded vehicle weight"; effective 3–9–78 9605

DOT/NHTSA defines "speed attainable in 1 mile" and "speed attainable in 2 miles"; effective 3–9–78 9606

AIR BRAKE SYSTEMS

DOT/NHTSA proposes a suspension of the "no lockup" safety braking performance requirement for trailers; comments by 6–7–78 9626

DOT/FHWA solicits comments and information on its intent to revise Federal Motor Carrier Safety Regulations; comments by 6–7–78 9626

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rules and regulations

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-02]

Title 7—Agriculture

CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTIONS, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE

PART 29—TOBACCO INSPECTION

Fees and Charges for Permissive Inspection

AGENCY: Agricultural Marketing Service, U.S. Department of Agriculture.

ACTION: Final rule.

SUMMARY: The Tobacco Inspection Act authorizes official inspection and grading of tobacco, either mandatory or permissive. Because of salary increases to Federal employees it is necessary to amend the regulations to increase the hourly rate of Federal inspectors in order to cover the costs of performing such services.

EFFECTIVE DATE: March 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Leonard J. Ford, Acting Director, Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7235.

SUPPLEMENTARY INFORMATION: Pursuant to the authority contained in the Tobacco Inspection Act (49 Stat. 731; 7 U.S.C. 511 et seq.), notice is hereby given that the Department is amending Subparts B and F of 7 CFR, Part 29, relating to fees and charges for permissive inspection of tobacco.

The Department is amending § 29.123 of Subpart B—Regulations, relating to fees and charges for services performed under an agreement and other than under an agreement. For previous amendments of Subparts B and F see 21 FR 3669, May 30, 1956; 25 FR 4948, June 4, 1960; 40 FR 44112, September 25, 1975; 41 FR 18425, May 4, 1976; and 41 FR 53649, December 8, 1976.

The Tobacco Inspection Act authorizes official inspection and grading of tobacco. Such inspection and grading service is either mandatory or permissive. Mandatory inspection as defined in 7 CFR 29.71, consists of inspecting and certifying tobacco, free of charge, on designated markets, as defined in 7 CFR 29.1(e), before it is offered for sale. Permissive inspection, as defined in 7 CFR 29.56, consists of inspecting, including sampling and weighing, and certificating, and is made available to interested parties on a fee basis. The Act requires such fees to be reasonable, and as nearly as possible, to cover the cost of performing the services.

Additionally, the Department is amending § 29.9252 of 7 CFR Part 29, appearing in Subpart F, which establishes the fees and charges for permissive inspection of nonquota Maryland tobacco, U.S. Type 32, produced and marketed in a quota area. The amended section provides that the fees charged for such inspection are the same as the fees provided for in 7 CFR 29.123, as amended herein.

This amendment updates the regulations under which permissive tobacco inspection and grading services are provided by increasing the hourly salary fees charged to users of this service.

Because salaries paid to Federal employees have been increased under the provisions of Pub. L. 95-66, and Executive Order 12010, it has been determined that in order to cover the costs of providing permissive tobacco inspection, the hourly salary fee must be increased as provided for herein.

The provisions of 7 CFR, Part 29, 29.123 and 29.9251, prescribing fees and charges in connection with the performance of permissive inspection are hereby amended by changing the phrases "$13.80 per hour," "$16.50 per hour," and "$20.65 per hour," to "$14.80 per hour," "$17.60 per hour," and "$21.75 per hour," respectively.

Therefore, the regulations are amended as follows:

§ 29.123 Fees and charges.

The fees and charges for inspection under an agreement or other than under an agreement are as follows:

(a) Fees and charges for inspection at redrying plants and receiving points shall comprise the cost of salaries, travel, per diem, and related expenses to cover the cost of performing the service. Fees shall be for actual time required to render the service calculated to the nearest 30-minute period. The base hourly salary rate shall be $14.80. The overtime rate for service performed outside the inspector's regularly scheduled tour of duty shall be $17.60. The rate of $21.75 shall be charged for work performed on Sundays or holidays.

(b) The fees or charges for hogshead, bale or case inspection shall comprise the same costs as provided in paragraph (a) of this section.

(c) The fees or charges for sample inspection shall comprise the same costs as provided in paragraph (a) of this section.

§ 29.9251 Fees and charges.

Fees and charges for inspection and certification services performed under an agreement or other than under an agreement are as follows:

Fees and charges for inspection and certification services at receiving points shall comprise the cost of salaries, travel, per diem, and related expenses to cover the cost of performing the service. Fees shall be for actual time required to render the service calculated to the nearest 30-minute period. The base hourly salary rate shall be $14.80. The overtime rate for service performed outside the inspector's regularly scheduled tour of duty shall be $17.60. The rate of $21.75 shall be charged for work performed on Sundays or holidays.

It is hereby found and determined that public procedures with respect to this amendment are impractical and unnecessary based on predetermined needs for amending these regulations to meet increased inspection costs. Good cause exists to waive the 30-day advance notice of the effective date of this amendment.

Effective date: March 7, 1978.

Dated: March 1, 1978.

WILLIAM T. MANLEY,
Deputy Administrator,
Marketing Program Operations.

[FR Doc. 78-6046 Filed 3-8-78; 8:45 am]

[3410-02]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Navel Orange Reg. 434]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period March 10-16, 1978. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: March 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of navel oranges, as hereafter provided, will tend to effectuate the declared policy of the act by tending to establish and maintain such orderly marketing conditions for such oranges as will provide, in the interests of producers and consumers, an orderly flow of the supply thereof to market throughout the normal marketing season to avoid unreasonable fluctuations in supplies and prices, and is not for the purpose of maintaining prices to farmers above the level which it is declared to be the policy of Congress to establish under the act.

The committee met on March 7, 1978, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges is exhibiting substantial weakness in order business.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 907.734 Navel Orange Regulation 434.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period March 10, 1978, through March 16, 1978, are established as follows:

(1) District 1: 962,000 cartons;

(2) District 2: 288,000 cartons;

(3) District 3: Unlimited movement.

(b) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: March 8, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-6430 Filed 3-8-78; 11:16 am]

[3410-02]

[Valencia Orange Reg. 578]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period March 10-16, 1978. Such action is needed to provide for orderly marketing of fresh Valencia oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: March 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of Valencia oranges, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on March 7, 1978, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified week. The committee reports the market for Valencia oranges has not been fully established.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 908.878 Valencia Orange Regulation 578.

Order. (a) The quantities of Valencia oranges grown in Arizona and California which may be handled during the period March 10, 1978, through March 16, 1978, are established as follows:

(1) District 1: Unlimited movement;

(2) District 2: Unlimited movement;

(3) District 3: 140,000 cartons.

(b) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: March 8, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-6439 Filed 3-8-78; 11:15 am]

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 77-WE-17-AD; Amdt. 39-3149]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-9 and C-9 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which provides for inspections, repair and replacement of fuselage frame lower left hand and right hand fittings on certain McDonnell Douglas DC-9 airplanes. The AD is necessary to prevent a reduction in the strength of the fuselage structure below safe limits.

DATES: Effective date April 8, 1978. Initial compliance required within the next 3,400 hours time in service for airplanes with 12,000 hours or more time in service as of the effective date of this AD. For airplanes with less than 12,000 hours time in service as of the effective date of this AD, compliance required prior to accumulation of 15,400 hours time in service.

FOR FURTHER INFORMATION CONTACT:

Jerry J. Presba, Executive Secretary, Airworthiness Directives Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009, telephone: 213-536-6351.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring initial and repetitive inspections and repair or replacement, as necessary, of the lower section of the fuselage over wheelwell frame fittings on McDonnell Douglas Model DC-9 airplanes, was published in the FEDERAL REGISTER at 42 FR 35657. The proposal was prompted by reports of cracks in the lower section of frame fitting manufactured from 7075-T6 aluminum alloy on certain McDonnell Douglas DC-9 Series airplanes which, if allowed to go undetected, could result in significant reduction in the structural integrity of the fuselage structure.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all comments received in response to this notice.

Several commenters questioned the applicability of Service Bulletin 53-100, stating that it is not applicable to the type of failures which are subject to the NPRM. The FAA agrees with this comment. Reference to Service Bulletin 53-100, in the NPRM Supplementary Information, was intended only to advise the operators that corrective action relative to the "tab" cracks had previously been published. Specific compliance with Service Bulletin 53-100 is not required for the purposes of this AD. Reference to this service bulletin has been deleted from the final rule.

Several commenters questioned the availability of replacement frame fittings made from 7075-T73 material. The FAA has determined that, based on the manufacturer's delivery schedule submitted to date, sufficient replacement parts would be available to accomplish the AD as adopted.

The commenters also indicated that only the DC-9-40 series airplanes have experienced frame cracks, and therefore, the AD should apply only to the series -40 airplanes. The FAA dos not agree with this comment. As stated in the NPRM summary, cracked frame fittings have been found on both the series -30 and -40 airplanes. Since the same type design and material fittings are installed in other DC-9 series airplanes, and since the predominant failure mode is attributed to stress corrosion, misalignment failures notwithstanding, the FAA has determined that these failures could exist or develop in DC-9 airplanes other than the -30 and -40 series. The effectivity schedule in the AD as adopted includes the DC-9, -10, -20, -30, -40, -50 and C-9 series airplanes.

Commenters requested that only a one-time inspection be required for airplanes with 12,000 or more hours, stating that the cracks are reportedly caused by residual stresses and manufacturing preload which should be detected early in the parts life. The FAA does not agree with this recommendation since cracks have been reported on airplanes having up to 21,500 hours time in service, airplanes that would have a one time inspection prior to accumulating a total of the higher number of hours to failure would still be susceptible to cracking of the fitting. The AD as adopted requires repetitive inspections.

Since issuance of the NPRM, the FAA has determined that repairs may be made to the frame(s) when approved by the Chief, Aircraft Engineering Division, FAA Western Region. The AD contains this provision.

From information provided by the McDonnell Douglas Co. the FAA was advised that certain DC-9 Serial numbered airplanes, in addition to the serial numbers listed in the NPRM, were manufactured with the fuselage frame lower fittings of 7075-T6 aluminum alloy. The AD as adopted is additionally applicable to these serial numbered airplanes.

Based upon information furnished in the comments by interested parties, the FAA has determined that the initial and repetitive inspection compliance times of 1,900 and 3,800 flights hours as proposed in the notice, may be extended while insuring a level of safety commensurate with the intent of the Federal Aviation Regulations. The rule as adopted, therefore, provides for initial inspections at 3,400 hours time in service and subsequent repetitive inspections at 8,000 hours time in service.

DRAFTING INFORMATION

The principal authors of this document are Harry J. Irwin, Aircraft Engineering Division, and Richard G. Wittry, Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

McDONNELL DOUGLAS. Applies to Model DC-9 and C-9 series airplanes, certificated in all categories, which correspond to the factory serial numbers as listed below:

45695 through 45749; 45770 through 45799; 45825 through 45847; 45863 through 45876; 47000 through 47386; 47389 through 47397; 47399 through 47482; 47484 through 47514; 47516 through 47557; 47559 through 47764; 47769; 47771.

Compliance required as indicated.

To prevent possible failure of the overwheelwell fuselage frame(s) lower fittings manufactured with 7075-T6 aluminum alloy material, accomplish the following:

(a) For airplanes with 12,000 or more hours time in service on the effective date of this AD, which have not had new frames installed, within the next 3,400 hours time in service or 12 calendar months, whichever occurs earlier, and thereafter at intervals not to exceed 8000 hours time in service or 27 calendar months, whichever occurs earlier unless already instituted, comply with the applicable program or inspections and/or corrective actions in accordance with paragraphs (c), (d) and (e) below.

(b) For airplanes with less than 12,000 hours time in service as of the effective date of this AD, compliance is required in accordance with paragraphs (c), (d) and (e) below prior to the accumulation of 15,400 hours time in service or 50 calendar months, whichever occurs earlier, and thereafter at intervals not to exceed 8000 hours time in service or 27 calendar months, whichever occurs earlier, unless already instituted.

(c) Visually inspect for evidence of cracking, using optical inspection aids with a minimum of 2X magnification, the fore and aft webs, flanges and radii, in the following areas of the frame lower fitting, as shown in

sketch AD-1: 1. Outboard pocket; 2. Inboard pocket; 3. Upper "U" shaped pocket.

(d) If no cracks are found: 1. Clean and spray the pocket and adjacent areas of the frame fitting with corrosion inhibiting compound, per DAC, SRM, Chapter 51-10-3, and perform repetitive inspections and corrosion inhibiting treatment at intervals not to exceed 8,000 hours time in service or 27 calendar months, whichever occurs earlier; or 2. Replace with new part(s) per paragraph e.2 or e.3 and comply with the applicable program of repetitive inspections and/or corrective actions per this AD.

(e) If cracks are found, before further flight: 1. Repair per a method approved by the Chief, Aircraft Engineering Division, FAA Western Region, and refer to sketch AD-1 for identification of crack location for submittal of proposed repair schemes; or 2. Replace with a new part(s) of the same design made from 7075-T6 aluminum alloy material; or 3. Replace with a new part(s) of the same design made from 7075-T73 aluminum alloy material.

(f) The requirements per this AD may be terminated for that frame(s) only, when both the right and left hand fittings, made from 7075-T73 heat treat material, have been installed.

If new parts have been installed per e.2, for the stations specified, the requirements of this AD may be discontinued for that part(s) only, until the new part(s) has accumulated 15,400 hours time in service or within 50 calendar months after the part(s) has been replaced, whichever occurs earlier, at which time reinstate the program of repetitive inspections and/or corrective action per this AD.

NOTE.—The following information is offered as an aid to those affected by this AD in identifying the frame material at time of airplane delivery.

FRAME STATION APPLICABILITY

Fuselage Frame Stations

DC-9 (Series)	(A)	(B)	(A)
-10, -20	Sta. 585	Sta. 604	Sta. 623
-30	Sta. 699	Sta. 718	Sta. 737
-40	Sta. 737	Sta. 756	Sta. 775
-50	Sta. 794	Sta. 813	Sta. 832

The following serial numbered airplanes have factory production installed 7075-T6 aluminum alloy material frame fittings at fuselage frame station locations indicated under columns (A), above: 45695 thru 45749, 45770 thru 45799, 45825 thru 45847, 45863 thru 45876, 47000 thru 47386, 47389 thru 47397, 47399 thru 47482, 47484 thru 47514, 47516 thru 47557, 47559 thru 47764, 47769, and 47771.

The following serial numbered airplanes have factory production installed 7075-T6 aluminum alloy material frame fittings at fuselage frame station locations indicated under column (B) above: 45695 thru 45749, 45770 thru 45799, 45825 thru 45847, 45863 thru 45876, 47000 thru 47386, 47389 thru 47396, 47399 thru 47427, 47429 thru 47451, 47453 thru 47457, 47459, 47462, 47464 thru 47466, 47468 thru 47470, 47472 thru 47474, 47476 thru 47482, 47487 thru 47494, 47497 thru 47503, 47514, 47517 thru 47519, 47522 and 47523, 47526 thru 47530, 47535, 47547, and 47550.

IDENTIFICATION OF T-6 FITTINGS

DC-9-(series)	Sta.	P/N	Sta.	P/N	Sta.	P/N
-10	585	9958206-1	604	9911538-503	623	9958208-501
-20	585	9919617-1	604	9919618-1	623	9919619-1
-30	699	9919617-1	718	9919618-1	737	9919619-1
-40	737	9923409-1	756	9923436-1	775	9919619-501
-50	794	9923409-1	813	9923436-1	832	9919619-501

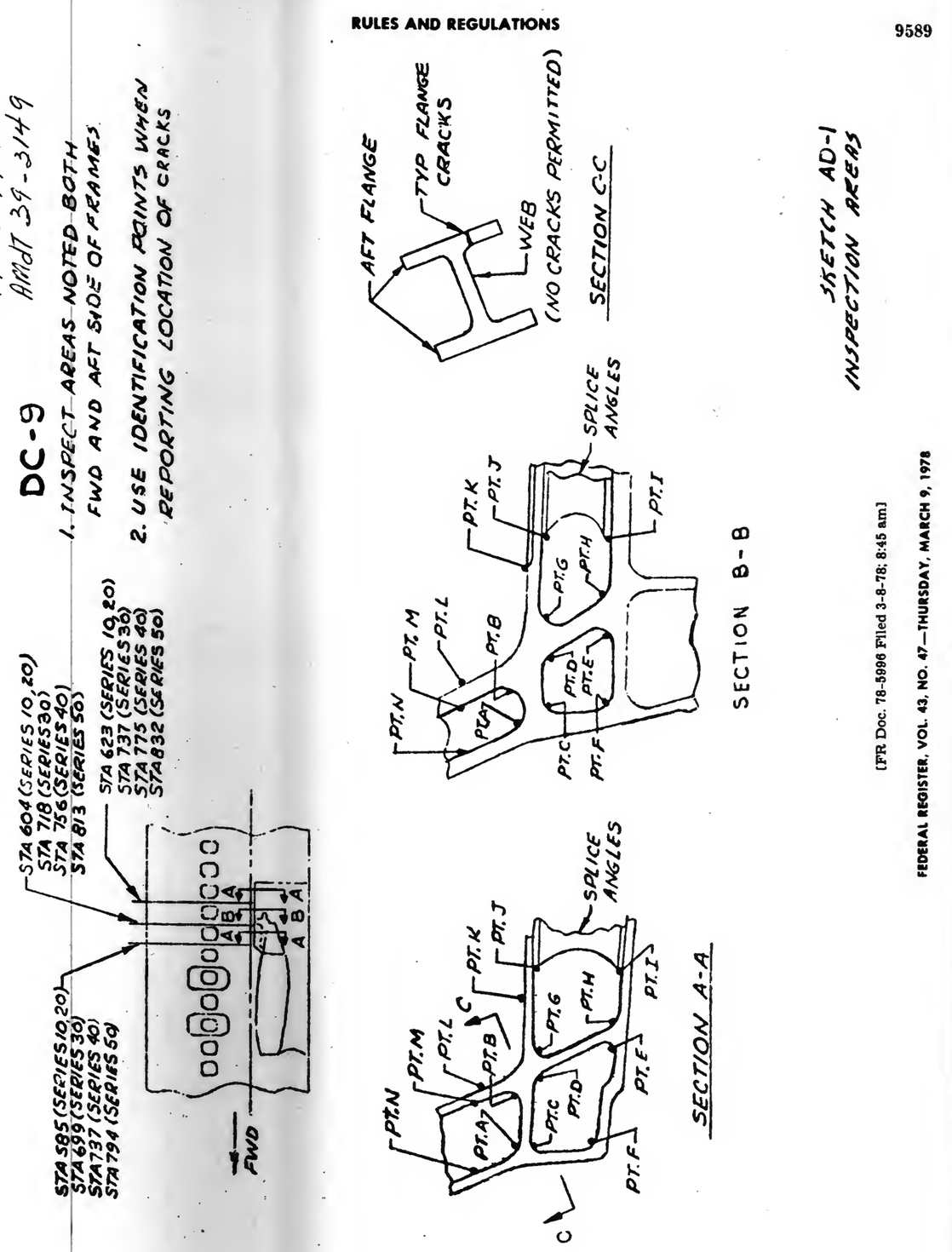
This amendment becomes effective April 8, 1978.

[Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c)), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.]

NOTE—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, California on February 23, 1978.

HERMAN C. BLISS,
Acting Director,
FAA Western Region.



[FR Doc. 78-5996 Filed 3-8-78; 8:45 am]

[4910-13]

[Docket No. 17065; Amdt. 39-3154]

PART 39—AIRWORTHINESS

He referred to a test report which concluded that a fire could not start in the connector even with deliberate attempts. The FAA does not take issue with the commentator's statement

DO NOT RESET IN FLIGHT

(2) Insert in the limitations section of the Airplane Flight Manual the statement: "Do not reset fuel boost pump circuit breakers until the affected boost pump electrical con-

(d) Visually inspect all fuel boost pumps on the airplane by operating them for 10 minutes and inspecting for signs of fuel leakage at the fuel pump conduit drains in

[4910-13]

[Docket No. 78-SO-04; Amdt. 39-3151]

PART 39—AIRWORTHINESS

unsatisfactory condition for installation.

Since this condition is likely to exist or develop in other aircraft using

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[Docket No. 17065; Amdt. 39-3154]

PART 39—AIRWORTHINESS DIRECTIVES

British Aircraft Corp. BAC 1-11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that would require the installation of placards, repetitive inspections of the fuel boost pump electrical connectors, and replacement of defective parts, as necessary, on certain BAC 1-11 200 and 400 series airplanes to prevent failures in the electrical connectors.

DATE: Effective March 23, 1978. Compliance required as indicated.

ADDRESS: The applicable service bulletin may be obtained from: British Aircraft Corp., Inc., 13850 McLearen Road, Herndon, Va. 22070, Telephone 703-435-9100. A copy of the applicable service bulletin is contained in the Rules Docket, room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, telephone 513.38.30.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring the installation of placards, repetitive inspections of the fuel boost pump electrical connectors, and replacement of defective parts, as necessary, on certain BAC 1-11 200 and 400 series airplanes, was published in the FEDERAL REGISTER at 42 FR 39399.

The proposal was prompted by reports of arcing within the electrical connector of the fuel boost pump to its flooded housing within the fuel tank on certain British Aircraft Corp. BAC 1-11 200 and 400 series airplanes that could result in destruction of the connector.

Interested persons have been afforded an opportunity to participate in the making of the amendment. Two persons submitted comments, one of which concurred with the proposed AD. The other commentator did not object to the AD but disagreed with the statement that deterioration of the connector could lead to fuel fires. He referred to a test report which concluded that a fire could not start in the connector even with deliberate attempts. The FAA does not take issue with the commentator's statement, and the AD is amended to state that the ultimate effect could be destruction of the connector.

The commentator recommended that the placard and Airplane Flight Manual provisions for the center tank should contain the words "if installed" since many airplanes do not have a center tank installed. The FAA agrees and the AD is so amended.

The commentator contended that the 6,000 and 10,000 hour repetitive inspections should not be firm numbers since British Aircraft Corp. may approve increased intervals if inspections conducted during boost pump removals justify increases. The FAA does not agree. Firm inspection intervals must be specified throughout the life of the AD as limitations under which the airplanes may continue to be operated. However, the FAA will increase the intervals when such action is justified.

The commentator contended that based on his inspections of connectors he finds no correlation between failures of connectors and the use of thick or thin nuts. He also disagrees with the manufacturer's indication that the use of thin nuts could cause an improper mating condition with the pump connector. The commentator contends there is no reason to require replacement of the thin nut with a thick nut. Based on the commentator's service experience, the FAA agrees that safety is not related to the thickness of the nut and the AD is changed to delete the requirement to replace thin nuts that are not defective with thick nuts.

The principal authors of this document are M. Gaydos, Europe, Africa, and Middle East Region, E. Newberger, Flight Standards Service, and K. May, Office of the Chief Counsel.

ADOPTION OF AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive.

BRITISH AIRCRAFT CORP. Applies to BAC 1-11, Model/Types 203/AE, 204/AF, 212/AR, 215/AU, 201/Z/AC, 401/AK, 410/AQ, 419/EP, and 412A/EB airplanes.

Compliance is required as indicated.

To prevent destruction of the fuel boost pump electrical connector accomplish the following:

(a) Within the next 300 hours airplane time in service after the effective date of this AD, unless already accomplished, comply with the following:

(1) Permanently install a placard at all cockpit fuel boost pump circuit breakers, using white letters on a red background, to read as follows:

DO NOT RESET IN FLIGHT

(2) Insert in the limitations section of the Airplane Flight Manual the statement: "Do not reset fuel boost pump circuit breakers until the affected boost pump electrical connector has been inspected in accordance with paragraph 2.3.7 of BAC Alert Service Bulletin 28-A-PM 5220, Issue 4, dated October 22, 1975, or an FAA-approved equivalent."

(3) On airplanes equipped with a center fuel tank, permanently, install a placard in the cockpit next to the center fuel tank transfer pumps, using white letters on a red background, to read as follows:

TURN TRANSFER PUMP OFF WHEN L.P. LIGHT ILLUMINATES

(4) For airplanes equipped with a center fuel tank, insert in the limitations section of the Airplane Flight Manual the statement: "Turn center tank fuel transfer pumps "off" when the L.P. light illuminates".

(b) For airplanes equipped with fuel boost pump and housing TRW P/N 249000-6 or Plessey P/N 570-8-21225 (which includes boost pump housing connector assembly TRW P/N 209237-1 or Plessey P/N 570-1-21227), comply with the following:

(1) Prior to accumulation of 6,000 hours total time in service on the fuel boost pump housing connector assembly, or within the next 100 hours airplane time in service after the effective date of this AD, whichever occurs later, unless already accomplished within the preceding 100 hours airplane time in service, and thereafter at intervals not to exceed 200 hours airplane time in service from the last inspection, until compliance with paragraph (g) of this AD, comply with paragraphs (d), (e), and (f) of this AD.

(2) Prior to the accumulation of 6,000 hours total time in service on the fuel boost pump housing connector assembly, or within the next 1,500 hours airplane time in service after the effective date of this AD, whichever occurs later, unless already accomplished within the preceding 1,500 hours airplane time in service, and thereafter at intervals not to exceed 6,000 hours airplane time in service from the previous compliance, comply with paragraph (g) of this AD.

(c) For airplanes equipped with fuel boost pump and housing, TRW P/N 249000-7 or Plessey P/N 570-8-23456 (which includes boost pump housing connector assembly TRW P/N 209237-1 or Plessey P/N 570-1-21227), comply with the following:

(1) Prior to accumulation of 10,000 hours total time in service on the fuel boost pump housing connector assembly, or within the next 100 hours airplane time in service after the effective date of this AD, whichever occurs later, unless already accomplished within the preceding 100 hours airplane time in service, and thereafter at intervals not to exceed 200 hours airplane time in service from the last inspection, until compliance with paragraph (g) of this AD, comply with paragraphs (d), (e), and (f) of this AD.

(2) Prior to the accumulation of 10,000 hours total time in service on the fuel boost pump housing connector assembly, or within the next 1,500 hours airplane time in service after the effective date of this AD, whichever occurs later, unless already accomplished within the preceding 1,500 hours airplane time in service, and thereafter at intervals not to exceed 10,000 hours airplane time in service from the previous compliance, comply with paragraph (g) of this AD.

(d) Visually inspect all fuel boost pumps on the airplane by operating them for 10 minutes and inspecting for signs of fuel leakage at the fuel pump conduit drains in accordance with paragraph 2.3.3 of BAC Alert Service Bulletin 28-A-PM 5220, Issue 4, dated October 22, 1975, (hereinafter referred to as BAC ASB), or an FAA-approved equivalent.

(e) If, during any inspection required by this AD, fuel leakage is detected, identify the pump causing the leak and visually inspect its housing connector assembly, TRW P/N 209237-1 or Plessey P/N 570-1-21227, within the boost pump housing, and its associated fuel boost pump electrical connector for evidence of arcing, overheating, or deterioration of the 'O' ring in accordance with paragraph 2.3.7 of BAC ASB, or an FAA-approved equivalent.

(f) Where evidence of arcing, overheating, or deterioration of the 'O' ring seal is found in either the boost pump housing or the electrical connector as a result of an inspection required by this AD, replace the affected parts with serviceable parts before further flight, except that the airplane may be flown in accordance with FAR §§ 21.197 and 21.199 to a base where the work can be performed, provided that the affected pumps are isolated by pulling and clipping the affected pump circuit breaker and placarding the affected pump On-Off switch in the cockpit third crewman's panel with the word, Inoperative.

(g) Disassemble the electrical connector assembly, perform the inspections, and replace the appropriate parts in accordance with paragraphs 2.3.10, 2.3.11, except for the replacement of "thin" nuts with "full" nuts, and 2.3.12 of BAC ASB, or an FAA-approved equivalent.

(h) Upon the request of an operator, the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region, c/o American Embassy, APO New York 09667, may approve alternate repetitive inspection intervals and inspection procedures to facilitate continued operations by the operator, if data substantiating such action are submitted by the operator.

This amendment becomes effective March 23, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on February 24, 1978.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc. 78-5997 Filed 3-8-78; 8:45 am]

[4910-13]

[Docket No. 78-SO-04; Amdt. 39-3151]

PART 39—AIRWORTHINESS DIRECTIVES

Goodyear BTC-39 Flexible Fuel Cells (TSO C80)

AGENCY: Federal Aviation Administration (FAA)-DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (A.D.) applicable to certain aircraft listed herein which incorporate Goodyear BTC-39 series type construction flexible fuel cells. This A.D. requires identification of the type cells installed, and inspection and tests of BTC-39 series type cell which are susceptible to deterioration and leakage, and replacement as necessary. This action is necessary to preclude fuel leaks and flight safety hazards to these aircraft. Numerous reports of such leaks have been received.

DATES: Effective March 17, 1978. Compliance schedule—as prescribed in the body of the A.D.

ADDRESSES: The applicable service instructions may be obtained from the companies listed below. A copy of each of these instructions is contained in the A.D. Rules Docket and may be examined in Room 264, Federal Aviation Administration, Southern Region, 3400 Whipple Street, East Point, Ga. 30344.

Beech Aircraft Corp., P.O. Box 85, Wichita, Kans. 67201;
Cessna Aircraft Co., Marketing Division, Wichita, Kans. 67201;
Israel Aircraft Industries International, Inc., 2020 So. Nicklaus, Oklahoma City, Okla. 73128;
Piper Aircraft Corp., 820 East Bald Eagle Street, Lock Haven, Pa. 17745;
Rockwell International, General Aviation Division, 5001 North Rockwell Avenue, Bethany, Okla. 73008.

FOR FURTHER INFORMATION CONTACT:

W. S. Thomas, Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, 3400 Whipple Street, East Point, Ga. 30344, telephone 404-763-7435.

SUPPLEMENTARY INFORMATION: Goodyear Aerospace Corp. flexible fuel cells, construction type BTC-39, manufactured between 1961 and 1971 have been found to be susceptible to aging, deterioration and damage during handling, thus resulting in fuel seeping and leaking after some period following installation in aircraft. Also, certain stored cells of the BTC-39 series, construction intended as replacements have been found to be in unsatisfactory condition for installation.

Since this condition is likely to exist or develop in other aircraft using these cells, a situation exists that requires immediate adoption of this regulation. It is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this amendment are W. S. Thomas, Flight Standards Division, and Keith May, Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

GOODYEAR AEROSPACE CORP. Applies to Goodyear flexible fuel cells construction type BTC-39 series, installed on, but not necessarily limited to, the following aircraft models, all series:

Beech—18, 35-33, 35, 36, 45, 50, 95-55, 56TC, 58, 60, 65, 65-80, 65-88, 65-90, 70, 95, 99, 100 (except B100 and C100);
Cessna—180, 182, 185, 188 with wing tanks, 205, 206, 207, 210, 310, 320, 340, 401, 402, 411, 414, 421;
Israel Aircraft (including Aero Commander/Rockwell International) 1121 and 1123;
Piper—PA-25 and PA-31;
Rockwell International General Aviation Division—All models prefixed by 500, 560, 580, 681, 685, 690 and 720.

Compliance is required, as indicated, unless already accomplished.

To prevent a hazard to the airplane due to fuel cell leakage caused by deterioration of the cell or cell nipples, accomplish the following:

(a) Within the next 25 hours time in service after the effective date of this A. D., or within the next 30 calendar days after the effective date of this A. D., whichever occurs first, check aircraft records and manufacturer's instructions. If aircraft records or manufacturer's service data confirm that no Goodyear construction BTC-39 series cells are installed, no further action is required, except entry in the aircraft maintenance records that this check has been accomplished.

If any or all fuel cells installed are of the Goodyear BTC-39 construction series or are of unknown manufacturer or construction, conduct the checks, test and inspection specified in (b) and (c).

NOTE.—Information to assist in identifying BTC-39 fuel cells, and applicable aircraft serialization, may be found in the following service instructions, or later approved revisions:

Beech Service Instruction No. 0632-280, Rev. 1;
Cessna Single Engine Service Letter SE78-10;
Cessna Multi-Engine Service Letter ME78-7;
Israel Aircraft Service Bulletins CJ-17 for Model 1121, and WW-20 for Model 1123;

Piper Service Bulletin No. 591; and
Rockwell General Aviation Division Service Bulletin No. 165.

(b) Within the next 25 hours time in service after the effective date of this A. D., or within the next 30 calendar days after the effective date of this A. D., whichever occurs first, fill the fuel tanks and perform a visual check of the exterior of the aircraft wings and/or fuselage for signs of fuel leakage. Fuel wetness or color dye stains may be noted, especially in the vicinity of vents and compartment drains. Fuel stains due to overfill are not considered leakage. The visual check required by this paragraph may be performed by the pilot. Notation in the aircraft records is required by FAR 43.9.

(1) If signs of fuel leakage are observed, determine the leakage source.

(2) If leakage source is other than fuel cells or fuel cell nipples, correct in accordance with aircraft manufacturer's instructions prior to further flight.

(3) If leakage is from fuel cell or nipples, proceed with the inspection required in (c)(8) prior to further flight.

(c) Within the next 100 hours time in service after the effective date of this A. D. or within the next 180 calendar days after the effective date of this A. D., whichever occurs first, determine whether the vent nipples and fuel cell material, including the material end fittings, above the normal fuel level are intact and secure by accomplishing the fuel system integrity test and inspection as required in accordance with the applicable manufacturer's service information listed in (a) above, or as prescribed below:

(1) Position the airplane in an area of stable temperature, free from radiant heat and strong air currents, with the aircraft in approximately normal ground attitude, wings level. Install an adapter with a standpipe on the tank filler neck and another adapter and standpipe on the tank vent exit tube. The open ends of the two standpipes should terminate at approximately the same level, 12 to 14 inches above the highest part of the tank. The tank selector should be OFF.

NOTE.—Some aircraft incorporate a vent system that interconnects the vent outlets of two or more tanks. Since fuel or air may flow through the interconnects from one tank to another, this characteristic must be considered in conducting the integrity test for leakage. On such aircraft it will be acceptable to conduct the integrity pressure test simultaneously on the interconnected tanks instead of on each tank individually.

CAUTION.—Observe appropriate safety measures for handling fuel, fuel systems and fueled aircraft.

(2) Fill tank and standpipe and inspect for evidence of fuel leakage. Allow one or two minutes for the fuel level to stabilize.

CAUTION: Do not overpressurize tank as structural damage might occur. The 12-inch standpipe pressure specified will not exceed allowable limits for tank/fuel system pressure.

Maintain the standpipe fuel level for not less than 15 minutes after fuel level stabilization occurs, unless fuel leakage is observed sooner. Fuel tank or system leakage may also be revealed by a reduction in the height of fuel in the standpipe.

(3) If the standpipe fuel level remains stabilized for 15 minutes, and if there is no evidence of fuel leakage, the test may be discontinued for that tank.

(4) Repeat the test of (c)(1) and (c)(2) for each tank that incorporates a cell of BTC-39 or a tank cell of unknown type construction.

(5) If no leaks are observed, the test may be terminated. The fuel system should be returned to normal flight configuration, and the aircraft may be returned to service. Make notation in the aircraft records in accordance with FAR 91.

(6) If there is evidence of fuel leakage, determine the source of the leak.

(7) Repair fuel system leaks, other than fuel cell or nipple leaks, in accordance with the appropriate aircraft manufacturer's instructions.

(8) If evidence of fuel cell or nipple leakage is observed, conduct the following inspection of each cell and all nipples for the source of the leak.

(i) Drain fuel tanks and remove access covers or plates.

(ii) After thorough purging of the tank interiors to remove fuel vapors, use explosion-proof light and mirror and visually inspect the interior and exterior (where accessible) of each cell suspected of leakage for cracking, peeling or other signs of deterioration.

(iii) Inspect the tank retaining fasteners and determine that they are properly positioned and fastened.

(iv) Inspect vent, drain and all nipples. These may be inspected by the fingernail test to give an indication of the condition of the nipple. The fingernail test consists of using the fingernail to attempt to scrape the compound off the nipple fitting. If the compound has not degraded, the fingernail will glide across the surface without damage to the compound. If an unsatisfactory condition exists, the fingernail will tend to dig into the compound. The deteriorated compound will have a consistency of either art gum or chewing gum.

(v) Remove any fuel cell found leaking or with deteriorated nipples. BTC-39 series type cells which have been removed are not repairable, and must not be installed as a serviceable cell in an aircraft. Other type cell construction may be repaired in accordance with the applicable manufacturer's instructions by a person authorized in FAR Part 43.

(vi) Install serviceable fuel cells, reconnect fuel cell and fuel system, and access covers, and functionally pressure check fuel system in accordance with aircraft manufacturer's service data or item (c).

(d) Repeat the integrity pressure test and inspection required in (c) at intervals not to exceed 12 months until all BTC-39 type construction fuel cells or cells of unknown construction have been replaced.

(e) An equivalent means of compliance with this A. D. is to comply with the aircraft manufacturer's instructions listed in (a): *Provided*, That the visual check is accomplished at the compliance time required in (b) and that the inspection and tests are conducted at the intervals specified by (c) and (d). Any other method must be approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southern Region.

This amendment becomes effective March 17, 1978.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in East Point, Ga., February 24, 1978.

GEORGE R. LA CAILLE,
Acting Director,
Southern Region.

[FR Doc. 78-6111 Filed 3-8-78; 8:45 am]

[4910-13]

[Docket No. 77-NW-28-AD; Amdt. 39-3155]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) to require inspections of the emergency escape slide cool gas generator system. The AD requires removal from service of cool gas generator propellant cartridges which may be defective and explode on actuation of the emergency escape slide system. One cartridge exploded during a test actuation, giving rise to investigation which led to this AD.

DATE: Effective date April 14, 1978. Compliance times: As prescribed in the body of the AD.

ADDRESS: Federal Aviation Administration, Northwest Region, Engineering and Manufacturing Branch, 9010 East Marginal Way South, Seattle, Wash. 98108.

Boeing service bulletin(s) specified in this directive may be obtained upon request to Boeing Commercial Airplane Co., P.O. Box 3707, Seattle, Wash. 98124. Rocket Research service bulletin(s) specified in this directive may be obtained upon request to Rocket Research Co., York Center, Redmond, Wash. 98052. These documents may also be examined at FAA, Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108.

FOR FURTHER INFORMATION CONTACT:

Joseph M. Starkel, Airframe Section, ANW-212, Engineering and Manufacturing Branch, FAA, Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108, telephone 206-767-2516.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking (NPRM) (42 FR 62398) was published on December 12, 1977, proposing that a new airworthiness directive be issued to require inspections of the emergency escape slide cool gas generator system. An extention of time for comments was published in 43 FR 3918 on January 30, 1978. Propellant cartridges installed in cool gas generators may be swollen or otherwise defective and may explode on actuation of the emergency escape slide system.

Several comments were received indicating that due to the lack of available spare cartridges, a March 1, 1978, compliance date for the initial inspection is impractical. The FAA agrees and the compliance date is changed to May 1, 1978.

Several airlines stated that inspection of cartridges assembled in gas generators is unnecessary since generators are stored in a controlled environment. One commentator recommended inspection of the cartridge prior to installation in the generator only. Since swelling of the cartridge is due to chemical phase transitions at extreme temperatures, the FAA has added a requirement for proper storage of all cartridges and generators prior to installation on an airplane. In addition, the 180-day inspection requirement for the cartridge is changed to require inspection prior to installation in the generator rather than installation on an airplane.

Several commentators suggested that an annual inspection of the cartridges would be far more appropriate and easier to accommodate rather than a repetitive inspection based on flight hours. The FAA agrees and the AD so notes.

One commentator stated that because industry programs, designed to establish cool gas generator inspection periods and cartridge life limits, shall be completed by February 1, 1979, there is no need for a yearly inspection or a 3-year cartridge life limit at this time. Another commentator indicated that a one-time inspection of the cartridge within 18 months should be required rather than the proposed repetitive inspections. The appropriate repetitive interval could best be determined after the industry test program was completed. The FAA does not agree. The AD will be reviewed at the completion of the test program and any necessary revisions to this AD will be made at that time.

DRAFTING INFORMATION

The principal authors of this document are Joseph M. Starkel, Engineering and Manufacturing Branch, FAA Northwest Region, and Richard Salwen, Acting Regional Counsel, Northwest Region.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

BOEING: Applies to all Boeing 747 airplanes which incorporate cool gas generators in their emergency escape slide systems. Accomplish the following:

A. Unless already accomplished, conduct an initial inspection of each cool gas generator propellant cartridge installed on an airplane in accordance with paragraph E prior to accumulation of 6,000 flight hours or 4 years time installed on an airplane, whichever is sooner. For those cartridges which have accumulated, or will have accumulated before May 1, 1978, more than 6,000 flight hours or 4 years time installed on an airplane, compliance may be delayed but must be accomplished by May 1, 1978.

B. After May 1, 1978, inspect all cool gas generator propellant cartridges installed on airplanes (regardless of flight hours or date installed) in accordance with paragraph E at intervals not to exceed 1 year.

C. After the effective date of this AD, all cartridges, prior to installation in a cool gas generator, must be inspected per paragraph E if 180 days have elapsed since the last inspection. Also, after the effective date of this AD, all cartridges, regardless of time elapsed since the last inspection, must be inspected per paragraph E prior to installation in a cool gas generator unless it can be shown that the cartridges have been stored within the termperature limits of +10° F. to +90° F.

D. After the effective date of this AD and prior to installation of a cool gas generator on an airplane, inspect each cartridge installed in the generator per paragraph E unless it can be shown that the generator has been stored within the temperature limits of +10° F. and +90° F.

E. Inspect in accordance with the inspection procedures of Section III of Boeing Service Bulletin 747-25-2373. Cartridges exceeding the limits of Rocket Research Co. (RRC) Service Bulletin 25-015 (RRC SB 0016) dated August 5, 1977, or later FAA approved revisions, are to be removed from service.

F. After May 1, 1979, remove from service all cartridges upon accumulation of 3 years time installed on an airplane.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to Boeing Commercial Airplane Co., P.O. Box 3707, Seattle, Wash. 98124, and Rocket Research Co., York Center, Redmond, Wash. 98052. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108.

This amendment becomes effective April 14, 1978.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.89).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Seattle, Wash., on March 1, 1978.

NOTE.—The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

C. B. WALK, Jr.,
Director, Northwest Region.

[FR Doc. 78-6112 Filed 3-8-78; 8:45 am]

[4910-13]

[Docket No. 72-CE-28-AD; Amdt. 39-3152]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Models 65, A65, A65-8200, 70, 65-80, 65-A80, 65-A80-8000, 65-88 and 65-B80 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule (revision).

SUMMARY: This amendment revises Airworthiness Directive (AD) 72-18-8 by deleting paragraph E which requires repetitive inspections of the fuel and oil system components in the engine compartment on Beech Models 65, A65, A65-8200, 70, 65-80, 65-A80, 65-A80-8000, 65-88 and 65-B88 airplanes. This action is being taken because the inspections required by paragraph E have now been incorporated in the more encompassing AD 77-25-01 published in the FEDERAL REGISTER on December 8, 1977.

DATES: Effective date. March 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald L. Page, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3446.

SUPPLEMENTARY INFORMATION: When drafting AD 77-25-01 (42 FR 61993), it was determined that the inspections required by paragraph E of AD 72-18-8 (37 FR 18030, 18031) could be more conveniently accomplished concurrent with the other inspection required by AD 77-25-01. Accordingly, it was decided to incorporate these inspections in the new AD and to delete them from AD 72-18-8. This action is being taken to accomplish that deletion. Since this amendment is relieving in nature, and is in the public interest, notice and public procedure hereon are impractical and good cause exists for making the amendment effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are: Donald L. Page, Flight Standards Division, Central Region, and John L. Fitzgerald, Jr., Office of the Regional Counsel, Central Region.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is

this facility will be classified and referred to as the NAS Brunswick VORTAC Navigational Aid. The purpose of this amendment is to revise the description of the Brunswick

[4910-13]

[Airspace Docket No. 77-CE-27]

PART 71—DESIGNATION OF FEDERAL

comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

Accordingly, Subpart G, §71.181, of

Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-537, FAA Central Region, Federal Building, 601 East 12th Street,

[4910-13]

[Airspace Docket No. 77-RM-14]

PART 71—DESIGNATION OF FEDERAL

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by amending AD 72-18-8 (Amendment 39-1513) as follows:

(1) Delete paragraph E including the note therein in its entirety.

(2) Delete reference to paragraph E in paragraph F.

This amendment becomes effective on March 13, 1978.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and § 11.89 of the Federal Aviation Regulations (14 CFR 11.89).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Mo., on February 24, 1978.

JOHN E. SHAW,
Acting Director, Central Region.

[FR Doc. 78-5995 Filed 3-8-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-NE-2]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of the Brunswick, Maine, Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the description of the Brunswick, Maine, Control Zone. This action is required because the TACAN at Brunswick Naval Air Station has been collocated with the VOR. There is no significant change in the size of the control zone.

EFFECTIVE DATE: May 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Richard G. Carlson, Operations Procedures and Airspace Branch, ANE-536, Air Traffic Division, Federal Avaiation Administration, 12 New England Executive Park, Burlington, Mass. 01803, telephone 617-273-7285.

SUPPLEMENTARY INFORMATION: The TACAN at the Brunswick Naval Air Station, Brunswick, Maine, was recently re-located to the VOR site at the Naval Air Station. Following restoration to service after flight check, this facility will be classified and referred to as the NAS Brunswick VORTAC Navigational Aid. The purpose of this amendment is to revise the description of the Brunswick Naval Control Zone in Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by deleting reference to the Brunswick TACAN and substituting the NAS Brunswick VORTAC. In addition, this change necessitates minor re-adjustments to the control zone. These changes, which are either editorial in nature or which will result in no significant change to the size of the control zone, will impose no additional burden on any person and thus notice or public procedure hereon are unnecessary.

DRAFTING INFORMATION

The principal authors of this document are Richard G. Carlson, Air Traffic Division, New England Region, and George L. Thompson, Associate Regional Counsel, New England Region.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 g.m.t., May 18, 1978, by revising the description of the Brunswick, Maine, Control Zone to read as follows:

SECTION 71.171—BRUNSWICK, MAINE CONTROL ZONE

"Within a 5-mile radius of NAS Brunswick (latitude 43°53'35" N., longitude 69°56'20") within 2 miles each side of the NAS Brunswick VORTAC 167° radial, extending from the five-mile radius zone to 8 miles south of the VORTAC within 2 miles each side of the NAS Brunswick VORTAC 025° radial, extending from the 5-mile radius zone to 8 miles north east of the VORTAC."

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and of sec. 6 (c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Burlington, Mass., on February 27, 1978.

J. STIGLIN,
Acting Director,
New England Region.

[FR Doc. 78-5991 Filed 3-8-78; 8:45 am]

[4910-13]

[Airspace Docket No. 77-CE-27]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area—Columbia, Mo.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to alter the 700-foot transition area at Columbia, Mo., to provide additional controlled airspace for aircraft executing a new instrument procedure to the E. W. Cotton Woods Memorial Airport, Columbia, Mo., which is based on the Hallsville, Mo., VORTAC.

EFFECTIVE DATE: May 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

SUPPLEMENTARY INFORMATION: A new instrument approach procedure to the E. W. Cotton Woods Memorial Airport, Columbia, Mo., has been established based on the Hallsville, Mo. VORTAC, a navigational aid. The establishment of a new instrument approach procedure based on the navigational aid entails the alteration of the transitional area at Columbia, Mo., at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to insure additional adequate controlled airspace for aircraft executing this new instrument approach procedure.

DRAFTING INFORMATION

The principal authors of this document are Dwaine E. Hiland, Operations, Procedures and Airspace Branch, Air Traffic Division and John L. Fitzgerald, Jr., Office of the Regional Counsel.

DISCUSSION OF COMMENTS

On page 63181 of the FEDERAL REGISTER dated December 15, 1977, the Federal Aviation Administration published a notice of proposed rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Columbia, Mo. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

Accordingly, Subpart G, § 71.181, of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1978 (43 FR 440), is amended, effective 0901 G.m.t. May 18, 1978, by altering the following transition area:

COLUMBIA, MO.

That airspace extending upward from 700 feet above the surface and within a 5 mile radius of the E. W. Cotton Woods Memorial Airport (latitude 39°17'15" N., longitude 092°17'45" W.); within 1½ miles each side of the Hallsville, Mo., VORTAC 224° radial extending from the 5 mile radius area to the Hallsville, Mo., VORTAC; and within an 8½ mile radius of columbia Regional Airport (latitude 38°48'49" N., longitude 092°13'12" W.); within 2½ miles each side of the Hallsville, Mo., VORTAC 193° radial extending from the 8½ mile radius area to 10 miles south of the VORTAC; excluding the portion which overlies the Jefferson City, Mo., 700 foot floor transition area.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation (49 U.S.C. 1655(c)); sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Mo., on February 28, 1978.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc. 78-5992 Filed 3-8-78; 8:45 am]

[4910-13]

[Airspace Docket No. 77-CE-17]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area—Grandview, Mo.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction of final rule.

SUMMARY: This action corrects a rule issued on January 26, 1978, and appearing in FR Doc. 78-2116 on page 3551 in the issue of Thursday, January 26, 1978 (77-CE-17). The legal description of the Grandview, Mo. transition area included in the rule contains unnecessary language and therefore must be corrected.

EFFECTIVE DATE: March 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-537, FAA Central Region, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

SUPPLEMENTARY INFORMATION: The FAA issued the final rule with an effective date of March 23, 1978, containing a legal description of the Grandview, Mo. transition area. That description has unnecessary verbiage and refers to the Johnson County Executive Airport 700-foot transition area which does not exist. The legal description is therefore being corrected to make it accurate. Since the change is editorial in nature, notice and public procedure hereon are not considered necessary.

DRAFTING INFORMATION

The principal authors of this document are Dwaine E. Hiland, Operations, Procedures and Airspace Branch, Air Traffic Division and John L. Fitzgerald, Jr., Office of the Regional Counsel.

Accordingly, Docket No. 77-CE-17 altering the Grandview, Mo., Transition Area (43 FR 3551) is amended, effective 0901 G.m.t. March 23, 1978, by correcting the transition area description so that it now reads as follows:

GRANDVIEW, MO.

That airspace extending upward from 700' above the surface within an 8 mile radius of Richards-Gebaur AFB (latitude 38°50'50" N., longitude 94°33'20" W.); within a 6 mile radius of Johnson County Executive Airport (latitude 38°51'00" N., longitude 94°44'15" W.); within 3 miles each side of the 182° bearing from Johnson County Executive Airport extending from the 6 mile radius area to 8 miles south of the airport; and within an 8.5 mile radius of the Johnson County Industrial Airport (latitude 38°49'47" N., longitude 94°53'29" W.).

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Mo., on February 28, 1978.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc. 78-5993 Filed 3-8-78; 8:45 am]

[4910-13]

[Airspace Docket No. 77-RM-14]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Areas; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: In a rule published in the FEDERAL REGISTER of February 6, 1978, Vol. 43, page 4848, the geographical coordinates latitude 40°03'58.4" N., longitude 109°41'25.5" W., were incorrectly stated in the fifteenth line of the third amendatory paragraph to section 71.181 on page 4848. This correction reflects the correct geographic coordinates as latitude 40°03'27.8" N., longitude 109°24'47.7" W.

EFFECTIVE DATE: March 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. David M. Laschinger, Operations, Procedures and Airspace Branch, Air Traffic Division, ARM-500, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colo. 80010; telephone 303-837-3937.

SUPPLEMENTARY INFORMATION: FR Doc. 78-3110 was published on February 6, 1978 (43 FR 4848), with an effective date of March 23, 1978, and designated a 700-foot and a 1,200-foot transition area at Roosevelt, Utah. Incorrect geographical coordinates for the 1,200-foot transition area were inadvertently published. The correct geographical coordinates should have been latitude 40°03'27.8" N., longitude 109°24'47.7" W.

DRAFTING INFORMATION

The principal authors of this document are Mr. David M. Laschinger, Operations, Procedures, and Airspace Branch, Air Traffic Division, and Mr. Daniel J. Peterson, Office of Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, FR Doc. 78-3110, as published on February 6, 1978, on page 4848, is amended in the description of the 1,200-foot transition area by deleting the fifteenth line of the third amendatory paragraph to § 71.181 on page 4848 and substituting latitude 40°03'27.8" N., longitude 109°24'47.7" W.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of

Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.69.)

Issued in Aurora, Colo., on February 28, 1978.

[4910-13]

[Docket No. 17678, Amdt. No. 1106]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL

Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-8277.

notice and public procedure before adopting these SIAP's is unnecessary, impracticable, or contrary to the public interest and, where applicable,

West Bend, WI—West Bend Municipal, VOR Rwy 24, Amdt. 2, cancelled

* * * effective April 6, 1978:

Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.69.)

Issued in Aurora, Colo., on February 28, 1978.

ISAAC H. HOOVER,
Acting Regional Director,
Rocky Mountain Region.

[FR Doc. 78-5994 Filed 3-8-78; 8:45 am]

[4910-13]

[Airspace Docket No. 77-RM-15]

PART 73—SPECIAL USE AIRSPACE

Designation of Special Use Airspace

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates a restricted area identified as R-2604 in the vicinity of Platteville, Colo., to encompass transmitters used for the conduct of radiation experiments. This action is intended to provide for the safe use of the navigable airspace by prohibiting unauthorized flight operations within the designated area. Without this action, flights close to the transmitters may experience adverse effects on airborne radio equipment.

EFFECTIVE DATE: May 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Huff, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3715.

SUPPLEMENTARY INFORMATION:

HISTORY

On November 13, 1969, R-2604 was established at Platteville, Colo., to encompass transmitters used for the conduct of radiation experiments in the field of ionospheric research dealing with the composition of the ionosphere. In 1975 the project was cancelled and the restricted area revoked. On October 19, 1977, the Department of Commerce indicated their intentions of reactivating the experiments at Platteville and requested the reestablishment of R-2604. On December 29, 1977, the FAA proposed to amend Subpart B or Part 73 of the Federal Aviation Regulations (14 CFR Part 73) to redesignate Restricted Area R-2604 in the vicinity of Platteville, Colo. (42 FR 64905). The purpose of the restricted area as stated in the notice of proposed rule making is to encompass transmitters for the conduct of radiation experiments to study its effect on radio propagation. The radiation generated by this experiment may be hazardous to nonparticipating aircraft. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. We received two responses to the NPRM in which the commenters posed no objection to the proposal. Section 73.26 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 672).

THE RULE

This amendment to Subpart B of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) adopts the airspace action proposed in the NPRM (42 FR 64905). In accordance with established FAA policies the using agency has provided the FAA with a statement that the requirements of NEPA have been met.

DRAFTING INFORMATION

The principal authors of this document are Mr. Richard Huff, Air Traffic Service, and Mr. Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart B of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (43 FR 672) is amended, effective 0901 G.m.t., May 18, 1978, as follows:

In § 73.26 "R-2604 Platteville, Colo.:

Boundaries. A circular area with a 3,000-foot radius centered at latitude 40°10'48" N., longitude 104°43'30" W.
Designated altitude. Surface to 6,000 feet MSL.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Denver Approach Control.
Using agency. Office of Telecommunications, Boulder, Colo." is added.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on March 2, 1978.

B. KEITH POTTS,
Acting Chief, Airspace and
Air Traffic Rules Division.

[FR Doc. 78-6113 Filed 3-8-78; 8:45 am]

[4910-13]

[Docket No. 17678, Amdt. No. 1106]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPS) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATE: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

FOR EXAMINATION

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

FOR PURCHASE

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

BY SUBSCRIPTION

Copies of all SIAP's, mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.

FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAP's). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FAR's). The applicable FAA forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAP's, their complex nature, and the need for a special format make their verbatim publication in the FEDERAL REGISTER expensive and impractical. Further, airmen do not use the regulatory text of the SIAP's but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAP's. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAP's which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAP's, an effective date at least 30 days after publication is provided.

Further, the SIAP's contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERP's). In developing these SIAP's, the TERP's criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAP's and safety in air commerce, I find that notice and public procedure before adopting these SIAP's is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAP's effective in less than 30 days.

The principal authors of this document are Rudolph L. Fioretti, Flight Standards Service, and Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

* * * Effective May 18, 1978:

Bunnell, FL—Flagler County, VOR/DME Rwy 33, Original
Napoleon, OH—Henry County, VOR Rwy 28, Original

* * * Effective May 4, 1978:

Kingman AZ—Mohave County, VOR Rwy 21, Amdt. 4
Savannah, GA—Savannah Muni., VOR Rwy 28, Amdt. 11
Allegan, MI—Padgham Field, VOR Rwy 28, Amdt. 5
Westland, MI—National, VOR-A, Amdt. 3
Kinston, NC—Stallings Field, VOR Rwy 22, Amdt. 10 Kingston, NC—Stallings Field, VOR/DME Rwy 4, Amdt. 10
New Bern, NC—Simmons-Nott, VOR Rwy 4, Amdt. 1
Charleston, SC—Charleston AFB/Muni., VOR Rwy 15 (TAC). Amdt. 9
Charleston, SC—Charleston, AFB/Muni., VOR Rwy 33 (TAC), Amdt. 8
Charleston, SC—Charleston, AFB/Muni., VORTAC Rwy 33, Original, cancelled
Charleston, SC—Johns Island, VOR-A, Amdt. 2
Killeen, TX—Killeen Municipal, VOR-A, Amdt. 8
Port Lavaca, TX—Calhoun County, VOR/DME Rwy 23, Amdt. 2

* * * effective April 20, 1978:

Hot Springs, AR—Memorial Field, VOR Rwy 5, Amdt. 11
Palmdale, CA—Palmdale Production Flt/Test Instln AF Plant NR 42, VOR-A, Amdt. 2, cancelled
Tifton, GA—Henry Tift Myers, VOR Rwy 27, Amdt. 3
Tifton, GA—Henry Tift Myers, VOR Rwy 33, Amdt. 4
Monroe, LA—Monroe Municipal, VOR Rwy 4, Amdt. 16
Monroe, LA—Monroe Municipal, VOR Rwy 22, Amdt. 1
Monroe, LA—Monroe Municipal, VOR/DME Rwy 22, Amdt. 6
Vineland, NJ—Kroelinger, VOR Rwy 28, Amdt. 6
Tipton, OK—Tipton Municipal, VOR/DME Rwy 17, Orig.
Roseburg, OR—Roseburg Muni., VOR-A, Amdt. 2
Roosevelt, UT—Roosevelt, Muni., VOR-B, Original
West Bend, WI—West Bend Municipal, VOR Rwy 24, Amdt. 2, cancelled

* * * effective April 6, 1978:

Visalia, CA—Visalia Muncipal, VOR Rwy 30, Amdt. 1
Georgetown, DE—Sussex County, VOR Rwy 4, Amdt. 1

* * * effective March 23, 1978:

New Iberia, LA—Acadiana Regional, VOR/DME Rwy 34, Amdt. 2
Aberdeen-Amory, MS—Monroe County, VOR Rwy 18, Amdt. 5

* * * effective February 17, 1978:

Topeka, KS—Forbes Field, VOR/DME Rwy 3 (TAC) Amdt. 1

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

* * * effective May 18, 1978:

Fayetteville, AR—Drake Field, LOC Rwy 16, Amdt. 5

* * * effective May 4, 1978:

Anniston, AL—Anniston-Calhoun County, LOC Rwy 5, Amdt. 7

* * * effective March 23, 1978:

New Iberia, LA—Acadiana Regional, LOC Rwy 34, Amdt. 2

3. By amending § 97.27 NDB/ADF SIAP's identified as follows:

* * * effective May 18, 1978:

Rochester, IN—Fulton County, NDB Rwy 29, Amdt. 6
Caledonia, MN—Houston County, NDB Rwy 31, Original
Bridgewater, VA—Bridgewater Airpark, NDB-A, Amdt. 1

* * * effective May 4, 1978:

Anniston, AL—Anniston-Calhoun County, NDB Rwy 5, Amdt. 13
Savannah, GA—Savannah Muni., NDB Rwy 9, Amdt. 15
Ludington, MI—Mason County, NDB Rwy 25, Amdt. 3
Port Huron, MI—St. Clair County Int'l, NDB Rwy 4, Amdt. 5
Port Huron, MI—St. Clair County Int'l, NDB-A, Amdt. 5
Duluth, MN—Duluth International, NDB Rwy 9, Amdt. 17
Kinston, NC—Stallings Field, NDB Rwy 4, Amdt. 7
Kingstree, SC—Williamsburg County, NDB Rwy 14, Amdt. 1
Houston, TX—Hull Field, NDB Rwy 17, Amdt. 4
Houston, TX—Hull Field, NDB Rwy 35, Original
Killeen, TX—Killeen Municipal, NDB-B, Amdt. 3

* * * effective April 20, 1978:

Hot Springs, AR—Memorial Field, NDB Rwy 5, Amdt. 4
Tifton, GA—Henry Tift Myers, NDB Rwy 33, Amdt. 7
Monroe, LA—Monroe Municipal, NDB Rwy 4, Amdt. 11
Fryeburg, ME—Eastern Slopes Regional, NDB-A, Amdt. 2
Pendleton, OR—Pendleton Muni., NDB-A, Amdt. 2
Olney, TX—Olney Municipal, NDB Rwy 17, Original

• • • effective March 23, 1978:

New Iberia, LA—Acadiana Regional, NDB Rwy 34, Amdt. 2
McMinnville, TN—Warren County Memorial, NDB Rwy 5, Amdt. 3
McMinnville, TN—Warren County Memorial, NDB Rwy 23, Amdt. 3

4. By amending § 97.29 ILS/MLS SIAP's identified as follows:• • • effective May 18, 1978:

Casper, WY—Natrona County Int'l, ILS Rwy 3, Amdt. 2

• • • effective May 4, 1978:

Savannah, GA—Savannah Muni., ILS Rwy 9, Amdt. 18
Duluth, MN—Duluth International, ILS Rwy 9, Amdt. 12
Kinston, NC—Stallings Field, ILS Rwy 4, Amdt. 6

• • • effective April 20, 1978:

Hot Springs, AR—Memorial Field, ILS Rwy 5, Amdt. 5
Monroe, LA—Monroe Municipal, ILS Rwy 4, Amdt. 15
Pendleton, OR—Pendleton Muni., ILS Rwy 25R, Amdt. 17
Memphis, TN—Memphis International, ILS Rwy 35L, Amdt. 5
Memphis, TN—Memphis International, ILS Rwy 35R, Amdt. 4
Richmond, VA—Richard Evelyn Byrd Int'l, ILS Rwy 6, Amdt. 19

• • • effective April 6, 1978:

Visalia, CA—Visalia Municipal, ILS Rwy 30, Amdt. 1

• • • effective March 9, 1978:

St. Louis, MO—Spirit of St. Louis, ILS Rwy 7, Amdt. 4

• • • effective February 22, 1978:

Tulsa, OK—Tulsa International, ILS Rwy 35R, Amdt. 25

• • • effective February 15, 1978:

Houston, TX—Houston Intercontinental, ILS Rwy 8, Amdt. 7

5. By amending § 97.31 RADAR SIAP's identified as follows:

• • • effective May 18, 1978:

Bunnell, FL—Flagler County, RADAR-1, Original

• • • effective May 4, 1978:

Savannah, GA—Savannah Muni., RADAR-1, Amdt. 2
Beaufort, NC—Beaufort-Morehead City, RADAR-1, Amdt. 1

• • • effective April 20, 1978:

Chicago, IL—Chicago O'Hare International, RADAR-1, Amdt. 34
Monroe, LA—Monroe Municipal, RADAR-1, Amdt. 1

6. By amending § 97.33 RNAV SIAP's identified as follows:

• • • effective May 4, 1978:

Savannah, GA—Savannah Muni., RNAV Rwy 18, Amdt. 3
Savannah, GA—Savannah Muni., RNAV Rwy 27, Amdt. 1
Port Huron, MI—St. Clair County Int'l, RNAV Rwy 4, Amdt. 1
Port Huron, MI—St. Clair County Int'l, RNAV Rwy 22, Amdt. 2

• • • effective April 20, 1978:

Roosevelt, UT—Roosevelt Muni., RNAV Rwy 25, Original

(Secs. 307, 313(a), 601, 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Delegation: 25 FR 6489 and Paragraph 802 of Order FS P 1100.1, as amended March 9, 1973.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on March 3, 1978.

JAMES M. VINES,
Chief,
Aircraft Programs Division.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

[FR Doc. 78-6110 Filed 3-8-78; 8:45 am]

[4910-13]

[Docket No. 17565; Amdt. No. 121-140]

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

Crewmember Qualifications: Operating Experience

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends the requirement that if a certificate holder's approved training program includes a course of training in an airplane simulator, a pilot in command must be observed in an airplane by an FAA inspector during at least one flight leg which includes a takeoff and landing. The FAA believes that operating experience shows that the current requirement for an FAA observer is not necessary on initial operating experience flights for qualifying pilots in command completing transition training. Accordingly, that requirement is deleted by this amendment.

EFFECTIVE DATE: March 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Raymond E. Ramakis, Regulatory Projects Branch, Safety Regulations Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-755-8716.

SUPPLEMENTARY INFORMATION: This amendment is based on a Notice of Proposed Rule Making, Notice No. 78-2, published in the FEDERAL REGISTER on February 2, 1978 (43 FR 4438). That notice invited comments by all persons interested in the making of the proposed rule. All interested persons have been afforded an opportunity to participate in the making of this amendment. Only one comment was received by the closing date of March 1, 1978. The one commenter stated that it was in full agreement with the intent of the proposal, but included a recommended change. The recommendation, however, is subject to two interpretations. One interpretation is that the requirement for observation by an FAA inspector of a transitioning pilot in command apply if that pilot has not made at least two takeoffs and landings in the type airplane used. If this is the substance of the suggestion made by the commenter, it would impose a requirement more restrictive than the present rule, and is beyond the scope of Notice 78-2. Accordingly, it has not been implemented. The other interpretation is that the commenter recommended inclusion of a statement expressly excluding a transitioning pilot in command from FAA inspector observation of performance of prescribed duties. The FAA does not agree that this change is necessary. The proposal expressly stated that the requirement for FAA inspector observation would apply only to a qualifying pilot in command who is completing initial or upgrade training specified in § 121.424. Therefore, the FAA believes it is clear that the requirement does not apply to a transitioning pilot in command. One comment was received after the closing date and it concurred in the proposal.

Accordingly, except for minor editorial revisions, and as specifically discussed hereinafter, this amendment and the reasons therefore are the same as those in Notice No. 78-2.

Section 121.434(c)(1)(ii) currently requires that a pilot in command be observed by an FAA inspector during at least one flight leg, which includes a takeoff and landing, while acquiring operating experience if the certificate holder uses a course of training in an airplane simulator, as provided in § 121.409(c), prior to serving as the pilot in command in Part 121 operations. The purpose of the rule is to provide the FAA an opportunity to observe a pilot in the performance of his duties prior to his assuming pilot in command duties in Part 121 operations.

The current rule specifies that during the time that a qualifying pilot in command is acquiring operating experience, a check pilot serving as the pilot in command must occupy a pilot station. In the case of a transitioning

pilot in command, the check pilot serving as the pilot in command may occupy the observer's seat, if the transitioning pilot has made at least two takeoffs and landings in the type airplane used, and has satisfactorily demonstrated to the check pilot qualifications to perform the duties of a pilot in command of that type of airplane.

The requirements in § 121.434(c)(1) for initial operating experience (IOE) flights for a pilot in command, observed by an FAA inspector, resulted from Amendment 121-55, published on January 3, 1970 (35 FR 84), and Amendment 121-91, published on May 27, 1972 (37 FR 10727). The purpose of these amendments was to update procedures for the approval and revision of training programs; to provide for more extensive use of airplane simulators in training; and to allow improvements in the operation of training programs and the quality of training. The FAA considered it necessary to require pilots in command to be observed by an FAA inspector during at least one flight leg of initial operating experience, which includes a takeoff and landing, if the certificate holder uses a course of training in an airplane simulator as provided in § 121.409(c). That requirement was set forth in Amendment 121-91, and has continued in effect until the present.

Based on FAA experience observing IOE flights since May 27, 1972, the agency believes that a combination of simulator/airplane training results in a pilot who is better trained than one trained only in the airplane. Simulators permit more concentrated training without waste of energy, time, and effort, and the trainees can be allowed to see and correct their mistakes without any detrimental effect on safety of flight. Therefore, the FAA believes that utilization of ground training devices, particularly aircraft simulators, adequately prepares a qualifying pilot in command for assumption of duties since initial operating experience is gained with a check pilot.

The FAA further believes that due to the experience level of pilots in command who have gained line experience with the certificate holder in airplanes of the same group, as defined in § 121.400, it is unnecessary for the FAA to continue to observe all IOE flights for qualifying pilots in command who are completing transition training. The FAA will, however, continue to observe a sufficient number of IOE flights by transitioning pilots in command to enable it to determine the effectiveness of the certificate holder's training program.

Therefore, the requirement for an FAA inspector to observe at lease one IOE flight with a takeoff and landing for a transitioning pilot in command gaining line operating experience, who has previously served in the same capacity in another airplane of the same group of airplanes is deleted by this amendment.

Notice 78-2 also contained a clarifying change to the two sentences in § 121.434(c)(1)(ii) reading "During the time that • • • a pilot station. • • •" in order to conform it to the intent of Amendment 121-74, published in the FEDERAL REGISTER on June 30, 1971 (36 FR 12284). In that amendment, it was the FAA's intention that those sentences constitute a flush paragraph applying to § 121.434(c)(1) (i) and (ii). Due to errors in printing in the FEDERAL REGISTER and the Code of Federal Regulations discovered during preparation of Notice 78-2, the FAA is concerned that its intention may not have been made clear. Accordingly, an explicit reference reading "(c)(1) (i) and (ii)" has been added to clarify the applicability of the two sentences specified above.

Since this amendment relieves a restriction, and accomplishes an editorial change, I find that it may be made effective on less than 30 days notice.

DRAFTING INFORMATION

The prinicpal authors of this document are Mr. Joe N. Cate, Fr., Flight Standards Service, and Mr. Richard C. Beitel, Office of the Chief Counsel.

THE AMENDMENT

Accordingly, Part 121 of the Federal Aviation Regulations is amended, effective March 9, 1978, by revising the first two sentences of § 121.434(c)(1)(ii) to read as follows:

§ 121.434 Operating experience.

• • • • • •

(c) • • •
(1) • • •

(ii) In addition, if the certificate holder's approved training program includes a course of training in an airplane simulator under § 121.409(c) and a qualifying pilot in command is completing initial or upgrade training specified in § 121.424, be observed in the performance of prescribed duties by an FAA inspector during at least one flight leg which includes a takeoff and landing. During the time that a qualifying pilot in command is acquiring the operating experience in paragraph (c)(1) (i) and (ii) of this section, a check pilot who is also serving as the pilot in command must occupy a pilot station. • • •

• • • • • •

(Secs. 313(a), 601, 604, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1424); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on March 7, 1978.

LANGHORNE BOND,
Administrator.

[FR Doc. 78-6428 Filed 3-8-78; 10:35 am]

[8010-01]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-5910, 34-14523, 35-20429, IC-10148, AS-244]

PART 211—INTERPRETATIVE RELEASES RELATING TO ACCOUNTING MATTERS

PART 231—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

PART 241—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

Industry Segment Determination

AGENCY: Securities and Exchange Commission.

ACTION: Interpretation.

SUMMARY: This release contains current information on interpretations, guidelines, and administrative determinations of the Commission's staff regarding the classification by registrants of their business into industry segments. The staff has discussed with some registrants the appropriate segmentation of their businesses as a result of both the issuance by the Financial Accounting Standards Board of Statement of Financial Accounting Standards No. 14, "Financial Reporting for Segments of a Business Enterprise", and the adoption by the Commission in December 1977 of industry segment reporting requirements. This release is intended to assist registrants with the implementation of the segment reporting requirements.

DATE: March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Registrants with specific questions should contact the staff members directly responsible for reviewing the documents they file with the Com-

mission. General questions may be directed to Howard P. Hodges, Jr., 202-755-1744, Linda L. Griggs, 202-755-1750, Division of Corporation Finance.

SUPPLEMENTARY INFORMATION: The Commission has received numerous requests for interpretations and guidelines regarding the implementation of Statement of Financial Accounting Standards No. 14, "Financial Reporting for Segments of a Business Enterprise" (FASB 14), and the adoption by the Commission in December 1977 of industry segment reporting requirements. Many of these requests have been directed to the staff members responsible for reviewing the documents registrants file with the Commission. Because of the number of requests received, the staff has decided to issue this release to provide registrants with current information on interpretations, guidelines, and administrative determinations of the Commission's staff regarding the classification by registrants of their business into industry segments.

FASB 14 requires that a business enterprise report financial information about its operations in different industries, its foreign operations, export sales, and major customers. The Commission's industry segment reporting requirements, which are set forth in Item 101(b) of Regulation S-K (17 CFR 229.101(b)), Item 1(b) of Form 10 (17 CFR 249.210), and Item 1(b) of Form 8-K (17 CFR 249.308), require registrants to report information about industry segments in accordance with FASB 14. Registrants are required to report information about industry segments which are determined to have made acceptable industry segment disclosures generally will be required to amend their filings with the Commission to conform to the requirements of FASB 14 and the Commission's industry segment reporting requirements.

The enterprise derives its revenue, (b) grouping those products and services by industry lines into industry segments • • •, and (c) selecting those industry segments that are

this point is that "[b]road categories such as manufacturing, wholesaling, retailing, and consumer products are not per se indicative of the industries and distinct from each other and should be identified as such only if they can be sold without having an impact on the earnings of the corpora-

segment. The various types of electrical and electronic products should be grouped together into more disaggregated industry segments despite the

mission. General questions may be directed to Howard P. Hodges, Jr., 202-755-1744, Linda L. Griggs, 202-755-1750, Division of Corporation Finance, or Edward R. Cheramy, 202-376-8020, Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

The Commission hereby issues (Release Nos. 33-5910, 34-14523, 35-20429, IC-10148, AS-244), parts 211, 231, and 241 of title 17, chapter II of the Code of Federal Regulations as given below.

INDUSTRY SEGMENT DETERMINATION

The Commission announced the adoption of industry segment reporting requirements for registered corporations in Securities Act Release No. 5893/Accounting Series Release No. 236 (December 23, 1977), 42 FR 65554 (December 30, 1977). The requirements were designed to coordinate the textual and financial information included by a corporation in the description of its business set forth in Commission documents with the segment data required in financial statements under generally accepted accounting principles. Although companies have been required since July 1969 to include information about their lines of business in the business descriptions, no such information was required in the financial statements until the Financial Accounting Standards Board ("FASB") issued its Statement of Financial Accounting Standards No. 14. "Financial Reporting for Segments of a Business Enterprise" ("Statement No. 14") in December 1976.

Statement No. 14 requires corporations to present certain financial data about their industry segments, foreign operations, and major customers in their financial statements. Among other requirements, the Commission's new provisions require corporations to present in the business description financial and narrative information regarding their industry segments for which financial data is required to be included in the financial statements by Statement No. 14.

The Commission has instructed its staff to carefully review the industry segments for which registrants report financial information to determine whether their segmentation is consistent with Statement No. 14 and thus achieves the goals of industry segment reporting. That is, the industry segments for which financial data is set forth by registrants should be those which will most usefully assist investors in analyzing and understanding a particular registrant's business and will permit users of the information to better assess the past performance and future prospects of a company.[1] Companies which are determined not to have made acceptable industry segment disclosures generally will be required to amend their filings with the Commission and to communicate this additional information to share holders in some appropriate manner.

The staff is, of course, always available to discuss with registrants their proposed segmentation on a pre-filing basis. Registrants interested in the staff's views are urged to communicate with the staff members who are responsible for reviewing their filings because such persons will be most familiar with the corporation's business operations.

This release is being published for the purposes of discussing the implementation of both Statement No. 14 and the Commission's industry segment reporting requirements and advising registrants of the determinations which have been made with regard to certain corporations with which the staff has discussed proposed segment classifications.

A. DETERMINATION OF INDUSTRY SEGMENTS

The classification by a corporation of its business into industry segments pursuant to the Commission requirements and generally accepted accounting principles is a subjective task and, thus, to a considerably extent, segment determination depends on the judgment of management.[2] In exercising this judgment, however, management should go through the industry segment identification steps outlined in paragraph 11 of Statement No. 14, keeping in mind that information on a less-than-total-enterprise basis is necessary for an evaluation of the risks and return on an investment.[3]

The provisions of Statement No. 14 present a logical procedure for the classification of a business into industry segments. The term "industry segment" is defined in paragraph 10(a) of the FASB's statement as "a component of an enterprise engaged in providing a product or service or a group of related products and services primarily to unaffiliated customers (i.e., customers outside the enterprise) for a profit." Statement No. 14 lists the three steps that company should take in determining its industry segments. Paragraph 11 states:[4]

> The reportable segments of an enterprise shall be determined by: (a) identifying the individual products and services from which the enterprise derives its revenue, (b) grouping those products and services by industry lines into industry segments * * *, and (c) selecting those industry segments that are significant with respect to the enterprise as a whole * * *.[5]

A reasonable starting point for the determination of industry segments according to paragraph 13 of the statement is an analysis of the profit centers or "the smallest units of activity for which revenue and expense information is accumulated by a company for internal planning and control purposes." If a particular company's profit centers cross industry lines, however, a company would be required to disaggregate the profit center into smaller groups of related products and services.

The phrases "industry line" and "industry" are not defined in Statement No. 14. As a result of the absence of a definition of these terms, some persons have stated that the term should be interpreted broadly. The "Standard Industrial Classification Manual" (SIC) prepared by the Statistical Policy Division of the U.S. Office of Management and Budget, however, defines industries by kinds of business and enables classification of enterprises on a one-digit, two-digit, three-digit, and four-digit industry code basis according to the level of industrial detail considered most appropriate. This increasingly disaggregated classification of industries suggests that the word "industry" may be used to include narrow as well as broad based groupings of products and services.[6]

Statement No. 14 does not state how narrowly the term "industry" should be interpreted. The only comment on

[1] See Securities Act Release No. 5893 (ASR 236) and Pars. 5 and 54 through 60 of Statement No. 14.

[2] See par. 12, Statement No. 14.

[3] See par. 57, Statement No. 14.

[4] Par. 14, Statement No. 14 provides that "[i]ndustry segmentation on a worldwide basis is a desirable objective but it may be impracticable for some enterprises."

[5] An industry segment is significant and therefore should be identified as reportable if its revenue, operating profit or loss or identifiable assets is 10 percent or more of the related combined enterprise amounts. See par. 15, Statement No. 14.

[6] The SIC treatment of one type of business is illustrative of these levels of disaggregation. Manufacturing is one of the 12 divisions of business activities at the one-digit level of the SIC code. The manufacturing division is subdivided into 20 two-digit major groups, such as food and kindred products, tobacco manufacturers, textile mill products, apparel and other finished products, lumber and wood products, furnitures and fixtures, and paper and allied products. The two-digit SIC major groups are subdivided into three-digit industry groups. The lumber and wood products two-digit group is subdivided into nine industry groups which include: (1) sawmill and planning mills, (2) millwood, veneer, plywood, and structural wood members, and (3) wood buildings and mobile homes. Paper and allied products is divided into six industry groups including: (1) pulp mills, (2) paper mills, except building paper mills, and (3) paperboard. The three-digit SIC industry groups are further divided by product lines into four-digit industry groups.

this point is that "[b]road categories such as manufacturing, wholesaling, retailing, and consumer products are not per se indicative of the industries which a registrant should report, and those terms should not be used without identification of a product or service to describe the industry segments."[7]

An examination by registrants of various criteria is far more useful to a registrant identifying industry segments than the philosophical meaning of the word "industry." Although the FASB states in paragraph 12 of its statement that "no single set of characteristics is universally applicable in determining the industry segments of all enterprises, nor is any single characteristic determinative in all cases," Appendix D of Statement No. 14 ("Appendix D") sets forth several factors that may be relevant in identifying industry segments and therefore should be considered in determining whether products and services are related.

The following criteria are included in Appendix D as among those factors which should be considered in grouping products and services by industry lines into industry segments:

> (a) *The nature of the product.* Related products or services have similar purposes or end uses. Thus, they may be expected to have similar rates of profitability, similar degrees of risk, and similar opportunities for growth.
>
> (b) *The nature of the production process.* Sharing of common or interchangeable production or sales facilities, equipment, labor force, or service group or use of the same or similar basic raw materials may suggest that products or services are related. Likewise, similar degrees of labor intensiveness or similar degrees of capital intensiveness may indicate a relationship among products or services.
>
> (c) *Markets and marketing methods.* Similarity of geographic marketing areas, types of customers, or marketing methods may indicate a relationship among products or services. For instance, the use of a common or interchangeable sales force may suggest a relationship among products or services. The sensitivity of the market to price changes and to changes in general economic conditions may also indicate whether products or services are related or unrelated.

The factors listed above may have different degrees of importance depending upon the circumstances. The sole fact that a company has essentially one raw material which is used to produce various products, or that its operations share common production facilities or that all of its products are based on one type of technology is not alone determinative of a one industry segment business. In short, appropriate segmentation will result only if a registrant examines each of the factors noted in Appendix D.

Some persons have argued that industry segments should be separate and distinct from each other and should be identified as such only if they can be sold without having an impact on the earnings of the corporation's other industry segments. The staff believes that the "with-or-without" or "severability test," as it is known, is not an appropriate test for the determination of segments. This test is not set forth in Statement No. 14 although it was recommended to the FASB in response to the Board's request for comments on the issue of segment reporting.[8]

Statement No. 14 states that the segment information may be of limited usefulness for comparing an industry segment of one enterprise with a similar industry segment of another enterprise.[9] For example, the segments of a conglomerate may include products and services which are related more broadly than the products and services in an industry segment of a smaller corporation.

B. DISCUSSION OF ACCEPTABLE SEGMENTATION

The following discussion is intended to assist registrants in complying with the segment reporting requirements. The staff does not expect that all corporations engaged in the same type of business will necessarily have identical industry segments. Nevertheless, companies engaged in the businesses discussed herein should consider the segments which were determined to be appropriate in those cases. If individual companies in the same basic business are structured differently, identical segmentation will not be required provided the reported industry segments are reasonable.

1. Electrical and Electronic Products

A few companies engaged in the business of producing electrical and electronic products discussed their proposed segmentation with the staff. Some of these companies stated that electrical and electronic products were grouped into one line of business and should also be considered one industry segment. In partial justification for this view, they noted that one of the two-digit industry groups in the SIC code is electrical and electronic products.

In the staff's view, an industry segment identified as "electrical and electronic products" may be too imprecise or may include too many disparate products to be considered one industry segment. The various types of electrical and electronic products should be grouped together into more disaggregated industry segments despite the dependence of all of the products on the semiconductor and circuitry technology.

One company determined that its electrical business should be grouped into three industry segments: components, digital products, and government electronic products. Another agreed that components should be in a separate industry segment, consumer products or digital electronic watches and clocks and programmable electronic video entertainment systems in another segment, and commercial and industrial equipment in a third.

Companies in the electrical and electronic products business are likely to be in more than one industry segment because the various products have different markets and are produced in different manufacturing facilities. In addition, the organizational structure of the companies with which the staff met suggested that top management recognized differences, significant for business purposes, between the products in each group with respect to markets served, marketing methods utilized, and the nature of production methods and facilities required. The companies' argument that the electrical products should be grouped into one industry segment because of the high integration between the various types of products did not outweigh those considerations.

2. Forest Products

Various corporations in the forest products business argued that they were in one industry segment for a number of reasons. Forestry business products are all produced from a common raw material, timber. One log may be used to produce various products such as fuel, plywood, pulp, lumber, sawdust, shavings, and chips. The raw material costs related to the production of the products may not be easily determinable and the production of an individual product may be dependent upon the production of others. Despite cost allocation problems and the production interdependence, the staff believes that companies in the forestry products business may be in at least three industry segments: paper and paper products; building materials (e.g., lumber and plywood); and container and packaging products. As to particular companies, the staff understands that allocation to the industry segments of the investments in timberland may not be practicable. Of course, allocation difficulties may be described in a document in order to assure that investors are not misled into thinking that each segment is totally independent.

[7] Par. 101, Appendix D, Statement No. 14.

[8] "Response to Discussion Memorandum on Analysis of Issues Related to Financial Reporting for Segments of a Business Enterprise," comments of Arthur Andersen & Co. to the Financial Accounting Standards Board, July 18, 1974, p. 5.

[9] See para. 76, Statement No. 14.

3. Chemicals

A large chemical company determined that its industry segments were

by such companies and by the accounting profession. Some have suggested that property/casualty insur-

of industry segment information for those years provided such data was included in a document previously filed with the Commission.

spective except with respect to corporations filing under the securities acts for the first time.

The amendment adopted today clari-

STATUTORY AUTHORITY FOR AMENDMENTS

The foregoing amendments to Regulation S-K are adopted pursuant to

are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency

3. Chemicals

A large chemical company determined that its industry segments were the same as its lines of business: (1) chemicals/metals: (2) plastics/packaging; and (3) bioproducts/consumer products. The staff concurred with the company's segmentation.

The chemicals/metals segment includes inorganic chemicals, organic chemicals, metals and functional products, and miscellaneous products and services. All of these products and the products used to provide the various services are largely industrial chemicals derived from generally common raw materials and produced in highly integrated production processes.

The plastics/packaging segment includes molding products, coatings and monomers and plastic products. These products are substantially similar to the products included in the chemicals segment although they are more complex chemical products. Despite the similarities between the chemicals and plastics, they are presented as separate segments because of differences in the following features: physical characteristics; the manner in which the products are used; the application technology; and, frequently, market characteristics.

The third segment, the bioproducts/consumer products, includes health care products and services, agricultural chemicals, and consumer products. These products were grouped together by the company on the basis of similar research and testing practices, comparable anticipated results from their use, and their proximity to the ultimate customer.

4. Drugs.

Conversations with a company in the pharamaceutical industry have resulted in a determination that the company's pharmaceutical, agricultural, and chemical operations should be reported as three separate industry segments. The company argued that the operations involved one industry segment because the production of the three types of products is in common facilities, involves the transfer of material amounts of products from one part of the business to another, and is by means of a fermentation or organic synthesis process. The company also argued that possible arbitrary cost and asset allocations would be necessary if the pharmaceutical, agricultural, and chemical line of business was further broken down. The staff noted that the company's three types of products have different uses and are marketed through different means.

5. Property/Casualty Insurance

The staff is aware that the question of reportable industry segments for insurance companies is being considered by such companies and by the accounting profession. Some have suggested that property/casualty insurance companies have only one reportable industry segment. The staff believes that an analysis of the requirements of paragraph 11 together with the factors set forth in Appendix D of Statement No. 14 should lead to the reporting by diversified property/casualty insurance companies of more than one industry segment.

For example, the identification of industry segments by a casualty insurance company would require the following analysis: (1) listing the various products and services sold, such as workmen's compensation, automobile, homeowner's, commercial fire, other commercial liability, and professional malpractice coverage; and (2) grouping related "products" on the basis of relevant factors including the nature of the product (e.g., profitability, risk, and growth) and their markets and marketing methods. Although the staff does not believe that each of the above lines of insurance necessarily constitutes a separate industry segment, it does believe that all such insurance "products" are not sufficiently related to be grouped together as one industry segment. Many of these "products" do not have sufficiently similar rates of profitability, degrees of risk and opportunities for growth, are generally offered to different types of customers, and involve different marketing methods.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MARCH 3, 1978.

[FR Doc. 78-6260 Filed 3-8-78; 8:45 am]

[8010-01]

[Release Nos. 33-5911, 34-14524, 35-20430; IC-10149; AS-245]

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933 AND SECURITIES EXCHANGE ACT OF 1934—REGULATIONS S-K

Adoption of Technical Amendment to Industry Segment Reporting Requirements

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission is adopting a technical amendment to its recently adopted integrated disclosure regulation, Regulation S-K, to clarify that registrants may present line of business data for fiscal years beginning before December 16, 1976, in lieu of industry segment information for those years provided such data was included in a document previously filed with the Commission.

EFFECTIVE DATE: Effective for fiscal years ending after March 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Linda L. Griggs, Office of Disclosure Policy and Proceedings, Division of Corporation Finance, 202-755-1750, or Edward R. Cheramy, Office of the Chief Accountant, 202-376-8020, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: On December 23, 1977, the Commission announced the adoption of industry segment reporting requirements applicable to registration statements, annual reports, and certain proxy and information statements filed or prepared under the Securities Act of 1933 (15 U.S.C. 77a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)) and the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a et seq., as amended by Pub. L. 94-29 (June 4, 1975).)[1] In view of the difficulties attendant to the retroactive applicability of disclosure requirements, the amendments generally only required information to be presented for fiscal years beginning after December 15, 1976.

Item 1(b)(2) of Regulation S-K, as adopted in December 1977, provides that registrants may report the revenue, income, and any necessary explanatory information relating to lines of business which they included in documents filed with the Commission prior to December 16, 1977, in lieu of the industry segment information required by paragraph (b)(1) for fiscal years beginning before December 16, 1976. This provision can be interpreted to permit the use of line of business data for fiscal years beginning before December 16, 1976, in lieu of segment information only if the line of business information was presented in a document which was filed with the Commission prior to December 16, 1977. For example, generally, companies whose fiscal years ended September 30, 1977, would be unable to present line of business data for their September 30, 1977 fiscal year in their 1978 annual report because the 1977 report was not required to be filed with the Commission until December 30, 1977. The explanation of Item 1(b)(2) in the release states, however, that the industry segment reporting requirements are intended to be prospective except with respect to corporations filing under the securities acts for the first time.

The amendment adopted today clarifies the inconsistency between the provision in the item and the explanation of this provision. Amended Item 1(b)(2) provides that line of business data for fiscal years beginning before December 16, 1976, may be presented in lieu of segment information provided the line of business data had been included in a document filed with the Commission.

That is, the industry segment reporting requirements are prospective with respect to all corporations which are required to file reports under the Exchange Act. Nevertheless, the Commission believes that information about the performance of the various business activities of a corporation during a 5-year period is useful to investors. Therefore, such corporations are required to present line of business data for the balance of the 5-year period for those fiscal years beginning before December 16, 1976, for which segment data is not furnished.

In addition, the title to Part 229 of the Code of Federal Regulations is amended to add the words "Regulation S-K."

AMENDMENTS

The text of the amendments is set forth below:

1. The title of Part 229 of 17 CFR Chapter II is amended to add the words "Regulation S-K."

2. Item 1(b)(2) of Regulation S-K is amended as follows:

§ 229.20 Information required in document.

* * * * * * *

(b) * * *

(2) *Information as to lines of business.* For fiscal years beginning before December 16, 1976, the revenue, income, and any necessary explanatory information relating to lines of business included by the registrant in a document filed with the Commission may be furnished in lieu of the industry segment information for such years. The lack of comparability of the historical line of business information with the industry segment information shall be explained.

(Secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85; secs. 12, 13, 14, 15(d), 23(a), 48 Stat. 892, 894, 901; secs. 205, 209, 48 Stat. 906, 908; sec. 203(a), 49 Stat. 704; secs. 1, 3, 8, 49 Stat. 1375, 1377, 1379; sec. 301, 54 Stat. 857; secs. 8, 202, 68 Stat. 685, 686; secs. 3, 4, 5, 6, 78 Stat. 565-568, 569, 570-574; sec. 1, 79 Stat. 1051; secs. 1, 2, 3, 82 Stat. 454, 455; secs. 1, 2, 3-5, 28(c), 84 Stat. 1435, 1497; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 11, 18, 89 Stat. 117, 118, 119, 121, 155 (15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 78*l*, 78m, 78n, 78*l*(d), 78w(a)).)

STATUTORY AUTHORITY FOR AMENDMENTS

The foregoing amendments to Regulation S-K are adopted pursuant to sections 6, 7, 8, 10, and 19(a) of the Securities Act and sections 12, 13, 14, 15(d), and 23(a) of the Exchange Act, sections 12(e) and 20(a) of the Public Utility Holding Company Act of 1935, and sections 20(a) and 38(a) of the Investment Company Act of 1940.

Pursuant to section 23(a)(2) of the Exchange Act, the Commission has concluded that the amendment will have no impact on competition.

Inasmuch as these amendments are essentially technical in nature and are intended to relieve a restriction in a narrow area, the Commission, as authorized by 5 U.S.C. 553 (b) and (d) of the Administrative Procedure Act, for good cause finds that notice and public comment thereon is unnecessary.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MARCH 3, 1978.

[FR Doc. 78-6261 Filed 3-8-78; 8:45 am]

[1] Securities Act Release No. 5893/Accounting Series Release No. 236 (December 23, 1977) (42 FR 65554).

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 859-4]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Approval of Revisions of the Virginia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Notice of final rulemaking.

SUMMARY: This final rulemaking amends the Emergency Episode Plan portion of the Commonwealth of Virginia's Regulations for the Control and Abatement of Air Pollution by revising the concentration levels for photochemical oxidants at which the Alert and Emergency Stages are declared. These regulations are also amended by providing an additional Health Advisory Stage for State Region 7 (the Virginia portion of the National Capital Interstate Air Quality Control Region).

EFFECTIVE DATE: April 10, 1978.

ADDRESSES: Copies of the revision and accompanying support material are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, Sixth & Walnut Streets, Philadelphia, Pa. 19106, ATTN: Mr. Harold Frankford.

Virginia State Air Pollution Control Board, Room 1106, Ninth Street State Office Building, Richmond, Va. 23219, ATTN: Mr. John Daniel, Jr.

Public Information Reference Unit, Room 2922-EPA Library, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Harold Frankford, 215-597-8392.

SUPPLEMENTARY INFORMATION: On January 29, 1976 and March 11, 1977, the Commonwealth of Virginia submitted to the Administrator of the Environmental Protection Agency amendments to the Emergency Episode Plan portion of the Virginia Regulations for the Control and Abatement of Air Pollution. The Commonwealth requested that these amendments be reviewed and processed as revisions of the Virginia State Implementation Plan for the attainment and maintenance of National Ambient Air Quality Standards. The nature of the changes to Part VII of the Virginia Regulations is summarized as follows:

(a) Section 7.02(b)(2)—A Health Advisory Stage becomes effective only in State Region 7 [the Virginia Portion of the National Capital Interstate Air Quality Control Region (AQCR)]. The Health Advisory Stage in State Region 7 can be declared when the one hour photochemical oxidant level at any monitor in the region reaches 200 micrograms per cubic meter ($\mu g/m^3$), or the equivalent measure in volume of 0.100 parts per million (ppm).

(b) Section 7.02(b)(3)(ii) [Effective Statewide]—An Alert Stage for photochemical oxidants will be declared in any State air quality control region when the one hour average photochemical oxidant level at any monitor in the region reaches 400 $\mu g/m^3$ or the equivalent measure of 0.200 ppm. The prior SIP requirement was 0.200 $\mu g/m^3$, equivalent to 0.100 ppm.

(c) Section 7.02(b)(5)(ii)—An Emergency Stage will be declared when any monitor in a State air quality control region reaches or exceeds a one hour average photochemical oxidant level of 1000 $\mu g/m^3$, equivalent to 0.500 ppm. The former requirement was 1200 $\mu g/m^3$ equivalent to 0.600 ppm.

The reasons for the changes are summarized as follows:

1. Changes of the photochemical oxidant levels for the Alert and Emergency Stages were amended to conform with similar changes instituted by EPA in Appendix L of 40 CFR Part 51 (40 FR 36333, August 20, 1975).

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2. The addition of a Health Advisory Stage in State Region 7 conforms with actions taken by other jurisdictions comprising the National Capital Interstate AQCR during periods when oxidant levels reach 200 μg/m³, equivalent to 0.100 ppm.

The Commonwealth submitted proof that hearings regarding the statewide changes to the Alert and Emergency Stages of the episode plan were held simultaneously on July 22, 1976 in Abingdon, Radford, Lynchburg, Fredericksburg, Richmond, Virginia Beach and Falls Church. On January 17, 1977, hearings regarding the changes to the Alert Stage and Advisory Stage levels in State Region 7 were held in Fairfax. These hearings were held in accordance with the requirements of 40 CFR section 51.4.

On May 4, 1976 (41 FR 18431) and August 1, 1977 (42 FR 38920), the Regional Administrator announced receipt of these amendments, proposed them as revisions of the Virginia SIP, and provided for 30 day public comments following publication in the FEDERAL REGISTER. During these public comment periods, no comments were received.

The Administrator's decision to approve the amendments to the Virginia Air Pollution Episode Plan is based on the logic of having uniform Alert Stage and Emergency Stage photochemical oxidant levels throughout the Commonwealth of Virginia, while still maintaining a Health Advisory Stage in State Region 7 that is consistent with the oxidant levels of other jurisdictions in the National Capital Interstate AQCR. Additionally, these changes of the Virginia Episode Plan meet the administrative requirements of section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of Implementation Plans.

In view of the above evaluation, the Administrator approves the amendments to Part VII, sections 7.01(b), 7.02(b)(2), 7.02(b)(3)(ii), 7.02(b)(5)(ii) and 7.02(d) of the Virginia Regulations for the Control and Abatement of Air Pollution as revisions of the Virginia State Implementation Plan, effective April 10, 1978. Concurrently, 40 CFR section 52.2420 (Identification of Plan) is amended to incorporate these amendments into the federally-approved Virginia SIP.

At the present time, the Administrator is currently reviewing other substantive and administrative changes to Part VII of Virginia's air pollution control regulations. The SIP revisions being approved by EPA in this notice of final rulemaking only involve the photochemical oxidant levels (revised statewide) at which the Alert and Emergency Stages are declared, the addition of the Health Advisory Stage in State Region 7 and other administrative changes to sections 7.01 and 7.02 that directly refer to these amendments. The Administrator will make a final determination on the other changes to Part VII in a subsequent notice of final rulemaking.

(Authority: 42 U.S.C. 7401 et seq.)

Dated: March 1, 1978.

DOUGLAS M. COSTLE,
Administrator.

Part 52 of Title 40 of the Code of Federal Regulations is amended as follows:

Subpart VV—Virginia

1. In § 52.2420, paragraphs (c)(17) and (c)(18) are added to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified
* * *

(17) Amendment to section 7.02 (Episode Determination) [former §§ 6.01(b), 6.701(b)] of the Commonwealth of Virginia Regulations for the Control and Abatement of Air Pollution submitted on January 29, 1976, by the Secretary of Commerce and Resources.

(18) Amendment to sections 7.01 (General) [former § 6.700] and 7.02 (Episode Determination) [former § 6.701(b)] of the Commonwealth of Virginia Regulations for the Control and Abatement of Air Pollution submitted on March 11, 1977, by the Secretary of Commerce and Resources.

[FR Doc. 78-6213 Filed 3-8-78; 8:45 am]

[4910-59]

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 75-28; Notice 5]

PART 567—CERTIFICATION

PART 568—VEHICLES MANUFACTURED IN TWO OR MORE STAGES

Certification of Multistage Vehicles

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment specifies the manner in which intermediate stage manufacturers of trucks must certify compliance with Federal motor vehicle safety standards. Some vehicles are constructed in three or more separate stages. Current regulations require only that the first and final manufacturers certify compliance to the degree that their work affects the vehicle. This amendment includes the "intermediate stage" manufacturer in the certification scheme and completes revisions of the regulations required by *Rex Chainbelt* v. *Brinegar*, 511 F. 2d 1215 (7th Cir. 1975).

EFFECTIVE DATE: July 2, 1978.

FOR FURTHER INFORMATION CONTACT:

David Fay, Engineering Systems Staff, National Highway Traffic Safety Administration, Washington, D.C. 20590, 202-426-2817.

SUPPLEMENTARY INFORMATION: This notice amends 49 CFR Part 567, *Certification*, to add a labeling requirement for intermediate manufacturers who perform work on chassis-cabs. Conforming amendments to 49 CFR Part 568, "Vehicles Manufactured in Two or More Stages," are also made.

On July 25, 1977, the NHTSA published in the FEDERAL REGISTER (42 FR 37831) a notice proposing to amend the agency's certification regulations by adding certification responsibilities for intermediate manufacturers. That action was responsive to the decision in *Rex Chainbelt*. Currently, intermediate manufacturers are the only major manufacturers in the chain of multistage manufacturing without certification responsibilities. To complete the certification scheme, the agency proposed to require certification by intermediate manufcturers which would indicate that such manufacturer had complied with all of the safety standards applicable to his manufacturing operation. A complete explanation of the intermediate manufacturer's certification responsibilities was printed in the notice proposing the amendment and will not be reprinted here.

No comments were received in response to the notice of proposed rulemaking. Accordingly, the agency adopts, as final, the proposal as it was issued. The agency has reviewed the costs of this regulation and concludes that they are the minimum necessary for compliance with the *Rex Chainbelt* decision.

The principal authors of this notice are David Fay of the Engineering Systems Staff and Roger Tilton of the Office of Chief Counsel.

In consideration of the foregoing, Chapter V of Title 49, Code of Federal Regulations, is amended as follows:

1. In Part 567, *Certification*, § 567.5 is revised by adding a new paragraph (b) and amending paragraphs (c)(7)(i) and (c)(7)(ii) to read:

§ 567.5 Requirements for manufacturers of vehicles manufactured in two or more stages.

* * * * *

(b) Except as provided in paragraphs (e) and (f) of this section, each intermediate manufacturer of a vehicle manufactured in two or more stages shall affix a label, in the location and form specified in § 567.4, to each chassis-cab respecting which he is required by § 568.5 to furnish an addendum to the incomplete vehicle document described in § 568.4. However, this paragraph applies only to chassis-cabs that have been certified by a chassis-cab manufacturer in accordance with paragraph (a) of this section.

(1) (i) "With respect to Standard Nos. ——, the instructions of prior manufacturers have been followed so that the chassis-cab now conforms to these standards." The statement shall be completed by inserting the numbers of all or less than all of the standards, and only those standards, respecting which the latest prior certification statement was in the form prescribed in paragraphs (a)(2) or (b)(2) of this section.

(ii) "This chassis-cab conforms to Federal Motor Vehicle Safety Standard Nos. ——." The statement shall be completed by inserting the numbers of the other standards to which the chassis-cab conforms, excluding those standards respecting which the latest prior certification statement was in the form prescribed in paragraphs (a)(1), (b)(1)(A), or this section.

(2) "This vehicle will conform to Standard Nos. —— if it is completed in accordance with the instructions contained in the amended incomplete vehicle document furnished pursuant to 49 CFR Part 568." The statement shall be completed by inserting the numbers of the standards conformity to which is substantially affected by both the design of the chassis-cab (as modified by the intermediate manufacturer) and the manner in which the vehicle is completed.

(3) "Conformity to Standard Nos. —— is no longer substantially affected by the design of this chassis-cab." The statement shall be completed by inserting the numbers of all or less than all of the standards, and only those standards, respecting which the latest prior certification statement was in the form prescribed in paragraphs (a)(1), (a)(2), (b)(1)(i), (b)(1)(B), or (b)(2) of this section.

(4) Name of intermediate manufacturer, preceded by the words "INTERMEDIATE MANUFACTURE BY" or "INTERMEDIATE MFR BY".

(5) Month and year in which the intermediate manufacturer performed his last manufacturing operation on the chassis-cab. This may be spelled out, as "JUNE 1970", or expressed as numerals, as "6/70". No preface is required.

(c) * * *

(7) The following statements, as appropriate. Statements (i) and (ii) shall be made only for vehicles that were originally delivered by an incomplete vehicle manufacturer or an intermediate manufacturer as a chassis-cab.

(i) "Conformity of the chassis-cab to Federal Motor Vehicle Safety Standard Nos. —— has not been affected by final-stage manufacture." The statement shall be completed by inserting the numbers of all or less than all of the standards, and only those standards, respecting which the latest prior certification statement was made by a chassis-cab manufacturer pursuant to paragraph (a)(1) of this section or by an intermediate manufacturer pursuant to paragraphs (b)(1) (i) or (b)(1)(ii) of this section. This statement may be omitted at the discretion of the final-state manufacturer.

(ii) "With respect to Standard Nos. ——, the vehicle has been completed in accordance with the prior manufacturers' instructions." The statement shall be completed by inserting the numbers of all or less than all of the standards, and only those standards, respecting which the latest prior certification statement was a chassis-cab manufacturer's conditional statement under paragraph (a)(2) of this section or an intermediate manufacturer's conditional statement under paragraph (b)(2) of this section. This statement may be omitted at the discretion of the final stage manufacturer.

* * * * *

2. In Part 568, *Vehicles Manufactured in Two or More States*, § 568.5 is amended to read:

§ 568.5 Requirements for intermediate manufacturers.

(a) Each intermediate manufacturer of an incomplete vehicle shall furnish the document required by § 568.4 in the manner specified in that section. If any of the changes in the vehicle made by the intermediate manufacturer affect the validity of the statements in the document as provided to him he shall furnish an addendum to the document that contains his name and mailing address and an indication of all changes that should be made in the document to reflect changes that he made in the vehicle.

(b) Each intermediate manufacturer shall, in accordance with § 567.5 of this chapter, affix a label to each chassis-cab respecting which he is required by paragraph (a) above to furnish an addendum to the document required by § 568.4.

(Secs. 103, 108, 112, 114, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1397, 1401, 1403, 1407); delegation of authority at 49 CFR 1.50.)

Issued on March 1, 1978.

JOAN CLAYBROOK,
Administrator.

[FR Doc. 78-5914 Filed 3-8-78; 8:45 am]

[4910-59]

[Docket No. 78-02; Notice 1]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Definitions

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Final rule.

SUMMARY STATEMENT: This notice is an interpretative amendment of the agency's definition of "unloaded vehicle weight." It grants petitions from several manufacturers asking the agency to amend the definition of this term to reflect an existing agency interpretation concerning the definition.

EFFECTIVE DATE: March 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. William Smith, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C., 202-426-2242.

SUPPLEMENTARY INFORMATION: This notice amends Title 49, Code of Federal Regulations, Part 571.3 by clarifying the meaning of "unloaded vehicle weight." "Unloaded vehicle weight" is currently defined as "the weight of a vehicle with maximum capacity of all fluids necessary for operation of the vehicle, but without cargo or occupants."

In July 1976, the NHTSA issued a letter of interpretation in response to a request from the Jeep Corp. concerning the definition of "unloaded vehicle weight." In that interpretation, the agency stated that the unloaded weight of a vehicle does not include the weight of those accessories that are ordinarily removed from a vehicle when they are not in use.

The Chrysler Corp. and the Truck Body and Equipment Association (TBEA) subsequently petitioned the NHTSA to amend the definition of "unloaded vehicle weight" to reflect the existing agency interpretation. Further, TBEA and Chrysler requested an even broader classification of the accessories whose weight would not be included in the computation of "unloaded vehicle weight." Chrysler and TBEA asked that the weight of accessories which are not normally removed from a vehicle when they are not in use also be excluded from the computation of "unloaded vehicle weight." The agency granted the petitions to amend the definition to re-

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flect the existing agency interpretation but denied the portions of both petitions requesting an extension of that interpretation.

The agency has interpreted "unloaded vehicle weight" as excluding the weight of accessories ordinarily removed from a vehicle when they are not in use in order to approximate more closely the actual unloaded weight of a vehicle. The type of equipment or accessories not to be included in computing "unloaded vehicle weight" includes: Snow plows, spreaders, and tow bars, among others.

§ 571.3 [Amended]

To codify the existing agency interpretation, the definition of "unloaded vehicle weight" in 49 CFR 571.3, *Definitions* is hereby amended to read as follows:

• • • • •

"Unloaded vehicle weight" means the weight of a vehicle with maximum capacity of all fluids necessary for operation of the vehicle, but without cargo, occupants, or accessories that are ordinarily removed from the vehicle when they are not in use.

Since this amendment is interpretative in nature, and reflects current understanding and practice, it is found for good cause that notice and public procedures thereon are unnecessary, and that an immediate effective date is in the public interest.

The principal author of this notice is Roger Tilton of the Office of Chief Counsel.

(Secs. 103, 109, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50.)

Issued on March 1, 1978.

JOAN CLAYBROOK,
Administrator.

[FR Doc. 78-5912 Filed 3-8-78; 8:45 am]

[4910-59]

[Docket No. 78-06; Notice 1]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Definitions

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Final rule.

SUMMARY: This notice amends the general definitions section of Part 571 (49 CFR Part 571.3) by adding the definitions of "speed attainable in 1 mile" and "speed attainable in 2 miles." These definitions are currently contained in several motor vehicle safety standards. Since the terms are used in the requirements of more than one standard, it is appropriate to define them in the general definitional section which applies to all safety standards in Part 571.

EFFECTIVE DATE: March 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Kathleen DeMeter, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1834.

SUPPLEMENTARY INFORMATION: Part 571.3 of Title 49, Code of Federal Regulations, contains definitions of terms used in the various motor vehicle safety standards. Many safety standards also contain their own definitional section which defines terms used only in the particular standard. When a term is used in more than a single standard, it is appropriate that its definition be relocated in the generally applicable Part 571.3 definitions section. This eliminates the need to republish the definition of a particular term in each standard in which the term is used.

The terms "speed attainable in 1 mile" and "speed attainable in 2 miles" are each defined in more than one safety standard. For the aforementioned reasons, this notice deletes the definitions of the terms from the standards in which they appear and adds them to § 571.3. Accordingly, 49 CFR Part 571 is amended as follows:

§ 571.3 [Amended]

1. Section 571.3 is amended by adding, after the definition of "service brake," the following two definitions:

"Speed attainable in 1 mile" means the speed attainable by accelerating at maximum rate from a standing start for 1 mile, on a level surface.

"Speed attainable in 2 miles" means the speed attainable by accelerating at a maximum rate from a standing start for 2 miles, on a level surface.

§ 571.105 [Amended]

2. Standard No. 105, Hydraulic brake systems (49 CFR 571.105), is amended by deleting from paragraph S4 the definition of "Speed attainable in 2 miles".

§ 571.108 [Amended]

3. Standard No. 108, Lamps, reflective devices, and associated equipment (49 CFR 571.108), is amended by deleting from paragraph S3 the definition of "Speed attainable in 2 miles."

§ 571.121 [Amended]

4. Standard No. 121, Air brake systems (49 CFR 571.121), is amended by deleting from paragraph S4 the definition of "Speed attainable in 1 mile."

(Secs. 102, 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1391, 1392, 1407); delegation of authority at 49 CFR 1.50.)

Issued on February 28, 1978.

JOAN CLAYBROOK,
Administrator.

[FR Doc. 78-5913 Filed 3-8-78; 8:45 am]

[7035-01]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. No. 1305]

PART 1033—CAR SERVICE

Distribution of Freight Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order Service Order No. 1305.

SUMMARY: The Union Pacific has serious shortages or boxcars suitable for transporting shipments of lumber. It owns a group of mechanical refrigerator cars with inoperative refrigeration devices which are otherwise suitable for use. Certain shippers of lumber have agreed to use these cars for transporting their shipments provided sufficient cars are furnished to enable the minimum-weight requirements of the tariff can be secured. Service Order No. 1305 authorizes the Union Pacific to substitute two of these refrigerator cars for each boxcar ordered, subject to the minimum weight applicable to the car ordered.

DATES: Effective 12:01 a.m., March 7, 1978. Expires 11:59 p.m., April 15, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: The Order is printed in full below.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 6th day of March 1978.

There is an acute shortage of plain boxcars for loading shipments of lumber and lumber products on the lines of the Union Pacific Railroad Co. (UP). The UP has a surplus of mechanical refrigerator cars with inoperative refrigerating devices which are suitable for transporting lumber and lumber products if the use of two such cars for each boxcar ordered is permitted.

The economic loss suffered by shippers dependent on the UP for their car supplies can be alleviated by the substitution of sufficient smaller cars for the larger cars ordered to transport the shipments offered.

In the opinion of the Commission, present regulations and practices with respect to the use and supply of boxcars are ineffective to overcome these shortages of boxcars and an emergency exists requiring immediate action. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1305 Service Order No. 1305.

(a) *Distribution of freight cars.* Subject to the concurrence of the shipper the Union Pacific Railroad Co. (UP) may substitute two mechanical refrigerator cars bearing reporting marks UPRX for each boxcar ordered for shipments of lumber or lumber products.

(b) *Exception.* This order shall not apply to shipments subject to tariff provisions which require that cars be furnished by the shipper.

(c) *Rates and Minimum Weights Applicable.* The rates to be applied and the minimum weights applicable to shipments for which cars smaller than those ordered have been furnished and loaded as authorized by paragraph (a) of this section shall be the rates and minimum weights applicable to the larger cars ordered.

(d) *Billing to be Endorsed.* The carrier substituting smaller cars for larger cars as authorized by paragraph (a) of this section shall place the following endorsement on the bill of lading and on the waybills authorizing movement of the car:

"Boxcar Ordered, UPRX (——) and UPRX (——) furnished authority ICC Service Order No. 1305."

(e) *Concurrence of Shipper Required.* Smaller cars shall not be furnished in lieu of cars of greater capacity without the consent of the shipper.

(f) *Exceptions.* Exceptions to this order may be authorized to railroads by the Railroad Service Board, Washington, D.C., 20423. Requests for such exception must be submitted in writing, or confirmed in writing, and must clearly state the points at which such exceptions are requested and the reason therefor.

(g) *Rules and Regulations Suspended.* The operation of all rules, regulations, or tariff provisions is suspended insofar as they conflict with the provisions of this order.

(h) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(i) *Effective date.* This order shall become effective at 12:01 a.m., March 7, 1978.

(j) *Expiration date.* This order shall expire at 11:59 p.m., April 15, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1(10-17).)

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-6259 Filed 3-8-78; 8:45 am]

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Reclassification of the Gray Wolf in the United States and Mexico, with Determination of Critical Habitat in Michigan and Minnesota

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service issues a final rulemaking which provides for the reclassification of the gray wolf in the United States and Mexico, and for the determination of critical habitat for species of gray wolf in Michigan and Minnesota. The reclassification is considered to accurately express the current status of the gray wolf, based solely on an evaluation of the best available biological data. The special regulations being established in Minnesota are deemed necessary and advisable to provide for the future well-being of the species. Although an increased legal take of wolves committing depredations on domestic animals will be authorized, this take is intended to ameliorate present conflict between the wolf and human interests. Such conflict would hinder conservation efforts and thus work against the long-term welfare of the wolf. A legal take is considered the only practical means by which depredations can be handled and the current problems relieved.

DATE: This rule becomes effective on April 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director for Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-4646.

SUPPLEMENTARY INFORMATION: Background: The gray wolf formerly occurred in most of the conterminous United States and Mexico. Because of widespread habitat destruction and human persecution, the species now occupies only a small part of its original range in these regions. Four subspecies of the gray wolf have been listed as Endangered pursuant to the Endangered Species Act of 1973, 16 U.S.C. § 1531 et seq.: the Mexican wolf (*Canis lupus baileyi*), of Mexico and the southwestern United States; the northern Rocky Mountain wolf (*C. l. irremotus*), possibly still found in parts of Wyoming, Montana, and Idaho; the eastern timber wolf (*C. l. lycaon*), now restricted to the northern Great Lakes region; and the Texas gray wolf (*C. l. monstrabilis*) formerly of Texas and Mexico and now probably extinct. This listing arrangement has not been satisfactory because the taxonomy of wolves is out of date, wolves may wander outside of recognized subspecific boundaries, and some wolves from unlisted subspecies may occur in certain parts of the lower 48 States. In any case, the Service wishes to recognize that the entire species *Canis lupus* is Endangered or Threatened to the south of Canada, and considers that this matter can be handled most conveniently by listing only the species name.

This rulemaking also will clarify the status of wolves within the designated range of *C. l. irremotus* and *C. l. lycaon* in Canada. These two subspecies were originally listed as Endangered at a time when there were two separate lists of Endangered species, one for foreign wildlife and one for native wildlife. Both subspecies were added only to the latter list, as published in the FEDERAL REGISTER of January 4, 1974 (39 FR 1171-1176), and thus for legal purposes were considered to be Endangered only within the United States. Subsequently, the two lists were combined into one List of Endangered and Threatened Wildlife,

covering both native and foreign species, as published on July 14, 1977 (42 FR 36420-36431). Examination of this list may give the impression that *C. l. irremotus* and *C. l. lycaon* are considered Endangered in the United States. Service to develop Recovery Plans for Endangered and Threatened species. On June 9, 1977 (42 FR 29527-29533), the Service issued a proposed rulemaking on the gray wolf; this final rule-

forth in the regulations. The Critical Habitat zones being established are not the same as a "sanctuary", and apply only to actions of Federal agencies affecting habitat conditions.

Board of Commissioners, the City of Littlefork, the City of International Falls, the Sheriff of Roseau County, and State Senator Bob Lessard. In addition, State Representative Irv An-

tion of about eight square miles in the size of zone 2 also has been made, based on new information provided by the Region 3 Office of the Fish and Wildlife Service, in Twin Cities, Minn.

tion, the Service should permit such take under the provisions of section 10(a) of the Endangered Species Act. That section authorizes the issuance of permits to do anything otherwise

covering both native and foreign species, as published on July 14, 1977 (42 FR 36420–36431). Examination of this list may give the impression that *C. l. irremotus* and *C. l. lycaon* are considered Endangered over their entire ranges, including Canadian areas. This rulemaking clearly indicates that the gray wolf is listed everywhere to the south of the Canadian border, but nowhere to the north.

Most current interest in the gray wolf centers on the eastern timber wolf, especially in Minnesota. As delineated by recent systematic sources, the original range of the subspecies *C. l. lycaon* included most of the region from Georgia to Maine, and between the Atlantic and the Great Plains. At present, however, the only substantial gray wolf population remaining in this region is in northern Minnesota. There also is a group on Isle Royale in Lake Superior, and possibly a few scattered individuals in northern Michigan and Wisconsin.

The eastern timber wolf was listed as Endangered in 1967, at a time when no Threatened category had been established by Federal legislation. Over the last decade the wolf continued to survive in northern Minnesota, and it became apparent that the species was not in immediate danger of being extirpated in the State. Numbers have fluctuated, but seem to have increased in some areas, and there has been an overall increase in range. Some wolves have entered areas with relatively extensive human settlement and made depredations on domestic animals. Many people have expressed concern about such depredations, and about the possibility that wolves could be detrimental to some deer herds in Minnesota, which have been undergoing a general decline because of several factors including habitat deterioration.

In a letter dated October 4, 1974, the Minnesota Department of Natural Resources petitioned the Service to exclude Minnesota from the range over which the eastern timber wolf is considered Endangered. In response, the Service issued a notice of review in the FEDERAL REGISTER of November 21, 1974 (39 FR 40877). Extensive public comment was received on this notice, mainly opposition from persons who were concerned that removal of the wolf from Endangered status would subject the species to excessive killing by man. Some support for delisting the wolf came from persons who felt that the continued total protection of the Endangered classification would result in serious depredations by the wolf on livestock and game.

Further measures by the Service were withheld pending formulation of recommendations by the Eastern Timber Wolf Recovery Team. This team is one of many appointed by the Service to develop Recovery Plans for Endangered and Threatened species. On June 9, 1977 (42 FR 29527-29533), the Service issued a proposed rulemaking on the gray wolf; this final rulemaking does not differ substantially from the proposal.

SUMMARY OF COMMENTS

In response to the proposed rulemaking of June 9, 1977, the Governments of the following States sent letters expressing support or no opposition: Arkansas, Georgia, Illinois, Louisiana, Maryland, Maine, Michigan, Montana, New Mexico, New York, Oklahoma, South Dakota, Tennessee, Texas, Washington, West Virginia, Wisconsin, and Wyoming. In addition, responses, but no comments, were received from the Governments of Alabama, California, Connecticut, Delaware, Florida, Missouri, and North Carolina.

The Governor of Minnesota stated that the wolf in Minnesota should be classified neither as Endangered nor Threatened. He indicated that the proposal did not give sufficient reason for maintaining the species as Threatened, and that the regulations would not allow for adequate control of depredating wolves. The Service recognizes that there is disagreement regarding the application of the Threatened category, but now considers that the rationale given in the proposal, and repeated below, does justify this classification. The Service also considers that the proposed control provisions are all that can be supported on the basis of currently available data. The situation, however, will be closely monitored, and any modifications that seem warranted will be proposed.

The Governor also made the following recommendations (assuming that the wolf was classified as Threatened in Minnesota): Critical Habitat should be restricted to the northeastern part of the State; zone 3 "should not be designated as a sanctuary", because much of it is peat bog and thus poor deer habitat, and because it is surrounded by livestock country; no taking of wolves should be allowed in zone 2; the boundaries of zones 1 and 2 should be expressed in simpler language so that citizens would know the location of the "sanctuary"; zones 4 and 5 should be combined into one zone; and reporting of the taking of depredating wolves should be done quarterly, rather than within 5 days. In response, the Service first wants to make it clear that neither the proposed nor final regulations use the term "sanctuary". The regulations actually will reduce the area of total protection for the wolf in Minnesota from the entire State to only zone 1 in the northeastern corner. In all other parts of the State, depredating wolves may be taken under the conditions set forth in the regulations. The Critical Habitat zones being established are not the same as a "sanctuary", and apply only to actions of Federal agencies affecting habitat conditions. Except for zone 1, depredating wolves may be taken within Critical Habitat. The Service considers that both zones 2 and 3, as well as the area surrounding zone 3, should be open to such taking. The Critical Habitat boundaries were recommended by authorities who have many years of field experience with wolves in this region, and the Service thinks these boundaries, except for the slight modifications indicated, should be the same as proposed. The boundaries will apply only to evaluation of Federal actions, and have nothing to do with any restriction of the movement or activity of private citizens of State agencies. Although all the same regulations will apply to zones 4 and 5, at least for a while, the Service prefers to maintain them as separate zones for informational purposes. The Service also prefers to keep the reporting period to 5 days, because of the importance of closely monitoring the rate, location, and circumstances of the taking of wolves.

The Secretary of State of Minnesota sent a copy of a resolution passed by the State Legislature and approved by the Governor. The resolution called for complete declassification of the wolf in Minnesota, and cited the following reasons: the wolf population had reached carrying capacity in many areas and was expanding into areas "not heretofore inhabited"; hardship was resulting from wolf depredations; the State had adequate resources and authority to effectively manage the wolf; and the Legislature believed it best for the State to have exclusive control of its resident wolf population. Only the first of these reasons is relevant to the factors that may legally be considered in determing the classification of a species under the Endangered Species Act. And, while it is recognized that the wolf may recently have increased its range in Minnesota, it is not entirely correct to say that the involved areas were "not heretofore inhabited", because at one time the wolf occupied the entire State. It is also probable that the wolf population has reached carrying capcacity in some parts of Minnesota, but these areas represent a comparatively small portion of the original range of the species, and population density alone will not assure long-term welfare. The depredation problem is being dealth with under this rulemaking.

Expressions of objection to the proposal also were received from a number of other parties in Minnesota, including the Beltrami County Board of Commissioners, the Itasca County Board of Commissioners, the City of Littlefork, the City of International Falls, the Sheriff of Roseau County, and State Senator Bob Lessard. In addition, State Representative Irv Anderson sent a detailed statement commenting negatively on the proposal. Much of this statement is devoted to the background of the situation, and to comparison with other Federal activities. Mr. Anderson indicated even a Threatened classification was unjustifiable for the wolf in Minnesota, although he went on to mention a potential conflict between the species and economic development in one area, and to suggest the possibility of the wolf becoming Endangered because of human attitudes. In any event, the Service stands by its original reasoning, as repeated below, for considering the wolf to be a Threatened species in Minnesota. Mr. Anderson also stated that the proposed special regulations were inadequate, because taking of wolves would not be allowed until after depredations had occurred, and then only by government agents. In practice, however, most taking of problem wolves has always been done by trappers who respond to complaints. Under the rulemaking, both State and Federal agents would be available for such action. It might be added here, for the information of all parties who recommended total declassification or more liberal taking regulations in Minnesota, that the Service could not take such measures, even if it wanted to, without first making an entirely new proposal and allowing a new period of public comment.

The U.S. Forest Service supported the reclassification and Critical Habitat designation, but requested assurance that biological subspecies would continue to be maintained and dealt with as separate entities. The Fish and Wildlife Service can give this assurance. The Forest Service also made a number of management recommendations, which will be considered at appropriate times.

The National Park Service also favored continued recognition of the different wolf subspecies, and in general supported the proposal. The Park Service, however, recommended enlargement of the Critical Habitat designation in Minnesota to include all of Voyageurs National Park and some adjacent lands. Recent studies have indicated that several packs of wolves in the Park depend partly on habitat not included in the proposal. The Fish and Wildlife Service has decided to follow this recommendation, and the delineation of zones given below reflects the changes called for by the Park Service. Approximately 13 square miles in Voyageurs National Park, and about 13 square miles outside of the Park have been added to zone 1. A reduction of about eight square miles in the size of zone 2 also has been made, based on new information provided by the Region 3 Office of the Fish and Wildlife Service, in Twin Cities, Minn.

Representative Abner J. Mikva of Illinois opposed the proposal, stating that the wolf should continue to be listed as Endangered in Minnesota, and that the Service should not give in to pressure for reclassification from a small interest group. The Service, however, does not consider that it is giving in, but rather that an accurate classification and proper regulations are being established.

The Defenders of Wildlife sent a detailed statement on the proposal, which it said was endorsed by three other conservation organizations: Fund for Animals, The Humane Society of the United States, and Let Live. Most of the statement consisted of various recommendations, which the Service will consider, but which are not directly related to preparation of this rulemaking. In addition, the statement expressed opposition to the separation of the wolf in Minnesota as a species for legal purposes, and warned that such a measure might set a precedent for pressure to make exceptions for other species in particular political areas. The Service understands this point, but, in the case of the wolf, considers that there is adequate legal basis for the rulemaking in section 3(11) of the Endangered Species Act; and sufficient biological basis in the long-established and striking difference between the status of the wolf in Minnesota and all other areas south of the Canadian border.

The Environmental Defense Fund "cautiously" supported the proposal, but issued a number of warnings of possible problems, which the Service will consider. The Service does strongly disagree with the contention that the reclassification proposal was based primarily on pressure from agricultural and political interests, rather than biological factors. The Service considers that the status of the wolf in Minnesota is accurately expressed by a Threatened classification, and that had this category been available in 1967 the eastern timber wolf probably would have been so listed. Also, the special regulations allowing some take of depredating wolves should not be viewed as a vindication of past illegal killing. These regulations express recognition of the need to deal with an active current problem. The Service will enforce these regulations to the limit of its ability, and will not tolerate any taking of wolves beyond that authorized.

The Fur and Trapping Ethics organization indicated opposition to reclassification in Minnesota, and suggested that instead of allowing the take of depredating wolves by special regulation, the Service should permit such take under the provisions of section 10(a) of the Endangered Species Act. That section authorizes the issuance of permits to do anything otherwise prohibited by the Act, in order to enhance the survival of an Endangered species. Since the take of a few depredating wolves might moderate antagonism toward the entire species, it could be argued that such measures would enhance the survival of the species. The Service, however, considers a Threatened classification to be biologically justifiable in Minnesota, and under this classification a special regulation can be applied.

The Help Our Wolves Live organization made a number of recommendations, some of which were already expressed in the proposal. This group suggested that only Federal trappers be allowed to take depredating wolves in Minnesota, but at present the Service sees no justification for prohibiting participation by personnel of the Minnesota Department of Natural Resources.

The following organizations within the Monitor Consortium expressed opposition to reclassification in Minnesota: The International Primate Protection League; Fund for Animals, Inc.; Let Live; Audubon Naturalist Society of the Central Atlantic States; Committee for the Preservation of the Tule Elk; International Fund for Animal Welfare—U.S.A.; American Littoral Society; American Littoral Society, Chesapeake Chapter; Environmental Policy Center; Society for Animal Protective Legislation; Washington Humane Society; and Friends of the Earth. These organizations thought that the Minnesota wolf population should not be separated from that of the rest of the lower United States, but should be viewed as a tiny and Endangered remnant of a former wide-ranging species. The Service can understand this position, but considers that no matter how the Minnesota population is viewed, it, by itself, is more properly classified as Threatened. These respondents also suggested that by allowing take of depredating wolves, the Service would be giving in to poachers who are killing wolves illegally. Such is not the case; the take is being authorized because it is the most practical means of dealing with a current problem, and will not be detrimental to the overall Minnesota wolf population. Another comment was that the Critical Habitat designation should be larger, but the Service considers that the proposed zones, as based on the recommendations of experienced field personnel, are all that can be justified by presently available data.

The National Audubon Society and the National Wildlife Federation supported the proposed rulemaking, but

both suggested that wording of proposed § 17.40(d)(2)(B)(4) be revised to make it clear that wolves would be taken only in response to specific, documented or confirmed cases of depre-

It is the intention of the Service, however, to list any naturally present wolf to the south of Canada (except Minnesota) as Endangered.

The Sierra Club indicated opposition

comments supporting the proposal; and 9 persons sent information without actually expressing a viewpoint. Practically all of the views expressed in these comments by citizens have

which is composed in large part of protected public lands, along with the continuity of the population with other populations in Canada, has contributed to the survival of the wolf in

ficult law enforcement problems may arise. In Minnesota, wolves are totally protected under the Act, but this total protection may actually be working against the species. By prohibiting the

With respect to the gray wolf in Minnesota, which is listed as Threatened, a special rule is promulgated which applies provisions similar to those of 50 CFR 17.31, and an addi-

both suggested that wording of proposed § 17.40(d)(2)(B)(4) be revised to make it clear that wolves would be taken only in response to specific, documented or confirmed cases of depredation. The Service considers that present language, authorizing take only by Government agents, and requiring that all taking be reported, is sufficient to provide all legal assurances that are necessary.

The National Parks and Conservation Association recommended that taking of depredating wolves be allowed only in zones 4 and 5 of Minnesota, and not in zones 2 and 3. Any take in the latter two zones, however, would be very limited, since little domestic stock is present, and the Service considers that such taking would have a negligible effect on wolf populations. This Association also indicated that the reclassification was based mainly on social factors, and could not be justified by biological data. The Service disagrees; the reclassification will reflect the actual biological status of the wolf in Minnesota.

The New York Zoological Society and the Zoological Society of San Diego expressed concern that the Endangered classification of all wolves in the lower 48 States (except Minnesota) would apply to any individual of the species *Canis lupus*, even to those in zoos. This rulemaking, however, like most rulemakings of this kind, will apply only to wild animals and to captives originating in the wild population that is being listed. Captive wolves would not be affected, unless their origin was within the wild population found to the south of the Canadian border.

The North American Wolf Society supported the reclassification of the wolf in Minnesota and the designation of Critical Habitat, but questioned the elimination of subspecific differentiation in listings, suggesting that such elimination could jeopardize efforts to locate and maintain stocks of the various subspecies. The Service, however, can offer the firmest assurance that it will continue to recognize valid biological subspecies for purposes of its research and conservation programs.

The Safari Club International supported the Endangered classification for all wolves south of Canada, except in Minnesota, but opposed any listing, regulations, or Critical Habitat designation in Minnesota. It was stated that the Service rejected the recommendations of the Eastern Timber Wolf Recovery Team, but actually most recommendations were accepted, and the Team's advice will continue to be carefully considered in the future. The Safari Club suggested that any wolf which wandered into the United States from Canada, and which was not from a currently listed subspecies, should not be considered Endangered. It is the intention of the Service, however, to list any naturally present wolf to the south of Canada (except Minnesota) as Endangered.

The Sierra Club indicated opposition to reclassification in Minnesota, and made a number of comments along the same lines as some of those already covered above. The Sierra Club also recommended revision of proposed § 17.40(d)(2)(i)(a) to prevent abuse of the provision, but the proposed wording actually is identical to that covering Endangered species in existing 50 CFR § 17.21(c)(2). In addition, the statement was made that control programs in zone 4 could break pack structure, allow hybridization with coyotes, and thus jeopardize the overall wolf population. Actually, however, the wolf in Minnesota was taken intensively for many years prior to protection, and no specimen was ever collected that suggested the occurrence of hybridization.

The Wilderness Society also opposed the reclassification, again mostly on the basis of the same points discussed above. The Society suggested a number of management alternatives to taking of depredating wolves, which the Service will consider, but which can not be used as immediate solutions to the problem at hand. In answer to questions asked, it is likely that taking will include the use of steel traps and may be done by agents specially hired for the purpose, but the live-capture and transfer of wolves certainly will remain a viable option.

In addition to the above, the following organizations supported the proposed rulemaking: Minnesota Conservation Federation, North American Wildlife Park Foundation, Tahoma Audubon Society, and Wildlife Management Institute. The following other organizations opposed the proposal: Interior Wildlife Association of Alaska, Littlefork Gun Club, Minnesota Chapter of the Safari Club International, National Association for Humane Legislation, Texas Committee on Natural Resources, United Animal Defender, and Wildlife Unlimited.

In addition to the above, there was a heavy response to the proposal from private citizens. A breakdown of the responses shows the following approximate figures: 637 persons sent individual comments, and 380 signed petitions in support of maintaining the Endangered classification of the wolf in Minnesota; 84 persons sent individual comments, 28 signed petitions, and 214 signed form letters supporting total declassification in Minnesota; 99 persons sent individual comments, and 214 signed form letters expressing opposition to what they termed a "sanctuary" in Minnesota; 129 persons signed a form letter suggesting that the proposed depredation control measures were inadequate; 7 persons sent comments supporting the proposal; and 9 persons sent information without actually expressing a viewpoint. Practically all of the views expressed in these comments by citizens have been covered above in the discussion of comments by organizations and governmental bodies.

Summary of Factors Affecting the Species

As defined in section 3 of the Act, the term "species" includes any subspecies of fish or wildlife or plants and any other group of fish or wildlife of the same species or smaller taxa in common spatial arrangement that interbreed when mature. For purposes of this rulemaking, the gray wolf (*Canis lupus*) group in Mexico and the 48 conterminous States of the United States, other than Minnesota, is being considered as one "species", and the gray wolf group in Minnesota is being considered as another "species".

Section 4(a) of the Act states that the Secretary of the Interior may determine a "species" to be Endangered or Threatened because of any of five factors. These factors, and their application to the gray wolf in Minnesota, and to the gray wolf in the other 48 conterminous States of the United States and in Mexico, are listed below.

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.*—The gray wolf once had a range that included most of Mexico and the 48 conterminous States of the United States. The species now occurs in only a small fraction of this range, and is very rare in most places where it does exist. Perhaps fewer than 200 wolves survive in Mexico, and these are widely scattered and subject to intensive human pressure. In the southwestern United States the wolf probably is present only as an occasional wanderer near the Mexican border. In the northwestern United States the wolf is restricted mainly to remote parts of the Rocky Mountains, though some individuals may wander from this region, or from Canada, into other areas. In the eastern half of the United States the gray wolf has been totally eliminated by man, except in the upper Great Lakes region. Here, there is a group on Isle Royale, and possibly a few in northern Michigan and Wisconsin. The only major population of the gray wolf remaining anywhere in the 48 conterminous States is in northern Minnesota. This population, while small compared to the original numbers and range of the gray wolf in the lower 48 States, has not itself undergone a significant decline since about 1900. Indeed, within the last decade there appears to have been a numerical increase in some areas, and an overall range increase. The relatively remote primary habitat of the population, which is composed in large part of protected public lands, along with the continuity of the population with other populations in Canada, has contributed to the survival of the wolf in Minnesota. There appear to be no serious problems that could result in the immediate extirpation of the species in this area, and thus the population would not seem to be Endangered as defined by the Act. On the other hand, the Minnesota population does represent the last significant element of a species that once occupied a vastly larger range in the lower 48 States, and long-term trends may be working against the wolf. To quote the Recovery Plan, "Future circumstances are unpredictable and those that now exist could change drastically. For example, widespread industrialization, mineral exploitation, and general development could threaten much of the wolf's remaining range, making regulation increasingly significant to the populations left. Additional roads, railroads, power lines, mines and tourist facilities could further carve up much of northern Minnesota. This would disrupt the natural repopulation of depleted areas by wolves and promote higher human densities which would compete with wolves for their wild prey." Moreover, in recent years there has been a decline in deer, the main prey species, in parts of the primary range of the wolf. This decline has resulted primarily from forest maturation and severe winter weather. Wolf numbers have declined accordingly in some of these areas. In contrast, wolves have increased in their peripheral range where they are more likely to come into conflict with human interests and thus stimulate action against them. These various problems would seem to warrant the maintenance of a Threatened classification for the wolf in Minnesota.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.*—Direct killing by man, including large-scale commercial and sport taking, has been the major direct factor in the decline of wolves in the conterminous United States and Mexico. Wolves still are regularly shot, especially when they appear in settled areas that are not part of their regular range. Illegal killing is a problem in Minnesota and other areas where the wolf still occurs.

3. *Disease or predation.*—Not applicable.

4. *The inadequacy of existing regulatory mechanisms.*—There still are some places in the lower 48 States, such as Washington and North Dakota, where wolves may occur and where they are not under Federal protection. Moreover, because of the confusing taxonomy of wolf subspecies, and because wolves may wander across recognized subspecific boundaries, difficult law enforcement problems may arise. In Minnesota, wolves are totally protected under the Act, but this total protection may actually be working against the species. By prohibiting the killing of wolves, even those that may be attacking livestock and pets, current regulations may be creating an adverse public attitude toward the whole species.

5. *Other natural or manmade factors affecting its continued existence.*—None in addition to those discussed above.

Interagency Cooperation

Section 7 of the Endangered Species Act of 1973 requires Federal agencies, and only Federal agencies, to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of Endangered or Threatened species, or adversely affect the Critical Habitat of such species. The Recovery Team has described zones 1, 2, and 3 in Minnesota, and Isle Royale National Park, Michigan, as "critical areas" of the wolf. These areas provide the space for normal growth and movement of established pack units and would supply sufficient food and cover for the assured survival of the species. The Service considers that these areas qualify as Critical Habitat, pursuant to Section 7, and that Federal agencies should evaluate their actions affecting these areas relative to the welfare of the wolf.

Effects of the Rulemaking

With respect to the gray wolf in the 48 conterminous States of the United States, except Minnesota, and in Mexico, all prohibitions of section 9(a)(1) of the Act, as implemented by 50 CFR 17.21 will apply. These prohibitions, in part, will make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce this species. It also will be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions apply to agents of the Service and State conservation agencies. Permits for scientific purposes or for the enhancement of propagation or survival are available in accordance with 50 CFR 17.22. Economic hardship permits are available under 50 CFR 17.23. For practical purposes these measures already are in effect since nearly all wolves that regularly occur in the region in question are currently listed as Endangered. The rulemaking will extend Endangered status to those few wolves that may be in the region that are not already listed, and would simplify law enforcement and conservation measures.

With respect to the gray wolf in Minnesota, which is listed as Threatened, a special rule is promulgated which applies provisions similar to those of 50 CFR 17.31, and an additional provision for depredation control. The prohibitions of 50 CFR 17.31 are essentially the same as those for Endangered species, except that "any employee or agent of the Service, of the National Marine Fisheries Service, or of a State conservation agency which is operating under a Cooperative Agreement with the Service, or with the National Marine Fisheries Service, in accordance with Section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take any threatened wildlife to carry out scientific research or conservation programs." In accordance with 50 CFR 17.32, permits for Threatened wildlife are available for scientific purposes, enhancement of propagation or survival, economic hardship, zoological exhibitions, educational purposes, or special purposes consistent with the purposes of the Act.

The provisions for predator control state that wolves may be taken by authorized Federal or State employees in zones 2, 3, 4, and 5, if such wolves commit significant depredations on lawfully present domestic animals. Few, if any, of these wolves will be taken in zones 2 and 3 which have practically no livestock, and nearly all will be taken in zone 4. Essentially then, the wolf population in zones 1, 2, and 3 will not be affected by the depredation control activity. The population in zone 4 might be held below biological potential, but would continue to exist in reasonable numbers. The control of depredating wolves in zone 4 will reduce conflicts with human interests and should create a more favorable public attitude that would be of overall benefit to the wolf.

The effects of Critical Habitat determination involve Federal agencies. In accordance with section 7 of the Act, such agencies, and only such agencies, are required to insure that actions authorized, funded, or carried out by them do not adversely affect the Critical Habitat of Endangered or Threatened species. The designation of Critical habitat for the gray wolf in Minnesota, as delineated below, points out areas where this responsibility will apply. This will not automatically prohibit any particular actions, and it is likely that many kinds of Federal actions involving the areas in question would not be expected to be detrimental to the wolf. For more information, please consult the "Guidelines to Assist Federal Agencies in Complying with Section 7 of the Endangered Species Act of 1973," as prepared by the Fish and Wildlife Service and National Marine Fisheries Service.

NATIONAL ENVIRONMENTAL POLICY ACT

An environmental assessment has been prepared in conjunction with this rulemaking. It is on file in the Service's Office of Endangered Species, 1612 K Street NW., Washington, D.C. 20240, and may be examined during regular business hours. The assessment is the basis for a decision that the determinations of this rulemaking are not major Federal actions which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary author of this rulemaking is Ronald M. Nowak, Office of Endangered Species, U.S. Fish and Wildlife Service (202/343-7814).

REGULATIONS PROMULGATION

Accordingly, Part 17, Subparts B, D, and I, Title 50 of the Code of Federal Regulations, are amended as set forth below.

1. Section 17.11 is amended by deleting the Mexican wolf (*Canis lupus baileyi*), northern Rocky Mountain wolf (*Canis lupus irremotus*), eastern timber wolf (*Canis lupus lycaon*), and Texas gray wolf (*Canis lupus monstrabilis*) from the List of Endangered and Threatened Wildlife and Plants, and by adding the gray wolf (*Canis lupus*) to the List as indicated below:

§ 17.11 Endangered and threatened wildlife.

Species		Range					
Common name	Scientific name	Population	Known distribution	Portion of range where threatened or endangered	Status	When listed	Special rules
Mammals:							
Wolf, gray	*Canis lupus*	United States (48 conterminous States, other than Minnesota), Mexico.	Arizona, Idaho, Michigan, Montana, New Mexico, North Dakota, Oregon, Texas, Washington, Wisconsin, Wyoming, Mexico.	Entire	E	1, 6, 13, 15, 35	N/A.
Do	do	Minnesota	Northern Minnesota	Entire	T	35	17.40(d).

2. Section 17.40 is amended by adding the following paragraph (d):

§ 17.40 Special rules—mammals.

• • • • •

(d) Gray wolf (*Canis lupus*) in Minnesota.—(1) *Zones.* For purposes of these regulations, the State of Minnesota is divided into the following five zones.

ZONE 1—4,488 SQUARE MILES

Beginning at the point of intersection of United States and Canadian boundaries in Section 22, Township 71 North, Range 22 West, in Rainy Lake, then proceeding along the west side of Sections 22, 27, and 34 in said Township and Sections 3, 10, 15, 22, 27 and 34 in Township 70 North, Range 22 West and Sections 3 and 10 in Township 69 North, Range 22 West; then east along the south boundaries of Sections 10, 11, and 12 in said Township; then south along the Koochiching and St. Louis counties line to Highway 53; thence southeasterly along State Highway 53 to the junction with County Route 765; thence easterly along County Route 765 to the junction with Kabetogama Lake in Ash River Bay; thence along the south boundary of Section 33 in Township 69 North, Range 19 West, to the junction with the Moose River; thence southeasterly along the Moose River to Moose Lake; thence along the western shore of Moose Lake to the river between Moose Lake and Long Lake; thence along the said river to Long Lake; thence along the east shore of Long Lake to the drainage on the southeast side of Long Lake in NE¼, Section 18, Township 67 North, Range 18 West; thence along the said drainage southeasterly and subsequently northeasterly to Marion Lake, the drainage being in Section 17 and 18, Township 67 North, Range 18 West; thence along the west shoreline of Marion Lake proceeding southeasterly to the Moose Creek; thence along Moose Creek to Flap Creek; thence southeasterly along Flap Creek to the Vermilion River; thence southerly along the Vermilion River to Vermilion Lake; thence along the Superior National Forest boundary in a southeasterly direction through Vermilion Lake passing these points: Oak Narrows, Muskrat Channel, South of Pine Island, to Hoodo Point and the junction with County Route 697; thence southeasterly on County Route 697 to the junction with State Highway 169; thence easterly along State Highway 169 to the junction with State Highway 1; thence easterly along State Highway 1 to the junction with the Erie Railroad tracks at Murphy City; thence easterly along the Erie Railroad tracks to the junction with Lake Superior at Taconite Harbor; thence northeasterly along the North Shore of Lake Superior to the Canadian Border; thence westerly along the Canadian Border to the point of beginning in Rainy Lake.

ZONE 2—1,856 SQUARE MILES

Beginning at the intersection of the Erie Mining Co. Railroad and State Highway 1 (Murphy City); thence southeasterly on State Highway 1 to the junction with County Road 4; thence southwesterly on County Road 4 to the State Snowmobile Trail (formerly the Alger-Smith Railroad); thence southwesterly to the intersection of the Old Railroad Grade and Reserve Mining Co. Railroad in Section 33 of Township 56 North, Range 9 West; thence northwesterly along the Railroad to Forest Road 107; thence westerly along Forest Road 107 to Forest Road 203; thence westerly along Forest Road 203 to the junction with County Route 2; thence in a northerly direction on County Route 2 to the junction with Forest Road 122; thence in a westerly direction along Forest Road 122 to the junction with the Duluth, Missabe and Iron Range Railroad; thence in a southwesterly direction along the said railroad tracks to the junction with County Route 14; thence in a northwesterly direction along County Route 14 to the junction with County Route 55; thence in a westerly direction along County Route 55 to the junction with County Route 44; thence in a southerly direction along County Route 44 to the junction with County Route 266; thence in a southeasterly direction along County Route 266 and subsequently in a westerly direction to the junction with County Road 442; thence in a northerly direction on County Road 44 to the junction with Township Road 2815; thence westerly along Township Road 2815 to Alden Lake; thence northwesterly across Alden Lake to the inlet of the Cloquet River; thence northerly along the Cloquet River to the junction with Carrol Trail-State Forestry Road; thence west along the Carrol Trail to the junction with County Route 4 and County Route 49; thence west along County Route 49 to the junction with the Duluth, Winnipeg and Pacific Railroad; thence in a northerly direction along said Railroad to the junction with the Whiteface River; thence in a northeasterly direction along the Whiteface River to the Whiteface Reservoir; thence along the western shore of the Whiteface Reservoir to the junction with County Route 340; thence north along County Route 340 to the junction with County Route 16; thence east along County Route 16 to the junction with County Route 346; thence in a northerly direction along County Route 346 to the junction with County Route 569; thence along County Route 569 to the junction with County Route 565; thence in a westerly direction along County Route 565 to the junction with County Route 110; thence in a westerly direction along County Route 110 to the junction with County Route 100; thence in a north and subsequent west direction along County Route 100 to the junction with State Highway 135; thence in a northerly direction along State Highway 135 to the junction with State Highway 169 at Tower; thence in an easterly direction along the southern boundary of Zone 1 to the point of beginning of Zone 2 at the junction of the Erie Railroad Tracks and State Highway 1.

ZONE 3—3,501 SQUARE MILES

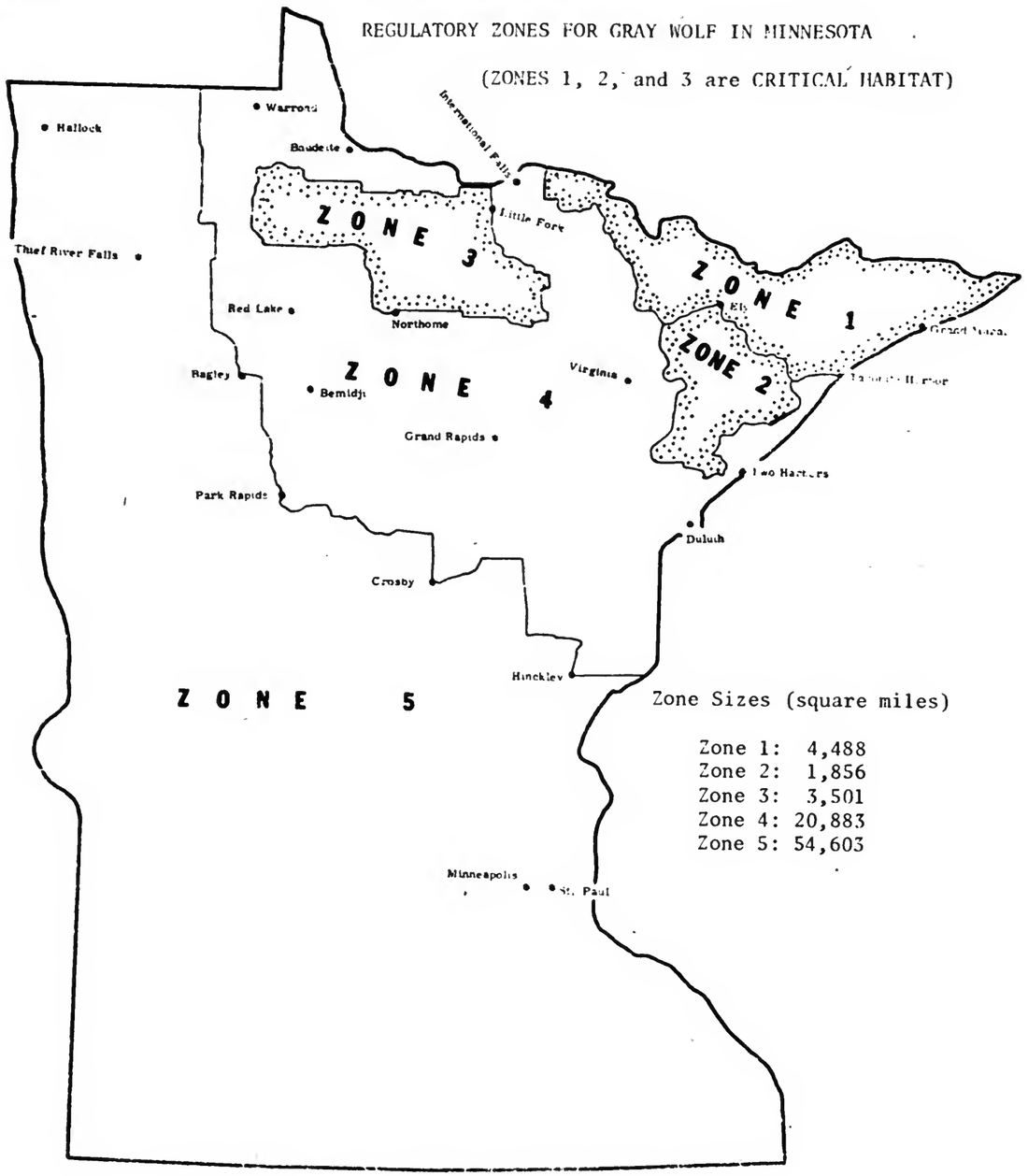
Beginning at the junction of State Highway 11 and State Highway 65; thence southeasterly along State Highway 65 to the junction with State Highway 1; thence westerly along State Highway 1 to the junction with State Highway 72; thence north along State Highway 72 to the junction with an un-numbered township road beginning in the northeast corner of Section 25, Township 155 North, Range 31 West; thence westerly along the said road for approximately seven (7) miles to the junction with SFR 95; thence westerly along SFR 95 and continuing west through the southern boundary of Sections 36 through 31, Township 155 North, Range 33 West, through Sections 36 through 31, Township 155 North, Range 34 West, through Sections 36 through 31, Township 155 North, Range 35 West, through Sections 36 and 35, Township 155 North, Range 36 West to the junction with State Highway 89, thence northwesterly along State Highway 89 to the junction with County Route 44; thence northerly along County Route 44 to the junction with County Route 704; thence northerly along County 704 to the junction with SFR 49; thence northerly along SFR 49 to the junction with SFR 57; thence easterly along SFR 57 to the junction with SFR 63; thence south along SFR 63 to the junction with SFR 70; thence easterly along SFR 70 to the junction with County Route 87; thence easterly along County Route 87 to the junction with County Route 1; thence south along County Route 1 to the junction with County Route 16; thence easterly along County Route 16 to the junction with State Highway 72; thence south on State Highway 72 to the junction with a gravel road (unnumbered County District Road) on the north side of Section 31, Township 158 North, Range 30 West; thence east on said District Road to the junction with SFR 62; thence easterly on SFR 62 to the junction with SFR 175; thence south on SFR 175 to the junction with County Route 101; thence easterly on County Route 101 to the junction with County Route 11; thence easterly on County Route 11 to the junction with State Highway 11; thence easterly on State Highway 11 to the junction with State Highway 65, the point of beginning.

ZONE 4—20,883 SQUARE MILES

Excluding Zones 1, 2 and 3, all that part of Minnesota north and east of a line beginning on State Trunk Highway 48 at the eastern boundary of the state; thence westerly along Highway 48 to Interstate Highway 35; thence northerly on I-35 to State Highway 23, thence west one-half mile on Highway 23 to State Trunk Highway 18; thence westerly along Highway 18 to State Trunk Highway 65, thence northerly on Highway 65 to State Trunk Highway 210; thence westerly along Highway 210 to State Trunk Highway 6; thence northerly on State Trunk Highway 6 to Emily; thence westerly along County State Aid Highway (CSAH) 1, Crow Wing County, to CSAH 2, Cass County; thence westerly along CSAH 2 to Pine River; thence northwesterly along State Trunk Highway 371 to Backus; thence westerly along State Trunk Highway 87 to U.S. Highway 71; thence northerly along U.S. 71 to State Trunk Highway 200; thence northwesterly along Highway 200, to County State Aid Highway (CSAH) 2, Clearwater County; thence northerly along CSAH 2 to Shevlin; thence along U.S. Highway 2 to Bagley; thence northerly along State Trunk Highway 92 to Gully; thence northerly along CSAH 2, Polk County, to CSAH 27, Pennington County; thence along CSAH 27 to State Trunk Highway 1; thence easterly on Highway 1 to CSAH 28, Pennington County; thence northerly along CSAH 28 to CSAH 54, Marshall County, thence northerly along CSAH 54 to Grygla; thence west and northerly along Highway 89 to Roseau; thence northerly along State Truck Highway 310 to the Canadian border.

ZONE 5—54,603 SQUARE MILES

All that part of Minnesota south and west of the line described as the south and west border of Zone 4.



(2) *Prohibitions.* The following prohibitions apply to the gray wolf in Minnesota.

(i) *Taking.* Except as provided in this paragraph (d)(2)(i) of this section, no person may take a gray wolf in Minnesota.

(A) Any person may take a gray wolf in Minnesota in defense of his own life or the lives of others.

(B) Any employee or agent of the Service, any other Federal land management agency, or the Minnesota Department of Natural Resources, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take a gray wolf in Minnesota without a permit if such action is necessary to:

(*1*) Aid a sick, injured, or orphaned specimen; or

(*2*) Dispose of a dead specimen; or

(*3*) Salvage a dead specimen which may be useful for scientific study.

(*4*) Furthermore, such designated employees or agents of the Service or the Minnesota Department of Natural Resources may take a gray wolf without a permit in Minnesota if such action is necessary to remove from zone 2, 3, 4, or 5, as delineated in paragraph (d)(3)(1) of this section, a gray wolf committing significant depredations on lawfully present domestic animals, but only if the taking is done in a humane manner.

(C) Any taking pursuant to paragraph (d)(2)(i) (A) and (B) of this section must be reported in writing to the United States Fish and Wildlife Service, Division of Law Enforcement, P.O. Box 19183, Washington, D.C. 20036, within 5 days. The specimen may only be retained, disposed of, or salvaged in accordance with directions from the Service.

(D) Any employee or agent of the Service or the Minnesota Department of Natural Resources when operating under a Cooperative Agreement with the Service in accordance with section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take a gray wolf in Minnesota to carry out scientific research or conservation programs.

(ii) *Unlawfully taken wolves.* No person may possess, sell, deliver, carry, transport, or ship, by any means whatsoever, a gray wolf taken unlawfully in Minnesota.

(iii) *Import or export.* Except as may be authorized by a permit issued under authority of § 17.32, no person may import or export any Minnesota gray wolf.

(iv) *Commercial transactions.* Except as may be authorized by a permit issued under § 17.32, no person may deliver, receive, carry, transport, ship, sell, or offer to sell in interstate or foreign commerce, by any means whatsoever, and in the course of a commercial activity, any Minnesota gray wolf.

(3) *Permits.* All permits available under § 17.32 (General Permits—Threatened wildlife) are available with regard to the gray wolf in Minnesota. All the terms and provisions of § 17.32 apply to such permits issued under the authority of this paragraph (d)(3).

3. Section 17.95 is amended by adding the following Critical Habitat description after the Critical Habitat description for the Morro Bay kangaroo rat.

§ 17.95 Critical habitat—fish and wildlife.

(a) Mammals.

* * * * *

Gray Wolf

(*Canis lupus*)

Michigan. Isle Royale National Park.

Minnesota. Areas of land, water, and airspace in Beltrami, Cook, Itasca, Koochiching, Lake, Lake of the Woods, Roseau, and St. Louis Counties, with boundaries (4th and 5th Principal meridians) identical to those of zones 1, 2, and 3, as delineated in 50 CFR 17.40(d)(1).

NOTE.—The Service has determined that this document does not contain a major action requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: March 3, 1978.

LYNN A. GREENWALT,
Director, Fish and Wildlife Service.

[FR Doc. 78-6192 Filed 3-8-78; 8:45 am]

proposed rules

be expected to mature each crop year in the normal maturity period for the variety, and (3) the trees have reached at least the tenth growing season after being set out, unless otherwise provided on the actuarial table.

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Comments submitted by the manufacturer in response to the NPRM show that acceptable trim tab free play limits have now been added to the maintenance manuals of affected

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-08]

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

[7 CFR Part 410]

[Amdt. No. 1]

CITRUS CROP INSURANCE POLICY

Regulations for the 1977 and Succeeding Crop Years

AGENCY: Federal Crop Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: This proposed rule amends the Florida citrus crop insurance regulations effective with the 1978 crop year to provide for insuring white grapefruit on a fresh fruit and on a juice basis, and changes the method of juice loss determination on those types of citrus on which the amount of loss is determined by the amount of juice lost. These amendments are being made because many producers of white grapefruit as fresh fruit have asked for insurance protection.

DATE: Written comments must be received by March 29, 1978, in order to be sure of consideration.

ADDRESS: Send comments to James D. Deal, manager, Federal Crop Insurance Corp., Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corp., U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corp. proposes to amend the Florida citrus regulations for the 1977 and succeeding crop years (42 FR 24712, May 16, 1977) effective with the 1978 crop year in order to make provisions for insuring white grapefruit on a fresh fruit basis. Currently, white grapefruit protection is provided only on a juice basis. Many growers producing white grapefruit as fresh fruit have asked the Corporation to provide insurance protection on white grapefruit grown as fresh fruit.

Another provision of this proposed amendment would change the method of juice loss determination for those types of citrus on which the amount of loss is determined by the amount of juice loss. The Corporation currently has the adjuster collect a sample of fruit and make a visual juice loss determination using a cut method. This method will be replaced by relating the juice marketing records of damaged fruit to the previous production history of the individual crop, or if such records are not available, to an established juice content provided on the actuarial table on file in the Corporation's office for the county. This method of juice loss determination has been determined as more accuarate than the field sample cutting method previously used by the Corporation in tests conducted by the Florida Department of Citrus. The research findings were published in the Florida Horticulture Society proceedings for 1977.

Each policyholder will be notified of the proposed changes and conversion letters explanining the proposed changes will also be sent. Notification of any changes in the Florida citrus crop insurance policy must be given to policyholders prior to April 15, 1978.

This proposed rule is published in the FEDERAL REGISTER as a notice of intended rulemaking in accordance with the procedure for notice and public participation allowing 20 days for the submission of written comments, views, or arguments on such proposed amendment. While the Corporation is aware that normally 30 days are allowed for such comment, there is insufficient time to follow this procedure fully and still permit the Corporation to make the necessary adjustments in its procedures prior to April 15, 1978, thus it is dertermined that such comments on the proposed rule will be accepted by the Corporation for a period of 20 days.

In accordance with the provisions of the Administrative Procedure Act (5 U.S.C. 553(b) and (c)), regarding the procedure for notice and public participation, the Federal Crop Insurance Corp. invites the public to submit written data, comments, or views for consideration in connection with the proposed amendment to James D. Deal, manager, Federal Crop Insurance Corp., Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions must be delivered or postmarked not later than March 29, 1978, to be sure of consideration. All written submissions made pursuant to this notice will be available for public inspection at the Office of the Manager during regular business hours, 8:15 a.m. to 4:45 p.m., Monday through Friday (7 CFR 1.27(b)).

PROPOSED RULE

Accordingly, the Federal Crop Insurance Corporation proposes to amend the Florida citrus crop insurance regulations effective with the 1978 crop year by amending 7 CFR 410.6 in three instances to read as follows:

§ 410.6 The Policy.

. . . . . .

1. *Meaning of terms.* * * *.

(p) "Types of citrus" means any of the following seven types of fruit: Type I—early and midseason oranges; type II—late oranges; type III—grapefruit, under which freeze damage will be adjusted on a juice basis for white grapefruit and on a fresh fruit basis for pink and red grapefruit; type IV—navel oranges, tangelos and tangerines; type V—murcott honey oranges (also known as honey tangerines) and temple oranges; type VI—lemons; and type VII—grapefruit, under which freeze damage will be adjusted on a fresh fruit basis for all grapefruit. Oranges commonly known as "sour oranges" and "Clementines" shall not be included in any of the insurable types of citrus.

(q) "Unit" means all insurable acreage in the county of any of the seven citrus types referred to in subsection (p) of this section located on contiguous land, on the date insurance attaches for the crop year, (1) in which the insured has a 100 percent share; (2) which is owned by one person and operated by the insured as a tenant; or (3) which is owned by the insured and rented to one tenant. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the crop on such land shall be considered as owned by the lessee. The Corporation shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by the insured's spouse or child or any member of the insured's household to be the bona fide share of the insured or any other person having the bona fide share.

. . . . . .

3. *Citrus insured.* (a) The citrus insured shall be any of the type(s) of citrus as defined in section 1(p) elected by the insured which is located on insurable acreage as shown on the actuarial map and in which the insured has a share on the date insurance attaches: *Provided*, That (1) if grapefruit is to be insured, only one type (III or VII) can be elected, (2) the citrus fruit can be expected to mature each crop year in the normal maturity period for the variety, and (3) the trees have reached at least the tenth growing season after being set out, unless otherwise provided on the actuarial table.

. . . . . .

9. * * *.

(f) Pink and red grapefruit of citrus type III and citrus of types IV, V, and VII which are seriously damaged by freeze as determined by a fresh fruit cut of a representative sample of fruit in the unit in accordance with the applicable provisions of the Florida Citrus Code and could not be marketed as fresh fruit within the prescribed tolerance for freeze damage (including adulteration) shall be considered unmarketable as fresh fruit and the amount of damage shall be as follows: (1) If 15 percent or less of the fruit in a sample shows serious freeze damage, the fruit shall be considered undamaged, or (2) if 16 percent or more of the fruit in a sample shows serious freeze damage, the fruit shall be considered 50 percent damaged, except that: (i) For tangerines of citrus type IV, damage in excess of 50 percent shall be the actual percent of damaged fruit. (ii) For other applicable varieties, if the Corporation determines that the juice loss in the fruit exceeds 50 percent, the amount so determined shall be considered the percent of damage.

(g) Any citrus of types I, II, VI, and white grapefruit of type III which is damaged by freeze, but may be processed by the canning or processing plants, shall be considered as marketable for juice. The percent of damage shall be determined by the Corporation by relating the juice content of the damaged fruit as determined by test house analysis to (1) the average juice content established by the Corporation based on acceptable records furnished by the insured showing the juice content of fruit produced on the unit for the 3 previous crop years, or (2) the juice content for that type fruit established on the actuarial table (if acceptable records are not furnished).

(j) Pink and red grapefruit of citrus type III and citrus of types IV, V, and VII which are unmarketable as fresh fruit due to serious damage from hail as defined in U.S. Standards for grades of Florida fruit shall be considered totally lost.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; (7 U.S.C. 1506, 1516).)

NOTE.—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

NOTE.—The Federal Crop Insurance Corporation has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB circular A-107.

PETER F. COLE,
Secretary, Federal Crop Insurance Corporation.

[FR Doc. 78-6161 Filed 3-8-78; 8:45 am]

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 77-CE-18-AD]

BEECH 55, 56, 58 and 95 SERIES AIRPLANES

Withdrawal of Notice of Proposed Rulemaking

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This Notice withdraws Docket No. 77-CE-18-AD published in the FEDERAL REGISTER on Thursday, September 8, 1977 (42 FR 45007, 45008). The Notice proposed to amend Federal Aviation Regulation Part 39 by adding a new Airworthiness Directive requiring repetitive inspection of trim tab systems on all Beech 55, 56, 58 and 95 series airplanes for excessive free play and correction if limits are exceeded. Comments received in response to the Notice and additional action taken by the manufacturer to make acceptable tab free play limits available to maintenance personnel in the field have resulted in the FAA concluding that the proposed rulemaking action is no longer required.

DATES: Not applicable.

FOR FURTHER INFORMATION CONTACT:

William L. Schroeder, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, MO. 64106, telephone 816-374-3446.

SUPPLEMENTARY INFORMATION: Until 1976, the only trim tab free play information available to maintenance personnel in the field for the above noted Beech Series Airplanes was a general statement in FAA Advisory Circular 43.13-1A which recommends limiting trim tab free play to 2.5 percent of the tab chord length aft of its hinge line. This information is advisory only and is not as useful to field personnel as specific free play limits published by the manufacturer.

In approximately September, 1976 the manufacturer issued Beechcraft Service Instructions No. 0846-152, applicable to Beech 55, 56, 58, and 95 series airplanes, setting forth free play limits for trim tabs, along with procedures for measuring free play and the elimination of any excessive free play that is detected. The purpose of the NPRM was to make compliance with the procedures in the service instructions mandatory.

Comments submitted by the manufacturer in response to the NPRM show that acceptable trim tab free play limits have now been added to the maintenance manuals of affected airplanes and that it feels this is sufficient corrective action. This action makes these limits available to maintenance personnel in the field.

Two additional comments received in response to the NPRM support the manufacturer's position.

In light of the NPRM comments received and action taken by the manufacturer to add acceptable tab free play limits the the maintenance manuals of affected airplanes, we believe that satisfactory corrective action has been taken and issuance of an AD is no longer warranted.

The withdrawal of this Notice does not preclude the FAA from issuing similar notices in the future or commit the FAA to any course of action.

DRAFTING INFORMATION

The principal authors of this document are: William L. Schroeder, Flight Standards Division, Central Region, and John L. Fitzgerald, Jr., Office of the Regional Counsel, Central Region.

THE WITHDRAWAL

For the reasons stated above, Notice of Proposed Rule Making, Docket No. 77-CE-18-AD published in the FEDERAL REGISTER on September 8, 1977 (42 FR 45007, 45008) is hereby withdrawn.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Mo., on February 24, 1978.

JOHN E. SHAW,
Acting Director, Central Region.

[FR Doc. 78-5999 Filed 3-8-78; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 78-AEA-9]

Proposed Designation of Transition Area: Chambersburg, Pa.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a Chambersburg, Pa., Transition Area. This designation will provide protection to aircraft executing a new instrument approach which has

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 78-CE-3]

AVAILABILITY OF NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration,

Issued in Kansas City, Mo., on February 28, 1978.

C. R. MELUGIN, Jr.,
Director, Central Region.

tained in this notice may be changed in light of the comments received. All comments received will be available both before and after the closing date

SUMMARY: This notice proposes to designate a Chambersburg, Pa., Transition Area. This designation will provide protection to aircraft executing a new instrument approach which has been developed for the Chambersburg Municipal Airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATE: Comments must be received on or before March 30, 1978.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace and Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, N.Y. 11430.

The docket may be examined at the following location: FAA, Office of the Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430, telephone 212-995-3391.

COMMENTS INVITED

Interested parties may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430. All communications received on or before March 30, 1978, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, N.Y. 11430, or by calling 212-995-3391.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a transition area over Chambersburg Municipal Airport, Chambersburg, Pa. The designation will control an area of approximately 6.5 miles from the center of the airport from southeast through northeast of the airport and an area of approximately 15 miles in depth from northeast through southeast of the airport.

DRAFTING INFORMATION

The principal authors of this document are Frank Trent, Air Traffic Division, and Thomas C. Halloran, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by designating a Chambersburg, Pa. 700 foot floor transition area as follows:

CHAMBERSBURG, PA.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, 39°58'23" N., 77°38'3" W. of Chambersburg Municipal Airport, Chambersburg, Pa.; within an 8-mile radius of the center of the airport, extending clockwise from a 039° bearing from the airport to a 061° bearing from the airport; within a 15-mile radius of the center of the airport, extending clockwise from a 061° bearing from the airport to a 135° bearing from the airport; within an 8-mile radius of the center of the airport, extending clockwise from a 135° bearing from the airport to a 174° bearing from the airport; within a 7-mile radius of the center of the airport, extending clockwise from a 174° bearing from the airport to a 241° bearing from the airport; within 4 miles each side of the St. Thomas VORTAC 080° radial, extending from the 6.5-mile radius area to 29 miles east of the VORTAC.

Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 as amended by Executive Order 11949 and OMB Circular A-107.

Issued in Jamaica, N.Y., on February 21, 1978.

PAUL K. BOHR
Acting Director, Eastern Region.

[FR Doc. 78-5897 Filed 3-8-78; 8:45]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 78-CE-3]

TRANSITION AREA, HARLAN, IOWA

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making (NPRM).

SUMMARY: This Notice proposes to alter the 700-foot transition area at Harlan, Iowa, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Harlan, Iowa, Airport, which is based on a non-directional radio beacon (NDB) navigational aid being installed on the airport.

DATE: Comments must be received on or before April 13, 1978.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408. The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Mo. An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Mo. 64106. All communications received on or before April 13, 1978, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Mo. 64106, or by calling 816-374-3408. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

THE PROPOSAL

The FAA is considering an amendment to Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR Sec. 71.181) by altering the 700-foot transition area at Harlan, Iowa. To enhance airport usage by providing additional instrument approach capability to the Harlan, Iowa Airport, the City of Harlan, Iowa, is installing an NDB on the airport. This radio facility provides new navigational guidance for aircraft utilizing the airport. The establishment of an instrument approach procedure based on this navigational aid entails alteration of the transition area at Harlan, Iowa, at and above 700-feet Above Ground Level (AGL) within which aircraft are provided additional air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Accordingly, the Federal Aviation Administration proposes to amend Subpart G, § 71.181, of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1978 (43 FR 440), by altering the following transition area:

HARLAN, IOWA

That airspace extending upward from 700 feet above the surface within a seven mile radius of Harlan Municipal Airport (latitude 41°35'15" N., longitude 95°20'15" W.) and within five miles each side of the Neola, Iowa, VORTAC 064° radial extending from the seven mile radius to eight miles northeast of the VORTAC and three miles each side of the 136° bearing from the Harlan NDB to eight and one-half miles southeast excluding that portion which overlies the Atlantic, Iowa, 700 foot transition area.

Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Mo., on February 28, 1978.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc. 78-6000 Filed 3-8-78; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 78-CE-2]

TRANSITION AREA, MILFORD, IOWA

Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to designate the 700-foot transition area at Milford, Iowa, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Fuller Municipal Airport, Milford, Iowa, utilizing the Spirit Lake, Iowa, nondirectional radio beacon (NDB), a navigational aid.

DATES: Comments must be received on or before April 13, 1978.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408. The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Mo. An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they desire. Communication should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures, and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Mo. 64106. All communications received on or before April 13, 1978, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the rules docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures, and Airspace Branch, 601 East 12th Street, Kansas City, Mo. 64106, or by calling 816-374-3408. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

THE PROPOSAL

The FAA is considering an amendment to Subpart G, § 71.181 of the Federal Aviation regulations (14 CFR sec. 71.181) by designating a 700-foot transition area at Milford, Iowa. To enhance airport usage at Fuller Municipal Airport, Milford, Iowa, the city has requested an instrument approach procedure to the airport utilizing the Spirit Lake, Iowa, NDB, a navigational aid. The FAA agrees with this request. The establishment of an instrument approach procedure based on this navigational aid entails designation of a transition area at Milford, Iowa, at and above 700-feet above ground level (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under instrument flight rules (IFR) and other aircraft operating under visual flight rules (VFR).

Accordingly, the Federal Aviation Administration proposes to amend Subpart G, § 71.181, of the Federal Aviation regulations (14 CFR 71.181) as republished on January 3, 1978 (43 FR 440), by adding the following new transition area:

MILFORD, IOWA

That airspace extending upward from 700 feet above the surface within a 5 mile radius of the Fuller Municipal Airport (latitude 43°19'57" N., longitude 95°09'29" W.) and within 3 miles each side of the 019° bearing from the Fuller Municipal Airport extending from the 5 mile radius to 11.5 miles north of the airport excluding that portion which lies in the Spirit Lake, Iowa, transition area.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.61 of the Federal Aviation regulations (14 CFR 11.61).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact state-

ment under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Kansas City, Mo, on February 28, 1978.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc. 78-6001 Filed 3-8-78; 8:45 am]

[4910–13]

[14 CFR Part 71]

[Airspace Docket No. 78–CE–1]

TRANSITION AREA, HUMBOLDT, NEBR.

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to alter the 700-foot transition area at Humboldt, Nebr., to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Humboldt, Nebr., Municipal Airport, Humboldt, Nebr., utilizing the Pawnee City, Nebr., VORTAC.

DATES: Comments must be received on or before April 13, 1978.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE–530, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816–374–3408. The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Mo. An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Gary W. Tucker, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE–538, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816–374–3408.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures, and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Mo. 64106. All communications received on or before April 13, 1978, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the rules docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures, and Airspace Branch, 601 East 12th Street, Kansas City, Mo. 64106, or by calling 816–374–3408. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

THE PROPOSAL

The FAA is considering an amendment to Subpart G, §71.181 of the Federal Aviation regulations (14 CFR sec. 71.181) by altering the 700-foot transition area at Humboldt, Nebr. To enhance airport usage, a new instrument approach procedure to the Humboldt, Nebr., Municipal Airport, is being established utilizing Pawnee City, Nebr., VORTAC, a navigational aid. The establishment of an instrument approach procedure based on this navigational aid entails alteration of the transition area at Humboldt, Nebr., at and above 700-foot above ground level (AGL) within which aircraft will be provided additional controlled airspace protection. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under instrument flight rules (IFR) and other aircraft operating under visual flight rules (VFR).

Accordingly, the Federal Aviation Administration proposes to amend Subpart G, §71.181, of the Federal Aviation regulations (14 CFR 71.181) as republished on January 3, 1978 (43 FR 440), by altering the following transition area:

HUMBOLDT, NEBR.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Humboldt Municipal Airport (latitude 40°09'50" N., longitude 95°55'54" W.) and within 1.75 miles each side of the 099° radial of the Pawnee City VORTAC extending from the 5-mile radius to 7 miles west of the airport and within 4.75 miles each side of the 137° bearing from Humboldt Municipal Airport extending from the 5-mile radius to 9.5 miles southeast of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.61 of the Federal Aviation regulations (14 CFR 11.61).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Kansas City, Mo., of February 28, 1978.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc. 78-6002 Filed 3-8-78; 8:45]

[4910–13]

[14 CFR Part 71]

[Airspace Docket No. 77–CE–29]

TRANSITION AREA, KAISER, MO.

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to alter the 700-foot transistion area at Kaiser, Mo., to provide additional controlled airspace for aircraft executing new instrument approach procedures to the Lee C. Fine Memorial Airport, Kaiser, Mo., and to the Linn Creek-Grand Glaize Memorial Airport, Osage Beach, Mo., which are based on the Sunshine, Mo., VOR.

DATE: Comments must be received on or before April 13, 1978.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE–530, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816–374–3408. The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Mo. An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE–537, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816–374–3408.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operation, Procedures, and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Mo. 64106. All communications received on or before April 13, 1978, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the rules docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy If this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures, and Airspace Branch, 601 East 12th Street, Kansas City, Mo. 64106, or by calling 816–374–3408. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

THE PROPOSAL

The FAA is considering an amendment to Subpart G, §71.181 of the Federal Aviation regulations (14 CFR sec. 71.181) by altering the 700–foot transition area at Kaiser, Mo. To enhance airport usage VOR instrument procedures to the Lee C. Fine Memorial Airport, Kaiser, Mo., and to the Linn Creek-Grand Glaize Memorial Airport, Osage Beach, Mo., are being established, based on an existing navigational aid, the Sunshine, Mo., VOR. The establishment of instrument approach procedures based on this navigational aid entails alteration of the transition area at Kaiser, Mo., at and above 700-feet above ground level (AGL) within which aircraft will be provided additional controlled airspace protection. The intended effect of this action is to ensure segregation of aircraft using the new approach procedures under instrument flight rules (IFR) and other aircraft operating under visual flight rules (VFR).

Accordingly, the Federal Aviation Administration proposes to amend Subpart G, §71.181, of the Federal Aviation regulations (14 CFR 71.181) as republished on January 3, 1978 (43 FR 440), by altering the following transition area:

KAISER, MO.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Linn Creek-Grand Glaize Memorial Airport (latitude 38°06'38" N., longitude 92°40'50" W.); within a 9-mile radius of the Lee C. Fine Memorial Airport (latitude 38°05'44" N., longitude 92°32'56" W.), within 3 miles each side of the 213° radial of the Sunshine VOR extending from the 9-mile radius area to 8 miles southwest of the VOR, and within 4.5 miles each side of the 133° radial of the Sunshine VOR extending from the 7-mile radius area to 9 miles southeast of the VOR.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.61 of the Federal Aviation Regualtions (14 CFR 11.61).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Kansas City, Mo., on February 28, 1978.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc. 78-6003 Filed 3-8-78; 8:45 am]

[4910–13]

[14 CFR Part 71]

[Airspace Docket No. 78–GL–2]

ROGERS CITY, MICH.

Proposed Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The nature of this Federal action is to designate additional controlled airspace near Rogers City, Mich. to accommodate a new (NDB Runway 27) instrument approach procedure into the Presque Isle County Airport established pursuant to a request from Presque Isle County Airport officials. The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions, and other aircraft operating under visual conditions.

DATE: Comments must be received on or before May 18, 1978.

ADDRESSES: Send comments on the proposal to FAA Office of Regional Counsel, AGL–7, Attention: Rules Docket Clerk, Docket No. 78–GL–2, 2300 East Devon Avenue, Des Plaines, Ill. 60018. A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Ill. 60018.

FOR FURTHER INFORMATION CONTACT:

Doyle Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL–530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Ill. 60018, telephone 312–694–4500, extension 456.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace in this area will be lowered from 1,200 feet above ground to 700 feet above ground. The development of the proposed instrument procedures necessitates the FAA to lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700 foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Regional Counsel, AGL–7, Great Lakes Region, Rules Docket No. 78–GL–2, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Ill. 60018. All communications received on or before May 18, 1978, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202–426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to extend the 700 feet controlled airspace transition area near Presque Isle County Airport, Rogers City, Mich. Subpart G of Part 71 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 440).

DRAFTING INFORMATION

The principal authors of this document are Doyle W. Hegland, Airspace

and Procedures Branch, Air Traffic Division, and Joseph T. Brennan, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, the FAA proposes to amend Subsection 71.181 of Part 71 of the Federal Aviation Regulations as follows:

In § 71.181 (43 FR 440), the following transition area is added:

ROGERS CITY, MICH.

That airspace extending upward from 700 feet above the surface within a 5 (statute) mile radius of the Presque Isle County Airport (latitude 45°24'27" N., longitude 83°48'46" W.) and within 2.75 miles (statute) each side of the proposed NDB 261° (true) bearing, extending from the 5-mile radius area to 7.5 miles (statute) east of the NDB, excluding the portion that coincides with the Alpena, Mich. transition area.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Des Plaines, Ill., on February 16, 1978.

JOHN M. CYROCKI,
Director,
Great Lakes Region.

[FR Doc. 78-6004 Filed 3-8-78; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 78-GL-1]

OWATONNA, MINN.

Proposed Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The nature of this federal action is to designate additional controlled airspace near Owatonna, Minn., to accommodate a new instrument approach procedure into the Owatonna Municipal Airport established pursuant to a request from the Owatonna Municipal Airport officials. The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions, and other aircraft operating under visual conditions.

DATES: Comments must be received on or before May 18, 1978.

ADDRESS: Send comments on the proposal to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 78-GL-1, 2300 East Devon Avenue, Des Plaines, Ill. 60018. A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Ill. 60018.

FOR FURTHER INFORMATION CONTACT:

Doyle Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Ill. 60018, telephone 312-694-4500, extension 456.

SUPPLEMENTARY INFORMATION:

The floor of the controlled airspace in this area will be lowered from 1,200 feet above ground to 700 feet above ground. The development of the proposed instrument procedures necessitates the FAA to lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700 foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Regional Counsel, AGL—7, Great Lakes Region, Rules Docket No. 78-GL-1, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Ill. 60018. All communications received on or before May 18, 1978, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to extend the 700 feet controlled airspace transition area near Owatonna Municipal Airport, Owatonna, Minn. Subpart G of Part 71 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 440).

DRAFTING INFORMATION

The principal authors of this document are Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, and Joseph T. Brennan, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations as follows:

In § 71.181 (43 FR 440), the following transition area is added:

OWATONNA, MINN.

That airspace extending upward from 700 feet above the surface within a 5.5 mile radius of Owatonna Municipal Airport (latitude 44°07'15" N., longitude 93°15'16" W.), within 1.25 miles each side of the 315° bearing from Owatonna Municipal Airport, extending from the Owatonna 5.5 mile radius area to 9 miles northwest of the airport; and within 2 miles each side of the 134° bearing from Owatonna Municipal Airport, extending from the Owatonna 5.5 mile radius area to 6 miles southwest of the airport, excluding the portion within the Faribault, Minn. transition area.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348 (a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11921, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Des Plaines, Ill., on February 16, 1978.

JOHN M. CYROCKI,
Director,
Great Lakes Region.

[FR Doc. 78-6005 Filed 3-8-78; 8:45 am]

[3510-12]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[15 CFR Part 904]

FINANCIAL COMPENSATION OF PARTICIPANTS IN ADMINISTRATIVE PROCEEDINGS

Availability of Record of Proposed Rulemaking for Public Inspection on a Permanent Basis; Establishment of Final Comment Period

AGENCY: National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Proposed rulemaking: availability of record for public inspection on a permanent basis; establishment of final comment period.

SUMMARY: This document makes the record of NOAA's proposed rulemaking on financial compensation of participants in administrative proceedings available for public inspection on a permanent basis. It also establishes a final period for comment on the proposed rules.

DATE: Comments must be received on or before March 25, 1978. No comments received after that date will be accepted or considered by NOAA in making its final decision.

ADDRESS: Send comments to: Office of General Counsel, National Oceanic and Atmospheric Administration, Room 310, Page Building No. 1, 2001 Wisconsin Avenue NW., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

Patrick J. Travers, 202-634-4245.

SUPPLEMENTARY INFORMATION: On August 11, 1977, the National Oceanic and Atmospheric Administration (NOAA) published a notice of proposed rulemaking on Financial Compensation of Participants in Administrative Proceedings. 42 FR 40711. Interested persons were invited to comment on the proposed rules on or before November 9, 1977. This period was subsequently extended to December 9, 1977. 42 FR 58958.

Since the close of the comment period, NOAA has withheld action on the proposed rules pending formulation of a Department of Justice position on *Greene County Planning Board* v. *Federal Power Commission* (2d Cir., June 30, 1977), currently before the Supreme Court on a petition for certiorari. In addition, NOAA accepted several late comments on the merits of the proposed rules, in the interest of wide public participation in the rulemaking.

The Justice Department has now asked the Supreme Court to vacate the *Greene County* decision, in which the Government was the prevailing party. NOAA intends, therefore, to reach a final decision in the instant rulemaking by the end of March 1978. Because of the period of time that has elapsed since the close of the comment period, and in order to assure interested persons of the opportunity to answer points raised in the late comments, NOAA hereby

(a) Makes the administrative record of this rulemaking available for public inspection between the hours of 8:30 a.m. and 5 p.m., Monday through Friday (Federal holidays excepted) on a permanent basis; and

(b) Invites interested persons to submit comments on the proposed rulemaking by 5 p.m., March 25, 1978.

The administrative record will be located at Room 310, Page Building No. 1, 2001 Wisconsin Avenue NW., Washington, D.C. 20235. Comments should be sent to the same address. Absolutely no comments will be accepted after 5 p.m., Friday, March 25, 1978. The final decision in this rulemaking will be made shortly after the close of the comment period.

Dated: March 1, 1978.

R. L. CARNAHAN,
Acting Assistant Administrator for Administration.

[FR Doc. 78-6167 Filed 3-8-78; 8:45 am]

[1505-01]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 742 3130]

INSILCO CORP. ET AL.

Consent Agreement With Analysis To Aid Public Comment

Correction

In FR. Doc. 78-3760 appearing at page 5846 in the issue for Friday, February 10, 1978, make the following corrections:

1. On page 5849, in the third column, in the paragraph numbered "10.", at the end of the third line, the word "of" should be "as".

2. On page 5850, in the middle column, under the centered heading "IX", immediately above the second paragraph, insert the following centered heading: "X".

3. Also on page 5850, in the third column, in the "Analysis of Proposed Consent Order To Aid Public Comment", in the third paragraph, in the next to last line, the word "the" should be "they".

[6750-01]

[16 CFR Part 13]

[File No. 782 3011]

MEGO INTERNATIONAL, INC., ET AL.

Consent Agreement with Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require a New York City manufacturer of a "Cher" mannequin doll and other toy products to cease employing any representation that depicts children using electrical toys or appliances near water or other fluids, without adult supervision, or which may induce children to engage in behavior that creates risk of injury.

DATE: Comments must be received on or before May 8, 1978.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Eric M. Rubin, Asst. Director for Compliance, Bureau of Consumer Protection, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580, 212-254-6915.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record, together with material submitted to the Commission that is not exempt from public disclosure under the Freedom of Information Act, for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

MEGO INTERNATIONAL, INC., MEGO CORP.

[File No. 782 3011]

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

The Federal Trade Commission having initiated an investigation of certain acts and practices of Mego International, Inc., a corporation, and Mego Corp., a corporation, and it now appearing that Mego International, Inc., a corporation, and Mego Corp., a corporation, hereinafter sometimes referred to as proposed respondents, are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated:

It is hereby agreed by and between Mego International, Inc., by its duly authorized officer and its attorney, Mego Corp., by its duly authorized officer and its attorney, and counsel for the Federal Trade Commission that:

1. Respondent Mego International, Inc., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 1 Madison Square Plaza, New York, N.Y.

2. Respondent Mego Corp., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 1 Madison Square Plaza, New York, N.Y.

3. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

4. Proposed respondents waive: (a) Any further procedural steps; (b) the requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and (c) all rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

5. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate.

6. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft of complaint here attached.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to proposed respondents: (1) issue its complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and shall become final and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

8. Proposed respondents have read the proposed complaint and order contemplated hereby, and they understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order, and that they may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

ORDER

1. The term "children" shall mean persons who appear to be or who are in fact twelve (12) years of age or younger.

2. The term "electrical appliance" shall mean all devices and machines which are run on electricity, but shall not include electrical toys. The term "small electrical appliance" shall mean those electrical appliances which are portable. The term "electrical toys" shall mean all toys and games which are run on electricity. These terms do not include devices, machines, toys, or games which are operated only by batteries.

3. For the purposes of this Order, terms in the singular shall include the plural and terms in the plural shall include the singular.

I.

It is ordered, That respondents Mego International, Inc., a corporation, and Mego Corp., a corporation, their successors and assigns, and their officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, sale or distribution in or affecting commerce of any product, forthwith cease and desist from directly or indirectly:

A. Representing, through depictions, descriptions, or in any other manner, children using, participating in the use of, or present at the time of the use of any electrical hairdryer or other electrical personal grooming appliance, including but not limited to, combs, curlers, brushes, and shavers, without the close and watchful supervision of an adult.

B. Representing, through depictions, descriptions, or in any other manner, children using, participating in the use of, or present at the time of the use of any electrical toy or small electrical appliance or toy facsimile thereof in close proximity to any pool or body of water or any other fluid.

C. Representing, through depictions, descriptions, or in any other manner, children using, participating in the use of, or present at the time of use of, any electrical toy or electrical appliance when such representation has the tendency or capacity to influence children to engage in behavior which creates an unreasonable risk of injury to person or property.

It is further ordered, That respondents shall forthwith distribute a copy of this Order to each of their operating divisions which engage or shall engage in the preparation or dissemination of advertising.

It is further ordered, That resopondents notify the Commission at least thirty (30) days prior to any proposed change such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corportation which may effect compliance obligations arising out of the Order.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this Order.

MEGO INTERNATIONAL, INC. AND MEGO CORP.

[Docket No. —]

ANALYSIS OF PROPOSED ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement to a proposed consent order from Mego International, Inc. and Mego Corp.

The proposed consent order has been placed on the public record for a period of sixty (60) days for reception of comments by interested parties and the public. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

I. *Introduction.* This matter concerns an advertisement for the "Cher" doll. In the second half of the advertisement, a young girl, about six or seven years old, is shown washing the doll's long black hair. The girl's mother comes into the picture and gives the girl a hand-held electrical pistol type hairdryer. The mother then leaves the girl alone to dry the doll's hair with the hairdryer. Throughout these scenes, the girl is sitting next to a sink filled with water.

II. *The proposed complaint.* The proposed complaint contains two charges of unfair or deceptive acts or practices. Paragraph Eight of the complaint alleges that the challenged advertisement has the tendency or capacity to influence children to use electrical personal grooming appliances without the close and watchful supervision of an adult and to use small electrical appliances near a pool or body of water or other fluid. Paragraph Eight further alleges that such behavior is harmful or involves an unreasonable risk of harm and was and is an unfair or deceptive act or practice.

III. *The proposed consent order.* The proposed consent order contains the following paragraphs which prohibit Mego International, Inc. and Mego Corp. from depicting certain types of behavior in its advertisements.

PARAGRAPH (A)

Paragraph (A) prohibits representing, in any manner, children using, participating in the use of or present at the time of the use of any electrical toy or small electrical appliance or toy facsimile thereof near a pool or body of water or other fluid.

PARAGRAPH (B)

Paragraph (B) prohibits representing, in any manner, children using, participating in the use of or present at the time of the use of any electrical toy or small electrical appliance or toy facsimile thereof near a pool or body of water or other fluid.

PARAGRAPH (C)

Paragraph (C) prohibits representing, in any manner, children using, participating in the use of or present at the time of the use of any electrical toy or electrical appliance when such representation has the tendency or capacity to influence children to engage in behavior which creates an unreasonable risk of harm to person or property.

REMAINING PARAGRAPHS OF THE PROPOSED ORDER

The remaining paragraphs of the proposed order contain fairly standard language required in all Commission orders. These provisions enable the Commission to determine whether the order is being complied with.

IV. *Conclusion.* The purpose of this analysis is to facilitate public comment on the proposed order and is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-6109 Filed 3-8-78; 8:45 am]

[4910-14]

DEPARTMENT OF TRANSPORTATION
Coast Guard
[33 CFR Part 117]

[CGD 77-215]

DRAWBRIDGE OPERATION REGULATIONS
Malden River, Dorchester Bay Basin and Broad Canal, Mass.

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Massachusetts Metropolitan District Commission, the Coast Guard is considering revising the regulations for the Woods Memorial Bridge across the Malden River, the Morrissey Bridge across the Dorchester Bay Basin, and the First Street Bridge across Broad Canal (a tributary of the Charles River) to further restrict their openings. This action is being considered because of reduced navigation through these bridges.

DATE: Comments must be received on or before April 10, 1978.

ADDRESS: Comments should be submitted to and are available for examination at the office of the Commander (obr), First Coast Guard District, 150 Causeway Street, Boston, Mass. 02114.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-0942.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rule making by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

The Commander, First Coast Guard District, will forward any comments received with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and recommend a course of final action to the Commandant on this proposal. The proposed regulations may be changed in the light of comments received.

DRAFTING INFORMATION: The principal persons involved in drafting this proposal are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Lieutenant Edward J. Gill, Jr., Project Attorney, Office of the Chief Counsel.

In consideration of the foregoing, it is proposed that § 117.75 of Part 117 of Title 33 of the Code of Federal Regulations be amended by adding a new paragraph (h)(5), revising paragraph (k), and adding a new paragraph (m) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.75 Boston Harbor, Mass., and adjacent waters; bridges.

* * * * *

(h) * * *

(5) Broad Canal, Cambridge, First Street Bridge. From October 1 through May 31, the draw shall open on signal except that the draw need not open for the passage of vessels from 7:30 a.m. to 9 a.m., and from 4:30 p.m. to 6 p.m. except on Saturdays, Sundays or legal holidays observed in the locality. From June 1 through September 30 the draw shall open on signal if at least 12 hours notice is given.

* * * * *

(k) Dorchester Bay (William T. Morrissey Boulevard). From April 16 through October 14, the draw shall open on signal except that the draw need not open for the passage of vessels from 7:30 a.m. to 9 a.m., and from 4:30 p.m. to 6 p.m. except on Saturdays, Sundays or legal holidays observed in the locality. From October 15 through April 15, the draw shall open on signal if at least 24 hours notice is given.

* * * * *

(m) Malden River (Woods Memorial, Revere Beach Parkway). The draw need not be opened for the passage of vessels.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: March 3, 1978.

O. W. SILER,
ADMIRAL, U.S. COAST GUARD
Commandant.

[FR Doc. 78-6262 Filed 3-8-78; 8:45 am]

[4910-22]

Federal Highway Administration

[49 CFR Part 393]

[BMCS Docket No. MC-83; Notice No. 78-7]

FEDERAL MOTOR CARRIER SAFETY REGULATIONS

Air Brake System on Commercial Motor Vehicles—NHTSA Standard No. 121

AGENCY: Federal Highway Administration, Department of Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Highway Administration issues this notice to solicit comments and information on its intent to revise the Federal Motor Carrier Safety Regulations to require that any antilock system installed on the drive axle of truck tractors to comply with Federal Motor Vehicle Safety Standard 121 be kept operative by motor carriers engaged in interstate or foreign commerce, in order to enhance highway safety.

DATE: Comments must be received by June 7, 1978.

ADDRESS: All comments should refer to the docket number and notice number that appear at the top of this document and should be submitted in three copies to Room 3402, Bureau of Motor Carrier Safety, 400 Seventh Street SW., Washington, D.C. 20590. To eliminate duplication of comments by interested parties on the antilock system, copies of all comments received will be provided to the National Highway Traffic Safety Administration (NHTSA), Docket No. 75-16, Notice 17, published elsewhere in today's FEDERAL REGISTER.

FOR FURTHER INFORMATION CONTACT:

Mr. William R. Fiste, Jr., Chief, Regulations Division, Bureau of Motor Carrier Safety, Federal Highway Administration, Department of Transportation, Washington, D.C. 20590, 202-426-0033, or Mr. James J. Stapleton, Assistant Chief Counsel, Federal Highway Administration, Department of Transportation, Washington, D.C. 20590, 202-426-0346.

SUPPLEMENTARY INFORMATION: The Director of the Bureau of Motor Carrier Safety (BMCS) is proposing to amend the Federal Motor Carrier Safety Regulations to require that any antilock system installed on the drive axle of truck tractors to comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 121, 49 CFR 571.121, be maintained in operable condition by motor carriers engaged in interstate or foreign commerce.

NHTSA has issued air brake standards for manufacturers of new vehicles at 49 CFR 571.121 which include a requirement that commercial vehicles meet a stopping distance test, without lane deviation and without the lockup of any wheel at speeds above 10 m.p.h.

Standard No. 121 (49 CFR 571.121) became effective on January 1, 1975, for air-braked trailers and March 1, 1975, for air-braked trucks and buses. The standard establishes performance requirements for the service, emergency, and parking brake systems of these vehicles. A major requirement is that these vehicles be capable of stopping under specified conditions without uncontrolled lockup of wheels (the "no lockup" requirement). The "no lockup" provision ensures that vehicle directional stability and controllability remain unimpaired during brake application. This requirement has resulted in the installation of antilock systems on most production vehicles.

Numerous questions have arisen on the reliability, effectiveness and durability of antilock systems to meet the requirement. Two predominant issues are whether the addition of the antilock system somehow renders the brakes less reliable or effective and whether the system is failsafe. (On failure, does it affect braking?). Other issues concern maintenance, training of mechanics, and parts distribution for the systems, as well as the period that some drivers feel is needed to adjust to the systems. Comments on issues are requested.

The Secretary of Transportation has emphasized that the government has to be responsible not only for setting regulations, but also for actively monitoring experience with them to ensure that they achieve their intended purposes. In this case there have been extremely important questions about antilock raised in NHTSA rulemaking and other public meetings, and in other forums. To address these concerns, the Department intends to undertake three major actions.

The first action is to obtain the standard's full safety benefits by requiring 100-percent operational status of antilock systems on truck tractors regulated by BMCS. Not only will this action regain the "no lockup" safety brake benefits presently lost due to inoperative antilock systems, but it will also test the validity of NHTSA findings about the reasonableness of necessary antilock maintenance levels.

Second, the Secretary has instructed NHTSA to request comment on the desirability of scaling down the ambit of the "no lockup" requirement as a possible means to minimize any potential hazards due to nonfail-safe antilock malfunctions. That proposal, published elsewhere in today's FEDERAL REGISTER, is that the "no lockup" provision be indefinitely suspended in the case of trailers.

Third, the Department will put in place a demonstration program that would monitor the number of times antilock operates in service and the level of maintenance effort and expense necessary to keep antilock systems operational.

Accordingly, it is proposed that 49 CFR Chapter III be amended as follows:

§ 393.40 Require Brake Systems.

* * * * *

(d) *Drive axle on certain vehicles.* Any antilock system installed on the drive axle of truck tractors to comply with Federal Motor Vehicle Safety Standard 121, 49 CFR 571.121, shall be maintained in operable condition.

Interested persons are invited to submit written data, views, or arguments pertaining to adpotion of the amendment proposed above. Specific comments are also requested on what date of manufacture, if any, should be used to determine applicability of the requirement for antilock devices to be operable. Should the covered vehicles be those manufactured since 1975, or some intermediate date?

NHTSA will hold a one-day public hearing on the issues involved with antilock systems. FHWA will be represented at that hearing. Those wishing to make presentations should contact NHTSA.

(Sec. 204, 49 Stat. 546, as amended (49 U.S.C. 304), sec. 6, Pub. L. 89-670, 80 Stat. 937 (49 Stat. 1655), 49 CFR 1.48 and 49 CFR 301.60.)

Issued on: March 8, 1978.

KARL S. BOWERS,
Deputy Administrator.

[FR Doc. 78-6393 Filed 3-8-78; 9:16 am]

[4910-59]

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 75-16; Notice 17]

AIR BRAKE SYSTEMS

"No Lockup" Requirements for Trailers

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes a suspension of the "no lockup" safety braking performance requirement for trailers contained in Standard No. 121, Air Brake Systems. The action is proposed because numerous complaints from truck users about the safety and reliability of the antilock systems used to meet the "no lockup" requirement may best be resolved by ensuring the operation of systems on the drive axles of trucks regulated by the Bureau of Motor Carrier Safety, and suspending of the requirement on trailers. This notice solicits comment on the wisdom of suspending the "no lockup" performance requirement for trailers, and the concurrent institution of a demonstration program to quantify maintenance and other difficulties with trailer systems. A public meeting will be held to supplement written comments.

DATES: Comments must be received on or before June 7, 1978. Proposed effective date: 30 days following date of publication of the final rule in the FEDERAL REGISTER. Hearing: April 24 and 25, 1978.

ADDRESS: Comments should refer to the docket number and be submitted to Room 5108, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Mr. Duane Perrin, Crash Avoidance Division, National Highway Traffic Safety Administration, Washington, D.C. 20590, 202-426-2153.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Standard No. 121 (49 CFR 571.121) became effective on January 1, 1975, for air-braked trailers and March 1, 1975, for air-braked trucks and buses. The standard establishes performance requirements for the service, emergency, and parking brake systems of these vehicles. A major requirement is that these vehicles be capable of stopping under specified conditions without uncontrolled lockup of wheels (the "no lockup" requirement). The "no lockup" safety brake provision ensures that vehicle directional stability and controllability remain unimpaired during brake application. The analytical and experimental data that underlie this requirement are cited in earlier NHTSA rulemaking (e.g. 41 FR 8783; March 1, 1976). This requirement has resulted in the installation of antilock systems on most production vehicles.

The NHTSA studies and analysis to date indicate that antilock systems fail-safe and that maintenance effort and expense are not unreasonable. The agency has investigated every serious accident within its knowledge in which malfunction of brakes on a 121-equipped truck is alleged and has not concluded that the new brake systems caused the accidents. Also, while early antilock systems displayed less durability than anticipated, agency studies and vehicle manufacturer testimony indicate that maintenance costs of antilock systems are at a reasonable level. Since implementation of the standard, the agency has made a number of important amendments to accommodate petitioners where justified.

Numerous questions have arisen on the reliability, effectiveness, and durability of antilock systems installed by manufacturers to satisfy the "no lockup" requirement. The predominant outstanding concerns which have been raised with the Department are whether antilock systems do not safely revert to normal braking as they are designed to in the event of malfunction, and whether antilock systems lack necessary durability, making maintenance difficult and increasing repair costs.

DEPARTMENT ACTION

The Secretary of Transportation has emphasized that the government has to be responsible not only for setting regulations, but also for actively monitoring experience with them to ensure that they achieve their intended purposes. In this case there have been extremely important questions about antilock raised in NHTSA rulemaking and public meetings, and in other forums. To address these concerns, the Department intends to undertake three major actions.

The first action is to obtain the standard's full safety benefits by requiring 100-percent operational status of antilock systems on truck tractors regulated by the Federal Highway Administration's Bureau of Motor Carrier Safety (BMCS). Not only will this action regain the "no lockup" safety brake benefits presently lost due to inoperative antilock systems, but it will also test the validity of NHTSA findings about the reasonableness of necessary antilock maintenance levels. This action is proposed simultaneously in this issue of the FEDERAL REGISTER.

Second, the Secretary has instructed the NHTSA to request comment on the desirability of scaling down the ambit of the "no lockup" requirement as a possible means to minimize any potential hazards due to non-fail-safe antilock malfunctions. For this reason, the Department is proposing that the "no lockup" provision be indefinitely suspended in the case of trailers.

Third, the Department will put in place a demonstration program to monitor the number of times antilock operates in service and the level of maintenance effort and expense necessary to keep antilock systems operational. The National Highway Traffic Safety Administration could enter agreements with a geographically representative selection of truck fleets to record in detail the frequency and cost of maintenance, and to place on-board recording equipment in the demonstration trailers to keep track of brake system status at all times. This on-board monitoring would serve to record the number of times antilock actuates to preserve lateral stability and would verify whether brake losses are actually occurring when such claims are made.

Member fleets of the American Trucking Associations (ATA) have, in the past, informally indicated their willingness to cooperate in such a demonstration program. It is, of course, necessary that truck operators' cooperation be forthcoming to permit a successful resolution of both the trailer "no lockup" issue and the improvement in truck tractor antilock status addressed by the BMCS proposed regulation. It is evident that the Department and truck operators share a common goal in this instance of advancing highway safety by all reasonable means.

It is noted that the ATA has been a consistent critic of antilock durability and safety. This notice is responsive to their concern and to their request for action to suspend the "no lockup" safety brake requirement on all vehicles or, in the alternative, on trailers. However, the grounds on which the ATA petitioned for relief were narrow technical aspects of antilock logic that can delay reapplication of brakes under strictly limited circumstances (time-out time), and the agency denies the ATA petition on those grounds. A full explanation of the agency's reasoning will appear in a letter to the ATA in the near future.

ECONOMIC EVALUATION

In accordance with Departmental procedures, the economic effects of this proposal have been considered. Antilock manufacturers that specialized in trailer antilock systems, Berg Manufacturing Co., Wagner Electric, and B. F. Goodrich, will be most adversely affected by this proposal. From financial and employment data submitted by the antilock manufacturers, it is estimated that this industry could lose $20 million in sales revenue annually. This estimate is based on 1977 sales revenue and the proportion of antilock production which is used on trailers. Over 60 percent of this annual loss would be borne by only two manufacturers. Furthermore, manufacturers could have additional losses due to previously made capital investments and research and development expenditures which would not provide a return.

The impact on employment of this proposal is difficult to estimate because one cannot anticipate a particular manufacturer's reaction. However, there are an estimated 740 jobs related

to trailer antilock systems production. Two antilock manufacturers specializing in trailer equipment account for over 60 percent of this employment and would be affected proportionately.

The proposal would be anticipated to have a slight impact on trailer sales. Since the price of trailers manufactured without antilock would be slightly lower, sales should increase, everything else being equal.

SPECIFIC ISSUES FOR COMMENT

Comments are solicited on the wisdom, scope, and timing of the demonstration program. Interested persons are advised that preparations and negotiations for the demonstration program will be undertaken during the comment period, but will not affect the rulemaking process.

Commenters are requested to specifically address at the least the following considerations regarding this proposed amendment and the demonstration program:

(1) Performance of present trailer antilock systems;

(2)Fleet practices for the inspection of trailer antilock systems;

(3)Fleet trailer maintenance practices, particularly the amount and frequency of scheduled preventive maintenance;

(4) Detailed costs for trailer antilock maintenance on a per-mile basis or per-month basis;

(5) Whether the trailer antilock status indicator offered on an optional basis should be mandatory at a future date, and required to be within the driver's rearward field-of-view—also the experience to date with this type of indicator by fleets that use them;

(6) The status of driver and maintenance training, and its perceived impact on operational status of trailer antilock in various regions of the country.

PUBLIC HEARING

To supplement the written comments on this proposal, the NHTSA will hold a public meeting on the issues involved in the proposal. The meeting will be conducted on April 24 and 25, 1978, at the Commerce Auditorium, 14th Street between Constitution Avenue and E Street NW., Washington, D.C., beginning at 9 a.m. Those wishing to make presentations should contact Mr. Scott Shadle (Office of Vehicle Safety Programs, National Highway Traffic Safety Administration, Washington, D.C. 20590, 202-426-2153) not later than April 10, 1978. Presentations may be limited by available time. Equipment for the presentation of slides, motion pictures, or other visual aids will be available, and a transcript of the meeting will be made for incorporation in the air brake docket.

In consideration of the foregoing, it is proposed that § 5.3.2 of Standard No. 121, Air Brake Systems (49 CFR 571.121) be amended by the addition of ", with the exception of trailers manufactured on or after 1978," preceding the words "without lockup of any wheel."

Interested persons are invited to submit comments on the proposal. Comments containing specific data are particularly important to permit development of an adequate record upon which to base any decision. It is requested but not required that 10 copies be submitted. To avoid filing of duplicate comments made on the related BMCS proposal, comments filed on that proposal in BMCS Docket No. MC-83 are hereby incorporated by reference in this record of this action and will be fully considered in reaching a decision.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a succinct and concise fashion.

In the case of comments that contain materials for which confidential treatment is requested, those materials should be deleted from the copies submitted to the docket. A copy of the complete comments should be submitted to the Office of Chief Counsel at the above address, with an indication of which portions of the comments are the subject of the request for confidentiality.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 501.8.)

Issued on March 8, 1978.

HOWARD DUGOFF,
Acting Administrator.

[FR Doc. 78-6394 Filed 3-8-78; 9:16 am]

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 23]

APPENDIX III TO THE ENDANGERED SPECIES CONVENTION

Addition of Aardwolf, African Civet and Honey Badger

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: On January 31, 1978, the Fish and Wildlife Service received a notification from the Secretariat for the Convention to the effect that the Republic of Botswana had submitted a list of species for inclusion in Appendix III. In accordance with the provisions of the Convention, this list will take effect as part of Appendix III 90 days after the date of the Secretariat's notification, i.e. on April 24, 1978. The Service invites public comment on these species in order to determine if the United States should enter a reservation and thereby be treated as a non-Party with respect to trade in any of these species.

DATE: The Service will consider all comments received by April 10, 1978, in determining whether or not to enter a reservation.

ADDRESS: Please send comments to the Director, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Dr. Richard L. Jachowski, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, phone 202-254-8100.

SUPPLEMENTARY INFORMATION: Appendix III to the Convention on International Trade in Endangered Species of Wild Fauna and Flora is a list of species which any Party country identifies as being subject to regulation within its jurisdiction for the purpose of preventing or restricting exploitation and as needing the cooperation of other Parties in the control of trade. Trade in this context means any import, export or re-export. Amendments to the list of species in Appendix III can be submitted to the Secretariat for the Convention by any Party. Such amendments become effective 90 days after the date the Secretariat communicates the addition of a species to the Parties, or 30 days after the Secretariat communicates to the Parties the withdrawal of a species by the Party concerned.

During the 90 day period immediately preceding the effective date of an amendment (other than deletion of a species from Appendix III), a Party may, by notification in writing to the Depository Government, make a reservation with respect to the amendment. Until a reservation is withdrawn, the Party will be treated as a non-Party with respect to trade in that species.

The notification from the Secretariat dated January 25, 1978, lists the following species submitted by the Government of the Republic of Botswana for inclusion in Appendix III.

1. Honey badger or ratel, *Mellivora capensis.*
2. African civet, *Viverra civetta.*
3. Aardwolf, *Proteles cristatus.*

These three species are mammals in the Order Carnivora. The notification stated that any animal of one of these species, whether live or dead, and any readily recognizable part or derivatives thereof, will be covered by the provisions of the Convention.

The Service invites public comment on these species in order to determine if the United States should enter a reservation with respect to the inclusion of any one of them in Appendix III. All comments received will be available for public inspection during normal business hours at the Federal Wildlife Permit Office, Room 536, 1717 H Street NW., Washington, D.C.

This document was prepared by Dr. Richard L. Jachowski, Federal Wildlife Permit Office.

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: March 1, 1978.

LYNN A. GREENWALT,
Director, U.S. Fish and Wildlife Service.

[FR Doc. 78-6193 Filed 3-8-78; 8:45 am]

[4310-55]

[50 CFR Part 32]

HUNTING

Susquehanna National Wildlife Refuge, Md.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: Notice is hereby given that it is proposed that the Susquehanna Migratory Waterfowl Closed Areas in the upper Chesapeake Bay be opened to the hunting of migratory waterfowl in accordance with annual hunting regulations. It has been determined that the waterfowl food source has deteriorated and the attendant waterfowl use has declined so that a closure is not necessary. The effect of this proposed rulemaking would be to rescind the regulations closing the area to hunting that were promulgated by Presidential Proclamations Nos. 2383 and 2529.

DATES: Comments must be received on or before March 31, 1978.

ADDRESS: Comments may be addressed to the Director, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Donald G. Young, Division of National Wildlife Refuges, U.S. Fish and Wildlife Service, Washington, D.C. 20240, 202-343-4307.

SUPPLEMENTARY INFORMATION:

Donald G. Young is also the primary author of this proposal. The Susquehanna Migratory Waterfowl Closed Area in upper Chesapeake Bay, Md., was established to provide a sanctuary for diving ducks during the waterfowl hunting season in the heavily hunted area of Susquehanna Flats at the mouth of the Susquehanna River.

Approximately 13,363 acres of water in Chesapeake Bay, including part of Susquehanna Flats, were closed to hunting by Presidential Proclamation No. 2383, January 24, 1940, and Presidential Proclamation No. 2529, December 6, 1941; the area was designated as the Susquehanna Migratory Waterfowl Closed Area. The proclamations prohibited "pursuing, hunting, taking, capturing, killing, or attempting to take, capture, or kill migratory birds." At the time the area was closed, there was an abundance of wild celery and other waterfowl foods that attracted large numbers of diving ducks. It was a well-known migration and wintering area for canvasback ducks. The closure was established to provide a resting and feeding sanctuary for the great concentrations of waterfowl, particularly diving ducks, that occurred there during the waterfowl hunting season.

In the last 37 years significant ecological changes have taken place in this area. The extent of aquatic vegetation declined through the 1960's and early 1970's, and the remaining vegetation was drastically reduced by Hurricane Agnes in 1972. Bottom substrates of Susquehanna Flats also were changed by siltation and wave action. Consequently, the waterfowl food supply has declined to the point where few waterfowl are attracted to the area.

According to surveys undertaken by the U.S. Fish and Wildlife Service and the Maryland Department of Natural Resources, vast acreages within the closed area are denuded of all aquatic growth. Surveys by the same agencies, plus the Department of Defense's Aberdeen Proving Grounds, documented the simultaneous reduction of waterfowl, including the diving duck species for whose welfare the sanctuary was originally established.

Since the waterfowl food source has deteriorated and the waterfowl use has declined on Susquehanna Flats, the protection afforded by closure proclamation is no longer necessary. Annual hunting regulations will provide adequate protection for migratory bird management purposes.

Within the Susquehanna Migratory Waterfowl Closed Area is Battery Island (Shad Battery-Edmondson's Island) which was designated as the Susquehanna National Wildlife Refuge by Executive Order 9185 on June 23, 1942. This proposed regulation, which would open areas adjacent to the refuge to hunting, does not apply to Susquehanna National Wildlife Refuge.

Accordingly, Presidential Proclamation No. 2383, January 24, 1940, and Proclamation No. 2529, December 6, 1941, are rescinded and 50 CFR 32.4 is amended by deleting the above proclamations.

Dated: February 24, 1978.

LYNN A. GREENWALT,
Director, Fish and Wildlife Service.

[FR Doc. 78-6114 Filed 3-8-78; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket No. 31564; Order 78-3-18]

COMPAGNIE NATIONALE AIR FRANCE

Order Vacating Suspension

Adopted by the civil Aeronautics Board at its office in Washington, D.C. on the 21st day of February, 1978.

By Order 77-10-139, October 25, 1977, the board suspended, pending investigation, super-APEX fares proposed by Compagnie Nationale Air France (Air France) for use between the United States and France. The Board stated that it was suspending the fares because the United States had been unable to secure an ad hoc agreement with France which would permit us to suspend the fares after they became effective and, in those circumstances, failure to suspend the fares before they became effective might foreclose any such action by this government.

On February 3, 1978, the government of France signed and ad hoc agreement confirming the right of the United States to take action against the super-APEX fares after they became effective. Thus there is no reason for Air France's fares to France and other countries whose Governments have signed appropriate ad hoc agreements to remain under suspension, and this order will vacate our previous action.[1]

Accordingly, pursuant to sections 102, 204(a), 403, 801, and 1002(j) of the Federal Aviation Act of 1958,

It is ordered that: 1. Order 77-10-139 is vacated insofar as it suspends and investigates Advance Purchase Excursion Fares as follows:

A. PASSENGER FARES TARIFF No. PF-4, C.A.B. No. 44, ISSUED BY AIR TARIFFS CORPORATION, AGENT

Fares and provisions in Tables 23, 104, 143 to/from points in Finland, France, Germany, Greece, Morocco, Netherlands, Poland, Portugal, Spain, Switzerland, and U.S.S.R. applicable to Air France;

Fares and provisions in tables 23, 104 and 143 to/from points in France applicable to aeronaves de Mexico, Iran Air, K.L.M., and Pan American.

B. INTERNATIONAL PASSENGER FARES TARIFF No. 4, C.A.B. No. 22, ISSUED BY JOHN M. SAMPSON, AGENT

Fares and provisions in Section 40 to/from points in France applicable to Air India, British Airways, and Pakistan International.

2. This order shall be submitted to the President[2] and shall be effective on March 6, 1978; and

3. Copies of this order shall be filed in the above tariffs and served upon Compagnie Nationale Air France; Aeronaves de Mexico, S.A.; Air-India; British Airways Board carrying on business under the firm name and style of British Airways; Iran National Airlines Corp. (IRAN AIR); K.L.M. Royal Dutch Airlines; Pakistan International Airlines Corp., Pan American World Airways, Inc., and the National Air Carrier Association.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Secretary.

All Members concurred.

[FR Doc. 78-6212 Filed 3-8-78; 8:45 am]

[1] We will also vacate the suspension of matching tariffs to France filed by British Airways, Pan American World Airways, K.L.M. Royal Dutch Airlines, Iran Air, Air India, Pakistan International, and aeronaves de Mexico.

[2] This order was submitted to the President on February 23, 1978.

[3510-25]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

COMPUTER PERIPHERALS, COMPONENTS AND RELATED TEST EQUIPMENT TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (1976 ed.), notice is hereby given that a meeting of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee will be held on Wednesday, March 29, 1978, at 9:30 a.m., in room 5230, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. The meeting will continue March 30 in Room 3817, Main Commerce Building to its conclusion.

The Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the committee, pursuant to section 5(c)(1) of the Export Administation Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer peripherals, components and related test equipment, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participated including proposed revisions of any such multilateral controls.

The Committee meeting agenda has six parts:

GENERAL SESSION

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Review of membership status and suggestions for new members.
4. Discussion of the list of critical technologies developed by the Department of Defense which are applicable to the Committee's scope of interest.
5. New business.

EXECUTIVE SESSION

6. Discussion of matters properly classified under Executive Order 11652, dealing with the United States and COCOM control program and strategic criteria related thereto.

The general session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be presented at any time before or after the meeting.

With respect to agenda item (6), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the executive session should be exempt from the provisions of the Federal Advisory committee Act relating to open meetings and public participation therein, because the executive session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the executive session of the meeting have been properly classified under Executive Order 11652. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Room 3012, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-4196.

The complete notice of determination to close meetings or portions thereof of the series of meetings of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on February 8, 1977 (42 FR 7978).

Dated: March 6, 1978.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 78-6169 Filed 3-8-78; 8:45 am]

[3510-25]

MICROCIRCUIT SUBCOMMITTEE OF THE SEMICONDUCTOR TECHNICAL ADVISORY COMMITTEE

Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (1976 ed.), notice is hereby given that a meeting of the Microcircuit Subcommittee of the Semiconductor Technical Advisory Committee will be held on Thursday, March 30, 1978, at 9 a.m., in Room 5611, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Semiconductor Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Microcircuit Subcommittee was established on December 28, 1977, with the approval of the Assistant Secretary for Industry and Trade, pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to semiconductor products, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Microcircuit Subcommittee was formed to study microcircuit devices with the goal of making recommendations to the Department of Commerce relating to the appropriate parameters for controlling exports for reasons of national security.

The Subcommittee will meet only in executive session to discuss matters properly classified under Executive Order 11652, dealing with the United States and COCOM control program and strategic criteria related thereto.

Written statements may be submitted at any time before or after the meeting.

The Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the executive session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the executive session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Subcommittee during the meeting have been properly classified under Executive Order 11652. All Subcommittee members have appropriate security clearances.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-4196.

The complete notice of determination to close meetings or portions thereof of the series of meetings of the Semiconductor Technical Advisory Committee and of any subcommittees thereof was published in the FEDERAL REGISTER on March 2, 1977 (42 FR 12078).

Dated: March 6, 1978.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 78-6168 Filed 3-8-78; 8:45 am]

[3510-25]

Industry and Trade Administration

ADVISORY COMMITTEE ON EAST-WEST TRADE

Open Meeting

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (1976 ed.), notice is hereby given that a meeting of the Advisory Committee on East-West Trade will be held on Wednesday, March 29, 1978, at 9:30 a.m. in Room 6802, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230.

The Committee was established to advise the Department, through the Deputy Assistant Secretary for East-West Trade, on ways to further its mission to promote and encourage the orderly expansion of commercial and economic relations between the United States and the communist countries.

Agenda items are as follows:

Morning Session, Room 6802, 9:30 a.m.-12:30 p.m.

(1) Summary of recent developments in East-West trade by Alan A. Reich, Deputy Assistant Secretary for East-West Trade.

(2) BEWT 1978 publications program.

(3) Trade promotion strategy and market research in the U.S.S.R. and Eastern Europe.

(4) Observations on recent visits to Cuba by ACEWT members.

Afternoon Session, Room 6802, 1:30-4 p.m.

(5) Implications of the Comptroller of the Currency's recent ruling on loans to foreign nations.

(6) Recent developments in East-West finance.

(7) Public perceptions and misperceptions about East-West trade.

(8) Review of items submitted by Committee members.

(9) Review of items submitted by the public.

The meeting will be open to public observation and a period will be set aside for oral comments or questions by the public which do not exceed ten minutes each. More extensive questions or comments should be submitted in writing before March 22, 1978. Other public statements regarding committee affairs may be submitted at any time before or after the meeting.

Approximately 50 seats will be available for the public (including 5 seats

reserved for media representatives) on a first-come first-served basis.

Inquiries about committee matters and/or proceedings should be addressed to Gary R. Teske, Committee Control Officer, Office of East-West Policy and Planning, Bureau of East-West Trade, Room 4814-B, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-4691.

Copies of the minutes will be available 30 days after the meeting upon written request addressed to the Industry and Trade Administration, Freedom of Information Officer, Freedom of Information Control Desk, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

ALAN A. REICH,
Deputy Assistant Secretary for East-West Trade.

MARCH 6, 1978.

[FR Doc. 78-6087 Filed 3-8-78; 8:45 am]

[3510-22]

National Oceanic and Atmospheric Administration

MARINE MAMMALS

Receipt of Application

Notice is hereby given that the following application has been received to take marine mammals incidental to the course of commercial fishing operations as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) and the regulations thereunder.

S.E.E. Okeansky Ribolov, Bourgas, Peoples Republic of Bulgaria, has applied for a general permit, Category 1: "Towed or Dragged Gear."

Copies of the application are available for review in the Office of the Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.

Interested parties may submit written views on this application on or before April 3, 1978, to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235.

Dated: March 2, 1978.

ROLAND FINCH,
Acting Deputy Assistant Director for Fisheries Management, National Marine Fisheries Service.

[FR Doc. 78-6204 Filed 3-8-78; 8:45 am]

[3510-22]

ROUGH-TOOTHED DOLPHIN

Prohibition of Take Incidental to Commercial Fishing Operations

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of prohibition of take of rough-toothed dolphin incidental to commercial fishing operations.

SUMMARY: A prohibition on taking rough-toothed dolphin is being implemented due to the fact that the quota established in 1978 for rough-toothed dolphin has been exceeded.

DATE: Effective March 15, 1978, rough-toothed dolphin may not be taken incidental to fishing operations pursuant to the general permit issued to the American Tunaboat Association, Category 2: Encircling Gear, Purse Seining Involving the Intentional Taking of Marine Mammals.

ADDRESS: Observer records may be reviewed at the Southwest Regional Office, Office of the Director, 300 South Ferry Street, Terminal Island, Calif.

FOR FURTHER INFORMATION CONTACT:

William P. Jensen, Marine Mammal and Endangered Species Division, 3300 Whitehaven Street NW., Washington, D.C. 20235, telephone: 202-634-7461.

SUPPLEMENTARY INFORMATION: In the permit issued to the American Tunaboat Association for 1978, a limit of five (5) rough-toothed dolphin mortalities was stipulated. That limit has been exceeded based on reports of National Marine Fisheries Service observers. In accordance with 50 CFR 216.24(d)(2)(i)(B) notice is hereby published of the date when a prohibition on further taking of rough-toothed dolphin, except as allowed in 50 CFR 216.24(d)(2)(i)(C), becomes effective.

Dated: March 2, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-6205 Filed 3-8-78; 8:45 am]

[3510-22]

STATE FISH AND WILDLIFE DIRECTORS

Public Meeting

Notice is hereby given of a meeting with State Fish and Wildlife Directors from coastal and Great Lakes States on Thursday and Friday, April 6 and 7, 1978. The meeting will commence at 8:30 a.m. on April 6 and on April 7, in the Woodward Room of the National Wildlife Federation Building, 1412 16th Street NW., Washington, D.C.

Selected panels during the meeting will discuss topics related to management of recreational fisheries; management of territorial sea fisheries with particular focus on the State-Federal Fisheries Management Program, the Coastal Zone Management Program, the fisheries enforcement program, and the data collection and statistics program; management of fishing effort; fisheries management and Indian treaty rights; and aquaculture.

The meeting will be open to the public. Seating will be available for approximately 25 persons in addition to those participating in the meeting, on a first-come, first-served basis. Questions from the public will be permitted during specific periods announced by the Moderator.

Additional information concerning this meeting may be obtained by contacting Richard H. Schaefer, Chief, Fisheries Management Operations Division, 202-634-7454; or Robert J. Williams, Fisheries Management Support Specialist, Fisheries Management Operations Division, 202-634-7436, National Marine Fisheries Service, Washington, D.C. 20235.

Issued March 1, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-6203 Filed 3-8-78; 8:45 am]

[6355-01]

CONSUMER PRODUCT SAFETY COMMISSION

[Petition No. CP 73-3]

ELECTRICAL EXTENSION CORDS

Denial of Petition

AGENCY: Consumer Product Safety Commission.

ACTION: Denial of petition.

SUMMARY: In this document the Commission denies a petition that would commence a proceeding to issue a mandatory safety standard for electrical extension cords because currently available information indicates that a mandatory standard is not necessary at this time to reduce any risk of injury associated with extension cords. The Commission had earlier granted the petition but because of the recent upgrading of voluntary standards for extension cords, the Commission has decided to reverse its earlier determination.

FOR FURTHER INFORMATION CONTACT.

Carl Blechschmidt, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6557.

SUPPLEMENTARY INFORMATION: Section 10 of the Consumer Product Safety Act (15 U.S.C. 2059) provides that any interested person may petition the Commission to commence a proceeding for the issuance, amendment or revocation of a consumer product safety rule. Section 10 also provides that if the Commission denies such a petition, it shall publish its reasons for denial in the FEDERAL REGISTER.

By letter dated May 18, 1973, the National Electrical Manufacturers Association (NEMA) petitioned the Commission (CP-73-3) to commence a proceeding that would lead to the issuance of a consumer product safety standard for electrical extension cords. NEMA suggested that the standard be directed primarily toward reducing mouth burn injuries to children and increasing the general safety of such cords. The petition discussed Underwriters Laboratories (UL) revisions (UL 817A) to its voluntary standard on Cord Sets and Power Supply Cords (UL 817). NEMA further suggested that this voluntary standard be used as the basis for a mandatory standard.

The Commission subsequently granted the petition on October 9, 1973, and directed the staff to take the steps necessary to begin development of a consumer product safety standard for extension cords to address mouth burn and electric shock hazards, which, according to Commission data, are the primary hazards associated with extension cords.

In the process of laying the groundwork for commencement of a mandatory standard development proceeding, Commission staff reviewed and critiqued UL 817 and its appendix UL 817A, which specifically addresses mouth burn injuries. As a result of that critique, UL revised 817A; and NEMA, in a letter to Commission staff dated June 23, 1977, requested consideration of the newly revised voluntary standard as an acceptable alternative to the development of a mandatory consumer product safety standard.

After careful consideration of all available information, including a review of UL 817, the newly revised 817A, and other UL voluntary standards which address the risks of injury associated with extension cords such as UL 62, the Standard for Flexible Cord and Fixture Wire and UL 497, the Standard for Attachment Plug and Receptacles, the Commission concludes that a mandatory standard is not necessary at this time to reduce any risk of injury associated with extension cords. The Commission has, therefore, decided to reverse its earlier determination and deny CP 73-3.

The Commission is taking this action because it believes that voluntary requirements, which at a minimum provide the level of safety contained in UL standards for extension cords, are adequate to address mouth burn and electric shock hazards. The Commission notes that approximately 80 percent of the current production of extension cords conforms to UL standards. The Commission believes that increased conformance to voluntary requirements no less stringent than those of UL will reduce the number and severity of extension cord injuries.

The Commission notes in this regard that as a result of Commission staff discussions with UL representatives, UL in September of 1977 proposed additional revisions to 817 which would require heavier insulation on extension cords as well as require a permanent label attached to the cord which would warn consumers of potential hazards of extension cords and provide instructions for their safe use. Commission staff will monitor implementation of these two revisions.

The Commission emphasizes, however, that should it become apparent that sufficient progress toward reduction of injury has not been accomplished by voluntary standards for extension cords, the present action does not preclude a future Commission decision to develop a mandatory standard.

Copies of the petition and the staff's briefing materials to the Commission may be seen in or obtained from the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C. 20207.

Dated: March 2, 1978.

SADYE E. DUNN,
Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 78-6173 Filed 3-8-78; 8:45 am]

[6355-01]

HARRY S. KOBRIN

Provisional Acceptance of Consent Agreement

AGENCY: Consumer Product Safety Commission.

ACTION: Provisional Acceptance of Consent Agreement.

SUMMARY: The Commission has provisionally accepted a consent agreement containing a cease and desist order offered by Harry S. Kobrin, formerly doing business as Consolidated Rug Mills, Inc., in which he agrees to properly label all carpet treated with fire-retardant chemicals and to attach warning labels to noncomplying small carpets and rugs as required by the Flammable Fabrics Act and regulations. If finally accepted, this consent agreement will settle allegations of the Commission staff that Kobrin has violated the provisions of the Flammable Fabrics Act.

DATE: Written comments on the provisionally accepted consent agreement must be received by the Commission by March 24, 1978.

ADDRESSES: Written comments should be submitted to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Copies of the agreement may be viewed or obtained from the Office of the Secretary, Consumer Product Safety Commission, 3d Floor, 1111 18th Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Gerald T. McDonough, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. Phone 301-492-6621.

Dated: March 2, 1978.

SADYE E. DUNN,
Acting Secretary Consumer Product Safety Commission.

[FR Doc. 78-6172 Filed 3-8-78; 8:45 am]

[6355-01]

THER-A-PEDIC OF CHICAGO, INC.

Provisional Acceptance of Consent Agreement

AGENCY: Consumer Product Safety Commission.

ACTION: Provisional Acceptance of Consent Agreement.

SUMMARY: The Commission has provisionally accepted a consent agreement containing a cease and desist order offered by Ther-A-Pedic of Chicago, Inc., in which that firm agrees to properly conduct prototype and production flammability testing to maintain production unit size limitations, and to maintain complete records. If finally accepted, this consent agreement will settle allegations of the Commission staff that Ther-A-Pedic of Chicago, Inc., has violated the provisions of the Flammable Fabrics Act.

DATE: Written comments on the provisionally accepted consent agreement must be received by the Commission by March 24, 1978.

ADDRESSES: Written comments should be submitted to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Copies of the agreement may be viewed or obtained from the Office of the Secretary, Consumer Product Safety Commission, 3d Floor, 1111 18th Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

George A. Miller, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. Phone 301-492-6629.

Dated: March 2, 1978.

SADYE E. DUNN,
Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 78-6171 Filed 3-8-78; 8:45 am]

[3710-08]

DEPARTMENT OF DEFENSE

Department of the Army

CHIEF OF ENGINEERS ENVIRONMENTAL ADVISORY BOARD

Open Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that the next meeting of the Environmental Advisory Board (EAB) of the Chief of Engineers will be held on March 28-29, 1978 at Airlie House, Airlie, Va. 22186. All sessions of the meeting are open to the public. Time and subjects of each session follow:

MARCH 28, AM SESSION

0900 hours—Welcome and opening remarks.
0915 hours—Civil works update.
1030 hours—Report of the EAB: "NEPA plus 8," review and discussion of significant events, decisions, actions and policies since 1 Jan. 1970.

PM SESSION

1300 hours—Continue discussion.
1530 hours—Wrap up.
1600 hours—Adjourn.

MARCH 29, AM SESSION

0845 hours—Briefing on Army environmental program.
1100 hours—Discussion.
1200 hours—Closing remarks.

Seating in the meeting room is limited to approximately 20 persons. Written statements, to be made a part of the minutes, may be submitted prior to, or up to 10 days following the meeting but oral participation by the public is limited because of the time schedule. Persons planning to attend or desiring further information should contact Lt. Col. John R. Hill, Jr., Assistant Director of Civil Works, Environmental Programs, Office of the Chief of Engineers, telephone 202-693-7093.

The EAB will conduct a workshop session on March 27, at Airlie House to prepare for their report to be delivered during the plenary session on March 28. There will be no formal discussions or presentations during this workshop session. Interested members of the public will, however, be permitted to observe this workshop session on a limited basis due to seating limitations. Interested persons should contact Lt. Col. Hill.

Dated: March 3, 1978.

By authority of the Secretary of the Army.

JOSEPH F. GORECKI,
Major, U.S. Army, Acting Director, Administrative Management, TAGCEN.

[FR Doc. 78-6164 Filed 3-8-78; 8:45 am]

[3810-70]

Office of the Secretary

DEPARTMENT OF DEFENSE WAGE COMMITTEE

Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, the Federal Advisory Committee Act, effective January 5, 1973, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, May 2, 1978; Tuesday, May 9, 1978; Tuesday, May 16, 1978; Tuesday, May 23, 1978; and Tuesday, May 30, 1978, at 9:45 a.m. in Room 1E801, The Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for Federal prevailing rate employees pursuant to Pub. L. 92-393. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, the Federal Advisory Committee Act, meetings may be closed to the public when they are "concerned with matters listed in section 552b of title 5, United States Code." Two of the matter so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b.(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b.(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b.(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the Chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by contacting the Chairman, Department of Defense Wage Committee, Room 3D281, The Pentagon, Washington, D.C.

MARCH 6, 1978.

MAURICE W. ROCHE,
Director, Correspondence and Directives Washington Headquarters Services, Department of Defense.

[FR Doc. 78-6202 Filed 3-8-78; 8:45 am]

[6740-02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. G-8739, et al.]

PHILLIPS PETROLEUM CO., ET AL.

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates[1]

MARCH 1, 1978.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before March 22, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and Date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
G-8739, D, Feb. 6, 1978	Phillips Petroleum Co., 5 C4 Phillips Bldg., Bartlesville, Okla. 74004.	Northern Natural Gas Co., Ivy A No. 1, sec. 48, block 5-T, T&NO survey, Hutchinson County, Tex.	Release of gas for irrigation fuel.	
G-9885, D, Feb. 16, 1978	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77001.	Texas Eastern Transmission Corp., North Arneckeville and Southwest Helen Gohlke fields, Dewitt and Victoria Counties, Tex.	Leases expired, plugged, and abandoned.	
CI72-495, E, Feb. 15, 1978	Shell Oil Co. (successor in interest to Atlantic Richfield Co., Gulf Oil Co., and Tenneco Oil Co.), Two Shell Plaza, P.O. Box 2099, Houston, Tex. 77001.	Tennessee Gas Pipeline Co., Vermilion block 191 field (South Marsh Island, block 29 area), offshore Louisiana.	(1)	15.025
CI75-38, C, Feb. 13, 1978	Gulf Oil Corp	El Paso Natural Gas Co., Drinkard formation gas-well gas from the CDU No. 423 well located in unit K, sec. 28, T21S, R37E, Lea County, N. Mex.	(1)	14.73
CI77-327, C, Feb. 9, 1978	Cities Service Co., P.O. Box 300, Tulsa, Okla. 74102.	El Paso Natural Gas Co., upper Penn formation of sec. 10-21S-36E, Eddy County, N. Mex.	(1)	14.65
CI77-709, C, Feb. 13, 1978	MRT Exploration Co., 9900 Clayton Rd., St. Louis, Mo. 63124.	Mississippi River Transmission Corp., D. B. Means No. 1 unit, Holly field, DeSota Parish, La.	(1)	15.025
CI78-39, C, Feb. 13, 1978	Amoco Production Co., Security Life Bldg., Denver, Colo. 80202.	Cities Service Gas Co., Champlin No. 3 Higgins unit 23-15 well, sec. 15-18N-98W (1) and Champlin No. 5 Higgins unit 23-22 well, sec. 22-18N-98W (1), Nugget formation, Sweetwater County, Wyo.	(1)	15.025
CI78-420, A, Feb. 10, 1978	Napeco Inc., 122 South Michigan Ave., Chicago, Ill. 60603.	Natural Gas Pipeline Co. of America, Maud Graham No. A-2 well, Young County, Tex.	(1)	14.65
CI78-421, A, Feb. 13, 1978	Napeco Inc	Natural Gas Pipeline Co. of America, Hall No. 1 well, Young County, Tex.	(1)	14.65
CI78-422, A, Feb. 14, 1978	do	Natural Gas Pipeline Co. of America, Hall No. 3 well, Young County, Tex.	(1)	14.65
CI78-423 (CI61-973), B, Jan. 12, 1978.	Perry R. Bass, 3100 Fort Worth National Bank Bldg., Fort Worth, Tex. 76102.	Columbia Gas Transmission Corp., West Gueydan field, Vermilion Parish, La.	Ceased production, leases released, plugged, and abandoned.	
CI78-424, B, Feb. 14, 1978	Zoller & Danneberg, Inc., suite 2100, First of Denver Plaza, 633 17th St., Denver, Colo. 80202.	Northern Natural Gas Co., sec. 34-T2N-R24E, Beaver County, Okla.	Uneconomical.	
CI78-425, A, Feb. 10, 1978	Continental Oil Co., P.O. Box 2197, Houston, Tex. 77001.	El Paso Natural Gas Co., Brinninstool No. 2 well, Lea County, N. Mex.	(1)	14.65
CI78-426, A, Feb. 10, 1978	Continental Oil Co	Northwest Pipeline Corp., East San Juan field, Rio Arriba County, N. Mex.	(1)	14.65
CI78-428, A, Feb. 8, 1978	Odessa Natural Corp. (operator), P.O. Box 3906, Odessa, Tex. 79760.	El Paso Natural Gas Co., Jicarilla joint venture KD Nos. 2 and 3 wells, W/2 secs. 3 and 10, T23N, R3W, Rio Arriba County, N. Mex.	(1)	14.65
CI78-429, A, Feb. 9, 1978	Mesa Petroleum Co., P.O. Box 2009, Amarillo, Tex. 79105.	El Paso Natural Gas Co., Basin Dakota field, Rio Arriba County, N. Mex.	(1)	14.73
CI78-430, A, Feb. 13, 1978	J. M. Huber Corp., 2000 West Loop South, Houston, Tex. 77027.	Transwestern Pipeline Co., Delaware formation only, in the Yarrow field, Eddy County, N. Mex.	(1)	14.65
CI78-431, A, Feb. 13, 1978	Transco Exploration Co., P.O. Box 1396, Houston, Tex. 77001.	Transcontinental Gas Pile Line Corp., South Timbalier area, blocks 148 (E½) and 149 (SW¼), offshore Louisiana.	(1)	14.73
CI78-432 (CI62-395), B, Feb. 13, 1978.	Phillips Petroleum Co., 5 C4 Phillips Bldg., Bartlesville, Okla. 74004.	Southern Natural Gas Co., Bayou Long field, St. Martin Parish, La.	Depleted, lease terminated, plugged, and abandoned.	
CI78-433, A, Feb. 13, 1978	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	Northern Natural Gas Co., Townsend field, Lea County, N. Mex.	(1)	14.65
CI78-434, A, Feb. 13, 1978	Helmerich & Payne, Inc., 1579 East 21st St., Tulsa, Okla. 74114.	Michigan Wisconsin Pipe Line Co., East Hinton field, Canadian County, Okla.	(1)	14.65
CI78-435, A, Feb. 13, 1978	do	Michigan Wisconsin Pipe Line Co., West Cheyenne field, Roger Mills, County, Okla.	(1)	14.65
CI78-436 (G-18903), B, Feb. 13, 1978.	Monsanto Co., 1300 Post Oak Tower, 5051 Westheimer, Houston, Tex. 77056.	Transcontinental Gas Pipe Line Corp., Cowpen Creek field, Beauregard Parish, La.	Depleted, leases expired and released, plugged, and abandoned.	
CI78-437, A, Feb. 14, 1978	Marathon Oil Co., 539 South Main St., Findlay, Ohio 45840.	El Paso Natural Gas Co., Cheyenne field, Roger Mills County, Okla.	(1)	14.65
CI78-438, A, Feb. 14, 1978	Ocean Production Co., et al. P.O. Box 61780, New Orleans, La. 70161.	Michigan Wisconsin Pipe Line Co., High Island area blocks A-369 and A-370, in the Gulf of Mexico, offshore Texas.	(1)	14.65
CI78-439 (CI63-217), B, Feb. 14, 1978.	Monsanto Co	Kansas-Nebraska Natural Gas Co., Inc., Reid No. 1 well, Morgan County, Colo.	Depleted, leases expired, plugged, and abandoned.	
CI78-440, A, Feb. 15, 1978	Napeco Inc., 122 South Michigan Ave., Chicago, Ill. 60603.	Natural Gas Pipeline Co. of America, Morton No. A-1 well, Palo Pinto County, Tex.	(1)	14.65
CI78-441, A, Feb. 14, 1978	Phillips Petroleum Co., 5 C4 Phillips Bldg., Bartlesville, Okla. 74004.	El Paso Natural Gas Co., Hugoton-Anadarko area, Moore County, Tex.	(1)	14.73
CI78-442, A, Feb. 14, 1978	Mesa Petroleum Co., P.O. Box 2009, Amarillo, Tex. 79105.	Natural Gas Pipeline Co. of America, White City Penn field, Eddy County, N. Mex.	(1)	14.65
CI78-443 (G-9544) (G-17363), B, Feb. 7, 1978.	Terra Resources, Inc., 5416 South Yale Ave., Tulsa, Okla. 74135.	Tennessee Gas Pipeline Co., North Tidenhaven field, Matagorda County, Tex.	Ceased production, lease expired and well being sold for salvage.	
CI78-444, A, Feb. 14, 1978	Terra Resources, Inc	El Paso Natural Gas Co., Langlie-Mattix field, Lea County, N. Mex.	(1)	14.73

Docket No. and Date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
C178-445, A, Feb. 14, 1978.....	Amoco Production Co., P.O. Box 3092, Houston, Tex. 77001.	Natural Gas Pipeline Co of America, White City Penn field, Eddy County, N. Mex.	(⁴)	14.65
C178-446, A, Feb. 15, 1978.....	Amoco Production Co., (successor in interest to Westland Oil Development Corp.), Security Life Bldg., Denver, Colo. 80202.	Colorado Interstate Gas Co., certain acreage in Harper County, Okla.	(⁴)	14.65
C178-447 (C164-1050), B, Feb. 14, 1978.	Tenneco Oil Co., P.O. Box 2511, Houston, Tex. 77001.	Texas Eastern Transmission Corp., Hostetter field, McMullen County, Tex.	Depleted, plugged, and abandoned.	
C178-448, A, Feb. 16, 1978.....	CNG Producing Co., 445 West Main St., Clarksburg, W. Va. 26301.	Consolidated Gas Supply Corp., F platform block 267, south half, Vermilion area, south addition, offshore Louisiana.	(¹)	14.73
C178-450, A, Feb. 17, 1978.....	Continental Oil Co., P.O. Box 2197, Houston, Tex. 77001.	El Paso Natural Gas Co., San Juan field, San Juan 29-7 Dakota unit, Rio Arriba County, N. Mex.	(¹)	14.65
C178-451, A, Feb. 16, 1978.....	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77001.	Panhandle Eastern Pipe Line Co., certain acreage located in the Fairvalley-Mississippi field, Woods County, Okla.	(¹)	14.65
C178-452, A, Feb. 16, 1978.....	Pacific-Simpco Partnership, 720 West 8th St., Los Angeles, Calif. 90051.	Pacific Alaska LNG Associates, Tyonek field, Cook Inlet area, State of Alaska.	(¹)	14.73
C178-453, A, Feb. 16, 1978.....	Pacific Lighting Gas Development Co., 720 West 8th St., Los Angeles, Calif. 90017.	Pacific Alaska LNG Associates Ivan River field, Cook Inlet area, State of Alaska and in the Lewis River field, Cook Inlet area, State of Alaska.	(⁵⁶)	14.73
C178-455, B, Feb. 15, 1978.....	O. C. Holt, Route No. 1, Box 57, Spearman, Tex. 79081.	Northern Natural Gas, North Hutchinson field N½ sec. 81, block 5-T, Hutchinson County, Tex.	Last production January 1971. Plugged and abandoned.	
C178-456, A, Feb. 16, 1978.....	Southland Royalty Co., 1000 Fort Worth Club Tower, Fort Worth, Tex. 76102.	El Paso Natural Gas Co., Casinghead gas produced from the Gallup formation from the Hillside No. 1 well, located in the NW/4 SE/4 of sec. 9, T27N, R11W, San Juan County, N. Mex.	(¹)	14.73
C178-457, A, Feb. 17, 1978.....	Farmland International Energy Co., 5416 South Yale, Tulsa, Okla. 74135.	Northwest Pipeline Corp., Stateline, Carbon County, Colo., and Sweetwater County, Wyo.	(⁵⁶)	14.73

¹ Applicant is willing to accept the applicable national rate pursuant to opinion No. 770, as amended.
² Applicant is filing under gas sales contract, dated Aug. 1, 1977, amended by amendment dated Dec. 12, 1977.
³ Applicant is filing under gas purchase contract, dated Jan. 23, 1978.
⁴ Applicant agrees to accept a permanent certificate of public convenience and necessity covering the subject sale conditioned in accordance with the Commission's opinion No. 749.
⁵ Applicant is filing under gas purchase contracted dated Jan. 1, 1978.
⁶ Applicant is filing under gas sales contract, dated Oct. 31, 1957.
⁷ Applicant is filing under gas sale and purchase agreement dated Aug. 17, 1977.
⁸ Applicant is filing under gas sale and purchase agreements dated Aug. 30, and Nov. 25, 1977.
⁹ Applicant and purchaser are affiliated.
¹⁰ Applicant is filing under gas purchase contract, dated Aug. 28, 1977.

Filing code:
A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

[FR Doc. 78-6007 Filed 3-8-78; 8:45 am]

[6740-02]

[Docket No. CP78-198]

COLORADO INTERSTATE GAS CO.

Notice of Application

MARCH 2, 1978.

Take notice that on February 22, 1978, Colorado Interstate Gas Co. (applicant), P.O. Box 1087, Colorado Springs, Colo. 80944, filed in Docket No. CP78-198 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale to, and exchange of natural gas with, Montana-Dakota Utilities Co. (MDU), all as more fully set forth in the application on file with the Commission and open to public inspection.

It is indicated that applicant and MDU have entered into a gas purchase and exchange agreement dated January 6, 1978, for an initial term ending September 30, 1979, and continuing thereafter until terminated by either party. It is further indicated that pursuant to the subject agreement, applicant would deliver certain volumes of gas in the Fuller Reservoir area of central Wyoming to MDU at mutually agreeable points on MDU's pipelines in or near the Fuller Reservoir area. It is stated that the initial delivery point would be in or near Fremont County, Wyo., and that initial deliveries by applicant to MDU are expected to average approximately 1,800 Mcf per day.

The application states that MDU would have an option to purchase up to 100 percent of the volumes delivered by applicant to MDU through September 30, 1979, and that thereafter, MDU may elect to purchase up to 25 percent of the volumes received. It is indicated that thermally equivalent volumes would be redelivered to applicant at the following locations:

A. A point to be established by the parties in or near the Madden field in Fremont County, Wyo., where MDU would deliver or cause to be delivered to applicant all or portions of the quantities of gas owing to applicant.

B. A point to be established on MDU's pipeline within a processing plantsite operated by Amoco Production Co., Inc., located in the Elk basin field, Park County, Wyo., where MDU would deliver or cause to be delivered to applicant all or portions of the quantities of gas owning to Applicant.

C. If and when necessary in order for MDU to return to applicant any remaining volumes after utilizing to the extent feasible the delivery points set forth in (A), (B) above, MDU and applicant would mutually agree upon and activate one or more additional delivery points.

Applicant indicates that in order to effect the exchange, it would install certain minor gathering facilities to connect its gas supply in the Fuller Reservoir area to MDU's line. These facilities would be installed under applicant's current gas purchase budget authority issued in Docket No. CP77-615 or a subsequent budget authorization, it is said. Applicant states that it would provide a tap and side valve on its pipeline in order to receive the gas delivered by applicant. It is indicated that MDU would install any facilities required pursuant to gas purchase budget authority.

It is stated that MDU would reimburse applicant at the same average price paid by applicant for the Fuller Reservoir gas plus a reimbursement for any gathering, compression, dehydration, and necessary treating occuring upstream from the point of delivery to MDU. Applicant indicates that gathering is the only cost element that is applicable at this time since compression, dehydration, or gas treatment is not currently required. It is indicated that this gathering charge would initially be 10 cents per Mcf, and that in addition, MDU would reimburse applicant for the carrying cost attributable to its portion of the advance payments in the amount of $2 million made by applicant to the producers of the gas in the Fuller Reservoir area. It is agreed by the parties that the initial reimbursements for the carrying costs of the advance payments would be 49 cents per Mcf, it is said. Applicant indicates that it would initially pay MDU 2 cents per Mcf as a transportation charge for all gas redelivered by MDU to applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 27, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6120 Filed 3-8-78; 8:45 am]

[6740-02]

[Docket No. CP78-58]

COLUMBIA GULF TRANSMISSION CO.

Notice of Proposed Changes in FERC Gas Tariff

MARCH 2, 1978.

Take notice that on February 6, 1978, Columbia Gulf Transmission Co. (Columbia Gulf) tendered for filing the following proposed changes in its FERC gas tariffs, to be effective January 27, 1978:

ORIGINAL VOLUME NO. 1

First Revised Sheet No. 4C Superseding Original Sheet No. 4C.

ORIGINAL VOLUME NO. 2

First revised sheet No. 4E superseding original sheet No. 1E.

Second revised sheet Nos. 80, 81, and 89 superseding first revised sheet Nos. 80, 81, and 89.

Original sheet Nos. 563 through 580.

These sheets reflect rate schedule X-46, a transportation agreement between Columbia Gulf and Consolidated Gas Supply Corp. and revisions to existing rate schedule X-10. This transportation agreement and revisions were authorized by Commission order issued January 26, 1978, in Docket No. CP78-58.

A copy of this filing was served on Consolidated Gas Supply Corp.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6121 Filed 3-8-78; 8:45 am]

[6740-02]

[Docket No. ER78-226]

CONSUMERS POWER CO.

Notice of Filing

MARCH 2, 1978.

Take notice that on February 23, 1978, Consumers Power Co. tendered for filing a data acquisition system facilities agreement between Consumers Power Co. and the Northern Michigan Electric Cooperative, Inc., and Wolverine Electric Cooperative, Inc. Consumers Power states that the two cooperatives, and others, are members of the Michigan Municipals and Cooperatives Power Pool ("MMCPP").

Consumers Power states that the agreement provides for sharing ownership and the costs of purchasing, installing, operating, and maintaining certain data acquisition facilities to be acquired by the parties. Consumers Power states that the agreement does not otherwise affect the rates, charges, or other conditions of service relating to the interchange of electric energy between Consumers Power and the MMCPP.

Consumers Power requests waiver of the Commission's notice requirements to allow for an effective date of November 2, 1977. Consumers Power states that copies of the filing were served on Northern Michigan Electric Cooperative, Inc., Wolverine Electric Cooperative, Inc., and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said data acquisition system facilities agreement should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed by or

before March 13, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any

limited to trout fishing in the reservoir and hiking. Recreational facilities planned for the proposed project include the installation of a mooring buoy to provide anchorage for up to

FERC takes action in this proceeding in accordance with the above-mentioned authorities.

KENNETH F. PLUMB,

said application should file on or before March 24, 1978, with the Federal Energy Regulatory Commission, 825

from fuel unavailibility, governmental actions, or widespread disasters making it necessary for the deficient

shall file, within thirty (30) days of the issuance of this order, the cost support required under the Commis-

before March 13, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of said agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6122 Filed 3-8-78; 8:45 am]

[6740-02]

[Project No. 2818]

CITY AND BOROUGH OF SITKA, ALASKA

Application for Major License for Unconstructed Project

MARCH 1, 1978.

Public notice is hereby given that an application was filed on September 19, 1977, under the Federal Power Act, 16 U.S.C. §§ 791a-825r, by the city and borough of Sitka, Alaska (correspondence to: Mr. Fermin Gutierrez, Administrator, City and Borough of Sitka, P.O. Box 79, Sitka, Alaska 99835) for a major license for the unconstructed Green Lake project No. 2818, to be located on the Vodopad River in the borough of Sitka, Alaska. The project would affect lands of the United States within the Tongass National Forest.

As Proposed, the Geen Lake project would have an installed capacity of 16,500 kW and would consist of: (1) A double-curvature, concrete arch dam, 230 feet high and 460 feet long at its crest, located 80 feet downstream from the mouth of the existing Green Lake, and having a centrally located, 100-foot wide, uncontrolled ogee spillway; (2) Green Lake Reservoir, with a surface area of 1,000 acres and usable storage of 74,000 acre-feet at normal reservoir elevation of 390 feet (local datum); (3) a 1,900-foot long power tunnel, varying in diameter from 8 to 10.6 feet, leading from the dam to the powerhouse where it would bifurcate into a manifold of two 5.6-foot diameter steel-lined sections; (4) an indoor-type concrete powerhouse containing two generating units of 8,250 kW each and located on Silver Bay, approximately 350 feet north of the mouth of the Vodopad River; (5) a substation over the powerhouse tailrace; (6) a 9-mile long 69-kV wood pole transmission line connecting the project substation to the Blue Lake substation; and (7) appurtenant facilities.

The estimated total cost of the Green Lake project is $41,895,000. The power generated at the project would be distributed throughout applicant's system to meet its load requirements.

The use of project lands and waters for recreational purposes would be limited to trout fishing in the reservoir and hiking. Recreational facilities planned for the proposed project include the installation of a mooring buoy to provide anchorage for up to two moderate-sized pleasure craft and rehabilitation of an existing hiking trail leading from a point near the mooring buoy on Silver Bay to Green Lake.

Any person desiring to be heard or to make protests with reference to said application should, on or before May 12, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR § 1.8 or § 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

The application is on file with the Commission and is available for public inspection.

The public should take further notice that on October 1, 1977, pursuant to the provisions of the Department of Energy Organization (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the Federal Power Commission on the date the DOE Act takes effect shall not be affected, and the orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued, and further actions shall be taken by the appropriate component of DOE now responsible for the functions under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary of energy and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above-mentioned authorities.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6123 Filed 3-8-78; 8:45 am]

[6740-02]

[Docket No. EL 78-10]

DELMARVA POWER & LIGHT CO., ET AL.

Notice of Application

MARCH 2, 1978.

Take notice that on February 23, 1978, Delmarva Power & Light Co. (Delmarva-Delaware) and its two wholly owned utility subsidiaries, Delmarva Power & Light Co. of Maryland (Delmarva-Maryland) and Delmarva Power & Light Co. of Virginia (Delmarva-Virginia), filed a joint application for an order of the Federal Energy Regulatory Commission under section 203 of the Federal Power Act authorizing the merger of all of Delmarva-Maryland's and Delmarva-Virginia's facilities subject to the jurisdiction of the Commission with all of the facilities of Delmarva-Delaware subject to the jurisdiction of the Commission.

Delmarva-Delaware is a public utility incorporated under the laws of the State of Delaware engaged in the generation, transmission, and distribution of electricity in the State of Delaware.

Delmarva-Maryland is a public utility incorporated under the laws of the State of Maryland and is engaged in the transmission and distribution of electricity in the nine counties comprising the "Eastern Shore" of Maryland.

Delmarva-Virginia is a public utility incorporated under the laws of the Commonwealth of Virginia and is engaged in the transmission and distribution of electricity in the two counties comprising the "Eastern Shore" of Virginia. The three applicants presently operate their electric properties as an integrated system in contiguous service territories.

Applicants allege that it is in the public interest that the three companies be merged in order to simplify the existing corporate structure. Applicants state that ownership of the facilities by one company is a logical step, that it will decrease the number of separate directors' meetings, reports, securities issuances, and rate proceedings, and that it will eliminate intrasystem inventory transactions. The application states that consumers served by applicants will benefit from applicants' resulting increased capacity to minimize the effects of increasing operating costs.

Any person desiring to be heard or to make any protest with reference to

said application should file on or before March 24, 1978, with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in the hearing therein must file a petition to intervene in accordance with the Commission's rules. Copies of the application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6124 Filed 3-8-78; 8:45 am]

[6740-02]

[Docket No. ER78-229]

INDIANA AND MICHIGAN ELECTRIC CO.

Order Conditionally Accepting for Filing and Suspending Proposed Rate Schedule and Waiving Regulations

MARCH 1, 1978.

On February 24, 1978, American Electric Power Service Corp. (AEP) tendered for filing, on behalf of its affiliate, Indiana and Michigan Electric Co. (I&M), an amendment to an existing Interconnection Agreement between I&M and Illinois Power Co. (Illinois).[1] The proposed amendment includes a new Schedule H "Conservation Energy" which provides for the transfer of energy between I&M and Illinois in the event of an energy emergency and further provides for certain third party transactions involving systems interconnected with I&M or Illinois.

According to AEP, the protracted coal miners' work stoppage has adversely affected the supply of coal to the parties and thus necessitated the instant filing. AEP indicates that it may be necessary to resort to conservation transactions in the near future and therefore requests waiver of the Commission's notice requirements pursuant to section 35.11 of the Regulations, so as to permit the filing to become effective as of February 22, 1978.

The proposed service schedule provides for the delivery of conservation energy for periods of one or more weeks for the purpose of meeting any energy shortage which may result from fuel unavailibility, governmental actions, or widespread disasters making it necessary for the deficient system to conserve energy resources over an extended period of time. The agreement enables the parties to determine the number of megawatts per hour to be supplied, the period of supply, the estimated cost, and the source of supply if the supplying party is, in turn, obtaining it from another system, or the ultimate destination if a party is arranging for supply for another system. Unless extended by mutual agreement, the service schedule is to remain in effect until February 22, 1979.

The proposed rates for conservation energy consist of 110 percent of out-of-pocket replacement cost plus 5.0 mills per kWh. In the case of third party transactions, the rate constitutes the cost to the supplying party and any out-of-pocket costs of transmission losses plus 1.7 mills per kWh.

AEP asserts that various uncertainties concerning potential transfers under the proposed service schedule prevented the submittal of estimates of the transactions or resulting revenues as required by section 35.13(b) of the Commission's Regulations. As a result, AEP requests waiver of the provisions of that Section. AEP submitted certain cost support for I&M, but none was included for Illinois. Under the circumstances, good cause has been shown to grant the requested waiver of the Commission's filing requirements in order to allow the proposed amendment to be accepted for filing. However, we shall condition our acceptance of the filing upon the requirement that AEP submit complete cost support for Illinois as well as additional cost support for I&M, in accordance with the Regulations, within thirty (30) days from the date of issuance of this order.

A review of AEP's submittal indicates that the filing has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful.

The Commission finds: (1) Good cause exists to conditionally accept for filing the amended service agreement tendered by AEP on February 24, 1978, and to suspend the proposed rates contained therein, and defer the use thereof, as hereinafter ordered.

(2) Good cause exists to waive the notice and filing provisions of the Commission's Regulations.

The Commission orders: (A) The proposed amended service agreement filed by AEP on February 24, 1978, and identified above, is hereby conditionally accepted for filing as of February 22, 1978, suspended, and the use thereof deferred until February 23, 1978, when it shall become effective subject to refund; provided that AEP shall file, within thirty (30) days of the issuance of this order, the cost support required under the Commission's Regulations.

(B) Upon the filing of the cost support data described above, the Commission shall further evaluate the filing and shall set a date for a public hearing, should such procedure be appropriate.

(C) the requirement for notice contained in Section 35.3 of the Commission's Rules and Regulations is hereby waived. The filing requirements not yet complied with are hereby conditionally waived, as described in Paragraph (A) above.

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6125 Filed 3-8-78; 8:45 am]

[6740-02]

[Docket No. ER78-227]

IOWA-ILLINOIS GAS AND ELECTRIC CO.

Filing of Facilities Operating Agreement

MARCH 2, 1978.

Take notice that Iowa-Illinois Gas and Electric Co. (Company) on February 23, 1978, tendered for filing an Operating Agreement, Neal 3 Transmission (Agreement), between Company, Iowa Power and Light Co. (Iowa Power), Iowa Public Service Co. (Public Service), and Iowa Southern Utilities Co. (Iowa Southern), dated January 2, 1978.

Company requests waiver of the notice requirements so as to permit an effective date of April 1, 1978, rather than a date related to completion of facilities. The other parties concur in this request in their respective Certificates of Concurrence included in the filing. While the Agreement provides for the operation between the parties of the facilities, now being constructed such that their respective shares of Neal Unit 3 capacity will be transmitted to their respective load centers, the Agreement also provides the mechanics for potential assignment of capacity schedules in the Neal 3 Transmission facilities. Company states the proposed effective date will expedite consummation of completed facilities arrangements between the parties and others, as well as the transmission of power and energy over such other facilities, and these facilities, involving a variety of generation sources and destinations necessary to service load centers. It is stated that certain of these contemplated arrangements depend upon early assurances of transmission capacity paths, the mechanism for which is established in this Agreement.

[1] This Modification No. 10, dated February 22, 1978, would amend the November 27, 1971, Interconnection Agreement designated as I&M Rate Schedule FPC No. 28.

Company states copies of the filing have been mailed to each of the other parties to the Agreement and to the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 24, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of said agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6126 Filed 3-8-78; 8:45 am]

[6740-02]

[Docket No. ER78-228]

KANSAS POWER & LIGHT CO.

Filing of Rate Schedule

MARCH 2, 1978.

Take notice that Kansas Power & Light Co. (KPL) on February 23, 1978, tendered for filing a Rate Schedule for Interchange Service between KPL and Kansas Gas and Electric Co. (KGE).

KPL requests that the Rate Schedule be made effective as of February 1, 1978, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon KGE and the Kansas Corporation Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 24, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of said agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6127 Filed 3-8-78; 8:45 am]

[6740-02]

[Docket No. ER78-230]

KANSAS POWER & LIGHT CO.

Filing of Rate Schedule

MARCH 2, 1978.

Take notice that Kansas Power & Light Co. (KPL) on February 23, 1978, tendered for filing a Rate Schedule for Interchange Service between KPL and Kansas Gas and Electric Co. (KGE).

KPL requests that the Rate Schedule be made effective as of February 1, 1978, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon KGE and the Kansas Corporation Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 24, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of said agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6128 Filed 3-8-78; 8:45 am]

[6740-02]

[Docket No. ER78-231]

KANSAS POWER & LIGHT CO.

Filing of Rate Schedule

MARCH 2, 1978.

Take notice that Kansas Power & Light Co. (KPL) on February 23, 1978, tendered for filing a Rate Schedule for Interchange Service between KPL and Kansas Gas and Electric Co. (KGE).

KPL requests that the Rate Schedule be made effective as of February 1, 1978, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon KGE and the Kansas Corporation Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 24, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of said agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6129 Filed 3-8-78; 8:45 am]

[6740-02]

[Docket No. ER78-232]

KANSAS POWER & LIGHT CO.

Filing of Rate Schedule

MARCH 2, 1978.

Take notice that Kansas Power & Light Co. (KPL) on February 23, 1978, tendered for filing a Rate Schedule for Interchange Service between KPL and Kansas Gas and Electric Co. (KGE).

KPL requests that the Rate Schedule be made effective as of February 1, 1978, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon KGE and the Kansas Corporation Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 24, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of said agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6130 Filed 3-8-78; 8:45 am]

Company states copies of the filing have been mailed to each of the other parties to the Agreement and to the Iowa State Commerce Commission.

Company states the parties, by separate agreements, have provided for the construction of Neal Unit 3 of the George Neal Generating Station near Sioux City, Iowa, and for the construction of certain 345-kV facilities (Neal 3 Transmission) extending from Raun Substation near Neal Unit 3 easterly to near Lehigh, Webster County, Iowa, and southerly to Sycamore Substation near Des Moines, Iowa.

Relating to the interconnected and coordinated operation of Neal 3 Transmission, Company states the Agreement provides for the facilities each is to provide; for the points of interconnection between the systems of the parties; for the determination and establishment of Capacity Schedules in a line Section, and for assignment of such Capacity Schedules by a party to another party or non-party including the associated rights, obligations, and charges; for the operations, objectives, and priorities of scheduling; for the establishment of an Operating Committee; and for matters of removals, outages, maintenance and repair, metering, losses, and records.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 20, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6126 Filed 3-8-78; 8:45 am]

[6740-02]

[Docket No. RP77-58]

MID LOUISIANA GAS CO.

Certification of Proposed Settlement Agreement

MARCH 2, 1978.

Take notice that on January 25, 1978, Presiding Administrative Law Judge Raymond M. Zimmet certified to the Commission for consideration and disposition a proposed Stipulation and Agreement and a motion for approval thereof. Mid Louisiana Gas Co. states that the proposed stipulation and agreement, if approved, would resolve all issues in this rate proceeding.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before March 20, 1978. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6127 Filed 3-8-78; 8:45 am]

[6740-02]

[Docket No. CP78-201]

NORTHERN NATURAL GAS CO.

Notice of Application

MARCH 2, 1978.

Take notice that on February 24, 1978, Northern Natural Gas Co. (Applicant), 2223 Dodge Street, Omaha Nebr. 68102, filed in Docket No. CP78-201 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to continue the sale of natural gas to Northern State Power Co. (NSP) for resale to National Can Co. (National Can) all as more fully set forth in the application on file with the Commission and open to public inspection.

It is indicated that pursuant to the Federal Power Commission's order of May 30, 1973, in Docket No. RP71-107, Applicant was authorized to list in the directory of communities served those large volumes customers who were receiving firm service as on October 2, 1972. It is stated that MSP has informed Applicant that the firm gas meter serving National Can located in St. Paul, Minn., has not been registering accurately during the wintertime since at least the summer of 1972. It is further stated that National Can has been provided service according to NSP's General Service Rate, receiving firm service from the contract demand assigned to St. Paul. However, had the meter been registering accurately, NSP would have listed this customer as a large volume customer receiving firm service at that time, it is said. Applicant indicates that it is now filing this application to correct this error.

Applicant states that upon Commission approval to add this large volume firm service customer to the directory of communities served, NSP's contract demand assigned to St. Paul would be reduced by 199 Mcf and such volumes would be assigned to National Can. Thus, NSP would supply National Can up to 199 Mcf of natural gas per day on a firm basis and 250 Mcf of natural gas per day on an interruptible basis, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 27, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6128 filed 3-8-78; 8:45 am]

[6740-02]

[Docket No. ER78-228]

PUBLIC SERVICE CO. OF INDIANA, INC.

Notice of Proposed Tariff Change

MARCH 2, 1978.

Take notice that Public Service Co. of Indiana, Inc. (Company), on February 24, 1978, tendered for filing an interconnection agreement between Public Service Co. of Indiana, Inc., and the City of Crawfordsville, Ind., proposed to become effective May 1, 1978.

Company indicates that said interconnection agreement cancels and replaces the interconnection agreement dated March 6, 1968, between the City of Crawfordsville, Ind., and Public Service Co. of Indiana, Inc., which has been designated as Rate Schedule FERC No. 211.

According to Company, copies of the filing were served upon the City of Crawfordsville, Ind., and the Public Service Co. of Indiana.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or before March 24, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filing are available for public inspection at the Federal Energy Regulatory Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6129 Filed 3-8-78; 8:45 am]

[6740-02]

[Docket No. CP72-118]

SEA ROBIN PIPELINE CO.

Filing of Revised Tariff Sheets

MARCH 2, 1978.

Take notice that on February 6, 1978, Sea Robin Pipeline Co. (Sea Robin) tendered for filing with the Federal Energy Regulatory Commission (Commission) First Revised Sheet Nos. 59 and 62 and Second Revised Sheet No. 63 to its FERC Gas Tariff, Original Volume No. 2. Sea Robin states that the purpose of these tariff sheets is to revise its Rate Schedule X-4, being a transportation agreement with Tennessee Gas Pipeline Co. to reduce the contract demand from 35,000 Mcf per day to 15,000 Mcf per day as authorized by Commission's order issued January 9, 1978. Sea Robin requests that these sheets be made effective on January 9, 1978.

Sea Robin states that copies of these tariff sheets have been mailed to Tennessee Gas Pipeline Co.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6130 Filed 3-8-78; 8:45 am]

[6740-02]

[Docket No. CP70-7 (Phase II)]

SOUTHERN NATURAL GAS CO.

Notice of Petition To Amend

MARCH 1, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above-mentioned authorities.

Take notice that on February 21, 1978, Southern Natural Gas Co. (Petitioner), P.O. Box 2563, Birmingham, Ala. 35202, filed in Docket No. CP70-7 a petition to amend the order of October 29, 1969 (42 FPC 944) issued by the Federal Power Commission (FPC) in the instant docket pursuant to section 7(c) of the Natural Gas Act so as to permit Petitioner to change the applicable rate schedule under which it sells gas to The Utilities Board of the Town of Livingston, Ala. (Livingston), from Rate Schedule OCD-2 to Rate Schedule G-2, all as more fully set forth in the petition on file with the Commission and open to public inspection.

It is indicated that pursuant to the FPC order of October 29, 1969, Petitioner was authorized, inter alia, to sell and deliver to Livingston, a contract demand of 4,440 Mcf per day, and that Petitioner is currently rendering this service to Livingston under its OCD-2 Rate Schedule. It is stated that service pursuant to this rate schedule is provided for by the First Revised Exhibit A to the service agreement between Petitioner and Livingston dated September 8, 1969, which was approved by the FPC on November 4, 1969.

It is indicated that pursuant to section 14.2 of the general terms and conditions of Petitioner's FPC gas tariff, Livingston has requested that Petitioner amend said Exhibit A to its service agreement to change the applicable rate schedule from OCD-2 to G-2. Such modification would not change the maximum amount of gas Petitioner would be obligated to deliver to Livingston, it is said. The petition states that approval of the proposed Second Revised Exhibit A would allow Livingston to purchase gas under Petitioner's G-2 Rate Schedule which would result in a reduction of its purchased gas cost.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 24, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6131 Filed 3-8-78; 8:45 am]

[6740-02]

[Docket No. CP78-197]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

Notice of Pipeline Application

MARCH 2, 1978.

Take notice that on February 22, 1978, Tennessee Gas Pipeline Co., a

Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Tex. 77001, filed an application pursuant to section 7(c) of the Natural Gas Act, as amended, and the Rules and Regulations of the Federal Energy Regulatory Commission thereunder, for a certificate of public convenience and necessity authorizing the rendition of a natural gas transportation service for Columbia Gas Transmission Corp. (Columbia), Natural Gas Pipeline Co. of America (Natural), Norther Natural Gas Co. (Northern), and Southern Natural Gas Co. (Southern).

Tennessee requests authorization to receive from Columbia Gulf Transmission Co. (Columbia Gulf), Natural, Northern, and Southern daily volumes of natural gas produced from East Cameron Block 34, offshore Louisiana (EC 34), up to 11,250 Mcf, 39,900 Mcf, 5,250 Mcf, and 3,600 Mcf, respectively, and to transport and deliver such volumes to Columbia Gulf new Chalkley, La., for the accounts of Columbia and Natural, and to Northern and Southern near Kinder, La. Tennessee proposes to charge Columbia and Natural 1¢ per Mcf, Southern 2.04¢ per Mcf, and Northern 2.14¢ per Mcf, and to retail 0.41 percent, 0.31 percent, and 0.33 percent, respectively, of the volumes received for Tennessee's fuel and use requirements.

Any person desiring to be heard or to make any protest with reference to said application, on or before March 17, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedures (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6132 Filed 3-8-78; 8:45 am]

[6740-02]

[Docket No. CP77-651]

TRUNKLINE GAS CO.

Notice of Change in Tariff

MARCH 2, 1978.

Take notice that Trunkline Gas Co. (Trunkline) on February 8, 1978, tendered for filing Tenth Revised Sheet No. 1-D and Original Sheet Nos. 1504 through 1528 to its FERC Gas Tariff, Original Volume No. 2.

Trunkline states that such changes are made to provide a Rate Schedule T-39 for the transportation of natural gas on behalf of Amoco Production Co. (Amoco). Trunkline proposes that these sheets become effective on January 9, 1978.

A copy of this filing has been served on Amoco.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NW., Washington, D.C. 20426, in accordance with section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6133 Filed 3-8-78; 8:45 am]

[6720-02]

[Docket No. ER76-829]

WESTERN MASSACHUSETTS ELECTRIC CO.

Certification of Proposed Settlement Agreement

MARCH 2, 1978.

Take notice that on February 14, 1978, Presiding Administrative Law Judge William L. Ellis certified to the Commission a propose Settlement Agreement in Docket No. ER76-829, which purports to settle all contested issues therein. The proposed agreement includes a 10 percent reduction in the proposed rates as originally filed by Western Massachusetts Electric Co. on July 30, 1976.

Any person desiring to be heard with respect to the proposed agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. All such comments should be filed on or before March 13, 1978. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of the filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6134 Filed 3-8-78; 8:45 am]

[6740-02]

[Docket No. RP72-122 (PGA78-2)]

COLORADO INTERSTATE GAS CO.

Proposed Change in Rates Under Purchased Gas Adjustment Clause Provision

MARCH 3, 1978.

Take notice that Colorado Interstate Gas Co. (CIG), on February 24, 1978, tendered for filing proposed changes in its FERC Gas Tariff, Second Revised Volume No. 1. The proposed changes would increase the commodity rate under each of CIG's jurisdictional rate schedules by 1.30 cents per Mcf.

The filing was made to enable CIG to reflect in its rates, pursuant to section 21 of CIG's FERC Gas Tariff, Second Revised Volume No. 1, net increased purchased gas costs it will experience as the result of rate filings made by Northwest Pipeline Corp., Mountain Fuel Supply Co., McCulloch Interstate Gas Corp., and Western Transmission Corp., which are four of CIG's pipeline suppliers.

CIG respectfully requests that the instant filing be made effective on April 1, 1978.

Copies of the filing have been served upon the Company's jurisdictional customers and other interested persons, including public bodies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before March 15, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6135 Filed 3-8-78; 8:45 am]

[6740-02]

[Docket No. RP78-20]

COLUMBIA GAS TRANSMISSION CORP.

Proposed Changes in FERC Gas Tariff

MARCH 3, 1978.

Take notice that Columbia Gas Transmission Corp. (Columbia), on February 23, 1978, tendered for filing the following sheet to its FERC Gas Tariff, Original Volume No. 1, to become effective on the initial date of delivery by Columbia LNG Corp. (Columbia LNG):

Forty-first Revised Sheet No. 16

Columbia states that Forty-first Revised Sheet No. 16 is being filed pursuant to the Commission's order issued December 30, 1977, at Docket No. RP78-20, to provide for the recovery in its rates until June 1, 1978, subject to refund, a revenue deficiency attributable only to the purchase of revaporized LNG from Columbia LNG. Columbia will advise the Commission, its jurisdictional customers, and other interested parties the date of initial deliveries by Columbia LNG within 3 days after such deliveries. The initial deliveries of revaporized LNG are anticipated to commence in late March 1978.

Copies of this filing were served upon the Company's jurisdictional customers, interested state commissions, and to each of the parties set forth on the official service list in this proceeding.

Any person desiring to be heard or to protest said filing, should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before March 15, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6136 Filed 3-8-78; 8:45 am]

[6740-02]

[Docket Nos. RP77-140 and RP72-157]

CONSOLIDATED GAS SUPPLY CORP.

Proposed Changes in FERC Gas Tariff

MARCH 3, 1978.

Take notice that Consolidated Gas Supply Corp. (Consolidated) on February 22, 1978, tendered for filing Substitute Original Sheet No. 16 to its FERC Gas Tariff, Third Revised Volume No. 1. The tariff sheet is proposed to become effective, subject to refund, upon initial delivery of regasified liquefied natural gas (LNG) to Consolidated by Consolidated System LNG Co. and further subject to the Commission's agreement to approve the rates shown on Substitute Original Sheet No. 16 to coincide with the delivery of the LNG to Consolidated. Consolidated proposed that the rates shown on Substitute Original Sheet No. 16 be approved in lieu of the rates filed September 30, 1977, which were suspended until April 1, 1978.

Consolidated states that Substitute Original Sheet No. 16 was filed: (1) To reflect all changes in Consolidated's pipeline purchased gas costs that will be in effect in March 1978; (2) to comply with the Commission's order of October 31, 1977, as amended February 1, 1978, specifically ordering paragraph (C); and (3) to reflect an updated estimate of supply and requirement data.

The proposed revised rate shown on Substitute Original Sheet No. 16 reflect an annual increase of $28.5 million in revenues from the revenues that would have been generated on Original Sheet No. 16 for Sales and Storage Service.

Consolidated also tendered for filing Alternate Substitute Original Sheet No. 16 for the same effective date. The alternate sheet reflects base rates in accordance with the terms of the Stipulation and Agreement filed November 28, 1977, and now pending before the Commission.

Consolidated alternately proposed that in the event the Commission does not approve a shortened suspension period, and the LNG is delivered prior to the end of the suspension period, that it be allowed to recoup the costs of the LNG in excess of the average cost of pipeline gas included in its sales rates, by special surcharge over a 12-month period commencing June 1, 1978. Tariff sheets reflecting the special surcharge would be filed on or about May 1, 1978.

Consolidated requests a waiver of any other of the Commission's Rules and Regulations as may be required.

Copies of this filing were served upon Consolidated's jurisdictional customers, as well as interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before March 14, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6137 Filed 3-8-78; 8:45 am]

[6740-02]

[Docket Nos. CP74-149, CP78-161]

CONSOLIDATED GAS SUPPLY CORP.

Order Rejecting Settlement Agreement, Terminating Proceedings, and Instituting New Show Cause Proceedings

FEBRUARY 27, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Deaprtment of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) or 402(a)(2) of the DOE Act.

The Joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

On May 7,1974, Consolidated Gas Supply Corp. (Consolidated) filed with the Federal Power Commission (FPC)[1]

commenced on March 19, 1974 on this issue. The parties requested a recess to engage in settlement negotiations, and

that "such a result is clearly contrary to public interest." (Staff Comments, at 3.) NYSE&G, RG&E and Consoli-

in that proceeding is comprised of data no longer useful to this Commission in reaching a decision in the show

By the Commission.

KENNETH F. PLUMB,

[6740-02]

[Docket No. CP77-567]

On May 7,1974, Consolidated Gas Supply Corp. (Consolidated) filed with the Federal Power Commission (FPC)[1] a Motion by Certain Parties for Approval of Settlement.[2] The FPC issued a public notice of the filing of this motion on May 16, 1974, allowing interested parties to comment on the settlement agreement on or before June 10, 1974. The FPC Staff filed timely comments opposing the inclusion of one provision of the settlement agreement. In response to Staff's comments, several parties[3] filed comments urging the FPC to accept and approve the agreement as it was filed. Inadvertently, the settlement was not reviewed by the Federal Power Commission. By this order the Federal Energy Regulatory Commission will terminate these proceedings for the reasons set forth and institute a new show cause proceeding.

I. Procedural History

On September 18, 1970, the FPC approved a settlement agreement providing for volumetric limitations on the maximum quantities of gas which Consolidated could sell to its jurisdictional customers.[4] There was no compliance with this provision. As a result, on November 28, 1973, the FPC issued an order in Docket No. CP74-149[5] directing Consolidated to show cause why maximum annual and daily volumetric limitations should not be established for each customer on the Consolidated system for deliveries based on 1971-72 requirements. Hearings commenced on March 19, 1974 on this issue. The parties requested a recess to engage in settlement negotiations, and subsequently submitted a settlement agreement designed to resolve this issue on May 7, 1974.

II. Settlement Agreement

The settlement agreement provides that Consolidated will file a tariff sheet stating maximum daily and annual volumetric limitations for each customer, along with a provision for a penalty of $10 per Mcf in the event that a customer exceeds its specified annual limitations, as set forth in Appednix A, attached to the agreement. The maximum annual volumetric limitations were derived from calculations of each customer's requirements, based on normal weather for the number of customers estimated to be receiving natural gas on December 31, 1974. To these normal weather requirements was added an adjustment for worst weather temperatures as computed by each customer using a uniform formula developed at the settlement conferences. The resultant total represents the sum of normal and worst weather requirements.[6]

Staff filed comments in which it noted that the settlement agreement employs calendar year 1974 as the base period, in contravention of the FPC order to use 1971-72 data.[7] The data employed was comprised of projected volumes for calendar year 1974. Staff states that the use of 1974 data conflicts with "the Commission's belief that a prospective base period should not be employed." The Staff does not contend that the use of 1974 data is unadvisable, and, in conclusion, does not take issue with this portion of the settlement agreement. Staff does, however, protest the inclusion of the following language in the agreement:

> This Settlement Proposal represents a negotiated settlement, and no party hereto shall be deemed to have accepted, agreed, or consented to any theory or principal underlying, or which may be asserted to underlie, this Settlement Proposal.

Staff believes that this provision negates the entire settlement, since it has the effect of permitting the parties "to attempt to reserve * * * the right to * * * attack the imposition of volumetric limitations by the Commission in spite of the fact that such limitations may be imposed pursuant to a settlement which the parties have negotiated and signed." Staff contends that "such a result is clearly contrary to public interest." (Staff Comments, at 3.) NYSE&G, RG&E, and Consolodated opposed Staff's comments, stating that the reservation clause is not atypical of those found in most settlement agreements approved by the Commission. RG&E cites instances in which the Commission issued an order approving a settlement agreement, whereby the Commission has determined that the order is without prejudice to any claims made by the Commission, its Staff, or any parties affected by the orders in future or currently pending proceedings instituted by or against any parties to the proceedings. RG&E, NYSE&G, and Consolidated urge the Commission to allow the inclusion of this provision in the agreement, since the Commission has accepted contested settlement agreements in other proceedings subject to the same or a similar provision.

III. Commission Findings

Since the filing of this settlement agreement, when Consolodated was not experiencing curtailments on its system, Consolidated began to curtail its deliveries to certain jurisdictional customers.[8] On June 1, 1977, Consolidated ceased curtailments on its system. This unfortunately cannot serve as an indication that Consolidated may not curtail its natural gas service in the future. Since the 1976-77 winter heating season, Consolidated's market has also undergone certain changes.[9] As a result, the data before us, which is projected calendar year 1974 data, may be outdated.

We find that the settlement agreement in these proceedings is based upon data which have become unreliable by the passage of time since May 7, 1974. The Commission will reject the agreement and will also terminate Docket No. CP74-149, since the record in that proceeding is comprised of data no longer useful to this Commission in reaching a decision in the show cause proceeding.

The Federal Energy Regulatory Commission finds that it is in the public interest and in keeping with section 2.70(b)(4) of the Commission's regulations to order Consolidated to show cause why maximum daily and annual volumetric limitations should not be established for each customer on the Consolidated system, in a new proceeding to be identified as Docket No. CP78-161. If Consolidated fails to show such cause, Consolidated is hereby ordered to show what the appropriate levels for those volumetric limitations should be. In that proceeding, the parties[10] should consider the reasonableness of establishing the most recent 12-month period, as adjusted to reflect current conditions on the Consolidated system, as the base period, in lieu of calendar year 1974, for purposes of establishing maximum annual and daily volumetric limitations.

The Commission finds: (1) Docket No. CP74-149 should be terminated.

(2) It is appropriate in the administration of the Natural Gas Act that the Commission enter upon a hearing at which Consolidated Gas Supply Corp. should show cause why maximum annual and daily volumetric limitations should not be established for each customer on its system. If Consoloidate fails to show such cause, Consolidated should be required to show the appropriate level of such limitations.

The Commission orders: (A) Docket No. CP74-149 is hereby terminated.

(B) Consolidated Gas Supply Corp. is hereby ordered to show cause why maximum daily and annual volumetric limitations should not be established for each customer on the Consolidated system.

(C) An initial conference in this proceeding will be held at 9:30 a.m., March 23, 1978, at the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (see, Delegation of Authority, 18 CFR 3.5(d)) shall preside at the hearing in this proceeding, with authority to establish and change all procedural dates, and to rule on all motions (with the sole exception of petitions to intervene, motions to consolidate and sever, and motions to dismiss, as provided for in the rules of practice and procedure).

By the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 78-6138 Filed 3-8-78; 8:45 am]

[1] The "Commission" when used in the context of an action taken prior to Oct. 1, 1977, refers to the FPC; when used other wise, the reference is to the FERC.

[2] The parties seeking acceptance of the settlement agreement are the following: The East Ohio Gas Co., The Peoples Natural Gas Co., The River Gas Co., Consolidated, the Pavilion Natural Gas Co., New York State Electric & Gas Corp., Niagara Mohawk Power Corp., Woodhull Municipal Gas Co., Fillmore Gas Co., Southern Tier Gas Corp., North Penn Gas Co., New York Public Service Commission, United Natural Gas Co., Corning Natural Gas Co., Iroquois Gas Corp., and Pennsylvania, Gas Co.

[3] Parties filing comment in favor of the agreement include the Public Service Commission of West Virginia, Borg Warner Chemicals (Borg Warner Corp.), New York State Electric & Gas Corp. (NYSE&G), Rochester Gas & Electric Corp. (RG&E), and Consolidated.

[4] 44 FPC 997 (1970).

[5] 50 FPC 1960 (1973). This proceeding was consolidated with Docket No. RP73-115 by a commission order issued on Jan. 22, 1974.

[6] See Appendix B of the Settlement for the calculations submitted by the customers and the formula to be used to determine the adjustment for worst weather temperatures.

[7] 50 FPC at 1960-61.

[8] On Mar. 16, 1976, the Federal Power Commission approved a permanent curtailment plan for the Consolidated system, establishing a priority schedule similar to that contained in section 2.78 of the Commission's General Policy and Interpretations. That plan was implemented upon a data base composed of industrial requirements for the 12-month period ending Sept. 30, 1974, and residential and commercial requirements adjusted through Feb. 1, 1975. No maximum annual or daily volumetric limitations or restrictions were established by that order. (*Consolidated Gas Supply Corp.*, Docket No. RP73-115 (Curtailment Plan), Order Approving Settlement Proposal and Receiving in Evidence Late Filed Exhibit, issued on Mar. 16, 1976.) Curtailments actually began on Feb. 1, 1975, on the Consolidated system.

[9] Consolidated's Form 16, filed on June 9, 1977, at page 10, indicates that the estimated projected requirements for the 1977-78 season are less than the 1974 base period (actual) volumes.

[10] Parties intervening in Docket No. CP74-149 are hereby automatically granted intervention in Docket No. CP78-161.

[6740-02]

[Docket No. RP72-134]

EASTERN SHORE NATURAL GAS CO.

Purchased Gas Cost Adjustments to Rates and Charges

March 3, 1978.

Take notice that on February 24, 1978, Eastern Shore Natural Gas Co. (Eastern Shore) tendered for filing revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1, to be effective March 1, 1978. Eastern Shore states that these revised tariff sheets are intended to track increases in rates filed on January 27, 1978, in Docket No. RP73-3 by Transcontinental Gas Pipe Line Corp. (Transco).

Eastern Shore states that the tariff sheets contained in this filing reflect a net increase of 16.8 cents per Mcf in the community or delivery charge of Eastern Shore's CD-1, CD-E, E-1, I-1, and PS-1 rate schedules. Eastern Shore further states that this increase tracks an increase by Transco of 16.5 cents per dekatherm, consisting of an increase in the current gas cost of 8.2 cents per dekatherm and a net increase in the deferred adjustment of 8.3 cents per dekatherm to recover the balance in Transco's Unrecovered Purchased Gas Cost Account as of December 31, 1977.

Copies of this filing have been mailed to each of Eastern Shore's jurisdictional customers and to interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 78-6139 Filed 3-8-78; 8:45 am]

[6740-02]

[Docket No. CP77-567]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Amended Pipeline Application

March 3, 1978.

Take notice that on February 17, 1978, Michigan Wisconsin Pipe Line Co. (Applicant), One Woodward Avenue, Detroit, Mich. 48226, filed in Docket No. CP77-567 an Amended Application pursuant to section 7(c) of the Natural Gas Act, as amended, for a certificate of public convenience and necessity authorizing (1) the construction and operation of facilities necessary to connect to its existing offshore gathering system, gas reserves underlying South Marsh Island Area Blocks 136 and 137, offshore Louisiana (the Block 137 field), (2) the construction and operation of facilities necessary to connect to the aforementioned proposed facilities, gas reserves underlying South Marsh Island Area Block 146, offshore Louisiana, (3) the construction and operation of pipeline facilities necessary to reinforce said gathering system, and (4) the construction and operation of an interconnection between the existing pipeline systems of Michigan Wisconsin and United Gas Pipe Line Co. (United) in St. Mary Parish, La., all as more fully set forth in the application on file with the Commission and open to public inspection.

The amended application indicates that by its prior application at the instant docket filed August 15, 1977, Applicant requested authorization, among other things, to construct and operate approximately 13.5 miles of 16" O.D. pipeline which would be utilized to connect to its existing offshore gathering system, gas reserves underlying the Block 137 field. Applicant states that at the time of filing its application, four (4) development wells and two (2) exploratory wells had been drilled in the Block 137 field which demonstrated the presence of 143 Bcf of proven gas reserves in addition to 61 Bcf of potential gas reserves. Subsequent drilling activity in the Block 137 field, however, has revealed the presence of substantially more gas reserves than originally projected, and in view of these additional reserves, the operator of the field has now committed to the construction of a second platform (the "B" production platform) which will be set be set by late 1978. Moreover, since the time of the filing of the original application, Applicant states that substantial development has occurred in adjacently located South Marsh Island Block 146 which will require connecting pipeline facilities to facilitate gas production therefrom. Accordingly, the amended application indicates that its purpose is to substitute a larger diameter pipeline for the

16" O.D. pipeline previously proposed and in addition, to request authorization to construct and operate additional (1) facilities necessary to connect to

tioned pipeline and associated appurtenances is estimated by Applicant to be $22,867,440.

The application indicates that to

27, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to

said filing should on or before March 20, 1978, file with the Federal Energy Regulatory Commission, Washington,

[6740-02]

[Docket No. OR78-5 (formerly ICC Docket No. NOR 35794, *et al.*)]

or before March 22, 1978. Protest will be considered by the Commission in determining the appropriate action to

16" O.D. pipeline previously proposed and in addition, to request authorization to construct and operate additional (1) facilities necessary to connect to the aforementioned larger diameter pipeline, gas reserves which will be developed from the "B" production platform proposed to be set in the Block 137 field and (2) facilities necessary to connect the gas reserves which will be developed in Block 146.

The application indicates that as a result of active drilling and development programs in offshore Louisiana, proven reserves of approximately 185 Bcf in addition to potential reserves of 61 Bcf have been developed in the Block 137 field, and that of such proven and potential reserves, Continental Oil Co. (Conoco has agreed to sell to applicant all of the gas attributable to Conoco's one-half (½) and one-third (⅓) interest in the reserves underlying Block 136 and Block 137 respectively, pursuant to a contract which is currently being finalized. The remaining one-half (½) interest in Block 136 is committed to Texas Eastern Transmission Corp. (Texas Eastern), and the remaining two-thirds (⅔) interest in Block 137 is committed in equal portions to Texas Eastern and United. Applicant further states that proven reserves of approximately 26 Bcf in addition to 10 Bcf of potential reserves have been developed in South Marsh Island Area Block 146 of which Applicant has acquired a preferential right to purchase 38%.

Applicant states that a westerly leg of its existing offshore gathering system presently terminates in South Marsh Island Area Block 108. To connect the reserves underlying the Block 137 field, Applicant states that it proposes to construct approximately 13.5 miles of 24" O.D. pipeline interconnecting the "A" production platform for the Block 137 field and the Westerly terminus of said existing offshore gathering system in Block 108. Applicant also proposes to construct and operate approximately 1.1 miles of 12" crossover line connecting the proposed "B" production platform with the "A" production platform, to install and operate on the "A" production platform gas measurement facilities, and cause to have installed 1000 horsepower of compression. The application indicates that in accordance with a Construction and Operating Agreement between Applicant and Conoco dated July 26, 1977, the 1000 horsepower of compression, including associated appurtenances will be wholly owned by Applicant but designed, installed, and operated by Conoco on Applicant's behalf. The agreement provides that the compression is subject to Applicant's approval as to design, construction specifications, construction drawings, and equipment selections. The cost associated with the aforementioned pipeline and associated appurtenances is estimated by Applicant to be $22,867,440.

The application indicates that to connect the reserves underlying South Marsh Island Area Block 146, that Applicant is proposing to construct and operate approximately 9.2 miles of 10" pipeline which will connect the production platform in Block 146 to the aforementioned proposed 24" line connecting the Block 137 field, and install and operate on the Block 146 production platform gas measurement facilities comprising s single 4" meter run. Applicant estimates the cost attributable to the pipeline and measurement facilities to be $4,524,620.

Applicant states that there presently are no existing interconnections between the pipeline systems of United and Applicant in which to make redeliveries of United's gas reserves from the Block 137 field. Accordingly, to effectuate redelivery of the gas transported from the Block 137 field by Applicant for United, Applicant proposes to construct a new interconnection which will be located downstream of Applicant's Patterson Compressor Station in St. Mary Parish, La., which will comprise two (2) 10" meter runs, including associated appurtenances. Applicant estimates that the cost of the interconnection will be $345,810.

The application further indicates that to effectuate onshore deliveries from the Block 137 field and other offshore area blocks, provide additional transportation service for others, and to provide flexibility in the operation of its offshore system, that it further proposes to construct and operate 29.9 miles of 30" diameter pipeline paralleling and looping an existing section of 30" pipeline, the loop to be constructed between its existing Block 188 offshore compressor station and Eugene Island Area Block 77. Incident to the construction of the loop. Applicant states that it also will construct and operate a new manifold platform in Block 77 which will facilitate making the necessary tie-in of the proposed loop with its existing offshore pipeline system. The cost attributable to the proposed loop and plaform is estimated by Applicant to be $32,111,820.

The application indicates that the facilities for which authorization is requested are estimated in total to cost $59,966,450. Applicant contemplates that the construction will be financed with treasury funds, retained earnings, and other funds generated internally, together with borrowings from banks under short-term lines of credit as may be required. Applicant further anticipates that any bank borrowings will subsequently be permanently financed as market conditions permit.

Any person desiring to be heard or to make any protest with reference to said application, on or before March 27, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petiton for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6140 Filed 3-8-78; 8:45 am]

[6740-02]

[Docket No. RP76-64 PGA No. 78-1]

MOUNTAIN FUEL SUPPLY CO.

Tariff Sheet Filing Effective April 1, 1978

MARCH 3, 1978.

Take notice that on February 15, 1978, Mountain Fuel Supply Co., pursuant to section 154.62 of the Commission's Regulations under the Natural Gas Act, filed Fifth Revised Sheet No. 3-A to its FPC Gas Tariff Original Volume No. 1. Mountain Fuel states that the filed tariff sheet relates to the Unrecovered Purchased Gas Cost Account of the Purchased Gas Adjustment provision authorized by the Commission's order issued February 27, 1976, in Docket No. RP76-64. More specifically the tariff sheet reflects a net rate increase over that currently being collected of 9.14¢/MCF (X-4) and 7.974¢/MCF (X-5) and are to be effective April 1, 1978.

Any person desiring to be heard and to make any protest with reference to said filing should on or before March 20, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 of 1.10). All protests filed with the Commission will be considered by it but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing must file petitions to intervene in accordance with the Commission's Rules. Mountain Fuel Supply Co.'s tariff filing is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6141 Filed 3-8-78; 8:45 am]

[6740-02]

[Docket No. CP77-193]

NORTHERN NATURAL GAS CO.

Notice of Certification of Proposed Settlement

MARCH 3, 1978.

Take notice that on February 17, 1978, Presiding Administrative Law Judge Michel Levant certified to the Commission a proposed Stipulation and Agreement in this matter, together with the record developed at hearing, pursuant to section 1.18(e) of the Commission's Rules of Practice and Procedure.

The agreement proposed by Northern Natural Gas Co. pursuant to section 1.18(c) and agreed to by all parties and Staff, would dispose of all issues in the proceeding. Said agreement, if approved, would permit the development by Northern Natural Gas Co. of the Cunningham Storage Field in Pratt and Kingman Counties, Kans., as more fully set forth in the record on file with the Commission and available for public inspection.

Any person desiring to be heard or to protest said Stipulation and Agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before April 3, 1978. Comments will be considered by the Commission in determining appropriate action to be taken.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6142 Filed 3-8-78; 8:45 am]

[6740-02]

[Docket No. OR78-5 (formerly ICC Docket No. NOR 35794, *et al.*)]

NORTHVILLE DOCK PIPE LINE CORP. AND CONSOLIDATED PETROLEUM TERMINAL, INC., ET AL.

Notice of Further Extension of Time

MARCH 1, 1978.

On February 24, 1978, Northville Dock Pipe Line Corp., Consolidated Petroleum Terminal, Inc., and Total Resources, Inc. (Respondents), filed with the Federal Energy Regulatory Commission (FERC) a motion to further extend the time for filing an administrative appeal from two orders issued by the Interstate Commerce Commission (ICC) on September 30, 1977. By Notices issued October 28, 1977, and December 29, 1977, extensions of time were previously granted within which to file an administrative appeal from the ICC's September 30, 1977 orders.

The instant motion states that Staff Counsel joins in the request for a further extension of time.

Upon consideration, notice is hereby given that a further extension of time is granted to and including March 29, 1978, within which to file an administrative appeal from the orders issued in the above referenced proceeding by the ICC on September 30, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6143 Filed 3-8-78; 8:45 am]

[6740-02]

[Docket No. CP77-533]

PANHANDLE EASTERN PIPE LINE CO

Notice of Change in Tariff

MARCH 3, 1978.

Take notice that Panhandle Eastern Pipe Line Co. (Panhandle) on February 6, 1978, tendered for filing First Revised Sheet Nos. 811 and 812 to its FERC Gas Tariff, Original Volume No. 2.

Panhandle states that such changes are made to revise Rate Schedule T-18 for the transportation of natural gas for Northern Natural Gas Co. (Northern). Panhandle proposes that these sheets become effective on December 1, 1977.

A copy of this filing has been served to Northern.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Section 1.9 or 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before March 22, 1978. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6144 Filed 3-8-78; 8:45 am]

[6740-02]

[Docket No. CP76-72]

PANHANDLE EASTERN PIPE LINE CO.

Motion for Approval of Stipulation and Agreement

MARCH 3, 1978.

Take notice that on February 23, 1978, Panhandle Eastern Pipe Line Co. filed a "Motion ( ) for approval of a Stipulation and Agreement" and a Stipulation and Agreement dated February 23, 1978, and jointly signed by counsel for Panhandle and Commission Staff Counsel. Presiding Administrative Law Judge Thomas L. Howe adjourned the hearings in this matter on January 10, 1978, pending Commission action on a proposed settlement agreement now herein filed.

The agreement proposed by Panhandle would dispose of all issues in this proceeding and resolve the dispute as to treatment of advance payments by interstate customers for natural gas reserves as more fully described in the record on file with the Commission and available for public inspection.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C., 20426, on or before April 10, 1978. Comments will be considered by the Commission in determining the appropriate action to be taken.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6145 Filed 3-8-78; 8:45 am]

[6740-02]

[Docket No. CI78-449]

SAMSON RESOURCES COMPANY, ET AL.

Notice of Limited-Term Certificate Application

MARCH 3, 1978.

Take notice that on February 16, 1978, Samson Resources Co. (Applicant), 2700 First Place, Tulsa, Okla. 74103, for itself and on behalf on ENI Oil & Gas Drilling Program 1976B (ENI), filed in Docket No. CI78-449, an application pursuant to section 2.70 of

the Commission's Statements of General Policy and Interpretations (18 CFR § 2.70) for a limited-term certificate of public convenience and necessity with pre-granted abandonment. Such a certificate, if granted, would authorize the sale of natural gas from Applicant's and ENI's interests in the Basal Morrow (Primrose) zone of the Vance No. 1 Well, South Cogar Field, Caddo County, Okla., and from Applicant's interest in the Upper Morrow (Puryear) zone of the Wright No. 1 Well, Northwest Reydon Field, Roger Mills County, Okla. to Michigan Wisconsin Pipeline Co. (Michigan Wisconsin) for a term of two years, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The application states the Michigan Wisconsin has agreed to purchase such gas from Applicant and ENI for a period of two years. The application further states that Michigan Wisconsin would pay Applicant and ENI a base price of $2.00 per Mcf for the first 60 days, $1.74 per Mcf thereafter until January 1, 1979, $1.77 per Mcf thereafter until January 1, 1980, and $1.80 thereafter until conclusion of the two year term, subject to adjustment for Btu content and production taxes. The application states that no gas will be sold to Michigan Wisconsin unless and until the Commission issues a limited-term certificate as requested, and the application therefore requests waiver of the thirty-day notice requirement contained in section 154.92(b) of the Commission's Regulations and expedited consideration.

Any person desiring to be heard or to make any protest with reference to said application, on or before March 20, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6146 Filed 3-8-78; 8:45 am]

[6740-02]

[Docket No. RI78-28]

BRIGHT & SCHIFF

Petition for Special Relief

MARCH 3, 1978.

Take notice that on February 6, 1978, Bright & Schiff, 2355 Stemmons Building, Dallas, Tex. 75207, filed a petition for special relief in Docket No. RI78-28 pursuant to § 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76).

Petitioner seeks authorization to charge 78 cents per Mcf for the sale of gas from the N.E. Thompsonville Field, Jim Hogg and Webb Counties, Tex., to South Texas Natural Gas Gathering Co. in consideration for the installation of compression facilities. The subject gas is currently being sold at the rate of 37.13 cents per Mcf.

Any person desiring to be heard or to make any protest with reference to said petition should on or before March 27, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commissions Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6180 Filed 3-8-78; 8:45 am]

[6740-02]

[Docket No. CP78-199]

COLORADO INTERSTATE GAS CO. AND NORTHERN NATURAL GAS CO.

Application

MARCH 3, 1978.

Take notice that on February 22, 1978, Colorado Interstate Gas Co. (CIG), P.O. Box 1087, Colorado Springs, Colo. 80944 and Northern Natural Gas Co. (Northern), 2223 Dodge Street, Omaha, Nebr. 68102, (Applicants), filed in Docket No. CP78-199 a joint application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of natural gas on a volumetric basis in the Hugoton Field in the State of Kansas, all as more fully set forth in the application on file with the Commission and open to public inspection.

It is indicated that on November 10, 1977, CIG Exploration, Inc. (CIGE), and Gas Producing Enterprises, Inc. (GPE), filed applications in Docket Nos. CI78-144 and CI78-148, respectively, for authorization to sell natural gas production from the Hugoton Field in Kearny and Finney Counties, Kans. It is further indicated that CIGE proposed to sell gas to CIG at the national area rate under a gas sales contract dated November 1, 1978, and that GPE proposed to sell gas to CIG at national rate based on a gas sales contract dated July 1, 1976. It is stated that CIG would connect the well to the existing gathering facility of Northern in the Hugoton Field and would recover the gas through an existing exchange agreement.

It was contemplated by all parties that gas purchased by CIG pursuant to authority requested by the producers in Docket Nos. CI78-144 and CI78-148 would be attached to Northern's gathering facilities for redelivery to CIG, it is said. Applicant indicates that this exchange would have been accomplished pursuant to the terms of an exchange agreement between CIG and Northern dated October 8, 1956 as amended, and that operations under this agreement have been undertaken continuously since that date. Applicant further indicates that there are currently two wells connected to CIG's gathering system. It is stated that the total annual exchange volume is currently approximately 66,500 Mcf, and that the expected production from the five wells proposed in Docket Nos. CI78-144 and CI78-148 is 209,000 Mcf in the first year and declining thereafter.

The application states that the addition of new gas supplies by both companies, and in some cases declining production from existing supply sources, has periodically shifted the resultant exchange balance from a credit to a debit for both companies. The application further states that because the exchange balance has been somewhat self-correcting, Applicants have not considered it necessary to achieve an exact arithmetic balance. If the imbalance were considered significant by either company, or if the agreement were to be terminated, Applicants would make necessary arrangements to correct the imbalance, it is asserted.

Applicants indicate that the Commission Staff notified Applicants that action on the CIGE and GPE filings would be withheld until the filing and approval of applications requesting certificate authorization of an appropriate gas exchange agreement.

Accordingly, CIG and Northern jointly request authorization herein to continue the gas exchange provided for by the October 8, 1956, agreement between the Applicants. Applicants propose to connect five additional wells contracted by CIG to Northern's gathering system, which are the five wells covered by the applications in Docket Nos. CI78-144 and CI78-148. Applicants state that facilities necessary to connect these wells would be constructed under gas purchase budget-type authorization.

Applicants anticipate there would be additional production developed in this area in the future, and, therefore, Applicants proposes herein to connect future wells, as provided in the agreement, confined to eleven counties. Applicant also proposes to remove wells from the agreement as they are abandoned by the respective producers pursuant to authority issued by the Commission.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 27, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6181 Filed 3-8-78; 8:45 am]

[6740-02]

[Docket Nos. CP77-40 and RP77-97]

EL PASO NATURAL GAS CO.

Filing of Stipulation and Agreement in Settlement of Transportation Rate Design Issue

MARCH 3, 1978.

Take notice that on November 7, 1977, El Paso Natural Gas Co. ("El Paso") filed with the Commission for its consideration a Stipulation and Agreement in settlement of a transportation rate design issue in the above captioned proceedings. The settlement, if approved, would resolve all issues concerning the rate design and rate differentials applicable to certain transportation services performed by El Paso. Such issues were reserved for separate resolution by the Commission's order issued June 16, 1977 at Docket No. RP77-97.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before March 20, 1978. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6182 Filed 3-8-78; 8:45 am]

[6740-02]

[Docket No. ER78-230]

ILLINOIS POWER CO.

Filing Modification No. 1

MARCH 3, 1978.

Take notice that on February 27, 1978, Illinois Power Co. (Illinois Power) tendered for filing proposed Modification No. 1, dated August 31, 1977, to the Interconnection Agreement dated July 25, 1975, between Western Illinois Power Cooperative and Illinois Power Co. Illinois Power indicates that this filing is made for an increase for Emergency Energy charges, Short-Term Capacity, Maintenance Power and Short-Term, Non-Firm Power reservation charges.

Illinois Power states that a copy of the filing was served upon Western Illinois Power Cooperative, Inc. and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said filing should file comments or protests with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such comments or protests should be filed on or before March 20, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6183 Filed 3-8-78; 8:45 am]

[6740-02]

[Docket No. ER76-211]

MOUNT CARMEL PUBLIC UTILITY CO.[1]

Presiding Judge's Certification of Settlement Agreement to the Commission; Correction

MARCH 3, 1978.

Take notice that the Docket Number in the above-captioned proceeding should read ER77-211. (Issued February 3, 1978).

KENNETH F. PLUMB,
SECRETARY.

[6740-02]

[Docket No. CP78-202]

NORTHWEST PIPELINE CORP.

Application

MARCH 3, 1978.

Take notice that on February 24, 1978, Northwest Pipeline Corp. (applicant), 315 East Second South, Salt Lake City, Utah 84111, filed in Docket No. CP78-202 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportion of up to 5,000 Mcf of natural

[1] This proceeding was first published on March 1, 1978, 43 FR 8288.

gas per day for Colorado Interstate Gas Co. (CIG), all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that CIG has under contract or otherwise owns or controls certain natural gas reserves in the Shute Creek area of Lincoln County, Wyo., which is a distance from its existing transmission system, and that in order to make such gas reserves available to CIG, CIG, and applicant have entered into an agreement dated December 28, 1977, which contemplates that applicant would perform certain gathering and transportation services for the benefit of CIG. It is indicated that pursuant to the December 28, 1977, agreement, applicant would construct the necessary facilities to connect two wells, the Shute Creek 31-23-112 and the Shute Creek 30-23-112 to applicant's 30-inch Opal plant lateral. Applicant proposes to gather and transport the volumes of gas so delivered by CIG from the wells and would redeliver equivalent volumes subject to applicant's option to purchase 25 percent of the gas so gathered for delivery, to an existing point of interconnection between the facilities of applicant and CIG in Sweetwater County, Wyo. Applicant indicates that it would construct the necessary facilities to connect the two wells pursuant to the budget-type certificate authorization issued it in Docket No. CP77-507.

Applicant states that it would provide a wellhead gathering service for CIG of up to 5,000 Mcf per day, which may be available from the subject acreage. The volumes of natural gas to be gathered by applicant for CIG would be transported through 7.20 miles of 8⅝-inch pipeline to be constructed by applicant to applicant's 30-inch Opal plant lateral, processed at applicant's Opal gasoline plant, transported to applicant's mainline system and then redelivered to CIG at an existing point of interconnection located in Sweetwater County, Wyo., it is stated. Applicant states that the volumes of natural gas redelivered to CIG at the existing point of interconnection would be equivalent to 75 percent of the volumes received by applicant at the wellhead less CIG's proportional share of fuel, shrinkage, and loss of heat value due to processing the volumes of gas through applicant's Opal gasoline plant.

Applicant states that it would reimburse CIG 100 percent of the net revenues attributable to the liquid products extracted by applicant's Opal gasoline plant less applicant's actual cost-of-service incurred in the extraction process. The volumes of gas to be gathered and transported would be balanced on a Btu basis and such balancing would, to the extent possible, be achieved monthly, it is said. Applicant indicates that initially, the total volumes of gas to be delivered by CIG to applicant would be approximately 1,500 Mcf per day of which applicant would purchase 25 percent or approximately 375 Mcf per day.

The application states that in consideration for the gathering and transportation service proposed herein and pursuant to the agreement, applicant has the right to purchase up to 25 percent of the gas so delivered to applicant by CIG. The application further states that applicant's purchase from CIG would be at the same price paid by CIG in the Shute Creek area of Lincoln County, Wyo.

It is indicated that applicant proposes to charge CIG for the gathering and transportation as proposed herein a two-part rate as follows:

(1) A gathering rate based on applicant's cost-of-service attributable to gathering CIG's gas and delivering such gas to the point of interconnection with applicant's Opal plant lateral. The initial rate which applicant would charge CIG for the gathering service proposed herein would be 15.90 cents per Mcf; and

(2) A transportation rate of 2.5 cents per Mcf for all gas transported by applicant for CIG's account from the point of delivery into applicant's Opal plant lateral line to the point of interconnection of such line with applicant's mainline and then, by displacement, to applicant's existing mainline delivery point to CIG.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 27, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6184 Filed 3-8-78; 8:45 am]

[6740-02]

[Docket No. CP78-204]

NORTHWEST PIPELINE CORP.

Application

MARCH 3, 1978.

Take notice that on February 24, 1978, Northwest Pipeline Corp. (applicant), 315 East Second South, Salt Lake City, Utah 84111, filed in Docket No. CP78-204 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 5,000 Mcf of natural gas per day for Colorado Interstate Gas Co. (CIG), all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that CIG has acquired a supply of gas in the Lincoln Road unit of Sweetwater County, Wyo., which it desires to have gathered and transported to its existing transmission system, and that in order to accomplish the desired gathering and transportation of CIG's gas, applicant and CIG have entered into a gas gathering and transportation agreement dated December 29, 1977. The application further states that CIG would deliver up to 5,000 Mcf of natural gas per day at wells connected, or proposed to be connected, to applicant's Lincoln Road gathering system. It is stated that applicant has the option to purchase up to 25 percent of the volumes of gas delivered by CIG to applicant. Applicant proposes to transport the remaining volumes of gas delivered by CIG to applicant through applicant's Lincoln Road gathering system and Opal plant lateral line, and processed at applicant's Opal gasoline plant. Applicant states that it would further transport the gas to the point of interconnection of applicant's Opal lateral line with applicant's mainline in Lincoln County, Wyo., and that it would, finally, transport the gas either directly or by displacement from that point to applicant's existing delivery point to CIG in Sweetwater County, Wyo. At the delivery point to CIG, applicant would redeliver volumes of gas to CIG which are thermally equivalent to the volumes delivered by CIG to Applicant for transportation reduced by CIG's pro rata share of compressor fuel used in the transportation and further reduced by the fuel, shrinkage, and loss of heating value attributable to processing CIG's gas at the Opal gasoline plant, it is said.

It is stated that applicant would pay CIG for 100 percent of the net revenues attributable to the sale of extraction products resulting from the processing of CIG's gas, less applicant's actual cost-of-service for such processing. It is further stated that the volumes of gas delivered by CIG to Applicant and subsequently redelivered to CIG would, to the extent possible, be balanced monthly on a heating value basis.

Applicant indicates that initally, 540 Mcf of natural gas per day would be delivered by CIG to applicant, of which 25 percent or approximately 135 Mcf per day would be purchased by applicant and 75 percent or approximately 405 Mcf per day would be transported by applicant for CIG's account.

It is stated that the price to be paid by applicant for the volumes of gas purchased from CIG would be equal to the price paid by CIG for such gas, including taxes and other permissible adjustments. It is further stated that for the transportation of CIG's gas, applicant would charge CIG a two-part rate as follows:

(1) A gathering rate based on applicant's cost-of-service attributable to gathering CIG's gas and delivering such gas to the point of interconnection with applicant's Opal plant lateral line. The initial rate which applicant would charge CIG for the proposed gathering service would be 7.81 cents per Mcf; and

(2) A transportation rate of 2.5 cents per Mcf for all volumes transported by applicant for CIG's account from the point of delivery to applicant's Opal plant lateral line to the point of interconnection of such line with applicant's mainline, and then, by displacement, to applicant's existing mainline delivery point to CIG.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 27, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6185 Filed 3-8-78; 8:45 am]

[6740-02]

OIL PIPELINE MATTERS

Designating New Docket Prefixes

MARCH 3, 1978.

Take notice that the Federal Energy Regulatory Commission (FERC) has adopted two new docket prefixes to be assigned to certain oil pipeline matters brought before the Oil Pipeline Board established by Order No. 3, issued February 10, 1978.

Jurisdiction over oil pipelines, as it relates to the establishment of rates or charges for the transportation of oil by pipelines or to the establishment of valuations for pipelines, was transferred from the Interstate Commerce Commission to the FERC, pursuant to sections 306 and 402 of the Department of Energy Organization Act (DOE Act), 42 U.S.C. §§ 7155 and 7172, and Executive Order No. 12009 42 FR 46267 (September 13, 1977). Section 17(2) of the Interstate Commerce Act authorizes the FERC to delegate any of its work, business, or functions to a board of employees. By Order No. 3, the FERC established such an Employee Board and by Administrative Order No. 2, issued February 23, 1978, members of the Oil Pipeline Board were designated by Commission Chairman Charles B. Curtis.

By notice issued November 16, 1977, the FERC adopted a system of docket prefixes including "PV" for oil pipeline valuation cases and "OR" for oil pipeline rate cases. The orders of the Oil Pipeline board relating to annual oil pipeline valuation will be designated by the two-letter prefix "PV," followed by the valuation docket assigned by the Interstate Commerce Commission. To supplement the system established by the November 16 notice, take further notice that the following docket prefixes are assigned:

SP—Special permission applications or other permissible waivers of rules regarding tariffs or schedules under section 6(3) of the Interstate Commerce Act, 49 U.S.C. § 6(3);

IS—Suspension and investigations into rates, fares, charges, and practices of oil pipelines pursuant to section 15 (7) of the Interstate Commerce Act, 49 U.S.C. § 15(7).

Each matter described above will carry a docket number beginning with the two-letter prefix "SP" or "IS," as appropriate, followed by the last two digits of the fiscal year in which the proceeding is initiated, and a number assigned in straight sequence beginning at "1" with the start of the fiscal year.

Take further notice that the special permission application filed in Docket No. OR78-8 on February 9, 1978, by Williams Pipe Line Co. is redesignated Docket No. SP78-1.

Should a petition for review of any matter decided by the Employee Oil Pipeline Board be filed with the Commission, the matter will continue to carry the originally assigned "SP" or "IS" docket number.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6179 Filed 3-8-78; 8:45 am]

[6740-02]

[Docket No. RI78-32]

SOUTHLAND ROYALTY CO.

Petition for Special Relief

MARCH 3, 1978.

Take notice that on February 21, 1978, Southland Royalty Co. (petitioner), 1600 First National Building, Fort Worth, Tex. 76102, filed a petition for special relief in Docket No. RI78-32 pursuant to section 2.76 of the Commission's general policy and interpretation (18 CFR 2.76).

Petitioner seeks approval to charge $2.9627 per Mcf for the sale of its gas to Panhandle Eastern Pipeline Co. from the Hofferber No. 1 well located in Texas County, Okla. This subject gas is now being sold at the current contract price of 19.8 cents per Mcf.

Petitioner states that it needs to sell its gas at the rate of $2.9627 per Mcf in order to make it feasible to workover the Hofferber No. 1 well and re-

cover the remaining 78,110 Mcf of natural gas reserves. The Hofferber No. 1 well is currently shut-in.

Any person desiring to be heard or to make any protest with reference to said petition should on or before March 27, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6186 Filed 3-8-78; 8:45 am]

[6740-02]

[Docket No. RP73-64 (PGA 78-1a)]

SOUTHERN NATURAL GAS CO.

Proposed Changes in FPC Gas Tariff

MARCH 3, 1978.

Take notice that Southern Natural Gas Co. (Southern), on February 23, 1978, tendered for filing proposed changes to its FPC Gas Tariff, Sixth Revised Volume No. 1, to become effective on January 1, 1978 and January 2, 1978. Such filing is pursuant to the Commission's Order issued December 30, 1977 in Docket No. RP73-64 (PGA 78-1a) and reflects amended rates filed by Southern's pipeline suppliers, Sea Robin Pipeline Co. and United Gas Pipeline Co., which became effective on January 1 and January 2, 1978.

Copies of the filing are being served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 15, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6187 Filed 3-8-78; 8:45 am]

[6740-02]

[Docket No. CI77-298]

TENNECO INC.

Extension of Time

MARCH 2, 1978.

On February 22, 1978, Exxon Co., U.S.A. filed a request for an extension of time within which to respond to the issues raised by Tenneco Inc. in its February 28, 1977, and March 18, 1977, pleadings filed in this proceeding, in compliance with Ordering Paragraph (C) of the Commission's Order issued February 15, 1978. The February 15 Order joined as additional parties respondent in this proceeding Exxon Co., U.S.A. and Cities Service Oil Co.

Upon consideration, notice is hereby given that an extension of time is granted to and including April 7, 1978, within which the additional parties respondent shall comply with Ordering paragraph (C) of the February 15, 1978 Order.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6188 Filed 3-8-78; 8:45 am]

[6740-02]

[Docket No. ER77-588]

WASHINGTON WATER POWER CO.

Extension of Time

MARCH 3, 1978.

On February 14, 1978, Staff Counsel filed a motion for postponement of the prehearing conference scheduled for March 17, 1978, by Commission Order issued November 17, 1977, in the above referenced proceeding. The motion states that Washington Water Power Co., Citizens Utilities Co. and the Idaho Public Utilities Commission have concurred in this request.

Upon consideration, notice is hereby given that the prehearing conference in this proceeding is postponed until March 29, 1978, at 10 a.m. The conference will be held in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6189 Filed 3-8-78; 8:45 am]

[6740-02]

[Docket No. RI78-27]

WESTERN OIL PRODUCERS, INC.

Petition for Special Relief

MARCH 3, 1978

Take notice that on January 9, 1978, Western Oil Producers, Inc., P.O. Box 1498, Roswell, N. Mex. 88201, filed a petition for special relief in Docket No. RI78-27 pursuant to section 2.76 of the Commission's general policy and interpretations (18 CFR 2.76). Petitioner seeks authorization to charge $1.42 per Mcf for the sale of gas to El Paso Natural Gas Co. in consideration for the completion of remedial work on a well located in Lea County, N. Mex.

Any person desiring to be heard or to make any protest with reference to said petition should on or before March 27, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6190 Filed 3-8-78; 8:45 am]

[3128-01]

GRANTING WAIVERS

Subsection 602(a) of the Department of Energy Organization Act (Pub. L. 95-91) prohibits supervisory employees from knowingly holding any official relation with or having any pecuniary interest in any energy concern. Pursuant to subsection 602(c) of the Act, the Secretary of Energy has granted to each of the Department employees named below a waiver of the requirements of subsection 602(a) by reason of the existence of exceptional hardship.

Waivers granted to the persons named below will expire upon termination of employment or December 31, 1979, whichever first occurs.

To minimize or eliminate any conflict of interest during the waiver period, each employee concerned has been directed to (i) disqualify himself from and take no part in any Departmental decisions particularly affecting the energy concern involved, and (ii) receive no remuneration from consulting or other advisory employment relationships.

Employee	*Energy Concern*
Clark Wesley Bullard	University of Illinois
John Mark Deutch	Massachusetts Institute of Technology
Robert John Kalter	Cornell University
William David Montgomery III.	California Institute of Technology
Roger Francis Naill	Dartmouth College

Dated: March 3, 1978.

WILLIAM S. HEFFELFINGER,
Director of Administration.

[FR Doc. 78-6098 Filed 3-8-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 865-5; OPP-42013C]

PUERTO RICO

Commonwealth Plan for Certification of Pesticide Applicators; Approval Status

Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136b), and the implementing regulations of 40 CFR Part 171, require each State desiring to certify applicators to submit a plan for such purpose, subject to approval by the Environmental Protection Agency (EPA). On November 6, 1975, the Governor of the Commonwealth of Puerto Rico submitted a Commonwealth of Puerto Rico Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides to the EPA.

A summary of the Commonwealth of Puerto Rico Plan was established in the FEDERAL REGISTER on March 10, 1976 (41 FR 10255). On April 30, 1976, the plan was approved on a contingent basis for a twelve-month period. Contingent approval was based upon the enactment of an amendment to the Puerto Rico Pesticides Act to provide for enforcement sanctions against the misuse of any pesticide, and the submission for EPA approval of implementing regulations to be promulgated by the Puerto Rico Department of Agriculture. Notice of contingent approval was published in the FEDERAL REGISTER on June 3, 1976 (41 FR 22410).

On April 18, 1977, the Puerto Rico Department of Agriculture requested an extension of contingent approval. An extension was granted on May 13, 1977, and a notice of the extension of contingent approval was published in the FEDERAL REGISTER on May 25, 1977 (42 FR 26692).

In accordance with the terms of the contingent approval, the Puerto Rico Pesticides Act was amended by Act No. 25, April 29, 1976. This amendment expanded the grounds for denying, suspending and revoking an applicator certification and authorized the assessment of penalties for the misuse of any pesticides, including but not limited to restricted use pesticides.

A regulation to implement the Puerto Rico Pesticides Act was promulgated on October 20, 1977. For the purpose of Plan approval, EPA has reviewed Part I, Terms and Definitions, Part III, Certification of Applicators of Restricted Use Pesticides, and sections 501, 504, 505, and 506 of Part V, General Provisions, of the regulation.

Having completed the review of the statutory amendment and applicable portions of the regulations and having found that all requisite legal authorities required by FIFRA and 40 CFR Part 171 are now enacted and promulgated, the Regional Administrator, EPA Region II, hereby gives notice that the terms and conditions of contingent approval have been satisfied and that the Commonwealth of Puerto Rico Plan is now a fully approved plan.

Dated: February 27, 1978.

ECKARDT C. BECK,
Regional Administrator, U.S. Environmental Protection Agency, Region II.

[FR Doc. 78-6096 Filed 3-8-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

CITIZENS BANCORP, INC.

Formation of Bank Holding Company

Citizens Bancorp, Inc., Hartford City, Ind., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of the Citizens State Bank, Hartford City, Ind. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 3, 1978.

Board of Governors of the Federal Reserve System, March 3, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-6206 Filed 3-8-78; 8:45 am]

[6210-01]

NCNB CORP.

Proposed Retention of TransSouth Financial Corp. and Its Wholly Owned Subsidiaries, TransSouth Mortgage Corp. and Superior Life Insurance Co.

NCNB Corporation, Charlotte, N.C., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to retain voting shares of TransSouth Financial Corp. and its wholly owned subsidiaries, TransSouth Mortgage Corp. and Superior Life Insurance Corp., all of Florence, S.C. Notice of the application was published in newspapers of general circulation in each of the communities served by the offices of the subsidiaries to be retained. TransSouth and its subsidiaries operate offices in the States of North Carolina, South Carolina, Tennessee, and Virginia.

Applicant states that the subsidiary performs the activities of making direct loans for consumer and other purposes; discounting retail installment notes or contracts; purchasing of recreational lot notes; extending direct loans to dealers for the financing of inventory (floor planning) and working capital purposes; purchasing of personal property lease contracts; acting as agent in the sale of credit life, credit accident and health, and physical damage insurance which is directly related to extensions of credit by TransSouth Financial Corp. and TransSouth Mortgage Corp.; underwriting and reinsuring credit life and credit accident and health insurance that is directly related to extensions of credit by NCNB subsidiaries; and underwriting credit life and credit accident and health insurance on customers of said subsidiaries whose debt obligations are secured by first mortgages or deeds of trust on real estate. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hear-

ing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at

Place: Conference Rooms "G" and "H", Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.
Type of meeting: Open—March 20-21, 1978.
Contact: Rhoda L. Christensen, Parklawn

[4310-84]

[Wyoming 62813]

Sec. 23, S½NE¼ and W½SE¼; and
Sec. 26, W½NE¼ and N½SE¼.

This pipeline will convey natural gas across 1.45 miles of public lands in

The proposed pipeline will transport natural gas from the Creston No. 1-28 well located in the NW¼SE¼ of Sec-

Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,

ing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than March 30, 1978.

Board of Governors of the Federal Reserve System, March 3, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-6207 Filed 3-8-78; 8:45 am]

[6210-01]

OAKLAND FINANCIAL, INC.

Formation of Bank Holding Company

Oakland Financial, Inc., Omaha, Nebr., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 91 percent or more of the voting shares of the Farmers & Merchants National Bank of Oakland, Oakland, Nebr. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 30, 1978.

Board of Governors of the Federal Reserve System, March 3, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-6208 Filed 3-8-78; 8:45 am]

[4110-88]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

ADVISORY COMMITTEES

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of March 1978:

NATIONAL ADVISORY COUNCIL ON ALCOHOL ABUSE AND ALCOHOLISM

Date and time: March 20-21; 9 a.m.

Place: Conference Rooms "G" and "H", Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.

Type of meeting: Open—March 20-21, 1978.

Contact: Rhoda L. Christensen, Parklawn Building, Room 16-93, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4703.

Purpose: Advises the Secretary, Department of Health, Education, and Welfare regarding policy direction and program issues of national significance in the area of alcohol abuse and alcoholism. Reviews all grant applications submitted, evaluates these applications in terms of scientific merit and coherence with Department policies, and makes recommendations to the Secretary with respect to approval and amount of award.

Agenda: March 20 will be devoted to a presentation by Dr. Gerald L. Klerman, Administrator, Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA) concerning the Secretary's request to conduct a Department-wide review of alcohol programs and to develop alcohol program initiatives. Pressing deadlines require this special meeting. On March 21, the National Advisory Council will discuss a variety of policy issues identified by the Institute Director and members of the Council.

Less than 15 days notice is provided due to a recent decision by the Secretary, Department of Health, Education, and Welfare to conduct a Department-wide review of alcohol programs.

Substantive program information may be obtained from the contact person listed above. The NIAAA Information Officer who will furnish summaries of the meeting and a roster of Committee members is Mr. Harry Bell, Associate Director for Public Affairs, National Institute on Alcohol Abuse and Alcoholism, Room 11A-17, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3306.

Dated: March 8, 1978.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 78-6417 Filed 3-8-78; 10:23 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[M 31620]

MONTANA

Application

FEBRUARY 28, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Montana Power Co. filed an amendment to its right-of-way grant, M 31620, to construct a 4-inch natural gas pipeline across the following described public lands:

PRINCIPAL MERIDIAN, MONTANA

T. 9 S., R. 22 E.,
Sec. 23, S½NE¼ and W½SE¼; and
Sec. 26, W½NE¼ and N½SE¼.

This pipeline will convey natural gas across 1.45 miles of public lands in Carbon County, Mont.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, Drawer 1160, Lewistown, Mont. 59457.

ROLAND F. LEE,
Chief, Branch of Lands and Mineral Operations.

[FR Doc. 78-6100 Filed 3-8-78; 8:45 am]

[4310-84]

[Wyoming 62843]

WYOMING

Application

FEBRUARY 27, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. of Salt Lake City, Utah filed an application for a right-of-way to construct a buried 4½ inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 23 N., R. 112 W.,
Sec. 31, lots 6, 9, and 10.

The pipeline is a portion of Northwest Pipeline Corp.'s proposed gathering system and will transport natural gas from the Shute Creek No. 31 well located in lot 10 to a point of connection with their proposed Trunk "A" line in lot 6 of section 31, T. 23 N., R. 112 W., Lincoln County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-6101 Filed 3-8-78; 8:45 am]

[4310-84]

[Wyoming 62813]

WYOMING

Application

FEBRUARY 27, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. of Salt Lake City, Utah, filed an application for a right-of-way to contstruct a buried 8⅝ inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 18 N., R. 92 W.,
Sec. 4, SW¼SE¼;
Sec. 22, SW¼SW¼;
Sec. 26, N½S½, SE¼SE¼.

The proposed pipeline designated as Trunk "A" will serve to connect Northwest Pipeline Corp.'s Creston Gathering system crossing the above-listed public lands in T. 18 N., R. 92 W., Carbon County, Wyo., and will connect into Western Transmission's pipeline located in the SW¼SW¼ of Section 25, T. 18 N., R. 92 W., Carbon County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-6175 Filed 3-8-78; 8:45 am]

[4310-84]

[Wyoming 62846]

WYOMING

Application

FEBRUARY 27, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. of Salt Lake City, Utah filed an application for a right-of-way to construct a 4½ inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 18 N., R. 92 W.,
Sec. 28, SE¼

The proposed pipeline will transport natural gas from the Creston No. 1-28 well located in the NW¼SE¼ of Section 28, T. 18 N., R. 92 W., to a point of connection with Northwest Pipeline Corp.'s proposed Trunk "A" line in the NW¼NW¼ of Section 27, T. 18 N., R. 92 W., Carbon County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-6176 Filed 3-8-78; 8:45 am]

[4310-84]

[Wyoming 62582]

WYOMING

Application

FEBRUARY 28, 1978.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Cities Service Gas Company of Oklahoma City, Okla., has filed an application for a right-of-way to construct a 4½ inch pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 17 N., R. 96 W.,
Sec. 4, lots 3, and 4, S½NE¼, SE¼NW¼.
T. 18 N., R. 96 W.,
Sec. 32, S½SW¼.

The pipeline will transport natural gas from a point in section 31, T. 18 N., R. 96 W. in a southeasterly direction to a point of connection with Cities' gathering line in section 3, T. 17 N., R. 96 W., traversing through section 4, T. 17 N., R. 96 W., and section 32, T. 18 N., R. 96 W., Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-6177 Filed 3-8-78; 8:45 am]

[4310-84]

[NM 12480]

NEW MEXICO

Opportunity for Public Hearing and Republication of Notice of Amended Proposed Withdrawal

FEBRUARY 27, 1978.

The Forest Service, U.S. Department of Agriculture, filed application serial number NM 12480 on September 18, 1970, for a withdrawal in relation to the following described lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

TAOS SKI VALLEY WINTER SPORTS SITE

T. 27 N., R. 14 E. (unsurveyed),
Sec. 8, S½NE¼NE¼, SE¼NW¼NE¼, NW¼NW¼NE¼ (less approximately 5 acres in HES 82), S½NE¼ and SE¼;
Sec. 9, NE¼ (approximately 15 acres not in conflict with PLO 1120 and Tracts A and B of Randall-Lewis Exception), NE¼NW¼ (approximately 12 acres not in conflict with PLO 1120 and Tract B of Randall-Lewis Exception), S½N½NW¼NW¼, S½NW¼NW¼, SW¼NW¼, SE¼NW¼ (less approximately 3 acres in Tract B of Randall-Lewis Exception) and S½;
Sec. 10, W½SW¼ (less approximately 14 acres in Tract A of Randall-Lewis Exception);
Sec. 15, W½ (less approximately 25 acres in Tract A of Randall-Lewis Exception);
Sec. 16, E½, E½NW¼, E½W½NW¼ and NE¼SW¼;
Sec. 21, NE¼.

RED RIVER WINTER SPORTS SITE

T. 28 N., R. 14 E. (unsurveyed),
Sec. 1, NW¼NW¼ and NW¼SW¼NW¼;
Sec. 2, NE¼NE¼, E½NW¼NE¼, NE¼SW¼NW¼ and N½SE¼NE¼.
T. 29 N., R. 14 E.,
Sec. 35, lot 9 and SE¼;
Sec. 36, W½W½SW¼ (less 7.35 acres in conflict with MS 1108 and approximately 6 acres in MS 954).

The areas described aggregate approximately 2,086.50 acres in Taos County, N. Mex.

The applicant desires the lands for use in connection with the Taos Ski Valley Winter Sports Site and the Red River Winter Sports Site, which sites are located within the Carson National Forest.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on October 20, 1970, Volume 35, page 16383, FR Doc. 70-14089.

On September 26, 1977, the applicant submitted an amendment to its original application, revising the land descriptions as follows:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

TAOS SKI VALLEY WINTER SPORTS SITE

T. 27 N., R. 14 E. (unsurveyed),

time and place of such hearing. All previous comments submitted in connection with the withdrawal application have been included in the record

1978. Please refer to the file number when submitting comments.

Dated: March 6, 1978.

arguments to the Director at the above address on or before April 10, 1978. Please refer to the file number when submitting comments.

Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file No. PRT 2-2186. Interested per-

business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington,

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

TAOS SKI VALLEY WINTER SPORTS SITE

T. 27 N., R. 14 E. (unsurveyed),
Beginning at a point on the north boundary of the Antoine Leroux Grant as surveyed by John H. Walker, approved August 25, 1909; said point being M.C. No. 78 and mile corner No. 16 of Antoine Leroux Grant and point of beginning.
Thence S. 83°30' W., 2,046 feet to M.C. No. 77 of the Antoine Leroux Grant; thence south 5,346 feet; thence east 3,201 feet; thence south 2,640 feet; thence east 660 feet; thence south 1,320 feet; thence east 1,320 feet; thence south 3,960 feet; thence east 2,640 feet; thence north 2,640 feet; thence east 2,640 feet; thence north 2,508 feet; to a point on the Lake Fork Stream, said point being located on a line between the southwest corner of the Randall Tract "A" Exception No. 2 as surveyed by Charles L. Caldwell, September 9, 1947, and M.C. No. 79 of Antoine Leroux Grant; thence northerly along the middle of the Lake Fork Stream to the southeast corner of the Randall-Lewis Tract as surveyed by George P. Tune, July 1965; thence N. 88°01' W., 2,640 feet along the south boundary of the Randall-Lewis Tract to the southwest corner of the Randall-Lewis Tract; thence N. 44°31' W., 2,459.82 feet along the west boundary of the Randall-Lewis Tract to a point on the north boundary of the Antoine Leroux Grant; said point being located on a line between M.C. No. 78 and M.C. 79; thence S. 89°30' W., 1,881 feet to the point of beginning.

This tract, when surveyed, will probably be located within sections 4, 5, 8, 9, 10, 15, 16, and 21, T. 27 N., R. 14 E.

RED RIVER WINTER SPORTS SITE

T. 28 N., R. 14 E. (unsurveyed),
Beginning at the south corner common to sections 35 and 36, T. 29 N., R. 14 E.; thence south 1,914 feet; thence west 660 feet; thence south 660 feet; thence west 2,640 feet; thence north 2,574 feet; thence east 3,300 feet to point of beginning, containing approximately 185 acres.
This tract, when surveyed, will probably be located within sections 1 and 2, T. 28 N., R. 14 E.
T. 29 N., R. 14 E.,
Sec. 35, lots 8, 9, and SE¼;
Sec. 36, lots 20 and 21.

The areas described aggregate approximately 4,156.38 acres in Taos County, N. Mex.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2754), notice is herey given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, Department of the Interior, P.O. Box 1449, Santa Fe, N. Mex. 87501, on or before April 8, 1978. If a public hearing is scheduled, a notice will be published in the FEDERAL REGISTER giving the time and place of such hearing. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before April 8, 1978.

The above-described lands are temporarily segregated from all forms of appropriation under the public land laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the undersigned, Bureau of Land Management, Department of the Interior, P.O. Box 1449, Santa Fe, N. Mex. 87501.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-6165 Filed 3-8-78; 8:45 am]

[4310-55]

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: R. Howard Hunt, Department of Herpetology, Atlanta Zoological park, Atlanta, Ga. 30315.

The applicant requests a permit to export 36 2-3 foot long Moreiet's crocodile (*Crocodylus moreletii*) to Belize. These animals were hatched in captivity at the Atlanta Zoological Park and are to be released in Belize for the purposes of introducing the crocodile into suitable range. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file No. PRT 2-2188. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before April 10, 1978. Please refer to the file number when submitting comments.

Dated: March 6, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 78-6196 Filed 3-8-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: International Crane Foundation, City View road, Baraboo, Wis. 53913.

The applicant requests a permit to export one female white-naped crane (*Grus vipio*), the result of captive breeding, to the Zoologischer Garten of Frankfort, Germany, for enhancement of propagation. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in room 534, 1717 H Street NW., Washington, D.C., or by writing to the director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file No. PRT 2-2210. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before April 10, 1978. Please refer to the file number when submitting comments.

Dated: March 6, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 78-6197 Filed 3-8-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Mesker Park Zoo, Bement Avenue, Evansville, Ind. 47712.

The applicant requests a permit to purchase in interstate commerce, one female Brazilian tapir (*Tapirus terrestirs*) from the Pocono Wild Animal Farm, Stroudsburg, Pa. The animal is now on breeding loan to the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file No. PRT 2-2182. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before April 10, 1978. Please refer to the file number when submitting comments.

Dated: March 6, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 78-6198 Filed 3-8-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Regional Director, Region No 2, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, N. Mex. 87103.

The applicant requests a permit to conduct scientific research in accordance with the American peregrine falcon recovery plan. This permit seeks to replace most permits now in effect dealing with population of *Falco peregrinus anatum* and F. P. *tundrius* within region 2.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file No. PRT 2-2166. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before April 10, 1978. Please refer to the file number when submitting comments.

Dated: March 6, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 78-6199 Filed 3-8-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Applicant: St. Louis Zoological Park, Forest Park, St. Louis, MO. 63110.

The applicant requests a permit to purchase in interstate commerce, one female white-eared pheasant (*Crossoptilon crossoptilon*) the result of captive-breeding, from Charles Sivelle of Dix Hills, N.Y., for enhancement of propagation. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file No. PRT 2-2186. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before April 10, 1978. Please refer to the file number when submitting comments.

Dated: March 6, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 78-6200 Filed 3-8-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Applicant: San Diego Zoological Garden, P.O. Box 551, San Diego, Calif. 92112.

The applicant requests a permit to export one male, captive-born, red ruffed lemur (*Lemur variegatus ruber*) to the Basel Zoo in Switzerland for enhancement of propagation. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file No. PRT 2-2168. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before April 10, 1978. Please refer to the file number when submitting comments.

Dated: March 6, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 78-6201 Filed 3-8-78; 8:45 am]

[4310-55]

THREATENED SPECIES PERMIT

Receipt of Applicotion

Applicant: Ramon Barrios Medina, Ave. Juan Gonzales No. 321, Arecibo, P.R. 00612.

The applicant wishes to apply for a captive self-sustaining population permit authorizing the purchase and sale for propagation, those species of pheasants listed in 50 CFR 17.11 as T (C/P). Humane shipment and care in transit is assured.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file No. PRT 2-1794. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before April 10, 1978. Please refer to the file number when submitting comments.

Dated: March 2, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 78-6195 Filed 3-8-78; 8:45 am]

[4310-55]

MARINE MAMMAL PERMIT

Receipt of Application

Notice is hereby given that an applicant has applied in due form for a permit to take sea otters as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the regulations governing the taking and importing of marine mammals (50 CFR Part 18).

1. Applicant: (a) Name: Scripps Institution of Oceanography; (b) Address: University of California, San Diego, La Jolla, Calif. 92093.

2. Type of permit: Scientific research.

3. Name and number of animals: Sea otters (*Enhydra lutris*), 25.

4. Type of activity: To take by capture.

5. Location of activity: Prince William Sound, Alaska.

6. Period of activity: 2 years.

The purpose of the reseach is to assess the impact of crude oil on the foraging patterns of the otters. To do this, five otters will have crude oil placed on 25 to 50 percent of the dorsal portion of the body. Telemetry equipment and depth recorders will be attached to all sea otters and animals released soon after capture.

Concurrent with the publication of this notice in the FEDERAL REGISTER the Federal Wildlife Permit Office is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for copies of the complete application or for a public hearing on this application should be submitted to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240, on or before April 10, 1978. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of

such hearing is at the discretion of the Director.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the U.S. Fish and Wildlife Service.

Documents submitted in connection with the above application are available for review during normal business hours in Room 534, 1717 H Street NW., Washington, D.C.

Dated: March 6, 1978.

LARRY LAROCHELLE,
Acting Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 78-6194 Filed 3-8-78; 8:45 am]

[4310-31]

Geological Survey

DENVER BASIN, COLO.

Known Recoverable Coal Resource Area

Pursuant to authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 220 Departmental Manual 2, Secretary's Order 2948, and section 8A of the Mineral Leasing Act of February 25, 1920, as added by section 7 of the Federal Coal Leasing Amendments Act of 1975 (Pub. L. 94-377, August 4, 1976), Federal lands within the State of Colorado have been classified as subject to the coal leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 201). The name of the area, effective date, and total acreage involved are as follows:

(6) COLORADO

Denver Basin (Colorado) Known Recoverable Coal Resource Area (KRCRA): April 21, 1977; 467,599 acres.

A diagram showing the boundaries of the area classified has been filed with the appropriate land office of the Bureau of Land Management. Copies of the diagram and land description may be obtained from the Conservation Manager, Central Region, U.S. Geological Survey, Stop 609, Box 25046, Federal Center, Denver, Colo. 80225.

Dated: March 1, 1978.

W. A. RADLINSKI,
Acting Director.

[FR Doc. 78-6102 Filed 3-8-78; 8:45 am]

[4310-31]

LOWER WHITE RIVER, COLO.

Known Recoverable Coal Resource Area

Pursuant to authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 220 Departmental Manual No. 2, Secretary's Order No. 2948, and section 8A of the Mineral Leasing Act of February 25, 1920, as added by section 7 of the Federal Coal Leasing Amendments Act of 1975 (Pub. L. 94-377, August 4, 1976), Federal lands within the State of Colorado have been classified as subject to the coal leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 201). The name of the area, effective date, and total acreage involved are as follows:

(6) COLORADO

Lower White River (Colorado) Known Recoverable Coal Resource Area (KRCRA): April 22, 1976; 173,726 acres.

A diagram showing the boundaries of the area classified has been filed with the appropriate land office of the Bureau of Land Management. Copies of the diagram and the land description may be obtained from the Conservation Manager, Central Region, U.S. Geological Survey, Stop 609, Box 25046, Federal Center, Denver, Colo. 80225.

Dated: March 1, 1978.

W. A. RADLINSKI,
Acting Director.

[FR Doc. 78-6103 Filed 3-8-78; 8:45 am]

[4310-31]

McCALLUM, COLO.

Known Recoverable Coal Resource Area

Pursuant to authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 220 Departmental Manual 2, Secretary's Order No. 2948, and section 8A of the Mineral Leasing Act of February 25, 1920, as added by section 7 of the Federal Coal Leasing Amendments Act of 1975 (Pub. L. 94-377, August 4, 1976), Federal lands within the State of Colorado have been classified as subject to the coal leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 201). The name of the area, effective date, and total acreage involved are as follows:

(6) COLORADO

McCallum (Colorado) Known Recoverable Coal Resource Area (KRCRA): April 8, 1976: 46,773 acres.

A diagram showing the boundaries of the area classified has been filed with the appropriate land office of the Bureau of Land Management. Copies of the diagram and land description may be obtained from the Conservation Manager, Central Region, U.S. Geological Survey, Stop 609, Box 25046, Federal Center, Denver, Colo. 80225.

Dated: March 1, 1978.

W. A. RADLINSKI,
Acting Director.

[FR Doc. 78-6104 Filed 3-8-78; 8:45 am]

[4310-31]

YAMPA, COLO., REVISION

Known Recoverable Coal Resource Area

Pursuant to authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 220 Departmental Manual 2, Secretarial Order 2948, and section 8A of the Mineral Leasing Act of February 25, 1920, as added by section 7 of the Federal Coal Leasing Amendments Act of 1975 (Pub. L. 94-377, August 4, 1976), Federal lands within the State of Colorado have been classified as subject to the coal leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 201). The name of the area, effective date, and total acreage involved are as follows:

(6) COLORADO

Revised Yampa (Colo.) known recoverable coal resource area (KRCRA); March 22, 1977; 35,860 acres were added within the KRCRA. Total area now classified for leasing is 470,224 acres.

A diagram showing the revised boundary and acreage has been filed with the appropriate land office of the Bureau of Land Management. Copies of the diagram and land description may be obtained from the Conservation Manager, Central Region, U.S. Geological Survey, Stop 609, Box 25046, Federal Center, Denver, Colo. 80225.

Dated: March 1, 1978.

W. A. RADLINSKI,
Acting Director.

[FR Doc. 78-6105 Filed 3-8-78; 8:45 am]

[4310-70]

National Park Service

BLUE MESA LAKE MARINAS, INC.

Intention To Negotiate Concession Contract

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that on or before April 10, 1978, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Blue Mesa Lake Marinas, Inc., authorizing it to provide concession facilities and services for the public at Curecanti national recreation area for a period of seven (7) years from January 1, 1978, through December 31, 1984. Mr. Franklin LeFevre has been operating the concession as a sole proprietorship, doing business as LeFevre Enterprises, and has changed his business entity to Blue Mesa Lake Marinas, Inc., a Colorado corporation. There has been no change in the operation or management of the concession with the change of the business entity.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having a significant impact on the environment under the National Environmental Policy Act of 1969. The environmental assessment may be reviewed in the Regional Office, Rocky Mountain Regional Office, 655 Parfet Street, P.O. Box 25287, Denver, Colo. 80225.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing permit which expired by limitation of time on December 31, 1977, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision, in effect, grants Blue Mesa Lake Marinas, Inc., as the present satisfactory concessioner, the right to meet the terms of responsive offers for the proposed new contract and a preference in the award of the contract, if the offer of Blue Mesa Lake Marinas, Inc., is substantially equal to others received. The Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before April 10, 1978.

Interested parties should contact the Assistant Director, Special Services, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: March 6, 1978.

DAVID J. TOBIN, Jr.,
Director, National Park Service.

[FR Doc. 78-6163 Filed 3-8-78; 8:45 am]

[4310-70]

Office of the Secretary

CHICKASAW NATIONAL RECREATION AREA, OKLAHOMA

Revision of Park Boundaries

The Act of March 17, 1978 (90 Stat. 235, 16 U.S.C. 460hh), provides for the establishment of the Chickasaw National Recreation Area, to consist of the land and interests in land within the area as generally depicted on the drawing entitled "Boundary Map, Chickasaw National Recreation Area," numbered 107-20,004-A and dated February 1974, which is on file in the Offices of the National Park Service, Department of the Interior.

The Act provides that the Secretary of the Interior may from time to time revise the boundaries of the recreation area by publication of a map or other boundary description in the FEDERAL REGISTER, but that the total acreage of the recreation area may not exceed 10,000 acres.

In accordance with this provision, three minor adjustments will be made in the boundary of Chickasaw National Recreation Area, two of which will add small tracts of land required for protection and development, and one which will delete a small parcel of land that is not needed for the recreation area.

The two tracts to be added are an 8.60-acre tract in Section 4, Township 1 south, Range 3 East, I.M., which will serve as a buffer zone for Rock Creek; and a 30-acre tract in Section 21, Township 1 South, Range 3 East, I.M., which is needed as part of a bicycle trail.

The tract to be deleted is a 4.11-acre tract in Section 34, Township 1 North, Range 3 East, I.M., which will be exchanged by the Secretary for lands within the boundaries that are owned by the city of Sulphur.

The acreage limitation established for the Chickasaw National Recreation Area will not be exceeded by these adjustments.

Therefore, notice is hereby given that, in accordance with the Act of March 17, 1978, the boundaries of Chickasaw National Recreation Area are revised as described above, and as shown on a map entitled "Proposed Land Acquisition, Chickasaw National Recreation Area," Drawing No. 107/30,013 A, 12/77, DSC. This map is on file and available for inspection in the Offices of the National Park Service, Department of the Interior.

Dated: March 3, 1978.

CECIL D. ANDRUS,
Secretary of the Interior.

[FR Doc. 78-6162 Filed 3-8-78; 8:45 am]

[4310-70]

[DES78-5]

ADDITIONAL CONSTRUCTION ON THE NATCHEZ TRACE PARKWAY TENNESSEE-ALABAMA-MISSISSIPPI

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a Draft Environmental Statement on the proposal for additional construction on the Natchez Trace Parkway, Tennessee, Alabama and Mississippi.

The statement discusses proposals for additional construction of the Natchez Trace Parkway and construction of associated public use and management facilities as well as expansion of present recreational facilities.

Written comments on the Environmental Statement are invited and will be accepted until April 24, 1978. Comments should be addressed to the Regional Director, Southeast Region, or the Superintendent, Natchez Trace Parkway, at the addresses given below.

Copies are available from or for inspection at the following locations:

Southeast Regional Office, National Park Service, 1895 Phoenix Boulevard, Atlanta, Ga. 30349.

Meriwether Lewis Sub-district Office, Natchez Trace Parkway, Route 3, Box 147, Hohenwald, Tenn. 38462.

Superintendent, Natchez Trace Parkway, Rural Route 1, NT-143, Tupelo, Miss. 38801.

Cherokee Sub-district Office, Route 1, Box 275, Cherokee, Ala. 33616.

The U.S. Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: March 7, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc. 78-6326 Filed 3-8-78; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Antitrust Division

UNITED STATES v. FEDERATED DEPARTMENT STORES, INC., ET AL.

Written Comment Upon Consent Judgment and Department of Justice Response Thereto

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, the following written comment on the proposed judgment filed with the U.S. District Court in the Northern District of California, Civil No. 76-858-RHS, *United States* v. *Federated Department Stores, Inc., et al.*, was received by the Department of Justice and is published herewith, together with Justice's response to the comment.

Dated: March 1, 1978.

CHARLES F. B. MCALEER,
Special Assistant for Judgment Negotiations, Office of Operations.

JANUARY 12, 1978.

Re: *United States* v. *Federated Department Stores, Inc., et al.* (N.D. CA Civil No. 76-858 RHS)

MR. ANTHONY E. DESMOND, *Chief,*
San Francisco Field Office, Antitrust Division, Department of Justice, 450 Golden Gate Avenue, San Francisco, Calif.

DEAR MR. DESMOND: Pursuant to the Notice published in the Federal Register on January 3, 1978, 43 Fed. Reg. 1000, the following comments are submitted on behalf of the State of California with respect to the proposed consent judgment in the above-entitled matter.

The State of California has reviewed the proposed consent judgment in light of all available facts. *United States* v. *Ward Baking Co.* (1964) 376 U.S. 327. The State of California submits that Exhibits A-E, and whatever similarly relevant facts the Government has in its possession, support the proposed judgment. The State of California has no objection to the judgment as presently proposed since it adequately enjoins the unlawful conspiracy charged in the complaint and is sufficient to prevent its renewal no matter what the form.

[7510-01]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

namics, aeronautical propulsion, avionics, structures and materials, and such special factors as aviation safety, aircraft operating systems and man-

and intergalactic matter; the physical properties and nuclear and electromagnetic processes of the sun and the solar-planet relationships; and the

MR. ANTHONY E. DESMOND, *Chief,*
San Francisco Field Office, Antitrust Division, Department of Justice, 450 Golden Gate Avenue, San Francisco, Calif.

DEAR MR. DESMOND: Pursuant to the November 7, 1977, notice appearing at 42 FR 59125 (Nov. 15, 1977), the State of California submits comments on the proposed consent judgment which would terminate *United States* v. *Federated Department Stores, Inc., et al.*

Sections V and VI of the proposed consent judgment do not recognize the seasonal character of defendants' business, merchandising fashion. It is common knowledge that clothing styles change continuously; and accordingly, clothing retailers like defendants adjust their marketing efforts to keep up with the times.

As excessive inventories of outdated clothing may reduce cash flow, and because a clothing retailer's success is predicated on responding to seasonal fashion changes, the periodic "clearance sale" is usually an integral part of fashion merchandising. To entice consumers to buy clothing that may have limited immediate utility or may soon become unfashionable retailers discount outdated clothing 25 to 50 percent from their original prices during these advertised clearance sales. Although this practice is a good example of the kind of price competition Californians appreciate, the circumstances under which defendants offer these sale prices invite the inference that such clearance sales are manifestations of collusive anticompetitive conduct.

For example, this past November 17, 1977, was the beginning or announcement date of statewide clearance sales staged by defendants, as well as clothing stores Joseph Magnin, and Livingston's in San Francisco.

All stores either placed public advertisements on this date or announced that November 17, 1977, was the first day of the clearance sale. See Exhibits A-E. This coincidence of similar price reductions is, at the least, curious; at worst, the result of a price-fixing conspiracy.

Although the State of California has no other evidence to present, it is aware that the consent decree entered in *United States* v. *Saks & Co.* (SD NY) 1977-1 Trade Cases (CCH) ¶ 61,506, treated the exchange of actual and proposed dates on which defendants planned to reduce women's clothing prices. See Sections V(A)(2) and VI(B) of Exhibit F. Part IV of the competitive impact statement filed in *United States* v. *Federated Department Stores, Inc., et al.* states that defendant Saks is dismissed from this case because it would be redundant to subject Saks to an injunction enjoining a narrower range of conduct.

It is precisely the Government's decision to enjoin defendant Federated from a narrower range of conduct than defendants in the similar New York case have been, which concerns the State of California. Because defendant Federated is an obviously formidable presence in the retail clothing marketing, California perceives no reason why Federated should not also be enjoined from communicating to any other clothing retailer the actual or proposed date on which it intends to reduce prices. Exhibits A-E are suggestion enough that the actual beginning sale date is significant competitive information in a business with as prominent a seasonal character as the clothing business.

Relief in antitrust actions is directed toward restoring and preserving competition. Consequently, it is necessary to examine the proposed consent judgment in light of all available facts. *United States* v. *Ward Baking Co.* (1964) 376 U.S. 327. The State of California submits that Exhibits A-E, and whatever similarly relevant facts the Government can develop, should be considered before any final judgment between the United States and defendant Federated is entered.

The communication of actual or proposed dates of intended price reductions is the type of specific conduct that facilitates anticompetitive marketing. Unless the final judgment addresses such a practice, it will only reiterate defendant's existing legal duties. Thus, in effect, by agreeing to the proposed consent judgment as it is now framed, Federated will merely be agreeing to obey the antitrust laws, an obligation from which it has never been excused. However, by enjoining a specific example of collusive activity, a consent judgment revised as California suggests would hold Federated to a standard of conduct which it seemingly has ignored to this date.

Please direct any inquiries on these comments to Deputy Attorney General Wayne M. Liao, 3580 Wilshire Blvd., Los Angeles, California 90010; telephone (213) 736-2925.

Very truly yours,

EVELLE J. YOUNGER,
Attorney General.

FEBRUARY 14, 1978.

Re *United States* v. *Federated Department Stores, Inc., et al.* (N.D. CA Civil No. 76-858 RHS)

Hon. EVELLE J. YOUNGER,
Attorney General of California,
3580 Wilshire Blvd., Los Angeles, Calif.

DEAR MR. ATTORNEY GENERAL: The Justice Department appreciates the views of the Attorney General of California, regarding the proposed consent judgment in *United States* v. *Federated Department Stores, et al.* While the incident of simultaneous sale advertisements by several women's clothing retailers, including Federated Department Stores, may warrant further investigation, the Department does not feel it illustrates a weakness of the proposed consent decree as an appropriate settlement of this law suit.

A consent decree, although forward looking in its application, is negotiated on the basis of a specific complaint regarding past conduct by a defendant. In this case the framework of the negotiation is the complaint filed on April 28, 1976, by the Government in *United States* v. *Federated Department Stores, et al.* This complaint did not allege discussions or communications of sale dates as a term of the conspiracy charged because the Government lacked sufficient evidence of such conduct. We believe, however, that the judgment is broad enough to cover price-fixing no matter what precise scheme or practice is used in the violation.

The proposed judgment in no way authorizes Federated Department Stores to communicate or discuss with other retailers the dates on which it intends to reduce its prices. Should Federated do so and such conduct has the effect of violating the judgment, we would have no hesitation in taking action to enforce the judgment. In addition, the Department can investigate by Grand Jury or other wise and prosecute under the Sherman Act alleged incidents of this nature whether or not the proposed judgment is involved.

In summary, it is the Department's position that the public interest favors entry of the judgment as presently proposed since it adequately enjoins the unlawful conspiracy charged in the complaint and is sufficient to prevent its renewal no matter what the form.

Sincerely yours,

WILLIAM S. FARMER, Jr.
Assistant Chief,
San Francisco Office.

[FR Doc. 78-6107 Filed 3-8-78; 8:45 am]

[4410-01]

Attorney General

UNITED STATES v. PUERTO RICO AQUEDUCT AND SEWER AUTHORITY

Stipulation and Order in Action To Enforce Compliance With Terms of NPDES Permits

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed stipulation and order in *United States* v. *Puerto Rico Aqueduct and Sewer Authority* has been lodged with the U.S. District Court for the District of Puerto Rico. The decree imposes on defendant various requirements and compliance dates with respect to the operation of 81 of its sewage treatment plants.

The Department of Justice will receive for a period of thirty (30) days from the date of this notice, written comments relating to the proposed stipulation and order. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *United States* v. *Puerto Rico Aqueduct and Sewer Authority*, D.J. Ref. 90-5-1-1-870.

The stipulation may be examined at the office of the U.S. Attorney, District of Puerto Rico, P.O. Box 3391, San Juan, P.R. 00904, at the Region II office of the Environmental Protection Agency, 25 Federal Plaza, New York, N.Y. 10007, and the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2625, Ninth Street and Pennsylvania Avenue NW., Washington, D.C. 20530. A copy of the proposed stipulation and order may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

JAMES W. MOORMAN,
Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 78-6106 Filed 3-8-78; 8:45 am]

[7510-01]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 78-6]

NASA ADVISORY COMMITTEES

Annual Comprehensive Review

Pursuant to section 7(b) of Pub. L. 92-463, the Federal Advisory Committee Act, October 6, 1972, and implementing instructions of Office of Management and Budget Circular No. A-63, Transmittal Memorandum No. 5, as amended January 9, 1978, NASA is conducting a comprehensive review of its advisory committees. The public is hereby invited to submit comments on continuation of the NASA advisory committees. Following is a list of committees, with a short description of the functions of each.

AEROSPACE SAFETY ADVISORY PANEL

The Panel is chartered by Congress "to review safety studies and operations plans referred to it and shall make reports thereon, shall advise the Administrator with respect to the hazards of proposed or existing facilities and proposed operations and with respect to the adequacy of proposed or existing safety standards, and shall perform such other duties as the Administrator may request." Pursuant to carrying out its statutory duties, the Panel reviews, evaluates and advises on those program management policies, management systems, procedures and practices that contribute to risk identification and assessment by management. Priority is given to those programs that involve the safety of manned flight.

APPLICATIONS STEERING COMMITTEE, SPACE PROCESSING AD HOC ADVISORY SUBCOMMITTEE

Established to evaluate the scientific and technological content of proposals submitted in response to Announcements of Opportunity issued by the Space Processing Program and to advise the Associate Administrator for Space and Terrestrial Applications through the Applications Steering Committee on the selection of participants in these projects.

NASA AERONAUTICS ADVISORY COMMITTEE

Concerned with basic aeronautics research and with aeronautics research and technology applicable to commercial air transportation (including all transport types, such as conventional, short, and vertical take-off and landing; and supersonic transports), general aviation, helicopters, and military aircraft. Technical disciplines relevant to the listed aviation categories include, but are not limited to, aerodynamics, aeronautical propulsion, avionics, structures and materials, and such special factors as aviation safety, aircraft operating systems, and man-vehicle technology.

NAC AERONAUTICS ADVISORY COMMITTEE, SUBCOMMITTEE ON AVIATION SAFETY REPORTING SYSTEM

Established as a necessary element defined in the FAA/NASA Memorandum of Agreement to support the FAA's Aviation Safety Program. The Subcommittee provides review and evaluation of the Aviation Safety Reporting System and design and implementation plan, evaluation of the critical elements in the system, and evaluation of the progress of the operational system.

NAC HISTORICAL ADVISORY COMMITTEE

Concerned with the NASA History Program, including review of historical archives, official NASA histories and historical reports, historical service to NASA and Government, and the program's relation to academic and public activities.

NAC LIFE SCIENCES ADVISORY COMMITTEE

Concerned with the study and support of life in space utilizing the multiple disciplines of medical sciences, biological sciences, biotechnology, planetary biology and quarantine, manned missions, operational support, and life sciences payloads; application of space technology to life sciences problems on earth, with emphasis on medicine, ecology, and animal tracking; occupational and environmental medicine through health maintenance and awareness programs, medical data handling systems, and the provisions of medical test-bed for advanced bioinstrumentation; and technology utilization for life sciences.

NAC SPACE AND TERRESTRIAL APPLICATIONS ADVISORY COMMITTEE

Concerned with the application of space-related capabilities to agriculture; forestry; hydrology; atmospheric sciences; ocean sciences, including oceanography and ocean dynamics; geosciences, including geology, mineral exploration, earth dynamics, and land capability; and communications applications, including data management systems.

NAC SPACE SCIENCES ADVISORY COMMITTEE

Concerned with the observation and study of major and minor bodies of the solar system and their interactions with the interplanetary environment; basic matter and energy in the space environment; cosmology and relativity physics; stars, nebulae, galaxies, and interstellar and interplanetary space, and intergalactic matter; the physical properties and nuclear and electromagnetic processes of the sun and the solar-planet relationships; and the origin and characteristics of energetic particle radiation, including radiation belts, interplanetary plasma, solar and galactic cosmic rays, and auroral particles.

NAC SPACE SYSTEMS AND TECHNOLOGY ADVISORY COMMITTEE

Concerned with research and technology applicable to space systems, including information systems, spacecraft systems, space power systems, and space transportation systems. The committee is concerned also with technology discipline activities in electronics, space power and propulsion, materials and structures, and includes consideration of the technologies required to utilize space systems in earth communications, for terrestrial energy applications, and for materials processing in space.

NASA WAGE COMMITTEE

Primary responsibility is to consider and make recommendations to the Director, Personnel Programs Division, NASA, on all matters involved in the development and authorization of a wage schedule for the Cleveland, Ohio, wage area pursuant to Pub. L. 92-392.

SPACE SCIENCE STEERING COMMITTEE, JUPITER ORBITER PROBE 1981 (JOP81) AD HOC ADVISORY SUBCOMMITTEE

Reviews proposals for participation in the flight investigations for the JOP81 mission.

SPACE SCIENCE STEERING COMMITTEE, OUT-OF-ECLIPTIC (OOE) MISSION AD HOC ADVISORY SUBCOMMITTEE

Reviews proposals for participation in the flight investigations for the OOE mission.

STRATOSPHERIC RESEARCH ADVISORY COMMITTEE

Advises NASA concerning the contents and direction of the NASA Upper Atmospheric Research Program.

Comments should be addressed to, or delivered to: National Aeronautics and Space Administration, Attn: Code LB-1, 400 Maryland Avenue SW., Washington, D.C. 20546. Comments should be received in NASA no later than close of business March 24, 1978. Additional information may be obtained from Mary R. Lippolis, 755-3950.

KENNETH R. CHAPMAN,
Associate Administrator for External Relations.

MARCH 3, 1978.

[FR Doc. 78-6174 Filed 3-8-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

Dated at Bethesda, Md., this 17th day of February 1978.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors

[7590-01]

[Docket No. 50-220]

NIAGARA MOHAWK POWER CORP.

of the Edwin I. Hatch Nuclear Plant, Unit No. 1, located in Appling County, Ga. The amendment is effective as of its date of issuance.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors

Public Document Room, 1717 H Street NW., Washington, D.C., and at the Auburn Public Library, 118 15the Street, Auburn, Nebr. 68305. A single

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-295 and 50-304]

COMMONWEALTH EDISON CO.

Issuance of amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 35 and 32 to Facility Operating License Nos. DPR-39 and DPR-48 issued to Commonwealth Edison Co. (the licensee) which revised Technical Specifications for operation of the Zion Station, Unit Nos. 1 and 2, located in Zion, Ill. The amendments are effective as of the date of issuance.

These amendments delete the requirement for (1) an Annual Operating Report and (2) a respiratory protection program. As noted in the NRC staff's Safety Evaluation on this amendment, we have concluded that all needed information will be provided without an Annual Operating Report and the requirements for a respiratory protection program are now governed by the Code of Federal Regulations under 10 CFR 20.103.

The applications for these amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated November 25, 1977, (2) Amendment Nos. 35 and 32 to License Nos. DPR-39 and DPR-48, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Zion-Benton Public Library District, 2600 Emmans Avenue, Zion, Ill. 60099. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 17th day of February 1978.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-6148 Filed 3-8-78; 8:45 am]

[7590-01]

[Docket Nos. 50-369 and 50-370]

DUKE POWER CO.

Availability of Safety Evaluation Report for McGuire Nuclear Station, Units 1 and 2

Notice is hereby given that the Office of Nuclear Reactor Regulation has published its Safety Evaluation Report on the proposed operation of the McGuire Nuclear Station, Units 1 and 2, to be located in Mecklenburg County, N.C. Notice of receipt of Duke Power Co.'s application to construct and operate the McGuire Nuclear Station, Units 1 and 2 was published in the FEDERAL REGISTER on June 14, 1974 (39 FR 20833).

The report is being referred to the Advisory Committee on Reactor Safeguards and is being made available at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Public Library of Charlotte and Mecklenburg County, 310 North Tryon Street, Charlotte, N.C., for inspection and copying. The report (Document No. NUREG-0422) can also be purchased, at current rates, from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Va. 22161.

Dated at Bethesda, Md., this 1st day of March 1978.

For the Nuclear Regulatory Commission.

KARL KNIEL,
Chief, Light Water Reactors Branch No. 2, Division of Project Management.

[FR Doc. 78-6149 Filed 3-8-78; 8:45 am]

[7590-01]

[Docket No. 50-321]

GEORGIA POWER CO. ET AL

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 50 to Facility Operating License No. DPR-57 issued to Georgia Power Co., Oglethorpe Electric Membership Corp., Municipal Electric Association of Georgia and City of Dalton, Ga., which revised Technical Specifications for operation of the Edwin I. Hatch Nuclear Plant, Unit No. 1, located in Appling County, Ga. The amendment is effective as of its date of issuance.

The amendment incorporates fire protection Technical Specifications on the existing fire protection equipment and adds administrative controls related to fire protection at the facility. This action is being taken pending completion of the Commission's overall fire protection review of the facility.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated January 24, 1977 (as revised by letters dated July 22 and December 20, 1977), (2) the Commission's November 23, 1977, letter and related Safety Evaluation Report, (3) Amendment No. 50 to License No. DPR-57 and (4) the Commission's letter dated ————. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Appling County Public Library, Parker Street, Baxley, Ga. 31513. A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 2nd day of March 1978.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-6150 Filed 3-8-78; 8:45 am]

[7590-01]

[Docket No. 50-220]

NIAGARA MOHAWK POWER CORP.

Issuance of Facility License Amendments

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 22 to Facility Operating License No. DPR-63 to the Niagara Mohawk Power Corp. (the licensee) which revised Technical Specifications for operation of the Nine Mile Point Nuclear Station, Unit No. 1 (the facility) located in Oswego County, N.Y. The amendment is effective as of its date of issuance.

The amendment incorporated fire protection Technical Specifications on the existing fire protection equipment and adds administrative controls related to fire protection at the facility. This action is being taken pending completion of the Commission's overall fire protection review of the facility.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated February 28, 1977, as revised by letters dated July 13, 1977 and July 22, 1977, (2) Amendment No. 22 to License No. DPR-63, (3) the Commission's related Safety Evaluation transmitted to licensee by letter dated November 23, 1977, and (4) the licensees letter of acceptance dated December 13, 1977. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Oswego County Office Building, 46 East Bridge Street, Oswego, N.Y. 13126. A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 28th day of February 1978.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-6151 Filed 3-8-78; 8:45 am]

[7590-01]

[Docket No. 50-298]

NEBRASKA PUBLIC POWER DISTRICT

Issuance of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 42 to Facility Operating License No. DPR-46, issued to the Nebraska Public Power District (the Licensee), which revised the Technical Specifications for operation of the Cooper Nuclear Station (the facility) located in Nemaha County, Nebr. The amendment is effective 30 days after its date of issuance.

The amendment incorporates fire protection Technical Specifications on the existing fire protection equipment and adds administrative controls related to fire protection at the facility. This action is being taken pending completion of the Commission's overall fire protection review of the facility.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission had determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated July 29, 1977, as amended by letter dated December 19, 1977, (2) the Commission's letters to the licensee dated June 24, 1976 and November 29, 1977, (3) Amendment No. 42 to License No. DPR-46, and (4) the Commission's related Safety Evaluation issued as an enclosure to the Commission's November 29, 1977 letter.

All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Auburn Public Library, 118 15the Street, Auburn, Nebr. 68305. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 24the day of February 1978.

For the Nuclear Regulatory Commission.

RICHARD J. CLARK,
Acting Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-6152 Filed 3-8-78; 8:45 am]

[7590-01]

[Dockets Nos. 50-277 and 50-278]

PHILADELPHIA ELECTRIC CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 39 and 39 to Facility Operating Licenses Nos. DPR-44 and DPR-56, respectively, issued to Philadelphia Electric Co., Public Service Electric & Gas Co., Delmarva Power & Light Co., and Atlantic City Electric Co., which revised Technical specifications for operation of the Peach Bottom Atomic Power Station, Units Nos. 2 and 3, located in Peach Bottom, York County, Pa. The amendments become effective 30 days after the date of issuance.

The amendments revise the Technical Specifications and consist of: (1) addition of interim specifications on the existing fire protection equipment and adds administrative controls related to fire protection of the facility pending completion of the Commission's overall fire protection review of the facility, and (2) deletion of the respiratory protection program in accordance with the revocation provisions of the current Technical Specifications.

The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendment dated February 2, 1977 as

Prior public notice of this amendment was not required since the amendment does not involve a significant hazards

and the nuclear power industry. The purpose of the updating program is to revise sections of the SRP for which

For the Nuclear Regulatory Commission.

RAY G. SMITH,

the United States are of cultural significance, and that (2) the temporary exhibition or display of such objects

ments with respect to the proposed rule change which are filed with the Commission, and of all written com-

For further details with respect to this action, see (1) the application for amendment dated February 2, 1977 as revised by letter dated July 18, 1977, (2) the Commission's letters dated November 23, 1977 and July 29, 1977, (3) the licensee's letter dated December 12, 1977, (4) Amendments Nos. 39 and 39 to Licenses Nos. DPR-44 and DPR-56, and (5) the Commission's letter dated February 28, 1978. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pa. 17126. A copy of items (2), (4), and (5) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 28th day of February 1978.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-6153 Filed 3-8-78; 8:45 am]

[7590-01]

[Docket No. 50-29]

YANKEE ATOMIC ELECTRIC CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 46 to Facility Operating License No. DPR-3, issued to Yankee Atomic Electric Co. (the licensee), which revised Technical Specifications for operation of the Yankee Nuclear Power Station (Yankee-Rowe) (the facility) located in Rowe, Franklin County, Mass. The amendment is effective as of its date of issuance.

The amendment incorporates fire protection Technical Specifications on the existing fire protection equipment and adds administrative controls related to fire protection at the facility. This action is being taken pending completion of the Commission's overall fire protection review of the facility.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated July 18, 1977, as supplemented December 14, 1977, (2) Amendment No. 46 to License No. DPR-3, and (3) the Commission's related Safety Evaluation enclosed with our letter to the licensee dated November 25, 1977. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Greenfield Community College, 1 College Drive Greenfield, Mass. 01301. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., at this 28th day of February 1978.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-6154 Filed 3-8-78; 8:45 am]

[7590-01]

[NUREG-75/087]

REVISION TO THE STANDARD REVIEW PLAN

Issuance and Availability

As a continuation of the updating program for the Standard Review Plant (SRP) previously announced (FEDERAL REGISTER notice dated December 8, 1977), the Nuclear Regulatory Commission's (NRC's) Office of Nuclear Reactor Regulation has published Revision No. 1 to section No. 9.3.3 of the SRP for the NRC staff's safety review of applications to build and operate light-water-cooled nuclear power reactors. The purpose of the plan, which is composed of 224 sections, is to improve both the quality and uniformity of the NRC staff's review of applications to build new nuclear power plants, and to make information about regulatory matters widely available, including the improvement of communication and understanding of the staff review process by interested members of the public and the nuclear power industry. The purpose of the updating program is to revise sections of the SRP for which changes in the review plan have been developed since the original issuance in September 1975 to reflect current practice.

Copies of the Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants, which has been identified as NUREG-75/087, are available from the National Technical Information Service, Springfield, Va. 22161. The domestic price is $70, including first-year supplements. Annual subscriptions for supplements alone are $30. Individual sections are available at current prices. The domestic price for Revision No. 1 to section No. 9.3.3 is $4. Foreign price information is available from NTIS. A copy of the Standard Review Plan including all revisions published to date is available for public inspection at the NRC's Public Document Room at 1717 H Street NW, Washington, D.C. 20555 (5 U.S.C. 552(a)).

Dated at Bethesda, Md., this 28th day of February 1978.

For the U.S. Nuclear Regulatory Commission.

ROGER J. MATTSON,
Director, Division of Systems Safety, Office of Nuclear Reactor Regulation.

[FR Doc. 78-6155 Filed 3-8-78; 8:45 am]

[7590-01]

TOPICAL REPORT

Issuance and Availability

The Nuclear Regulatory Commission has issued a topical report, NUREG-0406, "Methods for Prediction of Strong Earthquake Ground Motion."

The Commission's regulations (in 10 CFR Part 100, Appendix A, "Seismic and Geologic Siting Criteria for Nuclear Power Plants") require that applicants relate historic earthquake data (intensity) to potential motion (acceleration). This report presents a statistical analysis of earthquake records to identify the significant variables and to develop an empirical correlation between acceleration and intensity.

The correlation was performed by M. Trifunac of the University of Southern California under contract to the NRC.

The report is available for inspection in the Commission's Public Document Room 1717 H Street NW., Washington, D.C. Copies may be purchased at current rates from the National Technical Information Service, Springfield, Va. 22161. (Paper copy: 2 volumes, $10.75 each; Microfiche: $3.)

(5 U.S.C. 552(a).)

Dated at Rockville, Md., this 1st day of March 1978.

For the Nuclear Regulatory Commission.

RAY G. SMITH,
Acting Director, Office of Standards Development.

[FR Doc. 78-6156 Filed 3-8-78; 8:45 am]

[7590-01]

[NUREG-0320]

TOPICAL REPORT

Issuance and Availability

The Nuclear regulatory Commission has issued a topical report, NUREG-0320, "Interior Alarm Systems."

This report identifies and provides information on the various types of interior intrusion alarms commercially available and on their effective use in the nuclear industry. Interior intrusion alarms are discussed generically, and their vulnerabilities, strong points, and operational constraints are identified.

NUREG-0320 is available for inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. Copies may be purchased at current rates from the National Technical Information Service, Springfield, Va. 22161. (Paper copy: $4.50; Microfiche: $3)

(5 U.S.C. 552(a).)

Dated at Rockville, Md., this 28th day of February 1978.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc. 78-6157 Filed 3-8-78; 8:45 am]

[4710-01]

DEPARTMENT OF STATE

[PN 598]

CULTURALLY SIGNIFICANT OBJECTS FROM ITALY

Notice is hereby given of the following determination:

Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985), Executive Order 11312 of October 14, 1966 (31 FR 13415, October 18, 1966), and delegation of authority number 113 of December 23, 1966 (32 FR 58, January 5, 1967), I hereby determine that: (1) The objects described in the list[1] filed as a part of this determination imported from Italy pursuant to a loan agreement of December 13, 1977, by the Directorate General for Cultural, Scientific and Technological Cooperation, Ministry of Foreign Affairs, Italy, with Dr. Jan Fontein, Director of the Museum of Fine Arts, Boston, Mass., for temporary exhibition without profit within the United States are of cultural significance, and that (2) the temporary exhibition or display of such objects entitled "Pompeii A.D. 79" at the Museum of Fine Arts, Boston, Mass., beginning on or about April 15, 1978, to on or about July 16, 1978, is in the national interest.

[1]Itemized list of objects included in the Exhibition "Pompeii A.D. 79". The list of objects was filed as a part of the original document.

Public notice of this determination is ordered to be published in the FEDERAL REGISTER.

Dated: March 2, 1978.

CHRISTIAN A. CHAPMAN,
Acting Assistant Secretary for Educational and Cultural Affairs.

[FR Doc. 78-6160 Filed 3-8-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 14515; SR-Amex-78-5]

AMERICAN STOCK EXCHANGE, INC.

Filing of Proposed Rule Change and Order Approving Proposed Rule Change

MARCH 1, 1978.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act"), notice is hereby given that on February 27, 1978, the American Stock Exchange, Inc. ("Amex"), 86 Trinity Place, New York, N.Y. 10006, filed with the Commission copies of a proposed rule change which amends paragraph (b) of Amex Rule 5 to provide that no rule, stated policy or practice of the Amex shall prohibit, condition, or otherwise limit the ability of any member, member organization, or affiliated person, acting as agent, to effect transactions over-the-counter with any other person in any equity security admitted to dealings on the Amex except where such member, member organization, or affiliated person is acting as agent for such other person in the transaction.

Publication of notice of the proposed rule change is expected to be made in the FEDERAL REGISTER during the week of March 6, 1978. Interested persons are invited to submit written data, views, and arguments concerning the proposed rule change on or before March 30, 1978. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-Amex-78-5.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and of all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in order to conform Amex Rule 5 to amended Commission Rule 19c-1 [17 CFR 240.19c-1] under the Act.[1] Rule 19c-1 governs certain off-board agency transactions effected by members of the national securities exchanges, and the amended provision is effective March 1, 1978.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-6226 Filed 3-8-78; 8:45 am]

[8010-01]

[Release No. 14517; SR-CBOE-78-2]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Filing of Proposed Rule Change and Order Approving Proposed Rule Change

MARCH 1, 1978.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act"), notice is hereby given that on February 8, 1978, the Chicago Board Options Exchange, Inc. ("CBOE"), LaSalle at Jackson, Chicago, Ill. 60604, filed with the Commission copies of a proposed rule change which amends the provisions of Exchange Rule 6.49 to provide that a member acting as agent may execute a customer's order off the Exchange floor with any other person (except when such member also is acting as agent for such other person in such transactions).

[1]See Securities Exchange Act Release No. 14325 (Dec. 30, 1977) (43 FR 1327 (Jan. 9, 1978)).

Publication of notice of the proposed rule change is expected to be made in the FEDERAL REGISTER during the week

cant"), a wholly owned subsidiary of Beatrice Foods Co., has filed an application pursuant to section 12(h) of the

[8010-01]

[Release No. 14516; SR-NYSE-78-5]

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

ment is conditioned upon a number of matters set forth in the Agreement, including approval of the PLI shareholders. Under the terms of the Agree-

er. The Adviser's obligations under the Letter Agreements will include the

Publication of notice of the proposed rule change is expected to be made in the FEDERAL REGISTER during the week of March 6, 1978. Interested persons are invited to submit written data, views, and arguments concerning the proposed rule change on or before March 30, 1978. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-Amex-78-5.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and of all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in order to conform CBOE Rule 6.49 to amended Commission Rule 19c-1 [17 CFR 240.19c-1] under the Act.[1] Rule 19c-1 governs certain off-board agency transactions effected by members of the national securities exchanges, and the amended provision is effective March 1, 1978.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-6227 Filed 3-8-78; 8:45 am]

[8010-01]

[File No. 35368; File No. 81-292]

HARMAN INTERNATIONAL INDUSTRIES, INC.

Application and Opportunity for Hearing

MARCH 1, 1978.

Notice is hereby given that Harman International Industries, Inc. ("Applicant"), a wholly owned subsidiary of Beatrice Foods Co., has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended ("1934 Act") for exemption from filing a Form 10-K required by section 15(d) of that Act.

The Application states in part:

1. Applicant is a Michigan corporation subject to the reporting provisions of section 15(d) of the 1934 Act.

2. On August 1, 1977, Applicant became a wholly owned subsidiary of Beatrice Foods Co., a Delaware Corporation. The common stock of Beatrice Foods Co. is listed on the New York Stock Exchange and is registered pursuant to section 12(b) of the 1934 Act.

In the absence of an exemption the Applicant would be required to file a report on Form 10-K for its fiscal year ended August 31, 1977.

The Applicant states that no useful purpose would be served in filing said report because all of the outstanding shares of Applicant's common stock were converted into Beatrice Food Co. common stock with Applicant becoming a wholly owned subsidiary. Therefore, Applicant's common stock is no longer publicly traded.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the office of the Commission at 500 North Capitol Street NW., Washington, D.C. 20549.

Notice is further given that any interested person not later than March 27, 1978, may submit to the Commission in writing his views on any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-6228 Filed 3-8-78; 8:45 am]

[8010-01]

[Release No. 14516; SR-NYSE-78-5]

NEW YORK STOCK EXCHANGE, INC.

Filing of Proposed Rule Change and Order Approving Proposed Rule Change

MARCH 11, 1978.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(1) (the "Act"), notice is hereby given that on February 13, 1978, the New York Stock Exchange, Inc. ("NYSE"), 11 Wall Street, New York, N.Y. 10005, filed with the Commission copies of a proposed rule change which requires that lease agreements be submitted to the Exchange for approval and contain certain specified provisions.

Publication of notice of the proposed rule change is expected to be made in the FEDERAL REGISTER during the week of March 6, 1978. Interested persons are invited to submit written data, views and arguments concerning the proposed rule change on or before March 30, 1978. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-NYSE-78-5.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and of all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particlar, the requirements of section 6 and the rules and regulations thereunder. More specifically, the Commission finds the proposed rule change to be consistent with section 6(b)(2) of the Act in that the proposal enhances the ability of a broker or dealer to become a member of the Exchange.

The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of notice of filing thereof, in that the proposal is necessary to implement the Exchange's membership leasing plan as previously approved as SR-NYSE-77-21.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change reference above be, and it hereby is, approved.

[1] See Securities Exchange Act Release No. 14325 (Dec. 30, 1977) (43 FR 1327 (Jan. 9, 1978)).

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-6229 Filed 3-8-78; 8:45 am]

[8010-01]

[Release No. 10146; 812-4263]

PLIGROWTH FUND, INC., ET AL.

Filing of Application for Temporary Exemption

MARCH 1, 1978.

Notice is hereby given that Pligrowth Fund, Inc. ("Pligrowth"), Plitrend Fund, Inc. ("Plitrend"), and Pliyield Fund, Inc. ("Pliyield"), registered under the Investment Company Act of 1940 ("Act") as diversified, open-end management investment companies (collectively, "Funds"), and Philadelphia Life Asset Management Co., investment adviser to each of the Funds ("Adviser") (collectively referred to with Funds as "Applicants"), 111 North Broad Street, Philadelphia, Pa. 19107, filed an application on January 25, 1978, and an amendment thereto on February 23, 1978, pursuant to section 6(c) of the Act, for an order of the Commission temporarily exempting Applicants from the provisions of section 15(a) of the Act to permit the Adviser to continue to render investment advisory services to the Funds after termination of its present investment advisory contracts with the Funds. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that Adviser is a wholly owned subsidiary of Philadelphia Life Insurance Co. ("PLI") and was organized in 1967 for the purpose of serving as investment adviser to Pligrowth. Adviser serves presently as investment adviser to Pligrowth, Plitrend and Pliyield pursuant to investment advisory agreements dated November 19, 1974, March 1, 1975, and September 29, 1975, respectively. As required by section 15 of the Act, each such advisory agreement provides for its automatic termination in the event of an assignment, as defined in the Act.

Applicants state that PLI has entered into a Plan and Agreement of Reorganization, dated October 25, 1977 ("Agreement"), with Tenneco Inc. ("Tenneco"). Tenneco is a Delaware corporation which, together with its subsidiaries, is engaged in integrated oil and gas operations, natural gas transmission, manufacturing and shipbuilding, chemicals, packaging, agriculture and land management and other businesses. Consummation of the transaction described in the Agreement is conditioned upon a number of matters set forth in the Agreement, including approval of the PLI shareholders. Under the terms of the Agreement, PLI would be merged with and into its wholly owned subsidiary, PLI Delaware Life Insurance Corp., a Delaware corporation ("PLI Delaware"); PLI Delaware would then be merged with and into Tenneco Delaware Life Insurance Corp., a Delaware corporation and a wholly owned subsidiary of Tenneco ("TDC"). Immediately thereafter, Tenneco will cause TDC to be merged with and into a new Pennsylvania life insurance company to be organized as a wholly owned subsidiary of Tenneco ("New PLI"). As a result, New PLI will acquire all of the issued and outstanding capital shares of Adviser, and Tenneco will indirectly own all such shares.

Section 15(a) of the Act provides, in pertinent part, that it shall be unlawful for any person to serve or act as an investment adviser of a registered investment company except pursuant to a written contract which has been approved by a vote of the majority of the outstanding voting securities of such registered company, and provides for its automatic termination in the event of its assignment.

Section 2(a)(4) of the Act defines "assignment" to include any direct or indirect transfer of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor. Applicants assert that the reorganization of PLI will result in such an "assignment" of the investment advisory agreements with the Funds, and therefore, such investment advisory agreements will terminate automatically on the date the proposed reorganization is consummated.

Applicants state that on January 24, 1978, the Board of Directors of each of the Funds, a majority of the directors of which are not "interested persons" of such Funds or of Adviser, approved, subject to approval by vote of a majority of the outstanding voting securities of each Fund, a new investment advisory agreement with the Adviser. Each such agreement is identical to the present investment advisory agreement between that Fund and the Adviser.

Applicants further state that immediately following such Directors' meetings, each of the Funds executed and delivered a letter agreement to the Adviser ("Letter Agreements") Pursuant to the Letter Agreements, the Adviser has agreed to perform advisory services for the Funds for the period between the date of assignment of the present investment advisory agreements between such Funds and the Adviser and the dates of the respective meetings of shareholders on the same terms as are contained in the present investment advisory agreement between each such Fund and the Adviser. The Adviser's obligations under the Letter Agreements will include the maintenance of expense guarantees as provided for under the present investment advisory agreements. Subject to receipt of the requested order exempting such payment from section 15(a) of the Act, each Fund, in the Letter Agreement, in exchange for such services, has agreed to pay the Adviser an amount or amounts equal to the lower of the Adviser's costs and expenses allocable to the rendering of advisory services to such Fund, or the fee specified in the present and proposed investment advisory agreements. If, however, an assignment is effected prior to receipt of the requested order of the Commission, the advisory services will be performed for the Funds at no cost until such order is received, or until shareholder approval of the new investment advisory agreement is obtained, whichever occurs first.

Each Fund has also agreed, however, that upon and subject to the approval of each Fund's shareholders as described below and the receipt of this requested order exempting such payment from section 15(a) of the Act, such Fund will pay to the Adviser an amount equal to the difference, if any, between the fee the Adviser would receive at the rate computed under the present investment advisory agreement and the amount actually paid to the Adviser on account of costs and expenses incurred by it, for the period commencing on the date of (i) the above assignment of the present investment advisory agreement between the Fund and the Adviser or (ii) receipt of the requested order of the Commission if that assignment is effected before receipt of such order, and ending on the date of the next scheduled or special meeting of shareholders of such Fund called for the purpose of approving the new investment advisory agreement ("Interim Period"). Each of the Funds has also agreed that, at its next scheduled or special meeting of shareholders, it will present for consideration by its shareholders, among other things, the following proposals:

(a) Approval or disapproval of a new investment advisory agreement with the Adviser;

(b) Approval or disapproval of the payment to the Adviser by such Fund of an amount equal to the difference, if any, between the investment advisory fee the Adviser would receive at a rate computed under the present investment advisory agreement during the Interim Period and the amount paid to the Adviser for costs and expenses incurred by it during such period.

Applicants represent that in 1978, annual meetings of shareholders of Pligrowth and Pliyield are scheduled for November 21, 1978. They further state, however, that the Boards of Directors of Pligrowth and Pliyield have

represented that they will call special meetings of shareholders within 6 months after the date of receipt of the requested order. It is further represented that if the above meetings of

be fully qualified to furnish the services provided under the present investment advisory agreements and the Letter Agreements. It is anticipated that substantially all of the

[8010-01]

[File No. 1-7259]

SOUTHWEST AIRLINES CO.

[8010-01]

[File Nos. 3-5389; 81-325]

TIME HOLDINGS, INC.

upon request or upon the Commission's own motion.

For the Commission, by the Division

in paragraph (4) of the current margin procedures in the event that they perceive Specialists abusing the spirit of the margin procedures by involving them-

represented that they will call special meetings of shareholders within 6 months after the date of receipt of the requested order. It is further represented that if the above meetings of Pligrowth and Pliyield shareholders are not held within 6 months of the issuance of the requested order and the proposed votes are not taken, which Applicants do not presently anticipate, the Adviser will provide advisory services at no cost to either such Fund after such 6-month period until a meeting of its shareholders is held. Finally, Applicants state that the 1978 annual meeting of shareholders of Plitrend is scheduled for February 28, 1978.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction from any provision of the Act or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants assert that the granting of the requested order is appropriate in the public interest and consistent with the protection of the investors of Pligrowth, Plitrend and Pliyield and with the purposes fairly intended by the policy and provisions of the Act, for the following reasons:

(i) For each Fund, the present investment advisory agreement was approved by the shareholders on the following dates: Pligrowth—November 19, 1974; Plitrend—February 18, 1975; and Pliyield—March 23, 1976. The renewal of each of such agreements for a one-year period was approved by the Boards of Directors of the respective Funds on the following dates: Pligrowth—November 15, 1977; Plitrend—August 24, 1976 (for the period from March 1, 1977 through February 28, 1978); and Pliyield—August 16, 1977. The new investment advisory agreements which, subject to shareholder approval, are proposed to be entered into by each of the Funds are identical to the investment advisory agreements approved on the foregoing dates. Each such new investment advisory agreement has been approved by a majority of the Directors of each Fund who are not "interested persons". In addition, the new investment advisory agreements will be submitted to the shareholders of each Fund at their next scheduled or special meeting called for such purpose, and at such meeting each of the Funds will also submit to its shareholders the question of approval of the payment to the Adviser of investment advisory fees during the Interim Period at the rates provided in the investment advisory agreement between each such Fund and the Adviser in excess of the payments of costs and expenses incurred by the Adviser during such period.

(ii) Funds have been advised by the Adviser, PLI, and Tenneco that after consummation of the reorganization, the Adviser will have substantially the same staff and capitalization as before the acquisition, and will be fully qualified to furnish the services provided under the present investment advisory agreements and the Letter Agreements. It is anticipated that substantially all of the personnel of the Adviser who are presently engaged in providing advisory services for the Funds will continue to do so and all of the current Directors and principal officers of the Adviser will retain their respective positions.

(iii) The requested exemption will be limited in duration from the date of the assignment until the next scheduled or special meeting of shareholders—expected to occur within six months after the date of receipt of the requested order in the case of Pligrowth and Pliyield, and on February 28, 1978 in the case of Plitrend.

(iv) Applicants do not believe that the expense and time involved in calling a special meeting of shareholders for each Fund for the purpose of approving new investment advisory agreements with the Adviser prior to the date of the assignment is warranted because of the contingencies involved in the reorganization of PLI.

Notice is further given that any interested person may, not later than, March 27, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-6230 Filed 3-8-78; 8:45 am]

[8010-01]

[File No. 1-7259]

SOUTHWEST AIRLINES CO.

Application To Withdraw From Listing and Registration

MARCH 2, 1978.

The above named issuer had filed an application with the Securities and Exchange Commission, pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. (Amex).

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The common stock of Southwest Airlines Co. (the "Company") has been listed for trading on the Amex since October 24, 1975. On June 27, 1977, such stock was also listed for trading on the New York Stock Exchange, Inc. ("NYSE"). The Company does not see any particular advantage in the dual trading of its common stock on both the Amex and NYSE inasmuch as trading of such stock on the Amex has been substantially reduced since the stock continued dual listing would no longer serve the purpose of stimulating competition among the market makers of its common stock.

The application relates solely to the withdrawal from listing and registration on the Amex and shall have no effect upon the continued listing of such common stock on the NYSE. The Amex has posed no objection in this matter.

Any interested person may, on or before March 24, 1978, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission will, on the basis of the application and any other information submitted to it, issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-6231 Filed 3-8-78; 8:45 am]

[8010-01]

[File Nos. 3-5389; 81-325]

TIME HOLDINGS, INC.

Application and Opportunity for Hearing

MARCH 2, 1978.

Notice is hereby given that Time Holdings, Inc. ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended, (the "Exchange Act") seeking an exemption from the requirement to file reports pursuant to sections 13 and 15(d) of the Exchange Act.

The Applicant states, in part:

1. The Applicant was a publicly held company subject to the reporting provisions of section 15(d) of the Exchange Act.

2. On January 9, 1978, the Applicant was merged with a wholly owned subsidiary of N.V. AMEV ("NVA") pursuant to an Agreement and Plan of Merger adopted on November 3, 1977.

3. As a result of the merger, all the issued and outstanding shares of common stock of the Applicant are now owned by NVA.

In the absence of an exemption, Applicant is required to file certain periodic reports with the Commission pursuant to section 15(d) of the Exchange Act, including an annual report on Form 10-K for the fiscal year ended December 31, 1977.

The Applicant argues that no useful purpose would be served in filing the periodic reports because NVA now owns all of the Applicant's common stock, and its common stock is no longer publicly traded.

For a more detailed statement of the information presented, all persons are referred to the Application which is on file in the offices of the commission at 500 North Capitol Street, Washington, D.C. 20549.

Notice is further given that any interested person not later than March 27, 1978, may submit to the commission in writing his views or any substantial facts bearing on the application or the desirability of a hearing thereon. Any such comunication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-6232 Filed 3-8-78; 8:45 am]

[8010-01]

[Release No. 34-14519; File No. SR-BSE-77-5]

BOSTON STOCK EXCHANGE

Self-Regulatory Organization; Proposed Rule Changes

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on December 12, 1977, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule change as follows:

BSE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

1. *Proposed Rule Change*

(a) *Chapter VIII* Amended to include material at the end of Chapter to read as follows:

SUPPLEMENTARY MATERIAL

The Board of Governors has approved the following amended margin procedures applicable to Specialist's primary and alternate accounts.

1. Margin requirements will be computed separately on primary and alternate accounts. The minimum equity required in a primary account will be $50,000 and in an alternate account $25,000.
2. For each position in either the specialist, alternate or trading account that exceeds the Specialist Unit's total equity by more than 30%, and additional haircut of up to 15% of the excess (depending on recognized indices of volatility and liquidity of the issues involved, as interpreted by the Department of Member Firms) will be taken in computing margin requirements.
3. In the event that the margin in a Specialist's accounts is below 15%, there may be an immediate margin call which must be satisfied by bringing the account up 25% margin within one trading hour of such information being brought to the attention of the Specialist or his agent on the Floor of the Exchange. Such margin call can be satisfied by deposit of cash, marketable securities or liquidation.
4. Notwithstanding the above, the Department of Member Firms may require any Specialist Unit to bring its book within margin compliance in any period of time, after discussion with at least two of the following: the Chairman or Vice Chairman of the Exchange, the Chairman of the Executive Committee, the Chairman of the Committee on Business Conduct, and the President of the Exchange, in conjunction with one member of the Committee on Business Conduct who is active on the Floor.
5. The Department of Member Firms shall act promptly under the authority granted in paragraph (4) of the current margin procedures in the event that they perceive Specialists abusing the spirit of the margin procedures by involving themselves in a patterm of undermargined situations.
6. Trading accounts will be governed by normal Regulation T provisions with respect ot initial margin and, if financed through the Clearing Corporation, must maintain a 25% margin or be subject to calls as indicated above.

(b) Not applicable.

(c) Not applicable.

BSE'S STATEMENT OF BASIS AND PURPOSE

Purposed the Proposed Rule Changes

To comply with the provisions of the Securities Exchange Act of 1934, as amended by the Securities Acts Amendments of 1975. Rules were reviewed by the Securities and Exchange Commission, which ordered a review of all the Rules.

Bases of the Proposed Rule Changes;

(i) Not applicable.
(ii) Not applicable.
(iii) Not applicable.
(iv) Not applicable.
(v) Not applicable.
(vi) Not applicable.
(vii) Not applicable.

Comments Received from Members, Participants or Others on Proposed Rule Changes

No comments were solicited or received.

Burden on Competition

No burden on competition is perceived by adoption of the proposed amendment.

On or before April 13, 1978, or within such longer period (i) as the Commission may designate up to 90 days of such date, if it finds such longer period to be appropriate and publish its reason for so finding, or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will: (A) By order approve such proposed rule changes, or (B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before April 10, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-6233 Filed 3-8-78; 8:45 am]

[8010-01]

[Release No. 34-14520; File No. SR-CBOE-77-30]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Changes

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on December 12, 1977, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule changes as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF

sell order cannot be immediately executed, the Board Broker shall [display the order as a $.01 offer. However, since a market or a 1/16 opening buy order may come to the marketplace next, the $.01 closing sell order

tee. This standardization of procedure will make it easier for market participants to anticipate when trading in each option series in a class will begin,

curities by standardizing and improving the procedures of Board Brokers for (1) conducting opening rotations (2) executing and displaying cabinet bids and offers and (3) displaying the

organization filed with the Securities and Exchange Commission proposed rule changes as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF

Corporation unless it is otherwise mutually agreed by the parties to the contract, or the appropriate Clearing Corporation, either in its By-Laws and Rules, refuses to act in the

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MARCH 2, 1978.

[FR Doc. 78-6233 Filed 3-8-78; 8:45 am]

[8010-01]

[Release No. 34-14518; File No. SR-CBOE-1978-4]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on February 16, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows (deletions in brackets; additions in italics):

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Rule 6.2.01(a) Opening Rotations

Interpretations and Policies:

.01 No change

(a) Opening Rotations. The opening rotation in each class of options shall be held promptly following the opening transaction in the underlying security on the principal exchange where it is traded. As a rule, a Board Broker acting in more than one class of options should open them in the same order in which opening transactions are reported in the underlying securities. In conducting each such opening rotation, the Board Broker should first open the one or more series of options of a given class having the nearest expiration, then proceed to the series of options having the next most distant expiration, and so forth, until all series have been opened. [Except as otherwise provided by the FPC.] If both puts and calls covering the same underlying security are traded, the Board Broker shall determine which type of option would open first, and [may] *shall* alternate the opening of put series and call series [or]. [may open all series of one type before opening any series of the other type, depending on current market conditions] *A Board Broker may conduct the opening rotation in another manner only with the approval of two Floor Officials or at the direction of the Floor Procedure Committee.*

Rule 6.54 Accommodation Liquidations

Interpretations and Policies

.01 A Board Broker who receives a closing buy order for $.01 per share at option shall attempt to execute the order against any $.01 closing sell orders in his possession. If any part of the buy order cannot be immediately executed, the Board Broker shall display the $.01 bid.

Upon receiving a closing sell order for $.01 per share at option, the Board Broker shall attempt to execute the order [at the best available bid.] *against any $.01 closing buy orders in his possession.* If any part of the sell order cannot be immediately executed, the Board Broker shall [display the order as a $.01 offer. However, since a market or a 1/16 opening buy order may come to the marketplace next, the $.01 closing sell order should be filed in time sequence with any orders to sell at 1/16. This provides the ability to execute the closing sell order at $.01 if a closing buy order arrives next, or at 1/16 if an opening buy order arrives next.] *file the $.01 closing sell order in time sequence with any other $.01 closing sell orders, but shall display the next highest offer in that option series for which he has $.01 closing sell orders.*

Upon execution of any $.01 per share orders, the Board Broker shall promptly supply reports of the transaction back to the member firms involved. In accordance with (vi) above, he will not report the transactions to the Exchange until after the close of each business day.

Rule 7.7.01 Board Broker Display of Bids and Offers

Interpretations and Policies:

.01 In displaying the highest bid and the lowest offer in his book for a particular option contract, a Board Broker shall indicate the full size of such bid or offer if it is for [25] *999* option contracts or fewer option contracts. If the highest bid or lowest offer is for more than [25] *999* option contracts, the Board Broker shall display a size indication of at least [25 units] *999 contracts*, and whenever practicable, shall [display] *verbally provide* a reasonable indication of the full size of such bid or offer.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The purposes of the proposed rules change are:

(A) To facilitate transactions in opening rotations of options classes where both puts and calls are traded by standardizing the order in which the Board Broker opens the different series within the class;

(B) To alter and standardize Board Broker procedures for the execution and display of $.01 closing orders to sell; current procedures have resulted in trades taking place at a price of 1/16 when a $.01 offer to sell has been displayed on the Board Broker's book.

(C) To make more meaningful the display of order information by Board Brokers by requiring them to display the size of virtually all orders.

A. OPENING ROTATIONS

The proposed modification of Rule 6.2, Interpretation .01(a) requires the Board Broker to alternate the opening of put and call option series if both are traded on an underlying security. As so amended, the interpretation deprives a Board Broker of the discretion he presently enjoys to open a class of options either by alternating put and call series or by opening all option series of one type before any series of the other type, depending upon his market judgment except as specifically otherwise provided by the Exchange's Floor Procedure Committee. This standardization of procedure will make it easier for market participants to anticipate when trading in each option series in a class will begin.

B. CABINET TRADES

The proposed modification of Rule 6.54, Interpretation .01 is intended to clarify procedures respecting accommodation liquidations and thereby facilitate uniform adherence by Board Brokers to those procedures.

Under the proposed modification, a Board Broker would continue to match cabinet bids and offers in his possession (i.e., $.01 per share at option offers and bids that pertain to closing sale and closing purchase transactions, respectively) and would continue to hold in his order file any such unexecuted closing $.01 sell orders or closing $.01 buy orders, sequenced by time of entry.

Present procedure requires that closing sell orders at 1/16 be filed by Board Brokers in time sequence with $.01 closing sell orders and that unexecuted $.01 closing sell orders be displayed by the Board Broker. The display by the Board Broker of a $.01 closing sell order can create confusion when an opening buy order at 1/16 enters the crowd. The opening buy order at 1/16 may not be executed at the $.01 price since that price has been reserved for accommodation liquidation transactions. As a result, trading can now take place at a price greater than $.01 per share at option while a $.01 closing sell order is displayed on the Board Broker's book.

The proposed modification to Interpretation .01 to Rule 6.54 would require that $.01 closing sell orders be sequenced in time only with other $.01 closing sell orders and that any unexecuted $.01 closing sell orders not be displayed by the Board Broker. Therefore, the lowest closing offer that would be displayed by the Board Broker would be an offer to sell at 1/16, which offer could be executed with any 1/16 order to buy in the crowd, without regard to whether that buy order pertained to an opening purchase or closing purchase transaction.

A proposed addition to Interpretation .01 to Rule 6.54 requires prompt reports by Board Brokers to member firms of executions of cabinet trades.

C. DISPLAY OF ORDER SIZE

The proposed modification to Rule 7.7, Interpretation .01, requires the Board Broker to display the full size of a bid or offer. There seems to be no justification for limiting such display to situations where the order is for 25 contracts or fewer, as Rule 7.7 presently does.

The basis under the Act for the proposed rule change is section 6(b)(5) in that the proposed changes are designed to facilitate transactions in securities by standardizing and improving the procedures of Board Brokers for (1) conducting opening rotations (2) executing and displaying cabinet bids and offers and (3) displaying the size of bids and offers.

Comments were not solicited nor were comments received regarding this proposed rule change.

The Exchange does not believe this proposed rule change will place any burden on competition. To the extent it results in standardized procedures and more meaningful displays of bids and offers on the Board Broker's book, competition should be enhanced.

On or before April 13, 1978, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submission will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying in the principal office of the above-mentioned self-regulatory organizations. All submissions should refer to the file number referenced in the caption above and should be submitted on or before April 10, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MARCH 2, 1978.

[40 FR Doc. 78-6234 Filed 3-8-78; 8:45 am]

[8010-01]

[Release No. 34-14522; File No. SR-MSE-78-2]

MIDWEST STOCK EXCHANGE, INC.

Self-Regulatory Organizations; proposed rule changes

Pursuant to section 19(b)(1) of the securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on February 6, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule changes as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGES

Additions in italic—[Deletions bracketed]

Section 2 of Article VII of the constitution is hereby amended as follows:

ARTICLE VII

Discipline

Sec. 2. the Exchange shall have authority to discipline any member organization violating any provision of the Constitution or Rules [or the By-laws or Rules of the Midwest Clearing Corporation, Midwest Securities Trust Company or the Options Clearing Corporation as provided in the rules]. Discipline may be by censure, fine, suspension, expulsion or as the Board of governors may determine. The Exchange, as and to the extent provided in the Rules, shall have regulatory and disciplinary jurisdiction over partners of member firms; officers, directors and principal stockholders of member corporations; employees of members and member organizations; subsidiaries of member organizations; parent firms and principal officers and subsidiaries of parent firms. As and to the extent provided in the Rules, the disciplinary authority of the Exchange over any person or organization occupying a status described by this section shall continue after the termination of such status with respect to acts or omissions occurring prior to such termination. disciplinary proceedings shall be in accordance with the Rules.

Sections 2 and 3 of Article VIII of the Constitution are hereby amended as follows:

ARTICLE VIII

Sec. 2. *The terms and conditions of all Exchange Contracts shall be deemed to include* [T] *the* provisions of the Certificate of Incorporation, Constitution and of the Rules *of the Exchange* [shall be a part of the terms and conditions of all Exchange Contracts] and the By-Laws and the Rules of the [Midwest Clearing Corporation and the Options Clearing Corporation] *registered clearing agency or agencies through which the Contract is to be cleared and settled.* [shall be a part of the terms and conditions of every contract which is to be cleared or settled through such Clearing Corporations and a] *All* such contracts shall be subject to the exercise by the Board of governors and the appropriate [clearing corporation] *registered clearing agency* of the powers with respect thereto vested in them by the Certificate of Incorporation, Constitution and Rules of the Exchange and by the By-Laws and Rules of [either of the appropriate clearing corporations, respectively.] *the appropriate registered clearing agency.*

Sec. 3. *The comparison of data respecting the terms of settlement of Exchange Contracts and the resolution of any disagreements about the terms of such contracts shall be accomplished by the parties thereto through the facilities and in accordance with the Rules of the Exchange.* On every Exchange Contract *clearance and settlement* [delivery and payment] shall be made through *and in accordance with the By-Laws and Rules of a registered clearing agency* [the Midwest Clearing Corporation or Options Clearing Corporation as required by the By-Laws and Rules of the Midwest Clearing Corporation or Options Clearing Corporation unless it is otherwise mutually agreed by the parties to the contract, or the appropriate Clearing Corporation, either in the particular instance or in pursuance of its By-Laws and Rules, refuses to act in the matter].

A party to an Exchange Contract who is not a *participant in* [clearing member of] *a registered clearing agency* [the Midwest Clearing Corporation or Options Clearing Corporation] shall cause the transaction to be cleared and settled for him or it by a [clearing member of] *participant in a registered clearing agency* [the appropriate Clearing Corporation]; however, such nonclearing *participant* [member] having both the purchase and selling orders of a proposed transaction may have such transaction completed on the Exchange without the services of a clearing [member] *agency participant*, provided it is duly reported to the exchange *for comparison* [and the appropriate Clearing Corporation].

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of these amendments is to eliminate the references to Midwest Clearing Corp., Midwest Securities Trust Co., and the Options Clearing Corp. in order to better allow for the development of a national system for the settlement of transactions in securities.

Sections 6(b)(8) and 15A(b)(9) of the Act prohibit the rules of national securities exchanges from imposing any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. These sections complement Section 17A(a)(2) of the Act which directs the commission to use its authority under the Act to facilitate the establishment of a national system for the settlement of transactions in securities.

Comments have neither been solicited nor received by the Midwest Stock Exchange, Inc.

The Midwest Stock Exchange, Inc. believes that no burdens have been placed on competition.

On or before April 13, 1978, or within such longer period (i) as the Commission may designate up to 90 days of such notice if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the commission will: (A) by order approve such proposed rule changes, or (B) institute proceedings to determine whether the proposed rule changes should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. copies of the filing with respect to the foregoing and of all written submissions will be

available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for

RULE D-9—"CUSTOMER"

Rule D-9 codifies, as a definitional rule of general application, the definition of the term "customer" presently

nish to each customer in connection with the sale of new issue securities: (i) A copy of the official statement (or an abstract or other summary of such

nicipal securities brokers, or municipal securities dealers. * * *

COMMENTS RECEIVED FROM MEMBERS,

3(a)(30) of the Act, which defines a "municipal securities dealer," can be construed to exclude from the definition of that term activities of a bank

a customer unless the professional makes certain determinations with respect to the suitability of such transactions. The proposed rule also speci-

available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before March 30, 1978.

For the Commission by the division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MARCH 2, 1978.

[FR Doc. 78-6235 Filed 3-8-78; 8:45 am]

[8010-01]

[Release No. 34-14519; File No. SR-MSRB-77-12]

MUNICIPAL SECURITIES RULEMAKING BOARD

Self-Regulatory Organizations; Proposed Rule Changes

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on February 28, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGES

On September 20, 1977, the Municipal Securities Rulemaking Board (the "Board") filed with the Securities and Exchange Commission (the "Commission") a series of proposed rules and rule amendments (File No. SR-MSRB-77-12), the general purpose of which was to codify basic standards of fair and ethical business conduct for municipal securities professionals. The Board is filing herewith amendments to certain of such proposed rules as set forth below (hereafter sometimes referred to as the "proposed amendments").

The proposed amendments effect changes to proposed rule D-9 which defines the term "customer," to proposed rule G-28 relating to transactions with employees and partners of other municipal securities professionals, and to proposed rule G-32 relating to disclosures in connection with new issues.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule changes is as follows:

PURPOSE OF PROPOSED RULE CHANGES

The specific purpose of each of the proposed amendments is discussed below.

RULE D-9—"CUSTOMER"

Rule D-9 codifies, as a definitional rule of general application, the definition of the term "customer" presently set forth in various Board rules. As filed with the Commission, the proposed rule provided that an issuer of securities which are the subject of the transaction in question would not be a customer. The proposed amendment modifies this aspect of the proposed rule to provide that an issuer would not be a customer within the meaning of the rule only in case of a sale by it of a new issue of its securities. The Board believes that the protections afforded customers by its rules should be extended to issuers when they act in secondary market transactions.

RULE G-28—TRANSACTIONS WITH EMPLOYEES AND PARTNERS OR OTHER MUNICIPAL SECURITIES PROFESSIONALS

Proposed rule G-28 is designed to prevent employees and partners of securities professionals from effecting transactions which are contrary to the interests of the securities firm or bank dealer with which they are associated or otherwise acting improperly with respect to transactions in municipal securities. Under the proposed rule as filed with the Commission, a securities professional would have to obtain the specific written authorization of a municipal securities broker or municipal securities dealer in order to open or maintain an account in which transactions in municipal securities may be effected for employees and partners (and members of their immediate family) of such municipal securities broker or municipal securities dealer. In addition, the securities professional carrying the account would be required to send to the municipal securities broker or municipal securities dealer a duplicate confirmation of each transaction in municipal securities effected for the account.

The proposed amendment to rule G-28 eliminates the requirement to obtain written consent and substitutes in its place a requirement to provide written notice to a municipal securities broker or municipal securities dealer prior to opening an account for an employee or partner of the municipal securities broker or municipal securities dealer. Upon further consideration, the Board believes that a requirement to obtain written consent would impose an unnecessary burden on both parties and that the purpose of the rule can be realized if prior written notice is given and an employer is provided with a duplicate confirmation of every transaction effected for such an account.

RULE G-32—DISCLOSURES IN CONNECTION WITH NEW ISSUES

Proposed rule G-32 requires a municipal securities professional to furnish to each customer in connection with the sale of new issue securities: (i) A copy of the official statement (or an abstract or other summary of such statement) if an official statement is voluntarily furnished to underwriters by an issuer, and (ii) certain other information concerning underwriting arrangements.

The requirement to furnish to customers copies of official statements and the specified information applies to every municipal securities dealer, whether or not a member of a syndicate. However, under the proposed rule as filed with the Commission, a syndicate member has no obligation to provide official statements to a non-member dealer to which the syndicate member sells securities. The Board is concerned that in the absence of such a requirement a non-member dealer would not be able to discharge its responsibility under the proposed rule to its customers. The Board has therefore amended proposed rule G-32 to require that a syndicate member furnish the official statement and information required by the proposed rule to non-member dealers to which it sells new issue securities, upon request by such dealers.

The Board has also deleted the provision requiring disclosure of the names and participations of each member of a syndicate. The Board believes that such information is not material to an investor's decision to purchase securities. Another amendment to proposed rule G-32 deletes the requirement for disclosing the initial offering price in competitive sale situations. The Board believes that it is not necessary to require disclosure of such information in competitive sales, as opposed to negotiated sales, since independent market forces dictate the structure of such financings and the Board therefore believes that the information in question is not material.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGES

The Board has adopted the proposed rule changes pursuant to section 15B(b)(2) of the Securities Exchange Act of 1934, as amended (the "Act"), which authorizes the Board to adopt rules governing transactions in municipal securities effected by brokers, dealers and municipal securities dealers, and in accordance with the standards set forth in section 15B(b)(2)(C) of the Act, which provides in part that the Board's rules shall

be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, * * * to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest; and [shall] not be designed to permit unfair discrimination between customers, issuers, municipal securities brokers, or municipal securities dealers. * * *

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS, AND OTHERS ON PROPOSED RULE CHANGES

The Board originally filed the proposed rule changes on September 20, 1977 (File No. SR-MSRB-77-12). In response to the publication of the proposed rule changes in the FEDERAL REGISTER on September 28, 1977, the Commission and the Board received 28 comment letters. The letters relating to subjects other than proposed rule G-23 are discussed. The Board intends to consider further proposed rule G-23 and the comments received on such proposed rule are therefore not discussed in this filing. Copies of all letters of comment are on file at the offices of the Commission and of the Board.

The succeeding discussion of the comment letters is organized by reference to the proposed amendments to rules or proposed rules. Proposals with respect to which there were no comments are not discussed. Rule D-8

"BANK DEALER"

Rule D-8, which is currently in effect, defines the term "bank dealer" to mean a municipal securities dealer which is a bank or a separately identifiable department or division of a bank as defined in rule G-1 of the Board. Under the proposed amendment to this rule, language would be added to exempt specifically from the definition of a bank dealer, fiduciary activities of a bank conducted pursuant to trust powers granted under State or Federal law.

The National Association of Securities Dealers, Inc. (the "NASD") objected to the exception for trust activities in the proposed amendment, stating that customers of a bank's trust department are entitled to the same protection under the Board's rules as customers of municipal securities dealers. The NASD suggested that rule D-8 be modified to provide that the Board's rules apply to municipal securities transactions for customers of bank trust departments. The NASD also recommended that changes be made to proposed rule D-9 which defines "customer," proposed rule D-10 which defines "discretionary account," and proposed rule G-26 on administration of discretionary and other accounts, in order to include customers of bank trust departments within the scope of the proposed rules.

The Board determined not to delete the proposed amendment to rule D-8, or to make the other changes referred to above. Among other reasons, it is not clear as a matter of law that the Board has the authority to regulate the municipal securities activities of a bank trust department. Section 3(a)(30) of the Act, which defines a "municipal securities dealer," can be construed to exclude from the definition of that term activities of a bank that are conducted in a fiduciary capacity. The legislative history of this section and section 15B of the Act, under which municipal securities brokers and municipal securities dealers are regulated, provides no guidance with respect to this question.

The Board notes that the three federal bank regulatory agencies have proposed regulations in response to the Commission's *Final Report on Bank Securities Activities*, which was transmitted to Congress pursuant to section 11A(e) of the Act. Under the proposed regulations, banks would be required to maintain for 6 years certain records concerning securities transactions, provide confirmations of transactions in certain securities to customers, and establish written policies and procedures regarding the supervision of employees who engage in securities transactions and certain other matters. The proposed regulations would apply to municipal securities transactions effected by bank trust departments for customers of such departments.

RULE G-17—CONDUCT OF MUNICIPAL SECURITIES BUSINESS

Proposed rule G-17 enunciates the general principle that municipal securities professionals must deal fairly with all persons, including other market professionals and customers, and must not engage in any deceptive, dishonest, or unfair practice.

The Public Securities Association (the "PSA") recommended that the standard of conduct prescribed in the proposed rule also include the concepts of "high standards of commercial honor" and "just and equitable principles of trade," the standards used in corresponding Commission and NASD rules applicable to corporate securities transactions.

The Board believes that it would be inappropriate to modify the proposed rule as suggested by the PSA. Although analogous to the standards employed in the Commission and NASD rules, the standard of fair conduct in the proposed rule is intended to refer to the customs and practices of the municipal markets, which may, in many instances, differ from that in the corporate securities markets. Use of the same standard might therefore be confusing.

The NASD indicated its approval of the proposed rule as filed with the Commission.

RULE G-19—SUITABILITY OF RECOMMENDATIONS AND TRANSACTIONS

Proposed rule G-19 prohibits a securities professional from recommending transactions in municipal securities to a customer unless the professional makes certain determinations with respect to the suitability of such transactions. The proposed rule also specifies standards for affecting transactions in municipal securities for a discretionary account and prohibits churning.

Girard Bank indicated that it believes to be unduly burdensome the requirement in proposed rule G-19 to obtain certain information concerning a customer before making a recommendation to the customer. The Board believes that the requirement is appropriate and necessary for the protection of investors.

In its deliberations, the Board reconsidered subparagraph (a)(ii) of the proposed rule, relating to the circumstances under which a municipal securities professional may make a recommendation to a customer who does not disclose all of the personal and financial information referred to in subparagraph (a)(i) of the proposed rule. The Board determined to retain subparagraph (a)(ii) in its present form. Accordingly, a municipal securities professional may make a recommendation to a customer who does not disclose all such information, provided that the municipal securities professional has no reasonable grounds to believe that the recommendation is unsuitable for the customer. The Board notes in this connection that proposed rule G-19 places an obligation on municipal securities professionals to conduct a reasonable inquiry in order to make, if possible, the affirmative determination as to suitability contemplated by subparagraph (a)(i) of the proposed rule.

The Board also considered amending the proposed rule to add "and does believe" in paragraph (a)(i) and "and does not believe" in paragraph (a)(ii). The Board decided not to amend the rule in this manner because it believed that it would be redundant to include such language and difficult to establish the requisite state of mind, whether affirmative or negative, as a matter of proof. For example, a municipal securities professional who does not believe that a recommendation is suitable would not have "reasonable grounds" to make a recommendation.

RULE G-20—GIFTS AND GRATUITIES

Proposed rule G-20 prohibits a municipal securities professional from giving or providing services to another person in relation to the municipal securities activities of such person's employer in excess of an annual amount of $100 per recipient. The $100 limitation, however, would not apply to occasional gifts of meals or tickets to theatrical, sporting, and other entertainments, or gifts of reminder advertising, provided that such gifts are not so frequent or excessive "as to raise a

suggestion of conduct inconsistent with high standards of professional ethics in the municipal securities industry."

The NASD expressed its support for

mine whether or not copies of confirmations of all transactions should be transmitted to it.

As indicated under item 3 above, the

RULE G-32—DISCLOSURE IN CONNECTION WITH NEW ISSUES

Proposed rule G-32 requires municipal securities professionals to furnish

The NASD indicated its opposition to the requirement in proposed rule G-32 for disclosing the underwriting spread in negotiated sales, stating that

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,

broker or municipal securities dealer sends to the customer:

(1) a copy of the official statement in final form voluntarily furnished by or on behalf

suggestion of conduct inconsistent with high standards of professional ethics in the municipal securities industry."

The NASD expressed its support for the proposed rule, but suggested that the Board's inclusion of the language quoted above may have been the result of an oversight, since similar language contained in the exposure draft of rule G-17 had been deleted from that rule as filed with the Commission.

The language in question was purposefully included in proposed rule G-20. The Board believes that it establishes a meaningful standard, which will provide guidance both to the industry and the regulatory organizations charged with the enforcement of the rule.

RULE G-22—CONTROL RELATIONSHIPS

Proposed rule G-22 requires the disclosure to customers of control relationships between a securities professional and an issuer of municipal securities as well as persons other than issuers who are obligated with respect to debt service.

Crocker National Bank stated that the proposed rule might present a compliance problem for banks which register a separately identifiable department or division. It suggested that the problem could be alleviated by requiring disclosure "only for public finance situations" and by narrowing the scope of the proposed rule to apply only to control relationships involving employees of the dealer unit within the bank.

In the case of a bank dealer, a control relationship would be deemed to exist under the proposed rule only if the dealer unit or the bank, as an organization, controls, is controlled by, or is under common control with an issuer or debt obligor. Excluded would be situations in which an employee of a bank, who is not an employee of the dealer unit, controls an issuer, unless the employee is also in a control relationship with respect to the bank as a whole. Accordingly, the scope of the proposed rule is essentially the same as that recommended by Crocker National Bank.

RULE G-28—TRANSACTIONS WITH EMPLOYEES AND PARTNERS OF OTHER MUNICIPAL SECURITIES PROFESSIONALS

Proposed rule G-28 establishes procedures for opening and maintaining accounts for employees and partners of other securities professionals and for effecting transactions for such accounts.

The NASD recommended that the proposed rule be modified (i) to provide for "written notification to" the employer rather than "written authorization from" the employer, and (ii) to permit an employer to determine whether or not copies of confirmations of all transactions should be transmitted to it.

As indicated under item 3 above, the Board has adopted the NASD's first suggestion. The Board did not adopt the second suggestion because it believes that the requirement to provide copies of confirmations of all transactions to an employer is necessary to assure that the other municipal securities professional is fully informed regarding the trading activivties of its employees and partners, so that accounts maintained by such persons are not used for illegal or improper purposes.

RULE G-30—PRICES AND COMMISSIONS

Proposed rule G-30 requires that transactions with customers in municipal securities effected by a securities professional as principal be effected at a fair and reasonable price, taking into account the various factors mentioned in the rule as well as any other factors that may be relevant in determining the fairness or reasonableness of the price to the customer. With respect to agency transactions, the proposed rule provides that any commission or service charge to a customer for effecting a transaction must be fair and reasonable taking into account all relevant factors including those referred to in the rule.

The NASD endorsed proposed rule G-30 as an initial step, but expressed concern that, absent specific guidelines, municipal securities professionals will "be faced with the problem of knowing what the specifics are for complying with [the rule]." The NASD suggested that a survey be conducted of municipal securities professionals to determine existing business practices with respect to mark-ups and commissions and, on the basis of such a survey, to establish precise guidelines in this area.

As indicated in the initial filing, the Board believes that it would be inappropriate to establish a specified percentage of mark-up, mark-down, or commission, such as the NASD's 5% mark-up policy. The Board is of the view that the approach embodied in the proposed rule is more appropriate to the municipal securities industry in light of the diversity of its participants and the heterogeneous nature of municipal securities.

The Board is prepared, as in the case of all of its rules, to provide guidance to the municipal securities industry and the regulatory agencies with respect to the application of the rule to particular fact situations. The Board may in the future issue interpretive notices with respect to proposed rule G-30 if the inquiries received by it focus on certain common factual situations or raise issues of general interest.

RULE G-32—DISCLOSURE IN CONNECTION WITH NEW ISSUES

Proposed rule G-32 requires municipal securities professionals to furnish to customers copies of the official statement, if an official statement is voluntarily furnished by an issuer, and certain other information concerning underwriting arrangements. The proposed amendments effect certain changes to this rule. These changes are discussed above.

The NASD recommended that the Board modify the rule to require municipal securities dealers to furnish to customers official statements only upon written request. The Board believes that this would defeat, at least in part, the purpose of the proposed rule to make information which is voluntarily provided by an issuer readily available to customers.

The Board notes in this connection that the Municipal Finance Officers Association (the "MFOA") has issued a draft position statement (Working Draft of Position Statements on Securities Disclosure Procedures, Position Statement No. 2 (September 9, 1977)), which provides that issuers should furnish municipal securities dealers with sufficient quantities of official statements to enable them to provide copies to customers. The MFOA indicated in its comment letter to the Commission that Position Statement No. 2 "was designed with proposed rule G-32 in mind * * *."

The MFOA in its comment letter endorsed the proposed rule, but suggested that several changes be made to it. The MFOA recommended that a provision be added stating that underwriters may attach disclaimers to official statements furnished to customers. Such disclaimers would be to the effect that the municipal securities professional is not responsible for the content of the official statement, and makes no representation as to its accuracy or completeness. As indicated in the initial filing, the proposed rule would not preclude the inclusion of a disclaimer provision, but the Board expresses no opinion with respect to the legal validity or effect of such a provision.

The MFOA recommended that the proposed rule provide that any preliminary information supplied by an issuer to a municipal securities dealer be made available to "prospects," upon request. The MFOA also recommended that such preliminary information, as well as the official statement, be required to be furnished promptly, rather than merely at or before the sending of the final confirmation of sale to a customer. The Board believes that these suggestions, if adopted, would impose an impractical and costly burden on municipal securities professionals, which would outweigh any possible benefit that such requirements might achieve.

The NASD indicated its opposition to the requirement in proposed rule G-32 for disclosing the underwriting spread in negotiated sales, stating that in its opinion disclosure of such information "may impede the capital-raising mechanisms of, and restrict market access to, rural communities." The PSA recommended that such disclosure be required only upon written request of the customer. Columbian Securities, Inc. endorsed the PSA's position on this point. In contrast, the American Insurance Association endorsed proposed rule G-32 in its entirety and specifically stated, in direct response to the NASD, that there is no reason to believe "disclosure of underwriting data would place one category of issuers at a disadvantage with any other category."

As indicated in the initial filing, the Board believes that disclosure of underwriting spread in negotiated sale situations may be material to the investment decision of a customer.

BURDEN ON COMPETITION

The Board is of the opinion that the proposed amendments will not impose any burden on competition among brokers, dealers or municipal securities dealers not necessary or appropriate in furtherance of the purposes of the Act. The proposed rules, to which the amendments relate, set forth standards of fair and ethical conduct in the municipal securities business for all securities professionals.

On or before April 13, 1978, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule changes, or

(B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before March 30, 1978.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MARCH 2, 1978.

TEXT OF PROPOSED AMENDMENTS[1]

RULE D-9. "CUSTOMER."

Except as otherwise specifically provided by rule of the Board, the term "customer" shall mean any person other than a broker, dealer, or municipal securities dealer acting in its capacity as such *or an issuer in transactions involving the sale by the issuer of a new issue of its securities* [or the issuer of the securities which are the subject of the transaction in question].

RULE G-28. TRANSACTIONS WITH EMPLOYEES AND PARTNERS OF OTHER MUNICIPAL SECURITIES PROFESSIONALS

(a) Account Instructions. No broker, dealer, or municipal securities dealer shall open or maintain an account in which transactions in municipal securities may be effected for a customer who is employed by, or the partner of, another municipal securities broker or municipal securities dealer, or for or on behalf of the spouse or minor child of such a person, unless such broker, dealer, or municipal securities dealer first *gives written notice with respect to the opening and maintenance of such account to* [obtains written authorization to open and maintain such account (which authorization may contain specified conditions with respect to transactions effected with or for the account) from] the municipal securities broker or municipal securities dealer by whom such person is employed or of whom such person is a partner.

(b) Account Transactions. No broker, dealer, or municipal securities dealer shall effect a transaction in municipal securities with or for an account subject to section (a) of this rule unless such broker, dealer, or municipal securities dealer—

(i) sends simultaneously to the employing municipal securities broker or municipal securities dealer a duplicate copy of each confirmation sent to the customer, and

(ii) acts in accordance with *any written instructions which may be provided to the broker, dealer, or municipal securities broker or municipal employing municipal securities broker or municipal securities dealer with respect to transactions effected with or for such account* [the conditions contained in the authorization required by section (a)].

(c) Effectiveness. The requirements of the rule shall become effective on ———— [60 days following the date of approval of the rule by the Commission].

RULE G-32. DISCLOSURES IN CONNECTION WITH NEW ISSUES

(a) Disclosure Requirements. No municipal securities broker or municipal securities dealer shall sell, whether as principal or agent, any new issue municipal securities to a customer unless, at or prior to sending a final written confirmation of the transaction to the customer indicating money amount due, such municipal securities broker or municipal securities dealer sends to the customer:

(i) a copy of the official statement in final form voluntarily furnished by or on behalf of the issuer (or an abstact or other summary of such statement which is prepared by such municipal securities broker or municipal securities dealer); and

(ii) in connection with a negotiated sale of new issue municipal securities, the following information concerning the underwriting arrangements:

(A) the underwriting spread;

(B) the amount of any fee received by the municipal securities broker or municipal securities dealer as agent for the issuer in the distribution of the securities; *and*

(C) The initial offering price for each maturity in the issue that is offered or to be offered in whole or in part by the underwriters. [; and]

[(D) The respective names and initial participations of each member of the syndicate or account, or the availability of such information upon written request; or]

[(iii) In connection with new issue municipal securities sold at competitive bid, the following information concerning underwriting arrangements:

(A) The initial offering price for each maturity in the issue that is offered or to be offered in whole or in part by the underwriters; and

(B) The respective names and initial participations of each member or the new issue syndicate or account, if any, or the availability of such information upon written request.]

In the event an official statement in final form is not available at the time the final confirmation indicating money amount due is sent to a customer, an official statement in preliminary form, if any, shall be sent to the customer, provided that an official statement in final form, or an abstract or summary thereof, must be sent to the customer promptly after such official statement becomes available to the municipal securities broker or municipal securities dealer.

Every municipal securities broker or municipal securities dealer shall promptly furnish the documents and information referred to in this section (a) to any broker, dealer, or municipal securities dealer to which it sells new issue municipal securities, upon the request of such broker, dealer, or municipal securities dealer.

(b) Definition of New Issue Municipal Securities and Official Statement. For purposes of this rule, the following terms have the following meanings:

(i) The term "new issue municipal securities" shall mean securities of an issue that are sold by a municipal securities broker or municipal securities dealer [to a customer] during the underwriting period defined in rule G-11 of the Board, and

(ii) The term "official statement" shall mean a document prepared by the issuer or its representatives setting forth, among other matters, information concerning the issuer and the proposed issue of securities. A notice of sale shall not be deemed to be an "official statement" for purposes of this rule.

[1] Italics indicate new language; brackets indicate deletions.

[FR Doc. 78-6236 Filed 3-8-78; 8:45 am]

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 78-029]

NATIONAL BOATING SAFETY ADVISORY COUNCIL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the National Boating Safety Advisory Council to be held on April 13, 1978, in Room 2230, Department of Transportation Headquarters, 7th and D Streets SW., Washington, D.C. The meeting is scheduled to begin at 9 a.m. and to adjourn at 4 p.m. The agenda for this meeting will be as follows:

1. Review of action taken at the eighteenth meeting of the Council.
2. Executive Director's report.
3. Canoe Subcommittee report.
4. Hull Identification Number Subcommittee report.
5. Discussion of the navigation light requirements of the International Regulations for Preventing Collisions at Sea ('72 COLREGS).
6. Office of Boating Safety report.
7. Member items.
8. Chairman's session.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the meeting. Public participation, especially on the navigation light requirements of the '72 COLREGS, is encouraged. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Council at any time. Additional information may be obtained from Commander M. Tubella, Jr., Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard (G-BA), Washington, D.C. 20590, or by calling 202-426-1080.

Issued in Washington, D.C., on February 28, 1978.

D. F. LAUTH,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Boating Safety.

[FR Doc. 78-6209 Filed 3-8-78; 8:45 am]

[4910-14]

[CGD 78-031]

NATIONAL BOATING SAFETY ADVISORY COUNCIL, CANOE SUBCOMMITTEE

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the National Boating Safety Advisory Council's Canoe Subcommittee to be held on April 12, 1978, in Room 3201, Trans Point Building, 2100 Second Street SW., Washington, D.C. The meeting is scheduled to begin at 9 a.m. and adjourn at 4 p.m.

The purpose of this meeting is to review and discuss the canoe research program.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Subcommittee at anytime. Additional information may be obtained from CDR M. Tubella, Jr., Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard (G-BA), Washington, D.C. 20590, or by calling 202-426-1080.

Issued in Washington, D.C., on February 28, 1978.

D. F. LAUTH,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Boating Safety.

[FR Doc. 78-6211 Filed 3-8-78; 8:45 am]

[4910-14]

[CGD 78-030]

NATIONAL BOATING SAFETY ADVISORY COUNCIL, HULL IDENTIFICATION NUMBER SUBCOMMITTEE

Meeting

Puruant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the National Boating Safety Advisory Council's Hull Identification Number Subcommittee to be held on April 12, 1978, in Room 4317, Trans Point Building, 2100 Second Street SW., Washington, D.C. The meeting is scheduled to begin at 9 a.m. and adjourn at 4 p.m.

The purpose of this meeting is to review the present Hull Identification Number requirements and discuss possible amendments to improve the current regulation.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Subcommittee at any time. Additional information may be obtained from Commander M. Tubella, Jr., Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard (G-BA), Washington, D.C. 20590, or by calling 202-426-1080.

Issued in Washington, D.C., on February 28, 1978.

D. F. LAUTH,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Boating Safety.

[FR Doc. 78-6210 Filed 3-8-78; 8:45 am]

[4810-33]

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

CITIZENS AND SOUTHERN NATIONAL BANK, SAVANNAH, GA.

Amended Suspension of Trading

On my opinion that the public interest and the protection of investors no longer require a suspension in the trading of the securities of the Citizens and Southern National Bank, Savannah, Ga., pursuant to sections 12(1) and 12 (k) of the Securities Exchange Act of 1934, my order of February 27, 1978, is hereby amended to terminate the trading suspension at 10 a.m. (EST) March 3, 1978.

Dated: March 2, 1978.

JOHN G. HEIMANN,
Comptroller of the Currency.

[FR Doc. 78-6118 Filed 3-8-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Volume No. 68]

MOTOR CARRIER, BROKER, WATER, CARRIER, AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

MARCH 2, 1978.

The following applications are governed by special rule 247 of the Commission's general rules of practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with § 247(E)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify

with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. All pleadings and documents must clearly specify the "F" suffix where the docket is so identified in this notice. If the protest includes a request for oral hearing, such requests shall meet the requirements of § 247(E)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 6078 (Sub-No. 86F), filed February 1, 1978. Applicant: D. F. BAST, INC., P.O. Box 2288, Allentown, PA 18001. Applicant's representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Structural and fabricatred steel*, the transportation of which requires, because of size or weight, the use of special equipment, and (2) *structural and fabricated steel, and related materials and supplies*, which do not require, because of size or weight, the use of special equipment, when moving in mixed loads with items described in (1) above, from points in Allegheny, Armstrong, Beaver, Butler, Lawrence, Washington, and Westmoreland Counties, PA, to points in and east of MN, IA, MO, AR, and LA.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Allentown, or Philadelphia, PA.

No. MC 13250 (Sub-No. 140), filed January 23, 1978. Applicant: J. H. ROSE TRUCK LINE, INC., P.O. Box 16190, Houston, TX 77022. Applicant's representative: James M. Doherty, 500 West Sixteenth Street, P.O. Box 1945, Austin, TX 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic pipe, conduit, fittings, couplings, and materials, accessories, and supplies* used in the installation thereof, from points in Geneva County, AL, to points in the United States (except AK and HI) and (2) *materials, equipment, valves, and fittings, and supplies* (except commodities in bulk) used in the manufacture and distribution of the commodities named in (1) above, from points in the United States (except AK and HI) to points in Geneva County, AL.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Birmingham, AL, or Atlanta, GA.

No. MC 25798 (Sub-No. 302), filed January 26, 1978. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, Auburndale, FL 33823. Applicant's representative: Tony G. Russell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Seabrook, NJ, to points in AL, AR, FL, GA, IN, KS, KY, LA, MI, MS, MO, NC, OH, SC, TN, and points in PA on and west of U.S. Hwy 219.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held either at Washington, DC, or Tampa, FL.

No. MC 47583 (Sub-No. 61), filed January 15, 1978. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, KS 66115. Applicant's representative: D. S. Hults, P.O. Box 225, Lawrence, KS 66044. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Processed grain and soybean products* (except commodities in bulk), from the plantsite and storage facilities of Far-Mar-Co., Inc., located at or near Hutchinson, KS, to all points and places in the United States (except AK and HI).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held in Kansas City, MO.

No. MC 52614 (Sub-No. 8), filed January 30, 1978. Applicant: R. S. POWELL, INC., Route 4, Box 673, Madison Heights, VA 24572. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Materials and supplies used in the manufacture and distribution of cast iron products, and finished products thereof*, between Lynchburg, VA, on the one hand, and, on the other, points in ME, NH, VT, MA, RI, CT, NY, MI, OH, IL, IN, and WI, under a continuing contract with Griffin Pipe Products Co. located at Oak Brook, IL.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, IL.

No. MC 55896 (Sub-No. 63), filed January 26, 1978. Applicant: R-W SERVICE SYSTEM, INC., 20225 Goddard Road, Taylor, MI 48180. Applicant's representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Auto body insulation*, from Herrin, IL, to Bryan, OH.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Toledo, OH, or Detroit, MI. Common control may be involved.

No. MC 75320 (Sub-No. 193F), filed February 1, 1978. Applicant: CAMPBELL SIXTY-SIX EXPRESS, INC., P.O. Box 807, Springfield, MO 65801. Applicant's representative: John A. Crawford, 1700 Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, clases A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), serving Cassville, MO, as an off-route point in connection with carrier's authorized regular-route operations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Springfield, MO.

No. MC 80443 (Sub-No. 10), filed January 6, 1978. Applicant: OVERNITE EXPRESS, INC., 2550 Long Lake Road, Roseville, MN 55113. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, trnasporting: *Foodstuffs*, moving in TOFC (trailer-on-flat-car) or COFC (container-on-flat-car) service, from Arlington, MN, to Minneapolis, MN, and its commercial zone, for subsequent rail movement beyond.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be at Minneapolis or Saint Paul, MN. Common control may be involved.

No. MC 83539 (Sub-No. 480), filed December 9, 1977. Applicant: C & H TRANSPORTATION CO., INC., 1936-2010 West Commerce Street, P.O. Box 5976, Dallas, TX 75222. Applicants representative: Thomas E. James (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic pipe, aluminum pipe, aluminum, and machinery*, from Spokane, WA, to points

in the United States in and east of NM, CO, NE, SD, and ND; (2) (a) *metal buildings, roofing, flooring, decking, siding, or ceiling and accessories and component parts thereof, materials and supplies*, from Denver, CO, and Minneapolis, MN, to points in the United States in and east of NM, CO, NE, SD, and ND; and (b) *steel*, used in the manufacture of metal building materials and supplies from Spokane and Tacoma, WA, to Denver, CO, and Minneapolis, MN; (3) *iron and steel articles*, as defined in appendix V to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209, from Spokane and Tacoma, WA, to Denver, CO, and Minneapolis, MN; and (4) *sprinkler systems and materials and supplies* used in the manufacture of sprinkler systems, between the port of Catoosa, OK, on the one hand, and, on the other, points in the United States (except OK, AK, and HA).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Spokane, WA; Dallas, TX; or Washington, DC.

No. MC 94265 (Sub-No. 255), filed December 14, 1977. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, VA 23487. Applicants representative: Clyde W. Carver, Suite 212, 5299 Roswell Road NE., Atlanta, GA 30342. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Foodstuffs* (except in bulk) in vehicles equipped with mechanical refrigeration, from Chicago, IL, to points in VA, WV, NC, MD, SC, and DC.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, IL.

No. MC 99213 (Sub-No. 23), filed January 31, 1978. Applicant: VIRGINIA FREIGHT LINES, P.O. Box 327, Kilmarnock, VA 22482. Applicant's representative: James W. Lawson, 843 Investment Building, 1511 K Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fish oils*, in bulk, in tank vehicles, from Southport, NC to Bayway, NJ.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Kilmarnock or Irvington, VA.

No. MC 105813 (Sub-No. 231), filed February 3, 1978. Applicant: BELFORD TRUCKING CO., INC., 1759 Southwest 12th Street, P.O. Box 1936, Ocala, FL 32670. Applicant's representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potatoes* and *potato products*, from Minneapolis, MN, to points in AL, FL, GA, LA, MS, NC, SC, and TN.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Minneapolis, MN. Common control may be involved.

No. MC 105886 (Sub-No. 26), filed January 30, 1978. Applicant: MARTIN TRUCKING, INC., East Poland Avenue, Bessemer, PA 16112. Applicant's representative: Stanley E. Levine, 2310 Grant Building, Pittsburgh, PA 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick*, from the facilities of Powell and Minnock Brick Works, Inc. at or near Coeymans, NY to points in OH, PA, and WV.

NOTE.—Hearing Site: Washington, DC or Pittsburgh, PA.

No. MC 106644 (Sub-No. 247), filed January 30, 1978. Applicant: SUPERIOR TRUCKING CO., INC., P.O. Box 916, Atlanta, GA 30301. Applicant's representative: Frank Hall, Suite 713, 3384 Peachtree Road NE., Atlanta, GA 30326. Authority sought to operate as a *common carrier*, over irregular routes, by motor vehicle, transporting: such commodities as (1) (a) *Mining machinery and equipment;* (b) *attachments, parts and accessories;* and (c) *materials, supplies and equipment* (except commodities in bulk) used in the manufacture and distribution of commodities therefor, from Monroe, NC, to points in the United States, in and east of MN, IA, MO, AR, LA; and (2) from points in the United States in and east of MN, IA, MO, and LA, to Monroe, NC.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, UT, or Washington, DC.

No. MC 106674 (Sub-No. 280), filed January 12, 1978. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Applicant's representative: Linda J. Sundy (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic Resins and Plastic Sheets* (except in bulk), from Evansville, IN, to points in AL, AZ, AR, CO, FL, GA, IL, IA, KA, KY, LA, MD, MA, MI, MN, MS, MO, NE, NJ, NM, NY, NC, OH, OK, PA, SC, TN, TX, VA, WV and WI; and (2) *Materials, Equipment and Supplies* (except in bulk), used in the manufacture, distribution and sale of plastic resins and plastic sheets, from points in the above-named destination states to Evansville, IN. Restricted to the transportation of traffic originating at or destined to Evansville, IN.

NOTE.—If a hearing is deemed necessary it is requested that it be held in Indianapolis, IN, or Chicago, IL.

No. MC 107515 (Sub-No. 1123), filed January 30, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA. 30050. Applicant's representative: Alan E. Serby, Suite 375, 3379 Peachtree Road, NE., Atlanta, GA 30326. Authority sought to operate as a *common carrier, by motor vehicle, over irregular routes, transporting: Meats, meat products*, and *meat byproducts*, as described in section A of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Wisconsin Beef Industries, located at or near Eau Claire, WI., to points in AZ, CA, CO, CT, DE, ID, ME, MD, MA, MT, NE, NH, NJ, NM, NY, O, PA, RI, VT, WA, WV and the DC.

NOTE.—Applicant holds contract carrier authority in MC 126436 Sub 2, and other subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Madison, WI.

No. MC 108375 (Sub-No. 39) (Amendment) filed October 31, 1977, published in the FEDERAL REGISTER issue of December 22, 1977, and republished, as amended, this issue. Applicant: LeROY L. WADE & SON, INC., P.O. Box 27053, 10550 "I" Street, Omaha, NE 68127. Applicant's representative: ARNOLD L. BURKE, 180 North LaSalle Street, Chicago, IL 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Transformer, electric motors, electrical equipment, switches, breakers, and accessories and related parts* to each of the foregoing, the transportation of which because of size or weight requires special equipment, (1) Between points in NE. (Restricted to shipments having an immediately prior or subsequent movement by rail or water); (2) Between points in Douglas, Sarpy, Cass, Otoe, Pawnee, Richardson, Nemaha, Burt, Colfax, Dodge, Johnson, Saunders, and Washington Counties, NE, on the one hand, and Oklahoma City, OK, on the other; and (3) Between points in NE and IA, on the one hand, and KA, MO, and the IL portion of the St. Louis, MO Commerical Zone, on the other.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Omaha, NE. Common control may be involved. The purpose of this republication is to amend the application by further restricting the traffic in (1) between points in Nebraska to having an immediately *prior* or subsequent movement by rail or water in lieu of the previous publication of being restricted to only a subsequent movement by rail or water.

No. MC 109689 (Sub-No. 329), filed January 30, 1978. Applicant: W. S. HATCH CO., a corporation, 643 South 800 West, Woods Cross, UT 84087. Applicant's representative:—Mark K. Boyle, 345 South State Street, Salt Lake City, UT 84111. Authority sought

to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry Chemicals*, in bulk, from points in CO, Utah and San Juan County, NM, to points in AZ (except points in Cocoino County, AZ).

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Salt Lake City.

No. MC 109692, (Sub-No. 52), filed January 13, 1978. Applicant: GRAIN BELT TRANSPORTATION CO., a Corporation Route 13, Kansas City, MO 64161. Applicant's Representative: Warren H. Sapp, 4420 Madison, Suite 230, Kansas City, MO 64111. Authority sought to conduct operations as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Irrigation systems and parts and accessories therefor, pipe, tubing, light poles, mast arms, brackets, bases and transmission poles, and equipment and supplies* used in the installation thereof (except commodities in bulk), from the plantsite of Valmont Industries, Inc., located at or near Valley, NE., to points in AR, IL, IN, IA, LA, MI, NM, OH, TX, and WI; (2) *equipment, materials, and supplies* used in the manufacture of the commodities named in paragraph no. 1 above, from points in AR, IL, IN, IA, LA, ME, NM, OH, TX, and WI to the plantsite of Valmont Industries, Inc., located at or near Valley, NE.; and (3) *used irrigation systems, and parts and accessories thereof*, and new and used equipment, materials and supplies used in the installation of used irrigation systems, restricted to traffic moving for the account of Valmont Industries, Inc., (a) between points in AR, IL, IN, IA, LA, MI, NM, OH, TX and WI; and (b) between points in the states named in part 3(a) above, on the one hand, and, on the other, points in KA, MN, MO, NE, NK, OK, and SD.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha, NE.

No. MC 110988 (Sub-No. 359), filed January 30, 1978. Applicant: SCHNEIDER TANK LINES, INC., 4321 West College Avenue, Appleton, WI 54911. Applicant's representative: Paul Schneider (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from Bristol, WI, to points in IL, IN, IA, MI, MN, MS, MO, and TX.

NOTE.—Common control may be involved. If a hearing is deemed necesary, applicant requests that it be held at Chicago, IL.

No. MC 111545 (Sub-No. 246), filed January 12, 1978. Applicant: HOME TRANSPORTATION CO., INC., P.O. Box 6426, Station A, Marietta, GA 30065. Applicant's representative: Robert E. Born (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cooling towers and accessories, materials, and supplies for cooling tower* (except commodities in bulk), from the facilities of E. D. Goodfellow Co., Inc., at Tulsa, OK, to points in CA and points in the United States in and east of TX, OK, KS, NE, IA, and MN.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held either in Tulsa, OK, or Dallas, TX.

No. MC 112048 (Sub-No. 3F), filed February 1, 1978. Applicant: SEEGERS TRUCK LINE, INC., Box 392, Denver, IA 50622. Applicant's representative: Grant J. Merritt, 415 Peavey Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wooden pallets, and lumber* used in wooden pallets and crating, from Clarksville, IA, to points in IL on, north, and west of a line beginning at the IA-IL State line and extending along U.S. Hwy 34 to junction IL Hwy 88, then north along IL Hwy 88 to junction Hwy 52, and then west along U.S. Hwy 52 to the IL-IA State line.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Minneapolis, MN.

No. MC 113678 (Sub-No. 716F), filed February 2, 1978. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Applicant's representative: Roger M. Shaner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk in tank vehicles), from Jackson, OH, to points in CA, CO, KS, and TX. Restricted to traffic originating at the plantsites and storage facilities of, or utilized by, RJR Foods, Inc., and destined to the named destination points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Cincinnati or Columbus, OH.

No. MC 113678 (Sub-No. 717F), filed February 2, 1978. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Applicant's representative: Roger M. Shaner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles, and accessories related thereto* (except commodities in bulk in tank vehicles), from Urbana, OH, to points in AZ, AR, CA, CO, NV, NM, OR, TX, OK, ID, UT, MT, WY, and WA. Restricted to the transportation of traffic originating at and destined to the named points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Columbus, OH, consolidate with MC 138308 (Sub-No. 18) KLM, Inc.

No. MC 114552 Sub-No. 151F), filed: February 2, 1978. Applicant: SENN TRUCKING CO., a corporation, P.O. Drawer 220, Newberry, SC 29108. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* of the type dealt in by retail home improvement and home furnishing and lumber stores, between points in AL, DE, FL, GA, IN, KY, LA, MD, MS, NC, OH, PA, SC, TN, VA, and W. VA. Restriction: Restricted to shipments destined to the facilities of Lowe's Co., Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, DC.

No. MC 115162 (Sub-No. 405), filed January 30, 1978. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Applicant's representative: Robert E. Tate (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardboard, wood particleboard, plywood, veneer, and wood paneling*, from Oshkosh, WI, to points in KY, WV, VA, MD, DE, DC, NJ, NY, PA, CT, RI, VT, NH, MA, and ME.

NOTE.—If a hearing is deemed necessary the applicant requests it be held at Chicago, IL, or Washington, DC.

No. MC 115496 (Sub-No. 79), filed January 30, 1978. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Cochran, GA 31014. Applicant's representative: Virgil H. Smith, Suite 12, 1587 Phonenix Boulevard, Atlanta, GA 30349. Authority to operate as a *common carrier*, by motor vehicle, over irregular routes in the transportation of: *Roofing, roofing materials and building materials* (except commodities in bulk), from Mount Vernon, IN, to points in KY and TN.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Atlanta, GA.

No. MC 115730 (Sub-No. 42), filed January 13, 1978. Applicant: THE MICKOW CORP., P.O. Box 1774, 531 Southwest Sixth Street, Des Moines, IA 50306. Applicant's representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, IA 50309. Authority to engage in operation in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of: *Iron and steel articles:* (1) From the warehouse and facilities in Des Moines, IA, of National Steel Service Center-Division of National Steel Corp., to points in NE, MO, KS, and MN; (2) between the warehouse and facilities in Des Moines, IA, of National Steel Service Center-Division of Na-

tional Steel Corp., on the one hand, and, on the other, the warehouse and facilities of National Steel Service in Terre Haute, IN, Cincinnati and Toledo, OH, Houston and Dallas, TX, Evanston and Joliet, IL, Minneapolis, MN, Milwaukee, WI, New Castle, PA, Kansas City and Joplin, MO, Tulsa and Oklahoma City, OK, and Davenport, Council Bluffs, and Mason City IA; (3) from New Castle, PA, Weirton, WV, St. Louis, MO, Chicago and Granite City, IL, Ecorse, Mi, Minneapolis-St. Paul, MN, and Kansas City, MO, to the warehouse and facilities of National Steel Service Center-Division of National Steel Corp. in Des Moines, IA. Restriction: Parts (1), (2), and (3) are restricted to traffic either originating at or destined to the warehouse and facilities of National Steel Service Center-Division of National Steel Corp. in Des Moines, IA.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Des Moines, IA.

No. MC 117344 (Sub-No. 267), filed January 20, 1978. Applicant: THE MAXWELL CO., a corporation, 10380 Evendale Drive, Cincinnati, OH 45215. Applicant's representative: James R. Stiverson, 1396 West Fifth Avenue, Columbus, OH 43212. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphur trioxide*, in bulk, in tank vehicles, from Columbia Park (Hamilton County), OH, to Denver, CO.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, DC.

Docket No. MC 117427 (Sub-No. 76), filed January 31, 1978. Applicant: G. G. PARSONS TRUCKING CO., a corporation, P.O. Box 1085, North Wilkesboro, NC 28659. Applicant's representative: James E. Savitz, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from the facilities of Cochrane Furniture Co., Inc., located at or near Lincolnton, NC, to points in AZ, CA, ID, CO, NV, MT, NM, OR, UT, WA, and WY.

NOTE.—Applicant holds contract carrier authority in MC 116145, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Charlotte, NC, or Washington, DC.

No. MC 119641 (Sub-No. 145), filed January 13, 1978. Applicant: RINGLE EXPRESS, INC., 450 East Ninth Street, Fowler, IN 47944. Applicant's representative: Alki E. Scopelitis, 815 Merchant Bank Building, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, fittings, hydrants, valves, couplings*, and *materials and supplies* used in the installation thereof, from the facilities of Clow Corp., located at or near Buckhannon, WV, to points in IL, IN, IA, MI, MN, OH and WI.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Chicago, IL, or Washington, DC.

No. MC 119702 (Sub-No. 54), filed January 24, 1978. Applicant: STAHLY CARTAGE CO., a corporation, P.O. Box 486, Edwardsville IL 62025. Applicant's representative: Ernest A. Brooks, 1301 Ambassador Building, 411 North 7th Street, St. Louis, MO 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, from Bussen Spur, MO, to IL.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Chicago or Springfield, IL.

No. MC 119789 (Sub-No. 419F), filed February 1, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, TX 75222. Applicant's representative: James K. Newbold, Jr., P.O. Box 6188, Dallas, TX 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic Film*, in mechanically refrigerated equipment, from North Andover, MA to points in AZ, AR, CA, CO, ID, KS, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA and WY.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Boston, MA.

No. MC 123069 (Sub-No. 23F), filed February 3, 1978. Applicant: ALLER & SHARP, INC., 817 West Fifth Avenue, Columbus, OH 43212. Applicant's representative: Thomas F. Kilroy, Suite 406, Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Shortening; vegetable oil shortening; lard; edible tallow; cooking oils*, and *margarine* (except commodities in bulk), from the facilities of or utilized by Swift Edible Oil Co. at Bradley, IL, to points in CT, DE, DC, ME, MD, MA, NH, NJ, NY, PA, RI, VT, and VA, restricted to the transportation of traffic originating at the above-named origin and destined to the above-named States.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either New York, NY, or Washington, DC.

No. MC 123294 (Sub-No. 42), filed January 30, 1978. Applicant: WARSAW TRUCKING CO., INC., 1102 West Winona, P.O. Box 1017, Warsaw, IN 46580. Applicant's representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automatic poultry and animal feeding equipment*, from Milford, IN, to points in the United States in and east of ND, SD, NE, KS, OK, and TX.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, IL, or Detroit, MI.

No. MC 124078 (Sub-No. 780), filed January 26, 1978. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28 Street, Milwaukee, WI 53215. Applicant's representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid petroleum wax*, in bulk, in tank vehicles, from Doraville, GA, to Harrisonburg, VA, and Gatlinburg, TN.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Atlanta, GA. Common control may be involved.

No. MC 124711 (Sub-No. 51), filed January 23, 1978. Applicant: BECKER CORP., P.O. Box 1050, El Dorado, KS 67042. Applicant's representative: T. M. Brown, 223 Ciudad Building, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid asphalt, road oils*, and *residual fuel oil*, from points in WY to points in NE.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Oklahoma City, OK, or Kansas City, KS. Common control may be involved.

No. MC 125211 (Sub-No. 2), filed January 24, 1978. Applicant: ERNEST C. ALLEN, R.F.D. No. 1, North Berwick, ME 03906. Applicant's representative: John G. Feehan, One Canal Plaza, Portland, ME 04112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mixed fortified feed* in bags, from the plantsite of the Agway Co. at Manchester, NH, to Sanford, ME.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held in either Sanford or Portland, ME.

No. MC 126428 (Sub-No. 8), filed January 24, 1978. Applicant: ZIBERT TRANSPORT CO., a corporation, 2828 Market Street, Peru, IL 61354. Applicant's representative: Ernest A. Brooks, 1301 Ambassador Building, 411 North 7th Street, St. Louis, MO 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer material*, in bulk, from Bussen Spur, MO, to IL.

NOTE.—If hearing is deemed necessary, applicant requests that it be held at either Chicago or Springfield, IL.

No. MC 128117 (Sub-No. 29F), filed February 2, 1978. Applicant: NORTON-RAMSEY MOTOR LINES, INC., P.O. Box 896, Hickory, NC 28601. Applicant's attorney: Francis J. Ortman, 7101 Wisconsin Avenue, Suite 605, Washington, DC 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sugar* (except in bulk), from Supreme, LA, to points in NC, SC, VA and WV.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New Orleans, LA or Washington, DC.

No. MC 128343 (Sub-No. 37), filed January 24, 1978. Applicant: C-LINE, INC., Tourtellot Hill Road, Chepachet, RI 02814. Applicant's representative: Ronald N. Cobert, 1730 M Street NW., Suite 501, Washington, DC 20036. Authority is sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pots, crushed pine cones, ground shale, clay pebbles*, and *nutrients* and other *plant foods*. (1) From Birmingham, AL to Halls, TN, Hemingway, SC, Jerome, ID, North Smithfield, RI, and ports of entry on the United States-Canada boundary line in MI, VT, and NY for furtherance into Canada; (2) from North Smithfield, RI to Memphis, TN, and points in KY and MO; (3) from Halls, TN to Memphis, TN; (4) from North Smithfield, RI to points in MI; and (5) from North Smithfield, RI, and Jerome, ID, to points in MN and WI. Restriction: The operations are to be limited to a transportation service to be performed, under a continuing contract, or contracts, with The Tupperware Co. of North Smithfield, RI.

NOTE.—Applicant holds motor common carrier authority in No. MC 138861 and subs thereunder, and therefore dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Providence, RI or Boston, MA.

No. MC 129808 (Sub-No. 29), filed January 12, 1978. Applicant: GRAND ISLAND CONTRACT CARRIER, INC., P.O. Box 2078, Grand Island, NE 68801. Applicant's representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Battery acids, brake fluids, gasoline antifreeze, windshield washer solutions and lacquer* (except in bulk), (1) from the facilities of Scholle Corp. located at or near Garland, TX, to points in CO, NM, OK, AR, and LA; and (2) from the facilities of Scholle Corp. located at or near Raytown, NO, to points in CO, KS, NE and IA. Restriction: Restricted to a transportation service to be performed under a continuing contract, or contracts, with Scholle Corp.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Omaha, NE, or Chicago, IL.

No. MC 133233 (Sub-No. 57), filed January 23, 1977. Applicant's name: CLARENCE L. WERNER, d.b.a. Werner Enterprises, I-80 and Highway 50, P.O. Box 37308, Omaha, NE 68137. Applicants representative: Donna Ehrlich (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicles, over irregular routes, transporting: *Lumber, lumber products* and *forest products*, from points in CA, CO, ID, MT, OR, SD, UT, WA and WY, to points in AR, IL, IA, KS, LA, MN, MO, NE, OK, TX and WI, under a continuing contract or contracts with Edward Hines Lumber Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, IL, or Omaha, NE. Applicant holds common carrier authority in MC 138328 and subs, therefore dual operation may be involved.

No. MC 133566 (Sub-No. 99), filed December 27, 1977. Applicant: GANGLOFF & DOWNHAM TRUCKING CO, INC., P.O. Box 479, Logansport, IN, 46947. Applicant's representative: Charles W. Beinhauer, Suite 4959, One World Trade Center, New York, NY 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles* distributed by meat packinghouses as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities of Swift & Co. locate at//or near Grand Island and Omaha, NE, Des Moines, Glenwood, Marshalltown, and Sioux City, IA, to points in AL, FL, GA, NC, SC, and TE.

NOTE.—If a hearing is deemed necessary applicant requests it be held at Chicago, IL or New York, NY.

No. MC 133566 (Sub-No. 103), filed January 30, 1978. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., IN., P.O. Box 479, Logansport, IN 46947. Applicant's representative: Charles W. Beinhauer, Suite 4959, One World Trade Center, New York, NY 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts*, and articles distributed by meat packinghouses as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities of Armour Food Co., located at/or near Louisville, KY, to points in CT, ME, MA, VT, NH, and RI. Restricted to traffic originating at the above-named origin and destined to points in the named destination States. (Hearing: Phoenix, AZ, or New York, NY.)

No. MC 133655 (Sub-No. 107F), filed February 3, 1978. Applicant: TRANSNATIONAL TRUCK, INC. P.O. Box 31300, Amarillo, TX 79120. Applicant's representative: James Steffel (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper* and *paper products* (except commodities in bulk), from Jackson, AL, to those points in FL west of the Apalachicola River and points in GA, NC, and SC.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, IL.

No. MC 134460 (Sub-No. 10), filed January 10, 1978. Applicant: MARKET EXPRESS, INC., P.O. Box 9215, Fresno, CA 93791. Applicant's representative: John Paul Fischer, 256 Montgomery Street, San Francisco, CA 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* requiring mechanical refrigeraton, between points in CA, on the one hand, and on the other, points in AZ.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Los Angeles, CA, or Phoenix, AZ. Common control may be involved.

No. MC 134477, (Sub-219F), filed February 2, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *foodstuffs*, in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the plansite and storage facilties of Kraft, Inc. at New Ulm, MN, to points in CT, DE, IL, IN, IA, KY, ME, MD, MA, MI, MO, NE, NH, NJ, NY, ND, OH, PA, RI, SD, VT, VA, WV, WI, and DC. Restricted to traffic originating at the above-named origin and destined to points in the named destination States.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, MN.

No. MC 135007 (Sub-No. 63), filed January 23, 1978. Applicant: AMERICAN TRANSPORT, INC., 7850 F Street, Omaha, NE 68127. Applicant's representative: Arthur J. Cerra, P.O. Box 19251, 2100 TenMain Center, Kansas City, MO 64141. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles*

distributed by meat packinghouses as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificate, 61 MCC 209 and 766, (except hides and commodites in bulk), from the plant sites and/or storage facilities utilized by John Morrell & Co., located at or near Arkansas City and Wichita, KS, to points in CT, DE, DC, ME, MD, MA, NH, NJ, NY, PA, RI, TN, VT, VA and WV, under a continuing contract or contracts with John Morrell & Co.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Kansas City, MO. Applicant holds common carrier authority in No. MC 135078 (Sub-No. 2) and other subs thereunder, therefore dual operations may be involved.

No. MC 135007 (Sub-No. 64), filed January 23, 1978. Applicant: AMERICAN TRANSPORT, INC., 7850 F Street, Omaha, NE 68127. Applicant's representative: Arthur J. Cerra, P.O. Box 19251, 2100 TenMain Center, Kansas City, MO 64141. Authority is sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Meats, meat byproducts, meat products* and *articles* distributed by meat packinghouses as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, (except hides and commodities in bulk) from the facilities of Spencer Foods, Inc., located at or near Fremont and Schuyler, NE, to Las Vegas, NV, Salt Lake City, UT, and points in CA, restricted to traffic destined to the above-named points or any combination thereof for stopping in transit for partial unloading, under a continuing contract with Spencer Foods, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Omaha, NE. Applicant holds common carrier authority in MC 135078 Sub 2 and other subs therefore dual operations may be involved.

No. MC 135078 (Sub-No. 20) (correction), filed November 23, 1977, published in the FEDERAL REGISTER issue of January 19, 1978, and republished as corrected, this issue. Applicant: AMERICAN TRANSPORT, INC., 7850 F Street, Omaha, NE 68127. Applicant's representative: Arthur J. Cerra, P.O. Box 19251, 2100 TenMain Center, Kansas City, MO 64141. Authority is sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Abrasive grains* for the manufacture of grinding wheels, from the facilities of General Abrasives Division of Dresser Industries, Inc., in Niagra Falls, NY, to points in IL, IN, MA, MN, PA and WI.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Chicago, IL, or Omaha, NE. Applicant holds contract carrier authority in MC 135007 (Sub-No. 1) and sub-numbers thereto; therefore, dual operations may be involved. The purpose of this republication is to correct applicant's number as MC 135078 (Sub-No. 20) in lieu of (Sub-No. 63) as previously published.

No. MC 135797 (Sub-No. 100), filed January 30, 1978. Applicant: J. B. HUNT TRANSPORT, INC., Post Office Box 200, Lowell, AR 72745. Applicant's representative: Paul A. Maestri (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic articles* (except in bulk), and (2) *materials, equipment and supplies* (except in bulk), used in the manufacture and distribution of plastic articles, between the plantsite and warehouse facilities of Mobil Chemical Co., Plastics Division, located in Ontario, Wayne and Monroe Counties, NY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

NOTE.—If an oral hearing is deemed necessary, applicant requests that it be held at Washington, DC. Common control may be involved.

No. MC 135895 (Sub-No. 16F), filed February 1, 1978. Application: B&R DRAYAGE, INC., P.O. Box 8534, Battlefield Station, Jackson, MS 39204. Applicant's representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beer and malt beverages*, in containers: Between Jacksonville, FL, and Houston, TX, on the one hand, and, on the other, Baton Rouge, LA, restricted to the transportation of shipments originating at or destined to Southern Beverage Co., Inc., Baton Rouge, LA.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Baton Rouge, LA.

No. MC 136168 (Sub-No. 24), filed: January 12, 1978. Applicant: WILSON CERTIFIED EXPRESS, INC., P.O. Box 717, Marshall, MO 65340. Applicant's representative: Donald L. Stern, Suite 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses* (except hides and commodities in bulk), as defined in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, from the plantsite and warehouse facilities of Wilson Foods Corp., located at Albert Lea, MN, and Cedar Rapids, IA, to points in MO, under a continuing contract or contracts with Wilson Foods Corp. Restricted to the transportation of traffic orginating at the above named origins and destined to the named destinations.

NOTE.—Applicant holds common carrier authority in MC 141641 (Sub-No. 5), therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, MO, or Dallas, TX.

No. MC 138308 (Sub-No. 37), filed January 30, 1978. Applicant: KLM, INC., 2102 Old Brandon Road (P.O. Box 6098), Jackson, MS 39208. Applicant's representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture and furniture parts*, from Welcome, NC, Meridian, MS, and Shreveport, LA, to Inglewood, San Bernardino, and Fremont, CA, restricted to traffic originating at the facilities utilized by Kroehler Manufacturing Co.

NOTE.—Applicant holds motor contract authority in No. MC 128592 and sub-numbers thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant request that it be held at Jackson, MS.

No. MC 138308 (Sub-No. 39), filed January 30, 1978. Applicant: KLM, INC., 2102 Old Brandon Road (P.O. Box 6098), Jackson, MS 39208. Applicant's representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Battery boxes, covers and vents, rubber and plastic*, from the facilities of the Richardson Co., located at or near Philadelphia, MS, to points in AL, AR, FL, GA, LA, NC, TN (except Memphis and points in its commercial zone) and TX, and (2) between the facilities of the Richardson Co., located at or near Philadelphia, MS, on the one hand, and, on the other, points in CA and IN.

NOTE.—Applicant holds motor contract authority in No. MC 128592 and sub-numbers thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Jackson, MS, or Memphis, TN.

No. MC 139495 (Sub-No. 311), filed January 31, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Applicant's representative: Herbert Alan Dubin, 1320 Fenwick Lane, Suite 500, Silver Spring, MD 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat and meat products*, between points in UT, on the one hand, and, on the other, points in the United States (except AK and HI).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, DC.

No. MC 140033 (Sub-No. 41), filed January 31, 1978. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, TX 75220. Applicant's representative: E. Larry Wells, Suite 1125, Exchange Park, P.O. Box 45538, Dallas, TX 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from the plantsite and storage facilities of Anderson-Clayton Co., located at or near Jacksonville, IL, to points in PA, NY, MD, DE, NJ, CT, RH, MA, VT, NH, ME, and DC.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Dallas, TX. Applicant holds contract carrier authority in MC 142296, therefore dual operations may be involved.

No. MC140024 (Sub-No. 85), filed January 13, 1978. Applicant: J. B. MONTGOMERY, INC., 5565 East 52d Avenue, Commerce City, CO 80022. Applicant's representative: John F. DeCock (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, other than frozen (except commodities in bulk). From Pennsauken, NJ, to Battle Creek and Fort Custer Industrial Park, MI.

NOTE.—Common control may be involved. (Hearing site: Chicago, IL.)

MC 140037 (Sub-No. 5), filed: January 26, 1978. Applicant: SUNFLOWER CARRIERS, INC., P.O. Box 355, York, NE 68467. Applicant's representative: Scott E. Daniel, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles* distributed by meat packinghouses, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Siouxland Dressed Beef, located in Sioux City, IA, to points in NY. Restriction: Restricted to a transportation service to be performed under a continuing contract, or contracts, with Sunflower Beef Packers.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Omaha, NE.

No. MC 141532 (Sub-No. 18F), filed February 1, 1978. Applicant: PACIFIC STATES TRANSPORT, INC., 35433 16th Avenue South, Federal Way, WA 98002. Applicant's representative: Henry C. Winters, 235 Evergreen Building, Renton, WA 98055. Authority sought to engage in operations, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass*, from the plantsite of Guardian Industries at or near Kingsburg, CA, to points in OR and WA.

NOTE.—If a hearing is deemed necessary, applicant requests it be held either at San Francisco, or Los Angeles, CA.

No. MC 142189 (Sub-No. 23), filed December 23, 1977. Applicant: C. M. BURNS dba. WESTERN TRUCKING, 521 Lincoln Avenue, Baker, MT 59313. Applicant's representative: C. M. Burns, P.O. Box 980, Baker, MT 59313. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings, building panels, building parts and materials, accessories and supplies used in the installation and construction of building, panels, and parts*, from Monticello, IA, to points in MT, ND, SD, WY and Ports of Entry on the United States, Canadian Border in MT, ND, ID, and WA, for furtherance into Canada.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Billings, MT.

No. MC 142189 (Sub-No. 27), filed January 16, 1978. Applicant: C. M. BURNS dba. WESTERN TRUCKING, 521 Linclon Avenue, Baker, MT 59313. Applicant's representative: Michael R. Griffith, Box 980, Baker, MT 59313. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural equipment materials and supplies and sanitation equipment materials and supplies*, between Jefferson, IA, and Silver Lake, IN, on the one hand, and, on the other, points in and west of ND, SD, NE, KS, OK, and TX (except AL and HI), and ports of entry on the International Boundary line between the United States and Canada in ND, MT, ID, and WA for furtherance into Canada.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Des Moines, IA.

No. MC 142327F (Sub-No. 1), filed February 2, 1978. Applicant: McLARTY TRANSPORTATION, INC., 900 Plaza West Building, Little Rock, AR 72205. Representative: Thomas B. Staley, 1550 Tower Building, Little Rock, AR 72201. Authority sought to operate as a *contract carrier*, over irregular routes, transporting: *Coal, in bulk, in dump vehicles;* from Latimer County, OK, to Little River County, AR, under continuing contract with Farrell-Cooper Mining Co.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Little Rock or Fort Smith, AR.

No. MC 142516 (Sub-No. 6), filed January 23, 1978. Applicant: ACE TRUCKING CO., INC., 1 Hackensack Avenue, Kearny, NJ 07302. Applicants representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *contract carrier*, over irregular routes, transporting: *Table sauces* (except in bulk) from Paterson, NJ, to points in the United States (except AK and HI), under continuing contract or contracts with Lea & Perrins, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either New York, NY, or Washington, DC.

No. MC 142600 (Sub-No. 7), filed January 27, 1978. Applicant: DIXIE-WEST EXPRESS, INC., P.O. Drawer L, Petal, MS 39465. Applicants representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as as *contract carrier* by motor vehicle, over irregular routes, transporting: *Resins, and compounds and products thereof, and such other commodities* as are manufactured and distributed by chemical manufacturers (except in bulk) in vehicles equipped with mechanical refrigeration, from the facilities of Hercules, Inc., at or near Brunswick and Savannah, GA, to Hattiesburg, MS, Baton Rouge, LA, and points in AZ, CA, CO, OR, and WA, under a continuing contract, or contracts with Hercules, Inc.

NOTE.—Hearing site: Washington, DC.

No. MC 142891 (Sub-No. 4), filed January 30, 1978. Applicant: A & H, INC., P.O. Box 346, Footville, WI 53537. Applicant's representative: Charles W. Beinhauer, Suite 4959, One World Trade Center, New York, NY 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs* (except commodities in bulk), from the facilities of Geo. A. Hormel & Co., at or near Beloit, WI to points in MN, ND, SD, NE, KS, OK, IA, MO, IL, MI, IN, OH, KY, NY, PA, LA, AR, AL, GA, MS, TN, VT, NH, ME, MA, RI, CT, MD, NJ, DE, WV, VA, NC, and SC, and DC. Restriction: The operations sought above are restricted to the transportation of shipments originating at the named origin and destined to the named States. (2) *Meats, meat products, and meat byproducts* as described in section A of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides), and *foodstuffs, canning plant materials, equipment, and supplies* (except commodities in bulk), from points in MN, ND, SD, NE, KS, OK, IA, MO, IL, MI, IN, OH, NY, PA, NJ, LA, AR, MS, AL, and GA. to the facilities of Geo. A. Hormel & Co. at or near Beloit, WI. Restriction: The operations sought above are restricted to the transportation of shipments originating at the named origins and destined to the named destination. (Hearing: Minneapolis, MN, or New York, NY). Applicant holds contract

carrier authority in MC 129809 (Sub 4) and other subs, therefore dual operations may be involved.

No. MC 143480F (Sub-No. 2), filed February 3, 1978. Applicant: R BROWN & SONS, INC., 11 Canyon Estates Drive, Colchester, VT 05446. Applicants representative: Robert B. Brown, 11 Canyon Estates Drive, Colchester, VT 05446. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Water pipe and sewer pipe and pipe fittings*, used in the installation of homes, plants, city, and town water mains and sewer systems, (1) from Burlington and Manville, NJ; Rensselaer and Balston Spa, NY; Gilbertville, MA; to points in VT and NH; (2) from Burlington, VT, to points in NH, under a continuing contract with Red Hed Supply, Inc., located in Colchester, VT.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Burlington, VT. Alternate choice: Montpelier or Rutland, VT, or Albany, NY.

No. MC 143691 (Sub-No. 6), filed January 23, 1978. Applicant: PONY EXPRESS COURIER CORP., P.O. Box 4313, Atlanta, GA 30302. Applicant's representative: Steven J. Thatcher (same address as applicant). Authority sought as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Audit and accounting media; checks; cash letters; statements; advices; magnetic tape, punch cards, and other computer media; data processing media; printed documents; microfilm, microfiche, microforms, and related items; written instruments, documents, records, supplies, and material* as are used in the business of banks and banking institutions, between Omaha, NE, on the one hand, and, on the other, points in IA, under a continuing contract with banks and banking institutions.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Omaha, NE, or Washington, DC. Common control may be involved. Applicant holds pending common carrier authority in MC 142330 (Subs 5 and 9), therefore dual operations may be involved.

No. MC 143748 (Sub-No. 2), filed January 9, 1978. Applicant: ALFRED H. COELHO, d.b.a. D T R TRUCKING, 38275 Fremont Boulevard, Fremont, CA 94536. Applicant's representative: Alfred H. Coelho (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Firelogs, sawdust, and wax combined*, from the plantsite and storage facilities of Duraflame, Inc., located at or near Stockton and Port of Stockton, CA, to points in AZ, ID, OR, UT, and WA.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at San Francisco, or Stockton, CA.

No. MC 143894 (Sub-No. 2), filed January 30, 1978. Applicant: JEROLD J. BUCHAN, d.b.a. BUCHAN TRUCKING CO., S30 W28538 Sunset Drive, Waukesha, WI 53186. Applicant's representative: David V. Purcell, 1330 Marine Plaza, 111 East Wisconsin Avenue, Milwaukee, WI 53202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts*, as described in section A of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except commodities in bulk), in mechanically refrigerated vehicles, from the facilities of Lindsay Meats, Inc., at Milwaukee, WI, to points in GA, IN, KY, OH, PA, those points in the Lower Peninsula of MI, DC; that part of NY on and west of State Hwy 14, New York, NY, and Norfolk and Richmond, VA, under a continuing contract or contracts with Lindsay Meats, Inc., located at Milwaukee, WI.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Milwaukee, WI, or Chicago, IL.

No. MC 143898 (Sub-No. 1), filed January 27, 1978. Applicant: DONALD BUEHRING, 6860 Clairville Road, Oshkosh, WI 54901. Applicant's representative: Rolfe E. Hanson, 121 West Doty Street, Madison, WI 53703. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Dry fertilizer*, in bulk or bags, (1) between the plantsite, warehouse, and storage facilities of International Minerals & Chemical Corp., Rainbow Division, at Eldorado, WI, Dodgeville, WI, Nappanee, IN, Erie, IL, Union, IL, Riverdale, IL, and Garden Prairie, IL; and (2) between the points named in (1) above on the one hand, and on the other, points in WI and MI. Restriction: Restricted to service to be performed under continuing contract with International Minerals & Chemical Corp., Rainbow Division.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Madison or Milwaukee, WI.

No. MC 143956 (Sub-No. 1), filed January 16, 1978. Applicant: GARDNER TRUCKING CO., INC., 320 Woodlawn, Box 567, Walterboro, SC 29488. Applicant's representative: Theodore Polydoroff, Suite 600, 1250 Connecticut Avenue NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Horsemeat*, (1) from the plantsite and warehouse facilities of M & R Packing Co., at or near Walterboro, SC, to points in CA, FL, GA, SC, NC, NJ, NY, and PA, restricted to traffic having a subsequent movement in foreign commerce; and (2) from Hartford, CT, to Walterboro, SC, restricted to traffic originating at and destined to the plantsite and warehouse facilities of M & R Packing Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, DC. Applicant holds contract carrier authority in MC 135811 and subs thereunder, therefore dual operations may be involved.

No. MC 144018 (Sub-No. 2), filed January 30, 1978. Applicant: ROBERT L. DRINKARD, 625 Van Duvn Road, Coburg, OR 97401. Applicant's representative: Robert W. Sellars (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Stone crushed*, in sacks, from the plantsites of Standard Industrial Minerals at or near Bishop, CA, Pfizer Plant at or near Lucerne Valley, CA, Cypress Mines at or near Fernley, NV, to Woodinville, WA, Eugene and Salem, OR.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Portland or Eugene, OR.

No. MC 144032 (Sub-No. 3), filed January 31, 1978. Applicant: R. & S. TRUCKING, INC., Route 1, Box 123, Garretson, SD 57030. Applicant's Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cured corned beef*, from the facilities of H. Shenson, Inc., at or near Omaha, NE, to the U.S. Army Depots located at or near Columbia, SC; Norfolk and Williamsburg, VA; and Kansas City, MO, under a continuing contract or contracts with H. Shenson, Inc. Restriction: The above traffic is restricted to the transportation of traffic originating at the above-named origin and destined to the above-named destinations.

NOTE.—Hearing site: Omaha, NE.

No. MC 144230, filed January 30, 1978. Applicant: MOUNT HOPE CARTAGE, LTD., Airport Road East, Mount Hope, ON, Canada. Applicant's representative: Robert D. Gunderman, Suite 710, Statler Hilton, Buffalo, NY 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General Commodities* (except those of unusual values, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the Greater Buffalo International Airport (Erie County), NY, on the one hand, and, on the other, ports of entry on the international boundary line between the United States and Canada on the Niagara River; restricted to the transportation of traffic, (1) originating at or destined to points in the regional municipality of Hamilton-Wentworth, and that part of Burlington south of

No. 5 side road running west from a place known as Boyne, ON, and (2) having a prior or subsequent movement by air.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Buffalo, NY.

No. MC 144232, filed January 27, 1978. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 4168, Amarillo, TX 79105. Applicant's representative: Mr. Charles Singer, 2440 East Commercial Boulevard, Fort Lauderdale, FL 33380. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by manufacturers of rubber or plastic products between the facilities of the B. F. Goodrich Co., Chemical Division, at or near Henry, IL; Louisville, KY; Pedricktown, NJ; Akron and Avon Lake, OH, on the one hand, and, on the other, points in the United States in and east of MN, IA, MO, AR, and LA. Restrictions: (1) Restricted to traffic originating at or destined to the facilities of the B. F. Goodrich Co., Chemical Division; and (2) restricted to a transportation service under a continuing contract or contracts with the B. F. Goodrich Co., Chemical Division.

NOTE.—Applicant holds contract carrier authority in MC 133655, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicacant requests it be held at Chicago, IL.

No. MC 144251, filed January 30, 1978. Applicant: J. T. I. CORP., State Line Industrial Park, Salem, NH 03079. Applicant's representative: Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, MA 02043. Authority sought to operate as a *Contract carrier*, by motor vehicle over irregular routes transporting: *paper, plastic, and paper and plastic products* (except in bulk), between points in ME, NH, VT, MA, RI, CT, NY, NJ, PA, DE, MD, VA, WV, NC, SC, GA, FL, AL, MS, LA, TN, KY, OH, IN, IL, WI, MI, MN, IA, MO, AR, DC, TX and OK, under continuing contracts with Port Poly, Inc., and Koffman Products, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Concord, NH or Boston, MA.

No. MC 144264, filed January 30, 1978. Applicant: MOHR TRUCKING CO., INC., Route 1, Box 198, Barboursville, WV 25504. Applicant's representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, WV 25526. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Crushed limestone aggregate, limestone sand, railroad ballast and agricultural lime*, in bags and in bulk; (2) *Rock dust, agricultural lime, limestone, slag, aggregates, limestone sand and railroad ballast*, in bags and in bulk; (3) *Quartz sand*, in bags and in bulk; and (4) *Crushed limestone, agricultural lime, and slag*, in bags and in bulk. Those commodities named in (1) above from points in Adams County, OH, to points in Carter and Martin Counties, KY; and Boone, Cabell, Jackson, Kanawha, Lincoln, Logan, Mason, Mingo, Putnam, Roane, Wayne, Wirt, and Wood Counties, WV. Those commodities named in (2) and (3) above from points in Adams, Jackson, Lawrence, Muskingum and Scioto Counties, OH, to points in Boyd, Carter, Greenup, Lawrence and Martin Counties, KY; and, Boone, Cabell, Jackson, Kanawha, Lincoln, Logan, Mason, Mingo, Putnam, Roane, Wayne, Wirt and Wood Counties, WV. Those commodities named in (4) above from points in Boyd, Carter and Greenup Counties, KY to points in Boone, Cabell, Jackson, Kanawha, Lincoln, Logan, Mason, Mingo, Putnam, Roane, Wayne, Wirt, and Wood Counties, WV, under a continuing contract or contracts with Plum Run Stone Division of Davon, Inc. and M & M Supply, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Charleston, WV, or Columbus, OH.

PASSENGERS

No. MC-2890 (Sub-No. 53), filed January 6, 1978. Applicant: AMERICAN BUSLINES, INC., 1501 South Central Avenue, Los Angeles, CA 90021. Applicant's representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, CA 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, and express and newspapers* in the same vehicle with passengers, between Long Beach, CA, and the junction of Interstate Hwy 405 (San Diego Freeway) with Interstate Hwy 5 near El Toro, CA: From Long Beach, CA, over CA Hwy 22 to junction Interstate Hwy 405 (San Diego Freeway) at or near Seal Beach, CA; then over Interstate Hwy 405 (San Diego Freeway) to junction Interstate Hwy 5, serving all intermediate points, and return over the same route.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Los Angeles, CA.

No. MC 142573 (Sub-No. 3), filed January 19, 1978. Applicant: CRAIG JONES d.b.a. GILLETTE CREW TRANSPORTERS, P.O. Box 2136, Gillette, WY 82716. Applicant's representative: Ward A. White, P.O. Box 568, Cheyenne, WY 82001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Railroad employees and their baggage* in the same vehicles, between points in Campbell, Crook, Weston, Natrona, Converse, Platte, and Goshen Counties, WY; Lawrence, Pennington, Custer and Fall River Counties, SD; Sioux, Dawes, Box Butte, Sheridan, Grant, Hooker, Thomas, Blaine, Custer, Sherman, Buffalo, Scottsbluff, Morrill, and Cheyenne Counties, NE; and Logan County, CO, under a continuing contract or contracts with Burlington Northern, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Cheyenne, WY.

No. MC 144296 F, filed February 2, 1978. Applicant: LEWIS BUS LINES, INC., 1269 Gordon Hwy, Augusta, GA 30902. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Road NE., Atlanta, GA 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in special and charter operations; from points in Columbia, Richmond, Burke, Jefferson, Glascock, Warren, and McDuffie Counties, GA; and Aiken, Edgefield, Allendale, and Barnwell Counties, SC, to points in the United States, including AK but excepting HI, and return.

NOTE.—If a hearing is deemed necessary, it is requested that the hearing be held at Augusta, GA; Aiken, SC; or Atlanta, GA.

BROKER

No. MC 130475, filed January 23, 1978. Applicant: ELEANOR YORK, d.b.a. YORK TOURS, 148 North Front Street, Medford, OR 97501. Applicant's representative: Starling R. Reese, 1220 North Ross Lane, Medford, OR 97501. Authority sought to engage in operation, in interstate or foreign commerce, as a broker at Medford, OR, to sell or offer to sell the transportation of passengers and their baggage in escorted tours, special and charter operations, in round trip sightseeing, pleasure, and educational tours by motor, rail, and water carriers, beginning and ending at Medford, OR, and extending to points in the United States, including AK and HI and foreign commerce, restricted to the Provinces of Canada and the Republic of Mexico.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Medford, OR. Common control may be involved.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-6089 Filed 3-8-78; 8:45 am]

[Volume No. 67]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

FEBRUARY 24, 1978.

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with § 247(E)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. All pleadings and documents must clearly specify the "F" suffix where the docket is so identified in this notice. If the protest includes a request for oral hearing, such requests shall meet the requirements of § 247(E)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 2202 (Sub-No. 551), filed January 23, 1978. Applicant: ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Boulevard, Akron, OH 44309. Applicant's representative: William O. Turney, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Angleton, TX, as an intermediate point on applicant's present service route between Houston, TX, and Freeport, TX.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Houston, TX, or Washington, DC.

No. MC 4405 (Sub-No. 572), filed December 29, 1977. Applicant: DEALERS TRANSIT, INC., a corporation, 522 South Boston Avenue, Tulsa, OK 74103. Applicant's representative: Alan Foss, 502 First National Bank Building, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in interstate or foreign commerce, transporting: *Water and/or sewage treatment equipment* and *water treatment or sewage equipment parts*, from the plantsite of Neptune Microfloc, Inc., at Corvallis, OR, to all points in the United States (except AK and HI).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Portland, OR.

No. MC 19945 (Sub-No. 67), filed January 24, 1978. Applicant: BEHNKEN TRUCK SERVICE, INC., Route 13, New Athens, IL 62264. Applicant's representative: Ernest A. Brooks, II, 1301 Ambassador Building, St. Louis, MO 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer material*, in bulk, from Bussen Spur, MO to points in IL.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago or Springfield, IL.

No. MC 22229 (Sub-No. 120), filed January 26, 1978. Applicant: TERMINAL TRANSPORT CO., INC., 9393 West 110th Street, 5th Floor, Overland Park, KS 66210. Applicant's representative: Harold H. Clokey (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, dangerous explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the site of the K Mart Corp. Distribution Center, at or near Shenandoah, Coweta County, GA, as an off-route point in connection with carrier's authorized regular route service.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Atlanta, GA, or Washington, DC.

No. MC 35320 (Sub-No. 155), filed January 30, 1978. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Applicant's representative: Kenneth G. Thomas (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except sand, gravel, coal, livestock, and articles which, because of size or weight, require specialized equipment), serving the site of K Mart Corp's. Distribution Center in Coweta County, GA, as an off-route point in connection with carrier's authorized regular route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Detroit, MI, or Chicago, IL.

No. MC 35320 (Sub-No. 156), filed January 30, 1978. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Applicant's representative: Kenneth G. Thomas (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, with no exceptions, serving the facilities of Levelland Vegetable Oil Mill, Inc., located at or near Levelland, TX, as an off-route point in connection with carrier's presently authorized regular route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Lubbock or Amarillo, TX.

No. MC 43038 (Sub-No. 470), filed January 26, 1978. Applicant: COMMERCIAL CARRIERS, INC., 10701 Middlebelt Road, Romulus, MI 48174. Applicant's representative: Paul H. Jones, 29725 Shacket Avenue, Madison Heights, MI 48071. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles* (except passenger automobiles and trailers), in truckaway service, from the plantsites or storage facilities of General Motors Corp. located at Detroit, MI, to points in PA and NY.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Detroit, MI, or Washington, DC. Common control may be involved.

No. MC 45656 (Sub-No. 22), filed January 11, 1978. Applicant: ANDERSON TRUCK LINE, INC., P.O. Box 1196, Lenoir, NC 28645. Applicant's representative: Charles Ephraim, Suite 600, 1250 Connecticut Avenue NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture and furniture parts*, from points in Alexander, Burke, Caldwell, Catawba, Iredell, Lincoln, McDowell, Mitchell, Rutherford, and Wilkes Counties, NC, to points in AL. Returned and rejected shipments on return.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Charlotte, NC.

No. MC 55896 (Sub-No. 62), filed January 9, 1978. Applicant: R-W SERVICE SYSTEM, INC., 20225 Goddard Road, Taylor, MI 48180. Applicant's representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mufflers, brackets, and parts therefor*, from Hartford, WI, to points in OH on and north of U.S. Hwy 30.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at (1) Chicago, (2) Toledo, (3) Detroit.

No. MC 59150 (Sub-No. 114), filed December 29, 1977. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose Street, Jacksonville, FL 32206. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, fittings, valves, hydrants, castings, and materials and supplies* used in the installation thereof, from the plantsite and storage facilities of Clow Corp. at or near Birmingham, AL, to points in AR, LS, MS, KY, TN, VA, NC, SC, GA, and FL.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Birmingham, AL, or Jacksonville, FL.

No. MC 59150 (Sub-No. 122), filed January 26, 1978. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose Street, Jacksonville, FL 32206. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel wire and reinforcement mesh*, from the plantsite and warehouse facilities of Exposaic Wire Co. at or near Mt. Airy, NC, to points in AL, GA, FL, SC, MS, LA, and TN.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Raleigh, NC.

No. MC 59264 (Sub-No. 67), filed January 30, 1978. Applicant: SMITH & SOLOMON TRUCKING CO., a corporation, How Lane, New Brunswick, NJ 08903. Applicant's representative: Herbert Burstein, Suite 2373, One World Trade Center, New York, NY 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery goods and materials and equipment and supplies related to bakery goods*, from Richmond, VA, and points in its commercial zone, to points in ME, NH, VT, MA, and RI.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at New York, NY, Washington, DC, or Richmond, VA.

No. MC 63417 (Sub-No. 126), filed January 31, 1978. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Applicant's representative: William E. Bain (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles*, from Rensselaer, NY, to points in the United States in and east of MI, IL, KY, TN, and MS (except points in NY, CT, ME, MA, NH, RI, and VT.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Roanoke, VA, or Albany, NY.

No. MC 65475 (Sub-No. 14), filed January 26, 1978. Applicant: JETCO, INC., 4701 Eisenhower Avenue, Alexandria, VA 22304. Applicant's representative: J. G. Dail, Jr., P.O. Box 567, McLean, VA 22101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery and machinery parts*, from the plantsite of Landis Tool Co., at or near Waynesboro, PA, to points in the United States (except AK and HI); and (2) *equipment, materials, and supplies* used in the manufacture of machinery and machinery parts, from points in the United States (except AK and HI) to the plantsite of Landis Tool Co., at or near Waynesboro, PA.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, DC, on a consolidated record with a similar application.

No. MC 68860 (Sub-No. 30), filed January 13, 1978. Applicant: RUSSELL TRANSFER, INC., 5259 Aviation Drive, Roanoke, VA 24012. Applicant's representative: Liniel G. Gregory, Jr., 5259 Aviation Drive, Roanoke, VA 24012. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as dealt in by wholesale, retail, chain grocery, and food business houses, and material, equipment, and supplies* used in conduct of such businesses, between Huntington, WV, on the one hand, and, on the other, points in VA, NC, and SC.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Roanoke, VA, Washington, DC, Huntington, WV, or Charleston, WV.

No. MC 73165 (Sub-No. 429), filed January 26, 1978. Applicant: EAGLE MOTOR LINES, INC., 830 North 33d Street, Birmingham, AL 35202. Applicant's representative: R. Cameron Rollins, 830 North 33d Street, Birmingham, AL 35202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electrical substations*, complete, knockdown, or in sections, including all *component parts* therefor, and (2) *parts, accessories, implements*, and *supplies* used in the erection and installation of electrical substations when moving in the same shipments with such electrical substations, from points in Shelby County, AL to points in the United States (except AK and HI); and (3) *materials, supplies*, and *parts* (except commodities in bulk) used in the manufacture, assembly, and servicing of commodities in (1) and (2) above, from points in the United States (except AK and HI) to points in Shelby County, AL.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Birmingham, AL or Atlanta, GA.

No. MC 95540 (Sub-No. 1000), filed January 30, 1978. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Applicant's representative: Benjy W. Fincher (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bananas* and (2) *agricultural commodities*, exempt from economic regulation under section 203(b)(6) of the Interstate Commerce Act, when transported in mixed loads with bananas, from New York, NY, Philadelphia, PA, and Baltimore, MD, to points in OH, MI, IN, IL, and WI.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either New York, NY, Washington, DC, or Tampa, FL.

No. MC 105566 (Sub-No. 157), filed January 30, 1978. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1119, Cape Girardeau, MO 63701. Applicant's representative: Thomas F. Kilroy, Suite 406, Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *printed matter*, from Lancaster, PA, to points in AZ, CA, CO, ID, MT, NV NM, OK, OR, TX, UT, WA, WY, LA, and MS

NOTE.—If a hearing is deemed necessary, the applicant requests it to be held in Chicago, IL or Washington, DC.

No. MC 105813 (Sub-No. 228), filed December 29, 1977. Applicant: BEL-

FORD TRUCKING CO., INC., 1759 Southwest 12th Street, P.O. Box 2009, Ocala, FL 32670. Applicant's representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas* and *agricultural commodities*, otherwise exempt from economic regulation under section 203(b)(6) of the Act, when transported in mixed loads with bananas, restricted to the transportation of traffic having immediately prior movement by water, from Charleston, SC, to points in IL, IN, IA, KS, KY, ND, SD, TN, WV, and WI.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Miami, FL.

No. MC 106644 (Sub-No. 249), filed January 30, 1978. Applicant: SUPERIOR TRUCKING COMPANY, INC., Post Office Box 916, Atlanta, GA 30301. Applicant's representative: Frank Hall, Suite 713, 3384 Peachtree Road, NE., Atlanta, GA 30326. Authority sought to operate as a *common carrier*, over irregular routes, by motor vehicle, transporting: *Condensers, equalizers and exchangers, gas or liquid, iron or steel, and coolers, iron or steel*, from the facilities of Evapco Inc., Baltimore, MD to points in the United States (except AK and HI).

NOTE.—If an oral hearing is deemed necessary, we request it be held at either Baltimore, MD or Washington, DC.

No. MC 107295 (Sub-No. 73), filed January 13, 1978. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, IL 61842. Applicant's representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, IL 62707. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plywood and composition board*, from Los Angeles and Long Beach, CA, to points in the United states (except AK and HI), and (2) *composition board*, (a) from Burns Harbor, IN, and Charlestown, MA to points in the United States (except AK and HI), and (b) from New Orleans, LA, to points in AL, AR, FL, GA, KS, MS, NE, OK, TN, and TX.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Boston, MA.

No. MC 108341 (Sub-No. 81), filed January 27, 1978. Applicant: MOSS TRUCKING CO., INC., 3027 N. Tryon Street, P.O. Box 8409, Charlotte, NC 28208. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel piling and pile driving equipment and machinery*, from Jacksonville, FL to points in AL, GA, KY, LA, MS, NC, OH, SC, TN, VA, and WV.

NOTE.—Hearing site: Jacksonville, FL or Washington, DC. Common control may be involved.

No. MC 109633 (Sub-No. 27), filed January 30, 1978. Applicant: ARBET TRUCK LINES, INC., 222 E. 135th Place, Chicago, IL 60627. Applicant's representative: Arnold L. Burke, 180 N. LaSalle Street, Chicago, IL 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles* (except in bulk), from the plantsite and warehouse facilities of Mobil Chemical Co. Plastics Division, located in Ontario, Wayne, and Monroe Counties, NY, to points in the United States (except AK and HI).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, DC.

No. MC 111053 (Sub-No. 6), filed January 23, 1978. Applicant: EHRLICK TRANSPORT LIMITED, 3250 Derry Road, Mississauga, ON, Canada. Applicant's representative: Robert D. Gunderman, Suite 710, Statler Hilton, Buffalo, NY 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Horses*, other than ordinary, and in the same vehicle with such horses, *stable supplies and equipment* used in the care and exhibition of such horses, *mascots*, and the *personal effects* of their attendants, trainers, and exhibitors between ports of entry on the International Boundary line between the United States and Canada in NY and MI, on the one hand, and, on the other, points in GA, FL, and TN.

NOTE.—Applicant currently holds complementary authority from the Ontario Ministry of Transportation and Communications (X-416). If a hearing is deemed necessary, Applicant requests that it be held at Buffalo, NY.

No. MC 112304 (Sub-No. 128), filed January 27, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., a corporation, 1601 Blue Rock Street, Cincinnati, OH 45223. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the plantsite and shipping facilities of Georgetown Steel Co., at or near Georgetown, SC, to points in CT, DE, DC, IL, IN, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and WI.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Atlanta, GA or Washington, DC. Common control may be involved.

No. MC 112304 (Sub-No. 129), filed January 23, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., a Ohio corporation, 1601 Blue Rock Street, Cincinnati, OH 45223. Applicant's representative: A. Charles Tell, 100 East Broad Street, Cincinnati, OH 45223. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*, from the Port of Houston at or near Houston, TX; Rockwall, TX and Magnolia, AR to points in AR, MS, MO, OK, and TX. Restricted to traffic having a prior movement by water.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Washington, DC.

No. MC 112989 (Sub-No. 58), filed January 30, 1978. Applicant: WEST COAST TRUCK LINES, INC., 85647 Hwy 99 South, Eugene, OR 97405. Applicant's representative: John W. White, Jr., 85647 Hwy 99 South, Eugene, OR 97405. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and accessories*, (1) between the facilities of Simpson Extruded Plastics Co., at or near Eugene, OR and Sunnyside, WA, on the one hand, and, on the other, WA, OR, CA, NV, AZ, UT, WY, ID, and MT; and (2) between the facilities of Simpson Extruded Plastics Co., at or near Eugene, OR and Sunnyside, WA, on the one hand, and, on the other, points of entry on the international boundary line between the United States and Canada located in WA.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Salem or Portland, OR.

No. MC 113666 (Sub-No. 122), filed January 17, 1978. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Applicant's representative: Daniel R. Smetanick, 1200 Butler Road, Freeport, PA 16229. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transporting of *lumber and lumber products*, between ports of entry on the international boundary between the United States and Canada located in MI and NY and seaports along the eastern seaboard of the United States located in DE, MD, NJ, NY, PA, and VA, on the one hand, and, on the other, points in DE, IN, KY, MD, MI, NJ, NY, OH, PA, VA, WV, and DC. Restrictions: Restricted to the transportation of shipments having a prior or subsequent movement in foreign commerce.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, PA, or Washington, DC.

No. MC 113843 (Sub-No. 248), filed January 30, 1978. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, MA 02210. Applicant's representative: Lawrence T. Shiels, 316 Summer Street, Boston, MA 02210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic and plastic articles*, in vehicles equipped with mechanical refrigeration, from North Andover, MA to points in NY, NJ, PA, CT, CO, DE, MD, VA, OH, IL, IN, IA, KN, KY, MI, MN, MO, NE, ND, SD, WV, WI, and DC.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held in Boston, MA.

No. MC 114194 (Sub-No. 197), filed January 24, 1978. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Road, East St. Louis, IL 62201. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, MO 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer material*, in bulk, from Bussen Spur, MO, to points in IL.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Chicago or Springfield, IL.

No. MC 114211 (Sub-No. 341), filed January 11, 1978. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Applicant's representative: Mr. Daniel Sullivan, suite 1600, 10 South La Salle, Chicago, IL 60604. Authority sought to operate as a *common carrier*, over irregular routes, by motor vehicle, transporting: *Material handling equipment*, and *parts and accessories* for material handling equipment, from Crystal Lake, IL and Houston, TX, to points in the United States (excluding AK and HI).

NOTE.—If a hearing is deemed necessary, we request it be held at Chicago IL, at the same time and place as Machinery Transport, Inc., MC 124947 Sub-No. 75 application.

No. MC 114273 (Sub-No. 330), filed January 9, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Applicant's representative: Kenneth L. Core (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Knock-down metal buildings and parts* used in the manufacturing thereof, from Monticello, IA to points in IL, IN, OH, WI, PA, MO, NY, VA, WV, and TN.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Washington, DC or Chicago, IL.

No. MC 114457 (Sub-No. 345), filed December 27, 1978. Applicant: DART TRANSIT CO., 2102 University Avenue, St. Paul, MN 55114. Applicant's representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal litters, animal and bird feed, and pet supplies* (except commodities in bulk), from Waldron, AR to points in the United States (except AK, and HI).

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Minneapolis-St. Paul, MN or Chicago, IL.

No. MC 114457 (Sub-No. 354), filed January 25, 1978. Applicant: DART TRANSIT CO., a corporation, 2102 University Avenue, St. Paul, MN 55114. Applicant's representative: James H. Wills, 2102 University Avenue, St. Paul, MN 55114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulating material* (except in bulk), from the plant facilities of Fibreboard Corp. at Fruita, CO to points in the United States (except AK and HI).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at St. Paul, MN or San Francisco, CA.

No. MC 114632 (Sub-No. 138), filed January 25, 1978. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Applicant's representative: Michael Carter, P.O. Box 287, Madison, SD 57042. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Dugdale Packing Co. at or near Norfolk, NE and St. Joseph, MO, to points in CO, CT, DE, DC, IL, IN, IA, KS, KY, ME, MA, MD, MI, MN, MO, NE, NC, ND, NH, NJ, NY, OH, PA, RI, SC, SD, TN, VT, VA, WV, and WI.

NOTE.—Applicant holds motor contract carrier authority in No. MC 129706, therefore dual operations may be involved. If a hearing is deemed necessary, applicant request it be held at Kansas City, KS; Omaha, NE; or St. Louis, MO.

No. MC 114734 (Sub-No. 26), filed January 30, 1978. Applicant: D & J TRANSFER CO., a corporation, Sherburn, MN 56171. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68509. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, dairy products and articles* distributed by meat packinghouses as described in sections A, B, and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plantsite and storage facilities of John Morrell & Co., at or near Sioux Falls, SD, and Estherville and Sioux City, IA, to points in IL, IN, OH, and WI, under a continuing contract or contracts with John Morrell & Co.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Omaha, NE, or Minneapolis, MN.

No. MC 115841 (Sub-No. 596), filed January 27, 1978. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., Suite 110, 9041 Executive Park Drive, Knoxville, TN 37919. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from the facilities of Rich Products Corp., at or near Murfreesboro, TN, to points in AL, AR, CA, DE, FL, SC, GA, KS, LA, MD, MI, MS, MO, NJ, NC, OK, PA, TN, TX, VA, WV, WI, and DC.

NOTE.—Common control may be involved. If a hearing is deemed necessary applicant requests that it be held at Buffalo, NY, or Washington, DC.

No. MC 115904 (Sub-No. 94), filed January 30, 1978. Applicant: GROVER TRUCKING CO., a corporation, 1710 West Broadway, Idaho Falls, ID 83401. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Applicant seeks authority to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials*, from the facilities of Brooks-Scanlon, Inc., located at or near Denver, CO, to points in WY, NE, KS, and NM.

NOTE.—Common control may be involved. If the Commission deems an oral hearing necessary, applicant requests that it be held in either Denver, CO, or Washington, DC.

No. MC 117068 (Sub-No. 90), filed January 30, 1978. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., P.O. Box 6418, North Highway 63, Rochester, MN 55901. Applicant's representative: Richard C. McGinnis, 711 Washington Building, Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Air compressors and earth-drilling machinery and equipment and parts therefor*, between Claremont, NH, on the one hand, and, on the other, points in the United States (except HI and AK).

NOTE.—Hearing site: Washington, DC.

No. MC 117439 (Sub-No. 55), filed December 22, 1977. Applicant: BULK TRANSPORT, INC., P.O. Box 1429, Baton Rouge, LA 70821. Applicant's representative: Edward Winter, 235

Rosewood Drive, Metairie, LA 70005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk and in bags, (1) from points in LA (except Baton Rouge and New Orleans), to points in AL; (2) from points in LA (except Alexandria, New Orleans, and Shreveport), to points in AR; (3) from points in LA (except Baton Rouge and New Orleans), to points in FL; (4) from points in LA (except New Orleans), to points in GA; (5) from points in LA (except Alexandria, Baton Rouge, Lake Charles, New Orleans and Shreveport), to points in MS; (6) from points in LA (except New Orleans and Shreveport), to points in OK; and (7) from points in LA (except Alexandria, Baton Rouge, Lake Charles, New Orleans, and Shreveport), to points in TX.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Baton Rouge or New Orleans, LA.

No. MC 117940 (Sub-No. 251), filed December 29, 1977. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Applicants representative: Allan Timmerman, 5300 Highway 12, P.O. Box 104, Maple Plain, MN 55359. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* (except hides and commodities in bulk) as defined in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, from the plantsite and warehouse facilities of Wilson Foods Corp. at Albert Lea, MN, to points in CT, DE, DC, ME, MD, MA, NH, NJ, NY, PA, RI, VT, and VA. Restricted to the transportation of traffic originating at the above-named origins and destined to the named destinations.

NOTE.—If a hearing is deemed necessary the applicant requests it be held at either Dallas, TX, or Kansas City, Mo.

No. MC 119489 (Sub-No. 47), filed January 31, 1978. Applicant: PAUL ABLER d.b.a. CENTRAL TRANSPORT CO., 2500 North 13th Street, P.O. Box 249, Norfolk, NE 68701. Applicants representative: Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicles, over irregular routes, transporting: *Liquid fertilizer*, in bulk, in tank vehicles, from plantsite of Nutra Flo Chemical Co. at or near Optic, NE, to points in KS and CO.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha, NE or Sioux City, IA.

No. MC 119619 (Sub-No. 121), filed January 29, 1978. Applicant, DISTRIBUTORS SERVICE CO., a corporation, 2000 West 43d Street, Chicago, IL 60609. Applicant's representative: Arthur J. Piken, One Lefrak City Plaza, Suite 1515, Flushing, NY 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: (a) *Meats, meat products, meat byproducts and articles distributed by meat packing houses* described in sections A and C of appendix I, to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk); from St. Louis, MO and points in the St. Louis, MO, commercial zone to points in CT, DE, ME, MD, MA, NH, NJ, NY, OH, PA, VT, VA, WV, RI, NC, SC, and the DC.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at St. Louis, MO.

No. MC 121801 (Sub-No. 1), filed January 24, 1978. Applicant: HAYES MOTOR FREIGHT, INC., P.O. Box 793, Ardmore, OK 73401. Applicants representative: G. Timothy Armstrong, Suite 200, Timbergate Office Gardens, 6161 North May Avenue, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment) serving points over routes as follows: (a) Between Oklahoma City, OK, and Marietta, OK, serving all intermediate points and the off-route points of Stratford, Sulpher, Gene Autry, Ardmore Industrial Park (near Ardmore, OK), and Dickson, OK: From Oklahoma City, OK via U.S. Hwy 77 to Marietta, OK, and return via the same route. (b) Between Pauls Valley, OK, and Alex, OK, serving all intermediate points: From Pauls Valley, OK, via State Hwy 19 to Alex, OK, and return via the same route. (c) Between Pauls Valley, OK, and Ardmore, OK, serving all intermediate points and the off-route point of Ringling, OK: From Pauls Valley, OK, via U.S. Hwy 77 to its junction with State Hwy 29, then via State Hwy 29, to its junction with State Hwy 76 (near Foster, OK), then via State Hwy 76 to its junction with U.S. Hwy 70 (near Wilson, OK), then via U.S. Hwy 70 to Ardmore, OK, and return via the same route. (d) Between Oklahoma City, OK, and Marietta, OK, serving no intermediate points, as an alternate route for operating convenience only: From Oklahoma City, OK, via Interstate Hwy 35 to Marietta, OK, and return via the same route. (e) Between Stratford, OK, and Ardmore, OK, serving no intermediate points, as an alternate route for operating convenience only: From Stratford, OK, via U.S. Hwy 177 to its junction with U.S. Hwy 70, then via U.S. Hwy 70 to Ardmore, OK, and return via the same route. (f) Between Purcell, OK, and Elmore City, OK, serving no intermediate points, as an alternate route for operating convenience only: From Purcell, OK, via State Hwy 74 to Elmore City, OK, and return via the same route.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Ardmore, OK, and Pauls Valley, OK. Common control may be involved.

No. MC 123048 (Sub-No. 387), filed January 23, 1978. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021-21st Street, Post Office Box 1557, Racine, WI 53401. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bulk conveying systems, pressure vessel systems and equipment, air pollution, heating and cooling equipment and parts and accessories* for such commodities, from the plantsite and facilities of Allied Ind. Inc., located at or near Houston, TX, to points in the United States (except AK and HI) and return of refused or rejected shipments to Houston, TX.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held either at Houston or Dallas, TX or Washington, DC.

MC 124939 (Sub-No. 170), filed December 29, 1977. Applicant: FOOD HAUL, INC., 1215 West Mound Street, Rear, P.O. Box 23293, Columbus, OH 43223. Applicant's representative: Michael Spurlock, Paul F. Beery Co., L.P.A., 275 East State Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Carbonated beverages*, in packages, from the facilities of Cardinal Beverage Co. at or near Elizabethtown, KY, and from the facilities of Interstate Canning Co. at or near Louisville, KY, to the facilities of the Kroger Co., located at or near Cincinnati, OH, at or near Columbus, OH, under a continuing contract or contracts with the Kroger Co.

NOTE.—If the hearing is deemed necessary, applicant requests that it be held at Columbus, OH.

No MC 124947 (Sub-No. 98), filed January 30, 1978. Applicant: MACHINERY TRANSPORTS, INC., 1945 South Redwood Road, Salt Lake City, UT 84104. Applicant's representative: David J. Lister, 1945 South Redwood Road, Salt Lake City, UT 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregu-

lar routes, transporting *machinery, machinery parts, and machinery tools*, (except in bulk, from Carson, CA to points in the United States, (excluding Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at San Francisco, CA or Salt Lake City, UT.

No. MC 125433 (Sub-No. 145), filed January 30, 1978. Applicant: F-B TRUCK LINE CO., a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Applicant's representative: David J. Lister, 1945 South Redwood Road, Salt Lake City, UT 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *commodities* as are dealt in, or used by, steel manufacturing companies, (except in bulk), between points in the United States (excluding AK and HI). Restricted to shipments originating at or destined to the shipping and storage facilities of the Kaiser Steel Corp.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, UT or San Francisco, CA.

Docket No. MC 125533 (Sub-No. 21), filed January 11, 1978. Applicant: GEORGE W. KUGLER, INC., 2800 East Waterloo Road, Akron, Ohio 44309. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. Applicant seeks authority to operate as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *plastic(s), plastic articles, plastic pipe, tubing, fittings, connections* and *materials, supplies,* and *accessories* used in the manufacture and installation thereof (except in bulk in tank vehicles), between the facilities utilized by Robintech, Inc. at or near Springfield, KY; Anderson, SC; and Vestal, NY, on the one hand, and, on the other, points in the United States in and east of MN, IA, MO, AR and LA.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, DC.

No. MC 125996 (Sub-No. 53), filed December 22, 1977. Applicant: ROAD RUNNER TRUCKING, INC., POB 37491, Omaha, NE 68137. Applicant's representative: Floyd Knutson, 13080 Renfro Circle, Box 37491, Omaha, NE 68137. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, not frozen, in hermetically sealed containers, from the plant sites and/or storage facilities utilized by Tri-Valley Growers at or near Modesto, East Modesto, Madera, Volta, Stockton, and Turlock, CA; to points in (1) AZ, ID, OR, MT, NE, NM, UT and WA; (2) AR, CO, IL, IN, IA, MO, MN, ND, NE, OK, SD, TX, WI and WY under continuing contract or contracts with Tri-Valley Growers. Restricted to shipments originating at the named origins under continuing contract with Tri-Valley Growers.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at San Francisco, CA.

No. MC 126930 (Sub-No. 17), filed January 26, 1978. Applicant: BRAZOS TRANSPORT CO., a corporation, 339 East 34 Street, Lubbock, TX 79404. Applicant's representative: Richard Hubber, P.O. Box 2976, Lubbock, TX 79408. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials, including particleboard*, from the plantsite of Publishers Paper located at or near Virginia, MN, to points in KS, NE, MO and IA.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held either in Minneapolis, MN, or Chicago, IL.

No. MC 127840 (Sub-No. 59), filed January 25, 1978. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, P.O. Box 382, Lansing, IL 60438. Applicant's representative: William H. Towle, 180 North LaSalle Street, Suite 3520, Chicago, IL 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products, vehicle body sealer, and/or sound deadening compound*, in bulk, in tank vehicles, from points in Marion County, TN, to points in ND, SD, NE, KS, OK, TX, MN, IA, MO, AR, LA, IL, MS, AL, GA, FL, SC, NC, OH, IN and KY.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, IL, or Pittsburgh, PA.

No. MC 128007 (Sub-No. 117), filed January 10, 1978. Applicant: HOFER, INC., P.O. Box 583, Pittsburg, KS 66762. Applicant's representative: Larry E. Gregg, 641 Harrison Street, Topeka, KS 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Premixed mineral feed and ingredients*, from points in Newton County, MO, to points in AL, AZ, AR, CO, IL, IN, IA, KS, KY, LA, MN, MS, MT, NE, NM, ND, OK, SD, TN, TX, WI and WY.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Kansas City, MO.

No. MC 128007 (Sub-No. 119), filed January 26, 1978. Applicant: HOFER, INC., P.O. Box 583, Pittsburg, KS 66762. Applicant's representative: Larry E. Gregg, 641 Harrison Street, Topeka, KS 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Copper sulphate and iron sulphate*, from the facilities of Chem-Serv Division, United Chemical Corp. of New Mexico, at Gilbert, AZ, and St. Louis, MO, to points in AR, CO, IL, IA, KS, LA, MN, MS, MO, NE, ND, OK, SD, TX and WI.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, MO.

No. MC 128273 (Sub-No. 282), filed January 25, 1978. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Applicant's representative: Elden Corban, P.O. Box 189, Fort Scott, KS 66701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *paper and paper products* (except commodities in bulk in tank vehicles), from the facilities of Champion International Corp. at Cincinnati, OH, to points in the United States in and west of MN, IA, MO, AR and LA (except AK and HI).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Hamilton or Cincinnati, OH. Midwestern Distribution, Inc., now holds authority in MC 128273 (Sub-No. 96) to transport the same commodities from the facilities of Champion International at Hamilton, OH, to the involved destination territory in the instant application. In effect, applicant seeks to include the warehouse facilities of Champion International Corp. at Cincinnati, OH, as an origin point only to its now existing authority.

No. MC 128114 (Sub-No. 6), filed December 29, 1977. Applicant: PAUL E. SAVAGE, d.b.a. SAVAGE TRANSPORTATION CO., Building 141, Pasco Airport, Pasco, WA 99302. Applicant's representative: Donald A. Ericson, 708 Old National Bank Building, Spokane, WA 99201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pivot irrigation systems and accessory materials, supplies and equipment*, from points in Franklin, Walla Walla and Adams Counties, WA, to points in OR, ID and MT; and *Irrigation pipe*, between points in Multnomah County, OR, on the one hand, and on the other, points in Benton, Franklin, and Adams Counties, WA.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Pasco, Spokane, or Seattle, WA; or Portland, OR.

No. MC 128413 (Sub-No. 5), filed January 23, 1978. Applicant: SEASON-ALL TRANSPORTATION CO., Route 119 South, Indiana, PA 15701. Applicant's representative: Henry M. Wick, Jr., Esq., 2310 Grant Building, Pittsburgh, PA 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum products, fabricated metal products and materials, equipment and supplies* used in the production, distribution and sale of

the above named commodities (except commodities in bulk), between the facilities of Season-All Industries, Inc. at or near Decatur, IL, on the one hand,

Brunswick; south of Interstate Rt. 16 from and including Savannah to and including Macon; west of Interstate Rt. 75 from Macon to GA Hwy 16;

NOTE.—Common control may be involved. If a hearing is deemed necessary, Applicant requests that it be held at Pittsburgh, PA or Sioux City, IA.

GA, on the one hand, and, on the other, Mobile, AL, and New Orleans, LA. Restriction: Restricted against the movement of shipments being trans-

No. MC 138157 (Sub-No. 54), filed January 3, 1978. Applicant's name: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST

Larsen, P.O. Box 81849, Lincoln, NE 68509. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

the above named commodities (except commodities in bulk), between the facilities of Season-All Industries, Inc. at or near Decatur, IL, on the one hand, and, on the other, points in AL, AR, CO, CT, DC, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OK, OH, PA, RI, SC, SD, TN, TX, VT, VA, WV and WI. Restriction: The operations authorized herein are limited to a transportation to be performed under a continuing contract or contracts with Season-All Industries, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, DC or Pittsburgh, PA.

No. MC 128539 (Sub-No. 9), filed January 18, 1978. Applicant: EAGLE TRANSPORT CORP., P.O. Box 4508, Rocky Mount, NC 27801. Applicant's representative: Robert J. Corber, 1747 Pennsylvania Avenue NW., Suite 1050, Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *liquefied petroleum gas*, in bulk, in tank vehicles, from the facilities of the Dixie Pipeline Co. near Cheraw and Lexington, SC and from the facilities of the Carolina Pipeline Co. at Terzah (York County), SC to points in NC.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held in Washington, DC.

No. MC 129878 (Sub-No. 3), filed January 11, 1978. Applicant: FLOUR TRANSPORT, INC., 4325 Fruitland Avenue, Los Angeles, CA 90058. Applicant's representative: R. W. Schureman, 1545 Wilshire Boulevard, Los Angeles, CA 90017. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Flour*, in bulk, from points in Los Angeles County to points in Los Angeles, Orange, Riverside, San Bernardino and San Diego Counties, CA.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Los Angeles, CA. Common control may be involved.

No. MC 133659 (Sub-No. 3), filed January 24, 1978. Applicant: LIVINGSTON STORAGE & TRANSFER CO., INC., 4301 Allied Drive, Columbus, GA 31903. Applicant's representative: Charles Cadwell, 1000 Connecticut Avenue NW., Suite 1200, Washington, DC 20036. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting: (1) *Those commodities*, the transportation of which by reason of their size or weight requires *specialized handling or equipment*, from points in GA and AL, within an area described as follows: North of GA Hwy 62 from the AL border to and including Albany; north of U.S. Hwy from Albany to and including Waycross; north of U.S. Hwy 84 from Waycross to and including Brunswick; south of Interstate Rt. 16 from and including Savannah to and including Macon; west of Interstate Rt. 75 from Macon to GA Hwy 16; south of GA Hwy 16 from Interstate Rt. 75 to and including Newnan; south of GA Hwy 34 from Newnan to the AL border; south of AL Hwy 22 from the GA border to Interstate Rt. 65; east of Interstate Rt. 65 from AL Hwy 22 to and including Montgomery; east of U.S. Hwy 331 from Montgomery to and including Opp; north of U.S. Hwy 84 from Opp to and including Dothan; and north of AL Hwy 52 from Dothan to the GA border; to points in: GA; AL; MS: east of Interstate Rt. 55 from the TN border to and including Jackson, and on or east of U.S. Rt. 49 from Jackson to and including Gulfport; TN: south of Interstate Rt. 40; NC: on or west of U.S. Hwy 21 and south of Interstate Rt. 40; SC: on or west of U.S. Hwy 21 from the NC border to and including Columbia, and west of Interstate Rt. 26 from Columbia to and including Charleston; and FL: north of Interstate Rt. 4, and St. Petersburg; and those same commodities on return if rejected or for the purposes of repair, further manufacturing, or other handling by the original shipper; and (2) *scrap metal, ferrous and non ferrous* between all points and places in: GA; AL; MS: east of Interstate Rt. 55 between the TN border to and including Jackson, and on or east of U.S. Rt. 49 from Jackson to and including Gulfport; TN: south of Interstate Rt. 40; NC: on or west of U.S. Hwy 21 and south of Interstate Rt. 40; SC on or west of U.S. Hwy 21 from the NC border to and including Columbia, and west of Interstate Rt. 26 from Columbia to and including Charleston; and FL: north of Interstate Rt. 4, and St. Petersburg.

NOTE.—If a hearing is deemed necessary applicant requests that it be held at Columbus, GA.

No. MC 134286 (Sub-No. 41), filed January 23, 1978. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Applicant's representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Authority sought to operate as a *common carrier, by motor vehicle, over irregular routes, transporting: Laboratory chemicals, electrical equipment, laboratory apparatus, laboratory glassware, and related and associated items* used in the laboratory supply field (except in bulk), from the plantsite and/or storage facilities of Fisher Scientific Co., located at or near Bridgewater Township, NJ, to Atlanta, GA; Chicago, IL; Cincinnati, OH; Cleveland, OH; Houston, TX; Los Angeles, CA; Orlando, FL; Pittsburgh, PA; St. Louis, MO; Raleigh, NC; and points in the commercial zones of each respective city.

NOTE.—Common control may be involved. If a hearing is deemed necessary, Applicant requests that it be held at Pittsburgh, PA or Sioux City, IA.

No. MC 134300 (Sub-No. 18), filed January 31, 1978. Applicant: TRIPLE R EXPRESS, INC., 498 First Street Northwest, New Brighton, MN 55112. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Authority sought to operate as a *common carrier*, over irregular routes, by motor vehicle, transporting: *Frozen foods*, from the facilities of Kraft, Inc., located at New Ulm, MN to points in CT, PA, VA, DE, DC, ME, MD, MA, NH, NY, NJ, RI, VT, OH, IN, MI, WV, KY, IL, ND, SD, NE, IA, MO and WI. Restricted to traffic originating at the above named origin and destined to points in the named destination states.

NOTE.—Hearing site Minneapolis or St. Paul, MN. Common control may be involved.

No. MC 135797 (Sub-No. 97), filed January 24, 1978. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Applicant's representative: Daniel C. Sullivan, 10 South LaSalle Street, Suite 1600, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Animal feed* (except in bulk); (2) *animal feed ingredients;* (3) *Advertising and packaging materials* moving in mixed loads with the commodities in (1) and (2) above, and: (4) *Equipment, materials, and supplies* used in the manufacture and distribution of the commodities in (1), (2), and (3), between the facilities of Kal-Kan Foods, Inc., at or near Los Angeles and Irvine, CA; Ogden, UT; Hutchinson, KS; Mattoon, IL; Indianapolis and Terre Haute, IN; and Columbus, OH, on the one hand, and, on the other, points in the United States (except AK and HI).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Los Angeles, CA.

No. MC 136285 (Sub-No. 31), filed: January 31, 1978. Applicant: SOUTHERN INTERMODAL LOGISTICS, INC., P.O. Box 1375, Thomasville, GA 31792. Applicant's representative: William P. Jackson, Jr., 3426 N. Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, Classes A and B explosives, household goods as defined by the Commission, and commodities requiring the use of special equipment), in containers and trailers, having a prior or subsequent movement by water, between the facilities of the Army and Air Force Exchange Service located at or near Forest Park,

GA, on the one hand, and, on the other, Mobile, AL, and New Orleans, LA. Restriction: Restricted against the movement of shipments being transported in containers or trailers equipped with mechanical refrigeration units.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Atlanta, GA, or Washington, DC.

No. MC 136322 (Sub-No. 1) (correction), filed November 23, 1977, published in the FEDERAL REGISTER issue of January 19, 1978, as MC 144027 and republished as corrected this isssue. Applicant: WHITE'S DELIVERY SERVICE, INC., 3645 Tulip Street, Philadelphia, PA 19134. Applicant's representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cocoa beans* and *cocoa products* (except in bulk), from Norfolk and Newport News, VA and Baltimore, MD to Philadelphia, PA.

NOTE.—The purpose of this correction is to show correct Docket No. as "MC 136322 (Sub-No. 1)" and to include "Jersey City, NJ" as an additional destination point. If a hearing is deemed necessary, applicant requests it be held at either Washington, DC or Philadelphia, PA.

No. MC 136904 (Sub-No. 24), filed January 26, 1978. Applicant: WORSTER-MICHIGAN, INC., R.D. No. 1, Gay Road, North East, PA 16428. Applicant's representative: Joseph F. MacKrell, 120 West Tenth Street, Erie, PA 16501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except in bulk), from the plantsites and storage facilities utilized by Banquet Foods Corp. at or near Carrollton, Macon, Marshall, and Moberly, MO, to points in NY, NJ, DE, MD, and Washington, DC.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, DC.

No. MC 138026 (Sub-No. 14), filed January 25, 1978. Applicant: LOGISTICS EXPRESS, INC., Etiwanda and Slover Avenues, Fontana, CA 92335. Applicant's representative: David P. Christianson, 1800 United California Bank Building, 707 Wilshire Boulevard, Los Angeles, CA 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Liquid propylene*, in bulk, in trailers, from the plantsite of Union Carbide Corp., at Torrance, CA, to points in Pierce County, WA, Multnomah County, OR, Maricopa County, AZ and Salt Lake County, UT.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Los Angeles, CA.

No. MC 138157 (Sub-No. 54), filed January 3, 1978. Applicant's name: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, Applicant's representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinyl floor covering*, from Salem, NJ, to points in TN. Restriction: Restricted to traffic originating at the named origin points and destined to the named destinations.

NOTE.—Applicant holds contract authority in MC 134150 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta, GA.

No. MC 138157 (Sub-No. 56), filed January 30, 1978. Applicant's name: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT (a California corporation), 2931 South Market Street, Chattanooga, TN 37410. Applicant's representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpeting*, from Dalton, GA, to points in CA, WA, OR, MT, ID, WY, CO, UT, NM, AZ, and NV. Restriction: Restricted to traffic moving for the account of Pacific Crest Carpets, Inc.

NOTE.—Applicant holds contract carrier authority in MC 134150 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. (Hearing site: (1) Fresno, CA, (2) San Francisco, CA.)

No. MC 139360 (Sub-No. 10), filed January 23, 1978. Applicant: RAE-MARC, INC., 1903 Chicaory Road, P.O. Box 1203, Racine, WI 53403. Applicant's representative: Daniel C. Sullivan, 10 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or distributed by manufacturers and distributors of liquid soap, toilet preparations, chemicals, and household products, between the facilities of S. C. Johnson & Son, Inc., at or near Waxdale, WI on the one hand, and points in the lower peninsula of MI, IL, IN, IA, MI, and OH, on the other. Restriction: Restricted to traffic carried under continuing contract with S. C. Johnson & Son, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, IL, or Racine, WI.

No. MC 139434 (Sub-No. 5), filed January 30, 1978. Applicant: MID-AMERICA EXPRESS, INC., P.O. Box 9, Nebraska City, NE 68410. Applicant's representative: Gailyn L. Larsen, P.O. Box 81849, Lincoln, NE 68509. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts* and *articles* distributed by meat packinghouses, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, from the plantsite and facilities of Armour and Co., at or near Omaha NE, to points in GA, NC, SC, and TN.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Omaha, or Lincoln, NE.

No. MC 139468 (Sub-No. 25), filed January 26, 1978. Applicant: INTERNATIONAL CONTRACT CARRIERS, INC., 6534 Gessner, Houston, TX 77040. Applicant's representative: David R. Parker, 2310 Colorado State Bank Building, 1600 Broadway, Denver, CO 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Kooskia and Princeton, ID and Clarkston, WA, to points in CO, UT, and WY. Restrictions: (a) Restricted to traffic originating at: (1) The facilities utilized by Bennett Sales Co. at Kooskia, ID; (2) The facilities owned by Bennett Lumber Products, Inc., at Princeton, ID; (3) The facilities owned by Guy Bennett Lumber Co. at Clarkston, WA. (b) The operations authorizd herein are limited to a transportation service to be performed under a continuing contract or contracts with Bennett Sales Co.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Houston, TX or Denver, CO.

No. MC 139482 (Sub-No. 31), filed January 3, 1978. Applicant: NEW ULM FREIGHT LINES, INC., County Road 29 West, New Ulm, MN 56073. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the plantsite facility of Kraft, Inc. at New Ulm, MN, to points in IA, MO, NE, ND, KY, SD, CT, PA, VA, DE, DC, ME, MD, MA, NH, NY, NJ, RI, VT, OH, WI, IN, MI, WV, and IL. Restricted to traffic originating at the above named origin and destined to the points in the named destination States.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, IL.

No. MC 139485 (Sub-No. 8), filed January 30, 1978. Applicant: TRANS CONTINENTAL CARRIERS, a corporation, 169 East Liberty Avenue, Ana-

heim, CA 92803. Applicant's representative: David P. Christianson, 1800 United California Bank Building, 707 Wilshire Boulevard, Los Angeles, CA

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Louisville or Frankfort, KY.

No MC 140619 (Sub-No. 2), filed Jan-

IN, KS, KY, MI, MN, MO, MT, NE, OH, OK, OR, PA, SD, TN, WA, WI, and WY.

NOTE.—If a hearing is deemed necessary,

Baltimore, MD, Detroit, Grand Rapids, and Muskegon, MI, Minneapolis and Moorhead, MN, Joplin, Springfield, and St. Joseph, MO, Great Falls,

volved. If a hearing is deemed necessary, the applicant requests it be held at Washington, DC.

No. MC 143059 (Sub-No. 8), filed De-

NOTE.—If a hearing is deemed necessary, the applicant requests it be held in Columbia, SC or Atlanta, GA.

No. MC 142332 (Sub-No. 3), filed De-

heim, CA 92803. Applicant's representative: David P. Christianson, 1800 United California Bank Building, 707 Wilshire Boulevard, Los Angeles, CA 90017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bread*, and *materials, supplies and equipment* utilized in the production of bread, between points in the United States (except AK and HI), under a continuing contract or contracts with Kings International Bakery of Torrance, CA, and U.S. Sugar Co. of Buffalo, NY.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Los Angeles, CA.

No. MC 13947 (Sub-No. 4), filed January 26, 1978. Applicant: COBO, INC., 15000 FM Road 1825, Round Rock, TX 78664. Applicant's representative: W. S. Levens (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, between Laredo, Brownsville, Corpus Christi, Port Lavaca, Freeport, San Antonio, Austin, El Paso, Hays County and Comal County, TX, to points in TX, restricted to traffic having a prior movement outside of TX in interstate or foreign commerce.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Austin or San Antonio, TX. Common control may be involved.

No. MC 139495 (Sub-No. 310), filed January 30, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Applicant's representative: HERBERT ALAN DUBIN, 1320 Fenwick Lane, Suite 500, Silver Spring, MD 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from points in TX on and south of TX Hwy. 44, to points in and east of OK, KS, NE, SD, ND, AR, and LA.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, DC.

No. MC 139655 (Sub-No. 2), filed January 11, 1978. Applicant: OWENS AUTO PARTS, INC., 602 18th Street, Corbin, KY, 40701. Applicant's representative: Herbert D. Liebman, P.O. Box 478, Frankfort, KY 40602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Heavy duty lubricating oils and greases* in steel containers and packages, between the plantsite of Premier Industrial Corp., doing business as D-A Lubricant Co., Inc., located at or near Indianapolis, IN, on the one hand, and, on the other, the warehouses of Owens Auto Parts, In., located at or near Corbin, KY.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Louisville or Frankfort, KY.

No MC 140619 (Sub-No. 2), filed January 5, 1978. Applicant: AMAC Trucking Inc. (AT), 5050 First Avenue South, Seattle, WA 98134. Applicant's representative: C. Michael McCanta (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: such *merchandise* as is dealt in by mail order houses and retail stores, and *equipment, materials, and supplies* used in the conduct of such business, (1) between Seattle, WA, on the one hand, and, on the other, Vancouver and Wenatchee, WA, Missoula, MT, and Moscow, ID.; (2) between Spokane, WA, on the one hand, and, on the other, Pasco, Union Gap, Walla Walla, and Wenatchee, WA, Missoula, MT, Coeur d'Alene and Moscow, ID; (3) between Portland, OR, on the one hand, and, on the other, Bellingham, Chehalis, Longview, Mount Vernon, Olympia, Pasco, Spokane, Union Gap, Vancouver, Walla Walla, and Wenatchee, WA, under contracts or continuing contracts with Sears Roebuck & Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Seattle, WA.

No. MC 140829 (Sub-No. 72), filed January 13, 1978. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20, Sioux City, IA 51102. Applicant's representative, William J. Hanlon, 55 Madison Avenue, Morristown, NJ, 07960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Medicine, toilet preparations and chemicals and materials, equipment and supplies* used in the business of a pharmaceutical company, (1) From Jersey City, Kenilworth and Dayton, NJ to points in IL, NV and TN; (2) from points in TN to Jersey City, NJ, restricted to the transportation of traffic originating at the named origins and destined to points in the above named destination States.

NOTE.—Applicant holds contract carrier authority in MC 136408 and Subs thereunder; therefore dual operations may be involved. If a hearing is deemed necessary the applicant requests it to be held in Washington, DC.

No. MC 141108 (Sub-No. 1), filed January 31, 1978. Applicant: D & C EXPRESS, INC., P.O. Box 2566, Wilton, IA 52778. Applicant's representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, IA 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles and materials, equipment, and supplies*, between Wilton, IA, on the one hand, and on the other, points in CO, ID, IL, IN, KS, KY, MI, MN, MO, MT, NE, OH, OK, OR, PA, SD, TN, WA, WI, and WY.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held in Jackson, MS.

No. MC 141138 (Sub-No. 10), filed January 24, 1978. Applicant: STEVE SCHRANZ TRUCKING, INC., 350 Honeysuckle Lane, Belleville IL 62221. Applicants representative: Ernest A. Brooks, II, 1301 Ambassador Building, 411 North 7th Street, St. Louis, MO 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer material* in bulk, from Bussen Spur, MO, to points in IL.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago; IL, or Springfield, IL.

No. MC 141197 (Sub-No. 21), filed January 25, 1978. Applicant: FLEMING-BABCOCK, INC., 4106 Mattox Road, Riverside, MO 64151. Applicant's attorney: Tom B. Kretsinger, 910 Brookfield Building, 101 West Eleventh Street, Kansas City, MO 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Coal*, from points in Bourbon, Crawford, and Cherokee Counties, KS, to Kansas City, MO.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, MO.

No. MC 141550 (Sub-No. 4), filed: December 28, 1977. Applicant: HOPPY LINES, INC., 420 Devonshire Drive, Brea, CA 92621. Applicants representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, IA 52501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rotary blower blast wheels* from Cleveland, OH, to Phoenix, AZ, under a continuing contract or contracts with Morrison Products, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held in Cleveland or Columbus, OH.

No. MC142162 (Sub-No. 2), filed January 19, 1978. Applicant: BRALEN TRUCKING CO., INC., 1700 1st Avenue, P.O. Box 1286, Greeley, CO 80631. Applicants representative: Chandler L. van Orman, 704 Southern Building, 15th and H Streets NW., Washington, DC 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agricultural chemicals* (except commodities in bulk), (a) from Mobile, Dothan, and Birmingham, AL, Firebauth and Lompac, CA, Jacksonville, FL, Brunswick and Valdosta, GA, Humboldt, Sergeant Bluff, and Sioux City, IA,

Baltimore, MD, Detroit, Grand Rapids, and Muskegon, MI, Minneapolis and Moorhead, MN, Joplin, Springfield, and St. Joseph, MO, Great Falls, MT, Newark, NJ, Cincinnati, Cleveland, Columbus, and Toledo, OH, Vancouver, WA, Memphis, TN, Tooele and Salt Lake City, UT, and Longview, Spokane, Seattle, Walla Walla, and Yakima, WA, to Buckeye and San Luis, AZ, Arvin, Bakersfield, Brawley, Calipatria, Madera, Manteca, Modesto, Paso Robles, Stockton, and Terra Bella, CA, Burlington, Cedar Rapids, Colfax, and Shenandoah, IA, Girdletree, MD, Bay City, Grand Rapids, and Decatur, MI, Fairmont, Willmar, and Marshall, MN, Sidney, Miles City, and Hardin, MT, Artesia, Clovis, Clayton, and Monument, NM, Ashland, Alliance, and Findlay, OH, and Lovell, Powell, Torrington, and Worland, WY, and (b) between Athens and Selma, AL, Bakersfield, CA, Cordele and Valdosta, GA, Mexico, Kirksville, and Portageville, MO, Fargo, Devils Lake, Dickinson, Grand Forks, Minot, and Williston, ND, Lexington, Athena, Salem, Portland, Monmouth, Albany, and Corvallis, OR, Moses Lake, WA, and points in AR, ID, KS, LA, MS, NE, OK, SD, and points in CO, on and east of U.S. Hwy 25; and (2) *materials, equipment, and supplies* used in the packaging, handling, and transportation of agricultural chemicals, between Billings, MT, Garden City, KS, Weslaco, Brownfield, and Hereford, TX, Fremont and Omaha, NE, Sheboygan, WI, Memphis, TN, Kansas City, MO, and Greeley, CO, under a continuing contract or contracts with Loveland Industries, Inc., Pueblo Chemical & Supply Co., Mid Valley Chemical, Inc., Tri State Chemicals, Inc., and Platte Chemical Co., Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Denver, CO.

No. MC 142508 (Sub-No. 15), filed January 23, 1978. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, Omaha, NE 68137. Applicant's representative: Joseph Winter, 33 North LaSalle Street, Chicago, IL 60602. Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts* and *articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, from the plantsite and/or warehouse facilities utilized by Iowa Beef Processors, Inc., at or near Denison and Fort Dodge, IA; Luverne, MN; Dakota City and West Point, NE; to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, and DC.

NOTE.—Applicant holds Contract Carrier Authority in MC-134734 (Sub-No. 3) and subs therefore, dual operation may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, DC.

No. MC 143059 (Sub-No. 8), filed December 29, 1977. Applicant: MERCER TRANSPORTATION CO., 12th and Main Streets, P.O. Box 11129, Louisville, KY 40211. Applicant's representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, TX 76102. Authority is sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Castings*, from the plantsite of American Brass & Iron Foundry Co., located at or near Oakland, CA, to points in the United States (except AK and HI).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Oakland, CA, or San Francisco, CA.

No. MC 143077 (Sub-No. 2), filed January 25, 1978. Applicant: Gerard S. Reder, d.b.a. BERKSHIRE ARMORED CAR SERVICE, 343 Pecks Road, Pittsfield, MA 01201. Applicant's representative: Morris J. Levin, 1620 Eye Street NW, Washington, DC 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coin, currency, legal tender, negotiable* and *nonnegotiable instruments, securities, documents* used in banking, and other valuable articles, in armored vehicles escorted by armed guards, (i) between Berkshire, Franklin, Hampden, Hampshire, Middlesex, and Worcester Counties, MA, on the one hand, and, on the other, Hartford and Litchfield Counties, CT, and (ii) between points in VT, on the one hand, and, on the other, Albany County, NY, and Hartford and Litchfield Counties, CT, under a continuing contract or contracts with banks, financial institutions, manufacturers and dealers of articles of unusual value.

NOTE.—If a hearing is necessary, the applicant requests it to be held at Pittsfield, MA.

No. MC 143161 (Sub-No. 4), filed January 27, 1978. Applicant: BEVERAGE TRANSPORT, INC., Box 13515, 1210 Bluff Road, Columbia, SC 29201. Applicant's representative: Harry S. Dent, P.O. Drawer 528, Columbia, SC 29202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Non-alcoholic beverages* and *soft drinks and materials, supplies, and equipment* used in the manufacture, mixing, distribution, and sale of non-alcoholic beverages and soft drinks, between the plantsite of Carolina Canners South, Inc., located at Cayce, SC, on the one hand, and on the other, points and places in FL, GA, AL, MS, LA, TX, TN, NC, VA, WV, KY, IL, IN, OH, Washington, DC, MD, DE, PA, NY, NJ, MI, WI, CT, RI, MA, VT, and ME, under a contining contract or contracts, with Carolina Canners South, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held in Columbia, SC or Atlanta, GA.

No. MC 142332 (Sub-No. 3), filed December 29, 1977. Applicant: MEAT HANDLER'S EXPRESS, INC., 5403 42d Avenue West, Seattle, WA 98199. Applicant's representative: Michael D. Duppenthaler, 515 Lyon Building, 607 3d Avenue, Seattle, WA 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Horsemeat*, fresh or frozen, in vehicles equipped with mechanical refrigeration, from Stanwood and Chehalis, WA, to Neward, NJ, New York, NY, and Houston, TX, under a continuing contract, or contracts, with Florence Packing, Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Seattle, WA.

No. MC 143469 (Sub-No. 1), filed January 30, 1978. Applicant: TACOMA TOWING, INC., 12132 Pacific Hwy. SW., Tacoma, WA 98499. Applicant's representative: Raymond Winter (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked or disabled vehicles*, between points in King, Pierce and Snohomish Counties, WA, on the one hand, and, on the other, points in Multnomah and Clackamas Counties, OR.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Tacoma or Seattle, WA.

No. MC 143638 (Sub-No. 2), filed January 30, 1978. Applicant: JOHNSON'S TRUCKING, INC., Route 1, Box 31, Inola, OK 74036. Applicant's representative: Gary Brasel, Mezzanine Floor, Beacon Building, Tulsa, OK 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from points in Tulsa, Craig, Rogers, Nowata, Wagoner'Mayes, Cherokee, Delaware, Washington and Okmulgee Counties, OK to points in KS, MO, OK, AR, TX and LA.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Tulsa, OK.

No. MC 143869 (Sub-No. 1), filed January 23, 1978. Applicant: DOUGLAS EXPRESS, INC., 420 Wilder Terrace, Marietta, GA 30064. Applicant's representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, (except class A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment) having an immediate prior or an immediate subsequent movement by air, between the William B. Hartsfield Atlanta Interna-

tional Airport, at or near Atlanta, GA, on the one hand, and on the other, points in Barrow, Clarke, DeKalb, Forsyth, Fulton, Gwinnett, Clayton, Walton, Jackson, and Hall Counties,

City, UT 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fire retardant chemicals*,

to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: (1) *Burnt lime and sludge*, from Huron, OH, to Butler,

Marshall, 101 State Street, Suite 304, Springfield, MA 01103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular

NOTE.—(Hearing site: Hartford, CT; Boston, MA; or Albany, NY).

No. MC 144267, filed January 30, 1978. Applicant: METRO DELIVERY

erating rights authority, or reinstatement of terminated operating rights authority.

All pleadings and documents must

tional Airport, at or near Atlanta, GA, on the one hand, and on the other, points in Barrow, Clarke, DeKalb, Forsyth, Fulton, Gwinnett, Clayton, Walton, Jackson, and Hall Counties, GA.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Atlanta, GA.

No. MC 144034 (Sub-No. 2), filed January 24, 1978. Applicant: PAUL M. PUCKETT, 603 No. Walnut Street, Pana, IL 62557. Applicant's representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Ice cream*, in mechanically refrigerated vehicles, from Decatur, IL, to LaFayette, Terre Haute and Vincennes, IN, and South Fulton, TN, under a continuing contract or contracts with Prairie Farms Dairy, Inc., located at Pana, IL.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at St. Louis, MO or Springfield, IL.

No. MC 144117 (Sub-No. 2), filed January 23, 1978. Applicant: TLC LINES, INC., 1666 Fabick Drive, P.O. Box 1090, Fenton, MO 63026. Applicant's representative: Daniel C. Sullivan, 10 South LaSalle Street, Suite No. 1600, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Shelves*, and (2) accessories and *attachments* for the commodity named in (1) above, from Jacksonville, IL to points in CO, NM, WY, MT, AZ, UT, ID, NV, CA, OR, and WA.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either St. Louis, MO or Chicago, IL.

No. MC 144125 (Sub-No. 2), filed January 30, 1978. Applicant: GRIPPIN & PARKER TRANSPORTATION, INC., P.O. Box 961, Lexington, NE 68850. Applicant's representative: A. J. Swanson, P.O. Box 81849, Lincoln, NE 68509. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts and articles* distributed by meat packinghouses, from the plantsites and facilities of Cornland Dressed Beef Co., at or near Lexington, NE, to points in CO, IL, IA, and KS, under a continuing contract or contracts with Cornland Dressed Beef Co., of Lexington, NE.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Lincoln, NE, or Omaha, NE.

No. MC 144157, filed December 29, 1977. Applicant: TRANS CHEM, INC., 9114 South 150 East, Sandy, UT 84070. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fire retardant chemicals*, in bags, from Sandy, UT, to points in the United States, (excluding AK and HI); (2) *materials and supplies* used in the manufacture and distribution of fire retardant chemicals, from San Bernardino County, CA, to Sandy and Draper, UT; and (3) *bags*, from Portland, OR to Sandy, UT, under a continuing contract or contracts with Insul Chem, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, UT or Washington, DC.

No. MC 144203 (Sub-No. 1), filed January 20, 1978. Applicant: HERMAN BROS, INC., 2565 St. Marys Avenue, P.O. Box 189, Omaha, NE 68101. Applicant's representative: John E. Smith, II, 2565 St. Marys Avenue, P.O. Box 189, Omaha, NE 68101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Flour and middlings*, from Martins Creek, Red Lion, Treichlers, and York, PA, to points in DE, DC, CT, MD, MA, NJ, NY, OH, PA, RI, ME, NH, VT, and VA; (2) *flour enrichment*, from Totowa, NJ, Woodside and Brooklyn, NY, to Martins Creek, Treichlers, Red Lion, and York, PA; and (3) *flour*, from Omaha and Fremont, NE, to points in IA. Restricted to transportation performed under a continuing contract or contracts with ConAgra, Inc., of Omaha, NE.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Omaha, NE.

No. MC 144220 (Sub-No. 1), filed January 24, 1978. Applicant: STEVE RUNYON, d.b.a. RUNYON TRUCKING, Route 1, Box 10, Bidwell, OH 45614. Applicant's representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, WV 25526. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, in dump vehicles, from mine sites in Athens, Gallia, Hocking, Jackson, Lawrence, Meigs, Perry, and Vinton Counties, OH to West Columbia and Clifton, WV, having subsequent movement by barge, under a continuing contract or contracts with Raven Hocking Coal Corp.

NOTE.—If a hearing is deemed necessary applicant requests that it be held at Charleston, WV or Columbus, OH.

No. MC 144222, filed January 25, 1978. Applicant: RONALD HACKENBERGER, d.b.a., RON'S TRUCKING SERVICE, Route 250, North, RFD No. 3, Norwalk, OH 44857. Applicant's representative: Richard H. Brandon, P.O. Box 97, 220 West Bridge Street, Dublin, OH. 43017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: (1) *Burnt lime and sludge*, from Huron, OH, to Butler, Midland and Sharon, PA, and Follansbee, Graham, Weirton and Wheeling, (2) *Coal*, in dump vehicles, from that part of KY on and east of a line beginning at Maysville, KY, then south along KY Hwy. 11, to Junction U.S. Hwy. 421, and then along U.S. Hwy. 421, to the KY-TN State line (except points in Carter, Perry and Morgan Counties, KY) to that part of OH on and north of U.S. Hwy. 30, and (3) *Coal*, in bulk, from that part of PA on and west of U.S. Hwy. 219 to that part of OH on and north of U.S. Hwy. 30.

NOTE.—If a hearing is required, applicant states a preference of Columbus, OH. Applicant holds motor contract carrier authority in MC 129394 (Sub-No. 7), therefore dual operations may be involved.

No. MC 144223 filed January 20, 1978. Applicant: ROSSBOROUGH TRUCKING CO., a corporation, 3425 Service Road, Cleveland, OH 44111. Applicant's representative: Chandler L. van Orman, 704 Southern Building, 15th and H Streets NW., Washington, DC 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Magnesium and magnesium alloy ingots*, from Evansville, IN to Lakehurst, NJ or Putnam, CT; (2) *magnesium powder* (except in bulk), from Lakehurst, NJ or Putnam, CT to points in IL, IN, OH, KY, MD, AL, NY, WV, MI, and PA; and (3) *magnesium powder* (except in bulk), from Evansville, IN to points in IL, OH, KY, MD, AL, NY, WV, MI, and PA, under a continuing contract or contracts with Dow Chemical U.S.A., of Midland, MI.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, IL or Washington, DC.

No. MC 144228 (Sub-No. 1), filed January 31, 1978. Applicant: BAGLE TRANSPORT LINES, INC., 9632 Palo Pinto Road, Fort Worth, TX 76116. Applicant's representative: Harry F. Horak, Room 109, 5001 Brentwood Stair Road, Fort Worth, TX 76112. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lamps and lamp parts*, in truckload lots, between Arlington, TX, Chicago, IL; Los Angeles, CA; Miami, FL; and Philadelphia, PA under a continuing contract, or contracts with Angelo Bros., Co.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Dallas, TX or Philadelphia, PA.

No. MC 144235, filed January 30, 1978. Applicant: ALBERT SCHUCKIE d.b.a. SCHUCKIE'S EXPRESS, Frontage Road, West Haven, CT 06515. Applicant's representative: David M.

Marshall, 101 State Street, Suite 304, Springfield, MA 01103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities, in bulk, and commodities requiring special equipment, between points in CT. Restricted to the transportation of traffic moving under Part IV of the Interstate Commerce Act.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Hartford, CT; Boston, MA or Providence, RI.

No. MC 144236, filed January 27, 1978. Applicant: W.R.G., INC., 2161 Industrial Drive, Salem, VA 24153. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O Box 1240, Arlington, VA 22210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (A) *Uncrated stoves and fireplaces and component parts therefor, and such other commodities* as are produced and distributed by manufacturers of stoves and fireplaces, (1) from the plant and warehouse facilities of Dunn Brothers, Inc., at Salem, VA, to points in KY, WV, NY, NJ, DE, MD, VA, and the DC; (2) from the plant and warehouse facilities of Dunn Bros., Inc. in East Syracuse, NY, to points in NJ, NY, and Salem, VA; (3) from the plant and warehouse facilities of Dunn Bros., Inc. at Shelby County, KY, to points in KY and WV and Salem, VA. (B) *Such materials, equipment and supplies* as are used in the manufacture, assembly or installation of the commodities described in (A) above, from Baltimore, MD, Philadelphia, PA, Grahn, KY, and Youngstown, OH, to the facilities of Dunn Bros., Inc. at Salem, VA, East Syracuse, NY, and Shelby County, KY. Restriction: The transportation authorized in paragraphs (A) and (B) above is restricted to traffic transported under a continuing contract or contracts with Dunn Bros., Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Roanoke, VA or Washington, DC.

No. MC 144250, filed January 30, 1978. Applicant: LYNN PETROLEUM STORAGE & TRANSPORT CO., INC., 145 Peat Meadow Road, New Haven, CT 05413. Applicant's representative: David M. Marshall, 101 State Street, Suite 304, Springfield, MA 01103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Automotive accessories and supplies, petroleum, petroleum products and petroleum additives*, between points in MA, CT, RI, VT, NH, ME, NY and NJ, under a continuing contract or contracts with Good Hope Industries, Inc.

NOTE.—(Hearing site: Hartford, CT; Boston, MA; or Albany, NY).

No. MC 144267, filed January 30, 1978. Applicant: METRO DELIVERY SERVICE, INC., 50 Florida Avenue NE., Washington, DC 20002. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street NW., Washington, DC 20004. Authority sought to engage in operation, in interstate or foreign commerce, as a *contract carrier*, over irregular routes, in the transportation of: *General commodities* (except household goods, commodities in bulk, class A and B explosives, and commodities requiring special equipment), from the facilities of Metropolitan Warehouses in Washington, DC, to Baltimore, MD, and points in Baltimore, Howard, Anne Arundel, Montgomery, Frederick, and Carroll Counties, MD, under continuing contracts with Economics Laboratory, Inc., and The Tremco Manufacturing Co.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, DC.

No. MC 144281, filed January 12, 1978. Applicant: NEW ENGLAND TRANSPORT, INC. LTD., Post Office Box 441, Springfield, VT 05156. Applicant's representative: Henry U. Snavely, 410 Pine Street, Vienna, VA 22180. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, of: *Construction materials and supplies* (except commodities in bulk and except lumber and forest products) from Lebanon, NH, and from points in MD, NY, NJ, NC, PA, and VA, to points in CT, ME, MA, NH, NY, RI, and VT, restricted to a transportation service performed under a continuing contract or contracts with K-Ross Building Supply Center, Inc., of Lebanon, NH.

NOTE.—Applicant holds common carrier authority in No. MC 143095 and Sub-numbers thereunder; dual operations are therefore involved. Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Boston, MA, or Washington, DC.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-6090 Filed 3-8-78; 8:45 am]

[7035-01]

[Volume No. 69]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

MARCH 3, 1978.

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

All pleadings and documents must clearly specify the suffix (e.g. M1 F, M2 F) numbers where the docket is so identified in this notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this notice. Such protests shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247)[1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

No. MC 3581 (Sub-No. 11) (M1), notice of filing of petition to modify commodity description, filed December 11, 1977. Petitioner: THE MOTOR CONVOY, INC., 2175 Parklake Drive NE., Hapeville, GA 30345. Petitioner's representative: K. Edward Wolcott, P.O. Box 872, Atlanta, GA 30301. Petitioner holds a motor *common carrier* certificate in No. MC 3581 (Sub-No. 11), issued September 23, 1964, authorizing transportation over irregular routes, of: *Automobiles, trucks, and tractors* (except crawler type), in secondary movements, from Nashville, TN, to points in KY, VA, and WV, restricted to the transportation of products originating at the plantsites of the Ford Motor Co. By the instant petition, petitioner seeks to modify the commodity description by adding: *"tractor attachments, parts and accessories* when moving at the same time and in the same vehicle with tractors."

No. MC 55822 (Sub-No. 8) (M1), notice of filing of petition for modification of restriction, filed January 4, 1978. Petitioner: VICTORY EXPRESS, INC., P.O. Box 4076, Trotwood, OH 45426. Petitioner's representative: Harold G. Hernly, Jr., 118 North St. Asaph Street, Alexandria, VA 22314. Petitioner holds a motor *contract carrier* permit in No. MC 55822 (Sub-No. 8), issued October 16, 1974, authorizing transportation, as here pertinent, over irregular routes, of: *General commodities* (except classes A and B explosives, articles of unusual value, household goods as defined by the Commission, commodities in bulk and commodities which, because of their size and weight, require the use of special equipment), between

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, DC 20423.

points in the United States (except AK and HI), restricted to the transportation of shipments, originating at, or destined to, the plantsites, ware-

PA on and east of U.S. Hwy 219 (except Chester, PA). by the instant petition, petitioner seeks to modify the commodity descriptions in (1) and

necessity), filed January 30, 1978. Petitioner: ROMANO BROS. TRUCKING, INC., 11 Meadow Street, Rutland, VT 05701. Petitioner's represen-

under a continuing contract, or contracts, with banking institutions located in Wickenburg and Phoenix, AZ. By the instant petition, petitioner seeks

of February 2, 1978, as MC 136258 (Sub-No. 3), and *republished* as corrected in the FEDERAL REGISTER issue of February 16, 1978, and republished

fabricated steel parts, component trailer pieces, wheels, springs, axles, and *trailer parts,* between Paragould, AR, and Tualatin, OR; (4) (a) *cast spoke*

points in the United States (except AK and HI), restricted to the transportation of shipments, originating at, or destined to, the plantsites, warehouse facilities and branch facilities of NCR Corp., under a continuing contract or contracts with the NCR Corp., of Dayton, OH. By the instant petition, petitioner seeks to modify the above authority by amending the restriction to read as follows: "The operations authorized above are restricted to the transportation of shipments, originating at, or destined to, the plantsites, warehouses, and branch facilities of the NCR Corp., and the Allied/Egry Business Systems Division and Allied Paper Division of the SCM Corp. of New York, NY, under continuing contracts with the NCR Corp. of Dayton, OH, and the Allied/Egry Business Systems Division and Allied Paper Division of the SCM Corp. of New York, NY."

No. MC 63837 (Sub-No. 4)(M1), notice of filing of petition to change restriction, filed January 4, 1978. Petitioner: DIGGINS & ROSE, INC., 3 Sagamore Park Rd., Hudson, NH 03051. Petitioner's representative: Francis E. Barrett, Jr., 10 Industrial Park Rd., Hingham, MA 02043. Petitioner holds a motor *common carrier*, Certificate in No. MC 63837 (Sub-No. 4), issued September 23, 1977, authorizing, as pertinent, transportation, over irregular routes, of *Components* for high speed printers, from Boston, MA, to Chelmsford, MA, and Hudson, NH, restricted to the transportation of traffic having a prior movement by water or rail. By the instant petition, petitioner seeks to change the above restriction to read: "Restricted to the transportation of traffic having a prior movement by water, rail or air."

No. MC 93944 (Sub-No. 9)(M1), Notice of filing of petition to modify commodity description filed December 16, 1977. Petitioner: DANELLA BROS., INC., 2280 Butler Pike, Plymouth Meeting, PA 19462. Petitioner's representative: Nicholas C. Danella, same address as applicant. Petitioner holds a motor *common carrier*, certificate in No. MC 93944 (Sub-No. 9) issued November 25, 1974, authorizing Transportation, as pertinent, over irregular routes, of: (1) *Alloys and ores* (except flourspar), (except in tank vehicles), between points in that part of Pennsylvania on and east of U.S. Hwy 219 (except Scranton, and Columbia, PA, and its Commercial zone as defined by the Commission, and points in Philadelphia, Montgomery, and Delaware Counties, PA), NJ (except points in Cumberland, Salem, Gloucester, Cape May, Atlantic, Camden, and Burlington Counties), DE, and MD (except Baltimore), restricted against service between points in NJ; and (2) *Alloys and ores* (except in tank vehicles), between points in that part of PA on and east of U.S. Hwy 219 (except Chester, PA). by the instant petition, petitioner seeks to modify the commodity descriptions in (1) and (20 above to read *"Alloys, ores and refractory products."*

No. MC 97699 (Sub-No. 36)(M1), notice of filing of petition to modify restriction), filed January 10, 1978. Petitioner: BARBER TRANSPORTATION CO., a corporation, P.O. Drawer 1970, Rapid City, SD 57709. Petitioner's representative: Leslie R. Kehl, Suite 1600 Lincoln Center Bldg., 1660 Lincoln St., Denver, CO 80264. Petitioner holds a motor *common carrier*, certificate in No. MC 97699 (Sub-No. 36), issued March 31, 1975, authorizing transportation, over regular routes, of: *General commodities* (except household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), Between Spearfish, SD, and Billings, MT, serving all intermediate points, except Crow Agency, MT: From Spearfish over U.S. Hwy 14 and Interstate Hwy 90 to Sundance, WY, then westward over Interstate Hwy 90 to junction U.S. Hwy 14 near Moorcroft, WY, then westward over U.S. Hwy 14 to junction Interstate Hwy 90, then over Interstate Hwy 90 to junction U.S. Hwy 87, then northward over U.S. Hwy 87 and Interstate Hwy 90 to Billings, and return over the same route, restricted against the transportation of traffic moving to, from, or through Denver, CO. The authority granted herein to the extent that it authorizes the transportation of dangerous articles shall be limited, in point of time, to a period expiring 5 years after March 31, 1975. By the instant petition, petitioner seeks to change the restriction to read: "The operations authorized herein to or from MT points, are restricted against the transportation of traffic moving to, from or through Denver, CO."

No. MC 112822 (Sub-No. 404)(M1), notice of filing of petition to change an origin point, filed January 9, 1978. Petitioner: BRAY LINES INC., 1401 N. Little St., P.O. Box 1191, Cushing, OK 74023. Petitioner's representative: Thomas J. Burke, Jr., 1600 Lincoln Center Building, 1660 Lincoln Street, Denver, CO 80264. Petitioner holds a motor *common carrier* certificate in NO. MC 112822 (Sub-No. 404) issued June 29, 1977, authorizing transportation, over irregular routes, of *Refined sugar*, in packages and bags, from Houma, LA, to Kansas City and St. Louis, MO, and to points in TX. By the instant petition, petitioner seeks to modify the above authority by changing the origin point from Houma, LA, to Labadieville, LA.

No. MC 113276 (Sub-No. 1) (M1) (notice of filing of petition to modify a certificate of public convenience and necessity), filed January 30, 1978. Petitioner: ROMANO BROS. TRUCKING, INC., 11 Meadow Street, Rutland, VT 05701. Petitioner's representative: John F. O'Donnell, 60 Adams Street, Milton, MA 02187. Petitioner holds a motor *common carrier* certificate in No. MC 113276 (Sub-No. 1), issued October 17, 1960, which in part, authorizes the transportation of: *Marble* and *marble products* from Swanton, Florence, Proctor, Center Rutland, West Rutland, Middlebury, and Danby VT, to points in NH, MA, CT, RI, NY, NJ, PA, DE, MD, and DC. By the instant petition, petitioner seeks to broaden the commodity description to read: *Marble, marble products*, and *limestone*.

No. MC 115278 (Sub-No. 1) (M1) (notice of filing of petiton to delete restriction), filed January 23, 1978. Petitioner: SIEGEL & COHEN EXPRESS, INC., 567 South 11th Street, Newark, NJ 07103. Petitioner's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Petitioner holds a motor *common carrier* certificate in No. MC 115278 (Sub-No. 1), issued February 17, 1977, authorizing transportation, over irregular routes of: *Such commodities* as are dealt in or used by discount and department stores, between points in the New York, NY, Commerical Zone as defined in Commercial Zones and Terminal Areas, 53 MCC 451 (1951), within which local operations may be conducted pursuant to the partial exemption of section 203(b)(8) of the Interstate Commerce Act (the "exempt" zone), on the one hand, and, on the other, points in VA, restricted to the transportation of shipments destined to the facilities of Robert Hall Clothes, Inc. By the instant petition, petitioner seeks to modify the above authority by deleting the facility restriction.

No. MC 117072 (M1) (notice of filing of petition for modification of permit), filed January 13, 1978. Petitioner: ARMORED TRANSPORT, INC., South Flower Street, Los Angeles, CA 90015. Petitioner's representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, CA 90017. Petitioner holds a motor *contract carrier* permit in No. MC 117072, issued June 17, 1964, authorizing transportation over irregular routes of: *Coin, currency*, and *securities*, between Los Angeles, CA, on the one hand, and, on the other, Yuma, AZ, and points in AZ within 5 miles thereof, restricted to a transportation service to be performed under a continuing contract, or contracts, with banks locate in Yuma, AZ, and points within 5 miles of Yuma, AZ; between Los Angeles, CA, on the one hand, and, on the other, Wickenburg and Phoenix, AZ, restricted to a transportation service to be performed

under a continuing contract, or contracts, with banking institutions located in Wickenburg and Phoenix, AZ. By the instant petition, petitioner seeks to eliminate both restrictions in the above authority, or in the alternative, to change the permit to read as follows: *Coin, currency*, and *securities*, between Los Angeles, CA, on the one hand, and, on the other, Yuma, AZ, and points in AZ within 5 miles thereof; between Los Angeles, CA, on the one hand, and, on the other, Wickenburg and Phoenix, AZ. Restriction: The above-described operations are limited to a transportation service to be performed under a continuing contract, or contracts, with the Federal Reserve Bank of San Francisco.

No. MC 133085 (Sub-No. 1) (MI) (notice of filing of petition to modify commodity and territorial description), filed January 20, 1978. Petitioner: TRENCO, INC., 2109 Marydale Avenue, P.O. Box 697, Williamsport, PA. 17701. Petitioner's representative: Dwight L. Koerber, Jr., 666 Eleventh Street NW., Washington, DC 20001. Petitioner holds a motor *common carrier* certificate in No. MC 133085 (Sub-No. 1), issued April 7, 1971, authorizing transportation, over irregular routes, as pertinent, of: *Airplanes*, crated, and *airplane parts*, from Lock Haven PA, to New York, NY. By the instant petition, petitioner seeks to modify the above authority to read as follows: (a) *Airplanes*, crated, and *airplane parts*, from Lock Haven, PA, to New York, NY; and (b) *Materials, parts, supplies*, and *equipment* (except commodities in bulk) as are used in the manufacture and distribution of airplanes and airplane parts, from New York, NY, to Lock Haven, PA.

No. MC 135182 (Sub-No. 1) M1, notice of filing of petition to add an additional contracting shipper, filed January 19, 1978. Petitioner: TRANSWAYS CO., a corporation, Rt. No. 3, Box 36, Moscow, PA 18444. Petitioner's representative: Joseph F. Heary, 121 South Main St., Taylor, PA 18517. Petitioner holds a motor *contract carrier* permit in No. MC 135182 (Sub-No. 1) issued April 11, 1972, authorizing transportation over irregular routes, of: *Materials, supplies and products* used in or produced by the food processing industry (except commodities in bulk), between Erie and North East, PA, and Westfield, Dunkirk, Buffalo, and Newark, NY, on the one hand, and, on the other, points in NJ, NY, and PA, under a continuing contract, or contracts, with Welch Foods, Inc., of Westfield, NY. By the instant petition, petitioner seeks to add Keystone Foods, Inc., of North East, PA as an additional contracting shipper.

No. MC 136285 (Sub-No. 3) M1, (correction) filed December 9, 1977, published in the FEDERAL REGISTER issue of February 2, 1978, as MC 136258 (Sub-No. 3), and *republished* as corrected in the FEDERAL REGISTER issue of February 16, 1978, and republished as corrected, this issue. Petitioner: SOUTHERN INTERMODAL LOGISTICS, INC., P.O. Box 9165, Savannah, GA 31402. Petitioner's representative: William Jackson, Jr., 3426 North Washington Blvd., P.O. Box 1267, Arlington, VA 22210. Petitioner holds a *motor common carrier* certificate in MC 136285 (Sub-No. 3), issued September 30, 1977, authorizing transportation over irregular routes, of: *General commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, commoditied requiring special equipment, household goods as defined by the Commission, and motor vehicles), in containers or in trailers, having an immediately prior or subsequent movement by water, between Charleston, SC, Jacksonville, FL, and Savannah, GA, on the one hand, and, on the other, points in AL, FL, GA, NC, SC, and TN. *Empty containers, trailers and trailer chassis*, between points in AL, FL, GA, NC, SC, and TN. By the instant petition, petitioner seeks to change the restriction reading "in containers or in trailers," to "in or on containers or trailers." The restriction reading "having an immediately prior or subsequent movement by water," be changed to read, "having a prior or subsequent movement by water or rail." The restriction reading "commodities in bulk," be deleted and replaced by "the above authority is restricted against the transportation of commodities in bulk except in demountable containers." And that the exception against transportation of motor vehicles be deleted.

NOTE.—The purpose of this correction is to show applicants request to remove the exception of motor vehicles.

No. MC 139317 (Sub-No. 3), correction M1, notice of petition is to add additional destination point and additional contract shipper, filed September 27, 1977, and published incorrectly in the FEDERAL REGISTER issue of January 5, 1978 as MC 139217 (Sub-No. 3), and republished this issue, as "MC 139317 (Sub-No. 3)." Petitioner: CHARIOT TRUCKING, INC., 1127 Belle Pasi Road, Woodburn, OR 97071. Petitioner's representative: Philip G. Skofstad, P.O. Box 594, Gresham, OR 97030. Petitioner holds a motor *contract carrier* permit in MC 139317 (Sub-No. 3), issued September 8, 1976, authorizing transportation over irregular routes of: (1) *Axles and component parts*, from Montgomery, AL, Los Angeles, CA, and Kenton, OH, to Tualatin, OR, and Seattle, WA; (2) *trailer suspensions and steel springs*, from Springfield, MO, to Paragould, AR, Tualatin, OR, and Seattle, WA; (3) *fabricated steel parts, component trailer pieces, wheels, springs, axles*, and *trailer parts*, between Paragould, AR, and Tualatin, OR; (4) (a) *cast spoke wheels* and *brake drums*, from Siloam Springs, AR, and Dayton, OH, to Tualatin, OR, and Seattle, WA; (b) *hydraulic cylinders*, from Lancaster, TX, and Willits, CA, to Tualatin, OR, and Seattle, WA; (c) *steel wheels, hubs*, and *drums*, from Detroit, Wyandotte, and Lansing, MI, and Akron, OH, to Tualatin, OR, and Seattle, WA; (d) *aluminum wheels*, from Cleveland, OH, to Tualatin, OR, and Seattle, WA; (e) *air springs*, from Noblesville, IN, to Tualatin, OR, and Seattle, WA; (f) *trailer suspensions*, from Paris, KY, and Muskegon, MI, to Tualatin, OR, and Seattle, WA; (g) *trailer suspensions parts*, from Warm Springs, CA, to Tualatin, OR, and Seattle, WA under a continuing contract or contracts with Peerless Division, Royal Industries. By this instant petition, petitioner seeks to modify its permit by adding Columbia Trailer Co., Inc. as an additional contract shipper, and additional destination points of Orenco, OR and the port of entry in WA for furtherance to Burnaby, BC. The purpose of this correction is to indicate carrier's correct MC number.

No. MC 139495 (Sub-No. 53-M1) (Notice of filing of petition to add additional commodities), filed January 16, 1978. Petitioner: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Petitioner's representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Petitioner holds a motor *common carrier* Certificate in MC 139495 Sub-No. 53, issued November 7, 1977, authorizing transportation, over irregular routes, of: *Chemicals*, in containers, from Lewes, DE, to points in AL, AZ, AR, CO, ID, IA, KS, LA, MD, MS, MO, MT, NE, NV, NM, ND, OK, OR, PA, SD, TN, UT, VA, WA, and WY and points in NC on and west of U.S. Hwy 321, and DC. By the instant petition, petitioner seeks to add drugs, medicines, and toilet preparations to the commodity description.

No. MC 139495 (Sub-No. 91-M1) (Notice of filing of petition to add additional commodities), filed January 16, 1978. Petitioner: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Petitioner's representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Petitioner holds a motor *common carrier* Certificate in MC 139495 Sub-No. 91, issued November 3, 1977, authorizing, as pertinent, transportation, over irregular routes, of: *Modified soda ash, cleaning compounds, bath salts, fabric softeners*, and *drugs* (except commodities in bulk, in tank vehicles), from the facilities of Calgon Consumer Products,

Inc., at or near Morrisville, PA, and Rockwood, MI, to Foxboro, MA, Huntington, WV, Memphis, TN, Forest Park, GA, Jacksonville, Orlando, OR, and Seattle, WA, restricted to the transportation of commodities which are at the time moving on bills of lading, of freight, forwarders, under

Barre, PA; and Richmond, VA to the destination territory.

REPUBLICATIONS OF GRANTS OF OPERAT-

indicate the change in the name of the facilities from Uniroyal, Inc. to Reichold Chemical Co. in the origin.

Commission's rules and regulations. The purpose of this republication is to indicate the addition of those States

with section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon

Inc., at or near Morrisville, PA, and Rockwood, MI, to Foxboro, MA, Huntington, WV, Memphis, TN, Forest Park, GA, Jacksonville, Orlando, Tampa, Lakeland, and Miami, FL, Chicago, IL, Kansas City, MO, St. Paul, MN, Arlington, TX, Denver, CO, Clearfield, UT, Los Angeles and San Francisco, CA, and Portland, OR. By the instant petition, petitioner seeks to add toilet preparations, feed, and malted milk to the commodity description.

No. MC 139495 (Sub-No. 133-M1) (Notice of filing of petition to add additional origin points), filed January 17, 1978. Petitioner: NATIONAL CARRIERS, INC., 1501 East 8th Street, Liberal, KS 67901. Petitioner's representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Petitioner holds a motor *common carrier* Certificate in MC 139495 Sub-No. 133, issued October 31, 1977, authorizing transportation over irregular routes, of: *Foodstuffs*, in vehicles equipped with mechanical refrigeration, from the facilities utilized by Pepperidge Farm, Inc., located at or near Richmond and Clearfield, UT, to points in CT, DE, IL, IN, KS, KY, ME, MD, MA, MI, MO, NH, NJ, NY, OH, PA, RI, VT, VA, and WV. By the instant petition, petitioner seeks to expand the origin territory of this authority from the named points to the entire State of UT.

No. MC 141804 (Sub-No. 35-M1), filed December 27, 1978. Petitioner: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 422, Goodlettsville, TN 37072. Petitioner's representative: Frederick J. Coffman (same address as applicant). Petitioner holds a motor *common carrier* Certificate in No. MC 141804 (Sub-No. 35), issued November 2, 1977, authorizing transportation, over irregular routes, of: (1) *General commodities* (except foodstuffs, meats, meat products, and meat byproducts, dairy products, and articles distributed by meat packinghouses, as described in sections A, B, and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment), and (2) *confectionery products*, when moving in mixed shipments with the commodities in (1) above, from the facilities of Westransco Freight Co., located at Newark, NJ, New York, NY, Philadelphia, PA, Boston, MA, St. Louis, MO, Chicago, IL, and Charlotte and Greensboro, NC, to the facilities of Westransco Freight Co., located at Salt Lake City, UT, Los Angeles, San Diego, San Jose, Oakland, and San Francisco, CA, Phoenix, AZ, Portland, OR, and Seattle, WA, restricted to the transportation of commodities which are at the time moving on bills of lading of freight forwarders under part IV of the Interstate Commerce Act. By the instant petition, petitioner seeks to change the territory description by deleting the following: "the facilities of Westransco Freight Co. located at" from wherever it appears in the above authority.

No. MC 142607 (Sub-No. 1) (M1), (notice of filing of petition to modify commodity and territorial descriptions, filed December 11, 1977. Applicant: A. FUSCO SERVICE, INC., 372 Central Park Avenue, Scarsdale, NY 10583. Applicant's representative: Bruce J. Robbins, 118-21 Queens Boulevard, Forest Hills, NY 11375. Petitioner holds a motor *contract carrier* Permit in No. MC 142607 (Sub-No. 1), issued September 7, 1977, authorizing operations by motor vehicle, over irregular routes, transporting (1) *electric kitchen appliances*, between Baldwin, Castile, East Rochester, Mineola and Perry, NY, points in the New York, NY commercial zone, as defined by the Commission; Secaucus and South Kearny, NJ, and Manchester, KY; (2) *electric kitchen appliances*, from Baldwin, Castile, East Rochester, Mineola and Perry, NY; Secaucus and South Kearny, NJ, and Manchester, KY, to San Diego, CA; Miami, FL; Brownsville and Houston, TX, and Seattle, WA; and (3) *materials, parts, equipment and supplies* used in the manufacture, packaging, sale and distribution of electric kitchen appliances, from Canonsburg and Canton, PA; Bloomfield, Hoboken, Phillipsburg, Secaucus, South Kearny and Vineland, NJ; Buffalo, Mineola, Mt. Kisco, Syosset and Tonawanda, NY, points in the New York, NY commercial zone, as defined by the Commission, and Muskogee, OK, to Castile, East Rochester, Mineola, and Perry, NY; Secaucus and South Kearny, NJ, and Manchester, KY. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with Van Wyck International Corp. of Mineola, NY. By the instant petition, petitioner seeks to modify the commodity and territorial scope of part (1) of the permit by adding materials, parts, equipment and supplies; and Pittsburgh, PA, and Winona and Rochester, MN, as territorial points, and in part (2) of the permit, by adding Pittsburgh, PA, and Rochester and Winona, MN, to the origin territory, and Chicago, IL; Fort Wayne, IN; Forest Park, Ga; Baltimore and Halethorpe, MD; East Hampton, MA; Grand Rapids, MI; Kansas City and St. Louis, MO; Sparks, NV; Manchester and Nashua, NH; Syracuse, NY; Raleigh, NC; Fairless Hills, Johnstown and Wilkes-Barre, PA; and Richmond, VA to the destination territory.

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION

NOTICE

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. All pleadings and documents must clearly specify the "F" suffix where the docket is so identified in this notice. Such pleading shall comply with special rule 247(e) of the Commission's general rules of practice (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

No MC 134599 (Sub-No. 154) (republication) (correction), filed January 13, 1977, published in the FEDERAL REGISTER issue of March 3, 1977, republished in the FEDERAL REGISTER issue of February 16, 1978, and republished this issue. Applicant: INTERSTATE CONTRACT CARRIER CORP., P.O. Box 748, Salt Lake City, UT 84110. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. An Order of the Commission, Review Board No. 3, decided December 27, 1977, and served January 24, 1978, finds that operation by applicant, in interstate or foreign commerce, as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic rubber* (except commodities in bulk, and those which because of size or weight require special handling or equipment), from the facilities of Reichold Chemical Co. at Cheswold, DE, to points, in AR, CA, CO, CT, GA, IL, IN, IA, KY, MA, MI, MS, MO, NE, NH, NJ, NY, NC, RI, TN, TX, UT, VA, and WI, under a continuing contract or contracts with Uniroyal, Inc.; will be consistent with the public interest and the national transportation policy. Applicant is fit, willing, and able properly to perform the authorized service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the change in the name of the facilities from Uniroyal, Inc. to Reichold Chemical Co. in the origin.

NOTE.—The republication of February 16, 1978, was published in the incorrect section of the FEDERAL REGISTER issue, and is republished for this reason.

No MC 135078 (Sub-No. 11) (republication) (partial correction), filed November 19, 1976, published in the FEDERAL REGISTER issue of January 27, 1977, republished in the FEDERAL REGISTER issues of May 26, 1977, and February 16, 1978, and republished as partially corrected this issue. Applicant: AMERICAN TRANSPORT, INC., 7850 "F" Street, Omaha, NE 68127. Applicant's representative: Frederick J. Coffman, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. An initial decision of the administrative law judge, dated November 14, 1977, and served November 23, 1977, became the order of the Commission December 23, 1977. The administrative law judge finds that the present and future public convenience and necessity require operation by applicant in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting: (16) *Carpet lining and padding*, from Norfolk, VA, to points in CO, IA, KS, LA, MO, NE, NM, OK, TX, restricted to traffic originating at the named origin and destined to the named destination States. The purpose of this partial correction is to indicate the origin as Norfolk, VA, in lieu of Norfork, VA, as previously published. The rest of the publication remains the same.

No. MC 135354 (Sub-No. 3) (republication) (correction), filed August 11, 1977, published in the FEDERAL REGISTER issue of September 22, 1977, republished in the FEDERAL REGISTER issue of February 16, 1978, and republished as corrected this issue. Applicant: STATESVILLE MOTOR COACH CO., INC., 109 Winston Avenue, Statesville, NC 28677. Applicant's representative: Theodore Polydoroff, Suite 600, 1250 Connecticut Avenue NW., Washington, DC 20036. An Order of the Commission, Review Board No. 2, decided January 12, 1978, and served January 25, 1978, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special and charter operations, beginning and ending at points in Alexander, Catawba, Davie, and Irdell Counties, NC and extending to points in the United States (except AK and HI); that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the addition of those States west of WI, IL, MO, AR, and LA in the territorial portion of applicant's actual grant of authority.

NOTE.—The republication of February 16, 1978, was published in the incorrect section of the FEDERAL REGISTER issue, and is republished for this reason.

No. MC 141695 (Sub-No. 6) (republication) (correction), filed May 9, 1977, published in the FEDERAL REGISTER issue of June 16, 1977, republished in the FEDERAL REGISTER issue of February 16, 1978, and republished this issue. Applicant: OLIVER WINDELL COLLINS, d.b.a. COLLINS TRUCKING, P.O. Box 185, Jordan Valley, OR 97910. Applicant's representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. An Order of the Commission, Review Board No. 1, decided January 17, 1978, and served January 23, 1978, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, commodities in bulk, and those which because of size or weight require special equipment), between Jordan Valley and Sheaville, OR, on the one hand, and, on the other, the facilities of the De Lamar Silver Mine, at De Lamar (Owyhee County), ID; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. The purpose of this republication is to indicate applicant's intent to tack the authority sought at Jordan Valley, OR, to provide a through service to Ontario, OR, and points in Ada and Canyon Counties, ID.

NOTE.—The republication of February 16, 1978, was published in the incorrect section of the FEDERAL REGISTER issue, and is republished for this reason.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

NOTICE

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things, relied upon, but shall not include issues or allegations phrased generally. Protest not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(e)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing. Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 6078 (Sub-No. 85), filed January 30, 1978. Applicant: D. F. BAST, INC., P.O. Box 2288, Allentown, PA 18001. Applicant's representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carbon, graphite, and foundry facings*, (1) from Wilmington, DE, Baltimore, MD, New York, NY, and Philadelphia, PA, to Asbury, NJ, Bethlehem, Shamokin and Sunbury, PA, and Detroit, MI, and (2) between Asbury, NJ, Bethlehem, Shamokin and Sunbury, PA, and Detroit, MI, restricted in (1) above to the transportation of shipments having a prior movement by water.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Philadelphia, PA, or Washington, DC.

No. MC 26396 (Sub-No. 162) (correction) filed December 8, 1977, published in the FEDERAL REGISTER issue of February 9, 1978, and republished as corrected this issue. Applicant: PO-

No. MC 29910 (Sub-No. 185), filed January 23, 1978. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, AR 72901. Applicant's representative: Don

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, IL. Common control may be involved.

No. MC 57697 (Sub-No. 14) filed Jan-

goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment):

(1) Between Greenville, SC and Athens, GA: From Greenville, SC over

(1) Between Springfield, MA and Binghamton, NY: From Springfield over Interstate Hwy 91 to its junction with Interstate Hwy 90 northwest of Chicopee, MA, then over Interstate

(9) Between Worcester, MA and Rochester, NY: From Worcester over Interstate Hwy 290 to its junction with Interstate Hwy 90 at MA Turn-

No. MC 26396 (Sub-No. 162) (correction) filed December 8, 1977, published in the FEDERAL REGISTER issue of February 9, 1978, and republished as corrected this issue. Applicant: POPELKA TRUCKING CO., d.b.a. The Waggoners, P.O. Box 990, Livingston, MT 59047. Applicant's representative: Jacob P. Billig, Suite 300, 2033 K Street NW., Washington, DC. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from the international boundary line between the United States and Canada located in MN and ND, to points in ND, SD, NE, CO, KS, MO, IA, MN, WI, IL, IN, MI, and KY.

NOTE.—The purpose of this correction is to enter applicants requested territorial authority correctly in the FEDERAL REGISTER. If a hearing is deemed necessary, applicant requests it be held at either Washington, DC or Billings, MT.

No. MC 26396 (Sub-No. 167F), filed February 2, 1978. Applicant: POPELKA TRUCKING CO., d.b.a. The Waggoners, P.O. Box 990, Livingston, MT 59047. Applicant's representative: Sharon L. Hamlett, P.O. Box 990, Livingston, MT 59047. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Ground lignite coal*, from the plantsite of Dresser Industries located at Gascoyne, ND, to the States of KS and OK. (2) *Bentonite* from the plantsite of Dresser Industries located at Greybull, WY to the States of KS, OK, WA, CA, and MT. (3) *Barite* from the plantsite of Dresser Industries located at Battle Mountain, NV to the international boundary line in MT and to the States of WY, CO, KS, WA and OK.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Billings, MT or Salt Lake City, UT.

No. MC 29456 (Sub-No. 4), filed January 23, 1978. Applicant: OREGON TRANSFER CO., 3232 N. W. Industrial, P.O. Box 2804, Portland, OR 97210. Applicant's representative: Russell M. Allen, 1200 Jackson Tower, Portland, OR 97205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, blasting supplies, and motor vehicles), in containers and in trailers, having an immediately prior or subsequent movement by water; and (2) *empty containers, trailers, and trailer chassis*, between Portland, OR and the plantsites of Martin Marietta Aluminum at or near The Dalles, OR, and Cliffs, WA.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Portland, OR.

No. MC 29910 (Sub-No. 185), filed January 23, 1978. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, AR 72901. Applicant's representative: Don A. Smith, Post Office Box 43, 510 North Greenwood, Fort Smith, AR 72902. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors* (except truck tractors), *implements, attachments, parts, accessories and related supplies*, from the facilities of Deutz Corp., located at Savannah, GA, to points in FL, GA, AL, MS, AR, LA, TX, and OK.

NOTE.—Common control may be involved, If a hearing is deemed necessary, applicant requests that it be held at Atlanta, GA or Washington, DC.

No. MC 30844 (Sub-No. 600 F), filed February 3, 1978. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, IA 50704. Applicant's Representative: John P. Rhodes, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning, scouring, and washing compounds*, from Fort Madison, IA, to Port Ivory, NY, restricted to shipments originating at Fort Madison, IA.

NOTE.—Common control may be involved. If a hearing is deemed necessary the applicant requests it be held at Chicago, IL.

No. MC 35628, (Sub-No. 369F), filed February 6, 1978. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, a Corporation, 134 Grandville Avenue SW., Grand Rapids, MI 49503. Applicant's representative: Michael P. Zell, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the site and facilities of Kmart Corp. Distribution Center in Coweta County, GA as an off-route point in connection with applicant's existing regular route authority.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held on a consolidated record with similar applications located in Detroit, MI or Washington, DC.

No. MC 51146 (Sub-No. 575 F), filed February 10, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Applicant's representative: Wayne Downing (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing materials* from the facilities of Fry Division of Owens Corning Fiberglas at or near Summit, IL to points in MI, ND, and SD.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, IL. Common control may be involved.

No. MC 57697 (Sub-No. 14) filed January 26, 1978. Applicant: LESTER SMITH TRUCKING, INC., 2645 East 51st Avenue, Denver, CO 80216. Applicant's representative: David J. Lister, 1945 South Redwood Road, Salt Lake City, UT 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building and construction materials, equipment and supplies, telephone and power line materials, agricultural and farm equipment, machinery and implements and iron and steel articles* (except in bulk), between points in CO, on the one hand, and, on the other, points in OK, IL, KS, and MO.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Denver, CO, or Salt Lake City, UT.

No. MC 57697 (Sub-No. 15), filed January 30, 1978. Applicant: LESTER SMITH TRUCKING, INC., 2645 East 51st Avenue, Denver, CO 80216. Applicant's representative: David J. Lister, 1945 South Redwood Road, Salt Lake City, UT 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber mill products, sawmill products, wood products, composition board and wallboard* (except in bulk), from points in CO to points in AR, IL, IN, IA, KS, MN, MO, NE, ND, OK, SD, TX, and WI.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Denver, CO, or Salt Lake City, UT.

No. MC 57778 (Sub-No. 18F), filed February 3, 1978. Applicant: MICHIGAN REFRIGERATED TRUCKING SERVICE, INC., 6134 West Jefferson Avenue, Detroit, MI 48209. Applicant's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. Authority to engage in operation, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Offal*, in vehicles equipped with mechanical refrigeration, from Detroit, MI, to points in IL, IN, NJ, NY, OH, and PA.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Detroit, MI or Chicago, IL.

No. MC 58885 (Sub-No. 32), filed January 24, 1978. Applicant: ATLANTA MOTOR LINES, INC., P.O. Box 345, Conley, GA 30027. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment):

(1) Between Greenville, SC and Athens, GA: From Greenville, SC over U.S. Hwy 29 to Athens, GA and return over the same route, serving all intermediate points in GA.

(2) Between Greenville, SC and Blairsville, GA: From Greenville, SC over U.S. Hwy 123 to Westminster, SC, thence over U.S. Hwy 76 to Blairsville, GA and return over the same route, serving all intermediate points in GA.

(3) Between Greenville, SC and Gainesville, GA: From Greenville, SC over Interstate Hwy 85 to its intersection with U.S. Hwy 129, then over U.S. Hwy 129 to Gainesville, GA and return over the same route, serving all intermediate points in GA.

(4) Between Athens, GA and the intersection of U.S. Hwy 441 and Interstate Hwy 85: From Athens, GA over U.S. Hwy 441 to its intersection with Interstate Hwy 85 and return over the same route, serving all intermediate points.

(5) Between Westminster, SC and Gainesville, GA: From Westminster, SC over U.S. Hwy 123 to Cornelia, GA, then over U.S. Hwy 23 to Gainesville, GA and return over the same route, serving all intermediate points in GA except Toccoa, GA and points in its Commercial Zone.

(6) Between Cornelia, GA and Clayton, GA: From Cornelia, GA over U.S. Hwy 23 to Clayton, GA and return over the same route, serving all intermediate points. Serving all points in GA lying west of U.S. Hwy 221 within 100 miles of Greenville, SC (except Toccoa, GA and points in the Toccoa, GA Commercial Zone, as defined by the Commission) not on the above described routes as off route points. Restriction: Restricted to the transportation of traffic moving from, to or through Greenville, SC.

NOTE.—Common control may be involved. Applicant holds irregular route authority in MC 58885 to serve the above points, which irregular route authority will be surrendered for revocation upon approval of this application. If a hearing is deemed necessary, applicant requests that it be held at Atlanta, GA.

No. MC 59957 (Sub-No. 51), filed January 26, 1978. Applicant: MOTOR FREIGHT EXPRESS, a corporation, Arsenal Road and Toronita Street, York, PA 17402. Applicant's representative: William A. Chesnutt, 1776 F Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, in the transportation of: *General commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment):

(1) Between Springfield, MA and Binghamton, NY: From Springfield over Interstate Hwy 91 to its junction with Interstate Hwy 90 northwest of Chicopee, MA, then over Interstate Hwy 90 to its junction with NY State Hwy 7 southwest of Schenectady, NY, then over NY State Hwy 7 to Binghamton and return over the same route.

(2) Between Springfield, MA and Buffalo, NY: From Springfield over Interstate Hwy 91 to its junction with Interstate Hwy 90 northwest of Chicopee, MA, then over Interstate Hwy 90 to Buffalo, and return over the same route.

(3) Between Springfield, MA and Elmira, NY: From Springfield over Interstate Hwy 91 to its junction with Interstate Hwy 90 northwest of Chicopee, MA, then over Interstate Hwy 90 to its junction with NY State Hwy 7 southwest of Schenectady, NY, then over NY State Hwy 7 to its junction with NY State Hwy 17 at Binghamton, NY then over NY State Hwy 17 to Elmira and return over the same route.

(4) Between Springfield, MA and Rochester, NY: From Springfield over Interstate Hwy 91 to its junction with Interstate Hwy 90 northwest of Chicopee, MA, then over Interstate Hwy 90 to its junction with Interstate Hwy 490 at NY State Thruway Exit 45, then over Interstate Hwy 490 to Rochester, and return over the same route.

(5) Between Springfield, MA and Syracuse, NY: From Springfield over Interstate Hwy 91 to its junction with Interstate Hwy 90 northwest of Chicopee, MA, then over Interstate Hwy 90 to its junction with Interstate Hwy 81 at NY State Thruway Exit 36, then over Interstate Hwy 81 to Syracuse, and return over the same route.

(6) Between Worcester, MA and Binghamton, NY: From Worcester over Interstate Hwy 290 to its junction with Interstate Hwy 90 at MA Turnpike Exit 10, then over Interstate Hwy 90 to its junction with NY State Hwy 7 southwest of Schenectady, NY, then over NY State Hwy 7 to Binghamton and return over the same route.

(7) Between Worcester, MA and Buffalo, NY: From Worcester over Interstate Hwy 290 to its junction with Interstate Hwy 90 at MA Turnpike Exit 10, then over Interstate Hwy 90 to Buffalo, and return over the same route.

(8) Between Worcester, MA and Elmira, NY: From Worcester over Interstate Hwy 290 to its junction with Interstate Hwy 90 at MA Turnpike Exit 10, then over Interstate Hwy 90 to its junction with NY State Hwy 7 southwest of Schenectady, NY, then over NY State Hwy 7 to its junction with NY State Hwy 17 at Binghamton, NY, then over NY State Hwy 17 to Elmira and return over the same route.

(9) Between Worcester, MA and Rochester, NY: From Worcester over Interstate Hwy 290 to its junction with Interstate Hwy 90 at MA Turnpike Exit 10, then over Interstate Hwy 90 to its junction with Interstate Hwy 490 at NY State Thruway Exit 45, then over Interstate Hwy 490 to Rochester, and return over the same route.

(10) Between Worcester, MA and Syracuse, NY: From Worcester over Interstate Hwy 290 to its junction with Interstate Hwy 90 at MA Turnpike Exit 10, then over Interstate Hwy 90 to its junction with Interstate Hwy 81 at NY State Thruway Exit 36, then over Interstate Hwy 81 to Syracuse, and return over the same route.

(11) Between Edison, NJ and Binghamton, NY: From Edison over NJ State Hwy 27 to its junction with Interstate Hwy 287, then over Interstate Hwy 287 to its junction with Interstate Hwy 95 at NJ Turnpike Exit 10, then over Interstate Hwy 95 to its junction with Interstate Hwy 80 north of NJ Turnpike Exit 18, then over Interstate Hwy 80 to its junction with NJ State Hwy 17 at or near Hackensack, NJ, then over NJ State Hwy 17 to the NJ-NY State Line, then over NY State Hwy 17 to its junction with U.S. Hwy 6 north of Harriman, NY, then over U.S. Hwy 6 to its junction with NY State Hwy 17 southwest of Goshen, NY, then over NY State Hwy 17 to Binghamton, and return over the same route.

(12) Between Edison, NJ and Buffalo, NY: From Edison over NJ State Hwy 27 to its junction with Interstate Hwy 287, then over Interstate Hwy 287 to its junction with Interstate Hwy 95 at NJ Turnpike Exit 10, then over Interstate Hwy 95 to its junction with Interstate Hwy 80 north of NJ Turnpike Exit 18, then over Interstate Hwy 80 to its junction with NJ State Hwy 17 at or near Hackensack, NJ, then over NJ State Hwy 17 to the NJ-NY State Line, then over NY State Hwy 17 to its junction with U.S. Hwy 15 at East Corning, NY, then over U.S. Hwy 15 to its junction with U.S. Hwy 20 at East Avon, NY, then over U.S. Hwy 20 to Buffalo, and return over the same route.

(13) Between Edison, NJ and Elmira, NY: From Edison over NJ State Hwy 27 to its junction with Interstate Hwy 287, then over Interstate Hwy 287 to its junction with Interstate Hwy 95 at NJ Turnpike Exit 10, then over Interstate Hwy 95 to its junction with Interstate Hwy 80 north of NJ Turnpike Exit 18, then over Interstate Hwy 80 to its junction with NJ State Hwy 17 at or near Hackensack, NJ, then over NJ State Hwy 17 to the NJ-NY State Line, then over NY State Hwy 17 to Elmira, and return over the same route.

(14) Between Edison, NJ and Rochester, NY: From Edison over NJ State

Hwy 27 to its junction with Interstate Hwy 287, then over Interstate Hwy 287 to its junction with Interstate Hwy 95 at NJ Turnpike Exit 10, then over Interstate Hwy 95 to its junction with Interstate Hwy 80 north of NJ Turnpike Exit 18, then over Interstate Hwy 80 to its junction with NJ State Hwy 17 at or near Hackensack, NJ, then over NJ State Hwy 17 to the NJ-NY State Line, then over NY State Hwy 17 to its junction with U.S. Hwy 6 north of Harriman, NY, then over U.S. Hwy 6 to its junction with NY State Hwy 17 southwest of Goshen, NY, then over NY State Hwy 17 to Binghamton, and return over the same route.

(15) Between Edison, NJ and Buffalo, NY: From Edison over NJ State Hwy 27 to its junction with Interstate Hwy 287, then over Interstate Hwy 287 to its junction with Interstate Hwy 95 at NJ Turnpike Exit 10, then over Interstate Hwy 95 to its junction with Interstate Hwy 80 north of NJ Turnpike Exit 18, then over Interstate Hwy 80 to its junction with NJ State Hwy 17 at or near Hackensack, NJ, then over NJ State Hwy 17 to the NJ-NY State Line, then over NY State Hwy 17 to its junction with U.S. Hwy 15 at East Corning, NY, then over U.S. Hwy 15 to its junction with U.S. Hwy 20 at East Avon, NY, then over U.S. Hwy 20 to Buffalo, and return over the same route.

(16) Between Edison, NJ and Elmira, NY: From Edison over NJ State Hwy 27 to its junction with Interstate Hwy 287, then over Interstate Hwy 287 to its junction with Interstate Hwy 95 at NJ Turnpike Exit 10, then over Interstate Hwy 95 to its junction with Interstate Hwy 80 north of NJ Turnpike Exit 18, then over Interstate Hwy 80 to its junction with NJ State Hwy 17 at or near Hackensack, NJ, then over NJ State Hwy 17 to the NJ-NY State Line, then over NY State Hwy 17 to its junction with U.S. Hwy 15 at East Corning, NY, then over U.S. Hwy 15 to its junction with U.S. Hwy 20 at East Avon, NY, then over U.S. Hwy 20 to Buffalo, and return over the same route.

(17) Between Edison, NJ and Rochester, NY: From Edison over NJ State Hwy 27 to its junction with Interstate Hwy 287, then over Interstate Hwy 287 to its junction with Interstate Hwy 95 at NJ Turnpike Exit 10, then over Interstate Hwy 95 to its junction with Interstate Hwy 80 north of NJ Turnpike Exit 18, then over Interstate Hwy 80 to its junction with NJ State Hwy 17 at or near Hackensack, NJ, then over NJ State Hwy 17 to the NJ-NY State Line, then over NY State Hwy 17 to its junction with U.S. Hwy 6 north of Harriman, NY, then over U.S. Hwy 6 to its junction with NY State Hwy 17 southwest of Goshen, NY, then over NY State Hwy 17 to Binghamton, and return over the same route.

(18) Between Edison, NJ and Syracuse, NY: From Edison over NJ State Hwy 27 to its junction with Interstate Hwy 287, then over Interstate Hwy 287 to its junction with Interstate Hwy 95 at NJ Turnpike Exit 10, then over Interstate Hwy 95 to its junction with Interstate Hwy 80 north of NJ Turnpike Exit 18, then over Interstate Hwy 80 to its junction with NJ State Hwy 17 at or near Hackensack, NJ, then over NJ State Hwy 17 to the NJ-NY State Line, then over NY State Hwy 17 to its junction with U.S. Hwy 15 at East Corning, NY, then over U.S. Hwy 15 to its junction with U.S. Hwy 20 at East Avon, NY, then over U.S. Hwy 20 to Buffalo, and return over the same route.

(19) Between Edison, NJ and Buffalo, NY: From Edison over NJ State Hwy 27 to its junction with Interstate Hwy 287, then over Interstate Hwy 287 to its junction with Interstate Hwy 95 at NJ Turnpike Exit 10, then over Interstate Hwy 95 to its junction with Interstate Hwy 80 north of NJ Turnpike Exit 18, then over Interstate Hwy 80 to its junction with NJ State Hwy 17 at or near Hackensack, NJ, then over NJ State Hwy 17 to the NJ-NY State Line, then over NY State Hwy 17 to its junction with U.S. Hwy 6 north of Harriman, NY, then over U.S. Hwy 6 to its junction with NY State Hwy 17 southwest of Goshen, NY, then over NY State Hwy 17 to Binghamton, and return over the same route.

(20) Between Edison, NJ and Elmira, NY: From Edison over NJ State Hwy 27 to its junction with Interstate Hwy 287, then over Interstate Hwy 287 to its junction with Interstate Hwy 95 at NJ Turnpike Exit 10, then over Interstate Hwy 95 to its junction with Interstate Hwy 80 north of NJ Turnpike Exit 18, then over Interstate Hwy 80 to its junction with NJ State Hwy 17 at or near Hackensack, NJ, then over NJ State Hwy 17 to the NJ-NY State Line, then over NY State Hwy 17 to its junction with U.S. Hwy 15 at East Corning, NY, then over U.S. Hwy 15 to its junction with U.S. Hwy 20 at East Avon, NY, then over U.S. Hwy 20 to Buffalo, and return over the same route.

(21) Between Edison, NJ and Rochester, NY: From Edison over NJ State Hwy 27 to its junction with Interstate Hwy 287, then over Interstate Hwy 287 to its junction with Interstate Hwy 95 at NJ Turnpike Exit 10, then over Interstate Hwy 95 to its junction with Interstate Hwy 80 north of NJ Turnpike Exit 18, then over Interstate Hwy 80 to its junction with NJ State Hwy 17 at or near Hackensack, NJ, then over NJ State Hwy 17 to the NJ-NY State Line, then over NY State Hwy 17 to its junction with U.S. Hwy 6 north of Harriman, NY, then over U.S. Hwy 6 to its junction with NY State Hwy 17 southwest of Goshen, NY, then over NY State Hwy 17 to Binghamton, and return over the same route.

(22) Between Edison, NJ and Syracuse, NY: From Edison over NJ State Hwy 27 to its junction with Interstate Hwy 287, then over Interstate Hwy 287 to its junction with Interstate Hwy 95 at NJ Turnpike Exit 10, then over Interstate Hwy 95 to its junction with Interstate Hwy 80 north of NJ Turnpike Exit 18, then over Interstate Hwy 80 to its junction with NJ State Hwy 17 at or near Hackensack, NJ, then over NJ State Hwy 17 to the NJ-NY State Line, then over NY State Hwy 17 to its junction with U.S. Hwy 15 at East Corning, NY, then over U.S. Hwy 15 to its junction with U.S. Hwy 20 at East Avon, NY, then over U.S. Hwy 20 to Buffalo, and return over the same route.

(23) Between Edison, NJ and Buffalo, NY: From Edison over NJ State Hwy 27 to its junction with Interstate Hwy 287, then over Interstate Hwy 287 to its junction with Interstate Hwy 95 at NJ Turnpike Exit 10, then over Interstate Hwy 95 to its junction with Interstate Hwy 80 north of NJ Turnpike Exit 18, then over Interstate Hwy 80 to its junction with NJ State Hwy 17 at or near Hackensack, NJ, then over NJ State Hwy 17 to the NJ-NY State Line, then over NY State Hwy 17 to its junction with U.S. Hwy 6 north of Harriman, NY, then over U.S. Hwy 6 to its junction with NY State Hwy 17 southwest of Goshen, NY, then over NY State Hwy 17 to Binghamton, and return over the same route.

(24) Between Edison, NJ and Elmira, NY: From Edison over NJ State Hwy 27 to its junction with Interstate Hwy 287, then over Interstate Hwy 287 to its junction with Interstate Hwy 95 at NJ Turnpike Exit 10, then over Interstate Hwy 95 to its junction with Interstate Hwy 80 north of NJ Turnpike Exit 18, then over Interstate Hwy 80 to its junction with NJ State Hwy 17 at or near Hackensack, NJ, then over NJ State Hwy 17 to the NJ-NY State Line, then over NY State Hwy 17 to its junction with U.S. Hwy 15 at East Corning, NY, then over U.S. Hwy 15 to its junction with U.S. Hwy 20 at East Avon, NY, then over U.S. Hwy 20 to Buffalo, and return over the same route.

(25) Between Edison, NJ and Rochester, NY: From Edison over NJ State Hwy 27 to its junction with Interstate Hwy 287, then over Interstate Hwy 287 to its junction with Interstate Hwy 95 at NJ Turnpike Exit 10, then over Interstate Hwy 95 to its junction with Interstate Hwy 80 north of NJ Turnpike Exit 18, then over Interstate Hwy 80 to its junction with NJ State Hwy 17 at or near Hackensack, NJ, then over NJ State Hwy 17 to the NJ-NY State Line, then over NY State Hwy 17 to its junction with U.S. Hwy 6 north of Harriman, NY, then over U.S. Hwy 6 to its junction with NY State Hwy 17 southwest of Goshen, NY, then over NY State Hwy 17 to Binghamton, and return over the same route.

(26) Between Edison, NJ and Syracuse, NY: From Edison over NJ State Hwy 27 to its junction with Interstate Hwy 287, then over Interstate Hwy 287 to its junction with Interstate Hwy 95 at NJ Turnpike Exit 10, then over Interstate Hwy 95 to its junction with Interstate Hwy 80 north of NJ Turnpike Exit 18, then over Interstate Hwy 80 to its junction with NJ State Hwy 17 at or near Hackensack, NJ, then over NJ State Hwy 17 to the NJ-NY State Line, then over NY State Hwy 17 to its junction with U.S. Hwy 15 at East Corning, NY, then over U.S. Hwy 15 to its junction with U.S. Hwy 20 at East Avon, NY, then over U.S. Hwy 20 to Buffalo, and return over the same route.

(27) Between Edison, NJ and Buffalo, NY: From Edison over NJ State Hwy 27 to its junction with Interstate Hwy 287, then over Interstate Hwy 287 to its junction with Interstate Hwy 95 at NJ Turnpike Exit 10, then over Interstate Hwy 95 to its junction with Interstate Hwy 80 north of NJ Turnpike Exit 18, then over Interstate Hwy 80 to its junction with NJ State Hwy 17 at or near Hackensack, NJ, then over NJ State Hwy 17 to the NJ-NY State Line, then over NY State Hwy 17 to its junction with U.S. Hwy 6 north of Harriman, NY, then over U.S. Hwy 6 to its junction with NY State Hwy 17 southwest of Goshen, NY, then over NY State Hwy 17 to Binghamton, and return over the same route.

(28) Between Carlstadt, NJ and Elmira, NY: From Carlstadt over Bergen County (NJ) Hwy 55 to its junction with NJ State Hwy 17 at or

(34) Between Wolcott, CT and Rochester, NY: From Wolcott over CT State Hwy 322 to its junction with

NY, then over Interstate Hwy 684 to its junction with Interstate Hwy 84 southeast of Brewster, NY, then over

NY State Line, then over NY State Hwy 17 to its junction with U.S. Hwy 15 at East Corning, NY, then over U.S.

Hwy 27 to its junction with Interstate Hwy 287, then over Interstate Hwy 287 to its junction with Interstate Hwy 95 at NJ Turnpike Exit 10, then over Interstate Hwy 95 to its junction with Interstate Hwy 80 north of NJ Turnpike Exit 18, then over Interstate Hwy 80 to its junction with NJ State Hwy 17 at or near Hackensack, NJ, then over NJ State Hwy 17 to the NJ-NY State Line, then over NY State Hwy 17 to its junction with U.S. Hwy 15 at East Corning, NY, then over U.S. Hwy 15 to Rochester, and return over the same route.

(15) Between Edison, NJ and Syracuse, NY: From Edison over NJ State Hwy 27 to its junction with Interstate Hwy 287, then over Interstate Hwy 287 to its junction with Interstate Hwy 95 at NJ Turnpike Exit 10, then over Interstate Hwy 95 to its junction with Interstate Hwy 80 north of NJ Turnpike Exit 18, then over Interstate Hwy 80 to its junction with NJ State Hwy 17 at or near Hackensack, NJ, then over NJ State Hwy 17 to the NJ-NY State Line, then over NY State Hwy 17 to its junction with Interstate Hwy 81 at or near Binghamton, NY, then over Interstate Hwy 81 to Syracuse, and return over the same route.

(16) Between Providence, RI and Binghamton, NY: From Providence over Interstate Hwy 95 to its junction with Interstate Hwy 495 southwest of Foxvale, MA, then over Interstate Hwy 495 to its junction with Interstate Hwy 90 at MA Turnpike Exit 11A, then over Interstate Hwy 90 to its junction with NY State Hwy 7 southwest of Schenectady, NY, then over NY State Hwy 7 to Binghamton and return over the same route.

(17) Between Providence, RI and Buffalo, NY: From Providence over Interstate Hwy 95 to its junction with Interstate Hwy 495 southwest of Foxvale, MA, then over Interstate Hwy 495 to its junction with Interstate Hwy 90 at MA Turnpike Exit 11A, then over Interstate Hwy 90 to Buffalo, and return over the same route.

(18) Between Providence, RI and Elmira, NY: From Providence over Interstate Hwy 95 to its junction with Interstate Hwy 495 southwest of Foxvale, MA, then over Interstate Hwy 495 to its junction with Interstate Hwy 90 at MA Turnpike Exit 11A, then over Interstate Hwy 90 to its junction with NY State Hwy 7 southwest of Schenectady, NY, thence over NY State Hwy 7 to its junction with NY State Hwy 17 at Binghamton, NY, then over NY State Hwy 17 to Elmira and return over the same route.

(19) Between Providence, RI and Rochester, NY: From Providence over Interstate Hwy 95 to its junction with Interstate Hwy 495 southwest of Foxvale, MA, then over Interstate Hwy 495 to its junction with Interstate Hwy 90 at MA Turnpike Exit 11A, then over Interstate Hwy 90 to its junction with Interstate Hwy 490 at NY State Thruway Exit 45, then over Interstate Hwy 490 to Rochester, and return over the same route.

(20) Between Providence, RI and Syracuse, NY: From Providence over Interstate Hwy 95 to its junction with Interstate Hwy 495 southwest of Foxvale, MA, then over Interstate Hwy 495 to its junction with Interstate Hwy 90 at MA Turnpike Exit 11A, then over Interstate Hwy 90 to its junction with NY State Hwy 7 to Binghamton and return over the same route.

(21) Between Boston, MA and Binghamton, NY: From Boston over Interstate Hwy 90 to its junction with NY State Hwy 7 southwest of Schenectady, NY, then over NY State Hwy 7 to Binghamton and return over the same route.

(22) Between Boston, MA and Buffalo, NY: From Boston over Interstate Hwy 90 to Buffalo, and return over the same route.

(23) Between Boston, MA and Elmira, NY: From Boston over Interstate Hwy 90 to its junction with NY State Hwy 7 southwest of Schenectady, NY, then over NY State Hwy 7 to its junction with NY State Hwy 17 at Binghamton, NY, then over NY State Hwy 17 to Elmira and return over the same route.

(24) Between Boston, MA and Rochester, NY: From Boston over Interstate Hwy 90 to its junction with Interstate Hwy 490 at NY State Throughway Exit 45, then over Interstate Hwy 490 to Rochester, and return over the same route.

(25) Between Boston, MA and Syracuse, NY: From Boston over Interstate Hwy 90 to its junction with Interstate Hwy 81 at NY State Thruway Exit 36, then over Interstate Hwy 81 to Syracuse, and return over the same route.

(26) Between Carlstadt, NJ and Binghamton, NY: From Carlstadt over Bergen County (NJ) Hwy 55 to its junction with NJ State Hwy 17 at or near Hackensack, NJ, then over NJ State Hwy 17 to the NJ-NY State Line, then over NY State Hwy 17 to its junction with U.S. Hwy 6 north of Harriman, NY, then over U.S. Hwy 6 to its junction with NY State Hwy 17 southwest of Goshen, NY, then over NY State Hwy 17 to Binghamton, and return over the same route.

(27) Between Carlstadt, NJ and Buffalo, NY: From Carlstadt over Bergen County (NJ) Hwy 55 to its junction with NJ State Hwy 17 at or near Hackensack, NJ, then over NJ State Hwy 17 to the NJ-NY State Line, then over NY State Hwy 17 to its junction with U.S. Hwy 15 at East Corning, NY, then over U.S. Hwy 15 to its junction with U.S. Hwy 20 at East Avon, NY, then over U.S. Hwy 20 to Buffalo, and return over the same route.

(28) Between Carlstadt, NJ and Elmira, NY: From Carlstadt over Bergen County (NJ) Hwy 55 to its junction with NJ State Hwy 17 at or near Hackensack, NJ, then over NJ State Hwy 17 to the NJ-NY State Line, then over NY State Hwy 17 to Elmira, and return over the same route.

(29) Between Carlstadt, NJ and Rochester, NY: From Carlstadt over Bergen County (NJ) Hwy 55 to its junction with NJ State Hwy 17 at or near Hackensack, NJ, then over NJ State Hwy 17 to the NJ-NY State Line, then over NY State Hwy 17 to its junction with U.S. Hwy 15 at East Corning, NY, then over U.S. Hwy 15 to Rochester, and return over the same route.

(30) Between Carlstadt, NJ and Syracuse, NY: From Carlstadt over Bergen County (NJ) Hwy 55 to its junction with NJ State Hwy 17 at or near Hackensack, NJ, then over NJ State Hwy 17 to the NJ-NY State Line, then over NY State Hwy 17 to its junction with Interstate Hwy 81 at or near Binghamton, NY then over Interstate Hwy 81 to Syracuse, and return over the same route.

(31) Between Wolcott, CT and Binghamton, NY: From Wolcott over CT State Hwy 322 to its junction with U.S. Hwy 6 at Terryville, CT then over U.S. Hwy 6 to its junction with CT State Hwy 8 at or near Thomaston, CT, then over CT State Hwy 8 to the CT-MA State Line, then over MA State Hwy 8 to its junction with Interstate Hwy 90 at MA Turnpike Exit 2, then over Interstate Hwy 90 to its junction with NY State Hwy 7 southwest of Schenectady, NY, then over NY State Hwy 7 to Binghamton and return over the same route.

(32) Between Wolcott, CT and Buffalo, NY: From Wolcott over CT State Hwy 322 to its juction with U.S. Hwy 6 at Terryville, CT, then over U.S. Hwy 6 to its junction with CT State Hwy 8 at or near Thomaston, CT, then over CT State Hwy 8 to the CT-MA State Line, then over MA State Hwy 8 to its junction with Interstate Hwy 90 at MA Turnpike Exit 2, then over Interstate Hwy 90 to Buffalo, and return over the same route.

(33) Between Wolcott, CT and Elmira, NY: From Wolcott over CT State Hwy 322 to its junction with U.S. Hwy 6 at Terryville, CT, then over U.S. Hwy 6 to its junction with CT State Hwy 8 at or near Thomaston, CT, then over CT State Hwy 8 to the CT-MA State Line, then over MA State Hwy 8 to its junction with Interstate Hwy 90 at MA Turnpike Exit 2, then over Interstate Hwy 90 to its junction with NY State Hwy 7 southwest of Schenectady, NY, then over NY State Hwy 7 to its junction with NY State Hwy 17 at Binghamton, NY, then over NY State Hwy 17 to Elmira and return over the same route.

(34) Between Wolcott, CT and Rochester, NY: From Wolcott over CT State Hwy 322 to its junction with U.S. Hwy 6 at Terryville, CT, then over U.S. Highway 6 to its junction with CT State Hwy 8 at or near Thomaston, CT, then over CT State Hwy 8 to the CT-MA State Line, then over MA State Hwy 8 to its junction with Interstate Hwy 90 at MA Turnpike Exit 2, then over Interstate Hwy 90 to its junction with Interstate Hwy 490 at NY State Thruway Exit 45, then over Interstate Hwy 490 to Rochester, and return over the same route.

(35) Between Wolcott, CT and Syracuse, NY: From Wolcott over CT State Hwy 322 to its junction with U.S. Hwy 6 at Terryville, CT, then over U.S. Hwy 6 to its junction with CT State Hwy 8 at or near Thomaston, CT, then over CT State Hwy 8 to the CT-MA State Line, then over MA State Hwy 8 to its junction with Interstate Hwy 90 at MA Turnpike Exit 2, then over Interstate Hwy 90 to its junction with Interstate Hwy 81 at NY State Thruway Exit 36, then over Interstate Hwy 81 to Syracuse, and return over the same route.

(36) Between Stamford, CT and Binghamton, NY: From Stamford over Interstate Hwy 95 to its junction with Interstate Hwy 287 at New England Thruway Exit 13, then over Interstate Hwy 287 to its junction with Interstate Hwy 684 east of White Plains, NY, then over Interstate Hwy 684 to its junction with Interstate Hwy 84 southeast of Brewster, NY, then over Interstate Hwy 84 to its junction with NY State Hwy 17 northeast of Denton, NY, then over NY State Hwy 17 to Binghamton and return over the same route.

(37) Between Samford, CT and Buffalo, NY: From Stamford over Interstate Hwy 95 to its junction with Interstate Hwy 287 at New England Thruway Exit 13, then over Interstate Hwy 287 to its junction with Interstate Hwy 684 east of White Plains, NY, then over Interstate Hwy 684 to its junction with Interstate Hwy 84 southeast of Brewster, NY, then over Interstate Hwy 84 to its junction with NY State Hwy 17 northeast of Denton, NY, then over NY State Hwy 17 to its junction with Interstate Hwy 81 east of Binghamton, NY, then over Interstate Hwy 81 to its junction with Interstate Hwy 690 at Syracuse, NY, then over Interstate Hwy 690 to its junction with Interstate Hwy 90 northwest of Syracuse, NY, then over Interstate Hwy 90 to Buffalo, and return over the same route.

(38) Between Stamford, CT and Elmira, NY: From Stamford over Interstate Hwy 95 to its junction with Interstate Hwy 287 at New England Thruway Exit 13, then over Interstate Hwy 287 to its junction with Interstate Hwy 684 east of White Plains, NY, then over Interstate Hwy 684 to its junction with Interstate Hwy 84 southeast of Brewster, NY, then over Interstate Hwy 84 to its junction with NY State Hwy 17 northeast of Denton, NY, then over NY State Hwy 17 to Elmira and return over the same route.

(39) Between Stamford, CT and Rochester, NY: From Stamford over Interstate Hwy 95 to its junction with Interstate Hwy 287 at New England Thruway Exit 13, then over Interstate Hwy 287 to its junction with Interstate Hwy 684 east of White Plains, NY, then over Interstate Hwy 684 to its junction with Interstate Hwy 84 southeast of Brewster, NY, then over Interstate Hwy 84 to its junction with NY State Hwy 17 northeast of Denton, NY, then over NY State Hwy 17 to its junction with Interstate Hwy 81 east of Binghamton, NY, then over Interstate Hwy 81 to its junction with Interstate Hwy 690 at Syracuse, NY, then over Interstate Hwy 690 to its junction with Interstate Hwy 90 northwest of Suracuse, NY, then over Interstate Hwy 90 to its junction with Interstate Hwy 490 at NY State Thruway Exit 45, then over Interstate Hwy 490 to Rochester, and return over the same route.

(40) Between Stamford, CT and Syracuse, NY: From Stamford over Interstate Hwy 95 to its junction with Interstate Hwy 287 at New England Thruway Exit 13, then over Interstate Hwy 287 to its junction with Interstate Hwy 684 east of Wite Plains, NY, then over Interstate Hwy 684 to its junction with Interstate Hwy 84 southeast of Brewster, NY, then over Interstate Hwy 84 to its junction with NY State Hwy 17 northeast of Denton, NY, then over NY State Hwy 17 to its junction with Interstate Hwy 81 east of Binghamton, NY, then over Interstate Hwy 81 to Syracuse, and return over the same route.

(41) Between New York City, NY and Binghamton, NY: From NY City over Interstate Hwy 95 to its junction with Interstate Hwy 80 north of Exit 18 of the NJ Turnpike, then over Interstate Hwy 80 to its junction with NJ State Hwy 17 at or near Hackensack, NJ, then over NJ State Hwy 17 to the NJ-NY State Line, then over NY State Hwy 17 to its junction with U.S. Hwy 6 north of Harriman, NY, then over U.S. Hwy 6 to its junction with NY State Hwy 17 southwest of Goshen, NY, then over NY State Hwy 17 to Binghamton, and return over the same route.

(42) Between New York City, NY and Buffalo, NY: From New York City over Interstate Hwy 95 to its junction with Interstate Hwy 80 north of NJ Turnpike Exit 18, then over Interstate Hwy 80 to its junction with NJ State Hwy 17 at or near Hackensack, NJ, then over NJ State Hwy 17 to the NJ-NY State Line, then over NY State Hwy 17 to its junction with U.S. Hwy 15 at East Corning, NY, then over U.S. Hwy 15 to its junction with U.S. Hwy 20 at East Avon, NY, then over U.S. Hwy 20 to Buffalo, and return over the same route.

(43) Between New York City, NY and Elmira, NY: From New York City over Interstate Hwy 95 to its junction with Interstate Hwy 80 north of NJ Turnpike Exit 18, then over Interstate Hwy 80 to its junction with NJ State Hwy 17 at or near Hackensack, NJ, then over NJ State Hwy 17 to the NJ-NY State Line, then over NY State Hwy 17 to Elmira, and return over the same route.

(44) Between New York City, NY and Rochester, NY: From New York City over Interstate Hwy 95 to its junction with Interstate Hwy 80 north of Exit 18 of the NJ Turnpike, then over Interstate Hwy 80 to its junction with NJ State Hwy 17 at or near Hackensack, NJ, then over NJ State Hwy 17 to the NJ-NY State Line, then over NY State Hwy 17 to its junction with U.S. Hwy 15 at East Corning, NY, then over U.S. Hwy 15 to Rochester, and return over the same route; and

(45) Between New York City, NY and Syracuse, NY: From New York City over Interstate Hwy 95 to its junction with Interstate Hwy 80 north of NJ Turnpike Exit 18, then over Interstate Hwy 80 to its junction with NJ State Hwy 17 at or near Hackensack, NJ, then over NJ State Hwy 17 to the NJ-NY State Line, then over NY State Hwy 17 to its junction with Interstate Hwy 81 at or near Binghamton, NY, then over Interstate Hwy 81 to Syracuse, and return over the same route, as alternate routes for operating convenience only.

NOTE.-If a hearing is deemed necessary, the applicant requests that it be held at either Boston, MA, New York, or Syracuse, NY.

No. MC 60014 (Sub-No. 71F), filed February 6, 1978. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, PA 15146. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electrical wire cable and insulated copper wire* from the facilities of Cerro Wire & Cable Co. at or near Hartselle, AL to CN, DE, DC, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, and WI. (Hearing site: Birmingham, AL or Washington, DC.)

No. MC 60014 Sub-No. 74F), filed February 6, 1978. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, PA 15146. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Author-

ity sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of

lin, Halifax, Henry, Montgomery, Patrick, Pittsylvania, and Roanoke Counties, VA, and Alamance, Caswell, Chatham, Davidson, Davie, Durham, For-

hand, and on the other, points in the United States (except AK and HI).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Wash-

No. MC 87205 (Sub-No. 4), filed December 27, 1977. Applicant: PERKINS TRUCKING CO., INC., 250 Miller Street, Hicksville, NY 11801. Appli-

a *common carrier*, over irregular routes, transporting: *Composition board*, from ports of entry in the international boundary line between the

parts, supplies, and *accessories* (except commodities in bulk). Between points in Dodge and Washington Counties, NE, on the one hand, and, on the

ity sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of their size or weight requires the use of special equipment or handling, from the facilities of the Rockcastle Steel Corp., located in Rockcastle County, KY to points in the U.S. (except AK and HI). (Hearing site: Louisville, KY or Washington, DC.)

No. MC 60087 (Sub-No. 21), filed November 30, 1977. Applicant: CURRY MOTOR FREIGHT LINES, INC., 700 Northeast 3rd St., P.O. Box 1190, Amarillo, TX 79105. Applicant's representative: Grady L. Fox, 222 Amarillo Building, Amarillo, TX 79101. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, between Tulia, TX, over TX State Hy 86, then over TX State Hy 86 to Silverton; Quitaque and Turkey, TX and return over the same route.

NOTE.—If a hearing is deemed necessary, applicant request that it be held at Amarillo or Dallas, TX.

No. MC 61231 (Sub-No. 117), filed December 27, 1977. Applicant: EASTER ENTERPRISES, INC., doing business as, ACE LINES, INC., P.O. Box 1351, Des Moines, IA 50305. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ceelulose insulation, vermiculite, and materials, equipment and supplies* used in the manufacture, distribution and installation of insulation and vermiculute, (1) between Minneapolis and Hamel, MN, on the one hand, and, on the other, points in IL, IA, MI, NE ND, SD, and WI; (2) between Dickinson, ND, on the one hand, and, on the other, points in IA, MN, NE, and SD; (3) between Armington, IL, on the one hand, and, on the other, points in AR, IN, IA, KY, MI, MN, NE, OH, and WI; and (4) between Wellsville, KS, on the one hand, and, on the other, points in AR, IL, IN, IA, MO, NE, OH, OK, and TX.

NOTE.—If a hearing is deemed necessary, applicant requests that such hearing be held at St. Paul, MN.

No. MC 61825 (Sub-No. 74), filed January 20, 1978. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Applicant's representative: John D. Stone (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from the plantsite and storage facilities of Midland Glass Co., Inc., located at or near Terre Haute, IN, and Warner Robins, GA, to points in Bedford, Campbell, Carroll, Floyd, Franklin, Halifax, Henry, Montgomery, Patrick, Pittsylvania, and Roanoke Counties, VA, and Alamance, Caswell, Chatham, Davidson, Davie, Durham, Forsyth, Guilford, Orange, Person, Randolph, Rockingham, Stokes, Surry, and Yadkin Counties, NC.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, DC.

No. MC 72243 (Sub-No.56), filed December 20, 1977. Applicant: THE AETNA FREIGHT LINES, INC., Warren, OH 44482. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue & 13th St. NW., Washington, DC 20004. Authority sought to operate, as a *common carrier*, over irregular routes, transporting *commodities* which because of size or weight, require the use of special equipment (except commodities in bulk), between New Johnsonville, Columbia, Jackson, and Memphis, TN, Scottsboro, AL, Laurel, MS, and points in AR, IL, IN, KY, MI, MO, NY, OH, PA, WV, VA, and WI, a non-radial movement.

NOTE.—If a hearing is deemed necessary, applicant requests a modified procedure to be held at Washington, DC.

No. MC 73165 (Sub-No. 427), filed January 26, 1978. Applicant: EAGLE MOTOR LINES, INC., 830 North 33rd Street, Birmingham, AL 35202. Applicant's representative: R. Cameron Rollins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal working press, metal drawing press, metal rolling machinery, machine parts, wrought castings and weldings and gear and material and supplies* used in the manufacturing of the items above, between Salem, OH and points in the United States (except AK and HI) in a non-radial movement restricted to traffic originating at or destined to the plant and facilities of Gulf-Western Manufacturing Co., E.W. Bliss Division, at or near, Salem, OH.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Washington, DC or Indianapolis, IN.

No. MC 73165 (Sub-No. 428), filed January 26, 1978. Applicant: EAGLE MOTOR LINES, INC., 830 North 33rd Street, Birmingham, AL 35202. Applicant's representative: R. Cameron Rollins (same address as applicant) Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Compressors, rotary drills, and component parts* therefor, and *materials and supplies* used in the manufacture thereof, and (2) *Drilling and mining machinery*, and *equipment and component parts* therefor, and *materials and supplies* used in the manufacture thereof between Franklin, PA, on the one hand, and on the other, points in the United States (except AK and HI).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Washington, DC or Pittsburgh, PA.

No. MC 75406 (Sub-No. 44) (Correction), filed November 15, 1977, published in the FEDERAL REGISTER issue of January 12, 1978, and republished as corrected this issue. Applicant: SUPERIOR FORWARDING CO., INC., 2600 South Fourth St., St. Louis, Mo. 63118. Applicant's representative: Gregory M. Rebman, 314 North Broadway, St Louis, Mo. 63102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, livestock, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between junction U.S. Hwy 79 and AR Hwy 86 and junction AR Hwy 86 and U.S. Hwy 49, serving all intermediate points, including Holly Grove, AR: From junction U.S. Hwy 79 and AR Hwy 86, over AR Hwy 86 to junction U.S. Hwy 49, and return over the same route.

NOTE.—The purpose of this correction is to enter "regular routes" because irregular routes was erroneosly entered. If a hearing is deemed necessary, applicant requests it be held at either Little Rock, AR or Memphis, TN.

No. MC 83539 (Sub-No. 475), filed January 13, 1978. Applicant: C & H TRANSPORTATION CO., INC., 1936–2010 West Commerce Street, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: Mr. Thomas E. James (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electric motors and parts thereof* from Wagoner County, OK to all points in the United States including AK, but excluding HI.

NOTE.—Applicant does not specify hearing location.

No. MC 87103 (Sub-No. 23) F, filed: February 3, 1978. Applicant: MILLER TRANSFER AND RIGGING CO., a Corporation, Post Office Box 6077, Akron, OH 44312. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass, flat glass, glazing units and refused, rejected and damaged shipments* thereof, between Toledo, OH, Laurinburg and Clinton, NC, on the one hand, and, on the other, points in the United States (except AL and HI). Hearing site: Washington, DC.

NOTE.—Applicant holds contract carrier authority in No. MC 119302 and subs thereunder; therefore dual operations may be involved. Common control may be involved.

No. MC 87205 (Sub-No. 4), filed December 27, 1977. Applicant: PERKINS TRUCKING CO., INC., 250 Miller Street, Hicksville, NY 11801. Applicant's representative: Edward L. Nehez, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, livestock, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) (1) over Interstate Hwy 95 from the CT-NY State line to the CT-RI State line, (2) over Interstate Hwy 84 from the CT-NY State line to junction U.S. Hwy 6, then over U.S. Hwy 6 to junction CT Hwy 52, (3) over Interstate Hwy 91 from New Haven, CT to the CT-MA State line, (4) over U.S. Hwy 5 from New Haven, CT. to the CT-MA State line, (5) over CT Hwy 8 from Bridgeport, CT to the CT-MA State line, (6) over U.S. Hwy 7 from Norwalk, CT, to the CT-MA State line, (7) over Interstate Hwy 86 from junction Interstate Hwy 84 to the CT-MA State line, (8) over CT Hwy 32 from New London, CT, to junction CT Hwy 52, then over CT Hwy 52 to the CT-MA State line, (9) over CT Hwy 9 from junction Interstate Hwy 91 to junction Interstate Hwy 95, (10) over CT Hwy 2 from Hartford, CT, to the CT-RI State line, (11) over CT Hwy 34 from junction Interstate Hwy 84 to New Haven, CT, (12) over CT Hwy 85 from junction CT Hwy 2 to junction CT Hwy 52, (13) over U.S. Hwy 202 from junction U.S. Hwy 7 to junction Interstate Hwy 84, (14) over U.S. Hwy 44 from junction U.S. Hwy 7 to junction U.S. Hwy 44A, then over U.S. Hwy 44A to junction U.S. Hwy 44, then over U.S. Hwy 44 to junction CT Hwy 52, (15) over U.S. Hwy 1 from West Haven, CT, to the CT-RI State line (16) over CT Hwy 10 from Hamden, CT, to the CT-MA State line, (17) over CT Hwy 66 from junction Interstate Hwy 84 to junction Interstate Hwy 6, (18) over Interstate Hwy 684 from junction Interstate Hwy 287 to junction Interstate Hwy 84, then over Interstate Hwy 84 to the CT-NY State line, and return over the same routes serving all intermediate points and all off-route points in CT.

NOTE.—The purpose of this application is to convert applicant's present irregular-route authority to regular routes. No additional points are sought to be served. If a hearing is deemed necessary, applicant requests that it be held at New York, NY.

No. MC 95876 (Sub-No. 228-F) filed February 6, 1978. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, MN 56301. Applicant's representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Composition board*, from ports of entry in the international boundary line between the United States and Canada located at or near Grand Portage and International Falls, MN, to points in AL, AR, CA, CO, CT, DE, FL, GA, KS, KY, LA, ME, MD, MA, MS, NH, NJ, NC, OK, RI, SC, TN TX, VT, VA and WV.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta, GA.

No. MC 99439 (Sub-No. 9-F), filed February 2, 1978. Applicant: SUWANNEE TRANSFER, INC., 1830 East 21st Street, Jacksonville, FL 32206. Applicant's representative: Norman J. Bolinger, 1729 Gulf Life Tower, Jacksonville, FL 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, conduit, fittings and products; and materials, supplies, and accessories* (except in bulk), used in the manufacture and installation of all such commodities, between points in Geneva County, AL, on the one hand, and, on the other, points in FL and GA.

NOTE.—Applicant requests consolidated hearing with applications of similar authority. If a hearing is deemed necessary, applicant requests it be held at Washington, DC or Atlanta, GA.

No. MC 103993 (Sub-No. 924-F), filed February 10, 1978. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Applicant's representative: Paul D. Borghesani, 28651 U.S. 20 West, Elkhart, IN 46515. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings, building panels, building parts, and materials, accessories*, and *supplies* used in the installation, erection and construction of buildings, building panels, and building parts (except commodities in bulk) from the facilities of Butler Manufacturing Co., at or near Annville, Lebanon County, PA, to points in AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, LA, MI, MN, MS, MO, MT, NE, NV, NM, ND, OK, OR, SC, SD, TX, UT, WA, WI, and WY.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, DC. Consolidation is requested with the similar applications of the carriers listed in the Appendix to this application.

No. MC 104421 (Sub-No. 24-F), filed February 10, 1978. Applicant: ECONO-LINES, INC., P.O. Box 623, D.T.S., Omaha, NE 68101. Applicant's representative: Roger W. Norris (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in and used by manufacturers and distributors of *motor vehicle parts, supplies*, and *accessories* (except commodities in bulk). Between points in Dodge and Washington Counties, NE, on the one hand, and, on the other, points in IL on and south of U.S. Hwy 30, IA (except Council Bluffs and Sioux City), MO (except Kansas City), and WI.

NOTE.—Common control may be involved. If oral hearing is deemed necessary, applicant requests it be held at Lincoln, NE.

No. MC 105501 (Sub-No. 27-F), filed February 6, 1978. Applicant: TERMINAL WAREHOUSE CO., a corporation, 1851 Raddison Road Northeast, Blaine, MN 55434. Applicant's representative: Joseph J. Dudley, W-1260 First National Bank Building, St. Paul, MN 55101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, between St. Paul, MN and LaCrosse, WI, restricted to traffic originating at the facilities of Paper Calmenson & Co., at St. Paul, MN and LaCrosse, WI.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at St. Paul, MN.

No. MC 107012 (Sub-No. 258), filed January 23, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Applicant's representative: David D. Bishop, P.O. Box 988, Fort Wayne, IN 46801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in GA, to points in LA, MS, AL, FL, SC, NC, TN, KY, VA, WV, DC, MD, DE, PA, NJ, NY, CT, RI, MA, VT, NH, and ME.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at either Atlanta, GA, Jacksonville, FL, or Washington, DC.

No. MC 107403 (Sub-No. 1057), filed January 26, 1978. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, PA 19050. Applicant's representative: Martin C. Hynes, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crude peanut oil*, in bulk, in tank vehicles, from Hershey, PA, to Charlotte, NC.

NOTE.—Common control may be involved. If hearing is deemed necessary, applicant requests it be held at Washington, DC.

No. MC 107515 (Sub-No. 1125F), filed February 2, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Applicant's representative: Alan E. Serby, 3379 Peachtree Road NE., Suite 375, Atlanta, GA 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transporting of *car-*

peting, floor coverings, and *tufted textile products*, from Winchester, TN to points in KY, IN, IL, MO, KS, NE, IA, CO, AZ, CA, NM, TX, AR, LA, and

(same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicles, over irregular routes, transporting: *Otto fuel compo-*

tative: Roger M. Shaner (same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

facilities of Chicago Pneumatic Tool Co.

NOTE.—Common control may be involved.

common carrier, by motor vehicle, over irregular routes, transporting: *Cement* (1) from Bainbridge, GA, to points in AL, FL, and GA; (2) from De-

Denver, CO to the facilities of Western Gypsum Co., Located at or near Rosario, NM.

NOTE.—Common control may be involved.

peting, floor coverings, and *tufted textile products,* from Winchester, TN to points in KY, IN, IL, MO, KS, NE, IA, CO, AZ, CA, NM, TX, AR, LA, and MS. (Hearting site: Atlanta, GA).

NOTE.—Dual operations and/or common control may be involved.

No. MC 108341 (Sub-No. 83F), filed February 6, 1978. Applicant: MOSS TRUCKING CO., INC., 3027 North Tryon Street, P.O. Box 8409, Charlotte, NC 28208. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Mining machinery and component parts thereof,* from the facilities of Joy Manufacturing Co., at or near Franklin, PA to points in VA.

NOTE.—Common control may be involved. If hearing is deemed necessary, applicant requests it be held at Pittsburgh, PA or Washington, DC.

No. MC 108341 (Sub-No. 85F), filed February 6, 1978. Applicant: MOSS TRUCKING CO., INC., 3027 North Tryon Street P.O. Box 8409, Charlotte, NC 28208. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Structural steel footwalks and aluminum footwalks,* from the facilities of IKG Industries, at or near Charlotte, NC and Nashville, TN, to points in the United States (except AK and HI).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Nashville, TN or Washington, DC.

No. MC 110012 (Sub-No. 40F), filed February 2, 1978. Applicant: ROY WIDENER MOTOR LINES, INC., 707 North Liberty Hill Road, P.O. Box 68, Morristown, TN 37814. Applicant's representative: John R. Sims, Jr., 915 Pennsylvania Building, 425 13th Street NW., Washington, DC 20004. Applicant seeks authority to engage in operation, in interstate or foreign commerce, as a *common carrier,* by motor vehicle, over irregular routes, in the transportation of *clocks* from Knox County, TN, to points in the United States (except AK and HI) and *returned shipments* of clocks and *materials and supplies* used in the manufacture of clocks (except commodities in bulk, in tank vehicles) from points in the United States (except AK and HI) to Knox County, TN. (Hearing site: Washington, DC or Knoxville, TN).

No. MC 110525 (Sub-No. 1224F), filed February 6, 1978. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, PA 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicles, over irregular routes, transporting: *Otto fuel composition, chemicals noibn, in bulk,* in specially adapted trailers from the Naval Ordinance Station, Indianhead, MD to the Naval Weapons Station, Yorktown, VA. (Hearing site: Washington, DC.)

No. MC 112304 (Sub-No. 131F), filed February 10, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., a corporation, 1601 Blue Rock Street, Cincinnati, OH 45223. Applicant's representative: John D. Herbert (same address as applicant. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Pipe, fittings, valves, hydrants, castings, and materials and supplies* used in the installation thereof, from the plantsite and storage facilities of Clow Corp., at or near Birmingham, AL, to points in the United States in and east of ND, SD, NE, KS, OK, and TX.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, IL, or Birmingham, AL. Common control may be involved.

No. MC 112304 (Sub-No. 132F), filed February 6, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., a corporation, 1601 Blue Rock Street, Cincinnati, OH 45223. Applicant's representative: John D. Herbert (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Material handling equipment,* and *parts and accessories* for material handling equipment, and *trailers,* from Crystal Lake, IL, and Houston, TX, to points in the United States (excluding AL and HI).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, IL, or Washington, DC. Common control may be involved.

No. MC 112989 (Sub-No. 59F), filed February 10, 1978. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Applicant's representative: John W. White, Jr., 85647 Highway 99 South, Eugene, OR 97405. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Solar furnaces, solar collectors* and *solar apparatus* from the plantsite of Champion Home Builders Co., Solar Division, at or near Weiser, ID to points in the United States (except AK and HI).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Portland, OR or Boise, ID.

No. MC 113678 (Sub-No. 712), filed January 24, 1978. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Applicant's representative: Roger M. Shaner (same as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Confectionery and confectionery products,* (except in bulk), in vehicles equipped with mechanical refrigeration, from the plantsite and storage facilities of M&M/Mars at Hackettstown, NJ and Elizabethtown, PA, to points in AZ, CA, NE, OR, UT, and WA, restricted to shipments originating at the above-named origins and destined to the named destination states.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, NY, or Philadelphia, PA.

No. MC 113678 (Sub-No. 713F), filed February 3, 1978. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Applicant's representative Roger M. Shaner (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Rugs, carpets, carpeting, floor coverings and related materials, equipment, and supplies* (except commodities in bulk in tank vehicles), from points in CA, to points in and west of MT, WY, CO, and NM except AK and HI.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Los Angelos, CA.

No. MC 113678 (Sub-No. 718F), filed February 6, 1978. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Applicant's representative: Roger M. Shaner (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meat and meat products* (except commodities in bulk in tank vehicles), from Webster City, IA, to points in CA, CO, AZ, NE, UT, and WY.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at: Omaha, NE; Kansas City, MO or KS.

MC 113855 (Sub-No. 403F), filed February 2, 1978. Applicant: INTERNATIONAL TRANSPORT, INC., a corporation, 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative Thomas J. Van Osdel, 502 First National Bank Building, Fargo, ND 58102. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, in interstate or foreign commerce, transporting: (1) *Air Compressors, rotary drills* and *underground mine machinery,* and (2) *parts* for commodities named in (1) above, between Franklin, PA, on the one hand, and, on the other, points in the United States (including AK, but excluding HI). Restriction: Restricted to traffic originating at or destined to the plantsites and shipping

facilities of Chicago Pneumatic Tool Co.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, DC, on a consolidated record with Machinery Transports, Inc.

No. MC 114084 (Sub-No. 17), filed January 17, 1978. Applicant: S & S TRUCKING CO., a corporation, P.O. Box 1546, Statesville, NC 28677. Applicant's attorney: Francis J. Ortman, 7101 Wisconsin Avenue, Suite 605, Washington, DC 20014. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *New furniture,* from points in Davie, Guilford and Davidson Counties, NC to points in ME, NH, and VT.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held in Charlotte, NC.

No. MC 114457 (Sub-No. 353), filed January 23, 1978. Applicant: DART TRANSIT CO., a corporation, 2102 University Avenue, St. Paul, MN 55114. Applicant's representative: James H. Wills, 2102 University Avenue, St. Paul, MN 55114. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Dry pet food,* in bags, from the facilities of Sunshine Feed Mills, Inc., located at Red Bay, AL and Tupelo, MS to points in the States of IL, IN, IA, KS, MI, MN, MO, NE, OH, OK, TX, and WI.

NOTE.—If hearing is deemed necessary, applicant requests that it be held at St. Paul, MN or Birmingham, AL.

No. MC 115162 (Sub-No. 404), filed January 26, 1978. Applicant: POOLE TRUCK LINE, INC., Post Office Drawer 500, Evergreen, AL 36401. Applicant's representative: Robert E. Tate (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Plastic pipe, conduit, valves, fittings and accessories* therefor from points in Geneva County, AL to points in the United States (except AK and HI); and (2) *Materials and supplies* used in the manufacture of commodities in paragraph (1) above and fittings, valves and accessories for plastic pipe (except commodities in bulk, in tank vehicles) from points in the United States (except AK and HI) to points in Geneva County, AL.

NOTE.—If a hearing is deemed necessary the applicant requests it be held at either Atlanta, GA or Washington, DC.

No. MC 115311 (Sub-No. 264F), filed February 6, 1978. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Cement* (1) from Bainbridge, GA, to points in AL, FL, and GA; (2) from Demopolis and Birmingham, AL, to points in GA. (Hearing site: Alanta, GA.)

No. MC 115730 (Sub-No. 44), filed January 30, 1978. Applicant: THE MICKOW CORP. P.O. Box 1774, 531 S.W. Sixth Street, Des Moines, IA 50306. Applicant's representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, in the transportation of (1) *Iron and steel articles* from the facilities of Northwestern Steel & Wire Co., located at Rock Falls and Sterling, IL, to points in CO, IA, KS, MN, MO, NE, and SD; and (2) *Materials and supplies* used in the manufacture and distribution of iron and steel articles from the above destination points to the facilities of Northwestern Steel & Wire Co., located at Rock Falls and Sterling, IL. (Hearing site: Chicago, IL or Washington, DC.)

No. MC 115841 (Sub-No. 559F), filed February 1, 1978. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., Suite 110, 9041 Executive Park Drive, Knoxville, TN 37919. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles* distributed by meat packinghouses as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 (except commodities in bulk) from the facilities utilized by Swift & Co. located at or near Glenwood, Sioux City, Des Moines and Marshalltown, IA, and Omaha, NE, to points in AL, FL, GA, NC, SC, and TN, restricted to the transportation of shipments originating at and destined to the named origins and destinations.

NOTE.—Common control may be involved. If a hearing is deemed necessary applicant requests that it be held at Chicago, IL, or Washington, DC.

No. MC 115904 (Sub-No. 93), filed January 26, 1978. Applicant: GROVER TRUCKING CO., a corporation, 1710 West Broadway, Idaho Falls, ID 83401. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Applicant seeks authority to operate as a *common carrier,* by motor vehicle, over irregular routes, in the transportation of: (1) *Gypsum wallboard* from the facilities of Western Gypsum Co., located at or near Rosario, NM to points in CO and (2) *gypsum wallboard paper* from Denver, CO to the facilities of Western Gypsum Co., Located at or near Rosario, NM.

NOTE.—Common control may be involved. If a hearing is deemed necessary applicant requests that it be held at Albuquerque, NM or Washington, DC.

No. MC 116260 (Sub-No. 9), filed January 16, 1978. Applicant: PASHA TRUCKAWAY, 1308 Canal Blvd., Richmond, CA 94084. Applicant's representative: Ann M. Pougiales, 100 Bust St., 21st Floor, San Francisco, CA 94104. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Automobiles and trucks,* in secondary movements in truckaway service, and parts for the above-described vehicles when accompanying the shipment thereof, from points in CA to points in AR, CO, ID, MT, NE, NM, OR, TX, UT, WA, and WY.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at San Francisco, CA.

No. MC 116710 (Sub-No. 31), filed January 16, 1978. Applicant: MISSISSIPPI CHEMICAL EXPRESS, INC., 2001 East Texas Street, P.O. Box 6176, Boosier City, LA 71010. Applicant's representative: Joe T. Lanham, 1102 Perry-Brooks Building, Austin, TX 78701. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Chemicals,* in bulk, in tank, hopper, gondola and dump-type vehicles, from the plantsite and storage facilities of Texas Eastman Co., Division of Eastman Kodak Co., at or near Longview, TX to points in the United States. (except AK and HI), under continuing contract with Texas Eastman Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Dallas or Houston, TX.

No. MC 117119 (Sub-No. 669), filed January 30, 1978. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Applicant's representative: L. M. McLean (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail discount, department, or variety stores (except commodities in bulk) from Charlotte, NC, to the warehouse facilities of Wal-Mart Stores, Inc., at Searcy, AR.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Kansas City, MO. Common control may be involved.

No. MC 117910 (Sub-No. 3) filed January 12, 1978. Applicant: W. H. FROH, INC., 57760 Main Boulevard, New Haven, MI 48048. Applicant's representative: Walter N. Bieneman, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. Authority

sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Castings, foundry supplies, and containers therefor,* between New Haven, MI, on the one

No. MC 119641 (Sub-No. 146), filed January 25, 1978. Applicant: RINGLE EXPRESS, INC., 450 East Ninth Street, Fowler, IN. 47944. Applicant's

cant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Doors, door sections, grilles, and com-*

Dallas, TX 75222. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Malt beverages and related ad-*

used in conjunction with applicant's existing authority.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at

routes, transporting: *Used household goods,* in containers between points in Alameda, Contra Costa, Fresno, Madera, Marin, Mendocino, Merced,

sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Castings, foundry supplies, and containers therefor*, between New Haven, MI, on the one hand, and, on the other, points in NY, under a continuing contract, or contracts, with New Haven Foundry, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Lansing or Detroit, MI.

No. MC 118142 (Sub-No. 165) (Correction) filed December 5, 1977, published in the FEDERAL REGISTER issue of February 2, 1978, and republished as corrected this issue. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Applicant's representative: Brad T. Murphree, 814 Century Plaza Building, Wichita, KS 67202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages* (1) from Lawrenceburg, IN, to Kansas City, MO; (2) from Frankfort and Bardstown, KY, to Kansas City, MO; (3) from Lynchburg, TN, to Kansas City, MO. Restricted: against commodities in bulk, and further restricted to the transportation of shipments originating at the said points of origin and destined to the warehouse facilities of McKesson Wine & Spirits Co. in Kansas City, MO.

NOTE.—The purpose of this correction is to insure the correct spelling of Bardstown, KY which was incorrectly spelled in the FEDERAL REGISTER. If a hearing is deemed necessary, applicant requests that it be held at Wichita, KS or Kansas City, MO.

No. MC 118159 (Sub-No. 243F), filed February 3, 1978. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Applicant's representative: Warren Taylor (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* from Galveston, TX to points in NM.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, IL.

MC 118535 (Sub-No. 113), filed January 30, 1978. Applicant: TIONA TRUCK LINE, INC., 111 So. Prospect, Butler, MO 64730. Applicant's representative: Wilburn Williamson, 280 National Foundation Life Center, 3535 NW. 58th, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1), *Lead oxide*, from Savanna, IL to points in IN, IA, KS, KY, MI, MN, MO, NE, OH and WI. (2) *Lead*, from Buick, Forest City, Glover, Herculaneum, MO, Leeds, AL, Baton Rouge, LA and Omaha, NE to Savanna, IL.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Dallas, TX or Kansas City, MO.

No. MC 119641 (Sub-No. 146), filed January 25, 1978. Applicant: RINGLE EXPRESS, INC., 450 East Ninth Street, Fowler, IN. 47944. Applicant's representative: Alki E. Scopelitis, 815 Merchants Bank Building,. Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in, or used by agricultural equipment, industrial equipment, and lawn and leisure product dealers (except commodities in bulk), from the facilities of Deere & Co, located at Black Hawk and Dubuque Counties, IA, to points in AR, LA, and points in Butler, Cape Girardeau, Dunklin, MS, New Madrid, Pemiscot, Scott, and Stoddard Counties, MO. Restricted to traffic originating at the named facilities of Deere & Co. and destined to the destination points named (this restriction shall not apply to traffic moving in foreign commerce); and (2) *return shipments* of the commodities described in part (1), from the destination points named in part (1), to the facilities of Deere & Co., located at the origin points named in part (1). Restricted to traffic destined to the named facilities of Deere & Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, IL.

No. MC 119789 (Sub-No. 420–F), filed February 2, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, TX 75222. Applicant's representative: Lewis Coffey (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *doors, door sections, and components and parts thereof*, from Titus County, TX to points in AR, CO, IL, IN, IA, KS, LA, MS, MO, NE, OH, OK, and TN.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Dallas, TX.

No. MC 119789 (Sub-No. 422F), filed February 3, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, TX 75222. Applicant's representative: Lewis Coffey (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *rigid thermal insulation* from San Antonio, TX to points in AL, AR, FL, GA, IL, IN, KY, LA, MS, MO, NC, OH, OK, SC, and TN.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in San Antonio, TX.

No. MC 119789 (Sub-No. 423–F), filed: February 3, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, TX 75222. Applicant's representative: Lewis Coffey (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Doors, door sections, grilles, and components and parts* thereof from Terrell, TX to points in AL, AZ, CA, CO, FL, IN, KY, NE, OR, and UT.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Dallas, TX.

No. MC 119789 (Sub-No. 424–F), filed: February 1, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, TX 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk) from points in IL, IN, OH, and WI, to points in AZ, AR, CA, CO, ID, KS, LA, MO, MT, NV, NM, OK, OR, TX, UT, WA, and WY.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Columbus, OH, or New York, NY.

No. MC 119789 (Sub-No. 425–F), filed: February 6, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, TX 75222. Applicant's representative: Lewis Coffey P.O. Box 6188, Dallas, TX 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk) from Eugene, OR to IL, IN, MN, and WI.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Eugene, OR.

No. MC 119789 (Sub-No. 428–F), filed: February 3, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, TX 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products and articles* distributed by meat packinghouses, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk) from Cudahy Foods Co., located at Omaha, NE and American Beef Packing Co., located at Oakland, IA, to Cudahy Foods Co., located at Atlanta, GA.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Atlanta, GA.

No. MC 119789 (Sub-No. 429–F), filed: February 6, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, TX 75222. Applicant's representative: James K. Newbold, Jr., P.O. Box 6188, Dallas, TX 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising matter*, from Pabst, GA to points in AR.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Atlanta, GA.

No MC 119864 (Sub-No. 71F), filed February 6, 1978. Applicant: CRAIG TRANSPORTATION CO., 26699 Eckel Road, Perrysburg, OH 43551. Applicant's representative: Dale K. Craig (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk) from New Baltimore, MI to points in OH. Restricted to shipments originating at the plantsite or warehouses of Safie Brothers Farm Pickle Co., Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Columbus, OH.

No MC 119991 (Sub-No. 18), filed January 26, 1978. Applicant: YOUNG TRANSPORT, INC., 1601 Woodlawn, P.O. Box 3, Logansport, IN 46947. Applicant's representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides and Pelts*, between points in IL, IN, IA, KS, KY, ME, MD, MI, MN, MO, NE, NH, NJ, NY, NC, OH, PA, SD, TN, VA, VT, WV and WI.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Indianapolis, IN or Washington, DC.

No MC 120582 (Sub-No. 5), filed January 17, 1978. Applicant: McMINNVILLE FREIGHT LINE, INC., P.O. Box 790, Morrison Road, McMinnville, TN 37110. Applicant's representative: Allen D. Lentz, 230 Fourth Avenue North, Nashville, TN 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* except household goods, classes A and B explosives, commodities in bulk and those requiring special equipment, (1) between Nashville (Davidson County), TN, and its commercial zone, and points in Cannon County, TN: (A) from Nashville (Davidson County), TN over U.S. Hwy 70S, to points in Cannon County, TN, and return over the same route, serving no intermediate points; (B) from Nashville, TN over Interstate Hwy 24 to Murfreesboro, TN, then over U.S. Hwy 70S and return over the same, route, serving no intermediate points; and (C) from Nashville, TN over Interstate Hwy 24 to Manchester, TN, then over TN Hwy 53 and return over the same route, serving no intermediate points; to be used in conjunction with applicant's existing authority.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Nashville, TN.

No MC 120822 (Sub-No. 3) (correction), filed October 13, 1977, published in the FEDERAL REGISTER issue of December 30, 1977, and republished as corrected this issue. Applicant: INDUSTRIAL FREIGHT SYSTEM, INC., 9120 San Fernando Road, Sun Valley, CA 91352. Applicant's representative: Gary W. Wigand, 13031 San Antonio Drive, Suite 214, Norwalk, CA 90650. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except used household goods, commodities the transportation of which because of size or weight require the use of special equipment, commodities in bulk, classes A and B explosives, livestock and commodities requiring special equipment), (1) Between Los Angeles, CA, and Las Vegas, NV: From Los Angeles over Interstate Hwy 5 to the junction of CA Hwy 14, thence over CA Hwy 14 to its junction with CA Hwy 138 and 18, then over CA Hwy 18 (also known as Pearblossom Hwy) to its junction with Interstate Hwy 15, then over Interstate Hwy 15 to Las Vegas, and return over the same route; (2) Between Los Angeles, CA, and Glendale, NV: From Los Angeles over the same routes as described in (1) above to Las Vegas, NV, then over Interstate Hwy 15 to Glendale, and return over the same route; (3) Between Los Angeles, CA, and Boulder City, NV: From Los Angeles over the same routes as described in (1) above to Las Vegas, NV, then over U.S. Hwy 93 to Boulder City and return over the same route; (4) Between Los Angeles, CA, and Las Vegas, NV: From Los Angeles over Interstate Hwy 10 to junction of Interstate Hwy 15, then over Interstate Hwy 15 to Las Veges, and return over the same route; and furthering on to Glendale, NV, and Boulder City, NV, as described in (2) and (3) above, respectively, and return over the same routes. Serving all intermediate points and off route points laterally 20 miles on either side of the above named highways.

NOTE.—The purpose of this republication is to correct the route in (3) above to U.S. Hwy 93 in lieu of Interstate Hwy 95. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, CA.

No. MC 121114 (Sub-No. 4), filed January 26, 1978. Applicant: OAKLAND VAN & STORAGE, INC., 867 Isabella Street, Oakland, CA 94604. Applicant's representative: Thomas M. Loughran, 100 Bush Street, 21st Floor, San Francisco, CA 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, in containers between points in Alameda, Contra Costa, Fresno, Madera, Marin, Mendocino, Merced, Monterey, Napa, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter and Yolo Counties, CA.

NOTE.—Applicant holds partial duplicating authority to transport the described commodities which authority is subject to a restriction limiting service to pickup and delivery in connection with packing, crating, and containerization or unpacking, uncrating and decontainerization. The purpose of this application is in part to eliminate the said restriction. If a hearing is deemed necessary, Applicant requests that it be held in San Francisco, CA.

No. MC 123255 (Sub-No. 132), filed January 16, 1978. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, OH 43055. Applicant's representative: C. F. Schnee, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from the facilities of Midland Glass Co., located at or near Cliffwood, NJ, Terre Haute, IN, and Warner Robins, GA, to the facilities of Midland Glass Co. located at any point on and within the territory north of U.S. Hwy 64, west of U.S. Hwy 1, east of U.S. Hwy 52, and south of Interstate Hwy 81 and U.S. Hwy 460, restricted to shipments originating at and destined to facilities of Midland Glass Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Columbus, OH.

No. MC 123522 (Sub-No. 3) (Correction), filed November 25, 1977. Published in the FEDERAL REGISTER issue of January 26, 1978, and republished as corrected this issue. Applicant: SEYLLER TRANSPORT, INC., 262 Mill Street, Hampshire, IL 60140. Applicant's representative: R. D. Higgins, 7222 Cunningham Road, Rockford, IL 61102. Authority sought by applicant to operate in interstate or foreign commerce as a *contract carrier* by motor vehicle over irregular routes transporting: Liquified Petroleum Gas, in bulk, in tank vehicles, from points in IL and IN, to points in IL, WI, OH, IN, IA, and MI, under continuing contract or contracts with BTU Contracts Inc.

NOTE.—The purpose of this correction is to change commodity description from Liquid Chemicals to Liquified Petroleum Gas. If a hearing is deemed necessary applicant requests that hearing be held in Chicago, IL.

No. MC 124170 (Sub-No. 79-F), filed February 6, 1978. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Applicant's representative: William J.

Boyd, 600 Enterprise Drive, Suite 222, Oak Brook, IL 60521. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular

CHINERY TRANSPORTS, INC., 1945 South Redwood Road, Salt Lake City, UT 84104. Applicant's representative: David J. Lister, 1945 South Redwood

other points in the United States (excluding AK and HI).

NOTE.—If a hearing is deemed necessary,

er Certificates, 61 MCC 209 and 766, (except hides and except commodities in bulk), in tank vehicles. Between Green Bay and Chippewa Falls, WI,

Registration to an interstate certificate. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, CA.

No. MC 133590 (Sub-No. 14), filed

TRENCO, INC., 2109 Marydale Avenue, P.O. Box 697, Williamsport, PA 17701. Applicant's representative: E. Stephen Heisley, 805 McLachlen

Boyd, 600 Enterprise Drive, Suite 222, Oak Brook, IL 60521. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Such commodities as are dealt in by health and beauty aid distributors and wholesalers from Detroit, MI to points in ME, NH, MA, CT, RI, VT, NY, NJ, PA, OH, MD, DE, DC, VA, WV, FL, GA, MS, AL, LA, NC, SC, TN, KY, IN, WI, and IL.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Detroit, MI.

No. MC 124211 (Sub-No. 314), filed: January 30, 1978. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, NE 68101. Applicant's representative: Thomas L. Hilt (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting as follows: *Plastic pipe, plastic products, and materials, equipment, and supplies* used in the manufacture thereof (except commodities in bulk, and except commodities which, because of their size or weight, require the use of special equipment), between points in Geneva County, AL, on the one hand, and, on the other, points in the United States (including AK but excluding HI).

NOTE.—Common control may be involved. If oral hearing is deemed necessary, applicant requests it be held at Birmingham, AL or Atlanta, GA.

No. MC 124511 (Sub-No. 42F), filed: February 6, 1978. Applicant: OLIVER MOTOR SERVICE, INC., P.O. Box 223, East Highway 54, Mexico, MO 65265. Applicant's representative: Leonard R. Kofkin, 39 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting *iron and steel articles*, from Rock Falls and Sterling, IL to points in AR, IN, IA, KY, MO, and WI.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, IL.

No. MC 124839 (Sub-No. 32), filed: January 26, 1978. Applicant: BUILDERS TRANSPORT, INC., P.O. Box 7057, Savannah, GA 31408. Applicant's representative: B. M. Shirley, (same address as applicant). Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Composition board*, from Monticello, GA to points in AR, DE, IA, IL, IN, KS, LA, MS, MO, NE, NJ, NY, OH, OK, PA, TX, under a continuing contract with Georgia-Pacific Corp.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held, either at Atlanta, GA or Washington, DC.

No. MC 124947 (Sub-No. 97), filed: January 30, 1978. Applicant: MACHINERY TRANSPORTS, INC., 1945 South Redwood Road, Salt Lake City, UT 84104. Applicant's representative: David J. Lister, 1945 South Redwood Road, Salt Lake City, UT 84104. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting *iron and steel articles*, as described in Appendix V, Ex Parte No. MC 45, Description in Motor Carrier Certificates, 61 MCC 209, and *pipe* (except in bulk), between El Paso and Lubbock, TX; Albuquerque, Farmington, and Clovis, NM; and Salt Lake City, UT, on the one hand, and, on the other, points in the United States (except AK and HI).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held in Albuquerque, NM or Salt Lake City, UT.

No. MC 125023 (Sub-No. 53F), filed: February 1, 1978. Applicant: SIGMA-4 EXPRESS, INC., P.O. Box 9117, Erie, PA 16504. Applicant's representative: Paul F. Sullivan, 711 Washington Bldg., Washington, DC 20005. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, from Cleveland, OH and Philadelphia, PA, to Short Gap, WV.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, DC.

No. MC 125023 (Sub-No. 54-F), filed February 1, 1978. Applicant: SIGMA-4 EXPRESS, INC., P.O. Box 9117, Erie, PA 16504. Applicant's representative: Paul F. Sullivan, 711 Washington Bldg., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Malt beverages*, in containers, from Utica, NY, to points in CT, ME, MA, NH, NJ, PA and RI; and (b) *empty malt beverage containers*, in the reverse direction.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, PA.

No. MC 125433 (Sub-No. 141), filed January 16, 1978. Applicant: F-B TRUCK LINE CO., a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Applicant's representative: David J. Lister, 1945 South Redwood Road, Salt Lake City, UT 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled vehicles*, each weighing less than 15,000 pounds (except motor vehicles as defined in section 203(a)(13) of the Interstate Commerce Act and vehicles moving in driveaway service) and *related machinery, tools, parts and supplies* moving in connection therewith, (except commodities in bulk), between Multnomah County, OR, on the one hand, and, on the other points in the United States (excluding AK and HI).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, UT, or Chicago, IL. Common control may be involved.

No. MC 125433 (Sub-No. 147), filed January 30, 1978. Applicant: F-B TRUCK LINE CO., a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Applicant's representative: David J. Lister, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Highway safety equipment* (trailers—early warning), (except in bulk), from Napa, CA, to points in the United States (except AK and HI).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at San Francisco, CA, or Salt Lake City, UT.

No. MC 125433 (Sub-No. 148F), filed February 6, 1978. Applicant: F-B TRUCK LINE CO., a coproration, 1945 South Redwood Road, Salt Lake City, UT 84104. Applicant's representative: David J. Lister, 1945 South Redwood Road, Salt Lake City, UT 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum wallboard, gypsum and gypsum products and products used in the manufacture and installation of the above* (except in bulk), from Richmond, CA, to points in NV, WA, OR, ID, AZ, and NM.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at either San Francisco, CA or Salt Lake City, UT.

No. MC 17042 (Sub-No. 202), filed January 26, 1978. Applicant: HAGEN INC., P.O. Box 98, Leeds Station, Sioux City, IA 55108. Applicant's representative: Robert G. Tessar (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed supplement*, (except in bulk), From the facilities utilized by Dawe's Laboratory at or near Chicago Heights, IL, to points in AZ, AR, CA and TX.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, IL.

No. MC 127042 (Sub-No. 203), filed January 30, 1978. Applicant: HAGEN, INC., P.O. Box 98, Leeds Station, Sioux City, IA 51108. Applicant's representative: Robert G. Tessar, P.O. Box 98, Leeds Station, Sioux City, IA 51108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, (except hides and except commodities in bulk), in tank vehicles, Between Green Bay and Chippewa Falls, WI, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NM, MN, NV, ND, OR, SD, UT, WA, and WY.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Milwaukee, WI.

No. MC 127042 (Sub-No. 204F), filed February 6, 1978. Applicant: HAGEN, INC., P.O. Box 98, Leeds Station, Sioux City, IA 51108. Applicant's representative: Robert G. Tessar, P.O. Box 98, Leeds Station, Sioux City, IA 51108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles, distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, (except commodities in bulk, in tank vehicles), from Chicago, IL, to points in the United States in and West of MN, IA, MO, AR, and LA.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, IL.

No. MC 128007 (Sub-No. 118), filed January 10, 1978. Applicant: HOFER, INC., P.O. Box 583, Pittsburg, KS 66762. Applicant's representative: Larry E. Gregg, 641 Harrison Street, Topeka, KS 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Premixed mineral feed ingredients* (except in bulk, in tank trailers), from Harrison County, TX, and Decatur County, GA, to points in CA, MI, MT, ND, OR, SD, and WA; and (2) *materials and supplies used or useful in the manufacture and production of premixed mineral feed ingredients*, from points in MI and MT to Harrison County, TX, and Decatur County, GA.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Kansas City, MO.

No. MC 129857 (Sub-No. 4), filed December 23, 1977. Applicant: GRM INC., d.b.a. PORT TERMINAL TRANSPORT INC., 700 Henry Ford Avenue, Long Beach, CA 90810. Applicant's representative: Warren Grossman, 1800 United California Bank Building, 707 Wilshire Boulevard, Los Angeles, CA 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Imported automobiles*, from points in CA, to points in NV, AZ, NM, UT; (2) *automobiles*, between points in CA, south of the northern boundaries of Santa Barbara, Kern and Inyo Counties, CA.

NOTE.—By paragraph (2), applicant is seeking to convert its present Certificate of Registration to an interstate certificate. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, CA.

No. MC 133590 (Sub-No. 14), filed January 30, 1978. Applicant: WESTERN CARRIERS, INC., P.O. Box 925, Worcester, MA 01613. Applicant's representative: David M. Marshall, 101 State Street, Suite 304, Springfield, MA 01103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic and plastic articles, and materials and supplies* used in the manufacture and distribution of such commodities, except in bulk in tank vehicles, between points in MA on the one hand, and, on the other, points in the United States (excluding AK and HI) but including ports of entry on the international boundary line between the United States and Canada under a continuing contract or contracts with U.S. Plastics Corp.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Boston, MA; Providence, RI; or Washington, DC.

No. MC 133590 (Sub-No. 15), filed January 30, 1978. Applicant: WESTERN CARRIERS, INC., P.O. Box 925, Worcester, MA 01613. Applicant's representative: David M. Marshall, 101 State Street, Suite 304, Springfield, MA 01103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *new furniture, and materials, supplies and equipment* used in the manufacture, distribution and sale of such commodities, except in bulk, between points in MA, NY, NJ, FL, CA, and IL on the one hand, and, on the other, points in the U.S. (excluding AK and HI) but including ports of entry on the International Boundary Line between the U.S. and Canada, under a continuing contract or contracts with Furniture Industries, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Boston, MA; Providence, RI; or Washington, DC.

No. MC 134755 (Sub-No. 127), filed January 23, 1978. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pet food* (except in bulk), from Belzoni, MS, to points in AR, LA, TX, OK, KS, and MO.

NOTE.—Applicant holds motor contract carrier authority in MC 138398 and sub numbers thereunder, therefore, dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at either Kansas City, MO or St. Louis, MO.

No. MC 135234 (Sub-No. 11F), filed February 2, 1978. Applicant: TRENCO, INC., 2109 Marydale Avenue, P.O. Box 697, Williamsport, PA 17701. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Authority sought by applicant to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Vacuum cleaners, and parts and supplies* therefor (except in bulk), in cargo containers, from Williamsport, PA, to the Port of New York, NY, and the Port of Baltimore, MD; and (2) *empty cargo containers*, from the Port of New York, NY, and the Port of Baltimore, MD, to Williamsport, PA. Restriction: The above authority is restricted to the transportation of traffic moving under a continuing contract or contracts with Shop Vac, Division of Craftools Corp., at Williamsport, PA.

NOTE.—Applicant holds common carrier authority in MC 133085 and subs 1 and 4 thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Harrisburg, PA, or Washington, DC.

No. MC 135553 (Sub-No. 12F), filed February 1, 1978. Applicant: HENRY ANDERSEN, INC., P.O. Box 75, King George, VA 22485. Applicant's representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street NW., Washington, DC 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Glass fiber, rovings, yarn, fabric or strand, mats or matting and glass fiber waste and materials and supplies* used in the distribution of the aforementioned commodities, between West Shelby and South Lexington, NC, on the one hand, and, on the other, points in TX, AZ, NM, CA, OR, WA, MT, ID, UT, NV, CO, and WY, under a continuing contract or contracts with PPG Industries, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, DC, or Pittsburgh, PA.

No. MC 138046 (Sub-No. 1) (Correction) filed December 7, 1977, published in the FEDERAL REGISTER issue of February 2, 1978, and republished as corrected this issue. Applicant: JOHN S. GRIMM, INC., 890 Shorewood Drive, Medina, OH 44256. Applicant's representative: John L. Alden, 1396 West Fifth Avenue, Columbus, OH 43212. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: (1) *Plastic products*, from Medina, OH to points in CT, DE, MA, MO, IA, NJ, WI, and VA; and (2) *Materials and supplies* used in the manufacture and distribution of plastic products (except commodities in bulk), from points in CT, DE, MA, MO, IA, NJ, WI, and VA, to Medina, OH, under a continuing

contract or contracts with Plastipak Packaging Div. of Beatrice Foods Co.

NOTE.—The purpose of this correction is to correctly spell applicant's name. If a hearing is deemed necessary, applicant requests it be held at Columbus or Cleveland, OH, or Washington, DC.

No. MC 138157 (Sub-No. 57), filed January 30, 1978. Applicant's name: SOUTHWEST EQUIPMENT RENTAL, INC. d.b.a. SOUTHWEST MOTOR FREIGHT. Applicant's representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Carpet, carpeting, carpet padding and yarn*, from the facilities of TCP, Inc., at or near Colton, CA to points in the United States (except AK and HI); and (2) the commodities named in (1) above and materials, equipment and supplies used in the manufacture, production and distribution of the commodities named in (1) above from points in the United States (except AK and HI) to the facilities of TCP, Inc., at or near Colton, CA. Restrictions: Restricted against the transportation of commodities in bulk. Further restricted to traffic originating at or destined to the facilities of TCP, Inc.

NOTE.—Applicant holds contract carrier authority in MC 134150 (Sub-No. 3), and subs thereunder, therefore dual operations may be involved. Common control may also be involved. (Hearing site: Los Angeles, CA).

No. MC 138253 (Sub-No. 8), filed January 26, 1978. Applicant's name: MONFORT TRANSPORTATION CO., a Corp., P.O. Box G, Greeley, CO 80631. Applicant's representative: David R. Parker, 2310 Colorado State Bank Building, 1600 Broadway, Denver, CO 8202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, and *such other commodities as are usually dealt in, or used by restaurants and restaurant supply houses*. From ports of entry located in AL, AZ, CA, DE, FL, GA, LA, MD, MA, MS, NJ, NM, NY, NC, OR, PA, SC, TX, VA, and Washington, DC. To points in the United States (except AK and HI). Restrictions: (1) Restricted to shipments moving in foreign commerce, (2) Restricted to shipments moving under a continuing contract or contracts with Monfort of Colorado, Inc.

NOTE.—If a hearing is deemed necessary, it is hereby requested that such be held in Denver, CO.

No. MC 138281 (Sub-No. 6 F), filed February 6, 1978. Applicant: MILL TRUCKING CORP., 1601 Harris Road, Laverock, PA 19118, Applicant's representative: Ronald I. Shapss, 450 Seventh Avenue, New York, NY 10001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paperboard, and materials and supplies* used in the manufacture of paperboard, between Philadelphia, PA, on the one hand, and, on the other, points in the United States (excluding AK and HI), under a continuing contract, or contracts, with Newman & Co., Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Philadelphia, PA.

No. MC 138308 (Sub-No. 34) (Correction); filed September 22, 1977. Published in the FEDERAL REGISTER issue of November 10, 1977, as "MC 138308 Sub-No. 43)" and republished as corrected "MC 138308 (Sub-No. 34) this issue. Applicant: KLM, INC., P.O. Box 6098, Jackson, MS 39205. Applicant's representative: Donald B. Morrison, P.O. Box 22628, Jackson MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail department and variety stores (except commodities in bulk), from points in CT, IN, IA, KS, KY, ME, MD, MI, MS, NJ, OK, RI, TN, VA, WV, and WI, to the facilities of W. E. Walker, Inc., located at or near Columbia, MS and Diboll, TX, restricted to shipments originating in the above-named States, and destined to the above-specified points.

NOTE.—The purpose of this correction is to show the correct "Sub-No. which is 34 and not 43." Applicant holds motor contract carrier authority in No. MC 128592, and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Jackson, MS or Washington, DC.

No. MC138308 (Sub-No. 40-F), filed February 1, 1978. Applicant: KLM, INC., 2102 Old Brandon Road (P.O. Box 6098), Jackson, MS 39208. Applicant's representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning, washing or buffing compounds; chemicals, drugs, medicines and toilet preparations* (except in bulk), from the facilities of American Cyanamid Co. at or near Jackson, MS, to points in AZ, CA, CO, NV, NM, OK, OR, TX, UT, and WA.

NOTE.—Applicant holds motor contract authority in No. MC 128592 and subnumbers thereunder, therefore dual operations may be involved. (Hearing site: Jackson, MS.)

No. MC 138782 (Sub-No. 3), filed: January 16, 1978. Applicant: CLYDE T. FLETCHER, d.b.a. KENTUCKY T.O.F.C. DELIVERY SERVICE, 511 Hopkinsville Street, Princeton, KY 42445. Applicant's representative: William L. Willis, 708 McClure Building, Frankfort, KY 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between Fulton, KY, and Paducah, KY, on the one hand, and, on the other, Mayfield, KY, and points in its commercial zone, restricted to the transportation of shipments having an immediately prior or subsequent movement by rail.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Louisville or Hopkinsville, KY.

No. MC 138875 (Sub-No. 74F), filed: February 6, 1978. Applicant: SHOEMAKER TRUCKING CO., an Idaho corporation, 11900 Franklin Road, Boise, ID 83705. Applicant's representative: F. L. Sigloh, 11900 Franklin Road, Boise, ID 83705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulation and insulation materials; and materials and supplies used in the installation thereof*, from Waco and Chilton, TX, to points in WA, OR, CA, NV, ID, MT, WY, UT, AR, CO, NE, SD, ND, MN, IA MO, WI, IL, MI, IN, KY, TN, AL, OH, PA, WV, VA, NC, SC, GA, and FL, NJ, NY, MD, DE, and DC.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Dallas or Houston, TX.

No. MC 138882 (Sub-No. 39), filed: January 26, 1978. Applicant: WILEY SANDERS, INC., P.O. Box 707, Troy, AL 36081. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Plastic pipe and conduit and fittings, valves and accessories therefor*, from points in Geneva County, AL, to points in the United States (except AK and HI).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Birmingham or Montgomery, AL.

No. MC 138882 (Sub-No. 40), filed: January 31, 1978. Applicant: WILEY SANDERS, INC., P.O. Box 707, Troy, AL 36081. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Plastic pipe and conduit, and fittings, valves and accessories therefor*, from points in Geneva County, AL, to points in the United States (except AK and HI).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Birmingham or Montgomery, AL.

No. MC 139468 (Sub-No. 24), filed: January 26, 1978. Applicant: INTERNATIONAL CONTRACT CARRIERS, INC., 6534 Gessner, Houston, TX 77040. Applicant's representative: David R. Parker, 2310 Colorado State Bank Building, 1600 Broadway, Denver, CO 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Kooskia and Princeton, ID and Clarkston, WA, to points in AZ, KY, NM, OK, and TX. Restrictions: (a) Restricted to traffic originating at: (1) The facilities utilized by Bennett Sales Co., at Kooskia, ID; (2) the facilities owned by Bennett Lumber Products, Ind., at Princeton, ID; (3) the facilities owned by Guy Bennett Lumber Co., at Clarkston, WA; (b) the operations authorized herein are limited to a transportation service to be performed under a continuing contract or contracts with Bennett Sales Co.

NOTE.—If a hearing is deemed necessary, applicant requests it to be held at Houston, TX, or Denver, CO.

No. MC 139713 (Sub-No. 7), filing date January 27, 1978. Applicant: DONALD M. NASS, d.b.a., DON NASS TRUCKING, 210 Front Street, Clinton, WI 53525. Applicant's representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, WI 53705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Malt beverages*, from La Crosse, WI, to the facilities of Beloit Beverage Co., located at or near South Beloit, IL.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Madison or Milwaukee, WI, or Chicago, IL.

No. MC 139727 (Sub-No. 5), filed January 27, 1978. Applicant: MADEWELL METALS, INC., 301 East Shawnee, Muskogee, OK 74401. Applicant's representative: George G. Olsen, 1130 17th Street NW., Washington DC 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lead, lead alloy, lead oxide, and lead byproducts in bulk and ingot form* from Schuylkill Metals Corp. plant in Canon Hollow, MO to Hot Springs, AR; Lonoke, AR; Denver, CO; Chicago, IL; East Alton, IL; Attica, IN; Frankfort, IN; Hammond, IN; Indianapolis, IN; Logansport, IN; Muncie, IN; Vincennes, IN; Warsaw, IN; Burlington, IA; Manchester, IA; Olathe, KS; Salina, KS; Louisville, KY; Shreveport, LA; Minneapolis, MN; Kansas City, MO; St. Joseph, MO; St. Louis, MO; Oklahoma City, OK; Dallas, TX; Farmers Branch, TX; Milwaukee, WI, under continuing contract or contracts with Schuylkill Metals Corp.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Oklahoma City, OK or Washington, DC.

No. MC 140033 (Sub-No. 40), filed January 31, 1978. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, TX 75220. Applicant's representative: E. Larry Wells, Winkle and Wells, a professional corporation, Suite 1125 Exchange Park, P.O. Box 45538, Dallas, TX 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Toilet preparations and advertising displays*, from the plantsite and warehouse facilities of Roux Laboratories, Inc., located at or near Jacksonville, FL, to points in AZ, AR, CA, CO, ID, KS, MT, NV, NM, OK, OR, UT, WA, and WY.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Dallas, TX, or Washington, DC.

NOTE.—Applicant holds contract carrier authority in MC 142296 and subs thereunder, therefore dual operations may be involved.

No. MC 140665 (Sub-No. 24F), filed February 6, 1978. Applicant: PRIME, INC. Route 1, Box 115-B, Urbana, MO 65767. Applicant's representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. Authority sought as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal, plastic, or glass coatings; porcelain materials; clay or clay products; paint; color additives; chemicals; plastic materials; ceramic materials; insulating materials; glassware; refractories; fiberglass; furnace or kiln supplies; and, materials and supplies* used in the production or marketing of the above commodities, between Toccoa, GA, Baton Rouge, LA, Crooksville and Orrville, OH, on the one hand, and, on the other, points in the States of AZ, CA, CO, NV, NM, UT, WY, MT, ID, OR, and WA.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Cleveland, OH or Washington, DC. Common control may be involved.

No. MC 140829 (Sub-No. 79) (correction), filed December 1, 1977, published in the FEDERAL REGISTER issue of January 26, 1978, and republished as corrected, this issue. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20, Sioux City, IA 51102. Applicant's representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts and articles* distributed by meat packinghouses, as described in section A of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), in vehicles equipped with mechanical refrigeration, from the plant site and storage facilities utilized by John Morrell & Co. at or near Sioux Falls, SD; Estherville, Humboldt and Sioux City, IA to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, and DC, restricted to the transportation of traffic originating at the named origins and destined to points in the above named destination states.

NOTE.—Applicant holds contract carrier authority in MC 136408 Sub 7 and other subs thereunder; therefore dual operations may be involved. If a hearing is deemed necessary the applicant requests it to be held in Washington, DC. The purpose of this republication is to correct applicant's number as MC 140829 (Sub-No. 79) in lieu of (Sub-No. 65).

No. MC 140852 (Sub-No. 3F), filed February 6, 1978. Applicant: C.W. MITCHELL, INC., d.b.a. MITCHELL TRANSPORT, a corporation, 4401 N. Westshore Boulevard, Tampa, FL 33684. Applicant's representative: Rudy Yessin, 314 Wilkinson Street, Frankfort KY 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Breading, breader, and edible flour;* from Chicago, IL, to Tampa, FL.

NOTE.—If hearing is deemed necessary, applicant requests it be held at Tampa, FL; alternate choice, Washington, DC. Applicant holds pending contract carrier authority in MC 143047 Sub 1 therefore dual operations may be involved.

No. MC 141033 (Sub-No. 35), filed January 26, 1978. Applicant: CONTINENTAL CONTRACT CARRIER CORP., P.O. Box 1257, City of Industry, CA 91749. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Automobile parts and accessories* and (2) *raw materials, equipment and supplies* used in the manufacture of the commodities listed in (1) above (a) from Burbank, CA, to points in the United States in and east of MN, IA, MO AR, and TX (except AK and HI), and (b) from points in the United States in and east of MN, IA, MO, and AR (except AK and HI), to Burbank, CA, restricted against the transportation of commodities in bulk and those which by reason of size or weight require the use of special equipment.

NOTE.—Applicant holds contract carrier authority in No. MC 124796 Sub 11, and other subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Los Angeles. CA, or Washington, DC.

No. MC 141391 (Sub-No. 2), filed January 16, 1978. Applicant: V & J REFRIGERATED SERVICE, INC., 3623 6th Avenue South, Seattle, WA 98134. Applicant's representative: Henry C. Winters, 15 South Grady

Way, Suite 235, Renton, WA 98055. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Red cedar shakes, shingles, trim and related roofing materials* from points in Clallam, Jefferson, Grays Harbor and Skagit Counties, WA, to points in CA.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Seattle or Olympia, WA.

No. MC 142443 (Sub-No. 2), filed January 30, 1978. Applicant: HOLSTON BROTHERS, INC., 13711 Travilah Road, Rockville, MD 20850. Applicant's representative: Barry Roberts, 888 17th Street NW., Washington, DC 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bagged limestone, bagged limestone chips, bagged concrete mixes, and bagged sand*, from Buchanan, VA, to DC, and points in its commercial zone under continuing contract or contracts with James River Limestone, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, DC.

No. MC 142776 (Sub-No. 1), filed November 22, 1977. Applicant: JACK DARWIN, d.b.a. JACK DARWIN TRUCKING, 7009 Alondra, Paramount, CA 90723. Applicant's representative: Jack Darwin (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Truck body beds, and empty truck bed racks*, between Long Beach, CA; Portland, OR; and Houston, TX, under a continuing contract or contracts with Toyota Motor Sales, U.S.A., Inc.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, CA.

No. MC 143013 (Sub-No. 3) filed: December 7, 1978. Applicant: ROGER CHILTON, d.b.a. CHILTON TRUCKING CO., 405 11th Street, P.O. Box 841, Beaumont, TX 77704. Applicant's representative: John W. Carlisle, 4141 N. Braeswood, Suite 22, Houston, TX 77025, phone: 713-667-8394. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Engine and motor parts, and equipment and parts thereof, used on ships and ocean going vessels for the operation, maintenance and safety of such ships and vessels when such shipments originate at or are destined to distressed ships or vessels docked at points named in (1), (2) and (4) below* from one consignor to one consignee in one vehicle, and have a prior or subsequent movement in interstate or foreign commerce, except shipments because of size or weight require special equipment and shipments weighing in excess of 6,000 pounds. (1) Between Houston, Barber's Cut, Galveston, Corpus Christi, Port Lavaca, Orange, Brownsville, Port Arthur, Beaumont, Freeport, Port Neches and Texas City, TX; (2) between TX points named in (1) above, on the one hand, and, on the other, Lake Charles, Baton Rouge and New Orleans, LA; Gulfport, Biloxi, Pascagoula, and Greenville, MS; Mobile, AL; Pensacola, Panama City, St. Petersburg, Tampa, Ft. Myers, Ft. Lauderdale and Key West, FL; (3) between Albert Whitted Airport, St. Petersburg, FL, Bates Field, Mobile, AL, Clearwater Airport, St. Petersburg, FL, Corpus Christi International Airport, Corpus Christi, TX, Executive Airport, Ft. Lauderdale, FL, Ferguson Regional Airport, Pensacola, FL, Greenville Municipal Airport, Greenville, MS, Gulfport-Biloxi Municipal Airport, Gulfport-Biloxi, MS, Hollywood International Airport, Ft. Lauderdale, FL, Houston Intercontinental Airport, Houston, TX, Jefferson County Municipal Airport, Beaumont, TX, Key West International Airport, Key West, FL, Lake Charles Municipal Airport, Lake Charles, LA, Moisant Airport, Metairie, LA, Page Field, Ft. Myers, FL, Peter O. Knight Airport, Tampa, FL, Rio Grande Valley Airport, Brownsville, TX, Ryan Airport, Baton Rouge, LA, Scholes Field, Galveston, TX, Tampa International Airport, Tampa, FL, Vandenberg Airport, Tampa, FL, on the one hand, and, on the other points named in (1) and (2) above; (4) between points named in (1) and (2) above on the one hand, and, on the other, Miami, West Palm Beach, Ft. Pierce, Daytona Beach, St. Augustine, FL, Brunswick and Savannah, GA; Charleston, SC; Wilmington and New Bern, NC; Norfolk, Hampton, Cape Charles, VA; Wilmington, DE; Atlantic City, NJ; New York, NY; New London, CO; New Bedford and Boston, MA; (5) between points named in (3) above and additional points, namely: Miami International Airport, Miami, FL; Palm Beach International Airport, West Palm Beach, FL; Harry W. Nelson Airport, Ft. Pierce, FL; Daytona Beach Regional Airport, Daytona Beach, FL; St. Augustine Municipal Airport, St. Augustine, FL; Golden Isles Municipal Airport and Malcolm McKinnon Airport, Brunswick, GA; Savannah Municipal Airport, Savannah, GA; Charleston Municipal Airport and Johns Island Airport, Charleston, SC; New Hanover County Airport, Wilmington, NC; Simmons Nott Airport, New Bern, NC; Norfolk International Airport, Norfolk, VA; Hampton Municipal Airport, Hampton, VA; Cape Charles Municipal Airport, Cape Charles, VA; Greater Wilmington Airport, Wilmington, DE; Bader Rield, Atlantic City, NJ; John F. Kennedy and La Guardia Airports, New York, NY; Trumbull Airport, New London, CO; Waterford Municipal Airport, New London, CO; Theodore Francis Green State Airport, Providence, RI; New Bedford Municipal Airport, New Bedford, MA; General Edward Lawrence Airport and Logan International Airport, Boston, MA; Portsmouth Municipal Airport, NH; Portland International Jetport, Portland, ME, on the one hand, and on the other, points in TX, LA and MS named in (1) and (2) above. Ship's payrolls, including U.S. and foreign currency papers and documents necessary for the operation of such ships and vessels within the geographical scope in (1) and (2) above, restricted to such shipments having a prior or subsequent movement in interstate or foreign commerce.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Houston, TX.

No. MC 143031 (Sub-No. 4)F, filed February 10, 1978. Applicant: LLOYD PAUL MURPHY, JAMES EDWARD MURPHY, TIMOTHY PAUL MURPHY, AND EDWARD STEWART MURPHY d.b.a. MURPHY & SONS, Spring City, TN. Applicant's representative: Stan Guthrie, Suite 100, Maclellan Building, Chattanooga, TN 37402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *new furniture, furniture parts, crated and uncrated, materials and supplies to be used by La-Z-Boy Chair Company in manufacturing new furniture, (except commodities in bulk)*, (1) from the plantsites and storage facilities of La-Z-Boy Chair Co. at or near Dayton, TN to points in IA, LA, MD, MN, NY, NJ, PA, WV and WI. (2) from suppliers of La-Z-Boy Chair Co. in PA to the plantsites and facilities of La-Z-Boy Chair Co. at or near Dayton, TN. Under continuing contract or contracts with La-Z-Boy Chair Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chattanooga, Knoxville, or Nashville, TN.

No. MC 143059 (Sub-No. 12)F, filed February 3, 1978. Applicant: MERCER TRANSPORTATION CO., a corporation, 12th and Main Streets, P.O. Box 11129, Louisville, KY, 40211. Applicant's representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, TX, 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic, plastic articles, plastic pipe, tubing, fittings, connections* and *materials, supplies* and *accessories*, used in the manufacture and installation thereof (except in bulk, in tank vehicles), between the facilities utilized by Robintech Inc., at or near Weatherford, TX, on the one hand, and, on the other, points in the United States (except AK and HI); restricted to traffic originating at, or destined to, the facilities utilized by Robintech Inc., at or near Weatherford, TX.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Dallas, TX or Washington, DC.

No. MC 143110 (Sub-No. 2F), filed February 2, 1978. Applicant: K&B EXPRESS, INC., P.O. Box 841, Union, NJ 07083. Applicant's representative: Stuart R. Mandel, 315 South Beverely Drive, Ste. 315, Beverely Hills, CA 90212. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *chemicals*, (except in bulk) as follows: (1) From Valdosta and Albany, GA; Clarksdale, MS; West Helena, AR; Memphis and Millington, TN; Houston and Lubbock, TX; and St. Joseph, MO, to points in AL, AZ, AR, CA, CO, FL, GA, ID, IA, IL, IN, KS, MD, MI, MO, MS, MI, MT, NE, NV, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, and WI, and (2) from New York, NY, and Baltimore, MD to points in AL, AZ, AR, CA, CO, FL, GA, ID, IA, IL, IN, KS, LA, MD, MI, MO, MS, MN, MT, NE, NV, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, and (3) from Farmer City, IL and Council Bluffs, IA to points in AZ, CA, CO, IL, IN, IA, KS, MI, MN, MO, MT, NE, NV, ND, OH, OR, SD, UT, WA, WI, and WY, under a continuing contract, or contracts in (1) through (3) above, with Aceto Agricultural Chemicals Corp.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York, NY.

No. MC 143436 (Sub-No. 8), filed January 12, 1978. Applicant: CONTROLLED TEMPERATURE TRANSIT, INC., 9049 Stonegate Road, Indianapolis, IN 46227. Applicant's representative: Stephen M. Gentry, 1500 Main Street, Speedway, IN 46224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk) in vehicles equipped with mechanical refrigeration from the plantsite and storage facilities of Nestle Co., located at or near Columbus, OH, to points in IN.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Indianapolis, IN or Columbus, OH.

No. MC 143546 (Sub-No. 1F), filed February 2, 1978. Applicant: ATLANTIC MARKETING COOPERATIVE ASSOCIATION, 39494 Clarkson Drive, Kingsburg, CA 93631. Applicant's representative: John E. Fishel (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dairy and food products* (transported in tank vehicles), from the Fisher Cheese Plant and storage facilities at Wapakoneta, OH, to all points in CA, NV, AZ, CO, OR, WA and UT under a continuing contract with the Fisher Cheese Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Cincinnati, OH or Los Angeles, CA.

No. MC 143563 (Sub-No. 2), filed January 5, 1978. Applicant: R. C. MOORE, INC., Box 346, Waldoboro, ME 04572. Applicant's representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street NW., Washington, DC, 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wood and plastic products, toothpick dispensers and sporting goods and accessories*, from Wilton and Strong, ME, to points in the United States (except AK, HI, ME, NH, and VT) and, (2) *Materials and supplies* used in the manufacture and distribution of the aforementioned commodities (except commodities in bulk), from points in MA, CT, RI, NY, NJ, and VA to Wilton and Strong, ME.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Portland, ME. Applicant holds motor contract carrier authority in No. MC 140572 (Sub-No. 1), therefore, dual operations may be involved.

No. MC 143656 (Sub-No. 2F), filed February 2, 1978. Applicant: GOLD LEAF TRUCKING CO., 2927 Retnag Road, Petersburg, VA 23803. Applicant's representative: William H. Robinson, Jr., 1400 Ross Building, Richmond, VA 23219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber* from Wakefield and McKenney, VA to points in VA, NC, OH, WV, PA, MD, MA, NH, NJ, KY, TN, NY, CT, DE, RI, DC, ME, and VT, under a continuing contract, or contracts, with Continental Can Co., Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Richmond, VA.

No. MC 143797 (Sub-No. 3F), filed February 2, 1978. Applicant: WALKER'S TRUCK CONTRACTORS, INC., P.O. Box 6173, Knoxville, TN 37914. Applicant's representative: George W. Clapp, 109 Hartsville Street, P.O. Box 836, Taylors, SC 29687. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crushed olivine stone*, in bulk, in dump vehicles, from points in Avery, Jackson, Mitchell, and Yancey Counties, NC, to points in AL, GA, IL, IN, KY, LA, MI, MS, NJ, NY, OH, PA, SC, TN, VA, and WV.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held in Knoxville, TN, or Chicago, IL.

No. MC 143959 (Sub-No. 1), filed January 30, 1978. Applicant: S & S TRANSFER & STORAGE, INC., d.b.a. ALL PRO DISTRIBUTION, 3501 East 11th Avenue, Hialeah, FL 33013. Applicant's representative: John P. Bond, 2766 Douglas Road, Miami, FL 33133. Applicant seeks authority to engage in operation, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting: *general commodities* (except commodities in bulk, classes A and B explosives; household goods, livestock, commodities requiring special handling and special equipment and commodities requiring refrigeration,) between points in Miami, FL and its commercial zone. Restricted to traffic having a prior or subsequent movement by water.

NOTE.—If a hearing is deemed necessary the applicant requests it be held at Miami, FL.

No. MC 143965 (Sub-No. 2), filed January 30, 1978. Applicant: MISTY ISLAND TRANSPORT LTD., P.O. Box 53, Seal Cove, Grand Mana, NB, Canada EOG 3BO. Applicant's representative: Peter L. Murray, 30 Exchange Street, Portland, ME 04101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: 1. *Salted or processed fish and fish products and salted or processed fish and fish products in mixed loads with exempt commodities* from points of entry on the boundary line between the United States and Canada at Calais and Houlton, ME to points in ME, MA, RI, and NY, restricted to traffic originating on the Island of Grand Mana, NB. 2. Such commodities as are dealt in by retail and wholesale marine hardware stores and such commodities as are dealt in by retail and wholesale marine hardware stores in mixed loads with exempt commodities from points in NY, CT, RI, MA, and ME, to points of entry on the boundary line between the United States and Canada at Calais and Houlton, ME, restricted to traffic destined for the island of Grand Mana, NB.

NOTE.—If a hearing is deemed necessary the applicant requests it be held at either Portland, ME or Boston, MA.

No. MC 144109 (Correction), filed December 14, 1977, published in the FEDERAL REGISTER issue of February 9, 1978, as MC 144109 (Sub-No. 1) and republished as corrected this issue "MC-144109," no subs thereunder. Applicant: FINE ARTS EXPRESS, INC., 20 Albion Road, Wellesley Hills, MA 02181. Applicant's representative: David M. Marshall, 101 State Street, Suite 304, Springfield, MA 01103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paintings, statues, cultural artifacts, antiques, tapestries, objects of art, and materials*

and supplies and equipment used or useful in the display or distribution of such commodities, between New York, NY; the DC, Philadelphia, PA; Baltimore, MD; Providence, RI and points in CT and MA on the one hand, and, on the other, points in the United States east of MN, IA, MO, AR and LA.

NOTE.—The purpose of this correction is to delete the sub number as incorrectly published in the FEDERAL REGISTER issue of February 9, 1978, as MC 144109 (Sub-No. 1), and republish as corrected this issue "MC-144109" with no subs thereunder. If a hearing is deemed necessary, applicant requests that it be held at Boston, MA, Hartford, CT or New York, NY.

Number 144121 (Sub-No. 1-F), Filing date February 2, 1978. Applicant: LARRY'S EXPRESS, INC., 720 Lake Street, Tomah, WI 54660. Applicant's representative: Edward Solie, Executive Building, Suite 100, 4513 Vernon Boulevard, Madison, WI 53705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Uncrated residential heating units* from Tomah, WI, to points in AR, CO, CT, DE, DC, ID, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MO, MT, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, UT, VT, TA, WV, and WY. Restriction: Restricted to traffic originating at the facilities of Energy Research and Development Corporation, at Tomah, WI, and destined to points in the States named herein.

NOTE.—Applicant holds motor contract carrier authority in MC 128860 and sub numbers thereunder; therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Madison, WI.

No. MC 144166 (Sub-No. 1-F), filed February 2, 1978. Applicant: BILL STARR TRUCKING, INC., 1716 Berry Road, Independence, MO 64057. Applicant's representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Newsprint in rolls*, from Lufkin, TX, to Independence, MO, under a continuing contract with The Independence Examiner, located at Independence, MO.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Kansas City, MO.

No. MC 144170 filed January 4, 1978. Applicant: NATIONWIDE TRUCK LINES, INC., Highway 75 South, Ennis, TX 75119. Applicant's representative: William J. Lippman, 50 South Steele Street, Suite 330 Steele Park, Denver, CO 80209. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Canned goods*, from points in CA, OR, and WI to points in AL, AR, CT, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NJ, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WV, and WA.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in San Jose or San Francisco, CA.

No. MC 144187 (Sub-No. 1), filed January 16, 1978. Applicant: FELIX TRANSFER, INC., 7453 Lochness Drive, Miami Lakes, FL 33013. Applicant's representative: John P. Bond, 2766 Douglas Road, Miami, FL 33133. Applicant seeks authority to operate as a *common carrier* over irregular routes in the transportion of: *General commodities* (except commodities in bulk, classes A and B explosives, household goods, as defined by the Commission, commodities requiring special handling and cement), between points in Dade County, FL, restricted to shipments having a prior or subsequent movement by water.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Miami, FL.

No. MC 144225, filed January 24, 1978. Applicant: JADEEL TRUCKING INC., 1350 South Pompano Parkway, Pompano Beach, FL 33601. Applicant's representative: Frank A. Crosson, 100 State Street, Boston, MA 02109. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Construction materials* (except commodities in bulk), from points in ME, NH, VT, MA, and NY, to points in the United States in and east of MN, IA, MO, AR, and LA, restricted to a transportation service performed under a continuing contract or contracts with Jadeel Lumber Industries Inc., at Pompano Beach, FL.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Boston, MA.

No. MC 144233 filed January 26, 1978. Applicant: RAJEAN, INC., Highway 64 East, Russellville, AR 72801. Applicant's representative: Charles J. Lincoln II, 1550 Tower Building, Little Rock, AR 72201. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes transporting: *Candy and confectionary, dry beverage preparations, nuts, popcorn and popcorn confections;* from the facilities of Ovaltine Products, Inc., in Villa Park, IL and Lincoln NE, to points in OR, CA, AZ, UT, NV, CO, NM, and TX.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Little Rock, AR.

No. MC 144262, filed January 31, 1978. Applicant: ROY WEAVER, R.D. No. 2, Honeybrook, PA 19344. Applicant's representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pulverized agricultural limestone* from the facilities of Martin Limestone, Inc., located in Lancaster County, PA, to points in DE, MD, NJ, and VA.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Washington, DC, or Philadelphia, PA.

No. MC 144263, filed January 30, 1978. Applicant: BASEL-KIENE, 848 South 3rd, Kent, WA 98031. Applicant's representative: Ford Basel, 15 South Grady Way, Suite 217, Renton, WA 98055. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages*, in containers other than bulk, between points in CA, on the one hand, and, on the other hand, points in WA.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Seattle, WA.

No. MC 144271, filed January 31, 1978. Applicant: LLOYD BRUBACKER, R.D. No. 2, Stevens, PA 17578. Applicant's representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pulverized agricultural limestone*, from the facilities of Martin Limestone, Inc., located in Lancaster County, PA, to points in DE, MD, NJ, and VA.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Washington, DC or Philadelphia, PA.

No. MC 144286F, filed February 3, 1978. Applicant: HUSTLER CORP., 301 West 3rd Street, Sterling, IL 61081. Applicant's representative: Paul R. Bergant, 10 South LaSalle Street, Suite 1600, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Garage and industrial doors;* (2) *hardware, parts, accessories, door operators and equipment for garage and industrial doors* (except commodities in bulk and commodities which because of size and weight require special equipment or special handling), between Atlanta, GA, on the one hand, and, on the other, points in AL, FL, MS, NC, SC, TN, and VA, under a contract or contracts with Frantz Manufacturiang Co., and its wholly owned subsidiaries.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, GA.

No. MC 144294F, filed February 1, 1978. Applicant: RODNEY ZIMMERMAN, R.D. 3, Ephrata, PA 17522. Applicant's representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pulverized agricultural limestone*, from the facilities of Martin Limestone, Inc., located in Lancaster County, PA; to points in DE, MD, NJ, and VA.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Washington, DC, or Philadelphia, PA.

No. MC 144298F, filed February 6, 1978. Applicant: MASTER TRANSPORT SERVICES, INC., 5000 Wyoming Avenue, Suite 203, Dearborn, MI 48126. Applicant's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Doors and door systems*, fully or partially assembled, including materials and supplies used in connection with the installation and distribution thereof, for Stanley Door Systems, Division of The Stanley Works, from Troy, MI, and points within its commercial zone, to points in the United States except HI but including AK, under a continuing contract or contracts with Stanley Door Systems, Division of the Stanley Works.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Lansing or Detroit, MI, or Chicago, IL.

No. MC 144301F, filed February 3, 1978. Applicant: T. M. MACHULL, 4226 W. Port au Prince, Phoenix, AZ 85023. Applicant's representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry animal and poultry feeds, feed ingredients and seed and exempt commodities when moving in the same vehicle with the above commodities*, from CO to AZ and NM, under a continuing contract or contracts with Ranch Way, Inc., Fort Collins, CO.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Phoenix, AZ.

No. MC 144304F, filed February 2, 1978. Applicant: BONDED TRANSPORTATION, INC., P.O. Box 1632, Pensacola, FL 32597. Applicant's representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Used household goods*, restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic, between points in FL.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Jacksonville or Tallahassee, FL.

PASSENGERS

No. MC 45414 (Sub-No. 3), filed January 25, 1978. Applicant: METROPOLITAN COACH SERVICE, INC., 52 Mooney Street, Cambridge, MA 02138. Applicant's representative: Arthur M. White, 281 Pleasant Street, P.O. Box 2547, Framingham, MA 01701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *passengers* and their *baggage* in special charter operations, in round-trip tours beginning and ending at points in Middlesex County, MA, and extending to Atlantic City, NJ.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Boston, MA.

Docket No. MC 58177 (Sub-No. 8), filed January 5, 1978. Applicant: SOUTHERN COACH CO., INC., 1300 East Pettigrew Street, Durham, NC 27703. Applicant's representative: Steven L. Weiman, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in special operations, in round trip, sightseeing and pleasure tours, beginning and ending at the following NC points and all points on the following NC routes and extending to points in the United States, including AK excluding HI: From Durham over NC Hwy 55 to Dunn, and return over the same route. From Holly Springs over unnumbered county road to Raleigh, and return over the same route. From Angler eastward over NC Hwy 210 to junction unnumbered county road, then over unnumbered county road northward to junction U.S. Hwy 15A, then over U.S. Hwy 15A to junction unnumbered county road south of Raleigh, then over unnumbered county road to Raleigh, and return over the same route. From Jacksonville over U.S. Hwy 17 westward to junction NC Hwy 24, then over NC Hwy 24 westward to junction NC Hwy 53, then over NC Hwy 53 to junction unnumbered county road 8 miles northeast of Elizabethtown, then over unnumbered county road around White Lake to junction NC Hwy 41 to Elizabethtown, and return over the same route. From Burgaw over U.S. Hwy 117 Wilmington, and return over the same route. From Penderlea over unnumbered county road to Burgaw, and return over the same route. From Dunn over U.S. Hwy 421 to junction NC Hwy 242, then over NC Hwy 242 to junction unnumbered county road 1 mile south of Roseboro, then over unnumbered county road to Garland, then over NC Hwy 411 to junction NC Hwy 41, then over NC Hwy 41 to Harrell's Store, then over U.S. Hwy 421 to junction unnumbered county road at a point 8 miles southeast of Harrell's Store known as Marion Gideon's Store (Penderlea Farm Road) then over unnumbered county road to Penderlea, and return over the same route. From Newton Grove over U.S. Hwy 701 to Clinton, then over U.S. Hwy 421 to junction U.S. Hwy 117, and return over the same route. Between Dunn, NC, and Newton Grove, NC, serving all intermediate points: From Dunn over NC Hwy 55 to Newton Grove, and return over the same route. Between Fuquay Springs, NC, and junction unnumbered Wake County Hwy and NC Hwy 55 at a point approximately 2½ miles south of Cairo (Five Points), NC, serving all intermediate points: From Fuquay over unnumbered Wake County Hwy to junction NC Hwy 55, and return over the same route. Between Wilmington, NC, and Southport, NC, serving all intermediate points: From Wilmington over U.S. Hwy 17 via Winnabow, NC, to Supply, NC, and then over NC Hwy 211 to Southport, and return over the same route. From Wilmington over NC Hwy 40 via Orton Plantation, to Southport, and return over the same route. From Wilmington over NC Hwy 17 to Winnabow, NC, then over NC Hwy 87 to junction NC Hwy 40, and then over NC Hwy 40 to Southport, and return over the same route. Between junction U.S. Hwy 421 and NC Hwy 210, and Wilmington, NC, serving all intermediate points: From junction U.S. Hwy 421 and NC Hwy 210 over U.S. Hwy 421 to Wilmington and return over the same route.

NOTE.—If a hearing is deemed necessary the applicant requests that it be held at either Durham or Raleigh, NC.

No. MC 110828 (Sub-No. 5), filed December 14, 1977. Applicant: RITCHEY TRANSPORTATION CO., a corporation, 210 South Monroe Street, P.O. Box 1602, Butler, PA 16001. Applicant's representative: Samuel P. Delisi, 604 Law and Finance Building, Pittsburgh, PA 15219. Authority is sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Passengers and their baggage* in the same vehicle with passengers in charter operations beginning and ending in Armstrong, Beaver, Butler, Clarion, Forest, Jefferson, Lawrence, and Venango Counties, PA, that part of Westmoreland County, PA, on and north of PA Hwy 56 beginning at the Allegheny-Westmoreland County boundary line and extending northeast to the Westmoreland-Armstrong County boundary line, and Trumbull County, OH, and extending to points in the United States, includ-

ing AK, but excluding HI, (2) *Passengers and their baggage* in the same vehicle with passengers, in special operations, in round-trip sightseeing and pleasure tours, beginning and ending at points in Beaver, Forest, Jefferson, and Venango Counties, PA, and Apollo, North Apollo, North Vandergrift, and points in the townships of Parks and Kiskiminitas, Armstrong County, PA, and extending to points in the United States, including AK, but excluding HI, (3) *Passengers and their baggage* in the same vehicle with passengers, in one-way charter operations, from points in Armstrong, Beaver, Butler, Clarion, Forest, Jefferson, Lawrence, and Venango Counties, PA, that part of Westmoreland County, PA, on and north of PA Hwy 56 beginning at the Allegheny-Westmoreland County boundary line and extending northeast to the Westmoreland-Armstrong County boundary line, and Trumbull County, OH, to points in the United States, including AK, but excluding HI, re-restricted to passengers having a subsequent movement by air to airport serving point of origin, including supplemental motor carrier service from airport to actual point of origin, (4) *Passengers and their baggage* in the same vehicle with passengers in one-way charter operations from points in the United States, including AK, but excluding HI, to points in Armstrong, Beaver, Butler, Clarion, Forest, Jefferson, Lawrence, and Venango Counties, PA, that part of Westmoreland County, PA, on and north of PA Hwy 56 beginning at the Allegheny-Westmoreland County boundary line and extending northeast to the Westmoreland-Armstrong County boundary line, and Trumbull County, OH, restricted to passengers having a prior movement by air from airport serving point of destination, including supplemental motor carrier service from actual point of destination to airport, (5) *Passengers and their baggage* in the same vehicle with passengers, in special operations, in one-way sightseeing and pleasure tours from points in Armstrong, Beaver, Butler, Clarion, Forest, Jefferson, Lawrence, and Venango Counties, PA, that part of Westmoreland County, PA, on and north of PA Hwy 56 beginning at the Allegheny-Westmoreland County boundary line and extending northeast to the Westmoreland-Armstrong County boundary line, and Trumbull County, OH, to points in the United States, including AK, but excluding HI, restricted to passengers having a subsequent movement by air to airport serving point of origin, including supplemental motor carrier service from airport to actual point of origin, (6) *Passengers and their baggage* in the same vehicle with passengers, in special operations, in one-way sightseeing and pleasure tours from points in the United States, including AK, but excluding HI, to points in Armstrong, Beaver, Butler, Clarion, Forest, Jefferson, Lawrence, and Venango Counties, PA, that part of Westmoreland County, PA, on and north of PA Hwy 56 beginning at the Allegheny-Westmoreland County boundary line and extending northeast to the Westmoreland-Armstrong County boundary line, and Trumbull County, OH, restricted to passengers having a prior movement by air from airport serving point of destination, including supplemental motor carrier service from actual point of destination to airport.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Pittsburgh or Butler, PA.

No. MC 121412 (Sub-No. 6), filed January 24, 1978. Applicant: SUBURBAN LINES, INC., 2121 West Chestnut Street, Washington, PA 16301. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in round trip chartered and special operations, beginning and ending at points in Brooke, Wetzel, Marshall, Marion and Ohio Counties, WV, Belmont, Guernsey, Jefferson, Monroe and Noble Counties, OH, and extending to points in the United States (including AK, but excluding HI).

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Pittsburgh, PA, or Washington, DC.

No. MC 141499 (Sub-No. 1), filed January 3, 1978. Applicant: ERIC ANNETT, 1821 Grove Ave., Sebring, FL 33870. Applicant's representative: Clifford M. Ables III, 457 South Commerce Ave., Sebring, FL 33870. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in charter operations, beginning and ending at points in Highlands, Hardee, DeSoto and Okeechobee Counties in FL, and extending to FL, GA, AL, MS, LA, TN, SC, NC, VA, DE, NJ, PA, NY, MD, and DC.

NOTE.—If a hearing is deemed necessary, it is requested that such hearing be held at either Sebring, FL, Avon Park, FL, or Wauchula, FL.

No. MC 143438 (Sub-No. 2), filed January 16, 1978. Applicant: DENISE, INC., d.b.a. TRAVEL TIME, 277 Newbury Street, Peabody, MA 01960. Applicant's representative: Jay M. Forgotson, 95 State Street—Suite 1010, Springfield, MA 01103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *passengers and their baggage*, in special round-trip operations beginning and ending at Auburn, Charlton, Oxford, Webster, Dudley, Southbridge, and Sturbridge, MA, and extending to the plantsite of Pratt & Whitney, Division of the United Aircraft Corp., located in East Hartford, CT.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Boston or Springfield, MA.

No. MC 144146, filed December 20, 1977. Applicant: AUTOBUS TRANS URBAIN INC., 101 Chemin St-Francois Pointe-Claire, Que. Canada. Applicant's representative: Adrien R. Paquette, 200 St. James West, Montreal, H2Y 1M1 Canada. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in round trip charter operation beginning and ending at port of entry at the United States-Canada boundary line located at points in NY, VT, NH, and ME, and extending to points in the United States (except AK and HI) from and to the following points in the Province of Quebec: Pointe Claire, Kirkland, Ste-Anne-de-Bellevue, Dollard Des Ormeaux, Dorval, Roxboro, Ile Perrot, Pincourt, Beaconsfield, Metro Cremazie.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Albany, NY or Montpelier, VT.

BROKER

No. MC 130474, filed January 27, 1978. Applicant: CONESTOGA TOURS, INC., 825 East Chestnut Street, Lancaster, PA 17602. Applicant's representative: S. Harrison Kahn, Suite 733, Investment building, Washington, DC 20005. Authority sought to engage in operation in interstate or foreign commerce as a *broker* at Lancaster, PA, to sell or offer to sell the transportation of passengers and their baggage in the same vehicle with passengers, in special and charter operations, between points in the United States, including AK and HI.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Lancaster, PA. Common control may be involved.

FINANCE APPLICATIONS

NOTICE

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, or rail carriers or motor carriers pursuant to sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply

with Special Rules 240(c) or 240(d) of the Commission's General Rules of Practice (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

No. MC-F-13510. Authority sought for merger into GRAVES TRUCK LINE, INC., 2130 South Ohio, Salina, KS, 67401, of the operating rights and properties of CAPITOL TRUCK LINES, INC., 200 West First, Topeka, KS, 66603, and for acquisition by WILLIAM H. GRAVES, 2130 South Ohio Salina, KS, 67401, LOWELL P. GRAVES, 92 Shawnee Avenue, Kansas City, KS, 66119, and DWIGHT L. GRAVES, 3402 West Harry, Wichita, KS, 67201; PLANTERS STATE BANK & TRUST CO., of Salina, KS, Trustee and Executor of the Estate of John Graves. Applicants' attorney: John E. Jandera, 641 Harrison Street, Topeka, KS, 66603. Operating rights sought to be merged: CAPITOL TRUCK LINES, INC., holds interstate authority under MC-966 and subs thereunder authorizing service over regular routes between Pittsburg, KS, and Kansas City serving intermediate and off-route points along U.S. Hwy 69 and U.S. Hwy 50; between Kansas City and Topeka, serving three intermediate points along U.S. Hwy 24; between Atchinson, KS, and Kansas City serving all intermediate points along U.S. Hwy 73; between Atchinson, KS, and St. Joseph, MO, serving no intermediate points along U.S. Hwy 49; between Leavenworth, KS, and Kansas City serving all intermediate points along U.S. Hwy 73; service to additional off-route and extend regular route in southeast Kansas, of Galesburg, Granbush, St. Paul, Parsons, Moran, Perry Dam, Hapler, Centennial Heights School, Mound Valley, Coffeyville, Caney, Independence and certain intermediate points, as more fully described in Certificate No MC-966. Vendee is authorized to operate as a common carrier in the States of AZ, AR, CA, CO, IL, IN, IA, KS, KY, LA, MN, MS, MO, MT, NE, NM, ND, OK, SD, TN, TX, UT, and WY, as more fully described in Certificate No. MC-53965.

NOTE.—Acquisition by GRAVES TRUCK LINE, INC., of control of CAPITOL TRUCK LINES, INC. approved July 28, 1975, in Docket No. MC-F-12376.

No. MC-F-13511. Authority sought for control and merger by ASSOCIATED TRUCK LINES, INC., 200 Monroe Avenue NW., 6th floor, Grand Rapids, MI 49503, of the operating rights and properties of (B) KNOX MOTOR SERVICE, INC., P.O. Box 5206, Rockford, IL 61125 and (BB) ECONOMY EXPRESS AND CARTAGE CO., 1640 West Bruce Street, Milwaukee, WI 53204, through an exchange of stock of (AMERICAN NATURAL RESOURCES for the stock of KNOX and ECONOMY), and for acquisition of control of such rights and property directly by Associated Freightways, Inc., 200 Monroe Avenue NW., 6th floor, Grand Rapids, MI 49503 and, in turn, by American Natural Resources, One Woodward Avenue, Detroit, MI 48226, through the transaction. Applicants' attorney: Roland Rice, 501 Perpetual Building, 1111 E Street NW., Washington, DC 20004. Operating rights sought to be controlled and merged: (B) Principal operating routes of KNOX MOTOR SERVICE, INC. sought to be transferred: *General commodities*, with exceptions, as a *common carrier* over regular routes, serving all intermediate points between Davenport, IA, and Milwaukee, WI, over U.S. Hwy 6, IL Hwys 2, 5, and 76 and WI Hwys 140, 15, 83, 59, and 18; between Silvis and Sterling, IL, over IL Hwy 80 and U.S. Hwy 30; between Denrock, IL, and Morrison, IL, over IL Hwy 78; between Dixon, IL, and Rockford, IL, over IL Hwys 26, 75, 2, and U.S. Hwy 51; between Freeport, IL, and Genoa, IL, over U.S. Hwy 20 and unnumbered highways; between Cherry Valley, IL, and Genoa, IL, over unnumbered highways and IL Hwy 72; between Rochelle, IL, and Elmhurst, IL, over U.S. Hwy 30 and IL Hwy 64; between Sycamore, IL and St. Charles, IL, over IL Hwy 64; between Marengo, IL, and Aurora, IL, over U.S. Hwy 20, IL Hwys 31 and 64 and the off-route point of Shabbona, IL; between Marengo, IL, and Milwaukee, WI, over IL Hwys 176, 120, 42, and WI Hwy 42; between Halfday, IL, and Zion, IL, over U.S. Hwy 45 and IL Hwys 120, 21, and 173; between Halfday, IL, and Woodstock, IL, over IL Hwy 22 and U.S. Hwys 41 and 14; between Crystal Lake, IL, and Richmond, IL, over U.S. Hwys 14 and IL Hwy 31; between Waukegan, IL and North Chicago, IL, over IL Hwy 42; between Clinton, WI, and Darien, WI, over WI, Hwy 140 and U.S. Hwy 14. *General commodities*, with exceptions, between Dixon, IL, and Peoria, IL, over IL Hwy 26, U.S. Hwys 20, 51, and 6, IL Hwys 23 and 17, and U.S. Hwys 51 and 24; between Peru, IL and Spring Valley, IL, over U.S. Hwy 6; between Chicago, IL and Dundee, Elgin, St. Charles, and Aurora, IL, over IL Hwy 72, U.S. Hwy 20, IL Hwy 64, and U.S. Hwy 34, serving all intermediate points; between Dundee, IL, and Chicago Heights, IL, over IL Hwy 31 and U.S. Hwy 30, serving all intermediate points and named off-route points. *General commodities*, with exceptions, between Beloit, WI, and Clinton, WI, over WI Hwy 15. *General commodities*, with exceptions, serving the off-route points of Caterpillar Tractor Co. at or near Mapleton, IL; Kelsey-Hayes Co., Walcott, IA; Wales, WI; Montgomery Elevator Co., near Green Rock, IL; Havanna, IL; Archer Daniels Midland Co. at or near Mapleton, IL; Olin Mathieson Chemical Corp., near Joliet, IL; Caterpillar Tractor Co., near Mossville, IL; Olin Mathieson Chemical Corp., near Mapleton, IL; Morton, IL. *Bakery goods and confectionery*, serving the plantsite of Green River Ordnance Plant near U.S. Hwy 30 and IL Hwy 26. *Gas tanks and guards and fenders*, from Menomonee Falls, WI to Rock Island, East Moline, and Elgin, IL. Various alternate routes are authorized for operating convenience only between the above points. *Iron and steel articles*, over irregular routes, from the plantsite of Jones Laughlin Steel Corp., in Putnam County, IL, to points in WI with *materials, equipment and supplies*, on return. *General commodities*, with exceptions, over irregular routes, between Peoria and El Paso, IL, and points in an area bounded by Havanna and Brighton, IL on the west, Brighton, Vandalia and Stewardson, IL on the south, Stewardson, LaPlace, Decatur, and Heyworth, IL on the east, and Heyworth and Havanna, IL on the north. (BB) Route sought to be transferred from ECONOMY EXPRESS AND CARTAGE CO.: *General commodities*, with exceptions, as a *common carrier* over irregular routes, between all points in Milwaukee County, WI, all points in the towns of Brookfield, New Berlin, and Menomonee, Waukesha County, WI and all points in the town of Mequon, Ozaukee County, WI. Vendee is authorized to operate as a *common carrier* in IL, IN, KY, MI, OH, PA, WV, and WI. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-13516. Authority sought for control and merger by WILSON FREIGHT CO. 11353 Reed Hartman Hwy, Cincinnati, OH 45241, of STRICKLAND TRANSPORTATION CO., INC., 3011 Gulden Lane, Dallas, TX 75222, and for acquisition by David M. Gantz, Joseph M. Gantz, S. David Shor and John E. Shore, 11353 Reed Hartman Hwy, Cincinnati, OH 45241, of control of STRICKLAND TRANSPORTATION CO., INC., through the acquisition. Applicants' attorneys: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603; Milton H. Bortz, 11353 Reed Hartman Hwy, Cincinnati, OH 45241, and Leroy Hallman, 4555 First National Bank Bldg., Dallas, TX 75202. Operating rights sought to be controlled and merged: General commodities, with the usual exceptions, and specified commodities, as a common carrier, over regular and irregular routes, from, to and between specified points and areas in the States of AL, AR, CT, DE, IL, IN, KY, LA, MD, MA, MI, MS, MO, NJ, NY, OH, OK, PA, RI, TN, TX, VA, WV, WI, and DC, with certain

restrictions, serving various intermediate and off-route points, and over alternate routes for operating convenience only, as more specifically described in Docket No..MC 59680 and sub numbers thereunder. This notice does not purport to be a complete description of all of the operating rights of the carrier involved. The foregoing summary is believed to be sufficient for purposes of public notice regarding the nature and extent of this carrier's operating rights without stating, in full the entirety thereof. Wilson Freight Co. is authorized to operate as a common carrier in AR, CO, DE, GA, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MO, NH, NJ, NY, NC, OH, OK, PA, RI, TN, VT, VA, WV, WI and DC. Application has been filed for temporary authority under section 210a(b).

No. MC-F-13517. Authority sought for purchase by ROBERT HEATH TRUCKING, INC., 2909 Ave. C, P.O. Box 2501, Lubbock, TX 79408, of a portion of the operating rights of BERRY TRANSPORTATION, INC., P.O. Box 2147, Longview, TX 75601, and for acquisition by Robert Heath, of Lubbock, TX 79408, of control of such rights through the transaction. Applicants' representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Operating rights sought to be purchased: *Paper and paper articles* (except in bulk in tank vehicles) from Monroe and West Monroe, LA to points in TX on and west of a line beginning at the TX-OK State line and extending south along U.S. Hwy 281 to its junction with U.S. Hwy 86 to Port Lavace, TX (except San Antonio). Vendee is authorized to operate as a common carrier in WA, ID, MT, OR, CA, NV, UT, AZ, NM, CO, KS, OK, TX, AR, LA, MS, AL, TN, FL, GA, SC, NC, VA, WV, MD, NJ, PA, NY, CT, RI, MA, VT, NH, ME, and DC. Common control may be involved. Application has been filed for temporary authority under Section 210a(b).

MOTOR CARRIER OF PASSENGERS

No. MC-F-13520. Authority sought for purchase by the KELLEY TRANSIT CO., INC., 30 Railroad Square, Torrington, CT 06790, of the operating rights of JOHN L. CANNADA, d.b.a. CANNADA BUS SERVICE, 220 Capen Street (Rear), Hartford, CT 06103, and for acquisition by the E. J. KELLEY CO., INC., 30 Railroad Square, Torrington, CT 06790, of control of such rights through the purchase. Applicants' representative: Thomas A. Kelley, Jr., 30 Railroad Square, Torrington, CT 06790. Operating rights sought to be transferred: *Passengers and their baggage*, in charter operations, as a *common carrier* over irregular routes beginning and ending at Hartford, CT, and extending to points in MA, NY, NJ, PA, and DC. Vendee is authorized to operate as a common carrier in NY, CT, VT, MA, and RI. Application has been filed for temporary authority under section 210a(b).

No. MC-F-13521. Authority sought for purchase by STAR BULK TRANSPORT, INC., 821 North Front Street, New Ulm, MN 56073, of a portion of the operating rights of MIDWEST TRANSPORTATION CO., 2802 Avenue B, Council Bluffs, IA 51501, and for acquisition by A. L. SPAETH, 821 North Front Street, New Ulm, MN 56073, of control of such rights through the purchase. Applicants' attorneys: Scott E. Daniel, P.O. Box 82028, Lincoln, NB 68501, and Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. Operating rights sought to be transferred: *Dairy products*, as defined in part B of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209, as a *common carrier* over irregular routes from points in IA, Plainview, NE, New Ulm, MN, and Freeman and Parkston, SD, to points in CT, DE, IL, IN, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and DC, with restrictions, Vendee is authorized to operate as a *contract carrier* in MN, IL, WI, NJ, PA, NY, OH, CT, RI, MA, MD, FL, MO, AR, GA, IN, KS, KY, MI, TN, TX, VA, WV, NE, IA, NC, SC, and CO. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC 128772 (Sub-No. 14F), is a directly related matter.

OPERATING RIGHTS APPLICATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS

NOTICE

The following operating rights application(s) are filed in connection with pending finance applications under section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under section 212(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the authorities must be filed with the Commission within 30 days of this notice. All pleadings and documents must clearly specify the "F" suffix where the docket is so identified in this notice. Protests shall comply with Special Rule 247(e) of the Commission's General Rules of Practice (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative, or applicant if no representative is named.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 89700 (Sub-No. 1F), filed February 21, 1978. Applicant: PLANES MOVING & STORAGE, INC., 1714 Cleneay Avenue, Cincinnati, OH 45212. Applicant's representative: James J. Sheridan, P.O. Box 32096, Cincinnati, OH 45232. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods* as defined by the Commission, between points in Hamilton County, OH, and Campbell, Kenton and Boone Counties, KY, on the one hand, and, on the other, points in IL, IN, KY, MI, MO, OH, TN, AND WV.

NOTE.—This is a gateway elimination application, and is a matter directly related to MC-FC-77203, published in the FEDERAL REGISTER issue of November 14, 1977. If a hearing is deemed necessary, applicant requests it be held at Cincinnati or Columbus, OH.

No. MC 128772 (Sub-No. 14F), filed February 22, 1978. Applicant: STAR BULK TRANSPORT, INC., 821 North Front Street, New Ulm, Minnesota 56073. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minnesota 55402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products*, as defined in part B of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209, from points in IA, Plainveiw, NE, New Ulm, NM, and Freeman and Parkston, SD, to points in CT, DE, IL, IN, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and the District of Columbia, restricted to the transportation of traffic originating at the facilities of Associated Milk Producers, Inc., under a continuing contract or contracts with Associated Milk Producers, Inc.

NOTE.—The purpose of this application is to convert common carrier authority to contract carrier authority, and is a matter directly related to a section 5 proceeding in MC-F-13521, published in a previous section of this FEDERAL REGISTER issue. If a hearing is deemed necessary, applicant requests it be held at Minneapolis-St. Paul, MN.

MOTOR CARRIER INTRASTATE APPLICATION(S)

NOTICE

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's General Rules of Practice (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

No. M-10852, filed January 27, 1978. Applicant: ARKANSAS EXPRESS, INC., 1612 East 31st Street, North Little Rock, AR. Applicant's representative: James M. Duckett, 1021 Pyramid Life Building, Little Rock, AR 72201. Certificate of Public Convenience and Necessity sought to operate a freight service, over regular routes, as follows: Transportation of: *General commodities* (except Classes A and B explosives, household goods, commodities in bulk and commodities requiring special equipment). (1) Between Pine Bluff, AR, and the AR-LA State line, from Pine Bluff over U.S. Hwy 65 to the intersection of AR Hwy 81, then over AR Hwy 81 to the AR-LA State line, and return over the same route, serving all intermediate points. (2) Between Warren, AR, and the AR-LA State line, from Warren over AR Hwy 15 to the intersection of AR Hwy 275, then over AR Hwy 275 to the AR-LA State line, and return over the same route, serving all intermediate points. (3) Between the intersection of U.S. Hwy 65 and U.S. Hwy 165 to the AR-LA State line, from the intersection of U.S. Hwy 65 and U.S. Hwy 165 over U.S. Hwy 165 to the AR-LA State line, from the intersection of U.S. Hwy 65 and U.S. Hwy 165 over U.S. Hwy 165 to the AR-LA State line, and return over the same route, serving all intermediate points. (4) Between Strong, AR, and the Mississippi River, from Strong over U.S. Hwy 82 to the Mississippi River, and return over the same route, serving all intermediate points. (5) Between Hamburg, AR and the Mississippi River, from Hamburg over AR Hwy 8 to the Mississippi River, and return over the same route, serving all intermediate points. (6) Between Wilmot, AR, and Eudora, AR, from Wilmot over AR Hwy 52 to the intersection of AR Hwy 159, then over AR Hwy 159 to Eudora, and return over the same route, serving all intermediate points. (7) Between Eudora, AR, and the AR-LA State line, from Eudora over AR Hwy 159 to the AR-LA State line, and return over the same route, serving all intermediate points. (8) Between Monticello, AR, and McGehee, AR, from Monticello over AR Hwy 4 to McGehee, and return over the same route, serving all intermediate points. (9) Between Jermone, AR, and the Mississippi River, from Jerome over AR Hwy 144 to the Mississippi River, and return over the same route, serving all intermediate points. (10) Between Pine Bluff, AR, and Marianna, AR, over U.S. Hwy 79, for operating convenience only, serving no intermediate points. Applicant proposes to tack requested routes at all common points of joinder, and with existing authority. Intrastate, interstate, and foreign commerce authority sought. Hearing: Date, Thursday, March 22, 1978, time, at 9:30 a.m. at the Arkansas Transportation Commission, Hearing Room, Justice Building, Little Rock, AR. Requests for procedural information should be addressed to Arkansas Transportation Commission, Justice Building, Little Rock, AR 72201, and should not be directed to the Interstate Commerce Commission.

No. X-11441, filed December 12, 1977. Applicant: BRUCE A. HUGHES, P.O. Box 99, St. Albans, ME 04971. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of: *General commodities* (except household goods, Classes A and B explosives and livestock, between the points in Group A and the points in Groups B and C, Group A: Bangor, Brewer, Hampden, ME. Group B: Newport, Pittsfield, Cannan, Palmyra, Hartland, St. Albans, Ripley, Cambridge, Willington, Harmony, Athens, Cornville, East Madison, Solon, Embden, Moscow, Bingham, Mayfield, Brighton, and Kingsbury, ME. Group C: Skowhegan, Norridgwock, Madison, Anson, North Anson, New Portland, North New Portland, Kingfield, Carrabassett, Stratton, Eustis, Bigelow, Jerusalem, and Coburn Gore, ME. Applicant will pick up in the A.M. at the points in Group A and deliver the same afternoon in Groups B and C. Applicant wishes to interline interstate and foreign commerce at the points in Group A destined for points in Groups B and C. Applicant will travel over the following routes: 95-2-201-16-146-27-151-150-152-154-23. Interstate, intrastate and foreign commerce authority sought. Hearing: Date, time, and place not yet fixed. Requests for procedural information should be addressed to Maine Public Utilities Commission, State House Annex, Capitol Shopping Center, Augusta, ME 04330, and should not be directed to the Interstate Commerce Commission.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-6091 Filed 3-8-78; 8:45 am]

[1505-01]

[Volume No. 64]

Petitions, Applications, Finance Matters (Including Temporary Authorities), Railroad Abandonments, Alternate Route Deviations, and Intrastate Applications

Correction

In FR Doc. 78-4823, appearing at page 7766 in the issue of Friday, February 24, 1978, make the following changes:

1. On page 7777, second column, the first line of the first complete paragraph should read, "No. MC 117068 (Sub-No. 91)F, filed".

2. On page 7793, second column, the first line of the last complete paragraph (above the last note) should read, "No. MC 123387 (Sub-N . 12)F, filed".

[7035-01]

[Notice No. 605]

ASSIGNMENT OF HEARINGS

MARCH 6, 1978.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 99581 (Sub 4), Vaca Valley Bus Lines, Inc., is now assigned for hearing April 10, 1978 (1 week), at San Francisco, CA, at a location to be later designated.

MC 124211 (Sub 296), Hilt Truck Line, Inc., is now assigned for hearing April 18, 1978, at 9:30 a.m., local time, at the offices of the Interstate Commerce Commission, Washington, DC.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-6217 Filed 3-8-78; 8:45 am]

[7035-01]

[Notice No. 606]

ASSIGNMENT OF HEARINGS

MARCH 6, 1978.

Cases assigned for hearing, postponement, cancellation, or oral argu-

ment appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected n the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

CORRECTION

No. MC-C-9887, Robert L. Allen, d.b.a. R. Allen Transport v. Jay Brian Transport Corp., et al., now assigned March 20, 1978, at Boston, MA, will be held in Room 501, Fifth Floor, 150 Causeway Street, instead of March 30, 1978.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-6218 Filed 3-8-78; 8:45 am]

[7035-01]

[ICC Order No. 6, Amdt. 3; Rev. S.O. No. 1252]

BALTIMORE & OHIO RAILROAD CO.

Rerouting or Diversion of Traffic

Upon further consideration of ICC Order No. 6 (the Baltimore & Ohio Railroad Co.) and good cause appearing therefor:

It is ordered, That ICC Order No. 6 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., August 31, 1978, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., February 28, 1978, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., February 27, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-6219 Filed 3-8-78; 8:45 am]

[7035-01]

[Exception No. 1 to S.O. No. 1301]

BURLINGTON NORTHERN, INC.

Car Service Rules

Pursuant to the authority vested in me by section (a)(6) of Service Order No. 1301, the Burlington Northern, Inc., is authorized to use 40-foot narrow-door plain boxcars owned by any railroad which has made its cars exempt from car service rules 1 and 2 and which are identified in Interstate Commerce Commission exemptions Nos. 8, 12, and 129, or successive issues thereof.

Effective: February 21, 1978.

Issued at Washington, D.C., February 21, 1978.

JOEL E. BURNS,
Director,
Bureau of Operations.

[FR Doc. 78-6221 Filed 3-8-78; 8:45 am]

[7035-01]

[Exception No. 2 to S.O. No. 1301]

BURLINGTON NORTHERN, INC.

Car Service Rules

Pursuant to the authority vested in me by section (a)(6) of Service Order No. 1301, the Burlington Northern, Inc., is authorized to use 40-foot narrow-door boxcars owned by other railroads which are located in the States of Colorado, Wyoming, and Montana, or west thereof, for loading to any point on its line between Kansas City, Mo.; Omaha, Nebr.; Sioux City, Iowa; Minneapolis, Minn.; and Duluth, Minn.; or east thereof, regardless of the provisions of section (a)(7) of Service Order No. 1301.

Such cars must be used in compliance with car service rules 1 and 2 unless made exempt from these rules by the car owner.

This exception shall not apply to cars subject to Interstate Commerce Commission or Association of American Railroads' orders requiring return of cars to owners.

Effective: February 24, 1978.

Issued at Washington, D.C., February 24, 1978.

JOEL E. BURNS,
Director,
Bureau of Operations.

[FR Doc. 78-6223 Filed 3-8-78; 8:45 am]

[7035-01]

[Rule 19, Ex Parte No. 241; Exemption No. 143, Amdt. 1]

EXEMPTION UNDER PROVISION OF MANDATORY CAR SERVICE RULES

Upon further consideration of exemption No. 143 issued January 26, 1978.

It is ordered, That, under authority vested in me by car service rule 19, exemption No. 143 to the mandatory car service rules ordered in Ex Parte No. 241 is amended to expire March 31, 1978.

This amendment shall become effective February 28, 1978.

Issued at Washington, D.C., February 27, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-6222 Filed 3-8-78; 8:45 am]

[7035-01]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

FEBRUARY 24, 1978.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination* Rules (49 CFR Part 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before March 20, 1978. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

No. MC 78228 (Sub-No. E216) (correction), filed September 25, 1975, published in the FEDERAL REGISTER issue of January 11, 1978, and republished, as corrected, this issue. Applicant: J. MILLER EXPRESS, 152 Wabash Street, Pittsburgh, PA 15220. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, PA 15219. *Alloys, ores, and silicon metals*, in dump vehicle (except scrap metal), from points in that part of PA bounded by a line beginning at Bradford, PA, then along U.S. Hwy 219 to the PA-MD State line, then along PA-MD State line to the PA-WV State line, then along the PA-WV State line to the junction of U.S. Hwy 19, then along U.S. Hwy 19 to junction U.S. Hwy 40, then along U.S. Hwy 40 to Washington, PA, then along U.S. Hwy 19 to Pittsburgh, PA, then along PA Hwy 8 to Butler, PA, then along PA Hwy 68 to Clarion, PA, then along

Interstate Hwy 80 to junction PA Hwy 66, then along PA Hwy 66 to junction U.S. Hwy 219, then along U.S. Hwy 219 to the place of beginning to points in IN on or west of a line beginning at the IN-MI State line at U.S. Hwy 31, then along U.S. Hwy 31 to Indianapolis, IN, then along IN Hwy 37 to the IN-KY State line. The purpose of this filing is to eliminate the gateway of Braddock, PA.

NOTE.—The purpose of this correction is to correct the destination territory.

No. MC 78228 (Sub-No. E237) (correction), filed September 25, 1975, published in the FEDERAL REGISTER issue of January 20, 1978, and republished, as corrected, this issue. Applicant: J. MILLER EXPRESS, 152 Wabash Street, Pittsburgh, PA 15220. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, PA 15219. *Alloys, ores, and silicon metals*, from points in WV on or north of U.S. Hwy 50 to points in PA on or north and east of a line beginning at the PA-NY State line, then along U.S. Hwy 219 to junction PA Hwy 59, then along PA Hwy 59 to junction U.S. Hwy 6, then along U.S. Hwy 6 to Wellsboro, PA, then along PA Hwy 287, to junction U.S. Hwy 220, then along U.S. Hwy 220 to junction PA Hwy 442, then along PA Hwy 442 to junction PA Hwy 42, then along PA Hwy 42 to Ashland, PA, then along PA Hwy 54 to junction U.S. Hwy 209, then along U.S. Hwy 209 to junction Interstate Hwy 80, then along Interstate Hwy 80 to the PA-NY State line. The purpose of this filing is to eliminate the gateway of Braddock, PA.

NOTE.—The purpose of this correction is to correct the territorial description.

No. MC 78228 (Sub-No. E244) (correction), filed September 25, 1975, published in the FEDERAL REGISTER issue of January 20, 1978, and republished, as corrected, this issue. Applicant: J. MILLER EXPRESS, 152 Wabash Street, Pittsburgh, PA 15220. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, PA 15219. *Ferro alloys and silicon scrap metals*, in dump vehicles, from points in that part of OH south or west of a line beginning at Lake Erie, then along U.S. Hwy 322 to the PA-OH State line, then along the PA-OH State line to the OH-WV State line, then along the OH-WV State line to the OH-KY State line to points in VT. The purpose of this filing is to eliminate the gateway of East Liverpool, OH.

NOTE.—The purpose of this correction is to clarify the destination area.

No. MC 78228 (Sub-No. E257) (correction), filed September 25, 1975, published in the FEDERAL REGISTER issue of January 20, 1978, and republished, as corrected, this issue. Applicant: J. MILLER EXPRESS, 152 Wabash Street, Pittsburgh, PA 15220. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, PA 15219. *Alloys, ores, and silicon metals*, in dump vehicles, from points in ME to points in that part of KY north or west of a line beginning at the KY-OH State line, then along U.S. Hwy 23 to junction U.S. Hwy 460, then along U.S. Hwy 460 to junction KY Hwy 30, then along KY Hwy 30 to junction Interstate Hwy 75, then along Interstate Hwy 75 to the KY-TN State line. The purpose of this filing is to eliminate the gateway of Braddock, PA, and Niagara Falls, NY.

NOTE.—The purpose of this correction is to correct the territorial description.

No. MC 83539 (Sub-No. E353), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III, (same as above). *Commodities*, the transportation of which, because of their size or weight, requires the use of special equipment, between points in the State of AK on the one hand and, on the other, points in the State of LA, restricted against service in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. The purpose of this filing is to eliminate the gateways of points in IL, IN, KY, AR, and MS.

No. MC 83539 (Sub-No. E359), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III, (same as above). *Commodities*, the transportation of which, because of their size or weight, requires the use of special equipment, between points in the State of CO on the one hand and, on the other, points in the State of IN, restricted againt (1) service in the stringing or picking up of pipe in connection with oil or gas pipelines, and (2) service in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. The purpose of this filing is to eliminate the gateways of Wichita, KS, and points in IL, IN, and MO.

No. MC 83539 (Sub-No. E360), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III, (same as above). *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment, between points in the State of CO on the one hand and, on the other, points in the State of OH, restricted against (1) service in the stringing or picking up of pipe in connection with oil or gas pipelines, and (2) service in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. The purpose of this filing is to eliminate the gateways of Wichita, KS, and points in IL, IN, and MO.

No. MC 83539 (Sub-No. E361), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III, (same as above). *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment, between points in the State of CO on the one hand and, on the other, points in the State of RI, restricted against (1) service in the stringing or picking up of pipe in connection with oil or gas pipelines, and (2) service in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. The purpose of this filing is to eliminate the gateways of Wichita, KS, Philadelphia, PA, and points in IL, IN, and MO.

No. MC 83539 (Sub-No. E362), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III, (same as above). *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment, between points in the State of CO on the one hand and, on the other, points in the State of VA, restricted against (1) service in the stringing or picking up of pipe in connection with oil or gas pipelines, and (2) service in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. The purpose of this filing is to eliminate the (a) gateways of Wichita, KS, and points in IL, IN, and MO or (b) the gateways of points in SD, IA, IL, and IN.

No. MC 83539 (Sub-No. E363), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III, (same as above). *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment, between points in the State of CT on the one hand and, on the other, points in the State of FL in and west of Okaloosa County. The purpose of this filing is to eliminate the gateways of Nashville, TN, Philadelphia, PA, and points in KY.

No. MC 83539 (Sub-No. E364), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III, (same as above). *Commodities*, the transportation of which, because of

their size or weight, require the use of special equipment, between points in the State of CT on the one hand and, on the other, points in the State of MI. The purpose of this filing is to eliminate the gateway of Philadelphia, PA.

No. MC 83539 (Sub-No. E365), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III, (same as above). *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment, between points in the State of CT on the one hand and, on the other, points in NJ in and south of Camden and Atlantic Counties. The purpose of this filing is to eliminate the gateway of Philadelphia, PA.

No. MC 83539 (Sub-No. E449), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: Douglas Anderson, (same as above). *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment, between points in MA on the one hand and, on the other, those points in NJ in and south of Gloucester, Cumberland, and Cape May counties.

The purpose of this filing is to eliminate the gateway of Philadelphia, PA.

No. MC 83539 (Sub-No. E471), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: Douglas Anderson, (same as above). *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment, and *related machinery, parts*, and *related contractor's materials and supplies* when moving in connection with such commodities, between points in NJ on the one hand and, on the other, points in OH. The purpose of this filing is to eliminate the gateway of points in PA.

No. MC 83539 (Sub-No. E472), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: Douglas Anderson, (same as above). *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment, and related machinery, parts, and related contractor's materials, and supplies when moving in connection with such commodities, between points in NJ on the one hand and, on the other, points in WV. The purpose of this filing is to eliminate the gateway of points in PA.

No. MC 83539 (Sub-No. E473), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: Douglas Anderson, (same as above). *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment, and parts of such commodities when moving in connection with such commodities, between points in NM on the one hand and, on the other, points in OH. Restriction: No service shall be performed in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. The purpose of this filing is to eliminate the gateway of IN.

No. MC 83539 (Sub-No. E474), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: Douglas Anderson, (same as above). *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment, and *related machinery, parts, and related contractor's materials, and supplies* when moving in connection with such commodities, between points in NY on the one hand and, on the other, points in OH. The purpose of this filing is to eliminate the gateway of points in PA.

No. MC 83539 (Sub-No. E475), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: Douglas Anderson, (same as above). *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment, and *related machinery parts*, when moving in connection with such commodities, between points in NY on the one hand and, on the other, points in TN in and west of Clay, Jackson, Putnam, White, Bledsoe, Rhea, Meigs, McMinn, and Hamilton counties. The purpose of this filing is to eliminate the gateways of PA, KY, and points within a 50-mile radius of Nashville, TN.

No. MC 83539 (Sub-No. E476), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: Douglas Anderson, (same as above). *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment, and *related machinery parts, and related contractor's materials, and supplies* when moving in connection with such commodities, between points in NY on the one hand and, on the other, points in VA. The purpose of this filing is to eliminate the gateway of such points in PA.

No. MC 83539 (Sub-No. E477), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: Douglas Anderson, (same as above). *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment, and *related machinery parts, and related contractor's materials, and supplies* when moving in connection with such commodities, between points in NY on the one hand and, on the other, points in WV. The purpose of this filing is to eliminate the gateway of points in PA.

No. MC 83539 (Sub-No. E478), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: Douglas Anderson (same as above). *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment and, *related machinery, and related contractor's materials, and supplies* when moving in connection with such commodities, between points in ND on the one hand and, on the other, points in WV. Restriction: The authority granted herein is subject to the condition that carrier shall not engage in the stringing or picking up of pipe along pipelines. The purpose of this filing is to eliminate the gateway of points in OH.

No. MC 83539 (Sub-No. E479), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: Douglas Anderson (same as above). *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment, between points in ND in and west of Divide, Williams, McKenzie, Billings, Stark, Hettinger and Adams Counties, WI. Restriction: The service authorized hereinabove is subject to the following restrictions: No service shall be performed in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. No service shall be performed in the stringing or picking up of pipe in connection with oil or gas pipelines. The purpose of this filing is to eliminate the gateways of points in IL, IN, IA, and SD.

No. MC 83539 (Sub-No. E480), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: Douglas Anderson (same as above). *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment and parts of such commodities when moving in connection with such commodities, between points in OH on the one hand and, on the other, points in OK. Restriction: The service authorized above is subject to the following restriction: No service shall be performed in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. The purpose of this filing is to eliminate the gateway of points in IN.

No. MC 83539 (Sub-No. E481), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: Douglas Anderson (same as above). *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment, between points in OH on the one hand and, on the other, points in RI. The purpose of this filing is to eliminate the gateway of Philadelphia, PA.

No. MC 83539 (Sub-No. E482), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: Douglas Anderson (same as above). *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment, and parts thereof when moving in connection with such commodities, between (A) points in OH in Williams and Defiance Counties on the one hand and, on the other, points in SC in Jasper, Beaufort, Colleton, Charleston Counties, and (B) points in OH in and west of Ottawa, Sandusky, Seneca, Wyandot, Hardin, Logan, Champaign, Clark, Greene, Warren, and Hamilton Counties on the one hand and, on the one hand and, on the other, points in SC in Jasper and Beaufort Counties. Restriction: The authority granted is restricted against the transportation of aircraft and missiles, and parts thereof. The purpose of this filing is to eliminate the gateways of KY, points within 50 miles of Nashville, TN, NC, and GA.

No. MC 83539 (Sub-No. E483), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: Douglas Anderson, (same as above). *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment and parts, of such commodities when moving in connection with such commodities, between points in OH on the one hand and, on the other, points in TN in and west of Sumner, Wilson, Cannon, Warren, Grundy and Marion Counties. The purpose of this filing is to eliminate the gateways of points in KY and points within a 50-mile radius of Nashville, TN.

No. MC 83539 (Sub-No. E484), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: Douglas Anderson, (same as above). *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment and parts, of such commodities when moving in connection with such commodities, between points in OH on the one hand and, on the other, points in TX. Restriction: No service shall be performed in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. The purpose of this filing is to eliminate the gateway of points in IN and KY.

No. MC 83539 (Sub-No. E485), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: Douglas Anderson, (same as above). *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment and parts, of such commodities when moving in connection with such commodities, between points in OH on the one hand and, on the other, points in WI. Restriction: The service authorized hereinabove is subject to the following restriction: No service shall be performed in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines, or in the stringing or picking up of pipe in connection with oil or gas pipelines. The purpose of this filing is to eliminate the gateways of points in IN and IL.

No. MC 83539 (Sub-No. E486), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: Douglas Anderson, (same as above). *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment, between points in OR on the one hand and, on the other, points in SC. Restriction: The service authorized is subject to the following restrictions: No service shall be performed in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. No service shall be performed in the stringing or picking up of pipe in connection with oil or gas pipelines. The purpose of this filing is to eliminate the gateways of KS, MO, IL, KY, points within a 50-mile radius of Nashville, TN, NC, and GA.

No. MC 83539 (Sub-No. E487), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: Douglas Anderson, (same as above). *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment between points in PA, in, west, and south of Tioga, Lycoming, Columbia, Schuylkill, Lehigh and Bucks Counties on the one hand and, on the other, points in RI. The purpose of this filing is to eliminate the gateway of Philadelphia, PA.

No. MC 83539 (Sub-No. E488), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: Douglas Anderson (same as above). *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment, and parts thereof, when moving in connection with such commodities, between points in PA on the one hand and, on the other, points in TN in and west of Macon, Jackson, Putnam, White, Bledsoe, and Hamilton Counties. The purpose of this filing is to eliminate the gateways of KY, and points within a 50-mile radius of Nashville, TN.

No. MC 83539 (Sub-No. E489), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: Douglas Anderson (same as above). *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment, between points in RI on the one hand and, on the other, points in TN in and west of Pickett, Fentress, Overton, Putnam, White, Bledsoe, and Hamilton Counties. The purpose of this filing is to eliminate the gateways of Philadelphia, PA, KY and points within a 50-mile radius of Nashville, TN.

No. MC 83539 (Sub-No. E490), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: Douglas Anderson (same as above). *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment, between points in RI on the one hand and, on the other, points in VA. The purpose of this filing is to eliminate the gateway of Philadelphia, PA.

No. MC 83539 (Sub-No. E492), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment and related contractors' materials and supplies when their transportation is incidental to the transportation, by carriers, of commodities which, by reason of size or weight, require special equipment between points in SD and points in VA, restricted against the stringing or pickup up of any of the above commodities in connection with main or truck lines. The purpose of this filing is to eliminate the gateways of IA, IL, and IN.

No. MC 83539 (Sub-No. E491), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: Douglas Anderson (same as above). *Commodities*, the transportation of which, because of their size or

weight, require the use of special equipment, between points in RI on the one hand and, on the other, points in WV. The purpose of this filing is to eliminate the gateway of Philadelphia, PA.

No. MC 83539 (Sub-No. E495), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: Douglas Anderson, (same as above). *Commodities,* the transportation of which, because of their size or weight, require the use of special equipment, and, related machinery, parts, materials, and supplies when moving in connection with such commodities: between points in TN in and west of Clay, Jackson, Smith, DeKalb, Warren, Coffee and Franklin Counties on the one hand and, on the other, points in VA in and east of Frederick, Warren, Rappahannock, Culpeper, Orange, Louisa, Goochland, Powhatan, Amelia, Nottoway, and Brunswick Counties. The purpose of this filing is to eliminate the gateways of points in TN within a 50-mile radius of Nashville, TN, and KY or VA.

No. MC 83539 (Sub-No. E496), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: Douglas Anderson, (same as above). *Commodities,* the transportation of which, because of their size or weight, require the use of special equipment and, related machinery, parts, materials, and supplies when moving in connection with such commodities; between points in TN in and west of Macon, Trousdale, Wilson, Cannon, Warren, Grundy, and Marion Counties on the one hand and, on the other, points in WV. The purpose of this filing is to eliminate the gateways of points in TN within a 50-mile radius of Nashville, TN, and KY.

No. MC 83539 (Sub-No. E500), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III, (same as above). *Commodities,* the transportation of which, because of their size or weight, require the use of special equipment and, related machinery parts and related contractor's materials and supplies when moving in connection with such commodities, between points in WV and WY, restricted against the stringing and picking up of the above commodities, in connection with main or trunk pipelines. The purpose of this filing is to eliminate the gateways of IN, IL, IA, and SD.

No. MC 83539 (Sub-No. E501), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Self-propelled articles* each weighing 15,000 pounds or more (except in driveaway service), and related machinery, parts, materials, and supplies, between (1) points in AL in and east of Madison, Marshall, Etowah, Calhoun, Cleburne, Randolph, Chambers, Lee, and Russell Counties, AL, and points in MO in and west of Mercer, Grundy, Livingston, Carroll, Saline, Pettis, Benton, Camden, Laclede, Teas, and Howell Counties, MO, and (2) points in AL in and east of Madison, Morgan, Cullman, Blount, Jefferson, Shelby, Chilton, Autauga, Lowndes, Butler, and Covington Counties, AL and points in Atchison, Holt, Andrew, Buchanan, Platte, Jackson, Cass, Bates, Vernon, Barton, Jasper, Newton, and McDonald Counties, MO, restricted to commodities which are transported on trailers. The purpose of this filing is to eliminate the gateways of Nashville, TN, KY, and AR.

No. MC 83539 (Sub-No. E502), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Self-propelled articles* each weighing 15,000 pounds or more (except in driveaway service) and *related machinery, parts, materials, and supplies,* between points in AL and PA. The purpose of this filing is to eliminate the gateways of KY and points within a 50 mile radius of Nashville, TN.

No. MC 83539 (Sub-No. E503), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Self-propelled articles* each weighing 15,000 pounds or more (except in driveaway service) and *related machinery, parts, materials, and supplies,* between points in AR and MI. The purpose of this filing is to eliminate the gateway of IN.

No. MC 83539 (Sub-No. E504), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Self-propelled articles* each weighing 15,000 pounds or more (except in driveaway service) and *related machinery, parts, materials, and supplies,* between points in AR and OH. The purpose of this filing is to eliminate the gateway of KY.

No. MC 83539 (Sub-No. E505), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Self-propelled articles* each weighing 15,000 pounds or more (except in driveaway service) and *related machinery, parts, materials, and supplies,* between points in PA and AR. The purpose of this filing is to eliminate the gateway of KY.

No. MC 83539 (Sub-No. E506), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Self-propelled articles* each weighing 15,000 pounds or more (except in driveaway service), and *related machinery, parts, materials, and supplies,* between points in AZ and MI, restricted to commodities which are transported on trailers. The purpose of this filing is to eliminate the gateways of IN and NM.

No. MC 83539 (Sub-No. E507), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Self-propelled articles* each weighing 15,000 pounds or more (except in driveaway service), and *related machinery, parts, materials, and supplies,* between (A) points in CO in and west of Weld, Adams, Arapahue, Lincoln, Kit Carson, Cheyenne, Kiowa, Prowers, and Baca Counties, CO on the one hand and, on the other, points in IL in and south of Jackson, Williamson, Saline, and Gallatin Counties, IL, and (B) points in Montezuma and La Plata Counties, CO on the one hand and, on the other, points in and east of Kankakee, Ford, Champaign, Douglas, Coles, Cumberland, Effingham, Clay, Marion, Jefferson, Perry and Randolph, restricted to commodities which are transported on trailers. The purpose of this filing is to eliminate the gateways of Wichita, KS, OK, and KY.

No. MC 83539 (Sub-No. E508), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Self-propelled motor articles* each weighing 15,000 pounds or more (except in driveaway service), and *related machinery, parts, materials, and supplies,* between points in CO and IN, restricted to commodities which are transported on trailers. The purpose of this filing is to eliminate the gateways of Wichita, KS, and OK.

No. MC 83539 (Sub-No. E562), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Self-propelled articles* each weighing 15,000 pounds or more (except in driveaway service), and *related parts* moving in connection therewith between points in OH on the one hand and, on the other, points in TN in and west of Sumner, Wilson, Cannon, Warren, Grundy and Marion Counties. Restriction: The operations

authorized herein are restricted to commodities which are transported on trailers. The purpose of this filing is to eliminate the gateways of KY and Nashville, TN and points in TN within 50 miles of Nashville.

No. MC 83539 (Sub-No. E563), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Self-propelled articles* each weighing 15,000 pounds or more (except driveaway service), and *related machinery, parts, tools, and supplies,* between points in OK on the one hand and, on the other, points in PA. Restriction: The operations authorized herein are restricted to commodities which are transported on trailers. The purpose of this filing is to eliminate the gateway of IN.

No. MC 83539 (Sub-No. E564), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: Douglas Anderson (same as above). *Self-propelled articles,* each weighing 15,000 pounds or more (except in driveaway service), and *related parts* moving in connection therewith between points in PA on the one hand and, on the other, points in TN in and west of Macon, Jackson, Putnam, White, Bledsoe, and Hamilton Counties. Restriction: Operations authorized herein are restricted to commodities which are transported on trailers. The purpose of this filing is to eliminate the gateways of KY, and Nashville, TN, and points in TN within a 50 mile radius of Nashville.

No. MC 83539 (Sub-No. E565), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: Douglas Anderson (same as above). *Self-propelled articles,* each weighing 15,000 pounds or more (except in driveaway service), and *related parts* moving in connection therewith between points in SD on the one hand and, on the other, points in VA. Restriction: The operations authorized herein are restricted to commodities which are transported on trailers. The purpose of this filing is to eliminate the gateways of IA, IL and IN.

No. MC 83539 (Sub-No. E566), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: Douglas Anderson (same as above). *Self-propelled articles,* each weighing 15,000 pounds or more (except in driveaway service), and *related machinery, parts, tools, and supplies* moving in connection therewith between points in SD on the one hand and, on the other, points in WV. Restriction: The operations authorized herein are restricted to commodities which are transported on trailers. The purpose of this filing is to eliminate the gateways of IA, IL and IN.

No. MC 83539 (Sub-No. E567), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: Douglas Anderson (same as above). *Self-propelled articles,* each weighing 15,000 pounds or more (except in driveaway service), and *related parts* moving in connection therewith between points in TN, in and west of Clay, Jackson, Smith, DeKalb, Warren, Coffee, and Franklin Counties on the one hand and, on the other, points in VA, in and east of Frederick, Warren, Rappahannock, Culpeper, Orange, Louisa, Goochland, Powhatan, Ameba, Nottaway, and Brunswick Counties. Restriction: Operations authorized herein are restricted to commodities which are transported on trailers. The purpose of this filing is to eliminate the gateways of Nashville, TN, and points in TN within 50 miles of Nashville, and KY.

No. MC 83539 (Sub-No. E568), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: Douglas Anderson (same as above). *Self-propelled articles,* each weighing 15,000 pounds or more (except in driveaway service), and *related parts* moving in connection therewith between points in TN in and west of Macon, Trousdale, Wilson, Cannon, Warren, Grundy, and Marian Counties on the one hand and, on the other, points in WV. Restriction: Operations authorized herein are restricted to commodities which are transported on trailers. The purpose of this filing is to eliminate the gateways of Nashville, TN, and points in TN within a 50 mile radius of Nashville, and KY.

No. 83539 (Sub-No. E585), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: Douglas Anderson (same as above). *Heavy machinery,* between: (A) points in Indiana in and south of Newton, Montgomery, Hendricks, Marion, Hancock, Henry, and Wayne Counties on the one hand and, on the other, points in VT in, east, and south of Rutland, Windsor, Orange, Caledonia, and Orleans Counties; (B) between points in IN in and south of Vigo, Clay, Owen, Monroe, Brown, Bartholomew, Cecaten, Ripley, and Dearborn Counties on the one hand and, on the other, points in VT; (C) between points in IN on the one hand and, on the other, points in Orleans, Caledonia, and Essex Counties, VT. The purpose of this filing is to eliminate the gateways of points in PA, NY, and Worcester, MA.

No. 83539 (Sub-No. E586), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: Douglas Anderson (same as above). *Heavy machinery,* between points in KY on the one hand and, on the other, points in NH. The purpose of this filing is to eliminate the gateways of Philadelphia, PA and Worcester, MA, and points within 25 miles of Worceter.

No. 83539 (Sub-No. E587), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: Douglas Anderson (same as above). *Heavy machinery,* between points in KY on the one hand and, on the other, points in NC. The purpose of this filing is to eliminate the gateway of points in VA.

No. 83539 (Sub-No. E588), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: Douglas Anderson (same as above). *Heavy machinery,* between points in KY on the one hand and, on the other, points in SC (VA and NC)* Restriction: The authority granted immediately above is subject to the condition that the carrier shall not transport aircraft and missiles, and parts thereof. The purpose of this filing is to eliminate the gateways indicated by the asterisks above.

No. 83539 (Sub-No. E592), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III (same as above). *Heavy machinery,* between points in MD, in and east of Baltimore, Anne Arundel, Calvert and St. Marys Counties on the one hand and, on the other, points in VT in and north of Rutland and Windsor Counties. The purpose of this filing is to eliminate the gateways of PA, Philadelphia, PA, and Worcester, MA.

No. MC 83539 (Sub-No. E593), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III, (same as above). *Heavy machinery,* between points in MA on the one hand and, on the other, points in NC. The purpose of this filing is to eliminate the gateways of Philadelphia, PA and VA.

No. MC 83539 (Sub-No. E594), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: H. N. Cunningham III, (same as above). *Heavy machinery,* between points in MA on the one hand and, on the other, points in SC. (Philadelphia, PA, VA and NC*). Restriction: The authority granted immediately above is subject to the condition that the carrier shall not transport aircraft

and missiles, and parts thereof. The purpose of this filing is to eliminate the gateways indicated by the asterisks above.

No. MC 83539 (Sub-No. E619), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: Douglas Anderson, (same as above). *Self-propelled articles*, (except in driveaway service), each weighing 15,000 pounds or more and related machinery, tools, parts, and supplies moving in connection therewith, between, (a) points in IL in and east of Jo Daviess, Carroll, Whiteside, Henry, Knox, Fulton, Mason, Cass, Morgan, Scott, Greene, and Jersey Counties on the one hand and, on on the other, points in OR in, west, and north of Wallowa, Umatilla, Morrow, Gilliam, Sherman, Wasco, Jefferson, Linn, Lane, Douglas, and Coos Counties; and (b) between points in IL, in, east and south of Stephenson, Ogle, Lee, Bureau, Stark, Peoria, Tazewell, Logan, Sangamon, Montgomery, Bond, Clinton, Washington, Perry, and Jackson Counties on the one hand and, on the other, points in OR in, west, and north of Sherman, Wasco, Jefferson, Linn, Benton, and Lincoln Counties, restricted to the transportation of commodities which are transported on trailers. The purpose of this filing is to eliminate the gateways of points in NE and MT on and west of a line extending north and south through Butte and Dupuyer, MT.

No. MC 107012 (Sub-No. E250) filed July 7, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Applicant's representative: David D. Bishop and Gary M. Crist, P.O. Box 988, Fort Wayne, IN 46801. *New household furnishings* (except new furniture) crated, from points in Chicago, IL to points in TX. The purpose of this filing is to eliminate the gateway of Vinita, OK.

No. MC 107012 (Sub-No. E252) filed July 7, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Applicant's representative: David D. Bishop and Gary M. Crist, P.O. Box 988, Fort Wayne, IN 46801. *New Household Furnishings*, (Except new furniture) *crated* (1) From points in KS, to points in CT, DE, DC, MD, MA, NJ, NY, and RI. (2) From points in Atchison, Brown, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Marshall, Miami, Memaha, Osage, Pottawatomie, Shawnee, Wabaunsee, Wyandotte Counties, KS, to points in Adams, Allen, Blackford, De Kalb, Delaware, Elkhart, Grant, Huntington, Jay, Kosciusko, Lagrange, Noble, Randolph, Steuben, Wabash, Wells, Whitley, Benton, Carroll, Cass, Fountain, Fulton, Howard, Jasper, Lake, La Porte, Marshall, Miami, Montgomery, Newton, Porter, Pulaski, Saint Joseph, Starke, Tippecanoe, Warren, White Counties, IN; Bath, Boone, Bourbon, Boyd, Bracken, Campbell, Carroll, Carter, Clark, Elliott, Fleming, Franklin, Gallatin, Grant, Greenup, Harrison, Johnson, Kenton, Lawrence, Lewis, Magoffin, Martin, Mason, Menifee, Montgomery, Morgan, Nicholas, Owen, Pendleton, Powell, Robertson, Rowan, Scott, Wolfe Counties, KY; points in MI, OH, PA; Greenbrier, McDowell, Mercer, Monroe, Pocahontas, Raleigh, Summers, Wyoming, Braxton, Clay, Fayette, Kanawha, Nicholas, Webster, Barbour, Berkeley, Doddridge, Grant, Hampshire, Hardy, Harrison, Jefferson, Lewis, Marion, Mineral, Monongalia, Morgan, Pendleton, Preston, Randolph, Taylor, Tucker, Tyler, Upshur, Wetzel, Calhoun, Gilmer, Jackson, Mason, Pleasants, Ritchie, Roane, Wirt, Wood, Brooke, Hancock, Marshall, Ohio Counties, WV, and points in MI and PA. (3) From points in Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens Counties, KS, to points in Adams, Allen, Blackford, De Kalb, Delawre, Elkhart, Grant, Huntington, Jay, Kosciusko, Lagrange, Noble, Randolph, Steuben, Wabash, Wells, Whitley, Benton, Carroll, Cass, Fountain, Fulton, Howard, Jasper, Lake, La Porte, Marshall, Miami, Montgomery, Newton, Porter, Pulaski, Saint Joseph, Starke, Tippecanoe, Warren, White Counties, IN: Bath, Boone, Bourbon, Boyd, Bracken, Campbell, Carroll, Carter, Clark, Elliott, Fleming, Franklin, Gallatin, Grant, Greenup, Harrison, Johnson, Kenton, Lawrence, Lewis, Magoffin, Martin, Mason, Menifee, Montgomery, Morgan, Nicholas, Owen, Pendleton, Powell, Robertson, Rowan, Scott, Wolfe Counties, KY; points in MI, OH, PA; Greenbrier, McDowell, Mercer, Monroe, Pocahontas, Raleigh, Summers, Wyoming, Braxton, Clay, Fayette, Kanawha, Nicholas, Webster, Barbour, Berkeley, Doddridge, Grant, Hampshire, Hardy, Harrison, Jefferson, Lewis, Marion, Mineral, Monongalia, Morgan, Pendleton, Preston, Randolph, Taylor, Tucker, Tyler, Upshur, Wetzel, Calhoun, Gilmer, Jackson, Mason, Pleasants, Ritchie, Roane, Wirt, Wood, Brooke, Hancock, Marshall, Ohio Counties, WV. (4) From points in Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita Counties, KS, to points in Adams, Allen, Blackford, De Kalb, Delaware, Elkhart, Grant, Huntington, Jay, Kosciusko, Lagrange, Noble, Randolph, Steuben, Wabash, Wells, Whitley, Boone, Clinton, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan, Shelby, Tipton, Benton, Carroll, Cass, Fountain, Fulton, Howard, Jasper, Lake, LaPorte, Marshall, Miami, Montgomery, Newton, Porter, Pulaski, Saint Joseph, Starke, Tippecanoe, Warren, White Counties, IN; Bath, Boone, Bourbon, Boyd, Bracken, Campbell, Carroll, Carter, Clark, Elliott, Fleming, Franklin, Gallatin, Grant, Greenup, Harrison, Johnson, Kenton, Lawrence, Lewis, Magoffin, Martin, Mason, Menifee, Montgomery, Morgan, Nicholas, Owen, Pendleton, Powell, Robertson, Rowan, Scott, Wolfe Counties, KY; Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Alcona, Alpena, Antrim, Arenac, Benzie, Charlevoix, Cheboygan, Clare, Crawford, Emmet, Gladwin, Grand Traurse, Iosco, Isabella, Kalkaska, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee, Montmorency, Newaygo, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Presque Isle, Roscommon, Wexford, Alger, Delta, Dickinson, Marquette, Menominee, Schoolcraft, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, Saint Joseph, Van Buren, Chippewa, Luce, Mackinac Counties, MI; and points in OH, PA, and WV. (5) From points in Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson, Woodson Counties, KS, to points in Adams, Allen, Blackford, De Kalb, Delaware, Elkhart, Grant, Huntington, Jay, Kosciusko, Lagrange, Noble, Randolph, Steuben, Wabash, Wells, Whitley, Benton, Carroll, Cass, Fountain, Fulton, Howard, Jasper, Lake, La Porte, Marshall, Miami, Montgomery, Newton, Porter, Pulaski, Saint Joseph, Starke, Tippecanoe, Warren, White Counties, IN; points in MI, OH; Cameron, Clarion, Crawford, Elk, Erier, Forest, Jefferson, McKean, Mercer, Potter, Venango, Warren, Adams, Bedford, Blair, Cambria, Centre, Clearfield, Clinton, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lycoming, Mifflin, Montour, Northumberland, Perry, Snyder, Tioga, Union, Berks, Bucks, Chester, Delaware, Lancaster, Lebanon, Lehigh, Montgomery, Northampton, Philadelphia, Schuylkill, York, Bradford, Carbon, Columbia, Lackawanna, Luzerne, Monroe, Pike, Sullivan, Susquehanna, Wayne, Wyoming Counties, PA; Barbour, Berkeley, Doddridge, Grant, Hampshire, Hardy, Harrison, Jefferson, Lewis, Marion, Mineral, Monongalia, Morgan, Pendleton, Preston, Randolph, Taylor, Tucker, Tyler, Upshur, Wetzel Counties, WV. (6.) From points in Barber, Barton, Chase, Clay, Cloud, Dickinson, Ellsworth, Geary, Harper, Harvey, Jewell, Kingman, Lincoln, Marion, McPherson, Mitchell, Morris, Osborne, Ottawa, Pratt, Reno, Republic, Rice, Riley, Russell, Saline, Sedgwick, Smith, Stafford, Sumneer, Washington Counties, KS, to points in Adams, Allen, Blackford, De Kalb, Delaware, Elkhart, Grant, Huntington, Kosciusko, Lagrange, Noble, Randolph, Steuben, Wabash, Wells, Whitley, Benton, Carroll, Cass, Fountain, Fulton, Howard, Jasper, Lake, La Porte, Marshall, Miami, Montgomery, Newton, Porter, Pulaski, Saint Joseph, Starke, Tippecanoe, Warren, White Counties, IN; points in MI; Ashland, Ashtabula, Carroll, Columbiana, Cuyahoga, Erie, Geauga, Harrison, Holmes, Huron, Jefferson, Lake, Lorain, Mahoning, Medina, Portage, Stark, Summit, Trumbull, Tuscarawas, Wayne, Coshocton, Crawford, Delaware, Fairfield, Fayette, Franklin, Knox, Licking, Logan, Madison, Marion, Morrow, Pickaway, Richland, Union, Athens, Belmont, Gallia, Guernsey, Hocking, Jackson, Lawrence, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Pike, Ross, Scioto, Vinton, Washington, Allen, Auglaize, Defiance, Fulton, Hancock, Hardin, Henry, Lucas, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca, Van Wert, Williams, Wood, Wyandot Counties, OH; points in PA; Braxton, Clay, Fayette, Kanawha, Nicholas, Webster, Barbour, Berkeley, Doddridge, Grant, Hampshire, Hardy, Harrison, Jefferson, Lewis, Marion, Mineral, Monongalia, Morgan, Pendleton, Preston, Randolph, Taylor, Tucker, Tyler, Upshur, Wetzel, Calhoun, Gilmer, Jackson, Mason, Pleasants, Ritchie, Roane, Wirt, Wood, Brooke, Hancock, Marshall, Ohio Counties, WV. The purpose of this filing is to eliminate the gateway of Chicago, IL.

No. MC 107012 (Sub-No. E257), filed July 7, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Applicant's representative: David D. Bishop and Gary M. Crist, P.O. Box 988, Fort Wayne, IN 46801. *New Household Furnishings*, (except new furniture) *crated* (1) From points in MT, to points in CT, DE, DC, IN, KY, MD, MA, NJ, NY, OH, PA, RI, and WV. (2) From points in Beaverhead, Broadwater, Deer Lodge, Gallatin, Granite, Jefferson, Madison, Park, Ravalli, Silver Bow, Stillwater, Sweet Grass, Daniels, Dawson, Garfield, McCone, Phillips, Richland, Roosevelt, Sheridan, Valley, Blaine, Cascade, Chouteau, Fergus, Golden Valley, Hill, Judith Basin, Lewis and Clark, Liberty, Meagher, Petroleum, Pondera, Teton, Toole, Wheatland, Big Horn, Carbon, Carter, Custer, Fallon, Musselshell, Powder River, Prairie, Rosebud, Treasure, Wibaux, Yellowstone Counties, MT to points in Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, St. Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, St. Joseph, Van Buren Counties, MT; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne Counties, MO. (3) From points in Flathead, Glacier, Lake, Lincoln, Mineral, Missoula, Powell, Sanders Counties, MT, to points in Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello, Washington Counties, IA; Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, St. Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, St. Joseph, Van Buren Counties, MI; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne, Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan Counties, MO. The purpose of this filing is to eliminate the gateway of Chicago, IL.

No. MC 107012 (Sub-No. E258), filed July 7, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Applicant's representative: David D. Bishop and Gary M. Crist, P.O. Box 988, Fort Wayne, IN 46801. *New Household Furnishings*, (except new furniture) *crated* (1) From points in NE, to points in CT, DE, DC, MD, MA, NJ, NY, OH, PA, RI and WV. (2) From points in Arthur, Blaine, Boyd, Brown, Buffalo, Cherry, Custer, Garfield, Grant, Greeley, Hall, Holt, Hooker, Howard, Keyapana, Lawson, Logan, Loup, McPherson, Rock, Sherman, Thomas, Valley, Wheeler Counties, NE, to points in IN; Adair, Anderson, Boyle, Casey, Clinton, Cumberland, Fayette, Gerrard, Green, Jessamine, Lincoln, Madison, Marion, Mercer, Metcalfe, Monroe, Pulaski, Rockcastle, Russell, Taylor, Washington, Wayne, Woodford, Allen, Barren, Breckinridge, Bullitt, Butler, Christian, Edmonson, Grayson, Hardin, Hart, Henry, Jefferson, La Rue, Logan, Meade, Muhlenberg, Nelson, Ohio, Oldham, Sheleby, Simpson, Spencer, Todd, Trimble, Warren, Bath, Boone, Bourbon, Boyd, Bracken, Campbell, Carroll, Carter, Clark, Elliott, Fleming, Franklin, Gallatin, Grant, Greenup, Harrison, Johnson, Kenton, Lawrence, Lewis, Magoffin, Martin, Mason, Menifee, Montgomery, Morgan, Nicholas, Owen, Pendleton, Powell, Robertson, Rowan, Scott, Wolfe, Bell, Breathitt, Clay, Estill, Floyd, Harlan, Jackson, Knott, Knox, Laurel, Lee, Leslie, Letcher, McCreary, Owsley, Perry, Pike, Whitley Counties, KY; Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Alcona, Alpena, Antrim, Arenac, Benzie, Charleviox, Cheboygan, Clare, Crawford, Emmet, Gladwin, Grand Traurse, Iosco, Isabella, Kalkaska, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee, Montmorency, Newaygo, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Presque Isle, Roscommon, Wexford, Alger, Delta, Dicksinson, Marquette, Menominee, Schoolcraft, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, Saint Joseph, Van Buran, Chippewa, Luce, Mackinac Counties, MI. (3) From points in Adams, Cass, Clay, Douglas, Fillmore, Gage, Hamilton, Jefferson, Johnson, Lancaster, Nemaha, Nuckolls, Otoe, Pawnee, Richardson, Saline, Sarpy, Saunders, Seward, Thayer, Webster, York Counties, NE, to points in Adams, Allen, Blackford, De Kalb, Delaware, Elkhart, Grant, Huntington, Jay, Kosciusko, Lagrange, Noble, Randolph, Steuben, Wabash, Wells, Whitley, Boone, Clinton, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan, Shelby, Tipton, Bartholomew, Brown, Clark, Dearborn, Decatur, Fayette, Floyd, Franklin, Harrison, Henry, Jackson, Jefferson, Jennings, Ohio, Ripley, Rush, Scott, Switzerland, Union, Washington, Wayne, Benton, Carroll, Cass, Fountain, Fulton, Howard, Jasper, Lake, La Porte, Marshall, Miami, Montgomery, Newton, Porter, Pulaski, Saint Joseph, Starke, Tippecanoe, Warren, White Counties, IN; Bath, Boone, Bourbon, Boyd, Bracken, Campbell, Carroll, Carter, Clark, Elliott, Fleming, Frank-

lin, Gallatin, Grant, Greenup, Harrison, Johnson, Kenton, Lawrence, Lewis, Magoffin, Martin, Mason, Menifee, Montgomery, Morgan, Nicholas, Owen, Pendleton, Powell, Robertson, Rowan, Scott, Wolfe, Bell, Breathitt, Clay, Estill, Floyd, Harlan, Jackson, Knott, Knox, Laurel, Lee, Leslie, Letcher, McCreary, Owsley, Perry, Pike, Whitley Counties, KY; Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lanawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Alcona, Alpena, Antrim, Arenac, Benzie, Charlevoix, Cheboygan, Clare, Crawford, Emmet, Gladwin, Grand Traurse, Iosco, Isabella, Kalkaska, Lake, Leelanau, Ministee, Mason, Mecosta, Missaukee, Montmorency, Newaygo, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Presque Isle, Roscommon, Wexford, Alger, Delta, Dicksinson, Marquette, Menominee, Schoolcraft, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, Saint Joseph, Van Buren, Chippewa, Luce, Mackinac Counties, MI. (4) From points in Box Butte, Dawes, Sheridan, Sioux Counties, NE, to points in IN; KY; Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livington, Macomb, Midland, Monroe, Oaklawn, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Alcona, Alpena, Antrim, Arenac, Benzie, Charlevoix, Cheboygan, Clare, Crawford, Emmet, Gladwin, Grand Traurse, Iosco, Isabella, Kalkaske, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee, Montmorency, Newaygo, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Presque Isle, Roscommon, Wexford, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, Saint Joseph, Van Buren, Chippewa, Luce, Mackinac Counties, MI. (5) From points in Chase, Dundy, Franklin, Frontier, Furnas, Gosper, Harlan, Hayes, Hitchcock, Kearney, Keith, Lincoln, Perkins, Phelps, Redwillow Counties, NE, to points in Adams, Allen, Blackford, De Kalb, Delaware, Elkhart, Grant, Huntington, Jay, Kosciusko, LaGrange, Noble, Randolph, Steuben, Wabash, Wells, Whitley, Boone, Clinton, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan, Shelby, Tipton, Bartholomew, Brown, Clark, Dearborn, Decatur, Fayette, Floyd, Franklin, Harrison, Henry, Jackson, Jefferson, Jennings, Ohio, Ripley, Rush, Scott, Switzerland, Union, Washington, Wayne, Benton, Carroll, Cass, Fountain, Fulton, Howard, Jasper, Lake, La Porte, Marshall, Miami, Montgomery, Newton, Porter, Pulaski, Saint Joseph, Starke, Tippecanoe, Warren, White Counties, IN; Adair, Anderson, Boyle, Casey, Clinton, Cumberland, Fayette, Gerrard, Green, Jessamine, Lincoln, Madison, Marion, Mercer, Metcalfe, Monroe, Pulaski, Rockcastle, Russell, Taylor, Washington, Wayne, Woodford, Allen, Barren, Breckinridge, Bullitt, Butler, Christian, Edmonson, Grayson, Hardin, Hart, Henry, Jefferson, La Rue, Logan, Meade, Muhlenberg, Nelson, Ohio, Oldham, Sheleby, Simpson, Spencer, Todd, Trimble, Warren, Bell, Breathitt, Clay, Estill, Floyd, Harlan, Jackson, Knott, Knox, Laurel, Lee, Leslie, Letcher, McCreary, Owsley, Perry, Pike, Whitley, Bath, Boone, Bourbon, Boyd, Bracken, Campbell, Carroll, Carter, Clark, Elliott, Fleming, Franklin, Gallatin, Grant, Greenup, Harrison, Johnson, Kenton, Lawrence, Lewis, Magoffin, Martin, Mason, Menifee, Montgomery, Morgan, Nicholas, Owen, Pendleton, Powell, Robertson, Rowan, Scott, Wolfe Counties, KY; Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livington, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Alcona, Alpena, Antrim, Arenac, Benzie, Charlevoix, Cheboygan, Clare, Crawford, Emmet, Gladwin, Grand Traurse, Iosco, Isabella, Kalkaska, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee, Montmorency, Newaygo, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Presque Isle, Roscommon, Wexford, Alger, Delta, Dickinson, Marquette, Menominee, Schoolcraft, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, Saint Joseph, Van Buren, Chippewa, Luce, Mackinac Counties, MI. (6) From points in Antelope, Boone, Burt, Butler, Cedar, Colfax, Cuming, Dakota, Dixon, Dodge, Knox, Madison, Merrick, Pierce, Platte, Polk, Stanton, Thurston, Vance, Washington, Wayne, Banner, Cheyenne, Deuel, Garden, Kimball, Morrill, Scotts, Bluff Counties, NE, to points in IN; Allen, Barren, Breckinridge, Bullitt, Butler, Christian, Edmonson, Grayson, Hardin, Hart, Henry, Jefferson, La Rue, Logan Meade, Muhlenberg, Nelson, Ohio, Oldham, Sheleby, Simpson, Spencer, Todd, Trimble, Warren, Adair, Anderson, Boyle, Casey, Clinton, Cumberland, Fayette, Gerrard, Green, Jessamine, Lincoln, Madison, Marion, Mercer, Metcalfe, Monroe, Pulaski, Rockcastle, Russell, Taylor, Washington, Wayne, Woodford, Bath, Boone, Bourbon, Boyd, Bracken, Campbell, Carroll, Carter, Clark, Elliott, Fleming, Franklin, Gallatin, Grant, Greenup, Harrison, Johnson, Kenton, Lawrence, Lewis, Magoffin, Martin, Mason, Menifee, Montgomery, Morgan, Nicholas, Owen, Pendleton, Powell, Robertson, Rowan, Scott, Wolfe, Bell, Breathitt, Clay, Estill, Floyd, Harlan, Jackson, Knott, Knox, Laurel, Lee, Leslie, Letcher, McCreary, Owsley, Perry, Pike, Whitley Counties, KY; Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Alcona, Alpena, Antrim, Arenac, Benzie, Charlevoix, Cheboygan, Clare, Crawford, Emmet, Gladwin, Grand Traurse, Iosco, Isabella, Kalkaska, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee, Montmorency, Newaygo, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Presque Isle, Roscommon, Wexford, Alger, Delta, Dickinson, Marquette, Menominee, Schoolcraft, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, Saint Joseph, Van Buren, Chippewa, Luce, Mackinac Counties, MI. The purpose of this filing is to eliminate the gateway of Chicago, IL.

No. MC 107012 (Sub-No. E274), filed July 7, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Applicant's representative: David D. Bishop and Gary M. Crist, P.O. Box 988, Fort Wayne, IN 46801. *New household furnishings, (except new furniture) crated.* (1) From points in SC, to points in IA and MN. (2) From points in Allendale, Bamberg, Barnwell, Beaufort, Berkeley, Charleston, Colleton, Dorchester, Hampton, Jasper, Orangeburg Counties, SC, to points in Baraga, Gogebic, Houghton, Iron, Keweenaw, Ontonagon, Alcona, Alpena, Antrim, Arenac, Benzie, Charlevoix, Cheboygan, Clare, Crawford, Emmet, Gladwin, Grand Traurse, Iosco, Isabella, Kalkaska, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee, Montmorency, Newaygo, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Presque Isle, Roscommon, Wexford, Alger, Delta, Dickinson, Marquette, Menominee, Schoolcraft, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, Saint Joseph, Van Buren, Chippewa, Luce, Mackinac Counties, MI. (3) From points in Aiken, Calhoun, Chesterfield, Darlington, Fairfield, Keeshaw, Lancaster, Lee, Lexington, Marlboro, Richland, Sumter, Abbeville, Anderson, Greenville, Ocomee, Pickens Counties, SC, to points in Benton, Carroll, Cass, Fountain, Fulton, Howard, Jasper, Lake, La Porte, Marshall, Miami, Montgomery, Newton, Porter, Pulaski, Saint Joseph, Starke, Tippecanoe, Warren, White, Counties, IN; Baraga, Gogebic, Houghton, Iron, Keweenaw, Ontonagon, Alcona, Alpena, Antrim, Arenac, Benzie, Charlevoix, Cheboygan, Clare, Crawford, Emmet, Gladwin, Grand Traurse, Iosco, Isabella, Kalkaska, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee, Montmorency, Newaygo, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Presque Isle, Roscommon, Wexford, Alger, Delta, Dickinson, Marquette, Menominee, Schoolcraft, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, Saint Joseph, Van Buren, Chippewa, Luce, Mackinac Counties, MI. The purpose of this filing is to eliminate the gateway of Chicago, IL.

saukee, Montmorency, Newaygo, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Presque Isle, Roscommon, Wexford, Alger, Delta, Dickinson, Marquette, Menominee, Schoolcraft, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, Saint Joseph, Van Buren, Chippewa, Luce, Mackinac Counties, MI. (4) From points in Clarendon, Dillon, Florence, Georgetown, Horry, Marion, Williamsburg Counties, SC, to points in Benton, Carroll, Cass, Fountain, Fulton, Howard, Jasper, Lake, La Porte, Marshall, Miami, Montgomery, Newton, Porter, Pulaski, Saint Joseph, Starke, Tippecanoe, Warren, White, Counties, IN; Baraga, Gogebic, Houghton, Iron, Keweenaw, Ontonagon, Alcona, Alpena, Antrim, Arenac, Benzie, Charlevoix, Cheboygan, Clare, Crawford, Emmet, Gladwin, Grand Traurse, Iosco, Isabella, Kalkaska, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee, Montmorency, Newaygo, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Presque Isle, Roscommon, Wexford, Alger, Delta, Dickinson, Marquette, Menominee, Schoolcraft, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, Saint Joseph, Van Buren, Counties, MI; Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Charlton, Clay, Clinton, Cooper, Daviess, De Kalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline, Worth Counties, MO. (5) From points in Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union, York Counties, SC, to points in Benton, Carroll, Cass, Fountain, Fulton, Howard, Jasper, Lake, La Porte, Marshall, Miami, Montgomery, Newton, Porter, Pulaski, Saint Joseph, Starke, Tippecanoe, Warren, White, Counties, IN; Baraga, Gogebic, Houghton, Iron, Keweenaw, Ontonagon, Alcona, Alpena, Antrim, Arenac, Benzie, Charlevoix, Cheboygan, Clare, Crawford, Emmet, Gladwin, Grand Traurse, Iosco, Isabella, Kalkaska, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee, Montmorency, Newaygo, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Presque Isle, Roscommon, Wexford, Alger, Delta, Dickinson, Marquette, Menominee, Schoolcraft, Chippewa, Luce, Mackinac Counties, MI. (6) From Greenville, SC, to points in Bay, Clinton Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne Counties, MI (* Bryan, OH); points in MO (* Evansville, IN); Allegany, Cattaraugus, Chatauqua, Erie, Genesee, Livingston, Monroe, Niagara, Orleans, Steuben, Wyoming, Herkimer, Jefferson, Lewis, Oneida, Oswego, St. Lawrence, Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Saratoga, Schenectady, Warren, Washington Counties, NY (*Cleveland, OH); Cameron, Clarion, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Potter, Venango, Warren Counties, PA (*Cleveland, OH). (7) From Landrum, SC, to points in Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, Saint Joseph, Van Buren Counties, MI; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne Counties, MO. (4) From points in Brule, Buffalo, Hand, Hughes, Hyde, Jones, Lyman, Mellette, Stanley, Sully, Todd, Tripp Counties, SD, to points in KY; Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, Saint Joseph, Van Buren Counties, MI. (5) From points in Aurora, Bon Homme, Charles Mix, Clay, Davison, Douglas, Gregory, Hanson, Hutchinson, Jerauld, Lake, Lincoln, McCook, Miner, Minnehaha, Moody, Sanborn, Turner, Union, Yankton Counties, SD, to points in Adair, Anderson, Boyle, Casey, Clinton, Cumberland, Fayette, Gerrard, Green, Jessamine, Lincoln, Madison, Marion, Mercer, Metcalfe, Monroe, Pulaski, Rockcastle, Russell, Taylor, Washington, Wayne, Woodford, Allen, Barren, Breckenridge, Bullitt, Butler, Christian, Edmondson, Grayson, Hardin, Hart, Henry, Jefferson, La Rue, Logan, Meade, Muhlenberg, Nelson, Ohio, Oldham, Sheleby, Simpson, Spencer, Todd, Trimble, Warren, Bath, Boone, Bourbon, Boyd, Bracken, Campbell, Carroll, Carter, Clark, Elliott, Fleming, Franklin, Gallatin, Grant, Greenup, Harrison, Johnson, Kenton, Lawrence, Lewis, Magoffin, Martin, Mason, Menifee, Montgomery, Morgan, Nicholas, Owen, Pendleton, Powell, Robertson, Rowan, Scott, Wolfe, Bell, Breathitt, Clay, Estill, Floyd, Harlan, Jackson, Knott, Knox, Laurel, Lee, Leslie, Letcher, McCreary, Owsley, Perry, Pike, Whitley Counties, KY; Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Alcona, Alpena, Antrim, Arenac, Benzie, Charlevoix, Cheboygan, Clare, Crawford, Emmet, Gladwin, Grand Traurse, Iosco, Isabella, Kalkaska, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee, Montmorency, Newaygo, Oceana, Ogenaw, Osceola, Oscoda, Otsego, Presque Isle, Roscommon, Wexford, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo,

No. MC 107012 (Sub-No. E276), filed July 7, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Applicant's representative: David D. Bishop and Gary M. Crist, P.O. Box 988, Fort Wayne, IN 46801. *New household furnishings, crated.* (1) From points in SD to points in CT, DE, DC, IN, MD, MA, NJ, NY, OH, PA, RI, and WV. (2) From points in Bennett, Butte, Custer, Fall River, Haakon, Jackson, Lawrence, Meade, Pennington, Shannon, Washabaugh, Ziebach Counties SD, to points in KY; Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Allegan, Barry, Berrien, Branch Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, Saint Joseph, Van Buren Counties, MI; Cameron, Clarion, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Potter, Venango, Warren Counties, PA (* Cleveland, OH). The purpose of this filing is to eliminate the gateway of Chicago, IL or unless otherwise indicated above by an Asterisk.

No. MC 107012 (Sub-No. E276), filed July 7, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Applicant's representative: David D. Bishop and Gary M. Crist, P.O. Box 988, Fort Wayne, IN 46801. *New household furnishings, crated.* (1) From points in SD to points in CT, DE, DC, IN, MD, MA, NJ, NY, OH, PA, RI, and WV. (2) From points in Bennett, Butte, Custer, Fall River, Haakon, Jackson, Lawrence, Meade, Pennington, Shannon, Washabaugh, Ziebach Counties SD, to points in KY; Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Allegan, Barry, Berrien, Branch Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, Saint Joseph, Van Buren Counties, MI; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne Counties, MO. (3) From points in Campbell, Corson, Dewey, Edmunda, Faulk, Harding, McPherson, Perkins, Potter, Walworth, Beadle, Brookings, Brown, Clark, Codington, Day, Deuel, Grant, Hamlin, Kingsbury, Marshall, Roberts, Spink Counties, SD, to points in KY; Bay, Clinton, Genessee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, Saint Joseph, Van Buren Counties, MI; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne Counties, MO. (4) From points in Brule, Buffalo, Hand, Hughes, Hyde, Jones, Lyman, Mellette, Stanley, Sully, Todd, Tripp Counties, SD, to points in KY; Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, Saint Joseph, Van Buren Counties, MI. (5) From points in Aurora, Bon Homme, Charles Mix, Clay, Davison, Douglas, Gregory, Hanson, Hutchinson, Jerauld, Lake, Lincoln, McCook, Miner, Minnehaha, Moody, Sanborn, Turner, Union, Yankton Counties, SD, to points in Adair, Anderson, Boyle, Casey, Clinton, Cumberland, Fayette, Gerrard, Green, Jessamine, Lincoln, Madison, Marion, Mercer, Metcalfe, Monroe, Pulaski, Rockcastle, Russell, Taylor, Washington, Wayne, Woodford, Allen, Barren, Breckenridge, Bullitt, Butler, Christian, Edmondson, Grayson, Hardin, Hart, Henry, Jefferson, La Rue, Logan, Meade, Muhlenberg, Nelson, Ohio, Oldham, Sheleby, Simpson, Spencer, Todd, Trimble, Warren, Bath, Boone, Bourbon, Boyd, Bracken, Campbell, Carroll, Carter, Clark, Elliott, Fleming, Franklin, Gallatin, Grant, Greenup, Harrison, Johnson, Kenton, Lawrence, Lewis, Magoffin, Martin, Mason, Menifee, Montgomery, Morgan, Nicholas, Owen, Pendleton, Powell, Robertson, Rowan, Scott, Wolfe, Bell, Breathitt, Clay, Estill, Floyd, Harlan, Jackson, Knott, Knox, Laurel, Lee, Leslie, Letcher, McCreary, Owsley, Perry, Pike, Whitley Counties, KY; Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Alcona, Alpena, Antrim, Arenac, Benzie, Charlevoix, Cheboygan, Clare, Crawford, Emmet, Gladwin, Grand Traurse, Iosco, Isabella, Kalkaska, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee, Montmorency, Newaygo, Oceana, Ogenaw, Osceola, Oscoda, Otsego, Presque Isle, Roscommon, Wexford, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo,

Kent, Montcalm, Muskegon, Ottawa, Saint Joseph, Van Buren, Chippewa, Luce, Mackinac Counties, MI. The purpose of this filing is to eliminate the gateway of Chicago, IL.

No. MC 107012 (Sub-No. E279), filed July 7, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Applicant's representative; David D. Bishop and Gary M. Crist, P.O. Box 988, Fort Wayne, IN 46801. *New household furnishings, crated.* (1) From points in UT, to points in CT, DE, DC, IN, MD, MA, MI, NJ, NY, OH, PA, RI, and WV. (2) From points in Beaver, Iron, Washington Counties, UT, to points in Adair, Anderson, Boyle, Casey, Clinton, Cumberland, Fayette, Gerrard, Green, Jessamine, Lincoln, Madison, Marion, Mercer, Metcalfe, Monroe, Pulaski, Rockcastle, Russell, Taylor, Washington, Wayne, Woodford, Allen, Barren, Breckinridge, Bullitt, Butler, Christian, Edmonson, Grayson, Hardin, Hart, Henry, Jefferson, La Rue, Logan, Meade, Muhlenberg, Nelson, Ohio, Oldham, Shelbey, Simpson, Spencer, Todd, Trimble, Warren, Bath, Boone, Bourbon, Boyd, Bracken, Campbell, Carroll, Carter, Clark, Elliott, Fleming, Franklin, Gallatin, Grant, Greenup, Harrison, Johnson, Kenton, Lawrence, Lewis, Magoffin, Martin, Mason, Menifee, Montgomery, Morgan, Nicholas, Owen, Pendleton, Powell, Robertson, Rowan, Scott, Wolfe, Ballard, Cladwell, Calloway, Carlisle, Crittenden, Daviess, Fulton, Graves, Hancock, Henderson, Hickman, Hopkins, Livingston, Lyon, Marshall, McCracken, McLean, Trigg, Union, Webster Counties, KY. (3) From points to Box Elder, Cache, Davis, Morgan, Rich, Salt Lake, Summit, Tooele, Utah, Wasatch, Weber Counties, UT, to points in KY. (4) From points in Carbon, Daggett, Duchesme, Emery, Grand, San Juan, Uimtah, Garfield, Juab, Kane, Millard, Piute, Sanpete, Seiver, Wayne Counties, UT, to points in Adair, Anderson, Boyle, Casey, Clinton, Cumberland, Fayette, Gerrard, Green, Jessamine, Lincoln, Madison, Marion, Mercer, Metcalfe, Monroe, Pulaski, Rockcastle, Russell, Taylor, Washington, Wayne, Woodford, Allen, Barren, Breckinridge, Bullitt, Butler, Christian, Edmonson, Grayson, Hardin, Hart, Henry, Jefferson, La Rue, Logan, Meade, Muhlenberg, Nelson, Ohio, Oldham, Shelby, Simpson, Spencer, Todd, Trimble, Warren, Bath, Boone, Bourbon, Boyd, Bracken, Campbell, Carroll, Carter, Clark, Elliott, Fleming, Franklin, Gallatin, Grant, Greenup, Harrison, Johnson, Kenton, Lawrence, Lewis, Magoffin, Martin, Mason, Menifee, Montgomery, Morgan, Nicholas, Owen, Pendleton, Powell, Robertson, Rowan, Scott, Wolfe, Bell, Breathitt, Clay, Estill, Floyd, Harlan, Jackson, Knott, Knox, Laurel, Lee, Leslie, Letcher, McCreary, Owsley, Perry, Pike, Whitley Counties, KY. The purpose of this filing is to eliminate the gateway of Chicago, IL.

No. MC 107012 (Sub-No. E285), filed July 7, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Applicant's representative: David D. Bishop and Gary M. Crist, P.O. Box 988, Fort Wayne, IN 46801. *New Household Furnishings,* (except new furniture) crated (1) From points in WY, to points in CT, DE DC, IN, MO, MA, NJ, NY, OH, PA, RI, and WV. (2) From points in Albany, carbon, Converse, Goshen, Laramie, Niobrara, and Platte Counties, WY, to points in Adair, Anderson, Boyle, Casey, Clinton, Cumberland, Fayette, Gerrard, Green, Jessamine, Lincoln, Madison, Marion, Mercer, Metcalfe, Monroe, Pulaski, Rockcastle, Russell, Taylor, Washington, Wayne, Woodford, Allen, Barren, Breckinridge, Bullitt, Butler, Christian, Edmonson, Grayson, Hardin, Hart, Henry, Jefferson, La Rue, Logan, Meade, Muhlenberg, Nelson, Ohio, Oldham, Shelbey, Simpson, Spencer, Todd, Trimble, Warren, Bath, Boone, Bourbon, Boyd, Bracken, Campbell, Carroll, Carter, Clark, Elliott, Fleming, Franklin, Gallatin, Grant, Greenup, Harrison, Johnson, Kenton, Lawrence, Lewis, Magoffin, Martin, Mason, Menifee, Montgomery, Morgan, Nicholas, Owen, Pendleton, Powell, Robertson, Rowan, Scott, Wolfe, Bell, Breathitt, Clay, Estill, Floyd, Harlan, Jackson, Knott, Knox, Laurel, Lee, Leslie, Letcher, Mc Creary, Owsley, Perry, Pike, Whitley Counties, KY; Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Alcona, Alpena, Antrim, Arenac, Benzie, Charlevoix, Cheboygan, Clare, Crawford, Emmet, Gladwin, Grand Traurse, Iosco, Isabella, Kalkaska, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee, Montmorency, Newaygo, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Presque Isle, Roscommon, Wexford, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, Saint Joseph, Van Buren Counties, MI. (4) From points in Lincoln, Sublette, Sweetwater, Uinta Counties, WY, to points in KY, and MI. (5) From points in Fremont, Hot Springs, Natrona Counties, WY, to points in KY; Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Alcona, Alpena, Antrim, Arenac, Benzie, Charlevoix, Cheboygan, Clare, Crawford, Emmet, Gladwin, Grand Traurse, Iosco, Isabella, Kalkaska, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee, Montmorency, Newaygo, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Presque Isle, Roscommon, Wexford, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, Saint Joseph, Van Buren Counties, MI; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne Counties, MO. The purpose of this filing is to eliminate the gateway of Chicago, IL.

No. MC 107064 (Sub-No. E528) (correction), filed January 19, 1976, published in the FEDERAL REGISTER issue of February 8, 1978, and republished, as corrected, this issue. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice (same as above). *Fertilizer and fertilizer ingredients* (except petroleum products and potash), from points in MN to points in AZ. The purpose of this filing is to eliminate the gateways of the plantsite and storage facilities of Occidental Chemical Co. in Hale County, TX, and points in that part of TX on and west of U.S. Hwy 83, and the facilities of Goodpasture, Inc., in Terry and Castro Counties, TX.

NOTE.—The purpose of this correction is to correct the territorial description.

No. MC 107515 (Sub-No. E530), filed January 27, 1975. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE. Atlanta, GA 30326. (1) *Frozen seafood and frozen seafood products,* in mixed loads with citrus products (presently authorized) frozen and chilled citrus products and canned citrus products, (2) *fruit juices and beverages,* (other than citrus), not frozen and not chilled, (3) *fruit crystals and citrus products,* not frozen from points in TX on or south of a line beginning at the TX-LA State line and extending along Interstate Hwy 10 to junction U.S. Hwy 90, then over U.S. Hwy 90 to junction U.S. Hwy 67, then over U.S. Hwy 67 to the Texas-Mexican border at Presidio, TX from points in TX (except points in El Paso, Hudspeth, Culberson, Jeff Davis, Presidio, Brewster, Terrell, Val Verde, Kinney, Maverick, Webb, Zapata, Starr, Nueces, Titus, Hidalgo, Cameron, Willacy, Bexar, Dallas, Tarrant, San Patricio, and Smith Counties, TX) to points on ports of entry on the United States-Canadian boundary line at Detroit, Port Huron, and Sault Sainte Marie, MI, and Derby Line, VT. Restrictions: Restricted to the transportation of traffic destined to points in the Provinces of Ontario and Quebec restricted against the transportation (4) canned foodstuffs originating at Houston, TX, and points in its C.Z., as defined by the Commission. The purpose of this filing is to eliminate the gateway of Pensacola, FL.

No. MC 107515 (Sub-No. E540), filed January 27, 1975. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE. Atlanta, GA 30326. (1) *Meats, meat products and meat by-products,* as listed in section A of the appendix to the report in Modification of Permits—Packinghouse Products, 46 MCC 23 and 48 MCC 628 from Moultrie, GA to WA, OR, and that portion of CA on and north of a line beginning at the NV-CA State line on Interstate Hwy 40 to junction Interstate Hwy 15, then along Interstate Hwy 15 to junction U.S. Hwy 395, thence along U.S. Hwy 395 to junction CA Hwy 91, then along CA Hwy 91 to junction CA Hwy 55, then along CA Hwy 55 to the Pacific Ocean at or near Newport Beach, CA., (2) *meats, meat products, meat by-products, and articles distributed by meat packinghouses* (except hides and commodities in bulk) ad described in sections A and C of the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 766, in vehicles equipped with mechanical refrigeration, from Carrollton, GA, to the destinations in I above, (3) *meats, meat products and meat by-products* as described in Appendix A to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk) from the plantsite of Country Fresh Foods Div. of Dak Foods, Inc., in Hall County, GA, to CA, OR, and WA, restricted to the transportation of traffic originating at the named plantsite. The purpose of this filing is to eliminate the gateway of Bristol, TN.

No. MC 107515 (Sub-No. E541), filed January 27, 1975. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Road NE., Atlanta, GA 30326. (1) *Frozen foodstuffs,* (except frozen fruits, frozen berries, and frozen vegetables) from the plantsite of Standard Foods, Inc., at Louisville, KY, to: CA, AZ, and NM, restricted to the transportation of traffic originating at the named plantsite, (2) *frozen foods* from the plantsite of Food Specialties of Kentucky, Division of Oscar Ewing, Inc., in Jefferson County, KY, to CA, AZ, and NM, (3) *frozen meats, meat products and meat byproducts and meat byproducts* as described in section A of Appendix I to the report in Description in Motor Carrier Certificates, 61 MCC 209 and 766 (except commodities in bulk in tank vehicles and hides) from Adairsville, KY, to CA, AZ, and NM, (4) *frozen sausage,* from Bowling Green, KY, to CA, AZ, and NM. The purpose of this filing is to eliminate the gateway of Florence, AL.

No. MC 107515 (Sub-No. E614), filed February 13, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Applicant's representative: Alan E. Serby, Suite 375, 3379 Peachtree Road, NE., Atlanta, GA 30326. *Prepared dough:* (1) From points in that part of VA on, south, or west of a line commencing at the VA-WV State line and extending over U.S. Hwy 250 to junction U.S. Hwy 29, then over U.S. Hwy 29 to junction VA Hwy 3, then over VA Hwy 3 to junction U.S. Hwy 360, then over U.S. Hwy 360 to the Cheasapeake Bay, to that part of WY on and east of a line commencing at the WY-UT State line and extending over WY Hwy 89 to junction U.S. Hwy 30N, then over U.S. Hwy 30N to junction U.S. Hwy 189, then over U.S. Hwy 189 to junction U.S. Hwy 187, then over U.S. Hwy 187 to junction WY Hwy 28, then over WY Hwy 28 to junction U.S. Hwy 287, then over U.S. Hwy 287 to junction U.S. Hwy 26, then over U.S. Hwy 26 to junction U.S. Hwy 20, then over U.S. Hwy 20 to junction U.S. Hwy 14, then over U.S. Hwy 14 to junction U.S. Hwy 87, then over U.S. Hwy 87 to the MT-WY State line; (2) from points in that part of VA on or south of a line commencing at the VA-WV State line and extending over U.S. Hwy 460 to junction U.S. Hwy 29, then over U.S. Hwy 29 to junction U.S. Hwy 60, then over U.S. Hwy 60 to the Atlantic Ocean, to MT; (3) from points in that part of VA on, south, or east of a line commencing at the VA-WV State line and extending over U.S. Hwy 250 to junction U.S. Hwy 29, then over U.S. Hwy 29 to junction U.S. Hwy 211, then over U.S. Hwy 211 to junction VA Hwy 236, then over VA Hwy 236 to the VA-MD State line, to points in that part of MT on and west of Interstate Hwy 15. Restrictions: (1) All authority sought herein is to be restricted to transportation in vehicles equipped with mechanical refrigeration. (2) All authority sought herein is to exclude commodities in bulk. (3) All authority sought herein is restricted to the transportation of shipments which originate at or are destined to points in NY, CT, MA, RI, NJ, PA, MD, DE, VA, DC, KY, NC, SC, TN, GA, AL, FL, MS, AR, LA, OK, TX, AZ, CA, and NM. (4) All of the authority herein shall expire on December 18, 1978, unless on or prior to that date the Commission shall renew the Certificate issued to carrier in MC 107515 (Sub-No. 799).

No. MC 107515 (Sub-No. E615), filed February 13, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Applicant's representative: Alan E. Serby, Suite 375, 3379 Peachtree Road NE., Atlanta, GA 30326. *Prepared dough:* (1) From points in that part of VA on, east, or south of a line commencing at the VA-NC State line and extending over U.S. Hwy 29 to Danville; then over U.S. Hwy 58 to Franklin, VA; then over U.S. Hwy 258 to the VA-NC State line (except Franklin), to OH; (2) from Franklin, VA, to points in OH on and west of Interstate Hwy 77; (3) from Norfolk, VA, to points in OH on, south, or west of a line commencing at the OH-WV State line at Huntington, WV, and extending over OH Hwy 243 to junction OH Hwy 378, then over OH Hwy 378 to junction OH Hwy 141, then over OH Hwy 141 to junction OH Hwy 233, then over OH Hwy 233 to junction OH Hwy 93, then over OH Hwy 93 to junction U.S. Hwy 35 at Jackson, OH; then over U.S. Hwy 35 to junction U.S. Hwy

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23, then over U.S. Hwy 23 to junction U.S. Hwy 33, then over U.S. Hwy 33 to junction OH Hwy 117, then over OH Hwy 117 to junction U.S. Hwy 30S, then over U.S. Hwy 30S to junction U.S. Hwy 30, then over U.S. Hwy 30 to the OH-IN State line. Restrictions: (1) All authority sought herein is to be restricted to transportation in vehicles equipped with mechanical refrigeration. (2) All authority sought herein is to exclude commodities in bulk. (3) All authority sought herein is restricted to the transportation of shipments which originate at or are destined to points in NY, CT, MA, RI, NJ, PA, MD, DE, VA, DC, KY, NC, SC, TN, GA, AL, FL, MS, AR, LA, OK, TX, AZ, CA, and NM. (4) All of the authority herein shall expire on December 18, 1978, unless on or prior to that date the Commission shall renew the Certificate issued to carrier in MC 107515 (Sub-No. 799). The purpose of this filing is to eliminate the gateway of Greensboro, NC.

No. MC 107515 (Sub-No. E616), filed February 13, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Applicant's representative: Alan E. Serby, Suite 375, 3379 Peachtree Road NE., Atlanta, GA 30326. *Prepared dough:* (1) From Washington, DC, and points in VA to AZ, CA, NV, OR, UT, WA, and NM; (2) from points in that part of VA on or south of a line beginning at the VA-WV State line and extending over U.S. Hwy 250 to junction U.S. Hwy 360; then over U.S. Hwy 360 to Chesapeake Bay to points in ID and CO; (3) from VA and Washington, DC, to points in CO on or west of U.S. Hwy 85, and points in ID on or south of U.S. Hwy 30; (4) from all points in VA, MD, DE, PA, NY, NJ, CT, RI, MA, and Washington, DC, to points in CA beginning at the CA-AZ State line and extending over Interstate Hwy 40 to junction Interstate Hwy 15, then over Interstate Hwy 15 to junction Interstate Hwy 10, then over Interstate Hwy 10 to junction U.S. Hwy 101, then over U.S. Hwy 101 to the Pacific Ocean at or near Gaviota. Restrictions: (1) All authority sought herein is to be restricted to transportation in vehicles equipped with mechanical refrigeration. (2) All authority sought herein is to exclude commodities in bulk. (3) All authority sought herein is restricted to the transportation of shipments which originate at or are destined to points in NY, CT, MA, RI, NJ, PA, MD, DE, VA, DC, KY, NC, SC, TN, GA, AL, FL, MS, AR, LA, OK, TX, AZ, CA, and NM. (4) All of the authority herein shall expire on December 18, 1978, unless on or prior to that date the Commission shall renew the Certificate issued to carrier in MC 107515 (Sub-No. 799). The purpose of this filing is to eliminate the gateway of East Point, GA.

No. MC 107515 (Sub-No. E617), filed February 13, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Applicant's representative: Alan E. Serby, Suite 375, 3379 Peachtree Road NE, Atlanta, GA 30326. (1) *Frozen foods*, in vehicles equipped with mechanical refrigeration, from points in VA to MT, WY, CO, NM, AZ, UT, ID, NV, CA, OR, and WA. (2) *such meats, meat products, meat byproducts, and articles* distributed by meat packinghouses as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, as are embraced in "food, food preparations and food ingredients" from points in VA to CA, OR and WA. Restrictions: (1) All authority sought herein is to be restricted to transportation in vehicles equipped with mechanical refrigeration. (2) All authority sought herein is to exclude commodities in bulk. (3) All authority sought herein is restricted to the transportation of shipments which originate at or are destined to points in NY, CT, MA, RI, NJ, PA, MD, DE, VA, DC, KY, NC, SC, TN, GA, AL, FL, MS, AR, LA, OK, TX, AZ, CA, and NM. (4) All of the authority herein shall expire on December 18, 1978, unless on or prior to that date the Commission shall renew the Certificate issued to carrier in MC 107515 (Sub-No. 799). The purpose of this filing is to eliminate the gateway of Bristol, TN, and VA.

No. MC 107515 (Sub-No. E618), filed February 13, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Part, GA 33050. Applicant's representative: Alan E. Serby, Suite 375, 3379 Peachtree Road NE., Atlanta, GA 30326. *Meats, meat products, meat byproducts and articles* distributed by meat packinghouses, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, fresh and frozen, in vehicles equipped with mechanical refrigeration, (1) from points in CT, MA, RI, NY, NJ, PA, DE, MD, VA, and DC, to points in CA and points in OR on or west of Interstate Hwy 5. (2) From points in MA, RI, CT, NJ, PA, MD, VA, Washington, DC, DE, and points in that portion of NY on, south, or east of a line beginning at the PA-NY State line at or near Ceres, PA and extending over NY Hwy 17 to junction NY Hwy 21, then over NY Hwy 21 to Lake Ontario at or near Pulteyville, NY; and points in that portion of PA on, south or east of a line beginning at the NY-PA State line and extending over PA Hwy 446 to junction U.S. Hwy 6, then over U.S. Hwy 6 to PA Hwy 66, then over PA Hwy 66 to junction PA Hwy 68, then over PA Hwy 68 to junction PA Hwy 8, then over PA Hwy 8 to Pittsburgh, then along U.S. Hwy 19 to the PA-WV State line, to points in WA on or west of Interstate Hwy 5 and Renton, WA, (3) from points in VA, MD, DE, NJ, CT, RI, MA, and DC; that portion of PA on and east of a line commencing at the WV-PA State line and extending over Interstate Hwy 70 to junction U.S. Hwy 119, then over U.S. Hwy 119 to junction U.S. Hwy 22, then over U.S. Hwy 22 to junction PA Hwy 286, then along PA Hwy 286 to junction U.S. Hwy 219, then U.S. Hwy 219 to PA Hwy 879, then over PA Hwy 879 to junction PA Hwy 144, then over PA Hwy 144 to junction U.S. Hwy 6, then over U.S. Hwy 6 to junction U.S. Hwy 15, then over U.S. Hwy 15 to the PA-NY State line; and that portion of NY on and east of a line commencing at the NY-PA State line and extending on U.S. Hwy 15 to junction NY Hwy 17, then over NY Hwy 17 to junction NY Hwy 13, then over NY Hwy 13 to junction U.S. Hwy 11, then over U.S. Hwy 11 to junction NY Hwy 13, then over NY Hwy 13 to Lake Ontario at or near Port Ontario, NY, to points in CA, OR and WA. Restrictions: (1) All authority sought herein is to be restricted to transportation in vehicles equipped with mechanical refrigeration. (2) All authority sought herein is to exclude commodities in bulk. (3) All authority sought herein is restricted to the transportation of shipments which originate at or are destined to points in NY, CT, MA, RI, NJ, PA, MD, DE, VA, DC, KY, NC, SC, TN, GA, AL, FL, MS, AR, LA, OK, TX, AZ, CA, and NM. (4) All of the authority herein shall expire on December 18, 1978, unless on or prior to that date the Commission shall renew the Certificate issued to carrier in MC 107515 (Sub-No. 799). The purpose of this filing is to eliminate the gateway of Bristol, TN, and VA.

No. MC 107515 (Sub-No. E619), filed February 13, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Applicant's representative: Alan E. Serby, Suite 375-3379 Peachtree Road NE., Atlanta, GA 30326. *Unfrozen meats and meat products*, in vehicles equipped with mechanical refrigeration, and *fresh fruits and vegetables* in packages, (1) from points in VA, on, south or east of a line beginning at the VA-NC State line and extending over U.S. Hwy 258 to junction U.S. Hwy 17, then over U.S. Hwy 17 north to junction VA Hwy 171, then over VA Hwy 171 to the Chesapeake Bay at or near Poquoson, VA, and points in Northampton County, VA, to points in OH, WI, MN, IL, MI, and IN; (2) from points in VA, on, south or east of a line beginning at the NC-VA State line, over U.S. Hwy 301, to junction U.S. Hwy 360, then over U.S. Hwy 360 to the Chesapeake Bay, and points in VA, on the DE-MD-VA Peninsula, to

points in IL, WI, MN, and points in IN, on or west of a line beginning at the KY-IN State line and extending over U.S. Hwy 41 to junction U.S. Hwy 24, then over U.S. Hwy 24 to junction U.S. Hwy 421, then over U.S. Hwy 421 to Lake Michigan at or near Michigan City, IN; (3) from points in VA, MD, and PA, on or east of U.S. Hwy 1 and Washington, DC, and points in DE, to Cairo, IL; (4) from Norfolk, VA, to points in MD, on and west of U.S. Hwy 15; points in PA on or west of a line beginning at the MD-PA State line and extending over Interstate Hwy 83 to junction Interstate Hwy 81, then over Interstate Hwy 81 to junction PA Hwy 309, then over PA Hwy 309 to junction PA Hwy 29, then over PA Hwy 29 to NY-PA State line; points in NY on, west or north of a line beginning at the NY-PA State line at or near Hale Eddy, NY, and extending over NY Hwy 17 to junction Interstate Hwy 84, thence over Interstate Hwy 84 to the NY-CT State line; points in CT, on, north or east of a line beginning at NY-CT State line; points in CT, on, north or east of a line beginning at the NY-CT State line and extending over Interstate Hwy 84 to junction CT Hwy 58, then over CT Hwy 58 to Long Island Sound at or near Bridgeport, CT, and points in RI, MA, VT, NH, and ME; (5) from points in that part of VA, on or south of a line beginning at Bristol, VA, and extending along U.S. Hwy 58 to junction U.S. Hwy 258, then over U.S. Hwy 258 to VA Hwy 10, then over VA Hwy 10 to junction VA Hwy 31, then over VA Hwy 31 to junction Colonial National Historic Parkway, then over Colonial National Historic Parkway to Chesapeake Bay at or near Yorktown, VA, to points in ME, NH, and RI and points in that part of CT, on or east of a line beginning at Long Island at or near Guilford, CT, then over CT Hwy 77 to junction CT Hwy 17, then over CT Hwy 17 to junction U.S. Hwy 5, then over U.S. Hwy 5 to junction Interstate Hwy 91, then over Interstate Hwy 91 to the CT-MA State line; points in MA, on or east of Interstate Hwy 91; points in VT, on and east of a line beginning at the VT-MA State line and extending over Interstate Hwy 91 to junction Interstate Hwy 89, then over Interstate Hwy 89 to Lake Champlain. Restrictions: (1) All authority sought herein is to be restricted to transportation in vehicles equipped with mechanical refrigeration. (2) All authority sought herein is to exlcude commodities in bulk. (3) All authority sought herein is restricted against the transportation of bananas, to Louisville, KY. (4) All authority sought herein is restricted to the transportation of shipments which originate at or are destined to points in NY, CT, MA, RI, NJ, PA, MD, DE, VA, DC, KY, NC, SC, TN, GA, AL, FL, MS, AR, LA, OK, TX, AZ, CA, and NM. (5) All of the authority herein shall expire on December 18, 1978, unless on or prior to that date the Commission shall renew the Certificate issued to carrier in MC 107515 (Sub-No. 799). The purpose of this filing is to eliminate the gateway of Gatesville, NC.

No. MC 107515 (Sub-No. E620), filed February 13, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Applicant's representative: Alan E. Serby, Suite 375, 3379 Peachtree Rd. NE., Atlanta, GA 30326. *Meats, meat products* and *meat byproducts*, as described in section A of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, except commodities in bulk: (1) From points in that part of VA on and east of a line beginning at the VA-NC State line and extending along U.S. Hwy 220 to its junction U.S. Hwy 58, thence over U.S. Hwy 58 to junction U.S. Hwy 360, thence over U.S. Hwy 360 to junction Interstate Hwy 85, thence over Interstate Hwy 85 to junction Interstate Hwy 95, thence along Interstate Hwy 95 to junction Interstate Hwy 495, thence along Interstate Hwy 495 to the Potomac River at or near Alexandria, VA; points in that part of MD on and east of a line beginning at the Potomac River at or near Oxen Hill, MD, and extending along Interstate Hwy 495 to Silver Spring, MD, thence along U.S. Hwy 29 to its junction with MD Hwy 198, thence along MD Hwy 198 to its junction with the Balitmore-Washington Parkway, thence along the Balitmore-Washington Parkway to its junction with Interstate Hwy 695, thence along Interstate Hwy 695 to its junction with Interstate Hwy 95, thence along Interstate Hwy 95 to junction the MD-DE State line, points in that part of DE on and south of Interstate Hwy 95; parts of PA and NJ on and east of U.S. Hwy 1; New York, NY, and points in that part of NY in and south of Interstate Hwy 287; points in CT and RI; and points in that part of MA on and east of U.S. Hwy 5, to KS. (2) From Washington, DC, to points in KS on and south of U.S. Hwy 24. (3) From that part of VA on and east of U.S. Hwy 15, to points in that part of KS on, south or west of a line beginning at the KS-MO State line and extending along U.S. Hwy 160 to its junction with U.S. Hwy 69, thence along U.S. Hwy 69 to its junction with KS Hwy 57, thence along KS Hwy 57 to junction with KS Hwy 47, thence along KS Hwy 47 to junction with U.S. Hwy 75, thence along U.S. Hwy 75 to junction with U.S. Hwy 54, thence along U.S. Hwy 54 to its junction with U.S. Hwy 77, thence along U.S. Hwy 77 to its junction with Interstate Hwy 70, thence along Interstate Hwy 70 to its junction with U.S. Hwy 283, thence along U.S. Hwy 283 to the KS-NE State line. Restrictions: (1) All authority sought herein is to be restricted to the transportation in vehicles equipped with mechanical refrigeration. (2) All authority sought herein is to exclude commodities in bulk. (3) All authority sought herein is restricted to the transportation of shipments which originate at or are destined to points in NY, CT, MA, RI, NJ, PA, MD, DE, VA, DC, KY, NC, SC, TN, GA, AL, FL, MS, AR, LA, OK, TX, AZ, CA, and NM. The purpose of this filing is to eliminate the gateway of Smithfield, VA.

No. MC 107515 (Sub-No. E621), filed February 13, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Applicant's representative: Alan E. Serby, Suite 375, 3379 Peachtree Rd. NE., Atlanta, GA 30326. *Canned foodstuffs*, (1) from Norfolk, VA, to MO and KS and that part of IL on, south or west of a line beginning at the IL-IN State line and extending along U.S. Hwy 460 to its junction with U.S. Hwy 50, thence along U.S. Hwy 50 to its junction with U.S. Hwy 51, thence along U.S. Hwy 51 to its junction with IL Hwy 29, thence along IL Hwy 29 to its junction with U.S. Hwy 136, thence along U.S. Hwy 136 to its junction with U.S. Hwy 67, thence along U.S. Hwy 67 to the IL-IA State line. (2) From points in VA on and east of U.S. Hwy 301, to points in KS and that part of MO on, south, or west of a line beginning at the IL-MO State line and extending along U.S. Hwy 40 to its junction with MO Hwy 13, thence along MO Hwy 13 to its junction with U.S. Hwy 136, thence along U.S. Hwy 136 to the MO-NE State line. Restrictions: (1) All authority sought herein is to be restricted to transportation in vehicles equipped with mechanical refrigeration. (2) All authority sought herein is to exclude commodities in bulk. (3) All authority sought herein is restricted to the transportation of shipments which originate at or are destined to points in NY, CT, MA, RI, NJ, PA, MD, DE, VA, DC, KY, NC, SC, TN, GA, AL, FL, MS, AR, LA, OK, TX, AZ, CA, and NM. (4) All of the authority herein shall expire on December 18, 1978, unless on or prior to that date the Commission shall renew the certificate issued to the carrier in MC 107515 (Sub-No. 799). The purpose of this filing is to eliminate the gateway of Lewisburg, TN.

No. MC 107515 (Sub-No. E635), filed February 13, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Applicant's representative: Alan E. Serby, Suite 375-3379 Peachtree Road NE. Atlanta, GA 30326. *Frozen foods:* (1) From points in Louisiana on or south of Interstate Hwy 20, to

points in MA, CT, NJ, DE, MD, and DC and that portion of VA on or east of a line commencing at the VA-NC State line and extending over U.S. Hwy 501 to junction U.S. Hwy 60, then over U.S. Hwy 60 to junction Interstate Hwy 81, then over Interstate Hwy 81 to the VA-MD State line; points in that portion of PA on or east of a line commencing at the PA-MD State line and extending over U.S. Hwy 219 to junction PA Hwy 879, then over PA Hwy 879 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction U.S. Hwy 15, then over U.S. Hwy 15 to the PA-NY State line; and points in NY on or east of U.S. Hwy 15. (2) From points in MS on or south of Interstate Hwy 20, to the territory in (1) above. (3) From points in MS, to points in MA, CT, NJ, DE, and DC, and points in VA on or east of Interstate Hwy 95; points in MD on or east of U.S. Hwy 15; points in PA on or east of a line commencing at the PA-MD State line and extending over U.S. Hwy 15 to junction Interstate Hwy 81, then over Interstate Hwy 81 to NY-PA State line; and points in NY on or south of NY Hwy 7. (4) From points in MS on or south of Interstate Hwy 10, to points in MD; that portion of VA on or east of a line beginning at the VA-NC State line and extending over U.S. Hwy 501 to junction Interstate Hwy 81, then over Interstate Hwy 81 to junction U.S. Hwy 250, then over U.S. Hwy 250 to the VA-WV State line; points in PA on or east of a line commencing at the PA-MD State line and extending over U.S. Hwy 219 to junction PA Hwy 56, then over PA Hwy 56 to junction U.S. Hwy 119, then over U.S. Hwy 119 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction PA Hwy 66, then over PA Hwy 66 to junction PA Hwy 36, then over PA Hwy 36 to junction U.S. Hwy 62, then over U.S. Hwy 62 to NY-PA State line; points in NY on, north or east of a line commencing at the NY-PA State line and extending over U.S. Hwy 219 to junction U.S. Alternate Hwy 20, then over U.S. Hwy Alternate 20 to junction Interstate Hwy 90, then over Interstate Hwy 90 to Buffalo, NY. Restrictions: (1) All authority sought herein is to be restricted to transportation in vehicles equipped with mechanical refrigeration. (2) All authority sought herein is to exclude commodities in bulk. (3) All authority sought herein is restricted to the transportation of shipments which originate at or are destined to points in MY, CT, MA, RI, NJ, PA, MD, DE, VA, DC, KY, NC, SC, TN, GA, AL FL, MS, AR, LA OK, TX, AZ, CA, and NM. (4) All of the authority herein shall expire on December 18, 1978, unless on or prior to that date of the Commission shall renew the Certificate issued to carrier in MC 107515 (Sub-No. 799). The purpose of this filing is to eliminate the gateway of Atlanta, GA; Charlotte, NC; any point in VA; and Rocky Mount, NC.

No. MC 107515 (Sub-No. E636), filed February 13, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Applicant's representative: Alan E. Serby, Suite 375-3379 Peachtree Road, NE, Atlanta, GA 30326. *Prepared dough*, (1) from Boston, MA, to Denver, CO (2) From points in MD on, south or east of Interstate Hwy 95; points in PA on, south, or east of Interstate Hwy 95; Philadelphia, PA; points in DE; points in NJ on, south or east of Interstate Hwy 95; New York, NY; points in CT and RI on, south or east of Interstate Hwy 95; and points in MA on or east of U.S. Hwy 1, to points in NM, AZ, that portion of UT on or south of U.S. Hwy 40, that portion of NV on or south of U.S. Hwy 40, that portion of CA on or south of Interstate Hwy 80. (3) From that portion of PA on, south or east of a line beginning at the MD-PA State line and extending over Interstate Hwy 83 to junction U.S. Hwy 30, then over U.S. Hwy 30 to junction U.S. Hwy 222, then over U.S. Hwy 222 to the junction U.S. Hwy 22, then over U.S. Hwy 22 to the PA-NJ State line; to those portions of AZ, NM, NV and CA specified in (2) above. Restrictions: (1) All authority sought herein is to be restricted to transportation in vehicles equipped with mechanical refrigeration. (2) All authority sought herein is to exclude commodities in bulk. (3) All authority sought herein is restricted to the transportation of shipments which originate at or are destined to points in NY, CT, MA, RI, NJ, PA, MD, DE, VA, DC, KY, NC, SC, TN, GA, AL, FL, MS, AR, LA, OK, TX, AZ, CA, and NM. (4) All of the authority herein shall expire on December 18, 1978, unless on or prior to that date the Commission shall renew the Certificate issued to carrier in MC 107515 (Sub-No. 799). The purpose of this filing is to eliminate the gateway of East Point, GA.

No. MC 107515 (Sub-No. E637), filed February 13, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Applicant's representative: Alan E. Serby, Suite 375-3379 Peachtree Road, NE, Atlanta, GA 30326. *Pie fillings, jellies, jams and fondant icings*, (1) From VA, DE, MD, NJ, PA, NY, CT, RI, MA, and DC, to Los Angeles, CA. (2) From points in VA, MD, DE, NJ, CT, RI, MA, Washington, DC, points in PA on or east of Interstate Hwy 81; and points in NY on or east of Interstate Hwy 81, to Phoenix, AZ, and points in CA on or south of Interstate Hwy 10. (3) From points in VA, DE, NJ, CT, RI, MA, Washington, DC; that portion of MD on, south or east of Interstate Hwy 81; that portion of NY on, south or east of a line beginning at the NY-NJ State line and extending over Interstate Hwy 84 to junction Taconic State Parkway, then over Taconic State Parkway to junction Interstate Hwy 90, then along Interstate Hwy 90 to the NY-MA State line and that portion of PA on, south or east of a line beginning at the PA-MD State line and extending over Interstate Hwy 81 to junction U.S. Hwy 22, then over U.S. Hwy 22 to junction PA Turnpike, then over the PA Turnpike to junction U.S. Hwy 209, then over U.S. Hwy 209 to the PA-NY-NJ State line at or near Port Jervis, NY, to San Francisco, CA. Restrictions: (1) All authority sought herein is to be restricted to transportation in vehicles equipped with mechanical refrigeration. (2) All authority sought herein is to exclude commodities in bulk. (3) All authority sought herein is restricted against the transportation of sugar (4) All authority sought herein is restricted to the transportation of shipments which originate at or are destined to points in NY, CT, MA, RI, NJ, PA, MD, DE, VA, DC, KY, NC, SC, TN, GA, AL, FL, MS, AR, LA, OK, TX, AZ, CA, and NM. (5) All of the authority herein shall expire on December 18, 1978, unless on or prior to that date the Commission shall renew the Certificate issued to carrier in MC 107515 (Sub-No. 799). The purpose of this filing is to eliminate the gateway of Pensacola, FL.

No. MC 107515 (Sub-No. E638), filed February 13, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Applicant's representative: Alan E. Serby, Suite 375—3379 Peachtree Rd. NE., Atlanta, GA 30326. *Prepared dough*, except in bulk, in vehicles equipped with mechanical refrigeration, from points in VA on or south of a line commencing at the VA-NC State line and extending over U.S. Hwy 220 to Martinsville, then over VA Hwy 57 to junction U.S. Hwy 29, then over U.S. Hwy 29 to junction VA Hwy 40, then over VA Hwy 40 to junction VA Hwy 10, then over VA Hwy 10 to junction U.S. Hwy 17, then over U.S. Hwy 17 to junction U.S. Hwy 60 to Norfolk, then over U.S. Hwy 60 to the Atlantic Ocean; Norfolk, VA, to MI. Restrictions: (1) All authority sought herein is restricted to the transportation of shipments which originate at or are destined to points in NY, MA, RI, NJ, PA, MD, DE, VA, DC, KY, NC, SC, TN, GA, AL, FL, MS, AR, LA, OK, TX, AZ, CA, and NM; (2) All of the authority herein shall expire on December 18, 1978, unless on or prior to that date the Commission shall renew the Certificate issued to carrier in MC 107515 (Sub-No. 799). The purpose of this filing is to eliminate the gateway of Greensboro, NC.

No. MC 107515 (Sub-No. E639), filed February 13, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Applicant's representative: Alan E. Serby, Suite 375—3379 Peachtree Rd. NE., Atlanta, GA 30326. *Prepared dough*, (1) From points in that part of MA on and east of Interstate Hwy 91; points in CT on and east of a line commencing at the CT-MA State line and extending over Interstate Hwy 91 to Hartford, then along Interstate Hwy 84 to CT-NY State line; New York, NY; points in MD, NJ, and PA on and east of U.S. Hwy 1; points in DE; Washington, DC; and points in that part of VA on or east of U.S. Hwy 29, to points in that part of IN commencing at the IN-KY State line at or near Canneiton, IN, and extending over IN Hwy 66 to junction U.S. Hwy 231, then over U.S. Hwy 231 to junction IN Hwy 68, then over IN Hwy 68 to junction Interstate Hwy 64, then over Interstate Hwy 64 to IN-IL State line; and points in that part of IL on or south of a line commencing at the IL-IN State line and extending over U.S. Hwy 460 to junction IL Hwy 14, then over Il Hwy 14 to junction U.S. Hwy 51, then over U.S. Hwy 51 to junction IL Hwy 154, then over IL Hwy 154 to junction IL Hwy 3, then over IL Hwy 3 to junction IL Hwy 155, then over IL Hwy 155 to Mississippi River at or near Ft. Chartrues, IL; (2) From points in that part of VA on or south or east of a line commencing at the VA-NC State line and extending over U.S. Hwy 220 to Martinsville, VA, then over U.S. Hwy 58 to Danville, VA, then over U.S. Hwy 29 to junction VA Hwy 6, then over VA Hwy 6 to junction U.S. Hwy 360, then over U.S. Hwy 360 to the Chesapeake Bay, to IL and points in that part of IN on, south, or west of a line commencing at the IN-OH State line, then over U.S. Hwy 224 to junction IN Hwy 5, then over IN Hwy 5 to junction U.S. Hwy 30, then over U.S. Hwy 30 to junction IN Hwy 49, then over IN Hwy 49 to Lake Michigan. Restrictions: (1) All authority sought herein is to be restricted to transportation in vehicles equipped with mechanical refrigeration. (2) All authority sought herein is to exclude commodities in bulk. (3) All authority sought herein is restricted to the transportation of shipments which originate at or near destined to points in NY, CT, MA, RI, NJ, PA, MD, DE, VA, DC, KY, NC, SC, TN, GA, AL, FL, MS, AR, LA, OK, TX, AZ, CA, and NM. (4) All of the authority herein shall expire on December 18, 1978, unless on or prior to that date the Commission shall renew the Certificate issued to carrier in MC 107515 (Sub-No. 799). The purpose of this filing is to eliminate the gateway of Greensboro, NC.

No. MC 107515 (Sub-No. E640), filed February 13, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Applicant's representative: Alan E. Serby, Suite 375-3379, Peachtree Road NE., Atlanta, GA 30326. *Prepared dough*, except in bulk, in vehicles equipped with mechanical refrigeration, (1) from points in VA on, east or south of a line commencing at the VA-NC State line and extending over U.S. Hwy 29 to Danville, VA, then over U.S. Hwy 58 to Norfolk, VA, to points in WV on and west of a line commencing at the WV-VA State line and extending over Interstate Hwy 77 to junction U.S. Hwy 33, then over U.S. Hwy 33 to the WV-OH State line; (2) from Danville, VA, to Parkersburg and Morgantown, WV. Restrictions: (1) All authority sought herein is restricted to the transportation of shipments which originate at or are destined to points in NY, CT, MA, RI, NJ, PA, MD, DE, VA, DC, KY, NC, SC, TN, GA, AL, FL, MS, AR, LA, OK, TX, AZ, CA, and NM; (2) all of the authority herein shall expire on December 18, 1978, unless on or prior to that date the Commission shall renew the certificate issued to carrier in MC 107515 (Sub-No. 799). The purpose of this filing is to eliminate the gateway of Greensboro, NC.

No. MC 115331 (Sub-No. E24) (correction), filed May 16, 1974, published in the FEDERAL REGISTER issue of February 8, 1978, and republished, as corrected, this issue. Applicant: TRUCK TRANSPORT, INC., 230 St. Clair Avenue, East St. Louis, IL 62201. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, DC 20001. (37) *Dry fertilizer and urea*, from Nebraska City, NE, to points in IL, IN, MI, and OH. The purpose of this filing is to eliminate the gateway of Fort Madison, IA.

NOTE.—The purpose of this correction is to correct the docket number which read as "114019" instead of "115331." The remainder of the letter notice remains as published.

No. MC 117574 (Sub-No. E102), filed July 16, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Applicant's representative: E. S. Moore, Jr. (same as above). *Tractors, cranes, or industrial and processing machinery, and attachments and parts therefor: self-propelled construction and materials handling machines, construction, and materials handling machines*, withouth undercarriages, any of which are tractors, cranes, or industrial and processing machinery, and attachments, and parts for the machines described above from Waukesha, WI, to points in DE, MD (except Garrett County), points in that portion of NC in and east of Almance, Caswell, Chatham, Moore, and Scotland Counties, and points in that portion of VA in and east of Amherst, Augusta, Campbell, Pittsylvania, and Rockbridge Counties, VA. The purpose of this filing is to eliminate the gateway of Carlisle and Shady Grove, PA.

No. MC 117574 (Sub-No. E105), filed July 16, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Applicant's representative: E. S. Moore, Jr. (same as above). *Tractors* (other than truck-tractors) with or without attachments, except those which because of size or weight require special handling or the use of special equipment, and *parts for such tractors*, from Minneapolis, MN, to points in that portion of NC in and east of Cabarrus, Davidson, Forsyth, Michlenburg, Rowan, and Stokes Counties, points in that portion of SC in and east of Berkley, Charleston, Clarendon, Dorchester, Kershaw, Lancaster, and Sumper Counties, and points in VT. The purpose of this filing is to eliminate the gateway of Carlisle and Waynesboro, PA. 000

No. MC 118831 (Sub-No. E67), filed April 2, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW, Washington, DC 20001. *Liquid chemicals* (except petrochemicals), in bulk, in tank vehicles, from Orangeburg, SC, to Greenville, TN. The purpose of this filing is to eliminate the gateway of Charlotte, NC.

No. MC 118831 (Sub-No. E68), filed April 2, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW, Washington, DC 20001. *Liquid chemicals* (except petrochemicals), in bulk, in tank vehicles, from points in SC on and east of a line beginning on U.S. Hwy 21 at the boundary between NC and SC, then over U.S. Hwy 21 to its junction with SC Hwy 72-121, to its junction with SC Hwy 901, to its junction with SC Hwy 9, to its junction with U.S. Hwy 21, to its junction with SC Hwy 97, to its junction with U.S. Hwy 601, to its junction with Interstate Hwy 20, to its junction with U.S. Hwy 521, to its junction with SC Hwy 261, to its junction with U.S. Hwy 15, to its junction U.S. Hwy 301, to its junction with U.S. Hwy 521, to its junction with U.S. Hwy 52, to its junction with SC Hwy 45, then over SC Hwy 45 to McClellanville, then east to the Atlantic Ocean; to IL (except the East St. Louis commercial zone), IN, KY, MI, MO (except the St. Louis commercial zone), OH, TN, and WI. The purpose of this filing is to eliminate the gateway of Charlotte, NC.

No. MC 118831 (Sub-No. E69), filed April 2, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, High Point, NC 27263. Applicant's rep-

resentative: E. Stephen Heisley, 666 Eleventh Street NW, Washington, DC 20001. *Liquid chemicals* (except petrochemicals), in bulk, in tank vehicles, from Greenville, SC, to points in (1) MI; (2) WI ; (3) that portion of MO (except the ST. Louis commercial zone), which lies on, north and west of a line beginning at the boundary between MO and AR on MO Hwy 5, then over MO Hwy 5 to its junction with U.S. Hwy 60, to its junction with U.S. Hwy 63, to its junction with Interstate Hwy 44, to the IL boundary; (4) that portion of IL (except the East St. Louis commercial zone) which lies on, north and west of a line beginning at the boundary between IL and MO on Interstate Hwy 44, then over Interstate Hwy 44 to its junction with Interstate Hwy 57, to its junction with Interstate Hwy 74, to its junction with IL Hwy 1, to its junction with U.S. Hwy 24, then over U.S. Hwy 24 to the IN boundary; (5) that portion of IN which lies on and north of a line beginning at the boundary between IN and IL on U.S. Hwy 24, then over U.S. Hwy 24 to its junction with U.S. Hwy 41, to its junction with IN Hwy 14, to its junction with IN Hwy 25, to its junction with U.S. Hwy 30, then over U.S. Hwy 30 to the OH boundary; and (6) that portion of OH which lies on, north and east of a line beginning at the boundary between OH and IN on U.S. Hwy 30, then over U.S. Hwy 30 to its junction with U.S. Hwy 127, to its junction with U.S. Hwy 33, to its junction with OH Hwy 72, to its junction with U.S. Hwy 35, to its junction with OH Hwy 93, to its junction with OH Hwy 233, to its junction with OH Hwy 141, to its junction with OH Hwy 378, then over OH Hwy 278 to Getaway and then, by unnumbered road, to Chesapeake, OH. The purpose of this filing is to eliminate the gateway of Charlotte, NC.

NO. MC 118831 (Sub-No. E70), filed April 2, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, DC 20001. *Liquid chemicals* (except petrochemicals), in bulk, in tank vehicles, from Beaufort, SC, to points in IL (except the East St. Louis commercial zone), IN, KY, MI, MO (except the St. Louis commercial zone), OH, and WI and to points in TN which lie on and north of a line beginning at the boundary between TN and NC on U.S. Hwy 25, then to its junction with Interstate Hwy 40, to its junction with U.S. Hwy 70, to its junction with TN Hwy 104, to its junction with TN Hwy 20, then over TN Hwy 20 to the boundary between TN and AR. The purpose of this filing is to eliminate the gateway of Charlotte, NC.

No. MC 118831 (Sub-No. E71), filed April 2, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, DC 20001. *Liquid chemicals* (except petrochemicals), in bulk, in tank vehicles, from points in SC which lie on and east of a line beginning at the boundary between SC and GA on Interstate Hwy 85, then over Interstate Hwy 85 to its junction with U.S. Hwy 178, to its junction with SC Hwy 8, to its junction with SC Hwy 186, to its junction with U.S. Hwy 276, to then over U.S. Hwy 276 to the boundary between NC and SC; to points in WI. The purpose of this filing is to eliminate the gateway of Charlotte, NC.

No. MC 118831 (Sub-No. E117), filed April 2, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, DC 20001. *Liquid petrochemicals* (except anhydrous ammonia, fertilizer, and fertilizer materials), in bulk, in tank vehicles, from points in NC on and east of a line beginning at the boundary between NC and SC on NC Hwy 9, to its junction with an unnumbered highway to Spindale, then over U.S. Hwy 74 to its junction with an unnumbered highway, to its junction with NC 226, to its junction with an unnumbered highway, to its junction with NC Hwy 226, to its junction with an unnumbered highway to NC Hwy 10 near Casar, then over NC Hwy 10 to its junction with NC Hwy 18, to its junction with an unnumbered highway to Connelly Springs, then over unnumbered highway through Baton and Whitnel to Lenoir, then over NC Hwy 18 to its junction with NC Hwy 268, to its junction with U.S. Hwy 601, to its junction with U.S. Hwy 52, then over U.S. Hwy 52 to the boundary between NC and VA; to points in MO (except the St. Louis commercial zone). The purpose of this filing is to eliminate the gateway of points in SC and Charlotte, NC.

No. MC 118831 (Sub-No. E118), filed April 2, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, DC 20001. *Liquid petrochemicals* (except anhydrous ammonia, fertilizer, and fertilizer materials), in bulk, in tank vehicles, from points in NC on, east and south of a line beginning at the boundary between NC and SC on NC Hwy 150, then over NC Hwy 150 to its junction with Interstate Hwy 77, to its junction near Oswalt with U.S. Hwy 21, to its junction with Interstate Hwy 40, to its junction with U.S. Hwy 601, to its junction with U.S. Hwy 64, to its junction with U.S. Hwy 29, then over U.S. Hwy 29 through Lexington and High Point to its junction with Interstate Hwy 85, then over Interstate Hwy 85 to the boundary between NC and VA; to points in IN. The purpose of this filing is to eliminate the gateways of points in SC and Charlotte, NC.

No. MC 118831 (Sub-No. E119), filed April 2, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, 666 11th St. NW., Washington, DC 20001. *Liquid petrochemicals* (except anhydrous ammonia, fertilizer, and fertilizer materials), in bulk, in tank vehicles, from points in NC on, east, and south of a line beginning at the boundary between NC and SC on U.S. Alternate Hwy 221, to its junction with NC Hwy 120, to its junction with U.S. Hwy 74, to Shelby, then over NC Hwy 150 to its junction with NC Hwy 152, to its junction with U.S. Hwy 52, to its junction with NC Hwy 27, to its junction with U.S. Hwy 220, to its junction with NC Hwy 211, to its junction U.S. Hwy 401, to its junction with NC Hwy 24, to its junction with U.S. Hwy 117, to its junction with NC Hwy 210, to its junction with U.S. Hwy 17, to its junction with NC Hwy 132, to its junction with U.S. Hwy 74, then over U.S. Hwy 74 to Wrightsville Beach; to points in OH. The purpose of this filing is to eliminate the gateway of points in SC and Charlotte, NC.

No. MC 118831 (Sub-No. E120), filed April 2, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, 666 11th St. NW., Washington, DC 20001. *Liquid petrochemicals* (except anhydrous ammonia, fertilizer, and fertilizer materials), in bulk, in tank vehicles, from Rocky Mount, N.C. to points in MO (except the St. Louis Commercial Zone), WI, MI, IN, IL, (except the east St. Louis commerical zone), points in TN which lie on and west of a line beginning at the boundary between NC and TN on U.S. Hwy 19W, to its junction with U.S. Hwy 19W-23, to its junction with U.S. Hwy 23, to Kingsport, to the boundary between KY and TN; points in KY which lie on and west of a line beginning at the boundary between KY and VA on U.S. Hwy 23, to its junction with U.S. Hwy 23-119, to its junction with KY Hwy 197, to its junction with VA Hwy 80, to Belcher, KY, then over U.S. Hwy 460 to its junction with U.S. Hwy 23-460, to its junction with U.S. Hwy 23, to Louisa, to the boundary between KY and WV; points in OH on and west of a line beginning at Aberdeen, then over U.S. Hwy 52 to its junction with U.S. Hwy 62, to its junction U.S. Hwy 23 at Columbus, to its junction with OH Hwy 53, to its junction with OH Hwy

199, to Toledo. The purpose of this filing is to eliminate the gateway of points in SC and Charlotte, NC.

No. MC 118831 (Sub-No. E121), filed April 2, 1976. Applicant: CENTRAL TRANSPORT, INC., High Point, NC. Applicant's representative: E. Stephen Heisley, 666 11th St. NW., Washington, DC 20001. *Liquid petrochemicals* (except anhydrous ammonia, fertilizer, and fertilizer materials), in bulk, in tank vehicles, from Plymouth, NC to points in MO (except the St. Louis commercial zone), IL (except the east St. Louis commercial zone), WI, MI, IN; points in TN which lie on and west of a line beginning at the TN-NC boundary on U.S. Hwy 19W, then to its junction with U.S. Hwy 19W-23, to its junction with U.S. Hwy 23, to its junction with U.S. Hwy 11E-19, to Bristol; points in KY which lie on and west of a line beginning at the KY-VA boundary on U.S. Hwy 23, then to its junction with U.S. Hwy 23-119 to its junction KY Hwy 197, to its junction with VA Hwy 80 to Belcher, then over U.S. Hwy 460 to its junction with U.S. Hwy 23-460, to its junction with U.S. Hwy 23, to Louisa, to the KY-WV boundary; points in OH which lie on and west of a line beginning at Aberdeen, then over U.S. Hwy 52 to its junction with U.S. Hwy 62, to its junction with U.S. Hwy 23 at Columbus, to its junction with OH Hwy 53, to its junction with OH Hwy 18, to its junction with OH Hwy 199, to Toledo. The purpose of this filing is to eliminate the gateway of Points in SC and Charlotte, NC.

No. MC 141364 (Sub-No. E1), filed December 24, 1975. Applicant: AFFILIATED VAN LINES, INC., 2124 Washington Street, Lawton, OK 73501. Applicant's representative: Charles J. Kimball, 350 Capital Life Center, 1600 Sherman St., Denver, CO 80203. *Household goods*, As defined by the Commission, (1) between points in KS, on the one hand, and, on the other, (A) those points in TX, on and east and south of a line beginning at the OK-TX State line and extending along Interstate Hwy 35 to junction Interstate Hwy 35W, then along Interstate Hwy 35W to junction U.S. Hwy 81, then along U.S. Hwy 81 to the international boundary between the United States and Mexico; (B) points in LA; (C) those points in AR, on, west, south, and east of a line beginning at the AR-OK State line, then along U.S. Hwy 62 to junction U.S. Hwy 71, then along U.S. Hwy 71 to junction U.S. Hwy 64, then along U.S. Hwy 64 to junction U.S. Hwy 167, then along U.S. Hwy 167 to junction AR Hwy 25, then along AR Hwy 25 to junction U.S. Hwy 67, then along U.S. Hwy 67 to the MO-AR State line; (D) those points in MO, on, east, south and west of a line beginning at the MO-AR State line, then along U.S. Hwy 67 to junction MO Hwy 53, to its junction with the western boundary of Dunklin County, MO, and points in Dunklin and Pemiscot Counties, MO. The purpose of this filing is to eliminate the gateways of points in OK on and east of U.S. Hwy 77. (2) Between points in KS on, south, and west of a line beginning at the CO-KS State line, then along Interstate Hwy 70 to junction U.S. Hwy 81, then along U.S. Hwy 81 to junction U.S. Hwy 54, then along U.S. Hwy 54 to junction U.S. Hwy 77, then along U.S. Hwy 77 to the KS-OK State line, on the one hand, and, on the other, (A) those points in TX on, east and south of a line beginning at the TX-OK State line, then along Interstate Hwy 35 to junction Interstate Hwy 35W, then along Interstate Hwy 35W to junction U.S. Hwy 81 to Laredo and the international boundary between the United States and Mexico; (B) points in LA; (C) points in AR; (D) those points in Illinois on and south of a line beginning at the IL-KY State line, then along IL Hwy 13 to junction IL Hwy 149, then along IL Hwy 149 to junction IL Hwy 3, then along IL Hwy 3 to Chester, then along the unnumbered highway running southwest from Chester to junction MO Hwy 51 and the IL-MO State line; (E) those points in MO on, south, east and west of a line beginning at the IL-MO State line, then along MO Hwy 51 to junction MO Hwy 72, then along MO Hwy 72 to junction MO Hwy 21, then along MO Hwy 21 to junction MO Hwy 8, then along MO Hwy 8 to junction U.S. Hwy 66, then along U.S. Hwy 66 to the MO-KS State line. The purpose of this filing is to eliminate the gateway of points in OK on and east of U.S. Hwy 77. (3) Between points in KS on and east of U.S. Hwy 81 on the one hand, and, on the other, (A) those points in TX on and south of a line beginning at the TX-OK State line, then along U.S. Hwy 66 to junction U.S. Hwy 60, then along U.S. Hwy 60 to the NM-TX State line; (B) those points in NM on, south and west of a line beginning at the TX-NM State line, then along U.S. Hwy 60 to junction NM Hwy 41, then along NM Hwy 41 to junction U.S. Hwy 66, then along U.S. Hwy 66 to the AZ-NM State line; (C) points in LA; (D) those points in AR on, west, south and east of a line beginning at the AR-OK State line, then along U.S. Hwy 62 to junction U.S. Hwy 71, then along U.S. Hwy 71 to junction U.S. Hwy 64, then along U.S. Hwy 64 to junction U.S. Hwy 167, then along U.S. Hwy 167 to junction AR Hwy 25, then along AR Hwy 25 to junction U.S. Hwy 67, then along U.S. Hwy 67 to the MO-AR State line; (E) those points in MO on, east, south, and west of a line beginning at the MO-AR State line then along U.S. Hwy 67 to Poplar Bluff, then along MO Hwy 53 to junction the eastern boundary of Dunklin County, MO, and points in Dunklin and Pemiscot Counties, MO. The purpose of this filing is to eliminate the gateways of points in OK on and east of U.S. Hwy 77. (4) Between those points in KS beginning at the KS-MO State line, then along the western boundaries of Summer and Sedgwick Counties, KS, the northern boundary of Sedgwick County, KS, and the eastern boundary of Sedgwick, County, KS., to junction U.S. Hwy 54, then along U.S. Hwy 54 to junction U.S. Hwy 77, then along U.S. Hwy 77 to the OK-KS State line, on the one hand, and, on the other, (A) points in LA; (B) points in AR; (C) points in IL; (D) those points in MO on, east, and south of a line beginning at the KS-MO State line, then along U.S. Hwy 66 to junction MO Hwy 47, then along MO Hwy 47 to junction U.S. Hwy 61, then along U.S. Hwy 61 to the MO-IA State line; (E) those points in IA on, east and north of a line beginning at the MO-IA State line, then along U.S. Hwy 61 to junction U.S. Hwy 34, then along U.S. Hwy 34 to junction U.S. Hwy 63, then along U.S. Hwy 63 to junction U.S. Hwy 30, then along U.S. Hwy 30 to junction U.S. Hwy 69, then along U.S. Hwy 69 to junction U.S. Hwy 20, then along U.S. Hwy 20 to junction U.S. Hwy 169, then along U.S. Hwy 169 to junction U.S. Hwy 18, then along U.S. Hwy 18 to junction U.S. Hwy 59, then along U.S. Hwy 59 to the IA-MN State line; (F) those points in NE on and west of a line beginning at the SD-NE State line, then along U.S. Hwy 385 to junction NE Hwy 19, then along NE Hwy 19 to the NE-CO State line; (G) those points in CO on, west, and north of a line beginning at the CO-WY State line, then along U.S. Hwy 85 to junction U.S. Hwy 87, then along U.S. Hwy 87 to junction U.S. Hwy 24, then along U.S. Hwy 24 to junction U.S. Hwy 285, then along U.S. Hwy 285 to junction CO Hwy 291, then along CO Hwy 291 to Salida, then along U.S. Hwy 50 to junction U.S. Hwy 285, then along U.S. Hwy 285 to the CO-NM State line; (H) those points in TX on and south of U.S. Hwy 66; (I) those points in NM on, south and west of a line beginning at the TX-NM State line, then along U.S. Hwy 66 to junction NM Hwy 104, then along NM Hwy 104 to Las Vegas, then along NM Hwy 3 to the CO-NM State line. The purpose of this filing is to eliminate the gateway of points in OK on and east of U.S. Hwy 77.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-6224 Filed 3-8-78; 8:45 am]

[7035-01]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

MARCH 3, 1978.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR Part 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before March 20, 1978. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a common carrier, by motor vehicles, over irregular routes.

No. MC 40215 (Sub-No. E2) (Correction), filed May 17, 1974, published in the FEDERAL REGISTER issue of August 26, 1976, and republished, as corrected, this issue. Applicant: RICHARDSON TRANSFER & STORAGE CO., INC., 246 North Fifth Street, Salina, KS 67401. Applicant's representative: James F. Flint, Suite 600, 1250 Connecticut Avenue NW., Washington, D.C. 20036. *Household goods*, as defined by the Commission: (A) From points in AZ on and south and east of a line beginning at the AZ-NM State line and extending along Interstate Hwy 10 to junction U.S. Hwy 666, then south along U.S. Hwy 666 to the international boundary line between the United States and Mexico, to points in CO on and east of a line beginning at the CO-WY State line and extending south along U.S. Hwy 85 to junction of U.S. Hwy 34, then along U.S. Hwy 34 to junction CO Hwy 71, to junction U.S. Hwy 50, to junction CO Hwy 101, to junction U.S. Hwy 160, to junction U.S. Hwy 287, to the CO-OK State line; (B) from points in AZ south of a line beginning at the AZ-CA State line and extending east along Interstate Hwy 10 to junction U.S. Hwy 80, then southwest along U.S. Hwy 80 to the international boundary line between the United States and Mexico, to points in CO on and east of a line beginning at the CO-WY State line and extending south along Interstate Hwy 25 to junction U.S. Hwy 50, then east along U.S. Hwy 50 to junction CO Hwy 101, then south along CO Hwy 101 to junction U.S. Hwy 160, then east along U.S. Hwy 160 to junction U.S. Hwy 287, then south along U.S. Hwy 287 to the CO-OK State line. The purpose of this filing is to eliminate the gateway of Coolidge, KS.

NOTE.—The purpose of this republication is to correct the territorial description.

No. MC 40215 (Sub-No. E5) (correction), filed May 17, 1974, published in the FEDERAL REGISTER issue of September 1, 1976, and republished in FEDERAL REGISTER issue of October 28, 1976, and partially republished as corrected this issue. Applicant: RICHARDSON TRANSFER & STORAGE CO., INC., 246 North Fifth Street, Salina, KS 67401. Applicant's representative: James Flint, Ephraim and Polydoroff, Suite 600, 1250 Connecticut Avenue NW., Washington, D.C. 20036. *Household goods*, as defined by the Commission: (1)(A) From points in CO to points in VA; (B) from points in CO to points in VA on and east of a line beginning at the VA-WV State line, and extending along U.S. Hwy 52 to the VA-NC State line; (C) from points in CO on and northwest of a line beginning at the CO-UT State line, and extending along Interstate Hwy 70, to junction U.S. Hwy 85, then north along U.S. Hwy 85 to the CO-WY State line, to points in VA (Marysville, KS and Ravenna, OH°). (2) From points in CO to points in WV (Kansas City, KS, or Topeka, KS and Ravenna, OH°). (3) From points in CO to points in IA on and east of a line beginning at the IA-MN State line and then extending south along U.S. Hwy 218 to junction IA Hwy 14, then extending south along IA Hwy 14 to junction IA Hwy 5, then south along IA Hwy 5 to the IA-MN State line (Marysville, KS, or Garden City, KS°). (4) From points in CO to points in OK beginning at the KS-OK State line, and extending along U.S. Hwy 283, then south along U.S. Hwy 283 to the OK-TX State line (Liberal, KS°). The purpose of this filing is to eliminate the gateways indicated by asterisks above.

NOTE.—The purpose of this partial republication is to correct the territorial description. The remainder of this letter-notice stands as previously published.

No. MC 40215 (Sub-No. E8), filed May 17, 1974. Applicant: RICHARDSON TRANSFER & STORAGE CO., INC., 246 North 5th Street, Salina, KS 67401. Applicant's representative: Theodore Polydoroff, Suite 600, 1250 Connecticut Avenue NW., Washington, D.C. 20036. *Household goods*, as defined by the Commission: (1) From points in ID to points in AR (Garden City, KS.°) (2) From points in ID to points in DC. (Garden City, and Ravenna, OH.°) (3) From points in ID to those points in CO on and north of a line beginning at the NM-CO State line, and extending along Interstate Hwy 25 junction U.S. Hwy 350, then northeast to junction U.S. Hwy 50, then east along U.S. Hwy 50 to the CO-KS State line. (Coolidge, KS.°) (4) From those points in ID on and south of a line beginning at the OR-ID State line, and extending along Interstate Hwy 80 to junction Interstate Hwy 15W, then along Interstate Hwy 15W to junction U.S. Hwy 30, to junction U.S. Hwy 89, then east along U.S. Hwy 89 to the ID-WY State line, to points in IL (Garden City, KS.°) (5)(A) From points in ID on and south of a line beginning at the MT-ID State line, and extending along U.S. Hwy 93, then along U.S. Hwy 93 to junction of ID Hwy 21, then along ID Hwy 21 to junction ID Hwy 52, then along ID Hwy 52 to the ID-OR State line, to points in IN; (5)(B) from points in ID to those points in IN on and south of a line beginning at the IL-IN State line, and extending along U.S. Hwy 40, then east abng U.S. Hwy 40 to the IN-OH State line.((1) Garden City, KS; (2) Hutchinson, KS.°) (6)(A) From those points in ID on and south of a line beginning at the ID-OR State line, and extending along ID Hwy 52, then along ID Hwy 52 to junction ID Hwy 21, then along ID Hwy 21 to junction U.S. Hwy 93, then along U.S. Hwy 93 to the ID-NV State line, to those points in IA on and north of a line beginning at the IA-IL State line, and extending along IA Hwy 2 to junction Interstate Hwy 35, to junction U.S. Hwy 20, then along U.S. Hwy 20 to the IA-NE State line; (6)(B) from points in ID to those points in IA on and south and east of a line beginning at the IA-MO State line, and extending along IA Hwy 5 to junction IA Hwy 2, thence along IA Hwy 2 to the IA-IL State line. (Garden City KS.°) (7)(A) From points in ID on and north and west of a line beginning at the ID-NV State line, and extending along U.S. Hwy 93, then along U.S. Hwy 93 to the MT-ID State line, to those points in KS bounded by a line beginning at the KS-CO State line, and extending along Interstate Hwy 70 and U.S. Hwy 24, then along U.S. Hwy 24 to junction U.S. Hwy 81, then south along U.S. Hwy 81 to U.S. Hwy 50, then along U.S. Hwy 50 to the KS-CO State line, (Syracuse, KS.°) (7)(B) From points in ID to those points in KS on and east of a line beginning at the KS-NE State line, and extending along U.S. Hwy 81, then along U.S. Hwy 81 to junction U.S. Hwy 50, then along U.S. Hwy 50 to Garden City, KS, then east along U.S. Hwy 50 Alternate to U.S. Hwy 81, then east along U.S. Hwy 81 to junction KS Hwy 99, then along KS Hwy 99 to junction KS Hwy 4, then along KS Hwy 4 to junction U.S. Hwy 24, then east along U.S. Hwy 24 to the KS-MO State line. (Wichita, KS.°) (8) From points in ID to points in KY (Fort Scott, KS.°) (9) From points in ID to points in MD. (Garden City, KS, and Ravenna, OH.°) (10)(A) From points and places in ID on and south of a line beginning at the ID-OR State line, and extending east along U.S. Hwy 12 to the ID-MT State line, to those points in MI on and south of a line beginning at the Lake Michigan and extending east along U.S. Hwy 10 to junction U.S. Hwy 25, then east and north along U.S. Hwy 25 to Lake Huron. (10)(B) From points in ID to those points in MI north and east of a line beginning at the OH-MO State line, and extending along U.S. Hwy 127 to junction of Interstate Hwy 96, to junction MI Hwy 57, then along MI Hwy 57 to junction MI Hwy 15, then along MI Hwy 15 to junction Interstate Hwy 10, then along Interstate Hwy 10 to Lake Michigan (Hutchinson, KS.°) (11) From points in ID to points in MO (Kansas City, KS.°) (12) From points in ID to points in NE on, north and east of a line beginning at the KS-NE State line, and extending north along U.S. Hwy 81 to junction Interstate Hwy 80, then along east along Interstate Hwy 80 to the NE-IA State line. (Topeka, KS, or Garden City, KS.°) (13) From points in ID to points in NY (Garden City, KS and Ravenna, OH.°) (14) From points in ID to points in OH. (Garden City, KS.°) (15) From points in ID to points in OK. (Coolidge, KS.°) (16) From points in ID to points in PA (Garden City, KS, and Ravenna, OH.°) (17) From points in ID to points in TN. (Independence, KS.°) (18)(A) From points in ID to those points in TX east of line beginning at the TX-NM line, and extending south along U.S. Hwy 285 to junction TX Hwy 17, then along TX Hwy 17 southwest to junction U.S. Hwy 67, then along U.S. Hwy 67 to the international boundary line between United States and Mexico. (Garden City, KS.°) (18)(B) From points in ID on and north of a line beginning at the ID-WA State line, and extending along Interstate Hwy 90 to junction U.S. Hwy 95, to junction ID Hwy 200, then southeast along ID Hwy 200 to the ID-MT State line, to points in TX. (Garden City, KS.°) (19) From points in ID to points in VA on and east of a line beginning at the VA-WV State line, and extending south along U.S. Hwy 52 to the VA-NC State line. (Garden City, KS and Revenna, OH.°) (20)(A) From points in ID to points in WV on and east of a line beginning at the OH-WV State line, and extending south along Interstate Hwy 77 to junction U.S. Hwy 33, then east along U.S. Hwy 33 to junction WV Hwy 16, then south along WV Hwy 16 to junction U.S. Hwy 60, then east along U.S. Hwy 60 to junction U.S. Hwy 219, to WV-VA State line. (Garden City, KS and Ravenna, OH.°) (20)(B) From points in ID on and south of a line beginning at the ID-OR State line, and extending along ID Hwy 19 to junction Interstate Hwy 80N, then along Interstate Hwy 80N to junction Interstate Hwy 15, then along Interstate Hwy 15W to junction Interstate Hwy 15, then along Interstate Hwy 15 to junction ID Hwy 26, then along ID Hwy 26 to the ID-WY State line, to points in WV (Garden City, KS. and Ravenna, OH.°) (21) From points in ID on and south of a line beginning at the ID-MT State line, and extending south and east along U.S. Hwy 93 to junction ID Hwy 21, then along west along ID Hwy 21 to junction ID Hwy 55, then south and east along ID Hwy 55 to the ID-OR State line, to points in WI on and east and south of a line beginning at the WI-IL State line, and extending north along WI Hwy 78 to junction U.S. Hwy 51, then north along U.S. Hwy 51 to junction WI Hwy 64, then east along WI Hwy 64 to the WI-MI State line. (Garden City, KS.°) The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 40215 (Sub-No. E9) (correction), filed May 17, 1974, published in the FEDERAL REGISTER issue of October 6, 1976, and partially republished, as corrected, this issue. Applicant: RICHARDSON TRANSFER & STORAGE CO., INC., 246 North Fifth Street, Salina, KS 67401. Applicant's representative: James Flint, Ephraim and Polydoroff, Suite 600, 1250 Connecticut Avenue NW., Washington, DC 20036. *Household goods*, as defined by the Commission, (1) from points in IL, to points in ID on and south of a line beginning at the ID-OR State line, and extending south and east along Interstate Hwy 80 north to junction Interstate Hwy 15 west, then east along Interstate Hwy 15 west to junction U.S. Hwy 30 north, to junction U.S. Hwy 89 at Montpelier, ID, then east along U.S. Hwy 89 to the ID-WY State line. (Garden City, KS°) (2) From points in IL to points in KS on and east of a line beginning at the KS-NE State line and extending along U.S. Hwy 77, then south along U.S. Hwy 77 to junction U.S. Hwy 24, then along U.S. Hwy 24 to junction KS Hwy 18 (formerly U.S. Hwy 40) to Junction City, KS, then along U.S. Hwy 77 to junction U.S. Hwy 56 (formerly U.S. Hwy 50N) to Larned, KS, then west on U.S. Hwy 156 (formerly U.S. Hwy 50N) to Garden City, KS, then east on U.S. Hwy 50 to junction KS Hwy 99 to junction KS Hwy 4, then along Kasnsas Hwy 4 to U.S. Hwy 24 at Topeka, KS, then east along U.S. Hwy 24 to the KS-MO State line. (Kansas City, Mo°) (3) From points in IL to points in NV (Garden City, KS°) (4) From points in IL to points in NM) (Garden City, KS°). (5) From points in IL on and north of a line beginning at the MO-IL State line, and extending along IL Hwy 177 to junction IL Hwy 15, then east along IL Hwy 15 to the IL-IN State line, to points in OK. (Kansas City, KS, Ft. Scott, KS, or Galena, KS°) (6) From points in IL to points in OK except those points east of U.S. Hwy 271. (Kansas City, KS or Galena, KS°) (7) From points in IL to points in TX on and west of a line beginning at the Gulf of Mexico and extending along TX Hwy 288, then north along TX Hwy 288 to junction U.S. Hwy 59, then north along U.S. Hwy 59 to junction U.S. Hwy 259, then north on U.S. Hwy 259 to junction U.S. Hwy 271, then north along U.S. Hwy 271 to the OK-TX State line. (Galena, KS°) (8) From points in IL on and north of a line beginning at the MO-IL State line, and extending along U.S. Hwy Bypass 50 then southeast along U.S. Hwy Bypass 50 to junction IL Hwy 158, then on IL Hwy 158 to junction IL Hwy 177, then along IL Hwy 177 to junction IL Hwy 160, then along IL Hwy 160 to junction IL Hwy 15, then along IL Hwy 15 to the IL-IN State line, to points in TX. (Galena, KS°) (9) From points in IL to points in UT. (Kansas City, KS, or Garden Cty, KS°) The purpose of this filing is to eliminate the gateways indicated by asterisks.

NOTE.—The purpose of this partial correction is to correct the territorial description. The remainder of this letter-notice remains as previously published.

No. MC 40215 (Sub-No. E3) (correction), filed May 17, 1974, published in the FEDERAL REGISTER issue of August 10, 1977, and partially republished, as corrected, this issue. Applicant: RICHARDSON TRANSFER & STORAGE CO., INC., 246 North Fifth Street, Salina, KS 67401. Applicant's representative: James Flint, Ephraim and Polydoroff, Suite 600, 1250 Connecticut Avenue NW., Washington, DC 20036. *Household goods*, as defined by the Commission (1)(B) from points in AR on and north of a line beginning at the AR-OK State line and extending along U.S. Hwy 270, then east on U.S. Hwy 270 to junction U.S. Hwy 79, then northeast along U.S. Hwy 79 to junction U.S. Hwy 49, then east on U.S. Hwy 49 to the AR-TN State line, to points in AZ (Garden City, KS°). (8)(A) From points in AR on and north of a line beginning at the OK-AR State line and extending along Interstate Hwy 40, then extending east along Interstate Hwy 40 to junction U.S. Hwy 64, then east along U.S. Hwy 64 to the AR-TN State line to points in NM on and north of a line beginning at the TX-NM State line, and extending along U.S. Hwy 380, then southwest along U.S. Hwy 380 to junction U.S. Hwy 70, then west along U.S. Hwy 70 (and 380) to junction U.S. Hwy 54, then south along U.S. Hwy 54 to

the NM-TN State line. (Garden City, KS*). The purpose of this filing is to eliminate the gateways indicated by the asterisks above.

NOTE.—The purpose of this partial republication is to correct the territorial description. The remainder of this filing is to remain as previously published.

No. MC 40215 (Sub-No. E10) (correction), filed May 17, 1974, published in the FEDERAL REGISTER issue of October 6, 1976, and partially republished, as corrected, this issue. Applicant: RICHARDSON TRANSFER & STORAGE CO., INC., 246 North Fifth Street, Salina, KS 67401. Applicant's representative: Theodore Polydoroff, Suite 600, 1250 Connecticut Avenue NW., Washington, DC 20036. *Household goods*, as defined by the Commission (1) from points in IN to points in UT. (Garden City, KS*). (2) From points in IN on and north of a line beginning at the KY-IN State line, and extending along U.S. Hwy 231, then north on U.S. Hwy 231 to junction U.S. Hwy 50, then east along U.S. Hwy 50 to the IN-OH State line, to points in TX on and west of a line beginning at the OK-TX State line and extending along U.S. Hwy 271, then along south U.S. Hwy 24 to junction Interstate Hwy 45, then south along Interstate Hwy 45 to the Gulf of Mexico. (Wichita, KS, or Arkansas City, KS; or Chetopa, KS*). (3) From points in IN to points in OK (Garden City, KS, or Kansas City, MO, or Arkansas City, KS*). (4) From points in IN, to points in OK on and north of a line beginning at the AR-OK State line and extending along OK Hwy 83, then west along OK Hwy 83 to junction U.S. Hwy 271, then southwest on U.S. Hwy 271 to the OK-TX State line. (Garden City, OK, or Kansas City, KS, or Arkansas City, KS*). (5) From points in IN to points in NM. (Garden City, KS*). (6) From points in IN to points in NE on and west of a line beginning at the KS-NE State line, then north along U.S. Hwy 183 to junction U.S. Hwy 30, then west on U.S. Hwy 30 to junction NE Hwy 61, then north on NE Hwy 61 to junction U.S. Hwy 26, then west along U.S. Hwy 26 to the NE-WY State line. (Concordia, KS*). (7) From points in IN to points in NV. (Garden City, KS*). (8) From points in IN to those points in MO on and west of a line beginning at the MO-IA State line, and extending along U.S. Hwy 69 to junction MO Hwy 13, then along MO Hwy 13 to junction U.S. Hwy 54, then along U.S. Hwy 54 to junction U.S. Hwy 71, then along U.S. Hwy 71 to the MO-AR State line. (Kansas City, KS*). The purpose of this filing is to eliminate the gateways noted above by asterisks.

NOTE.—The purpose of this partial republication is to correct the territorial description. The remainder of this letter-notice remains as previously published.

No. MC 83539 (Sub-No. E13) (correction), filed May 17, 1974, published in the FEDERAL REGISTER issue of November 3, 1976, and partially republished as corrected, this issue. Applicant: RICHARDSON TRANSFER & STORAGE CO., INC., 246 North Fifth Street, Salina, KS 67401. Applicant's representative: James Flint, Suite 600, 1250 Connecticut Avenue NW., Washington, DC 20036. *Household goods*, as defined by the Commission, (1) from points in KY on and north of a line beginning at the KY-WV State line, and extending along Interstate Hwy 64, then along Interstate Hwy 64 to the IN-KY State line, to points in AR (Galena, KS*); (2) from points in KY to points in CA (points in KS*); (3) from points in KY to points in CO (Garden City, Topeka, or Salina, KS*); (4) from points in KY to points in IA on and west of a line beginning at the MN-IA State line, and extending along U.S. Hwy 69, then south along U.S. Hwy 69 to the IA-MO State line, (Kansas City, KS, or Atchison, KS*); (5) from points in KY to those points in MN, on and south and west of a line beginning at the SD-MN State line, and extending along U.S. Hwy 212 to junction MN Hwy 7, then along MN Hwy 7 to junction U.S. Hwy 71, then south along U.S. Hwy 71 to the MN-IA State line (Topeka, KS, or Kansas City, KS*); (6) from points in KY to those points in MO on and west of a line beginning at the MO-IA State line, and extending along U.S. Hwy 65, then south along U.S. Hwy 65 to the MO-AR State line (Kansas City, KS, or Galena, KS*); (7) from points in KY to points in NE (Kansas City, KS, or Atchison, KS*); (8) from points in KY to points in NV (Pittsburgh, KS, or Kansas City, KS*); (9) from points in KY to points in NM (points in KS*); (10) from points in KY to points in OK on, north and west of a line beginning at the OK-AR State line, and extending along U.S. Hwy 271, then south along U.S. Hwy 271 to the OK-TX State line (points in KS*); (11) from points in KY to points in SD (Kansas City, KS, or Manhattan, KS*); (12) from points in KY to points in UT (points in KS*); (13) from points in KY to points in WY (Kansas City, KS*); (14) from points in KY to those points in TX on and west of a line beginning at the TX-OK State line, and extending along south U.S. Hwy 83 to junction U.S. Hwy 287, then east along U.S. Hwy 287 to junction U.S. Hwy 183, then along U.S. Hwy 183 to junction U.S. Hwy 281, then along south U.S. Hwy 281 to the Gulf of Mexico (points in KS*). The purpose of this filing is to eliminate the gateways of those noted above by asterisks.

NOTE.—The purpose of this partial republication is to correct the territorial description. The remainder of this letter-notice remains as previously published.

No. MC 40215 (Sub-No. E14), (Clarification), filed May 17, 1974, published in the FEDERAL REGISTER issue of October 6, 1976, and republished, as corrected, this issue. Applicant: RICHARDSON TRANSFER & STORAGE CO., INC., 246 North Fifth Street, Salina, KS 67401. Applicant's representative: James Flint, Suite 600, 1250 Connecticut Avenue NW., Washington, D.C. 20036. *Household goods*, as defined by the Commission, (1) from points in LA, to those points in OK on and north of a line beginning at the MO-OK State line and extending along U.S. Hwy 60, then west along U.S. Hwy 60 to junction U.S. Hwy 64, then west on U.S. Hwy 64 to the OK-NM State line (Galena, KS, or Arkansas City, KS*); (2) from points in LA to those points in MO on and west of a line beginning at the MO-IA State line, and extending south along U.S. Hwy 69 to junction MO Hwy 13, then south along MO Hwy 13 to junction U.S. Hwy 54, then west along U.S. Hwy 54 to junction MO Hwy 39, then south along MO Hwy 39 to junction MO Hwy 89, then south along MO Hwy 89 to the MO-AR State line (Kansas City, KS, or Galena, KS*), (A) from points in LA to those points in WI on and north of a line beginning at Lake Superior and extending along U.S. Hwy 53, then east on U.S. Hwy 53 to junction U.S. Hwy 2, then east along U.S. Hwy 2 to junction WI Hwy 122, then north on WI Hwy 122 to the WI-MI State line; (B) from points in LA on and south and west of a line beginning at the AR-LA State line, and extending along U.S. Hwy 167, then south along U.S. Hwy 167 to junction LA Hwy 14, then along LA Hwy 14 to junction LA Hwy 82, then west along LA Hwy 82 to Port Arthur, Sabine Lake, to points in WI on and west of a line beginning at Lake Superior, and extending east on WI Hwy 13, then along WI Hwy 13 to junction U.S. Hwy 12, then along U.S. Hwy 12 to junction U.S. Hwy 18, then west along U.S. Hwy 18 to junction WI Hwy 78, then south on WI Hwy 78 to the WI-IL State line (Independence-Manhattan, KS*). The purpose of this filing is to eliminate the gateways noted above by asterisks.

NOTE.—The purpose of this republication is to include those sections, previously omitted. The remainder of this letter-notice remains as previously published.

No. MC 60014 (Sub-No. E273), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, PA 15146. Applicant's representative: William J. Rorison, (same as above). *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire*, in coils, between points in NJ on the one hand, and, on

the other, points in OH. The purpose of this filing is to eliminate the gateways of points in PA, and points in Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, OH.

No. MC 60014 (Sub-No. E277), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, PA 15146. Applicant's representative: William J. Rorison (same as above). *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils*, between points in WV, on the one hand, and, on the other, points in NH, RI, and MA within 35 miles of Boston, MA. The purpose of this filing is to eliminate the gateways of points in NY, and between points in that part of MA, on and east of a line beginning at the MA-NH State line and extending southwardly along U.S. Hwy 202 to junction MA Hwy 68 (at or near Baldwinville, MA), thence along MA Hwy 68 to junction MA Hwy 56 (at or near Hubbardston, MA), then over MA Hwy 56 to junction MA Hwy 12 (near Rochdale, MA), thence along MA Hwy 12 to the MA-CT State line (except points in Barnstable, Dukes, and Nantucket Counties, MA).

No. MC 83539 (Sub-No. E583), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: Douglas Anderson (same as above). *Heavy machinery*, between points in the State of IN, on the one hand, and, on the other, points in the State of NC. The purpose of this filing is to eliminate the gateway of points in VA. Restriction: The authority requested immediately above is subject to the condition that the carrier shall not transport aircraft and missiles, and parts thereof.

No. MC 83539 (Sub-No. E584), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, CO., INC., P.O. Box 5976, Dallas, TX 75222. Applicant's representative: Douglas Anderson (same as above). *Heavy machinery*, between IN, on the one hand, and, on the other, points in SC (VA and NC*). Restriction: The authority granted immediately above is subject to the condition that the carrier shall not transport aircraft and missiles, and parts thereof. The purpose of this filing is to eliminate the gateways indicated by the asterisks above.

No. MC 83539 (Sub-No. E589), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Applicant's representative: Douglas Anderson (same as above). *Heavy machinery*, between points in KY, on the one hand, and, on the other, points in VT. The purpose of this filing is to eliminate the gateway of Philadelphia, PA, and Worcester, MA.

No. MC 107012 (Sub-No. E267), filed July 7, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Applicant's representatives: David D. Bishop and Gary M. Crist (same as above). *New household furnishings, crated* (except new furniture), from points in ND, to points in CT, DE, IN, KY, MD, MA, NJ, NY, OH, PA, RI, WV, and DC, and Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muckegon, Ottawa, Saint Joseph, and Van Buren counties, MI, and Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, and Wayne Counties, MO. The purpose of this filing is to eliminate the gateway of Chicago, IL.

No. MC 107012 (Sub-No. E280), filed July 7, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Applicant's representatives: David D. Bishop and Gary M. Crist (same as above). *Carpets, crated*, from Glasgow, VA, to points in IL; points in IA; Ballard, Caldwell, Calloway, Carlisle, Crittenden, Daviess, Fulton, Graves, Hancock, Henderson, Hickman, Hopkins, Livingston, Lyon, Marshall, McCracken, McLean, Trigg, Union, Webster Counties, KY; Baraga, Gogebic, Houghton, Iron, Keweenaw, Ontonagon, Alcona, Alpena, Antrim, Arenac, Benzie, Charlevoix, Cheboygan, Clare, Crawford, Emmet, Gladwin, Grand Traurse, Iosco, Isabella, Kalkaska, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee, Montmorency, Newaygo, Oceana, Ogemaw, Osceola, Oscoda, Otsego, presque Isle, Roscommon, Wexford, Alger, Delta, Dickinson, Marquette, Menominee, Schoolcraft, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, Saint Joseph, Van Buren, Chippewa, Luce, Mackinac Counties, MI; points in MN; points in MO; points in WI. The purpose of this filing is to eliminate the gateway of Evansville and Milan, IN.

No. MC 107012 (Sub-No. E283), filed July 7, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Applicant's representatives: David D. Bishop and Gary M. Crist, (same as above). *New household furnishings crated* (except new furniture), (1) from points in WA to points in CT, DE, DC, IN, KY, MD, MA, NJ, NY, OH, PA, RI, and WV, (2) from points in Clark, Cowlitz, Klickitat, Lewis, Pacific, Pierce, Skamania, Thurston, Wahkiakum, and Yakima Counties, WA, to points in (a) Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello, and Washington Counties, IA, (b) Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, St. Clair, Sanilac, Shiawassee, Iuscola, Washtenaw, Wayne, Alcona, Alpena, Antrim, Arenac, Benzie, Charlevoix, Cheboygan, Clare, Crawford, Emmet, Gladwin, Grand Traurse, Iosco, Isabella, Kalkaska, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee, Montcalm, Muskegon, Ottawa, Saint Joseph, Van Buren counties, MI, and Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne, Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, and Sullivan Counties, MO, (3) from points in Ferry, Lincoln, Okanogan, Pend Oreille, Spokane, and Stevens Counties, WA, to points in Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, St. Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Alcona, Alpena, Antrim, Arenac, Benzie, Charlevoix, Cheboygan, Clare, Crawford, Emmet, Gladwin, Grand Traurse, Iosco, Isabella, Kalkaska, Lake, Leelanau, Missaukee, Montmorency, Newaygo, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Manistee, Mason, Mecosta, Presque Isle, Roscommon, Wexford, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, St. Joseph, and Van Buren Counties, MI, and Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne, Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, and Sullivan Counties, MO, (4) from points in Clallam, Grays Harbor, Jef-

ferson, Kitsap, Mason, and San Juan Counties, WA, to points in (a) Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello, and Washington Counties, IA, (b) Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, St. Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Alcona, Alpena, Antrim, Arenac, Benzie, Charlevoix, Cheboygan, Clare, Crawford, Emmet, Gladwin, Grand Traurse, Iosco, Isabella, Kalkaska, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee, Montmorency, Newaygo, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Manistee, Mason, Mecosta, Presque Isle, Roscommon, Wexford, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, St. Joseph, and Van Buren Counties, MI, and Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne, Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, and Sullivan Counties, MO, (4) from points in Clallam, Grays Harbor, Jefferson, Kitsap, Mason, and San Juan Counties, WA, to points in (a) Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello, and Washington Counties, IA, (b) Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, St. Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Alcona, Alpena, Antrim, Arenac, Benzie, Charlevoix, Cheboygan, Clare, Crawford, Emmet, Gladwin, Grand Traurse, Iosco, Isabella, Kalkaska, Lake, Leelanau, Missaukee, Montmorency, Newaygo, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Manistee, Mason, Mecosta, Presque Isle, Roscommon, Wexford, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, St. Joseph, and Van Buren Counties, MI, and Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne, Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, and Sullivan Counties, MO, (5) from points in Ferry, Lincoln, Okanogan, Pend Oreille, Spokane, and Stevens Counties, WA, to points in Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, St. Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Alcona, Alpena, Antrim, Arenac, Benzie, Charlevoix, Cheboygan, Clare, Crawford, Emmet, Gladwin, Grand Traurse, Iosco, Isabella, Kalkaska, Lake, Leelanau, Missaukee, Montmorency, Newaygo, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Manistee, Mason, Mecosta, Presque Isle, Roscommon, Wexford, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, St. Joseph, and Van Buren Counties, MI, and Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne, Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, and Sullivan Counties, MO, and (6) from points in Clallam, Grays Harbor, Jefferson, Kitsap, Mason, and San Juan Counties, WA, to points in (a) Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello, and Washington Counties, IA, (b) Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, St. Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Alcona, Alpena, Antrim, Arenac, Benzie, Charlevoix, Cheboygan, Clare, Crawford, Emmet, Gladwin, Grand Traurse, Iosco, Isabella, Kalkaska, Lake, Leelanau, Missaukee, Montmorency, Newaygo, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Manistee, Mason, Mecosta, Presque Isle, Roscommon, Wexford, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, St. Joseph, and Van Buren Counties, MI, and Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne, Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, and Sullivan Counties, MO. The purpose of this filing is to eliminate the gateways of Chicago, IL.

No. MC 107064 (Sub-No. E305), filed January 22, 1976. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as

ingredients as are petroleum products, in bulk, in tank vehicles, from points in Lea, Eddy, and Chaves Counties, NM, to points in MI, and (2) *such potash, potash products, and potash*

south of U.S. Hwy 70 to points in NM. The purpose of this filing is to eliminate the gateways of the plantsite and storage facilities of Occidental Chemical Co. in Hale County, TX, points in that part of TX on and west of U.S.

points in AR. The purpose of this filing is to eliminate the gateways of the plantsite and storage facilities of Occidental Chemical Co. in Hale County, TX, points in that part of TX

ferson, Kitsap, Mason, and San Juan Counties, WA, to points in (a) Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello, and Washington Counties, IA, (b) Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, St. Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Alcona, Alpena, Antrim, Arenac, Benzie, Charlevoix, Cheboygan, Clare, Crawford, Emmet, Gladwin, Grand Traurse, Iosco, Isabella, Kalkaska, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee, Montmorency, Newaygo, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Presque Isle, Roscommon, Wexford, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, St. Joseph, Van Buren, Chippewa, Luce, and Mackinac Counties, MI, and (c) Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne, Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, and Sullivan Counties, MO, (5) from points in Adams, Asotim, Benton, Columbia, Franklin, Garfield, Walla Walla, and Whitman Counties, WA, to points in Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, St. Clair, Sanilac, Shiawassee, Iuscola, Washtenaw, Wayne, Alcona, Alpena, Antrim, Arenac, Benzie, Charlevoix, Cheboygan, Clare, Crawford, Emmet, Gladwin, Grand Traurse, Iosco, Isabella, Kalkaska, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee, Montmorency, Newaygo, Oceana, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, St. Joseph, and Van Buren Counties, MI, and Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, and Wayne Counties, MO, and (6) from points in Chelan, Douglas, Grant, Island, King, Kittitas, Skagit, Snohomish, and Whatcom Counties, WA, to points in (a) Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello, and Washington Counties, IA, (b) Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, St. Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Alcona, Alpena, Antrim, Arenac, Benzie, Charlevoix, Cheboygan, Clare, Crawford, Emmet, Gladwin, Grand Traurse, Iosco, Isabella, Kalkaska, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee, Montmorency, Newaygo, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Presque Isle, Roscommon, Wexford, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, St. Joseph, and Van Buren Counties, MI, and (c) Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne, Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, and Sullivan Counties, MO. The purpose of this filing is to eliminate the gateway of Chicago, IL.

No. MC 107064 (Sub-No. E298), filed January 22, 1976. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertilizer ingredients* (except petroleum products and potash), from points in CA to points in TX on, south, and east of a line commencing at the TX-OK State line and extending along U.S. Hwy 62 to its intersection with U.S. Hwy 83, then along U.S. Hwy 83 to the Gulf of Mexico. The purpose of this filing is to eliminate the gateways of the plantsite and storage facilities of Occidental Chemical Co. in Hale County, TX, and points in that part of TX on west of U.S. Hwy 83, and the facilities of Goodpasture, Inc., in Terry and Castro Counties, TX.

No. MC 107064 (Sub-No. E299), filed January 22, 1976. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertilizer ingredients* (except petroleum products and potash), from points in LA to points in OR. The purpose of this filing is to eliminate the gateways of the plantsite and storage facilities of Occidental Chemical Co. in Hale County, TX., points in that part of TX on and west of U.S. Hwy 83, and the facilities of Goodpasture, Inc., in Terry and Castro Counties, TX.

No. MC 107064 (Sub-No. E300), filed January 22, 1976. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221.Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertilizer ingredients* (except petroleum products and potash), from points in AR on and south of U.S. Hwy 70 to points in NM. The purpose of this filing is to eliminate the gateways of the plantsite and storage facilities of Occidental Chemical Co. in Hale County, TX, points in that part of TX on and west of U.S. Hwy 83, and the facilities of Goodpasture, Inc., in Terry and Castro Counties, TX.

No. MC 107064 (Sub-No. E301), filed January 22, 1976. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertilizer ingredients* (except petroleum products and potash), from points in OK (except points in Cimarron, TX., and Beaver County, OK). The purpose of this filing is to eliminate the gateways of the plantsite and storage facilities of Occidental Chemical Co. in Hale County, TX, and points in that part of TX on and west of U.S. Hwy 83, and the facilities of Goodpasture, Inc., in Terry and Castro Counties, Tx.

No. MC 107064 (Sub-No. E302), filed January 22, 1976. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertilizer ingredients* (except petroleum products and potash), from points in Oldham, Potter, Carson, Gray, Deaf Smith, Randall, Armstrong, Donley, Parmer, Castro, Swisher, Briscoe, Hall, Bailey, Lamb, Hale, Floyd, and Motley Counties, TX, and points on and west of U.S. Hwy 83 in Wheeler, Collingsworth, Childress, and Cottle Counties, TX. The purpose of this filing is to eliminate the gateways of the points in that part of TX on and west of U.S. Hwy 83, and the facilities of Goodpasture, Inc., in Terry and Castro Counties, TX.

No. MC 107064 (Sub-No. E303), filed January 22, 1976. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Such fertilizer and fertilizer ingredients as are petroleum products,* in bulk, in tank vehicles, from points in Lea, Eddy, and Chaves Counties, NM, to points in WI. The purpose of this filing is to eliminate the gateway of the facilities of Goodpasture, Inc., in Terry County, TX.

No. MC 107064 (Sub-No. E304), filed January 22, 1976. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Such fertilizer and fertilizer ingredients as are petroleum products,* in bulk, in tank vehicles, from points in Lea, Eddy, and Chaves Counties, NM, to points in WA. The purpose of this filing is to eliminate the gateway of the facilities of Goodpasture, Inc., in Terry County, TX.

No. MC 107064 (Sub-No. E305), filed January 22, 1976. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertilizer ingredients* (except petroleum products and potash), from points in UT in and south of Millard, Sevier, Wayne, and San Juan counties, UT, to points, in TN. The purpose of this filing is to eliminate the gateway of the plantsite and storage facilities of Occidental Chemical Co. in Hale County, TX, points in that part of TX on and west of U.S. Hwy 83, and the facilities of Goodpasture, Inc., in Terry and Castro Counties, TX.

No. MC 107064 (Sub-No. E306), filed January 22, 1976. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertilizer ingredients* (except petroleum products and potash), from points in AZ to points, in LA. The purpose of this filing is to eliminate the gateways of the plantsite and storage facilities of Occidental Chemical Co. in Hale County, TX, points in that part of TX on and west of U.S. Hwy 83, and the facilities of Goodpasture, Inc., in Terry and Castro Counties, TX.

No. MC 107064 (Sub-No. E307), filed January 22, 1976. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertilizer ingredients* (except petroleum products and potash), from points in AZ to points, in KY. The purpose of this filing is to eliminate the gateway of the plantsite and storage facilities of Occidental Chemical Co. in Hale County, TX, points in that part of TX on and west of U.S. Hwy 83, and the facilities of Goodpasture, Inc., in Terry and Castro Counties, TX.

No. MC 107064 (Sub-No. E308), filed January 22, 1976. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertilizer ingredients* (except petroleum products and potash), from points in AL to points in UT. The purpose of this filing is to eliminate the gateways of the plantsite and storage facilities of Occidental Chemical Co. in Hale County, TX, points in that part of TX on and west of U.S. Hwy 83, and the facilities of Goodpasture, Inc., in Terry and Castro Counties, TX.

No. MC 107064 (Sub-No. E331), filed January 22, 1976. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). (1) *Such fertilizer and fertilizer ingredients as are petroleum products,* in bulk, in tank vehicles, from points in Lea, Eddy, and Chaves Counties, NM, to points in MI, and (2) *such potash, potash products, and potash byproducts as are fertilizer and fertilizer ingredients,* in bulk, from points in Lea and Eddy Counties, NM, to points in MI. The purpose of this filing is to eliminate the gateway of the facilities of Goodpasture, Inc., in Terry County, TX.

No. MC 107064 (Sub-No. E332), filed January 22, 1976. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). (1) *Such potash, potash products, and potash byproducts as are fertilizer and fertilizer ingredients,* in bulk, from points in Lea and Eddy Counties, NM, to points in TX on, south, and east of a line commencing at the TX-OK State line and extending along U.S. Hwy 62 to its intersection with U.S. Hwy 83, then along U.S. Hwy 83 to the Gulf of Mexico, and (2) *fertilizer and fertilizer ingredients as are petroleum products,* in bulk, in tank vehicles, from points in Lea, Eddy, and Chaves Counties, NM, to the destinations in (1) above. The purpose of this filing is to eliminate the gateway of the facilities of Goodpasture, Inc., in Terry County, TX.

No. MC 107064 (Sub-No. E333), filed January 22, 1976. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertilizer ingredients* (except petroleum products and potash), from points in LA to points in UT. The purpose of this filing is to eliminate the gateways of the plantsite and storage facilities of Occidental Chemical Co. in Hale County, TX, points in that part of TX on and west of U.S. Hwy 83, and the facilities of Goodpasture, Inc., in Terry and Castro Counties, TX.

No. MC 107064 (Sub-No. E334), filed January 22, 1976. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Such fertilizer and fertilizer ingredients as are petroleum products,* in bulk, in tank vehicles, from points in Lea, Eddy, and Chaves Counties, NM, to points in LA. The purpose of this filing is to eliminate the gateway of the facilities of Goodpasture, Inc., in Terry County, TX.

No. MC 107064 (Sub-No. E 335), filed January 22, 1976. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX, 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertilizer ingredients* (except petroleum productions and potash), from points in AZ to points in AR. The purpose of this filing is to eliminate the gateways of the plantsite and storage facilities of Occidental Chemical Co. in Hale County, TX, points in that part of TX on and west of U.S. Highway 83, and the facilities of Goodpasture, Inc., in Terry and Castro Counties, TX.

No. MC 107064 (Sub-No. E336), filed January 22, 1976. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertilizer ingredients* (except petroleum products and potash), from points in OR to points in AR. The purpose of this filing is to eliminate the gateways of the plantsite and storage facilities of Occidental Chemical Co., in Hale County, TX, and points in that part of TX on and west of U.S. Highway 83, and the facilities of Goodpasture, Inc., in Terry and Castro Counties, TX.

No. MC 107064 (Sub-No. E 337), filed January 22, 1976. Applicant: STEERE TANK LINES, INC., P.O. Box 2998 Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertrilizer ingredients* (except petroleum products and potash), from points in TX on, south, and east of a line commencing at the TX-OK State line and extending along U.S. Highway 62 to its intersection with U.S. Highway 83, thence along U.S. Highway 83 to the Gulf of Mexico, to points in WY. The purpose of this filing is to eliminate the gateways of the plantsite and storage facilities of Occidental Chemical Co. in Hale County, TX, points in that part of TX on and west of U.S. Highway 83, and the facilities of Goodpasture, Inc., in Terry and Castro Counties, TX.

No. MC 107064 (Sub-No. E338), filed January 22, 1976. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertilizer ingredients* (except petroleum products and potash), from points in Cochran, Hockley, Lubbock, Crosby, Dickens, Yoakum, Terry, Lynn, Garza, Kent, Gaines, Dawson, Borden, Scurry, Andrews, Martin, Howard, Mitchell, and Nolan Counties, TX, and points on and west of U.S. Highway 83 in King, Stonewall, Fisher, Jones, and Taylor Counties, TX, to points in WA. The purpose of this filing is to eliminate the gateway of the facilities of Goodpasture, Inc., in Terry County, TX.

No. MC 107064 (Sub-No. E339), filed January 22, 1976. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX. 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertilizer ingredients* (except petroleum products and potash), from points in AL to points in

AR. The purpose of this filing is to eliminate the gateways of the plantsite and storage facilities of Occidental Chemical Co. in Hale County, TX, points in that part of TX on and west of U.S. Highway 83, and the facilities of Goodpasture, Inc., in Terry and Castro Counties, TX.

No. MC 107064 (Sub-No. E340), filed January 22, 1976. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertilizer ingredients* (except petroleum products and potash), from points in Oldham, Potter, Carson, Gray, Deaf Smith, Randall, Armstrong, Donley, Parmer, Castro, Swisher, Briscoe, Hall, Bailey, Lamb, Hale, Floyd, and Motley Counties, TX, and points on and west of U.S. Highway 83 in Wheeler, Collingsworth, Childress, and Cottle Counties, TX, to points in UT. The purpose of this filing is to eliminate the gateway of the facilities of Goodpasture, Inc., in Castro County, TX.

No. MC 107064 (Sub-No. E341), filed January 22, 1976. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Such fertilizer and fertilizer ingredients as are petroleum products,* in bulk, in tank vehicles, from points in Lea, Eddy, and Chaves Counties, NM, to points in ND. The purpose of this filing is to eliminate the gateway of the facilities of Goodpasture, Inc., in Terry County, TX.

No. MC 107064 (Sub-No. E416), filed January 22, 1976. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertilizer ingredients* (except petroleum products and potash), from points in CA., to point in LA.

The purpose of this filing is to eliminate the gateways of the plant site and storage facilities of Occidental Chemical Co. in Hale County, TX, points in that part of TX on and west of U.S. Hwy 83, and the facilities of Goodpasture, Inc., in Terry and Castro Counties, TX.

No. MC 107064 (Sub-No. E417), filed January 22, 1976. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertilizer ingredients* (except petroleum products and potash), from points in AZ to point in TN.

The purpose of this filing is to eliminate the gateways of the plantsite and storage facilities of Occidental Chemical Co. in Hale County, TX, and points in that part of TX on and west of U.S. Hwy 83, and the facilities of Goodpasture, Inc., in Terry and Castro Counties, TX.

No. MC 107064 (Sub-No. E418), filed January 22, 1976. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertilizer ingredients* (except petroleum products and potash), from points in AL to point in NM, restricted against the transportation of chemicals from points in AL.

The purpose of this filing is to eliminate the gateways of the plant site and storage facilities of Occidental Chemical Co. in Hale County, TX, points in that part of TX on and west of U.S. Hwy 83, and the facilities of Goodpasture, Inc., in Terry and Castro Counties, TX.

No. MC 107064 (Sub-No. E419), filed January 22, 1976. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertilizer ingredients* (except petroleum products and potash), from points in AZ to points in IA.

The purpose of this filing is to eliminate the gateways of the plant site and storage facilities of Occidental Chemical Co. in Hale County, TX, points in that part of TX on and west of U.S. Highway 83 and the facilities of Goodpasture, Inc., in Terry and Castro Counties, TX.

No. MC 107064 (Sub-No. E420), filed January 22, 1976. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertilizer ingredients* (except petroleum products and potash), from points in SC to points in CO on and west of U.S. Highway 87.

The purpose of this filing is to eliminate the gateways of the plant site and storage facilities of Occidental Chemical Co. in Hale County, TX, and points in that part of TX on and west of U.S. Highway 83 and the facilities of Goodpasture, Inc., in Terry and Castro Counties, TX.

No. MC 107064 (Sub-No. E421), filed January 22, 1976. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertilizer ingredients* (except petroleum products and potash), from points in AZ to points in IL.

The purpose of this filing is to eliminate the gateways of the plant site and storage facilities of Occidental Chemical Co. in Hale County, TX, points in that part of TX on and west of U.S. Highway 83 and the facilities of Goodpasture, Inc., in Terry and Castro Counties, TX.

No. MC 107064 (Sub-No. E422), filed January 22, 1976. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertilizer ingredients* (except petroleum products and potash), from points in Cochran, Hockley, Lubbock, Crosby, Dickens, Yoakum, Terry, Lynn, Garza, Kent, Gaines, Dawson, Borden, Scurry, Andrews, Martin, Howard, Mitchell, and Nolan Counties, TX, and points on and west of U.S. Highway 83 in King, Stonewall, Fisher, Jones and Taylor Counties, TX, to points in ID.

The purpose of this filing is to eliminate the gateway facilities of Goodpasture, Inc., in Terry County, TX.

No. MC 107064 (Sub-No. E423), filed January 22, 1976. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertilizer ingredients* (except petroleum products and potash), from points in VT to points in UT in and south of Millard, Sevier, Wayne, and San Juan Counties, UT.

The purpose of this filing is to eliminate the gateways of the plant site and storage facilities of Occidental Chemical Co., TX, and points in that part of TX on and west of U.S. Highway 83 and the facilities of Goodpasture, Inc., in Terry and Castro Counties, TX.

No. MC 107064 (Sub-No. E424), filed January 22, 1976. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertilizer ingredients* (except petroleum products and potash), from points in VA to points in UT in and south of Millard, Sevier, Wayne, and San Juan Counties, UT.

The purpose of this filing is to eliminate the gateways of the plantsite and storage facilities of Occidental Chemical Co. in Hale County, TX, points in that part of TX on and west of U.S. Hwy 83, and the facilities of Goodpasture, Inc., in Terry and Castro Counties, TX.

No. MC 107064 (Sub-No. E425), filed January 22, 1976. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertilizer ingredients* (except petroleum products and potash), from points in NJ to points in UT in and south of Millard, Sevier, Wayne, and San Juan Counties, UT.

The purpose of this filing is to eliminate the gateways of the plantsite and storage facilities of Occidental Chemical Co. in Hale County, TX, points in that part of TX on and west of U.S. Hwy 83, and the facilities of Goodpasture, Inc., in Terry and Castro Counties, TX.

No. MC 107064 (Sub-No. E426), filed January 22, 1976. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertilizer ingredients* (except petroleum products and potash), from points in VT to points in NV on and south of U.S. Hwy 50.

The purpose of this filing is to eliminate the gateways of the plantsite and storage facilities of Occidental Chemical Co. in Hale County, TX, points in that part of TX on and west of U.S. Hwy 83, and the facilities of Goodpasture, Inc., in Terry and Castro Counties, TX.

No. MC 107064 (Sub-No. E427), filed January 22, 1976. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertilizer ingredients* (except petroleum products and potash), from points in Cochran, Hockley, Lubbock, Crosby, Dickens, Yoakum, Terry, Lynn, Garza, Kent, Gaines, Dawson, Borden, Scurry, Andrews, Martin, Howard, Mitchell, and Nolan Counties, TX, and points on and west of U.S. Hwy 83 in King, Stonewall, Fisher, Jones, and Taylor Counties, TX, to points in MI.

The purpose of this filing is to eliminate the gateway of the facilities of Goodpasture, Inc., in Terry County, TX.

No. MC 107064 (Sub-No. E428), filed January 22, 1976. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertilizer ingredients* (except petroleum products and potash), from points in AZ to points in MO.

The purpose of this filing is to eliminate the gateways of the plantsite and storage facilities of Occidental Chemical Co. in Hale County, TX, points in that part of TX on and west of U.S. Hwy 83, and the facilities of Goodpasture, Inc., in Terry and Castro Counties, TX.

No. MC 107064 (Sub-No. E429), filed January 22, 1976. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertilizer ingredients* (except petroleum products and potash), from points in AZ to points in WI. The purpose of this filing is to eliminate the gateways of the plantsite and storage facilities of Occidental Chemical Co. in Hale County, TX, points in that part of TX on and west of U.S. Hwy 83, and the facilities of Goodpasture, Inc., in Terry and Castro Counties, TX.

No. MC 107064 (Sub-No. E430), filed January 22, 1976. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertilizer ingredients* (except petroleum products and potash), from points in AR to points in CA. The purpose of this filing is to eliminate the gateways of the plantsite and storage facilities of Occidental Chemical Co. in Hale County, TX, and points in that part of TX on and west of U.S. Hwy 83, and the facilities of Goodpasture, Inc., in Terry and Castro Counties, TX.

No. MC 107064 (Sub-No. E471), filed December 19, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertilizer ingredients* (except liquid sulphur and petroleum products), from points in SC on and south of a line beginning at the GA-SC State line extending along U.S. Hwy 378 to Conway, SC, then along U.S. Hwy 701 to the SC State line, to points in WY. The purpose of this filing is to eliminate the gateways of the plantsite and storage facilities of Occidental Chemical Co. in Hale County, TX, and points in that part of TX on and west of U.S. Hwy 83, and the facilities of Goodpasture, Inc., in Terry and Castro Counties, TX.

No. MC 107064 (Sub-No. E472), filed December 19, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertilizer ingredients* (except petroleum products and potash), from points in Parmer, Castro, Swisher, Briscoe, Hall, Bailey, Lamb, Hale, Floyd, Motley, Cochran, Hockley, Lubbock, Crosby, Dickens, Yoakum, Terry, Lynn, Garza, and Kent Counties, TX, and points on and west of U.S. Hwy 83 in Childress, Cottle, King, and Stonewall Counties, TX, to points in SC. The purpose of this filing is to eliminate the gateways of the plantsite and storage facilities of Occidental Chemical Co. in Hale County, TX, points in that part of TX on and west of U.S. Hwy 83, and the facilities of Goodpasture, Inc., in Terry and Castro Counties, TX.

No. MC 107064 (Sub-No. E473), filed December 19, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertilizer ingredients* (except petroleum products and potash), from points in Parmer, Castro, Swisher, Briscoe, Hall, Bailey, Lamb, Hale, Floyd, Motley, Cochran, Hockley, Lubbock, Crosby, Dickens, Yoakum, Terry, Lynn, Garza, and Kent Counties, TX, and points on and west of U.S. Hwy 83 in Childress, Cottle, King, and Stonewall Counties, TX. The purpose of this filing is to eliminate the gateways of the plantsite and storage facilities of Occidental Chemical Co. in Hale County, TX, points in that part of TX on and west of U.S. Hwy 83, and the facilities of Goodpasture, Inc., in Terry and Castro Counties, TX.

No. MC 107064 (Sub-No. E474), filed December 19, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertilizer ingredients* (except petroleum products and potash), from points in WV to points in Parmer, Castro, Swisher, Briscoe, Hall, Bailey, Lamb, Hale, Floyd, Motley, Cochran, Hockley, Lubbock, Crosby, Dickens, Yoakum, Terry, Lynn, Garza, and Kent Counties, TX, and points on and west of U.S. Hwy 83 in Childress, Cottle, King, and Stonewall Counties, TX. The purpose of this filing is to eliminate the gateways of the plantsite and storage facilities of Occidental Chemical Co. in Hale County, TX, and points in that part of TX on and west of U.S. Hwy 83, and the facilities of Goodpasture, Inc., in Terry and Castro Counties, TX.

No. MC 107064 (Sub-No. E475), filed December 19, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertilizer ingredients* (except petroleum products and liquid sulphur), from points in MS on and south of a line commencing at the AR-MS State line extending along U.S. Hwy 82 to the MS-AL State line, to points in CO. The purpose of this filing is to eliminate the gateways of the plantsite and storage facilities of Occidental Chemical Co. in Hale County, TX, points in that part of TX on and west of U.S. Hwy 83, and the facilities of Goodpasture, Inc., in Terry and Castro Counties, TX.

No. MC 107064 (Sub-No. E476), filed December 19, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertilizer ingredients* (except petroleum products and potash), from points in WA, to points in Parmer, Cartro, Swisher, Briscoe, Hall, Bailey, Lamb, Hale, Floyd, Motley, Cochran, Hockley, Lubbock, Crosby, Dickens, Yoakum, Terry, Lynn, Garza, and Kent Counties, TX., and points on and west of U.S. Hwy 83 in Childress, Cottle, King, and Stonewall Counties, TX. The purpose of this filing is to eliminate the gateways of the plantsite and storage facilities of Ocidental Chemical Co. in Hale County, TX, points in that part of TX on and west of U.S. Hwy 83, and the facilities of Goodpasture, Inc., in Terry and Castro Counties, TX.

No. MC 107064 (Sub-No. E477), filed December 19, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertilizer ingredients* (except petroleum products and potash), from points in Parmer, Castro, Swisher, Briscoe, Hall, Bailey, Lamb, Hale, Floyd, Motley, Cockran, Hockey, Lubbock, Crosby, Dickens, Yoakum, Terry, Lynn, Garza, and Kent Counties, TX, and points on and west of U.S. Hwy 83 to Childress, Cottle, King, and Stonewall Counties, TX, to points in WV. The purpose of this filing is to eliminate the gateways of the plantsite and storage facilities of Occidental Chemical Co. in Hale County, TX, points in that part of TX on and west of U.S. Hwy 83, and the facilities of Goodpasture, Inc., in Terry and Castro Counties, TX.

No. MC 107064 (Sub-No. E478), filed December 19, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer solutions and liquid fertilizer ingredients*, in bulk, in tank vehicles, from points in NM on, south, and west of a line beginning at the CO-NM State line extending along U.S. Hwy 84 to junction U.S. Hwy 66, then along U.S. Hwy 66 to the NM-TX State line, to points in IL on and south of IL Hwy 2. The purpose of this filing is to eliminate the gateways of the plantsite and storage facilities of Occidental Chemical Co. in Hale County, TX, points in that part of TX on and west of U.S. Hwy 83, and the facilities of Goodpasture, Inc., in Terry and Castro Counties, TX.

No. MC 107064 (Sub-No. E479), filed December 19, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertilizer ingredients* (except petroleum products and potash), from points in Parmer, Castro, Swisher, Briscoe, Hall, Bailey, Lamb, Hale, Floyd, Motley, Cochran, Hockley, Lubbock, Crosby, Dickens, Yoakum, Terry, Lynn, Garza, and Kent Counties, TX, and points on and west of U.S. Hwy 83 in Childress, Cottle, King, and Stonewall Counties, TX, to points in WA. The purpose of this filing is to eliminate the gateways of the plantsite and storage facilities of Occidental Chemical Co. in Hale County, TX, points in that part of TX on and west of U.S. Hwy 83, and the facilities of Goodpasture, Inc., in Terry and Castro Counties, TX.

No. MC 107064 (Sub-No. E480), filed December 19, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertilizer ingredients*, in bags, and in mixed loads of bulk and bags, from points in NM on and south of U.S. Hwy 66 to points in AR. The purpose of this filing is to eliminate the gateway of the plantsite and storage facilities of Occidental Chemical Co. in Hale County, TX.

No. MC 107064 (Sub-No. E481), filed December 19, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer solutions and liquid fertilizer ingredients*, in bulk, in tank vehicles, from points in NM on and south of U.S. Hwy 66, to points in AR. The purpose of this filing is to eliminate the gateway of the plantsite and storage facilities of Occidental Chemical Co. in Hale County, TX.

No. MC 107064 (Sub-No. E482), filed December 19, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertilizer ingredients* (except petroleum products and potash), from points in NC to points, in Parmer, Castro, Swisher, Briscoe, Hall, Bailey, Lamb, Hale, Floyd, Motley, Cochran, Hockley, Lubbock, Crosby, Dickens, Yoakum, Terry, Lynn, Garza, and Kent Counties, TX, and points on and west of U.S. Hwy 83 in Childress, Cottle, King, and Stonewall Counties, TX. The purpose of this filing is to eliminate the gateways of the plantsite and storage facilities of Occidental Chemical Co. in Hale County, TX, and points in that part of TX on and west of U.S. Hwy 83.

No. MC 107064 (Sub-No. E483), filed December 19, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertilizer ingredients* (except petroleum products and potash), from points in OH, to points in Parmer, Castro, Swisher, Briscoe, Hall, Bailey, Lamb, Hale, Floyd, Motley, Cochran, Hockley, Lubbock, Crosby, Dickens, Yoakum, Terry, Lynn, Garza, and Kent Counties, TX, and points on and west of U.S. Hwy 83 in Childress, Cottle, King, and Stonewall Counties, TX. The purpose of this filing is to eliminate the gateways of the plantsite and storage facilities of Occidental Chemical Co. in Hale County, TX, and points in that part of TX on and west of U.S. Hwy 83.

No. MC 107064 (Sub-No. 547), (Correction), filed December 20, 1975, published in the FEDERAL REGISTER issue of February 15, 1978, and republished, as corrected, this issue. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Applicant's representative: H. L. Rice, Jr. (same as above). *Fertilizer and fertilizer ingredients* (except petroleum products and potash), from points in Parmer, Castro, Swisher, Briscoe, Hall, Bailey, Lamb, Hale, Floyd, Motley, Cochran, Hockley, Lubbock, Crosby, Dickens, Yoakum, Terry, Lynn, Garza, and Kent Counties, TX, and those points on and west of U.S. Hwy 83 in Childress, Cattle, King, and Stonewall Counties, TX, to points in WY. The purpose of this filing is to eliminate the gateway of the plantsite and storage facilities of Occidental Chemical Co. in Hale County, TX.

NOTE.—The purpose of this correction is to correct the territorial description.

No. MC 107515 (Sub-No. E520), filed January 27, 1975. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Road Northeast, Atlanta, GA 30326. (1) *Frozen foods, fresh and cured meats, and dairy products:* (a) from all points in AL to all points in NC, SC, that portion of VA on and east of a line beginning at the VA-NC State line on U.S. Hwy 52 to junction Interstate Hwy 81, then along Interstate Hwy 81 to junction VA Hwy 100, than along VA Hwy 100 to junction U.S. Hwy 219, then along U.S. Hwy 219 to the VA-WV State line, (b) from that portion of AL on and south of U.S. Hwy 278 to all points in WV and VA, (c) from that portion of AL on and south of a line beginning at the AL-GA State line on U.S. Hwy 80 to junction Interstate Hwy 85, then along Interstate Hwy 85 to junction U.S. Hwy 31, then along U.S. Hwy 31 to junction AL Hwy 14, then along AL Hwy 14 to junction U.S. Hwy 80, then along U.S. Hwy 80 to AL-MS State line, to that portion of KY on and east of a line beginning at the TN-KY State line on U.S. Hwy 25E to junction Interstate Hwy 75, then along Interstate Hwy 75 to the KY-OH State line, (d) from that portion of AL on and south of a line beginning at the GA-AL State line along U.S. Hwy 80 to junction Interstate Hwy 85, then along Interstate Hwy 85 to junction Interstate Hwy 65, then along Interstate Hwy 65 to junction AL Hwy 59, then along AL Hwy 59 to junction Interstate Hwy 10, then along Interstate Hwy 10 to the AL-MS State line, to that portion of KY on and east of a line beginning at the KY-TN State line on KY Hwy 61 to junction Interstate Hwy 65, then along Interstate Hwy 65 to the KY-IN State line; (2) *bananas*, from Mobile, Al, to territory in I(d) above and all points in VA, WV, NC, and SC; (3) *canned vegetables*, from Uniontown, AL, to points in VA, NC, and SC. The purpose of this filing is to eliminate the gateway of Atlanta, GA.

No. MC 107515 (Sub-No. E622), filed February 13, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Applicant's representative: Alan E. Serby, Suite 375, 3379 Peachtree Road NE., Atlanta, GA 30326. *Meats, meat products and meat byproducts*, (1) from points in DE, NJ, CT, RI, MA, VA, and the DC and that portion of MD on, south or east of Interstate Hwy 81; points in PA on or east of a line beginning at the PA-MD State line and extending over Interstate Hwy 81 to junction U.S. Hwy 15, then over U.S. Hwy 15 to the NY-PA State line; and points in that portion of NY on or east of a line beginning at the NY-PA State line and extending over NY Hwy 14 to junction NY Hwy 13, then over NY Hwy 13 to the junction of Interstate Hwy 81, then over Interstate Hwy 81 to the St. Lawrence River at or near Wellsley, NY, to Evansville, IN; points in IL on or south of a line beginning at the IL-IN State line, and extending over U.S. Hwy 460 to its junction IL Hwy 14, then over IL Hwy 14 to junction U.S. Hwy 51, then over U.S. Hwy 51 to junction IL Hwy 13, then over IL Hwy 13 to junction IL Hwy 149, then over IL Hwy 149 to junction IL Hwy 3, then over IL Hwy 3 to the IL-MO State line; and points in MO on, south or east of a line commencing at the MO-IL State line and extending over MO Hwy 51 to junction Interstate Hwy 55, then over Interstate Hwy 55 to junction MO Hwy 32, then over MO Hwy 32 to junction MO Hwy 8, then over MO Hwy 8 to junction U.S. Hwy 66, then over U.S. Hwy 66 to junction MO Hwy 17, then over MO Hwy 17 to junction MO Hwy 52, then over MO Hwy 52 to junction U.S. Hwy 65, then over U.S. Hwy 65 to junction Interstate Hwy 70, then over Interstate Hwy 70 to the MO-KS State line at or near Kansas City, MO. (2) From points in that portion of VA on, south or east of a line beginning at Hampton, VA, and extending over U.S. Hwy 258 to Smithfield, VA, then over VA Hwy 10 to junction VA Hwy 32, then over VA Hwy 32 to VA-NC State line, to point in IN on, south or west of a line commencing at the KY-IN State line and extending over U.S. Hwy 31 to junction Interstate Hwy 74, then over Interstate Hwy 74 to junction U.S. Hwy 41, then over U.S. Hwy 41 to junction IN Hwy 28, then over IN Hwy 28 to the IL-IN State line; points in that part of IL on, south or west of a line commencing at the IL-IN State line and extending over IL Hwy 119 to junction U.S. Hwy 136, then over U.S. Hwy 136 to junction Interstate Hwy 74, then over Interstate Hwy 74 to junction IL Hwy 88, then over IL Hwy 88 to junction IL Hwy 78, then over IL Hwy 78 to junction U.S. Hwy 20, then over U.S. Hwy 20 to the IL-IA State line; points in WI on, north or west of a line commencing at the WI-IL State line and extending over U.S. Hwy 151 to junction WI Hwy 23, then over WI Hwy 23 to Lake Michigan at or near Sheboygan, MI, and points in MO, IA, and MN. (3) From points in DE and RI; points in NJ on and east of U.S. Hwy 1 and on and south of Interstate Hwy 78; points in PA on or east of Interstate Hwy 95; New York City, NY; points in CT on, east or south of CT Hwy 15; and points on, south or east of a line commencing at the CT-MA State line and extending over MA Hwy 15, to junction Interstate Hwy 90, then over Interstate Hwy 90 to junction MA Hwy 12, then over MA Hwy 12 to junction Interstate Hwy 290, then over Interstate Hwy 290 to junction Interstate Hwy 495, then over Interstate Hwy 495 to junction MA Hwy 28, then over MA Hwy 28 to MA-NH State line, to points in IL on, south or west of a line commencing at the IL-KY State line and extending over IL Hwy 13 to junction U.S. Hwy 51, then over U.S. Hwy 51 to junction IL Hwy 127, then over IL Hwy 127 to junction IL Hwy 16, then over IL Hwy 16 to junction IL Hwy 4, then over IL Hwy 4 to junction IL Hwy 108, then over IL Hwy 108 to junction IL Hwy 96, then over IL Hwy 96 to junction U.S. Hwy 54, then over U.S. Hwy 54 to the IL-MO State line; and points in that part of MO on, south or west of a line commencing at the IL-MO State line and extending over U.S. Hwy 154, then over MO Hwy 154 to junction U.S. Hwy 24, then over U.S. Hwy 24 to junction MO Hwy 5, then over MO Hwy 5 to junction U.S. Hwy 36, then over U.S. Hwy 36 to junction U.S. Hwy 69, then over U.S. Hwy 69 to junction U.S. Hwy 136, then over U.S. Hwy 136 to junction U.S. Hwy 169, then over U.S. Hwy 169 to the MO-IA State line. (4) From points in MA, RI, CT, NY, PA, NJ, DE, VA, MD, and Washington, DC, to that portion of MO on or south of a line beginning at the MO-IL State line and extending over MO Hwy 51 to junction MO Hwy 72, then over MO Hwy 72 to junction MO Hwy 32, then over MO Hwy 32 to junction U.S. Hwy 54, then over U.S. Hwy 54 to the KS-MO State line; and points in that part of IL on, south or west of a line commencing at the IL-KY State line and extending over U.S. Hwy 45 to junction IL Hwy 146, then over IL Hwy 146 to junction U.S. Hwy 51, then over U.S. Hwy 51 to junction IL Hwy 13, then over IL Hwy 13 to junction IL Hwy 149, then over IL Hwy 149 to junction IL Hwy 3, then over IL Hwy 3 to Chester, IL and IL-MO State line. Restrictions: (1) All authority sought herein is to be restricted to transportation in vehicles equipped with mechanical refrigeration, (2) all authority sought herein is to exclude commodities in bulk, (3) all authority sought herein is restricted to the transportation of shipments which originate at or are destined to points in NY, CT, MA, RI, NJ, PA, MD, DE, VA, DC, KY, NC, SC, TN, GA, AL, FL, MS, AR, LA, OK, TX, AZ, CA, and NM, (4) all of the authority herein shall expire on December 18, 1978, unless on or prior to that date the Commission shall renew the Certificate issued to carrier in MC 107515 (Sub-No. 799). The purpose of this filing is to eliminate the gateway of Adairville, KY.

No. MC 114019 (Sub-No. E454) (Partial correction), filed December 20, 1976, published in the FEDERAL REGISTER issue of February 2, 1978, and republished, as corrected, this issue. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, IL 60629. Applicant's representative: Arthur J. Sibik (same as above). *Such merchandise other than malt beverages*, as is dealt in by wholesale food business houses, and equipment, materials, and supplies used in conduct of such businesses, (1) between points in WI on the one hand, and, on the other, points in IN, OH, WV, PA, NY, Baltimore and Sparrows Points, MD, and points in NJ within 30 miles of New York, NY, and points in DE, NJ, and MD within 30 miles of Philadelphia, PA. The purpose of this filing is to eliminate the gateway of Chicago, IL.

NOTE.—The purpose of this partial correction is to state the correct territorial description. The remainder of this letternotice remains as previously published.

No. MC 114019 (Sub-No. E466) (Partial correction), filed December 20, 1976, published in the FEDERAL REGISTER issue of February 15, 1978, and republished, as corrected, this issue. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, IL 60629. Applicant's representative: Arthur J. Sibik (same as above). *Such foodstuffs as is dealt in by wholesale food business houses*, (F) between points in Dane, Columbia, Dodge, Fond du Lac, Marquette, and Green Lake Counties, WI, and points in that part of WI on and west of U.S. Hwy 45 beginning at Fond du Lac and extending to the WI-MI State line and on and east of WI Hwy 13 beginning at the Wisconsin Dells and extending to the WI-MN State line, and points in and north of Columbia, and Dodge Counties, WI, on the one hand, and, on the other, points in that part of IL on and south of a line beginning at Lake Michigan and extending west along IL Hwy 68 to its junction with IL Hwy 53, then south along IL Hwy 53 to its junction with U.S. Hwy 66, then south along U.S. Hwy 66 to its junction with U.S. Hwy 36, then west

along U.S. Hwy 36 to the Mississippi River. The purpose of this filing is to eliminate the gateways of Chicago and Lansing, IL.

NOTE.—The purpose of this partial correction is to state the correct territorial description. The remainder of this letter-notice remains as previously published.

No. MC 114019 (Sub-No. E480) (Partial correction), filed December 20, 1976, published in the FEDERAL REGISTER issue of February 2, 1978, and republished, as corrected, this issue. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, IL 60629. Applicant's representative: Arthur J. Sibik (same as above). *Structural, architectural and ornamental iron, steel and metal work*, from points in Cook County, IL, and Lake County, IN, to points in WI within the area bounded on the east by U.S. Hwy 45, on the north by WI Hwy 60, on the west by U.S. Hwy 12 and WI Hwy 69, and on the south by WI-IL State line and to points in IA, north and west of a line beginning at the Mississippi River and extending west on U.S. Hwy 18 to junction U.S. Hwy 69, then south U.S. Hwy 69 to junction U.S. Hwy 20, then west on U.S. Hwy 20 to junction U.S. Hwy 71, then south along U.S. Hwy 71 to junction IA Hwy 175, then west on IA Hwy 175 to the Missouri River. The purpose of this filing is to eliminate the gateways of Milwaukee, WI, and Waukegan, IL.

NOTE.—The purpose of this partial correction is to include Part (3). The remainder of this filing is to remain as previously published.

No. MC 114552 (Sub-No. E152), filed August 25, 1975. Applicant: SENN TRUCKING CO., P.O. Drawer 220, Newberry, SC 29108. Applicant's representative: William P. Jackson, Jr., 919 18th Street NW., Washington, DC 20006. *Composition board* (except commodities in bulk), from points in SC, on and east of a line beginning at the NC-SC State line, and then extending along U.S. Hwy 1 to junction U.S. Hwy 401, then along U.S. Hwy 401 to junction Interstate Hwy 95, then along Interstate Hwy 95 to the NC-SC State line, to those points in ND, on and west of a line beginning at the ND-SD State line, then extending along ND Hwy 6 to junction U.S. Hwy 83, then along U.S. Hwy 83 to junction ND Hwy 256, then along ND Hwy 256 to the International Boundary line between United States and Canada, and those points in SD, on and west of a line beginning at the ND-SD State line, then along U.S. Hwy 281 to junction U.S. Hwy 12, then along U.S. Hwy 12 to junction U.S. Hwy 83, then along U.S. Hwy 83 to junction Interstate Hwy 90, then along Interstate Hwy 90 to junction U.S. Hwy 183, then along U.S. Hwy 183 to the SD-NE State line. The purpose of this filing is to eliminate the gateways of points in Wayne County, NC and Greenwood, SC.

No. MC 114552 (Sub-No. E153), filed August 25, 1975. Applicant: SENN TRUCKING CO., P.O. Drawer 220, Newberry, SC 29108. Applicant's representative: William P. Jackson, Jr., 919 18th Street NW., Washington, DC 20006. *Composition board* (except commodities in bulk), from points in SC, on and south of a line beginning at the NC-SC State line, then extending along U.S. Hwy 401 to juction U.S. Hwy 52, then along U.S. Hwy 52 to junction SC Hwy 45, then along SC Hwy 45 to the Atlantic Ocean, to points in NE, those points in OK, on and west of Interstate Hwy 35, those points in TX, on and west of a line beginning at the TX-OK State line, then extending along Interstate Hwy 35 to junction U.S. Hwy 377, then along U.S. Hwy 377 to junction U.S. Hwy 281, then along U.S. Hwy 281 to junction U.S. Hwy 183, then along U.S. Hwy 183 to junction U.S. Hwy 87, then along U.S. Hwy 87 to the Gulf of Mexico, those points in MN, on and north of MN Hwy 210, then points in ND and SD, and those points in KS, on and west of U.S. Hwy 77. The purpose of this filing is to eliminate the gateways of points in Wayne County, NC and Greenwood, SC.

No. MC 114552 (Sub-No. E154), filed August 25, 1975. Applicant: SENN TRUCKING CO., P.O. Drawer 220, Newberry, SC 29108. Applicant's representative: William P. Jackson, Jr., 919 18th Street NW., Washington, DC 20006. *Composition board* (except commodities in bulk), from points in NC, on and east of a line beginning at the NC-SC State line, then extending along U.S. Hwy 76 to junction SC Hwy 41, then along SC Hwy 41 to junction SC Hwy 51, then along SC Hwy 51 to the Winyah Bay, to points in WI, MN, TX, OK, KS, IA, and those points in MO, on and west of a line beginning at the MO-AR State line, then extending along MO Hwy 5 to junction U.S. Hwy 54, then along U.S. Hwy 54 to junction U.S. Hwy 63, then along U.S. Hwy 63 to the MO-IA State line. The purpose of this filing is to eliminate the gateways of points in Wayne County, NC and Greenwood, SC.

No. MC 114552 (Sub-No. E155), filed September 4, 1975. Applicant: SENN TRUCKING CO., P.O. Drawer 220, Newberry, SC 29108. Applicant's representative: William P. Jackson, Jr., 919 18th Street NW., Washington, DC 20006. *Particleboard* (except commodities in bulk), from points in SC, on and east of a line beginning at the NC-SC State line, then extending along U.S. Hwy 52 to junction U.S. Hwy 521, then along U.S. Hwy 521 to the Winyah Bay, to points in NM. The purpose of this filing is to eliminate the gateway of points in Wayne County, NC and Thomson, GA.

No. MC 114552 (Sub-No. E156), filed September 4, 1975. Applicant: SENN TRUCKING CO., P.O. Drawer 220, Newberry, SC 29108. Applicant's representative: William P. Jackson, Jr., 919 Eighteenth Street NW., Washington, DC 20006. *Such lumber as is useful in the manufacture and distribution of roofing materials*, except commodities in bulk, plywood and veneer, from points in MD, to those points in GA, on and south of a line beginning at the SC-GA State line, then extending along GA Hwy 72, to junction GA Hwy 8, then along GA Hwy 8 to the GA-AL State line, and points in LA. The purpose of this filing is to eliminate the gateway of Rocky Mount, NC, and points in Wayne County, NC.

No. MC 114552 (Sub-No. E158), filed September 4, 1975. Applicant: SENN TRUCKING CO., P.O. Drawer 220, Newberry, SC 29108. Applicant's representative: William P. Jackson, Jr., 919 Eighteenth Street NW., Washington, DC 20006. *Plywood*, except commodities in bulk, from Tupper Lake, NY, to points in FL and LA. The purpose of this filing is to eliminate the gateway of Rocky Mount, NC, and Wayne County, NC.

No. MC 114552 (Sub-No. E159), filed September 4, 1975. Applicant: SENN TRUCKING CO., P.O. Drawer 220, Newberry, SC 29108. Applicant's representative: William P. Jackson, Jr., 919 Eighteenth Street NW., Washington, DC 20006. *Plywood*, (except commodities in bulk), from Tupper Lake, NY, to those points in TX, on and south of a line beginning at the TX-AR State line, then extending along Interstate Hwy 30 to junction Interstate Hwy 20, then along Interstate Hwy 20 to junction U.S. Hwy 87, then along U.S. Hwy 87 to junction U.S. Hwy 180, then along U.S. Hwy 180 to the TX-NM State line. The purpose of this filing is to eliminate the gateways of Rocky Mount, NC points in Wayne County, NC, and Greenwood, SC.

No. MC 114552 (Sub-No. E160), filed September 4, 1975. Applicant: SENN TRUCKING CO., P.O. Drawer 220, Newberry, SC 29108. Applicant's representative: William P. Jackson, Jr., 919 Eighteenth Street NW., Washington, DC 20006. *Plywood*, (except commodities in bulk), from the plantsite of Ply-Gem Corp. in Queens County, NY, to points in TX, and those points in OK, on and south of Interstate Hwy 40. The purpose of this filing is to eliminate the gateways of Franklin, VA, points in Wayne County, NC, and Greenwood, SC.

No. MC 114552 (Sub-No. E167), filed September 4, 1975. Applicant: SENN TRUCKING CO., P.O. Drawer 220, Newberry, SC 29108. Applicant's representative: William P. Jackson, Jr., 919 Eighteenth Street NW., Washington, DC 20006. *Particleboard*, except commodities in bulk, from Camden, NJ, to points in NM. The purpose of this filing is to eliminate the gateways of Franklin, VA, points in Wayne County, NC, and Thomson, GA.

No. MC 114552 (Sub-No. E246), filed September 22, 1975. Applicant: SENN TRUCKING CO., P.O. Drawer 220, Newberry, SC 29108. Applicant's representative: William P. Jackson, Jr., 919 Eighteenth Street NW., Washington, DC 20006. *Such composition boards as are also materials, supplies and accessories used in the manufacture and installation of composition boards*, except commodities in bulk, from points in MA, on and east of U.S. Hwy 5, and points in NH, to points in LA, on and west of a line beginning at the Gulf of Mexico, then extending along LA Hwy 317 to junction U.S. Hwy 90, then along U.S. Hwy 90 to junction LA Hwy 26, then along LA Hwy 26 to junction U.S. Hwy 190, then along U.S. Hwy 190 to the LA-TX State line. The purpose of this filing is to eliminate the gateway of Roaring River, NC, and points in Wayne County, NC.

No. MC 115554 (Sub-No. E4) (partial correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of August 30, 1974, and republished, as corrected, this issue. Applicant: SCOTT'S TRANSPORTATION SERVICE, INC., P.O. Box 136, Cedar Rapids, IA 52406. Applicant's representative: James R. Madler, 120 West Madison Street, Chicago, IL 60606. *Refrigerators, refrigeration and electrical equipment, appliances, and parts, materials, and supplies* used in the manufacture, repair, and distribution of such commodities, (2) between points in MI, on the one hand, and, on the other, points in WY on and south of U.S. Hwy 16 and points in ID on and south of a line beginning at the WY-ID State line, then west on U.S. Hwy 16 to junction Interstate Hwy 80N, then west on Interstate Hwy 80N to the ID-OR State line; (3) between points in the Lower Peninsula of MI, on the one hand, and, on the other, points in WA and WY; (4) between points in the Upper Peninsula of MI on and east of MI Hwy 95 and U.S. Hwy 41, on the one hand, and, on the other, points in WA and WY; (5) between points in MI on and south of MI Hwy 72, on the one hand, and, on the other, points in MT and SD; (6) between points in MI on and south of U.S. Hwy 10, on the one hand, and, on the other, points in ND on and west of ND Hwy 1; (7) between points in the Lower Peninsula of MI on the one hand, and, on the other, points in ID; (8) between points in the Upper Peninsula of MI on and east of U.S. Hwy 41, on the one hand, and, on the other, points in ID; *(9) between points in MI, on the one hand, and, on the other, points in NV. The purpose of this filing is to eliminate the gateway of Amana, IA.

NOTE.—The purpose of this partial correction is to state sections (2)-(9) which were omitted in the previous publication. The remainder of this letter-notice remains as previously published.

No. MC 115554 (Sub-No. E12) (partial correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of september 4, 1974, and republished, as corrected, this issue. Applicant: SCOTT'S TRANSPORTATION SERVICE, INC., P.O. Box 1136, Cedar Rapids, IA 52406. Applicant's representative: James R. Madler, 120 West Madison Street, Chicago, IL 60606. *Refrigerators, refrigeration and electrical equipment, appliances, and parts, materials, and supplies* used in the manufacture, repair, and distribution of such commodities, (2) between points in WI on, west and north of a line beginning at the IL-WI State line, then north on WI Hwy 83 to junction County Hwy F at or near Burlington, WI, then north on County Hwy F to junction WI Hwy 164, then along north on WI Hwy 164 to junction U.S. Hwy 41, then north on U.S. Hwy 41 to junction U.S. Hwy 45, then north on U.S. Hwy 45 to junction WI Hwy 28, then east on WI Hwy 28 to Lake Michigan, on the one hand, and, on the other, points in AR on, west and south of a line beginning at the AR-MO State line, then south on U.S. Hwy 167 to junction AR Hwy 14, then east on AR Hwy 14 to junction AR Hwy 1, then south on AR Hwy 1 to junction U.S. Hwy 49, then east on U.S. Hwy 49 to the AR-MS State line; (3) between points in WI on, west and north of a line beginning at the WI-IL State line, then north on WI Hwy 83 to junction WI Hwy 36, then northwest on WI Hwy 36 to Lake Michigan at or near Milwaukee, WI, on the one hand, and, on the other, points in MO on and west of MO Hwy 19 and on and south of Interstate Hwy 70 (except Kansas City); (4) between points in WI on, west and north of a line beginning at the IL-WI State line, then north on WI Hwy 67 to junction WI Hwy 59, then northeast on WI Hwy 59 to junction U.S. Hwy 18, then east on U.S. Hwy 18 to Lake Michigan at or near Milwaukee, WI, on the one hand, and, on the other, points in MS on and south of Interstate Hwy 20; (5) between points in WI on, north and west of a line beginning at the IL-WI State line, then north on WI Hwy 104 to junction U.S. Hwy 151, then northeast on U.S. Hwy 151 to Lake Michigan, on the one hand, and, on the other, points in MS on and south of a line beginning at the MS-AL State line, then west on U.S. Hwy 78 to junction MS Hwy 6, thence west on MS Hwy 6 to junction U.S. Hwy 61, then northwest on unnumbered highway to Friars Point, MS; (6) between points in WI, on the one hand, and, on the other, points in FL on and south of a line beginning at the Gulf of Mexico, then east on FL Hwy 78 to junction FL Hwy 70, then east on FL Hwy 70 to the Atlantic Ocean; (7) between points in WI, on, west and north of a line beginning at the IL-WI State line, then north on WI Hwy 67 to junction WI Hwy 59, then northeast on WI Hwy 59 to junction WI Hwy 164, then northeast on WI Hwy 164 to junction WI Hwy 74, then east on WI Hwy 74 to junction U.S. Hwy 41, then west on U.S. Hwy 41 to U.S. Hwy 45, then north on U.S. Hwy 45, to WI Hwy 28, then northeast on WI Hwy 28 to Lake Michigan, on the one hand, and, on the other, points in FL; (8) between points in WI on, north and west of a line beginning at the IL-WI State line, then north on Interstate Hwy 90 to junction WI Hwy 26, then northeast on WI Hwy 26 to junction U.S. Hwy 151, then northeast on U.S. Hwy 151 to Lake Michigan, on the one hand, and, on the other, points in AL on and south of U.S. Hwy 80; (9) between points in WI on, west and north of a line beginning at the IL-WI State line, then west on Interstate Hwy 90 to junction WI Hwy 73, then north on WI Hwy 73 to junction U.S. Hwy 151, then northeast on U.S. Hwy 151 to junction WI Hwy 57, then north on WI Hwy 57 to Green Bay, on the one hand, and, on the other, points in GA on and south of U.S. Hwy 80; (10) between points in WI on, north and west of a line beginning at the IL-WI State line, then north on Interstate Hwy 900 to junction U.S. Hwy 151, then northeast on U.S. Hwy 151 to Lake Michigan, on the one hand, and, on the other, points in AR, MS, and AL on and south of U.S. Hwy 80 and FL. The purpose of this filing is to eliminate the gateway of Amana, IA.

NOTE.—The purpose of this partial correction is to state sections (2)-(10) which were omitted in the previous publication. The remainder of this letter-notice remains as previousy published.

No. MC 115554 (Sub-No. E19) (partial correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of September 3, 1974, and republised, as corrected, this issue. Applicant: SCOTT'S TRANSPORTATION SERVICE, INC., P.O. Box 1136, Cedar Rapids, IA 52406. Applicant's representative: James R. Madler, 120 West Madison Street, Chicago, IL 60606. *Refrigerators, refrigeration and electrical equipment, appliances, and parts, materials, and supplies* used in the manufacture, repair, and distribution of such commodities, (2) between points in IN on and north of a line beginning at the OH-IN State line, then west on IN Hwy 18 to junction IN Hwy 9, then

south on IN Hwy 9 to junction U.S. Hwy 35, then west on U.S. Hwy 35 to junction U.S. Hwy 31, then south on U.S. Hwy 31 to junction IN Hwy 26, then west on IN Hwy 26 to the IN-IL State line, on the one hand, and, on the other, points in TX on and west of a line beginning at the TX-OK State line, then west on Interstate Hwy 35 to junction Interstate Hwy 35E, then south on Interstate Hwy 35E to junction Interstate Hwy 35, then south on Interstate Hwy 35 to junction U.S. Hwy 77, then south on U.S. Hwy 77 to junction U.S. Hwy 87, then south on U.S. Hwy 87 to the Gulf of Mexico; (3) between points in IN on the one hand, and, on the other, points in CO, points in KS on, west and north of a line beginning at the KS-NE State line, then west on U.S. Hwy 383 to junction U.S. Hwy 24, then west on U.S. Hwy 24 to junction the CO-KS State line; and points in NM on and west of a line beginning at the NM-CO State line, then west on Interstate Hwy 25, to junction U.S. Hwy 84, then south on U.S. Hwy 84 to junction NM Hwy 219, then south on NM Hwy 219 to junction U.S. Hwy 285, then south on U.S. Hwy 285 to junction U.S. Hwy 70, then west on U.S. Hwy 70 to junction U.S. Hwy 54, then south on U.S. Hwy 54 to the NM-TX State line; (4) between points in IN on and north of a line beginning at the IN-OH State line, then west on IN Hwy 124, to junction U.S. Hwy 24, then west on U.S. Hwy 24 to the IN-IL State line, on the one hand, and, on the other, points in OK on and west of OK Hwy 99; (5) between points in IN on and north of a line beginning at the IN-OH State line, then west on U.S. Hwy 36 to junction Interstate Hwy 74, then west on Interstate Hwy 74 to the IL-IN State line, on the one hand, and, on the other, points in KS on and west of a line beginning at the KS-NE State line, then south on KS Hwy 99 to junction U.S. Hwy 24, then west on U.S. Hwy 24 to junction KS Hwy 177, then south on KS Hwy 177 to Interstate Hwy 35, then southwest on Interstate Hwy 35 to the KS-OK State line; (6) between points in IN on and north of a line beginning at the IN-OH State line, then west on IN Hwy 14 to junction Interstate Hwy 65, then south on Interstate Hwy 65 to junction U.S. Hwy 24, then west on U.S. Hwy 24 to the IL-IN State line, on the one hand, and, on the other, points in NM, points in OK on and west of OK Hwy 99, and points in TX on and west of U.S. Hwy 75. The purpose of this filing is to eliminate the gateway of Amana, IA.

NOTE.—The purpose of this partial correction is to state sections (2)–(6) which were omitted in the previous publication. The remainder of this letter-notice remains as previously published.

No. MC 107515 (Sub-No. E70), filed July 16, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Applicant's representative: E. S. Moore, Jr. (same as above). *Agricultural implements, agricultural machinery, tractors (other than truck tractors), incidental machinery, attachments and parts* when moving with such implements, machinery or tractors, (except commodities requiring special equipment), (A) between points in Brunswick and Columbia Counties, NC, on the one hand, and, on the other, points in CA, CO, ID, IA, LA, MI, MN, MT, NE, NV, ND, OR, SD, UT, WA, WI, WY, and points in AZ, on, north and west of a line commencing at the AZ-Mexico border along and proceeding U.S. Hwy 89 to its junction with Interstate Hwy 10, then along Interstate Hwy 10 to the AZ-NM State line; points in IL on and north of a line commencing at the MO-IL State line and proceeding along U.S. Hwy 136 in to its junction with IL Hwy 29 then along IL Hwy 29 to its, junction with U.S. Hwy 24, then along U.S. Hwy 24 to its junction with U.S. Hwy 66, then along U.S. Hwy 66 to Hwy its junction with IL Hwy 17, then along IL Hwy 17 to the IL-IN State line; points in IN on and north of a line commencing at the IL-IN State line and proceeding along IN Hwy 10 to its junction with IN Hwy 19, then along IN Hwy 19 to its junction with IN Hwy 8, then along IN Hwy 8 to the IN-OH State line; points in KS on, north and west of a line commencing at the OK-KS State line and proceeding along U.S. Hwy 56 to its junction with U.S. Hwy 77, then along U.S. Hwy 77 to its junction with U.S. Hwy 24, then along U.S. Hwy 24 to its junction with KS Hwy 63, then along KS Hwy 63 to its junction with KS Hwy 16, then along KS Hwy 116 to the KS-MO State line; points in MO on and north of a line commencing at the KS-MO State line and proceeding along U.S. Hwy 36 to its junction with MO Hwy 11, then along MO Hwy 11 to its junction with MO Hwy 81, then along MO Hwy 81 to the IL-MO State line; points in NM on, north and west of a line commencing at the AZ-NM State line and proceeding along Interstate Hwy 10 to its junction with U.S. Hwy 85, then along U.S. Hwy 85 to its junction with U.S. Hwy 56, then along U.S. Hwy 56 to OK-NM State line; points in OH on north and east of a line commencing at the OH-IN State line and proceeding along OH Hwy 18 to its junction with OH Hwy 15, then along OH Hwy 15 to its junction with U.S. Hwy 23, then along U.S. Hwy 23 to its junction with OH Hwy 229, then along OH Hwy 220 to its junction with U.S. Hwy 36, then along U.S. Hwy 36 to its junction with OH Hwy 16, then along OH Hwy 16 to its junction with OH Hwy 83, then along OH Hwy 83 to its junction with OH Hwy 78, then along OH Hwy 78 to the OH-WV State line; points in OK north and west of a line commencing at OK-NM line and proceeding along U.S. Hwy 56 to OK-KS State line; points in WV on and north of a line commencing at the OH-WV State line and proceeding along U.S. Hwy 250 to its junction with WV Hwy 7, then along WV Hwy 7 to the MD-WV State line, then along the State line in a southerly direction to U.S. Hwy 50, then along U.S. Hwy 50 to the WV-VA State line; (B) between points in Bladen, and Sampson Counties, NC, on the one hand, and, on the other, points CA, CO, ID, MI, MN, MT, NE, NV, ND, OR, SD, UT, WA, WI, WY, and points in AZ on and north of a line commencing at the AZ-Mexico border and proceeding along U.S. Hwy 80 to its junction with U.S. Hwy 60, then to the AZ-NM State line; points in IL on and north of a line commencing at the IA-IL State line and proceeding along U.S. Hwy 34 to its junction with IL Hwy 17, then along IL Hwy 17 to its junction with U.S. Hwy 66, then along U.S. Hwy 66 to its junction with U.S. Hwy 6, then along U.S. Hwy 6 to IL-IN State line; points in IN on and north of a line commencing at the IL-IN State line and proceeding along U.S. Hwy 6 to its junction with U.S. Hwy 421, then along U.S. Hwy 421 to its junction with U.S. Hwy 20, then along U.S. Hwy 20 to its junction with IN Hwy 9, then along IN Hwy 9 to its junction with IN Hwy 8, then along IN Hwy 8 to the IN-OH State line; points in IA on and northwest of a line commencing at the IA-MO State line and proceeding along IA Hwy 81 to its junction with IA Hwy 2, then along IA Hwy 2 to the IA-IL State line; points in KS on and north of a line commencing at the OK-KS State line and proceeding along U.S. Hwy 56 to its junction with KS Hwy 23, then along KS Hwy 23 to its junction with KS Hwy 4, then along KS Hwy 4 to its junction with U.S. Hwy 281, then along U.S. Hwy 281 to its junction with U.S. Hwy 24, then along U.S. Hwy 24 to its junction with U.S. Hwy 77, then along U.S. Hwy 77 to its junction with U.S. Hwy 36, then along U.S. Hwy 36 to the KS-MO State line; points in MD on and west of Interstate Hwy 81; in MO on and north of a line commencing at the KS-MO State line and proceeding along U.S. Hwy 26 to its junction with U.S. Hwy 69, then along U.S. Hwy 69 to its junction with MO Hwy 6, then along MO Hwy 6 to its junction with MO Hwy 5, then along MO Hwy 5 to its junction with U.S. Hwy 136, then along U.S. Hwy 136 to its junction with MO Hwy 81, then along MO Hwy 81 to the MO-IA State line; points in NM on and north of a line commencing at the AZ-NM State line and proceeding along U.S. Hwy 60 to its junction with U.S. Hwy 85, then along U.S. Hwy 85 to its junction with U.S. Hwy 84, then along U.S. Hwy 84 to its junction with U.S. Hwy 64, then along U.S. Hwy 64 to the OK-NM State line; points in OH on and north of a line commencing at the IN-OH State line and proceeding along U.S. Hwy 6 to its junction with OH Hwy 199, then along OH Hwy 199 to its junction with OH Hwy 587, then along OH Hwy 587 to its junction with OH Hwy 67, then along OH Hwy 67 to its junction with U.S. Hwy 30N, then along U.S. Hwy 30N to its junction with U.S. Hwy 30, then along U.S. Hwy 30 to its junction with U.S. Hwy 250, then along U.S. Hwy 250 to the OH-WV State line; points in OK on and west of U.S. Hwy 56; points in WV on and north of a line commencing at the OH-WV State line and proceeding along U.S. Hwy 250 to its junction with U.S. Hwy 50, then along U.S. Hwy 50 to the VA-WV State line; The purpose of this filing is to eliminate the gateway of Carlisle, Shadygrove, and Waynesboro, PA.

No. MC 117574 (Sub-No. E71), filed July 16, 1975. Applicant: DAILY EXPRESS INC., P.O. Box 39, Carlisle, PA, 17013. Applicant's representative: E. S. Moore, Jr. (same as above). (1) *Agriculture implements, agricultural machinery, tractors, (other than truck tractors), incidental machinery, attachments and parts* when moving with such implements, machinery or tractors, (except commodities requiring special equipment), (2)(a) *sewage, water, and refuse treatment systems*, the transportation of which because of size or weight requires the use of special equipment, which is also industrial or processing machinery and (b) *tools, materials and supplies* used in connection with the erection and construction of sewage, water, and refuse systems (except commodities in bulk), which are also attachments, accessories and parts of industrial or processing machinery. (A) Between points in Charles City, James City, King William, and New Kent Counties, VA, on the one hand, and, on the other, points in AZ, CA, CO, DE, ID, IL, IN, IA, KS, MI, MN, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, WI, WY, and points in AR on, north and west of a line commencing at the AR-LA State line and proceeding along U.S. Hwy 167 to its junction with U.S. Hwy 79, then along U.S. Hwy 79 to its junction with Interstate Hwy 55, then along Interstate Hwy 55 to its junction with U.S. Hwy 63, then along U.S. Hwy 63 to its junction with AR Hwy 1, then along AR Hwy 1 to its junction with AR Hwy 25, then along AR Hwy 25 to the AR-MS State line; points in KY on and north of a line commencing at the KY-TN State line and proceeding along U.S. Hwy 45 to its junction with KY Hwy 80, then in and along KY Hwy 80 to its junction with U.S. Hwy 641, then along U.S. Hwy 641 to its junction with U.S. Hwy 60, then along U.S. Hwy 60 to its junction with U.S. Hwy 231, then along U.S. Hwy 231 to the KY-OH State line; points in LA on and west of a line commencing at the LA-Gulf of Mexico coast and proceeding along LA Hwy 333 to its junction with LA Hwy 82, then along LA Hwy 82 to its junction with U.S. Hwy 167, then along U.S. Hwy 167 to the AR-LA State line; points in OH south and east of a line commencing at the KY-OH State line and proceeding along OH Hwy 41 to its junction with U.S. 50, then along U.S. Hwy 50 to the OH-WV State line; points in WV on and north of a line commencing at the OH-WV State line and proceeding along U.S. Hwy 50 to its junction with Hwy 19, then along U.S. Hwy 19 to its junction with U.S. Hwy 119, then along U.S. Hwy 119 to the PA-WV State line; (B) between points in Culpepper, Greene, Madison, Orange, and Rappahannock Counties, VA, on the one hand, and, on the other points in AZ, AR, CA, CO, ID, IL, IN, IA, KS, LA, MI, MN, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, WI, WY, and points in AL on and west of a line commencing at the FL-AL State line and proceeding along AL Hwy 21 to its junction with AL Hwy 89, then along AL Hwy 89 to its junction with AL Hwy 41, then along AL Hwy 41 to its junction with AL Hwy 14, then along AL Hwy 14 to its junction with AL Hwy 5, then along AL Hwy 5 to its junction with U.S. Hwy 72, then along U.S. Hwy 72 to the AL-MS State line; points in FL on and south of a line commencing at the Atlantic Ocean-FL State line and proceeding along FL Hwy 192 to its junction with U.S. Hwy 27, then along U.S. Hwy 27 to its junction with FL Hwy 50, then along FL Hwy 50 to the west coast of FL and west of a line commencing at Pensacola, FL, and proceeding along Interstate Hwy 29 in a northerly direction to the FL-AL State line; points in KY on and west of a line commencing at the TN-KY State line and proceeding along Interstate Hwy 41 to its junction with Interstate Hwy 62, then along Interstate Hwy 62 to its junction with Interstate Hwy 65, then along Interstate Hwy 65 to its junction with Interstate Hwy 421, then along Interstate Hwy 421 to the KY-OH State line; points in MS on, south and west of a line commencing at the AL-MS State line and proceeding along Interstate Hwy 72 to the MS-TN State line; points in OH on and west of a line commencing at the KY-OH State line and proceeding along U.S. Hwy 40 to its junction with Interstate Hwy 50, then along Interstate Hwy 50 to its junction with Interstate Hwy 23, then along Interstate Hwy 23 to its junction with Interstate Hwy 22, then along Interstate Hwy 22 to its junction with Interstate Hwy 77, then along Interstate Hwy 77 to its junction with Interstate Hwy 80, then along Interstate Hwy 80 to the OH-PA State line; points in TN on and west of a line commencing at the MS-TN State line and proceeding along TN Hwy 45 in a northerly direction to its junction with Interstate Hwy 70, then along Interstate Hwy 70 to its junction with TN Hwy 13, then along TN Hwy 13 to the TN-KY State line; and (C) between points in the Amherst and Nelson Counties, VA, on the one hand, and, on the other, points in AZ, CA, CO, ID, IA, KS, MI, MN, MT, NE, NV, NM, ND, OR, SD, UT, WA, WI, WY, and points in IL, on and north of U.S. Hwy 66, points in IN, on and north of U.S. Hwy 30, points in MO, on and north of a line commencing at the OK-MO State line along Interstate Hwy 44 to its junction with U.S. Hwy 65, then along U.S. Hwy 65 to its junction with U.S. Hwy 40, then along U.S. Hwy 40 to the IL-MO State line; points in OH, on and north of U.S. Hwy 30; points in OK, on, north and west of U.S. Hwy 66; points in TX, on and west of a line commencing at the TX-Gulf of Mexico coast and proceeding along Texas Hwy 100 to its junction with U.S. Hwy 83, then along U.S. Hwy 83 to its junction with U.S. Hwy 62, then along U.S. Hwy 62 to the OK-TX State line. The purpose of this filing is to eliminate the gateway of Carlisle, Shadygrove, and Waynesboro, PA.

No. MC 117574 (Sub-No. E88), filed June 29, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Applicant's representative: E. S. Moore, Jr. (same as above). (1) *Sewage, water, and refuse treatment systems* the transportation of which, because of size or weight, requires the use of special equipment, which are also industrial or processing machinery, and (2) *tools, materials, and supplies* used in connection with the erection and construction of sewage, water, and refuse treatment systems (except commodities in bulk), which are also attachments, accessories, or parts of industrial or processing machinery: (a) between points in Fayette and Kanawha Counties, WV, on the one hand, and, on the other, points in OR, WA, CA, on and west of a line commencing at the CA-Mexico international boundary line over CA Hwy 111 to junction Interstate Hwy 10, then over Interstate Hwy 10 to junction Interstate Hwy 15, then over Interstate Hwy 15 to the CA-NV State line; NV on and west of a line commencing at the CA-NV State line over Interstate Hwy 15 to junction U.S. Hwy 93, then over U.S. Hwy 93 to junction U.S. Hwy 50, then over U.S. Hwy 50 to junction NV Hwy 51, then over NV Hwy 51 to junction U.S. Hwy 40, then over U.S. Hwy 40 to junction NV Hwy 51, then over NV Hwy 51 to the NV-ID State line; ID on and west

of a line commencing at the NV-ID State line over ID Hwy 51 to junction ID Hwy 68, then over ID Hwy 68 to junction U.S. Hwy 93, then over U.S. Hwy 93 to the ID-MT State line; and MT on and west of a line commencing at the ID-MT State line over U.S. Hwy 93 to junction U.S. Hwy 2, then over U.S. Hwy 2 to junction Interstate Hwy 15, then over Interstate Hwy 15 to the MT-Canada international boundary line; and (b) between points in Harrison, Tyler, and Wetzel Counties, WV, on the one hand, and, on the other, points in CA, NV, OR, WA, ID, AZ, on and west of a line commencing at the AZ-Mexico international boundary line over the AZ-NM State line to junction U.S. Hwy 180, then over U.S. Hwy 180 to junction U.S. Hwy 89, then over U.S. Hwy 89 to the AZ-UT State line; UT on and west of a line commencing at the AZ-UT State line over U.S. Hwy 89 to junction Interstate Hwy 70, then over Interstate Hwy 70 to junction UT Hwy 10, then over UT Hwy 10 to junction U.S. Hwy 6, then over U.S. Hwy 6 to junction UT Hwy 33, then over UT Hwy 33 to junction U.S. Hwy 40, then over U.S. Hwy 40 to junction U.S. Hwy 189, then over U.S. Hwy 189 to the UT-WY State line; WY on and west of a line commencing at the UT-WY State line over U.S. Hwy 189 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction U.S. Hwy 187, then over U.S. Hwy 187 to junction WY Hwy 28, then over WY Hwy 28 to junction WY Hwy 789, then over WY Hwy 789 to junction U.S. Hwy 20, then over U.S. Hwy 20 to junction U.S. Hwy 310, then over U.S. Hwy 310 to the WY-MT State line; and MT on and west of a line commencing at the WY-MT State line over U.S. Hwy 310 to junction U.S. Hwy 10, then over U.S. Hwy 10 to junction U.S. Hwy 87, then over U.S. Hwy 87 to junction MT Hwy 19, then over MT Hwy 19 to junction U.S. Hwy 191, then over U.S. Hwy 191 to junction U.S. Hwy 2, then over U.S. Hwy 2 to junction MT Hwy 247, then over MT Hwy 247 to the MT-Canada international boundary line. The purpose of this filing is to eliminate the gateway of Carlisle, Shadygrove, and Waynesboro, PA.

No. MC 117574 (Sub-No. E94), filed July 1, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Applicant's representative: E. S. Moore, Jr. (same as above). *Agricultural implements and agricultural machinery, tractors with or without attachments, cranes, industrial and processing machinery, which are also agricultural, industrial or construction machinery, and equipment, or farm and logging equipment, or machinery* (except tractors with vehicle beds, bed frames and fifth wheels, and such commodities which because of size or weight require the use of special equipment) (1) from points in Oconee and Pickens, Counties, SC, to points in that portion of CA, on and west of a line beginning at Ukiah and extending along CA Hwy 20 to junction Interstate Hwy 5, then along Interstate Hwy 5 to junction CA Hwy 299, then along CA Hwy 299 to junction with U.S. Hwy 395, then along U.S. Hwy 395 to the CA-OR State Line, that portion of ID, on and north of U.S. Hwy 12, that portion of MT, on and north of a line beginning at the ID-MT State line and extending along U.S. Hwy 12 to junction with U.S. Hwy 91, then along U.S. Hwy 91 to its termination at the United States-Canadian international boundary line to points in that portion of OR, on and west of a line beginning at the CA-OR State line and extending along U.S. Hwy 395 to junction with OR Hwy 244, then along OR Hwy 244 to junction with OR Hwy 82, then along OR Hwy 82 to junction with OR Hwy 3, then along OR Hwy 3 to the OR-WA State line to points in that portion of WA, on and northwesterly of a line beginning at the OR-WA State Line and extending along WA Hwy 129 to junction with U.S. Hwy 12, then along U.S. Hwy 12 to the ID-WA State line; (2) from points in Greenville County, SC, to points in OR, WA, points in that portion of CA, on and north of a line beginning at the CA-NV State line and extending along U.S. Hwy 50 to junction with Interstate Hwy 80, then along Interstate Hwy 80 to its junction with CA Hwy 128, then along CA Hwy 128 to junction with CA Hwy 12, then along CA Hwy 12 to Santa Rosa and the Pacific Ocean, points in that portion of SD on and north of a line beginning at the MT-SD State line and extending along U.S. Hwy 93 to junction with SD Hwy 21, then along SD Hwy 21 to junction with SD Hwy 55, then along SD Hwy 55 to junction with SD Hwy 52, then along SD Hwy 52 to the SD-OR State line, then along the SD-OR State line to junction with the OR-NV State line, then along the OR-NV State line to its junction with U.S. Hwy 95, to points in that portion of MT on and west of a line beginning at the United States-Canadian international boundary line and extending along U.S. Hwy 91 to junction with MT Hwy 43, then along MT Hwy 43 to the MT-SD State line to points in that portion of NV on and west of a line beginning at the OR-NV State line and extending along U.S. Hwy 95 to junction with U.S. Hwy 50, then along U.S. Hwy 5 to the CA-NV State line. The purpose of this filing is to eliminate the gateway of Shady Grove, Waynesboro, and Belleville, PA.

No. MC 117574 (Sub-No. E98), filed July 16, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Applicant's representative: E. S. Moore, Jr. (same as above). (1) *Heat exchangers or equalizers for air, gas, or liquids*, and (2) *equipment and machinery for heating, cooking, conditioning, humidifying and dehumidifying* when such is industrial and processing machinery, and attachments, accessories, and parts of all of the above described commodities, from La-Crosse, WI, to points in that portion of NC, in and east of Rockingham, Guilford, Randolph, Montgomery, and Anson Counties, and points in Chesterfield, Darlington, Florence, Williamsburg, Georgetown, Marlboro, Dillon, Marion, and Horry Counties, SC. The purpose of this filing is to eliminate the gateway of Shadygrove, PA.

No. MC 117574 (Sub-No. E100), filed July 16, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Applicant's representative: E. S. Moore, Jr. (same as above). (1) *Pressure vessels, storage tanks, condensers, evaporators, heat exchangers*, and (2) *incidental equipment and parts designed for installation of the items in* (1) above, when used as industrial and processing machinery, and attachments, accessories and parts of (1) and (2) above, from Downingtown, PA, to points in AL, AZ, AR, CA, CO, FL, GA, ID, KS, LA, MS, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, and WY. The purpose of this filing is to eliminate the gateway of Carlisle, PA.

No. MC 117574 (Sub-No. E101), filed July 16, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Applicant's representative: E. S. Moore, Jr. (same as above). *Compressors, pumps, blowers, condensers, drilling equipment, electric and pneumatic tools, heat exchangers, hoisting equipment, engines* (except aircraft, rocket and missile engines), and *mining equipment* when used as industrial and processing machinery and attachments, accessories, and parts of the above-described commodities from Painted Post, NY, Athens, PA, and Phillipsburg, NJ, to points in AZ, AR, CO, KS, LA, MS, NM, OK, and TX. The purpose of this filing is to eliminate the gateway of Carlisle, PA.

No. MC 117574 (Sub-No. E103), filed July 16, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Applicant's representative: E. S. Moore, Jr. (same as above). *Lift and hoist trucks, cranes, tractors (other than truck tractors), and attachments and accessories therefor, which are also tractors with or without attachments, cranes, industrial and processing machinery and attachments, accessories or parts of the above described commodities*, from the plantsite of Towmotor Corp. at Mentor, OH, to points in that portion of GA in, south and east of Baker, Bibb, Crisp, Dooly, Dougherty, Houston, Jefferson, Lee, Miller, Peach, Richmond, Seminole, Twiggs, Washington and Wilkinson Counties, points in that portion of NC in and east of Guilford, Randolph, Rockingham, Stanley, and Union Counties, and points in that portion of SC in and east of Aiken, Kershaw, Lancaster, Lexington, and Richland Counties, SC. The purpose of this filing is to eliminate the gateway of Carlisle, PA.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-6225 Filed 3-8-78; 8:45 am]

[7035-01]

[Notice No. 1]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before April 10, 1978. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopsis form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-77514, filed January 17, 1978. Transferee: GEORGE KU, INC., 1480 Mount Jackson Road, New Castle, PA 16102. Transferor: Bessemer Hillsville Bus Co., 310 East Liberty Street, Lowelliville, OH 44436. Applicant's representative: Lewis S. Witherspoon, 88 East Broad Street, Suite 930, Columbus, OH 16102. Authority sought for purchase by transferee of the operating rights set forth in Certificate No. MC 31422 issued March 18, 1954: *Passengers and their baggage* over a specified regular route between Youngstown, OH, and Bessemer, PA, serving all intermediate points and between Hillsville, PA, and New Castle, PA (restricted to the transportation of passengers moving in carrier's vehicles to or from Campbell, OH) over a regular route. Transferee holds no Commission authority and does seek section 210a(b) temporary authority.

No. MC-FC-77517, filed January 19, 1978. Transferee: FRANCIS J. GORRELL, d.b.a. TOPLIFF TRUCK LINE, 746 North Santa Fe, Salina, KS 67401. Transferor: Salton Truck Line, Inc., 740 North 11th, Salina, KS 67401. Applicant's representative: Clyde N. Christey, 514 Capitol Federal Building, 700 Kansas Avenue, Topeka, KS 66603. Authority sought for purchase by transferee of the operating rights set forth in Certificate No. MC 135040 and MC 135040 (Sub-No. 1) issued November 1, 1971, and July 6, 1972, respectively: *General commodities* over KS Hwy. 181 between the junction of KS Hwys 18 and 181 and Tipton, KS, and between Salina, KS, and Stockton, KS, over a specified regular route. Transferee holds no Commission authority and does not seek section 210a(b) authority.

No. MC-FC-77520, filed January 20, 1978. Transferee: SAMUEL ODUS COFFEY, d.b.a. COFFEY TRUCKING, Route 1, Box 339A, Deale, MD 20751. Transferor: Potter Transfer, Inc., Box 127, White Plains, MD 20695. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, DC 20036. Authority sought for purchase by transferee of a portion of the operating rights set forth in Certificate No. MC 127147 (Sub-No. 1) issued December 22, 1971: *Lumber* (except veneer and plywood) from points in Calvert, Charles, and St. Mary's Counties, MD, to points in NJ, NY, OH, and PA. Transferee holds no Commission authority and does not seek section 210a(b) authority.

No. MC-FC-77530, filed February 6, 1978. Transferee: BOB'S TRUCK SERVICE, INC., P.O. Box 528, Middletown, OH 45042. Transferor: Subler Transfer, Inc., Versailles, OH 45380. Applicant's representatives: Paul F. Beery, 275 East State Street, Columbus, OH 43215 and E. Stephen Heisley, Ames, Hill, and Ames, 666 11th Street NW., Washington, DC 20001. Authority sought for purchase by transferee of a portion of the operating rights set forth in Certificate No. MC 117883 (Sub-No. 93) issued June 30, 1972, as follows: *Wire, iron, brass, and steel products* from Carey, Fostoria, Franklin, Middletown, Moraine, and Toledo, OH, to Chicago, IL. Transferee presently holds no authority from this Commission and does not seek section 210a(b) authority.

No. MC-FC-77534, filed February 2, 1978. Transferee: PRAY FOR TRANSPORTATION, INC., Ellsworth Street, Dows, IA 50071. Transferor: P. J. Quigley, d.b.a. QUIGLEY TRUCKING, Rural Route 2, Belmond, IA 50421. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Authority sought for purchase by transferee of the operating rights set forth in Permit No. MC 138759 (Sub-No. 1) issued February 20, 1976: *Dry animal and poultry feed and feed ingredients*, between the plantsite of Central Soya Co., Inc., at Belmond, IA, on the one hand, and, on the other, points in 13 specified countries in MN and seven counties in WI. Transferee holds no Commission authority and does seek section 210a(b) temporary authority.

No. MC-FC-77536, filed February 10, 1978. Transferee: DELILA JANE ROSS and RALPH L. ROSS, a partnership, d.b.a. SYRACUSE TRANSFER, 320 Swanson Drive, Syracuse, NE 68446. Transferor: William D. Mehlhop, d.b.a. Syracuse Transfer, 886 Poplar, Syracuse, NE 68446. Applicant's representative: Delia Jane Ross (same address as transferee). Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate of Registration No. MC 98876 (Sub-No. 1), issued January 12, 1971 as follows: *General commodities*, with certain exceptions, over specified regular routes from and to Syracuse and Omaha, NE, and over irregular routes between points and places in Otoe County, on the one hand, and, on the other, points and places within a 200-mile radius of Syracuse, NE. Transferee is presently authorized to operate as a common carrier pursuant to MC-FC-76739 consummated February 15, 1977, and assigned No. MC 57711 (Sub-No. 1). Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77540, filed February 10, 1978. Transferee: GREENMOUNT STORAGE WAREHOUSE, INC., 2604 Greenmount Avenue, Baltimore, MD 21218. Transferor: Acme Moving & Storage Corp. (Internal Revenue Service, Successor-In-Interest), 5620 Lafayette Place, Edmonston, MD 20781. Applicant's representative: Thomas R. Kingsley, Attorney-at-Law, Suite 1000, 1819 H Street NW., Washington, D.C. 20006. Authority sought for purchase by transferee of that portion of the operating rights of transferor, as set forth in Certificate No. MC 88904 (Sub-No. 2), issued July 28, 1977, as

follows: *Household goods*, as defined by the Commission, over irregular routes, between Washington, DC except points in the commercial zone within Montgomery County, MD, on the one hand, and, on the other, points in MD (except Indian Head and points in MD within 5 miles thereof), MA, NJ, NY, OH, PA, VA, and WV. Transferee holds authority from this Commission in MC 684. Request for joinder and application for elimination of gateway were filed concurrently. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77541, filed February 13, 1978. Transferee: TIFTON TRANSPORT, INC., P.O. Box 160, Bartow, FL 33830. Transferor: Milton McCombs, Jr., P.O. Box 1324, Tifton, GA 31794. Applicant's representative: Dan R. Schwartz, 1729 Gulf Life Tower, Jacksonville, FL 32207. Authority sought for purchase by transferee of the operating rights set forth in Certificate No. MC 138552 (Sub-Nos. 2 and 3) issued July 12, 1976 and July 26, 1977 as follows: *Wet gypsum* from points in FL to points in AL and GA and from Jackson County, MS to points in AL, FL, and GA. Transferee holds no Commission authority and does not seek section 210a(b) authority.

No. MC-FC-77542 filed February 14, 1978. Transferee: R. F. CLEMENS & SONS, INC., R.D. No. 1, Munyan Road, Putnam, CT, 06260. Transferor: Ovila Gosselin, d.b.a. GOSSELIN'S EXPRESS, 96 Bates Avenue, Putnam, CT, 06260. Applicant's representative: Ovila Gosselin (same address as transferor). Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 2308 issued August 27, 1940, as follows: *Household goods*, between Putnam, CT and points and places in CT within 10 miles of Putnam, on the one hand, and points and places in CT, RI, MA, and NY on the other. Transferee is presently authorized to operate as a contract carrier under Permit No. MC 29674. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77544, filed February 14, 1978. Transferee: TEXAS CONTRAN, INC., 4242 Southwest Freeway, Suite 507, Houston, TX 77027. Transferor: Continental Transport, Inc. (Harry E. Lindsey, d.b.a. CONTINENTAL TRANSPORT, INC., Successor-in-Interest), 4627 Dagg Road, Houston, TX 77048. Applicant's representative: Donald L. Martin, Esquire, 3303 Louisiana, Suite 133, Houston, TX 77006. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate of Registration No. MC 121037 (Sub-No. 1), issued August 13, 1969, as follows: *Specified commodities*, including but not limited to, household goods, used office furniture and equipment, livestock, livestock feedstuffs, farm machinery and grain, reinforcing steel, steel forms, oilfield equipment, and pipe, wholly within the State of TX. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77546, filed February 15, 1978. Transferee: BUFFALO HORSE TRANSPORT, INC., a New York corporation, Box 699, Streetsville, ON, Canada. Transferor: John R. Morgan Co., a Michigan corporation, 19251 McIntyre, Detroit, MI 48219. Applicant's representative: Robert D. Gunderman, Suite 710, Statler Hilton, Buffalo, NY 14202. Authority sought for purchase by transferee of the operating rights set forth in Certificate No. MC 13964 issued August 15, 1967 as follows: *Horses* (other than ordinary), *mascots, equipment, and tack* between points in the lower peninsula of MI, on the one hand, and, on the other, points in PA, NC, SC, GA, FL, and TN and horses (other than ordinary) and in the same vehicle with such horses, stable supplies, and equipment used in their care and exhibition, mascots, and the personal effects of their attendants between points in MI, OH, IN, IL, and KY. Transferor will retain the household goods portion of this certificate. Transferee holds Commission authority under Certificate No. MC 115235 (Sub-No. 1) and does not seek section 210a(b) authority.

No. MC-FC-77551, filed February 21, 1978. Transferee: B. V. & G. TRANSPORT, CO., a corporation, P.O. Box 723, Granite City, IL 62040. Transferor: Aloysius A. Holtman, d.b.a. HOLTMAN TRUCK SERVICE, 465 North 11th Street, Breese, IL 62230. Applicant's representative: Joel H. Steiner, Esquire, 39 South LaSalle Street, Chicago, IL 60603. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC 69938 issued October 17, 1949, as follows: *General commodities*, with exceptions, over regular routes, between Germantown, IL and St. Louis, MO. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-6216 Filed 3-8-78; 8:45 am]

[7035-01]

[Rule 19; Ex Parte No. 241; Exemption No. 146]

PITTSBURGH AND LAKE ERIE RAILROAD, CO.

Exemption Under Provision of Mandatory Car Service Rules

Because of congestion following severe winter storms, the Pittsburgh and Lake Erie Railroad Co. is unable to furnish shippers gondola cars of suitable ownership to maintain operations thereby threatening to close factories and create substantial economic loss.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19:

The Pittsburgh and Lake Erie Railroad Co. is authorized to accept from shippers general service plan gondola cars less than 61-ft. in length and bearing mechanical designations "GA", "GB", "GD", "GH", "GS", and "GT" as listed in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 406, issued by W. J. Trezise, or successive issues thereof, regardless of the provisions of Car Service Rules 1 and 2.

It is further ordered, That: This exemption shall not apply to cars of Mexican or Canadian ownership or to cars subject to Interstate Commerce Commission or Association of American Railroads' Orders requiring return of cars to owners.

Effective February 22, 1978.

Expires March 15, 1978.

Issued at Washington, D.C., February 22, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-6220 Filed 3-8-78; 8:45 am]

[7035-01]

[No. MC-C-10032]

DALLAS, TX—TULSA, OK, SUPERHIGHWAY OPERATIONS

Filing of Petition for Declaratory Order

AGENCY: Interstate Commerce Commission.

ACTION: Notice of filing of petition for declaratory order.

SUMMARY: By petition filed November 30, 1977, petitioner Graves Truck Line, Inc., seeks a ruling as to whether its operations between Dallas, TX, and Tulsa, OK, are in accordance with the Superhighway Rules—Motor Common Carriers of Property, 49 CFR 1042.3.

DATE: Comments on or before April 10, 1978.

ADDRESS: Send comments to: The Secretary, Interstate Commerce Commission, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, 202-275-7292.

SUPPLEMENTARY INFORMATION: Petitioner indicates that it holds regular-route general commodities (with certain exceptions) authority to operate between Dallas, TX, and Tulsa, OK, as follows: From Dallas, TX, over U.S. Hwy 77 to Oklahoma City, OK, then over I Hwy 35 to junction I Hwy 44, then over I Hwy 44 to Tulsa, OK, and return over the same route. That portion of the above-described route extending between Dallas, TX, and Oklahoma City, OK, is leased by petitioner from Western Gillette, Inc., pursuant to temporary authority granted by the Commission in No. MC-F-13161. That portion of the above-described route extending between Oklahoma City, OK, and Tulsa, OK, is embraced within an alternate route for operating convenience only authorization which appears in petitioner's Certificate No. MC 53965 (Sub-No. 96).

With regard to petitioner's described alternate-route authority, it is noted that the underlying route between the departure and return points referred to in the Property Motor Carrier Superhighway Rules is specified as, must be, a service route. *Puget Sound Truck Lines, Inc.—Invest. and Revoc.*, 120 MCC 892, 896-897 (1975); and *Crouse Cartage Co. Invest. & Revoc. of Certif.*, 128 MCC 157, 163-164 (1977). This excludes alternate routes since alternate routes, of course, by definition are not service routes. It appears that petitioner has regular service route authority between Oklahoma City and Tulsa that could be joined with the described leased route. These routes appear to be as follows: From Oklahoma City, OK, over U.S. Hwy 66 to El Reno, OK, then over U.S. Hwy 81 to Enid, OK, then over U.S. Hwy 64 to junction OK Hwy 15, then over OK Hwy 15 to junction U.S. Hwy 177, then over U.S. Hwy 177 to junction OK Hwy 11, then over OK Hwy 11 via Pahuska, OK, to Tulsa, OK, and return over the same route.

Petitioner performs the following operation pursuant to its interpretation of the Property Motor Carrier Superhighway Rules: Between Dallas, TX, and Tulsa, OK, as points of departure from and points of return to the purported regular service route, from Dallas, TX, over U.S. Hwy 75 to junction U.S. Hwy 69 at or near Atoka, OK, then over U.S. Hwy 69 to junction Indian Nation Turnpike at or near Halley, OK, then over Indian Nation Turnpike to junction U.S. Hwy 75 at or near Henryetta, OK, then over U.S. Hwy 75 to Tulsa, OK, and return over the same route, serving no intermediate points.

It is petitioner's contention that the above-described superhighway operations between Dallas and Tulsa are consistent with the Property Motor Carrier Superhighway Rules for the following reasons: (1) The distance over the described superhighway route between the alleged point of departure from and the alleged point of return to the described certificated regular routes upon which petitioner bases his superhighway operations is not less than 80 percent (i.e., petitioner claims 83 percent) of the distance between such points over these described certificated regular routes. See Superhighway rules—motor common carriers of property, 49 CFR 1042.3(a)(2); (2) it is petitioner's position that it may conduct operations under the Property Motor Carrier Superhighway Rules where a portion of the underlying regular route is leased from another carrier. Concerning this proposition, petitioner points out that the Property Motor carrier Superhighway Rules contain no express restriction against superhighway operations where a portion of the underlying service route is leased. In this context, petitioner also notes that alternate routes based upon outstanding underlying leased operating rights between the termini (i.e., the departure-return points) have been authorized in such proceedings as *Burgess Extension—Atoka, OK*, 62 MCC 253 (1953); (3) that portion of U.S. Hwy 75 between Durant, OK, and Atoka, OK, and that portion of U.S. Hwy 69 between Atoka, OK, and junction Indian Nation Turnpike, which are included in petitioner's involved superhighway operations, fall under the definition of superhighways because each is a "direct existing highway, not a limited-access highway, located immediately adjacent to a planned superhighway." Superhighway rules—motor common carriers of property, 49 CFR 1042.3(c). Petitioner submits a letter written by an official of the Oklahoma Department of transportation which states this department's plans for improving these highway sections in support of the contention that each is located immediately adjacent to a planned superhighway; (4) if the highway sections set forth in (3) above do not fall under the definition of superhighways contained in the Property Motor Carrier Superhighway Rules, petitioner asserts that the resulting nonsuperhighway portion is not a significant portion of the total superhighway-nonsuperhighway operation which petitioner presently conducts. Petitioner claims that mileage over these two highway sections represents 21.6 percent of the total involved and that this mileage therefore falls within the permissible range for superhighway operations as indicated in *Property Motor Carrier Superhighway Rules*, 117 MCC 119 (1972).

Petitioner requests a formal ruling of the Commission that the above-described superhighway operations are within the scope of the Property Motor Carrier Superhighway Rules. It does not appear that such ruling will have a significant effect on the quality of the human environment.

No oral hearing is contemplated, however, any person (including petitioner) desiring to participate in this proceeding shall file an original and 11 copies (wherever possible) of written representations, views, and arguments. A copy of each representation shall be filed on petitioner's representative.

Written material or suggestions submitted will be available for public inspection at the Office of the Interstate Commerce Commission, 12th and constitution Ave., Washington, D.C., during regular business hours.

Notice to the general public of the matters herein under consideration will be given by depositing a copy of this notice in the Office of the Secretary of the Commission for public inspection and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-6258 Filed 3-8-78; 8:45 am]

[6110-01]

ADMINISTRATION CONFERENCE OF THE UNITED STATES

COMMITTEE ON AGENCY ORGANIZATION AND PERSONNEL

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Agency Organization and Personnel of the Administrative Conference of the United States, to be held at 10 a.m., March 22, 1978, in the library of the Administrative Conference, the Gelman Building, 2120 L Street NW., Suite 500, Washington, D.C.

The Committee will meet for further consideration of a report and proposed recommendation on the effects on policy of the separation of rulemaking and adjudication under the Occupational Safety and Health Act.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least 2 days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting contact Richard K. Berg,

202-254-7020. Minutes of the meeting will be available on request.

RICHARD K. BERG,
Executive Secretary.

August 1, 1977 to December 1, 1977. Early Snowfall: December 1, 1977 to December 20, 1977.

8. *Knox County.*—Drought: January 1, 1977 to August 1, 1977. Hailstorm: September 30, 1977. Excessive Rainfall and Early Snowfall: during period August 1, 1977 to January 20, 1978.

21. *Shelby County.*—Drought: January 1, 1977 to August 1, 1977. Excessive Rainfall:

sunshine act meetings

202-254-7020. Minutes of the meeting will be available on request.

RICHARD K. BERG,
Executive Secretary.

MARCH 1, 1978.

[FR Doc. 78-6099 Filed 3-8-78; 8:45 am]

[3410-07]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Notice of Designation Number A576]

MISSOURI

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in certain Missouri Counties as a result of various adverse weather conditions shown in the following:

MISSOURI—24 COUNTIES

NATURAL DISASTERS AND INCIDENCE PERIODS

1. *Adair County.*—Drought: April 1, 1977 to August 1, 1977. Excessive Rainfall: August 1, 1977 to December 7, 1977. Hail: September 30, 1977. Windstorm: November 8, 1977 and November 9, 1977.

2. *Caldwell County.*—Drought: June 1, 1977 to August 30, 1977. Excessive Rainfall: September 1, 1977 to December 20, 1977.

3. *Clark County.*—Drought: January 1, 1977 to July 1, 1977. Excessive Rainfall: July 1, 1977 to November 26, 1977. Heavy Snowfall: November 26, 1977 to December 31, 1977.

4. *Daviess County.*—Drought: June 1, 1977 to August 30, 1977. Excessive Rainfall: September 1, 1977 to December 20, 1977.

5. *Gentry County.*—Drought: June 1, 1977 to August 25, 1977. Excessive Rainfall: October 1, 1977 to December 20, 1977. Flooding: October 24, 1977 and October 25, 1977. Unseasonably Hot Winds: July 24, 1977. Early Heavy Snow: December 20, 1977 to January 20, 1978.

6. *Grundy County.*—Drought: June 1, 1977 to August 3, 1977. Heavy Rainfall: August 3, 1977 to December 25, 1977. Heavy Snowfall: December 1, 1977 to December 25, 1977.

7. *Harrison County.*—Drought: June 1, 1977 to July 31, 1977. Excessive Rainfall: August 1, 1977 to December 1, 1977. Early Snowfall: December 1, 1977 to December 20, 1977.

8. *Knox County.*—Drought: January 1, 1977 to August 1, 1977. Hailstorm: September 30, 1977. Excessive Rainfall and Snowfall: during period August 1, 1977 to January 20, 1977.

9. *Lewis County.*—Drought: January 1, 1977 to July 1, 1977. Excessive Rainfall: July 1, 1977 to November 26, 1977. Snow: November 26, 1977 to December 31, 1977.

10. *Livingston County.*—Drought: April 1, 1977 to July 15, 1977. Excessive Rainfall and Flooding: October 22, 1977 and November 25, 1977.

11. *Macon County.*—Drought: January 1, 1977 to August 6, 1977. Excessive Rainfall: August 6, 1977 to December 31, 1977.

12. *Marion County.*—Drought: January 1, 1977 to September 30, 1977. Excessive Rainfall and Heavy Snowfall: during period October 1, 1977 to January 20, 1978.

13. *Mercer County.*—Drought: January 1, 1977 to August 3, 1977. Excessive Rainfall: August 3, 1977 to October 29, 1977. Severe Winds: November 8, 1977. Heavy Snowfall: November 8, 1977 to January 20, 1978.

14. *Monroe County.*—Drought: May 1, 1977 to August 6, 1977. Heavy Snows and Ice: November 26, 1977 to December 15, 1977. Excessive Rainfall: August 15, 1977 to November 26, 1977.

15. *Nodaway County.*—Hail and Windstorm: June 28, 1977. Unseasonably Hot Weather: July 1, 1977 to August 1, 1977. Drought: January 1, 1977 to August 1, 1977. Excessive Rainfall: August 9, 1977 to November 30, 1977. Flooding: September 10 and 11, 1977, October 30 and 31, 1977. Ice and Heavy Snow: December 5, 1977 to December 9, 1977.

16. *Pike County.*—Drought: January 1, 1977 to August 1, 1977. Excessive Rainfall: August 1, 1977 to December 15, 1977. Early Snowfall: November 15, 1977 to January 20, 1978.

17. *Ralls County.*—Drought: January 1, 1977 to September 30, 1977. Excessive Rainfall and Heavy Snowfall: during period December 1, 1977 to January 20, 1978.

18. *Randolph County.*—Drought: June 1, 1977 to August 10, 1977. Excessive Rainfall: September 15, 1977 to December 15, 1977.

19. *Schuyler County.*—Drought: June 5, 1977 to July 25, 1977. High Winds: October 31, 1977 and November 1 and 2, 1977. Excessive Rainfall: October 1, 1977 to November 20, 1977. Snowstorm: November 25, 1977 and December 2, 1977 and December 5, 1977.

20. *Scotland County.*—Drought: January 1, 1977 to August 1, 1977. Hailstorm: September 30, 1977. Excessive Rainfall and Early Snowfall: during period August 1, 1977 to January 20, 1978.

21. *Shelby County.*—Drought: January 1, 1977 to August 1, 1977. Excessive Rainfall: August 15, 1977 to December 31, 1977. Heavy Snowfall: December 15, 1977 to January 20, 1978.

22. *Sullivan County.*—Drought: June 1, 1977 to August 5, 1977. Excessive Rainfall and Snowfall: during period August 5, 1977 to December 31, 1977. Extreme Unseasonable Heat: July 1, 1977 to July 10, 1977. Unusual Warm Winter Temperatures: December 1, 1977 to December 31, 1977.

23. *Vernon County.*—Excessive Rainfall and Flooding: September 1, 1977 to October 30, 1977.

24. *Worth County.*—Drought: January 1, 1977 to August 1, 1977. Wind and Hail Damage: June 1, 1977 to June 30, 1977. Unseasonably Hot Weather: July 1, 1977 to August 1, 1977. Excessive Rainfall and Flooding: September 1, 1977 to November 30, 1977. Ice and Snow Damage: December 4, 1977 to December 9, 1977.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR 1904 Subpart C, exhibit B, paragraph V B, including the recomendation of Governor Joseph P. Teasdale that such designation be made.

Applications for emergency loans must be received by this Department no later than August 18, 1978, for physical losses and February 20, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 2nd day of March 1978.

GORDON CAVANAUGH
Administrator,
Farmers Home Administration.

[FR Doc 78-6214 Filed 3-8-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C 552b(e)(3).

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[6320-01]

1

[M-104, Amdt. 1; Mar. 6, 1978]

NOTICE OF DELETION OF ITEMS FROM THE MARCH 9, 1978 AGENDA

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., March 9, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 2. Docket 31737, Proposed Amendment of Separation of Functions Rule (section 300.4) (Memo No. 7473-B, OGC). 12. Docket 31459, request of Edward Katz and Arthur Rosenblatt d.b.a. Choice Air Courier Service, an air freight forwarder, for an exemption from section 403 of the Act and Parts 296.11(a) and 296.72 of the Board's Economic Regulations (Memo No. 7735, BPDA, BAS).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Item 2 is being deleted to give the Board more time to review the staff's analysis of two late-filed comments in this proceeding and the staff's recommendation on a final rule. Item 12 is being withdrawn by the staff and will be resubmitted later in connection with a related matter. Accordingly, the following Members have voted that agency business requires the deletion of items 2 and 12 from the March 9, 1978 agenda and that no earlier announcement of these deletions was possible

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Richard J. O'Melia

[S-515-78 Filed 3-7-78; 3:53 pm]

[6320-01]

2

[M-105; Mar. 6, 1978]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., March 15, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Eastern Air Lines to make a presentation on its current financial situation, improved efficiency and general economies which have been affected during the past year.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

[S-516-78 Filed 3-7-78; 3:53 pm]

[6320-01]

3

[M-106; Mar. 7, 1978]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9:30 a.m., March 7, 1978.

PLACE: Room 1011, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Docket 32183, Fares and Services of Braniff Airways, Inc. and British Caledonian Airways between Texas and London.

STATUS: Closed.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: On February 28, 1978, the Board transmitted to the President an order concerning the fares of Braniff and British Caledonian Airways. On March 6, 1978, the President sent a letter to the Board which stated:

I note, however, that negotiations with the British government concerning this matter began on February 10 and resume today for the period March 6 through March 17. I am confident that during these negotiations the British government will adopt a position consistent with Bermuda II, and I therefore request that you withdraw your order at this time. If a satisfactory resolution with the British is not reached by March 17, I will reconsider the need for unilateral action by the United States.

So that the Board can promptly meet and consider the President's letter, the following Members have voted that agency business requires that the Board meet on less than seven days' notice and that no earlier announcement of the meeting was possible:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

This meeting will concern what steps the Board will take in response to the President's March 6, 1978 communication. The Board's discussion of this matter will be likely to involve the formulation of the United States' negotiating position in the ongoing discussions with the United Kingdom. Premature public disclosure of the options, plans and opinions of the Board could seriously compromise the United States' ability to successfully resolve this dispute in the best interests of the United States.

Accordingly, the following Members have voted that public observation of this meeting would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552b (c)(9)(B) and 14 CFR section 310b.5 (9)(B) and that the meeting will be closed:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

PERSONS EXPECTED TO ATTEND

Board Members.—Chairman, Alfred E. Kahn; Vice Chairman, G. Joseph Minetti; Member, Lee R. West; Member, Richard J. O'Melia; and Member, Elizabeth E. Bailey.

Assistant to Board Members.—Mr. Mike Roach, Mr. James Casey, Mr. John Golden, Mr. Elias Rodriguez, and Mr. Ford Cole.

Office of the Managing Director.—Mr. Dennis Rapp and Mr. John Hancock.

Bureau of International Aviation.—Mr. Donald Farmer, Mr. Donald Litton, Mr. Joseph Chesen, Mr. Tony Largay, and Ms. Mary Pett.

Bureau of Pricing and Domestic Aviation.—Mr. Michael Levine and Ms. Barbara Clark.

Bureau of Fares and Rates.—Mr. Herbert Aswall, Mr. James Deegan, and Mr. James Greene.
Office of the General Counsel.—Mr. Philip Bakes, Mr. Gary Edles, Mr. Peter Schwarzkopf, Ms. Melissa Osborne, and Mr. Mitchell Black.
Office of Economic Analysis.—Mr. Darius Gaskins.
Office of the Secretary.—Mrs. Phyllis T. Kaylor and Ms. Deborah A. Lee.
Reporter.—North American Reporting.

GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. 552b (c)(9)(B) and 14 CFR section 310b.5 (9)(B).

PHILIP T. BAKES, Jr.,
General Counsel.

[S-517-78 Filed 3-7-78; 3:53 pm]

[6335-01]

4

COMMISSION ON CIVIL RIGHTS.

DATE AND TIME: Monday, March 13, 1978, 9 a.m.-11:30 a.m.; 1 p.m.-4 p.m. Tuesday, March 14, 1978, 9 a.m.-12 noon.

PLACE: Room 512, 1121 Vermont Avenue NW., Washington, D.C. 20425.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

MONDAY, MARCH 13, 9 A.M.-11:30 A.M.

I. Approval of agenda.
II. Approval of minutes from last meeting.
III. Staff Director's report:
A. Status of funds.
B. Personnel report.
C. Correspondence:
1. Letters re Age Discrimination Study—Senator Pete Domenici and Congressman William Wampler.
2. Letters re Volume V Followup—Agriculture Secretary Bob Bergland, Home Loan Bank Board Chairman Robert McKinney, HUD Assistant Secretary Chester McGuire, VA Assistant Administrator Charles Clark, and GSA Director of Administration Janice Mendenhall.
3. Letters re Battered Women Consultation—Congresswoman Lindy Boggs, Women's Bureau Director Alexis Herman, and DOJ Task Force Director Stewart Oneglia.
4. Letter from Valparaiso School of Law Student John Johnson.
5. Report on Hispanic Dialogue Conference.
D. Office Directors' reports.
IV. Report on civil rights developments in the northwest region.
V. Approve interim appointments to Alaska and Washington Advisory Committees.
VI. Review Wyoming Advisory Committee Report on Abortion Services.
VII. Review Commission policy on open meetings.
VIII. Review memorandum for project on police abuse.

MONDAY, MARCH 1-4 P.M.

Discussion of whether Title I ESEA funds should follow the child in school desegregation situations.

TUESDAY, MARCH 14, 9 A.M.-12 NOON.

CONTINUATION OF AGENDA

IX. Review comments on employee selection guidelines.
X. Discussion of voting rights enforcement activities.
XI. Review proposal for school desegregation monograph.

FOR FURTHER INFORMATION CONTACT:

Loretta Ward, Public Affairs Unit, 202-254-6697.

[S-505-78 Filed 3-7-78; 8:44 am]

[3410-05]

5

COMMODITY CREDIT CORPORATION.

TIME AND DATE: 10 a.m., March 16, 1978.

PLACE: Room 218-A, Administration Building, U.S. Department of Agriculture, Washington, D.C.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED:

1. Minutes of CCC Board meeting on March 1, 1978.
2. Docket TCP 66a re: 1978-crop honey loan and purchase program.
3. Docket TCP 109a re: 1978 gum naval stores loan program.
4. Docket SCP 98a, Amendment 2 re: Milk price support program, 1977-78.

CONTACT PERSON FOR MORE INFORMATION:

Bill Cherry, Acting Secretary, Commodity Credit Corporation, Room 202-W, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20013, telephone 202-447-7583.

[S-509-78 Filed 3-7-78; 12:00 pm]

[6730-01]

6

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., March 16, 1978.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Agreement Nos. 8770-6 and 9988-5: Amendments to the United Kingdom/USA Gulf Westbound Rate Agreement and the Continental U.S. Gulf Freight Association, respectively, expanding their scope to include cargo moving to points within the United States via South Atlantic ports.
2. Agreement No. 10270: Restatement of the Gulf European Freight Association Agreement.
3. Agreement No. 57-109: Application for unlimited extension of the intermodal authority of the Pacific Westbound Conference.
4. Proposed amendment to Rule 262 of the Commission's Rules of Practice and Procedure to provide for uniform application of the rule relating to replies to petitions for reconsideration.

Portion closed to the public:

1. Agreements Nos. 9847-3 and 10028-5 providing for pooling of cargo in the U.S./Brazil trade—Petition of Sea-Land Service, Inc. for reconsideration of Commission's approval.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5727.

[S-514-78 Filed 3-7-78; 3:53 pm]

[6210-10]

7

FEDERAL RESERVE SYSTEM (Board of Governors).

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 8225, February 28, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Monday, March 6, 1978.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item was added:

Personnel appointments within the Board's staff. This matter was originally announced for a meeting on February 1, 1978.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: March 6, 1978.

GRIFFITH R. GARWOOD,
Deputy Secretary of the Board.

[S-506-78 Filed 3-7-78; 8:44 pm]

[6750-01]

8

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Tuesday, March 14, 1978.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Closed.

MATTERS TO BE CONSIDERED: The Commission has not yet scheduled any matters for discussion at this meeting. If no item is placed on the agenda by 10 a.m., on Tuesday, March 14, 1978, the meeting will automatically be cancelled. Any item that is placed on the agenda before that time will be announced in accordance with the Additional Information procedures posted with Commission Meeting Notices outside Room 130 of the Federal Trade Commission Building.

CONTACT PERSON FOR MORE INFORMATION:

Wilbur T. Weaver, Office of Public Information, 202-523-3830. Recorded message: 202-523-3806.

[S-507-78 Filed 3-7-78; 12:00 pm]

[6750-01]

9

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, March 15, 1978.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission has not yet scheduled any matters for discussion at this meeting. If no item is placed on the agenda by 10 a.m., on Wednesday, March 15, 1978, the meeting will automatically be cancelled. Any item that is placed on the agenda before that time will be announced in accordance with the Additional Information procedures posted with Commission Meeting Notices outside Room 130 of the Federal Trade Commission.

CONTACT PERSON FOR MORE INFORMATION:

Wilbur T. Weaver, Office of Public Information, 202-523-3830. Recorded message: 202-523-3806.

[S-508-78 Filed 3-7-78; 12:00 pm]

[7910-01]

10

RENEGOTIATION BOARD.

DATE AND TIME: Tuesday, March 7, 1978; 10 a.m.

PLACE: Conference Room, 4th Floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Open to the public.

MATTER TO BE CONSIDERED: Extension of the comment period on Notice of Proposed Rulemaking concerning segmentation analysis.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: March 6, 1978.

GOODWIN CHASE,
Chairman.

[S-511-78 Filed 3-7-78; 2:27 pm]

[7910-01]

11

RENEGOTIATION BOARD.

DATE AND TIME: Tuesday, March 14, 1978; 10 a.m.

PLACE: Conference Room, 4th Floor, 2000 M Street NW., Washington, D.C. 20446.

Status: Matters 1 through 8 are open to the public. Matter 9 is closed to the public. Matters 10 and 11 are not applicable for status.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of meeting held February 14, 1978, and other Board meetings, if any.
2. Report of the Chairman concerning:
a. Budget
b. Case processing
c. Personnel actions
d. Organization progress of the staff
e. Rulemaking and regulations
3. Recommended clearances without assignment (List 1894):
a. American Air Filter Co., Inc., fiscal year ended Oct. 31, 1975.
b. Raymond Engineering, Inc., fiscal years ended Dec. 31, 1974 and 1975.
c. Charles Kurz and Co., fiscal years ended Dec. 31, 1974 and 1975.
c-1 Keystone Shipping Co., fiscal year ended Dec. 31, 1975.
d. BCS Associates, Inc., fiscal year ended Dec. 31, 1975.
e. Kaman Corp. (Holding Company), fiscal year ended Dec. 31, 1975.
4. Principles and Concepts for the Application of the Statutory Factors.
5. Recommended Clearance Without Assignment (List 1895):
Colt Industires, Inc., fiscal years ended Dec. 31, 1973 and 1974, consolidated with: Colt Industries Operating Corp., Crucible, Inc., Chandler Evans, Inc., CII Seafarer, Inc.
Recommendation to Appoint a Division:
The Entwistle Co., concurrent with: the Entwistle Co., SII to Van Zelm Associates, Inc., fiscal year ended Sept. 29, 1968.
7. Recommended Clearances Without Assignment (List 1896):
a. Magline Inc., fiscal years ended June 30, 1975 and 1976.
b. Lionel Corp., fiscal years ended Dec. 31, 1973, 1974 and 1975.
8. Regional Board Workshops.
9. Court of Claims case: *Piper Industries, Inc.* v. *United States* Ct. Cl. Nos. 342-74, et al.
10. Approval of Agenda for meeting to be held March 28, 1978.
11. Approval of Agenda for other meetings, if any.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: March 7, 1978.

GOODWIN CHASE,
Chairman.

[S-512-78 Filed 3-7-78; 2:27 pm]

[7910-01]

12

RENEGOTIATION BOARD.

DATE AND TIME: Tuesday, March 14, 1978; 2 p.m.

PLACE: Conference Room, 4th Floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Closed to public observation.

MATTER TO BE CONSIDERED: Special Board Meeting concerning: Review of Organizational and Operational Developments at the Regional Boards.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: March 7, 1978.

GOODWIN CHASE,
Chairman.

[S-513-78 Filed 3-7-78; 2:27 am]

[8010-01]

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SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 8923, March 3, 1978.

CHANGE IN THE MEETING: Additional item to be considered.

The following additional item will be considered by the Commission at the closed meeting scheduled for Monday, March 6, 1978, at 3 p.m.:

Discussion of confidentiality of certain financial and operating information of regulated entities.

Commissioners Loomis, Evans, Pollack, and Karmel determined that Commission business required consideration of the matter and that no earlier notice thereof was possible.

MARCH 6, 1978.

[S-510-78 Filed 3-7-78; 1:59 pm]

federal register

THURSDAY, MARCH 9, 1978
PART II

DEPARTMENT OF TRANSPORTATION

Coast Guard

BOATS AND ASSOCIATED EQUIPMENT

Personal Flotation Devices Information Pamphlet and Labeling Rewording Requirements

[4910-14]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 75-008a]

PART 181—MANUFACTURER REQUIREMENTS

Personal Flotation Devices Information Pamphlet

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment revises the regulations governing boats and associated equipment to require a manufacturer of personal flotation devices (PFD's) to provide an information pamphlet with each PFD and specifies the minimum information which must be in the pamphlet.

Improper selection, use, or care of PFD's, or misinterpretation of the wording of the label on PFD's are all factors which can lead to otherwise avoidable boating fatalities. In an effort to reduce the number of such fatalities, pertinent information must be available to the consumer at the time a PFD is purchased so that the PFD that is best for the intended use can be selected.

EFFECTIVE DATE: This amendment is effective on September 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1477.

SUPPLEMENTARY INFORMATION: Amendments to the PFD marking requirements in Part 160 of Title 46, Code of Federal Regulations, appear elsewhere in this issue of the FEDERAL REGISTER (CGD 75-008).

The National Boating Safety Advisory Council has been consulted on this proposal at a meeting held on May 29, 1975, the minutes of which are available from the Commandant (G-BA), U.S. Coast Guard, Washington, D.C. 20590 or in Room 4244, 2100 Second Street SW., Washington, D.C.

A notice of proposed rulemaking concerning this amendment was published in the FEDERAL REGISTER issue of December 20, 1976 (41 FR 55478). A correction to this notice of proposed rulemaking was also published in the FEDERAL REGISTER issue of January 27, 1977 (42 FR 5107). Interested persons were invited to submit written comments concerning the proposed rulemaking to the Coast Guard before February 3, 1977.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: Mr. S. E. Wehr, Office of Merchant Marine Safety, and LTJG M. L. Welsh, Office of Boating Safety, Project Managers, and LT G. S. Karavitis, Project Attorney, Office of Boating Safety.

DISCUSSION OF MAJOR COMMENTS

There were a total of 18 persons or groups which commented on the proposed rule. Some of these made multiple comments.

More than half of the comments were in support of the pamphlet. These comments emphasized that an overwhelming majority of boaters are unaware of proper selection, care, and use of PFD's; and that the pamphlet represents a positive effort to educate the public in a very important area.

One commenter suggested that manufacturers of ring buoys be relieved of the necessity of furnishing the material in the second part of the pamphlet. This commenter felt that since this part of the pamphlet concerns wearable PFD's, its inclusion with life ring buoys would confuse the consumer-purchaser. Additionally, he noted that the sales volume of life ring buoys is much lower than that of other PFD's, thus the cost per unit would be comparatively greater for these manufacturers. This comment was not adopted for two reasons. First, while the unit cost for supplying a pamphlet probably would be higher, it will not be significantly increased (if at all) by supplying the full pamphlet as opposed to an abbreviated version. Second, a large portion of paragraph (b) applies to all users of PFD's and should thus be made available to purchasers of ring buoys along with other PFD consumers. An example of material in paragraph (b) which all consumers should have is the section on hypothermia. Further, the Coast Guard believes that the wording in the pamphlet makes it sufficiently clear to the average reader which parts of the pamphlet apply to wearable PFD's, which parts apply to throwable PFD's and which parts apply to both.

One commenter agreed with the intent of the pamphlet but felt the added cost was counterproductive. The cost has been determined to be about 1 cent per PFD and regardless of the increased cost, boaters are required by law to buy the PFD's. Thus, the cost cannot discourage people from purchasing PFD's and the pamphlet should enable the boater to invest his PFD dollars more wisely.

There were two commenters who suggested that parts or all of the pamphlet be supplied with new boats. Since boat owners must procure PFD's for each person on the boat anyway, it would be redundant to supply them with the pamphlet at the time the boat is purchased. Since the information is of greatest value when deciding which PFD to buy and because a PFD must be on board for every person, it was determined that requiring the information be supplied with the devices was the most efficient method of distribution.

One commenter suggested it be explained that PFD's are designed to perform as described in calm waters and with no other flotation material. The Coast Guard agreed and has added a note to reflect this fact.

Another comment suggested that the wording "A Type I PFD has the greatest buoyancy; be changed because there are may Type III PFD's with greater buoyancy than Type I". This is not true at present. However, there could be Type III designs in the future that do have greater buoyancy than Type I. Thus, the phrase has been altered to read "* * * greatest required buoyancy."

One commenter requested clarification of the word "designed" in the phrase "designed to turn an unconscious person". This comment stated that "designed" implied an absolute performance characteristic. The Type I device will turn the large majority of people; it does not turn, however, all people 100 percent of the time. The commenter did not propose an alternative phrase. The real problem appears not to be with the word "designed" but with the lack of a qualification statement that this is not an absolute standard. The Coast Guard has substituted the phrase "designed to turn most unconscious persons," which should prevent any misunderstanding on this point.

It was noted that the Type I devices also offer universal adult and child sizing and are reversible. These are significant emergency sizing and donning features. A description of these features has thus been added to the description of the device. Universal and emergency sizing are also features of the adult Type II devices. This change has also been made to the description of those devices.

Two comments were received on the turning moment of the Type II device. One commenter stated that he was pleased with the deletion of the phrase "designed to turn an unconscious person" because the previous wording implied absolute performance which has not always been the case. The other stated that the old wording should be reinstated because the Type II device provided a measure of safety greater than the Type III device. There was no indication of this in the new wording. This fact should be reflected in the information so the old wording was reinstated but qualified with the statement; "The turning action is not as pronounced as with a Type I device and the device will not

turn some persons under the same conditions as the Type I." This qualification was added so that there could be no confusion about "absolute" performance as noted by the 1st commenter.

In keeping with the above comments, the description of the Type III devices also required alteration. The wording "can maintain that position with a miniumum of effort" was changed to "the device will maintain the wearer in that position and have no tendency to turn the wearer face down." This wording is more consistent with the regulations and the design objectives for the Type III devices.

One commenter stated that the phrase "A Type III is the most comfortable * * *" should be changed to "* * * can be the most comfortable * * *" because competitive pressures have introduced some which are less comfortable. The change has been made because the Coast Guard agrees that this is a more accurate statement. This commenter also stated that the use of the phrase "* * * such as skiing," in describing appropriate uses for Type III devices is too limiting. The Coast Guard agrees, and has expanded the phrase to read "* * * such as skiing, hunting, fishing, canoeing, and kayaking".

Two comments were received which suggested that the Type IV should not be recommended for swift water and that a warning should be given "most elusive in a sudden capsizing." The Coast Guard feels that any PFD which is not worn is elusive in a sudden capsizing and it is inaccurate to say that the Type IV is most elusive. An additional section has been inserted which addresses some of the things that should be considered when choosing a PFD. This section makes the point that Coast Guard approval does not imply that particular PFD's are ideal for specific use, a point which was raised by another commenter.

There were several comments regarding the section on hypothermia. One emphasized that the techniques for "drownproofing", although fine in warm water where hypothermia is not the greatest danger to survival, can be extremely dangerous in cold water. It was recommended that under subparagraph (1) of the section on hypothermia, the following statement be added: "Do not use drownproofing methods, keep your head out of the water. This will greatly lessen heat loss and increase your survival time." It appears that the important issue here is not the danger of drownproofing methods but that much of the body's heat is lost from the head, chest, and shoulder areas. Thus it is important to keep as much of this part of the body as possible from becoming submerged. The pamphlet has been amended to reflect this.

One commenter objected to the reference made in subparagraph (3) to "huddling" while waiting to be rescued. He felt it was a bad recommendation because the term "huddling" could be associated with a specific technique which involves three persons opening their PFD's so as to expose the front of their bodies and touch each other in a huddle. The method has been challenged as to whether greater heat can be maintained by this method or by the insulation provided by the PFD. The subparagraph does not suggest this particular method and it is believed that the term "huddle" as commonly used is easily understood as meaning to draw together closely. The same commenter was opposed to making this recommendation even in the general sense because he felt that the proper course of action may vary with the particular conditions of each situation. Thus there was, in his opinion, no general rule appropriate in all cases. The guidance provided in this subparagraph is designed to assist an individual in making a judgment based on the particular conditions of his situation. Thus, no change has been made.

Two comments suggested that the section on hypothermia appeared to be out of place since the effects of hypothermia indirectly related to PFD carriage and use. This comment has been adopted. The section has been placed immediately preceding the section "Safe Boating is No Accident". This will afford greater emphasis on those sections which are directly related to PFD carriage and use.

Another comment regarding hypothermia suggested that a statement be added that "water temperatures below 70° F. can deprive the body of heat, and temperatures below 50° F. are exceedingly dangerous". It is felt that the correlation between decrease in water temperature and decreased survival time is adequately represented in the table in that section and further elaboration is unnecessary. This addition, therefore, has not been made.

Several editorial changes have been made to the section "Each Of These Devices Is Intended To Help You Save Your Own Life". The subparagraphs have been renumbered accordingly. These were the result of one commenter's remarks that it would make the section easier to read. One commenter remarked that the statement in subparagraph (5) "Use your PFD only for the purpose for which it is intended" is misleading. He felt that it may be misinterpreted to mean that a PFD used for fishing shouldn't be used for sailing. The balance of the original statement reads "Do not use it as a boat fender or kneeling pad." Since the intended meaning of the statement is to discourage misuse of the PFD and not proper use in various activities, it has been reworded to "Your PFD is not intended for use as a fender or kneeling pad" in order to preclude confusion.

Several comments were submitted by one individual with respect to a variety of factors to consider when selecting a PFD and trying it out before using it. One recommendation was to mention that the device be tried on with all possible combinations of clothing normally used with the device. It was also suggested that if intended for use in swift water, it should be tried out in swift water. These recommendations were not incorporated because it was felt that the section "Why do you need a PFD?" adequately addressed the need to try out the PFD in the water. Also, it is not possible to predict or simulate all of the conditions which will exist at the crucial point at which an accident occurs and a PFD is needed. It is therefore impractical to suggest that a person enter the water under extreme conditions to test a PFD. However, a warning that the PFD may perform differently under different conditions, such as in swift water or with bulky clothing, has been added as a result of this comment.

This proposal has been reviewed for economic effects under Department of Transportation "Policies to Improve Analysis and Review of Regulations" (41 FR 16200). The proposed amendments should result in a cost to industry of approximately $100,000 per year, or 1 cent per PFD. This cost should result in an increase of less than two-tenths of 1 percent for the least expensive PFD. The benefit of the proposed amendments is the prevention of casualties, including loss of life.

In consideration of the foregoing the regulation is adopted as set forth below:

Part 181 of Title 33, Code of Federal Regulations is amended by reserving Subparts D, E, and F, and adding a new Subpart G to read as follows:

Subparts D, E, and F—[Reserved]

Subpart G—Instruction Pamphlet for Personal Flotation Devices

Sec.
181.701 Applicability.
181.703 PFD information pamphlet; manufacturer requirements.
181.705 PFD information pamphlet; contents.

AUTHORITY: 46 U.S.C. 1454, 1488; 49 CFR 1.46(n)(1).

Subparts D, E, and F—[Reserved]

Subpart G—Instruction Pamphlet for Personal Flotation Devices

§ 181.701 Applicability.

This subpart applies to all personal flotation devices that are sold or of-

fered for sale for use on recreational boats.

§ 181.703 PFD information pamphlet; manufacturer requirements.

Each manufacturer of a Type I, II, or III PFD shall provide with each PFD an information pamphlet that meets the requirements of this section.

(a) The pamphlet must contain the following statement: "Improper selection, use, or care of PFD's, or misinterpretation of the wording of the label on PFD's are all factors which can lead to otherwise avoidable boating fatalities. In an effort to reduce the number of such fatalities, pertinent information must be available to the consumer at the time a PFD is purchased so that the PFD that is best for the intended use can be selected."

(b) No person may use a recreational boat 16 feet or more in length, except a canoe or kayak, unless at least one personal flotation device of the following types is on board for each person: (1) Type I PFD, (2) Type II PFD, and (3) Type III PFD.

(Illustration of Type III PFD)

Type IV.—A Type IV PFD is designed to be grasped and held by the user until rescued as well as to be thrown to a person who has fallen overboard. While the Type IV is acceptable in place of a wearable device in

EACH OF THESE DEVICES IS INTENDED TO HELP YOU SAVE YOUR OWN LIFE

For your PFD to function properly, follow these suggestions to insure that it fits, floats, and remains in good condition:

(1) Try your wearable PFD on and adjust

Water temperature (degrees Fahrenheit)	Exhaustion or unconsciousness	Expected time of survival
32.5	Under 15 min	Under 15 to 45

[4910-14]

Title 46—Shipping

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fered for sale for use on recreational boats.

§ 181.703 PFD information pamphlet; manufacturer requirements.

Each manufacturer of a Type I, II, III, IV, or V personal flotation device that is sold or offered for sale for use on a recreational boat shall furnish the text required by § 181.705 with each device by meeting one of the following:

(a) If the personal flotation device package is not transparent—

(1) The text in paragraph (a) of § 181.705 of this subpart must be provided in a manner such that it can be read prior to purchase; and

(2) The text in paragraph (b) of § 181.705 of this subpart must be printed in a pamphlet and the pamphlet must be enclosed in each package.

(b) If the personal flotation device package is transparent—

(1) The text in paragraph (a) of § 181.705 of this subpart must be printed in a pamphlet and the pamphlet must be enclosed in each package so that the text can be read through the package; and

(2) The text in paragraph (b) of § 181.705 of this subpart must be printed on the remaining pages of the pamphlet or in another pamphlet which must be enclosed in each package.

(c) If the personal flotation device is not in a package, a pamphlet that meets § 181.705 of this subpart must be attached to each personal flotation device so that a purchaser can read the text of paragraph (a) of § 181.705 of this subpart prior to purchase.

§ 181.705 PFD information pamphlet; contents.

Each manufacturer of a Type I, II, III, IV, or V personal flotation device shall furnish with each PFD that is sold or offered for sale for use on a recreational boat the text specified in the following paragraphs. Additional information, instructions, or illustrations may be included.[1]

(a) The following text must be visible or in an attached pamphlet.

FEDERAL REGULATIONS REQUIRE PERSONAL FLOTATION DEVICES

Coast Guard regulations in Part 175 of Title 33, Code of Federal Regulations require personal flotation devices in the following three situations:

(a) No person may use a recreational boat less than 16 feet in length or a canoe or kayak unless at least one personal flotation device (PFD) of the following types is on board for each person: (1) Type I PFD, (2) Type II PFD, (3) Type III PFD, and (4) Type IV PFD.

(b) No person may use a recreational boat 16 feet or more in length, except a canoe or kayak, unless at least one personal flotation device of the following types is on board for each person: (1) Type I PFD, (2) Type II PFD, and (3) Type III PFD.

(c) No person may use a recreational boat 16 feet or more in length, except a canoe or kayak, unless at least one Type IV PFD is on board in addition to the PFD's required in paragraph (b).

THERE ARE FIVE TYPES OF PERSONAL FLOTATION DEVICES

This is a Type (I, II, III, IV or V) PFD.

NOTE: The following types of PFD's are designed to perform as described in calm water and when the wearer is not wearing any other flotation material (such as a wetsuit).

Type I.—A Type I PFD has the greatest required buoyancy and is designed to turn most unconscious persons in the water from a face down position to a vertical and slightly backward position and to maintain the person in the vertical and slightly backward position and, therefore, greatly increase his or her chances of survival. The Type I PFD is suitable for all waters, especially for cruising on waters where there is a probability of delayed rescue, such as large bodies of water where it is not likely that a significant number of boats will be in close proximity. This type PFD is the most effective of all the types in rough water. The Type I PFD is easiest to don in any emergency because it is reversible and available in only two sizes—Adult (90 lb. or more) and child (less than 90 lb.) which are universal sizes (designed to fit all persons in the appropriate category).

(Illustration of Type I PFD)

Type II.—A Type II PFD is designed to turn the wearer to a vertical and slightly backward position in the water. The turning action is not as pronounced as with a Type I and the device will not turn as many persons under the same conditions as the Type I. The Type II PFD is usually more comfortable to wear than the Type I. This type PFD is normally sized for ease of emergency donning and is available in the following sizes: Adult (more than 90 lb.)—Medium Child (50 lb. to 90 lb.), and two categories of Small Child (less than 50 lb. or less than 30 lb.). Additionally, some models are sized by chest sizes. You may prefer to use the Type II where there is a probability of quick rescue such as areas where it is common for other persons to be engaged in boating, fishing, and other water activities.

(Illustration of Type II PFD)

Type III.—The Type III PFD is designed so that the wearer can place himself or herself in a vertical and slightly backward position, and the device will maintain the wearer in that position and have no tendency to turn the wearer face down. A Type III can be the most comfortable, comes in a variety of styles which should be matched to the individual use, and is usually the best choice for water sports, such as skiing, hunting, fishing, canoeing, and kayaking. This type PFD normally comes in many chest sizes and weight ranges; however, some universal sizes are available. You may also prefer to use the Type III where there is a probability of quick rescue such as areas where it is common for other persons to be engaged in boating, fishing, and other water activities.

(Illustration of Type III PFD)

Type IV.—A Type IV PFD is designed to be grasped and held by the user until rescued as well as to be thrown to a person who has fallen overboard. While the Type IV is acceptable in place of a wearable device in certain instances, this type is suitable only where there is a probability of quick rescue such as areas where it is common for other persons to be engaged in boating, fishing, and other water activities. It is not recommended for non-swimmers and children.

(Illustration of Type IV PFD)

Type V.—A Type V PFD is a PFD approved for restricted uses. No Type V PFD is currently approved for use on recreational boats to meet the mandatory carriage requirements listed in paragraph (*a*), (*b*), or (*c*) above.

(b) The following text must also be supplied.

YOUR PERSONAL FLOTATION DEVICE

You are required by Federal Regulations to have at least one Coast Guard approved personal flotation device (PFD) for each person in your recreational boat. You may not use your recreational boat unless all your PFD's are in serviceable condition, are readily accessible, are legibly marked with the Coast Guard approval number, and are of an appropriate size (within the weight range and chest sizes marked on the PFD) for each person on board.

WHY DO YOU NEED A PFD?

Your PFD provides buoyancy to help keep your head above the water and to help you remain in a satisfactory position in the water. The average weight of an adult is only 10 to 12 pounds in the water and the buoyancy provided by the PFD will support that weight in water. Unfortunately, your body weight does not determine how much you will weigh in water. In fact, your weight in water changes slightly throughout the day. There is no simple method of determining your weight in water. You should try the device in the water to make sure it supports your mouth out of the water. Remember, all straps, zippers, and tie tapes must be used and of course the PFD must be the proper size (size limitations are on the label).

THINGS TO CONSIDER ABOUT PFD'S

(1) USCG approval of a PFD does not imply that it is ideal for all uses. For instance, there are a number of PFD's which are better suited for water skiing and others for white water canoeing and kayaking. These and other PFD's are labeled accordingly.

(2) Some PFD's are more rugged and durable than others but usually cost more. You should evaluate the trade-offs of cost, your intended use, and how often the PFD will have to be replaced.

(3) The use of most Type IV throwable PFD's usually requires you to grasp the device until rescued, which could prove difficult if there is an extended delay or if you are overcome by hypothermia (loss of body heat to the water). Also it implies that if you find yourself in the water there will be someone available to throw it to you.

EACH OF THESE DEVICES IS INTENDED TO HELP YOU SAVE YOUR OWN LIFE

For your PFD to function properly, follow these suggestions to insure that it fits, floats, and remains in good condition:

(1) Try your wearable PFD on and adjust it until it fits comfortably in and out of the water.

(2) Try your PFD out in the water. This will show you how it works and will give you confidence when you use it. You should be aware that your PFD may perform differently under different conditions such as in swift water, with bulky clothing, etc.

(3) Mark your PFD with your name if you are the only wearer.

(4) Do not alter your PFD. If it doesn't fit properly, get one that does. An altered device is no longer Coast Guard approved.

(5) Your PFD is not intended for use as a fender or kneeling pad.

(6) Inspect your PFD periodically to ensure that it is free of rips, tears, or holes, that the flotation pads have no leaks, and that all seams and joints are securely sewn.

(7) Keep your PFD away from sharp objects which may rip the fabric or puncture the flotation pads.

(8) If your PFD contains kapok, the kapok fibers may become waterlogged and lose their buoyancy after the vinyl inserts are split or punctured. When the kapok becomes hard or if the kapok is soaked with water, the PFD is no longer serviceable. It may not work when you need it and must be replaced.

(9) If your PFD is wet, allow it to dry throughly before storing it. Store it in a well ventilated area.

(10) Do not dry your PFD in front of a radiator or other source of direct heat.

(11) If you must swim while wearing your PFD use a back or side stroke.

PFD'S AND CHILDREN

A child is difficult to float in a safe position because of the distribution of body weight and because a child tends to panic when suddenly in an unfamiliar environment. The violent movement of the arms and legs in an attempt to "climb out" of the water tends to nullify the stability of the PFD. An approved device will keep a child afloat, but not always in a face up position. A child should be taught how to put on the device and should be allowed to try it out in the water. It is important that the child feels comfortable and knows what the PFD is for and how it functions. Parents should note, however, that PFD's are not a substitute for adult supervision.

WEAR YOUR PFD

Your personal flotation device won't help you if you don't have it on. If you don't choose to wear it at all times, you should keep it handy and put it on when heavy weather threatens, or when danger is imminent. Don't wait until it is too late; nonswimmers and childen especially should wear their PFD's at all times when on or near the water.

HYPOTHERMIA

Hypothermia, the loss of body heat to the water, is a major cause of deaths in boating accidents. Often the cause of death is listed as drowning; but, most often the primary cause is hyothermia and the secondary cause is drowning. After an individual has succumbed to hypothermia, he will lose consciousness and then drown. The following chart shows the effects of hypothermia:

Water temperature (degrees Fahrenheit)	Exhaustion or unconsciousness	Expected time of survival
32.5	Under 15 min	Under 15 to 45 min.
32.5 to 40	15 to 30 min	30 to 90 min.
40 to 50	30 to 60 min	1 to 3 h.
50 to 60	1 to 2 h	1 to 6 h.
60 to 70	2 to 7 h	2 to 40 h.
70 to 80	3 to 12 h	3 h. to indefinite.
Over 80	Indefinite	Indefinite.

PFD's can increase survival time because of the insulation they provide. Naturally, the warmer the water, the less insulation one will require. When operating in cold waters (below 40° F.) consideration should be given to using a coat or jacket style PFD as they cover more of the body than the vest style PFD's.

Some points to remember about hypothermia protection:

(1) While afloat in the water, do not attempt to swim unless it is to reach a nearby craft, fellow survivor, or a floating object on which you can lean or climb. Unnecessary swimming increases the rate of body heat loss. In cold water drownproofing methods that require putting your head in the water are not recommended. Keep your head out of the water. This will greatly lessen heat loss and increase your survival time.

(2) Keep a positive attitude about your survival and rescue. This will improve your chances of extending your survival time until rescue. Your will-to-live does make a difference!

(3) If there is more than one person in the water, huddling is recommended while waiting to be rescued. This action tends to reduce the rate of heat loss and thus increase the survival time.

(4) Always wear your PFD. It won't help you fight off the effects of hypothermia if you don't have it on when you go into the water.

REMEMBER—SAFE BOATING IS NO ACCIDENT

If you need more information about PFD's and safe recreational boating, contact your state boating authority, U.S. Coast Guard Auxiliary, U.S. Power Squadron, Red Cross, or your nearest unit of the U.S. Coast Guard.

(46 U.S.C. 1454, 1488; 49 CFR 1.46(n)(1).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: March 1, 1978.

O. W. SILER,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc. 78-5885 Filed 3-8-78; 8:45 am]

[1] The illustrations required by paragraph (a) of § 181.705 may be photographs or drawings. Each manufacturer should use illustrations of his own products. If this is not possible, illustrations of other Coast Guard approved PFD's may be used.

[4910-14]

Title 46—Shipping

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 75-008]

PART 160—LIFESAVING EQUIPMENT

Personal Flotation Devices, Label Rewording

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment revises the regulations governing personal flotation devices (PFD's) to shorten the marking requirements. This change is being made because a change to part 181 of title 33 CFR requires the manufacturers of PFD's to provide an information pamphlet with PFD's sold for use in recreational boating. These changes will make PFD markings less confusing, while giving the consumer more information with greater detail in the pamphlet.

EFFECTIVE DATE: This amendment is effective on September 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1477.

SUPPLEMENTARY INFORMATION: Amendments to the regulations government boats and associated equipment in part 181 of title 33, Code of Federal Regulations, appear elsewhere in this issue of the FEDERAL REGISTER (CGD 75-008a).

In the FEDERAL REGISTER of December 20, 1976, the Coast Guard published proposed rule (41 FR 55480) concerning these amendments. Interested persons were given until February 3, 1977, to submit comments. Five comments were received.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: Mr. S. E. Wehr of the Office of Merchant Marine Safety and LTJG M. L. Welsh, Office of Boating Safety, Project Managers, and LT G. S. Karavitis, Office of Boating Safety, Project Attorney.

DISCUSSION OF MAJOR COMMENTS

Several comments were received which simply expressed support for the rule or which favored the rule but requested additions or changes in the rule which are discussed along with the other comments that follow.

One commenter objected to the removal of the performance characteris-

tic wording because "the information was informative and more useful to the user than some of the new information, such as flotation material, and should be retained instead of being relegated to the pamphlet which is

porated because the proposed change would make it more difficult for the Coast Guard to keep track of the individual approvals and hamper recall and other corrective action which may be necessary.

Do not snag or puncture inner plastic cover.
Approved for use on all vessels by persons weighing (90 lb. or more, or less than 90 lb.).
U.S. Coast Guard Approval No. 160.002/(assigned manufacturer's No.)/(Revision No.)/(Mode) No.).

If pads become waterlogged, replace device.
Approved for use on all recreational boats and on uninspected commercial vessels less than 40 feet in length not carrying passengers for hire by persons weighing (over 90 lb., 50 to 90 lb., or less than 50 lb.).
(Name and address of manufacturer or distributor.).
(Lot No.).
(Size; width, thickness, and length, including both top and bottom for trapezoidal cushions.).

in waterproof lettering that can be read at a distance of 2 feet:

Type V Personal Flotation Device.
Inspected and tested in accordance with U.S. Coast Guard regulations.
(Name of buoyant material) buoyant mate-

tic wording because "the information was informative and more useful to the user than some of the new information, such as flotation material, and should be retained instead of being relegated to the pamphlet which is transitory in nature." The Coast Guard feels that while the performance characteristic was informative on the label, it was not particularly meaningful since it could not be explained fully nor could one type device be compared with the other three types of PFD's available to recreational boaters. As to the transitory nature of the pamphlet, anyone who wishes to have the information may certainly retain the pamphlet. For these reasons the comment was not incorporated.

One commenter suggested that the year of manufacture be added to the labels to help determine life of the PFD and material durability. The year of manufacture is already retrievable from the label either directly or through the manufacturer's code. Thus, the comment was not incorporated.

One commenter stated that buoyant cushions are legal on "all canoes and kayaks," which is true and was overlooked in the original document. The subparts governing Type IV PFD's have been changed to reflect this fact.

One commenter suggested that reference to Underwriters Laboratories should be made to show their role in inspection and testing of the devices. The UL listing mark already appears on every device for which they are responsible for inspection and testing. Thus no change was made to the labeling requirements to further emphasize UL's role.

One commenter stated that the category "less than 50 pounds" as stated on all the labels for Type II and Type III PFD's should be divided into two categories "30 to 50 pounds" and "less than 30 pounds." He also stated that the category "less than 30 pounds" must always be a Type II as opposed to Type III. There is no basis for these changes in subparts 160.047, 160.052, and 160.060 which require devices approved under this category to be for persons "less than 50 lb." However, under § 160.064 the Coast Guard does approve devices for persons in the ranges "30 to 50 lb." and "less than 30 lb." Thus the marking requirements under § 160.064 have been changed accordingly.

This commenter also would like to see the lable revised so that the individual model labels inventory can be reduced. This reduction would be accomplished by a group listing of Approval Numbers and stating, "This device is manufactured in accordance with one of the Approval Numbers listed." This comment was not incorporated because the proposed change would make it more difficult for the Coast Guard to keep track of the individual approvals and hamper recall and other corrective action which may be necessary.

It was noted that the warning in §§ 160.048 and 160.049 that Type IV cushions should not be worn on the back has traditionally been larger than the other lettering. Wording was added to require that this larger lettering be continued.

One commenter noted that there are other good and appropriate means of labeling PFD's under § 160.053-5 other than stitching on a label. The Coast Guard agrees and the paragraph was changed to allow any clear, waterproof method of marking.

It was noted that there are Type V PFD's approved for restricted uses under § 160.055 in addition to Type I PFD's for unrestricted use. Wording was added to allow the Commandant to require Type V marking when appropriate.

Since the changes require revising the label on all PFD's, they are made effective as follows:

Manufacturers of PFD's that have approval numbers issued before September 1, 1978 may continue to mark the devices under the terms of that approval until September 1, 1979. Those manufacturers that have approval numbers issued after September 1, 1978, shall meet the requirements of this subpart.

This minimizes the cost to manufacturers and allows enough time to have the labels changed.

This proposal has been reviewed for economic effects under Department of Transportation "Policies to Improve Analysis and Review of Regulations" (41 FR 16200). Because of the 12-month grace period during which a manufacturer could exhaust his stock of labels, this proposal should result in little or no cost increases. With the proposal for a PFD information pamphlet, published elsewhere in this issue of the FEDERAL REGISTER, the benefit of this proposal will be the prevention of casualties, including loss of life.

In consideration of the foregoing the regulation is adopted as set forth below:

Part 160 of title 46, Code of Federal Regulations, is amended as follows:

1. By revising paragraph (b) of § 160.002-6 to read as follows:

§ 160.002-6 Marking.

• • • • •

(b) In letters that can be read at a distance of 2 feet:

Type I Personal Flotation Device.
Inspected and tested in accordance with U.S. Coast Guard regulations.
Kapok buoyant material provides a minimum buoyant force of (25 lb. or 16½ lb.).
Do not snag or puncture inner plastic cover.
Approved for use on all vessels by persons weighing (90 lb. or more, or less than 90 lb.).
U.S. Coast Guard Approval No. 160.002/(assigned manufacturer's No.)/(Revision No.); (Model No.).
(Name and address of manufacturer or distributor.).
(Lot No.).

2. By revising paragraph (b) of § 160.005-6 to read as follows:

§ 160.005-6 Marking.

• • • • •

(b) In letters that can be read at a distance of 2 feet:

Type I Personal Flotation Device.
Inspected and tested in accordance with U.S. Coast Guard regulations.
Fibrous glass buoyant material provides a minimum buoyant force of (25 lb. or 16½ lb.).
Approved for use on all vessels by persons weighing (90 lb. or more, or less than 90 lb.).
U.S. Coast Guard Approval No. 160.005/(assigned manufacturer's No.)/(Revision No.); (Model No.).
(Name and address of manufacturer or distributor.).
(Lot No.).

3. By revising paragraph (b) of § 160.009-6 to read as follows:

§ 160.009-6 Marking.

• • • • •

(b) On the cover:

Type IV Personal Flotation Device.
Inspected and tested in accordance with U.S. Coast Guard regulations.
(Cork or Balsa wood) buoyant material provides a minimum buoyant force of (32 lb. or 16½ lb.).
Approved for use on recreational boats less than 16 feet in length and all canoes and kayaks, and only as a throwable device on all other vessels.
Approved U.S. Coast Guard (inspection date) (Marine Inspection Office identification letters).
(Name and address of manufacturer or distributor.).
U.S. Coast Guard Approval No. 160.009/(assigned manufacturer's No.)/(Revision No.); (Model No.).
(Size.).
(Lot No.).

4. By revising paragraph (a) of § 160.047-6 to read as follows:

§ 160.047-6 Marking.

(a) Each buoyant vest must have the following information clearly marked in waterproof lettering that can be read at a distance of 2 feet:

Type II Personal Flotation Device.
Inspected and tested in accordance with U.S. Coast Guard regulations.
(Name of buoyant material) buoyant material provides a minimum buoyant force of (16 lb., 11 lb., or 7¼ lb.).
Dry out thoroughly when wet.
Do not snag or puncture inner plastic cover.
If pads become waterlogged, replace device.
Approved for use on all recreational boats and on uninspected commercial vessels less than 40 feet in length not carrying passengers for hire by persons weighing (over 90 lb., 50 to 90 lb., or less than 50 lb.).
U.S. Coast Guard Approval No. 160.047/(assigned manufacturer's No.)/(Revision No.); (Model No.).
(Name and address of manufacturer or distributor.).
(Lot No.).

• • • • •

5. By revising paragraph (a) of § 160.048-6 to read as follows:

§ 160.048-6 Marking.

(a) Each buoyant cushion must have the following information clearly marked in waterproof lettering:

(1) In letters that can be read at a distance of 2 feet:

Type IV Personal Flotation Device.
Inspected and tested in accordance with U.S. Coast Guard regulations.
Dry out thoroughly when wet.
(Kapok or Fibrous glass) buoyant material provides a minimum buoyant force of 20 lb.
Do not snag or puncture inner plastic cover.
If pads become waterlogged, replace device.
Approved for use on recreational boats less than 16 feet in length and all canoes and kayaks, and only as a throwable device on all other recreational boats.
U.S. Coast Guard Approval No. 160.048/(assigned manufacturer's No.)/(Revision No.); (Model No.).
(Name and address of manufacturer or distributor.).
(Lot No.).
(Size; width, thickness, and length, including both top and bottom for trapezoidal cushions.).

(2) In letters that are distinctively set off or larger than all other marking, and are at least one-fourth of an inch in height:

WARNING: DO NOT WEAR ON BACK

• • • • •

6. By revising paragraph (a) of § 160.049-6 to read as follows:

§ 160.049-6 Marking.

(a) Each buoyant cushion must have the following information clearly marked in waterproof lettering:

(1) In letters that can be read at a distance of 2 feet:

Type IV Personal Flotation Device.
Inspected and tested in accordance with U.S. Coast Guard regulations.
(Name of buoyant material) buoyant material provides a minimum buoyant force of 20 lb.
Dry out thoroughly when wet.
Approved for use on recreational boats less than 16 feet in length and all canoes and kayaks, and only as a throwable device on all other recreational boats.
U.S. Coast Guard Approval No. 160.049/(assigned manufacturer's No.)/(Revision No.); (Model No.).
(Name and address of manufacturer or distributor.).
(Lot No.).
(Size; width, thickness, and length, including both top and bottom for trapezoidal cushions.).

(2) In letters that are distinctively set off or larger than all other marking, and are at least one-fourth of an inch in height:

WARNING: DO NOT WEAR ON BACK

• • • • •

7. By revising paragraph (a) of § 160.050-6 to read as follows:

§ 160.050-6 Marking.

(a) Each ring buoy must have the following information in waterproof lettering:

Type IV Personal Flotation Device.
Inspected and tested in accordance with U.S. Coast Guard regulations.
(Name of buoyant material) buoyant material provides a minimum buoyant force of (32 lb. or 16½ lb.).
Approved for use on recreational boats less than 16 feet in length and all canoes and kayaks, and only as a throwable device on all other vessels.
U.S. Coast Guard Approval No. 160.050/(assigned manufacturer's No.)/(Revision No.); (Model No.).
(Name and address of manufacturer or distributor).
(Size).
USCG (Marine Inspection Office identification letters).
(Lot No.).

• • • • •

8. By revising the heading and paragraph (a) of § 160.052-8 to read as follows:

§ 160.052-8 Marking.

(a) Each buoyant vest must have the following information clearly marked in waterproof lettering that can be read at a distance of 2 feet:

Type II Personal Flotation Device.
Inspected and tested in accordance with U.S. Coast Guard regulations.
(Name of buoyant material) provides a minimum buoyant force of (15½ lb., 11 lb., or 7 lb.).
Dry out thoroughly when wet.
Approved for use on all recreational boats and on uninspected commercial vessels less than 40 feet in length not carrying passengers for hire by persons weighing (over 90 lb., 50 to 90 lb., or less than 50 lb.).
U.S. Coast Guard Approval No. 160.050/(assigned manufacturer's No.)/(Revision No.); (Model No.).
(Name and address of manufacturer or distributor).
(Lot No.).

9. By revising paragraph (a) of § 160.053-5 to read as follows:

§ 160.053-5 Marking.

(a) Each work vest must have the following information clearly printed in waterproof lettering that can be read at a distance of 2 feet:

Type V Personal Flotation Device.
Inspected and tested in accordance with U.S. Coast Guard regulations.
(Name of buoyant material) buoyant material provides a minimum buoyant force of 17½ lbs.
Approved for use on Merchant Vessels as a work vest.
U.S. Coast Guard Approval No. 160.053/(assigned manufacturer's No.)/(Revision No.); (Model No.).
(Name and address of manufacturer or distributor).
(Lot No.).
This vest is filled with (name of buoyant material), which will not be harmed by repeated wetting. Hang up and dry thoroughly when vest is wet.

• • • • •

10. By revising the heading and paragraph (b) of § 160.055-8 to read as follows:

§ 160.055-8 Marking.

• • • • •

(b) In letters that can be read at a distance of 2 feet:

Type I or Type V Personal Flotation Device.
Inspected and tested in accordance with U.S. Coast Guard regulations.
(Name of buoyant material) buoyant material provides a minimum buoyant force of (22 lb. or 11 lb.).
Approved for use on all vessels by persons weighing (90 lb. or more, or less than 90 lb.).
U.S. Coast Guard Approval No. 160.055/(assigned manufacturer's No.)/(Revision No.); (Model No.).
(Name and address of manufacturer or distributor).
(Lot No.).

11. By revising the heading and paragraph (a) of § 160.060-8 to read as follows:

§ 160.060-8 Marking.

(a) Each buoyant vest must have the following information clearly marked in waterproof lettering:

Type II Personal Flotation Device.
Inspected and tested in accordance with U.S. Coast Guard regulations.
Polyethylene foam buoyant material provides a minimum buoyant force of (15½ lb., 11 lb., or 7 lb.).
Dry out thoroughly when wet.
Approved for use on all recreational boats and on uninspected commercial vessels less than 40 feet in length not carrying passengers for hire by persons weighing (more than 90 lb., 50 to 90 lb., or less than 50 lb.).
U.S. Coast Guard Approval No. 160.060/(assigned manufacturer's No.)/(Revision No.); (Model No.).
(Name and address of manufacturer or distributor).
(Lot No.).

12. By revising paragraph (a)(1) of § 160.064-4 to read as follows:

§ 160.064-4 Marking.

(a) • • •

(1) For devices to be worn:

(Type II or Type III) Personal Flotation Device.
Inspected and tested in accordance with U.S. Coast Guard regulations.
(Name of buoyant material) buoyant material provides a minimum buoyant force of (15½ lb., 11 lb., or 7 lb.).
Dry out thoroughly when wet.
Approved for use on all recreational boats and on uninspected commercial vessels less than 40 feet in length not carrying passengers for hire by persons weighing (over 90 lb., 50 to 90 lb., or less than 50 lb.).
U.S. Coast Guard Approval No. 160.064/(assigned manufacturer's No.)/(Revision No.); (Model No.).
(Name and address of manufacturer or distributor.).
(Lot No.).

(2) For devices to be thrown:

Type IV Personal Flotation Device.
Inspected and tested in accordance with U.S. Coast Guard regulations.
(Name of buoyant material) buoyant material provides a minimum buoyant force of (16 lb., 11 lb., or 7¼ lb.).
Dry out thoroughly when wet.
Do not snag or puncture inner plastic cover.
Approved for use on all recreational boats and on uninspected commercial vessels less than 40 feet in length not carrying passengers for hire by persons weighing (over 90 lb., 50 to 90 lb., or less than 50 lb.).
U.S. Coast Guard Approval No. 160.064/(assigned manufacturer's No.)/(Revision No.); (Model No.).
(Name and address of manufacturer or distributor.).
(Lot No.).

[1]The manufacturer of a personal flotation device approved under subparts 160.047-5, 160.048-5, 160.049-5, 160.050-5, 160.052-7, 160.055-7, 160.060-7, and 160.064-33:

§ 160.064-4 Marking.

(a) • • •

(1) For devices to be worn:

(Type II or Type III) Personal Flotation Device.
Inspected and tested in accordance with U.S. Coast Guard regulations.
(Name of buoyant material) buoyant material provides a minimum buoyant force of (15¼ lb., 11 lb., or 7 lb.).
(Special purpose intended.).
Approved for use on all recreational boats and on uninspected commercial vessels less than 40 feet in length not carrying passengers for hire by persons weighing (more than 90 lb., 50 to 90 lb., 30 to 50 lb., or less than 30 lb.).
U.S. Coast Guard Approval No. 160.064/(assigned manufacturer's No.)/(Revision No.); (Model No.).
(Name and address of manufacturer or distributor).
(Lot No.).

(2) For devices to be thrown:

Type IV Personal Flotation Device.
Inspected and tested in accordance with U.S. Coast Guard regulations.
(Name of buoyant material) buoyant material provides a minimum buoyant force of (16½ lb., 18 lb., or 20 lb.).
(Special purpose intended).
Approved for use on all recreational boats less than 16 feet in length and all canoes and kayaks, and only as a throwable device on all other recreational boats.
U.S. Coast Guard Approval No. 160.064/(assigned manufacturer's No.)/(Revision No.); (Model No.).
(Name and address of manufacturer or distributor).
(Lot No.).

• • • • •

13. By adding the following footnote to §§ 160.002-5, 160.005-5, 160.009-5, 160.047-5, 160.048-5, 160.049-5, 160.050-5, 160.052-7, 160.055-7, 160.060-7, and 160.064-33:

[1] The manufacturer of a personal flotation device must meet 33 CFR 181.701 through 33 CFR 181.705 which require an instruction pamphlet for each device that is sold or offered for sale for use on recreational boats.

(46 U.S.C. 375, 416, 526p, 1454, 1488; 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b), (n)(1).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

O. W. SILER,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc. 78-5886 Filed 3-8-78; 8:45 am]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
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DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
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	LABOR			LABOR
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	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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[3195-01]

Title 3—The President

Executive Order 12043 • **March 7, 1978**

Amending the Civil Service Rules Regarding Notice of Exemptions From the Competitive Service

By virtue of the authority vested in me by the Constitution of the United States of America, and Sections 3301 and 3302 of Title 5 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. Section 6.1 of Civil Service Rule VI (5 CFR 6.1) is amended by deleting the third sentence in subsection (a) thereof and by adding a new subsection (c) as follows:

"(c) Notice of the Commission's decision granting authority to make appointments to an excepted position under the appropriate schedule shall be published in the FEDERAL REGISTER.".

SEC. 2. Section 6.6 of the Civil Service Rule VI (5 CFR 6.6) is amended by deleting the second sentence thereof and substituting "Notice of the Commission's decision making these changes shall be published in the FEDERAL REGISTER.".

SEC. 3. Section 9.6 of the Civil Service Rule IX (5 CFR 9.6) is amended by adding a new subsection (c) as follows:

"(c) The Commission shall include in its annual report a current listing, by agency, of all positions authorized to be filled by Limited Executive Assignment.".

SEC. 4. Section 9.20 of Civil Service Rule IX (5 CFR 9.20) is amended by adding a new subsection (f) as follows:

"(f) The Commission shall include in its annual report a current listing, by agency, of all positions authorized to be filled by Noncareer Executive Assignment.".

Jimmy Carter

THE WHITE HOUSE,
March 7, 1978.

[FR Doc. 78-6452 Filed 3-8-78; 1:02 pm]

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[1620-01]

Title 4—Accounts

CHAPTER III—COST ACCOUNTING STANDARDS BOARD

NEGOTIATED DEFENSE PRIME CONTRACTS AND SUBCONTRACTS

Miscellaneous Amendments

AGENCY: Cost Accounting Standards Board.

ACTION: Final rule.

SUMMARY: In response to numerous requests by Government agencies, contractors and their representatives, the Cost Accounting Standards Board has adopted a final rule which defines "cost accounting practice," and "change to either a disclosed cost accounting practice or an established cost accounting practice." Also, the rule revises sections of the contract clause dealing with changes in cost accounting practice, by providing for equitable adjustments to the contracts under which the parties agree to a change. Amendments are also being made to various other parts of CASB rules, regulations and standards to conform them to the requirements of the new § 331.50(a)(4)(C). The definitions and other changes should facilitate the administration of the Cost Accounting Standards Board's rules, regulations and standards.

DATE: The rule is effective March 10, 1978.

ADDRESS: Cost Accounting Standards Board, 441 G Street, NW., Room 4836, Washington, D.C. 20548.

FOR FURTHER INFORMATION CONTACT:

J. L. DiGuiseppi, Project Director, CASB, 441 G Street, NW., Room 4836, Washington, D.C. 20548, 202-275-6113.

SUPPLEMENTARY INFORMATION: The purpose of this publication by the Cost Accounting Standards Board is to adopt a modification to part 331, Contract Coverage, and part 332, Modified Contract Coverage, of its rules and regulations. The Board is also withdrawing a proposal to modify § 331.70. This modification being adopted will (1) provide definitions of the terms "cost accounting practice," and "change to either a disclosed cost accounting practice or an established cost accounting practice," (2) permit the negotiation of equitable adjustments to reflect the cost impact of changes agreed to by both parties to the contract, and (3) establish the effective date for application of standards to subcontracts. The December 1976 proposal to modify the method of determining increased costs is being withdrawn.

The Board is authorized by Pub. L. 91-379 to prescribe rules, regulations, and modifications for implementing cost accounting standards. Pursuant to this authority, the Board is today issuing modifications to its regulations. Contractors and procurement agencies engaged in the implementation and administration of CASB rules, regulations, and standards have recommended that the Board provide guidance concerning the meaning of "cost accounting practice" and "change to either a disclosed cost accounting practice or an established cost accounting practice."

Representatives from various organizations affected by standards have pointed out that guidance in these areas will reduce disagreement and facilitate the implementation and administration of CASB pronouncements. Similar recommendations were also received by the Board at evaluation conferences in June 1975 and October 1977. The General Accounting Office's Status Report on the "Cost Accounting Standards Program—Accomplishments and Problems," (PSAD-76-154, August 20, 1976), also referred to the need for guidance on these subjects.

Research in this area included a review of data submitted by participants in the evaluation conferences, an analysis of papers submitted by various contractors, professional groups, trade associations, and Government agencies, as well as a review of existing procurement regulations, the Internal Revenue Code, Accounting Principles Board Opinion No. 20, and existing CASB promulgations. A staff draft of amendments containing definitions of "cost accounting practice" and "change to either a disclosed cost accounting practice or an established cost accounting practice" was distributed on August 13, 1976. Responses from 53 sources contributed to the Board's further consideration of the issues involved in these proposed amendments.

Proposed amendments to the Board's regulations were published in the FEDERAL REGISTER on February 3, 1977 (42 FR 6591). A total of 45 responses were received from individual companies, Government agencies, professional associations, industry associations, universities and others. The proposed amendments were revised and republished for comment on October 21, 1977, (42 FR 56130) and included a proposed change to the CAS contract clause. A total of 40 responses were received to that publication.

The Board takes this opportunity to express its appreciation for the helpful suggestions and criticisms which have been furnished. These comments have resulted in a number of changes and improvements in the amendments being promulgated today. The following material summarizes the issues discussed by respondents in connection with the proposed modification and explains the changes made to the proposals published February 3 and October 21, 1977. The still relevant portions of the comments which accompanied the earlier publications have been incorporated in this material.

DEFINITION OF COST ACCOUNTING PRACTICE

The need for a definition of "cost accounting practice" has been raised by numerous inquiries from the field and by participants in the evaluation conferences. The Board agrees, and believes that a definition of this term can reduce disputes and contribute to increased uniformity in the administration of the CAS contract clause.

A number of commentators expressed the view that the proposed definition was workable and useful as presented, would serve to reduce disagreements, and would facilitate the administration of cost accounting standards. Some said that the proposal, if adopted, would go a long way towards solving several problems identified in earlier written communications to the Board and oral presentations to the Board and its staff. Some encouraged the Board to promulgate the rule at an early date and commended the Board for taking a very significant step towards solving one of the troublesome and difficult areas of Cost Accounting Standards.

Other commentators suggested that the proposed definition went beyond the authority of the Board in that it included both the measurement of cost and the assignment of cost to cost accounting periods.

They asserted that these are financial accounting topics and are not within the realm of cost accounting. Still other commentators stated that the Board was dealing with detailed practices and procedures rather than Cost Accounting Standards and principles.

As early as March 1973, in the "Statement of Operating Policies, Procedures, and Objectives" and more recently in the May 1977, "Restatement of Objectives, Policies and Concepts," the Board stated that Cost Accounting Standards will be established to define and measure cost, determine the cost accounting periods to which costs are assigned, and determine the manner in which costs are allocated to covered contracts. The Board has spoken directly to the measurement of cost in Cost Accounting Standards 404 and 412 and to the assignment of costs to cost accounting periods in Cost Accounting Standards 408, 409 and 412. The definitions being promulgated today are consistent with the Board's authority and previously adopted view that cost accounting practices include measurement of cost, assignment of cost to cost accounting periods and allocation of costs to cost objectives.

Questions have been raised as to whether the measurement of cost includes the determination of the price to be paid by the contractor for goods and services. From the beginning of the project to define a cost accounting practice, the Board has taken the position that the determination of the amount paid or a change in the amount paid for units of goods and services does not constitute a change in cost accounting practices. The definition has been revised to convey this concept more clearly.

With respect to commentators' views on the difference between Cost Accounting Standards, principles, and practices, the Board's 1973 "Statement of Operating Policies, Procedures, and Objectives" and the 1977 "Restatement" describe a Cost Accounting Standard as:

> A Cost Accounting Standard is a statement formally issued by the Cost Accounting Standards Board that: (1) Enunciates a principle or principles to be followed, (2) establishes practices to be applied, or (3) specifies criteria to be employed in selecting from alternative principles and practices in estimating, accumulating, and reporting costs of contracts subject to the rules of the Board. A Cost Accounting Standard may be stated in terms as general or specific as the Cost Accounting Standards Board considers necessary to accomplish its purpose.

This position is similar to the approach the accounting profession takes in dealing with accounting principles for financial reporting. The Accounting Principles Board Opinion No. 20, Accounting Changes, states:

> The term accounting principle includes not only accounting principles and practices, but also the method of applying them.

Thus, in line with previous statements, the Cost Accounting Standards Board reiterates its position that the terms "principles and practices" include methods and techniques. The Board's position is consistent with Pub. L. 91-379 and reflects one of the principal purposes of setting Standards, which is to measure the full cost of supplies and services acquired by the Government in a way that is fair to both buyer and seller.

Commentators also raised the question of what should be the required level of detail of a cost accounting practice. The issue is what is the appropriate and necessary level of accounting detail for effective implementation of Pub. L. 91-379. For cost allocation purposes the Board has concluded that the level of detail should include not only the type of base, e.g., direct labor, but also the composition of that base, e.g., the elements of labor costs comprising the base. Similarly, the level of detail should include the types of indirect cost pools as well as the components or items of cost which make up those pools. As to measurement of cost, the level of detail includes identification of components of a particular item of cost and the basis on which cost is measured.

Definition of Change to Either a Disclosed Cost Accounting Practice or an Established Cost Accounting Practice

With respect to the February 3, 1977, proposed definition, commentators requested expansion of those changes in cost accounting practices which would not be subject to the provisions of paragraph (a)(4) and (a)(5) of the Cost Accounting Standards contract clause (4 CFR 331.50). Commentators recommended that changes to improve management controls, accounting changes which the Government and contractors believe would be beneficial in the long run, and changes due to changed business circumstances should be added to § 331.20 as actions which are not considered as a change in cost accounting practice for purposes of paragraph (a)(4) and (a)(5) of the Cost Accounting Standards Contract Clause (4 CFR 331.50).

The Board notes that in a dynamic business environment it may be desirable to make changes of many types. These changes may include organizational changes, changes in the way work is performed, and changes in the product produced. There may be a variety of reasons for these changes, such as better managerial control, new technology, or changed business conditions.

These business changes by themselves are not changes in cost accounting practices. Such changes may, however, cause a change in a contractor's cost accounting practices. In a circumstance where there is a change in a cost accounting practice, the contractor and Government must take certain action under the provisions of the CAS contract clause. Only when the contracting officer does not make the required determination under the new § 331.50(a)(4)(C) would contracts be amended to insure that the Government does not pay any increased cost as a consequence of the change.

The decision as to whether there is a change in cost accounting practice is made through an analysis of the circumstances of each individual situation based on the criteria being promulgated in these regulations.

It is to be expected that the accounting system must change—betterments, improvements, modifications or alterations to the system are necessary to accommodate the business changes discussed above. The Board notes that Pub. L. 91-379, in its provisions relative to failure of a contractor to follow consistently his disclosed practices, makes no distinction among the causes of changes in cost accounting practices. Thus, accounting changes of the types described by the commentators, which result in a failure of a contractor to follow consistently his previously disclosed or established practices, remain subject to the CAS contract clause (4 CFR 331.50). While a number of the suggestions made have been adopted and are discussed in the following material, the suggestions that changes in cost accounting practice due to changed circumstances or to improve management control be excluded from adjustment under the CAS contract clause have not been adopted by the Board. These types of changes, are subject to review and agreement by the contracting officer and the contracts may be adjusted under new § 331.50(a)(4)(C).

A number of commentators urged that changes resulting from issuances of the Financial Accounting Standards Board should also be excluded from paragraphs (a)(4) and (a)(5) adjustments. The legislative history leading to creation of the Cost Accounting Standards Board shows that standards and principles issued for financial accounting purposes were not deemed suitable for cost accounting for negotiated Government contracts. The Cost Accounting Standards Board views its own work as relating directly to the preparation, use and review of cost accounting data in the negotiation, administration and settlement of negotiated defense contracts. The Board is the only body established by law with the specific responsibility to promulgate Cost Accounting Standards and these Standards have the force and effect of law in the negotiation, administration and settlement of defense contracts.

The Board seeks to avoid conflict and disagreement with similar organizations having other responsibilities in the area of accounting Standards and through continuous liaison makes every reasonable effort to do so. The Board will give careful consideration to the pronouncements affecting financial reporting and in the formulation of Cost Accounting Standards it will take these pronouncements into account to the extent it can do so in accomplishing its objectives. Nevertheless, the nature of the Board's statutory authority and its mission to establish Cost Accounting Standards for negotiated defense contracts is such that it must retain and exercise full responsibility for meeting its objectives. Accordingly, the Board has not adopted this suggestion.

Alterations Not Considered Changes in Cost Accounting Practices

The February 1977 proposed definitions specifically provided that certain contractor actions should not be considered as changes in cost accounting practices. These include the initial adoption of a cost accounting practice or the elimination of a cost accounting practice. A number of commentators expressed the opinion that the accounting treatment of a cost which up to a given point in time has been immaterial in amount and now becomes material in amount is a situation very similar to the establishment of a practice for the initial incurrence of a cost. They pointed out that Accounting Principles Board Opinion No. 20, Accounting Changes, treats this situation as a first time incurrence of a cost rather than a change in accounting principle or practice.

The Board has previously expressed the position that administration of Cost Accounting Standards should be reasonable and not seek to deal with immaterial amounts of costs. In concert with this position, the Board in the October 1977 proposal modified § 331.20(i) to provide that a change in accounting for a cost which has previously been immaterial and now becomes material is not a change in cost accounting practice.

The alterations described above are not treated under the CAS contract clause as changes in cost accounting practices. They can, however, result in the establishment of cost accounting practices. Where such is the case, the requirements of the CAS contract clause (4 CFR 331.50) will apply. The new practices must be followed consistently on all CAS contracts, and Disclosure Statements updated where appropriate.

Subsequent Changes Under a Standard

The Board's October 1977 proposal provided that when a Standard with which the contractor has complied subsequently requires the contractor to alter a cost accounting practice in order to remain in compliance, that alteration shall not be a change in cost accounting practice for purposes of subparagraph (a)(4) and (a)(5) of the CAS clause. Some commentators said that this proposal was inconsistent with the Board's position in 4 CFR Part 403. Others said that unless a contract adjustment can be made under CAS regulations no acceptable adjustment mechanism was available. Most commentators generally felt that changes of this type should be dealt with under CAS regulations.

The Board believes that this provision is not inconsistent with 4 CFR Part 403. In that Standard, the Board was limiting use of equitable adjustment to the first time that a particular allocation provision of the Standard was applied.

The Board recognizes the points made by the commentators, however, and has concluded that a change in cost accounting practice to remain in compliance with a Standard does not constitute a failure to comply with Cost Accounting Standards or to follow consistently disclosed cost accounting practices. Accordingly, the Board has deleted from the regulation being published today the provision excepting adjustments for subsequent changes under a Standard from being considered under subparagraph (a)(4) of the Board's regulations, because changes of this type will be covered by new subparagraph (a)(4)(C) of the CAS contract clause which calls for negotiation of an equitable adjustment. The Board also notes that contractors who have filed Disclosure Statements would be required to amend such Statements to describe the practices to be followed.

Change Compelled by Law or Regulation

A number of commentators urged the Board to delete the exception in its October 1977 proposal for price adjustments under cost accounting standards for changes compelled by law or regulation § 331.20(i)(3). Some contended that all changes, regardless of motivation, should be considered for adjustment under the Board's new proposed subparagraph dealing with changes agreed to by the parties. Other commentators urged the Board to remove the exception to preclude a contractor from experiencing a windfall or suffering a loss because of such changes.

The Board agrees with the suggestions made to delete this subparagraph, because the Board feels that all contractor proposed changes in cost accounting practice should be considered for contract adjustment. Therefore, a contractor desiring to make a change in cost accounting practice for any reason must negotiate with the contracting officer under the appropriate subparagraph of the CAS contract clause.

Should a situation arise where major changes in cost accounting practices would be required by contractors to comply with express provisions of a law or regulation, the Board would seek to accommodate any such requirement by a change in its standards, rules or regulations.

The Board has deleted from these amendments the proposed § 331.20(i)(3) which dealt with changes compelled by law or regulation.

Illustrations

Many commentators said that all or some of the illustrations should be deleted, while other commentators said they should be retained. The Board included the illustrations to demonstrate the application of the definitions in situations of the type which have been reported to the Board in the past.

The Board noted that some of the illustrations dealing with changes in organization were being misinterpreted. In effect, the commentators expanded the illustrations to include situations not set forth in the illustrations. The Board concluded that in view of the extent of misinterpretation, it would be of questionable value to revise the illustrations to cover all the situations described by commentators. Accordingly, several illustrations dealing with accounting changes related to organizational changes have been deleted.

As the Board stated when the proposed definitions were published in February 1977, the accounting effects of any organizational change must be considered separately and a final decision concerning a change must be based on an evaluation of those effects. Thus, an organizational change per se is not a change in cost accounting practice. One must look at any accounting revision brought about for any reason, including one caused by a change in organization.

By including the illustrations the Board does not intend to imply that all possible situations are covered nor are the illustrations to be used as limitations for accounting changes. The Board believes that the changes made to this section are responsive to the statements made by commentators.

Contract Clause

The Board proposed in October 1977 that where the parties agree to a

change in cost accounting practice they should negotiate an equitable adjustment for any cost impact on existing contracts. Most commentators agreed with this proposal but some felt that the contracting officer's agreement should not be necessary. Others urged the Board to state that a contracting officer's disagreement with a change is subject to the disputes clause of the contract. Further, a number of commentators suggested that the new contract adjustment subparagraph be renumbered (a)(4)(C) to avoid confusion with the pre-existing numbering series. Finally, some commentators asked if the Board planned to make comparable revisions to its Part 332, Modified Contract Coverage.

The October 1977 proposal was in response to urging by both contractor and Government agency representatives to establish an alternative to subparagraph (a)(4)(B) for adjusting contracts where both parties agreed that a change in cost accounting practice was desirable. Under that proposal, a method was established providing for equitable adjustment for these changes. The Board does not agree that contracting officer's agreement is not necessary and remains convinced that Government agreement to the change is essential to protect the Government's interests.

With respect to the treatment of a contracting officer's disagreement with a proposed change in cost accounting practice under the disputes clause of the contract, the Board believes this should be determined under agencies' general rules governing appeals from various types of decisions by contracting officers. Accordingly, the Board has not specifically provided for the application of the disputes clause in this situation.

The Board agrees with the suggestion concerning the renumbering of the subparagraph dealing with equitable adjustments for changes in cost accounting practices agreed to by the parties. The amendments being published today have that subparagraph numbered (a)(4)(C). Designating the new subparagraph as (a)(4)(C) eliminates the need to change citations in other subparagraphs in section 331 from those previously existing in CASB regulations.

With respect to the question concerning comparable revisions to part 332, the new definitions and illustrations are incorporated in § 332.20 by the existing cross referrence to § 331.20. The Board's regulation concerning changes in cost accounting practices agreed to by the contracting officer will be incorporated in §§ 332.50(a) and 332.51 by amendments being published today.

Increased Cost Paid

Commentators at the 1977 Evaluation Conference and respondents to the February 3 and the October 21, 1977, proposals requested that the Board remove from its regulations the prohibition against increased costs paid because of changes in cost accounting practices (§ 331.50(a)(4)(B)) and/or that the expression "increased costs paid" (4 CFR 331.70) be redefined to exclude fixed price contracts. The Board has established a priority project to perform a comprehensive review of Part 331 of its regulations, including the treatment of increased costs paid.

Contacting Officer Determination

Many commentators objected to the Board's including a requirement that a contracting officer make a finding that a change is desirable and is not detrimental to the interest of the Government. Some claimed that such a requirement encroached on management's prerogative to design an accounting system to meet its needs; others said the decision concerning changes was an administrative matter, better left to the agencies. Others suggested that different terms be substituted for some of the words. Finally, some commentators said that the Board should require only that agencies prescribe appropriate regulations for the use of the equitable adjustment provision for accounting changes agreed to by the parties.

The Board understands the concerns expressed by the commentators on this matter. It should be recognized, however, that the Board is proposing that equitable adjustments be negotiated for accounting changes not required by Standards. This type of provision was requested by many contractors and Government agencies in the past. These groups insist that agreed-to changes should be allowed and that the contractor should not be required to pay for any increased costs on existing contracts resulting from such desirable changes. The Board is responding to these requests by providing for equitable adjustments for those proposed changes with which the contracting officer agrees if he finds them to be desirable and not detrimental to the interests of the Government.

Management certainly can propose any changes it feels desirable for its own accounting system. If a change is not desirable from the Government's point of view, the Board sees no justification for permitting the contractor to realize economic benefits on existing contracts from the change.

The Board's regulation merely recognizes the contracting officer's position and does not encroach on the administrative responsibilities of the procurement agencies. A contracting officer would routinely make certain that a contractor's proposed change is not detrimental to the Government before agreeing to allow increases in contract prices.

Some suggested alternative words for "desirable" were: "Appropriate, warranted, equitable, fair or reasonable." The Board concludes that all of these tests are encompassed by the Board's language. Accordingly, this statement has not been changed.

The Board expects administrative agencies to publish regulations they feel necessary to define what they conclude is "desirable and is not detrimental to the interest of the Government." Thus, the Board does not agree that it is getting involved in administrative matters.

The Board agrees with the commentators who suggested that the second sentence of § 331.51, which required that the contracting officer document the basis for his finding, be eliminated. The Board believes that the stated documentation requirement is redundant with other language in this subparagraph, and accordingly, that sentence has been eliminated.

Withdrawal of Proposed Alternative Method of Determining "Increased Costs"

On December 29, 1976, a proposal was published in the Federal Register to amend § 331.70(b) which, if adopted, would have permitted procurement agencies to use either an estimate-to-complete approach or an original-negotiation-data approach to determine increased costs paid by the United States. As proposed, agencies would have been authorized to use the estimate-to-complete method when negotiations had not been based on cost estimates or such estimates were not readily determinable by the procuring agency.

Most of the comments received expressed opposition to all or part of the proposal. Upon reexamining the subject in light of the comments received, the Board concludes that the proposed alternative method would not provide sufficient improvement in the administration of Standards to warrant its adoption. Additionally, none of the alternatives suggested by the commentators appears likely to benefit the procurement process materially. Accordingly, the proposal to amend § 331.70(b), Contract Coverage, as published in the Federal Register of December 29, 1976, is hereby withdrawn. This subject will be considered in the Board's comprehensive review of Part 331.

Costs and Benefits

The definitions promulgated today fill a void that had been recognized in numerous comments to the Board and the procurement agencies. The Board believes that the material being promulgated today is in keeping with its responsibility and authority as provided in Pub. L. 91-379. The Board believes further that the appropriate use of the definitions can significantly reduce the time and effort involved in the administration of Cost Accounting Standards. The Board concludes, therefore, that there will be virtually no costs involved in implementing these regulations and that there will be significant benefits with no inflationary effects.

Miscellaneous Amendments

A number of miscellaneous amendments are being published today to conform language in certain paragraphs of Title 4 CFR Parts 351, 403, 406 and 409. These amendments add references to the new § 331.50(a)(4)(C).

Effective Date

The following changes to the Board's regulations are being made effective today, March 10, 1978.

1. Amend § 331.20 *Definitions,* by adding new paragraphs (h), (i), and (j) as follows:

§ 331.20 Definitions.

* * * * *

(h) a "cost account practice" is any accounting method or technique which is used for measurement of cost, assignment of cost to cost accounting periods, or allocation of cost to cost objectives.

(1) Measurement of cost encompasses accounting methods and techniques used in defining the components of cost, determining the basis for cost measurement, and establishing criteria for use of alternative cost measurement techniques. The determination of the amount paid or a change in the amount paid for a unit of goods and services is not a cost accounting practice. Examples of cost accounting practices which involve measurement of costs are:

(i) The use of either historical cost, market value, or present value;

(ii) The use of standard cost or actual cost; or

(iii) The designation of those items of cost which must be included or excluded from tangible capital assets or pension cost.

(2) Assignment of cost to cost accounting periods refers to a method or technique used in determining the amount of cost to be assigned to individual cost accounting periods. Examples of cost accounting practices which involve the assignment of cost to cost accounting periods are requirements for the use of specified accrual basis accounting or cash basis accounting for a cost element.

(3) Allocation of cost to cost objectives includes both direct and indirect allocation of cost. Examples of cost accounting practices involving allocation of cost to cost objectives are the accounting methods or techniques used to accumulate cost, to determine whether a cost is to be directly or indirectly allocated, to determine the composition of cost pools, and to determine the selection and composition of the appropriate allocation base.

(i) A "change to either a disclosed cost accounting practice or an established cost accounting practice" is any alteration in a cost accounting practice, as defined in paragraph (h) of this section, whether or not such practices are covered by a Disclosure Statement, except that:

(1) The initial adoption of a cost accounting practice for the first time a cost is incurred, or a function is created, is not a change in cost accounting practice. The partial or total elimination of a cost or the cost of a function is not a change in cost accounting practice. As used here, function is an activity or group of activities that is identifiable in scope and has a purpose or end to be accomplished.

(2) The revision of a cost accounting practice for a cost which previously had been immaterial is not a change in cost accounting practice.

(j) *Illustrations of changes.* (1) In all of the following cases where a "change to either a disclosed cost accounting practice or an established cost accounting practice" has taken place, modifications to the affected contracts would be considered in accordance with this Part 331, Contract Coverage, and Part 332, Modified Contract Coverage, as amended. Under § 331.71, price adjustments, with appropriate application of offsets, would be required only if the net cost impact of the change were material.

(2) The following are illustrations of changes which meet the proposed definition of "change to either a disclosed cost accounting practice or an established cost accounting practice" because:

I. The method or technique used for measuring costs has been changed.

Description of changes	*Accounting treatment*
1. Contractor changes his acturial cost method for computing pension costs.	1. (a) Before change: The contractor computed pension costs using the aggregate cost method. (b) After change: The contractor computes pension cost using the unit credit method.
2. Contractor uses standard costs to account for his direct labor. Labor cost at standard was computed by multiplying labor-time standard by actual labor rates. The contractor changes the computation by multiplying labor-time standard by labor-rate standard.	2. (a) Before change: Contractor's direct labor cost was measured with only one component set at standard. (b) After change: Contractor's direct labor cost is measured with both the time and rate components set at standard.

II. The method or technique used for assignment of cost-to-cost accounting periods has been changed.

Description of change	*Accounting treatment*
1. Contractor changes his established criteria for capitalizing certain classes of tangible capital assets whose acquisition costs totaled $1 million per cost accounting period.	1. (a) Before change: Items having acquisition costs of between $200 and $400 per unit were capitalized and depreciated over a number of cost accounting periods. (b) After change: The contractor charges the value of assets costing between $300 and $400 per unit to an indirect expense pool which is allocated to the cost objectives of the cost accounting period in which the cost was incurred.
2. Contractor changes his method for computing depreciation for a class of assets.	2. (a) Before change: The contractor assigned depreciation costs to cost accounting periods using an accelerated method. (b) After change: The contractor assigns depreciation costs to cost accounting periods using the straight line method.
3. Contractor changes his general method of determining asset lives for classes of assets acquired prior to the effective date of CAS 409.	3. (a) Before change: The contractor identified the cost accounting periods to which the costs of tangible capital assets would be assigned using guideline class lives provided in IRS Rev. Pro. 72-10. (b) After change: The contractor changes the method by which he identifies the cost accounting periods to which the costs of tangible capital assets will be assigned. He now uses the expected actual lives based on past usage.

III. The method or technique used for allocating costs has been changed.

Description of change	*Accounting treatment*
1. Contractor changes his method of allocating G&A expenses under the requirements of Cost Accounting Standard 410.	1. (a) Before change: The contractor operating under Cost Accounting Standard 410 has been allocating his general and administrative expense pool to final cost objectives on a total cost input base in compliance with the Standard. The contractor's business changes substantially such that there are significant new projects which have only insignificant quantities of material.

Description of change	*Accounting treatment*
	(b) After change: After the addition of the new work, an evaluation of the changed circumstances reveals that the continued use of a total cost input base would result in a significant distortion in the allocation of the G&A expense pool in relation to the benefits received. To remain in compliance with Standard 410, the contractor alters his G&A allocation base from a total cost input base to a value added base.
2. The contactor changes the accounting for hardware common to all projects.	2. (a) Before change: The contractor allocated the cost of purchased or requisitioned hardware directly to projects. (b) After change: The contractor charges the cost of purchased or requisitioned hardware to an indirect expense pool which is allocated to projects using an appropriate allocation base.
3. The contractor merges operating segments A and B which use different cost accounting practices in accounting for manufacturing overhead costs.	3. (a) Before change: In segment A, the costs of the manufacturing overhead pool have been allocated to final cost objectives using a direct labor hours base; in segment B, the costs of the manufacturing overhead pool have been allocated to final cost objectives using a direct labor dollars base. (b) After change: As a result of the merger of operations, the combined segment decides to allocate the cost of the manufacturing overhead pool to all final cost objectives, using a direct labor dollars base. Thus, for those final cost objectives referred to in segment A, the cost of the manufacturing overhead pool will be allocated to the final cost objectives of segment A using a direct labor dollars base instead of a direct labor hours base.

(3) The following are illustrations of changes which do not meet the proposed definition of "change to either a disclosed cost accounting practice or an established cost accounting practice," and accordingly do not require price adjustments under subparagraphs (a)(4) and (a)(5) of the CAS contract clause.

Description of change	*Accounting treatment*
1. Changes in the interest rate levels in the national economy have invalidated the prior actuarial assumption with respect to anticipated investment earnings. The pension plan administrators adopted an increased (decreased) interest rate actuarial assumption. The company allocated the resulting pension costs to all final cost objectives.	1. Adopting the increase (decrease) in the interest rate actuarial assumption is not a change in cost accounting practice.
2. The basic benefit amount for a company's pension plan is increased from $8 to $10 per year of credited service. The change increases the dollar amount of pension cost allocated to all final cost objectives.	2. The increase in the amount of the benefits is not a change in cost accounting practice.
3. A contractor who has never paid pensions establishes for the first time a pension plan. Pension costs for the first year amounted to $3.5 million.	3. The initial adoption of an accounting practice for the first time incurrence of a cost is not a change in cost accounting practice.
4. A contractor maintained a Deferred Incentive Compensation Plan. After several years' experience, the plan was determined not to be attaining its objective, so it was terminated, and no future entitlements were paid.	4. There was a termination of the Deferred Incentive Compensation Plan. Elimination of a cost is not a change in cost accounting practice.
5. A contractor eliminates a segment that was operated for the purpose of doing research for development of products related to nuclear energy.	5. The projects and expenses related to nuclear energy projects have been terminated. No transfer of these projects and no further work in this area is planned. This is an elimination of cost and not a change in cost accounting practice.
6. For a particular class of assets for which technological changes have rarely affected asset lives, a contractor starts with a five year average of historical lives to estimate future lives. He then considers technological changes and likely use. For the past several years the process resulted in an estimated future life of ten years for this class of assets. This year a technological change leads to a prediction of a useful life of seven years for the assets acquired this year for this class of assets.	6. The change in estimate (not in method) is not a change in cost accounting practice. The contractor has not changed the method or technique used to determine the estimate. The methodology applied has indicated a change in the estimated life, and this is not a change in cost accounting practice.
7. The marketing department of a segment has reported directly to the general manager of the segment. The costs of the marketing department have been combined as part of the segment's G&A expense pool. The company reorganizes and requires the marketing department to report directly to a vice president at corporate headquarters.	7. After the organizational change in the company's reporting structure, the parties agree that the appropriate recognition of the beneficial or causal relationship between the costs of the marketing department and the segment is to continue to combine these costs as part of the segment's G&A expense pool. Thus, the organizational change has not resulted in a change in cost accounting practice.

2. Revise paragraph (a)(4) of the Cost Accounting Standards contract clause in § 331.50 by adding a new subparagraph (C) and by changing (a)(4)(B) as follows:

§ 331.50 Contract clause.

* * * * *

(a) * * *

(4)(B) Negotiate with the contracting officer to determine the terms and conditions under which a change may be made to either a disclosed cost accounting practice or an established cost accounting practice, other than a change made under other provisions of this subparagraph (4): *Provided*, That no agreement may be made under this provision that will increase costs paid by the United States.

(4)(C) When the parties agree to a change to either a disclosed cost accounting practice or an established cost accounting practice, other than a change under (4)(A) above, negotiate an equitable adjustment as provided in the changes clause of this contract.

3. Revise the first sentence in paragraph (d) of the Cost Accounting Standards clause in § 331.50 to read as follows:

(d) The contractor shall include in all negotiated subcontracts which he enters into the substance of this clause except paragraph (b) of this section, and shall require such inclusion in all other subcontracts of any tier, including the obligation to comply with all Cost Accounting Standards in effect on the date of award of the subcontract or if the subcontractor has submitted cost or pricing data, on the date of final agreement on price as shown on the subcontractor's signed certificate of current cost or pricing data. This requirement shall apply only to negotiated subcontracts in excess of $100,000 where the price negotiated is not based on:

(1) Established catalog or market prices of commercial items sold in substantial quantities to the general public, or

(2) Prices set by law or regulation, and except that the requirement shall not apply to negotiated subcontracts otherwise exempt from the requirement to accept the Cost Accounting Standards clause by reason of § 331.30(b) of Title 4, Code of Federal Regulations (4 CFR 331.30(b)).

* * * * *

4. Add a new § 331.51, as follows:

§ 331.51 Findings.

Prior to the utilization of the provisions of subparagraph (a)(4)(C) of the contract clause set out in § 331.50, the contracting officer shall make a finding that the change is desirable and is not detrimental to the interests of the Government.

PART 332—MODIFIED CONTRACT COVERAGE

5. Revise paragraph (a) of § 332.50 by adding a new subparagraph (5) to read as follows:

§ 332.50 Contract clause.

* * * * *

(a) * * *

(5) When the parties agree to a change to either a disclosed cost accounting practice or an established cost accounting practice, negotiate an equitable adjustment as provided in the changes clause of this contract.

6. Add a new § 332.51, as follows:

§ 332.51 Findings.

Prior to the utilization of the provisions of subparagraph (a)(5) of the contract clause set out in § 332.50, the contracting officer shall make a finding that the change is desirable and is not detrimental to the interests of the Government.

PART 351—BASIC REQUIREMENTS

§ 351.120 [Amended]

7. Revise § 351.120(c) by inserting the phrase "or (C)," after the phrase "(a)(4)(B)," in the first sentence.

PART 403—ALLOCATION OF HOME OFFICE EXPENSES TO SEGMENTS

§ 403.50 [Amended]

8. Delete paragraph (c)(2) of § 403.50.

PART 406 — COST ACCOUNTING STANDARD—COST ACCOUNTING PERIOD

PART 409—COST ACCOUNTING STANDARD—DEPRECIATION OF TANGIBLE CAPITAL ASSETS

§§ 406.50, 406.60, 409.50, and 409.60 [Amended]

9. Revise paragraphs (f) of § 406.50; (c) of § 406.60; (e) of § 409.50 and (f) of § 409.60 by inserting the phrase "or (C)" after the phrase "(a)(4)(B)."

(Sec. 103, 84 Stat. 796 (50 U.S.C. App. 2168).)

ARTHUR SCHOENHAUT,
Executive Secretary.

[FR Doc. 78-6318 Filed 3-9-78; 8:45 am]

[6435-01]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Environmental Protection Agency; Department of Energy; Department of Housing and Urban Development

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment (1) excepts under Schedule C certain positions at the Environmental Protection Agency and the Department of Housing and Urban Development because they are confidential in nature and (2) shows title changes in certain positions at the Department of Energy.

EFFECTIVE DATE: March 10, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3318(b)(8); 213.3331(a)(1), (d)(1), (g)(1), (r)(1); and 213.3384(a)(17) are amended to read as follows:

§ 213.3318 Environmental Protection Agency.

* * * * *

(b) *Office of Legislation.* * * *

(8) Two Special Assistants (Congressional Affairs).

* * * * *

§ 213.3331 Department of Energy.

(a) *Office of the Secretary.*

(1) One Confidential Secretary, one Confidential Assistant (Secretary), and one Motor Vehicle Operator to the Secretary.

* * * * *

(d) *Office of the Administrator of the Energy Information Administration.*

(1) One Confidential Assistant (Secretary) to the Administrator.

* * * * *

(g) *Office of the Director of Energy Research.*

(1) One Confidential Assistant (Secretary) to the Director.

* * * * *

(r) *Office of the Director of Procurement and Contracts Management.*

(1) One Confidential Assistant (Secretary) to the Director.

* * * * *

§ 213.3384 Department of Housing and Urban Development.

(a) *Office of the Secretary.* * * *

(17) Federal Insurance Administrator and two Special Assistants.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-6371 Filed 3-9-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Senior Assistant for Congressional Relations, Office of Legislation and Intergovernmental Relations, is reestablished under Schedule C because it is confidential in nature.

EFFECTIVE DATE: March 10, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3384(m)(3) is amended to read as follows:

§ 213.3384 Department of Housing and Urban Development.

* * * * *

(m) *Office of Legislation and Intergovernmental Relations.* * * *

(3) Two Senior Assistants for Congressional Relations.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-6369 Filed 3-9-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of the Treasury; Department of the Interior; Department of Commerce; Department of Health, Education, and Welfare; ACTION; Department of Transportation

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment to the regulations shows certain positions for Department of the Treasury; Department of the Interior; Department of Commerce; Department of Health, Education, and Welfare; ACTION; and Department of Transportation, are excepted under Schedule C because they are confidential in nature.

EFFECTIVE DATE: March 10, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3305(a)(79), 213.3312(a)(51), 213.3314(x)(1), 213.3316(h)(15) and 213.3394(d)(7) are added and 213.3359(cc) is amended as set out below:

§ 213.3305 Department of the Treasury.

(a) *Office of the Secretary.* • • •

(79) One Special Assistant to the Assistant Secretary (Enforcement and Operations).

• • • • •

§ 213.3312 Department of the Interior.

(a) *Office of the Secretary.* • • •

(51) One Special Assistant to the Assistant Secretary for Indian Affairs.

• • • • •

§ 213.3314 Department of Commerce.

• • • • •

(x) *Office of the Assistant Secretary for Communications and Information.*

(1) One Special Assistant, one Private Secretary, and one Confidential Assistant to the Assistant Secretary.

• • • • •

§ 213.3316 Department of Health, Education and Welfare.

• • • • •

(h) *Office of the Assistant Secretary for Health.* • • •

(15) One Executive Assistant to the Commissioner of Food and Drug Administration.

• • • • •

§ 213.3359 ACTION.

• • • • •

(cc) One Staff Assistant and one Special Assistant to the Deputy Associate Director for VISTA/ACTION Education Programs.

• • • • •

§ 213.3394 Department of Transportation.

• • • • •

(d) *Federal Highway Administration.* • • •

(7) One Special Assistant to the Administrator.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-6370 Filed 3-9-78; 8:45 am]

[3410-02]

Title 7—Agriculture

CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTIONS, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE

PART 180—REGULATIONS AND RULES OF PRACTICE UNDER THE PLANT VARIETY PROTECTION ACT

Limits of Reciprocity

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment to a regulation under the Plant Variety Protection Act would set forth the limits of reciprocity for Israeli nationals applying for plant variety protection on sexually-reproduced plants in the United States. The plant variety protection afforded by the State of Israel to U.S. nationals does not appear to be equal to the protection afforded foreign nationals in the United States under the act. This amendment is necessary in order that applicants from the State of Israel, their agents, and other interested persons may be informed with respect to the reciprocity limits recognized under the act and the regulations and rules of practice.

EFFECTIVE DATE: March 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Bernard Lease, Acting Commissioner, Plant Variety Protection Office, Livestock, Poultry, Grain and Seed Division, AMS, National Agricultural Library Building, Beltsville, Md. 20705, 301-344-2518.

SUPPLEMENTARY INFORMATION: On October 28, 1977, notice was published in the FEDERAL REGISTER (42 FR 56751) inviting written comments not later than November 28, 1977, on proposed amendment of section 180.5 of the regulations and rules of practice (7 CFR 180.5(a)) under the Plant Variety Protection Act to set forth the limits of reciprocity for Israeli nationals applying for plant variety protection on sexually-reproduced plants in the United States.

Comments were received from eight persons, all members of the Plant Variety Protection Board. All were in favor of adopting the proposed amendment.

After consideration of all relevant matter presented, including the proposal in the notice, the proposal is adopted as follows:

Section 180.5(a) is amended by adding subparagraph (4) as follows:

§ 180.5 General requirements.

(a) • • •

(4) A certificate of plant variety protection issued to a national of the State of Israel shall (i) expire in 15 years or less, pursuant to sections 42(b) and 83(b) of the Plant Variety Protection Act, from the date of issue of the certificate in the United States, (ii) be applicable only for seed-reproduced species protectable in the State of Israel, and (iii) not include a specification that the variety is to be sold by variety name only as a class of certified seed.

• • • • •

Dated: March 6, 1978.

BARBARA LINDEMANN SCHLEI,
Administrator.

[FR Doc. 78-6335 Filed 3-9-78; 8:45 am]

[3410-30]

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—GENERAL REGULATIONS AND POLICIES—FOOD DISTRIBUTION

[Amdt. No. 39]

PART 250—DONATION OF FOOD FOR USE IN UNITED STATES, ITS TERRITORIES AND POSSESSIONS AND AREAS UNDER ITS JURISDICTION

Supplemental Food Program

AGENCY: Food and Nutrition Service, U.S. Department of Agriculture.

ACTION: Final rule.

SUMMARY: The Food and Nutrition Service (FNS) is deleting current rules for the Supplemental Food Program, because FNS has issued new (interim) regulations governing the Program elsewhere in the Code of Federal Regulations. This action is taken to reflect changes required by recent legislation.

EFFECTIVE DATE: February 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Jennifer R. Nelson, Acting Director, Supplemental Food Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-8206.

SUPPLEMENTAL INFORMATION: The purpose of this amendment is to delete the Supplemental Food Program regulations currently published at 7 CFR 250.14; however, the section number is reserved for future use. This action is necessary because new regulations governing operation of this Program have been issued under 7 CFR Part 247.

Pub. L. 95-113, approved September 29, 1977, made a number of changes in the legislation governing the Supplemental Food Program. These changes included redesignating the Program as the "Commodity Supplemental Food ge dp1:b10mr0.239Program", extending the Program through fiscal year 1981, providing authority for administrative funding, including funding nutrition education for Program participants, and requiring the Secretary annually to evaluate the food package that is distributed to participants.

To implement these changes by amending the Supplemental Food Program regulations currently published at 7 CFR 250.14 would have been impracticable. Therefore, the Department decided to delete 7 CFR 250.14 and issue new regulations under 7 CFR Part 247. The new Commodity Supplemental Food Program regulations will be published on March 3, 1978 (43 FR 8777).

§ 250.14 [Reserved]

Accordingly, 7 CFR 250.14 is deleted and reserved.

NOTE.—The Food and Nutrition Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance Program No. 10.550.)

Dated: February 28, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc. 78-6094 Filed 3-9-78; 8:45 am]

[3410-30]

SUBCHAPTER C—FOOD STAMP PROGRAM

[Amdt. No. 130]

PART 272—PARTICIPATION OF RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS, MEAL SERVICES AND BANKS

Redemption Certificates by Receiving Banks

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rule eliminates the use of food stamp redemption certificates as part of the documentation that commercial banks submit to substantiate claims for coupons lost in transit and establishes a time frame for the disposition of redemption certificates by receiving banks. The amendment is necessary because the values shown on the redemption certificates seldom equal the amount of a lost in transit claim. Also, this rule strengthens the remaining documentation that commercial banks submit by requiring an affidavit by the claimant.

EFFECTIVE DATE: March 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Wayne A. Simmons, Administrative Cost and Analysis Branch, Food Stamp Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-8266.

SUPPLEMENTARY INFORMATION: In recent years, the Federal Reserve Banks have established a procedure which requires depositing banks to submit redeemed coupons in bundles of 100 of each denomination for payment. Banks, in accumulating coupons for these bundles, usually include coupons received from more than one retailer.

Current regulations instruct the receiving banks to hold redemption certificates until payment is received from the Federal Reserve. If a lost in transit claim needs to be submitted, the redemption certificates associated with the loss are to be presented as substantiation of the claim. However, due to the bundling requirements the value of the redemption certificates seldom agrees with the amount of the claim. Thus, the redemption certificates are of questionable use in determining the validity and amount of the claim.

The proposed rule change was published in the FEDERAL REGISTER of November 4, 1977. Comments requested by the proposed rulemaking have been considered and incorporated into the final rule.

Accordingly, § 272.5 of Chapter II, Title 7, Code of Federal Regulation, is amended as follows:

In § 272.5, the sixth sentence of paragraph (a) is amended; paragraph (c)(3)(ii) is amended; paragraph (c)(3)(iv) is deleted and paragraph (c)(3)(v) is revised and redesignated paragraph (c)(3)(iv). The amended provisions read as follows:

§ 272.5 Participation of banks.

(a) • • • Redemption certificates accepted by receiving banks shall be forwarded daily, or upon reasonable accumulation, but not less frequently than weekly to the following address:

Minneapolis ADP Field Center, Food and Nutrition Service, USDA, 3930 West 65th Street, Minneapolis, Minn. 55435.

• • • • •

(c) • • •

(3) • • •

(ii) An affidavit of facts concerning the loss and the banks' procedures for making the shipment. This affidavit shall specify that either all or part of the loss cannot be recovered from the carrier. If a partial recovery has been or will be made, the amount shall be stated. In the event of a partial loss, this affidavit shall specify the condition of the package upon receipt and state whether it appeared to have been tampered with or damaged in transit.

• • • • •

(iv) FNS will obtain copies of the redemption certificates corresponding to claims.

• • • • •

(78 Stat. 703, as amended; (7 U.S.C. 2011-2026).)

NOTE.—The Food and Nutrition Service has determined that this document does not contain a major proposal requiring the preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance Programs No. 10.551, Food Stamps)

Dated: March 2, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc. 78-6372 Filed 3-9-78; 8:45 am]

[3410-05]

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt.]

PART 711—MARKETING QUOTA REVIEW REGULATIONS

Revision in Certain Areas of Venue

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule provides for revising the marketing quota review committee areas of venue for the State of Florida. The Florida State ASC Committee recommended the revisions to allow for more efficient administration of the Marketing Quota Program.

EFFECTIVE DATE: March 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Maurice E. Reddick, Production Adjustment Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013, 202-447-4695.

SUPPLEMENTARY INFORMATION: Since this amendment revises areas of venue which were recommended by the Florida State ASC Committee and it may be necessary soon to review one

are exempt from the payment limitation where it is certified that no individual Indian shall receive more than the payment limitation.

FARMING OPERATIONS

795.14 Changes in farming operations.
795.15 Determination whether agreement is a share lease or a cash lease.
795.16 Custom farming.

part of any payment which is determined by the Secretary to represent compensation for disaster loss, resource adjustment (excluding land di-

§ 795.6 Multiple individuals or other entities.

The rules in §§ 795.5 through 795.16 shall be used to determine whether one person, and an individual stockholder of the corporation may be considered as a separate person to the extent that such stockholder is en-

SUPPLEMENTARY INFORMATION: Since this amendment revises areas of venue which were recommended by the Florida State ASC Committee and it may be necessary soon to review one or more marketing quotas in areas of venue that are changed by this amendment, it is hereby determined and found that compliance with the notice, public procedure, and effective date requirements of 5 U.S.C. 553 is impracticable and contrary to the public interest.

FINAL RULE

The areas of venue for the State of Florida in 7 CFR section 711.29 are amended to read as follows:

§ 711.29 Establishment of Area of Venue.

* * * * *

FLORIDA

Counties of:

Area I—Alachua, Baker, Bradford, Brevard, Broward, Charlotte, Citrus, Clay, Collier, Columbia, Dade, DeSoto, Dixie, Duval, Flagler, Gilchrist, Glades, Hamilton, Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Lafayette, Lake, Lee, Levy, Madison, Manatee, Marion, Martin, Monroe, Nassau, Okeechobee, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, Putnam, St. Johns, St. Lucie, Sarasota, Seminole, Sumter, Suwannee, Taylor, Union, and Volusia.

Area II—Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Okaloosa, Santa Rosa, Wakulla, Walton, and Washington.

(Secs. 301, 363–368, 375, 52 Stat. 38, as amended, 63, 64, as amended, 66, as amended; (7 U.S.C. 1301, 1363–1368, 1375).)

NOTE.—The Agricultural Stabilization and Conservation Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Signed at Washington, D.C., on February 28, 1978.

STEWART N. SMITH,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 78-6097 Filed 3-9-78; 8:45 am]

[3410-05]

PART 795—PAYMENT LIMITATION

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document reissues the regulations governing the payment limitation effective for the 1978–81 crop years and changes the payment limitation from $20,000 for wheat, feed grains, and upland cotton and the payment limitation from $55,000 for rice. Indian tribal ventures are exempt from the payment limitation where it is certified that no individual Indian shall receive more than the payment limitation.

EFFECTIVE DATE: March 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert Coplin, Production Adjustment Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013, 202-447-4541.

SUPPLEMENTARY INFORMATION: The regulations are revised in accordance with Title I of the Food and Agriculture Act of 1977, Pub. L. 95-113, 91 Stat. 917, approved September 29, 1977, provides that the total amount of deficiency payments which a person shall be entitled to receive under one or more of the wheat, feed grain and upland cotton programs shall be limited to $40,000 in 1978 and $45,000 in 1979. Rice payments for 1978 shall be limited to $52,250 and $50,000 in 1979. The total amount of payments which a person shall be entitled to receive under one or more of the annual wheat, feed grains, upland cotton, and rice programs shall not exceed $50,000 for each of the 1980 and 1981 crops. Beginning in 1978, payments which represent compensation for disaster loss or resource adjustment (excluding land diversion payments) or public access for recreation are exempt from the limitation.

Since payment limitation cases are being reviewed and the reissuance of this part incorporates only changes in the law, it is essential that this final rule be effective as soon as possible. Therefore compliance with the Notice of Proposed Rulemaking, public participation procedure, and 30-day effective date provision of 5 U.S.C. 553 are unnecessary. Accordingly, this regulation is being reissued without compliance with such procedure.

GENERAL

Sec.
795.1 Basis and purpose.
795.2 Applicability.

DEFINITION

795.3 Definition of the term "person."
795.4 Definitions of other terms.

DETERMINATION WHETHER MULTIPLE INDIVIDUALS OR OTHER ENTITIES CONSTITUTE ONE OR SEPARATE PERSONS

795.5 Timing for determining status of persons.
795.6 Multiple individuals or other entities.
795.7 Entities or joint operations not considered as a person.
795.8 Corporations and stockholders.
795.9 Estate or trust.
795.10 Club, society, fraternal or religious organization.
795.11 Husband and wife.
795.12 Minor children.
795.13 Other cases.

FARMING OPERATIONS

795.14 Changes in farming operations.
795.15 Determination whether agreement is a share lease or a cash lease.
795.16 Custom farming.

SCHEME OR DEVICE

795.17 Scheme or device.

ADJUSTMENT IN SET-ASIDE REQUIREMENT

795.18 Request for downward adjustment in set-aside requirement.
795.19 Computation of reduction in set-aside requirement.

MISCELLANEOUS

795.20 Joint and several liability.
795.21 Appeals.
795.22 Interpretations.

AUTHORITY: Title I of the Food and Agriculture Act of 1977, Pub. L. 93-86, 87 Stat. 221, approved September 29, 1977.

GENERAL

§ 795.1 Basis and purpose.

(a) The Food and Agriculture Act of 1977 provides that: (1) The total amount of payments which a person shall be entitled to receive under one or more of the annual programs for wheat, feed grains, and upland cotton shall be limited to $40,000 in 1978 and $45,000 in 1979.

(2) Rice payments for 1978 shall be limited to $52,250 in 1978 and $50,000 in 1979.

(3) For each of the 1980 and 1981 crops there will be a payment limitation of $50,000 for total payments received under one or more of the annual wheat, feed grains, upland cotton, and rice programs.

(b) This limitation is hereinafter referred to as "the payment limitation" or "limitation".

(c) The Act provides that the Secretary shall issue regulations defining the term "person" and prescribing such rules as he determines necessary to assume a fair and reasonable application of such limitation.

§ 795.2 Applicability.

(a) The provisions of this part are applicable to all payments made pursuant to the regulations in this Chapter for 1978 through 1981 programs for wheat (Title IV) and for feed grain (Title V), upland cotton (Title VI), and rice (Title VII) of the Food and Agriculture Act of 1977.

(b) The limitation shall be applied to the total of wheat, feed grain and upland cotton program payments and separately for the rice program for each of the 1978 and 1979 crops. For each of the 1980 and 1981 crops, the $50,000 payment limitation will apply to the total payments received under one or more of the annual wheat, feed grains, upland cotton and rice programs.

(c) The limitation shall not be applicable to loans or purchases, or any part of any payment which is determined by the Secretary to represent compensation for disaster loss, resource adjustment (excluding land diversion payments), or public access for recreation.

(d) The limitation shall not be applicable to payments made to States, political subdivisions, or agencies thereof for participation in the programs on lands owned by such States, political subdivisions, or agencies thereof so long as such lands are farmed primarily in the direct furtherance of a public function. The limitation is applicable to persons who rent or lease land owned by States, political subdivisions, or agencies thereof.

(e) The limitation shall not be applicable to payments made to Indian tribal ventures for participating in the programs where a responsible official of the Bureau of Indian Affairs or the Indian Tribal Council certifies that no more than the program payment limitation shall accrue directly or indirectly to any individual Indian and the State ASC committee reviews and approves the case.

DEFINITIONS

§ 795.3 Definition of the term "person".

Subject to the provisions of this part, the term "person" shall mean an individual, joint stock company, corporation, association, trust, estate, or other legal entity. In order to be considered a separate person for the purpose of the payment limitation, in addition to other conditions of this part, the individual or other legal entity must:

(a) Have a separate and distinct interest in the land or the crop involved,

(b) Exercise separate responsibility for such interest, and

(c) Be responsible for the cost of farming related to such interest from a fund or account separate from that of any other individual or entity.

§ 795.4 Definitions of other terms.

In the regulations in this part and in all instructions, forms, and documents in connection therewith, all words and phrases, other than the term "person", shall have the meanings assigned to them in the regulations governing reconstitutions of farms, allotments, and bases, Part 719 of this chapter, as amended.

DETERMINATION WHETHER MULTIPLE INDIVIDUALS OR OTHER ENTITIES CONSTITUTE ONE OR SEPARATE PERSONS

§ 795.5 Timing for determining status of persons.

Except as otherwise set forth in this part, the status of individuals or entities on March 1 of the current year shall be the basis on which determinations are made under the regulations for such year.

§ 795.6 Multiple individuals or other entities.

The rules in §§ 795.5 through 795.16 shall be used to determine whether certain multiple individuals or legal entities are to be treated as one person or as separate persons for the purpose of applying the limitation. In cases in which more than one rule would appear to be applicable, the rule which is most restrictive on the number of persons shall apply.

§ 795.7 Entities or joint operations not considered as a person.

A partnership, joint venture, tenants-in-common, or joint tenants shall not be considered as a person but, notwithstanding the provisions of § 795.3, each individual or other legal entity who shares in the proceeds derived from farming by such joint operations shall be considered a separate person, except as otherwise provided in this part, and shall be listed as a producer for payment purposes on program documents. The payment shares listed on the program documents for each individual or other legal entity shall be the same as each individual or other legal entity shares in the proceeds derived from farming by such joint operation. Notwithstanding the foregoing, each individual or other legal entity who shares in the proceeds derived from farming by such joint operation shall not be considered as a separate person unless the individual or other legal entity is actively engaged in the farming operations of the partnership or other joint operation. An individual or other legal entity shall be considered as actively engaged in the farming operation only if its contribution to the joint operation is commensurate with its share in the proceeds derived from farming by such joint operation. Members of the partnership or joint venture must furnish satisfactory evidence that their contributions of land, labor, management, equipment, or capital to the joint operation are commensurate with their claimed shares of the proceeds. A capital contribution may be a direct out-of-pocket input of a specified sum or an amount borrowed by the individual. If the contribution consists substantially of capital, such capital must have been contributed directly to the joint operation by the individual or other legal entity and not acquired as a result of (a) a loan made to the joint operation, (b) a loan which was made to such individual or other legal entity by the joint operation or any of its members or related entities, or (c) a loan made to such individual or other legal entity which was guaranteed by the joint operation or any of its members or related entities.

§ 795.8 Corporations and stockholders.

(a) A corporation (including a limited partnership) shall be considered as one person, and an individual stockholder of the corporation may be considered as a separate person to the extent that such stockholder is engaged in the production of the crop as a separate producer and otherwise meets the requirements of § 795.3, except that a corporation in which more than 50 percent of the stock is owned by an individual (including the stock owned by the individual's spouse, minor children, and trusts for the benefit of such minor children), or by a legal entity, shall not be considered as a separate person from such individual or legal entity.

(b) Where the same two or more individuals or other legal entities own more than 50 percent of the stock in each of two or more corporations, all such corporations shall be considered as one person.

(c) The percentage share of the value of the stock owned by an individual or other legal entity shall be determined as of March 1 of the crop year, except that where a stockholder voluntarily acquires stock after March 1 and before the harvest of the crop, the amount of any stock so acquired shall be included in determining the percentage share of the value of the stock owned by the stockholder. Where there is only one class of stock, a stockholder's percentage share of the value of the stock owned by a stockholder shall be determined by the Deputy Administrator on the basis of market quotations, and if market quotations are lacking or too scarce to be recognized the percentage share of the value of the stock shall be determined by the Deputy Administrator on the basis of all relevant factors affecting the fair market value, including the rights and privileges of the various stock issues.

§ 795.9 Estate or trust.

(a) An estate or irrevocable trust shall be considered as one person except that, where two or more estates or irrevocable trusts have common beneficiaries or heirs (including spouses and minor children) with more than a 50-percent interest, all such estates or irrevocable trusts shall be considered as one person.

(b) An individual heir of an estate or beneficiary of a trust may be considered as a separate person to the extent that such heir or beneficiary is engaged in the production of crops as a separate producer and otherwise meets the requirements of § 795.3, except that an estate or irrevocable trust which has a sole heir or beneficiary shall not be considered as a separate person from such heir or beneficiary.

(c) Where an irrevocable trust or an estate is a producer on a farm and one or more of the beneficiaries or heirs of such trust or estate are minor chil-

dren, the minor children's pro rata share of the program payments to the trust or estate shall be attributed to the parent of the minor children except as otherwise provided in

be treated as one person or separate persons, all the facts regarding the arrangement under which the commodity is produced shall be submitted to the State committee for decision.

The corporation would then cash lease a portion of the farmland owned and previously operated by the individuals with the objective of having the corporation considered as a separate person for purposes of ap-

(b) A person having more than a 20-percent interest in any legal entity performing custom farming shall be considered as being separate from the person for whom the custom farming

application for downward adjustment is filed.

[3410-02]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING

dren, the minor children's pro rata share of the program payments to the trust or estate shall be attributed to the parent of the minor children except as otherwise provided in § 795.12.

(d) A revocable trust shall not be considered as a separate person from the grantor.

§ 795.10 Club, society, fraternal or religious organization.

Each individual club, society, fraternal or religious organization may be considered as a separate person to the extent that each such club, society, fraternal or religious organization is engaged in the production of crops as a separate producer and otherwise meets the requirements of § 795.3.

§ 795.11 Husband and wife.

A husband and wife shall be considered as one person.

§ 795.12 Minor children.

(a) A minor child and his parents or guardian (or other person responsible for him) shall be considered as one person, except that the minor child may be considered as a separate person if such minor child is a producer on a farm in which the parents or guardian or other person responsible for him (including any entity in which the parents or guardian or other person responsible for him has a substantial interest, i.e., more than a 20-percent interest) takes no part in the operation of the farm (including any activities as a custom farmer) and owns no interest in the farm or allotment or in any portion of the production on the farm, and if such minor child:

(1) Is represented by a court-appointed guardian who is required by law to make a separate accounting for the minor and the ownership of the farm is vested in the minor, or

(2) Has established and maintains a different household from his parents or guardian and personally carries out the actual farming operations on the farm for which there is a separate accounting, or

(3) Has a farming operation resulting from his being the beneficiary of an irrevocable trust and ownership of the property is vested in the trust or the minor.

(b) A person shall be considered a minor until he reaches 18 years of age. Court proceedings conferring majority on a person under 18 years of age will not change such person's status as a minor for purposes of applying the regulations.

§ 795.13 Other cases.

Where the county committee is unable to determine whether certain individuals or legal entities involved in the production of a commodity are to be treated as one person or separate persons, all the facts regarding the arrangement under which the commodity is produced shall be submitted to the State committee for decision. Where the State committee is unable to determine whether such individuals or legal entities are to be treated as one person or separate persons, all the facts regarding the arrangement under which the farming operation is conducted shall be submitted to the Deputy Administrator for decision.

FARMING OPERATIONS

§ 795.14 Changes in farming operations.

(a) Subject to the provisions of this part, a person may exercise his or her right heretofore existing under law, to divide, sell, transfer, rent, or lease his or her property if such division, sale, transfer, rental arrangement, or lease is legally binding as between the parties thereto. However, any document representing a division, sale, transfer, rental arrangement, or lease which is fictitious or not legally binding between the parties thereto shall be considered to be for the purpose of evading the payment limitation and shall be disregarded for the purpose of applying the payment limitation. Any change in farming operations that would otherwise serve to increase the number of persons for application of the payment limitation must be bona fide and substantive.

(b) A substantive change includes, for example, a substantial increase or decrease in the size of the farm by purchase, sale, or lease; a substantial increase or decrease in the size of allotment by purchase, sale, or lease; a change from a cash lease to a share lease or vice versa; and dissolution of an entity such as a corporation or partnership.

(c) Examples of the types of changes that would not be considered as substantive are the following:

Example 1. A corporation is owned equally by four shareholders. The corporation owns land, buildings, and equipment and in the prior year carried out substantial farming operations. Three of the shareholders propose forming a partnership which they would own equally. The partnership would cash lease land and equipment from the corporation with the objective of having the three partners considered as separate persons for purposes of applying the payment limitation under the provisions of § 795.7 of the regulations.

The formation of such a partnership and the leasing of land from a corporation in which they hold a major interest would not constitute a substantive and bona fide change in operations. Therefore, the corporation and the partners would be limited to a single payment limitation.

Example 2. Three individuals each have individual farming operations which, if continued unchanged, would permit them to have a total of three payment limitations.

The three individuals propose forming a corporation which they would own equally. The corporation would then cash lease a portion of the farmland owned and previously operated by the individuals with the objective of having the corporation considered as a separate person for purposes of applying the payment limitation under the provisions of § 795.8 of the regulations. The formation of such a corporation and the leasing of land from the stockholders would not constitute a substantive and bona fide change in operations. Therefore, the corporation and the three individuals would be limited to three payment limitations.

§ 795.15 Determination whether agreement is a share lease or a cash lease.

(a) *Cash lease.* In any case where a cash rental agreement contains provisions that call for an increase or decrease in the cash rent on the basis of the amount of the crop produced or the proceeds derived from the crop, such agreement shall be regarded as a share rental agreement for the purposes of this part if treating it as a cash rental agreement would result in a smaller reduction in program payments under this part.

(b) *Share lease.* In any case of a share rental agreement which contains provisions for a guaranteed minimum rental or a limitation on the amount of rent to be paid to the landlord by the tenant, such agreement shall be regarded as a cash rental agreement for the purposes of this part if treating it as a share rental agreement would result in a smaller reduction in program payments under the regulations in this part.

§ 795.16 Custom farming.

(a) Custom farming is the performance of services on a farm such as land preparation, seeding, cultivating, applying pesticides, and harvesting for hire with remuneration on a unit of work basis, except that, for the purpose of applying the provisions of this section, the harvesting of crops and the application of agricultural chemicals by firms regularly engaged in such businesses shall not be regarded as custom farming. A person performing custom farming shall be considered as being separate from the person for whom the custom farming is performed only if: (1) The compensation for the custom farming is paid at a unit of work rate customary in the area and is in no way dependent upon the amount of the crop produced, and (2) the person performing the custom farming (and any other entity in which such person has more than a 20-percent interest) has no interest, directly or indirectly, (i) in the crop on the farm by taking any risk in the production of the crop, sharing in the proceeds of the crop, granting or guaranteeing the financing of the crop, (ii) in the allotment on the farm, or (iii) in the farm as landowner, landlord, mortgage holder, trustee, lienholder, guarantor, agent, manager, tenant, sharecropper, or any other similar capacity.

(b) A person having more than a 20-percent interest in any legal entity performing custom farming shall be considered as being separate from the person for whom the custom farming is performed only if: (1) The compensation for the custom farming service is paid at a unit of work rate customary in the area and is in no way dependent upon the amount of the crop produced, and (2) the person having such interest in the legal entity performing the custom farming has no interest, directly or indirectly, (i) in the crop on the farm by taking any risk in the production of the crop, sharing in the proceeds of the crop, granting or guaranteeing the financing of the crop, (ii) in the allotment on the farm, or (iii) in the farm as landowner, landlord, mortgage holder, trustee, lienholder, guarantor, agent, manager, tenant, sharecropper, or in any other similar capacity.

SCHEME OR DEVICE

§ 795.17 Scheme or device.

All or any part of the payments otherwise due a person under the upland cotton, wheat, feed grain and rice programs on all farms in which the person has an interest may be withheld or required to be refunded if the person adopts or participates in adopting any scheme or device designed to evade or which has the effect of evading the rules of this part. Such acts shall include, but are not limited to, concealing from the county committee any information having a bearing on the application of the rules in this part or submitting false information to the county committee (for example, a set-aside agreement which is entered into that differs from information furnished to the county committee concerning the manner in which program payments are actually shared, concerning the actual facts of a sale, or concerning the transfer of property) or creating fictitious entities for the purpose of concealing the interest of a person in a farming operation.

ADJUSTMENT IN SET-ASIDE REQUIREMENT

§ 795.18 Request for downward adjustment in set-aside requirement.

A producer whose payments under the upland cotton, wheat, feed grain or rice program may be reduced because of the limitation may request a downward adjustment in the set-aside requirement for the farm. The request shall be in writing and shall be filed with the county committee by a date prescribed by the Deputy Administrator. If such a producer is sharing in the payments in two or more counties, it shall be the producer's responsibility to furnish information concerning his participation in the other counties to the county committee in which the application for downward adjustment is filed.

§ 795.19 Computation of reduction in set-aside requirement.

In accordance with instructions issued by the Deputy Administrator, the reduction in the set-aside requirement shall be computed by determining the percentage by which the producer's estimated payments are reduced because of the application of the payment limitation and multiplying the number of acres in the producer's portion of the set-aside requirement for the farm or farms participating in the program by this percentage. If the producer is participating in the program on two or more farms, he may elect to have the reduction divided among the farms in such proportion as he may designate.

MISCELLANEOUS

§ 795.20 Joint and several liability.

Where two or more individuals or legal entities, who are treated as one person hereunder, receive payments which in the aggregate exceed the limitation, such individuals or legal entities shall be liable, jointly and severally, for any liability arising therefrom. The provisions of this part requiring the refund of payments shall be applicable in addition to any liability under criminal and civil fraud statutes.

§ 795.21 Appeals.

Any person may obtain reconsideration and review of determinations made under this part in accordance with the appeal regulations, Part 780 of this chapter, as amended.

§ 795.22 Interpretations.

In interpretations previously issued pursuant to the payment limitation regulations and published at 36 FR 16569, 37 FR 3049, 39 FR 15021 and 41 FR 17527 shall be applicable in construing the provisions of this part.

Signed at Washington, D.C., on March 1, 1978.

RAY FITZGERALD,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 78-5965 Filed 3-9-78; 8:45 am]

[3410-02]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Regulation 136]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period March 12-18, 1978. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: March 12, 1978.

FOR FURTHER INFORMATION CONTACT:
Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, and upon other information, it is found that the limitation of handling of lemons, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on March 7, 1978, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons remains good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared

purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.436 Lemon Regulation 136.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period March 12, 1978, through March 18, 1978, is established at 225,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: March 8, 1978.

CHARLES R. BRADER.
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-6538 Filed 3-9-78; 11:23 am]

[6714-01]

Title 12—Banks and Banking

CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

PART 303—APPLICATIONS, REQUESTS AND SUBMITTALS

Delegations of Authority

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: These rules widen the authority delegated by FDIC's Board of Directors to the Director of the Division of Bank Supervision and Regional Directors (1) to consider requests for extensions of time within which to perform acts or conditions required by prior action on bank applications and (2) to approve branch applications by mutual or guaranty savings banks. The changes are considered necessary to insure that meritorious applications are disposed of promptly through delegated authority, without the necessity for formal action by the Board of Directors.

EFFECTIVE DATE: March 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Jack Edgington, Assistant Director, Operations Branch, Division of Bank Supervision, Federal Deposit Insurance Corporation, Washington, D.C. 20429, 202-389-4404.

SUPPLEMENTARY INFORMATION: Sections 303.11 and 303.12 of the FDIC Rules and Regulations discuss the situations where authority to act on certain applications is delegated by the FDIC Board of Directors to the Director of the Division of Bank Supervision or to Regional Directors.

Section 303.11(a)(5) currently permits the use of delegated authority to consider requests for extensions of time, not to exceed 1 year on any one request, within which to perform acts or conditions required by prior FDIC action on bank applications. However, an aggregate three year limit is imposed for requests relating to the same application. Experience has shown that in many cases, delays exceeding three years are caused by situations beyond bank management's control such as zoning problems or construction delays. The amendment to this section removes the aggregate three year limit. One year extensions may be granted through delegated authority, except where an unjustified delay is due to actions of management, or where there is an interim change of an adverse nature.

Section 303.12(c)(5) currently does not permit a branch application by a mutual or guaranty savings bank to be approved by delegated authority where the applicant's adjusted capital and reserves constitute less than 6 percent of its adjusted gross assets. Recent experience has shown that this requirement results in the Board of Directors having to consider many meritorious applications which could be more quickly disposed of through the use of delegated authority. The amendment to this section would permit the Director of the Division of Bank Supervision to approve such applications where the applicant's adjusted capital and reserves constitute at least 5 percent of its adjusted gross assets. Regional Directors, however, will not have delegated authority to approve these applications where the applicant's adjusted capital and reserves are less than 6 percent of its adjusted gross assets.

These rules are procedural in nature. Therefore, the Board of Directors concludes that, pursuant to § 302.6 of the FDIC Rules and Regulations, good cause exists to dispense with notice and comment and a delayed effective date.

Accordingly, part 303 of 12 CFR is amended as set forth below.

By order of the Board of Directors, March 2, 1978.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

1. In § 303.11, paragraph (a)(5) is amended as follows:

§ 303.11 Delegation of authority to act on certain applications.

(a) • • •

(5) Requests for extension of time, not to exceed one year on any one request relating to the same application, within which to perform acts or conditions required by prior Corporation action on bank applications, except in those circumstances where unjustified delay is due to actions of management or there is interim change of an adverse nature;

• • • • • •

2. In § 303.12, paragraph (c)(5) is amended as follows:

§ 303.12 Applications where authority is not delegated.

• • • • • •

(c) • • •

(5) In the case of a mutual or guaranty savings bank, the applicant's adjusted' capital and reserves, including written commitments for additional capital funds, constitute at least 5 percent of its adjusted' gross assets; *Provided, however,* That the authority to make such a determination is not delegated to any Regional Director where the applicant's adjusted capital and reserves, including written commitments for additional capital funds, constitute less than 6 percent of its adjusted gross assets.

• • • • • •

[FR Doc. 78-6307 Filed 3-9-78; 8:45 am]

[6714-01]

PART 303—APPLICATIONS, REQUESTS, AND SUBMITTALS

Delegation of Authority To Suspend Time Deposit Withdrawal Penalties

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final delegation of authority to Director, Division of Bank Supervision, to grant applications for the suspension of time deposit withdrawal penalties in certain cases.

SUMMARY: This delegation of authority will authorize the Director, Division of Bank Supervision, to suspend the penalty normally required where all or part of a time deposit is withdrawn before maturity. The suspension would cover depositors who have suffered disaster-related losses in presidentially-declared disaster areas. Actual suspension of the penalty would be up to the bank of deposit.

EFFECTIVE DATE: March 10, 1978.

FOR FURTHER INFORMATION CONTACT:

F. Douglas Birdzell, Bank Regulation Section, Legal Division, Federal Deposit Insurance Corporation, Washington, D.C. 20429, 202-389-4324.

SUPPLEMENTARY INFORMATION: On three separate occasions within the last 2 years the FDIC has been asked to suspend the early withdrawal penalties in its regulations (12 CFR 329.4(d)) because of disasters, so declared by presidential proclamation. These suspensions were approved by FDIC's Board of Directors to give depositors maximum access to funds in a time of severe distress. In the interest of simplifying procedure and avoiding delay, the Board of Directors is delegating the authority to the Director, Division of Bank Supervision (or the appropriate FDIC Regional Director when confirmed by the Director, Division of Bank Supervision), to suspend the required withdrawal penalties for those depositors who suffer disaster-related losses in presidentially-declared disaster areas. Normally any suspension of the penalties will be retroactive to the date of the disaster and will remain in force for a period of 6 months. However, the suspension may be for a longer or shorter period depending upon the particular case. The suspension will allow depositors to withdraw, without penalty, all or part of their time deposits prior to maturity with the consent of the bank of deposit. The suspension, being for the benefit of depositors, will apply whether or not a bank is actually located in a disaster area. However, depositors seeking early withdrawal will be required, absent actual knowledge of loss by a bank official, to submit proof of loss occasioned by the particular disaster. This documentation may consist of insurance claim documents, photographs or the like.

This delegation of authority is issued pursuant to section 9 and 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1819 and 1828(g)).

12 CFR Part 303 is amended by adding a new subparagraph (11) to § 303.11(a) to read as follows:

§ 303.11 Delegation of authority to act on certain applications.

(a) *General.* • • •

(11) Applications for the suspension of the penalties contained in § 329.4(d) of FDIC's regulations (12 CFR 329.4(d)) for withdrawal of time deposits prior to maturity where a depositor has suffered a disaster-related loss in an area which has been declared a disaster area by presidential order pursuant to the Disaster Relief Act of 1974 (42 U.S.C. 5141), and the depositor furnishes proof of such loss satisfactory to the bank or an official of the bank of deposit has actual knowledge of the loss.

• • • • • •

The requirements of sections 553(b) and 553(d) of title 5 of the United States Code and §§ 302.1, 302.2, and 302.5 of the FDIC's regulations respecting public notice and comment and deferred effective date were not followed in connection with the promulgation of the regulation because it involves internal FDIC procedures and in no way restricts or otherwise affects existing rights.

By order of the Board of Directors.

Dated: March 2, 1978.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[FR Doc. 78-6308 Filed 3-9-78; 8:45 am]

[6714-01]

SUBCHAPTER B—REGULATIONS AND STATEMENTS OF GENERAL POLICY

PART 329—INTEREST ON DEPOSITS

Purchase of Funds from U.S. Treasury

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Board of Directors of the Federal Deposit Insurance Corporation ("Board," "FDIC") has amended FDIC's interest rate regulations so as to exempt from the prohibition against paying interest on demand deposits, an insured nonmember bank's liability on its promissory notes that evidence a short-term purchase of funds from the U.S. Treasury ("Treasury"). Consequently, nonmember banks will be able to pay interest on such obligations at rates to be negotiated with the Treasury. The reason for the action is to accommodate amendments to Treasury regulations which will require insured nonmember banks to pay interest on Treasury Tax and Loan Accounts ("TTL's").

EFFECTIVE DATE: March 10, 1978.

FOR FURTHER INFORMATION CONTACT:

F. Douglas Birdzell, Attorney Legal Division, Bank Regulation Section, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429, 202-389-4324.

SUPPLEMENTARY INFORMATION: Section 329.10(b)(1) of FDIC's regulations provides, in part, that an insured nonmember bank's liability on its promissory notes and similar obligations will not be considered a "deposit" of the bank for interest rate purposes if the note is issued to an agency of the United States. Under the amendments, a note issued by an insured nonmember bank to evidence its purchase of funds from the U.S. Treasury (generally considered funds of the United States and not an agency thereof) will also be exempt from the restrictions on interest payments which apply to deposits.

This action is taken in recognition of Pub. L. 95-147, which authorizes the Secretary of the Treasury to invest operating cash in obligations of depositories maintaining TTL's. The amendments will promote the purpose behind the legislation in that they will provide the Treasury with a means of obtaining interest on its cash balances.

The Treasury has issued proposed rules regarding implementation of Pub. L. 95-147 (42 FR 62308). The Board has decided that the amendments to FDIC's regulations should take effect immediately so as to allow insured nonmember banks to accommodate the Treasury regulations when they become effective.

These amendments aid in implementing new legislation. They will also augment regulations of the Treasury. The Board believes that significant public benefit will result from their immediate adoption. Consequently, the Board has determined that the procedures for notice, public participation, and deferred effective date as provided in sections 553(b) and 553(d) of the Administrative Procedure Act (12 U.S.C. 553(b) and 553(d)) and §§ 302.1, 302.2, and 302.5 of FDIC's regulations (12 CFR 302.1, 302.2, and 302.5) are unnecessary and would not serve the public interest.

Pursuant to sections 9 and 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1819 and 1828(g)), § 329.10(b)(1) of FDIC's regulations is amended as follows;

§ 329.10 Obligations other than deposits.

• • • • • •

(b) *Exceptions.* The provisions of this part 329 shall not apply to any obligation other than a deposit obligation of an insured nonmember bank that:

(1) Is issued to (or undertaken with respect to), and held for the account of: (i) a bank, (ii) any organization the time deposits of which are exempt from § 329.6 pursuant to the provisions of § 329.3(g), (iii) the United States or an agency thereof, or the Government Development Bank of Puerto Rico, or (iv) Minbanc Capital Corp. (where such obligation is subordinated to the claims of depositors to the extent of any deposits they may have in the issuing bank); • • •.

• • • • • •

By order of the Board of Directors.

Dated: March 2, 1978.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[FR Doc. 78-6306 Filed 3-9-78; 8:45 am]

[6720-01]

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

for the implementation of the NASA or NASA-related payload portion of an STS flight(s). The mission manager is designated by the field installation selected to execute the payload portion

§ 1214.303 Process.

(a) *Determining the need for payload specialist(s).* The Official-in-Charge of the sponsoring Program Office determines the need for a payload

Generally, this authority will be exercised when an IWG has not been convened for this purpose, the investigation(s) is unrelated by nature

[6720-01]

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[No. 78-122]

PART 545—OPERATIONS

Electronic Fund Transfers Through Remote Service Units

MARCH 7, 1978.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: This amendment will allow federally chartered savings and loan institutions to continue operating remote service units (RSUs) under the Board's temporary regulation until June 30, 1978. The Board's present regulations require that all such operations cease on March 31, 1978. This extension of time will allow accountholders to enjoy uninterrupted RSU service while the Board considers a permanent regulation covering electronic fund transfers proposed on February 15, 1978 (43 FR 7327). No applications for new RSUs will be accepted until the Board decides whether to adopt permanent regulations in this area.

EFFECTIVE DATE: March 31, 1978.

FOR FURTHER INFORMATION, CONTACT:

Harry W. Quillian, Associate General Counsel, Federal Home Loan Bank Board; telephone No. 202-377-6440.

SUPPLEMENTARY INFORMATION: The Federal Home Loan Bank Board, by Resolution No. 78-65 (43 FR 5010; February 7, 1978), proposed to amend paragraph (k) of 12 CFR 545.4-2 to temporarily extend the expiration date of that experimental remote service unit regulation from March 31, 1978, to June 30, 1978. Public comments were invited on the proposal by February 22, 1978. The Board received 6 public comment letters (3 federally chartered savings and loans and 3 trade associations); 4 favored adoption of the proposal, although two urged prompt promulgation of permanent regulations. The two banking trade associations which responded opposed the extension, one on the ground that the Board should await resolution by the court of its challenge to the legality of the regulations, the other on the ground that the Board should await Congressional guidance before proposing further RSU activity.

The Board believes that the proposed extension is in the public interest, and that any interruption of RSU service would be unwise.

Because this amendment relieves restriction and keeps temporarily in effect a regulation which the Board believes to be in the public interest, the Board finds that publication of the amendment for the 30-day period specified in 5 U.S.C. 553(d) and 12 CFR 508.14 prior to its effective date is unnecessary.

Accordingly, the Board hereby amends paragraph (k) of 12 CFR 545.4-2 to read as set forth below effective March 31, 1978. The Board also hereby extends through June 30, 1978, all previous approvals under 12 CFR 545.4-2 which would have expired on March 31, 1978.

§ 545.4-2 Remote service units (experimental provision).

* * * * *

(k) *Termination.* This section and any approval granted under this section shall automatically terminate at the close of June 30, 1978.

(Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 2, Pub. L. 93-100, 87 Stat. 342; Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943-48 Comp., 1071.)

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc. 78-6334 Filed 3-9-78; 8:45 am]

[7510-01]

Title 14—Aeronautics and Space

CHAPTER V—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

PART 1214—SPACE TRANSPORTATION SYSTEM

Subpart 1214.3—Payload Specialists for NASA or NASA-Related Payloads

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This rule prescribes NASA's policy on and process for the acquisition and utilization of payload specialists who operate NASA or NASA-related payloads aboard Space Transportation System (STS) flights. The advent of the STS has generated the opportunity for the onboard participation of such specialists. The intended effect of this rule is to introduce the payload specialist concept and to provide instructions regarding the acquisition and utilization of such specialists.

DATE: Effective March 10, 1978.

ADDRESS: Administrator, National Aeronautics and Space Administration, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT:

Edmond J. Golden, Deputy Director, Office of Procurement, Headquarters, National Aeronautics and Space Administration, Washington, D.C. 20546, telephone 202-755-2252.

SUPPLEMENTARY INFORMATION: Since the policy and procedures concern agency management and personnel and will be applied in agreements entered into by NASA, the notice and public procedures of 5 U.S.C. 553 were not followed since the policy and procedures are determined to be exempt under 5 U.S.C. 553(a)(2) as "a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts."

14 CFR Part 1214 is amended by revising the Part heading to read "Space Transportation System"; and by adding a new Subpart 1214.3 reading as follows:

Subpart 1214.3—Payload Specialists for NASA or NASA-Related Payloads

Sec.
1214.300 Scope.
1214.301 Definitions.
1214.302 Background.
1214.303 Policy.
1214.304 Process.
1214.305 Payload specialist responsibilities.
1214.306 Payload specialist relationship with sponsoring institutions.

AUTHORITY: 42 U.S.C. 2473.

Subpart 1214.3—Payload Specialists for NASA or NASA-Related Payloads

§ 1214.300 Scope.

This Subpart 1214.3 sets forth NASA's policy on and process for the acquisition and utilization of payload specialists who operate NASA or NASA-related payloads aboard Space Transportation System (STS) flights.

§ 1214.301 Definitions.

(a) *Payload specialist.* A payload specialist is an individual selected to operate assigned payload elements on a specific STS flight or mission.

(b) *NASA or NASA-related payload.* A NASA or NASA-related payload is a specific complement of instruments, space equipment and support hardware, developed by a NASA Program Office or by another party with which NASA has a shared interest, and carried into space to accomplish a mission or discrete activity in space.

(c) *Mission.* The performance of a coherent set of investigations or operations in space to achieve program goals. A single mission might require more than one flight, or more than one mission might be accomplished on a single flight.

(d) *Mission manager.* The mission manager is a NASA official responsible

for the implementation of the NASA or NASA-related payload portion of an STS flight(s). The mission manager is designated by the field installation selected to execute the payload portion of the flight(s).

(e) *Mission specialist.* A mission specialist is a career NASA Astronaut skilled in the operation of STS systems related to payload operations and thoroughly familiar with the operational requirements and objectives of the payloads with which the mission specialist will fly. The mission specialist, when designated for a flight, will participate in the planning of the mission and will be responsible for the coordination of overall payload/STS interaction. The mission specialist will direct the allocation of STS and crew resources to the accomplishment of the combined payload objectives during the payload operations phase of the flight in accordance with the approved flight plan.

(f) *Investigator working group (IWG).* An investigator working group (IWG) is a group, generally composed of the investigators, or their representatives, established in accordance with NASA Management Instruction 1150.1, whose primary purpose is facilitating or coordinating the development and execution of the operational plans of an approved NASA program or reporting the progress thereof. The IWG's work is primarily operational in nature; its advisory function, if any, is only incidental.

§ 1214.302 Background.

The Space Transportation System (STS) has been developed to expand the Nation's capabilities to utilize beneficially the space environment in a cost-effective way. It provides opportunity for onboard participation of investigators, their associates or other representatives of the payload community. Such participation by individuals associated with the investigations should enhance the probability of successful achievement of the payload objectives. Therefore, the concept of a payload specialist has been introduced in order to permit the utilization of various specialists as payload operators. The STS will provide these payload specialists with a habitable working environment and support services in such a way as to require a minimum of dedicated space flight training, allowing them to concentrate their efforts on the accomplishment of their scientific or technical objectives.

§ 1214.303 Policy.

NASA policy is to provide individuals associated with space investigations the opportunity to perform as payload specialists aboard STS flights to conduct measurements and observations in pursuance of mission objectives.

§ 1214.303 Process.

(a) *Determining the need for payload specialist(s).* The Official-in-Charge of the sponsoring Program Office determines the need for a payload specialist(s) to serve aboard an STS flight with the NASA or NASA-related payload. This determination may be made at the time of selection of investigations resulting from an Announcement of Opportunity issued in accordance with NASA Handbook 8030.6, or when the need becomes known during payload/mission development. The policy contained in NASA Management Instruction 3713.2C will be considered.

(b) *Selection of payload specialists.* (1) Except as provided in paragraph (b)(5) of this section, when the Official-in-Charge of the sponsoring Program Office has approved a payload for a mission and/or has otherwise determined a need for a payload specialist(s), the IWG will then commence the selection process.

(2) The IWG will examine the requirements for the selected investigations to determine the number and qualifications of payload specialists and backups that are necessary to support the investigations. Any support which can be provided by the flight crew will be included in these considerations by the IWG.

(3) The IWG members will solicit candidiate payload specialists. The solicitation will require as a minimum that a summary of professional qualifications, a medical history, and the results of the physical examination described in paragraph (b)(3)(iii) of this section be submitted. The IWG will be responsible for:

(i) Establishing professional and operational criteria for payload specialists for specific payloads.

(ii) Screening all candidates against the criteria established.

(iii) Selecting payload specialists from those candidates deemed professionally qualified and who meet the NASA Class III Space Flight Medical Selection Standards. The preselection phases of the medical examiniation will be conducted at various locations by certified examiners approved by the Director, Life Sciences Division, NASA Headquarters.

(4) The Official-in-Charge of the sponsoring Program Office will request that the Director of the Johnson Space Center supply the names and qualifications of appropriate mission specialists who are available to serve as payload specialists for the flight under consideration. These candidates will be considered by the IWG along with all other candidates.

(5) The Official-in-Charge of a sponsoring Program Office is authorized to select a payload specialist(s) as a part of or incident to the acquisition or selection of an investigation(s) for flight. Generally, this authority will be exercised when an IWG has not been convened for this purpose, the investigation(s) is unrelated by nature of its source or objective to the IWG's principal efforts, or other circumstance warrants such approach. In making such selection, the Official-in-Charge of the sponsoring Program Office is to consider the availability of mission specialists as required in paragraph (b)(4) of this section.

(c) *Approval of payload specialists.* The IWG will submit its payload specialist selections through the mission manager to the Official-in-Charge of the sponsoring Program Office for approval. The Official-in-Charge of the sponsoring Program Office will assure appropriate arrangements are made for the assignment of Government employees.

(d) *Preflight activities.* (1)(i) The payload specialist(s) in each assigned position will undergo training required to support the payload elements assigned to that position.

(ii) The IWG is responsible for defining the training necessary for payload elements within its cognizance. The mission manager will assist as necessary in carrying out these IWG defined activities and is responsible for the total integrated payload operations training.

(iii) The Office of Space Transportation Systems (STS) is responsible for training the payload specialists on those Orbiter, Spacelab, Interim Upper Stage, and/or payload support systems which do not vary with the payload being flown; the Office of STS will provide certification to the mission manager of the payload specialists' readiness for flight.

(iv) The mission manager is responsible for verifying that the payload specialists are properly trained for flight including payload and STS requirements.

(2) The medical program for payload specialists will be continued during the preflight period in accordance with the NASA Class III Space Flight Medical Selection Standards.

(3) If during the preflight period the number of payload specialists is reduced to fewer than that desired by the IWG, the IWG will initiate the necessary reprocessing to provide replacements.

(e) *Designation of primary and backup payload specialists (when required).* At an appropriate time designated by the mission manager, the IWG will determine which payload specialists are primary and which are backup. The designations will be forwarded through the mission manager to the Official-in-Charge of the sponsoring Program Office for approval. Consideration will be given to proficiency in both payload operations and STS operations as demonstrated during the training period.

§ 1214.305 Payload specialist responsibilities.

(a) *Operation of payload elements.* The payload specialist will be responsi-

[4110-03]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG AD-

the MIC panels. The Commissioner concludes that the date supplied by the manufacturer concerning these products are adequate to establish their safety and effectiveness when

(b) * * *

(14) *Suspension 14.* The test organism is *Staphylococcus aureus* (ATCC 29213).[1]

29249)[1]. Follow the procedure described for suspension 14 in paragraph (b)(14) of this section.

(20) *Suspension 20.* The test organ-

ries for determining susceptibility of microorganisms to antimicrobial drugs. The broth antimicrobial solutions are prepared from serially dilut-

§ 1214.305 Payload specialist responsibilities.

(a) *Operation of payload elements.* The payload specialist will be responsible for the operation of the assigned payload elements. The payload specialist is responsible to the authority of the mission specialist and operates in compliance with mission rules and Payload Operation Control Center directives. Onboard decisions concerning assigned payload operations will be made by the payload specialist. A payload specialist may be designated to resolve conflicts between payload elements and approve such deviations from the flight plan as may arise from equipment failures or STS factors. In the instance of STS factors, the mission specialist will present the available options for decisions by the payload specialist.

(b) *Operation of STS equipment.* The payload specialist will be responsible for knowing how to operate certain Orbiter systems, such as hatches, food and hygiene systems, and for proficiency in those normal and emergency procedures which are required for safe crew operations.

(c) *Relationship with flight crew.* The responsibility for on-orbit management of Orbiter systems and attached payload support systems and for extravehicular activity and payload manipulation with the Remote Manipulator System will rest with the flight crew since extensive training is required for safe and efficient operation of these systems. In general, the flight crew will operate Orbiter systems and standard payload support systems, such as Spacelab and Interim Upper Stage systems; the mission specialist and/or payload specialists will operate payload support systems which have an extensive interface with the payload.

§ 1214.306 Payload specialist relationship with sponsoring institutions.

A payload specialist who is not a U.S. Government employee must have entered into a contractual or other arrangement establishing an obligatory relationship with an institution participating in the payload prior to entering into training at a NASA installation or NASA designated location. It is not the intention of NASA to enter into any direct contractual or other arrangement with payload specialists. Any exception must be approved by the Official-in-Charge of the sponsoring Program Office with the concurrence of the NASA General Counsel and the Director of Procurement.

Effective date: This amendment takes effect on March 10, 1978.

ROBERT A. FROSCH,
Administrator.

[FR Doc. 78-6336—Filed 3-9-78; 8:45 am]

[4110-03]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 77N-0167]

PART 431—CERTIFICATION OF ANTIBIOTIC DRUGS

PART 460—ANTIBIOTIC DRUGS INTENDED FOR USE IN LABORATORY DIAGNOSIS OF DISEASE

Microdilution Minimal Inhibitory Concentration Panels

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This rule provides for the certification of certain in vitro diagnostic devices containing antimicrobials, which are known as microdilution minimal inhibitory concentration (MIC) panels. Under section 507 of the Federal Food, Drug, and Cosmetic Act, the manufacturer has supplied sufficient data and information to establish the safety and effectiveness of MIC panels when used as directed in the labeling.

EFFECTIVE DATE: March 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Joseph Hackett, Bureau of Medical Devices (HFK-403), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, Md. 20910, 301-427-7443.

SUPPLEMENTARY INFORMATION: The microdilution minimal inhibitory concentration (MIC) panels consist of three antimicrobial susceptibility test panes: A Gram-positive panel, a Gram-negative panel and a combination identification panel. The panels are used in clinical laboratories for determining susceptibility of micro-organisms to antimicrobial drugs. The procedures in this rule provide for the testing of the panels and of the bulk antimicrobial stock solutions from which the panels are prepared. The panels are tested for purity, identity, and performance, and the bulk stock solutions are assayed for potency and pH.

The Commissioner of Food and Drugs has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to providing for the certification of the MIC panels. The Commissioner concludes that the date supplied by the manufacturer concerning these products are adequate to establish their safety and effectiveness when used as directed in the labeling and that the regulations should be amended in Parts 431 and 460 (21 CFR Parts 431 and 460) to provide for their certification.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner (21 CFR 5.1), Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

1. In Part 431, by amending § 431.53(b)(1) in the table by inserting alphabetically a new entry to read as follows:

§ 431.53 Fees.

* * * * *

(b) * * *

(1) * * *

Test:	*Chargeable fee per test*
* * *	* * *
Frozen antibiotic test panel	22
* * *	* * *

* * * * *

2. In Part 460:

a. In Subpart A by amending § 460.6 by adding new paragraphs (a) (14), (15), (16), and (17) and (b) (14) through (22) to read as follows:

§ 460.6 Tests and methods of assay for potency of antibiotic susceptibility discs.

(a) * * *

(14) *Medium N:*

Infusion from beef (gm)	300.0
Acid hydrolysate of casein (gm)	17.5
Starch (gm)	1.5
Distilled water, q.s. (ml)	1,000.0

pH 7.4 after sterilization.

(15) *Medium O:*

Calf brains, infustion from (gm)	200.0
Beef heart, infusion from (gm)	250.0
Pancreatic digest of gelatin (gm)	10.0
Dextrose (gm)	2.0
Sodium chloride (gm)	5.0
Sodium phosphate dibasic (Na_2HPO_4) (gm)	2.5
Distilled water, q.s. (ml)	1,000.0

pH 7.4 after sterilization.

(16) *Medium P.* Same as medium J with 5 percent defibrinated sheep blood added.

(17) *Medium Q:*

Pancreatic digest of gelatin (gm)	17.0
Pancreatic digest of casein plus equal part of peptic digest of animal tissues (gm)	3.0
Lactose (gm)	10.0
Bile salts mixture (gm)	1.5
Sodium chloride (gm)	5.0
Agar (gm)	13.5
Neutral red (gm)	0.06
Crystal violet (gm)	0.001
Distilled water, q.s. (ml)	1,000.0

pH 7.1 after sterilization.

(b) * * *

(14) *Suspension 14.* The test organism is *Staphylococcus aureus* (ATCC 29213).[1]

(i) *Stock culture.* Transfer a lyophilized culture into medium K in a sterile container and incubate at 37° C for 24 hours. Streak the culture onto the solidified agar surface of a plate containing medium P and incubate the plate at 37° C for 24 hours. Transfer 5 to 10 colonies into 3 milliliters of medium O in a sterile container and incubate at 37° C for 24 hours. Add 3 milliliters of sterile glycerol or 3 milliliters of sterile rabbit serum to the broth culture, mix well and pour the contents into a sterile flask containing a layer of sterile glass beads. Rotate the flask to coat the beads with the culture mixture and aseptically aspirate all the excess liquid from the flask. Store the flask containing the coated glass beads at −20° C to −70° C.

(ii) *Test suspension.* Aseptically add a coated glass bead to 0.5 milliliter of medium O and incubate at 37° C for 24 hours. Streak the culture onto the solidified agar surface of a plate containing medium P and incubate at 37° C for 24 hours. The streak plate may be used for 1 week if kept under refrigeration. On the day of test, transfer 4 to 10 colonies to a sterile tube containing 0.5 milliliter of medium O and incubate at 37° C for 4 to 6 hours. Pipet 0.05 milliliter of the test suspension into a screw-topped tube containing 25 milliliters of sterile distilled water and 0.005 milliliter of sterile polysorbate 80 and mix well (do not shake). Use this test culture suspension as the daily inoculum source.

(15) *Suspension 15.* The test organism is *Escherichia coli* (ATCC 25922).[1] Follow the procedure described for suspension 14 in paragraph (b)(14) of this section, except under paragraph (b)(14)(ii) of this section use medium Q in place of medium P.

(16) *Suspension 16.* The test organism is *Streptococcus faecalis* (ATCC 29212)[1]. Follow the procedure described for suspension 14 in paragraph (b)(14) of this section.

(17) *Suspension 17.* The test organism is *Pseudomonas aeruginosa* (ATCC 27853)[1]. Follow the procedure described for suspension 14 in paragraph (b)(14) of this section, except under paragraph (b)(14)(ii) of this section use medium Q is place of medium P.

(18) *Suspension 18.* The test organism is *Staphylococcus aureus* (ATCC 29247)[1]. Follow the procedure described for suspension 14 in paragraph (b)(14) of this section.

(19) *Suspension 19.* The test organism is *Enterobacter cloacae* (ATCC 29249)[1]. Follow the procedure described for suspension 14 in paragraph (b)(14) of this section.

(20) *Suspension 20.* The test organism is *Pseudomonas aeruginosa* (ATCC 29248)[1]. Follow the procedure described for suspension 14 in paragraph (b)(14) of this section, except under paragraph (b)(14)(ii) of this section use medium Q is place of medium P.

b. By adding new Subpart C to read as follows:

Subpart C—Susceptibility Test Panels

Sec.

460.100 Antimicrobial susceptibility test panels.

460.110 Ampicillin concentrated stock solutions for use in antimicrobial susceptibility test panels.

460.113 Carbenicillin concentrated stock solutions for use in antimicrobial susceptibility test panels.

460.116 Cephalothin concentrated stock solutions for use in antimicrobial susceptibility test panels.

460.119 Chloramphenicol concentrated stock solutions for use in antimicrobial susceptibility test panels.

460.122 Clindamycin concentrated stock solutions for use in antimicrobial susceptibility test panels.

460.125 Colistin concentrated stock solutions for use in antimicrobial susceptibility test panels.

460.128 Erythromycin concentrated stock solutions for use in antimicrobial susceptibility test panels.

460.131 Gentamicin concentrated stock solutions for use in antimicrobial susceptibility test panels.

460.134 Kanamycin concentrated stock solutions for use in antimicrobial susceptibility test panels.

460.137 Methicillin concentrated stock solutions for use in antimicrobial susceptibility test panels.

460.140 Penicillin G concentrated stock solutions for use in antimicrobial susceptibility test panels.

460.146 Tetracycline concentrated stock solutions for use in antimicrobial susceptibility test panels.

460.149 Tobramycin concentrated stock solutions for use in antimicrobial susceptibility test panels.

460.152 Trimethoprim concentrated stock solutions for use in antimicrobial susceptibility test panels.

460.153 Sulfamethoxazole concentrated stock solutions for use in antimicrobial susceptibility test panels.

AUTHORITY: Sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357).

Subpart C—Susceptibility Test Panels

§ 460.100 Antimicrobial susceptibility test panels.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Antimicrobial susceptibility test panels are polystyrene trays molded with separate wells which contain frozen aliquots of antibiotic and non-antibiotic antimicrobial solutions in Mueller-Hinton broth. The trays are used in clinical laboratories for determining susceptibility of microorganisms to antimicrobial drugs. The broth antimicrobial solutions are prepared from serially diluted antimicrobial stock solutions. The concentrated aqueous antimicrobial stock solutions must conform to the requirements for certification prescribed by this section.

(2) *Labeling.* In addition to the requirements of §§ 432.5 and 809.10 of this chapter, each test panel shall bear on its label or labeling, as hereinafter indicated, the following:

(i) On the outside wrapper or immediate container of trays:

(*a*) The batch mark.

(*b*) The name and potency of each solution in the batch according to the following:

Name of drug	*Content of antimicrobic in micrograms per milliliter*
Ampicillin (gram-positive panel)	8, 4, 2, 1, 0.5, 0.25, 0.12.
Ampicillin (gram-negative panel)	16, 8, 4, 2, 1, 0.5, 0.25.
Carbenicillin	512, 256, 128, 64, 32, 16, 8.
Cephalothin	64, 32, 16, 8, 4, 2, 1.
Chloramphenicol	32, 16, 8, 4, 2, 1, 0.5.
Clindamycin	16, 8, 4, 2, 1, 0.5, 0.25.
Colistin	4.
Erythromycin	16, 8, 4, 2, 1, 0.5, 0.25.
Gentamicin	16, 8, 4, 2, 1, 0.5, 0.25.
Kanamycin	64, 32, 16, 8, 4, 2, 1.
Methicillin	16, 8, 4, 2, 1, 0.5, 0.25.
Penicillin G	4, 2, 1, 0.5, 0.25, 0.12, 0.06.
Tetracycline	16, 8, 4, 2, 1, 0.5, 0.25.
Tobramycin	16, 8, 4, 2, 1, 0.5, 0.25.
Nitrofurantoin	64.
Trimethoprim (gram-positive and gram-negative panel)	32, 16, 8, 4, 2, 1, 0.5.
Trimethoprim (combination identification panel)	2.
Sulfamethoxazole (gram-positive and gram-negative panel)	608, 304, 152, 76, 38, 19, 9.5.
Sulfamethoxazole (combination identification panel)	38.

(*c*) The statement "For in vitro diagnostic use".

(ii) On each tray: The name of the panel, the expiration date, and the batch mark, including filling operation identification.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The concentrated antimicrobial stock solutions used in making the batch for potency and pH.

(*b*) The antimicrobial susceptibility test panels from the batch for performance and identity.

(ii) Samples required: (*a*) The concentrated antimicrobial stock solutions used in making the batch as directed in each individual monograph.

(*b*) The batch: A minimum of 25 panels selected at such intervals throughout the entire time of the filling operation so that the quantities of

[1] Available from American Type Culture Collection, 12301 Parklawn Drive, Rockville, Md. 20852.

requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency and pH.

portion of the sample with 1.0 percent potassium phosphate buffer, pH 6.0 (solution 1), to the reference concentration of 20 micrograms of carbenicil-

concentrated stock solutions for use in preparing susceptibility test panels are frozen aqueous chloramphenicol stock solutions serially diluted with distilled

(2) *Identity*—(i) *Test procedure.* Test a randomly selected panel. Use the test organism suspensions prepared as described in § 460.6(b) (18), (19), and (20), and use one panel for several organisms as shown in the following table:

Test organism			Identity test data		
			Type of panel and well to be inoculated		
Name	ATCC No.	Suspension No.	Antibiotics tested	Gram-positive	Gram-negative	Response
S. aureus	29247	18	Methicillin		3A	No growth.
			Penicillin		4A	Growth.
			Erythromycin		2E	Do.
			Cephalothin		6D	2D No growth.
			Clindamycin		1E	4D Do.
			Tetracycline		8D	Growth.
Ent. cloacae	29249	19	Cephalothin		2B	Do.
			Kanamycin		7B	No growth.
Ps. aeruginosa	29248	20	Gentamicin		3D	Growth.
			Tobramycin		8D	No growth.

(Rows are numbered 1-10 from left to right; A-H from front to rear.)

Transfer 0.005 milliliter of the test organism suspension into designated wells of the panel. Incubate the panels at 35° C for 16 to 18 hours in covered stacks of three or fewer panels. Read the designated wells for growth or no growth.

(ii) *Evaluation.* Each susceptibility test panel passes the identity test if the determinations of growth in the designated wells agree with those shown in the table in paragraph (b)(2)(i) of this section.

§ 460.110 Ampicillin concentrated stock solutions for use in antimicrobial susceptibility test panels.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Ampicillin concentrated stock solutions for use in preparing antimicrobial susceptibility test panels are frozen aqueous ampicillin trihydrate stock solutions serially diluted with distilled water to contain approximately 3,200, 1,600, 800, 400, 200, 100, and 50 micrograms ampicillin per milliliter. The potency of each solution is satisfactory if it is not less than 100 percent and not more than 150 percent of the number of micrograms of ampicillin that it is represented to contain. The pH of the solution containing 3,200 micrograms of ampicillin per milliliter is not less than 4.0 and not more than 7.0. The ampicillin trihydrate used conforms to the requirements of § 440.7(a)(1) (i), (iii), (iv), (v), (vi), (vii), and (viii) of this chapter.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency and pH.

(ii) Samples required: A minimum of five frozen aliquots of each dilution of the concentrated stock solutions, each containing at least 2.5 milliliters.

(b) *Tests and methods of assay.* The sample solutions must be thawed and brought to room temperature before testing.

(1) *Potency.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Dilute an accurately measured representative portion of the sample with 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to the reference concentration of 0.1 microgram of ampicillin per milliliter (estimated).

(2) *pH.* Proceed as directed in § 436.202 of this chapter, using the solution containing 3,200 micrograms of ampicillin per milliliter.

§ 460.113 Carbenicillin concentrated stock solutions for use in antimicrobial susceptibility test panels.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Carbenicillin concentrated stock solutions for use in preparing antimicrobial susceptibility test panels are frozen aqueous carbenicillin disodium stock solutions serially diluted with distilled water to contain approximately the following concentrations: 20,480, 10,240, 5,120, 2,560, 1,280, 640, and 320 micrograms of carbenicillin per milliliter. The potency of each solution is satisfactory if it is not less than 100 percent and not more than 150 percent of the number of micrograms of carbenicillin that it is represented to contain. The pH of the solution containing 20,480 micrograms of carbenicillin per milliliter is not less than 6.0 and not more than 8.0. The carbenicillin disodium used conforms to the requirements of § 440.13a(a)(1)(i), (v), (vi), and (vii) of this chapter.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency and pH.

(ii) Samples required: A minimum of five frozen aliquots of each dilution of the concentrated stock solutions, each containing at least 5 milliliters.

(b) *Tests and methods of assay.* The sample solutions must be thawed and brought to room temperature before testing.

(1) *Potency.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Dilute an accurately measured representative portion of the sample with 1.0 percent potassium phosphate buffer, pH 6.0 (solution 1), to the reference concentration of 1.0 microgram of cephalothin per milliliter (estimated).

(2) *pH.* Proceed as directed in § 436.202 of this chapter, using the solution containing 2,560 micrograms of cephalothin per milliliter.

§ 460.119 Chloramphenicol concentrated stock solutions for use in antimicrobial susceptibility test panels.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Chloramphenicol concentrated stock solutions for use in preparing susceptibility test panels are frozen aqueous chloramphenicol stock solutions serially diluted with distilled water to contain approximately the follow concentrations: 1,280, 640, 320, 160, 80, 40, and 20 micrograms of chloramphenicol per milliliter. The potency of each diluted solution is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of micrograms of chloramphenicol that it is represented to contain. The pH of the solution containing 1,280 micrograms of chloramphenicol per milliliter is not less than 4.5 and not more than 7.5. The chloramphenicol used conforms to the standards prescribed by § 455.10(a)(1) (i), (iii), (iv), (v), (vi), and (vii) of this chapter.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter each such request shall contain:

(i) Results of tests and assays on the batch for potency and pH.

(ii) Samples required: A minimum of five frozen aliquots of each dilution of the concentrated stock solutions, each containing at least 5 milliliters.

(b) *Tests and methods of assay.* The sample solution must be thawed and brought to room temperature before further testing.

(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as folows: Dilute an accurately measured representative portion of the sample with distilled water to the reference concentration of 2.5 micrograms of chloramphenicol per milliliter (estimated).

(2) *pH.* Proceed as directed in § 436.202 of this chapter using the solution containing 1,280 micrograms of chloramphenicol per milliliter.

§ 460.122 Clindamycin concentrated stock solutions for use in antimicrobial susceptibility test panels.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Clindamycin concentrated stock solutions for use in preparing susceptibility test panels are frozen aqueous clindamycin "hydrochloride stock solutions serially diluted with distilled water to contain approximately the following concentrations: 640, 320, 160, 80, 40, 20, and 10 micrograms of clindamycin per milliliter. The potency of each diluted solution is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of micrograms of clindamycin that it is represented to contain. The pH of the solution containing 640 micrograms of clindamycin per milliliter is not less than 4.5 and not more than 7.0. The clindamycin

panels filled during the intervals are approximately equal.

(b) *Tests and methods of assay*—(1) *Performance*—(i) *Procedure.* Test randomly selected panels with each of the four test organisms as follows: Use the test organism suspensions prepared as described in § 460.6(b) (14), (15), (16), and (17). Transfer 0.005 milliliter of the appropriate test organism suspension into all wells of a panel. For the purpose of this section, wells are identified 1-10 from left to right and A-H from front to rear. Incubate inoculated panels in groups of three or less, each with a clean cover, at 35° C for 18 to 18 hours. For each control organism, the lowest concentration showing complete inhibition of growth is the minimal inhibitory concentration for that particular antimicrobial agent (referred to hereafter as its end point). For the purpose of this section, an on-scale end point means an end point which has been established by growth in the next lower concentration well. No growth in any well in row G does not indicate an on-scale end point unless the next lower concentration can be shown to produce growth. Establishment of an end point for a no-growth result in a well in row G requires additional testing in which 0.1 milliliter of sterile medium N is added to well G in some panels prior to inoculation with the test organism. An on-scale end point in row G is established by no growth in the undiluted well G and growth in the two-fold diluted well G.

(ii) *Evaluation.* Susceptibility test panels of each filling operation pass the performance test if the on-scale end point for each antimicrobial agent and each test organism meet the limits specified in the following table (allowable off-scale end points are identified by asterisks):

PERFORMANCE END POINT ACCEPTANCE LIMITS

END POINTS (MICROGRAMS PER MILLILITER)

Antimicrobic	*E. coli* (ATCC 25922)	*S. faecalis* (ATCC 29212)	*S. aureus* (ATCC 29213)	*P. aeruginosa* (ATCC 27853)
Ampicillin	1-4	0.5-2	0.25-1	Greater than 8 (gram-positive panel). Greater than 18 (gram-negative panel).
Carbenicillin	4*-16	16-64	No growth	16-64.
Cephalothin	4-16	16-64	do	64-greater than 64.
Chloramphenicol	2-8	4-16	4-16	Greater than 32.
Clindamycin	16-greater than 16.	4-16	No growth	Greater than 16.
Colistin	No growth	Growth	Growth	No growth.
Erythromycin	16-greater than 16.	1-4	0.125*-0.5	Greater than 16.
Gentamicin	0.125*-0.5	4-16	0.125*-0.5	0.125*-0.5
Kanamycin	1-4	16-64	0.5*-2	Greater than 64.
Methicillin	Greater than 16.	Greater than 16.	0.5-2	Greater than 16.
Nitrofurantion	No growth	No growth	No growth	Growth.
Penicillin G	Greater than 4.	1-4	0.125-0.5	Greater than 4.
Tetracycline	0.25-1	8-greater than 16.	0.125*-0.5	4-16.
Trimethoprim-sulfamethoxasole.	No growth	No growth	No growth	16/304-greater than 32/608 (gram-positive and gram-negative panel).
	do	do	do	Growth (combination identification panel).
Tobramycin	0.25-1	8-greater than 16.	0.125*-0.5	No growth.

*An additional two-fold dilution below well G.

used conforms to the standards prescribed by § 453.20(a)(1) (i), (ii), (iv), (v), (vi) and (vii) of this chapter.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency and pH.

(ii) Samples required: A minimum of five frozen aliquots of each dilution of the concentrated stock solutions, each containing at least 5 milliliters.

(b) *Tests and methods of assay.* The sample solutions must be thawed and brought to room temperature before testing.

(1) *Potency.* Proceed as directed in § 436.105 of this chapter. Prepare the sample for assay by diluting an accurately measured representative portion of the sample with 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to the reference concentration of 1.0 microgram of clindamycin per milliliter (estimated).

(2) *pH.* Proceed as directed in § 436.202 of this chapter, using the solution containing 640 micrograms of clindamycin per milliliter.

§ 460.125 Colistin concentrated stock solution for use in antimicrobial susceptibility test panels.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Colistin concentrated stock solutions for use in preparing antimicrobial susceptibility test panels are frozen aqueous colistin sulfate stock solutions serially diluted with distilled water to contain an approximate concentration of 160 micrograms of colistin per milliliter. Its potency is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of micrograms of colistin that it is represented to contain. Its pH is not less than 5.0 and not more than 8.0. The colistin used conforms to the requirements of § 448.21(a)(1) (i), (iii), (iv), and (v) of this chapter.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency and pH.

(ii) Samples required: Five frozen aliquots of the concentrated stock solution containing at least 5 milliliters.

(b) *Tests and methods of assay.* The sample solution must be thawed and brought to room temperature before testing.

(1) *Potency.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Dilute an accurately measured representative portion of the sample with 10 percent potassium phosphate buffer (solution 6), to the reference concentration of 1 microgram of colistin per milliliter (estimated).

(2) *pH.* Proceed as directed in § 436.202 of this chapter, using the solution without further dilution.

§ 460.128 Erythromycin concentrated stock solutions for use in antimicrobial susceptibility test panels.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Erythromycin concentrated stock solutions for use in preparing antimicrobial susceptibility test panels are frozen aqueous erythromycin stock solutions serially diluted with 0.1 *M* potassium phosphate buffer, pH 8.0 (solution 3) to contain approximately the following concentrations: 3,200, 1,600, 800, 400, 200, 100, and 50 micrograms of erythromycin per milliliter. The potency of each solution is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of micrograms of erythromycin that it is represented to contain. The pH of the solution containing 3,200 micrograms of erythromycin per milliliter is not less than 7.5 and not more than 10.0. The erythromycin used conforms to the requirements of § 452.10(a)(1) (i), (iii), (iv), (vii), and (viii) of this chapter.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency and pH.

(ii) Samples required: A minimum of five frozen aliquots of each dilution of the concentrated stock solutions, each containing at least 5 milliliters.

(b) *Tests and methods of assay.* The sample solutions must be thawed and brought to room temperature before testing.

(1) *Potency.* Proceed as directed in § 436.105 of this chapter. Prepare the sample for assay by diluting an accurately measured representative portion of the sample with 0.1 *M* potassium phosphate buffer, pH 8.0 (solution 3), to the reference concentration of 1.0 microgram of erythromycin per milliliter (estimated).

(2) *pH.* Proceed as directed in § 436.202 of this chapter, using the solution containing 3,200 micrograms of erythromycin per milliliter.

§ 460.131 Gentamicin concentrated stock solutions for use in antimicrobial susceptibility test panels.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Gentamicin concentrated stock solutions for use in preparing susceptibility test panels are frozen aqueous gentamicin sulfate stock solutions serially diluted with distilled water to contain approximately the following concentrations: 640, 320, 160, 80, 40, 20, and 10 micrograms of gentamicin per milliliter. The potency of each diluted solution is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of micrograms of gentamicin that it is represented to contain. The pH of the solution containing 640 micrograms of gentamicin per milliliter is not less than 4.5 and not more than 7.0. The gentamicin used conforms to the standards prescribed by § 444.20(a)(1) (iii), (iv), (v), and (vii) of this chapter.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain.

(i) Results of tests and assays on the batch for potency and pH.

(ii) Samples required: A minimum of five frozen aliquots of each dilution of the concentrated stock solutions, each containing at least 5 milliliters.

(b) *Tests and methods of assay.* The sample solutions must be thawed and brought to room temperature before testing.

(1) *Potency.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Dilute an accurately measured representative portion of the sample with 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to the reference concentration of 0.1 microgram of gentamicin per milliliter (estimated).

(2) *pH.* Proceed as directed in § 436.202 of this chapter, using the solution containing 640 micrograms of gentamicin per milliliter.

§ 460.134 Kanamycin concentrated stock solutions for use in antimicrobial susceptibility test panels.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Kanamycin concentrated stock solutions for use in preparing susceptibility test panels are frozen aqueous kanamycin sulfate stock solutions serially diluted with distilled water to contain approximately the following concentrations: 2,560, 1,280, 640, 320, 160, 80, and 40 micrograms of kanamycin per milliliter. The potency of each diluted solution is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of micrograms of kanamycin that it is represented to contain. The pH of the solution containing 2,560 micrograms of kanamycin per milliliter is not less than 6.5 and not more than 8.5. The kanamycin used conforms to the standards prescribed by § 444.30(a)(1) (i), (iii), (iv), (vi), (vii), and (viii) of this chapter.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency and pH.

(ii) Samples required: A minimum of five frozen aliquots of each dilution of the concentrated stock solutions, each containing at least 5 milliliters.

(b) *Tests and methods of assay.* The sample solutions must be thawed and brought to room temperature before testing.

(1) *Performance.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dilute an accurately measured representative portion with distilled water to the reference concentration of 10 micrograms of kanamycin per milliliter (estimated).

(2) *pH.* Proceed as directed in § 436.202 of this chapter, using the solution containing 2,560 micrograms of kanamycin per milliliter.

§ 460.137 Methicillin concentrated stock solutions for use in antimicrobial susceptibility test panels.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Methicillin concentrated stock solutions for use in preparing susceptibility test panels are frozen aqueous methicillin sodium stock solutions serially diluted with distilled water to contain approximately 6,400, 3,200, 1,600, 800, 400, 200, and 100 micrograms of methicillin per milliliter. The potency fo each diluted solution is satisfactory if it is not less than 100 percent and not more than 150 percent of the number of micrograms of methicillin that it is represented to contain. The pH of the solution containing 6,400 micrograms of methicillin per milliliter is not less than 5.0 and not more than 7.5. The methicillin used conforms to the standards prescribed by § 440.36a(a)(1)(i), (v), (vi), (vii), (viii), and (ix) of this chapter.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Request for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency and pH.

(ii) Samples required: A minimum of five frozen aliquots of each dilution of the concentrated stock solutions, each containing at least 2.5 milliliters.

(b) *Tests and methods of assay.* The sample solutions must be thawed and brought to room temperature before testing.

(1) *Potency.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Dilute an accurately measured representative portion of the sample with 1.0 percent potassium phosphate buffer, pH 6.0 (solution 1), to the reference concentration of 10 micrograms of methicillin per milliliter (estimated).

(2) *pH.* Proceed as directed in § 436.202 of this chapter, using the solution containing 6,400 micrograms of methicillin per milliliter.

§ 460.140 Penicillin G concentrated stock solutions for use in antimicrobial susceptibility test panels.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Penicillin G concentrated stock solutions for use in preparing antimicrobial susceptibility test panels are frozen aqueous penicillin G potassium solutions serially diluted with distilled water to contain approximately 1,600, 800, 400, 200, 100, 50 and 25 micrograms of penicillin G per milliliter. The potency of eacn diluted solution is satisfactory if it is not less than 100 percent and not more than 150 percent of the number of micrograms of penicillin G that it is represented to contain. The pH of the solution containing 1,600 micrograms of penicillin G per milliliter is not less than 5.0 and not more than 7.5. The penicillin G potassium used conforms to the standards prescribed by § 440.80a(a)(1)(i), (v) and (vi) of this chapter.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency and pH.

(ii) Samples required: A minimum of five frozen aliquots of each dilution of the concentrated stock solutions, each containing at least 2.5 milliliters.

(b) *Tests and methods of assay.* The sample solutions must be thawed and brought to room temperature before testing.

(1) *Potency.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Dilute an accurately measured representative portion of the sample with 1.0 percent potassium phosphate buffer, pH 6.0 (solution 1) to the reference concentration of 1.0 unit (0.600 microgram) of penicillin G per milliliter (estimated).

(2) *pH.* Proceed as directed in § 436.202 of this chapter, using the solution containing 1,600 micrograms of penicillin G per milliliter.

§ 460.146 Tetracycline concentrated stock solutions for use in antimicrobial susceptibility test panels.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Tetracycline concentrated stock solutions for use in preparing antimicrobial susceptibility test panels are frozen aqueous tetracycline hydrochloride stock solutions serially diluted with distilled water to contain approximately the following concentrations: 640, 320, 160, 80, 40, 20, and 10 micrograms of tetracycline per milliliter. The potency of each diluted solution is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of micrograms of tetracycline that it is represented to contain. The pH of the solution containing 640 micrograms of tetracycline per milliliter is not less than 3.0 and not more than 7.0. The tetracycline hydrochloride used conforms to the standards prescribed by § 446.81a(a)(1)(i), (vi), (vii), and (viii) of this chapter.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency and pH.

(ii) Samples required: A minimum of five frozen aliquots of each dilution of the concentrated stock solutions, each containing at least 5 milliliters.

(b) *Tests and methods of assay.* The sample solutions must be thawed and brought to room temperature before testing.

(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dilute an accurately measured representative portion of the sample with distilled water to the reference concentration of 0.24 microgram of tetracycline per milliliter (estimated).

(2) *pH.* Proceed as directed in § 436.202 of this chapter, using the solution containing 640 micrograms of tetracycline per milliliter.

§ 460.149 Tobramycin concentrated stock solutions for use in antimicrobial susceptibility test panels.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Tobramycin concentrated stock solutions for use in preparing antimicrobial susceptibility test panels are frozen aqueous tobramycin sulfate stock solutions serially diluted with distilled water to contain approximately the following concentrations: 1,280, 640, 220, 160, 80, 40, and 20 micrograms of tobramycin per milliliter. The potency of each diluted solution is satisfactory if it is not less than 90 percent and not more than

140 percent of the number of micrograms of tobramycin that it is represented to contain. The pH of the solution containing 1,280 micrograms of tobramycin per milliliter is not less than 8.5 and not more than 10.5. The tobramycin used conforms to the standards prescribed by § 444.80(a)(1)(i), (iii), (iv), (v), and (vi) of this chapter.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency and pH.

(ii) Samples required: A minimum of five frozen aliquots of each dilution of the concentrated stock solutions, each containing approximately 5.0 milliliters.

(b) *Tests and methods of assay.* The sample solutions must be thawed and brought to room temperature before testing.

(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dilute an accurately measured representative portion of the sample with distilled water to the reference concentration of 2.5 micrograms of tobramycin per milliliter (estimated).

(2) *pH.* Proceed as directed in § 436.202 of this chapter, using the solution containing 1,280 micrograms of tobramycin per milliliter.

§ 460.152 Trimethoprim concentrated stock solutions for use in antimicrobial susceptibility test panels.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Trimethoprim concentrated stock solutions for use in antimicrobial susceptibility test panels are frozen aqueous acidified trimethoprim lactate stock solutions serially diluted with distilled water to contain approximately the following concentrations: 6,400, 3,200, 1,600, 800, 400, 200, and 100 micrograms of trimethoprim per milliliter, or to a single concentration of 400 micrograms of trimethoprim per milliliter. The potency of each diluted solution is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of micrograms of trimethoprim that it is represented to contain. The pH of the solution, containing 400 micrograms of trimethoprim per milliliter, is not less than 2.5 and not more than 6.0. The trimethoprim lactate used is a white, odorless, crystalline powder. Its potency is not less than 74 percent nor more than 78 percent trimethoprim. Its melting range is between 183° C and 187° C. Its loss on drying is not more than 1.0 percent. It passes the identity test. It conforms to the standards prescribed by this section.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The batch for potency and pH.

(*b*) The trimethoprim lactate used in preparing the solutions for potency, melting range, loss on drying, and identity.

(ii) Samples required: A minimum of five frozen aliquots of each dilution of the concentrated stock solutions, each containing at least 5 milliliters.

(b) *Tests and methods of assay—*(1) *Trimethoprim stock solution.* The sample solutions must be thawed and brought to room temperature before testing.

(i) *Potency—*(*a*) *Working standard.* Accurately weigh approximately 52 milligrams of the trimethoprim working standard. Dissolve and dilute the working standard in 100 milliliters of 0.1*N* hydrochloric acid to make a stock solution, containing approximately 400 micrograms of trimethoprim per milliliter. Further dilute the working standard twentyfold in distilled water to approximately 20 micrograms of trimethoprim per milliliter.

(*b*) *Preparation of sample.* The sample solution must be thawed and brought to room temperature. Further dilute with distilled water to an estimated concentration of 20 micrograms of trimethoprim per milliliter.

(*c*) *Procedure.* Using a suitable spectrophotometer equipped with 1.0 centimeter cells, determine the absorbance of the sample and working standard solutions at a wavelength of 270 nanometers.

(*d*) *Calculations.* Calculate the potency of the trimethoprim solutions as follows:

Micrograms of trimethoprim per milliliter in trimethoprim lactate = sample absorbance times weight of standard (mg) times 0.763 times f times 1,000 times purity of standard in percent, divided by standard absorbance times 100 times 20 times 100

where:

f = dilution factor of each sample solution.

(ii) *pH.* [Reserved]

(2) *Trimethoprim—*(i) *Potency.* Proceed as directed in § 436.213 of this chapter using the method described in paragraph (e)(2) of that section except, to prepare the sample for assay, dissolve approximately 50 milligrams of sample accurately weighed in 60 milliliters of glacial acetic acid. Calculate the trimethoprim content as follows:

Percent trimethoprim = $(V_t - V_s)$ (N) (290.3) (100) (100) divided by (100 − M) times W

where:

V_t = Volume perchloric acid used to titrate sample;

V_s = Volume perchloric acid used to titrate blank;

W = Sample weight in milligrams;

N = Normality of perchloric acid reagent;

M = Percent moisture in the sample.

(ii) *Melting range.* Proceed as directed in § 436.209 of this chapter.

(iii) *Loss on drying.* Proceed as directed in § 436.200(e) of this chapter.

(iv) *Identity.* Proceed as directed in § 436.211 of this chapter, using a 0.25 percent potassium bromide disc prepared as described in paragraph (b)(1) of that section.

460.153 Sulfamethoxazole concentrated stock solutions for use in antimicrobial susceptibility test panels.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Sulfamethoxazole concentrated stock solutions for use in antimicrobial susceptibility test panels are frozen aqueous alkaline sulfamethoxazole stock solutions serially diluted with distilled water containing approximately the following concentrations: 12,160, 6,080, 3,040, 1,520, 760, 380, and 190 micrograms of sulfamethoxazole per milliliter, or to a single concentration of 760 micrograms of sulfamethoxazole per milliliter. The potency of each diluted solution is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of micrograms of sulfamethoxazole that it is represented to contain. The pH of the solution containing 760 micrograms of sulfamethoxazole per milliliter is not less than 9.0 and not more than 12.5. The sulfamethoxazole used conforms to the standards prescribed by the National Formulary.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency and pH.

(ii) Samples required: A minimum of five frozen aliquots of each dilution of the concentrated stock solutions, each containing at least 10 milliliters.

(b) *Tests and methods of assay.* The sample solutions must be thawed and brought to room temperature before testing.

(1) *Potency.* Dilute aliquots of each sample in sufficient distilled water to make solutions containing 10 micrograms of sulfamethoxazole per milliliter. Place approximately 100 milligrams of the standard, accurately weighed, into a 100-milliliter volumetric flask and make to volume with 0.1*N* sodium hydroxide. Pipet 1.0 milliliter of this solution into a 100-milliliter volumetric flask and make to volume with distilled water. Using a suitable spectrophotometer equipped with 1.0 centimeter cells, and distilled water as the blank, determine the absorbance of sample and standard solutions at 257 nanometers. Calculate the potency of the sulfamethoxazole as follows:

Micrograms of sulfamethoxazole per milliliter = sample absorbance times weight of standard (in mcg) times f times purity of standard in percent divided by standard absorbance times 100 times 100

where:

f = Dilution factor of each sample solution.

(2) *pH.* Proceed as directed in § 436.202 of this chapter, using the solution containing 760 micrograms of sulfamethoxazole per milliliter.

Because the conditions prerequisite to providing for certification of these products have been complied with and as the matter is non-controversial, the Commissioner finds for good cause that prior notice and public procedure are impracticable and unnecessary and that the amendment may become effective upon the day of publication. Interested persons may, on or before April 10, 1978, file with the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments, in quadruplicate and identified with the docket number found in brackets in the heading of this document. Comments received may be seen in the office of the Hearing Clerk between the hours of 9 a.m. and 4 p.m., Monday through Friday. Any changes in this regulation justified by such comments will be the subject of a further amendment.

Effective date. This order shall be effective March 10, 1978.

(Sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357).)

Dated: March 3, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-6115 Filed 3-9-78; 8:45 am]

[4110-03]

[Docket No. 75N-0020]

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

PART 440—PENICILLIN ANTIBIOTIC DRUGS

Penicillin; Updating and Technical Revisions

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends a final rule that made updating and technical revisions to the antibiotic drug regulations. This document is issued to correct certain omissions and to reflect certain approved dosage forms that were overlooked in the previous amendment.

EFFECTIVE DATE: March 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Joan M. Eckert, Bureau of Drugs (HFD-140), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4292.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of November 22, 1977, the Food and Drug Administration issued regulations to update and make technical changes in the antibiotic drug regulations. Certain omissions were made in a table on safety tests, and certain approved dosage sizes for penicillin drugs were overlooked. This document is issued to make the necessary changes.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), parts 436 and 440 are amended as follows:

1. In Part 436, § 436.33 is amended in the table in paragraph (b) by adding alphabetically the following entries: "Amikacin," "Amikacin sulfate," "Bleomycin sulfate," "Ticarcillin disodium," "Tobramycin," "Tobramycin sulfate," and "Vidarabine"; by revising the entry for "Viomycin sulfate"; and by deleting the entry for "Streptonicozid sulfate," as follows:

§ 436.33 Safety test.

* * * * * *

(b)* * *

Antibiotic drug	Diluent (diluent number as listed in sec. 436.31)	Test dose: Concentration in units or milligrams of activity per milliliter	Test dose: Volume in milliliters to be administered to each mouse	Route of administration as described in par. (c) of this section
Amikacin	4	5 mg	.5	Intravenous.
Amikacin sulfate	4	5 mg	.5	Do.
* * *	* * *	* * *	* * *	* * *
Bleomycin sulfate	4	5 units	.5	Do.
* * *	* * *	* * *	* * *	* * *
Ticarcillin disodium	3	40 mg	.5	Do.
Tobramycin	4	1 mg	.5	Do.
Tobramycin sulfate	4	1 mg	.5	Do.
* * *	* * *	* * *	* * *	* * *
Vidarabine	5	40 mg	.5	Intraperitoneal.
Viomycin sulfate	4	2 mg	.5	Intravenous.

2. Part 440 is amended:

§ 440.255b [Amended]

a. In § 440.255b *Sterile penicillin G benzathine suspension,* the second sentence of paragraph (a)(1) is revised to read "Each container or each milliliter contains penicillin G benzathine equivalent to not less than 300,000 units of penicillin G."

§ 440.255c [Amended]

b. In § 440.255c *Sterile penicillin G benzathine-penicillin G procaine suspension,* the second sentence of paragraph (a)(1) is revised to read "Each container or each milliliter contains penicillin G benzathine and penicillin G procaine each equivalent to not less than 150,000 units of penicillin G."

§ 440.274b [Amended]

c. In § 440.274b *Sterile penicillin G procaine suspension,* the third sentence of paragraph (a)(1) is revised to read "Each container or each milliliter contains penicillin G procaine equivalent to not less than 300,000 units of penicillin G."

§ 440.280b [Amended]

d. In § 440.280b *Penicillin G potassium for injection,* in paragraph (a)(1) the last sentence is revised and a new sentence is added to follow it: "If penicillin G potassium buffered is used, it conforms to the standards prescribed by § 440.1080(a)(1). If penicillin G potassium is used, it conforms to the standards prescribed by § 440.80a(a)(1) and the sodium citrate and citric acid conforms to the standards prescribed by the U.S.P."

Since the conditions prerequisite to providing for certification of the drugs referenced herein have been complied with and as the matter is noncontroversial, the Commissioner finds for good cause that prior notice and public procedure are impracticable and unnecessary and that the amendment may become effective upon the day of publication. Interested persons may, on or before April 10, 1978, file with the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments, in quadruplicate and identified with the docket number found in brackets in the heading of this document. Comments received may be seen in the office of the Hearing Clerk between the hours of 9 a.m. and 4 p.m., Monday through Friday. Any changes in this regulation justified by such comments will be the subject of a further amendment.

Effective date. This order shall be effective March 10, 1978.

(Sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357).)

Dated: March 3, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-6116 Filed 3-9-78; 8:45 am]

[4110-03]

[Docket No. 75N-0020]

PART 440—PENICILLIN ANTIBIOTIC DRUGS

Penicillin; Updating and Technical Revisions

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends a final rule that made updating and technical revisions to the antibiotic drug regulations. This document is issued to correct certain omissions and to reflect certain approved dosage forms that were overlooked in the previous amendment.

EFFECTIVE DATE: March 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Joan M. Eckert, Bureau of Drugs (HFD-140), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4292.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of November 22, 1977, the Food and Drug Administration issued regulations to update and make technical changes in the antibiotic drug regulations. Certain omissions were made in a table on safety tests, and certain approved dosage sizes for penicillin drugs were overlooked. This document is issued to make the necessary changes.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), part 440 is amended as follows:

1. Part 440 is amended:

§ 440.255b [Amended]

a. In § 440.255b *Sterile penicillin G benzathine suspension,* the second sentence of paragraph (a)(1) is revised to read "Each container or each milliliter contains penicillin G benzathine equivalent to not less than 300,000 units of penicillin G."

§ 440.255c [Amended]

b. In § 440.255c *Sterile penicillin G benzathine-penicillin G procaine suspension,* the second sentence of paragraph (a)(1) is revised to read "Each container or each milliliter contains penicillin G benzathine and penicillin G procaine each equivalent to not less than 150,000 units of penicillin G."

§ 440.274b [Amended]

c. In § 440.274b *Sterile penicillin G procaine suspension,* the third sentence of paragraph (a)(1) is revised to read "Each container or each milliliter contains penicillin G procaine equivalent to not less than 300,000 units of penicillin G."

§ 440.280b [Amended]

d. In § 440.280b *Penicillin G potassium for injection,* in paragraph (a)(1) the last sentence is revised and a new sentence is added to follow it: "If penicillin G potassium buffered is used, it conforms to the standards prescribed by § 440.1080(a)(1). If penicillin G potassium is used, it conforms to the standards prescribed by § 440.80a(a)(1) and the sodium citrate and citric acid conforms to the standards prescribed by the U.S.P."

a. In § 452.10 by revising paragraph (a)(1)(iv) to read as follows:

§ 452.10 Erythromycin.

Effective date. This regulation shall become effective April 10, 1978.

(Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357).)

those provisions for certification of the concentrate lotion and providing 30 days for the filing of objections and requests for a hearing.

Since the conditions prerequisite to providing for certification of the drugs referenced herein have been complied with and as the matter is noncontroversial, the Commissioner finds for good cause that prior notice and public procedure are impractical and unnecessary and that the amendment may become effective upon the day of its publication. Interested persons may, on or before April 10, 1978, file with the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments in four copies and identified with the docket number found in brackets in the heading of this document. Comments received may be seen in the office of the Hearing Clerk, between 9 a.m. and 4 p.m., Monday through Friday. Any changes in this regulation justified by such comments will be the subject of a future amendment.

Effective date: March 10, 1978.

(Sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357).)

Dated: March 1, 1978.

MARY A. MCENIRY,
Assistant Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc. 78-6117 Filed 3-9-78; 8:45 am]

[4110-03]

[Docket No. 78N-0008]

ANTIBIOTIC DRUGS

Miscellaneous Amendments; Corrections, Revocations, and Technical Changes

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document makes corrections, revocations, and noncontroversial technical changes to update the regulations providing for the certification of antibiotic and antibiotic-containing drugs for human use. This rule will result in more accurate regulations that reflect current certification practice.

EFFECTIVE DATE: April 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Nathan M. Kight, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3640.

SUPPLEMENTARY INFORMATION: To help understand the types of changes included in this document, the changes have been grouped into three general classes for discussion in this preamble: (1) Corrections of typographical errors; (2) revocation of inactive and duplicate sections; and (3) noncontroversial technical changes.

1. *Corrections.* Five sections are corrected for typographical errors: §§ 440.105b(b)(1)(ii), 440.290, 442.23a(a)(1)(ix), 449.120b(a)(1), and 455.50(b)(6).

2. *Revocations.* Two sections are revoked: § 452.120 *Erythromycin ethylcarbonate oral dosage forms* (because there are no longer any oral dosage forms of erythromycin ethylcarbonate being certified) and § 455.10b *Sterile chloramphenicol* (because it is an unnecessary duplication of § 455.10a *Sterile chloramphenicol*).

3. *Technical changes.* In keeping with current policy, certain technical changes, based on certification experience, are made as part of updating the regulations. Technical changes are made in three sections of the regulations: In § 440.115b(a)(3)(ii)(*b*) the phrase "five immediate containers" is changed to read "six immediate containers"; in § 452.10(a)(1)(iv), the phrase "in a saturated aqueous solution, prepared by using 100 milligrams of erythromycin per milliliter" is no longer necessary and is deleted; and § 455.212 is added to Part 455 (21 CFR Part 455) to maintain the scheme of the regulations.

The Commissioner of Food and Drug has reviewed the potential environmental impact of the amendments and has concluded that this action will not significantly affect the quality of the human environment.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner (21 CFR 5.1), Chapter I of 21 CFR is amended in Subchapter D as follows.

PART 440—PENICILLIN ANTIBIOTIC DRUGS

1. Part 440 is amended:

a. In § 440.105b, by revising paragraph (b)(1)(ii) to read as follows:

§ 440.105b Ampicillin chewable tablets.

• • • • • •

(b) • • •

(1) • • •

(ii) *Iodometric assay.* Proceed as directed in § 436.204 of this chapter, preparing the sample as follows: Blend a representative number of tablets in a high-speed blender with sufficient distilled water to give a stock solution of convenient concentration. Blend for 3 to 5 minutes. Further dilute an aliquot of the stock solution with distilled water to the prescribed concentration.

• • • • • •

b. In § 440.115b, by revising paragraph (a)(3)(ii)(*b*) to read as follows:

§ 440.115b Cloxacillin sodium monohydrate for oral solution.

(a) • • •

(3) • • •

(ii) • • •

(*b*) The batch: A minimum of six immediate containers.

• • • • • •

c. By revising § 440.290 to read as follows:

§ 440.290 Sterile ticarcillin disodium.

The requirements for certification and the tests and methods of assay for sterile ticarcillin disodium packaged for dispensing are described in § 440.90a.

PART 442—CEPHA ANTIBIOTIC DRUGS

2. Part 442 is amended:

In § 442.23a, by revising paragraph (a)(1)(ix) to read as follows:

§ 442.23a Sterile cephaloridine.

(a) • • •

(1) • • •

(ix) The ultraviolet absorption spectrum between the wavelengths of 220 and 310 nanometers compares qualitatively to that of the cephaloridine working standard. The ratio of the absorbance of the maximum at the wavelength of 240 nanometers to that of the shoulder at 255 nanometers is not less than 1.05 and not more than 1.17.

• • • • • •

PART 449—ANTIFUNGAL ANTIBIOTIC DRUGS

3. Part 449 is amended in § 449.120b by revising paragraph (a)(1), to read as follows:

§ 449.120b Griseofulvin capsules.

(a) • • •

(1) *Standards of identity, strength, quality, and purity.* Griseofulvin capsules are gelatin capsules containing griseofulvin with a suitable filler or binder, with or without a suitable lubricant. Each capsule contains 125 or 250 milligrams of griseofulvin. The potency is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of griseofulvin that it is represented to contain. The loss on drying is not more than 1 percent. The griseofulvin used conforms to the standards prescribed by § 449.20(a)(1).

• • • • • •

PART 452—MACROLIDE ANTIBIOTIC DRUGS

4. Part 452 is amended:

a. In § 452.10 by revising paragraph (a)(1)(iv) to read as follows:

§ 452.10 Erythromycin.

(a) • • •

(1) • • •

(iv) Its pH is not less than 8.0 or more than 10.5.

• • • • • •

§ 452.120 [Revoked]

b. By revoking § 452.120 *Erythromycin ethylcarbonate oral dosage forms.*

PART 455—CERTAIN OTHER ANTIBIOTIC DRUGS

5. Part 455 is amended:

§ 455.10b [Revoked]

a. By revoking § 455.10b *Sterile chloramphenicol.*

b. In § 455.50, by revising paragraph (b)(6) as follows:

§ 455.50 Calcium novobiocin.

• • • • • •

(b) • • •

(6) *Identity.* Proceed as directed in § 455.51(b)(7).

• • • • • •

d. By adding new § 455.212 to read as follows:

§ 455.212 Sterile chloramphenicol sodium succinate.

The requirements for certification and the tests and methods of assay for sterile chloramphenicol sodium succinate packaged for dispensing are described in § 455.12a.

In consideration of the foregoing, the Commissioner finds for good cause that notice and public procedure are impracticable, unnecessary, and contrary to the public interest. Interested persons may, on or before the effective date of this final rule file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville Md. 20857, four copies of written comments, identified with the docket number found in brackets in the heading of this document. Comments received may be seen in the office of the Hearing Clerk between 9 a.m. and 4 p.m., Monday through Friday. Any changes in this final rule justified by such comments will be the subject of a further amendment.

Effective date. This regulation shall become effective April 10, 1978.

(Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357).)

Dated: March 3, 1978.

MARY A. MCENIRY,
Assistant Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc. 78-6118 Filed 3-9-78; 8:45 am]

[4110-03]

[Docket No. 77N-0235]

PART 444—OLIGOSACCHARIDE ANTIBIOTIC DRUGS

Neomycin Palmitate-Trypsin-Chymotrypsin Ointment; Postponement of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document postpones the effective date of a final rule that revoked provisions for certification of a combination drug product in a topical ointment form containing neomycin palmitate, trypsin, and chymotrypsin. The postponement is in response to a request for a hearing. The drug has been used to treat certain localized infections.

DATE: Postponement effective December 21, 1977.

FOR FURTHER INFORMATION CONTACT:

Nathan J. Treinish, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of November 11, 1977 (42 FR 58739) (Docket No. 77N-0235; DESI 50020), the Director of the Bureau of Drugs promulgated a final rule, to be effective on December 21, 1977, amending 21 CFR Part 444 of the antibiotic drug regulations by revoking §§ 444.40 and 444.540a, which provide for certification of bulk neomycin palmitate and combination drugs containing neomycin palmitate, trypsin, and chymotrypsin in an ointment form. In the same issue of the FEDERAL REGISTER (42 FR 58766) (Docket No. 77N-0234), the Director of the Bureau of Drugs proposed to revoke § 444.540 *Neomycin palmitate dermatologic dosage forms* and § 444.540b *Neomycin palmitate-trypsin-chymotrypsin concentrate lotion.* Elsewhere in this issue of the FEDERAL REGISTER, the Director is revoking those provisions for certification of the concentrate lotion and providing 30 days for the filing of objections and requests for a hearing.

In response to the November 11, 1977 final rule, Armour Pharmaceutical Co. filed a hearing request and data on behalf of Biozyme Ointment (NDA 50-020). The data are currently being reviewed. When the review is completed, the Commissioner of Food and Drugs will announce in the FEDERAL REGISTER whether or not Armour Pharmaceutical Co. has demonstrated the existence of a genuine and substantial issue of fact requiring a hearing.

Therefore, the effective date of the November 11, 1977 regulation revoking §§ 444.40 and 444.540a concerning neomycin palmitate-trypsin-chymotrypsin ointment (42 FR 58739) is hereby postponed to allow time for completion of review of the data submitted.

This action is being taken under authority of the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050-1051 as amended, 59 Stat. 463 as amended (21 U.S.C. 352, 357)) and under authority delegated to the Commissioner (21 CFR 5.1) and redelegated to the Director, Bureau of Drugs (21 CFR 5.78).

Dated: March 3, 1978.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 78-6283 Filed 3-9-78; 8:45 am]

[4110-03]

[Docket No. 77N-0234]

PART 444—OLIGOSACCHARIDE ANTIBIOTIC DRUGS

Neomycin Palmitate-Trypsin-Chymotrypsin Concentrate Lotion

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document revokes a provision for certification of a combination drug product in a concentrate lotion form that contains neomycin palmitate, trypsin, and chymotrypsin. This action is taken because the product is regarded as lacking substantial evidence of effectiveness and has never been approved.

DATES: Final rule effective April 20, 1978. Requests for hearing due by April 10, 1978.

ADDRESS: Requests for hearing to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Nathan J. Treinish, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of November 11, 1977 (42 FR 58739) (Docket No. 77N-0235; DESI 50020), the Director of the Bureau of Drugs promulgated a final rule, to be effective on December 21, 1977, amending 21 CFR Part 444 of the antibiotic drug regulations by revoking §§ 444.40 and 444.540a, which provide for certification of bulk neomycin palmitate and combination drugs containing neomycin palmitate, trypsin, and chymotrypsin in an ointment form. In the same issue of the FEDERAL REGISTER (42 FR 58766) (Docket No. 77N-0234), the Director of the Bureau of Drugs proposed to revoke § 444.540 *Neomycin palmitate dermatologic dosage forms* and § 444.540b *Neomycin palmitate-trypsin-chymotrypsin concentrate lotion.* Elsewhere in this issue of the FEDERAL REGISTER, the Director is revoking those provisions for certification of the concentrate lotion and providing 30 days for the filing of objections and requests for a hearing.

In response to the November 11, 1977 final rule, Armour Pharmaceutical Co. filed a hearing request and data on behalf of Biozyme Ointment (NDA 50-020). The data are currently being reviewed. When the review is completed, the Commissioner of Food and Drugs will announce in the FEDERAL REGISTER whether or not Armour Pharmaceutical Co. has demonstrated the existence of a genuine and substantial issue of fact requiring a hearing.

Therefore, the effective date of the November 11, 1977 regulation revoking §§ 444.40 and 444.540a concerning neomycin palmitate-trypsin-chymotrypsin ointment (42 FR 58739) is hereby postponed to allow time for completion of review of the data submitted.

This action is being taken under authority of the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050-1051 as amended, 59 Stat. 463 as amended (21 U.S.C. 352, 357)) and under authority delegated to the Commissioner (21 CFR 5.1) and redelegated to the Director, Bureau of Drugs (21 CFR 5.78).

Dated: March 3, 1978.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 78-6283 Filed 3-9-78; 8:45 am]

[4110-03]

[Docket No. 77N-0234]

PART 444—OLIGOSACCHARIDE ANTIBIOTIC DRUGS

Neomycin Palmitate-Trypsin-Chymotrypsin Concentrate Lotion

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document revokes a provision for certification of a combination drug product in a concentrate lotion form that contains neomycin palmitate, trypsin, and chymotrypsin. This action is taken because the product is regarded as lacking substantial evidence of effectiveness and has never been approved.

DATES: Final rule effective April 20, 1978. Requests for hearing due by April 10, 1978.

ADDRESS: Requests for hearing to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

the use of methylene blue in other species. The AVMA said that in the case of nitrate poisoning, the use of methylene blue (parenterally) has

(3) In view of the foregoing, the Commissioner has concluded that animal drugs containing methylene blue for oral use in cats or dogs are

maceuticals, Inc. And the listing of sponsors is amended to reestablish the entry for Hoechst-Roussel Pharmaceuticals and to provide a separate entry

FOR FURTHER INFORMATION CONTACT:

Nathan J. Treinish, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of November 11, 1977 (42 FR 58739, Docket No. 77N-0235), the Director of the Bureau of Drugs issued a final rule, to be effective on December 21, 1977, amending 21 CFR Part 444 of the antibiotic drug regulations by revoking §§ 444.40 and 444.540a, which provide for certification of bulk neomycin palmitate and combination drugs containing neomycin palmitate, trypsin, and chymotrypsin in an ointment form. Elsewhere in this issue of the FEDERAL REGISTER, the Director is postponing the effective date of that final rule.

Also in the FEDERAL REGISTER of November 11, 1977 (42 FR 58766, Docket No. 77N-0234), the Director proposed to revoke § 444.540 Neomycin palmitate dermatologic dosage forms (21 CFR 444.540) and § 444.540b Neomycin palmitate-trypsin-chymotrypsin concentrate lotion (21 CFR 444.540b). No comments were received in response to the proposed revocation. The product is regarded as lacking substantial evidence of effectiveness and has never been approved. On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357) and §§ 300.50 and 314.111(a)(5) (21 CFR 300.50 and 314.111(a)(5)) and Part 430 (21 CFR Part 430), demonstrating the effectiveness of this product.

Since the effective date of the regulation revoking § 444.540a is being postponed, § 444.540, which is an "umbrella" heading, will be retained. Therefore, the proposal to revoke § 444.540 is not being made final by this document.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050-1051 as amended, 59 Stat. 463 as amended (21 U.S.C. 352, 357) and under authority delegated to the Commissioner, and redelegated to the Director of the Bureau of Drugs (21 CFR 5.78), Part 444 of Chapter I of Title 21 of the Code of Federal Regulations is amended by revoking § 444.540b Neomycin palmitate-trypsin-chymotrypsin concentrate lotion.

Any person who will be adversely affected by this regulation may file objections to it, request a hearing, and show reasonable grounds for the hearing. It is the responsibility of every manufacturer or distributor of an antibiotic drug product to review every antibiotic order published in the FEDERAL REGISTER to determine whether it covers any product that the person manufactures or distributes.

Any person who decides to seek a hearing shall file (1) on or before April 10, 1978, a written notice of appearance and request for hearing, and (2) on or before May 9, 1978, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. Any other interested person may submit comments on this regulation. The procedures and requirements governing this regulation, a notice of appearance and request for hearing, a submission of data, information and analyses to justify a hearing, other comments, and a grant or denial of a hearing are contained in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that no genuine and substantial issue of fact precludes the action taken by this regulation or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this regulation shall be filed in four copies (identified with Docket Number 77N-0234) with the Hearing Clerk (HFC-20), Food and Drug Administration.

All submissions pursuant to this order, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk (HFC-20), between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall be effective April 20, 1978. If objections are filed, the effective date will be extended as necessary to rule thereon.

(Secs. 502, 507, 52 Stat. 1050-1051 as amended, 59 Stat. 463 as amended (21 U.S.C. 352, 357).)

Dated: March 3, 1978.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 78-6282 Filed 3-9-78; 8:45 am]

[1505-01]

[Docket No. 76N-0453]

PART 455—CERTAIN OTHER ANTIBIOTIC DRUGS

Correction

In FR Doc. 77-25422 appearing in the issue of Friday, September 2, 1977 on page 44223, on page 44224 in § 455.90a(b)(1)(iii), the 12th line should read, "100-milliliter mark of the volumetric * * *".

[4110-03]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

[Docket No. 77N-0133]

PART 500—GENERAL

Subpart B—Specific Administrative Rulings and Decisions

METHYLENE BLUE

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document requires approved new animal drug applications (NADA's) for animal drugs that contain methylene blue for oral administration to cats and dogs. The regulation results from concern over the safety and efficacy of such products to the animals being treated.

DATES: Effective on April 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Andrew J. Beaulieu, Bureau of Veterinary Medicine (HFV-214), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3183.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of July 22, 1977 (42 FR 37577), the Food and Drug Administration proposed to require NADA's for animal drugs that contain methylene blue and are orally administered to cats and dogs. Interested persons were given 60 days to comment.

One response was received to the proposal. The American Veterinary Medical Association (AVMA) requested clarification of the effect a final rule on the proposal would have on the use of methylene blue in other species. The AVMA said that in the case of nitrate poisoning, the use of methylene blue (parenterally) has long been recognized as approved therapy for methemoglobinemia and is regularly used as an emergency lifesaving measure. The AVMA expressed similar concerns by letter to the Bureau of Veterinary Medicine.

By letter dated December 16, 1977, the Bureau of Veterinary Medicine responded to the AVMA and said the proposal was specifically and intentionally addressed only to oral dosage forms of methylene blue for use in dogs and cats. The Commissioner reiterates that the determination of new animal drug status for methylene blue made by this rule pertains solely to methylene blue for oral use in dogs and cats.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 500 is amended by adding new § 500.27 to read as follows:

§ 500.27 Methylene blue-containing drugs for use in animals.

(a) New information requires a reevaluation of the status of drugs containing methylene blue (tetramethylthionine chloride) for oral use in cats or dogs.

(1)(i) It has been demonstrated that two orally administered urinary antiseptic-antispasmodic preparations that contained methylene blue cause Heinz body hemolytic anemia in cats when used according to label directions. The specific cause of the reaction was determined to be the methylene blue contained in the preparations. The reaction can be severe enough to cause death of treated animals.

(ii) The Heinz body hemolytic anemia reaction to methylene blue has also been demonstrated in dogs under laboratory conditions. The precise mechanism by which methylene blue produces the characteristic erythrocytic inclusion bodies (Heinz bodies) and associated hemolytic anemia is unclear.

(2) The effectiveness of orally administered methylene blue as a urinary antiseptic is open to question. It appears that following oral administration, methylene blue is poorly and erratically absorbed and also slowly and erratically excreted in the urine. Studies in the dog indicate it is excreted in the urine essentially as leukomethylene blue stabilized in some manner. Methylene blue itself is stepwise demethylated in alkaline solutions (alkaline urine being a frequent consequence of urinary infection) to Azure B, Azure A, and Azure C. The antiseptic efficacy of all of these excretion products is unsubstantiated.

(3) In view of the foregoing, the Commissioner has concluded that animal drugs containing methylene blue for oral use in cats or dogs are neither safe nor generally recognized as effective within the meaning of section 201(w) of the act and are therefore considered new animal drugs. Accordingly, all prior formal and informal opinions expressed by the Food and Drug Administration that such drugs are "not new drugs" or "no longer new drugs" are hereby revoked.

(b) Animal drugs that contain methylene blue for oral use in cats or dogs and not the subject of an approved new animal drug application (NADA) are deemed to be adulterated under the provisions of section 501(a) (5) and/or (6) and/or misbranded under section 502(a) of the act and subject to regulatory action as of April 10, 1978.

(c) Sponsors of animal drugs that contain methylene blue for oral use in cats or dogs and not the subject of an approved new animal drug application (NADA) may submit an application in conformity with § 514.1 of this Part. Such applications will be processed in accordance with section 512 of the Act. Submission of an NADA will not constitute grounds for continued marketing of this drug substance until such application is approved.

(d) New animal drug applications required by this regulation pursuant to section 512 of the Act shall be submitted to the Food and Drug Administration, Bureau of Veterinary Medicine, Office of Scientific Evaluation (HFV-100), 5600 Fishers Lane, Rockville, Md. 20857.

Effective date. This regulation becomes effective on April 10, 1978.

(Secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a)))

Dated: March 1, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-6051 Filed 3-9-78; 8:45 am]

[4110-03]

PART 510—NEW ANIMAL DRUGS

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

American Hoechst Corp., Hoechst-Roussel Pharmaceuticals, Inc.; Change of Drug Listing Number

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to designate those new animal drug applications (NADA's) that are sponsored by American Hoechst Corp., and those sponsored by Hoechst-Roussel Pharmaceuticals, Inc. And the listing of sponsors is amended to reestablish the entry for Hoechst-Roussel Pharmaceuticals and to provide a separate entry for American Hoechst Corp. This amendment is made to reflect the correct sponsors for certain bambermycins-containing products.

EFFECTIVE DATE: March 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert S. Brigham, Bureau of Veterinary Medicine (HFV-238), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-6243.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of April 5, 1977 (42 FR 18059), the animal drug regulations were amended to establish American Hoechst Corp. as the sponsor of several NADA's for bambermycins-containing products. The firm name in 21 CFR 510.600(c) was changed in the entry for Hoechst-Roussel Pharmaceuticals, Inc., to reflect this request. In a subsequent publication concerning approval of NADA 104-494V (Fenbendazole), the sponsor was listed as American Hoechst. The firm has advised that this is in error, in that American Hoechst Corp., a subsidiary of Hoechst-Roussel Pharmaceuticals, Inc., is the sponsor of several NADA's for bambermycins-containing products only, and the parent company is the sponsor of several other NADA's. Therefore, the regulations are amended to reinstate Hoechst-Roussel as a sponsor in § 510.600(c) and to provide a separate sponsor listing for American Hoechst. As amended, the regulations will reflect the correct sponsors for these NADA's.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), parts 510 and 558 are amended as follows:

In part 510, § 510.600 is amended in paragraph (c)(1) and (2) by reestablishing the entry for Hoechst-Roussel Pharmaceuticals, Inc., and revising the entry for American Hoechst Corp., as follows:

§ 510.600 Names, addresses, and code numbers of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address:	*Drug Listing No.*

Effective date. March 10, 1978.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: March 6, 1978.

In accordance with the freedom of information regulations and § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness

under which a donor who has not had the red blood cells returned from a unit of blood collected during a plasmapheresis procedure or who has been a donor of a unit of whole blood may

The Commissioner agrees that donors with special antibodies who are plasmapheresed before the 8-week waiting period are more subjected to some additional risk than donors who

ments suggested a 4-day or 2-week waiting period. One comment added that the 8-week waiting period should begin only after the loss of a second unit of red blood cells.

Firm name and address:	Drug Listing No.
American Hoechst Corp., Agricultural Division, Route 202-206 North, Somerville, NJ 08876.	012799
Hoechst-Roussel Pharmaceuticals, Inc., Route 202-206 North, Sommerville, NJ 08876	000039

(2) * * *

Drug Listing No:	Firm name and address
000039	Hoechst-Roussel Pharmaceuticals, Inc., Route 202-206 North, Somerville, NJ 08876.
012799	American Hoechst Corp., Agricultural Division, Route 202-206 North, Somerville, NJ 08876.

2. Part 558 is amended as follows:

§ 558.55 [Amended]

a. In § 558.55 *Amprolium*, paragraph (e)(2) is amended in the table, in item (iii), in the "Limitations" column for the combination of amprolium with bambermycins and roxarsone, by deleting the number "000039" and inserting in its place "012799."

§ 558.58 [Amended]

b. In § 558.58 *Amprolium and ethopabate*, paragraph (e)(1) is amended in the table in item (ii) in the "Limitations" column for amprolium and ethopabate in combination with bambermycins plus roxarsone by deleting the number "000039" and inserting in its place "012799"; and in item (iii) of the table in paragraph (e)(1), in the "Limitations" column for the entries of amprolium and ethopabate in combination with bambermycins and in combination with bambermycins plus roxarsone, the number "000039" is deleted in each entry and "012799" is inserted in its place.

§ 558.95 [Amended]

c. In § 558.95 *Bambermycins*, paragraph (b) is amended by deleting the number "000039" and inserting in its place "012799", and paragraph (e)(1)(vi)(*b*) and (vii)(*b*) is amended by deleting the number "000039" and inserting in its place "012799."

Effective date. March 10, 1978.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: March 6, 1978.

FRED J. KINGMA,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 78-6313 Filed 3-9-78; 8:45 am]

[1505-01]

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Piperazine Phosphate Capsules

Correction

In FEDERAL REGISTER Doc. 78-4207 appearing at page 6941 in the issue of Friday, February 17, 1978 under the heading "FOR FURTHER INFORMATION CONTACT:" second line, "(HFV-12)" should read, "(HFV-112)", and in § 520.1804 the first line of paragraph (c)(2) should read as follows:

"(2) *Indications for use*—(i) *Dogs.* It"

[4110-03]

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Gonadorelin Diacetate Tetrahydrate Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a new animal drug application (NADA) filed by Abbott Laboratories for use of an injectable hormone for treating cystic ovaries in cattle.

EFFECTIVE DATE: March 10, 1978.

FOR FURTHER INFORMATION CONTACT:

William D. Price, Bureau of Veterinary Medicine (HFV-123), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3442.

SUPPLEMENTARY INFORMATION: Abbott Laboratories, Abbott Park, North Chicago, Ill. 60064, filed NADA 98-379V to provide for safe and effective injection of synthetic gonadotropin-releasing-hormone (gonadorelin diacetate tetrahydrate) for treating ovarian cysts in dairy cows.

In accordance with the freedom of information regulations and § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFC-20), Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, from 9 a.m. to 4 p.m., Monday through Friday, except on Federal holidays.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 522 is amended by adding new § 522.1078 to read as follows:

§ 522.1078 Gonadorelin diacetate tetrahydrate injection.

(a) *Specifications.* The drug contains 50 micrograms of gonadorelin diacetate tetrahydrate in each milliliter of sterile solution.

(b) *Sponsor.* See No. 043731 in § 510.600(c) of this chapter.

(c) *Conditions of use.* It is used in dairy cows as follows:

(1) *Amount.* 100 micrograms per cow.

(2) *Indications for use.* The drug is used for the treatment of ovarian cysts.

(3) *Limitations.* Administer as a single intramuscular or intravenous injection. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date: March 10, 1978.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: March 6, 1978.

FRED J. KINGMA,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 78-6312 Filed 3-9-78; 8:45 am]

[4110-03]

SUBCHAPTER F—BIOLOGICS

[Docket No. 77N-0114]

PART 640—ADDITIONAL STANDARDS FOR HUMAN BLOOD AND BLOOD PRODUCTS

Source Plasma (Human)

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This rule amends the regulations regarding Source Plasma (Human) to clarify the conditions under which a donor who has not had the red blood cells returned from a unit of blood collected during a plasmapheresis procedure or who has been a donor of a unit of whole blood may be plasmapheresed again within 8 weeks. This change is necessary because the regulation has been misapplied by manufacturers to permit routine rather than occasional exceptions to the 8-week waiting period after the loss of red blood cells. This amendment limits the exception to the 8-week waiting period to those cases where the donor possesses an antibody that is (1) transitory, (2) of a highly unusual or infrequent specificity, or (3) of an unusually high titer. This amendment also requires that records document the special characteristics of the antibody and the need for plasmapheresing the donor.

EFFECTIVE DATE: March 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Al Rothschild, Bureau of Biologics (HFB-620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, Md. 20014, 301-443-1920.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of May 17, 1977 (42 FR 25339), the Commissioner of Food and Drugs proposed to amend the biologics regulations to clarify the conditions under which a donor who has not had the red blood cells returned from a unit of blood collected during a plasmapheresis procedure or who has been a donor of a unit of whole blood may be plasmapheresed again within 8 weeks. The amendment was proposed because § 640.63(e) has been misapplied by manufacturers to permit routine rather than occasional exceptions to the 8-week waiting period after the loss of red blood cells. The Commissioner proposed to limit the exception to the 8-week waiting period to donors possessing an antibody that is (1) transitory, (2) of a highly unusual or infrequent specificity, or (3) of an unusually high titer. To be consistent with § 606.160 (21 CFR 606.160), the Commissioner also proposed that records document the antibody and the need for plasmapheresing the donor. The proposal was consistent with the interpretation applied to § 640.63(e) by the Bureau of Biologics in its regulatory actions since March 12, 1976.

Interested persons were given until July 18, 1977 to submit written comments. Four letters were received. The comments and the Commissioner's responses follow:

1. Four comments objecting to the proposed amendment stated that it would provide less protection for donors with special antibodies than for normal donors.

The Commissioner agrees that donors with special antibodies who are plasmapheresed before the 8-week waiting period are more subjected to some additional risk than donors who are plasmapheresed after the 8-week waiting period. However, these donors must be examined by a qualified licensed physician and certified by the physician to be acceptable for further plasmapheresis. They are further protected by the other screening and donor suitability requirements of the additional standards for Source Plasma (Human). The Commissioner believes that the additional risk to these donors is acceptable when measured by the benefits in obtaining a scarce biological resource. Accordingly, the comment is rejected.

2. One comment recommended that the waiting period should be 72 hours or more, as prescribed by the American Association of Blood Banks (AABB), rather than 8 weeks as required by the biologics regulations.

The Commissioner believes that 72 hours should not be the routinely acceptable waiting period because donors of a unit of whole blood may lose as much as 400 milliliters of their red blood cells during a plasmapheresis procedure (approximately 200 milliliters from donating a unit of whole blood and approximately 200 milliliters from the plasmapheresis procedure). The Commissioner believes that a donor should not be plasmapheresed within this time span unless the donor carries a scarce antibody, has been examined by a qualified licensed physician and certified to be acceptable for plasmapheresis, and the need for the plasma is documented. Accordingly, the comment is rejected.

3. One comment noted that bleeding some donors may have the beneficial effect of reducing red blood cells, as measured by hemoglobin and hemocrit values. Therefore, it was suggested that the 8-week waiting period should not apply to these donors.

The Commissioner advises that § 640.75 (21 CFR 640.75) provides a mechanism for the collection and processing of Source Plasma (Human) at variance with one or more of the requirements of the Source Plasma (Human) regulations, including § 640.63(e), provided that prior approval for the alternate procedure is obtained from the Director, Bureau of Biologics. Accordingly, exceptions to the 8-week waiting period and § 640.63(e) are permitted under § 640.75, and the comment is rejected.

4. Two comments asserted that implementation of the proposal limiting the exception to the 8-week waiting period would reduce the supply of plasma and its derivatives and have an inflationary effect on the final products by reducing the amount of plasma collected each year. The comments suggested a 4-day or 2-week waiting period. One comment added that the 8-week waiting period should begin only after the loss of a second unit of red blood cells.

The Commissioner recognizes that an 8-week waiting period may result in a greater reduction of the supply of plasma and its derivatives than a 4-day or 2-week waiting period, as suggested by the comments. However, the Commissioner concludes that the reduction of supply does not justify the increased risk to donors who may lose as much as 400 milliliters of red blood cells during a 4-day or 2-week period. In addition, such reduction in the supply resulting from limiting exception to the 8-week waiting period will not cause an economic effect as defined by Executive Orders No. 11821 and 11949, OMB Circular No. A-107, and guidelines issued by HEW. Accordingly, the comment is rejected.

5. One comment objected to FDA taking regulatory action on the proposed amendment before its adoption.

The comment misunderstood the statement in the preamble that the proposal is consistent with the interpretation of § 640.63(e) applied by the Bureau of Biologics in its regulatory actions since March 12, 1976. By proposing to codify its existing policy, FDA was in essence announcing that there would be no change in enforcing that section. Although preceding this final order as a new regulation, implementation of its interpretation of the existing regulation has not been premature. Accordingly, the comment is rejected.

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702, as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner (21 CFR 5.1), Part 640 is amended in Subpart F by revising § 640.63(e) to read as follows:

§ 640.63 Suitability of donor

* * * * *

(e) *Failure to return red blood cells.* Any donor who has not had the red blood cells returned from a unit of blood collected during a plasmapheresis procedure or who has been a donor of a unit of whole blood shall not be subjected to plasmapheresis for a period of 8 weeks, unless:

(1) The donor has been examined by a qualified licensed physician and certified by the physician to be acceptable for further plaspheresis before expiration of the 8-week period;

(2) The donor possesses an antibody that is (i) transitory, (ii) of a highly unusual or infrequent specificity, or (iii) of an unusually high titer; and

(3) The special characteristics of the antibody and the need for plasmapheresing the donor are documented.

Effective date: This regulation becomes effective March 10, 1978.

(Sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262).)

Dated: March 3, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Director for Veterinary Medicine.

[FR Doc. 78-6311 Filed 3-9-78; 8:45 am]

[4110-03]

PART 650—BIOLOGICAL PRODUCTS; ESTABLISHMENT STANDARDS

Establishment Inspection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This rule amends the regulations governing establishment inspection to clarify the conditions under which a donor who has not had the red blood cells returned from a unit of blood collected during a plasmapheresis procedure or who has been a donor of a unit of whole blood may be plasmapheresed again within 8 weeks. This change is necessary because the regulation has been misapplied by manufacturers to permit routine rather than occasional exceptions to the 8-week waiting period after the loss of red blood cells. This amendment limits the exception to the 8-week waiting period to those cases where the donor possesses an antibody that is (1) transitory, (2) of a highly unusual or infrequent specificity, or (3) of an unusually high titer. This amendment also requires that records document the special characteristics of the antibody and the need for plasmapheresing the donor.

EFFECTIVE DATE: March 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Al Rothschild, Bureau of Biologics (HFB-620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, Md. 20014, 301-443-1920.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of May 17, 1977 (42 FR 25339), the Commissioner of Food and Drugs proposed to amend the biologics regulations to clarify the conditions under which a donor who has not had the red blood cells returned from a unit of blood collected during a plasmapheresis procedure or who has been a donor of a unit of whole blood may be plasmapheresed again within 8 weeks. The amendment was proposed because § 640.63(e) has been misapplied by manufacturers to permit routine rather than occasional exceptions to the 8-week waiting period after the loss of red blood cells. The Commissioner proposed to limit the exception to the 8-week waiting period to donors possessing an antibody that is (1) transitory, (2) of a highly unusual or infrequent specificity, or (3) of an unusually high titer. To be consistent with § 606.160 (21 CFR 606.160), the Commissioner also proposed that records document the antibody and the need for plasmapheresing the donor. The proposal was consistent with the interpretation applied to § 640.63(e) by the Bureau of Biologics in its regulatory actions since March 12, 1976.

Interested persons were given until July 18, 1977 to submit written comments. Four letters were received. The comments and the Commissioner's responses follow:

1. Four comments objecting to the proposed amendment stated that it would provide less protection for donors with special antibodies than for normal donors.

The Commissioner agrees that donors with special antibodies who are plasmapheresed before the 8-week waiting period are more subjected to some additional risk than donors who are plasmapheresed after the 8-week waiting period. However, these donors must be examined by a qualified licensed physician and certified by the physician to be acceptable for further plasmapheresis. They are further protected by the other screening and donor suitability requirements of the additional standards for Source Plasma (Human). The Commissioner believes that the additional risk to these donors is acceptable when measured by the benefits in obtaining a scarce biological resource. Accordingly, the comment is rejected.

2. One comment recommended that the waiting period should be 72 hours or more, as prescribed by the American Association of Blood Banks (AABB), rather than 8 weeks as required by the biologics regulations.

The Commissioner believes that 72 hours should not be the routinely acceptable waiting period because donors of a unit of whole blood may lose as much as 400 milliliters of their red blood cells during a plasmapheresis procedure (approximately 200 milliliters from donating a unit of whole blood and approximately 200 milliliters from the plasmapheresis procedure). The Commissioner believes that a donor should not be plasmapheresed within this time span unless the donor carries a scarce antibody, has been examined by a qualified licensed physician and certified to be acceptable for plasmapheresis, and the need for the plasma is documented. Accordingly, the comment is rejected.

3. One comment noted that bleeding some donors may have the beneficial effect of reducing red blood cells, as measured by hemoglobin and hemocrit values. Therefore, it was suggested that the 8-week waiting period should not apply to these donors.

The Commissioner advises that § 640.75 (21 CFR 640.75) provides a mechanism for the collection and processing of Source Plasma (Human) at variance with one or more of the requirements of the Source Plasma (Human) regulations, including § 640.63(e), provided that prior approval for the alternate procedure is obtained from the Director, Bureau of Biologics. Accordingly, exceptions to the 8-week waiting period and § 640.63(e) are permitted under § 640.75, and the comment is rejected.

4. Two comments asserted that implementation of the proposal limiting the exception to the 8-week waiting period would reduce the supply of plasma and its derivatives and have an inflationary effect on the final products by reducing the amount of plasma collected each year. The comments suggested a 4-day or 2-week waiting period. One comment added that the 8-week waiting period should begin only after the loss of a second unit of red blood cells.

The Commissioner recognizes that an 8-week waiting period may result in a greater reduction of the supply of plasma and its derivatives than a 4-day or 2-week waiting period, as suggested by the comments. However, the Commissioner concludes that the reduction of supply does not justify the increased risk to donors who may lose as much as 400 milliliters of red blood cells during a 4-day or 2-week period. In addition, such reduction in the supply resulting from limiting exception to the 8-week waiting period will not cause an economic effect as defined by Executive Orders No. 11821 and 11949, OMB Circular No. A-107, and guidelines issued by HEW. Accordingly, the comment is rejected.

5. One comment objected to FDA taking regulatory action on the proposed amendment before its adoption.

The comment misunderstood the statement in the preamble that the proposal is consistent with the interpretation of § 640.63(e) applied by the Bureau of Biologics in its regulatory actions since March 12, 1976. By proposing to codify its existing policy, FDA was in essence announcing that there would be no change in enforcing that section. Although preceding this final order as a new regulation, implementation of its interpretation of the existing regulation has not been premature. Accordingly, the comment is rejected.

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702, as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner (21 CFR 5.1), Part 650 is amended in § 650.23 by revising paragraph (e) to read as follows:

§ 650.23 Establishment inspection.

* * * * *

(e) *Failure to return red blood cells.* Any donor who has not had the red blood cells returned from a unit of blood collected during a plasmapheresis procedure or who has been a donor of a unit of whole blood shall not be subjected to plasmapheresis for a period of 8 weeks, unless:

(1) The donor has been examined by a qualified licensed physician and certified by the physician to be acceptable for further plaspheresis before expiration of the 8-week period;

(2) The donor possesses an antibody that is (i) transitory, (ii) of a highly unusual or infrequent specificity, or (iii) of an unusually high titer; and

(3) The special characteristics of the antibody and the need for plasmapheresing the donor are documented.

Effective date: This regulation becomes effective March 10, 1978.

(Sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262).)

Dated: March 3, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Director for Veterinary Medicine.

[FR Doc. 78-6310 Filed 3-9-78; 8:45 am]

[4810-22]

TREASURY DEPARTMENT

Office of the Secretary

31 CFR Part 52

Payments in Lieu of Taxes on Federal Real Property Under Certain Federal Programs

AGENCY: Department of the Treasury.

ACTION: Final rule.

SUMMARY: This rule amends the regulations governing payments in lieu of taxes on Federal real property under certain Federal programs to reflect the enactment of Pub. L. 95-469, which amends the Payments in Lieu of Taxes Act of 1976 (Pub. L. 94-565). The amendments to the regulations implement the provisions of Pub. L. 95-469 which (1) increase the maximum payment per unit of entitlement land, (2) provide for payments on certain Federal real property acquired after December 31, 1970, and (3) provide for payments on certain Federal real property transferred to the Federal Government after December 31, 1976.

EFFECTIVE DATE: March 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Bernadine Denning, Director, Office of Revenue Sharing, 2401 E Street NW., Washington, D.C. 20226, 202-634-5182.

SUPPLEMENTARY INFORMATION: 31 CFR Part 52 is therefore amended in the manner set forth below.

BERNADINE DENNING,
Director,

(Sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262).)

Dated: March 3, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-6338 Filed 3-9-78; 8:45 am]

[4510-26]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Approval of Supplement to California State Plan

AGENCY: Occupational Safety and Health Administration, Labor Department.

ACTION: Final rule.

SUMMARY: This rule approves a State-initiated supplement to the California occupational safety and health plan. The supplement is a new State program aimed at reducing employee exposure to occupational hazards from carcinogens which has been in effect since January 1, 1977.

EFFECTIVE DATE: March 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Marjorie N. Sauber, Office of State Programs, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Washington, D.C. 20210, 202-653-5377.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act) for the review by the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) of changes and progress in the development and implementation of State plans which have been approved under section 18(c) of the Act and Part 1902 of this chapter. On May 1, 1973, a notice was published in the FEDERAL REGISTER of the approval of the California plan and of the adoption of the Subpart K to Part 1952 of this chapter containing the decision (38 FR 10717). On December 26, 1976, the State of California submitted a supplement to its plan involving a State initiated change (see Subpart E of Part 1953). On May 27, 1977, a notice was published in the FEDERAL REGISTER (42 FR 27266) inviting public comment and requests for a hearing on the supplement.

DESCRIPTION OF THE SUPPLEMENT

The supplement concerns a new State program relating to occupational hazards from carcinogens which is to be included within the California Occupational Safety and Health Plan. This new program resulted from the enactment of the California Occupational Carcinogens Control Act of 1976 which became effective January 1, 1977 (Senate Bill 1678, Chapter 2, Division 20, California Health and Safety Code). The supplement contains copies of the Occupational Carcinogens Control Act, current California standards concerning vinyl chloride, asbestos, and a group of 14 other carcinogenic substances, and an interagency agreement between the Division of Industrial Safety of the Agriculture and Services Agency and the Occupational Health Branch of the California Department of Health. The State anticipates that the carcinogen compliance program will involve 24 industrial hygienists in the field, 2 senior industrial hygienists, 1 supervisory industrial hygienist, 1 staff counsel and 1 man-year of compliance safety engineer time.

The California Carcinogen Program has three major components. The first component of the program is a special carcinogen enforcement program. The Division of Industrial Safety within the Department of Industrial Relations, which is the designated agency responsible for the administration of the CAL/OSHA program, has responsibility for the enforcement of this program. The Occupational Health Branch of the Department of Health, utilizing reports from carcinogen users, is to establish priorities for inspections and perform as many inspections of the use of carcinogens as resources permit. On July 1, 1977, the CAL/OSHA penalty schedule was modified so that failure to report the use of any carcinogen as required by the carcinogen standards carries a civil penalty of not less than $500, a serious violation involving the use of a carcinogen $1,000, and there is a penalty of not less than $5,000 for a repeated violation of standards or special orders involving the use or failure to report the use of a carcinogen. In addition, effective July 1, 1977, the definition of a serious violation under the CAL/OSHA Act (Section 6432, California Labor Code) was modified to include the violation of a standard or special order respecting the use of a carcinogen.

The second component of the Carcinogen Program centers on standards requirements. Each employer using any carcinogen, currently defined as the 16 substances listed in the legislation, is required to submit a report to the Division of Industrial Safety regarding such use. The legislation also provides the same reporting requirement for all standards involving carcinogens which the State promulgates following promulgation at the Federal level. The Division of Industrial Safety is to transmit reports of users to bargaining and other representatives of the affected employees of a reporting employer. Employers are required to post a copy of these reports in a location conspicuous to affected employees. Every employer using carcinogens must provide for medical examinations of affected employees where required by standards. In addition to providing that the Occupational Safety and Health Standards Board adopt standards at least as restrictive as the comparable Federal standards on carcinogens, the program provides for the adoption of standards concerning substances for which there is a preponderance of evidence establishing carcinogenicity but for which no Federal standards have been promulgated.

The third component of the Carcinogen Program is an education and consultation program. The Department of Health and the Division of Industrial Safety uses all appropriate means of communication to inform all affected employees, employers and the public about the requirements of the Carcinogens Control Act before July 1977. In addition, the Department of Health is providing consultation services for employers using carcinogens. Particular emphasis was placed on education and consultation activities during the first six months of the Carcinogen Program.

LOCATION OF THE PLAN AND ITS SUPPLEMENT FOR INSPECTION AND COPYING

A copy of the plan and its supplements may be inspected and copied during normal business hours at the following locations: Technical Data Center, Occupational Safety and Health Administration, Room S-6212, 200 Constitution Avenue NW., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 9470, 450 Golden Gate Avenue, San Francisco, Calif. 94102; and the California Occupational Safety and Health Administration, Room 3052, 455 Golden Gate Avenue, San Francisco, Calif. 94102.

PUBLIC PARTICIPATION

The May 27, 1977, notice published in the FEDERAL REGISTER described the supplement and allowed 30 days for interested persons to submit written data, views, and arguments concerning whether the supplement should be approved. No public comments or requests for a hearing concerning the supplement have been received.

DECISION

After careful consideration, the California plan change described above is hereby approved under Subpart E of Part 1953 of this chapter as an addition to the effectiveness of regulation of occupational health under the plan. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally.

Accordingly, Subpart K of Part 1952 of this Chapter is amended by adding a new section at the end as follows:

§ 1952.175 Changes in certified plans.

In accordance with Subpart E of Part 1953 of this Chapter, the California carcinogen program implemented on January 1, 1977, was approved by the Assistant Secretary on March 6, 1978.

Signed at Washington, D.C. this 6th day of March 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 78-6388 Filed 3-9-78; 8:45 am]

[4810-28]

Title 31—Money and Finance

CHAPTER I—MONETARY OFFICES, DEPARTMENT OF THE TREASURY

PART 52—ANTIRECESSION FISCAL ASSISTANCE TO STATE, TERRITORIAL AND LOCAL GOVERNMENTS

Interim Regulations

AGENCY: Office of Revenue Sharing, Treasury Department.

ACTION: Amendment to interim regulations.

SUMMARY: This notice amends the interim regulations published September 23, 1977, by the Office of Revenue Sharing pursuant to the Public Works Employment Act of 1976, as amended. The purpose of this amendment is to provide guidance to recipient governments and to inform other interested persons of a change in the procedure used to make adjustments to payments due to corrections in the revenue sharing amount data used to compute the amount of a payment.

EFFECTIVE DATE: March 10, 1978.

ADDRESS: Send comments to: Director, Office of Revenue Sharing, 2401 E Street, NW., Washington, D.C. 20226.

FOR FURTHER INFORMATION CONTACT:

Andrew S. Coxe, Acting Chief Counsel, Office of Revenue Sharing, 2401 E Street NW., Washington, D.C. 20226, 202-634-5182.

SUPPLEMENTARY INFORMATION: On September 23, 1977, the Office of Revenue Sharing published amendments to the interim regulations promulgated pursuant to Title II of the Public Works Employment Act of 1976, as amended by Pub. L. 94-369. That Act authorizes antirecessional fiscal assistance payments to eligible State and local governments, to Puerto Rico, American Samoa, Guam, and the Virgin Islands. Revenue sharing entitlements and unemployment rates are the two data factors specified by the Act to compute payments to State and local governments. After the effective date of this amendment to § 52.25 of the interim regulations, payments under Title II of the Public Works Employment Act, as amended, will be adjusted to reflect a change made by the Director of the Office of Revenue Sharing to the recipient government's revenue sharing entitlement for general revenue sharing purposes, in instances where the incorrect entitlement amount was used to compute an antirecession fiscal assistance payment. The procedure for adjustments to payments due to unemployment rate data changes is not affected by these amendments.

Because these regulations are for purposes of procedure and practice, and relieves a restriction on adjustments, these regulations are published without the notice and public procedures under 5 U.S.C. 553(b) or subject to the effective date limitations of 5 U.S.C. 553(d).

WRITTEN COMMENTS SOLICITED

Consideration will be given any written comments or suggestions pertaining to these interim regulations which are received on or before April 1, 1978. Written comments shall be addressed to the Director, Office of Revenue Sharing (Symbols CC), 2401 E Street NW., Washington, D.C. 20226. Written comments received in response to this solicitation will be available to the public upon request, unless the comments are exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552) and the Department invokes the applicable exemption. A file of all written comments will be indexed and lodged with the Treasury Library.

NOTE.—The Department of the Treasury has determined that these amendments and interim regulations do not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Orders 11821 and 11949, and OMB Circular A-107.

31 CFR Part 52 is therefore amended in the manner set forth below.

BERNADINE DENNING,
Director,
Office of Revenue Sharing.

Approved:

ROGER ALTMAN,
Assistant Secretary.

§ 52.25 Finalizing data; verification of data.

(a) *Closing unemployment rate data.* Except as provided in paragraphs (d) and (e) of this section, the unemployment rate data reported by the Secretary of Labor to the Director shall be closed and final as of the date payments are made to recipient governments each calendar quarter.

(b) *Closing revenue sharing amount data.* Except as provided in § 52.21(c), and paragraphs (d), (e), and (f) of this section, the Director's determination of a recipient government's revenue sharing amount shall be closed and final as of the date payments are made each calendar quarter. A revenue sharing amount determined pursuant to § 52.26 of this subpart for governments without a revenue sharing entitlement (new governments), shall be closed and final as of the date of payment.

(c) *Closing territorial population data.* Except as provided in paragraphs (d) and (e) of this section, the territorial population reported by the Bureau of Census to the Director shall be closed and final as of the date payments are made each calendar quarter.

(d) *Time limitation of data verification.* A government may file a request for data verification with the Director on the grounds that a processing or clerical error was made in the unemployment rate data, the revenue sharing amount data, or the territorial population data used for its quarterly allocation, provided such data verification request is received by the Director within 21 days from the date such data is mailed by the Director to the recipient government for such calendar quarter. Adjustments due to data errors discovered pursuant to this section may be made to the payment of any government for which such data was used for quarterly allocation purposes. Data verification of unemployment rates does not include variances in rates due to quarterly or annual revisions by the Secretary of Labor after the date of payment for a calendar quarter. Nothing in this section shall affect the entitlement of governments under the Revenue Sharing Act.

(e) *Unemployment rate data verification by the Director or the Bureau of Labor Statistics.* Errors in unemployment rate data used for payments that are discovered by the Director or the Bureau of Labor Statistics within 21 days from the date data is mailed to

recipient governments each calendar quarter shall result in appropriate adjustments to the payment of a recipient government. Adjustments pursuant to this section shall be in accordance with § 52.21(b) of this part.

(f) *Revenue sharing amount data verification by the Director.* When the Director approves a revision of a revenue sharing entitlement for purposes of the Revenue Sharing Act, an appropriate adjustment in accordance with § 52.21(b) of this part shall be made to payments of a recipient government, where such payments were computed based upon the incorrect revenue sharing entitlement.

[FR Doc. 78-6385 Filed 3-9-78; 8:45 am]

[6560-01]

Title 40—Protection of the Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

[FRL 865-8]

PART 436—MINERAL MINING AND PROCESSING POINT SOURCE CATEGORY STANDARD OF PERFORMANCE FOR NEW SOURCES

Phosphate Rock Mining

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: These new source performance standards (NSPS) limit the discharge of pollutants into navigable waters from phosphate rock mining and processing operations that are determined to be "new sources." The Federal Water Pollution Control Act (FWPCA) requires these regulatoins to be issued. These standards of performance will be incorporated in National Pollutant Discharge Elimination System (NPDES) permits issued to new sources by the Federal EPA or by States with approved programs. The term "new source" means any source, the construction of which is commenced after the publication of proposed regulation (June 10, 1976, 41 FR 25561). The effect of these regulations will be to require treatment of waste water discharged from new source phosphate mining and processing operations in the mineral mining industry.

EFFECTIVE DATE: April 10, 1978.

FOR FURTHER INFORMATION CONTACT:

William Telliard, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-426-2726.

SUPPLEMENTARY INFORMATION:

Background

On October 16, 1975 (40 FR 48652), and June 10, 1976 (41 FR 23552), EPA promulgated interim final effluent limitations based on the application of "best practicable control technology currently available" (BPT) for 40 CFR Part 436—Mineral Mining and Processing Point Source Category. On June 10, 1976, the Agency also proposed effluent limitations based on the application of "best available technology economically achievable" (BAT) and standards of performance (NSPS) and pretreatment standards for new sources (41 FR 23561). On July 12, 1977 (42 FR 35843), final BPT regulations applicable to existing point sources for the phosphate rock subcategory (Subpart R) were promulgated. The final new source performance standards set forth below are applicable to the phosphate rock subcategory (Subpart R).

The Agency is not promulgating final pretreatment standards for new sources published in the June 10, 1976 proposed regulations because there are no known situations in which such standards would be applicable. Should information become available which indicates there is a need for such standards, then regulations will be issued. The regulations based upon best available technology economically achievable (BAT) which were proposed on June 10, 1976 are also not being promulgated at this time.

Legal Authority

These regulations are promulgated pursuant to section 306 of the Federal Water Pollution Control Act, as amended.

Section 306 of the Act requires the achievement by new sources of a Federal standard of performance providing for the control of the discharge of pollutants which reflects the greatest degree of effluent reduction which the Administrator determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants.

Summary and Basis of Regulations

New source performance standards are established in these regulations for total suspended solids (TSS) and pH. The regulations govern discharges of process generated waste water pollutants and discharges of mine dewatering pollutants by new sources in the phosphate mining and processing subcategory.

The best available demonstrated control technology for controlling the discharge of process generated waste water pollutants includes effective control of total suspended solids by settling and clarification. Occasional use of flocculation may be necessary. Available technologies are discussed in detail in Appendix A of the final rule for existing sources (BPT), 42 FR 35843. As in all other mining categories, the limitations for the phosphate mining and processing subcategory are applied on a concentration basis (mg/l) rather than a mass basis (lb/ton of product) because no correlation between water usage and production can be established. The method of chemical analyses shall conform to the methods specified in "Guidelines Establishing Test Procedures for the Analysis of Pollutants," 40 CFR Part 136, published in 41 FR 52780 (December 1, 1976).

Additional waste water pollutants which may be present are radiological parameters, fluoride and phosphates. Control of total suspended solids will have the effect of controlling phosphates and radiological pollutants to some extent. For the most part, dissolved fluoride results because of upstream chemical plant contamination. This source of pollution will be controlled by regulating that industry. Existing treatment systems are not generally designed to specifically remove these pollutants, and additional treatment of these pollutants will not be practicable for most operations. Consequently, specific limitations for these pollutants are not established at this time. The permit issuing authority could, however, impose specific limitations on such pollutants on a case-by-case basis, if practicable technology were shown to be available in the particular case.

A report entitled "Development Document for Interim Final Effluent Limitations Guidelines and New Source Performance Standards for the Mineral Mining and Processing Point Source Category" was issued at the time that the interim final BPT regulations and proposed BAT and NSPS regulations were published on June 10, 1976. A supplementary report on the possible economic effects of the regulations was also issued at that time. Comments on both reports were solicited by the Agency.

After the interim BPT regulations were issued, the Agency collected and analyzed additional data on the phosphate mining and processing subcategory which is subject to these final NSPS regulations. A report entitled "Development Document for Final Effluent Limitations Guidelines and New Source Performance Standards for the Mineral Mining and Processing Point Source Category" details the analyses undertaken in support of the final

NSPS regulations set forth here. A supplementary analysis on the possible economic effects of the final regulations has also been prepared. Copies of both reports are available for inspection at the EPA Public Information Reference Unit, Room 2922 (EPA Library), Waterside Mall, 401 M Street SW., Washington, D.C., at all EPA regional offices, and at State water pollution control offices. Copies of both documents are being sent to persons or institutions affected by the final regulation or who have placed themselves on a mailing list for this purpose (see EPA's Advance Notice of Public Review Procedures, 38 FR 21202, August 6, 1973). Further copies of the Development Document will be available from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Copies of the economic analysis document will be available through the National Technical Information Service, Springfield, Va. 22151.

The technical and economic analyses undertaken, in support of the BPT regulations and applicable to these NSPS regulations are discussed in detail in Appendix A to the preamble to the final BPT rule published July 12, 1977 (42 FR 35843).

Summary of Public Participation

Prior to this publication, interim final BPT regulations for existing sources were promulgated for the mineral mining point source category (41 FR 23552) which were supported by a report entitled "Development Document for Effluent Limitation Guidelines and New Source Performance Standards for the Mineral Mining Point Source Category, June 1976." This document was made available to the public. Public comment was solicited in the FEDERAL REGISTER, 41 FR 23552. In addition, a public meeting was held in Washington, D.C. on December 2, 1976, to enable further public participation. A complete listing of participants and a discussion of comments and responses pertaining to the comments was contained in the final rule promulgated on July 12, 1977, for existing sources in the mineral mining point source category (42 FR 35843).

While the interim final rulemaking addressed best practicable control technolgy currently available for existing sources, the definitions and basic pollution control concepts used are also relevant to these proposed standards of performance. Appendix B of the July 12, 1977, preamble should be referred to for a discussion of these comments.

Summary of Major Changes

As a result of the comments on the interim final BPT and proposed NSPS regulations and information which were received following promulgation of the interim final BPT regulations, and as a result of additional study by the Agency, a number of changes are being made in the proposed new sources regulations.

The process water discharge limitations for the new source phosphate rock subcategory have been changed. The proposed new source performance standard imposed a no discharge requirement on process generated waste water pollutants in ore transport water, pump seal water, air scrubber water and ore wash water. These types of water can be recycled. Pollutants in waste water from the flotation processes of this industry, by contrast, were not subject to a no discharge requirement because recycling waste water in the flotation circuit causes a loss in recovery of product. The previous regulations further provided for monitoring of discharges when the various waste water streams were commingled. The Agency concluded that these regulations, while reasonable, created excessively complex enforcement problems. Enforcement under the proposed standard would be difficult even if extensive site visits were carried out unless the waste streams were separated. Consequently, a single set of limitations has been imposed in the final regulation for all waste streams.

The TSS limitations for the phosphate rock subcategory have been reevaluated in the light of comments and additional data received, but they have not been changed. The reasons for not changing the TSS limitations are the same as those reasons given in more detail in the final BPT regulation (see, 42 FR 35843, July 12, 1977).

Economic Analyses

The NSPS regulations for phosphate mining represent estimated capital compliance costs of $910,000 (in 1974 dollars) for a model eastern phosphate mining operation. This is less than 4 percent of the investment in plant and equipment. Total annualized costs would be approximately $264,000 (in 1974 dollars), or about $.11 per metric ton or 0.9 percent of the mid-1974 price of $12.10 per metric ton. As discussed in the impact analysis prepared for the Agency, "Economic Impact of Effluent Guidelines, Mineral Mining and Processing Industry," these regulations are not expected to affect significantly prices, production, employment, industry growth, local economies or the balance of trade. The Environmental Protection Agency has determined that this document does not contain a major regulation requiring preparation of an Economic Impact Analysis under Executive Orders 11821 and 11949 and OMB Circular A-107.

Small Business Administration Loans

Section 8 of the FWPCA authorizes the Small Business Administration, through its economic disaster loan program, to make loans to assist any small business concerns in effecting additions to or alterations in their equipment, facilities, or methods of operation so as to meet water pollution control requirements under the FWPCA, if the concern is likely to suffer a substantial economic injury without such assistance.

For further details on this Federal loan program write to EPA, Office of Analysis and Evaluation, WH-586, 401 M Street SW., Washington, D.C. 20460.

In consideration of the foregoing, 40 CFR Part 436 is hereby amended as set forth below.

Dated: March 6, 1978.

DOUGLAS M. COSTLE,
Administrator.

Subpart R—Phosphate Rock Subcategory

Sec.

436.180 Applicability; description of the phosphate rock subcategory.
436.181 Specialized definitions.
436.185 Standards of performance for new sources.

AUTHORITY: Sec. 306, Federal Water Pollution Control Act, as amended.

1. Subpart R is amended by revising § 436.185.

Subpart R—Phosphate Rock Subcategory

§ 436.180 Applicability; description of the phosphate rock subcategory.

The provisions of this subpart are applicable to the mining and the processing of phosphate bearing rock, ore or earth for the phosphate content.

§ 436.181 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) The term "mine dewatering" shall mean any water that is impounded or that collects in the mine and is pumped, drained or otherwise removed from the mine through the efforts of the mine operator.

(c) The term "10-year 24 hour precipitation event" shall mean the maximum 24 hour precipitation event with a probable re-occurrence interval of

[4110-35]

Title 42—Public Health

CHAPTER IV—HEALTH CARE FI-

erage is mandatory in States covering all SSI beneficiaries.

Section 1631(a)(4)(B) of the Act authorizes SSI benefits for otherwise eli-

creases in Old Age, Survivors and Disability (OASDI) benefits. This provision was enacted by section 503 of Pub. L. 94-566

categorically needy; i.e., they are not subject to any cost-sharing requirements or limitations on services which

(c) The term "10-year 24 hour precipitation event" shall mean the maximum 24 hour precipitation event with a probable re-occurrence interval of once in 10 years. This information is available in "Weather Bureau Technical Paper No. 40," May 1961 and "NOAA Atlas 2," 1973 for the 11 Western States, and may be obtained from the National Climatic Center of the Environmental Data Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

(d) The term "mine" shall mean an area of land, surface or underground, actively used for or resulting from the extraction of a mineral from natural deposits.

(e) The term "process generated waste water" shall mean any waste water used in the slurry transport of mined material, air emissions control, or processing exclusive of mining. The term shall also include any other water which becomes commingled with such waste water in a pit, pond, lagoon, mine, or other facility used for settling or treatment of such waste water.

§ 436.185 Standards of performance for new sources.

(a) Subject to the provisions of paragraph (b) of this section, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available demonstrated control technology.

(1) Discharges of process generated waste water and mine dewatering discharges, shall not exceed the following limitations:

Effluent characteristics	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
TSS	60 mg/l	30 mg/l.
pH	Within the range 6.0 to 9.0.	

(b) Any overflow from facilities governed by this subpart shall not be subject to the limitations of paragraph (a) of this section if the facilities are designed, constructed and maintained to contain or treat the volume of waste water which would result from a 10-year 24-hour precipitation event.

[FR Doc. 78-6390 Filed 3-9-78; 8:45 am]

[4110-35]

Title 42—Public Health

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 448—COVERAGE AND CONDITIONS OF ELIGIBILITY FOR MEDICAL ASSISTANCE

PART 449—AMOUNT, DURATION, AND SCOPE OF MEDICAL ASSISTANCE

Medicaid Eligibility—Various Provisions To Implement Recent Statutory Changes and to Clarify Existing Rules

AGENCY: Health Care Financing Administration, HEW.

ACTION: Final rule.

SUMMARY: These amendments to regulations governing eligibility for Medicaid are required by statutory changes enacted in 1976 (medical assistance, title XIX, Social Security Act). Provisions covered in these amendments include:

1. Effect of cost-of-living increases in Social Security benefits and Supplemental Security Income (SSI) benefits;

2. Medicaid coverage for eligible persons in public community residences housing no more than 16 persons;

3. Acceptance of unemployment compensation; and,

4. Medicaid coverage for persons awaiting blindness or disability determinations.

Additional changes clarify existing rules about which questions have been raised. Those changes are described below, under "Supplementary Information."

EFFECTIVE DATES: These regulations are effective upon publication except that:

1. Regulations on the effect of cost-of-living increases in Social Security benefits (§ 448.1 (a)(1)(ii), (b)(2)(viii), § 448.3(b)(9) and § 449.41) and maintenance of State supplementary payment levels (§ 448.4(e)) are effective July 1, 1977; and,

2. Regulations authorizing coverage for persons in public community residences housing no more than 16 persons (§ 448.60) are effective October 1, 1976.

Although these regulations are being published in final for reasons explained in the Supplementary Information, consideration will be given to written comments received on or before April 24, 1978.

ADDRESSES: When commenting please refer to MMB-216-R. Agencies and organizations are requested to submit their comments in duplicate.

Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 2366, Washington, D.C. 20013. Beginning two weeks from today, the public may review the comments Monday through Friday of each week, from 8:30 a.m. to 5 p.m., at: Department of Health, Education, and Welfare, Health Care Financing Administration, Room 5225, 330 C Street SW., Washington, D.C., 202-245-0950.

FOR FURTHER INFORMATION CONTACT:

Mary Kenesson, 202-245-0104.

SUPPLEMENTARY INFORMATION: These regulations were previously codified under 45 CFR Parts 248 and 249. Recodification changes, effective October 1, 1977, established a new Chapter IV in Title 42 of the Code of Federal Regulations for the Health Care Financing Administration. Subchapter C of Chapter IV contains Medicaid regulations. Therefore, these regulations are now codified under 42 CFR Parts 448 and 449.

The specific changes in regulations are described and explained below, in the order that they appear in the CFR:

DEDUCTION OF SUPPLEMENTARY PAYMENTS AND CERTAIN OASDI INCREASES FROM "SPEND DOWN" LIABILITY

Under section 1902(f) of the Social Security Act, States may impose more restrictive Medicaid eligibility conditions than are required for Supplemental Security Income (SSI). Aged, blind or disabled persons in those States can deduct their incurred medical expenses, SSI benefits and State supplementary payments from income to establish Medicaid eligibility (i.e., "spend down" income above the eligibility limit). Certain individuals defined by statute are also entitled to deduct OASDI cost-of-living increases received in August 1972 or after April 1977.

Paragraphs 448.1(a)(1)(ii) and 448.3(b)(9) are revised to accurately reflect mandatory deductions from countable income for persons who "spend down" to establish Medicaid eligibility in those States. These are statutory requirements inadvertently omitted from the previously published regulations.

MEDICAID COVERAGE OF PRESUMPTIVELY BLIND OR DISABLED OR CONDITIONALLY ELIGIBLE SSI RECIPIENTS

Paragraph 448.1(b)(2)(i) is amended to specify that persons receiving SSI benefits pending a final determination of blindness or disability or pending disposal of excess resources are considered to be "individuals receiving a benefit under title XVI" for purposes of Medicaid coverage. Thus, their coverage is mandatory in States covering all SSI beneficiaries.

Section 1631(a)(4)(B) of the Act authorizes SSI benefits for otherwise eligible persons pending a final determination of blindness or disability (i.e., "presumptive blindness or disability"). Persons who receive SSI benefits under these circumstances are entitled to Medicaid coverage and Federal matching is available for Medicaid expenditures on their behalf, whether or not the Social Security Administration subsequently determines that the individual meets the SSI definition of blindness or disability.

Section 1613(b) of the Act authorizes SSI benefits for otherwise eligible persons who enter into written agreements with the Social Security Administration to dispose of excess property within a specified time (i.e., "conditional eligibility"). Persons receiving SSI benefits as conditionally eligible are entitled to Medicaid coverage to the same extent as other SSI recipients in the State.

MEDICAID COVERAGE FOR CERTAIN BLIND AND DISABLED PERSONS

Paragraph 448.1(b)(2)(vii) is added and paragraphs 448.1(c)(1) and (d) are revised to clarify the conditions under which certain blind and disabled persons continue to be eligible for Medicaid.

Section 232 of Pub. L. 93-66, as amended by section 13(b)(2) of Pub. L. 93-233, provides for continued Medicaid coverage of blind and disabled individuals who were eligible for medical assistance in December 1973, if they continue to meet all the December 1973 conditions of Medicaid eligibility and the current income and resource limits (i.e., they do not have to meet the current SSI definitions of blindness or disability).

Section 232 as enacted referred to blind and disabled persons who "would, if needy, be eligible for aid or assistance" under State cash assistance plans. Thus it covered only persons who were not receiving a cash payment. The amendment made by Pub. L. 93-233 clarified that receipt or non-receipt of a money payment is irrelevant. Accordingly, the regulation now requires coverage of all persons who continue to meet the December 1973 eligibility conditions and whose income and resources are within the current Medicaid limits, whether or not they received cash assistance in December 1973. The regulation language has been clarified for both the categorically and medically needy.

MEDICAID COVERAGE FOR CERTAIN OASDI BENEFICIARIES

Paragraph 448.1(b)(2)(viii) is added to require Medicaid coverage for certain persons who become ineligible for SSI benefits from cost-of-living increases in Old Age, Survivors and Disability (OASDI) benefits. This provision was enacted by section 503 of Pub. L. 94-566.

APPLICABILITY

Effective July 1, 1977, any aged, blind or disabled person who becomes ineligible for SSI/SSP cash assistance due to OASDI cost-of-living increases received after April 1977, and who would still be eligible for SSI/SSP if the OASDI increase were deducted from income, will be considered to be an SSI/SSP recipient for purposes of Medicaid coverage.

This provision is not limited to persons who were Medicaid eligible at the time SSI/SSP ineligibility occurred; they are entitled to the deduction whenever they apply or reapply for Medicaid. Also, the person need not remain continuously eligible for Medicaid following loss of SSI/SSP; e.g., a person who receives Medicaid as a result of this provision but then becomes ineligible due to increased resources can deduct OASDI cost-of-living increases in reestablishing Medicaid eligibility when he disposes of his excess resources.

LIMITATIONS

This provision is limited to persons who lose SSI/SSP cash assistance due to OASDI cost-of-living increases. Therefore, it does not apply to persons who were not receiving SSI/SSP, such as the medically needy, persons in medical or intermediate care facilities whose Medicaid eligibility is based on an income level higher than the SSI/SSP payment standard for institutionalized persons, persons who are Medicaid eligible because they could receive SSI/SSP if they applied, or any other groups of Medicaid eligible non-cash recipients. However, persons whose SSI/SSP benefits are suspended pending assignment of a representative payee or because payments are undeliverable for reasons not affecting eligibility are considered to be SSI/SSP recipients.

EXTENT OF COVERAGE

Persons eligible under this provision will be entitled to Medicaid coverage under the same terms and conditions as other SSI/SSP recipients in the State. Therefore, 42 CFR 449.41 is amended to specify that Federal matching is available in Medicare SMI premiums paid by the State on behalf of these persons.

In States which require SSI/SSP recipients to meet more restrictive Medicaid eligibility conditions (per section 1902(f) of the Social Security Act), those conditions must be met by persons who are deemed to be SSI/SSP recipients due to this provision. These persons will be Medicaid eligible as categorically needy; i.e., they are not subject to any cost-sharing requirements or limitations on services which are imposed on medically needy persons in the State. Paragraphs 448.1(a)(1)(ii) and 448.3 (b)(9) are also amended to specify that the amount of OASDI cost-of-living increases they receive will be deducted from countable income in determining financial eligibility.

AMOUNTS DEDUCTED FROM INCOME

Only OASDI cost-of-living benefit increases authorized by Section 215(i) of the Social Security Act which occurred after April 1977 and which were received since loss of SSI/SSP (including the initial increase that resulted in loss of SSI/SSP cash assistance) will be disregarded.

An OASDI cost-of-living increase received by the ineligible spouse of the aged, blind or disabled person will be disregarded if the spouse's OASDI increase is deemed to be income available to the SSI/SSP recipient (and which thus resulted in loss of SSI/SSP benefits). However, OASDI cost-of-living increases received by the parent(s) of a blind or disabled SSI/SSP recipient child, which are deemed available to the child, are not disregarded because section 503 of Pub. L. 94-566 referred only to increases received by spouses.

MEDICAID COVERAGE OF PERSONS ELIGIBLE FOR CASH ASSISTANCE

Paragraphs 448.1(c)(1) and 448.10(b)(2)(i) are revised to clarify that Medicaid coverage is available, at State option, to persons who are eligible for but not receiving cash assistance. The former language referred only to persons who were "eligible but have not applied" for cash assistance. This excluded some persons who should be (and in fact are being) covered under this option, such as those who are not receiving cash assistance because payments are undeliverable due to change of address, or who have elected to receive some other type of cash benefits (such as special benefits available under section 228 of the Act to persons age 72 and older) in lieu of AFDC or SSI/SSP benefits.

Coverage under this option is limited to persons who are, in fact, eligible to receive cash assistance under the AFDC or SSI/SSP programs.

INCOME LIMIT FOR SUPPLEMENTARY PAYMENT RECIPIENTS

In paragraph 448.2(d)(4), reference to the income limit imposed for persons who are Medicaid eligible as recipients of State supplementary payments is deleted. That income limit applies only for purposes of Federal financial participation in medical assistance provided to persons whose eligi-

bility is based on receipt of a supplementary payment, as already specified in paragraph 448.4(b)(3). States may provide coverage to recipients of supplementary payments regardless of the income level used to determine eligibility for the supplement, provided Federal financial participation is not claimed in medical expenses paid on behalf of supplementary payment recipients whose incomes exceed the limit.

Also, paragraph 448.4(b)(3) clarifies that this income limit applies only for purposes of granting Medicaid coverage based on receipt of a supplementary payment. Some States which require SSI/SSP recipients to meet more restrictive Medicaid eligibility conditions (per § 1902(f) of the Act) have misinterpreted this regulation as requiring that income of *all* categorically needy aged, blind and disabled persons must be within the SSP limit. On the contrary, these States must allow aged, blind or disabled persons to "spend-down" to establish financial eligibility as categorically needy and may not impose a limit on the amount of income such persons can have in order to be entitled to the "spend-down."

FINANCIAL ELIGIBILITY OF INSTITUTIONALIZED PERSONS

Paragraph 448.2(e) is revised to clarify that when eligibility of categorically needy persons in medical or intermediate care facilities is based on State supplement income standards, net income (after deduction of disregards) is to be used in determining financial eligibility. Thus, two separate budgeting procedures are required in the eligibility determination:

(a) Gross income (before deduction of disregards) must be within 300 percent of the SSI benefit level for a noninstitutionalized individual; and,

(b) Net income (after deduction of disregards) must be within the State-defined standard.

Also, paragraph 448.2(e) which permits States to use special income standards for determining financial eligibility of categorically needy institutionalized persons is revised to clarify that these standards apply only to persons who reside in medical or intermediate care facilities for at least a full calendar month. Persons who are institutionalized for less than a calendar month are not considered to have changed their living arrangements, and thus remain subject to income standards applicable to noninsti- tutionalized persons. This clarification conforms Medicaid policy to that of the SSI program (at 20 CFR 416.231 (a)(2)), which does not recognize a change in living arrangements until the individual has been institutionalized throughout a month.

ACCEPTANCE OF CASH BENEFITS AS A CONDITION OF MEDICAID ELIGIBILITY

Paragraphs 448.3(b)(1)(ii) and 448.21(a)(2)(i)(C) are amended to require that as a condition of Medicaid eligibility, applicants and recipients must apply for any annuities, pensions, retirement or disability benefits to which they are entitled. Included are veterans' compensation and pensions, workmen's compensation, old-age, survivors and disability (OASDI) benefits, railroad retirement benefits and unemployment compensation. Exceptions may be allowed if the individual shows incapacity to file for other benefits or other good cause.

Section 1902(a)(17) of the Act requires that available income and resources must be considered in determining eligibility, except for amounts that would be disregarded (or set aside for future needs) by the AFDC or SSI programs. Those programs require applicants and recipients to accept other cash benefits which are available to them; see Sec. 407(b)(2) of the Act and 45 CFR 233.20 (a)(3)(ix) regarding AFDC, and Sec. 1611(e)(2) and 20 CFR 416.230 and 416.1330 regarding SSI. Thus, this amendment conforms Medicaid requirements to those of the AFDC and SSI programs.

Amounts actually received from such benefit programs are countable income in determining Medicaid eligibility. Note that States have an option for covering persons for Medicaid who are not accepting AFDC or SSI/SSP cash assistance (see paragraph 448.1(c)(1)), since such cash assistance payments are not counted as income to the recipient.

INSTITUTIONALIZED PERSONS—MAINTENANCE OF A HOME AND APPLICATION OF EXCESS INCOME

Paragraph 448.3(b)(8) is revised to clarify that "personal needs" funds which persons in institutions may keep for their own use include amounts specified for the maintenance of a spouse and dependents and for upkeep of a home within certain limits.

The revision also clarifies that, for all persons in specified long-term care facilities, income above amounts protected for personal needs (including amounts to maintain a home outside the facility, where applicable) is to be applied to the cost of any necessary medical or remedial care recognized under State law. Some States had misinterpreted the former language as applicable only to the medically needy; however, some categorically needy persons also have "excess" income available for medical care costs.

DEDUCTION OF INCURRED MEDICAL EXPENSES FOR AGED, BLIND OR DISABLED PERSONS IN CERTAIN STATES

Paragraph 448.3(b)(9) clarifies that incurred medical expenses must be included in "spend-down" calculations used to determine eligibility of aged, blind or disabled persons in States that impose more restrictive Medicaid eligibility conditions than are required by the SSI program. This had been inadvertently omitted. The revision also clarifies the order in which those incurred expenses are to be considered, and provides for deduction of title II (OASDI) cost-of-living increases for certain persons.

FEDERAL MATCHING IN ADMINISTRATIVE COSTS OF DETERMINING ELIGIBILITY

Paragraphs 448.4(a) and 448.10(d) clarify that Federal financial participation is available in the State's administrative costs of determining eligibility for medical assistance, whether or not the applicant is found eligible. The previous wording was meant to state that Federal matching is not available in the costs of eligibility determinations relating to applicants for general assistance or other State programs to which the Federal Government does not contribute matching funds. It has been misinterpreted to mean that the State must bear the whole cost of eligibility determinations for persons who apply for Medicaid and are found ineligible. This was not intended.

MAINTENANCE OF EFFORT IN STATE SUPPLEMENTARY PAYMENT PROGRAMS

Paragraph 448.4(e) is added to require that, in order to receive Federal matching funds under title XIX, States which make supplementary payments (SSP) to aged, blind and disabled persons must maintain the SSP payment levels as required by Sec. 1618 of the Act.

Section 1618 was added by Sec. 2(a) of Pub. L. 94-585, effective July 1, 1977.

MEDICAID COVERAGE FOR ELIGIBLE PERSONS IN CERTAIN PUBLIC COMMUNITY RESIDENCES

Section 448.60 and paragraph 449.10(c)(1) are amended to exempt residents of publicly operated community residences which serve no more than sixteen residents from the prohibition on Federal financial participation under title XIX in the cost of medical assistance for persons living in public institutions.

Section 1905(a) of the Act prohibits Federal matching in the costs of medical assistance provided on behalf of persons who are inmates of public institutions (except as patients in medical institutions). "Public institutions" are defined in paragraph 448.60(b)(3).

A similar prohibition existed in the SSI program under title XVI. However, effective October 1, 1976, Sec. 505(a) of Pub. L. 94-566 amended title XVI (Sec. 1611(e)(i)(a)) to authorize

SSI benefits for eligible persons who live in publicly operated community residences housing 16 or fewer residents. The Department considers it necessary to apply the same interpretation of a "public institution" to Medicaid because:

(a) There will otherwise be conflicting Department policies on the definition of a "public institution";

(b) The close relationship between SSI and Medicaid eligibility provisions necessitates conforming criteria whenever practicable;

(c) Sec. 1902(a)(10) of the Act generally requires Medicaid coverage of all SSI recipients, some of whom are now residents in these facilities; and,

(d) The change promotes the Department's goal of promoting alternatives to high cost institutional care, in that the intent of Sec. 505 was to facilitate community living arrangements for persons who would otherwise require care in an institutional setting.

Thus, this amendment to Medicaid regulations not only creates a consistent Department policy with respect to Federal funds for persons in public facilities, but should also result in a reduction in title XIX program costs as persons receiving Medicaid-financed care in nursing homes or intermediate care facilities are released to alternative community living arrangements. The costs of ambulatory medical care for those persons would of course be less than the cost of institutional care in a Medicaid facility.

Excluded from the definition of a "public community residence" are educational or vocational training institutions; facilities which provide medical or remedial care on an inpatient basis; correctional or holding facilities for persons under court-ordered confinement; and residential facilities located on the grounds of or immediately adjacent to a large institution or multiple purpose complex of which they are a part. Such living arrangements are not considered as alternatives to institutional living and thus do not satisfy the intent of Sec. 505(a) of Pub. L. 94-556.

PROVISIONS APPLICABLE TO PUERTO RICO, THE VIRGIN ISLANDS AND GUAM

In addition to other revisions to 42 CFR 448.10 and 448.21 noted above, the following changes are made with respect to Medicaid programs in Puerto Rico, the Virgin Islands and Guam:

(a) Paragraph 448.10(b)(2)(ii) clarifies coverage for medical assistance of children in medical or intermediate care facilities who, if they left, would be eligible for financial assistance. Such children qualify if they would meet all conditions of eligibility under either the State's AFDC or AB plan if they were outside the facility. The former language implied that only the AFDC criteria were applicable.

(b) Paragraphs 448.21 (a)(3)(i)(B) and (c) delete references to the limit on Federal financial participation with respect to income levels for the medically needy. Sec. 1903(f) of the Act limits Federal matching in Medicaid payments to medically needy families whose income is within 133⅓ percent of the highest amount ordinarily paid to an AFDC family. Under section 248(d) of Pub. L. 90-248, this limitation does not apply to Guam, Puerto Rico, or the Virgin Islands.

(c) A provision is being added to paragraph 448.21(a)(3)(i)(C) to allow for maintenance of an institutionalized person's home if a physician certifies that he is likely to return home within six months. This change conforms these regulations to those applicable to the 50 States (paragraph 448.3(b)(4)(ii)).

The Department finds good cause to publish these regulations in final rather than as proposed rules because they either implement specific statutory amendments or incorporate HCFA policies that have already been published in other documents. If significant comments are received, however, these regulations may be revised accordingly.

Accordingly, 42 CFR Part 448 is amended as follows:

1. In § 448.1, paragraphs (a)(1)(ii) (A) and (B), and (b)(2)(i) are revised; new paragraphs (b)(2) (vii) and (viii) are added; (c)(1) is revised and (c)(1) (i) and (ii) are deleted; and new paragraph (c)(7) is added. The changes are set forth below:

§ 448.1 State plan requirements and options for coverage under the medical assistance program.

* * * * * * *

(a) *General provisions governing eligibility for medical assistance.*—(1) *Categorically needy.*—(i) *General.* In order to be considered as categorically needy for purposes of title XIX, an individual must in general be receiving financial assistance or sufficiently in need to be financially eligible for financial assistance under title IV-A or XVI of the Social Security Act, or under a State supplement to title XVI assistance.

(ii) *States limiting coverage by returning to earlier Medicaid standard.* The following rules apply to aged, blind and disabled persons in States which have exercised their option under section 1902(f) of the Act to impose eligibility conditions which are more restrictive than those required for receipt of Supplemental Security Income (SSI) benefits under title XVI. Aged, blind and disabled persons in those States are entitled to deduct amounts received as SSI benefits or State supplementary payments, and, as specified in § 448.1(b) (2)(viii) and (3)(ii), cost-of-living increases in title II benefits and incurred medical expenses, from income in order to qualify for Medicaid.

(A) If the State title XIX plan provides for coverage of both the categorically and the medically needy, categorically needy coverage is limited to financially eligible aged, blind and disabled persons who are also eligible for SSI benefits or State supplementary payments, or who pursuant to § 448.1(b) (2)(viii) or (3)(ii) are entitled to Medicaid coverage to the same extent as other recipients of SSI benefits or State supplementary payments in the State.

(B) If the State title XIX plan provides for coverage of the categorically needy only, all financially eligible aged, blind and disabled persons are considered to be categorically needy, whether or not they also qualify for cash assistance.

* * * * * * *

(b) *Required coverage of the categorically needy.* * * *

(2) In the case of the aged, blind and disabled, include one of the groups listed in paragraph (b)(2) (i), (ii) or (iii) of this section, and in addition, those listed in paragraph (b)(2) (iv), (v), (vi), (vii), and (viii) of this section:

(i) Individuals receiving a benefit under title XVI (for purposes of the regulations in this part, the phrase "individuals receiving a benefit under title XVI" includes the eligible spouses of such individuals and persons receiving such benefits pending a final determination of blindness or disability or pending disposal of excess property), or

* * * * * * *

(vii) All individuals who, whether or not they actually received cash assistance in December 1973:

(A) Were eligible under the State title XIX plan in December 1973 by reason of having been determined to meet the criteria for blindness or disability of the State plan approved under title X, XIV, or XVI of the Act, and

(B) For each consecutive month after December 1973, continue to meet such blindness or disability criteria and continue to meet the other conditions of the State plan under title XIX as in effect in December 1973, and

(C) Meet all current requirements of the State title XIX plan except the criteria for blindness or disability.

(viii) Effective July 1, 1977. In States which provide medical assistance to all recipients of benefits under title XVI or State supplementary payments, any individual who:

(A) Is entitled to monthly insurance benefits under title II of the Act,

(B) Becomes ineligible for benefits under title XVI or State supplementary payments because of title II cost-of-living increases paid under section

(i) Were eligible as medically needy under the State title XIX plan in December 1973 by reason of having been determined to meet the criteria for

3. In § 448.3, paragraphs (b)(1)(ii), (8) and (9) are revised. The changes are set forth below:

(8) Provide, for individuals in long-term care facilities specified in paragraph (b)(7) of this section for the application of income:

under the plan, in the cost of whose medical care and services the Federal government shares.

(b) *Medical assistance.* * * *

meet their needs outside the facility according to the appropriate State plan.

(B) Becomes ineligible for benefits under title XVI or State supplementary payments because of title II cost-of-living increases paid under section 215(i) of the Act after April 1977,

(C) Was an eligible recipient of benefits under title XVI or State supplementary payments prior to receiving the title II cost-of-living increase, and

(D) Would still be eligible for benefits under title XVI or State supplementary payments if the amount of title II cost-of-living benefit increases paid after April 1977 and received by the individual (or spouse whose income is deemed available to the individual) were deducted from income. Amounts to be deducted include the increase that resulted in loss of eligibility for cash assistance and any subsequent increases.

In States which exercise their option under section 1902(f) to impose more restrictive medical assistance eligibility conditions on aged, blind and disabled persons than conditions for receipt of benefits under title XVI, persons described in (A) above are entitled to medical assistance under the same terms and conditions as title XVI beneficiaries or supplementary payment recipients in the State. Thus, the amount of the specified title II cost-of-living increases will be deducted from income in determining financial eligibility of such persons.

• • • • •

(c) *Options for coverage of categorically needy.* A State may at its option also cover additional groups of individuals as categorically needy provided they are so specified in the plan. These groups may include any of the following:

(1) Individuals who meet all the conditions of eligibility, including financial eligibility, for aid under title IV-A, benefits under title XVI or State supplementary payments (provided such supplementary payments meet standards specified in §448.2(d), and the State plan approved under title XIX specifies that recipients of such payments are treated as categorically needy) but are not receiving such assistance.

• • • • •

(d) *Coverage of the medically needy.* (1) If the State opts to include medically needy individuals under title XIX, the State plan must specify that it covers all medically needy groups that correspond to the categorically needy groups covered in the plan; except that this requirement will not apply with respect to individuals required to be covered pursuant to paragraph (b) (1)(iii), (2) (iv), (v), and (vi), and (3)(ii) of this section. (2) Included as medically needy are all individuals who:

(i) Were eligible as medically needy under the State title XIX plan in December 1973 by reason of having been determined to meet the criteria for blindness or disability of the State Plan approved under title X, XIV, or XVI of the Act, and

(ii) For each consecutive month after December 1973 continue to meet such blindness or disability criteria and continue to meet the other conditions of the State plan under title XIX as in effect in December 1973, and

(iii) Meet all current requirements of the State title XIX plan except the criteria for blindness or disability.

2. In §448.2, paragraphs (d)(4) and (e) are revised. The changes are set forth below:

§448.2 Conditions for State plan approval.

• • • • •

(d) If individuals who receive a State supplementary payment are covered as categorically needy, the supplementary payment meets the following standards. It is

• • • • •

(4) Equal to the difference between income and the financial standard used to determine eligibility for the supplement.

(e) Notwithstanding the provisions specified in paragraph (d) of this section, if a State plan provides that persons who would be eligible for cash assistance except that they are in a medical institution (or intermediate care facility) are covered as categorically needy, a special income standard may be established to determine financial eligibility of aged, blind and disabled institutionalized persons, even though a State supplementary payment might not be available to noninstitutionalized persons with incomes below that standard. Such special income standards:

(1) Must be specified in the State plan;

(2) Must be based on the increased needs that institutionalized persons, or reasonable groups of such persons, would have if they were living in the community (e.g., different income standards may be established for persons in need of care in hospitals, nursing homes, and intermediate care facilities);

(3) Will be applied effective with the first full month of institutionalization; and

(4) Will be measured against income after deduction of disregards allowed to other categorically needy aged, blind and disabled persons in the State (but in no case may Federal financial participation be claimed on behalf of persons whose eligibility is based on these standards but whose income exceeds the limit specified in §448.4(b)(3)).

3. In §448.3, paragraphs (b)(1)(ii), (8) and (9) are revised. The changes are set forth below:

§448.3 State plan requirements on financial eligibility for medical assistance programs.

• • • • •

(b)(1) • • •

(ii) Income and resources to be considered in determining eligibility and the amount of assistance include amounts actually contributed to the applicant or recipient and amounts received from any annuities, pensions, retirement or disability benefits to which he is entitled (including veterans compensation and pensions, workmen's compensation, OASDI benefits, railroad retirement benefits and unemployment compensation). The applicant or recipient must take all appropriate steps to apply for and, if entitled, to obtain such benefits unless he can show his incapacity to do so, or other good cause.

• • • • •

(7) Provide that a lower income level for maintenance shall be used for individuals not living in their own homes but receiving care in hospitals, skilled nursing facilities, intermediate care facilities, and institutions for tuberculosis or mental diseases which are covered under title XIX. This lower income level must be reasonable in amount for clothing and personal needs for such individuals, and

(i) For aged, blind, and disabled individuals, such income level must be at a minimum of $25.00 per month;

(ii) For others, States may establish reasonable standards different from that specified in subdivision (i), provided they are based on a reasonable differential in personal needs.

When such an individual's home is maintained for a spouse or other dependents, an additional amount, established by the State, must be protected for the maintenance needs of any eligible institutionalized individual's spouse or dependents living outside the facility. Such additional amounts must be based on a reasonable assessment of need and may not exceed the maintenance amount recognized by the State for categorically or medically needy persons living in the community. For families, the protected income amount must be adjusted for family size, in accordance with need standards of the State AFDC or medically needy program. A higher level of maintenance may also be applied for a temporary period, not to exceed six months, to allow an individual to apply his income and resources to maintenance of a home if a physician has certified this such individual is likely to return to the home within such temporary period.

(8) Provide, for individuals in long-term care facilities specified in paragraph (b)(7) of this section for the application of income:

(i) First to personal needs which include the needs of a spouse or other dependents and amounts needed to maintain a home as specified in paragraph (b)(7), except that income otherwise protected for personal needs shall be used to pay cost-sharing charges imposed pursuant to §449.40 of this chapter, if the individual has no other income;

(ii) Then to the cost of medical or remedial care which is not subject to payment by a third party. (Included are health insurance premiums, deductibles or coinsurance charges, and the cost of necessary medical or remedial care recognized under State law but not covered under the State plan. States may set reasonable limits on application of income to such services); and

(iii) Any remaining income to the cost of medical assistance included in the State plan which is not subject to payment by a third party.

(9) Provide that, in determining eligibility for medical assistance of an aged, blind, or disabled individual receiving a benefit under title XVI or a State supplemental payment, who is not eligible for medical assistance unless he can meet additional eligibility criteria from the January 1972 standard, the following amounts will be deducted from income:

(i) The amount of such individual's title XVI benefit and State supplementary payment;

(ii) For individuals defined in §448.1(b)(3)(ii), the amount of the twenty percent title II benefit increase they received in 1972;

(iii) For individuals defined in §448.1(b)(2)(viii), the amount of cost-of-living increases in title II benefits specified therein; and

(iv) Incurred expenses for any medical care recognized under State law which is not subject to payment by a third party (including health insurance premiums, deductibles or coinsurance charges). States may set reasonable limits on such medical care to which income will be applied.

• • • • •

4. In §448.4, paragraphs (a) and (b)(3) are revised, and a new paragraph (e) is added. The changes are set forth below:

§448.4 Federal financial participation.

(a) *Administrative costs.* Federal financial participation is available in the necessary administrative costs of (1) determining the eligibility of applicants for the medical assistance program, and (2) providing medical care and services to all individuals covered under the plan, in the cost of whose medical care and services the Federal government shares.

(b) *Medical assistance.* • • •

(3) Federal financial participation is available in payments made on behalf of individuals specified in the plan as categorically needy, except for: aged, blind or disabled individuals whose eligibility is based on receipt of a State supplementary payment (as described in §§448.1(b)(2)(ii) and 448.2(d)) and whose income, before application of any disregards applied under title XVI, exceeds 300 percent of the supplemental security income benefit rate established by section 1611(b)(1) of the Social Security Act. This income limit does not apply to those individuals required to be covered pursuant to §448.1(b)(2)(v) of this chapter or individuals receiving a mandatory supplement under section 212 of Pub. L. 93-66.

• • • • •

(e) *Maintenance of supplementary payment levels.* No Federal financial participation is available under title XIX to any State which makes supplementary payments of the type described in sec. 1616(a) of the Act (including supplementary payments mandated by Sec. 212(a) of Pub. L. 93-66), for any calendar quarter which begins after June 30, 1977, or, if later, after the calendar quarter in which the State first makes such supplementary payments, if the State does not have in effect an agreement with the Secretary to maintain such supplementary payment levels as required by Sec. 1618 of the Act.

5. In §448.10, paragraphs (b)(2)(i) and (ii) and (d) are revised. The changes are set forth below:

§448.10 Coverage and conditions of eligibility for medical assistance.

NOTE: Effective January 1, 1974, the provisions of this section are applicable only to Guam, Puerto Rico and the Virgin Islands. See §§448.1 through 448.4 for provisions applicable to other jurisdictions participating in the medical assistance program under title XIX of the Social Security Act.

• • • • •

(b) *State plan requirements.* • • •

(b) • • •

(i) Persons who meet all the conditions of eligibility, including financial eligibility, of one of the State's other approved plans, but are not receiving such assistance.

(ii) Persons in a medical or intermediate care facility who, if they left such facility would be eligible for financial assistance under another of the State's approved plans. This includes persons who have enough income to meet their personal needs while in the facility, but not enough to meet their needs outside the facility according to the appropriate State plan.

• • • • •

(d) *Federal financial participation—*(1) *Administrative costs.* Effective October 30, 1972, Federal financial participation in the necessary administrative costs of (i) determining the eligibility of applicants for the medical assistance program, and (ii) providing medical care and services to all individuals covered under the plan, in the cost of whose medical care and services the Federal Government shares.

• • • • •

6. In §448.21, paragraphs (a)(2)(i)(C), (3)(i) (B) and (C), and (c) are revised. The changes are set forth below:

§448.21 Financial eligibility—medical assistance programs.

(a) *State plan requirements.* • • •

(2) With respect to both the categorically needy and, if they are included in the plan, the medically needy;

(i) • • •

(C) Income and resources to be considered in determining eligibility and the amount of assistance include amounts actually contributed to the applicant or recipient and amounts received from any annuities, pensions, retirement or disability benefits to which he is entitled (including veterans' compensation and pensions, workmen's compensation, OASDI benefits, railroad retirement benefits and unemployment compensation). The applicant or recipient must take all appropriate steps to apply for and, if entitled, to obtain such benefits unless he can show his incapacity to do so, or other good cause.

• • • • •

(3) With respect to the medically needy, if they are included in the plan:

(i) • • •

(B) The income levels for maintenance must be, as a minimum, at the levels of the most liberal money payment standard used by the State, at any time on or after January 1, 1966, as a measure of financial eligibility in any categorical money payment program in the State.

(C) A lower income level for maintenance must be used for individuals not living in their own homes but receiving care in nursing homes, institutions for tuberculosis or mental diseases or other medical or intermediate care facilities providing long-term care. This lower income level must be reasonable in amount for clothing and personal needs for such individuals. When such an individual's home is maintained for a spouse or other dependents, an addi-

tional amount, established by the State, must be protected for the maintenance needs of any eligible institutionalized individual's spouse or de-

(11) "Publicly operated community residence which serves no more than 16 residents" is defined in 20 CFR 416.231(b)(6)(i). A publicly operated

an intermediate care facility or, effective October 1, 1976, as a resident of a publicly operated community resi-

[4110-35]

PART 450—ADMINISTRATION OF MEDICAL ASSISTANCE PROGRAMS

the Medicaid patient." (H.R. Rep. No. 95-393, Part I, p. 65-66.) The Senate Committee on Finance cited two examples of "Confidential services" and

§450.80 Fraud in the medical assistance program.

(a) *State plan requirements.* A State plan for medical assistance under title

tional amount, established by the State, must be protected for the maintenance needs of any eligible institutionalized individual's spouse or dependents living outside the facility. Such additional amounts must be based on a reasonable assessment of need and may not exceed the maintenance amount recognized by the State for categorically or medically needy persons living in the community. For families, the protected income amount must be adjusted for family size, in accordance with need standards of the State AFDC or medically needy program. A higher level of maintenance may also be applied for a temporary period, not to exceed six months, to allow an individual to apply his income and resources to maintenance of a home if a physician has certified that the individual is likely to return to the home within such a temporary period.

• • • • •

(c) *Federal financial participation.*— (1) Federal financial participation is available in payments made in behalf of categorically needy and medically needy individuals.

(2) Federal financial participation is available in payments made in behalf of the individuals and families described in § 448.10(b) (3) and (4) of this chapter.

7. In § 448.60, paragraphs (a)(1) and (b)(3) are revised and new paragraph (b)(11) is added. The changes are set forth below:

§ 448.60 Institutional status.

(a) *Federal financial participation.* (1) Federal financial participation under title XIX of the Social Security Act is not available in medical assistance for any individual who is an inmate of a public institution except as a patient in a medical institution or as a resident of an intermediate care facility or, effective October 1, 1976, as a resident of a publicly operated community residence which serves no more than 16 residents.

• • • • •

(b) *Definitions.* • • •

(3) "Public institution" means an institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control. The term "public institution" does not include a medical institution as defined in paragraph (b)(5) of this section, an intermediate care facility as defined in § 449.10(b)(15) of this chapter, nor, effective October 1, 1976, a public community residence which serves no more than sixteen residents, as defined in paragraph (b)(11) of this section.

• • • • •

(11) "Publicly operated community residence which serves no more than 16 residents" is defined in 20 CFR 416.231(b)(6)(i). A publicly operated community residence means:

(a) It must be publicly operated as defined in § 416.231(b)(2); and

(b) It must be designed and planned to serve no more than 16 residents, or the plan and design was changed to serve no more than 16 residents; and

(c) It must be serving 16 or fewer residents; and

(d) It must make available some services beyond food and shelter such as social services, or help with personal living activities, or training in socialization and life skills; occasional or incidental medical or remedial care may also be provided (as defined in 45 CFR 228.1).

(ii) Excluded from the definition of "publicly operated community residences" are the following facilities, even if their accommodations are for 16 residents or less:

(a) Residential facilities located on the grounds of or immediately adjacent to any large institution or multiple purpose complex; and

(b) Educational or vocational training institutions that primarily provide an approved or accredited or recognized program to some or all of the individuals residing within it; and

(c) Correctional or holding facilities which provide for individuals whose personal freedom is restricted because of a court sentence to confinement (prisoners), court ordered holding (material witness, juvenile) or a pending disposition of charges or status (individuals who have been arrested or detained); and

(d) Medical treatment facilities (hospitals and skilled nursing facilities, see 42 U.S.C. 1395x and intermediate care facilities, see 42 U.S.C. 1396d) which provide medical or remedial care on an inpatient basis.

§§ 448.70 and 448.80 [Amended]

8. In §§ 448.70 and 448.80, the parenthetical cross-references in paragraph (a)(1) are corrected to read as follows:

(a) • • •

(1) • • • (see § 448.1(b)(2)(vii) and (d)(2));

9. In § 449.10, paragraph (c)(1) is revised as follows:

§ 449.10 Amount, duration, and scope of medical assistance.

• • • • •

(c) *Limitations.* (1) Federal financial participation in expenditures for medical and remedial care and services listed in paragraph (b) of this section is not available with respect to (i) any individual who is an inmate of a public institution (except as a patient in a medical institution or as a resident of an intermediate care facility or, effective October 1, 1976, as a resident of a publicly operated community residence which serves no more than 16 residents) or (ii) any individual who has not attained 65 years of age and who is a patient in an institution for tuberculosis or mental diseases (except for an individual under age 22 who is receiving inpatient psychiatric facility services pursuant to paragraph (b)(16) of this section).

• • • • •

10. In § 449.41, paragraph (c)(1) is revised as follows:

§ 449.41 Coordination of title XIX with part B of title XVIII, Social Security Act.

• • • • •

(c) *Federal financial participation.* (1) There will be no Federal financial participation in the monthly insurance premium under title XVIII, part B of the act which the title XIX State agency pays on behalf of nonmoney payment individuals eligible to receive medical assistance under title XIX of the act, except for those persons required to be covered pursuant to: (i) § 448.1(b)(1)(ii) of this chapter (AFDC families eligible for continued Medicaid coverage under section 209(a) of Pub. L. 92-603); (ii) § 448.1(b)(3)(ii) of this chapter (persons eligible for continued Medicaid coverage despite increased income from title II benefits, as provided under section 249E of Pub. L. 92-603); and,

(iii) Section 448.1(b)(2)(viii) of this chapter, effective July 1, 1977 (persons entitled to continued Medicaid coverage despite increased income from cost-of-living increases in title II benefits, as provided under Section 503 of Pub. L. 94-566).

• • • • •

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302))

(Catalog of Federal Domestic Assistance Program No. 13.714 Medical Assistance Program)

NOTE.—The Health Care Financing Administration has determined that this document does not require preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: November 10, 1977.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: March 3, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 78-6284 Filed 3-9-78; 8:45 am]

[4110-35]

PART 450—ADMINISTRATION OF MEDICAL ASSISTANCE PROGRAMS

Medicaid Claims Processing Systems: Explanation of Benefit Notices

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final rule.

SUMMARY: This rule permits States receiving 75 percent Federal matching for management information systems under the Medicaid program (title XIX, Social Security Act) to send explanation of benefits (EOB) notices to a sample group of Medicaid recipients rather than to all recipients of services, as was previously required. To protect the privacy of Medicaid recipients, this rule also prohibits States from including "confidential services" in EOB notices. This rule implements section 10 of Pub. L. 95-142, the Medicare-Medicaid Anti-Fraud and Abuse Amendments.

DATE: Effective on January 1, 1978.

FOR FURTHER INFORMATION, CONTACT:

Larry Rima, 202-245-0851.

SUPPLEMENTARY INFORMATION:

Section 10 of Pub. L. 95-142, the Medicare-Medicaid Anti-Fraud and Abuse Amendments, amended section 1903(a)(3)(B) of the Social Security Act to permit Federal matching for approved Medicaid management information systems:

"• • • which include provision for prompt written notice to each individual who is furnished services covered by the plan, or to each individual in a sample group of individuals who are furnished such services, of the specific services (other than confidential services) so covered, the name of the person or persons furnishing the services, the date or dates on which the services were furnished, and the amount of the payment or payments made under the plan on account of the services."

In discussing the need for this technical revision to the Medicaid statute, the House Committee on Ways and Means said that the previous strict requirement for EOB notices to all recipients limited the growth of approved management information systems, and the Committee questioned its cost-effectiveness because of the high volume of Medicaid claims. The Committee explained that, in permitting States to send EOBs on a sample basis, Congress expects that the samples will be sufficiently large and representative to identify questionable billing patterns. Further, the Committee said it intended "that all confidential services, and services integrally related to a confidential service, be deleted from the explanation of benefit forms in order to assure privacy for the Medicaid patient." (H.R. Rep. No. 95-393, Part I, p. 65-66.) The Senate Committee on Finance cited two examples of "Confidential services" and "services integrally related to confidential service." They are family planning services and venereal disease treatment. (Sen. Rep. No. 95-453, p. 30.) Accordingly, the Medicaid regulations on fraud (42 CFR 450.80) and Federal financial participation for automated claims processing systems (42 CFR 450.90) are being amended to change the EOB requirement from full coverage to a sampling basis. To assist States in implementing this regulation, the Medicaid Bureau of HCFA will issue suggestions for sampling methods.

The statute requires "prompt" issuance of EOBs in automated systems receiving 75 percent Federal financial participation under section 450.90. States are currently required under Federal guidelines to issue EOBs within 45 days from date of claims payment (Medical Assistance Manual, Part 7-71-44-C-3, MSA-PRG-31, p. 41). The Department believes this requirement should be included in the regulation, because EOBs lose their effectiveness if Medicaid beneficiaries receive them too late after services are provided. Forty-five days seems ample time for States to issue EOBs, since the 15 States which now have Medicaid management information systems certified under section 450.90 are already meeting this requirement. Therefore, these regulations incorporate the 45-day limit at 450.90(b)(2)(v).

The Department wants to give the States maximum flexibility in defining "confidential services". However, it expects that States will exclude from EOBs only those particularly sensitive services for which disclosure will violate a recipient's right to privacy.

The Department finds good cause to issue these regulations in final form without using proposed rulemaking procedures, because the amendments are technical in nature and required by statute. They become effective with the calendar quarter (January 1, 1978) beginning after the date of enactment (October 25, 1977). States will have 90 days from the date the regulation is published to submit the plan amendment, in order to permit sufficient time for their administrative procedures.

The regulations being amended were previously codified in Title 45, Part 250, of the Code of Federal Regulations. Recodification changes effective October 1, 1977, transferred those regulations to Title 42, Subchapter C, Part 450; these regulations reflect those changes.

42 CFR Part 450 is amended as set forth below:

1. Section 450.80 is amended by revising paragraph (a)(6) to read as follows:

§ 450.80 Fraud in the medical assistance program.

(a) *State plan requirements.* A State plan for medical assistance under title XIX of the Social Security Act must:

• • • • •

(6) Provide for establishing a basis for verifying with recipients whether services billed were actually received.

(i) In States which do not receive Federal matching of expenditures for operation of a mechanized claims processing and information retrieval system under section 1903(a)(3)(B), verification may be by a random sample of patients for each provider who is paid significant amounts (high-volume providers) and for each group of providers who do not receive significant amounts (low-volume providers).

(ii) A State which receives Federal matching of expenditures for operation of a mechanized claims processing and information retrieval system under section 1903(a)(3)(B) of the Act must provide prompt written notice to either each individual who receives services covered by the State plan, or each individual in a sample group of individuals who receive services. See § 450.90(b)(2)(v) of this chapter for requirements on providing such notices.

• • • • •

2. Section 450.90 is amended by revising paragraphs (b)(2) and (b)(2)(v) as follows;

§ 450.90 Federal financial participation: Mechanized claims processing and information retrieval systems.

• • • • •

(b) *Federal financial participation.*

(2) Federal financial participation is available at 75 percent for expenditures in the administration of the plan for operation of a mechanized claims processing and information retrieval system approved by the Health Care Financing Administration (HCFA). This approval shall be based upon a finding by HCFA that:

• • • • •

(v) The system provides written notice within 45 days of payment of the claim to each individual who receives services covered by the State plan, or to each individual in a sample group of individuals who receive services. This notice must specify:

(A) the service furnished;

(B) the name of the provider furnishing the service;

(C) the date on which the service was furnished; and

(D) the amount of the payment made under the plan for the service.

A notice shall not specify confidential services (as defined by the State) and

shall not be sent if the only service furnished was confidential.

• • • • •

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302)

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

NOTE.—The Health Care Financing Administration has determined that this document does not require preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: January 26, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: March 3, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 78-6264 Filed 3-9-78; 8:45 am]

[6315-01]

Title 45—Public Welfare

CHAPTER X—COMMUNITY SERVICES ADMINISTRATION

[CSA Notice 6143-6]

PART 1061—EMERGENCY ENERGY CONSERVATION PROGRAM

Subpart—Policies and Allocations for Fiscal Year 1978 Fundings

AGENCY: Community Services Administration.

ACTION: Final rule.

SUMMARY: Community Services Administration is filing its final rule on the Emergency Energy Conservation Program: Policies and Allocations for fiscal year 1978 Fundings. This rule is required in order to immidiately allocate and distribute the funds needed for Regionally supported operational energy programs which were provided for in CSA's fiscal year 1978 appropriation. This rule details how these energy funds will be allocated to each state and sets forth policies and funding criteria which will govern the expenditure of these funds.

DATE: This rule becomes effective March 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard M. Saul, Community Services Administration, Office of Program Development, Energy Programs, 1200 19th Street NW., Washington, D.C. 20506, telephone 202-254-5460.

SUPPLEMENTARY INFORMATION: On December 9, 1977, the President signed the CSA fiscal year 1978 appropriation that included $65 million for the CSA Emergency Energy Conservation Program.

The purpose of this rule is to inform CSA grantees and the public of the allocation of $42 million of these funds which are being allocated at this time, and of the procedures CSA will implement to allocate and distribute these funds. This rule also outlines the policies and funding criteria which will govern the expenditure of these funds, including the provision for a reduced non-federal share for all energy program accounts other than accounts 22 and 26 for which the non-federal share was waived previously. This provision was filed in the FEDERAL REGISTER as part of a proposed rule amending § 1061.30-1 through 1061.30-14 (proposed CSA Instruction 6143-1b). This final rule is effective immediately as a thirty day comment period would be impracticable and contrary to the public interest. Many ongoing energy programs are currently without funds needed to continue their services and maintain CETA work crews.

GRACIELA (GRACE) OLIVAREZ,
Director.

45 CFR Part 1061 is amended as follows:

§ 1061.30 [Amended]

1. In 45 CFR 1061.30-11(b) the last sentence reading "The non-Federal Share requirement shall be in accordance with CSA Instruction 6802-3, Non-Federal Share Requirement for Title II, sections 221, 222(a) and 231 Programs," is revoked.

2. 45 CFR Part 1061 is amended to add the following:

Sec.
1061.52-1 Applicability.
1061.52-2 State and regional funding plans.
1061.52-3 Policy.
1061.52-4 Timeframes.
1061.52-5 Clearinghouse review (A-95).
1061.52-6 Non-Federal share.
1061.52-7 Allocation formula elements.
1061.52-8 Allocations.
1061.52-9 Funding regional T/TA projects.

AUTHORITY: Sec. 602, 78 Stat. 530, 42 U.S.C. 2942.

§ 1061.52-1 Applicability.

This subpart is applicable to grantees funded under section 222(a)(12) of the Economic Opportunity Act of 1964, as amended, if the assistance is administered by the Community Services Administration.

§ 1061.52-2 State and regional funding plans.

(a) In 1977, each State Economic Opportunity Office (SEOO) undertook jointly with the Community Action Agencies and the appropriate CSA Regional Office the development of an Emergency Energy Conservation Program Plan for fiscal year 1977, section 222(a)(12) funds. Responsibility for coordinating this effort resided with the SEOO, and Plans were approved by CSA Regional Offices.

(b) Those plans will form the basis of within-state allocations of fiscal year 1978 funding unless CSA Regional Offices and State Economic Opportunity Offices jointly agree on amendments. The amendments may be based on existing carry-over balances, allocation of Department of Energy funds, or other considerations such as the provision of additional funds to selected grantees which have demonstrated superior program capability.

§ 1061.52-3 Policy.

(a) Grantees should develop proposals for balanced, comprehensive energy conservation programs which include not only Weatherization activities but also strong components in Crisis Intervention, Conservation Education and Advocacy, Alternate Energy, and other activities which respond to the actual energy needs of the communities served.

(b) Once again, this flexible CSA funding should be used to strengthen grantee capability in a way that complements the DOE supplementary weatherization materials funds now available.

§ 1061.52-4 Timeframes.

(a) State Economic Opportunity Offices (SEOO's) wishing to propose amendments to State Plans will immediately notify their appropriate CSA Regional Office of the proposed changes. If there are no changes or as soon as proposed amendments have been agreed to, Regional Offices will notify grantees of the amount of their fiscal year 1978 allocation and request submission of proposals as soon as possible.

(b) Eligible grantees should proceed to submit proposals in accordance with the provisions of §§ 1061.30-1 through 30-14 (CSA Instruction 6143-1a) to Regional Offices as soon as they are notified of allocation amounts.

(c) When a Regional Director determines that a grantee urgently needs funds, he may recommend to the Headquarters' funding official immediate approval of a Form 314, Statement of CSA Grant. The Regional Office will attach a Special Condition to the grant requiring submission of a Work Program within 30 days of acceptance of the grant by the grantee board.

§ 1061.52-5 Clearinghouse review (A-95).

CSA has requested and received from the Office of Management and Budget (OMB) a waiver of the clearinghouse review procedures required under OMB Circular A-95. However, grantees shall notify the appropriate clearinghouse of the waiver as well as submit an information copy

of their application to the appropriate clearinghouses.

§ 1061.52-6 Non-Federal share.

(a) In addition to the existing waiver of the non-Federal share requirement for Crisis Intervention (Program Account 22) and Program Support (Program Account 26) the non-Federal share requirement for these funds is waived for all energy grants to Farmworker governed organizations and recognized Native American Tribal Organizations. The state and local resources that exist to respond to and meet the national priority and Executive Policy of nation-wide energy conservation are limited. At the same time the fiscal year 1977 level of funding increased the size of the Emergency Energy Conservation Program fourfold, thereby placing greatly added demands on these resources which are needed to meet energy conservation priorities in the broader community. Therefore, the non-Federal share requirement for program accounts other than 22 and 26 under the Emergency Energy Conservation Program authorized by section 222(a)(12) of the Economic Opportunity Act, as amended, is reduced to 20 percent.

(b) Where grantees can show that they cannot mobilize the 20 percent non-Federal share, they shall be eligible for consideration for a waiver of that part of the required amount which they cannot provide; and they shall use the procedures described in § 1068.22 (CSA Instruction 6802-5a) to document the lack of resources.

(c) Where a grantee or local administering agency has received a waiver of all or part of the non-Federal share required for other programs supported under Title II of the Economic Opportunity Act of 1964 as amended, the non-Federal share required for energy programs administered by such grantee or agency under Section 222(a)(12) shall be no more than that required for Section 221 programs administered by such grantee or agency.

§ 1061.52-7 Allocation formula elements.

(a) The State-by-State allocation of the fiscal year 1978 Emergency Energy Conservation Program funds is based on the same formula as the final allocation of fiscal year 1977 energy conservation funds, with adjustments made to reflect each State's access to reprogramed Special Crisis Intervention Program (SCIP) funds.

(b) The fiscal year 1977 formula for allocation of funds State by State was as follows:

(c) For purposes of determining the allocation, a base of $18,000 was assigned for each local project or local CAA to undertake a project with these funds, reflecting an agency policy to encourage each project to hire an energy coordinator and permanent work supervisor(s).

(d) The remaining funds were allocated among the States according to the following formula:

(0.587 × population-weighted heating degree days + 0.033 × population-weighted cooling degree days) × (number of poverty households in the State + number of elderly below 125 percent of poverty threshold.)

(e) The resulting number for each State was then divided by the total of such numbers for all States, yielding a percentage which was applied to the balance available after subtraction of the sum of the per-project allotments.

§ 1061.52-8 Allocations.

(a) At this time $42 million is being allocated to operational programs from the fiscal year 1978 funds appropriated for energy programing. However, since 5 percent of this amount will be retained by CSA for obligations in support of Regional T/TA Projects, the amount which will be distributed initially will be $39.9 million as set forth in Appendix A.

(b) In addition, $36,616,059 has been reprogramed or is being reprogramed from unobligated SCIP balances.

(c) Any State with a reprogramed SCIP balance which exceeds what would have been its formula share of $76,516,059, will receive 20 percent of its formula share out of the $39.9 million now being distributed. Eighteen States fall into this category (Appendix A).

(d) The remaining States will be allocated a proportionate share based on their fiscal year 1977 formula allocation, of the balance of the $39.9 million plus the total of their reprogramed SCIP balances. The actual amount of new money to go to each State will be that allocation minus the State's reprogramed SCIP funds (Appendix A).

(e) Of the remaining $23 million appropriated, $4 million is being set aside for Farmworker energy programs and $3 million for Native American energy programs. The balance of $16 million has been temporarily set aside pending further consideration of additional funding plans now in preparation. Policies and procedures covering these set-asides will be the subject of future rules (CSA Notices).

§ 1061.52-9 Funding regional T/TA projects.

(a) *Allocations to regions.* The Regional allocation of the 5 percent ($2.1 million) for obligation in support of Regional T/TA Projects is based on the same formula as the final Regional allocational of fiscal year 1977 energy conservation funds, i.e.:

	Percent of total	Dollar allocation by region
*Region I	6.63	139,230
Region II	12.02	252,420
Region III	11.98	251,580
Region IV	14.76	309,960
Region V	22.70	476,700
Region VI	9.66	202,860
Region VII	6.71	140,910
Region VIII	4.89	102,690
Region IX	6.31	132,510
Region X	4.34	91,140
Total	100.00	2,100,000

(b) Procedures for obligating Regional T/TA funds. No T/TA funds can be obligated by CSA Regional Offices prior to the completion of the following:

(1) Review the T/TA needs of the states in the Region;

(2) Submit a comprehensive Regional T/TA Plan to CSA Headquarters, Attention: Energy Programs, accompanied by a listing of last year's T/TA grantees in the Region and indicating the extent to which the goals of the work programs were met and their effectiveness;

(3) Follow normal funding procedures, upon receipt of Headquarters' approval of the Regional T/TA Plan.

APPENDIX A

Allocation to Regionally Funded Programs by State

Region I	Reprogrammed SCIP Funds	New Allocations of FY 78 Funds	Total Funds Available: Reprogrammed SCIP and New Funds
Connecticut	-0-	861,102	861,102
Maine	-0-	730,486	730,486
Massachusetts	237,937	1,300,437	1,538,374
New Hampshire	-0-	333,798	333,798
Rhode Island	-0-	406,363	406,363
Vermont	788,387	41,496	829,883
Total	1,026,324	3,673,682	4,700,006
Region II			
New Jersey	-0-	1,664,152	1,664,152
New York	3,640,000	2,010,377	5,650,377
Puerto Rico	549,679	32,718	582,397
Virgin Islands	21,242	17,459	38,701
Total	4,210,921	3,724,707	7,935,627
Region III			
Delaware	-0-	140,292	140,292
District of Columbia	454,185	23,940	478,125
Maryland	50,000	743,375	793,375
Pennsylvania	-0-	3,807,233	3,807,233
Virginia	-0-	1,765,743	1,765,743
West Virginia	-0-	894,966	894,966
Total	504,185	7,375,549	7,879,734
Region IV			
Alabama	6,133	1,145,228	1,151,361
Florida	140,000	721,102	861,102
Georgia	-0-	1,286,816	1,286,816
Kentucky	3,240,000	168,378	3,408,378
Mississippi	50,000	786,914	836,914
North Carolina	-0-	1,756,068	1,756,068
South Carolina	890,000	106,134	996,134
Tennessee	298,000	1,109,757	1,407,757
Total	4,624,133	7,080,397	11,704,530

APPENDIX A

Continued:

Allocation to Regionally Funded Programs by State

Region V	Reprogrammed SCIP Funds	New Allocation of FY 78 Funds	Total Funds Available: Reprogrammed SCIP and New Funds
Illinois	-0-	3,149,312	3,149,312
Indiana	1,734,735	192,318	1,927,053
Michigan	-0-	2,791,326	2,791,326
Minnesota	-0-	1,988,275	1,988,275
Ohio	4,477,786	418,950	4,896,736
Wisconsin	868,534	727,891	1,596,425
Total	7.081,055	9,268,072	16,349,127
Region VI			
Arkansas	802,066	107,413	909,479
Louisiana	70,000	1,018,472	1,088,472
New Mexico	-0-	517,629	517,629
Oklahoma	710,380	368,417	1,078,797
Texas	-0-	2,520,417	2,520,417
Total	1,582,446	4,532,348	6,114,794
Region VII			
Iowa	259,070	916,480	1,175,550
Kansas	933,939	87,780	1,021,719
Missouri	1,782,947	216,258	1,999,205
Nebraska	887,600	82,992	970,592
Total	3,863,556	1,303,510	5,167,066
Region VIII			
Colorado	85,000	1,109,900	1,194,900
Montana	1,247,033	55,860	1,302,893
North Dakota	1,265,000	51,870	1,316,870
South Dakota	1,385,999	48,678	1,434,677
Utah	80,000	365,064	445,064
Wyoming	529,670	27,132	556,802
Total	4,592,702	1,658,504	6,251,206

APPENDIX A

Continuation:

Allocation to Regionally Funded Programs by State

Region IX	Reprogrammed SCIP Funds	New Allocation of FY 78 Funds	Total Funds Available: Reprogammed SCIP and New Funds
Arizona	280,000	174,739	454,739
California	2,713,000	581,441	3,294,441
Hawaii	8,000	74,240	82,240
Nevada	58,000	106,480	164,480
Trusts	-0-	-0-	-0-
Total	3,059,000	936,900	3,995,900
Region X			
Alaska	1,120,700	16,758	1,137,458
Idaho	330,000	44,688	374,688
Oregon	1,868,000	123,690	1,991,690
Washington	2,753,037	161,196	2,914,233
Total	6,071,737	346,332	6,418,069
GRAND TOTAL	36,616,059	39,900,000	76,516,059

[FR Doc. 78-6494 Filed 3-9-78; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 210, 230, 239, 240, and 249]

[Release No. 33-5909, 34-14520, S7-734]

EXAMINATION OF THE EFFECTS OF RULES AND REGULATIONS ON THE ABILITY OF SMALL BUSINESSES TO RAISE CAPITAL AND THE IMPACT ON SMALL BUSINESSES OF DISCLOSURE REQUIREMENTS UNDER THE SECURITIES ACTS

Hearings

AGENCY: Securities and Exchange Commission.

ACTION: Publication of the dates and locations for hearings.

SUMMARY: In Securities Act Release No. 5889 (December 14, 1977) (42 FR 64163, December 22, 1977), the Commission announced that it would hold public hearings concerning the effects of its rules and regulations on the ability of small businesses to raise capital and the impact on small businesses of the disclosure requirements under the securities acts. This document announces the dates and locations of the hearings.

DATES: The hearings will be held on April 11, April 18, April 25, May 2, May 9, and May 16, 1978.

ADDRESSES: The hearings will be at the following locations:

April 11—Washington, D.C.
April 18—Commissions Regional Offices in Los Angeles, Calif.
April 25—Denver, Colo.
May 2—Atlanta, Ga.
May 9—Chicago, Ill.
May 16—Boston, Mass.

FOR FURTHER INFORMATION CONTACT:

Paul A. Belvin or John A. Granda, Office of Disclosure Policy and Proceedings, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549, 202-755-1750 or 202-376-8090;

or the following persons located at the Commissions Regional Offices;

James W. Mercer, 10960 Wilshire Boulevard, Suite 1710, Los Angeles, Calif. 90024, 213-984-0011; William J. Klein, Two Park Central, Room 640, 1515 Arapahoe Street, Denver, Colo. 80202, 303-327-2071; Everett Leo Mast, 1375 Peachtree Street NE., Suite 788, Atlanta, Ga. 30309, 404-257-4844; Dennis B. O'Boyle, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1204, Chicago, Ill. 60604, 312-353-3378; Katherine W. Keane, 150 Causeway Street, Boston, Mass. 02114, 617-223-2721.

Specific times and room locations for the hearings will be determined later and may be obtained by phoning or writing any of the individuals listed above.

In the very near future, the Commission will issue a release listing the issues to be considered at the hearings.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MARCH 2, 1978.

[FR Doc. 78-6305 Filed 3-9-78; 8:45 am]

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 133, 150, 166, 182, 184 and 186]

[Docket No. 77G-0379]

SORBIC ACID AND ITS SALTS

Proposed Affirmation and Deletion of GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This is a proposal to affirm potassium sorbate and sorbic acid as generally recognized as safe (GRAS) as direct human food ingredients, to delete calcium and sodium sorbates from the GRAS list, and to amend the standards of identity for some cheeses, fruit jellies, jams and preserves, and margarine. The safety of these ingredients has been evaluated pursuant to the comprehensive safety review being conducted by the agency.

DATES: Comments by May 9, 1978.

ADDRESS: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: A comprehensive study of human food ingredients classified as generally recognized as safe (GRAS) or subject to a prior sanction is being conducted by FDA. The Commissioner of Food and Drugs has issued several notices and proposed regulations, published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20040), initiating this review. Pursuant to this review, the safety of sorbic acid and calcium, potassium, and sodium sorbates has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), the Commissioner proposes to affirm the GRAS status of potassium sorbate and sorbic acid and to delete calcium and sodium sorbates from the GRAS list.

Sorbic acid, *trans, trans*-2,4-hexadienoic acid, was isolated in 1859 from the berries of the mountain ash, *Sorbus aucuparia L.*, where it occurs as the lactone, parasorbic acid. Commercially, sorbic acid and its salts have also been manufactured by organic synthesis and used as antimicrobial preservatives. The antimicrobial activity of sorbates is demonstrated below pH 6.5 and increases as the pH of the medium is lowered. Broad spectrum fungistatic activity is exhibited against yeasts and molds, and bacteriostatic activity is exhibited against catalase-positive organisms. As chemical preservatives, sorbates can be used as sprays, dips, or coatings on wrapping materials, or can be incorporated directly into food. It is reported, however, that only sorbic acid and potassium sorbates are widely used as chemical preservatives.

The particular sorbate used in foods is determined to a large extent by its solubility in water. Potassium sorbate (58.2 grams per 100 milliliters at 20° C) is more soluble than sorbic acid (0.15 grams per 100 milliliters at 20° C). Sorbic acid and its salts are also somewhat unstable. By virture of their double bond system, they polymerize readily when catalyzed by free radi-

cals. Autoxidation results in the formation of peroxides, followed by degradation and polymerization.

Section 182.3225 *Calcium sorbate* (21 CFR 182.3225), § 182.3795 *Sodium sorbate* (21 CFR 182.3795), § 182.3640 *Potassium sorbate* (21 CFR 182.3640), and § 182.3089 *Sorbic acid* (21 CFR 182.3089) are listed as GRAS for use as chemical preservatives, pursuant to regulations published in the FEDERAL REGISTER of November 20, 1959 (24 FR 9368). Potassium and sodium sorbates are also listed in § 182.90 (21 CFR 182.90) as GRAS substances that may migrate to food from paper and paperboard products used in food packaging, pursuant to regulations published in the FEDERAL REGISTER of June 17, 1961 (26 FR 5421). Sorbic acid is listed in § 181.23 (21 CFR 181.23) as a prior sanction substance that is employed in the manufacture of food packaging materials.

Part 133 (21 CFR Part 133) permits the use of sorbic acid, potassium sorbate, or sodium sorbate as optional mold-inhibiting ingredients in various cheeses in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid, either alone or in combination. Part 150 (21 CFR Part 150) permits the use of sorbic acid, potassium sorbate, or sodium sorbate as preservatives in artifically sweetened jams, jellies, and fruit preserves, either alone or in combination, where their combined weight does not exceed 0.1 percent in the finished food. Part 166 (21 CFR Part 166) permits sorbic acid and its calcium, potassium, and sodium salts as preservatives in margarine either individually, not to exceed 0.1 percent by weight, or in combination, not to exceed 0.2 percent by weight, calculated as sorbic acid in the finished food.

Additionally, sorbic acid is listed in § 177.2260 (21 CFR 177.2260) as an adjuvant substance that may be used with dimethylpolysiloxane and methylcellulose as an antifoaming agent for resin-bonded filters.

A representative cross-section of food manufacturers was surveyed to determine the specific foods in which sorbic acid and its salts were used and the levels of usage. Information from surveys of consumer consumption was obtained and combined with the manufacturing information to obtain an estimate of consumer exposure to sorbic acid and its salts. In 1970 the use of sorbic acid and potassium sorbate was estimated to be about 1.5 and 1.8 million pounds, respectively. Between 1960 and 1970 the use of sorbic acid increased about 13-fold and potassium sorbate about 4-fold. None of the manufacturers that were surveyed reported using calcium sorbate or sodium sorbate in foods.

Sorbic acid and its salts have been the subject of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered: (1) chemical toxicity; (2) occupational hazards; (3) metabolism; (4) reaction products; (5) degradation products; (6) any reported carcinogenicity; teratogenicity; or mutagenicity; (7) dose response; (8) reproductive effects; (9) histology; (10) embryology; (11) behavioral effects; (12) detection; and (13) processing. A total of 638 abstracts or sorbic acid and its salts was reviewed, and 60 particularly pertinent reports from the literature survey have been summarized in a scientific literature review.

The scientific literature review shows, among other studies, the following information as summarized in the report of the Select Committee on GRAS Substances (hereinafter referred to as the Select Committee), selected by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology:

Sorbic acid is a carboxylic acid and readily forms salts in biological systems. Thus the physiological effects of the acid and its salts may be expected to be similar with respect to the sorbate ion.

The metabolism of [1—^{14}C] sorbic acid (NaOH neutralized) administered by stomach tube to female Sprague-Dawley rats (about 920 mg sorbic acid per kg body weight) was reported as follows: 85 percent of the radioactivity was found in the expired carbon dioxide within 4 to 10 hours, 0.4 percent in the feces, 2 percent in the urine, 3 percent in internal organs and blood, 3 percent in skeletal muscles, and 6.6 percent elsewhere in the carcass. There was no labeling of the liver or muscle glycogen, and some radioactivity was associated with the lipid fraction of the carcass, internal organs and skin. The percentage of the radioactivity found in expired carbon dioxide was independent of dosage between 61 to 1213 mg sorbic acid per kg body weight. Caproic acid in similar tests was oxidized at the same rate and to the same extent.

Fasting female rats received sodium sorbate or sodium caproate by stomach tube at levels of 75 or 150 mg (calculated as acetone) per 100 sq cm of body surface per day in two divided doses (about 6 g sorbic acid per kg body weight); the proportion excreted as ketone bodies was approximately the same. The authors concluded that sorbic acid and caproic acid were metabolized via acetone bodies, and that under normal conditions sorbic acid is completely oxidized to carbon dioxide and water.

The urine of rabbits fed sorbic acid (3 g per kg body weight) contained muconic acid. Small amounts of sorbic acid and muconic acid also have been reported in the urine of mice given water solutions of the sodium salt of sorbic acid by gastric intubation (40 and 3,000 mg per kg of body weight). The mice were given food and water *ad libitum* and, in 4 days, 61± 10 percent of the sorbic acid was oxidized to carbon dioxide and water; about 4 percent was in the urine, part of it as muconic acid. Chicks utilize sorbic acid as a source of energy.

The oral LD_{50} for sorbic acid in fed Sherman rats has been reported to be from 7.36 g to 10.50 g per kg body weight. In rats fasted for 18 hours prior to testing, the LD_{50} for sodium sorbate (calculated as sorbic acid) was 3.6 g per kg for females (163 to 267 g body weight) and 4.3 g per kg for males (212 to 430 g body weight). In fed rats a higher LD_{50} for sodium sorbate (calculated as sorbic acid) was found: 5.9 g per kg (male and female rats, 90 to 120 g). The higher LD_{50} value for sorbic acid as compared to sodium sorbate was attributed by the authors to its less rapid absorption from the gut. The oral LD_{50} of potassium sorbate in the rat has been reported as 4.9 and 6.2 g per kg body weight for the "solid" and "mixed isomers", respectively.

Sorbic acid (KOH neutralized) fed as 2 percent of the diet (about 2 g per kg body weight) to 8-week-old Wistar rats for 10 weeks had no effect on growth. Slight enlargement but no histological abnormalities of the livers were noted. Sorbic acid fed for 22 weeks to rats at 1.5 percent of the diet (1.2 g per kg body weight) had no adverse effect on hepatic and pancreatic functions or on body and organ weights. In these and other reports changes were noted in concentrations of bilirubin and cholesterol in the bile and in secretion of pancreatic juice. However, from the data given in the reports it is not possible to assess the significance of these findings or the causative factors.

Rats were fed an 8 percent sorbic acid diet (5.1 g per kg body weight) for 90 days. The only effect noted was slight enlargement of the livers that were otherwise normal. A 4 percent diet did not cause liver enlargement. Another report indicates that rats can tolerate 10 percent sorbic acid in the diet for 4 months. The test animals tended to have a higher ratio of liver weight to body weight than did the control animals. Liver homogenates of first generation animals fed sorbic acid had lower oxygen consumption than controls. Reproductive performance of females fed at the 10 percent level was found to be similar to that of the controls.

Groups of 50 male and 50 female mice intubated daily with sorbic acid (60 mg per kg body weight) for 3 months gained less weight than did controls. Reduced weight gains were not attributed by the authors to reduced feed intake.

Potassium sorbate ("solid or mixed isomers") was fed to groups of 10 rats (5 male and 5 female) at levels of 0, 1, 2, 5, and 10 percent of the diet for 3 months. Relative liver weights were the same in all groups. Kidney weights were increased at 10 percent and to a lesser degree at the 5 percent level (2.5 g per kg for a 400 g rat consuming 20 g of feed per day). No controls for high potassium intake were described. Weight gains of female animals were depressed initially when fed at the 10 percent level and to a lesser degree at the 5 percent level. In the same report eight dogs received 1 percent and eight dogs 2 percent potassium sorbate in the diet for 3 months and gained the same weight as four control dogs. At autopsy, gross examination revealed no deleterious effects attributable to potassium sorbate. Other researchers reported that three dogs fed 4 percent sorbic acid in the diet for 3 months grew normally and showed no deleterious effects attributable to the sorbate on histopathological examination.

In a 17-month study, 25 male and 25 female mice were fed sorbic acid (40 mg per kg body weight) daily as a paste prior to the main feed. Compared to controls the weights of liver, kidney and testes relative to body weight were lower for experimental animals sacrificed at the end of the test. These changes were not considered pathological by the investigators.

One hundred rats maintained on 0.1, 0.5 and 5.0 percent sorbic acid in the diet (50, 250 and 2500 mg per kg body weight per day) for a test period of 1000 days did not differ from controls in growth, reproduction, health, life expectancy or cause of death.

A group of rats maintained through the second generation on the 0.1 percent diets exhibited no differences from controls in growth or reproduction. Thirty rats of the second generation received 5 percent sorbic acid in the diet for 252 days with no demonstrable pathological findings. An unpublished report from the same laboratory concerned 100 rats (50 males, 50 females) fed a diet providing 5 percent sorbic acid during their life span. The average life span of males compared to controls was 811 vs. 709 days and for females 789 vs. 804 days. There were no differences in organ weights of individual groups. In each group (5 percent sorbic acid and controls) only two tumors were found. There were no abnormalities in liver, kidney, heart or testes.

Dickens et al. attempted to study the carcinogenicity of sorbic acid; however, the results were inconclusive. In a repetition of these tests using sorbic acid from another source, no tumors were obtained in Wistar rats when sorbic acid (2 mg in 0.5 ml in peanut oil) was injected subcutaneously twice weekly for 56 to 60 weeks. Also potassium sorbate did not induce tumors when fed for 60 weeks to rats at 0.1 percent of the diet or when dissolved in their drinking water at 0.3 percent.

In another carcinogenicity study, mice that had been fed a control diet or a diet supplying up to 300 mg sorbic acid per kg body weight for 3 months received ascitic Ehrlich cancer intraperitoneally by transplant. Within a 66-day observation period, the percentage of animals that developed tumors in control and experimental groups did not differ.

No carcinogenic effect was demonstrated by sorbic acid in rats given dietary levels up to 10 percent (about 5 g per kg body weight daily) for 2 years. Groups of 48 male (90 to 145 g) and 48 female rats (80 to 130 g) were fed diets containing 0, 1.5 or 10 percent sorbic acid. At the 10 percent level the thyroid weight in males, the relative liver weights in both sexes, and the relative kidney, small intestine, and ovary weights in females were increased slightly. No significant differences were found between the control and treated groups by hematological examinations, analysis of serum, studies of renal function by histopathological examination, or in mortality rate.

Tests of potassium sorbate for teratogenicity by the chick embryo test and formutagenicity in *Salmonella typhimurium* and *Saccharomyces cerevisiae* were negative. Daily administration of up to 460 mg per kg body weight to pregnant mice (albino CD-1) or up to 340 mg per kg body weight to pregnant rats (Wistar derived stock) for 10 consecutive days (day 6 to 15 of gestation) had no clearly discernible effect on nidation or on maternal or fetal survival. The number of abnormalities seen in either soft or skeletal tissues of the test groups did not differ from the number occurring spontaneously in sham-treated controls. The Select Committee is unaware of similar tests on sorbic acid.

All of the available safety information on sorbic acid and its salts has been carefully evaluated by qualified scientists of the Select Committee. It is the opinion of the Select Committee that:

Sorbic acid and its salts demonstrate very low acute or chronic tosicity for experimental animals. In animals sorbate is metabolized by the normal fatty acid pathway. Although no metabolic or toxicological studies have been conducted in man, the similarity of the pathways of fatty acid metabolism in man and animals suggests that no deleterious effects are to be expected from sorbic acid in the diet even in amounts many times greater than those at which it appears to be used.

It is the conclusion of the Select Committee that there is no evidence in the available information on sorbic acid and its sodium, patassium and calcium salts that demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when they are used at levels that are now current or that might reasonably be expected in the future. Based upon his own evaluation of all available information on sorbic acid and its salts, the Commissioner concurs with this conclusion. The Commissioner, therefore, concludes that no change in the current GRAS status of sorbic acid and potassium sorbate is justified. Because no information was submitted on current food uses for calcium and sodium sorbates in response to the survey of food manufacturers, and due also to the instability of sodium sorbate reported by the Joint FAO/WHO Committee on food additives, the Commissioner concludes that insufficient data and information are available to affirm the GRAS status of these ingredients. He proposes, therefore, to delete calcium and sodium sorbates as GRAS direct human food ingredients, and sodium sorbate as an indirect GRAS ingredient, unless information is provided which demonstrates that the instability of sodium sorbate does not present a health hazard, and which includes human food uses (levels of addition, intended technical effects, and food to which the substance is added) of both ingredients. This information should be submitted as comments on this proposal during the comment period.

As a result of the general safety review of GRAS ingredients, the commissioner has determined that some standards of identity for foods require certain changes to bring them into conformity with the findings of the safety review. Accordingly, the proposed removal of calcium and sodium sorbates from the GRAS list requires that certain of the standards for cheeses (21 CFR Part 133) and jams, jellies, and preserves (21 CFR Part 150) and the standard for margarine (21 CFR Part 166) be amended. Comments regarding the proposed changes in food standards of identity as set out below should address questions regarding the safe use of these GRAS ingredients.

Copies of the scientific literature review on sorbic acid and its salts, teratogenic and mutagenic evaluations of potassium sorbate, and the report of the Select Committee are available for review at the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4–65, 5600 Fishers Lane, Rockville, Md. 20857, and may be purchased from the National Technical Information Service, 5285 Port Royal Road, Springfield, Va. 22161, as follows:

Title	Order No.	Price code	Price[1]
Sorbic acid and derivatives (scientific literature review)	PB-223-864/AS	A05	$6.00
Potassium sorbate (teratogenic evaluation)	PB-245-520/AS	A03	4.50
Potassium sorbate (mutagenic evaluation)	PB-245-434/AS	A04	5.25
Sorbic acid and its salts (select committee report)	PB-262-663/AS	A02	4.00

[1] Prices subject to change.

This proposed action does not affect the present use of sorbic acid and its salts for pet food or animal feed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 401, 409, 701 (a), and (e), 52 Stat. 1046, 1055, 70 Stat. 919 as amended, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 341, 348, 371(a), and (e))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes that Parts 133, 150, 166, 182, 184, and 186 be amended as follows:

PART 133—CHEESES AND RELATED CHEESE PRODUCTS

1. Part 133 is amended:

a. By revising paragraph (d) of § 133.102, to read as follows:

§ 133.102 Asiago fresh and asiago soft cheese.

* * * * *

(d) Asiago fresh cheese in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid and/or potassium sorbate in an amount not to exceed 0.3

percent by weight, calculated as sorbic acid.

• • • • •

b. By revising paragraph (d) of § 133.106, to read as follows:

§ 133.106 Blue cheese.

• • • • •

(d) The food may have applied to its surface an optional mold-inhibiting ingredient consisting of sorbic acid and/or potassium sorbate in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

• • • • •

c. By revising paragraph (d) of § 133.108 to read as follows:

§ 133.108 Brick cheese.

• • • • •

(d) Brick cheese in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid and/or potassium sorbate in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

• • • • •

d. By revising paragraph (d) of § 133.111, to read as follows:

§ 133.111 Caciocavallo siciliano cheese

• • • • •

(d) Caciocavallo siciliano cheese in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid and/or potassium sorbate in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

• • • • •

e. By revising paragraph (d) of § 133.113, to read as follows:

§ 133.113 Cheddar cheese.

• • • • •

(d) Cheddar cheese in the form of slices or cuts in consumer-sized packages may contain an optional mold/inhibiting ingredient consisting of sorbic acid and/or potassium sorbate in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

• • • • •

f. In § 133.116, by deleting paragraph (b) and redesignating paragraphs (c), (d), (e), and (f) as paragraphs (b), (c), (d) and (e), respectively, as follows:

§ 133.116 Low sodium cheddar cheese.

• • • • •

(b) It contains not more than 96 milligrams of sodium per pound of finished food.

(c) The name of the food is "low sodium cheddar cheese". The letters in the words "low sodium" shall be of the same size and style of type as the letters in the words "cheddar cheese", wherever such words appear on the label.

(d) If a salt substitute as provided for in paragraph (a) of this section is used, the label shall bear the statement "———— added as a salt substitute", the blank being filled in with the common name or names of the ingredient or ingredients used as a salt substitute.

(e) Low sodium cheddar cheese is subject of § 105.69 of this chapter.

g. By revising paragraph (d)(2) of § 133.118, to read as follows:

§ 133.118 Colby cheese.

• • • • •

(d) • • •

(2) Colby cheese in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid and/or potassium sorbate in an amount not to excees 0.3 percent by weight, calculated as sorbic acid.

• • • • •

h. In § 133.121, paragraph (b) is deleted and paragraphs (c), (d), (e), and (f) are redesignated as (b), (c), (d), and (e), respectively, as follows:

§ 133.121 Low sodium colby cheese.

• • • • •

(b) It contains not more than 96 milligrams of sodium per pound of finished food.

(c) The name of the food is "low sodium colby cheese". The letters in the words "low sodium" shall be of the same size and style of type as the letters in the words "colby cheese", wherever such words appear on the label.

(d) If a salt substitute as provided for in paragraph (a) of this section is used, the label shall bear the statement "———— added as a salt substitute", the blank being filled in with the common name or names of the ingredient or ingredients used as a salt substitute.

(e) Low sodium colby cheese is subject to § 105.69 of this chapter.

i. By revising paragraph (c)(6) of § 133.123, to read as follows:

§ 133.123 Cold-pack and club cheese.

• • • • •

(c) • • •

(6) Cold-pack cheese in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid and/or potassium sorbate in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid or consisting of not more than 0.3 percent by weight of sodium propionate, and calcium propionate, or a combination of sodium propionate and calcium propionate.

• • • • •

j. By revising paragraph (e)(7) of § 133.124, to read as follows:

§ 133.124 Cold-pack cheese food.

• • • • •

(e) • • •

(7) Cold-pack cheese food in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid and/or potassium sorbate in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid or consisting of not more than 0.3 percent by weight of sodium propionate, calcium propionate, or a combination of sodium propionate and calcium propionate.

• • • • •

k. By revising paragraph (d) of § 133.136, to read as follows:

§ 133.136 Washed curd and soaked curd cheese.

• • • • •

(d) Washed curd cheese in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid and/or potassium sorbate in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

• • • • •

l. By revising paragraph (d) of § 133.138, to read as follows:

§ 133.138 Edam cheese.

• • • • •

(d) Edam cheese in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid and/or potassium sorbate in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

• • • • •

m. By revising paragraph (d) of § 133.141, to read as follows:

§ 133.141 Gorgonzola cheese.

• • • • •

(d) The food may have applied to its surface an optional mold-inhibiting ingredient consisting of sorbic acid and/or potassium sorbate in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

• • • • •

n. By revising paragrph (d) of § 133.144, to read as follows:

§ 133.144 Granular and stirred curd cheese.

• • • • •

(d) Granular cheese in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid and/or potassium sorbate in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

• • • • •

o. By revising paragraph (b)(1) of § 133.146, to read as follows:

§ 133.146 Grated cheese.

• • • • •

(b) • • •

(1) A mold-inhibiting ingredient consisting of sorbic acid and/or potassium sorbate in an amount not to exceed 0.3 percent by weight of the finished food calculated as sorbic acid. Potassium sorbate may be applied in aqueous solution, the amount of water used being not more than that required for application of this water-soluble salt in accordance with good commercial practice.

• • • • •

p. By revising paragraph (d) of § 133.148, to read as follows:

§ 133.148 Hard grating cheese.

• • • • •

(d) Hard grating cheeses in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid and/or potassium sorbate in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

• • • • •

q. By revising paragraph (d) of § 133.149, to read as follows:

§ 133.149 Gruyere cheese.

• • • • •

(d) Gruyere cheese in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid and/or potassium sorbate in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

• • • • •

r. By revising paragraph (d) of § 133.150, to read as follows:

§ 133.150 Hard cheese.

• • • • •

(d) Hard cheese in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid and/or potassium sorbate in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

• • • • •

s. By revising paragraph (d) of § 133.153, to read as follows:

§ 133.153 Monterey cheese and monterey jack cheese.

• • • • •

(d) Monterey cheese in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid and/or potassium sorbate in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

• • • • •

t. By revising paragraph (d) of § 133.156, to read as follows:

§ 133.156 Low-moisture mozzarella and scamorza cheese.

• • • • •

(d) Low-moisture mozzarella cheese, low-moisture scamorza cheese in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid and/or potassium sorbate in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

• • • • •

u. By revising paragraph (d) of § 133.160, to read as follows:

§ 133.160 Muenster and munster cheese.

• • • • •

(d) Muenster cheese in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting or sorbic acid and/or potassium sorbate in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

• • • • •

v. By revising paragraph (d) of § 133.165, to read as follows:

§ 133.165 Parmesan and reggiano cheese.

• • • • •

(d) Parmesan cheese in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid and/or potassium sorbate in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

• • • • •

w. By revising paragraph (d)(7) of § 133.169, to read as follows:

§ 133.169 Pasteurized process cheese.

• • • • •

(d) • • •

(7) Pasteurized process chese in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of not more than 0.2 percent by weight of sorbic acid and/or potassium sorbate or consisting of not more than 0.3 percent by weight of sodium propionate, calcium propionate, or a combination of sodium propionate and calcium propionate.

• • • • •

x. By revising paragraph (e) of § 133.173, to read as follows:

§ 133.173 Pasteurized process cheese food.

• • • • •

(e) • • •

(7) Pasteurized process cheese food in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of not more than 0.2 percent by weight of sorbic acid and/or potassium sorbate or consisting of not more than 0.3 percent by weight of sodium propionate, calcium pripionate, or a combination of sodium propionate and calcium pripionate.

• • • • •

y. By revising paragraph (f)(8) of § 133.179, to read as follows:

§ 133.179 Pasteurized process cheese spread.

• • • • •

(f) • • •

(8) Pasteurized process cheese spread in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid and/or potassium sorbate in an amount not to exceed 0.2 percent by weight, calculated as sorbic acid, or consisting of not more than 0.3 percent by weight of sodium propionate, calcium propionate, or a combination

of sodium propionate and calcium propionate.

• • • • •

z. By revising paragraph (d) of § 133.181, to read as follows:

§ 133.181 Provolone and pasta filata cheese.

• • • • •

(d) Provolone cheese in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid and/or potassium sorbate in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

• • • • •

aa. By revising paragraph (d) of § 133.183, to read as follows:

§ 133.183 Romano cheese.

• • • • •

(d) Romano cheese in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid and/or potassium sorbate in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

• • • • •

bb. By revising paragraph (d) of § 133.187, to read as follows:

§ 133.187 Semisoft cheeses.

• • • • •

(d) Semisoft cheeses in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid and/or potassium sorbate in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

• • • • •

cc. By revising paragraph (d) of § 133.188, to read as follows:

§ 133.188 Semisoft part-skim cheeses.

• • • • •

(d) Semisoft part-skim cheeses in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid and/or potassium sorbate in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

• • • • •

dd. By revising paragraph (d) of §133.190, to read as follows:

§ 133.190 Spiced cheeses.

• • • • •

(d) Spiced cheeses in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid and/or potassium sorbate in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

• • • • •

ee. By revising paragraph (d) of § 133.195, to read as follows:

§ 133.195 Swiss and emmentaler cheese.

• • • • •

(d) Swiss cheese in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid and/or potassium sorbate in an amount not to exceed 0.3 percent by weight, calculated sorbic acid.

• • • • •

PARTS 150—FRUIT BUTTERS, JELLIES, PRESERVES, AND RELATED PRODUCTS

2. Part 150 is amended:

a. By revising paragraph (a)(6) of § 150.141, to read as follows:

§ 150.141 Artificially sweetened fruit jelly.

• • • • •

(a) • • •

(6) Ascorbic acid, sorbic acid, potassium sorbate, sodium propionate, calcium propionate, sodium benzoate, benzoic acid, methylparaben (methyl-*p*-hydroxybenzoate), propylparaben (propyl-*p*-hydroxybenzoate), or any combination of two or more of these, in a quantity reasonably necessary as a preservative, but not to exceed 0.1 percent by weight of the finished food.

• • • • •

b. By revising paragraph (a)(6) of § 150.161, to read as follows:

§ 150.161 Artificially sweetened fruit preserves and jams.

(a) • • •

• • • • •

(6) Ascorbic acid, sorbic acid, potassium sorbate, sodium propionate, calcium propionate, sodium benzoate, benzoic acid, methylparaben (methyl-*p*-hydroxybenzoate), propylparaben (propyl-*p*-hydroxybenzoate), or any combination of two or more of these, in a quantity reasonably necessary as a preservative, but not to exceed 0.1 percent by weight of the finished food.

• • • • •

PART 166—MARGARINE

3. Part 166 is amended in § 166.110 by revising paragraph (b)(5), to read as follows:

§ 166.110 Margarine.

• • • • •

(b) • • •

(5) Preservatives including but not limited to the following within these maximum amounts in percent by weight of the finished food: Sorbic acid, potassium sorbate, benzoic acid, sodium benzoate, potassium benzoate and calcium benzoate, individually, 0.1 percent, or in combination, 0.2 percent, expressed as the acids; calcium disodium EDTA, 0.0075 percent; propyl, octyl, and dodecyl gallates, BHT, BHA, ascorbyl palmitate, ascorbyl stearate, all individually or in combination, 0.02 percent, stearyl citrate, 0.15 percent; isopropyl citrate mixture, 0.02 percent.

• • • • •

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

4. Part 182 is amended:

§ 182.90 [Amended]

a. By amending § 182.90 Substances migrating to food from paper and paperboard products by deleting the entries "Potassium sorbate" and "Sodium sorbate."

§ 182.3089 [Deleted]

b. By deleting § 182.3089 Sorbic acid.

§ 182.3225 [Deleted]

c. By deleting § 182.3225 Calcium sorbate.

§ 182.3640 [Deleted]

d. By deleting § 182.3640 Potassium sorbate.

§ 182.3795 [Deleted]

e. By deleting § 182.3795 Sodium sorbate.

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

5. Part 184 is amended:

a. By adding new § 184.1089, to read as follows:

§ 184.1089 Sorbic acid.

(a) Sorbic acid ($C_6H_8O_2$, CAS Reg. No. 110-44-1) is *trans, trans*-2, 4-hexadienoic acid and occurs in the berries of the mountain ash, *Sorbus aucuparia L.*, as the lactone, called parasorbic acid. It is produced commercially either by the oxidation of 2, 4-hexadienol or by reaction of ketene and crotonaldehyde, through a polymeric resin.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972)[1].

(c) The ingredient is used as an antimicrobial agent as defined in § 170.3(o)(2) of this chapter and as a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter.

(d) The ingredient is used in food, in accordance with § 184.1(b)(1), at levels not to exceed good manufacturing practice. Current good manufacturing practice results in a maximum level as served of 0.23 percent for baked goods and baking mixes as defined in § 170.3(n)(1) of this chapter, 0.3 percent for cheeses as defined in § 170.3(n)(5) of this chapter, 1.4 percent for soft candy as defined in § 170.3(n)(38) of this chapter, and 0.2 percent or less for all other food categories.

b. By adding new § 184.1640, to read as follows:

§ 184.1640 Potassium sorbate.

(a) Potassium sorbate ($C_6H_7KO_2$, CAS Reg. No. 590-00-1) is the potassium salt of sorbic acid. It is prepared by neutralizing sorbic acid with potassium hydroxide. The product exists as white crystals, a crystalline power or as pellets.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d. Ed. (1972)[1].

(c) The ingredient is used as an antimicrobial agent as defined in § 170.3(o)(2) of this chapter, a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter and as pH control agent as defined in § 170.3(o)(23) of this chapter.

(d) The ingredient isused in food, in accordance with § 184.1(b)(1), at levels not to exceed good manufacturing practice. Current good manufacturing practice results in a maximum level as served of 0.1 percent for baked goods as defined in § 170.3(n)(1) of this chapter; 0.1 percent for nonalcoholic beverages as defined in § 170.3(n)(3) of this chapter; 0.3 percent for cheeses as defined in § 170.3(n)(5) of this chapter; 0.2 percent for confections and frostings as defined in § 170.3(n)(9) of this chapter; 1.6 percent for fats and oils as defined in § 170.3(n)(12) of this chapter; 0.8 percent for gelatins, puddings, and fillings as defined in § 170.3(n)(22) of this chapter; 0.7 percent for sweet sauces, toppings, and syrups as defined in § 170.3(n)(43) of this chapter; and 0.12 percent or less for all other food categories.

[1]Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20037.

PART 186—INDIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

6. Part 186 is amended by adding new § 186.3640, to read as follows:

§ 186.3640 Potassium sorbate.

(a) Potassium sorbate ($C_6H_7KO_2$, CAS Reg. No. 590-00-1) is the potassium salt of sorbic acid. It is prepared by neutralizing sorbic acid with potassium hydroxide. The product exists as white crystals, a crystalline power, or as pellets.

(b) The ingredient meets the specifications of the Food Chemicals Codex 2d Ed. (1972)[1].

(c) The ingredient is used or intended for use as a constituent of food-packaging materials.

(d) The ingredient is used at levels not to exceed good manufacturing practice.

The Commissioner hereby gives notice that he is unaware of any prior sanctions for the use of these ingredients in food under conditions different from those proposed herein or in Part 181 (21 CFR Part 181). Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The regulation porposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act (21 U.S.C. 342), and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on such sanction at any later time. This notice also constitutes a proposal to establish a regulation under Part 181, incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to this proposal.

Interested persons may, on or before May 9, 1978, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Recieved comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 (as amended by Executive Order 11949) and OMB Circular A-107.

Dated: March 2, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

NOTE: Incorporation by reference approved by the Director of the Office of the FEDERAL REGISTER on July 10, 1973. Referenced material is on file at the Federal Register's Library.

[FR Doc.78-6054 Filed 3-9-78; 8:45 am]

[4110-03]

[21 CFR Part 514]

[Docket No. 76N-0358]

NEW ANIMAL DRUG APPLICATIONS

Approval of Supplemental Applications; Extension of Time for Filing Comments

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This document extends for an additional 30 days the time for filing comments on proposed criteria for approving supplemental new animal drug applications. This action is taken in response to a request for an extension.

DATES: Comments by March 23, 1978.

ADDRESS: Written comments to the Hearing Clerk (HFC-20), Room 4-65, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Ann B. Holt, Bureau of Veterinary Medicine (HFV-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-1414.

SUPPLEMENTARY INFORMATION: A proposed rule concerning the criteria for approval of supplemental new animal drug applications was published in the FEDERAL REGISTER of December 23, 1977 (42 FR 64367). That document provided 60 days, to February 21, 1978, for commenting on the proposal.

The Animal Health Institute (AHI) has noted that, because the proposal was published only 2 days before the Christmas holidays, it could not be reviewed by interested AHI member company representatives until well after the first of the year. Therefore, the AHI has rquested a 30-day extension of the comment period to allow its member company representatives sufficient time to develop adequate and comprehensive comments on the proposal.

The Commissioner of Food and Drugs finds that, for good reason appearing, the time for filing comments, subject to the conditions of the published proposed rule, is extended to March 23, 1978.

Interested persons may, on or before March 23, 1978, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

This action is taken under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and authority delegated to the Commissioner (21 CFR 5.1.).

Dated: March 6, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-6426 Filed 3-8-78; 11:03 am]

[4110-03]

[21 CFR Part 740]

[Docket No. 77P-0353]

COAL TAR HAIR DYES CONTAINING 4-METHOXY-*M*-PHENYLENEDIAMINE (2,4-DIAMINOANISOLE) OR 4-METHOXY-*M*-PHENYLENEDIAMINE SULFATE (2,4-DIAMINOANISOLE SULFATE)

Proposed Warning Statement; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Extension of comment period for proposed rule.

SUMMARY: This document extends to May 8, 1978 the comment period on the proposal to require a warning statement and warning posters on coal tar hair dyes containing 4-methoxy-*m*-phenylenediamine (also known as 2,4-diaminoanisole) or 4-methoxy-*m*-phenylenediamine sulfate (also known as 2,4-diaminoanisole sulfate). This action is taken because of requests for extension of time. The proposed warning will inform consumers about the risk of cancer that may result from using hair dyes containing these ingredients.

DATES: Comments by May 8, 1978.

ADDRESS: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

John A. Wenninger, Bureau of Foods (HFF-441), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-1061.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of January 6, 1978 (43 FR 1101), the Commissioner of Food and Drugs issued a proposal to require warning labels on coal tar hair dyes containing 4-methoxy-*m*-phenylenediamine (also known as 2,4-diaminoanisole) or 4-methoxy-*m*-phenylenediamine sulfate (also known as 2,4-diaminoanisole sulfate) to warn consumers about the risk of cancer that may result from using hair dyes containing these ingredients. The proposal would also require that posters be displayed in beauty salons alerting patrons to ask to read the label on the hair dye preparation to be used on their hair. Interested persons were requested to submit their comments on the proposal on or before March 7, 1978.

The Commissioner is extending the comment period to close of business, May 8, 1978.

The Commissioner has received requests for extension of time for comment by the Cosmetic, Toiletry and Fragrance Association (CTFA) and from the law firm of Kilcullen, Smith and Heenan on behalf of the National Beauty and Barber Manufacturers Association. The CTFA request sought an extension of time to comment for several reasons, including completing industry-sponsored studies and reviewing background material and tissue slides relating to the National Cancer Institute (NCI) preliminary report. CTFA made Freedom of Information Act requests to FDA and NCI in support of its request for an extension. FDA does not have the background material. Further information on the availability of the material is expected to be indicated in NCI's response to CTFA's request for the information. The extension of the comment period until May 8, 1978 will permit consideration of the disposition of the request for background material and an opportunity for comments on any material that becomes available. Requests for access to the background material may be made to NCL Any further information on the availability of the background material will be placed on file with the Hearing Clerk when ascertained.

Interested persons may, on or before May 8, 1978 submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 3, 1978.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc. 78-6277 Filed 3-9-78; 8:45 am]

[4510-26]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1910]

[Docket No. S-250]

SELECTED GENERAL INDUSTRY SAFETY AND HEALTH STANDARDS

Extension of Time for Written Comments, Objections, and Requests for a Hearing

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Extension of time to file written comments, objections, and requests for a hearing.

SUMMARY: This notice extends the time for written submissions concerning the rulemaking proceeding on the revocation of selected general industry safety and health standards proposed on December 13, 1977 (42 FR 62734).

DATES: Written comments, objections and requests for a hearing must be postmarked by May 3, 1978.

ADDRESS: Submit written comments, objections, and requests to OSHA Docket Office, Docket No. S-250, Room S6212, U.S. Department of Labor, 3rd Street and Constitution Avenue NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

Mr. John Proctor, Office of Safety Standards, Occupational Safety and Health Administration, 3rd Street and Constitution Avenue NW., Washington, D.C. 20210, telephone 202-523-7216.

SUPPLEMENTARY INFORMATION: On December 13, 1977, a notice was published in the FEDERAL REGISTER (42 FR 62734) of a proposed revocation of certain selected general industry safety and health standards which appear in 29 CFR Part 1910. The notice had requested the submission of public statements and comments not later than March 3, 1978.

Subsequently, several interested parties requested extensions of time to submit their comments. The basis for the requests is the broad scope of the proposal.

OSHA has decided to grant these requests as set forth below. In all other respects the procedures and requirements of the December 13, 1977, FEDERAL REGISTER notice apply.

SUBMISSION OF WRITTEN COMMENTS: Written comments, objections, and requests for public hearings from interested parties must be submitted no later than May 3, 1978. Comments must be submitted in quadruplicate to the Docket Officer, Docket No. S-250, Technical Data Center, Room S-6212, U.S. Department of Labor, 3rd Street and Constitution Avenue NW., Washington, D.C. 20210, telephone 202-523-7894.

Signed at Washington, D.C., this 3rd day of March 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 78-6387 Filed 3-9-78; 8:45 am]

[4510-26]

[29 CFR Part 1910]

[Docket No. S-251]

SPECIAL INDUSTRY SAFETY AND HEALTH STANDARDS

Extension of Time for Written Comments, Objections, and Requests for a Hearing

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Extension of time to file written comments, objections, and requests for a hearing.

SUMMARY: This notice extends the time for written submissions concerning the rulemaking proceeding on the revocation of selected special industry safety and health standards proposed on December 13, 1977 (42 FR 62892).

DATES: Written comments, objections and requests for a hearing must be postmarked by May 3, 1978.

ADDRESS: Submit written comments, objections, and requests to OSHA Docket Office, Docket No. S-251, Room S6212, U.S. Department of Labor, 3rd Street and Constitution Avenue NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

Mr. John Proctor, Office of Safety Standards, Occupational Safety and Health Administration, 3rd Street and Constitution Avenue NW., Washington, D.C. 20210, telephone 202-523-7216.

SUPPLEMENTARY INFORMATION: On December 13, 1977, a notice was published in the FEDERAL REGISTER (42 FR 62892) of a proposed revocation of certain special industry safety and health standards which appear in 29 CFR Part 1910. The notice had requested the submission of public statements and comments not later than March 3, 1978.

Subsequently, several interested parties requested extensions of time to submit their comments. The basis for the requests is the broad scope of the proposal.

OSHA has decided to grant these requests as set forth below. In all other respects the procedures and requirements of the December 13, 1977, FEDERAL REGISTER notice apply.

SUBMISSION OF WRITTEN COMMENTS: Written comments, objections, and requests for public hearings from interested parties must be submitted no later than May 3, 1978. Comments must be submitted in quadruplicate to the Docket Officer, Docket No. S-251, Technical Data Center, Room S-6212, U.S. Department of Labor, 3rd Street and Constitution Avenue NW., Washington, D.C. 20210, telephone 202-523-7894.

Signed at Washington, D.C., this 3rd day of March 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 78-6386 Filed 3-9-78; 8:45 am]

[7710-12]

POSTAL SERVICE

[39 CFR Part 111]

THIRD CLASS

Required Marking of Single-Piece Third-Class Mail

AGENCY: U.S. Postal Service.

ACTION: Proposed rule.

SUMMARY: The proposed rule would amend postal regulations to require that all mailings at the single-piece third-class rate, whether sealed or unsealed, be marked Third Class and that any such mail not so marked be charged the appropriate first-class postage. The Postal Service must be able to identify the class of mail to ensure it receives the appropriate treatment. Third-class mail may be easily confused with first-class mail and may receive inappropriate handling and distribution treatment. Under the current regulations only sealed pieces mailed at the single-piece third-class rate must be marked Third Class. In addition, there is presently no regulation permitting the Postal Service to charge first-class postage for an unmarked piece of third-class mail, whether sealed or unsealed. To avoid this problem, the Postal Service proposes to require all material sent at single-piece third-class rates to be marked Third Class and to charge first-class postage on any pieces which do not bear such markings.

DATE: Comments must be received on or before April 10, 1978.

ADDRESS: Written comments should be directed to Director, Office of Mail Classification, Rates and Classification Department, United States Postal Service, 475 L'Enfant Plaza, West SW., Washington, D.C. 20260. Copies of all written comments received will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in room 1610.

FOR FURTHER INFORMATION CONTACT:

Mr. Ashley Lyons, 202-245-4767.

SUPPLEMENTARY INFORMATION: The Postal Service proposes to amend, to carry out the purpose described above, sections 134.41 and 134.8 of the Postal Service Manual, Chapter I of which has been incorporated by reference in the FEDERAL REGISTER, see 39 CFR 111.1.

Although exempt from the requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revision of the Postal Service Manual:

PART 134—THIRD CLASS

1. In 134.4 revise .41 to read as follows:

134.4 PREPARATION—PAYMENT OF POSTAGE

.41 SINGLE-PIECE MAILINGS

.411 *Mailing Size and Payment of Postage.* Mailers of third-class mail at other than bulk rates may use any method of

paying postage, and may mail any number of pieces at one time, except when permit imprints are used (see 145.5).

.412 *Markings Required.* Each piece mailed at the single-piece third-class postage rates in 134.11 must be legibly marked on the address side, preferably below the postage and above the name of the addressee, with the two words THIRD CLASS. The marking may be included as part of a permit imprint, and it may be printed adjacent to the meter stamp by a postage meter. The marking will not be considered adequate if it is included as a part of a decorative design or advertisement. Pieces not marked as required will be treated as first-class mail and will be charged the applicable first-class postage.

2. Revise 134.8 to read as follows:

134.8 SEALING

Third class mail must be prepared by the mailer so that it can be easily examined. Third-class mail which is not sealed or secured so that it may be handled by machines is not recommended. Mailing of sealed articles at the third-class rates of postage is considered consent by the mailer to postal inspection of the contents.

An appropriate amendment to 39 CFR 11.3 to reflect these changes will be published if the proposals are adopted.

(39 U.S.C. 401(2).)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc. 78-6303 Filed 3-9-78; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6050-01]

ACTION

DOMESTIC AND ANTIPOVERTY OPERATIONS, VISTA PROGRAM

VISTA Program Criteria and Implementation Guidelines

This notice explains the program criteria and implementation guidelines for the VISTA Volunteer program. The VISTA program is authorized pursuant to title I, part A of the Domestic Volunteer Service Act, Pub. L. 93-113, 87 Stat. 396.

By reason of the fact that the material contained herein is a general statement of agency policy and procedure, relevant provisions of the Administrative Procedures Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay of effective date are inapplicable.

Pursuant to section 420 of Pub. L. 93-113, 42 U.S.C. 5059, ACTION guidelines are effective 30 days after publication in the FEDERAL REGISTER.

1. *Criteria for selecting VISTA sponsors.* The criteria listed below are to be used by ACTION staff in the selection of VISTA sponsors. All of the elements stated must be found in the applicant sponsor's proposed project.

A VISTA sponsor will manage a project which is poverty-oriented in scope and mission. Such a project must:

(1) Have as a method of attacking poverty and poverty-related problems: (a) the organization of low-income community residents to bring long term benefits to the community through their own collective efforts or the establishment of a grassroots advocacy system; or (b) supporting the efforts of a low-income citizen participation or grassroots advocacy organization(s).

(2) Have as a long term effect: (a) increasing access of low-income people to decisionmaking through cooperative efforts with existing public or private institutions; or (b) the creation of mechanisms for participation of low-income people in the decisionmaking processes which affect their lives.

(3) Show that the goals, objectives, and volunteer tasks are attainable within the time-frame during which the volunteers will be working on the project and will produce a measurable result.

(4) Make reasonable efforts to recruit and involve low-income community residents in the sponsoring organization and develop their leadership skills.

(5) Provide frequent and effective supervision of the volunteers and have the management capability to carry out the project.

(6) Identify resources needed and make them available for volunteers to perform their tasks.

(7) Comply with ACTION legislation, policies, and procedures established for the management of the VISTA Program.

2. *Implementation of criteria for new applications.* Organizations which are interested in applying for VISTA resources should contact the local ACTION State office for instructions and assistance in preparing an application. Applications submitted by potential sponsors will be reviewed in light of the above criteria. Those that comply with the criteria will be evaluated by the State and Regional ACTION office, compared to other applications received, and a decision made as to which applications will be accepted. Applications which do not comply with the criteria will be rejected. Applicants will be informed of the areas of noncompliance.

Regional or State Directors may request the Director of VISTA to waive specific VISTA criteria not mandated by law if the special needs of a particular community or group necessitate such a waiver.

3. *Implementation of new criteria for existing sponsors.*

(1) *Notice.* (a) All existing sponsors will be notified of the new criteria as soon as they are published in the FEDERAL REGISTER. Sponsors will be told that their application for renewal will be reviewed in light of these new criteria, so that they may design their project accordingly.

(b) By July 1, 1978, all State offices will review existing VISTA projects to determine whether they would be in compliance with new criteria if those criteria were applied to the project as currently constituted. Those that do not appear to comply will be notified of this fact with the reasons for noncompliance explained. Sponsors will be reminded that any application for renewal must comply with the new criteria.

(2) *Review of continuation applications.* (a) Sponsoring organizations whose memoranda of agreement are renewable after June 30, 1978, will be reviewed in light of new program criteria. If the application does not comply with the new criteria, the sponsor will be notified that ACTION intends to deny the application for renewal, and the sponsor will be given an opportunity to show cause why the application should not be denied in accordance with ACTION procedures. See 40 FR 23311, May 29, 1975.

(b) Sponsoring organizations whose Memoranda of Agreement are renewable between April 1, 1978 and June 30, 1978:

1. May be extended by State Directors for a reasonable amount of time (e.g., 3 months) to allow revision of the renewal proposal to conform with the new criteria, or

2. May be renewed noncompetitively if the State Program Director so desires, if the Regional Director concurs and if their proposal conforms to the new criteria, or

3. May be extended or renewed for one year under the old criteria to allow orderly transition if:

a. The State Program Director is satisfied with the program performance in the past year, and he/she believes the proposal conforms to the old criteria and the Regional Director concurs, and

b. The extension or renewal is necessary to insure that the organization has the opportunity for an orderly transition to continuance without VISTA Volunteers or to completion of the project, and

c. The sponsoring organization is clearly informed in writing at the time of extension or renewal that under no circumstances can the VISTA project continue after that period without submission of a new proposal conforming to the new criteria that is chosen under the competitive procedures that have been outlined.

(c) Technical assistance will be given by National, Regional, and ACTION State staffs to sponsors who are denied renewal but have been granted an extension to enable the sponsors to make an orderly transition to a system of providing services which is not dependent on the use of VISTA Volunteers.

(d) By July 10, 1979, all VISTA projects will be in compliance with these criteria.

(e) All sponsors submitting continuation proposals on the basis of the

April 10, 1978, criteria will be reviewed on the basis of the individual project performance for up to 3 years. The fourth year continuation proposal will be compared against other new appli-

That notice stated that comments must be received by February 27, 1978, to be considered in connection with REA's proposed funding action.

That Draft Environmental Impact

section 401 of the Federal Aviation Act of 1958, as amended (Docket 28342), and application of Aspen Airways, Inc. for an amendment of its cer-

Denver and Aspen, and the question of whether this certificate should be renewed is already in issue. Deletion of Aspen's authority need not be made a

for the exemption; (3) Aspen did not file an environmental evaluation with its exemption application; and (4) a Colorado District Court set aside the

Aspen again is requesting the Board to expand the scope of this case to include service in the Denver-Montrose market, because the Colorado Public

April 10, 1978, criteria will be reviewed on the basis of the individual project performance for up to 3 years. The fourth year continuation proposal will be compared against other new applications received.

This notice is issued in Washington, D.C., on March 8, 1978.

JOHN LEWIS,
Director of Domestic Operations, ACTION.

[FR Doc. 78-6429 Filed 3-9-78; 8:45 am]

[3410-11]

DEPARTMENT OF AGRICULTURE

Forest Service

NATIONAL FOREST MANAGEMENT ACT COMMITTEE OF SCIENTISTS

Meeting

The Committee of Scientists will meet at 9 a.m., on March 29, 1978, at the Sheraton-Dallas Hotel, 2117 Live Oaks and Olive Streets, Dallas, Tex.

The purpose of this meeting will be to conduct a detailed final review of proposed draft regulations for section 6 of the National Forest Management Act of 1976, prior to publication in the FEDERAL REGISTER.

The meeting will be open to the public. Persons who wish to attend and/or furnish written statements should notify Charles R. Hartgraves, Director of Land Management Planning, Forest Service, P.O. Box 2417, Washington, D.C. 20013 (Area Code 202-447-5933).

Dated: March 7, 1978.

CHESTER A. SHIELDS,
Associate Deputy for Administration.

[FR Doc. 78-6384 Filed 3-9-78; 8:45 am]

[3410-15]

Rural Electrification Administration

DAIRYLAND POWER COOPERATIVE

Draft Environmental Impact Statement

On December 27, 1977, a notice was published in the FEDERAL REGISTER announcing the availability of the USDA-REA Draft Environmental Impact Statement which had been prepared in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 in connection with the release of loan funds by the Rural Electrification Administration to Dairyland Power Cooperative of La Crosse, Wis. The REA financing would permit the construction of approximately 19 miles of 161 kV transmission line from Genoa, Wis., to Lansing, Iowa. Counties transversed were stated to be Vernon and Crawford in Wisconsin and Allamakee in Iowa. That notice stated that comments must be received by February 27, 1978, to be considered in connection with REA's proposed funding action.

That Draft Environmental Impact Statement described the two most feasible routing alternatives for the construction of the transmission facilities. While both routes were specified as being environmentally acceptable, the Draft Environmental Impact Statement indicated that the route through Wisconsin with a Mississippi River crossing in the Lansing, Iowa, area (Wisconsin route) was considered by REA to be superior to the routing involving the Mississippi River crossing at Genoa, Wis., and proceeding to Lansing, Iowa, through Minnesota (Minnesota-Iowa route).

On February 2, 1978, the U.S. Department of the Interior, Fish and Wildlife Service notified Dairyland Power Cooperative that it had denied Dairyland's request to construct the 161 kV line across the wildlife refuge area at Lansing, Iowa. Dairyland Power Cooperative plans to appeal this decision of the Fish and Wildlife Service within the Department of the Interior.

If Dairyland Power Cooperative is unsuccessful in its appeal process, then the Wisconsin route option will be effectively precluded and the Minnesota-Iowa route will be the most feasible and environmentally acceptable alternate available.

In view of the above events REA is extending the comment period on the draft statement an additional 45 days or through April 13, 1978.

Comments concerning the environmental impact of the proposed construction should be addressed to Mr. Richard F. Richter, Assistant Administrator-Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 2d day of March 1978.

DAVID A. HAMIL,
Administrator.

[FR Doc. 78-6215 Filed 3-9-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Order 78-3-7; Dockets 31400, 28342, and 31270]

COLORADO SKI-POINTS INVESTIGATION

Applications; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of March 1978.

Colorado Ski-Points Investigation (Docket 31400).

Application of Rocky Mountain Airways, Inc., for a certificate of public convenience and necessity pursuant to section 401 of the Federal Aviation Act of 1958, as amended (Docket 28342), and application of Aspen Airways, Inc. for an amendment of its certificate of public convenience and necessity to add the intermediate points of Montrose-Delta, Colo., and Gunnison, Colo., to Route 155 (Docket 31270).

On September 15, 1977, the Board initiated the Colorado Ski-points Investigation in Docket 31400, to consider nonstop service in three markets in Colorado. (Order 77-9-52.)

On December 23, 1977, the Board expanded the investigation in Docket 31400 to include additional Colorado markets and additional issues, and granted a temporary exemption to Aspen Airways to provide scheduled air transportation between Denver and Gunnison, Colo. (Order 77-12-130.)

This order is concerned with: (1) A petition filed by Rocky Mountain Airways for reconsideration of Order 77-12-130, (2) a motion filed by Rocky Mountain to consolidate its amendment No. 2 to its application in Docket 28342 with Docket 31400, and (3) Aspen Airways' motion for leave to file an unauthorized document, a petition for reconsideration of Order 77-12-130.

1. Petition of Rocky Mountain Airways, Inc., for reconsideration of Order 77-12-130. In Order 77-12-130 the Board expanded the issues in this case to include the question of whether the public convenience and necessity require the certification of an air carrier or carriers to engage in air transportation between and among a number of points in Colorado, or the deletion of any air carrier between any pair of points in issue.

Before the prehearing conference on January 11, 1978, Rocky Mountain applied for authority to serve one of the new markets put in issue by Order 77-12-130, and to offer intermediate stop service in other markets. Intermediate stop service was put in issue by Order 77-12-130. By January 11, 1978, however, no carrier had applied for authority to serve some of the Colorado markets put in issue by Order 77-12-130.

Rocky Mountain requests that markets for which no air carrier had filed an application before the prehearing conference not be considered in this case, so that the expense of producing evidence relating to them could be avoided. This request is granted. The markets at issue in the proposed order are limited ones sought by applicant carriers.

Order 77-12-130 also put in issue the question of whether any air carrier should be deleted between any pair of points in issue. The question of deletion as a separate issue involves only Frontier. Aspen's only authority under its temporary certificate is between

Denver and Aspen, and the question of whether this certificate should be renewed is already in issue. Deletion of Aspen's authority need not be made a separate issue. Rocky Mountain does not operate under a 401 certificate at this time, so deletion of its authority is not in issue. The question is at what points (or between what pairs of points) should deletion of Frontier's authority be put in issue.

The deletion of Frontier's authority is a corollary to the question of whether the carrier should continue to receive subsidy for services between points in which new, subsidy-ineligible awards may be made in this case. As we noted in Order 77-12-130 (p. 4), "Frontier's deletion in such markets should be considered, in the event it appears that Frontier could not or would not operate in the markets absent subsidy." Frontier has asked that its deletion at Gunnison and Hayden/Steamboat Springs/Craig be put in issue, although it has not yet taken a position on whether it should be deleted. We will limit the deletion issue to the points requested by Frontier. However, it should be recognized that the amendment of Frontier's certificate to make the segments involved here ineligible for subsidy remains an issue regardless of whether deletion is also considered.

In Order 77-12-130, the Board put the Denver-Gunnison and Aspen-Grand Junction markets in issue, as well as intermediate stop service between a number of points. Before the prehearing conference, Rocky Mountain applied for authority to serve Gunnison and Grand Junction, and for intermediate stop authority between the terminal point Denver, the intermediate points: (a) Vail/Eagle, (b) Hayden/Steamboat Springs/Craig, (c) Aspen, and (d) Gunnison, and the terminal point Denver. Rocky Mountain asks that it not be required to file the environmental evaluations for this new authority until a reasonable time after the Board's action on its petition.

All applicants who have not already submitted environmental evaluations for markets they are seeking in this case shall submit these evaluations within 30 days after service of this order.

Finally, Rocky Mountain requests the Board to withdraw its approval of Aspen's temporary exemption permitting interlining in the Denver-Gunnison market.

In support of its position, Rocky Mountain argues that: (1) Aspen failed to comply with section 302.402(c) of the Board's Rules (supporting evidence to be filed with an application for exemption), and this issue was not discussed in Order 77-12-130; (2) the Board failed to make any independent factual findings as to the public need for the exemption; (3) Aspen did not file an environmental evaluation with its exemption application; and (4) a Colorado District Court set aside the order of the Colorado Public Utilities Commission giving Aspen temporary intrastate authority in the Denver-Gunnison market.

We have made independent findings on the basis of supporting evidence available to us in the dockets involved here. Therefore, the first two arguments are without merit.

As to the third point, Aspen did not file an environmental evaluation with its exemption application, but it did file an environmental evaluation for the Denver-Gunnison market in Docket 31270, which was consolidated with Docket 31400. In any event, Aspen already is offering intrastate transportation between Denver and Gunnison, so that the granting of exemption authority to Aspen would have no significant adverse effect on the environment. The temporary exemption authority allows out-of-state passengers to purchase interline tickets including Aspen flights, but should not result in any additional flights in this market.

The Board finds that the temporary exemption authority granted to Aspen does not constitute a major federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(c) of the National Environmental Policy Act of 1969.

As to the fourth point made by Rocky Mountain, on December 28, 1977, a Colorado District Court set aside the order of the Colorado Public Utilities Commission giving Aspen temporary intrastate authority in the Denver-Gunnison market, but after that decision, the Colorado Public Utilities Commission made new findings as required by the District Court, and again issued temporary intrastate authority to Aspen in that market (as well as Denver-Montrose).

Rocky Mountain's request that approval of Aspen's request for a temporary exemption permitting interlining in the Denver-Gunnison market be withdrawn will be denied.

2. Rocky Mountain's motion to consolidate its amendment No. 2 to its application in Docket 28342 with Docket 31400. In amendment No. 2 Rocky Mountain applies for authority to engage in air transportation between Aspen and Grand Junction, and intermediate stop service in other Colorado markets. The Board added these issues to this case in Order 77-12-130. The motion will be granted.

3. Petition of Aspen Airways for reconsideration of Order 77-12-130. On January 17, 1978, Aspen Airways filed a motion for leave to file an otherwise unauthorized document, a petition for reconsideration of Order 77-12-130. Aspen again is requesting the Board to expand the scope of this case to include service in the Denver-Montrose market, because the Colorado Public Utilities Commission recently found an "immediate and urgent need" for air services between any and all of the points Denver, Aspen, Gunnison, and Montrose. Aspen's motion for leave to file an otherwise unauthorized document will be granted, but its petition for reconsideration of Order 77-12-130 will be denied. (The Montrose County Airport Authority filed an answer to the petition of Aspen, opposing reconsideration, along with a motion for leave to file an otherwise unauthorized document. The motion will be granted.)

The Denver-Montrose market is now served by Frontier, and the city of Montrose believes the service to be adequate. A need for additional service in this market may or may not exist, but the city of Montrose does not want additional service at this time, and Montrose is not a major Colorado ski point terminal. Under these circumstances it would not be appropriate to include Montrose in the Colorado Ski-Points Investigation.

Accordingly, it is ordered:

A. Rocky Mountain's petition for reconsideration of Order 77-12-130 is granted to the extent that the issues in Docket 31400 will be revised, and additional time will be given to submit environmental evaluations, but denied as to the request that the Board withdraw its approval of Aspen's temporary exemption permitting interlining in the Denver-Gunnison market.

B. Rocky Mountain's motion to consolidate its amendment No. 2 to its application in Docket 28342 with Docket 31400 is granted.

C. Aspen Airways' motion for leave to file an unauthorized document is granted, and its petition for reconsideration of Order 77-12-130 be denied.

D. The motion of the Montrose County Airport Authority for leave to file a late document is granted.

E. The issues in the Colorado Ski-Points Investigation, Docket 31400, shall include, but not be limited to, the following:

1. Do the public convenience and necessity require the certification of an air carrier or carriers to engage in nonstop air transportation between:

Denver and Aspen,
Denver and Vail/Eagle,
Denver and Gunnison,
Denver and Hayden/Steamboat Springs/Craig,
Aspen and Gunnison,
Aspen and Grand Junction,
Aspen and Hayden/Steamboat Springs/Craig?

2. Do the public convenience and necessity require the certification of an air carrier or air carriers to engage in intermediate stop air transportation

between the terminal point Denver, the intermediate points: (a) Vail/Eagle, (b) Hayden/Steamboat Springs/Craig, (c) Aspen, and (d) Gunnison, and the terminal point Denver, and/or between the terminal point Denver, the intermediate points Gunnison and Vail/Eagle, and the terminal point Aspen?[1]

3. If any application is granted, which carrier(s) should be authorized to engage in any of the air transportation described in (1) and/or (2)?

4. If any application is granted, what terms, conditions, and limitations, if any, should be placed upon the operation of such carrier(s)?

5. If the application of Rocky Mountain is granted, and a certificate is issued to it, what terms, conditions, and limitations, if any, should be placed upon its operation?[2]

6. (a) Should the application of Aspen Airways for amendment of its certificate or for a new certificate be granted, (b) if a certificate is issued to it, what terms, conditions, and limitations, if any, should be placed upon its operation?[2]

7. Is Rocky Mountain fit, willing, and able to perform properly the air transportation proposed in its application and to conform to the provisions of the Federal Aviation Act of 1958 and the rules, regulations, and requirements of the Board thereunder?

8. Is Aspen Airways fit, willing, and able to perform properly the air transportation proposed in its application and to conform to the provisions of the Federal Aviation Act of 1958 and the rules, regulations, and requirements of the Board thereunder?

9. If the application of Rocky Mountain is granted and a certificate is issued to Rocky Mountain, would such action give rise to any control or interlocking relationships which are prohibited by section 408 or 409 of the Act in the absence of Board approval?

10. If the application of Aspen Airways is granted and a certificate is issued to Aspen Airways, would such action give rise to any control or interlocking relationships which are prohibited by section 408 or 409 of the Act in the absence of Board approval?

11. If the answer to issue 9 or 10 is affirmative, is it in the public interest to approve or exempt any or all such relationships and, if so, what terms, conditions, or limitations should be attacted to such approval or exemptions?

12. If the answer to (1) and/or (2) is in the affirmative, is it in the public interest to authorize any such carrier(s) to operate as an air taxi(s) pursuant to 14 CFR part 298 in other markets which such carrier(s) is (are) not certificated to serve?

13. If no certificate is issued to Rocky Mountain, is it in the public interest to issue exemption authority to Rocky Mountain, pursuant to section 416 of the Federal Aviation Act, to engage in air transportation with large aircraft between Denver, on the one hand, and: (a) Aspen, (b) Vail/Eagle, (c) Hayden/Steamboat Springs/Craig, and/or (d) Gunnison, on the other hand; between Aspen on the one hand, and Grand Junction on the other hand; and/or intermediate stop air transportation between the terminal point Denver, the intermediate points: (a) Vail/Eagle, (b) Hayden/Steamboat Springs/Craig, (c) Aspen, and (d) Gunnison, and the terminal point Denver?

14. Do the public convenience and necessity require the amendment, modification, or suspension of the certificate of Frontier with respect to service at Gunnison and Hayden/Steamboat Springs/Craig pursuant to Section 401(g) of the Act?

15. What terms, conditions, and limitations, if any, should be placed on the operations of any carrier which is a party to this case relating to whether any existing or new authority should be made permissive and/or ineligible for subsidy?

E. Environmental evaluations shall be submitted by each carrier for each market in which it has applied for authority on or before 30 days after service of this order.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[3]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-6351 Filed 3-9-78; 8:45 am]

[1] Issues 1 and 2 overlap each other in some markets.

[2] This includes, but is not limited to the consideration: Should the authority granted be temporary or permanent and, if temporary, what should be its duration?

[3] All Members concurred except vice Chairman Minetti who did not participate.

[6320-01]

[Order 78-3-2, Dockets 24694, 31976, 32099, 32101, 32096, 32102, 31644, 32074]

MIAMI-LOS ANGELES COMPETITIVE NONSTOP CASE AND LOW-FARE CASE

Applications; Order on Reconsideration

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of March, 1978.

Miami-Los Angeles Competitive Nonstop Case (Docket 24694), Miami-Los Angeles Low-Fare Case (Docket 31976); Applications of American Airlines; Eastern Air Lines; Northwest Airlines; Pan American World Airways; World Airways; and Western Air Lines (Dockets 32099; 32101; 32096; 32102; 31644; 32074).

On January 11, 1978, we decided to (a) reopen Docket 24694 to consider, on an updated record, whether Pan American World Airways or Western Air Lines should be temporarily authorized to compete with National Airlines over the Miami-Los Angeles route, and (b) institute a new Low-Fare case in Docket 31976 to decide whether the public convenience and necessity require additional carriers between Miami and Los Angeles. We shall examine in this latter connection whether we can secure the maintenance of low-fare service in the market over the longer term. See Order 78-1-35, January 11, 1978. Petitions for reconsideration of our decision were filed on February 2, 1978, by the Tampa-Bay Area Parties, Pan American, Western, and World Airways. Answers were filed on February 13, 1978.

Briefly summarized, Pan American and National urge at least a temporary deferral of the Low-Fare case, with a view toward abandoning it entirely. Both petitioners argue that all of the Board's objectives in the new case can be accomplished without the expenditure of additional time and effort; Pan American states that the Board could simply entertain the possibility of awarding authority to both it and Western in the reopened proceeding, that lower fares will result without additional carriers, and that another case may not be necessary; National agrees that the benefits of low-fare service can be accomplished (and, according to National are already being accomplished) without a new case and asserts that the Board's view of a need for additional applicants stems from a misunderstanding of the demand elasticity of the Miami-Los Angeles market. Western supports these petitions insofar as they request deferral of procedural steps in the Low-Fare case, arguing that sound administration requires that litigation over the Miami-Los Angeles route be brought to an end. Western also urges the Board to make a permanent award in Docket 24694, asserting that the issue of temporary authority has not been raised to this point in the case. National and Western argue, further, that at a minimum a deferral is prudent until the court decides the numerous motions before it concerning the scope of its mandate with respect to Docket 24694.[1]

World Airways urges the Board to include Tampa, Fla., Oakland, Calif., and San Juan, P.R. in the new proceeding. World claims that the limited size of the Miami-Los Angeles market diminishes the likelihood that a new entrant will be able to submit an economically viable low-fare proposal and that the inclusion of additional markets would both increase the potential for low-fare service by a new entrant in the original market and lead to the introduction of low-fare service in several additional markets. The Tampa parties, joined by Western, support the inclusion of Tampa as an additional point in any Low-Fare case which may go forward. Eastern Air Lines, Delta Air Lines, Pan American and National oppose an expansion of the Low-Fare case. The Government of Puerto Rico supports inclusion of all three new points.

National has also filed two motions. The first, filed on February 17, requests a dismissal of applications by five carriers for alleged failure to specify the low-fare service to be offered or the mechanisms for enforcing low fares. The second, filed on February 21, seeks to defer the date for filing initial comments until after Court of Appeals action on the motions now before the Court.

We have decided to deny the petitions and motions insofar as they request any delay in the two proceedings and will, instead, move forward expeditiously in both the remanded proceeding and the new one. We shall also expand the new case to include Tampa, Fla. and Oakland, Calif. and shall consolidate pending applications.

1. *Deferral.*—We see no reason to delay either proceeding by awaiting a ruling from the Court of Appeals on various motions now before it, or to abandon the new case. We believe that our action is fully consistent with the Court's mandate, although we recognize that the court is the ultimate arbiter of that question. The court remanded Docket 24694 to permit an updating of the record and we are providing exactly that opportunity in the expedited proceeding. Our institution of a new case is clearly not intended to circumvent the court's direction, and, frankly, we are surprised that any petitioner would suggest that it is. Although some consideration during the decisional process was given to a more expansive approach to Docket 24694 (and eliminating a separate low-fare proceeding), the Board decided on balance that the issue of multiple route awards and low fares could better be explored in a newly-instituted case open to all carriers. Even if the court were to determine that we could consider making awards to both Western and Pan American in the reopened phase of Docket 24694 as requested by Pan American, or were to vacate the Board's 1976 decision entirely as requested by National, we would wish to move forward much as we are doing now.

We will not eliminate the possibility of temporary authority in Docket 24694. Although our original award to Western was unlimited in duration, the question of temporary operating authority was—and remains—an issue in Docket 24694 and we see nothing in the court's opinion, the terms of the mandate, or law or logic which would—or should—preclude the Board from limiting the authority ultimately to be awarded to Pan American or Western in view of the current requirements of the public convenience and necessity. Temporary authority, in our judgment, is a useful mechanism for encouraging the maintenance of low fares while we are deciding the new Low-Fare case and gives us maximum flexibility to shape our long-term awards to the benefit of the traveling public. We should reiterate, in this connection, that we have recently moved on a number of fronts toward a policy of encouraging price competition and lower fares. The case which we instituted in January accords the Board an opportunity to consider low-fare service in a large and key transcontinental market—an issue sufficiently important in our judgment to justify the expenditure of time and effort despite the long history of this case.[2]

We do not agree with National that our institution of a low-fare case rests on a misunderstanding of the actual history of fares and traffic in the market. National is correct that the current record is insufficient to allow definite findings on whether price elasticity is sufficient to permit lower fares on a sustaining basis. That issue, of course, will be litigated in the new case. But we have sufficient empirical evidence in both long-haul and short-haul markets to demonstrate as a general matter that lower fares can generate new traffic and even bring about more frequent service. The fact that a substantial portion of the traffic in the Miami-Los Angeles market already uses discount fares supports—rather than rebuts—our view that lower normal fares may well present a real opportunity to stimulate new traffic and improve efficiency—contrary to National's argument.

2. *Expansion of the Low-Fare Case.*—We will expand the proceeding to include Oakland, Calif. and Tampa, Fla. but shall not include San Juan, P.R. We shall also consolidate pending applications. We are sympathetic to World's argument that a narrow scope for this case may unnecessarily deprive the Board and the public of the opportunity to consider a meaningful application for low-fare service by a new entrant. While certain of the Tampa/Oakland markets are relatively small and might not, standing alone, necessarily warrant a priority hearing at this time, we prefer not to foreclose the possibility for more efficient operations or jeopardize the prospect for low fares solely on procedural grounds. We are convinced that the inclusion of Tampa and Oakland will not unduly increase the complexity of the case or shift its fundamental focus—which will remain on the need for low-fare long-haul service between California and Florida. Similarly, it should not expand the case unduly. National Air Lines is the incumbent carrier in all the California-Florida markets at issue and it is unlikely that our inclusion of these new markets will draw substantially more applicants.

We will not include San Juan. All of the San Juan markets except Miami-San Juan are small and are not likely to add significant traffic support to the Southern transcontinental operations which are the central focus of the instant case. Morever, the inclusion of San Juan will shift the focus of the case and is likely to expand and delay it substantially. In any event, the general question of new Mainland-Puerto Rico service, including the possibility of new Miami-San Juan nonstop service and one-stop service between the west coast and San Juan via Miami, is being examined in the *Caribbean Service Investigation*, Docket 30697 and we believe it is better considered in that context. See Order 77-4-28, April 6, 1977.[3]

3. *Consolidation of Applications.*—Applications, coupled with motions to consolidate, have been filed by American Airlines, Eastern Air Lines, Northwest Airlines, Pan American World Airways, World Airways and Western Air Lines. These applications shall be consolidated to the extent consistent with the scope of the issues. The actual fares proposed, plus the mechanisms for enforcement of low fares, shall be for the judge and the Board to evaluate in the course of the case—as we are doing in all other cases.[4]

[1] Pan American has moved for a clarification of the mandate, asserting that the court did not prohibit the dual certification of Western and Pan American. Western has moved for an order preventing both the grant of temporary authority in Docket 24694 and the institution of a new low-fare case. National has asked the court to vacate the Board's 1976 decision entirely.

[2] Western is welcome to renew its request for indefinite authority when it files its materials in Docket 24694.

[3] In the *Caribbean* Case the Commonwealth of Puerto Rico seeks to include the issue of new service to Puerto Rico from ten Mainland points incuding Miami but not including Oakland or Los Angeles. Western and National, however, seek Miami-San Juan nonstop authority and could, if successful, offer new service between the West Coast and Puerto Rico via Miami. The Board has yet to decide on the precise scope of the *Caribbean* Case.

[4] See *Transcontinental Low-Fare Route Proceeding*, Order 77-6-23, June 7, 1977, pp. 7-8. See also *Chicago-Midway Low-Fare Route Proceeding*, Orders 76-12-149, Decem-
—Continued

There will be no need for these applicants to file amended applications to include the new markets but we shall, consistently with past practice, solicit applications from other interested per-

5. Except to the extent granted, all petitions, motions, and requests are denied.

This order shall be published in the

[6320-01]

[Docket 32118; Order 78-2-120]

PAN AMERICAN WORLD AIRWAYS, INC.

Piedmont Aviation, Inc. (Piedmont) requests exemption or approval, pursuant to section 408 of the Federal Aviation Act of 1958, as amended, of its acquisition of the assets of Baldwin

Service, Inc., Order 71-2-69, February 16, 1971.[1]

No objections to this application or requests for a hearing have been received.

ant to the Board's Regulations, 14 CFR 385.50, may file such petitions within 10 days of the date of service of this order.

This order shall be effective and

[1] Issues 1 and 2 overlap each other in some markets.

[2] This includes, but is not limited to the consideration: Should the authority granted be temporary or permanent and, if temporary, what should be its duration?

[3] All Members concurred except vice Chairman Minetti who did not participate.

[4] In the *Caribbean* Case the Commonwealth of Puerto Rico seeks to include the issue of new service to Puerto Rico from ten Mainland points incuding Miami but not including Oakland or Los Angeles. Western and National, however, seek Miami-San Juan nonstop authority and could, if successful, offer new service between the West Coast and Puerto Rico via Miami. The Board has yet to decide on the precise scope of the *Caribbean* Case.

[5] See *Transcontinental Low-Fare Route Proceeding*, Order 77-6-23, June 7, 1977, pp. 7-8. See also *Chicago-Midway Low-Fare Route Proceeding*, Orders 76-12-149, Decem-
—Continued

There will be no need for these applicants to file amended applications to include the new markets but we shall, consistently with past practice, solicit applications from other interested persons.

Accordingly, it is ordered, That: 1. Docket 31976 shall be expanded to include consideration of the following issues.

(a) Does the public convenience and necessity require (i) the modificaion, of the certificate of the successful applicant in Docket 24694 to renew the authority to operate nonstop service between Miami-Fort Lauderdale, Fla., and Los Angeles-Ontario-Long Beach, Calif., and (ii) the authorization of a different, or additional, carrier or carriers to engage in air transportation between the terminal point Miami-Fort Lauderdale, Fla., the intermediate points Tampa-St. Petersburg-Clearwater, Fla., and Los Angeles-Ontario-Long Beach, Calif., and the terminal point Oakland, Calif.: *Provided,* that all flights must serve a point in California and a point in Florida.[4]

(b) If the answer to (a) is in the affirmative, which air carrier or carriers should be authorized to engage in such service?

(c) What terms, conditions, and/or limitations, if any, should be attached to any new authority which may be awarded?

2. Any authority awarded in this case shall be ineligible for Federal subsidy;

3. The applications of American Airlines, Docket 32009; Eastern Air Lines, Docket 32101; Northwest Airlines, Docket 32096; Pan American World Airways, Docket 32102, Western Air Lines, Docket 31644; and World Airways, Docket 32074, to the extent that they conform to the scope of Docket 31976, be consolidated with that proceeding; otherwise they are dismissed;

4. Applications within the expanded scope of the case, and motions to consolidate, shall be filed within 21 days of the service date of this order, and answers to those applications and motions shall be filed 7 days later;[5] and

5. Except to the extent granted, all petitions, motions, and requests are denied.

This order shall be published in the FEDERAL REGISTER.[7]

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-6350 Filed 3-9-78; 8:45 am]

[6320-01]

[Docket 32118; Order 78-2-70]

PAN AMERICAN WORLD AIRWAYS, INC.

Order of Suspension and Investigation Regarding Increased Excess Baggage Charges; Correction

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 13th day of February, 1978.

In the matter of increased excess baggage charges proposed by Pan American World Airways, Inc. (Docket 32118) Order of Suspension and Investigation.

In FR Doc. 78-4552 appearing at 7248 in the issue for Tuesday, February 21, 1978, refer to Appendix A and revise it to read as follows:

TARIFF CAB No. 142, ISSUED BY AIRLINE TARIFF PUBLISHING CO., AGENT

On 53rd Revised Page 148-D, the cancellation of PA provisions from Rule 340(B)(1).

On 54th, 55th, and 56th Revised Pages 148-D, the omission of PA provisions from Rule 340(B)(1).

On 29th Revised Page 164-C, the exception to Rule 365(B)(2)(b) and the exception to Rule 365(B)(5).

This suspension does not stay the cancellation of 28th Revised Page 164-C.

TARIFF CAB No. 55, ISSUED BY AIR TARIFFS CORP., AGENT

On 15th Revised Page 44-B, the exception to Rule No. 16(I)(1).

This suspension does not stay the cancellation of 14th Revised Page 44-B.

By the Civil Aeronautics Board.

Dated: March 3, 1978.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-6348 Filed 3-9-78; 8:45 am]

[6320-01]

[Docket 32118; Order 78-2-120]

PAN AMERICAN WORLD AIRWAYS, INC.

Order of Suspension and Investigation Regarding Proposed Increased Excess Baggage Charges; Correction

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 13th day of February, 1978.

In the matter of increased excess baggage charges proposed by Pan American World Airways, Inc. (Docket 32118). Order of suspension and investigation.

In FR Doc. 78-5395 appearing at page 8280 in the issue for Wednesday, March 1, 1978, refer to Appendix A and revise it to read as follows:

TARIFF CAB No. 55, ISSUED BY AIR TARIFFS CORPORATION, AGENT

On 30th, 31st, and 32nd Revised Pages 46-H:

1. the parenthetical expression "(Not applicable to PA)" in Rule No. 16(V)(3)(c).

2. the exception to subparagraphs (a), (b), and (d) of Rule No. 16(V)(3) and the exception to that exception.

This suspension does not stay the cancellation of 27th, 28th, and 29th Revised Pages 46-H.

Dated: March 3, 1978.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-6349 Filed 3-9-78; 8:45 am]

[6320-01]

[Docket No. 31891]

PIEDMONT AVIATION, INC.

Proposed Approval of Application

Notice is hereby given, pursuant to the statutory requirements of section 408(b) of the Federal Aviation Act of 1958, as amended, that the undersigned intends to issue the attached order under delegated authority. Interested persons are hereby afforded until March 14, 1978, within which to file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., March 7, 1978.

MICHAEL E. LEVINE,
Director-designate, Bureau of Pricing and Domestic Aviation.

Issued under delegated authority.

Application of Piedmont Aviation, Inc., for exemption or approval under section 408 of the Federal Aviation Act of 1958, as amended; Order of Approval.

Piedmont Aviation, Inc. (Piedmont) requests exemption or approval, pursuant to section 408 of the Federal Aviation Act of 1958, as amended, of its acquisition of the assets of Baldwin Aviation, Inc., d.b.a. Winston-Salem Air (Baldwin).

Piedmont is a certificated air carrier with fixed base operations at Winston-Salem and Greensboro, N.C., and at Norfolk, Manassas, Richmond, Roanoke, and Charlottesville, Va. Baldwin is a fixed base operator in Winston-Salem engaging in aircraft sales, aircraft maintenance and servicing, fuel services, and air taxi operations at Smith Reynolds Airport.

By an agreement expressly contingent on Board approval, Piedmont will purchase most of the assets of Baldwin, though it will not acquire Baldwin's air taxi authority.

In support of its request, Piedmont states that the proposed acquisition will not create a monopoly, restrain competition or jeopardize any other air carrier. Although Baldwin is the only fixed base operator at Smith Reynolds, apart from the general aviation activities of Piedmont, the applicant submits evidence of similar fixed base services at other airports near Smith Reynolds. There are two fixed base operators at the Greensboro/High Point/Winston-Salem Airport, 16 miles from Smith Reynolds, and one at Strawberry Hill Airport, 15 miles away. In addition, there are several competitors within 30 miles of Smith Reynolds. These smaller airports can in general only handle noncertificated traffic. However, since Piedmont is the only certificated carrier using Smith Reynolds, there will be no lessening of competition among fixed base operators servicing certificated carriers.

Other certificated carriers use larger airports, other than Smith Reynolds, where alternative suppliers of fixed base services are available.

Moreover, the applicant states that the acquisition is not contrary to the Board's Statement of General Policy (see section 399.90) concerning engagement of subsidized carriers in nontransport activities. Piedmont points out that it has undertaken fixed base operations for longer than it has been a carrier; that its fixed base operations have yielded a profit; and that there is little diversion of management since Piedmont is already engaged in these activities at Smith Reynolds. Baldwin's assets will merely be added to Piedmont's fixed base operations at Smith Reynolds.

Finally, the application cites as precedent for this acquisition, the Board exemptions of similar acquisitions of fixed base operators. Acquisition of Marshall Aviation, Inc., Order 74-11-134, November 25, 1974 and Acquisition of Greensboro/High Point Air Service, Inc., Order 71-2-69, February 16, 1971.[1]

No objections to this application or requests for a hearing have been received.

Notice of intent to dispose of this application without a hearing has been published in the FEDERAL REGISTER, and a copy of such notice has been furnished by the Board to the Attorney General not later than the day following the date of such publication, both in accordance with the requirements of section 408(b) of the Act.

We have concluded that the acquisition of the assets of Baldwin, a person engaged in a phase of aeronautics other than as an air carrier, by Piedmont, an air carrier, is subject to section 408(a)(3) of the Act. However, we further conclude that the acquisition will not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation or tend to unreasonably restrain trade substantially lessen competition or create a monopoly. The transaction was entered into after arm's length bargaining and there appears to be no control or interlocking relationships between Piedmont and Baldwin. No person disclosing a substantial interest in the proceeding is currently requesting a hearing, and it is concluded that the public interest does not require a hearing. The transaction does not appear to be inconsistent with the public interest nor does it leave the requirements of section 408 of the Act otherwise unfulfilled. The acquisition, however, will enhance Piedmont's service capacity without reducing the independent facilities available to other certificated carriers. Although Baldwin is the only fixed based operator at Smith Reynolds, apart from Piedmont, other operators are in airports nearby. Piedmont is the only certificated carrier now using Smith Reynolds. The acquisition conforms to the Board's policy in section 399.90 of its Statements of General Policy, in that it does not threaten to divert management resources nor will it be financially disadvantageous to the air carrier.

It is therefore found, pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.13, that the acquisition of Baldwin's assets by Piedmont should be approved without hearing, pursuant to the third proviso of section 408(b) of the Act.

Accordingly, it is ordered that: 1. The acquisition of the assets of Baldwin Aviation, Inc., by Piedmont Aviation, Inc. be approved; and

2. To the extent not granted, the application in Docket 31891 be dismissed.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within 10 days of the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

[FR Doc. 78-6347 Filed 3-9-78; 8:45 am]

[6335-01]

COMMISSION ON CIVIL RIGHTS

DISTRICT OF COLUMBIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the District of Columbia Advisory Committee (SAC) of the Commission will convene at 2 p.m. and will end at 4 p.m. on March 28, 1978, 1121 Vermont Avenue NW., 5th Floor Conference Room, Washington, D.C. 20425.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street NW., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to plan committee activities for 1978.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., March 2, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-6327 Filed 3-9-78; 8:45 am]

[6335-01]

MARYLAND ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting on the Maryland Advisory Committee (SAC) of the Commission will convene at 7:30 p.m. and will end at 10 p.m. on March 22, 1978, Baltimore Hilton Inn, Laurel Room, Nos. 115-117, Baltimore Beltway 695, Exit 20, Baltimore, Md.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street NW., Washington, D.C. 20037.

The purpose of this meeting is to plan committee activities for 1978.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

—Continued

ber 28, 1976 and 77-5-81, May 17, 1977; *Chicago-Albany/Syracuse-Boston Competitive Service Investigation,* Order 77-12-50, December 9, 1977; *Baltimore/Washington Houston Low-Fare Route Case,* Order 77-12-115, December 22, 1977; and *Pittsburgh-Orlando-Daytona Beach Route Proceeding,* Order 78-2-42, February 9, 1978.

[4]The form of authority (e.g., the inclusion of all points on a single segment, or the award of separate segments) will await the development of the record. We do not foreclose the award of fill-up rights between Miami and Tampa, or Los Angeles and Oakland, on California flights serving more than one point in either or both states.

[5]We delegate to the presiding administrative law judge the authority to consolidate by order any new applications which conform to the scope of the proceeding.

[7]All members concurred.

[1]Orders 71-2-69 and 74-11-134 exempted Piedmont's acquisition of certain fixed base operators.

Dated at Washington, D.C., March 2, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

Dated at Washington, D.C., March 6, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

Veterans Administration—Staff Assistant to the Administrator, Office of the Administrator.

For the United States Civil Service Commission

amounts of, annual comparability adjustments in Federal white-collar pay.

AGENDA: Discussions on the 1978 comparability adjustment for the stat-

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[3510-22]

National Oceanic and Atmospheric Administration

Kennedy Boulevard, Tampa, Fla. 33609, 813-228-2815.

Dated: March 6, 1978.

Dated at Washington, D.C., March 2, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-6328 Filed 3-9-78; 8:45 am]

[6335-01]

PENNSYLVANIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Pennsylvania Advisory Committee (SAC) of the Commission will convene at 10 a.m. and will end at 5 p.m. on March 29, 1978, 600 Arch Street, Room 7306, Philadelphia, Pa.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street NW., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to develop programs for the remainder of the fiscal year, and to get suggestions for Commission program for the next two years.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., March 6, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-6329 Filed 3-9-78; 8:45 am]

[6335-01]

WEST VIRGINIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the West Virginia Advisory Committee (SAC) of the Commission will convene at 1 p.m. and will end at 5 p.m. on April 4, 1978, 1037 Quarrier St., 2d Floor, Room 218, Charleston, W. Va.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street NW., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to develop programs for the remainder of the fiscal year and to get suggestions for Commission programs for the next two years.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., March 6, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-6330 Filed 3-9-78; 8:45 am]

[6325]

CIVIL SERVICE COMMISSION

DEPARTMENT OF ENERGY

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20) the Civil Service Commission authorizes the Department of Energy to fill by noncareer executive assignment in the excepted service the positions listed below:

(1) General Counsel, Office of the General Counsel, Federal Energy Regulatory Commission.

(2) Executive Director, Federal Energy Regulatory Commission.

(3) Director, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission.

(4) Director, Office of Congressional Affairs, Office of Intergovernmental and Institutional Relations.

(5) Director, Executive Secretariat.

(6) Assistant Administrator for Engineering and Construction (Chief Engineer), Bonneville Power Administration, Office of Resource Applications.

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-6363 Filed 3-9-78; 8:45 am]

[6325-01]

DEPARTMENT OF TRANSPORTATION, FEDERAL HOME LOAN BANK BOARD, VETERANS ADMINISTRATION

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Transportation, Federal Home Loan Bank Board, and Veterans Administration to fill by noncareer executive assignment in the excepted service the following positions:

Department of Transportation—(1) Director, Office of Consumer Affairs, Assistant Secretary for Safety and Consumer Affairs, Office of the Secretary; (2) Assistant Director for Communications Programming, Office of Public Affairs, Office of the Secretary.

Federal Home Loan Bank Board—Director, Office of Economic Research, Office of the Director.

Veterans Administration—Staff Assistant to the Administrator, Office of the Administrator.

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-6364 Filed 3-9-78; 8:45 am]

[6325-01]

DEPARTMENT OF TRANSPORTATION, FEDERAL HOME LOAN BANK BOARD, DEPARTMENT OF LABOR

Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20) the Civil Service Commission authorizes the following agencies to fill by noncareer executive assignment in the excepted service the positions listed below.

Department of Transportation—position of Deputy Director of Public and Consumer Affairs, Office of the Secretary.

Federal Home Loan Bank Board—Director, Office of Federal Home Loan Banks.

Department of Labor—Deputy Wage and Hour Administrator, Employment Standards Administration.

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-6365 Filed 3-9-78; 8:45 am]

[6325-01]

FEDERAL EMPLOYEES PAY COUNCIL

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the President's Pay Agent announces the following meeting:

NAME: Federal Employees Pay Council.

DATE AND TIME: March 29, 1978, 1 p.m.

PLACE: U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C., Room 5A06A.

TYPE OF MEETING: Open.

CONTACT PERSON:

Claire G. Kline, Committee Management staff for the President's Pay Agent, U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C., Telephone, 202-632-5595.

PURPOSE OF COMMITTEE: To make recommendations to the President's Pay Agent with respect to the process and procedures leading to, and amounts of, annual comparability adjustments in Federal white-collar pay.

AGENDA: Discussions on the 1978 comparability adjustment for the statutory pay systems of the Federal Government, which are defined in section 5301 of title 5, United States Code.

For the President's Pay Agent:

RICHARD H. HALL,
Committee Management Officer for the President's Pay Agent.

[FR Doc. 78-6366 Filed 3-9-78; 8:45 am]

[3510-24]

DEPARTMENT OF COMMERCE

Economic Development Administration

WELLCO ENTERPRISES, INC., AND BRIDGEPORT ROLLING MILLS, CO.

Petitions for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions were accepted for filing from two firms: (1) Wellco Enterprises, Inc., Georgia Avenue and Pine Street, P.O. Box 188, Waynesville, N.C. 28786, a producer of footwear for men, women, and children (accepted March 2, 1978); and (2) Bridgeport Rolling Mills Co., P.O. Box 818, Bridgeport, Conn. 06601, a producer of copper-base sheet metals (accepted March 3, 1978). The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the U.S. Department of Commerce has initiated an investigation to determine whether increased imports into the the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc. 78-6273 Filed 3-9-78; 8:45 am]

[3510-22]

National Oceanic and Atmospheric Administration

CARIBBEAN FISHERY MANAGEMENT COUNCIL'S ADVISORY PANEL

Public Meeting

The Advisory Panel of the Caribbean Fishery Management Council, established by section 302 g (2) of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet April 3, 1978, at the Council's office, Suite 1108, Banco de Ponce Building, Hato Rey, Puerto Rico. The meeting starts at 9 a.m. on April 3, 1978, and will adjourn at 4 p.m., the same day.

Proposed agenda; (1) Discussion of proposed guidelines for the operation of the Advisory Panel; (2) the first draft FMP for Reef Fish.

Meeting is open to public. For more information on seating, changes to the agenda, or written comments, contact: Omar Munoz-Roure, Executive Director, Caribbean Fishery Management Council, Post Office Box 1001, Hato Rey, Puerto Rico 00918. Telephone: 809-753-4926.

Dated: March 6, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-6300 Filed 3-9-78; 8:45 am]

[3510-22]

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

Public Meeting

The Gulf of Mexico Fishery Management Council, established by section 302, of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet Tuesday, Wednesday, and Thursday, April 11-13, 1978, at the Sheraton Inn located at 9450 South Thomas Drive, Panama City Beach, Fla. The meeting will convene at 1:30 p.m. and adjourn about 5:00 p.m. on April 11; reconvene at 8:30 a.m. and adjourn about 5:00 p.m. on April 12; and will reconvene at 8:30 a.m. and adjourn about 12:00 noon on April 13. The meeting may be extended or shortened depending on progress on the agenda.

Proposed agenda: (1) Management plans; (2) personnel and administration categories; (3) review of foreign fishing applications, if any, and (4) other fishery management business.

Meeting is open to the public. For more information on seating arrangements, changes to the agenda, and/or written comments, contact Mr. Wayne F. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, suite 881, 5401 West Kennedy Boulevard, Tampa, Fla. 33609, 813-228-2815.

Dated: March 6, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[Fr Doc. 78-6301 Filed 3-9-78; 8:45 am]

[3510-22]

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL'S REEF FISH ADVISORY PANEL

Public Meeting

The subpanel on Reef Fish of the Advisory Panel of the Gulf of Mexico Fishery Management Council, established under section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) will meet April 7, 1978, at the Lincoln Center, 5401 West Kennedy Boulevard, Suite 881, Tampa, Fla. The meeting starts at 9 a.m. and will adjourn at about 3 p.m.

Proposed agenda: (1) Review of aspects of the Reef Fish Management Plan; and (2) preparation of recommendations to the Reef Fish Contractor on socio-economic factors.

Meeting is open to the public. For more information on seating, changes to the agenda, and/or written comments, contact Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 881, Tampa, Fla. 33609. Telephone: 813-228-2815.

Dated: March 6, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-6299 Filed 3-9-78; 8:45 am]

[3510-22]

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL AND ITS SCIENTIFIC AND STATISTICAL COMMITTEE AND ADVISORY PANEL

Council Meeting Change and SSC and AP Meeting Cancelled

Notice is hereby given of a change in the meeting as published in the FEDERAL REGISTER, on Wednesday, February 15, 1978, Vol. 43, No. 32, for the North Pacific Fishery Management Council.

The Council meeting is now scheduled for Friday, March 24, 1978, at the Anchorage Westward Hilton, 3rd and E Streets, Anchorage, Alaska, convening at 8:30 a.m., and adjourning at about 4:30 p.m., with no closed session.

Proposed agenda: (1) Contract Awards; (2) 1979 Budget; and (3) current condition of management plans.

Notice is also hereby given that the meeting of the Scientific and Statistical Committee and Advisory Panel scheduled for March 21-24, 1978, at the council office and Anchorage Westward Hilton, has been cancelled.

Dated: March 3, 1978

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-6298 Filed 3-9-78; 8:45 am]

[3510-22]

PRELIMINARY FISHERY MANAGEMENT PLAN FOR KING AND TANNER CRAB FISHERIES OF EASTERN BERING SEA

Availability of the Final Supplement to Final Environmental Impact Statement

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Final supplement to final environmental impact statement.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, and the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, has prepared a final supplement to the final environmental impact statement on implementing the Preliminary Fishery Management Plan for King and Tanner Crab Fisheries of the Eastern Bering Sea.

Changes to the Preliminary fishery management plan for the 1978 foreign fishing season are:

(a) Increase the Tanner crab optimum yield (OY) from 34,500 metric tons to 70,381 metric tons. This represents an OY change for *C. bairdi* from 30,000 to 40,381 metric tons and an OY change for *C. opilio* from 7,400 to 30,000 metric tons;

(b) Increase the U.S. capacity for Tanner crab from 24,900 to 55,381 metric tons. This represents a U.S. capacity change for *C. bairdi* from 24,900 to 40,381 metric tons and for *C. opilio* from zero to 15,000 metric tons;

(c) Increase the total allowable level of foreign fishing (TALFF) for Tanner crab to 15,000 metric tons;

(d) Reduce the foreign fishing area by closing all waters in the Bering Sea east of 164° W. Longitude and all waters in the Bering Sea south of 58° N. Latitude to foreign fishing. The area restriction for foreign fishing changes the species composition of the foreign catch from *C. bairdi* and *C. opilio* to almost entirely *C. opilio*.

In addition to the environmental impacts stated in the final Environmental Impact Statement, adoption of this 1978 Preliminary Fishery Management Plan may create some additional U.S. harvesting and processing by increasing the U.S. capacity for *C. bairdi* and *C. opilio* in the Eastern Bering Sea. It will also eliminate all directed foreign fishing on *C. bairdi* stocks and restrict foreign Tanner crab fishing principally to *C. opilio* in the Eastern Bering Sea.

The supplement also looks at alternative management strategies, reviews comments received, and lists hearings held.

ADDRESSES: Copies of the final supplement are available for inspection at:

North Pacific Fishery Management Council, Suite 32, 333 West Fourth Avenue, Anchorage, Alaska.

National Marine Fisheries Service, Alaska Regional Office, Room 453, Federal Building, Juneau, Alaska.

National Oceanic and Atmospheric Administration, Environmental Science Information Center, Page Building 2, Room 193, 3300 Whitehaven Street NW., Washington, D.C.

Singel copies of the supplement may be obtained from:

Mr. Harry L. Rietze, Director, Alaska Region, P.O. Box 1668, Juneau, Alaska.

SUPPLEMENTARY INFORMATION: Concurrent with the appearance of this Notice, the supplement is being transmitted to the Environmental Protection Agency. Copies of this supplement have also been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-6362 Filed 3-9-78; 8:45 am]

[6820-33]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1978

Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Deletion from procurement list.

SUMMARY: This action deletes from procurement list 1978 a commodity produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: March 10, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: On January 13, 1978, the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (43 FR 1980) of proposed deletion from procurement list 1978, November 14, 1977 (42 FR 50915).

After consideration of the relevant matter presented, the Committee has determined that the commodity listed below is no longer suitable for procurement by the Federal Government under 41 U.S.C. 46-48(c), 85 Stat. 77.

Accordingly, the following commodity is hereby deleted from procurement list 1978:

CLASS 6695

Sampler-Spectro, Analysis Oil Kit (IB), 6695-00-758-1355.

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-6316 Filed 3-9-78; 8:45 am]

[6820-33]

PROCUREMENT LIST 1978

Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to procurement list 1978 services to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: April 12, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following services to procurement list 1978, November 14, 1977 (42 FR 59015):

SIC 0782

Grounds maintenance, Naval Weapons Station, Yorktown, Va., for the following areas: 1. Area 6, officer's club building 58; 2. Area 7, buildings 380A, 380B, and credit union; 3. Area 8, industrial area; 4. Area 9, industrial area.

SIC 7349

Janitorial Services, Department of Transportation, Federal Aviation Administration, Tracon Facility, Stewart Avenue, Westbury, Long Island, N.Y.

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-6317 Filed 3-9-78; 8:45 am]

[6355-01]

CONSUMER PRODUCT SAFETY COMMISSION

[Petition No. CP 77-7]

FOOTBALL HELMETS AND SHOES

Partial Denial of Petition

AGENCY: Consumer Product Safety Commission.

ACTION: Partial denial of petition.

SUMMARY: In this document the Commission denies that part of a petition which requests development of a mandatory safety standard for football shoes because available information does not support a determination that the design of the shoes contributes to football injuries and therefore, that the items present an unreasonable risk of injury. The Commission defers action on that part of the petition which relates to football helmets pending further investigation and study by Commission staff.

FOR FURTHER INFORMATION CONTACT:

William Kitzes, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6557.

SUPPLEMENTARY INFORMATION: Section 10 of the Consumer Product Safety Act (15 U.S.C. 2059) provides that any interested person may petition the Commission to commence a proceeding for the issuance, amendment, or revocation of a consumer product safety rule. Section 10 also provides that if the Commission denies such a petition, it shall publish its reasons for denial in the FEDERAL REGISTER.

By letter dated December 17, 1976, and supplemented by a letter of January 24, 1977, Dr. A. C. Larcher petitioned the Commission (CP 77-7) to establish mandatory safety standards for protective football headgear and shoes. The petitioner contended that present football helmets do not absorb or dissipate enough impact energy to remove the risk of head injury, and that present football shoes allow the foot to become fixed to the playing surface, creating a greater risk of injury to the immobile joints. The petitioner suggested the adoption of cylinder air chambers covered by a soft plastic shell as a possible means of providing head protection. He further recommended that football shoes be designed to prevent fixation of the feet to the playing field by cleat penetration.

After careful consideration of the information supplied by the petitioner as well as all other available data, the Commission concludes that it has insufficient information to support a determination that the design of football shoes presents an unreasonable risk of injury. The Commission has, therefore, decided to deny the petition as to shoes. The Commission is deferring action on the petition as to helmets because the Commission believes that further investigation by its staff is necessary before a decision on any mandatory standard for helmets can be made.

In denying the petition as to shoes, the Commission notes that despite the frequency of knee and ankle injuries in tackle football, it is unable at this time to note any relationship between these injuries and the design and performance characteristics of football shoes. The Commission believes that further studies on the shoe-turf interface under playing conditions are necessary in order to determine whether shoes are a causative factor in football injuries. The Commission notes that the following other factors have an effect on knee and ankle injuries: Development, ability, and training of players, player supervision, player position, field conditions, climate, and previous player injuries. In this regard the Commission points out that while previous research has indicated that cleat length may be a factor in lower extremity injuries, it appears that this is probably only true for certain types of surfaces under certain conditions.

Because the Commission is concerned with the problem of football injuries, particularly those to the head, neck, and spine, which tend to be of a more serious nature than knee and ankle injuries, the Commission intends, however, to continue its investigations of how these injuries can be reduced. Since the Commission is especially interested in how the severe injuries possibly associated with helmets can be lessened and since the Commission believes that more data are needed before a decision on the petition as to helmets can be made, the Commission is deferring action on football helmets until a later date.

Copies of the petition and the staff's briefing materials to the Commission may be seen in or obtained from the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C. 20207.

Dated: March 7, 1978.

SHELDON D. BUTTS,
Assistant Secretary.

[FR Doc. 78-6346 Filed 3-9-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Negative Determination of Environmental Impact

AGENCY: Department of Energy.

ACTION: Notice of negative determination of environmental impact for four ESECA MFBI construction order recipients.

SUMMARY: Pursuant to 10 C.F.R. 208.4(c) and 307.7 the Department of Energy (DOE) hereby gives notice that in accordance with 10 C.F.R. 307.7(c) and 208.3(a)(4), it has performed an analysis and review of the environmental impact of the proposed issuance of Notices of Effectiveness for construction orders issued to the following four major fuel burning installations (MFBIS):

Docket No: OCU-0900-1-1, Bellefield Boiler Plant, Replacement No. 3, Pittsburgh, Pa.

Docket No: OCU-6290-2-1, OCU-6290-2-2, Republic Steel Corp., Lime Plant, Kiln 4 and Kiln 5, Grand River, Ohio.

Docket No: OCU-7410-5-2, OCU-7410-5-4, United States Steel Corp., Minnesota Ore Operations (Minntac), Kiln Burners 252-08-2 and 252-09-2, Mountain Iron, Minn.

Docket No: OCU-4920-1-2, OCU-4920-1-3, Miller Brewing Co., Eden Plant, Riley 1 and Riley 2, Eden, N.C.

Based on analyses of the above-listed construction order recipients DOE has determined that it is clear in all four cases that making the construction order effective will not be a major Federal action having significant effects on the quality of the human environment. Specifically, information submitted by each MFBI and on file with the Division of Coal Utilization indicates that issuance of a Notice of Effectiveness will not change the MFBI's previous plans to construct with coal burning capability. Accordingly, neither an environmental assessment nor an environmental impact statement is warranted.

DATE: Comments by April 3, 1978.

ADDRESS: Written comments to: Office of Public Hearing Management, Department of Energy, Box SJ, Room 2313, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Steven A. Frank, Division of Coal Utilization, Room 7202, 2000 M Street NW., Washington, D.C. 20461, 202-566-9760.

Robert J. Stern, Office of NEPA Affairs, Room 7119, Federal Building, 12th and Pennsylvania Ave. NW., Washington, D.C. 20461, 202-566-9760.

Ralph Sharpe, Office of the General Counsel, room 6144, Federal Building, 12th and Pennsylvania Ave. NW., Washington, D.C. 20461, 202-566-9653.

SUPPLEMENTARY INFORMATION: Construction orders requiring facilities to be designed and constructed so as to be able to use coal as a primary energy source were issued to the above-listed

MFBI's on June 30, 1977 (42 FR 36294, July 14, 1977) under authority of Section 2(c) of the Energy Supply and Environmental Coordination Act of 1974, as amended, 15 U.S.C. 791 et seq. The construction orders provided, however, that in accordance with the requirements of 10 CFR 303.10 and 307.7, the orders would not become effective until DOE had considered the environmental impact of the orders pursuant to 10 CFR 307.7(c), and until DOE had serve the affected MFBI's with Notices of Effectiveness.

Pursuant to 10 CFR 307.7(c) and 208.3(a)(4), the Economic Regulatory Administration (ERA), Deaprtment of Energy has analyzed the potential environmental impacts that would result from the proposed NOE issuance in each of the four cases. The analyses were based on information submitted by each company and on file with the Division of Coal Utilization; in each case, information on file indicates that issuance of a Notice of Effectiveness would not significantly change each MFBI's previously submitted plans to construct with the capability to burn coal as a primary energy source.

DOE has determined for all four cases listed above that issuance of the NOE (requiring construction with coal burning capability) is clearly not a major Federal action which would significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act, 42 U.S.C. 4321 et seq.

Therefore, pursuant to 10 CFR 208.4(c), ERA/DOE concludes that neither an environmental asessment nor an environmental impact statement is required.

COMMENT PROCEDURE: Interested parties are invited to submit written comments with respect to this negative determination to Office of Public Hearing Management, Box SJ, Department of Energy, Room 2313, 2000 M Street NW., Washington, D.C. 20461. Ten copies should be received by DOE no later than April 3, 1978 in order to ensure consideration.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in accordance with the procedures set forth at 10 CFR 205.9(f). Any material not filed in accordance with such section will be considered to be non-confidential. DOE reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., March 4, 1978.

BARTON R. HOUSE,
Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 78-6367 Filed 3-9-78; 8:45 am]

[3128-01]

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF ADMINISTRATIVE REVIEW

Week of December 12 through December 16, 1977

Notice is hereby given that during the week of December 12 through December 16, 1977, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Administrative Review of the Economic Regulatory Administration of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Administrative Review and the basis for the dismissal.

APPEALS

C. R. England Oil and Gas Properties, Dallas, Tex., FIA-1485 crude oil

C. R. England Oil and Gas Properties (England) appealed from an Interpretation issued by the General Counsel of the Federal Energy Administration on August 31, 1977. The Interpretation concluded that a producer that fails to certify crude oil as "new crude oil" in accordance with 10 CFR 212.131(a)(2)(i) within the consecutive two-month period immediately succeeding the month in which the crude oil is produced and sold cannot charge the "new crude oil" price because the crude oil does not qualify as "new crude oil" pursuant to the definition in 10 CFR 212.72. After considering England's Appeal, the DOE determined that none of the arguments advanced by England demonstrated that the manner in which the General Counsel interpreted the provisions of 10 CFR 212.72 and 212.131(a)(2)(i) was in any way erroneous. The DOE noted that England essentially appeared to be contending that the special circumstances presented in its case warranted a different result than that reached in the Interpretation. The DOE stated that regardless of England's particular economic situation and the reasons why England might have failed to comply with the FEA's certification provisions, the FEA was obligated, in issuing the Interpretation, to interpret the express terms of the regulatory provisions involved, and that if England is experiencing a serious hardship or a gross inequity as a result of these provisions, then the appropriate remedy is for the firm to file an Application for Exception. Consequently, the DOE denied England's Appeal.

Continental Oil Co., Houston, Tex., FEA-1462 jet fuel

The Continental Oil Co. (Conoco) filed an Appeal from a Decision and Order issued to it by the FEA Deputy Assistant Administrator for Operations on August 10, 1977. In that Order, the FEA denied Conoco's request that it be permitted to use multiple allocation fractions in determining the volume of jet fuel which it sells to its customers. The FEA's refusal to approve Conoco's request was based on the determination that Conoco had failed to demonstrate that the marketing area served by its Ponca City, Okla. refinery is a separate distribution subsystem independent of its other marketing areas, as required by 10 CFR 211.10(b). In addition, the FEA determined that Conoco had failed to show that it was unable to adjust for the imbalances of jet fuel in the Ponca City region through purchase or exchange agreements or by using crude oil with a higher jet fuel yield than that presently used in the Ponca City refinery. In considering Conoco's Appeal, the DOE noted that in gereral the use of multiple allocation fractions will be permitted only to the extent that it is truly impractical and burdensome for a firm to maintain a uniform allocation fraction. *Shell Oil Company*, 3 FEA Par. 80,557 (January 22, 1976). With respect to the particular arguments advanced by Conoco, the DOE found that: (i) Conoco had failed to demonstrate that the Ponca City marketing area is a distribution subsystem or region independent of Conoco's other distribution subsystems or regions; (ii) Conoco had failed to demonstrate that it would be "truly impractical and burdensome" for it to arrange purchases and exchanges for jet fuel in order to alleviate the shortage in the Ponca City area; and (iii) the FEA had not acted arbitrarily and capriciously when it required Conoco to demonstrate that it was unable to prevent imbalances of jet fuel from occurring through purchases or exchange agreements. The Doe therefore denied Conoco's Appeal.

Diamond Shamrock Corp., Amarillo, Tex., FXA-1265, Natural Gas Liquid Products

The Diamond Shamrock Corp. appealed from a decision and order which the Federal Energy Administration issued to it on March 22, 1977. *Diamond Shamrock Corporation*, case No. FXE-3705 (March 22, 1977) (unreported decision). In the March 22 order the FEA granted Diamond Shamrock an exception from the provisions of 10 CFR 212.165 which permitted the firm to increase its selling prices for natural gas liquid products during the period April 1, 1977 through September 30, 1977. The appeal, if granted, would have permitted the firm to further increase its prices for the natural gas liquid products it produces at the McKee plant in Moore County, Tex. In its appeal, Diamond Shamrock contended that the March 22 order was erroneous on the grounds that the FEA failed to apply a correct measurement period in calculating the amount of exception relief which the firm was entitled to receive. The firm claimed that proper application of the principle established in *Superior Oil Co.*, 2 FEA Par. 83,271 (August 29, 1975) required the FEA to utilize the fiscal quarter ending on December 31, 1976, instead of the six month period ending on that date in comparing the firm's current non-product costs with May 15, 1973, levels. In considering this contention, the DOE noted that Diamond Shamrock was requesting an extension of exception relief previously approved and that the use of the most recently completed fiscal quarter as a measurement period was appropriate only in evaluating initial exception applications from the provisions of 10 CFR 212.165. *Getty Oil Co.*, 5 FEA Par. 80,614 (April 28, 1977). In addition, the DOE found that Diamond Shamrock had not demonstrated that the FEA acted arbitrarily or capriciously in using the six month period ending December 31, 1976, for measurement purposes. Diamond Shamrock also contended that the FEA erred by excluding increased depreciation expenses as a recoverable category of increased nonproduct costs because a recent amendment to the price regulations permits refiners to pass through such expenses as nonproduct costs and gas plant operators should be permitted the same right. In response to this argument, the DOE noted that it had recently considered and rejected this contention in another case. See *Mustang Fuel Corporation*, case No. FXE-3971 (July 15, 1977) (unreported decision). The DOE further noted that the considerations which originally led the FEA in its analyses of exception applications to disallow the recovery of increased depreciation costs incurred by gas plant operators were not significantly affected by the recent amendment to subpart E of the price regulations. Accordingly, Diamond Shamrock's Appeal was denied.

Donelan, Cleary, Wood and Maser, Washington, D.C., DFA-0029, Freedom of Information

Donelan, Cleary, Wood & Maser filed an appeal from an order which was issued to it by the Information Access Officer of the Federal Energy Administration on September 12, 1977. In its initial request, Donelan sought copies of certain documents which were submitted to the FEA by Mortada International in connection with its preparation of a report concerning the establishment of appropriate ceiling prices for crude oil produced from the Alaskan North Slope. The FEA Information Access Officer determined that eleven documents were responsive to Donelan's request. He provided two documents to the firm in their entirety and released the other nine documents with substantial deletions. Those deletions were made on the grounds that the documents contain confidential commercial and financial information which is exempt from the mandatory disclosure requirements of the Freedom of Information Act pursuant to 5 U.S.C. (b)(4). In its appeal, Donelan contended that the September 12 order fails to state with sufficient particularity the grounds upon which the material involved was deleted or specify the type of competitive injury which Mortada International would experience if the information withheld were released. In considering the Donelan appeal, the DOE determined that the September 12 order contains only a summary conclusion that section 552(b)(4) of the FOIA authorizes the withholding of substantial portions of the documents at issue. The DOE noted that in a recent case, the FEA remanded a similar case to the Information Access Officer for the issuance of a further Order which specifies the exact nature and extent of the competitive injury which the submitting firm could experience if the documents at issue were released. *C.A.C.I.*, 6 FEA Par. —— (September 28, 1977). The DOE concluded that the considerations which led the FEA in *C.A.C.I.* to remand the matter to the Information Access Officer for a further Order are equally applicable in the present case. Accordingly, the matter was remanded to the Information Access Officer for the issuance of a further Order to Donelan within fifteen working days.

Eagle Oil Co., Columbus, Ohio, FXA-1251, Motor Gasoline

The Eagle Oil Co. filed an Appeal from a decision and order which the FEA issued to the firm on March 23, 1977. *Eagle Oil Company*, 5 FEA Par. 83,111 (March 23, 1977). In the March 23 decision and order, the FEA denied an application which Eagle had filed for extension of exception relief from the provisions of 10 CFR 211.9. The appeal, if granted, would rescind the March 23 order and result in the assignment to Eagle of a lower-priced supplier of motor gasoline to replace Eagle's base period supplier. In its appeal, Eagle contended that the March 23 order was erroneous because it was based on the profitability of the entire firm during 1976, rather than on the profitability of the firm's motor gasoline sales operation alone. Eagle further contended that its motor gasoline operation would not be viable unless continued exception relief was provided. In considering the Eagle appeal, the DOE determined that Eagle's contention that only the results of its motor gasoline operation should be considered correct. However, on the basis of the financial data which the firm provided, the DOE concluded that there was no support for the firm's claim that its motor gasoline operation would not be viable in the absence of exception relief. Accordingly, the Eagle appeal was denied.

Eddy Refining Co., Houston, Tex., FXA-1277, Refined Petroleum Products

Eddy Refining Co. filed an appeal from a decision and order which the Federal Energy Administration issued to the firm on March 4, 1977, denying a previous request for exception relief which Eddy had filed from the provisions of 10 CFR, part 212, subpart E. *Eddy Ref. Co.*, 5 FEA Par. 83,082 (March 4, 1977). The appeal, if granted, would result in the issuance of an order permitting Eddy to adjust its May 15, 1973, selling prices and thereby both retroactively and prospectively increase its maximum allowable prices for petroleum products which it refines. The approval of retroactive exception relief would reduce or eliminate Eddy's liability to refund any overcharges which occurred in its sales of diesel fuel and motor gasoline from September 1973 through June 1975. In making a determination with respect to the Eddy appeal, the DOE found that contrary to the firm's arguments, Eddy's May 15, 1973 prices and profit margins were not anomalous but instead reflected Eddy's historic pricing practices, and that the mere fact that its prices and margins may be somewhat lower than the price levels established by other firms does not demonstrate the existence of a gross inequity which warrents prospective exception relief. In its appeal, Eddy also argued that it was entitled to retroactive exception relief because the amount of refunds which it would be required to make as a result of its past overcharges exceeded the firm's current net assets, and could bankrupt the company. The DOE found, however, that in view of the firm's net worth, lack of any long term debt and improved earnings record, Eddy had failed to demonstrate that it would be unable to refund the alleged overcharges to its customers without unduly impairing its operations. In this regard the DOE also noted that since a remedial order had not yet been issued to the firm, it was premature to assume, as Eddy did, that the firm would be required to discharge its entire refund liability immediately. With respect to Eddy's contention that the FEA had erroneously denied the firm's request that it be permitted to retroactively pass through a portion of its increased nonproduct costs which had been disallowed by FEA auditors, the DOE found that Eddy had merely reiterated the same arguments which the FEA had fully considered and rejected in prior proceedings. *Eddy Ref. Co., supra* and *Eddy Ref. Co.*, 4 FEA Par. 80,589 (December 15, 1976). The Eddy appeal was accordingly denied.

Hocker Oil Co., Salem, Mo. FXA-1367, Motor Gasoline

Hocker Oil Co. appealed from a decision and order which denied the firm's request for exception relief from the provisions of 10 CFR 211.12. *Hocker Oil Company*, 5 FEA Par. 83,158 (May 16, 1977). The appeal, if granted, would have resulted in the issuance of an order: (i) reversing the May 16 decision; (ii) increasing the base period use of motor gasoline which the 15 retail outlets supplied and operated by Hocker are entitled to receive; and (iii) assigning suppliers to furnish the increased quantities of motor gasoline to the firm. In its appeal, Hocker contended that the FEA erred in concluding that the application of 10 CFR part 211 to the firm's business activities did not produce a gross inequity or a serious hardship. In considering Hocker's contention that its 15 retail outlets are experiencing a significant increase in demand for motor gasoline the DOE noted that the firm was requesting a 136 percent increase in its adjusted base period use while the population in the market area served by Hocker's 15 retail outlets had experienced a population increase of only 14.5 percent during the period 1970 through 1976. Consequently, the DOE concluded that the firm had not met the standards set forth in previous Decisions which granted exception relief increasing a firm's base period use of an allocated product. *See Climax Molybdenum Co.*, 2 FEA Par. 83, 157 (May 20, 1975). The DOE further noted that Hocker had not submitted any evidence which would indicate that the 164 retail outlets in Hocker's market area are unable to satisfy the increased demand for motor gasoline or that consumers in the area are experiencing any inconvenience as a result of the motor gasoline supply situation. Contrary to another of Hocker's arguments, the DOE found that the denial of exception relief in this case would not significantly frustrate the objectives specified in section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973, as amended (EPAA). In this regard, the DOE reiterated the principle that those objectives must be balanced in each case and concluded that, in the present case, the granting of exception relief to Hocker could result in economic distortion and interference in the market mechanisms which exist in the area served by the firm. Finally, the DOE determined that the FEA had not erred by excluding the salaries paid to owners of the firm in calculating Hocker's overall profitability. The DOE observed that in previous cases where an applicant has advanced a claim of severe financial hardship, and where one or more of the salaried employees of the firm held a substantial ownership interest in the firm, the DOE has considered the ownership interest of the firm to include the salaries paid to the employee-owners. Furthermore, the data submitted by Hocker indicated that a substantial portion of the decrease in profitability which the firm has experienced in recent periods, appears to be attrubutable to increases in the salaries paid to the two owner-officers of the firm. Based on these considerations the DOE denied the Hocker appeal.

Jamar Oil Co., Broken Arrow, Okla., FXA-1406, Motor Gasoline

Jamar Oil Co. filed an appeal from a decision and order which the Federal Energy Administration issued to it on July 15, 1977. *Jamar Oil Company*, 6 FEA Par. 83,037 (July 15, 1977). In the July 15 Decision the FEA denied Jamar's request for an extension of exception relief previously granted

to the firm which resulted in the assignment of a new, lower-priced supplier of motor gasoline in place of its base period supplier, the Foremost Petroleum Corp. (Foremost). In concluding that this exception relief should not be extended for an ad-

were never applicable to natural gas processors. The DOE further determined that although Kathol processes natural gas which is produced from stripper well properties, this does not exempt the firm from the gen-

"Representative Price Report". See *Continental Oil Company; Standard Oil Company of Ohio;* 1 DOE Par. — (November 22, 1977); *Gulf Oil Corporation*, 1 DOE Par. — (October 7, 1977). Consequently, Standard's

ceeded the firm's maximum allowable prices calculated in accordance with 10 CFR, Part 212. In order to remedy this violation, McAllister was directed to refund $4,021.60 plus

since retroactive relief of this type was approved only under limited circumstances and the firm had not shown that any undue administrative delay occurred in the pro-

reparable injury in the absence of retroactive exception relief. Nevertheless, the DOE observed that the effect of making refunds would vary greatly among the members of

to the firm which resulted in the assignment of a new, lower-priced supplier of motor gasoline in place of its base period supplier, the Foremost Petroleum Corp. (Foremost). In concluding that this exception relief should not be extended for an additional period of time, the FEA found in the July 15 decision that the wholesale price for regular grade motor gasoline charged by Foremost exceeded the average wholesale price charged by the seven other unbranded marketers of motor gasoline by less than one-half cent per gallon and that a price disparity of that magnitude did not constitute adequate grounds for the approval of exception relief.

In its appeal Jamar contended that the data utilized by the FEA in making that finding was erroneous in several respects. After reviewing the material submitted by Jamar, the FEA concluded that the initial price survey conducted by FEA Region VI was in fact erroneous. On the basis of a new price survey, the DOE found that Foremost's price for motor gasoline exceeded the price charged by the unbranded marketers which suply motor gasoline to Jamar's competitors by .99 cents per gallon. Although this price disparity exceeded that which the FEA found to exist in the July 15 proceeding, the DOE concluded in accordance with the precedent established in a number of prior decisions that a price disparity of this magnitude did not warrant the approval of exception relief. In addition, the DOE found that the financial material which Jamar had submitted did not support the firm's contention that the difficulties which it was experiencing were the result of the application to the firm of the Mandatory Petroleum Allocation Regulations. Finally, the DOE rejected Jamar's claim that Foremost would refuse to supply it with motor gasoline in the future. In this regard the DOE found that the legal dispute which existed between Jamar and Foremost at the time that Jamar originally filed its Appeal had since been settled out of court and that there was no indication that Foremost would refuse to supply motor gasoline to Jamar subsequent to the settlement of that dispute. Accordingly, the Jamar appeal was denied.

Kathol Petroleum, Inc. Washington, D.C., FXA-1201, natural gas liquids

Kathol Petroleum, Inc. filed an Appeal from a Decision and Order which the Federal Energy Administration issued to the firm on December 16, 1976. *Kathol Petroleum, Inc.*, 4 FEA Par. 83,245 (December 16, 1976). In the December 16 determination, the FEA granted in part an Application for Exception which Kathol had filed from the provisions of 10 CFR 212.165, but denied the firm's request that that exception be made retroactive to August 31, 1973. The Kathol Appeal, if granted, would have resulted in the issuance of an Order granting the firm an exception from the non-product cost passthrough provisions of 10 CFR 212.165 on a retroactive basis for the period August 31, 1973 through May 31, 1976. In considering the Kathol Appeal, the DOE noted that an audit of the form's operations during that period is currently in progress but no determination has been reached as to the precise magnitude of any pricing violation which may have occurred. The DOE therefore concluded that Kathol's allegations of irreparable financial injury were speculative. The DOE also rejected Kathol's claim that the provisions of Supbart E of the Mandatory Petroleum Price Regulations were never applicable to natural gas processors. The DOE further determined that although Kathol processes natural gas which is produced from stripper well properties, this does not exempt the firm from the generally applicable provisions of 10 CFR 212.165. In this connection, the DOE noted that DOE Ruling 1974-26 provides that the stripper well lease exemption does not apply to gas wells. Finally, the DOE concluded that Kathol presented no compelling reasons for the approval of retroactive exception relief in this case. Accordingly, the Kathol Appeal was denied.

Kerr-McGee Corp., Washington, D.C., Standard Oil Co. (Indiana), Chicago, Ill., DFA-0037, DFA-0061, Freedom of Information

The Kerr-McGee Corp. (Kerr-McGee) and the Standard Oil Co. of Indiana (Standard) filed Appeals from partial denials by the Department of Energy Informaton Acess Officer of requests for information which the firms had submitted under the Freedom of Information Act (the Act). Since the Information Access Officer withheld identical documents from Kerr-McGee and Standard, the Appeals filed by the two firms were consolidated for resolution in a single proceeding. In their requests for information, Kerr-McGee and standard sought access to material which related to the DOE crude oil transfer pricing program set forth in 10 CFR 212.84. The information Access Officer released several documents to the firms, but withheld from disclosure 23 documents which were determined to be within the scope of their requests for information. The information Access Officer denied access to one of these documents and portions of others on the ground that they were exempt from disclosure as confidential commercial information pursuant to 5 U.S.C. 552(b)(4) ("Exemption 4"). With respect to the remaining documents, the information Access Officer concluded that they were exempt from mandatory disclosure under the provisions of the intra-agency memoranda exemption of the Act, 5 U.S.C. 552(b)(5) ("Exemption 5").

In considering the Appeals, the DOE determined that 14 of the 22 documents which were withheld from disclosure in their entirety by the Information Access Officer were pre-decisional, advisory memoranda which properly fell within the parameters of Exemption 5 as outlined in earlier agency decisions. The DOE also determined that the Information Access Officer erroneously concluded that six documents fell within the purview of Exemption 5. The DOE therefore directed that these documents be released to the two firms. In addition, the DOE concluded that the public interest would be properly served if two of the documents initially withheld under the provisions of Exemption 5 were also released. With respect to the material which the Information Access Officer withheld pursuant to Exemption 4, the DOE found that the aggregate production data which appeared in one document could be released without impairing confidentiality if certain identifying details were first deleted. The Information Access Officer was therefore directed to make the necessary deletions and release the remainder of the document. The DOE also noted that it had recently considered and rejected the identical contention which Standard had advanced regarding the propriety of the Information Access Officer's decision to withhold DOE Form P701-M-O and certain portions of a document entitled "Representative Price Report". *See Continental Oil Company; Standard Oil Company of Ohio;* 1 DOE Par. — (November 22, 1977); *Gulf Oil Corporation*, 1 DOE Par. — (October 7, 1977). Consequently, Standard's contention in this matter was also rejected. However, the DOE found that the Information Access Officer had applied an incorrect standard in determining whether the confidential commercial information contained in the Representative Price Report was traceable to an individual firm. The DOE indicated that the correct standard in this matter was established in *Gulf* and directed the Information Access Officer to comply with it. The DOE further determined that the agency possessed additional material which was responsive to firms' requests for information. In this connection, the DOE identified certain relevant documents which had previously been released in other Freedom of Information Act proceedings, and the Information Access Officer was directed to release those documents forthwith. The DOE also remanded the proceeding to the Information Access Officer with instructions to conduct a further search for responsive documents and to release such material to Kerr-McGee and Standard.

T. Mayfield, Tulsa, Okla., FRA-1436, crude oil

T. Mayfield appealed from a Remedial Order issued to it by the Federal Energy Administration, Region VI on July 7, 1977. After considering Mayfield's Appeal, the DOE confirmed the finding reached in the Remedial Order that Mayfield charged $0.15 in excess of the lawful ceiling prices for crude oil produced from certain of its leases. The DOE found that the $0.15 in question was not part of the "posted price" as that term was used in the Cost of Living Council Phase IV regulations which were in effect at the time of the alleged violation but rather was a premium added to the posted price pursuant to contractual agreement. The DOE stated that a contract does not constitute a general offer to purchase crude oil from all producers and therefore is not a "posted price." The DOE further stated in this regard that the $0.15 premium was not a price for crude oil as of a given date as required by the price regulations but rather was additional consideration paid by the purchaser for a long-term supply of crude oil. The DOE further considered Mayfield's contention that, contrary to the determination reached in the Remedial Order, the firm properly classified its Harjo lease as a stripper well property during the period January 1, 1974 through December 31, 1975. The DOE found that the evidence submitted by Mayfield in the Appeal proceeding indicated that the lease may have qualified as a stripper well property because during relevant time periods there were actually three crude oil producing wells on the Harjo lease instead of two wells as determined in the Remedial Order. Consequently, the Remedial Order was remanded to the Regional Office for a further determination as to whether the lease qualified as a stripper well property.

W. J. McAllister, Hastings, Mich., DRA-0017, heating oil

W. J. McAllister filed an Appeal from a Remedial Order which was issued to him by FEA Region V on September 26, 1977. In that Remedial Order, the FEA found that during the period November 1, 1973 through May 31, 1974 McAllister had sold No. 3 heating oil and No. 1 fuel oil at levels which exceeded the firm's maximum allowable prices calculated in accordance with 10 CFR, Part 212. In order to remedy this violation, McAllister was directed to refund $4,021.60 plus interest to its customers. McAllister stated in his Appeal that he was financially unable to comply with the refund requirements of the Remedial Order, and would experience a severe and irreparable injury if he were not relieved of the refund obligation. In considering his contentions, the DOE noted that the arguments which McAllister advanced do not form an appropriate basis for appealing a Remedial Order, but in effect constitute a request for retroactive exception relief. The DOE concluded that the circumstances presented in this case satisfy the standards which in limited instances permit the DOE to consider exception arguments of this type in the context of an Appeal proceeding. The DOE further concluded that McAllister would incur severe and irreparable injury unless he is relieved of the obligation to refund the overcharges specified in the Remedial Order. In addition, it was found that any possible benefits to the community which may be obtained through enforcement of the Order would be substantially outweighed by the adverse consequences to the applicant. Accordingly, the DOE denied the McAllister Appeal, but granted him retroactive exception relief for the period in which the Remedial Order found that overcharges had been made.

Memphis Aero Corp., Memphis, Tenn., FXA-1341, aviation fuel

Memphis Aero filed an appeal from a decision and order issued to the firm by the FEA on April 29, 1977. *Memphis Aero Corporation*, 5 FEA Par. 83,142 (April 29, 1977). In the April 29 decision, the FEA permitted the firm to increase the prices it charges for aviation fuel by 3.09 cents per gallon above the maximum permissible levels to reflect increased nonproduct costs which the firm had incurred since May 15, 1973. In its present appeal, the firm requested an additional increase in its maximum permissible price of aviation fuel. Memphis Aero contended that the FEA erred in using the nonproduct costs per unit which it incurred in its 1973 calendar year in calculating the level of nonproduct costs per unit which the firm was experiencing on May 15, 1973. Memphis Aero maintained that data for the 4-month period ending April 30, 1973, was more indicative of the nonproduct costs which it was incurring on May 15, 1973. In considering Memphis Aero's Appeal, the DOE noted that in prior cases involving requests by fixed base operators for exception relief from 10 CFR, part 212, subpart F, the FEA had utilized the data which the applicants had presented in determining the amount of exception relief that was appropriate. The DOE thereupon determined that it was erroneous for the FEA to have failed to consider the nonproduct costs which Memphis Aero incurred in the 4-month period ending April 30, 1973, as an accurate reflection of the firm's May 15, 1973, nonproduct costs. The DOE therefore substituted the nonproduct cost data submitted by Memphis Aero for the nonproduct cost data used by the FEA in the April 29 decision and permitted Memphis Aero to raise its selling prices for aviation fuel by an additional 3.27 cents per gallon. With respect to another argument raised by Memphis Aero that the relief granted in the April 29 decision should have been made effective as of the date the firm filed its application for exception, the DOE concluded that this contention had no merit since retroactive relief of this type was approved only under limited circumstances and the firm had not shown that any undue administrative delay occurred in the processing of its application for exception. However, the DOE found that a considerable period of time had elapsed between the date the Memphis Aero appeal was filed and the date the present decision was issued and that this delay was not caused by Memphis Aero. The DOE therefore concluded that the additional exception relief granted in the present proceeding should be made effective as of the date on which Memphis Aero filed its appeal

National LP-Gas Association, Arlington, Va., FXA-1246, propane

The National LP-Gas Association (NLPGA) filed the final stage of its appeal from a decision and order issued by the FEA on September 24, 1976. *Class Exception-Retroactive Application of the Separate Inventories Amendment*, 4 FEA Par. 83,099 (September 24, 1976). In the September 24, 1976, decision, the FEA denied retroactive class exception relief to all resellers and retailers which used separate inventory cost computations for purposes of calculating their increased product costs and maximum allowable prices prior to May 1, 1976. In a decision and order issued on February 25, 1977, with respect the initial stage of the NLPGA appeal, the FEA determined that a portion of the class which the NLPGA sought to represent was a properly formed class and the NLPGA was accordingly certified to represent in this proceeding "all retailers of propane which operate more than one but less than 100 bulk plants and which have customarily used separate inventory accounting methods in determining product inventory cost since May 15, 1973." *National LP-Gas Assoc., et al.*, 5 FEA Par. 80,559 (February 25, 1977). In considering the second stage of the appeal, the DOE initially observed that the NLPGA's general contentions that the FEA regulations were unclear regarding the firmwide inventory issue and that the class of propane retailers acted in good faith in interpreting those regulations, had already been fully discussed and rejected in prior FEA decisions. Furthermore, the DOE found that although the Emergency Petroleum Allocation Act of 1973 did not specify the firmwide inventory requirement, this lack of specificity in the legislation did not give the class members the right to assume that they could implement whatever practice they had followed prior to the FEA regulatory program, without regard to the regulations. The DOE also determined that the NLPGA had failed to support its contention of alleged acquiescence by FEA auditors in the use of separate inventories and that, even if specific compliance errors were identified, such errors had not produced extensive confusion throughout the industry and, in any event, the firms had no right to rely upon the oral advice of auditors. In addition, the DOE found that, contrary to an argument raised by the NLPGA, it is not punitive for the Agency to require that members of the class comply with the firm-wide inventory rule, because the NLPGA's own data indicates that the rule was understood and adhered to by a majority of propane resellers and retailers. Finally, in analyzing the financial data compiled by the NLPGA for a sample of the class members, the DOE found that the NLPGA's data showing average net income by quartiles did not demonstrate that the class as a whole would incur an irreparable injury in the absence of retroactive exception relief. Nevertheless, the DOE observed that the effect of making refunds would vary greatly among the members of the class and that the firms with the smallest annual net income, i.e., less than $50,000, would be adversely affected in a much more severe manner than other members of the class. With respect to these smaller firms, the DOE determined that the estimated average refund requirement was so large relative to the average net income of the firms that, in the absence of retroactive exception relief, those firms would experience a severe and irreparable injury to their financial viability. Accordingly, the DOE granted retroactive exception relief to all members of the class which realized net income of less than $50,000 in their 1976 fiscal year. In all other respects, the NLPGA appeal was denied.

Navajo Refining Co., Artesia, N. Mex., DEA-0035, Crude oil

Navajo Refining Co. filed an appeal from a decision and order which was issued to the firm by the Deputy Assistant Administrator for Operations of the Federal Energy Administration on September 30, 1977. In that decision, the Deputy Assistant Administrator determined that Navajo did not qualify for an allocation of crude oil under the provisions of the crude oil buy/sell program (10 CFR 211.65). In its appeal, Navajo stated that it did not intend to request an allocation of crude oil under the buy/sell program and that the material which it filed with the FEA Office of Crude Oil Operations on September 6, 1977, was merely intended to express the firm's opinion with respect to a current rulemaking proceeding. Navajo argued that although it was not adversely affected by the September 30 decision and order, the determination reached could prejudice future applications which Navajo might elect to file. In considering the appeal, the DOE noted that any application which the Navajo may choose to file pursuant to the amended provisions of 10 CFR 211.65 would not be prejudiced in any way by the determination reached in the September 30 decision and order. Under these circumstances, and in view of Navajo's assertion that it does not need a buy/sell allocation at the present time, the DOE concluded that Navajo is not aggrieved in any manner by the September 30 decision and order. Accordingly, the Navajo appeal was dismissed.

Power Test Corp., Westbury, N.Y., FPI-0119, motor gasoline

Power Test Corp. appealed from a decision and order which was issued to it by the Federal Energy Administration on April 19, 1977. *Power Test Corporation*. 5 FEA Par. 83,136 (April 19, 1977). In the prior decision, the FEA denied Power Test's request for an exception from the provisions of 10 CFR 213.35(c) which would have permitted the firm to import approximately 4,552 barrels per day of motor gasoline into PAD Districts I-IV on a license fee-exempt basis during the current allocation period. In considering the Power Test appeal, the DOE rejected the firm's contention that the FEA should not have considered the cause of the firm's decline in profitability in determining whether exceptional hardship existed. In this regard the DOE affirmed the finding of the April 19 decision that the application of the license fee provisions were not a significant cause of the recent decline in the firm's markups on sales of gasoline and its overall profitability. Moreover, the DOE found that irrespective of whether the

firm's financial posture is measured in terms of the firm's entire petroleum-related operations or in terms of only its marketing operations, no showing was made that the decline in its profitability represented a significant deterioration in its operating posture. The DOE therefore determined that Power Test had failed to meet the standards set forth in the guidelines which have been established for evaluating requests for exception from the license fee requirements of part 213. Accordingly, the DOE concluded that Power Test had failed to establish that the April 19 order was erroneous and the Power Test appeal was denied.

Sabre Refining, Inc., Bakersfield, Calif., FXA-1397, crude oil

Sabre Refining, Inc., filed an appeal from a supplemental decision and order which the Federal Energy Administration issued to the firm on June 13, 1977. *Sabre Refining, Inc. (Supplemental Order)* 6 FEA Par. 87,005 (June 13, 1977). In the June 13 order the FEA determined that Sabre had been granted an excessive level of exception relief from the provisions of the entitlements program during its 1976 fiscal year. The appeal, if granted would have resulted in the rescission of those provisions of the June 13 order that imposed an entitlements purchase obligation upon the firm. In considering the appeal, the DOE held that it was not inequitable to require Sabre to return the excessive benefits it had received from the exception relief which was approved. The DOE also determined that the firm's alleged financial difficulties during its 1976 fiscal year cannot be attributed to the entitlements program. It noted that even after the adjustment was made for the excessive entitlements benefits, Sabre still realized an operating profit during the relevant period. Finally, the DOE found the financial data which Sabre provided indicated that the firm possessed sufficient resources to make the required entitlements purchases without incurring a serious financial hardship. Accordingly, the Sabre appeal was denied.

Shell Oil Co., Houston, Tex., FXA-1236, natural gas liquids

On March 24, 1977, the Shell Oil Co. filed an appeal from a decision and order issued to the firm by the FEA denying exception relief to four of Shell's natural gas processing plants. In its application for exception, Shell had requested that the FEA permit the firm to reflect in its sales prices for the natural gas liquids produced at these four plants certain specified nonproduct cost increases which the firm incurred subsequent to May 15, 1973, in excess of the permissible passthrough levels specified by 10 CFR section 212.165. The FEA denied the request because the nonproduct cost increases incurred at these plants were less than $0.005 per gallon and therefore were held to be de minimus. In its appeal, Shell argued that the FEA should have found that unrecovered costs which producers of natural gas liquids incur are material if they exceed $0.00375 per gallon, or 100 percent of the permitted passthrough level specified in section 212.165 for natural gas liquids. In denying the Shell appeal, the Deputy Administrator of the DOE's Economic Regulatory Administration held that the level of nonproduct costs which the regulations permit to be passed through was not intended to establish a level for purposes of the exceptions process. Accordingly, the $0.00375 level provided in section 212.165 was found not to be determinative. The $0.005 value was chosen as a de minimus standard because independent of the value of the permissible nonproduct cost passthrough, it constituted a reasonable level of adverse impact which any firm should show before being considered extraordinarily affected by the regulations.

Sun Co., Inc., Dallas, Tex., FXA-1412, natural gas liquids

The Sun Co., Inc., filed an appeal of a decision and order which the Federal Energy Administration issued to it on June 30, 1977, with respect to its Mayfield natural gas processing plant. If granted, Sun's appeal would permit it to increase from 4.98 to 6.20 cents per gallon the nonproduct cost passthroughs which the FEA had approved for that plant in the June 30 decision. In considering Sun's appeal, the Department of Energy found that the factual circumstances and legal arguments which Sun raised were essentially the same as those which it presented in proceedings which led to the issuance of a previous decision and order denying another appeal which Sun had filed. See, *Sun Co., Inc.*, 6 FEA Par. 70,577 (September 19, 1977). In that decision the FEA determined that Sun had failed to demonstrate that the FEA's use of data from the two previous fiscal quarters as the basis for computing the level of exception relief which should be approved constituted a departure from the previous policy of the agency, or was erroneous, or arbitrary, or capricious. The DOE determined that the findings made in the September 19 decision were dispositive of Sun's present appeal and that the appeal should accordingly be denied.

Texas Asphalt & Refining Co., Houston, Tex., FXA-1322, crude oil unfinished oils

Texas Asphalt & Refining Co. (TARCO) filed an appeal from a decision and order which the FEA issued to it on April 8, 1977. *Algonquin Gas Transmission Co., et al.*, 5 FEA Par. 87,033 (April 8, 1977). In the previous decision, the FEA rescinded exceptions that had been granted to TARCO and two other firms by the Oil Import Appeals Board (the OIAB) in 1970. Those exceptions had permitted the firms to import crude oil and unfinished oils into the United States without the payment of license fees. The TARCO appeal, if granted, would reinstate the firm's exception relief on a continuing basis without requiring it to apply for an annual allocation. In its appeal, the firm contended that its exception was rescinded without legal authority since the FEA had not acted pursuant to subpart T of the procedural regulations. In considering the TARCO appeal, the DOE found that subpart T was inapplicable since the firm's exception had been granted under another portion of the regulations. The DOE noted that the express terms of the original OIAB order specifically envisioned periodic reviews to determine whether continued exception relief was warranted. The DOE concluded that the FEA had acted within its authority in reviewing and rescinding the continuing fee-free license authority. TARCO also claimed that the rescission was improper since no change had occurred with respect to the statute, the regulations or the factual circumstances underlying the approval of exception relief. However, the DOE found that the regulatory basis which supported the granting of relief in 1970 no longer existed since the DOE now requires all firms to file an annual application for a fee-free license authority. The DOE further concluded that, under established precedent, the agency possessed the inherent authority to review a previous grant of exception relief to determine whether a continuation of the relief was appropriate. On the basis of these determinations, the TARCO appeal was denied.

Time Oil Co., Los Angeles, Calif., FPI-0115, finished product

Time Oil Co. filed an appeal from a decision and order which the FEA issued on April 8, 1977. *Algonquin Gas Transmission Co., et al.*, 5 FEA Par. 87,033 (April 8, 1977). In the previous decision, the FEA rescinded exceptions that had been granted to Time and two other firms by the Oil Import Appeals Board (the OIAB). Under an order issued in 1974, Time had been permitted to import finished product into the United States without the payment of license fees. The Time appeal, if granted, would reinstate the firm's exception relief on a continuing basis without requiring it to apply for an annual allocation. In considering the appeal, the DOE rejected the firm's contention that there was no specific legal authority to rescind the OIAB order which granted the fee-free license authority. The DOE also rejected Time's claim that there was no rational basis for the FEA's April 8 determination. It found that the regulations limited the issuance of fee-free allocations to a single allocation period and required each applicant to demonstrate on an annual basis that it satisfied the criteria for the continued approval of relief. With respect to the contention that it was inequitable for the FEA to consolidate Time's case with those of two other firms in a single proceeding, the DOE concluded that the consolidation was warranted since it permitted the FEA to examine all arguments presented in opposition to the proposed termination of the continued exception relief which the firms possessed in common, and found that each of Time's allegations had been analyzed on an individual basis. Accordingly, the Time appeal was denied.

UCO Oil Co., Whittier, Calif., FXA-1372, motor gasoline

UCO Oil Co. filed an appeal from a decision and order which the Federal Energy Administration issued to the firm on May 27, 1977. *UCO Oil Company*, 5 FEA Par. 83,168 (May 27, 1977). In the May 27 decision and order, the FEA denied UCO's request for an extension of exception relief from the provisions of 10 CFR Part 211 which the FEA had approved on three previous occasions. The appeal, if granted, would have resulted in the rescission of the May 27 decision and order and the issuance of a further order directing the Department of Energy Region IX to assign to UCO suppliers whose wholesale price for motor gasoline is within the range of prices charged by major suppliers in UCO's marketing area. On considering the UCO appeal, the DOE found that the financial material which the firm submitted indicates that although it continues to experience losses as a result of its motor gasoline sales activities, the firm has been earning profits on its terminal operations which more than compensate for those losses. In addition, the DOE noted that as a result of the recent approval of exception relief in a different matter, UCO will be able to import up to 1,277,500 barrels of finished naphtha into district V on a license fee-exempt basis during the current allocation period. *UCO Oil Company*, 1 DOE Par. —— (October 11, 1977). The DOE found that this fee-exempt import license relief will further increase UCO's net operating profit from all operations during the fourth quarter of 1977. The DOE therefore determined that the severe operating losses which led the FEA to conclude that exception relief was appropriate in the past no longer exist. Under these circumstances, the DOE concluded that no basis existed for the extension of exception relief which would confer special benefits on UCO and impose substantial burdens on other firms in UCO's marketing area. Accordingly, the UCO appeal was denied.

United Refining Co., Warren, Pa., FXA-1351, crude oil

United Refining Co. filed an appeal from a decision and order which the FEA issued to it on May 13, 1977. *United Refining Company*, 5 FEA Par. 83,157 (May 13, 1977). In the previous decision, the FEA denied United's request for additional entitlement benefits to offset its increased crude oil costs. The United appeal, if granted, would reverse the May 13 determination and grant the firm the additional entitlements which it had previously requested. In its appeal, United claimed that the FEA had improperly refused to grant exception relief to reduce the firm's high level of crude oil costs on the grounds that it was a beneficiary of the entitlements program as a net seller of entitlements. In considering the United appeal, the DOE found that the previous determination was correct in view of the established precedent governing the denial of exception relief to net sellers of entitlements. United also claimed that the FEA erred in using financial projections for its 1977 fiscal year, rather than relying exclusively on its actual results during fiscal year 1976. The DOE rejected that contention since the use of financial projections had been consistently adopted as the most appropriate means to establish the level of exception relief for small refiners during the period for which the relief was requested. United further claimed that it should be issued additional benefits under the entitlements program since the high level of its crude oil costs were directly attributable to the impact of two regulatory programs, the December 1 rule and the Canadian crude oil allocation program. However, the DOE noted that the entitlements program was not designed to completely eliminate all crude oil cost disparities among refiners. The DOE found that United had failed to demonstrate that the entitlements program did not achieve its primary goal of distributing the benefits of access to low-cost crude oil among refiners. Finally, the DOE concluded that, despite a decline in United's profitability in 1976, the firm was not adversely affected by a similar decline in its sales volumes or an erosion in its market position. Accordingly, the United appeal was denied.

L. G. Vanderwork, Towner, Colo., FXA-1363, propane

L. G. Vanderwork appealed from a decision and order which the FEA issued to the firm on May 27, 1977. *L. G. Vanderwork*, 5 FEA Par. 83,169 (May 27, 1977). In the May 27 decision the FEA denied Vanderwork's request for retroactive exception relief which would have relieved the firm of any obligation to refund revenues which it previously obtained by charging prices for propane which were in excess of the maximum permissible levels specified in 10 CFR 212.93. In that decision the FEA denied the firm's request for retroactive exception relief on the grounds that the firm's allegations of irreparable injury were speculative since a remedial order had not yet been issued to the firm. In considering the Vanderwork appeal, the DOE determined that although a remedial order had not been issued to the firm, there exists a sufficient factual record establishing the amount of overcharges which it apparently made and therefore a determination could be made as to whether exception relief was warranted. The DOE concluded, however, that the financial material submitted by Vanderwork did not support the firm's contentions that it would experinece an irreparable financial injury if it were required to repay the overcharges set forth in an NOPV issued to the firm. Nevertheless, since the amount of the alleged overcharges exceeded the firm's 1976 pre-tax profit, the DOE recognized that if Vanderwork is required to refund those overcharges within a brief period of time the firm might incur an immediate hardship. Consequently, the DOE stated that the regional office shall take into account the firm's current financial position in establishing a time period during which it must refund any overcharges for which it is found liable.

In its appeal, Vanderwork also contended that prior to the issuance of the NOPV the firm did not have access to any publication which set forth the applicable FEA price regulations and consequently could not have been aware of the manner in which those regulations would apply to its propane operations. Vanderwork therefore argued that the firm could not have been aware that it might be in violation of the pricing provisions specified in 10 CFR 212.93 during the period cited in the NOPV. In considerating this contention, the DOE reaffirmed the principle articulated in several previous decisions that firms in petroleum-related industries have an affirmative obligation to be cognisant of the correct application of FEA regulations to their business activities and that Vanderwork's failure to meet that obligation did not constitute grounds for granting its appeal. Finally, Vanderwork requested that it be relieved of any potential obligation to refund overcharges which the FEA may eventually find to have occurred subsequent to the period cited in the NOPV. The DOE concluded that Vanderwork's contention with respect to events which might occur at some future time as a result of possible compliance action was speculative and accordingly dismissed this aspect of the firm's appeal. In all other respects the Vanderwork appeal was denied.

B. W. Whittington, Corpus Christi, Tex., FXA-1427, crude oil

B. W. Whittington (Whittington) filed an appeal from a decision and order which the Federal Energy Administration issued to him on July 8, 1977. *B. W. Whittington*, 6 FEA Par. 83,032 (July 8, 1977). In the July 8 determination, the FEA denied an application for exception from the provisions of 10 CFR, Part 212, Subpart D which Whittington had filed. The appeal, if granted, would have resulted in the issuance of an order permitting Whittington to sell all of the crude oil produced and sold from the State tract 180 lease at prices which are in excess of the lower tier ceiling price levels computed pursuant to 10 CFR 212.73. In the appeal, Whittington argued that he should have been granted both prospective and retroactive exception relief to permit him to increase the prices which he may charge for crude oil from the State tract 180 lease so that he can recover certain workover and drilling expenses which he had previously incurred at the property. In considering this contention, the DOE observed that the Whittington Appeal did not present any new arguments in support of this claim and that the determination reached in the July 8 decision was therefore dispositive of the matter. However, during the course of the appeal proceeding Whittington presented new factual material which indicated that prospective exception relief from the provisions of 10 CFR 212.73 was now warranted. On the basis of this new factual material and precedent established in previous cases, Whittington was granted exception relief to permit him to sell 50.54 percent of the crude oil produced from the State tract 180 lease subsequent to the completion of certain repairs at upper tier ceiling prices.

REQUESTS FOR EXCEPTION

Drew Cornell, Inc., Lafayette, La., FEE-4285, crude oil

Drew Cornell, Inc (Cornell), filed a request for retroactive exception relief from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit the firm to sell the crude oil which it produced from the Boagni property during the period November 1973 through June 1976 at prices that exceeded the levels permissible under the mandatory petroleum price regulations. In its exception application, Cornell alleged that exception relief was warranted to prevent the firm from experiencing an irreparable injury because it had received only a small portion of the overcharges that it may be required to refund. The DOE observed that Cornell's request was based on a speculative assumption that it would be held responsible for the entire refund obligation. Since no determination had yet been made as to whom a remedial order may be issued, the DOE determined that the application was premature. Accordingly, Cornell's exception application was dismissed without prejudice to a refiling at a later date.

Justiss-Mears Oil Co., Inc., Jena, La., FEE-4396, crude oil

Justiss-Mears Oil Co., Inc. (Justiss), filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D. In that application Justiss requested that it be permitted to sell the crude oil produced from the Saucier lease, located in the Five Mile Bayou field in Avoyelles Parish, La., at upper tier ceiling prices. After considering the Justiss exception request, the Federal Energy Administration issued a proposed decision and order to the firm on September 27, 1977. In that proposed decision the FEA determined that as a result of increased operating costs Justiss no longer had an economic incentive to continue its crude oil production activities at the Saucier lease. The FEA also found that the abondonment of the Saucier lease would result in the loss of approximately 11,200 barrels of otherwise recoverable crude oil. In accordance with the methodology established in a number of previous decisions and on the basis of the data submitted by Justiss, the FEA concluded in the proposed decision and order that Justiss should be permitted to sell 58.24 percent of the crude oil produced from the Saucier lease for the benefit of the working interest owners at upper tier ceiling prices for a 6-month period of time.

In a statement of objections which it filed to the proposed decision and order, Justiss stated that the data utilized by the FEA was erroneous and resulted in an insufficient amount of exception relief. After reviewing the Justiss submission, the DOE concluded

firms does not form an appropriate basis for the approval of exception relief. Accordingly, the Merrick exception request was denied.

Peninsular Gas Co., Omaha, Nebr., FEE-

$10,000, a degree of uncertainty existed as to the continuing nature of those increases and the period of exception relief should be limited to 3 months in order to provide an additional opportunity for review. Based on

that date but had not reflected in its May 15, 1973, selling prices. However, the DOE determined that Luke had not shown that it was entitled to exception relief on a retroactive basis. Nevertheless, the DOE noted that

granted, Superior, its employees and its customers could experience an irreparable injury as a result of natural gas shortages. The DOE also found that no other parties would be adversely affected by the approval

APPEALS

Amerada Hess Corp., New York, N.Y., FEA-1487, Crude Oil

Amerada Hess Corp. filed an Appeal from a Decision and Order which the FEA

In a statement of objections which it filed to the proposed decision and order, Justiss stated that the data utilized by the FEA was erroneous and resulted in an insufficient amount of exception relief. After reviewing the Justiss submission, the DOE concluded that the level of exception relief which was approved was insufficient and should accordingly be recalculated on the basis of the new data which the firm had submitted. As a result of this recalculation the DOE concluded that Justiss should be permitted to sell at upper tier ceiling prices 100 percent of the crude oil produced from the Saucier lease until March 31, 1978. The DOE observed, however, that it was not unreasonable for the FEA to have initially calculated the amount of exception relief which should be approved on the basis of data submitted by Justiss. Accordingly, Justiss was permitted to sell at upper tier ceiling prices 58.24 percent of the crude oil produced from the Saucier lease for the benefit of the working interest owners from September 27, 1977, through December 12, 1977, and 100 percent of the crude oil produced from the lease for the benefit of the working interest owners from December 12, 1977, through March 31, 1978.

Meason Operating Co., Natchez, Miss., FEE-4799, crude oil

Meason Operating Co. filed an application for exception from the provisions of 10 CFR, part 212, subpart D, which, if granted, would permit Meason to sell crude oil produced from its Arnold Perry well No. 1, located in Wilkinson County, Miss., at upper tier ceiling prices. In considering the exception request, the DOE found that Meason's operating costs had increased to a point where the firm no longer had an economic incentive to continue the production of crude oil from the Arnold Perry lease. The DOE also determined that if Meason abandoned its operations at the Arnold Perry lease, a substantial quantity of domestic crude oil would not be recovered. On the basis of criteria applied in previous decisions, the DOE determined that Meason should be permitted to sell at upper tier ceiling prices 100 percent of the crude oil produced from the Arnold Perry Lease for the benefit of the working interest owners during the period November 1, 1977, through April 30, 1978.

Ward S. Merrick, Ardmore, Okla., FEE-4555, crude oil

Ward S. Merrick (Merrick) filed an application for exception from the provisions of 10 CFR, part 212, subpart D. In that application Merrick requested that it be permitted to classify the Hattie Brown lease, located in Carter County, Okla., as 18 separate properties and to charge exempt prices for all of the crude oil produced from the lease. In considering the Merrick exception request, the DOE found that the question of whether or not a lease qualified as separate properties should be raised in a request for interpretation and is not as a rule appropriate in the context of an exception request. In addition, the DOE found no merit to the claim that Merrick was experiencing a gross inequity as a result of the requirement that it sell the crude oil produced from the Brown lease at lower tier ceiling prices while the crude oil produced from adjacent properties qualified for sale at exempt price levels. The DOE observed that the mere fact that a particular firm may be affected by the operation of the DOE regulations in a somewhat different manner than other firms does not form an appropriate basis for the approval of exception relief. Accordingly, the Merrick exception request was denied.

Peninsular Gas Co., Omaha, Nebr., FEE-4446, propane

Peninsular Gas Co. filed an application for exception from the provisions of the mandatory petroleum allocation regulations. The exception request, if granted, would permit Peninsular, a natural gas public utility, to adjust its base period use of propane and allow the firm to purchase and use volumes of propane for peak shaving in excess of the levels permitted under the regulations. In considering the exception application, the DOE found that Peninsular had experienced a dramatic increase in its propane requirements since the base period so that a gross disparity existed between the firm's current propane requirements for peak shaving and its use of propane during the 1972-73 base year. In addition, the DOE found that, unless exception relief were granted permitting Peninsular to increase its use of propane for peak shaving, Peninsular's customers, the majority of whom are residential end-users, could experience a curtailment of their natural gas services. Under these circumstances the DOE determined that exception relief was appropriate and therefore adjusted Peninsular's base period volumes of propane for the fourth calendar quarter of 1977 and the first calendar quarter of 1978.

Standard Oil Co. (Indiana), Chicago, Ill., DEE-0075, crude oil

The Standard Oil Co. (Indiana) (Amoco) filed an application for exception from the provisions of 10 CFR 212.84(e)(6). The exception request, if granted, would permit Amoco to establish the landed cost of Trinidad crude oil which it obtains through an interaffiliate transfer on the basis of representative prices for a reference crude oil to be selected without regard to the provisions of section 212.84(e)(6). In considering the Amoco exception petition, the DOE noted that the basis of the request is the firm's claim that the value of Trinidad crude oil established under the provisions of section 212.84(e)(6) does not accurately reflect the market value of the Trinidad crude oil. Since a more appropriate proceeding is specifically provided by section 212.84(e)(7) through which Amoco may seek adjustment to the market price established under section 212.84(e)(6), the DOE determined that the firm's exception request is premature. Accordingly, the Amoco application for exception was dismissed without prejudice.

Sun Co., Inc., Dallas, Tex., FEE-4817 through FEE-4822, DEE-0038 through DEE-0040, natural gas liquids and natural gas liquid products

On September 16, 1977, Sun Co., Inc., filed six applications for exception from the provisions of 10 CFR 212.165 with the Office of Exceptions and Appeals of the FEA, and filed three more such requests for exception with the Office of Administrative Review of the DOE on October 5, 1977. The exception requests, if granted, would have permitted Sun to increase the prices which it charges to reflect the nonproduct cost increases which it incurred in producing natural gas liquids and natural gas liquid products at nine of the firm's gas processing plants. In previous cases, the DOE concluded that where nonproduct cost increases exceeded $0.04 per gallon and totaled more than $10,000, a degree of uncertainty existed as to the continuing nature of those increases and the period of exception relief should be limited to 3 months in order to provide an additional opportunity for review. Based on these considerations, the DOE issued a proposed decision and order on November 9, 1977, which granted exception relief to six of Sun's plants. That determination was effective with respect to those plants from the date of the decision and order through March 31, 1978, and for the remaining three plants from the date of the decision and order through December 31, 1977. On November 19, 1977, Sun filed a notice of objection which indicated that the proposed decision and order contained inconsistent references to the termination date of the exception relief granted for the three plants whose nonproduct cost increases exceeded $0.04 per gallon and totaled more than $10,000. This inconsistency was the result of a typographical error and was corrected by the DOE. Since no other objection was raised by Sun or any other interested party, the DOE issued the proposed decision and order in final form on December 12, 1977.

REQUEST FOR MODIFICATION OR RESCISSION

Luke Bros., Inc., Oklahoma City, Okla., FMR-0103, propane

Luke Bros., Inc., filed an application for modification or rescission of a remedial order which was issued to the firm by region VI of the FEA on October 5, 1976. In that remedial order the FEA found that Luke had sold propane at prices which exceeded the maximum selling prices which the firm was permitted to charge under the FEA regulations. In order to remedy that violation, the FEA directed Luke to immediately reduce its selling prices for propane to a level which did not exceed its maximum lawful selling prices. In addition, the FEA directed the firm to submit a refund schedule which includes a timetable for refunding the overcharges which Luke had made.

In considering Luke's application, the DOE found that the firm had failed to present additional material facts or substantially changed circumstances which would have provided a basis for the modification or rescission of the remedial order. Accordingly, the DOE determined that Luke's application for modification or rescission of the October 5 remedial order should be denied. Nevertheless, the DOE further determined that Luke had presented new data concerning its current and projected financial condition which had not been considered in prior exception proceedings. In considering Luke's claim of serious hardship, the DOE found that Luke's assertion that its markup on May 15, 1973, was inordinately low because of an unusual and anomalous event was not supported by the record. The DOE further found that even through the new financial data and other factual material submitted by the firm indicate that it is experiencing serious financial problems, those difficulties were not caused primarily by the application to the firm of the provisions of 10 CFR 212.93. Nevertheless, the DOE found that the continuing application of the regulations to Luke's operations constituted a significant impediment to the firm's efforts to preserve its financial and competitive viability. Consequently, exception relief was approved which permitted Luke to increase prospectively its May 15, 1973, selling prices of propane by the amount of an increase in the purchased cost of propane which the firm experienced shortly prior to that date but had not reflected in its May 15, 1973, selling prices. However, the DOE determined that Luke had not shown that it was entitled to exception relief on a retroactive basis. Nevertheless, the DOE noted that the record in this proceeding indicated that if Luke were required to complete all refunds specified in the remedial order within the current fiscal year the firm would not have sufficient operating capital with which to continue its operations and its economic viability might well be jeopardized. The DOE further noted that although the FEA had formulated a refund schedule which it issued to the firm, Luke had not provided any information with respect to the manner in which it was scheduled to make refunds or its views as to the impact which that schedule would have on the firm's operations. Under these circumstances, the DOE determined that Luke should not at this time be relieved of the obligation that it make the refunds in the manner scheduled. Rather, the DOE stated that Luke may file an application for modification or rescission of the refund schedule within 30 days of the date of issuance of this decision and order.

REQUESTS FOR STAY

Romaco, Inc., Montgomery, Ala., DES-0017, petroleum products

Romaco, Inc., filed an application for stay of a special report order which the Director of Compliance of FEA region IV issued to the firm on September 2, 1977. In its application, Romaco requested that the DOE stay the requirement that it submit the data specified in the special report order pending a review by the DOE of Romaco's challenge to the validity of the order. In considering the stay request, the DOE found that Romaco had filed an application to quash the special report order with the Director of Compliance of DOE region IV, in accordance with the provisions of 10 CFR 210.91. That application was denied in a decision and order issued by the Acting Director for Enforcement of DOE region IV, who had asssumed the responsibilities previously exercised by the Director of Compliance. The DOE noted that the DOE regulations contemplate a de novo review of a denial of an application to quash by an official who is superior to the individual who issued the order. However, due to the recent reorganization of the FEA, the official who would review the denial of Romaco's application to quash under section 210.91 would be the same person who issued the special report order originally and who denied the application to quash. The DOE noted that in view of these circumstances it is presently reevaluating its procedures for the administrative review of special report orders. Consequently, the DOE granted Romaco's application for stay for a period of 30 days or until further order of the DOE. However, since Romaco stated that it had no objections to certain provisions of the special report order, the stay applies only to specified items of the special report order.

Superior Linen & Apparel Services, Inc., Cincinnati, Ohio, DES-0203, propane

Superior Linen & Apparel Services, Inc. (Superior) filed a request for stay of the provisions of 10 CFR 211.12(g). The stay request, if granted, would permit Superior to use imported propane to meet its energy requirements pending a determination of an application for exception which the firm had filed. In considering Superior's request, the DOE found that unless stay relief is granted, Superior, its employees and its customers could experience an irreparable injury as a result of natural gas shortages. The DOE also found that no other parties would be adversely affected by the approval of stay relief. Finally, the DOE determined that Superior raised important issues in its exception application concerning the underlying purpose of the regulatory provisions governing the importation of propane. Under the circumstances, the DOE granted Superior's stay request pending a determination of its application for exception.

SUMMARY DECISION

The motion for evidentiary hearing filed by the following firm was denied:

Edgington Oil Co., Inc., Washington, D.C., FEX-0167.

DISMISSALS

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Andale Farmers Cooperative Co., Andale, Kans., DEE-0117.

Caribou Four Corners, Inc., Salt Lake City, Utah, DEE-0100.

The following submission was dismissed for failure to correct deficiencies in the firm's filing as required by the DOE procedural regulations:

Annapolis Utilities, Inc., Annapolis, Md., FEE-4815.

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Administrative Review, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.s.t., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: March 6, 1978.

MELVIN GOLDSTEIN,
Director, Office of Administrative Review.

[FR Doc. 78-6309 Filed 3-9-78; 8:45 am]

[3128-01]

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF ADMINISTRATIVE REVIEW

Week of December 19 through December 23, 1977

Notice is hereby given that during the week of December 19 through December 23, 1977, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Administrative Review of the Economic Regulatory Administration of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Administrative Review and the basis for the dismissal.

APPEALS

Amerada Hess Corp., New York, N.Y., FEA-1487, Crude Oil

Amerada Hess Corp. filed an Appeal from a Decision and Order which the FEA Deputy Assistant Administrator for Compliance issued to the firm on July 29, 1977. The Decision being appealed denied Hess' request to be permitted to use its customary accounting procedures in calculating its marine transportation costs related to crude oil and directed the firm to calculate its future transportation costs in accordance with the accounting method specified in 10 CFR 212.85(c). In considering the Hess Appeal, the DOE noted that a firm's request to be permitted to use its customary accounting procedures should be granted if those procedures have been consistently and historically applied by the firm, are generally accepted, and result in crude oil transportation costs less than or not materially different from those resulting from application of the procedures prescribed in paragraph (c) or (d) of Section 212.85. The DOE determined that the July 29 Decision which was issued to Hess did not describe with sufficient specificity the basis upon which the FEA Office of Compliance concluded that Hess' accounting procedures did not satisfy the standards specified in Section 212.85(b)(2). Consequently, the matter was remanded to the DOE Office of Enforcement for further consideration.

Cities Service Oil Co., Braintree, Mass., FRA-1401, Motor Gasoline

Cities Service Oil Co. (Cities) filed an Appeal from a Remedial Order for Immediate Compliance which the Director of Regulatory Programs of FEA Region I issued to the firm on July 8, 1977. In the Remedial Order, the Regional Office ordered Cities to restore supplier/wholesale purchaser-reseller relationships with fourteen base period purchasers that Cities had refused to supply with petroleum products and to assume deliveries of motor gasoline to the retail outlets. In considering the Cities Appeal, the DOE noted that the provisions of 10 CFR 210.62(a) require suppliers of allocated products to maintain their normal business practices, including the delivery of petroleum products to a reseller's place of business. The DOE found that the facts presented in the Cities case were clearly distinguishable from the circumstances surrounding the court's determination in a case relied upon by Cities, *Atlantic Richfield* v. *Zarb*, 532 F.2d 1363 (TECA 1976). The DOE observed that in contrast to the facts in the case cited, the supplier/purchaser relationships between Cities and the dealers existed on the enactment date of the Emergency Petroleum Allocation Act of 1973. Moreover, in contrast to the circumstances in *Atlantic Richfield* v. *Zarb*, there had been no judicial determination in the Cities case of unlawful possession by any of the dealers. Consequently, the Cities Appeal was denied.

Commonwealth Oil Refining Co., Inc., Penuelas, P.R., FXA-1279, Crude oil

Commonwealth Oil Refining Co., Inc. (Corco) filed an Appeal from a Decision and Order which the FEA issued in *Commonwealth Oil Refining Co., Inc.*, 5 FEA Par. 83,132 (April 14, 1977). In that decision the FEA granted in part Corco's request for exception relief from the provisions of 10 CFR 211.67(i)(4) and 10 CFR 211.68(d)(5) and increased the number of entitlements which Corco is permitted to sell. Corco's Appeal, if

granted, would result in the approval of the full measure of exception relief which Corco initially sought in its Application for Exception. In its Appeal, Corco contended that the April 14 Decision was erroneous for failing to find that the Federal Government

which will result in the issuance of additional entitlements to Corco equal in value to $227,573.34. In all other respects, Corco's Appeal was denied.

Cotten, Day & Doyle, Washington, D.C., DFA-0038, Freedom of Information

Edward W. McCrary, Baton Rouge, La., DFA-0016, Freedom of Information

On November 21, 1977, Edward M. McCrary III (McCrary) filed an Appeal from an Order which had been issued to him by the FEA Information Access Officer

forum than the exceptions process for the consideration of the issue of whether a particular well should be considered as a multiple completion well. The DOE also found that Pioneer had failed to demonstrate that

Smith & Boyd, Inc., Philadelphia, Pa., FRA-1395 No. 2 Fuel Oil

Smith & Boyd, Inc. (S&B) filed an appeal from a remedial order which was issued to the firm by FEA Region III. The remedial

determined that exception relief for these three plants should be granted for a three month period.

SUPPLEMENTAL ORDERS

granted, would result in the approval of the full measure of exception relief which Corco initially sought in its Application for Exception. In its Appeal, Corco contended that the April 14 Decision was erroneous for failing to find that the Federal Government was required to maintain a crude oil feedstock cost advantage which Corco had over refiners and petrochemical producers on the United States mainland. In considering that contention, the DOE affirmed the finding reached in the exception Decision that the allocation granted to Corco by the Department of the Interior in 1968 did not place an affirmative duty on the government to guarantee the maintenance of Corco's feedstock cost advantage. Similarly, the DOE found no error in the determination that Corco is not entitled to exception relief as a result of the firm's general reliance upon policy and decisions which the Federal Government made pursuant to the Mandatory Oil Import Program. Corco also reiterated its contention that it should be granted retroactive exception relief for the period November 1974 through January 1976 during which the Entitlements Program did not fully equalise the cost of the imported crude oil which Corco refined with the domestic crude oil refined by mainland firms. With respect to this contention, the DOE found that the determination reached in *Commonwealth Oil Refining Co., Inc.*, 2 FEA Par. 83,230 (August 7, 1975), was controlling. In that Decision and Order, the FEA concluded that the Entitlements Program has not caused Corco to experience a serious hardship, but has instead generated significant benefits for the firm.

Corco also maintained that it is experiencing a gross inequity as a result of the provisions of the Jones Act which require it to transport its products to the mainland in American flag vessels, thus causing the firm to incur significantly greater shipping costs than its competitors in the Caribbean which utilize foreign flag vessels. The DOE held that exception relief from FEA or DOE regulations is not warranted if the hardship or inequity which a firm is experiencing is not caused by factors over which the FEA or DOE has control. The DOE concluded that Corco had failed to state a basis upon which exception relief should be granted to subsidize its shipping cost.

Corco also claimed that the April 14 Decision and Order failed to approve exception relief which completely eliminates the adverse impact which it is experiencing as a result of the 21 cent entitlement price adjustment specified in 10 CFR 211.67(i)(4). The DOE found that insofar as the products which Corco produces from crude oil are concerned, the firm occupied a secure competitive position in Puerto Rico which was not likely to be eroded through competition by mainland refiners. Consequently, the DOE found that the 21 cent per entitlement benefit which domestic refiners continue to receive pursuant to Section 211.67(i)(4) only remotely affects Corco since the firm sells the preponderance of its refinery products in Puerto Rico.

Finally, Corco contended that the April 14 Decision and Order erred in failing to grant retroactive exception relief for the month of January 1977 to remedy the adverse effects of the 21 cent adjustment to the Entitlements Program. The DOE found that Corco was correct and that the FEA has inadvertently neglected to approve relief for the month of January 1977. Consequently, retroactive exception relief was approved which will result in the issuance of additional entitlements to Corco equal in value to $227,573.34. In all other respects, Corco's Appeal was denied.

Cotten, Day & Doyle, Washington, D.C., DFA-0038, Freedom of Information

The law firm of Cotten, Day & Doyle (Cotten) appealed from a partial denial by the DOE Information Access Officer of a Request for Information which the firm had submitted under the Freedom of Information Act (the Act). In its initial Request, Cotten sought access to a document entitled "Response to Request for Additional Information" which was submitted to the FEA by the Guam Oil & Refining Co. (Gorco) in Case Number FEE-4105 on July 25, 1977, including material which Gorco had deleted from under a claim of confidentiality pursuant to 10 CFR 205.9(f)(1). The Information Access Officer denied access to most of the deletions on the grounds that they contained confidential financial information which is exempt from public disclosure under Section 552(b)(4) of the Act. In considering Cotten's Appeal, the DOE determined that certain items of information which were deleted from the document were already in the public domain and therefore concluded that these items should be released to Cotten. However, as to other items of information which Cotten sought, the DOE determined that they were either much more detailed than the information which had already been disclosed, or not directly related to the material in the public domain. In addition, the DOE determined that these other items, if released, would be likely to cause substantial competitive harm to Gorco. Therefore, the DOE concluded that these items of information were exempt from mandatory public disclosure under Section 552(b)(4) of the Act. The DOE also held that the release of confidential information would not be in the public interest under 10 CFR 202.1. Accordingly, Cotten's Appeal was granted in part and denied in part.

Geronimo Oil Co., Corpus Christi, Tex., FRA-1454, Crude Oil

The Geronimo Oil Co. filed an Appeal from a Remedial Order which the Deputy Regional Administrator of FEA Region VI issued to the firm on August 15, 1977. In the Remedial Order, the FEA found that Geronimo had sold certain crude oil at prices which were in excess of the maximum levels established by 10 CFR 212.73. The Remedial Order directed Geronimo to refund the full amount of these overcharges plus interest. According to the Remedial Order, Geronimo erroneously classified crude oil which it produced from the Morris lease as new and released crude oil because the firm failed to include condensate in its crude oil production when calculating the base production control level for the property. The Remedial Order further determined that Geronimo erroneously classified the Smith lease as a stripper well lease for the month of December 1973. In considering the Geronimo Appeal, the DOE determined that the regulatory definition of crude oil did include condensate and therefore the Remedial Order was correct in its determination that Geronimo should have included condensate when calculating the BPCL for the Morris Lease. The DOE also concluded that the Remedial Order was correct in its determination that the Smith lease did not qualify as a stripper well lease during the month of December 1973. The Geronimo Appeal was therefore denied.

Edward W. McCrary, Baton Rouge, La., DFA-0016, Freedom of Information

On November 21, 1977, Edward M. McCrary III (McCrary) filed an Appeal from an Order which had been issued to him by the FEA Information Access Officer on September 19, 1977. In that Order the Information Access Officer denied a request for information which McCrary had filed under the Freedom of Information Act (the Act). In his original request for information, McCrary sought copies of the Forms P102-M-1 (Refiner's Monthly Report) filed by Inger Oil Corp., Inc. (Inger) for the fourth quarter of 1976 and the first and second quarters of 1977. In denying McCrary's request, the Information Access Officer determined that the Forms P102-M-1 were exempt from disclosure under the provisions of 5 U.S.C. 552(b)(4), the exemption for trade secrets and confidential financial information. In considering McCrary's Appeal, the DOE found that disclosure of the information reported by a refiner in a Form P102-M-1 could result in competitive harm to the firm which supplied the information to the DOE. After review of the specific forms requested by McCrary, the DOE found that the Forms P102-M-1 which Inger filed for the period October 1976 through January 1977 contained no commercial information since Inger had no refining activities during that time. Because this fact could already be inferred from Inger's absences from the Crude Oil Allocation Notices which the FEA had issued, the DOE found that the Forms P102-M-1 did not contain information which was not already known to the public, and that the forms were therefore not confidential and should be released. However, Inger did have refining activities during the months of February through June 1977 and the Forms P102-M-1 which it submitted for that period did contain information regarding the supply, cost and source of the crude oil which Inger refined in those months. The DOE found that the release of this information would permit a competitior to assess Inger's relative market strength and determine the manner in which Inger's position could be most effectively undermined. Based on this finding, the DOE held that the information contained on the Forms P102-M-1 which Inger filed for the period February through June 1977 was confidential material that was exempt from mandatory public disclosure under Section 552(b)(4) of the Act. The DOE also held that disclosure of this information would not be in the public interest. Therefore, the McCrary Appeal was granted in part and denied in part.

Pioneer Operations Co., Inc., Russell, Kans., FXA-1243, Crude Oil

Pioneer Operations Company, Inc. (Pioneer) filed an Appeal from a Decision and Order which the FEA issued to the firm on March 11, 1977. *Pioneer Operations Co., Inc.*, 5 FEA Par. 83,097 (March 11, 1977). In that determination, the FEA denied Pioneer's request for retroactive excepton relief which would have permitted Pioneer to treat the Fiegler lease as a stripper well property. In its Appeal, Pioneer contended that the FEA erred in refusing to approve excepton relief which would have classified the Fiegler Well on a retroactive basis as a multiple completion well. In considering the Appeal, the DOE found that the March 11 Decision correctly indicates that the interpretaton process is a more appropriate forum than the exceptions process for the consideration of the issue of whether a particular well should be considered as a multiple completion well. The DOE also found that Pioneer had failed to demonstrate that it would experience an irreparable injury in the event that the exception relief which the firm requested were denied. In view of these considerations, the DOE determined that Pioneer's Appeal should be denied.

Sentry Refining Co., New York, N.Y., FXA-1231 Crude Oil

Sentry Refining Co., filed an appeal of a decision and order which was issued to it on March 4, 1977. *Sentry Refining Co.*, 5 FEA Par. 83,089 (March 4, 1977). In the March 4 decision, the FEA approved exception relief which permitted Sentry to ascertain the amount of crude oil that would be allocated under the Buy-Sell Program, 10 CFR 211.65, at an earlier time the regulations permitted. Sentry requested the allocation for a refinery which it planned to build. The FEA denied Sentry's further requests that it be permitted to begin purchasing its allocated crude oil prior to the initiation of refinery operations and that it be issued entitlements with respect to any crude oil refined for its account by other firms.

In its appeal Sentry contended that it was experiencing a gross inequity because its access to crude oil was adversely affected by the regulatory program. Sentry argued that allocation controls had been reimposed on stripper well production pursuant to an amendment to 10 CFR 211.63(b) and that this had brought about the termination of a contract which it had executed for the crude oil requirements of its proposed refinery. In considering Sentry's appeal, the DOE pointed out that the mere fact that a firm's rights are affected by the regulatory program does not automatically establish that exception relief is appropriate. Additional factors must be presented in order to form a basis for approval of exception relief, and the DOE found that Sentry had not presented any of these other factors. Since Sentry had not committed substantial resources to construction of the proposed refinery prior to the promulgation of the amendments to Section 211.63(b), the DOE concluded that any monetary liability which Sentry might incur as a consequence of its inability to proceed with construction of the proposed refinery was primarily attributable to its own discretionary business decisions and not to the regulatory program.

Sentry also contended that the denial of exception relief might prevent it from constructing the proposed refinery and thereby frustrate national energy policy objectives of increasing the domestic refining capacity of small and independent refiners. The DOE noted, however, that the objective was only one of a number of important energy goals set forth by Congress in the Emergency Petroleum Allocation Act, and that a number of programs had been formulated to assist small and independent refiners. Sentry would be entitled, as a small refiner, to receive substantial benefits under these programs. The exception relief requested by Sentry, however, far exceeded the advantages generally provided to small refiners under the regulatory program, and the DOE determined that Sentry had failed to demonstrate that its position was significantly different from other firms seeking to enter the business of refining crude oil. The Sentry appeal was accordingly denied.

Smith & Boyd, Inc., Philadelphia, Pa., FRA-1395 No. 2 Fuel Oil

Smith & Boyd, Inc. (S&B) filed an appeal from a remedial order which was issued to the firm by FEA Region III. The remedial order found that during the period November 19, 1973 through February 28, 1974, S&B sold No. 2 fuel oil to the Philadelphia Electric Co. (PE) at prices which were in excess of those permitted by 6 CFR 150.359 and 10 CFR 212.93. Accordingly, the remedial order directed S&B to refund the overcharges plus interest to PE. In its appeal, S&B contended that since the No. 2 fuel oil which it purchased from the Major Oil Company was not commingled into S&B's inventory, it should not have been included in the computation of S&B's cost of product in inventory on May 15, 1973. In considering S&B's contention, the DOE found that during the period of the overcharges, FEA regulations required that all product in inventory, whether commingled or not, was to be included in computing S&B's weighted average cost of product in inventory on May 15, 1973. Accordingly, the DOE concluded that there is no basis for a determination that S&B was entitled as a matter of law to use separate inventories to compute its maximum allowable selling prices pursuant to 10 CFR, Part 212, Subpart F. In its appeal S&B also contended that the Director of the Region III Compliance Division erroneously computed the amount which the firm allegedly overcharged PE. In considering this contention, the DOE found that S&B's May 15, 1973 selling price for sales of No. 2 fuel oil to PE was $.1439 per gallon and not $.1434 as indicated by the audit worksheets which formed the basis of the remedial order's computation of the overcharges. The DOE also found that the basis of Region III's treatment of S&B's "transportation costs" was not clearly set forth in the remedial order. Accordingly, the DOE remanded the matter for reconsideration of the treatment of the "transportation costs" item, and for a complete recomputation of the amount of the overcharges. In all other respects, S&B's appeal was denied.

REQUESTS FOR EXCEPTION

Sun Company, Inc., Dallas, Tex., FEE-4817-FEE-4822; DEE-0038-DEE-0040 Natural Gas Liquids; Natural Gas Liquid Products

Sun Company, Inc. (Sun) filed nine Applications for Exception from the provisions of 10 CFR 212.165 which, if granted, would permit the firm to increase the prices for its natural gas liquids and natural gas liquid products to reflect nonproduct cost increases incurred at nine of its gas processing plants which are in excess of those permitted by Section 212.165. In previous decisions, the DOE determined that exception relief would be granted for a period of six months where it appears likely that the nonproduct cost increases incurred by a gas processor will continue at current levels. The DOE presumes that increased nonproduct costs will continue at the same level where the cost increases reported are less than $.04 per gallon or less than a total of $10,000. The record in this case indicated that six of Sun's plants satisfied this requirement. Therefore exception relief was granted for these six plants for a period of six months. However, for three other plants the nonproduct unit cost increases exceeded $.04 per gallon and the total nonproduct cost increases exceeded $10,000. The DOE determined that exception relief for these three plants should be granted for a three month period.

SUPPLEMENTAL ORDERS

Beacon Oil Co., Hanford, Calif., Edgington Oil Co., Inc., Long Beach, Calif., Kern Country Refinery, Inc., Bakersfield, Calif., Lunday-Thagard Oil Co., South Gate, Calif., Mohawk Petroleum Corp., Los Angeles, Calif., Navaho Refining Co., Artesia, New Mex., San Joaquin Refining Co., Newport Beach, Calif., Southland Oil Co./VGS Corp., Memphis, Tenn., Warrior Asphalt Co., of Alabama, Tuscaloosa, Ala., Young Refining Corp., Douglasville, Ga., DEX-0012, DEX-0013, DEX-0014, DEX-0015, DEX-0016, DEX-0017, DEX-0018, DEX-0019, DEX-0020, DEX-0021 Crude Oil

On December 20, 1977, the DOE issued Decisions and Orders staying the obligation to purchase entitlements to the extent specified in Proposed Decisions and Orders which were also issued to each firm listed above on December 20, 1977. In granting the stays, the DOE stated that as a result of new exceptions procedures which had been adopted effective September 14, 1977, the Proposed Decisions and Orders would not be finalized for at least 10 days after issuance of the Orders in proposed form. During that interim period, Entitlements Notices would continue to be issued which did not take into consideration the relief proposed for each firm in the December 20 Orders. Therefore, based upon the precedent established in similar cases, the DOE determined that the entitlement purchase obligations of the firms should be stayed to the extent specified in the Proposed Orders until the conclusion of the pending exceptions proceedings.

Colonial Oil Company, Alexandria, Va., DEX-0040 Motor Gasoline

On July 8, 1977, the FEA directed that a hearing be held with respect to an exception application which was filed by the Colonial Oil Co., (Colonial) on February 23, 1977. The purpose of the hearing was to determine whether misleading or erroneous data had been submitted to the FEA in connection with the February 23, 1977 exception application. Mr. Paul L. Bloom, then FEA Deputy General Counsel, was designated as the presiding officer for the hearing which was held on August 26, 1977. On December 21, 1977, Mr. Bloom issued a Decision and Order which held that it was clearly improper for Colonial to have withheld information from its February 1977 submission concerning a substantial "settlement" payment which it received since selective reporting of financial data undermines the entire exceptions process. However, Mr. Bloom concluded that the record did not clearly establish that Colonial's tardiness in disclosing receipt of the settlement payment constituted a willful attempt to mislead the agency. In addition, Mr. Bloom noted that if the attorney who represented Colonial in the course of the February 1977 request had known that Colonial's February 1977 application presented a misleading or incomplete picture of the firm's financial health, this fact should have been brought to the agency's attention. However, Mr. Bloom determined that there was no clear evidence in the record that either the attorney or his law firm had known about receipt of the settlement payment when the February 23, 1977 application was submitted to the FEA by Colonial, and therefore concluded that no disciplinary citation was warranted.

TOSCO Corp., Los Angeles, Calif., DEX-0022 crude oil

On December 20, 1977, the DOE issued a Decision and Order to the TOSCO Corp. staying that firm's obligation to purchase

contains a list of submissions which were dismissed by the Office of Administrative Review and the basis for the dismissal.

(Whitco) in accordance with the new procedures that govern applications for exception. In the proposed decision and order which it issued, the DOE determined that the application to Whitco of the provisions of 10 CFR 211.25 (the supplier substitution

Peeler Oil Co., Staunton, Va., DEE-0391.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of

of the Economic Regulatory Administration issues this Order denying the petition filed on January 31, 1978, of the Municipalities of Breese, Carlye, Freeburg, Highland, Mascoutah, Peru

Findings. The Assistant Administrator for Utility Systems finds that:

1. Absent a breakdown in equipment, the petitioners have sufficient capac-

TOSCO Corp., Los Angeles, Calif., DEX-0022 crude oil

On December 20, 1977, the DOE issued a Decision and Order to the TOSCO Corp. staying that firm's obligation to purchase entitlements to the extent specified in a Proposed Decision and Order which was issued to the firm on December 20, 1977. In granting the Stay, the DOE stated that as a result of new exceptions procedures which had been adopted effective September 14, 1977, a final Decision in the TOSCO exception proceeding would not be issued for at least 10 days after issuance of the Proposed Decision. During the interim period, Entitlements Notices would continue to be issued which did not take into consideration the relief proposed for TOSCO in the December 20, 1977 Order. Therefore, based upon the established in similar cases, the DOE determined that the entitlements purchase obligation of TOSCO should be stayed to the extent specified in the December 20 Proposed Order until the conclusion of the pending exception proceeding.

SUMMARY DECISION

In the following proceeding, a Supplemental Order was issued to correct an inadvertent omission in a prior Decision and Order:

Gulf Oil Corp., Tulsa, Okla., DEX-0003

DISMISSAL

The following submission was dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Otto Shine Car Wash, Des Moines, Iowa, DEE-0202

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Administrative Review, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.s.t., except holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: March 6, 1978.

MELVIN GOLDSTEIN,
Director, Office of Administrative Review.

[FR Doc. 78-6310 Filed 3-9-78; 8:45 am]

[3128-01]

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF ADMINISTRATIVE REVIEW

Week of December 26 through December 30, 1977

Notice is hereby given that during the week of December 26 through December 30, 1977, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Administrative Review of the Economic Regulatory Administration of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Administrative Review and the basis for the dismissal.

REQUEST FOR EXCEPTION

Caribou Four Corners, Inc., Afton, Wyo., FEE-4400, crude oil

Caribou Four Corners, Inc., filed an application for exception from the provisions of 10 CFR 211.67 (the entitlements program). In its submission, Caribou requested that the liquid hydrocarbons which it began purchasing from the Johnson Oil Co. in July 1976 be classified as crude oil for reporting purposes under the entitlements program. Caribou contended that the petroleum material which it had purchased from Johnson and which had previously been processed by Southwestern Refining, Inc. was not appreciably changed by its previous processing and that Caribou should therefore be permitted to include this material in the volumes of its crude oil runs to stills as reported under the entitlements program. In its decision, the DOE concluded that Caribou had failed to make a sufficient factual showing to support a determination as to whether the petroleum material for which Caribou sought exception relief was chemically distinguishable from crude oil or whether Caribou was entitled to classify that material as crude oil for purposes of the entitlements program. In addition, the DOE concluded that in view of the fact that Caribou had failed to submit any financial material which would show the impact on Caribou of a denial of exception relief or that the firm's operations would be disrupted in any manner, no showing of serious hardship had been made. Accordingly, the Caribou request was denied.

Douglas Edwards, Morgan City, La., FEE-4272, crude oil

Douglas Edwards (Edwards) filed in application for exception from the provisions of 10 CFR, part 212, subpart D, which if granted, would have permitted Edwards to sell the crude oil which is produced from the C&C Meyers lease, located in the Golden Meadow Field, La Fourche Parish, La., at exempt prices. In his exception application, Edwards stated that crude oil production from the C&C Meyers lease was less than 10 barrels per day, and contended that the requirement that he continue to produce crude oil from the lease for a consecutive 12 month period before the lease is eligible for treatment as a stripper well property results in a gross inequity. In considering the exception request, the DOE found that Edwards was currently able to sell all of the crude oil from the lease at upper tier price levels, and as a result the operations at the property were profitable even in the absence of exception relief. The DOE therefore concluded that Edwards had failed to demonstrate that the application of the 12 month qualification period to the C&C Meyers lease frustrated the realization of national energy objectives by creating an economic disincentive to the further production of crude oil from the property. The Edwards application for exception was accordingly denied.

SUPPLEMENTAL ORDER

Whitco, Inc., Dallas, Tex., DEX-0023, motor gasoline

On December 20, 1977, the DOE issued a proposed decision and order to Whitco, Inc. (Whitco) in accordance with the new procedures that govern applications for exception. In the proposed decision and order which it issued, the DOE determined that the application to Whitco of the provisions of 10 CFR 211.25 (the supplier substitution rule) resulted in a gross inequity. The DOE found that a substantial price disparity exists between the rack prices for motor gasoline established by the Sun Co., Inc. (Sun), Whitco's base period supplier, and those established by Amtel, Inc. (Amtel), Sun's designated substitute supplier. On the basis of those findings the DOE proposed to grant Whitco exception relief for the months of January through March 1978, which prohibits Sun from continuing to supply Whitco through Amtel, and directs Sun to furnish motor gasoline directly to Whitco. The proposed decision would have extended previous exception relief which has been granted to Whitco on a periodic basis since June 1975. However, as a result of the new exception procedures which apply to the Whitco matter, the DOE noted that the previous exception relief would expire before the extension proposed on December 20, 1977, could be issued in final form. In view of the tentative determination that Sun should be required to supply Whitco with motor gasoline directly during the first three months of 1978, the DOE on its own motion concluded that the application of the supplier substitution rule should be stayed until the conclusion of the pending exception proceeding.

SUMMARY DECISION

The following firm filed an application for stay of a remedial order which had been issued to it by the DOE. In considering the stay request, the DOE referred to a recent decision in *Rickelson Oil and Gas Co.*, 6 FEA Par. 85,029 (August 24, 1977), in which it held that a remedial order will generally be stayed pending the deterimation of an appeal unless it appeared that the public interest required immediate compliance with the remedial order. Since the record in this case did not indicate that the public interest required immediate compliance with the remedial order, the DOE granted the request for stay pending consideration of the appeal.

Vilarreal Butane, San Benito, Tex., DRS-0073.

TEMPORARY STAYS

The following applications for temporary stay were granted on the grounds that the applicants had made a compelling showing that temporary stay relief was necessary to prevent an irreparable injury:

Lunday-Thagard Oil Co., South Gate, Calif., DST-0003.

Young Refining Corp., Douglasville, Ga., DST-0002.

DISMISSALS

The following submission was dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Hunt Petroleum Corp., Dallas, Tx., FEE-4473.

The following submission was dismissed on the grounds that alternative regulatory procedures existed under which relief might be obtained.

Peeler Oil Co., Staunton, Va., DEE-0391.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Administrative Review, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.s.t., except holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: March 6, 1978.

MELVIN GOLDSTEIN,
Director, Office of Administrative Review.

[FR Doc. 78-6311 Filed 3-9-78; 8:45 am]

[3128-01]

Economic Regulatory Administration

PETITIONS FILED ASSISTANT ADMINISTRATOR FOR UTILITY SYSTEMS, ECONOMIC REGULATORY ADMINISTRATION

Issuance of Orders

Notice is hereby given that the Assistant Administrator for Utility Systems, Economic Regulatory Administration issued the Orders published below on petitions filed pursuant to section 202(c) of the Federal Power Act. Notification of the filing of these petitions appeared in 43 FR 8012 (February 27, 1978).

[Docket No. EC78-1]

IN THE MATTER OF ILLINOIS POWER CO.

ORDER DENYING PETITION FOR EMERGENCY INTERCONNECTIONS UNDER SECTION 202(C) OF THE FEDERAL POWER ACT

Pursuant to the Department of Energy Organization Act (Pub. L. 95-91) the authority to order the "temporary connection of facilities and transfer of electricity" under section 202(c) of the Federal Power Act, 16 U.S.C. section 824(c) and pertinent regulations was transferred to the Department of Energy.

The Secretary of Energy has delegated his authority under section 202(c) of the Federal Power Act to the Administrator of the Economic Regulatory Administration (Delegation Order 0204-4, October 1, 1977, 42 FR 60725-27 (November 29, 1977)). The Administrator of the Economic Regulatory Administration has further delegated his authorities under section 202(c) to the Assistant Administrator for Utility Systems.

Pursuant section 705 of the Act the regulations published at 18 CFR §§ 30.60-30.62 which implement section 202(c) of the Federal Power Act remain in effect until they are amended or otherwise superseded.

In accordance with the aforementioned authorities, the Administrator of the Economic Regulatory Administration issues this Order denying the petition filed on January 31, 1978, of the Municipalities of Breese, Carlye, Freeburg, Highland, Mascoutah, Peru, and Princeton, Ill. (Municipalities) requesting an emergency order pursuant to section 202(c) of the Federal Power Act, requiring Illinois Power Co. (IP) to continue to sell firm power to Municipalities.[1]

Background. The Municipalities' emergency petition alleges that all of the Municipalitites generate a portion of the power and energy utilized by their retail customers but that all are substantially dependent upon firm power purchases under existing interconnection agreements with IP to assure safe and reliable service to their retail customers.

The Municipalities further allege that on December 9, 1977, IP by letter advised each of the Municipalities that it would terminate firm power deliveries to each of the cities as of January 31, 1978, because of the coal strike. It further advised the Municipalities they would provide maintenance power to them for the first week of February 1978, but thereafter could provide no assurance that any power would be available. Therefore the Municipalities state in their petition:

Section 202(c) of the Federal Power Act, 16 U.S.C. section 824(a)(c) expressly empowers the Administration in the event of a shortage of fuel or generation facilities to "• • • order • • • such generation, delivery, interchange, or transmission of electric energy as in its judgment will best meet the emergency and serve the public interest." Therefore, over and above the Cities' contract rights, the Administration should nevertheless exercise its authority under section 202(c) of the Act to order Illinois Power to continue delivery of energy to Municipalities at such levels as are necessary for Municipalities to maintain reliable service to their retail customers.

On February 6, 1978, IP filed a motion to reject and an answer to the petition for an emergency interconnection. It suggests that: (1) The petition should be rejected because it does not comport with the procedural and substantive requirements as set forth at 18 CFR § 32.61; and (2) absent a capacity disability, the municipalities have sufficient capacity to meet their energy needs. In its response, IP represents that in the event of a capacity shortage it will offer all the assistance it can, to include curtailment of its interruptible load, to provide emergency service.

[1]The petition also asserts that a termination of the sale of short term firm power is subject to the notice requirements of section 205(d) of the Federal Power Act, 16 U.S.C. § 824d(d). The resolution of that issue is within the exclusive jurisdiction of the Federal Energy Regulatory Commission (FERC). A copy of the petition was filed with FERC on Jan. 20, 1978, and has been assigned docket No. EC78-6.

Findings. The Assistant Administrator for Utility Systems finds that:

1. Absent a breakdown in equipment, the petitioners have sufficient capacity to meet their needs;

2. In the event that the petitioners experience an involuntary capacity shortage, IP will voluntarily furnish emergency power in a manner consistent with the requirements of IP's native load customers;

3. A physical operating condition does not now exist which would warrant emergency action under section 202(c) of the Federal Power Act;

4. In the event that an individual city suffers an involuntary capacity shortage and it is unable to purchase emergency assistance from IP or other sources, a petition for emergency action may be filed with ERA.

Order. The Assistant Administrator for Utility Systems, Economic Regulatory Administration, orders that the petition of the Municipalities for an emergency interconnection be denied.

A copy of this Order shall be published in the FEDERAL REGISTER.

Issued in Washington, D.C., this 6th day of March 1978.

DOUGLAS C. BAUER,
Assistant Administrator for Utility Systems, Economic Regulatory Administration.

[Docket No. EC78-2]

IN THE MATTER OF MANUFACTURERS ASSOCIATION OF BEAVER COUNTY, PA.

ORDER DENYING PETITION FOR EMERGENCY INTERCONNECTIONS UNDER SECTION 202 (C) OF THE FEDERAL POWER ACT

Pursuant to the Department of Energy Organization Act (Pub. L. 95-91) the authority to order the "temporary connection of facilities and transfer of electricity" under section 202(c) of the Federal Power Act, 16 U.S.C. section 824(c) and pertinent regulations was transferred to the Department of Energy.

The Secretary of Energy has delegated his authority under section 202(c) of the Federal Power Act to the Administrator of the Economic Regulatory Administration (Delegation Order 0204-4, October 1, 1977, 42 FR 60725-27 (November 29, 1977)). The Administrator of the Economic Regulatory Administration has further delegated his authorities under section 202(c) to the Assistant Administrator for Utility Systems.

Pursuant to section 705 of the Act the regulations published at 18 CFR §§ 30.60-30.62 which implement section 202(c) of the Federal Power Act remain in effect until they are amended or otherwise superseded.

In accordance with the aforementioned authorities, the Administrator of the Economic Regulatory Adminis-

tration issues this Order denying the petition filed on February 10, 1978, by the Manufacturers Association of Beaver County, Pa. (MABC).

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 865-7; OPP-30143]

Dated: February 27, 1978.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

April 17, 1978, for all final EIS's received during a given week (Monday through Friday), the 30-day time-

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Envi-

temporary high levels of noise. (New Orleans District.) Comments made by: DOI, EPA, DOC, USDA, DOT, FPC, State and local agencies. (ELR Order No. 80208.)

tration issues this Order denying the petition filed on February 10, 1978, by the Manufacturers Association of Beaver County, Pa. (MABC).

Background. MABC is an association of major manufacturers located in Beaver County, Pa., and whose members are dependent upon electrical power to operate their facilities. MABC members have been advised by Duquesne Light Co. and Pennsylvania Power & Light Co. that because of declining coal inventories it may be necessary to curtail power supplies to industrial retail customers to plant security and maintenance levels. MABC asserts that a reduction in power supplies to that level will result in layoffs of up to 35,000 workers and concomitant economic disruption.

MABC requests, therefore, that DOE exercise its emergency authorities and require inter-regional power transfers to minimize the economic disruptions caused by curtailments.

Discussion. Since February 2, 1978, from its Emergency Operations Center in Canton, Ohio, DOE has been monitoring the utilities serving the following states: Missouri, Illinois, Indiana, Kentucky, Michigan, Ohio, Tennessee, West Virginia, and the western portions of Maryland, Pennsylvania, Virginia.

DOE has observed that, consistent with prudent operating considerations, voluntary measures have resulted in the transmission of electricity from utilities with more favorable fuel stocks to utility systems with less favorable fuel inventories, including Duquesne Light Co. and Pennsylvania Power & Light Co. So long as voluntary measures are effective, and consistent with pertinent law and regulation, DOE does not deem it appropriate to exercise its emergency authorities under section 202(c).

Order. The Assistant Administrator for Utility Systems, Economic Regulatory Administration orders that the foregoing petition of the Manufacturers Association of Beaver County, Pa., for an emergency transfer of energy be denied.

A copy of this order shall be published in the FEDERAL REGISTER.

Issued in Washington, D.C., this 6th day of March, 1978.

DOUGLAS C. BAUER,
Assistant Administrator for Utility Systems, Economic Regulatory Administration.

[FR Doc. 78-6368 Filed 3-9-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 865-7; OPP-30143]

PESTICIDE PROGRAMS

Receipt of Applications To Register Pesticide Products Containing New Active Ingredient

Applications have been submitted to the Environmental Protection Agency (EPA) to register pesticide products containing an active ingredient which has not been included in any previously registered pesticide products. Applications were made pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 89 Stat. 751; 7 U.S.C. 136(a) et seq.), and the regulations thereunder (40 CFR 162.6(b)(6). Notice of receipt of these applications does not indicate a decision by the Agency on the applications.

Interested persons are invited to submit written comments on these applications to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460. The comments must be received by April 10, 1978, and should bear a notation indicating the EPA File Symbol number of the application to which the comments pertain. Comments received within the specified time period will be considered before a final decision is made with respect to the pending application. Comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Specific questions concerning these applications and the data submitted should be directed to the Product Manager (PM) 17, Registration Division (WH-567), Office of Pesticide Programs, at the above address or by telephone at area code 202-426-9425. The labels furnished by ICI Americas, Inc., as well as written comments filed pursuant to this notice, will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m., Monday through Friday.

Notice of approval or denial of the applications to register pesticide products listed will be announced in the FEDERAL REGISTER. Except for such material protected by Section 10 of FIFRA, the test data and other information submitted in support of registration as well as other scientific information deemed relevant to the registration decisions shall be made available after approval pursuant to section 3(c)(2) of FIFRA. The procedures for requesting such data will be given in the FEDERAL REGISTER if an application is approved.

Dated: February 27, 1978.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

APPLICATIONS RECEIVED

EPA File Symbol 10182-RT. ICI Americas, Inc., Concord Pike and New Murphy Road, Wilmington, Del. 19897. Permethrin Technical. Active Ingredient: Permethrin (*3-phenoxyphenyl)-methyl(±)-cis, trans-3-(2,2-dichloroethenyl)-2,2-dimethylcyclo-propanecarboxylate* 91.0%. Application proposes that this product be used as an insecticide for formulating use only.

EPA File Symbol 10182-RI. ICI Americas, Inc., Concord Pike & New Murphy Road, Wilmington, Del. 19897. Ambush Insecticide. Active Ingredient: Permethrin (*3-phenoxyphenyl0-methyl)±)-cis, trans-3-(2,2-dichloroethenyl)-2,2-dimethylcyclo- propanecarboxylate* 25.6%. Application proposes that this product be classified for general use as an insecticide for application to cotton against boll weevil, bollworm, tobacco budworm, pink bollworm, lygus bug, whitefly, cotton aphid, cabbage looper, thrips and cotton leafperforator at 0.4 to 0.8 pint per acre.

[FR Doc 78-6389 Filed 3-9-78; 8:45 am]

[6560-01]

[FRL 866-1]

RECEIPT OF ENVIRONMENTAL IMPACT STATEMENTS

Pursuant to the President's Reorganization Plan No. 1, the Environmental Protection Agency is the official recipient for environmental impact statements (EIS's) and is required to publish the availability of each EIS received weekly. The following is a list of environmental impact statements received by the Environmental Protection Agency from February 27, 1978 through March 3, 1978. The date of receipt for each statement is noted in the statement summary. Under the Guidelines of the Council on Environmental Quality the minimum period for public review and comment on draft environmental impact statements of forty-five (45) days; the date for submission of comment is April 24, 1978. The thirty (30) day period for each final statement begins on the day the statement is made available to the Environmental Protection Agency and to commenting parties.

On March 8, 1978, the Federal agencies were informed of an upcoming change in filing procedures for final EIS's. In July, 1974 the Council established that a 30 day review period for final EIS's would be counted from the date the statement was actually filed with the Council (now EPA). However, after consultation with the Council and in the interest of fairness to the public and commenting entities, it was determined that final EIS commenting period should be treated the same as for a draft EIS. Therefore, effective April 17, 1978, for all final EIS's received during a given week (Monday through Friday), the 30-day timeframe will commence on the Friday of the following week.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 346 Connecticut Avenue, Washington, D.C. 20036.

Dated: March 8, 1978.

JOSEPH M. MCCABE,
Acting Director, Office of Federal Activities.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 307A, Washington, D.C. 20250, 202-447-6627.

FOREST SERVICE

Draft

Sam Houston Unit, Sam Houston, National Forest, Montgomery, Walker, San Jacinto Counties, Tex., March 2, 1978. This proposed action involves the implementation of a ten-year management plan for the Sam Houston unit. This unit includes the entire Sam Houston National Forest, comprising 158,654.88 acres in Montgomery, Walker and Jacinto counties Tex. Major actions include timber harvest and site preparation; increased diversity of wildlife habitat with emphasis on tree squirells; road construction and reconstruction; mineral leasing; and establishment of special management areas. USDA-FS-R8-DES(ADM)78-01. (ELR Order No. 80203.)

Angelina National Forest, Timber Management Plan, Several Counties, Tex., March 2, 1978. The proposed action is implementation of an eight-year timber management plan for the Angelina National Forest. The Angelina National Forest is located in Angelina, San Augustine, Jasper and Nacogdoches counties in east Texas and lies on both sides of the 114,500 acre Sam Rayburn Reservoir, approximately 391,000 acres of land lie inside the forest boundary, of which thirty-nine percent or 154,991 acres is National Forest land. Private land ownership within the forest boundary is mixed and includes home sites, farm and pasture land, and woodlands. This plan proposes evenages forest management on the commercial forest for production of timber products. USDA-FS-R8-(DES)(ADM)-78-07. (ELR Order No. 80204.)

Dunoir Special Management Unit, Wyoming. This is a proposal for revision and implementation of a land mangement plan for the Dunoir Special Management Unit, located at the headwaters of Dunoir Creek, Wind River Ranger District Shoshone National Forest, about 25 miles northwest of Dubois, Wyo. It contains about 28,800 acres, all which are Federal lands under U.S. Forest Service Administration. The proposed land management plan provides protection of both non-consumptive values and production of tangible products with emphasis on wildlife recreation, and scenic values. USDA-FS-R2-DES(ADM)(LEG)FY-78-01. (ELR Order No. 80200.)

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Department, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-695-6795.

Draft

Cache Creek Basin, Clear Lake, Yolo and Lake Counties, Calif., February 28: The proposed plan includes construction of flood control facilities at the outlet of Clear Lake in Lake County, Calif., to provide flood protection to existing and future urban and agricultural development on the Clear Lake rim. The plan calls for widening and deepening the existing Clear Lake outlet channel, constructing a bypass channel, constructing a diversion control structure and weir, and requiring future development to flood proof to the elevation of the preproject flood plain. The plan also includes sediment control on Cache Creek in Yolo County, Calif., to preserve the integrity of the Sacramento River flood control project. (ELR Order No. 80195.)

Draft supplement

Taylorsville Lake Project, Anderson, Nelson, and Spencer Counties, Ky., February 27: Proposed is the Taylorsville Lake project in Spencer, Anderson, and Nelson Counties, Ky. The dam site is situated four river miles upstream from Taylorsville, Ky., about 60 river miles above the mouth of the Salt River. This multi-purpose lake project is located about 26 miles southeast of Louisville will provide flood control, general recreation, fish wildlife recreation, and water quality control. Completion of the project as proposed will provide flood reduction to downstream lands along the Salt and Ohio Rivers, improve downstream water quality and provide water oriented recreational opportunities for an estimated 1.4 million visitors per year. (ELR Order No. 80192.)

Final

Cross Florida Barge Canal, Restudy Report, Florida, March 2: The statement refers to an authorized plan and alternative actions for completing or not completing a Cross Florida Barge Canal (CFBC) project. The CFBC project provides for a high level barge canal about 110 miles long extending from the St. Johns River at Palatka to deep water in the Gulf of Mexico near Yankeetown. Adverse effects resulting from the authorized alternative include loss of the Oklawaha River Basin ecosystem as an entity, loss of forest land, and destruction of wildlife habitat. Comments made by: DOI, DOC, USDA, DOT, FPC, EPA, CEQ, State and local agencies, groups, individuals, and organizations. (ELR Order No. 80206.)

Terrebonne Port Facilities, Terrebonne County, La., March 3: Proposed is the development of port facilities near Houma, La. The Terrebonne Port Commission proposes to dredge a slip and temporary canals and install and maintain a levee system and fill. The dredging operation would consist of removal of 2,781,000 cubic yards of material which would be spread over a cypress-tupelo swamp. Construction activities would result in the complete removal of all wetlands vegetation within the proposed site and the conversion of 400 acres to a dry environment. Other impacts include possible increases in pollutants discharged into adjacent waterways, increased turbidity, and temporary high levels of noise. (New Orleans District.) Comments made by: DOI, EPA, DOC, USDA, DOT, FPC, State and local agencies. (ELR Order No. 80208.)

Vince and Little Vince Bayous, Harris County, Tex., March 3: The proposed action is completion of the Vince and Little Vince Bayous, which are Federal flood control projects located in Harris County, Tex. The plans call for enlargement and straightening of about 7.2 miles of Vince Bayou and about 4.2 miles of Little Vince Bayou. The action will disturb or remove wildlife and vegetation and cause increases in air and noise pollution due to construction activities. (Galveston District.) Comments made by: DOC, DOI, EPA, USDA, DOT, State and local agencies. (ELR Order No. 80214.)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Assistant Secretary for Environmental Affairs, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, 202-377-4335.

NATIONAL OCEANIC AND AMOSPHERIC ADMINISTRATION

Final

Massachusetts Coastal Zone Management Program, several counties in Massachusetts, March 3: Proposed is the approval of the coastal management program of the State of Massachusetts. Approval would permit implementation grants to be awarded to the State, and require that Federal actions be consistent with the program. The program will allow the State to better coordinate and more effectively implement existing State authorities for management of its coastal zone. Each coastal municipality will retain primary responsibility for managing land use along its coast. The program will entail irreversible commitment of some coastal resources. Comments made by: DOI, FERC, EPA, USDA, DOD, DOT, DOE, DOC, HUD, State and local agencies, groups and individuals. (ELR Order No. 80211.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Joseph McCabe, Director, Office of Federal Activities, Room WSMW 537, 401 M Street SW., Washington, D.C. 20460, 202-755-0780.

Final

Coleto Creek Power Station, cooling reservoir, permit. Goliad County, Tex., March 2: Proposed is the issuance of a new source NPDES permit for the discharge of sanitary and cooling water effluents from Central Power and Light Co.'s proposed Coleto Creek power station. Central Power and Light Co. proposes to build a two-unit, coal-fired powerplant (ultimate load capactiy, 1100 MW) in eastern Goliad County, which would be designed to help meet load projections and diversify the fuel base of Central Power and Light Co. Unit 1 is scheduled for completion in 1979, and unit 2 between 1986 and 1988. (Region VI.) Comments made by: COE, HEW, DOI, DOT, DOC, State and local agencies. (ELR Order No. 80202.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, 202-755-6308.

Draft

Blair Village Apartment Complex, proposed sale, Fulton County, Ga., February

27: The proposed action is the sale of the Blair Village Apartment Complex which was acquired by the Department of Housing and Urban Development on December 2, 1975, through foreclosure on a FHA insured mortgage. Blair Village is a 1,062 unit apartment development located in southeastern Atlanta, Fulton County, Ga. HUD-R04-EIS-78-02-D. (ELR Order No. 80191.)

College Park Estates Subdivision, Berkeley County, S.C., February 28: Proposed is the development of College Park Estates located in southwestern Berkeley County, S.C., approximately 16 miles northwest of Charleston, 5 miles southeast of Summerville and 3 miles west of the city of Goose Creek. College Park is a planned community development that will consist of approximately 1,600 single family residences on approximately 650 acres, when the final project phases are completed. Other land uses in this area include school and recreational sites within the project area. College Park is proposed to be totally developed over a period of approximately 15 years. HUD-R04-EIS-77-14D. (ELR Order No. 80198.)

Colony Creek Village, Subdivision, Harris County Tex., February 27: The proposed action is for the Department of Housing and Urban Development to accept for HUD-FHA mortgage insurance purposes, the proposed Colony Creek Village Subdivision which is located in northwestern Harris County, Tex., about twenty miles northwest of downtown Houston. The 181.73 acre site is north of and adjacent to Lovetta Road. When completed in five years, the subdivision will contain approximately 818 single family homes plus recreational facilities to serve the subdivision. HUD-R06-EIS-78-14-D. (ELR Order No. 80189.)

Westcreek Subdivision, Austin, Travis County, Tex., March 2: The purpose of the proposed action is to have the Department of Housing and Urban Development accept for home mortgage insurance purposes, the 306 acre Westcreek subdivision located partially inside the city limits of Austin, Tex. near U.S. Highway 290 west and U.S. loop 360. The primary beneficial impact of the proposed action will be to provide approximately 800 single family residential homes and 300 multi-family units for middle income families in the rapidly growing metropolitan area of Austin, Tex. HUD-R06-77-59D. (ELR Order No. 80205.)

Final

Autumn Run and Bear Creek Subdivisions, Harris County, Tex., February 28: The proposed action is the acceptance for HUD/FHA home mortgage insurance purposes of Autumn Run and Bear Creek Subdivisions in Harris County, Tex. The 910-acre development will consist of two planned communities, 278-acre Autumn Run and 632-acre Bear Creek, composed of single family housing with recreational facilities. The project will result in an increase of some 10,400 residents in the project area, loss of agricultural lands, and an increased demand for fossil fuels through heavy dependence on the automobile for transportation. HUD-R06-EIS-78-4F. Comments made by: EPA, USDA, DOD, DOI, State and local agencies. (ELR Order No. 80196.)

Section 104(H)

The following are community development block grant statements prepared and circulated directly by applicants pursuant to section 104(H) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local executive. Copies are not available from HUD.

Draft

Beadle Greenway Area Redevelopment Plan, South Dakota, March 3: Proposed is the redevelopment of Beadle Greenway area, an older deteriorating section of the city, Sioux Falls, South Dakota, consisting of approximately 85,000 residents. It is located on the left bank of the Big Sioux River upstream from the central business district. The project area is bounded on the north by the Big Sioux River and 12th Street; on the east by Cliff Avenue; on the south by 15th Street extended to and along the Chicago and Northwestern Railroad; and on the west by 2nd Avenue. It is also located adjacent to the central business district and Fenwick Park. Approximately 500 people reside in the Beadle Greenway area. (ELR Order No. 80209.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Bldg., Department of the Interior, Washington, D.C. 20240, 202-343-3891.

BUREAU OF LAND MANAGEMENT

Draft

Josephine Sustained Yield Unit, Timber Management Plan, Oregon, March 3: The proposed action is a ten-year timber management plan for public lands administered by the Bureau of Land Management (BLM) in the Josephine Sustained Yield Unit (SYU). The proposed annual harvest is 20.67 million cubic feet, approximately 106 million board feet. This amount is 40 million board feet less than the present annual harvest level. The Josephine SYU constitutes the western half of the Medford District, Bureau of Land Management. The SYU encompasses an aggregate area of over 850,000 acres of which approximately 425,700 acres are public lands administered by BLM. This unit is bounded on the west by the Siskiyou National Forest. DES-78-4. (ELR Order No. 80207.)

Draft

Offshore Western and Central Gulf OCS Sale No. 51, Texas, Louisiana, and Mississippi, March 1: The proposed lease sale comprises 157 tracts comprising 665,905 acres located in the Gulf of Mexico offshore of Texas, Louisiana, Mississippi and Alabama in water depths ranging from 5m to 160m and a distance from shore of 6.5km to 185km. If implemented, this sale is tentatively scheduled to be held in December 1978. Seventy-six percent of the tracts are gas prone and 24 percent are oil and gas prone. (ELR Order No. 80201.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590, 202-426-4357.

FEDERAL HIGHWAY ADMINISTRATION

Draft

Relocation of U.S. 278, Gadsden to Piedmont, Etowah and Calhoun Counties, Ala., February 28: The proposed is the improvement of U.S. 278 from the eastern Gadsden city limits to the western Piedmont city limits located in Etowah and Calhoun Counties. This new four-lane facility will replace the old two-lane road from the end of the present four-lane in Gadsden and link it to the beginning of the four-lane in Piedmont. The total length of the project is 18.7 miles of non-controlled access. FHWA-AL-EIS-78-02D. (ELR Order No. 80197.)

Route 91 Freeway and Harbor Freeway Interchange, Los Angeles County, Calif., February 27: The proposed project covers 5.3 miles of the Route 91 Freeway designated as the "Redondo Beach Freeway" between the Long Beach Freeway, CA-7 and the Harbor Freeway in the Southern portion of Los Angeles County. The project also includes ramp removal and construction work along the Harbor Freeway. The project is divided into two segments: west and east. The uncompleted west segment is 0.5 miles long and extends from the Harbor Freeway to east of Main Street and is proposed to become an eight-lane freeway. The completed east segment is 4.8 miles long and extends from Main Street to Long Beach Freeway. FHWA-CA-EIS-77-05. (ELR Order No. 80188.)

U.S. 51, 5th Avenue to Lakeview Drive, Rochelle, Ogle County, Ill., Feb. 27: The proposed FHWA action is the financing with Federal-Aid matching funds of all or part of the costs of constructing a Railroad-highway separation and necessary approaches of U.S. 51 in the city of Rochelle. The project begins near the intersection of Fifth Avenue and Seventh Street, proceeds in a southerly direction terminating near Lakeview Drive. This project is about 0.5 mile in length and is located in Ogle County. The new facility is planned as a two-lane bridge structure, and includes the construction or reconstruction of several intersections and adjacent side streets FA Route 412, a supplemental freeway, currently under construction, is also briefly mentioned in this statement. (ELR Order No. 80194.)

U.S. 50 Study Improvements, Vienna, Dorchester County, Md., Feb. 27: The proposed project involves a study of the location and type of highway improvements required to provided improved traffic service to local communities by reducing accident rates, relieving local congestion, and correcting the impeded traffic flow resulting from seasonal traffic in the Cambridge, Vienna, and Salisbury areas of Maryland's Eastern Shore. Traffic impediments are caused by restricted road and bridge widths, merging lanes, signal operations, frequent curb cuts and local traffic. The Vienna study limits will be from the dual section of U.S. 50 northwest of Vienna to the dual section southeast of Vienna, a distance of about 4.5 miles of two-land roadway. FHWA-MD-EIS-78—01—D. (ELR Order No. 80190.)

Basin Ave. and Going Str. Interchange, Greely Ave., Multnomah County, Oreg., Feb. 27: The purpose of the proposed action is to improve access to the Swan Island industrial area and relieve future traffic related problems on north Going Street located in Portland, Multnomah County, Oreg. The alternatives consist of road-way improvements, and construction of ingress and egress ramps to connect Greeley Avenue with I-5 in the vicinity of the Freemont Bridge interchange. This action would provide for the diversion of traffic, to and from I-5 south, from north Going Street to Greeley Avenue. (FHWA-OR-EIS-78—1—D. (ELR Order No. 80187.)

Final

Canton Road relocation, I-75 to Marietta, Cobb County, Ga., March 3: Proposed is the construction of a four-lane facility to connect S.R. 5, I-75, and U.S. 41 with north Marietta at Church and Cherokee Streets, Cobb County, Ga. The project commences on Church and Cherokee Streets and traverses northeasterly 1.5 miles, terminating at the I-75 interchange. Construction of the facility will result in the generation of higher levels of noise and air pollution. (Region 4.) FHWA-GA-EIS-78-05-F. Comments made by: DOI, EPA, COE, USDA, State and local agencies. (ELR Order No. 80210.)

I-640, TN-33 to I-40, Knoxville, Knox County, Tenn., March 3: Proposed is construction of a segment of I-640 in Knox County, Tenn. This segment completes the circumferential route between I-40 on the west side of Knoxville and I-40 on Knoxville's eastern side. The facility is a divided highway having three 12-foot traffic lanes in each direction, 12 feet of stabilized shoulders, and a varying median width. Adverse impacts are displacement of 87 families and 6 businesses, and introduction of a localized source of air and noise pollution. (Region 4.) FHWA-TN-EIS-78-05-F. Comments made by: FEA, DOT, DOI, USDA, TVA, EPA, State and local agencies, groups and individuals. (ELR Order No. 80213.)

Final supplement

K-7 at Bonner Springs (S-3), Wyandotte County, Kans., February 27, 1978: This supplement has been prepared to assess the environmental effects of an alternative location that was previously dropped from consideration. Proposed is the improvement of approximately 2 miles of KS-7 highway in Bonner Springs, Kans., from Nettleton Avenue north to the existing improved portion of KS-7 north of the Kansas Turnpike entrance. The proposed project includes grading, surfacing, bridge construction, and right-of-way acquisition. FHWA-KANS-EIS-72-07-FS(3RD). Comments made by: USDA, DOC, HEW, DOD, EPA, state and local agencies, groups and individuals. (ELR Order No. 80193.)

The EPA has received the following reports which provide supplemental information on proposals which have fulfilled the NEPA process. Copies of the reports are available from the originating agency upon request.

Department of Defense, Army Corps, Dr. C. Grant Ash, Office of Environmental Policy Department, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-6795.

ELR No., DATE RECEIVED, AND TITLE

80199, Feb. 28, 1978, Amplification to the Final Environmental Statement, New River and Phoenix City Streams, Flood Control Projects, Maricopa County, Ariz.

80212, Mar. 3, 1978, Second Supplemental Environmental Report, Continuing Environmental Studies, Tennessee-Tombigbee Waterway (Ala. and Miss.) (9 Volumes).

[FR Doc. 78-6493 Filed 3-9-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 1280]

"K" EXPRESS CO., LTD.

Order of Revocation

On February 22, 1978, "K" Express Co., Ltd., 1 World Trade Center, Room 1019, New York, N.Y. 10048, advised the Federal Maritime Commission that "K" Express Co., Ltd. has been dissolved and wished to voluntarily surrender its Independent Ocean Freight Forwarder License No. 1280 for revocation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), Section 5.01(c), dated August 8, 1977;

It is ordered, That Independent Ocean Freight Forwarder License No. 1280 issued to "K" Express Co., Ltd., be and is hereby revoked effective February 22, 1978 without prejudice to reapply for a license in the future.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon "K" Express Co., Ltd.

ROBERT M. SKALL,
Deputy Director, Bureau of Certification and Licensing.

[FR Doc. 78-6344 Filed 3-9-78; 8:45 am]

[6730-01]

[Docket No. 78-4]

KUEHNE & NAGEL, INC. v. VAASA LINE (HANSEATIC-VAASA LINE)

Filing of Complaint

Notice is hereby given that a complaint filed by Kuehne & Nagel, Inc. against Vaasa Line (Hanseatic-Vaasa Line) was served March 7, 1978. The complaint alleges that in violation of section 18(b) of the Shipping Act, 1916, respondent has refused to pay to complainant compensation for freight forwarder services performed.

Hearing in this matter, if any is held, shall commence on or before August 6, 1978. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statement, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-6345 Filed 3-9-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

COMMERCIAL NATIONAL CORP.

Acquisition of Bank

Commercial National Corp., Peoria, Ill., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to retain 5.9 percent or more of the voting shares of The National Bank of Canton, Ill., which applicant acquired in a fiduciary capacity. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than March 30, 1978.

Board of Governors of the Federal Reserve System, March 3, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-6373 Filed 3-9-78; 8:45 am]

[6210-01]

FEDERAL OPEN MARKET COMMITTEE

Authorization for Domestic Open Market Operations

In accordance with the Committee's rules regarding availability of information, notice is given that on February 15, 1978, paragraph 1(a) of the Committee's authorization for domestic open market operations was amended to raise from $3 billion to $4 billion the limit on changes between Committee meetings in system account holdings of U.S. Government and Federal Agency securities, effective immediately, for the period ending with the close of business February 28, 1978.

NOTE.—For paragraph 1(a) of the authorization see 36 FR 22697.

By order of the Federal Open Market committee, March 3, 1978.

ARTHUR L. BROIDA,
Secretary.

[FR Doc. 78-6374 Filed 3-9-78; 8:45 am]

[6210-01]

Domestic Policy Directive of January 17, 1978

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Domestic Policy Directive

issued at its meeting held on January 17, 1978.[1]

The information reviewed at this meeting suggests that growth in real output of goods

sistent with the longer-run ranges for monetary aggregates cited in the preceding paragraph. Specifically, the Committee seeks to maintain the weekly-average Federal funds

Health Administration, a presentation on the national plan to combat alcohol abuse and alcoholism, a report on interagency agreements, and reports on working group

entific and Public Information, NIMH, room 15C-17, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4573.

Dated: March 6, 1978.

person listed above. The NIAAA Information Officer who will furnish summaries of the meeting and a roster of Committee members is Mr. Harry Bell,

fective and otherwise in compliance with the act.

Under section 520(f)(3) of the act, the Commissioner of Food and Drugs

issued at its meeting held on January 17, 1978.[1]

The information reviewed at this meeting suggests that growth in real output of goods and services in the fourth quarter was close to the pace in the third quarter. The dollar value of total retail sales declined in December, but the gain from the third to the fourth quarter was substantial. Industrial production expanded somewhat further in December, although the rise was limited by a strike in coal mining. Employment increased appreciably, and the unemployment rate declined from 6.7 percent to 6.4 percent. The wholesale price index for all commodities rose considerably less in December than in the preceding 2 months, reflecting a much smaller increase in average prices of farm products and foods. Prices of industrial commodities advanced at about the average pace in the preceding 2 months. The index of average hourly earnings advanced slightly faster during 1977 than it had during 1976.

Exchange market pressure on the dollar has continued in recent weeks. On January 4 it was announced that the Exchange Stabilization Fund would be utilized actively together with the swap network operated by the Federal Reserve System to help reestablish order in the foreign exchange markets. On January 6 an increase in Federal Reserve discount rates from 6 to 6½ percent was announced. The trade-weighted value of the dollar against major foreign currencies declined about 2½ percent further from mid-December to the early days of January but subsequently recovered about 1¾ percent.

M-1—which had declined slightly in November—rose in December. Growth in M-2 remained relatively slow, as inflows to banks of time and savings deposits other than negotiable CD's were sharply curtailed. Inflows to nonbank thrift institutions slowed somewhat further. Market interest rates edged up in late December, and rates—particularly for short-term securities—rose substantially further in the early weeks of January.

In light of the foregoing developments, it is the policy of the Federal Open Market Committee to foster bank reserve and other financial conditions that will encourage continued economic expansion and help resist inflationary pressures, while contributing to a sustainable pattern of international transactions.

At its meeting on October 18, 1977, the Committee agreed that growth of M-1, M-2, and M-3 within ranges of 4 to 6½ percent, 6½ to 9 percent, and 8 to 10½ percent, respectively, from the third quarter of 1977 to the third quarter of 1978 appears to be consistent with these objectives. These ranges are subject to reconsideration at any time as conditions warrant.

At this time, the Committee seeks to maintain about the prevailing money market conditions during the period immediately ahead, provided that monetary aggregates appear to be growing at approximately the rates currently expected, which are believed to be on a path reasonably consistent with the longer-run ranges for monetary aggregates cited in the preceding paragraph. Specifically, the Committee seeks to maintain the weekly-average Federal funds rate at about the current level, so long as M-1 and M-2 appear to be growing over the January-February period at annual rates within ranges of 2½ to 7½ percent and 5 to 9 percent, respectively. If, giving approximately equal weight to M-1 and M-2, it appears that growth rates over the 2-month period are approaching or moving beyond the limits of the indicated ranges, the operational objective for the weekly-average Federal funds rate shall be modified in an orderly fashion within a range of 6½ to 7 percent. In the conduct of day-to-day operations, account shall be taken of emerging financial market conditions, including the unsettled conditions in foreign exchange markets.

If it appears during the period before the next meeting that the operating constraints specified above are proving to be significantly inconsistent, the Manager is promptly to notify the Chairman who will then decide whether the situation calls for supplementary instructions from the Committee.

By order of the Federal Open Market Committee, March 3, 1978.

ARTHUR L. BROIDA,
Secretary.

[FR Doc. 78-6375 Filed 3-9-78; 8:45 am]

[1] The Record of Policy Actions of the Committee for the meeting of January 17, 1978, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

[4110-88]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

ADVISORY COMMITTEES

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement of made of the following National Advisory body schedule to assemble during the month of April 1978:

INTERAGENCY COMMITTEE ON FEDERAL ACTIVITIES FOR ALCOHOL ABUSE AND ALCOHOLISM

April 18; 9:30 a.m., Conference Rooms "G" and "H", Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857; open meeting.

Contact: James Vaughan, Room 16C-10, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3888.

Purpose: The Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism: (1) Evaluates the adequacy and technical soundness of all Federal programs and activities which relate to alcohol abuse and alcoholism and provides for the communication and exchange of information necessary to maintain the coordination and effectiveness of such programs and activities, and (2) seeks to coordinate efforts undertaken to deal with alcohol abuse and alcoholism in carrying out Federal health, welfare, rehabilitation, highway safety, law enforcement, and economic opportunity laws.

Agenda: This meeting will consist of remarks by Dr. Gerald Klerman, Administrator, Alcohol, Drug Abuse, and Mental Health Administration, a presentation on the national plan to combat alcohol abuse and alcoholism, a report on interagency agreements, and reports on working group activities.

Substantive program information may be obtained from the contact person listed above. The NIAAA Information Officer who will furnish summaries of the meeting and a roster of Committee members is Mr. Harry Bell, Associate Director for Public Affairs, National Institute on Alcohol Abuse and Alcoholism, Room 11A-17, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3306.

Dated: March 6, 1978.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 78-6280 Filed 3-9-78; 8:45 am]

[4110-88]

ADVISORY COMMITTEES

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of April 1978:

PSYCHOLOGICAL SCIENCES FELLOWSHIP REVIEW COMMITTEE

April 13-15; 9 a.m., Ramada Inn-Rosslyn, 1900 North Fort Myer Drive, Arlington, Va.; open—April 13, 9-11 a.m.; closed—Otherwise.

Contact: Mary Cope, room 9C-15, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3856.

Purpose: The Committee is charged with the initial review of fellowship applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to psychological sciences fellowships and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9 a.m.-11 a.m., April 13, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of fellowship applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), title 5, United States Code, and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Substantive program information may be obtained from the contact person listed above. The NIMH Information Officer who will furnish upon request summaries of the meeting and rosters of the committee members is Dr. Jacquelyn Hall, Acting Chief, Public Information Branch, Division of Scientific and Public Information, NIMH, room 15C-17, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4573.

Dated: March 6, 1978.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 78-6281 Filed 3-9-78; 8:45 am]

[4110-88]

Alcohol, Drug Abuse, and Mental Health Administration

ADVISORY COMMITTEES

Meeting

NOTE.—This document originally appeared in the FEDERAL REGISTER for March 9, 1978. It is reprinted in this issue to meet requirements for publication on an assigned day of the week. (See the inside cover of this issue for information about agencies publishing on assigned days of the week.)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of March 1978:

NATIONAL ADVISORY COUNCIL ON ALCOHOL ABUSE AND ALCOHOLISM

March 20-21; 9 a.m. Conference Rooms "G" and "H", Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857. Open—March 20-21, 1978. Contact: Rhoda L. Christensen, Parklawn Building, Room 16-93, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4703.

Purpose. Advises the Secretary, Department of Health, Education, and Welfare regarding policy direction and program issues of national significance in the area of alcohol abuse and alcoholism. Reviews all grant applications submitted, evaluates these applications in terms of scientific merit and coherence with Department policies, and makes recommendations to the Secretary with respect to approval and amount of award.

Agenda. March 20 will be devoted to a presentation by Dr. Gerald L. Klerman, Administrator, Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA) concerning the Secretary's request to conduct a Department-wide review of alcohol programs and to develop alcohol program initiatives. Pressing deadlines require this special meeting. On March 21, the National Advisory Council will discuss a variety of policy issues identified by the Institute Director and members of the Council.

Less than 15 days notice is provided due to a recent decision by the Secretary, Department of Health, Education, and Welfare to conduct a Department-wide review of alcohol programs.

Substantive program information may be obtained from the contact person listed above. The NIAAA Information Officer who will furnish summaries of the meeting and a roster of Committee members is Mr. Harry Bell, Associate Director for Public Affairs, National Institute on Alcohol Abuse and Alcoholism, Room 11A-17, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3306.

Dated: March 8, 1978.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 78-6417 Filed 3-8-78; 10:23 am]

[4110-03]

Food and Drug Administration

DEVICE GOOD MANUFACTURING PRACTICE ADVISORY COMMITTEE

Request for Nominations for Members

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document requests nominations for membership on the Device Good Manufacturing Practice Advisory Committee.

DATE: Nominations must be received by April 10, 1978, at the address shown below.

FOR FURTHER INFORMATION CONTACT:

Richard R. Anderson, Bureau of Medical Devices (HFK-134), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, Md. 20910, 301-427-8120.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration requests nominations for membership on the Device Good Manufacturing Practice Advisory Committee. A vacancy will occur on May 31, 1978, in each of the following interest groups: (1) Health professional; (2) Device manufacturing industry; and (3) Local, State or Federal Government.

The Commissioner of Food and Drugs will appoint as members those nominees who are most representative of an interest group to serve on the advisory committee.

On May 28, 1976, the Medical Device Amendments of 1976 (Pub. L. 94-295) were enacted into law, amending the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 201 et seq.). Section 520(f) of the act (21 U.S.C. 360j(f)) provides the agency with authority to develop and promulgate regulations requiring that methods used in, and the facilities and controls used for, the manufacture, packing, storage, and installation of a medical device conform to current good manufacturing practice. These regulations are designed to assure that devices will be safe and effective and otherwise in compliance with the act.

Under section 520(f)(3) of the act, the Commissioner of Food and Drugs has established an advisory committee for the purpose of advising and making recommendations on these regulations. Additionally, under this provision, the Commissioner is authorized to request recommendations from the advisory committee on any petitions submitted requesting exemptions or variance from good manufacturing practice requirements.

As required by section 520(f) of the act, the advisory committee is composed of nine members selected from different interest groups as follows:

1. Three members who are officers or employees of any State or local government or of the Federal Government;

2. Two members who are representative of interests of the device manufacturing industry;

3. Two members who are representative of the interests of physicians and other health professionals; and

4. Two members who are representative of the interests of the general public.

The term of office is 3 years.

The Food and Drug Administration has a special interest in assuring that women and minority groups are adequately represented on advisory committees and therefore extends particular encouragement to nominations for appropriately qualified female and minority candidates.

Any interested person may nominate one or more qualified persons for membership. A complete curriculum vitae of the nominee shall be included, along with a description of the nominee's current employment and background, if any, with respect to medical devices. Nominations shall state that the nominee is aware of the nomination, is willing to serve as a member of the committee, and appears to have no conflict of interest. Potential candidates will be asked by the Food and Drug Administration to provide detailed information concerning financial holdings, consultancies, and research grants or contracts, to permit evaluation of possible sources of conflict of interest.

Dated: March 3, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-6276 Filed 3-9-78; 8:45 am]

[1505-01]

[Docket No. 75N-0373]

20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

The Director of the Bureau of Radiological Health agrees that the dose delivered to the tumor volume must be accurately planned. The purpose of

the effective date of the variance will be stayed until the Director of the Bureau of Radiological Health rules on them. Pursuant to § 1010.4(c)(3),

cation, and Welfare, 8800 Rockville Pike, Bethesda, Md. 20014, 301-443-1920.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to exchange information, among health professionals and the regional and dis-

[1905-01]

[Docket No. 75N-0373]

DIAMOND SHAMROCK CHEMICAL CO., ET AL.

Penicillin-Streptomycin-Vitamin Soluble Powder; Denial of Requests for a Hearing and Withdrawal of New Animal Drug Applications

Correction

In FR Doc. 78-4204 appearing at page 7040 in the issue for Friday, February 17, 1978, the following corrections should be made:

1. On page 7041 in the twentieth line of the third complete paragraph in column two now reading, "514.(b)(8)," should read, "514.1(b)(8)."

2. The seventh entry under number 3. NADA 65-296 in the first column on page 7042 should read, "(Vitamin B_{12})."

3. The first line in the third column on page 7042 now reading "15 million units," should read, "15.5 million units."

4. In the last line of the first paragraph in column two on page 7044, "Ohio 4414," should read, "Ohio 44114."

[4110-03]

[Docket No. 77P-0332]

EMI THERAPY SYSTEMS, INC.

Approval of Variance for Diagnostic X-Ray Systems

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document approves a variance from the performance standard for diagnostic X-ray systems for the Model 1000-1,2 Radiation Therapy Simulator manufactured by EMI Therapy Systems, Inc., 570 Del Rey, Sunnyvale, Calif. 94086. The variance will apply to the patient support table used for X-ray therapy simulation. The Director of the Bureau of Radiological Health has determined that the tabletop designed with a maximum aluminum equivalent thickness of 4.8 millimeters (mm) rather than the 1.5 mm limit required by the standard is necessary to provide appropriate mechanical rigidity for the simulation and to assure that suitable radiation protection will be provided.

DATES: The variance becomes effective April 10, 1978, and shall end April 10, 1983. Written objections and supporting information by April 10, 1978.

ADDRESS: Written objections may be submitted to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Joseph Wang, Bureau of Radiological Health (HFX-460), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3426.

SUPPLEMENTARY INFORMATION: Paragraph (n) of § 1020.30 Diagnostic X-ray systems and their major components (21 CFR 1020.30(n)) sets limits on the amount of material allowable between the patient and the image receptor. For movable tabletops this limit is expressed as an aluminum equivalent thickness of 1.5 mm. This provision assures that the maximum number of X-ray photons that have passed through the patient will be available for production of the diagnostic image.

The Model 1000-1,2 is a medium-duty (30 kilowatts) X-ray system with a movable cantilevered patient support table. This "special purpose" equipment is designed to duplicate (simulate) radiation therapy machine movements and procedures. The simulator is therefore an intermediate step to obtain information useful in programming radiation treatment of a patient. A simulator is not used for diagnostic purposes, nor is it used on patient until it has been determined that the patient will receive radiation therapy treatment.

The petitioner notes that for the simulator to perform its function properly, position stability (hence greater treatment set-up accuracy) is of paramount importance in achieving the desired thereapy. A movable patient support table of 1.5 mm aluminum equivalency does not have the structural stability for accurate simulation of the radiation therapy protocol. The petitioner has considered a variety of alternate patient support systems that meet the requirement of § 1020.30(n). None of the systems considered were found to satisfy the operational requirements for simulation. The petitioner notes that a patient support table of 4.8 mm aluminum equivalent thickness will have sufficient rigidity to meet the criteria for position stability. In addition, a table modified in this manner would increase the overall dose to the patient by less than 1.0 percent. Thus, in accepting a small increase in the total dose delivered to the patient by using a thicker patient support table, a significant benefit will result from the greater treatment set-up accuracy. Therefore, EMI Therapy Systems, Inc., has requested the variance from the performance standard for diagnostic X-ray systems and their major components.

The Director of the Bureau of Radiological Health agrees that the dose delivered to the tumor volume must be accurately planned. The purpose of therapy simulators is to increase the accuracy of radiation treatment. It has been shown that most errors associated with radiation therapy treatment plans are "user-oriented" as opposed to equipment malfunction. If the user must correct for deflections in the patient support table, unnecessary sources of error in the treatment planning may be introduced. Such errors should be avoided whenever possible.

The Director has examined the problem of the deflection of the patient support table under load and agrees that a large improvement in structural stability can be obtained with the requested increase in table thickness. In addition, the Director has determined that the dose increase to the patient resulting from a 4.8 mm aluminum equivalent tabletop is not significant in light of the increased efficacy of the system. In accordance with § 1010.4 (21 CFR 1010.4), he has concluded that the radiation therapy simulator table to be marketed under the variance is intended for a special purpose that cannot be performed or accomplished by equipment meeting all the requirements of § 1020.30, but uses suitable means for radiation protection. Therefore, the Director has approved the requested variance from § 1020.30(n), provided radiation therapy simulator tables manufactured under this variance shall have moveable tops whose thickness shall not exceed 4.8 mm aluminum equivalent. The variance is granted for a period of 5 years, as requested by the petitioner.

The petitioner has been directed to modify, in accordance with § 1010.4(d), the tags, labels, or other certification required by § 1010.2 (21 CFR 1010.2) that are permanently affixed to or inscribed upon products marketed under this variance, to state the following: "This product complies with Variance No. 77005, effective on April 30, 1978."

The Commissioner of Food and Drugs has reviewed the potential environmental impact of this variance and has concluded that the action will not significantly affect the quality of the human environment and that an environmental impact statement is not required. A copy of the environmental impact analysis report is on file in the office of the Hearing Clerk, Food and Drug Administration (address noted above).

Variance No. 77005 shall become effective on April 10, 1978, unless written objections and supporting documentation are filed with the Hearing Clerk, Food and Drug Administration, on or before April 10, 1978, requesting that the variance be modified or not granted. Upon receipt of such objections and supporting documentation,

the effective date of the variance will be stayed until the Director of the Bureau of Radiological Health rules on them. Pursuant to § 1010.4(c)(3), the applicant shall be notified by certified mail, and a notice of the stay shall be published in the FEDERAL REGISTER. The ruling on the objections shall be made within 60 days, shall be published in the FEDERAL REGISTER, and shall constitute final agency action subject to judicial review under section 358(d) of the Public Health Service Act (42 U.S.C. 263f(d)), as amended by the Radiation Control for Health and Safety Act of 1968.

The application for this variance and all related correspondence, except information covered by the confidentiality provisions of section 360A(e) of the Act (42 U.S.C. 263i(e)), have been placed on public display in the office of the Hearing Clerk, Food and Drug Administration (HFC-20), Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, and may be seen Monday through Friday, from 9 a.m. to 4 p.m., except on Federal legal holidays.

Dated: March 1, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-6045 Filed 3-9-78; 8:45 am]

[4110-03]

[Docket No. 77D-0432]

FACTOR IX COMPLEX (HUMAN) POTENCY TEST

Availability of Test Method

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces the availability of a test method for measuring the potency of Factor IX Complex (Human). There are several test methods currently in use. However, to promote uniformity in testing potency, the Bureau of Biologics is making available the test method used in its laboratories to evaluate lots of Factor IX Complex (Human) submitted by manufacturers for release.

DATE: Written comments by April 10, 1978.

ADDRESS: Requests for a copy of the test method and submission of written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Al Rothschild, Bureau of Biologics (HFB-620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, Md. 20014, 301-443-1920.

SUPPLEMENTARY INFORMATION: There are several test methods currently employed to test the potency of Factor IX Complex (Human). These tests involve the same principle but vary widely in methodology. When correctly performed, these test methods are equally sensitive and accurate for measuring the potency of Factor IX Complex (Human). To promote uniformity in potency test procedures, the Bureau of Biologics is making available the test method used in its laboratories for comparative evaluation of potency of Factor IX Complex (Human) submitted by manufacturers. Copies of the test method are being sent to persons known to be interested in manufacturing Factor IX Complex (Human). Other interested persons may see the copy on display at the office of the Hearing Clerk, or may obtain copies by writing to that office and identifying the document with the Hearing Clerk docket number in brackets above.

Interested persons may, on or before April 10, 1978, submit written comments (preferably four copies and identified with the Hearing Clerk docket number found in the brackets in the heading of this document) regarding this test method to the Hearing Clerk, FDA.

Dated: March 6, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-6278 Filed 3-9-78; 8:45 am]

[4110-03]

HEALTH CARE SERVICES

Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces a forth coming regional ad hoc professional meeting to be chaired by the Commissioner of Food and Drugs.

DATE: The meeting will be held on Friday, April 21, 1978, at 1 p.m.

ADDRESS: The meeting will be held at the Sheraton Biltmore Hotel, 817 West Peachtree Street NE., Atlanta, Ga. 30383.

FOR FURTHER INFORMATION CONTACT:

Alan S. Kaplan, Office of Professional Programs (HFG-15), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-5470.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to exchange information, among health professionals and the regional and district staff offices, relative to established procedures of the Food and Drug Administration (FDA) for eliciting health professional input into the agency's decisionmaking process; to identify common problems within the sphere of FDA responsibility that have an effect on the practitioner and/or the delivery of health services; to seek solutions to those problems; and to conduct other activities of mutual interest and benefit.

Dated: March 1, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-6040 Filed 3-9-78; 8:45 am]

[4110-03]

[Docket No. 75N-0304]

ORAL CONTRACEPTIVE DRUG PRODUCTS

Physician and Patient Labeling; Extension of Effective Date for Physician Labeling

AGENCY: Food and Drug Administration, HEW.

ACTION: Extension of effective date.

SUMMARY: The Commissioner of Food and Drugs extends to May 31, 1978, the date by which certain manufacturers and suppliers of oral contraceptives must supply physician labeling substantially the same in content as the labeling set forth in a FEDERAL REGISTER notice of January 31, 1978. This extension is granted in response to requests from the pharmaceutical industry.

EFFECTIVE DATE: May 31, 1978.

ADDRESS: A copy of the requests for extension is on file with the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Philip L. Paquin, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-5220.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of January 31, 1978, the Food and Drug Administration (FDA) issued (1) a final rule revising the requirements for patient labeling for oral contraceptive drug products (43 FR 4214), and (2) a notice containing updated texts of physician and patient labeling (43 FR 4223).

These texts of physician and patient labeling revised earlier texts published in the FEDERAL REGISTER of December 7, 1976 (41 FR 53633) and later amended in the FEDERAL REGISTER of May 27, 1977 (42 FR 27303).

The effective date for the final rule revising the requirements for patient labeling was set at April 3, 1978. Consistent with the provisions of the December 7, 1976 notice, FDA advised manufacturers and suppliers who had voluntarily put into use the December 7, 1976 patient labeling (as modified on May 27, 1977) that they would have an additional 60 days beyond April 3, 1978 to comply with the requirements of the final rule. However, the January 31 notice required all physician labeling to be updated within 60 days, and no additional time was provided for those manufacturers and suppliers who had voluntarily elected to adopt the earlier patient labeling text.

The agency has received two requests from representatives of the pharmaceutical industry to extend the April 3, 1978 effective date. The first request, submitted by the Pharmaceutical Manufacturers Association, notes the difficulties in implementing the revised labeling in 60 days and asks that the implementation date be extended by another 60 days. The second request, submitted on behalf of an individual manufacturer, points out that the practical effect of imposing upon all manufacturers and suppliers a 60-day effective date for use of the new physician labeling is to "negate and render illusory" the apparent benefit conferred on those manufacturers who have previously voluntarily adoped the December 7, 1976 patient labeling. This is because the patient labeling must be included in the physician labeling. A copy of the requests for extension is on file with the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, and may be seen from 9 a.m. to 4 p.m., Monday through Friday.

The Commissioner has carefully considered these requests. He has decided to grant the additional 60-day period for those products whose manufacturers voluntarily provided patient labeling because he believes that patient and physician labeling should be consistent for individual drug products, and because he agrees that not to provide the additional time would effectively negate the lead time considerations to which these manufacturers are entitled. He denies the request for a 60-day extension for those products whose manufacturers did not voluntarily provide patient labeling because he believes, on the basis of the agency's experience with prior labeling requirements, that a 60-day period is adequate for manufacturers to implement labeling changes.

Accordingly the implementation schedule for physician labeling is revised as follows: For those manufacturers and suppliers who voluntarily put into use the December 7, 1976 patient labeling (as modified on May 27, 1977) before January 31, 1978, the effective date for revised physician labeling is extended to May 31, 1978. The effective date for those manufacturers and suppliers who did not put the new patient labeling into use before January 31, 1978 shall remain April 3, 1978 for both the physician and patient labeling.

(Secs. 502, 505, 52 Stat. 1050-1053 as amended (21 U.S.C. 352, 355) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1).)

Dated: March 3, 1978.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc. 78-6320 Filed 3-7-78; 1:58 pm]

[1505-01]

[Docket No. 77N-0345]

SAFETY OF CERTAIN FOOD INGREDIENTS

Opportunity for Public Hearing

Correction

In FR Doc. 78-4804 appearing at page 7036 in the issue for Friday, February 17, 1978, the entries under the heading "Select Committee tentative conclusion" in the tables shown on pages 7037 and 7038 were published incorrectly, therefore, the tables are being republished for the convenience of the reader.

Substances	Select Committee tentative conclusion	Scientific literature review Order No.	Price code	Price	Animal study report Order No.	Cost	Other information
Biotin	1	PB-234-890/AS	A107	$7.25	--	--	a. Human intake data from "A comprehensive survey of industry on the use of food chemicals generally recognized as safe (GRAS)" available from the National Technical Information Service, PB-221-920 through 221-949 (set); price code, E99; price, $173.00.
							b. Biotin III. Animal safety data. Unpublished report to FDA by Hoffmann-LaRoche, Inc.
							c. Survey of substances generally recognized as safe. Biotin. 1972. Unpublished report to FDA by NAS/NRC.

Substances	Select Committee tentative conclusion	Scientific literature review Order No.	Price code	Price	Animal study report Order No.	Cost	Other information
Lactic acid and calcium lactate		PB-241-958/AS	A09	$9.00	Mutagenic evaluation (Tier 1) of lactic acid (75-19), USP, by Litton Bionetics, Inc., under FDA contract (PB-257-867/AS); price code, A03; price, $4.50.	a.	Human intake data from "A comprehensive survey of industry on the use of food chemicals generally recognized as safe (GRAS)" available from the National Technical Information Service, PB Nos. 221-921 through 221-949.
D-lactic acid (beyond infancy)	1						
L-lactic acid (beyond infancy)	1						
DL-lactic acid (beyond infancy)	1						
D-calcium lactate (beyond infancy)	1						
L-calcium lactate (beyond infancy)	1						
DL-calcium lactate (beyond infancy)	1						
D-lactic acid (infant formulas)	4				Mutagenic evaluation (Tier 1) of calcium lactate (75-20), USP, by Litton Bionetics, Inc., under FDA contract (PB-257-877/AS); price code, A03; price, $4.50.	b.	Evaluation of the health aspects of malic acid as a food ingredient (SCOGS-56), submitted by FASEB (PB-262-662/AS); price code, A02; price, $4.00.
DL-lactic acid (infant formulas)	4						
D-calcium lactate (infant formulas)	4						
DL-calcium lactate (infant formulas)	4						

Note: The above-stated prices are subject to change.

[4110-03]

[NADA 14-659V]

WINTHROP LABORATORIES, INC.

Carbocaine-V HCl With Suprarenin; Withdrawal of Approval of New Animal Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The agency withdraws approval of a new animal drug application (NADA) held by Winthrop Laboratories which provides for the use of a local anesthetic in dogs, cats, horses, and cattle. This action is taken at the request of the applicant.

EFFECTIVE DATE: March 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Louis L. Nangeroni, Bureau of Veterinary Medicine (HFV-216), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4093.

SUPPLEMENTARY INFORMATION: Winthrop Laboratories, Inc., Division of Sterling Drug, Inc., 90 Park Avenue, New York, N.Y. 10016, is sponsor of NADA 14-659V which provides for use of carbocaine-V HCl (mepivacaine hydrochloride) 2 percent with suprarenin (epinephrine) 0.001 percent used as a local anesthetic in dogs, cats, horses, and cattle. The application was originally approved November 25, 1963. In a letter dated September 8, 1977, FDA requested the firm to submit a freedom of information summary to comply with the public information regulations set forth in § 514.11 (21 CFR 514.11). In their letter of September 23, 1977, Sterling Drug, Inc., responded requesting that approval of the NADA be withdrawn. The firm stated that the drug has not been marketed since 1969, and that at present they have no commercial interest in the product.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), the following notice is issued:

In accordance with § 514.115(d) (21 CFR 514.115(d)), notice is given that approval of NADA 14-659V and all supplements thereto for mepivacaine hydrochloride with epinephrine is hereby withdrawn, effective March 10, 1978.

Dated: March 6, 1978.

FRED J. KINGMA,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 78-6279 Filed 3-9-78; 8:45 am]

[4110-83]

Health Resources Administration

HEALTH PLANNING AND DEVELOPMENT NATIONAL COUNCIL

Change of Meeting Date

NOTE.—This document originally appeared in the FEDERAL REGISTER for Wednesday, March 8, 1978. It is reprinted in this issue to meet requirements for publication on an assigned day of the week. (See the inside cover of this issue for information about agencies publishing on assigned days of the week.)

In FR Doc. 78-5135 appearing at page 7715 in the issue for Friday, February 24, 1978, the March 10, 1978 meeting of the "National Council on Health Planning and Development" has been changed to April 14, 1978. All other information is correct as appears.

Dated: March 6, 1978.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc. 78-6304 Filed 3-7-78; 11:36 am]

[4110-83]

SHARED SCHEDULE RESIDENCY TRAINING POSITION REQUIREMENTS

Criteria for Compliance

Section 709(b) of the Public Health Service Act (42 U.S.C. 292i(b)) requires the Secretary of Health, Education, and Welfare (the Secretary) to report to Congress by January 1, 1979, on the compliance with the requirements of section 709(a) of the Act (42 U.S.C. 292i(a)). The Secretary's report must include recommendations for insuring compliance with the following requirements: Any entity receiving Federal assistance which maintains certain medical residency training programs must establish or restructure and maintain, to the maximum extent feasible, a reasonable number of physician training positions in such programs as shared schedule residency positions. A "shared schedule position" is defined in section 709(c) (42 U.S.C. 292i(c)) as:

A physician training position in a medical residency training program which is shared by two individuals and in which each individual—

(1) Engages in at least two-thirds, but not more than three-fourths of the total training prescribed for such position;

(2) Receives for each year in such position an amount of credit for certification in the medical specialty for which the position provides training which is equal to the amount of training engaged in such year;

(3) Receives at least one-half of the salary for such position; and

(4) Receives all applicable employee benefits.

This notice sets forth the approach to be used by the Department in determining compliance for purposes of the statutorily required report.

DEFINITIONS

For purposes of the Secretary's report:

(a) "Federal assistance" means any grant, loan, contract (other than a procurement contract or a contract of insurance or guaranty) or any other arrangement by which the Department provides or otherwise makes available assistance in the form of: (1) Funds; (2) services of Federal personnel; (3) real or personal property, or any interest in or use of such property, including transfers or leases of such property for less than fair market value or for reduced consideration and proceeds from the subsequent transfer or lease of such property if the Federal share of its market value is not returned to the Federal Government.

(b) "Physician" means a doctor of medicine or a doctor of osteopathy.

(c) "Medical residency training program" means a program which trains graduates of schools of medicine and of schools of osteopathy in family practice, internal medicine, pediatrics, or obstetrics and gynecology, and provides the graduate education required by the appropriate specialty board for certification in such specialties and is accredited or provisionally accredited by the Liaison Committee on Graduate Medical Education or approved by the American Osteopathic Association.

ELEMENTS OF COMPLIANCE

An entity will be considered to be in compliance if, for any year in which Federal assistance was received:

(1) The entity has offered one entry level shared schedule residency position for every 12 entry level residency positions available in each of the medical residency training programs it maintains;

(2) The entity has announced the availability of the shared scheduled residency position(s) in the same publications used to announce the availability of other medical residency training positions and utilizes the same procedures and criteria for filling these positions; and

(3) The entity has not rejected any individual solely because of his/her request for a shared scheduled residency position, unless the number of positions offered in accordance with paragraph 1 have been filled or only one individual has requested a shared scheduled residency position.

The Secretary will request that entities report to him for each year in

which the entity is subject to section 709:

(1) The number of entry level residency positions in each of its medical

Under Section HA-00 Mission, add the following as the last sentence of the current statement: "Provides lead-

house for Smoking and Health (HCH2).

Dated: March 6, 1978.

Sec. 33, all.
Containing approximately 640 acres.

Section 11(a) of the Alaska Native

Sec. 10, excluding Native allotment AA-7940;
Sec. 14, all;
Sec. 15, excluding Native allotment AA-

section 14(a) of the Alaska Native Claims Settlement Act:

which the entity is subject to section 709:

(1) The number of entry level residency positions in each of its medical residency training programs;

(2) The number of shared schedule residency positions offered;

(3) The number of requests for shared schedule residency positions in each of its medical residency training programs; and

(4) The number of shared scheduled residency positions filled.

Dated: February 27, 1978.

HENRY A. FOLEY,
Administrator.

[FR Doc. 78-6166 Filed 3-9-78; 8:45 am]

[1505-01]

Public Health Service

OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH, PUBLIC HEALTH SERVICE (PHS) REGIONAL OFFICES, HEALTH RESOURCES ADMINISTRATION, AND HEALTH SERVICES ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Correction

In FR Doc. 77-34612, appearing at page 61317 in the issue for Friday, December 2, 1977, on page 61335, in the middle column, in the fifth paragraph, immediately before "NCHSR" insert "NCHS and".

[4110-85]

STATEMENT OF ORGANIZATION, FUNCTIONS, AND DELEGATIONS OF AUTHORITY

Part H, Chapter HA (Office of the Assistant Secretary for Health) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare, Public Health Service (38 FR 18571, July 12, 1973, as amended most recently at 42 FR 61318, December 2, 1977, and 43 FR 1137, January 6, 1978) is amended to establish an Office on Smoking and Health in the Office of the Assistant Secretary for Health/Surgeon General. The Office will function under a Director who reports directly to the Assistant Secretary for Health/Surgeon General. This Office will coordinate the Department's efforts to give effect to the Secretary's initiative aimed at informing Americans about the dangers of smoking. It will include the National Clearinghouse for Smoking and Health from the Center for Disease Control (39 FR 1461, January 9, 1974 as amended by 39 FR 34315, September 24, 1974).

Under Section HA-00 Mission, add the following as the last sentence of the current statement: "Provides leadership, coordination, and direction of a nationwide program aimed at informing Americans about the dangers of smoking."

Under Section HA-10 Organization, add Office on Smoking and Health (HAG) as item 9 and renumber items 9, 10, and 11 to read 10, 11, and 12, respectively.

Under Section HA-20 Functions, add the following statement after the Office of Equal Employment Opportunity (HAK):

Office on Smoking and Health (HAG). The Office: (1) Administers a national program to inform Americans about the dangers of smoking and to reduce death and disability due to smoking; (2) promotes and stimulates behavioral and biological research and epidemiological and toxicological studies by government and voluntary agencies on the causes and effects of smoking on health; (3) in conjunction with the Office of Health Information and Health Promotion, coordinates all PHS research and educational programs and other HEW activities related to smoking and health; (4) establishes and maintains liaison with other Federal agencies, private organizations, and State and local government on smoking and health matters; (5) develops standards, criteria, and methodologies for improved information programs related to smoking and health; (6) serves as focal point for information gathering and as clearinghouse on the dissemination of information on health education, preventive health, and related matters on smoking and health; (7) coordinates the development of materials on smoking and health; (8) provides assistance for educational programs on smoking and health; (9) coordinates research findings and provides technical writing and staff assistance to produce reports to the Assistant Secretary for Health/Surgeon General concerning the effects of tobacco on health; and (10) conducts surveys and coordinates and conducts evaluative studies on the effectiveness of programs related to smoking and health.

CENTER FOR DISEASE CONTROL

Under Part H, Chapter HC (Center for Disease Control), Section HC-A Mission is changed by deleting item (7) and renumbering items (8) and (9) to read (7) and (8), respectively.

Section HC-B Organization and Functions is amended as follows: Under the heading Bureau of Health Education (HCH), delete item (9) and renumber (10) to read (9) and delete in its entirety the title and functional statement for the National Clearinghouse for Smoking and Health (HCH2).

Dated: March 6, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 78-6467 Filed 3-9-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-6693-A thru G]

ALASKA

Alaska Native Claims Selection

On December 27 and 30, 1968, the State filed general purposes grant selection applications pursuant to section 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b) (1970)), for certain lands in the Bristol Bay area. Applications AA-5244, AA-5292, AA-5356, AA-5357, and AA-5358 selected lands in T. 40 S., R. 50 W., T. 39 S., R. 59 W., T. 37 S., R. 58 W., T. 37 S., R. 59 W., and T. 38 S., R. 58 W., Seward Meridian, respectively. On June 16, 1972, each application was amended to include all the lands in the townships, excluding patented lands.

The Bureau of Indian Affairs filed an application on December 12, 1968, to withdraw all unreserved public lands in Alaska for the determination and protection fo the rights of the Alaska Natives. Subsequently on January 17, 1969, Public Land Order 4582 was issued to affirm the withdrawal of all unreserved lands in Alaska from all forms of appropriation and disposition under the public land laws except locations for metalliferous minerals. Public Land Order 4582 further provided that applications filed by the State of Alaska after December 12, 1968, and prior to January 4, 1969, must be embraced in leases, licenses, permits, or contracts issued pursuant to the Mineral Leasing Act of 1920 or the Coal Leasing Act of 1914 in order to be a valid selection application.

Since the lands selected in State selection applications AA-5292 and AA-5356, filed December 27, 1968, were not entirely within lands embraced in leases, etc., these applications must be and are hereby rejected as to the following described lands:

SEWARD MERIDIAN, ALASKA (UNSURVEYED)

STATE SELECTION AA-5292

T. 39 S., R. 59 W.
Secs. 1 and 2, all;
Sec. 3 (fractional), all;
Sec. 10 (fractional), all;
Secs. 11 to 14, inclusive, all;
Sec. 15 (fractional), all;
Secs. 19 to 22 (fractional), all;
Secs. 23 to 30, inclusive, all;
Secs. 32 to 36, inclusive, all.
Containing approximately 13,354 acres.

STATE SELECTION AA-5356

T. 37 S., R. 56 W.

Sec. 33, all.
Containing approximately 640 acres.

Section 11(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 696; 43 U.S.C. 1601, 1610(a) (Supp. V, 1975)), withdrew the lands surrounding the native village of Port Heiden, including the lands in the subject State selection applications for Native selection. The village corporation, Meshik Incorporated, has filed selection applications AA-6693-A (January 17, 1974), and AA-6693-B through G (October 30, 1974), under the provisions of section 12 of the Alaska Native Claims Settlement Act for lands within the subject State selections.

Section 12(a)(1) of the Alaska Native Claims Settlement Act provides that village selections shall be made from lands withdrawn by section 11(a).

Section 11(a)(2) further withdrew for possible selection by the Native corporation those lands within the townships described in section 11(a)(1) that have been selected by, or tentatively approved to, but not yet patented to the State under the Alaska Statehood Act.

Section 12 (a) further provided, however, that no village corporation may select more than 69,120 acres from lands withdrawn by section 11(a)(2).

The lands described below were properly selected by Meshik Incorporated in village selection applications AA-6693-A through G; accordingly, the State selection applications AA-5244, AA-5292, AA-5356, AA-5357 and AA-5358 are hereby rejected, as to the following described lands:

SEWARD MERIDIAN, ALASKA (SURVEYED)

STATE SELECTION AA-5244

T. 40 S., R. 60 W.
Those portions of the township more particularly described as (protracted):
Secs. 12 and 13, all;
Secs. 24 and 25, all.
Containing approximately 2,560 acres.

SEWARD MERIDIAN, ALASKA (UNSURVEYED)

STATE SELECTION AA-5356

T. 37 S., R. 58 W.
Secs. 19 and 20, all;
Secs. 28, 29 and 30, all;
Sec. 31, excluding lots 1 and 2 of U.S. Survey 4347 and Native allotment AA-7938;
Sec. 32, excluding lots 1 and 2 of U.S. Survey 4347.
Containing approximately 4,303 acres.

STATE SELECTION AA-5358

T. 38 S., R. 58 W.
Sec. 6, excluding lots 1 and 2 of U.S. Survey 4347.
Containing approximately 609 acres.

STATE SELECTION AA-53572

T. 37 S., R. 59 W.
Sec. 4 (fractional), all;
Sec. 9 (fractional), excluding Native allotment AA-7172;
Sec. 10, excluding Native allotment AA-7940;
Sec. 14, all;
Sec. 15, excluding Native allotment AA-7940, Public Land Order 2374 Tract A and Quitclaim Deed AA-5456;
Sec. 16 (fractional), excluding Public Land Order 2374 Tract A and Quitclaim Deed AA-5456;
Sec. 17 (fractional), excluding Native allotment AA-7173 Parcel C and Quitclaim Deed AA-5456;
Sec. 20 (fractional), excluding Native allotment AA-7170;
Sec. 21, excluding Native allotment AA-7170 and Quitclaim Deed AA-5456;
Secs. 22 to 27, inclusive, excluding Quitclaim Deed AA-5456;
Sec. 26 (fractional), excluding Native allotment AA-7170 and Quitclaim Deed AA-5456;
Sec. 29 (fractional), excluding Native allotment AA-7170;
Sec. 33 (fractional), all;
Secs. 34 and 35, excluding Quitclaim Deed AA-5456;
Sec. 36, all.
Containing approximately 7,057 acres.

STATE SELECTION AA-5292

T. 39 S., R. 59 W.
Sec. 31, all.
Containing approximately 630 acres.

Further action on State selection applications AA-5244, AA-5356, AA-5357 and AA-5358, as to those lands not rejected herein, will be taken at a later date. State selection application AA-5292 is hereby rejected in its entirety and the case will be closed when this decision becomes final.

By virtue of the properly filed selections under section 12(a) of the Alaska Native Claims Settlement Act, by Meshik Incorporated, State selection application AA-5233, as to lands in T. 38 S., R. 59 W., Seward Meridian, and AA-5309, as to lands in T. 40 S., R. 59 W., Seward Meridian, were rejected by decisions dated September 25, 1974 and May 27, 1975.

The total amount of State selected lands, including lands previously rejected to permit the interim conveyance hereafter given, totals approximately 26,043 acres, which is less than the 69,120 acres permitted by section 12(a)(1) of the Alaska Native Claims Settlement Act.

As to the lands described below, the applications submitted by Meshik Incorporated, as amended, are properly filed, and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to section 12(a), aggregating approximately 65,158 acres, is considered proper for acquisition by Meshik Incorporated and is hereby approved for conveyance pursuant to section 14(a) of the Alaska Native Claims Settlement Act:

SEWARD MERIDIAN, ALASKA (SURVEYED)

T. 40 S., R. 59 W.
Those portions of the township more particularly described as (protracted):
Secs. 1 to 36, inclusive, excluding Meshik River.
Containing approximately 22,653 acres.

T. 40 S., R. 60 W.
Those portions of the township more particularly described as (protracted):
Secs. 12 and 13, all;
Secs. 24 and 25, all.
Containing approximately 2,560 acres.

SEWARD MERIDIAN, ALASKA (UNSURVEYED)

T. 37 S., R. 58 W.
Secs. 19 and 20, all;
Secs. 28, 29 and 30, all;
Sec. 31, excluding lots 1 and 2 of U.S. Survey 4347 and Native allotment AA-7938;
Sec. 32, excluding lots 1 and 2 of U.S. Survey 4347;
Sec. 33, all.
Containing approximately 4,943 acres.

T. 38 S., R. 58 W.
Sec. 6, excluding lots 1 and 2 of U.S. Survey 4347.
Containing approximately 609 acres.

T. 37 S., R. 59 W.
Sec. 4 (fractional), all;
Sec. 9 (fractional), excluding Native allotment AA-7172;
Sec. 10, excluding Native allotment AA-7940;
Sec. 14, all;
Sec. 15, excluding Public Land Order 2374 Tract A, Quitclaim Deed AA-5456 and Native allotment AA-7940;
Sec. 16 (fractional), excluding Public Land Order 2374 Tract A and Quitclaim Deed AA-5456;
Sec. 17, (fractional), excluding Quitclaim Deed AA-5456 and Native allotment AA-7173 Parcel C;
Sec. 20 (fractional), excluding Native allotment AA-7170;
Sec. 21, excluding Quitclaim Deed AA-5456 and Native allotment AA-7170;
Secs. 22 to 27, inclusive, excluding Quitclaim Deed AA-5456;
Sec. 28 (fractional), excluding Quitclaim Deed AA-5456 and Native allotment AA-7170;
Sec. 29 (fractional), excluding Native allotment AA-7170;
Sec. 33 (fractional), all;
Secs. 34 and 35, excluding Quitclaim Deed AA-5456;
Sec. 36, all.
Containing approximately 7,057 acres.

T. 38 S., R. 59 W.
Sec. 1, excluding Native allotment AA-7939;
Sec. 2, excluding Native allotments AA-7168 and AA-7939;
Sec. 3, all;
Sec. 4 (fractional), excluding U.S. Survey 1220, U.S. Survey 5578, Public Land Order 2374 Tract B, and Native allotment A-062335 Parcel A;
Sec. 6 (fractional), all;
Sec. 8 (fractional), excluding U.S. Survey 481, U.S. Survey 5578, and Public Land Order 2374 Tract B;

Sec. 9 (fractional), excluding Public Land Order 2374 Tract B and U.S. Survey 5578;
Sec. 10, all;
Secs. 11 and 12, excluding Native allotment AA-7939;
Secs. 13, 14 and 15, all;
Secs. 16 and 17 (fractional), all;
Sec. 21 (fractional), all;
Secs. 22 to 27, inclusive, all;
Sec. 28 (fractional), all;
Secs. 33 and 34 (fractional), all;
Secs. 35 and 36, all.

Containing approximately 13,472 acres.

T. 39 S., R. 59 W.
Secs. 1 and 2, all;
Sec. 3 (fractional), all;
Sec. 10 (fractional), all;
Secs. 11 to 14, inclusive, all;
Sec. 15 (fractional), all;
Sec. 19 (fractional), excluding Yellow Bluff Creek;
Sec. 20 (fractional), excluding Native allotment AA-7167 and Meshik River;
Secs. 21 and 22 (fractional), excluding Meshik River;
Secs. 23, 24 and 25, all;
Secs. 26 to 29, inclusive, excluding Meshik River;
Secs. 30 to 33, inclusive, all;
Secs. 34, 35 and 36, excluding Meshik River.

Containing approximately 13,864 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, as prescribed and directed by the act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945;

2. A right-of-way thereon for the construction of railroads, telegraph, and telephone lines, as prescribed and directed by the act of March 12, 1914, 38 Stat. 305, 43 U.S.C. 975d;

3. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f) (Supp. V, 1975));

4. That access road and sewer line right-of-way, A-033550 and all appurtenances thereto, constructed by the United States through, over, or upon sections 15, 22, and 34, T. 37 S., R. 59 W., Seward Meridian, and sections 3 and 4, T. 38 S., R. 59 W., Seward Meridian, and the right of the United States, its agents or employees to maintain, operate, repair, or improve the same so long as needed or used for or by the United States; and

5. Pursuant to section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (Supp. V, 1975)), the following public easements, referenced by easement identification number (EIN) on the easement maps in case file AA-6693-EE, are reserved to the United States and subject to further regulation thereby:

a. (EIN 1 C5, D9) A continuous linear easement twenty-five (25) feet in width upland of and parallel to the mean high tide line in order to provide access to and along the marine coastline and use of such shore for purposes such as beaching of watercraft or aircraft, travel along the shore, recreation, and other similar uses. Deviations from the waterline are permitted when specific conditions so require, e.g., impassable topography or waterfront obstruction. This easement is subject to the right of the owner of the servient estate to build upon such easement a facility for public or private purposes, such right to be exercised reasonably and without undue or unnecessary interference with or obstruction of the easement. When access along the marine coastline easement is to be obstructed, the owner of the servient estate will be obligated to convey to the United States an acceptable alternate access route, at no cost to the United States, prior to the creation of such obstruction.

b. (EIN 2 C5) A site easement twenty-five by three hundred (25 x 300) feet on the bed of Goldfish Lake, in section 4, T. 38 S., R. 59 W., Seward Meridian, adjacent to the ordinary high water mark. The usage is for vehicles.

c. (EIN 3 C5) An easement sixty (60) feet in width for an existing road system that serves the village and airport, and provides access to public lands and waters. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

d. (EIN 5 D9) A streamside easement twenty-five (25) feet in width upland of and parallel to the ordinary high water mark on all banks and an easement of the entire bed of Braided Creek, from its mouth upstream to the eastern border of section 24, T. 40 S., R. 59 W., Seward Meridian. The purpose is to provide for public use of waters having highly significant present recreational use.

e. (EIN 11 C4) An easement sixty (60) feet in width for a proposed road, which is an extension of existing road system EIN 3 C5, which begins in section 4, T. 37 S., R. 59 W., Seward Meridian, near the mouth of Reindeer Creek and continues northerly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

f. (EIN 12 C4) An easement for a proposed access trail twenty-five (25) feet in width from existing road system EIN 3 C5 in section 30, T. 37 S., R. 58 W., Seward Meridian, northerly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

g. (EIN 13 E) An easement for a proposed access trail twenty-five (25) feet in width from existing road system EIN 3 C5 in section 8, T. 38 S., R. 59 W., Seward Meridian, southeasterly to Barabara Creek where the trail forks; the north fork parallels the right bank of Barabara Creek to public lands in section 19, T. 38 S., R. 58 W., Seward Meridian, and the south fork roughly parallels the coastline and the right bank of the Meshik River to public lands in section 6, T. 40 S., R. 58 W., Seward Meridian. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

h. (EIN 14 C4) A streamside easement twenty-five (25) feet in width upland of and parallel to the ordinary high water mark on all banks of the Meshik River from its mouth upstream to the eastern border of sections 1 and 12, T. 40 S., R. 59 W., Seward Meridian. Purpose is to provide for public use of waters having highly significant present recreational use.

i. (EIN 15 C5) The right of the United States to enter upon the lands hereinabove granted for cadastral, geodetic, or other survey purposes is reserved, together with the right to do all things necessary in connection therewith.

j. (EIN 16 C5) Easements for the transportation of energy, fuel, and natural resources which are the property of the United States or which are intended for delivery to the United States or which are produced by the United States. These easements also include the right to build any related facilities necessary for the exercise of the right to transport energy, fuel, and natural resources including those related facilities necessary during periods of planning, locating, constructing, operating, maintaining, or terminating transportation systems. The specific location of these easements shall be determined only after consultation with the owner of the servient estate. Whenever the use of such easements will require removal or relocation of any structure owned or authorized by the owner of the servient estate, such use shall not be initiated without the consent of the owner of such improvement; provided, however, that the United States may exercise the right of eminent domain if such consent is not given. Only those portions of these easements that are actually in use or that are expressly authorized on March 3, 1996, shall continue to be in force.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1970))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him;

3. Requirements of section 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (Supp. V, 1975)), that the grantee hereunder convey those portions, if any, of lands hereinabove granted, as are prescribed in said section; and

4. The terms and conditions of the agreement dated January 18, 1977, between the Secretary of the Interior, Bristol Bay Native Corp. Meshik Inc., and other Bristol Bay village corporations. A copy of the agreement shall be attached to and become a part of the conveyance document and shall be recorded therewith. A copy of the agreement is located in the Bureau of Land Management easement case file for Meshik Incorporated, serialized AA-6693-EE. Any person wishing to examine this agreement may do so at the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501.

Conveyance of the remaining entitlement to Meshik Inc. will be made at a later date. Pursuant to section 14(f) of the Alaska Native Claims Settlement Act, conveyance of the subsurface estate of the lands described above shall be granted to Bristol Bay Native Corp. when conveyance is granted to Meshik Inc. for the surface estate, and shall be subject to the same conditions as the surface conveyance.

There are no inland water bodies considered to be navigable within the lands described.

The Meshik River is considered to be subject to tidal influence from its mouth to the eastern boundary of sections 1 and 2, T. 40 S., R 59 W., Seward Meridian, and Yellow Bluff Creek from its mouth to the southern boundary of section 19, T. 39 S., R. 59 W., Seward Meridian.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the FEDERAL REGISTER and once a week, for four (4) consecutive weeks, in the Anchorage Times. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until April 10, 1978 to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

4. If Meshik Inc. or Bristol Bay Native Corp. objects to any easement which is identified herein for reservation in the conveyance, which is subject to the discretion of the State Director and not reserved pursuant to an express Secretarial directive, a petition for reconsideration must be filed within 30 days from receipt of service with the State Director, Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501. A copy of the petition should be served upon the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. If a petition for reconsideration is not filed, it will be deemed that the right to contest any such easement has been waived.

If an appeal is taken as to the lands rejected, the adverse parties to be served are:

State of Alaska, Division of Lands, 323 East Fourth Avenue, Anchorage, Alaska 99501.
Meshik Inc., Port Heiden, Alaska 99648.
Bristol Bay Native Corp., P.O. Box 237, Dillingham, Alaska 99576.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of, and requirements for, filing an appeal may be obtained from the Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501.

SUE A. WOLF,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-6267 Filed 3-9-78; 8:45 am]

[4310-84]

ALASKA; BEAUFORT SEA OFFSHORE TENTATIVE SALE (BF)

Joint Federal-State of Alaska Call for Nominations of and Comments on Areas for Oil and Gas Leasing

Pursuant to the authority prescribed in 43 CFR 3301.3 (1976) and AS 38.05.020 nominations are hereby requested for areas on the Continental Shelf beneath the Beaufort Sea for possible oil and gas leasing under the Outer Continental Shelf Lands Act (43 U.S.C. 1331-1343 (1970)) and the Alaska Land Act (AS 38.05). Nominations will be considered for any of the tracts, numbered 1 through 236, found on the "Nomination Map, Federal/State Beaufort Sea Oil and Gas Lease Sale (State of Alaska 30th Competitive Oil and Gas Lease Sale) map date Nov. 21, 1977."

This Nomination Map may be purchased for $3.50 each from the State of Alaska, Director, Division of Minerals and Energy Management, 323 East 4th Avenue, Anchorage, Alaska 99501.

All nominations must be described in accordance with the above Nomination Map prepared jointly by the Department of Natural Resources, State of Alaska, and the Bureau of Land Management (BLM), Department of the Interior and referred to above. Only whole tracts or properly described subdivisions thereof, not less than one quarter of a tract, may be nominated.

In addition to requesting nominations of tracts for possible oil and gas leasing within the specified areas, this notice also requests comments identifying particular tracts recommended to be either specifically excluded from oil and gas leasing or leased only under special conditions because of conflicting values or environmental concerns. Particular geological, environmental, biological, archaeological, socio-economic, or other information which might bear upon potential leasing and development of particular tracts is requested where available. Information on these subjects will be used in the tentative selection of tracts which precedes any final selection by the Director, Bureau of Land Management and the Commissioner, Alaska Department of Natural Resources, or his Director, Division of Minerals and Energy Management, pursuant to 43 CFR 3301.4, and AS 38.05.180(a) and 11AAC 82.400. The information is requested from Federal, State and local governments, industry, universities, research institutes, environmental organizations, and members of the general public. Comments may be submitted on tracts or subdivisions thereof, as required for nominations, or on all areas or portions thereof as described above. They should be directed to specific factual matters which bear upon the Federal/State decision whether to make a preliminary selection of particular tracts within these areas for further environmental analysis pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347 (1970)) and possible leasing. Comments relating to general matters which would be applicable to oil and gas operations in any other part of the offshore lands are not sought at this time.

Nominations and comments must be submitted not later than April 24, 1978, in envelopes labeled "Nominations of Tracts for Leasing in the Beaufort Sea Offshore Areas," or "Comments on Leasing in the Beaufort Sea Offshore Areas," as appropriate. They must be submitted to the Director, Attention 720, Bureau of Land Management, Department of the Interior, Washington, D.C. 20240. Copies must be sent to the Assistant Conservation Manager, Geological Survey, P.O. Box 259, Anchorage, Alaska 99510, Manager, Alaska Outer Continental Shelf Office, Bureau of Land Management, P.O. Box 1159, Anchorage, Alaska 99510, and Director, Division of Minerals and Energy Management, Alaska Department of Natural Resources, at his address cited above.

This call for nominations and comments does not in any way commit the Department or the State to leasing in the Beaufort Sea. It is for the purpose of obtaining information which could be used by the State and the Department in a leasing procedure.

Final selection of tracts for competitive bidding will be made only after compliance with established State and Departmental procedures, all requirements of the National Environmental Policy Act of 1969, and pursuant to any joint Federal-State Sale Agreement. Notice of any tracts finally selected for competitive bidding will be published in the FEDERAL REGISTER and in Alaska newspapers stating the conditions and terms for leasing and the place, date, and hour at which bids will be received and opened.

With regard to the parties, this call for nominations and comment shall prejudice neither the rights of the United States nor the State of Alaska in the area involved. With further regard to the parties, acts or activities taking place pursuant to this call shall neither be regarded as affecting the claims of the United States or the State of Alaska nor shall they constitute a basis for asserting, supporting

or denying a jurisdictional or territorial claim.

FRANK GREGG,
Director, Bureau of

Dated: March 6, 1978.

MARVIN W. PEARSON,
District Manager.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address

Colorado Springs, Colo., filed an application for a 24-inch O. D. pipeline for the purpose of transporting natural gas across the following described

By order of the Commission.
Issued: March 7, 1978.

KENNETH R. MASON,

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment at Ace de-

or denying a jurisdictional or territorial claim.

FRANK GREGG,
Director, Bureau of Land Management.

ROBERT E. LERESCHE,
Commissioner, Department of Natural Resources, State of Alaska.

MARCH 2, 1978.

Approved: March 2, 1978.

CECIL D. ANDRUS,
Secretary of the Interior.
J. HAMMOND,
Governor of Alaska.

[FR Doc. 78-6352 Filed 3-9-78; 8:45 am]

[4310-84]

CRAIG DISTRICT GRAZING ADVISORY BOARD, COLORADO

Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Craig District Grazing Advisory Board to be held at 10 a.m., April 28, 1978, in the Conference Room of the Craig District Office, Bureau of Land Management, 455 Emerson Street, Craig, Colo.

The purpose of the Advisory Board is to offer advice and make recommendations to the District Manager concerning the development of allotment management plans (AMP's) and the use of range-betterment funds.

The purpose of the meeting of the Advisory Board will be to elect a chairperson and vice-chairperson from among its seven members, discuss the status of AMP's in the District and future proposals, and discuss the use of range-betterment funds and range improvements on public lands within the Craig District.

The meeting will be open to the public. However, facilities and space to accommodate members of the public are limited and persons will be accommodated on a first-come, first-served basis. Any members of the public may file with the Board a written statement concerning the matters to be discussed.

Persons wishing further information concerning the meeting may contact Marvin W. Pearson, District Manager, Bureau of Land Management, 455 Emerson Street, Craig, Colo. at 303-824-3417.

Minutes of the meeting will be available at the Craig District Office for public inspection 30 days after the meeting.

Dated: March 6, 1978.

MARVIN W. PEARSON,
District Manager.

[FR Doc. 70-6268 Filed 3-9-78; 8:45 am]

[4310-84]

QUALIFIED JOINT BIDDERS

Extension of Time To File Statements of Production; Correction

On Friday, February 24, 1978, a notice was published in the FEDERAL REGISTER (43 FR 7721) extending to April 14, 1978, the time limit for filing statements of production necessary to qualify filers as joint bidders at Outer Continental Shelf (OCS) oil and gas lease sales during the six month bidding period ending on April 30, 1978.

The following errors are hereby corrected:

1. In the last sentence of paragraph 1, the citation "(43 FR 61640)" should be changed to read "(42 FR 61640)."

2. In the second sentence of paragraph 2, "January 10, 1977" should be corrected to read "January 10, 1978."

Dated: March 7, 1978.

HEATHER L. ROSS,
Deputy Assistant, Secretary of the Interior.

[FR Doc. 78-6353 Filed 3-9-78; 8:45 am]

[4310-84]

[W-62842]

WYOMING

Application

MARCH 1, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. of Salt Lake City, Utah, filed an application for a right-of-way to construct a buried 4½-inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYO.

T. 23 N., R. 112 W.,
Sec. 30, NW¼SE¼.

The proposed pipeline is a portion of Northewest Pipeline Corp.'s proposed gathering system and will transport natural gas from the Shute Creek No. 30 well in the NW¼SE¼ of section 30 to a point of connection with their proposed Trunk "A" in the NW¼SE¼ of section 30, T. 23 N., R 112 W., Lincoln County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo, 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-6269 Filed 3-9-78; 8:45 am]

[4310-84]

[W-62847]

WYOMING

Application

MARCH 1, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. of Salt Lake City, Utah, filed an application for a right-of-way to construct a buried 4½-inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYO.

T. 19 N., R. 103 W.,
Sec. 2, SW¼SE¼.

The proposed pipeline will transport natural gas from the Black Butte No. 1 well to a point of connection with an existing pipeline in the SW¼SE¼ of section 2, T. 19 N., R. 103 W., Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-6270 Filed 3-9-78; 8:45 am]

[4310-84]

[Wyoming 62815]

WYOMING

Application

MARCH 1, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185) Colorado Interstate Gas Co. of Colorado Springs, Colo., filed an application for a 24-inch O. D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYO.

T. 21 N., R. 86 W.,
Secs. 32 and 34.
T. 21 N., R. 87 W.,
Secs. 26 and 30.
T. 21 N., R. 88 W.,
Secs. 26, 28 and 30.
T. 21 N., R. 89 W.,
Secs. 34 and 36.

The pipeline will transport natural gas alongside a segment of an existing natural gas pipeline and will extend from a point of connection with Colorado Interstate Gas Co.'s existing loop line in the NW¼ of section 36, T. 21 N., R. 86 W., in a westerly direction to a point of connection with their existing loop line at a location in section 32, T. 21 N., R. 89 W. all in Carbon County, Wyo. This pipeline will be constructed adjacent to and generally parallel with their existing line and will be located approximately 50 feet south of said existing line.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 670, 1300 Third Street, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-6271 Filed 3-9-78; 8:45 am]

[7020-02]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-29]

CERTAIN WELDED STAINLESS STEEL PIPE AND TUBE

Amendment to Commission Determination and Action

The Commission determination and action in this investigation issued February 22, 1978 (43 FR 8304, March 1, 1978), is hereby amended to correct a clerical error as follows:

In paragraph I, "definitions," the definition of "Welded Stainless Steel Pipe and Tube" should be amended to delete the words ".0375 to 6.525" and to place in their stead the words "0.375 to 4.5."

By order of the Commission.

Issued: March 7, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-6391 Filed 3-9-78; 8:45 am]

[4510-28]

DEPARTMENT OF LABOR

Office of the Secretary

[TA-W-2315]

ACE SPORTSWEAR CO., LAWRENCE, MASS.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2315: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on September 6, 1977 in response to a worker petition received on September 2, 1977 which was filed on behalf of workers and former workers producing men's and boys' outerwear (coats and jackets) at the Ace Sportswear Co., Lawrence, Mass.

The notice of investigation was published in the FEDERAL REGISTER on September 23, 1977 (42 FR 48416). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Ace Sportswear Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

Significant Total or Partial Separations

Average employment at Ace decreased 10 percent in 1975 from 1974, 17 percent in 1976 from 1975 and 20 percent in the first 8 months of 1977 compared to the same period of 1976.

Sales or Production or Both, Have Decreased Absolutely

Sales, in value, by Ace decreased 16 percent in 1975 from 1974, 23 percent in 1976 from 1975 and 27 percent in the first 8 months of 1977 compared to the same period of 1976.

Production, in quantity, by Ace decreased 12 percent in 1975 from 1974, 30 percent in 1976 from 1975 and 32 percent in the first 8 months of 1977 compared to the same period of 1976..

Increased Imports

Imports of Men's and boys' non-tailored outer jackets increased in absolute terms, from 1972 to 1973, decreased from 1973 to 1974, and decreased from 1974 to 1975. Imports increased 1 percent from 1975 to 1976 and increased 24 percent in the first 9 months of 1977 compared to the first 9 months of 1976. The ratios of imports to domestic production and consumption decreased from 26.3 percent and 20.8 percent, respectively, in 1975 to 25.3 percent and 20.2 percent, respectively, in 1976.

Contributed Importantly

Customers of Ace who were surveyed decreased purchases of coats and jackets from Ace in 1976 and in the first 6 months of 1977 and increased purchases of imports.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's and boys' coats and jackets produced by Ace Sportswear Co., Lawrence, Mass. contributed importantly to the total or partial separation of workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers at Ace Sportswear Co. Lawrence, Mass. who became totally or partially separated from employment on or after August 31, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of February 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-6236 Filed 3-9-78; 8:45 am]

[4510-28]

[TA-W-2359]

ALBE MANUFACTURING CORP., NEW BEDFORD, MASS.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2359: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on September 6, 1977 in response to a worker petition received on September 2, 1977 which was filed on behalf of workers and former workers producing men's and boys' outerwear (coats and jackets) at the Albe Manufacturing Corp., New Bedford, Mass.

The notice of investigation was published in the FEDERAL REGISTER on September 23, 1977 (42 FR 48416). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Albe Manufacturing Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

Section 223(b)(1) of the Trade Act of 1974 states that a certification under this section shall not apply to any worker whose last total or partial separation from the firm or appropriate subdivision occurred before one year before the date of the petition on which such certification was based.

The petition was filed on September 2, 1977. Consequently, workers separated from employment prior to September 2, 1976 are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

All workers separated from employment on or after September 2, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of February 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-6237 Filed 3-9-78; 8:45 am]

[4510-28]

[TA-W-2681]

CARNIVALE BAG CO., INC., BROOKLYN, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2681: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on September 6, 1977 in response to a worker petition received on September 2, 1977 which was filed on behalf of workers and former workers producing men's and boys' outerwear (coats and jackets) at the Carnivale Bag Co., Inc., Brooklyn, N.Y.

The notice of investigation was published in the FEDERAL REGISTER on September 23, 1977 (42 FR 48416). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Carnivale Bag Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

Section 223(b)(1) of the Trade Act of 1974 states that a certification under this section shall not apply to any worker whose last total or partial separation from the firm or appropriate subdivision occurred before one year before the date of the petition on which such certification was based.

The petition was filed on September 2, 1977. Consequently, workers separated from employment prior to September 2, 1976 are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

All workers separated from employment on or after September 2, 1976 are eligible to apply for for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of February 1978.

[4510-28]

[TA-W-2359]

ALBE MANUFACTURING CORP., NEW BEDFORD, MASS.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2359: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on September 19, 1977, in response to a worker petition received on September 12, 1977, which was filed on behalf of workers and former workers producing ladies' outerwear (coats and jackets and fake fur hats) at Albe Manufacturing Corp., New Bedford, Mass.

The notice of investigation was published in the FEDERAL REGISTER on October 4, 1977 (42 FR 54032). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Albe Manufacturing Corp., its manufacturer, its manufacturer's customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

The investigation has revealed that all of the above criteria have been met.

Imports of women's, misses' and children's coats and jackets increased in absolute terms, increased 48 percent from 1975 to 1976 and increased 24 percent in the first 9 months of 1977 compared to the first 9 months of 1976. The ratios of imports to domestic production and consumption increased from 38.9 percent and 28 percent, respectively, in 1975 to 57.5 percent and 36.5 percent, respectively, in 1976.

Albe produces for one manufacturer whose sales declined in 1976 from 1975 and in the first 7 months of 1977 compared to the same period of 1976. Customers of the manufacturer who were surveyed decreased purchases from that manufacturer and increased purchases of imports.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ladies' junior sportswear produced by Albe Manufacturing Corp., New Bedford, Mass. contributed importantly to the decline in sales and production and to the total or partial separation of workers at that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers at Albe Manufacturing Corporation, New Bedford, Massachusetts who became totally or partially separated from employment on or after October 1, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C., this 28th day of February 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-6239 Filed 3-9-78; 8:45 am]

[4510-28]

[TA-W-2289]

BLISS & LAUGHLIN STEEL CO., SEATTLE, WASH.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2289: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 29, 1977 in response to a worker petition received on August 25, 1977 which was filed by the United Steelworkers of America on behalf of workers and former workers producing cold-finished carbon and alloy steel bars at the Seattle, Wash., plant of Bliss & Laughlin Steel Co.

The notice of investigation was published in the FEDERAL REGISTER on September 20, 1977 (42 FR 47270). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Bliss & Laughlin Steel Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met.

Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

Section 223(b)(1) of the Trade Act of 1974 states that a certification under this section shall not apply to any worker whose last total or partial separation from the firm or appropriate subdivision of the firm occurred more than 12 months before the signature date of the petition.

The signature date of the petition in this case is August 23, 1977, thus workers terminated prior to August 23, 1976, are not eligible for program benefits under Title 11, Chapter 2, Subchapter B of the Trade Act of 1974.

The average number of production workers at the Seattle plant did not significantly decrease from August through December 1976, and remained unchanged through 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers at the Seattle, Wash., plant of Bliss & Laughlin Steel Co. have not become totally or partially separated, or threatened to become separated, as required for certification under section 222 of the Trade Act of 1974:

Signed at Washington, D.C., this 28th day of February 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-6240 Filed 3-9-78; 8:45 am]

[4510-28]

[TA-W-2290]

BORT CARLTON CO., BOSTON, MASS.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2290: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 29, 1977 in response to a worker petition received on August 25, 1977 which was filed on behalf of workers and former workers producing women's and misses' shoes and sandals at the Bort Carlton Co., Boston, Mass.

The notice of investigation was published in the FEDERAL REGISTER on September 20, 1977 (42 FR 47270). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Bort Carlton Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's and misses' nonrubber footwear increased from 190.7 million pairs in 1975 to 195.5 million pairs in 1976. U.S. imports declined from 110.4 million pairs in the first half of 1976 to 92.6 million pairs in the first half of 1977.

The level of U.S. imports of women's and misses' nonrubber footwear has been consistently higher than domestic production levels since 1973. The ratio of imports to domestic production declined from 114.1 percent in 1975 to 112.6 percent in 1976 and then increased from 101.7 percent in the first half of 1976 to 119.6 percent in the first half of 1977.

The U.S. International Trade Commission after a six month investigation under section 201 of the Trade Act of 1974 issued a positive finding of import injury. A Presidential directive, issued April 16, 1976, ordered that trade adjustment assistance be expedited to impacted workers, firms and communities.

A survey of Bort Carlton's major customers indicated that some had increased purchases of imported women's and misses' shoes and sandals while decreasing purchases from Bort Carlton in the first three quarters of 1977 compared to the first three quarters of 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with women's and misses' shoes and sandals produced by the Bort Carlton Co., Boston, Mass., contributed importantly to the decrease in sales and production and to the total or partial separations of the workers at that firm.

In accordance with the provisions of the Act, I make the following certification:

All workers at the Boston, Massachusetts plant of the Bort Carlton Company who became totally or partially separated from employment on or after August 1, 1977 and before October 31, 1977, be certified eligible to apply for for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All workers separated on or after October 31, 1977, are denied eligibility.

Signed at Washington, D.C., this 28th day of February 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-6241 Filed 3-9-78; 8:45 am]

[4510-28]

[TA-W-2681]

CARNIVALE BAG CO., INC., BROOKLYN, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2681: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 30, 1977, in response to a worker petition received on November 21, 1977, which was filed on behalf of workers and former workers producing handbags at Carnivale Bag Co., Inc., Brooklyn, N.Y.

The notice of investigation was published in the FEDERAL REGISTER on December 16, 1977 (42 FR 63488). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Carnivale Bag Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. The investigation has revealed that all of the criteria have been met.

Imports of handbags increased from 57.9 million units in 1975 to 90.2 million units in 1976. The ratio of imports to domestic production increased from 75.9 percent in 1975 to 124.8 percent in 1976 and increased from 126.2 percent during January-September 1976 to 177.3 percent during January-September 1977.

Customers surveyed who decreased purchases from Carnivale in 1977 indicated that their purchases of imported handbags increased or remained unchanged during the same period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with handbags produced at Carnivale Bag Co., Inc., Brooklyn, N.Y. contributed importantly to declines in production and to total or partial separations of workers at that firm. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All workers at Carnivale Bag Company, Inc., Brooklyn, New York, who became totally or partially separated from employment on or after April 1, 1977 are eligible to apply for for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of February 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-6242 Filed 3-9-78; 8:45 am]

[4510-28]

[TA-W-2367]

CROMPTON & KNOWLES CORP., GRAND STREET, WORCESTER, MASS.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-2367: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on September 20, 1977 in response to a worker petition received on September 14, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing weaving loom parts at the Grand Street, Worcester, Mass. plant of Crompton & Knowles Corp. The investigation revealed that castings (for loom parts) and automotive parts are also produced at that plant.

Workers at the Worcester, Mass. plant producing castings and power loom parts were previously certified as eligible to apply for adjustment assistance (TA-W-934). An impact date of May 25, 1975, and a termination date of January 1, 1976, were approved in a determination signed October 1, 1976. Workers producing automotive parts were denied eligibility to apply for adjustment assistance under the same determination.

The notice of investigation was published in the FEDERAL REGISTER on October 4, 1977, (42 FR 54032). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Crompton & Knowles Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

Without regard to whether any of the other criteria have been met, the following criterion has not been met with respect to the production of automotive parts.

that sales or production, or both, of the firm or subdivision have decreased absolutely.

The Department's investigation revealed that sales of automotive parts by the Worcester plant, in terms of value, increased 32 percent from 1975 to 1976 and increased 29 percent in the first nine months of 1977 compared to the same period in 1976.

Automotive parts sales increased in each quarter from the first quarter of 1976 through the third quarter of 1977 compared to the respective quarter of the previous year.

Production of automotive parts is approximately equal to sales.

It is further concluded that all of the requirements have been met with respect to castings and loom parts.

INCREASED IMPORTS

Imports of power looms, in terms of value, increased 16 percent from 1975 to 1976. In the first nine months of 1977 imports declined in absolute terms while continuing to increase relative to domestic production when compared to the first nine months of 1976.

CONTRIBUTED IMPORTANTLY

The purchase of power looms is a major capital investment. Textile mills comprise the major market for weaving looms. Customers of loom manufacturers may place orders for several looms at once and then not purchase another loom for several years. A survey of textile mills who purchase power looms indicated that mills are ordering and purchasing looms from foreign sources rather than domestic.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with articles produced at Crompton and Knowles Corp. contributed importantly to the decline in sales or production and to the total or partial separations of the workers engaged in employment related to the production of castings and loom parts at the Grand Street, Worcester, Mass. plant of Crompton & Knowles Corp. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of castings and loom parts at the Grand Street, Worcester, Massachusetts plant of Crompton and Knowles Corporation who became totally or partially separated from employment on or after December 19, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further conclude that sales or production of automotive parts at the Grand Street, Worcester, Mass. plant of Crompton & Knowles Corp. have not decreased as required for certification under section 222 of the Trade Act of 1974. Therefore, workers engaged in employment related to the production of automotive parts are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C., this 28th day of February 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-6243 Filed 3-9-78; 8:45 am]

[4510-28]

[TA-W-2418]

CYPRUS BRUCE CORP., BAGDAD, ARIZ.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-2418: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 5, 1977, in response to a worker petition received on September 30, 1977, which was filed by the United Steelworkers of America on behalf of workers formerly producing copper at the Bagdad, Ariz. property of Cyprus Bruce Corp. During the course of the investigation, it was established that the workers also produced zinc.

The notice of investigation was published in the FEDERAL REGISTER on October 25, 1977 (42 FR 56374). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Cyprus Bruce Corp., its customers, "Metal Week", "Metal Bulletin", "American Metal Market", the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. With respect to workers producing zinc, without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of slab zinc increased from 380,437 short tons in 1975 to 714,489 short tons in 1976, an increase of 87.8 percent, and then declined to 412,200 short tons in the first nine months of 1977, compared to 535,950 short tons in the same period of 1976. The ratio of imported slab zinc to domestic production increased from 76.7 percent in 1975 to 127 percent in 1976. The ratio was 129.2 percent in the first nine months of 1977 compared to 133 percent in the same period of 1976.

Customers of Cyprus Bruce who were surveyed concerning their purchases of zinc concentrate indicated that they did not purchase imports.

With respect to workers producing copper, all of the group eligibility requirements of section 222 of the Act have been met.

U.S. imports of refined copper increased from 147,000 short tons in 1975 to 384,000 short tons in 1976, an increase of 161.2 percent, and then declined to 275,000 short tons in the first nine months of 1977, compared to 313,000 short tons in the same period of 1976. The ratio of imports to domestic production increased from 8.6 percent in 1975 to 21 percent in 1976. The ratio was 14.8 percent in the first half of 1977 compared to 23.9 percent in the first half of 1976.

U.S. imports of copper ore, concentrate, precipitates, and matte increased each year from 44,000 tons in 1973 to 89,000 tons in 1976. The ratio of imports to domestic production increased from 2.6 percent in 1973 to 5.5 percent in 1976.

Imports of copper are affected by the differential between the domestic price of copper established by COMEX (Commodity Metal Exchange) and the price established by the LME (London Metal Exchange). When the LME price drops more than the estimated transportation costs of 5-8 cents per pound below the COMEX price, the demand for imported copper increases. During May and June 1977 the LME price was almost 11 cents per pound below the COMEX price and in July and August 1977 the LME price was almost 12 cents per pound below the COMEX price. At the same time, the abundant supply of copper stocks in the foreseeable future provided no reason for domestic consumers of copper to maintain ties with domestic producers for purposes of a guarantee against copper shortages. Consequently, in the third quarter of 1977, when many domestic copper producers curtailed production because of the depressed market price for copper, imports of refined copper increased 9.9 percent compared to the third quarter of 1976.

Price pressure from imported copper has reduced the ability to profitably mine, concentrate, and refine domestic copper. Industry sources state that the weighted average production costs of the lowest cost domestic copper mines are 63 cents per pound. The weighted average costs for the highest cost domestic copper mines are $1.05 per pound. Thus, with a current domestic market price of 60 cents per pound, domestic producers lose, on the average, 3 to 45 cents on each pound of refined copper they choose to sell.

Cyprus Bruce's decision to lay off workers and cease its mining operations was based mainly on an attempt to minimize losses which the company could not avoid were it to run at normal production levels at the current market prices for copper.

Comments made by customers purchasing copper from Cyprus Bruce substantiate the fact that increased imports have driven the price of domestic copper below the level at which many domestic firms can profitably produce copper.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with copper produced by the Bagdad, Ariz. property of the Cyprus Bruce Corp. contributed importantly to the decrease in company production and to the total or partial separation of the workers of that firm. In accordance with provisions of the Act, I make the following certification:

All workers at the Bagdad, Arizona property of Cyprus Bruce Corporation engaged in employment related to the production of copper who became totally or partially separated from employment on or after July 1, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further conclude that workers engaged in employment related to the production of zinc are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C., this 28th day of February 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-6244 Filed 3-9-78; 8:45 am]

[4510-28]

[TA-W-2390 and 2817]

ELCO DRESS CO.

Negative Determination Regarding Eligibility To Apply For Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2390 and 2817: Investigations regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigations were initiated on September 28, 1977, and December 27, 1977, in response to a worker petition received on September 6, 1977, which was filed on behalf of workers and former workers producing women's dresses at the New Bedford, Mass. and Holyoke, Mass. plants of the Elco Dress Co.

The notices of investigation was published in the *Federal Register* on October 14, 1977 (42 FR 55316) and January 10, 1978 (43 FR 15555). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Elco Dress Co., its manufacturers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of women's and misses' dresses increased from 645,000 dozen in 1975 to 659,000 dozen in 1976. Imports declined from 540,000 dozen in the first nine months of 1976 to 471,000 dozen in the same period of 1976.

The impact of imports in the domestic market for women's and misses' dresses has been small and did not change appreciably from 1975 to 1976 or in the first nine months of 1977 compared to the same period of 1976. From 1975 to 1976 the ratio of imports to domestic production remained constant at 4.5 percent while imports increased by only 2.2. percent in absolute terms. Imports fell by 12.8 percent in the first nine months of 1977 compared to the same period of 1976.

Apparel manufacturers representing 100 percent of Elco Dress' contract work in 1976 were surveyed by the Department. The survey revealed that the manufacturers did not import women's dresses or use foreign contractors. The survey also revealed that manufacturers which contracted for the majority of Elco Dress' work had increased retail sales in 1976 compared to 1975 and in the first nine months of 1977 compared to the same period of 1976. The value of the contract work and the average number of production workers at Elco Dress increased in 1976 compared to 1975.

CONCLUSION

After careful review I conclude that all workers at the New Bedford, Mass. (including the Slendertone Division) and Holyoke, Mass. plants of Elco Dress Co. are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of February 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-6379 Filed 3-9-78; 8:45 am]

[4510-28]

[TA-W-2516]

EMENEE MANUFACTURING CORP.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2516: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 27, 1977, in response to a worker petition received on October 14, 1977, which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing shirts and blouses at Emenee Manufacturing Corp., Inc., New York, N.Y. During the investigation it was determined that Emenee Manufacturing Corp. is located in Catawissa, Pa.

The notice of investigation was published in the FEDERAL REGISTER on November 15, 1977 (42 FR 59132). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Emenee Manufacturing Corp., Eagle Bros., Inc., its customers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

United States imports of misses', women's and children's blouses and shirts increased in 1975 to 26,113 thousand dozen, increased in 1976 to 30,273 thousand dozen and increased to 24,036 thousand dozen in the first 9 months of 1977 compared to 24,016 thousand dozen during the same period of 1976.

The ratio of imports of misses', women's and children's blouses and shirts to domestic production in-

creased in 1975 to 70.4 percent and increased in 1976 to 74.8 percent.

Imports of ladies' shirts and blouses have captured an increasing share of

The investigation was initiated on October 27, 1977, in response to a worker petition received on October 25, 1977, which was filed by the United

ment of Labor herein presents the results of TA-W-2312: Investigation regarding certification of eligibility to apply for worker adjustment assis-

that increases of imports like or directly competitive with dress and ski gloves produced at the Bleecker Street production facility of the Grandoe

of 1974 must be met. It is concluded that all of the requirements have been met.

INCREASED IMPORTS

like or directly competitive with hot and cold rolled sheet and strip steel processed and warehoused by the Youngstown Division of the Great

creased in 1975 to 70.4 percent and increased in 1976 to 74.8 percent.

Imports of ladies' shirts and blouses have captured an increasing share of the domestic market, as evidenced by the significant import/domestic production and consumption ratios. For women's, misses' and children's blouses and shirts, imports as of 1976 constituted approximately 1 out of every 2 shirts sold in the U.S. A survey of major retail clothing stores (customers of apparel manufacturers) was conducted in June and July 1977. The survey revealed that, in general, retail establishments were substituting purchases of ladies' shirts manufactured offshore in place of domestically manufactured shirts. Imported shirts and blouses have gained increasing popularity with consumers due to price and quality competitiveness.

Sales declined in the first 9 months of 1977 compared to the same period of 1976. The Department's survey of customers of Eagle Bros., Inc., the selling agent for Emenee Manufacturing Corp., revealed that purchases of women's blouses and shirts from Eagle Bros. have decreased while purchases of imports have increased.

CONCLUSION

After careful review of the facts obtained in the investigation, I concluded that increases of imports like or directly competitive with women's blouses and shirts produced at Emenee Manufacturing Corp., Catawissa, Pa., contributed importantly to the decline in sales or production and to the total or partial separations of the workers at the firm. In accordance with the provisions of the Act, I make the following certification:

All workers at Emenee Manufacturing Corp., Catawissa, Pa., who became totally or partially separated from employment on or after October 6, 1976, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of February 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-6380 Filed 3-9-78; 8:45 am]

[4510-28]

[TA-W-2521]

F. M. WEAVER & CO., INC., LANSDALE, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-2521: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 27, 1977, in response to a worker petition received on October 25, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing fabricated structural steel at F. M. Weaver & Co., Inc., Lansdale, Pa.

The notice of investigation was published in the FEDERAL REGISTER on November 15, 1977 (42 FR 59132). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of F. M. Weaver & Co., Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met.

that increased imports have "contributed importantly" to the separations, or threat thereof, and to the decrease in sales or production of the firm or subdivision.

Weaver's business in 1976 and 1977 declined as a result of potential customers using other domestic firms. Weaver submits a competitive bid for each project that it might want to work on. None of the awarded contracts went to foreign firms. All of the contracts were awarded to other domestic companies.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with fabricated structural steel produced by F. M. Weaver & Co., Inc., Lansdale, Pa. have not contributed importantly to declines in sales and production or to the total or partial separations of workers at that plant as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of February 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-6245 Filed 3-9-78; 8:45 am]

[4510-28]

[TA-W-2312]

GRANDOE CORP., GLOVERSVILLE, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-2312: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 31, 1977, in response to a worker petition received on August 30, 1977, which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing dress and ski gloves at the Bleecker Street production facility of the Grandoe Corp. Gloversville, N.Y.

The notice of investigation was published in the FEDERAL REGISTER on September 20, 1977 (42 FR 47271). No public hearing was requested and none was held.

On July 6, 1976, the Department issued a notice of negative determination for all workers at the Grandoe Corp., Gloversville, N.Y.

The information upon which the determination was made was obtained principally from the Grandoe Corp., the Amalgamated Clothing and Textile Workers Union, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of dress gloves and mittens increased 27.7 percent from 4,674,000 dozens pairs in 1975 to 5,970,000 dozen pairs in 1976. Imports of dress gloves and mittens increased 16.3 percent from 2,354,000 dozen pairs in the first two quarters of 1976 to 2,738,000 dozen pairs in the first two quarters of 1977. The ratio of imports to domestic production increased from 257.1 percent in 1975 to 285.5 percent in 1976.

The value of imports of ski gloves and mittens increased 94 percent from 9.27 millions of dollars in 1975 to 17.98 millions of dollars in 1976. The value of imports increased 66.8 percent from 5.73 millions of dollars in the first two quarters of 1976 to 9.56 millions of dollars in the first two quarters of 1977. The ratio of imports to domestic production increased from 272.6 percent in 1975 to 423.1 percent in 1976.

Total imports of dress and ski gloves by the Grandoe Corp. increased 19.8 percent in value from 1975 to 1976 and increased 33.5 percent in value in the first two quarters of 1977 compared to the same period in 1976. The ratio of the value of company imports to company sales increased from 62 percent in 1975 to 65 percent in 1976 and to 70 percent in the first half of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with dress and ski gloves produced at the Bleecker Street production facility of the Grandoe Corp. in Gloversville, N.Y. contributed importantly to the total or partial separation of the workers and to the decrease in production at that plant. In accordance with the provisions of the Act, I make the following certification:

All hourly and piece rate employees at the Bleecker Street production facility of the Grandoe Corporation in Gloversville, New York, who became totally or partially separated on or after December 18, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of February 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-6246 Filed 3-9-78; 8:45 am]

[4510-28]

[TA-W-2558]

GREAT WESTERN STEEL CO., YOUNGSTOWN DIVISION, NORTH JACKSON, OHIO

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 233 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-2558: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 3, 1977, in response to a worker petition received on October 28, 1977, which was filed on behalf of workers and former workers involved in employment related to the processing, warehousing, and sale of hot and cold rolled sheet and strip and galvanized sheet and strip steel at the Youngstown Division of the Great Western Steel Co., North Jackson, Ohio.

The notice of investigation was published in the FEDERAL REGISTER on November 18, 1977 (42 FR 59583). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Great Western Steel Co., its customers, the Youngstown Sheet and Tube Co., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

INCREASED IMPORTS

Imports of hot and cold rolled steel sheet and strip decreased from 5,573.4 thousand tons in 1972 to 4,481.5 thousand tons in 1973, decreased to 4,391.9 thousand tons in 1974, decreased again to 3,620.0 thousand tons in 1975, and then increased 11.9 percent to 4,052.2 thousand tons in 1976. The ratios of imports to domestic shipments and consumption declined from 14.5 percent and 12.8 percent, respectively, in 1975 to 11.8 percent and 10.7 percent, respectively, in 1976. Imports increased 46.2 percent in the first nine months of 1977 compared to the first nine months of 1976. The ratios of imports to domestic shipments and consumption increased from 10.3 percent and 9.5 percent, respectively, in the first nine months of 1976 to 16 percent and 13.8 percent, respectively, in the first nine months of 1977.

CONTRIBUTED IMPORTANTLY

Great Western Steel Co. is a wholly-owned subsidiary of the Lykes Corp. Similarly, Youngstown Sheet and Tube Co. is a wholly-owned subsidiary of Lykes. The Youngstown Division of the Great Western Steel Co. operates within Lykes' Basic Steel Group and received approximately 98 percent of its steel requirements from the Youngstown, Ohio plant of the Youngstown Sheet and Tube Co. The shutdown of flat rolled steel production operations at the Youngstown, Ohio plant of Youngstown Sheet and Tube eliminated Great Western/Youngstown's source of supply and resulted in sales and employment declines at Great Western/Youngstown. The Department has previously determined that increased import competition contributed importantly to the shutdown of flat rolled steel production operations at the Youngstown, Ohio plant of Youngstown Sheet and Tube Co. (see TA-W-1464). The Youngstown, Ohio plant of the Youngstown Sheet and Tube Co. and Great Western/Youngstown sell to many of the same customers. The customer survey conducted in conjunction with TA-W-1464 revealed that imports are an important factor in the domestic market as evidenced by customer awareness of the availability and prices of foreign steel products and the fact that some major customers reduced purchases from Youngstown Sheet and Tube and increased purchases of imports.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with hot and cold rolled sheet and strip steel processed and warehoused by the Youngstown Division of the Great Western Steel Co. contributed importantly to the decline in sales or production and to the total or partial separations of workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers at the Youngstown Division of the Great Western Steel Company, North Jackson, Ohio, who became totally or partially separated from employment on or after June 30, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of February 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-6247 Filed 3-9-78; 8:45 am]

[4510-28]

INVESTIGATION REGARDING CERTIFICATION OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE; CORRECTION

In FEDERAL REGISTER Doc. 78-5092 appearing on page 8209 in the FEDERAL REGISTER of February 28, 1978, the following petitioner (TA-W-3,131) Erie Mining Co., Taconite Harbor, Minn., in the Appendix is corrected to read as follows: "State of Minnesota, Department of Natural Resources, Division of Minerals, Erie Mining Company, Taconite Plant, Hoyt Lakes, Minnesota".

Signed at Washington, D.C., this 3rd day of March 1978.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-6378 Filed 3-9-78; 8:45 am]

[4510-28]

[TA-W-2225]

NL INDUSTRIES, INC., DOEHLER JARVIS CASTINGS DIVISION, BATAVIA, N.Y.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-2225: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on July 25, 1977, in response to a worker petition received on July 22, 1977, which was filed by United Auto Workers on behalf of workers and former workers producing aluminum and

magnesium die castings at the Batavia, N.Y. plant of NL Industries, Inc., Doehler Jarvis Castings Division.

The notice of investigation was published in the FEDERAL REGISTER on August 9, 1977 (42 FR 40286). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of NL Industries, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. With respect to workers producing magnesium die castings without regards to whether any of the other criteria have been met the following criterion has not been met:

that increases of imports of articles like or directly competitive with those produced at the firm or subdivision have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

Imports of magnesium die castings increased from 5,000 pounds in 1975 to 34,000 pounds in 1976, an increase of 580 percent. Imports decreased from 33,000 pounds in the first seven months of 1976 to 26,000 pounds in the first seven months of 1977, a decrease of 21.2 percent. The imports to domestic production ratio increased from 0.03 percent in 1975 to 0.26 percent in 1976. The ratio decreased from 0.43 percent in the first seven months of 1976 to 0.25 percent for the first seven months of 1977.

The imports to domestic production ratio for magnesium die castings never was above 0.50 percent for the period 1972 through the first seven months of 1977.

None of the customers of the Batavia plant surveyed decreased purchases of magnesium die castings and increased purchases of imports.

With respect to workers producing aluminum die castings, all of the group eligibility requirements of section 222 of the Act have been met.

Imports of aluminum die castings increased 28.8 percent from 27.8 million pounds in 1975 to 35.8 million tons in 1976. Imports increased 31.1 percent from 19.6 million tons in the first seven months of 1976 to 25.7 million tons in the first seven months of 1977.

The imports to domestic production ratio declined from 8.5 percent in 1975 to 8.4 percent in 1976. The ratio increased to 9.3 percent in the first seven months of 1977 compared to 7.7 percent for the same period in 1976.

The Department's investigation revealed that major customers of the Batavia plant increased purchases of imported aluminum die castings in the first three quarters of 1977 when compared to the same period in 1976, while decreasing purchases from the Batavia plant during that period.

Prior to the phasing out of the aluminum die casting operation at the Batavia, N.Y. plant in July 1977, approximately 50 percent of the production was aluminum and 50 percent was in magnesium.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with aluminum die castings produced at the Batavia, N.Y. plant of NL Industries, Inc., contributed importantly to the total or partial separations of the workers and to the decrease in sales or production of aluminum die castings at that plant prior to the termination of such production in July 1977. In accordance with the provisions of the Act, I make the following certification:

All workers of NL Industries, Incorporated, Doehler Jarvis Castings Division, Batavia, New York, engaged in employment related to the production of aluminum die castings, who became totally or partially separated from employment on or after January 10, 1977, and before July 31, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. Workers separated on or after July 31, 1977 are denied eligibility.

I further conclude that workers engaged in employment related to the production of magnesium die castings are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C., this 28th day of February 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-6248 Filed 3-9-78; 8:45 am]

[4510-28]

[TA-W-2339]

NORRWOCK SHOE CO., DIVISION OF SCOA, INDUSTRIES, SKOWHEGAN; NORRIDGEWOCK; NORTH JAY; AND CALAIS, MAINE

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-2339: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on September 13, 1977, in response to a worker petition received on September 7, 1977, which was filed on behalf of workers and former workers producing men's, women's, and children's shoes at Plant No. 11, Norrwock Shoe Co., Skowhegan, Maine. The investigation was expanded to include of the Norrwock Shoe Co., Plant No. 6 and Plant No. 12, Skowhegan, Maine; Plant No. 1 Norridgewock, Maine; Plant No. 3 North Jay, Maine; and Plant No. 20, Calais, Maine.

The Notice of Investigation was published in the FEDERAL REGISTER on October 4, 1977 (42 FR 54031). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Norrwock Shoe Co., its customers, the U.S. Department of commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. With respect to workers employed at Plant No. 1, Norridgewock, Maine; Plant No. 12, Skowhegan, Maine; and Plant No. 20, Calais, Maine, without regard to whether any of the other criteria have been met, the following criterion has not been met.

the a significant number or proportion of the workers in the firm, or an appropriate subdivision thereof, have became totally or partially separated, or are threatened to become totally or partially separated;

The Department's investigation revealed that the average number of production workers at Plant No. 20 and Plant No. 12 increased in 1977 compared to 1976. The average number of production workers at Plant No. 1, while decreasing in the first quarter of 1977, increased in three consecutive quarters in the second, third, and fourth quarters of 1977. Increased employment at Plants No. 1, 12, and 20 resulted from a consolidation of operations from Plants No. 3, 6, and 11 which closed during 1977.

With respect to workers employed at Plant No. 11, Skowhegan, Maine; Plant No. 6, Skowhegan, Maine; and Plant No. 3, North Jay, Maine, all of the group eligibility requirements of section 222 of the Act have been met.

Imports of women's and misses' nonrubber footwear increased annually from 187.6 million pairs in 1974 to 195.5 million pairs in 1976. Imports decreased from 110.4 million pairs in the first six months of 1976 to 92.6 million pairs in 1977. Imports relative to domestic production increased from 102.6 percent in 1974 to 114.1 percent in 1975 and then declined to 112.6 percent in 1976. Imports relative to production increased from 101.7 percent in the first six months of 1976 to 119.6 percent in the first six months of 1977.

Imports of men's dress and casual footwear increased annually from 44.3 million pairs in 1974 to 58.7 million pairs in 1976. Imports declined from 30.1 million pairs in the first six months of 1976 to 30 million pairs in the first six months of 1977. Imports relative to domestic production increased annually from 53.5 percent in 1974 to 70.4 percent in 1976. Imports relative to production increased from 66 percent in the first six months of 1976 to 73.9 percent in the first six months of 1977.

Imports of children's nonrubber footwear decreased from 12.2 million pairs in 1974 to 11.1 million pairs in 1975 and then increased to 15.8 million pairs in 1976. Imports relative to domestic production increased annually from 59.2 percent in 1974 to 75.2 percent in 1976, and increased from 73.3 percent in the first six months of 1976 to 101.2 percent in the first six months of 1977.

After considering the various factors affecting the domestic footwear industry, the U.S. International Trade Commission concluded that certain footwear articles including men's, women's, and children's nonrubber footwear are being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing such articles. A presidential directive, issued April 16, 1976, orders that trade adjustment assistance be expedited to impacted workers, firms, and communities.

A survey of customers of Norrwock Shoe indicated they increased purchases of imports while decreasing purchases from Norrwock Shoe.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's, women's, and children's shoes produced at Plant No. 11, Skowhegan, Maine; Plant No. 6, Skowhegan, Maine; and Plant No. 3, North Jay, Maine of the Norrwock Shoe Co. contributed importantly to the total or partial separations of workers at those plants. In accordance with the provisions of the Act, I make the following certification:

All workers at Plant No. 11, Skowhegan, Maine of the Norrwock Shoe Company who became totally or partially separated from employment on or after April 9, 1977; all workers at Plant No. 6, Skowhegan, Maine of the Norrwock Shoe Company who became totally or partially separated from employment on or after September 1, 1976; and all workers at Plant No. 3, North Jay, Maine of the Norrwock Shoe Company who became totally or partially separated from employment on or after July 16, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further conclude that workers employed at Plant No. 1, Norridgewock, Maine; Plant No. 12, Skowhegan, Maine; and Plant No. 20, Calais, Maine are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C., this 28th day of February 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-6249 Filed 3-9-78; 8:45 am]

[4510-28]

[TA-W-2422]

PHELPS DODGE CORP.

Notice of Negative Determination Regarding Application for Reconsideration

On January 30, 1978, a worker of the Phelps Dodge Corp.'s facility at Bisbee requested administrative reconsideration of the Department of Labor's negative determination regarding eligibility to apply for worker adjustment assistance. This determination was published in the FEDERAL REGISTER on January 20, 1978, (43 FR 2949).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears, on the basis of facts not previously considered, that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The worker raised a number of points, which he felt warranted a reversal by the Department of its decision. Two of these concerned his belief and the reported belief of personnel of the company that the price of copper had negative impact on operations at the facility. Another was that there have been recent reductions in the afternoon shift. Finally, the worker maintained that the increase in production at the facility was caused by the leaching action due to flooding rains and that there had been no layoffs during the period of the copper strike in 1977.

The Department does not consider that the application introduces new material of substance that would indicate a reversal of its original denial. In its investigation, the Department found that unemployment at Bisbee was caused by the conclusion of salvage operations related to the closing of the two exhausted copper mines and the concentrator by 1975.

Foreign price decline is not a factor in this case as in other copper cases because the cost of production of the leaching and precipitating process in the open is less expensive than the usual concentrating process, and despite the decline in the world price of copper, the Bisbee facility could still maintain competitive operations.

CONCLUSION

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 2nd day of March 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-6381 Filed 3-9-78; 8:45 am]

[4510-28]

[TA-W-2402]

PHILLIP'S SPORTSWEAR, INC., EAST BOSTON, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-2402: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on September 29, 1977, in response to a worker petition received on September 26, 1977, which was filed by workers and former workers producing women's sport coats at the East Boston, Mass., plant of Phillip's Sportswear, Inc.

The notice of investigation was published in the FEDERAL REGISTER on October 14, 1977 (42 FR 55314). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Phillip's Sportswear, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met.

that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become

totally or partially separated, or are threatened to become totally or partially separated.

The Department's investigation revealed that the average number of workers engaged in employment related to the production of women's sport coats increased in 1976 compared to 1975 and increased in the period January through September 1977, compared to the same period in 1976. Employment increased in the fourth quarter of 1976 and each of the first three quarters of 1977 compared to the same quarters in the previous year.

The management of Phillip's Sportswear indicated that they had no plans to lay off any workers or reduce their hours of work. Therefore, no threat of total or partial separations is evident.

CONCLUSION

After careful review, I conclude that all workers at Phillip's Sportswear, Inc. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of February 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-6250 Filed 3-9-78; 8:45 am]

[4510-28]

[TA-W-2548]

PUBLIX SHIRT CO., HAZLETON, PA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-2548: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 1, 1977, in response to a worker petition received on October 20, 1977, which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing men's dress shirts at the Hazleton, Pa. plant of the Publix Shirt Co.

The notice of investigation was published in the FEDERAL REGISTER on November 15, 1977 (42 FR 59131). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the Publix Shirt Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of men's and boys' dress shirts increased from 30,800,000 in 1975 to 64,283,000 in 1976. Imports increased from 46,238,000 in the first nine months of 1976 to 48,918,000 in the first nine months of 1977. The ratio of imports to domestic production increased from 36.2 percent in 1975 to 67.1 percent in 1976.

Customers representing a substantial proportion of the Publix Shirt Co.'s production increased purchases of imported dress shirts directly and from domestic sources supplying imported shirts while reducing purchases from Publix Shirt in the first nine months of 1977 compared to the same period in 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's dress shirts produced at the Publix Shirt Co., Hazleton, Pa. plant contributed importantly to the decline in sales or production and to the total or partial separations of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Publix Shirt Company, Hazleton, Pennsylvania plant who became totally or partially separated from employment on or after October 12, 1976, are eligible to aply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of February 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-6251 Filed 3-9-78; 8:45 am]

[4510-28]

[TA-W-2549]

PUBLIX SHIRT CO., MYERSTOWN, PA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-2549: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 1, 1977, in response to a worker petition received on October 20, 1977, which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing men's dress shirt at the Myerstown, Pa. plant of the Publix Shirt Co.

The notice of investigation was published in the FEDERAL REGISTER on November 15, 1977 (42 FR 59131). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the Publix Shirt Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

INCREASED IMPORTS

Imports of men's and boys' dress shirts increased form 30,800,000 in 1975 to 64,283,000 in 1976. Imports increased from 46,238,000 in the first nine months of 1976 to 48,918,000 in the first nine months of 1977. The ratio of imports to domestic production increased from 36.2 percent in 1975 to 67.1 percent in 1976.

CONTRIBUTED IMPORTANTLY

Customers representing a substantial proportion of the Publix Shirt Co.'s production increased purchases of imported dress shirts directly and from domestic sources supplying imported shirts while reducing purchases from Publix Shirt in the first nine months of 1977 compared to the same period in 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's dress shirts produced at the Publix Shirt Co., Myerstown, Pa. plant contributed importantly to the decline in sales or production and to the total or partial separations of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workes at the Publix Shirt Company, Myerstown, Pennsylvania plant, with the exception of the Engineering and Design Division, who became totally or partially separated from employment on or after October 12, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of February, 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-6252 Filed 3-9-78; 8:45 am]

[4510-28]

[TA-W-2303]

STRIDE RITE MANUFACTURING CORP., BOSTON, MASS.

Certification Regarding Eligibility To Apply Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-2303: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 29, 1977, in response to a worker petition received on August 24, 1977, which was filed by the Boot and Shoe Workers' Union on behalf of workers and former workers producing infants', babies', and children's footwear at the Boston, Mass. plant of the Stride Rite Manufacturing Corp.

The Notice of Investigation was published in the FEDERAL REGISTER on September 20, 1977 (42 FR 47270). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Stride Rite Manufacturing Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

INCREASED IMPORTS

Imports of infants' and babies' nonrubber footwear declined annually from 1972 through 1974 and increased yearly from 1974 through 1976. Imports increased from 6.9 million pairs in 1975 to 10.7 million pairs in 1976 and increased from 7.9 million pairs in January-September 1976 to 8.2 million pairs in January-September 1977. The ratio of imports to domestic production increased from 28.5 percent in 1975 to 43 percent in 1976 and increased from 40.5 percent in January-September 1976 to 53.6 percent in January-September 1977.

Imports of children's nonrubber footwear, excluding athletic shoes, declined yearly from 1972 through 1975. Imports increased from 11.1 million parirs in 1975 to 15.8 million pairs in 1976 and decreased from 12.5 million pairs in January-September 1976 to 11.4 million pairs in January-September 1977. The ratio of imports to domestic production increased from 60 percent in 1976 to 75.2 percent in 1976 and increased from 74.4 percent in January-September 1976 to 94.2 percent in January-September 1977.

CONTRIBUTED IMPORTANTLY

Customers surveyed indicated that they increased purchases of imported children's, infants', and babies' footwear either absolutely or relative to their purchases from the Stride Rite Manufacturing Corp.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with infants', babies', and children's footwear produced at the Boston, Mass. plant of the Stride Rite Manufacturing Corp. contributed importantly to the decline in production and to the total or partial separations of workers at that plant. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All workers at the Boston, Massachusetts plant of the Stride Rite Manufacturing Corporation who became totally or partially separated from employment on or after August 22, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of February 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-6253 Filed 3-9-78; 8:45 am]

[4510-28]

[TA-W-2596]

SYNTEX FABRICS, INC., WILLIAMSPORT, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2596: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 10, 1977 in response to a worker petition received on November 4, 1977 which was filed by the Amalgamated Clothing and Textile Workers Union of America on behalf of workers and former workers producing broadwoven fabric (greige goods) at Syntex Fabrics, Inc., Williamsport, Pa.

The notice of investigation was published in the FEDERAL REGISTER on November 18, 1977 (42 FR 59565). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Syntex Fabrics, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met.

that increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Inasmuch as all types of unfinished fabric, greige goods, are generally interchangeable and substitutable in their end uses, all types of unfinished fabric must be considered like or directly competitive with the fabric produced at Syntex Fabrics, Inc., Williamsport, Pa. Depending on the blend of fabrics used, all types of greige cloth could be used in the production of men's and women's apparel and home furnishings.

Aggregate imports of unfinished fabric, which includes polyester, acetate, rayon, nylon, and cotton greige, rose from 608 million square yards in 1975 to 1,002.7 million square yards in 1976, an increase of 64.9 percent. Imports decreased from 878.3 million square yards in the first three quarters of 1976 to 585.1 million square yards in the first three quarters of 1977, a decrease of 33.4 percent. The imports to domestic production ratio for all greige goods increased from 5.5 percent in 1975 to 8.2 percent in 1976 and then decreased from 5.9 percent in the first half of 1976 to 4 percent in the first half of 1977.

None of the customers of Syntex Fabrics, Inc., that were surveyed during the course of the investigation purchased imported greige goods in 1975, 1976, or the first nine months of 1977.

CONCLUSION

After careful review I conclude that all workers at Syntex Fabrics, Inc., Williamsport, Pa. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of February 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-6254 Filed 3-9-78; 8:45 am]

[4510-28]

[TA-W-2657]

TALLASSEE MILLS, TALLASSEE, ALA., DIVISION OF MOUNT VERNON MILLS, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-2657: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 23, 1977, in response to a worker petition received on that date, which was filed on behalf of workers and former workers producing industrial fabrics, home furnishings, bottom-weight apparel, and print cloth fabrics at Tallassee Mills, Tallassee, Ala., a division of Mount Vernon Mills, Inc. The petition was filed on behalf of workers in Unit Two, Unit Three, and the staff employees at Tallassee Mills.

The Department's investigation revealed that Unit Two produces bottom-weight fabric and light-weight industrial fabric. Unit Three produces heavy-weight industrial fabric. The investigation was expanded to include Unit One of Tallassee Mills, which produces print cloth.

The notice of investigation was published in the FEDERAL REGISTER on December 6, 1977 (42 FR 61695). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Tallassee Mills, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of gray woven cotton fabric, excluding industrial cotton fabric declined in 1975 to 367 million square yards, increased 67 percent, to 613 million square yards in 1976, and declined to 321 million square yards in the first nine months of 1977 compared to 517 million square yards in the like period of 1976. The ratio of imports to domestic production increased from 9.5 percent in 1975 to 15.1 percent in 1976.

Imports of gray woven acetate, rayon, polyester, and nylon fabric declined to 38 million square yards in 1975, increased 52 percent, to 57.7 million square yards in 1976, and increased to 43.3 million square yards in the first nine months of 1977 compared to 40.8 million square yards in the like period of 1976. The ratio of imports to domestic production increased from 0.63 percent in 1975 to 0.84 percent in 1976.

Imports of gray woven industrial cotton fabric (including bottom-weight fabric) declined to 203 million square yards in 1975, increased 64 percent to 332 million square yards in 1976, and declined to 158 million square yards in the first nine months of 1977 compared to 266 million square yards in the like period of 1976. The ratio of imports to domestic production increased from 15.9 percent in 1975 to 25 percent in 1976.

Customers who were surveyed reduced purchases of gray fabric, of bottom-weight fabric and of industrial weight from Tallassee Mills in 1976 and 1977 and increased purchases of imported fabric.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with gray fabric, industrial weight fabric, and bottom weight fabric produced at Tallassee Mills, Tallassee, Ala., division of Mount Vernon Mills, Inc., contributed importantly to the decline in sales and production and to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at Tallassee Mills, Tallassee, Alabama who became totally or partially separated from employment on or after November 9, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of February 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-6255 Filed 3-9-78; 8:45 am]

[4510-28]

[TA-W-2379]

TRIO DYEING AND FINISHING CO., INC., PATERSON, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2379: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on September 26, 1977, in response to a worker petition received on September 22, 1977, which was filed on behalf of workers and former workers producing dyed and finished fabric at Trio Dyeing and Finishing Co., Inc., Paterson, N.J.

The notice of investigation was published in the FEDERAL REGISTER on October 14, 1977 (42 FR 55315). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Trio Dyeing and Finishing Co., Inc., its customers, the American Textile Manufacturers Institute, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met.

that sales or production, or both, of the firm or subdivision have decreased absolutely.

The Department's investigation revealed that Trio's sales of dyed and finished fabric increased 29 percent in quantity in 1976 compared to 1975, then increased 6 percent in the January-October period of 1977 compared to the like period in 1976.

Trio is a commission dyeing and finishing company. As such, its production is equal to its sales.

CONCLUSION

After careful review, I conclude that all workers at Trio Dyeing and Finishing Co., Inc., Paterson, N.J. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of February, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-6256 Filed 3-9-78; 8:45 am]

[4510-28]

[TA-W-2597]

UNIROYAL, INC., THOMSON, GA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-2597: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 10, 1977, in response to a worker petition received on November 4, 1977, which was filed on behalf of workers and former workers producing rubber/canvas footwear at the Thomson, Ga. plant of Uniroyal, Inc.

The notice of investigation was published in the FEDERAL REGISTER on November 18, 1977 (42 FR 59565). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Uniroyal, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of rubber/canvas footwear increased to 31.9 million pairs in 1976 compared to 23.6 million pairs in 1975. The ratio of imports to domestic production increased to 26.6 percent in 1976 compared to 17.6 percent in 1975, and to 29.2 percent in the first nine months of 1977 compared to 23.3 percent in the same period of 1976.

After a six months investigation under section 201 of the Trade Act of 1974, the U.S. International Trade Commission issued a positive finding of import inquiry. A Presidential directive, issued April 15, 1976, ordered that trade adjustment assistance be expedited to impacted workers, firms and communities.

Customers of Uniroyal, Inc. who were surveyed indicated that several customers decreased purchases of rubber/canvas footwear from Uniroyal and increased purchases of imports.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports like or directly competitive with the rubber/canvas footwear produced at the Thomson, Ga. plant of Uniroyal, Inc. contributed importantly to the decline in production and to the total or partial separations of the workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Thomson, Georgia plant of Uniroyal, Incorporated who became totally or partially separated from employment on or after October 7, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of February 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc 78-6257 Filed 3-9-78; 8:45 am]

[4510-23]

Office of the Secretary

ADVISORY COMMITTEE TO REVIEW MINE HEALTH AND SAFETY TRAINING PROGRAM REGULATIONS

Meeting

Pursuant to sections 101(a) and 102(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. No. 91-173, as amended by Pub. L. No. 95-164, notice is hereby given that the Advisory Committee to Review Mine Health and Safety Training Program Regulations will meet for approximately one week beginning Tuesday, March 28, 1978. The meeting will begin at 1:30 p.m. on Tuesday, March 28, 1978, and continue through Friday, March 31, 1978, if necessary. The meetings will be held at Room 909, 200 North Glebe Road, Arlington, Va. 22203.

The committee is established pursuant to statute to review recommendations to the Secretary of Labor regarding draft rules for health and safety training programs under section 115(a) of the Federal Mine Safety and Health Act of 1977, and to recommend to the Secretary of Labor which of those draft rules, or any modifications thereof, should be proposed and promulgated as regulations.

The meeting of the advisory committee is open to the public and approximately 100 seats will be available on a first-come, first-served basis. Any member of the public may file a written statement with the advisory committee before and during the public meeting. If deemed appropriate by the chairperson, members of the public may be permitted to present oral statements at the meeting.

Copies of the committee agenda including the draft training regulations are available to the public at the office of John C. English, Acting Assistant Administrator, Education and Training, Room 516, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203, telephone 703-235-1515. All written statements, comments and inquiries should be addressed to Mr. English at the above address.

Dated: March 7, 1978.

RAY MARSHALL,
Secretary of Labor.

[FR Doc. 78-6382 Filed 3-9-78; 8:45 am]

[4510-30]

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act required the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilites in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing

within two week of publication of this notice to:

Deputy Assistant Secretary for Employment and Training, 601 D St. NW, Washington, D.C. 20213

Signed at Washington, D.C., this 6th day of March 1978.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

APPLICATIONS RECEIVED DURING THE WEEK ENDING MARCH 3, 1978

Name of applicant and location of enterprise; principal product or activity.

The Mary Rutan Hospital of Logan County, Bellefontaine, Ohio; general hospital.
Agri-Foods Inc., Hawk Point, Mo.; marketing of eggs.
Lee and George-Ann Atchison, Farmington, N. Mex.; sales of concrete and related products.
Zero Construction Corp., Humacao, Puerto Rico; various retail stores.
Peter Thomas Trenchard, Sturgeon Bay, Wis.; golf course and bar and food services.
Leo's Super Valu, Inc., Oakes, N. Dak., retail grocery store.
Gregory David & Roberta Ann Rue, Jefferson, Wis.; bowling, liquor sales, and short orders.

[FR Doc. 78-6263 Filed 3-9-78; 8:45 am]

[4510-30]

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate, or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within 2 weeks of publication of this notice to:

Deputy Assistant Secretary for Employment and Training, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 27th day of February 1978.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

Applications received during the week ending Feb. 24, 1978

Name of applicant and location of enterprise	Principal product or activity
Lanier Food Systems, Inc., Cumming, Ga.	Retail sale of prepared food and drinks.
Alexvale Furniture, Inc., Taylorsville, NC.	Manufacture of upholstered living room furniture.

Applications received during the week ending Feb. 24, 1978—Continued

Name of applicant and location of enterprise	Principal product or activity
Rowan Business Forms, Inc., Salisbury, NC.	Manufacture of business forms and commercial printing.
Sanford Food System, Inc., Sanford, NC.	Steak restaurant.
Thomas A. Pierce, Raleigh, NC.	Manufacture of farm machinery and equipment.
Maxon Industries, Inc., Walton, Ga.	Manufacture of hydraulic lift gates and air compactors.
Cutler-Federal, Inc., Highland City, Fla.	Manufacture of mail chutes, mail boxes, locking devices, pneumatic tubes, and miscellaneous building materials
Cracker Barrel Old Country Store, Inc., Lebanon, Tenn.	Restaurants, gift shops, and filling stations in 15 southern locations.
CBS Homes, Inc., La Crescent, Minn.	Component home manufacturer.
Ava, Inc., Ava and Logan, Ohio.	Manufacture of glazed floor tile.
Cline Lumber Co., Inc., Haydenville, Ohio.	Wholesale and retailing building materials.
MEM, Inc., Rochester, Ind....	Motel.
Prestress Services, Inc., Decatur, Ind.	Design, manufacture, and installation of prestressed concrete bridge beams and building products.
John Wiesner, Inc., Conroe, Tex.	Automobile dealership.
Hills Valley Foods, Inc., Batesville, Ark.	Manufacture of Cheese and whey products.
The Inn, Gallup, N. Mex	Motel and restaurant.
William M. Gibbons, trustee of the property of Chicago, Rock Island & Pacific Railroad Co., El Reno, Okla.	Repair, strip, and paint freight cars.
John Herman Focke, III, M.D., Mexia, Tex.	Medical and surgical care facility.
Den Hartog Bros. Meats, Inc., and Quality Protein, Inc., Eddyville, Iowa.	Slaughter and processing meat for retail.
Forx Con-Pro, Grand Forks, N. Dak.	Concrete work.
Amigo Roof Tile Manufacturing Co., Weld County, Colo.	Manufacture cement roof tile.
Annie Laurie Mining Ventures, Ltd., Piute and Sevier Counties, Utah.	Production of gold and silver bullion.
Thompson's Bakery & Cafe, Cavalier, N. Dak.	Restaurant.
Quality Mushroom Inc., Utah County, Utah.	Mushroom farm.
Reservation Ranch, Redding, Calif.	Manufacture of green veneer.
Reservation Ranch, Smith River, Calif.	Motel, restaurant, and bar.
Kenault Inc., Honolulu, Hawaii.	Dry storage distribution center.
Birdello/Dolores Freestone, Petaluma, Calif.	Wholesale/retail sales of domestic and imported birds, feed, cages, et cetera.
Kodiak Island Seafoods, Inc., Larsen Bay, Alaska.	Seafood processing facility.
Empire Building Supply, Inc., Klamath Falls, Oreg.	Retail of hardware and lumber

[FR Doc. 78-6266 Filed 3-9-78; 8:45 am]

[4510-26]

Occupational Safety and Health Administration

[V-77-4; V-77-14]

MINNESOTA MINING & MANUFACTURING CO.

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Grant of variance.

SUMMARY: This notice announces the grant of a variance to Minnesota Mining & Manufacturing Co., from the standards prescribed in 29 CFR 1910.106(d)(5)(vi)(*b*) concerning storage of flammable and combustible liquids.

DATE: The effective date of the variance is March 10, 1978.

FOR FURTHER INFORMATION CONTACT:

James J. Concannon, Director, Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue NW., Room N-3668, Washington, D.C. 20210, telephone 202-523-7121; or the following Regional and Area Offices:

U.S. Department of Labor, Occupational Safety and Health Administration, Federal Building, Room 15010, 1961 Stout Street, Denver, Co. 80294.

U.S. Department of Labor, Occupational Safety and Health Administration, Court House Plaza Building, Room 408, 300 North Dakota Avenue, Sioux Falls, S.D. 57102.

U.S. Department of Labor, Occupational Safety and Health Administration, 911 Walnut Street, Room 3000, Kansas City, Mo. 64106.

U.S. Department of Labor, Occupational Safety and Health Administration, 1150 Grand Avenue, 6th Floor, 12 Grand Building, Kansas City, Mo. 64106.

U.S. Department of Labor, Occupational Safety and Health Administration, 555 Griffin Square Building, Room 602, Dallas, Tx. 75202.

U.S. Department of Labor, Occupational Safety and Health Administration, American Bank Tower, Suite 310, 221 West 6th Street, Austin, Tx. 78701.

I. BACKGROUND

Minnesota Mining & Manufacturing Co., Medical Products Division, Brookings Plant, Brookings, S.D. 57006, made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance, and for an interim order pending a decision on the application for a variance, from the safety standards prescribed in 29 CFR 1910.106(d)(5)(vi)(*b*). The standard limits the height and gallonage of flammable and combustible liquids stored in warehouses to that permitted in Table H-14. The affected facilities, as requested in two separate variance applications, are:

3M Co., Medical Products Division, Brookings Plant, Brookings, S. D. 57006.
3M Co., Decorative Products Division, P.O. Box 327, Nevada, Mo. 64772.
3M Co., Decorative Products Division, P.O. Box 1669, Brownwood, Tx. 76801.

Notices of the applications, and of the granting of interim orders, were published in the FEDERAL REGISTER on March 1, 1977 (42 FR 11920) and on November 1, 1977 (42 FR 57182). The notices invited interested persons, including affected employers and employees to submit written data, views, and arguments regarding the grant or denial of the variance requested. In addition, affected employers and employees were notified of their right to request a hearing on the application for a variance. No written comments or requests for a hearing have been received.

II. FACTS

The applicant uses various flammable and combustible liquids in its manufacturing processes. These liquids include methyl ethyl ketone, acetone, methanol, isopropyl alcohol, hexane, heptane, and xylene. The liquids are stored in 55 gallon drums or portable tanks in warehouse areas and are transported to the mixing or compounding area by forklift truck as needed.

Section 1910.106(d)(5)(vi)(*b*) sets maximum limits on the number of gallons stored per pile and the height of each pile. In addition, it requires that no container be more than 12 feet from an aisle, that main aisles be at least 8 ft. wide, that side aisles be 4 ft. wide, and that there shall be at least 4 ft. between piles.

The applicant proposes to stack the pallets containing the drums or tanks on racks of shelves rather than directly on top of each other as is done in the piles. This would provide greater stability and would eliminate the danger of piled drums falling. In addition, it would provide greater safety because the weight of each pallet of drums rests on the rack rather than on the drums below it. Each pallet of drums would be adjacent to an aisle rather than up to 12 feet from the aisle as permitted by the standard.

Using rack storage, as described, the applicant proposes to stack its drums and portable tanks of flammable and combustible liquids with the following height limitations rather than those required by the standard:

The total quantity of liquids within a building shall not be restricted but the arrangement of racked storage shall comply with the following table*:

Class	Type rack	Storage	Maximum storage height containers	Maximum storage height portable tanks
IA	Double or single.	Ground	Not permitted.	25'
		Upper	Do.	15'
IB and IC	do	Ground	15'	25'
		Upper	15'	15'
II	do	Ground	15'	25'
		Upper	15'	25'
		Basement	15'	15'
III	Multi double/single.	Ground	15'	40'
		Upper	15'	20'
		Basement	15'	20

*Aisles between racks shall be a minimum of 4 feet wide. Cross aisle requirements shall be in accordance with the Life Safety Code (NFPA 101-1976) for means of egress.

The applicant had originally stated that at the Brookings, S. Dak. facility only about one employee-hour per shift was spent in the warehouse with usually only one employee involved, but occasionally two or three.

At the time the applicant amended its application to include other worksites, it stated that the one employee-hour per shift may not necessarily

apply to all its warehouses. Employee occupancy would, however, be kept to a minimum with the warehouses identified as restricted areas and access limited to authorized personnel only.

Employee evacuation time in the warehouses is minimal, ranging from about 5 to about 20 seconds. The employees are instructed in the procedures to follow in the event of a spill or drum rupture. In the event of a fire, the employees are instructed to evacuate immediately. At the Brookings facility they would sound an alarm to call the trained plant emergency squad and the local fire department.

This procedure may vary somewhat at other warehouses depending on the local situations. In all cases the employees would evacuate immediately in the event of a fire.

The Brookings warehouse is protected by an overhead sprinkler system fusible at 286° F and an in-rack system fusible at 165° F. The fire alarm system is a pre-action type and is actuated by either a rate of rise, pneumatic detector or manual actuation at an alarm box. Actuation of the detector or manual pull causes water to enter the sprinkler system, actuating a water flow alarm which sounds locally and at the guard's desk and is transmitted to the local fire department.

The type of fire suppression system or alarm system would also vary from warehouse-to-warehouse depending on the local conditions.

III. Decisions

Section 29 CFR 1910.106(d)(5)(vi)(b) sets the height and gallonage limits for flammable and combustible liquids stored in warehouses to that permitted by Table H-14. This is intended to reduce the amount of fuel for a fire, to avoid damage to containers from excessive weight in piling them, and to avoid hazards associated with unstable piles. This standard addresses only liquids stored in piles, which are generally defined as containers or pallets of containers stacked directly on top of one another.

The applicant proposes to store its flammable and combustible liquids in 55 gallon drums on racks of shelves rather than directly on top of each other in piles. This provides much greater stability in that each shelf is independently supported. This is particularly true in the event of a fire when a burning pallet may collapse causing the drums to fall.

The employee time in the warehouse will be kept to a minimum, with the warehouses identified as restricted areas and access limited to authorized personnel only.

The applicant has described the type of fire suppression system which will be utilized at its Brookings warehouse. However, some of its warehouses are isolated and do not utilize employee fire brigades. In these situations the fire suppression system would only serve for property protection. The protection of employees would be served by a fire detection and audible alarm system with employees directed to evacuate the building immediately in the event of a fire and not to re-enter the area.

However, if an employee fire brigade were to be utilized, a fire suppression system serves to enhance the safety of the fire brigade members by helping to control the fire. An alternative to a fire suppression system would be the storage of a smaller amount of flammable and combustible liquids, as is recognized in Table H-14 of the standard. Therefore, the need for a fire suppression system and/or a limitation of the amount of flammable and combustible liquids stored is recognized for situations in which there would be continued employee involvement after a fire was detected.

Therefore it is determined that, with varying provisions for different situations, the applicant will be providing a place of employment as safe as that which would be obtained by complying with the standard.

IV. Order

Pursuant to authority in section 6(d) of the Occupational Safety and Health Act of 1970, and in Secretary of Labor's Order No. 8-76 (41 FR 25059), it is ordered that Minnesota mining and Manufacturing Co. be, and it is hereby, authorized to store flammable and combustible liquids on racks to the heights and under the conditions specified below:

1. The number of employees and employee-hours in the warehouses shall be kept to a minimum (approximately 1-2 employee-hours per shift), with signs posted to restrict access to the warehouses.
2. All warehouses shall be equipped with a fire detection and audible alarm system.
3. The height of rack storage shall be restricted to the storage heights listed in the chart above, if there is an employee fire brigade.
4. Employees shall immediately evacuate the warehouse in the event of a fire.
5. Any employees involved in fighting the fire shall be properly trained and shall be equipped with personal protective equipment proper to the type of fire fighting anticipated.
6. Racks shall be constructed so that each pallet of drums is adjacent to an aisle.
7. Aisles between racks shall be a minimum of four feet wide, and cross aisles shall be in accordance with the Life Safety Code (NFPA101-1976) requirements for means of egress.
8. If the warehouse is adjacent to areas or buildings normally occupied by employees, storage shall be protected by an in-rack sprinkler system in compliance with NFPA No. 13-1974. The actuation of this system shall activate a local fire alarm signal perceptible above ambient noise or light levels by all employees in the affected portion of the worksite.
9. When using an industrial power truck to remove pallets of drums from the racks, the load shall not be raised or lowered en route.
10. Other applicable standards, such as those in § 1910.178, shall be complied with.

As soon as possible Minnesota Mining and Manufacturing Co. shall give notice to affected employees of the terms of this order by the same means required to be used to inform them of the application for variance.

Effective date. This order shall become effective on March 10, 1978. and shall remain in effect until modified or revoked in accordance with section 6(d) of the Occupational Safety and Health Act of 1970.

(84 Stat. 1596; 29 U.S.C. 655; 29 CFR Part 1905.)

Signed at Washington, D.C. this 7th day of March, 1978.

Eula Bingham,
Assistant Secretary of Labor.

[FR Doc. 78-6377 Filed 3-9-78; 8:45 am]

[1505-01]

Occupational Safety and Health Administration

OREGON STATE STANDARDS

Approval

Correction

Note.—In FR Doc. 77-5430 appearing at page 62555 in the issue of Friday, December 13, 1977, several paragraphs were omitted. The document is being republished for the convenience of the reader.

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On December 28, 1972, notice was published in the Federal Register (37 FR 28628) of the approval of the Oregon plan and the adoption of Subpart D to Part 1952 containing the decision. The Notice of Approval of Revised Developmental Schedule was further published on April 1, 1974 in the Federal Register.

The Oregon plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. Section 1953.20 provides that "where any alteration in the Federal program could have an adverse impact on the at least as effective as" status of the State program, a program change supplement to a State plan shall be required.

In response to Federal standards changes, the State has submitted by letter dated September 12, 1977 from M. Keith Wilson to James W. Lake and incorporated as part of the plan, State standards comparable to 29 CFR 1910.268, Telecommunications, as published in the Federal Register (40 FR 13436) dated March 3, 1975.

These State standards, which are contained in OAR 437 Division 82, Telecommunications, were promulgated after public comment requested by mail to those on the Workers' Compensation Board mailing list established pursuant to OAR 436-90-505, and to those on the Board's distribution mailing list as their interest may appear, on May 19, 1977.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are at least as effective as the comparable Federal standards and accordingly should be approved. The significant areas of difference are more stringent standards for cylinder movement, rubber glove and blanket tests, power pole testing, and manhole entry. The detailed standards comparison is available at the locations specified below.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Wash. 98174; Workers' Compensation Board, Labor and Industries Building, Salem, Oreg. 97310; and the Technical Data Center, Room N3620, 200 Constitution Avenue NW., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Oregon plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

The standards were adopted in accordance with the procedural requirements of State law which included public comment and further public participation and notice would be repetitious.

This decision is effective December 17, 1977.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Seattle, Wash., this eighteenth day of October, 1977.

James W. Lake,
Regional Administrator, OSHA.

[7536-01]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

VISUAL ARTS ADVISORY PANEL

Amended Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that the meeting of the Visual Arts Advisory Panel (Photography Exhibition Aid, Publications, Surveys) to the National Council on the Arts which was listed on page 7071 of Volume 43, Number 34, Friday, February 17, 1978, issue of the Federal Register is amended in the following way:

The meeting is now scheduled for March 9, 1978, from 9:30 a.m. to 5:30 p.m.; and March 10, 1978, from 9:30 a.m. to 5:30 p.m. in Room 1115 of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and 9(B) of section 552 of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6070.

Dated: March 6, 1978.

John H. Clark,
Director, Office of Council & Panel Operations, National Endowment for the Arts.

[FR Doc. 78-6319 Filed 3-9-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-293]

BOSTON EDISON CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission), has issued Amendment No. 29 to Facility Operating License No. DPR-35, issued to Boston Edison Co. (the licensee), which revised Technical Specifications for operation of the Pilgrim Nuclear Power Station (the facility) located near Plymouth, Mass. The amendment is effective as of its date of issuance, except that certain procedures will not be effective until 90 days after its date of issuance.

The amendment incorporates fire protection Technical Specifications on the existing fire protection equipment and adds administrative controls related to fire protection at the facility. This action is being taken pending completion of the Commission's overall fire protection review of the facility.

The application, as amended, for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 23, 1977, as amended by filing December 15, 1977, (2) Amendment No. 29 to License No. DPR-35, and (3) the Commission's related Safety Evaulation dated November 25, 1977 and letter to the licensee of the same date. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Plymouth Public Library on North Street in Plymouth, Mass. 02360. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission's Public Document Room, 2055, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 3rd day of March 1978.

For the Nuclear Regulatory Commission.

George Lear,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-6287 Filed 3-9-78; 8:45 am]

[7590-01]

[Docket No. 50-213]

CONNECTICUT YANKEE ATOMIC POWER CO.

Dated at Bethesda, Md., this 27th day of February 1978.

For the Nuclear Regulatory Commission.

(d) Prospectuses of the last bond or stock issue of Consumers.

(e) The Dow exhibits described in ALAB-452, p. 431, footnote 736.

For the Nuclear Regulatory Commission.

George W. Knighton,

tion. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H

For further details with respect to this action, see (1) Amendment No. 1 to Facility Operating License No.

[7590-01]

[Docket No. 50-213]

CONNECTICUT YANKEE ATOMIC POWER CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 25 to Facility Operating License No. DPR-61 issued to Connecticut Yankee Atomic Power Co. which revises Technical Specifications for operation of the Haddam Neck Plant located in Middlesex County, Conn. The amendment is effective as of the date of issuance.

The amendment incorporates changes to the Technical Specifications as follows: (a) Specification of maximum pressurizer heatup rate as 100°F/hr., (b) specification of the exact number of members for a quorum for the Connecticut Yankee Nuclear Review Board, (c) minor on site organization changes, (d) deletion of the requirement for an Annual Operating Report, (e) deletion of requirements for a respiratory protection program and (f) revision of the monitoring requirements for entry into high radiation areas.

The applications for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated October 17, November 21, 28, and 30, 1977, (2) Amendment No. 25 to License No. DPR-61, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Russell Library, 119 Broad Street, Middletown, Conn. 16457. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 27th day of February 1978.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-6288 Filed 3-9-78; 8:45 am]

[7590-01]

COMSUMERS POWER CO., (MIDLAND PLANT, UNITS 1 AND 2)

[Docket Nos. 50-329A, 50-330A]

Order for Prehearing Conference and Evidentiary Hearing

MARCH 3, 1978.

The Appeal Board in its decision on review of the antitrust decision of the Licensing board in this proceeding (Consumers Power Co. (Midland Plant, Units 1 and 2), ALAB-452, 6 NRC ——), remanded this case to the trial Board for the formulation of "appropriate" license conditions required to eliminate the concerns entailed in the antitrust findings (Slip opinion, pp. 429, 432). On March 2, 1978, the Board held a conference with counsel for all parties to discuss the issues appropriate to be taken up at an evidentiary hearing, and to consider scheduling and other procedural subjects necessary for an expeditious hearing and disposition of the remanded matters.

The Board has concluded that in order to comply with order of remand, a prehearing conference should be held on April 13, 1978, and an evidentiary hearing should commence on May 8, 1978. Prior to the prehearing conference, and not later than April 7, 1978, the Board should have in hand a pretrial statement or brief from each party which should contain at least the following information:

1. A statement of the issues or contentions involved in the hearing and the parties' respective positions thereon.

2. Preliminary proposed license conditions deemed appropriate in accordance with the Appeal Board's opinion and findings.

3. Citations of relevant authority.

4. A list of witnesses who might be called by each party.

5. A brief summary of the testimony expected from each witness (no written direct testimony will be used at the hearing).

In addition, the parties are requested to have the following documents in the hands of the Board by the same date (April 7):

(a) Annual reports of Consumers not previously in evidence, including the most recent drafts.

(b) Form 1, FPC (now FERC).

(c) Form 10 K (SEC).

(d) Prospectuses of the last bond or stock issue of Consumers.

(e) The Dow exhibits described in ALAB-452, p. 431, footnote 736.

Accordingly, in order to dispose of the remanded issues and in accordance with the provisions of 10 CFR 2.104, 2.750, 2.752 and 2.757. please take notice that a prehearing conference will be held at 9:30 a.m., local time, on April 13, 1978, in the Nuclear Regulatory Commission's Hearing Room, 5th Floor, East West Towers, located at 4350 East West Highway, Bethesda, Md. 20014.

Please take further notice that an evidentiary hearing will be held at 9:30 a.m., local time, on May 8, 1978, in the Nuclear Regulatory Commission's Hearing Room, 5th Floor, East West Towers, located at 4350 East West Highway, Bethesda, Md. 20014.

Dated at Bethesda, Md., this 3rd day of March 1978.

It is so ordered.

For the Atomic Safety and Licensing Board.

HUGH K. CLARK,
Chairman.

[FR Doc. 78-6289 Filed 3-9-78; 8:45 am]

[7590-01]

FINAL LIQUID PATHWAY GENERIC STUDY

Availability

Notice is hereby given that the Final Liquid Pathway Generic Study (NUREG-0440) has been prepared by the Commission's Office of Nuclear Reactor Regulation.

The principal objective of the Study is to compare the relative risks associated with accidental releases to the liquid pathway from floating nuclear plants with those from land based plants at selected sites for a spectrum of potential accidents. It has been concluded that the risks associated with releases to the liquid pathway at floating nuclear plants are less than those at land based plants for the spectrum of design basis events and are greater than those at land based plants for events beyond the design basis.

The Draft Liquid Pathway Generic Study (NUREG—0140) was issued in September 1976, the availability of which was published in the FEDERAL REGISTER on October 18, 1976 (41 FR 45918).

The Final Study is available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. Copies of NUREG-0440 may be purchased at the National Technical Information Service, Springfield, Va. (Printed Copy: $13.00; microfiche: $3.00).

Dated at Bethesda, Md., this 27th day of February 1978.

For the Nuclear Regulatory Commission.

GEORGE W. KNIGHTON,
Chief Environmental Projects Branch 1, Division of Site Safety and Environmental Analysis.

[FR Doc. 78-6285 Filed 3-9-78; 8:45 am]

[7590-01]

[Docket No. 50-219]

JERSEY CENTRAL POWER & LIGHT CO.

Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 29 to Provisional Operating License No. DPR-16 issued to Jersey Central Power & Light Co. which revised Technical Specifications for operation of the Oyster Creek Nuclear Generating Station, located in Ocean County, N.J. The amendment is effective 30 days after the date of issuance.

This amendment adds a license condition relating to the completion of facility modifications for fire protection. It also revises Technical Specifications to incorporate limiting conditions for operation and surveillance requirements for existing fire protection systems and administrative controls. Additional operating and surveillance requirements for the modifications being performed will be added to the Technical Specifications after the modifications are completed.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated September 30, 1977, as supplemented by letters dated December 3, 1976, August 11, 1977 and October 3, 1977, (2) Amendment No. 29 to License No. DPR-16, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Ocean County Library, Brick Township Branch, 401 Chambers Bridge Road, Brick Town, N.J. 08723. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 3rd day of March 1978.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 78-6290 Filed 3-9-78; 8:45 am]

[7590-01]

[Docket No. 50-320]

METROPOLITAN EDISON CO., JERSEY CENTRAL POWER & LIGHT CO., PENNSYLVANIA ELECTRIC CO., THREE MILE ISLAND NUCLEAR STATION, UNIT 2

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment 1 to Facility Operating License No. DPR-73, issued to the Metropolitan Edison Co., Jersey Central Power & Light Co., and Pennsylvania Electric Co., for operating of the Three Mile Island Nuclear Station, Unit 2 (the facility), located in Dauphin County, Pa. The amendment is effective as of its date of issuance.

The license is amended by adding paragraph H to Attachment 2 to the Operating License DPR-73, which waives certain requirements of the Technical Specifications until initial criticality is achieved.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1953, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51(d)(4), an environmental statement or negative declaration and environmental impact appraisal need not be in prepared connection with issuance of this amendment.

For further details with respect to this action, see (1) Amendment No. 1 to Facility Operating License No. DPR-73, and (2) the Commission's related safety evaluation supporting Amendment No. 1 to Facility Operating License No. DPR-73. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the State Library of Pennsylvania, Commonwealth and Walnut Streets, Harrisburg, Pa. 17126. A copy of items (1) and (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Md., this 3rd day of March 1978.

For the Nuclear Regulatory Commission.

STEVEN A. VARGA,
Chief, Light Water Reactors Branch 4, Division of Project Management.

[FR Doc. 78-6291 Filed 3-9-78; 8:45 am]

[7590-01]

[Dockets Nos. 50-245, 50-336]

NORTHEAST NUCLEAR ENERGY CO., CONNECTICUT LIGHT AND POWER CO., HARTFORD ELECTRIC LIGHT CO., AND WESTERN MASSACHUSETTS ELECTRIC CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 44 to Provisional Operating License No. DPR-21 and Amendment No. 35 to Facility Operating License No. DPR-65 to Northeast Nuclear Energy Co., the Connecticut Light and Power Co., the Hartford Electric Light Co. and Western Massachusetts Electric Co., which revised the Technical Specifications for operation of the Millstone Nuclear Power Station, Units Nos. 1 and 2, located in the Town of Waterford, Conn. The amendments are effective as of their date of issuance.

The amendment incorporates fire protection Technical Specifications on the existing fire protection equipment and adds administrative controls related to fire protection at the facility. This action is being taken pending completion of the Commission's overall fire protection review of the facility.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and

the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the application for amendments dated May 11, 1977, as supplemented July 11 and December 15, 1977, (2) Amendments Nos. 44 and 35 to License Nos. DPR-21 and DPR-65 respectively, and (3) the Commission's related Safety Evaluation dated November 25, 1977. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Conn. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 3rd day of March 1978.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-6292 Filed 3-9-78; 8:45 am]

[7590-01]

[Docket No. 27-39]

NUCLEAR ENGINEERING CO., INC., (SHEFFIELD, ILL., LOW-LEVEL RADIOACTIVE WASTE DISPOSAL SITE)

Hearing on Application for Renewal and Amendment of Facility Operating License

On December 5, 1977, the Staff of the Nuclear Regulatory Commission published in the FEDERAL REGISTER (42 FR 61522) a notice that the Commission had received an application for renewal and amendment of license No. 13-10042-01 from the Applicant Nuclear Engineering Co., Inc. (NECO). The proposed amendment is to expand its low-level radioactive waste burial site near Sheffield, Ill., from 20.45 acres to 188.45 acres.

The notice in the FEDERAL REGISTER also provided that the licensee (NECO) may, pursuant to 10 CFR 2.105, file a request for a hearing with respect to the license renewal and amendment requesting site expansion. It further provided that any person whose interest may be affected by this proceeding may file a petition for leave to intervene pursuant to 10 CFR 2.714.

Thereafter a number of petitions for leave to intervene were filed with the Commission and an Atomic Safety and Licensing Board was designated to rule on any such petition for leave to intervene and request for a hearing.

On March 1, 1978, that Board ruled that the petitions to intervene and request for hearing by the following were granted:[1]

1. State of Illinois 2. County of Bureau, Illinois 3. Fifteen (15) individuals, namely:

Edith Carlson
Ervin Flint
Stanley W. Gingrich
Edward J. Goetzman, M.D.
W. T. Good
Sam Hodgett
William J. Hollein
Harley Lorenson
Wilma Lorenson
David E. Moon
William A. Rosenow
The Reverend Frank Rottier
Harold Schieler
Ralph Stabler
Sherman H. Stetson and

4. Associated Citizens for the Protection of the Environment

Thereafter an Atomic Safety and Licensing Board was designated to preside over the hearing to be conducted as a result of the granting of the petitions to intervene. The Board will consist of Dr. Linda Little, Dr. Forrest Remick, members, and Andrew C. Goodhope, chairman.

Notice is hereby given that a hearing will be held before the Atomic Safety and Licensing Board upon the licensee's application for revewal and amendment to its license to operate a low-level radioactive waste burial site near Sheffield, Ill. This hearing will be held in the vicinty of Sheffield, Ill.

The Board will conduct a special prehearing conference or conferences at a date and place to be specified in a later notice to consider pertinent matters in accordance with the Commission's "Rules of Practice". The parties to this proceeding, including the Intervenors, or their respective counsel, are directed to appear at such prehearing conferences. At the prehearing conference the Board will determine the specific issues to be considered at the evidentiary hearing and establish a schedule for further actions in the proceeding. Notices as to the dates and places of the prehearing conference will be published in the FEDERAL REGISTER. The date and place of the evidentiary hearing will be set by the Board at or after the prehearing conference and will also be published in the FEDERAL REGISTER.

The public is invited to attend the prehearing conference but members of the public may not participate in this conference. An opportunity for any person who wishes to make an oral or written statement in this proceeding but who has not filed a petition for leave to intervene will be provided at the hearing. Any person may request permission to make a limited appearance pursuant to provisions of 10 CFR 2.715 of the Commission's "Rules of Practice". Limited appearances will be permitted at the time of the hearing in the discretion of the Board and will be subject to the conditions set forth in a subsequent Notice of Hearing. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission. U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A person permitted to make a limited appearance does not become a party, but may state his or her position and raise questions which he or she would like to have answered to the extent that the questions are within the scope of the hearing as specified above. A member of the public does not have the right to participate unless he or she has been granted the right to intervene as a party or the right of limited appearance.

An answer to this notice, pursuant to the provisions of 10 CFR 2.705 of the Commission's "Rules of Practice", must be filed by the parties to this proceeding (other than the Regulatory Staff) not later than March 30, 1978.

Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Pending further order of the Hearing Board designated for this proceeding, parties are required to file, pursuant to the provisions of 10 CFR 2.708 of the Commission's "Rules of Practice", an original and twenty (20) conformed copies of each such paper with the Commission.

For further details the documents filed in this proceeding are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Moline Public Library, 504, 17th Street, Moline, Ill., and the State Clearinghouse, Bureau of the Budget, 103 Statehouse, Springfield, Ill.

[1] One petition to intervene by an individual was denied because the petitioner had failed to show the requisite interest in the proceeding. This individual was given 10 days within which to make a proper showing of interest. Another petition to intervene was also denied for failure to show the requisite interest or state any contentions.

Dated at Bethesda, Md., this 3rd day of March 1978.

It is so ordered.

For the Atomic Safety and Licensing Board.

ANDREW C. GOODHOPE,
Chairman.

[FR Doc. 78-6293 Filed 3-9-78; 8:45 am]

[7590-01]

[Docket No. 50-344]

PORTLAND GENERAL ELECTRIC CO., THE CITY OF EUGENE, OREGON, AND PACIFIC POWER & LIGHT CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 19 to Facility Operating License No. NPF-1 issued to Portland General Electric Co., the city of Eugene, Oreg., and Pacific Power and Light Co. which revised Technical Specifications for operation of the Trojan Nuclear Plant (the facility), located in Columbia County, Oreg. The amendment is effective as of its date of issuance.

This amendment changes the requirements for performance and testing of HEPA and charcoal filters in safety-related ventilation systems.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated April 6, 1977, (2) Amendment No. 19 to License No. NPF-1 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Columbia County Courthouse, Law Library, Circuit Court Room, St. Helens, Oreg. 97051. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 27th day of February 1978.

For the Nuclear Regulator Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-6294 Filed 3-9-78; 8:45 am]

[7590-01]

REVISION TO THE STANDARD REVIEW PLAN

[NUREG-75/087]

Issuance and Availability

As a continuation of the updating program for the Standard Review Plant (SRP) previously announced, (FEDERAL REGISTER notice dated December 8, 1977), the Nuclear Regulatory Commission's (NRC's) Office of Nuclear Reactor Regulation has published Revision No. 1 to section No. 9.2.3 of the SRP for the NRC staff's safety review of applications to build and operate light-water-cooled nuclear power reactors. The purpose of the plan, which is composed of 224 sections, is to improve both the quality and uniformity of the NRC staff's review of applications to build new nuclear power plants, and to make information about regulatory matters widely available, including the improvement of communication and understanding of the staff review process by interested members of the public and the nuclear power industry. The purpose of the updating program is to revise sections of the SRP for which changes in the review plan have been developed since the original issuance in September 1975 to reflect current practice.

Copies of the Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants, which has been identified as NUREG-75/087, are available from the National Technical Information Service, Springfield, Va. 22161. The domestic price is $70.00, including first-year supplements. Annual subscriptions for supplements alone are $30.00. Individual sections are available at current prices. The domestic price for Revision No. 1 to section No. 9.2.3. is $4.00. Foreign price information is available from NTIS. A copy of the Standard Review Plan including all revisions published to date is available for public inspection at the NRC's Public Document Room at 1717 H Street NW., Washington, D.C. 20555 (5 U.S.C. 552(a)).

Dated at Bethesda, Md., this 3rd day of March 1978.

For the U.S. Nuclear Regulatory Commission.

ROGER J. MATTSON,
Director, Division of Systems Safety Office of Nuclear Reactor Regulation.

[FR Doc. 78-6297 Filed 3-9-78; 8:45 am]

[7590-01]

[Docket No. 50-395]

SOUTH CAROLINA ELECTRIC AND GAS CO., ET AL. (VIRGIL C. SUMMER NUCLEAR STATION, UNIT 1)

Prehearing Conference

On February 14, 1978, the Atomic Safety and Licensing Board published in the FEDERAL REGISTER a notice of hearing on the issuance of a facility operating license for the Virgil C. Summer Nuclear Station, Unit 1. 43 FR 6347. The notice stated that a special prehearing conference pursuant to 10 CFR 2.751(a) of the Commission's Rules of Practice will be conducted on March 30, 1978 in Columbia, S.C., at a time and place to be specified later.

Please take notice that the special prehearing conference will convene at 9:30 a.m. in Richland County Courthouse, Courtroom No. 3, Corner of Washington and Sumter Streets, Columbia, S.C. 29202. All parties or their counsel are directed to attend.

Dated at Bethesda, Md., this 6th day of March 1978.

It is so ordered.

For the Atomic Safety and Licensing Board.

IVAN W. SMITH,
Chairman.

[FR Doc. 78-6295 Filed 3-9-78; 8:45 am]

[7590-01]

[Docket Nos. STN 50-566, STN 50-567]

TENNESSEE VALLEY AUTHORITY (YELLOW CREEK NUCLEAR PLANT, UNITS 1 AND 2)

Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this construction permit proceeding:

Alan S. Rosenthal, Chairman
Dr. John H. Buck
Richard S. Salzman

Dated: March 6, 1978.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

miles north of Sheboygan, Wis. on the western shore of Lake Michigan, and to designate the station the Haven Nuclear Plant, Units 1 and 2. The Haven

tion of the health and safety of the public;

(b) Such further technical or design information as may be required to

record of the proceeding contain sufficient information, the review of the application by the Commission's staff

sion to make a limited appearance pursuant to the provisions of 10 CFR 2.715. A person making a limited ap-

failure to file on time. The reasons for the tardiness in in filing a petition for leave to intervene, as well as the fac-

Dated: March 6, 1978.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc. 78-6206 Filed 3-9-78; 8:45 am]

[7590-01]

[Docket Nos. 50-502, 50-503]

WISCONSIN ELECTRIC POWER CO., ET AL. (HAVEN NUCLEAR PLANT, UNITS 1 AND 2) (FORMERLY KOSHKONONG NUCLEAR PLANT, UNITS 1 AND 2)

Receipt of Amended Application for Construction Permits and Facility Licenses and Hearing on Amended Application for Construction Permits

By application dated May 29, 1974, Wisconsin Electric Power Co., Wisconsin Power & Light Co., Wisconsin Public Service Corp., and Madison Gas and Electric Co. (Applicants),[1] applied for construction permits for two pressurized water nuclear reactors designated as the Koshkonong Nuclear Plant, Units 1 and 2. The proposed facilities were to be located in Jefferson County, Wis. Hearings on the application were convened pursuant to a Notice of Hearing published in the FEDERAL REGISTER on October 25, 1974 (39 FR 38018).

The application for the Koshkonong facility was part of an application, designated as the Wisconsin Utilities Project (WUP), to construct one or more nuclear plants at one or more sites in the state of Wisconsin. The WUP application was submitted and accepted for review under the "duplicate plant" option of the Commission's standardization policy for nuclear power plants (Appendix N to 10 CFR Part 50). A Preliminary Safety Analysis Report (PSAR), containing the standardized nonsite-related information, accompanied the application. A Site Addendum describing the specific site related aspects of the Koshkonong Nuclear Plant was subsequently filed.

A technical safety evaluation of the Koshkonong plant design was performed by the Commission staff and summarized in its Safety Evaluation Report issued in October 1975, and supplemented in April 1976 and July 1976.

By letter, dated August 24, 1977, and again in the cover letter accompanying their September 23, 1977 Amendment 14 to the WUP application, the Applicants indicated an intent to relocate the proposed nuclear facilities from the Koshkonong site to a site known as Haven, located approximately 5 miles north of Sheboygan, Wis. on the western shore of Lake Michigan, and to designate the station the Haven Nuclear Plant, Units 1 and 2. The Haven Nuclear Plant will consist of pressurized water reactors designed for initial operation at approximately 2775 megawatts (thermal) and approximately 900 net electrical megawatts per unit.

On December 16, 1977, the Applicants filed Amendment 15 to the Site Addendum to the PSAR. This amendment provides information regarding the Haven site and supersedes the Koshkonong Site Addendum in these dockets. Also on December 16, 1977, the Applicants submitted Amendment 9 to the WUP Environmental Report (ER). This amendment provides updated information regarding the Haven site and supersedes both the Koshkonong ER and the early site review document pertaining to the Haven site previously reviewed by the Commission staff.

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities," Part 51, "Licensing and Regulatory Policy and Procedures for Environmental Protectin," and Part 2, "Rules of Practice," notice is hereby given that a hearing will be held at a time and place to be set by the Atomic Safety and Licensing Board (Board) previously designated to preside over this proceeding, to consider the application, as amended. The hearing on the amended application will be scheduled to begin in the vicinity of the site of the proposed Haven Nuclear Plant.

Upon completion by the Commission's regulatory staff of a favorable safety evaluation of the application as amended and an environmental review of the project, and upon receipt of a report by the Advisory Committee on Reactor Safeguards, the Director of Nuclear Reactor Regulation will consider making affirmative findings on Items 1-3, a negative finding on Item 4, and an affirmative finding on Item 5 specified below as a basis for the issuance of construction permits to the Applicants. In the event that a separate hearing is held with respect to a Limited Work Authorization, Item 6 below describes the matters for consideration.

ISSUES PURSUANT TO THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

1. Whether in accordance with the provisions of 10 CFR 50.35(a):

(a) The applicants have described the proposed design of the facility including, but not limited to, the principal architectural and engineering criteria for the design, and [have] identified the major features of components incorporated therein for the protection of the health and safety of the public;

(b) Such further technical or design information as may be required to complete the safety analysis and which can reasonably be left for later consideration, will be supplied in the final safety analysis report;

(c) Safety features or components, if any, which require research and development have been described by the applicants and the applicants have identified, and there will be conducted a research and development program reasonably designed to resolve any safety questions associated with such features or components; and

(d) On the basis of the foregoing, there is reasonable assurance that (i) such safety questions will be satisfactorily resolved at or before the latest date stated in the application for completion of constructioin of the proposed facility, and (ii) taking into consideration the site criteria contained in 10 CFR Part 100, the proposed facility can be constructed and operated at the proposed location without undue risk to the health and safety of the public.

2. Whether the applicants are technically qualified to design and construct the proposed facility;

3. Whether the applicants are financially qualified to design and construct the proposed facility; and

4. Whether the issuance of a permit for construction of the facility will be inimical to the common defense and security or to the health and safety of the public.

ISSUE PURSUANT TO NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 (NEPA)

5. Whether, in accordance with the requirements of 10 CFR Part 51, the construction permit should be issued as proposed.

ISSUES PURSUANT TO 10 CFR 2.761A (LIMITED WORK AUTHORIZATION)

6. Pursuant to 10 CFR 2.761a, a separate hearing and partial decision by the Board on issues pursuant to the National Environmental Policy Act NEPA) and general site suitability and certain othe possible issues may be held and issued prior to and separate from the hearing and decision on other issues. In the event the Board, after the hearing, makes favorable findings on such issues, the Director of Nuclear Reactor Regulation may, pursuant to 10 CFR 50.10(e) authorise the applicants to conduct certain onsite work entirely at their own risk prior to completion of the remainder of the proceedings.

In the event that this proceeding is not a contested proceeding, as defined by 10 CFR 2.4(n), the Board will determine without conducting a de novo evaluation of the application: (1) Whether the application and the record of the proceeding contain sufficient information, the review of the application by the Commission's staff has been adequate to support the proposed findings to be made by the Director of Nuclear Reactor Regulation on Items 1-5 above, and to support, insofar as the Commission's licensing requirements under the Act are concerned, the issuance of the construction permits proposed by the Director of Nuclear Reactor Regulation; and (2) whether the NEPA review conducted by the Commission's Staff has been adequate.

In the event that this proceeding becomes a contested proceeding, the Board will consdider and initially decide, as issues in this proceeding, Items 1-5 above as a basis for determining whether the construction permits should be issued to the Applicants.

With respect to the Commission's responsibilities under NEPA, and regardless of whether the proceeding is contested or uncontested, the Board will, in accordance with 10 CFR 51.52(c): (1) determine whether the requirements of Section 102(2) (A), (C), and (E) of NEPA and 10 CFR Part 51 have been complied with in this proceeding; (2) independently consider the final balance among conflicting factors contained in the record of the proceeding for the permits with a view to determining the appropriate action to be taken; and (3) determine after weighing the environmental, economic, technical and other benefits against environmental and other costs, and considering available alternatives whether the construction permits should be issued, denied, or appropriately conditioned to protect environmental values.

The Board will convene a special prehearing conference of the parties to the proceeding and persons who have filed petitions for leave to intervene, or their counsel, within sixty (60) days after the notice of hearing is published or at such other time as the Board deems appropriate, for the purpose of dealing with the matters specified in 10 CFR 2.751a.

The Board will convene a prehearing conference of the parties, or their counsel, to be held subsequent to the special prehearing conference within sixty (60) days after discovery has been completed, or at such other time as the Board may specify, for the purpose of dealing with the matters specified in 10 CFR 2.752.

The Board will set the time and place for any special prehearing conference, prehearing conference and evidentiary hearing, and the respective notices will be published in the FEDERAL REGISTER.

Any person who does not wish, or is not qualified, to become a party to this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715. A person making a limited appearance may make an oral or written statement on the record. He does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of Items 1-5 above. Limited appearances will be permitted at the time of the hearing at the discretion of the Board. Any person desiring to make a limited appearance is requested to inform the Secretary of the Commission by May 19, 1978. The presiding Atomic Safety and Licensing Board may make further provisions with respect to limited appearances subsequently during the course of this proceeding.

Any person whose interest may be affected by the proceeding, who wishes to participate as a party in the proceeding must file a written petition under oath or affirmation for leave to intervene inaccordance with the provisions of 10 CFR 2.714. A petition for leave to intervene shall set forth the interest of the petitioner in the proceedings, and any other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceedings on the petitioner's interest. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceedings as to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to each aspect on which he desires to intervene. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross examine witnesses.

A petition for leave to intervene must be filed with the Secretary of the Commission and others specified below by April 10, 1978. A petition for leave to intervene which is not timely will not be entertained absent a determination by the Board that the petitioner in addition to the matters specified in 10 CFR 2.714(d), has made a substantial showing of good cause for failure to file on time. The reasons for the tardiness in in filing a petition for leave to intervene, as well as the factors specified in 10 CFR 2.714(a)(1)-(4) shall be considered in making a determination whether there has been a substantial showing of good cause by the petitioner.

This Board has previously admitted certain parties as intervenors in the Koshkonong proceeding. Any of these intervenors who wish to participate as an intervenor in the proceeding for construction permits for the Haven Nuclear Plant shall file with the Board (1) a statement indicating the party's desire to so participate; (2) a statement under oath or affirmation indicating the manner in which the earlier stated interest in the proceeding continues, or a new statement of interest, along with a showing of how the interest, new or continuing, may be affected by the results of the proceeding; (3) a specific identification of the party's previously admitted contentions which are viewed as being of continuing relevance and which the party continues to assert. New contentions arising from the relocation of the facility may also be asserted. Such filings shall be made not later than April 10, 1978. At an appropriate time the Board will consider any newly submitted contentions and will further consider the continuing acceptability of previously admitted contentions.

Papers required to be filed in this proceeding shall be filed by mail or telegram addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Pending further order of the Board, parties are required to file, pursuant to the provisions of 10 CFR 2.708, an original and twenty (20) conformed copies of each such paper with the Commission. A copy of any petition for intervention should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 1800 N Street NW., Washington, D.C. 20036, and to Robert H. Gorske, Esq., General Counsel, Wisconsin Electric Power Co., 780 North Water Street, Milwaukee, Wis. 53202, attorneys for the Applicants; Myron M. Cherry, Esq., One IBM Plaza, Chicago, Ill. 60611, attorney for Intervenors Concerned Citizens of Wisconsin and Friends of the Earth; Mrs. Richelle A. Lisse, Route 4, Box 285, Fort Atkinson, Wis. 53538, party-intervenor, and William A. Jansen, Esq., 210 Monona Avenue, Madison, Wis. 53201, attorney for the Intervenor City of Madison.

For further details, see the application for construction permits dated

[1] Madison Gas and Electric Co. withdrew as a co-applicant in the WUP project in Amendment 14 to the application, dated September 23, 1977.

August 9, 1974, and amendments thereto, the PSAR, and amendments thereto, Amendment 15 to the Site Addendum to the PSAR; and Amend-

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

4. *Responsibilities.* The successful application of cost accounting principles requires development of mutual understanding between representatives of educational institutions and of the Federal Government as to

1. Indirect cost pools.
2. The distribution basis.
3. Negotiated lump sum for indirect costs.
4. Predetermined fixed rates for indirect costs.

eral Government. These agreements are referred to as sponsored agreements.

2. *Policy guides.* The successful application of these cost accounting principles requires development of mutual understand-

noncredit basis, and whether they are offered through regular academic departments or separate divisions, such as a summer school division or an extension division.

August 9, 1974, and amendments thereto, the PSAR, and amendments thereto, Amendment 15 to the Site Addendum to the PSAR; and Amendment 9 to the Environmental Report, which, along with any amendments or supplements thereto, are or will be available as noted above for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., between the hours of 8:30 a.m. and 5 p.m. on weekdays. Copies of the Commission's Office of Nuclear Reactor Regulation Safety Evaluation Report, and supplements thereto, related to the construction of the Koshkonong Nuclear Plant are also available at this location. Copies of those documents will also be available at the Mead Public Library, 710 North Eighth Street, Sheboygan, Wis. 53081 for inspection by members of the public between the hours of 9 a.m. to 9 p.m. Monday through Friday, from 9 a.m. to 5:30 p.m. on Saturday, from 2 to 5:30 p.m. on Sunday, and at the Madison Public Library, Division of Business and Science, 201 West Mifflin Street, Madison, Wis. 53703 during the hours of 8:30 a.m. to 9 p.m. Monday through Friday and 8:30 a.m. to 5:30 p.m. on Saturday. As they become available, a copy of the safety evaluation report and/or supplements related to construction of the Haven Nuclear Plant issued by the Commission's Office of Nuclear Reactor Regulation, the draft and final environmental statements, the report of the Advisory Committee on Reactor Safeguards (ACRS), the proposed construction permits, the transcripts of the prehearing conferences and of the hearing, and other relevant documents, will also be available at the above locations. Copies of the proposed construction permits and the ACRS report may be obtained, when available, by request to the Director, Division of Project Management, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Copies of the Office of Nuclear Reactor Regulation's safety evaluation report and final environmental statement may be obtained when available, from the National Technical Information Service, Springfield, Va. 22161.

Dated at Bethesda, Md., this 3rd day of March 1978.

THE ATOMIC SAFETY AND LICENSING BOARD,
EDWARD LUTON,
Chairman.

[FR Doc. 78-6386 Filed 3-9-78; 8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

GRANTS AND CONTRACTS WITH CERTAIN NONPROFIT ORGANIZATIONS

Principles for Determining Cost

MARCH 6, 1978.

This notice offers interested parties an opportunity to comment on proposed revisions to OMB Circular No. A-21, "Cost principles for educational institutions."

The proposed Circular is the result of numerous recommendations made by Federal departments and agencies, State and local governments, and university officials. Its purpose is to provide one standard set of cost principles for Federal work done at universities.

The Office of Management and Budget has, as yet, made no decisions with respect to the proposed principles. All interested parties are encouraged to make their views known. Comments should be submitted in duplicate to the Financial Management Branch, Budget Review division, Office of Management and Budget, Washington, D.C. 20503. All comments should be received on or before May 1, 1978.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

(Circular No. A-21, Revised)

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

1. *Purpose.* This circular establishes principles for determining costs applicable to grants, contracts, and other agreements with educational institutions. The principles deal with the subject of cost determination, and make no attempt to identify the circumstances or dictate the extent of agency and institutional participation in the financing of a particular project. The principles are designed to provide that the Federal Government bear its fair share of total costs, determined in accordance with generally accepted accounting principles, except where restricted or prohibited by law. Agencies are not expected to place additional restrictions on individual cost elements. Provisions for any increment above cost is outside the scope of this Circular.

2. *Supersession.* The Circular supersedes Federal Management Circular 73-8, dated December 19, 1973. FMC 73-8 is revised and reissued under its original designation of OMB Circular No. A-21.

3. *Applicability.* (a) All Federal agencies that sponsor research and development training and other work at educational institutions shall apply the provisions of this Circular in determining the costs incurred for such work. The principles shall also be used as a guide in the pricing of fixed price or lump sum agreements.

(b) In addition, Federally Funded Research and Development Centers associated with educational institutions shall be required to comply with the Cost Accounting Standards, rules and regulations set forth in 4 CFR Ch. III.

4. *Responsibilities.* The successful application of cost accounting principles requires development of mutual understanding between representatives of educational institutions and of the Federal Government as to their scope, implementation, and interpretation.

5. *Attachment.* The principles and related policy guides are set forth in the Attachment, "Principles for determining costs applicable to grants, contracts, and other agreements with educational institutions."

6. *Effective date.* The provisions of this Circular shall be effective ———. The provisions shall be implemented by institutions as of the start of their first fiscal year beginning on or after that date. Earlier implementation, or a delay in implementation of individual provisions, is permitted by mutual agreement between an institution and the Government.

7. *Inquiries.* Further information concerning this Circular may be obtained by contacting the Financial Management Branch, Budget Review Division, Office of Management and Budget, Washington, D.C. 20503, telephone 202—395-4773.

JAMES T. MCINTYRE, JR.,
Acting Director.

ATTACHMENT CIRCULAR NO. A-21

PRINCIPLES FOR DETERMINING COSTS APPLICABLE TO GRANTS, CONTRACTS, AND OTHER AGREEMENTS WITH EDUCATIONAL INSTITUTIONS

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PRINCIPLES FOR DETERMINING COSTS APPLICABLE TO GRANTS, CONTRACTS, AND OTHER AGREEMENTS WITH EDUCATIONAL INSTITUTIONS

A. PURPOSE AND SCOPE

1. *Objectives.* This Attachment provides principles for determining the costs applicable to research and development, training, and other sponsored work performed by colleges and universities under grants, contracts, and other agreements with the Federal Government. These agreements are referred to as sponsored agreements.

2. *Policy guides.* The successful application of these cost accounting principles requires development of mutual understanding between representatives of universities and of the Federal Government as to their scope, implementation, and interpretation. It is recognized that—

a. The arrangements for Federal agency and institutional participation in the financing of a research, training, or other project are properly subject to negotiation between the agency and the institution concerned, in accordance with such Government-wide criteria or legal requirements as may be applicable.

b. Each institution, possessing its own unique combination of staff, facilities, and experience, should be encouraged to conduct research and educational activities in a manner consonant with its own academic philosophies and institutional objectives.

c. Each institution, in the fulfillment of its obligations, should employ sound management practices.

d. The application of these cost accounting principles should require no significant changes in the generally accepted accounting practices of colleges and universities. However, the accounting practices of individual colleges and universities must support the accumulation of costs as required by the principles, and must provide for adequate documentation to support costs charged to sponsored agreements.

e. Federal agencies involved in negotiating indirect cost rates and auditing should assure that institutions are generally applying these cost accounting principles on a consistent basis. Where wide variations exist in the treatment of a given cost item among institutions, the reasonableness and equitableness of such treatments should be fully considered during the rate negotiations and audit.

3. *Application.* These principles shall be used in determining the allowable costs of work performed by colleges and universities under sponsored agreements. The principles shall also be used in determining the costs of work performed by such institutions under subgrants, cost-reimbursement subcontracts, and other awards made to them under sponsored agreements. They also shall be used as a guide in the pricing of fixed-price contracts and subcontracts where costs are used in determining the appropriate price. The principles do not apply to:

a. Arrangements under which Federal financing is exclusively in the form of scholarships, fellowships, traineeships, or other fixed amounts based on such items as education allowance or published tuition rates and fees of an institution.

b. Capitation Awards.

c. Other awards under which the institution is not required to account to the Government for actual costs incurred.

B. DEFINITION OF TERMS

1. *Major functions of an institution* refers to instruction (includes departmental research), organized research, other sponsored activities, and other institutional activities as defined below:

a. *Instruction* means the teaching and training activities of an institution. Except for research training as provided in c below, this term includes all teaching and training activities, whether they are offered for credits toward a degree or certificate or on a noncredit basis, and whether they are offered through regular academic departments or separate divisions, such as a summer school division or an extension division.

b. *Departmental research* means all research and development activities that are not organized research and, consequently, are not separately budgeted and accounted for. Departmental research, for purposes of this document, is not considered as a major function of an institution but as a part of the instruction function of the institution.

c. *Organized research* means all research and development activities of an institution that are separately budgeted and accounted for. This term includes research and development activities that are sponsored by Federal and non-Federal agencies and organizations, as well as those that are separately budgeted by the institution under an internal allocation of institutional funds. It also includes activities involving the training of individuals in research techniques (commonly called research training) where such activities utilize the same facilities as other research and development activities.

d. *Other sponsored activities* means programs and projects financed by Federal and non-Federal agencies and organizations which involve the performance of work other than instruction and organized research. Examples of such programs and projects include health service projects, community service programs, and agricultural extension services. However, when any of these activities are undertaken by the institution without outside support, they should be classified as other institutional activities.

e. *Other institutional activities* means all activities of an institution except: (1) Instruction, departmental research, organized research, and other sponsored activities, as defined above; (2) indirect cost activities identified in section F; and (3) specialized service facilities described in section J38. Other institutional activities include operation of residence halls, dining halls, hospitals and clinics, student unions, intercollegiate athletics, bookstores, faculty housing, student apartments, guest houses, chapels, theaters, public museums, and other similar auxiliary enterprises. This definition also includes any other categories of activities, costs of which are "unallowable" to sponsored agreements, unless otherwise indicated in the agreements.

2. *Sponsored agreement* means any grant, contract, or other agreement between the institution and the Federal Government.

3. *Allocation* means the process of distributing a cost, or a group of costs, to one or more cost objectives which they benefit, in reasonable and realistic proportion to the benefit provided. A cost objective may be a major function of the institution, a particular service or project, a sponsored agreement, or an indirect cost activity, as described in section F. The process may entail a distribution of a cost(s) directly to a final cost objective or through one or more intermediate cost objectives.

C. BASIC CONSIDERATIONS

1. *Composition of total costs.* The cost of a sponsored agreement is comprised of the allowable direct costs incident to its performance, plus the allocable portion of the allowable indirect costs of the institution, less applicable credits as described in 5 below.

2. *Factors affecting allowability of costs.* The tests of allowability of costs under these principles are: (a) They must be rea-

sonable; (b) they must be allocable to sponsored agreements under the standards and methods provided herein; (c) they must be given consistent treatment through application of those generally accepted accounting principles applicable in the circumstances; (d) they must conform to any limitations or exclusions set forth in these principles or in the sponsored agreement as to types or amounts of cost items; and (e) they must be adequately documented.

3. *Reasonable costs.* A cost may be considered reasonable if the nature of the goods or services acquired or applied, and the amount involved therefor, reflect the action that a prudent person would have taken under the circumstances prevailing at the time the decision was made to incur the cost. Such prudent actions involve the exercise of good judgment by an appropriate officer or employee of the institution.

4. *Allocable costs.* (a) A cost is allocable to a particular cost objective if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received. This standard is met if the cost:

(1) Is incurred solely to advance the work under the sponsored agreement;

(2) Benefits both the sponsored agreement and other work of the institution, in proportions that can be approximated through use of reasonable methods; and

(3) Is necessary to the overall operation of the institution, although a direct relationship to any particular cost objective cannot be shown.

(b) Any cost allocable to a particular sponsored agreement under standards provided in this principle may not be shifted to other sponsored agreements in order to meet deficiencies caused by overruns or other fund considerations, to avoid restrictions imposed by law or by the terms of the sponsored agreement, or for other reasons of convenience.

(c) All costs incurred for the same purpose, in like circumstances, are either direct costs only or indirect costs only with respect to sponsored agreements. Any costs allocable to a particular sponsored agreement as a direct cost may not be charged to other sponsored agreements as indirect costs. Where an institution has two or more sponsored agreements which are allocable to one another, the institution shall exercise care to assure consistent charging practices (or equitable allocation) with regard to the costs involved.

5. *Applicable credits.* (a) The term applicable credits refers to those receipts or negative costs which operate to offset or reduce expense items that are allocable to sponsored agreements as direct or indirect costs. Typical examples of such transactions are: purchase discounts, rebates or allowances, recoveries or indemnities on losses, and adjustments of overpayments or erroneous charges. To the extent that such credits accruing to or received by the institution relate to allowable cost, they shall be credited to the sponsored agreement either as a direct or indirect cost, depending upon the nature of the credit.

(b) In some instances, the amounts received from the Federal Government to finance activities or service operations of the institution should be credited to the sponsored agreement. The amount to be credited is determined by special arrangement between the institution and the Federal Government. In general, the extent of the credit will depend upon the reasonableness of the fee and the adequacy of the space and service provided. In no event shall a loss be allowed as a result of the application of this paragraph.

6. *Costs incurred by State and local governments.* Costs incurred by State and local governments for the benefit of sponsored agreements may be allowed to the extent that they would have been allowed if incurred directly by the institution. Such costs must be limited to those which are allowable under these principles and which the institution would be required to pay if the services were not provided by governmental units without charge.

7. *Limitations on allowance of costs.* The principles in this Attachment establish the allowability of certain items of cost. These principles apply whether or not a particular item of cost is properly treated as direct cost or indirect cost. Even though a particular item of cost may be allocable to sponsored agreements as a direct cost, it may be unallowable or limited as to reimbursement. Conversely, a cost may be allowable when incurred as an indirect cost regardless of whether it was treated as a direct cost.

D. DIRECT COSTS

1. *General.* Direct costs are those that can be identified specifically with a particular sponsored agreement, an instructional activity, or any other institutional activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy. Typical direct costs chargeable to sponsored agreements are: compensation of employees for the time devoted and identified specifically to the performance of those agreements, cost of materials acquired, consumed, or expended specifically for the purpose of those agreements, equipment and other approved capital expenditures, and travel expenses incurred specifically to carry out those agreements.

2. *Application to sponsored agreements.* Any direct cost of a minor amount may be treated as an indirect cost for reasons of practicality where the institution normally treats costs of the same nature in that manner. Where the institution has established a practice of treating costs of a particular type as indirect costs, costs of that type may not be treated as direct costs unless specifically budgeted as direct costs in connection with the sponsored agreement. Typical costs for which this may be done are: photocopying and communications costs.

E. INDIRECT COSTS

1. *General.* Indirect costs are those that have been incurred for common or joint objectives and cannot be readily identified with a particular final cost objective. Each institution will develop an indirect cost rate for use in connection with sponsored agreements. The rate will be used to distribute indirect costs to final cost objectives. The base to be used in distributing indirect costs will be determined after full consideration of the nature of the costs involved and the effect of different bases on the amount of costs borne by sponsored agreements. Ordinarily, the direct cost base selected should include all direct costs which benefit from the indirect cost activities and should consist of a relatively stable mix of cost elements. Normally, an indirect cost rate should be determined for each separately organized research unit and each other major function of the institution to which indirect costs are allocable.

2. *Criteria for distribution.* (a) Indirect costs shall be distributed to sponsored agreements and other benefiting activities within each major function on the basis of benefits accruing to the several objectives. Where an indirect cost activity provides general support to a number of major functions of the institution, the costs should be distributed to the benefiting functions on bases that will produce an equitable result in consideration of relative benefits derived.

(b) Normally, costs of operating and maintaining facilities should be distributed to benefiting activities within each major function on the basis of square feet utilized, weighted as necessary to adjust for relative differences in the costs of space. Costs of idle facilities should be treated as indirect costs. Costs of idle facilities are unallowable to the extent that they are unreasonable or that the institution failed to take appropriate steps to discontinue such costs.

(c) Costs of operating and maintaining capital equipment should be distributed to benefiting activities within each major function on the basis of the use of the equipment. Costs of idle equipment should be treated as indirect costs. Costs of idle equipment are unallowable to the extent that they are unreasonable or that the institution failed to take appropriate steps to discontinue such costs.

(d) Costs of operating and maintaining library facilities should be distributed to benefiting activities within each major function on the basis of primary use by the various functions.

(e) Costs of student administration and services should be distributed to benefiting activities within each major function on the basis of the number of students or other factors which best measure the benefits.

(f) Costs of general administration and general expenses should be distributed to benefiting activities within each major function on the basis of modified total direct costs, consisting of all salaries and wages, fringe benefits, materials and supplies, services, travel, and up to the first $25,000 of each subcontract. Equipment, capital expenditures, charges for patient care, rental costs, scholarships and fellowships, and the portion of each subcontract in excess of $25,000 shall be excluded from modified total direct costs.

(g) Costs of departmental administration should be distributed to benefiting activities within each major function on the basis of modified total direct costs, consisting of all salaries and wages, fringe benefits, materials and supplies, services, travel, and up to the first $25,000 of each subcontract. Equipment, capital expenditures, charges for patient care, rental costs, scholarships and fellowships, and the portion of each subcontract in excess of $25,000 shall be excluded from modified total direct costs.

(h) Costs of sponsored agreements administration should be distributed to benefiting activities within each major function on the basis of modified total direct costs, consisting of all salaries and wages, fringe benefits, materials and supplies, services, travel, and up to the first $25,000 of each subcontract. Equipment, capital expenditures, charges for patient care, rental costs, scholarships and fellowships, and the portion of each subcontract in excess of $25,000 shall be excluded from modified total direct costs.

(i) Costs of other institutional activities should be distributed to benefiting activities within each major function on the basis of modified total direct costs, consisting of all salaries and wages, fringe benefits, materials and supplies, services, travel, and up to the first $25,000 of each subcontract. Equipment, capital expenditures, charges for patient care, rental costs, scholarships and fellowships, and the portion of each subcontract in excess of $25,000 shall be excluded from modified total direct costs.

(j) Costs of specialized service facilities should be distributed to benefiting activities within each major function on the basis of the use of the facilities.

(k) Costs of other institutional activities and specialized service facilities should be distributed to benefiting activities within each major function on the basis of modified total direct costs, consisting of all salaries and wages, fringe benefits, materials and supplies, services, travel, and up to the first $25,000 of each subcontract. Equipment, capital expenditures, charges for patient care, rental costs, scholarships and fellowships, and the portion of each subcontract in excess of $25,000 shall be excluded from modified total direct costs.

(l) Costs of other institutional activities and specialized service facilities should be distributed to benefiting activities within each major function on the basis of modified total direct costs, consisting of all salaries and wages, fringe benefits, materials and supplies, services, travel, and up to the first $25,000 of each subcontract. Equipment, capital expenditures, charges for patient care, rental costs, scholarships and fellowships, and the portion of each subcontract in excess of $25,000 shall be excluded from modified total direct costs.

(m) Costs of other institutional activities and specialized service facilities should be distributed to benefiting activities within each major function on the basis of modified total direct costs, consisting of all salaries and wages, fringe benefits, materials and supplies, services, travel, and up to the first $25,000 of each subcontract. Equipment, capital expenditures, charges for patient care, rental costs, scholarships and fellowships, and the portion of each subcontract in excess of $25,000 shall be excluded from modified total direct costs.

(n) Costs of other institutional activities and specialized service facilities should be distributed to benefiting activities within each major function on the basis of modified total direct costs, consisting of all salaries and wages, fringe benefits, materials and supplies, services, travel, and up to the first $25,000 of each subcontract. Equipment, capital expenditures, charges for patient care, rental costs, scholarships and fellowships, and the portion of each subcontract in excess of $25,000 shall be excluded from modified total direct costs.

(o) Costs of other institutional activities and specialized service facilities should be distributed to benefiting activities within each major function on the basis of modified total direct costs, consisting of all salaries and wages, fringe benefits, materials and supplies, services, travel, and up to the first $25,000 of each subcontract. Equipment, capital expenditures, charges for patient care, rental costs, scholarships and fellowships, and the portion of each subcontract in excess of $25,000 shall be excluded from modified total direct costs.

(p) Costs of other institutional activities and specialized service facilities should be distributed to benefiting activities within each major function on the basis of modified total direct costs, consisting of all salaries and wages, fringe benefits, materials and supplies, services, travel, and up to the first $25,000 of each subcontract. Equipment, capital expenditures, charges for patient care, rental costs, scholarships and fellowships, and the portion of each subcontract in excess of $25,000 shall be excluded from modified total direct costs.

(q) Costs of other institutional activities and specialized service facilities should be distributed to benefiting activities within each major function on the basis of modified total direct costs, consisting of all salaries and wages, fringe benefits, materials and supplies, services, travel, and up to the first $25,000 of each subcontract. Equipment, capital expenditures, charges for patient care, rental costs, scholarships and fellowships, and the portion of each subcontract in excess of $25,000 shall be excluded from modified total direct costs.

(r) Costs of other institutional activities and specialized service facilities should be distributed to benefiting activities within each major function on the basis of modified total direct costs, consisting of all salaries and wages, fringe benefits, materials and supplies, services, travel, and up to the first $25,000 of each subcontract. Equipment, capital expenditures, charges for patient care, rental costs, scholarships and fellowships, and the portion of each subcontract in excess of $25,000 shall be excluded from modified total direct costs.

(s) Costs of other institutional activities and specialized service facilities should be distributed to benefiting activities within each major function on the basis of modified total direct costs, consisting of all salaries and wages, fringe benefits, materials and supplies, services, travel, and up to the first $25,000 of each subcontract. Equipment, capital expenditures, charges for patient care, rental costs, scholarships and fellowships, and the portion of each subcontract in excess of $25,000 shall be excluded from modified total direct costs.

(t) Costs of other institutional activities and specialized service facilities should be distributed to benefiting activities within each major function on the basis of modified total direct costs, consisting of all salaries and wages, fringe benefits, materials and supplies, services, travel, and up to the first $25,000 of each subcontract. Equipment, capital expenditures, charges for patient care, rental costs, scholarships and fellowships, and the portion of each subcontract in excess of $25,000 shall be excluded from modified total direct costs.

(u) Costs of other institutional activities and specialized service facilities should be distributed to benefiting activities within each major function on the basis of modified total direct costs, consisting of all salaries and wages, fringe benefits, materials and supplies, services, travel, and up to the first $25,000 of each subcontract. Equipment, capital expenditures, charges for patient care, rental costs, scholarships and fellowships, and the portion of each subcontract in excess of $25,000 shall be excluded from modified total direct costs.

(v) Costs of other institutional activities and specialized service facilities should be distributed to benefiting activities within each major function on the basis of modified total direct costs, consisting of all salaries and wages, fringe benefits, materials and supplies, services, travel, and up to the first $25,000 of each subcontract. Equipment, capital expenditures, charges for patient care, rental costs, scholarships and fellowships, and the portion of each subcontract in excess of $25,000 shall be excluded from modified total direct costs.

(w) Costs of other institutional activities and specialized service facilities should be distributed to benefiting activities within each major function on the basis of modified total direct costs, consisting of all salaries and wages, fringe benefits, materials and supplies, services, travel, and up to the first $25,000 of each subcontract. Equipment, capital expenditures, charges for patient care, rental costs, scholarships and fellowships, and the portion of each subcontract in excess of $25,000 shall be excluded from modified total direct costs.

(x) Costs of other institutional activities and specialized service facilities should be distributed to benefiting activities within each major function on the basis of modified total direct costs, consisting of all salaries and wages, fringe benefits, materials and supplies, services, travel, and up to the first $25,000 of each subcontract. Equipment, capital expenditures, charges for patient care, rental costs, scholarships and fellowships, and the portion of each subcontract in excess of $25,000 shall be excluded from modified total direct costs.

(y) Costs of other institutional activities and specialized service facilities should be distributed to benefiting activities within each major function on the basis of modified total direct costs, consisting of all salaries and wages, fringe benefits, materials and supplies, services, travel, and up to the first $25,000 of each subcontract. Equipment, capital expenditures, charges for patient care, rental costs, scholarships and fellowships, and the portion of each subcontract in excess of $25,000 shall be excluded from modified total direct costs.

(z) Costs of other institutional activities and specialized service facilities should be distributed to benefiting activities within each major function on the basis of modified total direct costs, consisting of all salaries and wages, fringe benefits, materials and supplies, services, travel, and up to the first $25,000 of each subcontract. Equipment, capital expenditures, charges for patient care, rental costs, scholarships and fellowships, and the portion of each subcontract in excess of $25,000 shall be excluded from modified total direct costs.

of other activities for cost allocation purposes.

(3) Where it is determined that certain expenses are for the support of a service unit or facility whose output is susceptible of common to the benefiting cost objectives during the base period.

(4) Results of cost analysis studies may be used when they result in more accurate and equitable distribution of costs. Such cost tion to the total salaries and wages applicable to those functions. Depreciation or use allowances on equipment and buildings used predominantly for one function and only incidentally for the other(s), shall be assigned

sonable; (b) they must be allocable to sponsored agreements under the standards and methods provided herein; (c) they must be given consistent treatment through application of those generally accepted accounting principles appropriate to the circumstances; and (d) they must conform to any limitations or exclusions set forth in these principles or in the sponsored agreement as to types or amounts of cost items.

3. *Reasonable costs.* A cost may be considered reasonable if the nature of the goods or services acquired or applied, and the amount involved therefor, reflect the action that a prudent person would have taken under the circumstances prevailing at the time the decision to incur the cost was made. Major considerations involved in the determination of the reasonableness of a cost are: (a) Whether or not the cost is of a type generally recognized as necessary for the operation of the institution or the performance of the sponsored agreement; (b) the restraints or requirements imposed by such factors as arm's-length bargaining, Federal and State laws and regulations, and sponsored agreement terms and conditions; (c) whether or not the individuals concerned acted with due prudence in the circumstances, considering their responsibilities to the institution, its employees, its students, the Government, and the public at large; and (d) the extent to which the actions taken with respect to the incurrence of the cost are consistent with established institutional policies and practices applicable to the work of the institution generally, including sponsored agreements.

4. *Allocable costs.* a. A cost is allocable to a particular cost objective (i.e., a specific function, project, research agreement, department, or the like) if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received or other equitable relationship. Subject to the foregoing, a cost is allocable to a sponsored agreement if (1) it is incurred solely to advance the work under the sponsored agreement; (2) it benefits both the sponsored agreement and other work of the institution, in proportions that can be approximated through use of reasonable methods; or (3) it is necessary to the overall operation of the institution and, in light of the standards provided in this Circular, is deemed to be assignable in part to sponsored projects. Where the purchase of equipment or other capital items is specifically authorized under a sponsored agreement, the amounts thus authorized for such purchases are allocable to the sponsored agreement regardless of the use that may subsequently be made of the equipment or other capital items involved.

b. Any costs allocable to a particular sponsored agreement under the standards provided in this Circular may not be shifted to other sponsored agreements in order to meet deficiencies caused by overruns or other fund considerations, to avoid restrictions imposed by law or by terms of the sponsored agreement, or for other reasons of convenience.

5. *Applicable credits.* a. The term applicable credits refers to those receipts or negative expenditures that operate to offset or reduce direct or indirect cost items. Typical examples of such transactions are: Purchase discounts, rebates, or allowances; recoveries or indemnities on losses; sales of scrap or incidental services; and adjustments of overpayments or erroneous charges. This term also includes "educational discounts" on products or services provided specifically to educational institutions, such as discounts on computer equipment, except where the arrangement is clearly and explicitly identified as a gift by the vendor.

b. In some instances, the amounts received from the Federal Government to finance institutional activities or service operations should be treated as applicable credits. Specifically, the concept of netting such credit items against related expenditures should be applied by the institution in determining the rates or amounts to be charged to sponsored agreements for services rendered whenever the facilities or other resources used in providing such services have been financed directly, in whole or in part, by Federal funds. (See sections F8, J9a, and J38 for areas of potential application in the matter of direct Federal financing.)

6. *Costs incurred by State and local Governments.* Costs incurred or paid by State or local governments on behalf of their colleges and universities for fringe benefit programs such as pension costs and FICA and any other costs specifically incurred on behalf of, and in direct benefit to, the institutions are allowable costs of such institutions whether or not these costs are recorded in the accounting records of the institutions, subject to the following:

a. The costs meet the requirements of C1 through 5 above.

b. The costs are properly supported by cost allocation plans in accordance with applicable Federal cost accounting principles.

c. The costs are not otherwise borne directly or indirectly by the Federal Government.

7. *Limitations on allowance of costs.* Sponsored agreements may be subject to statutory requirements that limit the allowance of costs. When the maximum amount allowable under a limitation is less than the total amount determined in accordance with the principles in this Circular, the amount not recoverable under a sponsored agreement may not be charged to other sponsored agreements.

D. DIRECT COSTS

1. *General.* Direct costs are those costs that can be identified specifically with a particular sponsored project, an instructional activity, or any other institutional activity; or that can be directly assigned to such activities relatively easily with a high degree of accuracy.

2. *Application to sponsored agreements.* Identifiable benefit to the sponsored work rather than the nature of the goods and services involved is the determining factor in distinguishing direct from indirect costs of sponsored agreements. Typical costs charged directly to a sponsored agreement are the compensation of employees for performance of work under the sponsored agreement, including related fringe benefit costs to the extent they are consistently treated by the institution as direct rather than indirect costs; the costs of materials consumed or expended in the performance of the work; and other items of expense incurred for the sponsored agreement, including extraordinary utility consumption. The cost of materials supplied from stock or services rendered by specialized facilities or other institutional service operations may be included as direct costs of sponsored agreements: *Provided,* Such items are consistently treated by the institution as direct rather than indirect costs, and are charged under a recognized method of realistically computing actual costs, and conform to generally accepted cost accounting practices consistently followed by the institution.

E. INDIRECT COSTS

1. *General.* Indirect costs are those that are incurred for common or joint objectives and therefore cannot be identified readily and specifically with a particular sponsored project, an instructional activity, or any other institutional activity. At educational institutions such costs normally are classified under the following indirect cost categories: Depreciation and use allowances, general administration and general expenses, research administration expenses, operation and maintenance expenses, library expenses, departmental administration expenses, and student administration and services.

2. *Criteria for distribution.* a. Base period. A base period for distribution of indirect costs is the period during which the costs are incurred. The base period normally should coincide with the fiscal year established by the institution, but in any event the base period should be so selected as to avoid enequities in the distribution of costs.

b. Need for cost groupings. The overall objective of the indirect cost allocation process is to distribute the indirect costs described in Section F to the major functions and specialized service facilities of the institution in proportions reasonably consistent with the nature and extent of their use of the institution's resources. In order to achieve this objective, it may be necessary to provide for selective destribution by establishing separate groupings of cost within one or more of the indirect cost categories referred to in Section E1. In general, the cost groupings established within a category should constitute, in each case, a pool of those items of expense that are considered to be of like nature in terms of their relative contribution to (or degree of remoteness from) the particular cost objectives to which distribution is appropriate. Cost groupings should be established considering the general guides provided in c below. Each such pool or cost grouping should then be distributed individually to the related cost objectives, using the distribution base or method most appropriate in the light of the guides set forth in d below.

c. General considerations on cost groupings. The extent to which separate cost groupings and selective distribution would be appropriate at an institution is a matter of judgment to be determined on a case-by-case basis. Typical situations which may warrant the establishment of two or more separate cost groupings (based on account classification or analysis) within an indirect cost category include but are not limited to the following:

(1) Where certain items or categories of expense relate solely to one of the major functions of the institution or to less than all functions, such expenses should be set aside as a separate cost grouping for direct assignment or selective allocation in accordance with the guides provided in Sections E2b and d.

(2) Where any types of expense ordinarily treated as general administration or departmental administration are charged to sponsored agreements as direct costs, the similar type expenses applicable to other activities of the institution must, through separate cost groupings, be excluded from the indirect costs allocable to those sponsored agreements and included in the direct cost

of other activities for cost allocation purposes.

(3) Where it is determined that certain expenses are for the support of a service unit or facility whose output is susceptible of measurement on a workload or other quantitative basis, such expenses should be set aside as a separate cost grouping for distribution on such basis to organized research, instructional, and other activities at the institution or within the department.

(4) Where organized activities (including identifiable segments of organized research as well as the activities cited in Section B1c) provide their own purchasing, personnel administration, building maintenance or similar service, the distribution of general administration and general expenses, or operation and maintenance expenses to such activities should be accomplished through cost groupings which include only that portion of central indirect costs (such as for overall management) which are properly allocable to such activities.

(5) Where the institution elects to treat the cost of the pension plan and other staff benefits as indirect charges, such costs should be set aside as a separate cost grouping for selective distribution to related cost objectives, including organized research.

(6) The number of separate cost groupings within a category should be held within practical limits, after taking into consideration the materiality of the amounts involved and the degree of precision attainable through less selective methods of distribution.

d. Selection of distribution method. (1) Where an allocation can be made by assignment of a cost grouping directly to the area benefited, the allocation should be made in that manner.

(2) Where the expenses under a cost grouping are more general in nature, the bases for the indirect cost categories cited in Section F shall be used in allocating such costs to cost objectives unless one of the following conditions is met:

(a) The institution can clearly demonstrate that the use of a different base would result in a more equitable allocation of costs, or can demonstrate that the use of a more readily available base would not increase the costs charged to sponsored agreements. In either case the use of the base must be approved in advance by the Government.

(b) The Government can clearly demonstrate that the use of another base would result in a more equitable allocation of costs.

(c) The institution qualifies for and elects to use the simplified method for computing indirect cost rates described in section H.

(3) In order to make the demonstrations described in (2) (a) and (b) above, a base should be selected that will produce equitable results to both the Government and the institution. The essential consideration in selection of the distribution base in each instance is that it be the one best suited for assigning costs or a pool of costs to related cost objectives in accordance with the relative benefits derived; the traceable cause and effect relationship, or logic and reason, where neither benefit nor cause and effect relationship is determinable. The base should be (a) readily expressible in terms of dollars or other quantitative measure (total direct expenditures, direct salaries, manhours applied, square feet utilized, hours of usage, number of documents processed, population served, and the like); and (b) common to the benefiting cost objectives during the base period.

(4) Results of cost analysis studies may be used when they result in more accurate and equitable distribution of costs. Such cost analysis studies may take into consideration weighting factors, population, or space occupied if they produce equitable results. Cost analysis studies, however, should (a) be appropriately documented in sufficient detail for subsequent review by the Government, (b) distribute the indirect costs to the related cost objectives in accordance with the relative benefits derived, (c) be conducted to fairly reflect the true conditions of the activity and to cover representative transactions for a reasonable period of time, (d) be performed specifically at the institution at which the results are to be used, and (e) be updated periodically, but not less frequently than every two years, and used consistently. Any assumptions made in the study will be stated and explained. The use of cost analysis studies and periodic changes in the method of cost distribution must be fully justified.

e. Order of Distribution. (1) Indirect cost categories consist of depreciation and use allowance, operation and maintenance, general administration and general expenses, departmental administration, sponsored agreements administration, library, and student administration and services, as described in Section F.

(2) Depreciation and use allowances, operation and maintenance expenses, and general administrative and general expenses must be allocated in the order shown to the remaining indirect cost categories as well as to the major functions and specialized service facilities of the institution. Other cost categories may be allocated in the order determined to be most appropriate by the institutions. When cross allocation of costs is made as provided in (3) below, this order of allocation does not apply.

(3) Normally an indirect cost category will be considered closed once it has been allocated to other cost objectives, and costs may not be subsequently allocated to it. However, a cross allocation of costs between two or more indirect cost categories may be used if such allocation will result in a more equitable allocation of costs. If a cross allocation is used, an appropriate modification to the composition of the indirect cost categories described in Section F is required.

F. IDENTIFICATION AND ASSIGNMENT OF INDIRECT COSTS

1. *Depreciation and use allowances.* a. The expenses under this heading are the portion of the costs of the institution's buildings, capital improvements to land and buildings, and equipment which are assigned to current operations in accordance with Section J9.

b. The expenses included in this category shall be allocated in the following manner:

(1) Depreciation or use allowances on equipment or buildings used exclusively in the conduct of a single function shall be allocated to that function.

(2) Depreciation or use allowances on buildings and capital improvements to buildings shall be allocated to the individual functions performed in each building on the basis of usable square feet of space, excluding common areas such as hallways, stairwells, and restrooms.

(3) Depreciation or use allowances on equipment or buildings used jointly shall be allocated to benefiting functions in proportion to the total salaries and wages applicable to those functions. Depreciation or use allowances on equipment and buildings used predominantly for one function and only incidentally for the other(s), shall be assigned to the function in which it is used predominantly. The institution and the Government should agree in advance when use of equipment or space is incidental or predominant to a given function.

(4) Depreciation or use allowances on certain capital improvements to land, such as paved parking areas, fences, sidewalks, and the like, not included in the cost of buildings, shall be allocated on an unweighted headcount basis to user categories of students and employees. The student categories shall consist of all individuals enrolled at the institution as students regardless of whether they do or do not earn credits toward a degree of certificate. The employee category shall consist of all faculty members, other professionals, and nonprofessional employees excluding student employees. The amount allocated to the student category shall be assigned to the instruction function of the institution. The amount allocated to the employee category shall be further allocated to the major functions of the institution in proportion to the salaries and wages of all employees applicable to those functions.

2. *Operation and maintenance expenses.* a. The expenses under this heading are those that have been incurred by a central service organization or at the departmental level for the administration, supervision, operation, maintenance, preservation, and protection of the institution's physical plant. They include expenses normally incurred for such items as janitorial and utility services; repairs and ordinary or normal alterations of buildings, furniture and equipment; and care of grounds and maintenance and operation of buildings and other plant facilities. The operation and maintenance expense category should also incinde the fringe benefit costs applicable to the salaries and wages included therein, and depreciation and use allowance.

b. The expenses included in this category shall be allocated on the basis of usable square feet of space assigned to each function, excluding common areas such as hallways, stairwells, and restrooms. Operation and maintenance expenses applicable to space used jointly for two or more functions shall be further allocated to the benefiting functions in proportion to the total salaries and wages applicable to those functions. Operation and maintenance expenses applicable to space used predominantly for one function and only incidentally for the other(s), shall be assigned to the function in which it is used predominantly. The institution and the Government shall agree in advance when use of space is incidental or predominant to a given function.

3. *General administration and general expenses.* a. The expenses under this heading are those that have been incurred for the general executive and administrative offices of educational institutions and other expenses of a general character which do not relate solely to any major division of the institution; i.e., solely to (1) instruction, (2) organized research, (3) other sponsored programs, or (4) other institutional activities. The general administration and general expense category should also include the fringe benefit costs applicable to the salaries and wages included therein, an appropriate share of operation and maintenance

expense, and depreciation and use allowances.

b. The expenses included in this category shall be grouped according to common function(s) to which they render services or

those that have been incurred by a separate organization(s) established primarily to administer sponsored agreements, including such functions as grant and contract administration, security, purchasing, personnel ad-

(2) The amount allocated to the professional employee category shall be further allocated to the major functions of the institution in proportion to the salaries and wages of all faculty members and other pro-

costs allocated to each major function of the institution as prescribed in Section F shall be aggregated and treated as a common pool for that function. The amount in the common pool shall be divided by the

on which such remaining expenses are allocated should be appropriately adjusted.

4. *Predetermined fixed rates for indirect costs.* Public Law 87-638 (76 Stat. 437) authorizes the use of predetermined fixed

utilized as a basis for determining the indirect cost rate applicable to all sponsored agreements.

b. The simplified procedure should not be used where it produces results which appear

expense, and depreciation and use allowances.

b. The expenses included in this category shall be grouped according to common function(s) to which they render services or provide benefits. The aggregate expenses of each group shall then be allocated to benefiting functions on the modified total cost basis. Modified total costs consist of salaries and wages, fringe benefits, materials and supplies, travel, and subgrants and subcontracts up to $5,000 each. When an activity included in this indirect cost category provides a service or product to another institution or organization, an appropriate adjustment must be made to either the expenses or the basis of allocation or both, to assure a proper allocation of costs.

4. *Departmental administration expenses.* a. The expenses under this heading are those that have been incurred for administrative and supporting services in academic deans' offices, academic departments and divisions, and organized research units. Organized research units include such units as institutes, study centers, and research centers. The expenses under this heading which may be allocated to sponsored agreements are limited to:

(1) Academic deans' offices. Salaries and operating expenses attributable to its administrative functions.

(2) Academic departments. (a) The salaries of the heads of academic departments, divisions, and organized research units attributable to their administrative duties. Salaries of professional staff, whose appointment or assignment involve the performance of such administrative work, may also be included to the extent that the portion so charged is clearly and specifically supported as required in Section J6.

(b) Other administrative and supporting expenses incurred within academic departments, such as the salaries of secretarial and clerical staffs, the salaries of administrative officers and assistants, travel, office supplies, stockrooms, and the like. *Provided,* That such expenses are treated consistently as indirect costs in all academic departments of the institution.

(3) Fringe benefit costs applicable to the salaries and wages included in (1) and (2) above, as well as an appropriate share of general administration and general expenses, operation and maintenance expenses, and depreciation and/or use allowances.

b. Allocation of departmental administration expenses shall be performed as follows:

(1) The administrative expenses of the dean's office of each college and school shall be allocated to the academic departments within that college or school in proportion to the total salaries and wages of those departments.

(2) The administrative expenses of each academic department, and the department's share of the expenses allocated in (1) above shall be allocated to the functions performed by that department in proportion to the total salaries and wages applicable to those functions.

(3) An exception to the above may be permitted only where (a) certain administrative or supporting expenses are charged directly to an activity because it is performed in an environment which is substantially different from that applicable to other activities, and (b) a special indirect cost rate is developed for the activity in accordance with Section G1b.

5. *Sponsored agreements administration.* a. The expenses under this heading are those that have been incurred by a separate organization(s) established primarily to administer sponsored agreements, including such functions as grant and contract administration, security, purchasing, personnel administration, and editing and publishing of research and other reports. They include the salaries and expenses of the head of such organization, his assistants, and their immediate staff, together with the salaries and expenses of personnel engaged in supporting activities maintained by the organization, such as stock rooms, stenographic pools, and the like. The salaries of members of the professional staff whose appointments or assignments involve the performance of such administrative work may also be included to the extent that the portion so charged to sponsored agreements administration is clearly identified and supported as required by Section J6. This category should also include the fringe benefit costs applicable to the salaries and wages included therein, an appropriate share of general administration and general expenses, the operation and maintenance expenses, and depreciation and use allowance. Appropriate adjustments should be made for services provided to other functions or organizations.

b. The expenses included in this category shall be allocated to the major functions of the institution under which the sponsored agreements are conducted in proportion to the number of agreements active during the period for which the expenses are allocated.

c. An appropriate adjustment shall be made to eliminate any duplicate charges to sponsored agreements when this category includes similar or identical activities as those included in the general administration and general expense category or other indirect cost items, such as accounting, procurement, or personnel administration.

6. *Library expenses.* a. The expenses under this heading are those that have been incurred for the operation of the library, including the cost of books and library materials purchased for the library, less any items of library income that qualify as applicable credits under Section C5. The library expense category should also include the staff benefit and pension plan costs applicable to the salaries and wages included therein, an appropriate share of general administration and general expense, operation and maintenance expense, and depreciation and use allowances. Costs incurred in the purchases of rare books (museum-type books) with no value to sponsored projects should not be allocated to sponsored agreements.

b. The expenses included in this category shall first be allocated on an unweighted headcount basis to user categories consisting of students, professional employees, and other users.

(1) The student category shall consist of all individuals enrolled at the institution as students regardless of whether they do or do not earn credits toward a degree or certificate.

(2) The professional employee category shall consist of all faculty members and other professional employees of the institution, except student employees.

(3) The other users category shall consist of all other users of library facilities, including the general public.

c. Amounts allocated in b above shall be assigned further as follows:

(1) The amount allocated to the student category shall be assigned to the instruction function of the institution.

(2) The amount allocated to the professional employee category shall be further allocated to the major functions of the institution in proportion to the salaries and wages of all faculty members and other professional employees (excluding student employees) applicable to those functions.

(3) The amount allocated to the other users category shall be assigned to the other institutional activities function of the institution.

7. *Student administration and services.* a. The expenses under this heading are those that have been incurred for the administration of student affairs and for services to students, including expenses of such activities as deans of students, admissions, registrar, counseling and placement services, student advisers, student health and infirmary services, catalogs, and commencements and convocations. The salaries of members of the academic staff whose academic appointments or assignments involve the performance of such administrative or service work may also be included to the extent that the portion so charged is supported pursuant to Section J6. This expense category also includes the fringe benefit costs applicable to the salaries and wages included therein, an appropriate share of general administration and general expenses, operation and maintenance, and use allowances and/or depreciation.

b. The expenses in this category are applicable in their entirety to the instruction function. However, to the extent that such expenses reasonably benefit sponsored agreements in the instruction function, they may be included in the common pool of indirect costs for that function for subsequent distribution to the agreements (See Section G1a.). Expenses included in this category that do not benefit sponsored agreements shall be excluded from the common pool. Where the level of benefits varies significantly for different agreements, or different groups of agreements, the expenses shall be allocated only to applicable cost objectives within the instruction function through separate cost groupings and selective allocations, in accordance with Section E2b.

8. *Offset for indirect expenses otherwise provided for by the Government.* a. The items to be accumulated under this heading are the reimbursements and other payments from the Federal Government which are made to the institution to support solely, specifically, and directly, in whole or in part, any of the administrative or service activities described in F1 through 7.

b. Amounts negotiated as applicable institutional indirect costs for research centers or Government-owned-institution-operated laboratories shall be treated as offset provided that such amounts represent a reasonable approximation of the indirect costs allocable to the center or laboratory. If such amounts do not represent a reasonable approximation of these costs, they shall be disregarded and the indirect costs for the centers and laboratories shall be determined in accordance with the indirect cost procedures set forth in these principles.

c. The items in this group shall be treated as a credit to those affected elements of each individual indirect cost category before that category is allocated to benefiting functions.

G. DETERMINATION AND APPLICATION OF INDIRECT COST RATE OR RATES

1. *Indirect cost pools.* a. Subject to b below, the separate categories of indirect costs allocated to each major function of the institution as prescribed in Section F shall be aggregated and treated as a common pool for that function. The amount in the common pool shall be divided by the distribution base described in G2 below to arrive at a single indirect cost rate. The single indirect cost rate then is used to distribute indirect costs in the common pool to the individual sponsored agreements of that junction. Since a common pool is established for each major function of the institution, a separate indirect cost rate would be established for research, educational services, and other types of sponsored projects.

b. In some instances a single rate basis for use across the board on all sponsored projects within a major function at an institution may not be appropriate. A single rate for research, for example, would not take into account those different environmental factors and other conditions which may affect substantially the indirect costs applicable to a particular segment of Government research at the institution. For this purpose, a particular segment of sponsored research may be that performed under a single sponsored agreement or it may consist of research under a group of sponsored agreements performed in a common environment. The environmental factors are not limited to the physical location of the work. Other important factors are the level of the administrative support required, the nature of the facilities or other resources employed, the scientific disciplines or technical skills involved, the organizational arrangements used, or any combination thereof. Where a particular segment of federally-sponsored work is performed within an environment which appears to generate a significantly different level of indirect costs, provision should be made for a separate indirect cost pool applicable to such work. The separate indirect cost pool should be developed during the regular course of the rate determination process and the separate indirect cost rate resulting therefrom should be utilized provided it is determined that (1) such indirect cost rate differs significantly from that which would have been obtained under a. above, and (2) the volume of work to which such rate would apply is material in relation to other federally-sponsored work at the institution.

2. *The distribution basis.* Indirect costs shall be distributed to applicable sponsored agreements on the basis of modified total direct costs, consisting of salaries and wages, fringe benefits, materials and supplies, travel, and subgrants and subcontracts up to $5,000 each. For this purpose, an indirect cost rate should be determined for each of the separate indirect cost pools developed pursuant to 1. above. The rate in each case should be stated as the percentage which the amount of the particular indirect cost pool is of the modified total direct costs identified with such pool. Other bases may be used only where it can be clearly demonstrated that they produce more equitable results.

3. *Negotiated lump sum for indirect costs.* A negotiated fixed amount in lieu of indirect costs may be appropriate for self-contained, off-campus, or primarily subcontracted activities where the benefits derived from an institution's indirect services cannot be readily determined. Such negotiated indirect costs will be treated as an offset to total indirect expenses before allocation to instruction, organized research, and other institutional activities. The base on which such remaining expenses are allocated should be appropriately adjusted.

4. *Predetermined fixed rates for indirect costs.* Public Law 87-638 (76 Stat. 437) authorizes the use of predetermined fixed rates in determining the indirect costs applicable under research agreements with educational institutions. The stated objectives of the law are to simplify the administration of cost-type research and development contracts (including grants) with educational institutions, to facilitate the preparation of their budgets, and to permit more expeditious closeout of such contracts when the work is completed. In view of the potential advantages offered by this procedure, consideration should be given to the negotiation of predetermined fixed rates for indirect costs in those situations where the cost experience and other pertinent facts available are deemed sufficient to enable the parties involved to reach an informed judgment as to the probable level of indirect costs during the ensuing accounting period.

5. *Negotiated fixed rates and carry-forward provisions.* When a fixed rate is negotiated in advance (or a fiscal year for other time period), the over- or under-recovery for that year may be included as an adjustment to the indirect cost for the next rate negotiation. When the rate is negotiated before the carry-forward adjustment is determined due to the delay in audit, the carry-forward amount may be applied to the next subsequent rate negotiation. When such adjustments are to be made, each fixed rate negotiated in advance for a given period will be computed by applying the expected indirect costs allocable to sponsored agreements for the forecast period plus or minus the carry-forward adjustment (over- or under-recovery) from the prior period, to the forecast distribution base. Unrecovered amounts under lump-sum agreements or cost-sharing provisions of prior years shall not be carried forward for consideration in the new rate negotiation. There must, however, be an advance understanding in each case between the institution and the Government as to whether these differences will be considered in the rate negotiation rather than making the determination after the differences are known. Further, institutions electing to use this carry-forward provision may not subsequently change without prior approval of the Government. In the event that an institution returns to a postdetermined rate, any over- or under-recovery during the period in which negotiated fixed rates and carry-forward provisions were followed will be included in the subsequent postdetermined rates. Where multiple rates are used, the same procedure will be applicable for determining each rate. This procedure also applies to rates established for grants and contracts for training and other educational services, but does not apply to cost-type agreements covering work performed in wholly or partially Government-owned facilities.

H. SIMPLIFIED METHOD FOR SMALL INSTITUTIONS

1. *General.* a. Where the total direct cost of work performed under all sponsored agreements at an institution does not exceed $3,000,000 in a fiscal year, the use of the simplified procedure described in 2. below, may be used in determining allowable indirect costs. Under this simplified procedure, the institution's most recent annual financial report and immediately available supporting information with salaries and wages segregated from other costs, will be utilized as a basis for determining the indirect cost rate applicable to all sponsored agreements.

b. The simplified procedure should not be used where it produces results which appear inequitable to the Government or the institution. In any such case, indirect costs should be determined through use of the regular procedure.

2. *Simplified procedure.* a. Establish the total amount of salaries and wages paid to all employees of the institution.

b. Establish an indirect cost pool consisting of the expenditures (exclusive of capital items and other costs specifically identified as unallowable) which customarily are classified under the following titles or their equivalents:

(1) General administration and general expenses (exclusive of costs of student administration and services, student activities, student aid, and scholarships).

(2) Operation and maintenance of physical plant.

(3) Library.

(4) Department administration expenses, which will be computed as 20 percent of the salaries and expenses of deans and heads of departments.

In those cases where expenditures classified under (1) and (2) above have previously been allocated to other institutional activities, they may be included in the indirect cost pool. The total amount of salaries and wages included in the indirect cost pool must be separately identified.

c. Establish a salary and wage distribution base, determined by deducting from the total of salaries and wages as established in a. above the amount of salaries and wages included under b. above.

d. Establish the indirect cost rate, determined by dividing the amount in the indirect cost pool, b. above, by the amount of the distribution base, c. above.

e. Apply the indirect cost rate to direct salaries and wages for individual agreements to determine the amount of indirect costs allocable to such agreements.

J. GENERAL STANDARDS FOR SELECTED ITEMS OF COST

Sections 1 through 45 below provide standards to be applied in establishing the allowability of certain items involved in determining cost. These standards should apply irrespective of whether a particular item of cost is properly treated as direct cost or indirect cost. Failure to mention a particular item of cost in the standards is not intended to imply that it is either allowable or unallowable; rather determination as to allowability in each case should be based on the treatment or standards provided for similar or related items of cost. In case of discrepancy between the provisions of a specific sponsored agreement and the applicable standards provided, the provisions of the agreement should govern.

1. *Advertising costs.* a. The term advertising costs means the costs of advertising media and corollary administrative costs. Advertising media include magazines, newspapers, radio and television programs, direct mail, exhibits, and the like.

b. The only advertising costs allowable are those which are solely for (1) the recruitment of personnel required for the performance by the institution of obligations arising under the sponsored agreement, when considered in conjunction with all other recruitment costs, as set forth in Section J32; (2) the procurement of goods and services

for the performance of the sponsored agreement; (3) the disposal of scrap or surplus materials acquired in the performance of the sponsored agreement except when institutions are reimbursed for disposal costs at a predetermined amount in accordance with Attachment N, OMB Circular No. A-110; or (4) other specific requirements of the agreement.

c. Costs of this nature, if incurred for more than one sponsored agreement or for both sponsored work and other work of the institution, are allowable to the extent that the principles in sections D and E are observed.

2. *Bad debts.* Any losses, whether actual or estimated, arising from uncollectible accounts and other claims, related collections costs, and related legal costs, are unallowable.

3. *Civil defense costs.* Civil defense costs are those incurred in planning for, and the protection of life and property against, the possible effects of enemy attack. Reasonable costs of civil defense measures (including costs in excess of normal plant protection costs, first-aid training and supplies, fire-fighting training, posting of additional exit notices and directions, and other approved civil defense measures) undertaken on the institution's premises pursuant to suggestions or requirements of civil defense authorities are allowable when distributed to all activities of the institution. Capital expenditures for civil defense purposes will not be allowed, but a use allowance or depreciation may be permitted in accordance with provisions set forth in Section J9. Costs of local civil defense projects not on the institution's premises are unallowable.

4. *Commencement and convocation costs.* Costs incurred for commencements and convocations are unallowable.

5. *Communication costs.* Costs incurred for telephone services, local and long distance telephone calls, telegrams, radiograms, postage and the like, are allowable.

6. *Compensation for personal services*—a. *General.* Compensation for personal services covers all remuneration paid currently or accrued by the institution for services of employees rendered during the period of performance under sponsored agreements. Such remuneration includes salaries, wages, and fringe benefits (see section J15). The costs of such remuneration are allowable to the extent that the total compensation to individual employees conforms to the established policies of the institution, consistently applied. *And provided,* That the charges for work performed directly on sponsored agreements and for other work allocable as indirect costs are determined and supported as hereinafter provided. Charges to Government agreements may include reasonable amounts for activities contributing and intimately related to work under the agreements, such as delivering special lectures about specific aspects of the ongoing activity, writing reports and articles, participating in appropriate seminars, consulting with colleagues and graduate students, and attending meetings and conferences.

b. *Payroll distribution.* For each organizational unit of an institution, amounts charged as salaries and wages for professorial or professional services applicable to sponsored agreements, whether treated as direct costs or as indirect costs, will be based on either a system of monitored workloads or a system of personnel activity reports. The latter must be used for nonprofessional and student employees. Under either alternative, salaries and wages applicable to nonmandatory cost sharing may be incorporated in institutional costs (such as instructional costs) and need not be separated therefrom. In the use of either method, it is recognized that, because of the nature of work involved in academic institutions, the various and often interrelated activities of professorial and professional employees frequently cannot be measured with a high degree of precision, that reliance must be placed on reasonably accurate approximations, and that acceptance of a degree of tolerance in measurements is appropriate.

c. *Monitored workloads.* Under this method the distribution of salaries and wages applicable to sponsored agreements is based on budgeted or assigned workloads, updated as required to reflect any significant changes in workload distributions. A monitored workload system used for salaries and wages charged directly or indirectly to sponsored agreements will meet the following standards:

(1) A system of budgeted or assigned workloads will be incorporated into the official records of the institution or campus, and encompass both sponsored and all other activities on an integrated basis. The system may include the use of subsidiary records.

(2) The system will reasonably reflect workloads of employees, accounting for 100 percent of each employee's total salaried activity for which the employee is compensated and which is required in fulfillment of the employee's obligations to the institution. Because practices vary among institutions and within institutions as to the total activity constituting a full workload—when expressed in measurable units, such as contact hours in teaching—the system will be based on a determination for each individual, reflecting the ratio of each of the activities which comprise the total workload of the individual.

(3) The system will provide for modification of an individual's salary or salary distribution commensurate with any significant change in the employee's workload or the ratio of activities comprising the total workload. A significant change in an employee's workload shall be considered to include the following as a minimum: when work begins or ends on a Government agreement, when a teaching load is materially modified, when additional unanticipated assignments are received or taken away, when an individual begins or ends a sabbatical leave, prolonged sick leave, or leave without pay, etc. Short-term (such as one or two months) fluctuation between workload categories need not be considered as long as the distribution of salaries and wages is reasonable over the longer term such as an academic period. Whenever it is apparent that a significant change in workload will occur or has occurred, the change will be documented over the signature of a responsible official and entered into the system.

(4) The system will utilize workload categories reflecting direct activity which is applicable to and chargeable to each sponsored agreement, activity required to meet mandatory cost sharing, activity applicable to any indirect cost category, and activity applicable to other direct cost categories (see section B1).

(5) At least annually a statement will be signed by an employee, principal investigator, or responsible official, having first hand knowledge of the work stating that salaries and wages charged to Government agreements as direct charges, or that salaries and wages charged to both direct and indirect cost categories, or to more than one indirect cost category are proper.

In the use of this method an institution shall not be required to provide additional support or documentation for the effort actually performed, but is responsible for assuring that the system meets the above standards.

In cases where nonprofessional, student, or other "task oriented" employees are charged to projects based on use of services rather than longer term assignment, systems such as time cards or similar distribution systems or service center costing arrangements may be used (see d below).

d. *Personnel activity reports.* Under this method the distribution of salaries and wages will be supported by personnel activity reports as prescribed below.

(1) Personnel activity reports will reflect the distribution of activity expended by each employee not under the monitored workload system.

(2) The reports will reflect an after-the-fact reporting of the percentage of activity of each employee. Estimates made before the services are performed may be used initially: *Provided,* That such charges are promptly adjusted if significant differences are indicated by acitivity reports.

(3) Each report will account for 100 percent of each employee's total activity for which the employee is compensated and which is required in fulfillment of his or her obligations to the institution. The report will reasonably reflect (a) the percentage of activity applicable to and chargeable to each sponsored agreement, (b) activity required to meet mandatory cost sharing, (c) activity applicable to each indirect cost category, and (4) activity applicable to other cost categories.

(4) To confirm that the distribution of activity represents a reasonable estimate of the work performed by the employee during the period, each report will be signed by the employee or by a responsible official having first hand knowledge of the work performed.

(5) For professorial and professional employees, the reports will be prepared each academic period or no less frequently than twice a year. For other individuals, the reports will be prepared no less frequently than monthly and will coincide with pay periods.

(6) Where the institution uses time cards or other forms of after-the-fact payroll documents as original documentation for payroll and payroll charges, such documents shall qualify as a personnel activity report provided that they are signed in accordance with (4) above.

e. *Salary rates for faculty members*—(1) *Salary rates for academic year.* Charges for work performed on sponsored agreements by faculty members during the academic year will be based on the individual faculty member's regular compensation for the continuous period which, under the policy of the institution concerned, constitutes the basis of his salary. Charges for work performed on sponsored agreements during all or any portion of such period are allowable at the base salary rate. In no event will charges to sponsored agreements, irrespective of the basis of computation, exceed the proportionate share of the base salary for that period. This principle applies to all members of the faculty at an institution. Since intra-university consulting is assumed to be undertaken as a university obligation

requiring no compensation in addition to full-time base salary, the principle also applies to faculty members who function as consultants or otherwise contribute to a sponsored agreement conducted by another faculty member of the same institution. However, in unusual cases where consultation is across departmental lines or involves a separate or remote operation, and the work performed by the consultant is in addition to his regular departmental load, any charges for such work representing extra compensation above the base salary are allowable provided that such consulting arrangements are specifically provided for in the agreement or approved in writing by the sponsoring agency.

(2) *Periods outside the academic year.* (a) Except as otherwise provided in (b) below, charges for work performed by faculty members on sponsored agreements during the summer months or other period not included in the base salary period will be determined for each faculty member at a monthly rate not in excess of the base salary divided by the number of work months in the period for which the base salary is paid, and will be limited to charges made in accordance with other parts of this section. The base salary period used in computing charges for work performed during the summer months will be the number of months covered by the faculty member's official academic year appointment.

(b) Charges for teaching activities performed by faculty members on sponsored agreements during the summer months or other periods not included in the base salary period will be based on the normal policy of the institution governing compensation to faculty members for teaching assignments during such periods.

(3) *Part-time faculty.* Charges for work performed on sponsored agreements by faculty members having only part-time appointments will be determined at a rate not in excess of that regularly paid for the part-time assignments; e.g., an institution pays $5,000 to a faculty member for half-time teaching during the academic year. He devoted one-half of his remaining time (25 percent of his total available time) to a sponsored agreement. Thus, his additional compensation, chargeable by the institution to the agreement, would be one-half of $5,000, or $2,500.

f *Noninstitutional professional activities.* Unless an arrangement is specifically authorized by a Federal sponsoring agency, an institution must follow its institution-wide policies and practices concerning the permissible extent of professional services that can be provided outside the institution for noninstitutional compensation. Where such institution-wide policies do not exist or do not adequately define the permissible extent of consulting or other noninstitutional activities undertaken for extra outside pay, the Government may require that the effort of professional staff working on sponsored agreements be allocated between (1) institutional activities, and (2) noninstitutional professional activities. If the sponsoring agency considers the extent of noninstitutional professional effort excessive, appropriate arrangements governing compensation will be negotiated on a case-by-case basis.

7. *Contingency provisions.* Contributions to a contingency reserve or any similar provision made for events, the occurrence of which cannot be foretold with certainty as to time, intensity, or with an assurance of their happening, are unallowable.

8. *Deans of faculty and graduate schools.* The salaries and expenses of deans of faculty and graduate schools, or their equivalents, and their staffs, are allowable.

9. *Depreciation and use allowances.* Institutions may be compensated for the use of their buildings, capital improvements, and equipment: *Provided,* That they are used beneficially, needed in the institutions' activities, and properly allocable to sponsored agreements. Such compensation shall be made by computing either depreciation or use allowance. Use allowances are the means of providing such compensation when depreciation or other equivalent costs are not computed. The allocation for depreciation or use allowance shall be made in accordance with section F1. Depreciation and use allowances are computed applying the following rules:

a. The computation of depreciation or use allowances shall be based on the acquisition cost of the assets involved. For this purpose, the acquisition cost will exclude (1) the cost of land; (2) any portion of the cost of buildings and equipment borne by or donated by the Government, irrespective of where title was originally vested or where it is presently located; and (3) any portion of the cost of buildings and equipment contributed by or for the institution in satisfaction of a Federal cost sharing or matching requirement. For an asset donated to the institution by a third party, its fair market value at the time of the donation shall be considered as the acquisition cost.

b. In the use of the depreciation method, the following shall be observed:

(1) The period of useful service or useful life established in each case for usable capital assets must take into consideration such factors as type of construction, nature of the equipment, technological developments in the particular area, and the renewal and replacement policies followed for the individual items or classes of assets involved.

(2) The depreciation method used to charge the cost of an asset (or group of assets) to accounting periods shall reflect the pattern of consumption of the asset during its useful life. In the absence of clear evidence indicating that the expected consumption of the asset will be significantly greater in the early portions than in the later portions of its useful life, the straight-line method shall be presumed to be the appropriate method. Depreciation methods once used shall not be changed unless approved in advance by the Government.

(3) Where the depreciation method is introduced for application to assets for which use allowance was previously charged, the aggregate amount of use allowances and depreciation applicable to such assets must not exceed the total acquisition cost of the assets.

(4) When the depreciation method is used for buildings, a building "shell" may be treated separately from other building components, such as plumbing system and heating and air conditioning system. Each component item may then be depreciated over its estimated useful life. On the other hand, the entire building, including the shell and all components, may be treated as a single asset and depreciated over a single useful life.

(5) Where the depreciation method is used for a particular class of assets, no depreciation may be allowed on any such assets that should be viewed as fully depreciated.

c. Under the use allowance method, the following shall be observed:

(1) The use allowance for buildings and improvements (including improvements such as paved parking areas, fences, and sidewalks) will be computed at an annual rate not exceeding two percent of acquisition cost. The use allowance for equipment will be computed at an annual rate not exceeding six and two-thirds percent of acquisition cost.

(2) In contrast to the depreciation method, the entire building must be treated as a single asset without separating its "shell" from other building components under the use allowance method. The entire building must be treated as a single asset, and the two-percent use allowance limitation must be applied to all parts of the building. The two-percent limitation, however, need not be applied to equipment or other assets that are merely attached or fastened to the building but not permanently fixed and are used as furnishings, decorations or for specialized purposes (e.g., dentist chairs and dental treatment units, counters, laboratory benches bolted to the floor, dishwashers, and carpeting). Such equipment and assets will be considered as not being permanently fixed to the building if they can be removed without the need for costly or extensive alterations or repairs to the building to make the space usable for other purposes. Equipment and assets which meet these criteria will be subject to the six and two-thirds percent equipment use allowance.

(3) A reasonable use allowance may be negotiated for any assets that are considered to be fully depreciated, after taking into consideration the amount of depreciation previously charged to the Government, the estimated useful life remaining at the time of negotiation, the effect of any increased maintenance charges, decreased efficiency due to age, and any other factors pertinent to the utilization of the asset for the purpose contemplated.

d. Except as otherwise provided in b and c above, a combination of the depreciation and use allowance methods may not be used for a single class of assets (e.g., buildings, office equipment, and computer equipment).

e. Charges for use allowances or depreciation must be supported by adequate property records, and physical inventories must be taken at least once every two years to ensure that the assets exist and are usable, used, and needed. In addition, when the depreciation method is used, adequate depreciation records showing the amount of depreciation taken each period must also be maintained.

10. *Donated services and property.* The value of donated services and property are not allowable either as a direct or indirect cost, except that depreciation or use allowances on donated assets are permitted in accordance with Section J9a. The value of donated services and property may be used to meet cost sharing or matching requirements, in accordance with OMB Circular No. A-110.

11. *Employee morale, health, and welfare costs, and credits.* The costs of house publications, health or first-aid clinics and/or infirmaries, recreational activities, employees' counseling services, and other expenses incurred in accordance with the institution's established practice or custom for the improvement of working conditions, employer-employee relations, employee morale, and employee performance, are allowable. Such costs will be equitably allocated to all activities of the institution in proportion to the

distribution of salary and wage costs. Income generated from any of these activities will be credited to the cost thereof unless such income has been irrevocably set over to employee welfare organizations.

employees during periods of authorized absences from the job, such as for annual leave, sick leave, military leave, and the like, are allowable: *Provided,* Such costs are distributed to all institutional activities in pro-

practice; (2) costs of insurance or of any contributions to any reserve covering the risk of loss of or damage to Government-owned property are unallowable, except to the extent that the Government has specifi-

agreement should be charged thereto at their actual prices after deducting all cash discounts, trade discounts, rebates, and allowances received by the institution. Withdrawals from general stores or stock-

the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under sponsored agreements.

b. In publications, costs of help wanted advertising that includes color, includes advertising material for other than recruitment purposes, or is excessive in size (taking into

distribution of salary and wage costs. Income generated from any of these activities will be credited to the cost thereof unless such income has been irrevocably set over to employee welfare organizations.

12. *Entertainment costs.* Costs incurred for amusement, social activities, entertainment, and any items relating thereto, such as meals, lodging, rentals, transportation, and gratuities, are unallowable.

13. *Equipment and other capital expenditures.* a. For purposes of this paragraph, the following definitions apply:

(1) *Equipment* means an article of nonexpendable tangible personal property having a useful life of more than one year and an acquisition cost of $300 or more per unit.

(2) *Capital expenditure* means the cost of the asset including the cost to put it in place. Capital expenditure for equipment, for example, means the net invoice price of the equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective intransit insurance, freight, and installation may be included in, or excluded from, capital expenditure cost in accordance with the institution's regular accounting practices.

(3) *Special purpose equipment* means equipment which is usable only for research, medical, scientific, or other technical activities. Examples of special purpose equipment include microscopes, x-ray machines, surgical instruments, and spectrometers.

(4) *General purpose equipment* means equipment, the use of which is not limited only to research, medical, scientific or other technical activities. Examples of general purpose equipment include office equipment and furnishings, air conditioning equipment, reproduction and printing equipment, motor vehicles, and automatic data processing equipment.

b. The following rules of allowability shall apply to equipment and other capital expenditures:

(1) Capital expenditures for general purpose equipment, buildings, and land are unallowable except where such expenditures are specifically approved in advance by the sponsoring agency.

(2) Capital expenditures for special purpose equipment are allowable as direct costs, provided that the acquisition of items having a unit cost of $1,000 or more is approved in advance by the sponsoring agency.

(3) Capital expenditures for improvements to land, buildings, or equipment which materially increase their value or useful life are unallowable, except where such expenditures are specifically approved in advance by the sponsoring agency.

(4) Equipment and other capital expenditures are unallowable as indirect costs.

(5) See Section J9 for allowability of depreciation or use allowance on buildings, capital improvements, and equipment. Also see Section J33 for allowability of rental costs on land, buildings, and equipment.

14. *Fines and penalties.* Costs resulting from violations of, or failure of the institution to comply with, Federal, State, and local laws and regulations are unallowable, except when incurred as a result of compliance with specific provisions of the sponsored agreement, or instruction in writing from the contracting officer.

15. *Fringe benefits.* a. Fringe benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, sick leave, military leave, and the like, are allowable: *Provided*, Such costs are distributed to all institutional activities in proportion to the relative amount of time or effort actually devoted by the employees. See Section J35 for treatment of sabbatical leave.

b. Fringe benefits in the form of employer contributions or expenses for social security, employee insurance, workmen's compensation insurance, tuition or remission of tuition for individual employees or their families and the like are allowable: *Provided*, Such benefits are granted in accordance with established institutional policies, and are distributed to all institutional activities on an equitable basis. See Section J36b for treatment of tuition remission provided to students.

c. Rules for pension plan costs are as follows:

(1) Costs of the institution's pension plan which are incurred in accordance with the established policies of the institution are allowable: *Provided*, (a) Such policies meet the test of reasonableness; (b) the methods of cost allocation are equitable for all activities; (c) the amount of pension cost assigned to each fiscal year is determined in accordance with (2) below; and (d) the cost assigned to a given fiscal year is funded for all plan participants within six months after the end of that year.

(2) The amount of pension cost assigned to each fiscal year shall be determined in accordance with generally accepted accounting principles as prescribed in Accounting Principles Board Opinion Number 8, "Accounting for the Cost of Pension Plans," issued by the American Institute of Certified Public Accountants. However, institutions may elect to follow the "Cost Accounting Standard for Composition and Measurement of Pension Cost" (4 CFR Part 412). Where these standards are followed, actuarial gains and losses shall be accounted for in accordance with Accounting Principles Board Opinion No. 8.

(3) Premiums paid for pension plan termination insurance pursuant to the Employee Retirement Income Security Act of 1974 (Pub. L. 93-406) are allowable. Late payment charges on such premiums are unallowable. Excise taxes on accumulated funding deficiencies and prohibited transactions of pension plan fiduciaries imposed under the Employee Retirement Income Security Act are also unallowable.

d. Fringe benefits may be assigned to cost objectives by identifying specific benefits to specific individual employees or by allocating on the basis of the salaries and wages of the employees receiving the benefits. When the allocation method is used, separate allocations must be made to selective groupings of employees, if the costs in relationship to salaries and wages differ significantly for different groups of employees. Also, fringe benefits related to institutional salaries and wages treated as direct costs shall also be treated as direct costs.

16. *Insurance and indemnification.* a. Costs of insurance required or approved, and maintained, pursuant to the sponsored agreement, are allowable.

b. Costs of other insurance maintained by the institution in connection with the general conduct of its activities, are allowable subject to the following limitations: (1) Types and extent and cost of coverage must be in accordance with sound institutional practice; (2) costs of insurance or of any contributions to any reserve covering the risk of loss of or damage to Government-owned property are unallowable, except to the extent that the Government has specifically required or approved such costs; and (3) costs of insurance on the lives of officers or trustees are unallowable except where such insurance is part of an employee plan which is not unduly restricted.

c. Contributions to a reserve for an approved self-insurance program are allowable, to the extent that the types of coverage, extent of coverage, and the rates and premiums would have been allowed had insurance been purchased to cover the risks.

d. Actual losses which could have been covered by permissible insurance (through an approved self-insurance program or otherwise) are unallowable, unless expressly provided for in the sponsored agreement, except that costs incurred because of losses not covered under existing deductible clauses for insurance coverage provided in keeping with sound management practice as well as minor losses not covered by insurance, such as spoilage, breakage and disappearance of small hand tools, which occur in the ordinary course of operations, are allowable.

(e) Indemnification includes securing the institution against liabilities to third persons and other losses not compensated by insurance or otherwise. The Government is obligated to indemnify the institution only to the extent expressly provided for in the sponsored agreement, except as provided in d above.

17. *Interest, fund raising, and investment management costs.* a. Costs incurred for interest on borrowed capital or temporary use of endowment funds, however represented, are unallowable.

b. Costs of organized fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions, are unallowable.

c. Costs of investment counsel and staff and similar expenses incurred solely to enhance income from investments are unallowable.

d. Costs related to the physical custody and control of monies and securities are allowable.

18. *Labor relations costs.* Costs incurred in maintaining satisfactory relations between the institution and its employees, including costs of labor management committees, employees' publications, and other related activities, are allowable.

19. *Losses on other sponsored agreements or contracts.* Any excess of costs over income under any other sponsored agreement or contract of any nature is unallowable. This includes, but is not limited to, the institution's contributed portion by reason of cost-sharing agreements or any under-recoveries through negotiation of flat amounts for indirect costs.

20. *Maintenance and repair costs.* Costs incurred for necessary maintenance, repair or upkeep of property (including Government property unless otherwise provided for) which neither add to the permanent value of the property nor appreciable prolong its intended life but keep it in an efficient operating condition, are allowable.

21. *Material costs.* Costs incurred for purchased materials, supplies, and fabricated parts directly or indirectly related to the sponsored agreements, are allowable. Purchases made specifically for the sponsored

agreement should be charged thereto at their actual prices after deducting all cash discounts, trade discounts, rebates, and allowances received by the institution. Withdrawals from general stores or stockrooms should be charged at their cost under any recognized method of pricing stores withdrawals conforming to sound accounting practices consistently followed by the institution. Incoming transportation charges are a proper part of material cost. Direct material cost should include only the materials and supplies actually used for the performance of the sponsored agreement, and due credit should be given for any excess materials retained, or returned to vendors. Due credit should be given for all proceeds or value received for any scrap resulting from work under the sponsored agreement. Where Government-donated or furnished material is used in performing the sponsored agreement, such material will be used without charge.

22. *Memberships, subscriptions, and professional activity costs.* a. Costs of the institution's membership in civic, business, technical, and professional organizations are allowable.

b. Costs of the institution's subscriptions to civic, business, professional, and technical periodicals are allowable.

c. Costs of meetings and conferences, when the primary purpose is the dissemination of technical information, are allowable. This includes costs of meals, transportation, rental of facilities, and other items incidental to such meetings or conferences.

23. *Patent costs.* Costs of preparing disclosures, reports, and other documents required by the sponsored agreement, and of searching the art to the extent necessary to make such invention disclosures, are allowable. In accordance with the clauses of the sponsored agreement relating to patents, costs of preparing documents and any other patent costs, in connection with the filing of a patent application where title is conveyed to the Government, are allowable. (See also section J34.)

24. *Plant security costs.* Necessary expenses incurred to comply with Government security requirements, including wages, uniforms and equipment of personnel engaged, in plant protection, are allowable.

25. *Preagreement costs.* Costs incurred prior to the effective date of the sponsored agreement, whether or not they would have been allowable thereunder if incurred after such date, are unallowable unless specifically set forth and identified in the sponsored agreement.

26. *Professional services costs.* a. Costs of professional services rendered by the members of a particular profession who are not employees of the institution are allowable, subject to b and c below, when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the Government. Retainer fees to be allowable must be reasonably supported by evidence of services rendered.

b. Factors to be considered in determining the allowability of costs in a particular case include (1) the past pattern of such costs, particularly in the years prior to the award of sponsored agreements; (2) the impact of sponsored agreements on the institution's total activity; (3) the nature and scope of managerial services expected of the institution's own organization; and (4) whether the proportion of Government work to the institution's total activity is such as to influence the institution in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under sponsored agreements.

c. Costs of legal, accounting, and consulting services, and related costs, incurred in connection with the prosecution of claims against the Government, are unallowable. Costs of legal, accounting and consulting services, and related costs, incurred in connection with patent infringement litigation, are unallowable unless otherwise provided for in the sponsored agreements.

27. *Profits and losses on disposition of plant equipment or other capital assets.* Profits or losses arising from the sale or exchange of plant, facilities, equipment or other capital assets, including sale or exchange of either short-term or long-term investments, shall not be considered in computing the costs of sponsored agreements except for pension plans as provided in Section J15c. When assets acquired with Federal funds, in part or wholly, are disposed of, the distribution of the proceeds shall be made in accordance with Attachment N, OMB Circular No. A-110.

28. *Proposal costs.* Proposal costs are the costs of preparing bids or proposals on potential Government and nongovernment sponsored agreements or projects, including the development of engineering data and cost data necessary to support the institution's bids or proposals. Proposal costs of the current accounting period of both successful and unsuccessful bids and proposals normally should be treated as indirect costs and allocated currently to all activities of the institution, and no proposal costs of past accounting periods will be allocable to the current period. However, the institution's established practices may be to treat proposal costs by some other recognized method. Regardless of the method used, the results obtained may be accepted only if found to be reasonable and equitable.

29. *Public information services costs.* Cost of news releases pertaining to specific research or scientific accomplishment are allowable.

30. *Rearrangement and alteration costs.* Cost incurred for ordinary or normal rearrangement and alteration of facilities are allowable. Special arrangement and alteration costs incurred specifically for the project are allowable when such work has been approve in advance by the sponsoring agency concerned.

31. *Reconversion costs.* Costs incurred in the restoration or rehabilitation of the institution's facilities to approximately the same condition existing immediately prior to commencement of a sponsored agreement, fair wear and tear excepted, are allowable.

32. *Recruiting costs.* a. Subject to b, c, and d below, and provided that the size of the staff recruited and maintained is in keeping with workload requirements, costs of "help wanted" advertising, operating costs of an employment office necessary to secure and maintain an adequate staff, costs of operating an aptitude and educational testing program, travel costs of employees while engaged in recruiting personnel, travel costs of applicants for interviews for prospective employment, and relocation costs incurred incident to recruitment of new employees, are allowable to the extent that such costs are incurred pursuant to a well managed recruitment program. Where the institution uses employment agencies, costs not in excess of standard commercial rates for such services are allowable.

b. In publications, costs of help wanted advertising that includes color, includes advertising material for other than recruitment purposes, or is excessive in size (taking into consideration recruitment purposes for which intended and normal institutional practices in this respect), are unallowable.

c. Costs of help wanted advertising, special emoluments, fringe benefits, and salary allowances incurred to attract professional personnel from other institutions that do not meet the test of reasonableness or do not conform with the established practices of the institution, are unallowable.

d. Where relocation costs incurred incident to recruitment of a new employee have been allowed either as an allocable direct or indirect cost, and the newly hired employee resigns for reasons within his control within twelve months after hire, the institution will be required to refund or credit such relocation costs to the Government.

33. *Rental cost of buildings and equipment.* a. Subject to the limitations described in b through d below, rental costs are allowable to the extent that the rates are reasonable in light of such factors as rental costs of comparable property, if any; market conditions in the area; alternatives available; and the type, life expectancy, condition, and value of the property leased.

b. The institution should make a reasonable, periodic determination whether comparable or suitable space or equipment is available within the institution. When comparable or suitable space is available, the institution must justify why noninstitution space is being rented.

c. Rental costs under "sale and leaseback" arrangements are allowable only up to the amount that would be allowed if the institution continued to own the property.

d. Rental costs under "less-than-arms-length" leases are allowable only up to the amount that would be allowed if the institution owned the property. For this purpose, a less-than-arms-length lease is one under which one party to the lease agreement is able to control or substantially influence the actions of the other. Such leases include those between: (1) divisions of an institution; (2) institutions or organizations under common control through common officers, directors, or members; and (3) an institution and a director, trustee, officer, or key employee of the institution or his immediate family either directly or through corporations, trusts, or similar arrangements in which they hold a controlling interest.

e. Rental costs under leases which create a material equity in the leased property are allowable only up to the amount that would be allowed if the institution purchased the property on the date the lease agreement was executed. For this purpose, a material equity in the property exists when the lease:

(1) Is noncancelable or is cancelable only upon the occurrence of some remote contingency, and

(2) Has one or more of the following characteristics:

(a) Title to the property passes to the institution at some time during or after the lease period.

(b) The term of the lease corresponds substantially to the estimated useful life of the property (i.e., the period of economic usefulness to the legal owner of the property).

(c) The initial term is less than the useful life of the property and the institution has the option to renew the lease for the remaining useful life at substantially less than fair rental value.

(d) The property was acquired by the leasor to meet the special needs of the institution and will probably be usable only for that purpose and only by the institution.

wise meet the conditions of a. above may be allowed: *Provided*, The actual costs of such severance payments are regarded as expenses applicable to the current fiscal year and are equitably distributed among the in-

institution directly or which are available to the institution based on an exemption afforded the Government, and in the latter case when the sponsoring agency makes available the necessary exemption certifi-

this provision, foreign travel is defined as "any travel outside of Canada and the United States and its territories and possessions."

Such alterations were necessary for the performance of the agreement, and of reasonable restoration required by the provisions of the lease.

rights will join these actions on the issue of registrability of the copyright claim. The second system will be used to keep records of compliance with the

(d) The property was acquired by the leasor to meet the special needs of the institution and will probably be usable only for that purpose and only by the institution.

(e) The institution has the right, during or at the expiration of the lease, to purchase the property at a price which at the inception of the lease appears to be substantially less than the probable fair market value at the time it is permitted to purchase the property (commonly called a lease with a bargain purchase option).

34. *Royalties and other costs for use of patents.* Royalties on a patent or amortization of the cost of acquiring a patent or invention or rights thereto, necessary for the proper performance of the sponsored agreement and applicable to tasks or processes thereunder, are allowable unless the Government has a license or the right tc free use of the patent, the patent has been adjudicated to be invalid or has been administratively determined to be invalid, the patent is considered to be unenforceable, or the patent has expired.

35. *Sabbatical leave costs.* Costs of leave of absence by employees for performance of graduate work or sabbatical study, travel, or research are allowable provided the institution has a uniform policy on sabbatical leave for persons engaged in instruction and persons engaged in research. Such costs will be allocated on an equitable basis among all related activities of the institution. Where sabbatical leave is included in fringe benefits for which a cost is determined for assessment as a direct charge, the aggregate amount of such assessments applicable to all work of the institution during the base period must be reasonable in relation to the institution's actual experience under its sabbatical leave policy.

36. *Scholarships and student aid costs.* a. Scholarships, fellowships, and other forms of student aid and the costs of administering such aid are allowable only when the purpose of the sponsored agreement is to provide training to selected participants and the charge is approved by the sponsoring agency. However, tuition remission and other forms of compensation paid as, or in lieu of, wages to students performing necessary work are allowable: *Provided*, That (1) there is a bonafide employer-employee relationship between the student and the institution for the work performed, (2) the tuition or other payments are reasonable compensation for the work performed and are conditioned explicitly upon the performance of necessary work, and (3) it is the institution's practice to similarly compensate students in nonsponsored as well as sponsored activities.

b. Charges for tuition remission and other forms of compensation paid to students as, or in lieu of, wages shall be subject to the reporting requirements stipulated in section J6, and shall be treated as direct or indirect cost in accordance with the actual work being performed. Such compensation shall not be classified as a fringe benefit.

37. *Severance pay.* a. Severance pay is compensation in addition to regular salary and wages which is paid by an institution to employees whose services are being terminated. Costs of severance pay are allowable only to the extent that such payments are required by law, by employer-employee agreement, by established policy that constitutes in effect an implied agreement on the institution's part, or by circumstances of the particular employment.

b. Severance payments that are due to normal recurring turnover and which otherwise meet the conditions of a. above may be allowed: *Provided*, The actual costs of such severance payments are regarded as expenses applicable to the current fiscal year and are equitably distributed among the institution's activities during that period.

c. Severance payments that are due to abnormal or mass terminations are of such conjectural nature that allowability must be determind on a case-by-case basis. However, the Government recognizes its obligation to participate, to the extent of its fair share, in any specific payment.

38. *Specialized service facilities.* a. The costs of institutional services involving the use of highly complex or specialized facilities such as electronic computers, wind tunnels, reactors, and animal resource centers are allowable: *Provided*, The charge for the service meets the conditions of b-through d below.

b. The cost of each service shall consist of both its direct costs and its allocable share of indirect costs with deductions for appropriate income or Federal financing as described in section C5.

c. The cost of such institutional services when material in amount must be charged directly to applicable sponsored agreements based on actual use of the services on the basis of a schedule of rates that: (1) does not discriminate between federally and nonfederally supported activities of the institution, including usage by the institution for internal purposes; and (2) is designed to recover not more than the aggregate cost of the services over a long-term period agreed upon in advance by the Government on a case-by-case basis. Accordingly, it is not necessary that the rates charged for services be exactly equal to the cost of providing those services during any one fiscal year as long as rates are adjusted to offset overcharges or undercharges at least annually.

d. Where the costs incurred for such institutional services are not material, they may be assigned as indirect costs to those activities which they benefit on a basis representative of benefits received. Such arrangements must be worked out in advance with the Government in order to assure an equitable distribution of the costs.

39. *Special services costs.* Costs incurred for general public relations activities, catalogs, alumni activities, and similar services, are unallowable.

40. *Student activity costs.* Costs incurred for intramural activities, student publications, student clubs, and other student activities, are unallowable, unless specifically provided for in the sponsored agreements.

41. *Student services costs.* Costs of the deans of students, administration of student affairs, registrar, placement offices, student advisers, student health and infirmary services, and such other activities as are identifiable with student services apply only to instruction and therefore are not normally allowable. However, when students actually engage in work under sponsored agreements, a proportion of student services costs measured by the relationship between hours of work by students on such sponsored work and total student hours may be allowed.

42. *Taxes.* a. In general, taxes which the institution is required to pay and which are paid or accrued in accordance with generally accepted accounting principles are allowable. Payments made to local governments in lieu of taxes which are commensurate with the local government services received are allowable, except for: (1) taxes from which exemptions are available to the institution directly or which are available to the institution based on an exemption afforded the Government, and in the latter case when the sponsoring agency makes available the necessary exemption certificates; and (2) special assessments on land which represent capital improvements.

b. Any refund of taxes, interest, or penalties, and any payment to the institution of interest thereon, attributable to taxes, interest, or penalties which were allowed as sponsored agreement costs, will be credited or paid to the Government in the manner directed by the Government, provided any interest actually paid or credited to an institution incident to a refund of tax, interest, and penalty will be paid or credited to the Government only to the extent that such interest accrued over the period during which the institution had been reimbursed by the Government for the taxes, interest, and penalties.

43. *Transportation costs.* Costs incurred for freight, express, cartage, postage, and other transportation services relating either to goods purchased, in porcess, or delivered, are allowable. When such costs can readily be identified with the items involved, they may be charged directly as transportation costs or added to the cost of such items. Where identification with the materials received cannot readily be made, inbound transportation costs may be charged to the appropriate indirect cost accounts if the institution follows a consistent, equitable procedure in this respect. Outbound freight, if reimbursable under the terms of the sponsored agreement, should be treated as a direct cost.

Travel costs. a. Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the institution. Such costs may be charged on an actual basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip and not to selected days of the trip, and results in charges consistent with those normally allowed by the institution in its regular operations.

b. Travel costs are allowable subject to c, d, e, and f below, when they are directly attributable to specific work under a sponsored agreement or are incurred in the normal course of administration of the institution or a department or research program thereof.

c. The difference in cost between first-class air accommodations and less than first-class air accommodations is unallowable except when less than first-class air accommodations are not reasonably available to meet necessary mission requirements, such as where less than first-class accommodations would (1) require circuitous routing, (2) require travel during unreasonable hours, (3) greatly increase the duration of the flight, (4) result in additional costs which would offset the transportation savings, or (5) offer accommodations which are not reasonably adequate for the medical needs of the traveler.

d. Costs of personnel movements of a special or mass nature are allowable only when authorized or approved in writing by the sponsoring agency or its authorized representative.

e. Foreign travel costs are allowable only when the travel has received specific prior approval. Each separate foreign trip must be specifically approved. For purposes of this provision, foreign travel is defined as "any travel outside of Canada and the United States and its territories and possessions."

f. When an amount for domestic travel is specified in the sponsored agreement, expenditures for such travel will not be allowed if they exceed the amount specified by more than 25% or $500, whichever is greater, except with an advanced approval of the sponsoring agency.

45. *Termination costs applicable to sponsored agreements.* a. Termination of sponsored agreements generally gives rise to the incurrence of costs or to the need for special treatment of costs, which would not have arisen had the agreement not been terminated. Items peculiar to termination are set forth below. They are to be used in conjunction with all other provisions of this Circular in the case of termination.

b. The cost of common items of material reasonably usable on the institution's other work will not be allowable unless the institution submits evidence that it could not retain such items at cost without sustaining a loss. In deciding whether such items are reasonably usable on other work of the institution, consideration should be given to the institution's plans and orders for current and scheduled work. Contemporaneous purchases of common items by the institution will be regarded as evidence that such items are reasonably usable on the institution's other work. Any acceptance of common items as allowable to the terminated portion of the agreement should be limited to the extent that the quantities of such items on hand, in transit, and on order are in excess of the reasonable quantitative requirements of other work.

c. If in a particular case, despite all reasonable efforts by the institution, certain costs cannot be discontinued immediately after the effective date of termination, such costs are generally allowable within the limitations set forth in this Circular, except that any such costs continuing after termination due to the negligent or willful failure of the institution to discontinue such costs will be considered unacceptable.

d. Loss of useful value of special tooling, and special machinery and equipment is generally allowable, *Provided*, (1) Such special tooling, machinery, or equipment is not reasonably capable of use in the other work of the institution; (2) the interest of the Government is protected by transfer of title or by other means deemed appropriate by the contracting officer or equivalent; and (3) the loss of useful value as to any one terminated agreement is limited to that portion of the acquisition cost which bears the same ratio to the total acquisition cost as the terminated portion of the agreement bears to the entire terminated agreement and other Government agreements for which the special tooling, special machinery, or equipment was acquired.

e. Rental costs under unexpired leases are generally allowable where clearly shown to have been reasonably necessary for the performance of the terminated agreement, less the residual value of such leases, if (1) the amount of such rental claimed does not exceed the reasonable use value of the property leased for the period of the agreement and such further period as may be reasonable; and (2) the institution makes all reasonable efforts to terminate, assign, settle, or otherwise reduce the cost of such lease. There also may be included the cost of alterations of such leased property: *Provided*, Such alterations were necessary for the performance of the agreement, and of reasonable restoration required by the provisions of the lease.

f. Settlement expenses including the following are generally allowable: (1) Accounting, legal, clerical, and similar costs reasonably necessary for the preparation and presentation to contracting officers or equivalent of settlement claims and supporting data with respect to the terminated portion of the agreement, and the termination and settlement of subagreements; and (2) reasonable costs for the storage, transportation, protection, and disposition of property provided by the Government or acquired or produced by the institution for the agreement.

g. Claims under subagreements, including the allocable portion of claims which are common to the agreement and to other work of the institution, are generally allowable.

K. Certification of charges. To assure that expenditures for sponsored agreements are proper and in accordance with the agreement documents and approved project budgets, the annual and/or final fiscal reports or vouchers requesting payment under the agreements will include a certification, signed by an authorized offical of the university, which reads essentially as follows: "I certify that all expenditures reported (or payment requested) are for appropriate purposes and in accordance with the provisions of the application and award documents."

[FR Doc. 78-6275 Filed 3-9-78; 8:45 am]

[3110-01]

PRIVACY ACT OF 1974

Reports on New System

The purpose of this notice is to list reports on new systems filed with the Office of Management and Budget to give members of the public the opportunity to make inquiries about them and to comment on them.

The Privacy Act of 1974 requires the agencies to give advance notice to the Congress and the Office of Management and Budget of their intent to establish or modify systems of records subject to the Act (5 U.S.C. 552a(o)). During the period January 9, 1978, through February 3, 1978, no new or revised systems of records were received. During the period February 6, 1978, through February 17, 1978, the Office of Management and Budget received the following reports on new (or revised) systems of records.

COPYRIGHT OFFICE

Systems of records. (1) Notices of institution of actions for the infringment of works refused registration.

(2) Deposit recordation file.

Report date. January 26, 1978.

Point of contact. Mr. Jon Baumgarten, General Counsel, Copyright Office, Library of Congress, Arlington, Va. 22202.

Summary. The first system will be used by the Copyright Office to determine whether the Register of Copyrights will join these actions on the issue of registrability of the copyright claim. The second system will be used to keep records of compliance with the requirement to deposit copies and phonorecords of copyrighted works and to locate and correspond with those who do not comply.

DEPARTMENT OF DEFENSE

System of record. DOD health services enrollment eligibility system.

Report date. January 27, 1978.

Point of contact. Mr. William Cavaney, Department of Defense, Forrestal Building, 1000 Independence Avenue, Washington, D.C. 20314.

Summary. This system is intended to "create a central automated file of all personnel who are legally eligible * * * to receive health care benefits from the Uniformed Services Health Services Delivery System" for determing eligibility for care, and to conduct longitudinal research for planning and managing medical resources.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

System names. (1) Blood donors for tissue typing sera and cell analysis and related research.

(2) Medical library management intern program.

Report date. February 3, 1978.

Point of Contact. Mr. John D. Young, Department of Health, Education, and Welfare, Washington, D.C. 20201.

Summary. The purpose of the first system is "to provide data to be used in evaluating histocompatibility testing sear submitted by manufacturers for approval and release on the market." The second system will be used to "facilitate the processing and review of applications" for the National Library of Medicine's management intern program.

System name. Cancer patients on laetrile and physicians.

Report date. February 10, 1978.

Point of contact. Mr. John D. Young, Department of Health, Education, and Welfare, Washington, D.C. 20201.

DEPARTMENT OF AGRICULTURE

System name. Food service management company registration system for the summer food service program for children.

Report date. February 6, 1978.

Point of contact. John Heslin, Special Feeding Programs Branch, U.S. Department of Agriculture, 201 14th Street NW., Washington, D.C. 20250.

Summary. This system, to be operated by the Food and Nutrition Service, will consist of records of registered food service management companies and their program records, and will be used to certify the qualifications of those companies.

SMALL BUSINESS ADMINISTRATION

System name. Official travel file.

Report date. February 13, 1978.

Point of contact. Mr. Nicholas Kal-

Delaware. Since American General of Delaware is affiliated with the Fund through a common investment adviser (American Capital) and a common

At a regular meeting of the board of directors of the Fund on September 9, 1977, which was attended by a major-

ance will fully reimburse the Fund for its investment since the purchase price will not involve any discount from the outstanding principal balance of those

whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postpone-

Commission or any self-regulatory organization concerning the establishment, operation, and regulation of the

SMALL BUSINESS ADMINISTRATION

System name. Official travel file.
Report date. February 13, 1978.
Point of contact. Mr. Nicholas Kalcounos, FOIA and Privacy Officer, Small Business Administration, Washington, D.C. 20416.
Summary. SBA proposes to change this system of records to reflect the inclusion of applications for advance of funds and the use of the social security number.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc. 78-6274 Filed, 3-9-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 10150; 812-4243]

AMERICAN GENERAL BOND FUND, INC. AND AMERICAN GENERAL CAPITAL MANAGEMENT, INC.

Filing of Application

MARCH 3, 1978.

Notice is hereby given that American General Bond Fund, Inc. ("Fund"), a closed-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act"), and American General Capital Management, Inc., ("American Capital"), 2777 Allen Parkway, Houston, Tex. 77019, the Fund's investment adviser, filed an application on December 5, 1977, and an amendment thereto on February 21, 1978, pursuant to section 17(b) of the act for an order of the Commission exempting from the provisions of section 17(a) of the Act the proposed purchase by American Capital from the fund of certain securities of El Tigre Corp. ("El Tigre"). All interested persons are referred to the application on file with the Commission for a statment of the representations contained therein, which are summarized below.

On March 19, 1971, the Fund purchased $468,000 of El Tigre 10.25 percent secured notes maturing on May 1, 1968, that were part of a private placement offered by El Tigre in order to finance the purchase of two oil tankers. At the same time, American General Life Insurance Co. of Delaware ("American General of Delaware") also purchased $468,000 of the El Tigre secured notes. Both American Capital and American General of Delaware at the time of the above purchases were, and still are, wholly-owned subsidiaries of American General Insurance Company ("AG Insurance"). In addition, at the time of the above purchases American Capital served as investment adviser to both the Fund and American General of Delaware. Since American General of Delaware is affiliated with the Fund through a common investment adviser (American Capital) and a common parent corporation of that investment adviser (AG Insurance) American General of Delaware is an affiliated person of an affiliated person of the Fund, as that term is defined in section 2(a)(3) of the Act. This being the case, the above purchases of El Tigre secured notes, in which both the Fund and American General of Delaware participated, may have been subject to the provisions of section 17(d) of the Act and Rule 17d-1 thereunder, which provide, in pertinent part, that it shall be unlawful for any affiliated person of a registered investment company, or any affiliated person of such a person, acting as principal, to participate in or effect any transaction in connection with any joint enterprise or other joint arrangement in which any such registered company, or company controlled by such registered company, is a participant unless an application regarding such joint enterprise or arrangement has been granted by an order of the Commission. It does not appear that an application requesting an order of the Commission to permit the above purchases of the El Tigre secured notes was ever filed.

On March 9, 1977, the board of directors of the Fund was provided with a detailed report on the El Tigre secured notes held by the Fund, including certain facts concerning impairment of the collateral securing those notes, and the current financial instability of the guarantor of those notes (Commonwealth Oil and Refining Co., Inc.). After considering the above report, the Fund's board of directors revalued its holdings in the El Tigre secured notes downward to $44,947 for purposes of portfolio valuation. American General of Delaware took the same action with respect to its holdings in the secured notes. On August 31, 1977, the remaining principal balance on the El Tigre secured notes held by the Fund was $432,146. Since it appears that the purchases of the El Tigre secured notes by American General of Delaware and the Fund may not have conformed with the requirements of section 17(d) of the Act and Rule 17d-1 thereunder, and therefore that the Fund may have grounds to assert a claim against American Capital for the loss it has suffered on this investment, American Capital has offered, in settlement of any claims which the Fund may have against American Capital on account of such purchases, but without admitting or denying any liability arising from such purchases, and subject to the Commission's issuance of the order requested herein, to purchase the El Tigre secured notes from the Fund for their full remaining principal balance.

At a regular meeting of the board of directors of the Fund on September 9, 1977, which was attended by a majority of the disinterested directors of the Fund, independent counsel for the disinterested directors, and the Fund's portfolio manager, the Fund's board of directors unanimously approved acceptance of American Capital's offer to purchase the El Tigre secured notes held by the Fund for their full amortized principal amount, subject to obtaining the required order of the Commission. It is represented that in approving acceptance of this offer the Fund's directors considered the fact that since under the offer American Capital would be providing a cash payment to the Fund equalling the remaining principal balance of the El Tigre secured notes the Fund could not receive any more in payment on those notes if it held them in its portfolio until their maturity at May 1, 1986. The applicants state that the Fund's directors also considered the significant investment risks to the Fund that would be inherent in retention of the notes (i.e., that the Fund would not receive full payment on the notes at maturity). Upon their approval of American Capital's offer to purchase the El Tigre secured notes, the Fund's directors revalued those notes in the Fund's portfolio upward to their remaining principal balance.

Section 17(a) of the Act provides, in pertinent part, that it shall be unlawful for any affiliated person of a registered investment company, or any affiliated person of such a person, acting as principal, knowingly to sell to or to purchase from such registered company any security or other property, subject to certain exceptions not relevant here. Section 17(b) of the Act provides that the Commission, upon application, may exempt a proposed transaction from the provisions of section 17(a) of the Act if the evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act. Since American Capital is investment adviser to the Fund, and section 2(a)(3) of the Act defines an affiliated person of another person to include any person acting as investment adviser to such other person, the proposed purchase of the El Tigre secured notes from the Fund by American Capital requires an order pursuant to section 17(b) of the Act.

The applicants represent that American Capital's offer to purchase the El Tigre secured notes held by the Fund at their remaining principal balance will fully reimburse the Fund for its investment since the purchase price will not involve any discount from the outstanding principal balance of those notes. Further, the applicants assert that there will be no investment risk to the Fund associated with the Fund's sale of the above secured notes to American Capital, as the Fund will be receiving a cash payment from American Capital, and since the Fund could not realize any more from its investment in the notes even if they were held to maturity. The applicants also represent that there are significant investment risks inherent in retention of the secured notes by the Fund, and that such risks will be shifted from the Fund to American Capital if the proposed purchase of the notes is consummated. The applicants, moreover, submit that American Capital's offer will provide the Fund with cash which the Fund can then reinvest in higher grade securities, and will relieve the Fund of a portfolio investment that has become more speculative than desirable in light of the Fund's investment policies. Thus, the applicants contend that the terms of American Capital's proposed purchase of the El Tigre secured notes from the Fund, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that such proposed purchase is consistent with the policy of the Fund and with the general purposes of the Act. Accordingly, the applicants request an order of the Commission exempting the proposed purchase from the provisions of section 17(a) of the Act.

Notice is further given that any interested person may, not later than March 27, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-6322 Filed 3-9-78; 8:45 am]

[8010-01]

[File No. 500-1]

AMINEX RESOURCES CORP.

Suspension of Trading

MARCH 6, 1978.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Aminex Resources Corp. being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 9:30 a.m. e.s.t., on March 6, 1978 through March 15, 1978.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-6323 Filed 3-9-78; 8:45 am]

[8010-01]

NATIONAL MARKET ADVISORY BOARD

Continuation of Advisory Committee; Opportunity for Public Comment

The Securities and Exchange Commission is conducting a review of its Federal advisory committee as directed by the President and the Office of Management and Budget. In connection with that review, we invite comments from interested members of the public on the need for and the performance of this SEC advisory committee.

The one SEC advisory committee is: the National Market Advisory Board.

On December 30, 1977, the charter of the National Advisory Board was amended so as to continue the board's existence as an entity after the expiration of the terms of its then current members, December 31, 1977, so that the Commission may appoint members in the future should it be deemed appropriate.

The Advisory Board's objectives are to: (1) Formulate and furnish to the Commission its views on signficant regulatory proposals made by the Commission or any self-regulatory organization concerning the establishment, operation, and regulation of the markets for securities in the United States;

(2) Study and make recommendations to the Commission as to the steps it finds appropriate to facilitate the establishment of a national market system; and

(3) Study the possible need for modification of the scheme of self-regulation so as to adapt it to a national market system, including the need for the establishment of a new self-regulatory organization, a National Market Regulatory Board, to administer the national market system. In the event the Advisory Board determines that a National Market Regulatory Board should be established it shall make recommendations as to: (a) The point in time at which a Regulatory Board should be established;

(b) The composition of a Regulatory Board;

(c) The scope of the authority of a Regulatory Board;

(d) The relationship of a Regulatory Board to the Commission and to existing self-regulatory organizations; and

(e) The manner in which a Regulatory Board should be funded.

Persons wishing to comment on the above advisory committee should submit written statements in triplicate to George A. Fitzsimmons, Advisory Committee Management Officer, room 892, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comments should be specific in nature. Comments should be received no later than March 31, 1978. The Commission will consider and where appropriate will forward comments to the Office of Management and Budget.

Questions concerning the review may be directed to George A. Fitzsimmons 202-755-1160.

Dated: March 7, 1978.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-6321 Filed 3-9-78; 8:45 am]

[8010-01]

[Rel. No. 20431; 70-6120]

NORTHEAST UTILITIES

Issuance and Sale of Common Stock Pursuant to a Dividend Reinvestment Plan

MARCH 3, 1978.

Notice is hereby given that Northeast Utilities ("Northeast"), 174 Brush Hill Avenue, West Springfield, Mass. 01089, a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections

6(a) and 7 of the act and rule 50(a)(5) promulgated thereunder as applicable to the proposed transaction. Interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

Pursuant to Commission order dated March 25, 1977 (HCAR No. 19961), Northeast has been authorized to issue and sell up to 3,000,000 of its authorized but unissued common shares, par value $5 per share, pursuant to its Dividend Reinvestment and Common Share Purchase Plan adopted in 1974 ("Plan"). As of February 1, 1978, Northeast had issued and sold 2,474,637 of its authorized common shares pursuant to the Plan.

Northeast proposes to issue and sell from time to time up to April 15, 1979, the 525,363 shares remaining from the 3,000,000 shares previously authorized, plus a maximum of 1,000,000 additional authorized but unissued shares ("Additional Common Shares"). The purchase price for the 525,363 shares remaining from those previously authorized and for the Additional Common shares will be the average of the closing sales prices for common shares during the fifteen trading days immediately preceding the dividend payment date.

As of February 1, 1978, the proceeds from the sale of shares pursuant to the Plan had been applied to the repayment of short-term borrowings incurred for capital contributions or advances to Northeast's subsidiaries to finance the cost of the continuing construction program of the Northeast Utilities System. The proceeds from the sale of the balance of the additional common shares (estimated at approximately $16,016,311, assuming all of the remaining 1,525,363 additional common shares are sold at a price of $10.50 per share) will also be applied to the repayment of short-term borrowings incurred for capital contributions or advances to Northeast's subsidiaries to finance the cost of the continuing construction program of the Northeast Utilities System.

A statement of the fees, commissions and expenses to be incurred in connection with the proposed transaction will be filed by amendment. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than March 27, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will recieve any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-6324 Filed 3-9-78; 8:45 am]

[4910-06]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Waiver Petition Docket No. SA-78-1]

WHITEHEAD AND KALES CO.

Waiver of Safety Appliance Standards

The Whitehead and Kales Co. (W&K) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance with certain provisions of the Railroad Safety Appliance Standards contained in 49 CFR Part 231. W&K seeks exemption from the provisions of 49 CFR 231.1(f), which specifies the clearance dimensions that must be adhered to when installing ladders on the ends of freight cars.

W&K is engaged in the installation of automobile racks on railroad flatcars. The most recent design for the application of radial end doors for these automobile racks incorporates a portion of a vertical ladder. This, door mounted, end ladder will encroach approximately four inches, beyond the vertical plane at the striker plate. W&K seeks a waiver to permit the installation of such a ladder since the regulation does not permit end ladders to encroach beyond the striker plate on the end of a freight car.

In support of this request for waiver, W&K notes that the ladders are used solely for the convenience of personnel engaged in loading and unloading vehicles from the upperdeck levels. W&K studied several alternative solutions to this ladder design but rejected these solutions because the alternatives caused additional problems with the basic design which could not be corrected. Furthermore, W&K notes that these cars are not equipped with end platforms and, therefore, operating personnel would not be riding on the ends of these cars. Consequently, this reduction of the clearance space between cars should not present a danger to personnel.

W&K indicates that this end door design is part of an effort to enclose the automobile rack cars so as to reduce vandalism and theft. The waiver, if granted, would permit W&K to use this design on approximately 1,100 car sets. These car sets are currently on order with W&K from several railroads including the Atchison, Topeka & Santa Fe, Consolidated Rail Corp., Norfolk & Western, and Southern Railway.

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. FRA does not anticipate scheduling an opportunity for oral comment as the facts do not appear to warrant it. An opportunity to present oral comments will be provided, however, if requested by any interested party prior to March 10, 1978. All communications concerning this petition should identify the appropriate Docket Number (FRA Waiver Petition Docket No. SA-78-1) and should be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. Communications received before March 31, 1978, will be considered by the FRA before final action is taken. Comments received after that date will be considered to the extent practicable. All comments received will be available, both before and after the closing date for communications, for examination by interested persons during regular business hours in Room 5101. Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

This notice is issued under the authority of sections 4, 6, and 12, 27 Stat. 531, as amended, section 6 (c) and (f), 80 Stat. 939; 45 U.S.C. 4, 6, 12; 49 U.S.C. 1655 and section 1.49(c) of the regulations of the Secretary of Transportation, 49 CFR 1.49(c).

Issued in Washington, D.C. on March 2, 1978.

ROBERT H. WRIGHT,
Acting Chairman,
Railroad Safety Board.

[FR Doc. 78-6265 Filed 3-9-78; 8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

Customs Service

[055507]

AMERICAN MANUFACTURER'S PETITION

Receipt of an American Manufacturer's Petition To Revoke Duty-Free Treatment Under Generalized System of Preferences for Microscope Slides and Micro Cover Glasses Imported From Beneficiary Developing Countries

MARCH 3, 1978.

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Notice of receipt of American manufacturer's petition.

SUMMARY: The Customs Service has received a petition from an American manufacturer of microscope slides and micro cover glasses requesting that such items not be granted free entry under the Generalized System of Preferences (GSP) when imported from beneficiary developing countries. The petitioner contends that these items are import-sensitive and not entitled to be designated for duty-free entry under the GSP.

DATES: Interested persons may comment on this petition, and comments must be received on or before April 10, 1978.

ADDRESS: Comments may be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

David A. Lee, Attorney, Special Projects and Programs Branch, U.S. Customs Service, 1301 Constitution Avenue N.W., Washington, D.C. 20229, 202-566-5786.

SUPPLEMENTARY INFORMATION:

BACKGROUND

A petition has been filed under section 516 of the Tariff Act of 1930, as amended (19 U.S.C. 1516), by Erie Scientific Co. (a division of Syborn Corp.) of Buffalo, N.Y., an American manufacturer of microscope slides and micro cover glasses. The petitioner requests that the same or similar items not be granted free entry under the Generalized System of Preferences (GSP) when imported from beneficiary developing countries. The petitioner contends that these items are import-sensitive items and not properly designated as eligible articles.

Under section 503 of the Trade Act of 1974 (19 U.S.C. 2463), the President may not designate any article for duty-free treatment if it is among certain enumerated import-sensitive categories including "semimanufactured and manufactured glass products" (section 503(c)(1)(F) of the Trade Act).

By Executive Order No. 11888, dated November 24, 1975 (40 FR 55275), the President granted GSP status to laboratory glassware, including glass microscope slides and micro cover glasses, not containing over 95 percent silica by weight (item 547.55, Tariff Schedules of the United States). Petitioner unsuccessfully sought relief from this order from the Trade Policy Staff Committee, and thereafter filed suit in the United States District Court for the Western District of New York to have the designation changed. The Court refused to act on the merits, ordering the petitioner to bring its action in the United States Customs Court, while at the same time retaining jurisdiction. This petition is being filed in order to enable the Customs Court to gain jurisdiction in this matter.

Petitioner believes that microscope slides and micro cover glasses are semimanufactured or manufactured glass products within the meaning of the Trade Act. Petitioner points to the highly price-competitive structure of the domestic industry and traditionally high duties as factors indicating the import-sensitivity of these articles. Petitioner further believes that the term "import-sensitive" means that duty-free treatment would entail injury or threat of injury to domestic producers, and lists conditions present overseas and domestically which he believes indicate that injury is inevitable.

COMMENTS

Pursuant to § 175.21(a), the Customs Regulations (19 CFR 175.21(a)), the Customs Service invites written comments on this petition from all interested parties.

The American manufacturer's petition, as well as all comments received in response to this notice, will be available for public inspection in accordance with §§ 103.8(b) and 175.21(a) of the Customs Regulations (19 CFR 103.8(b), 175.21(a)) during regular business hours at the Regulations and Legal Publications Division, Headquarters, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

AUTHORITY

This notice is being published in accordance with § 175.21(a) of the Customs Regulations (19 CFR 175.21(a)).

DONALD W. LEWIS,
Acting Assistant Commissioner
Regulations and Rulings.

[FR Doc. 78-6325 Filed 3-9-78; 8:45 am]

[4810-22]

Customs Service

[TMK-2-R:E:R]

AURORA STEEL PRODUCTS

Application for Recordation of Trade Name

Application has been filed pursuant to § 133.12, Customs Regulations (19 CFR 133.12), for recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name AURORA STEEL PRODUCTS used by Aurora Steel Products, division of Hupp, Inc. and a wholly owned subsidiary of White Consolidated Industries, Inc., a corporation organized under the laws of the State of Delaware, located at 580 So. Lake Street, Aurora, Ill. 60507.

The application states that the trade name is applied to desks, chairs, bookcases, tables, shelving, and storage equipment namely, lockers, library shelving, storage cabinets and shelf storage cabinets and shelf filing systems, manufactured in the United States. The application states further that no foreign person, partnership, subsidiary, related company or parent company is authorized to use the trade name sought to be recorded. Appropriate accompanying papers were submitted with the application.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Any such submission should be addressed to the Commissioner of Customs, Washington, D.C. 20229, in time to be received not later than April 10, 1978.

Notice of the action taken on the application for recordation of the trade name will be published in the FEDERAL REGISTER.

DONALD W. LEWIS,
Deputy Assistant Commissioner,
Regulations and Rulings.

MARCH 7, 1978.

[FR Doc. 78-6315 Filed 3-9-78; 8:45 am]

[4810-22]

[TMK-2-R:E:R]

DAWN IMPORTS INTERNATIONAL, INC.

Application for Recordation of Trade Name

Application has been filed pursuant to § 133.12, Customs Regulations (19 CFR 133.12), for recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name Dawn Imports International, Inc., used by Dawn Imports International, Inc., a corporation organized under the laws of the State of New York, located at 500 Seventh Avenue, New York, N.Y. 10018.

The application states that the trade name is applied to ladies outerwear coats and ladies outerwear sweaters, in various fabrics and styles, manufac-

In the "Statement of Reasons" of that notice, paragraph one of subsection (e) "Results of Fair Value Comparisons," stated that the weighted

In accordance with § 153.2, Customs Regulations (19 CFR 153.2), the home market price of the merchandise has been recalculated to reflect the addi-

such prices should be limited to finished steel mill products. It has also been contended that the domestic producers of wire rods appear unable to

explored in depth among persons who bring to the discussion varying experience and points of view.

3. *Oral testimony.* If sufficient inter-

yarn and grouped nylon filaments, not textured, provided for in items 309.30, 309.31, 310.01, and 310.02, Tariff Schedules of the United States

The application states that the trade name is applied to ladies outerwear coats and ladies outerwear sweaters, in various fabrics and styles, manufactured in Taiwan and Korea. The application states further that neither a parent nor a subsidiary company or any other foreign company under common ownership or control is authorized to use the trade name sought to be recorded. Appropriate accompanying papers were submitted with the application.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Any such submission should be addressed to the Commissioner of Customs, Washington, D.C. 20229, in time to be received not later than April 10, 1978.

Notice of the action taken on the application for recordation of the trade name will be published in the FEDERAL REGISTER.

DONALD W. LEWIS,
Deputy Assistant Commissioner, Regulations and Rulings.

MARCH 7, 1978.

[FR Doc. 78-6314 Filed 3-9-78; 8:45 am]

[4810-22]

Office of the Secretary

ICE HOCKEY STICKS FROM FINLAND

Modification of Determination of Sales at Less Than Fair Value

AGENCY: U.S. Treasury Department.

ACTION: Modification of determination of sales at less than fair value.

SUMMARY: This notice is to advise the public that the determination of sales at less than fair value under the Antidumping Act, 1921, as amended, on ice hockey sticks from Finland has been reconsidered. Accordingly, the determination is being modified to reflect the results of this reconsideration. Sales at less than fair value generally occur when the prices of the merchandise sold for exportation to the United States are less than prices in the home market or to third countries.

EFFECTIVE DATE: March 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald W. Eiss, Office of Tariff Affairs, U.S. Department of the Treasury, 15th Street and Pennsylvania Avenue NW., Washington, D.C. 20220, 202-566-8256.

SUPPLEMENTARY INFORMATION: A "Determination of Sales at Less Than Fair Value" with respect to ice hockey sticks from Finland was published in the FEDERAL REGISTER of December 30, 1977 (42 FR 65345).

In the "Statement of Reasons" of that notice, paragraph one of subsection (e) "Results of Fair Value Comparisons," stated that the weighted average margin found on all sales to the United States during the investigatory period made by the firm used for fair value comparisons, Koho-Tuote Oy (Koho), was 10.5 percent. It has been determined that this figure was not accurate and that the correct weighted average margin found on all Koho's sales was 14.0 percent.

Further, in paragraph two under subsection (e), the Treasury raised the possibility that a revision in the size of the margins of sales at less than fair value might be necessary to account for certain additional adjustments to home market prices pursuant to § 153.15, Customs Regulations, (19 CFR 153.15) for differences in the home market and export levels of trade. In particular, certain warehousing costs which Koho claimed to incur in connection with its home market sales, but which it said were not incurred on sales to the U.S. importer, were to be considered.

As was stated in the notice, the possibility of making adjustments for such warehousing costs was considered within the context of the presently pending review of Treasury regulations and policies concerning adjustments both for differences in circumstances of sale (19 CFR 153.10) and levels of trade (19 CFR 153.15). Treasury is aware of, and sensitive to, the possibility that present regulations and Treasury policies regarding these two issues may not have in the past properly recognized all expenses which may warrant adjustments.

However, it has been determined that a review and possible alteration of regulations and policies with respect to such a fundamental area of the administration of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) should not be implemented on a case-by-case basis. It would be inappropriate to make such changes in any case before the comprehensive review referred to is completed. Therefore, it has been decided that no further adjustments to home market price based on alleged differences in levels of trade, under § 153.15, supra, will be made pending the completion of the more general review of this area presently underway.

It has however, been determined that Koho does incur warehousing costs in certain of its home market sales of ice hockey sticks, namely, with respect to those sticks already sold. The Treasury recognizes that when warehousing costs are incurred after the sale of a good is completed, an adjustment is justified under § 153.10, supra, as an expense which is directly related to the sale under consideration.

In accordance with § 153.2, Customs Regulations (19 CFR 153.2), the home market price of the merchandise has been recalculated to reflect the additional deduction warranted under § 153.10, supra. As a result the margins found with respect to all sales from Finland now range from 0 to 19 percent with a weighted average margin of 12.2 percent.

Accordingly, the "Notice of Determination of Sales at Less Than Fair Value" referred to above is modified to reflect the change in the home market price used for comparison and the results of comparisons made.

The United States International Trade Commission is being advised of this modification. This notice is published pursuant to § 153.42, Customs Regulations (19 CFR 153.42).

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

MARCH 6, 1978.

[FR Doc. 78-6332 Filed 3-9-78; 8:45 am]

[4810-25]

Office of the Secretary

IMPORTED STEEL MILL PRODUCTS "TRIGGER PRICE MECHANISM"

Coverage of Wire Rod, Wire, and Wire Products

On February 21, 1978, a final rulemaking took effect which amended regulations to require the filing of a special summary steel invoice (SSSI) with all entries of imported steel mill products (43 FR 6065). The information provided in the SSSI is being used to enable the Treasury Department to implement the "trigger price mechanism" for monitoring imports of basic steel mill products and to obtain statistical data on all steel mill product imports. Under the trigger price mechanism, the sales price of imported steel mill products for which trigger prices have been published in the FEDERAL REGISTER are being compared to the applicable trigger prices; sales below the trigger prices are being investigated to determine whether the Treasury Department should initiate an antidumping proceeding with respect to such or similar merchandise. Trigger base prices where published in the FEDERAL REGISTER on January 9, 1978, for a majority of the steel mill products imported during 1976 and 1977 (43 FR 1463).

Trigger prices for wire rods were published in the FEDERAL REGISTER on January 9, 1978. However, among the steel mill products for which no trigger prices have thus far been published are wire and wire products. Users of wire rod have contended that this product is the only "semifinished" steel mill product for which trigger prices are being announced and that

such prices should be limited to finished steel mill products. It has also been contended that the domestic producers of wire rods appear unable to meet total domestic demand at a time that the Treasury is conducting antidumping proceedings with respect to carbon steel wire rod from France and the United Kingdom. Further, it has been argued that trigger prices for wire rod do not reflect the efficiencies realized by mini-mill producers in Japan. Finally, it has been urged that the relationship between wire rods and wire products is such that it is inappropriate not to publish the trigger prices for all these products simultaneously. All of these contentions have been disputed by domestic makers of wire rods and others.

In the light of the conflicting contentions, it has been determined that it is desirable thoroughly to review the status of wire rod as a steel mill product for which trigger prices should be established and to review the level of those prices. The same occasion will also be used to solicit comments on the extent to which it is necessary and desirable to establish trigger prices for wire and wire products.

Public comment. The public is invited to comment on the issues mentioned above and the implications of including wire rod, wire, and wire products under the trigger price mechanism.

1. *Written submissions.* Written submissions which are received before the close of business on Wednesday, March 29, 1978, will be considered. Written submissions must be submitted in five copies. Each submission should designate clearly the name and address of the party making the submission.

2. *Requests to present oral testimony.* All requests to present oral testimony, and an outline of the proposed testimony, must be received in writing not later than the close of business, Friday, March 17, 1978.

Requests to present oral testimony should include the following information:

(a) The name, address, telephone number, and official position (if applicable) of the party submitting the request, and the person or persons who will present the oral testimony (if different from the party submitting the request);

(b) A description of the articles and tariff item number(s) (TSUS) in which the party has an interest;

(c) The position to be taken by the party; and

(d) The amount of time requested for the presentation of oral testimony, and, if more than 10 minutes is requested, the reasons therefor.

Treasury might find it useful to organize oral testimony into panels of witnesses so that specific issues can be explored in depth among persons who bring to the discussion varying experience and points of view.

3. *Oral testimony.* If sufficient interest is expressed, oral testimony will be heard on Tuesday, March 28, 1978. Each person scheduled to testify will be notified of the date and the amount of time allotted for his presentation.

4. *Communications.* All communications with regard to written submissions or oral testimony should be addressed to: Peter D. Ehrenhaft, Deputy Assistant Secretary for Tariff Affairs, Room 3424, Department of the Treasury, Washington, D.C. 20220, telephone 202-566-2806.

Dated: March 6, 1978.

ROBERT H. MUNDHEIM,
General Counsel.

[FR Doc. 78-6272 Filed 3-9-78; 8:45 am]

[4810-22]

NYLON YARN FROM JAPAN

Antidumping Proceeding

AGENCY: U.S. Treasury Department.

ACTION: Initiation of Antidumping Investigation.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and an antidumping investigation is being initiated for the purpose of determining whether nylon yarn from Japan is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. Sales at less than fair value generally occur when the prices of the merchandise sold for exportation to the United States are less than the prices in the home market or the constructed value.

EFFECTIVE DATE: March 10, 1978.

FOR FURTHER INFORMATION CONTACT:

David R. Chapman, Operations Officer, United States Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-5492.

SUPPLEMENTARY INFORMATION: On February 3, 1978, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from E.I. du Pont de Nemours & Co., Inc., Wilmington, Del., indicating the possibility that the subject merchandise from Japan is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

For purposes of this investigation, the term "nylon yarn" means nylon yarn and grouped nylon filaments, not textured, provided for in items 309.30, 309.31, 310.01, and 310.02, Tariff Schedules of the United States.

Pricing information was supplied by petitioner on two types of nylon yarn—warp knitting yarn and broadweaving yarn. With respect to warp knitting yarn, petitioner submitted Japanese home market and export prices which indicate there may be less-than-fair-value margins of as great as 43 percent. With respect to broadweaving yarn, petitioner invoked section 205(b) of the Act, claiming sales in the home market below the cost of production. Consequently, petitioner constructed the value of broadweaving yarn produced in Japan and, in comparison with a representative export price to the United States, arrived at an alleged less-than-fair-value margin of 42 percent.

With respect to warp knitting yarn, a price-to-price comparison will be used in the investigation hereby initiated. With respect to broadweaving yarn, the investigation will cover not only price-to-price comparisons but will also seek to determine whether (1) there have been sales made in the home market at less than the cost of production over an extended period of time and in substantial quantities and (2) such sales were not at prices which permit recovery of all costs within a reasonable period of time in the normal course of trade. If there have been such sales, those sales will be disregarded in the determination of foreign market value. If insufficient sales remain at not less than the cost of production, then the constructed value will be employed as the basis of fair value.

There is evidence on record concerning injury to, or likelihood of injury to, an industry in the United States that produces nylon yarn. This information indicates that imports of nylon yarn from Japan are underselling domestic nylon yarn by margins of at least 5 percent, which is fully accounted for by the alleged dumping margins. As a result, in part, of the alleged sales at less than fair value, imports of nylon yarn from Japan have increased in both absolute and relative terms. In addition, domestic production, capacity utilization and sales have all declined in the latest 3-year period. Furthermore, petitioner's profitability in the production of nylon yarn has declined appreciably and employment in petitioner's plants has been affected by lost sales.

In addition, in the FEDERAL REGISTER of January 25, 1978, (43 FR 3470), an "Antidumping Proceeding Notice" was published initiating an antidumping investigation concerning nylon yarn from France. The nylon yarns that are the subject of that investigation also appear to be the subject of this inves-

tigation. The cumulative effect of imports of a single product from more than one country must be considered in assessing the injurious effects of alleged "less than fair value" imports. When the imports from Japan are cumulated with those alleged to exist from France, the level of import penetration exceeds 5 percent of current U.S. consumption.

Counsel for a Japanese exporter has asserted that the nylon yarn at issue here is within the coverage of the Agreement Regarding International Trade in Textiles (MFA), TIAS 7934, and is also covered in an exchange of notes dated December 19, 1975, between the United States and Japan TIAS 8181, under which either government may initiate consultations concerning possible market disruptions caused by imports in textiles and yarns. However, there are no quantitative or other restrictions now in effect concerning imports of the Japanese nylon yarn under the provisions of the MFA or the note of December 19, 1975, which would limit the adverse impact of sales of nylon yarn at less-than-fair-value. Therefore, this case does not present the issue of whether the existence of international agreements or procedures for addressing market disruption caused by the imports under investigsation is a relevant factor in considering whether "substantial doubt" of injury exists requiring a reference of the case to the ITC at this time pursuant to section 201(c)(2) of the Act (19 U.S.C. 160(c)(2)).

Accordingly, based upon the available information of injury resulting from sales at less than fair value, no "substantial doubt" of injury exists and no reference of this case to the ITC will be made.

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the U.S. Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact of likelihood of sales at less than fair value.

This notice is being published pursuant to § 153.30 of the Customs Regulations (19 CFR 153.30).

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

MARCH 7, 1978.

[FR Doc. 78-6331 Filed 3-9-78; 8:45 am]

[3510-17]

WHITE HOUSE CONFERENCE ON BALANCED NATIONAL GROWTH AND ECONOMIC DEVELOPMENT

ADVISORY COMMITTEE MEETING; CANCELLATION

The meeting of the Advisory Committee to the White House Conference on Balanced National Growth and Economic Development announced in the FEDERAL REGISTER, February 27, 1978, 43 FR 7998, has been canceled. The meeting will be rescheduled for a date in April to be announced later in the FEDERAL REGISTER.

Dated: March 8, 1978.

MICHAEL S. KOLEDA,
Director, White House Conference on Balanced National Growth and Economic Development.

[FR Doc. 78-6507 Filed 3-9-78; 9:09 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 607]

ASSIGNMENT OF HEARINGS

MARCH 7, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 95876 (Sub-No. 211), Anderson Trucking Service, Inc., now being assigned May 9, 1978 (1 day), at Chicago, IL in a hearing room to be later designated.
MC 107012 (Sub-No. 251), North American Van Lines, Inc., now being assigned May 10, 1978 (1 day), at Chicago, IL in a hearing room to be later designated.
MC 11651 (Sub-No. 30), Kaney Transportation, Inc., now being assigned May 11, 1978 (1 day), at Chicago, IL in a hearing room to be later designated.
MC 124947 (Sub-No. 75), Machinery Transports, Inc., now being assigned May 12, 1978 (1 day), at Chicago, IL in a hearing room to be later designated.
MC 41404 (Sub-No. 130), Argo-Collier Truck Lines Corp. and MC 41404 (Sub-No. 131), Argo-Collier Truck Lines Corp., now being assigned May 15, 1978 (1 week), at Chicago, IL in a hearing room to be later designated.
MC-F-13383, Red Ball Motor Freight, Inc.—Control—ET & WNC Transportation Company and East Tennessee and Western North Carolina Railroad Company; FD-28589, Red Ball Motor Freight, Inc.—Notes; MC-F-13384, McLean Trucking Co.—Purchase (Portion)—ET & WNC Transportation Company; and MC-F-13385, Gateway Transportation Co., Inc.—Purchase (Portion)—ET & WNC Transportation Co., are now assigned for hearing May 16, 1978 at the offices of the Interstate Commerce Commission, Washington, DC.
MC 143065, Mack D. Weatherford, d.b.a. Weatherford Transit, now being assigned April 17, 1978 (1 week), at Columbia, SC in a hearing room to be later designated.
MC 136837 (Sub-No. 3), Florida Continental Express, Inc., is now assigned for hearing May 16, 1978 (1 day) at Columbus, OH, at a hearing room to be later designated.
MC 19157 (Sub-No. 45), McCormack's Highway Transportation, Inc., is now assigned for hearing May 17, 1978 (1 day) at Columbus, OH, at a hearing room to be later designated.
MC 134029 (Sub-No. 6), Sigel's Hauling, Inc., is now assigned for hearing May 18, 1978 (2 days) at Columbus, OH, at a hearing room to be later designated.
MC 109821 (Sub-No. 53), Taynton Freight System, Inc., is now assigned for hearing May 22, 1978 (1 week) at Pittsburgh, PA, at a hearing room to be later designated.
AB 1 (Sub-No. 40), Chicago and North Western Transportation Company abandonment between Gillett, Oconto County, Wisconsin, and Scott Lake, Iron County, Michigan, now being assigned for continued hearing on the 28th day of March 1978, at the Offices of the Interstate Commerce Commission, Washington, DC.
MC 115841 (Sub-No. 544), Colonial Refrigerated Transportation, Inc., now assigned April 5, 1978 at Chicago, IL, will be held in Room 204A, Everett McKinley Dirksen Building, 219 South Dearborn Street.
MC 64932, Rogers Cartage Co., Inc., now assigned April 4, 1978 at Chicago, IL, will be held in Room 204A, Everett McKinley Dirksen Building, 219 South Dearborn Street.
MC 107515 (Sub-No. 1075), Refrigerated Transport Co., Inc., now being assigned for continued hearing on April 4, 1978, at the Offices of the Interstte Commerce Commission, Washington, DC.
MC 117883 (Sub-No. 219), Subler Transfer, Inc. now assigned April 3, 1978 at Chicago, IL, is postponed to April 24, 1978 (2 weeks) at Chicago, IL in a hearing room to be later designated.
MC 143539, Republic Delivery Service, now being assigned April 24, 1978 (1 day) at the Offices of the Interstate Commerce Commission in Washington, DC.
MC 73165 (Sub-No. 414), Eagle Motor Lines, Inc., is now assigned for hearing April 25, 1978 (1 day) at Atlanta, GA, at a location to be later designated.
MC 121654 (Sub-No. 5), Coastal Transport & Trading Co.; MC 124887 (Sub-No. 17), Southeastern Transfer & Storage Co., Inc.; MC 124887 (Sub-No. 38), Shelton Trucking Service, Inc.; and MC 136285 (Sub-No. 26), Southern Intermodal Logistics, Inc., are now assigned for hearing April 26, 1978 (3 days) at Atlanta, GA, at a location to be later designated.
MC 143358 (Sub-No. 2), State Express, Inc., is now assigned for hearing May 1, 1978 (1 day) at Atlanta, GA, at a location to be later designated.
MC 136285 (Sub-No. 29), Southern Intermodal Logistics, Inc., is now assigned for hearing May 2, 1978 (1 day) at Atlanta, GA, at a location to be later designated.
MC 94350 (Sub-No. 385), Transit Homes, Inc., is now assigned for hearing May 3, 1978 (3 days) at Atlanta, GA, at a location to be later designated.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-6357 Filed 3-9-78; 8:45 am]

[7035-01]

FOURTH SECTION APPLICATION FOR RELIEF

MARCH 7, 1978

This application for long- and short-haul relief has been filed with the ICC.

Protests are due at the ICC by March 27, 1978.

FSA No. 43513, Southwestern Freight Bureau, Agent's No. B-734, rail rates on paper and paper articles, from points in Michigan, Minnesota, and Wisconsin, also Fort Frances, Ontario, Canada, to points in southwestern territory, in its tariff 281-J, ICC 5231, to become effective April 7, 1978. Grounds for relief—motor carrier competition.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-6361 Filed 3-9-78; 8:45 am]

[7035-01]

[MC-16073, MC-66462, MC-104377]

WILLET MOTOR COACH CO., THE WILLET CO., AND WILLET TRANSPORT, INC.

Authority To Increase Self-Insurance Retention From $25,000 to $150,000 per Occurrence

These three affiliated companies have held authority to be self-insurers of their BI&PD and cargo liability since 1955. This authority was conditioned on the maintenance of excess insurance for losses of $25,000 and above. Their management has now asked that the carriers be permitted to absorb all losses up to $150,000 per occurrence.

This increased retention limit will give the carriers greater flexibility in dealing with insurance companies for excess coverage. To a large degree, the higher limit merely reflects the loss in purchasing power of the dollar caused by the historically high price inflation since 1955.

These motor carriers are financially strong companies. They have well-qualified and experienced claims department personnel. We have received no complaints from the public as to their handling of claims.

We find: These companies have established that they would benefit from this increase in retention limit without jeopardizing protection to the public.

It is ordered: Willet Motor Coach Co., The Willet Co., and Willet Transport, Inc., are authorized to increase their self-insurance retention limit from $25,000 per occurrence to $150,000 per occurrence effective April 1, 1978, provided excess insurance in an adequate amount is maintained.

By the Commission, Insurance Board, Members Burns, Turkington, and Schloer, this 2nd day of March, 1978.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-6360 Filed 3-9-78; 8:45 am]

[7035-01]

[Notice No. 20TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

FEBURARY 17, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC, and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 12118 (Sub-No. 61TA), filed December 30, 1977. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, NE 68501. Applicant's representative: Duane W. Acklie (same as above). Authority to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Paper and paper products* from the facilities of Fort Howard Paper Co., at or near Muskogee OK (2) *materials, supplies, and equipment used in the manufacture and distribution of paper and paper products* (except commodities in bulk and those which because of size or weight require the use of special equipment) to the facilities of Fort Howard Paper Co., at or near Muskogee, OK. Part (I) to points in AL, AR, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, MA, MD, ME, MI, MN, MS, MO, NE, NH, NJ, NM, NY, NC, ND, OH, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, and DC, and Part (II) from the destination named in Part (I) in this paragraph, for 180 days. Applicant has also filed an ETA seeking up to 90 days for operating authority. Supporting shipper(s): Dale E. Hitchcock, Manager of Transportation, Fort Howard Paper Co., P.O. Box 130, Green Bay, WI 54305. Send protests to: Max H. Johnson, District Supervisor, 285 Federal Building and Court House, 100 Cenntennial Mall North, Lincoln, NE 68508.

No. MC 39406 (Sub-No. 20TA), filed January 10, 1978. Applicant: CENTRAL MOTOR LINES, INC., P.O. Box 10303, 4101 South Interstate 85, Charlotte, NC 28201. Applicant's representative: Garland V. Moore, P.O. Box 1067, Charlotte, NC 28237. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Aluminum ingots* from plantsite of Keystone Resources Aluminum Division, Greensboro, GA to Chicago, IL and its commercial zone; Bedford Heights, Cleveland, Toledo, and Willoughby, OH; Jackson, MI; Pottstown, PA; Stamford, CT; and Henderson, KY. (2) *Aluminum scrap* from CT, NY, NJ, PA, IL, IN, OH, KY, and NC, to plantsite of Keystone Resources Aluminum Division, Greensboro, GA for 180 days. Supporting shipper(s): Keystone Resources Aluminum Division, P.O. Box 687, Greensboro, GA 30642. Send protests to: District Supervisor, Terrell Price, 800 Brair Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

No. MC 58035 (Sub-No. 15TA), filed December 30, 1978. Applicant: TRANS-WESTERN EXPRESS, LTD., 48 East 56th Avenue, Denver, CO 80216. Applicant's representative: Edward T. Lyons, Jr., 1600 Lincoln Center Building, Denver, CO 80264. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Prefabricated metal buildings knocked down or in sections, and related component parts, acessories and fixtures*

therefore; and (2) *such materials, equipment, and supplies as are used in the erection, completion and maintenance of prefabricated metal building,*

junction LA Hwy 28, then over LA Hwy 28 to Pineville, LA, and return over the same route. Also as an alternate route for operating convenience only;

DIANA REFRIGERATOR LINES, INC., P.O. Box 552, Riggin Road, Muncie, IN 47305. Applicant's representative: Paul R. Bergant, Singer &

lar routes, transporting: (1) *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses,* as described in sections A and

in ON as a contract carrier, under a continuing contract, or contracts, with Union Carbide Corp., for 180 days.

from Duluth, MN, and Superior, WI, to ports of entry on the international boundary line between the United

therefore; and (2) *such materials, equipment, and supplies as are used in the erection, completion and maintenance of prefabricated metal building,* from the plantsite of Marathon Metallic Building Co., at or near Fort Collins, CO, to points in WY, points in that portion of SD on and west of a line beginning at the ND line then south over U.S. Hwy 83 to junction U.S. Hwy 16, then over U.S. Hwy 16 to junction to U.S. 183, and then over U.S. Hwy 183 to the NE State line, and to points in those portions of NE and KS on the west of U.S. Hwy 183, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Marathon Metallic Building Co., P.O. Box 14240, 4601 Holmes Road, Houston, TX 77021. Send protests to: Roger L. Buchannan, District Supervisor, Interstate Commerce Commission, 721 19th Street, 492 U.S. Customs House, Denver, CO 80202.

No. MC 94265 (Sub-No. 257TA), filed January 20, 1978. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Route 460 West, Windsor, VA 23487. Applicant's representative: Clyde W. Carver, 5299 Roswell Road NE., Suite 212, Atlanta, GA 30342. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen foods,* (1) from the facilities of Mount Airy Cold Storage at or near Mount Airy, MD, to points in the States of CT, DE, ME, MD, MA, NH, NJ, NY, NC, OH PA, VA, WV, and DC; and (2) *returned shipments of frozen foods,* from the above specified destination points to the above specified, for 180 days. Supporting shiper(s): (1) Ralph P. Hill, Manager, Corporate Distribution, Lamb-Weston, Division of Amfac Foods, Inc., P.O. Box 23517, Portland, OR 97223. Send protests to: Paul D. Collins, District Supervisor, Bureau of Operations, Room 10-502, 400 North 8th Street, Richmond, VA 23240.

No. MC 97310 (Sub-No. 27TA), filed January 16, 1978. Applicant: SHARRON MOTOR LINES, INC., P.O. Box 5636, Meridian, MS 39301. Applicant's representative: David A. Watson, Jr., 3730 First Avenue South, Birmingham, AL 35222. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities,* (including telephone communication equipment and apparatus, except classes A and B explosives and commodities which by reason of size or weight require the use of special equipment), between the plantsite of Western Elecrtric Corp. at or near Pineville, LA, on the one hand, and, Jackson, MS, on the other, serving no intermidiate points; from Jackson over MS Hwy 18 to Junction U.S. Hwy 61, then over U.S. Hwy 61 to Natchez, MS, then over U.S. Hwy 84 to junction LA Hwy 28, then over LA Hwy 28 to Pineville, LA, and return over the same route. Also as an alternate route for operating convenience only; from Jackson over U.S. Hwy 80 and Interstate Hwy 20 to Vicksburg, MS, then over U.S. Hwy 61 to Natchez, MS then over U.S. Hwy 84 to Junction LA Hwy 28, then over LA Hwy 28 to Pineville, LA, and return over the same route. Applicant seeks authority to tack the authority sought herein with all of its existing authority at common service points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Western Electric Corp. 2855 Selma Hwy, Montgomery, AL 36108. Send protest to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, MS 39201.

No. MC 99388 (Sub-No. 12TA), (correction), filed December 30, 1977, published in the FEDERAL REGISTER issue of February 15, 1978, and republished as corrected this issue. Applicant: ALLTRANS EXPRESS U.S.A., INC., 925 Westchester Avenue, Suite 105, White Plains, NY 10604. Applicant's representative: S. S. Eisen, 370 Lexington Avenue, New York, NY 10017. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities,* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, frozen foods, and commodities in bulk) which are at the time moving on bills of lading of freight forwarders operating pursuant to part IV of the Interstate Commerce Act. (A) Between, on the one hand; Baltimore, MD; Boston, ME; New Haven, CT; New York, NY; Philadelphia, PA; and, on the other, Chicago, IL; Milwaukee, WI; St. Louis, MO; and (B) between on the one hand, Baltimore, MD; Boston, ME; Chicago, IL; Milwaukee, WI; New Haven, CT; New York, NY; Philadelphia, PA; St. Louis, MO; and, on the other, Los Angeles, CA; Oakland, CA; Phoenix, AZ; Portland, OR; Salt Lake City, UT; San Francisco, CA; and Seattle, WA, for 180 days.

NOTE.—Application also includes authority to serve all points in terminal areas of points shown in A and B. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (5) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York NY 10007. the purpose of the republication is to indicate correction of territorial description.

No. MC 113651 (Sub-No. 262TA), filed January 17, 1978. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Riggin Road, Muncie, IN 47305. Applicant's representative: Paul R. Bergant, Singer & Sullivan, 10 South LaSalle Street, Suite 1600, Chicago, IL 60603. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses,* as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except commodities in bulk and hides), from Green Bay, WI, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WVA, and the DC, restricted to traffic originating at the plantsite and storage facilities of Green Bay Dressed Beef, Inc., located at or near Green Bay, WI, and destined to named destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Suppporting shipper(s): Green Bay Dressed Beef Co., P.O. Box 8546, Green Bay, WI 54305. Send protests to: J. H Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802

No. MC 114632R (Sub-No. 133TA), filed January 16, 1978. Applicant: APPLE LINES, INC., 212 Southwest Second Street, P.O. Box 287, Madison, S.D. 57042. Applicant's representative: Michael L. Carter, 212 Southwest Second Street, Madison, S.D. 57042. Authority sought to operate as a *common carrier,* motor vehicle, over irregular routes, transporting: *Clay and clay products* (except commodities in bulk), from the facilities of Absorbent Clay Products, Inc., at or near Mounds, IL, to Los Angeles, CA; Jacksonville, FL.; Kansas City, KS; New Orleans, LA; Albuquerque, NM; Charlote, NC; Tulsa, OK; Norfolk, VA; Seattle WA, and points in IA, MA, MI, MO, NJ, NY, OH, PA, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Absorbent Clay Products Co., P.O. Box 687, Anna, IL 62906 (Don Michel, Secretary—Coowner). Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, SD 57501

No. MC 114632 (Sub-No. 135TA), filed January 20, 1978. Applicant: APPLE LINES, INC., P.O. Box 287, 212 Southwest Second Street, Madison, SD 57042. Applicant's representative: Michael L. Carter, 212 Southwest Second Street, Madison SD 57402. Authority sought ot operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses,* as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from Huron, SD, to Oklahoma City, OK, restricted to products originating at named origin and terminating at named destination, and (2) *hides, green, salted,* from Huron, SD, to Kansas City, MO, restricted to products originating at named origin and terminating at named destination, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Geo. A. Hormel & Co., P.O. Box 800, Austin, MN 55912 (Edward C. Hunkele Supervisor, Motor carrier Services). Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, SD 57501.

No. MC 115716 (Sub-No. 19TA), filed January 19, 1978. Applicant: DENVER - LIMON - BURLINGTON TRANSFER CO., 3650 Chestnut Place, Denver, CO 80216. Applicant's representative: Edward C. Hastings, 666 Sherman Street, Denver, CO 80203. Authority sought to operate at a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses,* between Limon, CO, on the one hand, and, San Leandro, CA, and its respective commercial zones, on the other hand for 180 days. Applicant intends to tack the authority here applied for to another authority held by it. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Limon Packing Co., Inc., 474 Wisconsin Avenue, Limon, CO 80828. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

No. MC 117507 (Sub-No. 12TA), filed January 13, 1978. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, PA 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate at a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Liquid argon, liquid nitrogen, liquid oxygen,* in specially designed cryogenic trailers, furnished by the shipper, from Ecorse, MI, to points in IN and OH and ports of entry on the international boundary line between the United States and Canada located on the Detroit and St. Clair Rivers in MI, for furtherance to points in ON as a contract carrier, under a continuing contract, or contracts, with Union Carbide Corp., for 180 days. Supporting shipper(s): Union Carbide Corp., 270 Park Avenue, New York, NY 10017. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

No. MC 117823 (Sub-No. 28TA), filed January 18, 1978. Applicant: RALPH F. DUNKLEY, d.b.a. DUNKLEY DISTRIBUTING CO., 1915 South 900 West, Salt Lake City, UT 84104. Applicant's representative: Lon Rodney Kump, 333 East Fourth South, Salt Lake City, UT 84111. Authority sought to operate at a *common carrier,* by motor vehicle, over irregular routes, transporting: *Dairy products,* as described in section B of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209, from Delta and points within 5 miles of Delta, UT, to points in AZ, CA and NV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Old Capital Valley Cheese, Inc., d.b.a. Delta Valley Farms, Inc., R.F.D. Route 2, Delta, UT 84624 (Erwin M. Johnson, President). Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, UT 84138.

No. MC 119090 (Sub-No. 4TA), filed January 16, 1978. Applicant: THRUWAY FREIGHT LINES, INC., P.O. Box 56, Elmwood Park, NJ 67407. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Paper and paper articles,* from the plantsites of the International Paper Co. at or near Corinth and Ticonderoga, NY, to points in the New York, NY, commercial zone, Nassau and Suffolk Counties, NY, NJ points in PA on and east of U.S. Hwy 15, points in MD, DE, and Washington, DC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): International Paper Co., 220 East 42nd Street, New York, NY 10017. Send protests to: Joel Morrows, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 618, 9 Clinton Street, Newark, NJ 07102.

No. MC 119634 (Sub-No. 24TA), filed January 9, 1978. Applicant: DICK IRVIN, INC., P.O. Box F, Shelby, MT 59474. Applicant's representative: Charles R. Irvin, P.O. Box F, Shelby, MT 59474. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Baler twine and binder twine,* from Duluth, MN, and Superior, WI, to ports of entry on the international boundary line between the United States and Canada located in MN, ND, MT, ID, and WA on traffic destined for points in the Provinces of MB, SK, AB, BC, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Joseph Urista, Vice President, United Rope (Holland) Distribution, Inc., 4524 Excelsior Boulevard, Minneapolis, MN 55416. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

No. MC 119726 (Sub-No. 114TA), filed January 18, 1978. Applicant: N.A.B. TRUCKING CO., INC., 1644 West Edgewood Avenue, Indianapolis, IN 46217. Applicant's representative: James L. Beattey, 130 East Washington Street, Suite 1000, Indianapolis, IN 46204. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Animal feed* (except in bulk), from the plant and warehouse facilities of Kal-Kan Foods, Inc., at or near Terre Haute and Indianapolis, IN, to Minneapolis, MN, St. Louis and Kansas City, MO, Dallas, TX, Memphis, TN, Atlanta, GA, Jacksonville, FL, and Columbus, OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kal-Kan Foods, Inc., 3386 East 44th Street, Vernon, CA 90058. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 Each Ohio Street, Room 429, Indianapolis, IN 46204.

No. MC 119765 (Sub-No. 47TA), filed December 29, 1978. Applicant: EIGHT WAY XPRESS, INC., 5402 South 27th Street, P.O. Box 7356, Omaha, NE 68107. Applicant's representative: Arlyn L. Westergren, Suite 530, Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, meat byproducts, dairy products, and articles distributed by meat packinghouses,* as described in sections A, B, and C of appendix I to the report in Description in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and skins, commodites in bulk), from the plantsite and storage facilities of John Morrell & Co. at Sioux Falls, SD, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, and DC; and (2) *meats, meat products, meat by-products, and articles* distributed by meat packinghouses, as described in sections A and C of appendix I to the report in Description in Motor Carrier Certificated, 61

MCC 209 and 766 (except hides and skins and commodities in bulk) from the plantsite and stoarge facilities of John Morrell & Co., at Esterville, IA.

L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, OH 43055. Applicant's representative: C. F. Schnee, Jr. (same address as applicant). Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Dry beverage preparations,* from Norfield, IL,

TRANSPORTATION, INC., 115 Jacobus Avenue, South Kearney, NJ 07032. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey

PAUL MURPHY, JAMES EDWARD MURPHY, TIMOTHY PAUL MURPHY AND ERNST STEWART MURPHY d.b.a. MURPHY & SONS,

portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equip-

MCC 209 and 766 (except hides and skins and commodities in bulk) from the plantsite and stoarge facilities of John Morrell & Co., at Esterville, IA, to points in CT, ME, MD, MA, UH, NJ, NY, PA, RI, and VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Curt Y. Hopkins, Transportation Manager, John Morrell & Co., 208 South LaSalle Street, Chicago, IL 60604. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 120618 (Sub-No. 7TA), filed January 11, 1978. Applicant: SCHALLER TRUCKING CORP., 5700 West Minnesota Street, Indianapolis IN 46241. Applicant's representative: John R. Bagileo, 700 World Center Bldg., 918 Sixteenth St., NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap aluminum*, from the plantsite of General Motors Corp. and its subsidiaries located at or near Detroit, Flint, Grand Blanc, Lansing, Pontiac, Saginaw and Willow Run, MI; Lockport, NY, and Cleveland, Dayton and Moraine, OH and the plantsite of Harry Davis and Sons, Inc., located at or near Toledo, OH to points located in Marion County, IN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Central Foundry Division, General Motors Corp., Bedford, IN. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Bldg., and U.S. Courthouse, 46 East Ohio Street, room 429 Indianapolis, IN 46204.

No. MC 123255 (Sub-No. 135 TA), filed January 19, 1978. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, OH 43055. Applicant's representative: C. F. Schnee, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from the facilities of Midland Glass Company, Inc., at or near Cliffwood, NJ; Terre Haute, IN; and Warner Robins, GA, to the facilities of Midland Glass Company, Inc., at Eden, NC, or points within 50 miles of Eden, NC, restricted to shipments originating at and destined to the facilities of Midland Glass Company, Inc., for 180 days. Supporting shipper(s): Midland Glass Co., Inc., P.O. Box 557, Cliffwood, NJ 07721. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Bldg. and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

No. MC 123255 (Sub-No. 136 TA), filed January 19, 1978. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, OH 43055. Applicant's representative: C. F. Schnee, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from the facilities of Midland Glass Company, Inc., located at or near Warner Robins, GA, to Columbus, OH; St. Louis, MO; and Newark, NJ, restricted to shipments originating at the facilities of Midland Glass Company, Inc., and destined to the named destinations, for 180 days. Supporting shipper(s): Midland Glass Company, Inc., P.O. Box 557, Cliffwood, NJ 07721. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Bldg. and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

No. MC 127752 (Sub-No. 5TA) (correction) filed December 27, 1977, published in the FEDERAL REGISTER issue of February 15, 1978, and republished as corrected this issue. Applicant: WILLIAM P. RALSTON, Box 54, Bern, KS 66408. Applicant's representative: Clyde N. Christey, 514 Capitol Federal Bldg., Topeka, KS 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pet food, animal treats* and *specialty extruded items for pets*, from the plantsite and/or storage facilities of Bern Extrusion, Inc., at or near Bern, KS, to points in AL, AZ, CA, ID, LA, MN, MS, MO, NV, ND, OR, SD, UT, WA and WI. (2) *Pet food and animal treats*, from the plantsite and/or storage facilities of O. A. Copper Co. at or near Abilene, KS, to points in AL, AZ, AR, CA, CO, ID, IL, IA, LA, MI, MS, MO, MT, NE, NV, NM, ND, OK, OR, SD, TN, TX, UT, WA, WI, and WY. (3) *Pet food ingredients*, from Humboldt, NE, to Bern, KS. Extruded pet food, from Fall City, NE, to Bern, KS., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Bern Extrusion, Inc., P.O. Box 143, Bern, KS 66408. Send protests to: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 147 Federal Bldg., and U.S. Courthouse, 4444 S.E. Quincy, Topeka, KS 66683. The purpose of this republication is to include the state of Arkansas in number (2) above, which was previously omitted in error.

No. MC 138991 (Sub-No. 23TA) (correction), filed January 24, 1978, published in the FEDERAL REGISTER issue of February 15, 1978, and republished as corrected this issue. Applicant: K. J. TRANSPORTATION, INC., 1000 Jefferson Road, Rochester, NY 14623. Applicant's representative: S. Michael Richards/Raymond A. Richards, 44 North Avenue, Webster, NY 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry beverage preparations*, from Norfield, IL, to Geneva, OH and Hightstown, NJ, under a continuing contract or contracts with Coca-Cola Company Foods Division, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Coca-Cola Company Foods Division, 480 Mercer Street, Hightstown, NJ 08520. Send protests to: Interstate Commerce Commission, U.S. Courthouse and Federal Bldg., 100 South Clinton St., room 1259, Syracuse, NY 13202. The purpose of this republication is (1) to show applicant's correct address 1000 Jefferson Road, in lieu of 100 Jefferson Road; (2) to show the correct supporting shipper Coca-Cola Company Foods Division, in lieu of Coca-Cola Foods Division; and (3) to show correct zip code of the Interstate Commerce Commission 13202, in lieu of 13260.

No. MC 140010 (Sub-No. 12TA) (correction) filed November 23, 1978, published in the FEDERAL REGISTER ISSUE OF JANUARY 20, 1978, AND REPUBLISHED IN THE FEDERAL REGISTER issue of February 15, 1978, and republished as corrected this issue. Applicant: JOSEPH MOVING & STORAGE CO., INC., doing business as ST. JOSEPH MOTOR LINES, 573 Dutch Valley Road NE., Atlanta, GA 30309. Applicant's representative: Richard M. Tettelbaum, Suite 375, 3379 Peachtree Road NE, Atlanta, GA 30326. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in or used by automotive service stations (except commodities in bulk and except commodities which, because of size or weight, require the use of special equipment), between Fulton County, GA, on the one hand, and on the other, points in the United States in and east of WI, IL, MS, OK and TX; and (2) *plastic granules* (except in bulk), from Houston, Baytown and Orange, TX, to points in AL, FL, GA, NC, SC and TN, under a continuing contract or contracts with Gulf Oil Company-U.S., a Division of Gulf Oil Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Gulf Oil Company-U.S., Division of Gulf Oil Corp., P.O. Box 3706, Houston, TX 77701. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St., NW, room 300, Atlanta, GA 30309. The purpose of this republication is to show that applicant is seeking contract carrier authority.

No. MC 140267 (Sub-No. 6TA), filed December 28, 1977. Applicant: R. A. TRANSPORTATION, INC., 115 Jacobus Avenue, South Kearney, NJ 07032. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as is dealt in by wholesale, retail, chain grocery, department stores and food business houses* (except malt beverages), and in connection therewith, equipment, materials and supplies used in the conduct of such business (except commodities in bulk) from Baltimore, MD to points in NY west of NY Hwys 14, 13, U.S. Interstate Hwy 81 (except Syracuse, NY) NY Hwy 57, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days for operating authority. Supporting shipper(s): Lever Brothers Co., 390 Park Avenue, New York, NY 10022. Send protests to: Robert E. Johnson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Room 618, Newark, NJ 07102.

No. MC 141318 (Sub-No. 2TA), filed January 16, 1978. Applicant: WEATHER SHIELD TRANSPORTATION, LTD., 531 North Eighth Street, Medford, WI 54451. Applicant's representative: Richard A. Westley, 4506 Regent Street, Madison, WI 53705. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1)(a) *Doors, windows, window units, sashes, frames, blinds, screens, shutters, thresholds, sills, and glass*, and (b) *unassembled components of the aforementioned commodities*, from Medford, WI, to points in AL, AR, CO, DE, GA, IN (except points in Chicago, IL, commercial zone), IA, ID, KS, KY, MD, MI, MS, MO (except Moberly), MT, NE, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, UT, VA, WA, WV, WY, and the DC; (2) *Materials, equipment and supplies* (except glass) used or useful in the production or distribution of the commodities described in part (1) above, from points named in the destination states named in part (1) above to Medford, WI; (3) *Advertising materials* relating to the commodities described in part (1) above, between Medford, WI, on the one hand, and, on the other points in the destination States named in part (1) above; restricted in parts (1), (2), and (3) to a transportation service to be performed under a continuing contract or contracts with Weather Shield Mfg., Inc., Medford, WI, for 180 days. Supporting shipper(s): Weather Shield Mfg., Inc., 531 North Eighth Street, Medford, WI 54451. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 139 West Wilson Street, Room 202, Madison, WI 53703.

No. MC 143031 (Sub-No. 3TA), filed December 29, 1977. Applicant: LLOYD PAUL MURPHY, JAMES EDWARD MURPHY, TIMOTHY PAUL MURPHY AND ERNST STEWART MURPHY d.b.a. MURPHY & SONS, Route 2, Box 139, Spring City, TN 37381. Applicant's representative: Stan Guthrie, Attorney, Suite 100, Maclellan Building, Chattanooga, TN 37402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, furniture parts, crated and uncrated, materials and supplies to be used by La-Z-Boy Chair Co. in the manufacturing and selling of new furniture*, for 180 days. Restriction: The operations are limited to a transportation service to be performed, under a continuing contract, or contracts with the shipper and La-Z-Boy Chair Co. Outbound shipments: New Furniture and furniture parts from the plantsite and storage facilities of La-Z-Boy Chair Co. at or near Dayton, TN, to points in IA, LA, MD, NY, PA, WV, and WI. Inbound shipments: Furniture parts and materials and supplies to be used in the manufacturing of new furniture at the plantsite of La-Z-Boy in Dayton, TN, from points in PA to the plantsite of La-Z-Boy in Dayton, TN. Supporting shipper(s): La-Z-Boy Chair Co., P.O. Box 191, Walnut Grove Road, Dayton, TN 37321. Send protests to: District Supervisor, Joe J. Tate, Bureau of Operations, Interstate Commerce Commission, Suite A-422-U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-6356 Filed 3-9-78; 8:45 am]

[7035-01]

[Notice No. 24TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

FEBRUARY 27, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its aplication.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 720 (Sub-No. 45TA), filed January 30, 1978. Applicant: BIRD TRUCKING CO., INC., P.O. Box 227, Waupun, WI 53968. Applicant's representative: Anthony C. Vance, 1300 Old Chain Bridge Road, McLean, VA 22101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned baby food and dry cereal*, from Canajoharie, NY, to MI, OH, IN, IL, KY, MN, and WI, restricted to traffic originating at the facilities of Beechnut Foods Corp., at Canajoharie, NY, and destined to the named destination States, for 180 days. Supporting shipper(s): Beechnut Foods Corp., Church Street, Canajoharie, NY 13317 (Donald Beaver). Send protests to: Mrs. Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

No. MC 2934 (Sub-No. 17TA), filed January 20, 1978. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 North Michigan Road, Carmel, IN 46032. Applicant's representative: James L. Beattey, 130 East Washington Street, Suite 1000, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Black jack tables, crap tables, roulette tables, baccarat tables, big six tables, big six wheels, roulette wheels, slot machine stands, chips and miscellaneous gambling equipment*, from Las Vegas, NV, to Atlantic City, NJ, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Paul-Son Dice & Card, Inc., 2121 Industrial Road, Las Vegas, NV 89102. Send protests to: Beverly J. Williams, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

No. MC 5227 (Sub-No. 33TA), filed January 20, 1978. Applicant: ECKLEY TRUCKING, INC., P.O. Box 201, Mead, NE 68041. Applicant's representative: Charles E. Dye (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fibre cartons, corrugated, KD flat and empty return wooden* Charles E. Dye (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1)

IL, to points in MO and TX, for 180 days. Supporting shipper: W & W Sales & Leasing Co., P.O. Box 486, Edwardsville, IL 62025. Send protests to:

PACK HAULER, INC., doing business as PICK'S PACK HAULER, 1214 East South Street, Hastings, NE 68901. Applicant's representative: Gailyn L.

U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

No. MC 119489 (Sub-No. 46TA), filed January 30, 1978. Applicant: PAUL

No. MC 5227 (Sub-No. 33TA), filed January 20, 1978. Applicant: ECKLEY TRUCKING, INC., P.O. Box 201, Mead, NE 68041. Applicant's representative: Gailyn L. Larsen, P.O. Box 81849, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Solar heating units, collectors and duct work, and equipment, materials, and supplies* used in the manufacture, distribution, and installation thereof; from Denver, CO, to points in AR, KS, MO, NE, NM, OK, OR, TX, WA, and WY, for 180 days. Supporting shipper(s): James McAdams, President, Future Systems, Inc., 12500 West Cedar Drive, Lakewood, CO 80228. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Courthouse, 100 Centennial Mall North, Lincoln, NE 68508.

No. MC 20861 (Sub-No. 9TA), filed January 18, 1978. Applicant: FROZEN FOOD DELIVERY SERVICE, INC., 300 West Street, Berlin, MA 01513. Applicant's representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper or paperboard cores and tubes*, and (2) *fiberboard, paperboard, or pulpboard ducts and tubes*, from Lawrence, MA, to points in CT, ME, NH, NJ, NY, PA, RI, and VT, under a continuing contract or contracts with Bird & Son, Inc., for 180 days. Supporting shipper: Bird & Son, Inc., Washington Street, East Walpole, MA 02032. Send protests to: David M. Miller, District Supervisor, 436 Dwight Street, Room 338, Springfield, MA 01103.

No. MC 53709 (Sub-No. 347TA), filed January 27, 1978. Applicant: RIGSBY TRUCK LINES, INC., 3980 Quebec Street, P.O. Box 7240, Denver, CO 80207. Applicant's representative: Robert P. Tyler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* serving the storage facilities of Pepperidge Farm, Inc., at or near Logan, UT, as an off-route point in connection with carrier's presently authorized regular-route operations at Ogden, UT, for 180 days. Supporting shipper: Pepperidge Farm, Inc., 595 Westport Avenue, Norwalk, CT 06856. Send protests to: Roger L. Buchanan, Officer in Charge, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

No. MC 64820 (Sub-No. 11TA), filed January 23, 1978. Applicant: PARADIS TRANSFER & STORAGE CO., INC., 922 Whitman, Medford, OR 97501. Applicant's representative: Robert R. Hollis, 400 Pacific Building, Portland, OR 97204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fibre cartons, corrugated, KD flat and empty return wooden pallets*, between Salem, OR, on the one hand, and job site packing sheds in Modoc and Siskiyou Counties, CA, on the other, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Boise Cascade Corp., 120 North East Court, Salem, OR. Send protests to: District Supervisor, A. E. Odoms, Interstate Commerce Commission, Bureau of Operations, 114 Pioneer Courthouse, 555 Yamhill Street, Portland, OR 97204.

No. MC 72423 (Sub-No. 5TA), filed January 10, 1978. Applicant: PLATTE VALLEY FREIGHTWAYS, INC., 111 East Chestnut Street, Sterling, CO 80751. Applicant's representative: Raymond M. Kelley, 450 Capitol Life Center, Denver, CO 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods* as defined by the Commission, between points in Logan, Morgan, Phillips, Sedgwick, Washington, and Yuma Counties, CO, on the one hand, and, on the other hand, points in IA, KS, MO, NE, NM, OK, SD, and WY, for 180 days. Supporting shippers: There are approximately (21) statements of support attached to the application which may be examined at the field office named below. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

No. MC 107515 (Sub-No. 1124TA), filed January 30, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, 3901 Jonesboro Road SE., Forest Park, GA 30050. Applicant's representative: Alan E. Serby and Richard M. Tettelbaum, Suite 375, 3379 Peachtree Road NE., Atlanta, GA 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drugs and medicines*, in vehicles equipped with mechanical refrigeration, from the plantsite and facilities of Sterling Drug, Inc., at Gulfport, MS, to the facilities of Sterling Drug, Inc., in the Atlanta, GA, commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sterling Drug, Inc., 90 Park Avenue, New York, NY 10016. Send protests to: Sara K. Davis, Transportation Assistant, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

No. MC 111375 (Sub-No. 89TA), filed January 24, 1978. Applicant: PIRKLE REFRIGERATED FREIGHT LINES, INC., P.O. Box 3358, Madison, WI 53704. Applicant's representative: Charles E. Dye (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Rennets*, (2) *agricultural commodities* when moving in the same vehicle at the same time with commodities in (1) above, from WA and CA to Madison, WI, for 180 days. Supporting shipper(s): Marschall Division, Miles Laboratories, Inc., P.O. Box 529, Madison, WI 53701. Send protests to: Ronald A. Morken, District Supervisor, 139 West Wilson Street, Room 202, Madison, WI 53703.

No. MC 112223 (Sub-No. 106TA), filed January 20, 1978. Applicant: QUICKIE TRANSPORT CO., 1700 New Brighton Boulevard NE., Minneapolis, MN 55413. Applicant's representative: Earl Hacking (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bentonite clay*, in bulk, in pneumatic or dump vehicles, from Black Hills Bentonite at Casper and Worland, WY, to Forbes, MN for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Eveleth Taconite, Forbes, MN 55738. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations. 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 112713 (Sub-No. 207TA), filed January 11, 1978. Applicant: YELLOW FREIGHT SYSTEM, INC., 10990 Roe Avenue, P.O. Box 7270, Shawnee Mission, KS 66207. Applicant's representative: David B. Schneider (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats and packing house products* in temperature controlled vehicles, from East St. Louis, IL, to Manchester, MD, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Swift Fresh Meats Co. a division of Swift & Co., 115 West Jackson Boulevard, Chicago, IL 60604. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission BOp, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 113908 (Sub-No. 426TA), filed January 10, 1978. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, 2105 East Dale Street, Springfield, MO 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid calcium chloride*, in bulk, from Pike County, IL, to points in MO and TX, for 180 days. Supporting shipper: W & W Sales & Leasing Co., P.O. Box 486, Edwardsville, IL 62025. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission BOp, 600 Federal Building, 911 Walnut Street, Kansas City, Mo 64106.

No. MC 114632 (Sub-No. 134TA), filed January 19, 1978. Applicant: APPLE LINES, INC., 312 Southwest Second Street, P.O. Box 287, Madison, SD 57024. Applicant's representative: Michael L. Carter (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs*, from the plantsite and/or warehouse facilities of Green Giant Co. at or near Belvidere, IL, to all points in the state of ND, for 180 days. Supporting shipper: Green Giant Co., 1100 North 4th Street, Le Sueur MN 56058, Robert F. Rohde, Manager Motor Transportation. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, SD 57501.

No. MC 115331 (Sub-No. 448TA), filed January 20, 1978. Applicant: TRUCK TRANSPORT INC., 29 Clayton Hills Lane, St. Louis, MO 63131. Applicant's representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, IL 62201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *ground coal*, in bags, from M. A. Bell, St. Louis, MO, to John Deere & Co., Waterloo, IA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: M. A. Bell Co., 217 Lombard Street, St. Louis, Mo 63102. Send protests to: District Supervisor, J. P. Werthmann, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 North 12th Street, St. Louis, MO 63101.

No. MC 116254 (Sub-No. 196TA), filed January 11, 1978. Applicant: CHEM-HAULERS, INC., P.O. Box 339, Florence, AL 35630. Applicant's representative: Randy C. Luffman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry plastics*, in bulk, in tank vehicles, from the facilities of Monsanto Co. at Decatur, AL, to points in IL, MD, MI, MS, MO, OH, PA, and VA, for 180 days. Supporting shipper: Monsanto Co., 800 North Lindbergh, St. Louis, MO 63166. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616-2121 Building, Birmingham, AL 35203.

No. MC 117639 (Sub-No. 11TA), filed February 9, 1978. Applicant: PICK'S PACK HAULER, INC., doing business as PICK'S PACK HAULER, 1214 East South Street, Hastings, NE 68901. Applicant's representative: Gailyn L. Larsen, P.O. Box 81849, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brick and clay products*, from the facilities of Cloud Ceramics, at or near Concordia, KS, to points in MI, IN, IL, WI, MN, ND, SD, IA, NE, and CO, under a continuing contract, or contracts with Cloud Ceramics, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Dennis L. Smith, Sales Manager, Cloud Ceramics, Box 869, Concordia, KS 66901. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building & Court House, 100 Centennial Mall North, Lincoln, NE 68508.

No. MC 118989 (Sub-No. 175TA), filed January 23, 1978. Applicant: CONTAINER TRANSIT, INC., 5223 South 9th St., Milwaukee, WI 53221. Applicant's representative: Albert A. Andrin, 180 N. LaSalle St., Chicago, IL 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers*, from Danville, IL, to NJ, Berkeley, RI, Cockeysville, MD, Milford, CT, and Andover and East Hampton, MA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Continental Group, 5401 West 65th, Chicago, IL 60638, (James R. Jandora). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

No. MC 119012 (Sub-No. 14TA), filed January 20, 1978. Applicant: RIVER TERMINALS TRANSPORT, INC., P.O. Box 176, Aurora, IN 47001. Applicant's representative: Robert W. Loser II, 1009 Chamber of Commerce Bldg., Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aragonite-limestone*, in bulk, in dump vehicles, from the terminal transfer and storage facilities of Aurora Terminal Co., Inc., located at Aurora, IN, to Lancaster, OH. Restriction: The authority is limited to commodities having had a prior movement by water carrier, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Aurora Terminal Co., Inc., P.O. Box 176, Aurora, IN 47001. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Bldg., & U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

No. MC 119489 (Sub-No. 46TA), filed January 30, 1978. Applicant: PAUL ABLER, doing business as CENTRAL TRANSPORT CO., 2500 North 13th Street, P.O. Box 249, Norfolk, NE, 68701. Applicant's representative: A. J. Sindelar, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer* in bulk in tank vehicles, from plantsite of Nutra Flo Chemical Co. at or near Optic, Ne, to points in KS and Co, for 180 days. Supporting shipper(s): Rodney W. Johnson, Traffic Manager, Nutra Flo Chemical Co., 1919 Grand Avenue, Sioux City, IA 51107. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 121630 (Sub-No. 7TA), filed January 16, 1978. Applicant: LEMORE TRANSPORTATION, INC., d.b.a. ROYAL TRUCKING CO., 1420 Royal Industrial Way, P.O. Box 6085, Concord, CA 94524. Applicant's representative. Daniel W. Baker, 100 Pine Street, San Francisco, Ca 94111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement clinker*, in bulk, in tank vehicles, from Stockton, CA, to Davenport, CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lone Star Industries, Inc., 2800 Campus Drive, San Mateo, CA 94403. Send protests to: District Supervisor, A. J. Rodriguez, 211 Main—Suite 500, San Francisco, CA 94105.

No. MC 123115 (Sub-No. 17TA), filed February 13, 1978. Applicant: PACKER TRANSPORTATION CO., 465 South Rock Boulevard, Sparks, NV 89431. Applicant's representative: Ben Packer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and wood products*, from points in ID to points in CA and NV, for 180 days. Supporting shippers: There are approximately (25) statement of support attached to this application which may be examined at the field office named below. Send protests to: District Supervisor, W. J. Huetig, Interstate Commerce Commission, 203 Federal Building, 705 North Plaza Street, Carson City, NV. 89701

No. MC 123389 (Sub-No. 40TA), filed January 30, 1078. Applicant: CROUSE CARTAGE CO., P.O. Box 586, Hwy 30 West, Carroll, IA 51401. Applicant's representative: William S. Rosen, 430 Osborn Building, St. Paul, MA 55102. Authority sought to operate as a

common carrier, by motor vehicle, over irregular routes, transporting: *Iron or steel articles*, serving the plantsite of the Westendorf Manufacturing

Francisco, CA 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobile body parts*,

MN 56073. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Authority sought to operate as a *common*

aged foods, food products, and commodities dealt in by retail gift shops, from Medford, OR, to Oakland and San Francisco, CA and Los Angeles,

ing: *Carpet*, from Dalton, GA, to the facilities of Fargo Paper Co., at or near Fargo, ND, under a continuing contract or contracts with Fargo

the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify

common carrier, by motor vehicle, over irregular routes, transporting: *Iron or steel articles*, serving the plantsite of the Westendorf Manufacturing Co. at or near Onawa, IA, as an off-route point in connection with applicant's authorized regular route operations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Neal A. Westendorf, Westendorf Manufacturing Co., Box 447, Onawa, IA 51040. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 124078 (Sub-No. 782TA), filed February 9, 1978. Applicant: SCHWERMAN TRUCKING CO., 611 South 28 Street, Milwaukee, WI 53246. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aplite*, in bulk, from Montpelier, VA, to points in IN, MD, OK, PA, and WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Feldspar Corp., P.O. Box 99, Spruce Pine, NC 28777, (S. E. Mills). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

No. MC 124774 (Sub-No. 102TA), filed January 20, 1978. Applicant: MIDWEST REFRIGERATED EXPRESS, INC., 4440 Buckingham Drive, P.O. Box 7344, Omaha, NE 68107. Applicant's representative: Arlyn L. Westergren, Suite 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses*, from the plantsite of Dubuque Packing Co. located at Omaha, NE, to points in CT, DE, MD, MA, NJ, NY, PA, RI, VA, and the DC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Ralph L. McGee, transportation manager, Dubuque Packing Co., 4003 Dahlman Avenue, Omaha, NE 68107. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 129510 (Sub-No. 12TA), filed January 12, 1978. Applicant: ENGLUND EQUIPMENT CO., 740 Old Stage Road, Salinas, CA 93901. Applicant's representative: John Paul Fischer, 256 Montgomery Street, San Francisco, CA 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobile body parts*, NOI or trim, plastic, having a density of 4 lbs. but less than 10 lbs. PCF; National Motor Freight Classification, Item No. 18260. From the plantsite and storage facilities of Pantel, Inc., located in Lapeer County, MI, to all points in the United States and Hawaii, under a continuing contract, or contracts, with Pantel, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Pantel, Inc., 3024 West Pierson Road, Flint, MI 48504. Send protests to: District Supervisor, Michael M. Butler, 211 Main, Suite 500, San Francisco, CA 94105.

No. MC 138104 (Sub-No. 52TA), filed January 23, 1978. Applicant: MOORE TRANSPORTATION CO., INC., 3509 North Grove Street, Fort Worth, TX 76106. Applicant's representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, TX 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferro manganese and silicon manganese*, in bulk, in dump vehicles, from Mobile, AL, to the plantsite and storage facilities of Chaparral Steel Co., at or near Midlothian, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Chaparral Steel Co., P.O. Box 1100, Midlothian, TX 76505. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

No. MC 138420 (Sub-No. 24TA), filed January 17, 1978. Applicant: CHIZEK ELEVATOR & TRANSPORT, INC., P.O. Box 147, Cleveland, WI 53015. Applicant's representative: Wayne W. Wilson, P.O. Box 8004, Madision, WI 53708. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods and artificial sweetener*, from Brownsville, WI, to points in AL, FL, GA, KY, LA, MN, MS, NC, SC, TN, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): California Canners & Growers, P.O. Box 1237, Fond Du Lac, WI, (Charles Augustine). Send protest to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

No. MC 139482 (Sub-No. 34TA), filed January 26, 1978. Applicant: NEW ULM FREIGHT LINES, INC., County Road 29 West, P.O. Box 347, New Ulm, MN 56073. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs*, from Belvidere, IL, to points in IN, KY, MI, OH, and Sharon, PA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Green Giant Co., 1100 N. 4th Street, Le Sueur, MN 56058. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building & U.S. Court House, 110 south 4th Street, Minneapolis, MN 55401.

No MC 142606 (Sub-No. 4TA), filed January 30, 1978. Applicant: WESCO TRANSPORTATION, INC., 2222 West Garvey, Suite L, West Covina, CA 91790. Applicant's representative: William J. Moneheim, 13710 East Whittier Boulevard, Suite 203, P.O. Box 1756, Whittier, CA 90609. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper forms*, from Leitchfield, KY, to Vernon, CA, under a continuing contract or contracts, with Huron Copysette, Ind., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Huron Copysette, Inc., P.O. Box 377, Leitchfield, KY 42754. Send protests to: Edward P. Henry, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 140159 (Sub-No. 5TA), filed February 1, 1978. Applicant: C. L. FEATHER, INC., Box 434, R. D. No. 5, Altoona, PA 16601. Applicant's representative: Thomas M. Mulroy, 800 Lawyers Building, Pittsburgh, PA 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, in dump vehicles, from Barton, MD, to Tyrone, PA for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Westvaco Corporation, Tyrone, PA 16686. Send protests to: Richard C. Gobbell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

No. MC 144054 (Sub-No. 1TA), filed January 12, 1978. Applicant: BILL LITTLEFIELD TRUCKING, INC., 775 E. Vilas Road, Medford, OR 97501. Applicant's representative: Lawrence V. Smart, Jr., 419 N. W. 23rd Avenue, Portland, OR 97210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *gift wrapped and packaged foods, food products, and commodities* dealt in by retail gift shops, from Medford, OR, to Oakland and San Francisco, CA and Los Angeles, CA, and their commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Harry and David, P.O. Box 712, Medford, OR 97501. Send protests to: District Supervisor A. E. Odoms, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 S. W. Yamhill Street, Portland, OR 97204.

No. MC 144173 (Sub-No. 2TA), filed January 20, 1978. Applicant: PETERSEN TRANSPORTATION, INC., P.O. Box 96, Ruskin, NE 68974. Applicant's representative: Gailyn L. Larsen, P.O. Box 81849, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Propane*, from Mapco, Inc., pipeline terminal, at or near Clay Center, KS and terminal storage facilities located on the pipeline of Mapco, Inc., at or near Conway, KS, to Carleton and Ruskin, NE, under a continuing contract or contracts with Petersen Oil & Fertilizer, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Berwyn Petersen, President, Petersen Oil & Fertilizer, Inc., Box 96, Ruskin, NE 68974. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Court House, 100 Centennial Mall North, Lincoln, NE 68508.

No. MC 144184TA, filed January 12, 1978. Applicant: R. T. PUGH MOTOR TRANSPORTATION, INC., 233 Whiley Avenue, Lancaster, OH 43130. Applicant's representative: James Duvall, P.O. Box 97, Dublin, OH 43017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Limestone and limestone products*, in bulk, from Aurora, IN, to Lancaster, OH. Restricted to shipments having a prior movement by barge, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Anchor Hocking Corporation, 109 North Broad Street, Lancaster, OH 43130. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

No. MC 144185TA, filed January 12, 1978. Applicant: LARSON TRUCKING, INC., 1418 3rd Avenue South, Fargo, ND 58102. Applicant's representative: James B. Hovland, 414 Gate City Building, P.O. Box 1680, Fargo, ND 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carpet*, from Dalton, GA, to the facilities of Fargo Paper Co., at or near Fargo, ND, under a continuing contract or contracts with Fargo Paper Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Fargo Paper Co., 1300 North 38th, Fargo, ND 58102. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 268 Federal Building and U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

No. MC 144206TA, filed January 20, 1978. Applicant: JONES BROOKS, doing business as, PRAIRIE JAYS CHARTER BUS CO., 1408 Eastern Drive, Urbana, IL 61801. Applicant's representative: Douglas G. Brown, The INB Center, Suite 555, Springfield, IL 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Charter bus passengers and their baggage*, from points in the following Illinois Counties: Iroquois, Ford, Dewitt, Piatt, Champaign, Vermillion, Moultrie, Douglas, Coles and Edgar, to points throughout the United States, except Alaska and Hawaii, and return, under a continuing contract or contracts with those parties who have filed Certifications of support of application attached hereto, for 180 days. Supporting shippers: There are approximately (5) statements of support attached to the application which may be examined at the field office named below. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

By the Commission

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-6358 Filed 3-9-78; 8:45 am]

[7035-01]

[Notice No. 26TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

February 28, 1978

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Motor Carriers of Property

No. MC 2900 (Sub-No. 321TA) (Correction), filed January 3, 1978, published in the Federal Register issue of February 15, 1978, and republished as corrected this issue. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408R, Jacksonville, FL 32209. Applicant's representative: John Carter, 2050 Kings Road, P.O. Box 2408R, Jacksonville, FL 32203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber mill products, particleboard, wooden fencing and wood products*, from Post Falls, Coeur d' Alene, St. Maries, Santa, Potlatch, Lewiston, Spalding, Kamiah, and Jaype, ID, to IL, IN, IA, MI, MN, MO, OH, PA, WV, and WI, restricted to the transportation of shipments originating at Potlatch Corp. mill sites at the named origins and destined to points in the named destination states, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Potlatch Corp., Box 1016, Lewiston, IN 83501. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, FL 32202. The purpose of this republication is to indicate correction of territorial description.

No. MC 3302 (Sub-No. 7TA), filed February 2, 1978. Applicant: HOUDEK MOTOR SERVICE, INC., 33 Mockingbird Lane, Oak Brook, IL 60521. Applicant's representative:

Hubert Grane, Jr., 33 Mockingbird Lane, Oak Brook, IL 60521. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular

plicant's representative: Dewey T. Whitford (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle,

mond, District Supervisor, Interstate Commerce Comission, Bureau of Operations, Room 455, Federal Building, Pierre, SD 57501. The purpose of this

No. MC 117686 (Sub-No. 204TA), filed February 2, 1978. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Boulevard, P.O. Box

ingredients, from destination states named to Springfield, TN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of

Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

No. MC 133565 (Sub-No. 12TA), filed

Hubert Grane, Jr., 33 Mockingbird Lane, Oak Brook, IL 60521. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those commodities of unusual value and commodities in bulk, in tank vehicles), between the Chicago Commercial Zone, and (1) points and places within 100 miles of the Chicago Commercial Zone in the states of IN, MI, and WI, and (2) St. Louis, MO, for 180 days. Supporting shipper(s): There are approximately (5) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

No. MC 30844 (Sub-No. 598TA), filed February 2, 1978. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, P.O. Box 5000, Waterloo, IA 50702. Applicant's representative: John P. Rhodes (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicles, over irregular routes, transporting: *Cleaning, scouring, and washing compounds*, from Fort Madison, IA to Port Ivory, NY, restricted to shipments originating at Fort Madison, IA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Proctor & Gamble Distributing Co., P.O. Box 599, Cincinnati, OH 45201. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

No. MC 67361 (Sub-No. 10TA), filed February 1, 1978. Applicant: GENERAL ROAD TRUCKING CORP., 99 Mauran Avenue, East Providence, RI 02914. Applicant's representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, in dump vehicles, from Somerset, MA, to Bow, NH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Public Service Co. of New Hampshire, 1000 Elm street, Manchester, NH 03105. Send protests to: Gerald H. Curry, District Supervisor, 24 Weybosset Street, Room 102, Providence, RI 02903.

No. MC 109821 (Sub-No. 54TA), filed February 2, 1978. Applicant: TAYNTON FREIGHT SYSTEM, INC., 40 Main Street, Wellsboro, PA 16901. Applicant's representative: Dewey T. Whitford (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic bottles, lids and covers* (except in bulk), from New Castle, DE, to Cicero, NY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Clinton's Ditch Cooperative Co., Inc., P.O. Box "G", Cicero, NY 13039. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 314 U.S. Post Office Building, Scranton, PA 18503

No. MC 113406 (Sub-No. 5TA), filed February 1, 1978. Applicant: DOT LINES, INC., P.O. Box 1526, Lima, OH 45802. Applicant's representative: Beery & Spurlock, 275 East State Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning, scouring and washing compound* (except in bulk), from the plantsites and warehouse of Proctor & Gamble Manufacturing Co. in Bath Township, Allen County, OH to Livonia, Warren, Detroit, Grand Rapids, Vassar, Lansing, and Ann Arbor, MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Proctor & Gamble Manufacturing Co., P.O. Box 1900, Lima, OH 45801. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604

No. MC 114632 (Sub-No. 136TA), (correction), filed January 20, 1978, published in the FEDERAL REGISTER February 15, 1978, and republished as corrected this issue. Applicant: APPLE LINES, INC., P.O. Box 287, 212 SW. Second Street, Madison, SD 57042. Applicant's representative: Michael L. Carter, 212 SW. Second Street, Madison, SD 57042. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packing- houses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, (except hides and commodities in bulk), from Fort Morgan, CO, to Landover, MD, boston and Marlboro, MA; New York and Rochester, NY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Morgan Colorado Beef, Box 487, Fort Morgan, CO 80701. (Tim Hopkins Traffic Manager). Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Comission, Bureau of Operations, Room 455, Federal Building, Pierre, SD 57501. The purpose of this republication is to indicate the correction of the territorial description.

No. MC 114969 (Sub-No. 71TA), filed February 3, 1978. Applicant: PROPANE TRANSPORT, INC., P.O. Box 232, State Route 131, Milford, OH 45150. Applicant's representative: James M. Roudebush (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizers*, in bulk, from the plantsite of Agrico Chemical Co. at Melbourne, KY, to points, IL, IN, KY, OH, MI, VA, WV, for 180 days. Supporting shipper(s) Agrico Chemical Company, J. J. Stefanec, Director, Transportation Legislation, P.O. box 3166, Tulsa, OK 74101. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

No. MC 115826 (Sub-No. 288TA), filed February 2, 1978. Applicant: W. J. DIGBY, INC., P.O. Box 5088, 1960 31st Street, Terminal Annex, Denver, CO 80217. Applicant's representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80217. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpets, carpeting, and carpet materials and supplies*, from Ringgold, Dalton, Chatsworth, Cartersville, Calhoun, Eton, Rome, Rossville, and Resaca, GA, and points within their commercial zones, to Salt Lake City, UT for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Col-Con Columbine Consolidators, Inc., 2801 East Colfax Avenue, Denver, CO 80206. Send protest to: H. C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

No. MC 116632 (Sub-No. 19TA), filed February 1, 1978. Applicant: H. O. BOUCHARD, INC., MRC Box 141A Bangor, ME 04401. Applicant's representative: Frederick T. McGonagle, 36 Main Street, Gorham, ME 04038. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Precut log buildings and related construction material therewith*, from Kenduskeag, ME, to points in NH, VT, ME, CT, RI, NY, NJ, PA and OH, for 180 days. Supporting shipper(s): Northeastern Log Homes, Inc., P.O. Box 46, Kenduskeag, ME 04450. Send protest to: Donald G. Weiler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 307, 76 Pearl Street, Portland, ME. 04111.

No. MC 117686 (Sub-No. 204TA), filed February 2, 1978. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Boulevard, P.O. Box 417, Sioux City, IA 51102. Applicant's representative: George L. Hirschbach (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, equipment and supplies*, used in the manufacture and sale of clothing and wearing apparel (except in bulk), from Landis, Henderson, Ranlo, Statesville, Goldsboro, Tuxedo, Madison, Kingston, Salisbury, Lumberton and Greensboro, NC, to Minneapolis, MN, restricted to traffic originating at the above-named origin and destined to the plantsite and storage facilities of Munsingwear, Inc., at Minneapolis, MN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): David Hill, Traffic Manager, Munsingwear, Inc., 718 Glenwood Avenue, Minneapolis, MN 55405. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 117999 (Sub-No. 5TA), filed February 1, 1978. Applicant: TOM GALLO, Wicker Street, P.O. Box 151, Ticonderoga, NY 12883. Applicant's representative: W. Norman Charles, 80 Bay Street, P.O. Box 724, Glens Falls, NY 12801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from Corinth and Ticonderoga, NY, to points in the New York, NY, commercial zone, as defined by the Commission, Nassau and Suffolk Counties, NY; CT, DE, ME, MD, MA, NH, NJ, PA, RI, VT, and the DC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): International Paper Co., Room, 1616, 220 East 42nd Street, N.Y., NY 10017. Send protests to: David A. Demers, District Supervisor, Interstate Commerce Commission, P.O. Box 548, 87 State Street, Montpelier, VT 05602.

No. MC 119493 (Sub-No. 180TA) (correction), filed January 11, 1978, published in the FEDERAL REGISTER issue of February 15, 1978, and republished as corrected this issue. Applicant: MONKEM CO., INC., P.O. Box 1196, West 20th Street Road, Joplin, MO 64801. Applicant's representative: Lawrence F. Kloeppel (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pet food, animal* and *poultry feed* and *ingredients*, from Springfield, TN, to AL, AR, FL, GA, IN, KY, LA, MN, MS, MI, NC, ND, OH, SC, SD, TN, TX, VA, WV, and WI and (2) *ingredients*, from destination states named to Springfield, TN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Wells Div/Natl. Pet Food Corp., 617 South D. Street, Monmouth, IL 61462. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission—BOp, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106. The purpose of this republication is to correct the territorial description.

No. MC 119765 (Sub-No. 48TA), filed February 3, 1978. Applicant: EIGHT WAY XPRESS, INC., P.O. Box 7356, 5402 South 27th Street, Omaha, NE 68107. Applicant's representative: Arlyn L. Westergren, Suite 530, Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and inedible foods*, (except in bulk), moving in mechanically refrigerated vehicles, (1) from the facilities of Terminal Ice & Cold Storage Co., at or near Bettendorf, IA, to points in IL, IN, KY, MI, MN, MO, OH, and WI; and (2) returned and rejected shipments from the destinations named in part (1) above, to Bettendorf, IA, restricted to traffic originating at the named origins and destined to the named destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Terminal Ice & Cold Storage Co., Larry Christensen, office manager, 6875 State Street, Bettendorf, IA 52722. (2) Lamb-Weston Divison of Amfac Foods, Inc., Lawrence L. Shipp, manager distribution services, 6600 Southwest Hampton Street, Portland, OR 97223. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 123255 (Sub-No. 137TA), filed February 1, 1978. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, OH 43055. Applicant's representative: C. F. Schnee, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned petfood*, from Muscatine, IA, to Cleveland, OH; Chicago, IL; North Bergen, NJ; Baltimore, MD; Syracuse, Rochester, and Liverpool, NY; East Cambridge, MA, and Huntington, WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Star-Kist Foods, Inc., 582 Tuna Street, Terminal Island, CA 90731. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Building & U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

No. MC 133565 (Sub-No. 12TA), filed February 1, 1978. Applicant: TRUE TRANSPORT, INC., 293 Wilson Avenue, P.O. Box 829, Newark, NJ 07101. Applicant's representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), in containers or in trailers, having a prior or subsequent movement by water, between points in the New York, NY, Commercial Zone, on the one hand, and, on the other, points in that part of NY west and north of a line beginning at the NY-PA State line at or near Lawrenceville, PA, and extending along U.S. Hwy 15 to Corning, NY, then along NY Hwy 17 to Horseheads, NY, then along NY Hwy 13 to Cortland, NY, then along U.S. Hwy 11 to Syracuse, NY, then along U.S. Hwy 5 to Schenectady, NY, then along NY Hwy 50 to Saratoga Springs, NY, then along U.S. Hwy 9, via Glens Falls, NY, to junction NY Hwy 149, then along NY Hwy 149 to junction U.S.Hwy 4, at or near Fort Ann, NY, thence along U.S. Hwy 4 to the NY-VT State line at or near Fair Haven, VT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (19) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Robert S. H. Vance, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

No. MC 134477 (Sub-No. 218TA), filed February 2, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning, washing, buffing, or polishing compounds, textile softener, lubricating grease or oil, and deodorants or disinfectants*, (except commodities in bulk), from the facilities of Economic Laboratory, Inc., at or near Joliet, IL, to St. Louis, MO, and points in its Commercial Zone, for 180 days. Supporting shipper(s): Economics Laboratory, 3001 Channahon Road, Joliet, IL 60436. Send protests to: Delores A. Poe, Transportation Assistant, Inter-

state Commerce Commission, Bureau of Operations, 110 South 4th Street, 414 Federal Building & U.S. Court House, Minneapolis, MN 55401.

No. MC 135895 (Sub-No. 15TA), filed Pebruary 2, 1978. Applicant: DON RAY BOYD AND JACKIE ROGERS, d.b.a. B & R DRAYAGE CO., P.O. Box 8534, Battlefield Station, Jackson, MS 39204. Applicant's representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pre-stressed concrete products, and materials, equipment and supplies* used in the manufacture of pre-stressed concrete products (except commodities in bulk), between the facilities of Biloxi Prestress Concrete, Inc., located at or near Biloxi, MS, on the one hand, and, on the other, points in AL, AR, FL, LA, MS, and TN, for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Biloxi Prestress Concrete, Inc., P.O. Box 407, Biloxi, MS 39533. Send protests to: Tarrant District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, MS 39201.

No. MC 136285 (Sub-No. 32TA), filed February 3, 1978. Applicant: SOUTHERN INTERMODAL LOGISTICS, INC., P.O. Box 1375, Thomasville, GA 31792. Applicant's representative: William P. Jackson, Jr., 3456 N. Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, Classes A and B explosives, household goods as defined by the Commission, and commodities requiring the use of special equipment), in containers and trailers, having a prior or subsequent movement by water, between the facilities of the Army and Air Force Exchange Service located at or near Forest Park, GA, on the one hand, and on the other, Mobile, AL, and New Orleans, LA, and points in their commercial zones. Restrictions: Restricted against the transportation of commodities moving in trailers or containers equipped with mechanical refrigeration units, for 180 days. Supporting shipper(s): Army and Air Force Exchange Service, 3911 Walton Walker Boulevard, Dallas, TX 75222. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

No. MC 138469 (Sub-No. 51TA) (correction), filed December 8, 1977, published in the FEDERAL REGISTER issue of February 15, 1978, and republished as corrected this issue. Applicant: DONCO CARRIERS, INC., 641 North Meridian, P.O. Box 75364, Oklahoma City, OK 73107. Applicant's representative: Daniel O. Hands, Suite 200, 205 West Tiuhy Avenue, Park Ridge, IL 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cosmetics and pharamaceutical, nutritional, veterinary and industrial products in soft elastic gelatin capsules in vehicles equipped with mechanical refrigeration*, from the facilities of R. P. Scherer Corp. located at or near Monroe, NC to Birmingham and Hanceville, AL; Phoenix and Scottsdale, AZ; Broomfield, Denver and Englewood, CO; Atlanta, Austell, and Cumming, Ga; Elwood, Great Bend, and Shawnee Mission, KS; Baton Rouge and New Orleans, LA; Picayune, MS; Haselwood, KC, St. Joseph, St. Louis, and Springfield, MO; Shawnee, Tecumseh, and Tulsa, OK; Kingsport and Memphis, TN; Greenville and Taylors, SC; Salt Lake City, UT; points in the commercial zones of the above named cities and points in the states of CA, FL, and TX, and (2) materials used in the manufacture of (1) above, in mechanically, refrigerated vehicles, from Gibson City, IL; Woburn, MA; Detroit, MI; St. Louis, MO; Clifton and Nutley, NJ; New York City and Rochester, NY; and Oak Creek, WI, and points in the commercial zones of the named orgins, to Monroe, NC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: R. P. Scherer Corp., 4425 Grinnell Avenue, Detroit, MI 48213. Send protests to: Joe Green, District, Room 240 Old Post Office & Ct. House, 215 Northwest 3rd, Oklahoma City, OK 73102. The purpose of this republication is to correct the territorial description.

No. MC 141076 (Sub-No. 15TA), filed February 2, 1978. Applicant: ROGERS MOTOR LINES, INC., Rd. No. 2, Box 388 D2, Hackettstown, NJ 07840. Applicant's representative: Christian Graf, 407 North Front Street, Harrisburg, PA 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and preserved foodstuffs*, from the plantsite and shipping facilities of Heinz U.S.A., Division of H. J. Heinz Co., at Fremont, OH, to points in NJ on and north of NJ Hwy 33, to points in that part of NY State on and south of Interstate 84, and King of Prussia, Oaks and Philadelphia, PA, restricted to traffic originating at the named origin and destined to the named destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Heinz, U.S.A., Division of H. J. Heinz Co., P.O. Box 57, Pittsburgh, PA 15230. John Pinchot, manager distribution planning. Send protest to: Joel Morrows, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Room 618, Newark, NJ 07102.

No. MC 141684 (Sub-No. 1TA), filed February 3, 1978. Applicant: COMAAND CARGO CORP., 5215 Hesperus Drive, Columbia, MD 21044. Applicant's representative: Steven L. Weiman, 4 Professional Drive, Suite 145, Gaithersburg, MD 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Records and audio tapes*, between points in NJ within the Philadelphia, PA, commercial zone, on the one hand; and, on the other, points in MD, VA, WV, DE, and DC, restricted against the transportation of articles weighing more than 150 pounds, from one consignor at one location to one consignee at one location at any given day, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mr. Joseph Barsuglia, Warehouse Traffic Manager, WEA Corp., 106 Gaither Drive, Mount Laurel, NJ 08057. Send protests to: W. L. Hughes, District Supervisor, Interstate Commerce Commission, 814-B Federal Building, Baltimore, MD 21201.

No. MC 141911 (Sub-No. 2TA), filed February 2, 1978. Applicant: ARTHUR DENNIS DEMONTIGNY, d.b.a. DEMONTIGNY TRUCKING, 6509 East 10th Street, Spokane, WA 99206. Applicant's representative: Arthur D. DeMontigny, Route 2, Box 279C, Moscow, ID 83843. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Steel building materials*, between Oklahoma City, OK, and points in WA and OR, (2) *cedar fence materials and lumber*, from Troy and Calder, ID and Superior, MT, to Arvada, Boulder, Broomfield, Colorado Springs, Fort Collins, Greeley, Lakewood, Littleton, Longmont, and Pueblo, CO, and Murray, Ogden, Orem, and Salt Lake City, UT, also from points in WA to points in WY, AZ, NE, ND, SD, TX, and KS, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Idaho Cedar Sales, Box 398, Troy, ID 83871; (2) Fisher & Son, Inc., P.O. Box 534, Burlington, WA 98233. Send protests to: Hugh H. Chaffee, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, 915 Second Avenue, Seattle, WA 98174.

No. MC 142189 (Sub-No. 28TA), filed February 1, 1978. Applicant: C. M. BURNS, d.b.a. WESTERN TRUCKING, 521 Lincoln Avenue, Baker, MT 59313. Applicant's representative: Michael R. Griffith, P.O. Box 980, Baker, MT 59313. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings, building panels, building parts and accessories, and supplies* used in the installation of building panels, materials, and parts thereof, from Monticello, IA, to points in MT, ND, SD, and WY, and ports of entry on the international boundary line between the United States and Canada in ND, MT, ID, and WA, for 180 days. Supporting shipper(s): H. Elvin Erdahl, company attorney, Lear Siegler, Inc., Cuckler Division, Box 438, Monticello, IA 52310. Send protest to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

No. MC 143071 (Sub-No. 8TA), filed February 2, 1978. Applicant: UNIVERSAL DEVELOPMENT, INC., Box 568, York, NE 68467. Applicant's representative: William B. Barker, 641 Harrison Street, Topeka, KS 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from Mankato, KS, to NY, PA, MA, and ME, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Robert Mueller, Sales and Traffic Manager, Dubuque Packing Co., Mankato, KS. Send protests to: Max H. Johnston, District Supervisor, Interstate Commerce Commission, 285 Federal Building, 100 Centennial Mall North, Lincoln, NE 68508.

No. MC 143156 (Sub-No. 2TA), filed February 1, 1978. Applicant: LARRY GENE MAUGER, d.b.a. LARRY'S TRANSPORT, 26575 Saturn Way, Hemet, CA 92343. Applicant's representative: Larry G. Mauger, 26575 Saturn Way, Hemet, CA 92343. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Recreational vehicles* (travel trailers), nonowned, from manufacturer to dealerships designated by Skyline Corp., from Hemet, CA, to these Western United States: AZ, OR, ID, MT, NV, NM, TX, UT, WA, and WY, for 180 days. Supporting shipper(s): Skyline Corp., 2520 Bypass Road, Elkhart, IN 46514. Send protests to: Edward P. Henry, District Supervisor, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 143583 (Sub-No. 3TA), filed February 1, 1978. Applicant: R. C. MOORE, INC., Box 346, Waldoboro, ME 04572. Applicant's representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic laminated sheets and impregnated paper*, from Auburn, ME, to points in CA, FL, TX, OH, IL, TN, and IA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Pioneer Plastics, Division of LOF Plastics, Pionite Road, Auburn, ME 04210. Send protests to: Donald G. Weiler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 307, 76 Pearl Street, Portland, ME 04111.

No. MC 143885 (Sub-No. 1TA), filed February 3, 1978. Applicant: HARLAND A. WILCOX and LEROY H. WILCOX, d.b.a. WILCOX TRUCKING, 206 Charles Street, Elk Rapids, MI 49629. Applicant's representative: Harland A. Wilcox, 206 Charles Street, Elk Rapids, MI 49629. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs, including frozen foods*, (2) *materials and supplies* used in the processing of food and food products, between Traverse City, Elk Rapids, and East Jordan, MI, on the one hand, and, points in the United States in and east of MT, WY, CO, and NM, on the other, under a continuing contract, or contracts, with Elk Rapids Packing Co., Sherman Canning Co., and Traverse City Canning Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Elk Rapids Packing Co., Elk Rapids, MI 49629; (2) Sherman Canning Co., East Jordan, MI 49727; (3) Traverse City Canning Co., Traverse City, MI 49684. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, MI 48933.

No. MC 143968TA (correction) filed November 11, 1977, published in the Federal Register issue of December 14, 1977, and republished as corrected this issue. Applicant: DONAHUE TRUCKING, INC., 2211 Stewart Street, Des Moines, IA 50317. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *clay building face brick*, from Utica, MO, to points in IA. Restricted to service under a continuing contract or contracts with Sheffield Brick & Tile Co., of Sheffield, IA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sheffield Brick & Tile Co., P.O. Box 6, Sheffield, IA 50475. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal building, Des Moines, IA 50309. The purpose of this republication is to indicate name change of carrier and correct territorial description.

No. 144208 (Sub-No. 1TA), filed February 3, 1978. Applicant: ART MORDAND TRUCKING, INC., P.O. Box 507, Methow, WA 98834. Applicant's representative: Boyd Hartman, P.O. Box 3641, Bellevue, WA 98009. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fertilizer*, in bags, from Vancouver, WA, to the united States/Canadian border at Oroville, WA/Osoyoos, BC; (2) *orchard and fruit warehous supplies, and fruit packing supplies, wastepaper, and machinery and equipment* used in fruit packing warehouses, between Chelan, Douglas, and Okanogan Counties, WA, on the one hand, and points in OR and ID on the other hand, including service to ports in BC and AB, Canada, via points of entry at the United States/Canadian border at Oroville, WA, and Osoyoos, BC. Supporting shipper(s): There are approximately five statements of support attached to the application which may be examined at the Interstate Commerce Commission in washington, DC, or copies thereof which may be exained at the field office named below. Send protest to: Hugh H. Chaffee, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, 915 Second avenue, Seattle, WA 98174.

No. MC 144212 (Sub-No. 1TA), filed february 2, 1978. Applicant: SLACK TRANSPORT, LTD., Box 579, Caledonia, ON, Canada. Applicant's representative: William J. Hirsch, 43 Court Street, Suite 1125, Buffalo, NY 14202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Gypsum products and roofing materials*, from ports of entry on the international boundary line between the United States and Canada at Detroit and Port Huron, MI, and points in NY, to points in IL, IN, MI, NY, OH, and PA, and (2) *returned shipments, pallets, and materials and supplies* used in the manufacture of gypsum products and roofing materials, in the reverse direction, for the account of Domtar Construction Materials Group of Domtar, Inc., under a continuing contract, or contracts, with Domtar Construction Materials Group of Domtar, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Domtar Construction Materials Group of Domtar, Inc., 2001 University Street, P.O. Box 6138, Montreal, PQ, Canada. Send Protests to: Interstate Commerce Commission, Bureau of Operations, 910 Federal Building, 111 West Huron Street, Buffalo, NY 14202.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-6361 Filed 3-9-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6351-01]

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COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 2 p.m., March 13, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement matters regarding instituting public administrative proceedings and settlement offer.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-521-78 Filed 3-8-78; 10:34 am]

[6714-01]

2

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 2:30 p.m., March 14, 1978.

PLACE: Board Room, 6th Floor, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Disposition of minutes of previous meetings.

Application for Federal deposit insurance:

California Valley Bank, a proposed new bank to be located at 1315 Van Ness Avenue, Fresno, Calif., for Federal deposit insurance.

American International Bank, a proposed new bank to be located at 525 South Olive Street, Los Angeles, Calif., for Federal deposit insurance.

The Kyowa Bank of California, a proposed new bank to be located at 635 West Seventh Street, Los Angeles, Calif., for Federal deposit insurance.

Bank of Santa Maria, a proposed new bank to be located at 528 South Broadway, Santa Maria, Calif., for Federal deposit insurance.

State Bank of Merna, a proposed new bank to be located at Lots 1, 2, and 3, Block 9, Merna, Nebr., for Federal deposit insurance.

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Powell, Goldstein, Fraser & Murphy, Atlanta, Ga., in connection with the liquidation of the Hamilton Bank & Trust Co, Atlanta, Ga.

Smith, Harman, Asbill, Roach & Nellis, P.C., Atlanta, Ga., in connection with the liquidation of the Hamilton Bank & Trust Co., Atlanta, Ga.

Kaye, Scholer, Fierman, Hays & Handler, New York, N.Y., in connection with the liquidation of the Bank of Bloomfield, Bloomfield, N.J.

Kaye, Scholer, Fierman, Hays & Handler, New York, N.Y., in connection with the receivership of American Bank & Trust Co., New York, N.Y.

Hughes, Hubbard & Reed, New York, N.Y., in connection with the liquidation of Franklin National Bank, New York, N.Y.

J. Randolph Pelzer, North Charleston, S.C., in connection with the liquidation of American Bank & Trust, Orangeburg, S.C.

Gibbs, Roper, Loots & Williams, Milwaukee, Wis., in connection with the liquidation of American City Bank & Trust Co., National Association, Milwaukee, Wis.

Recommendation with respect to the amendment of Corporation rules and regulations:

Memorandum and resolution proposing the final adoption of a new Part 338 of the Corporation's rules and regulations, entitled "Fair Housing Advertising, Poster, and Recordkeeping Requirements."

Appeal, pursuant to the Freedom of Information Act, from the Corporation's earlier denial of a request for records.

Memorandum requesting authority to solicit and select a contractor to assist in the Corporation's Liquidation Accounting Study Project.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Final report of the Chief, Accounting and Budget Branch, Office of the Controller, with regard to the liquidation of Lyons State Bank, Lyons, Wis.

Reports of security transactions authorized by the Chairman.

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202-389-4446.

[S-522-78 Filed 3-8-78; 10:34 am]

[6714-01]

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FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 2 p.m., March 14, 1978.

PLACE: Room 6135, FDIC Building, 550 17th Street, NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Application for Federal deposit insurance:

Tecumseh Bank, a proposed new bank to be located at 1213 Gordon Cooper Drive, Tecumseh, Okla., for Federal deposit insurance.

Application for consent to establish a branch:

Nassau Trust Co., Glen Cove, N.Y., for consent to establish a branch on the south side of Nesconset Highway (Route 347), approximately 100 yards west of the intersection of Nesconset Highway and Stony Brook Road, Lake Grove, N.Y.

Request for a waiver of section 337.3 of the Corporation's rules and regulations, relating to insider transactions:

Damariscotta Bank & Trust Co., Damariscotta, Maine.

Application for consent to a purchase and assumption transaction, for consent to establish four branches, and for consent to retire subordinated capital notes:

Floyd County Bank, New Albany, Ind., an insured State nonmember bank, for consent to purchase the assets of and assume the liability to pay deposits made in American Bank, New Albany, Ind., also an insured State nonmember bank, under the applicant's charter and title; for consent to establish the four offices of the bank being acquired as branches of the resultant bank; and for consent to retire subordinated capital notes.

Applications for consent to merge and to establish branches:

Flagship State Bank of Jacksonville, Jacksonville, Fla., an insured State nonmember bank, for consent to merge under its charter, and with the title of "Flagship Bank of Jacksonville," with Flagship State Bank of Arlington, Jacksonville, Fla; Flagship State Bank of North Jacksonville, Jacksonville, Fla.; and Flagship State Bank of South Jacksonville, Jacksonville, Fla., also insured State nonmember banks, and for consent to establish the three offices of the banks being acquired as branches of the resultant bank.

Barnett Bank of Naples, Naples, Fla., an insured State nonmember bank, for consent to merge under its charter and title with Barnett Bank of Collier County, Collier County (P.O. Naples), Fla., also an insured State nonmember bank, and for consent to establish the sole office of Barnett Bank of Collier County as a branch of the resultant bank.

Johnstown Bank & Trust Co., Johnstown, Pa., an insured State nonmember bank, for consent to merge under its charter and title with the First National Bank in Bedford, Pa., and for consent to establish the four existing offices of the latter as branches of the resulting bank.

Application for consent to merge, establish branches, redesignate the main office, and exercise trust powers:

Landmark Bank of Brevard, Indialantic, Fla., an insured State nonmember bank, for consent to merge under its charter and title with Landmark Bank of Melbourne, National Associaton, Melbourne, Fla.; for consent to establish the two existing and one approved but unopened offices of the latter bank as branches of the resultant bank; for consent to redesignate the main office location to the present main office site of the latter bank; and for consent for the resultant bank to exercise trust powers.

Recommendations regarding liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 43,423-L—Franklin National Bank, New York, N.Y.

Case No. 43,424-L—American City Bank & Trust Co., National Associations, Milwaukee, Wis.

Case No. 43,426-SR—Franklin Bank, Houston, Tex.

Case No. 43,427-L—Northeast Bank of Houston, Houston Tex.

Case No. 43,431-L—State Bank of Clearing, Chicago, Ill.

Case No. 43,432-NR—United States National Bank, San Diego, Calif.

Case No. 43,433-NR—United States National Bank, San Diego, Calif.

Case No. 43,434-L—The Hamilton National Bank of Chattanooga, Chattanooga, Tenn.

Case No. 43,436-L—Franklin National Bank, New York, N.Y.

Case No. 43,437-L—Franklin National Bank, New York, N.Y.

Case No. 43,438-L—The Drovers' National Bank of Chicago, Chicago, Ill.

Case No. 43,439-L—The Drovers' National Bank of Chicago, Chicago, Ill.

Memorandum re: American City Bank & Trust Co., National Association, Milwaukee, Wis.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings or termination-of-insurance proceedings against certain insured banks:

Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8) and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(6)).

Grievance officer's findings and recommendations in connection with the formal grievance of a Corporation employee:

Name of employee authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6)).

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202-389-4446.

[S-524-78 Filed 3-8-78; 11:03 am]

[6714-01]

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

NOTICE OF AGENCY MEETING

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Board of Directors of the Federal Deposit Insurance Corporation met in closed session at 6:10 p.m. on March 7, 1978, by telephone conference call, to (1) approve an application from the newly-chartered Town-Country National Bank, Camden, Ala., for consent to purchase assets of and assume the deposit liabilities of Wilcox County Bank, Camden, Ala., which was voluntarily closed by its board of directors and turned over to the Alabama Superintendent of Banks as of the close of business on March 1, 1978; and (2) provide such financial assistance, pursuant to section 13(e) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)), as was necessary to effect the purchase and assumption transaction.

In calling the meeting, the Board of Directors determined, on motion of Chairman LeMaistre, seconded by Director John G. Heimann (Comptroller of the Currency), that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the meeting was exempt from the open meeting requirements of the "Government in the Sunshine Act" by subsections (c)(8) and (c)(9)(A)(ii) thereof (5 U.S.C. 552b(c)(8) and (c)(9)(A)(ii)).

Dated: March 8, 1978.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-530-78 Filed 3-8-78; 3:08 pm]

[6715-01]

5

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Wednesday, March 15, 1978 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance, Audit, and Personnel.

• • •

DATE AND TIME: Thursday, March 16, 1978 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: Portions of this meeting will be open to the public and portions will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

I. Future meetings.
II. Correction and approval of minutes.
III. Advisory opinions: AO-1977-54. AO-1977-41.
IV. Debt settlement procedures.
V. FOIA regulations.
VI. Appropriations and budget.
VII. Pending legislation.
VIII. Pending litigation.
IX. Liaison with other Federal agencies.
X. Classification actions.
XI. Routine administrative business.

Portions closed to the public (executive session).

Any matters not concluded at the executive session of March 15, 1978.

PERSON TO CONTACT FOR INFORMATION:

David Fiske, Press Officer, telephone 202-523-4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S-532-78 Filed 3-8-78; 4:02 pm]

[6740-02]

6

MARCH 8, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., March 15, 1978.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information, Room 1000.

POWER AGENDA—81ST MEETING, MARCH 15, 1978, REGULAR MEETING

I. ELECTRIC RATE MATTERS

ER-1.—Docket No. ER76-532, Pacific Gas & Electric Co.
ER-2.—Docket No. E-9181, Nantahala Power & Light Co.
ER-3.—Docket No. ES77-5, Iowa Public Service Co.

II. LICENSED PROJECT MATTERS

P-1.—Project No. 2426, Department of Water Resources of the State of California and City of Los Angeles Department of Water and Power.

POWER AGENDA—81ST MEETING, MARCH 15, 1978, REGULAR MEETING

CAP-1.—Docket No. ER77-388, Lake Superior District Power Co.
CAP-2.—Docket No. ER77-217, Central Maine Power Co.
CAP-3.—Docket Nos. ER77-127, ER77-215, ER77-306, ER77-336, ER77-502, and ER78-61, Oklahoma Gas & Electric Co.
CAP-4.—Docket No. ER78-218, Kansas City Power & Light Co.
CAP-5.—Docket No. ER78-98, Tucson Gas & Electric Co.
CAP-6.—Docket No. ER78-72, Montaup Electric Co.
CAP-7.—Docket No. ES78-2, Virginia Electric & Power Co.
CAP-8.—Docket No. ES78-21, Interstate Power Co.
CAP-9.—Docket No. ES78-20, Montana-Dakota Utilities Co.
CAP-10.—Docket No. EL78-7, Potomac Electric Power Co.
CAP-11.—Project No. 2146, Alabama Power Co.
CAP-12.—Project No. 2513, Green Mountain Power Corp.
CAP-13.—Project NO. 420, City of Ketchikan, Alaska.
CAP-14.—Docket No. ER77-549, Tampa Electric Co.; Docket No. ER77-550, Florida Power & Light Co.; Docket No. ER77-516, Florida Power Corp.
CAP-15.—Docket No. ER77-175, Florida Power & Light Co.
CAP-16.—*Boston Edison Company* v. *F.E.R.C.*, D.C. Cir. No. 78-1103.

MISCELLANEOUS AGENDA—81ST MEETING, MARCH 15, 1978, REGULAR MEETING

CAM-1.—Pacific Power & Light Co.
CAM-2.—Kingsport Power Co.

GAS AGENDA—81ST MEETING, MARCH 15, 1978, REGULAR MEETING

I. PIPELINE RATE MATTERS

A. Pipeline rates

RP-1.—Docket Nos. RP74-89 and RP73-35(AP76-1), Trunkline Gas Co.
RP-2.—Docket Nos. RP73-3 (PGA76-2), RP73-69 and RP72-99 (EPGA76-3), Transcontinental Gas Pipe Line Corp.

II. PRODUCER MATTERS

A. Producer certificates

CI-1.—Docket No. CI77-683 HNG Oil Co.
CI-2.—Reserved.
CI-3.—Reserved.

B. Producer rates

CI-4.—Pennzoil Co., FERC Gas Rate Schedule No. 10.
CI-5.—Reserved.
CI-6.—Reserved.

C. Special relief

CI-7.—Docket No. RI77-134, Leach Bros, Inc.
CI-8.—Docket No. RI78-2, Ucca Petroleum Co. (operator), et al.
CI-9.—Docket No. CI78-164, Marathon Oil Co.

III. PIPELINE CERTIFICATE MATTERS

A. Pipeline certificates

CP-1. Docket No. CP78-117, Texas Eastern Transmission Corp.
CP-2.—Docket No. CP76-464, Equitable Gas Co.
CP-3.—Docket No. CP77-653, Panhandle Eastern Pipe Line Co., Trunkline Gas Co., and United Gas Pipe Line Co.
CP-4.—Reserved.
CP-5.—Reserved.

B. Liquefied natural gas

CP-6.—Docket No. CP71-290, Consolidated System LNG Co.
CP-7.—Reserved.
CP-8.—Reserved.

C. Pipeline storage

CP-9.—Docket No. CP76-255, Michigan Wisconsin Pipe Line Co.; Docket No. CP76-254, Michigan Wisconsin Consolidated Gas Co.; Docket No. CP76-271, Northern Natural Gas Co.; Docket No. CP76-325, Natural Gas Pipeline Co. of America; and Docket No. CP76-353, Natural Gas Pipeline Co. of America.
CP-10.—Reserved.
CP-11.—Reserved.

D. Curtailments

CP-12.—Docket No. RP72-99, Transcontinental Gas Pipe Line Corp.
CP-13.—Docket Nos. RP72-6 and RP76-38 (storage), El Paso Natural Gas Co.; Docket No. CP76-87, El Paso Natural Gas Co.; Docket Nos. CP76-258, et al., Mountain Fuel Resources, Inc., et al.; Docket No. CP78-172, El Paso Natural Gas Co.

GAS AGENDA—81ST MEETING, MARCH 15, 1978, REGULAR MEETING

CAG-1.—Docket Nos. RP76-94 and RP76-138, Columbia Gulf Transmission Co.; Docket Nos. RP76-95 and RP75-106(AP76-1), Columbia Gas Transmission Corp.
CAG-2.—Docket No. CI77-762, Pinto, Inc.; Docket Nos. CI76-806, et al., Pennzoil Offshore Gas Operators, Inc.
CAG-3.—Docket Nos. CI77-577 and CS72-1214, Glen E. Jeffery.
CAG-4.—Docket No. CI78-145, J. Roy McCoy.
CAG-5.—Docket Nos. CI64-352, et al., Sun Oil Co., et al.
CAG-6.—Docket Nos. G-4269, et al., Chevron U.S.A. Inc. (successor to the California Co., a division of Chevron Oil Co., and Chevron Oil Co., Western Division).
CAG-7.—Docket No. CP77-526, Michigan Wisconsin Pipe Line Co., Transcontinental Gas Pipe Line Corp., and United Gas Pipe Line Co.
CAG-8.—Docket No. CP77-600, Northern Natural Gas Co.
CAG-9.—Docket No. CP77-39, Iowa Power & Light Co.
CAG-10.—Docket No. CP64-89, Cities Service Gas Co. and Natural Gas Pipeline Co. of America.
CAG-11.—Docket No. CP74-133, Mountain Fuel Supply Co.; Docket No. CP74-144, Colorado Interstate Gas Co.
CAG-12.—Docket No. CP71-273, Southern Natural Gas Co.
CAG-13.—Docket Nos. CP76-208, et al., Mid-Continent Gas Storage Co., et al.
CAG-14.—Docket No. RP76-90, Kansas-Nebraska Natural Gas Co., Inc.
CAG-15.—(A) *Arizona Electric Power Coop., Inc. and the city of Willcox, Arizona* v. *F.E.R.C., D.C. Cir. No. 78-1043. General Motors Corp.* v. *F.E.R.C.*, 10th Cir. No. 78-1101.

KENNETH F. PLUMB,
Secretary.

[S-531-78 Filed 3-8-78; 3:52 pm]

[6740-02]

7

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 8921, published March 3, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., March 8, 1978.

CHANGE IN THE MEETING: The following item will be taken up on Thursday, March 9, 1978, at 1 p.m., instead of Wednesday, March 8, 1978.

Item No., Docket No., and Company

CI-1.—CI75-45, et al., Tenneco Oil Co., et al.

KENNETH F. PLUMB,
Secretary.

[S-529-78 Filed 3-8-78; 3:08 pm]

[6740-02]

8

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 8921, published March 3, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., March 8, 1978.

CHANGE IN THE MEETING: The following item has been added to the agenda of March 8, 1978.

Item No., Docket No., and Company

CI-3.—Federal Energy Regulatory Commission—FPC Form No. 40 Program.

KENNETH F. PLUMB,
Secretary.

[S-528-78 Filed 3-8-78; 3:08 pm]

[6740-02]

9

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: March 8, 1978 (following regular Commission meeting).

STATUS: Closed.

MATTERS TO BE CONSIDERED: Pending civil litigation.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

KENNETH F. PLUMB,
Secretary.

[S-527-78 Filed 3-8-78; 3:08 pm]

[4910-58]

10

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Thursday, March 16, 1978 (NM-78-14).

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Highway Accident Report and Recommendations.*—Ford Construction Co. Truck-Trailer/Dodge Van Collision on U.S. Route 221, Near Marion, N.C., May 12, 1977.
2. *Discussion.*—Proposed Criteria and Procedures for Implementing Joint NTSB-Coast Guard Accident Investigation Procedures.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-472-6022.

[S-518-78 Filed 3-8-78; 9:01 am]

[7910-01]

11

RENEGOTIATION BOARD.

DATE AND TIME: Tuesday, March 21, 1978; 10 a.m.

PLACE: Conference Room, 4th Floor. 2000 M Street NW., Washington, D.C. 20446.

STATUS: Matters 1 through 9 are open to public. Matters 10 and 11 are closed to public. Matters 12 and 13 are not applicable for status.

MATTERS TO BE CONSIDERED: Regular Board Meeting concerning:

1. Approval of minutes of meeting held March 14, 1978, and other Board meetings, if any.
2. Recommendation for assignment to a division:
   Bata Shoe Co., Inc., fiscal year ended Dec. 31, 1972.
3. Proposed special accounting agreement:
   a. Security Pacific National Bank, fiscal years ended Dec. 31, 1971 through 1975.
   b. Security Pacific Leasing Co., fiscal year ended Dec. 31, 1975.
   c. Security Pacific National leasing, Inc., fiscal years ended Dec. 31, 1973, 1974, and 1975.
4. Revision to security clearance procedures.
5. Preliminary report concerning revision of general orders, staff guides and administrative letters.
6. Recommendation to approve request for special accounting agreement:
   Thiokol Corp., fiscal year ended Dec. 30, 1973 and subsequent years.
7. Recommendation for clearance:
   a. The Bendix Corp., consolidated with:
      Bendix Westinghouse Automotive Air Brake Co.
      Skagit Corp.
      Bendix Field Engineering Corp.
      P. & D. Manufacturing Co.
      Fram Corp.
      Fiscal year ended Sept. 30, 1971.
   b. The Bendix Corp., consolidated with:
      Skagit Corp.
      Bendix Field Engineering Corp.
      Fram Corp.
      The Dashaveyor Co.
      Fiscal years ended Sept. 30, 1972 and 1973.
8. Claim for partial mandatory exemption of new durable productive equipment:
   a. Houdaille Industries, Inc., fiscal year ended Dec. 31, 1974.
   b. Houdaille Industries, Inc., fiscal year ended Dec. 31, 1975.
   c. Powermatic-Houdaille, Inc., fiscal year ended Dec. 31, 1974.
   d. Powermatic-Houdaille, Inc., fiscal year ended Dec. 31, 1975.
9. Request for exemption of a specific CPFF contract No. NOd-10062:
   Parker Drilling Co., LPI No. 91613.
10. Recommended determination of excessive profits: AMF, fiscal year ended Dec. 31, 1968.
11. Recommended finding of excessive profits: Stelma Inc., fiscal year ended Mar. 31, 1967.
12. Approval of agenda for meeting to be held April 4, 1978.
13. Approval of agenda for other meetings, if any.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: March 8, 1978.

GOODWIN CHASE,
Chairman.

[S-526-78 Filed 3-8-78; 3:08 pm]

[8010-01]

12

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Commission will hold the following meetings during the week of March 13, 1978, in room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Tuesday, March 14, 1978, at 10 a.m. An open meeting will be held on Thursday, March 16, 1978, at 10 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(9)(9)(A) and (10) and 17 CFR 200.402 (a)(8)(9)(i) and (10).

Commissioners Loomis, Evans, Pollack, and Karmel determined to hold the aforesaid meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, March 14, 1978, at 10 a.m., will be:

Formal order of investigation.
Referral of investigative files to Federal, State, or self-regulatory authorities.
Freedom of Information Act appeal.
Institution of administrative proceedings of an enforcement nature.
Settlement of administrative proceedings of an enforcement nature.
Institution of injunctive action.
Settlement of injunctive action.
Proposal relating to certain enforcement activities.
Opinion.
Other litigation matters.

The subject matter of the open meeting scheduled for Thursday, March 16, 1978, at 10 a.m., will be:

1. Issuance of a proposed order permanently exempting Phillip S. Sassower, Lawrence I. Schneider, Adolf Marcus and Alexander Goren from section 9(a) of the Investment Company Act of 1940.
2. Consideration of proposed changes in the processing of applications filed pursuant to section 8(f) of the Investment Company Act of 1940.
3. Consideration of a proposed letter to be sent to the Office of Management and Budget responding to that Office's request for further comments on the Department of Treasury's proposed legislation to amend Chapter 25 of Title 18, United States Code, to provide penalties for the forging of endorsements on, or fraudulently negotiating United States Treasury checks, bonds or securities of the United States.

4. Consideration of the request of the Department of Justice for the Commission's comments on proposed legislation which would allow, in certain circumstances, the assessment of attorneys' fees in all civil litigation in all federal courts.

FOR FURTHER INFORMATION CONTACT:

Willie M. Alexander at 202-376-7474 or Richard Humes at 202-376-8025.

MARCH 7, 1978.

[S-523-78 Filed 3-8-78; 10:56 am]

[7020-02]

13

[USITC SE-78-12]

UNITED STATES INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, March 23, 1978.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints (if necessary): a. Bicycle tires (Docket No. 501).
5. Impression fabric from Japan (Inv. AA1921-176)—briefing and vote.
6. Ice hockey sticks from Finland (Inv. AA1921-177)—briefing and vote.
7. Status report on the EEO program.
8. Update on administrative matters.
9. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-519-78 Filed 3-8-78; 9:17 am]

[7020-02]

14

[USITC SE-78-10A]

INTERNATIONAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 8346, published March 1, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:30 a.m., Friday, March 10, 1978.

CHANGES IN THE MEETING: Meeting previously scheduled has been cancelled, there being no further action required on Item No. 1 (Work gloves (Inv. TA-406-1)—vote on remedy, if necessary) and Item No. 2 (Any items left over from previous agenda).

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-520-78 Filed 3-8-78; 9:17 am]

[4410-01(8A0401)]

15

UNITED STATES PAROLE COMMISSION.

TIME AND DATE: Thursday, March 2, 1978—9:30 a.m.

PLACE: Room 338, 320 First Street NW., Washington, D.C.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 7798, February 24, 1978.

STATUS: Closed.

CHANGES IN THE MEETING: A portion of the agenda is carried over to March 7, 1978, for completion.

CONTACT PERSON FOR MORE INFORMATION:

Lee H. Chait, Analyst, 202-724-3094.

[S-525-78 Filed 3-8-78; 12:28 pm]

federal register

FRIDAY, MARCH 10, 1978
PART II

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

ANIMAL WELFARE

List of Licensed Dealers

[3410-34]

DEPARTMENT OF AGRICULTURE

Olson, L. M., Olson's Rare Bird and Animal Farm, Route 1, Box 152, Glendale 85301.
Olson, K. and D., d.b.a. Blue Ribbon Ranch,
Phillips, D., d.b.a. Phillip's Kennels, Route 41, Rogers 72756.
Platt, R., d.b.a. Platt's Kennels, Route 2, Prairie Grove 72753.

Christensen, E. and G., d.b.a. California Biological Supply Co., P.O. Box 1736, Vista 92083.
Coates, W. B., d.b.a. Canine Country Club,
Martinez, M., d.b.a. Basically Birds, 1549 South Marshall, Alpine 92001.
Magnolia Bird Farm Inc., 8990 Cerritos Avenue, Anaheim 92804.
Trent, G. and H., d.b.a. Trent's Caviary, 506 Fairland Avenue, Modesto 95351.
United States S.P.C.A. Inc., 4218 San Juan Avenue, Fair Oaks 95628.

[3410-34]

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

ANIMAL WELFARE

List of Licensed Dealers

Pursuant to the provisions of the Animal Welfare Act (7 U.S.C. 2131 et seq.), and the regulations thereunder (9 CFR Part 2), notice is hereby given that the following dealers are licensed under said Act:

ALABAMA

Abney, A., d.b.a. Dog Patch Kennel, Route 2, Box 357A, Attalla 35954.
Barker, N. M., d.b.a. Broken Pine Rabbitry, Route 1, Box 59A, Chelsea 35043.
Campbell, P. F., d.b.a. Pet Safari, 100 Broadway, Homewood 35209.
Connelly, S. L., 8 Wilshire Road, Mobile 36619.
Fowler, T. W., Route 2, Box 459A, Theodore 36582.
Johnson, C., Route 3, Box 16A, Luverne 36049.
Kaczmarczyk, G., d.b.a. Georges Pet Center, Northside Mall, Dothan 36301.
Norwood, H., 2309 31st Street SW., Birmingham 35221.
Pet Palace Inc., 3211 Bell Air Mall, Mobile 36606.
Port of Pets, 606 Brookwood Village, Birmingham 35209.
Rambo, R. C., Route 9, Box 72-B, Eight Mile 36613.
Scott, D. and W. M., d.b.a. S & S Pet Center, 1417 Locust Street, Decatur 35601.
Scott, D. and W. M., d.b.a. S & S Pet Center, 1413 Locust Street, Decatur 35601.
Spiller, J. R., d.b.a. Spiller Pet Center, Route 1, Box 138, Tuscaloosa 35401.
Treanor, D. & P., d.b.a. Inc Spots, 1454 Fleetwood Drive East, Mobile 36605.
Wager, M. W., 1707 Fairmont Street, Dothan 36301.
White, C. G., d.b.a. Alaquatics Pet Center, 1012 3rd Avenue West, Birmingham 35204.

ARIZONA

Abrahams, O. L., 2742 East Southerland, Phoenix 85040.
Caveny, D. D., d.b.a. More-Grow Hybrid Rabbits, P.O. Drawer 38, Douglas 85607.
Clonts, B., 815 Stirrup Drive, Safford 85546.
Cox, N. and G., d.b.a. Borden-N-Kennels, Box 144, Naco 85620
Docktor Pet Center, 1391 North Scottsdale Road, Scottsdale 85257.
Dunbar, K. L., d.b.a. Dunbar's Kay Dot Rabbitry, 6710 North Waycross, Tucson 85704.
Frarer, H. W. and M. E., d.b.a. F&F Ranch, Route 1, Box 207, St. David 85630.
Henry, L., P.O. Box 72, Buckeye 85326.
Jeter, M. M. and W. S., d.b.a. Southwestern Research Animals, 4834 East Glenn Street, Tuscon 85712.
Karch, G. and G., Rural Route 19, Box 99D, Tucson 85704.
Martynowski, H. S., d.b.a. Crown Rabbitry, 14802 North 33rd Way, Phoenix 85032.
Mengert, D. and C., d.b.a. Kodinook Kennels, 1809½ Thatcher Boulevard, Safford 85546.
Nolan, A. J., d.b.a. The Pet Corral, Route 1, Box 38, Safford 85546.
Olson, L. M., Olson's Rare Bird and Animal Farm, Route 1, Box 152, Glendale 85301.
Olson, K. and D., d.b.a. Blue Ribbon Ranch, 622 North Forgeus Avenue, Tucson 85716.
Saubert, K., d.b.a. Pet Corral of Tuscon, 7181 East Tanque Verde Road, Tuscon 85715.
Southwestern Scientific Co., 4345 East Irvington Road, Tuscon 85706.
Stockett, S., d.b.a. Rabbit Ent, 4546 West Crivello, Laveen 85339.
Wahrendorf, W. D., d.b.a. Pet's Paradise, 4631 West Tierra Buena, Glendale 85306.
Watson, C., d.b.a. Watsons Dobermans, Box 653, Pima 85543.
Weese, R. and J., d.b.a. Weese's Rabbitry, 6350 South Camino Verde, Tucson 85706.
Wild Kingdom, Ltd., 1019 East 6th Street, Tucson 85719.
Yarolem, W. and S., 60001 West Medlock Drive, Glendale 85301.

ARKANSAS

Animal Behavior Enterprises Inc., 4800 Albert Pike, Hot Springs 71901.
Baker, D., d.b.a. Bakers Kennels, Route 2, West Fork 72774.
Bloxham, M., d.b.a. Bloxham Puppy Ranch, Route 4, Rogers 72756.
Brown, K., P.O. Box 421, Gentry 72751.
C. B. Rabbit Ranch, Route 1, Box 162-C, Jacksonville 72076.
Chatterton, E., d.b.a. Hillside Kennel, Delmar Star Route, Harrison 72601.
Cherry, M., d.b.a. Cherry's Rabbitry, Star Route 7, Searcy 72143.
Corbit, Mrs. J. M., d.b.a. Corbit Rabbitry, Route 2, Searcy 72143.
Davis, W. J. and J. P., d.b.a. Janbils Kennels, Garfield 72732.
De Salvo, G., d.b.a. Pine Acres Kennel, Route 2, Morrilton 72110.
Fauble, J., Star Route, Ash Flat 72513.
Good, J. and L., d.b.a. Shiloh Kennel, Star Route, Van Buren 72956.
Gorsline, C. R., Route 2, Box 68, Gravette 72736.
Hall, D. J. and M. K., d.b.a. Seven Seas Pet Shop, Route 2, Box 154, Clinton 72031.
Hoico, Inc., P.O. Box 186, Fayetteville 72701.
Jester, A., d.b.a. Allen Jester Kennels, Route 4, Benntonville 72712.
Jester, W., d.b.a. Flying W. Kennels, Route 4, Bentonville 72712.
Kirby, M. S., d.b.a. Marilyn's Timberlane Kennel, Rural Route 5, Mountain Home 72653.
Kratz, D. and E., d.b.a. B and D Rabbitry, Route 2, Box 229, Malvern 72104.
Lamont, E., d.b.a. Lamont Kennels, 5728 Wheeler Avenue, Fort Smith 72901.
Langston, M., d.b.a. Ozark Malamute Kennel, Box 254, Mammoth Springs 73554.
Laswell, T., d.b.a. Too-Ric Kennels, P.O. Box 418, Gentry 72734.
Lloyd, L. T., d.b.a. Rock Springs Kennels, Route 4, Box 112, Elkins 72727.
Marrs, D. and H., P.O. Box 66, Colt 72326.
Matney, F. R., d.b.a. Rueselle's Kennel, Summers 72769.
Meuser, I. A., Route 2, Fayetteville 72701.
Miller, M., d.b.a. Ma-Ha Kennels, Box 111 Route N, Yellville 72687.
Morefield, D., d.b.a. Daisy Kennels, Box 283, Gentry 72734.
Morris, S., d.b.a. Canines Finest Kennel, Route 1, Piggott 72454.
Mosler, E. and D., Lambeth Lane, Bella Vista 72712.
Pel-Freez Farms Inc., P.O. Box 68, Rogers 72756.
Phillips, D., d.b.a. Phillip's Kennels, Route 41, Rogers 72756.
Platt, R., d.b.a. Platt's Kennels, Route 2, Prairie Grove 72753.
Prophet, E. and A., d.b.a. Prophet Kennels, 809 North 16th Street, Van Buren 72956.
Ray, M., d.b.a. Hollyoak Kennels, P.O. Box 401, Salem 72576.
Roberts, R. and R., d.b.a. Roberts Pet Shop, 1221 Knoxville, Fort Smith 72901.
Robison, R., d.b.a. Bryant Cove Kennel, Route 1, Box 47, Casa 72025.
Rouse, G. F., Route 1, Farmington 72730.
Sagarsee, R., Route 1, Lost Bridge Road 127, Garfield 72732.
Sharum, M. M., d.b.a. Sharum's Pups and Stud Service, 3301 Johnson, Fort Smith 72901.
Small Stock Industries, Inc., P.O. Box 157, Pea Ridge 72751.
Smith, G. and D., Route 1, Box 31, Gravette 72736.
Spelling, F. and D., d.b.a. Winn Creek Kennels, Route 1, Box 281, Winslow 72959.
Stephens, L., d.b.a. Beagel Dog Kennel, Route 4, Box 196A, Bentonville 72712.
Stratton, J., d.b.a. Ark. Coon Hound Kennels, Highway 94N, Rodgers 72756.
Striegler, C. T., d.b.a. Flint Ridge Kennel, Route 2, Fayetteville 72701.
Sutton, R. and L., d.b.a. Shan-Ric Shelties, Route 1, Box 155, Lowell 72745.
Talburt, R. L., Route 3, Box 50A, Gravette 72736.
Tisdale, G., Route 2, Box 290, Gentry 72734.
Walker, I., Route 3, Box 47, Gravette 72736.
Ward, B., d.b.a. Ward's Kennels, Route 2, Box 231, Gravette 72736.
Watkins, L. P., Box 188, Caraway 72419.
Winningham, R. M., Route 2, Gentry 72736.
Woods, B., d.b.a. Woods Kennels, Route 1, Rogers 72756.
Wormuth, M. and C., Wormuth Kennels, Route 2, Box 39, Mountainburg 72946.

CALIFORNIA

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Bloomen, D. and V., d.b.a. VGL D-B Kennels, 3386 North Highway 41, Coarsegold 93614.
Bond, L. E., d.b.a. Global Sea Lions, P.O. Box 464, Santa Barbara 93102 .
Bristow, W and T., d.b.a. Cher Mar Kennels, 4855 Pioneer Avenue, Hughson 95326.
Brusby, R., d.b.a. Jungleland Pets, 6099 San Juan Avenue, Citrus Heights 95610.
Burrett, J., 3169 Duran Avenue, San Jose 95111.
Burns, T. S., d.b.a. National Research Resources, P.O. Box 691 Bonita 92002.
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Carstenson, S. and A., d.b.a. Gallant Rains Rabbitry, 125 Rainsville Road, Petaluma 94952.
Castellucci, R., d.b.a. Castle Rabbitry, Star Route Box 2M, Corning 96021.

Christensen, E. and G., d.b.a. California Biological Supply Co., P.O. Box 1736, Vista 92083.
Coates, W. B., d.b.a. Canine Country Club, 42116 4th Street East, Lancaster 93534.
Cobb, C., d.b.a. Quality Hamsters, P.O. 5691 Oxnard 93030.
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Coury, R., d.b.a. Golden West Kennels, 343 Goodwin Road, Modesto 95351.
Curd, M. E., d.b.a. Curd's Caviary & Animal Supply, 787 South 4th Avenue, La Puente 91746.
D'Angelo, F., d.b.a. Cal Luminum Inc Lake Nala Ranch 11835 South Morning Avenue, Downey 90241.
Dahl Biological Supply, Ins., 25 Hegenberger Place, Oakland 94621.
Dalri, C. S. Jr., d.b.a. Exotics of California, 32912 Lake Huron Street, Fremont 94536.
Davison, F. E., d.b.a. Falcon Kennel, P.O. Box 304, Sebastopal 95472.
De Borondy, Dr. L., d.b.a. Casa De Pets, 11814 Ventura Boulevard, Studio City 91604.
Denio's Roseville Farmers' Market and Auction Inc., P.O. Box 999, Roseville 95678.
Dougherty, B. M., d.b.a. Kittyland Kattery, 4901 Highway 9, Felton 95018.
Dunn, R., d.b.a. L. A. Pets, 12909 Saticoy Street, North Hollywood 91606.
English, V., d.b.a. Leopard Cat Information Center, P.O. Box 3632, Hollywood 90028.
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Garrison, K., d.b.a. Garrison Rabbitry, 1426 Sunset Drive Vista 92083.
Giacinto, J., 19400 Santa Rita, Tarzana 91356.
Gillette, B. and G., d.b.a. Paradise Hamstery, 2912 Paradise Road, Modesto 95351
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Goebel, L., P.O. Box 4198, Thousand Oaks 91359.
Hendricks, W. H. and G. M., d.b.a. Crest Caviary, 4133 Oak Grove School Road, Raymond 93653.
Holloman, C. and J. C., 30981 East River Road, Escalon 95320.
Holloman, G., d.b.a. Bernahsa Kennel, J27889 East Vine, Escalon 95320.
Howard, L. A., 696 North Leonard Avenue, Fresno 93727.
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Jolly, R. I., 8341 Dennis Street, Cypress 90630.
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Kelley, J. O., 609 F Street, Gart 95632.
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King, W. I., d.b.a. Kings Kennel, 3035 South Trinity, Kerman 93630.
Knudsen, H. H, 12488 South Harlan Road, Lathrop 95330.
Kurz, E., 16300 Arnold Drive, Sonoma . 95476.
Lancaster, L., 12663 Avenue 336, Visalia 93277.
Langley, R. E., d.b.a. Central Valley Kennels, P.O. Box 3428, Poplar 93257.
Little, J. F., 4640 Olney Street, San Diego 92109.
Loma Linda University, Animal Care Facility, Loma Linda 92354.
Magnolia Bird Farm Inc., 8990 Cerritos Avenue, Anaheim 92804.
Martinez, M., d.b.a. Basically Birds, 1549 South Marshall, Alpine 92001.
McGee, J., d.b.a. Lucky J. Kennels, 1443 Silverado Trail, St. Helena 94574.
McCreary, W. E. and N. J., 7883 Elphick Road, Sebastopol 95472.
McGarvey, J. and N., d.b.a. Fantasy Pet Shop, 330 University Avenue, Palo Alto 94301.
Merwin, J. E., d.b.a. Hills of Home Ranch, 20837 Deerhorn Valley Road, Jamul 92035.
Meyer, W. L., d.b.a. Mountain Caviary, Box 479, Angwin 94508.
Meyerdick, C. and F., d.b.a. CFM Rabbitry, 1447 Midway Road, Vacaville 95688.
Miller, D. R., d.b.a. Rancho de Conejo, 1345 Sunset Drive, Vista 92083.
Mission Laboratory Supply Inc., P.O. Box 456, Rosemead 91770.
Mohilef, D., 629 South June Street, Los Angeles 90005.
Nannini, L. J., 315 B Street, Colma 94614.
National Herpetological Society, P.O. Box 240, Glendora 91740.
Neilson, J. and D., d.b.a. Neilson's Shady Oak Rabbitry, 2540 Trower Avenue, Napa 94558.
Newcell Biochemicals and Newcell Hamster Hut, 1508 Fifth Street, Berkeley 94710.
O'Brien, A., d.b.a. O'Brien's Guard Dog Service, 9836 Florin Road, Sacramento 95826.
Oscislawski, L. and M., d.b.a. L and M Pets and Supplies, 15917 Sierra Vista Court, La Puente 91747.
Owens, D. M., 1594 Eastman Lane, Petaluma 94952.
Perkins, E. S., d.b.a. Clark's Cavies, 4891 Branciforte Drive, Santa Cruz 95065.
Quillen, P., d.b.a. Quillen Cattery, P.O. Box 7535, San Diego 92107.
Quinn Zoological Associates, 8693 Wilshire Boulevard, Suite 201, Beverly Hills 90211.
Robbins, E. K., 6027 Cold Brook, Lakewood 90713.
Robelle Animal Productions, Ltd., P.O. Box 246, Norco 91760.
Roskilly, G. B., d.b.a. GLSN's Pets and Pet Supplies, 12137 Lopez Canyon Road, San Fernando 91342.
Saenz, G., d.b.a. Gerry's Dogs, 2416 Young Street, Stockton 95205.
Schoenbein, T. L., d.b.a. Schoenbein Rabbitry, 1630 Ridge Road, San Diego 92028.
Scholl, S., d.b.a. Laboratory Animals, 2439 Catalina Drive, Vista 92083.
Schwab, P. L., d.b.a. Mar Fredricks Rabbitry, 1245 Alamo Road, Modesto 95351.
Simonsen Laboratories Inc., 1180C Day Road, Gilroy 95020.
Simunek, R. And J., 872 Busch Drive, Vista 92083.
Sinnett, A. H., d.b.a. Waggin Tail Kennel, 3324 Barnhart Road, Denair 95316.
Synder, J. W., d.b.a. Carriage Trade Kennels, P.O. Box 163, Mariposa 95338.
Spangler, R. D., d.b.a. Western Pacific Biol Supply, 3372 West Harvard Street, Santa Ana 92704.
Sparrow, E. A. and M. C., d.b.a. Crown Animal Sales, 250 Second Avenue, San Leandro 94577.
Stanford Research Institute, 333 Ravenswood Avenue, Menlo Park 94025.
Stedman, K. M., d.b.a. Lord Stedman Kennels, Star Route, Janesville 96114.
Stein, C. and A., d.b.a. Flying Fur Pet Travel Service, 1122 4th Avenue, San Diego 92411.
Taylor, P. and S., d.b.a. Riverhole Llamasary, 5100 Volkerts Road, Sebastopol 95472.
Trent, G. and H., d.b.a. Trent's Caviary, 506 Fairland Avenue, Modesto 95351.
United States S.P.C.A. Inc., 4218 San Juan Avenue, Fair Oaks 95628.
University of Southern California, University Park, Los Angeles 90007.
Usrey, A. and D., d.b.a. Peacefield Farms, 562 Mimose Avenue, Vista 92083.
Valley Pet Supply, 1200 Zephyr Avenue, Hayward 94544.
Western Scientific Supply, Inc., d.b.a. Western Scientific Supply Co., P.O. Box 681, West Sacramento 95691.
Westervelt, M. R., Nitabell Rabbitry, 29215 Taylor Avenue, Hayward 94544.
Wheeler, S. M., Jr., P.O. Box 8245, San Francisco 94128.
Williams, H., d.b.a. Pet Village, 705 West Arbor Vitae, Inglewood 90301.
Wright, P., Route 1, Box 306, White Water 92282.
Zigler, H. & E., d.b.a. Ezh Caviary, Box 453, Williams 95987.

COLORADO

Bornhoft, T. S., Route 1, Fleming 80728.
Brauher, D., d.b.a. Brauher Rabbitry, 7155 24th Street, Greeley 80631.
Colorado Ferrits Inc., 1160 Claremont, Boulder 80303.
Elars Biopharmaceutics Inc., 225 Commerce Drive, Ft. Collins 80521.
Enos, H. and M., d.b.a. Rocky Mountain Rabbitry, 3604 Richmond Drive, Fort Collins 80521.
Essary, A. and E., d.b.a. Tag-A-Long Dog Ranch, Route 1, Box 5-C, La Animas 81054.
Freemyer, M. L., d.b.a. High Plains Kennels, Route 2, Box B15, 654 Strom, Haxtun 80731.
Gillespie, K. D., d.b.a. Suppral Hamsters, 4682 Shaw Boulevard, Westminster 80030.
Haynes, B. L. and B. B., d.b.a. Pampered Pets, 4230 Easley Road, Golden 80401.
Hill, R. A., d.b.a. Sedalia Hills Rabbitry, Route 1, Box 12B, Sedalia 90135.
Lauppe, V. L., d.b.a. Hyland Rabbitry, Route 1, Box 273, Brighton 80601.
Mauch, L., d.b.a. Arkansas Valley Kennel, Route 1, Box 107, Lamar 81052.
Mekelbury, E. D., Route 2, Yuma 80759.
Miller, L., d.b.a. Miller's Magic Hat Rab, 6142 Hygiene Road, Longmont 80901
Milliken, J. T., d.b.a. Ripples Dog Ranch, Route 2, Box 151, Rocky Ford 81067.
Morgan, N., d.b.a. Krowley Kounty K-Nine Kennel, Route 1, Box 121, Olney Springs 81062.
Murphy, H. J., Box 280, Windsor 80550.
Park, J. E., d.b.a. Biological Research Laboratories, 6700 Simms, P.O. Box 1374, Arvada 80004.
Patterson, J. E., d.b.a. Patterson Kennels, Route 2, Box 76, Yuma 80759.
Redden, Mrs. H., Route 1, Hotchkiss 81419.
Shepard, J. M., d.b.a. Jacks Rabbits, 3312 Buckskin Trail, La Port 80535.
Sindt, L. and A., d.b.a. Sindt's Ace Hi Kennels, Route 1, Peetz 80747.
Smith, F. J., d.b.a. Aquaria Terraria Etc., P.O. Box 1474, Dillion 80435.
Spear, H., Burdette Route, Box 33, Akron 80720.
Steele, M. T., 101 East 1st Street, Otis 80743.
Stolns, J., Route 1, Box 7, Bennett 80102.
Turvey, A., d.b.a. Turvey's Kennel, Eckley 80727.
Waitman, E., Route 2, Hotchkiss 81419.
Wernsman, G. and A. V., Rural Route 1, Box 61, Fleming 80728
Wolff, M., Route 3, Haxtun 80731.

Woods, E., d.b.a Alldog Kennel, Box 112, Eastlake 80614.
Woolington, E. and Bossen D., d.b.a. Aichars Rabbitry, Hereford 80732.
Dobson, L., d.b.a. Dobson's Petting Zoo, Route 3, Box 194F, Pensacola 32503.
Docktor Pet Center 118, 1289 Northwest W 40th Avenue, Lauderhill 33313.
Docktor Pet Center 126, 41 Pompano Park
Magray, D., 6710 Northwest 7th Court, Margate 33063.
Marino, G. D., and T. D., d.b.a. Pet Haven, 3321 North Ped Highway, Pompano Beach 33064.

Wolf, R., d.b.a. Joy's Petland, 56 South Edison Mall Shopping Center, Fort Myers 33901.
Wonderland for Pets Inc., 16756 South
Allen, J., Niota 62358.
Animal Kingdom, Inc., 2960 Milwaukee Avenue, Chicago.
Animal World, Inc., 7525 N Harlem Avenue,
Detroy, E. P., Box 66 Rural Route 1, Enfield 62835.
Drendel, R. L., d.b.a. R. and P. Rabbitry, 4838 Columbia Avenue, Lisle 60532.

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Greenberg, H., 3 St. George Place, Westport 06880.
Johnson, D. and Strout, F., d.b.a. Inter Pet, Gateway Center, Wilton 06897.
Schaefer, W. A., 33 Hayden Avenue, Windsor 06095.
Schneebeli, W., d.b.a. Valley Kennels, Sand Road, Falls Village 06031.
Theis, C. E., d.b.a. White Rock Farms, Route 82, Salem 06415.
Todd, E. W., 551 Skokorat Road, Beacon Falls 06403.
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Weber, Dr. H. O., P.O. Box 484, Simsbury 06070.

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Hazel Del Farms Inc., Road 1 Box 198B, Hartly 19953.
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FLORIDA

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Animal Suppliers Inc., 10525 Southwest 185 Terrace, Miami 33157.
Baetjer, K. H. and B. J., d.b.a. Christian's Compound, Route 1, Box 40, Fellsmere 32948.
Baker, P., P.O. Box 15091-H, Tampa 33684.
Black, R. W., d.b.a. Hollywood B&R Pet Shop, 6991 Taft Street, Hollywood 33024.
Bomar Industries, d.b.a. Bomar Industries, Inc., 852 First Avenue South, Naples 33940.
Boone, D. R., d.b.a. Rock & Wood, 10470 Southwest 66 Street, Miami 33173.
Boring, K. K., d.b.a. English Creek Critters, Route 6, Box 263, Plant City 33566.
Bramco Inc., P.O. Box 205, Gibsonton 33534.
Byrd, L., d.b.a. Byrd's Animal Imports, P.O. Box 968, Labelle 33935.
Campbell, W. H., 740 Lakeside Drive SW., Largo 33540.
Carrier, W., Route 3, Stuart 33494.
Charles P. Chase Co., Inc., 7200 Northwest 46th Street, Miami 33166.
Chesnut, M., d.b.a. Exotic Tropicals, Route 3, Box 327, Riverview 33569.
Clothier, Mrs. C., 1310 Conover Street, Tampa 33603.
Crews, F. H., 109 East Palmetto Street, Avon Park 33825.
Cummings, M. L., d.b.a. Cummings Rabbitry, 1101A Geraci Road, Lutz 33549.
Davis, J. and C., Route 1, Box 77, Siffner 33584.
Dawson Research Corp., 114 West Grant Avenue, Orlando 32806.
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Docktor Pet Center 118, 1289 Northwest W 40th Avenue, Lauderhill 33313.
Docktor Pet Center 136, 41 Pompano Fashion Square, Pompano Beach 33062.
Donaldson, D. and J., d.b.a. Jeanne & Donnie's Pet Parlour, 904 Searstown Plaza, Rockledge 32955.
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Elder, K. W., 109 East Kendall Boulevard, Avon Park 33825.
Engler, W. L., d.b.a. Mariot Breedings Farm, Route 5, Box 130-A1, Orlando 32807.
Garvin, C., d.b.a. Florida Reptile Land, Route 1, Box 312, Lawtey 32058.
Garvin, C., d.b.a. Florida Alligator Farm, Route 6, Box 236, Bowling Green 42101.
Gators of Miami, Inc., 5500 Northwest 74th Avenue, Miami 33166.
Giller, L. A., 5365 Southwest 76th Avenue, Davie 33328.
Granberry, H. M. and R. E., d.b.a. Animal Kingdom, P.O. Box 225, Winter Park 32790.
Grodzinski, E., d.b.a. Hidden Acres Rabbitry, Route 4, Box 38C, Ocala.
Grout, F. W. and J. A., d.b.a. Grout's Pet Shop, 2900 30th Avenue North, St. Petersburg 33713.
Ham, T., d.b.a. W&T Pet Ranch, Route 1, Box 92, Lithia 33547.
Hand, L., d.b.a. Canis Lupus Ranch, 14250 Southwest 24th Street, Davis 33325.
Harris, E., d.b.a. Tails & Scales, 1035 Highland Avenue, Largo 33540.
Hatfield, K. I. and J. C., d.b.a. Exotic Feline Farm, 1991 Southwest 136th Avenue, Fort Lauderdale 33314.
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House of Hamsters, 282 Northwest Second Street, Deerfield Beach 33441.
Hudson, K. W. and Kenny, R. A., d.b.a. The Critter Shop, 3407 Henderson Boulevard, Tampa 33609.
Hudson, K. W. and Kenny, R., d.b.a. The Critter Shop, 3407 Henderson Boulevard, Tampa 33609.
International Fins, Inc., 3040 Southwest 4th Avenue, Ft. Lauderdale 33315.
Julian, L. L., d.b.a. Stuart Pet Center, 211 Florida Street, Stuart 33494.
Kelly, K. C., d.b.a. Kel Farm, Route, 1 Box 106A, Alachua 32615.
Kindt, C. R., d.b.a. Exotic Cats & Cross Breeds, 18055 Dubois Road, Jupiter 33458.
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Koostra, W. J., d.b.a. Kootoy Kennels, Route 7, Box 634, Tampa 33615.
L. D. Puppy Shop, 4315 Northwest 7th Street, Suite 43, Miami 33126.
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Marsh, J. P., and D. M., d.b.a. Happyland Pet Shop, 1225 Delaware Avenue, Ft. Pierce 33450.
Martinez, L., 2670 Southwest 119 Court, Miami 33175.
Mathes, P., Route 3, Box 1736, Sebring 33870.
McAuley, R. L., d.b.a. Roger's Pet Paradise 2711 South Macdill Avenue, Tampa 33609.
Miami Rare Bird Farm Inc., 189 Caribbean Road, Naples 33940.
Nelson, R., 4800 Northwest 5 Court, Plantation 33317.
Noell, R. M. and A. M., d.b.a. Noells Ark Chimpansee Farm and Etc., P.O. Box 396, Tarpon Springs 33589.
Parrot, J. D., and Hatfield, K. I., d.b.a. Exotic Feline Farm, 2455 Northeast 184 Terrace, Miami 33160.
Pet Farm Inc., 7330 Northwest 66 Street, Miami 33166.
Pet Ranch of America, Box 450, Route 3, Miami 33147.
Pinto, A., 1615 Northwest 30th Avenue, Miami 33125.
R&R Martin Corp., d.b.a. Exotics Unlimited, P.O. Box 3632, Hollywood 33023.
Ray Singleton and Co., P.O. Box 248, Riverview 33569.
Research Livestock Labs, Inc. P.O. Box 1643, North Miami 33161.
Reynolds, S., and Sanders, V., d.b.a. Frank's Gerbil Farm, Route 6, Box 248-Y, Plant City 33566.
Rider, Jr., V. D., Rural Route 2, Box 515, Brooksville 33512.
Roberts Fish Farm, Inc., P.O. Box 650038, Miami 33165.
Ross Socolof Farm, Inc., P.O. Box 1321, Bradenton 33506.
Searborough, J., Route 2, Box 207, Frostproof 33843.
Shank, I. W., d.b.a. Shank's Pet Land, Route 1, Box 380, Arcadia 33821.
Shirley, R. and J., d.b.a. Last Chance Kennels, Route 1, Box 513, Lithia 33547.
Simon, N. J., 5480 Southwest 118th Avenue, Miami 33165.
Slocum, I. L., B. R., and L., d.b.a. Quality Bird Co., 7050 Northwest 77th Court, Miami 33166.
Smazer, D. M., Route 8, Box 700, California Street, Brooksville 33512.
Smith, R. H., P.O. Box 156, O'Brien 32071.
South American Primates, Inc., 10525 Southwest 185th Terrace, Miami 33157.
Spinoso, P. J., 4215-53rd Avenue North, St. Petersburg 33714.
Steward, A., 5750 Southwest 100 Avenue, Davie 33314.
Stewart, B., d.b.a. Rainbow Kennels, Route 1, Box 127A, Dover 33527.
Stratton, J. and J., 1458 South 441, Okeechobee 33472.
Sweeting, B. E., d.b.a. The Pampered Pet, 3212 Flagler Avenue, Key West 33040.
Tampa Livestock Distributors, Inc., Subsidiary of the Hartz Mountain Corp., P.O. Box 22007, Tampa 33622.
Thomas, H., Route 3, Box 2000, Okeechobee 33472.
Tropical Animals Dist., Inc., 156 Northwest 37th Street, Miami 33127.
Ward, M., d.b.a. Gardenville Small Stock Farm, Route 3, Box 337, Riverview 33569.
West, Jr., C., d.b.a. Pet Circus Co., 1871 Northwest 59 Terrace, Sunrise 33313.
White, M., 5882 Southwest 81 Street, Miami 33143.

Wolf, R., d.b.a. Joy's Petland, 56 South Edison Mall Shopping Center, Fort Myers 33901.
Wonderland for Pets Inc., 16756 South Dixie, Miami 33157.

GEORGIA

Adair, K. R., d.b.a. Redbrook Farms, Route 1, Loganville 30249.
Binnion, D. and L., d.b.a. Five Points, P.O. Box 961, Monroe 30655.
Burch, R. E., Rl Rex Road, Stockbridge 30281.
Cook, W. L. 5250 Macland Road, Route 1, Powder Springs 30073.
Crawford, J. W., d.b.a. White Cliff Rabbitry, P.O. Box 212, Winder 30680.
Davies, H., P.O. Box 107, Stockbridge 30281.
Dugger, D. B., d.b.a. Dugger's Rabbitry, 4571 Scarbrough Road, College Park 30349.
Gilbreath, C. H. and H., d.b.a. The Circle (G) Rabbit Ranch, Route 1 Box 348, Route 1, Box 486.
Hurst, R. H., Route 3, Cairo 31728.
Lawton, M., P.O. Box 116, Mountain City 30562.
Lott, H. S., Route 1, Wrens 30833.
Martin, E. B., Route 3 Box 412, Flowery Branch 30542.
Patterson, J. and E., d.b.a. Pattersons Pets, P.O. Box 172, Moultrie 31768.
Peasgood, S. R., J. K., d.b.a. Goods and Sons, Box 117A, Route 1, Talmo 30575.
Phillips, G. O., Route 4 Box 1180, Sandersville 31082.
Pickelsimer, L. D., d.b.a. Ft. Mountain Gerbil Ranch, Rl Box 28, Chatsworth 30705.
Poss, R. C., 410 East Broad Street, Sparta 31087.
Rogers, R. D., Route 6 Box 417, Eastman 31023.
Stanley, K. and V., Route 1, Box 29, Chatsworth 30705.
Thomas, W. R. and B. A., d.b.a. Cherokee Lab Supply Co., P.O. Ad Box 2801, Atlantic 30328.
Wells, O. E., d.b.a. GAC Ranch, P.O. Box 631, St. Mary's 31558.
Furtado, M. E., 45-1045 Kam Highway, Kaneohe 96744.
Adams, C. and E., d.b.a. A & K Lab Animals, 2115 North 8th Street, Coeur D'Alene 83814.
Ferdinand Zoo & Animal Farm, Inc., P.O. Box 303, Nampa 83651.
Lewis-Clark Animal Shelter, Inc., P.O. Box 804, Lewiston 83501.
Marsh, D., d.b.a. Marsh Kennels, 1127 S. Powerline Road, Nampa 83651.
Meeks, F. and V., Route 2, Post Falls 83854.
Mulligan, E. and D., d.b.a. Sawtooth and Castleford Kennels, Route 2 Box 271, Jerome 83338.
Noble, C., d.b.a. Noble Kennels, Route 4, Rupert 83350.
Rowe, H. F., Route 1 Park Lane, Eagle 83616.
Vandersloot, M., d.b.a. Vander Stoot Kennels, H.C.R. 68 Box 160, Cocolalla 83813.
White, J. and G., d.b.a. White's Wabbit Wanch, Box 193, Kootenai 83840.
Wyckoff, E., d.b.a. Wyckoff Kennels, 7016 Hill Road, Boise 83703.

ILLINOIS

A Pet Inc., 2477 Devon Avenue, Elk Grove Village 60007.
Akers, J. C., d.b.a. Sailfin Pet Shop, 104 Hessel Boulevard Champaign 61820.
Allen, E. M., d.b.a. Bamboo Pet Shop, 125 W Jefferson Street, Joliet 60431.
Allen, J., Niota 62358.
Animal Kingdom, Inc., 2080 Milwaukee Avenue, Chicago.
Animal World, Inc., 7525 N Harlem Avenue, Niles 60648.
Appleby, Al Box 99 404 West Myrtle Street, Elizabeth 61028.
Archer, L. and J. 10910 Cicero Avenue, Tinley Park 60477.
Bader, Mrs. E., Scales Mound 61075.
Balgemann, D. E. and Wong, M. W. K., d.b.a. The Nature-Life Co., 954 Cookane Avenue, Elgin 60120.
Bartelheim, V. H. d.b.a. Bartelheim Rabbitry, Rural Route 1 Box 26 Murrayville 62668.
Bartlett, J. W., Rural Route 1 Box 54, Springfield 62707.
Battles, D. and M. d.b.a. White Oak Kennels, Rural Route 3, Vandalia 62471.
Bean, G. E., d.b.a. Jeri-Elen Kennels, Route 7, Mount Vernon 62864.
Becker, H. G., d.b.a. Becker Kennels, Rural Route 2 Box 15, Edwardsville 62025.
Bennett, W. R. and V. J., d.b.a. Hilltop Kennel, 12822-311 Street West, Muscatine 52761.
Bernett, D. W., Rural Route 1, Mahomet 61853.
Bloomquist, O. and B., d.b.a. Bloomquists Rabbitry, Box 8, Sherrard 61281.
Boebel, F. W., d.b.a. Sleepy Hollow Kennels & Cattery, Route 2 Box 73, Mundelein 60060.
Boehm, G., d.b.a GMB Cavies, 31 Pine Terrace, Fairview Hts 62208.
Bohlen, M., d.b.a. Mae Jean Poodle Towne, 201 West 6th North St, Mount Olive 62069.
Boner, R. S. d.b.a. Doners Kennel, Route 2 Box 66, Creal Springs 62922.
Brabender, A., d.b.a Brabender Small Stock Farm, Route 2 Box 327-B, Antiach 60002.
Brown, R. L., Route 3 Carthage 62321.
Brown, R. M., Route 2 Box 206, Norris City 62869.
Burdick, W. E., Rural Route 2, Omaha 62871.
Burnidge, B., d.b.a. Pets and Pots, Route 3 Box 33C, Randall Road, Elgin 60120.
Byers, F. and J., d.b.a. Byers Rabbitry, Route 2 Box 40, Alexis 61412.
Calanca, O. and A. Calancas Beagles, Rural Route 1 Box 175, Grayslake 60030.
Calfee, R. and L., Wanaga, T., d.b.a. Fish Etc, 1325 West Belmont, Chicago 60657.
Calloway, D., d.b.a. Pets Love People, 1851 East 87th Street, 1649 East 87th Street.
Carlson, 1332 South Central, Cicero 60650.
Castiglia, L. R., d.b.a. Northern Aire Farm, 502 North Smith Street, Palatine 60067.
Chapman, W., Box 132, Coelle 62825.
Citrona, A. J., d.b.a. He and She Pet Shop, 21 West 304 East Highland Drive, Lake Zurich 60047.
Cochran, J., 1016 East North Avenue, Olney 62450.
Cochrum, R. and Templeton, R., d.b.a. The Ark Pet Center, Inc., 5753 North Clark, Chicago 60660.
Consolidated Pet Supply, Inc., 840 West Madison, Chicago 60697.
Cooper, G., d.b.a. Cooper's Continental Caines Route 3 Box 238, Palatine 60067.
Dale, D. M., Route 1 Box 159, Macedonia 62860.
Daleys Small Animals, 475 Westmore Road, Des Plains 60016.
Daniels, E. J., d.b.a. Daniels Kennels Rural Route 2, Colchester 62326.
Day, A. and L., d.b.a. Day's Kennel, 221 North 5th Street, Greenville 62246.
Debolt, M. D., 318 North Vine, Stewardson 62463.
Detroy, E. F., Box 65 Rural Route 1, Enfield 62835.
Drendel, R. L., d.b.a. R. and P. Rabbitry, 4838 Columbia Avenue, Lisle 60532.
Echternkamp, F. W., Route 4, Quincy 62301.
Ewing, J., d.b.a. Home Pet Center, 5201 North Milwaukee, Chicago 60630.
Fewell, D. and M., d.b.a. Merry Dawn Kennel Rural Route 2, Minonk 61760.
Fraley, B., Route 1 Box 121, Carrollton 62016.
Frank, A. C. and J. J., d.b.a. Franks Kennels, Route 1, Hanna City 61536.
Gajewski, T., Rural Route 1, Woodlawn 62898.
Garlisch, A. W., 1320 East Higgin Road, Elk Grove Village 60007.
Gaul, R. A., d.b.a. Worth Animal, 5301 West 95th, Oaklawn 60453.
General Foods Corp., Rural Route 2, St. Anne 60964.
Gerhardt, G. and S., d.b.a. Happy Hill Kennel, Rural Route Box 18, Niota 62358.
Goodman, K., Goodman Kennels, Rural Route 2, Hershey Road, Pearl City 61062.
Gregory, E. J., d.b.a. Gregory Kennel, Route 1, Bluford 62814.
Hale, R., 1340 Walnut, Carthage 62321.
Hall, J., d.b.a. Jo-Lu's Pets, 6 Bonnie Lane, Jacksonville 62650.
Hanna, E., d.b.a. Tropical Treasures, 3232 W 156th Street, Markham 60426.
Hanson, M. and A., Rural Route 1, Box 86A, Springfield 62707.
Harrell, D., Rural Route 3, Carthage 62321.
Hartung, H. and B., P.O. Box H, Herrin 62948.
Hayes, J. K. and M. A., d.b.a. Hayes Kennel, Route 1, Rochelle 61068.
Heller, J., d.b.a. Mobile Pet, P.O. Box 254, Lake Villa 60046.
Henderson, T. and R., d.b.a. Hideaway Kennel, Rural Route 2, Box 224, Waterloo 62298.
Hickman, D. and B., Route 1, Box 139, Stewardson 62463.
Hochmuth, W., d.b.a. Suburban Pet City, 6343 West Cermak, Berwyn 60402.
Hodge, I. O., Bellnap 62908.
Hoffmann, L., d.b.a. Hoffmann Rabbit Farm, Route 1, Algonquin 60102.
Holmes, H. N., d.b.a. Gunsmoke Kennels, 1541 East Lake Drive, Springfield 62707.
Inland Seas Inc., 851 Dundee Road, Wheeling 60090.
International Scientific Industries, Inc., P.O. Box 9, Cary 60013.
Isaacs, B. and A., d.b.a. Isaacs Rabbitry, 202 North Welch Street, Hillsboro 62049.
Isaacs, T. E., d.b.a. Isaacs Lab Stock, 1011 North Walnut, Litchfield 62056.
Johnson, H., d.b.a. Hillcrest Kennel, Route 2, Buncombe 62912.
Johnston, O., d.b.a. Green Acre Pets, Rural Route 4, Carlinville 62626.
Jones, O. A., d.b.a. Jones Kennels, Rural Route 1, Fowler 62338.
Joyner, A. E., Ferry Street, Metropolis 62960.
Kaiser, H., Rural Route 3, Box 130, Pana 62557.
Keirn, R. J., d.b.a. Pollard Rabbitry, P.O. Box 222, Hurst 62949.
Kelly, S. A. and D., Kellys Rabbitry, Rural Route 4, Marshall 62441.
Kesler, M., d.b.a. Kels-Ru Kennels, 1007 East North Avenue, Olney 62450.
Kill, M. F., Rural Route 2, Liberty 62347.
Kosirowski, J. J., 417 North Willow Street, Itasco 60143.
Koukol, A. and S., d.b.a. Lucky Shamrock Kennel, Rural Route 3, Box 83, Elgin 60120.

Krause, R. C. and M. C., Noah's Ark Pet Centers, 2430 East Oakton Street, Elk Grove 60007.
Krumwiede, N. E., d.b.a. Robin Knoll Kennel, Route 4, Box 303, Elgin 60120.
Richards, J. A., 311 Avondale, Champaign 61820.
Ross, J. A., d.b.a. Pets of the World, 161 South McLean Boulevard, Elgin 60120.
Runquist, C., d.b.a. Bear Creek Ranch,

Brown, L. A., 501 North Kimble Drive, Bloomington 47401.
Carver, L., d.b.a. Carver Kennels, Rural Route 12, Box 141, Bedford 47421.
Clark, O. E., 225-400 E. Danville 46122.

Stewart, R., d.b.a. Stewart's Pet Shop, 1013 South Walnut, Bloomington 47401.
Stout, S. R., P. L., d.b.a. Stout Exotic, P.O. Box 2842, Muncie 47302.

Benton, D. G., Rural Route 3, Box 49, Guthrie Center 50115.
Benton, P., d.b.a. Stoneys Kennel, Rural Route 2, Adair 50002.

Campbell, A. J., Route 2, Box 38, Monroe 50170.
Campbell, C., Mount Ayr 50854.
Campbell, S., Route 1, Irwin 51446.

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Kruth, R. and D., 228 Walker Dr., Bolingbrook 60439.
Kuhn, L. V., 25243 Naperville Road, Wheaton 60187.
Lebeck, B., d.b.a. Lebeck Kennels, Stronghurst 61480.
Lemen, Y. and C., d.b.a. Country Kennels, 2420 W. Macon, Decatur 62522.
Lewis, C. E., 1003 First Avenue, Mendota 61342.
Lewis, S. C., d.b.a. Omis Beagle Kennels, 8438 Elevator Road, Roscoe 61073.
Lomax, G., Opdyke 62872.
Lower, M. J., Route 2, Box 36, Lanark 61046.
Macmillan Science Co., Inc., 8200 South Hoyne Avenue, Chicago 60620.
Majer, F. J., d.b.a. Majer's, Box 201, Route 1, Sugar Grove 60554.
Marguardt, D., Route 1, Prairie Rocker 62277.
Marks, D., 3311 West Dickens, Chicago 60647.
Massman, L., Box 547, Ridgway 62979.
McMurtrey, G. A., Rural Route 1, Pocahontas 62275.
McKay, M. M., Route 1, Quiney 62301.
McKinzie, R. and E., d.b.a. McKinzie Kennels, Route 7, Box 136, Centralia 62801.
McNabb, E., P.O. Box 376, Robinson 62454.
McWhorter, M., d.b.a. Wildwood Kennels, Rural Route 1, Box 173, Makanda 62958.
Meyer, W. A., d.b.a. The Pet Shop, 7974 Grand Avenue, Waukegan 60085.
Miller, G. N., Millers Lab & Pet Animals, P.O. Box 516, Herrin 62948.
Mills, P. and P., d.b.a. Mills Dog & Gun Auction, 336 Cedar, Warsaw 62379.
Morgan, J., d.b.a. Morgan's Rabbitry, Route Box 147, Cullom 60929.
Morris, A. L., 104 South Pecatonica Street, Winnebago 61088.
Motsinger, R., d.b.a. Motsinger Kennels, Rural Route 2, St. Joseph 61873.
Muntz, D. K., d.b.a. Dons Bait and Bunny Farm, Rural Route 3, Carrollton 62016.
Myers, E. A., Rural Route 2, Box 93, Carmi 62821.
Neumann, B., Route 2, Greenville 62246.
O'Hare Tropico Imports, Inc., 10915C Franklin Avenue, Franklin Park 60131.
Oakley, M. W., d.b.a. Oakleys' Kennels, Route 4, Box 169, Greenville 62246.
Oltman, R., d.b.a. Oltmans Kennel, Route 1, Minonk 61760.
Pampered Pets, 310 South Michigan Avenue, Chicago 60604.
Parrish, L., d.b.a. Sundown Kennels, Rural Route 1, Navrood 62354.
Pawley, R., d.b.a. Zoological Center, International, 15 West 506 West 63rd, Hinsdale 60521.
Pence, C., 611 East Tremont Street, Hillsboro 62049.
Pepper, M. M., d.b.a. Pepperidge Zoo Farm, Rural Route 2, Danville 61932.
Phillips, T., d.b.a. Phillips Sale Co., Rural Route 1, Good Hope 61438.
Pianpiano, C. P., d.b.a. The Major Mink Ranch, 2601 Wadsworth Road, Zion 60099.
Poos, J. E., Rural Route 1, Litchfield 62056.
Ptak, L. and M. and V., d.b.a. Thunderbird Caviary and Rabbitry, 1623 Ardmore Avenue, Glendale 60136.
Rab, W., Route Box 65, Monee 60449.
Ramsey, F., Route 1, Omaha 62871.
Rapp, C., Route 1, Bluford 62814.
Research Industries Corp., P.O. Box 128, Monee 60449.
Richards, J. A., 311 Avondale, Champaign 61820.
Ross, J. A., d.b.a. Pets of the World, 161 South McLean Boulevard, Elgin 60120.
Runguist, C., d.b.a. Bear Creek Ranch, Route 2, Box 178A, Mendon 62351.
Runte, G. P., d.b.a. Kodiakkennels, Rural Route 1, Freeport 61032.
Russell, H., Rural Free Delivery, Buncombe 62912.
Sales, E., d.b.a. Ricks Rabbits, 602 Front, Lpale 60532.
Sanchez, B., d.b.a. Ben's Puppyland, 405 Reeder Street, Box 644, Elburn 60119.
Sanders, B. J., Route 2, Mulkeytown 62865.
Schafale, G. and M., d.b.a. Schafale Kennels, 712 East Main Street, Marion 62959.
Schafer, A. M., Schafers Kennels, 303 South Ward Street, Benton 62812.
Schlumpf, H. W., d.b.a. PET Ltd., 2232 West Winnemac, Chicago 60625.
Scientific Small Animal Lab and Farm, Inc., 401 West Golf Road, Arlington Heights 60005.
Shadowen, N., Rural Route 3, Benton 62812.
Sheridan, B. F., Rural Route 1, Mount Carmel 62863.
Sikkema, C., d.b.a. TLC Puppy Nursery, Box 183, Lyndon 61261.
Sikkema, L. and D., d.b.a. Puppy Love Acres, Route 2, Walnut 61376.
Smith, Doulgass Division, Borden Chemical, Borden, Inc., Animal Care Facilities* Rural Route 1, Elgin 60120.
Smith, C. E., Box 411, Sidney 61877.
Smith, F. K., Box 105, Alsey 62610.
Smith, V., Rural Route 2, Ramsey 62080.
Stalter, G. R., d.b.a. The Rabbit Tree Box 83, Hopedale 61747.
Steffen, D., Route 3, Effingham 62401.
Steinmetz, C. B., d.b.a. Palmyra Pug Pad Box 205 409 West Oak Street, Palmyra 62674.
Sutton, A., Lyndon 61261.
Sweet, A. L., d.b.a. Sweet's Kennel Rural Route 2, Polo 61064.
Theis, R., 4654 North Kedzie Chicage 60625.
Thomas, L. and R., Strasburg 62465
Thompson Research Foundation, P.O. Box 128, Monee 60449.
Toms, S. J., d.b.a. Toms Kennel Rural Route 2, Benton 62812.
Turner, B., d.b.a. Turner Kennels Route 9, Quincy 62301.
Valstad, A., Route 2, Carrollton 62016.
Warren L. and Peller M. d.b.a. War-Fel Labs P.O. Box 23 Assumption 62510.
Warsaw Coon Hunters Assoc. 1285 Main, Warsaw 62379.
Watson, R., Cisne 62823.
Weber, J. and K., d.b.a. Jewel-Ken Kennel Route 3 Box 210, Red Bud 62278.
Wedge's Creek Research Farm, Industrial Bio Test Laboratories, Inc., 1810 Frontage Road, Northbrook 60062.
Whewell, R. and C., Rural Route 3, Carthage 62321.
White, G., Route 4 Box 460, Marion 62959.
Willie, R. W., d.b.a. Wille Laboratories 663 Arrowhead Drive, Elgin 60120.
Wolfe, M. B., Rural Route 2, Flora 62839.
Woods, E., 1607 Pickford, Robinson 62454.

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Bowser, T., Rural Route 1, Garrett 46738.
Brooking, M., Rural Route 17, Bedford 47421.
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Engle Laboratory Animals, Inc., Rural Route 2, Farmersburg 47850.
Essig, M. K., Route 2, Noblesville 46060.
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Fields, A., d.b.a. Fields Kennels, Rural Route 3, 47371.
Fisher, B., Rural Route 5, Box 257, Shirley 47384.
Graue, H. C., Tri-Acre Kennel, Route 4, Greensburg 47240.
Greiner, J. and M., Route 2, Connesville 47331.
Harrell, A., Rural Route 17, Bedford 47421.
Iliff, L. E., d.b.a. Iliff Farms, Rural Route 5, Box 257, Portland 47371.
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Johnson, M. and D., d.b.a. James E. Nicely Rabbitry, Rural Route 6, Box 198, Greenfield 46140.
Kepner, L., Route 3, Box 235A, Danville 46122.
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Lackey, J. C., 101 North Gladstone Avenue, Columbus 47201.
Mann, H. W., Route 2, Vienna Road, Wadesville 47638.
Masters, M. K. and G. d.b.a. Bitter Ridge Kennels, Rural Route 5, Box 72, Portland 47371.
Mathews, R. S., Route 2, Box 238, Borden 47106.
McVay, J. W., d.b.a. J & J Game Farm, Box 2, Lake Cicott 46942.
Midwest Reptiles & Animal Sales, Inc., d.b.a. Ackerman, L., P.O. Box 239, Ft. Wayne 46801.
Modesitt, W. R., d.b.a. Northside Kennels, Rural Route 16, Box 4, Bazil 47834.
Modrefield, B., d.b.a. Wolf-A-Dog Kennel, 849 Hitzfield, Huntington 46750.
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Morris, B. F., 1215 Virgil Boulevard, Princeton 47670.
Murphy Breeding Laboratory, Inc., d.b.a. Murphy Breeding Laboratory, Inc., Rural Route 3, Box 445, Plainfield 46168.
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Schnepp, R. E., d.b.a. Lazy S Kennels, Rural Route 5, Decatur 46733.
Sears, E. R., d.b.a. High Platte Kennel, Rural Route 12, Box 337, Bedford 47421.
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Stevens, S., Route 17, Box 363, Bedford 47421.

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Tucker, B., 317 South Forest Avenue, Brazil 47834.
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White, T. W., Route 2, Mitchell 47446.
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Wilson, D. W., d.b.a. Wilson Small Animal Farm, P.O. Box 65, Vincennes 47591.
Windsor, A. S., d.b.a. Windsor Biology Gardens, R.F.D. 3, Box 301, Bloomington 47401.
Wood, H. B. and M. L., Rural Route 4, Box 450, Alexandria 46001.
Zentz, D., d.b.a. Silver Lawn Kennels, Rural Route 2, Nappanee 46550.
Zook, H. K., d.b.a. Maple Hill Kennel, Box 354, Morgantown 46160.

IOWA

Ackerman, L. and K., 115 North 5th Avenue, Villisca 50864.
Agans, S. D. and W. R., Rural Route 2, Creston 50801.
Allen, D. and P., Route 4, Newton 50208.
Allstot, K., R.F.D. 1, Tabor 51653.
Allsup, A. R., Route 2, Box 83C, Chelsa 52215.
Andersen, D., Route 1, Elkhorn 51531.
Andersen, M. L., Box 95, Marne 51552.
Andersen, S., Rural Route 1, Lucas 50151.
Anderson, C. A., 4017 West 31st Street, Sioux City 51103.
Anderson, D., Rural Route 1, Box 35, Mt. Union 52644.
Anderson, D. R., d.b.a. Lazy A. Kennels, Lewis 51544.
Anderson, D. R., Box 412, Doon 51235.
Anderson, M. G., Rural Route 1, Dayton 50530.
Andeway, L., Route 1, Piano 52581.
Andreasen, J. and G., Rural Route 2, Box 140, Audubon 50025.
Archer, L. M., Box 65, Mingo 50168.
Arends, M., Rural Route 1, Dike 50624.
Arends, T., Rural Route 2, Box 188, Sac City 50583.
Arkland, D. and S., d.b.a. Arkland Kennel, Rural Route 2, Eldora 50627.
Arnold, C. W., Rural Route 1, Shannon City 50761.
Asher, N. L. and E. D., d.b.a. Asher Farm Kennels, Rural Route 2, Wapell 52653.
Atwood, B. A., Rural Route, Gilmore City 50541.
Auerbach, L. and E. R., Route 1, Lewis 51544.
Ault, W. and J., 31 Carter Lake Club, Carter Lake 68110.
Bailey, W. H. and M. K., d.b.a. Dream on Kennel, Rural Route 1, Box 242, Wever 52658.
Baird, B. A., Route 2, Morton Mills, Villisca 50864.
Baker, D., Route 2, Hartley 51346.
Balzer, H., d.b.a. Fairlane Kennel, Box 95, West Burlington 52655.
Barrett, R. F. and M. A., d.b.a. Terrab Kennels, Route 1, Conrad 50621.
Baudler, J., Fontanelle 50846.
Becker, W. and C., d.b.a. Becker Kennels, Rural Route 1, Knoxville 50138.
Bedwell, S. L., d.b.a. Bedwell's Blue Kennel, Route 3, St. Charles 50240.
Bender, J. and V., d.b.a. Benders 4 Paws Kennel, 417 Willis, Perry 50220.
Benton, D. G., Rural Route 3, Box 49, Guthrie Center 50115.
Benton, P., d.b.a. Stoneys Kennel, Rural Route 2, Adair 50002.
Berkenbosch, D. Route 2, Prairie City 50228.
Bieghler, R., d.b.a. Artic Nook Kennel, Route 4, Indianola 50125.
Binns, J. L. and D. L., d.b.a. Wag-N-Tails Kennels, Rural Route 5, Highway 69 North, Osceola 50213.
Bissen, K., Rural Route 2, Dunlap 51529.
Black, D. L. and N., d.b.a. Doggie Room and Groom, Rural Route 1, Amos 50010.
Blackford, E. and A., Rural Route 2, St. Charles 50240.
Blackford, J., Route 1, Indianola 50125.
Blackman, R. T., 310 First Street, Lewis 51544.
Blank, C. J. and S., d.b.a. Char-San Kennels, Box 306, 400 Edwards Street, Emerson 51533.
Blanshan, C. K., Rural Route 1, Box 137, Scranton 51462.
Boat, D. E. and C. M., Route 1, Otley 50214.
Bockenstedt, H. F., Route 1, Earlville 50241.
Bonnett, D. D., Route 1, Box 5, Corydon 50060.
Boock, G. L., Rural Route 1, Holstein 51025.
Boysen, M., d.b.a. Boysen Kennel, Rural Route 1, Danbury 51019.
Bradley, M. and D., d.b.a. Dusty Road Kennel, Rural Route 1, Box 224, Wever 52658.
Brand, C. D., Route 3, Newton 50208.
Brandhof, L., Route 1, Mitchellville 50169.
Brandhorst, H., 4105 McKeller Road, Waterloo 50702.
Brandt, F. E., d.b.a. Snopeke Kennel, Box 637, Walnut 51577.
Brandt, R. and A., d.b.a. Prailsie Rose Kennel, Rural Route 4, Harlan 51537.
Brant, L., Rural Route 1, Glidden 51443.
Breuer, D. M., Box 123, Sperry 52650.
Bright, M., d.b.a. Bright's Kennels, Bouton 50039.
Brinkmeyer, D. L., d.b.a. Diblandale Kennels, 416 Newland Street, New London 52645.
Britten, H., Route 1, Creston 50801.
Broich, P. G., 505 West 18th, Carroll 51401.
Broshar, F., d.b.a. H Point Kennel, Exline 52555.
Brown, A., d.b.a. Brown's Kennel, Route 1, Blakesburg 52536.
Brown, A. L., d.b.a. Timberlane Kennels, Route 1, Box 166, Oxford Junction 52323.
Brown, L. and R., d.b.a. Land R Kennel, Sharpsburg 50862.
Brown, M., d.b.a. Pine Tree Kennels, Rural Route 1, Graettinger 51342.
Brown, R. P., Dow City 51528.
Bruxvoort, P., d.b.a. Bruxvoort Kennels, Rural Route 1, Mitchellville 50169.
Bulten, J. and C., d.b.a. Ja-Clar Kennels, Rural Route 4, Cedar Falls 50613.
Bumann, L., Rural Route 1, Castana 51010.
Burg, L. J., d.b.a. Burg Kennels, Box 69, Bridgewater 50837.
Burk, E. L., Rural Route 1, Hamilton 50116
Burnett, E., Rural Route 2, Knoxville 50138.
Burress, S., Route 3, Albia 52531.
Bussey, B. and M., Bussey 50044.
Butikofer, R. and R., Box 236, Clermont 52135.
Buttler, T. L., Rural Route 1, Box 125, Guthrie Center 50115.
Bussetti, Dr. R., Alden 50006.
Byl, A. and H., Orange City 51041.
Caldwell, V. M., d.b.a. Belle Tower Kennel, Mediapolis 52637.
Cameron, D. and J., d.b.a. Hollylane Kennels, 4425 West Street, Sioux City 51103.
Campbell, A. J., Route 2, Box 38, Monroe 50170.
Campbell, C., Mount Ayr 50854.
Campbell, S., Route 1, Irwin 51446.
Carmichael, C. and L., d.b.a. Lookcee Kennel Route 1, Emerson 51533.
Carmichael, J. and P., d.b.a. Spring Valley Kennels, Route 3, Box 120, Red Oak 51566.
Carpenter, D. G. Rural Route 2, Maxwell 50161.
Casteel, T., 1213 South 10th, Burlington 52601.
Chalmers, J., d.b.a. Julia's Farm Kennels Route 5, Box 106, Iowa City 52240.
Chaney, S., d.b.a. Sno-Haven Kennels, P.O. Box 232, Walnut 51577.
Chapman, B. and Biell J., Kingsley 51028.
Chapman, R. and R., d.b.a. R. and R. Kennels, 601 North Second, Seymour 52590.
Chatfield, R. A., Rural Route 2, Box 258, Keokuk 52632.
Christensen, E. and K., 506 State Street, Guthrie Center 50115.
Christy, R. M., Rural Route 6, Ottumwa 52501.
Cicco, N., 902 Wayne, Seymour 52590.
Clark, A. M. and H., d.b.a. Clarks Kennel, 401 Waters Street, Alden 50006.
Clark, C., d.b.a. Clarks Kennel, Rural Route 1, Promise City 52583.
Clatterbuck, M., Route 2, Anita 50020.
Cleveland, R. W., P.O. Box 109, Lake View 51450.
Cockburn, R. W. and D., Route 1, Correctionville 51016.
Coddington, L. and A. and B. d.b.a. Balton Kennel Rural Route 1, Hastings 51540.
Condon, W., Acorn Acres Kennels, Rural Route 2, Estherville 51334.
Conger, D., Ollie 52576.
Conner, N. E., Route 5, Box 204, Mount Pleasant 52641.
Conrad, E. L. and D., d.b.a. E. L. Conrad & Son, Keota 52248.
Cooley, M., Route 2, Box 105, Anita 50020.
Cooper, C. S., d.b.a. Cooper Kennels, P.O. Box 117, Mystic 52574.
Cooper, W. D., Rural Route 2, Norwalk 50211.
Cox, M. and S., Rural Route 1, Conrad 50621.
Crawford, D. R., Grimes 50111.
Criss, F., d.b.a. Coal Haul Kennel, Rural Route 1, Otley 50214.
Crow, R. I., d.b.a. Delta Kennels, Rural, Delta 52550.
Crozier, L. P., d.b.a. Crozier Kennels, Route 1, Knoxville 50138.
Currie, J. F. and A., Rural Route 1, Schaller 51053.
Dahm, J. and S., Rural Route 2, New Sharon 50207.
Dalbey, L. G., d.b.a. Dalbey Rabbitry, Box 37, Ellsworth 50075.
Damon, D., Rural Route 4, Knoxville 50138.
Davis, C., d.b.a. 3 D Kennel, Route 4, Winterset 50273.
Davis, R. and J., Rural Route 1, Box 100A, Bronson 51007.
Davis V., 909 East Howard Street, Creston 50801.
Day, D. R., Box 72, Allerton 50008.
Day R., Rural Route 2, Nevada 50201.
De Boer, J., Primghar 51245.
De Posse, C., Rural Route 2, Mediapolis 52637.
De Jong, G., Alton 51003.
De Jong, R. and A., Route 2, Orange City 51041.
Dean, A. L., 1610 Lincoln, Cadar Falls 50613.
Debolt, B. K., d.b.a. Lloyds Kennels, Route 1, Box 4, Neola 51559.

Debrfui, R. and J., d.b.a. Oakview Game Farms, Rural Route 1, Prairie City 50228.
Delong, L. and P., d.b.a. Rolin Hills, Route 5, Osceola 50213.
Diersenfield, R., Rural Route 2, Storm Lake
Fopma, E., Rural Route 1, Grinnell 50112.
Foreman, R. W., Route 1, Box 61, Indianola 50125.
Foresman, R., Rural Route 2, Audubon
Harris, R., d.b.a. Y-Wyre Kennels, Grand River 50106.
Hauf, L., 508 North Division, Stuart 50250
Hauge, O., Rural Route Box 62, Huxley

Johnson, J. and J., d.b.a. Jo & Jons Kennel, 206 West Des Moines Street, Eldon 52554.
Johnson, K. C., Rural Route 2, Albia 52531.
Johnson, L. R., 1623 Victoria, Harlon 51537.
Johnston, L. L., d.b.a. Pine Knoll Kennel,
Lauritsen S. and S., Rural Route 2, Exira 50076.
Laverman, W. J. D. and K., Rural Route 1, Sully 50251.
Moffett, F. E., Route 1, Keosauqua 52565.
Moody, L., Pocahontas 50574.
Moore, M., Box 226, Route 1, Centerville 52544.

Debrful, R. and J., d.b.a. Oakview Game Farms, Rural Route 1, Prairie City 50228.
Delong, L. and P., d.b.a. Rolin Hills, Route 5, Osceola 50213.
Dierenfield, R., Rural Route 3, Storm Lake 50588.
Discher, J. D., Rural Route 1, Box 51, Burt 50522.
Dixon, C. M., Rural Route 1, Nodaway 50857.
Dodd, D. and R., Route 4, Box 98, Boone 50036.
Dolieslager, G., 1360 North Main, Sioux Center 51250.
Donahue, K., 224 Oaks Street, North English 52316.
Doornick, W., Rural Route 4, Le Mars 51031.
Doyen, T., Rural Route 1, Manson 50563.
Draper, P., Route 3, Creston 50801.
Dreessen, F., Rural Route 1, Cushing 51018.
Dreibelbis, d.b.a. Dreibelbis Guinea Pig Ranch, 414 South 11th, Denison 51442.
Dudley, W. L., d.b.a. Dud-Lee's Kennels, Route 2, Creston 50801.
Dueling, J. E., Route 1, Allerton 50008.
Dueling, R., Route 1, Box 325, Allerton 50008.
Dugger, B., d.b.a. Dugger Fur Farm, Box 323, What Cheer 50268.
Duit, A. D., Route 1, Box 11, Monticello 52310.
Dumkrieger, F. and M., Box 33, Ute 51060.
Eades, D. M., Route 2, Anita 50020.
Eades, P. E., 615 Oneida Street, Storm Lake 50588.
Earles, B., d.b.a. Iowa Small Animal Enterprises, 1720 South 17th Street, Fort Dodge 50501.
Ebel, R., 228 South Mickley, Paullina 51046.
Eck, D. A., d.b.a. Sugar Creek Kennel, Rural Route 1, Montrose 52639.
Eckhoff, B., Rural Route 1, Sibley 51249.
Ecklor, P., d.b.a. Misty Meadow Kennels, Route 4, Marshalltown 50158.
Ehlert, D., Rural Route 1, Mondamin 51557.
Elbert, G., Rodman 50580.
Elgersma, M., d.b.a. Elgersma Puppy Farm, Sanborn 51248.
Ellenboli, R., Route 1, McGregor 52157.
Ellis, N. J., Box 265, Route 2, Ottunmwa 52501.
Ellwanger, R., Box 148, Rural Route 1, 17th Street, Grand Junction 50107.
Elsner, A., 615 Oneida Street, Storm Lake 50588.
Emmons, M. and Schlienz, S., d.b.a. Briarcreek Kennel, Rural Route 83, Solon 52333.
Erickson, C., d.b.a. Kalyn Kennels, Route 1, Kelley 50134.
Erickson, R. and S., d.b.a. Erickson Kennels, Route 1, Emerson 51533.
Etherington, D. and J., d.b.a. D. J. Kennels, Rural Route 2, Gilmore City 50541.
Faber, K. L., Route 1, Algona 50511.
Fairchild, J. L., d.b.a. Hill Top Kennels, Route 2, Sioux Rapids 50585.
Fales, L., d.b.a. Fales Kennels, Box 278, Albert City 50510.
Farnum, N. R., Route 1, Carlisle 50047.
Ferris, W. J., d.b.a. Ferris Wild Animal Farm, Route 1, Toledo 52342.
Finch, A. and D., Rural Route 1, Kelly 50134.
Fiscus, M., Rural Route 2, Glidden 51443.
Fisher, D., Route 1, Box 116, West Point 52656.
Fitzpatrick, K., d.b.a. Hi Vu Kennels, Route 2, Denison 51442.
Flanagan, H., 102 West 1st Street, Leon 50144.
Foland, B., d.b.a. Foland Puppy Rance, Rural Route, Thayer 50245.
Popma, E., Rural Route 1, Grinnell 50112.
Foreman, R. W., Route 1, Box 61, Indianola 50125.
Foresman, R., Rural Route 2, Audubon 50025.
Forman, D. and M., d.b.a. Amiens Dobermans, Rural Route 1, Box 227, November 30, 1977.
Fortune, J. L., Rural Route 3, Chariton 50049.
Foster, B. I., Route 1, Chariton 50049.
Fowler, D., Cincinnati 52549.
Fox, C. C., Route 2, Forest City 50436.
Fox, J., d.b.a. Fox's Forbosh Kennels, Route 3, Centerville 52544.
Fox, Jr., E., Route 5, Forest City 50436.
Fullenworth, G., d.b.a. Fullenworth Kennel, Storm Lake 50588.
Gardner, M. J., Route 2, Diagonal 50845.
Garner, D., Route 4, Osceola 50213.
Garrison, L. O. and M. L., d.b.a. Valley Pride Kennels, Rural Route 3, Fairfield 52556.
Garside L., Route 1, Box 23, Anita 50020.
Gates, R. L., 2119 Boyd Street, Des Moines 50317.
Gigler, B., d.b.a. Barb's Kennels, Titonka 50480.
Gilbert, H., Keosauqua 52565.
Gillam, M. and Bryan R., Route 1, New Sharon 50207.
Gilmore, B. L., 4090 Northeast 46th, Des Moines 50317.
Glass, J. L., Rural Route 1, Brooklyn 52211.
Glass, R. H., Rural Route 1, Marshalltown 50158.
Goodard, K. A., d.b.a. K-Annes Kennels, Box 4, Elwood 52226.
Godwin Bros., Inc., d.b.a. Godwin Bros., Inc., 209 West Salem, Indianola 50125.
Good, F. and A., Route 3, Fort Dodge 50501.
Goodell, S., Box 124, Millerton 50165.
Goodemore, B. A., Box 186, Route 1, Stanton 51573.
Goodwin, B. M., Rural Route 2, Box 122, Glidden 51443.
Goodwin, J., 402 Woodmanese Street, Macedonia 51549.
Gosch, M., d.b.a. Gosch's K-9's, Rural Route 2, Ida Grove 51445.
Grady, R. and D., Rural Route 1, Box 73, Otho 50569.
Graeve, F. H., Rural Route 1, Earling 51530.
Graeve, M. A., Rural Route 1, Defiance 51527.
Gray, J. T., Rural Route 1, Dunlap 51529.
Gray, K. K. and A., Box 43, Clarinda 51632.
Green, H., Rural Route 1, Piano 52581.
Greiman, R. L., Kellerton 50133.
Griffioen, B., d.b.a. Griffioen Kennels, 407 Wyman, Sheldon 51201.
Griffith, C. E, Rural Route 2, Box 104, Audubon 50025.
Grotewold, D., Rural Route 2, Lake Mills 50450.
Gruenhagen, G., Route 2, Walcott 52773.
Gude, J., Rural Route 2B, Exira 50076.
Hainline, H. H., Route 1, Creston 50801.
Hall, H. W., Rural Route 3, Villisca 50864.
Hall, K. E., Route 1, Goodman 64864.
Hamann, E., Rural Route 2, Rock Rapids 51246.
Hamann, E., Rock Rapids 51246.
Hamar, N. J., d.b.a. Diamond H Kennel, Route 2, Box 430 Lineville 50147.
Hamrick, H. M., Route 1, Ackworth 50001.
Hanny, R., 601 Walker, Woodbine 51579.
Hansen, D. and D., d.b.a. Hansen Kennels, Rural Route 3, Exira 50076.
Hardin, R. D., Box 13, Greenfield 50849.
Harding, A., Rural Route 4, Ottumwa 52501.
Hardisty, D., Rural Route 3, Corning 50841.
Harman, J. R., Rural Route, Corydon 50060.
Harrington, E. F., Rural Route 1, Blakesburg 52536.
Harris, R., d.b.a. Y-Wyre Kennels, Grand River 50108.
Hauf, L., 508 North Division, Stuart 50250
Hauge, O., Rural Route Box 62, Huxley 50124.
Havick, M., Route 1, Shelby 51570.
Hayes, C. and Graham, C., d.b.a. Wolf Point Kennel, Rural Route 1, Ackworth 50001.
Headley, K. and D., Rural Route 1, Ellsworth 50075.
Heiman, J. and R., Rural Route 1, Manilla 51454.
Heishman, B., Rural Route 2, Tama 52339.
Henry, B. L., Rural Route 2, Lorimor 50149.
Henser, L. and C., Rural Route 1, Manson 50563.
Hensley, D. E., Route 1, Box 166, Lamone 50140.
Herbold, W. R., d.b.a. Woodbury County Livestock Auction, Lawton 51030.
Herrig, M., Rural Route 2, Denison 51442.
Hess, M. J., Route 1, Washington 50523.
Hickman, L. R., 103 Steele, Corydon 50060.
Hicks, S., Rural Route 2, Box 99 Audubon 50025.
Highland, D. E., d.b.a. Highland Kennel, Route 4, Box 217, Harlan 51537.
Hilsabeck, M. and L., d.b.a. M and M Kennels, Rural Route 1, Gliddon 51443.
Hixenbaugh, B., d.b.a. Lakeview Kennel, Piano 52581.
Hofbauer, S. L., 624 Walnut Street, Coon Rapids 50058.
Hoff, C., Route 1, Rock Rapids 51246.
Holmes, D. R., d.b.a. Holmes Animal Farm, Route 2, Box 252, Storm Lake 50588.
Holst, C., d.b.a. Char-Du-Kennels Rural Route 1, Keystone 52249.
Holst, D. H., Rural Route 4, Fairfield 52556.
Holtorf, D. R., Rural Route, Callender 50523.
Holtz, C. G., d.b.a. Botna Valley Kennels, Rural Route 2, Avoca 51521.
Homandberg, A., Inwood 51240.
Hoover, B., Milford 51351.
Hoover, F. R., Box 154 Otho 50569.
Horman, C., d.b.a. Horman's Sunny Dale Kennels, Route 3, Pella 50219.
Howard, J. M., Rural Route 4, Ottumwa 52501.
Huffer, J., Route 1, St. Charles 50240.
Huisman, D., d.b.a. Huisman Aquatics, 1404 Highway 60 South, Sheldon 51201.
Hull, M. L., Gibson 50104.
Hummel, D. Route 2, Earlham 50072.
Hurst, B. L., d.b.a. Two-Lee's Kennel, Box 267, Centerville 52544.
Hussey, R. D., d.b.a. Woodlawn Kennels, Alta 51002.
Hyde, C. and B., Rural Route 1, Box 19, Peterson 51047.
Irving, D., Rural Route 1, Chariton 50049.
Jacobson, A. and J., Rural Route 1, Lakemills 50450.
James, C. and E., Route 2, Lineville 50147.
Jansen, D., Route 1, Sioux Center 51250.
Janssen, S., Rural Route 2, Lake City 51449.
Jarvis, J. A., 719 3rd Avenue North, Mt Vernon 52314.
Jennings, P., 621 Orchard, Chariton 50049.
Jensen, A., Route 2B, Exira 50076.
Jensen, D. L., Rural Route 2, Audubon, 50025.
Jobe, J. A., d.b.a. By-Jobe Kennels & Stable, Box 281, Tabor 51653.
Johnsen, R. and C., d.b.a. Kenloy Kennels, Route 1, Box 133, Hull 51239.
Johnson, C. W., 606 South Michigan, Anita 50020.
Johnson, G., Rural Route 1, Box 49, Smithland 51056.
Johnson, H. L., d.b.a. Lee Bee Kennels, Rural Route 4, Grinnell 50112.

Johnson, J. and J., d.b.a. Jo & Jons Kennel, 206 West Des Moines Street, Eldon 52554.
Johnson, K. C., Rural Route 2, Albia 52531.
Johnson, L. R., 1623 Victoria, Harlon 51537.
Johnston, L. L., d.b.a. Pine Knoll Kennel, 506 West Stanford Street, Jefferson 50129.
Jones, N. J., Route 1, Ackworth 50001.
Judge, L., d.b.a. Judges Kennels, Moravia 52571.
Kagay, T. E. and S., d.b.a. Silverwood, Rural Route 2, Box 80, Shenandoah 51601.
Kamerman, A., Orange City 51041.
Kamrath, R. M., d.b.a. Kamrath Kat N Kanine Korner, 1015 Carriage Hill Drive, Clinton 52732.
Kannegieter, C. H., 1103 Grey Street, Aplington 50604.
Kauffman, H., d.b.a. Kauffman Kennels, Wayland 52654.
Kauffman, J., Box 114, Wayland 52654.
Keller, A., Humeston 50123.
Kelley, M. M. and R. G., d.b.a. Kelley's Kennels, Kellerton 50133.
Kelly, B., Clarence 52216.
Kenkel, L. A., Rural Route 2, Box 73, Harlan 51537.
Kern, C., Route 1, Lucas 50151.
King, S., Route 2, West Point 52656.
Kinney, D. D., Rural Route 1, Denison 51442.
Kinney, L. M., Route 1, Adair 50002.
Klabunde, M. and K., d.b.a. Cedarwood Kennels, Rural Route 1, Honey Creek 51542.
Klass, B. J., d.b.a. Hi-Klass Kennels, Rural Route 4, Ft Dodge 50501.
Klein, Y., Rural Route 4, Harlan 51537.
Kling, P., Route 1, Stanton 51573.
Klobnak, V., Box 178, Hamilton 50116.
Knudson, M., Rural Route 3, Red Oak 51566.
Koele, C. K., d.b.a. Koeles Kennels, Hull 51239.
Koontz, O. L., d.b.a. Pat-O Pal Kennel, 1009 Ann Parkway, Indianola 50125.
Kordick, H., Route 1, Box 97, Bridgewater 50837.
Kott, J., 5000 East 14th Street, Sioux City 51105.
Kotz, G., Rural Route 1, Kiron 51448.
Krabill, A., Route 3, Mount Pleasant 52641.
Krage, S., d.b.a. Perry Valley Kennels, 7410 Perry Creek Road, Sioux City 51108.
Kragelund, M., Route 1, Wiota 50274.
Krause, R., d.b.a. Krause Sunrise Kennel, Massena 50853.
Krause, R., Rural Route 1, Fenton 50539.
Krnid, G., Ireton 51027.
Krogstad, P., P.O. Box 88, Elk Horn 51531.
Krosch, R. F., d.b.a. Kroschoble Kennels, Route 2, Kingsley 51028.
Krough, R. H., 928 Cedar Street, Story City 50248.
Kruid, F., Maurice 51036.
Kruse, G., Route 2, George 51237.
Kruse, G. M., Route 1, Salem 52649.
Kunze, A. M., Route 1, Lewis 51544.
Lake, D. L., Rural Route 2, Guthrie Center 50115.
Lancaster, D., d.b.a. Shady Acres Kennels, Route 4, Lemars 51031.
Lang, J. H. and J. L., 502 North Marion Avenue, Washington 52353.
Lang, R. and C., d.b.a. Lang's Kennel, 1816 East 12th Street, Des Moines 50316.
Lang, T., 5760 Southeast 68th Place, Carlise 50047.
Langel, L. V., Rural Route 1, Tempelton 51463.
Langstraat, Jr., H., Route 1, Otley 50214.
Larsen, C. and D., Rural Route 2, Audubon 50025.
Latta, F., Route 1, Monticello 52310.
Lauritsen S. and S., Rural Route 2, Exira 50076.
Laverman, W. J. D. and K., Rural Route 1, Sully 50251.
Leas, N. D., d.b.a. Lutzhaus Kennels, Reg., 5532 Ashworth Road, West Des Moines 50265.
Lee, E., d.b.a. Lees Kennel, 106 Lee Street, Seymour 52590.
Leichtman, R. J., Box 336, New Hampton 50659.
Leinen, J. A. and L. J., d.b.a. Suebob Kennels, South English 52335.
Leinen, L. J., d.b.a. Parsolish Kennels, Harper 52231.
Lewiston, T. J. and D. M., d.b.a. Sanstone Kennels, Rural Route 1, Box 128, Camanche 52730.
Lindell, J., Rural Route 1, Lenox 50851.
Link, N. J., Rural Route 1, Ackley 50601.
Linman, B., Arthur 51431.
Little, L. D., Box 186, Barnes City 50027.
Livingston, H. and S., Route 1, Milo 50166.
Livingston, M. and K., Box 87, Farragut 51639.
Lloyd, M., d.b.a. Riverside Kennel Rural Route 1, Colfax 50054.
Logan, J. H., Tabor 51653.
Loynachan, T., Route 3, Chariton 50049.
Lundquist, G., Route 1, Corning 50841.
Lundstrom, D., Box 311, Spirit Lake 51360.
Lynch, H., Rural Route 1, West Branch 52358.
Lyons, W., Route 1, Exline 52555.
Madsen, B. A., Rural Route 3, Audubon 50025.
Madsen, S., Rural Route 1, Audubon 50025.
Marlin, G., d.b.a. Marlin Wild Animal Farm, Route 1, Creston 50801.
Marshall, G., Route 8, Bloomfield 52537.
Martin, J. W., d.b.a. Shady Lane Kennel, Rural Route 2, Box 85, Rockwall 50469.
Maudlin, P., Redding 50860.
McCreary, J., Rural Route 1, Mount Ayr 50854.
McClain, A., d.b.a. McClain Kennels, Harris 51345.
McCombs, S. D., Route 1, Ackworth 50001.
McCoy, H. and S., d.b.a. McDes Kennel, Route 2, Delmar 52037.
McCullough, N., Route 2, Box 71, Moulton 52572.
McDermott, J., d.b.a. Swiss Moor Saint Bernards, Rural Route 1, Charlotte 52757.
McDermott, R., Route 2, Atlantic 50022.
McDonald, E., Route 2, Albia 52531.
McGrann, J., Route 1, Mystic 52574.
McIntosh, R. and S., Farmington 52626.
McKamey, N., Rural Route 1, Box 185, Bettendorf 52722.
McKinney, R. W., 1808 West Park Street, Harlan 51537.
McNair, D. and C., d.b.a. McNair Poodles, Box 297, North Liberty 52317.
Means, V., Box 241, Carbon 50839.
Meeves, R. E., Rural Route 1, Ida Grove 51445.
Mennenga, L., d.b.a. Sue-Lynn Kennel, Rural Route 1, Belmond 50421.
Meyer, Route 1, Brandon 52210.
Meyer, A., 70 Allview Drive, Cedar Rapids 52404.
Michael, F. D., Route 2, Elkhart 50073.
Michels, S., Rural Route 1, Royal 51357.
Miles, D., Ida Grove 51445.
Miller, D. W., Rural Route 2, Keota 52248.
Miller, J. F., Dunlap 51529.
Miller, L. M., d.b.a. Miller Bar Leo Acre, Box 284, Manson 50563.
Modler, D., d.b.a. Ruan's Kennel, Rural Route 1, Walcott 52773.
Moeller, S., Route 2, Box 32, West Point 52656.
Moffett, F. E., Route 1, Keosauqua 52565.
Moody, L., Pocahontas 50574.
Moore, M., Box 226, Route 1, Centerville 52544.
Morman, B., Box 122, Dawson 50066.
Morrison, L., Rural Route 1, Grand River 50108.
Morrison, M. C., d.b.a. Morrison Rabbitry, Rural Route 1, West Liberty 52776.
Morse, A. C., Rural Route 2, Marion 52302.
Moulds, S. E., d.b.a. West Road Kennel, Rural Route 1, Box 31, Lake City 51449.
Moyer, P. L. and R. M., Route 1, Prole 50229.
Murphy, R., d.b.a. Oak Hill Kennels, Route 3, Council Bluffs 51501.
Musel, V. and D., Box 321, Chelsea 52215.
Narigon, A. G., d.b.a. Narigon Rene Kennel's of Prescott, Box 184, Prescott 50859.
Natural Bridge Zoological Park, d.b.a. Black Shadow Kennel, 800 East Columbus, Mount Ayr 50854.
Nealey, C. M., Rural Route 2, Danville 52623.
Negaard, S., d.b.a. S. and M. Puppy Paradise, Route 1, Rock Valley 51247.
Nejdl, R. N., d.b.a. Ledjen Hills Kennel, P.O. Box 1185, Cedar Rapids 52406.
Nelson, D., Linn Grove 51033.
Nelson, L. D., 800 North Street, Walnut 51577.
Nickell, L., Route 2, Box 146, Allerton 50008.
Nikkel, L., Rural Route 1, Sully 50251.
Nordby, M. and D., Route 1, Kimballton 51543.
Norman, R. E. and C. M., d.b.a. Namron Kennels, Route 1A, Box 166, Afton 50830.
O'Brien, D. and M., Route 1, Russell 50238.
Obrien, S., 2647 Avenue D., Council Bluffs 51501.
Odland, D, Rural Route 1, Box 128, Marion 52302.
Odson, P. and M., d.b.a. Odson's Kennels, Corning 50841.
Oldenkamp, K. and M., d.b.a. Oldenkamp Kennels, Rural Route 2, Orange City 51041.
Olomon, M. M., Burr Oak Kennel, Rural Route 1, Box 107, West Point 52656.
Olsen, G. M., Rural Route 3, Audubon 50025.
Overton, P., Alberton 50008.
Oviatt, R., O., and K., d.b.a. Oviatt Kennels, Box 47, Magnolia 51550.
Oviatt, S., d.b.a. Valley Hill Kennels, Rural Route 2, Woodward 50276.
Packard, M. C., Rural Route, Cummings 50061.
Paplow, B., Rural Route 2, Melvin 51350.
Pardekooper, B., Rural Route, Linden 50146.
Patten, A. B. and E., Rural Route 1, Auburn 51433.
Pearson, A., Rural Route 1, Seymour 52590.
Pech, R., Route 2, Box 175, Fairfield 52556.
Pecoy, R., Rural Route No. 1, Rockwell City 50579.
Pelzer, L. J., Route 2, Box 140, Griswold 51535.
Pennings, C., Orange City 51041.
Pennings, M., Orange City 51041.
Petersen, C. K., Rural Route No. 2, Box 35, Audubon 50025.
Petersen, L., Route 1, Box 15, Kimballton 51543.
Petersen, S., d.b.a. Marquis Kennels, Box 318, Sutherland 51058.
Peterson, B. W., Rural Route No. 1, Glidden 51443.
Peterson, C., D., and S., Rural Route 4, Valley View Acres, Cherokee 51012.
Phillips, B. J., d.b.a. B. J. Kennels, Rural Free Delivery 1, Rose Hill 52586.

Phillips, L. L., Rural Route 2, Centerville 52544.
Phillips, M. K., d.b.a. Phillips Kennels, Airport Road, Route No. 2, Keokuk 52632.
Sanders, R. and J., Route 1, Box 53B, Council Bluffs 51501.
Savage, D., d.b.a. Cedar Croft, Salem 52749.
Scanlan, D. P., 930 North Center, Lake City
Still, J. J., d.b.a. Still Kennels, Rural Route 2, P.O. Box 240, Scranton 51462.
Stimson, F., d.b.a. Friendly Acre Poms, Blanchard 51630.

Vandervliet, B., Rural Route 1, Sioux Center 51250.
Vandewater, L. J., Rural Route 2, Greenfield 50849.
Young, A. F. and L. A., 1813 G Street, Iowa City 52240.
Young, J. M., d.b.a. Windy Acres Kennels, Box 384, Mediapolis 52637.
Bantz, R. A., Rural Route 1, Howard 67349.
Barker, N., d.b.a. Busy B Kennel, Route 1, Larned 67550.
Barnes, L., d.b.a. Delta Kennels, Route 2,

Phillips, L. L., Rural Route 2, Centerville 52544.
Phillips, M. K., d.b.a. Phillips Kennels, Airport Road, Route No. 2, Keokuk 52632.
Pilling, D. G., Mediapolis 52637.
Pilot Grove Kennel & Supply, Inc., Box 70, Houghton 52631.
Plumb, D., d.b.a. Plumb Kennels, Route 1, Harland 51537.
Poldberg, D. and M., Rural Route 2, Box 66, Harlan 51537.
Porter, A., Box 582, Dayton 50530.
Porter, E., Cumberland 50843.
Porter, F. E., Rural Route 2, Lacona 50139.
Poush, E., Route No. 3, Chariton 50049.
Presley, L. and R., d.b.a. Presleys Kennels, Route 1, Knoxville 50138.
Pulver, R., Route 1, Box 23A, Runnels 50237.
Purdum, G. and J., 6585 118th Avenue NW., Polk City 50226.
Quale, I., 1438 East Dunkerton Road, Waterloo 50701.
Rankin, M., 1454 East 21st Street, Des Moines 50317.
Red Rock Coon Hunters Association, Route 1, Lacona 50139.
Reed, L., Route 5, Albia 52531.
Reed, L. d.b.a. Le-Re Kennels, Route 5, Box 341, Chariton 50049.
Reichardt, D. and B., 804 16th Street, Corning 50841.
Reimer, H., Route 1A, Afton 50830.
Reiser, R., Arion 51520.
Remillard, D. S., Rural Route No. 3, Alta 51002.
Renaud, K. and M., Route 1, Sully 50251.
Reynolds, R. and Eaton, T., Route 1, Milo 50166.
Rhoads, L., d.b.a. Rhoads Kennel, Numa 52575.
Rhodes, D., d.b.a. Court Hill Kennel, Route 2, Ottumwa 52501.
Rice, J. C., Rural Route No. 5, Waterloo 50701.
Richardson, L., d.b.a. J&R Kennels, Route 1, Lineville 50147.
Richey, P. and E., d.b.a. Bull Criek Kennels, Box 31, Carbon 50839.
Richter, F., Rural Route 2, Newell 50568.
Robertson, G. L. and K. B., Route 1, Atlantic 50022.
Robey, L. and J., Rural Route 2, Nevada 50201.
Rockhold, M. and V., Allerton 50008.
Rodman, D. H., Breda 51436.
Roe, R. G., Box 307, Bancroft 50517.
Roeglin, L., d.b.a. Roeglin Kennels, R-2, Keokuk 52639.
Roetman, G., d.b.a. Coachlite Kennels, Hull 51239.
Rokus, G. and J., 405 Pacific, Walnut 51577.
Rosenthal, C. and J. d.b.a. Charley Horse Acres, Rural Route 1, Storm Lake 50588.
Rossmanith, H., Rural Route 1, Gowrie 50543.
Rothfus, S., Rural Route 1, Panora 50216.
Rosue, R. N., Route 3, Tipton 52772.
Rouse, W., Route 2, Albia 52531.
Royce, S., Rural Route 1, Box 112, Grand Junction 50107.
Royster, D. and P., d.b.a. Lazy R Kennel, Rural Route 1, Duncombe 50532.
Rozendaal, E. A., Route 1, Lynnville 50153.
Ruble, W. and C., Route 5, Osceola 50213.
Ruby, L. C., Rural Route 3, New Sharon 50207.
Rude, M. and B., d.b.a. B&B Bunny Barn, Rural Route 1, Ellsworth 50075.
Rupp, D. E., Route 2, Corning 50841.
Sanders, J., Houghton 52631.
Sanders, J. and G., d.b.a. Sanders Hound Kennels, 208 Mae Street, Box 1093, Storm Lake 50588.
Sanders, R. and J., Route 1, Box 53B, Council Bluffs 51501.
Savage, D., d.b.a. Cedar Croft, Salem 52749.
Scanlan, D. P., 930 North Center, Lake City 51449.
Schaitel, R. C., Rural Route 1, Box 211A, Clinton 52732.
Schenk, N., d.b.a. Puppy Villa, Rural Route 1, Sioux Center 51250.
Scherbring, E. B., B2, Box 118, Earlville 52041.
Schmidt, C. W., d.b.a. Ridge Kennels, Ida Grove 51445.
Schmillem, S., 706 Eaton Street, Dunlap 51529.
Schmith, D., 1214 Maple, Hull 51239.
Schmitz, T. and N., d.b.a. T&N Irish Setter, Box 60, Brooklyn 52211.
Schossow, D. L., Route 1, Lawrens 50554.
Schott, J. R. and T. M., d.b.a. Oakridge Acres, R.F.D. 1, Box 71, Otho 50569.
Schrader, P., d.b.a. Schrader Kennels, Rural Route No. 2, Battle Creek 51006.
Schuldt, L., Route 1, Van Wert.
Schultz, E. E. and J. V., d.b.a. Aloha Acres Kennels, Rural Route 2, Box 191, Sac City 50583.
Schultz, M., Box 65, Kiron 51448.
Sea, J., d.b.a. Sea's Prairie Jct Kennels, Route 2, Hedrick 52563.
Seibert, J. R., Route 2, Pleasantville 50225.
Seivert, E., Sanborn 51247.
Seymour, M. D., Route 2, Delmar 52037.
Shada, G., d.b.a. Shansi Kennel, Rural Route 1, Center Point 52213.
Shaffer, B., Route 5, Marshalltown 50158.
Sharp, B., d.b.a. B&B Sharp Kennels, Route 2, Chariton 50049.
Sharp, S. L., Route 1, Arim 51520.
Sheets, B., d.b.a. Sno-Drift Kennel, Rural Route 2, Kellogg 50135.
Sheets, V. M. and R. F., d.b.a. Chares Kennels, Rural Route 2, Iowa City 52240.
Shields, E. and E., d.b.a. Shields Kennel, Route 1, Box 6, Logan 51546.
Shinkle, L. and A., d.b.a. Shinkle City AC, Route 3, Corning 50841.
Shinn, B., Rural Route 2, Keokuk 52632.
Shull, R. M., Rural Route 2, Box 109, Sac City 50583.
Siefken, E., Rural Route 2, Gilmore City, 50541.
Simms, E., Rural Route 5, Oskaloosa 52577.
Simpson, L., d.b.a. Simpsons Toy Kennel, Box 9441, Spirit Lake 51360.
Skow, L., d.b.a. Yang Tien Kennel, Montrose 52639.
Smith, D. C. and M. M., 2010 Southeast 61st Avenue, Des Moines 50320.
Smith, G. K., d.b.a. Wolf Haven Kennels, Box 116, Rowan 50470.
Smith, G. V., 509 North 3d Street, Seymour 52590.
Smith, K. and M., Washta 51061.
Smith, R., 604 West Main Street, Seymour 52590.
Solomon, L. D. and C., Rural Route 3, Columbus Junction 52738.
Sondag, G., Box 147, Brandon 52210.
Sonksen, D., Rural Route 1, Larrabee 51029.
Sorensen, E. K. M., 1212 4th Street, Harlan.
Spencer, D. D., Route 1, Pleasantville 50225.
Spilman, B., Box 214, Lone Tree 52755.
Spina, B. A., d.b.a. Tu Show Pekingese and Shih Tzu, 1822 Hamilton Street, S.W., Cedar Rapids 52404.
Spitler, D., d.b.a. Spitler's Screaming Redbones, Box 95, Blairsburg 50034.
Stauffer, M. L. d.b.a. Majasta Kennel, Rural Route 1, Box 122, Fonda 50540.
Steffen, M. and M., d.b.a. Steffen's Doberman, 3005 4th Street, Emmettsberg 50536.
Steffens, J., Box 3, Macedonia 51549.
Still, J. J., d.b.a. Still Kennels, Rural Route 2, P.O. Box 240, Scranton 51462.
Stimson, F., d.b.a. Friendly Acre Poms, Blanchard 51630.
Stoltzfus Jr., J., Rural Route 3, Iowa City 52240.
Straight, P., Kellerton 50133.
Strickland, D., Route 1, Box 174, Anita 50020.
Striegels, E., d.b.a. Striegels Toy Dogs, Rural Route 1, Box 129, Early 50535.
Struik, K., Route 1, Sully 50251.
Strunk, G. and P., Rural Route 1, Somers 50586.
Struve, D., Van Horne 52346.
Stuekerjuergen, C., Route 1, Box 155A, Donnellson 52625.
Stuekerjuergen, E., Route 1, Box 155A, Donnellson 52625.
Stuekerjuergen, J. J. and J. V., d.b.a. Corner View Kennels, Rural Route No. 1, Box 155A, Donnellson 52625.
Stufflebean, R. and J., d.b.a. River View Kennel, Rural Route 2, Duncombe 50532.
Sunken, R., d.b.a. Sunkens Greenbelt Kennels, Rural Route 2, Iowa Falls 50126.
Surber, C. and H., Rural Route 1, Box 41, Mystic 52574.
Swanson, R. J., Route 5, Mount Pleasant 52641.
Tasler, M., Rural Route 2, Box 18, Jefferson 50129.
Tayloe, M. M., d.b.a. Clover Kennel, Rural Route 1, Cambridge 50046.
Taylor, D. J., Pleasant and Main, Elk Horn 51531.
Taylor, J., d.b.a. Yeager Creek Yorkies, 5010 Southwest 8th Street, Des Moines 50315.
Testroet, P. and L., d.b.a. Country Kennels, Box 89, Audubon 50025.
Testroete, G., d.b.a. Arlo Farms, Sioux Center 51250.
Thacker, J., d.b.a. Bravo Country Kennels, Rural Route 1, Douds 52551.
Thompson, C. and E., d.b.a. Charesta's Kennel, Rural Route No. 1, Randolph 51649.
Thompson, D., Rural Route 1, Afton 50830.
Thompson, D. A., Rural Route 1, Rippey 50235.
Thomsen, D., Route 4, Harlan 51537.
Thomsen, R., Rural Route 4, Harlan 51537.
Tiller, W. W., d.b.a. Tiller Enterprise, 5801 Mark Street, Papillion 68406.
Tipton, B. H., Box 125, West Branch 52358.
Titus, R. E. and K., d.b.a. Four-T's Kennel, Rural Route 1, Box 172, Colfax 50054.
Tjaden, G., Rural Route, Floyd 50435.
Travis, B. L., Lewis 51544.
Triebswetter, R. and H., P.O. Box 15, Centerville 52544.
Trinkle, W. C., d.b.a. Trinkle Springdale Kennels, Route 5, Albia 52531.
Trower, L., Route 1, Box 74, Grand River 50108.
Turner, B., Route 2, Anita 50020.
Ulmer, M. and S., Box 136, Arion 51520.
Van Der Sluis, M. E., Route 1, Knoxville 50138.
Van Dorland, W., Route 1, Eddyville 52553.
Van Gorp, Sr., L., Route 1, Reasher 50232.
Van Houwelingen, R. J., Rural Route 3, Pella 50219.
Van Kooten, G. and H., Route 3, Oskaloosa 52577.
Van Wyk, W. and C., Route 4, Pella 50219.
Van Zomeren, J., Rural Route 3, Oskaloosa 52577.
Vance, M. A., d.b.a. Summitville Kennels, Rural Route No. 2, Box 163, Keokuk 52632.
Vandenberg, G., Route 5, Albia 52531.
Vanderschaaf, R. W., 1217 6th Street, Hull 51239.

Vandervliet, B., Rural Route 1, Sioux Center 51250.
Vandewater, L. J., Rural Route 2, Greenfield 50849.
Varner, H. E., Rural Route 2, Box 314, Keokuk 52632.
Vaughn, A. M., Rural Route 2, Davenport 52804.
Venteicher, K. L., Rural Route 4, Box 37, Jefferson 50129.
Verhey, B. and J., Route 1, Sully 50251.
Vermeer, H. D., Route 2, Hull 51239.
Verschuure, D. M., d.b.a. Verschuure Kennel, Route 1, Leighton 50143.
Vinchattle, D., Rural Route 4, Box 218, Boone 50036.
Voege, D., Rural Route 1, Manilla 51456.
Waddle, H., Box 94, Clio 50052
Waldron, K. M., d.b.a. Brookview Kennels, Box 75, Ayrshire 50515.
Waller, C. D., Kellerton 50133.
Walrad, L., d.b.a. Ladowa Kennels, Route 1, Box 78, Leon 50144.
Waltering, O., d.b.a. Sunnybrook Kennels, 305 East Howard Street, Colfax 50054.
Watkins, D., d.b.a. Watkins Kennels, Rural Route 3, Spirit Lake 51351.
Watnem, d.b.a. Shawnee Kennels, Route 4, Box 29, West Burlington 52655.
Wear, E. and J., d.b.a. Happy Valley Sales, 1434 Spruce Street, Iowa City 52240.
Webb, P., Van Wert 50262.
Weber, K. and D., 3545 North Canfield, Dunkerton 50626.
Wehrspan, K., d.b.a. Kay's Kennel, 515 Nickellane, Eagle Grove 50533.
Weisshaar, Jr., Route 2, Creston 50801.
Weldon, B. and B., d.b.a. Weldon Enterprises, Lovilla 50150.
Wells, B. and B., Box E, Dallas 50062.
Welsch, J. M., Rural Route 1, Box 49, Greenfield 50849.
Welsh, O. O., Rural Route 1, Blakesburg 52536.
Welsh, R. and V., d.b.a. Welsh Kennels, Mystic 52574.
West, E. and D., d.b.a. Westland Kennel, Route 1, Box 31, Baxter 50028.
Westphal, M. H., Route 1, Box 84, Manson 50563.
Wharton, A., Wever 52658.
Wheelock, P. F., d.b.a. Vall-Vu Kennels, Route 4, Box 216, Boone 50036.
Wielenga, N. L. and B. L., d.b.a. Old Dutch Kennels, Rural Route 2, Box 48, Hawarden 51023.
Wiese, L. and N., R.F.D. 1, Holstein 51025.
Wildin, D., d.b.a. Wildin's Riverview Dachshunds. Rural Route 1, Box 113, Irvington 50550.
Willetts, D. and M., d.b.a. Willetts & Son Kennel, Route 3, Knoxville 50138.
Williams, L., Larchwood 51241.
Wilson, A. C., d.b.a. Willow Springs Kennel, Rural Route 2, Mount Vernon 52314.
Wilson, G. S., Route 2, Allerton 50008.
Winey, C., Route 1, Deloit 51441.
Wittkamp, L., Box 944, Cherokee 51012.
Wolter, K., Box 52, Woodward 50276.
Wood, F., Exline 52555.
Wood, L. F., Rural Route 2, Castana 51010.
Wood, M. J., Rural Route 1, Cincinnati 52549.
Wood, M. L., d.b.a. Yorkwood Kennels, 638 Oak Street, Ainsworth 52201.
Woods, D. and P., 201 North Temple Street, Afton 50830.
Woods, R. M., Route 1, Carlisle 50047.
Wright, J., Route 2, Russell 50238.
Wynja, C., Sioux Center 51250.
Wynn, J. E., d.b.a. Wynn Kennels, Box 295, Rural Route 4, West Burlington 52655.
Yarrington, B., Rural Route No. 2, Corning 50841.
Young, A. F. and L. A., 1813 G Street, Iowa City 52240.
Young, J. M., d.b.a. Windy Acres Kennels, Box 384, Mediapolis 52637.
Zee, R. V., d.b.a. Valley View Kennels, Route 2, Box 18, Rock Valley 51247.
Zenor, L., Route 1, Ogden 50212.
Zoet, J. and P., Rural Route 1, Hull 51239.
Zomermaand, J., d.b.a. Royal Dutch Kennels, Box 1, Steuble 51057.
Zwiefel, K., d.b.a. Mavken Kennels, Fenton 50539.
Zylstra, K., Rural Route 2, Rock Valley 51247.

KANSAS

Abendroth, L., d.b.a. Abendroth Kennels, Route 3, Burlington 66839.
Aberle, J. R., Rural Route 2, Sabetha 66534.
Adam, J., Box 119, Hope 67451.
Adams, T., 3236 Shawnee Heights Road, Topeka 66605.
Adamson, B. L. and N., d.b.a. Adamson Acres, Route 5, Box 32, Hutchinson 67501.
Adee, E., Rural Route 1, Box 31, Oakhill 67472.
Adkins, N., Route 1, Clifton 66937.
Alber, G., Route 1, Sterling 67579.
Alexander, J. D., R.F.D. 4, Box 173D, Junction City 66441.
Alexander, M., Box 145, Garfield 67529.
Allen, E., d.b.a. Allken Kennels, Route 1, Soldier 66540.
Allen, H. M., d.b.a. Harvey Allen Kennels, Route 1, St. George 66535.
Allen, O. E., Rural Route 1, Box 64, Denison 66419.
Allen, R. H., Route 3, Box 121, Holton 66436.
Allen, W. J. and G., Centralia 66415.
Amon, J., Netawaka 66516.
Amos and Dewey, Route 1, Oswego 67356.
Anderson, A. M., Box 55, Elk City 67344.
Anderson, G. and D., Route 1, Pomona 66076.
Anderson, V. and E., Route 2, Meriden 66512.
Apel, P. E., Route 2, Box 46, Sedan 67361.
Appelhanz, J., d.b.a. Carefree Kennels, 137 Northwest 58th, Topeka 66617.
Area, R. M., Havensville 66432.
Ashley, L. L., d.b.a. Leonards Barking Palace, Route 2, Box 4G, Larned 67550.
Askins, D. M., Route 5, Winfield 67156.
Aspinwall, P. A., d.b.a. Aspinwall's Dog Kennel, Rural Route 2, Box 202, Valley Falls 66088.
Aufdemberge, R. and L. V., Route 1, Box 197, Leavenworth 66048.
Aurand, M., d.b.a. Aurand's Kennel, Rural Route 1, Box 111A, Belleville 66935.
Autry, C. and J., d.b.a. C & J Kennels, Rural Route 1, Valley Falls, 66088.
Avis, B. and J. M., d.b.a. South Wind Kennels, Route 1, Box 44, Belleville 66935.
Ayers, F., Route 2, Box 61, Wellsville 66092.
Ayers, F. G., Box 175, Centralia 66415.
Badders, L. C., d.b.a. Greenlawn Kennels, 614 Myrtle, Pratt 67126.
Bailey, B., Route 1, Girard 66743.
Bainter, T., Route 1, Dresden 67635.
Baird, O., Route 2, Dodge City 67801.
Baker, L. and G., d.b.a. Leo's Kennels, Route 1, Goff 66428.
Baker, A. Y., Route 1, Iola 66749.
Baker, L. E., Route 1, Box 7, Partridge 67566.
Ballard, C. L., Route 1, Box 95, Havana 67347.
Bamberger, D. A., d.b.a. Prairie Pekes, Route 2, Box 280, Jetmore 67854.
Banks, C. L., Whiting 66552.
Banninger, J., 105 East 1st, Solomon 67480.
Bantz, R. A., Rural Route 1, Howard 67349.
Barker, N., d.b.a. Busy B Kennel, Route 1, Larned 67550.
Barnes, L., d.b.a. Delta Kennels, Route 2, Valley Falls 66088.
Barnes, L. and Patton, D., Route 1, Wetmore 66550.
Barnes, M., Box 31, Rural Route 2, Vermillion 66544.
Barnes, R. L. and C. E., d.b.a. Barnes Yap Yard, Route 1, Sodier 66540.
Barnett, M., Route 3, Box 66, Colby 67701.
Barnett, R. L., Box 225, Altamont 67330.
Barricklow, M. G., d.b.a. Barricklow Kennels, Route 1, Raymond 67573.
Barta, R. A., Rural Route 2, Box 185, Independence 67301.
Bates, G. R., d.b.a. K-9 Kennels Finney Co., S Star Route, Garden City 67846.
Bates, S. and M., 422 East 7th Street, Concordia 66901.
Baughn, O., Route 4, Box 21, Chanute 66720.
Beagle, G., d.b.a. Research Rabbitry, Route 1, Box 20, Galena 66739.
Beagle, J., Route 2, Valley Falls 66088.
Beal, R. and R., d.b.a. R. and R. Kennels, Route 2, Effingham 66023.
Beam, B. E., Route 3, Holton 66436.
Beaman, C. L., Route 1, Whiting 66552.
Beaver, N. and Day, S. L., P.O. Box 16, La Harpe 66751.
Beck, G., Corning 66417.
Beck, N. E., d.b.a. Sunnyside Kennels, Box 335, Attica 67009.
Beckmon, E. and R., Box 114, Colony 66015.
Behrens, G., Route 3, Marysville 66508.
Bell, M. S., d.b.a. Bell, P.O. Box 123, Beverley 67423.
Bender, N., Wetmore 66550.
Benedict, C. and E., Route 3, Elkhart 67950.
Bennett, P., Route 2, Box 129, Valley Center 67147.
Berg, G. T., Rural Route 1, Blaine 66410.
Berg, H., Wheaton 66551.
Berg, L., Onaga 66521.
Berg, M., d.b.a. Milton Berg Kennels, Blaine 66410.
Berg, W., Blaine 66410.
Berger, E. I., Route 2, Walnut 66780.
Berges, D., Box 81, Onaga 66521.
Bergman, A., Route 1, Baileyville 66404.
Bergman, M., Rural Route, Baileyville 66404.
Bergman, R. B., Route 1, Box 73, Seneca 66538.
Bernritter, B., Rural Route, Havensville 66432.
Berntsen, M., Route 1, La Harpe 66751.
Berry, E. W., Rural Route 2, Russell 67665.
Berry, J., Box 99, Vermillion 66544.
Best, D. and T., Route 1, Sedan 67361.
Best, K. and A., 423 North Pomeroy, Hill City 67642.
Besta, L., Route 1, Delia 66418.
Bevitt, R., Barnes 66933.
Bickel, R. R., d.b.a. Bickel Kennels, Route 1, Dodge City 67801.
Biesenthal, L., Wheaton 66551.
Billings, G. L., Route 2, Downs 67437.
Billings, W. and V., d.b.a. Sabaki Severa Kennel, Box 35, Lancaster 66041.
Bircher, L. W., Route 3, Chanute 66720.
Bishop, D. and L., Route 1, Box 123, Havensville 66432.
Bishop, S., Route 1, Delia 66418.
Bishop, C., Box 32, Belvue 66407.
Black, M. and H., R.F.D. 1, Frankfort 66427.
Blackburn, M. L., d.b.a. Blackburn's Hound Hollow, Route 1, Box 162, Sedan 67361.
Blair, M. and G., d.b.a. G. and M. Kennels, Route 1, Box 235, Sedan 67361.
Bland, R., Lucas 67648.

Blandkinship, C. A., Rural Route 2, Sedan 67301.
Blanton, L. J., Rural Route 1, Troy 66087.
Blanton, W. M., Robinson 66532.
Blenn, L., Westmoreland 66549.
Burdick, R. and W., 109 East 20th Street, Pittsburg 66762.
Burris, E. and S., 3311 West 4th Street, Hutchinson 67501.
Burrus, T. and J., d.b.a. T. J. Kennels, 801

Claycamp, E., Rural Route 1, Goff 66428.
Claycamp, E. R., Route 3, Box 43A, Seneca 66538.
Clemence, R., Route 4, Abilene 67410.
Clements, H. K., Rural Route 1, Soldier

Davenport, J., Route 1, Coffeysville 67337.
Davidson, A., Route 1, Burlingame 66413.
Davis, D., Lucas 67648.
Davis, J. R. and N., Route 3, Box 450, Inde-

Eitel, A. A., Box 565, Dighton 67839.
Elder, G. and S. and V., d.b.a. Jerrys Kennels, Box 87, Humboldt 66748.
Elder, J. and L., d.b.a. L. and J. Kennel,

Fraser, B., d.b.a. Barb Fraser Kennel, Box 28, Ames 66931.
Frauenfelder, R. G., Rural Route 1, Wakefield 67487.

Blandkinship, C. A., Rural Route 2, Sedan 67301.
Blanton, L. J., Rural Route 1, Troy 66087.
Blanton, W. M., Robinson 66532.
Blenn, L., Westmoreland 66549.
Bloom, D. E., d.b.a. Sundance Setters, 7940 Northwest Topeka, Topeka 66617.
Bloomer, J. C., Lebanon 66952.
Bluthardt, A., Rural Delivery 1, St. George 66535.
Boden, N., Havensville 66432.
Boeken, T., Box 1, Lorraine 67459.
Boettcher, R. and W., d.b.a. Bluestem Kennel, Rural Route 5, Box 165H, Emporia 66801.
Bolan, B., P.O. Box 214, Lyndon 66451.
Boland, E., Alton 67623.
Boldt, W., d.b.a. Boldt Kennels, Chase 67524.
Bolen, F., Mound City 66056.
Boling, D., Route 1, Hoyt 66440.
Bontrager, D., Rural Route 1, Whiting 66552.
Bontrager, P., Rural Route 1, Wetmore 66550.
Borclay, B. and K., 102 South Plummer, Chanute 66720.
Boss, Jan, Rural Route 3, Marysville 66508.
Bosse, N., Rural Route 2, Onaga 66521.
Bottom, G., d.b.a. Shagland Kennels, Route 4, Hutchinson 67501.
Bowen, M. L. and C. W., Rural Route 1, Sylvia 67581.
Bowers, J. and L., Munden 66959.
Box, V. L., Columbus 66725.
Boyd, R. K., d.b.a. Boyds Kennels, Rural Route 1, Beattie 66406.
Boyer, M. M., d.b.a. Houseboys Kennels, 507 Southwest 4th, Abilene 67410.
Bozone, G. J., 9201 South Broadway, Wichita 67233.
Branche, N., d.b.a. Branche Kennel, 1209 West 21st, Junction City 66441.
Brazzle, W. and B., d.b.a. Meadow Winds Kennels, 1203 14th Street, Wamego 66547.
Breaker, K., d.b.a. Break-R-Da Kennels, Route 1, Box 46, Douglass 67039.
Brecht, E., Box 78, Elk City 67344.
Brees, B., 420 East 16th, Concordia 66901.
Brees, D. G., Route 1, Emmett 66422.
Brees, W. L., Rural Route 1, Emmett 66422.
Brink, C., Route 2, Box 13, Paola 66071.
Briskey, G., 5707 South Seneca, Wichita 67217.
Britton, H. E. and V., d.b.a. Vedalane Kennels, Route 1, Box 2-B, Jewell 66949.
Bronson, M., Route 4, Osage City 66523.
Brown, H. and P., d.b.a. Yankee Hill Kennels, 3221 Stubbs, Tecumseh 66542.
Brown, M., Route 4, Beloit 67420.
Brown, R. E. and B. J., Route 4, Box 58, Chanute 66720.
Brown, W. and E., Box 21, Peru 67360.
Bruington, L. R., Route 2, Box 255A, Independence 67301.
Bruna, A., d.b.a. Bruna's Dog Kennel, Hanover 66945.
Brunell, L., Route 1, Box 39, Aurora 67417.
Brungardt, F. B., Route 5, Abilene 67410.
Brunkow, C. and J., Route 2, Wamego 66547.
Bryant, H. and G., d.b.a. Bryant's Shetland Sheep Dogs, Rural Route 5, Box 70, Hutchinson 67501.
Buckley, H., Route 2, Box 128, Belleville 66936.
Buckner, S., 201 West Mill, Columbus 66725.
Bulgarelli, V. and V., d.b.a. Vinlee Kennel, Route 1, Box 240, Pittsburg 66762.
Bullock, P. and H., 113 West 10th Street, Frankfort 66427.
Bunch, R., Box 54, Roxbury 67476.
Burdick, G. and C. S., Rural Route 2, Box 122, Burlingame 66413.
Burdick, R. and W., 109 East 20th Street, Pittsburg 66762.
Burris, E. and S., 3311 West 4th Street, Hutchinson 67501.
Burrus, T. and J., d.b.a. T. J. Kennels, 801 South Madison, Plainview 67663.
Burton, W. W., d.b.a. Burton's Kennels, Route 2, West Park Street, Dodge City 67801.
Buterbaugh, M. and G., Aurora 67417.
Butschle, Jr., W. A. and F. L., d.b.a. Will-Lou Kennels, Route 2, Box 42, Salina 67401.
Butterfield, E. M., Rural Route 1, Box 96, Sabetha 66534.
Buzard, J. C., Rural Route 1, Box 78, McCune 76753.
Buzard, R., Route 1, Weir 66781.
Byrum, T., d.b.a. T. & C. Kennels, Box 5, Garfield 67529.
C & R Kennels, Inc., Box 128, Barnes 66933.
Callaway, J. R. and F., 312 Campbell Street, Iola 66749.
Camaratta, E. and Blackburn E., d.b.a. E. & E., Box 123, Bronson 66716.
Campbell, A., Rural Route 3, Box 302A, Stanley 66084.
Campbell, I. M., d.b.a. Renegade Frontier Kennels, 4403 West Pawnee, Wichita 67209.
Canfield, W., d.b.a. Canfield Kennels, Route 3, Clifton 66937.
Capps, A. C., 405½ South Cain, Liberal 67901.
Carlburg, L., Route 2, Fredonia 66736.
Carpenter, C. and S., d.b.a. Cor-Shi Kennels, Route 1, Corcordia 66901.
Carpenter, M. A., 2425 Brookside Drive, Independence 67301.
Carrick, R., 522 Southwest 39th Street, Topeka 66609.
Carson, R. F., Route 2, Box 55, Berryton 66409.
Carter, K. & D., Route 2, Humboldt 66748.
Carter, R. and J., d.b.a. Carter's Kennels, Route 2, Beloit 67420.
Channel, A. L., d.b.a. Chann Kennels, Chann Kennels, Centralia 66415.
Chapin, M. and P., Route 1, Washington 66968.
Chapman, C. M., 3538 Seward Avenue, Topeka 66616.
Chapman, L., Route 1, Box 322, Osawatomie 66064.
Chase, V. M., 6308 South Seneca, Wichita 67217.
Chegwidden, D., Route 2, Russell 67665.
Chester, C., S. & E., d.b.a. Parkview Kennels, Route 5, Hiawatha 66434.
Choitz, S., d.b.a. Sandy Land Kennels, Rural Route 2, Ellinwood 67526.
Christie, J. H., d.b.a. Seven Sees Kennels, Route 1, Beloit 67420.
Cibolski, D., Rural Route 1, Agenda 66930.
Clanton, M., Route 2, Box 188C, Neodesha 66757.
Clark, E., Box 105, Mildred 66055.
Clark, L., Route 1, Box 115, Glasco 67445.
Clark, L. L. and T., d.b.a. L. & T. Kennel, Box 111, Greenleaf 66943.
Clark, M. A., Route 1, Troy 66087.
Clark, R. B. and C., d.b.a. Craigs Kennel, Route 1, Box 161, Mulvane 67110.
Clark, R. L. 418 North 3rd, Stockton 67669.
Claus, M. and H., Rural Route 4, Box 168, Fredonia 66736.
Claussen, D. and G., 312½ West Fremont, Medicine Lodge 67104.
Clay, C., Onaga 66521.
Clay, J., Route 1, Onaga 66521.
Clay, L. S. and F. M., Route 1, Parsons 67357.
Claycamp, E., Rural Route 1, Goff 66428.
Claycamp, E. R., Route 3, Box 43A, Seneca 66538.
Clemence, R., Route 4, Abilene 67410.
Clements, H. K., Rural Route 1, Soldier 66540.
Clothier, H., Plevna 67568.
Clouston, V., d.b.a. Clouston Kennels, Route 1, Ness City 67560.
Clowe, E, Wetmore 66550.
Coberly, A. and M., Route 1, Dighton 67839.
Coffman, M. E. and L. E., d.b.a. Coffmans Kennels, Rural Route 1, Havensville 66432.
Cole, B., d.b.a. Coles Kennels, Beverly 67423.
Coleman, D. M. and L. L., Rural Route 1, Valley Falls 66088.
Colle, C. and D., d.b.a. De Ca Kennels, Route 1, Box 146, Medicine Lodge 67104.
Combs, M. and C., d.b.a. Combs Kennel, Route 1, Centralia 66415.
Compton, S. C. and M. L., Route 5, Hiawatha 66434.
Conard, C., d.b.a. Timken Kennels, Timken 67582.
Connell, M. and B., d.b.a. Mikes Place, Route 1, Claflin 67525.
Conser, W. R., Rural Route 2, Box 220, Valley Falls 66088.
Cook, M. and P., Route 3, Box 56, Fort Scott 66701.
Cook, N., Route 1, Russell 67665.
Cook, R. M., 601 South 3rd, Arkansas City 67005.
Cooper, C. C. and B. S., d.b.a. Gateway Kennel, Route 1, Jamestown 66948.
Cooper, K., Rural Route 2, Chapman 67431.
Coopman, R., Rural Route 3, Waverly 66871.
Coover, P. I., d.b.a. Coover's Kennel, Route 1, Box 83, Erie 66733.
Corns, G. M., d.b.a. Shangrila Kennels, Route 1, Winfield 67156.
Cote, J. N. and S. S., Route 1, Meriden 66512.
Cottrell, A., Corning 66417.
Couchman, H. and G., d.b.a. Tegala Kennel's, Route 1, Clay Center 67432.
Countryman, D. and B., d.b.a. Da-Be-Li Kennels, Route 1, Box 75, Eskon 66941.
Coverdale, G. V., Rural Route 2, Soldier 66540.
Cox, B., 1201 Kansas Avenue, Topeka 66612.
Cox, H. D. and S. D., 321 West 3rd, Garnett 66032.
Cox, R. M., Route 1, Alta Vista 66834.
Craft, C. C., Route 1, Edson 67733.
Crane, R. E., North Star Route, Dodge City 67801.
Crome, G., Herkimer 66433.
Crome, K., Route 1, Bremen 66412.
Crone, A., d.b.a. Alberta Crone Kennels, Route 1, Great Bend, 67530.
Crone, R., Rural Route 1, Great Bend, 67530.
Cross, B., Route 2, Centralia 66415.
Cross, R., Rural Route 1, Box 137, Seneca 66538.
Crowley, B. and J., Box 93, Redfield 66769.
Culbertson, J., R.F.D. 4, Box 169, Fredonia 66736.
Cunningham, D. L., Route 1, Princeton, 66078.
Curless, J. and L., d.b.a. Curless Kennel, Box 308, Willis 66435.
Dalinghaus, D. P., Route 3, Box 37, Seneca 66538.
Dalinghaus, M. P., Rural Route 1, Baileyville 66404.
Daniels, V., Powhattan 66527.
Dar-Mar, Inc., P.O. Box 383, Marysville 66508.

Davenport, J., Route 1, Coffeyville 67337.
Davidson, A., Route 1, Burlingame 66413.
Davis, D., Lucas 67648.
Davis, J. R. and N., Route 3, Box 450, Independence 67301.
Davis, L. P. and M. S., Route 2, Box 111, Liberal 67901.
Davis, T. and E., 901 E. 58th Street, South, Wichita 67216.
Davis, W. and N., Route 1, Box 163, Augusta 67010.
Dean, J. M., Emporia 66801.
Debey, J. and J., d.b.a. Jim-Jen Kennels, Route 1, Kerwin 67644.
Debey, L., d.b.a. Mel-Lena Kennel, 816 West Beale St., Downs 67437.
Deeter, C. K., 1520 Northeast 54, Route 5, Topeka 66617.
Deinlein, K., Route 2, Box 188E, Neodesha 66757.
Dekat, M., Route 1, St. George 66535.
Delker, M. L., Rural Route 2, Jetmore 67854.
DeRusseau, d.b.a. Sonidee Cattery, Box 215, Clyde 66938.
Deters, G. and L., Randy, T. and R., Box 2, Baileyville 66404.
Deters, L., Rural Route 1, Box 126, Baileyville 66404.
Deters, L., Box 127, Baileyville 66404.
Detherage, D., Route 1, Lawrence 66044.
Dettke, D. and M., Route 4, Marysville 66508.
Devader, R. and M., Route 1, Holton 66436.
Dick, L. R. and Co., 7401 Parkview, Kansas City 66109.
Dickson, B. D., Route 2, Box 111, Independence 67301.
Ditmars, L., d.b.a. Ditmar Kennels, Route 1, Box 132, Washington 66968.
Doepke, G. L., Route 2, Humboldt 66748.
Dolezal, R. M. and R., d.b.a. R. and R. Kennels, Route 1, Box 76, Kanopolis 67454.
Donals, B. and P., d.b.a. Donals Kennels Route 4, Winfield 67156.
Dorr, D., Rural Route 2, Burlingame 66413.
Dorsey, D. L. and W. d.b.a. Dorseys Persians, 750 South Santa Fe, Salina 67401.
Doty, R. L., d.b.a Ardee Kennels, Route 2, Box 156, Salina 67401.
Doupnik, B., d.b.a. Elk Creek Kennels, Agenda 66930.
Drenik, J. and D., Route 3, Box 73, Pittsburg 66762.
Dreyer, M., 4124 Northeast Seward Route 4, Topeka 66616.
Duensing, E., Box 116, Bremen 66412.
Duerksen, R. and F., Route 1, Box 33, Lehigh 67073.
Duft, W. C., Route 1, Sterling 67579.
Dula, B. J., 4231 Southeast Highway 10, Topeka 66605.
Duling, O., Route 1, Walnut 66780.
Duncan, D. E., Route 2, Wamego 66547.
Dunlap, W. G. and H. P., Route 2, Effingham 66023.
Dunn, N. L., Route 2, Effingham 66023.
Durrant, E., Route 5, Paola 66071.
Dusek, Jr., A., 223 South Bethany, Kansas City 66102.
Dusty Acres Kennel, Box 42, Centralia 66415.
Dye, R. W., Route 3, Wilroads Gardens, Dodge City 67801.
Eakins, A. L., Route 1, Clyde 66938.
Eakins, J. A. and J. and J. and C. and D., Route 1, Box 62, Clyde 66938.
Eaton, L. and M. and M., Route 1, Box 146, Scammon 66773.
Eddleman, A., Route 2, Goodland 67655.
Eifert, A. B. and Scheurman, L. H., d.b.a. Annaross Kennel, Box 32, Preston 67569.
Eiseman, D., Munden 66959.
Eitel, A. A., Box 565, Dighton 67839.
Elder, G. and S. and V., d.b.a. Jerrys Kennels, Box 87, Humboldt 66748.
Elder, J. and L., d.b.a. L. and J. Kennel, Route 1, Box 101, Washington 66968.
Eldridge, V., d.b.a. Sandy Ridge Kennel, Route 5, Box 152, Hutchinson 67501.
Elliott, L., 400 West 2d, Washington 66968.
Ellison, D. and P., d.b.a. Silver Creek Kennel, Box 82, Preston 67569.
Elmore, W. and J., d.b.a. Flagg Kennels, Route 2, Box 84, Elk City 67344.
Eniff, R. and R., d.b.a. Triple Creek Kennels, Route 1, Jamestown 66948.
Elstrom, T. R. and B. M., d.b.a. El Cloud Kennel, Route 1, Concordia 66901.
Emerson, H. R., d.b.a. Saints and Bulls Kennels, P.O. Box 80, Dearing 67340.
Engelken, B. H. and B. and M. and J. and T., Route 2, Goff 66428.
Engelken, L., Route 1, Frankfort 66427.
Engelken, V., Rural Route 2, Seneca 66538.
Engler, L., Route 9, 7147 Southwest 53d Street, Topeka 66604.
Enneking, L., 910 Main, Seneca 66538.
Enneking, M. J., Route 1, Centralia 66415.
Enright, N., Route 1, Solomon 67480.
Ensley, J. H., 808 North Maple, Frankfort 66427.
Evens, E. M. and R. L., Route 1, Marysville 66508.
Evarts, V. D., 318 Main, Walton 67151.
Ewing, D., Route 1, Atlanta 67008.
Fairbanks, R. and N., 1034 North 11th, Neddesha 66757.
Falder, I. A., Beverly 67423.
Falk, D. I., Wheaton 66551.
Fankhauser, I. J. and M. M., Route 2, Madison 66860.
Fann, M. J., 2004 Hayes Dr., Manhattan 66502.
Farley, J. and J., d.b.a. Je-Mi-Jac Kennels, Route 1, Tiscott 67484.
Farmer, M. and J. Nelson, K., Route 1, Box 51B, Altoona 66710.
Farrell, G. R., Route 2, Frankfort 66427.
Farrell, P., Rural Route 1, St George 66535.
Fee, B., 423 North Kansas, Columbus 66725.
Felbush, L. and L., Route 1, Box 85, Alma 66401.
Feldhausen, F. L., Bremen 66412.
Fewins, L. S., Rural Route 2, Box 35, Moran 66755.
Fiedler, V., Rural Route 3, Holton 66436.
Finger, D. and K., R.F.D., Netawaka 66516.
Finger, E., Route 1, Powhattan 66527.
Finger, R. and H., Route 1, Box 190, Horton 66439.
Finley, I., Route 2, Herington 67449.
Finley, V. and L., Box 165, Walnut 66780.
Finney, J. C., Rural Route 3, Beloit 67420.
Finney, J. L. and M. K., d.b.a. Hillside Kennel, Box 185, Elk City 67344.
Fischer, A., Wheaton 66551.
Fitzmaurice, A. Route 2, Humboldt 66748.
Flentie, E., Route 3, Centralia 66415.
Fletcher, J. and P., d.b.a. Kan-Do Kennel, Box 856, Syracuse 67878.
Flickinger, J., Rural Route 1, Harveyville 66431.
Fogelberg, L. and R., d.b.a. L. and R. Kennels, Route 1, Scandia 66966.
Ford, W. A., 323 South Oak, Medicine Lodge 67104.
Forrester, G. and M., Route 4, Fort Scott 66701.
Foust, D., d.b.a. D. and G. Kennels, Route 2, Box 176, Erie 66733.
Fowler, D., Box 1508, Liberal 67901.
Fowler, P., 758 South Cain, Liberal 67901.
Frame, P., 618 Boxelder, Mulvane 67110.
Franklin, G. and W., Route 4, Box 197, Girard 66743.
Fraser, B., d.b.a. Barb Fraser Kennel, Box 28, Ames 66931.
Frauenfelder, R. G., Rural Route 1, Wakefield 67487.
Freeman, J. and S., 1212 North 8th, Independence 67301.
Freeman, S., Route 1, Box 1, Fredonia 66736.
Freidenberger, A. and A., d.b.a. Friedenberger Kennels, Box 52, Bison 67520.
French, W., Route 2, Hiawatha 66434.
Friesen, R. and J., Box 606 Barton and Avenue C., Syracuse 67878.
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Fund, J., Route 1, Netewaka 66516.
Funke Jr. E., Rural Route 2, Washington 66968.
Fyffe, C. E., and R. M., d.b.a. Mae's Kennel, P.O. Box 281, Anthony 67003.
Garrison, R. K. and C. and K., Box 218, Lincoln 67455.
Gates, M., d.b.a. Gates Kennel's, Box 65, Hazelton 67061.
Gay, R. G. and R. E., Route 1, Box 385A, Gardner 66030.
Geer, M., Route 1, Clay Center 67432.
Gehlen, A. and S., d.b.a. Little G Kennels, Route 1, Box 3, Medicine Lodge, 67104.
Geier, C., Route 4, Girard 66743.
Geier, M. L., Route 2, Box 66, Girard 6643.
Gericke, V. E., 1729 South Katy, Chanute 66720.
Gibbs E. and Kirk J., Route 1, Columbus 66725.
Gibbs, L., P.O. Box 414, Neodsha 66757.
Giefer, C. and L., 210 South 32d Street, Parsons 67357.
Giefer, M., Rural Route 1, Kingman 67068.
Gilbert, K., Box 163, Rexford 67753.
Gilmore, G., Route 2, Larned 67550.
Gleason, B. A. and M., d.b.a. Be Ge Kennels, 615 North 4th Street, Carbondale 66414.
Glenn, G. J., Route 2, Meriden 66512.
Glenn, V., d.b.a. Glenneden Kennels, Route 1, Mayfield 67103.
Gnilfoyl, R., Route 1, Eskridge 66423.
Goehring, D., Rural Route 2, Westmoreland 66549.
Goertzen, C. K. and V., d.b.a. Cottonwood Kennels, Route 2, Box 12, Inman 67546.
Goertzen, V., Rural Route 1, Inman 67546.
Golden, T. L., Route 3, Box 29AA, Lawrence 66044.
Good, T. J., Box 45, Lake City 67071.
Goodin, R. D., Route 2, Derby 67037.
Goodwin, M., Box 113, Summerfield 66541.
Gosnell, J., Route 2, Independence 67301.
Graham, I., Route 1, Stark 66775.
Grannell, G., Route 3, Holton 66436.
Grannemann, B., Route 1, Hepler 66746.
Grannemann, R., Route 2, Walnut 66780.
Grant, E. L., 402 North Logan, P.O. Box 331, Attica 67009.
Graven, R. and J., d.b.a. Graves Kennels, Rural Route 4, West River Road, Prah 67124.
Gray, M. E., Box 32, Beverly 67423.
Grecian, N. V., Palco 67657.
Green, Mrs. W., 4936 North East Indian Creek Road, Topeka 66617.
Green, W., d.b.a. Green's, Route 1, Box 45, Greensburg 67054.
Greenwood, A., Lewis Addition, Route 1, Dodge City 67801.
Grieshaber, R., d.b.a. Pat's Pekes, Route 1, Box 142, St. Marys 66536.
Griffith, J. L., d.b.a. Griffith's Kennels, Route 1, Box 17, Wakeeney 67672.
Griffith, R., Box 417, Welda 66091.
Griffiths, R. and L., d.b.a. Griff's Kennels, Centralia 66415.
Grossnickle, R., Route 1, Corning 66417.

Guhr, H. and D., d.b.a. Fox Wood Kennels, Route 1, Box 67, Lehigh 67073.
Guilfoyle, M. D., d.b.a. Emerald Valley Kennels, Rural Route 3, Box 77, Garnett
Henry, K. J., Route 1, Centralia 66434.
Herder, G. and R., Rural Route 1, Humboldt 66748.
Herlocker, R., Route 1, Farlington 66734.
Jackson, L. D. and S. K., d.b.a. Shar Low Chattery, Enterprise 67441.
Jacobs, O. and A., Murdock 67111.
Jacobs, V. S., Route 1, Pawnee Rock 67567.

Killoren, E. and G., d.b.a. Killoren Kennels, Powhattan 66526.
Kincheloe, M. and K., Route 2, Downs 67437.
Larson, L. D. and E. E., Rural Route 1, Waterville 66548.
Lattimore, H. H., Route 1, Box 75, Argonia 67004.
Malm, G. A., Route 2, Valley Falls 66088.
Manz, C., Route 1, Eskridge 66423.
Marcotte, V., Route 1, Allen 66833.
Marler, E., d.b.a. Turkey Creek Kennel,

Guhr, H. and D., d.b.a. Fox Wood Kennels, Route 1, Box 67, Lehigh 67073.
Gulifoyle, M. D., d.b.a. Emerald Valley Kennels, Rural Route 3, Box 77, Garnett 66032.
Guion, L., d.b.a. Dana Kennels, Route 1, Mayetta 66509.
Gulley, M. and C., d.b.a. Gulleys Kennel, 504 Mechanic, Lawrence 66044.
Gulley, M. and Dickinson, W. N., d.b.a. Rocky Hill Farm, Box 467, Desoto 66018.
Gunnells, M., d.b.a. Rocky Top Kennels, Route 1, Box 114, Carbondale 48BB39.
Gurtner, H., Route 2, Kingman 67068.
Hall, J. and J., 2111 Ida, Wichita 67211.
Hall, T. and B., Route 1, Box 807, Mulvane 67110.
Hallam, J., 214 Thunder Bird Estate, Emporia 66801.
Hammn, C. V. and B. E., 10925 South West 77th Street, Topeka 66604.
Hammerly, A. J., Route 2, Meriden 66512.
Hammon, L., d.b.a. Country Kennels, Route 1, Concordia 66901.
Haney, E. and V., Box 1, Conway Springs 67031.
Hann, I. and M., Route 1, Peru 67360.
Hanshew, D. J., d.b.a. Calico Kennels, 908 Constitution, Emporia 66801.
Hardesty, A., Route 2, Garnett 66032.
Harmon, J., Route 1, Altamont 67330.
Harris, B. L., Box 165, Clifton 66937.
Harris, S. R., d.b.a. White Rock Kennels, Burr Oak 66936.
Harrison, H., 1225 North Madison Street, Topeka 66608.
Harry, M., 1140 Dayton, Wichita 67213.
Hartenstein, M., Solomon 67480.
Harter, J. E., d.b.a. Swiss Eire Kennel, Route 2, Bern 66408.
Hartman, K. C. and M. L., d.b.a. Hartman Kennels, Shields 67874.
Hartman, C. L., 620 West New York Street, Smith Center 66968.
Hartman, K. and G., d.b.a. K. and G. Kennels, Shields 67874.
Hartsel, M., Route 2, Jewell 66949.
Hatch, M. K., d.b.a. Hatches Kennel, 206 North Grove, Yates Center 66783.
Hattesohl, H., Route 1, Box 140A, Linn 66953.
Haug, G., d.b.a. Fall View Kennel, Box 41, Cottonwood Falls 66845.
Haug, I., d.b.a. Haug Kennels, 210 Northwest 10th, Abilene 67410.
Haug, W. L., 5831 Northwerst Brickyard Road, Topeka 66608.
Haughenberry, H., Route 2, Holton 66436.
Haverkamp, A., Route 3, Box 73, Seneca 66538.
Haverkamp. C. Rural Route 3, Seneca 66538.
Haverkamp, E. W., Route 1, Corning 66417.
Haverkamp, R., Box 337, Centralia 66415.
Hay, F. E., Rural Route, Onaga 66521.
Heid, L. and E., d.b.a. Hyalite Farm, Route 1, Box 4B, St. George 66535.
Heideman, D., 508 Walnut, Seneca 66538.
Heiman, T., Rural Route 3, Box 139, Seneca 66538.
Heimerman, J., Route 2, Pretty Prairie 67570.
Heinen, L, Route 1, Corning 66417.
Heininger, S. and L., Route 3, Box 73, Sabetha 66534.
Heinz, B., Route 3, Clyde 66938.
Helmbrecht, D. and M., d.b.a. Den-Mar Kennels, Box 386 West 8th Street, Beloit 67420.
Henderson, R. J. and S., Box 2, Solomon 67480.
Henry, J. A., 105 South 4th Street, Seneca 66538.
Henry, K. J., Route 1, Centralia 66434.
Herder, G. and R., Rural Route 1, Humboldt 66748.
Heriocker, R., Route 1, Farlington 66734.
Herod, M., Route 1, Farlington 66734.
Harrman, H. and W., 4th and Western, Onaga 66521.
Hess, R. and L., d.b.a. Le-Rob Kennels, Route 3, McPherson 67460.
Hester, K., Route 1, Plevna 67568.
Hewitt, M., 404 South Mass, Erie 66733.
Hiatt, R. D., Rural Route 1, Viola 67149.
Hibbard, L., Route 1, Box 51, Toronto 66777.
Hickman, D., Barnard 67418.
Hiebert, J., 9221 South Broadway, Wichita 67233.
Higginbothan, D., 206 South 3rd, Iola 66749.
Hill, F., Route 1, Jetmore 67854.
Hill, F. D. and A. M., R.F.D. 2, Downs 67437.
Hiltgen, K., Box 79, Vliets 66545.
Hime, M., Route 1, Centerville 66041.
Hinde, C. E., Box 94, Cassoday 66842.
Hinde, M. C., 222 West 7th, Florence 66851.
Hinderer, V. M., Route 1, Box 144, Wakarusa 66546.
Hink, W. T., Box 126, Williamsburg 66095.
Hisle, W. C., Rural Route 2, Atchison 66002.
Hittle, B. F., Sr., Rural Route 2, Box 106, Mayetta 66509.
Hobbs F., Route 2, Yates Center 66783.
Hodge, L. and C. A., Route 1, Box 165A, Emporia 66801.
Hodgkinson, R., Rural Route 2, Pratt 67124.
Hoepker, L. and J., 707-12th Street, Humboldt 66748.
Holliday, R. A., Soldier 66540.
Holliman, L. L., Route 1, Box 239, Waterville 66548.
Holroyd, H., Route 1, Sedan 67361.
Holthaus, A., Route 1, Seneca 66538.
Holthaus, C., Rural Route 3, Box 135, Seneca 66538.
Holthaus, F. G., Route 2, Centralia 66415.
Holthaus, J. L., Route 3, Seneca 66538.
Holthaus, J. M., Route 1, Seneca 66538.
Holthaus, K. J., Rural Route 1, Seneca 66538.
Hoobler, A., Route 2, Oswego 67356.
Housh, C. H., d.b.a. Housh's K-9's, Box 85, Glen Elder 67446.
Howard, E., Jr., Route 2, Onaga 66521.
Howard, J., d.b.a. Ann Kennels, Route 2, Box 32, Edna 67342.
Howard, R. and G., d.b.a. Misty Morn Kennels, Route 1, Box 81C, Neosho Rapids 66864.
Howe, E., d.b.a. Howe's Kennel, Webber 66970.
Howie, J. F. and R., d.b.a. J and R Pets, Route 3, Abilene 67410.
Hubbard, M. D., 131 West Railroad, Waterville 66548.
Hughes, K., d.b.a. Kabo Kennels, 8723 Southwest 53rd Street, Topeka 66604.
Hughes, R. L., Route 2, Soldier 66540.
Hugunin, L. L., Route 1, Leonardville 66449.
Hull, K. W., d.b.a. Hull's Kennels, Box 115, Simpson 67478.
Hulsey, J., d.b.a. Lazy H Kennels, Route 3, McPherson 67430.
Humble, C., Route 2, Girard 66743.
Humbolt, L., Box 121, Elk City 67344.
Hund, M. A., 307 Iowa, Holton 66436.
Huston, M. E., Route 1, Milford 66514.
Hutton, D., 307 West Bradley, Sedan 67361.
Illingworth, D. E., d.b.a. Domino Cattery, 627 Park Place, Salina 67401.
Irwin, M. D., d.b.a. Haven Hill Kennel, Route 1, Box 98, Tecumseh 66542.
Jackson, D. J., d.b.a. Ju Jas Kennel, Route 1, Box 18, Sedan 67361.
Jackson, K. J., Rural Route 3, Burlington 66839.
Jackson, L. D. and S. K., d.b.a. Shar Low Chattery, Enterprise 67441.
Jacobs, O. and A., Murdock 67111.
Jacobs, V. S., Route 1, Pawnee Rock 67567.
Jacques, Z. W., 320 Adrian, P.O. Box 144, Rossville 66533.
Jacquinot, R., Route 1, La Harpe 66751.
Jagels, A., Rural Route 1, Girard 66743.
Jahay, J. and M., Route 1, Haselton 67061.
Jandera, R. F., Rural Route 1, Box 57, Hanover 66945.
Jensen-Salsberry Laboratories, 2000 South 11th Street, Kansas City 66103.
Jesseph, S. and L., 208 9th Street, Geneseo 67444.
Johansen, E., 2222 Ball Lane, Kansas City 66103.
Johnson, H. E., Jr., d.b.a. Shannondale Kennels, Route 2, Box 403, Belleville 66935.
Johnson, A. E., Route 1, Randolph 66554.
Johnson, C., d.b.a. Lazy-J Kennels, Lebanon 66936.
Johnson, F. W. and M., Minneapolis 67467.
Johnson, I. S., Rural Route 1, Box 63, Olsburg 66520.
Johnson, L. M., 423 South Chestnut, Iola 66749.
Johnson, N., Route 1, Formoso 66942.
Johnson, P., 6333 Northwest Topeka, Topeka 66617.
Johnston, M. and T., Route 2, Box 31, Coffeyville 67337.
Johnston, W. J. and S. J., Route 2, Parsons 67357.
Jones, H. H., Jr., Route 1, Wetmore 66550.
Jones Kennels Inc., Netawaka 66516.
Jones, C. J., d.b.a. Ken-Lyn Kennels, Rural Route 1, Box 24, Beattie 66406.
Jones, D. and R., d.b.a. Di-Bo's, 2945 Meriden Road, Topeka 66608.
Jones, E., Box 234, McCune 66753.
Jones, J., Route 2, Box 57, Beattie 66406.
Jones, L., 509 South Exchange, St. John 67576.
Jones, N. D., d.b.a. Lakeview Kennels, Route 2, Box 24, Coffeyville 67337.
Jones, W. and M., Rural Route 2, Douglass 67039.
Josserand Kennel Inc., 2220 Vail, Topeka 66608.
Josserand, J. and L., d.b.a. Lou Jac Pets, 7550 South Broadway, Wichita 67233.
Jost, V. L., Route 2, Hillsboro 67063.
Kadel, B., d.b.a. Kadel Kennels, Route 2, Jamestown 66948.
Kahrs, L. A., Route 3, Clifton 66937.
Keating, N., 3515 Northwest 66th, Topeka 66618.
Kebert, C. D., Rural Route 4, Fredonia 66736.
Keiswetter, D. and H., R.F.D. 2, Norton 67654.
Kellenberger, G., Route 3, Sabetha 66534.
Keller, J. W., d.b.a. Kenny's Kennels, Route 2, St. John 67576.
Kelleys Aquatic Pet Supply Inc., 601 East 5th Street, Topeka 66601.
Kelly, G. L., d.b.a. Country Kennels, Route 1, Holton, 66436.
Kelly, W. P., d.b.a. Khil Kennels, Route 2, Clifton 66937.
Kemp, D. and E., Route 1, Dexter 67038.
Kennedy, M. L., d.b.a. L & M Kennel, 316 South Douglas, Lyons 67554.
Kerns, G. L., Rural Route 4, Box 159A, Osage City 66523.
Kerns, R., Route 1, Herington 67449.
Kerr, M. L., Route 1, Humboldt 66748.
Kersting, M. H., Offerle 67563.
Kieffer, J., d.b.a. Waconda Kennels, Box 102, Glen Elder 67446.
Kilgore, T., Route 1, Mullinville 67109.
Killman, L. A., Route 1, Clay Center 67432.

Killoren, E. and G., d.b.a. Killoren Kennels, Powhattan 66526.
Kincheloe, M. and K., Route 3, Downs 67437.
King, J. L., Route 1, Box 71, Scott City 67671.
King, O. C., Route 4, Box 248, Chanute 66720.
Kingery, N. E., d.b.a. Green Lawn Kennels, Box 321, Pratt 67124.
Kinney, A. R., P.O. Box K, Meriden 66512.
Kinzie, R., Route 1, Box 56, Sawyer 67134.
Kirk, E., Box 216, Scandia 66966.
Kirkpatrick, C., Box 54, Melvern 66510.
Kissinger, D., Rural Route 1, Box 275, Mulvane 67110.
Klingenberg, K. and E., d.b.a. Betken Kennels, Route 4, Box 215, Lawrence 66044.
Knapp, H. W., d.b.a. Shady Oaks Kennel, Route 3, Chanute 66720.
Knopp, V. J., Route 1, Box 190A, Hays 67601.
Knox, B. and Barnes, D. and Meenen, D., d.b.a. KBM Kennels, Route 1, Clifton 66937.
Knox, B. D., P.O. Box 147, Valley Falls 66088.
Knox, B. L., d.b.a. Knox Kountry Kennels, Route 1, Agenda 66930.
Koch, B. J., Blaine 66410.
Koch, D. M., Baileyville 66404.
Koch, L., Route 2, Axtell 66403.
Koch, J. C., Baileyville 66404.
Koehn, E. D., Rural Route 1, Inman 67546.
Koehn, M. and M. J., d.b.a. Koehn Kennel, Route 2, Box 68, Moundridge 67107.
Koehn, R. A. and C. E., Route 2, Box 80B, Independence 67301.
Konecny, V., Lincolnville 66858.
Kornfield, A. S., d.b.a. Highlander Collies, Elm Street, Everest 66424.
Kraft, P. L., Rural Route No. 1, Jetmore 67854.
Kramer, A., Route 2, Seneca 66538.
Kramer, N., Baileyville 66404.
Krebs, C. E., Route 1, Powhattan 66527.
Krehbiel, D. and D., d.b.a. Krehbiel's Kennels, Route 2, Kingman 67068.
Krehbiel, E. O., Route 2, Pretty Prarie 67570.
Krehbiel, J. W., d.b.a. Krehbiel Kennels, Route 1, Box 85, Moundridge 67107.
Krier, G., Star Route, Ashland 67831.
Krier, L. M. and A. L., Box 323, 1217 Birch, Ashland 67831.
Krog, R. E., Route 1, Box 40, Girard 66743.
Krogman, L., d.b.a. Krogman's Kennels, Axtell 66403.
Kruckenberg, S. M., 285 Oregon, Manhattan 66502.
Kruse, L. P., Rural Route 1, Morrill 66515.
Kuehl, E. and C., d.b.a. Kuehl and Kuehl, Onaga 66521.
Kuehl, L., Onaga 66521.
Kufahl, L. L., Rural Route 1, Wheaton 66551.
Kunzler, J. E. and McKinley B. S., d.b.a. K&M Rabbitry, Route 1, Box 143, Gardner 66030.
Kurtz, L., Route 2, Box 37B, Eudora 66025.
Kurtz, R., Rural Route 2, Box 38, Eudora 66025.
Kyle, D. R., Route 1, Box 77, Sabetha 66534.
Lambert, R. E., d.b.a. Lameriar Kennels, General Delivery, Mahaska 66955.
Lamkins, R. G. and K. S., d.b.a. The Dachs Inn, Rural Route 1, Lebanon 66952.
Lanoue, J., Rural Route 3, Concordia 66901.
Lantis, R. W., d.b.a. 4-L Kennels, Box 624, Route 3, Ottawa 66067.
Larsen, D. A., Route 2, Holton 66436.
Larsh, S., Box 97, Longton 67352.
Larson, J., d.b.a. Larson Kennels, Route 3, Box 44, Lawrence 66044.
Larson, L. D. and E. E., Rural Route 1, Waterville 66548.
Lattimore, H. H., Route 1, Box 75, Argonia 67004.
Lawellin, W. and H., Route 3, Columbus 66725.
Lawrence, E., d.b.a. Silver Star Kennels, Box 244, Sedan 67361.
Lawrence, J., Route 2, Winfield 67156.
Leaming, E., Pleasanton 66075.
Lee, H. E., Route 2, Box 46, Mayetta 66509.
Lee, M. and M. E., No. 1 Park Place, Medicine Lodge 67104.
Leidig, W., Route 3, Clay Center 67432.
Leis, J. A., Rural Route 1, Garden Plain 67050.
Lendo, E. R. and P. A., Route 1, Americus 66835.
Lewis, C., Box 381, 329 West 9th Lyndon 66451.
Lewis, J. R. and W. J., d.b.a. Sunshine Kennel, Route 1, Box 96, Moline 67353.
Lewis, W. M., Rural Route 2, Girard 66743.
Lierz, J., Route 1, Box 145, Frankfort 66427.
Lierz, L. A., Box 162, Wetmore 66550.
Lindbloom E., Route 4, Osage City 66523.
Lindbloom, G. and O., Route 1, Osage City 66523.
Lindgren, R. M., Route 1, Box 186, Thayer 66776.
Linkugel, D., Route 2, Marysville 66508.
Linneman, F., 103 North Monroe, Smith Center 66967.
Linneman, H., d.b.a. Hill Top Kennels, Route 2, Ottawa 66067.
Lockenour, W., d.b.a. Loc Kennels, Box 43, Netawaka 66516.
Lockhart, H. and P., Box 116, Norcatur 67653.
Loehr, A., d.b.a. Loehr Kennels, 801 North Grove, Yates Center 66783.
Logue, D. and R., d.b.a. Logue's Kennel, Route 2, Hollywood Add., Dodge City 67801.
Long, C., Route 1, Box 100, Westmoreland 66549.
Long, E., Circleville 66416.
Long, J.R. & C. R., 1326 East Glenn Drive, Lawrence 66044.
Long, M. and C., d.b.a. Thunderbird Estates, Route 1, Americus 66835.
Long, M. and F., Route 1, Severance 66081.
Long, P. and R., d.b.a. Pine Valley Kennels, Route 1, Peck 67120.
Loose, F. F., 1714 North Sedgwich, Wichita 67203.
Louk, A. W. and N., d.b.a. Al-Nor Kennels, Route 1, Wamego 66547.
Lowe, C. R., Rural Route 2, Box 92A, Chanute 66720.
Lowe, M., d.b.a. Mels Kennels, Route 4, Box 12, Girard 66743.
Lucke, E., Route 2, Girard 66743.
Lucke, L., Route 1, Girard 66743.
Luff, C. L. and Blair, N. M., d.b.a. Country Kennel, Box 7, Corning 66417.
Lumbert, D., Route 1, Winfield 67156.
Lumley, I. and N., Route 1, Box 78, Peru 67360.
Lusk, R. L., Route 2, Olpe 66865.
Luthi, H. and S., Rural Route 2, Madison 66860.
Lynn, C. A. and J., d.b.a. C. and J. Kennels, Rural Route 1, Plains 67869.
Lyons, V. and B., d.b.a. Happy Valley Kennels, Route 1, Box 199, Osawatomie 66064.
Lytle, J. J. and E., Route 2, Holton 66436.
Madl, C., Route 1, Walnut 66780.
Magee, J., Route 1, Lorraine 67459.
Mahieu, R., Ashland 67831.
Maike Enterprises Inc., d.b.a. Sandy's Kennels, Route 2, Box 91, Alma 66401.
Maike, A., Box 108, Alma 66401.
Malm, G. A., Route 2, Valley Falls 66088.
Manz, C., Route 1, Eskridge 66423.
Marcotte, V., Route 1, Allen 66833.
Marler, E., d.b.a. Turkey Creek Kennel, Route 2, Burden 67019.
Marple, L. B., Box 207, Wakarusa 66546.
Marsh, J. and D., Rural Route 2, Box 135, Emporia 66801.
Marshall, E., d.b.a. Noah's Ark Pet Store, 1323 East Santa Fe, Olathe 66061.
Marshall, L. L., Rural Route 1, Emmett 66422.
Marshall, P., 11810 Hollingsworth Road, Piper 66109.
Marten, R. C., Route 2, Onaga 66521.
Martin, C., Route 1, Silver Lake 66539.
May, B. L., Rural Route 1, Mankato 66956.
Mayfield, A., d.b.a. Chows Chows Ltd., 5635 South Vandale, Wichita 67217.
McAdam, E. E., Route 3, Holton 66436.
McAdoo, A. J. and M. M., d.b.a. Winters Roost Kennels, Box 1067, Emporia 66801.
McAlexander, E. and S., Rural Route 2, Box 121A, Tonganoxie 66086.
McBurney, T. M., 5345 Northwest Topeka Avenue, Topeka 66617.
McCall, F. M. and P. M., Route 1, Cedar Vale 67024.
McCarter, H. S., d.b.a. Country Home Kennel, Route 1, Box 55, Great Bend 67530.
McClintock, T. A., Rural Route 1, Holton 66436.
McClure, K. and B., Route 1, Box 30, Thayer 66776.
McClure, T., d.b.a. Sing Sandy Ranch, Route 1, Kingman 67068.
McCormick, R. D., d.b.a. Mi-De-Pa Kennels, Route 2, Box 91C, Louisburg 66063.
McCormick, V. T. and C. E., Route 1, Yates Center 66783.
McDaniel, D. L., Edson 67733.
McDaniel, M. F., 842 South 122 Street, Omaha 68154.
McDonald, G. D. and M. C., P.O. Box 598, Arma 66712.
McDonald, W., Route 5, Abilene 67410.
McGreeney, A. J., Route 2, Summerfield 66541.
McGinty, F. and E., d.b.a. Six Mile Kennel, Rural Route 2, Great Bend 67530.
McGinty, M. and J., Rural Route 1, Seward 67577.
McGarth, J. and J., Emmett 66422.
McGuire, M. and Hillyard G., d.b.a. G. & M. Puppy Love District, 1529 West Laurel, Lot 31, Independence 67301.
McGuire, J., Box 340, Maple Hill 66507.
McKibben, M. J., Route 2, Garnett 66032.
McLaughlin, S. and R., Route 3, Holton 66436.
McLean, P. B., d.b.a. McLeans Mini Kennels, Route 1, Anthony 67003.
McNally, D. T., Havensville 66432.
McPeak, L. and S., Glen Elder 67446.
McPhail, E., Box 725, Ashland 67831.
McVey, R., d.b.a. McVey Kennels, Rural Route 2, Wathena 66090.
Melia, P. M., d.b.a. Point Rock Kennels, Box 836, Elkhard 67950.
Melton, C. and J., d.b.a. C. & J. Kennels, 19117 Johnson Drive, Shawnee 66218.
Melvin, N. K., Rural Route 1, Soldier 66540.
Metzen, L., Goddard 67052.
Meyer, L. A., 704 Iowa, Holton 66436.
Michaud, M. and L., 1427 Washington, Emporia 66801.
Mid-Continent Research Animals, Inc., Box 3184, Shawnee 66203.
Miles, C. and M., Route 2, Box 289, Belleville 66935.
Miller, D., 2408 Lynn Rae, Wichita 67210.
Miller, J. J., Route 2, Wamego 66547.

Miller, K. J., Route 2, Box 86, Girard 66743.
Miller, L., d.b.a. Millers Kennels, Rural Route 2, Abilene 67410.
Miller, P. L., d.b.a. Millrock Kennels, Route 1, Hutchinson 67501.
Noonan, S. A., Rural Route 1, Burlingame 66413.
Norris, L. G., Rural Route 1, Rossville 66533.
Norris, L. K., Rural Route 1, Box 38, Wa-
Pouch, R. A., Route 1, Box 15, Chase 67524.
Prell, A. A., Okets 66518.
Price, B. A., 3206 Wilder Road, Topeka 66617.
Price, M. R., Route 2, Iola 66749.

Roever, A., Odell 68415.
Rollenhagen, H. E., Westmoreland 66549.
Ronnebaum, G. H., 6133 Northwest Brickyard Road, Topeka 66618.
Shell, H., Route 2, Valley Falls 66088.
Shell, R. M., Route 2, Box 132, Valley Falls 66088.
Shelton, J., d.b.a. Hilltop Kennels, Box 275,
Stallbaumer, P., Route 1, Centralia 66415.
Stallbaumer, R., Route 1, Seneca 66538.
Standish, S., 9015 Kansas Avenue, Kansas City 66111.

Miller, K. J., Route 2, Box 86, Girard 66743.
Miller, L., d.b.a. Millers Kennels, Rural Route 2, Abilene 67410.
Miller, P. L., d.b.a. Millrock Kennels, Route 1, Hutchinson 67501.
Miller, R. and C., Box 5, Scranton 66537.
Mills, B. and P., d.b.a. Mills Kennels, Route 4, 1700 West Oak, Independence 67301.
Mills, E. M., Centralia 66415.
Milne, C. G., P.O. Box 8, 101 North Street, Seneca 66538.
Mitchell, C. and S., d.b.a. Kingdom Kennels, Route 1, Valley Falls 66088.
Mizer, A. M., Jennings 67643.
Moffitt, L. P., 1302 Spruce, Concordia 66901.
Moffitt, R. G. and B., Route 1, Box 96, Washington 66968.
Montgomery, E. M., Rural Route 3, Ottawa 66067.
Monty, R. A., 500 West 2nd, Washington 66968.
Moody, G. K., Route 1, Holton 66436.
Moore, C. R., Route 2, Wamego 66547.
Moore, J. E., 409 West Vermont, Osborne 67473.
Moore, L. K., Box 214, Highland 66035.
Moore, P. L., Route 2, Westmoreland 66549.
Moore, M. F., Route 1, Uniontown 66779.
Moots, B. and S., d.b.a. Lazy M. Kennel, Route 5, Box 141, Hutchinson 67501.
Morland, L. J., 207 East Southern Boulevard, Girard 66743.
Morrell, V., Box 179, Blue Mound 66010.
Morris Kennels, d.b.a. Morris Kennels, Route 1, Holcomb 67851.
Morris, E., Route 2, Fredonia 66736.
Morrison, K. J., 1770 West 6th, Colby 67701.
Mosen, D. and B., Route 1, Box 135, Washington 66968.
Mosher, H. D. and M., d.b.a. Moshers Kennels, Route 1, Meriden 66512.
Mosteller, O., Bern 66408.
Muller, C., d.b.a. Izzy's Poodle Parlor and Kennel, Route 1, Solomon 67480.
Murdie, L. E., d.b.a. Sir Lil Lin Kennel, Box 153, Garfield 67529.
Murphy, S., 400 West 12th Street, Junction City 66441.
Myers, G. R. and V., 123 Williams, Derby 67037.
Myers, J. and G., d.b.a. Myers Puppy Ranch, Route 1, Elsmore 66732.
Myers, T. and E., Route 1, Galesburg 66740.
Myrick, R. E., Rural Route 2, pleasanton 66075.
Nelson, R. and D., Route 2, Concordia 66901.
Nelson, R. and D., d.b.a. Nelson Pets, 321 South Main, McPherson 67460.
Nelson, R. A., d.b.a. Nelson Kennel, 824 Central, P.O. Box 156, Humboldt 66748.
Nelson, S., d.b.a. Shanels Kennels, Delavan 66847.
Newell, C. and M., d.b.a. Carl's Dog Parlor, 517 North 8th Street, Lawrence 66044.
Newell, L., Clifton 66937.
Newhall, S., d.b.a. New Halls Kennels, Rural Route 1, Great Bend 67530.
Newman, D. H., d.b.a. Lake View Kennels, Route 1, Holton 66436.
Newman, R., P.O. Box 173, Valley Falls 66088.
Newton, E. and W., 1315 North Polk, Topeka 66608.
Niblack, T. and E., d.b.a. Nikhan hillside Kennels, Route 2, Box 17, 302 East Bradley, Sedan 67361.
Niehues, M., Wetmore 66550.
Nightingale, R., Box 82, Corning 66417.
Noble, Pa., 809 Cherokee Street, Box 536, Oskaloosa 66066.
Nolte, C., Rural Route 1, Corning 66417.
Nondorf, J. and M., d.b.a. Tamra Kennels, Route 1, Scandia 66966.
Noonan, S. A., Rural Route 1, Burlingame 66413.
Norris, L. G., Rural Route 1, Roasville 66533.
Norris, L. K., Rural Route 1, Box 38, Winchester 66097.
Noyes, C. and L., Box 147, Jamestown 66948.
Nurez, C. and Murphy, C., Route 1, Box 119, Chanute 66720.
Obermueller, L. and G., d.b.a. L. and G. Kennels, Route 2, Box 123, Lincoln 67455.
Odgers, J. and R., d.b.a. Jenbe Kennels, Route 1, Clyde 66938.
Ogle, D. and J., 306 East 6th, Cherryvale 67335.
Ohlde, M., Route 1, Box 59, Palmer 66962.
Olberding, R. A., Whiting 66552.
Oller, M. and M., d.b.a. Shady Nook Kennel, Box 214, Cunningham 67035.
Olson, D., Randolph 66554.
Olson, G. and E., Route 1, Axtell, 66403.
Oshea, N., Mayetta 66509.
Osner, M., d.b.a. Osner Kennels, Rural Route 2, Cunningham 67035.
Osterhaus, M. A., Box 72, Wetmore 66550.
Oswald, R., 315 North Second, Conway Springs 67031.
Otte, G. and J., d.b.a. Walnut Valley Kennels, Rural Route 1, Great Bend 67530.
Oullette, A., 807 South C, Washington 66968.
Oyler, R. and S., Box 323, Havana 67347.
Ozburn, W., Route 2, Box 220, Douglass 67039.
Palecek, M., Route 1, Munden 66959.
Palenske, R. and G., Route 3, Scott City 66547.
Palmer, E. L. and K., Palmer, K., Coffeyville 67337.
Palmer G., Route 4, Abilene 67410.
Palmquist, L., Rural Route 2, Concordia 66901.
Pape, E., 107 East 4th, Frankfort 66427.
Paradies, A., Box 144, Mayetta 66509.
Patterson, B. and Jesseph R., Box 267, Kansas 67524.
Patterson, D., Route 2, Anthony 67003.
Patterson, J., Parallel Road, Netawaka 66516.
Peden, R., d.b.a. Peden Kennels, Route 2, Troy 66087.
Peters, A. and C., Rural Route 1, Little River 67457.
Peters, D. and J., Route 1, Box 30, Olsburg 66520.
Peters, W., Box 52, Little River 67457.
Peterson, H., Box 23, Garfield 67529.
Peterson, L., Route 1, Box 59, Sylvan Grove 67481.
Petron, D. L., d.b.a. D. and L. Hidden Valley, Rural Route 5, Box 331, Hutchinson 67501.
Pfeffer, R. F., d.b.a. Leebobs Kennel, Rural Route 1, Hoyt 66440.
Phillips, C. and E., d.b.a. Happy Hollow Kennel, 3355 North 115th, Kansas City 66109.
Phipps, B., 7233 Ida, Wichita 67233.
Piland, D. R., Rural Route 1, Box 55A, Macksville 67557.
Piserchia, C., P.O. Box 63, Kincaid 66039.
Pitsch, L., Box 368, Alma 66401.
Pitzer, W. J., d.b.a. Pitzers Kennels, Route 1, Concordia 66901.
Plattner, D., 1530 West Main, Sabetha 66534.
Polley, R. A., P.O. Box 113, Kincaid 66039.
Pollock, E., Soldier 66540.
Portenier, H. L., d.b.a. Fort Bissell Kennels, Route 3, Box 12A, Phillipsburg 67661.
Porter, L. and A., Route 1, Goff 66428.
Porter, V., d.b.a. Porter Equipment Co., Rural Route 1, Clay Center 67432.
Pouch, R. A., Route 1, Box 15, Chase 67524.
Prell, A. A., Oketa 66518.
Price, B. A., 3206 Wilder Road, Topeka 66617.
Price, M. R., Route 2, Iola 66749.
Prieb, M. E., Buhler 67522.
Prince, A. and M., 1233 West 18th, Junction City 66441.
Ptacek, F. R., Route 3, Russell 67665.
Ptomey, J. and J., Route 1, Havensville 66432.
Pugh, M., Route 2, Box 183, Mayetta 66509.
Pulliam, L. L., 7524 Ida, Wichita 67233.
Pywell, C. W., d.b.a. Pywells Kennels, 402 South Meridan, Plainville 67663.
Quirk, B. and S., d.b.a. Quirks Kennels, Rural Route 2, Reading 66868.
Raile, C. and I., d.b.a. I-C Royal Puppy Kennels, Route 1, Box 372, St. Francis 66756.
Rainbolt, M. W. and S., Route 1, Ellinwood 67526.
Rains, W. and L., Route 1, Box 178, Coffeyville 67337.
Ratzlaff, R., Route 1, Box 108, McCune 66753.
Ray, R. L., Valley Falls, Valley Falls 66088.
Redenbaugh, I., 306 East Division, Dodge City 67801.
Reed, L. S., Box 514, Rural Route 1, Tonganoxie 66086.
Reed, N. M., Box 63, Soldier 66540.
Reiman, J. K., 1330 Johnson Drive, Junction City 66441.
Reimler, W. and W., Rural Route 4, Box 53, Junction City 66441.
Renfro, J. J., 1131 North Kansas Avenue, Topeka 66608.
Renfro, G. S., 1135 North Kansas Avenue, Topeka 66608.
Renn, J. C. and T., Route 2, Box 270-D, Pittsburg 66762.
Renner, D. L., Devees Kennels, Route 1, Wallace 67761.
Reynolds, B. and S., Rural Route 1, Cuba 66940.
Reynolds, F. and V., Vis Pom House, Box 86, Longton 67352.
Reynolds, P., Box 111, Cuba 66940.
Rhine, D. and D., Tri Oaks Kennels, Rural Route 1, Narka 66960.
Rhine, R. and D., Route 1, Haddam 66944.
Ricard, W., Washington 66968.
Rice, B. K., Little Triangle Kennel, 700 West 5th, Valley Center 67147.
Rice, D. C. and J. A., Rural Route 1, Glasco 67445.
Rice, N., Route 1, Meriden 66512.
Rich, J., 4401 North Halstead, Hutchinson 67501.
Richeson, D. C. and D. K., Route 5, Box 39, Lawrence 66044.
Richter, E., Richters Kennel, Box 83, Green 67447.
Ricker, F., Kanapolis 67454.
Ricketts, E. and K., Ge-Ka Kennels, Route 1, Box 19, Little River 67457.
Riescheck, E. L., Soldier 66540.
Rising, B. and H., Burden 67017.
Rising, B. L. and H., Route 2, Burden 67019.
Rittel, J., Rittel's Kennel, Rural Route 1, Box 75, Chapman 67431.
Ritz, G. L., Route 2, Box 15, Erie 66733.
Roberts, C. D., Oakhill Kennels, P.O. Box 7, Oak Hill 67472.
Robertson, C. and B. L., Box Stables and Kennels, Route 1, Kinsley 67547.
Robey, G. J. and J., P.O. Box 282, Garden Plan 67050.
Robinson, M. E. and J. K., Mar Ka Kennel, 601 North Boyd, Caldwell 67022.
Rodgers, J. E., Jer May Kennels, Route 1, Concordia 66901.

Roever, A., Odell 68415.
Rollenhagen, H. E., Westmoreland 66549.
Ronnebaum, G. H., 6133 Northwest Brickyard Road, Topeka 66618.
Ronnebaum, L., Corning 66417.
Ronsse, E., Rural Route 1, St. Mary's 66536.
Rose, L., Washington 66968.
Ross, F., Box 6, Pawnee Rock, 67567.
Rottinghaus, G., Route 3, Seneca 66538.
Rottinghaus, G. F., Rural Route 1, Box 28, Bern 66408.
Rouse, G., 220 North Poplar, Beloit 67420.
Routh, V., Route 1, Sedan 67361.
Rowland, S., Rural Route 1, Marysville 66508.
Rudolph, D., Rudolphs Kennels, Route 1, Lincolnville 66858.
Ruetti, R. L., 306 East 8th, Frankfort 66427.
Rule, A., Rules Kennels, Rural Route 2, Norton 67654.
Runnebaum, B. A., Shady Rest Kennel, Rural Route 1, Box 126, Beattie 66406.
Rush, J., Route 1, Bendena 66008.
Russell, J., Centralia 66415.
Russell, O. V., Route 3, Box 164, Fredonia 66736.
Russell, S. M., Home 66436.
Saling, M., 313 North Pine, Moline 67353.
Sallman, E., Sallman Kennels, Box 64, Auroa 67417.
Salyer, S. L., Happy Hills Kennels, Rural Free Delivery 1, Box 157F, Lawrence 66044.
Sand, L., d.b.a. Oleo Acres Kennels, Rural Route 3, McPherson 67460.
Sanders, J. E., d.b.a. Potter View Kennel, Route 3, Box 79, Atchison 66002.
Sandy, L., d.b.a. Sandy's Scottie Kennels, Rural Route 2, Box 134, Great Bend 67530.
Sanford, C. R. and J. M., Route 2, Box 158, Belleville 66935.
Sartin, M. and L., Route 1, McCune 66753.
Satterthwaite, P., d.b.a. Satterthwaite Kennels, Route 2, Udall 67146.
Saucier, R., Route 3, Abilene 67410.
Saurage, H. and M., Havensville 66432.
Savage, L., Rural Route 2, Soldier 66540.
Sawin, De, Route 1, Washington 66968.
Schaffter, J. M. and S. A., Rural Route 1, Arlington 67514.
Schiff, D., Sharon 67138.
Schiff, K., Sharon 67138.
Schmelzle, G. J., Rural Route 1, Box 36, Corning 66417.
Schmidt, J. L., d.b.a. Schmidts Kennels, Route 2, Dodge City 67801.
Schmitz, L., Route 1, Baileyville 66404.
Schmitz, R., Baileyville 66404.
Schultejans, C., Route 2, Goff 66428.
Schultz, J. and M., d.b.a. Fin & Feather Pet Shop, 1221 Spencer, Newton 67114.
Schwinn, M., d.b.a. S. & S. Kennels, Route 1, Box 166C, St. George 66535.
Scott, H. D., Route 1, Box 43, Mankato 66956.
Scott, H. D. and J. E., d.b.a. Jarl's Kennels, Route 2, Box 43, Mankato 66956.
Scott, R. E., 220 South Lorraine, Hutchinson 67501.
Sears, J. L., Route 1, Box 20, Erie 66733.
Sedlacek, E., Route 1, Frankfort 66427.
See, W. L. and T., Route 1, Scott City 67871.
Seever, H, Box 71, Highland 66035.
Selfridge, K. and J., Box 215, Dighton 67839.
Selm, E. N., d.b.a. Shady Corner Puppy Farm, Route 2, Box 102, Attica 67009.
Sharp, M. J., d.b.a. S. & P. Fish House, P.O. Box 8, Elk Falls 67345.
Sheahan, E., Route 1, 528 G Street, Kingman 67068.
Sheets, D. and C., d.b.a. Char D Kennels, Rural Route 1, Box 221, Assaria 67416.
Shell, H., Route 2, Valley Falls 66088.
Shell, R. M., Route 2, Box 132, Valley Falls 66088.
Shelton, J., d.b.a. Hilltop Kennels, Box 275, Spring Hill 66083.
Sheppard, G., 3308 Skyline Drive, Topeka 66614.
Sherwood, K. and G., Rural Route 2, Concord 66901.
Shields, F., d.b.a. Shields Kennel, Glade 67639.
Shields, W. E., Route 2, Parsons 67357.
Shipman, T. G., Nortonville 66060.
Shively, B., Route 1, Walnut 66780.
Shroyer, D., d.b.a. North Gate Kennels, Rural Route 2, Miltonvale 67466.
Shughart, D., d.b.a. Deltaire Kennels, Route 1, Box 207, Perry 66073.
Shull, C. and M., Route 1, Dennis 67431.
Shute, E., d.b.a. Jeris Kennels, Route 1, Red Cloud 68970.
Siemsen, R. L. and M., Rural Route, Holyrood 67450.
Sigg & Close, 405 North Elm, Iola 66749.
Silver, L. V., Morganville 67468.
Sinclair, F. or K., Route 2, Iola 66749.
Sinclair, H. L., 311 South Vermont, Iola 66749.
Sipes, M, Route 1, St. Marys 66536.
Sis, B., d.b.a. Sis Kennels, Route 3, Box 273, Concordia 66901.
Sleichter, Jr., K., Box 4, Carbondale 66414.
Slemp, R. N., d.b.a. Saints Haven Dog Kennel, Rural Route 1, Moscow 67952.
Smart, L. E., Route 1, Burlington 66839.
Smethers, G. M. and L. W., Rural Route 2, Garnett 66032.
Smiley, G., d.b.a. Smiley's Kennels, Route 1, Larned 67550.
Smiley, G. L., Box 158, Pawnee Rock 67567.
Smith, C. S., Route 1, Arkansas City 67005.
Smith, D. A., Scottsville 67477.
Smith, E., Route 2, Erie 66733.
Smith, F., Route 2, Goff 66428.
Smith, H., d.b.a. Yockey Creek Kennel, Route 1, Box 149, Delphos 67436.
Smith, J., Box 123, Glenelder 67446.
Smith, J. and B., d.b.a. Windy Hollow Kennels, R.F.D. 1, Box 76, Fairview 66425.
Smith, L. and C., Route 3, Clyde 66938.
Smith, L. and T., Box 148, Jamestown 66948.
Smith, L. P., Rural Route 4, Junction City 66441.
Smith, M., Route 3, Box 702, Lyons 67554.
Smith, M., 605 North Prairie, St. John 67576.
Smith, Z. M., 705 North Sycamore, Iola 66749.
Smith's Enterprises, Inc., Rural Route 1, Box 80BB, Garden Plain 67050.
Smythe, D. R., Rural Route 2, Box 137, Holton 66436.
Snodgrass, V. and G., 923 King, Atchison 66002.
Sobba, D. J., Rural Route 1, Richmond 66080.
Solze, R. and J., Utica 67584.
Southerland, Jr., R., d.b.a. Valley View Kennels, P.O. Drawer B, Sedan 67361.
Sparks, B., d.b.a. Sparks Kennels, Route 4, Salina 67401.
Spear, A. and D., d.b.a. Lazy S Kennel, Route 1, Concordia 66901.
Spire, A. W., Route 1, Independence 67301.
Spittles, L. M., d.b.a. Spittles Kennels, Route 1, Alta Vista 66884.
Spore, A. K., Route 1, Box 140, Newton 67114.
Spresser, A. and N., d.b.a. Spresser Kennels, 5th and Minnesotta Street, Selden 67757.
Stackley, E., d.b.a. Hosta's Kennel, Route 4, El Dorado 67042.
Stallbaumer, J., Rural Route 2, Box 16, Seneca 66538.
Stallbaumer, P., Route 1, Centralia 66415.
Stallbaumer, R., Route 1, Seneca 66538.
Standish, S., 9015 Kansas Avenue, Kansas City 66111.
Stange J. L. and D., Route 1, Elsmore 66732.
Stange, L. and H., Route 1, Elsmore 66732.
Steele, D. A., Box 65, Corning 66417.
Steele, J. K., 418 Apollo Street, Silver Lake 66539.
Steele, M. L., Goff 66428.
Steele, R. and S., Route 3, Paola 66071.
Steffens, D. G., 20600 West 55th, Shawnee 66218.
Steffens, R., Box 1016, Frontenac 66762.
Steffey, J. and P., d.b.a. Deleware Valley Kennels, Route 2, Box 106, Oskalolosa 66066.
Steinfort, H. A., Box 155, Blue Rapids 66411.
Steinlage, F., Route 1, Corning 66417.
Steinlage, M., 313 North 6th, Seneca 66538.
Stephens, H., d.b.a. Stephens Kennels, Route 1, Box 130A, Independence 67301.
Stevens, A. T. and G. R., d.b.a. Stevens Kennels, Route 1, Valley Falls 66088.
Stevens, R. J., Box 867, Route 2, Manhattan 66502.
Stevenson, T., Route 2, Oswego 67356.
Stock, V., Route 1, Box 62, Beattie 66406.
Stolte, E., Route 1, Box 140, Linn 66953.
Stone, L. K., Leonardville 66449.
Strahm, J. D., d.b.a. G. & J. Kennels, Route 5, Hiawatha 66434.
Streich, S., Route 1, Mayetta 66509.
Stucky, A., Route 1, Box 81, McPherson 67460.
Stuhlsatz, J. P., Route 1, Garden Plain 67050.
Subera, A., Route 1, Box 58, Caldwell 67022.
Surface, B. L., Box 127, Marquette 67464.
Sutton, C., d.b.a. Skyview Kennel, Route 1, Marysville 66508.
Sutton, L. L. and W. M., Rural Route 5, Paola 66071.
Swartz, H. and N., Box 115, Alexander 67513.
Swearingin, D. G., Route 3, Independence 67301.
Sweet, M. Y., Route 2, Box 43, Formoso 66942.
Swihart, R., Box P-73, Quinter 67752.
Swinton, W. L., Box 162, 905 West Blaine, Pratt 67124.
Swisher, G., Rural Route 1, Box 86B, Delia 66418.
Synoground, R. and O. and Long, J. D., d.b.a. Muncie Boarding Kennel, 99 North 61st Street, Kansas City 66102.
Tamerius, C. and D., Cuba 66940.
Tangeman, V., d.b.a. Tangemans Kennels, Corning 66417.
Tate, L., d.b.a. Tate's Kennels, Box 125, Scandia 66966.
Tate, L., Box 43, Corning 66417.
Taylor, H. S., Box 248, Douglass 67039.
Taylor, I. L., Route 1, Solomon 67480
Teetzen, W. F., Route 1, Box 23, Junction City 66441.
Terflinger, M. and K., Route 1, Box 40, McCune 66753.
Tessendorf, L., Rural Route 1, Box 74, Circleville 66416.
Teter, R. and D., Route 1, Maize 67101.
Tharel, L., Route 1, Box 166, Mulvane 67110.
Theracon Inc., Box 1493, Topeka 66601.
Thieme, M., Wetmore 66550, Wilmore 67155.
Thieme, L., Bern 66408.
Thiry, R. M., Route 1, Box 104, McLouth 66054.
Thomas, J., Route 1, Box 70, Peru 67360.
Thomas, J. E. and V. M., 304 South 15th, Independence 67301.

Thompson, A., Route 2, Box 55, Independence 67301.
Thompson, A., 612 Iowa, Holton 66436.
Thompson, O. M., d.b.a. Hillside Kennel, Route 2, Concordia 66901.
Thompson, P., d.b.a. Toy Acres Kennels, Route 2, Harper 67058.
Thompson, R. E., Route 2, Sterling 67579.
Thonen, R., Circleville 66416.
Tincknell, A. E., 1210 North 7th Street, Neodesha 66757.
Tinklin Dog Kennel Inc., Route 2, Goff 66428.
Todd, J., Route 2, Formoso 66942.
Toews, G. W. and D., Route 2, Canton 67428.
Tompkins, A. and V., d.b.a. TNT Kennels, Box 115, Athol 66932.
Tonne, R. A., 1009 Eisenhower, Norton 67654.
Tosland, W. R. and L., Sunflower Motel, Russell 67665.
Tower, M. F., d.b.a. T 3 Kennels, Route 1, Anthony 67003.
Trailane Kennels Inc., Route 1, Soldier 66540.
Trimble, G., Clyde 66938.
Troyer, R., Route 1, Leonardville 66449.
Truhlicka, T. L., d.b.a. TSC Kennels, Route 1, Box 90, Barnes 66933.
Tucker, L., Box 55, Welda 66091.
Tucker, U., d.b.a. Tucker St. Bernard Farm, Route 1, Box 5, Welda 66091.
Turk, D. J., Route 1, Barnes 66933.
Tuttle, D. A., Route 1, Lucas 67648.
Tyler, T. P., 7945 West Sherman Road, Meriden 66512.
Ubel, B., Route 2, Westmoreland 66549.
Uhrlaub, E. K., d.b.a. Twin Pines Kennel, Route 1, Meriden 66512.
Ullery, L., Rural Route 2, Scranton 66537.
Ullery, S., Rural Route 2, Scranton 66537.
Usher, C. B., 110 Hora Avenue, Sedan 67361.
Uttinger, J. R., d.b.a. Dick's Animal World, 16144 East Kellogg, Wichita 67230.
Van Epps, J., Route 1, Robinson 66532.
Van Gosen, B., R.F.D. 2, Box 52, McLouth 66054.
Van Loenen, G. O., Box 153, Bogue 67625.
Vaughn, L., Rural Route 2, Iola 66749.
Verbonitz, L., d.b.a. Hidden Valley Farm, Rural Route 2, Box 4, Junction City 66441.
Vest, L., Route 3, Iola 66749.
Vest, S. P., 702 South Kentucky, Marion 66861.
Vinduska, W. F., Route 3, Box 163, Marion 66861.
Vining, C. B., Rural Route 1, Box 643, Mulvane 67110.
Vinson, S., 700 Northeast 3rd, Abilene 67410.
Vinsonhaler, B., 509 North A Street, Smith Center 66967.
Visonhaler, J., Rural Route 3, Smith Center 66967.
Vlk, W., d.b.a. Vlkhamstery, 704 North Cedar, Marion 66861.
Voit, C., Box 111, Navarre 67649.
Wacker, L. and R., d.b.a. Smoky River Kennels, Box 73, Kanopolis 67454.
Wagner, D., 305 Utah Street, Hiawatha 66434.
Waite, O., Route 2, Kingman 67068.
Walbridge, R., Route 2, McLouth 66054.
Walker, C. L., 414 West 83rd Street, Wichita 67233.
Walker, D. C. and J. S., d.b.a. Highland Creek Kennel, Box 472, Macksville 67557.
Walker, R. and P., d.b.a. Silverdale Kennels, Route 1, Box 62, Macksville 67557.
Walters, R. G. and W., d.b.a. Prairie View Kennels, Route 1, Cassoday 66842.
Ward, C. and E., Elk City 67344.
Ward, L. H., Colony 66015.
Ward, M. and H., Route 3, Iola 66749.
Ware, K., Route 1, Mound Valley 67354.
Warnica, R. E., Route 1, Box 51, Marion 66861.
Warren, L., Route 2, Iola 66749.
Wassenberg, L. R., 901 Hillcrest, Marysville 66508.
Wassenberg, W. A. and A., d.b.a. Blacktop Kennels, Route 1, Bafleyville 66404.
Waterman, E. and N., Rural Route 1, Box 135, Glasco 67445.
Watkins, C. and P. and C., 740 Northeast 43rd, Topeka 66617.
Watkins, C. and P. and C., Route 2, Box 86, Gerard 66749.
Watkins, G., Holton 66436.
Watkins, L., Goff 66428.
Watts, G., Route 3, Sabetha 66534.
Weatherhead, D., Route 2, Concordia 66901.
Webb, H., d.b.a. Echo Hill Kennels, Route 2, Box 64, Atchison 66002.
Webb, W. L., d.b.a. W. J. Kennels, 2421 North 6th, Dodge City 67801.
Weber, W. and J., 115 North Chesnut, Beloit 67420.
Webster, A. W., Route 1, Box 59E, Fort Scott 66701.
Webster, M. and W., Route 2, Box 102, Chanute 66720.
Wedell, R., 213 North Cherokee, Girard 66743.
Weixelman, R. D., 5943 Northwest Leedy Road, Topeka 66618.
Welsh, P. R. and P., 300 East 6th, Solomon 67480.
Wenger, L. V., Route No. 1, Powhatten 66527.
Wenger, V. C., Route 1, Powhattan 66527.
Wertzberger, D. and S., Rural Route 2, Box 52, Alma 66401.
West, R. R., d.b.a. West Kennels, Route 2, Colony 66015.
Westoff, N., Route 1, Box 95, Erie 66733.
White, W. L., d.b.a. Cedar Point Kennel, 312 East Bowers, Sedan 67361.
Whited, P. D., d.b.a. Pat's Canine Boutique, 603 North Jackson, Pratt 67124.
Whitwam, D., 1528 East 22d Street, Topeka 66605.
Widmar, G., d.b.a. The Widmar's, Route 3, Box 46, Girard 66743.
Wiechman, L. and S., d.b.a. L. & S. Kennels, Rural Route 3, Winfield 67156.
Wiens, R. H., Rural Route 3, Box 134, McPherson 67460.
Wiesner, D. J., 359 West Third, Hoisington 67544.
Wietharn, C., Rural Route 1, Clay Center 67432.
Wigton, B., d.b.a. Wigton's Chihuahuas, Route 2, Box 106, Columbus 66725.
Wilkins, P., Miltonvale 67466.
Willhaus, M., Route 2, Sterling 67579.
Williams, E., 315 West Buffalo, Girard 66743.
Williams, L., Route 4, Hiawatha 66434.
Willis, M. V., Rural Route 2, Oswego 67356.
Wilson, F., d.b.a. Lazy Acres Kennels, Box 109D, Route 2, Louisburg 66053.
Wilson, J. and W., 1402 East 19th, Hays 67601.
Wilson, L., Rural Route 1, Scranton 66537.
Wilson, S., 403 West 1st, Coffeyville 67337.
Winans, D. R., 3130 Wyandott Circle, Kansas City 66106.
Windmeyer, F., R.F.D. 5, Hiawatha 66434.
Winslow, L. M., Blue Rapids 66411.
Wint, V. J., Route 4, Independence 67501.
Wiseman, D., 200 Cheyenne, Hiawatha 66434.
Wisemiller, W. and R., d.b.a. Rumax Kennels, Route 3, Box 50A, Sabetha 66534.
Witt, Jr. N. T., Box 124, Hudson 67545.
Witt, E. J., Route 2, Wamego 66547.
Witten, T. and C., Route 4, Box 155, Chanute 66720.
Wittmer, J., Rural Route 1, P.O. Box 49, Bern 66408.
Wittum, R. F., 1515 North 10th, Independence 67301.
Woerner, R., Route 1, Linn 66953.
Wolf, P., Box 46, Morganville 67468.
Wolfe, A. L. and L., 126 South 9th, Rural Route 2, Box 11C, Osborne 67473.
Womelsdorf, R., d.b.a. Womelsdorf Kennels, Route 1, Box 89, La Harpe 66751.
Wood, W. V. and J. J., d.b.a. Kennelwood Kennels, Route 1, Box 265, Fort Scott 66701.
Woodhead, G., 1339 Haskell, Lawrence 66044.
Woods, D. and E., D. and L. Kennels, Box 421, Elkhart 67950.
Worcester, B. and J., Route 2, Hill City 67642.
Worm, L., Webber 67770.
Worthy, D., d.b.a. Worthy's Kennels, Box 106, Parsons 67357.
Wortman, L., Route 1, Box 111, Medicine Lodge 67104.
Wray, J. A., Wray Kennel, Route 2, Norton 67654.
Wray, W. and J., 315 Oklahoma, Lawrence 66044.
Wright, J. G., d.b.a. Wright-Way Kennels, Route 1, Box 90, Home 66438.
Wrisley, L. K., d.b.a. Lynnett Prairie Kennels, Route 2, Pretty Prairie 67570.
Wrosch, G. and V., Route 1, Box 164, Perry 66073.
Wullschleger, P., Route 1, Box 103, Frankfort 66427.
Wyatt, P. A., P.O. Box 692, Douglass 67039.
Wylie, K. and J., Box 22, Hamilton 66853.
Yacko, L., 302 Oak Street, Cawker City 67430.
Yarnell, V., Route 1, Box 196, Erie 66733.
Yeubanks, G., d.b.a. Yeubanks Kennel, Route 3, Cherryvale 67335.
Yonning, B. J., Route 2, Westmoreland 66549.
Young, F. A., Route 1, Altoona 66710.
Zeiner, E., 1000 Rice Road, Topeka 66607.
Zerger, C. D., 500 Avenue A West, Kingman 67068.
Breathitt Rabbit Producers, Inc., Altro.
Hill, M. D., Rural 2, Box 204, Cecilia 42724.
Hoffman, J., d.b.a. A-1 Tropical Fish & Pet Center, Box 501, Corbin 40701.
Lucas, P., Route 2, Beattyville 41311.
Northcutt, M. E., d.b.a. Good Will Kennel, Route 5, Cynthiana 41031.
Roberts, W. C., d.b.a. Best pets & Laboratory Animals, 9224 Pagoda, Louisville 40229.
Smith, L. E., d.b.a. S&S Res Animals, Hilltop Kennels, P.O. Box 151, Lagrange 40032.
Vogelsberg, D. A., d.b.a. Vogelsberg's Cavery, 3819 Hillcreek Road, Louisville 40220.
Whitehead, D., d.b.a. Whitehead Kennels, 900 Riverside Drive, Wurtland 41144.
Williams, J. U., d.b.a. Williams KY Cavies, 7811 Dobson Road, Fern Creek.
Wood, J. K., Route 1, Bagdad 40003.
Benedetto, F., d.b.a. Rose Garden Center, 4005 Westbank Expressway, Marrero 70072.
Bistineau Tropical Fish, Inc., P.O. Box 5897, Bossier City 71010.
Brown, J., Route 2, Box 700A, Cookson 74427.
Carroll, L., Route 1, Box 231, Zachary 70791.
Gulf South Research Institute, P.O. Box 1177, New Iberia 70560.

Hartness, L., 903 North Center Street, Ruston 71270.
Irwin, L. G., d.b.a. Live Oaks Kennels, P.O. Box 906, Iowa 70647.
Ozone Pet Supply, P.O. Box 145, Lacombe 70445.
Summer, C. and E., d.b.a. Alpha Kennels, Route 1, Box 29, Ida 71044.
Waubun Laboratories, Drawer C, Schriever 70395.

MAINE

Anderson, G. and J., d.b.a. Maple Grove Rabbit Farm, Leighton Road, Pownal 04069.
Bangor Pet Inc., RFD 3, Box 22, Bangor 04401.
Big Moose Corp., d.b.a. Down East Pet Center, Promenade Mall, Lewiston 04240.
Boucher, A. F., d.b.a. Hide-A-Way Rabbitry, 23 Speirs Street, Westbrook 04092.
Bradeen, A. E., d.b.a. Bradeen's Rabbitry, Sebago Lake 04075.
Cathedral Pines Nature Center, Inc., 145 Birch Street, Lewiston 04240.
Cool, T., Freedom 04941.
Cottontails Inc., 130 Falvey Street, Bangor 04401.
Dolan, R. W., P.O. Box 326, Farmington 04938.
Heikkinen, D. A., Route 1, Box 157, Turner 04282.
Kelly, F. C., 52 Westminster Street, Portland 04103.
King, L. W., 18 Hortin Street, Lewiston 04240.
Koehling, G. A., Bragdon Road, Freeport 04032.
Labelle, L. and M., d.b.a. Acadia Farm, RFD 3, Box 372, Ellsworth 04605.
Mains, Jr., E. A., d.b.a. Line Road Auction House, RFD 1, Gorham 04038.
McLaren, G. and R., Thumper Farm, Harrison 04040.
Perley, H. D., d.b.a. White Animal Farm, Landing Road, RFD 4, Scarboro 04074.
Skibicki, J., 5 Sayward Street, Kennebunk 04043.
Smith, E. and M., d.b.a. Northland Wolf Colony, Box 258, Wells 04090.
Smith, M., Chute Road, Rural Delivery 2, South Windham 04082.
Smith, W. and L., Old Buxton Road, Saco 04072.
Telaco, d.b.a. BIO Research Consultants, RFD 1, Box 101-8, Bar Harbor 04609.
The Jackson Laboratory, Bar Harbor 04609.
Waycott, Sr., N. E., Buxton Road, Saco 04072.
Williams, E. E., RFD 5, Old Brunswick Road, Gardiner 04345.
World of Pets, 528 Main Street, South Portland 04106.
Wright, B., Heath Road, Kennebunk 04043.

MARYLAND

Albright, W. K., d.b.a. Albrights Feed, 12140 Jerusalem Road, Kingsville 21087.
Chauvenet, D. S., Box 454, Chestertown 21620.
Coral Hill Pets Unlimited, 4429 Southern Avenue SE., Washington 20019.
Eastern Pet and Hobby Shop, Inc., 423 Eastern Boulevard, Baltimore 21221.
Eckert, W. L., Harney Road, Taneytown 21787.
Fauna Inc., 3696 Old Silver Hill Road, Silver Hill 20023.
Frye, W. E., d.b.a. B&H Rabbitry, 13700 Travilah Road, Rockville 20850.
Georges Pet Shop, Inc., 5397 Annapolis Road, Bladensburg 20710.
Hahn, R. A., d.b.a. Little Things Unlimited, Route 3, Box 126, Thurmont 21788.
Harris, J. H., d.b.a. J. L. K. Hamsters, 12241 Dalewood Drive, Wheaton 20902.
J. E. M. Research, Inc., 3930 Knowles Avenue, Kensington 20795.
Kennedy, L., 308 North Locust Street, Hagerstown 21740.
L&M Pets Inc., Route 6, Box 384, Frederick 21701.
Latta, F. D. and B. R., d.b.a. B&F Farms, 7859 Clark Station Road, Severn 21144.
Litton Bionetics Inc., 5516 Nicholson Lane, Kensington 20795.
Reinhardt, R. E., d.b.a. Silver Hill Live Stock, 4700 Newman Road, Temple Hills 20031.
Savage, F., d.b.a. Waters Aquarium, 6 North Frederick Avenue, Gaithersburg 20760.
Smith, G. W., Rural Delivery 1, Box 117B, Henderson 21640.
Tropical Fish City Inc., 13312 Laurel Bowie Road, Laurel 20811.
Vieira, N. R., d.b.a. Seven Seas Tropical Fish, 7750 Old Marlboro Pike, Forestville 20028.
Walls, Sr., E., Route 1, Box 57B, Centerville 21617.
Yoder, E., Grantsville 21536.

MASSACHUSETTS

Allison, H. E., d.b.a. Allison Acres, 305 Flat Hill Road, Lunenburg 01462.
Animal Research Center of Massachusetts, Charles Lane Road, New Braintree 01531.
Archambault, F. E., d.b.a. Terre Haute Rabbitry, 167 Brigham Hill Road, North Grafton 01536.
Arsenault, L., d.b.a. Lee's Livestock, 163 Warwick Street, Lawrence 01840.
Bachand, R., 22 Laura Keene Avenue, Acushnet 02743.
Berry, R. A., d.b.a. Bob's Bunny Barn, 161 Matfield Street, West Bridgewater 02379.
Bio-Research Institute, Inc., 9 Commercial Avenue, Cambridge 02141.
Boston Pet Supply, 200 First Street, Cambridge 02142.
Bows, R. C. and Olson Jr., F. A., d.b.a. Associated Rabbit Industries, P.O. Box 14, 92 Robbins Street, Avon 02322.
Charles River Breeding Laboratories, Inc., 251 Ballardvale Street, Wilmington 01887.
Connecticut Valley Biological Supply Co., Inc., Valley Road, Southampton 01073.
Czepiel, J. S., 26 Paderewski Avenue, Chicopee 01013.
Drowne, L., 68 Saddle Hill Road, Hopkinton 01748.
Exotic Fish and Pet World, Inc., 49 Russell Street, Hadley 01035.
Fay Jr., A. L., 11 Raymond Road, Burlington 01803.
Ferris, P. G., 180 North Main Street, Middleton 01949.
Finch, A. C., d.b.a. Pineland Farm Kennels, 93 Leonard Street, Raynham 02767.
Gardner's Turkey Farm, Inc., 1765 Bay Street, Taunton 02780.
Gaulitz, D. E., 154 Pine Street, Franklin 02038.
George C. Thorsen, Inc., 110 Turnpike Road, Fayville 01745.
Gingras, A. W., 47 Barton Avenue, 600 Wheeler Road.
Greene Jr., K. E. and P. A., d.b.a. Cranberry Highway Pet Village, 115 East Grove Street, Middleboro 02346.
Greenough, C. L., 282 Betty Spring Road, Gardner 01440.
Hartfinger, P. L., d.b.a. Hartfinger Farm & Rabbitry, Route 58 and Cresent Street, Plymptom 02367.
Jenks, F. H., 21 James Street, Feeding Hills 01030.
Johnson, W., 117 Spring Street, Foxboro 02035.
Katz, S., 9 Strawberryhill Lane, Danvers 01923.
Kydd, R. L., d.b.a. Elm Hill Breeding Lab, 71 Elm Street, Chelmsford 01824.
Landress, M., d.b.a. Margaret's Home Farm, Barton Heights, Greenfield 01301.
Legare, E., Greenwich Place Road, Ware 01082.
Mahan, B. L., d.b.a. Circle M Rabbitry, 4 Robinson Place, Westboro 01581.
Malone, V., Keyes Road, Warren 01585.
Masson, P. P., d.b.a. Masson's Small Animal Farm, 75 Goodhue Avenue, Dracut 01826.
New England Farms, P.O. Box 300, Sharon 02067.
Paradise Gardens Inc., 14 May Street, Whitman 02382.
Patnaude, H. N., d.b.a. Patnaudes Aquarium, 1193 Ashley Boulevard, New Bedford 02745.
Peck, A. S., Indian Road, Dudley 01570.
Peloquin Jr., P. R., d.b.a. Fig Tree Rabbitry, 200 North Street, 12-A, Danvers 01923.
Perry, T. D., 84 Winter Street, Marlboro 01752.
Platt, A. R., d.b.a. Pine Acre Rabbitry, 299 East Main Street, Norton 02766.
Ploof, D. H., 330 Gilbert Street, Mansfield 02048.
Research Resources and Services Foundation, Inc., 1 Pine Hill Drive, Southborough 01772.
Robinson, K. J., 91 School Street, Chelmsford 01824.
Serwecki, J. S., d.b.a. Serweckis Rabbitry, North Spencer Road, Spencer 01562.
Southwick Birds & Animals, Inc., Rural Free Delivery, Blackstone 01504.
Stephens, J. N., d.b.a. Farm 44 Rabbitry, Box 118, Carmel Street, Middleboro 02346.
Stevens, E. C., d.b.a. Stevens Rabbitry, 378 Reservoir Street, Holden 01520.
Swift, L. F., d.b.a. Swift & Sons White Oak Rabbitry, 93 Goudale Street, Peabody 01960.
Tucker F. and Woodford, E. J., d.b.a. Research Donor Service, 908 Hancock Street, Abington, 02351.
Tumblebrook Farm, Inc., RFD 1, Box 9, West Brookfield 01585.
Whip-O-Wil Farm Inc., RFD 1, South Bridge 01550.

MICHIGAN

Alber, H., Rural Route 5, Ann Arbor 48104.
Ann Arbor Biological Center, Inc., 6780 Jackson Road, Ann Arbor 48103.
Beekman, A., 3865 North Pillon, Muskegon 49445.
Black Lagoon Inc., 504 North Main Street, Royal Oak 48067.
Brown, D. E., 17911 Kenowa Avenue, Conklin 49403.
Ciszewski, H., d.b.a. Bettys Pet & Garden Center, Route 79, Box 239C, Houghton Lake 48629.
Cooper, E. J., 12595 Budd Road, Burt 48417.
Cooper, J. E., 79 Wainwright Street, Kent City 49330.
Day, L. A., d.b.a. Days Rabbit Farm, 7688 North Sheriden Road, Edmore 48829.
Deshone, J. and M., d.b.a. M&M Pet Supply, 5750 NM-13, P.O. Box 566, Pinconning 48650.
Dettmer, D. J., d.b.a. Dettmers Bunny Patch, Box 109 Garfield Road, Carson City 48811.
Ewert, M., d.b.a., Ewert Enterprises, 2059 South 3rd Street, Niles 49120.

Foster, S. D. and G. B., d.b.a. Ship A Hoy & Hobby Shop, P.O. Box 508, Standish 48658.
Freeman, C. F., d.b.a. Win Shur's, 9375 Big Lake Road, Clarkston 48016.
Griffor, L. and J., 4655 South Telegraph, Dearborn 48125.
Hodgins, G., d.b.a. Hodgins Kennel, 6110 Lange Road, Howell 48843.
Huff, P., Shady Oak Kennel, Route 2, Box 640, Gladstone 49837.
Hunt, D. J., 6237 Vinton Avenue, Comstock Park 49321.
International Animal Exchange, Inc., 1489 East Nine Mile Road, Ferndale 48220.
International Research and Development Corp., 500 North Main Street, Mattawan 49071.
Kauffman, A. H., 1048 Sunnydale, Burton 48509.
Klingenberg, R. G., 4504 137th Avenue, Hamilton 49419.
Laboratory Animals Inc., Countyline Road, Pentwater 49449.
Laborabory Research Enterprises, Inc., 6321 South 6th Street, Kalamazoo 49009.
Langshaw, N., d.b.a. Langshaw Farms, Route 1, Box 256, Augusta 49012.
Malmstead, I., d.b.a. Bow Wow Kennel, Route 1, Bark River 49807.
Merritt, E. J., d.b.a. Sky Sea Land Pet Shop, 531 South Court, Lapeer 48446.
Monson, J., Route 2, Barren 49120.
Radzilowski, E., d.b.a. Meadowbrook Farms & Co., 10533 Gratiot Road, Richmond 48062.
Richards, B. L., 2056 Hoover Road, Flint 48504.
Shankin, E., Shankins Rabbitry, 8412 Westminister, Warren 48089.
Stevens, L., R. & L. Pet Shop, P.O. Box 169, Atlanta 49709.
Taft, M. T., A&M Kennels, Route 7, Box 467, Escanaba 49829.
Ulrich, M. E., Route 2, Polk Road, Stanwood 49346.
Vitek, R. L., d.b.a. Vitek's Rabbitry, Route 2, 1670 South Airport Road, St. Johns 48879.
Walt, L. E., 10070 West B Avenue, Otsego 49078.
Wallace, K. D., d.b.a. Oakhill Rabbit Ranch, 1753 106 Avenue, Otsego 49078.
Woudenberg, R. J. and R. L., Rural Route 2, 19256 West Kendaville Road, Howard City 49329.

MINNESOTA

Anderson, R., 305 West Main, Clarks Grove 56016.
Baker, G., d.b.a. Gen Animal Farms, Box 212, Hutchinson 55350.
Banke, H. W., d.b.a. Harold's Rabbitry, 206 South Hickory Street, Lester Prairie 55354.
Beise, M., d.b.a. Beise Kennels, Jordan 55352.
Benigni, K. S., d.b.a. The Skunk Works, Cotton 55724.
Berg, L. L., d.b.a. Berg's Pomeranian Ranch, Route 1, Osakis 56360.
Bergland, K., Rural Route 1, Ellendale 56026.
Bernu, A., Route 1, Box 55, Bovey 55709.
Bio Lab Corp., 5228 Centerville Road, St. Paul 55110.
Blaine Midway All Pets, Inc., 10909 Radisson Road, Blaine 55434.
Boeve, J., Rural Route 1, Box 92, Beaver Creek 56116.
Braun, O., Route 2, Box 198, Worthington 56187.
Broadwater, W. J., d.b.a. Miss-Ayr Kennels, Preston 55965.
Brust, P. S., d.b.a. Oak Crest Kennels, 4770 South Robert Terrace, Inver Grove Heights 55075.
Bulau, P. and H., Rural Route 2, Glenco 55336.
Butler, D. P., Route 1, Box 51, Brainerd 56401.
Capranos, T. and T., d.b.a. T&T Hamster Hut, 1920 4th Avenue NW., Austin 55912.
Carlson, D. M., d.b.a. Tonka Pets, 4330 Shady Oak Road, Hopkins 55343.
Chance, W., Route 3, St. Joseph 56374.
Davidson, H. and C., d.b.a. Davidson's Fur Farm, Route 2, Box 128, Annandale 55302.
Deakins, H., d.b.a. Newfoundland Kennel & Farm, Route 1, Park Rapids 56470.
Diepold, B., Rural Route 1, Stewart 55385.
Dooley, E., d.b.a. Mel-Mae Kennel, Rural Route 2, Box 25, Ellendale 56026.
Doubler, B. B., d.b.a. Sunny Acres, Rural Route 2, Walnut Grove 56180.
Dowd, S. K., d.b.a. Dee Dee's Guinea Pig Farm, West Highway 52, Cotton 55724.
Eggestein, A. and J., d.b.a. C. C. Farm & Kennel, Route 2, Annandale 55302.
Erickson, K., d.b.a. Kay Jo's Cockers, 15647 Territorial Road, Maple Grove 55369.
Ferguson, B., d.b.a. Midwest Kennels, Rural Route 1, Canby 56220.
Ferguson, R., Route 1, Clearwater 55320.
Finne, L. and K., West Concord 55985.
Gleame, D., d.b.a. Evansland Kennels, Sunburg 56289.
Glime, R., d.b.a. City of St. James, 1002 7th Avenue North, St. James 56081.
Glover, F., Pine River 56474.
Griener, C. J., 5410 177th Lane NW., Anaka 55303.
Hamlett, L. and Myers, C., d.b.a. Oak Crest Rabbitry, 5725 Blake Road, Apartment 206, Edina 55436.
Harrington, D., Rural Route 2, Caledonia 55921.
Harrington, H. and C., d.b.a. Harrington Kennels, Route 1, Box 306, Brainerd 56401.
Herness, G., d.b.a. George Herness Sewell Lake Kennels, Box 34, Dalton 56324.
Hewitt Jr., C. V., d.b.a. Shamrock Kennels, Box 133, Crosslake 56442.
Hintgen, J., d.b.a. Sherry Ann Kennels, Route 3, Worthington 56187.
Hippert, D., Kasson 55944.
Hippert, M. E., 2526 South Bridge Street, New Ulm 56073.
Hoehne, K. F., Pine Island 55963.
Horak, E., Route 1, Box 53, Medford 55049.
Hubner, B., Route 4, Box 125, Pipeston 56164.
Hunter, R. and W., d.b.a. Maple Lane Kennel., Route 1, Waverly 55390.
International Biologics, Inc., 531 9th Street NW., New Brighton 55112.
Jester, P. M., Rural Route 5, Box 63, Austin 55912.
Johannes, J., d.b.a. R&J Rabbit Ranch., Route 1, Box 127, Little Falls 56345.
Johnson, E. M., Route 2, Box 33, Sauk Centre 56378.
Karger, B. and R., d.b.a. Sunshine Kennel, P.O. Box 113, Pengilly 55775.
Klar, R., Route 1, North Branch 55056.
Knutson, D. and J., d.b.a. D-J Doberman, Route 2, Lakefield 56150.
Konze, W. and V., d.b.a. Riverside Kennel, Star Route, Onamia 56359.
Kraft, K. G., d.b.a. Krafts Game Farm, Rural Route 1, Racine 55967.
Krohnberg, L. E., Rural Route 2, Blooming Prairie 55917.
Kubaszwski, Jr., 426 East 13th Street, Duluth 55811.
Kuyava, G. C., 560 West Wabosha, Duluth 55803.
Lacy, R. L., d.b.a. 3-K Gerbil Ranch, 2453 Cohansey Street, St. Paul 55113.
Lambertson, V., Box 173, Rural Route 2, Stewart 55385.
Larson, N. L., d.b.a. Wayside Kennels, Route No. 2, Box 449, Longlake 55356.
Lucht, W., Route 3, Osseo 55369.
Madsen, D. K., d.b.a. Madsen Shooter Supp. 921 East 8th, Spencer 56301.
Mald, R., Rural Route 1, Sberburn 56171.
Malzahn, J. W., 850 Great Plains Boulevard, Chaska 55318.
Marshall, R. and P., d.b.a. Mashall's Touche Kennel, Route 2, Box 76, Shevlin 56676.
Mathes, Jr., H. L., d.b.a. Shadywalk Kennels, Route 4, Box 94, Mora 55051.
Maty, A. L., 345 Michigan Street, St. Paul 55102.
Matz, H., d.b.a. Fur Farm, Walters 56092.
McAllister, R. and J., 3669 140th Street NW., Prior Lake 55372.
McConkey, G. W., d.b.a. C. & J. Kennels, Rural Route 2, Brewster 56119.
Menning, R., Box 353, Edgerton 56128.
Miller, T. and J. and Champlin, F., d.b.a. Mill-Champ Kennels, Route 3, Austin 55912.
Mills, J., Route 1, Box 112, Brainerd 56401.
Minnesota Pet Breeders, Inc., d.b.a. Crume Kennels, Route 2, Box 102, Glyndon 56547.
Moeg, S. and V., d.b.a. Moen's Bunny Bungalow, Verdi 56179.
Municipal and Private Service Inc., 506 11th Avenue North, Minneapolis 55411.
Nelson, J. P. and C. L., Route 1, Box 439, Little Falls 56345.
Neville, V. E., d.b.a. Snow Chalet Kennel, P.O. Box 384, Bemidji 56601.
Newcomb, D. E. and K., 16913 Highway No. 7, Hopkins 55343.
Niewohner, J., d.b.a. JLJ Ranch, Route 3, Box 79D, Little Falls 56345.
Nurmi, W. W., 519-7th Avenue, Two Harbors 55616.
Olson, R. S., Route 1, Box 1, Willmar 56201.
Pankratz, H. H., Mountain Lake 56159.
Perry, L. and M., Route 1, Box 164, Morn 55061.
Peterson, A. R., Rural Route 1, Box 212, Plainsview 55964.
Pine Crest Kennels, Rural Route 1, Byron 55920.
Radke, D., Route 1, Brownton 55312.
Ratzloff, W. B. and J., d.b.a. Ratzloff's Kennel, Route 1, Mountain Lake 56159.
Reek, O. G., d.b.a. Reeks Tropical Fish and Supply, 530 Magara Lane North, Wayzata 55391.
Rieff, G. W., d.b.a. Gopher State Caviary, 862 Atlantic Street, St. Paul 55106.
Rockman, M., Route 1, Box 168, Jordan 55352.
Rook, W., d.b.a. Big Stone Kennels, Beardsley 52611.
Rother, L., d.b.a. Vermillion River Kennel, 20649 Chippendale Avenue West, Farmington 55024.
Rovelstad, H., d.b.a. Koyukuk Kennels, Route 1, Pequot Lakes 56472.
Rutledge, R., d.b.a. Chuchi Kennels, Island View Route, International Falls 56649.
Schade, E. and L., d.b.a. Aquarius Pets, Rural Route 1, Ruthton 56170.
Scheiller, S. M., d.b.a. Rodent Ranch, Robbinsdale 55422, Minneapolis 55422.
Schemper, R. J. and M. J., Rural Route 3, Box 230, Worthington 56187.
Schmidgall, J., d.b.a. Evergreen Kennel's, Route 1, Box 139, Morris 56267.
Schmidt, A. M., Star Route, Sandstone 55072.
Schoonover, D. F., d.b.a. Oaklane Kennels, Hollandale 56045.
Schrock, W. W., Box 272, Loman 56654.

Schroeder, A., Route 1, Box 154, Kiester 56051.
Schultz, A., d.b.a. Boxie's Bulldog Kennel, Ceylon 56121.
Serger, M. L., Watkins 55389.
Sifers, D., d.b.a. Cimaroc Kennels, Box 251, Route 2, Morris 56267.
Staloch, R., d.b.a. R Supply Co., 5134 18th Avenue Northwest, Rochester 55901.
Strom, H., Route 1, Randall 56475.
Stromberg, L., d.b.a. Stromberg Pets Unlimited, 50 Lakes Route, Pine River 56474.
Style Pets Unlimited of Minnesota, 455 Northeast Taylor Street, Minneapolis 55413.
Swanson, W. E., d.b.a. Oak Ridge Kennels, Route 5, Box 882, Mound 55364.
Taylor, R. R., d.b.a. Taylor's Pets Unusual, Route 1, Box 365, Perham 56573.
Thompson, R., d.b.a. Thompson's Game Farm, Rural Route 1, Windom 56101.
Tilbury, J., Route 1, Grasston 55030.
Toenges, C. H., Rural Route 1, Alden 56009.
Trom, B. L., d.b.a. Stockbury Kennels, Rural Free Delivery 1, Box 176, Blooming Prairie 55917.
Urbach, L. and P., Route 3, Box 77, Frazee 56544.
Utoft, D. L., Utoft Kennels, Tyler 56178.
Vinar, Sr., D. J. and A. B., d.b.a. D. & A. Kennel, Route 2, Watkins 55389.
Weinkauf, D., d.b.a. Deb's Kennel, Rural Route 1, Box 85, Eagle Lake 56024.
Wensmann, G. and A., d.b.a. Highland Hills Kennel, Box 200, Route 1, Melrose 56352.
Wiehr, A. W., Rural Route 1, Buffalo Lake 55314.
Wright, N. S., Rural Route 1, Grand Meadow 55936.
Zelinsky, A. H., d.b.a. Cedar Ridge Kennel, Route 1, Box 237, Mankato 56001.

MISSISSIPPI

Associated Producers Inc., Ltd., P.O. Box 466, Lumberton 39455.
Bickham, R. D., d.b.a. Yellow Bird Farm, Route 2, Box 186G, Pyrris 39475.
Garrison, N., Route 4, Box 111-C, Holly Springs 38635.
Harper, E. L. and R. L., d.b.a. Harpers Kennels, Route 4, Box 164, Collins 39428.
Johnston, J. C., d.b.a. Johnston's Chows, 640 Pickett Street, Greenville 38701.
Lampley, J., 2729 Airedale Street, Greenville 38701.
Lewis, D. E., d.b.a. Triple-A Kennel, Route 2, Box 109, Columbia 39429.
Martin, J. G., 125 Martin Street, Ripley 38663.
Mayo, J., d.b.a. Jerry's Rabbitry, Route 1, Box 230, Crenshaw 38621.
Newell, M., d.b.a. Gulf Hamstery, 326 Adelle Street, Jackson 39202.
Parker, T. P., Route 1, Box 169, Lawrence 39336.
Reyer, H., d.b.a. Dogwood Kennels, Route 2, Box 305, Columbia 39429.
Vanlandingham, H. L., d.b.a. V&B Animal Shelter, P.O. Box 133, Vardaman 38878.

MISSOURI

Ackmann, A. and M., d.b.a. Norm-Al Acres, Route 1, Box 3A, Rosebud 63091.
Acton, F., Route 1, Ashland 65010.
Aholt, J. and A., d.b.a. Aholt's Kennel, Rural Route 1, Glasgow 65254.
Allen, R. and R., Rural Route 2, Laplata 63549.
Allen, W., Lucerne 64655.
Allen, W. L., d.b.a. Missouri Valley Kennels, R.F.D., Alexandria 63420.
Allison, S. F., Route 1, Armstrong 65230.
Ames, W. A., Route 1, Box 232, Carl Junction 64834.
Anderson, H. A., Route 2, Box 177, Elkland 65644.
Anest, J. L., Rural Route 3, Kirksville 63501.
Animals and Poultry, Inc., P.O. Box 423, Rural Route 2, Gray Summit 63039.
Arb, M. and Kitch, S. E., Route 1, Granby 64844.
Armstrong, C., d.b.a. Armstrong Kennel, Route 4, Rockport 64482.
Around the World Pets, 12676 Dorsett, Maryland Heights 63043.
Athon, K. and C., R.F.D. 1, Novinger 63559.
Aye, F., Route 1, Box 23, Willow Springs 65793.
Aye, M. M., Route 3, Box 10, Willow Springs 65793.
Banker, J., d.b.a. Banker Kennels, Banker Kennels, Clark 65243.
Banner, G. E., d.b.a. Rattle Snake Hill Kennel, Route 1, Smithton 65350.
Barnett, R. T., Lowry City 64763.
Barnfield, W., d.b.a. Bar Wan Kennels, Box 158, Crocker 65452.
Barrer, E., Route 2, Box 200, Lexington 64067.
Barth, C., Route 3, Box 261, Princeton 64673.
Baum, F., Route 2, Aurora 65605.
Baxter, C., Rural Route 2, Downing 63536.
Beach, M., Route 1, Unionville 63565.
Bearden, M., Rural Route 3, Salisbury 65281.
Bechtold, M. L., Route 1, Kidder 64649.
Beckett, M. W., d.b.a. Soo Big Kennel, Route 7, Box 354, Joplin 64801.
Behrends, R., Route 2, Box 165-9, Ozark 65721.
Bernard, L., Route 1, Fair Grove 65648.
Berry, D., Route 2, Huntsville 65259.
Berryhill, R. and J., d.b.a. R.&J. Kennel, Route 4, Box 261, Lamar 64759.
Berwick, P., Hobson Star Route, Box 62, Rolla 65401.
Bias, K. F., 1615 Edmonds, Jefferson City 65101.
Billups, G., R.F.D. 1, Cantril 52542.
Bixenman, E. S., Rural Route 2, Box 76, Hurdland 63547.
Bixeman, J., Route 1, New Cambria 63556.
Blacketer, E., Route 4, Box 144, Bolivar 65613.
Blaine, P. L., Box 188, R.F.D. 3, Memphis 63555.
Blaine, R. and M., Rural Route 1, Greentop 63546.
Blakeley, B. W., 6701 Northeast 48th Street, Kansas City 64119.
Blankenship, L., d.b.a. Blank's Kennel, Route 1, Smithton 65350.
Bogenreif, G. and L., 413 Rainbow Drive, Rock Port 64482.
Borghardt, R. D., Route 1, Iantha 64753.
Bowers, W. and M., Route 2, Princeton 64673.
Bowles, R. and A., Route 1, Box 371A, West Plaines 65775.
Bradley, L., Route 2, Box 52, Higbee 65257.
Bradley, R. and J., Rural Route 2, Box 112, Brookfield 64628.
Bradshaw, M. E., Route 1, Birchtree 65438.
Bragg, C., R.F.D. 1, Novinger 63559.
Bramhall, P. L., Route 3, Kirksville 63501.
Branson, Sr., R. H. and J., Route 2, Box 117-24, Willard 65781.
Brauer, E. and R., d.b.a. Brauerville Kennel, Route 3, Cole Camp 65325.
Braun, S., d.b.a. Braun's Aqua Barn, 3, Box 388, Festus 63028.
Brawner, L., Rural Route 2, Greentop 63546.
Braseal, B. N. and L., Route 2, Wright County, Mansfield 65704.
Brewington, W. L., Route 3, Box 212, Warrensburg 64093.
Briley, H., d.b.a. Bluebird Hill Kennel, Route 2, Box 187, Seneca 64865.
Brock, S., d.b.a. Brocks Kennels, P.O. Box 35, Mokane 65059.
Broderson, M., Otterville 65348.
Brooks, R. and M., d.b.a. Brooks Kennels, Route 3, Bolivar 65613.
Brown, C. D., R.F.D. 1, Williamstown 63473.
Brown, C. G., Dunnegan 65640.
Brown, E., Route 1, Box 92, Holden 64040.
Brown, J. T., d.b.a. Sycamore Acres Kennel, 3741 IV Grant, Springfield 65803.
Brown, M., Route 1, Box 91, Reeds Spring 65737.
Broz, B., d.b.a. VMK Kennel, Route 1, Box 126A, Hawk Point 63349.
Bruce, G. L., Rural Route 6, Unionville 63565.
Bryant, T., Baring 63531.
Buckner, M., Rural Route 1, Box 50, Humphreys 64646.
Buehler, B. J., Box 20, Aurora 65605.
Burd, L., Meta 65058.
Burkhardt, F., Route 4, Macon 63552.
Burks, G. A., d.b.a. A.&B. Kennel, Route 7, Box 225-D.
Burks, M. E., d.b.a. Lee Marelle Kennel, Route 1, Box 245, Seligman 65745.
Burns, B. J. and Knowles, J. H., d.b.a. Burns and Knowles Kennel, Route 1, Anabel 63431.
Burns, J. and Wendleton, D., Route 1, Butler 64730.
Burns, M., Rural Route 1, Anabel 63431.
Burris, E. E., d.b.a. Lover's Kennel, Route 1, Marceline 64658.
Bushnell, Jr. L., Rural Route 1, Queen City 63561.
Butler, M., Route 6, Box 34, Carthage 64836.
Byers, S., d.b.a. Sue Bee's Dog Kennel, Route 1, Box 85, Moscow Mills 63362.
Caddell, K. M., d.b.a. Kim-Ka Kennels, Box 3463, Kimberling City 65686.
Camden, R. M., R.F.D. 2, Glenwood, 63541.
Campbell, E., Route 2, Box 226, Willard 65781.
Campbell, W. L., Route 3, Vandalia 63382.
Carender, H. and C., d.b.a. Mart-N-Dale Acres, Route 1, Russellville 65074.
Carter, H., d.b.a. Rock Hill Kennel, Vienna 65582.
Carter, M., Rural Route 1, Elmer 63538.
Cates Sr., M. E., Route 10, Box 823, Springfield 65803.
Chapman, J., d.b.a. Prairie View Kennel, Box 180, Route 1, Cross Timbers 65634.
Chiolerio, L. and S., d.b.a. Chiolerio's Kennel, Route 1, Marceline 64658.
Christensen, W., Route 1, Keytesville 65261.
Christman, M., R.F.D. 1, Bethel 63434.
Christy, E., Route No. 2, Box 133, Eldorado Springs 64744.
Clair, J. P., R.F.D. 1, Hurdland 63547.
Clapp, L., Route 2, Butler 64730.
Clark, E. J., Route 2, Mercer 64661.
Clark, V. P., R.F.D. 3, Monroe City 63456.
Clarke, C., Rural Route 1, Box 82, Anabel 63431.
Clary, P., R.F.D. 1, Edina 63537.
Claxton, R., Route 3, Box 45, Richmond 64085.
Clay, E. and L., Route 4, Kirksville, 63501.
Clickner, C., Rural Route 2, Moberly 65270.
Clubine, B. M., Box 126, Green Top 63546.
Clutter, J., d.b.a. Riverside Wholesale Pets, 2514 Vivion Road, Kansas City 64151.
Colclazier, d.b.a. L., Edgewood Kennels, Route 2, Rogersville 65742.
Cole, D., d.b.a. Scottdee Kennel, Rural Route 3, Lebanon 65536.
Collis, G. and R., d.b.a. White Oak Kennel, Rural Route, Queen City 63561.

Comstock, M. J., Rural Route 4, Laplata 63549.
Constant, R. and J., d.b.a. Constant Kennel, Route 5, Chillicothe 64601.
Cook, A., Route 3, Kirksville 63501.
Cook, C. and S., d.b.a. Shady Dell Kennel, Route 2, Box 272, Ash Grove 65604.
Cook, D. A., Route 1, Lancaster 63548.
Cooksey, R. and L., Route 5, Box 61, Trenton 64683.
Couch, M., Route 2, Louisiana 63353.
Courtney, D., d.b.a. TLC Kennel, Route 2, Box 175, Tipton 65081.
Cox, J. and B., Route 1, Mercer 64661.
Cozart, A. L., Route 1, Box 51, West Plains 65775.
Creech, C. C., Route 2, Box 316, Troy 63379.
Cronk. H. M., d.b.a. Helens Happy Hollow Kennel, Rural Route 2, Maryville 64468.
Crump, A., Box 5, Lancaster 63548.
Crump, A., P.O. Box 5, Lancaster 63548.
Culler, R., Route 2, Bethel 63434.
Cullum, J., Route 1, Unionville 63565.
Cunningham, J. and Massey, M., Route 6, Box 462, Springfield 65803.
Dabrowski, E., d.b.a. Catadamar Kennel, Route 2, Granby 64844.
Daggs, B. C., Rural Free Delivery 1, Ewing 63440.
Dalton, J., d.b.a. Dandy Jack's Acres, Goodson Star Route, Bolivar 65613.
Dalton, S., Edina 63537.
Daniels, R. E., d.b.a. Country Kennels, Rural Route 2, Box 231, Neosho 64850.
Danneman, C. J., Rural Route 4, Salisbury 65281.
Davenport, L. K., Route 1, Granby 64840.
Davis, L. H., Route 2, Box 125, Miller 65707.
Davis, P. and K., d.b.a. Pakahe Kennel, Fillmore 64449.
Daw, I., Rural Free Delivery 3, Kahoka 63445.
Dawson, R. D. and C. H., Rural Route 1, Bevier 63532.
Decker, R. and P., Route 1, Bonne Terre 63628.
Deirling, I. S., Box 1B, Queen City 63561.
Delaney, P., Route 2, Green Top 63546.
Denison, E. J. Route 1, Box 140-A, Neosho 64850.
Denler, R. and G., d.b.a. Riverview Rabbitry, Route 2, New London 64459.
Depee, I., d.b.a. Dogs and Stuff, Route 2, Waynesville 65583.
Depreste, P. T., Route 2, Miller 65707.
Devries, J. and A., Loose Creek 65054.
Ditton, J. E., 8200 East 67th Street, Kansas City 64133.
Doss, G., Priestatt 65654.
Douglas, L., Rural Free Delivery 3, Edina 63537.
Douglas, V. B., Route 2, Lincoln 65338.
Dowell, O., Route 2, Brookfield 64628.
Dozier, J., d.b.a. Hilly Haven Kennel, Route 3, Columbia 65201.
Drebes, H. L., Rural Free Delivery 3, Palmyra 63461.
Dueschle, M. L., Route 1, Centertown 65023.
Duley, S. M., 1501 Adams, St. Joseph 64503.
Duncan, L., Rural Route 1, Box 16, Bolckow 64427.
Dunlap, M. E., 6942 East 58th Street, Kansas City 64129.
Dye, A., Edina 63537.
Dykema, M. and H. A., Route 2, Marshall 65340.
Easter, R. G., d.b.a. Easter Animal Farms, P.O. Box 297, Liberal 64762.
Eaton, A. M., d.b.a. Eaton Kennels, Route 2, Box 214, St. Peters 63376.
Edlen, L., R.F.D. 1, Alexandria 63430.
Edwards, L. and E. V., Route 1, Box 95, Aurora 65605.
Eisberg, C., Route 2, Keytesville 65261.
Eitel, P., Route 4, La Plata 63549.
Elder, C., Route 2, Box 27, Gilman City 64642.
Eldridge, R. E., d.b.a. Eldridge Laboratory Animals, Box 398, Route 1, Barnhart 63012.
Elkins, G. L., Route 1, Madison 65263.
Ellis, A., Box XX, Pineville 64856.
Ellis, C. C., P.O. Box 76, Duenweg 64841.
Ellis, E. E., Route 3, Anderson 64831.
Ellis, J., d.b.a. J. & J. Kennel, Route 1, Box 81D, Joplin 64801.
Ellis, R. B., Box 85, Duenweg 64841.
Emmert, W. and E., Route 2, Aurora 65605.
England, H., d.b.a. H. & L. Kennel, Route 2, Centralia 65240.
England, J. W., d.b.a. Ju-Les-Rans Kennels, Route 2, Centralia 65240.
Epperly, M. L., d.b.a. Poverty Hill Kennel, Rural Route 1, Box 140, Bucklin 64631.
Erwin, L., Route 1, Brashear 63533.
Essick, B. and D., d.b.a. Boondocks Puppy Farm, Box 129, Highlandville 65669.
Essick, M., Route 1, Box 170, Highlandville 65669.
Euritt, O., d.b.a. Oak Grove Kennel, Route 1, Kirksville 63501.
Evergreen Hills Homes, Inc., P.O. Box 38, Elme Road, Dittmer 63023.
Everman, F. W., Route 2, Gallatin 64640.
Fairbanks, L. and B., Route 1, King City 64463.
Farrell, W. F., Rural Route 3, Lancaster 63548.
Fehling, R. J., d.b.a. R. J.'s Kennel, Route 1, Armstrong 65230.
Felin, C., d.b.a. Hillcrest Kennel, Rural Route 2, Elkland 65644.
Fenimore, J. M., Rural Route 4, La Plata 63549.
Field, M., Rural Route 2, Box 77, Mound City 64470.
Flaxdeard, V., Rocky Comfort 64861.
Ford, L., R.F.D. 2, Glenwood 63541.
Forner, M., 1665 Catalina, Springfield 65804.
Forrester, B., R.F.D. 1, Berring 63531.
Fortman, J., d.b.a. J. & J. Dog Kennels, Pilot Groves 65276.
Foster, D. D., d.b.a. White Gate Kennels, Route 1, Macon 63552.
Foster, H. M., Route 4, Centralia 65240.
Foster, J., d.b.a. Foster's Canine Kennel, Route 4, Centralia 65240.
Foster, Z., d.b.a. Valley High Kennels, Rural Route 4, Box 151, Unionville 63565.
Francis, R., Rural Route 2, Pierce City 65723.
Francka, C. C. and J. J., R.F.D. 1, Box 36, Brighton 65617.
Frieden, V. J., R.F.D. 3, Box 55, Kalioka 63445.
Friel, John T., d.b.a. Friel's Kennel, Route 3, Nevada 64772.
Friend, P., d.b.a. Pa Paw's Kennel, Route 1, Box 765, Bois D Arc 65612.
Frost, E., 1625 Morley, Moberly 65270.
Fry, J., Route 3, Eldon 65026.
Fugate, J., Rural Route 2, Callao 63534.
Furnish, I., Rural Route 2, Unionville 63565.
Gallet, D. M., Collin 64738.
Galloway, C. V., Rural Route 1, Purdy 65734.
Gerke, T., Route 1, Bruceton 65237.
Gibbs, A. and P., d.b.a. Gibbs Small Dog Kennel, Route 2, Frankford 63441.
Gibbs, K. M., 86 Valley Drive, Valley Park 63088.
Gibson, S., Route 1, Lamoni 50140.
Gooch, M. and P., Rural Route 2, Purdinmo 64674.
Goodwin, G. N., Route 2, Box 137, Lancaster 63548.
Goodwin, T., Baring 63531.
Gossett, L. and J., Route 1, Calhoun 65323.
Grabeel, T., d.b.a. Catawissa Farms, Route 1, Box 515A, Catawissa 63015.
Greer, R. and L., Route 2, Knob Noster 65336.
Gremmels, P., Route 2, Box 210, Mount Vernon 65712.
Gruenefeld, W., Route 1, Box 140, Jonesburg 63351.
Guerin, M. M., d.b.a. Neige Du Nord Kennels, Box 22, Cairo 65239.
Halley, I., Rural Route 1, Unionville 63565.
Hamilton, L. B., Route 1, Box 162, Goodman 64843.
Hamm, V. and D., d.b.a. Gin-Dale Kennel, Route 3, Box 260, Bolivar 65613.
Hammond, D. E., P.O. Box 64, Rutledge 63563.
Hampleman, R. and C., d.b.a. Shenadoah Kennels, Route 1, Box 187, Ellsinore 63937.
Hargus, J. F. and R. and R., d.b.a. Bellacre Kennel, Route 1, Box 262, Miller 65707.
Harmon, A. M., d.b.a. Dun-Rovin Kennels, Route 1, Syracuse 65354.
Harris, D. L., Route 2, Box 203, Jamesport 64648.
Harris, S., Route 1, Stark City 64866.
Harris, W. K. and P. A., Route 4, Milan 63556.
Harrison, J., Route 2, Marcliine 64658.
Harrison, K., 328 East Chicago, Marcliine 64658.
Hawkins, M. B., Route 1, Fulton 65251.
Heitmen, L., d.b.a. Ten Little Acre Kennels, Box 181A, Troy 63379.
Helms, L., Route 1, Mooresville 64664.
Henderson, J., d.b.a. Clear Lake Kennel, Route 1, Jamesport 64642.
Henderson, R., Route 2, Jamesport 64648.
Henderson, S., Route 1, Box 130, Ewing 63440.
Henry, B. K., Rural Route 1, Bevier 63532.
Herring, J., Route 1, Box 134, Everton 65646.
Herring, J., d.b.a. Jamey's Kennel Rural Route 2, Stewartsville 64490.
Hettinger, E. K., R.F.D. 2, Rutledge 63563.
Hettinger, R., Rural Route 1, Brashear 63533.
Hewitt, I., Rural Route 1, Rosendale 64483.
Higgins, G. W., Rural Route 1, Greentop 63546.
Hill, R., Rural Route 1, Amoret 64772.
Hillerman, J. and W., d.b.a. Hillerman Kennels, 706 Indiana, Montrose 64770.
Hochstetler, A. and D., d.b.a. Hochstetler Kennels, Rural Route 1, Box 58, Anabel 63431.
Hoefener, D., d.b.a. Sandys Kennel, 1308 5th East, Latham 65050.
Hoffer, B. J. and A. D., R.F.D. 1, Box 34, Ewing 63440.
Hoffer, M. J., Route 2, Greenfield 65661.
Hollingsworth, S., d.b.a. Hollingsworth Kennels, Route 1, Hartsburg 65039.
Hood, C., Route 1, Diamond 64840.
Howerton, D., Hurdland 63457.
Howerton, M. Y., Route 1, Box 98, Nixa 65714.
Hudnut, M. R., R.F.D. 1, Williamstown 63473.
Hueffmeier, B. and C., Rural Route 1, Box 51, Linneus 64653.
Huffstutler, W. W., d.b.a. Ozark Research Supplier, Rural Route 3, Vienna 65582.
Hughes, J. and S., d.b.a. Do Bo Tri Kennels, Route 1, Sibley 51249.
Hughes, L. C., Route 5, Trenton 64683.
Hughes, L. L., d.b.a. Alumbauch, D., Rural Route 1, Box 5, Brimson 64626.
Hulen, F. W., R.F.D. 1, Lancaster 63548.

Humphrey, T., Box 26, Monticello 63457.
Hunolt, J., Box 167, Brashear 63533.
Hunolt, L., R.F.D. 3, Edina 63537.
Hunolt, L., Baring 63531.
Hunt, J. S. and G. B., d.b.a. Firetower Kennels, Route 1, Box 65, Noel 64854.
Hunt, R. M., Route 2, Stringtown Road, Greenwood 64034.
Huntsman, W. B., 796 Taylor, Moberly 65270.
Hurley, L., Rural Route 1, Livonia 63551.
Hutchison, K., Route 1, Versailles 65084.
Hyle, D. and P., d.b.a. Hyle Kennel, Route 4, Unionville 63565.
Jackson, E., Route 1, Harwood 64750.
Jackson, J. D., Lancaster 63548.
Jackson, O. M., R.F.D. 2, Lancaster 63548.
James. E., Route 2, Box 150, Meadville 64659.
Jamison, L. and S., 9730 Winslow Place, Kansas City 64131
Jarman, M., Route 1, Monroe City 63456.
Jeffries, E., Route 1, Greentop 53546.
Johnson, M. M., Route 1, Meadville 64659.
Johnston, N., Powersville 64672.
Johnston, W., Elkland 65644.
Jones, A. M., Humphreys 64646.
Jones, C. J., d.b.a. Stormi's Kennels, Route 2, Box 171B, Versailles 65084.
Jones, D. A., Route 2, Paris 65275.
Jones, E., Bethel 63434.
Jones, M. E., R.F.D. 1, Lancaster 63548.
Jones, W., Box 268, Eldon 65026.
Joyce, S. A., Rural Route 2, Green Ridge 65332.
Justice, E., Route 4, Box 130, Edina 63537.
Keller, D. M., Route 2, Osceola 64776.
Kelly, J. D., Route 1, Kidder 64649.
Kelsey, D. B., Star Route Box 185, Mindenmines 64759.
Kennedy, B and L., Route 1, Box 125, Jerico Springs 64756.
Kerby, E., Rural Route 2, Glenwood 63541.
Keune, C. L. and E., Laclede 64651.
Kiddoo, M. M., Route 2, Memphis 63555.
Kidwell, M., Leonard 63451.
Kimmel, J. and L., Rural Route 6, Unionville 63565.
King, M. M., Rural Route 1, Macon 63552.
Kinzer, T., Route 2, Box 131, Shelbina 63468.
Kirby, K., Rural Route 4, Pittsburg 66762.
Kliethermes, R., d.b.a. Kliethermes Kennel, Route 1, Eugene 65032.
Klinetobe, B., d.b.a. Kennel of Love, Route 1, Williamsburg 63388.
Koch, J., d.b.a. Julis Kennels, Route 1, Hamburg 51640.
Koch, P. J., Route 5, Box 199, Trenton 64683.
Kowieski, E. L., d.b.a. Hound Haven Kennel, Box 119A, Hayden Route, Dixon 65459.
Kramer, J., d.b.a. Kramer Kennels, Route 1, Appleton City 64724.
Kreisler, M., d.b.a. Lazy Acres Kennel, Route 2, Box 167B, Waynesville 65583.
Kroll, E. and D., d.b.a. Half-A-Hill Kennel, Route 2, Box 255, Conway 65632.
Lafevers, G., SS Route Box 73, West Plains 65775.
Laird, G. L., Route 2, Hurdland 63547.
Langerud, F., Route 2, Box 95, Paris 65275.
Lansaw, S., 1201 Orr, Joplin 64801.
Latimer, N. S., d.b.a. Cedarwood Kennels, P.O. Box 854, Kirksville 63501.
Latimer, R. C., R.F.D. 4, P.O. Box 54, Edina 63537.
Latta, J. D., Paris 65275.
Laytham, E., Route 1, Box 189, Moberly 65270.
Lee-Don Kennel, Inc., d.b.a. Lee-Don Kennels, Inc., 116 Country Club Drive, Trenton 64683.
Leftridge, L., Clarence 63437.
Lewis, E., R.F.D. 2, Hurdland 63547.
Lewis, V. M., and Smart, M., 500 Chestnut, Holden 64040.
Libel, M. L., Route 2, Clinton 64735.
Liedorf, D., 1145 Pine, Brookfield 64628.
Lindquist, G. E., d.b.a. Quality Research Dogs, Route 1, Hallsville 65255.
Lindquist, I. and K., Rural Route 2, Greentop 63546.
Lindquist, L., d.b.a. Lindquist Kennels, Rural Route 1, Greentop 63546.
Lindsey, J. and M., d.b.a. Hickory Hill Kennels, Route 2, Louisiana 63353.
Lindsey, Y., Bethel 63434.
Link, J., Route 2, Box 135, Billings 65610.
Linkemann, L. F., d.b.a. Links Kennel, Route 1, Meadville 64659.
Lisle, S., Route 1, Trenton 64683.
Livezey, J. A., Route 1, Fairplay 65649.
Livezey, T., Route 3, Bolivar 65613.
Long, A., Rocky Comfort 64861.
Long, H. M. and E. F., Route 1, Paris 65275.
Long, J., Route 4, Box 302, El Dorado Springs 64744.
Long, M., Rocky Comfort 64861.
Looney, R., d.b.a. Spring House Kennels, Route 2, Box 220, Fairgrove 65648.
Love, J., Route 1, Newark 63458.
Lowe, M. L., Box 122, Route 1, Greentop 63536.
Loyd, E., Route 1, Box 71, Cross Timbers 65634.
Lucky Locust Farms, Inc., d.b.a. Lucky Locust Farms, Inc., 12529 Conway Road, St. Louis 63141.
Maberry, B., Route 2, Dawn 64638.
Madison, L. F., Rural Route 3, Lamar 64759.
Malear, R., Route 1, Box 687, Eldon, 65026.
Mankey, H. and A. R., Rural Route 2, Callao 63534.
Mann, V., 407 East 4th Street, Appleton City 64724.
Maples, J. and N., Route 5, Box 125, Trenton 64683.
Marrs, E. C., Route 1, South Pickard 64679.
Marshell, J. L., d.b.a. Star J. Kennels, Rover Route, Box 226, West Plains 65775.
Martens, E., Rural Route 4, Kirksville 63501.
Martin, B. I., and Dohn, D. J., Route 1, Martin Road, Smithville 64089.
Martin, D., Route 1, Diamond 64840.
Mason, L., Route 2, Box 42A, Lamar 64759.
Mast, E. H., Route 2, Box 226, Jamesport 64648.
Mattingly, D. W., Route 1, Box 220, St. Mary's 63673.
Matzen, M. and R., d.b.a. Ash Lawn Kennel, Box 53, Cairo 65239.
Mawby, F. R., d.b.a. Sho-Me Kennels, Route 1, Grain Valley 64029.
McBee, K. and F., d.b.a. McBee Kennels, Route 1, Braymer 64624.
McBride, F., Route 2, Madison 65263.
McCam, D. and S., Rural Route 2, Callao 63534.
McCampbell, J. and J., Route 2, Bethany 64424.
McConeghey, M. and B., Rural Route 1, Box 81, Glenwood 63541.
McCoy, G. E., Route 1, Lebanon 65536.
McCullah, J. R., Route 2, Box 329, Ash Grove 65604.
McIntosh, D. E. and S., Route 1, Box 25, Macomb 65702.
McKarnin, R. and J. E., 6528 Blue Ridge Extension, Kansas City 64138.
McNeely, G., Route 1, Jameson 64647.
McVay, J. H., Route 2. Ava 65608.
McWilliams, P., Route 2, Box 190, El Dorado Springs 64744.
Means, G., Route 1, Atlanta 63530.
Medlock, G., Rural Route 6, Box 9, Joplin 64801.
Meeker, B. M., Rural Free Delivery 1, Box 28C, Green Top 63546.
Metsker, P. and D., d.b.a. Perdot Acres, Route 2, Box 120, Troy 63379.
Middleton, R. E., Rural Free Delivery 2, Box 171, Lancaster 63548.
Millie, L., Route 3, Shelbyville 63469.
Miller, W. L., Route 1, Box 163, Frankford 63441.
Millwood, W. K., K. W. and A., d.b.a. Millwood Kennels, Holiday 65258.
Minor, J., d.b.a. Colonial Acres, Route 1, Monett 65708.
Minor, L., 321 East Rogers, Monroe City 63456.
Mitchell, O. H., d.b.a. Mitchells Kennel, Route 2, Box 176, Mountain Grove 65711.
Moncrief, B. J., Route 4, Kirksville 63501.
Moner, M. and E., Route 2, Box 37, Meadville 64659.
Montgomery, E., Rural Route 1, Macon 63552.
Montgomery, G. M., Route 1, Box 73A, Fairview 64842.
Moots, E., Rural Route 3, Kirksville 63501.
Morgan, F. V. and M. J., Route 3, Box 60, Joplin 64801.
Morris, J. and E., Route B, Box 156P, Carndenton 65020.
Morrow, I. and M., Rural Free Delivery 1, Knox City 63446.
Moss, P., Route 4, Lamar 64759.
Moutray, E., 3740 Pettis Road, St. Joseph 64503.
Muck, L., Route 1, Meadville 64659.
Muck, S., Route 1, Meadville 64659.
Mueller, D., Shelbyville 63469.
Muller, C. and D., Rural Route 1, Rockport 64482.
Mulvania, L. and N. R., Rural Route 1, Rockport 64482.
Musser, F. A., d.b.a. Echo Meadows Rabbitry., Route 1, Box 32, Tunas 65764.
Need, T. and M., d.b.a. Needs Kennels, Route 2, Higginsville 64037.
Nelson, M., Rural Route 2, Macon 63552.
Nelson, M. A., Rural Route 1, Atlanta 63530.
Nelson, R., 914 Lawndale, Macon 63552.
Neuenschwander, A. and J., Route 2, Box 96B, Deepwater 64740.
Newlin, R. L., Rural Route 1, Monroe City 63456.
Newman, R. M. and D. J., Rural Free Delivery 3, Kahoka 63445.
Nichols, K., Rural Route 1, Sturgeon 65284.
Nicholson, R. and P., Rural Route 2, Hopkins 64461.
Nordeen, V., d.b.a. Nordeen Keeshonden, Route 3, Middletown 63359.
Norton, D., 1508 Washington, Unionville 63565.
Norton, J. R., Box 82, Auxvasse 65231.
Norton, J. V., Rural Free Delivery 1, Knox City 63446.
Norton, V., Rural Free Delivery 1, Knox City 63446.
Nycum, S., Nobleton, Edwards 65326.
Oak Hill Kennels., Route 3, Box 270A, Springfield 65804.
O'brien, C., Box 151, Lewistown 63452.
Orr, A. and K., Route 1, Kidder 64649.
Osborn, D. R., d.b.a. Osborns Kennel, Route 3, California 65018.
Osborne, C. and R., d.b.a. Green Valley Kennels, Box 322, Richland 65556.
Oshner, S., Route 2, Labelle 63447.
Othic, M. and S., d.b.a. Othic's Sunnislope Kennel, Route 1, Brooksfield 64678.
Owens, J. F., d.b.a. Owens Patty Kennel, P.O. Box 1, Osceola 64776.
Pack, J., Route 1, Brashear 63533.

Palmer, L., Wheatland 65779.
Park, J., Route 3, Osceola 64776.
Parmley, W., Route 1, Greencastle 63544.
Parrish, E. E., Route 1, Newark 63458.
Partin, C. and E., Route 1, Macon 63552.
Pass Pets, Unlimited, 11629 Fairgrove Ind.
Rider, G., d.b.a. Rider Kennel., Route 2, Walker 64790.
Rider, R. and W., d.b.a. Pleasant Inn Kennels, Bronaugh 64772.
Riley, G. and C. and Brown, J., d.b.a. Hilltop Kennels, Rural Route 3, Macon 63552.
Siebuhr, C., Route 3, Moberly 65270.
Sillman, C. R., d.b.a. Car-Del Kennels, Route 3, Box 20, Willow Springs 65793.
Silvey, A., Box 396, Lancaster 63548.
Singleton, P. and S., Rural Route 1, Brookfield 64628.

Thee, N., d.b.a. Irish Acres, Route 2, Box 33, Ash Grove 65604.
Thomas, B., Rural Route 1, Box 54, Grant City 64456.
Thomas, L., d.b.a. Ozark Kennels, Route 1, Box 274, Edwards 65326.
Williams, G., d.b.a. Land O Lakes Kennels, Route 1, Box 134, El Dorado Springs 64744.
Williams, R., Route 1, Nevada 64772.
Willis, R., d.b.a. Bent Nail Kennels, Route 2, Box 139, Bosworth 64623.
Bohling, A. and W., Route 3, Tecumseh 68450.
Brauch, G. N., Route 1, Hebron 68370.
Breeden, J. E., d.b.a. Breeden's Kennels, Rural Route 1, Steele City, 68440.
Breunsbach, L., Liberty 68381.

Palmer, L., Wheatland 65779.
Park, J., Route 3, Osceola 64776.
Parmley, W., Route 1, Greencastle 63544.
Parrish, E. E., Route 1, Newark 63458.
Partin, C. and E., Route 1, Macon 63552.
Pass Pets, Unlimited, 11629 Fairgrove Ind. Boulevard, Maryland Heights 63043.
Patrick, M. J., Route 1, Box 170, Reeds Spring 65737.
Payne, H., Rural Route 4, Kirksville 63501.
Payne, L. and L., Route 1, Box 165-3, Ozark 65721.
Payne, M., d.b.a. V. and M. Cavies, Route 2, Box 193, Otterville 65348.
Payton, L., Route 5, Box 286, Neosho 64850.
Pearcy, T., Route 1, Jamestown 65046.
Peart, J., Peart's Kennel, Route 1, Salisbury 65281.
Pendleton, O., Route 3, Box 127, Dixon 65459.
Penrod, L. R. and E. J., Route 5, Box 165, Festus 63028.
Perlow, P. and E., The Lil Country Kennel, Route 1, Box 34A, Troy 63379.
Perry, D. D., D-D Kennels, Rural Free Delivery 1, Knox City 63446.
Peters, H., Route 1, Keytesville 65261.
Peters, L., Box 187, Browning 64630.
Pfeifer, M. S., 711 Adair Street, Bevier 63532.
Phelps, R. M., Anabel 63431.
Piece, E. and O., Rural Route 1, Excello 65247.
Pierce, W. and P., Rural Route 1, Excello 65247.
Pierstorff, L. R., Charloru Labradors, Box 14, Nevada 64772.
Piper, E. P., Rural Free Delivery 1, Downing 63536.
Pohl, A. and J., J. and A. Hamster Farms, 115 La Sierra, Florissant 63031.
Pool, S., Pools Kennels, Box 57, Cairo 65239.
Poor, Mrs. J., Route 1, Novelty 63460.
Poor, R. L., Rural Route 3, Macon 63552.
Pore, J., Route 1, Box 69, Rothville 64676.
Porter, A. J., Box 69, Route 2, Bulter 64730.
Porter, J., Route 2, Dawn 64638.
Porter, J. H., Route 1, Butler 64730.
Potter, H., Route 2, California 65018.
Powell, C. E., Route 1, Box 223, Webb City 64870.
Price, N., Rural Route 1, Box 82, Mendon 64660.
Price, P., Harmony Acres Kennel, Rural Route 1, Ravenwood 64479.
Primm, B., Novelty 63460.
Proctor, G. E., Happy Hollow Kennels, Route 2, Box 18, Fair Grove 65648.
Purdun, D. and V., Route 1, Box 77, Grant City 64456.
Putthoff, J., Putthoff Kennels, 7th and Indiana, Montrose 64770.
Rank, S., Sand J. Kennels, Route 1, Lincoln 65338.
Ransdell, M., Route 2, Holliday 65256.
Ratliff, J., Shelbyville 63469.
Reed, M. and D., Mikes Canines, P.O. Box 243, Diamond 64840.
Reed, M. D., Route 1, Box 579A, Springfield 65803.
Reed, M. J. and J. T., Redgate Kennel, Route 2, Lamar 64759.
Reger, R., Vi-Re Kennels 801½ Green Street, Kirksville 63501.
Reindel, G. and Y., Rural Route 1, Queen City 63561.
Revels, K. A., 2717 Southwest Trail, St. Joseph 64506.
Rhoades, A., Rural Free Delivery 2, Knox City 63446.
Richardson, K. M., Route 1, Blythedale 64425.
Richardson, W. and V., Rural Route 1, Graham 64455.
Rider, G., d.b.a. Rider Kennel., Route 2, Walker 64790.
Rider, R. and W., d.b.a. Pleasant Inn Kennels, Bronaugh 64772.
Riley, G. and C. and Brown, J., d.b.a. Hilltop Kennels, Rural Route 3, Macon 63552.
Riley, Y., Route 1, Box 115, Mulberry 66756.
Rineheart, M., Rural Route 2, Milan 63556.
Roberson, L., 4666 West Mount Vernon Street, Springfield 65802.
Roberson, R., R.F.D. 1, Williamstown 63473.
Roberts, K., Rural Route 4, Edina 63537.
Roberts, W., Route 1, Ashgrove 65604.
Robertson, C., 615 East Hickory, Nevada 64772.
Robertson, C., d.b.a. Shady Acres Kennel, Route 2, Collison Road, Rogersville 65742.
Robertson, D. L., R.F.D. 2, Lewistown 63452.
Robinson, S., d.b.a. Robinson Kennels, Route 2, Shelton 64784.
Rogers, H. C., d.b.a. Fairview Kennels, Rural Route 3, Kirksville 63501.
Rogers, W. and S., d.b.a. D-Wah Hu Kennel, Route 3, Box DDD, Rogersville 65742.
Romine, F., d.b.a. Romine Farms, Route 2, Centralia 65240.
Ross, J., Rural Route 2, Downing 63536.
Rummerfield, D. G., Rural Route 5, Kirksville 63501.
Rush, R. and Gardner, L. C., d.b.a. Shady Oaks Kennel, Tuscumbia 65082.
Ryals, G. R., P.O. Box 224, Unionville 63565.
Ryan, N. R., Route 1, Laclede 64651.
Sager, F., Route 1, Box 56, Brimson 64626.
Salmens, R. L., Route 3, Fulton 65251.
Sandefur, J., Rural Route 1, Greentop 63546.
Sandefur, L., Route 1, Greentop 63546.
Sanders, D., Route 2, Nixa 65714.
Sanders, J. E., Rural Route 3, Novinger 63559.
Sandretto, A. D., Box 96, Novinger 63559.
Savage, W. D., Route 1, Box 254, Monett 65706.
Schell, A. V., Route 1, Jasper 64755.
Schloman, J. and J., Rural Route 2, Box 17B, Higginsville 64037.
Schmitter, P. and O., Rural Route 3, Lancaster 63548.
Schowengoertt, G., Rural Route 1, Box 443, Rolla 65401.
Schrage, M. R., Route 1, Edina 63537.
Schroeder, L. E., d.b.a. Hilltop Kennel Rabbitry, P.O. Box 33, House Springs 63051.
Schumann, S., d.b.a. Shamrocks Kennel, 721 Randolph, Glasgow 65254.
Schutte, J. and W., d.b.a. Thistledown Kennels, Box 25, Kearney 64060.
Schwartze, E. and Head, P., Box 162 A-7, Route 3, Odessa 64076.
Scott, L. G., d.b.a. Jonlea Kennels, Route 3, Box 206, California 65018.
Scott, V. and S., Route 2, Greentop 63546.
Scott, W. and E., d.b.a. Sunny Hill Rabbitry, Route 3, Fayette 65248.
Seay, J. and J., Route 5, Kirksville 63501.
Sederburg, M. O., R.F.D. 1, Mount Sterling 52573.
Sellenriek, A. and D., d.b.a. Rabbits Too Inc., Route 2, Box 211, St. Charles 63301.
Sellens, L., Bethel 63434.
Sewell, D., Rural Route 1, Box 7, Skidmore 64487.
Sharp, S. W., 400 North Fulton Street, Edina 63537.
Shatzer, B. D., Box 124, Anabel 63431.
Shaw, L., Downing 63536.
Shearer, I., Knox City 63446.
Shelton, C. and M., d.b.a. Blue Ridge Kennel, P.O. Box 236, Goodman 64843.
Shoop, C., Box 363, Queen City 63561.
Shultz, E. L., Rural Free Delivery 2, Rutledge 63563.
Siebuhr, C., Route 3, Moberly 65270.
Silliman, C. R., d.b.a. Car-Del Kennels, Route 3, Box 20, Willow Springs 65793.
Silvey, A., Box 396, Lancaster 63548.
Singleton, P. and S., Rural Route 1, Brookfield 64628.
Skinner, G., 827 Vine Street, Macon 63552.
Skirvin, M. H., Box 17, Elsberry 63341.
Smart, D. E., Route 4, Box 63, Cameron 64429.
Smith, A. V., Route 1, Higbee 65257.
Smith, B. J. and C., Route 3, Box 144A, Mt. Vernon 65712.
Smith, C. L., Route 2, Eldorado Springs 64744.
Smith, E. W. and M. F., Route 1, Box 262, Eldorado Springs 65744.
Smith, G., Route 1, Diamond 64840.
Smith, H., d.b.a. Du-Jaro Kennels, Route 1, Box 205, California 65018.
Smith, R., Rural Free Delivery 2, P.O. Box 132, Shelbyville 63469.
Smith, S. and A., d.b.a. Martin Branch 40, Route 2, Box 51A, Fordland 65652.
Snow, L., Route 1, Box 93, Wheatland 65779.
Snyder, G. and J., Route 2, Princeton 64673.
Snyder, P. R., Route 3, Troy 63379.
Spain, J. F., d.b.a. Lynn-Dee-Lou Kennels, Route 4, Box 564, Carthage 64836.
Sparkman, J. and T., d.b.a. Flying Acres Kennels, Route 1, Box 118, Brookline 65619.
Sparks, K. and P., d.b.a. Ming-Toi Puppy Farm, Route 1, Box 135A, Vichy 65580.
Sparks, E., Rural Route 6, Unionville 63565.
St. Clair, S. R., Rural Route 1, Moberly 65270.
Staats, D. D., Rural Free Delivery 1, Box 91, Macon 63552.
Stahl, M. L., Route 1, Syracuse 65354.
Stalber, P. J., d.b.a. P. J.'s Kennel, Route 1, Halfway 65663.
Steele, E., Route 1, Brookline 65619.
Steller, S. and D., d.b.a. Scottsdale Hamstery, Route 1, Box 67, Imperial 63052.
Stender, R. E. and M. J., Rural Delivery 4, Road 4, Laplata 63549.
Stephenson, H. and J. D., 170 High Street, Brookfield 64628.
Stewart, B., d.b.a. Stewart's Kennel, Route 1, Eugene 65032.
Stokes, E. J., Route 1, Versailles 65084.
Stone, B., d.b.a. Wilobar Kennel, Rural Route 2, Box 200, Mound City 64470.
Stone, R. K., Route 1, Clark 65243.
Stoner, W. B. and S. L., Rural Free Delivery 2, Hurdland 63547.
Stribling, D., Rural Route 4, Kirksville 63501.
Strickler, E., Rural Free Delivery 2, Kahoka 63445.
Summers, R. W., Green Top 63546.
Swan, C., Route 1, Box 31, Brookline 65619.
Swann, D., Knox City 63446.
Swanson, A. E., Route 3, Box 142, Liberty 64068.
Swetman, C. L., d.b.a. Pine-Tree Kennel, Route 1, Box 251, Rolla 65401.
Swofford, Y., Route 2, Exeter 65647.
Sykes, G., Route 1, Dawn 64638.
Taul, L., Route 5, Trenton 64683.
Taylor, C. J. and C. O., d.b.a. Pom-Kee Kennels, Rural Route 3, Box 99A, Odessa 64076.
Taylor, O. J. and H. M., d.b.a. Ty-Phil-Don's Kennel, Route 7, Box 306, Springfield 65802.
Teague, E., Glenwood 63541.
The Menagerie, Inc., 10117 State Line Road, Kansas City 64114.

Thee, N., d.b.a. Irish Acres, Route 2, Box 33, Ash Grove 65604.
Thomas, B., Rural Route 1, Box 54, Grant City 64456.
Thomas, L., d.b.a. Ozark Kennels, Route 1, Box 274, Edwards 65326.
Thomas, M. and J., d.b.a. Ozark Honey Dew Kennel, Rural Route 1, Box 129, Elkland 65644.
Thompson, H. I., Route 2, Box 117-24, Willard 65781.
Thoreson, S., d.b.a. Thoreson Kennel, Route 4, El Dorado Springs 64744.
Throckmorton, R., Route 2, Box 138, Labelle 63447.
Tollefson, G., Route 1, Box 95, Edwards 65326.
Tracy, L. M., d.b.a. Tracy's Guardian Kennels, Route 1, Winston 64689.
Triplett, E., Rural Route 2, Lancaster 63548.
Trout, R. S., Route 2, Box 145, Nevada 64772.
Troutt, L., Rural Free Delivery 1, Knox City 63446.
Turner, T., d.b.a. Green Valley Kennel, P.O. Box 14, Duenweg 64841.
Urfer, W. R., d.b.a. Urfer Kennels, Star Route 2, Box 135A, Branson 65616.
Van Hoozer, V., Rural Route 1, Osborn 64474.
Vaughn, R. and Vinyard, J., d.b.a. Golden Rule Kennel, Route 2, Box 299, Eldorado Springs 64744.
Veatch, P. P., P.O. Box 68, Glenwood 63541.
Verhoff, D., Route 1, Box 89, Exeter 65647.
Villeme, W. J., Box 76, Center 63436.
Wait, I. M., Box 802, North Highway 63, Kirksville 63501.
Waldren, E., Rural Route 1, Box 194A, Camdenton 65020.
Waldren, G. M. and J. D., d.b.a. Hi-Line Kennels, Route 1, Box 195, Camdenton 65020.
Walker, C. E., Rural Route 1, Liberal 64762.
Wallace, G. and R., Route 1, Novinger 63559.
Wamsley, D., Rural Free Delivery 1, Newark 63456.
Ward, P., d.b.a. Shana Acres, Route 1, Clever 65631.
Warren, B. G., Route 2, La Plata 63549.
Washington University, d.b.a. Office of Lab. Animal Care, Lindell & Skinker Boulevards, St. Louis 63130.
Wass, C., d.b.a. Wass Kennel, Route 2, Box 34, Arcadia 66711.
Watts, K. L., Route 4, Box 58, Butler 64730.
Weaver, B. A., Route 1, Glenwood 63541.
Weaver, E., Clarence 63437.
Weber, E. M., Route 1, Kirksville 63501.
Weber, M. D. and K. D., d.b.a. Weber Kennels, Rural Route 1, Greentop 63546.
Welborn, C. B., Rural Route 4, Butler 64730.
Wellman, E., d.b.a. Wellmans Kennel, Route 1, Kirksville 63501.
Wells, M., Route 1, Callao 63534.
Welsh, N. M, Rural Free Delivery 1, Glenwood 63541.
Wendling, H. V., Rural Free Delivery 3, Kahoka 63445.
White, E. E., Rural Free Delivery 2, Glenwood 63541.
White, W. C., d.b.a. White Wood Kennels, Route 2, Box 197, Elkland 65644.
Wienhaus, L. M., Route 4, Salisbury 65281.
Wilkinson, R. L. and B. J., d.b.a. Bo-Bel Kennels, Route 4, Box 243, Carthage 64836.
Williams, C. E., 1802 East Normal, Kirksville 63501.
Williams, E. and S., d.b.a. Woodcrest Kennels, Route 1, Box 189AA, Clarksburg 65025.
Williams, G., d.b.a. Land O Lakes Kennels, Route 1, Box 134, El Dorado Springs 64744.
Williams, R., Route 1, Nevada 64772.
Willis, R., d.b.a. Bent Nail Kennels, Route 2, Box 139, Bosworth 64623.
Wilson, J., Box 27, Frankford 63441.
Wilson, S. C., d.b.a. Our Gang Kennel, Route 1, Bois D'Arc 65612.
Wilson, V. M., Rural Route 1, Box 180B, Elkland 65644.
Winans, O. V. and E., Route 1, Box 90, Carthage 64836.
Wisdom, J. W., Rural Route 3, Macon 63552.
Wiseman, M. J. and H. L., d.b.a. Wiseman's High Point Kennel, Route 1, Box 128A, Bolivar 65613.
Wolfington, H., Rural Route 1, Mulberry 66756.
Wood, A., Bethel 63434.
Wood, J., Rural Route 2, La Plata 63549.
Wood, J. C., d.b.a. Wood Kennels, Route 1, La Plata 63549.
Wood, M, Bethel 63434.
Wood, R., Rural Route 1, Brashear 63533.
Woods, W. E., 1333 East Walnut, Nevada 64772.
Wright, C. E., d.b.a. 4 Acre Kennels, Rover Route, West Plains 65775.
Young, E. K., Rural Route 3, Novinger 63559.
Young, H. O., d.b.a. Sunny Slope Farm, Sunny Slope Farm, Rocheport 65279.
Young, R. J., Rural Route 1, Box 2028, Kirksville 63501.
Zamora, A. and N., d.b.a. Almanaza Rabbit Hutch., Route 1, Box 136-89, Wright City 63390.
Zarr, J. W., d.b.a. Barkelot Kennel., Route 1, Box 88A, Brookline 65619.
Ziebarth, C., Rural Route 1, Callao 63534.
Zumbrunnen, G. J., Rural Route 2, Clinton 64735.
Zurmiller, V., d.b.a. Mid-States Small Animal., Route 1, Stover 65078.
Zuspann, V., Rural Free Delivery 3, P.O. Box 34, Edina 63537

MONTANA

Pruyn Veterinary Hospital and Petland, 1515 Livingston Street, Missoula 59801.
Riggs, Mrs. P., d.b.a. Yorkshire Square, 405 1st N.E., Harlowton 59036.
Rosecrans, R. C., P.O. Box 950, Hamilton 59840.
Rummans, L. M. and S. E., d.b.a. Moccasin Mountain Kennels, 712 West Washington, Lewistown 59457.
Walker, I. and F., Route 1, Box 68-W, Dillon 59725.
Wegner, H., d.b.a. Wegner Kennels, 2059 Washington Street, Billings 59101.

NEBRASKA

Adams, J., Route 6, Box 100, Lincoln 68502.
Albin, J., Route 3, Humboldt 68376.
Anderson, G. P., d.b.a. Highland Farms, Route 2, Plattsmouth 68048.
Andrews, M. and M., Route 1, Box 106, Albion 68620.
Archer, J. and J., d.b.a. J. and J. Kennels, Route 1, Clatonia 68328.
Bailey, L. L., d.b.a. L. and L. Kennels, Edgar 68935.
Beck, M., d.b.a. Sandhills Kennels, Star Route, Parks 69041.
Bemis, J., Surprise 68667.
Bemis, J. S., Box 64, Rising City 68658.
Blecha, O., Route 3, Box 100, Humboldt 68376.
Blobaum, R. and M., Route 2, Fairbury 68352.
Bohling, A. and W., Route 3, Tecumseh 68450.
Brauch, G. N., Route 1, Hebron 68370.
Breeden, J. E., d.b.a. Breeden's Kennels, Rural Route 1, Steele City, 68440.
Breunsbach, L., Liberty 68381.
Brosh, D. and M., d.b.a. Broshs Kennels, Rural Route 3, Pender 68047.
Bruning, S., d.b.a. Bruning Kennels, Shickley, 68436.
Burgess, C. and B. J., d.b.a. Diamond B Kennel, Rural Route 1, Rising City 68658.
Chloupek, R., Route 1, Box 65, Litchfield 68852.
Clason, M. and E., d.b.a. Hidden Shadow's Cattery, Box 82, Athinson 68713.
Cook, L., Route 1, Sutherland 69165.
Cumro, S., d.b.a. Indian Creek Kennels, Box 13, Odell 68415.
Curtis, S., d.b.a. Curtis kennels, Box 96, Elm Creek 68836.
Dageforde, C., Rural Route 2, Hebron 66370.
Darrow, C. E., Route 4, Box 29, Fairbury 68352.
Daubert, E., 6229 South 43d, Omaha 68107.
Dellen, Inc., 8445 Lake Street, Omaha 68134.
Dendinger, L., Rural Route 1, Box 140, Waterloo 68069.
Dietz, B., Rural Free Delivery 2, Box 59, Orleans 68966.
Dietz, Jr., Stamford 68977.
Duensing, L. J., Rural Route 1, Box 46, Byron 68325.
Dunning, G. P. and D. D., 305 North 8th Street, Nymore 68466.
Durst, G. D., Box 8, Virginia 68458.
Dvorak, G. and C., d.b.a. Dvoraks Ranch Kennels, Rural Route 2, Atkinson 68713.
Eckstein, L. J., Rural Route 1, Schuyler 68661.
Eichenberger, A. and L., Route 1, Pawnee City 68420.
Eitzmann, A. and L., d.b.a. Eitzmann Kennels, Rural Route 1, Byron 68325.
Elting, D. A., d.b.a. Sunnyview Kennels, Rural Route 1, Carleton 68326.
Elting, L., Hebron 68340.
Felz, I. and F., d.b.a. Felz Ranch, Star Route 5, Box 9, Chadron 69337.
Ferguson, L. and P., d.b.a. Idle Acres Kennels, Route 1, Brady 69123.
Flack, V. and J., 1823 23rd Avenue, Box 64T, Waverly 68462.
Fleischer, J. R., W. R., Star Route, Gothenburg 69138.
Folken, M., Richland 68657.
Forrest, C. F., North Highway 81, Hebron 68370.
Fritz, M. K., Bartley 69020.
Gdanitz, B. D., d.b.a. G. and H. Kennels, Route 1, Elba 68835.
Gigstad, A. O., d.b.a. Arbor Valley Animal Clinic, 141 North Park Lane, Nebraska City 68410.
Glatter, K., Route 1, Box 35, Shelby 68662.
Goracke, R., Route 2, Box 238, Tecumseh 68450.
Griffin, E., d.b.a. Griffins Kennels, 321 West 3d, Fairbury 68352.
Gruntorad, E., Route 3, Seward 68434.
Gudgel, M., d.b.a. Mabels Little Pek-In Kennel, Route 2, Box 176, Ainsworth 69210.
Guess, D. and R., Route 1S Nebraska City 68410.
Guthinger, W. and K., d.b.a. Dis and Dab Kennels, Route 3, Auburn 68305.
Gutscher, J., Gutscher's Kennels, 248 South Converse, Superior 68978.
Haller, V., d.b.a. Elmtree Kennel, P.O. Box 2, Antioch 69332.
Harper S. and Rule O., Box 92, Barneston 68309.

Harrington, D. D., d.b.a. Harrington's Kennels, Route 2, Box 121, Nelson 65961.
Haynes, M., Route 1, Auburn 65605.
Herr, J. A., Route 1, Box 140, Humboldt 68376.
Norden Laboratories, Inc., P.O. Box 80609, West Cornhusker Highway, Lincoln 68501.
Norden Labs, Inc., P.O. Box 80609, 601 West Cornhusker Highway, Lincoln 68501.
Packer, B., Route 2, Box 246, Wood River

NEW HAMPSHIRE

Abbey, A., d.b.a. Sugarcroft, Townsend Hill Road, Brookline 03033.
Barrett, D. H., d.b.a. Rock Haven Rab, Box 598, Drewsville 03604.

Island Tropical Fisheries, Inc., 301 Island Road, Mahwah 07430.
K-G Farms, Inc., 3651 Hill Road, Parsippany 07054.
Liberty Laboratories., P.O. Box 1, Liberty
Carlucci, J., d.b.a. Noah's Ark and Co., 68 Devoe Street, Brooklyn 11211.
Catskill Wild Animal Supply, Inc., Rural Delivery 1, Catskill 12414.
Chambers, T., Rural Delivery 1, Dexter
Primate Imports Corp., 34 Munson Street, Port Washington 11050.
Putnam Pets, Inc., Route 6, Carmel 10512.
Reinemann, A., Rural Delivery 2, Route 146, Box 275, Altamont 12009.

Harrington, D. D., d.b.a. Harrington's Kennels, Route 2, Box 121, Nelson 68961.
Haynes, M., Route 1, Auburn 68305.
Herr, J. A., Route 1, Box 140, Humboldt 68376.
Herr, L. and D., Route 1, Box 120, Wisner 68791.
Herr, R. L., d.b.a. Herr's Kennel, Rural Route 1, Box 147, Humboldt 68376.
Hoffman, J., Rural Route 3, Norfolk 68701.
Howe, M. A., 815 North 5 Street, Beatrice 68310.
Huettner, D., Rural Route 1, Rulo 68431.
Inglis, J., Rural Free Delivery 1, Rulo 68431.
Jeans, M., d.b.a. Circle J. Kennels, Route 2, Box 26, Indianola 69034.
Jedlicka, L. L. and K. L., d.b.a. Westwinds Kennel, Fowling Route, Box 136, Alliance 69301.
Jeffers, F., 1519 West 3rd, McCook 69001.
Johnson, K., Route 1, Box 59, Potter 69156.
Johnston, R. and K., d.b.a. Johnston Kennels, Route 1, Cortland 68331.
Jones, B. L. and N. R., d.b.a. Blue River Kennels, Box 205, Bladen 68928.
Jurek, L., Rural Route 1, Blair 68008.
Karmann, M. H., Rural Route 1, Cedar Rapids 68627.
Kenyon, M., P.O. Box 202, Mitchell 69357.
Knapp, L., Route 1, Big Springs 69122.
Kobler, H., Box 204, South Bend 68058.
Koelling, O., d.b.a. Koelling Echo Kennels, Route 2, Box 67, Ord 68862.
Kost, H. F., d.b.a. Kosts Rabbitry, Box 4, Brainard 68626.
Krenk, E., d.b.a. Pampered Pet, 1404 South Center, Beatrice 68310.
Kuester, R. and D., d.b.a. Humbug Creek Kennel, Rural Route 1, Box 83, Pliger 68768.
Kuhl, J. and A., Orleans 68966.
Kuhlmann, J. M., d.b.a. Country Side Kennel, Rural Route 2, Box 40, Humboldt 68376.
Kumpost, R. C., d.b.a. Kumpost Kennels, 403 South 7th, Pierce 68767.
Lamprecht, L., Rural Free Delivery No. 2, Box 123, Oxford 68967.
Landholm, C. J. and B. S., d.b.a. North Star Kennels, Route 2, Dodge 68633.
Lindeken, T., d.b.a. Lindekens Hillside Kennels, Route 1, Box 222, Scottsbluff 69361.
Lovenburg, J., Route 1, Verdon 68457.
Lucas, R., Route 1, Hickman 68372.
Maddux, T., Palesade 69040.
Martinson, L., d.b.a. Grandma's Kennels, P.O. Box 145, Boystown 68010.
McAlexander, A. and E., Route 1, Box 48, Cook 68329.
McCord, L. and R., Rural Route 4, Fairbury 68352.
McMillan J, and J., d.b.a. McMillan Kennels, Arthur 69121.
McRoberts, J., d.b.a. McRoberts Game Farm, Gurley 69141.
Meisinger, D. and D., Route 1, Ashland 68003.
Merryman, R. E., Route 1, Shickley 68436.
Metzner, S., d.b.a. Sunny Slope Kennel, Rural Route 1, Falls City 68355.
Monasmith, M. L., Champion 69023.
Monnette, D. M., Route 1, Box 69, Stella 68442.
Morrow, C. and M., Rural Route 2, Box 122, Tekahah 68061.
Morton Sr., C. H., Route 1, Rulo 68431.
Morton, C. H., Route 1, Rulo 68361.
Murray, A., d.b.a. Murrey's Charlie Brown Kennel, Box 55, Potter 69156.
Nebraska Scientific Co., 3710 D Street, Omaha 68107.
Nicholson, M. A., d.b.a. Nicholsons Kennel, Lebanon 69036.
Norden Laboratories, Inc., P.O. Box 80809, West Cornhusker Highway, Lincoln 68501.
Norden Labs, Inc., P.O. Box 80809, 601 West Cornhusker Highway, Lincoln 68501.
Packer, B., Route 2, Box 246, Wood River 68883.
Platt, V. and F. L., d.b.a. Platt Kennel, Hay Springs 69347.
Pleas, Mrs. G., Route 1, Oxford 68967.
Post, T. J., d.b.a. Sam-Bo Kennels, Box 24, Naponee 68960.
Rears, Mrs. D., Stella 68442.
Resnicek, B. and W., d.b.a. Bobendy Acres Kennel, Dodge 68633.
Rhone, D., Route 2, Box 117A, Cozad 69130.
Riessland, K. and D., d.b.a. Little Acorn Kennels, Rural Route Box 111, Litchfield 68852.
Rogers, S. and G., Rogers Rovers, Endicott 68350.
Rollins, W. L., d.b.a. Rollins Kennel, Cortland 68331.
Romajsl, R., Box 258, Wilber 68465.
Sasco Inc., 612 North 16th Street, Omaha 68102.
Schneider, U. K., 7272 North 34th Street, Omaha 68112.
Schuster, B. and G., Oakdale 68761.
Sejkora, H., Burchard 68323.
Sekutera, C., d.b.a. Diamond Kennel, Route 1, Box 28, Litchfield 68852.
Shrader, C. R. and V. L., d.b.a. Sunnyside Kennels, Route 1, Louisville 68037.
Shrader, D., d.b.a. Duane Shrader & Sons, 625 South 51st Street, Lincoln 68510.
Shriver, T. and E., d.b.a. Oregon Trail Kennels, Route 1, Box 40, Hastings 68901.
Singleton, B. M., Singleton Ranch, R.F.D. 1, Box 70, Dix 69133.
Sinn, W., Green Acre Kennel, Route 2, Box 12, Fairbury 68352.
Stevenson, R., d.b.a. Nebraskaland Kennels, Richland 68657.
Stitt, B., d.b.a. McGrew Kennels, Box 185, McGrew 69353.
Strait, R. and D., Route 2, Box 217A, Columbus 68601.
Sump, G. and D., d.b.a. Oak Leaf Stables, 13309 South 72nd Street, Omaha 68128.
Swisher, D., Box 685, Imperial 69033.
Troyer, D. L., Pawnee City 68420.
Tuttle, R. G., d.b.a. Roy Tuttles Dogs, Box 253, Ewing 68735.
Uldrich, F., Rural Route 1, Deweese 68934.
Van Meter, E. and T., Hardy 68943.
Vickers, J. L. and C., d.b.a. Puppy Luv Kennels, Rural Route 2, Box 112, Tilden 68781.
Vlasin, R. J. and E. B., Route 1, Crete 68333.
Wehr, Jr., W. W., d.b.a. Excalibur International, 4619 South 88th, Omaha 68127.
Williams, J. J. and R., d.b.a. Willms Kennels, 2106 Keene Drive, Columbus 68601.
Woltemath, V., Box 79, Elk Creek 68348.
Wright, E., Stamford 68977.
Yakle, B., d.b.a. Riverside Kennel, 2314 Avenue I, Scottsbluff 69361.
Yaw, B., Champion 69023.
Yaw, C., Newport 68759.
Zach, V. W. and Eller, J., Verdel 68782.
Zeigler, N. M., Nelson 68961.
Zimmerman, M. and L., d.b.a. Zimmerman Kennels, R.F.D. 3, Nebraska City 68410.
Ziverts, K. and V., 130 East Street, Lincoln 68508.

NEVADA

Area-West, Inc. (Nevada Corporation), 1E First Street, Suite 1202, Reno 89501.
Wright, D. and H., d.b.a. Pettin Place, 3985 Warren Way, Reno 89509.

NEW HAMPSHIRE

Abbey, A., d.b.a. Sugarcroft, Townsend Hill Road, Brookline 03033.
Barrett, D. H., d.b.a. Rock Haven Rab, Box 598, Drewsville 03604.
Bateman, M., 60 Garland Road, Rye 03870.
Beckman, D., Centenial Street, Seabrook 03874.
Coppo, J., d.b.a. Bunnyland Rabbitry, 45 South Street, Troy 03465.
Flagg, A. L., 8 Sullivan Street, Keene 03431.
George, M., Mill Road Box 47, Kingston 03848.
Greene, E., Upper Smith Hill Road, Franklin 03235.
Hanson, W., d.b.a. Hanson's Hampsters, Morris Street, West Peterborough 03468.
Lapham III, K. and L., Country Living Animals, Dalton Road R.F.D., Whitefield 03598.
Leith, R. W., d.b.a. Rosemont Farm, R.F.D. 1, Route 125, Epping 03042.
Lepene, R., Spring Street, Farmington 03835.
Lounder, R., 47 Proctor Street, Keene 03431.
Mastine, R., d.b.a. Rosie's Piggies, 75 Warren Street, Laconia 03246.
McCormick, R. G., d.b.a. Rovam Rabbitry, P.O. Box 72, Munsonville 03457.
McMaster, E., P.O. Box 155, Buck Road, Suncook 03275.
Millette, J., Greenhill Road, Rochester 03867.
Perkins, G. F., Glenridge Road, Jackson 03846.
Sargent, F., d.b.a. Sargent Rabbit Ranch, 872 South Main Street, West Franklin 03235.
Stoodley, D., 21 Elm Street, Winchester 03470.
Trustees of Dartmouth College, P.O. Box 432, Hanover 03755.
Webster, N. J., 1 Orchard Street, Raymond 03077.
Zins, A. S., Pleasant Street, Greenville 03048.

NEW JERSEY

Affiliated Medical Research, Inc., P.O. Box 5700, Princeton 08540.
Allendale Aviaries, Inc., 53 Cottage Place, Allendale 07401.
Astro, Inc., 230 East High Street, Glassboro 08028.
Barton's West End Farms, Inc., Rural Delivery 1, Box 241, Oxford 07863.
Biological Systems, Inc., 2367 Lakewood Road, Toms River 08753.
Buck, W. E., P.O. Box 61, Glendora 08029.
Byrnes, J., d.b.a. Valley Farms, P.O. Box 585, West Paterson 07424.
Camm Research Institiute, Inc., 414 Black Oak Ridge Road, Wayne 07470.
Charles River Lakeview, P.O. Box 85, Newfield 08344.
Clauss, G. J., 33-10 Fair Lawn Avenue, Fairlawn 07410.
Deblin Farms, Inc, Box 369, Branchville 07826.
Dedechko, G., Downer Road, Box 315, Williamstown 08094.
Food and Drug Research Lab., Inc., 80 Evergreen Place, East Orange 07018.
Fuhr, B., d.b.a. Davidson's Mill Farm, Rural Delivery 1, Box 184, Jamesburg 08831.
Gumperz, E., d.b.a. Chick Line Co., 604 East Garden Road, Vineland 08360.
Hana, T., Rural Deli
very 2, Neshanic Station 08853.
Hazleton/Primelabs, Inc., Monmouth County Airport, P.O. Box 646, Farmingdale 07727.

Island Tropical Fisheries, Inc., 301 Island Road, Mahwah 07430.
K-G Farms, Inc., 3651 Hill Road, Parsippany 07054.
Liberty Laboratories., P.O. Box 1, Liberty Corner 07938.
Marland Breeding Farms, Inc., 531 Burnt Meadow Road, Hewitt 07421.
Marschner, F. and DeGrosa, M., d.b.a. Le Chien Grooming Salon and Pets, 2406 Atlantic Avenue, Atlantic City 08401.
McGee, M., d.b.a. Breezy Acre Farms, P.O. Box 83, Chatham 07928.
Moffett, T. F., Shinny Lane, Rural Free Delivery 1, Lawrenceville 08648.
Ricschl, W. H., d.b.a. Reptile Place, 118 Route 17, Upper Saddle River 07458.
Spade, D. and Dansbury, C., d.b.a. Edgely Research Farm, Box 65, Chesterfield and Georgetown Road, Columbus 08022.
Stevenson, D., 430 Radnor Avenue, Pine Beach 08741.
Sweeney, D. J., d.b.a. Kannon's Kennels, P.O. Box 381, Bricktown 08723.
Tinbergen, K., d.b.a. Sunrise Laboratory Animals, Ridge Road, Rural Delivery 2, Whitehouse Station 08889.
Trefflich, H., d.b.a. Trefflich's, Box 464, Bound Book 08805.
Triple R Rabbitry, P.O. Box 301, Manasquan 08736.
Vrana, R., Box 427A, Rural Delivery 1, Millville 08332.
West Jersey Biological Supply, Box 6, South Marion Avenue, Wenonah 08090.
Whaley, M. T., d.b.a. Summit View Farm, Rural Delivery 1, Box 293, Belvidere 07823.
Williams, J. E., d.b.a. Hilldale Farms, Dutch Mill Road, Franklinville 08322.
Zucca Hamstery, Inc., P.O. Box 507, 1541 Allen Avenue, Vineland 08360.

NEW MEXICO

Bond, E. B., d.b.a. Rurigny Kennels, Route 2, Box 307, Clovis 88101.
Hungerford, P., d.b.a. Gypsy's Kanine Haven, Route 1, Box 100B, Texico 88135.
McKean, D. and C., d.b.a. Kactus Kennels, Pine Spring Road, Carlsbad 88230.
Ruebush, O. L., d.b.a. Keenridge Rabbit Ranch, Box 266, Edgewood 87015.

NEW YORK

Agway Inc., d.b.a. Agway Technical Center, P.O. Box 1333, Syracuse 13201.
Ancare Corp., 47 Manhasset Avenue, Manhasset 11030.
Atwood, D. F., Old Route 20, East Nassau 12062.
Aurora Scientifics Inc., P.O. Box 239, East Aurora 14052.
Bean, A. G., Rural Delivery 3, Moravia 13118.
Becken, R. C. and E. N., d.b.a. Beckens Research Animal Farm, 2585 Upper Mountain Road, Sanborn 14132.
Bilello, L., d.b.a. Greewood Kennels, 34 Frank Court, Brooklyn 11229.
Boddis, G., d.b.a. Boddis Farms, Box 376A, County Road 11, Craryville 12521.
Bowley, C., 6774 Cicero Bridgeport Road, Rural Delivery 1, Clay 13041.
Bronson, J. L., d.b.a. Bronson Tropical Birds, 70 Nagle Avenue, New York 10040.
Buckberg Lab Animals Inc., Freehill Road, Tomkins Cove 10986.
Campbell, D. F., Rural Delivery 1, Route 20, Sloanville 12160.
Canlon, E. J., d.b.a. New Springville Laboratory Animals, 300 Robinson Avenue, Staten Island 10312.
Carlucci, J., d.b.a. Noah's Ark and Co., 68 Devoe Street, Brooklyn 11211.
Catskill Wild Animal Supply, Inc., Rural Delivery 1, Catskill 12414.
Chambers, T., Rural Delivery 1, Dexter 13634.
Charles E. Brackett, 55 Judson, Canton 13617.
Chase, J. E., Rural Delivery 1, Box 123A, Flycreek 13337.
Chupa, J., Joslen Boulevard, Hudson 12534.
Cleveland, H., Route 1, Rensselaerville 12147.
Connell, C. J. M., 5 Hill Street, Tupper Lake 12986.
Cooper, J. and E., Box 456, 228 Church Street, Breesport 14816.
Cornell University, d.b.a. Cornell Dog Farm, New York State College of Agriculture and Life Sciences, Ithaca 14853.
Criddle, W., d.b.a. Winona Criddles Caviary, Box 200, Tunnel Road, Rural Delivery 1, Port Crane 13833.
Crounse, J. C., Rural Delivery 1, Parkers Corners, Altamont 12009.
Cummings, R. and M., Route 1, Box 259, Dexter 13634.
Davis, H., 476 Halsey Valley Road, Spencer 14883.
Downs, J. J., Box 54, North Blenheim 12131.
Drannbauer, E., Rural Route 1, Box 258, Stamford 12167.
Dumbleton, D. and F., d.b.a. Windy Nob Farm, 5164 Linden Road, East Bethany 14054.
Dzierzanowski, B. R., 8471 Seven Spring Road, Batavia 14020.
F. J. Zeehandelaar Inc., 6 Sickles Avenue, New Rochelle 10801.
Fabry, E. G, d.b.a. Fab Labs, Box 233, New City 10956.
Farley, J. W., d.b.a. Farnsworth Middle School, 20 Coronet Court, Schenectady 12309.
Flinn, P. J., d.b.a. Flinn's Rabbitry, 160 Ontario Street, Albany 12206.
Fowler, L., Rural Delivery, Lake Nancy Road, Middlegrove 12850.
Fugle, N., Eagle Road, Bliss 14024.
Gabriel, R., 3115 Lydius Street, Schenectady 12303.
Gottshall, R. D., Rural Delivery 5, Guyanoga Road, Penn Yan 14527.
Graziano, J., 10 De Gew Street, Nyack 10960.
Herrington, R., d.b.a. 4 Way Rabbitry, 9742 Bethany Center Road, East Bethany 14054.
Hill, M. D., d.b.a. Maru's Menagerie, 3535 Maple Road, Wilson 14172.
Hinderer, R. R., d.b.a. Richard's Commercial Rabbitry, Rural Delivery 2, Ashville 14710.
Hoessle, J., Central Bridge 12035.
Koenig, H., Rural Delivery 2, Box 167, Delanson 12053.
Krutulis Laboratories Inc., P.O. Box 153, Bridgeport 13030.
Logan, J. F., Rural Delivery 3, Penn Yan 14527.
Lotito, A., 375 Ellis Hollow Creek Road, Ithaca 14860.
Marshall Research Animals, Inc., North Rose 14516.
May, Sr., N. P., 2796 Fisher Road, Warsaw 14569.
Merzacco, E. J., d.b.a. Pet Lovers Paradise, 2309 Elmwood Avenue, Kenmore 14217.
Moore, W. K., d.b.a. W. Moore Bird Co., P.O. Box 4753, Rochester 14612.
Phillips, A., Box 386, Rural Delivery 2, Warwick 10990.
Presti, L., d.b.a. Hidden Acres Boarding Farm, Box 87, Spring Glen 12483.
Primate Imports Corp., 34 Munson Street, Port Washington 11050.
Putnam Pets, Inc., Route 6, Carmel 10512.
Reinemann, A., Rural Delivery 2, Route 146, Box 275, Altamont 12009.
Rio, H. R., Rural Delivery 1, Central Square 13036.
Ritchie, W., County Route 9, Philmont 12565.
Rochester Area Educational Television Association, Inc., d.b.a. Channel 21, 280 State Street, Rochester 14614.
Rogers, E. I., Glenmary Drive, Owego 13827.
Romano, L., d.b.a. Romano's Pet Farm, Rural Delivery 2, Box 394, Florida 10921.
Schulz, J., Rural Delivery 1, Box 92, Catskill 12414.
Science Kit, Inc., 777 East Park Drive, Tonawanda 14150.
Shaeffer, C. S. d.b.a. Shaeffer Crest Farm, Brooker Hollow Road, Richmondville 12149.
Shannon, R., Rural Delivery 1, Lodi 14860.
Shurtleff, F., Rural Delivery 2, Averill Park 12018.
Smith, D. L., d.b.a. Dons Rabbitry, P.O. Box 15, Waterioo 13165.
Spass, M., Rural Delivery 1, Greenville 12083.
St. Lawrence Valley ETV Co. Uncil, Inc., d.b.a. WNPE-WNPI Public Television, P.O. Box 114, Watertown 13601.
Stumbo, D. L. d.b.a. Stumbo Farms, Reed Road, Lima 14485.
Swedowske, L., d.b.a. Skee's Little Animals, 10448 Asbury Road, Leroy 14482.
The Mary Imogene Bassett Hospital, Cooperstown 13326.
Thompson, P. E., d.b.a. Greenwood Game Farm, Rural Delivery Box 73, Newark Valley 13811.
Tishel, G. and F., Altermeier, G., d.b.a. Shellstone Farms, Rural Delivery 2, Shellstone Road, Amsterdam 12014.
Trans-American Piet Dish, Inc., 9811 4th Avenue, Brooklyn 11209.
Truman, F., d.b.a. Truman's Kennels, Blodgett Mills 13738.
Van Etten, J., Star Route, Altamont 12009.
Van Warner, R., d.b.a. River View Kennels, Rural Delivery 1, New Berlin 13411.
Wade, C. H., d.b.a. Wade Bros., Rural Delivery 2, Wade Road, Whitehall 12887.
Wards Natural Science Establishment, Inc., P.O. Box 1712, Rochester 14603.
Webb, F., 55 New Hartford Street, New York Mills 13417.
Wells, E. E., Box 174, Springfield Center 13468.
Wittman Rabbitry, Inc., Box 221, Main Street, Yaphank 11980.
Yodice, M. and J., d.b.a. Aquarium Land, 5620 5th Avenue, Brecklyn 11220.

NORTH CAROLINA

Aqua-Rema Pet Center, Inc., 4947 Bragg Boulevard, Fayetteville 28303.
Beane, A., d.b.a. Puppy-Land Kennel, Route 1, Box 299, Franklinville 27248.
Berry Water Gardens, Inc., P.O. Box 607, Kernersville 27284.
Biggs, C. G., d.b.a. Biggs-Animal's, Route 2, Summerfield 27358.
Billingsley, J. P., d.b.a. B & B Hamsters, Route 5, Box 40, Reisdville 27320.
Calhoun Sr., W. H., d.b.a. The Rabbit Hutch, P.O. Box 23, Julian 27283.
Canady, S., d.b.a. Canady Kennel, Route 1, Box 162, Clinton 28328.
Carolina Biological Supply Co., 2700 York Road, Burlington 27215.
Cleveland County Health Department, d.b.a. Cleveland Animal Shelter, P.O. Box 1528, Shelby 28150.

Cooke, A. B., d.b.a. Buffalo Ranch Trading Post, Route 7, Box 203, Concord 28025.
Coon Hunters Association, Waynesville 28786.
Dotson, A., d.b.a. Amberdelle Rabbitry, [illegible]

OHIO

Andermatt, R. L., d.b.a. Fins Fur & Feathers, 118 North Fayette Street, Washington Church 43160.
Haaf, Jr., C. H., d.b.a. Valley Acre Rabbitry, Rural Delivery 3, Box 338, Wellington 44090.
Hanley, J. D., Route 1, Box 1696, Groveport 43125.

Rody, R., 298 State Route 162, Route 1, Spencer 44275.
Roling, R. R., d.b.a. The Rabbit Factory, 5147 Spencer Road, Spencer 44275.
Rueve, F. and C., d.b.a. Driftwood Pet Shop, 3880 North Dixie Drive, Dayton 45414.
Brantley, J., Route 1, Salina 74365.
Brown, H., Sardis 74564.
Brown, J., Route 1, Box 117, Tahlequath 74464.
Bruton, B., Route 2, Box 147, Beggs 74421.
Buchanan, J., 316 North Main, Medford

Goodnow, W. S., 201 South Spencer, Box 523, Hinton 73047.
Gray, R. L., Rural Route 1, Box 50, Kremlin 73753.
Graybill, E. J., Route 1, Box 21, Cameron 74932.

Cooke, A. B., d.b.a. Buffalo Ranch Trading Post, Route 7, Box 203, Concord 28025.
Coon Hunters Association, Waynesville 28786.
Dawson, A., d.b.a. Amberdelle Rabbitry, Route 2, Box 122, Kinston 28501.
De Hoog, M. G., Route 1, Box 161, Pantego 27860
Franklin, L. C., d.b.a. Franklins's Rabbitry & Supply, P.O. Box 1067, Wake Forest 27587.
Fryer, G. L., d.b.a. Waseda Farms, Route 1, Box 60, McLeansville 27301.
Gordon, G. R., d.b.a. Small Stock FM PT, Route 6, Box 93, Shelby 28150.
Gravitt, M., d.b.a. Beaux Mountain Beagle Farm, Route 2, Germanton 27019.
Hagan, Sr., P. E., d.b.a. Hagan's Rabbitry, Route 2, 104 1st Street, Jacksonville 28540.
Jones, Sr., H. E., d.b.a. Puppy Paradise, Route 1, Box 44, Grimesland 27837.
Kiser, J. W., Route 2, Box 18, Vale 28168.
Lewis, C. N., d.b.a. Fishy Tail Tropical Fish Cove, P.O. Box 41, Smyrna 28579.
Lund, K. A., d.b.a. Coral Seas, P.O. Box 10201, Raleigh 27605.
McKenzie, C. L., d.b.a. Cedarwood Rabbits, Route 2, Box 45A, Liberty 27298.
McLaurin, A., d.b.a. McLaurins Kennel, Route I, Box 150, Wade 28395.
Murph's Kennels, Inc., Route 1, Box 512, Knightdale 27545.
Owens, R., and Wooten, T., d.b.a. Mountaineer Pets, Route 4, Box 467B, Kings Mtn. 28086.
Phillips, B. Z., d.b.a. Pearcroft Cattery, Route 2, Box 185, Raleigh 27610.
Pritchard, G., 907 Hillcrest Avenue, Graham 27253.
Ramsay, D. A., d.b.a. Triangle Animal Labs, Route 2, Hillsborough Road, Durham 27705.
Riley, C. F., d.b.a. Rileys Bunny Haven, Route 2, Box 519, Linden Road, Durham 27705.
Schaber, R. M., d.b.a. Schaber's Zoo Animals, 1305 Spring Avenue, Spring Lake 28390.
Scruggs, C., Route 2, Shelby 28150.
Seifried, R. L., d.b.a. Pet Haven, Inc., 5121 South Boulevard, Charlotte 28210.
Singleton, A., d.b.a. Singleton Kennels, Route 1, Box 270B, Fayetteville 28301.
Southeastern Laboratory Animal Farm, Inc., Route 1, Box 285, Apex 27502.
Suthard, H., d.b.a. Dearview Rabbit Ranch, 502 Deaverview Road, Asheville 28806.
Thomas Tackle Shop, Route 1, Box 25, Holly Ridge 28445.
Wise, A., d.b.a. Tarheel Cattery, Route 1, Willow Springs 27592.
Wood, M. R., d.b.a. Bush Hill Rabbitry, 306 Englewood Drive, Archdale 27263.

NORTH DAKOTA

Klose, E. E., d.b.a. El Dor Kennels, Route 2, Box 54, Jamestown 58401.
Landsem, L. O. & H. A., Rural Route 1, Edmore 58330.
Michaux, A., Box 44, Bottineau 58318.
Moos, L. G., d.b.a. Apple Creek Kennels, Route 1, Box 109, Bismarck 58501.
Ryum, R. E., Courtenay 58426.
Serr, T. & S., d.b.a. Prairie View Kennels, Hazelton 58544.
Weoll, G., d.b.a. North Dakota Rabbit Marketing, Granville 58741.
Wyckoff, G., d.b.a. C-Bar-H Cattery, Route 1, Box 210A, Bottineau 58318.

OHIO

Andermatt, R. L., d.b.a. Fins Fur & Feathers, 118 North Fayette Street, Washington Church 43160.
Anthony P. and Ball, A., d.b.a. Kiser Lake Kennels, Box 541, St. Paris 43072.
Bailey, Z. E., 3106 U.S. 68 South, Xenia 45385.
Baker, F., Route 1, Leesburg 45135.
Baldwin, J., Route 1, Box 157, Swanton 43558.
Bassett, P. H., 670 Morning Street, Worthington 43085.
Blue, C., d.b.a. Blues Animal Farm, 16241 Robinson Road, Plain City 43064.
Bowman, H. H., Star Route Box 44, Millersburg 44654.
Brandt, E. A., d.b.a. Carabran Kennel, Rural Route 2, New Philadelphia 44663.
Brown, D. A., d.b.a. Petland of Portsmouth, 836 Gallia Street, Portsmouth 45662.
Brown, R. R., d.b.a. Tropical Cove, 118 West North Street, Fostoria 44830.
Broxterman, J. A., 4214 Zagar Drive, Cincinnati 45245.
Buehrer, P., d.b.a. Swancreek Rabbitry, Route 2, Delta 43515.
Burchfield, M., 2217 Star Route 132, Goshen 45122.
Burgy, P. B., 2566 Short Way, Akron 44312.
Burrier, D. and L., d.b.a. Lindaue Kennel, Route 1, Newcommerstown 43832.
Campbell, L., d.b.a. Tinker's Rabbitry, Route 1, Box 8775, New Holland 43145.
Carr, G. C., 54 East Beaumont Road, Columbus 43214.
Church, M. A., d.b.a. Pet City, 5957 Center, Valley City 44280.
Clark, F. L., 1078 Pennsylvania Avenue, Columbus 43201.
Cockrell, L. and P., Route 2, Box 331C, Peebles 45660.
Cook, L. A., 5885 West State Route 571, West Milton 45383.
Cox, F. B., 8315 State Route 28, Route 1, Leesburg 45135.
Crawford, L., Route 2, 16189 East County Road 46, Bellevue 44811.
Dargitz, W. and D., d.b.a. Diamond D Kennel, Rural Route 2, Montpelier 43543.
Daulton, J. E., Route 2, Box 111A, Galion 44833.
Daum, W. G., d.b.a. Puppy Waggin Express, 1346 Mapleview Drive, Zanesville 43701.
Day, D. and C., d.b.a. K. & P. Kennels, Route 1, Box 343, Bidwell 45614.
Drum, O. L., Route 2, Cortland 44410.
Durigg, W., 83 Sprague Road, Berea 44017.
Edmiston, C. A., 5930 Bryan Road, Oregon 43618.
Fortunato, D. D., 4015 Massillon Road, Uniontown 44685.
Frank, E., d.b.a. Francavy's, 326 Ottawa Avenue, Westerville 43081.
Fuller, E. and V., d.b.a. Fullers Kennels, 105 Robinson Street, Tiro 44887.
Garrett, W. R., 8090 Kilby Road, Harrison 45030.
Genter, O. V., Route 2, Archbold 43502.
Gottlieb, H., 264 Brandtson Avenue, Elyria 44035.
Gray, C. B., d.b.a. Petland of Chillicothe, 31 South Paint Street, Chillicothe 45601.
Green, H. W., 1859 East High Avenue, New Philadelphia 44663.
Gregory, S. C., d.b.a. Critters, 3100 Linwood Road, Cincinnati 45208.
Grimsley, B. J., Rural Route 2, Mount Sterling 43143.
Grover, P., Route 1, Bidwell 45614.
Grugaugh, R. and L., 10750 West Versailles Road, Covington 45318.
Gutman, H. and E., 16146 Rock Creek Road, Thompson 44086.
Haaf, Jr., C. H., d.b.a. Valley Acre Rabbitry, Rural Delivery 3, Box 338, Wellington 44090.
Hanley, J. D., Route 1, Box 1696, Groveport 43125.
Hardesty, D. M., d.b.a. H. P. & A. Caviary, 12003 Summerland, Cleveland 44111.
Helwig, R., d.b.a. Hartwell of Silverton Pet Shop, 7225 Montgomery Road, Cincinnati 45236.
Herrick, T., d.b.a. Beaumanor Farms, 9578 Mulberry Road, Chesterland 44026.
Hinshaw, R., Rural Route 1, Bainbridge 45612.
Honoshofsky, G., Rural Delivery 2, 940 West Capel, Grafton 44044.
Honoshofsky, M. J., 8904 West Ridge Road, Elyria 44035.
Honoshofsky, M. J. and D. E., d.b.a. Mi-Dee Acres, 40330 Webster Road, Lagrange 44050.
House, W. B., Rural Free Delivery 5, Washington Courthouse 43160.
Hovanek, M. J., d.b.a. Petland of Lyndhurst, 5402 Mayfield Road, Lyndhurst 44124.
Howard, H. and A., d.b.a. Triple H Rabbit Ranch, Route 1, 4152 Gale Road, Granville 43023.
Huff, R. L., 1755 Mark Road, Washington Courthouse 43160.
King, B. and C., d.b.a. King's Wheel Rabbitry, 8085 Camp Road, Route 5, Mount Vernon 43050.
Knight, H. S., Route 9, Box 39, Chillicothe 45601.
Krause, P. R., d.b.a. Aqua Pet Shop, 1945 Jackson Road, Columbus 43223.
Lanier, G. L. and S. I., Route 2, Box 500, Debby Drive, Gallipolis 45631.
Laurens, C., 110 West Xenia Avenue, Box 101, Cedarville 45314.
Loper, Jr., F., 8085 South Palmer Road, New Carlisle 45344.
Louderback, R. W., 645 Birch Road, Xevia 45385.
Loveland Pet Products, Inc., Montgomery Road, Loveland 45140.
Magbee, G. M., d.b.a. Pet Land, 1905 Washington Street, Cincinnati 45215.
Miller, I., Route 5, Box 183-A, Millersburg 44654.
Moden, R. and M., Rural Route 1, Box 167, Wauseon 43567.
Mogul Corp., Chagrin Falls 44022.
Murphy, T. J., 3406 Prairie Road, Wilmington 45177.
Nature World, Inc., 3985 Race Road, Cincinnati 45211.
Neff, W. O., Route 5, Box 412, Chillicothe 45601.
Parker, L., d.b.a. Old Red Barn Rabbitry, Rural Route 1, South Scion 43153.
Pavey, M. E., d.b.a. Flint Ridge Farm Kennels, Rural Route 2, 13205 U.S. 62 North, Leesburg 45135.
Petland, Inc., 31 South Paint Street, Chillicothe 45601.
Pinkerton, R. and L., d.b.a. The Great Seal Rabbitry, Route 4, Box 36, Chillicothe 45601.
Plummer, H. F., d.b.a. Plummers Rabbit Ranch, Route 4, Box 64B, Peebles 45660.
Pohlman, J. M., 9530 Stitt Road, Whitehouse 43571.
Pontius, J. K. and S., d.b.a. Little Acres Kennel, Route 1, Box 246, Wauseon 43567.
Rainbow Aquarium & Pet Supply, Inc., 2886 West Market, Warren 44485.
Ravenna Aquatics, Inc., 135 East Main Street, Ravenna 44266.
Reisdorff, B. and B., 2370 Center Road, Route 83, Avon 44011.
Robeano, M., d.b.a. Natures World of Pets, 3463 Paris Boulevard, Westerfield 43081.

Rody, R., 298 State Route 162, Route 1, Spencer 44275.
Roling, R. R., d.b.a. The Rabbit Factory, 5147 Spencer Road, Spencer 44275.
Rueve, F. and C., d.b.a. Driftwood Pet Shop, 3880 North Dixie Drive, Dayton 45414.
Rutherford, L. C., d.b.a. Rutherford's Rabbitry, 816 Ohio Avenue, Elmore 43416.
Saint Luke's Hospital, 11311 Shaker Boulevard, Cleveland 44104.
Sander's Tropics, Inc., 14012 Southwest Boundary Street, Perrysburg 43551.
Saunier, J. L., 5330 Cleveland Avenue Southeast, Canton 44707.
Schultz, B. J., 2974 Kennedy Road, Medina 42256.
Schwarzwalder, W., d.b.a. Wanda Pet Shop, 5501 Clark Avenue, Cleveland 44102.
Sees, R. L., d.b.a. Tanks-A-Lot of Firestone Park, 1467 Aster Avenue, Akron 44301.
Shults, E. and M., 1725 Anglewood Drive, Mansfield 44903.
Singer, D. E. and S. J., 10320 Orrville Street Northwest, Massillon 44646.
Skomra, R. A., 30019 Mildred Street, Willowick 44094.
Sommer, D. L., d.b.a. Petland Promenade Store, 1166 West Kemper Road, Cincinnati 45240.
Stadtlander, G. J., 2951 Frost Road, Mantua 44255.
Sterrett, A. W., 2224 Savoy Avenue, Akron 44305.
Stinehelfer, M., d.b.a. Mike's Rabbitry and Mike's Pet Shop, 426 Union Avenue, Bucyrus 44820.
Stutzman, L. E., Box 41, Mount Hope 44660.
Sweetwater Farm, Inc., P.O. Box 293, Hillsboro 45133.
Trout, S., d.b.a. Trout's Pets, 5119 Ranson Road, Sandusky 44870.
Villalovos, J., Rural Delivery 2, Box 113, Fayette 43521.
Weaver, T., d.b.a. Furr & Purr Cattery, 4100 Central Avenue Southeast, Canton 44703.
Weiland, P. M., 3604 State Route 72, Lancaster 43130.
Wente, J., d.b.a. Bert's Tropical Fish, Route 5, Box 266, Portsmouth 45662.
Whitlock, E., Route 2, Stryker 43557.
Wilds, N., d.b.a. Green Valley Rabbitry, Box 435, Killbuck 44637.
Willoughby, R., d.b.a. Willoughby Rabbitry, 2150 Mount Carmel Road, Sabina 45169.
Witchey, Sr., J. E. and S. R., 6670 Newton Falls Road, Ravenna 44266.
Yocum, C. R., 1487 Woodville Pike, Loveland 45140.
Zimmerly, L., Rural Route 4, Wooster 44691.

OKLAHOMA

Ables, G., d.b.a. Jody's Poodle Parlor, Box 504, Lindsay 73052.
Alexander, C., d.b.a. Alexander Kennels, Route 2, Box 88, Wynnewood 73098.
Allen, J., Route 4, Vinita 74301.
Allen, J. & E., d.b.a. Puppy Haven Kennel, Route 2, Box 131, Bartlesville 74003.
Allred, B. G., Rural Route 1, Box 139A, Pryor 74361.
Anderson, J., 2907 O Street NW, Miami 74354.
Babbitt, W. L., 1003 D Street E, Commerce 74339.
Ball, H. and Anderson, M. L., d.b.a. Por Bois Kennel, 6130 N Union, Ponca City 74601.
Barnett, C. E., d.b.a. Pinetree Kennels, Route 5, Pleasant View, Ponca City 74601.
Bellows, J. L., Fargo 73840.
Benson, J., Route 1, Ralston 74650.
Bernet, D., 515 North Seminole, Claremore 74104.
Black, T. F., Box 159, Beaver 73932.
Brantley, J., Route 1, Salina 74365.
Brown, H., Sardis 74564.
Brown, J., Route 1, Box 117, Tahlequath 74464.
Bruton, B., Route 2, Box 147, Beggs 74421.
Buchanan, J., 316 North Main, Medford 73759.
Bulluck, N., d.b.a. Bullock's Hilltop Kennel, Route 3, Box 246C, Bristow 74010.
Buoy, M., 101 North Virginia, Bartlesville 74003.
Burgess, W., d.b.a. Wayne Burgess Kennel, Route 1, Box 134, Bokchito 74726.
Burris, O. N., Route 1, Box 317, Claremore 74017.
Bussey, B. and M., Box 632, Marland 74644.
Cabral, B. D., Route 3, Box 174, Grove 74344.
Caldwell, J., 621 South Alabama, Okmulgee 74447.
Callicoat, K., Route 5, Atoka 74525.
Callison, R., Rural Route 5, Box 120, Pryor 74361.
Carr, D. E., d.b.a. Carr's Kennels, Rural Route 1, Box 363, Sallisaw 74955.
Carson, P., d.b.a. P Bar J Kennel, Route 2, Box 98, Muldrow 74948.
Carter, M. J., Route 7, Box 346, Claremore 74017.
Chapman, E. K., Route 2, Box 88, Ponca City 74601.
Collins, C. E., d.b.a. Red Hill Kennel, P.O. Box 551, Elk City 73644.
Conner, J., d.b.a. Beeline Kennels, Route 1, Box 140, Okmulgee 74447
Coulter, F. and K., d.b.a. Coulter's Kennel, Route 1, Box 70D, Oolagah 74053.
Cox, E. J., Route 1, Box 40, Grove 74344.
Cox, V., Route 2, Meeker 74855.
Crowe, R., Route 4, Box 109, Okmulgee 74447.
Curl, C. and R., d.b.a. 3-C Kennels, Route 1, Box 220, Vinita 74301.
Dallas, D. and C., 330 H Northeast, Miami 74354.
Damron, F. and C., Route 3, Box 16, Medford 73759.
Davis, M. L. and H., 2112 West Maple, Collinsville 74021.
Davis, S., Route 1, Box 21, Beaver 73932.
Dechant, A., d.b.a. Dechant's Luv-A Pet, Route 2, Grove 74344.
Defoor, N. P. and G. N., Route 4, Atoka 74525.
DeSautell, M. R., d.b.a. Lady's Circle, Star Route 2, Pryor 74361.
Dickey, G. M., d.b.a. Tuesdays Kennels, Rural Route 1, Burlington 73722.
Dickinson, R. L., d.b.a. Little Hickory Kennel, 316 P Street NE, Ardmore 73401.
Dixon, C., Route 1, Box 239, Miami 74354.
Dobson, J. and R., d.b.a. Janeo's Kennel, Rural Route 1, Box 77, Newkirk 74647.
Doc's Dogs, 430 South Morrow, Drumright 74030.
Dry, Mrs. C., d.b.a. Dry's Poodle Shop, 221 Lake Murray Drive, Ardmore 73401.
Drydon B. and Ryan B., d.b.a. Skyline Acres Kennels, Route 5, Box 803, Guthrie 73044.
Dubois, H., Box 5, Salina 74365.
Dubois, R., Star Route 2, Spavinaw 74366.
Dugan, N. and R., Route 2, Box 208, Ponca City 74601.
Elsberry, T., d.b.a. Stony Acres Kennels, Route 1, Box 55A, Chouteau 74337.
Few, N. F., Route 2, Box 31, Boynton 74422.
Fobes, A. A., d.b.a. Fobes Kennels, Route 1, Box 255, Bristow 74010.
Gahagan, Route 1, Box 127, Drumright 74030.
Giles, F. E., Route 3, 110 Ruth Street, Cushing 74023.
Glenn, E. P., d.b.a. Glenns Kennels, 1216 6th Street, Alva 73717.
Goodnow, W. S., 201 South Spencer, Box 523, Hinton 73047.
Gray, R. L., Rural Route 1, Box 50, Kremlin 73753.
Graybill, E. J., Route 1, Box 21, Cameron 74932.
Griffith, J. H., d.b.a. Circle G Kennels, Route 2, Box 66, Pryor 74361.
Grigsby, M. L., d.b.a. Marys Kennels, 512 A Street, S.W., Miami 74354.
Grissom, N. V., 823 East 60th Place North, Tulsa 74126.
Guthrie, K., d.b.a. Guthries Kennels, Box 445, Pryor 74361.
Hall, D. L. and M. E., d.b.a. Tra Mar, Route 3, Box 389, Collinsville 74021.
Harding, J., Route 3, Box 237N, Seminole 74868.
Harper, S., Route 1, Indianola 74442.
Harris, G., Route 1, Box 591, Cookson 74427.
Harris, L., 911 South Dewey, Wagoner 74467.
Hatcher, N., d.b.a. Nina's Puppy Ranch, Box 95, Finley 74543.
Hazelbaker, B., Route 1, Box 65, Camargo 73835.
Hereford M., and Heatherly F., Route 2, Nowata 74048.
Hess, C. L., d.b.a. Nor Sah Kennels, Rural Route 1, Box 1289, Owasso 74055.
Hiatt, M. and M., 3606 South 117th Avenue, Tulsa 74145.
Holman, B., d.b.a. Rocky-Cor Kennels, Route 1, Rocky 73661.
Hopkins, C. W., Route 1, Box 70W, Copan 74022.
Horrox, E. C., d.b.a. Coventry Forge Kennels, Route 2, Inola 74036.
Horton, M., Route 1, Box 64, Bokchito 74726.
Howell, L., Route 3, Cordell 73632.
Howell, T. L., 917 Maple, Alva 73717.
Hunt, L., Route 1, Box 100A, Dewey 74029.
Hutchison, W., d.b.a. Shagapooh Kennel, Rural Route 2, Waynoka 73860.
Irwin, L. S., 1120 West Wood, Shawnee 74801.
Johnson, O., Route 2, Box 94, Okmulgee 74447.
Jones, E. J., d.b.a. Triple J Kennel, Box 194, Evansville 72729.
Jones, R. L., d.b.a. Cottonwood Kennel, 423 North Broad, Guthrie 73044.
Kenney, P. V., Route 3, Box 45,
Kiddy, L. A., 2116 Sallie, Muskogee 74401.
King, E. and Knight, J. M., d.b.a. Green Country Commercial Rabbitry, Route 1, Box 302, Copan 74022.
Krug, G. and A., Box 592, Hooker 73945.
Langston, S., Star Route E, Box 35A, Locust Grove 74352.
Lawson, O. E., d.b.a. Sonny's Oodles of Poodles, 214 West Stonewall, McAlester 74501.
Layton, M., Route 2, Wynnewood 73098.
Lea, M. V., 1309 South Armstrong, Bartlesville 74003.
Littlepage, R. and K., d.b.a. Littlepage Kennel, Rural Route 1, Box 18, South Coffeyville 74072.
Lynd, I. B., d.b.a. Lynd Enterprises, Star Route A, Box 55C, Skiatook 74070.
McCoy, P., d.b.a. Novel Kennels, Route 2, Box 100, Westville 74965.
McAnulty, C. J., Box 267, Lehigh 74556.
McCoy, A. L., d.b.a. Annie Dog Patch, Route 1, Box 179A, Drumright 74030.
McLendon, L. A., d.b.a. McLendon Kennels, Route 1, Box 254, Bristow 74010.
Meredith, M., Route 1, Box 154, Pryor 74361.
Merit, G. and S., Rural Route 4, Box 114, Miami 74354.
Moody, D., d.b.a. Moody's Berryhill Kennel, Route 1, Drumright 74030.

Moody, E., d.b.a. Moody's Kennels, 1301 East Ash, Cushing 74023.
Moore, O. J., d.b.a. Ke-Bon Kennels, 802 West Broadway, Henryetta 74437.
Neil, M., Box 253, Welch 74369.
Neill, L. and A., d.b.a. Clear Creek Kennels,
Nelson, K. A., Route 6, Box 216, Ponca City
Wheeler, J. and L., Route 2, Eufala 74432.
Wickham, W., Rural Route 1, Box 13B, Kansas 74347.
Wilkerson, L. K., Route 2, Tecumseh 74873.
Williams, C., d.b.a. Clara's Kennels, Rural Route 1, Freedom 73842.
Wilson, K. A., Route 6, Box 216, Ponca City
Holterman, D., d.b.a. Kan Tropical Wholesale Inc., 1315 North Locust, Canby 97013.
Howlett, G. J., d.b.a. Roxie-Rogue Kennel, 3835 Crater Lake Hwy, Medford 97501.
Johnson, B. L., d.b.a. Scales & Tales Aquatic Imports, 11965 Southwest Carriage Way,
Beaverton 97006

Sorensen, D. M., 1720 Prune, Medford 97501.
Spivey, M. A., and L., d.b.a. Mount Rueben Kennels, Box 112, Mount Rueben Road, Glendale 97442.
St. Arnold, S., Saint's Kennels, 3961 Corey
Folker, E. M., Rural Delivery 2, Box 122, New Holland 17557.
Free, B., 1339 Richland Town Pike, Quakertown 18951.
Frye, H., Holbrook 15341.
Frye, W. E., Rural Delivery 2, Ligonier
Research Animals Inc., P.O. Box 501, Braddock 15104.
Ritenour, L. V., 457 Reidmore Road, South Connellsville 15425.
Rockland Inc., Engleville 19525.
Rotz, B. K., Rural Delivery 2, Shippensburg

Moody, E., d.b.a. Moody's Kennels, 1301 East Ash, Cushing 74023.
Moore, O. J., d.b.a. Ke-Bon Kennels, 802 West Broadway, Henryetta 74437.
Neil, M., Box 253, Welch 74369.
Neill, L. and A., d.b.a. Clear Creek Kennels, Route 1, Box 148, Welch 74369.
Norton, L. and H., d.b.a. Norton Kennels, Route 1, Lane 74555.
Odell, U., 530 North 53d Street, Muskogee 74401.
Odom, M., d.b.a. Hillside Hobby House, P.O. Box 116, Hitchita 74438.
Oliver, J., 3602 South 106E Avenue, Tulsa, 74145.
Parham, L., Route 1, Caney 74533.
Parish, J. C., Box 116, Tishomingo 73460.
Parker, D. S., and D. G., d.b.a. Double D Kennels, 300 North Kansas Avenue, Cherokee 73728.
Pearce, N., Route 1, Box 383, Caney 74533.
Peterson, D. E., Route 1, Box 297, Tuttle 73089.
Pierce, C. and L., Route 3, Box 334, Collinsville 74021.
Rahm, M. A., d.b.a. Windy Point, 2330 South Washington Boulevard, Bartlesville 74003.
Rancho Valley, Inc., Route 3, Box 74, Tecumseh 74873.
Ready, F., Hotel Franklin Box 220, Mangum 73554.
Reese, M. A., d.b.a. Reese's Kennel, Route 1 Box 30, Watts 74964.
Richmond, W. and A., 1520 North 68E Avenue, Tulsa 74115.
Riley, J. W., Rural Route 2, Wakita 73771.
Roberts, S. and S., d.b.a. Peek-A-Boo Kennels, Route 2, Eufaula 74432.
Sartin, R. D.,Route 1, Box 73, Sedan 67361.
Schmidt, Fred, Route 2, Box 178, Locust Grove 74352.
Scism, M., Route 2, Box 100A, Okmulgee 74447.
Sherrod, S., Rural Route 2, Box 47, Newkirk 74647.
Simpson, M., Star Route, South Box 114D, Locust Grove 74352.
Slape, P., Route 1, Box 8, Bragg's 74423.
Smith, J., d.b.a. Western Heights Kennels, Box 320, Guymon 73942.
Sprinkles, L., Bixby 74008.
Stewart, B., d.b.a. Stewart Kennel, P.O. Box 161, Prague 74864.
Stuemky, R. S., 420 West 5th, Newkirk 74647.
Sunn, E., Rural Route 1, Box 96B, Ramona 74061.
Surrell, A., Route 4, Atoka 74525.
Terwort, I. M., Rural Route 1, Box 115, Alva 73717.
Thomas, H. M., d.b.a. Calamity Kennels, Box 614, Hooker, 73945.
Thomason, A. and V., d.b.a. Green Country Kennels, Route 1, Box 206, Sallisaw 74955.
Thompson, L., Route 2, Box 155, Carnagie 73015.
Thomsen, H. and L., d.b.a. Cinder Glo Shelties, Route 2, Box 85, Stillwell 74960.
Timmons, K., Route 3, Box 92, McAlester 74501.
Tucker, L., d.b.a. Tidbits of the Tibet Kennel, Route 2, Elkhart 67950.
Turner, R., Route 2, Tahlequah 74464.
Unger, W. L., d.b.a. Unger Kennels, 208 West Michigan, Corn 73024.
Vian, E. J., Muse 74949.
Walker, E. D., 304 Southeast 2nd, Marietta 73448.
Walker, S., Route 1, Box 243, Wilson 73463.
Webster, E. M., Box 564, Barnsdall 74002.
Weeks, F. F., Route 1, Westville 74965.
Weinsmain, B., 618 East 7th, Claremore 74017.
Wheeler, J. and L., Route 2, Eufala 74432.
Wickham, W., Rural Route 1, Box 13B, Kansas 74347.
Wilkerson, L. K., Route 2, Tecumseh 74873.
Williams, C., d.b.a. Clara's Kennels, Rural Route 1, Freedom 73842.
Wilson, K. A., Route 6, Box 216, Ponca City 74601.
Wineinger, E. B., 1600 Town and Country Drive, Sand Springs 74063.
Winters, H. G., Route 3, Box 303, Claremore 74017.
Woodson, B., 827 North Norfolk, Tulsa 74106.
Workman, S., Caney 74533.

OREGON

Adney, R. R., P.O. Box 340, Hubbard 97032.
Alamo Enterprises, Inc., d.b.a. Old Mac Donalds Farm, Route 1, Box 297, Sheridan 97378.
Alley Cat Pet Center, Inc., 13980 Southwest T. V. Highway 3, Beaverton 97005.
Anderson, G., 2345 Hawkins Lane, Eugene 97405.
Aplet, F., July 1, 1977, Lebanon 97355.
Bailey, J. L. and P. K. 2815 Taylor Road, Central Point 97501.
Barrowcliff, E. R., Route 1, Box 527, Hubbard 97032.
Berg, E. M., d.b.a. Bergs Cattery, 13733 Southeast Foster Road, Portland 97236.
Boyd, R. A. and A. E., d.b.a. Boyd's Pet Shop, 5540 East Burnside Street, Portland 97215.
Burke, W. M. and R. M., d.b.a. Burkeshire Glen Kennels, 1709 Wordlawn Drive, Medford 97501.
Clark, A. and P., d.b.a. Umpqua Kennels Star Route Box 120A, Umpqua 97486.
Conner, B. A., d.b.a. Mee Jae Kennels 2580 Kincaid Road, Williams 97544.
Conrad, C., d.b.a. Cheree In Wonderland 91981 Taylor Road, McKenzie Bridge 97401.
Conrad, M., d.b.a. Marco Kennel 1118 Spring Street, Medford 97501.
Crawford, P. A., Route 1, Box 126, Sheridan 97378.
Crist, L. E., 86574, Eugene 97402.
Cruickshank, R. E., d.b.a. Edrec Kennel, 82143 No. Davissen Road, Creswell 97426.
Curtis, J. E., 3381 Scenic Avenue, Central Point 97502.
Dahlquist, R. and H., d.b.a. Harriet's Poodles, 661 Abegg Road, Merlin 97532.
Dees, G. and M., Hillsboro 97123.
Dennis, J. W., 4150 East Main Street, Sheridan 97378.
Domestic Toy Lepards of Oregon, Inc., 1110 SW Wallula Drive, Gresham 97030.
Durrell, R. M., d.b.a. Cherry Hill Kennel, Route 2, Box 38, Philomath 97370.
Edwards, M. E., P.O. Box 355, O'Brien 97534.
Farrell, L. A., d.b.a. Thurston Kennels 8179 Thurston Road, Springfield 97477.
Fergus, B. A., d.b.a. Fergus' & Tillie's Catteries P.O. Box 571, Sutherlin 97479.
Flaherty, S., d.b.a. Misans Kennel 380 Portland Avenue, Grants Pass 97526.
George, W., P.O. Box 297, Lakeside 97449.
Godfrey, H. H., d.b.a. Pollywog Pets, 85290, Hwy 101S, Florence 97439.
Gregory, L. and D., d.b.a. Bok Kai Kennels, Route 2, Box 555, Coos Bay 97420.
Groskopf, R., d.b.a. Eastport Plaza Pet Shop, 4012B SE 82nd, Portland 97266.
Hampton, T. I., P.O. Box 966, Philomath 97370.
Hansen, C., d.b.a. Hansens Kennel, Route 4, Box 909, Roseburg 97470.
Hickey, J. F., Route 1, Box 250, Albany 97321.
Holterman, D., d.b.a. Kan Tropical Wholesale Inc., 1315 North Locust, Canby 97013.
Howlett, G. J., d.b.a. Roxie-Rogue Kennel, 3835 Crater Lake Hwy, Medford 97501.
Johnson, B. L., d.b.a. Scales & Tales Aquatic Imports, 11965 Southwest Carriage Way, Beaverton 97005.
Jones, B. D., d.b.a. Pet Place, 14075 101 So., Tillamook 97141.
Kenagy, J. M., 3312 South Hills Street, Albany 97321.
Kilmer, R. and V., d.b.a. Double V Kennel, 4988 Delaney Road, Southeast, Salem 97302.
King, N., 4500 Woodstock Southeast, Portland 97206.
Kirkpatrick, M. C., 268 Crestview Loop, Grant Pass 97526.
Kleinsasser, E., 8139 Southeast Hartcliffe Court, Milwaukee 97222.
Kramer, D., 2312 South Pacific Highway, Talent 97540.
Lackey, C., d.b.a. Ron Del Kennels, 5358 South Pacific Highway, Medford 97501.
Lambert, M., 470 California Avenue, Grants Pass 97526.
Lawnerce, K. E., d.b.a. Windy Acres Selienian Husky Kennels, 414 53 Northwest, Salem 97304.
Lawrence, J., Route 1, Box 582, Monroe 97456.
Lyman, P. and F., 2286 Pinegrove Road, Rogue River 97537.
Maine, D. M., 1534 Woodland Drive, Coos Bay 97420.
Martin, F. E., 920 Tolman Road, Ashlandor 97520.
Messinger, F. D., d.b.a. Weeping Birch Kennel, P.O. Box 191, Talent 97540.
Midgett, R., 2573 Camp Joy Road, Grants Pass 97526.
Miles, F. M., Box 701, Coos Bay 97420.
Milhoan, M. L., d.b.a. Rogueland Kennel, 1272 Gibbon Road, Central Point 97502.
Miller, P. A., 2525 Northwest Cornelius Pass Road, Hillsboro 97123.
Moffat, K., d.b.a. K.I.M. Hamster Enterprise, Route 3 Box 296—A, Sherwood 97140.
Mol Enterprises, Inc., P.O. Box 25348, Portland 97225.
Monarch Seed & Feed Co., d.b.a. Big Y Garden Center, 5th and Apple, Medford 97501.
Nelson, D. J., d.b.a. Eireann Kennel, Toklete Route Box 67A, Idleyld 97447.
Owen, S., 10-Clarks Branch Road, Myrtle Creek 97457.
Pacific Aquarium Supply, 4836 Southeast Division, Portland 97206.
Pinney, R., d.b.a. Pinneys Kennel, 6702 Westside Road, Cave Junction 97523.
Ramsey, P. I., d.b.a. Apple Acre Rabbitry, 41045 McKenzie Highway, Springfield 97477.
Rinear, R. and M., 1820 Robinson Road, Grants Pass 97526.
Russell, M. and J., d.b.a. Hide-A-Way-Kennels, Route 1, Box 87, Biddle 97469.
Scroggins, S., d.b.a. Evans Valley Kennels, 2042 Pleasant Circle Drive, Rouge River 97537.
Sherwood, C. L., d.b.a. Sherwood Kennels, 8421 Carolina Drive, Central Point 97502.
Sherwood, S. M., 1437 Hawthorn, Grants Pass 97526.
Smart, J. and E., d.b.a. Smart Kennel, P.O. Box 91, Keno 97627.
Smid, H. R., 89472 Demming Road, Elmira 97437.
Smith, G. and L., d.b.a. Pet 'N' Pond, 14405 Southwest Pacific Highway, Tigard 97223.
Smith, W. D., Jr., 39943 Almen Drive, Lebanon 97355.

Sorensen, D. M., 1720 Prune, Medford 97501.
Spivey, M. A., and L., d.b.a. Mount Rueben Kennels, Box 112, Mount Rueben Road, Glendale 97442.
St. Arnold, S., Saint's Kennels, 3961 Corey Road, Central Point 97501.
Stephens, K. R., Chehalem Kennels, P.O. Box 326, Newberg 97132.
Stewart, J. M., Peking Dragon Ranch, 5715 Beagle Road, Central Point 97502.
Stine, C., Dogpatch Kennels, Star Route Box 60, Winston 97496.
Stout, F. M., Sundrift Ranch, Route 1, Box 2, Alsea 97324.
Sullivan, C. and N., Sullivan Acres Poodle Kennels, Route 1, Box 135, Klamath Falls 97601.
Summers, D. R., d.b.a. DRS Pet Shop & Supply Center, 4772 North Lumbard, Portland 97203.
Trotter, N. J., Route 2, Box 181-A, Scappoose 97056.
Walker, N. L., Route 5, Box 410, Coos Bay 97420.
Warm Springs Aquarium Supply, 1300 Southeast Gideon Street, Portland 97202.
Watkins, L. L., 337 Northeast 102nd, Portland 97220.
Whiteside, J. L., d.b.a. J&L Hamsters, 524 South Molalla Avenue, Molalla 97038.
Wigle, W., P.O. Box 199, Lakeside 97449.
Williams, J., d.b.a. Laurel Acres Kennel, 9680 Blackwell Road, Central Point 97501.
Wilson, R. D., 34060, Creswell 97426.

PENNSYLVANIA

Ace Animals, Inc., Rural Delivery 1, P.O. Box 122, Boyertown 19512.
Allgyer, S. and R., Rural Delivery 1, Box 329, Gap 17527.
Areford, C. L. and Lohl, D. A., 227 South Market Street, Carmichals 15320.
Bell, Jr., d.b.a. Bill's Pet Shop, Rural Delivery 6, Mercer 16137.
Bender, H. G., Rural Delivery 1, Box 289, Salisbury 15558.
Bender, S. and A., Star Route, Springs 15562.
Berne, H., 1030 South Concord Road, West Chester 19380.
Bio-Medical Associates, Inc., P.O. Box 46, Friedensburg 17933.
Brant, J., Star Route, Springs 15562.
Brenneman, S., Rural Delivery 1, Box 304, Salisbury 15558.
Buckshire Corp., 2025 Ridge Road, Perakste 18944.
Cannon, G. E., d.b.a. Cannon Farms, P.O. Box 3627, Reading 19606.
Cutrell, O., Route 1, Box 254A, Scottdale 15683.
Depta, M. A., Rural Delivery 3, Mount Pleasant 15666.
Doney, S. and A., d.b.a. Stephanie's Rabbitry, Rural Delivery 1, Box 83, Smithton 15479.
Dutchland Lab Animals, Inc., Rural Delivery 2, Box 139-A, Denver 17517.
Edmonds, L., d.b.a. South Hills Petland, 3310 Saw Mill Run Boulevard, Pgh 15227.
Eller, H. H., 441 East New Castle Street, Zelienople 16063.
Esposito, S., d.b.a. Quaker Farm Kennels, Rural Delivery 1, Box 137A, Quakertown 18951.
Faber, U., Rural Delivery 3, Honey Brook 19344.
Federated Medical Resources, Rural Delivery 2, Box 74, Honey Brook 19344.
Ferguson, R. W., d.b.a. Ferguson's Research Supply, Rural Delivery 4, Doylestown, 18901.
Folker, E. M., Rural Delivery 2, Box 122, New Holland 17557.
Free, B., 1339 Richland Town Pike, Quakertown 18951.
Frye, H., Holbrook 15341.
Frye, W. E., Rural Delivery 2, Ligonier 15658.
Gingrich, H., d.b.a. Gingrich Annual Supply, Rural Delivery 1, Box 435, Fredericksburg 17026.
Gnagey, N. M., Rural Delivery 1, Meyersdale 15552.
Grumbein, B., 10 East Pine Street, Ephrata 17522.
Haycock Kennels, Inc., Rural Delivery 4, Quakertown 18951.
Hillegas, L., Forty Foot Road, Kulpsville 19443.
Hilltop Lab Animals, Inc., Rural Delivery 1, P.O. Box 195, Scottdale 15683.
Hix, E. K., Rural Delivery 1, Box 143, Hamburg 19526.
Hockenberry, C., d.b.a. Perry Valley Kennel, Blain 17006.
Hoffer, W., Rural Delivery 2, Ligonier 15658.
Hutton, R. B., Route 1, St. Thomas 17252.
Kinsinger, D. S., Rural Delivery 1, Box 48, Meyersdale 15552.
Kinsinger, H. R., Route 1, Box 226-A, Meyersdale 15552.
Kinsinger, I. and A. N., Route 1, Box 235, Meyersdale 15552.
Knepper, R. S., 605 West Lisburn Road, Mechanicsburg 17055.
Knopsnider, B. H., d.b.a. Knopsnider's Kennel, Star Route, White 15490.
Lapp, Jr., J. K., Box 428, Rural Delivery 1, New Holland 17557.
Long, G. W., Rural Delivery 1, Box 529, Zionsville 18092.
Lowrey, J. C., d.b.a. Dalmatian Research Foundation, 720 Woodberry Road, York 17403.
Madrigal, R. and D., Rural Delivery 2, Box 32, Schuylkill Haven 17972.
Marcase, C. and S., d.b.a. Wood Acra Rabbitry, Rural Delivery 2, Box 388, Valley Inn, Monongahela 15063.
McCann, G., Rural Delivery 2, Box 221, Lees- port 19533.
McCarthy, J. E. and C. D., d.b.a. McCarthy's Commerical Rabbitry, Rural Delivery 3, Box 448, Conneaut Lake 16316.
McChesney, W. H., d.b.a. Fire Hill Farm, Widnoon 16261.
Mears, J. L., Rural Delivery 4, Box 183B, Latrobe 15650.
Miller, J. N., d.b.a. Millers Animal Farm, Rural Delivery 1, Box 71, Mill Run 15464.
Mistretta, S. and E., d.b.a. Twin Mountain Rabbit Farm, Rural Route 1, Box 102B, Palmerton 18071.
Murphy, O., Rural Delivery 1, Box 248C, Vanderbilt 15486.
Nolt's Ponds Inc., 3708-12 Quarry Road, Silver Spring 17575.
Opperman, A., Rural Delivery 1, Box 265, Leechburg 15656.
Peachey, E. I., Box 292, Rural Delivery 2, Huntington 16652.
Pennabecker, W., 538 South 4th Street, Denver 17517.
Perfection Breeders, Inc., P.O. Box 75, Douglassville 19518.
Pet Pad Inc., 5432 Walnut Street, Pittsburgh 15232.
Price, D. F., d.b.a. Fish Dimensions, 358C Whitestown Road, Butler 16001.
Rachelwood Wildlife Research Preserve, Rural Delivery 1, New Florence 15944.
Reichert, C. F., Rural Delivery 4, Boyertown 19512.
Research Animals Inc., P.O. Box 501, Braddock 15104.
Ritenour, L. V., 457 Reidmore Road, South Connellsville 15425.
Rockland Inc., Engleville 19525.
Rotz, B. K., Rural Delivery 2, Shippensburg 17257.
Sacks, L., d.b.a. Sack's Farm, Rural Delivery 3, Evans City 16033.
Schill, G. V., 3923 New Texas Road, Pittsburgh 15239.
Schober, J. E., F. E. and P. T., d.b.a. Schober's Hamster House, 54 West Main Street, Mountsville 17554.
Schwenk, H. J., 307 West Reliance Road, Souderton 18964.
Showvaker, G. R. and M. L., d.b.a. Bunnyville Farm, Rural Delivery 2, Box 404, Littlestown 17340.
Smith, G. J., d.b.a. Bedminster Rabbitry, P.O. Box 16, Bedminster 18910.
Smithkline Corp., P.O. Box 7929, Philadelphia 19101.
Sommers, L., Star Route, Box 40, Springs 15562.
Spinneweber, P. K., Rural Delivery 3, Washington 15301.
Stoltzfus, B. S., Rural Delivery 1, Leola 17540.
Stolzfus, S. M., Rural Delivery 1, Narvon 17555.
Sula R. and Klepp A. and Flaher T. Y., d.b.a. Bobs World of Pets, 907 Presque Isme Drive, Pittsburgh 15239.
Three Springs Kennel Co., Inc., Rural Delivery 2, Zelienople 16063.
Timberlea Enterprises, Inc., Rural Delivery 1, Willow Creek Road, Wrightsville 17368.
Todd, H., Rural Delivery 4, Box 331, Belle Vernon 15012.
Trinka, G. L., d.b.a. Scientific Breeders, 228 Green Street, Sellersville 18960.
Unruh, R. H., d.b.a. Skippack Farms, Skippack 19474.
Von Nieda, A., d.b.a. Vonecho Cattery & Kennels, 937 Madison Avenue, Reading 19061.
Walney, V. W., d.b.a. Val & Fran's Bunny Farm, Rural Delivery 1, Box 233A, Kennerdell 16374.
Weaver, C. Z., d.b.a. Schoeneck Labs, Rural Delivery 2, Denver 17517.
Whalen, T., Box 415, Rural Delivery 1, Barnesville 18214.
Wilburn, R. L., 133 Mine Road, Quakertown 18951.
Williams, W. H., Box 15, Rural Delivery 4, Wallace Road, Wexford 15090.
Wilson, M. B., 52 Railroad Street, Dunbar 15431.
Wright, B. and C., d.b.a. Wright's Plott Kennel, Rural Delivery 3, Box 261, Dover 17315.
Yoder, H. L., Rural Delivery 1, Box 114, Grantsville 21536.
Yoder, J., 421 Woodlawn Avenue, Meyersdale 15552.
Yoder, K. P., Rural Delivery 1, Box 110, Meyersdale 15552.
Zartman, M. U., d.b.a. Zartmans Farms, 3 Toll Gate Road, Douglassville 19518.
Zartman, M. U., d.b.a. Gilbertville Sales Stables, 3 Toll Gate Road, Douglassville 19518.
Zook, A., Route 1, Box 249, Meyersdale 15552.
Zook, F., Route 1, Box 249, Meyersdale 15552.

RHODE ISLAND

A. N. K. Enterprises, Inc., R.F.D. 1, Skunk Hill Road, Hope Valley 02832.
Burke, Jr., d.b.a. Shangri La Kennels, Box 7103, Johnston 02919.

Hancock, C. A., 854 Lake Road, Tiverton 02878.
Nightingale, Jr., W. E., d.b.a. Pine Acres Rabbitry, Pole No. 31, Sheldon Road, West Glocester 02814.
Nightingale, W. E. and P. E., d.b.a. Glocester Rabbitry, Mount Hygela Road, Chepachet 02814.
Petland, 1465 Atwood Avenue, Johnson 02919.
Pets Unlimited, Inc., 347 Hawkins Avenue, Providence 02904.
Rumford Aquarium, Inc., 22 First Street, East Providence 02914.

SOUTH CAROLINA

Alexander, W. T., d.b.a. A. & A. Pet & Supply Distributor, 715 Chipley Avenue, Greenwood 29646.
Baity, R. F., d.b.a. The Pet Village, Ashley Plaza Mall, Charleston 29407.
Byrd, J. P. and I. E., d.b.a. Byrd's Rabbitry & Dog Farm, 3432 Savannah Highway, R.F.D. 13, Charleston 29407.
Carolina Tropical Fish & Pet, Rural Delivery 2, Box 613, Orangeburg 29115.
Cook, J. and H., Cook's Rabbitry, Route 2, Box 235, Barnwell 29812.
Dann, Jr., A. L., 1500 Old Towne Road, Charleston 29407.
Dean, F. W., d.b.a. Travelers Rest Pet & Supplies, 33 Henderson Drive, Travelers Rest 29690.
Dopson, M. H., d.b.a. Chisolm Biological Laboratories, 2252 Lazy River Drive, Charleston 29407.
Hayes, N. W., Route 1, Pelion 29123.
Meeks, J. W., d.b.a., M. & M. Pet Farm, Route 1, Wellford 29385.
Mitchell, H. E., d.b.a., Trails End Zoo Co., P.O. Box 188, St. Stephen 29479.
Palmetto Rabbit Coop., Inc., Route 1, Box 373, Warrenville 29851.
Rewis, C., P.O. Box 3554, Charleston 29407.
Terry, A., d.b.a., Allen Terry's Wildlife, P.O. Box 2001, South Greenwood 29646.
Thompson, M. D., Route 2, Box 161, Grover 28073.
Vincent, F. M., d.b.a. Vincent's Rabbitry, Route 1, Box 460, Bonneau 29431.

SOUTH DAKOTA

Blackburn, M., d.b.a. Blackburn's Hound Hollow, Route 4, Independence 67301.
Borns, G., Rural Route 1, Dell Rapids 57022.
Carmody, S., Rural Route 5, Miller 57362.
Corbett, J. H. and D. L., Box 325, Ellsworth AFB 57706.
Deckert, R. J., Marion 57043.
Dithmer, L. M. d.b.a. Pass Creek Kennels, Wanblee 57577.
Doering, R. and S., d.b.a. Ponderosa Kennels, Rural Route 3, Mitchell 57301.
Pinkbeiner, L. L., Rural Route 2, Box 94, Roscoe 57471.
Fischer, D., d.b.a. Wappen Kennel, Mount Vernon 57363.
Fischer, R. and S., d.b.a. Fischer's Dakota Kennels, Rural Route 1, Olivet 57052.
Foreman, S. and D., d.b.a. Roadside Kennel, Orient 57467.
Hammrich, C. and S., P.O. Box 611, Ipswich 57451.
Kaul, M. R. and K. M., d.b.a. Kathys Klip Korral, Route 2, Box 22, Rapid City 57701.
Kippes, F., d.b.a. Sodaki Kennels, Route 1, Marion 57043.
Koenig, W., Rural Route 2, Carter 57526.
Laubach, D. and P., d.b.a. Royal Line Kennels, Rural Route 3, Box 83, Aberdeen 57401.
Leslie, E. J., Route 3, Box 2, Lennox 57039.
Liedorff, D., 114 South Pine, Brookfield 64628.
McCarty, R. L., d.b.a. Reiszen Hund Kennel, Box 145, Delmont 57330.
Mins, L., Box 196, St. Lawrence 57373.
Nickolas, J. L., d.b.a. Jeanine's Grooming, 3412 West Main Street, Rapid City 57701.
Overweg, M., New Holland 57364.
Pekarek, J. M., Highmore 57345.
Power, R., 259 Wisconsin, Northwest, Huron 57350.
Rieger, L. W., d.b.a. Kreature Kingdom, Rural Route 4, Box 505, Rapid City 57701.
Schoenwald, G. M., Salem 57058.
Shea, J., Colome 57528.
Sherman, J. C., Howard 57349.
Skluzak, D. and Children, Kimball 57356.
Slouka, N. J., Box 133, Dallas 57529.
Spaans, D., Rural Route 1, Stickney 57375.
Thompson, L. G., d.b.a. Thompsons Kennels, Rural Route 1, Winfred 57076.
Thormodsgard, L., d.b.a. L&M Kennels, Route 1, Hudson 57034.
Tiahrt, H., d.b.a. Huldah's Caviary, Route 2, Box 177, Bridgewater 57319.
Travnicek, R. and B., d.b.a. Meadow Brook Kennels, Route 4, Box 42, Dallas 57529.
Wagner, R. L., d.b.a. Wagner's Kennels, Route 5, Watertown 57201.
York, P. and Schneider, D., d.b.a. P&D Kennel, 321 6th Avenue Southwest, Watertown 57201.
Zimbelman, R. and L., Route 1, Box 12C, Gregory 57533.

TENNESSEE

Hancock, K. G., d.b.a. Big Bell Ranch, 2555 Poplar Avenue, Memphis 38112.
Hargrove, W. L., d.b.a. Three H Research, 161 Cunningham Street, Milan 38358.
Harrison, E., Route 4, Box 161-AA, Lewisburg 37091.
Johnson, C., Route 10, Sparta 38583.
Linzey, P. S., d.b.a. Animal Specialists, P.O. Box 7161, Nashville 37211.
Newcom, F. J., d.b.a. Newcom Kennels, Box 481, Jasper 37347.
Shadow, D., Route 1, Winchester 37398.
Shanklin, J. H., d.b.a. Hilltop Rabbit Ranch, Mooresville Pike, Route 6, Box 68B, Columbia 38401.
Snyder, T. L., d.b.a. Jones Pet Shop, 1812 21st Avenue South, Nashville 37212.
Southern Biological Supply Co., P.O. Box 68, McKenzie 38201.

TEXAS

Aldridge, D., d.b.a. El Chico Kennels, Route 4, Comanche 76442.
Anderson, J. T. and C., d.b.a. Anderson Pet Shop, 300 North Austin Street, Seguin 78155.
Andis, B. and V., d.b.a. Hip-O-Ranch Kennels, Route 1, Clarendon 79226.
Animal Care Center, 6321 Bissonnet, Houston 77074.
Ansley, M. G., Route 1, Box 86A, Buna 77612.
Armstrong, H. A., 219 Williams Drive, Kleberg 75145.
Bandy Laboratories, Inc., 2114 South 1st Street, Temple 76501.
Barger, M. L., Route 1, Box 171E, Denison 75020.
Barnes, S. L., 11915 D Street NAS, Corpus Christi 78419.
Barnett, B., 807 Pecan Street, Graham 76046.
Baylor College of Medicine, 1200 Moursund Avenue, Houston 77030.
Bayne, D. W., d.b.a. Big Tree Acre Zoo Farm, 1711 Connorvale Road, Houston 77039.
Bell, J. L., d.b.a. Horn-B Game Ranch, 1800 Christine Street, Pampa 79065.
Benge, R. A., d.b.a. The Small Animal Farm, Route 1, Box 627-B, Conroe 77302.
Blom, A., d.b.a. Al Blom Rabbitry, 7903 Stebbins Drive, San Antonio 78240.
Boone, R. R., d.b.a. Neptune Pet Center, 2936 Palmer, Texas City 77590.
Bracey, R. L., Route 3, Mabank 75147.
Brandvik, J., d.b.a. JJ's Kennel, Star Route, Gruver 79040.
Byrd, K. A. and A. C., d.b.a. Whispering Pines Kennels, Route 1, Box 112A, Call 75933.
Callen, E., Box 717, Levelland 79336.
Carroll, C., d.b.a. Ponderosa Rabbitry, Route 4, Box 49A, Bryan 77801.
Carwile, H. F., d.b.a. Bethyl Laboratories, Inc., P.O. Box 821, Montgomery 77356.
Cash, Jr., H. C., 2667 Thannisch Avenue, Fort Worth 76105.
Center Industries, Inc., 8424 Randy Drive, Smithfield 76080.
City of Lubbock, P.O. Box 2000, Lubbock 79457.
Clark, C. J., d.b.a. Brushy Creek Rabbitry and Caviary, 202 Willis Avenue, Yoakum 77995.
Clemens, B., 6824 Alma Street, Fort Worth 76119.
Cochron, D. R., Route 3, Box 181, Terrell 75160.
Cox, L., Route 3, Box G21, Decatur 76234.
Davis, L. T., 2500 West Morton Street, Denison 75020.
Dawson, G., P.O. Box 181, Caldwell 77836.
Deware, J., d.b.a. Beverly Puppy Ranch, 925 Redmand Street, Corpus Christi 78418.
Dodd, D. and J., d.b.a. The Pet Center, 6710 Camp Bowie, Fort Worth 76116.
Driver, G. E., d.b.a. Amazon Aviary and Pets, 7144 Center Highway, Nacogdoches 75961.
Dryden, C. G., d.b.a. La Moca Monkey Ranch, P.O. Box 1968, Laredo 78040.
Edwards, J., Route 3, Box 702A, Mesquite 75149.
Edwards, S., Route 2, Box 71, Pampa 79065.
Elliott, H., d.b.a. Pine Forest Kennel, 4125 Lakeview Cutoff, Vidor 77662.
Ellsaesser, S., d.b.a. Shirley's Kennels, Route 5, Box 252, Amarillo 79115.
Evridge, J., d.b.a. Joe Evridge Animals, Route 3, Box 206, Comanche 76442.
Favors, J., 1026 Joslin, Irving 75060.
Ferraro, F. F., d.b.a. DFW Pet Ranch, 2507 Dove Loop Road, Grapevine 76051.
Flying Fur-Petransfer, 1616 South Main, Houston 77002.
Fry, J. W., d.b.a. Fry's Plants and Pups, Route 2, Box 210, Denison 75020.
Gaither, K. L., Route 2, Box 51A, Wylie 75908.
Gentry, W. E., d.b.a. Gentry's Laredo Garden Center, 3020 Meadow Avenue, Laredo 78040.
George, C. W. and Robertson, R. C., d.b.a. G & R Stock Farm, 2305 B Cavitt Avenue, Bryan 77801.
Goltra, J., Route 1, New Boston 75570.
Gray, J., 817 High School Drive, Seagoville 75159.
Green, R. M., P.O. Box 31, Bangs 76823.
Gresham, K., d.b.a. Gresham Kennel, 402 Catus, Levelland 79336.
H. & L. Sales Co., d.b.a. Patio Ranch, P.O. Box 21100, San Antonio 78221.
Harris, D. M., 3511 Fort Worth Highway, Weatherford 76086.
Henson, R. N., Rural Route 1, Box 2278, Belton 76513.

Higginbottom, L. R., Box 291, Cross Plains 76443.
Hoferkamp, D., 5809 Carolyn Drive, Fort Worth 76118.
Holman, R. A. and Henderson, G. L., d.b.a. Pet Shop & Bird Clinic, 3118 Smith, Houston 77002.
Holtman, H., 1304 Terrace Street, Pampa 79065.
Howell, R., d.b.a. Petland, 2636 34th Street, Lubbock 79410.
Huddleston, R. and N., 1034 19th NW., Paris 75460.
Hutchins, P. and B., d.b.a. Cavy Country Caviary, Route 5 Box 65, Denton 76201.
Jackson, C. and J., d.b.a. The Pet Shack, 7403 Irvington Boulevard, Houston 77022.
Jeter, L. N., Route 1, Box 199H, Mansfield 76063.
Jones, F. G., d.b.a. Double J Rabbitry, Route 1, Lockney 79241.
Jordan, A. F., 2320 South Church Street, Paris 75460.
Keeton, O. G., d.b.a. K. & K. Kennels, Route 2, Box 169, Lubbock 79415.
King, M. B., 609 Old Comanche Road, Brownwood 76801.
Kinney, H., d.b.a. Kinney's Kennels, Route 4, Hico 76457.
Kirby, A. H., d.b.a. Kirby K. G. Kennel, 120 North Elm, Perryton 79070.
Kraus, III, W. C., d.b.a. Kraus Rabbitry, Route 1, Box 224, Palestine 75801.
Lackey, M., 133 Rice Drive, Portland 78374.
Lamkin, M., d.b.a. Amatex Exotics, P.O. Box 5843, Amarillo 79105.
Langston, B., d.b.a. Babe's Kennel, Route 1, Box 272A, Salina 74365.
Lee, M., Route 2, Box 51A, New Boston 75570.
Lindenthal, I. B., d.b.a. Thunderbird Kennels, 7229 Barker Road, El Paso 79915.
Locke, O. M., P.O. Box 731, New Braunfels 76130.
Marcum, H. W., 3219 Edna, Fort Worth 76117.
Markham, J. L., Box 7, Canyon 79015.
McCarty, M., 4401 Wildwood Road, Dallas 75209.
McLemore, D., d.b.a. McLemore Enterprises, Route 2, Kemp 75143.
Meador, J., 1021 Noble, Carrollton 75006.
Mecom, J. W., d.b.a. Mecom Ranch World Wildlife Preserve, Star Route, Box 75, Laredo 78040.
Meyer, R. and M., d.b.a. The Little Pet Corner, 706 West Main, Tomball 77375.
Milford, B. D., d.b.a. Strawberry Pet Shop, 2007 Strawberry, Pasadena 77502.
Minton, B., d.b.a. Minton Rabbitry, Route 1, Box 170A, Iola 77861.
Mitchell, L., Route 6, Box 549A, Texarkana 75501.
Moorman, L. J., d.b.a. Brady Creek Ranch, 2002 N. B. C. Building, San Antonio 78205.
Morgan, E. and R., P.O. Box 65, Carrollton 75006.
Morris, B. A., Route 1, Powderly 75473.
Murray, B., 6612 Midway Road, Holton City 76117.
Newson, H. R., d.b.a. Newsom's Varmints Things, 5220 Airline, Houston 77022.
Nichols, C., d.b.a. C. N. Kennie, 105 Elm Street, Bonham 75418.
Nichols, R., d.b.a. Ray Nichols Rabbitry, Route 4, Box 511, Lumberton 77656.
Novotny, I., Route 1, Box 242A, Paris 75460.
Ogg, C. and A., d.b.a. Big O Rabbitry, Route 3, Box 243, Orange 77630.
Pena, T., d.b.a. Big Sky Kennels, 5315 Amarillo Boulevard East, Amarillo 79109.
Penn, P., d.b.a. Penn Acres Ranch, Route 1, Box 326C, Wimberly 78676.
Petsick, J., Box 634, Comanche 76442.
Phillips, D., d.b.a. Phillips Canine Cave, Box 493, Levelland 79336.
Pierce, G., d.b.a. Clayco Research Kennels, Route 1, Henrietta 76365.
Pirkey, D. W., Route 2, Box 311, De Kalb 75559.
Prince, L., P.O. Box 654, Fabens 79838.
Rana Laboratories, One Mile North Old Highway 77, P.O. Box 3103, Brownsville 78520.
Reeves, H. G., 110 Ramada Trail, Amarillo 79108.
Rhoten, R. J., d.b.a. Rex-Em-Kennels, 10 North Koopman, Phillips 79071.
Rutherford, J. E., d.b.a. Country Ranch Kennels, Route 1, Box 66, Jourdanton 78026.
Saenz, F. F., d.b.a. Valley Research Suppliers, 906 West Mahl Street, Edinburg 78539.
Schreiner III, C., d.b.a. YO Ranch, YO Ranch, Mt. Home 78058.
Shande, K. E., d.b.a. Kanine Koiffares, 5555 North Lamar E 119, Austin 78751.
Stebman, J., d.b.a. Caddo Crest Ken, P.O. Box 66, La Rue 75770.
Skaggs, B. G., d.b.a. Safari Farm, Route 7, Box 510R, San Antonio 78221.
Slovak, R., d.b.a. Rich Glo Lab Animals, Route 2, Box 161A, El Campo 77437.
Smith, N. N., d.b.a. Singing Bell Kennels, P.O. Box 55, Wolfe City 75496.
Smith, T., d.b.a. Verde Valley Ranch, P.O. Box 7398, Houston 77008.
Southwest Foundation For Research and Education, P.O. Box 28147, San Antonio 78284.
Stanley, M. D., d.b.a. Stanley Critters, Route 1, Box 493A, Brownwood 76801.
Stevens, L. and D., d.b.a. Odd Shop, 123 North Frazier Street, Conroe 77301.
Stewart, G. E., d.b.a. Stewarts Kennels, Route 3, Box 176, Comanche 76442.
Stillmeadow, Inc., 3223 La Costa Drive, Missouri City 77459.
Strain, C. B., 1342 South Main Street, Ducanville 75137.
Thompson, F. W., d.b.a. Rostex Kennels, PSR Box 20 B1, Weatherford 76086.
Tiner, J. C., 4430 Belclaire, Dallas 75205.
Tower, M. J., d.b.a. Bamboo Pet Shop, 5607 West Lovers Lane, Dallas 75209.
Troop, E., d.b.a. Troops Pet Shop, Box 51, Bruni 78344.
Vivo Animales, Inc., P.O. Box 230, Lorena 76655.
Walker B., and Rottman P., d.b.a. B & P's Animal Factory, 716 West Alacama, Houston 77098.
Walker, E. R., 1302 West 18th Street, Amarillo 79102.
Warden, M., d.b.a. Colony Pet Shop, 3719C Colony Drive, San Antonio 78230.
Ware, J. A., P.O. Box 418, Banquette 78339.
Waters, D., Box 131, Mountain Home 78058.
Webb, K. E., d.b.a. B & W Tropical Fish and Supply Center, 3520 25th Street, Port Arthur 77640.
Wheeler, F. W. B., d.b.a. Camp Cooley Ranch, P.O. Box 20027, Houston 77025.
Whitte, J. A., 1425 Stafford Drive, Ft. Worth 76134.
Whitman's, Inc., P.O. Drawer 1712, Brownsville 78520.
Wiggin, E., 3124 Odessa, Fort Worth 76109.
Winch, L., d.b.a. Hickory Hill Kennel, Route 1, Box 249B, Vidor 77662.
Wright, H. L., Box 253, Farnsworth 79033.
Zint, L. and G., d.b.a. Coronado Pet Shoppe, 6010 Oxbow, Amarillo 79106.

UTAH

Allison, E., d.b.a. Allison Kennels, 3802 West 9000 South, West Jordan 84084.
Choules, E. A., d.b.a. Lab Animal Products, 1401 South 10th Street, Salt Lake City 84105.
Hill, G. F., d.b.a. S Kimo Kennels, 235 East 13800 South, Draper 84020.
Imlay, T. F., d.b.a. Animals for Research, 4996 South Redwood Road, Murray 84107.
Neilsen, L. M., 904 West 4800 South, Talorville 84118.
White, G. S., d.b.a. The Rabbit Tree, Box 452, Peoa 84061.

VERMONT

Alexander, W., d.b.a. Wil-Con Rabbitry, R.F.D. 3, Brattleboro 05301.
Bearce, R. E., d.b.a. Rabbit Shed, R.F.D. 3, West Burke 05871.
Blair, R. R., d.b.a. Lone Maple Rabbitry, R.F.D. 1, Randolph Center 05061.
Capron, D. H., d.b.a. Capron's Bunnies, Dunham Avenue, North Bennington 05257.
Davis, R. G. and K., d.b.a. Russ-K Mfg. Co., P.O. Box 25, North Pownal 05260.
Doaner, A. R., R.F.D. 3, Brandon 05733.
Guild, H. L., R.F.D. 2, West Brattleboro 05301.
Jones, T. and A., East Hubberton Road, Castleton 05735.
Mayhew, H. R., 98 Park Street, Rutland 05701.
Mead, A. R., R.F.D. 2, River Road, Fairfax 05454.
Paradis, R., Enosburg Fall 05450.
Plummer, J. H., d.b.a. Plummers Rabbitry, Grafton 05146.
Reynolds, D., Rural Delivery 1, Cambridge 05444.
Small, S., d.b.a. Hilltop Rabbitry, Randolph Center 05061.
Spaulding, C. A., 69½ Atkinson, P.O. Box 481, Bellows Falls 05101.
Sturtevant, R. H., 99 College Street, Montpelier 05602.
Sudol, T., R.F.D. 1, Enosburg 05450.
Welch, M., Newbury 05051.
Weston, F. A., d.b.a. Circle W Rabbitry, Route Box 137, Underhill 05489.
Winters, M. B., Williamstown, 05679.
Wright, C. D., d.b.a. Lotta Hill's Kennel, R.F.D. 4, Enosburg Falls 05450.

VIRGINIA

Atwood, E. E., d.b.a. Don's Rabbitry, Route 1, Box 109A, Aldie 22001.
Bray, C. R., 2940 Laurelbrook Drive, Richmond 23224.
Carpet Corp., 4630 Eisenhower Avenue, Alexandria 22304.
Collier, W. and K., d.b.a. K-D-C Rabbitry, 1602-B Monticello Road, Charlottesville 22901.
Corell, J. C., d.b.a. Old Dominon Cavy Farm, Route 1, Box 213, Waynesboro 22980.
Crutchfield, L. W., d.b.a. Green Shadows Cattery, R.F.D. 1, Box 80K, Palmyra 22963.
Davisdeck, W., d.b.a. Roanoke Pet Center and Aquarium, P.O. Drawer 12645, Roanoke 24027.
Edwards, S. J., 4401 Greendell Road, Chesapeake 23321.
Environmental Consultants, Inc., 4807 Colley Avenue, Norfolk 23508.
Flow Laboratories, Inc., 7655 Old Springhouse Road, McLean 22101.
Haley, J., d.b.a. Haley Farm, Route 2, Box 81, Hurt 24563.

Hasleton Research Animals, Inc., 9200 Leesburg Turnpike, Vienna 22180.
Hutchison, C. W., 3610 Denison Road, Richmond 23231.
Lankau, H. N., Route 1, Box 382-C, Gold-

Custer, E. J., d.b.a. Custer's Kennels, 1073 McColloch Street, Wheeling 26003.
Deeds, Jr., J. M., d.b.a. Maple Meadow Farm, Box 114, Buck Route, Hinton 25951.
Dixon, J. E., 315 Thompson Avenue, Oak

Mushel, T. and V., Medford 54451.
Nasco International, Inc., 901 Janesville Avenue, Fort Atkinson 53538.
Northwoods Rainbow, Inc., P.O. Box 462, Mercer 54547.
O'Brien, M., Route 3, Svene Road, Madison

Ramirez, R. & M., d.b.a. Tropical Pet Shop, 168 Libertab Street, Mayaguez 00708.
Ramor, D. V., Buzon 730 Sector Crn 3 Aleman, Trujille Alto 00760.
Santiago, J. A., d.b.a. Cute Grooming Salon

Hasleton Research Animals, Inc., 9200 Leesburg Turnpike, Vienna 22180.
Hutchison, C. W., 3610 Denison Road, Richmond 23231.
Lankau, H. N., Route 1, Box 382-C, Goldvein 22720.
Leach, N. E., d.b.a. Leach Kennels, Route 3, Box 70, Chase City 23924.
Payne, R. W., Route 1, Box 139, Rixeyville 22737.
Roy, M. L., d.b.a. Roy's Rabbitry, Route 2, Box 27-B, Warrenton 22186.
Schmidt, E., d.b.a. Spring Valley Farm, Howardsville 24562.
Tanner, R. M., P.O. Box 252, Madison 22727.
Turner, R. W. and Turley, D. G., d.b.a. Cloverdale Animal Supply, 17401 Hull Street Road, Moseley 23120.
University of Virginia, Vivarium, 1300 Jefferson Park Avenue, Charlottesville 22901.
Webb, L. O., Route 1, Box 292B, Radford 24141.
Wilmoth, W. E., d.b.a. Snakes and Things, Ltd., P.O. Box 476, Moneta 24121.
Zazzaretti, P. B., d.b.a. Beechwood Rabbitry, Box 54, Claremont 23899.

WASHINGTON

Anderson, M. B., 2076 State Highway 6, Chehalis 98532.
Butterfield, G., d.b.a. Butterfield's Toy Kennels, 2308 Cook Hill Road, Centralia 98531.
Carpenter, M., d.b.a. Happy House Ranch, Route 2, Box 1354, Port Angeles 98362.
City of Colfax, P.O. Box 229, Colfax 99111.
College Biological Supply, Inc., 21707 Bothell Way, Bothell 98011.
Cowan, H. D., d.b.a. Showline Beagles, 18015 140th Avenue SE., Renton 98055.
Craven, L. A., 1662 Little Hanaford Road, Centralia 98531.
Dry, R. L., d.b.a. Berliner Zwinger Kennels, Route 3, Box 74, Colbert 99005.
Dryke, C. H., d.b.a. Sunnydell Kennels, Route 6, Box 275, Seguim 98382.
Gutscher, L. and C., d.b.a. Oak Hill Kennels, Route 7, Box 502 K, Olympia 98506.
Hennings, W. M., d.b.a. Birds & Things, 2015 191st SW., Alderwood Manor 98036.
Hoeck, P. R., d.b.a. Scotts Rabbit Products, 5171 South Bayview Road, Langley 98260.
Lotze, P. and J., d.b.a. Wineburg Kennels, Route 2, Box 304, Colville 99114.
Mason, G. H., d.b.a. Masons Northwest Rabbitry, 5112 21st NE., Poyallup 98371.
McGilbry, L. V., 8900 Northeast 239th Street, Battle Ground 98604.
Moery, W. R., 6425 208th NE., Redmond 98052.
Montgomery, J., Route 1, 24819 Northeast 50th Avenue, Ridgefield 98642.
Our People's Coop, 1214 North Street, Clarkston 99403.
Shannon, G. D. and P. A., 13640 132d NE., Kirkland 98033.
Thuline, M.D., H. C., d.b.a. Physicians Laboratory Services, 8205 104th Street SW., Tacoma 98498.
Town of Colton, Box 147, Colton 99113.
Veitenheimer, C., Route 1, Box 116, Colbert 99005.
Wacenske, L. R., d.b.a. Pinehill Kennel, Route 1, Box 279, Chattaroy 99003.
Wilcox, J. C., 26601 Pacific Highway South, Kent 98031.

WEST VIRGINIA

Ansell, W., d.b.a. M & W Kennels, Box 162A1, Route 2, Milton 25541.
Berst, H. J., d.b.a. Town Hill Rabbitry, Box 12, Three Churches 26765.
Custer, E. J., d.b.a. Custer's Kennels, 1073 McColloch Street, Wheeling 26003.
Deeds, Jr., J. M., d.b.a. Maple Meadow Farm, Box 114, Buck Route, Hinton 25951.
Dixon, J. E., 315 Thompson Avenue, Oak Hill 25901.
Hildner, C. A., d.b.a. Petland, P.O. Box 388, Lucasville 45648.
Hill, E. F., 5071 Guyan River Road, Huntington 25702.
Hilton, H. and K., d.b.a. Hilton-Kennels, Wayside 24985.
Reall, L. R., d.b.a. Twin Maples Rabbitry, Route 2, Box 451, Ridgeley 26753.

WISCONSIN

A-Z Wildlife Park, L987 Center Road, Neenan 54956.
Anderson, W., Route 2, Box 240, Richland Center 53581.
Boehm, R. A., d.b.a. Moose Lake Wildlife Sanctuary, Route 4, Box 124, Hayward 54843.
Bruyn, G. E., Box 95, Potter 54160.
Curtis, R. T., 4413 Rockport Road, Janesville 53545.
Czarnecki R., and Worm, J., d.b.a. South Milwaukee Pet Center, 3266 East Henry Avenue, Cudahy 53110.
Daul, D. R., Route 1, Luxemburg 54217.
Dilley, D. and N., d.b.a. ND Rabbitry, 6551 Stevenson Road, Dane 53529.
Doubek, L., Route 2, Two River 54241.
Doyle, L. and Hammond, V., d.b.a. Val-Lee Kennel, Route 1, Box 3, Foxboro 54836.
Draper, T. F., d.b.a. Tcum Rabbit Ranch, Rural Route 2, Wanakee 53597.
Drews, N. R., Route 1, Highland 53543.
Duerkop, M. S., Route 1, Box 206, Iola 54945.
Ferkey, A. and D., Route 2, West 2261, Ten Mile Avenue, Wis Rapids 54494.
Fields, L. R., d.b.a. Fields Rabbitry, Route 2, Box 13, Randolph 53956.
Flink, L., Route 1, Box 21, Unity 54488.
Forsthaus, Kennels Inc., Route 1, Box 65, Milladore 54454.
Frank, H., Box 397, Lannon 53046.
Franzmeier, S. A., Route 1, Box 123, Stockholm 54769.
Goli, L., Rural Route 2, Box 100, Iola 54945.
Halverson, R. D., Route 1, Box 64, Dodgeville 53533.
Hyde, D., d.b.a. Hyde Rabbitry, 34076 Hidden Valley Drive, Dousman 53118.
Keller, D. M. and Maurice, R., d.b.a. White Star Lab An, Route 2, Box 253, Burlington 53105.
Klubertanz, E., Klubertanz's 1165 Highway 73, Edgerton 53534.
Knorr, D. A., d.b.a. Kanangnark Kennels, P.O. Box 102, Sheboygan 53081.
Kreif, C., d.b.a. Rabbit Hill, North 5588 Highway 84, Fredonia 53021.
Laridean, E. and E. M., 620 Preston Avenue, Reedsburg 53959.
Lavean, D. and S., Route 1, Shell Lake 54871.
Lee, M. A., Route 1, Box 41, Columbus 53925.
Lesser, C. and B., d.b.a. Lesser's Rabbitry, 18403 Washington Avenue, Union Grove 53182.
Little, D. and K., Box 74, Owen 54460.
Lowe, W., Route 4, Box 206, Beaver Dam 53916.
Mecklenburg, M. C., Route 5, Hayner Road, Janesville 53545.
Mikula, I., Route 3, Chetek 54728.
Miller, J., d.b.a. Hillside Kennel, Route 1, Box 217, Greenwood 54437.
Morrow, D. F., Route 2, Box 521, Burlington 53105.
Mushel, T. and V., Medford 54451.
Nasco International, Inc., 901 Janesville Avenue, Fort Atkinson 53538.
Northwoods Rainbow, Inc., P.O. Box 462, Mercer 54547.
O'Brien, M., Route 3, Syene Road, Madison 53711.
Oshasky, J. M., Route 2, Box 68, Arpin 54410.
Otis, C., R., Route 2, Box 164, Deforest 53532.
Peuschel, W., 13101 North Wauwatosa Road, Mequon 53092.
Prelipp, A. W., Rural Route 1, Seymour 54165.
Ridgian Farms, Inc., 301 West Main Street, Mt. Horeb 53572.
Robertson, W. H. and L., d.b.a. Price Co. I, Route 2, Box 64, Ogema 54459.
Rogge, E., d.b.a. Happy Acres Kennels, Rural Route 3, Box 90, Wisconsin Dells 53965.
Ruedinger, J., Route 1, Box 70, Arpin 54410.
Schoebel, L. L., d.b.a. Fur & Feather Game Farm, Route 2, Neshkoro 54960.
Sievert, H. W., 831 West Winnebago Street, Appleton 54910.
Smith, P., Route 1, Withee 54498.
Stebane, E., Route 3, Kaukauna 54130.
Striggow, D. J., d.b.a. Ede's Pet & Supply, Route 2, Whitewater 53190.
Thompson, D. and A., d.b.a. Thompson Puppy Farms, Route 1, Curtis 54422.
Tiedt, G. R., 123 Willow Street, Beaver Dam 53916.
Wery, F., Route 4, Luxemburg 54217.

WYOMING

Adell, D. E., 7400 Salt Creek Route, Box 34, Casper 82601.
Oberg, C., Star Route, Torrington 82240.
Sanders, N., d.b.a. Sanders Kennels, Box 127, LaGrange 82221.
Sherard, A. L., Bear Creek Route, LaGrange 82221.
Trawick, E. G., d.b.a. Trawick Kennels, P.O. Box 1060, Riverton 82501.

PUERTO RICO

A & A Pet Center, 201 De Diego Street, Rio Peidras 00925.
Angle Fish Aquarium & Pet Shop, 27th Street, Block S-11 Alturas, Castellana Gardens Carolina 00630.
Anibal Castro Justiniano, d.b.a. Balboa Flower & Pet Shop, 51 Balboa Street, Mayaguez 00708.
Animalandia Pet Shop, Inc., Napoles 600 Urb Villa Capri, Rio Piedras 00924.
Bayron, R. P., d.b.a. Barrio Bajura Almirante, P.O. Box 43, Vega Alta 00762.
Bonike, L., d.b.a. Crystal Aquarium, Antonio North Blanco Street FM-40, Levittown Catano 00632.
Gonzalez, E., d.b.a. Arecibo Pet Shop, Box 433, Manti 00701.
Lacasa Del Agricultor, Plaza De Mercado, Rio Piedras 00926.
Luzon Serre, M. A., d.b.a. Country Club Pet Shop, GJ-6 Compo Rice Avenue, Carolina 00630.
Martinez, H., d.b.a. Casa Agricola, Cervantes North 50, Arecibo 00612.
McFaline, C., d.b.a. Viebay Pet Shop, 85th Avenue, Betances Hnas Davila, Bayamon 00619.
Murphy, A., d.b.a. Superbirds Pets, Street 23, Block N-7, Baymon 00619.
Nieves, N. A., d.b.a. Nenico's Rabbitry & Supply, Bo. Santana 101-A, Arecibo 00612.
Pet & Toy Fair Corp., Box 516, Hato Rey 00919.

Ramirez, R. & M., d.b.a. Tropical Pet Shop, 168 Libertab Street, Mayaguez 00708.
Ramor, D. V., Buzon 730 Sector Crn 3 Aleman, Trujille Alto 00760.
Santiago, J. A., d.b.a. Cute Grooming Salon & Pet Center, 1712 Parina Street, Rio Piedras 00926.
Santurce Pet & Hobby Shop, Inc., Ponce De Leon 1501 Stop 22, Santurce 00909.
Super Pet Center, Inc., San Patricio Shopping, Covar 00922.
Taino Pet Shop, Inc., 65th Inf. Road 98, Carolina 00630.
(Sec. 3, 80 Stat. 351, as amended (7 U.S.C. 2133).)

Done at Washington, D.C., this 27th day of February 1978.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

I. K. ATWELL,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc. 78-5863 Filed 3-9-78; 8:45 am]

FRIDAY, MARCH 10, 1978
PART III

FRIDAY, MARCH 10, 1978
PART III

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

■

ANIMAL WELFARE

List of Registered Research Facilities

federal register

[3410-34]

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

ANIMAL WELFARE

List of Registered Research Facilities

CalBioChem, P.O. Box 12087, San Diego 92112.
California Institute of Technology, 1201 East California Boulevard, Pasadena 91125.
Irvine Eye Institute, 19722 Jamboree Boulevard, Irvine 92715.
Kaiser Foundation Hospitals, Ordway Building, Oakland 94666.
Kearley, D. V. M., Edward O., 690 Quincy

Sansum Clinic Research Foundation, 2219 Bath Street, Santa Barbara 93102.
*Santa Barbara City College, 721 Cliff Drive, Santa Barbara 93100.
Scripps Clinic and Research Foundation,
Colorado Mountain College, Glenwood Springs, 81601.
Colorado Serum Co., 4950 York Street, Denver 80216.
Colorado State University, Fort Collins
Du Pont Experimental Station, New Murphy Road, Wilmington 19898.
E. I. du Pont de Nemours & Co., Box 30, Newark 19711.
ICI United States, Inc., Concord Pike and

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

ANIMAL WELFARE

List of Registered Research Facilities

Pursuant to the provisions of the Animal Welfare Act (7 U.S.C. 2131 et seq.), and the regulations thereunder (9 CFR Part 2), notice is hereby given that the following research facilities are registered under said Act:

NOTE.—Asterisk denotes inactive registrant-research facilities that have suspended research activities but may resume research at a future time.

ALABAMA

Auburn University, Auburn 36830.
Southern Research Institute, 2000 9th Avenue, South Birmingham 32505.
The Jim Dandy Co., P.O. Box 10687, Birmingham 35202.
Tuskegee Institute, Tuskegee 36088.
University of Alabama in Birmingham, 1919 7th Avenue South, Birmingham 35233.
University of Alabama, P.O. Box 2846, University 35486.
University of South Alabama, 307 Gaillard Boulevard, Mobile 36688.

ALASKA

University of Alaska, College 9970!.

ARIZONA

Arizona State University, Tempe 85281.
Armour-Dial Co., 15101 North Scottsdale Road, Scottsdale 85260.
Northern Arizona University, Flagstaff 86001.
St. Joseph's Hospital and Medical Center, 350 West Thomas Road, Phoenix 85113.
University of Arizona, Tucson 85721.

ARKANSAS

Animal Behavior Enterprises, Inc., Route 6, Box 368, Hot Springs 71901.
University of Arkansas, Fayetteville 72701.

CALIFORNIA

Adams Caviary, 3846 North Charlotte Avenue, San Gabriel 91776.
Alchem Laboratories, Inc., 13478 Beach Avenue, Marina Del Ray 90291.
Allergan Pharmaceuticals, 2525 DuPont Drive, Irvine 92664.
Alpha Gamma Labs, 160 East Montacito Avenue, Sierra Madre 91024.
Alza Corp, 950 Page Mill Road, Palo Alto 94304.
Applied Bio-Science Laboratories, Inc., 6320 San Fernando Road, Glendale 91201.
Barlow Hospital, 2000 Stadium Way, Los Angeles 90026.
Barnes-Hind Pharmacy, Inc., 895 Kifer Road, Sunnyvale 94086.
Beckman Instruments, Inc., 2041 East Lambert Road, La Habra 90631.
Bentley Laboratories, Inc., 17502 Armstrong Avenue, Irvine 92705.
Bio-Rad Laboratories, 2200 Wright Avenue, Richmond 94804.
Bio-Science Laboratories, 7600 Tyrone Avenue, Van Nuys 91405.
Bureau of Public Health Laboratory, 313 North Figueroa Street, Los Angeles 90012.
C. R. Drew Post-Graduate Medical School, 1621 East 120th Street, Los Angeles 90059.
CalBioChem, P.O. Box 12087, San Diego 92112.
California Institute of Technology, 1201 East California Boulevard, Pasadena 91125.
California State Colleges, 5670 Wilshire Boulevard, Los Angeles 90036.
Cedars-Sinai Medical Center, 4751 Fountain Avenue, Los Angeles 90029.
Children's Hospital Medical Center, 51st and Grove Streets, Oakland 94609.
Childrens Hospital of Los Angeles, 4650 Sunset Boulevard, Los Angeles 90027.
Childrens Hospital of San Francisco, P.O. Box 3805, San Francisco 94119.
Chromalloy Pharmaceutical, 10100 Santa Monica Boulevard, Los Angeles 90067.
City of Hope Medical Center, 1500 East Duarte Road, Duarte 91010.
Claremont Men's College, 11th and Dartmouth Avenues, Claremont 91711.
Clinical Immuno-Diags., Inc., 1378-D Logan Avenue, Costa Mesa 92626.
CLMG, Inc., 679 South Westlake Avenue, Los Angeles 90057.
Compton Community College, 1111 East Artesia Boulevard, Compton 90221.
Consumnes River College, 8401 Center Parkway, Sacramento 95823.
Cooper Laboratories, Inc., 455 East Middlefield Road, Mountain View 94043.
County of San Diego, 5555 Overland Avenue, Building 4, San Diego 92123.
Cutter Laboratories, Inc., 4th and Parker Streets, Berkeley 94710.
Diagnostic Date, Inc., 518 Logue Avenue, Mountain View 94043.
Dynapol, 1454 Page Mill Road, Palo Alto 94043.
Edwards Labs, 17221 Red Hill Avenue, Santa Ana 92705.
Emery Cancer Research Fund, 615 South Westlake Avenue, Los Angeles 90057.
Endocrine Sciences, 18418 Oxnard Street, Tarzana 91356.
Estelle Doheny Eye Foundation, 1355 San Pablo Street, Los Angeles 90033.
Foothill College, 12345 El Monte Road, Los Altos Hills 94022.
Grossmont Community College, 8800 Grossmont College Drive, El Cajon 92020.
Hagadorn Corp., P.O. Box 20269, El Cajon 92021.
Hancock Laboratories, Inc., 4633 East La Palma Avenue, Anaheim 92607.
Hoag Memorial Presbyterian Hospital, 301 Newport Boulevard, Newport Beach 92660.
Hollywood Presbyterian Hospital, 1133 Crenshaw Boulevard, Los Angeles 90019.
Hollywood Presbyterian Hospital, 1322 North Vermont Avenue, Los Angeles 90027.
Huntington Institute of Applied Medical Research, 734 Fairmount Avenue, Pasadena 91105.
ICN Nucleic Acid Research Institute, 1590 Monrovia Boulevard, Newport Beach 92660.
ICN Nucleic Acid Research Institute, 2727 Campus Drive, Irvine 92664.
Institute of Medical Research, Santa Clara County, 751 South Bascom Avenue, San Jose 95128.
Institute of Nutritional Studies, 3816 Bagley Avenue, Culver City 90230.
Institute of Medical Sciences, 2200 Webster Street, Room 310, San Francisco 94115.
Inter Science Institute, 2000 Cotner Avenue, Los Angeles 90025.
International Medical Systems, Ltd., 1886 Santa Anita Avenue, South El Monte 91733.
Irvine Eye Institute, 19722 Jamboree Boulevard, Irvine 92715.
Kaiser Foundation Hospitals, Ordway Building, Oakland 94666.
Kearley, D. V. M., Edward O., 690 Quincy Road, Turlock 95380.
L. Pauling Institute of Science and Medicine, 2700 Sand Hill Road, Menlo Park 94025.
Los Angeles County Harbor General Hospital, 1000 West Carson Street, Torrance 90509.
*La Verne College, 1950 3d Street, La Verne 91750.
Lee Pharmaceuticals, 1444 Santa Anita Avenue, South El Monte 91733.
Loma Linda University, Loma Linda 92354.
Los Angeles Pierce College, 6201 Winnetka Boulevard, Woodland Hills 96413.
Loyola University, 7101 West 80th Street, Los Angeles 90045.
Medi-Physics, Inc., 5855 Christie Avenue, Emerysville 94608.
Memorial Hospital of Long Beach, 2801 Atlantic Avenue, Long Beach 90806.
Mercy San Juan Hospital, 6501 Coyle Avenue, Carmichael 95608.
Monitor Science Corp., 1598 Monrovia Avenue, Newport Beach 92663.
Mount Zion Hospital and Medical Center, 1600 Divisadero Street, San Francisco 94115.
Mount San Antonio College, 1100 North Grand Avenue, Walnut 91789.
Murphy, Howard F., 400 North La Costa Drive, Carlsbad 92008.
North American Science Association of California, Inc., 1582 Derre Avenue, Irvine 92714.

CALIFORNIA

National Institute of Scientific Research, 12330 Santa Monica Boulevard, Los Angeles 90025.
Nelson Research and Development Co., 19722 Jamboree Boulevard, Irvine 92664.
Nichols Institute of Endocrinology, 1300 South Beacon Street, San Pedro 90731.
North American Aviation, Inc., 805 North Lapham Street, El Segundo 90245.
Nutrilite Products, Inc., 19600 6th Street, Lakeview 92353.
Occidental College, 1600 Campus Road, Los Angeles 90041.
Olive View Hospital, 14445 Olive View Drive, Sylmar 91342.
Palo Alto Medical Research Foundation, 860 Bryant Street, Palo Alto 94301.
Pasadena City College, 1570 East Colorado Boulevard, Pasadena 91106.
Pasadena Foundation/Medical Research, 99 North El Molino Avenue. Pasadena 91101.
Pharmaseal Laboratories, 4401 Foxdale Avenue, Irwindale 91706.
Pomona College, Claremont 91711.
Radioassay Systems Laboratories Inc., 1511 East Del Amo Boulevard, Carson 90746.
Rancho Los Amigos Hospital Inc., 7413 Golondrinas Street, Downey 90242.
Rancho Santiago Community College, Community College District, 17th Street at Bristol, Santa Ana 92706.
Redken Laboratories, Inc., 14721 Califa Street, Van Nuys 91401.
Salk Institute for Biological Studies, P.O. Box 1809, San Diego 92112.
San Bernardino Valley College, 701 South Mt. Vernon Avenue, San Bernardino 92403.
San Diego Bio-Medical Research Institute, 2602 1st Avenue, Room 104, San Diego 92103.
San Diego Mesa College, 7250 Mesa College Drive, San Diego 92111.

Sansum Clinic Research Foundation, 2219 Bath Street, Santa Barbara 93102.
*Santa Barbara City College, 721 Cliff Drive, Santa Barbara 93109.
Scripps Clinic and Research Foundation, 476 Prospect Street, La Jolla 92037.
Shell Development Co., P.O. Box 4248, Modesto 95353.
Smith Kline Instruments, Inc., 485 Potrero Avenue, Sunnyvale 94086.
Sonoma State Hospital, Eldridge 95431.
Southern California College of Optometry, 2001 Associated Road, Fullerton 92681.
Southern California Permanent Medical Group, 9985 Sierra Avenue, Fontana 92335.
Southwestern College, 900 Otay Lakes Road, Chula Vista 92010.
St. John's Hospital and Health Center, 1328 22d Street, Santa Monica 90404.
St. Joseph's Hospital 355 Buena Vista Avenue, East San Francisco 94117.
*St. Jude Hospital and Rehabilitation Center, 101 East Valencia Mesa Drive, Fullerton 92632.
St. Mary's Hospital Medical Center, 2200 Hayes Street, San Francisco, 94117.
Standard Oil Co. of California, 576 Standard Avenue, room 5201, Richmond 94802.
Stanford Research Institute, 333 Ravenswood Avenue, Menlo Park 94025.
Stanford University, Stanford Medical Center, LOO3D, Stanford 94305.
Star-Kist Foods, Inc., 920 Barraduca, Terminal Islands 90731.
State of California Department of Health, 2151 Berkeley Way, Berkeley 94704.
Sutter Community Hospital of Sacramento, 52d and F Streets, Sacramento 95816.
Sylvan Corners Veterans Hospital, 7548 Old Auburn Boulevard, Citrus Heights 95610.
Syntex (U.S.A.), Inc., 3401 Hillview Avenue, Palo Alto 94304.
Syva Co., 2349 Charleston Road, Mountain View 94040.
Tera Pharmaceuticals, Inc., 6920 Stanton Avenue, Buena Park, 90621.
*The Hine Laboratories, Inc., 1099 Folsom Street, San Francisco 94103.
The Regents of the University of California, University Hall, Berkeley 94720.
University of San Diego, Alcala Park, San Diego 92110.
University of San Francisco, San Francisco 94117.
University of Southern California, University Park, Los Angeles 90007.
University of the Pacific, 751 Brookside Road, Stockton 95207.
Valley Children's Hospital and Guidance Center, 3151 North Millbrook, Fresno 93703.
Victor Valley College, Victorville 92392.
Vitaminerals, Inc., 1815 Flower Street, Glendale 91201.
White Memorial Medical Center, 1720 Brooklyn Avenue, Los Angeles 90033.
Whittier College, Whittier 90608.
Yuba College, Linda and Beale Roads, Marysville 95901.

COLORADO

Arapoe, Community College, 5900 South Santa Fe Drive, Littleton 80120.
Bel Rae Institute, 9670 East Alameda Ave., Denver 80231.
Children's Hospital, 1056 East 19th Avenue, Denver 80218.
Children's Asthma Research Institute and Hospital, 3401 West 19th Avenue, Denver 80216.
Cobe Laboratories, Inc., 1201 Oak Street, Lakewood 80215.
Colorado Mountain College, Glenwood Springs, 81601.
Colorado Serum Co., 4950 York Street, Denver 80216.
Colorado State University, Fort Collins 80521.
Community College of Denver, 1111 West Colfax, Denver 80204.
Community College of Denver, 1001 East 62nd Avenue, Denver 80204.
Community College of Denver, 12600 West Sixth Street, Golden 80401.
Cooper U.S.A., Inc., 5030 York Street, Lakewood 80215.
Denver Department of Health and Hospitalization, West 8th Avenue and Cherokee Street, Denver 80204.
Elars Bio Research Laboratory, 225 Commerce Drive, Fort Collins 80521.
Fort Lewis College, Durango 81301.
Meridian Bio-Medical, Inc., 3278 South Wadsworth, Denver 80227.
Micromedic Diagnostics, Inc., 1800 East Lincoln, P.O. Box 464, Fort Collins 80521.
*National Jewish Hospital, 3800 East Colfax Avenue, Denver 80206.
Otero Junior College, 18th and Colorado Avenue, La Junta 81050.
Penrose Hospital, 2215 North Cascade Avenue, Colorado Springs 80903.
Regis College, West 50th and Lowell Boulevard, Denver 80221.
St. Joseph Hospital, 1835 Franklin Street, Denver 80218.
The Colorado College, Colorado Springs 80903.
University of Northern Colorado, Greeley 80631.
University of Colorado, Boulder 80302.
Valleylab Inc., 5920 Longbow Drive, Boulder 80301.
Western Research Corp., 2300 North Highway 287, P.O. Box 1255, Fort Collins 80522.
Western State College Co., Gunnison 81230.

CONNECTICUT

Bio-Medical Research, Inc., 858 Oakwood Road, Orange 06477.
Connecticut College, New London 06320.
Connecticut State Department of Health, P.O. Box 1689, Hartford 06101.
Fairfield University, Fairfield 06430.
*Hamilton Standard, Windsor Locks 06096.
Hartford Hospital, 80 Seymour Street, Hartford 06115.
J. B. Pierce Foundation of Connecticut, 290 Congress, New Haven 06519.
New England Institute, Inc., 90 Grove Street, Ridgefield 06877.
Quinnipiac College, 555 New Road, Hamden 06518.
Ribicoff Research Center, Norwich Hospital, Box 508, Norwich 06360.
St. Francis Hospital Research Laboratory, 114 Woodland Street, Hartford 06105.
St. Mary's Hospital, 56 Franklin Street, Waterbury 06702.
The Hospital of St. Raphael, 1450 Chapel Street, New Haven 06511.
The University of Connecticut, Storrs 06268.
University of Connecticut Health Center, Center for Laboratory Animal Care, Farmington 06032.
University of Hartford, 200 Bloomfield Avenue, West Hartford 06117.
Yale University, 333 Cedar Street, New Haven 06510.

DELAWARE

Alfred I. du Pont Institute, Rockland Road, Wilmington 19803.
Du Pont Experimental Station, New Murphy Road, Wilmington 19898.
E. I. du Pont de Nemours & Co., Box 30, Newark 19711.
ICI United States, Inc., Concord Pike and New Murphy Road, Wilmington 19897.
*Sterwin Laboratories, Inc., Millsboro 19966.
University of Delaware, Newark 19711.
*Wilmington Medical Center, Inc., 14th and Washington Streets, Wilmington 19899.

FLORIDA

Barry Laboratories, Inc., 461 Northeast 27th Street, Pompano Beach 33064.
*Bigger's Small Animal Hospital, 2833 South 4 Street, Fort Pierce 33450.
*Cape Laboratories, Inc., Box B1, Venice 33595.
Cordia Corp., P.O. Box 370428, Miami 33137.
Dade Division Am Hospital Supply Corp., P.O. Box 520672, Miami 33152.
Dawson Research Corp., 114 West Grant Avenue, Orlando 32806.
Dr. Jacob Harick's Laboratories, 160 Concord Drive, Casselbury 32707.
Eckerd College, St. Petersburg 33733.
Florida Injured Wildlife Sanctuary, Inc., Box 260, Route 1, Melbourne 32935.
Florida A. & M. University, Tallahassee 32307.
Florida Institute of Technology, Box 1150, Country Club Road, Melbourne 32901.
Florida Medical Entomlogy Laboratory, P.O. Box 520, Vero Beach 32960.
Florida State University, Tallahassee 32306.
Florida Technological University, P.O. Box 25000, Alafaya Trail, Orlando 32816.
Howard Hughes Medical Institute, P.O. Box 520605, Biscayne Annex, Miami 33152.
Jackson Veterinary Practice, Route 5, Box 9, St. Augustine 32084.
Mannheimer Primatalogical Foundation, 20255 Southwest 360th Street, Homestead 33030.
Merieux Institute Inc., 15960 Northwest 15 Avenue, Miami 33169.
Miami Heart Institute, 4701 North Meridian Avenue, Miami Beach 33140.
Mount Sinai Hospital Research Laboratory, 4300 Alton Road, Miami Beach 33140.
North American Biologicals, Inc., 16500 Northwest 15 Avenue, Miami 33169.
Papanicolaou Cancer Research Institute, 1155 Northwest 14th Street, P.O. Box 236188, Miami 33123.
Rollins College, Winter Park 32789.
Sanders Medical Research Foundation, Inc., 33 Southeast 3rd Street, Boca Raton 33432.
Sherwood Medical Industries, Inc., P.O. Box 2078, Deland 32720.
St. Petersburg Jr. College, P.O. Box 13489, St. Petersburg 33733.
State of Florida, Division of Health, 4000 West Buffalo Avenue, Tampa 33614.
*Sunland Hospital, P.O. Box 3513, Orlando 32802.
University of Florida, Office of the President, Gainesville 32601.
Univerity of Miami, Coral Gables 33124.
University of South Florida, 801 First Street South, St. Petersburg 33733.

GEORGIA

Emory University, Atlanta 30322.
*Georgia College, Milledgeville 31061.
Georgia Institute of Technology, Atlanta 30332.
MAAG Enterprises, Inc., 1805 Tapawingo Drive, Gainesville 30501.
Mercer University System, Macon 31207.
Palmer Chemical & Equipment Co., Inc., P.O. Box 667, Douglasville 30134.

St. Joseph's Infirmary, 265 Ivy Street NE., Atlanta 30303.
University of Georgia System, Athens 30601.

ILLINOIS

Illinois State Psychiatric Institute, 1601 West Taylor Street, Chicago 60612.
Illinois Benedictine College, Lisle 60532.
Illinois Institute of Technology, 3300 South Federal Street, Chicago 60616.
*Wideman, F. E., 1520 7th Street, Suite 404, Moline 61265.
*Wilson & Co., Inc., 4200 South Marshfield Avenue, Chicago 60609.
Wilson Laboratories, 4221 South Western Boulevard, Chicago 60609.

University of Kansas, Lawrence 66044.
Witchita State University, 1845 Fairmount, Wichita 67208.

KENTUCKY

Litton Bionetics, Inc., 7315 Wisconsin Avenue, Bethesda 20014.
Maryland Psychiatric Research Center, P.O. Box 3235, Baltimore 21228.
Microbiological Associates, Inc., 4733 Bethesda Avenue, Bethesda 20014.
Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge.02139.
Massachusetts General Hospital, Boston 02114.
*Medical Center of Western Massachusetts, 759 Chestnut Street, Springfield.

St. Joseph's Infirmary, 265 Ivy Street NE., Atlanta 30303.
University of Georgia System, Athens 30601.

HAWAII

Hawaii Department of Agriculture, 1428 South King Street, Honolulu 96814.
*Kuakini Hospital & Home, 347 North Kuakini Street, Honolulu 96817.
Queen's Medical Center, P.O. Box 861, Honolulu 96808.
Research Corp. of the University of Hawaii, 1110 University Avenue, Honolulu 96817.
St. Francis Hospital Research Laboratory, 2260 Liilka Street, Honolulu 96817.
University of Hawaii, Pacific Biomedical Research Center, Honolulu 96813.

IDAHO

Idaho State University, Pocatello 83201.
Long, C. D., 101 North Garden Street, Boise 83704.
Northwest Nazarene College, Nampa 83651.
University of Idaho, Moscow 83843.

ILLINOIS

A. E. Staley Manufacturing Co., P.O. Box 151, Decatur 62525.
Abbott Laboratories, 1400 Sheridan Road, North Chicago 60064.
American Dental Association, 211 East Chicago Avenue, Chicago 60611.
*American Medical Association, 535 North Dearborn Street, Chicago 60610.
Armour Pharmaceutical Co., P.O. Box 511, Kankakee 60901.
Arnar-Stone Laboratory, 1600 Waukegan Road, McGaw Park 60085.
Biolabs, Inc., 2910 MacArthur Boulevard, Northbrook 60062.
Blackburn College, Carlinville 62626.
Borden, Inc., Rural Route 1, Elgin 60120.
Bradley University, Peoria 61606.
*Chicago Board of Health, Chicago Civic Center, Chicago 60602.
Chicago College of Osteopathy, 1122 East 53d Street, Chicago 60615.
*Chicago Institute for Animal Research, 4701 West Grand Avenue, Chicago 60639.
Chicago Medical School, 710 South Wolcott Avenue, Chicago 60612.
Children's Memorial Hospital, 2300 Children's Plaza, Chicago 60614.
Cook County Graduate School of Medicine, 707 South Wood Street, Chicago 60612.
De Paul University, 1036 West Belden Avenue, Chicago 60614.
Edgewater Hospital, 5700 North Ashland, Chicago 60626.
Elmhurst College, Elmhurst 60126.
Eureka College, 300 East College, Eureka 61530.
Evanston Hospital, 2650 Ridge Avenue, Evanston 60201.
G. D. Searle & Co., Box 5110, Chicago 60680.
Galesburg State Research Hospital, Galesburg 61401.
General Foods Corp., c/o Gaines Research Kennels, Rural Route 3, St. Anne 60964.
George William College, 555 31st Street, Downers Grove 60515.
Hekotoen Institute/Cook County Hospital, 627 South Wood Street, Chicago 60612.
Herpetology Research Laboratory, 3012 Walnut Drive, Wonder Lake 60097.
IIT Research Institute, 10 West 35th Street, Chicago 60616.
Illinois Department of Public Health, 535 West Jefferson Street, Springfield 62706.
Illinois State Psychiatric Institute, 1601 West Taylor Street, Chicago 60612.
Illinois Benedictine College, Lisle 60532.
Illinois Institute of Technology, 3300 South Federal Street, Chicago 60616.
Illinois State University, Normal 61761.
Illinois Wesleyan University, Bloomington 61701.
Industrial Bio-Test Laboratory, Inc., 1810 Frontage Road, Northbrook 60062.
International Scientific Industries, Inc., P.O. Box 9, Cary 60013.
John A. Hartford Foundation, 1775 Dempster Road, Park Ridge 60068.
Kendall Research Center, 411 Lake Zurich Road, Barrington 60010.
Knox College, Galesburg 61401.
Kraftco Corp., 801 Waukegan Road, Glenview 60025.
Lake Forest College, Lake Forest 60045.
Larabida University of Chicago Institute, 5801 South Ellis Avenue, Chicago 60637.
Loke-Erickson Labs., Inc., 112 North 10th Avenue, Melrose Park 60160.
Loyola University, 1400 South First Avenue, Hines 60141.
M. Reese Hospital and Medical Center, 29th and Ellis, Chicago 60616.
Medi-Physics, Inc., 9820 Bryn Mawr, Rosemont 60018.
Memorial Hospital, 4501 North Park Drive, Belleview 62221.
Mercy Hospital and Medical Center, Stevenson Expressway at King Drive, Chicago 60616.
Mount Sinai Hospital Medical Center, California Avenue, at 15th Street, Chicago 60608.
N. M. Percy Medical Research Foundation, 411 West Dickens, Chicago 60612.
Northeastern Illinois University, Bryn Mawr at St. Louis, Chicago 60625.
Northern Illinois University, DeKalb 60115.
Northernwestern University, 619 Clark Street, Evanston 60201.
Presbyterian-St. Luke's Hospital, 1753 West Congress Parkway, Chicago 60612.
Quaker Oats Co., 617 West Main Street, Barrington 60010.
Quincy College, Quincy 62301.
Rosner-Hixson Laboratories, 3570 North Avondale Avenue, Chicago 60618.
Sangamon State University, Springfield 62703.
Sherman Hospital, 934 Center Street, Elgin 60120.
Sleepy Hollow Kennel/Cattery, Route 2, Box 73, Mundelein 60060.
Southern Illinois University, Carbondale 62901.
Southern Illinois University, Edwardsville 62025.
St. Francis Hospital, 530 Northeast Glen Oak Avenue, Peoria 61603.
St. Francis Hospital, 355 Ridge Avenue, Evanston 60202.
St. James Hospital, 1423 Chicago Road, Chicago Heights 60411.
St. John's Hospital, 1111 North Lincoln Street, Springfield 62707.
Travenol Laboratories, Inc., 6301 Lincoln Avenue, Morton Grove 60053.
University of Illinois at Chicago Circle, 2833 University Hall, Chicago 60680.
University of Chicago, 5801 South Ellis Avenue, Chicago 60637.
University of Illinois, 833 South Wood Street, Chicago 60612.
University of Illinois, Urbana 61801.
West Laboratories, P.O. Box 666, St. Anne 60944.
Western Illinois University, Macomb 61455.
Wheaton College, Wheaton 60187.
*Wideman, F. E., 1520 7th Street, Suite 404, Moline 61265.
*Wilson & Co., Inc., 4200 South Marshfield Avenue, Chicago 60609.
Wilson Laboratories, 4221 South Western Boulevard, Chicago 60609.

INDIANA

American Monitor, Inc., 5425 West 84th Street, Indianapolis 46268.
Ball State University, Muncie 47306.
Botta, Jr., Dr. James A., P.O. Box 333, Mount Vernon 47620.
Butler University, 4600 Sunset, Indianapolis 46208.
Central Soya Co., Inc., Decatur 46733.
*Earlham College, Richmond 47374.
Eli Lilly & Co., 740 South Alabama, Indianapolis 46206.
Fort Wayne Surgical Association, Inc., 3124 East State Boulevard, Fort Wayne 46805.
I. M. C. Chemical Group, Inc., P.O. Box 207, 1331 South First Street, Terre Haute 47808.
Indiana State University, Terre Haute 47809.
Indiana University, Bloomington 47401.
Lafayette Pharmacal, Inc., 526 North Earl Avenue, Lafayette 47902.
Mead, Johnson & Co., 2404 Pennsylvania Avenue, Evansville 47721.
*Methodist Hospital of Indiana, Inc., 1604 North Capital Avenue, Indianapolis 46202.
Michigan Road Animal Hospital, 7720 North Michigan Road, Indianapolis 46268.
Miles Laboratories, Inc., Elkhart 46514.
Purdue University, Lafayette 47907.
Rose Polytechnic Institute, 5500 Wabash Avenue, Terre Haute 47803.
St. Vincent Hospital, 2001 West 86th Street, Indianapolis 46268.
University of Notre Dame, Notre Dame 46556.
Valparaiso University, Valparaiso 46383.
Wabash College, Crawfordsville 47933.

IOWA

College of Osteopathic Medicine & Surgery, 3200 Grand Avenue, Des Moines 50312.
Diamond Laboratories, Inc., P.O. Box 863, Des Moines 50304.
Drake University, Des Moines 50311.
Fort Dodge Laboratory, Inc., 800 First Street, NW., Fort Dodge 50501.
Iowa State University, Ames 50010.
Luther College, Decorah 52101.
Salisbury Laboratories, 2000 Rockford Road, Charles City 50616.
University of Iowa, Iowa City 52240.

KANSAS

Bayvet Corp., P.O. Box 390, Shawnee Mission 66201.
Chemagro Agricultural Division, P.O. Box 193D, Stilwell 66085.
Douglas Pharmacal Ind., Inc., 6906 Rosehill Road, Lenexa 66215.
Emporia State University, 1200 Commercial Street, Emporia 66801.
Interx Research Corp., 2201 West 21 Street, Lawrence 66044.
Jensen-Salsbery Laboratory, 2000 South 11th Street, Kansas City 66103.
Kansas State University, Manhattan 66502.
Kruckenberg, S. M., 2851 Oregon Lane, Manhattan 66502.
Marymount College, Salina 67401.
Parsons State Hospital, Parsons 67357.
University of Kansas Medical Center, Rainbow Boulevard at 39th Street, Kansas City 66103.

University of Kansas, Lawrence 66044.
Witchita State University, 1845 Fairmount, Wichita 67208.

KENTUCKY

Harlan Appalachian Regional Hospital, Harlan 40831.
University of Kentucky, Lexington 40506.
University of Louisville, 101 Chestnut, Louisville 40202.

LOUISIANA

Alton Ochsner Medical Foundation, 1520 Jefferson Highway, New Orleans 70121.
Gulf South Research Institute, P.O. Box 1177, New Iberia 70560.
Hart-Delta, Inc., 5055 Choctaw Drive, Baton Rouge 70805.
Lousiana State University System, Baton Rouge 70803.
Louisiana Technical University, Ruston 71270.
*Loyola School of Dentistry, 6363 St. Charles Avenue, New Orleans 70118.
Nicholls State University, Box 3031, University Station, Thibodaux 70301.
Northeast Louisiana University, 4001 Desiard, Monroe 71201.
Northwest State University of Louisiana, Natchitoches 71457.
Touro Research Institute, 1400 Foucher Street, New Orleans 70115.
Tulane University, New Orleans 70118.
University of New Orleans, New Orleans 70122.
University of Southwest Louisiana, Lafayette 70501.
Xavier University, New Orleans 70125.

MAINE

Bates College, Lewiston 04240.
Bowdoin College, Brunswick 04011.
Maine Medical Center, 22 Branhall Street, Portland 04102.
Mt. Desert Island Biological Lab, Salsbury Cove 04672.
Nasson College, Springvale 04083.
The Jackson Laboratory, Bar Harbor 04609.
University of Maine, Orono 04473.
University of Maine, 246 Deering Avenue, Portland 04102.
Westbrook College, 716 Stevens Avenue, Portland 04103.

MARYLAND

American Type Culture Collection, 12301 Parklawn Drive, Rockville 20852.
American Red Cross, 9312 Old Georgetown Road, Bethesda 20014.
Biotech Research Laboratories, Inc., 12601 Twinbrook Parkway, Rockville 20852.
Borriston Laboratory, Inc., 9050 Beech Place, Temple Hills 20031.
Burton, Parson & Co., Inc., 120 Westhampton Avenue, Seat Pleasant 20027.
Coppin State College, Baltimore 21216.
Flow Laboratories, Inc., 1710 Chapman Avenue, Rockville 20852.
Friends Medical Science Residential Center, Inc., 52 Wade Avenue, Baltimore 21228.
Gillette Co. Research Institute, 1413 Research Boulevard, Rockville 20850.
Harford Community College, 401 Thomas Run Road, Bel Air 21014.
*Hittman Associates, Inc., P.O. Box 810, Columbia 21043.
Hynson, Westcott/Dunning, Inc., Charles and Chase Streets, Baltimore 21201.
Institute for Behavioral Research, Inc., 2429 Linden Lane, Silver Spring 20910.
John Hopkins University, 34th and Charles Street, Baltimore 21218.
Litton Bionetics, Inc., 7315 Wisconsin Avenue, Bethesda 20014.
Maryland Psychiatric Research Center, P.O. Box 3235, Baltimore 21228.
Microbiological Associates, Inc., 4733 Bethesda Avenue, Bethesda 20014.
*Peninsula General Hospital, South Division and West Locust Streets, Salisbury 21801.
Pharmacopathics Research Laboratory, Inc., 1261 North Washington Boulevard, Laurel 20810.
*Sacred Heart Hospital, 900 Seton Drive, Cumberland 21502.
Sinai Hospital of Baltimore, Belvedere Avenue at Greenspring, Baltimore 21215.
St. Joseph Hospital, 7620 York Road, Baltimore 21204.
Towson State College, Baltimore 21204.
University of Maryland, College Park 20742.

MASSACHUSETTS

Arthur D. Little, Inc., 25 Acorn Park, Cambridge 02140.
Astra Pharmaceutical Products, Inc., 7½ Neponset Street, Worcester 01606.
Avco Everett Research Laboratory, 2385 Revere Beach Parkway, Everett 02149.
Becker Junior College, 1003 Main Street, Leicester 01524.
*Berkshire Community College, Second Street, Pittsfield 01201.
Beth Israel Hospital, 330 Brookline Avenue, Boston 02215.
Bio-Research Institute, Inc., 9 Commercial Avenue, Cambridge 02141.
Boston City Hospital, 818 Harrison Avenue, Boston 02118.
Boston College, 140 Commonwealth Avenue, Chestnut Hill 02167.
Boston State Hospital, 510 Morton Street, Boston 02124.
Boston University, 705 Commonwealth Avenue, Boston 02215.
Brandeis University, Waltham 02154.
Cambridge Nuclear Radiopharmaceutical Center, 575 Middlesex Turnpike, Billerica 01821.
Children's Cancer Research Foundation, 35 Binney Street, Boston 02115.
Children's Hospital Medical Center, 300 Longwood Avenue, Boston 02115.
Clark University, 950 Main Street, Worcester 01610.
Collaborative Research, Inc., 1365 Main Street, Waltham 02154.
Forsyth Dental Center, 140 The Fenway, Boston 02115.
Gamma Diagnostic Labs., Inc., 50 Walton Street, Attleboro 02703.
GTE Laboratories, Inc., 40 Sylvan Road, Waltham 02154.
Gulf/Western Applied Science Labs, 335 Bear Hill Road, Waltham 02154.
Harvard Medical School, 818 Harvison Avenue, Boston 02118.
Harvard University, Cambridge 02139.
Holliston Junior College, 100 Summer Street, Holliston 01746.
Holyoke Community College, 303 Homestead Avenue, Holyoke 01040.
Lahey Clinic Foundation, 605 Commonwealth Avenue, Boston 02215.
Lemuel Shattuck Hospital, 170 Morton Street, Jamaica Plain 02130.
Mason Research Institute, Inc., 21 Harvard Street, Worcester 01608.
Massachusetts College of Pharmacy, 179 Longwood Avenue, Boston 02115.
Massachusetts Department of Public Health, 375 South Street, Jamaica Plain 02130.
Massachusetts Eye & Ear Infirmary, 243 Charles Street, Boston 02114.
Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge 02139.
Massachusetts General Hospital, Boston 02114.
*Medical Center of Western Massachusetts, 759 Chestnut Street, Springfield.
*Memorial Hospital, 119 Belmont Street, Worcester 01605.
Millipore Corporation, Ashby Road, Bedford 01730.
Mount Holyoke College, South Hadley 01075.
New England Deaconess Hospital, 185 Pilgrim Road, Boston 02215.
New England Medical Center Hospital, 171 Harrison Avenue, Boston 02111.
Newton-Wellesley Hospital, 2014 Washington Street, Newton Lower Falls 02162.
Northeastern University, 360 Huntington Avenue, Boston 02115.
Peter Bent Brigham Hospital, 721 Huntington Avenue, Boston 02115.
Pondville Hospital, Box 111, Walpole 02081.
Red Acre Farm, Inc., Red Acre Road, Stow 01775.
*Retina Foundation, 20 Staniford Street, Boston 02114.
Robert B. Brigham Hospital, 125 Parker Hill Avenue, Boston 02129.
Sharps Associates, 767-B Concord Avenue, Cambridge 02138.
Shriners Burns Institute, 50 Blossom Street, Boston 02114.
Shriver Center, Mental Retardation, Inc., 200 Trapelo Road, Waltham 02154.
Smith College, Northhampton 01060.
St. Elizabeth's Hospital, 736 Cambridge Street, Brighton 02135.
St. Margaret's Hospital for Women, 90 Cushing Avenue, Dorchester 02125.
St. Vincent Hospital, 25 Winthrop Street, Worcester 01610.
Stonehill College, North Easton 02356.
The Memorial Hospital, 119 Belmont Street, Worcester 01605.
Thermo Electron Corp., 85 First Avenue, Waltham 02154.
Trustees of Hampshire College, Amherst 01002.
Tufts University, Medford 02155.
University of Massachusetts, Amherst 01002.
*Westfield State College, Westfield 01085.
Williams College, Williamstown 01267.
Worcester Polytechnic Institute, West Street, Worcester 01609.
Worcester Foundation for Experimental Biologies, 222 Maple Avenue, Shrewsbury 01545.

MICHIGAN

Albion College, Albion 49224.
Blodgett Memorial Hospital, 1840 Wealthy SE., Grand Rapids 49506.
Butterworth Hospital, 100 Michigan NE., Grand Rapids 49503.
C. S. Mott Community College, 1401 East Court Street, Flint 48503.
Central Michigan University, Mt. Pleasant 48858.
Children's Hospital of Michigan, 3901 Beaubien, Detroit 48201.
Delta College, University Center, Rural Station, Bay City 48710.
Detroit-Macomb Hospital Association, 1420 San Antoine, Detroit 48226.
Dorner Laboratories, 3203 West Columbia, Battle creek 49017.
Dow Chemical Co., Midland 48640.
Dow Corning Corp., South Saginaw Road, Midland 48640.
Ferris State College, Big Rapids 49307.
*Flint Osteopathic Hospital, 3921 Beecher Road, Flint 48502.

Foundation for Behavioral Research, Box 248, 600 Cherry Street, Augusta 49012.
General Motors Research Laboratories, 12 Mile & Mound Roads, Warren 40906.
Grand Valley State College, College Land-

Minneapolis Medical Research Foundation, Inc., Hennepin County General Hospital, 619 South 5th Street, Minneapolis 55415.
*Mt. Sinai Hospital, 22d & Chicago Avenue, Minneapolis 55404.
*North Star Research and Development In-

University of Montana, Missoula 59801.

NEBRASKA

Creighton University/School of Medicine, 637 North 27th Street, Omaha 68131.

Leberco Laboratories, 123 Hawthorne Street, Roselle Park 07204.
Lever Bros. Co., 45 River Road, Edgewater 07020.
Manziano, Dr. Clarence F., 603 Westside

Albany Medical College, 47 New Scotland Avenue, Albany 12208.
Alfred University, Alfred 14802.
American Standards Testing Bureau, Inc., 40 Water Street, New York 10004.

Jamestown Community College, 525 Falconer Street, Jamestown 14701.
Jewish Hospital and Medical Center of Brooklyn, 555 Prospect Place, Brooklyn

Foundation for Behavioral Research, Box 248, 600 Cherry Street, Augusta 49012.
General Motors Research Laboratories, 12 Mile & Mound Roads, Warren 40906.
Grand Valley State College, College Landing, Allendale 49401.
Henry Ford Hospital and Edsel B. Ford Institute for Medical Research, 2799 West Grand Boulevard, Detroit 48202.
Hope College, Holland 49423.
Hutsel Hospital, 432 East Hancock, Detroit 48201.
Ingham Medical Hospital, 401 West Greenlawn, Lansing 48910.
International Research and Development Corp., 900 Main Street, Mattawan 49071.
Jaffee, Martin D., 2110-16th Street, Bay City 48706.
Laboratory Research Enterprises, Inc., 6251 South 6th Street, Kalamazoo 49001.
Lafayette Clinic, 951 East Lafayette, Detroit 48207.
Lake Superior State College, Sault Ste. Marie 49783.
Marquette General Hospital, Marquette 49855.
McLaren General Hospital, 401 South Ballenger Highway, Flint 48502.
Michigan Department of Public Health, 3500 North Logan, Lansing 48914.
Michigan Cancer Foundation, 110 East Warren Avenue, Detroit 48201.
Michigan State University, East Lansing 48823.
Michigan Technological University, Houghton 49931.
Mt. Carmel Mercy Hospital, 6071 West Outer Drive, Detroit 48235.
*Northern Michigan University, Marquette 49855.
Oakland University, Rochester 48063.
Parke, Davis and Company, G.P.O. Box 118, Detroit 48232.
Providence Hospital, 16001 Nine Mile Road, Southfield 48075.
*Riverside Osteopathic Hospital, 150 Truax Street, Trenton 48183.
Sinai Hospital of Detroit, 6767 West Outer Drive, Detroit 48235.
University of Detroit, 4001 West McNichols Road, Detroit 48221.
University of Michigan, Ann Arbor 48104.
Upjohn Co., 301 Henrietta Street, Kalamazoo 49001.
*W. D. Pryfogle Medical Research Laboratory, 15901 West Nine Mile Road, Southfield 48075.
Wayne County General Hospital, Eloise 48132.
Wayne State University, Detroit 48202.
Western Michigan University, Kalamazoo 49001.
William Beaumont Hospital, 3601 West 13 Mile Road, Royal Oak 48073.

MINNESOTA

Applied Cardiopulmonary Research, 2545 Chicago Avenue, Suite G-18, Minneapolis 55404.
Austin Community College, 1600 8th Avenue NW., Austin 55912.
Bio-Medicus, Inc., 15307 Minnetonka Industrial Road, Minnetonka 55343.
Kallestad Laboratories, 1000 Lake Hazeltine Drive, Chaska 55318.
Life Science Foundation, Golden Valley Health Center, Minneapolis 55422.
Mankato State College, Mankato 56001.
Mayo Foundation, 200 First Street Sw., Rochester 55901.
Medtronic, Inc., 3055 Old Highway Eight, Minneapolis 55418.
Minneapolis Medical Research Foundation, Inc., Hennepin County General Hospital, 619 South 5th Street, Minneapolis 55415.
*Mt. Sinai Hospital, 22d & Chicago Avenue, Minneapolis 55404.
*North Star Research and Development Institute, 3100 38th Avenue South, Minneapolis 55406.
Northwestern Hospital, 810 East 27th Street, Minneapolis 55407.
Riker Laboratories, Inc., 3M Center, Building 218-3, St. Paul 55101.
Southwest State University, Marshall 56258.
St. John's University, Collegeville 56321.
St. Mary's Hospital, 2414 South Seventh Street, Minneapolis 55406.
St. Paul-Ramsey Hospital, 640 Jackson Street, St. Paul 55101.
University of Minnesota, Minneapolis 55455.

MISSISSIPPI

Mississippi State University, Drawer G, State College 39762.
University of Mississippi, Office of the Chancellor, University 38677.

MISSOURI

Curators of the University of Missouri, Columbia 65201.
Deaconess Hospital, 6150 Oakland Avenue, St. Louis 63139.
Institute of Medical Education and Research, 1605 South 14th Street, St. Louis 63104.
Jewish Hospital of St. Louis, 216 South Kingshighway Boulevard, St. Louis 63110.
Jr. College District of Jefferson County, Hillsboro 63050.
Kansas City College/Osteopathy Medicine, 2105 Independence Boulevard, Kansas City 64124.
Kirksville College/Osteopathy and Surgery, Kirksville 63501.
Logan College of Chiropractic, 430 Schoettler Road, Chesterfield 63017.
Mallinckrodt Chemical Works, 2nd and Mallinckrodt Streets, St. Louis 63160.
Maple Woods Community College, 2601 Northeast Barry Road, Kansas City 64156.
Marion Laboratories, Inc., 10236 Bunker Ridge Road, Kansas City 64137.
Midwest Research Institute, 425 Volker Boulevard, Kansas City 64114.
Missouri Analytical Laboratory, Inc., St. Louis 63103.
Northeast Missouri State University, Kirksville 63501.
Philips Roxane, Inc., 2621 North Belt Highway, St. Joseph 64502.
Ralston Purina Co., 835 South Eighth Street, St. Louis 63199.
Scientific Associates, Inc., 6200 South Lindbergh, St. Louis 63123.
Sigma International, Ltd., 3500 Dekalb Street, St. Louis 63129.
Smith Kline Clinical Laboratories, Inc., 11636 Administration Drive, Creve Coeur 63141.
St. John's Mercy Hospital, 621 South New Ballas Road, St. Louis 63141.
St. Louis College of Pharmacy, 4588 Parkview Place, St. Louis 63310.
St. Louis University, 1402 South Grand Avenue, St. Louis 63104.
St. Mary's Hospital, 101 Memorial Drive, Kansas City 64108.
Washington University, Lindell and Skinker Boulevards, St. Louis 63130.
William Jewell College, Liberty 64068.

MONTANA

Montana State University, Bozeman 59715.
University of Montana, Missoula 59801.

NEBRASKA

Creighton University/School of Medicine, 637 North 27th Street, Omaha 68131.
Dellen, Inc., 77th and Serum Avenue, Ralston 67127.
Harris Laboratories, Inc., P.O. Box 427, 624 Peach Street, Lincoln 68501.
Nebraska Wesleyan University, 50th and St. Paul Avenue, Lincoln 68504.
University of Nebraska, 3835 Holdrege, Lincoln 68503.
Wren Veterinary Pathology Service, 13116 Normandy Circle, Omaha 68137.

NEVADA

University of Nevada, Reno 89507.

NEW HAMPSHIRE

Keene State College, Keene 03431.
Trustees of Dartmouth College, P.O. Box 432, Hanover 03755.
University of New Hampshire, Spaulding Building, Durham 03824.

NEW JERSEY

Affiliated Medical Biological Research, Inc., P.O. Box 5700, Princeton 08540.
Becton, Dickinson & Co., Rutherford 07070.
Bio-Safety Research Laboratories, Milk and Broad Streets, Branchville 07826.
Bio-Toxicology Laboratories, P.O. Box 267, Creek and Cox Roads, Moorestown 08057.
Bio/Dynamics, Inc., P.O. Box 43, East Millstone 48873.
Biometric Testing, Inc., 375 Sylvan Avenue, Englewood Cliffs 07632.
Bristol-Myers Products, 225 Long Avenue, Hillside 07205.
Campbell Soup Co., 375 Memorial Avenue, Camden 08101.
Ciba Pharmaceutical Co., 556 Morris Avenue, Summit 07901.
Clinical Sciences, Inc., 30 Troy Road, Whippany 07981.
Colgate-Palmolive Co., 909 River Road, Piscataway 08854.
College of Medicine and Dentistry of New Jersey, P.O. Box 101, Piscataway 08854.
Cooper Laboratories, Inc., 110 East Hanover Avenue, Cedar Knolls 07927.
Consumer Product Testing Co., Inc., 1275 Bloomfield Avenue, Building No. 2-15B, Fairfield 07006.
County College of Morris, Route No. 10 and Center Grove Road, Dover 07801.
Cyanamid Foundation for Agricultural Development, P.O. Box 400, Princeton 08540.
Ethicon Research Foundation, U.S. Highway 22, Somerville 08876.
Fairleigh Dickinson University, 1000 River Road, Teaneck 07666.
Food & Drug Research Laboratory, 60 Evergreen Place, East Orange 07018.
Foster D. Snell, Inc., 66 Hanover Road, Florham Park 07932.
Hackensack Hospital, Hospital Place, Hankensack 07601.
Haselton/Prime Laboratories, Inc., P.O. Box 646, Farmingdale 07727.
Hoechst-Roussel Pharmaceuticals, Route 202-206 North, Somerville 08876.
Hoffman Laboratories, Inc., 17-50 River Road, Fairlawn 07410.
Hoffman-La Roche, Inc., 340 Kingsland Street, Nutley 07110.
Institute for Medical Research, Copewood Street, Camden 08103.
Johnson & Johnson Research Foundation, Route 1, New Brunswick 08903.

Leberco Laboratories, 123 Hawthorne Street, Roselle Park 07204.
Lever Bros. Co., 45 River Road, Edgewater 07020.
Manziano, Dr. Clarence F., 603 Westside Avenue, Jersey City 07304.
McGee Laboratories, Inc., 3651 Hill Road, Parsippany 07054.
Medi-Physics, Inc., 900 Durham Avenue, South Plainfield 07080.
Merck & Co., Inc., 126 East Lincoln Avenue, Rahway 07065.
Monmouth Medical Center, 3d and Pavilion Avenue, Long Branch 07740.
New Jersey College of Medicine and Dentistry, 100 Bergen Street, Newark 07103.
New Jersey State Department of Health, Box 1540, Trenton 08625.
Newark Beth Israel Hospital, 201 Lyons Avenue, Newark 07112.
Organon, Inc., 375 Mount Pleasant Avenue, West Orange 07052.
Ortho Diagnostics, Inc., Route 202, Raritan 08869.
*Passaic General Hospital, 350 Boulevard, Passaic 07055.
Pitmann-Moore, Inc., P.O. Box 344, Washington Crossing 08560.
Princeton Laboratories Products Co., 1 Cherry Hill Road, Box 512, Princeton 08540.
Redevan Laboratories, Inc., 100 Clark Street, Keyport 07735.
Reed & Carnrick, 30 Boright Avenue, Kenilworth 07033.
Rutgers, the State University, New Brunswick 08903.
South Mountain Life Sciences Lab, Fischer Boulevard and Thistle Street, Toms River 08753.
Sandoz Pharmaceuticals, Hanover 07936.
Schering Corp., 60 Orange Street, Bloomfield 07003.
Seton Hall University, South Orange 07079.
South Mountain Life Sciences, 1102 Industrial Parkway, Bricktown 08723.
Squibb Agricultural Research Center, 3 Bridges Road, Three Bridges 08887.
St. Barnabas Medical Center, Old Short Hills Road, Livingston 07039.
St. Michael's Hospital, 306 High Street, Newark 07102.
Trustees of Princeton University, New South Building, Princeton 08540.
U.S. Testing Co., Inc., 1415 Park Avenue, Hoboken 07070.
University Laboratories, Inc., 810 N. 2nd Avenue, Highland Park 08904.
Vineland Laboratories, Inc., Vineland 08360.
Warner-Lambert Research Institute, 170 Tabor Road, Morris Plains 07950.
William Paterson College, 300 Pompton Road, Wayne 07470.

NEW MEXICO

Eastern New Mexico University, Portales 88130.
Los Alamos Scientific Lab, P.O. Box 1663, Los Alamos 87544.
Lovelace Foundation, 5200 Gibson Boulevard, Albuquerque 87108.
New Mexico Institute of Mining and Technology, Socorro 87801.
Regents of New Mexico State University, Box 3699, Las Cruces 88003.
University of New Mexico, Albuquerque 87106.

NEW YORK

Agway Research Laboratory, 777 Warren Road, Ithaca 14850.
Albany College of Pharmacy, 106 North Scotland Avenue, Albany 12203.
Albany Medical College, 47 New Scotland Avenue, Albany 12208.
Alfred University, Alfred 14802.
American Standards Testing Bureau, Inc., 40 Water Street, New York 10004.
American Museum of Natural History, Central Park West at 79th Street, New York 10024.
American Health Foundation, 1370 Avenue of the Americas, New York 10019.
Animal Medical Center, 510 East 62d Street, New York 10021.
Arnot-Ogden Memorial Hospital, Roe Avenue, Elmira 14901.
Associated Universities, Inc., Upton 11973.
Avon Products, Inc., 9 West 57th Street, New York 10019.
Ayerst Research Laboratories, Chazy 12921.
B. Thompson Institute of Plant Research, Inc., 1086 North Broadway, Yonkers 10701.
Beth Israel Medical Center, 10 Nathan D. Perlman Place, New York 10003.
Booth Memorial Hospital, Main Street at Booth Memorial Avenue, Flushing 11355.
Bristol Laboratories, P.O. Box 657, Syracuse 13201.
Bronx-Lebanon Hospital Center, 1276 Fulton Avenue, Bronx 10456.
Brookdale Hospital Center, Brookdale Plaza, Brooklyn 11212.
Brooklyn Hospital, 121 DeKalb Avenue, Brooklyn 11201.
Buffalo General Hospital, 100 High Street, Buffalo 14203.
Bureau of Laboratories, City of New York, 455 1st Avenue, New York 10016.
Canisius College, 2001 Main Street, Buffalo 14208.
Carter-Wallace, Inc., 767 5th Avenue, New York 10022.
Cattaraugus County Laboratory, 302 Laurene Street, Olean 14760.
Childrens Hospital of Buffalo, 219 Bryant Street, Buffalo 14222.
Cold Springs Harbor Laboratory, Cold Springs Harbor 11724.
Colgate University, Hamilton 13346.
Columbia University, 115 West 68th Street, New York 10023.
Cornell University Medical College, 1300 York Avenue, New York 10021.
Cornell University, Ithaca 14850.
Corning Glass Works, Corning 14830.
D'Youville College, 320 Porter Avenue, Buffalo 14201.
E. J. Meyer Memorial Hospital, 462 Grider Street, Buffalo 14215.
Eastman Dental Center, 800 Main Street East, Rochester 14603.
Eastman Kodak Co., Kodak Park, Rochester 14650.
Elmira College, College Avenue, Elmira 14901.
Endo Laboratories, Inc., 1000 Stewart Avenue, Garden City 11533.
Erie Community College, North Main Street and Youngs Road, Buffalo 14221.
Fordham University, East Fordham Road, Bronx 10458.
Geigy Chemical Corp., Ardsley 10502.
General Foods Corp., 250 North Street, White Plains 10625.
Genesee Hospital, 224 Alexander Street, Rochester 14607.
Great Atlantic & Pacific Tea Co., 500 Ann Page Road, Horse Heads 14845.
Health Research, Inc., 84 Holland Avenue, Albany 12208.
Hofstra University, Hampstead 11550.
Hobart & William Smith Colleges, Geneva 14456.
Hudson Valley Community College, 80 Vandenburgh Avenue, Troy 12180.
Jamestown Community College, 525 Falconer Street, Jamestown 14701.
Jewish Hospital and Medical Center of Brooklyn, 555 Prospect Place, Brooklyn 11238.
Kingsbrook Jewish Medical Center, 86 East 49th Street, Brooklyn 11203.
Lenox Hill Hospital, 100 East 77th Street, New York 10021.
Long Island College Hospital, 340 Henry Street, Brooklyn 11201.
Long Island Jewish Medical Center, 270-05 76th Avenue, New Hyde Park 11040.
Long Island University, University Center, Brookville 11548.
Maimonides Medical Center, 4802 10th Avenue, Brooklyn 11219.
Manhattan Eye Ear/Throat Hospital, 210 East 64th Street, New York 10021.
Mary Imogene Basset Hospital, Atwell Road, Cooperstown 13326.
Masonic Medical Research Laboratory, Bleecker Street, Utica 13501.
Medical Foundation of Buffalo, 73 High Street, Buffalo 14203.
Mercy Hospital Association, L. G. H. Laboratory, 1000 North Village Avenue, Rockville Center 11570.
Methodist Hospital of Brooklyn, 506 6th Street, Brooklyn 11215.
Millard Fillmore Hospital, 3 Gates Circle, Buffalo 14209.
Misericordia Hospital, 600 East 233d Street, Bronx 10466.
Montefiore Hospital and Medical Center, 111 East 210 Street, Bronx 10467.
Mount Sinai School of Medicine, 100 Street, and 5th Avenue, New York 10029.
New York Department of Mental Hygiene, 44 Holland Avenue, Albany 12208.
New York City Health and Hospital Corporation, 125 Worth Street, New York 10013.
NACC Testing and Research Laboratory, 80 Hanson Place, Brooklyn 11217.
Nassau Hospital, 1st Street, Mineola 11501.
New York Medical College, 15th Avenue, at 106th Street, New York 10029.
New York State Health Department, Division of Laboratories and Research, New Scotland Avenue, Albany 12201.
New York University, Washington Square, New York 10003.
North Shore Hospital, Valley Road, Manhasset Long Island 11030.
Norwich Pharmacal Co., P.O. Box 191, Norwich 13815.
New York Blood Center/Community Blood Council, 310 East 67 Street, New York 10017.
Pfizer, Inc., 235 East 42nd Street, New York 10017.
Philip D. Wilson Research Foundation, 535 East 70th Street, New York 10021.
Polytechnic Institute of Brooklyn, 333 Jay Street, Brooklyn 11201.
Population Council, 245 Park Avenue, New York 10017.
Public Health Research Institute of New York City, 455 First Avenue, New York 10016.
Queens Hospital Center, 82-68 164th Street, Jamaica 11432.
Rensselaer Polytechnic Institute, Troy 12181.
*Research Institute for Skeletomuscular Disease, 1919 Madison Avenue, New York 10035.
Research Foundation/City University of New York, 1411 Broadway, New York 10018.
Research Institute on Alcoholism, 1021 Main Street, Buffalo 14203.
Revlon Research Center, Inc., 945 Zerega Avenue, Bronx 10473.

Richardson-Merrill, Inc., 122 East 42nd Street, New York 10017.
Rochester General Hospital, 1425 Portland Avenue, Rochester 14621.
Rochester Institute of Technology, 1 Lomb Memorial Drive, Rochester 14623.
Rockefeller University, York Avenue at 66th Street, New York 10021.
Roosevelt Hospital, 428 West 59th Street, New York 10019.
South Shore Analytical and Research Laboratory, 148 Islip Avenue, Islip 11751.
Schwartz College of Pharmacy, 75 Dekalb Avenue, Brooklyn 11201.
*Sisters of Charity Hospital, 2157 Main Street, Buffalo 14214.
Skidmore College, Saratoga Springs 128661.
Sloan-Kettering Institute/Cancer, 410 East 68th Street, New York 10021.
St. Barnabas Hospital, 183rd and Third Streets, Bronx 10457.
St. Bonaventure University, St. Bonaventure 14778.
*St. Clare's Hospital and Health Center, 415 West 51 Street, New York 10019.
St. John Fisher College, 3690 East Avenue, Rochester 14618.
St. John's University, Grand Central Utopia Parkways, Jamaica 11432.
St. Joseph's Hospital Health Center, 301 Prospect Avenue, Syracuse 13203.
St. Lawrence University, Canton 13617.
St. Luke's Hospital Center, Amsterdam at West 114th Street, New York 10025.
St. Mary's Hospital, 89 Genesee Street, Rochester 14611.
St. Vincent's Hospital and Medical Center, 153 West 11th Street, New York 10011.
Standard Brands, Inc., 625 Madison Avenue, New York 10022.
State University of New York, Thurlow Terrace, Albany 12201.
Sterling Drug, Inc., Columbia Turnpike, Rensselaer 12144.
Syracuse University, 201 Marshall Street, Syracuse 13210.
Tissue Culture Association, Inc., P.O. Box 631, Lake Placid 12946.
Trudeau Institute, Inc., Algonquin Avenue, Saranac Lake 12983.
Trustees of Columbia University, Box 20, Low Memorial Library, New York 10027.
Union Carbide Corp., 401 Theodore Fremd Avenue, Rye 10580.
University of Rochester, River Boulevard, Rochester 14627.
USV Pharmaceutical Corp., 1 Scarsdale Road, Tuckahoe 10701.
Westchester County Medical Center, Valhalla 10595.
Westwood Pharmaceuticals, Inc., 468 Dewitt Street, Buffalo 14213.
Wilson Memorial Hospital Heart-Lung Laboratory, Johnson City 13790.
Yeshiva University, 55 Fifth Avenue, New York 10003.

NORTH CAROLINA

Appalachian State University, Boone 28608.
Burroughs Wellcome Co., 3030 Cornwallis Road, Research Triangle Park 27709.
Carnivore Evolutionary Research Institute, Route 3, Box 180, Pittsboro 27311.
Chemical Industry Institute of Toxicology, P.O. Box 12137, Research Triangle Park 27709.
Duke University, Durham 27706.
East Carolina University, Greenville 27834.
Greer Laboratories, Inc., Box 800, Lenoir 28645.
Heineman Medical Research Center, Charlotte Memorial Hospital, Charlotte 28234.
Lorillard Research Center, 420 English Street, Greensboro 27420.
North Carolina State University, Raleigh 27607.
Research Triangle Institute, P.O. Box 12194, Research Triangle Park 27709.
University of North Carolina at Charlotte, Charlotte 28205.
University of North Carolina at Wilmington, 7205 Wrightsville Avenue, Wilmington 28401.
University of North Carolina, Chapel Hill 27514.
Wake Forest University, Winston-Salem 27109
Western Carolina University, Cullowhee 28723.

NORTH DAKOTA

Minot State College, Minot 58701.
North Dakota State University, Fargo 58102.

OHIO

Akron City Hospital, 525 East Market Street, Akron 44309.
*Akron General Medical Center, 400 Wabash Avenue, Akron 44307.
Allergy Laboratories of Ohio, Inc., 623 East 11 Avenue, Columbus 43211.
American Cyanamid Co., North Middleton Road, Pearl River 10965.
Baldwin-Wallace College, Berea 44017.
Batelle Memorial Institute, 505 King Avenue, Columbus 43201.
Ben Venue Laboratories, Inc., 270 Northfield Road, Bedford 44146.
Bowling Green State University, Bowling Green 43402.
*Capital University, Columbus 43209.
Case Western Reserve, University Circle, Cleveland 44106.
Central State University, Banneker Science Hall, Wilberforce 45384.
Charles F. Kettering Research Laboratory, 150 East South College Street, Yellow Springs 45387.
Children's Hospital Research Foundation, 561 South 17th Street, Columbus 43205.
Children's Hospital, Elland Avenue and Bethesda, Cincinnati 45229.
Children's Hospital of Akron, Buchtel Avenue at Bowery Street, Akron 44308.
Cincinnati Milacron, Inc., 4701 Marburg Avenue, Cincinnati 45209.
Cleveland Clinic Foundation, 2020 East 93rd Street, Cleveland 44120.
Cleveland State University, 1983 East 24th Street, Cleveland 44115.
College of Wooster, Wooster 44691.
Creative Biology Laboratory, Inc., 3070 Cleveland-Massilon Road, Barberton 44203.
*Cuyahoga Community College, 700 Carnegie Avenue, Cleveland 44115.
Denison University, Granville 43023.
Elyria Memorial Hospital, 630 East River Street, Elyria 44035
Fairview General Hospital, 18101 Lorain Avenue, Cleveland 44111.
Good Samaritan Hospital, 3217 Clifton Avenue, Cincinnati 45220.
Grady Investment Corp., 9211 Winton Road, Cincinnati 45231.
Highland View Hospital, 3901 Ireland Drive, Cleveland 44122.
Hill Top Research, Inc., Miamiville 45147.
Hiram College Biological Sta., P.O. Box 1838, Hiram 44234.
Huron Road Hospital, 13951 Terrace Road, Cleveland 44112.
Jewish Hospital, 3200 Burnet Avenue, Cincinnati 45229.
John Carroll University, Cleveland 44118.
Kent State University, Kent 44240.
Lakeland Community College, Mentor 44060.
*Marietta College, Marietta 45750.
Medical College of Ohio, P.O. Box 6190, Toledo 43614.
Merrell-National Laboratories, 110 East Amity Road, Cincinnati 45215.
Miami University, Office of the President, Oxford 45056.
Miami Valley Hospital, 1 Wyoming Street, Dayton 45409.
Mogul Corp., Chagrin Falls 44022.
Mount Sinai Hospital, University Circle, Cleveland 44106.
Muskingum College, New Concord 43762.
North American Science Association, Inc., 2261 Tracy Road, Northwood 43605.
Oberlin College, Oberlin 44704.
Ohio Department of Health, 1571 Perry Street, P.O. Box 2568, Columbus 43216.
Ohio Northern University, Ada 45810.
Ohio State University, 190 North Oval Drive, Columbus 43210.
Ohio University, Athens 45701.
Ohio Wesleyan University, Delaware 43015.
Otterbein College, Westerville 43081.
Proctor & Gamble Co., P.O. Box 39175, Cincinnati 45239.
Rhodia, Inc., Route 250, Ashland 44805.
Springborn Institute for Biological Research, 553 North Broadway Street, Spencerville 45887.
St. Elizabeth Hospital, 1044 Belmont Avenue, Youngstown 44512.
*St. Joseph's Hospital, West 20th Street and Broadway, Lorain 44052.
St. Luke's Hospital, 11311 Shaker Boulevard, Cleveland 44104.
St. Thomas Hospital of Akron, Ohio, 444 North Main Street, Akron 44310.
St. Vincent Charity Hospital, 2351 East 22nd Street, Cleveland 44115.
St. Vincent Hospital & Medical Center, 2213 Cherry Street, Toledo 43608.
University of Akron, Akron 44304.
University of Cincinnati, Clifton Avenue, Cincinnati 45221.
University of Dayton, College Park, Dayton 45469.
University of Toledo, 2801 West Bancroft Street, Toledo 43606.
Wittenberg University, Springfield 45501.
Wright State University, Col. Glenn Highway, Dayton 45431.
Xavier University, Victory Parkway, Cincinnati 45207.
Youngstown State University, 410 Wick Avenue, Youngstown 44503.

OKLAHOMA

Baptist Memorial Hospital, 5800 Northwest Grand Boulevard, Oklahoma City 73112.
Oklahoma College/Osteopathy Medical & Surgery, 1111 West 17th Street, Tulsa 74101.
Oklahoma Medical Research Foundation, 825 Northeast 13th Street, Oklahoma 73104.
Oklahoma State Department of Health, 3400 North Eastern, Oklahoma City 73105.
Oklahoma State University/Agriculture & Applied Science, Stillwater, 74074.
Oklahoma City University, 2501 North Blackwelder, Oklahoma 73106.
Southwestern State College, Weatherford 73096.
University of Oklahoma, 660 Parrington Oval, Norman 73069.

OREGON

Providence Medical Center, 700 Northeast 47th Avenue, Portland 97213.

PENNSYLVANIA

Albert Einstein Medical Center, York and Tabor Roads, Philadelphia 19141.
Allegheny Singer Research Corp., 320 East North Avenue, Pittsburgh 15212.
Allen Products Co., Inc., P.O. Box 2187, Rural Delivery No. 3, Allentown 18001.
Arco Medical Products Co., Route 66 and River Road, Leechburg 15656.
Biosearch, Inc., P.O. Box 8598, Philadelphia 19101.
Bryn Mawr College, Bryn Mawr 19010.
Bucknell University, Lewisburg 17837.
Buckshire Corp., 2025 Ridge Road, Perkasie 18944.
Burron Medical Laboratories, Inc., 824 Twelfth Avenue, Bethlehem 18018.
California State College, California 15419.
Cannon Laboratories, P.O. Box 3627, Reading 19605.
Carnegie-Mellon University, 4400 Fifth Avenue, Pittsburgh15213.
CDC Research, Inc., P.O. Box 359, Clarks Summit 18411.
Centre Square Veterinary Clinic, 1030 Dekalb Pike, Centre Square 19422.
Children's Hospital of Philadelphia, 1740 Bainbridge Street, Philadelphia 19146.
College Miseriocordia, Dallas 18612.
Connaught Laboratories, Inc., Swiftwater 18370.
Contributors to the Pennsylvania Hospital, 8th and Spruce Streets, Philadelphia 19107.
Coratomic, Inc., P.O. Box 434, Indiana 15701.
*D. Guthrie Foundation for Medical Research, 200 South Wilbur Avenue, Sayre 18840.
Dalmation Research Foundation, 720 Woodberry Road, New York 17403.
Drexel Institute of Technology, 32d and Chestnut Street, Philadelphia 19104.
Duquesne University, Pittsburgh 15219.
Eastern Pennsylvania Psychiatric Institution, Henry Avenue and Abbottsford, Philadelphia 19129.
Federated Medical Resources, Rural Delivery 2, Honey Brook 19344.
General Electric Co., Valley Forge Space Center, King of Prussia 19406.
Hahnemann Medical College and Hospital, 230 North Broad Street, Philadelphia 19102.
Hamot Medical Center, P.O. Box 339, Erie 16512.
Harcum Junior College, Morris and Montgomery Avenue, Bryn Mawr 19010.
Indiana University of Pennsylvania, Indiana 15701.
Institute for Cancer Research, 7701 Burholme Avenue, Philadelphia 19111.
Jefferson Medical College of Philadelphia, 1025 Walnut Street, Philadelphia 19107.
Lawall/Harrison Research Laboratories, Inc., 2505 Christian Street, Philadelphia 19146.
Lehigh University, Bethlehem 18015.
*Lincoln University, Lincoln University 19352.
*Lockhaven State College, Lock Haven 17745.
Lycoming College, Williamsport 17701.
M. B. Research Laboratories, Inc., P.O. Box 203, Spinnerstown 18968.
McNeil Laboratories, Inc., Camp Hill Road, Ft. Washington 19034.
Median School of Health Career, 12 Eight Street, Pittsburgh 15222.
Mercy Catholic Medical Center, Lansdowne Avenue, Darby 19023.
Moravian College, Main and Elizabeth Avenue, Bethlehem 18018.
N. L. Cappel Laboratories, Inc., Thud Ridge Farm, Cochranville 19330.
Pennsylvania College of Podiatric Medicine, 8th at Race Street, Philadelphia 19107.
Pennsylvania Department of Health, 2100 West Girard Avenue, Philadelphia 19130.
Pennsylvania State University, 207 Old Main, University Park 16802.
Pennwalt Corp., 3 Penn Center, Philadelphia 19102.
Penrose Research Laboratory, 34th Street and Girard Avenue, Philadelphia 19104.
Pharmachem Corp., 719 Stefko Boulevard, Bethlehem 18018.
Pharmakon Laboratories, 1140 Quincy Avenue, Scranton 18510.
Philadelphia College of Osteopedic Medicine, 48th and Spruce Streets, Philadelphia 19139.
Presbyterian-University of Pennsylvania, 51 North 39th Street, Philadelphia 19104.
Rachelwood Wildlife Preserve, Rural Delivery 1, New Florence 15944.
Rohm & Haas Co., Norristown and McKean Roads, Springhouse 19477.
Smith, Kline and French Laboratories, 1500 Spring Garden Street, Philadelphia 19101.
St. Vincent College, Latrobe 15650.
Susquehanna University, Selinsgrove 17870.
*Syndot Laboratories, 1075 New DeHaven Road, West Conshohocken 19428.
Temple University, Broad and Montgomery Streets, Philadelphia 19122.
University Health Center of Pittsburgh, Terrace and DeSoto Streets, Pittsburgh 15213.
University of Pennsylvania, 101 College Hall, Philadelphia 19104.
Western Pennsylvania Hospital, 4800 Friendship Avenue, Pittsburgh 15224.
Westinghouse, Corp., Beaulah Road, Pittsburgh 15235.
Whitmoyer Laboratories, Inc., 19 North Railroad Street, Myerstown 17067.
William H. Rorer, Inc., 500 Virginia Drive, Fort Washington 19034.
Wills Eye Hospital Research Institute, 1605 Brrandywine Street, Philadelphia 19130.
Wistar Institute, 36th and Spruce Streets, Philadelphia 19104.
Wyeth Laboratories, Inc., P.O. Box 8299, Philadelphia 19101.

RHODE ISLAND

Brown University, 79 Waterman Street, Brown Station, Providence 02912.
Curran, Alton J., M.D., 314 Angell Street, Providence 02906.
Memorial Hospital, Prospect Street, Pawtucket 02860.
Miriam Hospital, 164 Summit Avenue, Providence 02906.
Rhode Island College, Providence 02908.
Rhode Island Hospital, 593 Eddy Street, Providence 02903.
Roger Williams General Hospital, 825 Chalkstone Avenue, Providence 02908.
St. Joseph's Hospital, 200 High Service Avenue, North Providence 02904.
University of Rhode Island, Kingston 02881.

SOUTH CAROLINA

Clemson University, Clemson 29631.
Medical College of South Carolina, 80 Barre Street, Charleston 29401.
University of South Carolina, Columbia 29208.

SOUTH DAKOTA

South Dakota State University, Brookings 57006.
University of South Dakota, Vermillion 57069.

TENNESSEE

Baptist Memorial Hospital, 899 Madison Avenue, Memphis 38103.
Beecham Laboratories, 501 Fifth Street, Bristol 37620.
G. Peabody College for Teachers, Box 512, Nashville 37203.
Meharry Medical College, 1005 18th Avenue North, Nashville 37208.
Memphis State University, Memphis 38111.
Oak Ridge Associated Universities, P.O. Box 117, Oak Ridge 37830.
Plough, Inc., 3030 Jackson Avenue, Memphis 38112.
St. Jude Children's Resident Hospital, P.O. Box 318, Memphis 38101.
University of Tennessee, Knoxville 37916.
Vanderbilt University, Nashville 37203.

TEXAS

Alcon Laboratories, Inc., P.O. Box 1959, Fort Worth 76101.
Bandy Laboratories, P.O. Box 727, Temple 76501.
Baylor College of Dentistry, 800 Hall Street, Dallas 75235.
Baylor University, Waco 76703.
Baylor University College of Medicine, 1200 Moursund Avenue, Houston 77025.
Brownsville Animal Resident Center, 1810 Central Avenue, Brownsville 78520.
Carwile, D.V.M., H. F., Drawer 821, Montgomery 77356.
Cone, Jr., R. O., 523 East Court Street, Sequin 78155.
Dallas County Community College District, 701 Elm, Dallas 75202.
Franklin Laboratories, P.O. Box 669, Amarillo 79105.
Helena Laboratories, 1530 Lindbergh Drive, Beaumont 77704.
John H. Sheets, M.D., Association, P.O. Box 7016, Odessa 79760.
Methodist Hospital of Dallas, P.O. Box 5999, Dallas 75222.
Pan American University, Edinburg 78539.
Redden, Dr., David R., Box 5218 NT Station, Denton 76203.
Rice University, P.O. Box 1892, Houston 77001.
Scott and White Memorial Hospital, 2401 South 31st Street, Temple 76501.
Southern Methodist University, Dallas 75222.
Southwest Research Institute, 8500 Culebra Road, San Antonio 78206.
Southwest Texas State University, San Marcos 78666.
St. Joseph's Hospital, 1919 La Branch, Houston 77002.
St. Paul Hospital, 5909 Harry Hines, Dallas 75235.
Stillmeadow, Inc., 3223 Lacosta Drive, Missouri City 77459.
SW Foundation for Residents and Education, P.O. Box 2296-10000, West Commerce, San Antonio 78206.
Technology, Inc., 8531 North New Braunfels, San Antonio 78217.
Texas A & M University, College Station 77843.
Texas Christian University, Ft. Worth 76129.
Texas Eastern University, 3900 University Boulevard, Tyler 75701.

Texas Heart Institute, Houston 77002.
Texas Research Institute of Mental Sciences, 1300 Moursund, Houston 77025.
Texas State Technical Institute, James Connally Campus, Waco 76705.
Texas Technical University, Lubbock 79409.
Texas Woman's University, Box 23971,

University of Virginia, Charlottesville, 22903.
Virginia Polytechnic Institute, Blacksburg 24061.
Washington & Lee University, Lexington 24450.

Marshfield Clinic Foundation for Medical Research and Education, 630 South Central Avenue, Marshfield 54449.
Medical College of Wisconsin, 561 North 15th Street, Milwaukee 53233.
Milwaukee Children's Hospital, 1700 West Wisconsin Avenue, Milwaukee 53233.

FRIDAY, MARCH 10, 1978
PART IV

Texas Heart Institute, Houston 77002.
Texas Research Institute of Mental Sciences, 1300 Moursund, Houston 77025.
Texas State Technical Institute, James Connally Campus, Waco 76705.
Texas Technical University, Lubbock 79409.
Texas Woman's University, Box 23971, TWU Station, Denton 76204.
Trinity University, 715 Stadium Drive, San Antonio 78212.
Texas Technical University Health Science Center, P.O. Box 4569, Lubbock 79409.
University of Houston, 3801 Cullen Boulevard, Houston 77004.
University of Texas System, P.O. Box 7969, Austin 78712.
Wadley Institutes of Molecular Medicine, 9000 Harry Hines, Dallas 75235.
Zoecon Industries, Inc., 12200 Denton Drive, Dallas 75234.

UTAH

Brigham Young University, Provo 84601.
Intermountain Laboratories, P.O. Box 633, Salt Lake City 84110.
Latter-Day Saints Hospital, 325 8th Avenue, Salt Lake City 84103.
Primary Children's Hospital, 320 Twelfth Avenue, Salt Lake City 84103.
University of Utah, University Avenue at 2d Street, Salt Lake City 84112.
Utah State University, Logan 84321.
Weber State College, 3750 Harrison Boulevard, Ogden 84403.

VERMONT

Bennington College, Bennington 05201.
Castleton State College, Castleton 05735.
Lyndon State College, Lyndonville 05851.
Middlebury College, Middlebury 05753.
Putnam Memorial Hospital, Dewey Street, Bennington 05201.
University of Vermont and State Agricultural College, Burlington 05401.
Windham College, Putney 05346.

VIRGINIA

A. H. Robins Co., Inc., 1211 Sherwood Avenue, Richmond 23220.
Bionetics Research Laboratory, Inc., 101 West Jefferson Street, Falls Church 22046.
Blue Ridge Community College, P.O. Box 80, Weyers Cave 24486.
College of William & Mary, Williamsburg 23185.
George Mason University, 4400 University Drive, Fairfax 22030.
Glenn H. Shepard, M.D., Inc., 314 Main Street, Newport News 23601.
• Lynchburg College, Lynchburg 24504.
Medical College of Virginia, 12th and Broad Streets, Richmond 23219.
Meloy Laboratories, 6631 Iron Place, Springfield 22151.
Old Dominion University, P.O. Box 6173, Norfolk 23508.
Research Institute of Norfolk, 600 Gresham Drive, Norfolk 23507.
University of Virginia, Charlottesville, 22903.
Virginia Polytechnic Institute, Blacksburg 24061.
Washington & Lee University, Lexington 24450.

WASHINGTON

Bio Medical Research Laboratories, 1115 East Pike Street, Seattle 98122.
Eastern Washington State College, Cheney 99004.
Fort Stellacoom Community College, Box 99186, Tacoma 98499.
Hollister-Stier Laboratories, Box 3145, Terminal Annex, Spokane 99220.
Pacific Northwest Labs, P.O. Box 999, Richland 99352.
Pacific Northwest Research Foundation, 1102 Columbia Street, Seattle 98104.
Providence Hospital Research Center, 528 18th Avenue, Seattle 98166.
Puget Sound Blood Center, Terry at Madison, Seattle 98104.
Seattle-King County Health Department, 1303 Public Safety Building, Seattle 98104.
St. Joseph Hospital, Tacoma 98405.
Sweden Freezer Manufacturing Co., 3401 17th Avenue West, Seattle 98119.
University of Washington, Seattle 98101.
Virginia Mason Research Center, 1000 Seneca Street, Seattle 98101.
Washington State University, Pullman 99163.
Western Washington State College, Bellingham 98225.
Weyerhaeuser Co., P.O. Box 420, Centralia 98531.

WEST VIRGINIA

West Virginia University, Morgantown 26506.
West Virginia School of Osteopathy Medicine, 400 North Lee Street, Lewisburg 24901.

WISCONSIN

Adolf Gunderson Medical Foundation, 1836–1910 South Avenue, La Crosse 54601.
Altech Laboratories, Route 4, Syene Road, Madison 53711.
Appleton Memorial Hospital Association, 1818 North Meade Street, Appleton 54911.
Bellin Memorial Hospital, 744 South Webster Avenue, Green Bay 54301.
Beloit College, Beloit 53511.
Bjorksten Research Foundation, P.O. Box 775, Madison 53701.
Central Wisconsin Colony/Training School, 317 Knutson Drive, Madison 53704.
Endocrine Laboratories of Madison, Inc., P.O. Box 7546, Madison 53707.
Fromm Laboratories, Inc., Grafton 53024.
Marquette University, 615 North 11th Street, Milwaukee 53233.
Marshfield Clinic Foundation for Medical Research and Education, 630 South Central Avenue, Marshfield 54449.
Medical College of Wisconsin, 561 North 15th Street, Milwaukee 53233.
Milwaukee Children's Hospital, 1700 West Wisconsin Avenue, Milwaukee 53233.
Mount Sinai Hospital, 948 North 12th Street, Milwaukee 53233.
Regents of the University of Wisconsin, 750 University Avenue, Madison 53706.
S. C. Johnson & Son, Inc., 1525 Howe Street, Racine 53403.
St. Joseph's Hospital-Laboratory, 5000 West Chambers Street, Milwaukee 53210.
St. Luke's Research Foundation, Inc., 2900 West Oklahoma Avenue, Milwaukee 53215.
St. Norbert College, Depere 54115.
Vocational, Technical and Adult Education, 211 North Carroll Street, Madison 53703.
Warf Institute, Inc., 506 North Walnut Street, P.O. Box 2599, Madison 53701.
Wausau Hospitals, Inc., Maple Hill 54401.
Wisconsin Department of Agriculture, 801 West Badger Road, Madison 53713.

WYOMING

Casper College, 125 College Drive, Casper 82601.
Eastern Wyoming College, Torrington 82240.
Laramie County Community College, 1400 East College Drive, Cheyenne 82001.
University of Wyoming, Laramie 82070.

PUERTO RICO

Ex-Lax, Inc., Call Box 1020, Humacao 00661.
Institute of Health Labs, P.O. Box 10427, Caparra Heights Station, San Juan 00922.
Lilly Industries, Inc., P.O. Box 71325, San Juan 00936.
Omni Research, Inc., P.O. Box 1156, San German 00753.
San Anton Baxter Realty Corp., P.O. Box 678, Carolina 00630.
University of Puerto Rico, Rio Piedras 00931.

(Sec. 3, 80 Stat. 351, as amended (7 U.S.C. 2133).)

Done at Washington, D.C., this 1st day of March 1978.

The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

E. A. SCHILF,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc. 78-5862 Filed 3-9-78; 8:45 am]

federal register

FRIDAY, MARCH 10, 1978
PART IV

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

DESIGNATION AND FUNDING OF STATE HEALTH PLANNING AND DEVELOPMENT AGENCIES

Requirements

[4110-83]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 123—STATE HEALTH PLANNING AND DEVELOPMENT AGENCIES

Designation and Funding of State Health Planning and Development Agencies

AGENCY: Public Health Service, HEW.

ACTION: Final rule.

SUMMARY: This rule prescribes the requirements for designation of State health planning and development agencies, grants to State health planning and development agencies, and establishment and operation of Statewide Health Coordinating Councils.

EFFECTIVE DATE: March 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Harry P. Cain II, Ph. D., Center Building, Room 6-22, 3700 East-West Highway, Hyattsville, Md. 20782, telephone number 301-436-6850.

SUPPLEMENTARY INFORMATION: On March 19, 1976, a Notice of Proposed Rulemaking was published in the FEDERAL REGISTER (41 FR 11688) proposing to amend Title 42, Code of Federal Regulations, as follows:

1. To add to Part 122 thereof a new Subpart D, entitled "Procedures and Criteria for Review of New Institutional Health Services."

2. To add to Subchapter K thereof a new Part 123, entitled "State Health Planning and Development Agencies," and to add to such new Part 123 the following new subparts: Subpart A, entitled "Definitions;" Subpart B, entitled "Designation of State Health Planning and Development Agencies;" Subpart C, entitled "Grants to State Health Planning and Development Agencies;" Subpart D, entitled "Statewide Health Coordinating Councils" and subpart E, entitled "Certificate of Need and Review of New Institutional Health Services."

3. To revise Part 100 thereof, which as so revised would be entitled "Limitation on Federal Participation for Capital Expenditures."

The regulations under items 1 and 2 above were proposed as part of the Secretary's implementation of Title XV of the Public Health Service Act ("the Act"), added by Pub. L. 93-641. The revision of Part 100 is in part made necessary by Pub. L. 93-641, and in part results from the Secretary's experience in carrying out his responsibilities under section 1122 of the Social Security Act.

Interested persons were afforded the opportunity to participate in the rulemaking process by submitting written comments concerning the proposed regulations no later than May 3, 1976. More than 3,000 comments were received during the comment period.

Because of the large number of comments, and the complex issues raised therein, an extended period was needed to analyze the comments and make the modifications to the regulations considered appropriate by the Secretary. The Secretary determined, however, for the reasons set forth in the FEDERAL REGISTER of June 3, 1976 (41 FR 22524), that it was neither necessary nor wise to delay the implementation of Title XV as it related to the designation and funding of State Health Planning and Development Agencies (hereinafter "State Agencies") until such time as the comments received in response to the Notice of Proposed Rulemaking of March 19, 1976, could be analyzed. Therefore, on June 3, 1976, the Secretary issued interim regulations which constituted the legal and programmatic minimum requirements necessary under the statute to enable the Secretary to designate and fund State Agencies. Only Subparts A, B, C, and D of Part 123 were made effective in this manner.

The Department's analysis of the comments made pursuant to the proposed rulemaking on March 19, 1976, has now been completed. Those comments relating to Subpart D of Part 122 and Subpart E of Part 123 on certificate of need and review of new institutional health services have been considered by the Secretary in the adoption of the final regulations concerning these areas published in the FEDERAL REGISTER of January 21, 1977 (42 FR 4002-4032). Those comments received concerning Part 100—Limitation on Federal Participation for Capital Expenditure—will be considered when the Department publishes its final regulations on that program.

This Notice applies only to Subparts A, B, C, and D of Part 123. The preamble is a summary of the comments and recommendations relating to these subparts and the Secretary's conclusions in light of them, as well as a description of other changes made in the regulations which result from further Departmental consideration. In addition, a new Subpart F, entitled "Special Provisions for Certain States—Section 1536 of the Act" has been added. The discussion with respect to Subparts A, B, C, and D of Part 123 will have reference to the proposed rules issued on March 19, 1976, rather than to the interim rules issued on June 3, 1976. Where significant, however, differences between the interim and final regulations will be noted. The final rules set out below will supersede the June 3, 1976, interim regulations. While the Department had anticipated at the time of the publication of the interim regulations that it would require States to conform to these final regulations within 90 days of their publication, the Department's delay in promulgating these regulations together with the fact that most State Agencies will be applying for new designation agreements within the next few months makes that approach impractical. Therefore, these regulations will only apply with respect to designation agreements entered into after their publication.

For purposes of clarity the comments and changes have been grouped in accordance with the various subparts and sections of Part 123.

SUBPART A—DEFINITIONS

§ 123.1 DEFINITIONS

Numerous comments were received concerning the definitions in proposed Subpart A.

As a general matter, one comment included the suggestion that all Title XV definitions should be consolidated in one section to avoid the confusion currently arising from different definitions of the same term and to reduce the length of the proposed regulations. With respect to any confusion that might arise, it should be noted that the definitions of each term which is used in more than one subpart of the regulations implementing Title XV of the Act is for all substantive purposes identical. While it may be desirable to reduce the length of the regulations, consolidation of all definitions in one section has not been practicable due to the different publication dates for the various regulations already issued and to be issued by the Department in the future related to Title XV. Further, since some readers may have interest only in a particular Part or subpart of the regulations, it is desirable for ease of reference for the definitions to appear with each Part or subpart where the terms are used.

Of the comments received on the substance of the definitions included in Subpart A, the majority were concerned with the definition of the term "provider of health care" (§ 123.1(k)). Generally, it is noted that the definition of this term is statutory (section 1531(3) of the Act) and the Secretary has sought to add little to the definition. Because this term, with its categorization of direct and indirect providers, is statutory, the Secretary cannot, as was suggested by several commenters, merge the two categories or delete "indirect providers" from the definition of provider of health care.

Similarly, the Secretary cannot change the statutory language from "provider of health care" to "provider of health services" as was suggested by another commenter or respond by regulatory changes to the comments received that the definition of "indirect provider" was too broad, that the income requirements were too strict and would keep well-informed consumers from serving on governing bodies, or to the request that the limitation relating to immediate family be liberalized. Modification of statutory terms would require legislative action.

A number of commenters requested that the list of direct providers of health care in § 123.1(k)(1) be expanded to specifically include mental health professionals, as well as public health and environmental health specialists. The Secretary wishes to emphasize, as stated in the preamble to the final regulations for the designation and funding of health systems agencies (41 FR 12812, March 26, 1976), that the list of direct providers included in the statutory definition is not exhaustive of all individuals who would be classified as "direct providers of health care" in that their current primary activity is the provision of health care to individuals, and that individuals, such as providers of mental health, drug and alcohol abuse services, would be included. This was underscored by including the phrase "but not limited to" in § 123.1(k)(1) of the proposed regulation and such wording is retained in the final regulations. However, a change in the definition has been made to add optometrists to the listing in accordance with the statutory change made by section 902(a) of Pub. L. 94-484. With respect to the statutory listing of facilities and institutions in which health care is provided, the phrase "but not limited to," has been added to the definition to emphasize that the listing of types of facilities and institutions is similarly not intended to be an exhaustive list. However, the phrase "substance abuse treatment facilities" has been added to the list of facilities since this change has been mandated by Pub. L. 94-237. In addition, several minor revisions have been made to the definition of provider of health care to conform to the definition contained in the health systems agencies final regulation (42 CFR 112.1(o)).

One person suggested that the term "same household" should refer only to those individuals physically residing in the same household as the direct provider or, in the case of students not physically residing with the direct provider, to such individuals only if they are dependents of providers. The Secretary thinks that the word "reside" means physically reside, and that this definition is as restrictive as necessary to carry out the intent that individuals who have close family relationships with providers are classified as indirect providers. Accordingly, no revision has been made.

Lastly with respect to this definition, one commenter felt that the word "articles" used in the definition of indirect provider of health care, literally interpreted, could include anything manufactured, thereby extending the categorization of indirect provider to practically everyone. The commenter suggested that inserting the term "primary" would have the desired limiting effect. The Secretary believes that the term "articles," which was intended to cover such things as medical devices and equipment, is sufficiently limited by the reasonable application of the statutory phrase "for individuals or entities for use in the provision of or research into or instruction in the provision of health care" included in the proposed regulations, and therefore the suggested addition has not been made.

Although no revision in the proposed regulations was requested, a number of invividuals requested clarification of the effect of the definition of "provider of health care" in classifying a variety of individuals including county commissioners, members of advisory or policy boards and staffs of health systems agencies. The effect of this provision on particular individuals must be determined on a case by case basis. By way of general guidance, county commissioners and other public officials who exercise authority over the budgets of local health facilities through overall legislative or administrative responsibility for a health care institution or service are not "providers of health care" under the definition in § 123.1. However, any county commissioner or other public official who holds a fiduciary position with respect to an entity engaged in the provision of health care as defined under § 123.1(k)—that is, where the individual acts with respect to an institution in a manner analogous to an officer or a member of a board of directors (e.g., an individual who has responsibility for the policies and/or day-to-day operation of a health care institution)—would be considered a provider of health care. Further, while the decisions of the staff of a health systems agency may have a significant impact on the health care system, employment by a health systems agency does not in itself result in an individual's classification as a provider of health care under the statutory definition.

One commenter suggested that the State Agency Director should have the final authority to resolve each question of consumer/indirect provider status on an individual basis as it relates to health systems agency governing body nominations to the Statewide Health Coordinating Council (hereinafter the "SHCC"). The Secretary notes that it is the responsibility of the State to constitute its SHCC to conform to the mandated categories of the statute and that the State should in this regard exercise authority regarding the resolution of conflicts resulting from the application of the definition of provider of health care.

A commenter requested that a definition be added in § 123.1 of the term "health maintenance organization." The Secretary has added definitions for "health maintenance organization" and "health care facility" to § 123.1 as these two terms are now included in the final regulations at §123.104(b)(11). It is noted that these definitions are identical to the definitions of these terms in 42 CFR Part 123, Subpart E. One commenter suggested the inclusion of a definition of the term "minority" based on the view that one of the primary purposes of Pub. L. 93-641 is to improve the delivery of health services to the poor and minorities. The Secretary has not accepted this suggestion, even though he agrees with the need for more effective health planning for poor and minority populations, since this term is not used in the regulations or the statute.

SUBPART B—DESIGNATION OF STATE HEALTH PLANNING AND DEVELOPMENT AGENCIES

§ 123.101 PURPOSE AND SCOPE

Several comments were received regarding the purpose and scope of State Agency activities as set forth in this section. One commenter expressed concern that the performance by a State Agency of both the physical and mental health planning and development functions for the State limits the Governor's discretion to assign functions to other agencies of State government. While both the physical and mental health needs of the State must be addressed in accomplishing the health planning and development functions required by Pub. L. 93-641, the latitude to assign functions to other agencies of State government is left to the discretion of each State within statutory constraints imposed under section 1523(b)(1) of the Act.

One commenter recommended that a new subsection be added to this section to indicate that the language of this section does not prevent a State from developing a program of State health planning with additional functions or with modifications appropriate for individual State needs not inconsistent with Federal laws. The regulations in this Part do not preclude a State from taking on additional functions or performing functions not inconsistent with Federal statutes and regulations.

Accordingly, the Secretary does not think that any such statement needs to be made explicit, and the suggested addition has not been made. The Secretary wishes to point out, however, that the regulations reflects section 1521(b)(1)(B) of the Act, which states that the Secretary cannot enter into a designation agreement unless he has satisfactory assurance of the State with which the State Agency is likely to have relationships which must be addressed in its application.

One commenter questioned the requirement implicit in § 123.103(f) that unless the Governor has afforded to the general public of the State a reasonable opportunity for the presentation of views on the program. The Sec-

§ 123.104(b)(1)

One commenter recommended that this section be modified to require that the State administrative program

should apply only to the Federal portion of the State Agency's budget. These comments have been rejected. The Secretary must know the total operating costs of the State Agency (as

Accordingly, the Secretary does not think that any such statement needs to be made explicit, and the suggested addition has not been made. The Secretary wishes to point out, however, that although the statute and regulations do not preclude a State Agency from performing additional functions other than those prescribed, they do preclude the use of section 1525 grant funds for the performance of the other functions.

One commenter recommended that the term "mental health planning" be changed to "behavioral health planning." The Secretary does not believe that the suggested change improves or provides further clarification to the language already in the regulations, and no change has been made.

§ 123.103 CONTENTS OF APPLICATIONS

There were numerous comments received regarding the contents of an application for designation.

One comment suggested that the application for designation of a State Agency should have appended to it the endorsements of providers in the State. The Secretary believes that a reasonable opportunity will be afforded providers and other interested parties in the State to make their comments known on the acceptability of the State administrative program through the requirement for a public meeting under § 123.104 of the regulations and the requirement that a summary of the comments made at the meeting be appended to the application. Accordingly, no specific requirement for the endorsement of providers has been included.

Several commenters recommended that § 123.103 be amended to require that the State Agency application address the relationship of the State Agency to the health systems agencies in the State, specifically, with regard to the coordination of their planning activities. It is the Secretary's view that such an amendment is unnecessary. Under § 123.103(a) the application must contain a State administrative program. This program, in describing how the State Agency will perform its functions, must reflect the State Agency's interfaces with health systems agencies on matters requiring both State Agency and health systems agency action; e.g., the development of a preliminary State health plan and the review of new institutional health services. The proposed amendment has therefore not been made.

One commenter felt that the requirement of § 123.103(c) that a State provide assurances satisfactory to the Secretary that the State Agency selected by the Governor has the authority to administer the State administrative program can be interpreted as dictating the precise content of State enabling legislation. This section of the regulations reflects section 1521(b)(1)(B) of the Act, which states that the Secretary cannot enter into a designation agreement unless he has satisfactory assurance of the State Agency's authority to carry out the State administrative program. It is not the Secretary's intent to interpret this language as authorizing him to dictate the precise content of State authorizing legislation, but only that the State Agency must have the authority to perform the functions required under the Act and this Part. Therefore, the Secretary does not think any change in the regulation is necessary, and none has been made. Finally, § 123.103(d) has been revised to clarify that an application for full designation will not be approvable unless it contains a description of the manner in which the SHCC that has been established for the State is functioning. In the Secretary's view, a SHCC is not established until its members have been appointed in accordance with the requirements of section 1524 of the Act and Subpart D of Part 123.

Several commenters suggested deletion of the requirement in proposed § 123.103(e) that the application contain a description of the existing State planning system, and that only a description of the way in which the State Agency proposes to perform its planning functions under Pub. L. 93-641 should be required. The Secretary thinks that these comments are well taken since his primary concern at the outset of the planning process is with the proposed plans of the new State Agency, not with an account of the State's experience in the health planning area. Accordingly, the requirement has been modified to require only a description of the "proposed" health planning and development activities of the State.

Several commenters suggested that § 123.103(e) be amended to require that the application not only include a description of how the State Agency will relate to State health manpower activities but also how it will relate to other key health activities of the State such as Medicaid, establishment of professional and institutional licensure standards, health insurance regulations, and the activities of those agencies responsible "for health care and preventive health including health education, nutrition and disease prevention." The Secretary agrees that the issue is important but believes that the language of the regulation as proposed includes these agencies under the phrase "other agencies of State government responsible for health programs of the State," and the suggested revisions have not been made. The list of examples of such agencies in the regulation is not intended to be exhaustive but is included to highlight some of the agencies with which the State Agency is likely to have relationships which must be addressed in its application.

One commenter questioned the requirement implicit in § 123.103(f) that the State Agency must administer the State medical facilities plan if it intends to participate in the program authorized by Title XVI of the Public Health Service Act. The comment states that this should be a function which may be performed under § 123.107 by an agency of the State other than the State Agency. This suggestion has been rejected as inconsistent with the statute. Specifically, in contrast to section 1523(b)(1), which permits the performance of a State Agency function described in section 1523(a) by another agency of the State, the statute contains no provision permitting delegation of the State Agency's responsibility under section 1603(a)(1) to "administer or supervise the administration of the State medical facilities plan." Accordingly, the Secretary has concluded that he has no legal authority to permit such a delegation. However, for purposes of clarity, § 123.103(f) and § 123.206 have been revised to repeat the language of section 1603(a)(1) by the addition of the words "or supervise the administration of such plan," which did not appear in either the proposed or interim regulations.

§ 123.104 STATE ADMINISTRATIVE PROGRAM

A large number of comments were received requesting clarification and more specificity on the requirements of the State administrative program. These have been summarized according to paragraphs of the section.

§ 123.104(a)(3)

Several comments suggested deletion of the requirements for a public meeting on the State administrative program and/or for publication of a newspaper notice prior to the meeting. The commenters observed that most States have established procedures for the publication of policy decisions and public meetings, including giving public notice of such meetings. Another commenter requested that if the requirement for public notice is retained, it should be modified by permitting notice by other than newspaper or by removing the prohibition on use of legal notice or classified advertisements. One commenter suggested that copies of the State administrative program should be duplicated by the State Agency and provided to the public upon request rather than only made available to members of the public for inspection and copying at their own expense.

Section 1522(a) of the Act provides that the Secretary may not approve the State administrative program

unless the Governor has afforded to the general public of the State a reasonable opportunity for the presentation of views on the program. The Secretary concluded that the requirements in the proposed regulations for public notice and a public meeting are both realistic and necessary to accomplishing the statutory purpose of public participation in the planning process and the requirement has been retained. It should be noted that the interim regulations for the designation of State Agencies did not contain this requirement. With respect to the comment that the State Agency should be required to make copies of the State administrative program available upon request rather than only making it available to the public for inspection and copying at their own expense, it is the Secretary's view that such additional requirement, with the attendant financial expense to State Agencies, is not necessary in order to comply with the statutory requirement that the public be given a reasonable opportunity for the presentation of its views. The requested change has therefore not been made.

In order to ensure the adequacy of public notices, the Secretary has retained the requirements that notices, at a minimum, must contain the time, place and purpose of the meeting and the requirement that notice be given at least two weeks prior to the meeting on the State Program. The requirements as to the method for making the notice public and the prohibition on publication of the notice in certain sections of the newspaper have been removed from the final regulation, since the Secretary agrees that it is unnecessary to dictate the exact manner in which the notice to the public must be given.

One commenter noted that where SHCCs and State Agencies are responsible for notifying the public concerning their activities they should be required to notify each racial and national origin minority group within the State in the language used by the group. The same commenter suggested that all State Agency procedures and criteria as well as the State health plan and other documents be translated, printed, and copies made available to those racial/national origin minority groups.

The Secretary has declined to accept this suggestion, thereby leaving it up to the State Agencies and SHCCs to decide the best methods for giving public notice to the population of the State. The Secretary has concluded that the States are in the best position to select methods to provide notification and information to their populations.

§ 123.104(b)(1)

One commenter recommended that this section be modified to require that the State administrative program include a requirement that the State Agency promote the overall goal of improving health status and emphasize the priorities of prevention and health education. The requirements for an approvable State administrative program are contained in section 1522(b) of the Act and the Secretary has no authority to add additional requirements by regulation. Moreover, it is through the development of the preliminary State health plan and consideration of the Statewide health needs as well as in the implementation of those parts of the final State health plan which relate to the government of the State that the concerns expressed by the commenter must be addressed.

Another comment on this provision maintained that State Agency functions should be performed by a citizen's commission or board composed of consumer and provider representatives. This option is available to a Governor provided that such a commission is an agency of State government whose designation is in conformance with the provisions of the statute and the regulations.

Another commenter requested clarification that the State Agency is solely responsible for management of the State administrative program. Proposed § 123.104(a) clearly states that the State administrative program is the program for the performance within the State by the State Agency of the functions described in section 1523 of the Act and, therefore, the Secretary has rejected the comment.

§ 123.104(b)(2)

Two commenters urged deletion of the requirement that States submit copies of applicable State laws, regulations, and Executive Orders and descriptions of State organizational systems as supporting evidence of the State Agency's authority to carry out its functions. The Secretary agrees that submission of such evidence may involve a massive volume of supporting documents and that a statement that such authority exists, provided by the Governor, together with citations to the appropriate authorities will fulfill the statutory requirements. Section 123.104(b)(2) has been revised accordingly. This provision is consistent with the language in the interim regulations, but with the additional requirement that citations of authorities be included.

§ 123.104(b)(3)

Two commenters pointed out that the requirement for a complete budget for the operation of the State Agency should apply only to the Federal portion of the State Agency's budget. These comments have been rejected. The Secretary must know the total operating costs of the State Agency (as well as any agency designated to perform functions under section 1523(b)(1)) in performing its functions under its designation agreement and in administering the State medical facilities plan to enable the Secretary to comply with the requirement under section 1525 of the Act that the Federal grant under that section not exceed 75 percent of the total operating costs of the State Agency, as determined under regulations of the Secretary. (See § 123.204.)

§ 123.104(b)(4)

One commenter objected to the requirement that the State Agency demonstrate that authority exists for the SHCC by including in its application copies of existing or proposed State laws, regulations, or Executive Orders providing such authority. The Secretary agrees that the submission of copies of the actual enabling documents is unnecessarily burdensome and that the requirement of section 1522(b)(3) that the State administrative program provide for authority for the SHCC could be met by submission of a statement by the Governor that such authority exists together with citations of the appropriate authorities. Section 123.104(b)(4)(ii) has been revised accordingly.

One commenter cited the need for a definition of "adequate consultation" with the SHCC. Another commenter suggested clarification as follows: "provide for adequate consultation with the SHCC for review of the State Program." Under section 1522(b)(3) the State administrative program must provide for adequate consultation with the SHCC on all the functions required by section 1523 of the Act. This is an area where the Secretary thinks States can best develop flexible arrangements responsive to their own needs and, therefore, further regulation is unnecessary. However, the nature and scope of such consultation may be affected by the SHCC's organizational structure and relationships to the Governor and State Agency. Therefore, the requirement for a description of these matters, contained in § 123.305 of the proposed rulemaking, has been included in § 123.104(b)(4) of the final regulation. If the Secretary determines after experience and consultation with the State Agencies and SHCCs that the meaning of "adequate consultation" requires further clarification, the issuance of guidelines or additional regulations will be considered.

§ 123.104(b)(5)

Numerous comments were received concerning this section of the pro-

posed regulations. Several commenters suggested that this section be revised to delete the requirements that the staff be "in adequate numbers" and "at adequate compensation" on the grounds that the Secretary should not interfere in the internal structure of the State Agency and that this is better left to each Governor. Under section 1521(b)(1)(B) of the Act the Secretary may not designate a State Agency unless the Secretary has satisfactory assurance that the agency (in addition to other requirements) has the resources to administer the State administrative program and to carry out the health planning and development functions prescribed by section 1523 of the Act. In the Secretary's view, part of this determination must be an evaluation that the staff of the proposed agency, whether their salaries are paid for out of Federal or other funds, is adequate to perform the functions in a responsible manner. Therefore, the Secretary has decided to retain the language of this section as proposed. In recognition of the variety of organizational structures and methods of management which States may wish to use, however, the Secretary does not intend to prescribe specific sizes or qualifications for State Agency staff. The Secretary intends instead to review each State administrative program to determine whether the proposed staffing is adequate in terms of the proposed health planning and resources development efforts of that State. This review will be conducted in consultation with appropriate State officials.

Several commenters requested clarification of the requirement that the State Agency have a professional staff for planning and a professional staff for development. This requirement comes directly from the statute (section 1522(b)(4)(A)). While the intent of Congress is clear that there be totally separate staffs for planning and development, the categorization of the Title XV functions which a State Agency must perform as either discrete planning or development activities is a difficult distinction to make. The Secretary does not intend to mandate which section 1523 functions are to be assigned to a particular staff within the State Agency but by way of guidance suggests that activities which generally are considered to be planning in nature include the development of the preliminary State health plan and the State medical facilities plan; the establishment of standards and criteria for certificate of need and project reviews; review and comment on other State health plans and regulations for consistency with the activities of the State Agency and the State health plan; data acquisition and analysis; the provision of staff support and training to the SHCC; and technical assistance to health systems agencies. Activities which are considered to be developmental in nature include the preparation of Statewide strategies for plan implementation and the monitoring of these efforts; the development of agreements with other State agencies and private consumer and provider organizations to facilitate plan implementation; and research on service delivery. While not a Title XV function, the administration of the State medical facilities plan for the development of facilities within the State under Title XVI of the Act would also be considered a developmental activity. It should be emphasized that this is not intended to represent a comprehensive listing or categorization of State Agency functions.

One commenter recommended that this section be amended to require that the State Agency recruit and hire professional and nonprofessional minority personnel in numbers proportionate to the minority group's population representation in the State. In all Department programs providing Federal financial assistance, the recipient of such assistance, in this case State Agencies, must comply with the provisions of Title VI of the Civil Rights Act of 1964 (§ 123.207 of the final regulations). The Secretary believes this provision adequately addresses the commenter's concern.

§ 123.104(b)(6)

Two commenters requested clarification as to whether the merit system only applies to persons employed by the designated State Agency carrying out the State Program or whether it also applies to such entities as an independent commission (when established as an agency of State government) to which the Governor may wish to delegate certain functions. It is the Secretary's view that all staff, whether employees of the State Agency or employees of another agency of the State, performing a State Agency function under section 1523 of the Act must be subject to merit system requirements unless exempted from merit system coverage by 45 CFR Part 70. 45 CFR Part 70 requires that all personnel engaged in the administration of Federally aided programs, irrespective of the source of funds for their individual salaries, must be covered by personnel standards established on a merit basis. Exceptions may be made for certain positions under criteria set forth in 45 CFR Part 70.

The U.S. Civil Service Commission suggested changes to ensure consistency between the language of this section and the language used to apply merit system requirements in other Federal regulations. This included revision of the proposed section to permit States to provide citations to the appropriate merit system references in the State administrative program rather than requiring the actual submission of copies of the materials which provide the appropriate documentation. The Department has revised the section as suggested by the Commission. While the interim regulations deleted the requirement for submission of copies of supporting documentation, the final regulations require States to provide citations to achieve the consistency explained above.

Another commenter expressed concern that a literal interpretation of this section's language could extend its application to anyone with a degree of responsibility for the State administrative program, including the Governor or members of the State legislature. With regard to this comment, it is noted that State merit systems exclude publicly elected officials.

§ 123.104(b)(7)

One commenter recommended the addition of the phrase "applicable State law, not inconsistent with Federal law" to the language already in the section relating to the requirement that the State Agency follow procedures and criteria meeting the requirements of section 1532 of the Act. As previously indicated with respect to the scope of Part 123, the requirements of this Part do not preclude a State from performing its responsibilities in a manner appropriate under its State law not inconsistent with Federal statutes and regulations. The Secretary does not think it necessary to include such a statement in the regulations.

§ 123.104(b)(8)

Section 123.104(b)(8) provides that the State administrative program must require the State Agency to conduct its business meetings in public. The proposed regulations merely repeated the statutory language and did not define the term "business meetings." Public comment on the proposed regulations and the department's operational experience have indicated the need for further definition of this statutory term. Accordingly, § 123.104(b)(8) has been revised to provide that a "business meeting" means in the case of a State Agency headed by a collegial body, any meeting of the body heading the State Agency to carry out its responsibilities and functions under the Act. With respect to State Agencies under the direction of a single individual with the assistance of staff, the term "business meeting" is limited by these regulations to meetings between the State Agency director and outside parties in the course of a State Agency review. Frequent and informal meetings between such State Agency head and personnel under his or her direction for the purpose of assisting in carrying out the director's duties are not "business meetings" within the scope of this regulation. To broaden the scope of "business meetings" to include meetings of the latter type would, in the Department's view, seriously and unnecessarily hamper the efficient operation of the State Agency. It is the Department's view that the provision of the regulation discussed above, coupled with the public's opportunity to observe and participate in State Agency reviews through the procedures provided for in section 1532 of the Act, amply meet the Congressional purpose of assuring that the business of the agency will be conducted in public.

§ 123.104(b)(9)

A number of comments were received regarding the requirement in the regulations that the State Agency adopt a policy for making its records and data available to the general public. The main thrust of those comments was that care should be taken to avoid placing an unreasonable burden on agencies in making records available for copying. The issues raised by these comments are dealt with in the discussion of § 123.109, "Access of the public to State Agency records and data." Another commenter suggested that the word "aggregate" be inserted before the word "data" to ensure protection of the confidentiality of the data made available to the public. Section 1522(b)(7) of the Act provides that the State administrative program must require that the State Agency make its records and data available upon request. The issues relating to the public's right and need to know as opposed to selected protection of data were debated by the Congress in its consideration of Pub. L. 93-641. While the House bill included a provision which would have allowed the Secretary, by regulation, to establish certain classes of information that could be held confidential, the Congress concluded that this authority should not be given the Secretary (H.R. Rep. No 93-1640, 68 (1974)). The apparent basis for this decision was that to ensure an open planning process the public should have access to the same information and records as are available to the health planning agencies in making policy and program decisions. In light of this explicit legislative history and the language of the statute, the Secretary has concluded that the suggestion must be rejected. It might be noted, however, that nothing in the Act or regulations requires agencies to obtain information beyond that necessary for the performance of their functions. Thus, to the extent that data identifiable to individuals or particular institutions is not necessary, agencies need not collect it.

One comment suggested that the regulations contain a provision for sanctions if the State Agency fails to implement a policy for making its data available. Additional language to this effect is not considered necessary by the Secretary. Where a State Agency does not comply with or effectively carry out the provisions of its designation agreement, such as implementing a policy for making data available, § 123.108 provides that the Secretary may terminate the designation agreement with that State's Governor.

§ 123.104(b)(10)

One commenter stated that the requirement contained in § 123.104 (b)(10) that the State Agency enter into a written agreement with each agency or organization in the State which has an agreement with the Secretary to participate in the Cooperative Health Statistics System (hereinafter "CHSS") under section 306(e) assumes significantly wider implementation of section 306(e) of the Public Health Service Act than is the case. The commenter was concerned that States which do not have such agreements or who have agreements which cover only one or two subject areas (for example, vital statistics, manpower facilities) would not have available to it the data needed for health planning. The commenter requested that States be afforded greater discretion in implementing their responsibility for data coordination. The Secretary is aware that the number of operational components of the CHSS varies among States. However, under the requirement of § 123.104(b)(10) State Agencies must enter into agreements with those agencies for which a component is presently established and additional agreements must be made as the remaining components become part of the CHSS under section 306(e) agreements with the Secretary. For those agencies for which agreements do not yet exist and for those subject areas for which there are not CHSS components, States may adopt a wide range of approaches to acquire the data necessary for the performance of their activities. It is expected that the State Agency will make such data available to health systems agencies on a timely basis.

One commenter suggested that the State Agency application contain the name of each agency or organization in the State which has entered into a section 306(e) agreement with the Secretary. The regulations require that the State Agency application describe the relationships between the State Agency and other agencies of State government responsible for health programs, which should include those agencies of State government involved in CHSS as well as other key sources of information. The suggested change is therefore unnecessary and has not been made.

One commenter noted that the requirement for making data available to health systems agencies will necessitate the allocation of additional funds to the National Center for Health Statistics to enable it to contract with the State for CHSS data components not presently funded. While the Department is accelerating its investment in the CHSS and increasing the amount of technical assistance in the areas of data analysis and use to improve the utilization of existing systems for data collection and survey data, the Secretary recognizes that some planning data will not be available to State Agencies, and consequently to health systems agencies, for some time. Further guidance in devising improved methods for tapping existing data systems and developing multipurpose sources for information, in concert with other users, will be provided in guidelines and technical assistance material.

§ 123.104(b)(11)

A large number of comments were received concerning the provisions contained in this section. Many commenters recommended that a guarantee of confidentiality should be required concerning patient and hospital records. As discussed above with respect to § 123.104(b)(9), further adoption of confidentiality restraints by the Secretary would be unauthorized.

One commenter wanted to know how the provisions of this section relate to the Privacy Act regulations. Since the Privacy Act covers only Federal agencies and contractors which operate records systems on behalf of Federal agencies to accomplish a Federal function, the Privacy Act and its implementing regulations are not relevant to State functions under Pub. L. 93-641.

Further reactions to this section fall into two general categories: concern about the open-endedness of the statement that the State administrative program must require providers to make such reports as the Secretary may from time to time require; and concern over the absence of any penalties for failure to provide such reports. State Agencies were especially concerned about being held accountable for requiring such reports without having any way to enforce the requirements.

The Secretary recognizes and appreciates the concerns expressed about the open-endedness issue. Accordingly, the phrase "or as the Secretary may from time to time prescribe" has been omitted in the final regulations. The Secretary does not intend at this time to mandate or specify further the manner in which this function is to be performed. It is recognized that this is

an area where States should be afforded some latitude in identifying their data requirements and in developing the system necessary for collection of data. With respect to penalties, while neither the statute nor the regulations

by providers. For example, if an agency requested that data routinely collected by a provider be aggregated or crosstabulated in a different manner, the agency might want to consider sharing or completely sup-

expenditures, liabilities and revenues incurred by the institution in the aggregate and by cost centers.

§ 123.104(b)(12)

Several commenters requested delin-

Several commenters noted that there may be a conflict between the requirement that an appeal mechanism be "consistent with State law governing practices and procedures of administrative agencies" and the recommendation. The Secretary has not accepted either of these suggestions since the Secretary has no authority to add additional provisions by regulation to the statutory requirements for an approvable State administrative

§ 123.105(b), a conditionally designated State Agency is required to perform such section 1523 health planning and development functions as the Secretary determines it capable of perform-

an area where States should be afforded some latitude in identifying their data requirements and in developing the system necessary for collection of data. With respect to penalties, while neither the statute nor the regulations require the imposition of specific penalties for failure of providers to provide reports required by the State Agency, it should be noted that the State administrative program must effectively provide for the requiring of reports, and States are certainly not precluded from imposing penalties upon providers as one means of effectively requiring reports.

Commenters also suggested that the State Agency be required to justify requesting such data from providers and indicate the relevance of the reports and data requested. Requirements of this type could be imposed on the State Agencies by individual States if they so desire. The Secretary has determined that in the absence of any substantial evidence that regulation is needed, no Federal requirements will be added at this time. However, it is the intention of the Department, through the publication of guidelines on data acquisition, to encourage State Agencies to use to the extent feasible data already being collected by existing sources.

Clarification was requested regarding which party, State Agency, health systems agency, or provider, is to bear the financial responsibility for data acquisition and maintenance. The statute is silent on this matter, and in general the Secretary would encourage States to work out cost sharing arrangements which are equitable to all involved parties and take into account varying local circumstances. In the Secretary's view it is reasonable to expect that the costs associated with the acquisition of data by the State Agency on behalf of both the State Agency and health systems agencies should be shared in a fair manner by all of the involved planning agencies. However, health systems agencies should not be expected to bear the burden of paying for data which are already needed to meet other State responsibilities and are not acquired solely for health planning activities, such as licensure and renewal information. Planning agencies may need selected data from State or other administrative data systems, and additional costs associated with producing the data in a form useful for planning purposes would be considered allowable costs for health systems agencies and State Agencies to share.

With regard to the costs incurred by providers in making reports to State Agencies, agencies may want to consider reimbursement for extra costs associated with special requests for data or studies which are not routinely or periodically stored, compiled or reported by providers. For example, if an agency requested that data routinely collected by a provider be aggregated or crosstabulated in a different manner, the agency might want to consider sharing or completely supporting the costs associated with the request.

Several commenters requested clarification as to the scope of the requirement in § 123.104(b)(11) that the State administrative program must require "providers of health care doing business in the State" to make reports to the State Agency, and were of the opinion that this provision should apply only to health care facilities and health maintenance organizations and not to indirect providers. While section 1531(3) of the Act contains a definition of the term "provider of health care," this definition relates only to individuals while the thrust of State Agency activities under section 1523 relates to institutional providers. To utilize the satutory definition then would in the Secretary's view not only be anomolous but would fail to further the obvious Congressional intent in having State Agencies gather data necessary to their health planning decisions. At the same time, however, the Secretary does not want to unduly constrain State Agencies in obtaining data needed for the performance of its functions under title XV. Accordingly, the final regulations require pertinent reports from, at a minimum, health care facilities and health maintenance organizations. In order to maintain consistency between this reporting requirement and the section 1523 functions being performed by the State Agency, the definition of "health care facility" and "health maintenance organization" is that utilized for certificate of need and review of new institutional health services (42 CFR Part 123 Subpart E). While the Secretary does not intend by regulation to specify further what is to be reported and at what intervals, the following information, provided by way of guidance, should be considered by States as appropriate: The type of control or ownership and size of the institution (e.g., beds by the several modes of counting); the type and capacity of services provided by the institution; the geographic location of the institution; the geographical origins of the patients; the number of patient days (e.g., total and by service for selected diagnostic groups and selected surgical operations and procedures); the number and type of patient admissions/discharges (e.g., total and by service for selected diagnostic groups and selected surgical operations and procedures); the number and type of outpatient visits; the operation of post graduate physician training programs, including fellowships and residencies; the costs of and charges for services offered; the expenditures, liabilities and revenues incurred by the institution in the aggregate and by cost centers.

§ 123.104(b)(12)

Several commenters requested delineation of the requirement concerning evaluation of "economic effectiveness" on the ground that this kind of evaluation is very difficult. Two other commenters requested a definition of the term "economic effectiveness" and one recommended development of guidelines for assessing "economic effectiveness." It is noted that this section repeats the statutory requirement (section 1522(b)(8)) that a State administrative program provide for an evaluation by the State Agency of the performance of its functions and of their economic effectiveness. This evaluation will require each State Agency to assess the effectiveness of the functions it performs, such as certificate of need, review of new institutional health services, and the review of all institutional health services being offered in the State respecting their appropriateness. While the Secretary is aware that there will be considerable varience in the expertise and capability of States to perform this evaluation during conditional designation, States must begin to establish their methodology for this activity and begin to collect appropriate data, in terms of supply, utilization, and cost data, necessary to fulfill this responsibility. The initiation of such activities should eventually assist the State Agency in evaluating the performance of its functions in terms of restraining increases in the costs of health care. With regard to the comment that the Secretary develop guidelines for the performance of this evaluation, the Secretary intends to compile the various models adopted by States, as described in their State administrative programs, as a way of identifying the various approaches used by States to assess their economic effectiveness.

§ 123.104(b)(17)

Numerous comments expressed concern about the requirement that the State administrative program must provide for an appeal, consistent with State law governing the practices and procedures of administrative agencies, to an agency of State government (other than the State Agency) of certain State Agency decisions. The appeal mechanism would be available where the health systems agency requests a review of a State Agency decision concerning the State medical facilities plan, section 1122, certificate of need, review of new institutional health services, periodic review for appropriateness, or title XVI of the Act which is inconsistent with the health systems agency recommendation made under section 1513 (f), (g), or (h) of the Act.

Several commenters noted that there may be a conflict between the requirement that an appeal mechanism be "consistent with State law governing practices and procedures of administrative agencies" and the requirement that the review be conducted "by an agency of the State (other than the State health planning and development agency)." Other commenters requested that the latter requirement be deleted altogether. The requirement that the appeal agency must be an agency of the State other than the State health planning and development agency is statutory (section 1522(b)(13) of the Act) and cannot be deleted by regulation. A mechanism for review which provides an appeal to the State Agency will not meet the statutory requirements even though the procedures may be consistent with State law governing the practices and procedures of administrative agencies.

It is noted, however, that if a section 1523 function is performed by another agency of State government pursuant to section 1523(b)(1) of the Act, the appeal agency would have to be an agency other than the agency performing the section 1523 function. In these situations the State Agency itself, however, could be designated to serve as the appeal agency with respect to the function which is being performed by another agency of State government.

One commenter requested confirmation that State courts could serve as the appeal agency when State law provides this role for the courts. It is the opinion of the Secretary that State courts may serve in this role when such a designation has been made by the Governor and is consistent with State law governing the practices and procedures of administrative agencies.

One commenter requested clarification as to whether the SHCC may serve as the appeal body for certificate of need decisions. The designation of the SHCC as the appeal body for certificate of need as well as for the other decisions for which an appeal is provided under section 1522(b)(13) of the Act is considered unacceptable by the Secretary as it would be inconsistent with the SHCC's role of advising the State Agency on the performance of its functions. The regulations have been revised to include this prohibition.

Several comments were received which requested that this section be broadened to allow a health systems agency to appeal any inconsistency between its recommendations and State Agency decisions, while another commenter suggested that providers as well as health systems agencies be afforded the right to appeal a decision of the State Agency which is inconsistent with a health systems agency recommendation. The Secretary has not accepted either of these suggestions since the Secretary has no authority to add additional provisions by regulation to the statutory requirements for an approvable State administrative program. It should be noted, however, that an opportunity for providers to appeal adverse State Agency decisions on certificate of need or review or new institutional health services is provided in § 123.407(a)(10).

Another commenter recommended that this section be revised to exclude from membership on the appeal body any individual currently serving with a health systems agency or State Agency to avoid a conflict of interest. The statute requires only that the appeal agency be an agency of State government other than the State Agency and that the appeal mechanism be consistent with State Law governing the practices and procedures of administrative agencies. To the extent that a specific State's law deals with the issue of conflict of interest such practices would be followed with respect to appeals from State Agency decisions. However, the Secretary has no authority to require that any additional procedures for such appeal mechanism be part of the required State administrative program. The suggestion, therefore, cannot be accepted.

Although not directed at the appeal mechanism itself, one commenter recommended that the State Agency be permitted to overrule a health systems agency recommendation only if it has been demonstrated that the health systems agency has acted arbitrarily, capriciously, and without any substantial evidence in making its recommendation. While the Secretary has no authority to restructure by regulation the statutorily assigned roles and responsibilities of the health systems agencies and State Agency in the manner suggested by the commenter, it is noted that 42 CFR part 123, subpart E, of the regulations governing review procedures and criteria prescribed under section 1532 of the Act, requires that the State Agency give consideration to the recommendations of the health systems agencies. For example, one of the criteria the State Agency must address is the relationship of the project to the health systems plan of the health service area. When a State Agency makes a decision not in accord with the health systems plan, it must give a detailed written statement of the reason for its decision to the health systems agency.

§ 123.105 CONDITIONAL DESIGNATION AGREEMENTS

Numerous comments were received regarding the responsibility of a conditionally designated State Agency for the performance of statutorily mandated review functions. Under § 123.105(b), a conditionally designated State Agency is required to perform such section 1523 health planning and development functions as the Secretary determines it capable of performing, but must perform the functions related to conducting the health planning activities of the State, preparing the preliminary State health plan, reviewing the need for new institutional health services, and, immediately upon the establishment of the SHCC, assist it in the review of the State medical facilities plan and in the performance of its functions generally. One commenter recommended that a conditionally designated State Agency be prohibited from reviewing the appropriateness of existing health services. The Secretary sees no reason to impose such a restriction on the State Agencies. While the review of the appropriateness of existing health services is not one of the minimum functions required of a conditionally designated State Agency, a State Agency is not precluded from performing such a review if in the judgment of the Secretary it is capable of performing this added function.

The Secretary has carefully considered suggestions concerning which functions should be performed by conditionally designated agencies and at what time, and has concluded that requiring performance of the minimum cluster of functions included in the proposed regulations is necessary in order to ensure that agencies concentrate their initial efforts on plan development. The Secretary recognizes that it may seem somewhat inconsistent with this approach to require that the State Agency undertake its responsibilities regarding new institutional health services, perhaps before a State health plan has been developed. However, as noted in the legislative history of the statutory provision requiring these reviews (H.R. Report No. 93-1382, September 26, 1974, p. 79), it was the Congress' intent that, in order "to emphasize that the review of new institutional health services is not simply a regulatory activity but also a planning activity," the States should undertake these reviews as soon as possible, not just when certificate of need or section 1122 reviews are underway. For these reasons the final regulations, like the proposed rules, require the State Agency to perform the review of new institutional health services during the period of conditional designation. It is noted that the interim regulations did not require performance of this function during conditional designation as it was considered inappropriate by the Secretary to do so until the final regulations on minimum requirements concerning the review of new institutional health services, including those for certificate of need, had been published. These regu-

lations were published on January 21, 1977, in the FEDERAL REGISTER (42 FR 4028–4032). The exact nature of this function and the procedures and criteria to be employed in its performance are addressed in those regulations. However, the secretary wishes to point out that the performance of this function will not necessarily require States to seek new statutory authority since this function is essentially a planning function and does not require any sanction where there is a finding that a proposed new institutional health service is not needed.

One commenter suggested that the requirement that the State Agency assist the SHCC not be applicable until the SHCC is formed. The Secretary notes that § 123.105(b) already requires that such function is to be performed upon the establishment of the SHCC, and hence no revision to the regulation is necessary.

Two commenters requested that this section be amended to require the Secretary to consult with the Governor of the State before reaching a final decision as to additional functions which the Secretary determines the State Agency capable of performing. In determining whether a State Agency is capable of performing additional functions the Secretary intends to confer with the Governor or his or her designee. By and large, the timing of the progressive assumption of functions by the State Agency will be determined in the designation agreement which is itself negotiated between the Governor and the Secretary. There does not appear, therefore, to be any real need for the amendment suggested by the commenter, and the suggestion has not been accepted.

One commenter expressed concern that the requirement in the proposed regulations that the conditional designation period not exceed twenty-four months may not provide sufficient time for the State Agency to undertake all the functions necessary for full designation, especially in those instances when the State must seek State enabling legislation. Section 6 of Pub. L. 95-215 (The Health Professions Education Amendments of 1977) changes section 1521(b)(2)(B) of the Act to the effect that the total period of conditional designation for a State Agency may not exceed thirty-six months. The Secretary believes this extension addresses the concern of the commenter.

Finally, a decision not to renew a State's designation agreement may not be made until late in the term of the current designation agreement. In order to allow an orderly phase out of the Agency's activities, a provision has been added to § 125.105(a) to allow the Secretary to extend the term of a conditional Designation Agreement for that purpose. Even with this extension, however, the period of conditional designation cannot exceed thirty-six months.

§ 123.106 FULL DESIGNATION AGREEMENT

§ 123.106(b)(1)

Numerous comments requested clarification of the term "implement" as used in the requirement that the State Agency implement those parts of the State health plan and the plans of the health systems agencies which relate to the government of the State. The policy and program analyses conducted by the State Agency in the development of the preliminary State health plan and in its evaluation of the plans of the health systems agencies located in the State will identify State and area health status and health systems goals and the resource allocation necessary to achieve these objectives. Accordingly, the State Agency should use the analyses to determine actions required to implement those parts of the State health plan and the plans of the health systems agencies which relate to the government of the State. Such actions may include the development of recommendations for new State legislation and the identification of needed improvements in the State health system which require changes in State regulations.

One commenter suggested that this section be amended to reflect that the State Agency is responsible for implementing the State health plan rather than systems plans since the implementation of a health systems plan would create for State Agencies a role reserved for the health systems agency rather than the partnership role envisioned by the statute. In conducting the health planning activities of the State, the State Agency is required by section 1523(a)(1) of the Act to implement the plans of health systems agencies which relate to the government of the State. Since this is a statutory requirement, the suggestion by the commenter to limit the State's role in this area cannot be adopted.

One comment suggested that this section be amended to provide that the State Agency may only begin to perform its functions when the majority of health systems agencies within that State have been designated. This suggestion has not been accepted. Section 1521 of the Act permits a State Agency to be designated independent of health systems agency designations. Further, it should be noted that the State Agency has functions to perform independent of health systems agencies.

Several commenters suggested that the language "health planning activities of the State" be clarified to indicate that the State Agency should serve as the planning arm not only for its own regulatory and developmental activities, but also for other agencies of State government making health systems regulatory and developmental decisions. These commenters urged that the final regulations make clear that this phrase specifically refers to planning services to be furnished by the State Agency to all departments of State government whose activities have a direct impact on the operation and costs of the health care delivery system. In the Secretary's view the inclusion of the provision requested by these commenters is unnecessary. As discussed in detail below, the State Agency will be providing such planning input through its activities relating to the State health plan.

Numerous comments requested a definition of the State health plan. As provided by section 1524(c)(2) of the Act, the State health plan consists of the health systems plans prepared by each health systems agency with revisions necessary to achieve appropriate coordination of the health systems plans and to deal more effectively with Statewide health needs. The State health plan should be the result of systematic integration of these area level plans and State level policy analysis and planning. State level planning and policy analysis undertaken by the State Agency in the development of the preliminary State health plan will require a number of activities including an inventory of existing Federal and State health policies and programs; a summary of the health status of the population of the State; a review of planned, proposed, or emergent policies and programs; an articulation of goals and objectives reflected in the plans of other health and related programs; an analysis of Statewide forecasts of resource supplies; Statewide forecasts of demand for health services and their supportive resources; and State economic impact analysis of current and proposed regulatory activity and programs in the health field or changes in health care financing.

The large investment of State and Federal governments in health care in the States and the requirement that the SHCC review other State plans, make it essential that the State Agency, in the conduct of its State health policy analysis, incorporate an examination of State and Federally sponsored programs operating in the State. This should include an analysis and review of the magnitude, expenditures, utilization, availability, impact, goals, and objectives of these State and Federal programs. The analysis should result in a measurement of the adequacy of both public and private policies and programs in the State and estimates of their effectiveness and efficiency in assuring the accessibility, acceptability, availability, continuity, and quality of health services; restraining increases in the cost of care; and preventing unnecessary duplication of health resources.

To plan effectively the health activities of the State, the State health plan should serve as a coordinating mechanism and a comprehensive statement of health policies. Therefore, the State Agency should include in the preliminary State health plan the health policies and priorities of the State as reflected in the programs sponsored or operated by other State-level health agencies or organizations.

In this regard, the State Agency, through the development of the preliminary State health plan, is encouraged to solicit the active participation of the numerous health agencies and organizations whose planning and program activities impact on the health status and health systems within the State. Although this broad level of participation is not mandated, the development of appropriate formal or informal coordinative relationships would serve to build consensus of opinion around the State health plan as adopted by the SHCC and should foster cooperation among these other health-related agencies to ensure their support for the implementation of the State health plan.

The State health plan should provide guidance to these programs and at the same time reflect the goals and address the Statewide health needs as identified by these programs. Coordinative activities of the State Agency with other federally-sponsored State-operated programs should be aimed at eliminating duplicative services and developing goals and long-range actions consistent with the health priorities of the State.

Beyond the performance of these activities, it is the prerogative of the Governor, the State Agency and the SHCC to determine the extent to which they will exercise a coordinative function with the other agencies of State government responsible for health programs of the State in order to accomplish the desired immediate and long-term health goals of the health systems agencies and the State.

§ 123.106(b)(2)

Many comments contained suggestions which would place additional limitations on the proposed revisions a State Agency, through its recommendations to the SHCC, could make to a health systems plan. One commenter recommended that the State Agency, when preparing the preliminary State health plan, consult a health systems agency before revising that agency's health systems plan. In a similar vein, two commenters felt that the health systems agency should be permitted to participate in the preliminary revision made by the State Agency to its health systems plan. Finally, one commenter recommended that the health systems agency should have the right to appeal if it disagrees with the preliminary revision made by the State Agency to its health systems plan.

It is noted that the preliminary revisions made by the State Agency are limited to the two conditions set forth in sections 1523(a)(2) and 1524(c)(2)(A) of the Act: (1) To achieve their appropriate coordination, and (2) to deal more effectively with statewide health needs. There is no basis for the Secretary to limit further by regulation the statutory roles given to the State Agency and SHCC as requested by the various commenters. An affected health systems agency can participate in the development of the State health plan through participation at the required public hearing on the State health plan; through its representatives on the SHCC; and as a result of ongoing discussions and interaction with State Agency staff in the development of plan development guidance.

One commenter expressed concern that the lack of National Guidelines for Health Planning (mandated in section 1501; proposed Guidelines were offered for public comment in the September 23, 1977 FEDERAL REGISTER) precludes both State Agencies and health systems agencies from adopting legally sufficient plans. It is the Secretary's view that agencies can adopt plans which meet the requirements of the Act in the absence of final guidelines but once final guidelines have been issued, the health systems agencies must review the health systems plans and revise them as necessary to give appropriate consideration to the recommended guidelines for health planning policy and to take into account and be consistent with the National Guidelines with respect to supply, distribution, and organization of health resources and services. Appropriate revisions to the State health plan should then be recommended to the SHCC by the State Agency based on the revisions made to health systems plans within the State.

Several commenters expressed concern that the process for the development of the State health plan set forth in the regulations does not provide for a cohesive planning effort between health systems agencies and the State Agency. One commenter suggested that the State Agency prescribe a minimum framework for health systems plans. The final regulations have been amended at § 123.306 to require that the SHCC, after consultation with the State Agency and health systems agencies, establish a consistent analytical approach for developing health systems plans and prescribe a uniform format for the plans. The Secretary considers these changes necessary to permit SHCCs to require a common form of organization for health systems plans; to facilitate certain types of data and information being displayed in a standardized format; and to promote systematic integration of information and analytical bases in the development of State wide health plans.

Two comments suggested that the State Agency should also be given the authority to make revisions to annual implementation plans in order to achieve appropriate coordination or to deal more effectively with State- wide health needs. This comment has not been adopted as the regulation reflects the statute, which does not provide any authority for the State Agency in this area. Moreover, it is a function of the health systems agency to make revisions to its annual implementation plan which are necessitated by the revisions mandated by the SHCC to its health systems plan, since under section 1513(b)(3) the annual implementation plan must be amended as necessary to describe objectives which will meet the goals of the health systems plan. Discussion of the SHCC's role in this process is contained in the discussion of § 123.306.

Several comments were received relating to the provision that a State Agency may establish a health systems plan for any health service area without such a plan. Generally, the commenters recommended deletion of this section as they felt it takes away a prerogative of health systems agencies. One commenter requested deletion of the requirement for the Secretary's approval before the State Agency could undertake the development of a health systems plan and another commenter requested that the time frame and other criteria for assessing the failure of a health systems agency to produce a plan be specified. The provision for the State Agency to develop a health systems plan for a health service area without such a plan was included in the proposed regulations in an effort to prevent delays in the State health planning process due to the lack of area plans. In light of the comments received, and since health systems agencies have now been designated for virtually every health service area, the Secretary has removed this section from the final regulations as was also done in the interim regulations. While the Secretary no longer thinks it appropriate for the State to develop the health systems plan for a local health service area, he does recognize the need for the State Agency to make additions where necessary in the development of the State health plan in order to fill in gaps which occur due to the lack of health systems plans. However, it is noted that such additions should be limited to those which are necessary to reflect statewide health needs. Due to a con-

tinuing concern that the lack of health systems plans not contribute to a delay in the State health planning process, the regulations require that the SHCC establish time schedules for the plan development process taking

tary's review of the State Agency application and his evaluation of the SHCC's performance in accordance with section 1535 of the Act.

One commenter suggested that the reference to appropriate training pro-

groupings of functions as proposed in this section when a State Agency enters into an agreement with another agency of the State for the performance of any functions under section 1523. The main concern raised by com-

ordinated with the other activities of the State Agency so as to foster an integrated State health planning effort. Therefore, the Secretary believes that the incorporation of these provi-

expiration of its term if he determines * * * that the State Agency * * * is not complying with or effectively carrying out the provisions of the Agreement." Accordingly, no revision in the final

sions of this section, many of which expressed concern that there are no assurances of confidentiality of patient data information contained in this section. Several commenters sug-

tinuing concern that the lack of health systems plans not contribute to a delay in the State health planning process, the regulations require that the SHCC establish time schedules for the plan development process taking into consideration the timeframes described below. This requirement was not included in either the proposed or interim regulations.

New requirements have been added to the final regulations at § 123.103 concerning the time schedule for establishing the State health plan. Those States which have been conditionally designated for 24 months or less at the time they enter into a full designation agreement shall submit a preliminary State health plan as part of their next application for full designation. Those States which apply for full designation after 24 months of conditional designation shall submit a preliminary State health plan as part of their application for full designation. The State health plan prepared and adopted by the SHCC shall be submitted as part of the State Agency's next application for full designation following submission of the preliminary State health plan.

The establishment of a specific time limit for the preparation of the preliminary State health plan and for the preparation and adoption of the State health plan by the SHCC addresses the concern of several commenters that the process prescribed in the proposed and interim regulations was too open-ended. It is anticipated that the majority of health systems agencies will have adopted health systems plans to permit their incorporation into the preliminary State health plan without delaying the State planning process. The Secretary is concerned that if a specific time period for adoption of the State health plan is not required it would have a detrimental effect on the other functions to be performed by the State Agency, particularly plan implementation activities.

§ 123.106(b)(3)

One commenter suggested this section be revised to require that the State Agency assist the SHCC through the provision of adequate full-time staff rather than the requirement in the proposed regulations that the staff need only be "adequate." Another commenter suggested that the regulations require the SHCC to hire an independent staff. The Secretary feels it is inappropriate to specify what constitutes adequate staff in terms of it being either "full-time" or "independent," and that the exact staffing pattern should be the prerogative of each State. Determinations as to whether the State Agency is providing adequate staff support to the SHCC will be based upon the Secretary's review of the State Agency application and his evaluation of the SHCC's performance in accordance with section 1535 of the Act.

One commenter suggested that the reference to appropriate training programs be revised to require that the programs be developed in cooperation with health systems agencies and that such training be a joint effort for orientation of health systems agencies' governing bodies, SHCCs and agency staff. It is assumed that some training, such as general orientation to the requirements of Pub. L. 93-641, might be best be undertaken as a joint effort among health systems agencies, State Agencies, and SHCCs, under, for example, the auspices of the Centers for Health Planning supported under section 1534 of the Act. It is recognized by the Secretary, however, that there will be other instances in which the State Agency and SHCC identify training needs unique to their situations and might, therefore, not want to include the health systems agencies in this endeavor. Accordingly, the specific suggestion proposed by the commenter to require joint training efforts has not been adopted.

§ 123.106(b)(5)

One commenter suggested that the review of new institutional health services be made an optional function in States without a certificate of need program satisfactory to the Secretary. The review of new institutional health services is a statutory requirement and cannot be made optional. The Secretary is, however, sensitive to the argument that establishing this review now in a State which does not have a certificate of need program could detract from efforts to develop a satisfactory certificate of need program. For this reason the Secretary wishes to reiterate here that the requirements governing the review of new institutional health services, which were published on January 21, 1977, in the FEDERAL REGISTER (42 FR 4028-4032), can be met by the States without the need to develop new statutory authority, and therefore without detracting from States' efforts to put in place satisfactory certificate of need programs.

§ 123.106(b)(6)

A number of comments were received with respect to the requirement that State Agencies review the appropriateness of existing institutional health services on a periodic basis as required by section 1523(a)(6) of the Act. The Secretary will issue proposed rules in the future concerning this function, and the comments received will be considered in the development of these regulations.

§ 123.107 PERFORMANCE OF FUNCTIONS BY OTHER THAN THE STATE AGENCY

Numerous comments requested deletion of the requirement for specified groupings of functions as proposed in this section when a State Agency enters into an agreement with another agency of the State for the performance of any functions under section 1523. The main concern raised by commenters was that this requirement limits the flexibility of States to establish a workable health planning system, and they questioned the legislative basis for the Secretary prescribing this requirement. Other comments noted that the functions of periodic review and certificate of need should not be required to be assigned together on the grounds that periodic review is a planning function and certificate of need is a regulatory one. The Secretary's main concern about the performance of one or more State Agency functions by another agency of State government is to ensure that all health planning and resource development functions are performed in an integrated fashion. Thus, except as discussed below with respect to serving as the designated planning agency for purposes of section 1122 and administering a certificate of need program, the Secretary has deleted this restriction from the final regulations. With respect to serving as the designated planning agency for purposes of section 1122 and administering a certificate of need program, it is the Secretary's view that these functions can only be properly performed when by the same agency, and therefore the regulations prescribe that these functions must be assigned together, if at all. Furthermore, the Secretary has issued a policy statement which contains the minimum elements required in agreements established under proposed subparagraph (c) of this section. Those elements have been included in the final regulations as part of this section as it has been rewritten. The major components of the policy are that the other agency of State government will perform all the activities relating to the function; that the function will be performed in accordance with the appropriate requirements of the State administrative program; that the agreement will specify how the budget, staff, and activities of the other agency and those of the State Agency will relate; that the agreement will provide that the other agency will consult with the State Agency and the SHCC on the performance of the separate function; and that the other agency will provide information to the State Agency and the SHCC on the performance of the separate function.

This agreement is to be incorporate as part of the designation agreement with a State Agency. The Secretary has concluded that the provisions for such agreements contained in § 123.107 as revised are necessary to guarantee that the function to be performed by another agency will be sufficiently coordinated with the other activities of the State Agency so as to foster an integrated State health planning effort. Therefore, the Secretary believes that the incorporation of these provisions in final regulations adequately addresses the concern of one commenter that agreements for the performance of functions specifically require coordination between the agencies involved in the agreement.

With respect to the procedures for delegation of functions, one comment suggested that the section be amended to provide that "all functions of State Agencies may be performed by another agency of the State government upon designation by the State legislature." Another comment suggested that the lead paragraph be revised to read "Notwithstanding any other provisions of this subpart may be performed by another agency of the State government up written request submitted by the Governor in a format prescribed by the Secretary."

Section 1523(b)(1) of the Act requires that such function may be performed by another agency of State government at the request of the Governor and if there is an agreement satisfactory to the Secretary. Therefore, the Governor of a State is significantly involved in the process since he or she makes the request as to which other agencies of State government shall perform a section 1523 function. However, in order to achieve the statutory purpose concerning integrated planning, the Secretary must retain the right to review each proposed agreement on a case-by-case basis to ensure an integrated and coordinated health planning system in each State. Therefore, the suggested modifications, which would make the execution of agreements solely the prerogative of the States, have not been made.

§ 123.108 RENEWAL AND TERMINATION OF AGREEMENTS

One commenter requested clarification as to whether funding continues during the hearing process, pending an "appeal" of a preliminary decision by the Secretary to terminate the designation agreement. It is noted that under § 123.108 there is no "preliminary decision," and therefore the termination of a designation agreement does not occur until the hearing process has been completed and a decision rendered.

One comment suggested that a fully designated State Agency, as well as a conditionally designated State Agency, should have its agreement terminated if it fails to comply with the terms of the agreement. The Secretary believes that the regulation adequately covers this concern in that it states, with respect to fully designated State Agencies, that "the Agreement may be terminated by the Secretary prior to the expiration of its term if he determines * * * that the State Agency * * * is not complying with or effectively carrying out the provisions of the Agreement." Accordingly, no revision in the final regulations has been made.

Two comments were received regarding the renewal of agreements with fully designated State Agencies. One commenter recommended that the regulations be amended to read that "a full designation agreement may be renewed for a period of from one to three years upon application by a Governor," as a multi-year designation would be advantageous in providing for long-term continuity of program activities. Since section 1521(b)(4) of the Act provides that an agreement for full designation may be renewed for a term not to exceed 12 months, this suggestion has been rejected.

One commenter requested clarification as to whether a conditionally designated agency might be extended for an additional period beyond its initial designation period for purposes of closing down its operation. The Secretary has concluded that it is reasonable to extend the conditional designation agreement of an agency for an additional period for the sole purpose of closing out the agency, provided that the entire period of conditional designation may not exceed the statutory maximum of 36 months. This would be justified in the Secretary's opinion to provide for an orderly closing down of the State Agency's operation when the Secretary has determined not to renew the conditional designation agreement with a State Agency or enter into a full designation agreement with an agency that has a conditional designation agreement. Section 123.105(a) has been revised accordingly.

One commenter requested the Secretary to include in the regulations guidelines for the renewal of a full designation agreement which would mandate a simplified application process. As currently written, the application requirements for initial designation also apply for the renewal of such designation, and the present regulations do not make a distinction between the requirements for initial application and renewal. However, following the review of State Agency performance mandated by section 1535 of the Act, the Department will assess the information required as part of the application process to determine its value for evaluating agency performance. Consideration will be given at that time to deleting any information requirements not pertinent to assessment of agencies in keeping with the Department's policy to streamline application procedures.

§ 123.109 ACCESS OF THE PUBLIC TO STATE AGENCY RECORDS AND DATA

A very large number of comments were received concerning the provisions of this section, many of which expressed concern that there are no assurances of confidentiality of patient data information contained in this section. Several commenters suggested that a requirement be added to remove all personal identifiers from the information. The issues concerning confidentiality and the statutory constraints are addressed in the discussion of § 123.104(b)(9).

Many commenters expressed concern that the provision is too broadly stated and could result in an "administrative nightmare." Some suggested that access to records should "conform to existing State statutes, regulations and policies." One commenter recommended that data specifically protected from disclosure by State statute should be excluded from the regulations. Section 1522(b)(6) of the Act provides that the State administrative program must require that the State Agency make its records and data available, upon request, to the public. The statute does not provide any basis on which the Secretary could limit this provision by regulations in the manner suggested by the commenter. This provision is intended to provide the public with access to the information and records used by the State Agency to make its policy and program decisions. The term "records and data" encompasses any information and materials acquired by the State Agency and used in the performance of its functions. Therefore, the Secretary has not accepted the comments.

The Department received several comments on the requirements contained in paragraph (b) regarding the publication of the policy adopted by the State Agency for making data available to the public for inspection and copying. One commenter recommended that when a policy for making data available to the public has been established by the State Agency, a public notice should be published; however, the State Agency should not be required to print the entire policy in the newspaper notice. One commenter suggested the deletion of the prohibition on the use of legal notices. The Secretary has adopted these comments because the original requirements, upon review, appear burdensome. Therefore, the language of the final regulations has been amended to require the publication of a notice that a policy for making information available to the public has been established by the State Agency. Such notice must contain a statement that the policy is available for public inspection and copying. This revision conforms to the approach used in other portions of regulations implementing Title XV such as the publication of a notice of the availability of the health systems plan and annual implementation plan as well as section

1532 procedures and criteria. In addition, the requirement that the policy be published in at least two newspapers of general circulation and the

has, in accordance with this suggestion, included as Subpart F those special provisions concerning section 1536 States.

vate nonprofit planning agencies will be used in the planning effort in section 1536 States, a participation which was explicitly encouraged during the congressional debates on this provi-

In the Secretary's view, this change (which makes the performance of section 1513 functions and an application for a section 1516 grant optional for a section 1536 State) is consistent with

deemed to be the health systems plan for the State for the purpose of carrying out its responsibilities and review activities.

Several commenters recommended

responsibilities of a SHCC in a section 1536 State relate to those functions performed by the State Agency which are performed by health systems agencies in other States. The SHCC's in-

1532 procedures and criteria. In addition, the requirement that the policy be published in at least two newspapers of general circulation and the prohibition on the publication of the policy in the legal notices or classified sections of newspapers have been deleted in recognition that such requirements may potentially be in conflict with State statutes and procedures on these matters. The Secretary thinks it unnecessary to dictate the exact manner in which such notice to the public must be given. Accordingly, the Secretary has rejected a comment recommending that the notice requirement be retained with the addition that notices should be run for at least three consecutive weeks.

Several commenters recommended that the time frame for the establishment of a data policy by a State Agency be lengthened to permit the development of an adequate data management plan and completion of a data inventory. Suggestions were made to change the time period for compliance from three months to six months or one year. The Secretary notes that the requirement of the section is for a State Agency to adopt and publish a policy for making information available to the public, not that it complete its data inventory within a three-month period. This section was not a requirement of the interim regulations. This requirement, however, will only apply with respect to designation agreements entered into after the date of the publication of these regulations, so State Agencies will have adequate lead time to develop their data policy.

One commenter requested clarification as to the frequency required for publication of information on revisions to the policy. Under § 123.109, the policy information must be publicized when adopted and need only be further publicized when substantial revisions to the policy are adopted.

One commenter requested clarification as to whether records and data of previous health planning agencies which are transferred to the State Agency become part of the inventory of data which the State Agency must index and make accessible to the public. To the extent that such records and data are used by the State Agency in performing its functions under its designation agreement they would be covered by the requirements of this section.

§ 123.110 SPECIAL PROVISIONS FOR CERTAIN STATES-SECTION 1536 OF THE ACT

One comment suggested that the Department publish a separate set of regulations as a new subpart to encompass all provisions relating to section 1536 States. The Secretary regrets any confusion which has arisen from the publication of these provisions in three separate sections. The Secretary has, in accordance with this suggestion, included as Subpart F those special provisions concerning section 1536 States.

One commenter requested clear delineation in a new subpart as to how a section 1536 State can conduct section 1513 functions within the framework of a State Agency. The commenter further requested that this explanation be in language appropriate to the dual-purpose responsibilities of a 1536 State Agency, not in either health service area or health systems agency terminology as was done in the proposed regulations or in the context of sections 1513 and 1523. As discussed previously, the Secretary has established a new subpart concerning section 1536 States. However, section 1536 of the Act clearly states that a section 1536 State may perform section 1513 functions and, therefore, the Secretary considers it appropriate to use section 1513 terminology to describe these functions whether they are performed by a section 1536 State or a health systems agency. Moreover, while a request for designation as a section 1536 State is approved by the Secretary on the basis of the State carrying out its health planning functions under a unified Statewide system, section 1536 States receive a grant award under section 1525 for the performance of State Agency functions; and, in addition, if a section 1536 State elects to perform health systems agency functions, it receives a grant award under section 1516 for the performance of these functions. Since there are certain clearly identified functions required to be accomplished for the receipt of each of the grant awards, it has been necessary to retain references to section 1513 and section 1523 functions in the final regulations. The suggested changes have, therefore, not been made. It should be noted that the receipt of two grant awards, however, does not dictate the way a State Agency may organize to accomplish section 1513 functions in addition to its State Agency responsibilities under section 1523. For instance, a section 1536 State may request a waiver of the staffing requirements placed on all health systems agencies. A State Agency, however, may not delegate the performance of section 1513 function to another agency of State government.

Several comments suggested a revised § 123.110 regarding section 1536 States, which would state that in the continued absence of county and/or municipal public health departments, the State must provide for meaningful participation in the health planning system by providers, consumers, government officials, and private nonprofit planning agencies. The concern of the commenters is that § 123.110 creates serious doubts as to whether private nonprofit planning agencies will be used in the planning effort in section 1536 States, a participation which was explicitly encouraged during the congressional debates on this provision.

While there is no provision for a health systems agency in a section 1536 State because of the Statewide nature of the health planning system, it is recognized by the Secretary that the groups cited by the commenters should make a significant contribution to the planning effort of the State. It was for this reason, among others, that the Secretary mandated in proposed § 123.307 (new § 123.503) that the SHCC composition in a section 1536 State mirror the composition requirements of a governing body of a health systems agency. While the Secretary does not intend to dictate further the precise manner in which these groups should be involved in a section 1536 State, the Secretary notes that, at a minimum, an opportunity for participation by the various groups should be ensured through the public hearing process on the State health plan and through the requirement that State Agency and SHCC business meetings be open to the public.

Several commenters requested clarification as to the authority of section 1536 States when performing health systems agency functions to subcontract (using Federal funds) with private health planning agencies. In the Secretary's view there is no prohibition against a State Agency contracting with private health planning agencies to assist it in carrying out section 1513 functions. While the State Agency in a section 1536 State may not contract for the performance of an entire 1513 function, the agency may contract for the performance of activities related to the performance of a function. Furthermore, in a section 1536 State, as in all States, a section 1523 function may be performed by another agency of State government under an agreement established in accordance with § 123.107.

One commenter recommended the addition of a new section on section 1536 States to change the language of the proposed regulations so that the State Agency in a section 1536 State "may" instead of "shall" perform functions contained in section 1513 normally performed by a health systems agency. The language of the final regulation has been revised to reflect the statutory language that, in addition to section 1523 functions, a section 1536 State "may" in addition perform the functions prescribed by section 1513 and make application for a section 1516 grant award to support the performance of these functions. The proposed rules and interim regulations had mandated that a section 1536 State "shall" perform section 1513 functions.

In the Secretary's view, this change (which makes the performance of section 1513 functions and an application for a section 1516 grant optional for a section 1536 State) is consistent with permitting section 1536 States maximum flexibility in developing a unified Statewide health planning program. There is considerable similarity between the functions of State Agencies and health systems agencies, especially in terms of plan development, data collection and analysis, and review activities. In recognition of the similiar nature of the agencies' review responsibilities, the proposed rules exempted section 1536 States from performing those functions required by sections 1513 (f), (g) and (h) relating to review of new institutional health services; periodic review of all institutional health services; and recommendation of projects for modernization, construction and conversion of medical facilities. If a section 1536 State determines that their particular circumstances do not warrant the receipt of additional grant funds to perform the remaining section 1513 functions, it may choose not to make application for the additional grant.

It should be emphasized, however, that in order to receive a section 1516 grant award a State Agency must be responsible for the performance of all the section 1513 functions as prescribed in Subpart F. This is necessary because receipt of the grant award clearly requires performance of the functions for which the grant is made. While some of these functions may be carried out as part of a unified Statewide approach to planning, certain functions are unique to section 1513, such as the development of agreements with PSROs and A-95 agencies, coordination with health systems agencies in the standard metropolitan statistical area and the receipt of Area Health Services Development Funds under section 1640. Language has been added to the final regulations to require that an application for a section 1516 grant award shall include a detailed description of how a section 1536 State proposes to carry out section 1513 functions. (§ 123.501(a))

For States which elect not to perform section 1513 functions the final regulations have been amended at § 123.504 to indicate that the preliminary State health plan in these States is a plan comparable in scope to the health systems plan required by 42 CFR 122.107(c)(2) for health systems agencies. The SHCC is to conduct a public hearing on its proposed State health plan after it has reviewed and made revisions as appropriate to the preliminary State health plan. It is noted that in those States which perform section 1513 functions, the preliminary State health plan shall be deemed to be the health systems plan for the State for the purpose of carrying out its responsibilities and review activities.

Several commenters recommended that this section prescribe a definite role for subarea advisory councils in section 1536 States and that additional funding should be provided for these councils. Section 1512(c) of the Act pertains to the establishment of subarea advisory councils by health systems agencies only and the establishment of these councils by health systems agencies is voluntary. The Secretary cannot by regulation mandate the establishment of subarea advisory councils in section 1536 States or provide additional funding solely for such councils. However, a section 1536 State is not precluded from establishing subarea health planning councils or advisory groups of concerned citizens to advise the State Agency or the SHCC on the performance of its functions. While the specific role of these councils must be determined by each State, the Secretary recognizes that the establishment of councils might be one way to encourage local participation in the health planning process. The statute requires that subarea advisory councils of health systems agencies conform to the composition requirements for a health systems agency's governing body. While these composition requirements would not apply in a section 1536 State, the Secretary believes it would be desirable if at least one-half of the membership of any advisory council in a section 1536 State were consumers in keeping with the basic composition requirements for advisory bodies under the Act. Funding for councils in a section 1536 State may be from the basic grant awards received by the State under either section 1516 or 1525 of the Act; from other funds available to the State; or any combination thereof.

Several commenters expressed concern that there is an apparent inconsistency between the SHCC advisory function and its approval or disapproval role in section 1536 States. These commenters requested clarification as to the responsibilities of a SHCC in a section 1536 State. The functions of a SHCC in a section 1536 State are the same as for a SHCC in a non-section 1536 State, with the addition of the opportunity for review and comment upon the following actions of the State Agency, where applicable, before they are made final: Establishment of an annual implementation plan, the development of plans and projects to achieve the objectives of the annual implementation plan, the use of the Area Health Services Development Fund, and the review and approval or disapproval of the proposed uses of Federal funds under section 1513(e). The additional review and comment responsibilities of a SHCC in a section 1536 State relate to those functions performed by the State Agency which are performed by health systems agencies in other States. The SHCC's involvement provides for a second level review so that the State Agency in a section 1536 State is not making decisions with regard to the activities described above based only on its own evaluations. This review and comment responsibility thereby provides an opportunity for SHCC input where the section 1536 State Agency is undertaking section 1513 operational functions, and in the Secretary's view substantially addresses the major concerns of one commenter that the State Agency in a section 1536 State should only perform section 1513 functions after consultation with the SHCC.

One comment expressed concern that the regulations fail to mandate a section 1536 State Agency to coordinate its planning efforts with the health systems agencies within the appropriate standard metropolitan statistical area. It is noted that a section 1536 State Agency which performs health systems agency functions is required to coordinate its activities and seek to enter into written agreements with health systems agencies within appropriate standard metropolitan statistical areas in accordance with § 122.107(c)(12) of the final Health Systems Agencies Regulations.

SUBPART C—GRANTS TO STATE HEALTH PLANNING AND DEVELOPMENT AGENCIES

§ 123.204 GRANT AWARD

A number of comments were received recommending changes in § 123.204(b) as proposed. Several commenters suggested that the minimum grant authorized by this section be reduced to one percentum of the amount available for grants under section 1525 in order to provide more funds to the most populous States, while other commenters expressed concern that any reduction in the minimum grant would result in many States (those with smaller populations) having inadequate resources to carry out the functions required by the Act. Comments on another aspect of the proposed grant formula indicated that population alone should not be the basis for allocating funds, but that other factors such as geographic area, number of health systems agencies in the State, and the scope of activities to be undertaken by the State should also be considered. In developing the formula in the proposed rules, the Secretary gave consideration to a number of factors and various alternatives. Deliberations occurred both within the Department and with interested parties outside the Department. It was determined that to fund State Agencies initially using population as the only cri-

terion together with a proviso for a minimum grant award was the most equitable formula for distribution of the available funds. The application of this formula resulted in levels of fund-

§ 123.208 GRANTEE ACCOUNTABILITY

One comment suggested that the wording of this section be changed to require only an accounting for the non-Federal funds used to match the

§ 122.208 concerning employment of consultants and contracting for services have also been deleted as the Secretary recognizes that to the extent feasible section 1536 States

to States under the Public Health Service Act, the Community Mental Health Centers Act, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabili-

terion together with a proviso for a minimum grant award was the most equitable formula for distribution of the available funds. The application of this formula resulted in levels of funding for State Agencies compatible with the support provided their predecessor comprehensive health planning agencies and the support to States for activities under section 1122 of the Social Security Act. The decision is to retain the grant allocation formula as proposed since there is not yet a sufficient history of agency performance upon which to base a change in approach. However, as agencies acquire more operational experience and the impact of the formula on agency operations can be assessed, the Secretary will consider modifying the formula. When an analysis of the formula is initiated, the recommendations of the commenters will be considered.

One commenter suggested that the use of population estimates by State Centers, which are established in each State for providing population estimates to the Bureau of the Census, would give more accurate population data for purposes of computing the grant award. With regard to this comment, the Secretary notes that not all States have the capacity to produce accurate estimates. Rather, each State currently provides raw data to the Bureau of the Census which refines this data in making its estimate. In addition, Office of Management and Budget Circular A-46 requires that the data on total population used in determining the amount of a grant award shall be the most current and comprehensive published by the Bureau of the Census.

The suggested revisions have, therefore, not been accepted. The Secretary will, however, make available and publish annually in the FEDERAL REGISTER a list of all States and their populations as determined for purpose of this section. Language to this effect has been added to the final regulations.

Several commenters suggested deleting the provision contained in § 123.204(b)(3)(ii) that the Secretary can make a determination as to a lesser grant award on his estimate of the operating costs of the State Agency during the grant period. A related comment suggested deleting § 123.204(b)(3)(ii) and substituting a new subparagraph which would read, "The Secretary's review of the State Agency should be limited to an assessment of the proposed work, it should not deal with the State Agency's determination of the costs of doing its work." The Secretary must retain the prerogative of reviewing applications and making determinations of funding levels to preclude awarding grants in excess of the amounts actually needed for the operation of State Agencies. Moreover, section 1525(a) of the Act requires that the amount of any grant shall be determined by the Secretary and may not exceed 75 percentum of a State Agency's operating costs. The suggested revisions, therefore, have not been made.

In determining the amount of the grant award in accordance with the criteria established by this section, the Secretary will make a full twelve-month allocation of the grant award amount when a State has made application for a twelve-month Designation Agreement. In those instances where a State has made application for a Designation Agreement for a period of less than twelve months, the amount of the grant will be proportionately reduced. Section 123.204 has been reviewed to provide for this situation.

§ 123.205 GRANT PAYMENTS

One comment suggested adding the requirement that Federal grant payments must be made during the fiscal year in which the expenses were incurred or within 90 days thereafter. The Secretary notes that all grants to State agencies are made in accordance with the Department's Federal Assistance Financing Systems (DFAFS) which uses either letter of credit or cash request as the payment mechanism for State agencies. The primary objective of DFAFS is to facilitate cash availability to grantees while controlling the flow of cash withdrawals from the U.S. Treasury. Under the monthly cash request method, the recipient forecasts his monthly cash needs in advance and is provided cash monthly to cover these anticipated disbursements. The letter of credit document is a commitment certified by DFAFS, indicating a dollar amount available to a designated recipient based on their average monthly disbursements. The monthly amount established is available for drawdown by the recipient as needed during the month by processing a payment voucher through the recipient's local commercial bank to a Federal Reserve Bank or one of its branches. In light of this, the Secretary sees no need to add the suggested language.

§ 123.206 USE OF GRANT FUNDS

A number of questions have been raised by State governments and others concerning the availability of funds granted under section 1525 of the Act to assist States in carrying out their continuing responsibilities for monitoring assurances (including "reasonable volume" and "community service" assurances) provided by facilities in connection with assistance (grants, loans, and loan guarantees) provided under Title VI of the Act. The Secretary has concluded that the cost of such activities, when carried out by a State agency of a State which participates in the Title XVI program, may be paid from section 1525 funds. Section 1525 grants are made to State agencies "to assist them in meeting the costs of their operation" (section 1525(a)). The legislative history of Pub. L. 93-641 clearly indicates that such costs may include, in addition to the costs of carrying out the functions described in section 1523, the costs to the State agency of "administering the program required under" Title XVI (see H. Rept. No. 93-1382, 93rd Cong., 2d Sess. (September 26, 1974) on pp. 79 and 83). Section 1602(6) of the Act requires the issuance by the Secretary of regulations which, inter alia, prescribe the manner in which entities assisted under either Title VI or Title XVI "shall be required to comply with the assurances required to be made at the time such assistance was received." In light of the pre-existing obligation of States to enforce Title VI assurances, section 1602(6) provides authority for the Secretary to prescribe, by regulation, the manner in which States must carry out that obligation. Thus, to the extent that the monitoring and enforcement of assurances is performed or supervised by the State agency pursuant to such regulations, such activities will be considered part of the administration of the Title XVI program, and their cost may be paid from the section 1525 grant. Section 123.206(a) has been revised accordingly. Further guidance on the performance of this responsibility by State agencies is contained in Program Letter 76-07, issued on June 30, 1976, by the Bureau of Health Planning and Resources Development.

§ 123.207 NONDISCRIMINATION

One commenter expressed concern that there was no mention of sex or age in the nondiscrimination section. This was an oversight in the drafting of the proposed regulations not corrected in the interim regulations. Appropriate language has been added in the final regulations to prohibit discrimination on the basis of age, sex, creed, or marital status.

Another concern expressed by the commenter was that the regulation should contain a brief statement regarding the requirements of 45 CFR Part 80 concerning the development of affirmative action plans. Affirmative action plans are required only when a determination is made that a State is not in compliance with 45 CFR Part 80. The Secretary thinks it would be unwise to include in these regulations a brief statement, which by its very nature would be an incomplete description of requirements for affirmative action plans under 45 CFR Part 80, and, therefore, the suggested addition has not been made. All State agencies must, of course, comply with the requirements of 45 CFR Part 80.

§ 123.208 GRANTEE ACCOUNTABILITY

One comment suggested that the wording of this section be changed to require only an accounting for the non-Federal funds used to match the grant award. The Secretary believes that this provision must be retained as stated (i.e., requiring an accounting for all funds, both Federal and non-Federal, expended in carrying out the approved activities) in order to determine that the requirements for the expenditure of non-Federal funds, both as they relate to State agency expenditure of matching funds and maintenance of effort requirements under § 123.203(b)(2), have been met. However, States need account only for non-Federal funds used in carrying out the approved activities related to Pub. L. 93-641.

§ 123.210 ADDITIONAL CONDITIONS

Numerous comments were received concerning the authority for the imposition of additional conditions on grant awards contained in § 123.210. In summary, the commenters felt that the language of this section provides the Secretary with open-ended authority to prescribe additional conditions and is too broad. They suggested either that this section be deleted or that changes be made in the language of the section. Section 1525(b) of the Act states that grants shall be made on such terms and conditions as the Secretary may prescribe. Section 123.210 is a standard provision included in grant programs administered by the Public Health Service. The purpose of the provision, which the Secretary has chosen to retain, is to indicate that other conditions consistent with the statute and regulations or for the purposes contained in this section (to assure or protect advancement of the approved activity, the interests of the public health, or the conservation of grant funds) may be added at the time or prior to the award. Such conditions will normally be the subject of prior discussions between Department staff and grantees.

§ 123.211 ADDITIONAL GRANTS TO CERTAIN STATE AGENCIES—SECTION 1536 OF THE ACT

To avoid the confusion which may arise from cross-referencing to § 122.208 of the final Health Systems Agency Regulations, a new section on the use of section 1516 grant funds by a section 1536 State has been added as part of § 123.501 of new Subpart F ("Special Provisions for Certain States—Section 1536 of the Act") of the final regulations which simply states that such funds must be used in accordance with the requirements of section 1516. The additional requirements applicable to a health systems agency's use of these funds found in § 122.208 concerning employment of consultants and contracting for services have also been deleted as the Secretary recognizes that to the extent feasible section 1536 States should be allowed to develop a unified system for carrying out their responsibilities under Pub. L. 93-641.

One commenter recommended that the State agency in a section 1536 State be permitted to submit a single unified budget covering both health systems agency and State agency functions, as this approach would be administratively more efficient. In general, the Secretary wishes to accommodate the point of this comment, and the procedures prescribed by the Department for such applications require one application and one budget. However, as part of the application, it is necessary for States to provide a breakdown in their budgets describing the amount to be expended for health systems agency functions and the amount for State agency functions. This specificity by function is necessary because, among other things, the grant to be made to the State agency under section 1525 of the Act may not exceed 75 percent of the cost of operation for State agency activities pursuant to section 1523 (as well as costs associated with Title XVI activities).

However, with respect to accounting for the expenditures of funds received under section 1516 and section 1525, a section 1536 State may adopt a unified accounting system. Those expenditures which are clearly attributable to an identifiable activity, such as preparation of the State medical facilities plan, should be charged against the appropriate section's funds. For those activities which contribute to the performance of the total planning effort and cannot be identified as either health systems agency or State agency functions *per se*, an estimated percentage may be used to allocate the funds between the two grants. Since both grants support one program activity, professional staff salaries need not be prorated but may be charged for accounting purposes against either grant.

SUBPART D—STATEWIDE HEALTH COORDINATING COUNCILS

§ 123.301 PURPOSE AND SCOPE

One comment requested clarification of the relationship between the State agency and the Statewide Health Coordinating Council, especially their respective roles in the approval or disapproval of applications for the use of (certain) Federal funds. The statute (section 1524(c)(6)) mandates that the SHCC review annually and approve or disapprove any State plan and any application submitted to the Secretary as a condition to the receipt of certain Federal funds under allotments made to States under the Public Health Service Act, the Community Mental Health Centers Act, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970. Preceding the initiation of the review function, each SHCC will be required to develop its own review procedures and criteria for this activity. While the statute does not prescribe a role for the State agency in terms of approval or disapproval of State plans and applications, the SHCC may wish to request the review and comment of State agency staff on the State plans and applications submitted to the SHCC. Functions of SHCC's in section 1536 States have been discussed in connection with comments received on § 123.110. Further in this regard, the predecessor agencies to States agencies, section 314(a) CHP agencies, had authority by both statute and regulation to review and comment upon certain proposed actions pertinent to the disbursement of Federal funds under allotments. It should be noted that section 5(c)(1) of Pub. L. 93-641, by providing that any reference in law or regulation to a section 314(a) agency will be considered a reference to a State agency designated under section 1521, continues to provide an opportunity for review and comment by State agencies as successors to the CHP agencies where enabling legislation or regulations prescribe this role for CHP State agencies.

§ 123.302 ESTABLISHMENT OF STATEWIDE HEALTH COORDINATING COUNCIL

One commenter suggested that this paragraph, which provides that a SHCC may not be established until health systems agencies for one-half or more of the health service areas in the State are designated, should read "conditionally designated" rather than "designated." The Secretary does not see the need to change this language since the term "designated" applies to both conditional and full designation.

Some comments suggested that SHCC's not be established and final regulations on SHCC's not be published until all health systems agencies are designated and performing their functions. The commenters were concerned that if the SHCC becomes operational prior to designation of all health systems agencies, major decisions will occur at the State level without significant participation from all local areas. Another suggestion received was that the SHCC not be established until the State agency has been designated. The Secretary is concerned that adoption of these recommendations would delay the development and implementation of the State health plan and the suggested revi-

sions, therefore, have not been made. However, to ensure involvement of health systems agencies in the development of the State health plan, the Secretary has retained the requirement that the Governor appoint the SHCC from a list of nominees numbering at least twice the number of representatives to which the agency is entitled. The latter was added by regulation in order to provide flexibility to the Governor and be subject to the same restrictions as other appointed SHCC members.

Several comments were received regarding the State residency requirements for SHCC members, especially

dure to establish a SHCC which represents a variety of interests. However, the Secretary has declined to regulate in this area because he views it as interference with the internal workings

provisions in the final regulations, it should be emphasized that the original intent of the limitation on consumer members, to ensure that both providers and consumers would be repre-

comes designated, to make nominations for a number of representatives equal to the number of representatives already appointed from each health

sions, therefore, have not been made. However, to ensure involvement of health systems agencies in the development of the State health plan, the Secretary has retained the requirement that a SHCC cannot be established until one-half or more of the health systems agencies in the State have been designated. It is noted that a SHCC must be established before the Secretary may enter into a full designation agreement with the Governor of a State. As previously indicated with respect to the clarification made in § 122.103, a SHCC will be considered by the Secretary to be "established" when its members have been appointed in accordance with the provisions of section 1524 of the Act and Subpart D of Part 123.

One commenter requested clarification as to whether another entity of the State may perform SHCC functions in the absence of a formally constituted SHCC. As noted above, there is not authority under the statute for delegation of any SHCC functions.

§ 123.303 COMPOSITION OF SHCC

Numerous comments were received which related to the nominations made by health systems agencies to the SHCC. Several commenters suggested that requirements be added which would make the nominations more representative of the constituency of the health service area. These included suggestions that the nominees must be individuals who reside in the health service area and/or that they must be members of the health systems agency's governing body, as well as suggestions that they must be broadly representative of the social, linguistic, and racial populations of the area. Several commenters, however, made suggestions which would preclude individuals who were members of the health systems agency governing body from being nominated to the SHCC. These commenters observed that there is an inherent conflict of interest if health systems agency governing body members also serve on the SHCC which has review and oversight responsibilities relating to health systems agency functions. Generally, these commenters suggested prohibiting altogether or severly limiting the nomination of health systems agency governing body members or staff.

Another large group of comments requested that representation of various providers, including providers of mental health, drug and alcohol abuse services, and health maintenance organizations be required.

The Secretary is concerned that no one portion of the health care provider community or of the general public dominate the SHCC and, therefore, encourages health systems agencies in their nomination procedures and the Governor in his or her selection procedure to establish a SHCC which represents a variety of interests. However, the Secretary has declined to regulate in this area because he views it as interference with the internal workings of the organization created pursuant to the Act. In addition, the necessity for further regulation in this area has not been demonstrated in the relatively short history of SHCC development throughout the country. In the Secretary's view, the governing principle is that a health systems agency should be satisfied that its nominees will adequately represent its interests on the SHCC. Moreover, with respect to those comments concerning health systems agency governing body members on the SHCC, the Secretary wishes to point out that the legislative history of Pub. L. 93-641 indicates a clear intention on the part of Congress that health systems agency representatives be, in general, residents of the health service area and members of the health systems agency's governing body (H.R. Rept. No. 93-1382, 81 (1974)).

Further, the Secretary wishes to point out that in those instances where the health systems agency is a public regional planning body or single unit of general local government, the regular governing board of such agency may either exercise the authority to make nominations of the health systems agency representatives to the SHCC or delegate the authority to make the nominations to the governing body for health planning of the health systems agency.

Regarding the overall composition of the SHCC, several comments were received regarding the requirements for consumer and provider representation on the SHCC and several commenters suggested revisions in the percentage of members of the SHCC who must be consumers. The suggestions included several recommendations to increase consumer representation on the SHCC and a number of comments which stated that the proposed establishment of a sixty percent limit on consumer members imposes a mathematical obstacle for achieving the appropriate consumer/provider distribution in certain States. One commenter was concerned that the requirements for a consumer majority could lead to delay, confusion and complications because such individuals would be new to the health planning process.

In light of these comments the Secretary has decided to delete the percentage limitations added in the regulations, and revert to the statutory language which requires that no less than one-half of the representatives of a health systems agency must be consumers and that a majority of appointments made by the Governor must be consumers. While the Secretary has decided to retain only the statutory provisions in the final regulations, it should be emphasized that the original intent of the limitation on consumer members, to ensure that both providers and consumers would be represented on the SHCC, has not changed. If further experience indicates that SHCCs are grossly imbalanced in terms of either provider or consumer members, the Secretary will reconsider the need to regulate on this matter.

With respect to the comment that a consumer majority on the SHCC will lead to delay and confusion, it is noted that there is a requirement for the orientation of all SHCC members under § 123.106(b)(3). In addition, consumer representation on the SHCC was considered by the Congress to be essential to the successful implementation of the health planning process.

One commenter stated that the addition of the phrase "under this paragraph" to the provision contained in § 123.303(b)(2) that a majority of the appointments made by the Governor to the SHCC shall be consumers is more restrictive than the statutory requirement in this regard (section 1524(b)(1)(B)). Since the requirement that a majority of persons appointed by the Governor be consumers is part of a limitation on the Governor's appointments in paragraph (b)(1)(B) of section 1524, dealing with appointments in addition to those from nominees of the health systems agencies, it is clear in the Secretary's opinion that the limitation of section 1524(b)(1)(B)(ii) applies only to the Governor's appointments under that paragraph. This provision has, therefore, been retained in the final regulations.

Several comments, regarding the requirement that health systems agencies submit to the Governor a list of at least five nominees, ranged from the suggestion that the requirement for a list be deleted and the Governor not be given any discretion in the selections of health systems agency representatives, to the suggestion that the health systems agency should be free to nominate to the SHCC whomever it pleases within the legal requirements but that the Governor should be allowed to suggest guidelines and reject nominees. The requirement for a list of at least five nominees submitted to the Governor by each of the health systems agencies entitled to representation is a statutory provision (section 1524(b)(1)(A)) which is designed to provide the Governor some choice in establishing the SHCC, and the requirement, therefore, cannot be deleted. An attempt has been made, however, to clarify an apparent contradiction noted by some commenters between the statutory requirement and the requirement in the proposed regulations, which was also in the interim regulations, that each health systems agency shall submit to the Governor a list of nominees numbering at least twice the number of representatives to which the agency is entitled. The latter was added by regulation in order to provide flexibility to the Governor in appointing the SHCC, especially where health systems agencies would be entitled to more than five representatives. The language of the final regulations has been clarified to require that each health systems agency shall submit to the Governor a list of nominees numbering at least twice the number of representatives to which the agency is entitled or a total of five, whichever is greater.

In addition, the final regulations have been revised to permit a Governor of a State to request the health systems agency to nominate less than the number of nominations required under the regulations where the Governor decides that the larger number of nominations is unnecessary.

One comment suggested that the ex-officio Veterans' Administration member on the SHCC should be a nonvoting member. The requirement for a Veterans' Administration representative on the SHCC is statutory where two or more hospitals or other health care facilities of the Veterans' Administration are located in a State. While an ex-officio member serves, by virtue of his or her office, there is nothing either in the concept of ex-officio or in the statute to indicate that this representative is not entitled to all of the privileges of membership on the SHCC. The suggested change has, therefore, not been made. The Veterans' Administration representative on the SHCC must have all the privileges of a regular SHCC member including a vote. It should be noted that under section 1524(b)(1)(D) of the Act, the Veterans' Administration representative, although considered a provider of health care, is not included as either a health systems agency representative or in the forty percent of appointments which the Governor can make in addition to these representatives.

Another comment requested clarification as to the appointment of other ex-officio members of the SHCC in addition to the Veterans' Administration representative. There is no provision in either the law or regulations which precludes the appointment of additional ex-officio members to the SHCC. However, unlike the Veterans' Administration representative, the appointment of other ex-officio members to the SHCC would be limited to the forty percent of additional SHCC members which the Governor may appoint under § 123.303(b) of the regulations. In addition, the appointment of such ex-officio members must be in accordance with the consumer/provider distribution prescribed by the statute, and such members must be entitled to the same privileges including a vote and be subject to the same restrictions as other appointed SHCC members.

Several comments were received regarding the State residency requirements for SHCC members, especially with respect to its effect on interstate health systems agencies and physicians who practice in one State but who reside in a different State. The Secretary believes that the residency requirement for health systems agency representatives to the SHCC constitutes an unnecessary restriction on the prerogative of the health systems agency to nominate to the SHCC those individuals which it believes will best serve its interests. Accordingly, the residency requirement which was in both the proposed and interim regulations has been deleted in the final regulations.

One comment requested clarification of the procedure for nominations to the SHCC for a health service area for which a health systems agency has not yet been designated. The Secretary notes that the regulations make no provision for representatives to be nominated for a health service area which does not yet have a designated health systems agency, and in the Secretary's view it would be inappropriate to prescribe a policy which would take away the prerogative of the health systems agency, once it has been designated, to make the required nominations to the Governor. In those instances where the Governor does not wish to defer the establishment of the SHCC until all health systems agencies are in place, he may elect to establish a SHCC once one-half or more of the health systems agencies in the State have been designated. This must be accomplished, however, in compliance with the statutory requirements that a SHCC have no fewer than sixteen health systems agency representatives and that each health systems agency have the same number of representatives, with a minimum of two. There are a variety of approaches which a State might adopt to establish a SHCC, in accordance with the statutory requirements, before all the health systems agencies in the State have been designated. One approach would be to make some SHCC appointments on an interim basis with terms for some appointments to expire upon the establishment of other health systems agencies and their submission of nominations for the SHCC to the Governor. This approach would enable the SHCC to eventually revert to the membership size it would have been if all the health systems agencies had been designated at the same time. A second approach would be for the Governor to retain an expanded SHCC by keeping all the health systems agency representatives previously appointed and requesting each additional health systems agency, as it becomes designated, to make nominations for a number of representatives equal to the number of representatives already appointed from each health systems agency previously designated.

§ 123.304 CHAIRMAN AND TERMS OF MEMBERSHIP

Many comments expressed concern regarding the limitation on length of terms (no longer than three years) and number of consecutive terms (no more than two) included in the proposed regulations, and suggested changes by commenters ranged from requiring no limitations to prescribing a limit of one three-year term. Two commenters noted that the establishment of a SHCC of odd-numbered size would make it impossible to comply with the requirement for staggered terms since not more than one-third of the members' terms may expire in a single year. Another commenter requested that the membership of provider members should be on a rotational basis. After reviewing all the comments and the experience with SHCCs established to date concerning this matter, the Secretary has decided that it is unnecessary to prescribe by regulation the specific length of office for SHCC members. Therefore, the final regulations simply require that SHCC members serve terms of fixed length. While the decision has been made to delete these requirements to prevent unnecessary hardships on States in organizing their SHCCs, it remains the opinion of the Secretary that there is considerable value in States establishing terms of office for SHCC members of reasonable length and staggering the terms in a manner which results in approximately an equal number of SHCC members being replaced each year. The application of these two principles should permit the SHCC to be broadly representative of the constituency of the State while providing a degree of continuity to the SHCC membership.

§ 123.305 BYLAWS

Several commenters suggested that the bylaws section be retitled, with one commenter specifically stating that the term "bylaws" refers only to self-governance by non-governmental entities. Since the term "bylaws" connotes the internal operating procedures for a private nonprofit entity, the Secretary has retitled this section "SHCC Rules" which is considered a more descriptive term.

Many comments were received concerning the manner in which the rules governing the SHCC should be developed. Several commenters felt that the SHCC should develop its own rules subject to the approval of the Governor; others suggested that this section should make a distinction between those rules the Governor may establish for the SHCC and those that should be self-generated.

After careful consideration of this matter, the Secretary has concluded that while it is appropriate for the Department to establish a SHCC which represents a variety of interests, the Secretary has declined to regulate in this area because he views it as interference with the internal workings of the organization created pursuant to the Act. In addition, the necessity for further regulation in this area has not been demonstrated in the relatively short history of SHCC development throughout the country. In the Secretary's view, the governing principle is that a health systems agency should be satisfied that its nominees will adequately represent its interests on the SHCC. Moreover, with respect to those comments concerning health systems agency governing body members on the SHCC, the Secretary wishes to point out that the legislative history of Pub. L. 93-641 indicates a clear intention on the part of Congress that health systems agency representatives be, in general, residents of the health service area and members of the health systems agency's governing body (H.R. Rept. No. 93-1382, 81 (1974)).

Further, the Secretary wishes to point out that in those instances where the health systems agency is a public regional planning body or single unit of general local government, the regular governing board of such agency may either exercise the authority to make nominations of the health systems agency representatives to the SHCC or delegate the authority to make the nominations to the governing body for health planning of the health systems agency.

Regarding the overall composition of the SHCC, several comments were received regarding the requirements for consumer and provider representation on the SHCC and several commenters suggested revisions in the percentage of members of the SHCC who must be consumers. The suggestions included several recommendations to increase consumer representation on the SHCC and a number of comments which stated that the proposed establishment of a sixty percent limit on consumer members imposes a mathematical obstacle for achieving the appropriate consumer/provider distribution in certain States. One commenter was concerned that the requirements for a consumer majority could lead to delay, confusion and complications because such individuals would be new to the health planning process.

In light of these comments the Secretary has decided to delete the percentage limitations added in the regulations, and revert to the statutory language which requires that no less than one-half of the representatives of a health systems agency must be consumers and that a majority of appointments made by the Governor must be consumers. While the Secretary has decided to retain only the statutory provisions in the final regulations, it should be emphasized that the original intent of the limitation on consumer members, to ensure that both providers and consumers would be represented on the SHCC, has not changed. If further experience indicates that SHCCs are grossly imbalanced in terms of either provider or consumer members, the Secretary will reconsider the need to regulate on this matter.

With respect to the comment that a consumer majority on the SHCC will lead to delay and confusion, it is noted that there is a requirement for the orientation of all SHCC members under § 123.106(b)(3). In addition, consumer representation on the SHCC was considered by the Congress to be essential to the successful implementation of the health planning process.

One commenter stated that the addition of the phrase "under this paragraph" to the provision contained in § 123.303(b)(2) that a majority of the appointments made by the Governor to the SHCC shall be consumers is more restrictive than the statutory requirement in this regard (section 1524(b)(1)(B)). Since the requirement that a majority of persons appointed by the Governor be consumers is part of a limitation on the Governor's appointments in paragraph (b)(1)(B) of section 1524, dealing with appointments in addition to those from nominees of the health systems agencies, it is clear in the Secretary's opinion that the limitation of section 1524(b)(1)(B)(ii) applies only to the Governor's appointments under that paragraph. This provision has, therefore, been retained in the final regulations.

Several comments, regarding the requirement that health systems agencies submit to the Governor a list of at least five nominees, ranged from the suggestion that the requirement for a list be deleted and the Governor not be given any discretion in the selections of health systems agency representatives, to the suggestion that the health systems agency should be free to nominate to the SHCC whomever it pleases within the legal requirements but that the Governor should be allowed to suggest guidelines and reject nominees. The requirement for a list of at least five nominees submitted to the Governor by each of the health systems agencies entitled to representation is a statutory provision (section 1524(b)(1)(A)) which is designed to provide the Governor some choice in establishing the SHCC, and the requirement, therefore, cannot be deleted. An attempt has been made, however, to clarify an apparent contradiction noted by some commenters between the statutory requirement and the requirement in the proposed regulations, which was also in the interim regulations, that each health systems agency shall submit to the Governor a list of nominees numbering at least twice the number of representatives to which the agency is entitled. The latter was added by regulation in order to provide flexibility to the Governor in appointing the SHCC, especially where health systems agencies would be entitled to more than five representatives. The language of the final regulations has been clarified to require that each health systems agency shall submit to the Governor a list of nominees numbering at least twice the number of representatives to which the agency is entitled or a total of five, whichever is greater.

In addition, the final regulations have been revised to permit a Governor of a State to request the health systems agency to nominate less than the number of nominations required under the regulations where the Governor decides that the larger number of nominations is unnecessary.

One comment suggested that the ex-officio Veterans' Administration member on the SHCC should be a nonvoting member. The requirement for a Veterans' Administration representative on the SHCC is statutory where two or more hospitals or other health care facilities of the Veterans' Administration are located in a State. While an ex-officio member serves, by virtue of his or her office, there is nothing either in the concept of ex-officio or in the statute to indicate that this representative is not entitled to all of the privileges of membership on the SHCC. The suggested change has, therefore, not been made. The Veterans' Administration representative on the SHCC must have all the privileges of a regular SHCC member including a vote. It should be noted that under section 1524(b)(1)(D) of the Act, the Veterans' Administration representative, although considered a provider of health care, is not included as either a health systems agency representative or in the forty percent of appointments which the Governor can make in addition to these representatives.

Another comment requested clarification as to the appointment of other ex-officio members of the SHCC in addition to the Veterans' Administration representative. There is no provision in either the law or regulations which precludes the appointment of additional ex-officio members to the SHCC. However, unlike the Veterans' Administration representative, the appointment of other ex-officio members to the SHCC would be limited to the forty percent of additional SHCC members which the Governor may appoint under § 123.303(b) of the regulations. In addition, the appointment of such ex-officio members must be in accordance with the consumer/provider distribution prescribed by the statute, and such members must be entitled to the same privileges including a vote and be subject to the same restrictions as other appointed SHCC members.

Several comments were received regarding the State residency requirements for SHCC members, especially with respect to its effect on interstate health systems agencies and physicians who practice in one State but who reside in a different State. The Secretary believes that the residency requirement for health systems agency representatives to the SHCC constitutes an unnecessary restriction on the prerogative of the health systems agency to nominate to the SHCC those individuals which it believes will best serve its interests. Accordingly, the residency requirement which was in both the proposed and interim regulations has been deleted in the final regulations.

One comment requested clarification of the procedure for nominations to the SHCC for a health service area for which a health systems agency has not yet been designated. The Secretary notes that the regulations make no provision for representatives to be nominated for a health service area which does not yet have a designated health systems agency, and in the Secretary's view it would be inappropriate to prescribe a policy which would take away the prerogative of the health systems agency, once it has been designated, to make the required nominations to the Governor. In those instances where the Governor does not wish to defer the establishment of the SHCC until all health systems agencies are in place, he may elect to establish a SHCC once one-half or more of the health systems agencies in the State have been designated. This must be accomplished, however, in compliance with the statutory requirements that a SHCC have no fewer than sixteen health systems agency representatives and that each health systems agency have the same number of representatives, with a minimum of two. There are a variety of approaches which a State might adopt to establish a SHCC, in accordance with the statutory requirements, before all the health systems agencies in the State have been designated. One approach would be to make some SHCC appointments on an interim basis with terms for some appointments to expire upon the establishment of other health systems agencies and their submission of nominations for the SHCC to the Governor. This approach would enable the SHCC to eventually revert to the membership size it would have been if all the health systems agencies had been designated at the same time. A second approach would be for the Governor to retain an expanded SHCC by keeping all the health systems agency representatives previously appointed and requesting each additional health systems agency, as it becomes designated, to make nominations for a number of representatives equal to the number of representatives already appointed from each health systems agency previously designated.

§ 123.304 CHAIRMAN AND TERMS OF MEMBERSHIP

Many comments expressed concern regarding the limitation on length of terms (no longer than three years) and number of consecutive terms (no more than two) included in the proposed regulations, and suggested changes by commenters ranged from requiring no limitations to prescribing a limit of one three-year term. Two commenters noted that the establishment of a SHCC of odd-numbered size would make it impossible to comply with the requirement for staggered terms since not more than one-third of the members' terms may expire in a single year. Another commenter requested that the membership of provider members should be on a rotational basis. After reviewing all the comments and the experience with SHCCs established to date concerning this matter, the Secretary has decided that it is unnecessary to prescribe by regulation the specific length of office for SHCC members. Therefore, the final regulations simply require that SHCC members serve terms of fixed length. While the decision has been made to delete these requirements to prevent unnecessary hardships on States in organizing their SHCCs, it remains the opinion of the Secretary that there is considerable value in States establishing terms of office for SHCC members of reasonable length and staggering the terms in a manner which results in approximately an equal number of SHCC members being replaced each year. The application of these two principles should permit the SHCC to be broadly representative of the constituency of the State while providing a degree of continuity to the SHCC membership.

§ 123.305 BYLAWS

Several commenters suggested that the bylaws section be retitled, with one commenter specifically stating that the term "bylaws" refers only to self-governance by non-governmental entities. Since the term "bylaws" connotes the internal operating procedures for a private nonprofit entity, the Secretary has retitled this section "SHCC Rules" which is considered a more descriptive term.

Many comments were received concerning the manner in which the rules governing the SHCC should be developed. Several commenters felt that the SHCC should develop its own rules subject to the approval of the Governor; others suggested that this section should make a distinction between those rules the Governor may establish for the SHCC and those that should be self-generated.

After careful consideration of this matter, the Secretary has concluded that while it is appropriate for the Department to require the SHCC to conduct a public hearing on its proposed State health plan which provides a forum for affected health systems agencies as well as other interested parties to express their concerns, requires that the SHCC review annually and coordinate the health systems plan and annual implementation plan of each health systems agency within the State and report its comments to the Governor, it is not appropriate to require that the hearing be formal as suggested by some commenters. Therefore, the final regulations do not require that the hearing be formal as required by the statute. The Secretary notes, however, that there is no Federal requirement that a hearing be formal; only that the hearing be conducted in a manner which ensures

lish for the SHCC and those that should be self-generated.

After careful consideration of this matter, the Secretary has concluded that while it is appropriate for the Department to mandate certain minimum rules which must govern the SHCC's activities, which are discussed below, it is unnecessary for the Secretary to mandate the manner in which these rules are established. Thus, the final regulations simply require that the SHCC shall be governed by written rules which set forth the policies and procedures for the functioning of the SHCC, and provided that certain minimum rules must be developed. If the Secretary determines, based upon a review of the performance of SHCCs throughout the country, that SHCC performance of the statutorily mandated functions is being adversely affected by this approach, the Secretary will revise these regulations.

With respect to the minimum rules themselves, the Secretary has decided as previously discussed that the requirement in proposed § 123.305(a) relating to the SHCC's organizational structure and relationship to the Governor and the State agency is more appropriately included as part of the State administrative program requirement that the State program provide for adequate consultation with, and authority for, the SHCC (section 1522(b)(3)). Accordingly, § 123.104 (b)(4) of the final regulations has been revised to include this requirement.

Several comments were also received requesting clarification of the term "business meetings" as it relates to the requirement that SHCC business meetings be open to the public. The final regulations have been revised to define "business meetings" as meetings at which the SHCC acts to carry out its functions under the Act. This definition is substantially identical to that for health systems agency operations (42 CFR 122.109), which are governed by a similar statutory requirement.

The language of the proposed regulations concerning requirements for conflict of interest has also been revised to provide that they must be designed to preclude use of membership on the SHCC for purposes which are or give appearance of being motivated by private gain. Again, this makes the SHCC rules in this regard comparable to those applicable to health systems agencies (42 CFR 122.104(b)(1)(ix)).

The Secretary wishes to point out that the listing of areas that must be included in the SHCC operating rules is only a minimum, and wishes to encourage the development of more extensive operating rules covering such areas as procedures for giving notice to the public of business meetings, quorum requirements, and scheduling of meetings.

Finally, several comments requested clarification of the role of standing or executive committees in the functioning of a SHCC. One commenter recommended that the SHCC should be able to delegate to an executive committee the authority to take any action the SHCC is authorized to take except approval of the State health plan and the State medical facilities plan. It is the Secretary's view that while such committees can be established to provide recommendations to the SHCC in carrying out its responsibilities under the Act, there is no statutory basis for the SHCC delegating substantive decisionmaking authority concerning its responsibilities to these committees. The recommended changes, therefore, have not been made.

§ 123.306 FUNCTIONS

Concerning the functions of a SHCC, several commenters stated that the proposed regulations were not clear as to whether the SHCC should be an advisory or a policy council. The regulations, however, simply reflect the dual roles assigned by the statute to the SHCC, some of which are advisory and others which are policy decisions. For example, it is the SHCC's responsibility to advise the State agency generally on the performance of its functions, which would include the areas of planning policies, plan formats, training activities and the development of review procedures and criteria. On the other hand, the SHCC has by statute the responsibility to review and approve or disapprove certain State plans required for Federal allotment programs; to establish the State health plan; and to make a determination as to whether the proposed State medical facilities plan is consistent with the State health plan.

Several commenters suggested that this section should be amended to state that the SHCC, "assisted by the State Health Planning and Development Agency," shall perform certain functions. The State agency's responsibility to assist the SHCC is already contained in § 123.106(b)(3) of the regulations and inclusion of a similar reference is § 123.306 would be duplicative. Therefore, no revision to the regulations has been made.

One commenter requested clarification as to the functions to be performed by a SHCC where a State agency has entered into a Conditional Designation Agreement. In setting forth the functions to be performed by the SHCC, section 1524 of the Act does not differentiate between a conditionally or fully designated State agency. While the types of functions to be performed by the SHCC are thus identical whether a State agency is conditionally or fully designated, it is noted that the scope of the functions, particularly the SHCC's advisory function under section 1523(c)(5), may be significantly affected by the number of functions being performed by the State agency.

One commenter recommended that States be given the option of assigning SHCC functions to currently existing State agencies to avoid the proliferation of health planning agencies. A related comment recommended that the Secretary waive the requirement for a SHCC in States with a single health systems agency to avoid the creation of another review level. The establishment of a SHCC and the functions it is to perform are prescribed by the statute and, therefor, no such change in the regulations can be made. Further, it is noted that the SHCC and health systems agency have distinct functions prescribed by the statute.

§ 123.306 (a) AND (b)

Many comments were concerned with the role of the SHCC in the preparation, review, and revision of the State health plan. Several commenters requested that a definition of "State health plan" be incorporated into the regulations, with one commenter suggesting that the State health plan be defined as "a detailed statement of goals." Other commenters suggested that the State health plan be defined as the culminating document of the approved State medical facilities plan and health systems plans. The Secretary recognizes the need to clarify further the elements of a State health plan, and guidelines, previously offered for public comment, are currently being finalized by the Department. They set forth the purpose of the State health plan and provide guidance on the process involved in the development of the plan. The State health plan is to be composed of the health systems plans of the health systems agencies as appropriately revised and as such is a statement of goals describing a healthful environment and health systems in the State which, when developed, will assure that quality health services will be available and accessible in a manner which assures continuity of care, at reasonable cost, for all residents of the State. It should also be noted that the State medical facilities plan must be consistent with the State health plan.

Several commenters felt that when a health systems agency disagrees with a decision by the SHCC on the State health plan, the health systems agency should have the right to appeal the decision. While the statute does not provide for such an appeal and the Secretary cannot require it by regulation, it is noted that the statute provides for health systems agency involvement in the development of the State health plan through the representation of these agencies on the SHCC. Furthermore, the SHCC is required to conduct a public hearing on its proposed State health plan which provides a forum for affected health systems agencies as well as other interested parties to express their concerns.

Two comments suggested that the regulations should spell out the degree of revision that the SHCC may make to health systems plans and the criteria and standards to be used in making such revisions. By statute, revisions may only be made if they are required to deal more effectively with statewide health needs or to achieve appropriate coordination of the health systems plans. The Secretary notes that the State agency prepares the preliminary State health plan for submission to the SHCC, and has the authority to recommend changes in health systems plans to the SHCC, which may either accept or reject the recommendations. Only the SHCC has the authority to remand a health systems plan to a health systems agency for revision. The Secretary has decided not to include in these regulations the criteria to be utilized by the SHCC in revising the preliminary State health plan because guidance on this matter is part of the guidelines on State health plan development.

One commenter recommended that the regulations require the annual Federal review of all State plans, including the State health plan, to achieve conformance with the National Guidelines for Health Planning. While the Secretary does not have the authority under Pub. L. 93-641 to review all State plans, the adequacy of the State health plan will be reviewed by the Secretary pursuant to section 1535 of the Act.

One comment recommended that the SHCC should be required to be involved with the State agency in the preparation of the preliminary State health plan to avoid possible later conflicts. The SHCC is required under section 1523 of the Act to advise the State agency generally on the performance of its functions. The Secretary expects this will result in cooperation between the State agency and the SHCC and the development of good working relationships between the two entities with respect to all State agency functions, expecially with regard to those functions where the State agency and SHCC interface most directly such as the preparation of the State health plan. At this time, before substantial operational experience has occurred, the Secretary does not think it prudent to mandate by regulation the manner in which these efforts should be coordinated.

Several comments were received requesting clarification on the role of the SHCC with respect to its responsibility for coordinating the annual implementation plans of health systems agencies. Section 1524(c)(1) of the Act requires that the SHCC review annually and coordinate the health systems plan and annual implementation plan of each health systems agency within the State and report its comments to the Secretary for the purposes of his review of HSA performance under section 1535(c). As part of this coordination function, it is the Secretary's view that based on the review of health systems plans as well as annual implementation plans, the SHCC would be responsible for recommending revisions to annual implimentation plans to ensure the consistency of these plans with the revised health systems plans. However, although the SHCC may recommend revisions to the annual implementation plan, it will be the responsibility of the health systems agency to make the revisions required in the annual implementation plan because of mandated revisions in the health systems plan. After some operational experience with the development of health systems plans and annual implementation plans, and after the Secretary has conducted his reviews under section 1535 of the Act, the Secretary will consider the necessity for further regulation in this area. Finally, in the opinion of the Secretary, revisions to the annual implementation plans would more appropriately take place after the State health plan has been established and the health systems plans revised according to SHCC recommendations.

Several commenters requested that the regulations specify that the SHCC develop the State health plan subject to the approval of the Governor. These commenters expressed concern that the authority of the SHCC to establish a State health plan is inconsistent with the policymaking and implementation authorities of State government. The argued that this is so because the selection process for the SHCC creates the SHCC as an independent body not accountable directly to the Governor.

The statutory language of section 1524 precludes transferring the authority to approve the State health plan to the Governor by regulation. Therefore, the Secretary has not adopted this comment as it would establish a role for the Governors inconsistent with the statutory role of the SHCC.

Numerous comments related to the provisions contained in this section governing the procedures for public hearings on the State health plan. Two commenters suggested that the phrase "public hearing" be changed to "public meeting" to avoid the legalistic implications of the term. One commenter indicated his opposition to any change in the requirement for a public hearing. In this regard it is noted that the term "public hearing" is statutory language and having such a hearing is required by the statute. The Secretary notes, however, that there is no Federal requirement that a hearing be formal; only that the hearing be conducted in a manner which ensures that the public is given an opportunity to express its views on the State health plan. For purposes of clarification, it is noted that the public hearing is on the proposed State health plan, which is the SHCC's version of the plan following its consideration and revision as appropriate of the preliminary State health plan developed by the State agency.

Several commenters requested that the regulations be amended to provide the Governor 30 days for review prior to adoption of the proposed State health plan. It is considered by the Secretary that the current provision that the Governor be provided a copy of the proposed State health plan 15 days prior to publication of the notice of the public hearing on the State health plan affords the Governor reasonable opportunity for comment. Since the notice of the hearing is required to be published 30 days prior to the actual hearing date, this allows the Governor 45 days prior to the public hearing in which to review and comment on the plan.

One commenter requested that the prohibition on the use of legal notices to announce the holding of the required public hearing be removed. The requirement that notices appear in other than the legal notices or classified advertisement sections of newspapers is not a statutory requirement. Consistent with the approach taken in the final regulations regarding the notice for a public meeting on the State administrative program (see the discussion concerning § 123.104(a)(3)), the Secretary has deleted the prohibition on the use of legal notices from this section of the final regulations.

One comment recommended that Statewide Professional Standards Review Organizations be specifically provided a copy of the State health plan and be identified in the regulations as one of the "interested persons" to whom the opportunity should be given for comment on the plan. Unless experience indicates that individuals or groups with a vital interest in plan development are being excluded from participation in the process, the Secretary considers it inappropriate to designate specifically by regulation Professional Standards Review Organizations or any other entities as interested persons. It is generally assumed that groups such as Statewide Professional Standards Review Organizations will afford themselves the opportunity for comment through the requirements which have been established in the regulations for a public hearing process. It is further assumed that State agencies

will seek to establish coordinative working arrangements with Statewide Professional Standards Review Organizations and similar groups which will ensure that their concerns are

sentative of the Veterans' Administration on the SHCC in a section 1536 State and requested that the regulations be amended to include such a representative. Under proposed

the functioning of a SHCC has been discussed previously under § 123.305.

In addition, a number of editorial and technical changes have been made in the regulations as proposed. Accord-

AUTHORITY: Sec. 215, 58 Stat. 690 (42 U.S.C. 216); Secs. 1521-25, 1532, 1536, of the Public Health Service Act; 88 Stat. 2242-49.

Subpart A—Definitions

this paragraph, a "fiduciary position or interest" as applied to any entity means a position or interest with respect to such entity affected with the character of a trust, including mem-

Subpart B—Designation of State Health Planning and Development Agencies

§ 123.101 Purpose and scope

will seek to establish coordinative working arrangements with Statewide Professional Standards Review Organizations and similar groups which will ensure that their concerns are considered in the statewide health planning process.

§ 123.306(e)

Several comments addressed the role of the SHCC in advising the State agency generally on the performance of its functions. One commenter requested that the term "advise" be defined or covered in guidelines. Another commenter suggested that the criteria set forth in section 1535(d)(6) be adopted as the basis for the SHCC evaluation of the State agency and the performance of its functions. Another comment suggested that the State agency be required to justify its action to the SHCC when it does not follow the SHCC's advice. It is recognized by the Secretary that while it is most important for the State agency and the SHCC to develop a satisfactory working relationship, this process must be an evolving one addressed within the context of each individual State, and the Secretary considers it inappropriate to establish national requirements in this regard. However, it is noted as a general matter that in its role of generally advising the State agency, it is the responsibility of the SHCC to provide guidance on planning priorities, plan formats, the need for training activities and staff development. In addition, in order for the SHCC to adequately perform this function it must be afforded an opportunity to review and comment on the State agency's application for designation. Language to this effect has been added to § 123.306(e) of the final regulations.

§ 123.306(f)

Numerous comments recommended that the annual review and approval or disapproval of State plans and applications should be consistent with the State health plan. The proposed regulations do not contain criteria or standards for this process, and several commenters cited the requirement of Title XVI that the State medical facilities plan must be found by the SHCC to be "consistent with the State health plan." The Department currently is drafting separate regulations governing criteria and procedures for the reviews prescribed by section 1513(e) and section 1524(c)(6). The specific recommendations suggested by the various commenters will be considered by the Department in the drafting of these regulations.

§ 123.307 SPECIAL PROVISION FOR MEMBERSHIP OF CERTAIN SHCC'S—SECTION 1536 OF THE ACT

One commenter expressed concern that there is no provision for a representative of the Veterans' Administration on the SHCC in a section 1536 State and requested that the regulations be amended to include such a representative. Under proposed § 123.307 (§ 123.503 of the final regulations) the membership on a SHCC in a section 1536 State must meet the composition requirements for a health systems agency governing body set forth in 42 CFR 122.109(b). This section requires that a representative of the Veterans' Administration be on the SHCC if there are one or more hospitals or other facilities of the Veterans' Administration located within the State. Accordingly, no amendment to the regulations as suggested by the commenter is necessary.

Another commenter was concerned that this section is unclear as to the responsibility of a SHCC in a section 1536 State as it relates to advising the State agency on the performance of section 1513 functions, which are functions normally performed by a health systems agency. The additional functions of a SHCC in a section 1536 State were set forth in § 123.110(a)(3) of the proposed rulemaking, which has previously been discussed. In summary, the regulations require that the SHCC in a section 1536 State be given a reasonable opportunity to review and comment on the section 1513 functions performed by the State agency. In order to further clarify this matter, however, § 123.306 of the final regulations has been revised to cross-reference the additional roles of SHCCs in section 1536 States.

Two commenters recommended that the 30 member ceiling on SHCC membership in section 1536 SHCCs be removed to make the SHCC more comparable to the governing body of a health systems agency and that SHCCs in section 1536 States be permitted to establish executive committees. The Secretary has reevaluated the requirement for a limit on the membership size for a SHCC in a section 1536 State and has determined that imposition of such a requirement is not necessary. Accordingly, the upper membership limit contained in both the proposed and interim regulations has been deleted from new § 123.503 of the final regulations. As revised, this section now only requires that a SHCC in a section 1536 State have a membership of not less than 16. This approach makes the membership requirement for the SHCC in a section 1536 State compatible with SHCCs in non-1536 States. It permits the Governors in section 1536 States flexibility in establishing a Council of the size most appropriate for that individual State. Further, it is noted that it is the prerogative of a SHCC, whether in a section 1536 State or not, to establish an executive committee. The role of executive committees in the functioning of a SHCC has been discussed previously under § 123.305.

In addition, a number of editorial and technical changes have been made in the regulations as proposed. Accordingly, 42 CFR Part 123 is amended in the manner set forth below.

NOTE.—The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

Dated: December 13, 1977.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

Approved: February 27, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

Subpart A—Definitions

Sec.
123.1 Definitions

Subpart B—Designation of State Health Planning and Development Agencies

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Subpart D—Statewide Health Coordinating Councils

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Subpart F—Special Provisions for Certain States—Section 1536 of the Act

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123.502 Additional requirements of State Agencies.
123.503 Special provisions for memberships of Statewide Health Coordinating Councils.

AUTHORITY: Sec. 215, 58 Stat. 690 (42 U.S.C. 216); Secs. 1521-25, 1532, 1536, of the Public Health Service Act; 88 Stat. 2242-49.

Subpart A—Definitions

§ 123.1 Definitions.

As used in this part:

(a) "Act" means the Public Health Service Act, as amended.

(b) "Conditionally designated State Agency" means an agency of the government of a State which has been designated as a State health planning and development agency on a conditional basis pursuant to section 1521(b)(2) of the Act.

(c) "Designation agreement" means an agreement entered into or renewed pursuant to section 1521 of the Act.

(d) "Fully designated State Agency" means an agency of the government of a State which has been designated as a State health planning and development agency pursuant to section 1521(b)(3) of the Act.

(e) "Governor" means the chief executive officer of a State or his designee.

(f) "Grant period" means the period with respect to which assistance is provided under Subpart C of this part.

(g) "Health care facility" means a health care facility as defined in Part 100 of this title.

(h) "Health maintenance organization" means a health maintenance organization as defined in Part 100 of this title.

(i) "Health service area" means an area designated by the Secretary pursuant to section 1511 of the Act as a health service area.

(j) "Health systems agency" means a conditionally or fully designated health systems agency designated pursuant to section 1515 of the Act and 42 CFR Part 122.

(k) "Provider of health care" means an individual—

(1) Who is a direct provider of health care (including (but not limited to) a physician, dentist, nurse, optometrist, podiatrist, or physician assistant) in that the individual's primary current activity is the provision of health care to individuals or the administration of facilities or institutions (including but not limited to hospitals, long-term care facilities, substance abuse treatment facilities, outpatient facilities, and health maintenance organizations) in which such care is provided and, when required by State law, the individual has received professional training in the provision of such care or in such administration and is licensed or certified for such provision or administration, or

(2) Who is an indirect provider of health care in that the individual:

(i) Holds a fiduciary position with or has a fiduciary interest in, an entity described in paragraph (i)(2)(ii) (B) or (D) of this section; (for purposes of this paragraph, a "fiduciary position or interest" as applied to any entity means a position or interest with respect to such entity affected with the character of a trust, including members of boards of directors and officers, majority shareholders, agents and attorneys); or

(ii) Receives (either directly or through his spouse) more than one-tenth of his gross annual income from any one or combination of the following:

(A) Fees or other compensation for research into or instruction in the provision of health care;

(B) Entities or associations or organizations composed of entities or individuals engaged in the provision of health care or in such research or instruction;

(C) Producing or supplying drugs or other articles for individuals or entities for use in the provision of or in research into or instruction in the provision of health care; and

(D) Entities or associations or organizations composed of such entities or individuals engaged in producing drugs or such other articles; or

(iii) Is a member of the immediate family of an individual described in paragraph (i)(1) or paragraph (i)(2) (i), (ii), or (iv) of this section (for purposes of this paragraph, "immediate family" as applied to any individual includes only his parents, spouse, children, brothers and sisters who reside in the same household); or

(iv) Is engaged in issuing any policy or contract of individual or group health insurance or hospital or medical service benefits.

(l) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

(m) "State" means any one of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and American Samoa and the Northern Mariana Islands.

(n) "State health planning and development agency" or "State Agency" means an agency of State government selected by the Governor and designated in an agreement entered into pursuant to section 1521 of the Act to carry out the State's health planning and development program.

(o) "Statewide Health Coordinating Council" or "SHCC" means the body established pursuant to section 1524 of the Act to advise the State health planning and development agency.

Subpart B—Designation of State Health Planning and Development Agencies

§ 123.101 Purpose and scope.

(a) Section 1521 of the Public Health Service Act authorizes the Secretary to enter into an agreement with the Governor of each State for the designation of a State health planning and development agency for such State for the purpose of the performance within the State of the physical and mental health planning and development functions prescribed by section 1523 of the Act. Each such State health planning and development agency shall administer the State administrative program prescribed by section 1522 of the Act and shall, except as authorized under § 123.107, perform within the State the functions prescribed by section 1523 of the Act.

(b) The regulations of this subpart are applicable to agreements, pursuant to section 1521 of the Public Health Service Act, for the conditional or full designation of a State health planning and development agency for a State.

§ 123.102 Application.

The Secretary may not enter into a designation agreement under this subpart unless an application has been submitted to the Secretary for such an agreement. The application shall be submitted by a State at such time and in such form and manner as the Secretary may prescribe and shall be executed by the Governor.

§ 123.103 Contents of applications.

In addition to such other information as the Secretary may require, an approvable application shall contain:

(a) *General.* (1) *A State administrative program which meets the applicable requirements of § 123.104 of this subpart.*

(2) In the case of an application for designation of a State Agency on a conditional basis pursuant to section 1521(b)(2) of the Act, a proposed plan for the orderly assumption and implementation of the health planning and development functions prescribed by section 1523 of the Act and § 123.106(b) of this subpart.

(3) Assurances satisfactory to the Secretary that the agency selected by the Governor as the State Agency has the authority and resources to administer the State administrative program of the State and to carry out the health planning and development functions prescribed by section 1523 of the Act (or, in the case of an application for designation of a State Agency on a conditional basis pursuant to section 1521(b)(2) of the Act), that such agency will have such authority and resources as may be required to implement its approved plan for the orderly

assumption and implementation of such functions.

(4) In the case of an application for full designation pursuant to section

(2) Has been submitted to the Secretary by the Governor of the State as part of the application for a designation agreement; and

(4) Provide for adequate consultation with the Statewide Health Coordinating Council in carrying out the State Program, and contain a descrip-

procedures and criteria established and published by it, which procedures and criteria shall, with respect to any reviews of proposed or existing health

containing such information concerning its structure, operations, performance of functions, and other matters as the Secretary may from time to

for the State for a term not to exceed 12 months, beginning on a date specified in the agreement, except that the term of the agreement may be ex-

assumption and implementation of such functions.

(4) In the case of an application for full designation pursuant to section 1521(b)(3) of the Act, a description of the Statewide Health Coordinating Council, which has been established for the State under section 1524 of the Act and Subpart D of this part, including a description of the manner in which the SHCC is organized and functions.

(5) A description of the proposed health planning and development activities of the State and a description of the proposed relationships between the agency selected by the Governor as the State Agency and other agencies of State government responsible for health programs of the State, including the agencies responsible for programs in alcoholism, drug abuse, mental health, and health manpower education and training (such as the Board of Higher Education or Commission on Education), and the manner in which planning for these programs will be coordinated with long-range health service needs within the State.

(6) A statement as to whether the State intends to develop a State medical facilities plan for the purpose of participating in the program authorized by Title XVI of the Act, and, if the State does so intend, a description of the manner in which the State Agency will administer or supervise the administration of such plan.

(b) *State health plan.* In addition to the requirement of paragraph (a), a State Agency must submit:

(1) A copy of its preliminary State health plan as part of its application for full designation, except that a State Agency which will have been conditionally designated for 24 months or less at the time that it enters into a full designation agreement need not submit a preliminary State health plan until it next applies for full designation; and

(2) A copy of the State health plan prepared and adopted by the SHCC as part of the State Agency's next application for full designation following the submission of the preliminary State health plan required in paragraph (b)(1) of this section, and as part of each subsequent application for designation.

§ 123.104 State administrative program.

(a) *General.* A State administrative program (hereinafter referred to as the "State Program") is a program for the performance within the State by its State Agency of the functions prescribed by section 1523 of the Act and § 123.106(b). The Secretary may not approve a State Program for a State unless it:

(1) Meets the applicable requirements of paragraph (b) of this section;

(2) Has been submitted to the Secretary by the Governor of the State as part of the application for a designation agreement; and

(3) Has been submitted to the Secretary only after the Governor of the State has afforded to members of the general public of the State a reasonable opportunity to express their views on the proposed State Program both in writing and at a public meeting sponsored by the State. At a minimum, notice of the time, place, and purpose of such meeting shall be given to members of the public at least two weeks prior to such meeting and at least 30 days prior to the date of submission of the application to the Secretary. Such notice shall also provide that a copy of the proposed State Program will be available for public inspection and copying at a specified address, and shall invite written comments thereon by members of the public. A summary of the comments made at the public meeting and copies of any written comments of members of the public shall be appended to the application.

(b) *Program requirements.* To be approved by the Secretary under this subpart, a State Program must

(1) Provide for the performance within the State (after the designation of a State Agency and in accordance with the designation agreement) of the functions prescribed by section 1523 of the Act and § 123.106(b) and specify the State Agency of the State as the sole agency for the performance of such functions; *Provided,* That:

(i) Subject to the limitations of § 123.107, any such functions may be performed by another agency of the State government upon request of the Governor under an agreement with the State Agency; and

(ii) In the case of a State Agency designated on a conditional basis, the State Program shall provide for the performance of such functions in accordance with the plan for the orderly assumption and implementation of the health planning and development functions contained in the application;

(2) Contain or be supported by a statement by the Governor that the State Agency has under State law the authority to carry out the functions described in paragraph (b)(1) of this section, together with citations to pertinent authorizing statutes, ordinances or executive orders;

(3) Contain a complete budget for the operation of the State Agency during the period of the proposed designation agreement. Where the State Agency proposes to administer or supervise the administration of the State medical facilities plan approved by the Secretary pursuant to Title XVI of the Act, such budget shall include expenditures to be incurred in the administration of such plan;

(4) Provide for adequate consultation with the Statewide Health Coordinating Council in carrying out the State Program, and contain a description of the Statewide Health Coordinating Council's structure and relationship to the Governor and the State Agency, together with

(i) In the case of a State Agency designated on a conditional basis in a State which has no such Council at the time of such designation, a plan for the establishment of the Council in accordance with Subpart D of this Part demonstrating to the satisfaction of the Secretary that the Council will have the requisite authority; or

(ii) In the case of a fully designated agency, a statement by the Governor that there is authority under State law for such Council, together with citations to pertinent authorizing statutes, ordinances or executive orders.

(5) Set forth in such detail as the Secretary may prescribe the qualifications for personnel having responsibilities in the performance of the functions described in § 123.106(b) and the State Program and the salary structure for such personnel, and require the State Agency to have a professional staff for planning and a professional staff for development, in adequate numbers, at adequate compensation, so organized and with sufficient expertise to enable the State Agency to carry out its State Program;

(6) Provide methods of administration appropriate for the proper and efficient administration of the functions described in § 123.106(b) and the State program, including the establishment and maintenance of personnel standards on a merit basis for persons employed by the State in carrying out the State Program, *Provided,* That;

(i) Methods of personnel administration will be established and maintained in the State Agency administering the program in conformity with the Standards For a Merit System of Personnel Administration, 45 CFR Part 70, and any standards prescribed by the U.S. Civil Service Commission pursuant to section 208 of the Intergovernmental Personnel Act of 1970 modifying or superseding such standards.

(ii) Under this requirement, laws, rules, regulations, and policy statements effectuating such methods of personnel administration are a part of the State Program. Citations of applicable State laws, rules, regulations, and policies which provide assurance of conformity to the Standards in 45 CFR Part 70 must be submitted to the U.S. Civil Service Commission in accordance with 5 CFR Part 900 for determination as to adequacy. Copies of the material cited must be furnished to the Secretary or the U.S. Civil Service Commission on request.

(7) Require the State Agency to perform its functions in accordance with

procedures and criteria established and published by it, which procedures and criteria shall, with respect to any reviews of proposed or existing health services, conform to the requirements of section 1532 of the Act and the applicable regulations of the Secretary;

(8) Require the State Agency to conduct its business meetings in public and give adequate notice to the public of such meetings. For purposes of this paragraph the term "business meetings" means: (i) In the case of a State Agency headed by a collegial body, any meeting of the body to carry out the State Agency's responsibilities and functions under the Act; and (ii) In the case of a State Agency headed by an individual, any meeting of such individual with persons directly affected by a State Agency review (as defined for the purpose of providing written notification of the beginning of the review), concerning a State Agency review conducted pursuant to section 1523 of the Act during the course of such review;

(9) Require the State Agency to adopt a policy for making its records and data available to the general public in accordance with the requirements of § 123.109;

(10) Provide that the State Agency will enter into a written agreement with each agency or organization in the State which has entered into an agreement with the Secretary under section 306(e) of the Act so as to assure that the State Agency has the data needed on a timely basis for health planning and resources development in the State, and that such data will be made available to all health systems agencies designated for health service areas located in whole or in part within the State;

(11) Require providers of health care doing business in the State to make to the State Agency such statistical and other reports of information related to health and health care as the State Agency finds necessary to the performance of its functions under this subpart, and make such reports available to the health systems agencies for the respective health service areas in which such providers are located. For purposes of this paragraph, "providers of health care" include, at a minimum, health care facilities and health maintenance organizations.

(12) Provide, in accordance with methods and procedures approved by the Secretary, for the evaluation, at least annually, of the performance by the State Agency of its functions and of their economic effectiveness;

(13) Provide that the State Agency will from time to time, and in any event not less often than annually, review the State Program and submit to the Secretary required modifications;

(14) Require the State Agency to make such reports, in such form and containing such information concerning its structure, operations, performance of functions, and other matters as the Secretary may from time to time require, and keep such records and afford such access thereto as the Secretary may find necessary to verify such reports;

(15) Require the State Agency to provide for fiscal control and fund accounting procedures, consistent with applicable requirements of Subpart C of this Part, as the Secretary may require to assure proper disbursement of, and accounting for, funds received by the State Agency under section 1525 of the Act;

(16) Permit the Secretary and the Comptroller General of the United States, or their representatives, to have access for the purpose of audit and examination to any books, documents, papers, and records of the State Agency pertinent to the disposition of amounts received from the Secretary under section 1525 of the Act; and

(17) Provide that if the State Agency makes a decision in the performance of a function under section 1523(a) (3), (4), (5) or (6) or Title XVI of the Act which is inconsistent with a recommendation made under section 1513 (f), (g) or (h) of the Act by a health systems agency for a health service area located in whole or in part within the State—

(i) Such decision (and the record upon which it was made) shall, upon request of such health systems agency, be reviewed, under an appeals mechanism consistent with State law governing the practices and procedures of administrative agencies, by an agency of the State (other than the State health planning and development agency or the Statewide Health Coordinating Council) designated by the Governor, and

(ii) The decision of the reviewing agency shall for purposes of Titles XV and XVI of the Act be considered the decision of the State Agency.

§ 123.105 Conditional Designation Agreements.

In accordance with section 1521 (b)(2) of the Act and this subpart, the Secretary may enter into an agreement (hereinafter referred to as the conditional Designation Agreement) with a Governor for the Designation of an agency (selected by the Governor) of the government of that State as the State Agency on a conditional basis with a view to determining the State Agency's ability at the end of the period of its conditional designation to meet the requirements and perform the functions of a fully designated State Agency under the Act and this subpart. Such agreement shall provide that:

(a) The agency is designated as the conditionally designated State Agency for the State for a term not to exceed 12 months, beginning on a date specified in the agreement, except that the term of the agreement may be extended by the Secretary at the request of the Agency for the sole purpose of closing out the activities of the State Agency. In no case, however, may the entire period of conditional designation exceed 36 months.

(b) During the period of conditional designation, the Secretary shall require the State Agency to perform only such of the functions prescribed by section 1523 of the Act and § 123.106(b) as he determines such State Agency to be capable of performing; *Provided,* That the State Agency must perform at least the functions described in § 123.106(b) (1), (2), and (5) and, immediately upon the establishment of a Statewide Health Coordinating Council for the State, the functions described in § 123.106 (b)(3).

(c) During the period of conditional designation the numbers and types of requirements and functions may, in accordance with paragraph (b) of this section, be progressively increased as the State Agency, in the judgment of the Secretary, becomes capable of added responsibility.

(d) The State Agency shall meet the requirements of the Act, this subpart, and any additional conditions set forth in the Conditional Designation Agreement.

§ 123.106 Full Designation Agreements.

In accordance with section 1521 (b)(3) of the Act and this subpart, the Secretary may enter into an agreement (hereinafter referred to as the Full Designation Agreement) with a Governor for the designation of an agency (selected by the Governor) of that State as the State Agency for the State. Such Full Designation Agreement shall provide that:

(a) The agency is designated as the State Agency for the State for a term not to exceed 12 months, beginning on a date specified in the agreement.

(b) The State Agency shall, subject to § 123.107 perform within the State the following functions:

(1) Conduct the health planning activities of the State and implement those parts of the State health plan prepared by the Statewide Health Coordinating Council pursuant to section 1524(c)(2) of the Act and Subpart D of this Part and, except for States to which Subpart F of this part is applicable, the plans of the health systems agencies within the State which relate to the government of the State;

(2) In accordance with a schedule established by the Statewide Health Coordinating Council of the State, prepare, review, and revise as necessary (but at least annually), and submit to the Statewide Health Coordinating

Council of the State for approval or disapproval and for use in developing the State health plan referred to in paragraph (b)(1) of this section, a preliminary State health plan which

§ 123.107 Performance of functions by other than the State Agency.

(a) Notwithstanding any other provision of this subpart, any function described in § 123.106(b) of this subpart

ed by the Governor prior to the expiration of its term upon 90 days written notice to the Secretary which shall set forth the reasons for such termination and its effective date. The Secretary

schedule for copying such material which shall be limited to reasonable costs. For purposes of this paragraph, "records and data" include publications, brochures, pamphlets, punch

this subpart, and any additional terms or conditions of the grant.[1]

(b) The application shall contain the following: (1) A full and complete budget (i) of expenditures to be in-

(b) The amount of any grant under this subpart will be computed as follows:

(1) The Secretary will allocate to each State the product of (i) the per-

Council of the State for approval or disapproval and for use in developing the State health plan referred to in paragraph (b)(1) of this section, a preliminary State health plan which shall, except as provided in Subpart F of this Part, be made up of the Health Systems Plans (hereinafter referred to as "HSP's") of the health systems agencies within the State. Such preliminary plan may, as found necessary by the State Agency, contain revisions of such HSP's to achieve their appropriate coordination or to deal more effectively with statewide health needs.

(3) Assist the Statewide Health Coordinating Council of the State, through the payment of its operating expenses and the provision of adequate staff support and appropriate training programs in health resources planning and development for members of the Council, in the review of the State medical facilities plan required under section 1603 of the Act, and in the performance of its functions generally;

(4) (i) Serve as the designated planning agency of the State for purposes of section 1122 of the Social Security Act and in accordance with 42 CFR Part 100, if the State has entered into an agreement with the Secretary pursuant to such section 1122; and (ii) administer a State certificate of need program which meets the requirements of Subpart E of this Part; *Provided*, That the requirement of clause (b)(4)(ii) hereof shall not apply to a State Agency of a State until the expiration of the first regular session of the legislature of such State which begins after January 4, 1975;

(5) After consideration of recommendations submitted by Health Systems Agencies under section 1513(f) of the Act respecting new institutional health services proposed to be offered within the State, make findings as to the need for such services in accordance with section 1532 of the Act and Subpart E of this Part;

(6) Review on a periodic basis (but not less than often than every five years), in accordance with section 1532 of the Act and applicable regulations of the Secretary, all institutional health services being offered in the State and, after consideration of recommendations submitted by health systems agencies pursuant to 42 CFR 122.107(c)(15) respecting the appropriateness of such services, make public its findings; *Provided*, That such findings with respect to any health service area in the State shall be made not more than one year following the date on which the health systems agency for such area submits its recommendations to the State Agency.

(c) The State Agency shall meet the requirements of the Act, this subpart, and any additional conditions set forth in the Full Designation Agreement.

§ 123.107 Performance of functions by other than the State Agency.

(a) Notwithstanding any other provision of this subpart, any function described in § 123.106(b) of this subpart may be performed by another agency of the State government upon request of the Governor under an agreement with the State Agency satisfactory to the Secretary except that the functions described in § 123.106(b)(4) must be performed by the same agency of the State.

(b) Any agreement entered into by the State Agency for the performance of one or more functions described in § 123.106(b) of this subpart by another agency of the State must at a minimum:

(1) Specify which other agency will perform the function, which function it will perform, and that the other agency will perform all the activities relating to the function;

(2) Provide that the other agency will perform the function in accordance with the appropriate requirements of the State Program and in compliance with the relevant provisions of the Act and applicable regulations of the Secretary including those set forth in this Part;

(3) Set forth the manner in which the budget, staff, and activities of the other agency in the performance of the function will relate to the activities of the State Agency;

(4) Provide that the other agency will consult and coordinate with the State Agency and the SHCC on the performance of the function and provide information to the State Agency and the SHCC on the performance of the function;

(5) Set forth the manner in which the other agency will relate to the health systems agencies whose health service areas are located in whole or in part within the State;

(6) Set forth the conditions under which the agreement may be terminated by either agency; and

(7) Set forth the conditions under which the agreement may be renewed.

§ 123.108 Renewal and termination of agreements.

(a) *Conditionally designated State Agencies.*

(1) *Renewal.* A Conditional Designation Agreement may, at the option of the Secretary and based upon the Secretary's review of the State Agency's performance and its application for renewal, be renewed for an additional term not to exceed 12 months, but in no case may the total period of conditional designation of a State Agency exceed 36 months. Where the Secretary determines not to renew such agreement, the Governor will be notified in writing of the reasons for such determination.

(2) *Termination.* A Conditional Designation Agreement may be terminated by the Governor prior to the expiration of its term upon 90 days written notice to the Secretary which shall set forth the reasons for such termination and its effective date. The Secretary may terminate the Conditional Designation Agreement prior to the expiration of its term upon his determination, after having given the Governor at least 90 days written notice of the State Agency's deficiencies and the corrective actions required and an opportunity for a hearing before an officer or employee of the Department designated for such purpose by the Secretary, that the State Agency is not complying with the provisions of the Agreement or is incapable of progressively assuming more functions and responsibilities.

(b) *Fully designated agencies.*

(1) *Renewal.* A Full Designation Agreement may be renewed for a period not to exceed 12 months, upon the application by the Governor for renewal, if upon review by the Secretary (as provided in section 1535 of the Act) he determines that the State Agency has fufilled, in a satisfactory manner, the functions of a State Agency as prescribed by section 1523 of the Act and the applicable provisions of this subpart. A determination by the Secretary not to renew the Agreement will be made only after he has provided the Governor with written notice of the reasons for such failure to renew and of the opportunity for a hearing before an officer or employee designated for such purpose by the Secertary.

(2) *Termination.* A Full Designation Agreement may be terminated by the Governor prior to the expiration of its term upon 90 days written notice to the Secretary which will set forth the reasons for such termination and its effective date. The Agreement may be terminated by the Secretary prior to the expiration of its term if he determines, after having given the Governor at least 90 days written notice of the State Agency's deficiencies and the corrective actions required and an opportunity for a hearing before an officer or employee of the Department designated for such purpose by the Secretary, that the State Agency is not complying with or effectively carrying out the provisions of the Agreement.

§ 123.109 Access of the public to State Agency records and data.

(a) Each State Agency shall adopt a policy for making its records and data available to the public for inspection and copying in accordance with sections 1522(b)(6)(C) and 1532(b)(10) of the Act, which shall include a procedure for the submission of requests to the agency by members of the public, the agency's procedure for handling such requests, and a uniform fee

schedule for copying such material which shall be limited to reasonable costs. For purposes of this paragraph, "records and data" include publications, brochures, pamphlets, punch cards, magnetic tapes, minutes, staff manuals, slides, photographs, or other documentary materials, regardless of physical form or characteristics, made or received by the State Agency in connection with the performance of the agency's functions under its designation agreement and retained by the agency as evidence of the agency's function, policies, decisions, procedures, operations, programs, or other activities.

(b) Each State Agency is required to maintain and make available for public inspection and copying an index of the records and data of the agency and must publish a notice that a policy for making information available to the public has been established setting forth the policy adopted pursuant to paragraph (a) of this section. The notice must contain a statement that the full policy is available for public inspection and copying. Where subsequent to the publication of such notice the State Agency substantially revises its policy (which must remain consistent with paragraph (a) of this section) for making information available to the public the State Agency must publish a notice that such revisions have been made.

Subpart C—Grants to State Health Planning and Development Agencies

§ 123.201 Applicability.

The regulations of this subpart are applicable to grants under section 1525 of the Public Health Service Act (42 U.S.C. 300m-4) to State health planning and development agencies designated under section 1521 of the Public Health Service Act (42 U.S.C. 300m) to assist them in meeting the costs of their operation, including costs incurred in the administration of the State medical facilities plan under Title XVI of the Act.

§ 123.202 Eligibility.

Any conditionally or fully designated State Agency is eligible for a grant under this subpart.

§ 123.203 Application.

(a) An application for a grant under this subpart shall be submitted to the Secretary at such time and in such form and manner as the Secretary may prescribe, and shall be executed by an officer or employee of the State officially authorized to act for the applicant agency and to assume on behalf of the agency the obligations imposed by the Act, the regulations of this subpart, and any additional terms or conditions of the grant.[1]

(b) The application shall contain the following: (1) A full and complete budget (i) of expenditures to be incurred by the applicant agency in carrying out its approved State administrative program in accordance with section 1522 of the Act and the terms and conditions of the designation agreement entered into by the Secretary and the Governor of the State pursuant to Subpart B of this Part (including expenditures to be incurred in assisting the Statewide Health Coordinating Council in the performance of its functions), and (ii) where the State Agency is administering or supervising the administration of the State medical facilities plan approved by the Secretary pursuant to Title XVI of the Act, of expenditures to be incurred in the administration of such plan.

(2) An assurance satisfactory to the Secretary that the State Agency will expend in performing the functions prescribed by section 1523 of the Act during the fiscal year for which the grant is sought an amount of funds from non-Federal sources which is at least as great as the average amount of funds from non-Federal sources expended for such purposes (excluding expenditures of a non-recurring nature) in the three fiscal years immediately preceding the fiscal year for which the grant is sought, by the State for which such State Agency has been designated. Such assurance shall be supported by the following:

(i) An itemized statement showing the amount of funds from non-Federal sources expended by the State for carrying out functions described in section 1523 of the Act in each of the three fiscal year immediately preceding the fiscal year for which the grant is sought, excluding expenditures of a non-recurring nature; and

(ii) A description of the amount and sources of non-Federal funds which will be expended by the State Agency in carrying out the functions described in section 1523 of the Act under the designation agreement during the grant period; and

(3) A statement of the amount of grant funds requested.

§ 123.204 Grant award.

(a) The Secretary will award a grant under this subpart to each agency which

(1) Is designated as a State Agency under a designation agreement;

(2) Has provided the assurance required by § 123.203(b)(2); and

(3) Otherwise meets the applicable requirements of the Act and of this subpart.

[1] Applications and instructions may be obtained from the Regional Health Administrator in the Regional Office of the Department of Health, Education, and Welfare for the region in which the State is located.

(b) The amount of any grant under this subpart will be computed as follows:

(1) The Secretary will allocate to each State the product of (i) the percentage which the State's population (as determined by the Secretary from the latest available estimate from the Department of Commerce) bears to the total of the populations of all the States (as so determined) and (ii) the amount of appropriated funds determined by the Secretary to be available for grants under this subpart, *Provided*, That (A) where the amount allocated to Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, or the Northern Mariana Islands as a result of such computation is less than one-half of one percent of the amount available for grants under this subpart, such allocation shall be increased to one-half of one percent of such amount and the allocation to other States reduced accordingly; and (B) where the amount allocated to any State not listed in clause (A) above as a result of such computation is less than one and one-fourth percent of the amount available for grants under this subpart, such allocation shall be increased to one and one-fourth percent of such amount and the allocations to other States reduced accordingly. The Secretary will make available and publish annually in the FEDERAL REGISTER a list of all the States and their populations as determined for purposes of this subpart.

(2) On the basis of the budget contained in the application and his estimate of the amount required by the State Agency to carry out its approved State administrative program under the designation agreement, and the cost of administration of the State medical facilities plan under Title XVI of the Act, the Secretary will estimate the operation costs of the State Agency during the grant period.

(3) The amount of each grant to a State Agency shall be the lesser of: (i) the amount of the allocation computed pursuant to paragraph (b)(1) of this section for the State for which such State Agency has been designated;

(ii) 75 percent of the estimated operation costs of the State Agency as determined by the Secretary pursuant to paragraph (b)(2) of this section; or

(iii) the amount requested by the State Agency in its application, *Provided*, That any appropriated funds remaining after the application of paragraph (b)(3) of this section shall, on a proportional basis, be applied to increase the grants of those State Agencies with respect to which the amount described in paragraph (i) is less than either of the amounts described in paragraphs (ii) and (iii), *Provided further*, That no State Agency may receive a grant which ex-

ceeds either 75% of its estimated operation costs or the amount requested in its application.

(4) Where a designation agreement with a State is entered into or renewed for a period of less than 12 months,

or by the program or activity supported by a grant made pursuant to this subpart on the grounds of age, creed, sex, or marital status.

(b) Attention is called to the requirements of section 504 of the Rehabilita-

are located in whole or in part in the State.

§ 123.303 Composition.

Except as authorized by § 123.503, a SHCC shall be composed in the follow-

(b) The terms of SHCC members shall be of fixed length.

§ 123.305 Statewide health coordinating council rules.

The SHCC shall be governed by

(1) In the preparation and revision of the State health plan, the SHCC shall review and consider the preliminary State health plan submitted by the State Agency under section 1523(a)(2) of the Act and

under allotments, in accordance with section 1524(c)(6) of the Act and applicable regulations of the Secretary.

(h) Review and approve or disapprove the State medical facilities plan

ceeds either 75% of its estimated operation costs or the amount requested in its application.

(4) Where a designation agreement with a State is entered into or renewed for a period of less than 12 months, the grant under this subpart will be an amount which bears the same ratio to the amount determined for such State in accordance with paragraph (b)(3) of this section as the period of such agreement bears to 12 months.

(c) All grant awards shall be in writing and shall set forth the amount of funds granted and the period for which such funds will be available for obligation by the State Agency.

§ 123.205 Grant payments.

The Secretary will from time to time make payments to a grantee of all or a portion of any grant award, either in advance or by way of reimbursement for expenses incurred or to be incurred, to the extent he determines such payments necessary to promote prompt initiation and advancement of the approved activity.

§ 123.206 Use of grant funds.

(a) Any funds granted pursuant to this subpart, as well as other funds required as a condition of the grant to be used in performance of the approved activity, shall be expended solely for the administration or the supervision of the administration of the State medical facilities plan under Title XVI of the Act and applicable regulations of the Secretary, for monitoring and enforcing assurances provided to the State by hospitals and other medical facilities which receive Federal assistance under Title VI of the Act, and for carrying out the State administrative program in accordance with Title XV of the Act, the applicable provisions of this Part, the designation agreement, any additional terms and conditions of the grant award, and the applicable cost principles prescribed by Subpart Q of 45 CFR Part 74.

(b) Funds granted pursuant to this subpart shall be available for obligation only during the period of the State Agency's designation agreement.

§ 123.207 Nondiscrimination.

(a) Attention is called to the requirements of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. 2000d et seq.) and in particular, section 601 of such Act which provides that no person in the United States shall, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such Title VI, which is applicable to grants made under this subpart, has been issued by the Secretary with the approval of the President (45 CFR Part 80). Nor shall any person be denied employment in or by the program or activity supported by a grant made pursuant to this subpart on the grounds of age, creed, sex, or marital status.

(b) Attention is called to the requirements of section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing section 504, which is applicable to grants made under this subpart, has been issued by the Secretary (45 CFR Part 84).

§ 123.208 Grantee accountability.

(a) *Accounting for grant award payments.* All payments made by the Secretary shall be recorded by the grantee in accounting records separate from the records of all other grant funds, including funds derived from other grant awards. With respect to each approved project, the grantee shall account for the sum total of all amounts paid by presenting or otherwise making available evidence satisfactory to the Secretary of expenditures for costs meeting the requirements of this subpart.

(b) *Accounting for non-Federal funds.* The agency shall account for all non-Federal funds expended during the grant period in carrying out the approved activities in accordance with procedures prescribed by the Secretary.

§ 123.209 Applicability of 45 CFR Part 74.

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants under this subpart.

§ 123.210 Additional conditions.

The Secretary may with respect to any grant award impose additional conditions prior to or at the time of the award when in his judgment such conditions are necessary to assure or protect advancement of the approved activity, the interests of the public health, or the conservation of grant funds.

Subpart D—Statewide Health Coordinating Councils

§ 123.301 Purpose and scope.

Section 1524 of the Public Health Service Act provides that each State health planning and development agency shall be advised by a Statewide Health Coordinating Council. The regulations of this subpart are applicable to the establishment and operation of SHCC's.

§ 123.302 Establishment.

A SHCC may not be established in a State until health systems agencies have been designated for one-half or more of the health service areas which are located in whole or in part in the State.

§ 123.303 Composition.

Except as authorized by § 123.503, a SHCC shall be composed in the following manner:

(a) A SHCC shall have no fewer than 16 representatives appointed by the Governor of the State from lists of at least five nominees submitted to the Governor by each of the health systems agencies designated for health service areas which fall, in whole or in part, within the State.

(1) Each such health systems agency shall be entitled to the same number of representatives on the SHCC.

(2) Each such health systems agency shall be entitled to at least two representatives on the SHCC.

(3) Of the representatives of any health systems agency, not less than one-half shall be individuals who are consumers of health care and who are not providers of health care.

(4) Each such health systems agency shall submit to the Governor a list of nominees numbering at least twice the number of representatives to which the health systems agency is entitled, or five, whichever is greater; except that any health systems agency may, at its option and if the Governor so requests, submit a lesser number of nominees.

(b) In addition to the appointments made under paragraph (a) of this section, the Governor may appoint such persons (including State officials, public elected officials, and other representatives of governmental authorities within the State) to serve on the SHCC as he deems appropriate; except that

(1) the number of persons appointed to the SHCC under this paragraph may not exceed 40 per centum of the total membership of the SHCC; and

(2) a majority of the persons appointed by the Governor under this paragraph shall be consumers of health care who are not providers of health care.

(c) Not less than one-third of the providers of health care who are members of the SHCC shall be direct providers of health care.

(d) Where two or more hospitals or other health care facilities of the Veterans Administration are located in a State, the SHCC for such State shall, in addition to the other members appointed pursuant to this section, include, as an ex officio member, an individual whom the Chief Medical Director of the Veterans Administration shall have designated as a representative of such facilities. Such individual shall be considered a direct provider of health care for purposes of paragraph (c) of this section.

§ 123.304 Chairman and terms of membership.

(a) The SHCC shall select from among its members a chairman.

(b) The terms of SHCC members shall be of fixed length.

§ 123.305 Statewide health coordinating council rules.

The SHCC shall be governed by written rules which set forth the policies and procedures for the functioning of the SHCC and which, at a minimum:

(a) Provide that the SHCC will meet not less than once in each calendar quarter for the purpose of performing one or more of the functions described in § 123.306;

(b) Provide that all business meetings of the SHCC shall be open to the public. For purposes of this paragraph, "business meetings" are meetings at which a SHCC acts to carry out its functions under the Act;

(c) Set forth the manner in which members of the SHCC will be selected and replaced, which shall be consistent with the requirements of section 1524 of the Act and which shall include provisions for (1) removal of members for good cause only; and (2) replacement of members in the event of resignation, death, or removal; and

(d) Set forth requirements relating to conflict of interest, which shall be designed to preclude use of membership on the SHCC for purposes which are, or give appearances of being, motivated by private gain on the part of any individual.

§ 123.306 Functions.

A SHCC shall perform the following functions:

(a) Review annually the Health Systems Plan ("HSP") and Annual Implementation Plan ("AIP") of each health systems agency of a health service area located in whole or in part within the State and report to the Secretary, for purposes of his review under section 1535(c) of the Act, its comments on such HSP and AIP, at such times and in such form and manner as the Secretary may direct. The SHCC, after consultation with the State Agency and health systems agencies located in whole or in part within the State, shall establish a uniform analytical approach and format for HSPs.

(b) Prepare, and review and revise as necessary (but at least annually), a State health plan which shall be made up of the HSP's of the health systems agencies within the State. Such plan may, as found necessary by the SHCC, contain revisions of such HSP's to achieve their appropriate coordination or to deal more effectively with statewide health needs. Where the State health plan does contain revisions of an HSP, the SHCC shall return the affected HSP to the appropriate health systems agency together with a statement of the revisions of the HSP that must be made by the agency.

(1) In the preparation and revision of the State health plan, the SHCC shall review and consider the preliminary State health plan submitted by the State Agency under section 1523(a)(2) of the Act and § 123.106(b)(2) and shall conduct a public hearing on the plan as proposed by the SHCC and shall give interested persons an opportunity to submit their views orally and in writing.

(i) Not less than 30 days prior to any such hearing, the SHCC shall publish in at least two newspapers of general circulation in the State a notice of its consideration of the proposed plan, the time and place of the hearing, the place at which interested persons may consult the plan in advance of the hearing, and the place and period during which to direct written comment to the SHCC on the plan.

(ii) At least 15 days prior to such publication, the SHCC shall provide a copy of the plan to the Governor for purposes of his review and comment.

(2) At such time and in such form and manner as the Secretary may prescribe, the SHCC shall provide to the Secretary a copy of its current State health plan.

(c) Following adoption of the State health plan, as part of its coordination of AIPs review the AIP of each health systems agency located in whole or in part within the State and recommend revisions to the AIP to ensure consistency with revisions of the HSP required by the SHCC.

(d) Review annually the budget of each health systems agency located in whole or in part within the State and report to the Secretary, for purposes of his review under section 1535(a) of the Act, is comments on such budget, at such time and in such form and manner as the Secretary may direct.

(e) Review applications submitted by such health systems agencies (or, in the case of the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, American Samoa, the Northern Mariana Islands, and any other State which has been determined by the Secretary to meet the requirements of section 1536(a) of the Act, by the State Agencies of such States) for grants under sections 1516 and 1640 of the Act and report to the Secretary, at such time and in such form and manner as the Secretary may direct its comments on such applications.

(f) Advise the State Agency generally on the performance of its functions, including review and comment to the State Agency on its application for designation prior to its submission to the Secretary.

(g) Review annually and approve or disapprove any State plan and any application (and any revision of a State plan or application) submitted to the Secretary as a condition to the receipt of Federal funds, made available under allotments, in accordance with section 1524(c)(6) of the Act and applicable regulations of the Secretary.

(h) Review and approve or disapprove the State medical facilities plan prepared by the State Agency pursuant to section 1603 of the Act, on the basis of whether such State medical facilities plan is consistent with the State health plan prepared in accordance with paragraph (b) of this section.

(i) Where applicable, review and comment on State Agency actions described in § 123.502(a)(2) before such actions become final.

Subpart E [Reserved]

Subpart F—Special Provisions for States—Section 1536 of the Act

§ 123.501 Additional grants to certain State agencies

In addition to grants pursuant to section 1525 of the Act, a State Agency designated for the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, American Samoa, the Northern Mariana Islands, or any other State determined by the Secretary to meet the requirements of section 1536(a) of the Act may, where the State Agency agrees to meet the requirements of § 123.502, receive a grant under section 1516 of the Act and this subpart.

(a) *Application.* An application for a grant under this section must conform to the requirements of 42 CFR 122.203 and in addition shall include a detailed description of the functions under section 1513 of the Act which the applicant will perform during the period of the designation agreement, and the manner in which the State Agency proposes to carry out such functions.

(b) *Amount of the grant.* (1) Where a State Agency has entered into a Conditional Designation Agreement under § 123.105, the amount of the grant to the State Agency will be computed in accordance with 42 CFR 122.204(b) as if the State Agency were a conditionally designated health systems agency.

(2) Where a State Agency has entered into a Full Designation Agreement under § 123.106, the amount of the grant to the State Agency will be computed in accordance with 42 CFR 122.204(b) as if the State Agency were a fully designated health systems agency.

(c) *Population.* For purposes of determining the amount of the grant under this section, the population of a State will be determined by the Secretary in accordance with 42 CFR 122.205.

(d) *Assurance of expenditure of non-Federal funds.* A State Agency which qualifies for a grant under this section may receive an increased amount of grant funds in accordance with section

1516 of the Act and 42 CFR 122.204 where the State Agency provides assurance in accordance with 42 CFR 122.206 that it will expend or obligate non-Federal funds during the grant

State were a health service area and the State Agency a health systems agency for such area.

(2) *Full designation agreement.* In the case of a State Agency designated pursuant to a Full Designation Agree-

quirements of section 1522(b)(4)(B) of the Act and § 123.104(b)(6) (relating to personnel standards on a merit basis) shall apply to each State Agency under this section.

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1516 of the Act and 42 CFR 122.204 where the State Agency provides assurance in accordance with 42 CFR 122.206 that it will expend or obligate non-Federal funds during the grant period for the purposes for which grants under this section may be made.

(e) *Grant payments.* Payments to a grantee of a grant award will be made in accordance with 42 CFR 122.207.

(f) *Use of grant funds.* Funds granted pursuant to this section, as well as other funds required as a condition of the grant to be used in performance of the approved activity, shall be expended in accordance with section 1516 of the Act, terms and conditions of the award, and the applicable cost principles prescribed by Subpart Q of 45 CFR Part 74. Such funds shall be available for obligation only during the period of the State Agency's designation agreement current at the time of the grant award.

(g) *Nondiscrimination.* The provisions of 42 CFR 122.209 shall apply to grants made under this section.

(h) *Grantee accountability.* The provisions of paragraphs (a) and (b) of 42 CFR 122.211 shall apply to grants made under this section.

(i) *Applicability of 45 CFR part 74.* The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants made under this section.

(j) *Additional conditions.* The Secretary may with respect to any grant award impose additional conditions prior to or at the time of any award when in his judgment such conditions are necessary to assure or protect advancement of the approved project, the interests of the public health, or the conservation of grant funds.

§ 123.502 Additional requirements for State agencies.

In addition to the other provisions of this Part, the provisions of this section shall apply to a State Agency which receives a grant under section 1516.

(a) *Additional functions*—(1) *Conditional designation.* In the case of a State Agency designated pursuant to a Conditional Designation Agreement, the State Agency shall perform such of the functions prescribed by section 1513 of the Act and 42 CFR 122.107(c) as the secretary, in writing, directs it to perform in accordance with 42 CFR 122.106 (b) and (c), as though the State were a health service area and the State Agency a health systems agency for such area.

(2) *Full designation agreement.* In the case of a State Agency designated pursuant to a Full Designation Agreement, the State Agency shall perform the functions prescribed by section 1513 of the Act and 42 CFR 122.107(c), as though the State were a health service area and the State Agency a health systems agency for such area.

Provided, That: The requirements of section 1513(b)(2) of the Act and 42 CFR 122.107(c)(2) (relating to the development of a health systems plan); section 1513(f) of the Act and 42 CFR 122.107(c)(14) (relating to the review of new institutional health services proposed to be offered or developed); section 1513(g) of the Act and 42 CFR 122.107(c)(15) (relating to periodic review of all institutional health services); and section 1513(h) of the Act and 42 CFR 122.107(c)(16) (relating to recommendation of projects for modernization, construction and conversion of medical facilities) shall not apply for purposes of this section.

(b) *Review and comment by SHCC.* The State Agency shall afford the SHCC for such State a reasonable opportunity to review and comment upon the following actions by the State Agency before such actions are made final:

(1) The establishment, annual review, and amendment of the annual implementation plan ("AIP") as described in 42 CFR 122.107(c)(3);

(2) The development and publication of specific plans and programs for achieving the objectives established in the AIP, as described in 42 CFR 122.107(c)(6);

(3) The making of grants and contracts from the Area Health Services Development Fund pursuant to section 1640 of the Act, as described in 42 CFR 122.107(c)(9);

(4) The approval or disapproval of each proposed use of Federal funds within the State, as described in 42 CFR 122.107(c)(17).

(c) *State agency staff.* Notwithstanding any other provisions of this Part relating to State Agency staff, a State Agency to which this section is applicable shall have a staff which meets the requirements of 42 CFR 122.110. The Secretary may, for good cause shown upon application by any such State Agency, waive the requirements of 42 CFR 112.110 in whole or in part with respect to such agency. The requirements of section 1522(b)(4)(B) of the Act and § 123.104(b)(6) (relating to personnel standards on a merit basis) shall apply to each State Agency under this section.

§ 123.503 Special provisions for membership for SHCCs.

The membership of the SHCC shall number not less than 16 and shall be appointed by the Governor of such State in accordance with the provisions of 42 CFR 122.109(b), relating to the composition of the governing body of a health systems agency; *Provided,* That: In the case of the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, American Samoa, or the Northern Mariana Islands any of the requirements of 42 CFR 122.109(b) may be waived by the Secretary upon the written request of the Governor supported by evidence sufficient to satisfy the Secretary that such requirement cannot be met or would, under the circumstances, be inconsistent with the purposes of the Act.

§ 123.504 Preliminary State health plan.

(a) In the case of a State Agency designated for the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, the Northern Mariana Islands and any other State determined to meet the requirements of section 1536 of the Act, the preliminary State health plan shall be established after appropriate consideration of the recommended National Guidelines for health planning policy issued by the Secretary under section 1501, and the priorities set forth in section 1502, and shall be a detailed statement of goals (1) describing a healthful environment and health system in the area which, when developed, will assert that quality health services will be available and accessible in a manner which assures continuity of care, at reasonable cost, for all residents of the area; (2) which are responsive to the unique needs and resources of the area; and (3) which take into account and are consistent with the National Guidelines for health planning policy issued by the Secretary under section 1501 of the Act respecting supply, distribution and organization of health resources.

(b) For purposes of this part, the preliminary State health plan prepared pursuant to this section shall be deemed to be the health systems plan for the State.

[FR Doc. 78-5957 Filed 3-9-78; 8:45 am]

federal register

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FRIDAY, MARCH 10, 1978
PART V

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

EMPLOYEE RETIREMENT INCOME AND SECURITY

Annual Reporting Requirements; Final Regulations

[4510-29]

Title 29—Labor

CHAPTER XXV—PENSION AND WEL-

as well as findings required by statute and detailed technical explanations of certain requirements.

PART I—DESCRIPTION OF THE

the 12-month period on the basis of which the plan's records are kept.

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it necessary to collect information from a number of sources, such as banks, insurance companies and other organizations that provide services to

nounced that the annual reporting regulations which were effective for 1975 plan years would also be effective for 1976 plan years (USDL 77-417). On

required by the instructions to the forms, in accordance with § 2520.104-41.

The limited exemption or alterna-

[4510-29]

Title 29—Labor

CHAPTER XXV—PENSION AND WELFARE BENEFIT PROGRAMS, DEPARTMENT OF LABOR

PART 2520—RULES AND REGULATIONS FOR REPORTING AND DISCLOSURE

Annual Reporting Requirements; Final Regulations

AGENCY: Department of Labor.

ACTION: Final regulations.

SUMMARY: These final regulations relate to the annual report that an employee benefit plan must prepare and file under the Employee Retirement Income Security Act of 1974. The report is filed with the Internal Revenue Service and copies are forwarded to the Department of Labor. The annual report is designed to inform these agencies about the year-to-year activities of the plan, particularly its yearly financial operations. A summary of the annual report must be disclosed by the plan to its participants and beneficiaries. These regulations also include rules specifying the dates when annual reports must be filed. Regulations concerning the preparation and disclosure of the summary annual report are not included in this document but will be published separately at a later date.

EFFECTIVE DATE: These regulations are generally effective for plan years beginning in 1977 and thereafter.

FOR FURTHER INFORMATION CONTACT:

Joe Bodnar, 202-523-7901, for questions relating to these regulations, or Mervyn Schwedt, 202-523-8769, for questions relating to the annual return/report forms.

SUPPLEMENTARY INFORMATION: The supplementary information section is divided into two parts. Part I, "Description of the Regulations," is a general, nontechnical description of what the regulations require. It is specifically written for the reader who is not a professional or an expert in the field of employee benefit plans. Part II, "Technical Explanation of the Regulations and Findings by the Department," contains discussions of the background and major issues involved, of significant differences between the annual report regulations published in the FEDERAL REGISTER on August 3, 1976 as temporary and proposed regulations, and November 29, 1977 as proposed regulations and the final regulations published here, and of substantive public comments on the proposals, as well as findings required by statute and detailed technical explanations of certain requirements.

PART I—DESCRIPTION OF THE REGULATIONS

GENERAL

Under the Employee Retirement Income Security Act of 1974 (ERISA) an employee benefit plan must prepare an annual report for the fiscal reporting year of the plan. The annual report is the document which informs the Department of Labor about the financial condition and activities of a plan. A copy of the annual report must be made available by the plan administrator, usually at the administrator's office or at the work site, for inspection by plan participants and beneficiaries. Copies of the report must be furnished upon request, although a reasonable charge may be assessed. Also, a summary of the annual report that is filed with the Department must be furnished to plan participants and beneficiaries. Final regulations concerning preparation and disclosure of the summary annual report are not contained in this document but will be published separately at a later date.

PREPARATION AND FILING

Annual reports must be prepared by all employee benefit plans unless specifically exempted by regulations issued by the Secretary of Labor. ERISA requires a copy of the annual report to be filed with the Secretary of Labor. The Department of Labor and the Internal Revenue Service have made arrangements to permit plans that are required to file annual reports and returns with both the Department and the Service to make a single filing with the Internal Revenue Service, starting with the plan year 1977 filings and thereafter. Microfiche copies of annual reports filed with the Internal Revenue Service will be forwarded to the Department of Labor.

The regulations permit a plan with 100 or more participants to prepare the annual report using Form 5500, "Annual Return/Report of Employee Benefit Plan," which is issued jointly by the Internal Revenue Service, Department of Labor and Pension Benefit Guaranty Corporation. Certain pension plans with fewer than 100 participants that cover self-employed individuals may use Form 5500-K, while all other plans with fewer than 100 participants that are not exempted from the annual reporting requirements may use Form 5500-C.

The regulations include requirements for the date by which the annual report must be filed. That date is generally seven months after the close of the plan year. The plan year is the 12-month period on the basis of which the plan's records are kept.

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The information that is required to be included in the annual report is primarily of a financial nature, such as a statement of assets and liabilities and income and expenses. In addition to the information required on Forms 5500, 5500-C and 5500-K, plans are required to include certain financial schedules, among which are a schedule of assets held for investment, a schedule of certain transactions with persons who are "parties in interest" with respect to the plan, a schedule of obligations in default, a schedule of leases in default, and a schedule of "reportable transactions." Reportable transactions, which are defined in these regulations, are certain transactions that involve a significant portion of a plan's assets.

ERISA requires an employee benefit plan to engage an accountant to examine the plan's financial statements and to prepare a report containing an opinion with respect to the financial condition of the plan. The accountant's report must be included in the annual report. Under these regulations, the scope of the accountant's opinion is generally not required to extend to information certified by certain financial institutions such as banks and insurance companies. The accountant's report is waived for employee pension and welfare benefit plans with fewer than 100 participants. In addition, these regulations provide that certain pension plans funded through allocated insurance contracts, prusuant to which benefit payments are guaranteed by an insurance company, and certain welfare plans that are unfunded or fully insured, are not required to engage an accountant and are exempt from completing certain financial items on the annual report form.

Some banks and insurance companies maintain funds in which assets belonging to a number of plans—generally pension plans—are pooled for investment. Funds of this type maintained by banks are referred to as common or collective trusts, while those maintained by insurance companies are referred to as pooled separate accounts. These regulations provide simplified reporting of certain financial information concerning assets placed by a plan in a common or collective trust maintained by a bank or a pooled separate account maintained by an insurance company. For example, plans need only file a statement of assets and liabilities of the trust or account and disclose the value of the plan's units of participaion to satisfy the plan's reporting obligation regarding the assets held in such trust or account.

In order to prepare an annual report, a plan administrator may find

it necessary to collect information from a number of sources, such as banks, insurance companies and other organizations that provide services to employee benefit plans. The regulations provide that such organizations must furnish needed information to plan administrators to enable them to prepare their annual reports in a timely manner.

EXEMPTIONS

Under these regulations, certain welfare plans which are either unfunded or fully insured or are partially unfunded and partially insured and have fewer than 100 participants are exempt from all annual reporting requirements and certain other reporting and disclosure obligations. The exemption is available if certain conditions are met, including the requirement that benefits under these plans are paid directly from the general assets of the employer or employee organization maintaining the plan or are provided by an insurance company through an insurance contract or policy.

Some welfare plans are part of a group insurance arrangement under which fully insured benefits are provided to employees of more than one employer but premiums for the group insurance contracts or policies are collected by a trust or other entity, such as a trade association, which also holds the contracts or policies. If the trust or other entity filed an annual report on behalf of the participating plans in the arrangement and other conditions are met, the participating welfare plans are exempt from requirement to file an annual report. Such plans, however, are not exempt from the requirement to prepare a summary annual report and to furnish it to plan participants and beneficiaries.

DRAFTING INFORMATION

The principal drafter of these regulations was Roger J. Thomas of the Plan Benefits Security Division, Office of the Solicitor, Department of Labor. However, persons from other offices of the Department participated in developing the regulation.

PART II—TECHNICAL EXPLANATION OF THE REGULATIONS AND FINDINGS BY THE SECRETARY

BACKGROUND

On August 3, 1976, regulations relating to the annual reporting requirements under the Act were published in the FEDERAL REGISTER (41 FR 32522). The regulations were both temporary regulations effective immediately for plan years beginning in 1975 and proposed regulations for final adoption. On May 6, 1977, the Department announced that the annual reporting regulations which were effective for 1975 plan years would also be effective for 1976 plan years (USDL 77-417). On November 29, 1977, the Department published in the FEDERAL REGISTER (42 FR 60899) proposed revisions in the annual reporting requirements that were designed to reduce certain reporting burdens.

The annual reporting regulations contained in this document are final regulations and, except where otherwise specifically noted, are effective for plan years beginning in 1977 and thereafter. Regulations relating to summary annual reports—§§ 2520.104b-10 and 2520.104b-11—which were published on August 3, 1976 as part of the annual reporting requirements are not contained in this document and will be published at a later date. It should be noted that §§ 2520.104-20 and 2520.104-21, which were published in final form in the FEDERAL REGISTER (40 FR 34526) on August 15, 1975, are also contained in this document because certain conforming changes have been made to those sections.

Certain sections of the annual reporting regulations are statutory interpretations of section 103 of the Act; the other sections of the regulations pertain to an alternative method of compliance for pension plans and to a limited exemption for welfare plans. Only plans which utilize the alternative method of compliance or limited exemption can rely upon those sections of the regulations which relate to the content of the annual report—§§ 2520.103-1, -2, -6, -10 and -11. Those sections of the regulations that do not relate to the content of the annual report are statutory interpretations which apply to all plans required to file an annual report. Plans following the statutory scheme of annual reporting in section 103 of the Act, rather than the alternative method or limited exemption set forth in the regulations, must comply with all the statutory reporting requirements.

§ 2520.103-1

Under this section, employee benefit plans with 100 or more participants are permitted to file an annual report in accordance with the provisions of section 103 of the Act, or in accordance with a limited exemption or alternative method of compliance authorized under sections 104(a)(3) and 110, respectively, of the Act. The content of the annual report (on Form 5500) for plans electing the limited exemption or alternative method of compliance is described in paragraph (b) of this section. Under the authority of section 104(a)(2)(A) of the Act, the section also provides that plans with fewer than 100 participants must file an annual report consisting of a Form 5500-C or 5500-K and any schedules required by the instructions to the forms, in accordance with § 2520.104-41.

The limited exemption or alternative method of compliance for plans with 100 or more participants permits such plans to fulfill their annual reporting obligation under section 103 of the Act by filing an annual report containing the following: A completed Form 5500, including applicable schedules of insurance or actuarial information and the schedules called for by Item 22(a) of Form 5500, a report by an independent qualified public accountant, and separate financial statements if prepared in order for the plan's accountant to form the opinion required by § 2520.103-1(b)(5).

In response to comments, § 2520.103-1 has been revised to make clear that the accountant may render an opinion with respect to the financial information in Form 5500 or in separate financial statements, but if separate financial statements are prepared, the financial information required by Items 13 and 14 of Form 5500 still must be completed by the plan administrator. If the plan's accountant chooses to prepare separate financial statements, the section also prescribes the content of those statements.

In those cases where a plan files separate financial statements, § 2520.103-1(b)(3) has been revised to include a requirement that the notes to the financial statements contain an explanation of the differences, if any, between the information in the separate financial statements and the information contained in Items 13 and 14 of Form 5500. The section also has been revised to make clear that the notes to the financial statements must be prepared whether the accountant's report is rendered with respect to the financial information in the Form 5500 or with respect to the separate financial statements.

The accountant's report must state whether the audit was made in accordance with generally accepted auditing standards and must designate any auditing procedures deemed necessary by the accountant which have been omitted and the reasons for their omission. In addition, the accountant's report must contain the opinion of the accountant with respect to the financial statements and schedules covered by the report and the accounting principles and practices reflected in such report. The report must also contain the opinon of the accountant as to the consistency of the application of the accounting principles with the application of such principles in the preceding year, or as to any changes in such principles which have a material effect on the financial statements of the plan. Further, the accountant's report must identify any matters to which the accountant takes exception, and to

the extent practicable, the effect on the financial statements of the matters to which he has taken exception. Finally, the report must indicate whether the matters to which the accountant takes exception are the result of Department of Labor regulations.

The following findings, pursuant to section 110 of the Act, are made with respect to the promulgation of § 2520.103-1 as an alternative method of fulfilling the annual reporting requirements of section 103 of the Act for pension benefit plans:

1. The alternative method of compliance is consistent with the purposes of title I of the Act, and provides adequate disclosure to plan participants and beneficiaries and adequate reporting to the Secretary. The essential information required by section 103 of the Act is reported and disclosed under the alternative method of compliance, while duplicative requirements are merged to provide a clearer portrayal of the financial activity and status of pension benefit plans.

2. The alternative method of compliance relieves plans subject to the annual reporting requirements from increased costs and unreasonable administrative burdens. The alternative frees plans which elect it from duplicative auditing requirements and simplifies the content of the annual report in general.

3. Finally, the alternative method of compliance is not adverse to the interests of participants and beneficiaries in the aggregate, because the alternative preserves all of the basic financial reporting features of section 103 of the Act, while at the same time restructuring the content to produce a more efficient and understandable report.

In accordance with the authority to promulgate a limited exemption for employee welfare benefit plans under section 104(a)(3) of the Act, the Secretary has found that the reporting and disclosure requirements of section 103 of the Act are inappropriate as applied to welfare benefit plans.

§ 2520.103-2

Under § 2520.104-43, welfare plans participating in a group insurance arrangement may be exempted from filing an annual report provided that the trust, trade association, or other entity which holds the insurance contracts and acts as a conduit for the insurance premiums files an annual report for the entire arrangement. Section 2520.103-2 prescribes the contents of the annal report to be filed by the trust, trade association, or other entity in order for a plan to be eligible for the exemption described in § 2520.104-43.

The annual report required to be filed under § 2520.103-2 must contain the following: A completed Form 5500 including the insurance schedule and the schedules necessary to complete Item 22(a) of Form 5500, a report by an independent qualified public accountant, and separate financial statements if prepared by the accountant in order to form the opinion required by § 2520.103-2(b)(5).

In response to comments, the section has been revised to make clear that the accountant may render an opinion with respect to the financial information in Form 5500 or in separate financial statements, but that if separate financial statements are prepared, the financial information required by Items 13 and 14 of the Form 5500 still must be completed by the plan administrator. Where the plan's accountant chooses to prepare separate financial statements in order to form the opinion required by § 2520.103-2(b)(5), the section also prescribes the content of those statements.

In those cases where a plan files separate financial statements, § 2520.103-2(b)(3) has been revised to include a requirement that the notes to the financial statements contain an explanation of the differences, if any, between the information in the separate financial statements and the information contained in Items 13 and 14 of Form 5500. The section also has been revised to make clear that the notes to the financial statements must be prepared whether the accountant's report covers the financial information contained in the Form 5500 or in separate statements.

The accountant's report must state whether the audit was made in accordance with generally accepted auditing standards. In addition, the accountant's report must contain the opinion of the accountant with respect to the financial statements and schedules covered by the report and the accounting principles and practices reflected in such report. The report must also contain the opinion of the accountant as to the consistency of the application of the accounting principles with the application of such principles in the preceding year. Further, the accountant's report must identify any matters to which the accountant takes exception and to the extent practicable, the effect of the matters to which he has taken exception on the financial statements. Finally the report must indicate whether the matters to which the accountant takes exception are the result of Department of Labor regulations.

§ 2520.103-3

Pursuant to the authority granted in section 103(b)(3)(G) of the Act, § 2520.103-3 provides an exemption from certain annual reporting requirements relating to plan assets held in a common or collective trust maintained by a bank, trust company, or similar institution. Under § 2520.103-3, a plan with assets in such a trust need only include the following financial information in the annual report: The value of the plan's units of participation in the trust, transactions involving the acquisition and disposition by the plan of units of participation in the trust, if otherwise required to be reported, and a statement of the assets and liabilities of the trust. A plan administrator is not required to report any information with respect to transactions engaged in by the bank involving the assets of the trust.

Proposed § 2520.103-3 defined a common or collective trust as a trust maintained for the collective investment and reinvestment of assets contributed to such trust *by the bank in its capacity as trustee, executor, administrator or guardian.* (Emphasis added.) Comments noted that assets contributed to a common or collective trust may not necessarily be contributed by the bank in its capacity as trustee, executor, administrator, or guardian. In response to these comments, the italicized language has been deleted. In addition, certain changes have been made in § 2520.103-3 to make it clear that the statement of assets and liabilities of the common or collective trust that is required to be attached to the plan's annual report must relate to the fiscal year of the trust ending with or within the plan year for which the annual report is made. These changes are discussed more fully in the section of the preamble relating to § 2520.103-9.

Under § 2520.103-3 the annual reporting exemption applies only to assets held in a common or collective trust maintained by a bank, trust company, or similar institution regulated and supervised and subject to periodic examination by a State or Federal agency. The term "common or collective trust" is defined to mean a trust which consists of the assets of two or more participating entities, and plans of a controlled group of corporations are treated as a single participating entity in a common or collective trust.

Some of the comments received by the Department suggested that the annual reporting exemption for assets held in a common or collective trust should be extended to situations where assets of plans maintained by a single employer or by members of a controlled group of corporations are held in a single trust that is maintained by a bank, trust company, or similar institution. These suggestions were not accepted. Where a trust maintained by a bank consists solely of the assets of plans of a single employer or members of a controlled group of corporations, the likelihood that investment decisions regarding the assets held in such trusts will be

subject to the influence of the single employer or the controlled group is greater than where such a trust consists of assets of unrelated participating entities. Thus, where a trust consists solely of the assets of plans maintained by a single employer or by members of a controlled group of corporations, it would not be in the interests of plan participants to exempt such plans from the requirements to furnish detailed information regarding their financial activities. Other comments suggesting that § 2520.103-3 should apply to a pooled investment trust not maintained by a bank, trust company, or similar institution were also not accepted because such a trust is not covered by section 103(b)(3)(G) of the Act, which is the statutory basis for § 2520.103-3. The instructions accompanying the Annual Return/Report Forms, 5500 Series, however, provide guidance for plans with assets in a trust that includes assets of more than one plan of a single employer or members of a controlled group of corporations but does not meet the requirements for the exemption set forth in § 2520.103-3 (such as a so-called "master trust").

§ 2520.103-4

Under the authority of section 103(b)(3)(G), § 2520.103-4 provides an exemption from certain annual reporting requirements relating to plan assets held in a pooled separate account maintained by an insurance carrier. This exemption is similar to the exemption provided in § 2520.103-3 for plans whose assets are held in a common or collective trust. Under § 2520.103-4 a plan with assets in a pooled separate account need only include the following financial information in the annual report: the value of the plan's units of participation in the account; transactions involving the acquisition and disposition by the plan of units of participation in the account, if otherwise required to be reported; and a statement of the assets and liabilities of the account. Certain changes have been made in § 2520.103-4 to clarify the date as of which the statement of assets and liabilities of the pooled separate account that is required to be filed in conjunction with the plan's annual report must be prepared. These changes are discussed more fully in the preamble relating to § 2520.103-9.

Under § 2520.103-4 the annual reporting exemption applies only to assets held in a pooled separate account maintained by an insurance carrier regulated and supervised and subject to periodic examination by a State agency. Paragraph (b) of the section has been revised to define the term "pooled separate account" to mean an account which consists of the assets of two or more participating entities. This definition was added in response to comments to clarify that a pooled separate account need only contain the assets of two participating entities to meet the requirements of the section, which is consistent with the treatment of common or collective trusts in § 2520.103-3. Comments also requested clarification concernihg the treatment of plans of a controlled group of corporations and suggested that such plans be treated under § 2520.103-4 in the same manner as they are treated under § 2520.103-3. Based on these comments, the definition provides that plans a controlled group of corporations are to be treated as a single participating entity in a pooled separate account.

Some of the comments received by the Department urged that the exemption from annual reporting should cover situations where the assets of a plan or plans maintained by a single or controlled group of employers are held in a separate account consisting solely of the assets of such plan or plans. These comments were not accepted. Where a separate account consists solely of the assets of plans maintained by a single employer or by members of a controlled group of corporations, the likelihood that investment decisions regarding the assets held in such an account will be subject to the influence of the single employer or the controlled group is greater than where such an account consists of assets of unrelated participating entities. Thus, where a separate account consists solely of the assets of plans maintained by a single employer or by members of a controlled group of corporations, it would not be in the interests of plan participants to exempt such plans from the requirements to furnish detailed information regarding their financial activities.

§ 42520.103-5

Section 2520.103-5 implements section 103(a)(2) of the Act. Section 103(a)(2) of the Act requires an insurance carrier or other organization which provides some or all of the benefits under a plan or holds plan assets, a bank or similar institution which holds plan assets, or a plan sponsor to transmit and certify to the accuracy and completeness of such information as is needed by the plan administrator to comply with the requirements of Title I of the Act.

Section 2520.103-5 sets forth the information which must be provided to the plan administrator and requires that the information be transmitted within 120 days of the close of the plan year.

Several comments suggested that requiring banks and insurance companies to certify as to the completeness of the information furnished may be interpreted to cover information not required by § 2520.103-5. The section has been revised to make clear that the certification as to accuracy and completeness only covers the information required to be reported by this section. It should be noted that the language suggested in the section for the certification is only an example. Any other signed statement which assures the accuracy and completeness of the information required by subparagraph (c) of the section may be used. The certification need not be sworn to or notorized.

To conform this section to current revisions in §§ 2520.103-3 and 2520.103-4 regarding the annual statement of assets and liabilities for a common or collective trust or pooled separate account required to be included in the plan's annual report or filed directly by the bank or insurer, the section has been revised so that the annual statement of assets and liabilities for the fiscal year of the account or trust shall be for the fiscal year that ends with or within the plan year for which the annual report is made.

§ 2520.103-6

This section is applicable to the schedule of reportable transactions required by item 22(a)(v) of Form 5500 as described in § 2520.103-10(b)(6). Plans which use the alternative method of compliance or limited exemption prescribed in § 2520.103-1(b) or §2520.103-2(b) must use the definitions in this section for purposes of preparing the above schedule.

Reportable transactions as defined in this section consist of four separate categories of transactions: first, a single transaction in excess of 3 percent of the current value of plan assets; second, a series of transactions with or in conjunction with the same person, involving property other than securities, which amount in the aggregate to more than 3 percent of the current value of plan assets; third, a series of transactions with respect to securities of the same issue which amount in the aggregate to more than 3 percent of the current value of total plan assets; and fourth, any transaction with respect to securities with or in conjunction with a person if a prior or subsequent single transaction has occurred with respect to securities with or in conjunction with that same person in an amount in excess of 3 percent of the current value of plan assets, unless specifically excluded by this section.

A number of comments were received with respect to the section as published on August 3, 1976, requesting clarification as to the applicability of the reporting requirements of this section to plans whose assets are held in a common or collective trust maintained by a bank or pooled separate account maintained by an insurance

company. Paragraph (a) has been revised and a new paragraph (c)(3) has been inserted to make clear that such plans are exempt from reporting indi-

chase or sell the security for its own account or the account of an affiliated person. Thus, any 3 percent transac-

Another comment noted that financial institutions that collect information with respect to plan transactions and provide that information to plan

beginning after 1975, vary according to the type of plan. Plans with 100 or more participants and trusts filing an annual report for a group insurance

103(a)(3)(C) of the Act, the examination and report of the independent qualified public accountant need not address any statement or information

surance company and plans of unrelated parties so long as the bank or insurance company is regulated by a State or Federal agency. Accordingly, the

company. Paragraph (a) has been revised and a new paragraph (c)(3) has been inserted to make clear that such plans are exempt from reporting individual transactions of the common or collective trust or pooled separate account.

In response to comments, an example has been added to paragraph (e)(3) to clarify that a simultaneous sale by a plan of property which is not a security (e.g., real estate) and a loan by the plan to the purchaser of the property is to be treated as two separate transactions that must be aggregated to determine whether a series of transactions with the same person exceeds 3 percent of the current value of plan assets.

On November 29, 1977, the Department proposed to reduce significantly the reporting of securities transactions triggered by a 3 percent transaction under § 2520.103–6(c)(1)(iv) (42 FR 60899). Except as noted below, the revisions have been adopted as proposed. The revised section eliminates the reporting requirements triggered by a 3 percent transaction if the 3 percent transaction or any prior or subsequent transaction involves certain types of temporary investments or the transaction which is triggered involves purchases or sales of listed and certain publicly traded securities. The changes are limited to triggered transactions covered by § 2520.103–6(c)(iv); the changes would not relieve plans of the reporting obligations set forth in § 2520.103–6(c)(1)(i)–(iii).

The reduced reporting burden is accomplished by narrowly defining the term "securities" solely for purposes of § 2520.103–6(c)(iv). The definition excludes from the reporting requirement of § 2520.103–6(c)(iv) investments involving transactions meeting two criteria: (1) The transactions must be effected through one of four enumerated categories of financial institutions subject to Federal and/or State regulation; and (2) the transactions must fall within one of seven enumerated categories of temporary investments. If a 3 percent transaction meets these two criteria, it must be reported but it will not trigger the reporting requirements of § 2520.103–6(c)(iv).

The section also contains a restricted definition of the phrase "with or in conjunction with a person" contained in § 2520.103–6(b)(3)(ii) solely for purposes of § 2520.103–6(c)(iv). The definition excludes from the category of transactions "with or in conjunction with a person" any transaction that meets the following three criteria: (1) The broker-dealer who engages in the transaction is registered under the Securities Exchange Act of 1934; (2) the security is listed on a national securities exchange or quoted on NASDAQ; (3) the broker-dealer does not purchase or sell the security for its own account or the account of an affiliated person. Thus, any 3 percent transaction in such security must be reported, but the transaction will not trigger the reporting requirements of § 2520.103–6(c)(iv) if the three conditions described above are met with respect to the other securities transactions effected for the plan by the same broker-dealer.

One comment requested that with respect to the excluded category in paragraph (2)(ii)(C) of "interests issued by a company registered under the Investment Company Act of 1940" (i.e., mutual fund shares), that the phrase "which invests primarily in securities with a maturity of not more than one year" be deleted. The comment indicated that many different types of mutual funds are suitable for short term investment and therefore the reduced reporting also should be available for mutual funds that do not invest in short term securities. The comment also noted that the limitation on fund investment for reporting purposes represented an unjustified disparity between the mutual fund industry and the banking and insurance industries because the section did not contain any limitation on the portfolio composition of bank common or collective trusts or insurance company pooled separate accounts. In response to this comment, the section has been revised so that the reduced reporting is equally available for any investment in mutual fund shares.

Several comments suggested that the categories of investments that do not trigger the reporting of other transactions be expanded to include such investments as bankers acceptances, time deposits, variable amount notes, commerical paper not rated in the highest category by two rating services, long term investments with a maturity of less than one year from the date of acquisition and mortgage backed pass through certificates issued by governmental entities. The Department has decided not to accept these comments at this time but does intend to monitor the reduced reporting provisions to determine whether additional changes should be made for subsequent plan years.

Several comments suggested that the revised reporting requirements provided under paragraph (c)(1)(iv) should be extended to the aggregation of securities transactions under paragraph (c)(1)(iii). These comments were not adopted. The revised requirements of paragraph (c)(1)(iv) are intended only to reduce the reporting of prior or subsequent transactions if a 3 percent transaction in securities with the same person has occurred and not to reduce or eliminate the reporting of a transaction or a series of transactions in securities which exceeds 3 percent of plan assets.

Another comment noted that financial institutions that collect information with respect to plan transactions and provide that information to plan administrators may not have sufficient time to revise their data processing systems in order to take advantage of the reduced reporting requirements for plan years commencing in 1977, and suggests that the changes not be effective for 1977 plan years. The Department will not delay the effective date of these changes. However, plan administrators can furnish, for the 1977 plan year, reportable transaction data which includes those transactions which would otherwise be excluded under the revised regulation.

Finally, paragraph sections of the regulation have been renumbered in accordance with the appropriate format for regulations.

New examples have been added in paragraphs (e) (4), (5), (6), and (7) to illustrate the operation of the revisions to these paragraphs.

It should be noted that with respect to both the interim regulations published on August 3, 1976, and these final regulations, the aggregation of transactions involving securities, which is required under § 2520.103–6(c)(1)(iii), is to be on the basis of issue rather than issuer. The Department believes that such aggregation would be more useful to the Department for purposes of monitoring plan activity under the Act, as well as less burdensome to plans and financial institutions. Reporting three percent series transactions involving securities of the same issue, rather than issuer, will also decrease the number of transactions reportable on the separate schedule because only purchases and sales of a particular type of security, e.g., XYZ common stock rather than all types of XYZ securities, will be aggregated.

Plans which report such securities transactions on the separate schedule need only provide certain aggregate information relevant to the series of securities transactions. The specific information to be furnished includes the total number of purchases of such securities made by the plan within the plan year, total number of sales, total dollar value of purchases, total value of sales, and the net gain or loss as a result of these transactions. This approach is simpler and less burdensome to plans while providing information which is relevant.

§ 2520.103–7

Section 2520.103–7 establishes special accounting rules for certain plans filing an annual report under the Act for the plan year beginning in 1975. This section remains unchanged from the temporary version. The special accounting rules prescribed by the section, which do not apply to plan years

beginning after 1975, vary according to the type of plan. Plans with 100 or more participants and trusts filing an annual report for a group insurance arrangement in accordance with §§ 2520.104–43 and 2520.104a–6 which file an annual report for the plan year beginning in 1975, may only use the special accounting rules described in this section if the plan has adopted the limited exemption/alternative method of compliance of §§ 2520.103–1(b) or 2520.103–2(b). Such plans are not required to: (1) Display at current value plan assets and liabilities in comparative form as of the end of the previous plan year or the beginning of the plan year subject to the initial annual report, (2) engage an accountant to examine the plan's financial statements for the preceding plan year, or (3) provide an accountant's opinion regarding the consistency of the initial plan year's financial statements with the preceding plan year's financial statements.

All plans with fewer than 100 participants which file an annual report for the plan year beginning in 1975 are not required to display at current value plan assets and liabilities in comparative form as of the end of the previous plan year or the beginning of the plan year which is covered by the initial annual report. (Plans with fewer than 100 participants are exempt under § 2520.104–46 from the requirement to engage an accountant to examine the plan's financial statements and prepare an accountant's report.)

The following findings are made with respect to the promulgation of § 2520.103–7 as an alternative method of compliance under section 110 of the Act for pension plans which cover fewer than 100 participants at the beginning of the plan year:

1. The special accounting rules are consistent with the purposes of Title I of the Act, and provide adequate disclosure to plan participants and beneficiaries and adequate reporting to the Secretary. Because plans filing an initial annual report for the plan year beginning in 1975 may not have previously maintained their financial books and records on the basis of current value, a requirement to include a statement of assets at current value as of the beginning of the plan year would be unduly burdensome.

2. Requiring small plans to obtain a current valuation of all plan assets for the beginning of the 1975 plan year would result in increased costs for an appraisal. These increased costs and the administrative burden of preparing beginning of the year balances at current value would be adverse to the interests of participants and beneficiaries in the aggregate.

§ 2520.103–8

Under section 2520.103–8, which interprets and implements section 103(a)(3)(C) of the Act, the examination and report of the independent qualified public accountant need not address any statement or information regarding plan assets held by a bank or insurance carrier, which is regulated and supervised and subject to periodic examination by a State or Federal agency, provided that the statement or information is transmitted and certified to the plan administrator in accordance with § 2520.103–5. Plan assets held in any type of bank or insurance carrier trust or account, including separate trusts, common or collective trusts, custodial accounts and pooled or individual separate accounts, are included.

Some comments indicated that the section is not clear with respect to the nature and extent of the information which may be excluded from the scope of an examination by an independent qualified public accountant. Section 2520.103–8 provides that an opinion that must be rendered by an accountant need not be expressed as to any statements required by § 2520.103–5, which are prepared and certified to by a bank or similar institution or insurance carrier regulated and supervised and subject to periodic examination by a State or Federal agency. Section 2520.103–5 sets forth the information that may be transmitted and certified to by a bank or similar organization or an insurance carrier. Information which is required to be provided under § 2520.103–5 and which is transmitted and certified to the administrator of a plan pursuant to that section need not be covered in the accountant's examination and report of that plan in the annual report.

Other comments requested clarification as to whether a plan is required to engage an independent qualified public accountant when all its assets are held and certified to by a bank or insurance company. If a plan is required under § 2520.103–1 to engage an accountant to render an opinion with respect to the financial statements of the plan, an exemption is not provided under § 2520.103–8 and section 103(a)(3)(C) of the Act from such requirements solely because the plan's assets are held by a bank or insurance company and certification has been provided under § 2520.103–5. However, the examination by the accountant and the scope of the accountant's opinion would, in such circumstances, be limited as a result of the applicability of this section.

Finally, comments requested clarification as to the applicability of this section to plans sponsored by a bank or insurance company for its own employees when the bank or insurance company prepares and certifies such information to the plan administrator. Section 2520.103–5 does not distinguish between plans of a bank or insurance company and plans of unrelated parties so long as the bank or insurance company is regulated by a State or Federal agency. Accordingly, the limitation provided by 2520.103–8 would apply to a plan of a bank or insurance company provided the requirements of § 2520.103–5 are satisfied. The Department, however, intends to monitor the operation of this limitation as it applies to plans of a bank or insurance company to determine whether there is a sufficient potential for abuse in such circumstances to justify making this limitation inapplicable to those plans.

§ 2520.103–9

Section 2520.103–9 implements section 103(b)(4) of the Act, which authorizes the Secretary to relieve plans with assets held in whole or in part in a common or collective trust fund or a pooled separate account from filing a statement of assets and liabilities of such trust or account as required under section 103(b)(3)(G) of the Act if the bank or insurance carrier files a statement of assets and liabilities of the trust or pooled separate account directly with the Secretary prior to the date on which the plan is required by § 2520.104a–5 or § 2520.104a–6 to file its annual report.

One comment urged clarification with respect to the requirement set forth in § 2520.103–9 that the annual statement of assets and liabilities of the common or collective trust or pooled separate account to be filed with the Secretary and furnished to the plan administrator be the most recent such statement. The comment stated that § 2520.103–9 could be interpreted in conjunction with section 103(a)(2) of the Act and § 2520.103–5 to require that in situations where the fiscal year of the common or collective trust or pooled separate account ends between the end of the plan year and the date on which the plan's annual report must be filed with the Secretary, the bank or insurance carrier maintaining the trust or account complete the annual statement and furnish it to the plan administrator within a shorter period than the 120-day period after the end of the plan year that is generally allowed under section 103(a)(2) and § 2520.103–5 for transmittal and certification by a bank or insurance carrier of information maintained by such bank or carrier. The same comment is also applicable to the exemptions from certain annual reporting requirements set forth in § 2520.103–3 and § 2520.103–4 for assets held in a common or collective trust and for assets held in an insurance company pooled separate account, respectively.

Sections 2520.103–3, 2520.103–4 and 2520.103–9 have been revised to make clear that the statement of assets and

liabilities of the common or collective trust or pooled separate account must relate to the fiscal year of such account or trust that ends with or within

clude in its annual report a schedule of all "assets held for investment purposes * * *." No regulation has previously been adopted to interpret or im-

tively low for these investments because such investments are effected through financial institutions subject to recordkeeping requirements by Fed-

15, 1975, provides an exemption from the filing requirements for certain welfare plans. Such an exemption is authorized by section 104(a)(3) if the

100 participants at the beginning of the plan year, none of whom is an owner-employee as defined in section 401(c)(3) of the Internal Revenue

waiver which is based upon preliminary findings by the Secretary that the information required under section 103(d)(6) is primarily important

liabilities of the common or collective trust or pooled separate account must relate to the fiscal year of such account or trust that ends with or within the plan year for which the annual report is made. Thus, the shortest period allowed for completion and transmittal to the plan administrator of the annual statement of the assets and liabilities of the trust or separate account is 120 days, in the situation where the plan year of the plan and the fiscal year of the trust coincide.

The statement of the assets and liabilities of the trust or account must be filed with the Secretary no later than the date on which the annual report of the plan must be filed under section 104(a)(1)(A) of the Act and § 2520.104a-5.

Conforming changes have been made in §§ 2520.103-1, 2520.103-2, and 2520.103-5.

Another comment suggested that the requirement of § 2520.103-9(b)(2)(i)(B) that the bank or insurance carrier maintaining the common or collective trust or pooled separate account must file with the Secretary a list of all plans, assets of which are held in the common or collective trust or pooled separate account, should be eliminated because of the administrative difficulties created by the preparation of such a list. This suggestion has been rejected because the list of plans with assets in the trust or account is necessary for the Department and the Internal Revenue Service to make effective use of the information in the annual statement of assets and liabilities of the trust or account. However, to assist the trustee or insurance carrier in preparing the required list, the section has been revised to require the administrator of a plan with assets in the trust or account to provide the trustee of the trust or the insurance carrier maintaining the account the plan number as on the Annual Return/Report Form and the name and EIN of the plan sponsor.

§ 2520.103-10

Section § 2520.103-10 details the format and content of the schedules which are necessary to complete Item 22(a) of Form 5500, and required to be included with the annual report pursuant to the limited exemption and alternative method of compliance prescribed in §§ 2520.103-1(b) and 2520.103-2(b). The format and content of the schedules are prescribed in § 2520.103-10 pursuant to authority granted by section 109(c) of the Act. An additional schedule of assets acquired and disposed within a plan year has been added to reflect the adoption of new § 2520.103-11.

§ 2520.103-11

Under section 103(b)(3)(C) of the Act, an employee benefit plan must include in its annual report a schedule of all "assets held for investment purposes * * *." No regulation has previously been adopted to interpret or implement this provision.

The 1975 Annual Report forms had provided that the schedule of "assets held for investment purposes" should include only those assets held for investment by the plan at the end of the plan year. This interpretation of the language in section 103(b)(3)(C) was criticized in comments on two grounds. First, the comments suggested that this interpretation did not comport with the legislative intent behind the reporting requirements of the Act. Second, the comments argued that plans could circumvent the reporting requirements of the Act by purchasing assets early in the plan year and selling those assets before the end of the plan year. The instructions for the 1976 Annual Report forms did not include the reference to plan assets held for investment at the end of the plan year.

The Department received comments which noted that the reporting of every investment asset held during the plan year imposed a heavy reporting burden on plans. The comments emphasized that under this interpretation of section 103(b)(3)(C), a plan would have to report all temporary investments used for the legitimate function of cash management and report investments already listed on other schedules in the annual report.

After consideration of these comments, the Department decided to revise the reporting of assets held for investment by proposing § 2520.103-11. The final regulation, which is unchanged, except as explained below, from the proposed version published on November 29, 1977, will require the reporting of all assets held for investment purposes by a plan at the end of the plan year, plus a limited category of assets purchased during the plan year and sold before the end of the plan year. These reporting requirements would be implemented by narrowly defining the phrase "assets held for investment purposes" in section 103(b)(3)(C) of the Act to exclude certain types of investments.

Under the final regulation, the investment transactions during the plan year that would not have to be reported would be purchases and sales of U.S. Government securities, instruments for short term money management, (such as interests in mutual funds and short term commercial paper ranked in the highest rating category), and securities listed on a national securities exchange or quoted on NASDAQ if purchased from a person registered as a broker-dealer under the Securities Exchange Act of 1934. The potential for abuse and the need for reporting appears to be relatively low for these investments because such investments are effected through financial institutions subject to recordkeeping requirements by Federal and/or State agencies and are in securities which are generally traded in established markets. On the other hand, these factors generally are not present in those cases where plans make investments such as real estate, mortgages, loans and securities which are not listed on a national securities exchange or quoted on NASDAQ. Records concerning such investments are not readily accessible and such investments generally do not have a readily ascertainable market value.

It also appears unnecessary and duplicative for plans to report on the schedule of assets held for investment, those investments that would appear on other schedules in the annual report. For example, if a plan purchases and sells unlisted securities from a party in interest during the plan year such transactions will be reported in the schedule required by § 2520.103-10(b)(3) if they are not exempt from the prohibited transaction provisions of the Act. Accordingly, the section would exclude from the requirement to report assets held for investment, transactions reported on the other schedules required by § 2520.103-10.

One comment urged that one of the categories of investments that does not have to be reported—securities of a company registered under the Investment Company Act of 1940 that invests primarily in short term securities—be expanded to include securities of all mutual funds. The comment was accepted for the reasons set forth in the preamble to § 2520.103-6.

Other comments suggested that the category of investments that does not have to be reported if acquired and sold within the plan year be expanded to include investments in time deposits, bankers acceptances, variable amount notes, commercial paper not ranked in the highest rating category and mortgage backed pass through certificates. The Department has decided, at this time, not to accept these comments but intends to monitor the reporting of assets held for investment to determine whether further relief from reporting for subsequent plan years is appropriate.

Plans which elect to use the alternative method and limited exemption for filing the annual report provided in § 2520.103-1 or § 2520.103-2 would be able to rely on the definition of assets held for investment set forth in § 2520.103-11(b) for the preparation of the appropriate schedule under § 2520.103-10(b).

§ 2520.104-20

Section 2520.104-20, which was published as a final regulation on August

15, 1975, provides an exemption from the filing requirements for certain welfare plans. Such an exemption is authorized by section 104(a)(3) if the Secretary finds that all or part of the reporting and disclosure requirements of Title I of the Act are inappropriate as applied to welfare benefit plans.

The exemption provided in this section is based on the assumption that certain reporting requirements of Title I of the Act are inappropriate as applied to many small unfunded or totally insured welfare plans. For this reason, those plans with fewer than 100 participants, which could be overwhelmed by the expense and administrative burden of all the reporting and disclosure requirements, have been exempted.

The section provides that this exemption is only available for plans covering fewer than 100 participants at all times during the plan year. This requirement could be overly burdensome because welfare plans with fewer than 100 participants at the beginning of the year would be required to maintain all the records necessary to file Form 5500 in the event the plan had 100 or more participants at any time during the year. Accordingly, the section (and example 1) have been revised so that the exemption is available for plans covering fewer than 100 participants at the beginning of the plan year. This change conforms § 2520.104-20 to other exemptions from the annual reporting requirements (see §§ 2520.103-1, 2520.104-41, 2520.104-45, and 2520.104-46) which are available for plans with fewer than 100 participants at the beginning of the plan year.

§ 2520.104-21

This section, which was published as a final regulation on August 15, 1975, provides an exemption from filing requirements for welfare plans with fewer than 100 participants using certain group insurance arrangements.

Consistent with the change in § 2520.104-20 discussed above, the exemption provided by § 2520.104-21 has been revised so that it is available for plans which have fewer than 100 participants at the beginning of the plan year.

In addition, to conform the exemption to the relief provided by § 2520.104-43, the exemption is now available if the trust or other entity "holds" the policy rather than being the "legal owner" of the policy. See the preamble to § 2520.104-43 for an explanation of this change.

§ 2520.104-41

Section 2520.104-41, which is unchanged from the proposed version, provides for simplified annual reporting for plans with fewer than 100 participants. Plans that have fewer than 100 participants at the beginning of the plan year, none of whom is an owner-employee as defined in section 401(c)(3) of the Internal Revenue Code of 1954 and welfare plans with fewer than 100 participants at the beginning of the plan year must file a Form 5500-C "Annual Return/Report of Employee Benefit Plan (with fewer than 100 participants)," in the manner prescribed in § 2520.104a-5.

A simplified reporting method is also available for Keogh plans with fewer than 100 participants at the beginning of the plan year, at least one of whom is an owner-employee as defined in section 401(c)(3) of the Internal Revenue Code of 1954. Such a pension plan must file a Form 5500-K "Annual Return/Report of Employee Pension Benefit Plans" in the manner prescribed in § 2520.104a-5.

A Keogh plan which covers more than 100 participants is not eligible for this simplified annual reporting method, but must file the full Form 5500 "Annual Return/Report" which provides for more complete and detailed financial information.

§ 2520.104-42 WAIVER OF CERTAIN ACTUARIAL INFORMATION IN THE ANNUAL REPORT

This section extends to reports for plan years beginning in 1976 and 1977 the waiver of the requirement that the annual report include certain actuarial information.

Under the authority of section 104(a)(2)(A) of the Act, the Secretary of Labor may waive the requirement that actuarial information on the annual report include the present value of the plan's liabilities for nonforfeitable pension benefits allocated by termination priority category, as set forth in section 4044 of Title IV of the Act, and the actuarial assumptions used in these computations. In order to waive this requirement, however, the Secretary must make findings as required under section 104(a)(2)(A) that the interests of plan participants are not harmed thereby, and that the expense of compliance with specific requirements of section 103(d)(6) is not justified by the needs of the participants, the Pension Benefit Guaranty Corporaton (PBGC) and the Department of Labor.

Section 2520.104-42 provides that the plan administrator of an employee pension benefit plan, required under section 103(d) of the Act to include actuarial information as part of the annual report, is not required to include in the annual reports for the 1976 and 1977 plan years a statement of the present value of all the plan's liabilities for nonforfeitable pension benefits as set forth in section 4044 of Title IV of the Act and is not required to provide the actuarial assumptions used in these computations. The waiver which is based upon preliminary findings by the Secretary that the information required under section 103(d)(6) is primarily important to a plan which is terminating and would be of little relevance to participants or the Secretary in the case of an ongoing plan. Moreover, PBGC has expressed no need for such information on an annual basis. In addition the requirements of section 103(d)(6) are overly burdensome and would add considerable expense and time to the preparation of the actuarial statement of the annual report.

Comments received on the temporary regulation generally support the waiver. Because the issues raised by the waiver and the requirements of section 103(d)(6) are still under consideration, the regulation provides a continuation of the temporary waiver. The waiver of termination priorities information is effective only for 1975, 1976, and 1977 plan years. If PBGC develops a need for such annual information, or if the Department determines that this information should be made available to participants and beneficiaries, the waiver will not be extended.

The waived information is solicited on an optional basis. Those plans that have developed the requisite data covering the termination priority categories are requested to submit this information to the Department of Labor, though there is no requirement that they do so. This data will assist the Department in making a final determination as to the usefulness of this information to the Department and pension plan participants and beneficiaries.

§ 2520.104-43

Under § 2520.104-43, a welfare plan participating in a trade association or other group insurance arrangement which meets all the requirements of § 2520.104-21, except the limitation that a plan cover fewer than 100 participants at the beginning of the plan year, is exempt from the requirements to file an annual report with the Secretary of Labor if the trust or trade association that acts as an intermediary between the plan and the insurance company files a report containing the information specified in § 2520.103-2. This section is designed to obtain annual financial information from the central trust or trade association, which may hold plan assets for a period of time before transmitting them to the insurance company. A participating plan, regardless of the number of participants, does not have the financial data relevant to the group insurance arrangement.

It is the trust or trade association rather than the plan which is able to provide the most relevant financial information regarding a group insurance arrangement, because it is only at the

trust or trade association level that any plan assets are held in a form other than premium payments or insurance contracts. The trust or trade

under an insurance contract are allocated and the insurance carrier fully guarantees benefit payments, the participants and beneficiaries look to the

tracts where the insurance company guarantees benefits.

2. If such an insured plan were not clearly exempt from including certain

is adopted or occurs. Section 102(a)(2) refers to to any material modification in the terms of the plan and any change in the information described in section 102(b) of the Act.

cations or changes in plan information, should be made pursuant to the requirements set forth in § 2520.104b-3.

Finally, in the case of most material

begins after December 31, 1975. The section also refers filers to the instructions to the appropriate return/report form for instructions regarding where to file the return/report.

trust or trade association level that any plan assets are held in a form other than premium payments or insurance contracts. The trust or trade association may, for example, maintain a contingency or reserve fund which is a proper object of financial reporting in the case of group insurance arrangements.

Section 2520.104-43 provides an exemption which makes it possible to avoid multiple filings, one for each participating plan, if one annual report is filed on behalf of the entire group insurance arrangement or trade association.

In response to comments the section has been revised so that the exemption is available if the trust or other entity is the "holder" rather than the "legal owner" of the policy. This change, which clarifies the intended scope of the exemption, should result in the exemption being available to a greater number of plans.

The only other change from the proposed regulation is the revised reference to § 2520.104-21 to reflect changes discussed in the preamble to that section.

§ 2520.104-44

Section 2520.104-44, as proposed, provided relief for wholly insured plans if, among other things, the payments received by the insurance company or similar organization were held solely in the general account of such company. Several comments sought clarification as to whether this exemption would apply to a pension plan funded through a contract with an insurance company that provides for the accumulation of unallocated funds, such as a deposit administration or immediate participation guaranteed contract. Other comments suggested that the exemption should not be based on whether premium payments are held in the general account of the insurance company, but should be based on whether the insurance company fully guarantees benefit payments under the contract. In the latter situation, which would not include deposit administration or immediate participation guaranteed contracts because these contracts do not provide any guarantee of benefit payments, the comments suggested that an exemption should be available. In response to these comments, the final regulations have been revised to make clear that the exemption set forth in § 2520.104-44 only applies to a pension plan funded entirely with allocated insurance contracts where benefits are fully guaranteed by the insurance company or organization that issued the policy.

The exemption, as revised, provides for information which is most relevant for plan participants and beneficiaries. To the extent that funds accumulated under an insurance contract are allocated and the insurance carrier fully guarantees benefit payments, the participants and beneficiaries look to the insurance carrier for their benefits. Thus, the financial information that is not required to be included in the annual report under § 2520.104-44 is not necessary to provide accurate and reliable reporting on the funds available to the plan for the payment of benefits. To the extent that funds accumulated under an insurance contract are unallocated and benefit payments are not guaranteed, however, plan participants and beneficiaries look to the plan for their benefits and the financial information provided in the annual report is necessary to provide accurate and reliable reporting.

The revision is also consistent with the provisions of the annual return/report, which do not require the reporting of financial information to the extent a plan is funded with allocated insurance contracts.

The distinction between allocated and unallocated insurance contracts however, does not apply to welfare plans. As a result, the exemption for such plans remains unchanged from the proposed version.

Paragraph (c)(2) of the proposed regulations has been deleted to make clear that Schedules A and B, if applicable, must be filed by plans that use the alternative method and limited exemption provided by this section. Minor changes were made in the example to clarify the relationship of this exemption to the exemption provided by § 2520.104-20.

Other comments were received which requested that an intermediary trust or other entity which collects contributions for the payment of insurance premiums to an insurance company and forwards refunds to participants should be allowed to qualify for the limited exemption and alternative method of compliance if all other conditions of § 2520.104-44 are met. These suggestions were not accepted because passage of such funds through an intermediary trust or other entity present an opportunity for fund management that should be subject to financial reporting.

The following findings are made with respect to the promulgation of § 2520.104-44 as an alternative method of compliance under section 110 of the Act:

1. The use of the alternative method of compliance set forth below is consistent with the purposes of Title I of the Act, and provides adequate reporting to the Secretary and adequate disclosure to plan participants and beneficiaries. The Act requires an employee benefit plan to include certain financial information that is inappropriate with regard to plans funded exclusively through allocated insurance contracts where the insurance company guarantees benefits.

2. If such an insured plan were not clearly exempt from including certain financial information in the annual report, such plan would incur the additional expense of hiring an independent qualified public accountant. The regulation makes it clear that such an insured plan is not required to hire an independent qualified public accountant.

3. The additional expense of an audit and the preparation of additional financial statements would be adverse to the interests of plan participants in the aggregate.

With respect to the promulgation of § 2520.104-44 as an exemption under section 104(a)(3) of the Act, the annual reporting provisions requiring insured or unfunded welfare plans to include certain financial information are found inappropriate for the reasons listed above.

§ 2520.104-45

A temporary exemption from reporting insurance fees and commissions for insured plans with fewer than 100 participants was provided for plan years beginning in 1975 because of the additional time needed by insurance companies to retrieve the necessary commission and fee information. On May 6, 1977, the Department announced that this temporary exemption was being extended to cover plan years beginning in 1976 (USDL 77-417). Because insurance carriers have had sufficient time to retrieve commission and fee information, the temporary exemption will not be available for plan years beginning in 1977 and for subsequent plan years.

§ 2520.104-46

Section 2520.104-46 waives the requirement to engage an independent qualified public accountant for both pension and welfare plans with fewer than 100 participants as of the beginning of the plan year. The waiver for pension plans is based on the statutory authority in sections 103(a)(3)(A) and 104(a)(2) of the Act, while the waiver for welfare plans is based on the broad exemption authority in section 104(a)(3) of the Act. Both sections 103(a)(3)(A) and 104(a)(2) evidence a specific intent to provide small plans with relief from burdensome and expensive reporting requirements. No changes were made in this section.

§ 2520.104a-4

Under section 104(a)(1)(D) of the Act, a plan adminstrator of an employee benefit plan shall file with the Secretary any material modification or change in the plan referred to in section 102(a)(2) of the Act within 60 days after such modification or change

is adopted or occurs. Section 102(a)(2) refers to to any material modification in the terms of the plan and any change in the information described in section 102(b) of the Act.

On April 23, 1976, the Department adopted § 2520.104a-4 (41 FR 16964), which defined more precisely the obligation of a plan administrator to file material modifications in the terms of the plan and changes in the information described in section 102(b) of the Act. Under that section, a plan administrator was required to report any material modificaton in plan terms or change in information described in section 102(b) of the Act to the Secretary within 60 days after such modification or change was adopted or occurs. This report was required to be filed on Department of Labor Form EBS-1 in accordance with § 2520.104a-1(a) and the instructions to this form.

On July 19, 1977, the Department published final regulations covering summary plan description requirements with certain regulations effective on an interim basis (42 FR 37178). As a result of these regulations, a plan administrator was required to file two reports of any modification or change with the Department at two different times. One report, an amended EBS-1, was required to be filed with the Department within 60 days of the adoption or occurrence of such modification or change; the second report, the summary description of such modification or change (SMM), was required to be filed not later than 210 days after the end of the plan year in which such modification occurs. To eliminate this duplicative reporting, the Department proposed, on November 29, 1977 to (1) rescind § 2520.104a-4, and to adopt a new § 2520.104a-4 which would, in effect, permit a plan to satisfy the requirements of section 104(a)(1)(D) by filing an SMM not later than 210 days after the close of the plan year in which the modification or change occurred or was adopted.

The revised § 2520.104a-4 has been adopted as proposed.

Several points should be noted concerning § 2520.104a-4. First, a plan administrator must file a Form EBS-1 for the description of the plan as required by section 104(a)(1)(B) of the Act and § 2520.104a-2. Section 2520.104a-4 pertains only to the summary of a material modification or change required by section 104(a)(1)(D) of the Act. It is contemplated that when the initial Form EBS-1 is updated once every five years as required by section 104(a)(1)(B) of the Act, the plan administrator will integrate into the updated Form EBS-1 all the information contained in the SMM's filed during the intervening years.

Second, determinations with respect to what constitutes "material" modifications or changes in plan information, should be made pursuant to the requirements set forth in § 2520.104b-3.

Finally, in the case of most material modifications and changes in the information under section 102(a), plan administrators may file the SMM with the Department at the same time they forward the SMM to plan participants and beneficiaries. The regulation provides this potential for coordination by permitting the SMM to be filed no later than the date the SMM would be provided to plan participants and beneficiaries under § 2520.104b-3.

Pursuant to section 110(a) of the Act, the following findings are made with respect to the alternative method of compliance in § 2520.104a-4 for reporting by pension plans of material modifications in plan terms and changes in information required by section 102(a)(2).

1. Use of the alternative method of compliance is consistent with the purposes of Title I of the Act and provides adequate disclosure to plan participants and beneficiaries and adequate reporting to the Secretary. Under the alternative, all the information required by section 104(a)(1)(D) would be filed with the Department through an understandable summary that would be more informative to plan participants and the Department than the checked-off boxes in the Form EBS-1.

2. The alternative method of compliance relieves plans from increased costs and unreasonable administrative burdens. If this alternative method were not implemented, plans would have to file two reports for every material modification in plan terms or any change in the information described in section 102(b).

3. The application of the requirement to file a Form EBS-1 for every material modification in plan terms and every change in section 102(b) information would be adverse to the interests of plan participants in the aggregate. This requirement imposes the costs of duplicative reporting on pension plans without providing additional information to plan participants.

With respect to the promulgation of § 2520.104a-4 as an exemption for welfare plans under section 104(a)(3) of the Act, the filing of Form EBS-1 in addition to a SMM for every material modification in plan terms and every change in section 102(b) is inappropriate for the reasons stated above.

§ 2520.104a-5

This section provides guidance as to when the annual report is to be filed. Under the section an annual report was required to be filed no later than December 15, 1976, for plan years which begin in 1975, and 7 months after the end of any plan year which begins after December 31, 1975. The section also refers filers to the instructions to the appropriate return/report form for instructions regarding where to file the return/report.

§ 2520.104a-6

Section 2520.104a-6 prescribes the annual report filing date requirements to be met by trusts, trade associations or other entities filing under the provisions of §§ 2520.103-2 and 2520.104-43. Under section 2520.104a-6, the annual report was required to be filed no later than December 15, 1977, for fiscal years of the trust or other entity beginning in 1975 and 7 months after the close of any fiscal year beginning after December 31, 1975. Because the trust or trade association, rather than the participating employers, is the primary source of financial information for the plan, it is appropriate to link the annual reporting date to the fiscal year of the trust or trade association, rather than a participating employer's taxable year or the plan year.

Subparts C, D, and E of Part 2520 of Title 29 are amended to read as follows:

Subpart C—Annual Report Requirements

Sec.
2520.103-1 Content of annual report.
2520.103-2 Content of annual report for a group insurance arrangement.
2520.103-3 Exemption from certain annual reporting requirements for assets held in a common or collective trust fund.
2520.103-4 Exemption from certain annual reporting requirements for assets held in an insurance company pooled separate account.
2520.103-5 Transmittal and certification of information to the plan administrator for annual reporting purposes.
2520.103-6 Definition of reportable transaction for purposes of Annual Return/Report.
2520.103-7 Special accounting rules for plans filing the initial annual report.
2520.103-8 Limitation on scope of accountant's examination.
2520.103-9 Direct filing rules for bank common and collective trusts and insurance carrier pooled separate accounts.
2520.103-10 Format and contents of Annual Report/Return financial schedules.
2520.103-11 Assets held for investment purposes.

Subpart D—Provisions Applicable to Both Reporting and Disclosure Requirements

2520.104-20 Limited exemption for certain small welfare plans.
2520.104-21 Limited exemption for certain group insurance arrangements.
2520.104-41 Simplified annual reporting requirements for plans with fewer than 100 participants.
2520.104-42 Waiver of certain actuarial information in the annual report.
2520.104-43 Exemption from annual reporting requirement for certain group insurance arrangements.
2520.104-44 Limited exemption and alternative method of compliance for annual

reporting by unfunded or insured welfare and pension plans.
2520.104-45 Temporary exemption from reporting insurance fees and commissions for insured plans with fewer than 100

tion") which is required to be attached to the form.

(2) Separate financial statements (in addition to the information required

made as required under § 2520.103-3 or § 2520.103-4. See § 2520.103-9 for direct filing with the Secretary of such statements by banks or insurance compa-

§ 2520.103-2 Contents of the annual report for a group insurance arrangement.

(a) *General.* (1) A trust or other entity described in § 2520.104-43(b)

of which are held in a pooled separate account maintained by an insurance carrier, or a common or collective trust maintained by a bank, a copy of

whose assets are held in whole or in part in a common or collective trust maintained by a bank, trust company, or similar institution which meets the

reporting by unfunded or insured welfare and pension plans.
2520.104-45 Temporary exemption from reporting insurance fees and commissions for insured plans with fewer than 100 participants.
2520.104-46 Waiver of examination and report of an independent qualified public accountant for employee benefit plans with fewer than 100 participants.

Subpart E—Reporting Requirements

2520.104a-4 Material modifications to the plan and changes in plan description information.
2520.104a-5 Annual report filing requirements.
2520.104a-6 Annual reporting for plans which are part of a group insurance arrangement.

AUTHORITY: Secs. 101, 102, 103, 104, 109, 110, 111(b)(2), 111(c), 505, Pub. L. 93-406, 88 Stat. 840-52, 894 (29 U.S.C. 1021-24, 1029-31, 1135).

Subpart C—Annual Report Requirements

§ 2520.103-1 Contents of the annual report.

(a) *General.* The administrator of a plan required to file an annual report in accordance with section 104(a)(1)(A) of the Act shall include with the annual report the information prescribed in paragraph (a)(1) of this section or in the limited exemption or alternative method of compliance described in paragraph (a)(2) of this section.

(1) The annual report shall contain the information prescribed in section 103 of the Act.

(2) Under the authority of sections 104(a)(3) and 110 of the Act, a limited exemption or alternative method of compliance is prescribed for employee welfare and pension benefit plans, respectively, which cover 100 or more participants at the beginning of the plan year. A plan electing the limited exemption or alternative method of compliance shall file an annual report containing the information prescribed in paragraph (b) of this section and shall furnish a summary annual report as prescribed in § 2520.104b-10 or § 2520.104b-11.

(b) *Contents of the annual report for plans with 100 or more participants electing the limited exemption or alternative method of compliance.* Except as provided in §§ 2520.103-2 and 2520.104-44, the annual report of an employee benefit plan covering 100 or more participants at the beginning of the plan year which elects the limited exemption or alternative method of compliance described in paragraph (a)(2) shall include:

(1) A completed Form 5500 "Annual Return/Report of Employee Benefit Plan" (including items 13, 14 and the separate schedules necessary to complete item 22(a)) and any schedule (i.e. Schedule A "Insurance Information" or Schedule B "Actuarial Information") which is required to be attached to the form.

(2) Separate financial statements (in addition to the information required by paragraph (b)(1) of this section), if such financial statements are prepared in order for the independent qualified public accountant to form the opinion required by section 103(a)(3)(A) of the Act and § 2520.103-1(b)(5). These statements shall include the following:

(i) Except as provided in § 2520.103-7, a statement of assets and liabilities at current value presented in comparative form for the beginning and end of the year. The statement of plan assets and liabilities shall include the assets and liabilities listed in columns *a* and *b* of item 13 of Form 5500; however, the assets and liabilities may be aggregated into categories in a manner other than that used on Form 5500.

(ii) Separate or combined statements of plan income and expenses and of changes in net assets which include the categories of income, expense, and changes in assets shown in item 14 of Form 5500; however the income, expense, and changes in net assets may be aggregated into categories in a manner other than that used on Form 5500.

(3) Notes to the financial statements described in paragraphs (b)(1) or (2) of this section which contain a description of the accounting principles and practices reflected in the financial statements and, if applicable, variances from generally accepted accounting principles; a description of the plan, including any significant changes in the plan made during the period and the impact of such changes on benefits; the funding policy (including policy with respect to prior service cost) and any changes in such policy from the prior year, a description of material lease commitments, other commitments, and contingent liabilities; a description of agreements and transactions with persons known to be parties in interest; a general description of priorities upon termination of the plan; information concerning whether or not a tax ruling or determination letter has been obtained; an explanation of the differences, if any, between the information contained in the separate financial statements and the information contained in items 13 and 14 of Form 5500, and any other matters necessary to fully and fairly present the financial condition of the plan.

(4) In the case of a plan, some or all of the assets of which are held in a pooled separate account maintained by an insurance company, or a common or collective trust maintained by a bank or similar institution, a copy of the annual statement of assets and liabilities of such account or trust for the fiscal year of the account or trust which ends with or within the plan year for which the annual report is made as required under § 2520.103-3 or § 2520.103-4. See § 2520.103-9 for direct filing with the Secretary of such statements by banks or insurance companies.

(5) A report of an independent qualified public accountant.

(i) *Technical requirements.* The accountant's report—

(A) Shall be dated;

(B) Shall be signed manually;

(C) Shall indicate the city and state where issued; and

(D) Shall identify without detailed enumeration the financial statements and schedules covered by the report.

(ii) *Representations as to the audit.* The accountant's report—

(A) Shall state whether the audit was made in accordance with generally accepted auditing standards; and

(B) Shall designate any auditing procedures deemed necessary by the accountant under the circumstances of the particular case which have been omitted, and the reasons for their omission. Authority for the omission of certain procedures which independent accountants might ordinarily employ in the course of an audit made for the purpose of expressing the opinions required by paragraph (b)(5)(iii) of this section is contained in § 2520.103-8.

(iii) *Opinion to be expressed.* The accountant's report shall state clearly:

(A) The opinion of the accountant in respect of the financial statements and schedules covered by the report and the accounting principles and practices reflected therein; and

(B) The opinion of the accountant as to the consistency of the application of the accounting principles with the application of such principles in the preceding year or as to any changes in such principles which have a material effect on the financial statements.

(iv) *Exceptions.* Any matters to which the accountant takes exception shall be clearly identified, the exception thereto specifically and clearly stated, and, to the extent practicable, the effect of the matters to which the accountant takes exception on the related financial statements given. The matters to which the accountant takes exception shall be further identified as (A) those that are the result of DOL regulations, and (B) all others.

(c) *Contents of the annual report for plans with fewer than 100 participants.* Except as provided in §§ 2520.104-43 and 2520.104a-6, the annual report of an employee benefit plan which covers fewer than 100 participants at the beginning of the plan year shall be Form 5500-C "Annual Return/Report of Employee Benefit Plan (with fewer than 100 participants)" or 5500-K "Annual Return/Report of Employee Pension Benefit Plan for Sole Proprietorships and Partnerships (with fewer than 100 participants and at least one owner-employee)".

§ 2520.103-2 Contents of the annual report for a group insurance arrangement.

(a) *General.* (1) A trust or other entity described in § 2520.104-43(b) that files an annual report for purposes of § 2520.104-43 shall include in such report the items set forth in paragraph (b) of this section.

(b) *Contents.* (1) A completed Form 5500 "Annual Return/Report of Employee Benefit Plan" (including items 13, 14 and the separate schedules necessary to complete item 22(a)) and Schedule A "Insurance Information" which is attached to the form.

(2) Separate financial statements (in addition to the information required by paragraph (b)(1) of this section), if such financial statements are prepared in order for the independent qualified public accountant to form the opinion required by section 103(a)(3)(A) of the Act and § 2520.103-2(b)(5). These financial statements shall include the following:

(i) Except as provided in § 2520.103-7, a statement of all trust assets and liabilites at current value presented in comparative form for the beginning and end of the year. The statement of trust assets and liabilities shall include the assets and liabilities listed in columns *a* and *b* of item 13 of Form 5500; however, the assets and liabilities may be aggregated into categories in a manner other than that used on Form 5500.

(ii) Separate or combined statements of all trust income and expenses and changes in net assets which includes the categories of income, expense, and changes in assets shown in item 14 of Form 5500; however, the income, expense, and changes in assets may be aggregated into categories in a manner other than that used on Form 5500.

(3) Notes to the financial statements described in paragraphs (b) (1) or (2) of this section which contain a description of the accounting principles and practices reflected in the financial statements and, if applicable, variances from generally accepted accounting principles; a description of the group insurance arrangement including any significant changes in the group insurance arrangement made during the period and the impact of such changes on benefits; a description of material lease commitments, other commitments, and contingent liabilities; a description of agreements and transactions with persons known to be parties in interest; a general description of priorities upon termination of the plan; an explanation of the differences, if any, between the information contained in the separate financial statements and the information contained in items 13 and 14 of Form 5500; and any other matters necessary to fully and fairly present the financial condition of the plan.

(4) In the case of a group insurance arrangement some or all of the assets of which are held in a pooled separate account maintained by an insurance carrier, or a common or collective trust maintained by a bank, a copy of the annual statement of assets and liabilities of such separate account or trust for the fiscal year of the account or trust which ends with or within the plan year for which the annual report is made, as required under § 2520.103-3 or § 2520.103-4. See also § 2520.103-9 for direct filing with the Secretary of Labor of such statements by banks or insurance companies.

(5) A report of an independent qualified public accountant. (i) *Technical requirements.* The accountant's report—

(A) Shall be dated;

(B) Shall be signed manually;

(C) Shall indicate the city and State where issued; and

(D) Shall identify without detailed enumeration the financial statements and schedules covered by the report.

(ii) *Representations as to the audit.* The accountant's report—

(A) Shall state whether the audit was made in accordance with generally accepted auditing standards; and

(B) Shall designate any auditing procedures deemed necessary by the accountant under the circumstances of the particular case, which have been omitted, and the reasons for their omission. Authority for the omission of certain procedures which independent accountants might ordinarily employ in the course of an audit made for the purpose of expressing the opinions required by paragraph (b)(5)(iii) of this section is contained in § 2520.103-8.

(iii) *Opinion to be expressed.* The accountant's report shall state clearly:

(A) The opinion of the accountant in respect of the financial statements and schedules covered by the report and the accounting principles and practices reflected therein; and

(B) The opinion of the accountant as to the consistency of the application of the accounting principles with the application of such priniciples in the preceding year, or as to any changes in such principles which have a material effect on the financial statements.

(iv) *Exceptions.* Any matters to which the accountant takes exception shall be clearly identified, the exception thereto specifically and clearly stated, and, to the extent practicable, the effect of the matters to which the accountant takes exception on the related financial statements given. The matters to which the accountant takes exception shall be further identified as to (A) those that are the result of DOL regulations and (b) all others.

§ 2520.103-3 Exemption from certain annual reporting requirements for assets held in a common or collective trust.

(a) *General.* Under the authority of section 103(b)(3)(G) of the Act, a plan whose assets are held in whole or in part in a common or collective trust maintained by a bank, trust company, or similar institution which meets the requirements of paragraph (b) of this section shall include as part of the annual report required to be filed under § 2520.104a-5 or § 2520.104a-6 the annual statement of assets and liabilities of the common or collective trust for the fiscal year of the trust ending with or within the plan year for which the annual report is made and other information as described in paragraph (c) of this section. Such plan is not required to include in the annual report any information concerning the individual transactions of the common or collective trust. This exemption has no application to assets not held in such trusts.

(b) *Application.* This provision applies only to a plan some or all of the assets of which are held in a common or collective trust maintained by a bank, trust company, or similar institution regulated and supervised and subject to periodic examination by a State or Federal agency. For purposes of this section, (1) a common or collective trust is a trust which consists of the assets of two or more participating entities and is maintained for the collective investment and reinvestment of assets contributed thereto, and (2) plans maintained by a single employer or by the members of a controlled group of corporations, as defined in section 1563(a) of the Internal Revenue Code of 1954, shall be deemed to be a single participating entity.

(c) *Contents.* (1) A plan which meets the requirements of paragraph (b) of this section shall include in the Annual Return/Report and in the separate statements and schedules of the annual report, information regarding the value of the units of participation in the common or collective trust held by the plan and transactions involving the acquisition and disposition by the plan of units of participation in the common or collective trust. However, the annual report is not required to include any information regarding the individual transactions of the common or collective trust.

(2) The annual report of such plan shall also include the annual statement by the bank, trust company, or similar institution of the assets and liabilities of the common or collective trust for the fiscal year of the trust ending with or within the plan year for which the annual report is made.

(3) The statement of assets and liabilities of the common or collective trust is not required to be attached to the annual report filed by the administrator pursuant to § 2520.104a-5 or § 2520.104a-6 if the administrator meets the requirements of § 2520.103-9 regarding direct filing of the statement of assets and liabilities of the

common or collective trust by the bank, trust company or similar institution.

§ 2520.103-4 Exemption from certain annual reporting requirements for assets held in an insurance company pooled separate account.

(a) *General.* Under the authority of section 103(b)(3)(G) of the Act, a plan whose assets are held in whole or in part in a pooled separate account of an insurance carrier which meets the requirements of paragraph (b) of this section shall include as a part of the annual report required to be filed under § 2520.104a-5 or § 2520.104a-6 the annual statement of assets and liabilities of the pooled separate account for the fiscal year of the account ending with or within the plan year for which the annual report is made, and other information as described in paragraph (c) of this section. Such plan is not required to include in the annual report any information concerning the individual transactions of the pooled separate account. This exemption has no application to assets not held in such a pooled separate account.

(b) *Application.* This provision applies only to a plan some or all of the assets of which are held in a pooled separate account of an insurance carrier regulated and supervised and subject to periodic examination by a State agency. For purposes of this section, (1) a pooled separate account is an account which consists of the assets of two or more participating entities and is maintained for the collective investment and reinvestment of assets contributed thereto, and (2) plans maintained by a single employer or by members of a controlled group of corporations, as defined in section 1563(a) of the Internal Revenue Code of 1954, shall be deemed to be a single participating entity.

(c) *Contents.* (1) A plan which meets the requirements of paragraph (b) of this section shall include in the Annual Return/Report and in the separate statements and schedules of the annual report, prescribed information regarding the value of the units of participation in the pooled separate account held by the plan and transactions involving the acquisition and disposition by the plan of units of participation in the pooled separate account. However, the annual report is not required to include any information regarding the individual transactions of the pooled separate account.

(2) The annual report of such plan shall also include the annual statement by the insurance carrier of the assets and liabilities of the pooled separate account for the fiscal year of the separate account ending with or within the plan year for which the annual report is made.

(3) The statement of assets and liabilities of the pooled separate account is not required to be attached to the annual report filed by the administrator pursuant to § 2520.104a-5 or § 2520.104a-6 if the administrator meets the requirements of § 2520.103-9 regarding direct filing of the statement of assets and liabilities of the pooled separate account by an insurance carrier.

§ 2520.103-5 Transmittal and certification of information to plan administrator for annual reporting purposes.

(a) *General.* In accordance with section 103(a)(2) of the Act, an insurance carrier or other organization which provides benefits under the plan or holds plan assets, a bank or similar institution which holds plan assets, or a plan sponsor shall transmit and certifty such information as needed by the administrator to file the annual report under section 104(a)(1)(A) of the Act and § 2520.104a-5 or § 2520.104a-6:

(1) Within 9 months after the close of the plan year which begins in 1975 or September 30, 1976, whichever is later, and

(2) Within 120 days after the close of any plan year which begins after December 31, 1975.

(b) *Application.* This requirement applies with respect to—

(1) An insurance carrier or other organization which:

(i) Provides from its general asset account funds for the payment of benefits under a plan, or

(ii) Holds assets of a plan in a separate account;

(2) A bank, trust company, or similar institution which holds assets of a plan in a common or collective trust, separate trust, or custodial account; and

(3) A plan sponsor as defined in section 3(16)(B) of the Act.

(c) *Contents.* The information required to be provided to the administrator shall include—

(1) In the case of an insurance carrier or other organization which:

(i) Provides funds from its general asset account for the payment of benefits under a plan, upon request of the plan administrator, such information as is contained within the ordinary business records of the insurance carrier or other organization and is needed by the plan administrator to comply with the requirements of section 104(a)(1)(A) of the Act and § 2520.104a-5 or § 2520.104a-6;

(ii) Holds assets of a plan in a pooled separate account which is exempted from certain reporting requirements under § 2520.103-4, a copy of the annual statement of assets and liabilities of the separate account for the fiscal year of such account that ends with or within the plan year for which the annual report is made, and a statement of the value of the plan's units of participation in the separate account;

(iii) Holds assets of a plan in a separate account which is not exempted from certain reporting requirements under § 2520.103-4, a listing of all transactions of the separate account and, upon request of the plan administrator, such information as is contained within the ordinary business records of the insurance carrier and is needed by the plan administrator to comply with the requirements of section 104(a)(1)(A) of the Act and § 2520.104a-5 or § 2520.104a-6.

(2) In the case of a bank, trust company, or similar institution holding assets of a plan—

(i) In a common or collective trust which is exempted from certain reporting requirements under § 2520.103-3, a copy of the annual statement of assets and liabilities of the common or collective trust for the fiscal year of such trust that ends with or within the plan year for which the annual report is made, and a statement of the value of the plan's units of participation in the common or collective trust.

(ii) In a trust which is not exempted from certain reporting requirements under § 2520.103-3, a listing of all transactions of the separate trust and, upon request of the plan administrator, such information as is contained within the ordinary business records of the bank, trust company, or similar institution and is needed by the plan administrator to comply with the requirements of section 104(a)(1)(A) of the Act and § 2520.104a-5.

(iii) In a custodial account, upon request of the plan administrator, such information as is contained within the ordinary business records of the bank, trust company, or similar institution and is needed by the plan administrator to comply with the requirements of section 104(a)(1)(A) of the Act and § 2520.104a-5 or § 2520.104a-6.

(3) In the case of a plan sponsor, a listing of all transactions directly or indirectly involving plan assets engaged in by the plan sponsor and such information as is needed by the plan administrator to comply with the requirements of section 104(a)(1)(A) of the Act and § 2520.104a-5 or § 2520.104a-6.

(d) *Certification.* (1) An insurance carrier or other organization, a bank, trust company, or similar institution, or plan sponsor, as described in paragraph (b) of this section, shall certify to the accuracy and completeness of the information described in paragraph (c) of this section by a written declaration which is signed by a person authorized to represent the insurance carrier, bank, or plan sponsor. Such certification will serve as a written assurance of the truth of the facts stated therein.

(2) *Example of Certification.* The XYZ Bank (Insurance Carrier) hereby certifies that the foregoing statement furnished pursuant to 29 CFR 2520.103-5(c) is complete and accurate.

§ 2520.103-6 Definition of reportable transaction for Annual Return/Report.

(a) *General.* For purposes of preparing the schedule of reportable transactions described in § 2520.103-10(b)(5), and subject to the exceptions provided in §§ 2520.103-3 and 2520.103-4 with respect to transactions by a common or collective trust or pooled separate account, a reportable transaction includes any transaction or series of transactions described in paragraph (c) of this section.

(b) *Definitions.* (1)(i) Except as provided in paragraph (b)(1)(ii) and in paragraphs (c)(2) and (d)(1)(vi) (relating to assets acquired or disposed of during the plan year), "current value" shall mean the current value, as defined in section 3(26) of the Act, of plan assets as of the beginning of the plan year, or the end of the previous plan year.

(ii) With respect to schedules of reportable transactions for plan years beginning in 1975, the current value of plan assets for the beginning of the plan year, or the end of the previous plan year, shall be the amount shown on line 13(h) of Form 5500 Annual Return/Report.

(2)(i) A "transaction with respect to securities" is any purchase, sale, or exchange of securities. A transaction with respect to securities for purposes of this section occurs on either the trade date or settlement date of a purchase, sale, or exchange of securities; either the trade date or settlement date must be used consistently during the plan year for the purposes of this section. For the purposes of this section, except as provided in paragraph (b)(2)(ii) of this section, "securities" includes a unit of participation in a common or collective trust or a pooled separate account.

(ii) Solely for purposes of paragraph (c)(1)(iv) of this section, the term "securities", as it applies to any transaction involving a bank or insurance company regulated by a Federal or State agency, an investment company registered under the Investment Company Act of 1940, or a broker-dealer registered under the Securities Exchange Act of 1934, shall not include:

(A) Debt obligations of the United States or any United States agency with a maturity of not more than one year;

(B) Debt obligations of the United States or any United States agency with a maturity of more than one year if purchased or sold under a repurchase agreement having a term of less than 91 days;

(C) Interests issued by a company registered under the Investment Company Act of 1940;

(D) Bank certificates of deposit with a maturity of not more than one year;

(E) Commercial paper with a maturity of not more than nine months if it is ranked in the highest rating category for commercial paper by at least two nationally recognized statistical rating services and is issued by a company required to file reports under section 13 of the Securities Exchange Act of 1934;

(F) Participations in a bank common or collective trust;

(G) Participations in an insurance company pooled separate account;

(3)(i) Except as provided by paragraph (b)(3)(ii) of this section, a transaction is "with or in conjunction with a person" for purposes of this section if that person benefits from, executes, facilitates, participates, promotes, or solicits a transaction or part of a transaction involving plan assets.

(ii) Solely for the purposes of paragraph (c)(1)(iv) of this section, a transaction shall not be considered "with or in conjunction with a person" if:

(A) That person is a broker-dealer registered under the Securities Exchange Act of 1934;

(B) The transaction involves the purchase or sale of securities listed on a national securities exchange registered under section 6 of the Securities Exchange Act of 1934 or quoted on NASDAQ; and

(C) The broker-dealer does not purchase or sell securities involved in the transaction for its own account or the account of an affiliated person.

(c) *Application.* (1) This provision applies to—

(i) A transaction within the plan year, with respect to any plan asset, involving an amount in excess of 3 percent of the current value of plan assets;

(ii) Any series of transactions (other than transactions with respect to securities) within the plan year with or in conjunction with the same person which, when aggregated, regardless of the category of asset and the gain or loss on any transaction, involves an amount in excess of 3 percent of the current value of plan assets;

(iii) Any transaction within the plan year involving securities of the same issue if within the plan year any series of transactions with respect to such securities, when aggregated, involves an amount in excess of 3 percent of the current value of plan assets; and

(iv) Any transaction within the plan year with respect to securities with or in conjunction with a person if any prior or subsequent single transaction within the plan year with such person with respect to securities exceeds 3 percent of the current value of plan assets.

(2) For purposes of determining whether any 3 percent transactions occur, the "current value" of an asset acquired or disposed of during the plan year is the current value, as defined in section 3(26) of the Act, at the time of acquisition or disposition of such asset.

(3) Plans whose assets are held in whole or in part in a common or collective trust or a pooled separate account, as provided in §§ 2520.103-3 and 2520.103-4, and which satisfy the requirements of those sections, are not required to prepare schedules of reportable transactions with respect to the individual transactions of the common or collective trust or pooled separate account.

(d) *Contents.* (1) The schedule of transactions shall include the following information as to each transaction or series of transactions:

(i) The name of each party, except that in the case of a transaction or series of transactions involving a purchase or sale of a security on the market, the schedule need not include the person from whom it was purchased or to whom it was sold. A purchase or sale on the market is a purchase or sale of a security through a registered broker-dealer acting as a broker under the Securities Exchange Act of 1934;

(ii) A brief description of each asset;

(iii) The purchase or selling price in the case of a purchase or sale, the rental in the case of a lease, and the amount of principal, interest rate, payment schedule (e.g., fully amortized, partly amortized with balloon) and maturity date in the case of a loan;

(iv) Expenses incurred, including, but not limited to, any fees or commissions;

(v) The cost of any asset;

(vi) The current value of any asset acquired or disposed of at the time of acquisition or disposition; and

(vii) The net gain or loss.

(2) The schedule of transactions with respect to a series of transactions described in subparagraph (c)(1)(iii) may include the following information for each issue in lieu of the information prescribed in paragraphs (d)(1)(i)–(vii)):

(i) The total number of purchases of such securities made by the plan within the plan year;

(ii) The total number of sales of such securities made by the plan within the plan year;

(iii) The total dollar value of such purchases;

(iv) The total dollar value of such sales;

(v) The net gain or loss as a result of these transactions.

(e) *Examples.* (1) At the beginning of the plan year, XYZ plan has 10 percent of the current value of its plan assets invested in ABC common stock.

Halfway through the plan year, XYZ purchases ABC common stock in a single transaction in an amount equal to 5 percent of the current value of plan assets. At about this time, XYZ plan also purchases a commercial development property in an amount equal to 4 percent of the current value of plan assets. Under paragraph (c)(1)(i) of this section, the 5 percent stock transaction is a reportable transaction for the plan year because it exceeds 3 percent of the current value of plan assets. The 4 percent land transaction is also reportable under paragraph (c)(1)(i) of this section because it exceeds 3 percent of current value of plan assets.

(2) During the plan year, AAA plan purchases a commercial lot from ZZZ corporation at a cost equal to 2 percent of the current value of the plan assets. Two months later, AAA plan loans ZZZ corporation an amount of money equal to 1.5 percent of the current value of plan assets. Under the provisions of paragraph (c)(1)(ii) of this section, the plan has engaged in a reportable series of transactions with or in conjunction with the same person, ZZZ corporation, which when aggregated involves 3.5 percent of plan assets.

(3) During the plan year NMN plan sells to OPO corporation a commercial property that represents to 2.5 percent of the current value of plan assets. OPO simultaneously executes a note and mortgage on the purchased property to NMN which represents 2 percent of the current value of plan assets. Under the provisions of paragraph (c)(1)(ii) of this section, NMN has engaged in a reportable series of transactions with or in conjunction with the same person, OPO corporation, consisting of a simutaneous sale of property and a loan, which, when aggregated, involves 4.5 percent of the current value of plan assets.

(4) At the beginning of the plan year, ABC plan has 10 percent of the current value of plan assets invested equally in a combination of XYZ Corporation common stock and XYZ preferred stock. One month into the plan year, ABC sells some of its XYZ common in an amount equal to 2 percent of the current value of plan assets.

(i) Six weeks later the plan sells XYZ preferred stock in an amount equal to 2 percent of the current value of plan assets. A reportable series of transactions has not occurred because only transactions involving securities of the same issue are to be aggregated under paragraph (c)(1)(iii) of this section.

(ii) Two weeks later when the ABC plan purchases XYZ common stock in an amount equal to 2.5 percent of the current value of plan assets, a reportable series of transactions under paragraph (c)(1)(iii) of this section has occurred. The sale of XYZ common stock worth 2 percent of plan assets and the purchase of XYZ common stock worth 2.5 percent of plan assets aggregate to exceed 3 percent of the total value of plan assets.

(5) At the beginning of the plan year, Plan X purchases through broker-dealer Y common stock of Able Industries in an amount equal to 4 percent of plan assets. The common stock of Able Industries is not listed on any national securities exchange or quoted on NASDAQ. This purchase is a reportable transaction under paragraph (c)(1)(i) of this section. Three months later, Plan X purchases short term debt obligations of Charley Company through broker-dealer Y in the amount of 0.2 percent of plan assets. This purchase is also a reportable transaction under the provisions of paragraph (c)(1)(iv) of this section.

(6) At the beginning of the plan year, Plan X purchases from Bank B certificates of deposit having a 180 day maturity in an amount equal to 4 percent of plan assets. Bank B is a national bank regulated by the Comptroller of the Currency. This purchase is a reportable transaction under paragraph (c)(1)(i) of this section. Three months later, Plan X purchases through Bank B 91-day Treasury bills in the amount of 0.2 percent of plan assets. This purchase is not a reportable transaction under paragraph (c)(1)(iv) of this section because the purchase of the Treasury bills as well as the purchase of the certificates of deposit are not considered to involve a security under the definition of "seurities" in paragraph (b)(2)(ii) of this section.

(7) At the beginning of the plan year, Plan X purchases through broker-dealer Y common stock of Able Industries, a New York Stock Exchange listed security, in an amount equal to 4 percent of plan assets. This purchase is a reportable transaction under paragraph (c)(1)(i) of this section. Three months later, Plan X purchases through broker-dealer Y, acting as agent, common stock of Baker Corporation, also a New York Stock Exchange listed security, in an amount equal to 0.2 percent of plan assets. This latter purchase is not a reportable transaction under paragraph (c)(1)(iv) of this section because it is not a transaction "with or in conjunction with a person" pursuant to paragraph (b)(3)(ii) of this section.

§ 2520.103-7 Special accounting rules for plans filing the annual report for plan years beginning in 1975.

(a) *General.* (1) The administrator of an employee benefit plan which meets the requirements described in paragraph (b)(1) and elects to file an annual report containing the items prescribed in § 2520.103-1(b) or § 2520.103-2(b) is not required to comply with the accounting requirements described in paragraph (c)(1) of this section.

(2) Under the authority of sections 110 and 104(a)(3) of the Act, the administrator of any employee benefit plan which meets the requirements described in paragraph (b)(2) is not required to comply with the accounting requirements described in paragraph (c)(2) of this section.

(b) *Application.* With respect to the annual report described in § 2520.103-1 or § 2520.103-2, filed in accordance with § 2520.104a-5 or § 2520.104a-6 for the plan year beginning in 1975,

(1) The administrator of a plan which covers 100 or more participants as of the beginning of the plan year or the trust or other entity which files an annual report in accordance with § 2520.104-43 is not required to comply with the accounting requirements described in paragraph (c)(1) of this section; and

(2) The administrator of a plan which covers fewer than 100 participants as of the beginning of the plan year is not required to comply with the accounting requirements described in paragraph (c)(2) of this section.

(c) *Excepted requirements.* (1) In the case of a plan which covers 100 or more participants as of the beginning of the plan year,

(i) To display at current value the statement of the assets and liabilities of the plan, as of the end of the previous plan year;

(ii) To engage an independent qualified public accountant to conduct an examination of the plan's financial statements for the plan year immediately preceding the plan year or trust year covered by the initial annual report; and

(iii) To include within the initial annual report the opinion of an independent qualified public accountant as to whether the financial statements for the close of the initial plan year are presented on a basis consistent with that of the preceding year.

(2) In the case of a plan which covers fewer than 100 participants at the beginning of the plan year, to display at current value the statement of the assets and liabilities of the plan displayed in Item 13 of the 1975 Form 5500-C or Item 12 of the 1975 Form 5500-K as of the end of the previous plan year or as of the beginning of the plan year subject to the initial annual report.

§ 2520.103-8 Limitation on scope of accountant's examination.

(a) *General.* Under the authority of section 103(a)(3)(C) of the Act, the examination and report of an independent qualified public accountant need not extend to any statement or information prepared and certified by a bank or similar institution or insurance carrier. A plan, trust or other entity which meets the requirements of paragraph (b) of this section is not required to have covered by the accountant's examination or report any of the information described in paragraph (c) of this section.

(b) *Application.* This section applies to any plan, trust or other entity some or all of the assets of which are held by a bank or similar institution or insurance carrier which is regulated and supervised and subject to periodic examination by a State or Federal agency.

(c) *Excluded information.* Any statements or information certified to by a bank or similar institution or insurance carrier described in paragraph (b) of this section, provided that the statements or information regarding assets so held are prepared and certified to by the bank or insurance carrier in accordance with § 2520.103-5.

§ 2520.103-9 Direct filing for bank or insurance carrier trusts and accounts.

(a) *General.* Under the authority of section 103(b)(4) of the Act, the Secretary may relieve any employee benefit plan whose assets are held in whole or in part in a common or collective trust or a pooled separate account described in section 103(b)(3)(G) of the Act and §§ 2520.103-3 and 2520.103-4 from including in the annual report the statement of assets and liabilities of the common or collective trust or pooled separate account if the bank or insurance carrier which maintains such trust or account files such statement of assets and liabilities directly with the Secretary. An employee benefit plan which meets the requirements of paragraph (b)(1) of this section is relieved from including a statement of assets and liabilities of the common or collective trust or pooled separate account, provided that the bank or insurance carrier which holds the plan's assets meets the requirements of paragraph (b)(2) of this section.

(b) *Application.* A plan required to include a statement of assets and liabilities of a common or collective trust or pooled separate account in the annual report in accordance with section 103(b)(3)(G) of the Act and §§ 2520.103-3 and 2520.103-4 is relieved from including such statement in the annual report if the plan administrator files with the annual report the information described in paragraph (b)(1) and provides the bank or insurance carrier the information described in paragraph (b)(2) and the bank or insurance carrier files the information described in paragraph (b)(3) in the manner described therein.

(1) The plan administrator shall include in the annual report:

(i) A certification that the plan has received from the bank or insurance carrier a copy of the annual statement of assets and liabilities of any common or collective trust or pooled separate account in which any plan assets are held for the fiscal year of such trust or account ending with or within the plan year for which the annual report is made; and

(ii) The Employer Identification Number (EIN) of such common or collective trust or pooled separate account and any additional identification number assigned to the trust or account for purposes of this section pursuant to paragraph (b)(3)(i)(C) of this section.

(2) The administrator of a plan, assets of which are held in a common or collective trust or pooled separate account, shall provide the bank or insurance carrier which maintains the common or collective trust or pooled separate account with the plan number as indicated on the Annual Return/Report Form and the name and EIN of the plan sponsor. Such information shall be provided on or before the end of the plan year.

(3) The bank or insurance carrier which maintains the common or collective trust or pooled separate account in which assets of the plan are held—

(i) Shall file the following information with the Secretary:

(A) The annual statement of the assets and liabilities of the common or collective trust or pooled separate account in which assets of the plan are held for the fiscal year of such trust or account ending with or within the plan year for which the annual report is made,

(B) A list of all plans, assets of which are held in the common or collective trust or pooled separate account identified by the plan number as on the Annual Return/Report Form, name and EIN of the plan sponsor, and

(C) The EIN of the common or collective trust or pooled separate account; if the same EIN designates more than one trust or account, the bank or insurance carrier shall sequentially number the trusts or accounts for purposes of this section and report the sequential numbers together with the EIN; and

(ii) Shall furnish the following items to the plan administrator:

(A) The annual statement of assets and liabilities of the common or collective trust or pooled separate account in which the plan is a participant for the fiscal year of such trust or account ending with or within the plan year for which the annual report is made (See § 2520.103-5);

(B) The EIN of the common or collective trust or pooled separate account and any other identification number assigned to the trust or account for purposes of this section; and

(C) A certification that a copy of the annual statement of assets and liabilities of the trust or account for the fiscal year of such trust or account ending with or within the plan year for which the annual report is made has been filed with the Secretary on or before the date upon which the annual report of the plan is required to be filed in accordance with § 2520.104a-5 or § 2520.104a-6.

(c) *Filing address.* See § 2520.104a-5(b).

§ 2520.103-10 Format and contents of annual report financial schedules.

(a) *General.* Under the authority of section 103(c)(5) of the Act, the separate financial schedules required by item 22(a) of Form 5500 Annual Return/Report shall include the information presented in the formats prescribed in paragraph (b) of this section.

(b) *Format and Content of schedules.*—(1) *Assets held for investment.* A schedule of all assets held for investment purposes at the end of the plan year aggregated and identified by issue, maturity date, rate of interest, collateral, par or maturity value, cost, and current value and in the case of a loan, the payment schedule (e.g. fully amortized, partly amortized with final lump sum payment) in the format set forth below:

22(a)(1). Prepare a schedule of all assets held for investment purposes at the plan year end (see 29 CFR 2520.103–11) aggregated and identified by issue, maturity date, rate of interest, collateral, par or maturity value, cost and current value and in the case of a loan, the payment schedule in the following or similar format, using the same size paper as this form.

Note: *In column a., place an asterisk (*) on the line of each identified person known to be a party-in-interest to the plan. In column c., include any restriction on transferability of corporate security.*

a.	b. Identity of issue, borrower, lessor or similar party	c. Description of investment including maturity date, rate of interest, collateral, par or maturity value	d. Cost	e. Current value

(2) *Assets acquired and disposed within the plan year.* A schedule of all assets acquired and disposed within the plan year aggregated and identified by issue, maturity date, rate of interest, collateral, par or maturity value, cost of acquisition and proceeds of disposition in the format set forth below:

(5) *Leases in default.* A schedule of all leases which were in default or were classified during the year as uncollectible and the following information: the property; the identity of the lessor or lessee from or to whom the plan is leasing; the relationship of such lessors and lessees (if any) to the plan or the date the property was leased and its approximate value at such date; the gross rental receipts during the reporting period; expenses paid for the

(2) *Assets acquired and disposed within the plan year.* A schedule of all assets acquired and disposed within the plan year aggregated and identified by issue, maturity date, rate of interest, collateral, par or maturity value, cost of acquisition and proceeds of disposition in the format set forth below:

In addition, prepare a schedule of investment assets which were both acquired and disposed of within the plan year (see 29 CFR 2520.103–11). The schedule is to set out the information in the following or similar format using the same size paper as this form.

a. Identity of issue, borrower, lessor or similar party	b. Description of investment including maturity date, rate of interest, collateral, par or maturity value	c. Costs of acquisitions	d. Proceeds of dispositions

(3) *Party in interest transactions.* Except in the case of a transaction to which a statutory exemption under Part 4 of Title I or an administrative exemption under section 408(a) of the Act is applicable, a schedule of each transaction involving a person known to be a party in interest, the identity of such party in interest and his relationship to any other party in interest and to the plan or trust, a description of each asset to which the transaction relates, the purchase or selling price (in case of a sale or purchase) or the rental (in case of a lease) or the interest rate and maturity date (in the case of a loan), the expenses incurred by the plan or trust in connection with the transaction, the cost of the asset, the current value of the asset, and the net gain (or loss) on each transaction in the format set forth below:

22(a)(ii). The types of transactions referred to include those set forth in sections 406 and 407(a) of ERISA and section 4975(c) of the Code. Do not check "Yes" for transactions that are statutorily exempt under Part 4 of Title I or administratively exempt under section 408(a) of ERISA or exempt under sections 4975(c) and 4975(d) of the Code. Also, do not list such transactions. Set out each transaction with the information set forth below in the following or similar format using the same size paper as this form. (For definition of party-in-interest see instruction 13(d).) You may indicate that an application for an administrative exemption is pending.

a. Identity of party involved	b. Relationship to plan, employer or other party-in-interest	c. Description of transactions including maturity date, rate of interest, collateral, par or maturity value	d. Purchase price	e. Selling price	f. Lease rental	g. Expenses incurred in connection with transaction	h. Cost of asset	i. Current value of asset	j. Net gain or (loss) on each transaction

(4) *Obligations in default.* A schedule of all loans or fixed income obligations which were in default as of the close of the end of the plan or trust fiscal year or were classified during the year as uncollectible, and the following information with respect to each loan on such schedule (including a notation as to whether parties involved are known to be parties in interest): The original principal amount of the loan, the amount of principal and interest received during the reporting year, the unpaid balance, the identity and address of the obligor, a detailed description of the loan (including date of making and maturity, interest rate, the type and value of collateral, and other material terms), the amount of principal and interest overdue (if any) and an explanation thereof, in the format set forth below:

22(a)(iii). Set out each loan in the following or similar format using the same size paper as this form.

Note: *In column a., place an asterisk (*) on the line of each identified person known to be a party-in-interest to the plan. Include all loans that were renegotiated during the plan year.*

a.	b. Identity and address of obligor	c. Original amount of loan	Amount received during reporting year		f. Unpaid balance at end of year	g. Detailed description of loan including dates of making and maturity, interest rate, the type and value of collateral, any renegotiation of the loan and the terms of the renegotiation and other material terms	Amount overdue	
			d. Principal	e. Interest			h. Principal	i. Interest

Explain what steps have been taken or will be taken to collect overdue amounts for each loan listed.

(5) *Leases in default.* A schedule of all leases which were in default or were classified during the year as uncollectible and the following information with respect to each lease on such schedule (including a notation as to whether parties involved are known to be parties in interest): The type of property leased and, in the case of fixed assets such as land, buildings, leasehold, and so forth, the location of the property; the identity of the lessor or lessee from or to whom the plan is leasing; the relationship of such lessors and lessees (if any) to the plan or trust, the employer, employee organization, or any other party in interest; the terms of the lease regarding rent, taxes, insurance, repair, expenses, and renewal options; the date the leased property was purchased and its cost; the date the property was leased and its approximate value at such date; the gross rental receipts during the reporting period; expenses paid for the leased property during the reporting period; the net receipts from the lease; the amount in arrears, and a statement as to what steps have been taken to collect amounts due or otherwise remedy the default in the format set forth below:

22(a)(iv). Give the following information in the format below or similar format using the same size paper as this form.

a.	b. Identity of lessor/lessee	c. Relationship to plan, employer, employee organization or other party-in-interest	d. Terms and description (type of property, location and date it was purchased, terms regarding rent, taxes, insurance, repairs, expenses, renewal options, date property was leased)	e. Original cost	f. Current value at time of lease	g. Gross rental receipts during the plan year	h. Expenses paid during the plan year	i. Net receipts	j. Amount in arrears

Attach a statement explaining what steps have been taken to collect amount due or to otherwise remedy the default.

(6) *Reportable transactions.* A schedule of any reportable transactions as defined in § 2520.103–6, in the format set forth below:

22(a)(v). Show each reportable transaction (see 29 CFR 2520.103–6) in the following or similar format using the same size paper as this form.

Note: *In the case of a purchase or sale of a security on the market, do not identify the person from whom purchased or to whom sold.*

a. Identity of party involved	b. Description of asset (include interest rate and maturity in case of a loan)	c. Purchase price	d. Selling price	e. Lease rental	f. Expense incurred with transaction	g. Cost of asset	h. Current value of asset on transaction date	i. Net gain or (loss)

Note: *The 3% figure is determined by comparing the current value of the transaction at transaction date with the current value of the plan assets at the beginning of the plan year.*

§ 2520.103–11 Assets held for investment purposes.

(a) *General.* For purposes of preparing the schedule of assets held for investment purposes required by section 103(b)(3)(C) of the Act and described in § 2520.103–10(b)(1) and (2), assets held for investment purposes include those assets described in paragraph (b) of this section.

(b) *Definitions.* (1) Assets held for investment purposes shall include:

(i) Any investment asset held by the plan on the last day of the plan year; and

(ii) Any investment asset which was purchased at any time during the plan year and was sold at any time before the last day of the plan year, except as provided by paragraphs (b)(2) and (b)(3) of this section.

(2) Assets held for investment purposes shall not include any investment which was not held by the plan on the last day of the plan year for which the

annual report is filed if that investment falls within any of the following categories:

(i) Debt obligations of the United States or any agency of the United

M, who is not a party in interest with respect to plan N. On November 1, 1977, plan N sells the parcel of real estate for cash to Mr. X, who is not a party in interest with respect to plan

of the employer or employee organization maintaining the plan, or

(ii) The benefits of which are provided exclusively through insurance contracts or policies issued by an in-

year, because it had fewer than 100 participants at the beginning of the plan year and otherwise satisfied the conditions of the exemption.

(2) A welfare plan is established and

(ii) Refunds, to which contributing participants are entitled, are returned to them within three months of receipt, and

(iii) Contributing participants are in-

(2) A welfare plan has 75 participants at the beginning of the plan year. It is part of a group insurance arrangement and its benefits and credits are paid in the same manner as in ex-

annual report is filed if that investment falls within any of the following categories:

(i) Debt obligations of the United States or any agency of the United States;

(ii) Interests issued by a company registered under the Investment Company Act of 1940;

(iii) Bank certificates of deposit with a maturity of not more than one year;

(iv) Commerical paper with a maturity of not more than nine months if it is ranked in the highest rating category by at least two nationally recognised statistical rating services and is issued by a company required to file reports with the Securities and Exchange Commission under section 13 of the Securities Exchange Act of 1934;

(v) Participations in a bank common or collective trust;

(vi) Participations in an insurance company pooled separate account;

(vii) Securities purchased from a person registered as a broker-dealer under the Securities Exchange Act of 1934 and listed on a national securities exchange registered under section 6 of the Securities Exchange Act of 1934 or quoted on NASDAQ;

(3) Assets held for investment purposes shall not include any investment which was not held by the plan on the last day of the plan year for which the annual report is filed if that investment is reported on the annual report of that same plan in any of the following:

(i) The schedule of each transaction involving a person known to be a party in interest required by section 103(b)(3)(D) of the Act and § 2520.103-10(b)(3);

(ii) The schedule of loans or fixed income obligations in default required by section 103(b)(3)(E) of the Act and § 2520.103-10(b)(4);

(iii) The schedule of leases in default or classified as uncollectible required by section 103(b)(3)(F) of the Act and § 2520.103-10(b)(5); or

(iv) The schedule of reportable transactions required by section 103(b)(3)(H) of the Act and § 2520.103-10(b)(6).

(c) *Examples.* (1) On February 1, 1977, plan N purchases an interest in registered investment company F (fund F). Fund F is not a party in interest with respect to plan N. On November 1, 1977, plan N sells this interest in fund F and purchases 1,000 shares of stock S, which the plan holds for the rest of the plan year. Plan N must include in its schedule of assets held for investment purposes the 1,000 shares of stock S under paragraph (b)(1) of this section, but need not include the interest in fund F because of Paragraph (b)(2)(ii) of this section.

(2) On February 1, 1977, plan N purchases a parcel of real estate from Mr. M, who is not a party in interest with respect to plan N. On November 1, 1977, plan N sells the parcel of real estate for cash to Mr. X, who is not a party in interest with respect to plan N. Plan N uses the cash from this transaction to purchase a 1-year certificate of deposit in bank B, which it holds until maturity in 1978. Plan N must include in its schedule of assets held for investment purposes the 1-year certificate of deposit in bank B under paragraph (b)(1)(i) of this section, and must also include the parcel of real estate under paragraph (b)(1)(ii) of this section.

Subpart D—Provisions Applicable to Both Reporting and Disclosure Requirements

§ 2520.104-20 Limited exemption for certain small welfare plans.

(a) *Scope.* Under the authority of section 104(a)(3) of the Act, the administrator of any employee welfare benefit plan which covers fewer than 100 participants at the beginning of the plan year and which meets the requirements of paragraph (b) of this section is exempted from certain reporting and disclosure provisions of the Act. Specifically, the administrator of such plan is not required to file with the Secretary any of the following documents: Plan description, copy of the summary plan description, description of a material modification in the terms of a plan or change in the information required to be included in the plan description, annual report, and terminal report. In addition, the administrator of a plan exempted under this section—

(1) Is not required to furnish participants covered under the plan and beneficiaries receiving benefits under the plan with statements of the plan's assets and liabilities and receipts and disbursements and a summary of the annual report required by section 104(b)(3) of the Act;

(2) Is not required to furnish upon written request of any participant or beneficiary a copy of the plan description, annual report, and any terminal report, as required by section 104(b)(4) of the Act;

(3) Is not required to make copies of the plan description and annual report available for examination by any participant or beneficiary in the principal office of the administrator and such other places as may be necessary, as required by section 104(b)(2) of the Act.

(b) *Application.* This exemption applies only to welfare benefit plans—

(1) Which have fewer than 100 participants at the beginning of the plan year;

(2)(i) For which benefits are paid as needed solely from the general assets of the employer or employee organization maintaining the plan, or

(ii) The benefits of which are provided exclusively through insurance contracts or policies issued by an insurance company or similar organization which is qualified to do business in any State, the premiums for which are paid directly by the employer or employee organization from its general assets or partly from its general assets and partly from contributions by its employees or members, provided that contributions by participants are forwarded by the employer or employee organization within three months of receipt, or

(iii) Both; and

(3) For which, in the case of an insured plan—

(i) Refunds, to which contributing participants are entitled, are returned to them within three months of receipt by the employer or employee organization, and

(ii) Contributing participants are informed upon entry into the plan of the provisions of the plan concerning the allocation of refunds.

(c) *Limitations.* This exemption does not exempt the administrator of an employee benefit plan from any other requirement of Title I of the Act, including the provisions which require that plan administrators furnish copies of the summary plan description to participants and beneficiaries (section 104(b)(1)) and furnish certain documents to the Secretary of Labor upon request (section 104(a)(1)), and which authorize the Secretary of Labor to collect information and data from employee benefit plans for research and analysis (section 513).

(d) *Examples.* (1) A welfare plan has 75 participants at the beginning of the plan year and 105 participants at the end of the plan year. Plan benefits are fully insured and premiums are paid directly to the insurance company by the employer pursuant to an insurance contract purchased with premium payments derived half from the general assets of the employer and half from employee contributions (which the employer forwards within three months of receipt). Refunds to the plan are paid to participating employees within three months of receipt as provided in the plan and as described to each participant upon entering the plan. The plan appoints the employer as its plan administrator. The employer, as plan administrator, provides summary plan descriptions to participants and beneficiaries. He also makes copies of certain plan documents available at the plan's principal office and such other places as necessary to give participants reasonable access to them. The exemption provided by § 2520.104-20 applies even though the plan has more than 100 participants by the end of the plan year, because it had fewer than 100 participants at the beginning of the plan year and otherwise satisfied the conditions of the exemption.

(2) A welfare plan is established and maintained in the same way as the plan described in example (1), except that a trade association which sponsors the plan is the holder of the insurance contract. Since the plan still sends the premium payments directly to the insurance company, the exemption applies, as in example (1).

§ 2520.104-21 Limited exemption for certain group insurance arrangement.

(a) *Scope.* Under the authority of section 104 (a)(3) of the Act, the administrator of any employee welfare benefit plan which covers fewer than 100 participants at the beginning of the plan year and which meets the requirements of paragraph (b) of this section is exempted from certain reporting and disclosure provisions of the Act. Specifically, the administrator of such plan is not required to file with the Secretary any of the following documents: Plan description, copy of the summary plan description, description of a material modification in the terms of a plan or change in the information required to be included in the plan description, and terminal report. In addition, the administrator of a plan exempted under this section:

(1) Is not required to furnish upon written request of any participant or beneficiary a copy of the plan description and any terminal report, as required by section 104(b)(4) of the Act;

(2) Is not required to make copies of the plan description available for examination by any participant or beneficiary in the principal office of the administrator and such other places as may be necessary, as required by section 104(b)(2) of the Act.

(b) *Application.* This exemption applies only to welfare plans, each of which has fewer than 100 participants at the beginning of the plan year and which are part of a group insurance arrangement if such arrangement:

(1) Provides benefits to the employees of two or more unaffiliated employers, but not in connection with a multiemployer plan as defined in section 3(37) of the Act and any regulations prescribed under the Act concerning section 3(37);

(2) Fully insures one or more welfare plans of each participating employer through insurance contracts purchased solely by the employers or purchased partly by the employers and partly by their participating employees, with all benefit payments made by the insurance company: *Provided*, That—

(i) Contributions by participating employees are forwarded by the employers within three months of receipt,

(ii) Refunds, to which contributing participants are entitled, are returned to them within three months of receipt, and

(iii) Contributing participants are informed upon entry into the plan of the provisions of the plan concerning the allocation of refunds; and

(3) Uses a trust (or other entity such as a trade association) as the holder of the insurance contracts and the conduit for payment of premiums to the insurance company.

(c) *Limitations.* This exemption does not exempt the administrator of an employee benefit plan from any other requirement of Title I of the Act, including the provisions which require that plan administrators furnish copies of the summary plan description to participants and beneficiaries (section 104(b)(1)), file an annual report with the Secretary of Labor (section 104(a)(1)(A)) and furnish certain documents to the Secretary of Labor upon request (section 104(a)(1)), and authorize the Secretary of Labor to collect information and data from employee benefit plans for research and analysis (section 513).

(d) *Examples.* (1) A welfare plan has 25 participants at the beginning of the plan year. It is part of a group insurance arrangement which provides benefits to employees of two or more unaffiliated employers, but not in connection with a multiemployer plan as defined under the Act. Plan benefits are fully insured pursuant to insurance contracts purchased with premium payments derived half from employee contributions (which the employer forwards within three months of receipt) and half from the general assets of participating employers. Refunds to the plan are paid to participating employees within three months of receipt as provided in the plan and as described to each participant upon entering the plan. A trade association is the holder of the insurance contract and acts as a conduit for payments, receiving premium payments from participating employers and paying the insurance company. The plan appoints the trade association as its plan administrator. The association, as plan administrator, provides summary plan descriptions to participants and beneficiaries, enlisting the help of the participating employer in carrying out this distribution. The plan administrator also makes copies of certain plan documents available to the plan's principal office and such other places as necessary to give participants reasonable access to them. The plan administrator files with the Secretary an annual report covering activities of the plan, as required by the Act and such regulations as the Secretary may issue. The exemption provided by § 2520.104-21 applies because the conditions of § 2520.104-21(c) have been satisfied.

(2) A welfare plan has 75 participants at the beginning of the plan year. It is part of a group insurance arrangement and its benefits and credits are paid in the same manner as in example (1) of § 2520.104-21. A trade association acts as a conduit for payments, acting through its agent, an independent insurance brokerage firm, and is the holder of the insurance contract. The plan appoints an officer of the participating employer as the plan administrator. The officer, as plan administrator, performs the same reporting and disclosure functions as the administrator in example (1) of § 2520.104-21, enlisting the help of the association in providing summary plan descriptions and necessary information. The exemption provided by § 2520.104-21 applies.

(3) A welfare plan has 125 participants at the beginning of the plan year. It is part of a group insurance arrangement and its benefits and credits are paid in the same manner as in the previous examples. A trade association acts as a conduit for payments and is the holder of the insurance contract. The plan appoints the association as plan administrator. The association, as plan administrator, performs all the reporting and disclosure requirements of Title I of the Act for the plan. These include filing with the Secretary a plan description, summary plan description, description of any material modifications in the terms of the plan or change in the information required to be included in the plan description, annual report, and certain other documents if required by regulations or request of the Secretary of Labor. The requirements also include disclosure of certain documents to participants and beneficiaries, including among others the summary plan description and summary of the annual report. The plan administrator obtains necessary information not available in its records—such as the fact that there are 125 participants—from the plan. The exemption provided by § 2520.104-21 does not apply because the plan had more than 100 participants at the beginning of the plan year although the other conditions of paragraph (c) are satisfied.

(4) A welfare plan has 125 participants. It is part of a group insurance arrangement and its benefits and credits are paid in the same manner as in the previous examples. A trade association acts as a conduit for payments and is the holder of the insurance contract. The plan appoints an officer of the participating employer as plan administrator. The plan administrator performs the same reporting and disclosure functions as the administrator in example (3), enlisting the help of the association in providing summary plan descriptions and necessary information. The exemption provided by § 2520.104-21 does not apply.

§ 2520.104-41 Simplified annual reporting requirements for plans with fewer than 100 participants.

(a) *General.* (1) Under the authority

the following annual reporting requirements:

(1) Completing items 13, 14, and 22 of Form 5500 in the case of a plan re-

(b) of this section is not required to comply with the annual reporting requirements described in paragraph (c) of this section

of Title I of the Act shall file with the Secretary, as required by section 104(a)(1)(D) of the Act, any material

§ 2520.104–41 Simplified annual reporting requirements for plans with fewer than 100 participants.

(a) *General.* (1) Under the authority of section 104(a)(2)(A), the Secretary of Labor may prescribe simplified annual reporting for employee pension benefit plans with fewer than 100 participants.

(2) Under the authority of section 104(a)(3), the Secretary of Labor may provide a limited exemption for any employee welfare benefit plan with respect to certain annual reporting requirements.

(b) *Application.* The administrator of an employee pension or welfare benefit plan which covers fewer than 100 participants at the beginning of the plan year and is required to file an annual report under section 104(a)(1)(A) of the Act and § 2520.104–5 shall file the simplified annual report described in paragraph (c) of this section.

(c) *Contents.* (1) The administrator of (i) an employee pension benefit plan which covers fewer than 100 participants, none of whom is an owner-employee, as defined in section 401(c)(3) of the Internal Revenue Code of 1954, or (ii) an employee welfare benefit plan which covers fewer than 100 participants shall file a Form 5500–C "Annual Return/Report of Employee Benefit Plan (with fewer than 100 participants)" in the manner prescribed in § 2520.104a–5.

(2) The administrator of an employee pension Keogh plan which covers fewer than 100 participants, at least one of whom is an owner-employee, as defined in section 401(c)(3) of the Internal Revenue Code of 1954, shall file a Form 5500–K "Annual Return/Report of Employee Pension Benefit Plan for Sole Proprietorships and Partnerships (with fewer than 100 participants one of whom is an owner-employee)" in the manner prescribed in § 2520.104a–5.

§ 2520.104–42 Waiver of certain actuarial information in the annual report.

(a) *Scope and application.* Under the authority of 104(a)(2)(A) of the Act, the Secretary of Labor may waive the requirement that the anual report include as part of the actuarial statement (schedule B) the present value of all of the plan's liabilities for nonforfeitable pension benefits allocated by the termination priority categories, as set forth in section 4044 of Title IV of the Act, and the actuarial assumptions used in these computations. In accordance with this authority the plan administrator of any employee pension benefit plan required under sections 103(c)(5) and 103(d) of the Act to include actuarial information as part of the annual report is not required to include a statement of the present value of all of the plan's liabilities for nonforfeitable pension benefits allocated by termination priority categories, as set forth in section 4044 of Title IV of the Act, and the actuarial assumptions used in these computations.

(b) *Limitation.* This section applies only to the annual reports required to be filed for plan years beginning in 1975, 1976 and 1977.

§ 2520.104–43 Exemption from annual reporting requirement for certain group insurance arrangements.

(a) *General.* Under the authority of section 104(a)(3) of the Act, the administrator of an employee welfare benefit plan which meets the requirements of paragraph (b) of this section is not required to file an annual report with the Secretary of Labor as required by section 104(a)(1)(A) of the Act.

(b) *Application.* (1) This exemption applies only to a welfare plan for a plan year in which (i) such plan meets the requirements of § 2520.104–21, except the requirement that the plan cover fewer than 100 participants at the beginning of the plan year, and (ii) an annual report containing the items set forth in § 2520.103–2 has been filed with the Secretary of Labor in accordance with § 2520.104a–6 by the trust or other entity which is the holder of the group insurance contracts by which plan benefits are provided and the conduit for payment of premiums for such policies.

(2) For purposes of this section, the term "trust or other entity" shall be used in place of the term "plan" or "plan administrator" as applicable, in §§ 2520.103–3, 2520.103–4, 2520.103–6, 2520.103–7(b)(1), 2520.103–8, 2520.103–9, 2520.103–10, and 2520.104–45.

(c) *Limitation.* This provision does not exempt the administrator of an employee benefit plan which meets the requirements of paragraph (b) from furnishing a copy of a summary annual report to participants and beneficiaries of the plan, as required by section 104(b)(3) of the Act.

§ 2520.104–44 Limited exemption and alternative method of compliance for annual reporting by unfunded plans and by certain insured plans.

(a) *General.* (1) Under the authority of section 104(a)(3) of the Act, the Secretary of Labor may exempt an employee welfare benefit plan from any or all of the reporting and disclosure requirements of Title I. An employee welfare benefit plan which meets the requirements of paragraph (b)(1) of this section is not required to comply with the annual reporting requirements described in paragraph (c) of this section.

(2) Under the authority of section 110 of the Act, an alternative method of compliance is prescribed for certain employee pension benefit plans subject to Part 1, Title I of the Act. An employee pension benefit plan which meets the requirements of paragraph (b)(2) of this section is not required to comply with the annual reporting requirements described in paragraph (c) of this section.

(b) *Application.* This section applies only to:

(1) An employee welfare benefit plan under the terms of which benefits are to be paid—

(i) Solely from the general assets of the employer or employee organization maintaining the plan;

(ii) The benefits of which are provided exclusively through insurance contracts or policies issued by an insurance company or similar organization which is qualified to do business in any State, the premiums for which are paid directly by the employer or employee organization from its general assets or partly from its general assets and partly from contributions by its employees or members: *Provided,* That any plan assets held by the insurance company or similar organization are held solely in the general account of such company or organization, contributions by participants are forwarded by the employer or employee organization to the insurance company or organization within three months of receipt and, in the case of a plan that provides for the return of refunds to contributing participants, such refunds are returned to them within three months of receipt by the employer or employee organization; or

(iii) Partly in the manner specified in paragraph (b)(1)(i) of this section and partly in the manner specified in paragraph (b)(1)(ii) of this section; and

(2) A pension benefit plan the benefits of which are provided exclusively through allocated insurance contracts or policies which are issued by, and pursuant to the specific terms of such contracts or policies benefit payments are fully guaranteed by an insurance company or similar organization which is qualified to do business in any State, and the premiums for which are paid directly by the employer or employee organization from its general assets or partly from its general assets and partly from contributions by its employees or members: *Provided,* That contributions by participants are forwarded by the employer or employee organization to the insurance company or organization within three months of receipt and, in the case of a plan that provides for the return of refunds to contributing participants, such refunds are returned to them within three months of receipt by the employer or employee organization.

(c) *Contents.* An employee benefit plan described in paragraph (b) of this section is exempt from complying with

the following annual reporting requirements:

(1) Completing items 13, 14, and 22 of Form 5500 in the case of a plan required to file Form 5500 pursuant to § 2520.104a–5 or § 2520.104a–6; items 13, 14, and 21 in the case of a plan required to file Form 5500–C in accordance with § 2520.104–41, or items 13 and 17 in the case of a plan required to file Form 5500–K in accordance with § 2520.104–41;

(2) Engaging an independent qualified public accountant pursuant to section 103(a)(3)(A) of the Act and § 2520.103–1(b) to conduct an examination of the financial statements and schedules of the plan; and

(3) Including in the annual report a report of an independent qualified public accountant concerning the financial statements and schedules required to be a part of the annual report pursuant to section 103(b) of the Act and § 2520.103–1(b).

(d) *Limitation.* This section does not exempt any plan from filing an annual report form with the Secretary in accordance with section 104(a)(1)(A) of the Act and § 2520.104a–5.

(e) *Example.* A welfare plan which is funded entirely with insurance contracts and which meets all the requirements for exemption under § 2520.104–20 except that it covers 100 or more participants at the beginning of the plan year is not exempt from the annual reporting requirements under § 2520.104–20, but is exempt from certain reporting requirements under § 2520.104–44. Under the latter section, such a welfare plan should file Form 5500, including Schedule A "Insurance Information." However, the plan is not required to engage an independent qualified public accountant and items 13, 14, and 22 of Form 5500 need not be completed.

§ 2520.104–45 Temporary exemption from reporting insurance fees and commissions for insured plans with fewer than 100 participants.

(a) *General.* (1) Under the authority of section 104(a)(3) of the Act, the Secretary of Labor may exempt an employee welfare benefit plan from any or all of the reporting and disclosure requirements of Title I. The administrator of an employee welfare benefit plan which meets the requirements of paragraph (b) of this section is exempt from complying with the annual reporting requirements described in paragraph (c) of this section.

(2) Under the authority of section 110 of the Act, the Secretary of Labor may prescribe an alternative method of compliance for employee pension benefit plans subject to Part 1, Title I, of the Act. The administrator of an employee pension benefit plan which meets the requirements of paragraph (b) of this section is not required to comply with the annual reporting requirements described in paragraph (c) of this section.

(b) *Application.* (1) The provisions of this section apply only to welfare and pension plans which cover fewer than 100 participants at the beginning of the plan year and which provide benefits in whole or in part through insurance contracts or policies issued by an insurance company or similar organization which is qualified to do business in any State.

(c) *Contents.* A plan which meets the requirements of paragraph (b) is not required to include in the annual report filed in accordance with section 104(a)(1)(A) of the Act and § 2520.104a–5 or § 2520.104a–6 the following information described under sections 103 (c) and (e) of the Act:

(1) The name and address of any insurance agent, broker or other person to whom insurance commissions, salaries or fees are paid;

(2) The amount paid to each; and

(3) The purpose for which such payment is made.

(d) *Limitation.* The provisions of this section apply only to the annual report required to be filed for the plan years beginning in 1975 and 1976.

§ 2520.104–46 Waiver of examination and report of an independent qualified public accountant for employee benefit plans with fewer than 100 participants.

(a) *General.* (1) Under the authority of section 103(a)(3)(A) of the Act, the Secretary may waive the requirements of section 103(a)(3)(A) in the case of a plan for which simplified annual reporting has been prescribed in accordance with section 104(a)(2) of the Act.

(2) Under the authority of section 104(a)(3) of the Act the Secretary may exempt any employee welfare benefit plan from certain annual reporting requirements.

(b) *Application.* (1) The administrator of an employee pension plan for which simplified annual reporting has been prescribed in accordance with section 104(a)(2)(A) of the Act and § 2520.104–41 is not required to comply with the annual reporting requirements described in paragraph (c) of this section.

(2) The administrator of an employee welfare benefit plan that covers fewer than 100 participants at the beginning of the plan year is not required to comply with annual reporting requirements described in paragraph (c) of this section.

§ 2520.104a–4 Material modifications to the plan and changes in plan description information.

(a) *General obligation to file.* The administrator of an employee benefit plan subject to the provisions of Part 1 of Title I of the Act shall file with the Secretary, as required by section 104(a)(1)(D) of the Act, any material modifications in the terms of the plan or any changes in the information required by section 102(b) of the Act.

(b) *Fulfilling the filing obligation.* (1) The administrator of an employee benefit plan shall satisfy the requirements of section 104(a)(1)(D) of the Act and § 2520.104(a)–4(a) by filing with the Secretary a summary of material modifications or changes in information which is required by § 2520.104b–3. The summary description of such material modifications or changes shall be filed, in accordance with § 2520.104a–7, no later than the date on which the summary description is required to be disclosed to participants.

(2) The administrator of an employee benefit plan is not required to file a summary of any material modifications or changes in information required to be included in the summary description if such modifications or changes are:

(i) Incorporated in a summary plan description or supplement filed with the Secretary of Labor pursuant to § 2520.104a–3;

(ii) Incorporated in the plan description filed with the Secretary within 120 days after the plan becomes subject to Part I of Title I of the Act and pursuant to § 2520.104a–2.

(iii) Incorporated in an updated plan description filed with the Secretary pursuant to section 104(a)(1)(B) of the Act.

(b) *Filing address.* The summary description of material modifications to the plan and changes in the information required by section 102(b) shall be filed with the Secretary of Labor by mailing it to SMM, U.S. Department of Labor, Washington, D.C. 20216 or by delivering it during normal working hours to Room N–4635, Department of Labor, 200 Constitution Ave., NW., Washington, D.C.

(c) *Effect.* This section is effective April 10, 1978, and supersedes prior § 2520.104a–4 published on April 23, 1976 (41 FR 16964).

(c) *Waiver.* The administrator of a plan described in paragraph (b) (1) or (2) of this section is not required to:

(1) Engage an independent qualified public accountant to conduct an examination of the financial statements of the plan;

(2) Include within the annual report the financial statements and schedules prescribed in section 103(b) of the Act and §§ 2520.103–1, 2520.103–2, and 2520.103–10 and

(3) Include within the annual report a report of an independent qualified public accountant as prescribed in section 103(a)(3)(A) of the Act and § 2520.103–1.

(d) *Limitation.* The waiver described in this section does not affect the obli-

gation of a plan described in paragraph (b) (1) or (2) of this section to file a Form 5500–C or –K and all schedules called for therein. See § 2520.104–41.

any plan year which begins after December 31, 1975.

(b) *Where to file.* The annual report described in § 2520.103–1 shall be filed in accordance with and at the address

or other entity described in § 2520.104–43 which begins in 1975 or December 15, 1977, whichever is later; and

(2) Seven months after the close of the fiscal year of the trust or other

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gation of a plan described in paragraph (b) (1) or (2) of this section to file a Form 5500–C or –K and all schedules called for therein. See § 2520.104–41.

§ 2520.104a–5 Annual reporting filing requirements.

(a) *Filing obligation.* Except as provided in § 2520.104a–6, the administrator of an employee benefit plan required to file an annual report pursuant to section 104(a)(1)(A) of the Act shall file an annual report containing the items prescribed in § 2520.103–1 within:

(1) Eleven and one half months after the close of the plan year which begins in 1975, or December 15, 1977, whichever is later; and

(2) Seven months after the close of any plan year which begins after December 31, 1975.

(b) *Where to file.* The annual report described in § 2520.103–1 shall be filed in accordance with and at the address provided in the instructions to the Annual Return/Report Form.

§ 2520.104a–6 Annual reporting for plans which are part of a group insurance arrangement.

(a) *General.* A trust or other entity described in § 2520.104–43(b) that files an annual report in accordance with the terms of subsections (b) and (c) shall be deemed to have filed such report in accordance with § 2520.104a–6 for purposes of § 2520.104–43.

(b) *Date of filing.* The annual report shall be filed within:

(1) Eleven and one-half months after the close of the fiscal year of the trust or other entity described in § 2520.104–43 which begins in 1975 or December 15, 1977, whichever is later; and

(2) Seven months after the close of the fiscal year of the trust or other entity which begins after December 31, 1975.

(c) *Where to file.* The annual report prescribed in § 2520.103–2 shall be filed in accordance with and at the address provided in the instructions to the Annual Return/Report Form.

Signed at Washington, D.C. on this 3rd day of March 1978.

IAN D. LANOFF,
Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration.

[FR Doc. 78–6073 Filed 3–9–78; 8:45 am]

federal register

FRIDAY, MARCH 10, 1978
PART VI

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

[4510–27]

DEPARTMENT OF LABOR

subsequent to its publication date shall be made a part of every contract for performance of the described work

20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the

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[4510-27]

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

NEW GENERAL WAGE DETERMINATION DECISIONS

Georgia: GA78-1023, GA78-1024.

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Arkansas: AR77-4173, August 19, 1977; AR77-4285, AR77-4286, AR77-4287, AR77-4288, September 30, 1977; AR77-4290, November 11, 1977.
Delaware: DE77-3134, September 30, 1977.
Georgia: GA77-1117, GA77-1118, September 30, 1977.
Maryland: MD77-3086, August 5, 1977.
New Jersey: NJ77-3093, July 8, 1977.
New Mexico: NM78-4012, February 10, 1978.
Oregon: OR77-5078, September 23, 1977.
Pennsylvania: PA76-3169, May 21, 1976; PA77-3100, July 15, 1977; PA77-3102, PA77-3103, July 22, 1977; PA77-3122, PA77-3123, September 9, 1977; PA77-3128, PA77-3129, September 16, 1977.
Tennessee: TN77-1036, March 25, 1977; TN77-1041, April 1, 1977.
Washington: WA77-5096, October 14, 1977.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Alaska: AK77-5097(AK78-5020), September 30, 1977.
Georgia: GA77-5035(GA78-1015), March 11, 1977.
Indiana: IN77-2008(IN78-2025), IN77-2009(IN78-2033), February 11, 1977; IN77-2082(IN78-2032), IN77-2083(IN78-2030), IN77-2084(IN78-2033), May 13, 1977.
Michigan: AM-402(MI78-2023), August 18, 1971; MI77-2050(MI78-2010), MI77-2051(MI78-2011), MI77-2053(MI78-2013), MI77-2054(MI78-2014), May 6, 1977; MI77-2052(MI78-2012), MI77-2055(MI78-2015), May 13, 1977; MI77-2127(MI78-2016), September 2, 1977.
Minnesota: MN77-2119(MI79-2009), August 12, 1977.
Nevada: NV77-5007(NV78-5009), September 23, 1977; NV77-5072(NV78-5010), July 8, 1977.
New Mexico: NM77-4103(NM78-4021), May 20, 1977.
New York: NY77-3025(NY78-3007), June 17, 1977.
North Carolina: GA77-5035(GA78-1015), March 11, 1977.
North Dakota: ND77-5100(ND78-5019), December 9, 1977.
Ohio: OH77-2131(OH78-2007), August 26, 1977.
South Carolina: GA77-5035(GA78-1015), March 11, 1977.

Tennessee: TN77-1129(TN78-1161), October 7, 1977.
Texas: TX77-4254(TX78-4020), TX77-4260(TX78-4018), TX77-4261(TX78-4019), TX77-4263(TX78-4017), TX77-4280(TX78-4016), September 30, 1977.
Virginia: GA77-5035(GA78-1015), March 11, 1977.
Washington, D.C.: GA77-5035(GA78-1015), March 11, 1977.
Wyoming: WY78-5006(WY78-5014), January 27, 1978. WY78-5008(WY78-5016), February 3, 1978. WY78-5013(WY78-5018), February 3, 1978.

CANCELLATION OF GENERAL WAGE DETERMINATION DECISIONS

GA77-5035(GA78-4124, Laurens County, Ga., is hereby cancelled. Agencies with building construction projects contemplated in the county should utilize the project determination procedure by submitting form SF-308 (see CFR Part 1, § 1.5.). Contracts for which bids have been opened shall not be affected by this notice. Consistent with 29 CFR Part 1, § 1.7(b)(2), inclusion of the above decision in contracts for which the bid opening is within ten (10) days of this notice need not be affected.

Signed at Washington, D.C., this third day of March 1978.

RAY J. DOLAN,
Assistant Administrator, Wage and Hour Division.

NEW DECISION

STATE: GEORGIA

DECISION NUMBER: GA78-1024.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION (does not include single family homes and garden type apartments up to and including 4 stories).

COUNTIES: COLUMBIA, GLASCOCK, JEFFERSON, MCDUFFIE, & WARREN
DATE: DATE OF PUBLICATION

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	$ 6.85				
Carpenters	5.94				
Cement masons	4.75				
Electricians	7.76				
Glaziers	4.72				
Ironworkers:					
Structural & ornamental	4.75				
Reinforcing	3.50				
Laborers	3.40				
Painters	5.00				
Plumbers & Pipefitters	8.54				
Roofers	4.70				
Sheet metal workers	6.38				
Tile setters	7.65				
Truck drivers	3.50				
Welders - Receive rate prescribed for craft performing operation to which welding is incidental.					
POWER EQUIPMENT OPERATORS:					
Crane	6.80				
Front end loader	7.22				

NEW DECISION

STATE: GEORGIA

COUNTIES: BALDWIN, BIBB, BLECKLEY, BUTTS, CRAWFORD, HOUSTON, JASPER, JONES, LAMAR, MONROE, PEACH, PIKE, PUTNAM, TWIGGS, UPSON, & WILKINSON
DATE: DATE OF PUBLICATION

DECISION NUMBER: GA78-1023
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION (includes single family homes and garden type apartments up to and including 4-stories).

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANICS	$ 5.50				
BRICKLAYERS	6.25				
CARPENTERS & DRYWALL HANGERS	5.00				
CARPET LAYERS	4.00				
CEMENT MASONS	5.02				
ELECTRICIANS	5.39				
IRONWORKERS	4.25				
LABORERS	2.99				
PAINTERS & DRYWALL FINISHERS	5.00				
PLUMBERS & PIPEFITTERS	5.84				
ROOFERS	4.00				
SHEET METAL WORKERS	5.78				
TILE SETTERS	6.00				
TRUCK DRIVERS	3.07				
WELDERS - Rate for craft					
POWER EQUIPMENT OPERATORS:					
Backhoe	3.34				
Scraper - pan	4.00				

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 6.50	3%			.02
BOILERMAKERS	6.50	3%			.02
BRICKLAYERS	6.25	3%			.02
CARPENTERS	5.00	3%			.02
CEMENT MASONS	5.02	3%			.02
ELECTRICIANS	5.39	3%			.02
ELEVATOR CONSTRUCTORS	6.50	3%			.02
GLAZIERS	5.00	3%			.02
IRONWORKERS	4.25	3%			.02
LABORERS	2.99	3%			.02
LATHERS	5.00	3%			.02
PAINTERS	5.00	3%			.02
PLASTERERS	5.00	3%			.02
PLUMBERS & PIPEFITTERS	5.84	3%			.02
ROOFERS	4.00	3%			.02
SHEET METAL WORKERS	5.78	3%			.02
SPRINKLER FITTERS	6.00	3%			.02
TERRAZZO FINISHERS	5.00	3%			.02
TILE SETTERS	6.00	3%			.02
TRUCK DRIVERS	3.07	3%			.02
WELDERS - Rate for craft					
POWER EQUIPMENT OPERATORS:					
Backhoe	3.34	3%			.02
Scraper - pan	4.00	3%			.02

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 6.50	3%			.01
BOILERMAKERS	6.50	3%			.01
BRICKLAYERS	6.25	3%			.10
CARPENTERS	5.00	3%			.10
CEMENT MASONS	5.02	3%			.10
ELECTRICIANS	5.39	3%			.10
ELEVATOR CONSTRUCTORS	6.50	3%			.10
GLAZIERS	5.00	3%			.10
IRONWORKERS	4.25	3%			.10
LABORERS	2.99	3%			.10
LATHERS	5.00	3%			.10
PAINTERS	5.00	3%			.10
PLASTERERS	5.00	3%			.10
PLUMBERS & PIPEFITTERS	5.84	3%			.10
ROOFERS	4.00	3%			.10
SHEET METAL WORKERS	5.78	3%			.10
SPRINKLER FITTERS	6.00	3%			.10
TERRAZZO FINISHERS	5.00	3%			.10
TILE SETTERS	6.00	3%			.10
TRUCK DRIVERS	3.07	3%			.10
WELDERS - Rate for craft					
POWER EQUIPMENT OPERATORS:					
Backhoe	3.34	3%			.20
Scraper - pan	4.00	3%			.20

Education and/or Appr. Tr.
.041
3/8 of 1%
3/8 of 1%
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MODIFICATIONS P. 1

DECISION NO. AR77-4173 - Mod. #6 (42 FR 42063 - August 19, 1977,) Jefferson County, Arkansas	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
BOILERMAKERS	$10.55	.80	1.00		.02
LINE CONSTRUCTION:					
Linemen & Operators	11.60		3%		3/8%
Cable splicers	11.725		3%		3/8%
DECISION NO. AR77-4285 - Mod. #5 (42 FR 52898 - September 30, 1977) Garland, Hot Springs and Clark Counties, Arkansas					
CHANGE:					
ELECTRICIANS:					
Electricians	$10.975		3%		[illegible]
Cable splicers	11.10		3%		[illegible]
BOILERMAKERS	10.55	.80	1.00		.02
DECISION NO. AR77-4286 - Mod. #5 (42 FR 52900-September 30, 1977) Union & Ouachita Counties, Arkansas					
CHANGE:					
BOILERMAKERS	10.55	.80	1.00		.02
DECISION NO. AR77-4287 - Mod. #6 (42 FR 52903 - September 30, 1977) Pulaski County, Arkansas					
CHANGE:					
BOILERMAKERS	10.55	.80	1.00		.02
DECISION NO. AR77-4288 - Mod. #4 (42 FR 52901 - September 30, 1977) Sebastian, Crawford and Washington Counties, Arkansas					
CHANGE:					
BOILERMAKERS	10.55	.80	1.00		.02
ELECTRICIANS:	10.65	.35	3%+3.5%		1/4%
Electricians	10.65	.35	3%+3.5%		1/4%
Cable splicers	10.90	.35	3%+3.5%		1/4%

MODIFICATIONS P. 2

DECISION NO. AR77-4290 - Mod. #4 (42 FR 50924 - November 11, 1977) Conway, Van Buren, Perry, and Cleburne Counties, Arkansas	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
BOILERMAKERS	$10.55	.80	1.00		.02
LINE CONSTRUCTION:					
Linemen	11.60		3%		3/8%
Cable splicers	11.725		3%		3/8%
Operators	11.60		3%		3/8%
DECISION #DE77-3134 - Mod. # 6 (42 FR-52990 - September 30, 1977 State of Delaware					
Omit:					
All classifications and wage rates for Laborers on Highway Construction					
Add:					
Laborers - Highway Construction:					
New Castle County	$ 5.90				
Kent & Sussex Counties	5.45				

Education and/or Appr. Tr.
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1/2%
1/2%
1/2%
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1/2%
1/2%

MODIFICATIONS P. 3

DECISION #GA77-1117 - Mod. #1 (42 FR 52998 - September 30, 1977) Chatham County, Georgia	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos workers	$10.15	.55	.60		.10
Boilermakers	10.25	.75	1.05		.02
Bricklayers, stone masons, marble masons, tile setters, & terrazzo workers	8.50	.20	.20		.01
Carpenters & soft floor layers	8.75	.50			
Cement masons	7.50				
Elevator Constructors:					
Mechanics	9.15	.745	.56	1&%+a+b	.035
Helpers	6.405	.745	.56	1&%+a+b	.035
Millwrights	9.35	.50			
Piledrivermen	9.00	.50			
Plasterers	7.25				
Plumbers & Pipefitters:					
Contracts $15,000.00 or less	9.65	.45	.60		.05
Contracts over $15,000.00	10.30	.45	.60		.05
Sheet metal workers	9.23	.45			.04
FOOTNOTE:					
a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.					
DECISION #GA77-1118 - Mod. #2 (42 FR 53000 - September 30, 197 Richmond County, Georgia					
Change:					
Asbestos workers	$ 9.15	.45	.25		.02
Laborers:					
Building & Construction laborers	4.60	.15			.10
Power & air tool operators, concrete or clay pipe layers, & wipers, mortar makers & power buggy operators	4.75	.15			.10
Powderman, wagon drill operator, tool room tender, tunnel laborers, shaft laborers, burners, acetylene (demolition work), slip form workers (steel or wood, screw or jack type), potman, creosote materials handler, steel form setter (on grade), chimney or stack workers	4.80	.15			.10

MODIFICATIONS P. 4

DECISION #MD77-3086 - Mod. #5 (42 FR 39880 - August 5, 1977) Allegany & Garrett Counties, Maryland	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Boilermakers	$12.025	1.075	1.00		.02
Elevator Constructors	11.77	.745	.56	4%+a+b	.025
Elevator Constructors Helpers	70% JR	.745	.56	4%+a+b	.025
Elevator Constructors Helpers (Probationary)	50% JR				
DECISION #NJ77-3093 - Mod. # 9 (42 FR-35567 - July 8, 1977) Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Sussex, Union, & Warren Counties, New Jersey					
Change:					
Boilermakers	$11.57	8%	20%+.25	10%	.01
Boilermakers Helpers	11.04	8%	20%+.25	10%	.01
Laborers, Heavy & Highway Construction:					
GROUP 1	9.40	.85	1.00	e	.10
GROUP 2	9.25	.85	1.00	e	.10
GROUP 3	9.00	.85	1.00	e	.10
GROUP 4	8.95	.85	1.00	e	.10
GROUP 5	8.85	.85	1.00	e	.10
GROUP 6	8.75	.85	1.00	e	.10
GROUP 7	8.50	.85	1.00	e	.10
GROUP 8	8.35	.85	1.00	e	.10
GROUP 9	8.30	.85	1.00	e	.10
Laborers, Free Air Tunnel Jobs:					
GROUP 1	9.77	.85	1.00	e	.10
GROUP 2	9.37	.85	1.00	e	.10
GROUP 3	9.21	.85	1.00	e	.10
GROUP 4	8.70	.85	1.00	e	.10
Plumbers:					
ZONE 3	12.45	.75	1.35		.20

Education and/or Appr. Tr.
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MODIFICATIONS P. 5

DECISION NO. NM78-4012 - Mod. #2 (43 FR 5978 - February 10, 1978) Statewide, New Mexico	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
BOILERMAKERS	$10.165	$1.075	$1.00	.50	.02
ELECTRICIANS(ZONE III):					
3-A	9.60	.30	3%		1/10%
3-B	11.05	.30	3%		1/10%
ELECTRICIANS(ZONE IV):					
4-A	10.60	.60	3%		.01
4-B	10.95	.60	3%		.01
4-C	11.10	.60	3%		.01
4-D	11.35	.60	3%		.01
CABLE SPLICERS (ZONE III):					
3-A	9.85	.30	3%		1/10%
3-B	11.30	.30	3%		1/10%
CABLE SPLICERS (ZONE IV):					
4-A	10.95	.60	3%		.01
4-B	11.30	.60	3%		.01
4-C	11.45	.60	3%		.01
4-D	11.70	.60	3%		.01
DECISION NO. OR77-5078 - Mod.#2 (42 FR 48700 September 23, 1977) Statewide Oregon					
CHANGE:					
Boilermakers	$12.025	1.075	1.00	.75	.02
Electricians:					
Clackamas, Clatsop, Columbia, Hood River, Multnomah, Sherman, Tillamook, Wasco, Washington, N& Yamhill, Cos. Electricians	14.55	.90	3%+1.00		.05
Lead Cable Splicers	15.30	.90	3%+1.00		.05
LINE CONSTRUCTION:					
All counties except Malheur					
Cable Splicer, Leadman Pole Sprayer	13.29	.45	3%+ .40	.10	1/2%
Lineman, Pole Sprayer, Heavy Line Equip. Man, Certified Lineman Welder	12.00	.45	3%+ .40	.10	1/2%
Tree Trimmer	10.84	.45	3%+ .40	.10	1/2%
Line Equipment Man	10.34	.45	3%+ .30	.10	1/2%
Head Groundman (Chipper), Head Groundman, Powderman, Jackhammer Man	9.04	.45	3%+ .30	.10	1/2%
Groundman, Tree Trimmer Helper	8.50	.45	3%+ .30	.10	1/2%
Zone Pay - see Decision					

MODIFICATIONS P. 6

DECISION #PA76-3169 - Mod. #6 (42 FR-21133 - May 21, 1976) Bucks, Chester, Delaware, Montgomery & Philadelphia Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Line Construction:					
Journeyman Lineman	$13.71	.45	.137		.041
DECISION #PA77-3100 - Mod. #6 (42 FR 36775 - July 15, 1977) Columbia, Montour, and Snyder Counties, Pennsylvania					
Change:					
Line Construction:					
Linemen, dynamite man, heavy equipment operators	10.80	.50	3%		3/8 of 1%
Winch truck operator	7.59	.50	3%		3/8 of 1%
Groundman	7.26	.50	3%		3/8 of 1%
DECISION #PA77-3102 - Mod. #8 (42 FR 37754 - July 22, 1977) Clinton, Centre, Huntingdon, Fulton & Mifflin Counties, Pennsylvania					
Change:					
Line Construction:					
ZONE 2					
Linemen, dynamite man, heavy equipment operators	10.80	.50	3%		3/8 of 1%
Winch truck operator	7.59	.50	3%		3/8 of 1%
Groundman	7.26	.50	3%		3/8 of 1%
DECISION #PA77-3103 - Mod. #5 (42 FR 37759 - July 22, 1977) Bradford, Tioga and Union Counties, Pennsylvania					
Change:					
Line Construction:					
Linemen, dynamite man, heavy equipment operators	10.80	.50	3%		3/8 of 1%
Winch truck operator	7.59	.50	3%		3/8 of 1%
Groundman	7.26	.50	3%		3/8 of 1%

Education and/or Appr. Tr.
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MODIFICATIONS P. 7

DECISION #PA77-3122 - Mod. #2 (42 FR 45614 - September 9, 1977) Cumberland, Dauphin, Perry, Juniata, New Cumberland Depot in York County, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Marble Setters	$10.28	.60	.57		
DECISION #PA77-3129 - Mod. #2 (42 FR 46903 - September 16, 1977) Northumberland County, Pennsylvania					
Change:					
Electricians:					
Remainder of County	10.95	.35	3%+.20		.05
Line Construction:					
Linemen, dynamite man, heavy equipment operators	10.80	.50	3%		3/8 of 1%
Winch truck operator	7.59	.50	3%		3/8 of 1%
Groundman	7.26	.50	3%		3/8 of 1%
DECISION #PA77-3123 - Mod. #4 (42 FR 45616 - September 9, 1977) Schuylhill County, Pennsylvania					
Change:					
Line Construction:					
Linemen, dynamite man, heavy equipment operators	10.80	.50	3%		3/8 of 1%
Winch truck operator	7.59	.50	3%		3/8 of 1%
Groundman	7.26	.50	3%		3/8 of 1%
DECISION #PA77-3128 - Mod. #4 (42 Fr 46901 - September 16, 1977) Adams & York Counties, Pennsylvania					
Change:					
Roofers:					
Composition	9.25	.61	.30	.25	
Slate & Tile	9.85	.61	.30	.25	
Carpenters:					
York County	9.89	.50	.45		.03

MODIFICATIONS P. 8

Decision # TN77-1036, Mod. # 2. (42 FR 16375 - March 25, 1977) Davidson County, Tennessee.	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Electricians	$9.20	.45	3%		0.25%
Decision # TN77-1041, Mod. # 1. (42 FR 17784 - April 1, 1977) Statewide, Tennessee					
CHANGE DESCRIPTION OF WORK TO: Highway Construction (does not include tunnels, railroad construction, building structures in roadside rest areas, or bridges designed to accommodate waterborne navigation).					
DECISION NO. WA77-5096 - Mod.#3 (42 FR 55412 October 14, 1977) Statewide Washington					
CHANGE:					
BOILERMAKERS	$12.025	1.075	1.00	.75	.02
ELECTRICIANS:					
Clark, Klickitat, and Skamania Counties					
Electricians	14.55	.90	3% +1.00		.05
Cable Splicers	15.30	.90	3% +1.00		.05
IRONWORKERS:					
Statewide except: Clark, Cowlitz, Klickitat, Pacific (Southern Portion), Skamania and Wahkiakum Cos. Reinforcing, Structural, Fence Erectors, Ornamental, Riggers, and Signalmen	11.85	.93	1.20		.10
LINE CONSTRUCTION:					
Cable Splicer, Leadman Pole Sprayer	13.29	.45	3% +.40	.10	1/2%
Lineman, Pole Sprayer, Heavy Line Equipment Man, Certified Lineman Welder	12.00	.45	3% +.40	.10	1/2%
Tree Trimmer	10.84	.45	3% +.40	.10	1/2%
Line Equipment Man	10.34	.45	3% +.30	.10	1/2%
Head Groundman (Chipper), Head Groundman, Powderman, Jackhammer Man	9.04	.45	3% +.30	.10	1/2%
Groundman, Tree Trimmer Helper	8.50	.45	3% +.30	.10	1/2%
ZONE PAY - see Decision					

SUPERSEDEAS DECISION

STATE: Alaska COUNTIES: Statewide
DECISION NUMBER: AK78-5020 DATE: Date of Publication
Supersedes Decision No, AK77-5097 dated September 30, 1977, in 42 FR 52890
DESCRIPTION OF WORK: Building Construction (including residential construction consisting of single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction and Dredging.

AREA I (North of the 63rd Parallel) AREA II (South of the 63rd Parallel and West of the 141st Meridian) AREA III (East of the 141st Meridian)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$20.36	.44	$ 1.20		.10
BOILERMAKERS	17.485	1.075	1.00	.75	.02
BRICKLAYERS; Blocklayers; Stonemasons	15.68	.90	2.45		.09
CARPENTERS:					
Area I					
Carpenters	16.28	.70	1.65		.10
Powder actuated tool operator	16.50	.70	1.65		.10
DeWalt or similar type saw operator; Marlite and Acoustical; Fire or Floor Repair work applicators; Mailing Machine Operator;					
Saw Filer	16.56	.70	1.65		.10
Millwrights	16.67	.70	1.65		.10
Piledrivermen	15.82	.70	1.65		.10
Areas II and III					
Journeyman Carpenters	15.81	.70	1.65		.15
Acoustical and Marlite Applicators; Floor Workers; Radial air saw operators;					
Fire and Floor Workers	16.19	.70	1.65		.15
Millwrights	16.34	.70	1.65		.15
Piledrivermen	15.82	.70	1.65		.15
CEMENT MASONS:					
Cement Masons, paving (concrete), Curb, Gutter and Sidewalks	14.30	.70	2.28		.15
Operating Screeding and Rodding Machines, Application of all Composition, Mastic, Epoxy, and Plastic Materials	14.83	.70	2.28		.15
Hand powered Grinder	14.83	.70	2.28		.15
Form Setters	14.45	.70	2.28		.15
CULINARY WORKERS:					
Baker of combination Cook-Baker, Head Cook; Working Camp Manager	13.31	.50	2.00		.04
Cook	12.95	.50	2.00		.04
Butcher	12.06	.50	2.00		.04

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CULINARY WORKERS: (Cont'd)					
Head Waiter or Head Waitress	$12.57	.50	$ 2.00		.04
Head Bullcook	11.47	.50	2.00		.04
Camp Worker (waiter, waitress, Bullcook, General Helper, miscellaneous worker); Bartender	11.31	.50	2.00		.04
ELECTRICIANS:					
Electricians; Equipment Operators; Technicians	17.45	1.05	3%+3.00		.15
Cable Splicers	19.20	1.05	3%+3.00		.15
Residential Construction	10.25	1.05			.05
ELEVATOR CONSTRUCTORS	18.915	.745	.56	a	.025
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.745	.56	a	.025
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS:					
Area I	15.85	.65	1.00		
Areas II and III	15.74	.70	1.00		.10
IRONWORKERS:					
Bender Operator; Bridge; Fence Erector; Machinery Mover; Ornamental; Reinforcing; Sheeter; Structural	17.05	.85	2.75		.20
LATHERS	16.71	.70		1.08	.04
LINE CONSTRUCTION:					
Groundmen	15.45	1.05	3%+3.00		.15
Equipment Operators; Linemen; Technicians	17.45	1.05	3%+3.00		.15
Cable Splicers	18.95	1.05	3%+3.00		.15
Powderman	16.95	1.05	3%+3.00		.15
Material Handler	12.35	1.05	3%+3.00		.15
MARBLE SETTERS; Terrazzo Workers	15.68	.90	2.25		.09
PAINTERS:					
Area I					
Zone I (Within a 10 mile radius of the Fairbanks Post Office including Ft. Wainwright)					

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: Cont'd)					
Zone 2 (Beyond 10 miles and up to 40 miles radius of the Fairbanks Post Office including Bielson Air Force Base and all the Sites within this territory)					
Zone 3 (Beyond 40 miles radius of the Fairbanks Post Office)					
Zone 1 and 3:					
Brush; Roller; Paper; Vinyl	$ 17.15	.70	$ 2.00		.10
Utilidor; Swing; Sign; Bosun	17.40	.70	2.00		.10
Structural Steel, Pot Tender Sandblaster	17.65	.70	2.00		.10
Epoxy; Tar; Finish metal Spray	18.15	.70	2.00		.10
Spray Painter	18.25	.70	2.00		.10
Tapers Hand	17.42	.70	2.00		.10
Tapers Machine	18.42	.70	2.00		.10
Buffer Operator	17.68	.70	2.00		.10
Hardwood Finishers	17.90	.70	2.00		.10
Zone 2:					
Brush, roller, paper and vinyl hangers	18.00	.65	2.00		.10
Utilidor, Swing, bosun, Sign	18.25	.65	2.00		.10
Structural steel, Pot tender-Sandblaster	18.50	.70	2.00		.10
Epoxy, Tar, Finish metal Spray	19.00	.70	2.00		.10
Spray painter	19.10	.70	2.00		.10
Tapers, Hand	18.27	.70	2.00		.10
Tapers, Machine	19.27	.70	2.00		.10
Buffer Operators	18.53	.70	2.00		.10
Hardwood Finisher	18.75	.70	2.00		.10
Zone 1, 2, and 3:					
Height Pay: All work on any form of scaffolding or staging over 40 ft. will be paid $.25 more per hour, and for every additional 20 ft. $.25 more per hour will be paid to the employee. The Height of work shall be determined from the ground to the point of hook-up.					

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
AREAS II and III:					
Brush, Roller, Sign Paper & vinyl, Swing Stage, Taper/Drywall, Structural Steel	$ 17.00	.70	$ 2.00		.20
Spray, Sandblast, Pot Tender	17.60	.70	2.00		.20
Epoxy and tar applicator	18.00	.70	2.00		.20
Steeple Jack and Tower	18.80	.70	2.00		.20
Height Pay: All classifications, with the exception of steeple jacks and tower painters, a $.25 hourly premium shall be paid for swing stage work on a structure with height in excess of 40 ft. an additional $.25 per hourly height pay shall be paid for each additional 50 ft. thereafter. Height pay on all towers and steeplejack work shall start at the 150 ft. level. $.50 per hour above the scale shall be paid for each additional 100 ft.					
PLASTERERS	15.42	.70	2.28		.15
PLUMBERS: Steamfitters:					
Area I	18.42	.85	1.30		.45
Area II	16.85	.73	1.40		.15
Area III	16.50	1.00	1.70		.10
Residential Construction:					
Area II	14.32	.73	1.40		.15
ROOFERS:					
Area I	15.60	1.40	2.20		.05
Area II and III	15.30	1.40	2.20		.05
SHEET METAL WORKERS:					
Area I	18.99	.57	1.00		.17
Area II and III	18.36	.67	1.00		.15
SOFT FLOOR LAYERS:					
Area I	16.67	.70	1.65		.10
Areas II and III	16.04	.70	1.65		.15
SPRINKLER FITTERS	17.01	.65	.95		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SURVEY CREWS:					
Party Chief	$14.45	.98	$ 3.00		.05
Instrumentman	13.21	.98	3.00		.05
Head Chainman	12.66	.98	3.00		.05
Stakehop	12.66	.98	3.00		.05
Rear Chainman	12.23	.98	3.00		.05
TERRAZZO WORKERS' and TILE SETTERS' HELPERS	12.83	.90	2.25		.09
TILE SETTERS	15.01	.90	2.45		.09
RIGGERS: WELDER: Receive rates for craft performing operation to which rigging or welding is incidental.					
PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.					
FOOTNOTE: a. Employer contributes 4% of the basic hourly rate for over 5 years' service and 2% of the basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit. Six paid holidays: A through F.					
LABORERS					
Group 1	$13.10	.60	2.25		.09
Group 2	13.27	.60	2.25		.09
Group 3	13.31	.60	2.25		.09
Group 4	13.34	.60	2.25		.09
Group 5	13.38	.60	2.25		.09
Group 6	13.39	.60	2.25		.09
Group 7	13.44	.60	2.25		.09
Group 8	13.52	.60	2.25		.09
Group 9	13.77	.60	2.25		.09
Group 10	13.80	.60	2.25		.09
Group 11	13.88	.60	2.25		.09
Group 12	13.90	.60	2.25		.09
Group 13	13.91	.60	2.25		.09
Group 14	14.02	.60	2.25		.09
Group 15	14.14	.60	2.25		.09
Group 16	14.27	.60	2.25		.09
Group 17:					
Class A	13.10	.60	2.25		.09
Class B	13.29	.60	2.25		.09
Class C	13.60	.60	2.25		.09
Class D	14.16	.60	2.25		.09
Class E	14.31	.60	2.25		.09
Class F	14.55	.60	2.25		.09

LABORERS

Group 1: Building Laborers; Carpenters Tenders; Material Handlers and Hook Tenders; Form Strippers; Signalmen; Riggers; Sandblast Pot Tender; Saw Tenders; General Labor; Dump Man; Pit Man; Brush Cutters, Ditch Diggers; ; Monolithic Workers; Dryer Man; Window Cleaner; Utiliwalk and Utilidor

Group 2: Base and Floor Machine Man

Group 3: Choke Setters

Group 4: Concrete Labor including Vibratorman; Power Butty and Conorete Power Saw; Curb and Gutterman; General Crew (including Plant Crew) Asphalt

Group 5: Pneumatic or Power Tools

Group 6: Stake Hopper; Grademan; Steampoint or Water Jet Operator

Group 7: Tank Cleaner

Group 8: Jackhammer Operator and Pavement Breaker; Chuck Tender (Wagon and Air Track Drills)

Group 9: Mason Tender and Mud Mixers

Group 10: Gunnite Operator; Pipelayers; Culvert and Multiplate; High Scaler; Sloper (over 20 feet); Chain and Power Saws; Sack or bulk; Sewer Pipelayer; Sewer Caulkers; Timberman; All Monolithic Crews; Pipe Builders; Sandblasters

Group 11: Asphalt Rakers

Group 12: Tenders; Plasterers; Bricklayers; Cement Finisher; Burning and Cutting Torch (except intermittent torch work)

Group 13: Wagon Driller

Group 14: Timber Faller; Air Track Wagon Driller

Group 15: Chain Saw Filer

Group 16: High Riggers and Tree Topper, Powderman

Group 17: TUNNEL OR SHAFT
Class A: Topman and Bull Gang; Brakeman
Class B: Muckers, Laborers; Nippers
Class C: Chuck Tender
Class D: Retimberman
Class E: Miners, Shafts and Raises
Class F: Powderman

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 13.93	.90	$ 2.50		.15
Group 2	14.82	.90	2.50		.15
Group 3	13.86	.90	2.50		.15
Group 4	13.99	.90	2.50		.15
Group 5	14.88	.90	2.50		.15
Group 6	15.66	.90	2.50		.15
Group 7	14.25	.90	2.50		.15
Group 8	13.42	.90	2.50		.15
Group 9	14.31	.90	2.50		.15
Group 10	14.58	.90	2.50		.15
Group 11	14.07	.90	2.50		.15
Group 12	16.41	.90	2.50		.15
Group 13	13.96	.90	2.50		.15
Group 14	14.34	.90	2.50		.15
Group 15	13.84	.90	2.50		.15
Group 16	14.37	.90	2.50		.15
Group 17	14.67	.90	2.50		.15
Group 18	12.76	.90	2.50		.15
Group 19	13.31	.90	2.50		.15
Group 20	14.26	.90	2.50		.15
Group 21	13.58	.90	2.50		.15
Group 22	12.91	.90	2.50		.15
Group 23	13.35	.90	2.50		.15
Group 24	13.52	.90	2.50		.15
Group 25	17.18	.90	2.50		.15
Group 26	17.85	.90	2.50		.15
Group 27	14.51	.90	2.50		.15
Group 28	13.80	.90	2.50		.15
DREDGING					
Group 1	13.23	1.00	3.00		
Group 2	13.36	1.00	3.00		
Group 3	14.29	1.00	3.00		
Group 4	14.35	1.00	3.00		
Group 5	14.51	1.00	3.00		
Group 6	14.92	1.00	3.00		
Group 7					
(a)	15.70	1.00	3.00		
(b)	16.45	1.00	3.00		

POWER EQUIPMENT OPERATORS

Group 1: Batch Plant Operator; Batch and Mixer, 200 yards per hour and under; Loaders; Elevating - Athey, Barber Greene and similar types; Overhead and front-end, under 2½ yards; Mixers; Concrete Mixers and Batch, 200 yards per hour and under; Pumps; Fuller Kenyon, Pumpcrete and Concrete, Rollers, Tampers and Vibrators: on Plant or Road Mix materials; Tractor, Farmall types, 50 h.p. and over; Trenching Machines, under 16 inches

Group 2: Batch Plant Operator: Batch and Mixers, over 200 yards; Derricks, all; Drilling Machines, Core, Cable Rotary and Exploration; Mixers: Mobile type with hoist combination; Mucking Machines, Mole, Tunnel Drill and/or Shield

Group 3: Brooms, Power Wayne, Saginaw and similar types; Bulldozers, under D6 or similar; Post Hole Diggers, mechanical; Saws, Concrete; Scrapers; Carryall type, tandem

Group 4: Bulldozers: D6 through D9 or similar; Bump Cutter (Concut Christenson or similar types); Conveyors

Group 5: Bulldozers: TC 12, Quad 9, Pay Dozers, Linked Pusher, H.D. 41 and/or similar; Bulldozers engaged in Yo Yo Operation; Cableways and Highlines, 3 yards and under; Cranes: "A" Frame Trucks; Helicopter, transporters; Deck Winches (double power drum); Crawler, truck type, Floating Locomotive, Whirley, either 3 yards and under or 150 boom including jibs and under 45 tons and under; Hydralifts or Transporter (all track or truck type), Hyster Cat Cranes and attachments, Sidebooms 45 tons and under; Fork Lifts with power broom and swing attachment; Loaders: Overhead and Front-end, 2½ yards and under 4 yards; Motor Patrol Graders: Over Model 14 or similar types; Piledriver Engineers, (Ford, Ferguson, Case and similar types); Tournapulls, Caterpillar, Euclid Scrapers and similar type equipment, over 25 yards through 40 yards; Hover Craft, Flex Craft, Helicopter; Transporter; Cableways; Rollagon, Dredge Barge Cable, Highline or Cable Car, Boat Coxswain

POWER EQUIPMENT OPERATORS (Cont'd)

Group 6: Cableways and Highways, over 3 yards; Cranes: Crawler, truck type, Floating, Locomotive, Whirley, either over 3 yards and under 6 yards, over 150' boom, including jibs or over 45 tons; Tower Cranes, Pecco, Lorraine, Buoyrus and similar types; Hyster Cat Cranes and attachments, Sidebooms over 45 tons through 100 tons; Loaders: Overhead and Front-end, 4 yards up to and including 10 yards; Shovels: Crawler and truck type, all attachments, 3 yards and under 6 yards; Tournapulls, Caterpillar, Euclid Scrapers and similar type equipment over 40 yards through 55 yards; Slip Form Paver, C.M.I. and similar types

Group 7: Cement Hogs; Locomotives: Rod and Greared Engines

Group 8: Compressors: Excavating; Locomotives: Dinkey (air, steam, gas, and electric) Speeders

Group 9: Compressors: Steel Erection including Sandblasting, Painting or same, Pile Driving, Hoists on Steel Erection (Towermobiles and Air Taggers); Loaders: Fork Lifts with tower

Group 10: Conveyors, Beltcrete with power pack and similar; Loader: Elevating Belt type, Euclid and similar types

Group 11: Cranes: "A" Frame Trucks, Deck Winches, single power drum; Crushers, rock, washing and screening plants; Hoist Air Taggers, Elevators; Motor Patrol Graders: Model 14 or similar types and under; Power Plant Turbine Operators: under 300 K.W.; Shovels; Tournapulls, Caterpillar, Euclid, Scrapers and similar type equipment 25 yards and under

Group 12: Cranes: Crawler, truck type, Floating, Locomotive, Whirley, either 6 yards or over, or over 200' of boom including jibs or over 150 tons; Hyster Cat Cranes and attachments, Sidebooms over 100 tons; Loaders: Overhead and front-end, over 10 yards; Shovels: Crawler and truck type, all attachments, 6 yards and over; Tournapulls, Caterpillar, Euclid, Scrapers and similar type equipment over 55 yards thorugh 70 yards

Group 13: Finishing Machine Operator, Concrete Paving, Sidewalk Curb and Gutter Machine; Screed Man or Slurry Operator; Spreaders - Blaw Knox, Cedarapids, Barber Greene, Railroad Wing Spreader or similar types

Group 14: Loaders: Elevating Grader type, Dumor and similar types

Group 15: Loaders: Fork Lifts or Lumber Carrier (on construction job site)

Group 16: Mechanics, Welders, Machinists, heavy duty

Group 17: Mechanic; Leadman

POWER EQUIPMENT OPERATORS (Cont'd)

Group 18: Mechanics' Helpers, Heavy Duty (shop), Stake Hopper, Grademan

Group 19: Mechanic, light duty; Rollers, Tampers and Vibrators: Other than plants or road mix (where towed, to pay rate or equipment used to pull); Tractors, Farmall type less than 50h.p.; Scrapers; Carryall type, single

Group 20: Mixers, Asphalt

Group 21: Oilers, Brakemen, Blower Distributors

Group 22: Grade Checkers - Oiler combination); Safety Observer or Oiler Rigger

Group 23: Journeyman Equipment Service; Drill-helper; Oilers and Fireman; Oiler, either over 3 yards to over 150' boom or over 45 tons

Group 24: Pumps: Water

Group 25: Tournapulls, Caterpillar, Euclid Scrapers and similar types equipment over 70 yards through 85 yards

Group 26: Tournapulls, Caterpillar, Euclid Scrapers and similar type equipment, over 85 yards through 100 yards

Group 27: Trenching Machines: 16 inches and over or Remote controlled underwater Trenching

Group 28: Modwell Sno-cat

POWER EQUIPMENT OPERATORS - DREDGING

Group 1: Assistant Mate (Deckhand)

Group 2: Fireman; Oiler

Group 3: Assistant Engineer (electric, diesel, steam or booster pumps); Mates and Boatmen

Group 4: Engineer Welder; Craneman

Group 5: Assistant Engineer (electric generator operator for primary pump, power barge, or dredge)

Group 6: Leverman, Hydraulic

Group 7: Leverman, Dipper:
(a) 5 yards and under
(b) Over 5 yards

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$13.22	.98	$ 3.00		.10
Group 2	13.28	.98	3.00		.10
Group 3	12.75	.98	3.00		.10
Group 4	13.60	.98	3.00		.10
Group 5	14.00	.98	3.00		.10
Group 6	14.31	.98	3.00		.10
Group 7	14.60	.98	3.00		.10
Group 8	14.91	.98	3.00		.10
Group 9	15.22	.98	3.00		.10
Group 10	15.53	.98	3.00		.10
Group 11	15.84	.98	3.00		.10
Group 12	16.15	.98	3.00		.10
Group 13	16.45	.98	3.00		.10
Group 14	13.76	.98	3.00		.10
Group 15	12.47	.98	3.00		.10
Group 16	12.90	.98	3.00		.10
Group 17	13.58	.98	3.00		.10
Group 18	13.84	.98	3.00		.10
Group 19	14.11	.98	3.00		.10
Group 20	14.38	.98	3.00		.10
Group 21	14.55	.98	3.00		.10
Group 22	13.52	.98	3.00		.10
Group 23	12.64	.98	3.00		.10

TRUCK DRIVERS

Group 1: Buggymobile; Hyster Operators (handling aggregate), Lumber Carrier

Group 2: Semi or truck and trailer; Dumpsters; Batch Trucks over 5 yards; Dump Trucks, over 5 yards up to and including 10 yards; Fuel Truck; Greasers of Grease Trucks; Flat Beds, dual rear axle; Ready Mix: Over 3 yards up to and including 5 yards; Water Wagon, semi; Water Wagon, dual axle; Winch Trucks; Flat Bed including "A" Frame manufactures rating over 5 tons; Bull Lifts and Fork Lifts over 5 tons; Front End Loader with Forks; Partsman and Outside Expeditor; Bus Operator, over 30 passengers; Track Truck Equipment; (All Terrain Vehicles, Form Distributor Truck, double axle; Loadmaster (air and water operations); Air cushion or similar type vehicle; Fire Trucks - double axle

Group 3: Batch Truck up to and including 5 yaree; Dump Truck (including Rockbuggy and Trucks with pumps) up to and including 5 yards; Flat Beds, single rear axle; Water Wagon, single axle; Winch Truck, Flat Bed including "A" Frame manufactured rating 5 tons and under; Bull Lifts and Fork Lifts up to and including 5 tons; Bus Operator, up to 30 passengers; Form Distributor Truck, single axle, Hydro Seeder, single axle, Team Drivers (horses, mules and similar equipment); Vacuum Trucks and Truck Sweepers - single axle; Fire Trucks - single axle; Ambulance

Group 4: Dump Trucks over 10 yards up to and including 20 yards; Tire Services Man; Lowbed heavy-duty Trailer; Oiler Distributor Drivers; Ready Mix: Compactor (when pulled by rubber-tired equipment)

Group 5: Dump Trucks over 20 yards up to and including 30 yards

Group 6: Dump Trucks over 30 yards up to and including 40 yards

Group 7: Dump Trucks over 40 yards up to and including 50 yards

Group 8: Dump Trucks over 50 yards up to and including 60 yards

Group 9: Dump Trucks over 60 yards up to and including 70 yards

Group 10: Dump Trucks over 70 yards up to and including 80 yards

Group 11: Dump Trucks over 80 yards up to and including 90 yards

TRUCK DRIVERS (Cont'd)

Group 12: Dump Trucks over 90 yards up to and including 100 yards

Group 13: Dump Trucks over 100 yards (above scales to be paid on actual water level measurements)

Group 14: Turn-O-Wagoner DW-10 when not self-loading

Group 15: Gravel Spreader Box Operator on Truck; Pickup (pilot Cats all light-duty vehicles); Warehouseman Class 2: Farm Type rubber-tired tractor (material hauling); Swampers and Riggers

Group 16: Ready Mix: Up to and including 3 yards

Group 17: Ready Mix: Over 5 yards up to and including 7 yards

Group 18: Ready Mix: Over 7 yards up to and including 9 yards

Group 19: Ready Mix: Over 9 yards up to and including 12 yards

Group 20: Ready Mix: 13 yards and over

Group 21: Ready Mix, semi with double bowl mixer

Group 22: Water Wagon, when pulled by Euclid or similar type equipment

Group 23: Warehouseman - Class 1

STATES: Georgia, North Carolina, South Carolina, Virginia, and Washington, D. C., and in Florida, all counties on the Atlantic coast and the Gulf coast west to the Aucilla River and all tributary Waterways.
DECISION NUMBER: GA-76-1015 DATE: Date of Publication
Supersedes Decision No. GA-77-5035, dated March 11, 1977 in 42 FR 13756
DESCRIPTION OF WORK: Dredging

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HYDRAULIC DREDGES 20" AND OVER					
Leverman	$7.63	.63	.50	a	
Engineer	7.53	.63	.50	a	
Mate	6.70	.63	.50	a	
Welder	6.94	.63	.50	a	
Derrick Operator	7.22	.63	.50	a	
Spill barge operator	7.06	.63	.50	a	
Spider barge operator	7.06	.63	.50	a	
Tug master	6.64	.63	.50	a	
Carpenter	7.18	.63	.50	a	
Tug mate	6.30	.63	.50	a	
Electrician	7.36	.63	.50	a	
Machinist	7.11	.63	.50	a	
Steward	5.69	.63	.50	a	
Oiler & Fireman	5.49	.63	.50	a	
Deckhand & tug deckhand	5.08	.63	.50	a	
Shoreman	4.97	.63	.50	a	
Second cook	5.08	.63	.50	a	
Messman	4.97	.63	.50	a	
HYDRAULIC DREDGES UNDER 20":					
Leverman	6.90	.63	.50	a	
Engineer	6.51	.63	.50	a	
Welder	6.64	.63	.50	a	
Mate	5.82	.63	.50	a	
Oiler and Fireman	5.42	.63	.50	a	
Launchman	5.49	.63	.50	a	
Shoreman	4.97	.63	.50	a	
Spill barge operator	5.99	.63	.50	a	
Spider barge operator	5.99	.63	.50	a	
CLAMSHELL DREDGES:					
Operator	7.56	.63	.50	a	
Engineer	7.08	.63	.50	a	
Welder	6.84	.63	.50	a	
Mate	6.55	.63	.50	a	
Fireman & Oiler	5.49	.65	.50	a	
Deckhand	5.08	.63	.50	a	
Launchman	5.49	.63	.50	a	
Scowman	5.18	.63	.50	a	

DECISION NO. GA78-1015

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DIPPER DREDGES:					
Operator	7.65	.63	.50	a	
Craneman	7.26	.63	.50	a	
Engineer	7.44	.63	.50	a	
Welder	6.94	.63	.50	a	
Mate	6.70	.63	.50	a	
Firemen & Oiler	5.49	.63	.50	a	
Deckhand	5.08	.63	.50	a	
Tug master	6.64	.63	.50	a	
Tug mate	6.30	.63	.50	a	
Scowman	5.18	.63	.50	a	
TUGS (TENDING DIPPER & CLAMSHELL DREDGES):					
Tug master	6.78	.63	.50	a	
Tug mate	6.37	.63	.50	a	
Engineer	6.78	.63	.50	a	
Assistant engineer	6.22	.63	.50	a	
Deckhand	5.00	.63	.50	a	
Cook	5.18	.63	.50	a	
STEWARD DEPARTMENT - ON DIPPER AND CLAMSHELL DREDGES AND ON HYDRAULIC DREDGES 20" AND UNDER:					
Cook	5.42	.63	.50	a	
Mess cook	5.04	.63	.50	a	
Messmen & janitor	4.94	.63	.50	a	
DRILLBOATS:					
Driller	7.53	.63	.50	a	
Blaster	7.53	.63	.50	a	
Operator engineer	7.53	.63	.50	a	
Helper	5.49	.63	.50	a	

FOOTNOTE:

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

a. Six paid holidys, A through f, plus vacation contribution of 7% of straight time pay.

STATE: INDIANA COUNTY: DECATUR
DECISION NUMBER: IN78-2025 DATE: Date of Publication
Supersedes Decision No. IN77-2008, dated February 11, 1977, in 42 FR 8908
DESCRIPTION OF WORK: Building construction (Does not include family homes & garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.00	.50	.55		.01
BOILERMAKERS	12.35	.80	1.00		.03
BRICKLAYERS; Stonemasons	10.00		.30		
CARPENTERS:					
Carpenters; Soft floor layers	9.74	.35	.65		.03
Piledrivermen	9.99	.55	.65		.03
Millwrights	10.24	.55	.65		.03
CEMENT MASONS	8.30		1.50		
ELECTRICIANS	11.90	4%	7%		.5%
ELEVATOR CONSTRUCTORS:					
Elevator constructors	11.285	.745	.56	4%+a+b	.035
Helpers	70%JR	.745	.56	4%+a+b	.035
Helpers (Prob.)	50%JR				
GLAZIERS	12.39				
IRONWORKERS:					
West ½ of County	11.15	.90	1.30		.05
East ½ of County:					
Ornamental; Structural	11.48	.90	1.05		.03
Reinforcing	10.68	.90	1.85		.02
LATHERS	11.09	.61	.35		.04
PLASTERERS	9.20	.80	.50		.01
PLUMBERS; Steamfitters	12.00	.50	.30		.05
ROOFERS:					
Composition & waterproof	10.95	.50	.50		
Slate, Tile, Asbestos & precast slab	11.20	.50	.50		
SHEET METAL WORKERS	11.94	.60	.70		.09
SPRINKLER FITTERS	11.65	.65	.95		.08
LABORERS:					
Group 1	7.40	.60	.45		.09
Group 2	7.60	.60	.45		.09
Group 3	7.70	.60	.45		.09
Group 4	8.40	.60	.45		.09

DECISION NO: IN78-2025

LABORERS

GROUP 1 - Building & Construction laborers; Scaffold builders (other than for masons or plasterers); Ironworkers helpers; Mechanic tenders; Civil engineer helpers & surveyor helpers; Rodmen & Chainmen; Window washers & cleaners; Waterboys & Toolhouseman ; Roofer's helpers; Railroad workers; Masonry wall washers (interior & exterior); Cement finisher helpers; Carpenter helpers; Helpers all of other crafts not listed; Mason tenders for Areas I, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley; All portable water pumps with discharge up to 3 inches

GROUP 2 - Waterproofing; Handling of creosote lumber of like treated material (excluding railroad material); Asphalt rakers & lutemen; Kettlemen; Air tool operators, vibrators, chipping hammer operator and all pneumatic tool operators; Earth compactors; Jackmen & sheetmen working ditches deeper than 6 ft. in depth; Laborers working ditches 6 ft. in depth or deeper; Assembly of Unicrete pump; Chain saw operators; Tile layers (sewer or field) & sewer pipe layers (metallic or non-metallic); Motor driven wheelbarrows & concrete buggies; Hyster operators; Pump crete assemblers; Conveyor assemblers; Core drill operators; Cement, lime or silica Clay handlers (bulk or bag); Handling of toxic materials damaging to clothing; Pneumatic spikers; Deck engine & winch operators; Water main & cable ducking (metallic & non-metallic)

GROUP 3 - Plasterers' tenders; Mason tenders, except for Areas I, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley; Mortar mixers; Welders (acetylene or electric); Cutting torch or burner; Cement nozzle laborers; Cement gun operators; Scaffold builders when working for plasterers; Scaffold builders when working for masons (except in Areas I, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley)

GROUP 4 - Dynamite men

FOOTNOTES:

a. 7 paid holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving & Christmas Day

b. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

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POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$10.58	.35	.35		.05
GROUP B	9.49	.35	.35		.05
GROUP C	8.75	.35	.35		.05

CLASSIFICATIONS

GROUP A: A-Frame winch truck, air compressor over 600 cu. ft., air tugger, auto-grade (CMI), auto patrol backhoe, ballast regulator (RR), batcher plant (electric control concrete), bending machine (pipe), bituminous plant, bituminous mixer travel plant, bituminous power roller, bulldozer, cable way, Chicago boom, clamshell, concrete mixer (21 cu. ft. or over), crane, craneman, crusher plant, derrick boat, dinkey, dope pots (pipeline), dragline, dredge operator, drill operator, elevating grader, concrete paver, elevator, Ford hoe, (or similar type equipment), forklift formless paver, gantry crane, gradeall, grademan, grout pump, Hetherington paver, highlift hoist, hopto. hough loader (or similar type), hydro crane, hydro hammer, locomotive crane, locomotive, machanic mobile mixer, motor crane, motor crane oiler and one(1) piece of minor equipment, mucking machine, multiple tamping machine (RR), overhead crane, pile driver, pulls, push dozer, push boats, roller (sheepfoot), Ross carrier, scoop shovel, side boom, swing crane, tail boom, tar machine (pipeline), throttle valve, trench machine, welder pump, truck mountad drill 2 to 4 pieces of minor equipment,well point, whirleys

GROUP B: Air compressor (200 cu. ft. per minute capacity or more) brakeman, bull float, concrete mixer (over 10S and under 21S), concrete spreader or puddler, deck engine drill helper, electric vibrator Kompactor (earth or rock), finishing machine, fireman, greaser (on grease facilities servicing heavy equipment), material pump motor boats, motor crane oiler, oiler and one piece of minor equipment, portable loader, post hole digger, power broom, rock roller, roller-wobble wheel (earth and rock), spike machine (RR), seaman tiller, spreader rock, sub-grader, tamping machine, truck mounted drill oiler, welding machine widener (Apsco or similar type)

GROUP C: Air compressor (under 200 cu. ft. per minute), biutminous distributor, cement gun, conveyor, desk hand, earth roller form grader, generator, guard rail driver, heater, oiler, paving joint machine, steam Jenny, vibrator, water pump , concrete saw

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TRUCK DRIVERS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$8.45	$25.50a	$18.00a	b & c	
GROUP 2	8.50	25.50a	18.00a	b & c	
GROUP 3	8.55	25.50a	18.00a	b & c	
GROUP 4	8.60	25.50a	18.00a	b & c	
GROUP 5	8.65	25.50a	18.00a	b & c	
GROUP 6	8.70	25.50a	18.00a	b & c	
GROUP 7	8.80	25.50a	18.00a	b & c	
GROUP 8	8.85	25.50a	18.00a	b & c	
GROUP 9	8.90	25.50a	18.00a	b & c	
GROUP 10	8.95	25.50a	18.00a	b & c	
GROUP 11	9.10	25.50a	18.00a	b & c	

GROUP 1: Drivers on single axle, lowboy helper or flagman, drivers on air compressors and welding machines including those pulled by cars, pick-up trucks, tractors, fork-lifts, dumpsters

GROUP 2: Drivers on Mixer Trucks 2 yards

GROUP 3: Mechanic Helpers and Greasers

GROUP 4: Drivers on Batch Trucks wet or dry 3 batches or under

GROUP 5: Drivers on Tandem Axle Trucks (including Dog-Legs), Drivers on Oil Distributors Drivers on Mixers Trucks 3 yards, Winch Trucks

GROUP 6: Drivers on Single axle, semi-trucks, Drivers on batch trucks wet or dry or dry over 3 batchos, Drivers on pavement breakers

GROUP 7: Drivers on Tandem-Axle semi-trucks, Drivers on trac-o-trucks, Euclids, Tournapull when pulling other than self-loading equipment up to and including 10 yards, Drivers on mixer trucks 4 yards, Mechanics

GROUP 8: Drivers on Tri-axle Trucks

GROUP 9: Drivers on Low-Boy, Drivers on Tandem, Tandem Axle Semi-trucks

GROUP 10: Drivers on Trac-O-Trucks, Euclids, Tournopulls when pulling other than self-loading equipment 11 yards to and including 16 yards, Drivers on mixer trucks above 4 yards

GROUP 11: Drivers on Trac-O-Trucks, Euclids, Tournopull when pulling other than self-loading equipment over 16 yards, Helicopter pilot

FOOTNOTES:
a. per week per employee
b. 1 week's paid vacation after 1 year's service; 2 weeks' paid vacation after 3 years' service; & 3 weeks' paid vacation after 10 years' service.
c. 7 paid holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; & Christmas Day

SUPERSEDEAS DECISION

STATE: Indiana COUNTIES: *See Below
DECISION NUMBER: IN78-2030 DATE: Date of Publication
Supersedes Decision No. IN77-2083 dated May 13, 1977 in 42 FR 24596
DESCRIPTION OF WORK: Heavy and Highway Construction

*Statewide, except Lake, LaPorte, Porter, and St. Joseph Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:					
Jasper, Newton, and Starke Counties	12.03'	.50	.57		.05
Elkhart County	9.98	.60	.60		.05
Bartholomew (Camp Atterbury), Boone, Fountain, Hamilton, Hancock, Hendricks, Johnson (except Edinburg), Marion, Montgomery, Morgan (except Washington), Parke (except portion lying west of a line south and north running through Jeesup, Rosedale, Carbondale, and Poland), Putnam, Vermillion (north of the south city limits of Summit Grove), and Warren Counties	10.45	.60	.50		.08
Remainder of State of Indiana	9.88	.55	.45		.05
CEMENT MASONS:					
Adams, Allen, Dekalb, Noble, Steuben, and Whitley Counties	9.75	.75			.01

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS (Cont'd)					
Benton, Carroll (Northeast section of Co., south & west to, but not incl. Flora in the eastern section, & south to, but not incl. Rockfield, & west to, but not incl. Yeoman), Cass, Clinton, Fountain, Fulton, Howard, Jasper (excluding northeastern portion of Co., but including Wheatfield), Miami, Montgomery, Newton, Pulaski (excluding northern 2/3 of Co.), Tippecanoe, Warren, & White Cos.	$ 9.25	.60	.75		
Jasper (northeastern portion of Co. west to, but not incl. Wheatfield), Pulaski (northern 2/3 of Co.), & Starke Cos.	9.42	.60	.90		.03
Marshall Co.	9.66	.60	.80		.04
Blackford, Delaware, Grant, Huntington, Jay, Randolph, Wabash, & Wells Cos.	9.90	.60			
Elkhart, Kosciusko, & LaGrange Cos.	10.48		.30		.02
Hamilton (northern ½ of Co.), Hancock (eastern ½ of Co.), Henry, Madison, & Tipton Cos.	8.23	.40	.35		
Decatur, Fayette, Franklin, Rush, Union, & Wayne Cos.	8.30		1.30		
Boone, Hamilton (southern ½ of Co., north to the new Rte. Indiana Hwy #32 incl. Noblesville), Hancock (southern & western part, north to but not incl. Wilkinson & east to, but not incl. Fortville), Hendricks, Johnson, Marion & Morgan (northern ½ of Co.) Cos.	9.71	.65	.75		.04
Crawford, Dubois, Perry, Posey, Spencer, Vanderburgh, & Warrick Cos.	9.80	.65	.55		
Greene & Sullivan Cos.	10.55	.40	.70		.01

DECISION NO. IN78-2030

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS (Cont'd)					
Daviess, Gibson, Knox, Martin & Pike Cos.	$ 9.35	.70	.80		
Clark, Floyd, & Harrison Cos.	9.28	.60	.30		
Dearborn, Ohio, Ripley, & Switzerland Cos.	7.50				
Jackson, Jefferson, Jennings, Lawrence, Orange, Scott, & Washington Cos.	9.60				
Clay, Owen (extreme western part of Co.), Parke, Putnam, Vermillion, & Vigo Cos.	10.20	.60	.25		
IRONWORKERS:					
Adams, Allen, Blackford, Dekalb, Delaware (northeastern 1/3 of Co.), Grant (excluding s/w portion), Huntington, LaGrange (eastern ½ of Co.), Noble, Steuben, Wabash, Wells, & Whitley Cos.	11.20	.90	1.20		.02
Elkhart, Fulton, Kosciusko, LaGrange (western ½ of Co.), Marshall, Pulaski, & Starke Cos.	10.55	.90	1.33		.03
Jasper (Northern ½ of Co.), & Newton Cos.	12.12	.80	1.36		.09
Clark, Crawford, Floyd, Harrison Jackson (southern ½ of Co.), Jefferson, Jennings (southern ½ of Co.), Lawrence (southern 2/3 of Co.), Martin (eastern ½ of Co.), Orange, Scott, & Washington Cos.	10.50	.75	.95		.05
Marion Co.	11.00	.90	1.30		.05
Dubois, Gisbon, Martin (western ½ of Co.), Perry, Pike, Posey, Spencer, Vanderburgh & Warrick Cos.	8.15	.25	.25		

DECISION NO. IN78-2030

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS (Cont'd):					
Bartholomew, Boone (southeastern ½ of Co.), Brown, Clinton (eastern 1/3 of Co.), Decatur (western ½ of Co.), Delaware (southern 2/3 of Co.) Grant (S/W Portion), Hamilton, Hancock, Hendricks, Henry, Howard, Jackson (northern ½ of Co.), Jennings (northern ½ of Co.), Johnson, Lawrence (northeastern 1/6 of Co.), Madison, Monroe, Morgan, Owen, Putnam (eastern ½ of Co. exclusing Greencastle), Rush, Shelby, & Tipton Cos.	$11.15	.90	1.30		.05
Benton, Boone (northwestern ½ of Co.), Carroll, Cass, Clinton (western 2/3 of Co.), Fountain, Jasper (southern ½ of Co.), Miami, Montgomery, Tippecanoe, Warren, & White Cos.	10.64	.90	1.25		.02
Fayette, Jay, Randolph, Union, & Wayne Cos.	10.96	.90	1.25		.04
Clay, Daviess, Greene, Knox, Lawrence (northwestern 1/6 of Co.), Parke, Putnam (western ½ of Co. incl, Greencastle), Sullivan, Vermillion, & Vigo Cos.	10.60	.90	1.90		.10
Dearborn, Decatur (eastern ½ of Co.), Franklin, Ohio, Ripley & Switzerland Cos.	11.48	.90	1.05		.03
PAINTERS:					
Adams, Allen, Dekalb, Grant, Huntington, LaGrange, Noble, Steuben, Wabash, Whitley, & Wells (northern ½ of Co. to & incl. Bluffton):					
Brush; Paperhangers; Rollers; & Tapers	8.60	.42	.45		.10
Sandblasters; Spray	9.60	.42	.45		.10

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (Cont'd)					
Bartholomew, Decatur, Jackson & Jennings Cos.:					
Brush; Roller; & Steel	$ 9.45		.50		
Spray	10.45		.50		
Benton, Clinton, Fountain, Montgomery, Putnam, Tippecanoe, & Warren Cos.:					
Brush; Roller	10.15				
Structural Steel	10.40				
Sandblasting	11.15				
Spray	13.42				
Blackford, Cass, Delaware, Fulton, Howard, Jay, Madison, Miami, Tipton, & Wells (to the south city limits of Bluffton) Cos.:					
Brush	8.55		.60		
Spray	9.30		.60		
Boone, Hamilton, Hancock, Hendricks, Johnson, Marion, Morgan (north ½ of Co.) & Shelby Cos.:					
Brush	9.98	.47	.20		
Spray	10.98	.47	.20		
Brown, Monroe, Morgan (excluding north ½ of Co.) & Owen Cos.:					
Brush	8.90			.30	
Structural Steel	9.65			.30	
Spray	9.90			.30	
Carroll, Jasper, Newton, & White Cos.:					
Brush	10.65	.64	.50		.05
Sandblasting; Sign; & Spray	11.40	.64	.50		.05
Clark, Crawford, Floyd, Harrison, Jefferson, Scott, & Washington Cos.:					
Brush	8.62	.35	.20		.03
Spray	9.07	.35	.20		.03

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (Cont'd):					
Daviess, Gibson, & Knox Cos.:					
Brush up to 30'	$9.05	.45			
Brush over 30'	9.85	.45			
Spray up to 30'	10.05	.45			
Spray over 30'	10.85	.45			
Dearborn, Ohio, Ripley & Switzerland Cos.:					
Brush; roller; wallwashing; Drywall taping & finish; paperhanging & vinyl; seamless floors & finishing floors; sanding	9.70				
Sandblasting & Steam clean	10.45				
Spray; Epoxy	10.20				
Tanks, elevators, bridges, Steeples over 40 ft.	10.80				
Dubois, Perry, Pike, Posey, Spencer, Vanderburgh, & Warrick Cos.:					
Brush	10.10	.65	.30		
Spray	11.10	.65	.30		
Elkhart, Kosciusko, Marshall, Pulaski & Starke Cos.:					
Brush	9.04		.20		$15.00p/yr
Drywall taping & finish; Paperhangers; Spray & Vinyl	9.04		.20		15.00p/yr
Fayette, Franklin, Henry, Randolph, Rush, Union, & Wayne Cos.:					
Brush	8.35				
Sandblasting; Spray	9.35				
Structural Steel; Scaffold over 30 ft.	8.60				
Lawrence, Martin, & Orange Cos.:					
Brush; & Structural Steel	8.00				
Parke, & Vermillion Cos.:					
Brush	9.65			.25	
Spray	11.15			.25	
Sullivan, & Vigo Cos.:					
Brush	8.50			.25	
Spray	9.50			.25	

DECISION NO IN78-2030

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (Cont'd)					
Sullivan, & Vigo Cos.: (Cont'd)					
Structural steel up to 30'	$ 8.75			.25	
Structural steel 30' to 100'	9.50			.25	
Structural steel over 100'	10.50			.25	

DECISION NO. IN78-2030

LABORERS: HEAVY & HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 7.60	.70	.50		.09
GROUP 2	7.75	.70	.50		.09
GROUP 3	7.80	.70	.50		.09
GROUP 4	7.90	.70	.50		.09
GROUP 5	8.45	.70	.50		.09

LABORERS

GROUP 1: Chainman; Construction laborer; Continuous steel rod or mat installer; Fence erector; Grade checker; Guard rail erector; Joint man (mortar, mastic & all other types); Lighting installer (permanent & temporary); Lineman for automatic grade maker or paving machine; Manhole erector; Mortar man; Multi-plate erector; Rip-rap laborer, incl. all materials; Road marking & delineation laborer; Rodman; Sandblaster man; Setting & placing of all pre-stressed & precast concrete products; Spraying of epoxy, curing compound or like material; Survey crew helper; Temporary waterline installer; Top laborer; Wire mesh layer

GROUP 2: Air tool, power tool, & power equipment operator; Asphalt lute man; Asphalt raker man; Batch truck dumper; Cement handler (bulk or bag cement); Chain saw man; Concrete conveyor assembly man; Concrete puddler; Concrete rubber; Concrete saw operator - non riding type; Core drill operator; Hand blade operator; Hydro seeder man; Motor driven Georgia buggy operator; Power driven compactor or tamper operator; Power saw operator; Pumpcrete assembly man; Sealer applicator for asphalt, toxic; Side rail setter - for sidewalks, side ditches, radii & pavements, etc.; Sign installation, including supporting structures; Spreader box tender; Straw blower man; Subsurface drain & culvert pipe layer; Transverse & longitudinal hand bull float man

GROUP 3: Horizontal boring & jacking man; Jackman & sheetman; Pipe grade man; Wench & windlass operator

GROUP 4: Conduit installer; Cutting torch burner; Lazer beam aligner; Manual operated welder; Sewer pipe layer; Water line installer

GROUP 5: Air track & wagon drillman; Concrete finisher; Dynamite & powder man

DECISION NO. IN78-2030

POWER EQUIPMENT OPERATORS (Heavy & Highway Construction)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Adams, Allen, Benton, Blackford, Carroll, Cass, Clinton, Dekalb, Delaware, Fayette, Grant, Hamilton, Hancock, Henry, Howard, Huntington, Jay, Johnson, Madison, Marion, Miami, Randolph, Rush, Shelby, Steuben, Tippecanoe, Tipton, Union, Wabash, Wayne, Wells, White, & Whitley Counties:					
GROUP I	$10.30	.40	.40		.08
GROUP II	9.20	.40	.40		.08
GROUP III	8.77	.40	.40		.08
GROUP IV	7.96	.40	.40		.08
Elkhart, Fulton, Jasper, Kosciusko, LaGrange, Marshall, Newton, Noble, Pulaski, & Starke Counties:					
GROUP I	9.60	.70	.80		.08
GROUP II	8.50	.70	.80		.08
GROUP III	8.07	.70	.80		.08
GROUP IV	7.26	.70	.80		.08
Bartholomew, Brown, Clark, Crawford, Dearborn, Decatur, Dubois, Floyd, Franklin, Gibson, Harrison, Jackson, Jefferson, Jennings, Lawrence, Martin, Ohio, Orange, Perry, Pike, Posey, Ripley, Scott, Spencer, Switzerland, Vanderburgh, Warrick, & Washington Counties:					
GROUP I	10.40	.35	.35		.08
GROUP II	9.30	.35	.35		.08
GROUP III	8.87	.35	.35		.08
GROUP IV	8.06	.35	.35		.08
Boone, Clay, Daviess, Fountain, Greene, Hendricks, Knox, Monroe, Montgomery, Morgan, Owen, Parke, Putnam, Sullivan, Vermillion, Vigo, & Warren Counties:					
GROUP I	10.20	.40	.50		.08
GROUP II	9.10	.40	.50		.08
GROUP III	8.67	.40	.50		.08
GROUP IV	7.86	.40	.50		.08

POWER EQUIPMENT OPERATORS 2 of 3

Group 1: Air Compressors in Manifold with throttle valve; Asphalt Plant Engineer; Auto Grade or similar type machine; Auto Patrol; Backhoe on Farm type Tractor, 45 H.P. and over; Ballast Regulator (R. R.); Bituminous Mixer; Bituminous Paver; Bituminous Plant Engineer; Bull Dozer; Caisson Drilling Machine; Cherry Picker - 15 ton or over; Chip Spreader; Concrete Mixer 21 cu. ft. or over; Core Drilling Machine; Crane or Derrick with any attachment including clamshell, dragline, shovel, backhoe, etc.; Dredge Engineer; Dredge Operator; Drilling Machine on which the drill is an integral part; Earth Mover - rubber tired (paddle wheel, 619, 631, TS-24 or similar type); Earth Mover, rubber tired - tandem (50 cents per hour additional for each bowl); Elevating Grader; Fork Lift (10 ton or over); P.C.C. Formless Paver; Gradall; Gravel Processing Plant (Portable); Operator of Guard Rail Post Driver; Highlift Shovel - 1-1/2 cu. yd. or over; Hoist (2 drums and over); Helicopter - Crew; Hydraulic Boom Truck; Keystone (Skimmer Scoop); Loader - self-propelled (Belt-chain Wheel); Locomotive Operator; Mucking Machine; Panel Board Concrete Plant (Central Mix type); Paver-Hetherington; Pile Driver - Skid or Crawler; Road Paving Mixer; Rock Breaking Plant; Rock Crushing Plant (portable); Roller - Asphalt, Waterbound Macadam; Bituminous Macadam, Brick Surface; Roller with Doser Blade; Root Rake, Tractor Mounted; Self-propelled Widener; Stump Remover, Tractor Mounted; Surface Heater and Planer; Tandem Push Tractor (50 cents per hour additional); Tractor - Boom, Winch or Hoe Head; Tractor - Push; Tractor Mounted Spreader; Tree Mover; Trench Machine (over 24"); Tug Boat Operator; Well Drilling Machine; Winch Truck with A-Frame

Group 2: Air Compressor with throttle valve or Clever Brooks type combination; Backfiller; Back Hoe on Farm type Tractor, under 45 H.P.; Bull Float; Cherry Picker under 15 ton; Chip Spreader (self-propelled); Concrete Pump; Concrete Mash Depressor - independently operated; Concrete Spreader - power driven; End Loader under 1-1/2 cu. yd.; Excavating Loader - portable; Finishing Machine and Bull Float; Gunite Machine; Head Greaser; Mechanic; Mesh or Steel Placer; Multiple Tamping Machine (R.R.); P.C.C. Concrete Belt Placer; Pull Grader - power control; Refrigerating Machine - freezing operation; Ross Carrier; Sheepfoot Roller (self-propelled); Tamper - Multiple Vibrating - Asphalt, Waterbound Macadam, Bituminous Macadam, Brick Surface; Trench Machine 24" and under; Tube Float; Welder

POWER EQUIPMENT OPERATORS (Cont'd) 3 of 3

Group 3: Assistant Plant Engineer; Base Paver (Jersey or similar type machine); Concrete Finishing Machine; Concrete Mixer - less than 21 cu. ft.; Curb Machine; Farm Tractor - including farm tractor with all attachments except backhoe and including high lift end loaders of 1 cu. yd. capacity or less; Fireman (on boiler); Hoist (one drum); Operator, 5 pieces of minor equipment; Paving Breaker; Power Broom, self-propelled; Roller (Earth and Sub-base material); Slurry Seal Machine; Spike Machine (R.R.); Tamper - Multiple Vibrating - Earth and Sub-base material); Throttle Valve; Throttle Valve and Fireman combination on horizontal or upright boiler; Tractaire with Drill; Tractor - 50 H.P. or over; Well Point System; Widener (Apsco or similar type)

Group 4: Air Compressor; Assistant to Engineer - Oiler; Automatic Dry Batch Plant; Bituminous Distributor; Bituminous Patching Tamper; Belt Spreader; Broom and Belt Machine; Chair, Cart (self-propelled); Coleman Type Screen; Conveyor (portable); Deck Hand; Digger Post Hole (power-driven); Fork Lift - under 10 ton; Form Grader; Form Tamper (motor driven); Generator; Greaser Helper; Hetherington Driver; Hetherington Helper; Hydra Seeder; Mechanics Helper; Mechanical Hester; Operator 1 thru 4 pcs. of minor equipment; Outboard or Inboard Motor Boat; Power Curing Spraying Machine; Power Saw - Concrete (power driven); Pug Mill; Pull Broom (power type); Seaman Tiller; Straw Blower or Brush Mulcher; Striping Machine, Paint (motor driven); Sub-grader; Tractaire; Tractor (below 50 H.P.); Truck Crane Oiler - Driver; Spreader; Water Pump; Welding Machine - 2 of 300 amps or over

TRUCK DRIVERS:

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
GROUP A	$8.38	19.50a	22.00a		
GROUP B	8.33	19.50a	22.00a		
GROUP C	8.28	19.50a	22.00a		
GROUP D	8.23	19.50a	22.00a		
GROUP E	8.18	19.50a	22.00a		
GROUP F	8.13	19.50a	22.00a		
GROUP G	8.08	19.50a	22.00a		
GROUP H	8.03	19.50a	22.00a		
GROUP I	7.98	19.50a	22.00a		
GROUP J	7.93	19.50a	22.00a		
GROUP K	7.88	19.50a	22.00a		
GROUP L	7.78	19.50a	22.00a		

CLASSIFICATIONS

GROUP A-Acey Wagons over 3 Buckets
GROUP B-Acey Wagons to and including 3 Buckets
GROUP C-Tandem-tandem Semi-Trucks-Truck Mechanics-Heavy Equipment Type Water-Wagon over 5,000 Gallons-Tri-Axle Trucks pulling Tilt-Top Trailers- Low Boys, Tandem-tandem Axle
GROUP D-Tri-Axle Trucks-Tandem Semi-Trucks-Equipment not self loaded or pusher loaded such as Koehring or similar Dumpster, Track Truck, Euclid Bottom Dump and Rug Bottom Dump, Tournatrailers, Tournarockers, Athey Wagons, or similar equipment over 12 cu. yd.-Tandem Axle Trucks pulling Tilt-Top Trailers-Low Boys, Tandem Axle-Tri-Axle Batch
GROUP E-Tandem "Dog-Legs" Trucks-Semi-Water Trucks-Sprinkler Trucks-Heavy Equipment Type Water Wagons 5,000 Gallons & Under
GROUP F-Truck Mounted Pavement Breakers-Tandem Trucks over 15 Ton Payload-Single Axle Semi-Trucks-Farm Tractors hauling material-Equipment not self loaded or Pusher loaded such as Koehring or similar Dumpster, Track Truck, Euclid Bottom Dump and Rug Bottom Dump, Tournatrailers, Tournarockers, Athey Wagons or similar equipment 12 cubic yds. & under-Mixer Trucks, All Types-Single Axle Trucks pulling Tilt-Top Trailer Lowboys, Single Axle
GROUP G-Tandem Axle Fuel Trucks-Tandem Axle Water Trucks-Bituminous Distributor (one man)
GROUP H-Single Axle Dog-Legs-Tandem Trucks or Dog-Legs-Winch Trucks or A Frames used for Transportation-Batch Trucks Wet or Dry over 3 (34E) Batches-Grease and Maintenance Truck Servicing Tandem Axle Trucks
GROUP I-Single Axle Fuel Trucks-Single Axle Water Trucks-Bituminous Distributors, (two man)
GROUP J-Single Axle Straight Trucks-Batch Trucks, Wet or Dry 3 (34E) Batches or less-Grease & Maintonace Trucks servicing Single Axle Trucks
GROUP K-Helpers, Greasers, Tire Men, Batch Board Tenders
GROUP L-Pick-Up Trucks

FOOTNOTE: a-PER WEEK PER EMPLOYEE

LABORERS: SEWER, TUNNEL, & WATER CONSTRUCTION 1 of 2

	ZONE 2 Basic Hourly Rates	ZONE 2A Basic Hourly Rates	ZONE 3 Basic Hourly Rates	ZONE 4 Basic Hourly Rates	ZONE 5 Basic Hourly Rates
GROUP 1	$7.80	$7.60	$7.60	$7.50	$7.80
GROUP 2	7.95	7.75	7.75	7.65	7.95
GROUP 3	8.00	7.80	7.80	7.70	8.00
GROUP 4	8.10	7.90	7.90	7.80	8.10
GROUP 5	8.20	8.00	8.00	7.90	8.20
GROUP 6:					
A.	8.00	7.80	7.80	7.70	8.00
B.	8.15	7.95	7.95	7.85	8.15
C.	8.60	8.40	8.40	8.30	8.60
D.	8.10	7.90	7.90	7.80	8.10

Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
$.70	.50		.09

ZONES

ZONE 1: Jasper, Lake, LaPorte, Newton, Porter, & Starke Counties (Excluded from this schedule)

ZONE 2: Elkhart & St. Joseph Counties

ZONE 2A: Kosciusko, LaGrange, & Marshall Counties

ZONE 3: Adams, Allen, Benton, Blackford, Boone, Carroll, Cass, Clinton, DeKalb, Delaware, Fayette, Fulton, Grant, Hamilton, Hancock, Henry, Howard, Huntington, Jay, Madison, Miami, Montgomery, Noble, Pulaski, Randolph, Rush, Steuben, Tippecanoe, Tipton, Union, Wabash, Wayne, Wells, White, & Whitley Counties

ZONE 4: Marion & Shelby Counties

ZONE 5: Bartholomew, Brown, Clark, Clay, Crawford, Daviess, Dearborn, Decatur, DuBois, Floyd, Fountain, Franklin, Gibson, Greene, Harrison, Hendricks, Jackson, Jefferson, Jennings, Johnson, Knox, Lawrence, Martin, Monroe, Morgan, Ohio, Orange, Owen, Parke, Perry, Pike, Posey, Putnam, Ripley, Scott, Spencer, Sullivan, Switzerland, Vanderburgh, Vermillion, Vigo, Warren, Warrick, & Washington Counties

LABORERS

GROUP 1: Chainman; Construction laborer; Continuous steel rod or mat installer; Fence erector; Grade checker; Guard rail erector; Joint man (mortar, mastic & all other types); Lighting installer (permanent & temporary); Lineman for automatic grade maker or paving machine; Manhole erector; Mortar man; Multi-plate erector; Rip-rap laborer, incl. all materials; Road marking & delineation laborer; Rodman; Sandblaster man; Setting & placing of all pre-stressed & precast concrete products; Spraying of epoxy, curing compound or like material; Survey crew helper; Temporary waterline installer; Top laborer; Wire mesh layer

GROUP 2: Air tool, power tool, & power equipment operator; Asphalt lute man; Asphalt raker man; Batch truck dumper; Cement handler (bulk or bag cement); Chain saw man; Concrete conveyor assembly man; Concrete puddler; Concrete rubber; Concrete saw operator - non riding type; Core drill operator; Hand blade operator; Hydro seeder man; Motor driven Georgia buggy operator; Power driven compactor or tamper operator; Power saw operator; Pumpcrete assembly man; Sealer applicator for asphalt, toxic; Side rail setter - for sidewalks, side ditches, radii & pavements, etc.; Sign installation, including supporting structures; Spreader box tender; Straw blower man; Subsurface drain & culvert pipe layer; Transverse & longitudinal hand bull float man

GROUP 3: Horizontal boring & jacking man; Jackman & sheetman; Pipe grade man; Wench & windlass operator

GROUP 4: Conduit installer; Cutting torch burner; Lazer beam aligner; Manual operated welder; Sewer pipe layer; Water line installer

GROUP 5: Air track & wagon drillman; Concrete finisher; Dynamite & powder man

GROUP 6:
A. Bottom man; Concrete man
B. Concrete headman
C. Miner or header man
D. Mucker & Tunnel laborer

Adams, Allen, Blackford, DeKalb, Huntington, Jay, Steuben, Wells, & Whitley Counties

POWER EQUIPMENT OPERATORS; TUNNEL AND SEWER CONSTRUCTION:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$10.30	.40	.40		.05
GROUP II	9.20	.40	.40		.05
GROUP III	8.80	.40	.40		.05
GROUP IV	8.00	.40	.40		.05

CLASSIFICATIONS

GROUP I
Air compressor (pressurizing shafts, tunnels & divers); Air tugger; Auto patrol; Back filler; Backhoe; Boom cat; Boring machine; Bull dozer; Caisson drilling machine; Cherry picker; Compactor (with dozer blade); Concrete mixer (dual drum); Concrete plant; Concrete pump; Crane with all attachments; Crane - electric overhead; Derrick; Dual purpose truck (pitman type); Ditching machine (18" and over); Dredge; Elevators (when hoisting material or tools); Fork lift; Formless paver; Generator (power for welders or compressors); Gradall; Helicoptor; Helicoptor winch operator; High lift - front end loader; Hoist; Locomotive and/or dinky engine; Mechanic on job site; Mucking machine; Panel board concrete plant; Pile driver; Push cat; Scoop & tractor; Scraper - rubber tired; Spreader - tractor mounted; Straddle carrier - ross type; Sub base finish machine (C.M.I. or similar); Tower crane; Tractor with backhoe (1/2 yard and over); Trench box - power driven; Tunnel shield; Welder (craft)

GROUP II
A frame truck; Batcher plant (automatic dry batch); Bending machine - Power driven; Bituminous mixer; Bituminous paver; Bituminous plant engineer; Boatman; Bull float; Compactor or tamper - self-propelled; Concrete mixer (21 cu. ft. or over); Concrete spreader - power driven; Ditching machine (less than 18"); Drilling machine; Finish machine & bull float; Finishing machine; Fireman - Pile driving and boilers; Gunite machine; Head greaser; Mechanic in shop; Mesh depresser - mesh placer; P.C.C. concrete belt placer; Roller - asphalt, Stone & sub base; Rotary drill; Sheepsfoot roller - self-propelled; Shop mule; Spreader or base paver-self-propelled; Sub grader; Throttle valve with air compressor or boiler; Tractor with backhoe (under 1/2 yard); Tractor - high lift - farm type; Tractor - industrial type; Tractor with winch; Well points; Winch truck

GROUP III
Air compressor (210 cu. ft. & over); Bituminous distributor; Chair cart; Concrete curing machine; Concrete saw; Dope pot - power agitated; Flex plane; Form grader; Hydrohammer; Jacks - hydraulic - power driven; Minor equipment operator 2,3,4, or 5; Paving joint machine; Post hole digger; Roller - earth; Throttle valve; Track jack - power driven; Tractor - farm type; Truck crane driver

GROUP IV
Air compressor (less than 210 cu. ft.); Concrete mixer (under 21 cu. ft.); Conveyor; Generator; Mechanical heater; Oiler; Power broom; Pump; Welding machine; Helpers

Boone, Clay, Daviess, Fountain, Greene, Hendricks, Knox, Monroe, Montgomery, Morgan, Owen, Parke, Putnam, Sullivan, Vermillion, Vigo, & Warren Counties

POWER EQUIPMENT OPERATORS
Tunnel & Sewer Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$10.55	.40	.50		.08
GROUP II	10.45	.40	.50		.08
GROUP III	10.25	.40	.50		.08
GROUP IV	8.00	.40	.50		.08

CLASSIFICATIONS

GROUP I Master Mechanics

GROUP II Utility Operator

GROUP III Power Cranes, Draglines, Derricks, Electric Overhead Cranes, Shovels, Gradall, Mechanics, Repair and Maintenance of all Equipment, Tractor Highlift, Fork lifts, Tournadozer, Mixer over 14S Capacity, Tournamixer, Two Drum Machine or Two Cage Hoists, Cableways, Tower Machines, Motor Patrol, Boom Tractor, Boom or Winch Truck, Truck Crane, Tournapull, Tractor operating Scoops, Bulldozer, Push Tractor, Finishing Machine on Asphalt, Large Rollers & Rollers on Asphalt, Gravel, Macadam and Brick Surface, Ross Carrier or similar Machine, Gravel Processing Machine, Asphalt Plant Engineer or Pug Mill, Two Air Compressors, Hetherington Paver Operator, Farm Tractor with half Yard bucket and/or Back Hoe Attachment, Trench Machines cutting over 24", Dredging Equipment, Central Mix Plant Engineer, CMI or similar type Machine, Concrete Spreader, Cherry Picker, Standard or Dinkey Locomotives, Scoopmobiles, Euclid Loader, Soil Cement Machines, Back Filler, Elevating Machine, Power Blade, Asphalt Plant Engineer, Well Drilling Machines, Paint Machine, Pipe Cleaning Machines, Pipe Wrapping Machine, Pipe Bending Machine, Apsco Paver, Boring Machine, Tractor Without Winch, Head Equipment Greasers, Barber Green Loaders, Formless Paver, Well Point System Hydra Ax, Resco Concrete Saw, Marine Scoops, Brush Mulcher, Brush Burner, Mesh Placer, Tree Mover, Helicopter Crew (3), Pile Driver Skid or Crawler, Stump Remover, Root Rake, Tug Boat Operator, Refrigerating Machine Freezing Operator, Chair Cart - Self Propelled, Hydra Seeder, Straw Blower, Concrete Mixers with Skip, all one Drum Hoists with Tower or Boom, Dredge Engineer, Dredge Operator, Rock Spreader. Truck or Skid Mounted Tower Crane, Engine or Rock Crusher Plant, Boiler Operator, Concrete Plant Engineer, Loaders, Hydra Crane Caissons, Shaft or any similar type Drilling Machine, Concrete Curb Machine - Self Propelled, Winch or Hydraulic Boom Truck

GROUP IV Mixers 14S capacity or less, Trench Machine cutting 24" and under, Farm Tractor with less than half yard bucket and other Attachments except Back Hoe, Truck Crane Oiler, Power Subgrader, Bull Float, Form Grader, Finishing Machine Pavement Breaker, Rock Crushers, One Drum Machine, One Air Compressor, Concrete Pump, Gunite Machine, Air Tuggers, Truck Crane Drivers, House Elevators when used for hoisting Material, Two to Four Generators or Welding Machine, Mechanized Heaters irrespective of Motor Power when used for temporary heat, Small Rollers on Earth, Engine Tenders, Firemen, Wagon Drill, Flexplane, Conveyor, Two to Four Water Pumps, Siphon and Pulsometer, Switchman on Paint Pots, Fireman on Asphalt Plants, Distributor Operator on Trucks, Tampers, Power Broom, Post Hole Digger, Self-propelled Concrete Saw. Striping Machine (Motor Driven), Form Tamper, Seaman Tiller, Bulk Cement Plant Equipment Greaser, Track Jack, Mud Jack, Operator to do Winter Repair Work in Shop between November 1st and March 1st, Concrete Buggies motor driven, Oilers, Barrel Type Mixer, One Welding Machine or One Water Pump, Air Valves or Steam Valves from Plant, Concrete Mixers without Skip, Curing Machine, Concrete & Blacktop Curb Machine, Deck Hands

Cranes with booms from 149 ft. to 199 ft. including jib. receive additional $.75 per hour
Cranes with boom over 199 ft. including job receive additional $1.25 per hour.

Jasper, Newton, Pulaski, & Starke Counties

POWER EQUIPMENT OPERATORS Tunnel & Sewer Construction	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Class I	$ 10.30	.65	.85		.05
Class II	9.80	.65	.85		.05
Class III	8.25	.65	.85		.05
Class IV	7.25	.65	.85		.05

CLASS I Mechanic; asphalt plant; autograde; batch plant; benoto (requires two engineers); boiler & throttle valve; caisson rigs; central redimix plant; combination backhoe, front end loader with backhoe bucket of 1 cu. yd. & over; combination tugger hoist & air compressor; compressor and throttle; concrete breaker (truck mounted); concrete conveyor; concrete paver over 27E cu. ft.; concrete paver 27E cu. ft. and under; concrete tower; cranes, all; cranes, tower; derricks, all; derricks, traveling; fork-lift-lull type; forklift - 10 ton and over; hoists, one, two, and three drum; hoists, two tugger one floor; hydraulic boom truck; locomotive, all; pile drivers and skid rig; pit machines; pre-stress machine; pump cretes and similar types; rock drill (self-propelled); rock drill (truck mounted); slipform paver; straddle buggies; tractor with boom & side boom; trenching machine; winch tractors

CLASS II Asphalt spreader; boiler; bulldozers; combination backhoe, front-end loader with backhoe bucket, less than 1 cu. yd.; engineer acting as conductor in charge of crew; grader, elevating; grasser engineer; grouting machines; highlift shovels or front endloader; hoists, automatic; cowboy drilling machines; hoists all elevators; hoists, tugger single drum; motor patrol; post hole digger; rollers, all; scoops - tractor drawn; stone crushers; tournapull; winch trucks

CLASS III Concrete mixer (2 bag & over); conveyor, portable; steam generators; tractors, farm & similar type; air compressor small 150 & under (1 to 5 not to exceed a total of 300 ft.); air compressor - large over 150 combination - small equipment operator; forklift trucks; generators; pumps (1 to 3 not to exceed a total of 300 ft.); pumps, well points; welding machines (2 through 5); winches & electric drill winches

CLASS IV Heaters, mechanical (1 to 5); oilers & switchmen

Benton, Carroll, Cass, Clinton, Delaware, Fayette, Fulton, Grant, Hamilton, Hancock, Henry, Howard, Johnson, Madison, Marion, Miami, Randolph, Rush, Shelby, Tippecanoe, Tipton, Union, Wabash, Wayne, & White Counties

POWER EQUIPMENT OPERATORS: TUNNEL AND SEWER CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
GROUP I	$10.95	.55	.55		.08
GROUP II	10.00	.55	.55		.08
GROUP III	8.60	.55	.55		.08
GROUP IV	7.70	.55	.55		.08

CLASSIFICATIONS

GROUP I

Air compressor (pressurizing shafts, tunnels & divers); Air tugger; Auto patrol; Back filler; Backhoe; Boom cat; Boring machine; Bull dozer; Caisson drilling machine; Cherry picker; Compactor (with dozer blade); Concrete mixer (dual drum); Concrete plant; Concrete pump; Crane with all attachments; Crane - electric overhead; Derrick; Dual purpose truck (pitman type); Ditching machine (18" and over); Dredge; Elevators (when hoisting material or tools); Fork lift; Formless paver; Generator (power for welders or compressors); Gradall; Helicoptor; Helicoptor winch operator; High lift - front end loader; Hoist; Locomotive and/or dinky engine; Mechanic on job site; Mucking machine; Panel board concrete plant; Pile driver; Push cat; Scoop & tractor; Scraper - rubber tired; Spreader - tractor mounted; Straddle carrier - ross type; Sub base finish machine (C.M.I. or similar); Tower crane; Tractor with backhoe (1/2 yard and over); Trench box - power driven; Tunnel shield; Welder (craft)

GROUP II

A frame truck; Batcher plant (automatic dry batch); Bending machine - Power driven; Bituminous mixer; Bituminous paver; Bituminous plant engineer; Boatman; Bull float; Compactor or tamper - self-propelled; Concrete mixer (21 cu. ft. or over); Concrete spreader - power driven; Ditching machine (less than 18"); Drilling machine; Finish machine & bull float; Finishing machine; Fireman - Pile driving and boilers; Gunite machine; Head greaser; Mechanic; Mesh depresser - mesh placer; P.C.C. concrete belt placer; Roller - asphalt, Stone & sub base; Rotary drill; Sheepsfoot roller - self-propelled; Spreader or base paver-self-propelled; Sub grader; Throttle valve with air compressor or boiler; Tractor with backhoe (under 1/2 yard); Tractor - high lift - farm type; Tractor - industrial type; Tractor with winch; Well points; Winch truck

GROUP III

Air compressor (210 cu. ft. & over); Bituminous distributor; Chair cart; Concrete curing machine; Concrete saw; Dope pot - power agitated; Flex plane; Form grader; Hydrohammer; Jacks - hydraulic - power driven; Minor equipment operator 2,3,4, or 5; Paving joint machine; Post hole digger; Roller - earth; Throttle valve; Track jack - power driven; Tractor - farm type; Truck crane driver

GROUP IV

Air compressor (less than 210 cu. ft.); Concrete mixer (under 21 cu. ft.); Conveyor; Generator; Mechanical heater; Oiler; Power broom; Pump; Welding machine; Helpers

Elkhart, Fulton, Kosciusko, LaGrange, Marshall, & Noble Counties

POWER EQUIPMENT OPERATORS Tunnel & Sewer Construction	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$10.52	.65	.85	.40	.05
GROUP II	9.16	.65	.85	.40	.05
GROUP III	8.38	.65	.85	.40	.05
GROUP IV	7.70	.65	.85	.40	.05

CLASSIFICATIONS

GROUP I: All power cranes; Truck cranes; Locomotive cranes; LeTourneau Tournapulls; Shovels; Draglines; Derricks; Pile drivers; Highlifts; Tractors w/Side boom or "A" Frame; Forklifts 18' 6" in height or over; Motor patrols; Combination backhoe & loader; Mechanic; Conveyor systems; Hoist (3 drum) & over

GROUP II: All bulldozers; Scoops; Push cats; Concrete mixers of more than 21 cu. ft. capacity; Locomotives; Rollers; Stone crushers; Fork lifts under 18' 6"; Air compressors - 600 cu. ft. & over; Combination of Gasoline or Deisel driven welding machine & compressor; Engineers operating throttle valve with boiler and compressor for piledriving; Concrete pumps; Trench machines excluding ditch witches; Cableways; Hoist (2 drum)

GROUP III: Truck winches w/A Frame & Power winches; Tractors-farm type; Drills & conveyors; Small rubber tire end loaders ½ cu. yd. & under; Bobcat

GROUP IV : Gin poles; Sasgen derricks & similar hoists; Firemen; Oilers; One drum hoist; Single drum tugger hoist; Automatic hoist; Elevators; Compressor over 210 cu. ft. & under 600 cu. ft.; Well points

Statewide, except Crawford, DuBois, Fountain, Gibson, Miami (Peru & Grissom AFB), Perry, Pike, Posey, Spencer, Vanderburgh, Vermillion, Warren, Clinton (Frankfort), & Warrick Counties

LINE CONSTRUCTION EXCLUSIVE OF CALUMET AREA	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen; Technicians	$10.07	.45	3%		.5%
Equipment Operators 1	7.87	.45	3%		.5%
Equipment Operators 2	9.56	.45	3%		.5%
Equipment Operators 3	9.56	.45	3%		.5%
Equipment Operators 4	10.07	.45	3%		.5%
Powderman and Equipment Mechanic	7.69	.45	3%		.5%
Senior Groundman Truck Driver w/A	6.57	.45	3%		.5%
Groundman Truck Driver with winch	6.31	.45	3%		.5%
Groundman Truck Driver w/o winch	5.53	.45	3%		.5%
Senior Groundman after 5 years	6.30	.45	3%		.5%
Senior Groundman after 12 months	6.13	.45	3%		.5%
Groundman 0-12 months	5.19	.45	3%		.5%
CALUMET AREA					
Linemen; Technicians	10.38	.45	3%		.5%
Equipment Operators 1	7.94	.45	3%		.5%
Equipment Operators 2	9.63	.45	3%		.5%
Equipment Operators 3	9.63	.45	3%		.5%
Equipment Operators 4	10.38	.45	3%		.5%
Powderman and Equipment Mechanic	7.75	.45	3%		.5%
Senior Groundman Truck Driver w/A	6.69	.45	3%		.5%
Groundman Truck Driver with winch	6.39	.45	3%		.5%
Groundman Truck Driver w/o winch	5.61	.45	3%		.5%
Senior Groundman after 5 years	6.43	.45	3%		.5%
Senior Groundman after 12 months	6.25	.45	3%		.5%
Groundman 0-12 months	5.29	.45	3%		.5%

LINE CONSTRUCTION Clinton (Frankfort only) & Miami (Peru & Grissom AFB)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
LINEMEN; Heavy equipment operators "A"	$ 10.73	.45	3%		½ of 1%
CABLE SPLICERS	11.65	.45	3%		½ of 1%
HEAVY EQUIPMENT OPERATORS "B"	8.63	.45	3%		½ of 1%
POWDERMAN; Equipment mechanic	8.44	.45	3%		½ of 1%
SENIOR GROUNDMAN - truck driver with winch	7.07	.45	3%		½ of 1%
GROUNDMAN - truck driver with winch	6.76	.45	3%		½ of 1%
SENIOR GROUNDMAN AFTER 5 YEARS	6.74	.45	3%		½ of 1%
SENIOR GROUNDMAN AFTER 12 MONTHS	6.54	.45	3%		½ of 1%
GROUNDMAN - truck driver without winch	6.05	.45	3%		½ of 1%
GROUNDMAN 0 to 12 MONTHS	5.60	.45	3%		½ of 1%

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LINE CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Crawford, DuBois, Gibson, Perry, Pike, Posey, Spencer, Vanderburgh, & Warrick Counties					
LINEMEN; Line truck operators; Hole digger; Stool handling cable splicer	$11.65	.40	3%		
GROUNDMAN	10.29	.40	3%		
TRUCK DRIVER	10.60	.40	3%		
Fountain, Vermillion, & Warren Counties					
LINEMEN; Groundman equipment operator	11.57	.40	3%+.30		½%
GROUNDMAN TRUCK DRIVER W/WINCH	9.47	.40	3%+.30		½%
GROUNDMAN TRUCK DRIVER WO/WINCH	8.87	.40	3%+.30		½%
GROUNDMAN	8.42	.40	3%+.30		½%

SUPERSEDEAS DECISION

STATE: Indiana
DECISION NUMBER: IN78-2032
Supersedes Decision No. IN77-2082, dated May 13, 1977 in 42 FR 24588
DESCRIPTION OF WORK: Building Construction (Does not include single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction

COUNTIES: *See Below
DATE: Date of Publication

*Lake, LaPorte, Porter, & St. Joseph	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Lake & Porter Counties	$12.11	.81	.72		.12
LaPorte & St. Joseph Counties	12.13	.65	.75		
BOILERMAKERS	12.55	.80	1.00		.03
BRICKLAYERS:					
Lake, LaPorte & Porter Counties:					
Bricklayers; Marble setters & Stone Masons	11.85	.75	.55		.05
Tile setters	11.75	.75	.55		.02
St. Joseph County:					
Bricklayers; Stonemasons	10.76	1.00	.65		.06
Marble setters; Terrazzo workers; Tile setters	9.10	1.00	.65	a	.01
CARPENTERS:					
Lake, LaPorte, & Porter Counties:					
Carpenters	12.03	.50	.57		.05
Millwrights	12.13	.50	.57		.05
St. Joseph County:					
Building Construction:					
Carpenters; Millwrights; Pile-drivermen; Soft floor layers	10.25	.55	.65		.08
Heavy & Highway Construction:					
Carpenters	9.98	.60	.60		.05
CEMENT MASONS:					
Building Construction:					
Lake County (Hammond Area)	11.42	.90	.60		.03
LaPorte County; Porter County (Eastern ½ of Co.)	10.95	.90	1.00		.06
Heavy and Highway Construction:					
St. Joseph County	9.66	.60	.80		.04

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DECISION NO. IN78-2032

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Lake County	$11.75	6½%	8.3%		.7%
LaPorte & Porter Counties	12.10	4%	7½%		.5%
St. Joseph County	11.25	4.8%	7%		.2%
ELEVATOR CONSTRUCTORS:					
Lake & Porter Counties:					
Elevator constructors	12.455	.745	.56	4%+b+c	.035
Helpers	70%JR	.745	.56	4%+b+c	.035
Helpers (Prob.)	50%JR				
LaPorte & St. Joseph Counties:					
Elevator constructors	10.83	.745	.56	4%+b+c	.035
Helpers	70%JR	.745	.56	4%+b+c	.035
Helpers (Prob.)	50%JR				
GLAZIERS:					
Lake (E. of Rte #41 excl. Hammond), LaPorte (W. of Rte #39), & Porter Cos.	9.05	.40	.30		
IRONWORKERS:					
Lake, LaPorte (Michigan City), & Porter Counties	12.12	.80	1.36		.09
LaPorte (Remainder of Co.), & St. Joseph Counties	10.55	.90	1.33		.03
LATHERS:					
Lake & Porter Counties	11.19		.40		
LaPorte & St. Joseph Counties	10.12	.43	.50		.01
LEADBURNERS	9.25	.35		d	.01
PAINTERS:					
Lake County (Hammond Area):					
Commercial:					
Brush	9.60	.64	.50		.05
Sandblasting; Spray	10.35	.64	.50		.05
Paperhanging; Vinyl	9.85	.64	.50		.05
Industrial:					
Brush & Roller	10.65	.64	.50		.05
Sandblasting; Sign painters; Spray	11.40	.64	.50		.05
Lake County (Gary Area) & Porter County (North of Hwy #6):					
Commercial:					
Brush	9.10	.47	.40		.05
Sandblasting; Spray; Steam Cleaning; Machine spray stripping	9.85	.47	.40		.05
Paperhanging	9.35	.47	.40		.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D)					
Industrial:					
Brush	$10.20	.47	.40		.05
Sandblasting; Spray; Steam-cleaning; Machine spray stripping	10.95	.47	.40		.05
LaPorte County (Southern portion of County); St. Joseph County:					
Brush; Drywall Tapers & Finish; Paperhanging; Spray & Vinyl	9.04		.20		15.00p/y
LaPorte County (No. portion of Co.):					
Brush; Tapers	9.00				
Paperhangers	9.00				
Porter (S. of Hwy #6):					
Brush; Paperhanging; Taping on drywall; Sandblasting; Vinyl hanging	9.25				
Spray	10.25				
Work above 40ft. above ground	9.50				
PLASTERERS:					
Lake County (Hammond Area)	10.21	.90	.60		.01
Lake County (Gary Area); Porter County (Valparaiso)	9.33	.60	.65		.01
LaPorte, Porter (Eastern ½ west to, but not including Chesterton) Counties	10.87	.90	1.00		.06
PLUMBERS:					
Lake County (Hammond Area)	11.52	.90	1.05		.02
Lake County (Gary Area), LaPorte County (except LaPorte City, Michigan City); & Porter County	11.45	.75	1.50		.02
LaPorte County (Michigan City, Trail Creek, & Long Beach)	12.37	.50	.60		.02
PLUMBERS; Steamfitters:					
LaPorte County (LaPorte City); St. Joseph County	11.25	.48	.95		.10

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ROOFERS:					
Lake & Porter Counties:					
Composition, Damp & waterproof workers; Slate, Tile & Asbestos	$12.21	.70	.50		
LaPorte & St. Joseph Counties:					
Composition, Damp & waterproof	10.15	.50	.40		.03
Slate, Tile & Asbestos	10.65	.50	.40		.03
SHEET METAL WORKERS:					
Lake, LaPorte, & Porter Counties	11.40	.75	1.16		.12
St. Joseph County	10.98	.65	.615		.035
SPRINKLER FITTERS:					
Lake County (30-mile radius from Chicago, Illinois City Hall)	11.10	.75	.90		.15
Lake County (Remainder of Co.), LaPorte, Porter, & St. Joseph Counties	11.65	.65	.95		.08
TRUCK DRIVERS:					
Lake & Porter Counties:					
2 to 3 axles	8.70	28.00e	22.00 e	.45	
4 axles	8.90	28.00e	22.00 e	.45	
5 axles	9.10	28.00e	22.00 e	.45	
6 axles	9.30	28.00e	22.00 e	.45	
St. Joseph County (Building Construction):					
Pick-up	6.94	13.50e	22.00e	f	
Single axle	7.15	13.50e	22.00e	f	
Tandem or fuel	7.26	13.50e	22.00e	f	
Tri axle	7.31	13.50e	22.00e	f	
Semi trailer	7.36	13.50e	22.00e	f	
LaPorte Co. (Bldg., Construction)					
4 wheel; shoot metal	6.80	21.50e	22.00 e	g	
6 wheel; semis	6.90	21.50e	22.00 e	g	
Transit mix	7.20	21.50e	22.00 e	g	
Euclids	7.30	21.50e	22.00 e	g	
Winch	7.05	21.50e	22.00 e	g	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. 6 paid holidays: A through F providing the employee works either the 5 days preceding or the 5 days following the holiday.
b. 7 paid holidays: A through F & Day after Thanksgiving
c. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
d. 9 paid holidays: A through F, Washington's Birthday, Good Friday, & Christmas Eve providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.
e. per man per week
f. 1 week's paid vacation for 3 years' service, 2 weeks for 10 years' service, & 3 weeks for 15 years' service.
g. 1 year's service - 1 week's vacation; 3 years' service - 2 weeks' vacation; 10 years' service - 3 weeks' vacation; 20 years' service - 4 weeks' vacation

LINE CONSTRUCTION EXCLUSIVE OF CALUMET AREA	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Lineman; Technicians	$10.07	.45	3%		.5%
Equipment Operators 1	7.87	.45	3%		.5%
Equipment Operators 2	9.56	.45	3%		.5%
Equipment Operators 3	9.56	.45	3%		.5%
Equipment Operators 4	10.07	.45	3%		.5%
Powderman and Equipment Mechanic	7.69	.45	3%		.5%
Senior Groundman Truck Driver w/w	6.57	.45	3%		.5%
Groundman Truck Driver with winch	6.31	.45	3%		.5%
Groundman Truck Driver w/o winch	5.53	.45	3%		.5%
Senior Groundman after 5 years	6.30	.45	3%		.5%
Senior Groundman after 12 months	6.13	.45	3%		.5%
Groundman 0-12 months	5.19	.45	3%		.5%
CALUMET AREA					
Linemen; Technicians	10.38	.45	3%		.5%
Equipment Operators 1	7.94	.45	3%		.5%
Equipment Operators 2	9.63	.45	3%		.5%
Equipment Operators 3	9.63	.45	3%		.5%
Equipment Operators 4	10.38	.45	3%		.5%
Powderman and Equipment Mechanic	7.75	.45	3%		.5%
Senior Groundman Truck Driver w/w	6.69	.45	3%		.5%
Groundman Truck Driver with winch	6.39	.45	3%		.5%
Groundman Truck Driver w/o winch	5.61	.45	3%		.5%
Senior Groundman after 5 years	6.43	.45	3%		.5%
Senior Groundman after 12 months	6.25	.45	3%		.5%
Groundman 0-12 months	5.29	.45	3%		.5%

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LABORERS (Sewer, Tunnel, & Water Construction) St. Joseph County	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$7.80	.70	.50		.09
GROUP 2	7.95	.70	.50		.09
GROUP 3	8.00	.70	.50		.09
GROUP 4	8.10	.70	.50		.09
GROUP 5	8.20	.70	.50		.09
GROUP 6:					
A.	8.00	.70	.50		.09
B.	8.15	.70	.50		.09
C.	8.60	.70	.50		.09
D.	8.10	.70	.50		.09

LABORERS

GROUP 1: Chainman; Construction laborer; Continuous steel rod or mat installer; Fence erector; Grade checker; Guard rail erector; Joint man (mortar, mastic & all other types); Lighting installer (permanent & temporary); Lineman for automatic grade maker or paving machine; Manhole erector; Mortar man; Multi-plate erector; Rip-rap laborer, incl. all materials; Road marking & delineation laborer; Rodman; Sandblaster man; Setting & placing of all pre-stressed & precast concrete products; Spraying of epoxy, curing compound or like material; Survey crew helper; Temporary waterline installer; Top laborer; Wire mesh layer

GROUP 2: Air tool, power tool, & power equipment operator; Asphalt lute man; Asphalt raker man; Batch truck dumper; Cement handler (bulk or bag cement); Chain saw man; Concrete conveyor assembly man; Concrete puddler; Concrete rubber; Concrete saw operator - non riding type; Core drill operator; Hand blade operator; Hydro seeder man; Motor driven Georgia buggy operator; Power driven compactor or tamper operator; Power saw operator; Pumpcrete assembly man; Sealer applicator for asphalt, toxic; Side rail setter - for sidewalks, side ditches, radii & pavements, etc.; Sign installation, including supporting structures; Spreader box tender; Straw blower man; Subsurface drain & culvert pipe layer; Transverse & longitudinal hand bull float man

GROUP 3: Horizontal boring & jacking man; Jackman & sheetman; Pipe grade man; Wench & windlass operator

GROUP 4: Conduit installer; Cutting torch burner; Lazer beam aligner; Manual operated welder; Sewer pipe layer; Water line installer

GROUP 5: Air track & wagon drillman; Concrete finisher; Dynamite & powder man

GROUP 6:
A. Bottom man; Concrete man
B. Concrete headman
C. Miner or header man
D. Mucker & Tunnel laborer

1 of 3

LABORERS (BUILDING CONSTRUCTION):	AREA I	AREA IA	AREA IB	AREA IIA
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
GROUP I	$8.25	$8.05	$7.85	$7.05
GROUP II	8.45	8.25	8.05	7.25
GROUP III	8.55	8.35	8.15	7.35
GROUP IV	9.25	9.05	8.85	8.05
GROUP V:				
A.	8.45	8.45	----	----
B.	8.325	8.325	----	----
C.	8.55	8.55	----	----
D.	8.525	8.525	----	----

	AREA IIB	AREA IIIA	AREA IIIB	AREA IIIC
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
GROUP I	$7.25	$7.50	$7.40	$7.65
GROUP II	7.45	7.70	7.60	7.85
GROUP III	7.55	7.80	7.70	7.95
GROUP IV	8.25	8.50	8.40	8.65

	Fringe Benefits Payments			
	H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA I	.60	.30		.09
ALL OTHER AREAS	.60	.45		.09

LABORERS:

AREAS

AREA I: All territories west of Cline Avenue Lake Michigan Shorelines to Illinois State Line & Newton & Jasper Counties; All territories east of Cline Avenue, Lake County; All territory north of U. S. Highway No. 20, Porter County, including all Lake Michigan Shore Front east of Cline Avenue in Lake County

AREA IA: Porter County South of U. S. Highway No. 20, Starke, LaPorte Counties

AREA IB: Elkhart, Kosciusko, LaGrange, Marshall & St. Joseph Counties

AREA IIA: Fayette, Henry, Rush, Wayne, Union, Blackford, Delaware, Grant, Hamilton, Hancock, Jay, Madison & Rendolph Counties

AREA IIB: Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, Whitley, Benton, Boone, Carroll, Cass, Clinton, Montgomery, Puleski, Tippecanoe, White, Fulton, Howard, Miami, & Tipton Counties

AREA IIIA: Marion & Shelby Counties

AREA IIIB: Clay, Fountain, Greene, Hendricks, Owen, Parke, Putnam, Sullivan, Vermillion, Vigo, Warren, Bartholomew, Brown, Dearborn, Decatur, Franklin, Jackson, Johnson, Jennings, Lawrence, Martin, Monroe, Morgan, Ohio, Orange, Ripley, Clark, Crawford, Floyd, Harrison, Jefferson, Perry, Scott, Switzerland, & Washington Counties

AREA IIIC: Daviess, DuBois, Gibson, Knox, Pike, Posey, Spencer, Vanderburgh, & Warrick Counties

LABORERS

GROUP I: Building & Construction laborers; Scaffold builders (other than for masons or plasterers); Ironworker helpers; Mechanic tenders; Civil engineer helpers & surveyor helpers; Rodmen & Chainmen; Window washers & cleaners; Waterboys & Toolhousemen; Roofer's helpers; Railroad workers; Masonry wall washers (interior & exterior); Cement finisher helpers; Carpenter helpers; Helpers of all other crafts not listed; Mason tenders for Areas I, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley; All portable water pumps with discharge up to 3 inches

GROUP II: Waterproofing; Handling of creosote lumber or like treated material (excluding railroad material); Asphalt rakers & tutmen; Kettlemen; Air tool operators, vibrators, chipping hammer operators and all pneumatic tool operators; Earth compactors; Jackmen & sheetmen working ditches deeper than 6 ft. in depth; Laborers working ditches 6 ft. in depth or deeper; Assembly of Unicrete pump; Chain saw operators; Tile layers (sewer or field) & sewer pipe layers (metallic or non-metallic); Motor driven wheelbarrows & concrete buggies; Hyster operators; Pump crete assemblers; Conveyor assemblers; Core drill operators; Cement, lime or silica Clay handlers (bulk or bag); Handling of toxic materials damaging to clothing; Pneumatic spikers; Deck engine & winch operators; Water main & cable ducking (metallic & non-metallic)

GROUP III: Plasterers' tenders; Mason tenders, except for Areas I, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley; Mortar mixers; Welders (acetylene or electric); Cutting torch or burner; Cement nozzle laborers; Cement gun operators; Scaffold builders when working for plasterers; Scaffold builders when working for masons (except in Areas I, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley)

GROUP IV: Dynamite men

GROUP V:
A. Boiler setter laborers (Fire brick tear out with air tools)
B. Boiler setter laborers (Fire brick)
C. Boiler setter laborers (Mortar mixers)
D. Expeditor, bottom man & bell man

LABORERS: HEAVY & HIGHWAY CONSTRUCTION

	Lake County	Remaining Counties	Fringe Benefits Payments			
	Basic Hourly Rates	Basic Hourly Rates	H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 8.30	$ 7.60	.70	.50		.09
GROUP 2	8.45	7.75	.70	.50		.09
GROUP 3	8.50	7.80	.70	.50		.09
GROUP 4	8.60	7.90	.70	.50		.09
GROUP 5	9.15	8.45	.70	.50		.09

LABORERS

GROUP 1: Chainman; Construction laborer; Continuous steel rod or mat installer; Fence erector; Grade checker; Guard rail erector; Joint man (mortar, mastic & all other types); Lighting installer (permanent & temporary); Lineman for automatic grade maker or paving machine; Manhole erector; Mortar man; Multi-plate erector; Rip-rap laborer, incl. all materials; Road marking & delineation laborer; Rodman; Sandblaster man; Setting & placing of all pre-stressed & precast concrete products; Spraying of epoxy, curing compound or like material; Survey crew helper; Temporary waterline installer; Top laborer; Wire mesh layer

GROUP 2: Air tool, power tool, & power equipment operator; Asphalt lute man; Asphalt raker man; Batch truck dumper; Cement handler (bulk or bag cement); Chain saw man; Concrete conveyor essembly man; Concrete puddler; Concrete rubber; Concrete saw operator - non riding type; Core drill operator; Hand blade operator; Hydro seeder man; Motor driven Georgia buggy operator; Power driven compactor or tamper operator; Power saw operator; Pumpcrete assembly man; Sealer applicator for asphalt, toxic; Side rail setter - for sidewalks, side ditches, radii & pavements, etc.; Sign installation, including supporting structures; Spreader box tender; Straw blower man; Subsurface drain & culvert pipe layer; Transverse & longitudinal hand bull float man

GROUP 3: Horizontal boring & jacking man; Jackman & sheetman; Pipe grade man; Wench & windlass operator

GROUP 4: Conduit installer; Cutting torch burner; Lazer beam aligner; Manual operated welder; Sewer pipe layer; Water line installer

GROUP 5: Air track & wagon drillman; Concrete finisher; Dynamite & powder man

Lake, LaPorte, & Porter Counties

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Building, Sewer & Tunnel Construction					
Class I	$ 10.30	.65	.85		.05
Class II	9.80	.65	.85		.05
Class III	8.25	.65	.85		.05
Class IV	7.25	.65	.85		.05

CLASS I Mechanic; asphalt plant; autograde; batch plant; benoto (requires two engineers); boiler & throttle valve; caisson rigs; central redimix plant; combination backhoe, front end loader with backhoe bucket of 1 cu. yd. & over; combination tugger hoist & air compressor; compressor and throttle; concrete breaker (truck mounted); concrete conveyor; concrete paver over 27E cu. ft.; concrete paver 27E cu. ft. and under; concrete tower; cranes, all; cranes, tower; derricks, all; derricks, traveling; fork-lift-lull type; forklift - 10 ton and over; hoists, one, two, and three drum; hoists, two tugger one floor; hydraulic boom truck; locomotive, all; pile drivers and skid rig; pit machines; pre-stress machine; pump cretes and similar types; rock drill (self-propelled); rock drill (truck mounted); slipform paver; straddle buggies; tractor with boom & side boom; trenching machine; winch tractors

CLASS II Asphalt spreader; boiler; bulldozers; combination backhoe, front-end loader with backhoe bucket, less than 1 cu. yd.; engineer acting as conductor in charge of crew; grader, elevating; greaser engineer; grouting machines; highlift shovels or front endloader; hoists, automatic; cowboy drilling machines; hoists all elevators; hoists, tugger single drum; motor petrol; post hole digger; rollers, all; scoops - tractor drawn; stone crushers; tournapull; winch trucks

CLASS III Concrete mixer (2 bag & over); conveyor, portable; steam generators; tractors, farm & similar type; air compressor small 150 & under (1 to 5 not to exceed a total of 300 ft.); air compressor - large over 150 combination - small equipment operator; forklift trucks; generators; pumps (1 to 3 not to exceed a total of 300 ft.); pumps, well points; welding machines (2 through 5); winches & oleetric drill winches

CLASS IV Heaters, mechanical (1 to 5); oilers & switchmen

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POWER EQUIPMENT OPERATORS

St. Joseph County

Building, Sewer & Tunnel Construction	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$10.32	.65	.85	.40	.05
GROUP II	9.16	.65	.85	.40	.05
GROUP III	8.38	.65	.85	.40	.05
GROUP IV	7.70	.65	.85	.40	.05

CLASSIFICATIONS

GROUP I: All power cranes; Truck cranes; Locomotive cranes; LeTourneau Tournapulls; Shovels; Draglines; Derricks; Pile drivers; Highlifts; Tractors w/Side boom or "A" Frame; Forklifts 18' 6" in height or over; Motor patrols; Combination backhoe & loader; Mechanic; Conveyor systems; Hoist (3 drum) & over

GROUP II: All bulldozers; Scoops; Push cats; Concrete mixers of more than 21 cu. ft. capacity; Locomotives; Rollers; Stone crushers; Fork lifts under 18' 6"; Air compressors - 600 cu. ft. & over; Combination of Gasoline or Deisel driven welding machine & compressor; Engineers operating throttle valve with boiler and compressor for piledriving; Concrete pumps; Trench machines excluding ditch witches; Cableways; Hoist (2 drum)

GROUP III: Truck winches w/A Frame & Power winches; Tractors-farm type; Drills & conveyors; Small rubber tire end loaders ½ cu. yd. & under; Bobcat

GROUP IV: Gin poles; Sasgen derricks & similar hoists; Firemen; Oilers; One drum hoist; Single drum tugger hoist; Automatic hoist; Elevators; Compressor over 210 cu. ft. & under 600 cu. ft.; Well points

POWER EQUIPMENT OPERATORS
(Heavy & Highway Construction)

Lake, LaPorte, & Porter Counties	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$10.35	.65	.85		.05
CLASS II	9.90	.65	.85		.05
CLASS III	9.45	.65	.85		.05
CLASS IV	8.35	.65	.85		.05
CLASS V	7.40	.65	.85		.05
St. Joseph County					
CLASS I	10.25	.65	.85		.05
CLASS II	9.80	.65	.85		.05
CLASS III	9.35	.65	.85		.05
CLASS IV	8.25	.65	.85		.05
CLASS V	7.30	.65	.85		.05

CLASSIFICATIONS

CLASS I: Auto patrol; Automatic dry batch plant; Automated sub-grader; Automated slip form paver; Automated finish machine; Backhoe - tractor mounted, ½ yd or over; Ballast regulator (R.R.); Concrete mixer, 27 cu. ft. or over; Concrete pump; Core drilling machine; Crane or derrick with any attachments, incl. Clamshell, Dragline, Shovel, Backhoe, etc.; Dredge engineer; Dredge op.; Euclid loader; Gradall; Lead greaser; Highlift shovel 3 yds. & over; Hoist - 2 & 3 drum; Locomotive op.; Lead mechanic; Mucking machine; Panelboard concrete plant (Central mix type); Paver - Hetherington; Pile drive, Skid or crawler; Road paving mixer; Ross carrier; Throttle valve & compressor or clever Brooks type combination; Throttle valve and Fireman combination on horizontal or upright boiler; Tournapull or similar type equipment; Tractor - boom; Trench machine; Tug boat op.; Winch truck with "A" Frame; Scoops, Tournapulls or similar type machines used in tandem

CLASS II: Backhoe - tractor mounted, with less than ½ yd.; Bituminous mixer; Bituminous paver; Bituminous plant engineer; Bulldozer; Concrete mixer, less than 27 cu. ft.; Elevating grader; Excavating loader, portable; Greaser; Highlift shovel under 3 yds.; Jersey spreader or base paver; Mechanic; Pull grader, power control; Roller, asphalt, waterbound macadam, bituminous macadam, brick surface; Sheepfoot roller (self-propelled) with blade; Surface heater & planer; Tamper-multiple vibrating, asphalt waterbound macadam, bituminous macadam, brick surface; Tractor - push; Tractor with scoop; Widener, Apsco or similar type

CLASS III: Assistant plant engineer; Back filler; Bituminous distributor; Broom & belt machine; Bull float; Concrete finishing machine; Concrete spreader, power driven; Digger, post-hole, power driven; Finishing machine & bull float; Form grader; Form tamper, motor driven; Hoist - 1 drum; Multiple tamping machine; Paving breaker; Roller, earth & subbase material; Roller sheepfoot (self-propelled); Sub-grader; Tamper-multiple vibrating-earth & subbase material; Tractaire; Tractaire with drill; Tractor with all attachments, except backhoe & including highlift, endloaders of 1 cu. yd. capacity & less

CLASS IV: Air compressor; Conveyors, all; Fireman on boiler; Generator; Assistant mechanic; Power curing spraying machine; Pull broom, power propelled; Seaman tiller; Spike machine (R.R.); Striping machine, paint, motor driven; Throttle valve; Welding machine; Wellpoint systems

CLASS V: Assistant greaser; Deck hand; Hetherington driver; Mechanical heater (1 to 5); Outboard or inboard motor boat; Oiler; Power saw, concrete, power driven; Truck crane oiler-driver; Water pump; Helper on C.M.I. & similar type equipment grasscutters

TRUCK DRIVERS (HEAVY & HIGHWAY CONSTRUCTION)

LaPorte County	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$7.98	$21.50a	$22.00a		
CLASS 2	8.13	21.50a	22.00a		
CLASS 3	8.18	21.50a	22.00a		
CLASS 4	8.23	21.50a	22.00a		
CLASS 5	8.28	21.50a	22.00a		
CLASS 6	8.33	21.50a	22.00a		
CLASS 7	8.38	21.50a	22.00a		
CLASS 8	8.43	21.50a	22.00a		
CLASS 9	8.48	21.50a	22.00a		

CLASSIFICATIONS

CLASS 1
Drivers of pick-up trucks, helpers, greasers, tire men, tending batch boards & warehousemen

CLASS 2
Drivers on single axle straight trucks, batch truck wet or dry 3(3¼E) batches or less

CLASS 3
Drivers on single axle water trucks bituminous distributors (2-man) single axle fuel trucks

CLASS 4
Drivers on single axle "Dog Legs", tandom trucks, winch trucks or "A-Frame when used for transportation batch trucks (wet or dry) over 3(3¼E) batches

CLASS 5
Drivers on liquid asphalt tankers, tandem axle fuel trucks, bituminous distributors, (1 man) tandem axle water trucks

CLASS 6
Drivers on tandem trucks over 15 tons payload, single axle semi-trucks, farm tractors, hauling material, drivers on equipment when not self-loaded or pusher loaded such as Koehring or similar dumpsters, track trucks, euclid bottom dump & hug bottom dump, tournatrailers, tournarockers or similar equip. (12 cu. yds. & under), mixer trucks (all types), pulling tilt-top trailer (single axle), low-boys (single axle), truck mounted pavement breakers

CLASS 7
Drivers on tandem "Dog Legs" trucks, truck mechanics, builders, semi-water trucks, sprinkler trucks, heavy equip., type water wagon

CLASS 8
Drivers on tri-axle trucks, tandem axle semi-trucks, drivers on equip., when not self loaded or pusher loaded, such as Koehring or similar dumpsters, track trucks, euclid bottom dump & hug bottom dump, tournatrailers, tournarockers, or similar equipment (over 12 cu. yds., drivers on truck pulling tilt-top trailer (tandem-axle) low-boys, tandem axle

CLASS 9
Drivers on tandem, tandem semi-trucks, drivers on heavy equip., type water wagon over 5,000 gallons, drivers on trucks pulling tilt-top trailer (tri-axle) low-boys, tandem-tandem axle

FOOTNOTE:
a. Per week Per Employee.

DECISION NO. IN78-2032

TRUCK DRIVERS: HEAVY & HIGHWAY CONSTRUCTION St. Joseph County	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP A	$8.38	19.50a	22.00a		
GROUP B	8.33	19.50a	22.00a		
GROUP C	8.28	19.50a	22.00a		
GROUP D	8.23	19.50a	22.00a		
GROUP E	8.18	19.50a	22.00a		
GROUP F	8.13	19.50a	22.00a		
GROUP G	8.08	19.50a	22.00a		
GROUP H	8.03	19.50a	22.00a		
GROUP I	7.98	19.50a	22.00a		
GROUP J	7.93	19.50a	22.00a		
GROUP K	7.88	19.50a	22.00a		
GROUP L	7.78	19.50a	22.00a		

CLASSIFICATIONS

GROUP A-Acey Wagons over 3 Buckets

GROUP B-Acey Wagons to and including 3 Buckets

GROUP C-Tandem-tandem Semi-Trucks-Truck Mechanics-Heavy Equipment Type Water Wagon over 5,000 Gallons-Tri-Axle Trucks pulling Tilt-Top Trailers- Low Boys, Tandem-tandem Axle

GROUP D-Tri-Axle Trucks-Tandem Semi-Trucks-Equipment not self loaded or pusher loaded such as Koehring or similar Dumpster, Track Truck, Euclid Bottom Dump and Hug Bottom Dump, Tournstrailers, Tournarockers, Athey Wagons, or similar equipment over 12 cu. yd.-Tandem Axle Trucks pulling Tilt-Top Trailers-Low Boys, Tandun Axle-Tri-Axle Batch

GROUP E-Tandem "Dog-Legs" Trucks-Semi-Water Trucks-Sprinkler Trucks-Heavy Equipment Type Water Wagons 5,000 Gallons & Under

GROUP F-Truck Mounted Pavement Breakers-Tandem Trucks over 15 Ton Payload-Single Axle Semi-Trucks-Farm Tractors hauling material-Equipment not self loaded or Pusher loaded such as Koehring or similar Dumpster, Track Truck, Euclid Bottom Dump and Hug Bottom Dump, Tournatrailers, Tournarockers, Athey Wagons or similar equipment 12 cubic yds. & under-Mixer Trucks, All Types-Single Axle Trucks pulling Tilt-Top Trailer Lowboys, Single Axle

GROUP G-Tandem Axle Fuel Trucks-Tandem Axle Water Trucks-Bituminous Distributor (one man)

GROUP H-Single Axle Dog-Legs-Tandem Trucks or Dog-Legs-Winch Trucks or A Frames used for Transportation-Batch Trucks Wet or Dry over 3 (34E) Batches-Grease and Maintenance Truck Servicing Tandem Axle Trucks

GROUP I-Single Axle Fuel Trucks-Single Axle Water Trucks-Bituminous Distributors, (two man)

GROUP J-Single Axle Straight Trucks-Batch Trucks, Wet or Dry 3 (34E) Batches or less-Grease & Maintenance Trucks servicing Single Axle Trucks

GROUP K-Helpers, Greasers, Tire Men, Batch Board Tenders

GROUP L-Pick-Up Trucks

FOOTNOTE: a-PER WEEK PER EMPLOYEE

STATE: Indiana COUNTIES: *See Below
DECISION NUMBER: IN78-2033 DATE: Date of Publication
Supersedeas Decision Nos. IN77-2009 dated February 11, 1977, in 42 FR 8910 and IN77-2084 dated May 13, 1977, in 42 FR 24555
DESCRIPTION OF WORK: Building Construction (Does not include single family homes & garden type apartments up to & including 4 stories)

*Brown, Clark, Crawford, Floyd, Harrison, Jackson, Jefferson, Jennings, Lawrence, Orange, Scott, Switzerland, & Washington	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Brown Co.	$12.00	.50	.55		.01
Switzerland Co.	12.16	.75	1.00		.02
Remaining Cos.	11.06	.45	.65		
BOILERMAKERS:					
Brown, Crawford, Jackson, Jennings, Lawrence, & Orange Cos.	12.55	.80	1.00		.03
Remaining Cos.	9.80	1.05	1.10	1.50	.02
BRICKLAYERS; Stonemasons:					
Brown, Jackson, & Jennings Cos.	10.15	.40	.30		.02
Clark, Floyd, & Harrison Cos.	9.83	.40	.40		.05
Crawford Co.	9.94	.85	.50		
Jefferson, Scott, & Switzerland Cos.	9.75				
Lawrence, Orange, & Washington Cos.	10.79				
CARPENTERS; Millwrights; Piledrivermen; & Soft floor layers:					
Brown (Hamblin, Washington, & Van Buren Twps.), Jackson, Jefferson, Jennings, & Scott Cos.:					
Carpenters; Soft floor layers	9.69	.55	.65		.03
Millwrights	10.19	.55	.65		.03
Piledrivermen; Welders; & burners	9.94	.55	.65		.03
Brown (Remainder of Co.):					
Carpenters; Soft floor layers	9.10	.60	.35		.01
Millwrights; Piledrivermen	9.35	.60	.35		.01
Clark, Floyd, Harrison, & Washington Cos.:					
Carpenters; Soft floor layers	10.15	.45	.45		.05
Millwrights	10.40	.30	.60		.02
Piledrivermen	10.40	.45	.45		.05
Crawford Co.:					
Carpenters	9.92	.45	.80		
Millwrights	10.34	.45	.70		
Piledrivermen; Welders; & burners	10.17	.45	.80		
Lawrence & Orange Cos.:					
Carpenters; Soft floor layers	9.87	.57	.50		
Millwrights; Piledrivermen	10.27	.57	.50		

DECISION NO. IN78-2033

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS: (CONT'D)					
Switzerland Co.:					
Carpenters; Soft floor layers	$ 9.74	.55	.65		.03
Millwrights	10.24	.55	.65		.03
Piledrivermen; Welders; & burners	9.99	.55	.65		.03
CEMENT MASONS:					
Clark, Floyd, & Harrison Cos.	9.28	.60	.30		
Crawford Co.	9.80	.65	.55		
Jackson, Jefferson, Jennings, Lawrence, Orange, Scott, & Washington Cos.	9.60				
Switzerland Co.	7.50				
ELECTRICIANS:					
Brown Co.	11.15	.50	3%+.50		.01
Crawford, Lawrence, & Orange Cos.	12.35	.50	3%		1%
Clark, Floyd, Harrison, Jackson, Jefferson, Scott, & Washington Cos.	11.60	.50	3%+.40		1%
Jennings Co.	11.90	4%	7%		1%
Switzerland Co.:					
Up to & incl. 18 mi. radius from Hamilton Co. Court House, Cincinnati, Ohio	11.95	.70	3%+.60		.5%
Over 18 mi. radius up to & incl. 21 mi. radius from Hamilton Co. Court House, Cincinnati, Ohio	12.25	.70	3%+.60		.5%
Over 21 mi. radius up to & incl. 25 mi. radius from Hamilton Court House Cincinnati, Ohio	12.35	.70	3%+.60		.5%
Over 25 mi. radius from Hamilton Co. Court House, Cincinnati, Ohio	12.50	.70	3%+.60		.5%
ELEVATOR CONSTRUCTORS:					
Brown Co.:					
Elevator Constructors	11.285	.745	.56	4%+a+b	.035
Helpers	70%JR	.745	.56	4%+a+b	.035
Helpers (Prob.)	50%JR				

DECISION NO. IN78-2033

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS: (CONT'D)					
Clark, Crawford, Floyd, Harrison, Jackson, Jefferson, Jennings, Lawrence, Orange, Scott, & Washington Cos.:					
Elevator constructors	$11.41	.745	.56	4%+a+b	.035
Helpers	70%JR	.745	.56	4%+a+b	.035
Helpers (Prob.)	50%JR				
Switzerland Co.:					
Elevator constructors	11.78	.745	.56	4%+a+b	.035
Helpers	70%JR	.745	.56	4%+a+b	.035
Helpers (Prob.)	50%JR				
GLAZIERS:					
Brown, Jackson (No. of #50), Jennings (Except from North Vernon, s/w to the corner of Jennings Co.), & Lawrence (No. of #54)	12.39				
Clark, Crawford, Floyd, Harrison, Jackson (So. of #50), Jefferson, Jennings (From North Vernon, s/w to the corner of Jennings Co.), Lawrence (South of #54 & #50), Orange, Scott, & Washington Cos.	8.90	.35	.45		
IRONWORKERS:					
Brown, Jackson (N. ½ of Co.), Jennings (N. ½ of Co.), & Lawrence (Except So. 2/3 of Co.)	11.15	.90	1.30		.05
Clark, Crawford, Floyd, Harrison, Jackson (So. ½ of Co.), Jefferson, Jennings (So. ½ of Co.), Lawrence (So. 2/3 of Co.), Orange, Scott, & Washington Cos.	10.50	.75	.95		.05
Switzerland Co.:					
Ornamental; Structural	11.48	.90	1.05		.03
Reinforcing	10.68	.90	1.85		.02

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS:					
Brown & Jackson Cos.	$11.09	.61	.35		.04
Clark, Crawford, Floyd, Harrison, Jefferson, Jennings, Lawrence, Orange, Scott, & Washington Cos.	10.29		.20		.01
Switzerland Co.	12.52		.25		.025
MARBLE SETTERS; Terrazzo Workers & Tile Setters:					
Brown, Jackson, & Jennings Cos.	10.15	.40	.30		.02
Clark, Floyd, & Harrison Cos.	9.70	.40	.40		
Crawford Co.:					
Tile Setters	9.94	.85	.50		
MARBLE SETTERS' FINISHERS; Terrazzo Workers' Finishers; & Tile Setters' Finishers:					
Brown, Jackson, & Jennings Cos.					
Marble Setters' Finishers; & Tile Setters' Finishers	9.50				
Terrazzo Workers' Finishers	8.95				
PAINTERS:					
Brown Co.:					
Brush; Drywall; Vinyl; Paperhangers; Rollers	8.90			.30	
Structural Steel	9.65			.30	
Sandblasting; Spray; Epoxy brush	9.90			.30	
Spray epoxy	10.90			.30	
Clark, Crawford, Floyd, Harrison, Jefferson, Scott, & Washington Cos.:					
Within 35 mi. radius of Jefferson Co., Ky. Court House:					
New Construction:					
Basic	8.62	.35	.20		.03
Special	8.97	.35	.20		.03
Spray	9.07	.35	.20		.03
Old Construction:					
Basic	8.08	.35	.20		.03
Special	8.43	.35	.20		.03
Spray	8.53	.35	.20		.03
Over 35 mi. radius of Jefferson Co., Ky. Court House:					

DECISION NO. IN78-2033

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (CONT'D)					
New Construction:					
Basic	$ 8.97	.35	.20		.03
Special	9.32	.35	.20		.03
Spray	9.52	.35	.20		.03
Old Construction:					
Basic	8.43	.35	.20		.03
Special	8.78	.35	.20		.03
Spray	8.98	.35	.20		.03
Jackson, & Jennings Cos.:					
Brush; Rollers; Drywall taping & hanging	9.45		.50		
Spray; Sandblast; Stage	10.45		.50		
Lawrence, & Orange Cos.:					
Brush repaint	7.10				
Sandblasting; Spray	9.00				
Vinyl hanging	8.10				
Structural steel; Brush, new construction; Roller applicator; Drywall	8.00				
Switzerland Co.:					
Brush; Roller; Wallwashing; Drywall taping & finishing; Wallpaper & vinyl hanging; Floor sanding; Seamless flooring & finishing; Sandblasting; Hopper tending; & Steamcleaning	9.70				
Spray; Epoxy	10.20				
PLASTERERS:					
Clark, Floyd, & Harrison Cos.	10.35				
Crawford Co.	10.58				
Jackson, Jefferson, Jennings, Lawrence, Orange, Scott, & Washington Cos.	9.60				
Switzerland Co.	7.50				
PLUMBERS; Steamfitters:					
Brown, Jackson, Lawrence, Orange, & Washington Cos.	11.85	.50	.85		.15
Clark, Crawford, Floyd, Harrison, Jefferson, Scott, & Switzerland Cos.	12.35	.50	1.00	c	.02
Jennings Co.	12.00	.50	.30		.05

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Brown, Jackson, Jennings, & Lawrence Cos.:					
Composition & Waterproofers	$10.95	.50	.50		
Slate, Tile, Asbestos & Precast slab	11.20	.50	.50		
Crawford, & Orange Cos.:					
Composition; Waterproofers	9.83	.60	.50		
Gypsum plank; Slate; Tile; & Concrete slab	10.08	.60	.50		
Clark, Floyd, Harrison, Jefferson, Scott, & Washington Cos.:					
Roofers	7.40	.50	.20		
Slate; Tile; & Precast concrete slabs	7.80	.50	.20		
Switzerland Co.	12.32		.85		.01
SHEET METAL WORKERS:					
Brown, Jackson, Jennings, Lawrence, Orange, & Washington Cos.	11.94	.60	.70		.09
Clark, Floyd, & Harrison Cos.	11.65	.70+d	1.05		.14
Crawford, Jefferson, Scott, & Switzerland Cos.	12.90	.70+d	1.05		.14
SPRINKLER FITTERS	11.65	.65	.95		.08

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. 7 paid holidays: A through F & Day after Thanksgiving Day
b. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years; 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
c. 1 paid holiday: Christmas Eve Day
d. 3% of gross earnings to SASMI

LABORERS:					
GROUP I	7.40	.60	.45		.09
GROUP II	7.60	.60	.45		.09
GROUP III	7.70	.60	.45		.09
GROUP IV	8.40	.60	.45		.09

DECISION NO. IN78-2033

LABORERS

GROUP I: Building & Construction laborers; Scaffold builders (other than for masons or plasterers); Ironworker helpers; Mechanic tenders; Civil engineer helpers & surveyor helpers; Rodmen & Chairmen; Window washers & cleaners; Waterboys & Toolhousemen; Roofer's helpers; Railroad workers; Masonry wall washers (interior &exterior); Cement finisher helpers; Carpenter helpers; Helpers of all other crafts not listed; Mason tenders for Areas I, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley; All portable water pumps with discharge up to 3 inches

GROUP II: Waterproofing; Handling of creosote lumber or like treated material (excluding railroad material); Asphalt rakers & lutmen; Kettlemen; Air tool operators, vibrators, chipping hammer operators and all pneumatic tool operators; Earth compactors; Jackmen & shastmen working ditches deeper than 6 ft. in depth; Laborers working ditches 6 ft. in depth or deeper; Assembly of Unicrete pump; Chain saw operators; Tile layers (sewer or field) & sewer pipe layers (metallic or non-metallic); Motor driven wheelbarrows & concrete buggies; Hyster operators; Pump crete assemblers; Conveyor assemblers; Core drill operators; Cement, lime or silica Clay handlers (bulk or bag); Handling of toxic materials damaging to clothing; Pneumatic spikers; Deck engine & winch operators; Water main & cable ducking (metallic & non-metallic)

GROUP III: Plasterers' tenders; Mason tenders, except for Areas I, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley; Mortar mixers; Welders (acetylene or electric); Cutting torch or burner; Cement nozzle laborers; Cement gun operators; Scaffold builders when working for plasterers; Scaffold builders when working for masons (except in Areas I, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley)

GROUP IV: Dynamite men

DECISION NO. IN78-2033

POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$10.58	.35	.35		.05
GROUP B	9.49	.35	.35		.05
GROUP C	8.75	.35	.35		.05

CLASSIFICATIONS

GROUP A: A-Frame winch truck, air compressor over 600 cu. ft., air tugger, auto-grade (CMI), auto patrol backhoe, ballast regulator (RR), batcher plant (elecctric control concrete), bending machine (pipe), bituminous plant, bituminous mixer travel plant, bituminous power roller, bulldozer, cable way, Chicago boom, clamshell, concrete mixer (21 cu. ft. or over), crane, craneman, crusher plant, derrick boat, dinkey, dope pots (pipeline), dragline, dredge operator, drill operator, elevating grader, concrete paver, elevator, Ford hoe, (or similar type equipment), forklift formless paver, gantry crane, gradeall, grademan, groot pump, Hetherington paver, highlift hoist, hopto. hough loader (or similar type), hydro crane, hydro hammer, locomotive crane, locomotive, mechanic mobile mixer, motor crane, motor crane oiler and one(1) piece of minor equipment, mucking machine, multiple temping machine (RR), overhead crane, pile driver, pulls, push dozer, push boats, roller (sheepfoot), Ross carrier, scoop shovel, side boom, swing crane, tail boom, tar machine (pipeline), throttle valve, trench machine, welder pump, truck mounted drill 2 to 4 pieces of minor equipment, well point, whirleys

GROUP B: Air compressor (200 cu. ft. per minute capacity or more) brakeman, bull float, concrete mixer (over 10S and under 21S), concrete spreader or puddler, deck engine drill helper, electric vibrator Kompactor (earth or rock), finishing machine, fireman, greaser (on grease facilities servicing heavy equipment), material pump motor boats, motor crane oiler, oiler and one piece of minor equipment, portable loader, post hole digger, power broom, rock roller, roller-wobble wheel (earth and rock), spike machine (RR), seaman tiller, spreader rock, sub-grader, tamping machine, truck mounted drill oiler, welding machine widener (Apsco or similar type)

GROUP C: Air compressor (under 200 cu. ft. per minute), biutminous distributor, cement gun, conveyor, desk hand, earth roller form grader, generator, guard rail driver, heater, oiler, paving joint machine, steam Jenny, vibrator, water pump, concrete saw

TRUCK DRIVERS All counties except Crawford Co.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$8.45	$25.50a	$18.00a	b & c	
GROUP 2	8.50	25.50a	18.00a	b & c	
GROUP 3	8.55	25.50a	18.00a	b & c	
GROUP 4	8.60	25.50a	18.00a	b & c	
GROUP 5	8.65	25.50a	18.00a	b & c	
GROUP 6	8.70	25.50a	18.00a	b & c	
GROUP 7	8.80	25.50a	18.00a	b & c	
GROUP 8	8.85	25.50a	18.00a	b & c	
GROUP 9	8.90	25.50a	18.00a	b & c	
GROUP 10	8.95	25.50a	18.00a	b & c	
GROUP 11	9.10	25.50a	18.00a	b & c	

GROUP 1: Drivers on single axle, lowboy helper or flagman, drivers on air compressors and welding machines including those pulled by cars, pick-up trucks, tractors, fork-lifts, dumpsters

GROUP 2: Drivers on Mixer Trucks 2 yards

GROUP 3: Mechanic Helpers and Greasers

GROUP 4: Drivers on Batch Trucks wet or dry 3 batches or under

GROUP 5: Drivers on Tandem Axle Trucks (including Dog-Legs), Drivers on Oil Distributors Drivers on Mixers Trucks 3 yards, Winch Trucks

GROUP 6: Drivers on Single axle, semi-trucks, Drivers on batch trucks wet or dry or dry over 3 batches, Drivers on pavement breakers

GROUP 7: Drivers on Tandem-Axle semi-trucks, Drivers on trac-o-trucks, Euclids, Tournapull when pulling other then self-loading equipment up to and including 10 yards, Drivers on mixer trucks 4 yards, Mechanics

GROUP 8: Drivers on Tri-axle Trucks

GROUP 9: Drivers on Low-Boy, Drivers on Tandem, Tandem Axle Semi-trucks

GROUP 10: Drivers on Trac-O-Trucks, Euclids, Tournapulls when pulling other than self-loading equipment 11 yards to and including 16 yards, Drivers on mixer trucks above 4 yards

GROUP 11: Drivers on Trac-O-Trucks, Euclids, Tournapull when pulling other than self-loading equipment over 16 yards, Helicopter pilot

FOOTNOTES:
a. per week per employee
b. 1 week's paid vacation after 1 year's service; 2 weeks' paid vacation after 5 years' service; & 3 weeks' paid vacation after 10 years' service.
c. 7 paid holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; & Christmas Day

SUPERSEDEAS DECISION

STATE: MICHIGAN
DECISION NO: MI78-2023
COUNTIES: KENT & MONTCALM
DATE: DATE OF PUBLICATION
Supersedes Decision No. AM-402, dated August 18, 1971 in 36 FR 15895
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASPHALT RAKERS/SPREADERS	$8.05	.55	.35	.65	.04
BRICKLAYERS	6.66				
CARPENTERS	5.87				
CARPET LAYERS/SOFT FLOOR LAYERS	6.30				
CEMENT MASONS/FINISHERS	6.23				
DRYWALL HANGERS	7.00				
DRYWALL TAPERS	7.03				
ELECTRICIANS	6.17				
FORM SETTERS	6.50				
INSULATION INSTALLERS	5.00				
LABORERS:					
COMMON	4.46				
MASON TENDERS	4.66				
LANDSCAPE	3.55				
PAINTERS	4.46				
PLUMBERS	7.02				
ROOFERS	5.29				
SHEET METAL WORKERS	5.00				
TRUCK DRIVERS	6.00				
POWER EQUIPMENT OPERATORS:					
BULLDOZER OPERATORS	6.85				
BACKHOE OPERATORS	7.40				
CRANE OPERATORS	6.41				
FRONT END LOADERS	6.34				
PAVER OPERATORS	8.38				
ROLLER OPERATORS	8.47	.80	1.00	.94	.05

SUPERSEDEAS DECISION

STATE: Michigan
DECISION NO. MI78-2010
COUNTIES: See Below
DATE: Date of Publication
Supersedes Decision No. MI77-2050, dated May 6, 1977 in 42 FR 23369
DESCRIPTION OF WORK: Building (Does not include single family homes and garden type apartments up to and including 4 stories) and Heavy (excluding Bridge Airport and Sewer) Construction.

COUNTIES: Alcona, Alpena, Charlevoix, Emmet, Grand Traverse, Leelanau, Mason, Montmorency, Muskegon, Oceana, Oscoda and Presque Isle.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.11	.84	1.48		.02
BOILERMAKERS	11.07	1.10	1.20	1.50	.03
BRICKLAYERS:					
Mason County:					
Bricklayers; Stonemasons; Marble-Tile Workers, Cement Masons & Plasterers	8.60	.65	.25		
Muskegon & Oceana Counties					
Bricklayers & Stonemasons	9.195	.55	.75		
Marble Masons	8.50	.55	.70		
Terrazzo & Tile Workers	8.25	.55	.70		
Plasterers	9.78	.50	.50		.02
Remaining Counties					
Bricklayers; Stonemasons; Plasterers-Marble-Tile-Terrazzo Workers	9.12	.60	.25		
CARPENTERS:					
Mason, Muskegon & Oceana Counties					
Carpenters	9.80	.60	.60		.01
Millwrights	11.35	.60	.60		.01
Piledrivers	10.20	.60	.60		.01
Remaining Counties					
Carpenters & Soft Floor Layers	8.51	.60	.60		.03
Millwrights	9.01	.60	.60		.03
Piledrivers	9.26	.60	.60		.03
CEMENT MASONS:					
Muskegon & Oceana Counties	8.05	.50	.50		.02
Remaining Counties	8.67	.60	.25		.02
ELECTRICIANS:					
Charlevoix, Grand Traverse, Leelanau & Emmet (except Wawatan Township) Counties and (Crant, Freesoil, and Meade Townships) in Mason County	11.00	.40	3%+.15		½ of 1%

DECISION NO. MI78-2010

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS (CONT'D)					
Muskegon, Oceana and the Remainder of Mason Counties	$11.00	.40	3%+.25		.01
Remaining Counties & (Wawatan Township) in Emmet County:					
Electricial Contractors $30,000 and below	9.35	.40	3%+.30		.1 of 1%
Electrical Contracts in excess of $30,000	11.10	.40	3%+.30		.1 of 1%
ELEVATOR CONSTRUCTORS:					
Alcona, Alpena, Montmorency, Oscoda and Presque Isle:					
Elevator Constructor	11.21	.745	.56	a	.025
Elevator Constructor Helpers	70%JR	.745	.56	a	.025
Elevator Constructor Helpers (Prob.)	50%JR				
ELEVATOR CONSTRUCTORS:					
Remainder of Counties:					
Elevator Constructors	10.195	.745	.56	a	.025
Elevator Constructors Helpers	70%JR	.745	.56	a	.025
Elevator Constructors Helpers (Prob.)	50%JR				
GLAZIERS:					
Emmet & Muskegon Counties	$ 8.55	.40	.30		
Charlecoix, Grand Traverse, Leelanau, Mason, & Oceana Counties	8.30	.40	.30		
IRONWORKERS:					
Alcona, Alpena, Montmorency, Oscoda and Presque Isle Counties:					
Structural and Ornamental	11.18	8%	14%	17%	.09
Reinforcing	10.10	.98+.25	13%	13%	.07
Fence Erectors	10.18	8%	14%	17%	.09
Remaining Counties	10.70	.60	1.00		.08
LATHERS	8.85	.64	.10	.50	.01
PAINTERS:					
Alcona and Oscoda Counties					
Brush	8.85	.50	.80		.02
Spray	9.70	.50	.80		.02

DECISION NO. MI78-2010

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Grand Traverse and Leelanau Counties and that portion of Charlevoix County lying South of and straight line drawn from Charlevoix (city) to Elmira					
Brush	$ 7.65	.50			.02
Spray; Tapers	8.25	.50			.02
Mason County	8.25				
Muskegon & Oceana Counties					
Brush, Tapers	8.00				
Paper hangers	8.25				
Spray & Sandblast	8.50				
Remainder of Charlevoix County and Remaining Counties					
Brush	7.80				
Spray	8.55				
PLUMBERS & STEAMFITTERS:					
Alcona and Oscoda Counties	10.74	.75	.50	1.60	
Alpena, Montmorency & Presque Isle Counties	11.19	.35	.50		
Mason, Muskegon & Oceana Counties	10.71	1.19	.75		.04
Remaining Counties	10.73	.60	.50		.06
ROOFERS:					
Mason, Muskegon & Oceana Counties	8.65	.67		.20	
Remainder of Counties:					
Composition, Damp & Waterproofers	9.10				
SHEET METAL WORKERS:					
Charlevoix, Emmet, Grand Traverse and Leelanau Counties	10.70	.50	.53		.05
Mason, Muskegon & Oceana Counties	9.55	.67	.65	.67	.02
Remaining Counties	11.11	.65	1.00		.03
SPRINKLER FITTERS	11.65	.65	.95		.08

DECISION NO. MI78-2010

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Alcona, Alpena, Montmorency, Oscoda & Oreque Isle Counties					
Regular Truck Driver	$ 7.57	b24.00	b22.00	.26	
8 cu. yds. and over	7.67	b24.00	b22.00	.26	
Euclid	7.87	b24.00	b22.00	.26	
Charlevoix, Emmet, Grand Traverse and Leelanau Counties					
Regular Truck Driver	7.55	24.00b	18.00b	c	
8 cu. yds. and over	7.65	24.00b	18.00b	c	

Welder receive rate prescribed for craft to which welding is incidental.

FOOTNOTES:

a. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years; 6% contribution for more than 5 years-plus 7 Paid Holidays-New Years Day-Memorial Day-Indspendence Day-Labor Day-Thanksgiving Day-Day after Thanksgiving & Christmas Day

b. Per week; Per Employee

c. Paid vacation computed at a 40 hour week at straight time as follows: one year or more - one week; three years or more - two weeks; eight years or more - three weeks; and 7 Paid Holidays provided employee has been in service of employer 20 days or more and worked the full scheduled day prior to and after the holiday - New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and the Friday after Christmas Day.

DECISION NO. MI78-2010

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Mason County					
Group 1	6.70	.55	.35		.04
Group 2	6.85	.55	.35		.04
Group 3	7.15	.55	.35		.04
Group 4	7.05	.55	.35		.04
Group 5	7.10	.55	.35		.04
Group 6	6.95	.55	.35		.04
Muskegon and Oceana Counties					
Group 1	6.76	.55	.35	.55	.04
Group 2	6.91	.55	.35	.55	.04
Group 3	7.01	.55	.35	.55	.04
Group 4	6.88	.55	.35	.55	.04
Group 5	6.90	.55	.35	.55	.04
Group 6	7.08	.55	.35	.55	.04
Group 7	7.26	.55	.35	.55	.04
Remaining Counties					
Group 1	6.55	.55	.35		.04
Group 2	6.70	.55	.35		.04
Group 3	7.15	.55	.35		.04

LABORERS:
Mason County
Group 1: Building and Heavy Construction Laborers
Group 2: Plaster and Mason Tenders; Mortar Mixers; Material Mixers; All power Tools; Vibrator; Cahin Saw; Nozzleman; Green Cut Concrete work
Group 3: Jackhammer: Acetylene Torch;Windlass and Tugger Operators; swing Scaffold Chimneys; Tower, crane Scaffold; Rock Crusher
Group 4: Sewer Men-Open cut work-Caisson workers-Pipelayers
Group 5: Plasterers tenders - Machine pumped
Group 6: Work on scaffold 30' in height or more
Muskegon and Oceana Counties
Group 1: Building and Heavy Construction Laborers
Group 2: Plasterer tender; Material Mixers; Operators of Portable Mixers; Air, Electric or Gasoline Tools; Mortar Driver Buggies; Swing Scaffold
Group 3: Jackhammer Operator
Group 4: Signalmen
Group 5: Windlass Operator
Group 6: Top men on chimneys or towers over 30' in height
Group 7: Crock or Pipe Layers; caisson work

DECISION NO. MI78-2010

LABORERS (CONT'D)

Remaining Counties:
Group 1: Building and Heavy Construction Laborers
Group 2: Mortar Mixer; Material Mixers (hand or machine); Vibrator Operators; Operators of Concrete Mixers; Chipping Hammers; Concrete Breakers (90 lb. hammer or less); Tamping Machine (air, gas or electric); Sand blasters; Operator or Motor Driven Buggies; Plaster Mixer; Plasterers Tenders; Layers of non-metallic pipe
Group 3: Cement Gun Nozzleman; Blasters; Rock Drillers & Buster Operators

LC - ZONE II

LINE CONSTRUCTION: ZONE 11	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen; Heavy Equipment Operator	$10.12	.45	3%	a	.5%
Cable Splicer	10.54	.45	3%	a	.5%
Combination Digger Operator; Tractor Operator Groundman'					
1st 6 months	7.32	.45	3%	a	.5%
Over 6 months	7.91	.45	3%	a	.5%
Light Equipment Operator Groundman; Distribution Line Truck Driver Operator:					
1st 6 months	6.36	.45	3%	a	.5%
Over 6 months	6.94	.45	3%	a	.5%
Combination Winch Truck Driver Groundman:					
1st 6 months	5.79	.45	3%	a	.5%
Over 6 months	6.62	.45	3%	a	.5%
Combination Truck Driver, Groundman	5.60	.45	3%	a	.5%

FOOTNOTES:

7 paid Holidays; New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; and Christmas Day.

DECISION NO. MI78-2010

MICH-3-PEO-1-2

POWER EQUIPMENT OPERATORS:
BUILDING & HEAVY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.90	.80	1.00	10%	.05
CLASS B	11.65	.80	1.00	10%	.05
CLASS C	11.40	.80	1.00	10%	.05
CLASS D	10.85	.80	1.00	10%	.05
CLASS E	10.65	.80	1.00	10%	.05
CLASS F	9.45	.80	1.00	10%	.05
CLASS G	8.75	.80	1.00	10%	

CLASS A - Crane with main boom & jib 220' or longer

CLASS B - Crane with main boom & jib 140' or longer, tower cranes, gantry cranes, whirley derrick

CLASS C - Regular equipment operator, cranes, stiff leg derrick, scraper, dozer, grader, front end loader, hoist, job mechanic & head grease man

CLASS D - Air Tugger (single drum), Material Hoist, Boiler Oprs., Sweeping Machine, winch Truck, Bob Cat & Similar type equipment, Fork Truck (over 20' lift)

CLASS E - Pump 6" or over, Well Points, Freeze systems, Boom truck (non Swinging) Fork Truck (20' Lift)

CLASS F - Air Compressor, Welder, Generators, Pumps under 6", Grease Man, Conveyors

CLASS G - Oiler, Firemen & Heater Operator

DECISION NO. MI78-2010

MICH-2-PEO-SE

POWER EQUIPMENT OPERATORS:
STEEL ERECTION

ALCONA, ALPENA, MONTMORENCY, OSCODA & PRESQUE ISLE COUNTIES

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.57	.55	.75	10%	.05
CLASS B	11.33	.55	.75	10%	.05
CLASS C	10.85	.55	.75	10%	.05
CLASS D	10.70	.55	.75	10%	.05
CLASS E	9.61	.55	.75	10%	.05
CLASS F	8.65	.55	.75	10%	

CLASS A - Engineer when operation combination of boom jib 220' or longer
CLASS B - Engineer when operating combination of boom & jib 140' or longer Tower crane & derrick operator (where opeators work stations is 501 Or more above first sub level
CLASS C - Crane operator job mechanic
CLASS D Hoisting operator
CLASS E Compressor (or welder) operator
CLASS F - Oiler or fireman

MICH-6-PEO-SE

POWER EQUIPMENT OPERATORS:
STEEL ERECTION

REMAINING COUNTIES

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.40	.55	.75	10%	.05
CLASS B	11.15	.55	.75	10%	.05
CLASS C	10.90	.55	.75	10%	.05
CLASS D	10.55	.55	.75	10%	.05
CLASS E	9.30	.55	.75	10%	.05
CLASS F	8.25	.55	.75	10%	

CLASS A - Crane operator w/main boom & jib 220' or longer
CLASS B - Crane operator w/main boom & jib 140' or longer; power cranes, gantry crane; whirley derrick
CLASS C - Regular equipment operator; crane; dozer; loader; hoist, straddle wagon, Job mechanic
CLASS D - Air tugger (single drum); material hoist, pump 6' or over
CLASS E - Air compressor, welder, generators-conveyors
CLASS F - Oiler & Fireman

DECISION NO. MI78-2010

MICH-9-PEO-U-2-2

POWER EQUIPMENT OPERATORS:
UNDERGROUND CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$ 9.24	.80	1.00	10%	.05
CLASS II	8.98	.80	1.00	10%	.05
CLASS III	8.52	.80	1.00	10%	.05
CLASS IV	8.27	.80	1.00	10%	.05

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8' digging capacity), mechanic, endloader (over 1½ cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip fom paver slope paver, conveyor loader (euclid type)
CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck (power sing type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher
CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min. or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck(non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ dy or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - includes compressor)
CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), atump remover, mulching equipment, farm tractor (with attachment), finishng machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H.P. or over)

SUPERSEDEAS DECISION

STATE: Michigan COUNTIES: See Below
DECISION NO.: MI78-2011 DATE: Date of Publication
Supersedes Decision No. MI77-2051, dated May 6, 1977 in 42 FR 23374
DESCRIPTION OF WORK: Building (Does not include single family homes and garden type apartments up to and including four stories) and Heavy (excluding Bridge, Airport and Sewer) Construction.

COUNTIES: Alger, Baraga, Chippewa, Dickinson, Gogobic Houghton, Keweenaw, Mackinac, Marquette & Ontonagon

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKER:					
Chippewa & Mackinac Counties	$11.11	.84	1.48		.02
Gogebic & Ontonagon Counties	10.65	.40	.25		
Remainder of Counties	10.06	.60	.50	.65	.05
BOILERMAKERS	11.07	1.10	1.20	1.50	.03
BRICKLAYERS:					
Alger & Marquette Counties:					
Bricklayers, Stonemasons, Plasterers, & Marble-Tile-Terrazzo Workers	9.62	.75	.50		.01
Chippewa & Mackinac Counties:					
Bricklayers & Stonemasons	9.59	.70	.60		
Plasterers	9.44	.70	.60		
Tile & Terrazzo Workers	9.39	.70	.60		
Remainder of Counties:					
Bricklayers, Stonemasons, Palsterers, Marble-Tile and Terrazzo Workers	9.62	.75	.50		.01
CARPENTERS:					
Carpenters & Soft Floor Layers	9.24	.60	.60		.01
Millwrights	10.19	.60	.60		.01
Piledrivermen	9.44	.60	.60		.01
CEMENT MASONS:					
Alger & Marquette Counties	9.12	.75	.50		.01
Chippewa & Mackinac Counties	9.02	.70	.60		
Remainder of Counties	9.12	.75	.50		.01
ELECTRICIANS:					
Dickinson County:					
Contracts $50,000 or more & all Industrial work	11.06	.40	3%		.5%
Contracts Less than $50,000	9.74	.40	3%		.5%
Alger & Marquette Counties:					
Contracts over $50,000	11.55	.45	3%		.1of1%
Contracts $50,000 or less	10.15	.45	3%		.1of1%

DECISION NO. MI78-2011

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS (CONT'D)					
Chippewa & Mackinac Counties	$ 9.23	.40	1%		½%
Gogebic County	10.80	4%	3%	11%	3%
Remainder of Counties:					
Contracts $45,000 & over	10.89	.40	3%		¼ of 1%
Contracts up to $45,000	8.25	.40	3%		¼ of 1%
ELEVATOR CONSTRUCTORS:					
Constructors	10.765	.745	.56	a	.025
Helpers	70%JR	.745	.56	a	.025
Helpers (Prob.)	50%JR				
IRONWORKERS	9.50	.50	1.00	1.40	.04
LATHERS	8.85	.64	1.00	.50	.01
PAINTERS:					
Dickinson County:					
Commercial & Industrial	8.95		.75		
Alger & Marquette Counties					
Brush	9.25				
Glaziers	9.25				
Bridges, Water Tanks, Radio & TV	11.00				
Chippewa & Mackinac Counties:					
Commercial-Industrial & Sign Painter	7.00			1.50	
Taper-Hand	7.45			1.50	
Taper-Machine	7.55			1.50	
Steel	9.50			1.50	
Glaziers	5.80			1.50	
Baraga, Houghton, Keweenaw & the northern portion of Ontonagon County:					
Brush, Paperhangers, Tapers and Glaziers	8.00				
Spray & Sandblasting	8.50				
Gogebic County & the Remainder of Ontonagon County:	6.00				
Brush, Paperhangers	6.00				
Spray	6.50				

DECISION NO. MI78-2011

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & STEAM FITTERS	$ 9.43	.70	.70	1.00	.02
ROOFERS	9.15		.50		
SHEET METAL WORKERS	10.08	.75+.08	.65		.04
SPRINKLER FITTERS	11.65	.65	.95		.08
TRUCK DRIVERS:					
Truck Driver	7.72	b22.00	b16.00		
Heavy Duty, Double Axle & Semi	7.85	b22.00	b16.00		
Euclid	8.08	b22.00	b16.00		

FOOTNOTES:
a. 7 Paid Holidays-New Year's Day-Memorial Day- Independence Day-Labor Day-Thankdgiving Day-Day after Thanksgiving & Christmas Day plus employer contributes 5% of Regular Hourly Tate to vacation pay credit for employee who has worked in business more than 5 years & 6% for employees in business less than 5 years
b. Per Week; Per Employee

DECISION NO. MI78-2011

Welders receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:

a. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years; 4% contribution for more than 5 years.

b. Per Week; Per Employee

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS					
Class A	$ 7.30	.55	.35		.04
Class B	7.40	.55	.35		.04
Class C	7.70	.55	.35		.04
Class D	7.85	.55	.35		.04

LABORERS

CLASS A: General Construction Laborers

CLASS B: Chipping Rammers; Concrete Mixers; Green Cutting (air, electric or gas); Material Mixers (hand or machine; Motor driven buggies; Mortar Mixers; Sand Blasters; Tamping Machines; Vibrator operator; Laborers with concrete mixer to pour, including pour from trucks

CLASS C: Blasters; Buster Operators; Cement Gun Nozzleman; Drillers; Layers of all non-metallic pipe; Mixers

CLASS D: Underground Work, Tunnels and Shafts - muckers, caisson workers, miners, drillers, blasters.

DECISION NO. MI78-2011 — LC -ZONE II

LINE CONSTRUCTION: ZONE 11	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen; Heavy Equipment Operator	$10.12	.45	3%	a	.5%
Cable Splicer	10.54	.45	3%	a	.5%
Combination Digger Operator; Tractor Operator Groundman'					
1st 6 months	7.32	.45	3%	a	.5%
Over 6 months	7.91	.45	3%	a	.5%
Light Equipment Operator Groundman; Distribution Line Truck Driver Operator:					
1st 6 months	6.36	.45	3%	a	.5%
Over 6 months	6.94	.45	3%	a	.5%
Combination Winch Truck Driver Groundman:					
1st 6 months	5.79	.45	3%	a	.5%
Over 6 months	6.62	.45	3%	a	.5%
Combination Truck Driver Groundman	5.60	.45	3%	a	.5%

FOOTNOTE:

a. 7 paid Holiday; New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; and Christmas Day.

DECISION NO. MI78-2011 — MICH-7-PEO-1-2-SE-U

POWER EQUIPMENT OPERATORS: BUILDING, HEAVY & UNDERGROUND CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$ 8.72	.80	1.00	10%	.02
CLASS B	7.99	.90	1.00	10%	.02
CLASS C	7.46	.80	1.00	10%	.02
CLASS D	6.95	.80	1.00	10%	

CLASS A - Regular equipment operator, crane, dozer, front end loader, job mechanic
CLASS B - Air Track drill, boom truck, concrete mixers, fork truck, material hoist & tugger, pumps 6" or over, pumpcrete, belt crete, squeeze crete, sweeping machine trenoher, winches, well pointsa nd freeze systems
CLASS C - Air compressor, conveyor, concrete saw, farm tractor (without attachments) generatOR, guard post driver, mulching pumps under 6" welders
CLASS D - Oiler, fireman, heater operator

POWER EQUIPMENT OPERATORS: STEEL ERECTION					
CLASS 1 - Operator	$ 8.95	.80	1.00	10%	.02
CLASS 2 - Compressor o& Welder	7.95	.80	1.00	10%	.02
CLASS 3 - Oiler & Fireman	7.05	.80	1.00	10%	

SUPERSEDEAS DECISION

STATE: Michigan — COUNTY: Marquette
DECISION NO.: MI78-2012 — DATE: Date of Publication
Supersedes Decision No. MI77-2052, dated May 13, 1977 in 42 FR 24618
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.06	.60	.50		.05
BOILERMAKERS	11.07	1.10	1.20	1.50	.03
BRICKLAYERS & STONEMASONS	8.03	.65	.50		.01
CARPENTERS & SOFT FLOOR LAYERS	9.24	.60	.60		.01
CEMENT MASONS	7.53	.65	.50		.01
ELECTRICIANS	7.60	.45	3%		.1of1%
ELEVATOR CONSTRUCTORS:					
Constructors	10.765	.745	.56	a+b	.025
Helpers	70%JR	.745	.56	a+b	.025
Helpers (Prob.)	50%JR				
IRONWORKERS	9.50	.50	1.00	1.00	.04
LABORERS:					
Laborers	7.30	.55	.35		.04
Chipping Hammers; Concrete Mixers, Green Cutter (Air, Electric or Gas), Material Mixers, Mortar Mixers, Mortor driven buggy operator, sand-blasters, Tamping machines, vibrstor operators	7.40	.55	.35		.04
LATHERS	8.85	.54	.10	.50	.01
MILLWRIGHTS	10.19	.60	.60		.01
PAINTERS:					
Brush & Glaziers	8.75				
PLASTERERS	7.98	.65	.50		.01
PLUMBERS & STEAMFITTERS	9.43	.70	.70	1.00	.02
ROOFERS	9.15		.50		
SHEET METAL WORKERS	10.08	.75+.08	.65		.04
SPRINKLER FITTERS	11.65	.65	.95		.08
TILE-MARBLE & TERRAZZO WORKERS	7.72	.65	.50		.01
TILESETTERS' FINISHERS	7.18	.45	.35		.01
TRUCK DRIVERS:					
Regular	7.72	22.00c	16.00c		
Heavy Duty, double axle and semi	8.08	22.00c	16.00c		
Euclid type equipment	8.08	22.00c	16.00c		

DECISION NO. MI78-2012

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators Regular Equipment Operator Crane, Dozer, Front End Loaders Job Mechanic Air Track Drill, Boom Truck Concrete Mixers, Fork Truck, Material Hoist and Tugger, Pump, 6" andover, Pumporete, Belt Crete, Squeese crete, Sweeping Machine, trencher, Winches, Well points and Greese Systems	8.72	.80	1.00	10%	.02
Welders - receive rate prescribed for craft performing operation to which welding is incidental.	7.89	.80	1.00	10%	.02

PAID HOLIDAYS: (WHERE APPLICABLE)

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Day after Thanksgiving Day & Christmas Day.

FOOTNOTES:

a. Six paid holidays: A through G

b. Employer contributes 8% of regular hourly rate to vacation credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

c. Per week, Per employee

SUPERSEDEAS DECISION

STATE: Michigan COUNTIES: See Below
DECISION NO. MI78-2013 DATE: Date of Publication
Supersedes Decision No: MI77-2053, dated May 6, 1977 in 42 FR 23377
DESCRIPTION OF WORK: Building (Does not include single family homes and garden type apartments up to and including four stories) and Heavy (excluding, Bridge, Airport and Sewer) Construction

COUNTIES: Allegan, Berrien Calhoun, Clinton, Eaton, Ingham, Jackson & Kalamazoo

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Berrien County	$12.12	.50	.75		
Remaining Counties	11.11	.84	1.48		.02
BOILERMAKERS	11.07	1.10	1.20	1.50	.03
BRICKLAYERS & STONEMASONS:					
Allegan County (Casco, Clyde Ganges and Lee Townships) and Berrien County	9.95	.95	.60		
Allegan County (Allegan, Cheshire, Gun Plain, Martin, Otsego, Trowbridge, Valley, and Watson Townships) and Kalamazoo County	10.40	.60	.35		.09
Allegan County (Remainder)	9.10	.55	.25		.04
Calhoun County and Bellevue, Carmel, Kalamo, and Walton Townships in Eaton County	10.50	.85	.35		
Clinton and Ingham (except Onondaga, Leslie, Bunker Hill and Stockbridge Townships) Counties and the remainder of Eaton County	10.85		.80		.01
Jackson County and remainder of Ingham County	11.62	.70	.55		
CARPENTERS:					
Berrien County (Chickaming, New Buffalo and Three Oaks Townships)	12.03	.50	.57		.05
Clinton, Eaton (except Bellevue, Walton, Kalamo and Vermontville Townships), Ingham & Jackson Counties	10.61	.60	.50		.01
Remaining Counties and the remainder of Berrien and Eaton Counties	9.80	.60	.60		.01

DECISION NO. MI78-2013

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS:					
Kalamazoo County; Calhoun Co; Allegan Co., (Twps of Allegan, Cheshire, Gunn Plain, Martin, Otsego, Trowbridge, Valley & Watson)	$ 9.78	.50	.50		.02
Allegan County (Casco, Ganges & Lee Townships) and Berrien County	9.15	.95	.60		
Remainder of Allegan County	8.70	.50	.50		.02
Remainder of Counties	9.78	.50	.50		.02
ELECTRICIANS:					
Allegan County (Laketon, Fillmore, Leighton Townships	10.25	.40	3%+.35		.01
Allegan County (Remainder) and Kalamazoo County	11.30	.40	9½%		.01
Berrien County	11.25	4.8%	7%		.2%
Calhoun County and Sunfeild, Vermontville, Kalamo, Bellevue Eaton and Brookfield townships in Eaton County	11.42	.40	9%		.01
Clinton and Ingham (except Onondaga, Leslie, Stockbridge and Bunker Hill Townships) Counties and the remainder of Eaton County	12.05	.40	3%+.75		.5%
Jackson County and remainder of Ingham County	11.01	.40	3%		
ELEVATOR CONSTRUCTORS:					
Allegan, Kalamazoo, and Calhoun Counties:					
Constructor	10.81	.745	.56	a	.025
Helper	70%JR	.745	.56	a	.025
Helper (Prob.)	50%JR				
Berrien County:					
Constructor	10.83	.745	.56	a	.025
Helper	70%JR	.745	.56	a	.025
Helper (Prob.)	50%JR				.025

DECISION NO. MI78-2013

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS (CONT'D)					
Eaton, Ingham & Jackson Counties:					
Constructor	$12.41	.745	.56	a	.025
Helper	70%JR	.745	.56	a	.025
Helper (Prob.)	50%JR				
IRONWORKERS:					
Berrien County	10.55	.90	1.33		.03
Clinton, Ingham & Jackson Cos.					
Structural & Ornamental	11.18	8%	14%	17%	.09
Fence Erectors	10.18	8%	14%	17%	.09
Reinforcing	10.10	.98+.25	15%	15%	.07
Remaining Counties	10.70	.60	1.00		.08
LATHERS:					
All Counties except Berrien	8.85	.64	.10	.50	.01
MARBLE, TILE & TERRAZZO					
Allegan Co. (Gun Plain Otsego, Trowbridge Valley, Allegan, Cheshire, Martin and Watson Townships) and Kalamazoo County	8.85	.60			.05
Remainder of Allegan Co.	8.35	.45	.25		
Clinton, Ingham (except Onondaga, Leslie, Bunker Hill, and Stockbridge townships) and Eaton (except Kalamo, Carmel, Bellevue, and Walton Townships) Counties	10.03		.80		
Calhoun Co. & Bellevue, Carmel, Kalamo & Walton Twps. in Eaton County	10.50	.85	.35		
Jackson County and the Remaninder of Ingham County					
Tile & Terrazzo Workers	10.90	.70	.55		
Marble Setters	11.62	.70	.55		
PAINTERS:					
Allegan Co. (Northern portion)					
Brush	8.05	.50	.25		.02
Paper hanging, Spray, Sandblasting, & Steamcleaning	8.55	.50	.25		.02

DECISION NO. MI78-2013

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D)					
Allegan County (S.E.¼) and Kalamazoo County					
Brush; Drywall Taping; Pan Roller	$ 9.45		.30		
Swing Stage; Structural Steel	10.10		.30		
Spray	10.35		.30		
Berrien County					
Brush	9.40				
Spray & Sandblasting; Drywall Taping	10.15				
Structural Steel	10.40				
Calhoun County					
Brush; Roller	8.30	.25			
Clinton, Eaton & Ingham Counties					
Brush and Tapers	10.87	.42	.40		.005
Structural Steel	11.27	.42	.40		.005
Spray & Sandblasting	11.62	.42	.40		.005
Jackson County					
Brush and Roller	11.02	.63	.20		.02
Spray and Sandblasters	11.77	.83	.20		.02
Drywall Taper	11.42	.63	.20		.02
PLASTERERS:					
Allegan County (Casco, Clyde, Ganges and Lee Townships) and Berrien County	9.35	.95	.60		
Remainder of Allegan County	8.83	.40	.25		.03
Remainder Counties	9.78	.50	.50		
PLUMBERS:					
Allegan County (Northern Tier Townships)	11.24	.60+.15	.75		.05
Allegan County (Remainder) and Kalamazoo County	11.71	.60	.86		

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PLUMBERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Berrien County (except city of Niles and vicinity)	$11.46	.84	.60		
City of Niles and Vicinity in Berrien County	11.25	.48	.80		.10
Calhoun County and Bellevue, Olivet, Hastings and Charlotte in Eaton County	11.19	1.30	.63		
Clinton and Ingham Counties and Sunfeild, Roxand, Oneida, Delta and Windsor townships in Eaton County	11.90	.60	.70		
Jackson County	11.20	.87+.30	.80		.02
ROOFERS:					
Jackson County					
Composition	10.50	.85	.50	1.05	.10
Slate & Tile	11.25	.85	.50	1.05	.10
Allegan County					
Built-Up	7.25	.45	.35	.35	
Slate, Tile & Asbestos	7.50	.45	.35	.35	
Calhoun and Kalamazoo Counties:					
Composition	9.60			.25	
Slate, Tile & Asbestos	9.85			.25	
Clinton, Eaton and Ingham Cos.	8.35			.30	
SHEET METAL WORKERS:					
Berrien County	10.08	.65	.50		
Remaining Counties	9.98	.85	1.08	.68	.04
SOFT FLOOR LAYERS:					
Allegan, Berrien (except Chicksming, New Buffalo and Three Oaks townships), Calhoun, Kalamazoo Counties and Bellevue, Vermontville, Kalmo and Walton townships in Eaton County	8.40	.60	.60		.01
Clinton and Ingham Counties and the remainder of Eaton County	9.38	.60	.50		.01
Jackson County	10.61	.60	.50		.01
Chicksming, 3 Oaks & New Buffalo Twps. in Berrien Co.	12.03	.50	.57		.05

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DECISION NO. MI78-2013

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS	$11.92	.65	.95		.08
TRUCK DRIVERS:					
Allegan, Berrien and Kalamazoo Counties:					
8 cu yds. & under	7.99	b20.00	b17.00		
8 cu yds. & over	8.5	b20.00	b17.00		
Low Boys Semis	8.26	b20.00	b17.00		
Calhoun County					
Less than 8 cu. yds.	7.95	b21.00	b12.00	.20	
8 cu. yds. and over; Semi Tandem	8.05	b21.00	b12.00	.20	
Clinton, Eaton and Ingham Cos.					
8 cu yds. & under	7.63	b24.00	b22.00	c	
Truck Drivers on dump trucks 8 cu. yds. Capacity and over pole trailers	7.73	b24.00	b22.00	c	
Low boys drivers; Double bottom drivers	7.83	b24.00	b22.00	c	
Jackson County	5.95	b24.00	b22.00		
Welders receive rate prescribed for craft performing operation to which welding is incidental.					

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DECISION NO. MI78-2013

PAID HOLIDAYS (WHERE APPLICABLE)

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Day after Thanksgiving; G-Christmas Day

FOOTNOTES:

a. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years. 6% contribution for more than 5 years, plus 7 paid holidays - A through G

b. Per week, Per employee

c. One year's service, one week vacation; 3 years service, two weeks vacation

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DECISION NO. MI78-2013

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Allegan, Berrien, Calhoun and Kalamazoo Counties					
Group 1	$ 7.05	.55	.35	.55	.04
Group 2	7.20	.55	.35	.55	.04
Group 3	7.30	.55	.35	.55	.04
Group 4	7.17	.55	.35	.55	.04
Group 5	7.27	.55	.35	.55	.04
Group 6	7.37	.55	.35	.55	.04
Clinton, Eaton and Ingham Counties					
Group 1	7.60	.55	.35	.55	.04
Group 2	7.68	.55	.35	.55	.04
Group 3	7.74	.55	.35	.55	.04
Group 4	7.89	.55	.35	.55	.04
Group 5	7.84	.55	.35	.55	.04
Group 6	7.96	.55	.35	.55	.04
Group 7	8.215	.55	.35	.55	.04
Jackson County					
Group 1	7.43	.55	.35	.80	.04
Group 2	7.93	.55	.35	.80	.04

LABORERS:

Allegan, Berrien, Calhoun and Kalamazoo Counties

Group 1: All construction laborers on building and Heavy Construction not specified in Group 2 through 7 below

Group 2: Plasterer Tenders, Material Mixers, Operators of Portable Mixers; Air, Electric or Gasoline Tools; Motor Driven Buggies; Swing Scaffolds

Group 3: Jackhammer Operators

Group 4: Signal men

Group 5: Windlass Operator

Group 6: Crock Layers (or pipe layers), caisson work

Group 7: Top men on chimneys or towers over 30' in height

Clinton, Eaton and Ingham Counties

Group 1: Building Laborers

Group 2: Mortar Mixers, hand or machine

Group 3: Plasterer Tenders; Portable concrete mixer operator (14 and under); Air, Electric or Gasoline Tools; Tar Kettle tenders; Gasoline vibrators; Concrete gas buggies; Concrete saw; Signal men and top men

Group 4: Tunnel men; Concrete shovelers; Car pushers, etc.

Group 5: Windlass Operator (on caisson work)

Group 6: Crock layers (or pipe layers); Caisson workers; Tunnel muckers

Group 7: Tunnel Miners

Jackson County

Group 1: General Laborer

Group 2: Jackhammer and Acetylene Torch

DECISION NO. MI78-2013

LC ZONE I

LINE CONSTRUCTION WILLIAMSTON, LOCKE, LEROY, WHEATFIELD & WHITE OAK TOWN SHIPS IN INGHAM COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen - Technician	$12.59	1.20	9%		½%
Cable Splicer	13.14	1.20	9%		½%
Combination Equipment Operator & Groundman	10.11	1.20	9%		½%
Groundman	8.77	1.20	9%		½%

LC -ZONE II

LINE CONSTRUCTION: ZONE II REMAINING COS: & THE REMAINDER OF INGHAM CO.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen; Heavy Equipment operator	$10.12	.45	3%	a	.5%
Cable Splicer	10.54	.45	3%	a	.5%
Combination Digger operator; Tractor operator Groundman'					
1st 6 months	7.32	.45	3%	a	.5%
Over 6 months	7.91	.45	3%	a	.5%
Light Equipment operator Groundman; Distribution Line Truck Driver Operator:					
1st 6 months	6.36	.45	3%	a	.5%
Over 6 months	6.94	.45	3%	a	.5%
Combination Winch Truck Driver Groundman:					
1st 6 months	5.79	.45	3%	a	.5%
Over 6 months	6.62	.45	3%	a	.5%
Combination Truck Driver Groundman	5.60	.45	3%	a	.5%

FOOTNOTE:
a. 7 paid Holiday; New Year's Day; Memorial Day; Independence Day; Labor Day; Thandsgiving Day; Day after Thanksgiving Day; and Christmas Day.

DECISION NO. MI78-2013 MICH-3-PEO-1-2

POWER EQUIPMENT OPERATORS: BUILDING & HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.90	.80	1.00	10%	.05
CLASS B	11.65	.80	1.00	10%	.05
CLASS C	11.40	.80	1.00	10%	.05
CLASS D	10.85	.80	1.00	10%	.05
CLASS E	10.65	.80	1.00	10%	.05
CLASS F	9.45	.80	1.00	10%	.05
CLASS G	8.75	.80	1.00	10%	

CLASS A - Crane with main boom & jib 220' or longer

CLASS B - Crane with main boom & jib 140' or longer, tower cranes, gantry cranes, whirley derrick

CLASS C - Regular equipment operator, cranes, stiff leg derrick, scraper, dozer, grader, front end loader, hoist, job mechanic & head grease man

CLASS D - Air Tugger (single drum), Material Hoist, Boiler Oprs., Sweeping Machine, winch Truck, Bob Cat & Similar type equipment, Fork Truck (over 20' lift)

CLASS E - Pump 6" or over, Well Points, Freese systems, Boom truck (non Swinging) Fork Truck (20' Lift)

CLASS F - Air Compressor, Welder, Generators, Pumps under 6", Grease Man, Conveyors

CLASS G - Oiler, Firemen & Heater Operator

DECISION NO. MI78-2013 MICH-2-PEO-SE

POWER EQUIPMENT OPERATORS: STEEL ERECTION CLINTON, INGHAM & JACKSON COS.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.57	.55	.75	10%	.05
CLASS B	11.93	.55	.75	10%	.05
CLASS C	10.85	.55	.75	10%	.05
CLASS D	10.70	.55	.75	10%	.05
CLASS E	9.61	.55	.75	10%	.05
CLASS F	8.65	.55	.75	10%	

CLASS A - Engineer when operation combination of boom jib 220' or longer
CLASS B - Engineer when operating combination of boom & jib 140' or longer Tower crane & derrick operator (where opeators work stations is 501 Or more above first sub level
CLASS C - Crane operator job mechanic
CLASS D - Hoisting operator
CLASS E - Compressor (or welder) operator
CLASS F - Oiler or fireman

MICH-6-PEO-SE

POWER EQUIPMENT OPERATORS: STEEL ERECTION REMAINING COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.40	.55	.75	10%	.05
CLASS B	11.15	.55	.75	10%	.05
CLASS C	10.90	.55	.75	10%	.05
CLASS D	10.55	.55	.75	10%	.05
CLASS E	9.30	.55	.75	10%	.05
CLASS F	8.25	.55	.75	10%	

CLASS A - Crane operator w/main boom & jib 220' or longer
CLASS B - Crane operator w/main boom & jib 140' or longer; power cranes, gantry crane; whirley derrick
CLASS C - Regular equipment operator; crane; dozer; loader; hoist, straddle wagon, Job mechanic
CLASS D - Air tugger (single drum); material hoist, pump 6' or over
CLASS E - Air compressor, welder, generators-conveyors
CLASS F - Oiler & Fireman

DECISION NO. MI78-2013 MICH-8-PEO-U

POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION CALHOUN, CLINTON, EATON, INGHAM & JACKSON COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$10.61	.80	1.00	10%	.05
CLASS II	10.49	.80	1.00	10%	.05
CLASS III	9.83	.80	1.00	10%	.05
CLASS IV	9.31	.80	1.00	10%	.05

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8' digging capacity), mechanic, endloader (over 1½ cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip fom paver slope paver, conveyor loader (euclid type)
CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck (power sing type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher
CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min. or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck(non-swinging, non powered type boom), welding machine or generstor (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ dy or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - includes compressor)
CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishng machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H.P. or over)

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DECISION NO. MI78-2013

POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION REMAINING COUNTIES	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$ 9.24	.80	1.00	10%	.05
CLASS II	8.98	.80	1.00	10%	.05
CLASS III	8.52	.80	1.00	10%	.05
CLASS IV	8.27	.80	1.00	10%	.05

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8' digging capacity), mechanic, endloader (over 1½ cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip fom paver slope paver, conveyor loader (euclid type)

CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck (power sing type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher

CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min. or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck(non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ dy or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - includes compressor)

CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishng machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H.P. or over)

STATE: Michigan — COUNTIES: See Below
DECISION NO.: MI78-2014 — DATE: Date of Publication
Supersedes Decision No. MI77-2054, dated May 6, 1977 in 42 FR 23384
DESCRIPTION OF WORK: Building (Does not include single family homes and garden type apartments up to and including 4 stories) and Heavy (excluding Bridge, Airport and Sewer) Construction.

COUNTIES: Bay, Genesee, Huron, Iosco, Lapeer, Saginaw, St. Clair, Sanilac, Shiawassee & Tuscola

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
St. Clair County	$ 12.15	1.35	1.39		
Remainder of Counties	11.11	.84	1.48		.02
BOILERMAKERS	11.07	1.10	1.20	1.50	.03
BRICKLAYERS:					
Genesee, Lapeer & Shiawassee Cos.					
Bricklayers & Stonemasons	11.05	.60	1.00		
Marble-Tile-Terrazzo Workers	10.39	.50	1.00		
St. Clair & Sanilac Counties					
Bricklayers & Stonemasons	11.66	1.05	.72		
Marble Setters	12.12	.60	1.00		
Terrazzo Workers	11.29	.60	1.00		
Tile Setters	11.68	.60	1.00		
Remainder of Counties					
Bricklayers & Stonemasons	10.27	.85	.50		
Marble-Tile-Terrazzo Workers	10.50				
CARPENTERS:					
Sanilac (Except the West 5 Miles & St. Clair Counties:					
Carpenters & Piledrivermen	11.11	.75	10%	11%	.04
Soft Floor Layers	10.00	.86	7%	8%	.03
Remainder of Counties & the West 5 Miles of Sanilac County:					
Carpenters & Piledrivermen	10.25	.60	.60		.01
Soft Floor Layers	9.38	.60	.60		.01
CEMENT MASONS:					
St. Clair & Sanilac Counties	10.89	1.05	.72		
Lapeer County	9.80	.50	1.00		
Genesee & Shiawassee Counties	9.90	.48	.45		.02
Remainder of Counties					
Cement Masonry on sidewalks, curbs & gutters not related to highway, road and street construction	9.57	.85	.50		

DECISION NO. MI78-2014

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Iosco County; Northern ½ of Co.:					
Contracts over $30,000	11.10	.40	3%+.30		1/10of1%
Contracts under $30,000	9.35	.40	3%+.30		1/10of1%
Bay Co; & Southern ½ of Iosco Co.	12.45	.40	3%+.30		½ of 1%
Genesee, Lapeer & Shiawassee Cos.	11.70	.40	3%+1.00		½%
Saginaw & Tuscola Counties	12.15		3%+1.00		½
Remainder of Counties	12.00	1.95	3%+1.06		.03
ELEVATOR CONSTRUCTORS:					
St. Clair County:					
Constructors	12.475	.745	.56	a	.025
Helpers	70%JR	.745	.56	a	.025
Helpers (Prob.)	50%JR				
Remainder of Counties:					
Constructors	11.21	.745	.56	a	.025
Helpers	70%JR	.745	.56	a	.025
Helpers (Prob.)	50%JR				
GLAZIERS:					
Genesee, Lapeer & Shiawassee Cos.	9.64	.55	.70		.02
St. Clair County	9.77	.55	.65		
Bay, Huron, Iosco, Tuscola & Saginaw Cos.	8.75		.50	.25	.01
IRONWORKERS:					
Structural & Ornamental	11.18	8%	15%	17%	.09
Reinforcing	10.10	.98+.25	15%	15%	.07
Fence Erectors	10.18	8%	14%	17%	.09
LABORERS:					
Iosco County; Unksilled	6.55	.55	.35		.04
Motar & Plaster Mixers, Sewer & Caisson Workers, Plasterer Tenders, Non-Metallic Pipe-Layers	6.70	.55	.35		.04
Cement Gun Nozzlemen, Blasters, Miners & rock Drillers	7.15	.55	.35		.04

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	8.85	.64	.10	.50	.01
PAINTERS:					
Bay Iosco Cos., Huron (West of M-53) Cos., & the Townships of Akron, Almer, Columbia, Elkland, Ellington, Elmwood, Fairgrove, Gilford, Novesta, & Wisner in Tuscola County:					
Commercial	8.85	.50	.80		.02
Industiral	9.45	.50	.80		.02
Spray	9.70	.50	.80		.02
Saginaw Co., & the Remainder of Tuscola County:					
Brush	9.95		.35		.02
Spray	10.70		.35		.02
Genesee, Lapeer, & Shiawassee Cos.	9.40	.50	.60		
Western ½ of Shiawassee County	10.87	.42	.40		.005
Huron, St. Clair & Sanilac Cos.:					
Commercial & Industrial Brush	11.47	.50	.50		.01
Open Steel & Spray	11.97	.50	.50		.01
PLASTERERS:					
Lapeer County	10.05	.50	1.00		
Bay, Huron, Iosco, Saginaw & Tuscola Counties	10.57	.85			
Genesee & Shiawassee Cos.	9.78	.50	.50		.02
St. clair & Sanilac Counties	11.14	1.05	.72		
PLUMBERS AND STEAMFITTERS:					
Bay Iosco., N. ½ of Tuscola & the NW ½ of Huron (running from Port Autin south to Sanilac County line)	10.74	.75	.50	1.60	
Genesee, Lapeer & Shiawassee Cos	11.47	1.00	1.10		.02
Saginaw & S. ½ of Tuscola (including Carco, Washjamerga and South of the Lapeer County line Counties	10.33	.79	1.02		.01
Remainder of Huron County; St. Clair & Sanilac Counties	10.75	.25	1.30	1.52	.07

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Bay, Iosco, Saginaw, & Tuscola Cos.	10.75	.85	.60		.02
Genesee, Lapeer & Shiawassee Cos					
Composition	11.45	.60	.60		
Slate & tile	11.80	.60	.60		
St. Clair, Sanilac & Huron Cos.	7.70				
SHEET METAL WORKERS:					
Bay, Iosco, Huron, Saginaw & Tuscola Counties	11.11	.65	1.00		.02
Genesee, Lapeer & Shiawassee Cos.	9.89	.69	1.10	1.00	
St. Clair & Sanilac Counties	b0.550	1.66	1.52	1.16	.11
SPRINKLER FITTERS	11.92	.65	.95		.08
TRUCK DRIVERS:					
Bay, Iosco, Saginaw & Tuscola					
Under 8 cubic yards	7.57	b24.00	b22.00	.26	
8 cubic yards & over	7.67	b24.00	b22.00	.26	
Euclid T pe Equipment	7.87	b24.00	b22.00	.26	
Genessee, Lapeer & Shiawassee	8.45	b24.00	b22.00		
Huron, St. Clair & Sanilac					
Pole Trailers, Low Boys Straddle Carriers, Double Bottoms & Special Load Permit Drivers	9.90	b24.00	b28.00		
Semi Drivers	9.80	b24.00	b28.00		
All Other Truck Drivers	9.65	b24.00	b28.00		
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:

a. 7 paid holidays - New Year's Day - Memorial Day - Independence Day; Labor Day; Thanksgiving Day - Day after Thanksgiving Day and Christmas Day plus employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years and 6% for employees in business less than 5 years.

b. Per Week; Per Employee

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Bay, Huron, Saginaw & Tuscola Counties					
CLASS A	$8.04	.55	.35		.04
CLASS B	8.16	.55	.35		.04
CLASS C	8.24	.55	.35		.04
CLASS D	8.81	.55	.35		.04
Genesee, Lapeer & Shiawassee Cos:					
CLASS A	8.39	.55	.55		.04
CLASS B	8.49	.55	.55		.04
CLASS C	8.59	.55	.55		.04
CLASS D	8.69	.55	.55		.04
CLASS E	8.94	.55	.55		.04
St. Clair & Sanilac Counties:					
GROUP 1	9.64	.55	.35		.04
GROUP 2	9.76	.55	.35		.04
GROUP 3	9.78	.55	.35		.04
GROUP 4	9.81	.55	.35		.04
GROUP 5	9.99	.55	.35		.04
GROUP 6	9.89	.55	.35		.04
GROUP 7	9.93	.55	.35		.04

LABORERS:
Bay, Huron, Saginaw & Tuscola Counties
CLASS A - all Construction Laborers on Building & Heavy Construction not specified in Classes, B,C, & D, below; Also includes pumps with a 3" or less discharge and not hooked up in a batteray; Mechanized Buggy Operator and Motar Mixer when done by hand.
CLASS B - Mechanized Morter Mixers; Air, electric and gas driven tools; Vibrators
CLASS C - Air or Electric driven pavement Breakers; Plasterers Tenders; Plaster Mixers; Crock and/or Pipelayers; Signal Men & Top Man; Windless and Tugger Operator; Caisson Worker
CLASS D - Drillers & Plasters; Burners

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LABORERS (CONT'D)

Genesee, Lapeer & Shiawassee Counties

CLASS A - Construction Laborers not specified in Classes B & E below

CLASS B - Mortar Mixer (includes concrete mixer ½ cu. yds. or smaller); Signal Men & Top Men (on caisson work; Air, Gasoline or Electric Tool Operators.

CLASS C - Jackhammer & Air Spade; Tunnel Manl Windlass Operators (on caisson work); Burner

CLASS D - Crock or Pipe Layers; Conduit and any Vertified Tile except 4" drain tile around Building; Caisson Workers & Tunnel Muckers

CLASS E - T nnel Miners.

St. Clair & Sanilac Counties

GROUP 1 - General Laborers; Mason Tenders; all Demolition Laborers

GROUP 2 - Morter Mixers (Hand or Machine)

GROUP 3 - Signal men & top men on caisson construction

GROUP 4 - Concrete Gas Buggies; Concrete Saw Operators, Plasterers Tenders

GROUP 5 - Crock or Pipelayers - caisson workers and muckers

GROUP 6 - Air Electric or Gas tool operator

GROUP 7 - Tuonel men, concrete shoulders and car pushers

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LINE CONSTRUCTION HURON, LAPEER, ST. CLAIR, SANILAC & TUSCOLA COUNTIES	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen - Technician	12.59	1.20	9%		½%
Cable Splicer	13.14	1.20	9%		½%
Combination equipment Operator & Groundman	10.11	1.20	9%		½%
Combination Driver-Groundman	9.52	1.20	9%		½%
Groundman	8.77	1.20	9%		½%

LC-ZONE II

LINE CONSTRUCTION: ZONE II BAY, IOSCO, GENESEE, SAGINAW & SHIAWASSEE COUNTIES	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen; Heavy Equipment operator	10.12	.45	3%	a	.5%
Cable Splicer	10.54	.45	3%	a	.5%
Combination Digger operator; Tractor operator Groundman:					
1st 6 months	7.32	.45	3%	a	.5%
Over 6 months	7.91	.45	3%	a	.5%
Light Equipment operator Groundman; Distribution Line Truck Driver Operator:					
1st 6 months	6.36	.45	3%	a	.5%
Over 6 months	6.94	.45	3%	a	.5%
Combination winch Truck Driver Groundman:					
1st 6 months	5.79	.45	3%	a	.5%
Over 6 months	6.62	.45	3%	a	.5%
Combination Truck Driver Groundman	5.60	.45	3%	a	.5%

Footnote: a-7 Paid Holidays; New Years Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving; and Christmas Day.

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MICH-1-PEO-1-2

POWER EQUIPMENT OPERATORS: BUILDING & HEAVY CONSTRUCTION — ST. CLAIR COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	12.04	.80	1.00	10%	.05
CLASS B	11.81	.80	1.00	10%	.05
CLASS C	11.58	.80	1.00	10%	05
CLASS D	11.20	.80	1.00	10%	.05
CLASS E	10.05	.80	1.00	10%	.05
CLASS F	9.16	.80	1.00	10%	

CLASS A - Crane with boom & job or leads 220' or longer
CLASS B - Crane with boom and jib or leads 140' or longer
CLASS C - Regular crane operator
CLASS D - Regular Engineer
CLASS E - Engineer when operating Compressor (or welding machine)
CLASS F - Fireman or oiler

MICH -2-PEO-SE

POWER EQUIPMENT OPERATORS: STEEL ERECTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	11.57	.55	.75	10%	.05
CLASS B	11.33	.55	.75	10%	.05
CLASS C	10.85	.55	.75	10%	.05
CLASS D	10.70	.55	.75	10%	.05
CLASS E	9.61	.55	.75	10%	.05
CLASS F	8.65	.55	.75	10%	

CLASS A - Engineer when operating combination of boom jib 220' or longer
CLASS B - Engineer when operating combination of boom jib 140' or longer Tower crane & derrick operator (where operators work stations is 501 or more above first sub level
CLASS C - Crane operator job mechanic
CLASS D - Hoisting operator
CLASS E - Compressor (or welder) operator
CLASS F - Oiler or fireman

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MICH-1-PEO-1-2

POWER EQUIPMENT OPERATORS: BUILDING & HEAVY CONSTRUCTION — REMAINDER OF COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	11.90	.80	1.00	10%	.05
CLASS B	11.65	.80	1.00	10%	.05
CLASS C	11.40	.80	1.00	10%	.05
CLASS D	10.85	.80	1.00	10%	.05
CLASS E	10.65	.80	1.00	10%	.05
CLASS F	9.45	.80	1.00	10%	.05
CLASS G	8.75	.80	1.00	10%	.05

CLASS A - Crane with main boom & jib 220' or longer

CLASS B - Crane with main boom & jib 140' or longer, tower cranes, gantry cranes, whirley derrick

CLASS C - Regular equipment operator, cranes, stiff leg derrick, scraper, dozer, grader, front end loader, hoist, job mechanic & head grease man

CLASS D - Ait Tugger (single drum), Material Hoist, Boiler Oprs., Sweeping Machine,winch Truck, Bob Cat & Similar type equipment, Fork Truck (over 20' lift

CLASS E - Pump 6" or over, Well Points, Freese syatems, Boom truck (non Swinging Fork Truck (20' Lift)

CLASS F - Air Compressor, Welder, Generators, Pumps under 6", Grease Man, Conveyors

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POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION — IOSCO COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	9.24	.80	1.00	10%	.05
CLASS II	8.98	.80	1.00	10%	.05
CLASS III	8.52	.80	1.00	10%	.05
CLASS IV	8.27	.80	1.00	10%	.05

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8' digging capacity), mechanic, endloader (over 1½ cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip form paver slope, paver, conveyor loader (euclid type)
CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharve or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist boom truck (power single type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher
CLASS III - Air compressor (2 or more - less than 600 CFM, air compressors 600 cu. ft. per min. or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discherge - gas or diesel powerad - excluding submersible pumps), concrete paver (1 drum ½ yd. or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propleeed or truck mounted - includes compressor)
CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hours or more a day gas or diesel powreed - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H.P. or over)

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POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION — REMAINDER OF COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	10.61	.80	1.00	10%	.05
CLASS II	10.49	.80	1.00	10%	.05
CLASS III	9.83	.80	1.00	10%	.05
CLASS IV	9.31	.80	1.00	10%	.05

CLASS I - Power shove, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8' digging capacity), mechanic, endloader (over 1½ cu. yd. cap.), grader, acraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip form paver, conveyor loader (euclid type)
CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck power single type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher
CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min. or larger), pumpcrete machine (and similar equipment), mechanic helpers, maintenance man, boom truck (non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ yd. or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - includes compressor)
CLASS IV - Hydraulic pipe pushing machine, pumps (2 ore more up to 4" discharge if used 3 hours or more a day gas or siesel powered - excluding submersible pumps), trencher (service), boiler, vibrtaing compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment, finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H. P. or over)

SUPERSEDEAS DECISION

STATE: Michigan
COUNTIES: Genesee, Lapeer, Saginaw, St. Clair & Shiawassee
DECISION NUMBER: MI78-2015
DATE: Date of Publication
Supersedes Decision Number MI77-2055, dated May 13, 1977 in 42 FR 24619
DESCRIPTION OF WORK: Residential Construction consisting of Single Family Homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
St. Clair County	$12.15	1.35	1.39		
Remainder of Counties	11.11	.84	1.48		.02
BOILERMAKERS	11.07	1.10	1.20	1.50	.03
BRICKLAYERS:					
Genesee, Lapeer & Shiawassee	11.05	.60	1.00		
Saginaw County	10.27	.85	.50		
St. Clair County	11.66	1.05	.72		
CARPENTERS:					
Saginaw County	7.27	.60	.50		.02
St. Clair County	11.11	.75	10%	11%	.04
Remainder of Counties	10.24	.60	.80		.01
CEMENT MASONS:					
Genesee & Shiawassee Counties	9.90	.48	.45		.02
Lapeer County	9.80	.50	1.00		
Saginaw County	9.57	.85	.50		
St. Clair County	10.89	1.05	.72		
ELECTRICIANS:					
Genesee, Lapeer & Shiawasee Cos.	7.28	.40	3%+.75		.02
Saginaw County	7.63		3%+.15		4%
St. Clair County	12.00	1.95	3%+1.06		.03
ELEVATOR CONSTRUCTORS:					
St. Clair County					
Constructors	12.475	.745	.56	a	.025
Helpers	70%JR	.745	.56	a	.025
Helpers (Prob.)	50%JR				
Remainder of Counties					
Constructors	11.21	.745	.56	a	.025
Helpers	70%JR	.745	.56	a	.025
Helpers (Prob.)	50%JR				
GLAZIERS:					
Genesee, Lapeer & Shiawassee Cs Coe.	9.64	.55	.70		.02
Saginaw County	8.75		.50	.25	.01
St. Clair County	9.77	.55	.65		
IRONWORKERS:					
Structural & Ornamental	11.18	8%	14%	17%	.09
Reinforcing	10.10	.98+.25	14%	15%	.07

DECISION NO. MI78-2015

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Saginaw County					
Laborers; Mortar Mixers (Hand)	8.04	.55	.35		.04
Plaster Mixers & Tenders	8.24	.55	.35		.04
Genesee, Lapeer & Shiawassee Coe.					
Laborers	8.39	.55	.55		.04
Air, Gas & Electric Tool Oprs	8.49	.55	.55		.04
Mortar Mixers	8.49	.55	.55		.04
Crock or Pipelayers	8.69	.55	.55		.04
St. Clair County					
Laborers; Mason Tenders	9.64	.55	.35		.04
Mortar Mixers	9.76	.55	.35		.04
Air, Gas & Electric Tool Oprs.	9.89	.55	.35		.04
Crock or Pipelayers	9.99	.55	.35		.04
LATHERS	8.85	.64	.10	.50	.01
MARBLE, TILE & TERRAZZO WORKERS:					
Genesee, Lapeer & Shiawassee Cos	10.39	.50	1.00		
Saginaw County	10.50				
St. Clair County:					
Marble Masons	12.12	.60	1.00		
Terrazzo Workers	11.29	.60	1.00		
Tile Setters	11.68	.60	1.00		
PAINTERS:					
Genesee & Eastern ½ of Counties: West of Hwy. #53 in Lapeer	9.40	.50	.60		
St. Clair Co; & East of Hwy. #53 in Lapeer County	11.47	.50	.50		.01
Saginaw County	9.93		.35		.02
Western ½ of Shiawassee County	10.35	.42	.40		.005
PLASTERERS:					
Saginaw County	10.57	.85			
Genesee & Shiawassee Counties	9.78	.50	.50		.02
Lapeer County	10.05	.50	1.00		
St. Clair County	11.14	1.05	.72		
PLUMBERS:					
Genesee, Lapeer & Shiawassee Coe.	11.47	1.00	1.10		.02
Saginaw County	10.33	.79	1.02		.01
St. Clair County	10.75	1.25	1.30	1.52	.07

DECISION NO. MI78-2015

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
St. Clair County					
Regular E gineer	10.52	.80	.85	10%	.05
Regular Crane Operator	10.82	.80	.85	10%	.05
Remainder of Counties					
Regular Equipment Operator; Scraper; Dozer; Grader, Front End Loader	11.40	.80	1.00	10%	.05
Bob Cat & Similar Type Equip.	10.85	.80	1.00	10%	.05
Air compressors; Generators	9.45	.80	1.00	10%	.05
ROOFERS:					
Genesee, Lapeer & Shiawassee Cos.	11.45	.60	.60		
St. Clair County	7.70	.85	.60		
SHEET METAL WORKERS:					
Genesee, Lapeer & Shiawassee Coe.	9.89	.6%	1.10	1.00	
Saginaw County	11.11	.65	1.00		.03
St. Clair County	10.550	1.66	1.52	1.16	.11
SOFT FLOOR LAYERS:					
St. Clair County	9.45	.75	7%	8%	.03
Remainder of County	9.38	.60	.60		.01
SPRINKLER FITTERS	11.92	.65	.95		.08
TRUCK DRIVERS:					
Genesee, Lapeer, & Shiawassee Coe.	8.45	b24.00	b22.00		
Saginaw County					
Truck drivers	7.57	b24.00	b22.00	.26	
8 Cubic yards & over	7.67	b24.00	b22.00	.26	
Euclid Type Equipment	7.87	b24.00	b22.00	.26	
St. Clair County					
Truck Drivers	9.65	b24.00	b28.00		
Semi Trucks	9.80	b24.00	b28.00		

FOOTNOTES:

a. 7 paid Holidays - New Year's Day - Memorial Day - Independence Day - Labor Day - Thanksgiving Day - Day after Thanksgiving - Christmas Day plus employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years and 6% for employees in business less than 5 years.

b. Per week; Per Employee

SUPERSEDEAS DECISION

STATE: Michigan
COUNTIES: *See below
DECISION NO.: MI78-2016
DATE: Date of Publication
Supersedes Decision No.: MI77-2127 dated September 2, 1977 in FR 44430
DESCRIPTION OF WORK: Building Construction (Including Residential) and Heavy (Excluding Bridge, Airport and Sewer) Construction.

*Counties: Macomb, Monroe, Oakland, Washtenaw, & Wayne

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:	$12.43	.50	1.20		.04
Monroe County					
Twps. of Bridgewater, Dexter, Freedom, Lima, Lydon, Manchester, Sharon & Sylvan in Washtenaw County	11.11	.84	1.48		.02
Remainder of Counties & the Remainder of Washtenaw County	12.15	1.35	1.39		.07
BOILERMAKERS:					
Monroe County	13.10	.70	1.00		.03
Remainder of Counties	11.07	1.10	1.20	1.50	.03
BRICKLAYERS & STONEMASONS:					
West of Hwy # 23 in Monroe Co.	10.54	.86	.55		.05
Washtenaw County	13.47		1.00		
Remainder of Counties & East of Hwy. # 23 in Monroe County	12.83	.80	8%+.10		.05
CARPENTERS & PILEDRIVERMEN					
Washtenaw County	11.14	.60	.50		.01
Remainder of Counties	11.11	.75	10%	11%	.04
CEMENT MASONS:					
South of Hwy. # 151 in Monroe County	13.34	.60			.02
Washtenaw County	13.27		1.00		
Remainder of Counties & North of Hwy. # 151 in Monroe County	11.71	.80	10%		.02
ELECTRICIANS:					
Washtenaw County	11.05	.50+4%	1%+.55	10%	2%
Monroe County:					
Building	13.00	.65	3%+.55		.1%
Residential	7.15	.65	3%+.55		.1%
Remainder of Counties:					
Building	12.00	1.95	3%+1.06		.03
Residential	12.00	1.95	3%+1.06		.03

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS:					
Monroe County:					
Constructors	$12.355	.745	.56	a	.025
Helpers	70%JR	.745	.56	a	.025
Helpers (prob.)	50%JR				
Washtenaw County					
Constructors	12.41	.745	.56	a	.025
Helpers	70%JR	.745	.56	a	.025
Helpers (prob.)	50%JR				
Remainder of Counties					
Constructors	12.475	.745	.56	a	.025
Helpers	70%JR	.745	.56	a	.025
Helpers (prob.)	50%JR				
GLAZIERS	$ 9.77	.55	.65		
IRONWORKERS:					
Monroe County	12.30	.93	1.11		.05
Remainder of Counties:					
Structural & Ornamental	11.18	8%	14%	17%	.09
Reinforcing	10.10	.98+.25	15%	15%	.07
Fence Erectors	10.18	8%	14%	17%	.09
Riggers & Machinery Erectors	10.00	1.10	1.71	16%	.02
LABORERS: (BUILDING, RESIDENTIAL & HEAVY)					
Monroe County:					
Construction Laborer & Carpenter helper	9.74	.55	.35	.55	.04
Mortar Mixer, Mason & Plaster Tender, Carpenter Helper, Cement Mason Helper, Tool Operator & Caisson Worker	9.94	.55	.35	.55	.04
LATHERS:					
S.W. Corner of Monroe County & Western Portion of Washtenaw Co.	8.85	.64	.10	.50	.01
Remainder of Counties: Eastern Portion of Washtenaw County & Remainder of Monroe County	10.92	.97+.35	.72		
MILLWRIGHTS:					
Washtenaw County	11.14	.60	.50		.01
Remainder of Counties	10.80	.96	11%	24%	.06

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE MASONS:					
Washtenaw County	$13.47		1.00		
Remainder of Counties:					
Marble Mason	12.12	.60	1.00		
Marble Mason Finishers	10.37	.85	.80		
PAINTERS:					
Washtenaw County					
Brush	11.02	.63	.20		.02
Spray	11.77	.63	.20		.02
Tapers	11.42	.63	.20		.02
Remainder of Counties					
Brush	10.70	.74	1.00	1.00	50.00 P/Y
Spray:					
to 40' height	11.20	.74	1.00	1.00	50.00 P/Y
Over 40' height	11.325	.74	1.00	1.00	50.00 P/Y
PLASTERERS:					
South of Hwy. # 151 in Monroe Co.	13.00	.60			.01
Washtenaw County	13.47		1.00		
Remainder of Counties & Remainder of Monroe County	12.25	.85	.75		
PLUMBERS & STEAMFITTERS:					
Monroe County	11.18	.75	.80	1.25	.12
Washtenaw County	10.86	.85+.15	.75		.10
Remainder of Counties:					
Plumbers	10.75	1.25	1.30	1.52	.07
Pipefitters	10.55	1.55	1.50	1.35	.05
ROOFERS:					
Monroe County	12.11	.93	.85		.02
Washtenaw County:					
Composition	10.50	.85	.50	1.05	.10
Slate	11.25	.85	.50	1.05	.10
Remainder of Cnties:					
Composition	10.81	.80	.80	1.00	
Slate	11.81	.80	.80	1.00	
SHEET METAL WORKERS:					
Monroe County	12.195	.93	1.15		.045
Remainder of Counties	10.550	1.66	1.52	1.16	.11

DECISION NO. MI78-2016

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SOFT FLOOR LAYERS:					
Washtenaw County	$11.14	.60	.50		.01
Remainder of Counties	10.00	.86	7%	8%	.03
SOUND & COMMUNICATION WORKERS:					
Wayne, Oakland & Macomb Cos:					
Electrical Technician	8.28	b1.60	b6.00		
Electrical Technician Jr.	6.86	b1.60	b6.00		
SPRINKLER FITTERS:					
Monroe County	11.92	.65	.95		.08
Remainder of Counties	12.185	.90	.90		.10
TILE & TERRAZZO WORKERS:					
Washtenaw County	13.47		1.00		
Remainder of Counties:					
Terrazzo Workers	11.29	.60	1.00		
Terrazzo Workers' Finishers	10.11	.60	.40	.65	
Tile Setters	11.68	.60	1.00		
Tile Setters' Finishers	9.27	.85	.80	.90	
TRUCK DRIVERS: Building & Heavy Construction:					
Pole Trailer; Low Boys; Straddle Carrier; Double Bottoms & special Load Permits	9.90	b24.00	b28.00		
Semi Drivers	9.80	b24.00	b28.00		
All Other Truck Drivers	9.65	b24.00	b28.00		
TRUCK DRIVERS: Underground Construction					
Truck Drivers (Except dump trucks of 8 cubic yards capacity or over, pole trailers, semis, low boys, Euclid, double bottom & Fuel trucks	9.08	b24.00	b28.00		
Truck Drivers on dump trucks 8 cubic yards capacity or over, Pole trailers, semis & fuel trucks	9.21	b24.00	b28.00		
Low boys, Euclid & double bottom driver	9.41	b24.00	b28.00		

FOONOTES: a. 7 Paid Holidays-New Years Day-Memorial Day-Independence Day-Labor Day Thandsgiving Day-Day after Thanksgiving-Christmas Day plus Employer contributes 8% or Regular Hourly Rate to Vacation Pay Credit for employee who has worked in business more than 5 years & 6% for employees in business less than 5 years.

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LABORERS BUILDING, RESIDENTIAL & HEAVY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Washtenaw County:					
GROUP 1	8.58	.55	.35	.75	.04
GROUP 2	8.79	.55	.35	.75	.04
GROUP 3	8.91	.55	.35	.75	.04
Wayne, Oakland & Macomb Cos:					
GROUP 1	8.93	.80	.80	.85	
GROUP 2	9.01	.80	.80	.85	
GROUP 3	9.11	.80	.80	.85	
GROUP 4	9.16	.80	.80	.85	
GROUP 5	9.18	.80	.80	.85	
GROUP 6	9.26	.80	.80	.85	
GROUP 7	9.31	.80	.80	.85	
GROUP 8	9.68	.80	.80	.85	

LABORERS: BUILDING, RESIDENTIAL & HEAVY

Washenaw County:

GROUP 1 - All Construction Laborers not specified below
GROUP 2 - Mortar mixers; Material Mixers (hand or machine) Air, Gas, Electric Tool Operators; Power Buggie Operators; Scaffold Building or Dismantler; Windlass Operators; Tar and Kettle Operators
GROUP 3 - Crock or Pipe Layers; Caisson Workers

Wayne, Oakland & Macomb Counties:

GROUP 1 - All Construction Laborers not specidied below
GROUP 2 - Mortar Mixers, Scaffold Builders
GROUP 3 - Signal Men, Air gas or electric tool operators, Windlass and Tugger operator, Jackahmmer and Vibrator Operator
GROUP 4 - Crock grade man
GROUP 5 - Furnace Battery Heater Helper
GROUP 6 - Crock and Pipe Layers
GROUP 7 - Caisson Workers
GROUP 8 - Lansing Burners, Blasters, Powderman

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LABORERS: OPEN CUT CONSTRUCTION WASHTENAW COUNTY	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	7.70	.55	.35	.55	.04
CLASS 2	7.78	.55	.35	.55	.04
CLASS 3	7.83	.55	.35	.55	.04
CLASS 4	7.88	.55	.35	.55	.04
CLASS 5	7.93	.55	.35	.55	.04
WAYNE, OAKLAND, & MACOMB COS:					
CLASS 1	8.36	.75	.60	.75	.04
CLASS 2	8.44	.75	.60	.75	.04
CLASS 3	8.49	.75	.60	.75	.04
CLASS 4	8.54	.75	.60	.75	.04
CLASS 5	8.59	.75	.60	.75	.04
MONROE COUNTY					
CLASS 1	7.70	.55	.35	.55	.04
CLASS 2	7.80	.55	.35	.55	.04
CLASS 3	7.90	.55	.35	.55	.04
CLASS 4	7.95	.55	.35	.55	.04
CLASS 5	8.05	.55	.35	.55	.04

CLASS 1 - Construction Laborer
CLASS 2 - Mortar, & Material Mixers, Concrete form man, Signal Man, Wheel Point, Man, Manhole, Headwall & catch Basin Building, Guard Rail Builders & fence Erectors.
CLASS 3 - Air, gasoline, Electric Tool Ops., Vibrator Op., Drillers, Pumpman Tar Kettle Oprs., bracers, rodder, Reinfroced Steel or Mesh (under 40 H.P.) Windlass & Tugger Man
CLASS 4 - Trench Excavating Grade Man
CLASS 5 - Pipelayer

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LABORERS: TUNNEL, SHAFT & CASSION CONSTRUCTION WASHTENAW & MONROE COUNTIES	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	8.33	.55	.35	.55	.04
CLASS 2	8.41	.55	.35	.55	.04
CLASS 3	8.45	.55	.35	.55	.04
CLASS 4	8.61	.55	.35	.55	.04
CLASS 5	8.81	.55	.35	.55	.04
CLASS 6	9.06	.55	.35	.55	.04
Wayne, Okaland & Macomb Cos:					
CLASS 1	8.36	.75	.60	.75	.04
CLASS 2	8.44	.75	.60	.75	.04
CLASS 3	8.94	.75	.60	.75	.04
CLASS 4	8.64	.75	.60	.75	.04
CLASS 5	8.84	.75	.60	.75	.04
CLASS 6	9.09	.75	.60	.75	.04

CLASS 1 - Tunnel, Shaft & cassion laborer, dump man, Shanty man, Hog house tender, Testing Man (on gas)
CLASS 2 - Manhole, Headwall catch basin builder, Bricklayers Tender, Mortar man, Material mixer, fence Erector & Guard rail Builder
CLASS 3 - Air Tool operator (Jackhammer man, Brush Hammer man & Grinding Man) First Bottom man, Second bottom man, Cage Tender, Car pusher, carrier man, Concrete man, concrete form man, Concrete repair man, Cement invert laborer, Cement finisher, concrete shoveler, conveyor man, Floor man, Gasoline & Electric Tool operator, Gunnite man, grout operator, Heading dinry man, inside lock tender, pea gravel operator, pump man, outside lock tender, Vibrator man, top signal man switch man, track man, Tugger man, Utility man, Vibrator man, Winch Operator, concrete saw operator (under 40 H.P.)
CLASS 4 - Tunnel, shaft & cassion mucker, Bracer man, Under Plate man, Long Haul Dinky driver & well point man
CLASS 5 - Tunnel, shaft, & Cassion Miner, Driller Runner, Key board Operator, Power Knife operator, reinforced steel or mesh man (Wire Mesh, Steel Mats, Dowell Bars, Etc.)
CLASS 6 - Dynamite man & Powerman

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LANDSCAPE LABORERS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS "A" Landscape Specialist, including air, gas, diesel, electric tool and/or equipment	$6.57				
CLASS "B" Landscape Laborers, Truck Drivers, Material Haulers & Small Power Equipment	4.82				

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LINE CONSTRUCTION Wayne, Macomb, Oakland Cos; Remainder of Washtenaw & Monroe Counties	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen - Technician	$12.59	1.20	9%		½%
Cable splicers	13.14	1.20	9%		½%
Combination Equipment Operator & Groundman	10.11	1.20	9%		½%
Combination Driver-Groundman	9.52	1.20	9%		½%
Groundman	8.77	1.20	9%		½%
LINE CONSTRUCTION: Twps. of Lyndon, Manchester, Sharon & Sylvan in Washtenaw Co; Twps. of Bedford, Erie LaSalle & Whiteford in Monroe County					
Lineman; Heavy Equipment Operator	10.12	.45	3%	a	.5%
Cable Splicers	10.54	.45	3%	a	.5%
Combination Digger Operator; Tractor Operator Groundman:					
1st 6 months	7.32	.45	3%	a	.5%
Over 6 months	7.91	.45	3%	a	.5%
Light Equipment Operator Groundman; Distribution Line Truck Driver Operator:					
1st 6 months	6.36	.45	3%	a	.5%
Over 6 months	6.94	.45	3%	a	.5%
Combination Winch Truck Driver Groundman:					
1st 6 months	5.79	.45	3%	a	.5%
Over 6 months	6.62	.45	3%	a	.5%
Combination Truck Driver Groundman	5.60	.45	3%	a	.5%

FOOTNOTES:

7 paid Holidays; New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day After Thanksgiving Day; and Christmas Day.

DECISION NO. MI78-2016

POWER EQUIPMENT OPERATORS:
BUILDING & HEAVY CONSTRUCTION

MICH-1-PEO-1-2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	12.04	.80	1.00	10%	.05
CLASS B	11.81	.80	1.00	10%	.05
CLASS C	11.58	.80	1.00	10%	.05
CLASS D	11.20	.80	1.00	10%	.05
CLASS E	10.05	.80	1.00	10%	.05
CLASS F	9.16	.80	1.00	10%	

CLASS A - Crane with boom & jib or leads 220' or longer
CLASS B - Crane with boom and jib or leads 140' or longer
CLASS C - Regular Crane Operator
CLASS D - Regular Engineer
CLASS E - Engineer when operating Compressor (or welding machine)
CLASS F - Firemen or oiler

MICH-2-PEO-SE

POWER EQUIPMENT OPERATORS:
STEEL ERECTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.57	.55	.75	10%	.05
CLASS B	11.33	.55	.75	10%	.05
CLASS C	10.85	.55	.75	10%	.05
CLASS D	10.70	.55	.75	10%	.05
CLASS E	9.61	.55	.75	10%	.05
CLASS F	8.65	.55	.75	10%	

CLASS A - Engineer when operation combination of boom jib 220' or longer
CLASS B - Engineer when operating combination of boom & jib 140' or longer Tower crane & derrick operator (where opeators work stations is 501 Or more above first sub level
CLASS C - Crane operator job mechanic
CLASS D - Hoisting operator
CLASS E - Compressor (or welder) operator
CLASS F - Oiler or fireman

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POWER EQUIPMENT OPERATORS:
UNDERGROUND CONSTRUCTION

MICH-8-PEO-U

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	10.61	.80	1.00	10%	.05
CLASS II	10.49	.80	1.00	10%	.05
CLASS III	9.83	.80	1.00	10%	.05
CLASS IV	9.31	.80	1.00	10%	.05

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8' digging capacity), mechanic, endloader (over 1½ cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, alip fom paver slope paver, conveyor loader (euclid type)
CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck (power sing type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher
CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min. or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck(non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ yd or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - includes compressor)
CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishng machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H.P. or over)

SUPERSEDEAS DECISION

STATE: Minnesota
DECISION NUMBER: MN78-2009
Supersedeas Decision No.: MN77-2119 dated August 12, 1977 in 42 FR 41082
DESCRIPTION OF WORK: Building Construction (Including Residential Construction)

COUNTIES: *See below
DATE: Date of Publication

*Counties: Carlton, Cook, Itasca, Koochiching Lake and St. Louis

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.65	.40	.25		
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS:					
Bricklayers & Stonemasons:					
Koochiching County	10.40	.60	.25		
Cook, Lake & Carlton Counties & all that part of St. Louis County South of line between township 54 & 55 to 2 miles north of Cotton	10.27	.40	.30	.50	
Itasca County & the northern half of St. Louis County	10.875	.30			
CARPENTERS:					
Building Construction:					
Koochiching County & Cities of Ashe Lake, Crane Lake, Kabetogama & Kinmount in St. Louis County	9.45	.40			
Cook County; Cities of Alborn, Arnold, Barlett, Birch, Brookston, Canyon, Clinton, Culver, Duluth, Floodwood, Cowan, Island, Kelsey, Lakewood, Meadowlands, Mungar, Palmers, Payne, Praiet, Shaw Taff in St. Louis County & Southern portion of Lake County					
Carpenters, Piledrivermen & Soft Floor Layers	9.15	.40	.50	.75	
Millwrights	9.37	.40	.50	.75	
Carlton County:					
Carpenters & Piledrivermen	9.20	.40	.50	.50	
Millwrights	9.34	.40	.50	.50	
Cities of Ball Club, Bass Lake, Big Fork, Blackberry, Bovey, Bowstring, Calument, Cohasset, Colerain, Deer River, Dora, Lake, Dunbar, Effie, Grand Rapids, Inger Marble, Marcell, Max, Pomroy, Spring Lake, Square Lake, Suomi, Talmoon, Warba & Wirt in Itasca County	9.14	.40	.50	.30	

DECISION NO. MN78-2009

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS: (Cont'd)					
Cities of Allen, Aurora, Babbit, Britt, Biwabik, Buyck, Casco, Central, Lakes, Cook, Cusson, Ely, Embarrass, Eveleth, Florenton, Forbes, Gilbert, Hoyt Lakes, Indington, Iron Junction, Makinen, McComber, Masaba, Mountain, Iron, Ridge, Sax, Sherman Corners, Sherwood, Skibo, Soudon, Tower, Virginia, Wahlsten, Winton & Zim in St. Louis & Northern portion of Lake County					
Carpenters, Soft Floor Layers, and Tile Setters	$ 9.84	.40		.30	
Cities of Goodland, Keewatin, Nashwauk, Pengilly, Savan River, Togo & Wawina in Itasca County & Cities of Bengal, Beer Lake Bubl Chrisholm, Gheen, Greaney, Hibbing, Kelly, Lake, Natt Lake, Orr Riley, Sida Lake, Silica & Tovola in St. Louis County:					
Carpenters & Soft Floor Layers	9.64	.40		.30	
Site Preparation, Excavation & Incidential Paving:					
Lake, Cook, Carlton, Itasca & St. Louis Counties	8.28	.30		.30	
Koochiching County	7.32	.30			

DECISION NO. MN78-2009

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS & PLASTERERS:					
Building Construction:					
Koochiching County:					
Cement Masons & Plasterers	$10.05	.60	.25		
Itasca Co. and other Northern portion of St. Louis County, North or White Face River					
Cement Masons	10.05	.30			
Plasterers	10.65	.30			
Cook, Lake, Carlton Counties & the city of Duluth in St. Louis County:					
Cement Masons	10.445	.30			
Plasterers	10.20	.30		.45	
Koochiching County	10.05	.30	.15		
Cook, Lake, Carlton Counties & South of T-55-N in St. Louis County	10.445	.30			
Itasca County & North of T-54-N in St. Louis County	10.05	.30			
ELECTRICIANS:					
Cook, Lake, Carlton Counties the southerly 12 Townships of Itasca Couty including Harris, Feely, Blackberry, Spang, Goodland, Sago & Wawina & all of the southerly part of County bounded on the north by the lines of Kelsey Township extended east & west in St. Louis County	10.78	4%	8%	11%	1.5%
Koochiching County, Itasca County, (except that section south of a line extending east and west of the south line of Grand Rapids & Trout Lake Township), Northern part of St. Louis County bounded by the South Line of Ellsburg Township extended east and west	10.75	4%	6%	11%	1½%

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS:					
St. Louis & Lake Counties:					
Constructors	$ 9.99	.545	.35	4%+a	.02
Helpers	70%JR	.545	.35	4%+a	.02
Helpers (prob.)	50%JR				
GLAZIERS:					
Cook, Lake, St. Louis, Carlton, Koochiching Counties	$ 9.60	.40	.40	b	
IRONWORKERS	11.35	.30	.55		.02
LABORERS: BUILDING CONSTRUCTION					
Carlton County					
Laborers	8.30	.30	.35	.40	
Mason Tenders: Mortar Mixers and Jackhammer Operators	8.40	.30	.35	.40	
Cook, Lake, St. Louis Co. South of T-55-N, including the City of Duluth:					
Common Laborers & Flagman Mortar Mixers, Carpenters & Mason Tender, Jackhammer & Vibrator Operator	8.35	.30	.35	.40	
	8.45	.30	.35	.40	
Itasca & Koochiching Counties and north of T-55-N, including Cities of Hibbing, Chisolm & Buhl in St. Louis County					
Common Laborer	8.80	.20	.15		
Carpenter & Mason Tender, Mortar mixer, Brickleyer Tender and Jackhammer	8.90	.20	.15		
Pipelayer (non-metallic)	9.15	.20	.15		
LATHERS:					
St. Louis & Lake Counties	10.55	.30			
MARBLE, TILE & TERRAZZO WORKERS:					
St. Louis Co. (City of Duluth)					
Marble & Tile Setter	10.43	.30			
Remainder of Counties & Remainder of St.Louis County					
Marble Setters	10.355	.555	.33		
Tile Setters	10.25	.37	.50		
Marble & Tile Setters' Finishers	9.35	.37	.50		

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brush, Tapers & Rollers	$10.08	.40	.40		.09
Spray, Structural Steel & Paperhangers	10.68	.40	.40		.09
PLUMBERS & STEAMFITTERS:					
Koochiching County	13.10				
Cook & Carlton Counties & Southern half of St. Louis & Lake Counties	10.41	.30	.75	1.00	.05
Itasca Coutny & Northern portions of St. Louis & Lake Counties	10.65	.56	.64	1.00	.05
ROOFERS:					
Cook, Lake, Carlton Counties & Southern half of St. Louis County					
Roofers	9.23	.30	.25	1.00	
2nd Roofers	8.98	.30	.25	1.00	
Kettlemen	8.78	.30	.25	1.00	
Itasca & Koochiching Counties, the Northern half of St. Louis County					
1st Roofer	9.86	.52	.55		
2nd Roofer	9.56	.52	.55		
SHEET METAL WOFKERS:					
Cook, Lake, Carlton Counties & Southern half of St. Louis County	10.35	.40	.44	1.00	
Itasca & Koochiching Counties, the Northern half of St. Louis County	10.92	.52	.55		
TRUCK DRIVERS:					
Building Construction:					
Koochiching County	8.80				
Itasca County	8.80				

FOOTNOTES:

a. Employer contributes 4% Basic Hourly Rate for over 5 years service, 2% of Basic Hourly Rate for 6 months to 5 years service as Vacation Pay Credit. Six (60 Paid Holdiays, New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day and Christmas Day.

b. 2 weeks vacation

DECISION NO. MN78-2009

LABORERS: Counties of Itaska and St.Louis Counties North of T-55, Site Preparation, Excavation & Incidental Paving:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	8.63	.20	.15	.25	
CLASS II	8.73	.20	.15	.25	
CLASS III	8.88	.20	.15	.25	
CLASS IV	8.93	.20	.15	.25	
CLASS V	8.98	.20	.15	.25	
CLASS VI	9.03	.20	.15	.25	
CLASS VII	9.13	.20	.15	.25	
CLASS VIII	9.23	.20	.15	.25	

CLASS I - Unskilled-Laborers, Laborers; wrecking & demolition; Bricklayer tender, drill runner helper, Landscape gardner, Sod layer & nurseryman pipihandler (water, gas cast iron); Salamander heater & blower tender; Carpenter tender; Stonemasons tender

CLASS II - Bituminous Shoveler, Bottom man (sewer , water or gas trench), Cement handler (bulk or bag); Chain saw man, compaction equipment (hand operator); Concrete mixer operator (1 bag), Concrete Shoveler, tamper & puddler (paving)) Concrete Vibrator, Conduit layers (w/o wiring); Dumper (wagon, truck etc.), Formsetter (municipal type curb & side walk) Formsetter (pavement); Jackhammer man & paving busters, Kettlemen (Bituminous or lead), Mortar mixer, Power buggy, Joint drawer, tunnel laborer (atmospheric pressure)

CLASS III - Bitminous Tamper, Cofferdam work, Caisson work

CLASS IV - Drill Runner (Heavy, including churn drill)

CLASS V - Bituminous Raker, Floater, Utility Men, Pipelayers (sewer, water, gass); Leadsman (Gunnite)

CLASS VII - Powderman

CLASS VIII -Tunnel Miner

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LABORERS Site preparation, Excavation & Incidential Paving Koochiching County	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	7.35	.20	.15		
CLASS 2	7.65	.20	.15		
CLASS 3	7.60	.20	.15		
CLASS 4	7.70	.20	.15		
CLASS 5	7.75	.20	.15		
CLASS 6	7.80	.20	.15		
CLASS 7	7.85	.20	.15		
CLASS 8	7.50	.20	.15		

CLASS 1 - Skilled Laborers, Bricklayers & Carpenters Tenders; Drill Runner Helper; Laborers Wreching & Demolition, Landscape Gardner, Pipe Handler (Water, Gas, Cast Iron), Salamander Heater, & Blower Tender, Sod Layer & Nurseryman; Stonemasons tender

CLASS 2 - Bituminous Shoveler, Bottom man (Sewer, Water or gas trench), Cement Coverman (Batch Trucks); Cement handler (Bulk or bag); Chain Saw Man, Compaction equipment (hand operated), Concrete mixer (1 bag); Concrete Shoveler, Tamper & Puddler (paving), Concrete vibrator, Conduit layers (w/o wiring); Drill runner (heavy, incl. Churn Driver Dumper (wagon truck, etc.); Jackhammerman, Joint Sawer, Kettlemen (Bituminous or Lead), Mortar Mixer Paving Buster; Power Buggy; Tunnel Laborer (atmospheric pressure)

CLASS 3 - Form setters (Municipal type curb & Sidewalk) form setter(pavement)

Class 4 - Bituminous Tamper, caisson work & cofferdam

CLASS 5 - Bituminous raker, floater, & Utility man; Leadman

CLASS 6 - Nozzleman (Gunnite)

CLASS 7 - Pipelayer, (Sewer, Water & Gas)

CLASS 8 - Powderman, Tunnel Miner

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MINN-14-LAB

LABORERS - SITE PREPARATION EXCAVATION & INCIDENTIAL PAVING Cook, Lake, Carlton & St. Louis Counties South of T-55	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	8.18	.30	.35	.40	
CLASS II	8.28	.30	.35	.40	
CLASS III	8.43	.30	.35	.40	
CLASS IV	8.48	.30	.35	.40	
CLASS V	8.53	.30	.35	.40	
CLASS VI	8.58	.30	.35	.40	
CLASS VII	8.68	.30	.35	.40	
CLASS VIII	8.78	.30	.35	.40	

CLASS I - Unskilled Laborers, Laborers; wrecking & demolition; Bricklayer tender, drill runner helper, Landscape gardner, Sod layer & nurseryman Pipehandler (water, gas, cast iron); Salamander heater & blower tender; Carpenter tneder; Stonemasons tender

CLASS II - Bituminous Shoveler, Bottom man (sewer, water or gas trench), Cement handler (bulk or bag); Chain saw man, compaction equipment (hand operated); Concrete mixer operator (1 bag), Concrete Shoveler, tamper & puddler (paving) Concrete Vibrator, Conduit layers (w/o wiring); Dumper (wagon, truck, etc.), Formsetter (municipal type curb & side walk) Formsetter (pavement); Jackhammer man & paving busters, Kettleman (Bituminous or lead), Mortar mixer, Power buggy, Joint drawer, tunnel laborer (atmospheric pressure)

CLASS III - Bituminous Tamper, Cofferdam work, Caisson work

CLASS IV - Drill Runner (Heavy, including churn drill)

CLASS V - Bituminous Raker, Floater & Utility Man, Pipelayers (sewer, water, gas); Leadman (Gunite)

CLASS VI - Nozzleman (Gunnite)

CLASS VII - Powderman

CLASS VIII - Tunnel Miner

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MINN-1-PEO-1

POWER EQUIPMENT OPERATORS BUILDING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$14.10	.45	.40		
CLASS 2	11.70	.45	.40		
CLASS 3	11.35	.45	.40		
CLASS 4	11.25	.45	.40		
CLASS 5	11.15	.45	.40		
CLASS 6	10.90	.45	.40		
CLASS 7	10.78	.45	.40		
CLASS 8	10.70	.45	.40		
CLASS 9	10.43	.45	.40		
CLASS 10	10.15	.45	.40		
CLASS 11	9.70	.45	.40		

CLASS 1 - Helicopter Operators (Hoisting Material)
CLASS 2 - Truck & crawler Cranes with 200' of Boom & over including Jib
CLASS 3 - Truck & crawler Cranes with 150' of Boom up to & not including 200' of Boom including jib.
CLASS 4 - Traveling Tower Crane
CLASS 5 - Master Mechanic
CLASS 6 - Derrick (Guy & Stiff Leg); Hoist engineer (3 drums or more); Locomotive Operator; Overhead Crane Operator, (inside Building Perimeter); Truck & Crawler Cranes up to 150' of Boom including jib.
CLASS 7 - Air compressor Operator; Pump & or Conveyor; 2 or more Mechanics; Hoist engineer (2 drum); Mechanic or welder; Pumpcrete or Complaco type Machine Operator; Fork Lift Operator
CLASS 8 - Boom truck Operator; concrete Mixer Operator; Drill Rigs (Heavy Duty Rotary or Churn Drill when used for caisson drilling or when drilling for elevator cylinder or Building Construction; Front End Loader Opr., Hoist Engineer (1 drum); Power Plant Engineer (100 KWH & over); Straddle carrier Operator; Tractor Operator (over D-2); Well Point Pump Operator
CLASS 9 - Concrete Batch Plant Opeator; gunnite Operator; Tractor Operator (D-2 or similar size 7 front End Loader Operator-up to ½ cu. yd.)
CLASS 10 - Air Compressor Operator; Pump & or Conveyor Operator; Fireman-Temporary Heat; Brakemen; Pick Up Sweeper (combustion engine operated); Truck Crane Oiler
CLASS 11 - Mechanic Space Heater (Temporary Heat) Oiler or Greaser

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MINN-7M-PEO-2-3

SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING POWER EQUIPMENT OPERATORS: Cook, Lake, & St. Louis Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 14.20	.45	.40		
GROUP 2	10.91	.45	.40		
GROUP 3	10.65	.45	.40		
GROUP 4	10.52	.45	.40		
GROUP 5	10.43	.45	.40		
GROUP 6	9.75	.45	.40		
GROUP 7	9.45	.45	.40		

GROUP 1 - Helicopter Pilot
GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity
GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Hole., Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over
GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer
GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mighty might or similar type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning

POWER EQUIPMENT OPERATORS (Cont'd)

or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & ballast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op.,(or similar type) well point installation, dismatling or repair mechanic

GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. gunall, lead greader on truck or rack, loader op., power actuated Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)

GROUP 7 - Brakeman, switchman,conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

MINN-6-PEO

SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING (JURISDICTION - NEXT PAGE)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$13.90	.45	.40		
GROUP 2	10.61	.45	.40		
GROUP 3	10.35	.45	.40		
GROUP 4	10.23	.45	.40		
GROUP 5	10.13	.45	.40		
GROUP 6	9.45	.45	.40		
GROUP 7	9.15	.45	.40		

GROUP 1 - Helicopter Pilot

GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity

GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over

GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer

GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mighty might or similar type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning

POWER EQUIPMENT OPERATORS (Cont'D) SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING-CARLTON CO; KOOCHICHING CO., EAST OF A NORTH SOUTH LINE FROM THE CANADIAN BORDER TO PELLAND TO BIG FALLS & MINN. HWY. #6; ITASCA COUNTY EAST OF THE WESTERN RIGHT OF WAY OF MINN. HWY. #6.

or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & ballast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op.,(or similar type) well point installation, dismatling or repair mechanic

GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. gunall, lead greader on truck or rack, loader op., power actuated Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)

GROUP 7 - Brakeman, switchman,conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

MINN-7-PEO

POWER EQUIPMENT OPERATORS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING Remainder of Itasca & Koochiching	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	13.45	.45	.40		
GROUP 2	9.27	.45	.40		
GROUP 3	9.02	.45	.40		
GROUP 4	8.88	.45	.40		
GROUP 5	8.80	.45	.40		
GROUP 6	8.27	.45	.40		
GROUP 7	7.87	.45	.40		

GROUP 1 - Helicopter Pilot

GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity

GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over

GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer

GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mighty might or similar type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning

(POWER EQUIPMENT OPERATORS (Cont'd)

or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & ballast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op.,(or similar type) well point installation, dismatling or repair mechanic

GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. gunall, lead greader on truck or rack, loader op., power actuated Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)

GROUP 7 - Brakeman, switchman,conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

MINN-62-TD

TRUCK DRIVERS: BUILDING, SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING Cook, Lake, Carlton & St. Louis Counties	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	9.20	.40	.50		
GROUP 2	8.90	.40	.50		
GROUP 3	8.80	.40	.50		
GROUP 4	8.60	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Serviceman; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.

MINN-5-TD

DECISION NO MN78-2009 TRUCK DRIVERS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING ITASCA & KOOCHICHING COS.	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 8.02	.40	.50		
GROUP 2	7.72	.40	.50		
GROUP 3	7.62	.40	.50		
GROUP 4	7.42	.40	.50		

GROUP 1
Driver (hauling machinery for employer's own use including operation of hand & power operated winches); Truck train mechanic; Welder; Tractor-Trailer; Off road truck.

GROUP 2
Tri-Axle (including 4 Axles); Dump dry batch hauler; Tank truck (gas, oil, road oil & water); Boom & "A" Frame; Ready mix concrete; Slurry driver.

GROUP 3
Bituminous distributor driver; Bituminous distributor (1 man operation); Tandem axle.

GROUP 4
Bituminous distributor spray (rear-end oiler); Dumpman; Greaser & truck service man; Tank truck helper (gas, oil, road oil & water); Teamster and stableman; Tractor operator (wheel type used for any purpose); Pilot car; Self-propelled packer; Slurry operator; Single axle.

SUPERSEDEAS DECISION

STATE: Nevada

COUNTIES: Statewide (does not include the Nevada Test Site and Tonopah Test Range, and highway construction in Douglas County), Nevada

DECISION NUMBER: NV78-5009

DATE: Date of Publication

Supersedes Decision No. NV77-5007 dated September 23, 1977, in 42 FR 48662.

DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Clark, Esmeralda, Lincoln, Nye Counties	$ 13.66	$ 1.10	$ 1.20		
Elko, Eureka, White Pine Cos.	11.21	.84	1.20		
Remaining Counties	13.00	1.02	1.20		.07
BOILERMAKERS	13.625	1.075	1.00	.75	.02
BRICKLAYERS; Stonemasons:					
Clark, Esmeralda, Lincoln, Nye County (south of Hwy. 6)	12.27	.70	.60		.06
Remaining Counties and Nye County (north of Hwy. 6)	11.45	.50	.60		.01
BRICK HOD CARRIERS:					
Statewide excluding Clark, Esmeralda, Lincoln, Nye County (south half):					
Zone A: 0-35 miles from Courthouse in Reno, Nevada	9.60	.50	.90		.05
Zone B: 35-75 miles from Courthouse in Reno, Nevada	10.50	.50	.90		.05

DECISION NO. NV78-5009 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:					
Clark, Esmeralda County (South of Hwy. 95), Lincoln, Nye County (south of Hwy. 95, including City of Tonopah):					
Zone 1: Area within the City limits of Henderson, Nevada, and Boulder City, Nevada; area within a 10 mile radius of Las Vegas, Nevada; area within a 5 mile radius of Tonopah, Nevada; present fenced area of Nellis Air Force Base, as well as that area adjacent to Nellis Air Force Base bounded on the north by the Nellis spur track and on the west by the train line of the Union Pacific Railroad:					
Carpenters	$ 11.36	.65	.90	$1.00	.10
Floor Layers; Patent Scaffold Erectors; Power Saw Operators	11.51	.65	.90	1.00	.10
Piledrivermen	11.56	.65	.90	1.00	.10
Millwrights	12.06	.65	.90	1.00	.10
Zone 2: Area outside of Zone 1 and not more than 20 road miles from the communities described above:					
Carpenters	11.86	.65	.90	1.00	.10
Floor layers; Patent Scaffold Erectors; Power Saw Operators	12.01	.65	.90	1.00	.10
Piledrivermen	12.06	.65	.90	1.00	.10
Millwrights	12.56	.65	.90	1.00	.10

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS: (Cont'd)					
Zone 3: Area over 20 miles and not more than 40 miles from the communities described in Zone 1:					
Carpenters	$ 12.11	.65	.90	1.00	.10
Floor Layers; Patent Scaffold Erectors; Power Saw Operators	12.26	.65	.90	1.00	.10
Piledrivermen	12.41	.65	.90	1.00	.10
Millwrights	12.81	.65	.90	1.00	.10
Zone 4: Area over 40 miles from the communities described in Zone 1:					
Carpenters	13.36	.65	.90	1.00	.10
Floor Layers; Patent Scaffold Erectors; Power Saw Operators	13.51	.65	.90	1.00	.10
Piledrivermen	13.56	.65	.90	1.00	.10
Millwrights	14.06	.65	.90	1.00	.10
Nye County (north of Hwy. 95, excluding City of Tonopah) and all Remaining Counties:					
Carpenters	11.15	.70	1.16		.05
Floor Layers; Patent Scaffold Erectors; Power Saw Operators	11.30	.70	1.16		.05
Piledrivermen	11.35	.70	1.16		.05
Millwrights	11.75	.70	1.16		.05
CEMENT MASONS:					
Clark, Lincoln, Nye Counties:					
Cement Masons	11.40	1.00	.70		.08
Cement Floor Finishing Machine and Color Work	11.65	1.00	.70		.08
Lake Tahoe Area:					
Cement Masons	10.80	.70	.90	1.25	.05
Mastic, Magnesite and all Composition Masons	11.05	.70	.90	1.25	.05
Troweling Machine; Grinder Operator and Kelly Float	11.30	.70	.90	1.25	.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS: (Cont'd)					
Remaining Counties:					
Cement Masons	$ 9.35	.70	.90	$1.25	.05
Mastic, Magnesite and all Composition Masons	9.60	.70	.90	1.25	.05
Troweling Machine; Grinder Operator and Kelly Float	9.85	.70	.90	1.25	.05
DRYWALL INSTALLERS:					
Statewide except the Counties of Clark, Esmeralda County (south of Hwy. 95), Lincoln, Nye County (south of Hwy. 95)	11.40	.70	1.16		.05
ELECTRICIANS:					
Clark, Lincoln, Nye County (south of Mt. Diablo Base Line):					
Electricians; Technicians	14.36	.73	3%+1.30		.08
Cable Splicers	14.69	.73	3%+1.30		.08
Nye County (north of Mt. Diablo Base Line) and Remaining Counties excluding Lake Tahoe Area:					
Electricians; Technicians	13.33	.84	3%+1.07		.08
Cable Splicers	14.66	.84	3%+1.07		.08
Lake Tahoe Area:					
Electricians; Technicians	14.33	.84	3%+1.07		.08
Cable Splicers	15.66	.84	3%+1.07		.08
ELEVATOR CONSTRUCTORS:					
Nevada east of 118° longitude and south of 39° north latitude:					
Elevator Constructors	13.41	.745	.56	3%+a	.025
Elevator Constructors' Helpers	9.39	.745	.56	3%+a	.025
Elevator Constructors' Helpers (Prob.)	6.705				
Nevada west of 118° longitude:					
Elevator Constructors	14.82	.745	.56	3%+a	.025
Elevator Constructors' Helpers	10.37	.745	.56	3%+a	.025
Elevator Constructors' Helpers (Prob.)	7.41				
GLAZIERS:					
Clark, Esmeralda, Lincoln and Nye Counties	13.50	.50	.40		.05
Remaining Counties	11.22	.58	1.50	1.25	
IRONWORKERS:					
Elko, Eureka, White Pine Cos. Fence Erectors; Machinery Movers; Ornamental; Reinforcing; Riggers; Structural	10.65	.65	1.24		.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS: (Cont'd)					
Remaining Counties:					
Fence Erector	$ 10.66	$ 1.24	$ 2.22	$1.46	.06
Ornamental; Reinforcing; Structural	11.55	1.24	2.22	1.46	.06
LATHERS:					
Clark, Esmeralda, Lincoln, and Nye Counties	10.60	.70	1.00	1.00	.16
LINE CONSTRUCTION WORKERS:					
Clark, Lincoln, Nye County (south half)					
Groundman	11.09	.73	3%		3/4%
Lineman; Line Equipment Op.	14.79	.73	3%		3/4%
Cable Splicers	15.53	.73	3%		3/4%
Lake Tahoe Area:					
Lineman	14.33	.84	3%+1.07		.08
Line Equipment Operators	13.00	.84	3%+1.07		.08
Groundman	11.00	.84	3%+1.07		.08
Cable Splicer	15.66	.84	3%+1.07		.08
Remaining Counties (excluding Lake Tahoe Area):					
Lineman	13.33	.84	3%+1.07		.08
Line Equipment Operator	12.00	.84	3%+1.07		.08
Groundman	10.00	.84	3%+1.07		.08
Cable Splicers	14.66	.84	3%+1.07		.08
MARBLE MASONS:					
Clark, Esmeralda, Lincoln, Nye County (south half)	12.27	.70	.60		.06
Remaining Counties and Nye County (north half)	11.45	.50	.60		.01
MARBLE, TERRAZZO, TILE HELPERS:					
Clark, Esmeralda, Lincoln, Nye County (south half)	9.65	.70	.60		
Remaining Counties and Nye County (north half)	6.87	.50	.60		.01
MASON TENDERS:					
Clark, Esmeralda, Lincoln, Nye County (south half)	10.02	.66	1.35		
PAINTERS:					
Clark, Esmeralda, Lincoln, Nye Counties:					
Brush; Roller	13.64	.75	.35		.06

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Paperhangers; Spray; Steel; Swing Stage; Sandblasters; Sign; Tapers	$ 12.99	.75	.35		.06
Buffing Steel; Sandblasters, Structural Steel	13.34	.75	.35		.06
Steeplejack	14.14	.75	.35		.06
Remaining Counties including Lake Tahoe Area:					
Brush and Roller	11.95	.70	.75		.005
Spray; Brush-swing stage, up to 40 ft.; Brush-steel; Sandblaster; Taper;					
Paperhangers	12.20	.70	.75		.005
Spray-swing stage up to 40 ft.	12.45	.70	.75		.005
PLASTER HOD CARRIERS:					
Statewide excluding Clark, Esmeralda, Lincoln, Nye County (south half):					
Plaster Hod carriers serving Plasterers	10.75	.50	.90		
Plaster Hod Carriers working on any type of Gun	11.35	.50	.90		
PLASTER TENDERS:					
Clark, Esmeralda, Lincoln, and Nye County (south half)	11.12	.66	1.35		
PLASTERERS:					
Clark, Lincoln, Nye Counties	11.68	1.00	.70		.08
Remaining Counties	11.22	.70	1.00		.03
PLUMBERS; Steamfitters:					
Clark, Esmeralda, Lincoln, Nye County (south half)	11.53	1.25	2.32	1.85	.08
Remaining Counties and Nye County (north half)	11.74	.73	.90	1.95	.10
PLUMBERS (Utility):					
Statewide except Clark, Esmeralda, Lincoln, Nye County (south half)	11.74	.73	.90	1.95	.10
ROOFERS:					
Clark, Esmeralda, Lincoln, and Nye County (south half)	13.75	.65			
Remaining Counties and Nye County (north half)	11.60	.70	.50		.02

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS:					
Clark, Esmeralda, Lincoln, Nye County (South half), White Pine Counties	$ 13.67	.93	$ 1.61		.12
Remaining Counties and Nye County (north half)	11.22	1.04	2.13		.05
SOFT FLOOR LAYERS:					
Clark, Esmeralda, Lincoln, and Nye Counties	13.07	.65			.15
Remaining Counties including Lake Tahoe Area	11.48	.70	.20	.28	
SPRINKLER FITTERS	15.05	.65	.95		.08
TERRAZZO WORKERS; TILE SETTERS:					
Clark, Esmeralda, Lincoln, and Nye County (south half)	12.27	.70	.60		.06
Remaining Counties and Nye County (north half)	11.45	.50	.60		.01

FOOTNOTE:
a. Employer contributes 4% basic hourly rate for over 5 years' service and 2% basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

LABORERS				
Clark, Esmeralds, Lincoln, Nye County (south half)				
Group 1	$ 8.00	.66	$ 1.53	$1.00
Group 2	8.05	.66	1.53	1.00
Group 3	8.08	.66	1.53	1.00
Group 4	8.10	.66	1.53	1.00
Group 5	8.12	.66	1.53	1.00
Group 6	8.13	.66	1.53	1.00
Group 7	8.15	.66	1.53	1.00
Group 8	8.18	.66	1.53	1.00
Group 9	8.19	.66	1.53	1.00
Group 10	8.21	.66	1.53	1.00
Group 11	8.26	.66	1.53	1.00
Group 12	8.29	.66	1.53	1.00
Group 13	8.31	.66	1.53	1.00
Group 14	8.34	.66	1.53	1.00
Group 15	8.36	.66	1.53	1.00
Group 16	8.425	.66	1.53	1.00
Group 17	8.45	.66	1.53	1.00
Group 18	8.52	.66	1.53	1.00

LABORERS
Clark, Esmeralda, Lincoln and Nye County (South half)

Group 1: Debris Handler; Dry packing of concrete and filling of form-bolt holes; Dumpman; Gas and oil pipeline laborers; Demolition Laborers; General or construction Laborers; Spotter; Window Cleaner; Flagman

Group 2: Cutting Torch Operator (demolition); Tarman and Mortorman

Group 3: Guinea Chaser

Group 4: Fine Grader, highway and street paving, airport, runways and similar type heavy construction; Landscape gardener and nursery-man

Group 5: Laborers - packing rod steel and pans

Group 6: Underground Laborer including caisson bellowers

Group 7: Chucktender (except tunnels); Scaler; Septic tank digger and installer (lead man); Tank scaler and cleaner

Group 8: Cesspool digger and installer

Group 9: Concrete curer - impervious membrane and oiler of all materials; Making and caulking of all non-metallic pipe joints; Riprap stonepaver; Sandblaster (pot tender)

Group 10: Asphalt Ironer, raker, spreader; Buggymobile; Cement Dumper (on 1 yard or larger mixers and handling bulk concrete); Cement grinding machine operator; Concrete core cutter; Concrete saw man, excluding tractor type; Gas and oil pipeline wrapper, pot tender and form man; Tree climber, faller, chain saw operator; Pittsburgh Chipper and similar type; Vibrators and all pneumatic gas, electric and similar mechanical tools not separately classified herein; Roto Scraper

Group 11: Rock Slinger; Scaler, using bosun chair, safety belt or power tools

Group 12: Driller and/or pavement breaker

Group 13: Laying of all non-metallic pipe (including sewer pipe, drain pipe and underground tile)

Group 14: Gas and oil pipeline wrapper - 6 inch pipe and over

Group 15: Cribber or Shorer; Powderman

Group 16: Steel Headerboard Man

Group 17: Driller (core, diamond or wagon) Joy Driller Model TW-M-2A, Gardner-Denver Model DH-163 and similar drills; Sandblaster - Nozzleman

Group 18: Head Rock Slinger

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS[a]:					
Remaining Counties:					
Building Construction:					
Zone 1: Area within 5 road miles of the following communities - Carson City, Elko, Fallon, Hawthorne, Lovelock, Minden, Tonopah, Winnemucca; also area within 10 road miles of Reno, Nevada; also the area within 2 road miles of Yerington, Nevada, also Washoe Valley between Reno, Nevada and Carson City, Nevada, but not including any area further than the foot of the mountains to the east or west side of Washoe Valley; also the area of Stead Air Force Base; also the Tahoe Basin from the Summit of the Lake:					
Group 1	$ 8.20	.80	.90		.10
Group 2	8.30	.80	.90		.10
Group 3	8.45	.80	.90		.10
Group 4	8.70	.80	.90		.10
Group 5	9.00	.80	.90		.10
Group 6-A	9.00	.80	.90		.10
Group 6-B	8.70	.80	.90		.10
Group 6-C	8.35	.80	.90		.10
Zone 2: Area outside of Zone 1 and not more than 20 road miles from the above communities:					
Group 1	8.80	.80	.90		.10
Group 2	8.90	80	.90		.10
Group 3	9.05	.80	.90		.10
Group 4	9.30	.80	.90		.10
Group 5	9.60	.80	.90		.10
Group 6-A	9.60	.80	.90		.10
Group 6-B	9.30	.80	.90		.10
Group 6-C	8.95	.80	.90		.10

LABORERS: (Cont'd) Remaining Counties (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Building Construction (Cont'd)					
Zone 3: Area over 20 and not more than 40 road miles from the communities named in Zone 1					
Group 1	$ 9.00	.80	.90		.10
Group 2	9.10	.80	.90		.10
Group 3	9.25	.80	.90		.10
Group 4	9.50	.80	.90		.10
Group 5	9.80	.80	.90		.10
Group 6-A	9.80	.80	.90		.10
Group 6-B	9.50	.80	.90		.10
Group 6-C	9.15	.80	.90		.10
Zone 4: Area over 40 road miles from the communities named in Zone 1:					
Group 1	9.70	.80	.90		.10
Group 2	9.80	.80	.90		.10
Group 3	9.95	.80	.90		.10
Group 4	10.20	.80	.90		.10
Group 5	10.50	.80	.90		.10
Group 6-A	10.50	.80	.90		.10
Group 6-B	10.20	.80	.90		.10
Group 6-C	9.85	.80	.90		.10
Heavy and Highway Construction:					
Area 1:					
Group 1	8.20	.80	.90		.10
Group 2	8.30	.80	.90		.10
Group 3	8.45	.80	.90		.10
Group 4	8.70	.80	.90		.10
Group 5	9.00	.80	.90		.10
Group 6-A	9.00	.80	.90		.10
Group 6-B	8.70	.80	.90		.10
Group 6-C	8.35	.80	.90		.10
Area 2:					
Group 1	9.35	.80	.90		.10
Group 2	9.45	.80	.90		.10
Group 3	9.60	.80	.90		.10
Group 4	9.85	.80	.90		.10
Group 5	10.15	.80	.90		.10
Group 6-A	10.15	.80	.90		.10
Group 6-B	9.85	.80	.90		.10
Group 6-C	9.50	.80	.90		.10

*LABORERS - Area Definition - See "Area Definition" following TRUCK DRIVERS

LABORERS
Remaining Counties

Group 1: All cleanup work of debris, grounds and building including windows and tile; Dumpman or spotter (other than asphalt); General laborer; Gardeners and landscape laborers; Limber, brushloader and piler; Flagman

Group 2: Choker setter or rigger (clearing work only); Pittsburgh chipper and similar type brush shredders; Concrete worker (wet or dry) all concrete work not listed in Group 3; Crusher or Grissle tender; Guinea Chaser (atakeman); Panel forms (wood or metal) handling, cleaning and stripping of; Loading and unloading, carrying and handling of all rods and material for reinforcing concrete; Railroad trackmen (builders); Sloper; Semi-skilled wrecker (salvaging of building materials other than those listed in Group 3); Greasing Dowels

Group 3: Asphalt workers (ironers, shoveler, cutting machine); Buggymobils; Chainsaw, faller, logloader and bucker; Compactor (all types); Concrete mixer under 1/2 yd.; Concrete pan work (breadpan type), (handling, cleaning, stripping); Concrete saw, chipping, grinding, sanding, vibrator; Cribbing, shoring, lagging, trench jacking, hand-guided lagging hammer; Curbing or divider machine; Curb setter (precast or cut); Ditching machine (hand-guided); Driller's helper, chuck tender; Form raiser, slip forms; Grouting of concrete walls, windows and door jams; Headerboardman; Jackhammer, pavement breaker, air spade; Mastic worker (wet or dry); Pipe wrapper, kettleman, potman, and men applying asphalt, creosote and similar type materials; All power tools (air, gas or electric) not listed in Group 5; Pipejacking; Post-hole digger (air, gas or electric); Post driver; Riprap-stonepaver and rock slinger, including placing of sack concrete wet or dry; Rototiller; Rigging and signaling in connection with laborers' work; Sandblaster, potman, gunman or nozzleman; Vibra-screed; Skilled wrecker (removing and salvaging of sash windows, doors, plumbing and electrical fixtures)

Group 4: Burning and welding in connection with laborers' work; Joy Drill Model TMH-2A, Gardner Denver Model DN 143 and similar type drills; Track drillers, Diamond core drillers, Wagon drillers, Mechanical drillers on multiple units; High scalers; Concrete pump; Heavy duty vibrator with stinger 5" diameter or over; Pipelayer, caulker and bander; Pipelayer - waterline, sewerline, gasline, conduit; Asphalt Rakers

Group 5: Blasters and powderman, all work of loading, placing and blasting of all powder and explosives of any type, regardless of method used for such loading and placing

Group 6-A: Nozzleman

Group 6-B: Gunman, Materialman

Group 6-C: Reboundman

POWER EQUIPMENT OPERATORS (Except Piledriving and Steel Erection) Clark, Esmeralda, Lincoln, Nye Counties:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 10.70	$ 1.00	$ 2.00	.50	.14
Group 2	10.98	1.00	2.00	.50	.14
Group 3	11.27	1.00	2.00	.50	.14
Group 4	11.41	1.00	2.00	.50	.14
Group 5	11.63	1.00	2.00	.50	.14
Group 6	11.74	1.00	2.00	.50	.14
Group 7	11.86	1.00	2.00	.50	.14
Group 8	12.03	1.00	2.00	.50	.14
Group 9	12.16	1.00	2.00	.50	.14

POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)
Clark, Esmeralda, Lincoln, Nye Counties

Group 1: Brakeman; Compressor Operator; Engineer Oiler; Generator Operator; Heavy Duty Repairman Helper; Pump; Signalman; Switchman

Group 2: Concrete Mixer Operator, skip type; Conveyor Operator; Fireman; Hydrostatic Pump Operator; Oiler Crusher (asphalt or concrete plant); Plant Operator, generator, pump or compressor; Rotary Drill Helper (oil-field); Skiploader - wheel type up to 3/4 yd. with attachment; Soils Field Technician; Tar Pot Fireman; Temporary Heating Plant Operator; Trenching Machine Oiler; Truck Crane Oiler

Group 3: A-Frame or Winch Truck; Elevator Operator (inside); Equipment Greaser (rack); Ford Ferguson (with dragtype attachments); Helicopter Radioman (ground); Power Concrete Curing Machine; Power Concrete Saw; Power driven Jumbo Form Setter; Ross Carrier; Stationary Pipe Wrapping and Cleaning Machine

Group 4: Asphalt Plant Fireman; Boring Machine; Boxman or Mixerman (asphalt or concrete); Bridge type Unloader and Turntable Operator; Chip Spreading Machine; Concrete Pump (small portable); Dinky Locomotive or Motorman (up to and including 10 tons); Equipment Greaser (grease truck); Helicopter Hoist; Highline Cableway Signalman; Hydra-hammer-Aero Stomper; Power Sweeper; Roller (compacting); Screed (asphalt or concrete); Trenching Machine (up to 6 ft.)

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)
Clark, Esmeralda, Lincoln, Nye Counties

Group 5: Asphalt Plant Engineer; Concrete Batch Plant; Backhoe (up to and including 3/4 yds.); Bit Sharpener; Concrete Joint Machine (canal and similar type); Concrete Planer; Deck Engine; Forklift (under 5 ton capacity); Machine Tool; Maginnis Internal Full Slab Vibrator; Mechanical Berm (curb or gutter concrete or asphalt); Mechanical Finisher (concrete-Clary-Johnson-Bidwell or similar); Pavement Breaker; Road Oil Mixing Machine; Roller (asphalt or finish); Rubber-tired Earth Moving Equipment, (single engine, up to and including 25 yds. struck); Self-propelled Tar Pipelining Machine; Slip Form Pump (power-driven hydraulic lifting device for concrete forms); Tugger Hoist (1 drum); Tunnel Locomotive (over 10 and up to and including 30 tons); Stinger Crane (Austin-Western or similar type); Skiploader Crawler and wheel type (over 3/4 yards and up to and including 1½ yards); Tractor-Bulldozer, Tamper, Scraper (single engine, up to 100 HP, Flywheel and similar types, up to and including D-5 and similar types)

Group 6: Asphalt or Concrete Spreading (tamping or finishing); Asphalt Paving Machine (Barber Greene or similar type); BHL Lima Road Factor or similar; Bridge Crane; Pipe Laying Machine (cast in place); Combination Mixer and Compressor (gunite work); Concrete Pump (truck mounted); Concrete Mixer; Crane (up to and including 25 tons); Crushing Plant; Elevating Grader; Forklift (over 5 tons); Grade Checker; Gradeall; Grouting Machine; Heading Shield; Heavy Duty Repairman; Hoist (Chicago Boom and similar type); Kolman Belt Loader and similar type; LeTourneau Blob Compactor or similar type; Lift Slab Machine (Vagtborg and similar types); Lift Mobile; Loader-Athey, Euclid, Sierra and similar type); Material Hoist; Mucking Machine 1/4 yd. - rubber-tired, rail or track type); Pneumatic Concrete Placing Machine (Hackley-Presswell or similar type); Pneumatic Heading Shield (tunnel); Pumpcrete gun; Rotary Drill (excluding caisson type); Rubber-tired Earth Moving Equipment Operator (single engine - Caterpillar, Euclid, Athey Wagon and similar types with any and all attachments over 25 yards and up to and including 50 cubic yards struck); Rubber-tired Scraper (self-loading - paddle wheel type - John Deere, 1040 and similar single unit); Skiploader (Crawler and wheel type over 1½ yds., up to and including 6½ yds.); Surface Heaters and Planers; Rubber-tired Earth Moving Equipment, multiple engine (up to and including 25 yds, struck); Trenching Machine (over 6 feet depth capacity, manufacturers rating); Tower Crane; Tractor Compressor Drill Combination; Tractor (any type larger D-5 100 flywheel HP and over or similar)(Bulldozer, Tamper, Scraper and Push Tractor single engine); Tractor (boom attachments); Traveling PIpe Wrapping, Cleaning and Bending; Tunnel Locomotive (over 30 tons); Shovel, Backhoe, Dragline, Clamshell (over 3/4 yd. and up to 5 cu. yds. M.R.C.)

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)
Clark, Esmeralda, Lincoln, Nye Counties

Group 7: Crane (over 25 tons up to and including 100 tons M.R.C.); Derrick Barge, Dual drum mixer; Hoist, stiff legs, guy derrick, or similar type, up to and including 100 tons; Monorail locomotive (diesel, gas or electric); Motor patrol-blade Operator (single engine); Multiple engine tractor operator (Euclid and similar type except Quad 9 cat); Rubber-tired earth moving equipment (single engine over 50 yds. struck); Rubber-tired earth moving equipment (multiple engine, euclid, Caterpillar and similar) (over 25 yds. and up to 50 cu. yds. struck); Tractor loader operator (crawler and wheel type over 6½ yds.); Tower crane repairman; Shovel, backhoe, dragline, clamshell operator (over 5 cu. yds. M&C); Woods mixer and similar pugmill equipment; Heavy duty repairman - welder combination

Group 8: Auto grader; Automatic slip form; Crane (over 100 tons); Hoist stiff legs, guy derricks or similar types (capable of hoisting 100 tons or more); Mass excavator (less than 750 cu.yds.); Mechanical finishing machine; Mobile form traveler; Motor patrol (multi engine); Pipe mobile machine; Rubber-tired earth moving equipment (multiple engine, Euclid, Caterpillar and similer type over 50 cu. yds. struck); Rubber-tired self loading scraper (paddle wheel-auger type self-loading) (2 or more units); Tandem equipment (2 units only); Tandem tractor (quad 9 or similar type); Tunnel mole boring machine; Rubber-tired Scraper (pushing without push cat, push-pull) (50¢ per hour additional)

Group 9: Canal liner; Canal trimmer; Helicopter pilot; Highline cableway; Wheel excavator (over 750 cu. yds.); Remote controlled earth moving equipment ($1.00 per hour additional to base rate)

POWER EQUIPMENT OPERATORS* (Except Piledriving and Steel Erection) Remaining Counties	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	AREA 1	AREA 2				
Group 1-A	$9.18	$10.33	$1.73	$2.25	$1.02	.10
Group 2	9.58	10.73	1.73	2.25	1.02	.10
Group 3	9.79	10.94	1.73	2.25	1.02	.10
Group 4	10.35	11.50	1.73	2.25	1.02	.10
Group 5	10.58	11.73	1.73	2.25	1.02	.10
Group 6	10.71	11.86	1.73	2.25	1.02	.10
Group 7	10.89	12.04	1.73	2.25	1.02	.10
Group 8	11.31	12.46	1.73	2.25	1.02	.10
Group 9	11.54	12.69	1.73	2.25	1.02	.10
Group 10	11.79	12.94	1.73	2.25	1.02	.10
Group 10-A	11.92	13.07	1.73	2.25	1.02	.10
Group 11	12.10	13.25	1.73	2.25	1.02	.10
Group 11-A	13.27	14.42	1.73	2.25	1.02	.10

*POWER EQUIPMENT OPERATORS-Area Definition-See "Area Definition" following Truck Drivers

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)
Remaining Counties

Group 1-A: Assistant to Engineer, including brakeman, deckhand, fireman, oiler, partsman (heavy duty repair shop parts room when needed), Switchman, Tar pot fireman; Boiler tender

Group 2: Compressor; Material Loader and/or Conveyor (handling building materials); Pump; Tar Pot fireman (power agitated)

Group 3: Box operator (bunker); Concrete curing machine (streets, highways, airports, canals); Conveyor belt (tunnel); Engineer generating plant (500 K.W.); Fireman hot plant; Hydraulic monitor; Lubrication and service engineer (mobile and grease rack); Mixer box operator (concrete plant); Motorman; Roto-mist; Screedman (except asphaltic or concrete paving); Oiler (truck crane); Rodman or chainman; Bobcat or similar loader, 1/4 cu. yd. or less

Group 4: Ballast jack tamper; Ballast regulator; Ballast tamper multiple-purpose; Boxman (asphalt plant); Concrete mixer, skip type; Dinky; Fork lift (construction job site); Ross carrier; Skip loader (under 1 cu. yd.); Tie Spacer; Line Master

Group 5: Concrete Mixer (over 1 cu. yd.); Concrete pumps or pumpcrete guns; Elevator and material hoist (1 drum); Screedman (Barber-Greene and similar) (asphalt or concrete paving); Shuttle car; Signalman

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)
Remaining Counties

Group 6: Boom truck or dual purpose "A" frame truck; B.L.R. lime road pactor or similar; Chip box spreader (Flaherty type or similar); Concrete batch plant (wet or dry); Concrete saws (highways, streets, airports, canals); Highline cableway signalman; Locomotive (over 30 tons); Maginnis International full slab vibrator (airports, highways, canals, warehouses); Mechanical burn, curb and/or curb gutter machine (concrete or asphalt); Power jumbo (setting slip forms, etc., in tunnels); Roller (except asphalt); Self-propelled compactor (single engine); Slip form pump (power driven by hydraulic, electric, air, gas, etc., lifting device for concrete forms); Stationary pipe wrapping, cleaning and bending machine; Pavement breaker or tamper (with or without compressor combination); Pavement breaker, truck mounted, with compressor combination; Small rubber-tired tractors; Self-propelled tape machine; Auger type drilling equipment up to and including 30 ft. depth drilling capacity M.R.C.

Group 7: Compressor (over 2); Concrete conveyor; Concrete conveyor or concrete pump, truck or equipment mounted (boom length to apply); Crusher plant engineer; Deck engineer; Drilling and boring machinery, vertical and horizontal (not to apply to waterliners, wagon drills or jackhammers); Generators; Grade setters; Grade checker; Kolman loader; Material hoist (2 or more drums); Mechanical finishers or spreader machine (asphalt, Barber-greene and similar); Mine or shaft hoist; Pipe bending machines (pipelines only); Pipe cleaning machines (tractor propelled and support4d); Pipe wrapping machines (tractor propelled and supported); Portable crushing and screening plants; Pumps (over 2); Refrigeration plants; Self-propelled boom type lifting device (center mount) (10 ton capacity or less); Slusher; Soil tester (certified); Surface heater and planer; Trenching machine (maximum digging capacity 3 ft. depth); Truck type loader; Welding machines (gasoline or diesel); Roller (asphalt); Instrumentman; Auger type drilling equipment over 30 ft. depth digging capacity M.R.C.

Group 8: Asphalt plant engineer; Car passer; Cast-in-place pipe laying machine; Combination slusher and motor; Dozer; Concrete batch plant (multiple units); Elevating grader; Grooving and grinding machine (highways); Heavy-duty repairman and/or welder; Ken-seal; Loader (up to and including 2½ cu. yds.); Mechanical trench shield; Mixermobile; Push cats; Road oil mixing machine; Wood-mixer (and other similar pugmill equipment); Rubber-tired earthmoving equipment (up to and including 35 cu. yds. "struck" m.r.c., Euclid, T-pulls, DW's 10, 20, 21 and similar); Self-propelled compactor with dozer; Sheepfoot; Small tractor (with boom); Soil stabilizer (P&H or equal); Timber Skidder (rubber tired) or similar equipment; Tractor; Tractor drawn scraper; Tractor mounted compressor drill combination; Trenching machine (over 3 ft. depth); Tri-batch paver; Tunnel badger or tunnel boring machine; Tunnel mole boring machine; Vermeer T-600B rock cutter

Group 9: Canal finger drain digger; Chicago boom; Combination backhoe and loader (up to and including 3/8 yds.); Combination mixer and compressor (gunite); Lull Hi-lift (20 ft. or over); Mucking machine; Tractor with boom (D6 or larger); Track laying type earth moving machine (single engine with tandem scrapers); Sub-grader (Gurries or other types)

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)
Remaining Counties

Group 10: Boom type backfilling machine; Bridge crane; Cary-lift or similar; Chemical grouting machine; Derricks; Derrick barges (except excavation work); Euclid loader and similar types; Heavy duty rotary drill rigs; Lift-slab (Vagtborg and similar types); Loader (over 2½ cu. yds. up to and including 4 cu. yds.); Locomotive (over 100 tons)(single or multiple units); Multiple engine earth moving machines (Euclid, dozers, etc.); Pre-stress wire-wrapping machine; Rubber-tired scraper, self-loading; Self-propelled reservoir-debris equipment floating (200 HP and over); Shuttle car (reclaim station); Single engine Scraper (over 35 cu. yds.); Train loading station; Vacuum cooling plant; Whirley crane (up to and including 25 tons); Trenching Machine; Multi-engine with sloping attachments (JEFFCO or similar; Chief of Party

Group 10-A: Backhoe (up to and including 1 cu. yd. hydraulic); Backhoe (up to and including 1 cu. yd. cable); Cranes (not over 25 tons) (hammerhead end gantry); Grade-alls (up to and including 1 cu. yd.); Motor patrol; Power shovels, clamshells, Draglines; cranes (up to and including 1 cu. yd.); Rubber-tired scraper, self-loading (twin engine); Self-propelled boom-type lifting device (center mount) (over 10 tons); CMI dual lane auto-grader SP30 or similar

Group 11: Automatic asphalt or concrete slip form paver; Automatic railroad car dumper; Canal finger drain backfiller; Canal trimmer; Cranes (over 25 tons); Highline cableway operator; Loader (over 4 yds. up to and including 12 cu. yds.); Multiple-engine earthmoving equipment (up to and including 75 cu. yds. "struck" M.R.C.); Power shovels, clamshells, draglines, backhoes, grade-alls (over 1 yd. and up to and including 7 cu. yds. m.R.C.); Self-propelled compactor (with multiple propulsion power units); Single engine rubber-tired earth-moving machine (with tandem scraper); Slip form paver (concrete or asphalt); Tandem cats and scrapers; Tower crane mobile; Universal Liebher and tower cranes (and similar types); Wheel excavator (up to and including 750 cu. yds. per hour); Whirley cranes (over 25 tons); Euclid loader when controlled from the pullcat

Group 11-A: Band wagons (in conjunction with wheel excavators); Loader (over 12 cu. yds.); Multi-engine earth moving equipment (over 75 cu. yds. "struck" M.R.C.); Operator of helicopter (when used in construction work); Power shovels and draglines (over 7 cu. yds. M.R.C.); Remote controlled earth moving equipment; Wheel excavator (over 750 cu. yds. per hour)

POWER EQUIPMENT OPERATORS STEEL ERECTION Remaining Counties	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 9.69	$ 1.73	$ 2.25	$1.02	.10
Group 2	10.10	1.73	2.25	1.02	.10
Group 3	11.19	1.73	2.25	1.02	.10
Group 4	11.34	1.73	2.25	1.02	.10
Group 4-A	11.65	1.73	2.25	1.02	.10
Group 5	12.17	1.73	2.25	1.02	.10
Group 6	12.61	1.73	2.25	1.02	.10
Group 6-A	13.22	1.73	2.25	1.02	.10
Group 7	14.31	1.73	2.25	1.02	.10

POWER EQUIPMENT OPERATORS
Steel Erection
Remaining Counties

Group 1: Oiler

Group 2: Compressor Operator; Generator, gasoline or diesel-driven (100 K.W. or over); Truck Crane Oiler

Group 3: Compressors, Generators and/or Welding Machines or Combination (2 to 6) (Structural steel or tank erection only)

Group 4: Heavy duty repairman; Tractor operator

Group 4-A: Combination heavy-duty repairman-welder

Group 5: Boom Truck or Dual Purpose A-frame Truck; Boom Cat; Chicago Boom; Crawler Cranes and Truck Cranes (15 ton m.r.c. or less); Self-propelled Boom-type Lifting Device (center mount) (10 ton capacity or less m.r.c.); Single Drum Hoist; Tugger Hoist

Group 6: Crawler Cranes and Truck Cranes (over 15 tons m.r.c.); Derricks; Gantry Rider (or similar equipment); Highline Cableway; Self-propelled boom-type Lifting Device (center mount) (over 10 tons); Tower Cranes Mobile; Universal Liebher and Tower Cranes (and similar types); Two or more drum hoist

Group 6-A: Cranes (over 125 tons)

Group 7: Operator of Helicopter

POWER EQUIPMENT OPERATORS PILEDRIVING Remaining Counties	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 9.18	$ 1.73	$ 2.25	$1.02	.10
Group 1-A	9.55	1.73	2.25	1.02	.10
Group 1-B	9.78	1.73	2.25	1.02	.10
Group 2-A	9.78	1.73	2.25	1.02	.10
Group 2-B	10.60	1.73	2.25	1.02	.10
Group 3	10.92	1.73	2.25	1.02	.10
Group 3-A	11.36	1.73	2.25	1.02	.10
Group 4	11.93	1.73	2.25	1.02	.10
Group 5	12.11	1.73	2.25	1.02	.10
Group 6	13.27	1.73	2.25	1.02	.10

POWER EQUIPMENT OPERATORS
Piledriving
Remaining Counties

Group 1: Fireman; Oilman; Deckhand

Group 1-A: Compressor Operator

Group 1-B: Truck Crane Oiler

Group 2-A: Operator of Tugger Hoist (hoisting material only)

Group 2-B: Compressor Operator (over 2); Generator Operator; Pump Operator (over 2); Welding Machine Operator (powered other than by electricity)

Group 3: Deck Engineer; Fork Lift Operator; A-Frames; Self-propelled boom-type Lifting Device (center mount) (10 ton capacity or less m.r.c.)

Group 3-A: Heavy Duty Repairman and/or Welder

Group 4: Operating Engineer in lieu of Assistant to Engineer tending Boiler or Compressor attached to Crane Piledriver; Operator of Piledriving Rigs, Skid or Floating and Derrick Barges; Operator of diesel or gasoline powered Crane Piledriver (without boiler) (up to and including 1 cu. yd. rating); Self-propelled boom-type Lifting Device (center mount) (over 10 tons); Truck Crane Operator (up to and including 25 tons)

Group 5: Operator of diesel or gasoline powered Crane Piledriver (without boiler) (over 1 cu. yd. rating); Operator of Crane (with steam, flash boiler, pump or compressor attached); Operator of steam powered crawler, or Universal type driver (Raymond or similar type); Truck Crane Operator (over 25 tons) (hoisting material or performing piledriving work)

Group 6: Cranes (over 125 tons)

TRUCK DRIVERS Clark, Esmeralda, Lincoln, Nye Counties	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$9.97	.51	.70		
Group 2	10.08	.51	.70		
Group 3	10.13	.51	.70		
Group 4	10.29	.51	.70		
Group 5	10.47	.51	.70		
Group 6	10.97	.51	.70		

TRUCK DRIVERS Clark, Esmeralda, Lincoln, Nye Counties

TRUCK DRIVERS
Clark, Esmeralda, Lincoln, Nye Counties

Group 1: Dump Trucks (less than 12 yds.); Trucks (legal payload capacity less than 15 tons); Water and fuel trucks (under 2500 gals.); Pickups; Service; Repairman helper; Drivers of busses (on jobsite used for transportation of up to 25 passengers); Teamster equipment (highest rate for dual craft operation)

Group 2: Dump trucks (12 yds. but less than 16 yds.); Trucks (legal payload capacity between 15 and 20 tons); Water and fuel trucks (2500 to 4000 gals.); Truck driver working on gas and oil pipeline (including winch truck and all sizes of trucks); Truck greaser and fireman; Drivers of busses (on jobsite used for transportation of more than 25 passengers); Bootman

Group 3: Dumporete (less than 6½ yds.); Transit-mix (less than 3 yds); Warehouse Clerk

Group 4: Dump trucks (16 yds. up to and including 22 yds.); Trucks (legal payload capacity 20 tons but less than 30 tons); Water and fuel trucks (4000 gals. but less than 6000 gals.); Dumpcrete (6½ yds. and over); Transit-mix (3 yds. but less than 6 yds.); Euclid-type spreader trucks; Dumpster; Fork lift; Ross carrier - highway; Road oil spreading truck, time spent spreading oil

Group 5: Dump trucks (over 22 yds.); Trucks (legal payload capacity 20 tons and over); Water and fuel trucks (6000 gals. and over); Transit-mix (6 yds. and over); Truck repairman

Group 6: D.W. and similar-type equipment, D.W. and 10 and D.W. 20; Euclid-type equipment, LeTourneau Pulls, Terra Cobras and similar types of equipment; also FB and similar-type trucks when performing work within teamster jurisdiction, regardless of types of attachment including power units pulling off highway belly dumps in tandem

TRUCK DRIVERS[a] Remaining Counties	Basic Hourly Rates AREA 1	Basic Hourly Rates AREA 2	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
DUMP (single or multiple units including semis, double and transfer units; Dumpcrete and bulk cement Spreaders:						
Under 4 yards	$ 9.20	$10.35	.51	.65		.05
4 yds. and under 8 yds.	9.40	10.55	.51	.65		.05
8 yds. and under 10 yds.	9.60	10.75	.51	.65		.05
10 yds. and under 35 yds.	9.75	10.90	.51	.65		.05
35 yds. and under 60 yds.	10.00	11.15	.51	.65		.05
60 yds. and under 75 yds.	10.15	11.30	.51	.65		.05
75 yds. and under 100 yds.	10.30	11.45	.51	.65		.05
100 yds. and over	10.45	11.60	.51	.65		.05
TRANSIT MIX:						
Under 8 yards	9.60	10.75	.51	.65		.05
8 yds. and including 12 yds.	9.70	10.85	.51	.65		.05
Over 12 yards	9.90	11.05	.51	.65		.05
WATER TRUCKS & Jetting Trucks:						
Up to 2,500 gallons	9.40	10.55	.51	.65		.05
2,500 gals. and over	9.60	10.75	.51	.65		.05
DW 20's and 21's and other similar Cat type; Terra Cobra, LeTourneau Pulls, Tournerocker, Euclid and similar type equipment when pulling Aqua/Pak; Water tank trailers, fuel and/or grease tank, or other misc. trailers (except as defined under dump trucks)	9.85	11.00	.51	.65		.05
FLATRACK; Industrial Lift with Mechanical Tailgate:						
Single unit - 2 axle	9.40	10.55	.51	.65		.05
Single unit - 3 axle	9.50	10.65	.51	.65		.05

TRUCK DRIVERS* (Cont'd) Remaining Counties	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	AREA 1	AREA 2				
BUS AND MANHAUL DRIVERS, Single unit; Pickup:						
Up to 18,000 pounds	$ 9.25	$10.40	.51	.65		.05
18,000 pounds and over	9.35	10.50	.51	.65		.05
WINCH TRUCKS, A-Frame:						
Under 18,000 pounds	9.35	10.50	.51	.65		.05
18,000 pounds and over	9.45	10.60	.51	.65		.05
HEAVY DUTY TRANSPORT (highbed); Heavy Duty transport (gooseneck lowbed); Tiltbed or flatbed pull trailers	9.75	10.90	.51	.65		.05
BOOTMAN, combination; Bootman and Road Oiler	9.65	10.80	.51	.65		.05
ROAD OIL TRUCKS OR BOOTMEN; Fuel drivers; Fuel man and Fuel Island Man	9.35	10.50	.51	.65		.05
HELICOPTER PILOT (when transporting men or materials	10.15	11.30	.51	.65		.05
LIFT JITNEYS And FORK LIFTS	9.45	10.60	.51	.65		.05
WAREHOUSE CLERK	9.30	10.45	.51	.65		.05
TIRE REPAIRMAN	9.60	10.75	.51	.65		.05
TRUCK REPAIRMAN	9.90	11.05	.51	.65		.05

*TRUCK DRIVERS -Area definition - See "Area Definition" following this page.

AREA DEFINITIONS
Remaining Counties
LABORERS
Heavy and Highway Construction
POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)
TRUCK DRIVERS

AREA 1: All of northern Nevada within the following lines:
Commencing at the N.E. corner of township 22N, range 18E, Mount Diablo Baseline and Meridian at the California-Nevada border;
Thence easterly to the N.E. corner of township 22N, range 22E;
Thence southerly to the N.E. corner of township 20N, range 22E;
Thence easterly to the N.W. corner of township 20N, range 26E;
Thence northerly to the N.W. corner of township 22N, range 26E;
Thence easterly to the N.W. corner of township 22N, range 29E;
Thence northerly to the N.W. corner of township 30N, range 29E;
Thence easterly to the N.E. corner of township 30N, range 33E;
Thence southerly to the S.E. corner of township 24N, range 33E;
Thence westerly to the S.E. corner of township 24N, range 31E;
Thence southerly to the S.E. corner of township 16N, range 31E;
Thense westerly to the S.E. corner of township 16N, range 30E;
Thence southerly to the S.E. corner of township 15N, range 30E;
Thence westerly to the S.E. corner of township 15N, range 27E;
Thence southerly to the S.E. corner of township 14N, range 27E;
Thence westerly to the S.E. corner of township 14N, range 23E;
Thence southerly to the S.E. corner of township 13N, range 23E;
Thence westerly to the S.E. corner of township 13N, range 22E;
Thence southerly to the N.E. corner of township 10N, range 22E;
Thence easterly to the N.E. corner of township 10N, range 23E;
Thence southerly along the easterly line of range 23E to the intersection of the California-Nevada border;
Thence north-westerly, then northerly following the California-Nevada border to the point of beginning.

Area 1 also includes that portion of northern Nevada included within the following lines:
Commencing at the S.W. corner of township 37N, range 52E;
Thence northerly to the N.E. corner of township 37N, range 52E;
Thence easterly to the N.W. corner of township 37N, range 50E;
Thence southerly to the S.W. corner of township 37N, range 50E;
Thence easterly to the S.E. corner of township 37N, range 50E;
Thence southerly to the N.E. corner of township 31N, range 50E;
Thence westerly to the N.W. corner of township 31N, range 50E;
Thence southerly to the S.W. corner of township 31N, range 50E;
Thence westerly to the S.E. corner of township 31N, range 52E;
Tehnce northerly to the N.E. corner of township 31N, range 52E;
Thence westerly to the S.E. corner of township 31N, range 51E;
Thence northerly to the point of beginning.

AREA 2: All areas not included within Area 1 as defined above.

SUPERSEDEAS DECISION

STATE: Nevada

COUNTIES: Nevada Test Site including Tonopah Test Range in Clark and Nye Counties, Nevada

DECISION NUMBER: NV78-5010

DATE: Date of Publication

Supersedea Decision No. NV77-5072 datad July 8, 1977, in 42 FR 35562.

DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 13.87	.85	$ 1.20		
BRICKLAYERS	12.27	.70	.60		.06
CARPENTERS:					
Carpenters	11.19	.65	.90	.80	.03
Floor Layers	11.215	.65	.90	.80	.03
Millwrights	11.69	.65	.90	.80	.03
CEMENT MASONS:					
Cement Masons	8.85	1.00	.70	2.00	.08
Floor Finishing Machine	9.20	1.00	.70	2.00	.08
ELECTRICIANS:					
Electricians; Equipment Operators; Linemen	13.22	.73	10+1.30		.05
Cable Splicers	13.55	.73	10+1.30		.05
Groundman	10.58	.73	10+1.30		.05
IRONWORKERS:					
Reinforcing; Ornamental; Structural	11.56	1.24	2.22	1.46	.06
MASON TENDERS	10.02	.65	1.35		
PAINTERS:					
Brush; Roller Paperhangers; Spray; Steel; Sandblasters; Swing Stage; Tapers; Buffing; Sandblasters, Steel	9.76	.75	.60	1.50	.06
	10.11	.75	.60	1.50	.06
PLUMBERS; Steamfitters	11.53	1.25	2.32	1.85	.08
ROOFERS	13.75	.65			
SHEET METAL WORKERS	11.92	.93	1.61	1.00	.05
SPRINKLER FITTERS	15.05	.65	.95		.08

LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 8.08	.51	$ 1.25	$ 1.25	
Group 2	8.13	.51	1.25	1.25	
Group 3	8.16	.51	1.25	1.25	
Group 4	8.18	.51	1.25	1.25	
Group 5	8.20	.51	1.25	1.25	
Group 6	8.21	.51	1.25	1.25	
Group 7	8.23	.51	1.25	1.25	
Group 8	8.26	.51	1.25	1.25	
Group 9	8.27	.51	1.25	1.25	
Group 10	8.29	.51	1.25	1.25	
Group 11	8.34	.51	1.25	1.25	
Group 12	8.37	.51	1.25	1.25	
Group 13	8.39	.51	1.25	1.25	
Group 14	8.42	.51	1.25	1.25	
Group 15	8.44	.51	1.25	1.25	
Group 16	8.505	.51	1.25	1.25	
Group 17	8.53	.51	1.25	1.25	
Group 18	8.60	.51	1.25	1.25	

LABORERS

Group 1: Laborer - general; Laborer - demolition (cleaning of bricks, lumber, etc.); Dry packing of concrete and filling of form-bolt holes; Flagman, spotter, debris handler and dumpman; Fence builder; Tool attendant (jobsite only); Gas and oil pipeline laborer

Group 2: Cutting torch operator (demolition); Terman and Mortarman

Group 3: Guinea Chaser

Group 4: Fine grader; highway and street paving, airport runways and similar work; Landscape gardener, nurseryman and grounds keeper

Group 5: Laborer - packing rod steel and pans

Group 6: Underground laborer including caisson bellowers (except tunnels)

LABORERS (Cont'd)

Group 7: Chucktender (except tunnels); Scaler; Tank scaler and cleaner

Group 8: Cesspool digger and installer

Group 9: Concrete curer - impervious membrane and oiler of all materials and form oiler; Riprap stonepaver; Sandblaster (pot tender); Making and caulking of all non-metallic pipe joints

Group 10: Operators and tenders of pneumatic and electric tools, vibrating machines, and similar mechanical tools not separately classified herein, including hand guided ditch witch and hand type roller; Asphalt raker, ironer, spreader; Buggymobile man; Cement dumper (on 1 yard or larger mixers and handling bulk cement); Concrete saw man excluding tractor type; Concrete core cutter; Gas and oil pipeline wrapper - pot tender and form man; Operator of cement grinding machines; Roto-scraper; Tree climber, faller, chain saw operator; Pittsburgh chipper and similar type brush shredders

Group 11: Rock slinger; Scaler (using boe'ns chair or safety belt or power tools)

Group 12: Driller and/or pavement breaker

Group 13: Laying of all nonmetallic pipe, including sewer pipe, drain pipe and underground tile

Group 14: Gas and oil pipeline wrappers - 6 inch pipe and over

Group 15: Cribber or shorer; Powderman

Group 16: Steel Headerboard Man

Group 17: Driller (Core, Diamond or Wagon), Joy Driller Model TM-M-2A, Gardner-Denver Model DH 143 and similar type drills; Sandblaster (nozzleman)

Group 18: Head Rock Slinger

POWER EQUIPMENT OPERATORS (Except Piledriving and Steel Erection)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 9.98	.95	2.00	.30	.04
Group 2	10.22	.95	2.00	.30	.04
Group 3	10.46	.95	2.00	.30	.04
Group 4	10.57	.95	2.00	.30	.04
Group 5	10.76	.95	2.00	.30	.04
Group 6	10.86	.95	2.00	.30	.04
Group 7	9.56	.95	2.00	.30	
Group 7-A	9.27	.95	2.00	.30	
Group 7-B	9.16	.95	2.00	.30	
Group 7-C	8.92	.95	2.00	.30	

POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)

Group 1: Air Compressor, pump or generator; Engineer oiler and Signal Man; Heavy duty repairman's helper; Switchman or Brakeman

Group 2: Concrete Mixer, Skip type; Conveyor and Beltman; Fireman; Generator, Pump or Compressor (2-5 units inclusive, over 5 units, $0.10 per hour for each additional unit up to 10 units, portable units); Generator, Pump or Compressor Plant; Rotary Drill Helper (oilfield type); Skiploader, wheeltype, Ford, Ferguson, Jeep or similar type, 3/4 yard or less (w/o drag-type attachments); Temporary Heating Plant; Truck Crane Oiler; Hydrostatic Pump

Group 3: A-Frame or Winch Truck; Dinky Locomotive or Tunnel Motor; Elevator Hoist; Equipment Greaser; Ford, Ferguson or similar type (with drag-type attachments); Hydra-hammer or similar type equipment; Power Concrete Curing Machine; Power Concrete Saw; Power-driven Jumbo Form Setter; Ross Carrier; Self-propelled Tar Pipe-lining Machine; Stationary Pipe Wrapping and Cleaning Machine; Towblade Operator

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)

Group 4: Asphalt Plant Fireman; Boring Machine; Boxman or Mixer Box (concrete or asphalt plant); Derrickman (oilfield type); Drilling Machine (including water wells); Highline Cableway Signalman; Locomotive Engineer; Power Sweeper; Roller, compacting; Screed; Trenching Machine (up to 6 feet depth)

Group 5: Asphalt or concrete Spreading, Mechanical tamping or finishing Machine - Roller (all types and sizes), Soil, cement, asphalt - finish; Asphalt plant engineer; Deck engine; Grade checker; Heavy duty welder; Machine tool; Pavement breaker; Pneumatic heading shield - tunnel; Road oil mixing machine; Forklift, under five tons; Rubber-tired, heavy duty equipment (Oshkosh, DW, Euclid, LeTourneau, LaPlant-Choate, or similar type equipment with any type attachments); Skiploader, wheeltype, over 3/4 yards, up to and including 1¼ yards; Slip form pump (power-driven hydraulic lifting device for concrete forms); Tractor operator - drag-type shovel, bulldozer, tamper, scraper and push tractor

Group 6: Combination heavy duty repairman and welder; Concrete mixer - paving; Concrete mobile mixer; Concrete pump or pumpcrete gun; Crushing plant engineer; Elevating Grader; Heavy duty repairman; Highline cableway; Hoist (Chicago boom and mine); Kolman belt loader and similar type; Lift slab machine; Loader operator - Athey, Euclid, Hancock, Sierra or similar type; Motor patrol (any type or sizes); Multiple-engine earth-moving machinery; Pneumatic concrete placing machine - Heckley-Presswell or similar type; Rotary Drill, excluding caisson type; Skiploader, wheel-type, over 1¼ yards; Surface heater and planer; Tractor loader - crawler type - all types and sizes; Tractor, with boom attachments; Traveling pipe wrapping, cleaning and bending machine; Trenching machine (over 6 feet depth) Universal equipment (shovel, backhoe, dragline, clamshell, derrick, derrick barge, crane, piledriver and mucking machine); Forklift, over 5 tons

Group 7: Driller Operator; Fishing tool engineer

Group 7-A: Derrickman

Group 7-B: Motorman

Group 7-C: Drill Helper

TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 10.29	.42	.75		
Group 2	10.40	.42	.75		
Group 3	10.45	.42	.75		
Group 4	10.61	.42	.75		
Group 5	10.79	.42	.75		

TRUCK DRIVERS

Group 1: Light duty driver

Group 2: Bootman; Truck Greaser; Light vehicle dispatcher

Group 3: Fireman; Warehouse Clerk

Group 4: Heavy duty driver; Forklift driver; Equipment parts stockroom clerk

Group 5: Extra heavy duty driver

SUPERSEDEAS DECISION

STATE: NEW MEXICO COUNTY: STATEWIDE
DECISION NO. NM78-4021 DATE: Date of Publication
Supersedes Decision No. NM77-4103 dated May 20, 1977 in 42 FR 26169
DESCRIPTION OF WORK: Sewer & Water & Highway Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:					
Carpenters	$5.11	.10	.20	.10	.04
Power saw operator-saw filer	5.26	.10	.20	.10	.04
Millwrights & Piledriver	5.36	.10	.20	.10	.04
CEMENT MASONS	4.94	.26			
IRONWORKERS:					
Reinforcing	4.58	.25	.25		
Structural	7.99	.50	.75		.04
PAINTERS:					
Brush	4.57				
Spray	5.20				
LABORERS:					
Common laborer; carpenter tender concrete buggy operator (hand); concrete workers	2.65	.20	.15		
Wagon, air track, drill & diamond drillers' tender (outside)	2.71	.20	.15		
Air & power tool man; asphalt raker; batching plant scaleman; tenders (to cement masons and plasterers); chain sawman; concrete touchup-man; concrete saw man; curbing machine; asphalt or cement; cutting torchman; metal form setter-road; grade setter; hod carrier; mortar mixer and mason tender; powderman or blaster helper; scaler; sandblaster helper; vibrator compactor (hand type); vibrator-man (hand-type); concrete power buggyman, wagon; air track drill and diamond drillers (outside)	2.86	.20	.15		
Gunite pumpcreteman & nozzleman; multiplate setter; pipelayer	3.16	.20	.15		
Manhole builder	3.36	.20	.15		
Powderman-blaster-make up	3.31	.20	.15		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Group I	$4.88	.15	.10		.01
Group II	5.08	.15	.10		.01
Group III	5.66	.15	.10		.01
Group IV	5.68	.15	.10		.01
Group V	5.68	.15	.10		.01
Group VI	5.83	.15	.10		.01
Group VII	5.88	.15	.10		.01
Group VIII	6.03	.15	.10		.01
Group IX	6.53	.15	.10		.01
Group X	7.33	.15	.10		.01

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITION

GROUP I
Concrete paving curing machine

GROUP II
Belt type conveyors (material & concrete); broom (self propelled); fork lift; grease truck operator; head oiler; hydro lift; tractor (under 50 drawbar HP with or without attachment); Industrial locomotive brakeman; front end loader (2 cy or less); fireman; oiler; screedman; roller (pull type); mulching machine; roller (self-propelled)

GROUP III
Concrete paving form grader; concrete paving gang vibrator; concrete paving joint or saw machine; concrete paving sub grader; tractor with backhoe attachment; subgrade or base finisher; power plant (electric general or welding machine)

GROUP IV
Bulldozer (including self-propelled roller with dozer attachment); batch or continuous mix plant (concrete soil-cement, or asphalt); roller (steel wheel); front end loader (2 cy thru 10 cy); scraper operator; motor grader

GROUP V
Asphalt distributor; asphalt paving or laydown machine; asphalt retort heater; mixer, heavy duty, asphalt or soil cement; trenching machine; clam type shaftmucker; backhoe, clamshell, dragline, gradall, shovel(under 3/4 cy); elevating grader or belt loader; cranes (crawler or mobile) under 20 ton; air compressor (300 CFM & over); crushing screening and washing plants; drilling machine (cable core or rotary); mixer, concrete (1 cy and less); pump (6" intake or over); winch truck; hoist (1 drum); industrial locomotive motorman; lumber stacker; tractor (50 drawbar HP or over)

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POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITION (CONT'D)

GROUP VI
Concrete paver mixer; hoist (2 drum and over); sideboom; traveling crane; piledriver; backhoe, clamshell, dragline, gradall, shovel (3/4 cy to 3 cy); cranes (crawler or mobile) 20 ton to 40 ton; front end loader (over 10 cy); mixer, concrete (over 1 cy); mechanic and/or welder)

GROUP VII
Concrete slip-form paving machine; concrete paving finishing machine; concrete paving longitudinal float; gunite machine; refrigerator; jumbo form or drilling atage; slusher; concrete paving spreader; pumpcrete machine; grout pump operator

GROUP VIII
Mine hoist; bulldozer (multiple units); scraper (multiple units); mucking machine; backhoe, clamshell, dragline, gradall, shovel (over 3 CY); cranes (crawler or mobile) over 40 tons

GROUP IX
Belt loader (CMI types) operator; derrick, cableway

GROUP X
Pipemobile operator; mole operator

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Distributor (asphalt)	$4.57	.26			
Dumpster or dumptor	4.65	.26			
Dump or batch trucks:					
Under 8 cy	4.36	.26			
8 cy and under 16 cy	4.46	.26			
16 cy and under 20 cy	4.60	.26			
20 cy and over	4.65	.26			
Diesel-powered transport (non-self-loading) 10 yds & over	4.88	.26			
Flatbed:					
1-1/2 ton	4.36	.26			
Over 1-1/2 ton	4.51	.26			
Lumber carrier	4.39	.26			
Lowboy, heavy equipment	4.98	.26			
Lowboy, light equipment	4.60	.26			
Off-highway hauler	4.63	.26			
Pick-up truck 3/4 ton or under	4.21	.26			
Service station attendant	4.25	.26			
Spreader box	4.30	.26			
Spreader box (self-propelled)	4.54	.26			
Swamper or rider helper	4.17	.26			
Tank Truck:					
3,000 gal. or under	4.44	.26			
3,001 gal. to 6,000 gal.	4.54	.26			
6,001 gal. and over	4.64	.26			
Teamster, 2 or 4 or more	4.17	.26			
Trailer or semi-trailer dump	4.73	.26			
Transit mix	4.60	.26			
Warehousemen	4.35	.26			

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION -- AREA I					
AREA I-A					
Lineman-Technician	9.00	.60	3%+.60		1/2%
Cable splicers	9.65	.60	3%+.60		1/2%
Equipment operator, includes helicopter operator	8.58	.60	3%+.60		1/2%
Equipment mechanic, includes helicopter mechanic & powderman	7.88	.60	3%+.60		1/2%
Groundman & Jackhammer operators:					
1st 6 months	4.88	.60	3%+.60		1/2%
2nd 6 months	5.51	.60	3%+.60		1/2%
Experienced	6.36	.60	3%+.60		1/2%
AREA I-B					
Linemen-Technician	9.82	.60	3%+.60		1/2%
Cable splicers	10.51	.60	3%+.60		1/2%
Equipment operator, includes helicopter operator	9.35	.60	3%+.60		1/2%
Equipment mechanic, includes helicopter mechanic & powderman	8.58	.60	3%+.60		1/2%
Groundman & Jackhammer operators:					
1st 6 months	5.31	.60	3%+.60		1/2%
2nd 6 months	5.99	.60	3%+.60		1/2%
Experienced	6.96	.60	3%+.60		1/2%
LINE CONSTRUCTION -- AREA II					
AREA II-A					
Lineman	10.50	.60	3%+.70		1/2%
Cable splicers	11.55	.60	3%+.70		1/2%
Equipment operator (includes helicopter operator)	9.98	.60	3%+.70		1/2%
Equipment mechanic (includes helicopter mechanic) & powderman	9.14	.60	3%+.70		1/2%
Groundman & Jackhammer operators:					
1st 6 months	5.67	.60	3%+.70		1/2%
2nd 6 months	6.41	.60	3%+.70		1/2%
Experienced	7.46	.60	3%+.70		1/2%
AREA II-B					
Lineman	11.24	.60	3%+.70		1/2%
Cable splicers	12.29	.60	3%+.70		1/2%
Equipment operator (includes helicopter operator)	10.72	.60	3%+.70		1/2%
Equipment mechanic (includes helicopter mechanic) & powderman	9.14	.60	3%+.70		1/2%

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION AREA II-B (CONTD):					
Groundman and Jackhammer operator:					
1st 6 months	$ 6.41	.60	3%+.70		1/2%
2nd 6 months	7.15	.60	3%+.70		1/2%
Experienced	8.20	.60	3%+.70		1/2%
AREA II-C					
Lineman	11.87	.60	3%+.70		1/2%
Cable splicers	12.92	.60	3%+.70		1/2%
Equipment operator (includes helicopter operator)	11.35	.60	3%+.70		1/2%
Equipment mechanic (includes helicopter mechanic) & powderman	10.51	.60	3%+.70		1/2%
Groundman & Jackhammer operators:					
1st 6 months	7.04	.60	3%+.70		1/2%
2nd 6 months	7.78	.60	3%+.70		1/2%
Experienced	8.83	.60	3%+.70		1/2%
AREA II-D					
Lineman	12.60	.60	3%+.70		1/2%
Cable splicers	13.65	.60	3%+.70		1/2%
Equipment operator (includes helicopter operator)	11.35	.60	3%+.70		1/2%
Equipment mechanic (includes helicopter mechanic) & powderman	11.24	.60	3%+.70		1/2%
Groundman & Jackhammer operators:					
1st 6 months	7.77	.60	3%+.70		1/2%
2nd 6 months	8.51	.60	3%+.70		1/2%
Experienced	9.56	.60	3%+.70		1/2%

LINE CONSTRUCTION AREA DEFINITIONS

AREA I - Line construction work for electric and telephone utilities, REA Co-ops, railroads and municipalities:
AREA I-A -- BERNALILLO COUNTY
AREA I-B -- STATEWIDE, EXCEPT BERNALILLO COUNTY

AREA II - Other Line construction work including switching stations and sub-stations adjacent to power plants
AREA II-A -- From nearest basing point cities, towns and mileage from main post office
Albuquerque -- 15 miles from main post office
Santa Fe -- 15 miles from main post office
Las Vegas -- 8 miles from main post office
Farmington -- 8 miles from main post office
Raton -- 6 miles from main post office
Tucumari -- 6 miles from main post office
Aztec -- 6 miles from main post office
Roswell -- 12 miles from main post office
Ruidoso -- 12 miles from main post office
Portables -- 12 miles from main post office
Carrizozo -- 12 miles from main post office
Clovis -- 12 miles from main post office
Gallup -- 10 miles from main post office
*Pojoaque - 2 miles from main post office
*All areas adjacent to Pojoaque that are over two miles distant from the main post office in that town will be zoned out of Santa Fe.

AREA II-B - Extending up to 20 miles beyond Area II-A
AREA II-C - Extending up to 30 miles from Area II-A
AREA II-D - Anything beyond 30 miles from Area II-A

All work in Los Alamos County use Area II-C rates.

SUPERSEDEAS DECISION

STATE: NEW YORK

COUNTIES: BRONX, KINGS, QUEENS, NEW YORK AND RICHMOND

DECISION NO.: NY78-3007

DATE: DATE OF PUBLICATION

Supersedes Decision No. NY77-3025 dated June 17, 1977 in 42 FR 31105.

DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction.

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	$12.38	1.02	1.82		
Boilermakers	13.19	5%	15%	7%	.02
Bricklayers	11.04	1.48	3.38	.30	.01
Bricklayers (rehabilitation work on residential buildings over 4 stories defined to include demolition, repair, and alteration on any existing structure which is intended for predominantly residential use)	9.15	1.13	1.33		
Carpenters, Building: Carpenters, Dock Builders, Millwrights, Piledrivermen, Soft Floor Layers	11.45	1.40	1.78	.70	.04
Carpenters, Heavy: Carpenters, Dock Builders, and Piledrivermen	11.45	1.40	1.78	.70	.04
Carpenters, Millwrights, Piledrivermen, Soft Floor Layers (Rehabilitation work on residential buildings over 4 stories defined to include demolition repair, and alteration on any existing structure which is intended for predominantly residential use)	9.16	1.25	.49		.04
Cement masons	11.40	1.74	1.19		.02
Electricians and Linemen	12.25	7%	3%+ s	5.7%+b	4%
Electricians and Linemen (Rehabilitation work on buildings over 4 stories defined to include demolition, repair, and alteration on any existing structure which is intended for predominantly residential use)	9.50	7%	1%+a	5.365%	4%

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Elevator Constructors	11.32	.745	.35+e	c+d	.02
Elevator Constructors helpers	8.44	.745	.35+e	c+d	.02
Elevator Constructors helpers probation	5.66				
Elevator Constructors Modernization	9.35	.495	.32+e	c+d	.02
Elevator Constructors helpers Modernization	7.01	.495	.32+e	c+d	.02
Elevator Constructors Repair	8.50	.495	.32+e	c+m	.02
Elevator Constructors Repair helpers	6.38	.495	.32+e	c+d	.02
Glaziers	11.20	.66	1.66	.67	.01
Ironworkers:					
Ornamental Finisher	10.67	1.18	2.55	.78	.05
Reinforcing	10.41	1.325	1.985	.75+g	.03
Structural	11.50	1.55	3.00	1.60+f	.07
Laborers:					
Asphalt Laborers	9.85	1.10	1.05	h	
Asphalt Rakers	10.11	1.10	1.05	h	
Asphalt Tampers	9.87	1.10	1.05	h	
Cement Concrete Workers	9.40	.8025	1.3525	i	
Masons Tenders	9.40	.687	1.495		
Masons Tenders (Rehabilitation work on residential buildings over 4 stories defined to include demolition, repair, and alteration on any existing structure which is intended for predominantly residential use)	7.52	.79			
Blasters (Heavy)	10.29	1.035	1.775	1.75	
Concrete Breakers, Chippers, Jackhammers, Pneumatic tools, Spades (Heavy)	8.82	1.035	1.775	1.75	
Wagon Drills (heavy)	9.05	1.035	1.775	1.75	
Powder Carriers (heavy)	7.92	1.035	1.775	1.75	

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers (cont'd):					
Laborers (Building and Heavy)	9.05	1.35	1.48		
Curb Setters (Highway)	12.26	1.10	1.05	h	
Laborers, Puddlers, Concrete Rakers	9.88	1.10	1.05	h	
Pavers (Highway)	12.26	1.10	1.05	h	
Rammers (Highway)	11.16	1.10	1.05	h	
Demolition:					
Barmen	9.80	8%	10%		
Barmen Helpers	9.50	8%	10%		
Plasterers helpers (Kings)	9.70	2.80		.80	
Plasterers helpers (Queens)	9.60	1.55		1.35	.01
Plasterers helpers (Bronx-NY Richmond)	8.35	.90	1.40	.35	
Lathers, Nettalic	10.41	1.325	1.985	.75+p	.03
Lathers, Nail-on (Kings-Queens)	8.40	.655	1.655	.70	.01
Lathers, Nail-on (Bronx-NY-Richmond)	8.60		.25		.01
Leadburners	10.75	.40	.25	f	.01
Marble setters:					
Carvers	10.15	1.06	1.26	k	
Cutters and Setters	10.00	1.06	1.26	k	
Sawyers, Rubbers, and Polishers	10.28	1.06	1.26	k	
Crane operators and Derrickmen	8.28	1.06	1.26	k	
Painters:					
Brush	9.55	8¼%	5%+q	3%	
Brush (Rehabilitation work on residential buildings over 4 stories defined to include demolition, repair, and alteration on any existing structure which is intended for predominantly residential use)	8.50	.90	.50		
Spray, Spray Gun, Scaffold Work	11.38	8¼%	5%+q	3%	
Structural Steel	11.68	11%	14%	1%	
Structural Steel Spray	12.68	11%	14%	1%	
Pointers, Caulkers and Cleaners	10.17	1.10	1.87		.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plasterers:					
Kings	$10.60	1.10		1.40	.01
Queens	9.60	1.55		1.35	.01
Bronx-NY-Richmond	9.30	1.10	1.54	.90	.01
Bronx-NY-Kings-Queens-NY-Richmond (Rehabilitation work on residential buildings over 4 stories defined to include demolition, repair, and alteration on any existing structure which is intended for predominantly residential use)	7.17	2.30			
Plumbers:					
NY-Bronx	10.55	4.70	s		
NY-Bronx (Rehabilitation work on residential buildings over 4 stories defined to includs demolition, repair, and alteration on any existing structure which is intended for predominantly residential use)	7.92	3.52	r		
Kings-Queens	10.20	1.90	2.14	1.19	.22
Richmond	10.63		1.58	1.05	.30
Roofers:					
Composition, Damp, Waterproofers	9.65	1.79	2.65	.65	
Composition, Damp, Waterproofers (Rehabilitation work on residential buildings over 4 stories defined to include demolition, repair, and alteration on any existing structre which is intended for predominantly residential use)	6.86	1.34	1.84	.49	
Slate-Tile (Kings-Queens)	11.07	.55			
Slate-Tile helpers(Kings-Queens)	5.13	.50	1.40	1.40	

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Slate-Tile (Bronx-NY-Richmond)	$ 9.70	.50	1.40	1.60	
Slate-Tile helpers (Bronx-NY-Richmond)	7.90	.50	1.00	1.20	
Sheet Metal Workers	12.57	2.24	1.22	.43	.02
Sprinkler Fitter and Steamfitters	10.97	2.65	1.12	.86	.07
Stonemasons	11.00	.50	1.00		
Stone Derrickmen and Riggers	12.12	.98	1.01		
Terrazzo Workers	11.18	1.21	1.50		
Terrazzo Workers helpers	9.84	1.21	1.50		
Tile Setters	9.15	.85	2.10		
Tile Setters helpers	7.90	.50	1.27		
Timbermen (Heavy)	10.41	1.40	1.78	.70	.04
Tuckpointers:					
Sandblasters	10.02	1.05	1.82	.70	.05
Steamcleaners	9.17	1.05	1.82	.70	.05
Waterproofers	8.92	1.05	1.82	.70	.05
Truckdrivers, Building:					
Ready mix Concrete, Sand, Gravel and Asphalt		.9675	1.8525	n+p	
Euclids and Turnapulls	8.825	.9675	1.8525	n+p	
4-Wheel, Hi-Lo Lift operstors	7.525	.9675	1.8525	n+p	
Euclids and Turnapulls (Heavy)	8.825	.9675	1.8525	n+p	
Welder-receive rate prescribed for craft performing the operation to which welding is incidental.					

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PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes $7.00 per day to an Annuity and Security Benefit fund.

b. Holidays: A through F, Columbus Day, Day after Thanksgiving, Election Day, and Employees Birthday.

c. Holidays: A through F, Columbus Day, Election Day, Lincoln's Birhtday, Washington's Birthday, Armistice Day.

d. Employees with 6 months or more but less than 5 years service receive 2 weeks vacation, 5 or more years of service receive 3 weeks vacation.

e. Employer contributed $8.00 per day to an Annuity Fund.

f. Holidays: New Year's Eve and Christmas Eve provided the employee works a full half day preceeding the holiday.

g. Work on Christmas Eve and New Year's Eve will terminate at Noon, but employee will receive a full days pay.

h. Holidays: B, C, D, E, Election Day, Columbus day, providing the employee works at least 1 day in the week in which the holiday occurs.

i. If men work the last regular work day before Christmas Day or the last reuglar day before New Year's Day, the work day will end at Noon, but men will be paid for a full 7 hour day; However, if men are required to work after Noon they will be paid an additional time and a half for the hours worked.

j. Holidays: A through F, Washington's Birthday, Christmas Eve, Good Friday, providing the employee has worked 30 full days during the 90 calendar days prior to the holiday, and regular scheduled work days immediately preceeding and following the holiday.

k. One half days pay for Labor Day.

l. Employer contributes $6.01 per day to an additional Security Benefit Fund.

m. Employee with 6 months or more but less than 5 years service receive 2 weeks vacation, 5 or more years of service but less than 15 years service receive 3 weeks vacation, 15 or more years of service receive 4 weeks vacation.

n. Holidays: A through F, Lincoln's Birthday, Washington's Birthday, Election Day, Veterans' Day, provided the employee works 2 days in the claendar week in which the holiday falls and each remaining work day during such calendar week.

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FOOTNOTES (CONT'D)

p. For each 15 days worked within the contract year an employee will receive one day's vacation with pay with a maximum vacation of 3 weeks per year.

q. Employer contributes $5.00 per day to an Annuity Fund.

r. Employer contributes $4.50 per day to an Annuity Fund.

s. Employer contributes $6.00 per day to a Security Bebefit Fund.

DECISION NO. NY78-3007

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Double Drum Hoist	$11.66	.93	1.95	.70+a	.02
Stone Derrick, Cranes, Cherry Pickers	12.17	.93	1.95	.70+a	.02
Hoists, Fork Lifts, House Cars, Plasterer (platform machine), Plasterer Bucket, Plasterer Pump, Compressors-Welding Machines (cutting concrete-tank work), Paint Spraying, Sandblasting, and All Equipment Used For Hoisting Material	11.74	.93	1.95	.70+a	.02
Cranes: All types-crawler or truck					
100' to 149' Boom	12.67	.93	1.95	.70+a	.02
150' to 249' Boom	12.92	.93	1.95	.70+a	.02
250' to 349' Boom	13.17	.93	1.95	.70+a	.02
350' to 450' Boom	13.67	.93	1.95	.70+a	.02
Steel Erection:					
Three Drum Derricks	12.25	.93	1.95	.70+a	.02
Cranes, 2 Drum Derricks, Cherry Pickers	11.74	.93	1.95	.70+a	.02
Compressors, Welding Machines	10.51	.93	1.95	.70+a	.02
Tower Cranes	12.19	.93	1.95	.70+a	.02

FOOTNOTE:

A. Paid Holidays: New Year's Day, Lincoln's Birthday, Washington's Birthday, Good Friday (Iron League Only), Decoration Day, Independance Day, Labor Day, Columbus Day, Election Day, Armistice Day, Thanksgiving Day and Christmas Day providing the employee is employed during the payroll week in which the holiday occurs.

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POWER EQUIPMENT OPERATORS
HEAVY AND HIGHWAY CONSTRUCTION

Class 1: Backhoes, Power shovels.

Class 2: Mine hoist, Cranes, etc, used as mine hoists.

Class 3: Gradalls, Ketatones, Cranes (with digging buckets including sand dock cranes, bridge cranes), Trenching machines.

Class 4: Rigs (under direction of a dockbuilder foreman), Derrick boats, Tunnel shovels, Piledrivers.

Class 5: Raise Bore Drill.

Class 6: Mucking machines, Back filling machines, Cranes, Paver dual drums.

Class 7: Elevator (manually operated), Concrete pavers, Cableways, Land Derricks, Mixers, Power Houses (which contain low pressure units).

Class 8: Power Houses (other than above), Compressors (3 or more in battery), Stone Crusher, Double Drum Hoist, Concrete pumps, Well point pumps, Tugger machines (caissons), Drilled in caissons, Soil solidification equipment, Welding machines (used for steel erection), Concrete plant, Conveyor attachment, Well Drilling machine.

Class 9: River cofferdam pumps, Welding machines, Boilers, High pressure, Compressors (portable, single or two in a battery), not over 100' apart, Concrete breaking machines, Hoists, Single drum, Load Masters, Locomotives and Dinkies over 10 tons, Mixers (concrete with loading attachment), Push button machines.

Class 10: Long Boom Land Cranes:
a---100' to 149'
b---150' to 249'
c---250' to 450'
d---350' to 450'

Class 11: Junior engineers when operating loaders rubber-tired and/or tractor type with a manufacturer's minimum rated bucket capacity of 6 cubic yards and over.

DECISION NO. NY78-3007

POWER EQUIPMENT OPERATORS (CONT'D)
HEAVY AND HIGHWAY CONSTRUCTION

Class 12: Junior engineers when operating the following equipment and attachments: Scrapers, Turnapulls, Tugger hoists used exclusively for handling excavated material, Tractors (rubber tired and/or track type), Hysters and roustabout cranes, Back scratchers, Cherrypickers under 20 tons, Austin Western and machines of a similar nature, Bulldozers, Loaders rubber tired and/or tractor type with a manufacturer's minimum rated bucket capacity or less than 6 cubic yards, Conveyors, Motor Graders, Curb and Gutter Pavers and machines of a similar nature.

Class 13: Junior engineers when operating the flowing pieces of minor equipment: Tractors, Locomotives 10 tons and under, Post hole diggers, Motor Generators, Road Finishing machines, Mixers 16S and under with or without loading devices, Rollers 5 tons and under, Tugger hoists, Dual purpose trucks, Fork lifts, Dempster Dumpsters, Firemen tending to: Steam operated shovels, power boilers, steam operated piledrivers, steam operated derrick boats, steam operated water rigs.

Class 14: Apprentice engineers and oilers (all gasoline, electric, diesel, or air operated), Shovels, Cranes, Draglines, Backhoes, Keystones, Gradalls, Pavers, Trenching machines, Concrete pumps, Gunite machines, Compressors (3 or more in a battery), Power Houses, there duties shall be to assist the engineer in oiling, greasing and repairing of all machines, giving signals when necessary, chaining buckets and scale boxes, driving truck cranes, driving and operating fuel and grease truck.

SUPERSEDEAS DECISION

STATE: North Dakota

COUNTIES: Burleigh, Cass, Grand Fork, Morton, Richland, Steele, Walsh and Ward

DECISION NUMBER: ND78-5019

DATE : Date of Publication

Supersedes Decision No. ND77-5100 dated December 9, 1977, in 42 FR 62339

DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
(except Walsh County	$ 10.77	.35	.57		.005
BOILERMAKERS:					
(except Walsh County)	10.30	.85	1.00		.02
BRICKLAYERS; Stonemasons:					
Burleigh and Morton Counties	9.70		.15		
Grand Forks, Steele and Walsh Counties	10.80		.15		
Cass and Richland Counties	10.40	.60	.15		
Ward County	9.60		.15		
CARPENTERS:					
Burleigh and Morton Counties					
Carpenters	9.05	.50			.02
Piledrivermen	9.175	.50			.02
Grand Forks, Steele (Northern Area) and Walsh Counties					
Carpenters	9.11		.20		
Piledrivermen	9.37		.20		
Millwrights	9.86	.50	.50	.50	.02
Cass, Richland and Steele (Southern Area) Counties					
Carpenters	9.36		.30		.02
Ward County					
Carpenters	8.63				.02
Piledrivermen	8.86				.02
Millwrights	9.86	.50	.50	.50	.02
CEMENT MASONS:					
Grand Forks and Steele Counties	7.86		.15		
Cass and Richland Counties	8.41				
ELECTRICIANS:					
Cass, Grand Forks, Richland and Steele Counties					
Zone mileage from main P. O. in the Cities of Grand Forks, Valley City, Fargo and West Fargo					
Zone (A) Within 0-15 miles of each main P. O.					
Electricians	9.97	.40	3%	6%	1½%
Cable Splicers	10.45	.40	3%	6%	1½%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS: (Cont'd)					
Zone (B) 15-30 miles of each main P. O.					
Electricians	$ 10.57	.40	3%	6%	1½%
Cable Splicers	11.18	.40	3%	6%	1½%
Zone (C) Over 30 miles of each main P. O.					
Electricians	11.45	.40	3%	6%	1½%
Cable Splicers	11.95	.40	3%	6%	1½%
Burleigh, Morton and Ward Cos.					
Zone mileage from main P. O. in the Cities of Minot, Bismarck and Mandan					
Zone (A) within 0-25 miles of each main P. O.					
Electricians	10.00	.40	3%	6%	1½%
Cable Splicers	10.40	.40	3%	6%	1½%
Zone (B) Over 25 miles from main P. O.					
Electricians	11.75	.40	3%	6%	1½%
Cable Splicers	12.15	.40	3%	6%	1½%
ELEVATOR CONSTRUCTORS:					
(Except Walsh County)	10.87	.745	.56	a	.025
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.745	.56	a	.025
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
IRONWORKERS:					
Ornamental; Structural; Reinforcing	10.35	.52	.70		.05
PAINTERS:					
Cass, Grand Forks, Richland and Steele Counties					
Brush; Roller; Paperhangers	8.85				.02
Sandblasting; Structural Steel Spray	9.60				.02
Burleigh and Morton Counties					
Brush, Roller, Paper and Vinyl hanging	7.70				
Spray painting (more than 20 hours per week or 60 hours per month)	8.20				
Sandblast, swing stage, or chair work, structural steel and bridges, stacks, water towers, storage tanks	8.70				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Ward County					
Brush	$ 7.70				
Spray	8.05				
PLASTERERS:					
Grand Forks, Walsh & Steele Cos.	8.56		.15		
Ward County	9.40				
Cass and Richland Counties	9.30				
PLUMBERS:					
Cass, Grand Forks, Richland, Steele and Walsh Counties	10.00	.55	.25		.01
Burleigh and Morton Counties	11.15	.65	.55		.02
Ward County	10.20	.50	.55		.04
ROOFERS:					
Cass and Richland Counties	8.70				
Ward County	6.75				
SHEET METAL WORKERS:					
Burleigh, Grand Forks, Morton, Steele and Ward Counties	10.60		.20		
Cass and Richland Counties	9.70	.40	.25		.01
SOFT FLOOR LAYERS:					
Cass and Richland Counties	8.50				
SPRINKLER FITTERS:					
(Except Walsh County)	10.55	.65	.95		.08

FOOTNOTE:

a. Employer credits 6% basic hourly rate for employees with 6 months to 5 years' service; 8% basic hourly rate with over 5 years' service as Vacation Credit Plan. Six Paid Holidays: A through F.

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS					
Building Construction					
Grand Forks and Steel Counties					
Group 1:					
Laborers; Concrete Bucket Dumpman	$ 7.12	.20			
Group 2:					
All power tools (air, gas and electric); Operators or tools that come under the laborers' jurisdiction; Brick, Plaster and finisher tender; Sandblaster and gunnite pot tender; Hose tender where under the laborers' jurisdiction	7.27	.20			
Group 3:					
Hod Carriers; Non-metallic pipelayers; Gas line wrapping or taping; Sand blaster and gunnite nozzleman where under laborers' jurisdiction; Cutting torch for demolition	7.47	.20			
Burleigh and Morton Counties					
Group 1:					
Laborers, Concrete Bucket Man	6.55	.20			
Group 2:					
All Power Tool Operators of tools that come under the Laborers' jurisdiction, Mortar Mixer, brick and plasterer tenders	6.65	.20			
Group 3:					
Hod Carriers, Non-metallic Pipelayers, Gas line wrapping or taping, Cutting torch for demolition	6.75	.20			

LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Cass and Richland Counties					
Group 1: Laborers; Concrete Bucket Dumpman	$ 6.69	.20			
Group 2: All Power Tool Operators of tools that come under the Laborers' jurisdiction; Brick and Plasterer tender; Mortar Mixer	6.79	.20			
Group 3: Hod Carriers; Non-metallic Pipe layer; Gas line wrapping and taping (Distribution Only); Cutting torch for demolition	6.84	.20			
Ward County					
Group 1: Laborers; Concrete bucket dumpman	6.69	.20			
Group 2: All Power Tool Operators of all tools that come under the laborers' jurisdiction; Mortar Mixer; and Plasterer tender	6.79	.20			
Group 3: Non-metallic Pipe layer; Gas line wrapping or taping (Distribution Only); Cutting torch for demolition	6.94	.20			

POWER EQUIPMENT OPERATORS Building Construction	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1: Helicopter operator hoisting material; Truck and crawler cranes over 150 ft. boom, excluding jib; Traveling tower cranes	$ 9.60	.45	.40		
Group 2: Derrick, guy or stiff leg; Tower cranes; Overhead cranes; Hoist operator-2 drums or more; All terrain vehicle cranes (cherry picker, etc.); Tractors with boom attachment; Drill rigs-rotary or churn; Locomotive operators; Hydraulic and cable-type backhoes 3/4 yds. and over; Truck and crawler cranes 150 ft. boom and under, excluding jibs	8.65	.45	.40		
Group 3: Mechanic welder; Hoist operator 1 drum; Boom truck operator; Tractor over 75 HP; Straddle carrier or forklift, 3000 lbs. or over; Concrete batch plant operator; Concrete batch mixer or concrete pump operator; Boiler operator; R.T. tractor backhoe 3/8 to 3/4 yds.; Front end loader operator over 1½ yds.; any air compressed operation over 300; Well points; Power plant engineer; Oiler	8.05	.45	.40		
Group 4: Mechanic helper; Greaser; Forklift under 3000 lbs.; Self-propelled scissor jax; Front end loader 1½ yds. and under; Self-propelled compactors; Tractor 75 HP and under; Pickup sweeper; Pump operator over 3"; Gunite Operator; Brakeman; Air compressor 300 and under	7.05	.45	.40		

Site Preparation Excavation and Incidential Paving (except Walsh County)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Group 1	$ 3.20				
Group 2	3.30				
Group 3	3.40				
Group 4	3.50				
Site Preparation Excavation and Incidential Paving (except Walsh County)					
POWER EQUIPMENT OPERATORS:					
Group 1	8.80	.45	.40		
Group 2	8.65	.45	.40		
Group 3	8.50	.45	.40		
Group 4	8.45	.45	.40		
Group 5	8.20	.45	.40		
Group 6	7.97	.45	.40		
Group 7	7.04	.45	.40		
Group 8	6.89	.45	.40		
Group 9	6.79	.45	.40		
Group 10	6.45	.45	.40		
Site Preparation Excavation and Incidential Paving (except Walsh County					
TRUCK DRIVERS					
Single Axle	6.42	.40	.35		
Tandem	6.52	.40	.35		
Agitator Dumpcrete		.40	.35		
Off road heavy end dumpe, 20 yds. and under; Tandem semi, Lowboy	6.77	.40	.35		
Euclid, over 20 yards	7.40	.40	.35		

LABORERS

Site Preparation Excavation and Incidential Paving (except Walsh County)

Group 1: General Contruction Laborer (chip spreader leverman, fine grader, Form grader, Landscaper worker; Pump operator (per-water) Tunnel worker, sign erector); Reinforce steel setter; Sack shaker (cement and mineral filler); Pipe handler; Drill runner helper; Salamander heater and blower tender

Group 2: Semi-Skilled Laborer (Joint Filler Machine Operator, Chip spreader Operator); Bulk Cement Handler; Conduit Layer, telephone & electricial); Form setter (pavement); Gas, electric or penumatic tool operator (chipping hammer, grinders and paving breakers, tamper (dirt); Concrete vibrator operator); Chain saw operator; Concrete curing man (not water); Bituminous worker (shoveler, dumper, raker and floater); Kettleman (bituminous or lead); Concrete bucket signalman; Power buggy operator; Brick and mason tender; Multi-plate pipe layer; Culvert pipe layer

Group 3: Caisson work; Bottom Man, (sanitary sewer, storm sewer, water and gas lines); Concrete mixer operator (one bag capacity); Mortar mixer

Group 4: Pipe layers (sanitary sewer, storm sewer, water and gas lines); Drill runner (including wagon churn or air track); Powderman, gunite and Sandblast, Nozzleman

POWER EQUIPMENT OPERATORS

Site preparation Excavation and Incidential Paving (except Walsh County)

Group 1: Cableway Operator; Crane Operator with over 135' boom, all types; Derrick (Guy and Stiff leg), (power), (Skids and stationary); Front End Loader over 10 cu. yds.; Gantry Crane Operator; Helicopter Operator; Mole Operator, including power supply or tunnel mucking machine; Power Shovel and/or other equipment with shovel type controls 3¼ cu. yds.

Group 2: Concrete mixer stationary plant operator over 34E; Dredge operator or engineer; Dredge operator (power and engineer; Elevator Grader operator; Locomotive, crane operator; Master mechanic; Mixer (paving); Concrete paving operator, road; Power shovel and/or other equipment with shovels and/or other equipment with shovel type controls up to 3¼ cu. yds.; Scraper tandem; Tandem pusher Quad 9 or similar; Tractor operator (pipeline); Side boom; Truck crane Hydrocrane operator, 15 ton and over

Group 3: Dope machine operator (pipeline); Drill rigs, heavy duty rotary or churn or cable drill; Front end loader operator, 6 cu. yds. and over, Locomotive, all types; Pipeline wrapping, cleaning and bending machine operator; Power actuated horizontal boring machine over 6" operator (pipeline); Pumpcrete operator; Refrigeration plant engineer; Slip form operator (power driven)(paving); Tandem scraper - twin engine, 50 cu. yds. struck and over

POWER EQUIPMENT OPERATORS (Cont'd)

Site Preparation Excavation and Incidential Paving (except Walsh County)

Group 4: Asphalt Paving Machine Operator, Asphalt Plant Operator and Console Board Operator; CMI Grading Operator; Crushing Plant operator (gravel and stone or gravel washing crushing and screening plant operator); Front end Loader Operator, 1 cu. yd. up to 6 cu. yds.; Grader or Motor patrol, finishing earth work and Bituminous; Mechanic or welder (heavy duty); Rubber-tired Industrial Tractor with Backhoe attachment (water main sanitary sewer and storm sewer, truck line construction); Scraper operator; Tractor type or rubber tired dozer, D-6 and over; Trenching machine operator, sewer and water, (except Ditch Witch or similar use oiler rates); Turnapull Operator (or similar type)

Group 5: Concrete Distributor and Spreader Operator, Finishing Machine Longitudinal Float Operator, Pt. Machine Operator and spray operator, concrete Mixer Operator on job site 16B or over, paving breaker or tamping Machine Operation including Machine with power shovel attachments (power driven), power actuated jack operator, power plant engineer, 100 K.W.H. and over (when an engineer is in charge or crushing or blacktop plants with the operation of these plants no power plant engineer shall be required); Push tractor, self-propelled traveling soil cement stabilizer, truck mechanic

Group 6: Bituminous spreader and Bituminous finishing machiner operator (helper(power), concrete saw operator (multiple blade) (power operated), Distributor operator, fine grade machine, roller, steel and self-propelled rubber, on hot mix asphalt paving, sheepsfoot racker with dozer attachment tractor type or rubber tired dozer under D-6 H.P.

Group 7: Brakeman or switchman; Concrete batch plant operator (cement, rock and sand) Electronic; Concrete mixer operator on job site under 16B; Crane truck oiler; Grader operator (motor patrol)(hauling road); Gravel screening plant operator (portable unit crushing or washing); Greaser (truck or tractor); Gunnite operator gunell; Hoist engineer (power); Launchman (tankerman or pilot license); Pick-up sweeper, 1 yd. and over hopper capacity; Shouldering machine operator (power Apsco or similar type); including self-propelled sand chip spreader; Flaherty or similar; Sheepsfoot roller or compactor (self-propelled)

Group 8: Boom truck operator, crawler type and/or steiger or similar tractor pulling compaction or areating equipment, farm type rubber tired tractor with backhoe attachment, off-road self-propelled rubber, on other than hot mix asphalt paving, self-propelled vibrating packer operator pad type (35 hp and over)

Group 9: Concrete batch operator (cement, rock and sand)(manual), Form trench digger (power), Front end loader operator, up to 1 cu. yd., Hyster carrier or forklift, Leverman, Mechanic'a helper or greaser helper, Oiler (power shovel, crane, dragline), Pugmill operator, pump operator (well points), self-propelled broom

Group 10: Conveyor operator; Curb machine operator (manual); Dredge deck hand; Farm tractors, rubber-tried for compacting and areating; Front end loader (farm type rubber tired tractor); Paint machine striping operator; Stump chipper operator; Tie tamper and ballast machine operator

LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1: Cable Splicer; Lineman; Tractor Dozer operator (D-4 and larger) all rigs erecting steel tower and "H" fixtures, also tension pulling machines	$ 10.53	.45	1%		1/2%
Group 2: Groundman-operating special equipment hole digging machines; Aerial baskets on energized circuits; Tractors (D-4) and larger; Transmission line pole hauling; All fifth wheel trucks and other setting and assembly equipment exculuding steel tower and "H" fixture erection	8.46	.45	1%		1/2%
Group 3: Groundman - truck or tractor driver (with winch); Operators of trucks up to and including 2½ tons; Tractor including D-2 and smaller; Including wheel tractors and crawler tractors	7.04	.45	1%		1/2%
Group 4: Groundman - truck or tractor dirver (without winch); Operators of trucks up to and including 2½ tons; D-2 and smaller; including wheel tractors and crawler tractors; Groundmen	6.46	.45	1%		1/2%

SUPERSEDEAS DECISION

STATE: OHIO COUNTIES: *See below
DECISION NUMBER: OH78-2007 DATE: Date of Publication
Supersedes Decision No.: OH77-2131 dated August 26, 1977 in 42 FR 43341
DESCRIPTION OF WORK: Building Construction (Does not includs family homes & garden type apartments up to and including 4 stories)

*ADAMS, BROWN, BUTLER, CHAMPAIGN, CLARK, CLERMONT, CLINTON, DARKE, DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, GALLIA, GEAUGA, GREENE, HAMILTION, HIGHLAND, LAWRENCE, LICKING, MADISON, MEIGS, MIAMI, MONTGOMERY, MUSKINGUM, PERRY, PICKAWAY, PIKE, PREBLE, ROSS, SCIOTO, SHELBY, UNION, AND WARREN

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Adams, Brown, Butler (excluding Middletown & vic.), Clermont, Hamilton, Highland, & Warren (excluding Twps. of Clear Creek, Franklin, Massie, Turtle Creek, & Wayne) Cos.	$12.16	.75	1.00		.02
Butler (Middletown & vic.), Champaign, Clark, Clinton, Darke, Greene, Miami, Montgomery, Preble, Shelby, & Warren (Twps. of Clear Creek, Franklin, Massie, Turtle Creek, & Wayne) Cos.	11.47	.75	1.00		.02
Delaware, Fairfield, Fayette, Franklin, Licking, Madison, Muskingum, Perry, Pickaway, Ross, & Union Cos.	12.67	.45	.85		.02
Gallia, Lawrence, Meigs, Pike, & Scioto Cos.	11.05	.50	.70		.03
Geauga Co.	13.93				
BOILERMAKERS:					
Darke, Delaware, Shelby & Union Cos.	13.10	.70	1.00		.03
Geauga Co.	12.23	.60	1.10		.03
Remaining Cos.	9.40	.75	1.00	1.40	.02
BRICKLAYERS; Caulkers; Cleaners; Marble setters; Pointers; Stonemasons; Terrazzo workers; & Tile setters:					
Adams & Scioto Cos.: Bricklayers; Caulkers; Cleaners; Marble setters; Pointers; & Stonemasons	9.90				
Brown, Butler, Clermont, Hamilton, Preble (Twps. of Dixon, Israel, Lanier, Somers, & Gratis), & Warren Cos.:					
Bricklayers; Caulkers; Cleaners; Pointers; & Stonemasons	12.095	.55	.35		.02
Marble setters	11.485	.55	.35		
Terrazzo workers & Tile setters	11.435	.55	.35		
Champaign & Clark Cos.	10.60				
Clinton & Highland Cos.	8.50				
Darke, Miami, & Shelby Cos.	10.35	.75	.25		.02
Delaware, Franklin, Madison, Pickaway, & Union Cos.:					

DECISION NO. OH78-2007

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS: (Cont'd)					
Bricklayers; Stonemasons	$10.64	.80	.80		.02
Rubble work	10.24	.40	.80		.01
Marble setters; Terrazzo workers; & Tile setters	10.85				
Fairfield & Perry Cos.	9.50	.60	.50		.02
Fayette, Pike, & Ross Cos.: Bricklayers; Caulkers; Cleaners; Pointers; & Stonemasons	11.35				
Gallia & Meigs Cos.	11.25	.50			
Geauga Co.	12.37	.60	.80		
Greene, Montgomery, & Preble (Rem. of Co.) Cos.: Bricklayers; Caulkers; Cleaners; Pointers; & Stonemasons	10.35	.75	.75		.02
Marble setters; Terrazzo workers; & Tile setters	9.16	.75	.25		
Lawrence Co.	10.70		.50		.05
Licking & Muskingum Cos.	10.33	.60	.50		.02
CARPENTERS; Millwrights; Piledrivermen; & Soft floor layers:					
Adams, Fayette, Gallia, Highland, Lawrence, Meigs, Pike, Ross, & Scioto Cos.:					
Carpenters; Soft floor layers	10.17	.50	.75		.03
Piledrivermen	10.46	.50	.75		.03
Millwrights	10.79	.40	.37		.03
Brown, Butler, Clermont, Clinton, Hamilton & Warren Cos.:					
Carpenters; Piledrivermen	11.55	.60	.65		.075
Millwrights	11.69	.50	.85		.10
Soft floor layers	8.70	.60	.65		.05
Champaign, Clark, Delaware, Fairfield, Franklin, Licking, Madison, Muskingum, Perry, Pickaway, & Union Cos.:					
Carpenters	10.14	.53	.70		.02
Millwrights	10.79	.53	.70		.02
Piledrivermen	10.79	.53	.70		.02
Soft floor layers	10.14	.53	.70		.02
Darke, Greene, Miami, Montgomery, Preble, & Shelby Cos.:					
Carpenters; Piledrivermen	10.35	.65	1.00		.05
Millwrights	10.16	.65	1.00		
Soft floor layers	9.30	.65	.70		.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Geauga Co.:					
Carpenters; Soft floor layers	$12.10	.77	1.25		.03
Millwrights	11.95	.77	1.40		.03
Piledrivermen	12.10	.77	1.25		.03
CEMENT MASONS:					
Adams, Lawrence (excluding Fayette, Union, & Rome Twps.), Pike, & Scioto Cos.	11.02		.60		
Brown, Butler, Clermont, Hamilton, Highland, & Warren Cos.	11.43	.75	.70		.15
Champaign, Clinton, Darke, Greene, Miami, Montgomery, Preble, & Shelby Cos.	9.78	.50	.60		.07
Clark Co.	10.60				
Delaware, Fairfield, Fayette, Franklin, Licking, Madison, Muskingum, Pickaway, Ross, & Union Cos.	10.15	.50	.20		.03
Geauga Co.	12.37	.60	.80		
Lawrence Co. (Fayette, Union, & Rome Twps.)	10.70		.50		.05
ELECTRICIANS:					
Adams, Pike (S. part), & Scioto Cos.	10.75	.50	3%+.50	1.02	.04
Brown, Clermont & Hamilton Cos.:					
Up to & incl. 18 mi. radius from Hamilton Co. Court House	12.15	.70	3%+.40		½%
18 to 21 mi. radius from Hamilton Co. Court House	12.45	.70	3%+.40		½%
21 to 25 mi. radius from Hamilton Co. Court House	12.55	.70	3%+.40		½%
Over 25 mi. radius from Hamilton Co. Court House	12.70	.70	3%+.40		½%
Butler & Warren (Twps. of Deerfield, Hamilton, Harlan, Massie, Salem, Turtle Creek, Union, & Washington) Cos.:					
W. of Interstate #75:					
Electricians	12.10	.45	3%+.75		½%
Cable splicers	12.60	.45	3%+.75		½%
E. of Interstate #75:					
Electricians	12.65	.45	3%+.75		½%
Cable splicers	13.30	.45	3%+.75		½%
Champaign, Clark, & Madison (Twps. of Paint, Pike, Somerford, Stokes, & Union) Cos.	10.79	.45	3%+.80		.04

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Clinton, Darke, Greene, Miami, Montgomery, Preble, & Warren (Rem. of Co.) Cos.:					
Electrical communications installers within 11 mi. radius of 3rd & Main Street, Dayton	$11.83	.50	3%+1.00		.5%
Electrical communications installers beyond 11 mi. radius of 3rd & Main Street, Dayton	12.06	.50	3%+1.00		.5%
Delaware, Fairfield, Franklin, Madison (E. portion), Pickaway (N. & central portions), & Union Cos.	11.48	.40	3%+.87		.03
Fayette, Highland, Pickaway (S. part), Pike (N. part), & Ross Cos.	11.60	.40	3%		.02
Gallia Co.	11.57	.50	3%+.60	1.00	.04
Geauga Co. (Bainbridge, Chester, & Russell Twps.)	12.15	.50	3%+.43		.02
Geauga Co. (Auburn, Middlefield, Parkman, & Troy Twps.)	12.59	.60	7%		.7%
Geauga Co. (Rem. of Co.)	11.88	.70	3%+.50		.3%
Lawrence Co.	11.32	.50	3%+.60	1.00	.04
Licking Co.	10.80	.40	3%+.62		.03
Meigs Co.	10.65	.50	3%+.77	1.27	.04
Muskingum & Perry Cos.	10.80	.40	3%+.62		.03
Shelby Co.	11.74	.32	3%+.37		.04
ELEVATOR CONSTRUCTORS:					
Adams, Brown, Butler, Clermont, Clinton, Darke, Hamilton, Highland, Miami, Preble, & Warren Cos.:					
Elevator constructors	11.78	.745	.56	4%+a+b	.035
Helpers	70%JR	.745	.56	4%+a+b	.035
Helpers (Prob.)	50%JR				
Champaign, Clark, Delaware, Fairfield, Fayette, Franklin, Licking, Madison, Muskingum, Perry, Pickaway, Ross, Shelby, & Union Cos.:					
Elevator Constructors	11.705	.745	.56	4%+a+b	.035
Helpers	70%JR	.745	.56	4%+a+b	.035
Helpers (Prob.)	50%JR				

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		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Gallia & Meigs Cos.:					
Elevator Constructors	$11.465	.745	.56	4%+a+b	.035
Helpers	70%JR	.745	.56	4%+a+b	.035
Helpers (Prob.)	50%JR				
Geauga Co.:					
Elevator Constructors	12.79	.745	.56	4%+a+b	.035
Helpers	70%JR	.745	.56	4%+a+b	.035
Helpers (Prob.)	50%JR				
Greene & Montgomery Cos.:					
Elevator Constructors	11.78	.745	.56	4%+a+b	.035
Helpers	70%JR	.745	.56	4%+a+b	.035
Helpers (Prob.)	50%JR				
Lawrence, Pike, & Scioto Cos.:					
Elevator Constructors	11.465	.745	.56	4%+a+b	.035
Helpers	70%JR	.745	.56	4%+a+b	.035
Helpers (Prob.)	50%JR				
GLAZIERS:					
Adams, Lawrence & Scioto Cos.	10.00		.50		
Brown, Butler (Hamilton & Vic.), Clermont, Clinton, Hamilton, Highland (Part), & Warren (Lebanon & South) Cos.	10.10		.35		.005
Champaign, Butler (excluding Hamilton & Vic.), Clark, Darke, Fayette, Highland (Part), Miami, Montgomery, Preble, Shelby, & Warren (North of Lebanon) Cos.	9.88		.50		.01
Delaware, Fairfield, Franklin, Licking, Madison, Muskingum, Perry, Pickaway, Pike, Ross, & Union Cos.	10.52		.57		.005
Geauga Co.	12.83	.55	.65		.01
IRONWORKERS:					
Adams (Part), Gallia, Lawrence, Pike (Part), & Scioto Cos.:					
To 10 mi. from Union Hall in Ashland, Kentucky	11.27	.90	1.05		.01
10 to 15 mi. from Union Hall in Ashland, Kentucky	11.42	.90	1.05		.01
15 to 20 mi. from Union Hall in Ashland, Kentucky	11.52	.90	1.05		.01
20 mi. & over from Union Hall in Ashland, Kentucky	11.62	.90	1.05		.01
Adams (Part), Brown, Butler (S. ½ of Co.), Clermont, Hamilton & Warren (S. ½ of Co.) Cos.:					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS: (Cont'd)					
Ornamental; Structural	$11.48	.90	1.05		.03
Reinforcing	10.68	.90	1.85		.02
Butler (N. ½ of Co.), Champaign (W. 2/3 of Co.), Clark (W 3/4), Clinton, Darke, Fayette (Part), Greene, Highland (W 4/5), Miami, Montgomery, Preble, Shelby, & Warren (N. ½) Cos.:					
Within 15 mi. radius of Local Union #290 office	10.96	.90	1.25		.04
Beyond 15 mi. radius of Local Union #290 office	11.11	.90	1.25		.04
Champaign (Rem. of Co.), Clark (E. ¼), Fayette (Part), Highland (E. 1/5), Muskingum, Perry, Pike (Part), & Ross Cos.	11.10	.90	1.55		.05
Delaware, Fairfield, Licking, Madison, Pickaway, & Union Cos.	11.00	.90	1.55		.05
Franklin Co.	10.85	.90	1.55		.05
Geauga Co.	12.22	.80	1.10		.03
Meigs Co.	10.92	.75	.85		.01
LATHERS:					
Adams, Brown, Gallia, Pike, & Scioto Cos.	9.315		.10		
Butler, Champaign, Clinton, Darke, Fayette, Greene, Miami, Montgomery, Preble, Shelby, & Warren (N. ½) Cos.	11.04		.20		.01
Clark, Delaware, Fairfield, Franklin, Licking, Madison, Muskingum, Perry, Pickaway, Ross, & Union Cos.	11.05		.10		.01
Clermont, Hamilton, Highland, & Warren (S. ½) Cos.	12.52		.25		.025
Geauga Co.	13.03		1.00		.01
Lawrence Co.	10.925		.10		
LINE CONSTRUCTION:					
Adams, Gallia, Lawrence, Meigs, Pike (Twps. of Camp Creek, Marion, Newton, Scioto, Sunfish, & Union), & Scioto Cos.:					
Linemen; Operators: All mechanized equipment	11.28	.45	3%+.50	1.00	½%
Cable splicers; Linemen welder	12.41	.45	3%+.50	1.00	½%
Groundmen	9.02	.45	3%+.50	1.00	½%

Education and/or Appr. Tr.
½%
½%
½%
½%
½%
½%
½%
½%
½%
½%
½%
½%
½%
½%
½%
½%
½%
½%
½%

Education and/or Appr. Tr.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (Cont'd):					
Brown, Clermont, & Hamilton Cos.:					
Linemen up to & incl. 18 mi. radius from Hamilton Co. Court House, Cincinnati	$11.30	.70	3%+.40		½%
Linemen over 18 to & incl. 21 mi. radius from Hamilton Co. Court House, Cincinnati	11.60	.70	3%+.40		½%
Linemen over 21 to & incl. 25 mi. radius from Hamilton Co. Court House, Cincinnati	11.70	.70	3%+.40		½%
Linemen over 25 mi. radius from Hamilton Co. Court House, Cincinnati	11.85	.70	3%+.40		½%
Butler & Warren (Twps. of Deerfield, Hamilton, Harlem, Massie, Salem, Turtle Creek, Union & Washington Twps.) Cos.:					
E. of Interstate 75:					
Linemen	12.65	.45	3%+.75		½%
Cable splicers	13.15	.45	3%+.75		½%
Groundmen:					
0-1 yr.	6.33	.45	3%+.75		½%
1+2 yrs.	7.59	.45	3%+.75		½%
Over 2 yrs.	8.86	.45	3%+.75		½%
W. of Interstate 75:					
Equipment ops.; Linemen	12.10	.45	3%+.75		½%
Cable splicers	12.60	.45	3%+.75		½%
Groundmen:					
0-1 yr.	6.05	.45	3%+.75		½%
1-2 yrs.	7.26	.45	3%+.75		½%
Over 2 yrs.	8.47	.45	3%+.75		½%
Champaign & Clark Cos.:					
Cable splicers; Linemen	9.11	.35	3%		.25%
Equipment ops.:					
0 to ½ yr.	5.49	.35	3%		.25%
½ to 1 yr.	6.54	.35	3%		.25%
1 yr. or more	7.66	.35	3%		.25%
Groundmen or truck drivers:					
0 to 1 yr.	4.47	.35	3%		.25%
1 yr. or more	5.27	.35	3%		.25%
Clinton, Darke, Greene, Miami, Montgomery, Preble, Warren (Twps. of Wayne, Clear Creek & Franklin) Cos.	11.83	.50	3%+1.00		½%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (Cont'd):					
Delaware & Madison Cos. (Twps. of Darby, Canaan, Monroe, Deer Creek, Jefferson, Fairfield, Oak Run, Range, & Pleasant), Pickaway Co. (Twps. of Darby, Circleville, Harrison, Jackson, Madison, Monroe, Muhlenberg, Scioto, Walnut, & Washington) & Union Cos.:					
Cable splicers; Equipment ops.; Linemen	$12.41	.35	3%		½%
Groundmen:					
0 to 6 mos.	5.92	.35	3%		½%
After 6 mos.	6.30	.35	3%		½%
After 12 mos.	6.72	.35	3%		½%
After 18 mos.	7.11	.35	3%		½%
Fairfield & Licking Cos.:					
Cable splicers	12.46	.50	3%		½%
Equipment ops.; Linemen	11.73	.50	3%		½%
Groundman; Truck drivers:					
Over 1 yr.	9.31	.50	3%		½%
0 - 1 yr.	8.32	.50	3%		½%
Fayette, Highland, Pickaway (Deer Creek, Perry, Pickaway, Salt Creek, & Wayne Twps.), Pike (excluding Camp Creek, Marion, Newton, Scioto, Sunfish, & Union Twps.), & Ross Cos.:					
Equipment ops.; Linemen	10.95	.28	3%		½%
Truck drivers	6.47	.28	3%		½%
Groundman	6.17	.28	3%		½%
Franklin Co.:					
Cable splicers; Linemen	9.88	.35	3%		½%
Equipment operators:					
0 to ½ yr.	6.30	.35	3%		½%
½ to 1 yr.	7.52	.35	3%		½%
1 yr. or more	8.81	.35	3%		½%
Groundmen or truck drivers:					
0 to 1 yr.	5.13	.35	3%		½%
1 yr. or more	6.06	.35	3%		½%
Gesuga (Bainbridge, Chester, & Russell Twps.):					
Linemen; Cable splicers; Equipment ops.; & Welders	12.73	.35	3%		½%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (Cont'd):					
Groundman after 12 mos.	$ 6.72	.35	3%		½%
Groundman after 18 mos.	7.11	.35	3%		½%
Gesuga (Auburn, Middlefield, Parkman, & Troy Twps.):					
Linemen; Cable splicers; Operator pole digging equipment	13.23	.45	3%		½%
Groundmen 1st 6 mos.	6.62	.45	3%		½%
Groundmen 2nd 6 mos.	7.94	.45	3%		½%
Groundmen 2nd yr.	9.26	.45	3%		½%
Groundmen 3rd yr.	9.92	.45	3%		½%
Groundmen over 3 yrs.	10.58	.45	3%		½%
Gesuga (Rem. of Co.):					
Linemen; Cable splicers; Equipment op.	13.08	.70	3%+.50		½%
Truck drivers	9.16	.70	3%+.50		½%
Groundmen more than 2 yrs. experience	8.50	.70	3%+.50		½%
Groundmen less than 2 yrs. experience	7.19	.70	3%+.50		½%
Muskingum & Perry Cos.:					
Cable splicer; Equipment ops.; & Linemen	11.43	.35	3%		½%
Groundmen:					
0 to 6 mos.	5.92	.35	3%		½%
After 6 mos.	6.30	.35	3%		½%
After 12 mos.	6.72	.35	3%		½%
After 18 mos.	7.11	.35	3%		½%
Pickaway (Twps. of Deer Creek, Perry, Pickaway, Salt Creek, & Wayne), Pike (N. part), & Ross Cos.:					
Equipment ops.; & Linemen	10.95	.28	3%		½%
Truck drivers	6.47	.28	3%		½%
Groundmen	6.17	.28	3%		½%
Shelby Co.:					
Linemen	11.93	.50	3%		½%
Groundmen; Truck drivers	7.72	.50	3%		½%
Equipment operators	10.74	.50	3%		½%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS' FINISHERS; TERRAZZO WORKERS' FINISHERS; & TILE SETTERS' FINISHERS:					
Adams, Brown, Butler, Clermont; Fayette, Gallia, Hamilton, Highland, Lawrence, Meigs, Pike, Ross, Scioto, & Warren Cos.:					
Marble setters' finishers	$10.385				
Marble sanders; Polishers; Stockmen; Waxers; & Sawyers	10.55				
Terrazzo workers' finishers; & grinders	10.335				
Terrazzo base grinders (While operating base grinding machine)	10.755				
Tile setters' finishers	10.285				
Champaign, Clark, Darke, Greene, Miami, Montgomery, Preble, & Shelby Cos.	8.34				
Delaware, Fairfield, Franklin, Madison, Pickaway, & Union Cos.:					
Marble setters' finishers; Terrazzo workers' finishers; & Tile setters' finishers	8.65				
Terrazzo base grinders	9.00				
Terrazzo floor grinders	8.80				
Gesuga Co.:					
Marble setters' finishers	11.41		1.00		
Terrazzo workers' finishers	12.12		.85		
Tile setters' finishers	11.94		1.00		
PAINTERS:					
Adams, Highland, Pike, & Scioto Cos.:					
Brush; Paperhangers; Tapers; Wall covering, washing; Exterior buildings under 40'	11.00		.40		
Rollers; Floor sanding; Power tools	11.25		.40		
Sandblasting; Steamcleaning; Hazardous material; & Burning	12.00		.40		
Brown, Clermont, & Hamilton Cos.:					
Commercial:					
Brush	11.55		.25		
Spray	11.95		.25		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Industrial:					
Brush	$11.70		.25		
Spray	12.10		.25		
Butler & Warren Cos.:					
Commercial:					
Brush	10.08				
Spray	10.58				
Industrial:					
Brush	10.23				
Spray	10.73				
Champaign & Clark Cos.:					
Brush; Paperhangers (Tools furnished)	7.80	.10	.25		
Swing stage	8.15	.10	.25		
Spray	8.50	.10	.25		
Structural steel	8.35	.10	.25		
Clinton, Darke, Greene, Miami, Montgomery, & Preble Cos.:					
Brush; Roller	11.05	.40	.40		.02
Scaffolds; Structural steel; & Swing stage	11.45	.40	.40		.02
Sandblasting; Spray; & Steam-cleaning	11.55	.40	.40		.02
Paperhangers	11.30	.40	.40		.02
Spackling & finishing; & Taping	11.05	.40	.40		.02
Steeple jack work	11.80	.40	.40		.02
Delaware, Fairfield, Fayette, Franklin, Madison, Pickoway, & Union Cos.:					
Brush; Paperhangers; Rollers; & Wall washing	10.14	.65	.65		.02
Spray	10.64	.65	.65		.02
Structural steel; & Swing stage	10.44	.65	.65		.02
Sandblasting; Steamcleaning; & Water tanks	10.84	.65	.65		.02
Drywall tapers & finishers	10.54	.65	.65		.02
Gallia, Lawrence, & Meigs Cos.:					
Brush; Roller	8.50			d	
Drywall taping; Paperhanger; & Wall washers	9.05			d	
Spray	9.55			d	
Open Structural steel	9.25			d	
Geauga Co.:					
Brush; Roller; Paperhangers	11.66	.63	.74		.05
Swing stage; Window Jack; & Bos'n chair	11.96	.63	.74		.05
Tapers	12.36	.63	.74		.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Licking, Muskingum, & Perry Cos.					
Brush; Paperhangers	$7.50				
Structural steel	8.00				
Spray	7.95				
Smoke stacks; Tanks; & Water towers	8.00				
Ross Co.:					
Brush; Roller; & Taping	9.00				
Structural steel	9.25				
Sandblast; & Spray	9.75				
Shelby Co.:					
Brush; Roller; Drywall taping	8.65	.73	.50		.03
Wallcovering; Swing stage; Safety belts; Spiders; Cherry pickers - brush or rollers	8.90	.73	.50		.03
Spray; Sandblasting; Steam-cleaning; Mitts; High pressure water cleaning; & blow down	9.15	.73	.50		.03
Stilts & automatic drywall tools	9.40	.73	.50		.03
Petroleum storage tanks (over 30' high) brush, rollers	9.05	.73	.50		.03
Structural steel (open skeleton) - brush or rollers	8.95	.73	.50		.03
Elevated water tanks & stacks - brush, roller or spray	10.15	.73	.50		.03

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		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS:					
Adams, Lawrence (except Twps. of Fayette, Union, & Rome), Pike, & Scioto Cos.	$11.02		.60		
Brown, Butler, Clermont, Hamilton, Highland, & Warren Cos.	12.295		.50		.02
Champaign, Clark, Clinton, Darke, Greene, Miami, Montgomery, Preble, & Shelby Cos.	11.25				
Delaware, Fairfield, Fayette, Franklin, Licking, Madison, Muskingum, Perry, Pickaway, Ross, & Union Cos.	10.34	.50	.30		.02
Gallia & Meigs Cos.	11.25	.50			
Geauga Co.	12.37	.60	.80		
Lawrence Co. (Twps. of Fayette, Union & Rome Twps.)	10.70		.50		.05
PLUMBERS; Steamfitters:					
Adams, Gallia, Highland, Lawrence, Pike, & Scioto Cos.:					
Within 10 mi. radius of Portsmouth	11.67	.55	.75		
10 - 20 mi. radius of Portsmouth	11.92	.55	.75		
20 - 35 mi. radius of Portsmouth	12.02	.55	.75		
Over 35 mi. radius of Portsmouth	12.27	.55	.75		
Brown, Clermont, Hamilton, & Warren (N. of Rte #63 excl. Lebanon & S. Lebanon) Cos.:					
Plumbers; Gas fitters	12.27	.75	1.05		.05
Pipefitters; Steamfitters	12.20	.90	1.225		.08
Butler Co. (N. ½)	12.35	.60	1.00		.05
Butler (S. ½) & Warren (S. of Rte #63 incl. Lebanon & S. Lebanon) Cos.	12.27	.65	1.10		.02
Champaign, Clark, Greene (Twps. of Cedarville, Ross, Jefferson, Ceasar Creek, & New Jasper), & Madison (W. of Rte #38 incl. city of London) Cos.	11.81	.58	.80		.04
Clinton, Darke, Fayette, Greene (excl. Twps. of Miami, Cedarville, Ross, Jefferson, Ceasar Creek, & New Jasper), Miami, Montgomery, & Preble Cos.	12.21	.55	.70		.03

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS; Steamfitters: (Cont'd)					
Delaware, Fairfield, Franklin, Licking, Madison (E. of Rte #38 not incl. city of London), Perry, Pickaway, Ross, & Union Cos.	$12.47	.55	.80		.05
Geauga Co.:					
Pipefitters	11.97	1.05	1.10		.05
Plumbers	12.28	.75	1.00		.02
Meigs Co.	11.43	.52	.55		.045
Muskingum Co.	10.83	.45	.50		.08
Shelby Co.	12.00	.50	.75		.05
ROOFERS:					
Adams, Gallia, Lawrence, Meigs, Muskingum, Pike, & Scioto Cos.	11.00		.45		
Brown, Butler, Clermont, Hamilton, Highland, & Warren Cos.:					
Roofers	12.32		.85		.01
Pitch	12.92		.85		.01
Champaign, Delaware, Fairfield, Fayette, Franklin, Licking, Madison, Perry, Pickaway, Ross, & Union Cos.	11.195	.60	.65		.01
Clark, Clinton, Darke, Greene, Miami, Montgomery, Preble, & Shelby Cos.:					
Slate, Tile, & Asbestos Composition, Damp & Waterproof Workers	10.72	.80	.50		
	10.50	.80	.50		
Geauga Co.	13.18	.25	.50		
SHEET METAL WORKERS:					
Adams, Delaware, Fairfield, Fayette, Franklin, Gallia, Lawrence, Licking, Madison, Meigs, Muskingum, Perry, Pickaway, Pike, Ross, Scioto, & Union Cos.	10.82	.45&e	1.05		.10
Brown, Clermont, Hamilton, & Highland Cos.	12.035	.90	.81		.04
Butler, Champaign, Clark, Clinton, Darke, Greene, Miami, Montgomery, Preble, Shelby, & Warren Cos.	11.24	.55&e	.94		.15
Geauga Co.	12.20	.60	1.13		.04

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS	$12.30	.65	.95		.08

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. 7 paid holidays: A through F, & Day after Thanksgiving
b. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
c. 9 paid holidays: A through F, plus Washington's Birthday, Good Friday, and Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.
d. 6 paid holidays: A,C,E,F, Decoration Day & Veterans' Day
e. 3% of gross earnings to SASMI

LABORERS:					
Adams, Gallia, Highland, Lawrence, Meigs, Pike, & Scioto Cos.:					
Common laborers; Signalmen	7.77	.65	.55		.10
Sheeting & Shoring men	7.87	.65	.55		.10
Bottom men; Carpenters' tenders; Mason tenders; Mortar mixers; Plasterers' tenders; & Sewer pipe layers	7.92	.65	.55		.10
Air & machine driven tool op.; Asphalt rakers & smoothers; Burning & cutting torches; Chain saws; & Powered concrete buggies; Hand spikers	8.02	.65	.55		.10
Gunnite machine op.; Gunnite nozzlemen; Powdermen & blasters	8.34	.65	.55		.10
Brown, Clermont, Clinton, & Hamilton Cos.:					
GROUP 1	10.00	.60	.50		.05
GROUP 2	10.10	.60	.50		.05
GROUP 3	10.15	.60	.50		.05
GROUP 4	10.20	.60	.50		.05
GROUP 5	10.35	.60	.50		.05
GROUP 6	10.50	.60	.50		.05
GROUP 7	10.75	.60	.50		.05
GROUP 8	9.47	.60	.50		.05
GROUP 9	9.62	.60	.50		.05

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (Cont'd)					
GROUP 1: Common laborers; Cement masons' helpers; Hand operated mechanical mule; Machanical sweeper; Signal man					
GROUP 2: Bottom man; Pipelayer					
GROUP 3: Burning torch operator; Jackhammer; Mechanical & air tamper operator; Mechanical concrete buggies; Power operated machanical mule; Concrete pump hose man; Vibrator man					
GROUP 4: Plasterers' tender; Mason tender; Stone mason tender; Bottom jackhammer man					
GROUP 5: Plaster mixer pump operator					
GROUP 6: Tunnel laborer					
GROUP 7: Gunnite nozzle operator					
GROUP 8: Demolition Construction - Wrecking laborers					
GROUP 9: Demolition Construction - Jackhammer man; Burner; & wall man					
Butler & Warren Cos.:					
Common laborers	$ 9.44	.55	.40		.05
Asphalt rakers; Tampers; Smoothers hand air pump; Hand air tamper chisel; Vibrator power tamper op.	9.54	.55	.40		.05
Gunnite operators; Sandblaster; Concrete pumps & hose men	9.79	.55	.40		.05
Mason tenders; Mortar mixers; & scaffold builders	9.77	.55	.40		.05
Champaign & Clark Cos.:					
Laborers general; Carpenters' tenders; Waterboy; Flagman; & Signalman	7.60	.55	.40		.05
Plasterers' tenders; Mason tenders; Mortar mixers; Air & machine driven tool ops.; Jackhammer; Barko & chain saw; Sewer pipe layer; Bottom man; Wagon drill; Hand spikers; Asphlat raker & tamper; Power concrete & buggies; Gunnite machine op. & nozzle man	7.85	.55	.40		.05
Miners & muckers for tunnel & caisson; Powder man & blaster	8.10	.55	.40		.05
Darke, Greene, Miami, Montgomery, & Preble Cos.:					
Unskilled	8.44	.55	.40		.05
All machine & Power driven tools; Power buggies; Vibrators; Chipping hammers, & railroad spikers					

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (Cont'd)					
by hand; Swinging scaffold over 15'	$ 8.59	.55	.40		.05
Jackhammer; Air drill; Sand blaster; Sewer pipe layers; Man-hole builders, & Bottom man	8.64	.55	.40		.05
Caisson work; Scaffold with power tools	8.69	.55	.40		.05
Torch man on wrecking	8.74	.55	.40		.05
Caisson work with jackhammer	8.89	.55	.40		.05
Gunnite op.; Wagon drill op.; & blaster-powder man	8.94	.55	.40		.05
Tenders to bricklayers & masons	9.07	.55	.40		.05
Tenders to lathers & plasterers	9.11	.55	.40		.05
Delaware Co.:					
Building & Construction laborers; Signalman; Flagman; Tool crib-man; Carpenter tender; Finisher tender; Concrete handler; Utility construction laborers; Guardrail erectors	8.41	.65	.55		.10
Bottom men; Scaffold builders; Tunnel laborers; Pipelayers; Air & power driven tools; Burner on demolition work; Swinging scaffold; Mucker; Caisson work; Cofferdam worker; Powder men & dynamite blasters; Creosote worker; Mortar mixer tenders; Plasterers' tenders; Hod carrier; Laser beam set up men	8.61	.65	.55		.10
Gunnite op.	9.01	.65	.55		.10
Fairfield, Fayette, Franklin, Madison, Pickaway, & Union Cos.:					
Common laborers; Carpenter tenders; Pouring of all concrete; Cleaning debris; Cleaning of all material; General clean up; Landscape; Sod layers; Salamander; Flagmen; Wire mesh handlers or setters; Loading & unloading all trucks; Handling & conveying all material; Washing of all					

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (Cont'd)					
windows; a man on bucket pouring concrete; Conveyor belt	$ 8.34	.55	.40		.05
Brick tender; Stone mason tender; Plasterers' tenders; Mortar mixers & Operator; Cement mason tender; All scaffold builders (swinging scaffolds); Jack hammer op.; Air or electrical pneumatic tool op.; Power driven tools; Power buggy ops.; Power wheelbarrow ops.; Asphalt & blacktop rakers; Wall wrecker & bar man on demolition; Sand & vacuum cleaning; Gunnite nozzle man; Wagon & churn drill ops.; Concrete saw op. & brush feeders on pulverizers; Pipelayers; Bottom man; Laser gun, Burners; Sandblasting of concrete; Vibrator man; Signal man; Caisson bottom man; & Forklift op.	8.54	.55	.40		.05
Geauga Co.:					
Laborers; Equipment replacing wheelbarrow & concrete buggy	9.97	1.27	1.20		
Power driven tools & vibrators; Sewer & Utilities laborers; Fine brick tenders	10.12	1.27	1.20		
Jackhammer; Acctylene burner mucker	10.17	1.27	1.20		
Swinging scaffold; Mason tender handling carbon block & bottom block material; Air track & Wagon drill	10.22	1.27	1.20		
Gunnite op.; Blasters & Shooters; Caisson; Well; Cylinder; Cofferdams; Mine workers w/o air	10.29	1.27	1.20		
Topman on free standing radial stack	10.47	1.27	1.20		
Acid brick tenders	10.37	1.27	1.20		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (Cont'd)					
Licking Co.:					
Brick tender; Stonemason tender; Plasterer tender; Mortar mixer & operator; Cement mason tender; All scaffold builders; Swinging scaffolds; Jackhammer ops.; Air or electrical pneumatic tool ops.; Power driven tools; Power buggy ops.; Fork lift ops.; Power wheelbarrow ops.; Asphalt & blacktop rakers; Wall wrecker & bar man on demolition; Sandblasting; Welders on demolitions; Gunnite nozzle man; Wagon & churn drill ops.; Concrete saw ops.; Brush feeders on pulverizers; Pipe layers; Bottom man; Laser gun; Burners; Sandblasting of concrete; Vibrator man	$ 8.49	.55	.40		.05
Common laborers; Carpenter tender; Pouring of all concrete; Cleaning of all material; General clean-up incl. vacuum cleaning; Landscape; Sod layers; All portable heaters; Loading & unloading all trucks; Handling & Conveying all materials; Washing of all windows; A man on bucket pouring concrete; Conveyor belt; Water pumps up to & incl. 4" intake	8.27	.55	.40		.05
Muskingum & Perry Cos.:					
Planters (landscape); Tree trimmers; Plumbers' helpers; Carpenters' tenders; Building & construction laborers	8.42	.55	.40		.05
Air & machine driven tool ops.; Asphalt plant aggremeter ops.; Asphalt plant mixer men; Brick slingers; Car pushers & tunnel laborers; Caulkers; yarners & Wrenchmen; Cement handlers; Concrete puddlers (behind mixers); Curb cutters & setters;					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (Cont'd)					
Hand spikers ops.; Jackhammer ops.; Muckers; Mason tenders; Mortar mixers; Pipe layers: Proportioning plant ops.; Pump men (under 4"); Road form setters; Sewer bottom men; Stone mason tenders; Sheeting & shoring men; Vibrator op.; Plasterers' tenders; Cutting with burning torches; Dumpmen (batch trucks)	$ 8.52	.55	.40		.05
Brick droppers; Lock tenders; Powdermen or blasters	8.67	.55	.40		.05
Ross Co.:					
Brick tenders; Stonemasons' tenders; Plasterers' tenders; Mortar mixer & ops.; Cement masons' tenders; All scaffold builders (Swinging scaffolds), Jackhammer ops.; Air or electrical pneumatic tool ops.; Power driven tools; Power buggy ops.; Fork lift ops.; Power wheelbarrow ops.; Asphalt & blacktop rakers; Wall wrecker & bar man on demolition; Sandblasting; Welders on demolition; Gunnite nozzle man; Wagon & churn drill ops.; Concrete saw ops.; Brush feeders on pulverizers; Pipe layers; Bottom man; Laser gun; Burners; Sandblasting of concrete; Vibrator man; Carpenters' tenders	8.26	.55	.40		.05
Common laborers; Pouring of all concrete; Cleaning debris; Clean-up incl. vacuum cleaning; Landscape; Sod layers; Loading & unloading all trucks; Handling & conveying all materials; Washing of all windows; A man on bucket pouring concrete; Conveyor belt; All water pumps up to & incl. 3" intake	8.06	.55	.40		.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (Cont'd)					
Shelby Co.:					
Building laborers; Laser beam; Power wheelbarrow or Power buggy	$ 7.85	.55	.40		.05
Vibrators; Spikers by hand (Railroad); Cement finishers' helpers	8.00	.55	.40		.05
All machine driven tools (gas, electric, air); Asphalt rakers; Caisson; Cofferdam; Demolition; Packers; Pot tenders; Pump man under 4" discharge; Tampers; Torch man; Tunnel	8.00	.55	.40		.05
Blaster helper; Cylinder, shaft; Jackhammer; Man-hole builders; Mason tenders; Mortar mixers; Plasterers' tenders; Sewer bottom man; Sewer pipelayer; Sewer, water conduit, gas, oil, pipeline, except mainlines; & Wagon drill helper	8.15	.55	.40		.05
Blaster-Powder man; Gunnite ops.; Muckers & miners (tunnel & caisson) free air; Sandblasters; & Wagon drill/operator	8.35	.55	.40		.05

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POWER EQUIPMENT OPERATORS	Geauga Co.	Remaining Con.	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$12.37	11.81	.61	1.00		.11
GROUP B	12.22	11.65	.61	1.00		.11
GROUP C	11.87	11.29	.61	1.00		.11
GROUP D	11.09	10.51	.61	1.00		.11
GROUP E	10.77	10.18	.61	1.00		.11
GROUP F	9.09	8.48	.61	1.00		.11

CLASSIFICATION DEFINITIONS

GROUP A: A-frame; All rotary drills used on caisson work for foundations & sub-structure work; Boiler operator or compressor operator (when compressor or boiler is mounted on crane, piggyback op.); Boom trucks; Cableways; Cherry pickers; Combination concrete mixer & tower; Concrete pumps; Cranes; Derricks; Draglines; Elevating grader or Euclid loader; Floating equipment; Gradalls; Helicopter op. hoisting building materials; Helicopter winch opertor hoisting builders material; Hoes; Hoisting engines (2 or more drums); Lift slab or panel jack operators; Locomotives; Maintenance engineer (mechanic or welder); Mixer paving (multiple drum); Mobile concrete pumps w/boom; Panelboard (all types on site); Piledriver; Power shovels; Side booms; Slip form pavers; Straddle carriers (building construction on site); Trench machines (over 24" wide)

GROUP B: Asphalt paver; Bulldozer; CMI type equipment; End loaders; Kohlman type loaders (dirt loading); Mucking machines; Power grader; Power scoops; Power scrapers; Push cats

GROUP C: Air compressor (pressurizing shafts or tunnels); All asphalt rollers; Fork lifts; Hoist (1 drum); House elevators; Man lift; Power boilers (over 15 lbs., pressure); Pump op. installing or operating well points or other type of dewatering system; Pumps (4" & over discharge); Submersible pumps (4" & over discharge); Trenchers (24" & under)

GROUP D: Compressors on building construction; Conveyors (building material); Gunite machines; Mixers (cap. more than 1 bag); Mixers (1 bag cap. side 1 loaders); Post driver; Post hole digger; Pavement breaker (hydraulic or cable); Road widening trencher; Rollers; Welder op.

GROUP E: Back fillers & tampers; Batch plant; Ber & joint installing machine; Bullfloats; Burlap & curing machines; Clefplanes; Concrete spreading machines; Crushers; Drum fireman (asphalt); Farm type tractor (pulling attachments); Finishing machines; Form trenchers; High pressure pumps (over ½' discharge); Hydro seeders; Self-propelled power spreaders; Self-propelled sub-grader; Tire repairman; Tractors pulling sheep foot roller or grader; Vibratory compactors (with integral power)

GROUP F: Oiler; Helper; Signalman; Light plant operator; Power driven heaters (oil fired); Power boilers (less than 15 lbs., pressure); Pumps (under 4" discharge); Submersible pumps (under 4" discharge)

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Adams, Brown, Highland, Lawrence (W. of Coal Grove & W. of St. Rte #75), Pike, Ross, & Scioto Cos.:					
Jeep; Station wagons; Pickups; Fuel trucks; Dumps to & incl. 2 tons; Bus drivers (incl. all equipment used for hauling men & materials)	$8.22	$19.00a			
Dumps over 2 tons; Tandems; Semi-tractor; Lowboys; Fork lifts (incl. mason tending work); Euclids	9.14	19.00a			
Butler Co. (N. ½):					
Tandem axle trucks; Tandem axle dump trucks; Winch trucks; Fork lifts; Truck warehouse men	8.79	23.00b	28.00a		
Single axle trucks; Jeeps; Pickups	8.64	23.00b	28.00a		
Euclid trucks; Mechanics	9.09	23.00b	28.00a		
Lowboys & drags	9.05	23.00b	28.00a		
Semi combination & combination of hauling units	8.89	23.00b	28.00a		
Clinton, Darke, Greene, Miami, Champaign, Montgomery, & Preble Cos.:					
Straight flat & dump truck; Winch truck	6.23	21.50a	8.00a	c	
Ready mix & dump crete	6.29	21.50a	8.00a	c&e	
Tandem truck & tractor trailer combination	6.34	21.50a	8.00a	c&e	
Euclid to 12 yds.	6.40	21.50a	8.00a	c&e	
Euclid over 12 yds.	6.76	21.50a	8.00a	c&e	
Delaware, Fayette, Franklin, Madison, & Pickaway Cos.:					
Dump & straight	8.71	17.00a			
Tandem & semi-farm tractor	8.81	17.00a			
Lowboy	8.91	17.00a			

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS (CONT'D):					
Gallia, Lawrence (E. of Ohio St. Rte #75), & Meigs Cos.:					
Truck helpers; Pickups; Station wagons; Panel trucks; Yardmen; Warehousemen; Flatbody material truck (straight job); Greasers; Washers; Tiremen; Gas pump attendants; Dump trucks (up to 5 cubic yards)	$9.15	$82.33d	$52.00d	$1.00	
Tank trucks (straight)	9.25	82.33d	52.00d	1.00	
Dump trucks (5 cubic yds. & over); Semi-dump trucks; Semi-trailers (whether flat, rack or pole & hauled or pushed by truck or tractors); Agitator or mixer trucks (up to 5 cubic yds.); Tank truck (semi)	9.40	82.33d	52.00d	1.00	
Low boy trailers; Winch trucks; Fork trucks; Distributor trucks (front end & back end); Truck crane; Monirail truck	9.45	82.33d	52.00d	1.00	
Material checker & receiver	9.50	82.33d	52.00d	1.00	
Agitator or mixer truck (5 cubic yards & over)	9.55	82.33d	52.00d	1.00	
Mechanic's helper	9.50	82.33d	52.00d	1.00	
Mechanic	9.80	82.33d	52.00d	1.00	
Tri-axle dump trucks; Hydraulic lift tailgate truck & farm type tractors; End dumpsters; Turna-rockers; Ross carriers; Athey wagon or similar equipment; A-frame; Hydrolift; Dual purpose trucks	9.80	82.33d	52.00d	1.00	

FOOTNOTES:

a. per week per employee
b. per week per employee providing employee has been on payroll at least 30 days
c. 1 yr's employment - 1 wk's paid vacation; 7 yrs' employment - 2 wks' paid vacation providing the employee has been on payroll for 8 months during the previous 12 month period.
d. per month per employee
e. an employee who has been on the payroll 30 days or more & has worked his last scheduled workday within 7 calendar days before his next scheduled workday within 7 calendar days after New Yr's Day, Memorial Day, July 4th Labor Day, Thanksgiving Day, & Christmas Day shall receive 8 hrs pay for said holidays

SUPERSEDEAS DECISION

STATE: Tennessee COUNTIES: *See below
DECISION NUMBER: TN77-1151 DATE: Date of Publication
Supersedes Decision No.: TN77-1129 dated October 7, 1977 in 42 FR-54734
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments or less), and Heavy Construction.

*Counties: Hamilton (Building and Heavy Construction); Marion, Polk & Rhea (Building Construction ONLY).

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	10.75	.45	.20		.01
Boilermakers	10.05	.95	1.05		.02
Bricklayers: Bricklayers; Stonemasons; Blocklayers:					
Polk County	8.25				
All other counties	10.15	.45	.30		
Carpenters:					
Carpenters, soft floor layers	8.88	.50	.50		.03
Piledrivermen	9.505	.50	.50		.03
Millwrights	9.33	.50	.50		.03
Cement masons:					
Polk County	8.25				
All other counties	9.00				
Electricians:					
Electricians	9.65	.70	3%+.45		1%
Cable splicers	9.90	.70	3%+.45		1%
Elevator constructors:					
Mechanics	9.50	.745	.56	4%+a+b	.025
Helpers	6.65	.745	.56	4%+a+b	.025
Probationary helpers	4.75				
Glaziers	8.47			4%	
Ironworkers	9.16	.55	.50		1%
Lathers	9.25				
Leadburners	10.25	.35		d	.01
Marble, Tile, & Terrazzo: Hamilton, Marion, & Rhea Counties	10.15	.45	.30		
Painters:					
Commercial	7.75	.35	.30		
Industrial; Paperhanging; & Drywall	8.00	.35	.30		
Sandblasting	8.25	.35	.30		
Plasterers:					
Polk County	8.25				
All other counties	9.35				
Plumbers, pipefitters, steamfitters	10.20	.45	.50	f	.08

TN77-1151 - (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Roofers:					
Composition, damp & waterproofers	8.80		.10		
Slate and tile	9.00		.10		
Kettlemen	8.40		.10		
Sheet metal workers:					
Hamilton County	9.72	.58	.66		.04
All other counties	10.22	.58	.66		.04
Sprinkler fitters	10.35	.65	.95		.08
Truck Drivers:					
Up to 3 tons	6.96	e	g		
3 to 5 tons	7.11	e	g		
5 to 7 tons	7.26	e	g		
Special equipment	7.46	e	g		

PAID HOLIDAYS WHERE APPLICABLE:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F- Christmas Day; G- Washington's Birthday; H-Good Friday; J-Christmas Eve.

FOOTNOTES:

a. Holidays: A through F.

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employer who has worked in business more than 5 years, and 2% for employee who has worked less than 5 years.

d. Holidays, A through J.

e. $21.50 per week for each employee.

f. Paid Holiday: D.

g. $10.00 per week for each employee.

TN77-1151 - (Cont'd)

LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	6.25	.20	.30		
GROUP B	6.35	.20	.30		
GROUP C	6.45	.20	.30		
GROUP D	6.55	.20	.30		
GROUP E	6.60	.20	.30		
GROUP F	6.90	.20	.30		
GROUP G	6.95	.20	.30		
GROUP H	6.65	.20	.30		
GROUP I	6.80	.20	.30		
GROUP J	6.80	.20	.30		
GROUP K	7.05	.20	.30		

TN77-1151 - (Cont'd)

LABORERS

GROUP A: Concrete laborers, general laborers, carpenter tenders, window and floor cleaners, and flagman on road and street crossings, form strippers, handling of rope to clam bucket, grout men, laborers working on demolition work, handling, cleaning, and pulling of nails from materials

GROUP B: Powder man helpers, vibrator operators, tenders to all trowel trades and terrazzo work, carrying reinforced steel, operating motorized wheel barrows, doping and painting of pipe, railroad track laborers, air spade operators, snake men on pipe work.

GROUP C: Sanitary and storm pipe layers or any other pipe outside of foundation, grade checker, yarner and pot man, steel form setters, mortar mixers by hand or machine, power saw operators, jackhammer operator, pavement breaker operator, air tool operators, regular air tamp operators, wacker tamp operator, chipping hammer operator, hand operated ditching machine operator, concrete grinder, floor sweeping machine operator, concrete buffer and grinder power operator, concrete pumping machine operator.

GROUP D: Asphalt raker, wagon drill operator, sand blasting, track drill operator, concrete saw operator, using cutting torch or burner on demoliton work, flagging of rigs.

GROUP E: Barco tamp operator and specially designed tamp operator, black top or concrete curbing machine operator

GROUP F: Powderman, motorized post hole digger operator and terrazzo machine grinder

GROUP G: Pneumatic concrete gun operator and nozzleman

FREE AIR SHAFTS AND TUNNELS

GROUP H: Tunnel laborers

GROUP I: Chuck Tender; Top lander on shaft work

GROUP J: Tunnel laborer, including men required to go down in pier hole drilled by machines

GROUP K: Head miner

TN77-1151 - (Cont'd)

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	8.75	.30	.30		.05
GROUP B	7.95	.30	.30		.05
GROUP C	7.35	.30	.30		.05
GROUP D	7.05	.30	.30		.05

GROUP A: Backhoes; cableways; ross carrier; clamshells; cranes; derricks; draglines; turnapulls; pans; scrapers; scoops; head tower machines; end-loaders; locomotives (over 20 tons); shovels; dozers; fork-lifts (over 8' lift); core drills; foundation drills; graders; mechanics; welders; winch truck with A-Frame; skimmer scoops; locomotive cranes; overhead cranes; skid rigs; piledrivers; side boom tractors; euclid loaders; derrick boat; dredge boats; hoist (any size handling steel or stone); engines used in connection with hoists material; mucking-machines; cherrypickers; tower cranes; skylift; gradall.

GROUP B: Tractors; farm type tractors (with attachments); central compressor plants; elevators (used for hoisting building materials); central mixing plants; hoists (not handling steel or stone); pump-crete machine; concrete pumps; backfillers (other than cranes); tracmobile; crushing plant; elevating graders; earth augers; forklifts; (8' lift or under); paving machines (Blacktop/concrete); boat operator or engineer (30 tons or over); blacktop rollers; switchman; locomotive (under 20 tons); maintainers.

GROUP C: Asphalt plant; barber-green type loader; engine tender (other than steam) mixers (over 2 bags, not to include central plants); pumps (not more than 3); scrifiers; spreader box (bituminous); asphalt mixers; portable compressors (not more than 3); roller; sub-grader machine; tractors (farm type without attachments); cable head tower engineman; dredge booster pump; boat operator or engineers (under 30 tons); finishing machine; fireman & oiler (Combination); motor crane oiler & driver; welding machines (not more than 3); heaters (stationary or portable, not more than 5); compressors (portable, not more than 3); greaser or fuel truck.

GROUP D: Air compressor (1 portable); fireman; portable crushers; welding machine (1); conveyors; pump (1); oiler; heater (1).

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Cameron Hidalgo, Starr & Willacy

DECISION NO.: TX78-4016

DATE: Date of Publication

Supersedes Decision No. TX77-4280, dated September 30, 1977, in 42 FR 53171

DESCRIPTION OF WORK: Building Construction (does not include single family homes & garden type apartments up to & including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.09	.50	.50		
BOILERMAKERS	10.55	.80	1.00		.02
BRICKLAYERS	6.00				
CARPENTERS	5.11				
CEMENT MASONS	3.50				
ELECTRICIANS	6.425				
GLAZIERS	3.55				
IRONWORKERS:					
Structural & ornamental	3.50				
Reinforcing	4.02				
LABORERS:					
Common laborers	2.65				
Air tool operators	2.65				
Mason tenders	2.65				
Mortar mixers	2.65				
Plasterers' tenders	2.65				
PAINTERS	4.19				
PLASTERERS	7.00				
PLUMBERS & PIPEFITTERS	8.40	.40	.20		.05
ROOFERS:					
Roofers	4.06				
Kettlemen	4.40				
SHEET METAL WORKERS	4.23				
SPRINKLER FITTERS	11.15	.65	.95		.08
TILE SETTERS	3.75				
TRUCK DRIVERS	2.65				

WELDERS _ receive rate prescribed for craft performing operation to which welding is incidental.

SUPERSEDEAS DECISION

STATE: Texas COUNTY: Taylor
DECISION NO.: TX78-4017 DATE: Date of Publication
Supersedes Decision No. TX77-4283, dated September 30, 1977, in 42 FR 53167.
DESCRIPTION OF WORK: Building Construction (does not include single family homes & garden type apartments up to & including 4 stories.) (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction.

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANICS	$ 4.00				
ASBESTOS WORKERS	10.03	.40	.76		.025
BOILERMAKERS	10.55	.80	1.00		.02
BRICKLAYERS	7.20				
CARPENTERS	6.00	.25	.30		
CEMENT MASONS	5.41				
ELECTRICIANS:					
Electricians	9.40	.60	3%		1/4%
Cable splicers	9.65	.60	3%		1/4%
GLAZIERS	4.50				
IRONWORKERS	6.65	.55	.50		.10
LABORERS:					
Laborers	3.20				
Mason tenders	3.80				
LINE CONSTRUCTION:					
Lineman	9.40	.60	3%		1/4%
Cable splicers	9.65	.60	3%		1/4%
Groundman (over 1 year of experience)	7.05	.60	3%		1/4%
Groundman (under 1 year of experience)	5.64	.60	3%		1/4%
Equipment operator	7.71	.60	3%		1/4%
Flat bed truck driver	5.89	.60	3%		1/4%
PAINTERS:					
Brush, tape & bedding, paperhanger	7.65		.30		
Spray	8.525		.30		
PLASTERERS	6.60				
PLUMBERS & PIPEFITTERS	8.63	.30	.65		.05
POWER EQUIPMENT OPERATORS:					
Backhoes	4.75				
Cranes, derricks, draglines	5.575				
Drilling	5.575				
Oilers	4.65				
ROOFERS	3.94				
SHEET METAL WORKERS	6.26				
SOFT FLOOR LAYERS	3.75				
TILE SETTERS	4.00				
TRUCK DRIVERS	3.00				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

SUPERSEDEAS DECISION

STATE: Texas COUNTIES: Jefferson & Orange
DECISION NO.: TX78-4018 DATE: Date of Publication
Supersedes Decision No. TX77-4260, dated September 30, 1977, in 42 FR 53162.
DESCRIPTION OF WORK: Building (including Residential) Construction.

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:	$10.60	1.30	.80		.06
Jefferson County	10.595	.525	.90		.04
Orange County	10.55	.80	1.00		.02
BOILERMAKERS	11.705	.63	.50		.04
BRICKLAYERS & STONEMASONS					
CARPENTERS:					
Carpenters:	10.615		.30		.05
Commercial					
Residential construction of not more than two units & condonimium townhouses of not more than 6 units, excluding all apartments construction & multiple buildings for rental purposes	9.25		.30		
Millwrights	11.355				
Piledrivermen	10.96		.30		
CEMENT MASONS	10.20				
ELECTRICIANS	12.40	.50	3%+.285		.06
ELEVATOR CONSTRUCTORS:					
Mechanics	10.35	.745	.35	4%+a+b	.02
Helpers	70%JR	.745	.35	4%+a+b	.02
Helpers (Probationary)	50%JR				
GLAZIERS:					
Northern ½ of Jefferson Co.	9.975				
Southern ½ of Jefferson Co. & all of Orange Co.:					
Commercial	10.25				
Residential	10.10				
IRONWORKERS	9.85	.55	1.00		.10
LABORERS:					
GROUP 1 - Common laborer; asphalt ironer & raker; sand blaster, exclusive of preparation for painters; dumper, spotter & wagon drill; powder-man-blaster; well driller	6.68	.38	.53		.02
GROUP 2 - Carpenter tender	6.83	.38	.53		.02
GROUP 3 - Cement masons tender; air tool op. (jackhammer-vibrator)	6.88	.38	.53		.02
GROUP 4 - Plaster & lather tender; pipelayers, non-metallic pipe, including handling & laying pumpcrete pipe	6.98	.38	.53		.02
GROUP 5 - Mortar mixers, hod carriers & mason tender	7.03	.38	.53		.02
GROUP 6 - Machine man & nozzleman for gunniting 1½" and over	7.155	.38	.53		.02
LATHERS	10.585	.30			.01
LINE CONSTRUCTION:					
Lineman	12.685	.50	3%		1/2%
Groundman	9.26	.50	3%		1/2%
PAINTERS:					
Southern ½ of Jefferson Co. & all of Orange Co.:					
GROUP 1 - Brush, wood & wall, paperhanger:					
Commercial	10.25				
Residential	10.10				
GROUP 2 - Brush, steel:					
Commercial	10.30				
Residential	10.15				

DECISION NO. TX78-4018

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 3 - Spray:					
Commercial	$10.75				
Residential	10.62				
GROUP 4 - Sandblaster, power cleaning; All time spent rigging:					
Commercial	10.575				
Residential	10.36				
GROUP 5 - Brush, hot paint or creosote:					
Commercial	11.00				
Residential	10.36				
GROUP 6 - Spray, hot paint or creosote:					
Commercial	11.50				
Residential	10.89				
Twenty-five cents (25¢) per hour premium on all work from stage, chair, window jack or ledge in all classifications					
Northern ½ of Jefferson Co.:					
GROUP 1 - Brush:					
Commercial	10.075				
Residential	9.825				
GROUP 2 - Paper & vinyl hanger:					
Commercial	10.325				
Residential	10.075				
GROUP 3 - Brush, steel:					
Commercial	10.25				
GROUP 4 - Spray:					
Commercial	10.50				
Residential	10.25				
Twenty-five cents (25¢) per hour above the prevailing wage rate when working on window jacks or ledge, swing stage, bosun chair, cat walks, spider & skates in all classifications					
PIPEFITTERS	10.49	.65	.72		.08
PLASTERERS	10.50	.77	.30		.02
PLUMBERS	11.56	.30			.03
ROOFERS	9.11	.20	.35	.25	.03
SHEET METAL WORKERS:					
Commercial	10.41	3%+.40	.27		.10
Work on a single family dwelling or multiple family housing unit less than 3 stories in height where each individual family apartment is individually conditioned by a separate & independent unit or system	6.98	3%+.40	.27		.10
SPRINKLER FITTERS	11.15	.65	.95		.08
TILE SETTERS	10.395	.63	.30		.04
TRUCK DRIVERS:					
GROUP 1 - Under 1½ tons & wash, grease, fireman, fuel pump operators when used on construction	4.40				
GROUP 2 - 1½ tons thru 2½ tons, dump truck less than 7 yds., oown driver	4.69				
GROUP 3 - Over 2½ tons, farm tractors (when used to transport personnel or material), fork lifts (when used in warehouses, storage yards & when used to transport material), floats, hydraulic tail gate lifts	4.85				
GROUP 4 - Euclids (not self-loading)	4.95				
GROUP 5 - Warehousemen-material checker	4.965				

DECISION NO. TX78-4018

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate
b - Paid Holidays A thru G

PAID HOLIDAYS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$10.985		.25		
GROUP 2	9.25		.25		
GROUP 3	8.58		.25		
GROUP 4	8.39		.25		

GROUP 1 - Heavy Duty Mechanic; Blade Grade, self-propelled; Bull Clam; Back Filler; Derrick - power operated, all types; Draglines; Push Cat; Bulldozer and all types of Cat Tractors; Cableway; Backhoe; Shovel; Crane-power operated, all types; Elevating Grader, self-propelled; Hoist - motor driven, two drums or more; Mix mobile; Winch Truck; Locomotive Crane; Mixer, 14 cu. ft. or more; Paving Mixer, all sizes; Piledrivers; Scraper - heavy type, over 3 cu. yds.; Trench Machine, all sizes; Gradall; High-Lift; Foundation Boring Machines; Gasoline or diesel driven welding machines - 7 to 12 machines; Pumpcrete Machine; Drill Operator - Water Well; DW-10 Euclid; Tournapulls; Asphalt Plants; Crushing Machines & Batch Plants; Scoopmobiles; Fingerlift Operator; Elevator when used to haul men or material on construction work; Well Point System & operation of similar dewatering devices
GROUP 2 - Air Compressor; Blade Grade - Towed; Flex Plane; Form Grader; Mixer, less than 14 cu. ft.; Pump, Pulsometer; Truck Crane Driver; Gasoline or diesel driven welding machines, 3 to 6 machines; Hoist - Single Drum; Scraper, 3 cu. yds. or less; Conveyors - power operated
GROUP 3 - Fireman
GROUP 4 - Oiler

SUPERSEDEAS DECISION

STATE: Texas
DECISION NO.: TX78-4019
Supersedes Decision No. TX77-4261, dated September 30, 1977, in 42 FR 55165.
DESCRIPTION OF WORK: Building Construction (does not include single family homes & garden type apartments up to & including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction.

COUNTY: Lubbock
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.15	.70	.70		.07
BOILERMAKERS	10.55	.80	1.00		.02
BRICKLAYERS & STONEMASONS	9.66		.30		.03
CARPENTERS	8.97	.48	.40		.01
CEMENT MASONS	7.45				
ELECTRICIANS:					
Electricians	9.95	.60	3%		1/10%
Cable splicers	10.20	.60	3%		1/10%
IRONWORKERS:					
Structural; Ornamental; Reinforcing	8.83	.55	1.00		.10
All ironworkers on jobs 30 miles or more from the city of Lubbock	8.955	.55	1.00		.10
LABORERS:					
GROUP 1 - Construction laborers, including excavation, pouring concrete, carpenter tenders, reinforcing, shoring, digging, loading & unloading materials, wrecking buildings & all structures & all construction laborers except those named below	5.175	.275	.27		
GROUP 2 - Air tool op. (jackhammer, vibrator, tamper, brush hammer, chipping hammer, air or electric), power buggy man, pipelayer (concrete & clay & all non-metallic pipe); handling, laying & cleaning pumpcrete pipe	5.45	.275	.27		
GROUP 3 - Mortar mixers, mason tenders, plasterer tenders, cement finisher tender, lather tenders	5.375	.275	.27		
GROUP 4 - Wagon drill	5.525	.275	.27		
GROUP 5 - Blasters & powder men	5.775	.275	.27		
LATHERS	6.75	.20			.01
LINE CONSTRUCTION:					
Linemen	9.95	.60	3%		
Operators	80%JR	.60	3%		
Groundmen (more than 1 year experience)	55%JR	.60	3%		
Groundmen (less than 1 year experience)	50%JR	.60	3%		
Flat bed truck operator	70%JR	.60	3%		
PAINTERS:					
Brush	7.35	.30	.20		.04
Spray	8.10	.30	.20		.04
PLASTERERS	7.00				
PLUMBERS & STEAMFITTERS	9.66	.39	.45		.04
ROOFERS	3.50				
SHEET METAL WORKERS	10.30	.35	.55		.10
SPRINKLER FITTERS	11.15	.65	.95		.08
TRUCK DRIVERS	3.00				

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DECISION NO. TX78-4019

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 7.20	.30	.50		.10
GROUP 2	8.10	.30	.50		.10
GROUP 3	8.50	.30	.50		.10

GROUP 1 - Oiler-Fireman
GROUP 2 - Air Compressors, Pumps, Welding Machines, Throttle Valves, Light Plants (3 to 6 machines); Conveyor; Wagon Drill; Elevators Building; Form Graders; Hoist, Single Drum; Ford Tractor including blade and mower on rear; Mixers less than 14 cubic feet; Screening Plants; Crushing Plants; Fork Lifts (short, under 25 feet); Concrete Pumps (all types); Bobcat type equipment; Ford tractor or like with any attachments (except blade and mower on rear); All other equipment of similar nature coming under the Light Equipment Class, when power operated
GROUP 3 - Backhoe; Drilling Machines (all types); Scoopmobiles; Hoist, two drums or more; Fork Lifts (over 25 feet); Winch Truck; Six Wheel Truck, when used continuously for 5 days; Mixermobile; Locomotives; Mixer, 14 cubic feet or over; Blade Graders, self-propelled; Cableways; Cranes-power operated (to 100 ft. of boom); Derricks, power operated (all types); Gradall; Hy-Ho; Hop-To; Paving Mixer (all types); Pile Drivers; Mobile Concrete Mixers over 14 cu. ft.; Bulldozers, Loaders, Tractorvators; Scrapers and Pulls; Welders; Trenching Machines; Roller, ten tons or over; Air Compressors, Pumps, Welding Machines and Light Plants (7 to 12 machines); Air Compressor & Air Tugger; Boilers, two or more fired by one man; Heavy Duty Mechanic; All other equipment of similar nature coming under the Heavy Equipment Class, when power operated

SUPERSEDEAS DECISION

STATE: Texas
DECISION NO.: TX78-4020
Supersedes Decision No. TX77-4254, dated September 30, 1977, in 42 FR 53150.
DESCRIPTION OF WORK: Building Construction (does not include single family homes & garden type apartments up to & including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction.

COUNTIES: Bee, Kleberg & Nueces
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.09	.50	.50		
BOILERMAKERS	10.55	.80	1.00		.02
BRICKLAYERS:					
Bee County	5.50				
Kleberg & Nueces Counties	8.81	.28	.30		.05
CARPENTERS:					
Carpenters	7.74	.51	.30		.05
Millwrights	9.80				1%
CEMENT MASONS	8.50				
ELECTRICIANS:					
Electricians	10.55	.60	3%		1/2%
Cable splicers	10.675	.60	3%		1/2%
GLAZIERS (excluding Kleberg Co.)	6.85		.20		
IRONWORKERS	7.92	.55	1.00		.07
LABORERS:					
GROUP 1 - General laborer (any work not specifically defined herein)	4.80	.28	.10		
GROUP 2 - Craft tenders: Bricklayers, plasterers, tile setters, concrete & mortar mixers, pipelayers, lathers, finish carpenters, slip form ops., scaffolding, water proofers, cement finishers; Power tool ops. icludes paving buster, jackhammer, chipping gun, air tamper, barie tamper, electric vibrator, air or gasoline driven vibrator or drills, sump pumps & any & all power driven equipment operated by laborers	5.00	.28	.10		
GROUP 3 - Pipe wrappers & dopers	5.15	.28	.10		
GROUP 4 - Gunnite nozzlemen; Powderman or blaster	5.25	.28	.10		
LATHERS	7.75	.30	.20	1.00	.01
LINE CONSTRUCTION:					
Linemen	10.75	.40	3%		1/2%
Cable splicers	10.875	.40	3%		1/2%
Groundmen (1st year)	5.38	.40	3%		1/2%
Groundmen	5.91	.40	3%		1/2%
MARBLE, TILE & TERRAZZO WORKERS	8.18				.02
MARBLE, TILE & TERRAZZO FINISHERS:					
Marble, tile & terrazzo finisher	5.87				
Terrazzo floor machine operator	6.07				
Terrazzo base machine operator	6.22				
PAINTERS:					
Brush	7.75	.40	.25		2/10%
Sign	8.00	.40	.25		2/10%
Spray	8.15	.40	.25		2/10%

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DECISION NO. TX78-4020

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS	$ 9.90				.01
PLUMBERS & STEAMFITTERS	8.565	.335	.35		.035
ROOFERS:					
Roofers; Kettleman; Waterproofers; Deckmen	6.775		.25		
SHEET METAL WORKERS	8.67	.23	.275		.01
SOFT FLOOR LAYERS	7.74	.51	.30		.05
SPRINKLER FITTERS	11.15	.65	.95		.08
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. TX78-4020

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 8.35	.32	.55		
GROUP 2	7.225	.32	.55		
GROUP 3	6.425	.32	.55		
GROUP 4	6.575	.32	.55		

GROUP 1 - Air Compressor over 125 CFM, gasoline or diesel powered; Asphalt Plant Mixer; Back Filler; Backhoe; Batch Plant (concrete); Blade Grader; Boring Machine (foundation, horizontal or waterwell); Bull Clam; Bulldozer; Cableway; Clamshell; Crane, power operated (all types); Crusher; Derrick, power operated (all types); Dragline; Elevating Grader; Elevator, outside the building; Euclids and similar type machines; Forklift (on construction except in warehouses); Grade-All; Hi-Lift; Hoist (2 drums or more); Locomotive and Switch Engines; Mixer (paving); Mixer (concrete); Pile Driver; Pumps (2) over 3 inches; Pumpcrete Machine; Push Cat or Pull Cat; Roller (pneumatic, flatwheel); Scraper (all types); Shovel (power); Scoopmobile; Trench Machine; Tugboat (on construction); Turn-a-pulls and similar machines; Welding Machines (7 to 13) other than electric; Wellpoint; Winch Truck; Mechanic; Lubrication Engineer (required on grease racks and service trucks); All other equipment of similar nature coming within the Heavy Equipment Class when power operated

GROUP 2 - Air Compressor (1 or 2) 125 CFM or less, gasoline or diesel powered; Blade Grader (towed); Conveyor; Elevator, inside the building, permanent type; Fireman (required on any boiler, steam locomotive, steam crane, etc.); Flexplans; Form Grader; Generator (gas, diesel over 1500 watts); Hoist (1 drum); Mixer (less than 14 cu. ft.); Pulsometer; Pumps (1) over 3 inches; Pumps (1 or 2) 3 inches or under; Roller (towed); Tractor (wheel type); Driver-oiler (required on tractor or truck cranes on which controls of crane and those of tractor or truck are operated from different seats or stations, mobile type grade all, etc.); Wagon Drill; Welding Machine (3 to 6) other than electric; All other equipment of similar nature coming within the Light Equipment Class when power operated

GROUP 3 - Oilers, 1st year

GROUP 4 - Oilers, 2nd year

SUPERSEDEAS DECISION

STATE: Wyoming — COUNTY: Statewide

DECISION NUMBER: WY78-5014 — DATE: Date of Publication

Supersedes Decision No. WY78-5008 dated January 27, 1978, in 43 FR 3868.

DESCRIPTION OF WORK: Highway Construction (does not include bridges over navigable waters; tunnels; rest areas which include building structures; and railroad construction)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS	$ 7.49	.60	.60		.15
CEMENT MASONS	7.02	.50	.35		
IRONWORKERS:					
Structural	8.00	.35			
Reinforcing	6.32	.35			
PAINTERS:					
Brush and Spray	6.93				
LINE CONSTRUCTION:					
All work over 34.5 KV all work on steel towers and/or multiple wood structures, all cross country underground communications work, and all motor traffic controlling, streets and highway lighting:					
Cable Splicer	10.42	.35	3%		3/4%
Linemen	9.47	.35	3%		3/4%
Equipment Operators	8.55	.35	3%		3/4%
Groundmen	7.03	.35	3%		3/4%
All work 34.5 KV and under:					
Lineman	9.47	.35	3%		3/4%
Line Equipment Operator	8.19	.35	3%		3/4%
Groundman	7.03	.35	3%		3/4%

DECISION NO. WY78-5014

LABORERS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1: Axeman and hand faller; Bin Wall Installer Helpers; Concrete Worker (wet or dry); Concrete Workers (curing and drying); Dumpman; Erector and Installer (including the installation and erection of fences, snow fences, guard rails, median rails, median posts, signs and right-of-way marker); Form Stripper; Form Setter Helper (paving); General Labor; Gunite Helper; Heater Tender; Landscaper Helper; Material Handler (lumber, rods, cement, concrete); Nozzleman, air and water; Pipe Setters' Helpers (non-metallic); Pipe Setters Helpers (corrugated); Pre-watering, pre-wetting and pre-irrigation (all work); Rip rap man; Sandblaster Pot Tender; Signal Man; Grade Concrete, etc. Scissor Man or Hopper Man; Stake Jumper for equipment; Tar and asphalt pot tender; Wrecking and demolition Crews	$ 5.37				
Group 2: Ashpelt Raker and Tamper; Bin Wall Installer; Biutminous Curb Builder; Cement Mason or Finisher; Helper and Tender; Chuck Tender; Form Setter (paving); Hand operated Vibratory Roller; Landscaper; Mortar Man on stone riprap; Operator of pneumatic, electric, gas tamper and similar mechanical tools; Pipe Setter (corrugated culvert pipe sectional, multiplate and similar type) Pipe Setter; Pipelayer (non-metallic); Pipewrapper; Powderman Helper; Power type concrete buggy (push or ride); Power Saw Operator (clearing); Vibrator, concrete	5.47				

DECISION NO. WY78-5014

LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 3: Concrete Saw; Gunite Nozzleman; High Scaler (using air tools from bos'n chair, swing stage, lift belt, or block and tackle shall receive $.20 per hour more than the classified rate); Jackhammer and Pavement Breaker; Sandblaster Nozzleman; Sewer Pipe Installer (non-metallic), clay, concrete, etc. (Caulker, Collerman, Jointer, Mortarman, Rigger, Jacker)	$ 5.62				
Group 4: Powderman and Blaster; Wagon Drill, Air-trac, Diamond and other drills for blasting powder or grouting	5.89				
Group 5: Tunnel and Underground Work:					
Brakeman; Swamper; Vibrator Man	5.85				
Bull Gang; Dumpman; Mucker; Trackman	5.69				
Miners (drillers) Machine Men; Rimbermen; Steelmen; Drill Doctor; Form Setter and Mover; Spader; Tuggers spilling and/or Caisson Workers; Powdermen; Jackhammermen; Finishers	6.12				
Nipper; Chucktender; Topman; Toplander	5.96				

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 7.01	.35	.35		.02
Group 2	7.06	.35	.35		.02
Group 3	7.11	.35	.35		.02
Group 4	7.15	.35	.35		.02
Group 5	7.18	.35	.35		.02
Group 6	7.23	.35	.35		.02
Group 7	7.27	.35	.35		.02
Group 8	7.28	.35	.35		.02
Group 9	7.40	.35	.35		.02
Group 10	7.46	.35	.35		.02
Group 11	7.48	.35	.35		.02
Group 12	7.66	.35	.35		.02
Group 13	7.70	.35	.35		.02
Group 14	7.77	.35	.35		.02
Group 15	7.83	.35	.35		.02
Group 16	8.00	.35	.35		.02
Group 17	8.34	.35	.35		.02

POWER EQUIPMENT OPERATORS

Group 1: Auger Machine Operator (post holes, etc.); Batch Bin Weighman, Scissorman or Hopperman; Beginner Operator; Brakeman and Helper; Crusher Oiler; Oiler Utility; Screed Operator; Tractor Operators (farm, crawler or wheel type, 60 HSP (drawbar) or less with or without use of power attachments, except for use of back hoe or bucket)

Group 2: Broom Operators, self-propelled; Cableway Signalman (bellboy); Concrete Saw (self-propelled); Fireman; Power Loader, belt and bucket type

Group 3: Air Compressor over 315 cu. ft. capacity; Chip Spreader Operator; Form Grader Operator; Joint Machine Operator; Longitudinal Float Operator; Mixer Operator Concrete (under one yard); Helper (welder or heavy duty); Roller Operators, self-propelled (pneumatic, rubber tired, sheep foot, vibratory or combination type); Tire Repairman

Group 4: Pump Operator (all others)

Group 5: Conveyor Belt Operator; Fork Lift and Lumber Staker; Screening Plant Operator

Group 6: A-Frame Truck; Tractor Operators (farm, crawler or wheel type, over 60 HSP (drawbar) without use of power attachments

Group 7: Oiler, Lead Utility

Group 8: Gunnite and Grout Machine Operator; Mulching Machine Operator; Oil Distributor

Group 9: Front End Loader (up to and including 1½ cu. yds.); Pavement Breakers, Hydro-tamper and similar type machines; Pumps, well points

Group 10: Hoist Operator (one drum)

POWER EQUIPMENT OPERATORS (Cont'd)

Group 11: Haulage Motorman and Industrial type Motorman; Motor Patrol Operator (all others); Pump Operator (in tunnels, shafts, raises); Hydro type Cranes (up to 15 tons)

Group 12: Air Compressor, two or more machines or tunnels, shafts, raises of plant Operator; Asphalt Plant Operator; Bituminous Laydown Machine Operator; CMI Machine and similar; Concrete Batch Plant; Concrete Finish Machine Operator; Concrete Multi Blade Span Saw (Hunt process or similar); Concrete Spreader and Paver Operator; Crusher Operator; Drilling Machine, integrated (Core, Rotary, Caisson, Diamond); Elevating Grader; Front End Loader (over 1½ cu. yds.); Jumbo Form Operator; Mixer Operator, base course pug mill type; Mixer Bituminous Operator (travel plant); Mixer Operator Concrete (over one yard); Motor Patrol Operator (finish); Mucking Machine Operator (all types); Pneumatic Guns; Pumpcrete Operator; Roller Operator, (tandem steel wheel, three axle or three wheel); Scraper Equipment (all types); Shovels, Draglines, Cranes, Piledrivers, all truck mounted cranes, (manufacturers' rating) up to 3½ yards, all attachments; Hydro type Cranes, (15 ton and over); Shuttle Car Operator; Subgrade Machine Operator (power); Tractor Operator, all with use of power attachments and including Pushcat, Dozer, Tournadozer, etc. (The use power attachment shall not include disking, pulling or rollers, and similar unskilled actions); Trenching Machine Operator; Wash Plant Operator

Group 13: Welder, Machine Doctor

Group 14: Hoist Operator (two or more drums of shafts or raises); Repairman; Mechanics; Machine Doctors, Welders and Helper; Heavy Duty Mechanic, Machine Doctor

Group 15: Cableway Operators; Mixer Dual Drum; Cranes, (Whirley, Gantry, Stiffleg, Overhead traveling)

Group 16: Shovels, Draglines, Cranes, Piledrivers, all truck mounted Cranes (manufacturer's rating) 3½ yards to 7 cu. yds., all attachments; Wheel Excavator Operator

Group 17: Shovels, Draglines, Cranes, Piledrivers, all truck mounted Cranes, (manufacturer's rating) 7 cu. yds. and over, all attachments

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Pick-up Truck Drivers (when used for hauling)	$ 5.72	.35	.35		
Dump Truck Drivers (water level capacity box):					
7 cu. yds. and less	5.77	.35	.35		
Over 7 cu. yds. to and including 10 cu. yds.	5.92	.35	.35		
Over 10 cu. yds. to and including 13 cu. yds.	6.02	.35	.35		
Over 13 cu. yds. to and including 20 cu. yds.	6.52	.35	.35		
Over 20 cu. yds. to and including 25 cu. yds.	6.52	.35	.35		
Over 25 cu. yds. to and including 30 cu. yds.	6.62	.35	.35		
Over 30 cu. yds. to and including 35 cu. yds.	6.67	.35	.35		
Over 35 cu. yds. to and including 40 cu. yds.	6.72	.35	.35		
Over 40 cu. yds. to and including 45 cu. yds.	6.77	.35	.35		
Over 45 cu. yds. (to be negotiated prior to use)					
Snow Plow Truck Drivers (the cu. yd. rate of the truck driver classification):					
Pilot Car Drivers	5.72	.35	.35		
Gravel Spreader	5.77	.35	.35		
Flat Rack Material Truck Drivers:					
Less than 2 tons	5.77	.35	.35		
2 tons to 5 tons	5.92	.35	.35		
Over 5 tons	6.02	.35	.35		
Low Boy and Tandem Axle Float Drivers	6.52	.35	.35		
Gang Truck Drivers	5.77	.35	.35		

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TRUCK DRIVERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Stringing Truck Drivers:					
Single axle type truck	$ 5.77	.35	.35		
Multiple axle type truck, semi	6.52	.35	.35		
Winch Trailer Truck Drivers (cable and hoist)	6.02	.35	.35		
Utility Winch Truck Drivers	6.02	.35	.35		
"A" Frame Truck Drivers	6.02	.35	.35		
Warehousemen, Partsmen and Helpers	5.77	.35	.35		
Material Checkers	5.92	.35	.35		
Transit Mix or wet mix Truck Drivers:					
Less than 5 cu. yds.; Single axle	6.02	.35	.35		
Over 5 cu. yds. to and including 10 cu. yds.; Tandem axle	6.12	.35	.35		
Over 10 cu. yds.	6.22	.35	.35		
Power Broom Drivers and/or Operator	5.92	.35	.35		
Water Truck Drivers:					
2500 gal. or less (straight truck)	5.77	.35	.35		
2500 gal. or less (semi truck)	5.92	.35	.35		
Over 2500 gal. to and including 3600 gal.	6.02	.35	.35		
Over 3600 gal. (straight truck)	6.12	.35	.35		
Over 3600 gal. (semi truck)	6.22	.35	.35		

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TRUCK DRIVERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Heavy Duty (Euclids, electric or similar type)	$ 6.52	.35	.35		
Fuel Service Truck Drivers	5.77	.35	.35		
Greasemen, Tiremen, Service Men and Helpers	5.77	.35	.35		
Truck Mechanics and Helpers (shop and field):					
Field Mechanics	6.72	.35	.35		
Helpers - field (welders, mechanics, etc.)	6.28	.35	.35		

SUPERSEDEAS DECISION

STATE: Wyoming COUNTIES: Converse, Goshen, Laramie, Natrona, Niobrara and Platte

DECISION NUMBER: WY78-5015 DATE: Date of Publication

Supersedes Decision No. WY78-5013 dated February 3, 1978, in 43 FR 4825

DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories) and heavy construction

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.44	.57	$ 1.20		
BOILERMAKERS	11.30	.85	1.00		.02
BRICKLAYERS; Stonemasons:					
Goshen, Laramie and Platte Cos.	9.90		.30		
Converse, Natrona and Niobrara Counties	10.00				
CARPENTERS:					
Carpenters	9.49	.60	.60	.50	.15
Piledrivermen	9.74	.60	.60	.50	.15
CEMENT MASONS:					
Cement Masons	9.55	.50			.05
Working with composition material; Scaffold, Swing Stage or Temporary platform over 8' high; Operator of power machines	9.80	.50			.05
ELECTRICIANS:					
Goshen, Laramie, Niobrara and Platte Counties					
Electricians	10.85	.62	3%+.25		3/4of1%
Cable Splicers	11.10	.62	3%+.25		3/4of1%
Converse and Natrona Counties					
Contracts $150,000 and under:					
Electricians	9.80	.62	3%+.25		3/4of1%
Contracts over $150,000:					
Electricians	10.15	.62	3%+.25		3/4of1%
ELEVATOR CONSTRUCTORS	11.14	.745	.56	a	.025
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.745	.56	a	.025
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
IRONWORKERS:					
Structural; Ornamental; Reinforcing	10.60	.65	1.15		.10
MARBLE, TILE & TERRAZZO WORKERS:					
Converse, Natrona and Niobrara Counties	10.00				
MILLWRIGHTS	9.93	.78	.85	6%	.07

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PAINTERS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Converse, Natrona and Niobrara Counties					
Painters, Brush and roll; Hardwood finishers; Sandblast; Pot tenders	$ 9.00	.65	.30		
Painters; Spray; Swing stage and Chair	9.80	.65	.30		
Paperhanging; Drywall Finishers (hand)	9.25	.65	.30		
Sandblast (interior); Steeplejack	10.44	.65	.30		
Sandblast (exterior)	10.00	.65	.30		
Hazardous Work	9.75	.65	.30		
PLUMBERS; Steamfitters:					
Goshen, Laramie and Platte Cos.					
Zone 1 (15 miles radius from Cheyenne Post Office)	9.32	.75	.60	1.00	.18
Zone 2 (10 miles radius beyond Zone 1)	10.17	.75	.60	1.00	.18
Zone 3 (15 miles radius beyond Zone 2)	11.09	.75	.60	1.00	.18
Zone 4 (Jurisdiction beyond Zone 3)	12.31	.75	.60	1.00	.18
Zone 5 (Footnote "b")					
General Contracts $700,000.00 or less	9.32	.75	.60	1.00	.18
General contracts over $700,000.00	9.82	.75	.60	1.00	.18
Converse, Natrona and Niobrara Counties					
Zone 1 (10 miles radius from Post Office in Casper)	9.85	.70	1.25	2.00	.15
Zone 2 (10 miles radius beyond Zone 1)	10.50	.70	1.25	2.00	.15
Zone 3 (20 miles radius beyond Zone 2)	11.15	.70	1.25	2.00	.15
Zone 4 (40 miles beyond Zone 3)	12.15	.70	1.25	2.00	.15
Zone 5 (Jurisdiction beyond Zone 4)	12.90	.70	1.25	2.00	.15

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS	$ 9.75				
SHEET METAL WORKERS:					
Converse, Natrona and Niobrara Counties	10.37	.41	.60		.02
Goshen, Laramie and Platte Cos.	10.30	.60	.90		.08
SPRINKLER FITTERS	11.05	.65	.95		.08
WELDER: RIGGER: Receive rate prescribed for craft performing operation to which welding or rigging is incidental.					
FOOTNOTES:					
a. Employer contributes 8% basic hourly rate for over 5 years' service and 6% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. 6 Paid Holidays: A through F.					
b. Use only in the Cities of Laramie, Torrington, Wheatland, Evanston, Green River and Rock Spring within a 5 mile radius from the Post Office.					
PAID HOLIDAYS:					
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.					
LABORERS (Building Construction)					
Group 1	$ 6.52	.33	.40		.05
Group 2	6.74	.33	.40		.05
Group 3	6.80	.33	.40		.05
Group 4	7.02	.33	.40		.05
Group 5	7.02	.33	.40		.05
Group 6	7.27	.33	.40		.05
Group 7	7.11	.33	.40		.05
Group 8	7.00	.33	.40		.05
Group 9	6.84	.33	.40		.05
HEAVY CONSTRUCTION					
Carpenters	7.49	.60	.60		.15
Cement Masons	7.02	.50	.35		
Ironworkers, Structural	8.00	.35			
Ironworkers, Reinforcing	6.32	.35			
Painters, brush and spray	6.93				

LABORERS
(Building Construction)

Group 1: Axeman and hand feller; Concrete worker (wet or dry)(curing and drying); Car and truck loader; Dumpman; Erector and installer (includes the installation and erection of all fences, right-of-way, median fences, snow fence, etc., guard rails, section rails, reference posts, guide posts, signs and right-of-way markers); Form stripper; Form setter helper (paving); General laborer; Gunite helper; Landscaper helper; Material handler (lumber, rods, cement concrete); Nozzleman (air and water); Pipe setter helpers, non-metallic; Pipe setters' helpers, corrugated; All work pertaining to pre-watering, pre-irrigation and pre-wetting; Rodman; Riprap Man; Sandblaster pot tender; Signalman, grade, concrete, etc.; Scissorman or hopper man; Stake jumper for equipment; Tar and asphalt pot tender; Wrecking and demolition crews; Unloading and packing of steel rods and mesh (reinforcing); Heater tender and pilot car operator

Group 2: Asphalt raker and tamper; Bin wall installer; Bituminous curb builder; Carpenter tender; Cement mason tender; Chuck tender; Form setter (paving); Hand operated vibrator roller; Landscaper; Mechanical form cleaner; Mortar man on stone riprap; Operator of pneumatic, electric, gas tamper and similar mechanical tools; Powderman helper; Pipe setter, corrugated; Culvert pipe, maulti-plate, sectional plate and similar type; Pipe wrapper; Power-type concrete buggy (push); Power saw operator (clearing); Vibrator (concrete); Creosote material handler (corroeive enamel or its equal); Burner (cutting torch)

Group 3: Concrete saw; Gunite nozzleman; High scaler (using air tools from bos'n chair, swing stage lift belt, or block and tackle, shall receive $.20 per hour more than the classified rate); Jackhammer and pavement breaker; Sandblaster nozzleman; Sewer pipe installer, non-metallic; Caulker; Collerman; Jointer; Morterman; Rigger; Jacker; Power-type concrete buggy (ride); Shoring and lagging of open ditch

Group 4: Powderman and blaster; Wagon drill, air track, diamond and other drills for blasting powder or grouting

Group 5: Hod carriers; Mason tender; Plasterers tenders; Terrazzo tenders; Tile setter tenders, and scaffold builders

Group 6: Tunnel and underground work: Miners (drills) Machine man; Timberman; Steelman; Drill Doctor; Form setter and movers; Spaders; Tuggers; Spilling and/or caisson workers; Jackhammer man; Finishers; Re-bar man; Powderman

Group 7: Nipper; Chuck tender; Top man or toplender

Group 8: Brakeman and vibrator man

Group 9: Mucker and bull gang laborer

LABORERS Heavy Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1: Axeman and hand feller; Bin Wall Installer Helpers; Concrete Worker (wet or dry); Concrete Workers (curing and drying); Dumpman; Erector and Installer (including the installation and erection of fences, snow fences, guard rails, median rails, median posts, signs and right-of-way marker); Form Stripper; Form Setter Helper (paving); General Labor; Gunite Helper; Heater Tender; Landscaper Helper; Material Handler (lumber, rods, cement, concrete); Nozzleman, air and water; Pipe Setters' Helpers (non-metallic); Pipe Setters Helpers (corrugated); Pre-watering, pre-wetting and pre-irrigation (all work); Rip rap man; Sandblaster Pot Tender; Signal Man; Grade Concrete, etc. Scissor Man or Hopper Man; Stake Jumper for equipment; Tar and asphalt pot tender; Wrecking and demolition Crews	$ 5.37				
Group 2: Ashpalt Raker and Tamper; Bin Wall Installer; Biutminous Curb Builder; Cement Mason or Finisher; Helper and Tender; Chuck Tender; Form Setter (paving); Hand operated Vibratory Roller; Landscaper; Mortar Man on stone riprap; Operator of pneumatic, electric, gas tamper and similar mechanical tools; Pipe Setter (corrugated culvert pipe sectional, multiplate and similar type) Pipe Setter; Pipelayer (non-metallic); Pipewrapper; Powderman Helper; Power type concrete buggy (push or ride); Power Saw Operator (clearing); Vibrator, concrete	5.47				

LABORERS (Cont'd) Heavy Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 3: Concrete Saw; Gunite Nozzleman; High Scaler (using air tools from bos'n chair, swing stage, lift belt, or block and tackle shall receive $.20 per hour more than the classified rate); Jackhammer and Pavement Breaker; Sandblaster Nozzleman; Sewer Pipe Installer (non-metallic), clay, concrete, etc. (Caulker, Collarman, Jointer, Mortarman, Rigger, Jacker)	$ 5.62				
Group 4: Powderman and Blaster; Wagon Drill, Air-trac, Diamond and other drills for blasting powder or grouting	5.89				
Group 5: Tunnel and Underground Work:					
Brakeman; Swamper; Vibrator Man	5.85				
Bull Gang; Dumpman; Mucker; Trackman	5.69				
Miners (drillers) Machine Men; Rimbermen; Steelmen; Drill Doctor; Form Setter and Movar; Spader; Tuggers spilling and/or Caisson Workers; Powdermen; Jackhammermen; Finishers	6.12				
Nipper; Chucktender; Topman; Toplander	5.96				

POWER EQUIPMENT OPERATORS Heavy Construciton	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 7.01	.35	.35		.02
Group 2	7.06	.35	.35		.02
Group 3	7.11	.35	.35		.02
Group 4	7.15	.35	.35		.02
Group 5	7.18	.35	.35		.02
Group 6	7.23	.35	.35		.02
Group 7	7.27	.35	.35		.02
Group 8	7.29	.35	.35		.02
Group 9	7.40	.35	.35		.02
Group 10	7.46	.35	.35		.02
Group 11	7.48	.35	.35		.02
Group 12	7.66	.35	.35		.02
Group 13	7.70	.35	.35		.02
Group 14	7.77	.35	.35		.02
Group 15	7.83	.35	.35		.02
Group 16	8.00	.35	.35		.02
Group 17	8.34	.35	.35		.02

POWER EQUIPMENT OPERATORS
Heavy Construction

Group 1: Auger Machine Operator (post holes, etc.); Batch Bin Weighman, Scissorman or Hopperman; Beginner Operator; Brakeman and Helper; Crusher Oiler; Oiler Utility; Screed Operator; Tractor Operators (farm, crawler or wheel type, 60 HSP (drawbar) or less with or without use of power attachments, except for use of back hoe or bucket)

Group 2: Broom Operators, self-propelled; Cableway Signalman (bellboy); Concrete Saw (self-propelled); Fireman; Power Loader, belt and bucket type

Group 3: Air Compressor over 315 cu. ft. capacity; Chip Spreader Operator; Form Grader Operator; Joint Machine Operator; Longitudinal Float Operator; Mixer Operator Concrete (under one yard); Helper (welder or heavy duty); Roller Operators, self-propelled (pneumatic, rubber tired, sheep foot, vibratory or combination type); Tire Repairman

Group 4: Pump Operator (all others)

Group 5: Conveyor Belt Operator; Fork Lift and Lumber Staker; Screening Plant Operator

Group 6: A-Frame Truck; Tractor Operators (farm, crawler or wheel type, over 60 HSP (drawber) without use of power attachments

Group 7: Oiler, Lead Utility

Group 8: Gunnite and Grout Machine Operator; Mulching Machine Operator; Oil Distributor

Group 9: Front End Loader (up to and including 1½ cu. yds.); Pavement Breakers, Hydro-tamper and similar type machines; Pumps, well points

Group 10: Hoist Operator (one drum)

POWER EQUIPMENT OPERATORS (Cont'd)
Heavy Construction

Group 11: Haulage Motorman and Industrial type Motormen; Motor Patrol Operator (all others); Pump Operator (in tunnels, shafts, raises); Hydro type Cranes (up to 15 tons)

Group 12: Air Compressor, two or more machines or tunnels, shafts, raises of plant Operator; Asphalt Plant Operator; Bituminous Laydown Machine Operator; CMI Machine and similar; Concrete Batch Plant; Concrete Finish Machine Operator; Concrete Multi Blade Span Saw (Hunt process or similar); Concrete Spreader and Paver Operator; Crusher Operator; Drilling Machine, integrated (Core, Rotary, Caisson, Diamond); Elevating Grader; Front End Loader (over 1½ cu. yds.); Jumbo Form Operator; Mixer Operator, base course pug mill type; Mixer Bituminous Operator (travel plant); Mixer Operator Concrete (over one yard); Motor Patrol Operator (finish); Mucking Machine Operator (all types); Pneumatic Guns; Pumpcrete Operator; Roller Operator, (tandem steel wheel, three axle or three wheel); Scraper Equipment (all types); Shovels, Draglines, Cranes, Piledrivers, all truck mounted cranes, (manufacturers' rating) up to 3½ yards, all attachments; Hydro type Cranes, (15 ton and over); Shuttle Car Operator; Subgrade Machine Operator (power); Tractor Operator, all with use of power attachments and including Pushcat, Dozer, Tournadozer, etc. (The use power attachment shall not include disking, pulling or rollers, and similar unskilled actions); Trenching Machine Operator; Wash Plant Operator

Group 13: Welder, Machine Doctor

Group 14: Hoist Operator (two or more drums of shafts or raises); Repairman; Mechanics; Machine Doctors, Welders and Helper; Heavy Duty Mechanic, Machine Doctor

Group 15: Cableway Operators; Mixer Dual Drum; Cranes, (Whirley, Gantry, Stiffleg, Overhead traveling)

Group 16: Shovels, Draglines, Cranes, Piledrivers, all truck mounted Cranes (manufacturer's rating) 3½ yards to 7 cu. yds., all attachments; Wheel Excavator Operator

Group 17: Shovels, Draglines, Cranes, Piledrivers, all truck mounted Cranes, (manufacturer's rating) 7 cu. yds. and over, all attachments

TRUCK DRIVERS Heavy Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Pick-up Truck Drivers (when used for hauling)	$ 5.72	.35	.35		
Dump Truck Drivers (water level capacity box):					
7 cu. yds. and less	5.77	.35	.35		
Over 7 cu. yds. to and including 10 cu. yds.	5.92	.35	.35		
Over 10 cu. yds. to and including 13 cu. yds.	6.02	.35	.35		
Over 13 cu. yds. to and including 20 cu. yds.	6.52	.35	.35		
Over 20 cu. yds. to and including 25 cu. yds.	6.52	.35	.35		
Over 25 cu. yds. to and including 30 cu. yds.	6.62	.35	.35		
Over 30 cu. yds. to and including 35 cu. yds.	6.67	.35	.35		
Over 35 cu. yds. to and including 40 cu. yds.	6.72	.35	.35		
Over 40 cu. yds. to and including 45 cu. yds.	6.77	.35	.35		
Over 45 cu. yds. (to be negotiated prior to use)					
Snow Plow Truck Drivers (the cu. yd. rate of the truck driver classification):					
Pilot Car Drivers	5.72	.35	.35		
Gravel Spreader	5.77	.35	.35		
Flat Rack Material Truck Drivers:					
Less than 2 tons	5.77	.35	.35		
2 tons to 5 tons	5.92	.35	.35		
Over 5 tons	6.02	.35	.35		
Low Boy and Tandem Axle Float Drivers	6.52	.35	.35		
Gang Truck Drivers	5.77	.35	.35		

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TRUCK DRIVERS (Cont'd) Heavy Construction	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Stringing Truck Drivers:					
Single axle type truck	$ 5.77	.35	.35		
Multiple axle type truck, semi	6.52	.35	.35		
Winch Trailer Truck Drivers (cable and hoist)	6.02	.35	.35		
Utility Winch Truck Drivers	6.02	.35	.35		
"A" Frame Truck Drivers	6.02	.35	.35		
Warehousemen, Partsmen and Helpers	5.77	.35	.35		
Material Checkers	5.92	.35	.35		
Transit Mix or wet mix Truck Drivers:					
Less than 5 cu. yds.; Single axle	6.02	.35	.35		
Over 5 cu. yds. to and including 10 cu. yds.; Tandem axle	6.12	.35	.35		
Over 10 cu. yds.	6.22	.35	.35		
Power Broom Drivers and/or Operator	5.92	.35	.35		
Water Truck Drivers:					
2500 gal. or less (straight truck)	5.77	.35	.35		
2500 gal. or less (semi truck)	5.92	.35	.35		
Over 2500 gal. to and including 3600 gal.	6.02	.35	.35		
Over 3600 gal. (straight truck)	6.12	.35	.35		
Over 3600 gal. (semi truck)	6.22	.35	.35		

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TRUCK DRIVERS (Cont'd) Heavy Construction	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Heavy Duty (Euclids, electric or similar type)	$ 6.52	.35	.35		
Fuel Service Truck Drivers	5.77	.35	.35		
Greasemen, Tiremen, Service Men and Helpers	5.77	.35	.35		
Truck Mechanics and Helpers (shop and field):					
Field Mechanics	6.72	.35	.35		
Helpers - field (welders, mechanics, etc.)	6.28	.35	.35		

[FR Doc. 78-6074 Filed 3-9-78; 8:45 am]

federal register

FRIDAY, MARCH 10, 1978
PART VII

SECURITIES AND EXCHANGE COMMISSION

CLEARING AGENCIES

Proposed Registration Standards

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 241]

[Release No. 34-14531; File No. S7-699]

REGULATION OF CLEARING AGENCIES

Proposed Registration Standards

AGENCY: Securities and Exchange Commission.

ACTION: Proposed Registration Standards.

SUMMARY: The Commission today requested comment on revised standards proposed to be applied by the Commission in connection with the registration of clearing agencies. The revised proposed standards are designed to serve as guidelines for clearing agencies to follow in modifying their organization and rules to comply with provisions in the Securities Exchange Act of 1934 applicable to registration.

DATES: Comments on or before April 24, 1978.

ADDRESSES: Written comments, submitted in triplicate, should be addressed to The Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and should refer to File No. S7-699.

FOR FURTHER INFORMATION CONTACT:

Harry Melamed, Assistant Director, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, 202-755-7987.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today requested comment on revised proposed standards that will be used to make the determinations required by Section 17A(b)(3) of the Securities Exchange Act of 1934 (the "Act") in connection with the registration of clearing agencies. The Commission also announced the issuance of an order, pursuant to paragraph (c) of 17 CFR 240.17Ab2-1 under the Act, extending until August 31, 1978, the existing registrations of The Depository Trust Co., Bradford Securities Processing Services, Inc., Stock Clearing Corp. of Philadelphia, Boston Stock Exchange Clearing Corp., Midwest Securities Trust Co., The Options Clearing Corp., Midwest Clearing Corp., Pacific Securities Depository Trust Co., Pacific Clearing Corp., New England Securities Depository Trust Co., and National Securities Clearing Corp., and announced the extension of time to that date for concluding proceedings, pursuant to Sections 17A and 19 of the Act and 17 CFR 240.17Ab2-1 thereunder, to determine whether to grant or deny registration when their existing registrations expire. [1]

BACKGROUND

Section 17A(b) of the Act makes it unlawful for a clearing agency [2] to perform clearing agency functions with respect to any security (other than an exempted security) unless the clearing agency is registered with the Commission. Section 17A(b)(3) of the Act requires the Commission, before granting registration, to make a number of determinations with respect to a clearing agency's organization, capacity, and rules.[3] On November 3, 1975, pursuant to Section 17A(b) of the Act, the Commission adopted 17 CFR 240.17Ab2-1 and related Form CA-1 for the registration of clearing agencies.[4] Paragraph (c)(1) of 17 CFR 240.17Ab2-1 provides that, if requested by a registrant, the Commission may grant registration for 18 months without making all of the determinations called for by Section 17A(b)(3). This approach to registration was intended to permit clearing agencies to be registered in compliance with the Act upon a finding that their operations were safe, while affording the Commission sufficient time to make the determinations called for by Subparagraphs (A) through (I) after fully considering the issues involved, particularly those pertinent to the establishment of a national clearing and settlement system.

A number of clearing agencies were granted interim registrations in accordance with paragraph (c)(1), and the Commission by order subsequently extended the registrations. The Commission also instituted proceedings to determine whether to make the interim registrations permanent.[5] On June 1, 1977, the Commission proposed standards for measuring clearing agencies' organization, rules and procedures against the required statutory determinations.[6] Thirteen lengthy comment letters were received, and after carefully reviewing those letters, the Commission substantially revised its proposed standards and determined to republish them for comment.

REVISED PROPOSED STANDARDS

The revised proposed standards are intended to facilitate the establishment of a national system for the clearance and settlement of securities transactions in accordance with the objectives of Section 17A of the Act. The standards as revised are now more flexible and will provide greater latitude to each clearing agency and the Commission in accomplishing the objectives.

The revised proposed standards would be applied by the Commission in making the determinations required by Subparagraph (A)-(I) in connection with the registration of clearing agencies.[7]

The Commission recognizes that the determinations are similar in many respects to those which the Commission is required to make in connection with the registration of national securities exchanges and associations pursuant to Sections 6(b) and 15A(b) of the Act. These standards are intended, however, to apply only to the determinations required by Section 17A(b)(3) of the Act and are being proposed primarily in light of the purpose of Section 17A of the Act.

Section 17A of the Act requires the Commission to use its authority under the Act to facilitate the establishment of a national system for the prompt and accurate clearance and settlement of transactions in securities in accordance with the findings, and to carry out the objectives set forth, in Section 17A. In using its authority, the Commission is to have due regard for the public interest, the protection of investors, the safeguarding of securities and funds, and the maintenance of fair competition among brokers and dealers, clearing agencies and transfer agents.

Section 17A(b)(3) of the Act provides, in part, that the Commission shall not grant registration as a clearing agency to an applicant unless the Commission determines that (1) the applicant's rules are designed to foster cooperation and coordination with

[1] The Commission today, by order, instituted proceedings to determine whether to grant or deny the registration of National Securities Clearing Corp. when its current registration expires. That clearing agency was organized after interim registration was granted to the other entities, and it has not before now been made a subject of such proceedings.

[2] The term "clearing agency" is defined in Section 3(a)(23) of the Act.

[3] The determinations are contained in subparagraphs (A) through (I) of Section 17A(b)(3) of the Act ("Subparagraphs (A)-(I)").

[4] Securities Exchange Act Release No. 11787 (November 3, 1975), 40 FR 52358 (November 10, 1975).

[5] General background information concerning the interim registrations, the extensions of the registrations and the institution of proceedings in contained in Securities Exchange Act Release No. 13584 (June 1, 1977), 42 FR 30065 (June 10, 1977) and Securities Exchange Act Release No. 13664 (June 23, 1977), 42 FR 33394 (June 30, 1977) and Securities Exchange Act Release No. 13911 (August 31, 1977).

[6] *See* Securities Exchange Act Release No. 13584. The comment period expired on July 15, 1977.

[7] The Subparagraphs (A)-(I) determinations are contained in Section 17A(b)(3) of the Act.

persons engaged in securities processing and to remove impediments to and perfect the mechanisms of a national system for the clearance and settlement of securities transactions and (2) the applicant's rules do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

At the time of permanent registration, the Commission will review the rules of clearing agencies not only for compliance with the final standards that will be adopted but also to determine whether the rules impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Thus, rules which provide a tying relationship as well as any other rules which burden competition will be reviewed with a view to eliminating those that do not comport with the Act. In addition, the Commission will determine that the rules of clearing agencies are designed to foster cooperation among clearing agencies as well as other entities involved in securities processing with a view to the establishment of an efficient nationwide system.

The proposed standards must be viewed in the context of the Commission's responsibilities, among other things, to facilitate the establishment of a national market system and a national clearing system and to use its authority to end the physical movement of securities in connection with settlements among broker-dealers. It is possible that accomplishment of the Commission's responsibilities may be impeded if a dominant entity or entities has an access or other requirement which prevents potential participants from using the entity's facilities. Some commenters suggested that dominant entities should be subject to different standards from those applied to other clearing agencies. The Commission requests comments on whether, and how, the standards for a dominant entity or entities should differ from the standards applied to other entities.

It should be noted that while some of the revised proposed standards are stated with particularity, others provide for application by the Commission on a case by case basis. The ensuing description of the Commission's revised proposed standards is organized as follows:

I. Participation Standards.
II. Fair Representation.
A. Governance Procedures.
B. Notice of Proposed Rule Changes.
C. Public Directors.
III. Capacity to Enforce Rules, Disciplinary Actions and Fair Procedures.
IV. Safeguarding of Securities and Funds and Prompt and Accurate Clearance and Settlement of Securities Transactions.
A. Organization.
B. Financial Reports.
C. Internal Accounting Control Reports.
D. Securities, Funds and Data Controls.
V. Obligations to Participants.
A. Clearing Funds.
B. Standard of Care.
VI. Participant Charges.
VII. Equitable Allocation of Reasonable Dues, Fees and Other Clearing Agency Charges.
VIII. The National System.
IX. Other Matters.

I. PARTICIPATION STANDARDS

Section 17A(b)(3)(B) of the Act states that a clearing agency shall not be registered unless the Commission determines that

> • • • the rules of the clearing agency provide that any (i) registered broker or dealer, (ii) other registered clearing agency, (iii) registered investment company (iv) bank, (v) insurance company, or (vi) other person or class of persons as the Commission, by rule, may from time to time designate as appropriate to the development of a national system for the prompt and accurate clearance and settlement of securities transactions may become a participant in such clearing agency.

This requirement is modified by Section 17A(b)(4)(B) of the Act which provides that a registered clearing agency may deny or condition the participation of any person who does not meet the standards of financial responsibility, operational capability, experience and competence prescribed by the rules of the clearing agency.[8]

A registered clearing agency is empowered to examine and verify the qualifications of an applicant in accordance with procedures established by the rules of the clearing agency. This authority, however, must be viewed in the context of Section 17A(b)(3)(F) of the Act which provides, among other things, that the rules of a clearing agency may not be "designed to permit unfair discrimination in the admission of participants or among participants in the use of the clearing agency • • •", and Section 17A(b)(3)(I) of the Act which provides that the rules of a clearing agency may not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Together the Act's provisions appear to permit discriminations in admission to, or the use of, a clearing agency based on standards of financial responsibility, operational capability, experience and competence provided that the Commission finds the rules embodying the discriminations to be in the public interest and consistent with the other requirements of the Act applicable to registered clearing agencies, including the establishment of a national system. *And provided*, That the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[9]

The Commission believes that the rules of a clearing agency should (i) provide the statutory categories of participants access to the clearing agency and its services on a basis which does not discriminate unreasonably or unfairly, (ii) protect the clearing agency's financial and operational intergrity and (iii) carry out the purposes of Section 17A of the Act, including facilitating the establishment of a national system.

In Securities Exchange Act Release No. 13584 (hereinafter referred to as the "Release") in which the Commission announced its proposed standards, the Commission requested comments on whether clearing agency rules must limit the standards for participation by the statutory categories of participants[10] to the statutory and regulatory standards which qualify entities for those categories or whether clearing agencies may set higher or different standards. For example, may a clearing agency impose a higher net capital standard for broker-dealer participants or a higher reserve requirement for bank or insurance company participants than imposed by their respective regulatory authorities? In the Release, the Commission stated that it was "inclined to the view that clearing agencies may not impose participation standards conflicting with those provided by the regulatory structures defining the statutory participant categories but rather must assure clearing agency financial and operational intergrity through clearing agency procedures and internal safeguards." The Commission requested comment on any adverse impact which that approach might have on the safety of clearing agency operations.[11]

A number of commenters indicated that the minimum qualifications necessary for the statutory participant categories should be adequate for participation in a registered clearing agency. One commenter agreed with the Commission that registered clearing agencies need not impose participation standards conflicting with those provided by the regulatory structures defining the statutory participant categories and must assure

[8] The Section 17A(b)(3)(B) requirement is also modified by Section 17A(b)(4)(A) of the Act which provides that a registered clearing agency may, and in cases in which the Commission, by order, directs as appropriate in the public interest shall, deny participation to any person subject to a statutory disqualification.

[9] Sections 19(b), 17A(a)(2) and 17A(b)(3)(A), (F) and (I) of the Act.

[10] The statutory categories of participants are set forth in Section 17A(b)(3)(B) of the Act.

[11] In the Release, the Commission recognized that the statutory participant categories includes entities subject solely to state regulation which may vary from state to state.

clearing agency financial integrity through clearing agency procedures and safeguards such as clearing funds and examination and surveillance programs in cooperation with other self-regulatory organizations.[13] This commenter suggested that not to do so would discriminate unfairly against smaller broker-dealers by precluding them from utilizing the facilities of the national clearing system. This commenter suggested that preclusion of smaller broker-dealers from participation in a national clearing system would be inconsistent with the goal of creating a viable national market system in which broker-dealers would be able to effect the best execution for their customers regardless of their location. These commenters agreed that all parties should be encouraged to participate in registered clearing agencies.

A number of other commenters stated that a clearing agency should be allowed to impose whatever standards it deems necessary in the absence of discrimination or burdens on competition. They noted that the minimum standards for an entity to qualify for inclusion in the statutory participant category were designed for the protection of particular classes of persons such as customers, stockholders, depositors and policyholders, not for the protection of entities such as clearing agencies and that such standards will vary depending on the identity of the regulator.

These commenters indicated that clearing agency management should be allowed to set standards higher than the minimum requirements for that type of participant if deemed necessary. Such standards would be subject to Commission approval. They noted that the decision to adopt any particular standard must remain a matter of management judgment subject to standards of fairness and nondiscrimination. The commenters in general urged a flexible approach in order that a clearing agency be allowed to protect itself against unreasonable risks.

Additionally, a number of commenters stated that Commission limitations on participation requirements to those provided by the regulatory structure defining the statutory participant category would constitute a denial of the specific authority granted under Section 17A(b)(4)(B) of the Act which permits clearing agencies to set standards of financial responsibility, operational capability, experience and competence.

[13] Another commenter stated that in general clearing agencies should accede to the financial responsibility requirements which are imposed on broker-dealers and most banks as a condition to their doing business. However, this commenter did indicate a need for flexibility.

In light of the comments, the Commission believes that it would not be appropriate to limit clearing agencies' standards for participation to the minimum requirements imposed upon the various categories of participants by their respective regulatory authorities. The Commission believes that a clearing agency should be allowed to impose whatever reasonable higher or additional standards it deems necessary to protect the clearing agency and its participants from unreasonable risks.[14] The requirements would have to comply with the Act and would be subject to Commission approval, and a clearing agency would have the obligation to justify any anticompetitive effect of particular requirements. Any anticompetitive effect must be viewed in light of, among other things, the number of entities providing clearance and settlement and depository services, their standards for participation, their fees, the availability of correspondent arrangements to provide indirect access to a clearing agency, the cost and other factors which must be considered in establishing a correspondent relationship, and the national market system. Any person aggrieved by the application of such standards by a clearing agency may apply for relief to the appropriate regulatory agency for the participant.

In the Release, the Commission stated that the statutory categories of participants vary widely in the businesses they conduct and the regulations to which they are subject. The risk of loss to clearing agencies from participant defaults, however, is the same for all participants which avail themselves of similar clearing agency services. In the Release, the Commission indicated that, in view of the vagaries to which a creditor clearing agency would be subject under the variety of specialized liquidation procedures applicable to the entities represented in the statutory participant categories,[15] it was considering a requirement that, with the exception of registered clearing agencies acting as participants, all users of services offered by registered clearing agencies be required to comply fully with the clearing agency internal financial and operational safeguards—such as clearing fund deposits and mark-to-the-market procedures[16]—related to the services used. In the Release, the Commission invited comments on the effects its proposed approach would have on participation in clearing agencies, views on the possible need for alternative approaches and suggestions for their implementation. In particular, the Commission requested comments on whether banks and insurance companies, as clearing agency participants, should be subject to the same internal financial and operational safeguards as broker-dealer participants or whether, because of the peculiarities of banking and insurance and the kinds of risks to which banks and insurance companies might subject a clearing agency, they should be subject to different safeguards.

The Commission also indicated that, unlike other categories of statutory participants, registered clearing agencies[17] should be permitted to participate in or interface with other registered clearing agencies without complying with all of the contra (host) clearing agencies, conditions for participation and without paying the same fees as other participants for services necessary to facilitate participation or establish interfaces.

The Commission also invited comment on what risks participation by a registered clearing agency would present to the contra clearing agency and what, if any, conditions for participation should be complied with by participating clearing agencies in order to minimize such risks.

The comments on these matters varied considerably. A number of commenters indicated that all participants in a clearing agency should be subject to the same standards regardless of whether they were brokers, banks or other registered clearing agencies. They also believed that all participants should be subject to the same clearing agency safeguards, such as clearing fund deposits and mark-to-the-market payments, because the risk of loss from participant default is the same for all participants which use similar clearing agency services, notwithstanding differences in the types of business conducted by participants. They noted that clearing agencies, when acting as participants, should pay the same fees and be subject to the same requirements as other participants. One commenter suggested that a clearing agency participating in another clearing agency should collateralize its obligations to the other clearing agency by assigning a portion of its clearing fund. While one commenter felt that a registered clearing agency should not be required to comply with all of the contra clearing agency's participation requirements, it did note that an interface may pose risk to another clearing agency and that there should be an agreement defining the risks for each clearing agency.

Other commenters expressed the opinion that, in order to facilitate the establishment of a national clearing system, one registered clearing agency participating in another registered clearing agency should not be subject to any requirements other than registration with the Commision. Many of the commenters reemphasized the need to allow clearing agencies flexibility in setting standards for paticicpation by different categories of participants in different types of services. One commenter suggested that banks should not have to make clearing fund deposits or mark-to-the-market payments.

After reviewing the comments, the Commission believes that the risk of loss to clearing agencies from participant default is the same for all participants which avail themselves of similar clearing agency services. Therefore, it believes that all users of similar clearing agency services, except registered clearing agencies for which specialized requirements are appropriate as discussed below, should be required to comply fully with clearing agency internal financial and operational safeguards, such as clearing fund deposits, mark-to-the-market payments and margin deposits related to the service used.[18]

With respect to participation or interface by one clearing agency in another clearing agency, the Commission believes that registration as a clearing agency should qualify clearing agencies for participation in or interface with other clearing agencies. The Commission does not believe, however, that a clearing agency participant need not assure another clearing agency of its ability to meet its obligations to that clearing agency. For this reason, the Commission believes that clearing agencies may, in a manner which does not discriminate among clearing agencies or burden competition among them and which facilitates the establishment of a national system, asssure themselves of another clearing agency's performance of its obligations.[19] The Commission believes that, based upon the particular type of participation or interface and the applicable facts, clearing agencies should be capable of making suitable arrangements in this area subject to Commission approval. Such arrangements must be entered into expeditiously between the parties and may not impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Section 17A(b)(3)(B) of the Act includes in the enumerated categories of clearing agency participants such "other person or class of persons as the Commission, by rule, may from time to time designate as appropriate to the development of a national system * * *." In the Release, the Commission invited comment on whether there are additional entities whose participation in clearing agencies would contribute meaningfully to the development of a national system. Since only one commenter suggested that the Commission exercise its rulemaking authority to designate additional entities (private trustees and foreign entities), the Commission does not believe it appropriate to exercise its rulemaking authority at this time.

II. Fair Representation

Section 17A(b)(3)(C) of the Act states that a clearing agency shall not be registered unless the Commission determines that

> [t]he rules of the clearing agency assure a fair representation of its shareholders (or members) and participants in the selection of its directors and administration of its affairs. (The Commission may determine that the representation of participants is fair if they are afforded a reasonable opportunity to acquire voting stock of the clearing agency, directly or indirectly, in reasonable proportion to their use of such clearing agency.)

The Act does not define fair representation but reserves to the Commission the authority to determine whether the rules of the clearing agency give fair voice to participants as well as to shareholders or members in the selection of directors and the administration of its affairs.[20]

A. Goverernance Procedures

In the Release, the Commission noted that it did not intend to preclude the operation of clearing agencies for profit and stated that it was contemplating a requirement that the rules of a clearing agency permit its participants, who also may be members or shareholders, to select directly or indirectly, the clearing agency's board of directors. The Commission discussed several procedures for affording clearing agency participants a voice in the nomination and election of clearing agency directors which it believed would be consistent with the fair representation standards of the Act.

These methods include (1) solicitation of board of directors nominations from all participants; (2) selection of candidates for election to the board of directors by a nominating committee which would be composed of, and selected by, the participants or representatives chosen by participants; (3) direct participation of participants in the election of directors through the allocation of voting stock to all participants based on their usage of the clearing agency;[21] and (4) enabling participants to select a slate of nominees and then requiring stockholders of the clearing agency to vote their shares for those nominees.[22]

The Release noted that by referring to "a reasonable opportunity (for participants) to acquire voting stock of

[14] The Commission believes that the standards of financial responsibility applicable to each category of participant might vary according to the traditional methods of measuring the financial responsibility of each category.

[15] For example, liquidations of national banks are governed by the National Bank Act, 12 U.S.C. Section 191 et seq.; liquidations of banks insured by the Federal Deposit Insurance Corporation are governed in part by the Federal Deposit Insurance Act, 12 U.S.C. Section 1811 et seq.; liquidations of state non-insured banks are governed by state law; and liquidations of brokers and dealers may be governed by the Securities Investor Protection Act of 1970, 15 U.S.C. 78aaa *et seq.*

[16] Mark-to-the-market procedures require payment to a clearing system by any party to a trade guaranteed by the system when the market price of the securities involved in the trade moves away from the contract price for the trade.

[17] In the Release, the Commission indicated that clearing agencies would be subject to a number of regulatory requirements. The Commission also indicated that the ability of clearing agencies freely to participate in or interface with other clearing agencies is essential to the establishment of a national system.

[18] Of course, if the clearing agency is unable to obtain current and reliable financial information for a particular participant category, higher clearing agency internal financial and operational safeguards may be appropriate for that participant category.

[19] Of course, in an interface between two clearing agencies which use a continuous net settlement system and require mark-to-the-market payments, the latter payments must be made to each other as appropriate.

[20] The fair representation requirement was adopted verbatum from S. 249, the Senate version of the Securities Acts Amendments of 1975 (the "1975 Amendments"). The report of the Senate Committee on Banking, Housing and Urban Affairs to accompany S. 249 states:

> "The rules of the clearing agency must assure fair representation of its shareholders (or members) and participants in the decision making process of the clearing agency * * *. The reference to shareholders or members makes it clear that the bill establishes no norm as to whether clearing agencies should or should not be operated for profit. The Bill makes no attempt to set up particular standards of representation or participation. Rather, it provides that the Commission must assure itself that the rules of the clearing agency regarding the manner in which decisions are made give fair voice to participants as well as to shareholders or members. Fair representation of participants may be found if they are afforded an opportunity to acquire voting stock of the clearing agency in proportion to their use of its facilities."
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> "Securities Acts Amendments of 1975, Report of the Senate Committee on Banking, Housing and Urban Affairs to Accompany S. 249," S. Rep. 94-75, 94th Cong., 1st Sess. 123-24 (1975).

[21] The Release indicated that the voting stock should have to be available to the extent permitted by state corporation laws, gratis or at a nominal cost.

[22] It was suggested in the Release that participant voting in connection with the selection of nominees could be based on the participants' use of the clearing agency.

the clearing agency, directly or indirectly, in reasonable proportion to their use of such clearing agency," the Act appears to contemplate basing fair representation on usage of the clearing agency. In the Release, the Commission requested comment on whether additional factors should be considered in determining the fairness of participant representation in a clearing agency's affairs.

The comments with respect to fair representation of participants in the selection of directors and the administration of a clearing agency's affairs varied considerably. Some commenters agreed with one or another of the approaches suggested by the Commission. Other commenters took issue with the Commission's suggested approaches and suggested that clearing agencies be allowed considerable flexibility in assuring fair representation to participants.

One commenter questioned the concept of user control but stated that it was not opposed to user representation. Other commenters maintained that instead of direct user control of a clearing agency, a clearing agency should be allowed to develop alternatives to the direct selection of directors. For example, one clearing agency commenter noted that it is a wholly-owned subsidiary of a national securities exchange, which is in turn owned by exchange members. According to the commenter, its participants with one exception are all exchange members who select the exchange's board of directors, who in turn elect the clearing agency's board of directors. The commenter believed that its system gives its participants a fair representation in the selection of directors and the administration of its affairs.

Other commenters suggested that competition among clearing agencies would give participants a fair voice in the affairs of the clearing agency since participants will be able to leave one clearing agency for another.

One commenter stated that user control of the board of directors was inconsistent with the concept of a "for-profit clearing agency" which is expressly permitted by the legislative history of the 1975 Amendments. This commenter maintained that the concept of a participant advisory committee (which would be selected and elected by the participants) meeting with and advising the board of directors would conform to the statutory provisions that participants be given a fair voice in the decision making process of the clearing agency and at the same time provide for the continued existence of for-profit clearing agencies.

Some commenters rejected the proposal that participants should be given the right to purchase stock in the clearing agency in proportion to their usage of the clearing agency. These commenters believed that smaller participants would have insufficient representation because of the great discrepancies which exist in the relative sizes of clearing agency participants. One commenter noted that the large clearing agency participants would be the same ones who have long wished for a single clearing entity and could have an anti-competitive effect on the smaller clearing agency. The proposal that clearing agencies allocate shares of their stock to participants free of charge or at a nominal cost drew sharp criticism from some commenters who stated that it raised serious questions of constitutional law.

The Commission recognizes that the owners of an organization usually have voting and administrative powers over their holdings. The statute, however, provides that a clearing agency must assure a fair representation of its shareholders (or members) and participants in the selection of its directors and the administration of its affairs. The Commission notes that clearing agencies are affiliated with exchanges, profit making entities or user cooperatives. Therefore, the Commission has determined that rather than prescribe a single method of providing fair representation to shareholders (or members) and participants in the selection of clearing agency directors and the administration of its affairs, it should evaluate each clearing agency's procedures in this area on a case by case basis. In addition to the methods described in the Release,[24] the Commission believes that a number of other methods could comply with the fair representation standard. For example, some seats on the board of directors could be devoted to participant directors who would be chosen by, and from among, the users.

B. NOTICE OF PROPOSED RULE CHANGES

In the Release, the Commission made several proposals to ensure that participants will have sufficient information concerning a clearing agency's affairs to participate meaningfully in its administration. For example, the Commission proposed to require clearing agencies to furnish participants with annual and quarterly financial statements, examination reports on the clearing agencies' systems of internal accounting control, and explanations of proposed dues, fees or charges.[25] The Commission also suggested that participants should have notice of, and an opportunity to comment on, proposed rule changes affecting participants' rights or obligations before the changes are submitted to the Commission.[26]

Most commenters did not endorse this proposal. The commenters were concerned that this additional requirement would add further delay and thereby deny clearing agency participants the benefits of prompt rule changes. Some commenters preferred the present procedure under which management determines whether to seek participant comment before submitting a proposed rule change to the Commission. One commenter believed advance notice of rule changes to participants to be unnecessary because most clearing agency rules are noncontroversial, are originally suggested by the participants and are initiated by the clearing agency's staff to benefit all participants or to deal with matters in which participants have no immediate interest. Some commenters pointed out that prior comment on rule submissions was rejected by Congress during its consideration of the predecessor to S. 249, the precursor to the 1975 Amendments. One commenter, however, endorsed the Commission's proposal because it believed that members are more likely to comment on matters brought directly to their attention.

The commenters suggested possible alternatives to the Commission's proposed requirement. One commenter stated that clearing agencies could be required to send out copies of the notice of the proposed rule change appearing in the FEDERAL REGISTER. Another commenter suggested a requirement similar to one contained in its rules which requires it to give participants written notice of each proposed rule change as promptly as practicable after the rule change is filed with the Commission. The commenter noted that it sends a monthly bulletin to participants which gives the text of each proposed rule change filed with the Commission since the press date of the last bulletin.

After considering the comments, the Commission believes that all participants should be kept adequately informed of a clearing agency's proposed rule changes. To meet this standard, the Commission is considering a requirement that clearing agencies, as soon as possible after filing with the Commission, provide participants the text of a proposed rule change or a brief description of the proposed rule change and its purpose. The Commission believes that the comment process will be more effective if clearing agencies bring proposed rule changes directly to their participants' attention.

C. PUBLIC DIRECTORS

The Commission requested comment as to whether it would be in the public interest to require that clearing agencies have one or more directors who would be representative of issuers and investors and who would not be associated with any participant or self-regulatory organization.

The commenters felt that this requirement could not easily be fulfilled because of the nature of clearing agency operations. They stated that the business of clearing agencies involves highly technical activities as to which non-users have a remote interest. Consequently, it would be difficult for a clearing agency to find non-user directors who would have the expertise effectively to represent issuer or investor interests. The commenters also questioned whether the clearing agency would benefit from investor or issuer representation. One commenter indicated that this requirement would reduce the management benefits available from participant directors from various parts of the financial community who have a more direct understanding of the nature of clearing agency business. Several commenters asserted that Congress made a conscious decision to mandate public representation on an exchange's[27] or association's[28] board of directors but not on a clearing agency's board of directors.[29] Some commenters indicated that the difference in requirements can be explained by the difference between exchange or association responsibilities and clearing agency responsibilities. They noted that exchanges and associations are charged with regulating dealings between their members and the public, whereas the clearing agencies' regulatory functions relate primarily to dealings among their participants or between their participants and the clearing agency. The Commission has determined not to require a clearing agency to seat a representative of issuers and investors on its board at this time. A clearing agency may, however, include such a person on its board if it wishes, and the Commission urges clearing agencies to do so.

III. CAPACITY TO ENFORCE RULES, DISCIPLINARY ACTIONS AND FAIR PROCEDURES

Section 17A(b)(3)(A) of the Act, in pertinent part, provides that a clearing agency shall not be registered unless the Commission determines that:

> The clearing agency is so organized and has the capacity * * * to enforce (subject to any rule or order of the Commission pursuant to section 17(d) or 19(g)(2) of this title) compliance by its participants with the rules of the clearing agency.

The Commission has not exercised its authority under Section 17(d)(1)[30] of the Act to relieve any registered clearing agencies of their responsibility to enforce compliance with their rules. Accordingly, the Commission currently is not prepared to register clearing agencies unless they have the organization and capacity to determine whether their rules are being complied with and, if they are not being complied with, to appropriately discipline non-complying participants.

In reviewing the organization and capacity of clearing agencies, the Commission intends, among other things, to evaluate their procedures for determining whether a participant is experiencing financial or operational difficulties, their arrangements for exchanging information with other self-regulatory organizations and the training and experience of the staff engaged in carrying out self-regulatory responsibilities.

In the Release, the Commission indicated that, in appropriate circumstances, and in accordance with section 17(d) of the Act and 17 CFR 240.17d-2 thereunder, the Commission is prepared to use its authority to relieve registered clearing agencies of certain of their self-regulatory responsibilities and to permit their allocation to other self-regulatory organizations of which clearing agency participants are members or participants. In the Release, the Commission requested comment on the circumstances under which clearing agencies should be relieved of their self-regulatory responsibilities, the responsibilities of which clearing agencies should be relieved and the responsibilities which clearing agencies should retain. A number of commenters suggested that clearing agencies should be able to rely on the staffs of the various self-regulatory organizations to conduct examinations and on-going review and surveillance of the financial condition of clearing agency participants, including their compliance with clearing agency rules and procedures, but that the disciplinary process itself should be conducted by the clearing agency.[31]

[24] In connection with the proposal for allocation of voting stock described in the Release, the Commission would not require that voting stock be made available gratis or at a nominal cost.

[25] For a discussion of the Commission's position on furnishing these statements, reports, and explanations to participants, see pp. 59-73 and 94-99.

[26] To effectuate this, the Commission recommended that the notices contain at least the text and purpose of the proposed rule change and a request for comments and provide participants a reasonable period to review the proposed rule change and submit comments.

[27] See Section 6(b)(3) of the Act.
[28] See Section 15A(b)(4) of the Act.
[29] See Section 17A(b)(3)(C) of the Act.

[30] Section 17(d)(1) of the Act, in pertinent part, provides:

> The Commission, by rule or order, as it deems necessary or appropriate in the public interest and for the protection of investors, to foster cooperation and coordination among self-regulatory organizations, or to remove impediments to and foster the development of a national market system and national system for the clearance and settlement of securities transactions, may—
>
> (A) With respect to any person who is a member of or participant in more than one self-regulatory organization, relieve any such self-regulatory organization of any responsibility under this title (i) to receive regulatory reports from such person, (ii) to examine such person for compliance, or to enforce compliance by such person, with specified provisions of this title, the rules and regulations thereunder, and its own rules, or (iii) to carry out other specified regulatory functions with respect to such person, and
>
> (B) Allocate among self-regulatory organizations the authority to adopt rules with respect to matters as to which, in the absence of such allocation, such self-regulatory organizations share authority under this title.
>
> In making any such rule or entering any such order, the Commission shall take into consideration the regulatory capabilities and procedures of the self-regulatory organizations, availability of staff, convenience of location, unnecessary regulatory duplication, and such other factors as the Commission may consider germane to the protection of investors, cooperation and coordination among self-regulatory organizations, and the development of a national market system and a national system for the clearance and settlement of securities transactions * * *.

On October 28, 1976, the Commission adopted 17 CFR 240.17d-2 under the Act (Securities Exchange Act Release No. 12935), 41 FR 49091 (November 8, 1976), to enable self-regulatory organizations to file with the Commission, and the Commission to declare effective, plans allocating self-regulatory responsibilities among self-regulatory organizations. A number of plans have been filed by self-regulatory organizations, but to date no plans have been declared effective by the Commission.

[31] One commenter indicated that although a clearing agency may have residual regulatory responsibility to ensure compliance with its rules, it should be allowed to rely upon the surveillance activities of regulatory and self-regulatory organizations with respect to general financial and operational capabilities of participants. In instances where a participant is not subject to such oversight, the clearing agency should be allowed, subject to Commission review, to enter into contractual arrangements with other self-regulatory organizations for the performance of such obligations. Another commenter stated that although clearing agencies should cooperate with the primary regulators of their participants to minimize duplicative requirements, the Commission should not make clearing agencies dependent on the regulatory efforts of others for the protection of their financial integrity. Therefore, a clearing agency should be able to continue to monitor the financial condition of participants, to enforce its rules, and to take special protective measures with respect to participants which experience financial difficulties. Another commenter recommended that the Commission encourage the development of a regulatory structure in which the operations and activities of each securities firm should be subject to the primary oversight of a single self-regulatory authority. Commenters generally were concerned there would be duplication if each clearing agency were to develop a full-scale compliance program.

One commenter pointed out that clearing agency rules are unique to the clearing agency, and that the clearing agency is the only party which can observe violations of its rules. Therefore, it saw no reason to give responsibility for enforcement of a clearing agency's rules to anyone else. That commenter, however, indicated that the primary regulator for a participant should make financial information available to the clearing agency.

The Commission supports the concept of avoiding unnecessary duplication of regulatory effort wherever possible so long as the financial and operational integrity of a clearing agency and its participants are not endangered as a result. Therefore, the Commission believes that it is appropriate for clearing agencies to enter into agreements with other self-regulatory organizations to perform examination and surveillance functions respecting clearing agency participants and to determine the extent to which clearing agency rules and procedures are being complied with by such persons. Any clearing agency may join with any other self-regulatory organization in filing in accordance with the provisions of 17 CFR 240.17d-2, a plan regarding the performance of these responsibilities by the other self-regulatory organizations.[38]

The requirement of section 17A(b)(3)(A) of the Act concerning enforcement of clearing agency rules is complemented by section 17A(b)(3)(G) and (H) which requires clearing agency rules to provide that its participants shall be appropriately disciplined for violations of any provision of the rules of the clearing agency and to provide fair procedures for disciplining participants, denying participation in the clearing agency to any person, prohibiting or limiting access to the clearing agency's services and imposing summary suspensions.[39]

The Act contemplates that a clearing agency may "appropriately" discipline its participants through "expulsion, suspension, limitation of activities, functions, and operations, fines, censure, or any other fitting sanction."[40] The Commission believes a clearing agency should have available and should employ an array of sanctions appropriate to the range of violations which the clearing agency may expect to encounter. Also, the clearing agency's rules should establish the agency's authority and procedures respecting interpretation of its rules and the bringing of charges where rule violations appear to have occurred and should describe the manner in which disciplinary authority is to be exercised.[41]

The Commission believes that the fair procedure requirements of section 17A(b)(3)(H) of the Act mandate, at a minimum, that a clearing agency rules comply with section 17A(b)(5) of the Act which outlines the procedures to be followed by a clearing agency in disciplining the participants.[42] In the Release, the Commission solicited comment on the need for clearing agencies to have review procedures for participants aggrieved by clearing agency acts or failures to act which, while not falling into one of the categories contemplated by section 17A(b)(5) of the Act, nevertheless have the effect of permitting "unfair discrimination among participants in the use of a clearing agency's services."[43]

In response thereto, several commenters suggested that such a review procedure whould be of limited utility in view of the broad scope of section 17A(b)(5) of the Act, the impact of competitive forces which would discourage discrimination among participants respecting the use of a clearing agency's services, and because aggrieved participants could rely on the judicial process to redress any violation of a participant's rights. Other commenters favored the adoption of a simplified procedure which would provide aggrieved participants with a right to review respecting matters not otherwise covered by section 17A(b)(5) of the Act.

In view of the comments received, the Commission has determined not, at this time, to require clearing agencies to establish review procedures with respect to matters not otherwise covered by section 17A(b)(5) of the Act. This would not, however, preclude a clearing agency from establishing review procedures which could be used by participants to express grievances arising among participants or between a participant and the clearing agency (such as a petition to have a rule changed) to the extent the review process was not otherwise subject to the procedures set forth in section 17A(b)(5) of the Act. The establishment of such procedures are encouraged. The structure of the review procedure would have to comport with commonly accepted due process standards and should allow a participant to appeal its grievance to the clearing agency board of directors or a committee of the board authorized to act on behalf of the board and, as to disagreements among participants, to avail themselves of an arbitration procedure to settle the dispute.

IV. Safeguarding of Securities and Funds and Prompt and Accurate Clearance and Settlement of Securities Transactions

In determining whether to register a clearing agency, the Commission must consider whether

[the] clearing agency is so organized and has the capacity to be able to facilitate the prompt and accurate clearance and settlement of securities transactions for which it is responsible [and] to safeguard securities and funds in its custody or control or for which it is responsible * * *.[44]

and whether

[t]he rules of the clearing agency are designed * * * to promote the prompt and accurate clearance and settlement of securities transactions [and] to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible * * *.[45]

As used in this discussion, the term "safeguards" comprises (i) the organization and capacity to safeguard funds and securities and clear and settle transactions promptly and accurately and (ii) the rules designed to achieve those objectives. Moreover, because

[38] Regardless of whether a clearing agency files a plan pursuant to 17 CFR 240.17d-2, the Commission strongly encourages clearing agencies and other self-regulatory organizations to expand existing arrangements for exchanging relevant information with each other regarding a person who belongs to both organizations.

[39] Section 17A(b)(5)(C) sets forth the specific circumstances under which a clearing agency may summarily suspend a participant and the minimum procedural requirements which must be observed in effecting a summary suspension.

[40] Section 17A(b)(3)(G) of the Act.

[41] With respect to the disciplinary process, the Commission believes that any plan filed by a clearing agency with any self-regulatory organization, pursuant to 17 CFR 240.17d-2, may provide for the performance of disciplinary functions by the other self-regulatory organizations with respect to participants who are members of or participants in more than one self-regulatory organization.

[42] In connection with the imposition of final disciplinary sactions, denials of participation, prohibition or limitation with respect to access and summary suspensions by registered clearing agencies, the Act requires a registered clearing agency to give notice of the action to the appropriate regulatory agency for the clearing agency and the appropriate regulatory agency for the participant and provides for review of the action by the appropriate regulatory agency for the participant, applicant or other person against whom the action was taken. See section 19 (d), (e) and (f) of the Act and Rules 19d-1, 2 and 3 adopted thereunder, Securities Exchange Act Release No. 13726 (July 7, 1977), 42 FR 36409 (July 14, 1977)..

The Federal bank regulatory agencies (the Board of Governors of the Federal Reserve System, the Comptroller of the Currency and the Federal Deposit Insurance Corporation) which under sections 3(a)(34)(B) and (C) of the Act are the appropriate regulatory agencies for certain registered clearing agencies and certain clearing agency participants have adopted rules similar to the Commission's Rules 19d-1, 2 and 3.

[43] Section 17A(b)(3)(F) of the Act.

[44] Section 17A(b)(3)(A) of the Act.

[45] Section 17A(b)(3)(F) of the Act.

significant segments of securities clearance and settlement are carried out and controlled through automatic data processing ("ADP"), the term "safeguards" also comprises the critical clearing agency management function of ensuring the integrity and accuracy of ADP operations.

The Commission believes that clearing agency safeguards should anticipate and be designed to provide protection against the possibility of theft, accidental or malicious destruction or loss of securities or funds, and accidental or intentional, but unauthorized, modification, disclosure or destruction of data.[46]

Although the Commission has previously evaluated clearing agency safeguards in connection with the 18-month registrations of clearing agencies granted pursuant to subsection (c) of 17 CFR 240.17Ab2-1, the increasing interdependence of the components of the national clearing system require that the Commission reexamine those determinations during its current registration proceedings. The ensuing discussion describes the standards which the Commission proposes to apply during its review of clearing agency safeguards.[47] The Commission solicits comment on the appropriateness of the revised proposed standards in achieving their intended goals and on any burdens or expense the proposed standards may occasion.

A. Organization

In the Release, the Commission indicated that it believed that clearing agencies should be organized in a manner that effectively establishes operational and audit controls while promoting evolving concepts of director independence. The Commission indicated its belief that the framework for ongoing and independent review of operational and audit actions could be provided by the establishment of an operations committee and audit committee of the board of directors, composed in each case of independent directors, and supported by two staff departments—a security department, reporting to the operations committee, and an internal audit department, reporting to the audit committee. After describing certain desirable characteristics and functions of each committee and its staff,[48] the Commission requested comment on the need for, and desirable characteristics of, operations and audit committees for clearing agencies. Numerous comments were received, and while they were diverse in substance, the overriding theme was a desire for flexibility

Operations Committee

Several commenters felt that the operations committee was not needed because it was duplicative of management's responsibilities and because the board evaluates the adequacy of management's performance. While some commenters supported the objectives of the operations committee, virtually all the commenters suggested the need for flexibility in permitting clearing agencies to develop their own organizational structure.[49] The Commission believes that an integral part of a clearing agency board's oversight responsibilities is to assure the operational capabilities of the clearing agency. In order to perform this oversight responsibility, the board must be informed about the clearing agency's operations. The board's oversight responsibility does not mitigate management's responsibilities to assure on an ongoing basis the integrity and operational capabilities of the clearing agency's operations. Therefore, the Commission believes that it is not necessary for a clearing agency to specifically create an operations committee or supporting staff to perform such functions. Rather, the Commission is concerned that the clearing agency's board of directors and management effectively carry out these responsibilities.

The Commission believes, among other things, that management should perform periodic risk assessments of the clearing agency's ADP facilities,[50] and provide the board or its designee, such as a board committee, with the risk assessment reports. Management must supervise the establishment, maintenance and updating of safeguards and report periodically to the board or its designees.

The Commission also believes that a clearing agency must continually consider the impact that new or expanded services would have on the clearing agency's processing capacity.

Audit Committee

In the Release, the Commission indicated that it expected that the clearing agency's audit committee would select the agency's independent public accountant and would meet with it before and after any examination. Generally, the commenters did not raise any objections to the need for an audit committee. However, one commenter indicated that the composition and operation of audit committees are matters of board judgment. Other commenters indicated that the independent public accountants should be selected by the clearing agency's board of directors or shareholders instead of the audit committee. Other commenters were concerned over the frequency with which the committee and the clearing agency's independent public accountant would be expected to meet. Having considered the comments, the Commission believes that clearing agencies should establish an audit committee[51] which either selects the auditor or makes a recommendation to the board regarding the

[46] See e.g., Courtney, "A Systematic Approach to Data Security," National Bureau of Standards Special Publication 404, "Approaches to Privacy and Security in Computer Systems", 29 (September 1974) [available from Sup. of Doc. U.S. Government Printing Office, Washington, D.C. 20402, SD Cat. No. C13.10.404 ($1.45)].

[47] To the extent that any of the clearing agencies' processing or ADP functions are carried out by a facilities manager, the clearing agency must assure itself that the facilities manager complies with all of the safeguards, as appropriate, set forth in the section on "Safeguarding of Securities and Funds and Prompt and Accurate Clearance and Settlement of Securities Transactions."

[48] See Securities Exhange Act Release No. 13584, pp. 32-36 for a discussion of the characteristics and functions of each committee and its staff.

[49] Some commenters suggested that only an audit committee having the combined functions of the operations and audit committees is necessary.

[50] See, e.g., S. Reed, "Automatic Data Processing Risk Assessment" (Interim Document—March 1977) [prepared by the Systems Architecture Section, Systems and Software Division, Institute for Computer Sciences & Technology, National Bureau of Standards, Washington, D.C. 20234, available from the National Technical Information Service ("NTIS"), Springfield, Virginia 22151 ($4.00)]; R. Courtney, "Security Risk Assessment in Electronic Data Processing Systems" (Revised ed. December 1975) (available from IBM Corporation, P.O. Box 390, Poughkeepsie, N.Y. 12602), reprinted in Committee on Government Operations, United States Senate, "Problems Associated with Computer Technology in Federal Program and Private Industry", 181 (June 1978).

[51] The Commission has long urged the formation of audit committees, composed of outside directors, to participate in arranging corporate audits. Accounting Series Release No. 19 (December 5, 1940). In 1972, the Commission specifically endorsed the establishment by all publicly-held companies of audit committees composed of outside directors. Securities Exchange Act Release No. 9548 (March 23, 1972), 37 FR 6850 (April 5, 1972). In 1974, the Commission reiterated its support of audit committees by amending its rules to require disclosure in proxy statements of the existence or absence of audit committees. Securities Exchange Act Release No. 11147 (December 20, 1974), 40 FR 1012 (January 6, 1975). The Commission recently supported this concept in its "Report to the President on Regulatory Reform" (October 5, 1976).

On January 6, 1977, the Board of Directors of the New York Stock Exchange Inc. (the "NYSE") adopted Rule 2495H, "Audit Committee Policy" requiring issuers of securities to establish no later than June 30, 1978, and thereafter maintain an audit committee composed of outside directors as a condition to listing and continued listing of

(Continued)

hiring[46] of the clearing agency's independent public accountant.

With regard to the frequency of meetings, the Commission's principal concern is that there be an open and free-flowing communication between the independent public accountants and the audit committee, as to the scope and results of examinations. Therefore, the Commission does not intend to require the audit committee to meet with its public accountants a prescribed number of times each year. Rather, the Commission expects that such meetings will take place as often as may be necessary to, among other things, establish the scope of all examinations for that year and to discuss the results of all examinations.

With regard to the composition of the audit committee,[47] a number of commenters expressed concern with the Commission's proposed qualifications for membership on the committee.[48] One commenter suggested that only the majority of the audit committee be independent and that a clearing agency officer be included on the committee. Another commenter was concerned that committees of independent directors[49] would have interests inconsistent with that of equity shareholders. One commenter suggested that an audit committee should not be denied the expertise of an individual board member who is affiliated with a self-regulatory organization which owns an interest in the clearing agency. Other commenters indicated that clearing agency directors may not have sufficient time or the technical expertise necessary to adequately discharge the audit committee's responsibilities.

The Commission believes that a board member who is an officer or director of an entity which is affiliated with the clearing agency is in a management related role and cannot serve on a clearing agency's audit committee. Since a principal audit committee responsibility is to advise on a timely basis the full board of directors of any significant matters which come to their attention, the Commission does not feel that there is a demonstrated need for audit committee representation of management related directors.

In view of the comments received, the Commission is inclined to require that clearing agencies have an audit committee which would be composed of non-management directors.[50] Of course, the Commission believes that an audit committee should have members who would devote sufficient time to the work of the committee and who are qualified to discharge effectively the committee's responsibilities.[51]

The Commission anticipates that the clearing agency's internal audit department would be adequately staffed with qualified personnel,[52] would maintain independence and objectivity in the performance of its duties and periodically would report to the audit committee in addition to performing its on-going responsibility to management. The Commission believes an internal audit department's effectiveness would depend on its ability to act as a separate level of control, reviewing during development the clearing agency's system of internal accounting control[53] and, thereafter, in the evaluations of the system in operation.

B. FINANCIAL REPORTS

In the Release, the Commission proposed to require clearing agencies to have available, within 60 days after the close of each fiscal year, unconsolidated audited annual financial statements which would disclose clearing system balances and positions, would be prepared in accordance with generally accepted accounting principles and would be covered by the report of its independent public accountant.[54] The report would also include a management discussion. The clearing agency would also be required to furnish copies of the annual financial statements to participants.

Numerous commenters suggested that annual audited financial statements should not have to be available until 90 days following the close of the clearing agency's fiscal year. They noted that public corporations are required to have available annual financial statements within 90 days. In proposing 60 days, the Commission considered that a clearing agency's operations were more analogous to that of the broker-dealer than the issuer community. Therefore, the 60 day period provided in 17 CFR 240.17a-5(d)(5) under the Act for broker-dealers was used as a guideline, and the Commission continues to believe that 60 days is appropriate.

Some commenters felt that the annual financial statements should be for board use only, while other commenters favored full disclosure to participants. The Commission believes

(Continued)
the issuers' securities on the Exchange. Subsequently, the Commission wrote the other registered national securities exchanges suggesting that they adopt rules comparable to NYSE Rule 2496H.

[46] In the case of a wholly-owned subsidiary clearing agency of a publicly-held company which has an audit committee composed of outside directors that recommends the selection of the independent public accountant to the board of the parent company and all its subsidiaries, the decision of the parent company will be binding on the subsidiary clearing agency. However, the audit committee of the subsidiary clearing agency should meet with the independent public accountant regarding the scope and results of examinations of the clearing agency.

[47] Since the Commission is not specifically requiring an operations committee, this discussion is limited to the composition of the audit committee.

[48] See p. 36 of Securities Exchange Act Release No. 13584 for a description of the proposed qualifications for membership on the committee.

[49] In this release, the term "non-management directors" will be used in lieu of the term "independent directors" since the former term describes more precisely the characteristic sought.

[50] The Commission is inclined to the view that a director is non-management for the purpose of serving on a clearing agency audit committee if the director is not associated with the clearing agency (in other than a user capacity), any self-regulatory organization affiliated with the clearing agency or any entity which furnishes services to the clearing agency and is free from any other relationship that, in the opinion of the clearing agency's board of directors, would interfere with the director's exercise of independent judgment.

[51] The Commission believes that if a clearing agency's audit committee does not have the prerequisite technical expertise necessary or time to devote to carrying out its responsibility it may form a subcommittee composed of participants who possess the technical expertise, could devote the necessary time and who would meet the non-management criteria described in fn. 50 to advise the audit committee.

[52] The ADP environment of a clearing agency dictates that an internal audit department's staff possess, in addition to sufficient technical training and proficiency in accounting and auditing, expertise in ADP application of accounting and auditing to perform internal audit functions competently. See e.g., Institute of Internal Auditors, Inc. (the "IIA") research project report, "Systems Auditability and Control" (April 1977), which discusses the growing significance of ADP operations to the internal audit function; the report is contained in 3 volumes—"Executive Report, Data Processing Control Practices and Data Processing Audit Practices Report"—(available from William E. Perry, Director of ADP and Research, IIA, Altamonte Springs, Fla. 32701 ($30)).

[53] This would provide assurance that the system would provide for an audit trail and contain adequate controls for the safeguarding of participants' funds and securities. Additionally, early involvement in the development of the clearing agency's system, including ADP systems, provides assurance that the safeguards of securities, funds and data control discussed at pages 73–77 will be functional.

[54] The financial statements would also contain the following additional financial data: (1) A statement of changes in the balance and composition of the clearing agency's clearing or participants' fund, presented in a fashion similar to that commonly used to present changes in equity; (2) a footnote describing any use made of the balance in the clearing or participants' fund during the year; (3) a schedule, covered by the same report of the independent public accountant as the basic financial statements, setting forth revenues by significant fee sources and the direct and indirect expenses related to each fee source; and (4) a footnote describing indirect expenses and methods used in allocating indirect expenses to significant fee sources.

that participants who have made clearing fund contributions, deposited securities, and have money and/or securities in the clearing agency's system should have timely access to audited annual financial statements.

One commenter stated that the annual audited financial statements should be consolidated while another commentor suggested that both consolidated and unconsolidated statements be presented. The Commission believes that presentation of unconsolidated financial statements would be an informative disclosure of the clearing agency's operations. Consolidated statements would only be meaningful if the subsidiary entity's assets could be reached for satisfying the parent creditors or, if the subsidiary's creditors could attach any of the parent's assets. If such is the case, the Commission believes that consolidated financial statements would be meaningful to participants and should be provided to participants along with the unconsolidated financial statements. The Commission has also determined not to require a management discussion in the annual report since the Commission believes that clearing agency management currently informs its participants of changes and developments in its operations.

Several commenters requested clarification of the term "clearing system balances and positions." This term is not meant to include participant securities held in custody by a depository. This term was meant to include the components of a continuous net settlement system short and long valued positions which the Commission believes would be a meaningful disclosure since the clearing agency stands in the middle of such transactions.

Most commenters objected strenously for many reasons to presenting in the annual audited financial statements a schedule of revenues by significant fee sources and the direct and indirect expenses related to each fee source and a footnote describing indirect expenses and methods used in allocating indirect expenses to significant fee sources. The Commission agrees that the annual audited financial statements need not contain this information.

Some commenters suggested that the proposed statement of changes in the balance and composition of the clearing agency's participants fund is redundant since adequate disclosure currently exists in clearing agency financial statements. The Commission is inclined to believe that, to the extent adequate disclosure exists, the proposed statement is unnecessary. Therefore, the Commission will not require such a statement in the audited annual financial statement at this time.

One commenter presumed that the proposed disclosure of any uses made of the balance in the clearing or participants' fund referred only to charges to such fund to cover losses other than to satisfy a loss attributable to a participant solely from that participant's clearing fund deposit. The Commission did not intend that the disclosure be of such a limited scope. Rather, the Commission intends that the disclosure contain information as to any uses for which the clearing agency employs such balances, in addition to any charges to the fund. The Commission believes that such disclosure is appropriate in the financial statements.

Accordingly, a clearing agency should have available, within 60 days following the close of the clearing agency's fiscal year, unconsolidated audited annual financial statements[55] which would be prepared in accordance with generally accepted accounting principles and would be covered by the report of its independent public accountant.

In the Release, the Commission indicated that it proposed to require clearing agencies to have available unaudited quarterly financial statements within 30 days following the close of each fiscal quarter, prepared in accordance with generally accepted accounting principles and subject to a limited review conducted in accordance with generally accepted auditing standards by its independent public accountant who would state the basis of the limited review. The quarterly financial statements would consist of: (i) A statement of financial position as of the end of the most recent fiscal quarter and as of the end of the corresponding period of the preceding fiscal year; (ii) a statement of changes in financial position for the period between the end of the last fiscal year and the end of the most recent fiscal quarter and for the corresponding period of the preceding fiscal year; and (iii) a condensed statement of results of operations for the most recent fiscal quarter and for the period between the end of the last fiscal year and the end of the most recent fiscal quarter, and for corresponding periods of the preceding fiscal year. The quarterly statements would be accompanied by a management's discussion and analysis of significant financial and operating developments during the period reported on. In the Release, the Commission proposed that the quarterly financial statements be furnished to participants.

Many commenters felt that the proposed limited review of quarterly financial statements by an independent public accountant was unnecessary and not cost justified. Based on the comments, the Commission is currently inclined to accept the assertions that a need has not yet been demonstrated.

While one commenter suggested that the quarterly financial statement should not be required to be available until 45 days following the close of each fiscal quarter, one commenter stated that 30 days was appropriate and is now being met by the commenter. One commenter suggested that semi-annual interim financial statements would be sufficiently frequent but several other commentors believed quarterly statements were appropriate. The Commission believes that quarterly financial statements should be made available on as timely a basis as practicable.[56] Currently, the broker-dealer community is required to file financial data within 17 days of the end of each calendar quarter,[57] and the Commission believes that a 30-day requirement appears to be reasonable for clearing agencies.

Some commenters objected to the furnishing of quarterly financial statements to participants. Because participants have clearing fund deposits, cash and/or securities in the clearing agency system, the Commission believes that at a minimum the clearing agency should advise its participants that quarterly statements are available and will be furnished upon request.

In the opinion of the Commission, the preparation and availability of annual and quarterly financial statements are fundamental to the ability of a clearing agency's management and board of directors to remain apprised of the clearing agency's financial condition and the adequacy and accuracy of its records. The availability of financial statements would assist the Commission and other appropriate regulatory agencies in the discharge of their regulatory responsibilities. The Commission believes that annual financial statements prepared by clearing agencies should promptly be furnished and that quarterly financial statements should be made available to the clearing agencies' participants for the reasons discussed earlier.

C. INTERNAL ACCOUNTING CONTROL REPORTS

In the Release, the Commission stated that it believes the establishment and maintenance of an adequate system of internal accounting control is critical to the safety and accuracy of clearing agency operations. Although the objectives of internal accounting control are familiar to the business community and presumably would be

[55] See discussion at pp. 61–62 as to those circumstances in which consolidated financial statements would be appropriate.

[56] The quarterly statements need not contain a management discussion and analysis.

[57] 17 CFR 240.17a-5(a)(2)(ii) and (iii).

viewed by a clearing agency's directors as a fundamental aspect of management's responsibilities,[58] the Commission believes that, in order to evaluate the adequacy of a clearing agency's

providing an essential tool for clearing agency management, would aid the Commission and other regulatory agencies in discharging their regulatory responsibilities with respect to

This examination would consist of a study, including a review of the system and tests of compliance, and an evaluation. The scope of the examination shall be sufficient to provide reason-

sion would expect each clearing agency's plan for physical security to include, both for the maintenance and processing of securities and funds and for the ADP operation, such tradition-

In the Release, the Commission indicated that the recovery component of clearing agency safeguards should include adequate insurance coverage for both the clearing agency's operations

of clearing funds should be invested only in U.S. Government obligations. In addition, the Commission expressed the view that clearing funds should be used to protect clearing agencies

viewed by a clearing agency's directors as a fundamental aspect of management's responsibilities,[25] the Commission believes that, in order to evaluate the adequacy of a clearing agency's system of internal accounting control, the agency's board of directors should have available an examination report on the system of internal accounting control rendered by a qualified and independent source.

In the Release, the Commission stated that it was inclined to require that a clearing agency obtain semi-annually an examination report prepared by an independent public accountant on the clearing agency's system of internal accounting control. In the Release, the Commission indicated that the accountant's report should be based on an examination made for the sole purpose of issuing its report on the system of internal accounting control and would consist of a study, including a review of the system and tests of compliance, and an evaluation. The examination would include all procedures necessary under the circumstances to enable the independent public accountant to express an opinion thereon and would be sufficient in scope to provide reasonable assurance that any material weakness existing or found to have existed since the previous semi-annual examination report would be disclosed. The accountant's report would describe any material weaknesses discovered and any corrective action taken, or being taken, by the clearing agency. If the examination did not disclose any material weaknesses, the report would so state.

In the Release, the Commission stated that the availability of such examination reports, in addition to providing an essential tool for clearing agency management, would aid the Commission and other regulatory agencies in discharging their regulatory responsibilities with respect to clearing agencies. Also, because clearing agency participants have a significant interest in the adequacy of the system of internal accounting control which protects their securities and funds, the Commission stated it would require that the examination reports be furnished to all participants promptly after the reports become available to the clearing agency.

Numerous comments were received on the topics of distribution and frequency of internal accounting control reports. Most commenters recommended that the report be prepared only on an annual basis.[26] One commenter assumed that the report would be prepared in accordance with the American Institute of certified Public Accountants ("AICPA") Codification of Statements on Auditing Standards Number 1 to 15 Section 640 entitled "Reports on Internal Control". A number of commenters felt that the report should not be distributed outside the board of directors and the Commission, and one commenter suggested that it be distributed only if material inadequacies exist. Another commenter suggested that material weaknesses should not be disclosed, and still another commenter stated that such reports may be costly and wasteful.

In view of the comprehensive program of safeguards proposed in this release, the Commission has determined to require an internal accounting control report for clearing agencies on an annual basis only, at this time.[27] The Commission believes that an internal accounting control report of the scope described herein is appropriate because of the significant, critical and ever-increasing role which clearing agencies play in the securities processing industry. Additionally, the Commission feels that a national system will not reach full potential until additional participation in clearing agencies is fostered. The Commission believes that one of the most important ways to foster participation in a clearing environment is to accord high visibility to the significant safeguards clearing agencies employ, including an annual internal accounting control examination by an independent public accountant.

This examination would consist of a study, including a review of the system and tests of compliance, and an evaluation. The scope of the examination shall be sufficient to provide reasonable assurance that any material inadequacies existing at the date of the examination or which had existed since the last examination would be disclosed. This scope is broader than that of the examination described in Sections 320 and 640 of the "Codification of Statements on Auditing Standards" of the AICPA. The accountant's report shall describe any material inadequacies found to exist or found to have existed since the date of the previous examination. The report shall indicate any corrective action taken or proposed. If the examination did not disclose any material inadequacies the report shall so state.

The examination report may be issued on any predetermined regular annual basis which the clearing agency may select: *Provided*, The scope of the examination conforms with that set forth above.

Additionally, the Commission believes that the internal accounting control report need not contain all the detailed information which an accountant's management letter may contain except to the extent any material inadequacies are disclosed.

D. SECURITIES, FUNDS AND DATA CONTROLS

The Release noted that the Commission's experience with this aspect of clearing agency controls has led it to conclude that it is useful to analyze safeguards in terms of two principal objectives: (i) Prevention, including physical security, data and software integrity, and internal accounting control, discussed above, and (ii) recovery, including contingency planning and insurance.

PREVENTION

In the Release, the Commission noted that the securities industry has had substantial experience with procedures for the physical safeguarding of securities and funds in vaults, in funds handling areas and while in transit. In the relatively new area of ADP operations, however, the Release noted that a consensus on the necessary elements of physical security is still evolving.[28] The Release stated that while the Commission recognizes the need for flexibility in the design and implementation of security systems, on a more general level, the Commission would expect each clearing agency's plan for physical security to include, both for the maintenance and processing of securities and funds and for the ADP operation, such traditional security measures as: Access control on-site, off-site and in-transit; written procedures detailing steps involved in handling funds and securities; maintenance of an orderly and secure working environment; and early warning systems and disaster procedures responsive to fire, natural disasters, and intrusion.

The Commission noted that it believed the application of conventional prevention measures to ADP operations should be augmented by measures designed to assure software integrity, such as stringent quality assurance procedures (including pre-implementation review and testing of new applications, operating systems and components), full documentation of systems design and modifications, periodic post-implementation systems testing for conformity to latest system design specifications and for determining adequacy of internal accounting controls and data integrity, and requirements for executive approval to modify or update software. In addition, the integrity of data files should be verified periodically.

Some commenters suggested that the standards should not be specific while several commenters suggested minimum standards as appropriate or necessary. One commenter suggested that the Commission set minimum insurance standards, leaving to the insurer the determination of minimum security requirements. The Commission believes that the proposed prevention standards are appropriate as guidelines for clearing agencies to follow and will provide for the safeguarding of funds and securities.

RECOVERY

In the Release, the Commission stated that the recovery objective of funds, securities and data controls, in the Commission's opinion, calls for a written contingency plan, which at a minimum covers: (i) preparation for contingencies through such devices as periodic duplication and off-site storage of data files; (ii) Off-site storage of up-to-date, duplicate software files and critical forms and supplies needed for processing operations; (iii) immediate availability of software modifications, detailed procedures, organization charts and job descriptions for the conduct of operations under a variety of possible contingencies; and (iv) emergency mechanisms for establishing and maintaining communications with participants and other entities participating in the national clearing and settlement system. The Commission would expect contingency plans to be tested periodically to insure their effectiveness and adequacy.

In the Release, the Commission indicated that the recovery component of clearing agency safeguards should include adequate insurance coverage for both the clearing agency's operations and the operations of any sub-custodian, delivery service, or other agent used by a clearing agency. In the Release, the Commission suggested that adequate insurance coverage should be substantially similar to that afforded by Stockbrokers Blanket Bond Standard No. 14 of the Surety Association of America, currently in effect, augmented by errors and omissions insurance, fire insurance, and such additional insurance coverage as may be desirable in view of the kinds of risks involved in the operation of a clearing agency. The Commission requested comment on the kinds and amounts of insurance coverage appropriate to clearing agency operations.

One commenter indicated that the minimum insurance requirements should be related to what is available. A commenter noted that Standard Form No. 14 may become obsolete and that coverage should be stated more generally. Another commenter suggested that Standard Form No. 14 may be inadequate. Most commenters stated that errors and omissions coverage may be available only on a limited basis and is not cost justified. Another commenter suggested that cost and availability of insurance are factors the board should consider in determining adequacy of insurance coverage and amount.

The Commission believes that clearing agency management and board of directors should periodically review the kinds of risks involved in its business and the types and amounts of insurance coverage available, and there should be adequate insurance in both coverage and amount for both the clearing agency's operations and the operations of any sub-custodian, delivery service, or other agent. With respect to the other recovery standards, the Commission continues to believe that they are appropriate guidelines.

V. OBLIGATIONS TO PARTICIPANTS

A. CLEARING FUNDS

In the Release, the Commission expressed the belief that clearing agency rules should limit the use they make of clearing fund contributions, that, generally, contributions to clearing funds may consist, in varying proportions, of cash, U.S. Government obligations, municipal bonds, and open account indebtedness secured by U.S. Government obligations and municipal bonds,[29] and that the cash portions of clearing funds should be invested only in U.S. Government obligations. In addition, the Commission expressed the view that clearing funds should be used to protect clearing agencies against losses to the clearing agency or its participants caused by participant default and only under the circumstances specified in the clearing agencies' rules. The Commission indicated that it is inclined to require that assessments of participants to a clearing agency's clearing fund be limited. This would create the possibility that a clearing agency may become insolvent, without first exhausting the resources of other participants[30] through the assessment mechanism because of a loss caused by, and the subsequent insolvency of, one or more participants.

In the Release, the Commission requested comment of the form which clearing fund contributions should take and, for each form of contribution, the relative proportion of a clearing fund it should represent. The Commission also requested comment and suggestions on methods for determining the appropriate level of clearing fund contributions and for limiting the effects of clearing fund assessments. Furthermore, the Commission requested comment on whether clearing fund contributions should be available for other purposes such as to protect participants against losses resulting from clearing agency operations.

The commenters suggested that the Commission take a flexible approach. A number of commenters suggested: (i) that the forms of contribution to the clearing fund should be liquid, and (ii) that there is no need to fix the relative proportion of a clearing fund which each form of contribution should take.

With respect to the level of clearing fund contributions commenters suggested that it should be determined by the board of directors of each clearing agency in light of the particular functions performed by each clearing agency and the particular risks inherent in its operations. Another commenter indicated that no aboslute standard or single formula should be used for all clearing agencies in calculating the clearing fund contributions because of the varying operating characteristics of clearing agencies.

With respect to the types of investment a clearing agency should be allowed to make with the cash portion of clearing funds, there is a divergence of opinion. Some commenters expressed agreement with respect to the restrictions proposed by the Commis-

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[25] In proposed Rule 13b-2, Securities Exchange Act Release No. 13185 (January 19, 1977) 42 FR 4854 (January 26, 1977), the Commission proposed to adopt as a Commission rule the American Institute of Certified Public Accountants' definition of accounting control, Codification of Statements on Auditing Standards numbers 1 to 15, section 320.28 (1977) (AICPA Professional Standards, AU section 320):

> Accounting control comprises the plan of organization and the procedures and records that are concerned with the safeguarding of assets and the reliability of financial records and consequently are designed to provide reasonable assurance that:
>
> (a) Transactions are executed in accordance with management's general or specific authorization.
>
> (b) Transactions are recorded as necessary (1) to permit preparation of financial statements in conformity with criteria applicable to such statements and (2) to maintain accountability for assets.
>
> (c) Access to assets is permitted only in accordance with management's authorization.
>
> (d) The recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any difference.

[26] One commenter stated that internal accounting control systems do not lose their validity once established and a review of internal accounting control more frequently than once a year would be costly to smaller clearing agencies.

[27] However, this would not preclude a clearing agency from having reports prepared more frequently.

[28] See e.g., the discussion of ADP physical security contained in the National Bureau of Standards Federal Information Processing Standards Publication 31, "Guidelines for Automatic Data Processing, Physical Security and Risk Management," June 1974, [available from National Technical Information Service, 5285 Port Royal Road, Springfield, Va. 22161 ($3.50)].

[29] In the Release, the Commission expressed the belief that clearing fund contributions should be in a form which permits a clearing agency rapidly to obtain cash equal to the aggregate of all required contributions to the clearing fund.

[30] In the Release, the Commission indicated that it is concerned that through the assessment mechanism an overwhelming loss ultimately might exhaust the resources of a number of clearing agency participants and result in their demise.

sion, with the reservation that clearing agencies should be permitted to enter into repurchase arrangements with banks for U.S. Government obligations. Other commenters maintained that the Commission should allow clearing agencies flexibility in dealing with clearing funds. For example, one commeter stated that the management of a clearing agency should be allowed to make its own decisions after weighing factors such as risk, rate of return, and liquidity.

With respect to the permissible uses of clearing funds, i.e., losses to which they could be applied, the Commission received considerable comment. One commenter stated that each clearing agency should have the flexibility to establish other legitimate uses for the fund, although it should primarily cover losses from participant defaults.

Another commenter believed that restricting the availability of the funds to participant default could have an adverse effect upon the clearing agency's ability to maintain financial stability, since a clearing agency is exposed to risks that go beyond participant default and since losses may occur that either are not insurable or exceed appropriate insurance levels.

Another commenter noted that the dichotomy between limiting the clearing fund to losses caused by participant default and imposing broad liability on a depository for lost securities in excess of insurance coverage could result in the depository having to cover uninsured losses through capital reserves.[a] This commenter stated several reasons why it believed development of capital reserves would be inappropriate and concluded that other losses not caused by participant default, whether they are caused by events beyond the depository's control or by poor depository management, could have a similar impact upon operations of a depository and should be covered by clearing funds.

Another commenter believed that the major purpose of the clearing fund should be to protect against losses caused by participant defaults and that the participant fund, as constituted at the time of any loss and without further assessment, should guarantee the obligations of a clearing agency to third parties.[a]

One commenter maintained that, so long as the funds are properly protected, they should be available for use for certain purposes that facilitate the process of clearing. This commenter stated, however, that the fund should not be applied to operating expenses. In the opinion of one commenter, on the other hand, clearing fund contributions should not be available for purposes other than the specific contingencies for which they were provided. Another commenter indicated that, if the clearing agency is controlled by its participants, the question should be left to the board of directors, acting under its rulemaking authority.

With respect to limitations on assessments, one commenter indicated that banks might not be able to participate in clearing agencies unless a maximum liability for clearing funds and assessments is established. Other commenters suggested that it is inappropriate to establish an assessment limitation since once a loss occurs, such as a loss in excess of insurance coverage and other resources, it must be absorbed by someone and through the assessment mechanism it is absorbed by all participants rather than a limited number of participants who have a position in that security. Another commenter pointed out that if there were an assessment limitation an insolvent clearing agency might settle on certain obligations to participants and default on others, creating a ripple of defaults among participants.

The Commission has carefully reviewed the comments received and has amended its proposals in light thereof. The Commission does not believe that it is appropriate for the Commission to establish an appropriate level of clearing fund contributions. Rather the Commission believes that clearing agencies should establish an appropriate clearing fund contribution based, among other things, on its assessments of the risk to which it is subject. However, the clearing fund contribution must be based on a formula which applies to all users on a uniform, non-discriminatory basis.

The Commission also believes that the forms of contributions should be in cash and open account indebtedness secured by United States government obligations or highly rated municipal bonds or such other securities as the rules of the clearing agency may provide.

In the Release, the Commission sought to emphasize that because participant contributions to clearing funds protect clearing agencies against specified contingencies and are returned when participants withdraw from clearing agencies, the rules of clearing agencies should limit the use that they may make of clearing fund contributions. The Commission continues to believe that a clearing agency should not use the funds in a manner that impairs their liquidity or exposes them to unreasonable risks. Therefore, the Commission believes that clearing agency rules should limit the investments which it can make with the cash portions of clearing funds to United States governmental obligations or any securities which provide safety and liquidity of the principal invested in light of clearing agency's fiduciary responsibilities and are provided for in the rules of the clearing agency.

The Commission believes that the rules of the clearing agency should limit the purposes for which a clearing fund may be used to protecting participants and the clearing agency from the defaults of other participants and from losses occurring through clearing agency operations (not including day-to-day operating expenses) such as losses of securities not covered by insurance and other resources of the clearing agency. In addition, whenever the clearing fund is charged for any reason other than to satisfy a clearing loss attributable to a participant solely from that participant's clearing fund deposit, each participant should immediately be given notice of both the amount of, and the reasons for, the charge. The participant should be promptly assessed the amount in order to make good the charge against its clearing fund deposit.

With respect to further assessing a clearing agency participant to cover losses, the Commission is considering requiring that a clearing agency's rules provide for a maximum assessment which is fixed by the clearing agency's rules in order that at any given time a participant can ascertain his maximum potential liability. These limitations must be determined, among other things, in light of the clearing agency's risks in its operations, the size of its clearing fund and other factors.

B. STANDARD OF CARE

The Commission also stated in the Release that the rules of every clearing agency should provide that, except for securities delivered through the clearing agency to a participant for which the participant has not made payment to the clearing agency, or securities pledged by a participant through the clearing agency, the clearing agency must promptly deliver securities in its custody to, or as directed by, the participant for whom they are held. The Commission stated further that, consistent with its rules, a clearing agency should ensure that any sub-custodian holding the clearing agency's securities would deliver the securities to, or as directed by, the clearing agency and otherwise have the financial and operational capability to perform its obligations. However, neither a clearing agency nor its sub-custodian would be required to deliver securities in contravention of any notice of levy, seisure, or similar notice, or order or judgement, issued or directed by a governmental agency or court, or officer thereof, having jurisdiction over such clearing agency or sub-custodian, which on its face affects the securities held for the clearing agency's participant or, in the case of a sub-custodian, for the clearing agency.

In addition to providing that the clearing agency may not at any time refrain from delivering a participant's securities to or as directed by the participant, the Commission stated that the rules of a clearing agency should provide that it is liable to the participant for a failure to deliver the participant's securities resulting from: (a) The negligence or misconduct of the clearing agency, the clearing agency's sub-custodian or agent, or any of their respective agents or employees; (b) the placement, on fully-paid for participant's securities or participant's cash balances held by the clearing agency, of any lien or charge of any kind in favor of the clearing agency, the clearing agency's sub-custodian or agent, or any person claiming through any one or more of them; (c) a larceny; (d) a mysterious disappearance or (e) any other cause for which the clearing agency has assumed responsibility.[a] The Commission stated that it would expect clearing agencies to ensure that the obligations of their sub-custodians and agents to return securities held for the clearing agencies would parallel the clearing agencies' obligations to return securities held for participants. Also, the Commission expressed the belief that, in order to encourage indirect participation in a national clearing and settlement system, the clearing agency rules should permit subrogation of any indirect participant to any claims its conduit direct participant might have against a clearing agency arising out of the deposit of the indirect participant's securities.

The Commission requested comment on the level of liability which should attach to a clearing agency's obligation to return securities held for its participants, the appropriateness of requiring that any level of liability assumed by a clearing agency with respect to its participants be paralleled by the level of liability assumed with respect to the clearing agency by its sub-custodian or agent and the need to subrogate indirect participants in clearing agencies to the rights of their conduit direct participants.

With respect to the Commission's proposed standards relating to the liability of a clearing agency to its participants for securities held by it, one commenter wrote that there was no need for any Commission action with regard to level of liability, because responsibilities of clearing agencies are adequately spelled out under their rules and agreements, and applicable state laws. Another maintained that in a competitive environment liability can be apportioned between the clearing agencies and their users by factors in the marketplace and reflected in the price of services, that management must retain the discretion to make the determinations with respect to subrogation of indirect participants and that the issue of subrogation is not a matter of federal securities laws.

One commenter noted that the proposal requires clearing agencies to assume more liability than any other custodian of which it knew. He added that the standard would not require any showing that participants have sustained any damage as a consequence of common law principles which define the liability of clearing agencies as that of a bailee for hire. In addition, he noted that the proposal did not specifically exclude liability with respect to losses which a typical blanket bond excludes from coverage; thus leaving some question as to whether a clearing agency might become liable without insurance coverage. It was suggested that a balance be struck between the benefits to those participants that might otherwise suffer losses and the additional risks and costs upon all participants that would result from the assumption of greater liability by clearing agencies. According to this commenter, economics do not support the standard nor has a need for it been demonstrated. In addition, the commenter noted that other regulators would possibly adopt similar standards, which could prolong controversy and delay institutional acceptance of depositories. The commenter did not object to the subrogation proposal.

One commenter indicated that clearing agencies should be completely responsible for the delivery of fully-paid securities, with the only exceptions being uninsurable catastrophies such as war or earthquake. He also commented that third parties should be permitted to be subrogated to the claims of direct participants.

One commenter stated that it views its liability to return fully-paid securities as absolute. The commenter, however, stated that extension of a clearing agency's liability to indirect participants regarding the return of fully-paid securities is inappropriate and that there was no purpose in placing the agency in the middle of a dispute between a defaulting participant and his correspondents.

One commenter opposed the standard, commenting that there was no persuasive reason why depositories should assume, as the proposal suggests, a level of responsibility that extends beyond that of a bailee for hire. Another cautioned that such subrogation requirements will encourage litigation and place clearing agencies in a position of having to defend themselves against litigants with whom they have no direct relationship and who could harass them with groundless suits.

Finally, with respect to the proposal that clearing agencies ensure that the obligations of their sub-custodians and agents be parallel to that of the clearing agency to its participants, some clearing agencies questioned the need for such a requirement. One commenter, for example, stated that clearing agencies have limited ability to negotiate such a provision when the sub-custodian/agent has no legal obligation (regulatory or otherwise) to assume that degree of liability, and that as a consequence, the clearing agency could lose important services of its sub-custodians. This commenter added that such a standard could be implemented only after substantial lead time (such as a year) to allow renegotiation of agreements with the sub-custodians.

With respect to the obligations of the clearing agency to return the securities of participants, the Commission continues to believe that except in the circumstances set forth in the Release relating to payment for securities, pledged securities or judicial or government order, the clearing agency must promptly deliver securities in its custody to or as directed by the participant for whom they are held. Furthermore, the clearing agency should ensure that any sub-custodians holding the clearing agencies' securities will deliver the securities to or as directed by the clearing agency. The Commission believes that the clearing agency using such a sub-custodian should require that the sub-custodian have adequate financial and operational capability and insurance to enable it to perform its obligations to the clearing agency.

Additionally, the Commission is considering requiring that the rules of a clearing agency provide that it is liable to the participant for a failure to deliver the participant's securities resulting from: (a) The negligence or misconduct of the clearing agency, the clearing agency's sub-custodian or agent, or any of their respective agents or employees; (b) the placement, on fully-paid for participant's securities or participant's cash balances held by the clearing agency, of any lien or charge of any kind in favor of the clearing agency, the clearing agency's sub-custodian or agent, or

[a] This commenter indicated that if a clearing fund is not available to cover losses not otherwise covered the depository must cease operation and seek the protection of a bankruptcy proceeding.

[a] That commenter suggested that protection should be afforded to third parties dealing with clearing agencies and non-defaulting participants by means of an industry-government backed fund.

[a] In the Release, the Commission noted that while the rules of clearing agencies currently provide, without qualification, for the return to participants of securities held for them by the clearing agencies, the level of liability which a clearing agency would have for failure to return a participant's securities has not been determined to date.

any person claiming through any one or more of them; (c) a larceny; (d) a mysterious disappearance; or (e) any other cause for which the clearing agency has assumed responsibility.

VI. Participant Charges

Section 17A(b)(3)(E) of the Act requires a determination that

> [t]he rules of the clearing agency do not impose any schedule of prices, or fix rates or other fees, for services rendered by its participants.

The provision precludes a clearing agency from imposing schedules of prices or fixing minimum rates or charges for services which its participants render to others.

VII. Equitable Allocation of Reasonable Dues, Fees and Other Charges

Section 17A(b)(3)(D) of the Act requires a determination that

> [t]he rules of the clearing agency provide for the equitable allocation of reasonable dues, fees, and other charges among its participants.

The Release indicated that currently in determining the fees to be charged to participants for clearing agency services, many clearing agencies consider, in addition to cost of services, the benefits participants receive from services, and the need to subsidize certain services in order to encourage participation in a registered clearing agency. In the Release the Commission stated that it did not believe that a clearing agency fee structure or individual fee may properly be a substantial burden on, or act as a subsidy to, a particular category of participants, and stated further that it was not opposed to considering clearing agency fee schedules as a package in determining whether reasonable fees have been allocated equitably among participants. In the Release, the Commission indicated that it generally believes that fees should be based on costs of services provided.

The Commission stated that it was considering requiring that prior to imposing any dues, fees or other charges for services rendered to participants, clearing agencies advise their participants of (i) the unit cost attributable to the service (ii) the basis and method used in determining the unit cost and (iii) an explanation of determinations made, and justifications used in arriving at the fee.

In the Release, the Commission recognized that the need to develop a national clearing system may in some circumstances warrant clearing agency fee structures under which clearing agency participants in different locations are charged the same fees for clearing agency services regardless of the differences in the clearing agency's costs of providing the service to different locations.[47] Nevertheless, the Commission requested comment as to whether clearing agency participants in different locations should be charged the same fees for the same clearing agency services or whether different categories of clearing agency participants should be charged different fees for the same services. In particular, the Commission asked whether registered clearing agencies participating in other registered clearing agencies should be charged the same fees as other participants, or whether the purposes of the Act, including the establishment of a national system, require that registered clearing agencies pay fees different from those charged other participants or pay no fees at all.

The comments received on these issued generally questioned the Commission's authority to prescribe fees for registered clearing agencies. Likewise, although some commenters expressed general agreement with the concept that fees for services reflect the cost of providing the services, clearing agencies rejected the prospect of the Commission imposing any philosophy as to the setting of fees and insisted that the ultimate judgment as to fees should be exercised by the Board of Directors. While some commenters favored the concept of charging clearing agency participants in different locations the same fee for the same services, others opposed it.

With respect to the Commission's proposal requiring clearing agencies to send their proposed fee changes to participants before submitting them to the Commission, the response was also generally negative. Those who oppose prior submission claimed that such a procedure would impose an unreasonable burden on clearing agencies and result in considerable delays in changing fees. The opponents cited the expedited procedure provided in section 19(b)(3)(A) of the Act for implementing fees and stated that these requirements would destroy the benefits of that section by imposing inordinate delays on fee changes. The commenters expressed the belief that the comment periods provided by Rule 19b-4 will give adequate notice and opportunity for comment by participants. They maintained that the pressures of competition among clearing agencies will serve to regulate fees, and that to the extent a participant feels that fees are inequitable or discriminatory, it may seek review by that clearing agency or the Commission.

The Commission has reviewed the comments received and has determined that at the present time it will not require that clearing agencies send fee changes to their participants before submitting them to the Commission nor will it require a schedule setting forth unit costs and other matters. The Commission expects, however, that in instances of significant fee changes a clearing agency's participants will be apprised of such changes and the underlying reasons therefor, and that participants will be allowed to give their views as to the determinations affecting fees. With respect to fee schedules in general, the Commission has a duty to ensure that fees charged by clearing agencies are reasonable and are allocated among participants on an equitable basis in accordance with the Act, and among other things, do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In the exercise of this duty, the Commission intends to respond to any charges that fees violate these principles.[48]

VIII. The National System

In response to the Commission's inquiry concerning what securities issues should be included in the book entry portion of a national clearing and settlement system, some commenters responded that all securities should ultimately become eligible; others indicated eligibility should be determined in part by the volume of trading, number of stockholders and float in a particular security—the greater the volume, the greater should be the need for inclusion in a national clearing system. One commenter indicated that bond transactions should be eligible for inclusion in a national system. Another commenter indicated that all New York Stock Exchange and American Stock Exchange issues, over-the-counter issues currently cleared by National Clearing Corp. in its continuous net settlement system, and all primary securities on regional exchanges should be eligible.

With respect to the Commission's inquiry concerning the extent and manner in which registered clearing agencies should facilitate settlement between brokers and dealers and their institutional customers, several commenters were in favor of developing a national system which could provide settlement among brokers and dealers and their institutional customers.

One commenter indicated it has encouraged institutions to become direct depository members and has established an institutional settlement service. The commenter noted it has implemented an institutional delivery system which is linked to a continuous net settlement system for institutions which may wish to use it. Another commenter indicated it has persuaded local banks to join its depository and deposit securities for settlement with brokers.

In connection with facilitating settlement between brokers and dealers and their institutional customers, one commenter believed that institutional investors should have access, either directly or through an agent, to the national clearing and settlement system, and that there should be standard delivery hours for security deliveries against payment to banks acting as agent for their institutional customers, after inter-broker deliveries have been made, in order to speed the delivery of securities to the buyer. Another commenter suggested that the national system could be expanded to accommodate institutional transactions by the establishment of a national institutional settlement system.

With respect to the development of a national system, one commenter suggested that: (i) Withdrawal of physical certificates from the national clearing and depository system be prohibited or seriously restricted; (ii) all trades in all active securities be required to be compared through a member of the national system; and (iii) clearing agencies be required to adopt uniform standards and procedures. In this connection, one commenter emphasized that the Commission must encourage cooperation among clearing agencies and maintain a constant vigilance and alertness to potential and actual lack of cooperation. Another commenter emphasized that for a true national system to develop there is a need to eliminate interface fees by New York clearing and depository entities.

The Commission will deal with these comments during the course of the development of a national system, and use its authority to increase the number of eligible securities, encourage institutional and broker-dealer settlement and facilitate interface in a national system.

IX. Other Matters

Section 17A(b)(3)(F) of the Act provides that the rules of the clearing agency must not be designed "to regulate by virtue of any authority conferred by (the Act) matters not related to the purposes of (section 17A of the Act) or the administration of the clearing agency." In connection with the registration of clearing agencies the Commission intends to review all clearing agency rules to ensure that they are in accord with the foregoing objective.

It should be noted that a number of specific matters have been raised by individual clearing agencies which are not addressed in this Release but will be handled with each clearing agency on a case-by-case basis.

Section 17A(b)(1) of the Act gives the Commission authority to exempt any clearing agency or class of clearing agencies from any provision of the Act or the rules thereunder. By using this authority, as necessary, and by exercising reasonable discretion in making the determinations required in section 17A(b)(3)(A)–(I), the Commission will be able to make the statutory determinations, using the standards that finally emerge, in light of the characteristics of each clearing agency, the structure of the clearing agency community and the objectives set forth in section 17A.

The Commission has consulted and requested the views of the other appropriate regulatory agencies involved in the regulation of clearing agencies prior to publishing the proposed standards for the registration of clearing agencies.

All interested persons are invited to submit written data, views and arguments concerning the proposed standards on or before April 24, 1978. Such written data, views and arguments will be considered by the Commission in formulating final standards for review of clearing agency applications for registration. Persons desiring to make written submissions should file three copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. S7-699.

Copies of all written comments will be available for inspection at the Securities and Exchange Commission's Public Reference Room, 1100 L Street NW., Washington, D.C. 20006.

By the Commission.

George A. Fitzsimmons,
Secretary.

March 6, 1978.

[FR Doc. 78-6333 Filed 3-9-78; 8:45 am]

[47] See, e.g. "Order Granting Registration and Statement of Reasons In the Matter of the Application of the National Securities Clearing Corporation for Registration as a Clearing Agency," Securities Exchange Act Release No. 13163 (January 13, 1977).

[48] The matter of fees charged by one clearing agency to another clearing agency acting as a participant or interfacing with another clearing agency is not a subject of this release, but will be considered in a separate release.

federal register

FRIDAY, MARCH 10, 1978
PART VIII

DEPARTMENT OF LABOR

Employment and Training Administration

■

TEMPORARY EMPLOYMENT OF ALIEN AGRICULTURAL AND LOGGING WORKERS IN THE U.S.

Labor Certification Process

[4510-30]

Title 20—Employees' Benefits

CHAPTER V—EMPLOYMENT AND TRAINING ADMINISTRATION, DEPARTMENT OF LABOR

TEMPORARY EMPLOYMENT OF ALIEN AGRICULTURAL AND LOGGING WORKERS IN THE UNITED STATES

Labor Certification Process

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rules.

SUMMARY: The Employment and Training Administration of the Department of Labor is publishing final rules for the labor certification process governing the temporary employment of alien agricultural and logging workers in the United States. It is the purpose of these rules to more clearly define the roles of the Department, State employment service agencies, and employers in the temporary labor certification process.

EFFECTIVE DATE: April 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. David O. Williams, Deputy Administrator, United States Employment Service, Room 8000, 601 D Street NW., Washington, D.C. 20213, telephone 202-376-6674.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The Employment and Training Administration of the Department of Labor is publishing new regulations governing the labor certification process for the temporary employment of aliens in the United States in agricultural and logging occupations. The regulations replace the Department's previous regulations at 20 CFR 602.10, 602.10a, and 602.10b.

The revised regulations are being issued pursuant to the Immigration and Naturalization Service (INS) regulation at 8 CFR 214.2(h)(3)(i) which was issued under the Immigration and Nationality Act. The INS regulation requires, in support of a petition for admission of certain aliens into the United States to perform temporary labor:

"Either a certification from the Secretary of Labor or his designated representatives stating that qualified persons in the United States are not available and that the employment of the beneficiary will not adversely affect the wages and working conditions of workers in the United States similarly employed, or a notice that such a certification cannot be made shall be attached to every non-immigrant visa petition to accord an alien a classification under Section 101(a)(15)(H)(ii) of the Act."

Whether or not to grant or deny a non-immigrant visa petition under section 101(a)(15)(H)(ii) of the Immigration and Nationality Act is solely the decision of the Immigration and Naturalization Service (INS). It is INS policy, however, as expressed in the above cited regulation, that, before the INS will grant or deny such visas, the INS first requests the Department of Labor to advise it with respect to two issues:

(1) Whether there are sufficient qualified U.S. workers who are available to do the work proposed to be done by the aliens, and

(2) Whether the employment of the aliens will adversely affect the wages and working conditions of similarly employed U.S. workers. If the Department of Labor determines that there are no qualified U.S. workers who are available, and that the employment of the aliens will not adversely affect similarly employed U.S. workers, the Department of Labor advises the INS of these findings by issuing temporary labor certifications on behalf of the aliens. The employer who is proposing to use aliens for temporary agricultural or logging work then attaches the certification as part of the visa petition pursuant to INS regulations at 8 CFR 214.2(h)(3)(i). If the Department cannot make one or both of these findings, the Department so advises the INS. The Department may be unable to make the two required findings for any number of reasons, including:

(1) The employer who is seeking the temporary labor certification on behalf of the alien has not submitted a proper temporary labor certification application or followed the proper procedural steps;

(2) The employer has not met its burden of proof under section 291 of the Immigration and Nationality Act, that is, the employer has not submitted sufficient evidence of attempts to obtain available U.S. workers, and/or the employer has not submitted sufficient evidence that the wages and working conditions which the employer is offering will not adversely affect the wages and working conditions of similarly employed U.S. workers. With respect to the burden of proof, the Immigration and Nationality Act states at section 291, in pertinent part that:

"Whenever any person makes application for a visa or any other document required for entry, or makes application for admission, or otherwise attempts to enter the United States, the burden of proof shall be upon such person to establish that he is eligible to receive such visa or such document, or is not subject to exclusion under any provision of this Act * * *"; or

(3) The Department, through its own knowledge and experience, finds that U.S. workers are available and/or that an adverse effect on similarly employed U.S. workers will result, and the employer has not met the burden of rebutting the Department's finding or findings.

The regulations set forth the fact finding process designed to develop information sufficient to support the granting or denial of a temporary labor certification. They describe the potential of the public employment service for assisting employers in finding available United States workers, and how this process is utilized by the Department as a partial basis of information for the certification determination. They aslo set forth the responsibilities of employers who desire to employ aliens in temporary agricultural and logging jobs. Such employers are required to demonstrate that they have attempted to recruit U.S. workers through advertising, through the public employment service, and by other specified means, in order to assure an adequate test of the availability of U.S. workers to perform the work under conditions that will not adversely affect the wages and working conditions of the U.S. workers similarly employed.

PROPOSED REGULATIONS

The regulations were published as proposed rulemaking on January 25, 1977, at 42 FR 4670. Initially comments were invited until February 24, 1977. However, interest was sufficient to extend the period for comment to April 14, 1977. Subsequently, public hearings were held at six different locations in May and June 1977. The hearings record was held open for additional comments until August 1, 1977. About 170 individuals or organizations testified at the hearings and/or submitted statements for the record. In addition, about 250 letters were received during the comment period prior to the hearings.

DEPARTMENT OF LABOR RESPONSE TO COMMENTS AND HEARING TESTIMONY

1. SCOPE AND PURPOSE OF REGULATIONS

The proposed regulations contained a scope and purpose section in which the Department summarized, in two short paragraphs, the scope and purpose of the temporary labor certification process for agricultural and logging workers. Over 50 commenters addressed themselves to the scope and purpose section. Some suggested, on the one hand, that the Department of Labor guarantee U.S. employers an adequate number of alien workers; on the other hand, some suggested that the temporary labor certification process be phased down or ended leaving employers to compete for U.S. workers on the free market. There were any number of suggestions between these two views. It is clear to the Department that many employers, and many worker representatives, do not fully understand the purpose and scope of the temporary labor certification program and the Department's role thereunder. In these final regulations, therefore, the purpose and scope section has been significantly expanded in order to clarify these issues.

2. APPLICATION OF THE REGULATIONS TO SHEEPHERDING

The Department's previous regulations, at 20 CFR 602.10, 602.10a and 602.10b, exempted sheepherders from the U.S. worker recruitment provisions of the temporary labor certification process. The proposed regulations proposed to require sheepherder employers to take on the same responsibilities borne by other employers in attempting to recruit U.S. workers.

Representatives of the sheep raising industry opposed the application of the U.S. worker recruitment provisions, arguing that the terms and conditions of employment made the work unattractive to U.S. workers. On the other hand, representative of the New Mexico Employment Service and the Navajo Indian Council testified that Navajos and other U.S. workers herded sheep in New Mexico and might be available if employers modified their methods of operation to improve working conditions. The Department has adopted the proposal because the Department is convinced that sheepherder employers should not be given a unique exemption from attempting to find U.S. workers absent compelling proof that no U.S. workers can be made available. The comments and hearing testimony did not present such compelling evidence.

3. DEFINITION OF EMPLOYER

The proposed regulations recognize that associations of employers might be agents of employers with respect to the temporary labor certification process. They did not define such associations, however, as employers. Representatives of employer associations urged that the regulations be clarified to recognize that such associations may themselves be employers. The final regulations recognize that an association of employers may itself be an employer when the relationship between the association and the workers is an employer-employee relationship as defined in the regulations.

4. RECRUITMENT PROCESS

The present regulations at 20 CFR 602.10(b) require employers who anticipate employing aliens to file their temporary labor certification applications, and job orders for U.S. workers, with the employment services in sufficient time to allow the employment service 60 days to test the availability of U.S. workers, in addition to the time necessary for the employer to secure foreign workers by the date of need if the certification is granted. The Department proposed to increase the period for recruitment of U.S. workers from 60 to 90 days. In addition, it was proposed that the Department could require a period of up to 6 months provided the Department provided each employer involved at least 30 days prior notice. The purpose of the proposal was to allow the employment service system sufficient time to recruit U.S. migrant workers. Employers objected strongly to the proposal stating that it was not possible to estimate their labor needs so far in advance. Workers' representatives urged that the regulation require a 6 month or longer period to ensure the recruitment of U.S. migrant workers in their home base areas, such as Texas and Florida, before they enter the migrant stream.

Four groups of employers have traditionally sought temporary labor certifications on behalf of foreign agricultural and logging workers—Florida sugar cane, Western sheepherder, Maine logging, and East Coast apple employers. The Department's experience, which was strongly reinforced by testimony at the hearings, had made it clear that, with respect to logging, sheepherder and sugar cane employers, the 60-day recruitment period is sufficient. Sheepherding is not a seasonal occupation. It is year-round. Logging operations typically occur over a 10 or 11 month period. Nor have these been occupations in which U.S. migrant workers have traditionally sought employment. The 90-day period, therefore, would make little difference with respect to the recruitment of U.S. migrant workers. The Florida sugar cane harvest typically lasts about 6 months (Autumn-Spring). This season does not coincide with the movement of the migrant stream, which typically occurs from Spring to Autumn. The Florida sugar cane harvest, moreover, although it takes place in the principal home base area of East Coast migrants (Florida) has never attracted any significant number of U.S. workers despite the fact that, as employers testified, they have a year-round standing job order with the employment service.

The Department's proposed regulation was principally addressed to seasonal harvest situations, which generally occur on the East Coast from late August until October of each year, at a time when many migrants have reached the apple harvest area, Virginia to Maine. Employers in that area of the Nation have traditionally employed thousands of U.S. migrant workers. In addition, as testimony at the hearings indicated, many such employers have harvested their crops solely with the aid of locally recruited workers, including students and housewives. In the past several years the Department has increased its efforts to aid employers to recruit U.S. workers, including mainland and Puerto Rican migrants. The Department, therefore, believes it is important for employers and the employment service system to continue efforts to recruit U.S. workers for the East Coast apple harvest. Even the proposed 90 day recruitment period, however, will not be long enough to recruit Florida and Texas based migrants before they depart their home bases. To extend the recruitment period, however, to January or February appears to be too early for employers to assess their worker needs.

In view of all the above, the Department had decided to retain the 60 day period of the present regulations coupled with more specific regulatory requirements regarding the recruitment of U.S. workers by employers and the employment service system, and more specific procedures for processing temporary labor certification applications. Testimony at the hearings and experience over the last several years has convinced the Department that the recruitment of U.S. workers must be placed on a more regular, systematized basis so that employers, the State Employment Service agencies and workers will have the security of a well defined procedure. During the hearings, for example, many employers urged the Department to either grant or deny temporary labor certifications in sufficient time for them to transport alien workers to their worksites or to petition the INS for visas after the Department's denial of certification. The Department, therefore, has imposed time limits both on the recruitment of U.S. workers by the employment service system and on its temporary labor certification approval/denial process. In addition, the regulations provide for an expedited review of any denial of certification by a Department of Labor Hearing Officer.

At the hearing held in Belle Glade, Fla., sugar cane employers informed the Department that they were willing to recruit U.S. workers. They urged the Department, however, to specify specific recruitment standards such as those required under the permanent labor certification regulations at 20 CFR Part 656. They complained that the recruitment procedures required by Departmental officials varied from year to year, and that they were, thus, never sure when they had done the kind of (or enough) recruiting to satisfy the "reasonable recruitment" standard of the previous and the proposed regulations. They further urged that the Department be required to grant the temporary labor certification if the specific recruitment efforts set forth in the regulations were complied with successfully recruiting U.S. work-

ers. Many worker representatives likewise urged the Department to specify the recruitment efforts of both employers and the employment service system. The Department has, therefore, replaced the "reasonable recruitment" standard with specified recruitment requirements. If the Secretary finds that the employer, in cooperation with the employment service system, recruits in accordance with the regulations without obtaining sufficient U.S. workers, and that the employer has not adversely affected similarly employed U.S. workers by offering better benefits or imposing less restrictions on foreign workers, the regulations now require the Department to grant the temporary labor certification.

5. FAMILY HOUSING

The Department's prior regulations, at 20 CFR Part 602, required employers to provide family housing only if this were the prevailing practice of agricultural employers in their area. The proposed regulations proposed that all employers provide such housing.

Many employers objected to the proposed requirement stating that such housing was very expensive and that they should not be required to house family members who were not workers. Worker representatives urged that this provision be retained, arguing that the availability of family housing could increase the numbers of U.S. workers willing to accept employment in these jobs. The Department believes that there is a possibility that additional U.S. workers would be made available by the provision of family housing. The Department, however, realizes that the provision of such housing would be costly to many employers. In addition, the Department realizes that, if the proposed regulations were adopted, employers would have to build such housing without knowing how many families (or the size of such families) would be made available for work. The Department believes that, in view of the costs of such housing and the uncertainty of results with respect to U.S. workers recruitment, the costs outweigh the potential results. Therefore, the Department has withdrawn the proposal and will continue the previous policy of requiring family housing by employers or groups of employers only if it is the prevailing practice in the area or if family housing is offered or provided to foreign workers.

6. WORKER TRANSPORTATION AND SUBSISTENCE EXPENSES

The proposed regulations proposed to continue past policy by requiring employers to "provide or pay for the worker's transportation and daily subsistence from the worker's home or place of employment provided the worker works for 50 percent or more of the contract period". The proposed regulation was not entirely clear with respect to whether the costs of such transportation and subsistence had to be advanced to the worker. Worker representatives argued that workers frequently lack the cash resources needed to finance their travel and subsistence to the work site and, therefore, need advance financial assistance. They also testified that West Indian workers travel at the expense of East Coast apple employers since employers contract with the Foreign government, and, under the terms of the contract, the foreign government pays for the transportation and is thereafter reimbursed by the employers if the foreign worker remained 14 days. The Department is aware that this was a new provision of the contract between the East Coast apple growers and the foreign government agency representing the West Indian Workers and that it had been substituted for an earlier provision of many years standing whereby the employers had advanced transportation costs directly to the foreign workers.

Employers generally opposed any obligation on their part to advance to U.S. workers the cost of transportation and subsistence en route to the place of employment. They argued that U.S. workers often failed to arrive at the work site and that, if they did arrive, only a small percentage were likely to remain for more than a few days. Thus, they contended that advancing travel expenses was likey to be very costly.

The Department has decided to continue past policy, and to clarify the advance transportation and subsistence cost issue in view of the hearing testimony. Employers will be required to offer and pay advance transportation and subsistence costs to U.S. workers if, and to the same extent that, foreign workers receive such advances directly from the employer or indirectly from any person, agency or other entity which is collaborating with the employer. If employers do not deduct transportation costs from a foreign worker's pay, they may not deduct such costs from a U.S. worker's pay.

In short, the regulations provide, with respect not only to transportation and subsistence costs but also with respect to all wages, benefits, and working conditions, that employers must offer and provide U.S. workers with at least the same level of wages, benefits and working conditions offered or provided to foreign workers.

7. WORK GUARANTEE

The Department's prior regulations required that workers be offered employment for at least three-fourths of the workdays during the contract period, a workday being defined as consisting of 8 hours. The proposed regulations would have required an employer to offer five 8-hour workdays during each week. Employers opposed the proposal as being impractical in view of possible weather conditions, and urged retention of the previous requirement of guaranteeing three-fourths of the worktime during the life of the work contract. There was worker support for the proposed change in the work guarantee, though at least one worker spokesperson agreed with the employer concern about the weather.

The Department, in view of the testimony and comments, has concluded that the three-quarter guarantee, which is the prevailing practice, is sufficient to prevent adverse affect on U.S. workers similarly employed. The proposal, therefore, has been withdrawn in favor of continuing the past policy provided of course that, where a better guarantee or benefit is extended to alien workers, the U.S. workers shall be entitled to at least the same guarantee to prevent adverse affect on U.S. workers similarly employed. The language of the guarantee provision has also been edited to express the meaning of the guarantee more clearly.

8. TRAVEL TO AND FROM WORKSITE

The prior regulations at 20 CFR Part 602 required employers to provide workers with transportation to and from worksites and lodging without cost to the workers. The proposed regulations proposed to require employers to pay wages to workers for time spent in such travel exceeding 30 minutes each way. The hearing testimony and comments have convinced the Department that the prior policy was sufficient to protect U.S. workers from adverse effect. The proposal, therefore, has been withdrawn. Again, however, if an employer offers better benefits to foreign workers, the employer must provide U.S. workers with at least the same benefits to prevent adverse effects.

9. RECRUITMENT OF U.S. WORKERS AFTER CERTIFICATION

The proposed regulations proposed that employers be required to offer and provide employment to U.S. workers until the completion of fifty percent of the period of the foreign workers' contract period. Employers urged that their responsibility in this regard should end at the time of certification. Worker representatives urged that the responsibility should continue until the end of the harvest. The Department believes that the proposed regulation was a reasonable middle course. Consequently, the proposal has been adopted. The regulation has also been clarified to require active recruitment of U.S. workers only up until the time

the foreign workers arrive. Thereafter, employers must offer work to qualified U.S. workers who appear for work until the fifty percent period has elapsed.

10. PENALTY FOR HIRING UNDOCUMENTED WORKERS

The proposed regulations provided that no employer could be granted a temporary alien certification if the employer had been found in the last 12 months to have knowingly hired undocumented workers (illegal aliens). In view of the pendency of legislation on this matter before the Congress, the Department has concluded that the proposal is not an appropriate subject for these regulations, but rather for Congressional action. The proposal, therefore, has been withdrawn.

11. ASSURANCE OF COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAW

The proposed regulations provided that, to obtain a temporary labor certification, an employer must assure past and future compliance with applicable Federal, State and local laws. Some employers opposed the proposal, stating that is was too broad and that, in certain cases, it might result in either self-incrimination or willful misrepresentation. Worker representatives supported the proposal as protective of the workers. In view of the hearing testimony and comments, the Department is withdrawing the "past compliance" portion of the regulation as inappropriate for these labor certification regulations. The Department, however, believes it is reasonable to require employers to assure that they will comply with applicable employment-related laws with respect to the employment for which they are granted a certification. The "future compliance" assurance, therefore, has been retained.

12. PROTECTIVE CLOTHING AND FOOTWEAR

The Department's prior regulations at 20 CFR Part 602 required employers to furnish all tools, supplies and equipment necessary to perform the work without charge to the worker. The prior regulations had also been interpreted to require employers to reimburse workers for such items whenever they were furnished by the workers. The proposed regulations provided that employers also supply protective clothing and footwear without charge to the workers. While employers were opposed to this new equipment, worker representatives were generally silent with respect to it. In light of the hearing testimony and comments, the Department has concluded that Federal and State employment standards and health and safety agencies, rather than the Employment and Training Administration, are more appropriately regulators of employment standards and health and safety matters such as requirements with respect to protective clothing and footwear. The proposal, therefore, has been withdrawn. Again, however, if such items are provided to foreign workers, they must also be provided to U.S. workers to prevent adverse effect.

13. MEAL CHARGES

The Department's prior regulations allowed employers to charge workers from $2.55 to $4.00 for providing them with three meals per day. The proposed regulations provided for charges of from $3.25 to $4.00. Employers complained that the charges were still too low, while worker groups said they were too high. The Department has concluded that the proposal was a reasonable middle ground. The proposal, therefore, has been adopted.

14. WORK CONTRACTS

The Department's prior regulations allowed employers to either provide workers with copies of their work contracts or to post such contracts in a conspicuous place (with summaries given to the workers). The proposed regulations provided that employers supply a copy of the work contract to each worker. Employers opposed the proposal on the grounds of cost and inconvenience. Worker representatives supported the proposal as a way of acquainting workers with their employment obligations and rights. The Department believes that it is entirely reasonable for a worker to be given a copy of his or her own work contract upon request. The Department believes that the employers' costs in supplying such contracts are far outweighed by the protection afforded to the worker when the worker has a copy of his or her employment responsibilities and rights.

In addition, the Department proposed that, if a worker was fluent and/or literate in Spanish, but not in English, that the contract be supplied in Spanish. In light of the testimony and comments, however, the Department has concluded that the cost involved for the employer (hiring a translater, etc.), the uncertainty of judging how many such workers will appear for work, and the fact that administrative or judicial causes of action arising from the contract must generally be carried out in English, weigh against the adoption of the proposal. The proposal, therefore, has been withdrawn. In addition, and for the same reasons, the same Spanish contract requirement, which has been contained in the regulations governing interstate job orders for agricultural workers at 20 CFR 653.108(c)(2)(xi), and which has been applied to all employers using the employment service's interstate clearance system to obtain agricultural workers, is being revoked.

15. OVERTIME RECORDS

The proposed regulations added a requirement not found in the Department's prior regulations that earnings statements, provided by employers to workers, include a breakout of straight time and overtime work. Employers opposed the proposal; worker representatives were silent on it. In view of the fact that agricultural work is exempt from the overtime provisions of the Fair Labor Standard Act, and in view of the fact that the Employment Standards Administration, rather than the Employment and Training Administration, has responsibility for enforcing the Fair Labor Standards Act and has published regulations with respect to overtime matters, the proposal has been withdrawn.

16. PIECE RATES

The Department's prior regulations required that piece rates be designed so as to enable the workers to earn the amount they would have earned if they had been paid at adverse effect hourly wages. The proposed regulations provided that the Administrator, United States Employment Service, would periodically publish a schedule containing the normal piece rate production of an average U.S. worker, and adverse effect piece rates, that is, piece rates by which average U.S. workers would earn at the adverse effect rate. Employers opposed the change arguing that "average U.S. workers" were not as productive as foreign workers. Assuming the employers are correct regarding the productivity of U.S. workers, the Department believes that this argument is legally irrelevant. Under the Immigration and Nationality Act as implemented by the INS regulation at 8 CFR 214.2(h)(3)(i), the Department may not grant a temporary labor certification if there are qualified U.S. workers available.

The wages paid, moreover, must not adversely affect the wages of U.S. workers who do similar types of work.

Worker representatives supported the proposal in principle, charging that, when the adverse effect rate goes up, employers, instead of raising the piece rate, often simply require their workers to work faster. They testified that, although the adverse effect has gone up over the last several years, many employers had not altered their piece rates during that period.

The Department recognizes the difficulty, as pointed out by employers, of measuring the productivity of average U.S. workers, especially in light of different crops and types of harvesting. The Department also recognizes the possibility of abuses, as pointed out by worker representatives. The

Department, therefore, has decided to continue past policy by requiring that piece rates be designed to produce earnings equal to that produced by

work performed. No annual data is published. Data is listed in a State by region format with the New England States not reported separately. In view of this new

suggested that the rate be set at the wage that would be paid of alien workers were excluded from the country. At the present time, the Department

The analysis, however, was based on many assumptions, including the following:

(1) A perfectly competitive labor

the Employment Security Manual, allowing employers to pay handicapped workers who are over 60 or under 18 years of age a lower wage during a

PART 621—CERTIFICATION OF TEMPORARY FOREIGN LABOR FOR OCCUPATIONS OTHER THAN AG-

Department, therefore, has decided to continue past policy by requiring that piece rates be designed to produce earnings equal to that produced by the adverse effect rate. The policy, however, has been clarified and adjusted to require that, in any year in which the adverse effect rate increases, employers must redesign their piece rates accordingly. In order to afford employers early notice of changes in the adverse effect rates, the formula for computing the adverse effect rates has been set forth in the regulations. As as result, adverse effect rates, which are merely computed mathematically using the formula, will be able to be published as a FEDERAL REGISTER notice, rather than through a time consuming rule-making procedure.

17. ADVERSE EFFECT RATES

Under the prior regulations, the Department published annual adverse effect rates for certain States and crops. Adverse effect rates are either the prevailing wage rate or a somewhat higher wage rate; they are the wage rates which must be paid in order to ensure that the wage rates of similarly employed U.S. workers are not adversely affected.

The proposed regulations did not propose any change in the adverse effect rate concept. On April 1, 1977 at 42 FR 17486 the Department proposed the adverse effect rates for 1977. These rates were published in final form on August 9, 1977. The August 9, 1977 FEDERAL REGISTER publication contained both the methodology which the Department uses to determine the adverse effect rates and an analysis of comments received. In view of the interest expressed in the comments and hearing testimony with respect to the adverse effect rates, the Department is republishing the adverse effect rate methodology and the reasons for the methodology. The following is reprinted from the FEDERAL REGISTER of August 9, 1977:

METHODOLOGY FOR DETERMINING THE ADVERSE EFFECT RATE: REASONS FOR SELECTING THE METHODOLOGY

The following is reprinted in relevant part from the FEDERAL REGISTER issue of June 22, 1976, at 41 FR 25018:

Last year (1975) and since 1968, the prior year's adverse effect rate was adjusted by the percentage change in the United States Department of Agriculture (U.S.D.A.) hourly farm wage rate (without room or board). This data was published in the U.S.D.A. publication Farm Labor (Publication Code No. La 1). The data was expressed as a yearly average on a State by State basis.

In 1974, which was a transition year, U.S.D.A. began utilizing a different survey method, publishing average farm wage rates on a quarterly basis, and publishing rates expressed by method of pay and type of work performed. No annual data is published. Data is listed in a State by region format with the New England States not reported separately. In view of this new manner of expressing average wage data by U.S.D.A., it is necessary that the Department of Labor adjust its method of adjusting its "adverse effect" rates.

The movement of wage rates and not absolute wage rates are utilized to update the § 602.10b adverse effect rates for workers performing similar tasks, therefore, it was deemed desirable that the choice of what data to utilize from U.S.D.A. should coincide with the crop affected. In the States for which adverse effect rates are being published, temporary foreign agricultural workers are imported primarily for crop harvesting activities, e.g., to pick apples in the eastern seaboard States and to cut sugar cane in Florida. It is reasonable, therefore, to utilize the average wage rate that most closely coincides with the type of work performed by these workers. The category which closely resembles that task for which data is obtained by U.S.D.A. is Field and Livestock Workers.

Although, U.S.D.A. also obtains data based upon Piece-rate methods of pay to farmworkers, this data was determined to be less desirable than the data utilized in view of the limitied data available from some States, and the inclusion of Packing House Workers, Machine Operators and Supervisors in this category.

To determine the adverse effect rate for this year the Department of Labor sought, and obtained, average hourly wage rates for Field and Livestock Workers from U.S.D.A. for calendar years 1974 and 1975. This data is not published by U.S.D.A. However, the primary data, which is the basis for the statistics in Farm Labor, was utilized in responding to the Department of Labor's request. The U.S.D.A. response was as follows:

"The sample design for the Quarterly Agricultural Labor Survey is such that the valid wage rates for the individual states in New England cannot be produced. Because of the limited use of hired agricultural labor in New England and limited resources available to us, it was decided to treat New England as a single unit for sampling purposes. We have examined the results when calculated for individual states and find them too variable for release. Consequently, we can provide only the annual average rate for New England as a whole."

"NOTE.—For documentaion of the methodology utilized in the Quarterly Agricultural Labor Survey, we suggest that the section on "Sources and Reliability of Estimates" as published on p. 2 of the enclosed Farm Labor release be used."

To obtain this year's (1976) adverse effect rate of the prior year's rate was adjusted by the percentage change in the U.S.D.A. farm wage rate for Field and Livestock Workers between 1974 and 1975 For the individual New England States and prior year's adverse effect rates for each State was adjusted by the percentage change in all the New England States.

THIS YEAR'S COMMENTS

As noted above, all three of the comments received this year stated that the proposed 1977 Adverse Effect Rates were too low. They asserted that higher rates were necessary to prevent adverse effect with respect to American workers. One commenter suggested that the rate be set at the wage that would be paid of alien workers were excluded from the country. At the present time, the Department does not possess an economic model or the data by which such a hypothetical rate could be calculated.

Another commenter suggested that the following methodology be used to determine the adverse effect rate:

(1) Locate for each State the quarter during the previous year in which the greatest number of agricultural workers were employed. This number is set by the U.S. Department of Agriculture Statistical Reporting Service and it varies from State to State.
(2) Determine the consumer price index increase from the previous year.
(3) Multiply the increase by the average piece rate wage paid to these workers.
(4) This figure should be the adverse effect rate offered to U.S. workers prior to certifying alien workers.

The Department is giving consideration to the proposed methodology. At the present time, however, the Department has the following concerns regarding suggested methodology:

(a) The commenter made no showing that the present rate adversely affects U.S. workers;

(b) Except for the fact that the wage rate produced would probably be higher, the suggested methodology was not supported by reasons as to why it would succeed in assuring that U.S. workers would not be adversely affected;

(c) The Department does not presently have adequate data on average piece rates; and

(d) The commenter gave no reason for pegging the rate to the consumer price index.

Another commenter stated that the use of aliens in and of itself adversely affected U.S. workers. The Department would like to note, however, that the Immigration and Nationality Act, by which the labor certification program is authorized, allows for the admission of aliens for temporary agricultural labor. It does not seem probable, therefore, that Congress meant the Act to be administered in such a way as to preclude such admissions altogether.

One commenter noted that Social Security taxes do not have to be paid by alien workers or their employers. Thus, domestic workers doing the same work get less take-home pay, and employers incur less expense when they employ alien workers. The Department would like to note that domestic workers in the long run, benefit from belonging to the Social Security system. Nevertheless, the Department is taking a serious look at this matter with a view towards adverse effect rates in future years.

One commenter enclosed a theoretical analysis of the impact of the adverse effect rate. The Department found the analysis very interesting. The analysis, however, was based on many assumptions, including the following:

(1) A perfectly competitive labor market;
(2) Perfect knowledge of alternatives by U.S. workers;
(3) Perfect mobility of U.S. workers;
(4) Employers will not pay wages above what is minimally necessary to meet their labor demands;
(5) Offered employment of equal desirability, workers will choose jobs which offer the highest wages;
(6) The short run quantity of capital and other nonhuman resources remain constant; and
(7) Consumer tastes, technology, price of working conditions, wages in alternate occupations, labor force participation rates, and population remain constant.

The Department believes that the list of assumptions above reveals the enormity of the problem in using such an economic model to construct an adverse effect rate for various crops and for various areas of the country. To do so would require a great deal of time, personnel and money. The Department must construct its adverse effect rate in a way which is at the same time (1) fair, (2) reasonable, (3) cost effective, and (4) geared as much as possible to the reality of agricultural crops, areas and existing wage factors.

The Department believes that its present methodology meets these criteria and, as much as any alternative suggested by the commenters, protects the wages of U.S. workers from being adversely affected by alien labor.

18. TERMINATION OF WORK CONTRACT BY ACT OF GOD

The Department's prior regulations at 20 CFR Part 602 provided that an employer could terminate the work contract if an Act of God (flood, fire, etc.) made the work impossible, provided, however, that the Regional ETA Administrator determined that such an Act of God had indeed made work impossible. The proposed regulations provided that the employer could terminate the contract in such instances without such an ETA determination. Employers, nevertheless, opposed the provision as an undue limitation of their contracting prerogatives. Worker representatives urged that the prior policy be restored as necessary for the protection of the workers, especially migrant workers who are far from home and whose livelihood depends on steady work in the harvest season. The Department has restored the prior policy because it believes that the protection of the workers outweighs the minor procedural burden on employers in seeking the ETA determination.

19. HANDICAPPED WORKERS

The proposed regulations contained a provision, previously contained in the Employment Security Manual, allowing employers to pay handicapped workers who are over 60 or under 18 years of age a lower wage during a "training" period. This section elicited minimal comments. The Department, however, in view of the principles of the Rehabilitation Act of 1973 (equal opportunity for the handicapped) and the Age Discrimination in Employment Act (non-discrimination in employment with respect to workers aged 40 to 65), has withdrawn the proposal and will no longer have a special wage rate for such handicapped workers.

20. COMPARABILITY OF BENEFITS

The proposed regulations contained a requirement that U.S. workers be provided the same benefits as were accorded by the employer to foreign workers in the previous year. The Department agrees with both employers (who stated that the effect would be to lock them into permanently affording certain benefits) and with worker representatives (who favored the principle of comparability of benefits between U.S. and foreign workers). In the final regulations, therefore, as noted above, the Department has made it clear that U.S. workers must be offered and provided at least the same benefits as are offered or provided to foreign workers. The prior year concept, however, has been dropped.

21. OTHER CHANGES

In addition to the changes specified above, many editorial, organizational, clarifying and interpretative changes have been made.

These regulations have been developed under the direction and control of William B. Lewis, Administrator, United States Employment Service, Room 8000, 601 D Street NW., Washington, D.C. 20213.

Accordingly, 20 CFR Chapter V is amended as follows:

PART 602—FEDERAL-STATE EMPLOYMENT SERVICE SYSTEM

1. In the table of contents for Part 602, the heading "Certification and use of Temporary Foreign Labor for Agricultural and Logging Employment" is deleted. In addition, §§ 602.10, 602.10a, and 602.10b are deleted.

2. Immediately prior to § 602.10, the heading "Certification and Use of Temporary Foreign Labor for Agricultural and Logging Employment" is deleted.

§§ 602.10, 602.10a, and 602.10b [Deleted]

3. Sections 602.10, 602.10a, and 602.10b are removed in their entirety.

PART 621—CERTIFICATION OF TEMPORARY FOREIGN LABOR FOR OCCUPATIONS OTHER THAN AGRICULTURE AND LOGGING

4. The title of Part 621 is changed to read: Certification of Temporary Foreign Labor for Occupations Other Than Agriculture and Logging as set forth above.

5. Section 621.1 *Purpose* is revised to read as follows:

§ 621.1 Purpose.

This part, and Part 655, Subpart A, of this chapter, set forth the procedures governing the temporary labor certification process for occupations other than agriculture and logging. Supplementary regulations governing the temporary labor certification process for occupations on Guam (other than in agriculture and logging) are found at Part 655, Subpart B, of this chapter.

§ 621.3 [Amended]

6. In § 621.3 *Determinations*, paragraph (b), the citation "602" is changed to "655."

PART 651—GENERAL PROVISIONS GOVERNING THE FEDERAL-STATE EMPLOYMENT SERVICE SYSTEM

§ 651.6 [Amended]

7. In § 651.6, Consolidated table of contents for Parts 651–658, the following new section headings are added at the very beginning of the table of contents of Part 655, immediately preceding the table of contents of Subpart A:

Sec.
655.0 Scope and purpose of part.
655.00 Authority of the Regional Administrator.

8. In § 651.6, Consolidated table of contents for Parts 651–658, the following table of contents for Part 655, Subpart C, is inserted in its proper place:

SUBPART C—LABOR CERTIFICATION PROCESS FOR TEMPORARY AGRICULTURAL AND LOGGING EMPLOYMENT

Sec.
655.200 General description of this subpart and definition of terms.
655.201 Temporary labor certification applications.
655.202 Contents of job offers.
655.203 Assurances.
655.204 Determinations based on temporary labor certification applications.
655.205 Recruitment period.
655.206 Determinations of U.S. worker availability and adverse effect on U.S. workers.
655.207 Adverse effect rates.
655.208 Temporary labor certification applications involving fraud or willful misrepresentation.
655.209 Invalidation of temporary labor certifications.

Sec.

655.210 Failure of employers to comply with the terms of a temporary labor certification.
655.211 Petitions for higher meal charges.
655.212 Administrative-judicial reviews.

PART 653—SERVICES OF THE EMPLOYMENT SERVICE SYSTEM

§ 653.108 [Amended]

9. In § 652.108, paragraph (c)(2)(ix) is amended by adding the word "and" at the end thereof, paragraph (c)(2)(x) is amended by replacing the semicolon and the word "and" at the end thereof with a period, and paragraph (c)(2)(xi) is removed.

PART 655—LABOR CERTIFICATION PROCESS FOR THE TEMPORARY EMPLOYMENT OF ALIENS IN THE UNITED STATES

10. Part 655 is amended by adding a new § 655.0 and § 655.00 at the very beginning of the part, immediately preceding Subpart A, to read as follows:

§ 655.0 Scope and purpose of part.

(a) *General.* This part sets out the procedures adopted by the Secretary to secure information sufficient to make factual determinations of: (1) whether U.S. workers are available to perform temporary employment in the United States, for which an employer desires to employ nonimmigrant foreign workers, and (2) whether the employment of aliens for such temporary work will adversely affect the wages or working conditions of similarly employed U.S. workers. These factual determinations (or a determination that there are not sufficient facts to make one or both of these determinations) are required by the Attorney General, acting throught the Immigration and Naturalization Service (INS) of the Department of Justice, to assist the Attorney General to carry out the policy of the Immigration and Nationality Act (INA), as implemented in the INS regulation at 8 CFR 214.2(h)(3)(i), that a nonimmigrant alien worker not be admitted to fill a particular temporary job opportunity unless no qualified U.S. worker is available to fill the job opportunity, and unless the employment of the foreign worker in the job opportunity will not adversely affect the wages or working conditions of similarly employed U.S. workers.

(b) *The statutory standard.* The Immigration and Nationality Act (the Act) (8 U.S.C. 1101 et seq.) regulates the admission of immigrant and nonimmigrant aliens into the United States. Section 1101(a)(15)(H)(ii), 8 U.S.C., defines "nonimmigrant aliens" as follows:

(a) As used in this chapter

. . . . . .

(5) The term "immigrant" means an alien except an alien who is within one of the following classes of nonimmigrant aliens—

(H) An alien having residence in a foreign country which he has no intention of abandoning

. . . . . .

(ii) Who is coming temporarily to the United States to perform temporary services of labor, if unemployed persons capable of performing such service or labor cannot be found in this country.

The basis for the admission of nonimmigrant aliens into the United States is set by section 1184(a), 8 U.S.C. which provides in pertinent part:

(a) The admission to the United States of any alien as a nonimmigrant shall be for such time and under such conditions as the Attorney General may by regulations prescribe * * *.

Section 1184(c), 8 U.S.C., directs the Attorney General to consult with "appropriate agencies of the Government" prior to a determination on the petition of an employer for the importation of temporary nonimmigrant alien workers:

(c) The question of importing any alien as a nonimmigrant under section 1101(a)(15)(H) or (L) of this title in any specific case or specific cases shall be determined by the Attorney General, after consultation with appropriate agencies of the Government, upon petition of the importing employer. Such petition shall be made and approved before the visa is granted. The petition shall be in such form and contain such information as the Attorney General shall prescribe. The approval of such a petition shall not, of itself, be construed as establishing that the alien is a nonimmigrant.

(c) *The INS regulations.* The Attorney General, through the Immigration and Naturalization Service (INS), has promulgated regulations to implement the Attorney General's responsibilities regarding the admission of temporary foreign workers. These regulations, which are codified at 8 CFR 214.2(h)(3), adopt the same admission standards for nonimmigrant temporary foreign workers that the INA (8 U.S.C. 1182(a)(14) (A) and (B)) requires for certain immigrants who seek to perform permanent work in the United States. They also provide employers the right to an adjudicatory review before the INS whenever the Secretary has advised the INS that one or both of the factual determinations cannot be made. 8 CFR 214.2(h)(3)(i) requires:

* * * [A] certification from the Secretary of Labor * * * stating that qualified persons in the United States are not available (see 8 U.S.C. 1182(a)(14)(A)) and that the employment of the beneficiary will not adversely affect the wages and working conditions of workers in the United States similarly employed (see 8 U.S.C. 1182(a)(14)(B)) or a notice that such a certification cannot be made, shall be attached to every non-immigrant visa petition to accord an alien a classification under section 101(a)(15)(H)(ii) of the Act. If there is attached to the petition a notice from the Secretary of Labor that certification cannot be made, the petitioner shall be permitted to present countervailing evidence that qualified persons in the United States are not available and that the employment policies of the Department of Labor have been observed. All such evidence submitted will be considered in the adjudication of the petition.

Under the authority of the INA and the INS regulations the Secretary of Labor has promulgated the regulations in this part. They set forth the requirements and procedures applicable to requests for certification by employers seeking the services of temporary foreign workers. They provide the Secretary's methodology for the two-fold determination of availability of domestic workers for, and of any adverse effect which would be occasioned by, the use of foreign workers for particular temporary jobs in the United States.

(d) *The Secretary's determinations.* Before any factual determination can be made concerning the availability of U.S. workers to perform particular job opportunities, two steps must be taken. First, the minimum level of wages, terms, benefits, and conditions for the particular job opportunities, below which similarly employed U.S. workers would be adversely affected, must be established. (The regulations in this part establish such minimum levels for wages, terms, benefits, and conditions of employment.) Second, the wages, terms, benefits, and conditions offered and afforded to the aliens must be compared to the established minimum levels. If it is concluded that adverse effect would result, the ultimate determination of availability within the meaning of the INA cannot be made since U.S. workers cannot be expected to accept employment under conditions below the established minimum levels. *Florida Sugar Cane League, Inc.* v. *Usery*, 531 F. 2d 299 (5th Cir. 1976).

Once a determination of no adverse effect has been made, the availability of U.S. workers can be tested only if U.S. workers are actively recruited through the offer of wages, terms, benefits, and conditions at least at the minimum level or the level offered to the aliens, whichever is higher. The regulations in this part set forth requirements for recruiting U.S. workers in accordance with this principle.

(e) *Construction.* This part and its subparts shall be construed to effectuate the purpose of the INA that U.S. workers rather than aliens be employed wherever possible. *Elton Orchards, Inc.* v. *Brennan*, 508 F. 2d 493, 500 (1st Cir. 1974), *Flecha* v. *Quiros*, — F. 2d — (1st Cir. 1977). Where temporary alien workers are admitted, the terms and conditions of their employment must not result in a lowering of

the terms and conditions of domestic workers similarly employed, *Williams* v. *Usery*, 531 F. 2d 305 (5th Cir. 1976); *Florida Sugar Cane League, Inc.* v. *Usery*, 531 F. 2d 299 (5th Cir. 1976), and the job benefits extended to any U.S. workers shall be at least those extended to the alien workers.

§ 655.00 Authority of the Regional Administrator.

Pursuant to the regulations under this part, temporary labor certification determinations are ordinarily made by the Regional Administrator of an Employment and Training Administration region. The Administrator, however, may direct that certain types of applications or certain applications shall be handled by, and the determinations made by, the United States Employment Service (USES) in Washington, D.C. In those cases the Regional Administrator will informally advise the employer or agent of the name of the official who will make determinations with respect to the application.

11. Part 655 is amended by adding a new subpart C to read as follows:

Subpart C—Labor Certification Process for Temporary Agricultural and Logging Employment

Sec.

655.200 General description of this subpart and definition of terms.
655.201 Temporary labor certification applications.
655.202 Contents of job offers.
655.203 Assurances.
655.204 Determinations based on temporary labor certification applications.
655.205 Recruitment period.
655.206 Determinations of U.S. worker availability and adverse effect on U.S. workers.
655.207 Adverse effect rates.
655.208 Temporary labor certification applications involving fraud or willful misrepresentation.
655.209 Invalidation of temporary labor certifications.
655.210 Failure of employers to comply with the terms of a temporary labor certification.
655.211 Petitions for higher meal charges.
655.212 Administrative-judicial reviews.

AUTHORITY: Immigration and Nationality Act, (8 U.S.C. 1101, 1184(c)); 8 CFR 214.2(h)(3)(i); (5 U.S.C. 301).

Subpart C—Labor Certification Process for Temporary Agricultural and Logging Employment

§ 655.200 General description of this subpart and definition of terms.

(a) An employer who desires to use foreign workers for temporary employment must file a temporary labor certification application including a job offer for U.S. workers with a local office of a State employment service agency. The employer should file an application a minimum of 80 days before the estimated date of need for the workers. If filed 80 days before need, sufficient time is allowed for the 60-day recruitment period required by the regulations and a determination by the Regional Administrator (RA) as to the availability of U.S. workers 20 days before the date of need. Shortly after the application has been filed, the RA makes a determination as to whether or not the application has been filed in enough time to recruit U.S. workers and whether or not the job offer for U.S. workers offers wages and working conditions which will not adversely affect the wages and working conditions of similarly employed U.S. workers, as prescribed in the regulations in this subpart. If the application does not meet the regulatory wage and working condition standards, the RA shall deny the temporary labor certification application and offer the employer an administrative-judicial review of the denial by a Department of Labor Hearing Officer. If the application is not timely, the RA has discretion, as set forth in these regulations, to either deny the application or permit the process to proceed reasonably with the employer recruiting U.S. workers upon such terms as will accomplish the purposes of the INA and the INS regulations. Where the application is timely and meets the regulatory standards, the State employment service agency, the employer, and the Department of Labor recruit U.S. workers for 60 days. At the end of the 60 days, the RA grants the temporary labor certification if the RA finds that (1) the employer has not offered foreign workers higher wages or better working conditions (or less restrictions) than that offered to U.S. workers, and (2) U.S. workers are not available for the employer's job opportunities. If the temporary labor certification is denied, the employer may seek an administrative-judicial review of the denial by a Department of Labor Hearing Officer as provided in these regulations. The Department of Labor thereafter advises the Immigration and Naturalization Service (INS) of approvals and denials of temporary labor certifications. The INS may accept or reject this advice. 8 CFR 214.2(h)(3). The INS makes the final decision as to whether or not to grant visas to the foreign workers. 8 U.S.C. 1184(a).

(b) *Definitions for terms used in this subpart.* "Administrator" means the chief official of the United States Employment Service or the Administrator's designee.

"Adverse effect rate" means the wage rate which the Administrator has determined must be offered and paid to foreign and U.S. workers for a particular occupation and/or area so that the wages of similarly employed U.S. workers will not be adversely affected. The Administrator may determine that the prevailing wage rate in the area and/or occupation is the adverse effect rate, if the use (or nonuse) of aliens has not depressed the wages of similarly employed U.S. workers. The Administrator may determine that a wage rate higher than the prevailing wage rate is the adverse effect rate if the Administrator determines that the use of aliens has depressed the wages of similarly employed U.S. workers.

"Agent" means a legal person, such as an association of employers, which (1) is authorized to act as an agent of the employer for temporary labor certification purposes, and (2) which is not itself an employer, or a joint employer, as defined in this section.

"Area of intended employment" means the area within normal commuting distance of the place (address) of intended employment. If the place of intended employment is within a Standard Metropolitan Statistical Area (SMSA), any place within the SMSA is deemed to be within normal commuting distance of the place of intended employment.

"Employer" means a person, firm, corporation or other association or organization (1) which currently has a location within the United States to which U.S. workers may be referred for employment, and which proposes to employ a worker at a place within the United States and (2) which has an employer relationship with respect to employees under this subpart as indicated by the fact that it hires, pays, fires, supervises and otherwise controls the work of such employees. An association of employers shall be considered an employer if it has all of the indicia of an employer set forth in this definition. Such an association, however, shall be considered as a joint employer with the employer member if it shares with the employer member one or more of the definitional indicia.

"Employment and Training Administration (ETA)" means the agency within the Department of Labor (DOL) which includes the United States Employment Service (USES).

"Hearing Officer" means a Department of Labor official, whether Administrative Law Judge or Hearing Officer, who is authorized to conduct administrative hearings.

"Immigration and Naturalization Service (INS)" means the component of the U.S. Department of Justice which makes the determination under The Immigration and Nationality Act (INA) on whether or not to grant a visa to an alien seeking to perform temporary agricultural or logging work in the United States.

"Job opportunity" means a job opening for temporary, full-time employment at a place in the United States to which U.S. workers can be referred.

"Local office" means an office of a State employment service agency which serves a particular geographic area within a State.

"Regional Administrator, Employment and Training Administration (RA)" means the chief official of the Employment and Training Administration (ETA) in a Department of Labor (DOL) regional office.

"Secretary" means the Secretary of Labor or the Secretary's designee.

"State agency" means the State employment service agency.

"Temporary labor certification" means the advice given by the Secretary of Labor to the Immigration and Naturalization Service, pursuant to the regulations of that agency at 8 CFR 214.2(h)(3)(i), that (1) there are not sufficient U.S. workers who are qualified and available to perform the work and (2) the employment of the alien will not adversely affect the wages and working conditions of similarly employed U.S. workers.

"United States Employment Service (USES)" means the agency of the U.S. Department of Labor, established under the Wagner-Peyser Act of 1933, which is charged with administering the national system of public employment offices and carrying out the functions of the Secretary under the Immigration and Nationality Act.

"United States workers" means any worker who, whether U.S. national, citizen or alien, is legally permitted to work permanently within the United States.

§ 655.201 Temporary labor certification applications.

(a) (1) An employer who anticipates a labor shortage of workers for agricultural or logging employment may request a temporary labor certification for temporary foreign workers by filing, or by having an agent file, in duplicate, a temporary labor certification application, signed by the employer, with a local office in the area of intended employment.

(2) If the temporary labor certification application is filed by an agent, however, the agent may sign the application if the application is accompanied by a letter from each employer the agent represents, signed by the employer, which authorizes the agent to act on the employer's behalf and which states that the employer assumes full responsibility for the accuracy of the application, for all representations made by the agent on the employer's behalf, and for the fulfillment of all legal requirements arising under this subpart.

(3) If an association of employers files the application, the association shall identify and submit documents to verify whether, in accordance with the definitions at § 655.200, it is (i) the employer, (ii) a joint employer with its member employers, or (iii) the agent of its employer members.

(b) Every temporary labor certification application shall include:

(1) A copy of the job offer which will be used by the employer (or each employer) for the recruitment of both U.S. and foreign workers. The job offer for each employer shall state the number of workers needed by the employer, and shall be signed by the employer. The job offer shall comply with the requirements of § 655.202 and § 653.108 of this chapter;

(2) The assurances required by § 655.203; and

(3) The specific estimated date of need of workers.

(c) The entire temporary labor certification application shall be filed with the local office in duplicate and in sufficient time to allow the State agency to attempt to recruit U.S. workers locally and through the Employment Service intrastate and interstate clearance system for 60 calendar days prior to the estimated date of need. Section 655.206 requires the RA to grant or deny the temporary labor certification application by the end of the 60 calendar days, or 20 days from the estimated date of need, whichever is later. That section also requires the RA to offer employers an expedited administrative-judicial review in cases of denials of the temporary labor certification applications. Following an administrative-judicial review, the employer has a right to contest any denial before the INS pursuant to 8 CFR 214.2(h)(3)(i). Finally, employers need time, after the temporary labor certification determination, to complete the process for bringing foreign workers into the United States, or to bring an appeal of a denial of an application for the labor certification. Therefore, employers should file their temporary labor certification applications at least 80 days before the estimated date of need specified in the application.

(d) Applications may be amended at any time prior to RA determination to increase the number of workers requested in the original application for labor certification by not more than 15 percent without requiring an additional recruitment period for U.S. workers. Requests for increases beyond 15 percent may be approved only when it is determined that, based on past experience, the need for additional workers could not be foreseen and that a critical need for the workers would exist prior to the expiration of an additional recruitment period.

(e) If a temporary labor certification application, or any part thereof, does not satisfy the time requirements specified in paragraph (c) of this section, and if the exception in paragraph (d) of this section does not apply, the local office shall immediately send both copies directly to the appropriate Regional Administrator (RA). The RA may then advise the employer and the INS in writing that the temporary labor certification cannot be granted because, pursuant to the regulations at paragraph (c) of this section, there is not sufficient time to test the availability of U.S. workers. The notice of denial to the employer shall inform the employer of the right to administrative-judicial review and to ultimately petition INS for the admission of the aliens. In emergency situations, however, the RA may waive the time period specified in this section on behalf of employers who have not made use of temporary alien workers for the prior year's harvest or for other good and substantial cause, provided the RA has sufficient labor market information to make the labor certification determinations required by 8 CFR 214.2(h)(3)(i).

§ 655.202 Contents of job offers.

(a) So that the employment of aliens will not adversely affect the wages and working conditions of similarly employed U.S. workers, each employer's job offer to U.S. workers must offer U.S. workers at least the same benefits which the employer is offering, intends to offer, or will afford, to temporary foreign workers. Conversely, no job offer may impose on U.S. workers any restrictions or obligations which will not be imposed on the employer's foreign workers. For example, if the employer intends to advance transportation costs to foreign workers either directly or indirectly (by having them paid by the foreign government involved), the employer must offer to advance the transportation costs of U.S. workers.

(b) Except when higher benefits, wages or working conditions are required by the provisions of paragraph (a) of this section, the Administrator has determined that, in order to protect similarly employed U.S. workers from adverse effect with respect to wages and working conditions, every job offer for U.S. workers must always include the following minimal benefit, wage, and working condition provisions:

(1) The employer will provide the worker with housing without charge to the worker. The housing will meet the full set of Department of Labor, Occupational Safety and Health Administration standards set forth at 29 CFR 1910.142 (or the full set of standards of 20 CFR Part 620, if applicable. See the FEDERAL REGISTER of December 9, 1977, for applicability criteria), except that range housing for sheepherders shall meet guidelines which shall be issued periodically by the Department. When it is the prevailing practice in the area of intended employment to provide family housing, the employer will provide such housing to such workers;

(2) (i) If the job opportunity is covered by the State workers' compensation law, the worker will be eligible for workers' compensation for injury and disease arising out of and in the course of worker's employment; or

(ii) If the job opportunity is not covered by the State workers' compensation law, the employer will provide at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment;

(3) The employer will provide without cost to the worker all tools, supplies and equipment required to perform the duties assigned and, if any of these items are provided by the worker, the employer will reimburse the worker for the cost of those so provided;

(4) The employer will provide the worker with three meals a day. The job offer shall state the cost to the worker for such meals. The cost shall not be more than $3.25 per day unless the RA has approved a higher cost pursuant to § 655.211.

(5) (i) The employer will provide or pay for the worker's transportation and daily subsistence from the place, from which the worker, without intervening employment, will come to work for the employer, to the place of employment, subject to the deductions allowed by paragraph (b)(13) of this section. The amount of the daily subsistence payment shall be at least as much as the amount the employer willl charge the worker for providing the worker with three meals a day during employment;

(ii) If the worker completes the work contract period, the employer will provide or pay for the worker's transportation and daily subsistence from the place of employment to the place, from which the worker, without intervening employment, came to work for the employer, unless the worker has contracted for employment with a subsequent employer who, in that contract, has agreed to pay for the worker's transportation and daily subsistence expenses from the employer's worksite to such subsequent employer's worksite; and

(iii) The employer will provide transportation between the worker's living quarters and the employer's worksite without cost to the worker, and such transportation will be in accordance with applicable laws and regulations;

(6) (i) The employer guarantees to offer the worker employment for at least three-fourths of the workdays of the total period during which the work contract and all extensions thereof are in effect, beginning with the first workday after the arrival of the worker at the place of employment and ending on the termination date specified in the work contract, or in its extensions if any. For purposes of this paragraph, a workday shall mean any period consisting of 8 hours of work time. An employer shall not be considered to have met the work guarantee if the employer has merely offered work on three-fourths of the workdays. The work must be offered for at least three-fourths of the 8 hour workdays. (That is, ¾ × (number of days × 8 hours.) Therefore, if, for example, the contract contains 20 workdays, the worker must be offered employment for 120 hours during the 20 workdays. A worker may be offered more than 8 hours of work on a single workday. For purposes of meeting the guarantee, however, the worker may not be required to work for more than 8 hours per workday, or on the worker's Sabbath or Federal holidays;

(ii) If the worker will be paid on a piece rate basis, the employer will use the worker's average hourly earnings to calculate the amount due under the guarantee; and

(iii) Any hours which the worker fails to work when the worker has been offered an opportunity to do so pursuant to paragraph (b)(6)(i) of this section, and all hours of work actually performed (including voluntary work over 8 hours in a workday, or on the worker's Sabbath or Federal holidays) may be counted by the employer in calculating whether the period of guaranteed employment has been met;

(7) (i) The employer will keep accurate and adequate records with respect to the workers' earnings, including field tally records, supporting summary payroll records, and records showing: The nature and amount of the work performed; the number of hours of work offered each day by the employer (broken out by hours offered both in accordance with, and over and above, the guarantee); the hours actually worked each day by the worker; the time the worker began and ended each workday; the rate of pay; the worker's earnings per pay period; and the amount of and reasons for any and all deductions made from the worker's wages;

(ii) If the number of hours worked by the worker is less than the number offered in accordance with the guarantee, the records will state the reason or reasons therefor;

(iii) The records, including field tally records and supporting summary payroll records, will be made available for inspection and copying by representatives of the Secretary of Labor, and by the worker and the worker's representatives; and

(iv) The employer will retain the records for not less than three years after the completion of the contract;

(8) The employer will furnish to the worker at or before each payday, in one or more written statements:

(i) The worker's total earnings for the pay period;

(ii) The worker's hourly rate or piece rate of pay;

(iii) The hours of employment which have been offered to the worker (broken out by offers in accordance with, and over and above, the guarantee);

(iv) The hours actually worked by the worker;

(v) An itemization of all deductions made from the worker's wages; and

(vi) If piece rates are used, the units produced daily;

(9) (i) If the worker will be paid by the hour, the employer will pay the worker at least the adverse effect rate; or

(ii) If the worker will be paid on a piece rate basis, the piece rate will be designed to produce average hourly earnings at least equal to the adverse effect rate. If the piece rate does not result at the end of the pay period in average hourly earnings during the pay period at least equal to the amount the worker would have earned had the worker been paid at the adverse effect rate, the worker's pay will be supplemented at that time so that the worker's earnings are at least as much as the worker would have earned during the pay period if the worker had been paid at the adverse effect rate;

(10) The frequency with which the worker will be paid (in accordance with the prevailing practice in the area of intended employment, or at least biweekly whichever is more frequent);

(11) If the worker voluntarily abandons employment before the end of the contract period, or is terminated for cause, the employer will not be responsible for providing or paying for the subsequent transportation and subsistence expenses of any worker for whom the employer would have otherwise been required to pay such expenses under paragraph (b)(5)(ii) of this section;

(12) If, before the expiration date specified in the work contract, the services of the worker are no longer required for reasons beyond the control of the employer due to fire or other Act of God which makes the fulfillment of the contract impossible, and the RA so certifies, the employer may terminate the work contract. In such cases the employer will make efforts to transfer the worker to other comparable employment acceptable to the worker. If such transfer is not effected, the worker (i) will be returned to the place from which the worker, without intervening employment, came to work for the employer at the employer's expense; and

(ii) Will be reimbursed the full amount of any deductions made from the worker's pay by the employer for

transportation and subsistence expenses to the place of employment borne directly or indirectly by the employer;

(13) The employer will make those deductions from the worker's paycheck which are required by law. The job offer shall specify all deductions, not required by law, which the employer will make from the worker's paycheck. All deductions shall be reasonable. The employer may deduct the cost of the worker's transportation and daily subsistence expenses to the place of employment which were borne directly by the employer; in such cases, however, the job offer shall state that the worker will be reimbursed the full amount of such deductions upon the worker's completion of 50 percent of the worker's contract period; and

(14) The employer will provide the worker a copy of the work contract between the employer and the worker. The work contract shall contain all of the provisions required by paragraphs (a) and (b) of this section.

§ 655.203 Assurances.

As part of the temporary labor certification application, the employer shall include assurances, signed by the employer, that:

(a) The job opportunity is not:

(1) Vacant because the former occupant is on strike or being locked out in the course of a labor dispute; or

(2) At issue in a labor dispute involving a work stoppage;

(b) During the period for which the temporary labor certification is granted, the employer will comply with applicable Federal, State and local employment-related laws, including employment related health and safety laws;

(c) The job opportunity is open to all qualified U.S. workers without regard to race, color, national origin, sex, or religion, and is open to U.S. workers with handicaps who are qualified to perform the work. No U.S. worker will be rejected for employment for other than a lawful job related reason;

(d) The employer will cooperate with the employment service system in the active recruitment of U.S. workers until the foreign workers have departed for the employer's place of employment by;

(1) Allowing the employment service system to prepare local, intrastate and interstate job orders using the information supplied on the employer's job offer;

(2) Placing at least two advertisements for the job opportunities in local newspapers of general circulation.

(i) each such advertisement shall describe the nature and anticipated duration of the job opportunity; offer at least the adverse effect wage rate; give the ¾ guarantee; state that work tools, supplies and equipment will be provided by the employer; state that housing will also be provided, and that transportation and subsistence expenses to the worksite will be provided or paid for by the employer;

(ii) Each advertisement shall direct interested workers to apply for the job opportunity at a local employment service office in their area;

(3) Cooperating with the employment service system in contacting farm labor contractors, migrant workers and other potential workers in other areas of the State and/or Nation by letter and/or telephone;

(4) Cooperating with the employment service system in contacting schools, business and labor organizations, fraternal and veterans organizations, and non-profit organizations and public agencies such as sponsors of programs under the Comprehensive Employment and Training Act, throughout the area of intended employment, in order to enlist them in helping to find U.S. workers; and

(5) If the employer, or an association of employers of which the employer is a member, intends to negotiate and/or contract with the Government of a foreign nation or any foreign association, corporation or organization in order to secure foreign workers, making the same kind and degree of efforts to secure U.S. workers;

(e) From the time the foreign workers depart for the employer's place of employment, the employer will provide employment to any qualified U.S. worker who applies to the employer until fifty percent of the period of the work contract, under which the foreign worker who is in the job was hired, has elapsed. In addition, the employer will offer to provide housing, and the other benefits, wages, and working conditions required by § 655.202, to any such U.S. worker; and

(f) Performing the other specific recruitment activities specified in the notice from the RA required by § 655.205(a).

§ 655.204 Determinations based on temporary labor certification applications.

(a) Within two working days after the temporary labor certification application has been filed with it, the local office shall mail the duplicate application directly to the appropriate RA.

(b) The local office, using the job offer portion of its copy of the temporary labor certification application, shall promptly prepare a local job order and shall begin to recruit U.S. workers in the area of intended employment.

(c) The RA, upon receipt of the duplicate temporary labor certification application, shall promptly review the application to determine whether it meets the requirements of §§ 655.201-655.203 in order to determine whether the employer's application is (1) timely, and (2) contains offers of wages, benefits, and working conditions required to ensure that similarly employed U.S. workers will not be adversely affected. If the RA determines that the temporary labor certification application is not timely in accordance with § 655.201 of this subpart, the RA may promptly deny the temporary labor certification on the grounds that, in accordance with that regulation, there is not sufficient time to adequately test the availability of U.S. workers. If the RA determines that the application does not meet the requirements of §§ 655.202-655.203 because the wages, working conditions, benefits, assurances, job offer, etc. are not as required, the RA shall deny the certification on the grounds that the availability of U.S. workers cannot be adequately tested because the wages or benefits, etc. do not meet the adverse effect criteria.

(d) If the certification is denied, the RA shall notify the employer in writing of the determination, with a copy to the local office and the Administrator. The notice shall:

(1) State the reasons for the denial, citing the relevant regulations; and

(2) Offer the employer an opportunity to request an expedited administrative-judicial review of the denial by a Department of Labor (DOL) Hearing Officer. The notice shall state that, in order to obtain such a review, the employer must, within five calendar days of the date of the notice, telegraph a written request for such a review to the Chief Administrative Law Judge of the Department of Labor (giving the address) and to the Regional Administrator. The notice shall also state that the employer's request for review should contain any legal arguments which the employer believes will rebut the basis of the RA's denial of certification; and

(3) State that, if the employer does not request an expedited administrative-judicial review before a DOL Hearing Officer within the five days:

(i) The RA will advise the INS that the certification cannot be granted, giving the reasons therefor, and that an administrative-judicial review of the denial was offered to the employer but not accepted, and enclosing, for INS review, the entire temporary labor certification application file; and

(ii) The employer has the opportunity to submit evidence to the INS to rebut the bases of the RA's determination in accordance with the INS regulation at 8 CFR 214.2(h)(3)(i) but that no further review of the employer's application for temporary labor certification may be made by any Department of Labor official.

(e) If the employer timely requests an expedited administrative-judicial review pursuant to paragraph (d)(2) of this section, the procedures of § 655.212 shall be followed.

§ 655.205 Recruitment period.

(a) If the RA determines that the temporary labor certification application meets the requirements of §§ 655.201-655.203, the RA shall promptly notify the employer in writing, with copies to the State agency and local office. The notice shall inform the employer and the State agency of the specific efforts which will be expected from them during the following weeks to carry out the assurances contained in § 655.203 with respect to the recruitment of U.S. workers. The notice shall require that the job order be placed both into intrastate clearance and into interstate clearance to such States as the RA shall determine to be potential sources of U.S. workers.

(b) Thereafter, the RA, under the direction of the ETA national office and with the assistance of other RAs with respect to areas outside the region, shall provide overall direction to the employer and the State agency with respect to the recruitment of U.S. workers.

(c) By the 60th day of the recruitment period, or 20 days before the date of need specified in the application, whichever is later, the RA, when making a determination of the availability of U.S. workers, shall also make a determination as to whether the employer has satisfied the recruitment assurances in § 655.203. If the RA concludes that the employer has not satisfied the requirement for recruitment of U.S. workers, the RA shall deny the temporary labor certification, and shall immediately notify the employer in writing with a copy to the State agency and local office. The notice shall contain the statements specified in § 655.204(d).

(d) If the employer timely requests an expedited administrative-judicial review before a DOL Hearing Officer, the procedures in § 655.212 shall be followed.

§ 655.206 Determinations of U.S. worker availability and adverse effect on U.S. workers.

(a) If the RA, in accordance with § 655.205 has determined that the employer has complied with the recruitment assurances, the RA, by 60th day of the recruitment period, or 20 days before the date of need specified in the application, whichever is later, shall grant the temporary labor certification for enough aliens to fill the employer's job opportunities for which U.S. workers are not available. In making this determination the RA shall consider as available for a job opportunity any U.S. worker who has made a firm commitment to work for the employer, including those workers committed by other authorized persons such as farm labor contractors and family heads; such a firm commitment shall be considered to have been made not only by workers who have signed work contracts with the employer, but also by those whom the RA determines are very likely to sign such a work contract. The RA shall also count as available any U.S. worker who has applied to the employer (or on whose behalf an application has been made), but who was rejected by the employer for other than lawful job-related related reasons unless the RA determines that:

(1) Enough qualified U.S. workers have been found to fill all the employer's job opportunities; or

(2) The employer, since the time of the initial determination under § 655.204, has adversely affected U.S. workers by offering to, or agreeing to provide to, alien workers better wages, working conditions, or benefits (or by offering or agreeing to impose on alien workers less obligations and restrictions) than that offered to U.S. workers.

(b) (1) Temporary labor certifications shall be considered subject to the conditions and assurances made during the application process. Temporary labor certifications shall be for a limited duration such as for "the 1978 apple harvest season" or "until November 1, 1978", and they shall never be for more than eleven months. They shall be limited to the employer's specific job opportunities; therefore, they may not be transferred from one employer to another.

(2) If an association of employers is itself the employer, as defined in § 655.200, certifications shall be made to the association and may be used for any of the job opportunities of its employer members and workers may be transferred among employer members.

(3) If an association of employers is a joint employer with its employer members, as defined in § 655.200, the certification shall be made jointly to the association and the employer members. In such cases workers may be transferred among the employer members provided the employer members and the association agree in writing to be jointly and severally liable for compliance with the temporary labor certification obligations set forth in this subpart.

(c) If the RA denies the temporary labor certification in whole or part, the RA shall notify the employer in writing, and by telegram. The notice shall contain all of the statements required in § 655.204(d). If a timely request is made for an administrative-judicial review by a DOL Hearing Officer, the procedures of § 655.212 shall be followed.

(d)(1) After a temporary labor certification has been granted, the employer shall continue its efforts to actively recruit U.S. workers until the foreign workers have departed for the employer's place of employment. The employer, however, must keep an active job order on file until the assurance at § 655.203(e) is met.

(2) The ES system shall continue to actively recruit and refer U.S. workers as long as there is an active job order on file.

§ 655.207 Adverse effect rates.

(a) Except as otherwise provided in this section, the adverse effect rates for all agricultural and logging employment shall be the prevailing wage rates in the area of intended employment.

(b)(1) For agricultural employment in the States listed in paragraph (b)(2) of this section, and for Florida sugar cane work, the adverse effect rate for each year shall be computed by adjusting the prior year's adverse effect rate by the percentage change (from the second year previous to the prior year) in the U.S. Department of Agriculture farm wage rates for agricultural workers. The Administrator shall annually publish adverse effect rates calculated pursuant to this paragraph as a notice in the FEDERAL REGISTER.

(2) *List of States.* Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, Maryland, Virginia, and West Virginia. Other States may be added as appropriate.

(c) In any year in which the applicable adverse effect rate is increased, employers shall adjust their piece rates upward to avoid requiring a worker to increase his or her productivity over the previous year in order to earn an amount equal to what the worker would earn if the worker were paid at the adverse effect rate.

(d) The Administrator may periodically publish adverse effect piece rates for selected occupations. If the Administrator decides to do so, the methodology for establishing such piece rates shall be published as proposed rulemaking as an amendment to this section. The methodology shall take into account the changes in adverse effect rates. After the methodology is published as final rulemaking, the Administrator may publish adverse effect piece rates, calculated pursuant to the methodology, by notice in the FEDERAL REGISTER.

§ 655.208 Temporary labor certification applications involving fraud or willful misrepresentation.

(a) If possible fraud or willful misrepresentation involving a temporary labor certification application is discovered prior to a final temporary labor certification determination, or if

it is learned that the employer or agent (with respect to an application) is the subject of a criminal indictment or information filed in a court, the RA shall refer the matter to the INS for investigation and shall notify the employer or agent in writing of this referral. The RA shall continue to process the application and may issue a qualified temporary labor certification.

(b) If a court finds an employer or agent innocent of fraud or willful misrepresentation, or if the Department of Justice decides not to prosecute an employer or agent, the RA shall not deny the temporary labor certification application on the grounds of fraud or willful misrepresentation. The application, of course, may be denied for other reasons pursuant to this subpart.

(c) If a court or the INS determines that there was fraud or willful misrepresentation involving a temporary labor certification application, the application shall be deemed invalidated, processing shall be terminated, and the application shall be returned to the employer or agent with the reasons therefor stated in writing.

§ 655.209 Invalidation of temporary labor certifications.

After issuance, temporary labor certifications are subject to invalidation by the INS upon a determination, made in accordance with that agency's procedures or by a Court, of fraud or willful misrepresentation of a material fact involving the temporary labor certification application. If evidence of such fraud or willful misrepresentation becomes known to a Regional Administrator, Employment and Training Administration or to the Administrator, the Regional Administrator or Administrator as appropriate, shall notify the INS in writing.

§ 655.210 Failure of employers to comply with the terms of a temporary labor certification.

(a) If, after the granting of a temporary labor certification, the RA has probable cause to believe that an employer has not lived up to the terms of the temporary labor certification, the RA shall investigate the matter. If the RA concludes that the employer has not complied with the terms of the labor certification, the RA may notify the employer that it will not be eligible to apply for a temporary labor certification in the coming year. The notice shall be in writing, shall state the reasons for the determination, and shall offer the employer an opportunity to request a hearing within 30 days of the date of the notice. If the employer requests a hearing within the 30-day period, the RA shall follow the procedures set forth at § 658.421(i) (1), (2) and (3) of this chapter. The procedures contained in § 658.421(j), 658.422 and 658.423 of this chapter shall apply to such hearings.

(b) No other penalty shall be imposed by the employment service on such an employer other than as set forth in paragraph (a) of this section.

§ 655.211 Petitions for higher meal charges.

(a) An RA may permit an employer to charge workers up to $4 for providing them with 3 meals per day if the employer justifies the charge by submitting documentary evidence to the RA. A denial in whole or in part shall be reviewable as provided in § 655.212.

(b) Evidence submitted shall include the cost of goods and services directly related to the preparation and serving of meals, the number of workers fed, the number of meals served and the number of days meals were provided. The cost of the following items may be included: Food; kitchen supplies other than food, such as lunch bags and soap; labor costs which have a direct relation to food service operations, such as wages of cooks and restaurant supervisors; fuel, water, electricity, and other utilities used for the food service operations; other costs directly related to the food service operation. Charges for transportation, depreciation, overhead, and similar charges may not be included. Receipts and other cost records for a representative pay period shall be available for inspection by the Secretary's representatives for a period of one year.

§ 655.212 Administrative-judicial reviews.

(a) Whenever an employer has requested an administrative-judicial review of a denial of an application or petition in accordance with §§ 655.204(d), 655.205(d), 655.206(c), or 655.211 by telegram, the Chief Administrative Law Judge shall immediately assign a Hearing Officer to review the record for legal sufficiency, and the Regional Administrator shall send a certified copy of the case file to the Chief Administrative Law Judge by means normally assuring next day delivery. The Hearing Officer shall not have authority to remand the case and shall not receive additional evidence. Any contervailing evidence advanced after decision by the Regional Administrator shall be subject to provisions of 8 CFR 214.2(h)(3)(i).

(b) The Hearing Officer, within five working days after receipt of the case file shall, on the basis of the written record and due consideration of any written memorandums of law submitted, either affirm, reverse or modify the RA's denial by written decision. The decision of the Hearing Officer shall specify the reasons for the action taken and shall be immediately provided to the employer, RA, Administrator, and INS by telegram or hand delivery. The Hearing Officer's decision shall be the final decision of the Department of Labor and no further review shall be given to the temporary labor certification determination by any Department of Labor official.

Signed at Washington, D.C., this 7th day of March 1978.

RAY MARSHALL,
Secretary of Labor.

[FR Doc. 78-6392 Filed 3-8-78; 8:45 am]

federal register

FRIDAY, MARCH 10, 1978
PART IX

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

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FEDERAL MINE SAFETY AND HEALTH ACT OF 1977

Interim Procedural Rules

[6735-01]

Title 29—Labor

CHAPTER XXVII—FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

PART 2700—RULES OF PROCEDURE

Interim Procedural Rules

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Interim procedural rules.

SUMMARY: The Federal Mine Safety and Health Review Commission is adopting interim procedural rules to govern proceedings before it. These rules supersede all previous procedural rules. Amendments to these rules will be published on the basis of experience and comments received from the

Sec.
2700.1 Scope of rules.
2700.2 Definitions.
2700.3 Representation of parties.
2700.4 Signature to constitute certificate.

Hearings

2700.40 General.
2700.41 Assignment of judges.
2700.42 Powers of judges.

have the meanings set forth in section 3 of the Act.

(e) the "Solicitor" means Solicitor of Labor or his authorized representa-

§ 2700.4 Signature to constitute certificate.

When an individual who appears in a representative capacity signs a document in practicing before the Commis-

vidual and refer the matter to a Commission panel, a Commissioner, or a Judge for hearing and decision. The

[6735-01]

Title 29—Labor

CHAPTER XXVII—FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

PART 2700—PROCEDURAL RULES

Interim Rules

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Interim rules.

SUMMARY: These rules of procedure have been officially adopted as interim rules of the Federal Mine Safety and Health Review Commission pursuant to section 113(d)(2) of the Federal Mine Safety and Health Act of 1977 (the Act) 83 Stat. 742, 30 U.S.C. 801-960, and the Determination Order of March 9, 1978, of the Director of the Office of Management and Budget (pursuant to section 301(e) of the Federal Mine Safety and Health Amendments Act of 1977, Pub. L. 95-164, November 9, 1977), to provide for the orderly transaction of proceedings brought before it under the administrative review provisions of the Act and for the just and expeditious disposition of the issues raised in such proceedings.

EFFECTIVE DATE: March 10, 1978.

ADDRESS FOR COMMENTS: Federal Mine Safety and Health Review Commission, 4015 Wilson Boulevard, Arlington, Va. 22203.

FOR FURTHER INFORMATION CONTACT:

James A. Broderick, Acting Chief Administrative Law Judge, Federal Mine Safety and Health Review Commission, 4015 Wilson Boulevard, Arlington, Va. 22203, phone number 703-557-9200.

SUPPLEMENTARY INFORMATION: These rules are designed to resolve contested issues regarding the Act's application and enforcement as quickly and inexpensively as possible, consistent with due process, in order that the achievement of safe and healthful working conditions will neither be delayed nor denied any miner.

Notice of proposed rulemaking is not required inasmuch as these rules of agency procedure and practice are exempted under 5 U.S.C. 553(b)(A). However, the Commission desires to afford all interested persons an opportunity to participate in the formulation of its rules of procedure. Accordingly, any persons may submit written comments, suggestions, or objections, at any time, to the Federal Mine Safety and Health Review Commission, 4015 Wilson Boulevard, Arlington, Va. 22203.

These rules shall take effect immediately on March 10, 1978 and shall supersede all previous procedural rules. Amendments to these rules will be published on the basis of experience and comments received from the public.

JAMES A. BRODERICK,
Acting Chief Administrative Law Judge, Federal Mine Safety and Health Review Commission.

As adopted Part 2700 reads as follows:

PART I—PROCEDURAL RULES OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Subpart A—General Provisions

Sec.
2700.1 Purpose.
2700.2 Definitions.
2700.3 Who may practice.
2700.4 Signature to constitute certificate.
2700.5 Disciplinary proceedings.
2700.6 Membership of the Commission; decisions.
2700.7 Hearing sites.
2700.8 Standards of conduct.
2700.9 Jurisdiction.
2700.10 Parties.
2700.11 Documents.
2700.12 Service.
2700.13 Motions.
2700.14 Consolidation of proceedings.
2700.15 Withdrawal of pleadings.
2700.16 [Reserved.]
2700.17 Expedition of proceedings.

Subpart B—Proceedings

APPLICATIONS FOR REVIEW OF CITATIONS AND ORDERS
2700.18 General.
2700.19 Applications for review of citations and orders under sections 104 and 107 of the Act.
2700.20 Answer.
2700.21 Contents of application and answer.
2700.22 Review of a subsequent order or citation.

CIVIL PENALTY PROCEEDINGS
2700.23 General.
2700.24 Petition to assess civil penalty.
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2700.26 Summary disposition of civil penalty proceedings.
2700.27 Assessment of penalty.

APPLICATION FOR COMPENSATION
2700.28 Who may file.
2700.29 When to file.
2700.30 Contents of the application.
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APPLICATIONS FOR REVIEW OF DISCHARGE, DISCRIMINATION OR INTERFERENCE
2700.32 Who may file.
2700.33 When to file.
2700.34 Contents of application.
2700.35 Answer.
2700.36 Complainant's participation in application filed by the Secretary.

APPLICATION FOR TEMPORARY RELIEF
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HEARINGS
2700.40 General.
2700.41 Assignment of judges.
2700.42 Powers of judges.
2700.43 Notice of hearing; appearances.
2700.44 Discovery: General.
2700.45 Depositions.
2700.46 Interrogatories, requests for admissions, and production of documents.
2700.47 Subpoena power and witness provisions.
2700.48 Burden of proof.
2700.49 Waiver of evidentiary hearing.
2700.50 Evidence.
2700.51 Summary decision of the judge.
2700.52 Interlocutory review.
2700.53 Proposed findings, conclusions and orders.
2700.54 Decision.
2700.55 Effect of a decision.
2700.56 Certification of record.

REVIEW BY THE COMMISSION
2700.57 Pending appeals before the Interior Department Board of Mine Operations Appeals.
2700.58 Petitions for discretionary review.
2700.59 Review by the Commission on its own motion.
2700.60 Briefs.
2700.61 Interlocutory review.
2700.62 Reconsideration.
2700.63 Final decision.

AUTHORITY: Sec. 113(d)(2), Federal Mine Safety and Health Act of 1977, 83 Stat. 742 (30 U.S.C. 801-960); Determination Order of March 9, 1978 of Director of the Office of Management and Budget (pursuant to sec. 301 (e), Federal Mine Safety and Health Amendments Act of 1977, Pub. L. 95-164, November 9, 1977.)

PART I—PROCEDURAL RULES OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Subpart A—General Provisions

§ 2700.1 Purpose.

(a) This part sets forth general rules applicable to all types of proceedings before the Federal Mine Safety and Health Review Commission and its Administrative Law Judges.

(b) These rules shall be liberally construed to secure the just, prompt and inexpensive determination of all proceedings consistent with adequate consideration of the issues involved.

§ 2700.2 Definitions.

As used in these rules:

(a) The term "Act" means the Federal Mine Safety and Health Act of 1977, 83 Stat. 742, 30 U.S.C. 801-960.

(b) The term "Commission" means the Federal Mine Safety and Health Review Commission.

(c) The term "Judge" means an Administrative Law Judge qualified pursuant to section 3105 of Title 5, United States Code, and appointed by or transferred to the Commission under section 113 of the Act.

(d) The terms "Secretary," "Administration," "operator," "person," "agent," "miner," "coal or other mine," "imminent danger," and "mandatory health or safety standard," have the meanings set forth in section 3 of the Act.

(e) the "Solicitor" means Solicitor of Labor or his authorized representative.

(f) The term "practice before the Commission" includes any action taken to support or oppose the assertion of a right before the Commission or its Judges; and the term "practice" includes any such action whether it relates to the substance of, or to the procedural aspects of, handling a particular matter. The term "practice" does not include the filing without comment of documents prepared by another person who is permitted to practice before the Commission, pursuant to § 2700.3; obtaining from the Commission information that is available to the public generally; or the making of inquiries respecting the status of a matter pending before the Commission.

(g) The term "citation" by the Secretary or his representative means a citation, or any modification thereof, issued under section 104 of the Act.

(h) The term "order" by the Secretary or his representative means an order, or any modification thereof, issued under section 104 or section 107 of the Act.

(i) The term "representative of miners" means a person or organization designated by a group of miners to act as their representative within the meaning of the Act.

§ 2700.3 Who may practice.

(a) Attorneys admitted to practice before the courts of any State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Trust Territory of the Pacific Islands, or the District Court of the Virgin Islands may be permitted to practice before the Commission without filing an application for such privilege.

(b) A person who is not authorized to practice before the Commission as an attorney under paragraph (a) of this section may practice before the Commission as a representative of a party if he or she is:

(1) Individually a party;

(2) Individually a "representative of miners" within the meaning of the Act;

(3) A member of the immediate family of a party; or

(4) An owner, partner, or bona fide full-time officer or employee of a party when the party is a labor organization, an association, a partnership, a corporation, or other business entity. *Provided, however,* That any person who does not meet the above conditions may be permitted, in the discretion of the Judge or the Commission, to appear as a representative for the limited purpose of a specific proceeding.

§ 2700.4 Signature to constitute certificate.

When an individual who appears in a representative capacity signs a document in practicing before the Commission, his signature shall constitute his certificate:

(a) That under the provisions of this part and the law, he is authorized and qualified to represent the particular party in the matter;

(b) That, if he is a former officer or employee of the Government, including a special Government employee, the matter in respect of which he intends to practice is not a matter in which he participated personally and substantially as a Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, while so employed; and, if a period of one year has not passed since the termination of his employment with the Government, that the matter was not under his official responsibility as an officer or employee of the Government; and

(c) That, if he is the partner of a present or former officer or employee of the Government, including a special Government employee, the matter in respect of which he intends to practice is not a matter in which such officer or employee of the Government or special Government employee participates or has participated personally and substantially as a Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise.

(d) That he has read the document; that to the best of his knowledge, information, and belief there is good ground to support its contents; that it contains no scandalous or indecent matter; and that it is not interposed for delay.

§ 2700.5 Disciplinary proceedings.

(a) Disciplinary proceedings may be instituted against anyone who is practicing or has practiced before the Commission on grounds that he is incompetent, has engaged in unethical or unprofessional conduct, or that he is practicing without authority under the provisions of this subpart, or that he has violated any provisions of the laws and regulations governing practice before the Commission, or that he has been disbarred or suspended by any court or administrative agency, or has been disciplined by a Judge under paragraph (d) of this section.

(b) Whenever in the discretion of the Commission, by a majority vote of the members present and voting, the circumstances reported to the Commission warrant disciplinary proceedings against an individual who is practicing or has practiced before the Commission, the Commission shall issue a show cause order to such individual and refer the matter to a Commission panel, a Commissioner, or a Judge for hearing and decision. The hearing tribunal appointed by the Commission shall give the individual adequate notice of, and opportunity for reply and hearing on, the specific charges against him, with opportunity to present evidence and cross-examine witnesses. The hearing tribunal shall render a decision incorporating findings and conclusions and issue either (1) an order dismissing the charges or (2) an appropriate disciplinary order, which may include reprimand, suspension or disbarment from practice before the Commission.

(c) Within 30 days after receipt of the decision of the hearing tribunal appointed by the commission, the individual may petition the full Commission for discretionary review of the decision, and the decision of the Commission shall be final (by a majority vote of the Commissioners present and voting: *Provided, however,* That a Commissioner or Commissioners serving on the hearing tribunal shall not participate in the review decision).

(d) In the case of any contumacious or disruptive behavior or other misconduct by an attorney or other representative of a party in the presence of the presiding Judge, the Judge is empowered to order the removal of such person from the proceeding, with reasonable time allowed to the party he represents to engage substitute counsel or other representative. With reasonable promptness the Judge shall enter a written decision setting forth his order of removal and the reasons therefore, with findings of fact. An individual aggrieved by a removal order under this paragraph may petition the Commission for discretionary review of such order within 30 days after its issuance in writing, and the decision of the Commission (by a majority vote of the Commissioners present and voting) shall be final.

§ 2700.6 Membership of the Commission; decisions.

(a) The Commission consists of five members appointed pursuant to section 113 of the Act. One of the Commissioners is designated as Chairman by the President.

(b) The Commission may empanel three or more of its members to execute any or all powers of the Commission, and two members shall constitute a quorum regardless of the size of the panel. The concurrence of a majority of a panel shall be sufficient for a decision.

§ 2700.7 Hearing sites.

All cases will be assigned a hearing site by order of the presiding Judge, who shall give due regard to the convenience and necessity of the parties or their representatives and witnesses,

the availability of suitable hearing facilities, and other relevant factors.

§ 2700.8 Standards of conduct.

under section 105(d) of the Act, or the representative of such miners, shall have the right to participate as parties to the hearing in such proceeding.

not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, Federal legal holiday, or other nonbusiness

final, the Commission may, upon request and after notice to the other party, permit the withdrawal of original exhibits by the party entitled

§ 2700.16 [Reserved]

§ 2700.17 Expedition of proceedings.

(a) At any time upon or after the commencement of a proceeding, a

immediately upon receiving a notice from an operator, miners, or representative of miners of an intention to contest a citation, order, or modification

the availability of suitable hearing facilities, and other relevant factors.

§ 2700.8. Standards of conduct.

(a) There shall be no ex parte communication with respect to the merits of any case not concluded, between the Commission (including any member, judge, officer, employee or agent of the Commission who is employed in the decisional process) and any of the parties, intervenors, representatives, or other interested persons.

(b) Disqualification.

(1) A Commissioner or Judge may withdraw from a proceeding whenever the deems himself disqualified.

(2) Any party may request the Judge, at any time following his designation and before he filing of his decision, to withdraw on grounds of personal bias or disqualification, by filing with him promptly upon discovery of the alleged facts an affidavit setting forth in detail the matters alleged to constitute grounds for disqualification.

(3) If the Judge does not disqualify himself and withdraw from the proceeding, he shall so rule upon the record, stating the grounds for his ruling and shall proceed with the hearing, or, if the hearing has been completed, he shall proceed with the issuance of his decision, unless the Commission stays the hearing or further proceedings by granting a petition for interlocutory review.

§ 2700.9 Jurisdiction.

The Commission and its Judges, pursuant to the authority granted in the Act, shall conduct appropriate proceedings pertaining to:

(a) Applications for review of citations and orders issued pursuant to section 104 of the Act;

(b) Assessments of civil penalties under section 105 of the Act;

(c) Applications for temporary relief under the Act;:

(d) Applications for review of discharge, discrimination, or interference under section 105(c) of the Act;

(e) Applications for review of orders issued pursuant to section 107 of the Act;

(f) Applications for compensation under section 111 of the Act;

(g) Any other matters cognizable by the Commission under the Act.

In the exercise of its authority and jurisdiction the Commission and its Judges are empowered to order hearings and to issue any orders or notices as necessary and proper to secure the just and prompt determination of a proceeding.

§ 2700.10 Parties.

(a) Any miners affected by a citation, order, or notice of proposed penalty which is the subject of a proceeding instituted before the Commission under section 105(d) of the Act, or the representative of such miners, shall have the right to participate as parties to the hearing in such proceeding.

(b) Any other person claiming a right of participation as an interested party or otherwise seeking to intervene in a proceeding may petition the Commission or the Judge for leave to intervene.

(c) Any person desiring to appear as amicus curiae in any proceeding shall make timely request stating the grounds for such request. Permission to appear, if granted, will be for such purposes as determined by the Commission or the Judge.

(d) Failure to timely file any pleading pursuant to these rules may, in the discretion of the Commission or the Judge, constitute a waiver of the right to further participation in the proceedings.

§ 2700.11 Documents.

(a) *Where to file.* All initial pleadings or documents in a proceeding described in these rules shall be filed with the Federal Mine Safety and Health Review Commission. When a proceeding has been assigned to a Judge, the parties will be notified of the name and address of the Judge assigned to the case and thereafter all further documents shall be filed with the Judge at the address designated. Any person not notified of the Judge's address should file pleadings at the address of the Commission. If the case is before the Commission all further pleadings should be filed with the Mine Safety and Health Review Commission, 4015 Wilson Boulevard, Arlington, Va. 22203.

(b) *Record address.* Every person who files a document for the record in connection with any proceeding before the Commission shall, at the time of his initial filing in the matter, state his address and business telephone number. Thereafter he shall promptly inform the office in which the matter is pending of any change in address or telephone number, giving the docket or other appropriate numbers of all pending matters in which he has made such a filing. The successors of such person shall likewise promptly inform such office of their interest in the matters and state their addresses and business telephone numbers. A person who fails to furnish information as required herein shall not be entitled to notice in connection with the proceedings.

(c) *Computation of time for filing and service.* Except as otherwise provided by law, in computing any period prescribed for filing and serving a document, the day upon which the decision or document to be appealed from or answered was served or the day of any other event after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, Federal legal holiday, or other nonbusiness day, in which event the period runs until the end of the next day which is not a Saturday, Sunday, Federal legal holiday, or other nonbusiness day. When the time prescribed or allowed is 7 days or less, intermediate Saturdays, Sundays, Federal legal holidays, and other nonbusiness days shall be excluded from the computation.

(d) *Number of copies.* Except as otherwise provided in these rules, a party shall furnish an original and two copies of all pleadings, briefs, petitions, applications, and other documents required or permitted to be filed before the Commission.

(e) *Caption, title and signature.* (1) The documents filed in any proceeding brought under the Act shall be captioned in the name of the moving party and the respondent. After a docket number has been assigned to the proceeding by the Commission, the caption shall contain such docket number. The caption may include other information appropriate for identification of the proceeding, including any Mine Safety and Health Administration identification number, if authorized by the Commission.

(2) After the caption each such document shall contain a title which shall be descriptive of the document and shall identify the party by whom the document is submitted.

(3) The original of all documents filed shall be signed at the end by the party submitting the document; except that if the party is represented by an attorney, such documents shall be signed by such attorney. The address and business telephone number of the party or the attorney shall appear beneath the signature.

(f) *Extensions of time.* (1) The time for filing or serving any document may be extended by the Commission or the Judge before whom the proceeding is pending, except where such extension is expressly prohibited by law or regulation.

(2) A request for an extension of time must be filed within the time allowed for the filing or serving of the document and must be filed in the same office in which the document in connection with which the extension is requested must be filed.

(g) *Retention of documents.* All documents, books, records, papers, etc., received in evidence in a hearing or submitted for the record in any proceeding before the Commission will be retained with the official record of the proceeding. However, the withdrawal of original documents may be permitted by the Commission or the Judge while the case is pending upon the substitution of true copies in lieu thereof. When a decision has become final, the Commission may, upon request and after notice to the other party, permit the withdrawal of original exhibits by the party entitled thereto. The substitution of true copies of exhibits or any part thereof may be required by the Commission in its discretion as a condition of granting permission for such withdrawal.

§ 2700.12 Service.

(a) Copies of all documents filed in any proceeding described in these rules and copies of all notices pertinent to such proceedings shall be served on all other persons made parties to the proceeding or allowed to participate as intervenors or amici curiae.

(b) Documents by which any proceeding is initiated shall be served on each other party personally or by registered or certified mail, return receipt requested. All subsequent documents may be served personally or by first-class mail. Service by mail is complete upon mailing.

(c) Whenever a party is represented by an attorney who has signed any document filed on behalf of such party, or otherwise entered an appearance on behalf of such party, service thereafter shall be made upon the attorney.

(d) A certificate of service shall accompany all documents filed by a party in any proceeding.

§ 2700.13 Motions.

Each motion filed with the Judge or the Commission during the pendency of any proceeding shall be in writing and shall contain a short and plain statement of the grounds upon which it is based. A statement in opposition to the motion may be filed by any party within 10 days after the date of service. Unless ordered or permitted by the Judge or the Commission, oral argument on motions will not be heard. The Judge or the Commission may permit oral motions during the course of proceedings.

§ 2700.14 Consolidation of proceedings.

The Judge or the Commission may at any time order a proceeding described in these rules to be consolidated with any other proceeding which involves the same applicant or similar issues of law or fact.

§ 2700.15 Withdrawal of pleading.

(a) Except as provided in paragraph (b) of this section, a party may withdraw a pleading at any stage of a proceeding subject to the approval of the Commission or the Judge.

(b) A petition for civil penalty assessment filed by the Secretary under section 105 of the Act may be withdrawn only upon the motion of the Secretary. Such petitions may not be withdrawn without the approval of the Commission or the Judge.

§ 2700.16 [Reserved]

§ 2700.17 Expedition of proceedings.

(a) At any time upon or after the commencement of a proceeding, a party may move to expedite the matter before a Judge or the Commission. Such motion shall be in writing and accompanied by supporting documents that establish the party's claim of exigent circumstances warranting expedition. Service of such motions, where possible, shall be by personal delivery to all parties; otherwise, service shall be by telegraphic communication followed by registered or certified mail. All parties to the proceeding in which the motion is filed shall have 3 days from the date of receipt of the motion to file an answer. Where time is of the essence in proceedings before the Commission or a Judge, time requirements provided elsewhere in these rules may be waived or modified to the extent required to fulfill the overall objectives of the Act and the ends of Justice. *Provided,* A hearing on the merits of the case shall not be scheduled on less than 5 days notice to the parties unless all parties to the proceeding consent to an earlier hearing.

Subpart B—Proceedings

Applications for Review of Citations and Orders

§ 2700.18 General.

(a) Section 105(d) of the Act provides that the operator, miners, or representative of miners shall have 30 days from receipt of an order, citation, or modification under section 104 of the Act to notify the Secretary of an intention to contest such order, citation, or modification, and that the Secretary shall immediately notify the Commission upon receipt of such a notice of intention to contest.

(b) The timely filing of an application for Commission review of a citation, order, or modification issued under section 104 of the Act shall be deemed to be in compliance with the requirements of section 105(d) of the Act; that is, a timely application for review with service on the Secretary shall be deemed, for the purposes of these rules, to satisfy the requirement that the operator, miners, or representative of miners notify the Secretary of their intention to contest the subject citation, order, or modification, and will relieve the Secretary of the duty under section 105(d) to notify the Commission of such intention to contest. *Provided, however,* That these rules shall not foreclose a party's right to file a notice of contest with the Secretary under section 105(d) of the Act, and such notice, if timely, shall be deemed to satisfy the jurisdictional requirements of section 105(d) of the Act. In that event, the Secretary shall be required to notify the Commission immediately upon receiving a notice from an operator, miners, or representative of miners of an intention to contest a citation, order, or modification issued under section 104 of the Act.

(c) This rule does not apply to civil penalty proceedings or to applications for review of orders or modifications issued under section 107 of the Act.

§ 2700.19 Applications for review of citations and orders under sections 104 and 107 of the Act.

(a) *How initiated.* Except as provided in § 2700.18, proceedings for the review of a citation, order, or modification or termination thereof, shall be initiated by filing an application for review.

(b) *Who may file.* An application for review may be filed by the operator of the mine affected by the order or citation sought to be reviewed or by a miner or representative of miners employed at such mine.

(c) *Time for filing.* An application for review shall be filed within 30 days of receipt by the applicant of the order or citation sought to be reviewed or within 30 days of receipt of any modification or termination of an order or citation if review is sought of the modification or termination. A copy of the application for review shall be served upon the representative of the miners (or the operator, as the case may be), and the Secretary.

(d) *Effect of failure to file.* An operator's failure to file an application for review of a withdrawal order or citation shall not preclude the operator from challenging the fact of violation or raising any other pertinent matter in a penalty proceeding under section 105(a) or 105(b) of the Act.

§ 2700.20 Answer.

The Mine Safety and Health Administration and any party desiring to participate in the proceeding in opposition to the application for review shall file an answer within 15 days of service of such application for review.

§ 2700.21 Contents of application and answer.

(a) An application for review and an answer shall comply with applicable general requirements and shall contain a plain and concise statement of (1) such party's position with respect to each issue of law and fact which the party contends is pertinent to review of the order or citation and (2) the relief requested by such party.

(b) A copy of the order or citation sought to be reviewed shall be attached to the application.

§ 2700.22 Review of a subsequent order or citation.

(a) An applicant in a proceeding under these rules shall file, within 15 days of receipt thereof, any subse-

quent order or citation which modifies or extends the order or citation sought to be reviewed and any subsequent order or citation which relates to the

§ 2700.25 Answer.

A party against whom a penalty is sought (hereafter designated as respondent) shall file and serve an

(b) Where the Commission upon review of the record and decision of the Judge in a penalty proceeding modifies the amount of penalty, it

may be filed by the Secretary after an investigation pursuant to section 105(c)(2) of the Act, if he finds that a violation of section 105(c)(1) of the

stantial likelihood that the findings and decision of the Judge or the Commission in the matters to which the application relates will be favorable to

ence or to submit prehearing statements concerning:

(1) The simplification of the issues;

(2) The possibility of obtaining stip-

quent order or citation which modifies or extends the order or citation sought to be reviewed and any subsequent order or citation which relates to the violation charged in the order or citation sought to be reviewed. The application for review, unless withdrawn by the applicant, shall be deemed to challenge any such subsequent order or citation. Where clarification of the applicant's position is deemed desirable, the Judge or the Commission may require the applicant to file a new or amended application.

(b) An operator or a representative of miners who is not the applicant in a pending proceeding for review of a withdrawal order or citation may apply for review of a citation or order which modifies or extends the citation or order then being reviewed, or of a citation or order which relates to the violation charged in the citation or order then being reviewed, by filing an application for review in such pending proceeding within the time prescribed by § 2700.19(c).

CIVIL PENALTY PROCEEDINGS

§ 2700.23 General.

The Secretary, by certified mail, shall notify the operator or any other person against whom a civil penalty is proposed of: (a) The violation charged; (b) the amount of the penalty proposed; and (c) that such person shall have 30 days to notify the Secretary that he wishes to contest the proposed civil penalty. If within 30 days from the receipt of the Secretary's notice of proposed penalty, the operator, or other person, fails to notify the Secretary that he intends to contest the proposed penalty, the Secretary's proposed penalty shall be deemed to be a final order of the Commission and shall not be subject to review by the Commission or a court.

§ 2700.24 Petition to assess civil penalty.

(a) Promptly upon receipt of a timely notice of intent to contest a proposed penalty under sections 105(a) or 105(b) of the Act, the Secretary shall file a petition for civil penalty with the Commission.

(b) The petition for civil penalty shall include a list of the cited violations for which civil penalties are sought to be assessed and the proposed penalties therefor. Each cited violation shall be identified by number and date of the citation or order involved and the section of the Act or regulations which the Administration alleges has been violated.

(c) A copy of each citation or order for which a civil penalty is sought shall be attached to the petition.

(d) Where appropriate, the Judge or Commission shall consolidate civil penalty proceedings with other proceedings involving the same parties.

§ 2700.25 Answer.

A party against whom a penalty is sought (hereafter designated as respondent) shall file and serve an answer within 30 days after service of a copy of the petition on the party. An answer shall include a plain and concise statement of the reasons why each of the violations cited in the petition to assess civil penalties is contested, including a statement as to whether a violation occurred and whether a hearing is requested.

§ 2700.26 Summary disposition of civil penalty proceedings.

(a) Where the respondent fails to file a timely answer to a petition for assessment of civil penalty, or fails to timely comply with any prehearing order of a Judge, the Judge may issue an order to show cause why (1) the respondent should not be deemed to have waived his right to a hearing and contest of the proposed penalty and (2) the proposed order of assessment should not be summarily entered as the final order of the Commission and not subject to further review by the Commission or a court.

(b) If the order to show cause is not satisfied as provided therein, the Judge may order that the respondent be held in default and issue a summary order imposing the proposed penalties as final and directing that such penalties be paid.

(c) Where the respondent fails to appear at a hearing, the Judge shall have the authority to conclude that the respondent has waived its right to a hearing and contest of the proposed penalties and may find the respondent in default. Where the Judge determines to hold respondent in default, the Judge shall enter a summary order imposing the proposed penalties as final, and directing that such penalties be paid.

(d) (1) If the Secretary fails to timely comply with any prehearing order, the Judge may issue an order to show cause why the proceeding should not be dismissed for want of prosecution.

(2) If the order to show cause is not satisfied as provided therein, the proceedings shall be summarily dismissed for want of prosecution.

(3) If the Secretary fails to appear at a hearing, the Judge may summarily dismiss the case for want of prosecution.

§ 2700.27 Assessment of penalty.

(a) Where, after opportunity for hearing and consideration of the record as a whole, the Judge finds a violation as charged, he shall determine the amount of penalty in accordance with section 110 of the Act and incorporate it in a decision containing findings of fact, conclusions of law, and an order requiring that the penalty be paid.

(b) Where the Commission upon review of the record and decision of the Judge in a penalty proceeding modifies the amount of penalty, it shall issue an order requiring the modified amount to be paid.

(c) In determining the amount of civil penalty, the Judge and the Commission shall not be bound by a penalty recommended by the Mine Safety and Health Administration or by any offer of settlement made by any party.

(d) No proposed penalty which has been contested before the Commission or a Judge under section 105(a) or 105(b) of the Act shall be compromised, mitigated, or settled except with the approval of the Commission or the Judge, respectively. No penalty assessment which has become the final order of the Commission shall be compromised, mitigated, or settled except with the approval of the court.

APPLICATION FOR COMPENSATION

§ 2700.28 Who may file.

(a) An application for compensation may be initiated by a miner who has been idled by an order of withdrawal or by a miner who asserts that he was not withdrawn because the operator failed or refused to comply with an order issued pursuant to section 104 of the Act.

(b) Such applications may be initiated on behalf of a miner or miners by an authorized representative of miners.

§ 2700.29 When to file.

An application for compensation shall be filed within 30 days after the commencement of the period the applicants are idled or would have been idled as a result of the order which gives rise to the claim.

§ 2700.30 Contents of the application.

An application for compensation shall comply with the applicable general requirements and shall include:

(a) A plain and concise statement of the facts giving rise to the claim, including the period for which compensation is claimed;

(b) The total amount of the compensation claimed; and

(c) A copy of any pertinent order of withdrawal or information sufficiently identifying any such order.

§ 2700.31 Answer.

Within 30 days after service of the application, the operator shall file an answer responding to each allegation of the application.

APPLICATION FOR REVIEW OF DISCHARGE, DISCRIMINATION OR INTERFERENCE

§ 2700.32 Who may file.

An application for review of discharge, discrimination or interference

may be filed by the Secretary after an investigation pursuant to section 105(c)(2) of the Act, if he finds that a violation of section 105(c)(1) of the Act has occurred, or by the complaining miner, representative of miners or applicant for employment if the Secretary determines that no violation has occurred.

§ 2700.33 When to file.

(a) An application for review of discharge, discrimination or interference may be filed by the Secretary within 30 days after his written determination that a violation has occurred.

(b) An application for review of discharge, discrimination or interference may be filed by a complainant within 30 days after receipt of the Secretary's written determination that no violation has occurred.

§ 2700.34 Contents of application.

The application for review of a discharge, discrimination or interference shall be supported by:

(a) An affidavit of a person with knowledge of the facts, setting forth the alleged discharge, discrimination or interference; and

(b) A statement of the relief requested.

§ 2700.35 Answer.

Within 30 days after service of an application filed by the Secretary or a complainant, the operator shall file an answer responding to each allegation of the application.

§ 2700.36 Complainant's participation in an application filed by the Secretary.

In a proceeding instituted by the Secretary under § 2700.33(a), the complaining miner, applicant for employment or representative of miners shall be allowed to intervene as a party and may present additional evidence on his own behalf.

APPLICATION FOR TEMPORARY RELIEF

§ 2700.37 Procedure.

(a) An application for temporary relief may be filed at any time prior to decision by the Judge or the Commission in the matter to which the application relates. The application shall be addressed to the Judge, or to the Commission if the proceeding is then pending before the Commission.

(b) All parties to the proceeding in which the application is filed shall have 3 days from the date of receipt of the application to file a written response.

§ 2700.38 Contents of application.

(a) An application for temporary relief shall comply with applicable general requirements and shall contain: (1) A statement of the specific relief requested, (2) a showing of substantial likelihood that the findings and decision of the Judge or the Commission in the matters to which the application relates will be favorable to the applicant, and (3) a showing that such relief will not adversely affect the health and safety of miners in the affected mine.

(b) An application for temporary relief may be supported by affidavits or other evidentiary matter.

§ 2700.39 Jurisdictional limitations.

Temporary relief shall not be granted with respect to any citation issued under section 104 (a) or (f) of the Act or with respect to any order issued under section 107(a) of the Act.

HEARINGS

§ 2700.40 General.

All hearings shall be presided over by a Judge, a Commissioner, a panel of the Commission, or the Commission sitting as a body, and may be held at any place designated or authorized by the Commission or the Judge.

§ 2700.41 Assignment of Judges.

In any proceedings under the Act in which cases are assigned to Judges for a hearing, the Judges shall be assigned cases in rotation as far as practicable. All motions, applications, and other papers thereafter filed in the proceeding shall be filed with the Judge assigned to the proceeding at the address specified until his jurisdiction terminates.

§ 2700.42 Powers of Judges.

(a) Subject to the regulations of this subpart, a Judge is empowered to:

(1) Administer oaths and affirmations;

(2) Issue subpoenas authorized by law;

(3) Rule on offers of proof and receive relevant evidence;

(4) Take depositions or have depositions taken when the ends of justice would be served;

(5) Regulate the course of the hearing and maintain the order and decorum thereof;

(6) Hold conferences for the settlement or simplication of the issues;

(7) Dispose of procedural requests or similar matters;

(8) Make decisions in the proceedings before him, provided that he shall not be assigned to make a recommended decision;

(9) Order discovery;

(10) Examine witnesses and call his own witnesses if he determines that the search for truth and the ends of justice will thereby be served; and

(11) Take other action authorized by this part, by Section 556 of Title 5 of the United States Code, or by the Act.

(b) The Judge may require the parties to appear for a prehearing conference or to submit prehearing statements concerning:

(1) The simplification of the issues;

(2) The possibility of obtaining stipulations, admissions of fact, and of producing documents which will avoid unnecessary proof;

(3) The possibility of agreement disposing of all or any of the issues in dispute;

(4) The exchange of exhibits, names of witnesses and a synopsis of the testimony expected of each witness; and

(5) Such other matters as may aid in the expedition of the hearing and the disposition of the case.

§ 2700.43 Notice of hearing; appearances.

Except in expedited proceedings, written notice of the time, place, nature of hearing, the legal authority under which the hearing is to be held, and the matters of fact and law asserted shall be given to all parties at least 30 days prior to the date set for hearing.

§ 2700.44 Discovery: general.

(a) Discovery procedures shall be initiated within 20 days after a party's initial pleading has been filed. For good cause shown, the Judge may permit discovery procedures to be initiated after that date.

(b) Discovery shall be completed 60 days after the initial pleading has been filed. For good cause shown, the Judge may permit the time for discovery to be extended.

§ 2700.45 Depositions.

(a) *When permitted.* The Judge may, for good cause shown, order the taking of testimony of any person by deposition upon oral examination or written interrogatories for use as evidence or for the purpose of discovery. The attendance and testimony of witnesses by deposition may be required at any stage of a proceeding.

(b) *Orders for depositions.* If the parties are unable to agree thereto, the time, place, and manner of taking depositions shall be governed by the order of the Judge.

§ 2700.46 Interrogatories, requests for admissions, and production of documents.

Any party may serve written interrogatories or a request for admission of facts upon another party to a proceeding brought under these rules. A party served with written interrogatories or a request for admissions shall answer such interrogatories under oath within 15 days of service unless the proponent of the interrogatories or requests agrees to a longer time, or unless the Judge by order specifies a different time or excuses the party from answering on good cause shown. For good cause shown, the Judge may order a party to produce and permit

inspection, copying or photographing of designated documents or objects relevant to the proceeding.

poena. Neither the Commission nor the Judge shall be deemed thereby to have assumed responsibility for the effective prosecution of the failure to

Judge may permit affidavits to be supplemented or opposed by testimony, depositions, answers to interrogatories, admissions or further affidavits.

denial of relief, with the effective date. All decisions of the Judges shall be served upon all parties to the proceeding and upon the Commission

(4) A substantial question of law, policy, or discretion is involved; or

(5) A prejudicial error of procedure was committed.

shall file his brief and serve copies on all other parties to the proceeding. When a party who has filed a petition for review fails to file a timely brief

inspection, copying or photographing of designated documents or objects relevant to the proceeding.

§ 2700.47 Subpoena power and witness provisions.

(a) *Compulsory attendance of witnesses.* The Commission and its Judges are authorized to issue subpoenas on their own motion or on the written application of the parties requiring the attendance of witnesses and the production of documents or physical evidence at hearings to be held before them or proceedings ordered by them. A subpoena may be served by any person who is not less than 18 years of age. The original subpoena bearing a certificate of service shall be filed with the Commission or the Judge.

(b) *Fees payable to witnesses.* Witnesses subpoened by any party shall be paid the same fees and mileage as are paid for like service in the district courts of the United States. The witness fees and mileage shall be paid by the party at whose request the witness appears, or by the Commission if a witness is subpoened on its own motion or the motion of a Judge. This paragraph does not apply to Government employees who are called as witnesses by the Government.

(c) *Motions to revoke or modify subpoenas.* Any person served with a subpoena, whether ad testificandum or duces tecum, may, within 5 days of service of the subpoena upon him, move in writing to revoke or modify the subpoena. All motions to revoke or modify shall be served on the party at whose request the subpoena was issued. The Judge shall revoke or modify the subpoena if in his opinion the evidence required to be produced does not relate to any matter under investigation or in question in the proceedings; or the subpoena does not describe with sufficient particularity the evidence required to be produced; or if for any other reason, sufficient in law, the subpoena is found to be invalid or unreasonable. The Judge shall make a simple statement of procedural or other grounds for the ruling on the motion to revoke or modify. The motion to revoke or modify, any answer filed thereto, and any ruling thereon shall become a part of the record.

(d) Persons compelled to submit data or evidence at a public proceeding are entitled to obtain, on payment of lawfully prescribed costs, a transcript of that part of the proceeding which involves their testimony or production of data.

(e) Upon the failure of any person to comply with an order to testify or a subpoena directed or issued by the Commission or a Judge, the Commission or the Judge, respectively, may apply to the appropriate district court for enforcement of the order or subpoena. Neither the Commission nor the Judge shall be deemed thereby to have assumed responsibility for the effective prosecution of the failure to obey the subpoena or order.

§ 2700.48 Burden of proof.

In proceedings brought under these rules, the applicant, petitioner or other party initiating the proceedings shall have the burden of proving his case by a preponderance of the evidence: *Provided*, That, whenever the violation of a mandatory health or safety standard is at issue, the Secretary shall have the burden of proving the violation by a preponderance of the evidence.

§ 2700.49 Waiver of evidentiary hearing.

Any party who desires to submit written pleadings, comments or information in lieu of an evidentiary hearing may submit such documents for the Judge's consideration in the matter with a waiver of the right to an evidentiary hearing and a motion for the Judge's decision on the record.

§ 2700.50 Evidence.

(a) Any relevant evidence may be received at the discretion of the Judge. The Judge may exclude evidence which he finds to be unreliable or unduly repetitious.

(b) A party shall have the right to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

§ 2700.51 Summary decision of the Judge.

(a) *Filing.* At any time after commencement of a proceeding and before the scheduling of a hearing on the merits, a party to the proceeding may move the Judge to render summary decision disposing of all or part of the proceeding.

(b) *Grounds.* A motion for summary decision shall be granted only if the entire record, including the pleadings, depositions, answers to interrogatories, admissions and affidavits, shows: (1) That there is no genuine issue as to any material fact; and (2) that the moving party is entitled to summary decision as a matter of law.

(c) *Form of motion and affidavits.* The motion may be supported by affidavits or other verified documents, and shall specify the grounds showing the party's right to the relief sought. Supporting and opposing affidavits shall be made on personal knowledge and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or be incorporated if not otherwise a matter of record. The Judge may permit affidavits to be supplemented or opposed by testimony, depositions, answers to interrogatories, admissions or further affidavits. When a motion for summary decision is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of his pleadings, but his response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for hearing. If he does not so respond, summary decision, if appropriate, shall be entered against him.

(d) *Case not fully adjudicated on motion.* If a motion for summary decision is denied in whole or in part, and the Judge determines that an evidentiary hearing of the case is necessary, he shall, if practicable, and upon examination of all relevant documents and evidence before him, ascertain what material facts are actually and in good faith controverted. He shall thereupon make an order specifying the facts that appear without substantial controversy, and direct such further proceedings as deemed appropriate.

§ 2700.52 Interlocutory review.

Interlocutory review shall be discretionary, and not a matter of right. Review shall not be granted unless: (a) The Judge has certified the interlocutory ruling to the Commission; or (b) the Commission in its discretion, by a vote of two Commissioners, grants a petition for interlocutory review. Review will not be considered except upon a showing that the ruling complained of involves a controlling question of law and that immediate review thereof may materially advance the final decision. An interlocutory review shall not operate to suspend the hearing unless otherwise ordered by the Commission.

§ 2700.53 Proposed findings, conclusions and orders.

The Judge may require the submission of proposed findings of fact, conclusions of law, and orders, together with supporting briefs. Such proposals shall be served upon all parties, and shall contain adequate references to the record and authorities relied upon.

§ 2700.54 Decision.

As soon as practicable after the conclusion of the hearing, the Judge shall render a decision. The decision shall be in writing or, if rendered orally from the bench, shall be reduced to writing after filing of the transcript, and shall include a statement of: (a) Findings and conclusions and the reasons or basis therefor on the material issues of fact, law or discretion presented on the record; (b) rulings on proposed findings and conclusions; and (c) the appropriate ruling or order, or denial of relief, with the effective date. All decisions of the Judges shall be served upon all parties to the proceeding and upon the Commission promptly upon issuance.

§ 2700.55 Effect of a decision.

The decision of the Judge shall become the final decision of the Commission upon the expiration of 40 days after its issuance in writing unless the Commission has directed that such decision shall be reviewed by the Commission in accordance with § 2700.58 or § 2700.59. A Commission order granting a the petition for discretionary review, or docketing a case for review by the Commission on its own motion, shall automatically stay the effect of the Judge's decision.

§ 2700.56 Certification of record.

Within 5 days after a written decision has been rendered by a Judge, the docket clerk shall certify the official record of the proceedings to the Commission.

Review by the Commission

§ 2700.57 Pending appeals before the Interior Department Board of Mine Operations Appeals.

With regard to any appeal pending before the Interior Department Board of Mine Operations Appeals as of March 8, 1978, and reviewable by the Commission after that date, the appellant shall have 60 days from March 9, 1978, to petition the Commission for discretionary review under § 2700.58 of these rules. Unless review is ordered by the Commission under § 2700.58 or, within 60 days from March 9, 1978, under § 2700.59, the decision appealed to the Interior Department Board of Mine Operations Appeals shall become the final decision of the Commission.

§ 2700.58 Petitions for discretionary review.

(a) Any party adversely affected by a Judge's decision or order may file with the Commission a petition for discretionary review within 30 days after issuance of the order or decision. Two or more parties may join in the same petition; the Commission may consolidate related petitions. Copies of the petition shall be served on all parties to the proceeding in accordance with § 2700.12.

(b) Review by the Comission shall not be a matter of right but of the sound discretion of the Commission.

(c) Petitions for discretionary review shall be filed only upon one or more of the following grounds:

(1) A finding or conclusion of material fact is not supported by substantial evidence;

(2) A necessary legal conclusion is erroneous;

(3) The decision is contrary to law or to the duly promulgated rules or decisions of the Commission;

(4) A substantial question of law, policy, or discretion is involved; or

(5) A prejudicial error of procedure was committed.

(d) Each issue shall be separately numbered and plainly and concisely stated, and shall be supported by detailed citations to the record when assignments of error are based on the record, and by statutes, regulations, or principal authorities relied upon. Except for good cause shown, no assignment of error by any party shall rely on any question of fact or law upon which the Judge had not been afforded an opportunity to pass. Review by the Commission shall be granted only by affirmative vote of two of the Commissioners present and voting.

(e) An original and six copies of each petition shall be filed with the Commission.

(f) If the Commission grants the petition for review, it shall issue an order for review and shall state therein the specific issue(s) to be reviewed. Review shall be limited to those questions in the petition which are specified in the review order. Denial of review shall be by summary order.

(g) The Commission may either remand the case to the Judge for further proceedings as it may direct, or it may affirm, set aside, or modify the decision or order of the Judge in conformity with the record.

(h) If the Commission determines that further evidence is necessary on an issue of fact, it shall remand the case for further proceedings before the Judge.

(i) If a petition for review is denied, the Judge's decisions shall become the final decision of the Comission unless the Commission orders review on its own motion under § 2700.59.

§ 2700.59 Review by the Commission on its own motion.

The Commission, at any time within 30 days after a Judge issues a decision in writing, may, by the affirmative vote of two of the Commissioners present and voting, order the case before it for review on its own motion, but only upon the ground that the decision may be contrary to law or Commission policy or that a novel question of policy has been presented. The Commission shall state in such order the specific issue(s) of law, Commission policy, or novel question of policy to be reviewed. If a party's petition for review has been granted, the Commission shall not raise or consider additional issues in such review proceedings except in compliance with the requirements of this paragraph.

§ 2700.60 Briefs.

(a) *Petitioner's brief.* Within 20 days after the Commission grants a petition for discretionary review, petitioner shall file his brief and serve copies on all other parties to the proceeding. When a party who has filed a petition for review fails to file a timely brief, the petition shall be subject to summary dismissal.

(b) *Respondent's brief.* Within 20 days after service of petitioner's brief, any other party to the proceeding may file a brief in opposition thereto as a respondent.

(c) *Review on the Commission's motion.* When the Commission orders a case before it for review on its own motion, as provided for in § 2700.59, the parties shall have 20 days to file briefs on the specific issues stated in the Commission's order.

(d) *Number of copies.* Six copies of each Brief shall be filed with the Comission and one copy served on each party. Copies of briefs shall be typewritten (double-spaced), printed or duplicated.

(e) *Length of brief.* Except by permission of the Commission, petitioner's brief may not exceed 50 pages and respondent's brief may not exceed 25 pages. Where the Commission has ordered review on its own motion, each party's brief may not exceed 25 pages.

§ 2700.61 Interlocutory review.

(a) *Petitions for review.* A petition for interlocutory review by the Commission shall be in writing, not to exceed 10 pages.

(b) *Briefs.* Unless the Commission directs otherwise, a brief shall be filed by petitioner within 5 days after notice of an order granting interlocutory review. Within 5 days after service of petitioner's brief, any other party to the proceeding may file a brief as respondent.

(c) *Scope of review.* If an interlocutory review is granted, the scope of review shall be confined to review of the ruling or order of the Judge on the issue(s) stated in the Commission's order granting review, and shall not extend to other issues.

(d) *Decision and remand.* Upon affirmance, reversal or modification of the Judge's interlocutory ruling or order, the jurisdiction of the Commission shall terminate, and the case will be remanded promptly to the Judge for further proceedings.

§ 2700.62 Reconsideration.

Unless the Commission orders otherwise, the filing of a petition for reconsideration shall not stay the effect of any decision or order of the Commission and shall not affect the finality of any decision or order for purposes of review in the courts.

§ 2700.63 Final decision.

Final decisions of the Commission shall be rendered as promptly as practicable consistent with adequate consideration of the issues involved.

[FR Doc. 78-6454 Filed 3-9-78; 8:19 am]

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federal register

MONDAY, MARCH 13, 1978

THE NATIONAL ARCHIVES OF THE UNITED STATES
LET THERE BE LIGHT
1934

highlights

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

Reservations for April are being accepted for the free Friday workshops on how to use the FEDERAL REGISTER. The sessions are held at 1100 L Street NW., Washington, D.C. in room 9409 from 9 to 11:30 a.m.

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[1505–01]

Title 1—General Provisions

CHAPTER I—ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

PART 3—SERVICES TO THE PUBLIC

Code of Federal Regulations Subscription Rate

AGENCY: Administrative Committee of the FEDERAL REGISTER.

ACTION: Final rule.

SUMMARY: The annual subscription price of the *Code of Federal Regulations* (CFR) is increased from $350.00 to $400.00. The increased price is based on increased production costs that have occurred since the last CFR price increase was put into effect on January 1, 1974.

EFFECTIVE DATE: April 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Ms. Denise Normandin, Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408, 202–523–5240.

SUPPLEMENTARY INFORMATION: Production costs of the CFR have risen substantially since the last price adjustment of the annual subscription rate was announced effective January 1, 1974. By increasing the annual rate from $350.00 to $400.00, the Superintendent of Documents will substantially recover the cost of servicing annual CFR subscribers. Prices of individual CFR volumes will continue to be set annually by the Superintendent of Documents under the general direction of the Administrative Committee of the FEDERAL REGISTER.

Paragraph (b)(4) of §3.4 of Title 1 of the CFR is amended to read as follows:

§3.4 Subscriptions and availability of Federal Register publications.

* * * * *

(b) * * *

(4) *Code of Federal Regulations.* A complete set of the Code will be furnished by mail to subscribers for $400.00 per year payable in advance to the Superintendent of Documents. Individual copies of the Code volumes are sold by the Superintendent of Documents at prices determined by him, under the general direction of the Administrative Committee.

* * * * *

(44 U.S.C. 1506; Sec. 6, E.O. 10530, 19 FR 2709; 3 CFR 1954–1958 Comp. p. 189.)

JAMES B. RHOADS,
Chairman.
JOHN J. BOYLE,
Member.
MARY O. EASTWOOD,
Member.

Approved: February 27, 1978.

GRIFFIN B. BELL,
Attorney General.
JAY SOLOMON,
Administrator of General Services.

[FR Doc. 78-6410 Filed 3-10-78; 8:45 am]

[3128–01]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION[1]

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Adjustments to Lower and Upper Tier Crude Oil Price Ceilings To Reflect Impact of Inflation

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration ("ERA"), of the Department of Energy ("DOE"), by this action issues Crude Oil Price Schedule No. 10, effective March 1, 1978, for the months of March, April, and May 1978. The Schedule provides monthly crude oil price increases to take into account the impact of inflation, as permitted under the Emergency Petroleum Allocation Act of 1973, as amended ("EPAA," Pub. L. 93–159). Beginning in March 1978, inflation adjustments will be applied to the projected February 1978 lower tier and upper tier prices (approximately $5.32 per barrel and $11.90 per barrel respectively) at an annual rate of 6.1 percent, resulting in lower tier and upper tier prices for the months of March, April, and May 1978 of approximately $5.35, $5.38, and $5.41 per barrel (lower tier) and $11.96, $12.02, and $12.08 (upper tier), respectively.

EFFECTIVE DATE: March 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Ed Vilade (Media Relations), Department of Energy, 12th & Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461, 202–566–9833.

William D. Carson (Office of Regulations and Emergency Planning), Economic Regulatory Administration, 2000 M Street NW., Room 2310 Washington, D.C. 20461, 202–254–7477.

Everard A. Marseglia, Jr. (Office of General Counsel), Department of Energy, 12th & Pennsylvania Avenue NW., Room 5140, Washington, D.C. 20461, 202–566–9565.

SUPPLEMENTARY INFORMATION:

A. Introduction.
B. Crude Oil Price Schedule No. 10.

A. INTRODUCTION

Under the EPAA, Congress provided flexibility to control first sale prices of domestic crude oil as long as the national weighted average first sale price ("actual composite price") did not exceed $7.66 per barrel ("statutory composite price") for all domestic crude oil produced and sold in February 1976. Beginning in March 1976, the EPAA authorized increases in the statutory composite price to reflect the effects of inflation and to provide production incentives. Under present authority, the statutory composite price is adjusted upward at a rate not to exceed 10 percent annually.

With the issuance of Crude Oil Price Schedule No. 9, (42 FR 62125, December 9, 1977), the ERA undertook to continue the policy, announced by the President in the National Energy Plan ("NEP") and implemented by the Federal Energy Administration ("FEA") in Crude Oil Price Schedule No. 8 (42 FR 45284, September 9, 1977), to adjust both lower tier and upper tier ceiling prices to reflect only the rate

[1] EDITORIAL NOTE: Chapter II will be renamed at a future date to reflect that it contains regulations administered by the Economic Regulatory Administration of the Department of Energy.

of inflation as measured by the GNP deflator. Reference should be made to the Notice which accompanied Crude Oil Price Schedule No. 8 for a description of prior actions taken by FEA to achieve compliance with the composite price constraints of the EPAA and for a discussion of the domestic crude oil pricing policy set forth in the NEP.

B. CRUDE OIL PRICE SCHEDULE NO. 10

This price schedule continues the policy as described in the Notice which accompanied Crude Oil Price Schedule No. 8. Accordingly, under Crude Oil Price Schedule No. 10, effective March 1, 1978, the February 1978 lower tier ceiling price (the May 15, 1973 posted price plus $1.63 per barrel, resulting in an average first sale price of approximately $5.32 per barrel), and the February 1978 upper tier price (the September 30, 1975 posted price less $.77, resulting in an average first sale price of approximately $11.90 per barrel), are adjusted for inflation for March, April, and May 1978, based on the first revision of the GNP deflator published on February 21, 1978 which reflects an annual rate of inflation of 6.1 percent.

1. LOWER TIER CEILING PRICES

Adjustments to ceiling prices for lower tier crude oil and the approximate average first sale prices pursuant to those ceiling prices in March, April, and May 1978, are determined pursuant to the following methodology:

A. ERA has computed a monthly adjustment factor of 0.00496 which when applied over a 12-month period yields an effective annual rate of adjustment of 6.1 percent.
B. March adjustment = ($5.32) (0.00496) per barrel = $0.026 per barrel rounded to $0.03 per barrel.
C. April adjustment = ($5.32 + 0.03) (0.00496) per barrel = $0.027 per barrel rounded to $0.03 per barrel.
D. May adjustment = ($5.32 + 0.03 + 0.03) (0.00496) per barrel = $0.027 per barrel rounded to $0.03 per barrel.

Based upon the monthly adjustments computed above, average lower tier ceiling prices for the months of March, April, and May 1978 are computed as follows:

March = $5.32 + $0.03 = $5.35.
April = $5.35 + $0.03 = $5.38.
May = $5.38 + $0.03 = $5.41.

In determining lower tier ceiling prices for the months of September, October, and November 1977, FEA assumed the average highest posted field price on May 15, 1973 to be $3.69 per barrel. This assumption was based upon a projected average first sale price for lower tier crude oil in August 1977 of $5.17, at which time lower tier ceiling prices were frozen at the May 15, 1973 highest posted field prices plus $1.48 per barrel. Data collected by FEA and ERA since September 1, 1977 tend to confirm FEA's assumption regarding May 15, 1973 highest posted field prices. Therefore, in this and future Price Schedules, ERA will continue to use $3.69 per barrel as the May 15, 1973 highest posted field price unless subsequent data are received that question the validity of that assumption. Accordingly, using that posted price and the monthly adjustments as computed above, lower tier prices for the next three months have been determined as follows:

Month	Ceiling price	Estimated average first sale price
March 1977	May 15, 1973, highest posted field price plus $1.66.	$5.35
April	May 15, 1973, highest posted field price plus $1.69.	5.38
May	May 15, 1973, highest posted field price plus $1.72.	5.41

2. UPPER TIER CEILING PRICES

Adjustments to ceiling prices for upper tier crude oil and the approximate average first sale prices pursuant to those ceiling prices in March, April, and May 1978 are determined pursuant to the following methodology:

A. Adjustment factor (explained above) = 0.00496.
B. March adjustment = ($11.90) (0.00496) per barrel = $0.059 per barrel rounded to $0.06 per barrel.
C. April adjustment = ($11.90 + 0.06) (0.00496) per barrel = $0.059 per barrel rounded to $0.06 per barrel.
D. May adjustment = ($11.90 + 0.06 + 0.06) (0.00496) per barrel = $0.06 per barrel.

Based upon the monthly adjustments computed above, average upper tier ceiling prices for the months of March, April, and May 1978 are computed as follows:

March = $11.90 + $.06 = $11.96.
April = $11.96 + $.06 = $12.02.
May = $12.02 + $.06 = $12.08.

In determining upper tier ceiling prices for the months of September, October, and November 1977, FEA assumed the average highest posted field price on September 30, 1975 to be $12.67 per barrel. This assumption was based upon an average actual first sale price of $11.62 per barrel during the months of June through December 1976, at which time upper tier ceiling prices were frozen at the September 30, 1975 highest posted field prices less $1.05 per barrel. Data collected by FEA and ERA since September 1, 1977 tend to confirm FEA's assumption regarding September 30, 1975 highest posted field prices. Therefore, in this and future Price Schedules, ERA will continue to use $12.67 per barrel as the September 30, 1975 highest posted field price unless subsequent data are received that question the validity of that assumption. Accordingly, using that posted price and the monthly adjustment as computed above, upper tier prices for the next three months have been determined as follows:

Month	Ceiling price	Estimated average first sale price
March	Sept. 30, 1975, highest posted field price less $0.71.	$11.96
April	Sept. 30, 1975, highest posted field price less $0.65.	12.02
May	Sept. 30, 1975, highest posted field price less $0.59.	12.08

On or before June 1, 1978, the ERA will issue Crude Oil Price Schedule No. 11, setting forth lower tier and upper tier ceiling prices for the months of June, July, and August 1978.

The following table summarizes on a monthly basis the projected cumulative receipts for the months February 1976 through May 1978.

Month	Lower tier price	Upper tier price	Statutory composite price	Actual composite price[1]	Cumulative excess receipts (millions)
1976					
February	$5.05	$11.48	$7.66	$7.87	$49
March	5.07	11.39	7.72	7.79	67
April	5.07	11.52	7.78	7.86	86
May	5.13	11.56	7.84	7.89	97
June	5.15	11.60	7.88	7.99	123
July	5.19	11.60	7.93	8.04	152
August	5.16	11.62	7.96	8.03	164
September	5.17	11.65	8.04	8.19	198
October	5.15	11.62	8.11	8.23	228
November	5.17	11.62	8.17	8.40	282
December	5.17	11.64	8.24	8.40	322
1977					
January	5.17	11.44	8.30	8.28	316
February	5.18	11.39	8.37	8.33	306
March	5.15	11.03	8.44	8.19	246
April	5.15	10.97	8.50	8.14	161
May	5.18	10.96	8.57	8.23	76

Month	Lower tier price	Upper tier price	Statutory composite price	Actual composite price[1]	Cumulative excess receipts (millions)
1977					
June	5.16	10.92	8.64	8.17	−36
July	5.16	10.99	8.71	8.21	−159
August	5.18	10.96	8.78	8.26	−295
September	5.30	11.21	8.85	8.26	−446
October	5.29	11.42	8.92	8.36	−595
November	5.34	11.63	8.99	8.35	−761
December[2]	5.35	11.76	9.06	8.40	−937
1978					
January[2]	5.30	11.85	9.13	8.64	−1,074
February[2]	5.32	11.90	9.21	8.71	−1,198
March[2]	5.35	11.96	9.28	8.79	−1,334
April[2]	5.38	12.02	9.35	8.85	−1,473
May[2]	5.41	12.08	9.43	8.94	−1,613

[1]Beginning with the month of September 1976, includes prices for stripper well crude oil production at values imputed in accordance with sec. 121 of the ECPA. Effects of Alaska North Slope crude oil production, which commenced June 20, 1977, are included.
[2]Preliminary.
[3]Projected on the basis of Crude Oil Price Schedule Nos. 9 and 10.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185; Department of Energy Organization Act, Pub. L. 95-91; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 212 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective March 1, 1978.

Issued in Washington, D.C., March 2, 1978.

DAVID J. BARDIN,
Administrator, Economic Regulatory Administration.

Section 212.77 is amended in the Appendix to add Schedule No. 10 of Monthly Price Adjustments, as follows:

§ 212.77 Adjustments to ceiling prices.

• • • • • • •

APPENDIX

SCHEDULE NO. 10 OF MONTHLY PRICE ADJUSTMENTS EFFECTIVE MARCH 1, 1978

Month	Lower tier, May 15, 1973, posted price[1] (plus)	Upper tier, Sept. 30, 1975, posted price[2] (less)
1976:		
February	1.35	1.32
March	1.38	1.25
April	1.41	1.18
May	1.45	1.11
June	1.48	1.05
July	1.48	1.05
August	1.48	1.05
September	1.48	1.05
October	1.48	1.05
November	1.48	1.05
December	1.48	1.05
1977:		
January	1.48	1.25
February	1.48	1.25
March	1.48	1.70
April	1.48	1.70
May	1.48	1.70

SCHEDULE NO. 10 OF MONTHLY PRICE ADJUSTMENTS EFFECTIVE MARCH 1, 1978

Month	Lower tier, May 15, 1973, posted price[1] (plus)	Upper tier, Sept. 30, 1975, posted price[2] (less)
1977:		
June	1.48	1.70
July	1.48	1.70
August	1.48	1.70
September	1.51	1.44
October	1.54	1.18
November	1.57	.92
December	1.59	.87
1978:		
January	1.61	.82
February	1.63	.77
March	1.66	.71
April	1.69	.65
May	1.72	.59

[1]The price referred to in 10 CFR 212.73(b)(1) or in 212.73(c)(1), 212.73(c)(3), and 212.73(c)(4).
[2]the price referred to in 10 CFR 212.74(b)(1).

This schedule of monthly price adjustments was issued by the Economic Regulatory Administration on March 2, 1978 pursuant to 10 CFR 212.77. It restates without change the lower and upper tier price ceilings applicable to crude oil produced and sold in the months of February 1976 through February 1978, as determined under 10 CFR 212.73, 212.74, and 212.77. Both lower tier and upper tier ceiling prices, which were increased under Schedule No. 9 effective December 1, 1977, are further increased as indicated in this schedule, effective March 1, 1978.

This schedule is effective only through May 31, 1978. Price ceilings for subsequent months will be provided by Schedule No. 11, to be issued on or about June 1, 1978. This schedule may, however, be superseded prior to June 1, 1978 by early issuance of Schedule No. 11 to reflect further ceiling price adjustments based on presently unanticipated trends in actual composite price levels.

[FR Doc. 78-6337 Filed 3-8-78; 8:45 am]

[6210-01]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Docket No. R-0090; Reg. Y]

PART 225—BANK HOLDING COMPANIES

Municipal Securities Dealers

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: This rule requires bank holding companies which have been authorized by the Board to conduct municipal securities dealer activities and for which the Board is designated in the Securities Exchange Act of 1934 as the appropriate regulatory agency to file with the Board information about persons who are associated with them as municipal securities principals or municipal securities representatives. These requirements will facilitate compliance by those dealers with Municipal Securities Rulemaking Board rules concerning the qualification of municipal securities principals and municipal securities representatives.

EFFECTIVE DATE: April 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert S. Plotkin, Assistant Director, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-2782.

SUPPLEMENTARY INFORMATION: On March 30, 1977, the Board issued for comment in the FEDERAL REGISTER (42 FR 16821) proposed amendments to its Regulation H (12 CFR Part 208) and Regulation Y (12 CFR Part 225) to require State member banks and bank holding companies and certain of their subsidiaries, departments, and divisions, that are municipal securities dealers for which the Board is the appropriate regulatory agency under section 3(a)(34) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(34)) to file with the Board information about persons who are associated with them as municipal securities principals or municipal securities representatives. In conjunction with that proposal, the Board also proposed Form MSD—5, "Uniform Application for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer," and Form MSD-%, "Uniform Termination Notice for Mu-

nicipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer," for use in complying with the proposed amendments to Regulations H and Y.

Concurrent with the Board's proposal of amendments to Regulations H and Y, the Federal Deposit Insurance Corporation and the Comptroller of the Currency proposed similar regulations requiring the filing of proposed Forms MSD-4 and MSD-5. Proposed Form MSD-4 and proposed Form MSD-5 were drafted jointly by the Board, the Federal Deposit Insurance Corporation, and the Comptroller of the Currency for use by municipal securities dealers subject to their regulation. After considering the comments submitted on the proposed amendments to Regulations H and Y and proposed Forms MSD-4 and MSD-5, the Board, on September 1, 1977, adopted Regulation H and form substantially as proposed. At that time, the Board decided to defer adoption of the proposed amendment to Regulation Y in view of its action of October 19, 1976 deferring action on applications filed under section 4(c)(8) of the Bank Holding Company Act for authority to underwrite and deal in Federal government and municipal securities.

On January 26, 1978, the Board announced that it would resume processing of applications from bank holding companies to engage in Federal government and municipal security dealer activities on a case-by-case basis. Therefore, this amendment to Regulation Y will extend to bank holding companies and certain of their subsidiaries the filing requirements that are now imposed on State member banks with respect to municipal securities dealer activities.

Pursuant to sections 15B(c) (5), 17, and 23 of the Securities Exchange Act of 1934 (15 U.S.C. 780-4(c)(5), 78q, and 78w), the Board amends its Regulation Y (12 CFR 225) by adding a new paragraph (f) to § 225.5 as set forth below:

§ 225.5 Administration.

* * * * *

(f) *Bank holding companies, certain of their subsidiaries, and subsidiaries, departments or divisions of such subsidiaries, which are municipal securities dealers.* (1) For purposes of this paragraph, the terms herein have the meanings given them in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) and the rules of the Municipal Securities Rulemaking Board. The term Act shall mean the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.).

(2) A bank holding company, or a subsidiary of a bank holding company which is a bank (other than a national bank or a bank operating under the Code of Law for the District of Columbia or a bank insured by the Federal Deposit Insurance Corporation), or a subsidiary or a department or a division of such a subsidiary, which is a municipal securities dealer shall not permit a person to be associated with it as a municipal securities principal or municipal securities representative unless it has filed with the Board an original and two copies of Form MSD-4, "Uniform Application for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer," completed in accordance with the instructions contained therein, for that person. Form MSD-4 is prescribed by the Board for purposes of paragraph (b) of Municipal Securities Rulemaking Board rule G-7, "Information Concerning Associated Persons."

(3) Whenever a municipal securities dealer receives a statement pursuant to paragraph (c) of Municipal Securities Rulemaking Board Rule G-7, "Information Concerning Associated Persons," from a person for whom it has filed a Form MSD-4 with the Board pursuant to subparagraph (2) of this paragraph, such dealer shall, within ten days thereafter, file three copies of that statement with the Board accompanied by an original and two copies of a transmittal letter which includes the name of the dealer and a reference to the material transmitted identifying the person involved and is signed by a municipal securities principal associated with the dealer.

(4) Within thirty days after the termination of the association of a municipal securities principal or municipal securities representative with a municipal securities dealer which has filed a Form MSD-4 with the Board for that person pursuant to subparagraph (2) of this paragraph, such dealer shall file an original and two copies of a notification of termination with the Board on Form MSD-5, "Uniform Termination Notice for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer," completed in accordance with the instructions contained therein.

(5) A municipal securities dealer which files a Form MSD-4, Form MSD-5, or statement with the Board under this paragraph shall retain a copy of each such Form MSD-4, Form MSD-5 or statement until at least three years after the termination of the employment or other association with such dealer of the municipal securities principal or municipal securities representative to whom the form or statement relates.

(6) The date that the Board receives a Form MSD-4, Form MSD-5, or statement filed with the Board under this paragraph shall be the date of filing. Such a Form MSD-4, Form MSD-5, or statement which is not prepared and executed in accordance with the applicable requirements may be returned as unacceptable for filing. Acceptance for filing shall not constitute any finding that a Form MSD-4, Form MSD-5, or statement has been completed in accordance with the applicable requirements or that any information reported therein is true, current, complete, or not misleading. Every Form MSD-4, Form MSD-5, or statement filed with the Board under this paragraph shall constitute a filing with the Securities and Exchange Commission for purposes of section 17(c)(1) of the Act (15 U.S.C. section 78q(c)(1) and a "report," "application," or "document" within the meaning of section 32(a) of the Act (15 U.S.C. 78ff(a)).

By order of the Board of Governors, March 6, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-6463 Filed 3-10-78; 8:45 am]

[8025-01]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

[Rev. 13, Amdt. 18]

PART 121—SMALL BUSINESS SIZE STANDARDS

Definition of Small Business for Purpose of SBA Loans and Procurement Assistance—Offshore Marine Services

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This rule establishes a size standard for small offshore marine services firms for the purpose of receiving Small Business Administration financial and procurement assistance. This rule is necessary because of the changing nature of water transportation, especially as it relates to petroleum and gas development at sea. It is intended to result in the increased eligibility of offshore marine services firms for SBA assistance.

EFFECTIVE DATE: April 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Harvey D. Bronstein, 202-653-6373.

SUPPLEMENTARY INFORMATION: On January 3, 1978, the SBA published a proposed rule in the FEDERAL REGISTER to adopt a small business size standard for offshore marine services firms of $10 million in annual receipts. The Agency has received no comments to this proposal. Accordingly, Part 121 of Chapter I, Title 13, of the Code of Federal Regulations is amended by:

1. Renumbering paragraphs (u), (v), (w), (x), and (y) of § 121.3-2 as paragraphs (v), (w), (x), (y), and (z) respectively, and inserting new § 121.3-2(u) to read as follows:

§ 121.3-2 Definition of terms used in this part.

* * * * *

(u) "Offshore marine services" means firms furnishing to concerns engaged in offshore oil and/or natural gas exploration drilling production or marine research, and such services as passenger and freight transportation, rig towing, anchor handling, and related logistical services, to and from the work site or at sea.

* * * * *

2. Revising § 121.3-8(f) by adding subparagraph (4) to read as follows:

§ 121.3-8 Definition of small business for Government procurement.

* * * * *

(f) Transportation. * * *

(4) As small if it is primarily engaged in the provision of offshore marine services as defined in § 121.3-2(u) and its annual receipts do not exceed $10 million.

* * * * *

(3) Revising § 121.3-10(f) by adding subparagraph (5) to read as follows:

§ 121.3-10 Definition of small business for SBA loans.

* * * * *

(f) Transportation and warehousing. * * *

(5) As small if it is primarily engaged in the provision of offshore marine services as defined in § 121.3-2(u) and its annual receipts do not exceed $10 million.

* * * * *

Dated: March 6, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-6408 Filed 3-10-78; 8:45 am]

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINSTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 17687; Amdt. No. 13-13]

PART 13—ENFORCEMENT PROCEDURES

Enforcement Procedures for Cases Involving the Transportation or Shipment by Air of Hazardous Materials

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments prescribe enforcement procedures for cases involving the transportation or shipment by air of hazardous materials under the Hazardous Materials Transportation Act, and update certain other procedures dealing with enforcement of the Federal Aviation Regulations. The requirements are intended to provide persons who are alleged to have violated the hazardous materials regulations with a simple but effective process for submitting information concerning an alleged violation or for contesting a violation determination.

DATE: Effective date, March 13, 1978. Comments requested on operation under the procedures before September 13, 1978.

ADDRESS: Send comments on the procedures to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Docket No. 17687, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Dewey R. Roark, Jr., Regulations and Enforcement Division (AGC-20), Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-9097.

SUPPLEMENTARY INFORMATION:

THE RULE

In § 1.47(k) of the Regulations of the Office of the Secretary (49 CFR 1.47(d)), the Secretary of Transportation has delegated to the Administrator of the Federal Aviation Administration the functions vested in the Secretary by Sections 109, 110, and 111 of the Hazardous Materials Transportation Act (49 U.S.C. 1808, 1809, and 1810) relating to investigations, records, inspections, penalties, and specific relief so far as they apply to the transportation or shipment of hazardous materials by air.

Pursuant to this delegation, these amendments establish procedures for assessing civil penalties in accordance with Section 110 of the Hazardous Materials Transportation Act, for issuing orders of compliance in accordance with Section 109(a) of the Act, and for obtaining injunctive and other relief in accordance with Section 111 of the Act. The procedures adopted herein provide for notice to an alleged violator and an opportunity for informal conferences with the FAA official who issued the notice, a formal evidentiary hearing before a Hearing Officer, and an appeal to the Administrator. The procedures comply with the provisions of Sections 109 and 110 of the Hazardous Materials Transportation Act that provide for the issuance of an order of compliance and the assessment of a civil penalty "after notice and an opportunity for a hearing." Any appeal to the Administrator from a Hearing Officer's decision and order assessing a civil penalty will be decided on appeal on the record of the FAA hearing and will not involve a trial de novo. It is contemplated that appeal from the Administrator's decision and order would be to a United States Court of Appeals and also would be decided on the record of the FAA hearing and not involve a trial de novo because of a satisfaction of the requirements of due process. Moreover, if the alleged violator fails to request a hearing and refuses to pay a civil penalty assessed by an official authorized to assess a civil penalty, or if he refuses to pay a civil penalty assessed by a Hearing Officer following a hearing and following the exhaustion of his appeal rights, the agency would request the Attorney General to recover the assessed civil penalty in an action brought in the appropriate U.S. District Court in accordance with Section 110(a)(2) of the Hazardous Materials Transportation Act. Such an action in the District Court would be in effect a suit to collect on a judgment and it is contemplated that this would not involve a trial de novo.

With respect to specific procedures adopted herein, it should be noted that the revision of § 13.11 reflects the existing practice whereby not only the officials of the Flight Standards Service but also the officials of the Office of Airport Programs and the Civil Aviation Security Service are authorized to take administrative action. Moreover, the revision incorporates the existing practice of issuing a Warning Notice or a Letter of Correction as the two types of administrative action.

Section 110 of the Hazardous Materials Transportation Act provides that, prior to the referral to the Attorney General for collection, a civil penalty

may be compromised. Thus, § 13.16 provides that the FAA may not only reduce the amount of a proposed civil penalty prior to assessment, but may also compromise an assessed civil penalty at any time prior to referral of the action to the Attorney General.

At the present time, Subpart D of Part 13 provides rules of practice for formal hearings in aircraft registration certificate proceedings. Since it is desirable from the point of view of uniformity and convenience of Hearing Officers to have the same rules of practice apply to all hearings, § 13.31 has been amended to make Subpart D applicable to hearings in aircraft registration certificate proceedings and hazardous materials proceedings. The amendments also revise Subpart D by deleting certain obsolete provisions and by adding new provisions intended to streamline the hearings process.

In addition, a new Subpart E is being adopted to provide procedures for orders of compliance issued in accordance with Section 109 of the Hazardous Materials Transportation Act. New § 13.81 of Subpart E provides that orders of immediate compliance may be issued in cases of imminent hazard. However such orders of immediate compliance will be issued only in the few cases where circumstances and lack of time preclude the use of any other procedures to prevent or ameliorate an imminent hazard to health or safety of life or property. Moreover, the accelerated hearing procedure in § 13.81 is being adopted to protect the alleged violator by affording him an opportunity for a hearing and appeal to the Administrator without delay.

Finally provisions for bringing an action in the appropriate United States District Court for an injunction or other equitable relief and punitive damages have been included in new § 13.25.

Effective Date and Request for Comments

Since these amendments are procedural in nature and represent implementation of existing statutory authority, notice and public procedure thereon are not required, and good cause exists for making them effective less than 30 days after publication. However, the FAA contemplates a review of the procedures established by these amendments after they have been in operation for at least six months and desires public participation in that review. Interested persons are invited to submit such comments as they may desire with respect to the new enforcement procedures. Communications should identify the regulatory docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591. All comments recieved on or before September 13, 1978, will be considered during the review, and will be available both before and after that date in the Rules Docket for examination by interested persons.

Drafting Information

The principal authors of this document are Matthew Z. Markotic and Dewey R. Roark, Jr., Office of the Chief Counsel.

Adoption of the Amendments

Accordingly, Part 13 of the Federal Aviation Regulations (14 CFR Part 13) is amended, effective March 13, 1978, as follows:

1. By revising § 13.11 to read as follows:

§ 13.11 Administrative disposition of certain violations.

(a) If it is determined that a violation or an alleged violation of the Federal Aviation Act of 1958, or an order or regulation issued under it, or of the Hazardous Materials Transportation Act, or an order or regulation issued under it, does not require legal enforcement action, an appropriate official of the Flight Standards Service, the Office of Airport Programs, or the Civil Aviation Security Service, or other appropriate FAA official may take administrative action in disposition of the case.

(b) An administrative action under this section does not constitute a formal adjudication of the matter and may be taken by issuing the alleged violator—

(1) A "Warning Notice" which recites available facts and information about the incident or condition, and indicates that it may have been a violation; or

(2) A "Letter of Correction" which confirms the FAA decision in the matter and states the necessary corrective action the alleged violator has taken or agrees to take. If the agreed corrective action is not fully completed, legal enforcement action may be taken.

2. By amending § 13.15 by changing the heading to read as follows:

§ 13.15 Civil penalties: Federal Aviation Act of 1958.

. . . . . .

3. By amending § 13.16 by adding new paragraphs (d) through (q) to read as follows:

§ 13.16 Civil penalties: Hazardous Materials Transportation Act.

. . . . . .

(d) If a civil penalty is contemplated in a case involving the transportation or shipment by air of hazardous materials, the Chief Counsel, the Assistant Chief Counsel for Regulations and Enforcement, or the Regional Counsel concerned sends to the person charged with the violation a notice of proposed civil penalty advising him of the charges and stating the amount of the civil penalty proposed to be assessed. Within 30 days after the service of the notice, the person charged with a violation may—

(1) Present to the official who signed the notice written information in answer to the charges, and, if desired, request a conference with the official who signed the notice in order to present information in answer to the charges;

(2) Offer to pay the amount of the civil penalty proposed to be assessed, or offer to pay a reduced amount and submit reasons for the reduction; or

(3) Request a hearing in accordance with Subpart D of this part.

(e) Within 10 days after the receipt of a reply to any submission made in accordance with paragraphs (d)(1) and (d)(2) of this section, the person charged with a violation may request a hearing in accordance with Subpart D of this part.

(f) The person charged with the violation may pay the amount of the civil penalty proposed to be assessed, or an amount agreed upon, by sending a certified check or money order for that amount, payable to the Federal Aviation Administration, to the official who issued the notice of proposed civil penalty. The official then issues an order assessing the civil penalty in the proposed or agreed upon amount.

(g) If the person charged with the violation requests a hearing, the procedure in Subpart D of this part applies. At the close of the hearing, the Hearing Officer will, either on the record or subsequently in writing, issue—

(1) A decision which includes the reasons for his decision and order; and

(2) An order which either—

(i) Dismisses the charges; or

(ii) Sets forth the violation and assesses a civil penalty not greater than the amount proposed in the notice of proposed civil penalty.

(h) Either party may appeal from the Hearing Officer's decision to the Administrator by filing a notice of appeal within 20 days after the date of the decision and serving a copy on the other party. The appellant shall file an appeal brief within 40 days after the date of the decision and serve a copy on the other party. Any reply brief must be filed within 20 days after service of the appeal brief. A copy of the reply brief must be served on the appellant.

(i) If no appeal is filed from the Hearing Officer's decision and order or if an appeal is withdrawn by the appellant prior to the Administrator's decision, the order of the Hearing Officer dismissing the charges or assessing the civil penalty is the final agency order in the case.

(j) If an appeal is filed from the Hearing Officer's order the Administrator reviews the record of the hearing, and issues a decision and order dismissing, reversing, modifying, or affirming the Hearing Officer's order. The Administrator does not assess a civil penalty in an amount greater than the amount proposed in the notice of proposed civil penalty. The Administrator's decision includes the reasons for his action, and his order is the final agency order in the case.

(k) If the person charged with the violation does not request a hearing in accordance with Subpart D of this part, and does not pay the amount of the civil penalty proposed to be assessed, or an amount agreed upon, the official who issued the notice of proposed civil penalty issues an order assessing a civil penalty in an amount he determines to be appropriate or takes such other action as may be appropriate. This official does not assess an amount greater than the amount proposed in the notice of proposed civil penalty. The order issued under this paragraph is the final agency order in the case.

(l) An order issued under this section assessing a civil penalty against a person charged with a violation is issued only after consideration of—

(1) The nature and circumstances of the violation;

(2) The extent and gravity of the violation;

(3) The person's degree of culpability;

(4) The person's history of prior violations;

(5) The person's ability to pay;

(6) The effect on the person's ability to continue in business; and

(7) Such other matters as justice may require.

(m) If the person charged with a violation asserts that he cannot pay the proposed penalty or assessment or that it would prevent him from continuing in business, he should provide substantiating information in support of the assertion to the official who is issuing the civil penalty assessment.

(n) If an assessed civil penalty is not paid within 60 days after service of the order assessing it, the official who issued the notice of proposed civil penalty may refer it to the Attorney General, or his delegate, with a request that an action to collect the assessed penalty be brought in the appropriate United States District Court.

(o) The amount of an assessed civil penalty may be compromised by the official who assessed the penalty at any time prior to its referral to the Attorney General.

(p) Filing and service of documents under this section shall be accomplished in accordance with § 13.43; and the periods of time specified in this section shall be computed in accordance with § 13.44.

(q) The officer who signed the notice of proposed civil penalty, for good cause shown, may grant an extension of time to file any document specified in this section, except documents to be filed with the Administrator. Extensions of time to file documents with the Administrator may be granted by the Administrator upon written request, served upon all parties, and for good cause shown.

4. By adding a new § 13.25 to read as follows:

§ 13.25 Injunctions.

(a) Whenever it is determined that a person has engaged, or is about to engage, in any act or practice constituting a violation of the Federal Aviation Act of 1958, or any regulation or order issued under it for which the FAA exercises enforcement responsibility, or, with respect to the transportation or shipment by air of any hazardous materials, in any act or practice constituting a violation of the Hazardous Materials Transportation Act, or any regulation or order issued under it for which the FAA exercises enforcement responsibility, the Chief Counsel, the Assistant Chief Counsel for Regulations and Enforcement, the Regional Counsel concerned, or the Aeronautical Center Counsel may request the Attorney General, or his delegate, to bring an action in the appropriate United States District Court for such relief as is necessary or appropriate, including mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages, as provided by Section 1007 of the Federal Aviation Act of 1958 (49 U.S.C. 1487) and Section 111(a) of the Hazardous Materials Transportation Act (49 U.S.C. 1810).

(b) Whenever it is determined that there is substantial likelihood that death, serious illness, or severe personal injury, will result from the transportation by air of a particular hazardous material before an order of compliance proceeding, or other administrative hearing or formal proceeding to abate the risk of the harm can be completed, the Chief Counsel, the Assistant Chief Counsel for Regulations and Enforcement, or the Regional Counsel concerned may bring, or request the Attorney General to bring, an action in the appropriate United States District Court for an order suspending or restricting the transportation by air of the hazardous material or for such other order as is necessary to eliminate or ameliorate the imminent hazard, as provided by Section 111(b) of the Hazardous Materials Transportation Act (49 U.S.C. 1810).

5. By amending Subpart D by revising the heading to read as follows:

Subpart D—Rules of Practice for FAA Hearings

. . . . . .

6. By revising § 13.31 to read as follows:

§ 13.31 Applicability.

This subpart applies to proceedings in which a hearing has been requested in accordance with §§ 13.16(d)(3), 13.16(e), 13.19(c)(5), 13.75(a)(2), 13.75(b), or 13.81(e).

7. By revising § 13.35 to read as follows:

§ 13.35 Request for hearing.

(a) A request for hearing must be made in writing to the Office of the Hearing Officers, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591. It must describe briefly the action proposed by the FAA, and must contain a statement that a hearing is requested. A copy of the request for hearing and a copy of the answer required by paragraph (b) of this section must be served on the official who issued the notice of proposed action.

(b) An answer to the notice of proposed action must be filed with the request for hearing. All allegations in the notice not specifically denied in the answer are deemed admitted.

(c) Within 15 days after service upon him of the copy of the request for hearing, the official who issued the notice of proposed action forwards a copy of that notice, which serves as the Complaint, to the Office of the Hearing Officers.

8. By revising § 13.37 (d) and (k) to read as follows:

§ 13.37 Hearing Officer's powers.

. . . . . .

(d) Adopt procedures for the submission of evidence in written form.

. . . . . .

(k) Issue decisions, make findings of fact, make assessments, and issue orders, as appropriate.

§ 13.41 [Reserved]

9. By revoking and reserving § 13.41.

10. By revising § 13.43 to read as follows:

§ 13.43 Service and filing of pleadings, motions, and documents.

(a) Copies of all pleadings, motions, and documents filed with the Office of the Hearing Officers must be served upon all parties to the proceeding by the person filing them.

(b) Service may be made by personal delivery or by mail.

(c) A certificate of service shall accompany all documents when they are tendered for filing and shall consist of a certificate of personal delivery or a certificate of mailing, executed by the person making the personal delivery or mailing the document.

(d) Whenever proof of service by mail is made, the date of mailing or the date as shown on the postmark shall be the date of service, and where personal service is made, the date of personal delivery shall be the date of service.

(e) The date of filing is the date the document is actually received.

11. By adding a new § 13.44 to read as follows:

§ 13.44 Computation of time and extension of time.

(a) In computing any period of time prescribed or allowed by this subpart, the date of the act, event, default, notice or order after which the designated period of time begins to run is not to be included in the computation. The last day of the period so computed is to be included unless it is a Saturday, Sunday, or legal holiday for the FAA, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a legal holiday.

(b) Upon written request filed with the Office of the Hearing Officers and served upon all parties, and for good cause shown, a Hearing Officer may grant an extension of time to file any documents specified in this subpart.

12. By revising § 13.47 to read as follows:

§ 13.47 Withdrawal of notice or request for hearing.

At any time before the hearing, the FAA counsel may withdraw the notice of proposed action, and the party requesting the hearing may withdraw his request for hearing.

13. By amending § 13.49 by deleting the word "certificate" from paragraph (a), and by revoking and reserving paragraph (b).

§ 13.49 Motions.

* * * * *

(b) [Reserved.]

* * * * *

14. By revising § 13.55 to read as follows:

§ 13.55 Notice of hearing.

The Hearing Officer shall set a reasonable date, time, and place for the hearing, and shall give the parties adequate notice thereof and of the nature of the hearing. Due regard shall be given to the convenience of the parties with respect to the place of the hearing.

15. By amending § 13.57 by adding a new paragraph (d) to read as follows:

§ 13.57 Subpoenas and witness fees.

* * * * *

(d) Notwithstanding the provisions of paragraph (c) of this section, the FAA pays the witness fees and mileage if the Hearing Officer who issued the subpoena determines, on the basis of a written request and good cause shown, that—

(1) The presence of the witness will materially advance the proceeding; and

(2) The party at whose instance the witness is subpoenaed would suffer a serious hardship if required to pay the witness fees and mileage.

§ 13.59 [Amended]

16. By amending § 13.59 by deleting the second and third sentences of paragraph (a).

17. By amending § 13.67 by revising the heading to read as follows:

§ 13.67 Final order of Hearing Officer in certificate of aircraft registration proceedings.

* * * * *

18. By adding a new Subpart E to read as follows:

Subpart E—Orders of Compliance Under the Hazardous Transportation Act

Sec.
13.71 Applicability.
13.73 Notice of proposed order of compliance.
13.75 Reply or request for hearing.
13.77 Consent order of compliance.
13.79 Hearing.
13.81 Order of immediate compliance.
13.83 Appeal.
13.85 Filing, service, and computation of time.
13.87 Extension of time.

AUTHORITY: Secs. 109, 110, 111, hazardous Materials Transportation Act (49 U.S.C. 1808, 1809, 1810); sec. 302(f), 303(d), 313(a), 1007, Federal Aviation Act of 1958 (49 U.S.C. 1343(f), 1344(d), 1354(a), 1487); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); § 1.47, Regulations of the Office of the Secretary of Transportation (49 CFR 1.47).

Subpart E—Orders of Compliance Under the Hazardous Materials Transportation Act

§ 13.71 Applicability.

Whenever the Chief Counsel, the Assistant Chief Counsel for Regulations and Enforcement, or the Regional Counsel concerned has reason to believe that a person is engaging in the transportation or shipment by air of hazardous materials in violation of the Hazardous Materials Transportation Act, or any regulation or order issued under it for which the FAA exercises enforcement responsibility, and the circumstances do not require the issuance of an order of immediate compliance, he may conduct proceedings pursuant to section 109 of that Act (49 U.S.C. 1808) to determine the nature and extent of the violation, and may thereafter issue an order directing compliance.

§ 13.73 Notice of proposed order of compliance.

A compliance order proceeding commences when the Chief Counsel, the Assistant Chief Counsel for Regulations and Enforcement, or the Regional Counsel concerned sends the alleged violator a notice of proposed order of compliance advising him of the charges and setting forth the remedial action sought in the form of a proposed order of compliance.

§ 13.75 Reply or request for hearing.

(a) Within 30 days after service upon him of a notice of proposed order of compliance, the alleged violator may—

(1) File a reply in writing with the official who issued the notice; or

(2) Request a hearing in accordance with Subpart D of this part.

(b) If a reply is filed, as to any charges not dismissed or not subject to a consent order of compliance, the alleged violator may, within 10 days after receipt of notice that the remaining charges are not dismissed, request a hearing in accordance with Subpart D of this part.

(c) A reply must—

(1) Respond to each factual allegation and state whether it is admitted or denied; and

(2) Set forth any affirmative defenses and include a statement of the form and nature of proof by which those defenses are to be established.

(d) If it is necessary to respond to an amendment to the notice, the reply may be amended within 15 days after service of the amended notice.

(e) If the alleged violator elects not to contest one or more factual allegations, he shall so state in the reply. In the reply the alleged violator may propose an appropriate order for issuance or propose the negotiation of a consent order.

(f) Failure of the alleged violator to file a reply or request a hearing within the period provided in paragraph (a) of this section constitutes—

(1) A waiver of his right to appeal and contest the allegations, and to a hearing; and

(2) Authorizes the official who issued the notice to find the facts to be as alleged in the notice and to issue an appropriate order directing compliance, without further notice or proceedings.

§ 13.77 Consent order of compliance.

(a) At any time before the issuance of an order of compliance, the official who issued the notice and the alleged violator may agree to dispose of the case by the issuance of a consent order of compliance by the official.

(b) A proposal for a consent order submitted to the official who issued the notice under ths section must include—

(1) A proposed order of compliance;

(2) An admission of all jurisdictional facts;

(3) An express waiver of right to further procedural steps and of all rights to judicial review;

(4) An incorporation by reference of the notice and an acknowledgment that the notice may be used to construe the terms of the order of compliance; and

(5) If the issuance of a consent order has been agreed upon after the filing of a request for hearing in accordance with Subpart D of this part, the proposal for a consent order shall include a request to be filed with the Hearing Officer withdrawing the request for a hearing and requesting that the case be dismissed.

§ 13.79 Hearing.

If an alleged violator requests a hearing in accordance with § 13.75, the procedure of Subpart D of this part applies. At the close of the hearing, the Hearing Officer, on the record or subsequently in writing, sets forth his findings and conclusion and the reasons therefor, and either—

(a) Dismisses the notice of proposed order of compliance; or

(b) Issues an order of compliance.

§ 13.81 Order of immediate compliance.

(a) Notwithstanding §§ 13.73 through 13.79, the Chief Counsel, the Assistant Chief Counsel for Regulations and Enforcement, or the Regional Counsel concerned may issue an order of immediate compliance, which is effective upon issuance, if he finds that—

(1) There is strong probability that a violation is occurring or is about to occur;

(2) The violation poses a substantial risk to health or to safety of life or property; and

(3) The public interest requires the avoidance or amelioration of that risk through immediate compliance and waiver of the procedures afforded under §§ 13.73 through 13.79.

(b) An order of immediate compliance is served promptly upon the person against whom the order is issued by telephone or telegram, and a written statement of the relevant facts and the legal basis for the order, including the findings required by paragraph (a) of this section, is served promptly by personal service or by mail.

(c) The official who issued the order of immediate compliance may rescind or suspend the order if it appears that the criteria set forth in paragraph (a) of this section are no longer satisfied, and, when appropriate, may issue a notice of proposed order of compliance under § 13.73 in lieu thereof.

(d) If at any time in the course of a proceeding commenced in accordance with § 13.73 the criteria set forth in paragraph (a) of this section are satisfied, the official who issued the notice may issue an order of immediate compliance, even if the period for filing a reply or requesting a hearing specified in § 13.75 has not expired.

(e) Within 3 days after the service upon him of an order of immediate compliance, the alleged violator may request a hearing in accordance with Subpart D of this part and the procedure in that subpart will apply except that—

(1) The case will be heard within fifteen days after the date of the order of immediate compliance unless the alleged violator requests a later date;

(2) The order will serve as the complaint; and

(3) The Hearing Officer shall issue his decision and order dismissing, reversing, modifying, or affirming the order of immediate compliance on the record at the close of the hearing.

(f) The filing of a request for hearing in accordance with paragraph (e) of this section does not stay the effectiveness of an order of immediate compliance.

(g) At any time after an order of immediate compliance has become effective, the official who issued the order may request the Attorney General, or his delegate, to bring an action for appropriate relief in accordance with § 13.25.

§ 13.83 Appeal

(a) Any person against whom an order of compliance has been issued by a Hearing Officer or the official who issued the notice of proposed order of compliance may appeal from the order of the Hearing Officer by filing a notice of appeal with the Administrator within 20 days after the date of issuance of the order.

(b) Any person against whom an order of immediate compliance has been issued in accordance with § 13.81 or the official who issued the order of immediate compliance may appeal from the order of the Hearing Officer by filing a notice of appeal with the Administrator within three days after the date of issuance of the order by the Hearing Officer.

(c) Unless the Administrator expressly so provides, the filing of a notice of appeal does not stay the effectiveness of an order of immediate compliance.

(d) If a notice of appeal is not filed from the order of compliance issued by a Hearing Officer, such order is the final agency order of compliance.

(e) Any person filing an appeal authorized by paragraph (a) of this section shall file an appeal brief with the Administrator within 40 days after the date of the issuance of the order, and serve a copy on the other party. Any reply brief must be filed within 20 days after service of the appeal brief. A copy of the reply brief must be served on the appellant.

(f) Any person filing an appeal authorized by paragraph (b) of this section shall file an appeal brief with the Administrator with the notice of appeal and serve a copy on the other party. Any reply brief must be filed within 3 days after receipt of the appeal brief. A copy of the reply brief must be served on the appellant.

(g) On appeal the Administrator reviews the available record of the proceeding, and issues an order dismissing, reversing, modifying, or affirming the order of compliance or the order of immediate compliance. The Administrator's order includes the reasons for his action.

(h) In cases involving an order of immediate compliance, the Administrator's order on appeal is issued within 10 days after the filing of the notice of appeal.

§ 13.85 Filing, service and computation of time.

Filing and service of documents under this subpart shall be accomplished in accordance with § 13.43, except service of orders of immediate compliance under § 13.81(b); and the periods of time specified in this subpart shall be computed in accordance with § 13.44.

§ 13.87 Extension of time.

(a) The official who issued the notice of proposed order of compliance, for good cuase shown, may grant an extension of time to file any document specified in this subpart, except documents to be filed with the Administrator.

(b) Extensions of time to file documents with the Administrator may be granted by the Administrator upon written request, served upon all parties, and for good cause shown.

(Secs. 109, 110, and 111, Hazardous Materials Transportation Act (49 U.S.C. 1808, 1809, and 1810); sec. 302(f), 303(d), 313(a), and 1007, Federal Aviation Act of 1958 (49 U.S.C. 1343(f), 1344(d), 1354(a), and 1487); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and § 1.47, Regulations of the Office of the Secretary of Transportation (49 CFR 1.47).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on February 28, 1978.

LANGHORNE BOND,
Administrator.

[FR Doc. 78-6447 Filed 3-10-78; 8:45 am]

[4910-13]

[Docket No. 15594; Amdts. 25-43 and 91-148]

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

PART 91—GENERAL OPERATING AND FLIGHT RULES

Transport Category Airplanes—Pitot Heat Indication Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds requirements for the installation of a pitot heat indication system for the type certification of transport category airplanes having flight instrument pitot heating systems and for the installation, within 3 years, of a pitot heat indication system in all transport category airplanes equipped with flight instrument pitot heating systems. The amendment is based on service experience that indicates that pitot heat indication systems are needed in transport category airplanes having flight instrument pitot heating systems to provide greater assurance that incidents and accidents, caused by pilot reliance on faulty flight data instrumentation indications resulting from ice blockage of pitot ports, do not occur.

EFFECTIVE DATE: April 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Raymond E. Ramakis, Regulatory Projects Branch, Safety Regulations Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-755-8716.

SUPPLEMENTARY INFORMATION:

BACKGROUND AND DISCUSSION OF COMMENTS

This amendment is based on a notice of proposed rulemaking (Notice 76-12) published in the FEDERAL REGISTER on April 22, 1976, (41 FR 16827). Except as discussed herein, the reasons for this amendment are the same as those contained in Notice 76-12.

Interested persons have been afforded an opportunity to participate in the making of this amendment and due consideration has been given to all matter presented. A number of substantive changes and changes of an editorial and clarifying nature have been made to the proposed rule based upon the relevant comments received and upon further review within the FAA. The significant public comments and noneditorial changes to the proposed rule are discussed below.

The majority of the comments received in response to Notice 76-12 were opposed to the proposed requirement for a pitot heat indication system. These commentators asserted that a properly trained pilot following proper checklist procedures would not leave the pitot heat switch turned off, when it should be on, that such a pilot would be able to recognize incorrect flight data caused by an inoperative pitot heating element and resultant pitot tube ice accumulation, and that, after recognition such a pilot would use other flight deck instrumentation to continue safe flight. These commentators recommended that the FAA encourage pilot professionalism and the use of proper checklist procedures instead of requiring the addition of an unnecessary and costly indicator to the already too numerous indicators, both visual and aural, that are installed on the flight deck. While the FAA agrees with the need for proper training and the use of proper flight deck checklist procedures, experience indicates that human error is likely to continue to occur and that with respect to pitot heating systems this could and has led to disastrous results. The addition of a pitot heat indication system while not guaranteeing against human error will provide additional assurance that pilots will become aware as early as possible of potentially dangerous situations. Considering the benefits expected and the relatively limited cost involved in the installation of a pitot heat indication system, the FAA believes the requirement to be warranted.

A number of commentators suggested the proposal be revised to permit the use of alternate indicating systems. Among the alternatives suggested were pitot heat element failure warning indicators, ammeters to measure current in pitot heat elements, and indicators to warn of ice accumulation at the pitot ports. In addition to being beyond the scope of Notice 76-12, the FAA does not believe any of these suggested alternate systems to be equivalent to the system proposed with respect to certain necessary characteristics. These alternates either provide no effective indication of whether the pitot heating system is switched on, provide a display that can be easily misinterpreted or overlooked by a flight crew, or provide an indication at a time after flight instrumentation indications have been adversely affected.

Several commentators pointed out that warning lights, which are usually red in color, are used only to provide an indication to the flight crew that a very serious situation exists that requires immediate corrective action. The commentators contended, and the FAA agrees, that the existence of an inoperative pitot heating system is not such a situation. Based on these comments, proposed § 25.1326(a) has been revised to change the required color of the indication light to amber, a color used to alert the flight crew of a less serious situation. In addition, proposed §§ 25.1326 and 91.50 have been revised to redesignate the name of the required system as a "pitot heat indication system".

As an alternative to requiring an indication for an inoperative pitot heating system, one commentator suggested that high reliability pitot heating elements could be required. The FAA does not agree. The reliability of pitot heating elements has not reached a level that would, for the reasons previously discussed, negate the need for an indication system.

A large number of commentators argued that the proposal was not consistent with the design of modern transport category airplanes that have master caution lights and annunciator panel displays and that the proposal should be revised to allow the incorporation of the pitot heat indication system into the existing displays. In this connection, the commentators stated that the proposed requirement, contained in § 25.1326(b), that the indicator be adjacent to the pilot in command airspeed indicator, and the proposed requirement, contained in § 25.1326(d), that the indicating light not be extinguishable when a pitot heating element is inoperative, could not be met with the existing master caution light and annunciator panel display. In addition, with respect to proposed § 25.1326(d), one commentator argued that an unnecessary battery drain would result from the proposal that could be hazardous during power-out conditions. The FAA agrees that the required pitot heat indication system should be allowed to be a part of the master caution light and annunciator panel display. This type of display is extremely effective because of its central location and the ease with which it can be checked by the flight crew. Accordingly, proposed §§ 25.1326 (b) and (d) have been deleted. In addition, consistent with these changes, proposed § 25.1326 has been revised to provide that the required indication must be to a flight crewmember instead of the pilot. These changes also respond to a comment that the proposal went too far in dictating design.

One commentator questioned the requirement of proposed § 25.1326(c) which refers to pitot heating system switch positions. The commentator pointed out that on many airplanes the pitot heating system activates automatically and there exists no "switch." Based on this comment, the proposal has been revised to more clearly cover automatic switches.

One commentator pointed out that some airplanes have several pitot heating elements and questioned whether under proposed § 25.1326 an indicator would be required for each of these. As proposed the pitot heat indication system was required to provide an indication of an inoperative pitot heating system. Based on this comment, proposed § 25.1326(c) (§ 25.1326(b) as adopted) has been revised to make it clear that the indication is required irrespective of which pitot heating element is inoperative. Another commentator argued that the pitot heat indication system should indicate to the pilot which pitot heating element is inoperative. The FAA does not agree with this comment. Once the pilot is aware that there is an inoperative pitot heating element, the pilot can utilize other available instrumentation to determine which, if any, flight instruments are accurate and take appropriate action. Therefore, separate pitot heat indications are not necessary.

Based on several comments proposed § 25.1326(e) has been deleted. That provision is adequately covered under § 25.1301.

Several commentators objected to the provision contained in proposed § 91.50 that would require the installation of pitot heat indication systems in all transport category airplanes within 3 years. These commentators argued that service experience did not justify the adoption of the rule and that if the rule were to be adopted it should only apply to air carriers, air taxis, and commercial operators, or only to newly manufactured airplanes. The FAA disagrees. Contrary to the claims of the commentators, service experience justifies the adoption of the rule. At least one accident and a number of incidents have been reported that might have been avoided if a pitot heat indication system were installed, and the FAA believes that accidents and incidents will be avoided in the future by the adoption of this amendment. With respect to the operations involved, the FAA is unaware of any data or information to indicate that air carriers, air taxis, or commercial operators are any more susceptible than general aviation operators to the problems at which this amendment is directed. Moreover, due to the relative inexpense of the required indication system, the FAA does not believe restricting the retrofit rule to certain transport category airplanes is justified when the safety benefits are considered.

One commentator argued that 5 years would be necessary to install the pitot heat indication systems under proposed § 91.50. Another commentator stated that the 3 years provided in the proposal was too lengthy a period of time. In this connection, sufficient time is needed for the production, procurement, and installation of the required indication system. The FAA believes the 3 years proposed is a realistic time for accomplishing these tasks. However, the FAA recognizes that conditions beyond the control of an operator can occur to delay compliance with the rule. This could be the case even though a good faith effort was made by an operator to comply. Because of this, the proposal has been revised to provide, under appropriate circumstances, for a limited extension of the compliance date in accordance with a schedule acceptable to the FAA.

Many commentators objected to proposed §§ 91.50 (b) and (c) which would have required the termination of a flight at the nearest suitable airfield if a pitot heating system became inoperative during flight and would have only permitted flights to a base for repair if the actual or forecasted free air temperature was above 32 degrees F. These commentators argued that the proposal could create other hazards by requiring landings at unfamiliar airports and that the altitudes permitted for flights to repair bases under the 32 degree F. temperature criteria were unrealistically low. The FAA agrees with these comments. A pilot made aware of a malfunctioning pitot heating system would be able to safely continue operations in accordance with procedures with which pilots are aware. These procedures are contained in airplane flight manuals and minimum equipment lists. Moreover, many transport category airplanes are equipped with dual pitot and flight instrumentation systems and angle of attack indicators to assist the pilot in safely operating an aircraft with a malfunctioning pitot heating system. Accordingly, proposed §§ 91.50 (b) and (c) have been deleted.

One commentator suggested that a pitot heat indication system should be required in each aircraft approved for operations under instrument flight rules (IFR). The FAA does not agree. In addition to the comment being beyond the scope of the notice, the FAA does not believe the benefits to be expected from the commentator's suggestion justify its adoption.

The FAA has determined, based on an evaluation of the expected benefits and other impacts on the public and private sectors, that the adoption of this amendment will result in greater assurance that pilots of transport category airplanes will not be dangerously misled by faulty flight instrument indications caused by pitot tube ice accumulation. Based on service experience and other information available, it is estimated that over a 5 year period approximately 140 lives may be saved by this amendment with the cost of equipment installation being between $500 and $700 for each of the approximately 4,300 airplanes covered by the amendment.

DRAFTING INFORMATION

The principal authors of this document are Mr. Thomas Ryan, Flight Standards Service, and Mr. Samuel Podberesky, Office of the Chief Counsel.

THE AMENDMENT

Accordingly, parts 25 and 91 of the Federal Aviation Regulations (14 CFR parts 25 and 91) are amended effective April 12, 1978, as follows:

1. By adding a new § 25.1326 to read as follows:

§ 25.1326 Pitot heat indication systems.

If a flight instrument pitot heating system is installed, an indication system must be provided to indicate to the flight crew when that pitot heating system is not operating. The indication system must comply with the following requirements:

(a) The indication provided must incorporate an amber light that is in clear view of a flight crewmember.

(b) The indication provided must be designed to alert the flight crew if either of the following conditions exist:

(1) The pitot heating system is switched "off".

(2) The pitot heating system is switched "on" and any pitot tube heating element is inoperative.

2. By adding a new § 91.50 to read as follows:

§ 91.50 Transport category airplanes—Pitot heat indication systems.

(a) Except as provided in paragraph (b) of this section, after April 12, 1981, no person may operate a transport category airplane equipped with a flight instrument pitot heating system unless the airplane is also equipped with an operable pitot heat indication system that complies with § 25.1326 of this chapter in effect on April 12, 1978.

(b) An operator may obtain an extension of the April 12, 1981, compliance date specified in paragraph (a) of this section, but not beyond April 12, 1983, from the Director, Flight Standards Service if the operator:

(1) Shows that, due to circumstances beyond its control, it cannot comply by the specified compliance date; and

(2) Submits, by the specified compliance date, a schedule for compliance, acceptable to the Director, indicating

that compliance will be achieved at the earliest practicable date.

(Secs. 313(a), 601, 603, 604, Federal Aviation

SUPPLEMENTARY INFORMATION: There have been reports of engine induction system flexible elbow rupturing and separation on Teledyne Conti-

(5) Appropriate log book entries must be made in accordance with FAR 43.9.

This amendment becomes effective

from $100 to $200. The Export Administration Regulations currently impose a $100 limitation on the combined total domestic retail value of all com-

tation as being based on the contract price established in a bona fide transaction between independent parties.

This regulation also authorizes the

Executive Order 11821 and OMB Circular A-107.

Dated: March 6, 1978.

that compliance will be achieved at the earliest practicable date.

(Secs. 313(a), 601, 603, 604, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423, 1424); sec. 6(c), Department of Transportation Act (49 U.S.C.1855(c)).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on March 6, 1978.

LANGHORNE BOND,
Administrator.

[FR Doc. 78-6460 Filed 3-10-78; 8:45 am]

[4910-13]

[Docket No. 78-SO-14; Amdt. 39-3153]

PART 39—AIRWORTHINESS DIRECTIVES

Teledyne Continental Motors Models TSIO-520-J and TSIO-520-N Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: the nature of this Airworthiness Directive (A.D.) is to require repetitive inspection, adjustment, and/or replacement, if necessary, of the left-hand and right-hand engine induction system elbows on the intake manifolds. The intended effect of this A.D. is to prevent loss of engine power. Instances have occurred inflight in which the flexible elbow separated from the induction manifold which resulted in total or partial loss of engine power. Elbow ruptures have also caused loss of engine power or engine roughness.

DATES: Effective Date: March 14, 1978. Compliance Date: Prior to accumulation of next 25 hours time in service and thereafter at each 100 hours time in service.

ADDRESSES: Copies of Teledyne Continental Motors (TCM) Service Bulletin M78-5 may be obtained from Teledyne Continental Motors, Aircraft Products Division, P.O. Box 90, Mobile, Ala. 36601. Copies of TCM Service Bulletin M78-5 are maintained in the A.D. Docket File and may be examined in Room 264, Federal Aviation Administration, Southern Region, 3400 Whipple Street, East Point, Ga. 30344.

FOR FURTHER INFORMATION CONTACT:

H. D. Roe, ASO-214, Propulsion Section, Engineering and Manufacturing Branch, Southern Region, P.O. Box 20636, Atlanta, Ga. 30320, telephone 404-763-7435.

SUPPLEMENTARY INFORMATION: There have been reports of engine induction system flexible elbow rupturing and separation on Teledyne Continental Motors (TCM) Models TSIO-520-J, TSIO-520-N and on Riley Supplemental Type Certificate (STC) No. SE1908SW (TCM) TSIO-520-K modified engines.

Elbow separation or rupture caused by excessive relative motion between the engine and airframe can produce improper fuel air mixtures to the engine which can cause partial or total loss of engine power.

Since these conditions are likely to exist or develop in other airplanes using this part, a condition exists that requires immediate adoption of this regulation. It is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are H. D. Roe, Flight Standards Division, and Eddie L. Thomas, Office of the Regional Counsel.

ADOPTION OF AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

TELEDYNE CONTINENTAL MOTORS. Applies to Model TSIO-520-J and TSIO-520-N engines installed in, but not limited to, Cessna Models 340-A, 414 and Model 340 as modified by STC's SA1881SW or SA186NW.

Compliance: Prior to the accumulation of 25 hours time in service after the effective date of this A.D. and thereafter at intervals not to exceed 100 hours time in service.

To prevent engine malfunction or stoppage accomplish the following: Inspect left and right TCM flexible elbows, TCM Part No. 635930, for proper installation, structural condition and clamp tightness as follows:

(1) Inspect TCM Part No. 635930 for ruptures or cracks, particularly in the convoluted areas. Inspect for wall porosity, indication of leakage or broken fibers. If these conditions are found to exist, replace with serviceable parts.

(2) Inspect the elbow installation for full engagement over intake manifold and intercooler nipple beads with the hose clamps properly located behind nipple beads.

(3) Check torque on left and right flexible intake manifold clamps (Cessna Part No. U84-270-SH) and intercooler clamps (Cessna Part No. U84-260-SH) for 45 to 50 inch pounds. On aircraft which use TCM clamps (Part No. 631972) at these joints, check for torque of 25 to 30 inch pounds. On Riley conversions which use Riley P/N 631972 clamps on these joints, check for 30-35 inch pounds.

(4) Alternate methods of compliance may be acceptable if approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southern Region, Atlanta, Ga.

(5) Appropriate log book entries must be made in accordance with FAR 43.9.

This amendment becomes effective March 14, 1978.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c), and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in East Point, Ga., February 28, 1978.

GEORGE R. LACAILLE,
Acting Director,
Southern Region.

[FR Doc. 78-6450 Filed 3-10-78; 8:45 am]

[1505-01]

[Airspace Docket No. 78-EA-8]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Terminal Control Area; New York, N.Y.

Correction

In FR Doc. 78-5322 appearing at page 8507 in the issue for Thursday, March 2, 1978, in the third column of page 8507, in the 12th line of the description of Area A, the number "349"" should have read "340"". Also, in the second line of the description of Area B, the number "340"" should have read "349"".

[3510-25]

Title 15—Commerce and Foreign Trade

CHAPTER III—INDUSTRY AND TRADE ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 371—GENERAL LICENSES

Increased Value for Gift Parcels

AGENCY: Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: The dollar-value limitation placed on the combined total domestic retail value of commodities included in a gift parcel shipped under General License GIFT is increased from $100 to $200. The Export Administration Regulations currently impose a $100 limitation on the combined total domestic retail value of all commodities included in each gift parcel shipped under the provisions of General License GIFT. Because this $100 limitation was established over 20 years ago and inflation has significantly reduced the purchasing power of that amount in the intervening years, the Regulations are amended to increase the limit from $100 to $200.

EFFECTIVE DATE: March 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-4196.

Accordingly, Part 371 of the Export Administration Regulations (15 CFR Part 371) is amended by revising § 371.18(b)(2) as follows:

§ 371.18 General license GIFT shipments of gift parcels.

* * * * *

(b) * * *

(1) * * *

(2) Dollar-value limitations. The combined total domestic retail value of all commodities included in a gift parcel shall not exceed $200.

* * * * *

STANLEY J. MARCUSS,
Deputy Assistant Secretary
for Trade Regulation.

[FR Doc. 78-6484 Filed 3-10-78; 8:45 am]

[4310-31]

Title 30—Mineral Resources

CHAPTER II—GEOLOGICAL SURVEY, DEPARTMENT OF THE INTERIOR

PART 231—OPERATING REGULATIONS FOR EXPLORATION, DEVELOPMENT, AND PRODUCTION

Basis for Royalty Computation, Issuance of General Mining Orders

AGENCY: Geological Survey, Interior.

ACTION: Final rule.

SUMMARY: This rule clarifies the basis for computation of royalty payments due for the ore and mineral products governed by this part. The currently employed method of computation of royalty payments is based on "the highest and best obtainable market price." On April 29, 1976, the Secretary of the Interior approved clarification of the method of computation as being based on the contract price established in a bona fide transaction between independent parties.

This regulation also authorizes the Area Mining Supervisor to issue General Mining Orders that would implement, in specific geographical areas, the general regulations that are applicable to exploration and mining operations under Federal mineral leases or permits for minerals (except coal, oil, and gas) covering Federal and Indian lands.

EFFECTIVE DATE: April 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Andrew V. Bailey, Chief, Branch of Mining Operations, Conservation Division, U.S. Geological Survey, Reston, Va. 22092.

SUPPLEMENTARY INFORMATION: Proposed rules to amend 30 CFR Part 231 were published in the FEDERAL REGISTER on December 10, 1976 (41 FR 54003). At the close of the comment period, comments had been received from three commenters. An extension of the comment period and clarification of the proposed language were requested.

The purpose of these regulations is to clarify the method of computation of royalty payments for the ore and mineral products governed by this part, and to authorize issuance of General Mining Orders.

The currently employed method of computation of royalty payments is based on "the highest and best obtainable market price." On April 29, 1976, the Secretary of the Interior approved clarification of the method of computation as being based on the contract price established in a bona fide transaction between independent parties.

This regulation also authorizes the Area Mining Supervisor to issue General Mining Orders that would implement, in specific geographical areas, the general regulations contained in 30 CFR Part 231 that are applicable to exploration and mining operations under Federal mineral leases or permits for minerals (except coal, oil, and gas) covering Federal and Indian lands.

The principal author of this rulemaking is Donal F. Ziehl, Branch of Mining Operations, U.S. Geological Survey, 703-860-7506.

It is hereby determined that this rulemaking is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C) is required.

NOTE.—The Department of the Interior has determined this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: March 6, 1978.

CHARLES L. EDDY,
Acting Assistant
Secretary of the Interior.

Pursuant to the authority of the Secretary of the Interior contained in the Mineral Leasing Act of February 25, 1920, as amended and supplemented (30 U.S.C. 181-287), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351-359), section 402, Reorganization Plan No. 3 of 1946 (60 Stat. 1099), and various statutes relating to mining operations on Indian Lands, 30 CFR 231.2(j), 231.3(c), and 231.61 are amended to read as follows:

§ 231.2 Definitions.

* * * * *

(j) *General Mining Order* means a formal numbered order issued in a rulemaking procedure by the Mining Supervisor, with the prior approval of the Chief, Conservation Division which implements the regulations in this Part and applies to mining and related operations in a specified geographic area.

§ 231.3 Responsibilities.

* * * * *

(c) * * *

(9) *Implementation of regulations.* Issue General Mining Orders and other orders, make determinations, and grant consents and approvals as necessary to implement or assure compliance with the regulations in this Part. Any oral orders, approvals, or consents shall be promptly confirmed in writing.

§ 231.61 Value basis for royalty computation.

(a) The gross value for royalty purposes shall be the sale or contract unit price times the number of units sold, *provided, however,* That where the Mining Supervisor determines:

(1) That a contract of sale or other business arrangement between the lessee and a purchaser of some or all of the commodities produced from the lease is not a bona fide transaction between independent parties because it is based in whole or in part upon considerations other than the value of the commodities, or (2) That no bona fide sales price is received for some or all of such commodities because the lessee is consuming them, the Mining Supervisor shall determine their gross value, taking into account: (i) All prices received by the lessee in all bona fide transactions, (ii) Prices paid for commodities of like quality produced from the same general area, and (iii) Such other relevant factors as the

Mining Supervisor may deem appropriate; and *provided further,* That in a situation where an estimated value is

ing of this rule are LCDR R. DeKroney, Cove Point Project Officer, and Capt. K. B. Schumacher, Captain of the Port, Baltimore, Md.

Grants Administration Division (PM-216), Environmental Protection Agency, Washington, D.C. 20460, 202-755-0850

not have authority with respect to waivers of over 180 days duration. This editorial action brings the rule

(Secs. 4, 5, 303, 48 Stat. as amended, 1066, 1068, 1082; (47 U.S.C. 154, 155, 303).)

FEDERAL COMMUNICATIONS

3. This proceeding[3] assigned FM Channel 233 to Baxley, Ga., and Channel 244A to Sparta, Ga.[3] Earlier, in an

Mining Supervisor may deem appropriate; and *provided further*, That in a situation where an estimated value is used, the Mining Supervisor shall require the payment of such additional royalties, or allow such credits or refunds as may be necessary to adjust royalty payment to reflect the actual gross value.

(b) The lessee is required to certify that the values reported for royalty purposes are bona fide sales not involving considerations other than the sale of the mineral, and he may be required by the Mining Supervisor to supply supporting information.

[FR Doc. 78-6504 Filed 3-10-78; 8:45 am]

[4910-14]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD5-78-02R]

PART 165—SAFETY ZONES

Establishment of Safety Zone in Vicinity of Cove Point, Maryland, Chesapeake Bay

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment to the Coast Guard's Safety Zone Regulations establishes the waters of Chesapeake Bay in the vicinity of the Columbia LNG Corporation, Cove Point Terminal as a safety zone. The General Regulations contained in 33 CFR 165.20 apply: All vessels and vehicles are prohibited from entering this safety zone without expressed authorization of Captain of the Port Baltimore, Md.

EFFECTIVE DATE: This is effective upon the arrival of the *El Paso Sonatrach* in the vicinity of the Columbia LNG Corporation terminal on or about 14 March 1978 and terminates upon the departure of the *El Paso Sonatrach* on or about 22 March 1978.

FOR FURTHER INFORMATION CONTACT:

LCDR Randolph DeKroney, Marine Safety Office, U.S. Custom House, Baltimore, Md. 21202, 301-752-3573.

SUPLEMENTARY INFORMATION: The establishment of this safety zone is authorized by Title 33 CFR Part 165.10 and is issued by the Captain of the Port, Baltimore, Md. for this reason. Issuance of a notice of proposed rule making is impractical due to the limited time before the arrival of the *El Paso Sonatrach*.

DRAFTING INFORMATION: The principal persons involves in the drafting of this rule are LCDR R. DeKroney, Cove Point Project Officer, and Capt. K. B. Schumacher, Captain of the Port, Baltimore, Md.

In consideration of the above, Part 165 of Title 33 of Code of Federal Regulations is amended to read as follows:

§ 165.513 Cove Point, Chesapeake Bay, Maryland.

The waters and waterfront facilities located within the following boundary constitute a safety zone: A line beginning at a point ½ mile NW of the end of the North pier of the Columbia LNG facility at Cove Point, Md, located at 38°24'43" N latitude 76°23'32" W longitude; thence 056° T to a point 2,800 yards offshore at 38°24'59" latitude, 76°3'01" W longitude; thence 148° T to point located 2,300 yards offshore at 38°23'52" N latitude, 76°22'02" W longitude; thence 236° T to point ½ mile SE of the end of the South pier of the Columbia LNG Facility at Cove Point, Md., located at 38°23'39" N latitude, 76°22'35" W longitude; thence northwesterly to the point of origin.

(86 Stat. 427 (33 U.S.C. 1224)); (46 CFR 1.46(n)(4).)

Dated: March 3, 1978.

K. B. SCHUMACHER,
Captain, U.S. Coast Guard Captain of the Port, Baltimore, Md.

[FR Doc. 78-6476 Filed 3-10-78; 8:45 am]

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER B—GRANTS AND OTHER FEDERAL ASSISTANCE

[FRL 866-2]

PART 33—SUBAGREEMENTS

Minimum Standards for Procurement Under EPA Grants

AGENCY: Environmental Protection Agency.

ACTION: Interim rule.

SUMMARY: Interim subagreement regulations were promulgated by the Environmental Protection Agency on February 8, 1977 (42 FR 8089) with an effective date of March 31, 1977, which was subsequently extended to March 1, 1978 (42 FR 53600). This document again changes the effective date to permit further agency evaluation.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Alexander J. Greene, Director, Grants Administration Division (PM-216), Environmental Protection Agency, Washington, D.C. 20460, 202-755-0850.

Interim subagreement regulations were promulgated by the Environmental Protection Agency on February 8, 1977 (42 FR 8089) with an effective date of March 31, 1977, which was subsequently extended to March 1, 1978 (42 FR 53600). By this action, the effective date is changed as follows:

Effective date: These interim Part 33 subagreement regulations shall become effective on October 1, 1978, and shall govern all procurement actions under grants awarded on or after that date. Procurement actions taken under grants awarded prior to October 1, 1978, are subject to these regulations if the grant (1) includes a special condition requiring compliance with 40 CFR Part 33, or (2) is a section 208 FWPCA grant.

Dated: March 5, 1978.

WILLIAM DRAYTON,
Assistant Administrator for Planning and Management.

[FR Doc. 78-6578 Filed 3-10-78; 8:45 am]

[6320-24]

Title 41—Public Contracts and Property Management Regulations

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

[FPMR Temp. Reg. A-11, Supp. 5]

FEDERAL TRAVEL REGULATIONS

Temporary Regulations

CROSS REFERENCE: For the text of a document published by the General Services Administration on the subject of Federal travel regulations, see FR Doc. 78-6599 appearing in the Notices section of this issue under the heading "General Services Administration".

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 1—PRACTICE AND PROCEDURE

Requests for Waivers

AGENCY: Federal Communications Commission.

ACTION: Editorial change in rule.

SUMMARY: (i) Deletion of § 1.953(b)(2) of the Commission's Rules to remove the incorrect implication therein that the Chief, Safety and Special Radio Services Bureau, does not have authority with respect to waivers of over 180 days duration. This editorial action brings the rule into consistency with Commission action of January 15, 1975 (40 FR 4423) which gave him such authority in amending Part 0. (ii) There is a need to eliminate the editorial inconsistency between Parts 0 and 1 of the Commission's rules. (iii) The intended effect is to eliminate any confusion that might be caused by the inconsistency.

EFFECTIVE DATE: March 15, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Newton B. Jaslow, Federal Communications Commission, telephone number: 202-632-7511.

Adopted: March 1, 1978.

Released: March 3, 1978.

Order in the matter of editorial deletion of § 1.953(b)(2) of Part 1 of the Commission's rules and regulations concerning requests for waivers.

1. On January 15, 1975, the Commission simplified its rules concerning delegations of authority to the Chief, Safety and Special Radio Services Bureau (the Chief) and broadened those delegations (50 FCC 2d 727, 40 FR 4423). The new delegations were spelled out in §§ 0.331 and 0.332 of the rules. At that time, § 1.953(b)(2) reflected the fact that, prior to the broadening, the Chief had not been delegated authority with reference to certain waivers of over 180 days duration. On January 15th, as part of the broadening, that authority was delegated to him. As a result, § 1.953(b)(2) should have been deleted. However, because of an oversight this was not done then but is being done now by this action. The deletion of this section does not in any way change the authority of the Chief.

2. The purpose of this Order is to rectify an editorial oversight.

3. Because this amendment is editorial in nature, the prior notice and effective date provisions of 4 U.S.C. 553 do not apply.

4. Authority for the amendment adopted herein is contained in § 0.231(d) of the Commission's rules and regulations and Sections 4(i) and 5(d) of the Communications Act of 1934, as amended.

5. *Accordingly, it is ordered*, That, effective March 15, 1978 Part 1 of the Commission's rules and regulations is amended as set forth below.

(Secs. 4, 5, 303, 48 Stat. as amended, 1066, 1068, 1082; (47 U.S.C. 154, 155, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
RICHARD D. LICHTWARDT,
Executive Director.

Part 1 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

§ 1.953 [Amended]

In § 1.953(b), subparagraph (2) is deleted.

[FR Doc. 78-6409 Filed 3-10-78; 8:45 am]

[6712-01]

[Docket No. 20337; RM-2296]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in Sparta, Ga.

AGENCY: Federal Communications Commission.

ACTION: Memorandum opinion and order.

SUMMARY: Action taken herein substitutes FM Channel 249A at Sparta, Ga., for Channel 244A which had been assigned earlier. Channel 244A is short-spaced to a co-channel assignment at Wrens, Ga., and the Commission ended this short-spacing problem by making the substitution on its own motion.

EFFECTIVE DATE: April 17, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Jonathan David, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

MEMORANDUM OPINION AND ORDER—PROCEEDING TERMINATED

Adopted: March 3, 1978.

Released: March 7, 1978.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Baxley, Sandersville, and Sparta, Ga.), Docket No. 20337, RM-2296.

1. The Commission has before it the Report and Order in this proceeding adopted under delegated authority on January 30, 1978.[1]

2. Because of information coming to the Commission's attention after adoption of the Report and Order, it is necessary to reconsider that action on our own motion.

[1]The text of the Report and Order was published in the FEDERAL REGISTER on February 3, 1978, 43 FR 4611.

3. This proceeding[2] assigned FM Channel 233 to Baxley, Ga., and Channel 244A to Sparta, Ga.[3] Earlier, in another proceeding, the Commission had assigned Channel 244A to Wrens, Ga., but the Commission overlooked this fact when it assigned Channel 244A to Sparta. This is a problem since the distance between the two Channel 244A assignments is less than the rules require. To deal with this situation it is necessary to assign a different channel to Sparta. Channel 249A is available for assignment to Sparta, where it can be used consistent with all applicable spacing requirements. While we could simply delete the Sparta channel for which no interest has yet been shown, we think it appropriate to continue to have a channel available for use there. For that reason, we shall substitute channels rather than just delete the current short-spaced assignment.

4. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended. *It is ordered*, That effective April 17, 1978, the FM Table of Assignments (§ 73.202(b) of the Commission's rules) is amended as regards to Sparta, Ga., as follows:

City and Channel No.
Sparta, Ga.; 249A.

5. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083 (47 U.S.C. 154, 303, 307).)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-6405 Filed 3-10-78; 8:45 am]

[6712-01]

[Docket No. 20863; RM-2624; FCC 78-157]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in Rome, New York; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: FCC assigns Class B Channel 273 to Rome, N.Y. This

[2]This proceeding and the related one in Docket No. 19551, dealt with a group of interrelated proposals involving a series of channel changes, one of which was designed to accommodate an assignment to Atlanta. Once a decision had been made not to assign an additional channel to Atlanta, the Commission went ahead with the other assignments mentioned.

[3]This was a substitution for the channel originally assigned to Sparta.

action brings a second FM and third fulltime radio station to Rome and results from a petition filed by Promedia Communications, Inc.

EFFECTIVE DATE: April 14, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Freda Lippert Thyden, Broadcast Bureau, 202-632-7792.

SUPPLEMENTAL INFORMATION:

REPORT AND ORDER—PROCEEDING TERMINATED

Adopted: February 28, 1978.

Released: March 7, 1978.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Rome, N.Y.), Docket No. 20863, RM-2624.

1. The Commission has before it a memorandum opinion and order and further notice of proposed rulemaking, adopted in this proceeding on October 27, 1977, 42 FR 58189. That document denied an application for review of an earlier memorandum opinion and order (adopted on March 2, 1977, 42 FR 13140) denying a petition submitted by Promedia Communications, Inc. ("Promedia"),[1] seeking to assign Class B FM Channel 273 to either Rome or Utica, N.Y.

2. Since no interest was expressed in the Utica assignment, and Utica's population of 91,611 did not appear to warrant a fifth assignment,[2] Utica was not assigned the channel. In regard to Rome, which has one Class A FM station (WKAL-FM, licensed to Maurer Broadcasting, Inc.[3]) the proposed Class B assignment was denied based on petitioner's failure to justify an exception to the Commission's general policy of avoiding intermixing classes of FM channels in the same community.[4] Promedia then filed an Application for Review in which it indicated for the first time that if the licensee of Rome's Class A Station WKAL desired to change frequencies, shifting to Channel 273, Promedia would accept an assignment on Channel 240A. Since this approach seemed to provide the basis for an exception to the intermixture policy, the Commission again proposed the assignment of Channel 273 to Rome, New York. In effect, the case became the equivalent of the usual situation where the Commission has permitted an exception because a party was willing to operate a Class A station in competition with Class B or C stations in the community.

3. Filings were submitted by not only Station WKAL-FM and Promedia,[5] but also by Dean B. Edwards. The two latter submissions indicate an interest in the assignment of Channel 273 to Rome, as well as an intent to apply for the channel if assigned. Promedia reiterates, however, that if WKAL-FM desires to change frequencies, shifting to Channel 273, it will accept assignment on the Class A channel (240A) presently allocated to Rome. However, WKAL-FM in its response clearly indicates that it is not interested in operating a Class B station, and in fact contends that it cannot afford to do so. It also argues that Rome itself cannot support another fulltime broadcast facility, but the Commission has consistently held that such economic issues are best deferred for resolution at the application stage. At that point the Commission has the benefit of a hearing record with testimony subject to cross-examination. See In the Matter of Healdsburg, Calif., 52 FCC 2d 244 (1975).

4. As noted by Dean B. Edwards, Rome is the second largest community in Oneida County, New York (pop. 273,037). Rome's population of 50,148, clearly meets the criteria for a Class B assignment. In fact, under our population criteria it could warrant two to four such assignments. Rome now has only one FM station and two AM stations, only one operating at night. It would benefit from a third fulltime facility. Since the licensee of the Class A station (which also has an AM facility at Rome) has no desire for a Class B operation, there is no need to consider a possible modification of its license to specify the Class B channel. Accordingly, we may simply proceed to allocate Channel 273 to Rome, New York.

5. We note that to meet separation requirements with co-channel CBOF at Ottawa-Hull, Ontario, the transmitter site for Channel 273 must be located 18 kilometers (11 miles) south of Rome, which would also locate it 14.5 kilometers (9 miles) west of Utica. Canadian approval has been obtained for the assignment and use of this transmitter site.

6. Authority for the adoption of the amendment contained herein appears in sections 4(i), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended.

7. In view of the foregoing: *It is ordered*, That effective April 14, 1978, § 73.202(b) of the Commission's rules, the FM Table of Assignments, with respect to Rome, New York, is amended to read as follows:

City—Rome, N.Y., Channel No. 240A, 273.

8. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083 (47 U.S.C. 154, 303, 307).)

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-6406 Filed 3-10-78; 8:45 am]

[6712-01]

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA—PUBLIC FIXED STATIONS

[Docket No. 19544; RM-1838; FCC 78-114]

PUBLIC COAST RADIOTELEGRAPH STATIONS

Order Staying Effectiveness of Memorandum Opinion and Order; Inquiry

AGENCY: Federal Communications Commission.

ACTION: Memorandum Opinion and Order for modification, clarification, and reconsideration of the Commission's prior order in this proceeding which was released on May 27, 1976.

SUMMARY: Modifies and clarifies the Commission's Memorandum Opinion and Order in this proceeding, released on May 27, 1976, and considers applications to close a number of public coast radiotelegraph stations located on the United States mainland. This action authorizes the closure of three public coast radiotelegraph stations, but denies authorization to close four others since the Commission is unconvinced that further closures at this time would not adversely affect the present or future public convenience or necessity.

DATES: Proceeding terminated February 22, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

James L. Ball, International Programs Staff, Common Carrier Bureau, 202-632-3214.

SUPPLEMENTARY INFORMATION: Notice of Proposed Rule Making, General Docket No. 78-67, regarding interconnection and upgrading of public coast radiotelegraph stations is published elsewhere in today's FEDERAL REGISTER.

MEMORANDUM OPINION AND ORDER

Adopted: February 22, 1978.

Released: February 27, 1978.

[1] Promedia is licensee of daytime-only AM Station WRNY at Rome, New York.

[2] All population information is from the 1970 U.S. Census.

[3] Also the licensee of AM Station WKAL.

[4] In addition to the matter of assigning a particular class of station to a community of a given size, this policy has as one of its underlying purposes a system of assignments which makes it possible for all local stations to have the opportunity to obtain comparable facilities for service and competition.

[5] Promedia filed both comments and reply comments.

PRELIMINARY

In the matter of inquiry into problems of public coast radiotelegraph stations.

1. On May 27, 1976, the Commission released a Memorandum Opinion and Order, 59 F.C.C. 2d 613 (1976) (hereinafter referred to as "Order"), which set forth various findings, conclusions, and prescriptions following a comprehensive review of common carrier services provided by public coast radiotelegraph (PCRT) stations.[1] The "Order" dealt with, inter alia: improving PCRT services; applications to close certain licensed PCRT stations filed by ITT World Communications, Inc. (ITT), RCA Global Communications, Inc. (RCA), and TRT Telecommunications Corp. (TRT); an application for a new PCRT station filed by Alpha B. Martin; an application for a developmental limited coast radiotelegraph station filed by J. Ray McDermott; and a petition for rule making (RM-1838) regarding radiotelegraph operating procedures filed by Steffan Sorenson.

2. Subsequent to the release of the "Order":

(a) On June 18, 1976, TRT filed, with the Commission, an Application for Stay Pending Judicial Review, seeking a stay of the effectiveness of the "Order" insofar as it pertains to TRT;[1a]

(b) On June 28, 1976, RCA filed, with the Commission, a Request for Stay of certain portions of the "Order" and a separate Petition for Partial Reconsideration and Modification of the "Order;"

(c) On July 1, 1976, Mobile Marine Radio, Inc. (MMR) filed, with the Commission, a Petition for Reconsideration and Clarification of the "Order" and requested, alternatively, certain relief by the grant of a rule waiver;

(d) On July 8, 1976, ITT filed, with the Commission, an Application for Stay Pending Judicial Review, seeking a stay of the effectiveness of the "Order."[2]

3. Considering these petitions and applications, the Commission concluded that the intent of the "Order" was subject to misinterpretation and that the public interest would be served by Commission review of the "Order" to determine whether clarification or modification of the "Order" would be necessary and desirable. Consequently, on July 26, 1976, the Commission released an Order, FCC 76-686, which stayed the effectiveness of the May 27, 1976, "Order," pending further action of the Commission.

4. The foregoing petitions and applications raised the following significant issues:

(a) Our denial of the then pending closure applications, including the question of whether Commission action on the applications was appropriately included in this proceeding.

(b) Our authority to order the various PCRT licensees to interconnect their message delivery networks.

(c) Our requirements that the various PCRT licensees improve and upgrade the operation and facilities of all PCRT stations; more particularly: (1) our authority to mandate such requirements and (2) the applicability of such requirements to those stations for which closure applications were on file.

Additional issues raised by the foregoing pleadings concern: (1) reinstatement of the transmitter type acceptance requirements in paragraphs 27-30 of the "Order;" (2) operator staffing in paragraph 26 of the "Order;" (3) the speed of service standard in paragraph 42(c) of the "Order;" and, (4) authorization of a new PCRT station in Savannah, Ga.

OVERVIEW

5. This proceeding was initiated as an overall review of public coast radiotelegraph operations to provide a basis for long-term policy-making in this area. Our basic concern is in promoting the availability, so far as possible, of a rapid, reliable and efficient maritime mobile service with adequate facilities at reasonable charges.[3] The record in this proceeding clearly demonstrates the overall unsatisfactory quality of services currently being rendered by PCRT stations licensed to the international record carriers (IRCs), RCA, ITT, and TRT.[4] We generally concluded in our "Order" that the procedures used by IRC coast stations for the collection and delivery of traffic cause inefficient customer utilization of coast station facilities and result in unreasonable delays to ship stations in contacting coast stations for the exchange of traffic.[5] None of the pleadings filed before the Commission subsequent to our "Order" (see paragraph 2 above) specifically challenge the findings upon which this general conclusion is based. Following a complete review of the entire record in this proceeding,[6] we are unconvinced that this conclusion should be altered.

6. However, we find that sustaining the overall quality of PCRT service even at its current level is not necessarily dependent on maintaining the number of PCRT stations now in operation. We conclude for the reasons that follow that the immediate closure of certain PCRT stations will not adversely affect the present or future public convenience and necessity. Accordingly, we are substantially modifying our "Order" with respect to the applications for closure. We are also modifying and changing the "Order," with regard to other issues raised in the petitions and applications that have been filed. Additionally, we are releasing simultaneously with the instant Memorandum Opinion and Order a Notice of Proposed Rule Making (NPRM) (Docket No. 78-67) to consider whether mandatory interconnection and upgrading of PCRT station facilities should be imposed as part of an overall plan for the improvement of coast station services.

PCRT STATION CLOSURES

APPLICATIONS ON FILE

7. At the beginning of this proceeding the Commission had on file five applications to close public coast radiotelegraph stations: RCA's for station WOE (Lantana, Fla.); ITT's for stations WSF (New York, N.Y.), KLC (Arcadia, Tex.), and KFS (San Francisco, Calif.); and the Maryland Port Administration's (MPA) for station WMH (Baltimore, Md.). During the course of this proceeding MPA withdrew its application for closure of station WMH and TRT submitted an application for closure of station WAX (Hialeah, Fla.). Also during the course of this proceeding, RCA indicated that it planned to close stations WSC (Tuckerton, N.J.), and WPA (Port Arthur, Tex.), and ITT indicated it intended to close stations KOK (Los Angeles, Calif.), KFS (San Francisco, Calif.), and KLB (Seattle, Wash.). TRT is the licensee of stations WAX (Hialeah, Fla.), and WNU (New Orleans, La.).

[1] Published at 41 FR 32317, August 2, 1976.

[1a] On June 7, 1976, TRT filed a Petition for Review of the Commission's Order in the U.S. Court of Appeals for the District of Columbia Circuit. On June 25, 1976, TRT petitioned the Court of Appeals for stay of the Commission's Order pending completion of judicial review. The Court of Appeals has held the TRT filing in abeyance, pending Commission action regarding clarification, modification and reconsideration of the "Order."

[2] On June 25, 1976, ITT filed a Petition for Review of the Commission's Order in the U.S. Court of Appeals for the District of Columbia Circuit. Thereafter, on June 30, 1976, ITT filed a Motion to Intervene in the review proceedings previously instituted by TRT in the same Court (see footnote 1, supra). The Court of Appeals has held the filings in abeyance, pending Commission action regarding clarification, modification and reconsideration of the "Order."

[3] The purpose of the Communications Act is "to make available, so far as possible, to all the people of the United States, a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges," 47 U.S.C. 151(a).

[4] RCA is the licensee of stations WCC (Chatham, Mass.), WSC (Tuckerton, N.J.), WOE (Lantana, Fla.), WPA (Port Arthur, Tex.), and KPH (San Francisco, Calif.). ITT is the licensee of stations WSL (Amagansett, Long Island, N.Y.), WSF (New York, N.Y.), KLC (Arcadia, Tex.), KOK (Los Angeles, Calif.), KFS (San Francisco, Calif.), and KLB (Seattle, Wash.). TRT is the licensee of stations WAX (Hialeah, Fla.), and WNU (New Orleans, La.).

[5] See Public Coast Radiotelegraph Stations, 59 FCC 2d at 616 and 626 (1976).

[6] Including pleadings, applications, comments, and other filings subsequent to the "Order" and properly before the Commission.

geles, Calif.) and KLB (Seattle, Wash.); however, neither RCA nor ITT filed proper applications for closure of these latter stations prior to the Commission's "Order" of May 27, 1976.[7] Subsequent to our "Order," ITT did not file any further applications for PCRT station closure; however, RCA filed an application (File No. W-P-D-88) for closure of stations, WSC, WOE, and WPA in December, 1976.[8] This application generated over eighty comments from users and other interested parties. Under the circumstances, we will treat RCA's new application as an amendment to the closure application for station WOE already on file (T-D-17603) and as original closure applications for stations WSC and WPA. All officially filed, and pending, closure applications for PCRT stations will be dealt with in the instant Memorandum Opinion and Order.[9] Appendix 2 of the "Order" will be modified to reflect the listing of PCRT stations, the appropriate status of any officially filed closure applications, and the stations remaining following the issuance of the instant Memorandum Opinion and Order.[10]

CLOSURE DISPOSITION WITHIN THIS PROCEEDING

8. In their Applications for Stay Pending Judicial Review, ITT and TRT implicitly asserted that the disposition of PCRT closure applications within the context of this Inquiry was improper.[11] TRT explicitly asserted that the Commission violated the Administrative Procedure Act (5 U.S.C. 551 et seq) by not holding a hearing in "adjudicating" TRT's closure application for station WAX.[12] However, the original Notice of Inquiry in this proceeding showed the PCRT closure applications to be one of the integral bases for instituting the Inquiry,[13] the Second Notice of Inquiry specifically stated that the PCRT closure applications was one of the matters concerned with in this proceeding,[14] and the comments and other filings herein generally indicated an understanding that disposition of the closure applications were a part of this proceeding. Indeed, even TRT's Application for Stay shows TRT's similar understanding, where at page 31 thereof, TRT discusses what it was told regarding completing the record (in this proceeding) necessary for Commission action on its closure application. Furthermore, not only were the participants in this proceeding aware that disposition of the closure applications was a part of the proceeding, none of the applicants for closure challenged this approach, until now. Moreover, neither the Act nor the Rules prohibit the Commission from including the disposition of the closure applications within this proceeding. Sections 4 (i) and (j) of the Act provide the Commission with discretion in the conduct of its proceedings to carry out its functions. Due to the interrelationship of the overall Inquiry and the closure of PCRT stations, it is proper to include the disposition of such applications within the Inquiry and report the results of both in the same document.

9. As for the necessity of a hearing to arrive at the disposition of any PCRT closure application, Section 214(a) of the Act prescribes the standard for discontinuance of service by a carrier. It provides that the carrier must obtain Commission certification that "neither the present nor future public convenience and necessity will be adversely affected" by discontinuance, reduction or impairment of service to a community, or part of a community.[15] However, the plain language of Section 214(a) does not provide that a hearing be held on applications for closure.[16] Unlike Sections 201(a) and 214(d) (see paragraph 84 infra), Section 214(a) does not have the key language "after opportunity for hearing." There is also no reference to a "record" in Section 214(a), necessary to trigger the evidentiary requirements of the Administrative Procedure Act.[17] Moreover, proceedings on applications under Section 214(a) are not "Adjudications" and do not necessitate the holding of oral evidentiary hearings for their disposition.[18] ITT's and TRT's unsupported classification of the Commission's disposition of closure applications as "adjudicating" those applications is not sufficient to place such proceedings in the category of those having a statutory requirement for an oral evidentiary hearing. Consequently, TRT's mere assertion that the Commission violated the Administrative Procedure Act by not holding a hearing on its closure application is rejected. Furthermore, beyond the question of a statutorily mandated hearing, the issues regarding station closures raised in this proceeding do not appear to be susceptible to proper resolution through the mechanism of an oral evidentiary hearing. Such resolution is more appropriate within the context of the Commission acting on submitted closure applications, analyzing and utilizing whatever additional data (pertinent to the question of closure) that may be voluntarily submitted by parties participating in the proceeding or that may be requested by the Commission itself. This approach has been used in this proceeding and all applicants for closure have had full opportunity to participate herein. And, as stated previously, none of the applicants for closure challenged this approach until now. Therefore, there is not only no statutory basis for an oral evidentiary hearing, the approach utilized in this proceeding appears to have adequately provided the applicants for closure a sufficient forum in which to present their data and arguments to justify requested station closures. See, *ATT* v. *FCC*, No. 77-4057 (2d Cir. January 26, 1978).

REASONS OFFERED FOR CLOSURE

10. In support of their applications for closure, the IRC's generally assert that they are suffering financial loss from PCRT station operation. Additionally, they maintain that redundancy of service (that is, availability of comparable service at other stations) and diminishing volume of message traffic justifies grant of their applications. They also allege that PCRT station traffic and revenues will be diverted in the future to maritime satellite communications systems (e.g. MARISAT). In sum, the IRC's generally argue that the closure of certain allegedly unprofitable and inefficient stations will promote the future economic viability of the PCRT industry.

LEGAL CONSIDERATIONS FOR CLOSURE OF STATIONS

11. As stated above, Section 214(a) establishes the basic statutory test to be applied by this Commission in considering applications for discontinuance of common carrier service to a community—that "neither the present nor future public convenience and necessity will be adversely affected" by the proposed action.[19] The standard of the public convenience and necessity must be construed so as to secure the broad aims of the Communications Act (footnote 3).[20] It is clear that application of this standard presents the Commission with a delicate task of balancing the legitimate interests of both the carriers (and their investors) and the user community. In this respect, judicial decisions followed by the Interstate Commerce Commission in administering Section 1(18) of the Interstate Commerce Act (45 U.S.C. Section 1(18))[21] can provide us guidance.[22]

12. Generally, a carrier cannot be compelled to continue operation at a loss or give up the salvage value of its properties without the just compensation guaranteed by due process of law.[23] The continued vitality of this general principle has been recognized by contemporary courts.[24] Although a carrier may devote its property to the use of the public, it does so on the expectation that the public shall supply sufficient traffic on a reasonable rate basis to yield a fair return.[25] The charter or license of a carrier does not obligate the carrier to irrevocably or absolutely operate at a loss.[26] A carrier may seek to discontinue its operation pursuant to applicable statute and obtain the salvage value of its properties. However, the disposition of such a request by "an agency with substantial expertise"[27] such as this Commission may not involve consideration of only the claim of the carrier that it is sustaining a loss. It requires that the public needs be balanced against the financial burden that would be imposed on the carrier by continued operation of its facilities. The benefits to a particular community or communities of continued operation must be weighed against the burden that would be imposed upon commerce and the carrier.[28] This is the essence of the "public necessity and convenience" test prescribed by Section 214(a). Indeed, the Commission has in the past weighed the potential inconvenience to the using public against the financial effect on the carrier in considering applications for discontinuance of service.[29]

FACTORS TO BE CONSIDERED IN BALANCING INTERESTS

13. In ruling upon the closure applications before us, we therefore must consider other factors in addition to claims that financial losses are being incurred by the provision of redundant services. We must determine whether alternative PCRT facilities will be available to the user community if station closures are allowed and whether the remaining facilities that are alternatively available to the user community are capable of handling the redistribution of traffic that will result. In addition we must consider whether there is a need for continued MF coverage (see paragraph 90 infra) in the localities of the PCRT stations for which closure applications are on file, and, if so, whether other stations are available to provide such coverage. Further, we must consider whether the need for maintaining a MF safety watch for the areas served by these stations will be fulfilled either by remaining PCRT stations or the Coast Guard (see paragraph 92 infra). We will review each closure application before us in connection with both

[7] Paragraph 17 of the "Order" inaccurately implied that RCA and ITT had officially filed closure applications for these stations. It appears that both licensees supported the third alternative presented in the Advanced Technology Systems, Inc. (ATS) study, (see paragraphs 14-16, infra), wherein all their stations would be closed except for each one's major station on the Atlantic and Pacific coasts, but neither licensee filed an official application to that end prior to the "Order." In November, 1974, the Commission requested the carriers to submit comments regarding their proposed plans to upgrade and improve service and to indicate their affirmation of their closure applications then on file. In its response dated January 13, 1975, RCA proposed consolidation of its PCRT operations into stations WCC and KPH and the closure of stations WSC, WOE, and WPA, in conformance with ATS alternative Number 3. ITT's response dated December 31, 1974, reaffirmed its position as stated in its filing dated April 26, 1974, wherein ITT stated: "We propose a consolidation of stations KLB (Seattle) and KOK (Los Angeles) with KFS (transmitting from Palo Alto, Calif.; receiving at Lobitos, Calif.); the closure of WSF (New York City); the closure of KLC (Galveston); and the retention of WSL (New York). With respect to stations KFS, KOK, and KLB, upon a favorable Commission decision in this docket, ITT intends to file appropriate applications to achieve the consolidated facility." (footnote omitted).

[8] In its Request for Stay and Petition for Partial Reconsideration, RCA stated that the "Order" had dismissed its applications to close stations WSC, WPA, and WOE and that it would "refile" these applications to meet the requirements set forth in the "Order." RCA's "new application" stated that its previously filed applications had been dismissed by the Order and that: "RCA Globcom is hereby submitting a revised application for closure of these stations in accordance with the Commission's Order." However, the only RCA closure application before the Commission on the release of the "Order" was for station WOE. Additionally, it is noted that RCA's "new application" and the comments thereto provide updated information regarding closure of these three particular stations as well as PCRT stations in general.

[9] Paragraph 8-9, infra, discuss the propriety of disposing of these applications within the context of this Inquiry.

[10] The modified Appendix 2 is attached hereto as Appendix 2.

[11] In discussing the original Notice of Inquiry at page 5 of its Application for Stay, TRT stated: "Significantly, the Commission did not indicate then (nor later until the issuance of the May 27, 1976, Order itself) that it intended to *adjudicate* closure applications or to hold required hearings concerning the imposition of facilities improvements." At page 4 of its Application for Stay ITT stated: "(The Notice of Inquiry) did not, however, indicate that the Commission intended to *adjudicate* closure applications or to hold required hearings concerning the imposition of facilities improvements." (Emphasis added.)

[12] TRT's Application for Stay, p. 33, footnote**.

[13] See Public Coast Radiotelegraph Stations, 36 FCC 2d 260 (1972).

[14] The Second Notice of Inquiry was released on March 8, 1974, after TRT's application to close station WAX was filed on August 14, 1973. See Public Coast Radiotelegraph Stations, 45 FCC 2d 786 (1974).

[15] A community can be considered an economic "community" of users, such as ship stations licensees and ship owners and agents. See *ITT World Communications Inc.* v. *New York Telephone Co.*, 381 F. Supp. 113 at 121 (S.D.N.Y., 1974).

[16] Section 214(b) of the Act and § 1.764(b) of the Rules provide for a hearing at the behest of those persons enumerated therein. Section 1.764(b) also provides for a hearing at the discretion of the Commission. But, there is no statutory or rule requirement to hold a hearing on 214 closure applications other than these.

[17] See *Bell Telephone Co. of Penn* v. *FCC*, 503 F. 2d 1250 (3rd Cir. 1974).

[18] Section 214 Certificates for CATV, 18 FCC 2d 615 (1969).

[19] The burden is on the carrier which wishes to discontinue a service to make the proper application for a certificate pursuant to Section 214(a). *ITT World Communications* v. *New York Telephone Co.*, supra at 120. Part 63 of our rules sets forth the form and manner that such applications must be submitted to be accepted for filing and considered by the Commission. 47 CFR 63.01-63.601.

[20] *Western Union Division* v. *United States*, 87 F. Supp. 324 at 335 (D.C.D.C., 1947).

[21] Section 1(18) of the Interstate Commerce Act, from which Section 214(a) of the Communications Act is derived, provides, in part:

> * * * no carrier by railroad subject to this chapter shall abandon all or any portion of a line of railroad, or operation thereof, unless or until there first have been obtained by the Commission a certificate that the present and future public convenience and necessity permit such abandonment.

[22] We emphasize that this Commission is not required to adopt the rationale of ICC decisions in considering the disposition of Section 214(a) applications if those decisions were based on factors not relevant to the issues before this Commission. See *Carter Mountain Transportation Corporation* v. *F.C.C.*, 321 F. 2d 359 (1963), cert. denied 375 U.S. 951 (1963).

[23] *Brooks-Scanlon Co.* v. *Railroad Commission*, 251 U.S. 396 (1920); *Bullock* v. *Florida ex. rel. Railroad Commission*, 254 U.S. 513 (1921); *Railroad Commission* v. *Eastern Texas R.R. Co.*, 264 U.S. 79 (1924).

[24] See *Regional Rail Reorganization Act* cases, 419 U.S. 102 at 122 (1974); *Lehigh & New England RY. Co.* v. *I.C.C.*, 540 F. 2d 71 at 82-83 (1976); in re Central Railroad Co. of New Jersey, 485 F. 2d 206 at 213-124 (1973); in re Penn Central Transportation Co., 494 F. 2d 270 at 278 (1974) cert. denied 414 U.S. 1131 (1974); see also *New York, N.H. & H.R.R., First Mortgage 4% Bondholders Committee* v. *United States*, 289 F. Supp. 418 at 440-441 (S.D.N.Y. 1968); in re New York, N.H. & H.R.R., 304 F. Supp. 793 at 802-804 (D. Conn. 1969); modified and affirmed sub. nom. *New Haven Inclusion cases*, 399 U.S. 392 (1970); *New York, N.H. & H.R.R. First Mortgage 4% Bondholders Committee* v. *United States*, 305 F. Supp. 1049 at 1055 (S.D.N.Y. 1969), vacated on other grounds sub. nom. *New Haven Inclusion cases*, 399 U.S. 392 (1970).

[25] See *Railroad Commission* v. *Eastern Texas R.R. Co.*, supra, at 85.

[26] See *Bullock* v. *Florida ex. rel. Railroad Commission*, supra, at 520, 521 citing *Brooks-Scanlon Co.* v. *Railroad Commission of Louisiana*, supra.

[27] See *Lehigh and New England Ry Co.* v. *I.C.C.*, supra, at 83 citing in re Central R.R. of New Jersey, supra, at 215.

[28] *Colorado* v. *United States*, 271 U.S. 153 (1926); *Southern Railway Co.* v. *North Carolina*, 376 U.S. 93, at 104-105 (1964).

[29] See Data Transmission Co., 60 FCC 2d 958 (1976); The Western Union Telegraph Co., 37 FCC 2d 813 (1972); Hyperbolic Aeronautical Navigation System, 31 FCC 2d 233 (1972); RCA Communications, Inc., 2 FCC 2d 274 (1966); Western Union International, Inc., 2 FCC 2d 184 (1965).

these factors and the reasons offered by the applicants as justifying closure of PCRT stations. However, before addressing each application individually, we will preliminarily address certain general areas relating to station closures.

OVERALL CONFIGURATION OF PCRT INDUSTRY

14. Following the original Notice of Inquiry and comments submitted thereto, the Commission contracted with Advanced Technology Systems, Inc. (ATS) to provide an independent analysis of the problems facing the PCRT industry. The ATS study, submitted in December, 1973,[28] presented three alternative proposals regarding PCRT station closures: (1) closure of stations for which applications then on file (WSF, WOE, WAX, KLC, and KFS); (2) closure of stations WSF, WSC, WAX, WPA, KOK, and KLB; and (3) closure of stations WSF, WSC, WOE, WAX, WPA, KLC, KOK, and KLB.

15. This study has been extensively cited by the IRC's in support of their applications for closure and attacked by users, operators, and other commenters as being biased in favor of the IRC's. The IRC's have indicated that they favor the third alternative, but as of the date of the "Order," the applications for closure filed by the carriers did not reflect such an alignment of PCRT stations (see paragraph 7 supra). Moreover, while this Inquiry was intended to provide a basis for long-term policy making in the area of PCRT stations, with a possible final arrangement of stations included therein, the Second Notice of Inquiry in this proceeding made it clear that the three alternative station configurations presented in the ATS report were not the only ones to be examined.[29] The Second Notice of Inquiry also made clear that any final station arrangement would be based primarily on the quality and scope of the maritime services to be rendered and would not be limited solely to cost-revenue considerations.

16. While all three applicants for closure (RCA, ITT and TRT) have stressed the closure recommendations of the ATS study, there are certain other recommendations in the study which the applicants have not energetically pursued, except in opposition thereto. The ATS study stated, inter alia, that the closing of stations should be conditional upon the restructuring of the PCRT industry into common carrier network that would assure service to all maritime areas from remaining PCRT stations, that PCRT stations be required to comply with the standards (type acceptance) indentified in Docket 18577, that indiscriminate closure of PCRT stations without consequential benefits in the form of improved service is not in the best interests of the public, and that selected station closures, in consort with provisions for improved service from remaining stations, could have considerable merit.[30] The applicants apparently prefer to ignore these recommendations and emphasize only ATS's recommendations for closure. We believe that, if the ATS report is to be given substantial weight, it must be considered in its entirety. And the ultimate configuration of the PCRT industry must be considered in the context of determining an overall plan for improvement of public coast station services (see paragraph 82 infra).

FINANCIAL VIABILITY OF PCRT INDUSTRY

17. Along with its alternative closure proposals, and PCRT station facilities improvement recommendations, the ATS study also addressed the financial problems of the PCRT industry. It was found that if the financial information provided by the carriers were taken at face value, the industry was not financially viable. However, the study also found that if a more proper allocation of costs were to be made, the PCRT industry was indeed viable.[31] Nonetheless, the study proceeded to analyze various configurations of stations remaining after closure to demonstrate a strengthening of the PCRT financial situation. Such analysis was primarily based on data for the year 1972, assumed a relatively constant traffic base to continue, but did not consider a possible increase in message tariff charges. Additionally, the ATS study pointed out that comparison of the financial information from the carriers was extremely difficult because of differences in cost allocations and revenue components between the carriers.

18. In paragraphs 18 and 19 of our "Order" we pointed out that the financial information, especially in the areas of cost items, derived from submissions by the carriers and the ATS study contained wide variances from licensee to licensee. We also stated that the total of this information did not provide a basis upon which we could conclude that the carriers are "suffering severe economic loss" from operation of PCRT stations. Upon review, we conclude the financial information currently on file for the various stations requesting closure is generally deficient because it: (1) is not uniformly up-to-date for all stations; (2) is not uniformly brokendown as to cost allocations by the various licensees; (3) is not uniformly reported by licensees (e.g. different items are reported as constituting revenue); and (4) does not present projected traffic, revenues, or costs for individual stations. We therefore adhere to our view in the "Order" that the present accounting procedures and forms used in the PCRT service deserves more attention.

19. We also affirm the conclusion in our "Order" that the totality of the information supplied by the IRCs does not allow us to conclude that they are suffering, as a whole, "severe economic loss" from the operation of their coast stations. However, we do recognize that such conclusion is not an appropriate standard, standing alone, by which to determine whether a station should be allowed to close or not. It is clear that this conclusion does not alone satisfy the requirement that the financial interests of the carriers be balanced against the needs of the user community in considering the closure applications before us. We generally agree with the carriers that we should not avoid individual consideration of the financial situation of each PCRT station for which closure is requested. We hasten to add that the deficiencies in the information before us, as noted above, may restrict our consideration of some closure applications. However, with this in mind, we will consider, insofar as practicable, the financial situation of each PCRT station for which a closure application has been filed.[32] Financial considerations as well as other relevant factors will be weighed in determining whether closure will adversely affect the public convenience and necessity at each station involved.[33] In doing so, we will consider the tariff increases for PCRT charges made by the IRCs subsequent to our "Order."[34]

EFFECT OF MARISAT ON THE PCRT INDUSTRY

20. While other factors affecting consideration of PCRT station closures (redundancy, diminished volume of traffic, redistribution of traffic, MF coverage, and safety) will be discussed in connection with the individual applications for station closure, the question of future diversion of PCRT station traffic and revenue to maritime satellite communications systems is an overall matter. As emphasized in the ATS study, promotion of satellite communications services for ships at sea should not be allowed to be a deterrent to the improvement in viability and services offered by terrestrial facilities. Nonetheless, the IRCs have asserted that substantial traffic and revenues would be diverted from their PCRT station operations and such would further justify present station closures. For example, in its letter dated January 13, 1975, RCA stated:

> RCA Globcom contends that closure of stations WSC, WOE and WPA is imperative at this time. Even with the proposed consolidation, MARISAT operations will adversely effect traffic volumes and revenues at WCC and KPH. On information and belief, in the first year of MARISAT operations, the adverse affect on high-frequency and medium frequency operating revenue will be 25 percent or higher.

However, the data from RCA's reports submitted pursuant to § 43.71 of the Rules shows that for the first year of MARISAT operations (1976) RCA's message revenues for all its stations only declined 3.11 percent, compared to the previous year (1975), and the message revenues for stations WCC and KPH only declined 1.35 percent and 12.69 percent respectively. Furthermore, based on RCA's reported data for the first six months of 1977, the totality of RCA's stations show both an increase in words handled and revenues.[35] Consequently, it does not appear from the information now before us that RCA's, or other IRC's, PCRT stations have yet experienced significant traffic or revenue diversions as a result of MARISAT operations. There has not been any information submitted which would establish a firm basis, at this time, to expect substantial diversions in the immediate future. Nevertheless, we recognize the need for evaluation of the effects that MARISAT and follow-on maritime satellite systems may have on PCRT station operations. Therefore, we instruct the Chief, Common Carrier Bureau to obtain from the MARISAT carriers revenue and traffic information necessary for this purpose. Should significant diversions occur, resulting in substantial losses of overall traffic and revenues at PCRT stations, we will take appropriate action at that time.

CLOSURE APPLICATION FOR STATION WSF

21. On August 18, 1970, ITT filed an application (File No. T-D-17509) to close PCRT station WSF located in New York, N.Y. WSF is a Class II-A PCRT station, authorized to provide radiotelegraph public correspondence on the medium frequencies 442 kHz (working) and 500 kHz (calling). WSF operational hours are 7 a.m. to 11 p.m. local time, Monday through Friday, but the station is closed on weekends. The normal area of operation for WSF is in and near the New York City harbor area. In 1968, the Commission granted ITT the authority to remotely control WSF from its nearby station WSL, located on Long Island. WSL operates 24 hours a day, seven days a week, and provides radiotelegraph public correspondence service on the medium frequencies 418 kHz, 476 kHz and 500 kHz.

22. The traffic data submitted by ITT shows that traffic (message and words) through WSF had dwindled to just a few messages per month at the time of the application for closure and that the cost of maintaining and operating station WSF greatly exceeded the revenues produced through its operation. The record contains no evidence that the costs of maintaining and operating WSF have declined or that revenues attributable to WSF have increased since the application was filed. The application indicates an annual expense of approximately $14,000 just to maintain the remoted facilities and later submissions by ITT within this proceeding show an annual before tax loss of over $46,000 attributable to WSF overall operation through 1973.[36]

23. In its application for closure, ITT submitted data showing that its Long Island station (WSL) could adequately transmit and receive over the medium frequency service area of WSF. ITT's data concerning the amount of traffic (message and words) at WSF just before the closure application was filed indicates that such a diminutive volume could readily be absorbed at WSL. Indeed, it appears that the dwindling traffic at WSF has already been

[28] It is noted that the ATS study was completed over four years ago and incorporated data mainly from the year 1972. See Final Report, the Public Coast Radio Telegraph Study by Advanced Technology Systems, Inc., December, 1973.

[29] See Public Coast Radiotelegraph Stations, 45 FCC 2d 786 (1974).

[30] The ATS study also concluded that there would be a continuing need for manual telegraphy in the foreseeable future and that promotion of satellite communications services for ships at sea should not be allowed to become a deterrent to the improvement in viability and services offered by terrestrial facilities (e.g. PCRT stations).

[31] The ATS study raised the probability that many costs allocated to PCRT stations by the carriers were more properly allocable to other services (e.g. international fixed service) which share the same sites.

[32] In this regard, we are directing the Common Carrier Bureau to submit recommendations and proposals concerning accounting procedures and financial reporting forms used in the PCRT service. These proposals may result in a Notice of Proposed Rule Making looking toward amendment of the requirements contained in § 43.71 of the Rules (semi-annual reports of PCRT stations) to require of each station additional information such as, inter alia: (1) further breakdown of traffic reported to reflect manual telegraphy vs. teleprinter; (2) further breakdown of revenues to reflect manual telegraph, teleprinter, landline revenue attributable to PCRT traffic, other traffic related revenues, and non-traffic revenues (e.g. land or equipment sales and rentals); (3) a breakdown of costs attributable to each type of traffic (especially labor costs) and costs of overall station operation during the reporting period; (4) a listing of capital expenditures and major repairs (including expense) made at each station during the reporting period; (5) a listing of all station personnel employed during the reporting period (by position and qualification); and (6) a projection of the next reporting period for traffic, revenues, costs, and personnel. It may be determined that not all of the above information is needed on a recurring basis and that other types of additional information should be required. In any event, all information would be subject to Commission audit pursuant to Section 220 of the Communications Act.

[33] We acknowledge that there are many unanswered questions raised by the comments (notably the unions representing the operators at the stations) which generally apply to overall PCRT operations by the IRCs, including: basis of cost allocations; rate of return; depreciation bases; etc. Lacking the precise information to adequately address these subjects within this proceeding, we will defer general consideration of these questions until such time as the improvements and upgrading issues of Docket No. 78-67 are completed and we can obtain complete and up-to-date information from the carriers. However, we feel it appropriate at this time to point out one misconception stated by several commenters opposed to station closure: that depreciation is allowed as a business expense in order to generate funds for replacement of equipment. See, e.g. Comments of Communications Workers of America filed January 2, 1975. In actuality, depreciation is a business expense allowed for the recovery of the original investment cost of capital equipment. Replacement of that equipment is a matter of business judgment for the person or company involved. P. Garfield & W. Lovejoy, Public Utility Economics, 94-114 (1964); see *United Railways & Electric Co. v. West*, 280 U.S. 234 (1930); *FPC v. Hope Natural Gas Co.*, 320 U.S. 591 (1944); Treas. Reg. § 1.167(a), Income Tax Reg. 510 (1977).

[34] Although we are considering each closure application individually, we emphasize that no application is being granted or denied because of the denial or grant of another application.

[35] Throughout this proceeding, comments from those opposed to PCRT station closures have questioned the IRCs not increasing their tariffs if they were really suffering financial problems. New tariff increases for message charges at PCRT station became effective in April and May of 1977 and represent the first such increase since 1963. See Marine Telegraph Charges, 34 FCC 929, adopted May 15, 1963. Increased revenues from the latest tariff increase are only partially reflected in the first half of 1977 reports submitted pursuant to § 43.71 of the rules.

[36] In its application to close stations WSC, WOE and WPA, filed in December, 1976, RCA asserted that it would become increasingly difficult to provide PCRT service at current rates if RCA were required to spend to meet equipment standards and allowance is made for anticipated diversions of revenues to MARISAT. However, RCA's Section 43.71 data for the first six months of 1977 show increases in messages, words, and revenues at the totality of its stations. Moreover, RCA's latest projections, of course, do not consider the increased tariff charges that went into effect in the Spring of 1977 (see footnote 37).

[37] ITT's response dated December 8, 1972, to the initial Notice of Inquiry in this proceeding. The data in that response indicated that ITT had been losing substantial sums of moneys through its operation of WSF since 1966.

picked up by WSL.[40] The record does not reflect any correspondence from users or user groups concerning discontent with the remote operation of WSF at WSL, lack of MF service in this area should WSF be closed, or any supported perception of increased traffic for station WSF. And, while the closure of WSF was opposed by the Communications Workers of America (CWA), the union representing the ITT radiotelegraph operators, the CWA did not challenge the conclusion of ITT that WSF was annually losing substantial moneys and that WSF was essentially a redundant station.[41]

24. While ITT did not specifically address the issue of 500 kHz safety coverage in its application to close WSF, we note that the 500 kHz safety coverage of WSL is essentially the same as that of WSF. Since ITT's data shows that WSL can adequately cover WSF's medium frequency service area, WSL can also provide 500 kHz safety coverage over that area; 500 kHz safety coverage would also be available over this area by PCRT stations WMH and WCC[42] as well as from U.S. Coast Guard Station NMF.[43]

25. From the above, we conclude that discontinuance of service at PCRT station WSF, located in New York, will have very little, if any, appreciable effect on public correspondence radiotelegraphy, or on 500 kHz safety coverage, in the service area of WSF. Redistribution of the few messages per month to station WSL should not diminish the level of service provided by that station. We see no significant increases in costs to the users of WSF or in inconvenience to the public should WSF close. And, even with ITT's April 1977 tariff increase for charges at all its PCRT stations, the de minimis volume of traffic through WSF would not offset even the costs of maintaining the remoted facility. Therefore, we conclude that any public service value of continuing WSF operations is outweighed by the licensee's reasons for discontinuance.

CLOSURE APPLICATION FOR STATION WSC

26. On December 9, 1976, RCA filed an application (File No. W-P-D-88) to close PCRT station WSC located in Tuckerton, N.J.[44] WSC is a Class I-A PCRT station, authorized to provide radiotelegraph public correspondence on medium and high frequencies. WSC's operational hours are 24 hours per day, 7 days per week. Message pickup and delivery are via Western Union telex and TWX, telephone, and direct lines to RCA's central office in New York City. The normal areas of operation for WSC are along the east coast of the United States, the North and Central Atlantic areas, and the Caribbean area up to a distance of approximately 1,500–1,800 miles.

27. RCA desires to close station WSC to effectuate operating economies, increase the financial viability of its PCRT operations, and be able to direct its efforts in improving the quality of service at remaining stations. RCA asserts that station WSC is essentially a redundant station and that the WSC service area will continue to receive full service from the remaining PCRT stations. RCA further asserted that continued operation of WSC and its four other mainland stations and financial outlays to meet new equipment standards would result in a loss of over $600 million during the 1977–1981 period.

28. Most commenters who opposed closure of WSC did so within their general opposition to the closure of any or all of the PCRT stations. However, the operators at WSC and their union (American Communications Association) did address specific opposition to WSC's closure. Generally, the reasons given against closure of WSC were that remaining stations could not absorb a redistribution of WSC's traffic and that medium frequency coverage (including 500 kHz safety coverage) along the east coast would suffer.[45]

29. The normal HF service areas of those east coast PCRT stations (WCC, WSL, WMH, and WOE) that would remain, should WSC be closed, appear to completely overlap WSC's normal HF service area. Likewise, except for a relatively small transmit coverage area approximately 500 miles southeast of WSC, the normal MF service areas of those stations appear to completely overlap WSC's normal MF service area.[46] Therefore, we conclude that PCRT stations remaining on the east coast could provide alternative public correspondence coverage of the normal service area of WSC, should WSC close.

30. In its application, RCA asserts that 500 kHz safety coverage would be provided by Coast Guard radio stations NMF (Boston), NMY (New York City), and NMN (Portsmouth) in the marine area served by WSC. We note that 500 kHz safety coverage over WSC's normal service area could be provided by the remaining east coast PCRT stations (see preceding paragraph). Moreover, even though the U.S. Coast Guard radio station NMY is no longer in operation, the Coast Guard does provide complete 500 kHz safety coverage over WSC's normal service area through its two stations NMF and NMN.[47]

31. In its application for closure, RCA provided data showing its average message traffic at WSC for the second quarter of 1976 to be 2,506 messages per month, a figure which would yield a total of 30,072 messages for the entire year of 1976. RCA's application did not include data showing how many revenue producing words were handled, but data from RCA's semi-annual report pursuant to section 43.71 of the rules shows that WSC handled 31,910 messages and 596,304 words in 1976, down 1 percent and 2 percent respectively over the previous year and down 20 percent and 19 percent respectively over the reported data for 1972. RCA has asserted that the traffic handled by WSC can be more efficiently and easily handled by stations WCC, WLS, and WMH, while those opposed to closure have voiced the fear that redistribution of WSC's traffic would further diminish the service provided by the remaining east coast stations. While we cannot accurately project the actual redistribution of WSC's traffic, we conclude that the PCRT stations remaining on the east coast can effectively absorb WSC's traffic without significantly exacerbating the current level of service provided by those stations.[48] Should WSC close we would expect RCA to redistribute funds, equipment, and personnel as needed to quickly increase the levels of service to users at its remaining east coast stations.[49]

32. RCA's main emphasis for closure, as is the other IRCs, is on monetary loss from continued operation of certain PCRT stations. From data contained in RCA's semi-annual reports pursuant to section 43.71 of the rules, we find that WSC's marine message revenue has steadily declined from 1972 through 1976, except in 1975 when there was a slight increase over the preceeding year. While the semi-annual reports do not contain cost data, the data submitted by RCA on December 1, 1972, in response to the original notice of inquiry in this proceeding, shows that WSC suffered overall losses of over $20,000 in 1972 and over $30,000 in 1973. This data also reveals that expenses for just two items, employee salaries and employee benefits, almost equaled WSC's total revenue in 1972 and exceeded total revenue in 1973.[50]

33. Although the Commission does have message, word, and marine message revenue data pertaining to WSC since 1973, it does not have continuing cost data on this station alone, except for that submitted in RCA's application to close WSC. However, RCA's application reflects average monthly revenues of $12,500 and average monthly direct operating expenses of $20,000 at WSC. Even subtracting out RCA's cost allocation to WSC for general and administrative expenses, this would still reflect total revenues of $150,000 and expenses of $220,000 at WSC for 1976.[51] Furthermore, RCA's section 43.71 report for the first 6 months of 1977 at WSC reflects that WSC should have an increase in messages, words, and marine message revenues for all of 1977 of approximately 11 percent, 18 percent, and 30 percent, respectively.[52] However, such increases are not sufficient enough to cause total 1977 revenues at WSC to even equal total 1976 expenses, and the total 1977 expenses are expected to be even higher due to increased labor costs.

34. From the above, we conclude that discontinuance of service at PCRT station WSC, located in New Jersey, will not have a substantial effect on public correspondence radiotelegraphy, or on 500 kHz safety coverage, in the present service area of WSC. Redistribution of WSC's traffic to the remaining east coast PCRT stations should not appreciably diminish the level of service provided by those stations. We see no significant increases in costs to the users of WSC or in inconvenience to the public should WSC close. And, even with RCA's May 1977 tariff increase for charges at all its PCRT stations and a slight projected increase in traffic handled by WSC, anticipated revenues would still not equal anticipated costs. Therefore, we conclude that any public service value of continuing WSC operations is outweighed by the licensee's reasons for discontinuance.

CLOSURE APPLICATION FOR STATION WOE

35. On October 27, 1970, RCA filed an application (File No. T-D-17603) to close PCRT station WOE located at Lantana, Fla.[53] WOE is a Class I-A PCRT station, authorized to provide radiotelegraph public correspondence on medium and high frequencies. WOE's operational hours are 24 hours per day, 7 days per week. Message pickup and delivery are via Western Union telex and TWX, telephone, and direct lines to RCA's central office in New York City. The normal areas of operation for WOE are along the east coast of the United States, the Caribbean, and the Gulf of Mexico south to the Panama Canal.

36. RCA's main reasons for closure of WOE, as asserted in its amended application, are: (1) WOE is essentially a redundant station; (2) adequate substitute facilities are readily available via stations WCC, WSL, WMH, WPD, WLO, and WNU;[54] (3) closure of WOE would provide for more economical RCA coast station operations because WOE is not producing an acceptable or reasonable rate of return; and (4) U.S. Coast Guard stations NMV (Jacksonville), NMA (Miami), and NMR (San Juan) provide safety and distress coverage in WOE's service area.[55] Generally, the commenters who oppose the closure of WOE cite the inability of remaining stations to absorb redistribution of WOE's traffic, the loss of medium frequency coverage along the South Atlantic coast, an increase in traffic at WOE, and no current financial losses from the operation of WOE.

37. The normal HF service areas of those east and Gulf coast PCRT stations that would remain, should WOE be closed, appear to completely overlap WOE's normal HF service area. However, should WOE discontinue its operation, there would result a significant gap in MF coverage along the south Atlantic coast of the United States.[56] Therefore, the PCRT stations remaining on the east and gulf coasts could provide alternative public correspondence coverage of the normal HF service area of WOE, should WOE

[40] ITT's response to the initial Notice of Inquiry and its semiannual reports pursuant to § 43.71 of the rules show no revenue producing traffic attributable to WSF since 1969. ITT's application to close WSF reflects a comparison of traffic at WSF for the first seven months of 1970 (average of 4 messages per month, with none at all in July) with medium frequency traffic at WSL over the same period (average of 1,863 messages per month).

[41] In its March, 1973, filing, CWA conceded that WSF was "defunct" for all intents and purposes.

[42] See Joint Comments of the Maritime User Community, filed in this proceeding on January 2, 1975, wherein the medium frequency coverage areas of U.S. PCRT stations are charted.

[43] By letter dated November 28, 1977, the Coast Guard provided the Commission with the 500 kHz coverage areas of its radio stations along the coasts of the continental United States. U.S.C.G. radio station NMF transmits from Otis Air Force Base, Maine, and receives at Marshfield, Maine. NMF also has a remote receive site at Moriches, New York. See Appendix 3 to the instant Memorandum Opinion and Order, consisting of the U.S. Coast Guard letter dated November 28, 1977.

[44] Although RCA states that a prior application had been filed for the closure of WSC, no formal application was filed prior to that bearing File No. W-P-D-88. See discussion, paragraph 7, supra. Additionally, by letter dated December 22, 1976, RCA amended the instant application to reflect additional costs associated with its recently concluded labor agreement.

[45] There were also allegations to the effect that RCA had systematically strangled WSC and forced it into the position of not being fully functional and financially viable. Such allegations are not substantiated by the record before us. (In this regard, we note that neither the operators nor their unions have directly challenged RCA's claim that WSC has been losing money steadily for years.) Additionally we note that such allegations, even if substantiated, do not encompass the questions of whether WSC is actually needed to provide a public correspondence service and safety coverage. As demonstrated herein (infra, paragraphs 29-34), it appears that WSC, regardless of whether it is losing money and for whatever reasons, is not needed to provide a service to the public which cannot be provided by alternate PCRT facilities.

[46] Footnote 42 supra; see Department of Commerce (Institute for Telecommunications Sciences, letter report), East Coast communications coverage at 500 kHz (October, 1971).

[47] The transmit and receive sites for U.S. Coast Guard radio stations NMF and NMN are depicted in U.S. Coast Guard letter dated November 28, 1977, appended hereto as appendix 3.

[48] Based on data for 1976 and the first half of 1977, submitted by RCA and ITT in their semi-annual reports pursuant to section 43.71 of the rules, it appears that redistribution of WSC's traffic at stations WCC, WSL, and WMH would result in increases of words handled, messages handled, and revenue of approximately 5.6 percent, 7.6 percent, and 5 percent, respectively for those three stations as a whole. Even including WOE as a remaining east coast station, and using the same data source, the increases are not significantly different: increases of words handled, messages handled, and revenue of approximately 5 percent, 6.6 percent, and 5 percent, respectively, for those four stations as a whole.

[49] Such redistribution of funds would include both the savings of losses due to WSC operation and funds generated by the sale or lease of WSC's land and equipment. Redistribution of personnel would include, not only the actual transfer of WSC operators to the remaining east coast stations, but also the hiring of replacement operators at remaining stations, where a WSC operator chooses not to transfer, since a failure to transfer would make available a salary for a replacement operator.

[50] For 1972, RCA reported employee salaries and benefits of $151,232, marine message revenues of $136,805, and total revenues of $153,565 at WSC. For 1973, RCA reported employee salaries and benefits of $165,689, marine message revenues of $120,921, and total revenues of $152,029 at WSC.

[51] The $220,000 expense figure does not include any increase in employee salaries or benefits due to RCA's recently concluded new labor agreement. RCA amended its application to reflect such increased costs in its description of all its PCRT stations, but did not provide any breakdown to show the effect on WSC. Additionally, RCA's section 43.71 report reflected marine message revenue of only $128,277 for 1976.

[52] The 30 percent increase in projected marine message traffic revenue reflects both the increase in word traffic at WSC and the increase in RCA's tariff which went into effect in May, 1977.

[53] On December 9, 1976, RCA filed an application for closure of stations WSC, WOE, and WPA (File No. W-P-D-88). With respect to station WOE, this new application is being treated as an amendment to the application already on file (see paragraph 7, supra).

[54] RCA stated that it believed that these stations could "easily and efficiently" handle a redistribution of WOE's traffic.

[55] See also paragraph 27, supra.

[56] See footnotes 42 and 46, supra.

close, but they could not provide alternative coverage of the normal MF service area of WOE.

38. we note that 500 kHz safety coverage over WOE's normal service area could not be provided by the remaining east and Gulf coast PCRT stations (see preceding paragraph). However, even though Coast Guard radio station NMV is no longer in operation, the Coast Guard does provide complete 500 kHz safety coverage over WOE's normal service area through its stations NMN, NMA, and NMR.[37] Therefore, even if WOE were to close, coverage over the WOE service area should not be affected due to the Coast Guard's coverage, and 500 kHz safety coverage over the normal service area of WOE should not be diminished.

39. In its 1970 application for closure, RCA provided data showing its average message traffic at WOE for a 3 month period (June, July, and August 1970) to be 4,628 per month, a figure which would yield a total of 55,536 messages for the entire year of 1970. In its 1976 filing, RCA provided data showing its average message traffic at WOE for the second quarter of 1976 to be 5,158 messages per month, a figure which would yield a total 61,896 messages for the entire year of 1976. RCA's filings did not show how many revenue producing words were handled at WOE; however, data from RCA's semi-annual report pursuant to § 43.71 of the rules shows that WOE handled 65,266 messages and 1,410,377 words in 1976, an increase of 5.7 percent and 10.3 percent respectively over the previous year and an increase of 12.7 percent and 37.5 percent respectively over the reported data for 1972. Additionally, RCA's § 43.71 data for the first 6 months of 1977 indicates that WOE should handle over 73,000 messages and over 1,600,000 words for all of 1977, an increase of approximately 12 percent and 16 percent respectively over 1976 and an increase of approximately 26 percent and 60 percent respectively over 1972. The indicated increases in messages and words handled for the past 2 years at WOE do not appear to be an anomaly, since RCA's § 43.71 data shows a steady increase in words handled and revenues at WOE since at least 1972.

40. As we stated in regard to station WSC, we cannot accurately predict the actual redistribution of a station's traffic. However, we do note that the § 43.71 data, for those stations which RCA asserts can "easily and efficiently" handle WOE's traffic, indicates that they all should also experience substantial increases in messages and words handled for 1977. Redistribution of WOE's traffic (based on 1976 figures) would result in those stations, as a whole, having an increase in messages and words handled of approximately 11.5 percent and 10.2 percent respectively, and such does not take into account 1977 increases or increases occasioned by closure of other stations and redistribution of that traffic. Moreover, the PCRT stations involved have not positively indicated that they can effectively handle such increases in traffic and RCA has not substantiated its assertion that those stations, as a whole or severally, can "easily and effectively" absorb such increases. Furthermore, since we have determined that PCRT stations are generally experiencing difficulty in effectively handling present traffic loads (e.g., substantial delays and shortage of operators), we conclude that the stations designated by RCA to absorb WOE's traffic cannot effectively do so without further degradation of service. Consequently, we must conclude that a closure of WOE and a redistribution of its traffic will have an adverse effect on the public convenience and necessity.

41. In both its 1970 application and 1976 amendment, RCA did not state what the rate of return at WOE was, nor did RCA provide precise data to allow a determination of the actual rate of return for WOE. Yet, RCA asserted that WOE was not producing an acceptable or reasonable rate of return. The question of whether WOE is producing an acceptable or reasonable rate of return is more appropriate in the context of rate making proceeding. However, even though RCA's main emphasis for closure has been on monetary loss from continued operation of certain PCRT stations, we note that WOE's message traffic revenue has steadily increased since at least 1972[38] and that RCA's 1976 filing shows that WOE was not losing money at that time.[39] Furthermore, RCA increased its tariffs for all its stations effective in May, 1977. Consequently, based on the information before us, we conclude that WOE appears to be a financially viable operation at the present time.

42. From the above, we conclude that discontinuance of service at PCRT station WOE, located in Florida, will not have a substantial effect on 500 kHz safety coverage in the present service area of WOE. However, we further conclude that such discontinuance would have an adverse effect on public correspondence radiotelegraphy in the present service area of WOE. Redistribution of WOE's message traffic would likely diminish the present level of service provided by those stations which would be required to absorb this traffic. WOE is not currently losing money and the steadily increasing volume of traffic through WOE, along with the RCA's May 1977 tariff increase, indicates that a profitable operation should continue. Therefore, we conclude that the public service value of continuing WOE operations outweighs the licensee's reasons for discontinuance.

CLOSURE APPLICATION FOR STATION WAX

43. On August 14, 1973, TRT filed an application (File No. T-D-21178) to close PCRT station WAX located at Hialeah, Fla. On May 22, 1975, the Commission's Telecommunications Committee authorized TRT to temporarily suspend operation of WAX for 60 days.[40] Subsequently, pursuant to requests by TRT, the Commission authorized TRT to continue the suspension of operation of station WAX pending a Commission decision in this proceeding. Paragraph 23 of our "Order" specifically denied TRT's application to close WAX and required TRT to reinstitute service by means of an alternate transmitter location. TRT appealed this action in the U.S. Court of Appeals for the District of Columbia Circuit, in part, alleging that our "Order" is defective since it failed to specifically deal with the WAX application itself and erroneously relied on generalized observations, many which had no relevance to the application (see footnote 1 supra).

44. At the outset, we reemphasize the statements of the Telecommunications Committee in admonishing TRT for its actions in selling the property upon which the WAX transmitter was located before filing its closure application. The Telecommunications Committee stressed that the filing of an application for discontinuance of a common carrier operation is not equivalent to grant of authority since the Commission is required by the Act to determine that neither the present nor future public convenience and necessity will be adversely affected by the proposed action. It found that not only were the circumstances leading to the impending discontinuance foreseeable, they were created by the voluntary action of selling the land on which the transmitting apparatus was located. Further, it stated:

> The conclusion to be drawn from the fact that the land on which the WAX transmitting apparatus is located was sold some 9 months before the application requesting authority to discontinue that station was filed is that TRT assumed the Commission would act favorably on its application and would do so before TRT was forced to vacate the land. Assumptions such as this are made by a carrier at its own peril. Sale of the land here involved does not alter the statutory finding the Commission must make that neither the present nor future public convenience and necessity will be adversely affected by the proposed closure, nor does it appear to be of any decisional significance in reaching such determination. A carrier cannot by its unilateral actions arrogate to itself the public interest findings which the Commission is required to make by law. Any attempt to do so is at the carrier's own risk.

We stress the conclusion of the Telecommunications Committee that the course of action followed by TRT in this matter did not demonstrate a proper view of its duties as a Commission licensee to the public it serves or the procedures specified by the Commission's Rules and the Act.

45. However, notwithstanding TRT's conduct with regard to WAX, we agree with TRT that our "Order" failed to sufficiently consider each PCRT station closure application then before us on an individual basis in light of the statutory test required by the Act (see paragraph 11-12, supra). As with the other applications for closure now before us, we will consider TRT's application on an individual basis, weighing the potential inconvenience to the using public from permanent discontinuance of station WAX's operation against the financial effect on TRT of requiring that it reinstitute service via WAX.

46. Station WAX is licensed as a Class I-A PCRT station, authorized to provide radiotelegraph public correspondence on medium and high frequencies. WAX's operational hours before we authorized its temporary suspension of operation were 24 hours per day, 7 days per week. Message pick-up and delivery was by way of Western Union telex and TWX facilities, by telephone, by interconnection with Western Union's public message system, and direct leased landline to TRT's public offices in Miami, Fla., and New Orleans, La. The normal areas for operation of WAX were the immediate area of southeastern Florida, the Caribbean Sea, and Gulf of Mexico, and along the southeastern Atlantic coast.

47. In its application, TRT asserted that: (1) It was suffering substantial losses from the continued operation of WAX; (2) TRT can provide the same maritime coverage from its station WNU (New Orleans, La.) as it can from WAX, with the exception of medium frequency transmission and reception; (3) additional alternative radiotelegraph services are available from station WPD (Tampa, Fla.) and radiotelephone service is available through several Bell system coast stations; and (4) closure of WAX would benefit the financial viability of station WNU. The Commission received only one opposition specifically directed toward TRT's application in addition to other comments filed in this proceeding generally opposing any coast station closures. That opposition questioned the accuracy of TRT's showing concerning direct expenses for salaries at WAX.

48. TRT's primary reason for permanent closure of WAX is that operation has been unprofitable. It claimed that its total direct operating expenses for WAX, without allocation of depreciation or general overhead and administrative expenses, substantially exceeded total revenues earned by WAX. TRT's application reported direct operating expenses for 1972 to be $296,100 while revenues totaled $209,100, resulting in a net operating loss of $87,000. We note however that the application states that TRT's direct expenses reported are significantly higher than those projected in TRT's 1972 response to the Commission's notice of inquiry because the 1972 projection failed to consider the gradual elimination of TRT point-to-point operations that had been sharing the transmitter site at Ojus, Fla., with WAX. Indeed, in its response to our notice of inquiry, TRT projected direct expenses for operation of WAX of $114,100 for 1972 and $116,100 for 1973. And, we note that in the latter part of 1974 and early 1975, all direct expenses incurred by operation of the Ojus transmitter site were attributed solely to maritime service because the Commission granted on December 3, 1974, TRT's application to transfer its remaining point-to-point operations from Ojus to Slidell, La., near the location of station WNU.

49. If TRT's allocation of direct expenses from its defunct point-to-point services at Ojus to the operation of WAX is accepted, it appears that WAX was an unprofitable operation. However, we are unconvinced that such allocation is proper in considering whether WAX was itself financially viable as a maritime operation, since we are unable to determine precisely what direct expenses are used and useful only for providing maritime services. For instance, it is not clear whether the entire Ojus transmitter site or what equipment and structures located on the Ojus site were necessary for rendering maritime service. And, it is not clear whether a portion of the Ojus site could have been retained for use by WAX rather then selling the entire site and rendering the discontinuance of WAX operation from Ojus a fait accompli. We therefore cannot use TRT's allocation method, which places all the expenses at the Ojus site on WAX, as a basis to find that WAX was an unprofitable operation.

50. However, we do note that from the information provided by TRT in its response to our Notice of Inquiry that the total direct expenses reported for operation of WAX from 1966 through 1971 did not include "local overhead" and "general office overhead" which were included as indirect expenses. TRT stated that "local overhead" included all expense items incurred locally that were attributed to WAX's operations. The basis for allocation of this expense was the percentage of marine revenue received compared to station revenue received (including point-to-point revenue from the Ojus operation). General office overhead consisted of expenses incurred by the general office of TRT which were attributed to WAX's operations. TRT indicated that the basis for allocation of this expense item to WAX was the percentage of TRT marine revenue to total TRT revenue. The years 1966 through 1971 are years when TRT was earning substantial revenue from its HF point-to-point operations at Ojus. If we considered "local overhead" and "general office overhead" with direct expenses for those years, the data reported by TRT shows that WAX was not financially viable for those years.

51. Moreover, from the data submitted by TRT in this proceeding, it appears that revenues from WAX during the years 1966 through 1971 were 21 to 27 percent of the combined revenues reported for maritime and HF point-to-point operations. We note that 1972 was the first year in which revenues for the Ojus point-to-point operations substantially declined because of service discontinuances from that site. Additionally, the expense items listed in TRT's closure application, other than salaries and power, appear to be equivalent to what could be included under "local overhead." If

[37] The transmit and receive sites and coverages for Coast Guard radio stations NMN and NMA are depicted in the Coast Guard letter appended hereto as Appendix 3. That letter also indicates an additional remote site for NMA at St. Petersburg, Fla., planned for completion in early 1979.

[38] RCA's section 43.71 data shows that message traffic revenue for 1976 at WOE had increased 9.4 percent over the previous year and 61 percent over 1972. Based on data for the first 6 months of 1977, WOE's message traffic revenues should increase approximately 25 percent over 1976 and 102 percent over 1972.

[39] RCA's stated expenses at WOE for the first half of 1976 were $150,000, including $14,000 in allocated radiomarine administration expenses. This would reflect total expenses for 1976 to be $300,000 at WOE, while the 1976 section 43.71 data shows WOE's message traffic revenues to be $324,604. Thus, the message traffic revenues, exclusive of any other revenues, more than cover WOE's stated expenses for 1976.

[40] In December 1976, TRT sold the property upon which the transmitting equipment of WAX was located to a developer. TRT continued to operate on the land pursuant to a lease signed on December 15, 1972. This lease expired December 14, 1974, and TRT operated on a month-to-month basis. However, the owner contracted to convey the land to Western Electric Co. for construction of new facilities commencing May 15, 1975. TRT therefore filed with the Commission on April 15, 1975, an application requesting authority for emergency discontinuance of service from station WAX.

we take only 25 percent of the total of these expense items we can allocate "local overhead" expenses to WAX operations based on a similar ratio used from 1966 through 1971. Even this substantially smaller "local overhead" expense allocation, when added to the reported expenses for salaries and power, will result in total 1972 direct operating expenses for WAX exceeding its reported revenue for that year. From this analysis, it appears that WAX was not a financially viable operation in 1972. And this does not include consideration of depreciation or allocated general overhead and administrative expenses from TRT's general office operation. An increase in revenues was reported for 1973; however, it appears that even with this increase, WAX may have been only marginally profitable, if financially viable at all.

52. As for the redistribution of traffic that has occurred as a result of WAX's temporary closure since 1975, we note that the record in this proceeding does not contain complaints by users reporting any substantial hardship incurred as a result of WAX's closure. It appears that TRT's station WNU absorbed the greatest portion of WAX's traffic in 1976 and that stations WLO and WPD primarily absorbed the remainder.[45] As with station WOE, we note that 500 kHz safety coverage over WAX's normal service area can be provided by the Coast Guard through its stations NMN, NMA and NMR (see paragraph 38, supra).

53. We conclude that the public interest would not be served by requiring TRT to rebuild WAX in view of its past questionable financial viability. We note TRT's claim in its Petition for Stay that the burden that would be placed on it by complying with such a requirement would be substantial.[46] It appears that the financial effect on TRT in reinstituting service at WAX might affect TRT's ability to institute improvements at station WNU which has apparently already absorbed the bulk of WAX's traffic. Indeed, we will endeavor to determine in the proceeding we are instituting simultaneously herewith the financial benefit and savings to TRT resulting from the closure of WAX, including the sale of the Ojus transmitter site. We will consider these factors in determining what improvements TRT should make at WNU. In sum, however, we conclude that the financial burden that would be placed on TRT in rebuilding WAX outweighs any benefit that may accrue to the using public as a result of reinstitution of service. Accordingly, paragraph 23 of our Order is modified.

[45] Stations WNU, WLO and WPD experienced increases in messages in 1976, over the previous year, of 56.24 percent, 27.06 percent, and 15.83 percent, respectively. In comparison, station WOE experienced an increase in 1976 of only 5.66 percent over the previous year.

[46] TRT estimates that it would require $341,000 in total capital costs to rebuild WAX.

CLOSURE APPLICATION FOR STATION WPA

54. On December 9, 1976, RCA filed an application (File No. W-P-D-88) to close PCRT station WPA, located at Port Arthur, Tex.[47] WPA is a Class I-A PCRT station, authorized to provide radiotelegraph public correspondence on medium and high frequencies. WPA's operational hours are 24 hours per day, 7 days per week. Message pickup and delivery are via Western Union telex and TWX, telephone, and a private facsimile circuit. Certain messages are mailed. The normal areas of operation for WPA are the Texas coastal area and the Gulf of Mexico.

55. RCA desires to close station WPA to effectuate operating economies, increase the financial viability of its PCRT operations, and enable improvement of the quality of service at remaining stations. RCA asserts that station WPA is essentially a redundant station and that the WPA service area will continue to receive full service from the remaining PCRT stations. RCA further asserts that continued operation of WPA and its four other mainland stations and expenditures to meet new equipment standards would result in a loss of over $600 million during the 1977–1981 period.

56. The main opposition to closure of WPA came from ACA, the union representing RCA's telegraphy operators, and from various shipping companies and user groups operating in the Gulf of Mexico. The reasons given in opposition to closure of WPA were inter alia: (1) traffic and revenue figures in the application do not truly reflect the substantial traffic growth at the station over the past few years; (2) there is a definite need for PCRT stations in western Gulf area;[48] (3) closure of WPA would eliminate competition between the two major carriers (RCA and ITT) in the Gulf;[49] (4) closure of WPA would diminish safety of life and property considerations; and (5) the remaining PCRT stations could not effectively absorb a redistribution of WPA's traffic.

57. In its application to close WPA, RCA asserted that coverage of WPA's service area is duplicated in whole or in part by stations WCC, WSL, WOE, WPD, WLO, WNU, and KLC. RCA did not mention stations WSC and WMH, but RCA specifically stated that it was not relying on coverage by stations KLC and WOE for WPA's closure, since closure applications had been filed for these stations. While we recognize that stations on the upper east coast may be able to cover some of WPA's normal HF service area, they cannot cover any of WPA's MF service area and we believe it unrealistic to rely on those stations to to absorb WPA's traffic. It is more realistic to assume, should WPA close, that those stations which operate primarily over the Gulf of Mexico area should be looked to absorb WPA's traffic. With this in mind, we note that the normal HF service areas of those Gulf coast PCRT stations that would remain appear to completely overlap WPA's normal HF service. Likewise, except for a relatively small transmit coverage area approximately 500 miles southeast of WPA, the normal MF service areas of those stations appear to completely overlap WPA's normal service area (see footnote 42, supra). Therefore, we conclude that PCRT stations remaining on the Gulf coast could provide alternative public correspondence coverage of the normal service area of WPA, should WPA close.[50]

[47] Although RCA states that a prior application had been filed for the closure of WPA, no formal application was filed prior that bearing File No. W-P-D-88 (see footnote 44, supra).

[48] With regard to a need for PCRT stations in the western Gulf area, we recognize that shipping interests have self-serving interests in wanting to maintain PCRT facilities at or near ports which they operate from (see paragraph 90 infra). However, with regard to applications to close both WPA and KLC, we recognize that their locations and normal service areas encompass those Gulf ports which handle large amounts of petroleum and grain products. While such is not conclusively dispositive of a need for PCRT stations in this area or an application for closure of existing facilities, the fact that these ports and products are of great importance to the country's interest at this time is a factor which we are considering.

[49] In this regard, although we prefer to have competition between all the carriers in all of their service areas, we also recognize that we cannot stress competition solely for competition's sake. See *RCA Communications, Inc.* v. *F.C.C.*, 346 U.S. 86 (1953); *Hawaiian Telephone Company* v. *F.C.C.*, 498 F. 2d 771 (D.C. Cir., 1974). Therefore, competition between the carriers is no more than one of the factors considered in balancing the interests of the public in maintaining operational PCRT stations and the interests of the carriers in closing such stations.

[50] Since there is a pending application to close KLC, we note that if both WPA and KLC were to close, there would be a significant gap in MF coverage along the Texas coast and extending south-southeast therefrom. See footnote 42, supra. Under such circumstances, this conclusion may have to be modified. However, we again emphasize (see footnote 36, supra) that the denial or grant of any individual application before us is not dependant upon the grant or denial of another application. We also note that WPA's transmit coverage area for MF may be reduced somewhat due to that station using an improvised antenna; however, even though we have some ship reports of WPA's signal being weak, we haven't information regarding ship position at the time of the

58. With regard to 500 kHz safety coverage, the remaining PCRT stations in the Gulf could provide coverage in whole or in part, should WPA discontinue operations. Moreover, even though U.S. Coast Guard radio station NOI—Galveston is no longer in operation, the Coast Guard does provide 500 kHz coverage over WPA's normal service area through its two stations NMG and NMA.[51] Therefore, even if WPA were to close, 500 kHz safety coverage over the normal service area of WPA should not be diminished.

59. In its application for closure, RCA provided data showing its average message traffic at WPA for the second quarter of 1976 to be 3,303 messages per month, a figure which would yield 36,936 messages for the entire year of 1976. RCA's application did not include data showing how many revenue producing words were handled, but data from RCA's semi-annual report pursuant to § 43.71 of the Rules shows that WPA actually handled 43,010 messages and 979,770 words in 1976, an increase of 3.77 percent and 9.84 percent respectively over the previous year, and an increase of 54.7 percent and 80.6 percent respectively over the reported data for 1972. Additionally, RCA's § 43,71 data for the first six months of 1977 indicates that WPA should handle over 49,500 messages and 1,100,000 words for all of 1977, an increase of approximately 16 percent and 21 percent respectively over 1976 and an increase of approximately 78 percent and 119 percent respectively over 1972. The indicated increases in messages and words handled for the past two years at WPA does not appear to be an anomaly, since RCA's § 43.71 data shows a steady increase in words handled and revenues at WPA since 1972.

60. Again, we cannot accurately predict the actual redistribution of a station's traffic. However, the § 43.71 data, for those stations realistically expected to absorb WPA's traffic, indicates that they should also experience substantial increases in messages and words handled for 1977. Redistribution of WPA's traffic (based on 1976 figures) would result in those stations, as a whole, having an increase in messages and words handled of approximately 32 percent and 35 percent respectively (excluding any reliance on KLC and WOE), or 18 percent and 23 percent respectively (if redistribution to KLC and WOE is considered), and such does not take into account 1977 increases in messages and words. Even if we did rely on keeping KLC and WOE open for this redistribution, and we do not (see footnote 36, supra), we would still consider such increases too burdensome on those stations realistically expected to absorb WPA's traffic under the circumstances. Moreover, the PCRT stations involved have not positively indicated that they can effectively handle such increases in traffic and RCA has not provided substantiation that other stations, as a whole or severally, can "easily and effectively" absorb such increases. Furthermore, since we have determined that PCRT stations are generally experiencing difficulty in effectively handling present traffic loads (e.g. substantial delays and shortage of operators), we conclude that the stations designated by RCA (or those realistically expected) to absorb WPA's traffic cannot effectively do so without further degradation of service. Consequently, we must conclude that closure of WPA, at this time, will result in a redistribution of traffic that will have an adverse effect on the public convenience and necessity.

61. In its application to close WPA, RCA stated that it would become unprofitable to operate WPA at the then existing rates, in view of equipment improvement requirements. In this regard, RCA's application shows that WPA was not losing money at the time the application was filed. RCA stated expenses at WPA for the first half of 1976 were $92,000, including $8,000 in allocated radiomarine expenses. This would reflect total expenses for 1976 to be $184,000 at WPA, while the 1976 Section 43.71 data shows WPA's message traffic revenues to be $194,285. Thus the message traffic revenues, exclusive of any other revenues, more than cover WPA's stated expenses for 1976. Additionally, we note that WPA's message traffic revenue has steadily increased since at least 1972.[52] Furthermore, RCA increased its tariffs for all its stations effective in May, 1977. Consequently, based on the information before us, we conclude that WPA is an economical operation.

62. From the above, we conclude that discontinuance of service at PCRT station WPA, located in Texas, will not have a substantial effect on 500 kHz safety coverage in the present service area of WOE. however, we further conclude that such discontinuance would have an adverse effect on public correspondence radiotelegraphy in the present service area of WPA. Redistribution of WPA's message traffic would likely diminish the present level of service provided by those stations which would be required to absorb this traffic. WPA is not currently losing money and the steadily increasing volume of traffic through WPA, along with the RCA's May, 1977, tariff increase, indicate that a profitable operation should continue there. Therefore, we conlcude that the public service value of continuing WPA operations outweighs the licensees' reasons for discontinuance at this time.

CLOSURE APPLICATION FOR STATION KLC

63. On September 2, 1971, ITT filed an application (File No. T-D-18395) to close PCRT station KLC located at Arcadia, Tex. near Galveston, Tex. KLC is a Class I-A PCRT station authorized to provide radiotelegraph public correspondence on medium and high frequencies. KLC's operational hours are 24 hours per day, 7 days per week. Message filing, pickup and delivery are via Western Union facilities (including TWX) and telephone. The normal areas of operation for KLC are the Texas coastal area, the Gulf of Mexico and the Caribbean Sea.

64. In its application to close KLC, ITT stated its basic reason for discontinuance of KLC was the continuing and ever-increasing losses being incurred in PCRT station operation. ITT alleged that its losses would be reduced by $32,000 (based on 1970) if KLC were eliminated. ITT submitted that it was not in the public interest to expect the public to pay rates to support additional capital investment at KLC (e.g., compliance with type acceptance requirements) in light of available substitute service. ITT further asserted that other Gulf area PCRT stations transmit essentially the same weather broadcasts as KLC and that safety and distress coverage in the Gulf area served by KLC is provided by U.S. Coast Guard radio stations NOI—Galveston, NMG—New Orleans and NMA—Miami.

65. The main opposition to closure of KLC came from CWA, the union representing ITT's telegraphy operators, and from various shipping companies and user groups operating in the Gulf. Generally, the reasons given in opposition to the closure of KLC were, inter alia: (1) there is a definite need for PCRT stations in the Western Gulf (see footnote 64, supra); (2) remaining PCRT stations could not effectively absorb a redistribution of KLC's traffic; (3) closure of KLC would eliminate competition between the two major carriers (RCA and ITT) in the Gulf (see footnote 65, supra); (4) the traffic and revenue figures submitted by ITT were understated; and (5) closure of

Continued

reports or any other firm data to show any actual reduction in the MF service area of WPA.

[51] The transmit and receive sites and coverages for Coast Guard radio stations NMG and NMA are depicted in the Coast Guard letter appended hereto as Appendix 3. That letter shows NMG to have a remote site at Galveston and planned remote site at St. Petersburg.

[52] RCA's § 43.71 data shows that message traffic revenue for 1976 at WPA had increased 11.6 percent over the previous year and 101.2 percent over 1972. Based on data for the first six months of 1977, WPA's message traffic revenues should increase approximately 37 percent over 1976 and 176 percent over 1972.

KLC would diminish safety of life and property considerations. We note that, in commenting on the IRC's preference for alternative No. 3 of the ATS report (wherein both KLC and WPA would be closed), many commenters stated that they definitely needed a PCRT station in Houston—Galveston region and indicated a preference of KLC remaining if one of the stations was to be closed (but see, footnote 36, supra).

66. The normal HF service areas of those Gulf coast PCRT stations that would remain, should KLC be closed, appear to completely overlap KLC's normal HF service area. Likewise, except for a very small transmit coverage area approximately 500 miles south of KLC, the normal MF service areas of those stations appear to completely overlap KLC's normal MF service area (see footnote 42 supra). Therefore, we conclude that PCRT stations remaining on the Gulf coast could provide alternative public correspondence coverage of the normal service area of KLC, should KLC close (see footnote 66, supra).

67. With regard to 500 kHz safety coverage, the remaining PCRT stations in the Gulf could provide coverage in whole or in part should KLC discontinue operations. Moreover, even though U.S. Coast Guard radio station NOI is no longer in operation, the Coast Guard does provide complete 500 kHz safety coverage over KLC's normal service area through its two stations NMG and NMA (see footnote 67, supra).

68. In its application for closure of KLC and its reply to opposition thereto, ITT provided data showing its average message traffic for a three month period (March, April, May 1971) to be 2,516 messages per month, a figure which would yield a total of 30,192 messages for the entire year of 1971. ITT's reply to opposition to its application reported 30,330 messages actually handled at KLC in 1971. Data from ITT's semi-annual report pursuant to § 43.71 of the Rules shows that KLC handled an average of 37,099 messages per year from 1972 through 1976, an increase of almost seven thousand messages over ITT's application year of 1971. And, based on ITT's § 43.71 report for the first six months of 1977, KLC should handle approximately 46,000 messages for all of 1977. Moreover, ITT's application and reply to opposition did not include data showing how many revenue producing words were handled at KLC; however, ITT's § 43.71 reports show that KLC handled a high of 845,206 words in 1974, an increase of 62.7 percent over words handled in 1972. For the latest complete year 1976, KLC handled 802,088 words, an increase of 1.7 percent over the previous year and of 54.4 percent over words handled in 1972. Based on data for the first six months of 1977, KLC should handle over 1.1 million words for all of 1977, an increase of approximately 37 percent over 1976 and an increase exceeding 110 percent of the words handled in 1972. The above figures suggest not only an increasing trend in message volume at KLC, but also a significant increase in the revenue producing verbage handled at KLC. Such increases belie any suggestion that the public is turning from use of this PCRT station.

69. As previously stated, we cannot accurately predict the actual redistribution of a closed station's traffic. However, we note that § 43.71 data, for those stations which ITT asserts "will provide" adequate substitute service (WPA, WNU and WLO), shows those stations to have also experienced significant increases in messages and words handled since 1972, both individually and collectively. As a whole, those stations handled 164,314 messages and 3,592,264 words in 1976, an increase of approximately 64 percent and 100 percent respectively over traffic handled in 1972. Absorbtion of KLC's traffic would (based on 1976 figures) result in these stations, handling an overall increase in messages and words handled of 18.1 percent and 16.3 percent respectively. Furthermore, if we look to those stations which operate primarily over the Gulf of Mexico area, and which we would realistically expect to absorb KLC's traffic, redistribution of KLC's traffic (based on 1976 figures) would result in those stations, as a whole, having an increase in messages and words handled of approximately 27 percent and 28 percent respectively (excluding any reliance on WPA and WOE), or 15 percent and 16 percent respectively (if redistribution to WPA and WOE is considered), and such does not take into account 1977 increases in messages and words.[*] Even if we did rely on keeping WPA and WOE open for this redistribution, and we do not (see footnote 36, supra), we would still consider such increases too burdensome on those stations realistically expected to absorb KLC's traffic under the circumstances. Moreover, the PCRT stations involved have not positively indicated that they can effectively handle such increases in traffic and ITT has not substantiated its claim to that effect. Consequently, considering the above information and the sizes of these stations, we are unconvinced that they can effectively handle KLC's traffic without further degradation of overall service. We must therefore conclude that closure of KLC and a redistribution of its traffic will have an adverse effect on the public convenience and necessity.

70. ITT's application and reply to opposition shows that the station was not actually losing money at the time they were filed. While ITT's filings in response to the original Notice of Inquiry shows KLC's annual revenues to be substantially lower than its annual costs, ITT included allocated costs for general and administrative expenses of approximately 72 percent of direct costs. The methodology used by ITT to arrive at this figure was based on "Communications Services Cost Allocation Manual for International Communications" and a 1970 Cost Separation Study.[**] The 72 percent figure does not appear to be realistic, in light of RCA's 23 percent figure for similar data and ITT's statement in its filings for its 1977 tariff increase that its experience had shown a figure of 24 percent to be the proper figure for general and administrative expenses. We do not have definitive, up-to-date direct cost data for KLC since 1972, with which to compare reported revenues. However, we do note that with the exception of 1975, KLC has reported a steady increase in marine message traffic revenues. For the period of 1973 through 1976, KLC reported marine message traffic revenues averaging $150,847 for that period, an increase of approximately 61 percent over the revenue reported for 1972. For 1976, KLC reported marine traffic revenues of $148,727, an increase of 61 percent over 1972. And, based on the § 43.71 data for the first six months of 1977, KLC should have revenues of over $240,000 for all of 1977, up 62 percent over 1976 and up 161 percent over 1972.

71. We recognize that costs of operation have also increased; however, considering the steady increases in KLC word traffic, the continuing increases in revenues, the 1977 tariff increase for messages at ITT PCRT stations (including KLC), and the lack of up-to-date direct cost data for KLC operations, we must conclude that closure of KLC is not justified, at the present time, on the grounds of financial losses at that station. Based on the information before us, we conclude that KLC is not actually losing money, and we are unpersuaded that KLC is not an economical operation.

72. From the above, we conclude that discontinuance of service at PCRT station KLC, located in Texas, will not have a substantial effect on 500 kHz safety coverage in the present service area of KLC. However, we further conclude that such discontinuance would have an adverse effect on public correspondence radiotelegraphy in the present service area of KLC. Redistribution of KLC's message traffic would likely diminish the present level of service provided by those stations which would be required to absorb this traffic. KLC was not losing money at the time its application was filed and the increasing volume of traffic through KLC, along with ITT's April, 1977, tariff increase, indicates that a financially viable operation should continue there. Therefore, we conclude that the public service value of continuing KLC operations at this time outweighs the licensee's reasons for discontinuance at this time.

73. Finally, with regard to the closure of either WPA, KLC, or both, we perceive a need for station(s) on the Texas Gulf coast area at the present time, under the current methods of PCRT operations. While improved facilities and interconnection of PCRT stations in general may alleviate this need, another possible approach may be to have a single, strong station in the present area of WPA-KLC, sufficiently staffed and equipped to handle all of the traffic currently handled by both WPA and KLC. Under current operating practices, staffing, and facilities, neither WPA nor KLC can adequately undertake this role and neither licensee appears willing to make sufficient improvements to do so (as evidenced by closure applications for both). Similarly, under present conditions, we conclude that neither WLO nor WNU, nor both, can effectively fulfill this role at this time. Therefore, we invite the carriers to address this possible approach in any future applications dealing with the western Gulf area that they may file.

CLOSURE APPLICATION FOR STATION KFS

74. On September 2, 1971, ITT filed an application (File No. T-D-18394) to close PCRT station KFS located near San Francisco, Calif.[†] KFS is a Class I-A PCRT station, authorized to provide radiotelegraph public correspondence on medium and high frequencies. KFS's operational hours are 24 hours per day, seven days per week. Message filing, pickup, and delivery are via Western Union TWX, telephone, ITT telex, and via messenger service from ITT's office in San Francisco. The normal areas of operation of KFS are the San Francisco Bay area, the entire Pacific Ocean area, the China Sea, and extending into the Indian Ocean.

75. ITT's application alleged that KFS was sustaining substantial losses in rendering marine communication services and that closure of KFS could effect significant cost savings without any material adverse effect on the public or on the operation of ships at sea. ITT submitted that it was not in the public interest to expect the public to pay rates to support additional capital investment at KFS (e.g. compliance with type acceptance requirements) in light of available substitute service (KOK, KLB, KPH).[‡] ITT further asserted that station KPH (San Francisco) transmits weather information similar to that of KFS and that safety and distress coverage in the Pacific area served by KFS is provided by U.S. Coast Guard radio stations NMW—Seattle, NMC—San Francisco, NMQ—Long Beach and NMO—Honolulu.

76. The main opposition to the closure of KFS came from the Communications Workers of America (CWA), the union representing the ITT radiotelegraph operators.[§] CWA asserted: that PCRT traffic had steadily increased in the last ten years; that message volume at KFS was higher than that represented by ITT; that salaries and wages for operators at KFS were substantially lower than the figures submitted by ITT for the months of March, April, and May 1971; that ITT had not increased its tariffs in recent years; that KOK would have to be extensively (and expensively) altered to have the capability of absorbing a redistribution of KFS traffic; that neither KLB, KOK, nor KPH would be able to efficiently or effectively handle the redistributed KFS traffic; and that the value of KFS real estate should be considered in the profitability of the station.

77. In its comments regarding the Advanced Technology Systems (ATS) study, ITT proposed a consolidation of its Pacific Coast operations at KFS, resulting in the closure of stations KLB and KOK. ITT stated that it would file applications to achieve this consolidated facility, "upon a favorable Commission decision in this docket."[¶] While we are not sure what ITT would consider a "favorable" decision (the closure of KFS or the absolute adoption of ATS proposed alternative No. 3), we do note that ITT's proposal places its closure application for station KFS in the position of considerable uncertainty. ITT has neither withdrawn its KFS application, nor filed for closure of KOK and/or KLB; and, therefore, we can only act on that offical application now before us: closure of KFS. Consequently, in light of ITT's stated position and our discussion herein regarding an ultimate PCRT station configuration, we presently conclude that the public service value of continuing KFS operations outweighs the licensee's reasons for discontinuance.

78. Furthermore, considering our disposition of ITT's application to close KFS, we will not attempt to address the various assertions of CWA in opposition to the application. However, these assertions indicate some of the areas that we would expect ITT to cover in any future applications to close PCRT stations.[#] And, while it is not necessary herein to express the balancing of factors usually required of a closure application, we note that, with the exception of 1975, ITT's reports pursuant to § 43.71 of the rules show a steady increase of word traffic and revenue at all three of its Pacific Coast PCRT stations. This fact, along with ITT's increased tariff (effective April 1977) for all of its PCRT stations, suggest an improved financial situation which must be evaluated upon ITT's filing of future PCRT station closure applications.

FUTURE CLOSURE OF PCRT STATIONS

79. Our action herein is not intended to foreclose the additional closure of PCRT stations if their licensees can demonstrate that such closures would not adversely affect the present or future public convenience and necessity. However, consideration of future closures will require a determination as to the capability of remaining PCRT stations to expeditiously and efficiently handle the substantial redistribution of traffic that must necessarily result, in addition to a determination of the financial effect on the licenses in requiring stations to remain

[*] This redistribution analysis is comparable to that applied to redistribution of WPA's traffic in paragraph 60, supra.

[**] The cost allocation manual was not approved by the Commission and the ATS report pointed out that the 1970 Cost Separation Study had no official standing with the Commission.

[†] As a part of its application, ITT also proposed to lease and operate a 50 band channel between its San Francisco operating center and its PCRT station near Los Angeles (KOK). ITT asserted that such an arrangement would allow communities served by KFS to continue to file and receive radiotelegrams at San Francisco and to handle such traffic through KOK since KOK essentially operates throughout the same marine area as KFS.

[‡] ITT also stated, however, that the closure of KFS would result in discontinuance of marine telex in the Pacific area and that ITT did not plan to provide marine telex via either of its other two Pacific Coast stations (KOK—Los Angeles, KLB—Seattle).

[§] CWA's opposition was directly supported by the American Communications Association (ACA), the union representing RCA's radiotelegraph operations.

[¶] ITT first made this consolidation proposal in its filing dated April 26, 1974 (see footnote 7, supra). This proposal was reiterated in its filings dated April 30, 1974, December 31, 1974, and January 23, 1975, as well as in its Application for Stay Pending Judicial Review of the "Order."

[#] We also expect ITT to further address in detail the matter of allocated costs to PCRT stations, especially in light of the variances noted in the ATS study and ITT's own statement (in its application to close KFS) that phasing out of other radio services would result in full costs of ITT's San Francisco radio stations being allocated to remaining marine services. This matter raises questions concerning the propriety of attributing costs to PCRT operations when such costs are not reasonably related to PCRT operations. Similarly, questions arise when licensees report allocated costs that appear to nonproportionately exceed other costs for a station's operation.

in operation. We believe this is imperative in view of the delays now being experienced by PCRT station users.

80. Delay in the exchange of traffic constitutes the primary problem identified in this proceeding with regard to PCRT station operations. The record demonstrates that PCRT users are experiencing delays in:

(1) Contacting coast stations for transmission of ship-to-shore traffic;

(2) Receiving ship-to-shore messages from coast stations; and

(3) Receiving shore-to-ship traffic from coast stations.

ATS found that it takes from fifteen minutes to many hours, and sometimes several days, for a ship station operator to make contact with coast stations and exchange traffic.[76] We note that this finding is not specifically challenged by the IRCs. And, it appears supported by information submitted by the carriers themselves in response to specific questions posed by the Commission in this proceeding.[77] Moreover, many comments show that delays are common and declare them to be the most widespread problem in maritime communications today.[78] Indeed, the Commission has received a number of reports from public coast station users since the issuance of our "Order" asserting that lengthy and unreasonable delays continue in contacting coast stations.[79]

81. We have determined herein that the PCRT stations remaining after closure of stations WSF, WSC and WAX will be able to handle the resulting redistribution of traffic without substantial exacerbation of the delays now being experienced by PCRT users.[80] However, we are unconvinced that the stations which would remain after the additional closure of WOE, WPA and KLC at this time would be able to handle the resulting redistribution of traffic. Indeed, the closure of these stations, and those stations ITT has in this proceeding indicated a desire to consolidate with station KPH (see footnote 7 supra), would result in a significant redistribution of traffic.[81] Moreover, we are unpersuaded that the proposed plans submitted by the IRC's in this proceeding to improve PCRT station facilities will enable remaining stations to handle the redistribution of traffic resulting in the additional station closures they desire.[82] Although the proposals of RCA and TRT for improvement of the collection and delivery capabilities of their remaining coast stations have merit and may assist in expediting the handling of traffic, they do not affect the current arrangements of the IRC's which we found in our "Order" as hindering the PCRT user's ability to make maximum use of all of the PCRT facilities available.[83] Specifically, each IRC limits the use of the teleprinter machine provided to ship owners or agents to use in connection only with the teleprinter services it offers. We pointed out that, as a result, the effect is to essentially lock a ship station into using only the coast stations of the IRC from which the ship's owner or its agent obtains teleprinter office equipment. These tie-in arrangements contribute to the congestion at certain coast stations and deprive the PCRT user of the flexibility of accessing other coast stations for routing traffic. We believe that the closure of additional PCRT stations without attempting to remedy this situation may result in further congestion and delay.

82. We therefore conclude that the additional closure of PCRT stations at this time, independent of implementation of an overall plan for improvement of PCRT station services, would not be in the public interest. An overall plan for improvement is imperative to: (1) enable ship station operators to establish contact with coast stations within a reasonable time; (2) permit coast stations to route ship-to-shore traffic by a method most expeditious to addressees; and (3) give customers the greatest flexibility in routing shore-to-ship traffic. We anticipate that implementation of a plan that would achieve these objectives could allow additional PCRT station closures.[84] Specifically, we envision that

[76] See Final Report, the Public Coast Radio Telegraph Study by Advanced Technology Systems, Inc., submitted to the Commission on December, 1976, p. A-35.

[77] See Comments of RCA, November 30, 1972; Comments of ITT, December 8, 1972; Comments of TRT, December 11, 1972.

[78] See Comments of the American Institute of Merchant Shipping, November 27, 1972; Comments of the American Communications Association, October 6, 1972; Comments of KPH Shop Committee, September 28, 1972; Comments of Members of the Radio Officers Union, September 30, 1972; Comments from the Communications Workers of America, December 11, 1972.

[79] Many of these reports were filed in response to the new closure applications filed by RCA subsequent to our "Order" of May 26, 1976. See letters from Selmer T. Sorenson, December 11, 1976; Maurice Edall, March 21, 1977; J. H. Winchester & Co., Inc., December 22, 1976; Jose Santaella, April 1977; Edwin Lamb, September 24, 1977; Richard F. White, September 29, 1977; Norman W. Foster, February 8, 1977; and Palmetto Shipping & Stevedoring Co., Inc., February 8, 1977.

[80] The resulting redistribution will essentially consist of only the traffic of station WSC since station WAX has been temporarily discontinued since May 22, 1975 (see paragraph 43 supra) and station WSF has been remotely operated from station WSL since 1968 (see paragraph 21 supra).

[81] Reports submitted to the Commission for the period of January 1 to June 30, 1977, indicates the following traffic volume at those stations:

Via coastal station	Messages	Words
Outbound traffic		
KLC—Arcadia, Tex. (ITT)	7,203	217,137
KOK—Los Angeles, Calif. (ITT)	6,317	186,976
KLB—Seattle, Wash. (ITT)	4,173	125,369
WOE—Lantana, Fla. (RCA)	7,591	239,964
WPA—Port Arthur, Tex. (RCA)	7,526	233,358
	32,810	1,002,804
Inbound traffic		
KLC—Arcadia, Tex. (ITT)	16,175	333,544
KOK—Los Angeles, Calif. (ITT)	20,795	386,678
KLB—Seattle, Wash. (ITT)	12,886	198,154
WOE—Lantana, Fla. (RCA)	29,000	583,559
WPA—Port Arthur, Tex. (RCA)	17,264	361,672
	96,120	1,863,001
Total traffic	128,930	2,865,805

[82] RCA proposed only modest increases in staffing at stations it apparently wants to keep open. TRT generally proposed staffing increases, but did not specify their extent. ITT did not propose a staffing increase at all. ITT relied solely on its proposal to consolidate stations KOK and KLB with its station KFS indicating that it would only keep "approximately" the same number of total KOK/KLB/KFS employees centralized at station KFS. As for the collection and delivery capabilities, RCA proposed: (1) use of computers to store information concerning ship station operators' watch times, zone and frequency indicators so that coast station operators would know when a particular ship station operator is on duty; (2) use of computers to store and forward telex calls and to store and assemble bi-hourly traffic lists with automatic broadcast of such lists at prescribed times via Morse-to-5-unit converter; (3) use of 5-unit-to-Morse converters for handling lengthy transmissions; and (4) use of domestic teleprinter for direct filing and delivery of traffic for Western Union Telex subscribers. TRT stated that it was installing an automated message switch and associated computer facilities for all of its message services (e.g., international point-to-point services) which it generally alleged would enhance the speed and accuracy of its maritime services. In connection with its maritime operations, TRT specifically proposed to redesign its operator console at Station WNU (New Orleans, Louisiana) by installation of a cathode ray tube device (CRT) to electronically record messages and to enter them into the computerized message system for delivery, asserting that this would eliminate two manual handling steps presently used in the processing of traffic (i.e., the routing clerk function and the manual perforation function). ITT proposed no specific improvements whatsoever in the collection and delivery capability of the stations it desires to keep open.

[83] See Public Coast Radiotelegraph Stations, supra, at 615–618.

[84] The additional closure of PCRT stations should result in financial savings which in turn could be used to pay the PCRT licenses to finance improvements in the facilities of remaining stations. Determination of improvements in remaining PCRT station facilities as part of an overall plan must, of course, consider the cost of such improvements in relation to the revenues of the licensees from operation of those stations.

an overall plan for improvements could ultimately result in the PCRT industry configuration set forth in Table 3 of Appendix 2 attached hereto. Hence, we will consider future applications, which look toward implementation of this ultimate industry configuration, in the context of the proceeding we are initiating today to determine an overall plan for improvement of PCRT station services.

Mandatory Interconnection and Facilities Improvement

83. In paragraph 42(a)–(d) of our "Order," we required the implementation of an overall plan by the PCRT licensees by prescribing certain measures involving mandatory interconnection and upgrading of coast station facilities. TRT and ITT challenged this action asserting that it was taken without granting the licensees an opportunity for a hearing under Section 214(d) of the Act or making the statutory findings required by that provision. RCA requested that we either modify paragraph 42(a) to provide that interconnection be voluntary, rather than mandatory, or, alternatively, that the PCRT licensees be granted an opportunity for a hearing pursuant to Section 201(a) of the Act and be permitted to file briefs and arguments on the overall issue of interconnection.

84. We agree that an opportunity for hearing should have been afforded to the PCRT licensees before prescription of mandatory interconnection and upgrading of facilities. Section 201(a) empowers this Commission to order interconnection between carriers unwilling to interconnect on their own. In such cases, the provision requires an opportunity for a hearing. Section 214(d) authorizes this Commission upon its own initiative to require any carrier to provide itself with adequate facilities for the expeditious and efficient performance of its service as a common carrier. No such Commission requirement shall be made unless a finding is made that it is reasonably required in the interest of the public convenience and necessity, or that the expense involved therein will not impair the ability of the carrier to perform its duty to the public. This provision also requires an opportunity for a hearing. Therefore, the NPRM we are releasing simultaneously with the instant Memorandum Opinion and Order will consider whether mandatory interconnection and upgrading of coast station facilities should be imposed as part of an overall plan for the improvement of coast station services.[85] Paragraphs 42(a)–(d) of the "Order" are herein modified to delete mandatory requirements for interconnection, upgrading of facilities and associated reports. Similarly, paragraphs 4, 5, and 15 of the "Order" also are modified to the extent that they refer to the "Order's" requirement that the IRC's and PCRT stations implement interconnection and/or upgrading of facilities.

Speed of Service Standard

85. RCA requested that the interim speed of service standard adopted in paragraph 42(c) of our "Order" be further defined to indicate that the "not to exceed four hour" period begins when the licensee first receives the message and ends upon the licensee's first attempt to deliver it. We believe that RCA has clearly misinterpreted the standard we adopted. We will remove further consideration of the speed of service to the proceeding we are initiating today (Docket No. 78–67, see paragraph 15 of the NPRM simultaneously released herewith). However, there appears to be a need to clarify, within the instant Memorandum Opinion and Order, the intent of the standard adopted in the "Order." The speed of service standard envisaged in paragraph 42(c) of the "Order" was designed to implement the retrieval system we prescribed in that paragraph. The "four hour" period was intended to represent "a reasonable period to normally effect delivery" of a ship-to-shore message by a coast station before the ship station operator may request another coast station to retrieve the message and effect delivery. We recognize that any standard ultimately adopted for this purpose will require further specification. However, RCA's suggested redefinition is misplaced since it deals with the time from which a message is first received by a coast station until the message is first placed on the traffic lists, and not the time in which delivery is actually effected. We believe that the time period that RCA is talking about (message handling within the PCRT station) should be much less than four hours, be it for inbound or outbound messages.[86] Development of general service guidelines, that include speed of service standards for the time period RCA is concerned with, will be addressed in Docket No. 78–67.

Operating Staffing

86. Paragraph 26 of the "Order" noted the inadequate operator staffing and the resulting degradation of service by PCRT stations, and ordered each licensee to adequately staff his respective station(s) during each station's authorized time of operations. We recognize that the question of what constitutes adequate operator staffing has not been fully resolved and that there is a need to evaluate the interplay of this subject matter with other areas of concern, such as automated transmission techniques and interconnection of PCRT station facilities. Consequently, the question of adequacy of operator staffing at PCRT stations is further addressed in the NPRM (Docket No. 78–67) simultaneously being released with the instant Memorandum Opinion and Order.

87. Additionally, in its Petition for Reconsideration and Clarification, MMR questioned the need for the Rules requirement (§§ 81.152 and 81.155(b)) that all PCRT station operators hold second-class radiotelegraph operator (T-2) licenses. MMR asserted that this requirement was burdensome due to limited availability of qualified second-class operators as well as from the financial standpoint of operator compensation. In questioning this requirement, MMR pointed out the Commission's recognition that a substantial number of PCRT station transmitters operate only on one frequency, implying that the higher qualifications of a second-class operator (T-2) were not necessary.[87] Finally, and based on the above, MMR requested reconsideration/rule waiver to permit the utilization of employees holding third-class radiotelegraph operator (T-3) licenses, subject to one operator holding a second-class radiotelegraph operator (T-2) license being on duty at all times.

[85] The proceeding we are initiating will not revisit the type-acceptance requirements imposed in Docket No. 18577 for PCRT station transmitters (see Radio Telegraph Service, 26 FCC 2d 359 (1970)). Those requirements were adopted pursuant to Sections 303 (e), (f), and (r) of the Act (47 U.S.C. 303 (e), (f), and (r)) to provide that transmitters authorized to be used at PCRT stations conform with the level of suppression of spurious emissions as set forth in the Commission's Rules (Part 81, Section 81, 140 (47 CFR Parts 81, 140)).

[86] We particularly note that in its filing dated January 13, 1975, RCA discussed this same time period at page 4 of its Annex A, wherein it stated: "A speed of service standard may be established for message handling in coast stations in the U.S.A. A standard of between *twenty and thirty minutes* is attainable." (Emphasis added.)

[87] In this regard, we recently recognized that a second-class radiotelegraph license is not needed to operate radiotelegraph equipment aboard ship stations when such equipment is used for radioteleprinter transmissions and we so modified our rules as they pertain to ship board operators. See, Report and Order, Docket No. 20862, 62 FCC 2d 97 (1976). We also note that the qualifications, including code proficiency, required to obtain either a second-class or a third-class radiotelegraph operators license are identi-

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88. It appears that, while not raised by other licensees, MMR's approach would benefit all PCRT stations, encourage and facilitate the acquisition of additional operators, and resultingly benefit the users of PCRT facilities. However, while we believe that there may substantial merit to MMR's approach, we do not believe reconsideration or rule waiver to be the proper vehicle to incorporate such a proposal. Not only is this proposal new to this proceeding, we believe that other licensees, users, operators, and other interested parties should have an opportunity to comment on MMR's proposal. Therefore, comments regarding amendment of § 81.152(d) (47 CFR 81.152(d)) to the utilization of third-class operators (T-3) for manual telegraphy at PCRT stations,[86] subject to on-duty supervision by one or more second-class operators (T-2), should be solicited.

89. We note that Docket No. 20813 concerns the amendment of the Commission's Rules to implement changes in frequencies, operating procedures, and technical standards for the use of radiotelegraphy adopted at the ITU World Maritime Administrative Radio Conference, Geneva, 1974. Docket No. 20813 specifically dealt with, in part, the question of allowing third-class radiotelegraph operators (T-3) and third-class radiotelephone operators (P-3) to function at PCRT stations under the direct supervision and responsibility of an operator holding a second-class radiotelegraph operator license (T-2) or higher class of operator license. Consequently, we will consider MMR's proposal within the context of our ongoing reconsideration of Docket No. 20813.

Medium Frequency (MF)

90. Paragraph 42(e) of the "Order" required each licensee filing a future application for closure of a PCRT station to address the question of providing service on the medium frequency (MF) bands in the area of the station to be closed. This requirement was prompted by submissions of users and user groups who emphasized that there is a continuing need for coastal MF radiotelegraphy services as well as the world-wide high frequency (MF) services. The record does not conclusively establish the continuing need for MF coverage. While the users assert that the need exists, it is not entirely clear whether the MF service is really needed or whether that assertion was made just to further the day-to-day convenience of some users of having a PCRT station located at, or relatively close to, ports at which they operate. (See, e.g. paragraphs 14-16 of the "Order"). In this regard, it is noted that the users generally have not discussed available alternatives (e.g. remote MF sites). Similarly, the applicants for closure have failed to show that MF coverage is not needed. In general, the applicants for closure have stressed HF coverage and ignored the question of MF needs in the areas of stations proposed to be closed. Indeed, in its Request for Stay and Petition for Partial Reconsideration, RCA stated that it would file new closure applications for stations WSC, WOE, and WPA in accordance with the requirements of the "Order." Although the effect of the "Order" was stayed, RCA's new closure applications dated December 9, 1976, claimed to be in accordance with the "Order." However, although RCA generally discussed "alternative service" in its new applications, it failed to specifically address the question of MF coverage as required in the "Order."

91. In view of the present record we affirm our position in our "Order" that the MF question must be adequately addressed in connection with future closure applications. Therefore, in addition to the requirements of § 63.69 of the Commission's rules (see footnote 19 supra), each licensee who files a future closure application for a PCRT station must specifically show: (1) that service on the medium frequencies in the area of the station to be closed is not required and that the public interest, convenience and necessity will not be adversely affected by the discountinuance of such service; or (2) that service on the medium frequencies in the area of the station to be closed can be adequately replaced by service from another PCRT station covering substantially the same service area, using MF frequencies and/or HF frequencies, without unreasonably increasing overall charges to the customer; or (3) that service on the medium frequencies in the area of the station to be closed will continue to be provided by the operation of a remote control station or by some other proposed means sufficient to continue such service. Each licensee filing a future closure application must also submit a chart (map) of sufficient scale and detail showing the MF coverage areas (both transmit and receive) of the station to be closed and the coverage areas (both transmit and receive) of any proposed alternatives. This information will be used along with other information available to the Commission to properly assess the need for MF coverage in the area of the station proposed to be closed and the adequacy of proposed alternatives.[87]

500 kHz Safety Coverage

92. Paragraph 42(e) of the "Order" also required each licensee filing a future closure application to specifically address the effect that any PCRT station closure would have an adequate coverage of the international distress frequency, 500 kHz. Part 81 of the Commission's Rules and Article 32 of the International Radio Regulations require PCRT stations to maintain a safety watch on 500 kHz during their hours of service, and the closure of a PCRT station would necessarily discontinue such watch by the closed station.[88] However, we do recognize that the safety watch requirement at a particular station would not exist if the station did not first exist, since there is no requirement that this country provide 500 kHz safety coverage in the absence of stations. Therefore, while the discontinuance of the safety watch may not be the sole reason to deny a particular application for station closure, it is an important factor to be considered, especially where adequate coastal safety coverage would be lacking without that particular station. Consequently, we affirm our position that the effect of station closure on the 500 kHz safety watch in the service area of the station must be specifically addressed in any future PCRT station closure application. In addressing this topic, the applicant for closure must show the 500 kHz safety coverage areas (transmit and receive) of his station, the 500 kHz safety coverage areas (transmit and receive) of all stations which would provide 500 kHz safety coverage in the area of the station to be closed, and discuss any other safety communications alternatives available in the area affected.[89]

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cal, except for one additional examination element required for second-class. See §§ 13.21 and 13.22 of the Commission's rules.

[86] It is further noted that § 13.61(d) of the rules would also have to be ameded if third-class operators are permitted function as manual telegraphy operators at PCRT stations. Section 13.61(d) deals with the scope of authorization granted by a radiotelegraph third-class operator permit.

[87] In this regard, we would expect users to detail their present and future requirements for MF coverage from the particular station(s) proposed to be closed and explain whether alternatives proposed by the closure applicants would be workable, or unworkable, and why. Users are also encouraged to discuss other possible alternatives to MF coverage that would fulfill their specific needs either in whole or in part.

[88] In this regard, we note that, while the United States Coast Guard (USCG) has primary responsibility for providing 500 kHz safety coverage along the coasts of the United States (see 14 U.S.C. 2 et seq.), it has been closing, and will close, several of its radio stations which provide 500 kHz safety coverage. However, the USCG has established, and will establish other remote sites to continue to provide 500 kHz safety coverage in those areas affected by its radio station closures and enhance coverage in other areas.

[89] A mere listing of alternative 500 kHz stations, be they governmental or private, will not suffice. The submission of a chart (map) of sufficient scale and detail showing the 500 kHz coverage areas of the station to be closed and the coverage areas of proposed alternatives is required.

Vertical Antenna of Station WPA

93. Paragraph 22 of our "Order" stated that the authorization granted to RCA to continue use of an "inverted L" antenna at station WPA was for an interim period pending Commission decision on an application to close that station. Although we have herein denied RCA's application to close station WPA, we have also indicated that station may ultimately be closed upon implementation of an overall plan for improvement of PCRT station facilities and refiling of an application for closure consistent with requirements we otherwise specify herein. In view of this, we see no reasonable basis for requiring RCA to restore its 200 foot vertical antenna (see footnote 66, supra). Therefore, we will extend station WPA's authorization to use the "inverted L" antenna until an overall plan for improvement of PCRT facilities is determined in the proceeding we are initiating simultaneously with the instant Memorandum Opinion and Order.

Type Acceptance of PCRT Transmitters

94. Paragraphs 6, 27-30, and 46, as well as Appendix 3, of the "Order" dealt with the type acceptance requirements for PCRT station transmitters.[90] These requirements had been suspended by a Commission Order released December 18, 1972, pending release of a further order based on information derived from the instant proceeding. With modification to certain requirements for PCRT transmitters installed prior to January 1, 1971, the "Order" removed the suspension and reinstated this type acceptance program. We are herein affirming the removal of the suspension and reinstatement of the type acceptance program for transmitters at PCRT stations. However, we are also granting waivers of these requirements for those PCRT stations which RCA and ITT have stated a desire to close. As with the question of stations WPA's vertical antenna, we see no reasonable basis for requiring these licensees to comply with our type acceptance program at stations that may ultimately be closed. Specifically, we will temporarily waive compliance with our type acceptance program for stations WOE, WPA, KLC, KOK, and KLB. This waiver will remain effective until an overall plan for improvement of PCRT facilities is determined in the proceeding we are initiating today.

95. Paragraph 30 of the "Order" recognized the view in several comments that compliance with the type acceptance program would necessitate burdensome and expensive total replacement of the older transmitters. Indeed, the estimates of costs of compliance provided by the licensees reflect such total replacement expense, even in their filings subsequent to the "Order." However, we again emphasize that, for most of the transmitters affected, supression of spurious emissions and frequency stability can be accomplished through the use of filters and the replacement of the oscillator sections of some transmitters. Costs for filters and replacement oscillators are significantly less than the total replacement costs for entire transmitters. Should any licensees seek relief from the type acceptance requirements for any PCRT station, or any transmitter authorized for and used at such station, based on asserted economic burden of compliance, such licensee should provide specific details of the transmitter(s) involved, detailed estimates of total replacement costs for the transmitter(s), and detailed estimates of the costs of compliance by using filters and replacement components in the existing transmitter(s).[91] This information, together with other information available to the Commission, will allow a better reasoned decision with regard to any such requests for relief.

96. The alternative testing procedures provided for in paragraphs 28 and 29 of the "Order" should substantially serve to meet the technical concerns of those objecting to type acceptance procedures. While we do not believe this to be an appropriate time or forum to completely reconsider our decision in Docket No. 18577, there is, however, one area that deserves further attention. In its Petition for Reconsideration and Clarification, MMR raised an issue of interpretation as to whether the alternative type acceptance procedures provided for in the "Order" apply to transmitters in its possession but not utilized prior to January 1, 1971. The alternative procedures adopted in the "Order" were intended to provide special relief for operational transmitters acquired prior to the rules adopted in Docket 18577. Therefore, we agree with MMR that the alternative procedures should not only apply to transmitters installed prior to January 1, 1971. Furthermore, considering that a substantial amount of time has passed since these type acceptance rules were first to have gone into effect, using the January 1, 1971, date as the cutoff for alternative test procedures may also be burdensome to the licensees and not of particular benefit to the public. Consequently, we will consider the alternative test procedures submitted by concerned licensees in the case of transmitters installed at PCRT stations prior to the release date of the instant Memorandum Opinion and Order.[92]

Application for PCRT Station at Savannah, Georgia

97. Paragraphs 31 and 32 of the "Order" dealt with the application (File No. 939-M-L-80) of Alpha B. Martin (Martin) for a new PCRT station at Savannah, Georgia. In its Petition for Reconsideration and Clarification of the Order, MMR posited that Martin's application was stale. MMR urged the Commission to hold Martin's application in abeyancy or, alternatively, to return the application as defective and treat the matter de novo upon its resubmission. By letter dated October 18, 1977, the Commission inquired of Martin whether he had a continuing interest in keeping the application on file pending finalization of Docket No. 19544 or whether he was no longer interested and desired that the application be dismissed. This letter was returned to the Commission, stamped by the U.S. Postal Service with the notation "addressee unknown."[93] Subsequent attempts to contact Martin through his attorney of record, Mr. George B. Martin, were also fruitless.[94] Being unable to con-

[90] The Commission has a responsibility to ascertain that equipment associated with radio station operation is capable of meeting the applicable technical standards set forth by statutes, treaties, and the Commission's Rules. This responsibility is fulfilled by either of two procedures, type approval or type acceptance. With few exceptions, one or the other of these two procedures are applied to all of the radio services, including the Maritime Services. Type acceptance requirements for PCRT stations were adopted by Report and Order (Docket No. 18577), 28 FCC 2d 359, released November 9, 1970, to fulfill this responsibility with regard to PCRT stations. These requirements were to have become effective January 1, 1971, with non-type accepted transmitters installed prior to that date being allowed to be used until January 1, 1973.

[91] The mere filing of an application for closure of a PCRT station (other than those for which type acceptance is waived above) and/or a request for relief from the type acceptance requirements without such detailed information being provided will not relieve PCRT station licensees from compliance with the type acceptance provisions.

[92] Under the circumstances, there is no need to modify Appendix 3, attached to the "Order," or § 81.137(d) of the Commission's Rules as currently published. Paragraph 46 of the "Order" is modified to the extent indicated in paragraph 94-96 and 106 of the instant Memorandum Opinion and Order.

[93] The letter had been mailed to Martin at his last known mailing address: 2405 W. Reynolds Avenue, Plant City, Fla. 33566.

[94] The attorney indicated that he had not heard from or been able to contact Martin or his wife "for a very long time" and no longer know of their whereabouts.

tact Martin for the purpose of determining his position with regard to his application, it would be futile for the Commission to attempt to return this application to him. Similarly, holding this application in abeyance would be pointless, since the Commission has no way of notifying Martin of any action it may take, either positive or negative. Moreover, Martin's failure to keep the Commission apprised of a current mailing address, not to mention his lack of contact with his attorney of record in this matter, evidences his lack of intent to prosecute his application. Consequently, it must be concluded that this application is no longer viable and should be dismissed.

APPLICATION FOR LIMITED COAST RADIOTELEGRAPH STATIONS

98. Paragraphs 33-36 of the "Order" dealt with the application (File No. 900-M-L-61) of J. Ray McDermott (McDermott) for a limited coast station at Harvey, La. We determined therein that the proposed service would be essentially the same as would be rendered by PCRT stations, that there was a scarcity of radiotelegraph frequencies available for assignment to limited coast stations, that the type of service requested was becoming available through PCRT stations, and that the type of congestion presently prevailing on limited coast radiotelephone frequencies would not be technically acceptable for the service proposed on radiotelegraph frequencies. We herein affirm those views, as well as the view that PCRT stations appear to provide the best means for the management of radiotelegraph frequencies at this time.

99. Following another review of McDermott's application, we note that the application is actually for a developmental, Class I-A limited coast radiotelegraph station and is framed in terms of § 81.501 et seq. of the rules, which deal with developmental stations. However, we note that § 81.501 provides that authorization for developmental stations will be issued only to those persons who are eligible to operate a regular station (as opposed to developmental) in the service wherein they are applying. Therefore, for McDermott to be eligible for a developmental station, he must be eligible to be a regular limited coast radiotelegraph station licensee. Section 81.223[*] provides that in order to be eligible for a limited coast radiotelegraph station authorization, the applicant is: (1) regularly engaged in performing a service for one or more governmental agencies; (2) a corporation proposing to furnish a non-profit radio communications service to its parent, to another subsidiary of its parent, or to its own subsidiary where the party to be served is regularly engaged in performing a service to one or more governmental agencies; or (3) a non-profit organization whose purpose is furnishing a maritime mobile service solely to persons who are regularly engaged in performing a service to one or more governmental agencies. Furthermore, § 81.225 of the rules provides that limited coast radiotelegraph stations, *inter alia*, shall be used exclusively to serve governmental purposes.

100. McDermott's application shows that he apparently does not meet the eligibility requirements and that his proposed service would not meet purposes for which limited coast stations were intended.[**] Consequently, McDermott's application is determined to be defective and therefore should be dismissed.[**]

101. *Accordingly, it is hereby ordered*, That, pursuant to sections 4(i), 4(j), 201(a), 214, 303 (e), (f), and (r), and 403 of the Communications Act of 1934, as amended, the Commission's Memorandum Opinion and Order (in this proceeding), released May 27, 1976, is modified and clarified as indicated herein.

102. *It is further ordered*, That, paragraphs 43, 44, 45, 46, 47, 48, 50, and 51 of the Commission's Memorandum Opinion and Order (in this proceeding), released May 27, 1976, are hereby vacated.

103. *It is further ordered*, That, the Petition for Partial Reconsideration and Modification filed by RCA on June 28, 1976, and the Petition for Reconsideration and Clarification filed by MMR on July 1, 1976, are granted to the extent indicated herein and are denied in all other respects.

104. *It is further ordered*, That, the application (File No. 939-M-L-80) filed by Alpha B. Martin for a public coast radiotelegraph station at Savannah, Ga., is dismissed pursuant to § 1.958(d) of the Commission's rules.

105. *It is further ordered*, That, the application (File No. 990-M-L-61) filed by J. Ray McDermott for a limited coast radiotelegraph station at Harvey, La., is dismissed pursuant to § 1.958(c) of the Commission's rules.

106. *It is further ordered*, That, (a) transmitters at public coast radiotelegraph stations shall be type accepted, as discussed in paragraphs 94 through 96 above, within a period of twelve (12) months from release of the instant Memorandum Opinion and Order, and (b) § 81.137(d), Part 81 of the Commission's rules, is amended as set forth in Appendix 3 to the Commission's Memorandum Opinion and Order (in this proceeding), released May 27, 1976, published on June 1, 1976 (41 FR 22065).

107. *It is further ordered*, That, compliance with type acceptance requirements at public coast radiotelegraph stations WOE, WPA, KLC, KOK, and KLB are waived, temporarily, as discussed in paragraph 92 above.

108. *It is hereby certified*, That, neither the present nor future public convenience and necessity will be adversely affected by the proposed discontinuance of public coast radiotelegraph stations WSF, WSC, and WAX.

109. *It is further ordered*, That, the applications to discontinue public coast radiotelegraph stations WSF (File No. T-D-17509), WSC (File No. W-P-D-88), and WAX (File No. T-D-21178) are granted and the applicants are hereby authorized to discontinue public coast radiotelegraph service at stations WSF (New York, N.Y.), WSC (Tuckerton, N.J.), and WAX (Hialeah, Fla.).

110. *It is further ordered*, That, the applications to discontinue public coast radiotelegraph stations WOE (File No. T-D-17603 as amended by W-P-D-88), WPA (File No. W-P-D-88), KLC (File No. T-D-18395), and KFS (File No. T-D-18394) are denied.

111. *It is further ordered*, That, the proceeding in Docket No. 19544 is hereby terminated.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[*] Sections 81.223 and 81.225 were formerly numbered as § 81.203 and § 81.205, respectively. These sections have been incorporated within the Commission's rules since 1951 with no modifications other than section numbering. The present designations were adopted in Docket No. 20613, released June 10, 1977.

[**] McDermott's application stated that he is engaged in operating commercial transport vessels used in connection with offshore oil exploration activities for the petroleum industry. The application neither indicated McDermott's eligibility for a limited coast radiotelegrph station authorization nor requested amendment or waiver of the pertinent rule provision discussed above.

[**] We stated in the "Order" that rulemaking to delete Part 81 provisions which would provide for licensing of limited coast telegraph stations would be initiated as a separate proceeding. We are, therefore, directing the Chief, Safety and Special Radio Services Bureau, to review whether there should be such a rulemaking and to institute the proceeding, if warranted, as soon as practicable.

APPENDIX 1

UPDATED LIST OF COMMENTERS

A. Alvevizos
Abrams, Anton, Robbins, Resnick & Schneider, P.A.
Aeronautical Communications Equipment, Inc.
American Communications Association
American Institute of Merchant Shipping
Amerian Maritime Association
American Radio Association
Arthur D. Carroll
Atlantic Richfield Co.
Ayers Steamship Co., Inc.
Biehl & Co., (Galveston, Tex.)
Biehl & Co., (Houston, Tex.)
Carolina Shipping Co.
Captian Martyn L. C. Reynolds
C. E. Fredrickson
C. John Broussard
Central Radio Telegraph Co.
Central Committee on Communication Facilities of the American Petroleum Institute
Central Gulf Lines, Inc.
Charles D. Owens
Communications Workers of America
Communications Associates, Inc.
Continental Electronics Mfg. Co.
Clara Lee Warner Wood
Dix Shipping Company, Inc. (Brownsville, Tex.)
Dix Shipping Company, Inc. (Corpus Christi, Tex.)
Dodd, Barker, Boudreaux, Lamy & Gardner
Don C. Wilson
Edwin Lumb
Edward S. Cameron
Elle H. Halkitis
Ernest D. Arturi
Eugene L. Bershad
E. R. Knod
E. S. Binnings, Inc.
Exxon Communications, Inc.
Farrel Lines
Fred Brown
Fred Conlin
Fried, Frank, Harris, Shriver & Kampelman
General Steamship Corp.
George Greer
Great Lakes Marine Radio, Inc.
G. R. Simko
Hampton Roads Maritime Association
Hansen & Tideman, Inc.
Harry S. McConnell
Harry W. O'Brien
Hellenic Lines Limited
Horace E. Seay
H. O. Zahn (Col.)
Irvin C. Cohen
ITT World Communications, Inc.
Jack W. Mace
Jacksonville Maritime Association, Inc.
John C. Anderson
John C. Iciak
John E. Oberlin
John J. Arsen
John W. Waterioo
Joint comments of the Maritime User Community (7 associations, 97 shipping companies, and 2 unions)
J. A. McCarthy, Inc.
J. H. Winchester & Co., Inc.
Jose Santella
Kenneth Cossaboom, Robert Smith, Charles Karafotias, Eugene Kauder, Joseph Penot, Lester Parnell and John Chow
Kenneth Stuber
KPH Shop Committee (Messrs. Smith, Mellonney and Martin)
Kuckenbach Steamship Company, Inc.
Lawrence D. Kelsey
Lee H. Baumiln
Lykes Bros. Steamship Co., Inc.
Maryland Department of Transportation
Maurice Edell
Max Grossman
M/S Nordic Prince
Norton, Lilly & Co., Inc.
Moran Shipping Agencies, Inc.
Nander Zag
Navcot Corp.
New Orleans Steamship Association
Oceans International Corp.
Pacific Far East Line, Inc.
Pacific Merchant Shipping Association
Palmetto Shipping and Stevedoring Co., Inc.
Philadelphia Marine Trade Association
Phillips Parr, Inc.
Port of Beaumont
Port of Port Arthur
Prudential Lines, Inc.
Puerto Rico Marine Management, Inc.
Ramsey Scarlett & Co., Inc.
Raymond D. Hurley
Ray T. Brooks
RCA Global Communications, Inc.
Reynolds Metals Co.
RF Communications Division, Harris Intertype Corp.
Richard E. White
Roberts Steamship Agency, Inc.
Robert E. LeFerre
Robert S. Yerkes
Robert W. Ennis
Salvatore T. Giofalo
Savannah Maritime Association
Smith & Kelly Co.
Southern Electronic Association
Southeastern Maritime Co.
Southern Shipping Co.
Sovereign Marine Lines, Inc.
Sparta Electronic Corp.
Staff of WSC (Messers. Brooks, White, Stillwagon, Ciofalo, Dale and Parker)
States Shipping Agency, Inc.
Steffen Soresen
Stolt-Nielsen, Inc.
Strachlan Shipping Co.
Stuart B. Wilson
Suen Lil Jau
Sumpter Marine Corp.
Texas Transport & Terminal Co., Inc.
T. J. Stevenson & Co.
Transoceanic Freighting Services
Trinadad Corp.
TRT Telecommunications Corp.
U.S. Department of Commerce, National Weather Service
United States Lines, Inc.
Walter P. Lindner
West Gulf Maritime Association
Western Union International, Inc.
Wilkenson Electronics, Inc.
William B. Ryburn; Selmer T. Sorenson
Will B. Show
W. H. King
Wilmington Shipping Co.
WLO Mobile Marine Radio, Inc.
Woodrow W. Stumes

APPENDIX 2.—*Marine radiotelegraph public coast stations*

[Modified table 1—before closures]

Area	Call	Location	Licensee or applicant[1]	Application	File No.
North Atlantic coast	WCC	Chatham, Mass	RCA		
	WSL	Amagansett, N.Y	ITT		
	WSF	New York, N.Y	ITT	Close	T-D-17509
	WSC	Tuckerton, N.J	RCA	do	W-P-D-88
	WMH	Baltimore, Md	MPA		
South Atlantic coast	WOE	Lantana, Fla	RCA	Close	T-D-17603[2]
	WAX	Hialeah, Fla	ITT	do	T-D-21178
Gulf coast	WPD	Tampa, Fla	Wood		
	WLO	Mobile, Ala	MMR		
	WNU	New Orleans, La	TRT		
	WPA	Port Arthur, Tex	RCA	Close	W-P-D-88
Pacific coast	KLC	Arcadia, Tex	ITT	do	T-D-18395
	KOK	Los Angeles, Calif	ITT	do[3]	
	KFS	San Francisco, Calif	ITT	do[3]	T-D-18394
	KPH	do	RCA		
	KLB	Seattle, Wash	ITT	Close[4]	
Great Lakes	WLC	Rogers City, Mich	CRT		

[1] RCA=RCA Global Communications, Inc.; ITT=ITT World Communications, Inc.; MPA=Maryland Port Authority; Wood=Clara Lee Warner Wood; MMR=Mobile Marine Radio; TRT=TRT Telecommunications, Inc.; CRT=Central Radio Telegraph Co.

[2] RCA's application (W-P-D-88) filed subsequent to our "Order" of May 27, 1976, requests closure of station WOE in addition to closure of stations WSC and WPA. It is being treated as an amendment to RCA's previous application (T-D-17603) to close station WOE.

[3] ITT has indicated that it desires to consolidate stations KOK and KLB with station KFS; however, it has not filed applications for closure of stations KOK and KLB, nor has it withdrawn its application to close station KFS.

APPENDIX 2—Continued

MODIFIED TABLE 2—Continued

AFTER CLOSURES GRANTED BY THIS ORDER

MARINE RADIOTELEGRAPH, PUBLIC COAST STATIONS

Area	Call	Location	Licensee
	WPA	Port Arthur, Tx	RCA
	KLC	Arcadia, Tx	ITT
Pacific Coast	KPH	San Francisco, Calif.	RCA
	KFS	San Francisco, Calif.	ITT
	KOK	Los Angeles, Calif.	ITT
	KLB	Seattle, Wash	ITT
Great Lakes	WLC	Rogers City, Mich	CRT

APPENDIX 2

MODIFIED TABLE 2

AFTER CLOSURES GRANTED BY THIS ORDER

MARINE RADIOTELEGRAPH, PUBLIC COAST STATIONS

Area	Call	Location	Licensee
North Atlantic Coast	WCC	Chatham, Mass	RCA
	WSL	Amagansett, L.I., N.Y.	ITT
	WMH	Baltimore, Md	MPA
South Atlantic Coast	WOE	Lantana, Fla	RCA
Gulf Coast	WPD	Tampa, Fla	Wood
	WLO	Mobile, Ala	MMR
	WNU	New Orleans, La	TRT

TABLE 3

STATIONS REMAINING AFTER IMPLEMENTATION OF AN ANTICIPATED OVERALL IMPROVEMENT PLAN

MARINE RADIOTELEGRAPH, PUBLIC COAST STATIONS

Area	Call	Location	Licensee
North Atlantic Coast.	WCC.	Chatham, Mass...	RCA
	WSL.	Amagansett, L.I., N.Y.	ITT
	WMH.	Baltimore, Md.....	MPA
Gulf Coast.....	WPD.	Tampa, Fla.....	Wood
	WLO.	Mobile, Ala.....	MMR
	WNU.	New Orleans, La.	TRT
Pacific Coast.....	KPH.	San Francisco, Calif.	RCA
	KFS.	.....do.....	ITT
Great Lakes	WLC.	Rogers City, Mich..	CRT

APPENDIX 3

DEPARTMENT OF TRANSPORTATION
U.S. COAST GUARD

WALTER R. HINCHMAN,
Chief, Common Carrier Bureau, Federal Communications Commission, 1919 M Street NW., Washington, D.C.

DEAR MR. HINCHMAN: This is in reply to your letter, serial 9130, requesting information on Coast Guard 500 kHz coverage on the Atlantic, Gulf, and Pacific Coasts of the Continental United States.

Enclosed is a list of Coast Guard facilities presently providing 500 kHz coverage you have interest in, including remote sites with coverage areas indicated. Coverage areas were obtained from the following U.S. Department of Commerce publications:

(a) "Coast Guard Communication Coverage of the Gulf of Mexico at 500 kHz", July 1970, Institute for Telecommunication Sciences, ESSA Technical Memorandum ERLTM-ITS 242.

(b) "East Coast Communications Coverage at 500 kHz", October 1971, Institute for Telecommunications, letter report.

(c) "West Coast Communications Coverage at 500 kHz", July 1973, Office of Telecommunications, OT Technical Memorandum 73-144.

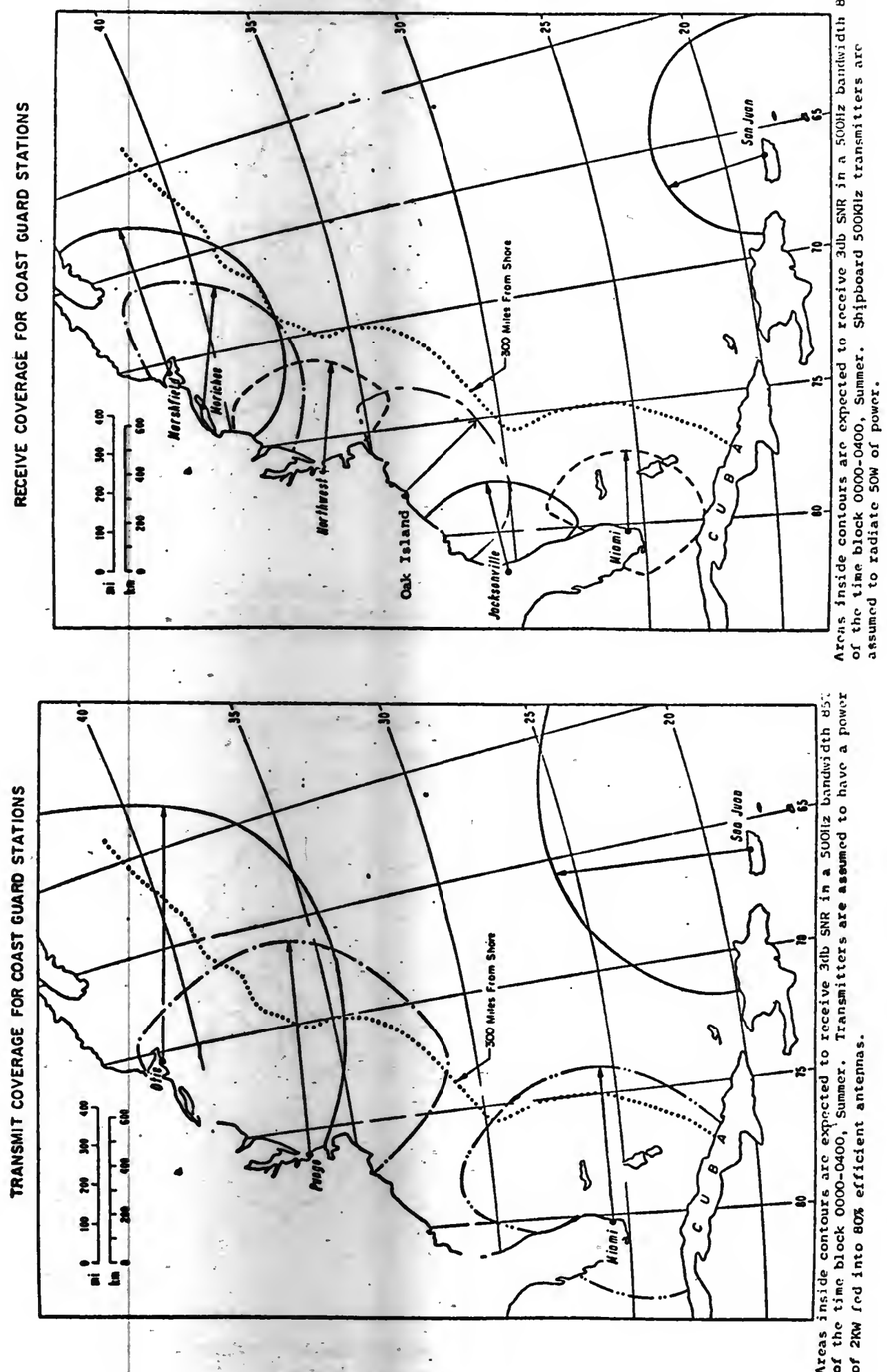
MF coverage provided by Radio Station Long Beach, Calif. and Group Astoria, Oreg. will be remoted to Communications Station San Francisco, Calif., by late 1978. A remote receive site is also planned for St. Petersburg, Fla., with a control at Miami, Fla., and will be completed by early 1979.

L. V. DORRIAN,
Acting.

Encl: (1) List of Coast Guard Units Providing 500 kHz Coverage. (2) Transmit and Receive Coverage Areas of Coast Guard units.

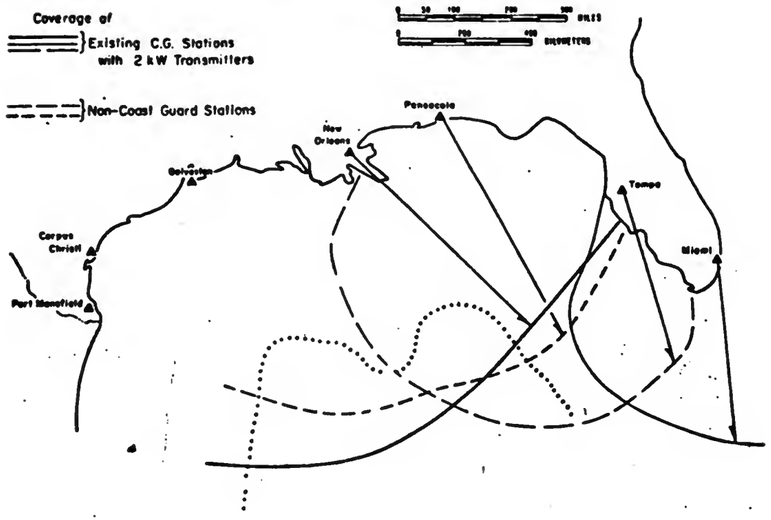
LIST OF STATIONS

Area	Name	Call sign	Location	Latitude/ Longitude	Notes
Atlantic.....	COMMSTA Boston.....	NMF.....	Otis AFB, Mass...	41°42' N., 70°31' W..	Transmit.
			Marshfield, Mass	42°03' N., 70°42' W..	Receive.
			Moriches, N.Y.....	40°47' N., 72°45' W..	Remote, receive.
	COMMSTA Portsmouth...	NMN....	Pungo, Va.....	36°44' N., 76°00' W..	Transmit.
			Northwest, Va.....	36°33' N., 76°15' W..	Receive.
			Oak Island, N.C..	33°54' N., 78°02' W..	Remote, receive.
	RADSTA Miami.....	NMA....	Miami, Fla.....	25°37' N., 80°23' W..	
			Jacksonville, Fla.	30°18' N., 81°24' W..	Do.
Gulf.....	RADSTA New Orleans.....	NMG....	New Orleans, La.	29°53' N., 89°55' W..	
			Galveston, Tex...	29°20' N., 94°47' W..	Do.
Pacific.....	COMMSTA San Francisco	NMC....	Bolinas, Calif.....	37°56' N., 122°44' W..	Transmit.
			Point Reyes, Calif.	38°07' N., 122°56' W..	Receive.
	RADSTA Long Beach.....	NMQ....	Long Beach, Calif.	33°44' N., 118°24' W..	
	GROUP Astoria.....	NMW...	Astoria, Oreg.....	46°12' N., 123°57' W..	

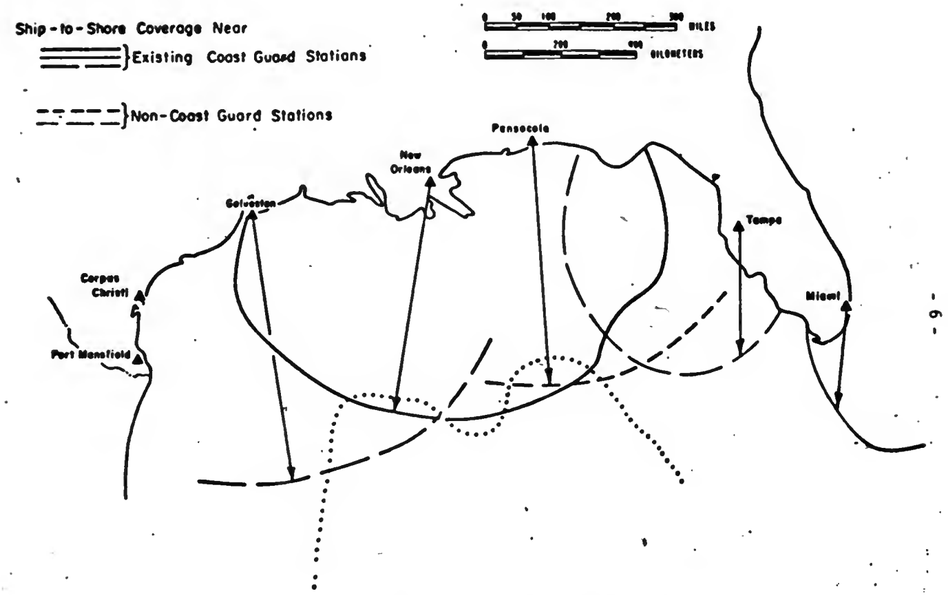


Areas inside contours are expected to receive 3db SNR in a 500Hz bandwidth 85% of the time block 0000-0400, Summer. Shipboard 500Khz transmitters are assumed to radiate 50W of power.

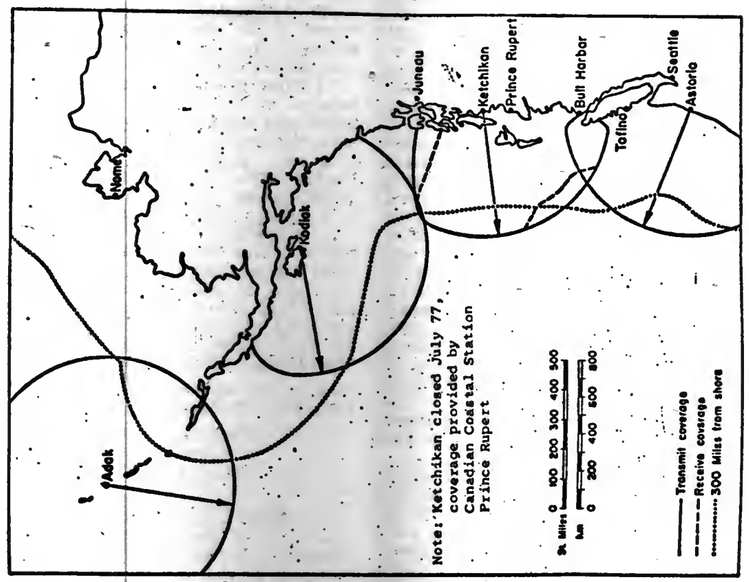
Areas inside contours are expected to receive 3db SNR in a 500Hz bandwidth 85% of the time block 0000-0400, Summer. Transmitters are assumed to have a power of 2KW fed into 80% efficient antennas.



Shore-to-ship coverage at 500 kHz of existing transmitters, and possible station at Corpus Christi. Areas inside contours are expected to receive 3 dB SNR in a 500-Hz bandwidth 85 percent of the time block 0000-0400, Summer.

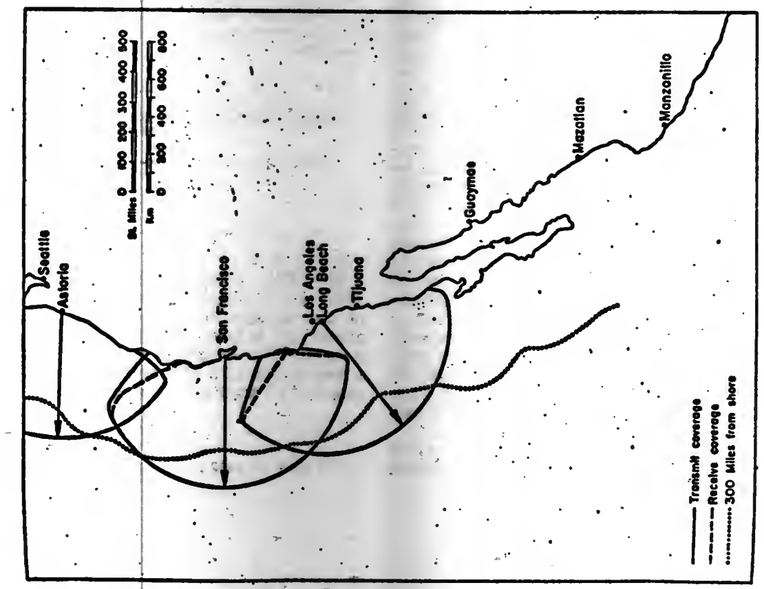


Ship-to-shore coverage at 500 kHz, for time block 0000-0400, Summer. Shipboard 500KHz transmitters are assumed to have a nominal power of 350W and to radiate into a 50% efficient antenna.



Transmit and receive coverage of Coast Guard 500 kHz stations off the coasts of Canada and Alaska.

Areas inside contours are expected to receive 3db SNR in a 500Hz bandwidth 85% of the time block 0000-0400, Autumn. Shipboard 500KHz transmitters are assumed to radiate 50W of power.



Transmit and receive coverage of Coast Guard 500 kHz stations on the west coast of the U. S.

Areas inside contours are expected to receive 3bd SNR in a 500Hz bandwidth 85% of the time 0000-0400, Autumn. Transmitters are assumed to be 2KW fed into 60% efficient antennas.

[FR Doc. 78-5866 Filed 3-10-78; 8:45 am]

[6712-01]

[Docket No. 21342; RM-2792; FCC 78-150]

PART 91—INDUSTRIAL RADIO SERVICES

Allowing Transmission of Pulsed Carrier Emissions on the Frequencies 154.570 and 154.600 MHz

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: In this report and order the Commission adopted rules permitting the use of pulsed emissions (P0 and P2) on two Business Radio Service low power frequencies with peak power of 1 watt. This is an affirmative response to a petition by Ag Nav, Inc.

EFFECTIVE DATE: April 14, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

A. C. King, Industrial and Public Safety Rules Division, Safety and Special Radio Services Bureau, 202-632-6497.

REPORT AND ORDER

Adopted: February 28, 1978.

Released: March 7, 1978.

In the matter of amendment of §91.554 (a) and (b) of the Commission's rules and regulations to allow transmission of pulsed carrier emissions on the frequencies 154.570 and 154.600 MHz, Docket No. 21342, RM-2792.

1. On July 22, 1977, the Commission released a notice of proposed rulemaking proposing rule changes which would permit operation of a land navigation system on two Business Radio Service frequencies 154.570 and 154.600 MHz.[1] The Notice was published in the FEDERAL REGISTER on August 15, 1977, (42 FR 41143). The purpose of the proposed system would be to enable farmers to apply herbicides, pesticides, and fertilizers without overlaps or skips by accurately measuring the distance from the last applied path.

2. The absence of effective guidance in agricultural spraying operations results in damage to crops from double applications of chemicals in some areas or crop failure and loss where skips occur in others. Mechanical markers or additives have not consistently overcome these problems. The system proposed by Ag Nav, Inc. (Ag Nav) utilizes a low power, narrow band VHF radio guidance technique with a transceiver carried on the spraying vehicle and two repeater transceivers spaced with respect to each other a measured distance along a line normal to the intended path of the spraying vehicle. The vehicle transmitter triggers each repeater sequentially and the vehicle receiver detects and measures the phase difference between the received signals from the repeaters. The phase comparator generates an error signal which is used to correct the path of the spraying vehicle or to indicate to the driver that he has deviated from the proper straight line course in somewhat the same manner as an airplane is guided onto the runway by a localizer beam.

3. Comments were received from Sears Roebuck and Co. reiterating the position stated in their comments responding to Ag Nav's petition for rule making. In those comments Sears noted their heavy reliance on 154.570 and 154.600 MHz, F3 emission, for voice transmissions in their security operations and suggested power, antenna height, and geographical restrictions as well as a general non-interference provision to protect existing and future voice operations.

4. We do not agree that power restrictions beyond those proposed in the notice are either necessary or desirable. In the notice we proposed a peak output power of 1 watt as compared to the 2 watt general power limitation on the two frequencies. We believe that 1 watt is the minimum that would be required to cover large fields without the necessity of frequently moving the repeater transceivers. Neither do we believe that users would be likely to erect high and elaborate antenna systems. In the event this should happen, we feel that the present non-interference rule (limitation (13)) is adequate protection for mobile operations. As for the future, we do not now foresee that pulsed emissions would pose any more serious threat to voice operations than the presently authorized telemetry and remote control operations. For these reasons we must reject Sears Roebuck and Co.'s argument and will authorize P0 and P2 emissions as set forth below.

5. In the notice we also requested comments on whether or not pulsed emissions should be permitted on other low power frequencies. No comments addressing this issue were received so we are taking no further action to expand this proceeding along that avenue at this time.

6. In view of the foregoing, the Commission concludes that the public interest will be served by amending the rules to permit division and use of the frequency assignments 154.570 and 154.600 MHz on a 5 kHz basis with pulsed carrier (P0 or P2) emission and with a power limitation of one watt.

7. *Accordingly, it is ordered,* Pursuant to the authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended, that part 91 of the Commission's rules is amended effective April 14, 1978, as set forth below. *It is further ordered,* That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

Part 91 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

Section 91.554(a) is amended by the addition of a new limitation (51) to the frequencies 154.570 and 154.600 MHz, and paragraph (b)(51) is amended to read as follows:

§ 91.554 Frequencies available.

(a) * * *

Frequency or band	Class of station(s)	General reference	Limitations
Megahertz			
*	*	*	*
154.570	Mobile	Low power general use.	13,14,44,51.
154.600	do	do	13,14,43,51.
*	*	*	*

(b) * * *

(51) This frequency may be used, with the transmitter carrier centered on the designated frequency or 5 kHz above or below the designated frequency, with P0 or P2 emission, using a bandwidth of 5 kHz and a power not to exceed 1 watt peak power output.

* * * * * *

[FR Doc. 78-6407 Filed 3-10-78; 8:45 am]

[1] See FR 42 46372, September 15, 1977.

[7035-01]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. 293 (Sub-No. 8)]

PART 1127—STANDARDS FOR DETERMINING COMMUTER RAIL SERVICE CONTINUATION SUBSIDIES AND EMERGENCY OPERATING PAYMENTS

AGENCY: Rail Services Planning Office (RSPO), Interstate Commerce Commission (ICC).

ACTION: Extension of filing time.

SUMMARY: On January 11, 1978, the Rail Services Planning Office (RSPO) reissued the Standards for Determining Commuter Rail Service Continuation Subsidies and Emergency Operating Payments (Commuter Standards) to conform with the new Uniform System of Accounts, published at 43 FR, January 11, 1978, p. 1715. RSPO invited interested parties to file comments on any changes of substance which may have been made and on the applicability of the formulae for apportioning common costs in view of the new accounting system.

DATE: Reply comments may be filed on or before March 28, 1978.

ADDRESS: An original and six copies of the reply comments should be mailed to:

Rail Services Planning Office, 1900 L Street, NW., Washington, D.C. 20036, Attn: Commuter Standards.

FOR FURTHER INFORMATION CONTACT:

David S. Rind, Cost Evaluation Branch, Rail Services Planning Office, Interstate Commerce Commission, Washington, D.C. 20036, 202-254-7552.

SUPPLEMENTARY INFORMATION: Comments were received from four parties. Most of the comments were concerned with technical changes to make the Commuter Standards compatible with the new accounting system. Several comments were made by the parties relating to the following:

(1) Relief from using the new accounting system for the Commuter Standards.

(2) A new procedure for assigning fringe benefit costs and the inclusion of additional items in the fringe benefit account.

(3) Clarification of the definition of "actual".

(4) Clarification of the Speed Factored Gross Ton Formula regarding tracks or other roadway facilities that could be removed if the commuter service were terminated and accompanying reduction of freight train speeds on mainlines where commuter service was operated.

(5) The need to include a methodology for accounting for police patrol and clearing accounts.

Interested persons are invited to file reply comments on these and other points raised by the parties in their initial statements.

Issued March 6, 1978, by Alan M. Fitzwater, Director, Rail Services Planning Office.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-6492 Filed 3-10-78; 8:45 am]

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 33—SPORT FISHING

Opening of Upper Souris National Wildlife Refuge, N. Dak., to Sport Fishing; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule; correction.

SUMMARY: This document adds a subparagraph to regulations on the opening of Upper Souris National Wildlife Refuge, N. Dak., Sport Fishing which appear at page 2633 of the FEDERAL REGISTER of January 18, 1978.

DATE: No change from original document (May 6, 1978 through March 25, 1979).

FOR FURTHER INFORMATION CONTACT: Maurice B. Wright, Refuge Manager, Upper Souris National Wildlife Refuge, R.R. No. 1, Foxholm, N. Dak. 58738, 701-468-5634.

In FR Doc. 78-1334 appearing on page 2633 of the FEDERAL REGISTER, Wednesday, January 18, 1978, subparagraph (8) under special regulations is added to § 33.5 and reads as follows:

(8) Boats are permitted only from May 6 thru September 30, 1978.

MAURICE B. WRIGHT,
Refuge Manager.

MARCH 3, 1978.

[FR Doc. 78-6444 Filed 3-10-78; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-02]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 908]

VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Proposed Size Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comments on a proposal to extend through January 15, 1979, the current minimum diameter requirement of 2.32 inches for shipments of California-Arizona Valencia oranges grown in District 3, and establish the same minimum size requirement for shipments of Valencia oranges grown in Districts 1 and 2. This proposed requirement is designed to promote orderly marketing in the interest of producers and consumers.

DATES: Comments must be received before March 24, 1978.

ADDRESS: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077 South Building, Washington, D.C. 20250, where they will be available for public inspection during business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: The proposals under consideration were submitted by the Valencia Orange Administrative Committee, established under Marketing Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), as the agency to administer its terms and provisions.

The committee met on February 17, 1978, to consider crop and market conditions and other factors affecting the need for regulations, and recommended that Valencia oranges in fresh domestic shipments from Districts 1, 2, and 3 be required to be 2.32 inches in diameter or larger. The 1977-78 season crop of Valencia oranges is currently estimated by the committee at 55,600 carlots. The committee reports that demand in regulated fresh market channels is expected to require about 37 percent of this volume. The remaining 63 percent would be available for utilization in export and processing outlets. The committee indicates that volume and size composition of the crop of California-Arizona Valencia oranges is such that ample supplies of the more desirable sizes will be available to satisfy the demand in regulated channels.

The proposals are as follows:

Order. (a) During the period March 31, 1978, through January 15, 1979, no handler shall handle any Valencia oranges grown in District 1 which are of a size smaller than 2.32 inches in diameter, which shall be the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit: *Provided,* That not to exceed 5 percent, by count, of the Valencia oranges contained in any type of container may measure smaller than 2.32 inches in diameter.

(b) During the period April 7, 1978, through January 15, 1979, no handler shall handle any Valencia oranges grown in District 2 which are of a size smaller than 2.32 inches in diameter, which shall be the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit: *Provided,* That not to exceed 5 percent, by count, of the Valencia oranges contained in any type of container may measure smaller than 2.32 inches in diameter.

(c) During the period April 14, 1978, through January 15, 1979, no handler shall handle any Valencia oranges grown in District 3 which are of a size smaller than 2.32 inches in diameter, which shall be the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit: *Provided,* That not to exceed 5 percent, by count, of the Valencia oranges contained in any type of container may measure smaller than 2.32 inches in diameter.

(d) As used in this section, "handle", "handler", "District 1", "District 2", and "District 3" mean the same as defined in the marketing order.

Dated: March 8, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-6462 Filed 3-10-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[10 CFR Parts 30, 40, 50, and 70]

DECOMMISSIONING CRITERIA FOR NUCLEAR FACILITIES

Advance Notice of Proposed Rulemaking

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: The U.S. Nuclear Regulatory Commission has underway extensive studies intended to provide a data base for developing decommissioning criteria for nuclear facilities. The Commission is considering amending its regulations to provide more specific guidance on decommissioning criteria for production and utilization facility licensees and byproduct, source, and special nuclear material licensees. This notice is to invite advice and recommendations on several questions concerning decommissioning nuclear facilities.

DATES: Comment period expires May 15, 1978.

ADDRESSES: Interested persons are invited to submit written comments and suggestions to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments received by the Commission may be examined in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert M. Bernero, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (phone 301-443-3573).

SUPPLEMENTARY INFORMATION: Present requirements and practices relating to the decommissioning of nuclear facilities are addressed in guides and regulations of the U.S. Nuclear Regulatory Commission. Section 50.33(f) of Title 10, Code of Federal Regulations requires the Nuclear Regulatory Commission (NRC) to determine, prior to the issuance of a license, that an applicant for an operating license is financially qualified to permanently shut down his facility and maintain it in a safe condition. Section 50.82 of Part 50 specifies requirements concerning termination of facility licenses. NRC Regulatory Guide 1.86 describes methods and procedures acceptable to the NRC staff for the termination of operating licenses for reactors. The guide specifies limits which must be met before buildings, structures, and equipment, etc., can be released on an unrestricted basis. The guide also discusses alternatives for reactor retirement, i.e., (1) mothballing, (2) in-place entombment, (3) removal of radioactive components and dismantling, and (4) conversion to a new nuclear system or a fossil fuel system.

Appendix F of Part 50 was amended in 1971 to require an applicant for certain licenses to provide information to enable the Commission to determine whether the applicant is financially qualified to provide for the removal and disposal of radioactive waste. Appendix F also states that a design objective of a fuel reprocessing plant shall be to facilitate decontamination and that the Commission will develop criteria for the extent of decontamination to be required upon decommissioning in consultation with competent groups.

Regulatory Guides dealing with the content and format of applications and environmental reports for uranium mill licenses presently request information on tailings stabilization and associated financial arrangements for assuring that tailings are stabilized. Also, a generic environmental impact statement (EIS) on uranium milling is under preparation. One primary objective of the EIS is to provide an information base for a rulemaking action covering the decommissioning and long-term disposition of mill tailings.

Several enriched uranium fuel fabrication facilities have, in the past, ceased operations. These plants generally have been decontaminated to below limits essentially the same as those specified in Regulatory Guide 1.86. The same holds true for other locations where byproduct, source, and special nuclear material have been used.

In 1975, the NRC initiated studies at Battelle-PNL to provide an information base for developing decommissioning criteria and guidelines for light water reactors and their fuel cycle facilities. These studies will also include waste burial grounds. The studies will evaluate the technology, costs, and the environmental impact (both occupational and public) related to decommissioning. These studies have led to a final report on decommissioning a fuel reprocessing plant in October 1977. A final report on decommissioning a pressurized water reactor is scheduled for May 1978. Other reports are scheduled over the next two years to complete these studies.

In a petition dated July 5, 1977, as supplemented October 7, 1977, the Public Interest Research Group, and others, requested the Commission to initiate rulemaking to promulgate regulations for nuclear power plant decommissioning. The regulations requested by the petitioners would require plant operators to post bonds to be held in escrow, prior to each plant's operations, to ensure that funds will be available for proper and adequate isolation of radioactive material upon each plant's decommissioning. The petitioners state that the regulations should also require that nuclear power plants already in operation establish plans and immediately post bonds, to be held in escrow, to ensure proper decommissioning. The petitioners argue that this arrangement will ensure that the cost of decommissioning is paid for by current beneficiaries and not by future generations.

The Commission is considering development of a more explicit overall policy for decommissioning nuclear facilities and amending its regulations in 10 CFR Parts 30, 40, 50 and 70 to include more specific guidance on decommissioning criteria for production and utilization facility licensees and byproduct, source, and special nuclear material licensees. It is anticipated that the issue raised in the PIRG petition discussed above will be processed separately from the overall policy development. Advice and recommendations on the matter of overall policy development are invited from all interested persons. Specifically, comments are requested on the following questions.

1. Is it desirable to develop more definitive decommissioning criteria for production and utilization facility licensees and byproduct, source, and special nuclear material licensees? If so, should the criteria be in the form of:

A. Potential exposures to individuals;

B. Numerical contamination limits;

C. Other? (Specify)

2. Should detailed decommissioning plans be required prior to the issuance of licenses?

3. Should funding or other surety arrangements be required before the issuance of licenses for all cases? If not, which cases?

4. What are acceptable criteria for residual levels of radioactivity on materials which can be released for unrestricted use?

5. Proposals have been made to maintain reactors, which have been closed, in protective storage for lengthy periods of time to allow for radioactive decay prior to dismantlement. From the standpoint of determining the impact to future generations, what is an acceptable length of time, if any, after a facility operation ceases before the facility should be decommissioned?

6. Should decommissioning criteria extend to buildings, structures, and components which have not been contaminated with radioactive materials?

The Commission has concluded that action to include specific decommissioning criteria and guidelines in its regulations for production and utilization facility licensees and byproduct, source, and special nuclear material licensees would constitute a major Federal action significantly affecting the quality of the human environment and as such will require the preparation of an environmental impact statement pursuant to Section 102(2)(C) of the National Environmental Policy Act (NEPA). Accordingly, an impact statement(s) will be prepared should the Commission determine it is in the public interest to proceed to amend its regulations as described above.

Dated at Washington, D.C., this 8th day of March, 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-6461 Filed 3-10-78; 8:45 am]

[4810-33]

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

[12 CFR Part 11]

SECURITIES EXCHANGE ACT DISCLOSURE RULES

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Proposed amendments.

SUMMARY: This document would amend the Securities Exchange Act Disclosure Rules (12 CFR Part 11) in order that the regulations will be substantially similar to comparable rules and regulations issued by the Securities and Exchange Commission ("SEC"). Under the Securities Exchange Act of 1934 ("the 1934 Act"), changes made by the SEC in its relevant rules and regulations must also be made by the Comptroller of the Currency ("Comptroller") in the Securities Exchange Act Disclosure Rules unless he finds that such rules are not

appropriate in the public interest or for the protection of investors, and such findings are published in the FEDERAL REGISTER. This proposal is intended to comply with "the 1934 Act" to update and clarify the regulations.

DATE: Written comments must be received on or before April 12, 1978.

ADDRESS: Written comments should be addressed to John E. Shockey, Chief Counsel, Comptroller of the Currency, Washington, D.C. 20219.

FOR FURTHER INFORMATION CONTACT:

Ralph Janvey, Attorney, Securities Disclosure Division, Comptroller of the Currency, Washington, D.C. 20219, at 202-447-1954.

SUPPLEMENTARY INFORMATION: I. The major changes in Part 11 which are proposed to be made are discussed below:

A. CONFIDENTIAL TREATMENT

Effective May 28, 1976, the SEC adopted a new Rule 24b-2, which provides that confidential treatment of information in required filings shall be granted only if the information is considered to be non-public under the Commission's Freedom of Information Act ("FOIA") Rules. (Refer to Securities Exchange Act Release No. 12386, 41 FR 53784). The new Rule 24b-2 replaces Rule 24b-2, which was rescinded in 1975.

The proposed rule differs from the SEC Rule 24b-2 in the procedure for review of a denial of a request for confidential treatment. The SEC rule provides that when a request for confidential treatment is denied, the information for which confidential treatment was sought will be made public upon the lapse of 5 days from the dispatch of notice of denial, unless the person seeking confidential treatment notifies the Commission of his intent to seek Commission review of the delegated action within that time.

The determination of a request for confidential treatment is not a delegated action in the Office of the Comptroller of the Currency; consequently, there is no reason to adopt an internal review procedure similar to the SEC procedure. However, the Comptroller thinks that some provision should be made for appeal. 12 CFR 11.3(c) presently provides for a period during which information will not be available to the public and during which the person whose request for confidential treatment has been denied may seek judicial review if timely notice has been given.

The comptroller proposes to leave unchanged the provision of 12 CFR 11.3(c) which provides that the information for which confidential treatment is sought will be made public upon the lapse of 15 days from dispatch of notice of denial of a request for confidental treatment by registered or certified mail, unless written notice of intent to sek judicial review is received by the Comptroller within that time. However, the comptroller proposes to amend the regulation to shorten from 60 to 30 days (from dispatch of notice of denial), the time during which the information will be withheld pending the actual filing of a petition for judicial review when timely notice of such intent has been filed. A request for confidential treatment which has been granted will be reevaluated when a FOIA request is received.

The Comptroller believes that notice of denial and notice of intent to seek judicial review should be in writing, and that 15 days is an adequate period of time to allow for mail delivery of these notices. Since procedures involved in seeking judicial review may be more time consuming than an internal review procedure, a longer period for seeking review is provided.

B. DISSEMINATION OF PROXY INFORMATION TO BENEFICIAL OWNERS BY ISSUERS THROUGH INTERMEDIARY RECORDHOLDERS

The SEC amended Rule 14a-3(d) (17 CFR 240.14a-13(d)) effective August 15, 1977, to facilitate the distribution of proxy materials from issuers to beneficial shareholders through intermediaries who hold stock in street or nominee name. Prior to the amendment, an issuer was required to inquire of certain intermediary-recordholders prior to any meeting to which the issuer would solicit proxies whether the recordholders represented beneficial owners, and, if so, to forward to such intermediaries sufficient sets of materials for distribution to each beneficial owner. The amended rule would require the issuer to make its inquiry at least 10 days prior to its record date and to supply requested materials in a timely manner. The SEC also adopted a technical amendment to the notes to Rule 14a-3(d) to reflect changes effected by the Securities Acts Amendments of 1975. (Refer to Securities Exchange Act Release No. 13719, 42 FR 35953). The Comptroller proposes to amend 12 CFR 11.5(c)(8) in a substantially similar manner.

C. PRELIMINARY PROXY MATERIALS

The SEC has amended Rules 14a-6 (17 CFR 240.14a-6) and 14c-5 (17 CFR 240.14c-5), effective December 9, 1976, to make preliminary proxy materials and information statements public after definitive proxy materials have been filed. (Refer to Securities Exchange Act Release No. 14040, 41 FR 53784). The Comptroller proposes to amend 12 CFR 11.5(f) in a substantially similar manner. Since "statement" is defined in the Comptroller's Regulations as a proxy or an information statement and the same rules apply to both, only Section (f) of 12 CFR 11.5 need be amended.

D. FALSE AND MISLEADING STATEMENTS IN THE SOLICITATION OF PROXIES; PROJECTIONS

The SEC amended the note to Rule 14a-9 (17 CFR 240.14a-9), effective May 14, 1976, to delete the reference to "earnings." (Refer to Securities Exchange Act Release No. 12371, 41 FR 19932.) The Comptroller proposes to amend 12 CFR 11.5(h)(1) in a substantially similar manner.

E. SHAREHOLDER PROPOSALS

The SEC adopted amendments to Rule 14a-8 (17 CFR 240.14a-8 effective February 1, 1977, which clarify procedural requirements for including stockholder proposals in management's proxy statements and codify certain prior interpretive positions taken by the Commission's staff. (Refer to Securities Exchange Act Release No. 12999, 41 FR 52994).

The Comptroller proposes to amend 12 CFR 11.5(k) in a similar manner except that:

(1) 12 CFR 11.5(k) continues to be applicable to information statements as well as proxy statements, while the corresponding SEC rule is applicable only to proxy statements.

(2) "Applicable law" is substituted for "law of the issuer's domicile" as the standard for determining what is proper subject for action by security holders, because national banking law as well as the law of the issuer's domicile effects the determination.

(3) The Comptroller will require only 3 copies of a proposal rather than 5.

The major changes effected by this proposed amendment are summarized below:

PROCEDURAL REQUIREMENTS FOR PROPONENTS (12 CFR 11.5 (k) (1))

Eligibility to submit proposals is now extended to beneficial owners but beneficial owners must submit documentation of beneficial ownership within 10 days if management so requests. The requirement of written notice to management of shareholder's intention to appear personally at the meeting to present his proposal is retained. However, a shareholder who was unaware of the notice requirements is now provided with 10 days in which to give notice after having been informed by management of the notice requirements. If the shareholder who has been given timely notice subsequently finds he is unable to attend the meeting, he may arrange to have another shreholder present his proposal.

Proposals to be presented at annual meetings must now be submitted 90 days, rather than 70 days in advance of a date corresponding to the date of management's annual meeting Statement for the prior year. The proposed amendment provides that if there has been a change in the annual meeting date of 30 days or more, for any reason, the proposal must be received within a reasonable time. The present rule limits this exception to instances where there has been a change in the meeting date as a result of a change in the fiscal year.

A new limit of two proposals of not more than 300 words each per shareholder is imposed and applied collectively to record and beneficial owners of the same security. A shareholder who exceeds the 300 word limit is provided with 10 days in which to amend after notice by management of failure to comply with the limit.

Supporting statements continue to be subject to a 200 word limit. However, arguments in the proposal itself will no longer be counted in the 200 word limit on the supporting statement since the proposal is now limited to 300 words. A shareholder who fails to comply with the 200 word limit is provided with 10 days in which to amend after notice by management of failure to comply with the limit.

SUBSTANTIVE BASIS FOR OMISSION OF PROPOSALS (12 CFR 11.5 (k)) (3))

Thirteen separate grounds for excluding a security holder's proposal from management's proxy statement are set forth. However, substantive changes are few as many of the additions merely codify former interpretive positions taken by the SEC and the Comptroller.

(1) *Not a proper subject for action by security holders.* The provision that the security holder's proposal may be omitted if, under applicable law, it is not a proper subject for action by security holders is retained except that the words "as submitted" are deleted to clarify that non-substantive revisions which will bring it into compliance with applicable law will be permitted. A note is added which states that a proposal which is improper when formed as a mandate or directive may be proper when framed as a recommendation or request. This note merely codifies a long standing interpretive position.

(2) *Other Applicable Federal, State and Foreign Law.* The former interpretive position of the SEC and the Comptroller that a proposal may be omitted if its implementation would violate Federal law is formalized in this paragraph and expanded to allow the omission of proposals which would violate all applicable (including foreign) law to which the bank is subject. State of Federal law of the United States will supercede foreign law.

(3) *Contrary to Comptroller's Proxy Rules and Regulations.* A proposal may be omitted if it is contrary to any of the Comptroller's proxy rules and regulations.

(4) *Personal Claim or Grievance.* This ground for omission has been retained in identical form.

(5) *Insignificant Matters.* The proposed amendment retains the substance of the present rule which allows an issuer to omit a proposal that "action be taken with respect to any matter including a general economic, political, racial, religious, social or similar cause, that is not significantly related to the business of the issuer." However, the reference to the form of the proposal and the illustrative reference to various general causes has been deleted as superfluous. These deletions should not be interpreted as setting a different standard from that of the present rule.

(6) *Beyond the Bank's Power to Effectuate.*

(7) *Routine Matters.* The subparagraph permitting management to omit the proposals for action relating to the conduct of ordinary business operations is retained without change.

(8) and (9) *Elections to Office and Counter Proposals.* These grounds for omission are simply relocated from 12 CFR 11.5(k)(1) to 12 CFR 11.5(k)(3).

(10) *Moot Proposals.* A new subparagraph allows to be excluded a proposal which has been rendered moot.

(11) *Similar Proposals in Current Year.* A new subparagraph which allows management to omit proposals which are substantially duplicative of a proposal submitted by another proponent which management intends to include in its proxy materials formalizes a ground for omission which has existed informally in the past.

(12) *Similar Proposals in Prior Years.* No change is made in this paragraph, which permits the deletion of a proposal which is substantially the same as a proposal previously submitted within the preceding 5 years which received less than (i) 3 percent of votes cast if submitted at only one meeting, (ii) 6 percent of votes cast if submitted at only 2 meetings, or (iii) 10 percent if submitted during 3 or more meetings within the preceding 5 years. Such a proposal may be omitted from management's proxy material relating to any meeting of security holders within 3 years from the latest previous submission.

(13) *Specific Dividend Amounts.* Dividend proposals are no longer excludable on the ground that they are matters within the realm of the ordinary business operations. However, a new subparagraph is added permitting management to exclude dividend proposals relating to specific amounts. Mandatory dividend proposals continue to be excludable on the ground that they are not proper subjects for shareholder action since they would interfere with the discretionary power to declare dividends which is conferred on the directors by the national banking law (12 U.S.C. 60).

(F) TENDER OFFERS

Effective for periods beginning after August 31, 1977, the SEC adopted a new Schedule 14D-1 setting forth the disclosure requirements for persons making certain tender offers, and amended existing Rule 14d-1 (17 CFR 240.14d-1) to implement the filing of the new schedule (Refer to Securities Exchange Act Release No. 13787, 42 FR 38347). Accordingly, the Comptroller proposes to amend 12 CFR 11.5(*l*), *Invitations for tenders, filing of Form F-11*, and 12 CFR 11.47, *Form for Statement to be filed pursuant to § 11.4(g)(2) or § 11.5(l) of Part 11 (Form F-11)*. Also, the Comptroller proposes to adopt a new form 12 CFR 11.54, Form F-13, *Tender offer statement pursuant to Section 14(d)(1) of the Securities Exchange Act of 1934.*

The SEC in Securities Exchange Act Release No. 12391, 42 FR 12342, adopted a new definition of "Beneficial Owner", however, the effective date of the beneficial ownership rules has been delayed until April 30, 1978. (See discussion of beneficial ownership rules below.) However, the SEC in Securities Exchange Act Release No. 13844 FR 41405, incorporated by reference the new definition of beneficial owner. The Comptroller is not proposing or incorporating the new definition of "beneficial owner" at this time. Rather the Comptroller will await further action by the SEC.

12 CFR 11.5(*l*) would be amended as follows:

(1) 12 CFR 11.51(*l*)(1) would be amended to indicate that Form F-13 would be the form to file in a proposed tender offer situation.

(2) 12 CFR 11.5(*l*)(3)(iv) is revised to reflect the items of proposed Form F-13 which are required to be included or summarized in the information published, sent or given to security holders.

(3) 12 CFR 11.5(*l*)(3)(iv) would be amended to include two instructions.

(4) 12 CFR 11.5(*l*)(4) would also be revised to reflect the items of proposed Form F-13.

(5) In light of the transition to the use of separate schedules for reporting acquisitions subject to Section 13(d)(1) of the 1934 Act and for tender offers subject to Section 14(d)(1) of the 1934 Act, existing Form F-11 would be amended by deleting Item 7 and renumbering present Item 8 as Item 7.

(6) Proposed Form F-13 (12 CFR 11.54) represents the first step in establishing a comprehensive regulatory framework specifically designed for tender offers. The proposed Form F-

13 would, for the first time, provide a separate and distinct format to be followed in tender offer filings. Most of the information currently required by Form F-11 is included in the proposed Form F-13.

For a detailed discussion of the proposed Form F-13 see Securities Exchange Act Release No. 13787.

The more important items in proposed Form F-13 are:

(a) Proposed Item 4 expands the disclosure required by Item 3 of Form F-11 with regard to the source and amount of funds or other consideration to be employed by the bidder in the tender offer. Expanded disclosure of the terms and conditions of loans made to finance an offer is required, including the interest rates and repayment or refinancing terms. If the transaction does not involve a loan, a statement to that effect is required. The existing permissible omission of the lender's identity, if it is a bank, is retained in accordance with Section 13(d)(1)(B) of the 1934 Act. The name of a lending bank will not be made public if the person filing the proposed Form F-13 makes such a request in writing to the Comptroller.

(b) Proposed Item 5 expands the requirements of Item 4 of Form F-11 that the purpose or purposes of the tender offer be stated. Greatly expanded disclosure of plans or proposals which would affect the target bank or its securities would be required in all cases, not just those in which the stated purpose of the offer is to gain control of the target bank.

(c) Proposed Item 9 requires that financial statements of the bidder be provided.

(G) AMENDMENTS TO FORMS F-2, F-3, F-4 AND F-5

The SEC adopted amendments to Forms 8-K, 10-Q, 10-K and Schedule 14A. (Refer to Securities Exchange Act Release No. 13156, 42 FR 4424). According to the SEC release the proposals represent a step forward in their efforts to further simplify and rationalize the corporate disclosure system and to provide more meaningful information to investors. The Comptroller is proposing substantially similar amendments to his corresponding forms under Section 13 of the 1934 Act which are the Form F-2, Annual Report; Form F-3, Current Report; Form F-4, Quarterly Report; and, Form F-5, Proxy or Information Statement.

The proposals would: (1) Assure more timely filing of reports on Form F-3 by amending 12 CFR 11.4 (g)(1) and General Instruction B of Form F-3 to require that a bank file a current report within 15 days after the occurrence of the earliest event required to be reported; (2) decrease the number of items of information required to be included in a current report on Form F-3; (3) establish a two-part format under Form F-4; (4) add three new items to Form F-2; and (5) expand the disclosure in a proxy or information statement by requiring under Item 5 to Form F-5 information concerning the financing and exercise of control. (An identical amendment has been proposed to Item 1 of Form F-3).

For a detailed discussion of the rationale and justification for these amendments see Securities Exchange Act Release Nos. 12619 (41 FR 29784) and 13156.

(H) ACCOUNTING REVISIONS

The Comptroller proposes to amend certain provisions of 12 CFR 11 to clarify and simplify the disclosures required in the public reports filed with this Office.

(1) 12 CFR 11.2(bb) presently exempts from the definition of a subsidiary of a bank an affiliate controlled by the bank where the control was obtained by the bank in the source of securing or collecting a debt previously contracted in good faith. The definition would be expanded to require that the ownership of the affiliate be temporary and no substantive continuing involvement by the bank occur.

(2) 12 CFR 11.4(u) would be amended to indicate that amendments should be filed on Form F-20, 12 CFR 11.45.

(3) 12 CFR 11.4(w)(1) would be amended to include bank subsidiaries.

(4) 12 CFR 11.5(c)(1) and 12 CFR 11.5(c)(3) would be amended to make certain grammatical and terminology changes. Present Note 2 of 11.5(c)(1) would be deleted and a new Note 2 would be inserted. Existing 12 CFR 11.5(c)(2) would be deleted and a new 12 CFR 11.5(c)(2) inserted to conform the language to that used by the SEC.

(5) 12 CFR 11.7(c) would be amended to include Form D, presently required under 12 CFR 11.71.

(6) 12 CFR 11.7(g), 12 CFR 11.41 and 12 CFR 11.42 would be amended to clarify the instances in which schedules and other statements are required.

(7) 12 CFR 11.43 would be amended to conform the instructions to the "Financial Statements of Business Acquired" to the proposed amendments in 12 CFR 11.41 and 12 CFR 11.42.

(8) 12 CFR 11.51, Item 14(b)(7)(i) and 12 CFR 11.51, Item 14, Instruction 1 would be amended to expand the period for which information is required from three to five years, and to expand categories of information to be set forth.

(9) 12 CFR 11.71, Item F-9A, Item 3(a)(3) would be amended to clarify that all obligations of states and political subdivisions are to be included.

(10) 12 CFR 11.71, Item F-9A, Instruction 6(b) Note 1 would be amnded to delete the phrase, "For banks using the reserve method of accounting for loan losses * * *" This phrase would be deleted since all registered banks must use the reserve method in accounting for loan losses.

(11) 12 CFR 11.71, Item F-9B, Instruction 2(j)(4) would be deleted since all registered banks must use the reserve method in accounting for loan losses.

II. The SEC made certain amendments to its rules and forms, which the Comptroller does not propose to adopt. These amendments and the reasons of the Comptroller for not adopting them are described below:

A. AMENDMENT TO FORM 10 AND 10-K; DISCLOSURE OF CAPITAL EXPENDITURE FOR ENVIRONMENTAL CONTROL FACILITIES

Effective July 1, 1976, the SEC has amended Forms 10 and 10-K (Instruction 6 to Item 1 of Form 10 and Instruction 7 to Item 1 of Form 10-K) to require disclosure of material estimated capital expenditures for environmental control facilities for the remainder of the current fiscal year, the succeeding fiscal year and such future periods as the registrant deems material. (Refer to Securities Exchange Act Release No. 12414, 41 FR 21636).

The Comptroller does not propose to adopt this amendment to its comparable Forms F-1 (Registration Statement) and Form F-2 (Annual Report) (12 CFR 11.41 and 42) because national banks are not likely to make significant capital expenditures for environmental control facilities. In 1974 the Comptroller adopted an amendment to those forms to require: (1) Disclosure of the material effects which compliance with Federal, state and local environmental regulations may have upon the capital expenditures, earnings and competitive position of the bank and its subsidiaries (12 CFR 11.41, Item 3(f) and 12 CFR 11.42, Item 3(f)), and (2) disclosure of administrative or judicial proceedings pending or known to be contemplated by governmental authorities (12 CFR 11.41, Instruction to Item 7 and 12 CFR 11.42, Instruction 3 to Item 5). The Comptroller believes that the present regulation, as amended in 1974, elicits adequate information for the investing public concerning the effects of compliance with environmental regulations on bank capital and earnings, and further amendment would serve no useful purpose.

B. AMENDMENTS TO FORMS 10-K AND 10-Q TO FACILITATE COMPLIANCE WITH THE SECURITIES ACTS OF 1933

(1) The SEC has amended Forms 10-K and 10-Q, effective for forms filed after September 30, 1976, to require corporate issuers to include on the facing sheets of these reports a statement of the number of shares outstanding of each class of common stock as of the last day of the period covered by the report. (Refer to Securities Exchange Act Release No. 12506, 41 FR 23983). This amendment was designed to assist persons seeking to sell securities under SEC Rule 144. The Rule allows persons holding securities acquired directly or indirectly from the issuer, other than in public offerings, and persons in a control relationship with the issuer, to sell the issuer's securities without incurring underwriters' liability under the Securities Act of 1933, provided they do not exceed certain volume limitations.

The Comtroller does not propose to adopt a similar amendment to his comparable forms because bank-issued securities are expressly exempt from the registration requirements of the 1933 Act and the Comptroller has no rule comparable to Rule 144.

(2) The SEC has adopted amendments to the Instructions to Forms 10-K and 10-Q, effective December 8, 1976, to require registrants to provide notice in the transmittal letter accompanying a Form 10-K or Form 10-Q of any intent to file a registration statement on Form S-7 or S-16 under the Securities Act of 1933. (Refer to Securities Exchange Act Release No. 13035, 41 FR 53473).

Since bank-issued securities are not required to be registered under the Securities Act of 1933, the amendments are inapplicable to national banks and the sections of 12 CFR 11 relating to annual and quarterly reports will not be amended.

C. AMENDMENT TO RULES 16b-3 AND 16a-(6)(c): STOCK APPRECIATION RIGHTS

The SEC has amended Rules 16-3 and 16a-(6)(c), effective June 30, 1977, to provide that stock appreciation rights will be treated in the same manner as stock options under those rules. The effect of the amendment is to expressly exempt certain transactions involving cash settlements of stock appreciation rights provided certain conditions are met.

The Comptroller does not propose to adopt a similar amendment because of a lack of significant interest by banks in stock appreciation rights programs as a means of executive compensation, and because recent judicial decisions have suggested that exercise of a stock appreciation right neither involves the sale of any equity security nor is a per se violation of section 16b. Therefore, the Comptroller believes there is no need to adopt an express exemption to 12 CFR 11.6 at this time.

III. AMENDMENT TO RULES 13d-1, 13d-2, 13d-3, 13d-4, 13d-5, AND FORM 13D-5; BENEFICIAL OWNERSHIP DISCLOSURE

On February 24, 1977, the SEC adopted new rules relating to beneficial ownership reporting requirements. (Refer to Securities Exchange Act Release No. 12391, 42 FR 12342). The effective date of the rules is April 30, 1978. The rules require that any person or group of persons acquiring the beneficial ownership of more than five percent of a class of equity securities of an issuer file a Schedule 13D disclosing this fact within 10 days of the acquisition. A holder of a right to acquire beneficial ownership of such a security and a pledgee under a defaulted pledge agreement are also considered beneficial owners under certain circumstances.

The SEC also adopted a new short form (Form 13D-5) for use by institutional investors reporting their beneficial ownership, as long as ownership was neither acquired nor maintained in order to influence control of the issuer.

The SEC, on August 10, 1977, requested additional comments on the adopted beneficial ownership rules. (Refer to Securities Exchange Act Release No. 13844, 42 FR 41405). Certain institutions raised substantial practical and interpretive questions in complying with the adopted rules. Institutions also objected to the exclusion of certain persons from those permitted to use the new short form, and the duplication of disclosure which the institutions believe would result if investment managers are required to report information with respect to accounts over which investment discretion is exercised.

The Comptroller is not proposing to adopt the amendments relating to beneficial ownership at this time. Rather the Comptroller will wait until the SEC considers all of the comments received on the new rules and issues a final determination on the status of the amendments to the beneficial ownership rules. The rules do not become effective until April 30, 1978, and the Comptroller believes that proposing the rules at this time would not be in the public interest.

DRAFTING INFORMATION

The principal drafter of this document is Ralph Janvey, Attorney, Securities Disclosure Division, Comptroller of the Currency, Washington, D.C.

PROPOSED AMENDMENT

The Comptroller proposes to amend 12 CFR Part 11 as follows:

1. By amending § 11.2 as follows:

§ 11.2 Definitions.

* * * * *

(bb) A "subsidiary" of a bank is (1) an affiliate controlled by the bank, directly or indirectly through one or more intermediaries, except where the control (i) exists by reason of ownership or control of voting securities by the bank in a fiduciary capacity or (ii) was obtained by the bank in the course of securing or collecting a debt previously contracted in good faith, where ownership of the affiliate will be temporary, and no substantive continuing involvement occurs e.g., major development funds are advanced which expose the bank to further risk; or (2) a person a majority of whose voting securities are held in trust for the benefit of the holders of a class of stock of the bank pro rata.

* * * * *

2. By amending § 11.3 as follows:

§ 11.3 Inspection and publication of information filed under the Act; Notice of informal adjudications.

* * * * *

(c) *nondisclosure of certain information filed.* Any person filing any statement, report, or document (herein referred to as the material filed) under the Act may make written objection to the public disclosure of any information contained therein in accordance with the procedure set forth below. The procedure provided in this rule shall be the exclusive means of requesting confidential treatment of information required to be filed under the Act.

(1) The person shall omit from the material filed the portion thereof that it desires to keep undisclosed (herein called the confidential portion), and shall indicate at the appropriate place in the material filed that the confidential portion has been so omitted and filed separately with the Comptroller of the Currency.

(2) The person shall file with the copies of the material filed with the Comptroller of the Currency:

(i) As many copies of the confidential portion, each clearly marked "Confidential Treatment," as there are copies of the material filed with the Comptroller of the Currency and with any exchange where such material is required to be filed. Each copy shall contain the complete text of the item and the entire answer thereto, even though the confidential portion does not constitute the whole of the answer; except that where the confidential portion is part of a financial statement or schedule, only the particular financial statement or schedule need be included. All copies of the confidential portion shall be in the same form as the remainder of the material filed.

(ii) An application making objection to the disclosure of the confidential portion. Such application shall be on a sheet or sheets separate from the confidential portion, and shall contain (A) an identification of the portion; (B) a

statement of the grounds for objection, referring to and containing an analysis of the applicable exemption(s) from disclosure under the Comptroller's rules and regulations adopted under the Freedom of Information Act (12 CFR 4.16, 4.17 and 4.17a), and a justification of the period of time for which confidential treatment is sought, (C) a written consent to the furnishing of the confidential portion to other government agencies, offices or bodies and to the Congress; and (D) the name of each exchange, if any, with which the material is filed. The copies of the confidential portion and the application filed in accordance with this subparagraph shall be enclosed in a separate envelope marked "CONFIDENTIAL TREATMENT" and addressed to the Comptroller of the Currency, Washington, D.C. 20219.

(3) Pending the determination by the Comptroller of the Currency as to the objection filed in accordance with paragraph (c)(2) of this section, the confidential portion will not be disclosed by the Comptroller of the Currency.

(4) If the Comptroller of the Currency determines that the objection shall be sustained, a notation to that effect will be made at the appropriate place in the material filed. Such a determination will not preclude reconsideration whenever appropriate, such as upon receipt of any subsequent request under the Freedom of Information Act and, if appropriate, revocation of the confidential status of all or a portion of the information in question. Where confidential treatment is granted under this section, the Comptroller of the Currency will attempt, whenever possible, to give to the person who requested confidential treatment advance notice if the confidential treatment is to be revoked.

(5) In any case where request for confidential treatment has been denied or where a prior grant of confidential treatment has been revoked, a finding and determination to that effect will be entered and notice of the finding and determination will be sent by registered or certified mail to the person or his agent for service.

(6) The confidential portion shall be made available to the public:

(i) Upon the lapse of 15 days after the dispatch of the notice by registered or certified mail of the finding and determination of the Comptroller of the Currency described in paragraph (c)(5) of this section, if prior to the lapse of such 15 days the person shall not have filed a written statement that he intends in good faith to seek judicial review of the finding and determination;

(ii) Upon the lapse of 30 days after the dispatch of notice by registered or certified mail of the finding and determination of the Comptroller of the Currency, if the statement described in paragraph (c)(6)(i) of this section shall have been filed and if a petition for judicial review shall not have been filed within such 30 days;

(iii) If timely notice of intent to seek judicial review shall have been filed and if a petition for judicial review has been filed within 30 days, upon final disposition of such judicial proceedings adverse to such person.

(7) If the confidential portion is made available to the public, a copy thereof shall be attached to each copy of the statement, report, or document filed with the Comptroller of the Currency and with each exchange concerned.

* * * * *

3. By amending § 11.4(g)(1)(u) and (w) as follows:

§ 11.4 Registration statements and reports.

* * * * *

(g) *Current reports: shareholders filing of Form F-11.* (1) Every registrant bank shall file a current report in conformity with the requirements of Form F-3 within 15 days after the occurrence of the earliest event required to be reported, unless substantially the same information as required by that form has been previously reported by the bank.

* * * * *

(u) *Amendments.* All amendments shall comply with all pertinent requirements applicable to statements and reports. Amendments shall be filed separately for each statement or report amended. Amendments to a statement may be filed either before or after registration becomes effective. All amendments should be filed on Form F-20.

* * * * *

(w) *Interpretation of requirements.* Unless the context clearly shows otherwise: (1) the forms require information only as to the bank and its subsidiaries.

* * * * *

§ 11.5 [Amended]

4. By amending § 11.5(c)(1), Notes 1 and 2, § 11.5(c)(2), § 11.5(c)(3) and § 11.5(c)(8) (i) and (ii) as follows:

* * * * *

(c) * * *
(1) * * *

NOTES.—1. To reflect adequately the financial position and results of operations of a bank in its annual report to security holders, the financial presentation shall include, but not necessarily be limited to, the following:

(a) Comparative statements of condition at the end of each of the last 2 fiscal years similar in form to Form F-9A.

(b) Comparative statements of income for each of the last 2 fiscal years similar in form to F-9B.

(c) Comparative statements of changes in capital accounts for each of the last 2 fiscal years similar in form to Form F-9C.

(d) Comparative statements of changes in financial position for each of the last 2 fiscal years for which a statement of income is furnished, similar in form to Form F-9E.

(e) A comparative reconciliation of the "Reserve for Possible Loan Losses" account for each of the last 2 fiscal years, similar in form to Schedule VII, Form F-9D, in a note to the financial statements.

(f) Supplemental notes to financial statements to the extent necessary to furnish a fair financial presentation. Such notes should include the aggregate market value as at the balance sheet date for each category of investment securities reported on the balance sheet, and other information required to be furnished in notes to financial statements included in the bank's Form F-2 Annual Report (Refer to 12 CFR 11.7(c) (5) to (10)).

2. If the financial statements included in the report to security holders reflect any differences in the principles of consolidation or other accounting principles or practices or in methods of applying accounting principles or practices from the financial statements of the bank filed or proposed to be filed with the Comptroller of the Currency, these shall be noted and the effect thereof reconciled or explained in the annual report to security holders if the differences have a material effect on the financial position or results of the bank.

* * * * *

(2) Furnish in comparative columnar form a summary of operations for each of the last five years. Where necessary, include by footnote or otherwise information or explanation of material significance to investors in appraising the results shown.

NOTE.—At a minimum, the following items shall be included: total operating income; provision for possible loan losses; total other operating expenses (excluding provision for possible loan losses); income before income taxes and securities gains (losses); applicable income taxes; income (loss) before securities gains (losses); securities gains (losses) less related income taxes; income (loss); earnings per common share before securities gains (losses) and net income. Dividends per share shall be shown.

(3) The report shall contain information for each of the last two fiscal years similar to that required by Schedules III and VIII of Form F-9D in a note to the financial statements.

* * * * *

(8)(i) If the bank knows that securities of any class entitled to vote at a meeting and with respect to which the bank intends to solicit proxies, consents or authorization, are held of record by a broker, dealer, bank or voting trustee, or their nominees, the bank shall inquire of such record holder at least 10 days prior to the record date for the meeting of security holders (or at such later time as the rules of a national securities exchange on which the class of securities in question is listed may permit for a good cause shown) whether other persons are the beneficial owners of such securities and, if so, the number of copies of the proxy and other soliciting material and, in the case of an annual meeting at which directors are to be elected, the number of copies of the annual report to security holders, necessary to supply material to such beneficial owners. The bank shall supply such record holder with additional copies in such quantities, assembled in such form and at such a place, as the record holder may reasonably request in order to address and send one copy of each to each beneficial owner of securities so held and shall, upon the request of such record holder, pay its reasonable expenses for completing the mailing of such material to security holders to whom the material is sent.

(ii) If the bank's list of security holders indicates that some of its securities are registered in the name of a clearing agency pursuant to section 17A of the Act, a bank shall make appropriate inquiry of the agency and thereafter of the participants in such agency who may hold on behalf of a beneficial owner, and shall comply with the above subparagraph (8)(i) with respect to any such participant.

* * * * *

5. By amending § 11.5(f) as follows:

* * * * *

(f) *Material required to be filed.* (1) Six preliminary copies of each statement, form of proxy, and other items of soliciting material to be furnished to security holders concurrently therewith, shall be filed with the Comptroller of the Currency by management or any other person making a solicitation subject to this § 11.5 at least 10 calendar days (or 15 calendar) days in the case of other than routine meetings, as defined below) prior to the date such items is first sent or given to any security holders, or such shorter period prior to that date as may be authorized. For the purposes of this paragraph (f)(1), a routine meeting means a meeting with respect to which no one is soliciting proxies subject to this § 11.5 other than on behalf of management and at which management intends to present no matters other than the election of directors, election of inspectors of election, and other recurring matters. In the absence of actual knowledge to the contrary, management may assume that no other such solicitation of the bank's security holders is being made. In cases of annual meetings, one additional preliminary copy of the Statement, the form of proxy, and any other soliciting material, marked to show changes from the material sent or given to security holders with respect to the preceding annual meeting, shall be filed with the Comptroller of the Currency.

(2) Six preliminary copies of any additional soliciting material relating to the same meeting or subject matter, furnished to security holders subsequent to the proxy statement shall be filed with the Comptroller of the Currency at least 2 days (exclusive of Saturdays, Sundays, and Holidays) prior to the date copies of such material are first sent or given to security holders, or such shorter period prior to such date as may be authorized upon a showing of good cause therefor.

(3) Six copies of each Statement, form of proxy, and other items of soliciting material, in the form in which such material is furnished to security holders, shall be filed with, or mailed for filing to, the Comptroller of the Currency not later than the date such material is first sent or given to any security holders. Three copies of such material shall at the same time be filed with, or mailed for filing to, each exchange upon which any security of the bank is listed.

(4) If the solicitation is to be made in whole or in part by personal solicitation, three copies of all written instructions or other material that discusses or revews or comments upon the merits of any matter to be acted upon, and is furnished to the individuals making the actual solicitation for their use directly or indirectly in connection with the solicitation, shall be filed with the Comptroller of the Currency by the person on whose behalf the solicitation is made at least 5 days prior to the date copies of such material are first sent or given to such individuals, or such shorter period prior to that date as may be authorized upon a showing of good cause therefor.

(5) All copies of material filed pursuant to paragraph (f) (1) and (2) of this section shall be clearly marked "Preliminary Copies" and shall be for the information of the Comptroller of the Currency only and shall not be deemed available for public inspection before definitive material has been filed with the Comptroller of the Currency, except that such material may be disclosed to any department or agency of the United States Government and to the Congress and the Comptroller of the Currency may make such inquiries or investigation with respect to the material as may be necessary for an adequate review thereof. All material filed pursuant to paragraph (f) (1), (2), or (3) of this section shall be accompanied by a statement of the date upon which copies thereof are intended to be, or have been, sent or given to security holders. All material filed pursuant to paragraph (f)(4) of this section shall be accompanied by a statement of the date upon which copies thereof are intended to be released to the individuals who will make the actual solicitation.

* * * * *

6. By amending § 11.5(h)(1) to delete the word "earnings" in the second sentence.

7. By amending § 11.5(k) as follows:

* * * * *

(k) *Proposals of security holders.* (1) If any security holder of the bank notifies management of the bank of his intention to present a proposal for action at a forthcoming meeting of the bank's security holders, management shall set forth the proposal in its Statement and identify the proposal in its form of proxy and provide means by which security holders can make the specification provided for by paragraph (d)(2) of this section. If management issues an information statement, it shall identify the proposal and indicate the disposition proposed to be made of the proposal by management at the meeting. Management, however, need not include a proposal in its Statement if such proposal is submitted less than 90 days in advance of a day corresponding to the date of mailing a proxy statement of information statement in connection with the last annual meeting of security holders. Notwithstanding the foregoing, management of the bank shall not be required to include the proposal in its Statement or form of proxy unless the security holder (hereinafter, the "proponent") has complied with the requirements of this paragraph and paragraphs (k) (2) and (3) of this section:

(i) *Eligibility.* At the time he submits the proposal, the proponent shall be a record or beneficial owner of a security entitled to be voted at the meeting of his proposal, and he shall continue to own such security through the date on which the meeting is held. If management requests documentary support for a proponent's claim that he is a beneficial owner of a voting security of the bank, the proponent shall furnish appropriate documentation within 10 business days after receiving the request. In the event management includes the proponent's proposal in its statement for the meeting and the proponent fails to comply with the requirements that he be a voting security holder continuously through the meeting date, management shall not be required to include any proposals submitted by the propo-

nent in its statement for any meeting held in the following two calendar years.

(ii) *Notice.* The proponent shall notify management in writing of his intention to appear personally at the meeting to present his proposal for action. The proponent shall furnish the requisite notice at the time he submits the proposal, except that if he was unaware of the notice requirement at the time he shall comply with it within 10 business days after being informed of it by management. If the proponent, after furnishing in good faith the notice required by this provision, subsequently determines that he will be unable to appear personally at the meeting, he shall arrange to have another security holder of the bank present his proposal on his behalf at the meeting. In the event the proponent or his proxy fails, without good cause, to present the proposal for action at the meeting, management shall not be required to include any proposals submitted by the proponent in its Statement for any meeting held in the following two calendar years.

(iii) *Timeliness.* The proponent shall submit his proposal sufficiently far in advance of the meeting so that it is received by management within the following time period.

(A) *Annual Meetings.* A proposal to be presented at an annual meeting shall be received by management at the bank's principal executive offices not less than 90 days in advance of a date corresponding to the date set forth on management's Statement released to security holders in connection with the previous year's annual meeting of security holders, except that if no annual meeting was held in the previous year or the date of the annual meeting has been changed more than 30 calendar days from the date of the previous year's annual meeting a proposal shall be received by management a reasonable time before the solicitation is made.

(B) *Other meetings.* A proposal to be presented at any meeting other than an annual meeting shall be received a reasonable time before the solicitation is made.

NOTE.—In order to curtail controversy as to the date on which a proposal was received by management, it is suggested that the proponents submit their proposals by Certified Mail-Return Receipt Requested.

(iv) *Number and length of proposals.* (1) The proponent may submit a maximum of two proposals of not more than 300 words each for inclusion in management's Statement for a meeting of security holders. If the proponent fails to comply with either of these requirements, of if he fails to comply with the 200 word limit on supporting statements mentioned in paragraph (k)(2) of this section, he shall be provided the opportunity by management to reduce, within 10 business days, the items submitted by him to the limits required by this paragraph (k).

(2) If management opposes any proposal received from a proponent, it shall also, at the request of the proponent, include in its Statement a statement of the proponent, in not more than 200 words, in support of the proposal, which statement shall not include the name and address of the proponent. The statement and request of the proponent shall be furnished to management at the time that the proposal is furnished, and neither management nor the bank shall be responsible for such statement. The Statement shall also include either the name and address of the proponent or a statement that such information will be furnished by the bank or by the Comptroller of the Currency to any person, orally or in writing as requested, promptly upon receipt of any oral or written request therefor. If the name and address of the proponent are omitted from the Statement, they shall be furnished to the Comptroller of the Currency at the time of filing management's preliminary material pursuant to paragraph (f) of this section.

(3) Management may omit a proposal and any statement in support thereof from its Statement and form of proxy under any of the following circumstances:

(i) The proposal is, under applicable law, not a proper subject for action by security holders;

NOTE.—A proposal that may be improper under the applicable state law when framed as a mandate or directive may be proper when framed as a recommendation or request.

(ii) The proposal would, if implemented, require the bank to violate any state law or Federal law of the United States, or any law of any foreign jurisdiction, to which the bank is subject, except that this provision shall not apply with respect to any foreign law compliance which would be violative of any state or Federal law of the United States;

(iii) The proposal or the supporting statement is contrary to any of the Comptroller's proxy rules and regulations, including 12 CFR 11.5(h);

(iv) The proposal relates to the enforcement of a personal claim or the redress of a personal grievance against the bank, its management, or any other person;

(v) The proposal deals with a matter that is not significantly related to the business of the bank;

(vi) The proposal deals with a matter that is beyond the bank's power to effectuate;

(vii) The proposal deals with a matter relating to the conduct of the ordinary business operations of the bank;

(viii) The proposal relates to an election to office;

(ix) The proposal is counter to a proposal to be submitted by management at the meeting

(x) The proposal has been rendered moot;

(xi) The proposal is substantially duplicative of a proposal previously submitted to management by another proponent, which proposal will be included in management's proxy materials for the meeting;

(xii) Substantially the same proposal has previously been submitted to security holders in management's Statement relating to any annual or special meeting of security holders held within the preceding 5 calendar years, it may be omitted from management's Statement relating to any meeting of security holders held within the 3 calendar years after the latest such previous submission: *Provided,* That—(A) If the proposal was submitted at only one meeting during such preceding period, it received less than 3 percent of the total number of votes cast in regard thereto; or

(B) If the proposal was submitted at only two meetings during such preceding period, it received at the time of its second submission less than 6 percent of the total number of votes cast in regard thereto; or

(C) If the proposal was submitted at three or more meetings during such preceding period, it received at the time of its latest submission less than 10 percent of the total number of votes cast in regard thereto; and

(xiii) The proposal relates to specific amounts of cash or stock dividends.

(4) Whenever management asserts, for any reason, that a proposal and any statement in support thereof received from a proponent may properly be omitted from its Statement, it shall file with the Comptroller of the Currency, not later than 50 days prior to the date the preliminary copies of the Statements are filed pursuant to paragraph (f) of this section, or such shorter period prior to such date as the Comptroller of the Currency may permit, 3 copies of the proposal and any statement in support thereof as received from the proponent, together with a statement of the reasons why management deems such omission to be proper in the particular case, and where such reasons are based on matters of law, a supporting opinion of counsel. Management shall at the same time, if it has not already done so, notify the proponent submitting the proposal of its intention to omit the proposal from its Statement and shall forward to him a copy of the statement of reasons why management deems the omission of the proposal to be proper and a copy of such supporting opinion of counsel.

8. By amending § 11.5 (*l*) as follows:

* * * * *

(*l*) *Tender Offers.* (1) No person, directly or indirectly, by use of the mails or any means or instrumentality of interstate commerce or of any facility of a national securities exchange or otherwise, shall make a tender offer for, or a request or invitation for tenders of, any class of any equity security, which is registered pursuant to Section 12 of the Act, of a national bank or a bank operating under the Code of Law for the District of Columbia, if, after consummation thereof, such person would, directly or indirectly, be the beneficial owner of more than 5 percent of such class, unless, at the time copies of the offer or request or invitation are first published or sent or given to security holders, such person has filed with the Comptroller of the Currency a statement containing the information and exhibits required by Form F-13.

(3) * * *

* * * * *

(iv) The information required by Items 1(c), 2(b), 2(e), 2(f) and 2(g), 3, 4, 5, 6, 7, 8, 9, and 10 of Form F-13, or a fair and adequate summary thereof.

Instructions. 1. Negative responses to any such items or subitems for Form F-13 need not be included in the information published or sent or given to security holders. 2. Although the financial statements necessary to present a fair and adequate summary of Item 9 of Form F-13 may vary depending on the facts and circumstances involved, summary financial information will normally be sufficient summary disclosure of Item 9 for purposes of paragraph 3(iv) of this section. If the information required by Item 9 is summarized, appropriate instructions should be included stating how more complete financial information can be obtained.

(4) Any additional material soliciting or requesting such tenders subsequent to the initial solicitation or request shall contain the names of the persons making such solicitation or request and the information required by Items 1(c), 2(b), 2(e), 2(f) and 2(g), 3, 4, 5, 6, 7, 8, 9, and 10 of Form F-13, or a fair and adequate summary thereof: *Provided, however,* That such material may omit any of such information previously furnished to the persons solicited or requested for tenders. Copies of such additional material soliciting or requesting such tenders shall be filed with the Comptroller of the Currency not later than the time copies of such material are first published or sent or given to security holders.

(5) * * *

(6) Four copies of the statement required by paragraph (*l*)(1) of this section, every amendment to such statement, and all other material required by this paragraph shall be filed with the Comptroller of the Currency.

* * * * *

9. By amending § 11.7(c) and (g) as follows:

§ 11.7 Form and content of financial statements.

* * * * *

(c) *Provisions of general application*—(1) *Requirements as to form.* Financial statements shall be prepared in accordance with the applicable requirements of Forms F-9 A, B, C, D, and E. All money amounts required to be shown in financial statements may be expressed in even dollars or thousands, and an indication to that effect shall be inserted immediately beneath the caption of the statement or schedule, or at the top of each money column. The individual amounts shown need not be adjusted to the nearest dollar or thousand if the failure of the items to add to the totals shown is stated in a note as due to the dropping of amounts of less than $1 or $1,000, as appropriate.

* * * * *

(g) *Schedules to be filed.* * * *

* * * * *

(4) The schedules shall be verified if the financial statements are so verified.

10. By amending § 11.41, Form F-1, Item 4 and the Instructions to Financial Statements as follows:

§ 11.41 Form for registration of securities of a bank pursuant to section 12(b) or section 12(g) of the Securities Exchange Act of 1934 (Form F-1).

* * * * *

ITEM 4—SUMMARY OF OPERATIONS

Furnish in comparative columnar form a summary of operations for each of the last five fiscal years. Where necessary, include information or explanation, by footnote or otherwise, of material significance to investors in appraising the results shown.

Instructions. 1. At a minimum, the following items shall be included: Total operating income; provision for possible loan losses; total other operating expenses (excluding provision for possible loan losses); income before income taxes and securities gains (losses); applicable income taxes; income (loss) before securities gains (losses); securities gains (losses) less related income taxes, net income (loss); earnings per common share before securities gains (losses) and net income. Dividends per share shall be shown.

* * * * *

FORM F-1 INSTRUCTIONS AS TO FINANCIAL STATEMENTS

These instructions specify the balance sheets and statements of income required to be filed as a part of a Registration Statement on this form. Section 11.7 of this part governs the verification, form, and content of the balance sheets and statements of income required, including the basis of consolidation, and prescribes the statement of changes in capital accounts and statement of changes in financial position and the schedules to be filed in support thereof.

A. FINANCIAL STATEMENTS OF THE BANK

1. * * *

2. *Statements of income, changes in capital accounts and changes in financial position.* (a) The bank shall file in columnar form verified statements of income, changes in capital accounts and changes in financial position for each of the three fiscal years preceding the date of the balance sheet required by Instruction 1(a).

(b) There shall be filed with each balance sheet filed pursuant to Instruction (b) verified statements of income, changes in capital accounts and changes in financial position of the bank for the fiscal year immediately preceding the date of the balance sheet.

B. CONSOLIDATED STATEMENTS

3. *Consolidated Balance Sheets.* * * *

4. *Consolidated Statements of Income, Changes in Capital Accounts, and Changes in Financial Position.* (a) There shall be filed verified statements of income, changes in capital accounts and changes in financial position of the bank and its majority-owned (1) bank premises subsidiaries, (2) subsidiaries operating under the provisions of Section 25 or Section 25(a) of the Federal Reserve Act ("Agreement Corporations" and "Edge Act Corporations"), and (3) significant subsidiaries, for each of the three fiscal years preceding the date of the consolidated balance sheet required by Instructions 3(a).

(b) There shall be filed with each balance sheet filed pursuant to Instruction 3(b) verified statements of income, changes in capital accounts and changes in financial position of the bank and such subsidiaries for the fiscal year immediately preceding the date of the balance sheet.

C. UNCONSOLIDATED SUBSIDIARIES AND OTHER PERSONS

* * * * *

11. By amending § 11.42, Form F-2 as follows:

§ 11.42 Form for annual report of bank (Form F-2)

* * * * *

ITEM 4—SUMMARY OF OPERATIONS

Furnish in comparative columnar form a summary of operations for each of the last five fiscal years. Where necessary, include information or explanation, by footnote or otherwise, of material significance to investors in appraising the results shown.

Instruction. At a minimum, the following items shall be included: Total operating income; provision for possible loan losses; total other operating expenses (excluding provision for possible loan losses); income before income taxes and securities gains

(losses); applicable income taxes; income (loss) before securities gains (losses); securities gains (losses) less related income taxes; net income (loss); earnings per common share before securities gains (losses) and net income. Dividends per share shall be shown.

ITEM 5—PENDING LEGAL PROCEEDINGS

(a) Briefly describe any material pending legal proceedings, other than ordinary routine litigation incidental to the business, to which the bank or any of its subsidiaries is a party or of which any of their property is the subject. Include the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceeding and the relief sought. Include similar information as to any such proceedings known to be contemplated by governmental authorities.

(b) If any material legal proceeding which was previously reported or which became reportable during the fourth quarter of a bank's fiscal year was terminated during such quarter, give the date of termination and describe the disposition thereof with respect to the bank and its subsidiaries.

. . . . . .

ITEM 6—INCREASES AND DECREASES IN OUTSTANDING SECURITIES AND INDEBTEDNESS

(a) Give the following information as to all increases and decreases during the fiscal year in the amount of equity securities of the bank outstanding:

(1) The title of the class of securities involved;

(2) The date of the transaction;

(3) The amount of securities involved and whether an increase or decrease; and

(4) A brief description of the transaction in which the increase or decrease occurred. If previously reported, the description may be incorporated by a specific reference to the previous filing.

Instruction. The information shall be prepared in the form of a reconciliation between the amounts shown to be outstanding on the balance sheet to be filed with this report and the amounts shown on the bank's balance sheet for the previous year. The exercise of outstanding options or warrants, separately by class or type of option or warrant, conversions of previously issued convertible securities (separately by class of security) and the issuance of options may be grouped together showing the dates between which all such transactions occurred. If the information called for has been previously reported on Form F-4 it may be incorporated by a specific reference to the previous filing.

(b) Increases and decreases in the amount outstanding of debt securities and indebtedness which were previously reported in reports on Form F-4 should be listed and briefly discussed with appropriate cross references to the earlier disclosure.

(c) If, during the fourth quarter of bank's fiscal year, the amount of debt securities or indebtedness outstanding has been increased or decreased through one or more transactions, and the aggregate amount of all such increases or decreases not previously reported exceeds 5% of the outstanding securities or indebtedness of the affected class, furnish the following information:

(1) Title of class, the amount outstanding as last previously reported, and the amount presently outstanding (as of a specified date);

(2) A brief description of the transaction or transactions resulting in the change;

(3) If an increase in securities or indebtedness is reported, furnish: (i) A statement of the aggregate net cash proceeds or the nature and aggregate amount of any consideration received or to be received by the bank; (ii) the names of the principal underwriters, if any, indicating any such underwriters which are affiliates of the bank; (iii) a reasonably itemized statement of the purposes, so far as determinable, for which the net proceeds have been or are to be used and the approximate amount used or to be used for each such purpose; and

(4) If a decrease in securities or indebtedness is reported, a statement of the aggregate amount of cash or the nature and aggregate amount of any other consideration paid or to be paid by the bank in connection with such transaction or transactions.

Instructions. (1) For the purposes of responding to paragraph (c) the bank may treat each of the following as a single class of indebtedness: (i) Convertible long term debt, and (ii) other indebtedness.

(2) This paragraph does not apply to notes, drafts, bills of exchange, bankers' acceptances, or other obligations which mature not later than 1 year from the date of issuance. No report need be made where the amount not previously reported, although in excess of 5 percent of the amount outstanding does not exceed $50,000 face amount of indebtedness or 1,000 shares or other units.

(3) This paragraph includes the reissuance of treasury securities and securities held for the account of the bank thereof. The extension of the maturity date of indebtedness shall be deemed to be the issuance of new indebtedness for the purpose of this paragraph. In the case of such an extension, the percentage shall be computed upon the basis of the principal amount of the indebtedness extended.

(4) This paragraph need not be answered as to decreases resulting from ordinary sinking fund operations, similar periodic decreases made pursuant to the terms of the constituent instruments, decreases resulting from the conversion of securities or decreases resulting from the payment of indebtedness at maturity.

ITEM 7—CHANGES IN SECURITIES AND CHANGES IN SECURITY FOR REGISTERED SECURITIES

GENERAL INSTRUCTION

No response to this item is required if the information called for herein has been previously reported in a report on Form F-4.

(a) If the constituent instruments defining the rights of the holders of any class of registered securities have been materially modified, give the title of the class of securities involved and state briefly the general effect of such modification upon the rights of holders of such securities.

(b) If the rights evidenced by any class of registered securities have been materially limited or qualified by the issuance or midification of any other class of securities, state briefly the general effect of the issuance or modification of such other class of securities upon the rights of the holders of the registered securities.

Instruction. Working capital restrictions and other limitations upon payment of dividends are to be reported hereunder.

ITEM 8—DEFAULTS UPON SENIOR SECURITIES

General Instruction

No response to this item is required if the information called for herein has been previously reported in a report on Form F-4.

(a) If there has been any material default in the payment of principal, interest, a sinking or purchase fund installment, or any other material default not cured within 30 days, with respect to any indebtedness of the bank or any of its significant subsidiaries exceeding 5 percent of the total assets of the bank and its consolidated subsidiaries, identify the indebtedness and state the nature of the default. In the case of such a default in the payment of principal, interest, or a sinking or purchase fund installment, state the amount of the default and the total arrearage on the date of filing this report.

Instruction. This paragraph refers only to events which have become defaults under the governing instruments, i.e., after the expiration of any period of grace and compliance with any notice requirements.

(b) If any material arrearage in the payment of dividends has occurred or if there has been any other material delinquency not cured within 30 days, with respect to any class of preferred stock of the bank which is registered or which ranks prior to any class of registered securities, or with respect to any class of preferred stock of any significant subsidiary of the bank, give the title of the class and state the nature of the arrearage or delinquency. In the case of any arrearage in the payment of dividends, state the amount and the total arrearage on the date of filing this report.

Instruction. Item 8 need not be answered as to any default or arrearage with respect to any class of securities all of which is held by, or for the account of, the bank or its totally held subsidiaries.

ITEM 9—APPROXIMATE NUMBER OF EQUITY SECURITY HOLDERS

State in the tabular form indicated below the approximate number of holders of record of each class of equity securities of the bank as of the end of the fiscal year.

(1) Title of class	(2) Number of record holders

Instructions. 1. Attention is directed to the definition of the term "equity security" in section 3(a)(11) of the Act and the definition of the term "held of record" in 12 CFR 11.2(j). 2. Information shall be given as of the end of the last fiscal year or as of any subsequent date, except that if the latest determination of the number of record holders of any class of equity securities was made for some other purpose within 90 days

prior to the end of the last fiscal year, the information may be given as of the date of such determination. 3. Information need not be given with respect to the number of holders of outstanding nontransferable options to purchase securities of the bank.

ITEM 10—SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

If any matter has been submitted to a vote of security holders, through the solicitation of proxies or otherwise, furnish the following information if not previously disclosed in a report on Form F-4.

(a) The date of the meeting and whether it was an annual or special meeting.

(b) If the meeting involved the election of directors, state the name of each director elected at the meeting and the name of each other director whose term of office as a director continued after the meeting.

(c) Briefly describe each other matter voted upon at the meeting and state the number of affirmative votes and the number of negative votes cast with respect to each such matter.

Instructions. 1. If any matter has been submitted to a vote of security holders otherwise than at a meeting of such security holders, corresponding information with respect to such submission shall be furnished. The solicitation of any authorization or consent (other than a proxy to vote at a stockholders' meeting) with respect to any matter shall be deemed a submission of such matter of a vote of security holders within the meaning of the item. 2. Paragraph (a) need be answered only if paragraph (b) or (c) is required to be answered. 3. Paragraph (b) need not be answered if: (i) Proxies for the meeting were solicited pursuant to 12 CFR 11.5, (ii) there was no solicitation in opposition tothe management's nominees as listed in the proxy statement, and (iii) all of such nominees were elected. If the bank did not solicit proxies and the board of directors as previously reported to the Comptroller of the Currency was reelected in its entirety, a statement to that effect in answer to paragraph (b) will suffice as an answer thereto. 4. Paragraph (c) need not be answered as to procedural matters or as to the selection or approval of auditors. 5. If the bank has published a report contaning all of the information called for by the item, the item may be answered by a reference to the information contained in such report, provided copies of such report are filed as an exhibit.

ITEM 11—OFFICERS OF THE BANK

(a) List the names and ages of all officers of the bank and all persons chosen to become officers; state the nature of any family relationship between them; indicate all positions and offices with the registrant held by each such person; state his term of office as officer and the period during which he has served as such and briefly describe any arrangement or understanding between him and any other person pursuant to which he was selected as an officer.

Instructions. 1. Do not include arrangements or understandings with directors or officers of the bank acting solely in their capacities as such. 2. The term "family relationship" means any relationship by blood, marriage or adoption, not more remote than first cousin.

(b) Give a brief account of the business experience during the past five years of each officer, including his principal occupations and employment during that period and the name and principal business of any corporation or other organization in which such occupations and employment were carried on. Where an officer has been employed by the bank or a subsidiary of the bank for less than 5 years, a brief explanation should be included as to the nature of the responsibilities undertaken by the individual in prior positions to provide adequate disclosure of his prior business experience. What is required is information relating to the level of his professional competence, which may include, depending upon the circumstances, such specific information as the size of the operation supervised.

ITEM 12—INDEMNIFICATION OF DIRECTORS AND OFFICERS

State the general effect of any charter provision, by-law, contract, arrangement or statute under which any director or officer of the bank is insured or indemnified in any manner against any liability which he may incur in his capacity as such.

ITEM 13—FINANCIAL STATEMENTS AND EXHIBITS

List below all financial statements and exhibits filed as a part of the annual report:

(a) Financial statements.

(b) Exhibits.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the bank has duly caused this annual report to be signed on its behalf by the undersigned, thereunto duly authorized.

(Name of bank) _____

(By name and title of signing officer) _____

(Date) _____

FORM F-2—INSTRUCTIONS AS TO FINANCIAL STATEMENTS

These instructions specify the balance sheets and statements of income required to be filed as a part of annual report on this form. Section 11.7 of this part governs verification, form, and content of the balance sheets and statements of income required, including the basis of consolidation, and prescribes the statement of changes in capital accounts, statements of changes in financial position, and the schedules to be filed in support thereof.

1. *Financial Statements of the Bank.* (a) There shall be filed for the bank, in comparative columnar form, verified balance sheets as of the end of the last two fiscal years and verified statements of income, changes in capital accounts and changes in financial position for such fiscal years.

2. *Consolidated Statements.* • • •

15. By amending § 11.43, Form F-3 as follows. Item 13 will be renumbered as Item 6.

§ 11.43 Form for current report of a bank (Form F-3).

. • . . . . .

GENERAL INSTRUCTIONS

A. • • •

B. Events to be Reported.

A report on this form is required to be filed upon the occurrence of any one or more of the events specified in the items of this form. Reports are to be filed within 15 days after the occurrence of the earliest event required to be reported. However, reports which disclose events pursuant to item 5 may be filed within 10 days after the close of the month during which the event occurred. If the letter from the independent accountant to be funished pursuant to Item 4(d) is unavailable at the time of filing, it shall be filed within thirty days thereafter. However if substantially the same information as that required by this form has been previously reported by the bank, an additonal report of the information on this form need not be made.

C. • • •

INFORMATION TO BE INCLUDED IN REPORT.

ITEM 1—CHANGES IN CONTROL OF BANK

(a) If, to the knowledge of management, a change in control of the bank has occurred, state the name of the person(s) who acquired such control; the amount and the source of the consideration used by such person(s); the basis of the control; the date and a description of the transaction(s) which resulted in the change in control; the percentage of voting securities of the bank now beneficially owned directly or indirectly by the person(s) who acquired control; and the identity of the person(s) from whom control was assumed. If the source of all or any part of the consideration used is a loan made in the ordinary course of business by a bank as defined by Section 3(a)(6) of the Act, the identity of such bank shall be omitted provided (1) a letter is furnished to the Comptroller of the Currency identifying the bank and requesting confidential treatment of the information and (2) the material shall indicate that disclosure of the identity of the bank has been so omitted and filed separately with the Comptroller of the Currency.

Instructions. 1. State the terms of any loans or pledges obtained by the new control group for the purpose of acquiring control, and the names of the lenders or pledgees. 2. Any arrangements or understandings among members of both the former and new control groups and their associates with respect to election of directors or other matters should be described.

(b) Describe any contractual arrangements, including any pledge of securities of the bank, or any of its parents, known to management, the operation of the terms of which may at a subsequent date result in a change in control of the bank.

Instruction. Paragraph (b) does not require a description of ordinary default provisions contained in the charter, trust indentures or other governing instruments relating to securities of the bank.

ITEM 2—ACQUISITION OR DISPOSITION OF ASSETS

If the bank or any of its majority-owned subsidiaries has acquired or disposed of a significant amount of assets, otherwise than in the ordinary course of business, furnish the following information:

(a) The date and manner of the acquisition or disposition and a brief description of the assets involved, the nature and amount of consideration given or received therefor, the principle followed in determining the amount of such consideration, the identity of the person(s) from whom the assets were acquired or to whom they were sold and the nature of any material relationship between such person(s) and the bank or any of its affiliates, any director or officer of the bank, or any associate of any such director or officer. If the transaction being reported is an acquisition, identify the source(s) of the funds used unless all or any part of the consideration used is a loan made in the ordi-

nary course of business by a bank as defined by Section 3(a)(6) of the Act in which case the identity of such bank shall be omitted provided: (i) A letter is furnished to the Comptroller of the Currency identifying the bank and requesting confidential treatment of the information and (2) the material shall indicate that disclosure of the identity of the bank has been so omitted and filed separately with the Comptroller of the Currency.

(b) If any assets so acquired by the bank or its subsidiaries constituted plant, equipment or other physical property, state the nature of the business in which the assets were used by the persons from whom acquired and whether the bank intends to continue such use or intends to devote the assets to other purposes, indicating such other purposes.

Instructions. 1. No information need be given as to (i) any transaction between any person and any wholly-owned subsidiary of such person; (ii) any transaction between two or more wholly-owned subsidiaries of any person; or (iii) the redemption or other acquisition of securities from the public, or the sale or other disposition of securities to the public, by the issuer of such securities. 2. The term "acquisition" includes every purchase, acquisition by lease, exchange, merger, consolidation, succession or other acquisition: *Provided*, That such term does not include the construction or development of property by or for the bank or its subsidiaries or the acquisition of materials for such purpose. The term "disposition" includes every sale, disposition by lease, exchange, merger, consolidation, mortgage, or hypothecation of assets, assignment, whether for the benefit of creditors or otherwise, abandonment, destruction, or other disposition. 3. The information called for by this item is to be given as to each transaction or series of related transactions of the size indicated. The acquisition or disposition of securities shall be deemed the indirect acquisition or disposition of the assets represented by such securities if it results in the acquisition or disposition of control of such assets. 4. An acquisition or disposition shall be deemed to involve a significant amount of assets (i) if the bank's and its other subsidiaries' equity in the net book value of such assets or the amount paid or received therefor upon such acquisition or disposition exceeded 10 percent of the total assets of the bank and its consolidated subsidiaries, (ii) if it involved the succession to or disposition of a business which would meet the test of a significant subsidiary, or (iii) if it involved the acquisition or disposition of an interest in a business which would meet the test of a significant subsidiary and would be required to be accounted for by the equity method. 5. Where assets are acquired or disposed of through the acquisition or disposition of control of a person, the person from whom such control was acquired or to whom it was disposed of shall be deemed the person from whom the assets were acquired or to whom they were disposed of, for the purposes of this item. Where such control was acquired from or disposed of not more than five persons, their names shall be given; otherwise it will suffice to identify in an appropriate manner the class of such persons. 6. Attention is directed to the requirements in Item 6 of the form with respect to the filing of financial statements for businesses acquired and to the filing of copies of the plans of acquisition or disposition as exhibits to the report.

ITEM 3—BANKRUPTCY OR RECEIVERSHIP

If a receiver, conservator, fiscal agent or similar officer has been appointed for a bank or its parent, in a proceeding under the Bankruptcy Act or in any other proceeding under state or Federal law in which a court or governmental agency has assumed jurisdiction over substantially all of the assets or business of the bank or its parent, or if such jurisdiction has been assumed by leaving the existing directors and officers in possession but subject to the supervision and orders of a court or governmental body, identify the proceeding, the court or governmental body, the date jurisdiction was assumed, the identity of the receiver, conservator, fiscal agent or similar officer and the date of his appointment.

ITEM 4—CHANGES IN BANK'S CERTIFYING ACCOUNTANT

If an independent accountant who was previously engaged as the principal accountant to audit the bank's financial statements resigns (or indicates he declines to stand for re-election after the completion of the current audit) or is dismissed as the bank's principal accountant, or another independent accountant is engaged as principal accountant, or if an independent accountant on whom the principal accountant expressed reliance in his report regarding a significant subsidiary resigns (or formally indicates he declines to stand for re-election after the completion of the current audit) or is dismissed or another independent accountant is engaged to audit that subsidiary:

(a) State the date of such resignation (or declination to stand for re-election) dismissal or engagement.

(b) State whether in connection with the audits of the two most recent fiscal years and any subsequent interim period preceding such resignations, dismissal or engagement there were any disagreements with the former accountant or any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which disagreements if not resolved to the satisfaction of the former accountant would have caused him to make reference in connection with his report to the subject matter of the disagreement(s); also, describe each such disagreement. The disagreements required to be reported in response to the preceding sentence include both those resolved to the former accountant's satisfaction and those not resolved to the former accountant's satisfaction. Disagreements contemplated by this rule and those which occur at the decision-making level; i.e., between personnel of the bank responsible for presentation of its financial statements and personnel of the accounting firm responsible for rendering its report.

(c) State whether the principle accountant's report on the financial statements for any of the past two years contained an adverse opinion or a disclaimer of opinion or was qualified as to the uncertainty, audit scope, or accounting principles; also describe the nature of each adverse opinion, disclaimer of opinion or qualification.

(d) The bank shall request the former accountant to furnish the bank with a letter addressed to the Comptroller of the Currency stating whether he agrees with the statements made by the bank in response to this item and, if not, stating the respects in which he does not agree. The bank shall file a copy of the former accountant's letter as an exhibit with all copies of the Form F-3 required to be filed pursuant to 12 CFR 11.4(q).

ITEM 5—OTHER MATERIALLY IMPORTANT EVENTS

The bank may, at its option, report under this item any events, with respect to which information is not otherwise called for by this form, which the bank deems of material importance to security holders.

ITEM 6—FINANCIAL STATEMENTS AND EXHIBITS

* * * * *

2. *Statements Required*

(a) ***

(b) Statements of income, statement of changes in capital accounts, and statements of changes in financial position of the bank shall be filed for each of the last 3 full fiscal years and for the period, if any, between the close of the latest of such fiscal years and date of the latest balance sheet filed. These statements of income, changes in capital accounts and changes in financial position shall be verified up to the date of the verified balance sheet.

* * * * *

12. By amending § 11.44, Form F-4 as follows:

§ 11.44 Form for quarterly report of bank (Form F-4).

COMPTROLLER OF THE CURRENCY—FORM F-4, QUARTERLY REPORT

.....

(Name of bank)

.....

(City and State)

PART I, FINANCIAL INFORMATION

* * * * *

(e) *Incorporation by reference to published statements.* If the bank makes available to its stockholders or otherwise publishes, within the period prescribed for filing the report, a financial statement containing the information required by this form, such information may be incorporated by reference to such published statement if copies thereof are filed as an exhibit to Part I of this report. Other information may be incorporated by reference in answer or partial answer to any other item of Part II of this report in accordance with the provisions of 12 CFR 11.4(*l*).

Instructions (f), (g), (h), (i) and (j) will remain unchanged.

PART II, OTHER INFORMATION

Instruction. The report shall contain the item numbers and captions of all applicable items of Part II, but the text of such items may be omitted: *Provided*, The responses clearly indicate the coverage of the item. Any item which is inapplicable or to which the answer is negative may be omitted and no reference thereto need be made in the report. If substantially the same information has been previously reported by the bank, an additional report of the information on this form need not be made. The term "previously reported" is defined in 12 CFR 11.2(t).

ITEM 1—LEGAL PROCEEDINGS

(a) Briefly describe any material legal proceedings, other than ordinary routine litigation incidental to the business, to which the bank or any of its subsidiaries has become a party or of which any of their property has become the subject. Include the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceedings and the relief sought.

(b) If any such proceeding previously reported has been terminated, identify the proceeding, give the date of termination and describe the disposition thereof with respect to the bank and its subsidiaries.

Instructions. 1. If the business ordinarily results in actions for negligence or other claims, no such action or claim need be described unless it departs from the normal kind of such actions.

2. No information need be given with respect to any proceeding which involves primarily a claim for damages if the amount involved, exclusive of interest and costs, does not exceed 10 percent of the current assets of the bank and its subsidiaries on a consolidated basis. However, if any proceeding presents in large degree the same issues as other proceedings pending or known to be contemplated, the amount involved in such other proceedings shall be included in computing such percentage.

3. Notwithstanding the foregoing instructions, any bankruptcy, conservatorship, receivership or similar proceeding with respect to the bank or any of its significant subsidiaries shall be described. Any proceeding to which any director, officer of affiliate of the bank, any principal holder of equity securities of the bank or any associate of any such director, officer or security holder, is a party adverse to the bank or any of its subsidiaries shall also be described.

4. Notwithstanding the foregoing, administrative or judicial proceedings arising under any Federal, state or local provisions regulating the discharge of materials into the environment or otherwise relating to the protection of the environment shall not be deemed "ordinary routine litigation incidental to the business" and shall be described if such proceeding is material to the business or financial condition of the bank or if it involves primarily a claim for damages and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the bank and its subsidiaries on a consolidated basis. Any such proceeding by governmental authorities shall be deemed material and shall be described whether or not the amount of any claim for damages involved exceeds 10 percent of current assets on a consolidated basis and whether or not such proceedings are considered "ordinary routine litigation incidental to the business:" *Provided, however*, That such proceedings which are similar in nature may be grouped and described generically stating: the number of such proceedings in each group; a generic description of such proceedings; the issues generally involved; and, if such proceedings in the aggregate are material to the business or financial condition of the bank, the effect of such proceedings on the business or financial condition of the bank.

ITEM 2—CHANGES IN SECURITIES

(a) If the constituent instruments defining the rights of the holders of any class of registered securities have been materially modified, give the title of the class of securities involved and state briefly the general effect of such modification upon the rights of holders of such securities.

(b) If the rights evidenced by any class of registered securities have been materially limited or qualified by the issuance or modification of any other class of securities, state briefly the general effect of the issuance or modification of such other class of securities upon the rights of the holders of the registered securities.

Instruction. Working capital restrictions and other limitations upon the payment of dividends are to be reported hereunder.

ITEM 3—DEFAULTS UPON SENIOR SECURITIES

(a) If there has been any material default in the payment of principal, interest, a sinking or purchase fund installment, or any other material default not cured within 30 days, with respect to any indebtedness of the bank or any of its significant subsidiaries exceeding 5 percent of the total assets of the bank and its consolidated subsidiaries, identify the indebtedness and state the nature of the default. In the case of such a default in the payment of principal, interest, or a sinking or purchase fund installment, state the amount of the default and the total arrearage on the date of filing this report.

Instruction. This paragraph refers only to events which have become defaults under the governing instruments, i.e., after the expiration of any period of grace and compliance with any notice requirements.

(b) If any material arrearage in the payment of dividends has occurred or if there has been any other material delinquency not cured within 30 days, with respect to any class of preferred stock of the bank which is registered or which ranks prior to any class of registered securities, or with respect to any class of preferred stock of any significant subsidiary of the bank, give the title of the class and state the nature of the arrearage or delinquency. In the case of an arrearage in the payment of dividends, state the amount and the total arrearage on the date of filing this report.

Instruction. Item 4 need not be answered as to any default or arrearage with respect to any class of securities all of which is held by, or for the account of, the bank or its totally held subsidiaries.

ITEM 4—INCREASE IN AMOUNT OUTSTANDING OF SECURITIES OR INDEBTEDNESS

If the amount outstanding of securities or indebtedness of the bank has been increased through the issuance of any new class of securities or indebtedness or through the issuance or re-issuance of any additional securities or indebtedness of a class outstanding, and the aggregate amount of all such increases not previously reported exceeds 5 percent of the outstanding securities or indebtedness of the class, furnish the following information:

(a) Title of class, the amount outstanding as last previously reported, and the amount presently outstanding (as of a specified date);

(b) A brief description of the transaction(s) resulting in the increase and a statement of the aggregate net cash proceeds or the nature and aggregate amount of any other consideration received or to be received by the bank;

(c) The names of the principal underwriters, if any, indicating any such underwriters which are affiliates of the bank;

(d) A reasonably itemized statement of the purposes, so far as determinable, for which the net proceeds have been or are to be used and the approximate amount used or to be used for each such purpose;

(e) A statement as to whether or not any such securities were registered under the Securities Act of 1933; if not, an indication of the exemption claimed and the facts relied upon to make the exemption available; and

(f) If the securities were capital shares, a statement of the amount of proceeds credited or to be credited to any account other than the appropriate capital share account.

Instructions. 1. For the purpose of responding to this item, the bank may treat each of the following as a single class of indebtedness: (i) Convertible long term debt; and (ii) other indebteness.

2. This item does not apply to notes, drafts, bills of exchange, bankers' acceptances or other obligations which mature not later than 1 year from the date of issuance. No report need be made where the amount not previously reported, although in excess of 5 percent of the amount outstanding, does not exceed $50,000 face amount of indebtedness or 1,000 shares or other units.

3. This item includes the reissuance of treasury securities and securities held for the account of the issuer thereof. The extension of the maturity date of indebtedness shall be deemed to be the issuance of new indebtedness for the purpose of this item. In the case of such an extension, the percentage shall be computed upon the basis of the principal amount of the indebtedness extended.

ITEM 5—DECREASE IN AMOUNT OUTSTANDING OF SECURITIES OR INDEBTEDNESS

If the amount outstanding of any class of securities or indebtedness of the bank has been decreased through one or more transactions and the aggregate amount of all such decreases not previously reported exceeds 5 percent of the amount of securities or indebtedness of the class previously outstanding, furnish the following information:

(a) Title of the class, the amount outstanding as last previously reported, and the amount presently outstanding (as of a specified date).

(b) A brief description of the transaction(s) involving the decrease and a statement of the aggregate amount of cash or the nature and aggregate amount of any other consideration paid or to be paid by the registrant in connection with such transaction or transactions.

Instruction. Instructions 1 and 2 to Item 5 shall also apply to this item. This item need not be answered as to decreases resulting from ordinary sinking fund operations, similar periodic decreases made pursuant to the terms of the constituent instruments, decreases resulting from the conversion of securities or decreases resulting from payment of indebtedness at maturity.

ITEM 6—SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

If any matter has been submitted to a vote of security holders, through the solicitation of proxies or otherwise, furnish the following information:

(a) The date of the meeting and whether it was an annual or special meeting.

(b) If the meeting involved the election of directors, state the name of each director elected at the meeting and the name of each

other director whose term of office as a director continued after the meeting.

(c) Briefly describe each other matter voted upon at the meeting and state the number of affirmative votes and the number of negative votes cast with respect

§ 11.47 [Amended]

13. By amending § 11.47, Form F-11, to delete present Item 7 entitled "Persons Retained, Employed or to be Compensated" and present Item 8,

Instructions. 1. Historical statements of incomne in their entirety, as required by Item 15, may be furnished in lieu of the summary of earnings specified in subparagraph (5). If summary of earnings information is presented, show, at a minimum, total

confusing. Matter incorporated by reference shall be clearly identified in the reference by page, paragraph, caption or otherwise. An express statement that the specified matter is incorporated by reference shall be

of the Currency by the subject bank unless the bidder has reason to believe such information is not current), the exact amount of such securities being sought and the consideration being offered therefor; and

schedule (including those persons enumerated in Instruction C of this schedule) and:

(1) The subject bank or any of its affiliates which are corporations: *Provided, however*, That no disclosure need be made with

other director whose term of office as a director continued after the meeting.

(c) Briefly describe each other matter voted upon at the meeting and state the number of affirmative votes and the number of negative votes cast with respect to each such matter.

Instructions. 1. If any matter has been submitted to a vote of security holders otherwise than at a meeting of such security holders, corresponding information with respect to such submission shall be furnished. The solicitation of any authorization or consent (other than a proxy to vote at a stockholders' meeting) with respect to any matter shall be deemed a submission of such matter to a vote of security holders within the meaning of this item.

2. Paragraph (a) need be answered only if paragraph (b) or (c) is required to be answered.

3. Paragraph (b) need not be answered if (i) proxies for the meeting were solicited pursuant to 12 CFR 11.5, (ii) there was no solicitation in opposition to the management's nominees as listed in the proxy statement, and (iii) all of such nominees were elected. If the bank did not solicit proxies and the board of directors as previously reported to the Comptroller of the Currency was re-elected in its entirety, a statement to that effect in answer to paragraph (b) will suffice as an answer thereto.

4. Paragraph (c) need not be answered as to procedural matters or as to the selection or approval of auditors.

5. If the bank has published a report containing all of the information called for by this item, the item may be answered by a reference to the information contained in such report, provided copies of such report are filed as an exhibit to the report on this form.

ITEM 7—OTHER MATERIALLY IMPORTANT EVENTS

The bank may, at its option, report under this item any events, not previously reported in a report on Form F-3, with respect to which information is not otherwise called for by this form but which the bank deems of material importance to security holders.

ITEM 8—EXHIBITS AND REPORTS ON FORM F-3

(a) Exhibits. List below the documents, if any, filed as a part of this report. Subject to the rules as to incorporation by reference, the following documents shall be filed as exhibits:

1. Copies of the amendments to all constituent instruments and other documents described in answer to Item 2.

2. Copies of all constituent instruments defining the rights of the holders of any new class of securities referred to in answer to Item 5.

3. Copies of the text of any proposal described in answer to Item 6.

4. Copies of any published report furnished in response to Item 6. (See Item 6, Instruction 5.)

5. Copies of any material amendment to the bank's charter or by-laws not otherwise required to be filed.

(b) Reports on Form F-3. State whether any reports on Form F-3 have been filed during the quarter for which this report is filed, listing the items reported, any financial statements filed, and the dates of any such reports.

§ 11.47 [Amended]

13. By amending § 11.47, Form F-11, to delete present Item 7 entitled "Persons Retained, Employed or to be Compensated" and present Item 8, "Materials to be Filed as Exhibits," would be renumbered Item 7.

14. By amending § 11.51, Form F-5, Item 5(e), Item 14(b)(7)(i)(A), Item 14, Instruction 1 and Item 15(a) to read as follows:

§ 11.51 Form for proxy statement or statement where management does not solicit proxies (Form F-5)

. . . . . .

ITEM 5— * * *

. . . . . .

(e) If, the knowledge of the persons on whose behalf the solicitation is made, a change in control of the bank has occurred since the beginning of its last fiscal year, state the name of the person(s) who acquired such control, the amount and the source of the consideration used by such person(s); the basis of the control, the date and a description of the transaction(s) which resulted in the change of control and the percentage of voting securities of the bank now beneficially owned directly or indirectly by the person(s) who acquired control; and the identity of the person(s) from whom control was assumed. If the source of all or any part of the consideration used is a loan made in the ordinary course of business by a bank as defined by section 3(a)(6) of the Act, the identity of such bank shall be omitted provided a request for confidentiality has been made pursuant to Section 13(d)(1)(B) of the Act by the person(s) who acquired control. In lieu thereof, the material shall indicate the identity of the bank has been so omitted and filed separately with the Comptroller of the Currency. If the source of all or any part of the funds used to acquire control of the bank was a loan made by a bank as defined by section 3(a)(6) of the Act, indicate whether there exists any agreement, arrangement, or understanding pursuant to which the registrant bank maintains or would maintain a correspondent deposit account at such lending bank.

Instructions. 1. State the terms of any loans or pledges obtained by the new control group for the purpose of acquiring control, and the names of the lenders or pledgees.

2. Any arrangements or understandings among members of both the former and new control groups and their associates with respect to electiofn of directors or other matters should be described.

. . . . . .

ITEM 14— * * *

. . . . . .

(b) * * *

(7) A tabular presentation of comparative per share data of the constituent bank or other persons pertaining to;

(I)(A) Income before securities gains (losses), (B) net income, and (C) Dividends declared for each of the last five fiscal years; and

. . . . . .

Instructions. 1. Historical statements of incomne in their entirety, as required by Item 15, may be furnished in lieu of the summary of earnings specified in subparagraph (5). If summary of earnings information is presented, show, at a minimum, total operating income; provision for possible loan losses; total other operating expenses (excluding provision for possible loan losses); income before income taxes and securities gains (losses); applicable income taxes; income (loss) before securities gains (losses); securities gains (losses) less related income taxes; net income (loss); earnings per common share before securities gains (losses) and net income. Dividends per share shall be shown. The summary indicates retroactive adjustments of any material items affecting the comparability of the results.

. . . . . .

ITEM 15— * * *

(a) If action is to be taken with respect to any matter specified in Items 12, 13, or 14, above, furnish verified financial statements of the bank and its subsidiaries such as would be required in a registration statement filed pursuant to this part. In addition, the latest available interim balance sheet and statement of income for the interim period between the end of the last fiscal year and the interim balance sheet date and comparable prior period, shall be furnished. The information similar to that required by Schedules III, VII, and VIII (Loans, Reserve for Possible Loan Losses, and Deposits) shall be furnished in the notes to financial statements for periods as required by Section 11.7(g).

15. By adding a new § 11.54 (Form F-13), to read as follows:

§ 11.54 Tender offer statement pursuant to section 14(d)(1) of the Securities Exchange Act of 1934 (Form F-13).

COMPTROLLER OF THE CURRENCY

FORM F-13

(Name of Subject Bank)

(Bidder)

(Title of Class of Securities)

(Name, address and telephone number of person authorized to receive notices and communications on behalf of bidder)

Instruction. 1. Four copies of this statement, including all exhibits should be filed with the Comptroller of the Currency.

GENERAL INSTRUCTIONS

A. The item numbers and captions of the item shall be included but the text of the items may be omitted. The answers to the items shall be so prepared as to indicate clearly the coverage of the items without referring to the text of the items. Answer every item. If an item is inapplicable or the answer is in the negative, so state.

B. Information contained in exhibits to the statement may be incorporated by reference in answer or partial answer to any item or sub-item of the statement unless it would render such answer incomplete, unclear or confusing. Matter incorporated by reference shall be clearly identified in the reference by page, paragraph, caption or otherwise. An express statement that the specified matter is incorporated by reference shall be made at the particular place in the statement where the information is required.

C. If the statement if filed by a partnership, limited partnership, syndicate or other group, the information called for by Items 2-7, inclusive, shall be given with respect to: (i) Each partner of such partnership; (ii) each partner who is denominated as a general partner or who functions as a general partner of such limited partnership; (iii) each member of such syndicate or group; and (iv) each person controlling such partner or member. If the statement is filed by a corporation, or if a person referred to in (i), (ii), (iii), or (iv) of this Instruction is a corporation, the information called for by the above mentioned items shall be given with respect to: (a) Each executive officer and director of such corporation; (b) each person controlling such corporation; and (c) each executive officer and director of any corporation ultimately in control of such corporation. Executive officer shall mean the president, secretary, treasurer, and any vice president in charge of a principal business function (such as sales, administration or finance) and any other person who performs similar policy making functions for the corporation. A response to an item in the statement is required with respect to the bidder and to all other persons referred to in this instruction unless such item specifies to the contrary.

D. Upon termination of the tender offer, the bidder shall promptly file a final amendment to Form F-13 disclosing all material changes in the items of that Schedule and stating that the tender offer has terminated, the date of such termination and the results of such tender offer.

E. If the bidder, before filing this statement, has filed a Form F-11 with respect to the acquisition of securities of the same class referred to in Item 1(a) of this statement, the bidder shall amend such Form F-11 and may do so by means of this statement and amendments thereto, including the final amendment required to be filed by Instruction D: *Provided*, That the bidder indicates on the cover sheet of this statement that it is amending its Form F-11 by means of this statement.

F. The final amendment required to be filed by Instruction D shall be deemed to satisfy the reporting requirements of section 13(d) of he Act with respect to all securities acquired by the bidder pursuant to the tender offer as reported in such final amendment.

G. For purposes of this statement, the following definitions shall apply:

(i) The term "bidder" means any person on whose behalf a tender offer is made; and

(ii) The term "subject bank" means any bank whose securities are registered pursuant to Section 12(b) or Section 12(g) of the Securities Exchange Act of 1934 and whose securities are sought by a bidder pursuant to a tender offer.

ITEM 1—SECURITY AND SUBJECT BANK

(a) State the name of the subject bank and the address of its principal office;

(b) State the exact title and the number of shares outstanding of the class of equity securities being sought (which may be based upon information contained in the most recently available filing with the Comptroller of the Currency by the subject bank unless the bidder has reason to believe such information is not current), the exact amount of such securities being sought and the consideration being offered therefor; and

(c) Identify the principal market in which such securities are traded and state the high and low sales prices for such securities in such principal market (or, in the absence thereof, the range of high and low bid quotations) for each quarterly period during the past two years.

ITEM 2—IDENTITY AND BACKGROUND

If the person filing this statement or any person enumerated in Instruction C of this statement is a corporation, partnership, limited partnership, syndicate or other group of persons, state its name, the state or other place of its organizations, its principal business, the address of its principal office and the information required by (e) and (f) of this Item. If such person filing this statement or any person enumerated in Instruction C is a natural person, provide the information specified in (a) through (g) of ths Item with respect to such person(s).

(a) Name;

(b) Residence or business address;

(c) Present principal occupation or employment and the name, principal business and address of any corporation or other organization in which such employment or occupation is conducted;

(d) Material occupations, positions, offices or employments during the last 5 years, giving the starting and ending dates of each and the name, principal business and address of any business corporation or other organization in which such occupation, position, office or employment was carried on;

Instruction. 1. If a person has held various positions with the same organization, or if a person holds comparable positions with multiple related organizations, each and every position need not be specifically disclosed.

(e) Whether or not, during the last 5 years, such person has been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors) and, if so, give the dates, nature of conviction, name and location of court, and penalty imposed or other disposition of the case;

Instruction. 1. While a negative answer to this subitem is required in this schedule, it need not be furnished to security holders.

(f) Whether or not, during the last 5 years, such person was a party to a civil proceeding of a judicial or administrative body of competent jurisdiction and a result of such proceeding, was or is subject to a judgment, decree or final order enjoining future violations of, or prohibiting activities subject to, Federal or state securities laws or finding any violation of such laws, and, if so, identify and describe such proceeding and summarize the terms of such judgment, decree or final order; and

Instruction. 1. While a negative answer to this subitem is required in this schedule, it need not be furnished to security holders.

(g) Citizenship(s).

ITEM 3—PAST CONTACTS, TRANSACTIONS OR NEGOTIATIONS WITH THE SUBJECT BANK

(a) Briefly state the nature and approximate amount (in dollars) of any transaction, other than those described in Item 3(b) of this schedule, which has occurred since the commencement of the subject bank's third full fiscal year preceding the date of this schedule, between the person filing this schedule (including those persons enumerated in Instruction C of this schedule) and:

(1) The subject bank or any of its affiliates which are corporations: *Provided, however,* That no disclosure need be made with respect to any transaction if the aggregate amount involved in such transaction was less than one percent of the subject bank's consolidated revenues (which may be based upon information contained in the most recently available filing with the Comptroller of the Currency by the subject bank, unless the bidder has reason to believe otherwise) (i) for the fiscal year in which such transaction occurred, or (ii) for the portion of the current fiscal year which has occurred, if the transaction occurred in such year; and

(2) The executive officers, directors of affiliates of the subject bank which are not corporations if the aggregate amount involved in such transaction or in a series of similar transactions, including all periodic installments in the case of any lease or other agreement providing for periodic payments or installments, exceeds $40,000.

(b) Describe any contacts, negotiations or transactions which have occurred since the commencement of the subject bank's third full fiscal year preceding the date of this schedule between the bidder or its subsidiaries (including those persons enumerated in Instruction C of this schedule) and the subject bank or its affiliates concerning, a merger, consolidation or acquisition, a tender offer or other acquisition of securities, an election of directors, or a sale or other transfer of a material amount of assets.

ITEM 4—SOURCE AND AMOUNT OF FUNDS OR OTHER CONSIDERATION

(a) State the source and the total amount of funds or other consideration for the purchase of the maximum number of securities for which the tender offer is being made.

(b) If all or any part of such funds or other consideration are or are expected to be, directly or indirectly, borrowed for the purpose of the tender offer:

(1) Provide a summary of each loan agreement or arrangement containing the identity of the parties, the term, the collateral, the stated and effective interest rates, and other material terms or conditions relative to such loan agreements; and

(2) Briefly describe any plans or arrangements to finance or repay such borrowings, or if no such plans or arrangements have been made, make a statement to that effect.

(c) If the source of all or any part of the funds to be used in the tender offer is a loan made in the ordinary course of business by a bank as defined in Section 3(a)(6) of the Act, the name of such bank shall not be available to the public if the person filing the statement so requests in writing and files such request, naming such bank, with the Comptroller of the Currency.

(d) If the source of all or any part of the funds to be used in the tender offer is a loan made by a bank as defined in section 3(a)(6) of the Act, indicate whether there exists any agreement, arrangement, or understanding pursuant to which the subject bank maintains or would maintain a correspondent deposit account at such lending bank.

ITEM 5—PURPOSE OF THE TENDER OFFER AND PLANS OR PROPOSALS OF THE BIDDER

State the purpose or purposes of the tender offer for the subject bank's securities. Describe any plans or proposals which relate to or would result in:

(a) An extraordinary corporate transaction, such as a merger, reorganization or liquidation, involving the subject bank or any of its subsidiaries;

(b) A sale or transfer of a material amount

ITEM 7—CONTRACTS, ARRANGEMENTS, UNDERSTANDINGS OR RELATIONSHIPS WITH RESPECT TO THE SUBJECT BANK'S SECURITIES

Describe any contract, arrangement, understanding or relationship (whether or not legally enforceable) between the bidder (in-

ly meet the requirements of this item; an express statement is made that such financial statements are incorporated by reference; the matter incorporated by reference is clearly identified by page, paragraph, caption or otherwise, and an indication is made

(c) Any document setting forth the terms of any contracts, arrangements, understandings or relationships referred to in Item 7 or 10(a) of this schedule;

(d) Any written opinion prepared by legal counsel at the bidder's request and commu-

loan losses at the end of the fiscal year. Include in this reserve only the valuation portion that has been established through charges against income.

NOTES.—1. The reserve for possible loan

FOR FURTHER INFORMATION CONTACT:

Thomas Sidman, Assistant Director, Division of Banking Supervision and Regulation, Board of Governors of

(a) An extraordinary corporate transaction, such as a merger, reorganization or liquidation, involving the subject bank or any of its subsidiaries;

(b) A sale or transfer of a material amount of assets of the subject bank or any of its subsidiaries;

(c) Any change in the present board of directors or management of the subject bank including, but not limited to, any plans or proposals to change the number or the term of directors or to fill any existing vacancies on the board;

(d) Any material change in the present capitalization or dividend policy of the subject bank;

(e) Any other material change in the subject bank's corporate structure or business;

(f) Causing a class of securities of the subject bank to be delisted from a national securities exchange or to cease to be authorized to be quoted in an inter-dealer quotation system of a registered national securities association; or

(g) A class of equity securities of the subject company becoming eligible for termination of registration pursuant to Section 12(g)(4) of the Act.

ITEM 6—INTEREST IN SECURITIES OF THE SUBJECT BANK

(a) State the aggregate number and percentage of the class represented by such shares (which may be based on the number of shares outstanding as contained in the most recently available filing with the Comptroller of the Currency by the subject bank unless the bidder has reason to believe such information is not current), beneficially owned (identifying those shares for which there is a right to acquire) by each person named in Item 2 of this schedule and by each associate and majority-owned subsidiary of such person giving the name and address of any such associate or subsidiary.

(b) Describe any transaction in the class of securities reported on that was effected during the past 60 days by the persons named in response to paragraph (a) of this Item or by an executive officer, director or subsidiary of such person.

Instructions. 1. The description of a transaction required by Item 6(b) shall include, but not necessarily be limited to: (1) the identity of the person covered by Item 6(b) who effected the transaction; (2) the date of the transaction; (3) the amount of securities involved; (4) the price per share; and (5) where and how the transaction was effected. 2. If the information required by Item 6(b) of this schedule is available to the bidder at the time this statement is initially filed with the Comptroller of the Currency pursuant to 12 CFR 11.5(f)(6), such information should be included in such initial filing. However, if such information is not available to the bidder at the time of such initial filing, it should be filed with the Comptroller of the Currency promptly but in no event later than two business days after the date of such filing, and if material should be disclosed to security holders of the subject bank in a manner similar to that in which the tender offer was first published, sent or given to such security holders. The procedure specified in this Instruction is provided for the purpose of maintaining the confidentiality of the tender offer in order to avoid possible misuse of inside information.

ITEM 7—CONTRACTS, ARRANGEMENTS, UNDERSTANDINGS OR RELATIONSHIPS WITH RESPECT TO THE SUBJECT BANK'S SECURITIES

Describe any contract, arrangement, understanding or relationship (whether or not legally enforceable) between the bidder (including those persons enumerated in Instruction C of this Schedule) and any person with respect to any securities of the subject bank, (including, but not limited to, any contract, arrangement, understanding or relationship concerning the transfer or the voting of any such securities, joint ventures loan or option arrangements, puts or calls, guaranty of loans, guaranty against loss, or the giving or withholding of proxies) naming the persons with whom such contracts, arrangements, understandings and relationships have been entered into and giving the material provisions thereof. Include such information for any of such securities that are pledged or otherwise subject to a contingency, the occurrence of which would give another person the power to direct the voting or disposition of such securities, except that, disclosure of standard default and similar provisions contained in loan agreements need not be included.

ITEM 8—PERSONS RETAINED, EMPLOYED OR TO BE COMPENSATED

Identify all persons and classes of persons employed, retained or to be compensated by the bidder, or by any person on the bidder's behalf, to make solicitation or recommendation in connection with the tender offer and describe briefly the terms of such employment, retainer or arrangement for compensation.

ITEM 9—FINANCIAL STATEMENTS OF CERTAIN BIDDERS

Where the bidder is other than a natural person and the bidder's financial condition is material to a decision by a security holder of the subject bank whether to sell, tender or hold securities being sought in the tender offer, furnish current, adequate financial information concerning the bidder: *Provided*, That if the bidder is controlled by another entity which is not a natural person and has been formed for the purpose of making the tender offer, furnish current, adequate financial information concerning such parent.

Instructions. 1. The facts and circumstances concerning the tender offer, particularly the terms of the tender offer, may influence a determination as to whether disclosure of financial information is material. However, once the materiality requirement is applicable, the adequacy of the financial information will depend primarily on the nature of the bidder.

In order to provide guidance in making this determination, the following types of financial information will be deemed adequate for purposes of this Item for the type of bidder specified: (a) Financial statements prepared in compliance with SEC Form 10 as amended (17 CFR 349.210) for a domestic bidder which is otherwise eligible to use such form; and (b) financial statements prepared in compliance with SEC Form F-20 (17 CFR 249.200) for a foreign bidder which is eligible to use such forms.

2. If the bidder is subject to the periodic reporting requirements of Section 13(a) or 15(d) of the Act, financial statements contained in any document filed with the Comptroller of the Currency may be incorporated by reference in this schedule solely for the purpose of this schedule: *Provided*, That such financial statements substantially meet the requirements of this item; an express statement is made that such financial statements are incorporated by reference; the matter incorporated by reference is clearly identified by page, paragraph caption or otherwise, and an indication is made where such information may be inspected and copies obtained. Financial statements which are required to be presented in comparative form for two or more fiscal years or periods shall not be incorporated by reference unless the material incorporated by reference includes the entire period for which the comparative data is required to be given.

3. If the bidder is not subject to the periodic reporting requirements of the Act, the financial statements are not available or obtainable without unreasonable cost or expense and a statement is made to that effect disclosing the reasons therefor.

ITEM 10—ADDITIONAL INFORMATION

If material to a decision by a security holder whether to sell, tender or hold securities being sought in the tender offer, furnish information as to the following:

(a) Any present or proposed material contracts, arrangements, understandings or relationship between the bidder or any of its executive officers, directors, controlling persons or subsidiaries and the subject bank or any of its executive officers, directors, controlling persons or subsidiaries (other than any contract, arrangements or understanding required to be disclosed pursuant to Item 3 or 7 of this schedule);

(b) To the extent known by the bidder after reasonable investigation, the applicable regulatory requirements which must be complied with or approvals which must be obtained in connection with the tender offer;

(c) The applicability of anti-trust laws;

(d) The applicability of the margin requirements of section 7 of the Act and the regulations promulgated thereunder;

(e) Any material pending legal proceedings relating to the tender offer including the name and location of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto and a brief summary of the proceedings; and

Instruction. In connection with this subitem, a copy of any document relating to a major development (such as pleadings, an answer, complaint, temporary restraining order, injunction, opinion, judgment or order) in a material pending legal proceedings should be promptly furnished to the Comptroller of the Currency on a supplemental basis.

(f) Such additional material information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made, not materially misleading.

ITEM 11—MATERIAL TO BE FILED AS EXHIBITS

Furnish a copy of:

(a) Tender offer material which is published, sent or given to security holders by or on behalf of the bidder in connection with the tender offer;

(b) Any loan agreement referred to in Item 4 of this schedule;

Instruction. The identity of any bank which is a party to a loan agreement need not be disclosed if the person filing the statement has requested that the identity of such bank not be made available to the public pursuant to Item 4 of this schedule.

(c) Any document setting forth the terms of any contracts, arrangements, understandings or relationships referred to in Item 7 or 10(a) of this schedule;

(d) Any written opinion prepared by legal counsel at the bidder's request and communicated to the bidder pertaining to the tax consequences of the tender offer;

(e) An offering circular when in an exchange offer, the securities are offered utilizing an offering circular prepared pursuant to 12 CFR Part 16.

(f) If any oral solicitation of security holders is to be made by or on behalf of the bidder, any written instructions, form or other material which is furnished to the persons making the actual oral solicitation for their use, directly or indirectly, in connection with the tender offer.

Signature. After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

Signature_____
Name and Title_____
Date_____

The original statement shall be signed by each person on whose behalf the statement is filed or his authorized representative. If the statement is signed on behalf of a person by his authorized representative (other than an executive officer or general partner of the bidder), evidence of the representative's authority to sign on behalf of such person shall be filed with the statement. The name and any title of each person who signs the statement shall be typed or printed beneath his signature.

16. By amending § 11.71, Forms for Financial Statements, Form F-9(A), Item 3(a)(3), and Item 6(b), Note 1, to read as follows:

§ 11.71 Forms for Financial Statements (Forms F-9 A, B, C, D, and E)

* * * * * * *

A. * * *

* * * * * * *

(3) * * *

(a) * * *

(3) Obligations of States and political subdivision.

Include all obligations, including warrants and tax anticipation notes, issued by municipalities, by school, irrigation, drainage, and reclamation districts, and by local housing authorities, including those backed by a U.S. Government Agency. Also include Farmers Home Administration guaranteed loans made for rural community water supply, waste disposal systems, and outdoor recreation centers. Obligations issued by other instrumentalities of one or more states or Puerto Rico, and by dependencies or insular possessions the United States, should be included. Exclude loans to but not investment securities issued by regional or local industrial development authorities whose function is the extension of credit to business firms to assist in relocation or expansion.

Such loans are to be reported in Item 6—Loans.

* * * * * * *

(6) * * *

(b) *Less: Reserve for Possible Loan Losses.* State the balance of the reserve for possible loan losses at the end of the fiscal year. Include in this reserve only the valuation portion that has been established through charges against income.

NOTES.—1. The reserve for possible loan losses allowable under IRS regulations is made up of three parts: (a) Valuation portion; (b) Contingency portion; and (c) Deferred tax portion.

* * * * * * *

17. By amending § 11.71, Form F-9(B) to delete Item 2(j)(4).

Dated: March 6, 1978.

JOHN G. HEIMANN,
Comptroller of the Currency.

[FR Doc. 78-6473 Filed 3-10-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

[12 CFR Part 206]

[Reg. F; Docket No. R-0146]

SECURITIES OF MEMBER STATE BANKS

Regulation F

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: Pursuant to its authority under section 12(i) of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78(i)) ("Act"), the Board proposes to amend its Regulation F, relating to member state banks, in order that it will be substantially similar to comparable rules and regulations issued by the Securities and Exchange Commission (the "Commission"). Under section 12(i) as amended, any changes made by the Commission in its relevant rules and regulations must also be made by the Board in its Regulation F or the Board must publish reasons why it has determined that such changes are not necessary or appropriate. The proposed amendments to Regulation F, consistent with recent Commission amendments to its rules, concern (a) confidential treatment for preliminary proxy and information statements, (b) proposals by security holders, (c) dissemination of proxy material to beneficial owners of registered securities, (d) tender offer statements, (e) consolidation and technical revisions of several items included in current, quarterly and annual reports, and (f) stock appreciation rights.

DATE: Comments must be received on or before May 1, 1978.

ADDRESS: Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. All material submitted should include the docket number R-0146.

FOR FURTHER INFORMATION CONTACT:

Thomas Sidman, Assistant Director, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-3503, or Julius L. Loeser, Senior attorney, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-3236.

SUPPLEMENTARY INFORMATION:

A. CONFIDENTIAL TREATMENT FOR PRELIMINARY PROXY AND INFORMATION STATEMENTS

The Commission has amended its rules regarding the filing of proxy and information statements to provide generally that preliminary proxy material will be made publicly available when definitive material is filed (41 FR 53784 (1976)).

Presently, § 206.5(f)(5) of the Board's Regulation F provides that preliminary proxy materials are nonpublic. In light of the Commission's action with respect to the disclosure of such material filed with it and the purposes of the Freedom of Information Act (5 U.S.C. 552) the Board is considering amending its § 206.5(f)(5) to make it similar to the Commission's amended proxy rules. Accordingly, preliminary material filed with the Board would be made publicly available after definitive material is filed, unless the person filing the material requests that it be accorded confidential treatment and the Board determines that such treatment is appropriate. In that preliminary material may, in some instances, contain inaccurate or misleading information, it is not entirely clear that amending Regulation F to make such material publicly available is "necessary or appropriate in the public interest or for protection of investors", the statutory standard in section 12(i) of the Act. Accordingly, the Board wishes to invite particular comment on this point.

To accomplish this, § 206.5(f)(5) would be amended to read as follows:

(f) * * *

(5) All copies of material filed pursuant to paragraph (1) or (2) of this section shall be clearly marked "Preliminary Copies" and shall be for the information of the Board only and shall not be deemed available for public inspection before definitive material has been filed with the Board except that such material may be disclosed to any department or agency of the United States Government and to the Congress and the Board may make such inquiries or investigation in regard to the material as may be necessary for an adequate review thereof by the Board. All material filed pursuant to paragraph (f) (1), (2), or (3) of this section shall be accompanied by a state-

ment of the date on which definitive material filed pursuant to paragraph (f)(3) of this section is intended to be, or has been, released to security hold-

provide that a proposal must be received by management no later than 90 days before the anniversary of the annual meeting date for the prior

tive standards regarding shareholder proposals and would also provide equitable standards for both proponents and management.

nish the requisite notice at the time he submits the proposal, except that if he was unaware of the notice requirement at that time he shall comply

nent, include in its proxy statement a statement of the proponent of not more than 200 words in support of the proposal, which statement shall not

(x) If the proposal has been rendered moot;

(xi) If the proposal is substantially duplicative of a proposal previously

ment of the date on which definitive material filed pursuant to paragraph (f)(3) of this section is intended to be, or has been, released to security holders. All material filed pursuant to paragraph (f)(4) of this section shall be accompanied by a statement of the date on which copies thereof are intended to be released to the individuals who will make the actual solicitation.

B. PROPOSALS BY SECURITY HOLDERS

In a revision of its proxy rules regarding proposals by security holders, the Commission has expanded the class of persons eligible to submit proposals to include beneficial owners, as well as record owners of securities, revised the time limits for submission of proposals by security holders and managements' objections to proposals, established limits on the length and frequency of proposals, and added to the substantive bases for omission of proposals (41 FR 52994 (1976)). The amendments were designed generally to clarify the procedural requirements applicable to proponents and managements and to codify certain interpretive positions taken by the Commission's staff.

With respect to eligibility requirements, the amended rules provide that the security owned by the beneficial or record owner must be one that would enable such security holder to vote on his proposal at the relevant meeting of security holders, i.e., if a security holder may only vote on the election of directors, such person may not submit a proposal regarding matters that may be voted on by security holders with unrestricted voting powers. Moreover, in order to ensure that a proponent's investment interest is maintained, the proponent must own a voting security at the time he submits the proposal and he must continue to own that security through the date on which the meeting is held.

Another aspect of the Commission's amended rules provides that a proponent who is unaware of the requirement in the rules that he must indicate his intention of being present at the shareholders meeting may, within 10 business days after being made aware of the requirement by the management, file such notice. If a proponent who files a notice cannot attend the shareholders meeting, the amended rules provide that such person may arrange to have another security holder present the proposals at the meeting. The amended rules also provide that if a proponent fails without cause to attend a meeting, management may exclude any proposals presented by such person at any meeting of security holders held in the following two calendar years.

With respect to the time limit for filing proposals, the amended rules provide that a proposal must be received by management no later than 90 days before the anniversary of the annual meeting date for the prior year's proxy materials. Previously, the proposal had to be received only 70 days prior to the anniversary date. If there has been a change in the date of an annual meeting of more than 30 days from the previous year's meeting, the amended rules provide that a proposal must be received by management a reasonable time in advance of the current year's solicitation. While the Commission's amended rules generally require shareholder proposals to be submitted earlier than was previously required, they require that management file its reasons objecting to inclusion of the proposal in its proxy materials at least 50 days prior to filing preliminary proxy materials, instead of the previous 30-day requirement.

In the Commission's previous rules, there was no limitation on the length of a shareholder's proposal, although there was a 200-word limit on statements in support of a proposal. The amended rules retain the 200-word limit on supporting statements, and establish two new limitations on shareholder proposals—a 300-word limitation on the length of proposals and a limitation of two proposals from a proponent for each meeting. The amended rules also provide that if a proponent does not comply with these limitations, the management may so notify the proponent and provide him with 10 business days to reduce the relevant statement(s).

In addition to minor revisions to existing bases for exclusion of shareholder proposals from proxy materials, the Commission's amended rules provide several new bases. Under the new bases, a shareholder proposal may be excluded by management if (a) upon adoption, it would result in a violation of State or Federal law, or of any law of a foreign jurisdiction, (b) it would violate the Commission's proxy rules and regulations, (c) the proposal has been rendered moot for whatever reason, (d) the proposal is substantially similar to a proposal submitted by another proponent that management intends to include in its proxy material, or (e) the proposals relates to specific amounts of cash or stock dividends (unless such proposal is advisory in nature and would not intrude on a board of directors' discretionary authority to make dividends under applicable law).

After reviewing the Commission's amended rules, the Board has determined that similar amendments to § 206.5(k) of Regulatioin F are appropriate and, accordingly, is proposing such amendments. The Board believes that the proposed revisions would provide clearer procedural and substantive standards regarding shareholder proposals and would also provide equitable standards for both proponents and management.

In order to accomplish this, it is proposed that § 206.5(k) be amended to read as follows:

* * * * *

(k) *Proposals of security holders.* (1) If any security holder of an issuer notifies the management of the issuer of his intention to present a proposal for action at a forthcoming meeting of the issuer's security holders, the management shall set forth the proposal in its proxy statement and identify it in its form of proxy and porvide means by which security holders can make the specification required by § 206.5(d)(2). If management issues an information statement pursuant to paragraph (a) of this section, it shall identify the proposal and indicate the disposition proposed to be made of the proposal by the management at the meeting. Management, however, need not include a proposal in its information statement if such proposal is submitted less than 60 days in advance of a day corresponding to the date of mailing a proxy statement or information statement in connection with the last annual meeting of security holders. Notwithstanding the foregoing, the management shall not be required to include the proposal in its proxy statement or form of proxy unless the security holder (hereinafter, the "proponent") has complied with the requirements of this paragraph and paragraphs(k) (2) and (3) of this section:

(i) *Eligibility.* At the time he submits the proposal, the proponent shall be a record or beneficial owner of a security entitled to be voted at the meeting on his proposal, and he shall continue to own such security through the date on which the meeting is held. If the management requests documentary support for a proponent's claim that he is a beneficial owner of a voting security of the issuer, the proponent shall furnish appropriate documentation within 10 business days after receiving the request. In the event the management includes the proponent's proposal in its proxy soliciting materials for the meeting and the proponent fails to comply with the requirement that he continuously be a voting security holder through the meeting date, the management shall not be required to include any proposal submitted by the proponent in its proxy soliciting materials for any meeting held in the following two calendar years.

(ii) *Notice.* The proponent shall notify the management in writing of his intention to appear personally at the meeting to present his proposal for action. The proponent shall furnish the requisite notice at the time he submits the proposal, except that if he was unaware of the notice requirement at that time he shall comply with it within 10 business days after being informed of it by the management. If the proponent, after furnishing in good faith the notice required by this provision, subsequently determines that he will be unable to appear personally at the meeting, he shall arrange to have another security holder of the issuer present his proposal on his behalf at the meeting. In the event the proponent or his proxy fails, without good cause, to present the proposal for action at the meeting, the management shall not be required to include any proposals submitted by the proponent in its proxy soliciting materials for any meeting held in the following two calendar years.

(iii) *Timeliness.* The proponent shall submit his proposal sufficiently far in advance of the meeting so that it is received by the management within the following time periods:

(A) *Annual Meetings.* A proposal to be presented at an annual meeting shall be received by the management at the issuer's principal executive offices not less than 90 days in advance of a date corresponding to the date set forth on the management's proxy statement released to security holders in connection with the previous year's annual meeting of security holders, except that no annual meeting was held in the previous year or the date of the annual meeting has been changed by more than 30 calendar days from the date of the previous year's annual meeting a proposal shall be received by the management a reasonable time before the solicitation is made.

(B) *Other meetings.* A proposal to be present at any meeting other than an annual meeting shall be received at a reasonable time before the solicitation is made.

NOTE.—In order to curtail controversy as to the date on which a proposal was received by the management, it is suggested that proponents submit their proposals by Certified Mail-Return Receipt Requested.

(iv) *Number and length of proposals.* The proponent may submit a maximum of two proposals of not more than 300 words each for inclusions in the management's proxy materials for a meeting of security holders. If the proponent fails to comply with either of these requirements, or if he fails to comply with the 200-word limit on supporting statements mentioned in paragraph (k)(2) of this section, he shall be provided the opportunity by the management to reduce, within 10 business days, the items submitted by him to the limits required by this rule.

(2) If the management opposes any proposal received from a proponent, it shall also, at the request of the proponent, include in its proxy statement a statement of the proponent of not more than 200 words in support of the proposal, which statement shall not include the name and address of the proponent. The statement and request of the proponent shall be furnished to the management at the time that the proposal is furnished, and neither the management nor the issuer shall be responsible for such statement. The proxy statement shall also include either the name and address of the proponent or a statement that such information will be furnished by the issuer or by the Board to any person, orally or in writing as requested, promptly upon the receipt of any oral or written request therefor. If the name and address of the proponent are omitted from the proxy statement, they shall be furnished to the Board at the time of filing the management's preliminary proxy material pursuant to § 206.5(f)(1).

(3) The management may omit a proposal and any statement in support thereof from its proxy statement and form of proxy under any of the following circumstances:

(i) If the proposal is, under the laws of the issuer's domicile, not a proper subject for action by security holders;

NOTE.—A proposal that may be improper under the applicable State law when framed as a mandate or directive may be proper when framed as a recommendation or request.

(ii) If the proposal would, if implemented, require the issuer to violate any State law or Federal law of the United States, or any law of any foreign jurisdiction, to which the issuer is subject, except that this provision shall not apply with respect to any foreign law compliance with which would be violative of any State law or Federal law of the United States;

(iii) If the proposal or the supporting statement is contrary to any of the Board's proxy rules and regulations, including § 206.5(h) which prohibits false or misleading statements in proxy soliciting materials;

(iv) If the proposal relates to the enforcement of a personal claim or the redress of a personal grievance against the issuer, its management, or any other person;

(v) If the proposal deals with a matter that is not significantly related to the issuer's business;

(vi) If the proposal deals with a matter that is beyond the issuer's power to effectuate;

(vii) If the proposal deals with a matter relating to the conduct of the ordinary business operations of the issuer;

(viii) If the proposal relates to an election to office;

(ix) If the proposal is counter to a proposal to be submitted by the management at the meeting;

(x) If the proposal has been rendered moot;

(xi) If the proposal is substantially duplicative of a proposal previously submitted to the management by another proponent, which proposal will be included in the management's proxy materials for the meeting;

(xii) If substantially the same proposal has previously been submitted to security holders in the management's proxy statement and form of proxy relating to any annual or special meeting of security holders held within the preceding five calendar years, it may be omitted from the management's proxy materials relating to any meeting of security holders held within three calendar years after the latest such previous submission; *Provided,* That—(A) If the proposal was submitted at only one meeting during such preceding period, it received less than 3 per cent of the total number of votes cast in regard thereto; or

(B) If the proposal was submitted at only two meetings during such preceding period, it received at the time of its second submission less than 6 per cent of the total number of votes cast in regard thereto; or

(C) If the proposal was submitted at three or more meetings during such preceding period, it received at the time of its latest submission less than 10 percent of the total number of votes cast in regard thereto; and

(xiii) If the proposal relates to specific amounts of cash or stock dividends.

(4) Whenever the management asserts, for any reason, that a proposal and any statement in support thereof received from a proponent may properly be omitted from its proxy statement and form of proxy, it shall file with the Board, not later than 50 days prior to the date the preliminary copies of the proxy statement and form of proxy are filed pursuant to § 206.5(f)(1), or such shorter period prior to such date as the Board or its staff may permit, five copies of the following items: (i) The proposal; (ii) any statement in support thereof as received from the proponent; (iii) a statement of the reasons why the management deems such omission to be proper in the particular case; and (iv) where such reasons are based on matters of law, a supporting opinion of counsel. The management shall at the same time, if it has not already done so, notify the proponent of its intention to omit the proposal from its proxy statement and form of proxy and shall forward to him a copy of the statement of reasons why the management deems the omission of the proposal to be proper and a copy of such supporting opinion of counsel.

C. REQUIREMENTS FOR DISSEMINATION OF PROXY INFORMATION TO BENEFICIAL OWNERS BY ISSUERS

On July 5, 1977, the SEC amended

rectors are to be elected, the number of copies of the annual report to security holders, necessary to supply such material to beneficial owners. The bank shall supply such record holder

to security holders whose securities may be sought in certain tender offers, without unnecessarily tipping the balance of regulation in favor of either the person making the offer or the

material are first published or sent or given to security holders.

* * * * *

respect to: (a) Each executive officer and director of such corporation; (b) each person controlling such corporation; and (c) each executive officer and director of any corporation ultimately in control of such corporation. Executive officer shall mean the presi-

(a) Name;
(b) Residence or business address;
(c) Present principal occupation or employment and the name, principal business and address of any corporation or other or-

C. REQUIREMENTS FOR DISSEMINATION OF PROXY INFORMATION TO BENEFICIAL OWNERS BY ISSUERS

On July 5, 1977, the SEC amended its Rule 14a-3(d) (17 CFR 240.14a-3(d)). See 42 FR 35953 (1977). Prior to the amendment, Rule 14a-3(d) was substantially similar to § 206.5(c)(3) of the Board's Regulation F. Both essentially provided that where an issuer of registered securities is aware that any of those securities are held of record by a broker, dealer, bank, or voting trustee, or their nominees, the issuer shall (1) inquire of the recordholder (a) whether other persons are beneficial owners of such securities and if so (b) the number of proxy soliciting materials and annual reports necessary to supply such material to such beneficial owners. Both further required the issuer to supply the recordholder with a copy of such material for each beneficial owner and to pay the expenses of recordholders mailing such copies to the beneficial owners.

The recent amendment to SEC Rule 14a-3(d) requires that the inquiry the issuer is to make of the aforementioned recordholders be made at least 10 days prior to the record date for the meeting of security holders (or later if applicable rules of a national securities exchange permit). The Board proposes now to amend § 206.5(c)(3) to impose identical time constraints on State member banks subject to Regulation F.

Simultaneous to its amendment of Rule 14a-3(d), the SEC amended its Rule 14b-1 to impose duties on registered brokers promptly to respond to issuers' inquiries under Rule 14a-3(d) and promptly to forward materials to beneficial owners. As the Board has no jurisdiction to impose duties on registered brokers to respond to inquiries of, or forward materials for, State member banks, the Board has not proposed to adopt a substantially similar rule under its Regulation F.

In order to accomplish the foregoing, it is proposed that § 206.5(c)(3) be amended to read as follows:

(C) • • •

(3) If the bank knows that securities of any class entitled to vote at a meeting with respect to which the bank intends to solicit proxies, consents or authorizations are held of record by a broker, dealer, bank, or voting trustee, or their nominees, the bank shall inquire of such record holder at least 10 days prior to the record date for the meeting of security holders (or at such later time as the rules of a national securities exchange on which the class of securities in question is listed may permit for good cause shown), whether other persons are the beneficial owners of such securities and, if so, the number of copies of the proxy and other soliciting material and, in the case of an annual meeting at which directors are to be elected, the number of copies of the annual report to security holders, necessary to supply such material to beneficial owners. The bank shall supply such record holder in a timely manner with additional copies in such quantities, assembled in such form and at such a place, as the record holder may reasonably request in order to address and send one copy of each to each beneficial owner of securities so held and shall, upon the request of such record holder, pay its reasonable expenses for completing the mailing of such material to security holders to whom the material is sent.

It is also proposed to amend § 206.5(c)(4) so that it would read as follows:

(C) • • •

(4) If the bank's list of security holders indicates that some of its securities are registered in the name of a clearing agency registered pursuant to section 17A of the Act, a bank shall make appropriate inquiry of the agency and thereafter of the participants in such agency who may hold on behalf of a beneficial owner, and shall comply with § 206.5(c)(3) with respect to any such participant.

D. TENDER OFFERS

On July 21, 1977, the Commission announced adoption of a new schedule, Schedule 14D-1, setting forth disclosure requirements for persons making certain tender offers and the amendment of its existing Rule 14d-1 to require generally the filing, with the Commission, of Schedule 14D-1 at the time a tender offer is made for securities registered with the Commission and generally to require disclosure to offerees of information required on Schedule 14D-1 (42 FR 38347 (1977)). Generally, Schedule 14D-1 requires disclosure of information concerning the security and the subject company; the identity and background of the offeror; the offeror's past contacts, transactions and negotiations with the subject company; the source and amount of funds or other consideration; the purpose of the offer and the plans of the offeror; the offeror's existing interest in the securities of the subject company; the offeror's contracts, arrangements, understandings, and relationships with respect to the subject company's securities; information concerning the offeror's employment of others to solicit for the offer; financial statements of certain offerors; and certain additional information.

Section 206.5(l) of the Board's Regulation F was, prior to the Commission's recent amendment of Rule 14d-1, substantially similar to that Rule. The recent amendment was intended to provide more meaningful disclosure to security holders whose securities may be sought in certain tender offers, without unnecessarily tipping the balance of regulation in favor of either the person making the offer or the management of the company whose securities are being sought. The Board proposes to amend section 206.5(l) with the same purpose and to adopt a new Form F-13 that would provide disclosure comparable to that provided by Schedule 14D-1. In addition, new Form F-13 would require disclosure by the offeror whether any bank loan financing the offer is related to the maintenance of correspondent deposits by the subject bank.

To accomplish this, it is proposed that §§ 206.5(l) (1), (3)(iv), (4), and (7) be amended to read as follows:

(l) *Invitations for tenders.* (1) No person, directly or indirectly, by use of the mails or any means or instrumentality of inter-State commerce or of any facility of a national securities exchange or otherwise, shall make a tender offer for, or a request or invitation for tenders of, any class of any equity security which is registered pursuant to section 12 of the Act of any member State bank, if, after consummation thereof, such person would, directly or indirectly, be the beneficial owner of more than 5 per centum of such class, unless, at the time copies of the offer or request or invitation are first published or sent or given to security holders, such person has filed with the Board a statement containing the information and exhibits required by Form F-13.

• • • • •

(3) • • •

(iv) The information required by Items 1(c), 2(b), 2(e), 2(f), and 2(g), 3, 4, 5, 6, 7, 8, 9, and 10 of Form F-13 or a fair and adequate summary thereof.

Instructions. 1. Negative responses to any such item or subitem of Form F-13 need not be included in the information published or sent or given to security holders.

2. If the information required by Item 9 of Form F-13 is summarized, appropriate instructions should be included stating how more complete financial information can be obtained.

(4) Any additional material soliciting or requesting such tender offer subsequent to the initial solicitation or request shall contain the name of the persons making such solicitation or request and the information required by Items 1(c), 2(b), 2(e), 2(f) and 2(g), 3, 4, 5, 6, 7, 8, 9, and 10 of Form F-13, or a fair and adequate summary thereof; *Provided, however,* That such material may omit any of such information previously furnished to the persons solicited or requested for tender offers. Copies of such additional material soliciting or requesting such tender offers shall be filed with the Board not later than the time copies of such material are first published or sent or given to security holders.

• • • • •

(7) Ten copies of the statement required by paragraph (1), every amendment to such statement and all other material required by this rule and such statement shall be filed with the Board.

• • • • •

§§ 206.47 and 206.54 [Amended]

Also, the Board proposes to amend Form F-11 (12 CFR 206.47) by deleting the words "or § 206.5(l)" from the title of that form and deleting all of Item 7 and substituting the words, "Item 7" for "Item 8", and to adopt Form F-13 (12 CFR 206.54) to read as follows:

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

FORM F-13

Tender offer statement pursuant to section 14(d)(1) of the Securities Exchange Act of 1934, (Amendment No. ——), ———— (Name of Subject Bank), ———— (Bidder), ———— (Title of Class of Securities), ———— (Name, address and telephone number of person authorized to receive notices and communications on behalf of bidder).

Instructions. 1. Eight copies of this statement, including all exhibits, and two additional copies of this statement, including only the exhibits described in Item 11(a) of this statement, should be filed with the Board.

2. No fee is required to be paid to the Board in connection with the filing of the initial statement or amendments thereto.

General Instructions. A. The item numbers and captions of the items shall be included but the answers to the items shall be so prepared as to indicate clearly the coverage of the items without referring to the text of the items. Answer every item. If an item is inapplicable or the answer is in the negative, so state.

B. Information contained in exhibits to the statement may be incorporated by reference in answer or partial answer to any item or sub-item of the statement unless it would render such answer incomplete, unclear or confusing. Matter incorporated by reference shall be clearly identified in the reference by page, paragraph, caption or otherwise. An express statement that the specified matter is incorporated by reference shall be made at he particular place in the statement where the information is required.

C. If the statement is filed by a partnership, limited partnership, syndicate or other group, the information called for by Items 2-7, inclusive, shall be given with respect to: (i) Each partner of such partnership; (ii) each partner who is denominated as a general partner or who functions as a general partner of such limited partnership; (iii) each member of such syndicate or group; and (iv) each person controlling such partner or member. If the statement is filed by a corporation, or if a person referred to in (i), (ii), (iii) or (iv) of this Instruction is a corporation, the information called for by the above mentioned items shall be given with respect to: (a) Each executive officer and director of such corporation; (b) each person controlling such corporation; and (c) each executive officer and director of any corporation ultimately in control of such corporation. Executive officer shall mean the president, secretary, treasurer and any vice president in charge of a principal business function (such as sales, administration or finance) and any other person who performs similar policy making functions for the corporation. A response to an item in the statement is required with respect to the bidder and to all other persons referrred to in this instruction unless such item specifies to the contrary.

D. Upon termination of the tender offer, the bidder shall promptly file a final amendment to Form F-13 disclosing all material changes in the items of that Form and stating that the tender offer has terminated, the date of such termination and the results of such tender offer.

E. If the bidder, before filing this statement, has filed a Form F-11 with respect to the acquisition of securities of the same class referred to in Item 1(a) of this statement, the bidder shall amend such Form F-11 and may do so by means of this statement and amendments thereto, including the final amendment required to be filed by Instrucion D: *Provided,* That the bidder indicates on the cover sheet of this statement that it is amending its Form F-11 by means of this statement.

F. The final amendment required to be filed by Instruction D shall be deemed to satisfy the reporting requirements of section 13(d) of the Act with respect to all securities acquired by the bidder pursuant to the tender offer as reported in such final amendment.

G. For purposes of this statement, the following definitions shall apply:

(i) The term "bidder" means any person on whose behalf a tender offer is made; and

(ii) The term "subject bank" means any bank whose securities are sought by a bidder pursuant to a tender offer.

Item 1. *Security and subject bank.* (a) State the name of the subject bank and the address of its principal executive offices;

(b) State the exact title and the number of shares outstanding of the class of equity securities being sought (which may be based upon information contained in the most recently available filing with the Board by the suject bank unless the bidder has reason to believe such information is not current), the exact amount of such securties being sought and the consideration being offered therefor; and

(c) Identify the principal market, if any, in which such securities are traded and state the high and low sales prices for such securities in such principal market (or, in the absence thereof, the range of high and low bid quoations) for each quarterly period during the past two years.

Item 2. *Identity and background.* If the person filing this statement or any person enumerated in Instruction C of this statement is a corporation, partnership, limited partnership, syndicate or other group of persons, state its name, the State or other place of its organization, its principal business, the address of its principal office and the information required by (e) and (f) of this Item. If the person filing this statement or any person enumerated in Instruction c is a natural person, provide the information specified in (a) through (g) of this Item with respect to such person(s).

(a) Name;

(b) Residence or business address;

(c) Present principal occupation or employment and the name, principal business and address of any corporation or other organization in which such employment or occupation is conducted;

(d) Material occupations, positions, offices or emloyments during the last five years, giving the starting and ending dates of each and the name, principal business and address of any business corporation or other organizaton in which such occupation, position, office or employment was carried on. Instruction. If a person has held various positions with the same organization, or if a person holds comparable positions with multiple related organizations, each and every position need not be specifically disclosed.

(e) Whether or not, during the last five years, such person has been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors) and, if so, give the dates, nature of conviction, name and location of court, and penalty imposed or other disposition of the case. Instruction. While a negative answer to this sub-item is required in this schedule, it need not be furnished to security holders.

(f) Whether or not, during the last five years, such person was a party to a civil proceeding of a judicial or administrative body of competent jurisdiction and as a result of such proceeding was or is subject to a judgment, decree or final order enjoining future violations of, or prohibiting activities subject to, Federal or State securities or banking laws or finding any violation of such laws; and, if so, identify and describe such proceeding and summarize the terms of such judgment, decree or final order. Instruction. While a negative answer to this sub-item is required in this schedule, it need not be furnished to security holders.

(g) Citizenship(s).

Item 3. *Past contacts, transactions or negotiations with the subject bank.* (a) Briefly state the nature and approximate amount (in dollars) of any transaction, other than those described in Item 3(b) of this Form and those in the ordinary course of the bank's business, which has occurred since the commencement of the subject bank's third full fiscal year preceding the date of this schedule, between the person filing this schedule (including those persons enumerated in Instruction C of this schedule) and:

(1) The subject bank or any of its affiliates which are corporations; *Provided, however,* That no disclosure need be made with respect to any transaction if the aggregate amount involved in such transaction was less than 1 percent of the subject bank's consolidated income (which may be based upon information contained in the most recently available filing with the Board by the subject bank, unless the bidder has reason to believe otherwise) (i) for the fiscal year in which such transaction occurred or, (ii) for the portion of the current fiscal year which has occurred, if the transaction occurred in such year; and

(2) The executive officers, directors or affiliates of the subject bank which are not corporations if the aggregate amount involved in such transaction or in a series of similar transactions, including all periodic installments in the case of any lease or other agreement providing for periodic payments or installments, exceeds $40,000.

(b) Describe any contacts, negotioations or transactions, other than those in the ordi-

nary course of the bank's business which have occurred since the commencement of the subject bank's third full fiscal year preceding the date of this schedule between the bidder or its subsidiaries (including those persons enumerated in Instruction C

of registration pursuant to section 12(g)(4) of the Act.

Item 6. *Interest in securities of the subject bank.* (a) State the aggregate number and percentage of the class represented by such shares (which may be based on the number

person on the bidder's behalf, to make solicitations or recommendations in connection with the tender offer and describe briefly the terms of such employment, retainer or arrangement for compensation.

Item 9. *Financial statements of certain*

answer, complaint, temporary restraining order, injunction, opinion, judgment or order) in a material pending legal proceeding should be promptly furnished to the Board on a supplemental basis.

(f) Such additional material information,

credits, and submission of matters to a vote of security holders, and to require that such information be provided in the quarterly and annual reports. The Board has determined that the trans-

spect to loans, the Commission's amendments provide that the name of the relevant lender bank may be deleted, provided a request for confidentiality has been submitted. It is con-

nary course of the bank's business which have occurred since the commencement of the subject bank's third full fiscal year preceding the date of this schedule between the bidder or its subsidiaries (including those persons enumerated in Instruction C of this schedule) and the subject bank or its affiliates or any shareholder owning more than 10 percent of the outstanding shares of the subject bank concerning: a merger, consolidation or acquisition; a tender offer or other acquisition of securities; an election of directors; or a sale or other transfer of a material amount of assets.

Item 4. *Source and amount of funds or other consideration.* (a) State the source and the total amount of funds or other consideration for the purchase of the maximum number of securities for which the tender offer is being made.

(b) If all or any part of such funds or other consideration are or are expected to be, directly or indirectly, borrowed for the purpose of the tender offer:

(1) Provide a summary of each loan agreement or arrangement containing the identity of the parties, the term, the collateral, the stated and effective interest rates, and other material terms or conditions relative to such loan agreement; and

(2) Briefly describe any plans or arrangements to finance or repay such borrowings, or if no such plans or arrangements have been made, make a statement to that effect.

(c) If the source of all or any part of the funds to be used in the tender offer is a loan made in the ordinary course of business by a bank as defined by section 3(a)(6) of the Act, the name of such bank shall not be made available to the public if the person filing the statement so requests in writing and files such request, naming such bank, with the Secretary of the Board.

(d) If the source of all or any part of the funds to be used in the tender offer is a loan made by a bank as defined by section 3(a)(6) of the Act, indicate whether there exists any agreement, arrangement, or understanding pursuant to which the subject bank maintains or would maintain a correspondent deposit account at such lending bank.

Item 5. *Purpose of the tender offer and plans or proposals of the bidder.* State the purpose or purposes of the tender offer for the subject bank's securities. Describe any plans or proposals which relate to or would result in:

(a) An extraordinary corporate transaction, such as a merger, reorganization or liquidation, involving the subject bank or any of its subsidiaries;

(b) A sale or transfer or a material amount of assets of the subject bank or any of its subsidiaries;

(c) Any change in the present board of directors or management of the subject bank including, but not limited to, any plans or proposals to change the number or the term or directors or to fill any existing vacancies on the board;

(d) Any material change in the present capitalization or dividend policy of the subject bank;

(e) Any other material change in the subject bank's corporate structure or business;

(f) Causing a class of securities of the subject bank to be delisted from a national securities exchange or to cease to be authorized to be quoted in an inter-dealer quotation system of a registered national securities association; or

(g) A class of equity securities of the subject bank becoming eligible for termination of registration pursuant to section 12(g)(4) of the Act.

Item 6. *Interest in securities of the subject bank.* (a) State the aggregate number and percentage of the class represented by such shares (which may be based on the number of shares outstanding as contained in the most recently available filing with the Board by the subject bank unless the bidder has reason to believe such information is not current), beneficially owned (identifying those shares for which there is a right to acquire) by each person named in Item 2 of this schedule and by each associate and majority-owned subsidiary of such person giving the name and address of any such associate or subsidiary.

(b) Describe any transaction in the class of securities reported on that was effected during the past 60 days by the persons named in response to paragraph (a) of this Item or by any executive officer, director or subsidiary of such person.

Instructions. 1. The description of a transaction required by Item 6(b) shall include, but not necessarily be limited to: (1) The identity of the person covered by Item 6(b) who effected the transaction; (2) the date of the transaction; (3) the amount of securities involved; (4) the price per share; and (5) where and how the transaction was effected.

2. If the information required by Item 6(b) of this schedule is available to the bidder at the time this statement is initially filed with the Board, such information should be included in such initial filing. However, if such information is not available to the bidder at the time of such initial filing, it should be filed with the Board promptly but in no event later than two business days after the date of such filing and, if material, should be disclosed to security holders of the subject bank in a manner similar to that in which the tender offer was first published, sent or given to such security holders. The procedure specified by this instruction is provided for the purpose of maintaining the confidentiality of the tender offer in order to avoid possible misuse of inside information.

Item 7. *Contracts, arrangements, understandings or relationships with respect to the subject bank's securities.* Describe any contract, arrangement, understanding or relationship (whether or not legally enforceable) between the bidder (including those persons enumerated in Instruction C to this schedule) and any person with respect to any securities of the subject bank (including, but not limited to, any contract, arrangement, understanding or relationship concerning the transfer or the voting of any of such securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss, or the giving or withholding of proxies), naming the persons with whom such contracts, arrangements, understandings or relationships have been entered into and giving the material provisions thereof. Include such information for any of such securities that are pledged or otherwise subject to a contingency, the occurrence of which would give another person the power to direct the voting or disposition of such securities, except that disclosure of standard default and similar provisions contained in loan agreements need not be included.

Item 8. *Persons retained, employed or to be compensated.* Identify all persons and classes of persons employed, retained or to be compensated by the bidder, or by any person on the bidder's behalf, to make solicitations or recommendations in connection with the tender offer and describe briefly the terms of such employment, retainer or arrangement for compensation.

Item 9. *Financial statements of certain bidders.* Where the bidder is other than a natural person and the bidder's financial condition is material to a decision by a security holder of the subject company whether to sell, tender or hold securities being sought in the tender offer, furnish current, adequate financial information concerning the bidder *Provided,* That if the bidder is controlled by another entity which is not a natural person and has been formed for the purpose of making the tender offer, furnish current, adequate financial information concerning such parent.

Instructions. 1. The facts and circumstances concerning the tender offer, particularly the terms of the tender offer, may influence a determination as to whether disclosure of financial information is material. However, once the materiality requirement is applicable, the adequacy of the financial information will depend primarily on the nature of the bidder.

In order to provide guidance in making this determination, the following types of financial information will be deemed adequate for purposes of this item for the type of bidder specified: (a) Financial statements prepared in compliance with Form 10 of the Securities and Exchange Commission (17 CFR 249.210) for a domestic bidder which is otherwise eligible to use such form; and (b) financial statements prepared in compliance with Form 20 of the Securities and Exchange Commission (17 CFR 249.220) for a foreign bidder which is otherwise eligible to use such form.

2. The financial statements required by this item need not be audited if such audited financial statements are not available or obtainable without unreasonable cost or expense and a statement is made to that effect disclosing the reasons therefor.

Item 10. *Additional information.* If material to a decision by a security holder whether to sell, tender or hold securities being sought in the tender offer, furnish information as to the following:

(a) Any present or proposed material contracts, arrangements, understandings or relationships between the bidder or any of its executive officers, directors, controlling persons or subsidiaries and the subject bank or any of its executive officers, directors, controlling persons or subsidiaries (other than any contract, arrangement or understanding required to be disclosed pursuant to Items 3 or 7 of this schedule);

(b) To the extent known by the bidder after reasonable investigation, the applicable regulatory requirements which must be complied with or approvals which must be obtained in connection with the tender offer;

(c) The applicability of antitrust laws;

(d) The applicability of the margin requirements of section 7 of the Act and the regulations promulgated thereunder;

(e) Any material pending legal proceedings relating to the tender offer including the name and location of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto and a brief summary of the proceedings; and

Instruction. In connection with this subitem, a copy of any document relating to a major development (such as pleadings, an answer, complaint, temporary restraining order, injunction, opinion, judgment or order) in a material pending legal proceeding should be promptly furnished to the Board on a supplemental basis.

(f) Such additional material information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made, not materially misleading.

Item 11. *Material to be Filed as Exhibits.* Furnish a copy of: (a) Tender offer material which is published, sent or given to security holders by or on behalf of the bidder in connection with the tender offer;

(b) Any loan agreement referred to in Item 4 of this schedule. Instruction. The identity of any bank, other than the subject bank, which is a party to a loan agreement need not be disclosed if the person filing the statement has requested that the identity of such bank not be made available to the public pursuant to Item 4 of this schedule;

(c) Any document setting forth the terms of any contracts, arrangements, understandings or relationships referred to in Item 7 or 10(a) of this schedule;

(d) Any written opinion prepared by legal counsel at the bidder's request and communicated to the bidder pertaining to the tax consequences of the tender offer;

(e) In an exchange offer where securities of the bidder have been or are to be registered under the Securities Act of 1933, the prospectus containing the information required to be included therein by Rule 434b of the Securities and Exchange Commission (17 CFR 230.434b);

(f) If any oral solicitation of security holders is to be made by or on behalf of the bidder, any written instruction, form or other material which is furnished to the persons making the actual oral solicitation for their use, directly or indirectly, in connection with the tender offer.

Signature. After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

Signature_____
Name and title_____
Date_____

The original statement shall be signed by each person on whose behalf the statement is filed or his authorized representative. If the statement is signed on behalf of a person by his authorized representative (other than an executive officer or general partner of the bidder), evidence of the representative's authority to sign on behalf of such person shall be filed with the statement. The name and any title of each person who signs the statement shall be typed or printed beneath his signature.

E. Amendments of Certain Rules and Related Forms

The Commission has amended certain rules and related forms with respect to current, quarterly and annual reports, and proxy statements (42 FR 4424 (1977)). A principal purpose of the amendments was to delete from current reports items regarding legal proceedings, changes in securities, changes in security for registered securities, defaults upon senior securities, decrease in amount of securities outstanding, options to purchase securities, extraordinary item charges and credits, and submission of matters to a vote of security holders, and to require that such information be provided in the quarterly and annual reports. The Board has determined that the transfer of these items from its current Form F-3 to its quarterly Form F-4 would be appropriate. In addition to the transfer of the items from the current to the quarterly report, the Commission eliminated from its current report the item that required disclosure of material charges and credits to income of an unusual or infrequent nature and direct charges and credits to retained earnings. The Board also proposes to adopt a comparable amendment to Form F-3.

In addition, the Commission amended its rules and regulations to provide generally that current reports are to be filed within 15 days of the occurrence of a reportable event specified in the current report form. Previously, current reports were not due at the Commission until ten days after the end of the month in which the reportable event occurred. The reporting of nonspecified material events would still be permitted on a ten-day-after-month-end basis. The purpose of the amendment was to provide for more timely disclosure of specified material occurrences. The Board proposes to amend its regulations and Form F-3 to accelerate the date by which current reports are to be filed with the Board.

The Commission also revised certain other items on its current and proxy statement reports to provider for disclosure concerning (a) bankruptcy or receivership proceedings, (b) acquisitions of assets, and (c) changes in control. The Commission adopted a new disclosure item in its current report form requiring disclosure of the pendency of conservatorship or receivership proceedings involving a registrant.

The Commission's amendment to its acquisition and disposition of asset item on its current report requires the disclosure of the source of funds for acquisitions. The nature of banking is such that acquisitions of assets utilizing borrowed funds is in the ordinary course of business and accordingly, adoption of a similar amendment to Regulation F would appear to serve no useful purpose.

The amended provisions in the current report and proxy statement relating to change of control require disclosure of the amount and source of the consideration paid by the person acquiring control, the terms of any loans or pledges, including the names of lenders or pledgees, obtained by the new control group for acquisition purposes, and a description of any arrangements or understandings among members of both the former and new control group with respect to election of directors or other matters. With respect to loans, the Commission's amendments provide that the name of the relevant lender bank may be deleted, provided a request for confidentiality has been submitted. It is conceivable that the information that will be disclosed by the amendment relating to change of control may provide material information to shareholders in certain instances. Accordingly, the Board proposes to adopt similar amendments to Form F-3 (current report) and Form F-5 (proxy statement). In addition, the change in control item in the current report would be amended to require disclosure of whether any bank loan that finances acquisition of control of the Regulation F bank is related to the maintenance of correspondent deposits by the Regulation F bank.

To accomplish these changes, it is proposed to amend § 206.4(h)(1) of Regulation F to read as follows:

(h) * * *

(1) Every registrant bank shall file a current report in conformity with the requirements of Form F-3 within the period specified in that form unless substantially the same information as that required by Form F-3 has been previously reported by the bank.

It is also proposed to amend § 206.43 to read as follows:

§ 2-6.43 Form for current report of a bank (Form F-3).

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

FORM F-3

Current Report

Pursuant to section 13 of the Securities Exchange Act of 1934. For the month of _____, 19—

.....

(Exact name of bank as specified in charter)

.....

(Address of principal office)

GENERAL INSTRUCTIONS

A. *Rule as to Use of Form F-3.*—Form F-3 shall be used for current reports under Section 13 of the Securities Exchange Act of 1934, filed pursuant to § 206.4(h) of Regulation F (12 CFR 206.4(h)).

B. *Events to be Reported and Filing of Reports.*—A report on this form is required to be filed upon the occurrence of any one or more of the events specified in the items of this form. Reports are to be filed within 15 days after the occurrence of the earliest event required to be reported. However, reports which disclose events pursuant to Item 5 may be filed within 10 days after the close of the month during which the event occurred. If the letter from the independent accountants to be furnished pursuant to Item 4(d) is unavailable at the time of filing. It shall be filed within thirty days thereafter. Moreover, if substantially the same information as that required by this form has been previously reported by the bank, an additional report of the information on this form need not be made. The term "pre-

viously reported" is defined in § 206.2(v) of Regulation F (12 CFR 206.2(v)).

C. *Application of Regulation F.*—(a) Regulation F (12 CFR Part 206) contains certain general requirements which are applicable to reports on any form. These general requirements should be carefully read and observed in the preparation and filing of reports on this form.

(b) Particular attention is directed to § 206.4 of Regulation F (12 CFR 206.4) which contains general requirements regarding matters such as the kind and size of paper to be used, the legibility of the report, the information to be given whenever the title of securities is required to be stated, and the filing of the Report. The definitions contained in § 206.2 should be especially noted.

D. *Preparation of Report.* This form is not to be used as a blank form to be filled in, but only as a guide in the preparation of the report on paper meeting the requirements of § 206.4(t) of Regulation F (12 CFR 206.4(t)). The report shall contain the numbers and captions of all applicable items, but the text of such items may be omitted, provided the answers thereto are prepared in the manner specified in § 206.4(u) of Regulation F (12 CFR 206.4(u)). All items which are not required to be answered in the particular report may be omitted and no reference thereto need be made in the report. All instructions should also be omitted.

E. *Signature and filing of report.*—Three complete copies of the report, including any financial statements, exhibits of other papers or documents filed as a part thereof, and five additional copies which need not include exhibits, shall be filed with the Board. At least one complete copy of the report, including any financial statements, exhibits or other papers or documents filed as a part thereof, shall be filed with each exchange on which any class of securities of the bank is registered. At least one complete copy of the report filed with the Board and one such copy filed with an exchange shall be manually signed. Copies not manually signed shall bear typed or printed signatures.

INFORMATION TO BE INCLUDED IN THE REPORT

ITEM 1. CHANGES IN CONTROL OF BANK

(a) If, to the knowledge of management, a change in control of the Bank has occurred, state the name of the person(s) who acquired such control; the amount and the source of the consideration used by such person(s); the basis of the control; the date and a description of the transaction(s) which resulted in the change in control; the percentage of voting securities of the bank now beneficially owned directly or indirectly by the person(s) who acquired control; and the identity of the person(s) from whom control was assumed. If the source of all or any part of the consideration used is a loan made in the ordinary course of business by a bank as defined by Section 3(a)(6) of the Act, the identity of such bank shall be omitted provided a request for confidentiality has been made pursuant to Section 13(d)(1)(B) of the Act by the person(s) who acquired control. In lieu thereof, the material shall indicate that disclosure of the identity of the bank has been so omitted and filed separately with the Board.

Instructions. 1. State the terms of any loans or pledges obtained by the new control group for the purpose of acquiring control, and the names of the lenders or pledgees.

2. Any arrangements or understandings among members of both the former and new control groups and their associates with respect to the election of directors or other matters shall be described.

(b) Describe any contractual arrangements, including any pledge of securities of the Bank, or any of its parents, known to management, the operation of the terms of which may at a subsequent date result in a change in control of the bank.

Instruction. Paragraph (b) does not require a description of ordinary default provisions contained in the charter, trust indentures or other governing instruments relating to securities of the bank.

(c) If the source of all or any part of the funds used to acquire control of the bank is a loan made by a bank as defined in section 3(a)(6) of the Act, indicate whether there exists any agreement, arrangement, or understanding pursuant to which the registrant bank maintains or would maintain a correspondent deposit account at such lending bank.

ITEM 2. ACQUISITION OR DISPOSITION OF ASSETS

If the bank or any of its majority-owned subsidiaries has acquired or disposed of a significant amount of assets, otherwise than in the ordinary course of business, furnish the following information:

(a) The date and manner of the acquisition or disposition and a brief description of the assets involved, the nature and amount of consideration given or received therefor, the principle followed in determining the amount of such consideration, the identity of the person(s) from whom the assets were acquired or to whom they were sold and the nature of any material relationship between such person(s) and the registrant or any of its affiliates, any director or officer of the registrant, or any associate of any such director or officer.

(b) If any assets so acquired by the registrant or its subsidiaries constituted plant, equipment or other physcal property, state the nature of the business in which the assets were used by the person(s) from whom acquired and whether the bank intends to continue such use or intends to devote the assets to other purposes, indicating such other purposes.

Instructions. 1. No information need be given as to (i) any transaction between any person and any wholly-owned subsidiary of such person; (ii) any transaction between two or more wholly-owned subsidiaries of any person; or (iii) the redemption or other acquisition of securities from the public, or the sale or other disposition of securities to the public, by the issueer of such securities.

2. The term "acquisition" includes every purchase, acquisition by lease, exchange, merger, consolidation, succession or other acquisition; *provided*, that such term does not include the construction or development of property by or for the bank or its subsidiaries or the acquisition of materials for such purpose. The term "disposition" includes every sale, disposition by lease, exchange, merger, consolidation, mortgage, or hypothecation of assets, assignment, whether for the benefit of creditors or otherwise, abandonment, destruction, or other disposition.

3. The information called for by this item is to be given as to each transaction or series of related transactions of the size indicated. The acquisition or disposition of securities shall be deemed the indirect acquisition or disposition of the assets represented by such securities if it results in the acquisition or disposition of control for such assets.

4. An acquisition or disposition shall be deemed to involve a significant amount of assets (i) if the bank's and its other subsidiaries' equity in the net book value of such assets or the amount paid or received therefor upon such acquisition or disposition exceeded 10 percent of the total equity capital of the bank and its consolidated subsidiaries, (ii) if it involved the succession to or disposition of a business which would meet the test of a significant subsidiary, or (iii) if it involved the acquisition or disposition of an interest in a business which would meet the test of a significant subsidiary and would be required to be accounted for by the equity method.

5. Where assets are acquired or disposed of through the acquisition or dispositon of control of a person, the person from whom such control was acquired or to whom it was disposed of shall be deemed the person from whom the assets were acquired or to whom they were disposed of, for the purposes of this item. Where such control was acquired from or disposed of to not more than five persons, their names shall be given; otherwise it will suffice to identify in an appropriate manner the class of such persons.

6. Attention is directed to the requirements in Item 6 of the form with respect to the filing of financial statements for businesses acquired and to the filing of copies of the plans of acquisition or disposition as exhibits to the report.

ITEM 3. BACKRUPTCY OR RECEIVERSHIP

If a receiver, fiscal agent or similar officer has been appointed for a bank or its parent, in a proceeding under the Bankruptcy Act or in any other proceeding under State or Federal law in which a court or governmental agency has assumed jurisdiction over substantially all of the assets or business of the Bank or its parent, or if such jurisdiction has been assumed by leaving the existing directors and officers in possession but subject to the supervision and orders of a court or governmental body, identify the proceeding, the court or govenmental body, the date jurisdiction was assumed, the identity of the receiver, fiscal agent or similar officer and the date of his appointment.

ITEM 4. CHANGES IN BANK'S ACCOUNTANT

If an independent accountant who was previously engaged as the principal accontant to audit the bank's financial statements resigns (or indicates he declines to stand for re-election after the completion of the currrent audit) or is dismissed as the bank's principal accountant, or another independent accountant is engaged as principal accountant, or if an independent accountant on whom the principal accountant expressed reliance in his report regarding a significant subsidiary resigns (or formally indicates he declines to stand for re-election after the completion of the current audit) or is dismissed or another independent accountant is engaged to audit that subsidiary:

(a) State the date of such resignation (or declination to stand for re-election), dismissal or engagement.

(b) State whether in connection with the audits of the two most recent fiscal years and any subsequent interim period preceding such resignation, dismissal or engagement there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statement disclosure or auditing scope or procedure, which disagreements if not resolved to the satisfaction of the former accountant would have caused him to make reference in connection with his report to the subject matter of the disagreement(s); also, describe each such disagreement. The disagreements required to be reported in response to the preceding sentence include both those resolved to the former accountant's satisfaction and those not resolved to the former accountant's satisfaction. Disagreements contemplated by this rule are those which occur at the decisionmaking level; i.e., between personnel of the bank responsible for presentation of its financial statements and personnel of the accounting firm responsible for rendering its report.

(c) State whether the principal accountant's report on the financial statements for any of the past two years contained an adverse opinion or a disclaimer of opinion or was qualified as to uncertainty, audit scope, or accounting principles; also describe the nature of each such adverse opinion, disclaimer of opinion or qualification.

(d) The bank shall request the former accountant to furnish the bank with a letter addressed to the Board stating whether he agrees with the statements made by the bank in response to this item and, if not, stating the respects in which he does not agree. The bank shall file a copy of the former accountant's letter as an exhibit with all copies of the Form F-3 required to be filed pursuant to General Instruction F.

ITEM 5. OTHER MATERIALLY IMPORTANT EVENTS

The bank may, at its option, report under this item any events, with respect to which information is not otherwise called for by this form, which the bank deems of material importance to security holders.

ITEM 6. FINANCIAL STATEMENTS AND EXHIBITS

List below the financial statements and exhibits, if any, filed as a part of this report.

(a) Financial statements of business acquired.

Instructions. 1. Businesses for which Statements are Required.

The financial statements specified below shall be filed for any business the succession to which or the acquisition of an interest in which is required to be described in answer to Item 2 above.

2. Statements Required.

(a) There shall be filed a balance sheet of the business as of a date reasonably close to the date of acquisition. This balance sheet shall be verified if practical.

(b) Income and source and application of funds statements of the business shall be filed for each of the last three full fiscal years and for the period, if any, between the close of the latest of such fiscal years and the date of the latest balance sheet filed. These income and source and application of funds statements shall be verified up to the date of the verified balance sheet, if practical.

(c) If the business was in insolvency proceedings immediately prior to its acquisition, the balance sheets required above need not be verified. In such case, the income and source and application of funds statements required shall be verified to the close of the latest full fiscal year, if practical.

(d) Except as otherwise provided in this instruction, the principles applicable to a registrant and its subsidiaries with respect to the filing of individual, consolidated and group statements in an original application or annual report shall be applicable to the statements required by this instruction.

3. Application of § 206.7

Section 206.7 governs the examination and the form and content of the statements required by the preceding instruction, including the basis of consolidation, and prescribes the statements of other stockholders' equity to be filed. No supporting schedules need be filed. A manually signed accountant's report should be provided.

4. Filing of Other Financial Information in Certain Cases.

The Board, upon the written request of the bank and where consistent with the protection of investors, may permit the omission of one or more of the financial statements herein required or the filing in substitution therefor of appropriate statements of comparable character, if the required financial statements are not reasonably available to the bank, because the obtaining thereof would involve unreasonable effort, expense or practicable difficulties. A request for such relief shall be filed as a part of the report. If an extension of time has been granted pursuant to § 206.4(r) of Regulation F (12 CFR 206.4(r)), a request for relief shall be filed as a part of an amendment to the initial report within the additional time provided under said rule. The request shall set forth the following information:

(a) The reason(s) for the unavailability of the audited financial statements;

(b) The estimated costs of their preparation;

(c) An explanation of any other practical auditing problems and;

(d) A tabular presentation of the following items of information, comparing the acquired business(es) with the bank on a consolidated basis (excluding the acquired business(es)): (1) Operating income; (2) net income; (3) total assets; (4) total stockholder equity; and (5) total purchase price compared to total equity capital of bank.

The Board may also by informal written notice require the filing of other financial statements in addition to, or in substitution for, the statements herein required in any case where such statements are necessary or appropriate for an adequate presentation of the financial condition of any person whose financial statements are required, or whose statements are otherwise necessary for the protection of investors.

(b) Exhibits. Subject to the rules as to incorporation by reference, copies of any plan of acquisition or disposition described in answer to Item 2, including any plan of reorganization, readjustment, exchange, merger, consolidation or succession in connection therewith, shall be filed as exhibit to this report.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

Date———

(Registrant)

(Signature)

(Typed name of signing officer)

(Title of signing officer)

It is proposed that § 206.44 (Form F-4) be revised by adding a new Part D to read as follows:

§ 206.44 Form for quarterly report of bank (From F-4)

* * * * *

PART D OTHER INFORMATION

Instruction. The Report shall contain the item numbers and captions of all applicable items of Part D, but the text of such items may be omitted: *Provided*, The responses clearly indicate the coverage of the item. Any item which is inapplicable or to which the answer is negative may be omitted and no reference thereto need be made in the report. If substantially the same information has been previously reported by the registrant, an additional report of the information on this form need not be made. The term "previously reported" is defined in § 206.2(v) of Regulation F.

ITEM 1. LEGAL PROCEEDINGS

(a) Briefly describe any material legal proceedings, other than ordinary routine litigation incidental to the business, to which the bank or any of its subsidiaries has become a party or of which any of their property has become the subject. Include the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceedings and the relief sought.

(b) If any such proceeding previously reported has been terminated, identify the proceeding, give the date of termination and describe the disposition thereof with respect to the Bank and its subsidiaries.

INSTRUCTIONS

1. No information need be given with respect to any proceeding which involves primally a claim for damages if the amount involved, exclusive of interest and costs, does not exceed 10 percent of the equity capital accounts of the bank. However, if any proceeding presents in large degree the same issues as other proceedings pending or known to be contemplated, the amount involved in such other proceedings shall be included in computing such percentage.

2. Notwithstanding the foregoing instructions, any bankruptcy, receivership or similar proceeding with respect to the bank or any of its significant subsidiaries shall be described. Any proceeding to which any director, officer or affiliate of the bank, any principal holder of equity securities of the bank or any associate of any such director, officer or security holder, is a party adverse to the bank or any of its subsidiaries shall also be described.

3. Notwithstanding the foregoing, administrative or judicial proceedings arising under any Federal, State or local provisions regulating the discharge of materials into the environment or otherwise relating to the protection of the environment shall not be deemed "ordinary routine litigation incidental to the business" and shall be described if such proceeding is material to the business or financial condition of the bank or if it involves primarily a claim for damages and the amount involved, exclusive of interest and costs, exceeds 10 percent of the equity capital of the bank and its subsidiaries on a consolidated basis. Any such proceedings by governmental authorities shall be deemed material and shall be described whether or not the amount of any claim for damages involved exceeds 10 percent of equity capital on a consolidated basis and whether or not such proceedings are considered "ordinary routine litigation incidental to the business"; *Provided, however,* That such proceedings which are similar in nature may be grouped and described generally stating: the number of such proceedings in each group; a generic description of such proceedings; the issues generally involved; and, if such proceedings in the aggregate are material to the business or finincial condition of the bank, the effect of such proceedings on the business or financial condition of the bank.

ITEM 3. CHANGES IN SECURITIES

(a) If the constituent instruments defining the rights of the holders of any class of registered securities have been materially modified, give the title of the class of securities involved and state briefly the general effect of such modification upon the rights of holders of such securities.

(b) If the rights evidenced by any class of registered securities have been materially limited or qualified by the issuance or modification of any other class of securities, state briefly the general effect to the issuance or modification of such other class of securities upon the rights of the holders of the registered securities.

Instruction. Limitations upon the payment of dividends are to be reported hereunder.

ITEM 3. CHANGES IN SECURITY FOR REGISTERED SECURITIES

If there has been a material withdrawal or substitution of assets securing any class of registered securities of the bank furnish the following information:

(a) Give the title of the securities.

(b) Identify and describe briefly the assets involved in the withdrawal or substitution.

(c) Indicate the provision in the underlying indenture, if any, authorizing the withdrawal or substitution.

Instruction. This item need not be answered where the withdrawal or substitution is made pursuant to the terms of an indenture which has been qualified under the Trust Indenture Act of 1939.

ITEM 4. DEFAULTS UPON SENIOR SECURITIES

(a) If there has been any material default in the payment of principal, interest, a sinking or purchase fund installment, or any other material default not cured within 30 days, with respect to any indebtedness of the bank or any of its significant subsidiaries exceeding 5 percent of the equity capital of the bank, identify the indebtedness and state the nature of the default. In the case of such a default in the payment of principle, interest, or a sinking or purchase fund installment, state the amount of the default and the total arrearage on the date of filing this report.

Instruction. This paragraph refers only to events which have become defaults under the governing instruments, i.e., after the expiration of any period of grace and compliance with any notice requirements.

(b) If any material arrearage in the payment of dividends has occurred or if there has been any other material delinquency not cured within 30 days, with respect to any class of preferred stock of the bank which is registered or which ranks prior to any class of registered securities, or with respect to any class of preferred stock of any significant subsidiary of the bank, give the title of the class and state the nature of the arrearage or delinquency. In the case of an arrearage in the payment of dividends, state the amount and the total arrearage on the date of filing this report.

Instruction. Item 4 need not be answered as to any default or arrearage with respect to any class of securities all of which is held by, or for the account of, the bank or its totally held subsidiaries.

ITEM 5. INCREASE IN AMOUNT OUTSTANDING OF SECURITIES.

If the amount outstanding of securities of the bank has been increased through the issuance of any new class of securities or through the issuance or reissuance of any additional securities of a class outstanding, and the aggregate amount of all such increases not previously reported exceeds 5 percent of the outstanding securities of the class, furnish the following information:

(a) Title of class, the amount outstanding as last previously reported, and the amount presently outstanding (as of a specified date);

(b) A brief description of the transaction(s) resulting in the increase and a statement of the aggregate net cash proceeds or the nature and aggregate amount of any other consideration received or to be received by the bank;

(c) The names of the principal underwriters, if any;

(d) A reasonable itemized statement of the purposes so far as determinable, for which the net proceeds have been or are to be used and the approximate amount used or to be used for each such purpose;

(e) If the securities were capital shares, a statement of the amount of the proceeds credited or to be credited to any account other than the appropriate capital share account.

INSTRUCTIONS

1. This item does not apply to notes, drafts, bills of exchange, bankers' acceptances or other obligations which mature not later than 1 year from the date of issuance. No report need be made where the amount not previously reported, although in excess of 5 percent of the amount outstanding, does not exceed 1,000 shares or other units.

2. This item includes the reissuance of treasury securities and securities held for the account of the issuer thereof.

ITEM 6. DECREASE IN AMOUNT OUTSTANDING OF SECURITIES

If the amount outstanding of any class of securities of the bank has been decreased through one or more transactions and the aggregate amount of all such decreases not previously reported exceeds 5 percent of the amount of securities of the class previously outstanding, furnish the following information:

(a) Title of the class, the amount outstanding as last previously reported, and the amount currently outstanding (as of a specified date).

(b) A brief description of the transaction(s) involving the decrease and a statement of the aggregate amount of cash or the nature and aggregate amount of any other consideration paid or to be paid by the bank in connection with such transaction or transactions.

Instruction. Instruction 1 to Item 5 shall also apply to this item. This item need not be answered as to decreases resulting from ordinary sinking fund operations, similar periodic decreases made pursuant to the terms of the constituent instruments, or decreases resulting from the conversion of securities.

ITEM 7. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

If any matter has been submitted to a vote of security holders, through the solicitation of proxies or otherwise, furnish the following information:

(a) The date of the meeting and whether it was an annual or special meeting.

(b) If the meeting involved the election of directors, state the name of each director elected at the meeting and the name of each other director whose term of office as a director continued after the meeting.

(c) Briefly describe each other matter voted upon at the meeting and state the number of affirmative votes and the number of negative votes cast with respect to each such matter.

INSTRUCTIONS

1. If any matter has been submitted to a vote of security holders otherwise than at a meeting of such security holders, corresponding information with respect to such submission shall be furnished. The solicitation of any authorization or consent (other than a proxy to vote at a stockholders' meeting) with respect to any matter shall be deemed a submission of such matter to a vote of security holders within the meaning of this item.

2. Paragraph (a) need be answered only if paragraph (b) or (c) is required to be answered.

3. Paragraph (b) need not be answered if (i) proxies for the meeting were solicited pursuant to § 206.5 of Regulation F under the Act, (ii) there was no solicitation in opposition to the management's nominees as listed in the proxy statement, and (iii) all of such nominees were elected. If the bank did not solicit proxies and the board of directors as previously reported to the Board was reelected in its entirety, a statement to that effect in answer to paragraph (b) will suffice as an answer thereto.

4. Paragraph (c) need not be answered as to procedural matters or as to the selection or approval of auditors.

5. If the registrant has published a report containing all of the information called for by this item, the item may be answered by a reference to the information contained in such report, provided copies of such report are filed as an exhibit to the report on this form.

ITEM 8. OTHER MATERIALLY IMPORTANT EVENTS

The registrant may, at its option, report under this item any events, not previously reported in a report on Form F-3, with respect to which information is not otherwise called for by this form but which the registrant deems of material importance to security holders.

ITEM 9. EXHIBITS AND REPORTS ON FORM F-3 (12 CFR 206.43)

(a) Exhibits. List below the documents, if any, filed as a part of this report. Subject to the rules as to incorporation by reference, the following documents shall be filed as exhibits:

1. Copies of the amendments to all constituent instruments and other documents described in answer to Item 2.

2. Copies of all constituent instruments defining the rights of the holders of any new class of securities referred to in answer to Item 5.

3. Copies of the text of any proposal described in answer to Item 7.

4. Copies of any published report furnished in response to Item 7. (See Item 7, Instruction 5.)

5. Copies of any material amendment to the bank's charter or by-laws not otherwise required to be filed.

(b) Reports on Form F-3. State whether any reports on Form F-3 have been filed during the quarter for which this report is filed, listing the items reported, any financial statements filed, and the dates of any such reports.

It is further proposed to revise § 206.42 (Form F-2) as follows:

§ 206.42 Form for annual report of bank (Form F-2)

. . . . . .

GENERAL INSTRUCTIONS

A.-F. [No change]

OMISSION OF INFORMATION PREVIOUSLY FILED

(a) Except as provided in paragraph (b) below, the information called for by Items 1, 2, 3, 4, 8, 9, 10, 11, 12, 15, 16, 17, and 18 of this form is to be furnished by all registrants required to file a report, on this form. Items 5, 6, 7, 13, and 14 may be omitted from the report by any registrant which, since the close of the fiscal year, has filed with the Board a definitive proxy statement or a definitive information statement pursuant to § 206.5 of Regulation F which involved the election of directors, or which files such a proxy or information statement not later than 120 days after the close of the fiscal year.

(b) If the information called for by Items 2, 9, or 12 would be unchanged from that given in a previous report, a reference to the previous report which includes the required information will be sufficient. Copies of such previous report need not be filed with the report currently being filed on this form.

PART I

ITEMS 1, 2, AND 3. [NO CHANGE]

ITEM 4. SUMMARY OF OPERATIONS

. . . . . .

INSTRUCTIONS. 1.-3. [NO CHANGE]

4. For any previously reported material charge or credit to income of an unusual or infrequent nature in which an amount of cost was estimated to be incurred in the fiscal year being reported on or the prior fiscal year, summarize such transaction and state the amounts of such estimated cost and the amounts of the actual cost incurred in such periods, the reasons for differences between estimated and actual amounts, if any, and provide a detailed reconciliation showing all changes and credits to any reserve provided.

ITEMS 5, 6, 7, AND 8 [NO CHANGE]

ITEM 9. LEGAL PROCEEDINGS

(a) Briefly describe any material pending legal proceedings, other than ordinary routine litigation incidental to the business, to which the bank or any of its subsidiaries is a party or of which any of their property is the subject. Include the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceeding and the relief sought. Include similar information as to any such proceedings known to be contemplated by governmental authorities.

(b) If any material legal proceeding which was previously reported or which became reportable during the fourth quarter of bank's fiscal year was terminated during such quarter, give the date of termination and describe the disposition thereof with respect to the bank and its subsidiaries.

INSTRUCTIONS

1. No collection, action or claim need be described unless it departs from the normal kind of such actions.

2. No information need be given with respect to any proceeding which involves primarily a claim for damages if the amount involved, exclusive of interest and costs, does not exceed 10 percent of the equity capital of the bank. However, if any proceeding presents in large degree the same issues as other proceedings pending or known to be contemplated, the amount involved in such other proceedings shall be included in computing such percentage.

3. Notwithstanding Instructions 1 and 2, any material bankruptcy, receivership, or similar proceeding with respect to the bank or any of its significant subsidiaries shall be described. Any material proceedings to which any director, officer or affiliate of the registrant, any security holder named in answer to Item 5(a), or any associate of any such director, officer or security holder, is a party, or has a material interest, adverse to the bank of any of its subsidiaries shall also be described.

4. Notwithstanding the foregoing, administrative or judicial proceeding arising under any Federal, State or local provisions regulating the discharge of materials into the environment or otherwise relating to the protection of the environment shall not be deemed "ordinary routine litigation incidental to the business" and shall be described if such proceeding is material to the business of financial condition of the bank or if it involves primarily a claim for damages and the amount involved, exclusive of interest and costs, exceeds 10 percent of the equity assets of the bank and its subsidiaries on a consolidated basis. Any such proceedings by governmental authorities shall be deemed material and shall be described whether or not the amount of any claim for damages involved exceeds 10 percent of equity capital and whether or not such proceedings are considered "ordinary routine litigation incidental to the business"; provided, however, that such proceedings which are similar in nature may be grouped and described generally stating: the number of such proceedings in each group; a generic description of such proceedings; the issues generally involved; and, if such proceedings in the aggregate are material to the business or financial condition of the bank the effect of such proceedings on the business or financial condition of the bank.

ITEM 10. INCREASES AND DECREASES IN OUTSTANDING SECURITIES

(a) Give the following information as to all increases and decreases during the fiscal year in the amount of equity securities of the registrant outstanding:

(1) The title of the class of securities involved;

(2) The date of the transaction;

(3) The amount of securities involved and whether an increase or decrease; and

(4) A brief description of the transaction in which the increase or decrease occurred. If previously reported, the description may be incorporated by a specific reference to the previous filing.

Instructions. The information shall be prepared in the form of a reconciliation between the amounts shown to be outstanding on the balance sheet to be filed with this report and the amounts shown on the bank's balance sheet for the previous year. The exercise of outstanding options or warrants (separately by class or type of option or warrant), conversions of previously issued convertible securities (separately by class of security) and the issuance of options may be grouped together showing the dates between which all such transactions occurred. If the information called for has been previously reported on Form F-4, it may be incorporated by a specific reference to the previous filing.

(b) Increases and decreases in the amount outstanding of debt securities which were previously reported in reports on Form F-4 should be listed and briefly discussed with appropriate cross references to the earlier disclosure.

(c) If, during the fourth quarter of the bank's fiscal year, the amount of debt securities outstanding has been increased or decreased through one or more transactions, and the aggregate amount of all such increases or decreases not previously reported exceeds 5 percent of the outstanding securities of the affected class, furnish, the following information:

(1) Title of class, the amount outstanding as last previously reported, and the amount presently outstanding (as of a specified date);

(2) A brief description of the transaction or transactions resulting in the change;

(3) If an increase in securities is reported, furnish: (i) A statement of the aggregate net cash proceeds or the nature and aggregate amount of any consideration received or to be received by the bank; (ii) the names of the principal underwriters, if any; and (iii) a reasonably itemized statement of the purposes, so far as determinable, for which the net proceeds have been or are to be used and the approximate amount used or to be used for each such purpose; and

(4) If a decrease in securities is reported, a statement of the aggregate amount of cash or the nature and aggregate amount of any other consideration paid or to be paid by the bank in connection with such transaction or transactions.

INSTRUCTIONS

1. This paragraph does not apply to notes, drafts, bills of exchange, bankers' acceptances, or other obligations which mature not later than 1 year from the date of issuance. No report need be made where the amount not previously reported, although in excess of 5 percent of the amount outstanding, does not exceed 1,000 shares or other units.

2. This paragraph includes the reissuance of treasury securities and securities held for the account of the issuer thereof.

3. This paragraph need not be answered as to decreases resulting from ordinary sinking fund operations, similar periodic decreases made pursuant to the terms of the constituent instruments, or decreases resulting from the conversion of securities.

ITEMS 11, 12, 13, AND 14. [NO CHANGE]

ITEM 15. FINANCIAL STATEMENTS, EXHIBITS FILED, AND REPORTS ON FORM F-3

(a) List all of the following documents filed as a part of the report:

1. All financial statements.

2. All exhibits, including those incorporated by reference.

Instructions. Where any financial statement or exhibit is incorporated by reference, the incorporation by reference shall be set forth in the list required by this item. Section 206.4(m) of Regulation F (12 CFR 206.4(m)).

(b) Reports on Form F-3. State whether any reports on Form F-3 have been filed during the last quarter of the period covered by this report, listing the items reported, any financial statements filed and the dates of any such reports.

ITEM 16. CHANGES IN SECURITIES AND CHANGES IN SECURITY FOR REGISTERED SECURITIES

General Instruction. No response to this item is required if the information called for herein has been previously reported in a report on Form F-4.

(a) If the constituent instruments defining the rights of the holders of any class of registered securities have been materially modified, give the title of the class of securities involved and state briefly the general effect of such modification upon the rights of holders of such securities.

(b) If the rights evidenced by any class of registered securities have been materially limited or qualified by the issuance or modification of any other class of securities, state briefly the general effect of the issuance or modification of such other class of securities upon the rights of the holders of the registered securities.

Instruction. Restrictions upon payment of divideneds are to be reported hereunder.

(c) If there has been a material withdrawal or substitution of assets securing any class of registered securities of the bank, furnish the following information:

1. Give the title of the securities.

2. Identify and describe briefly the assets involved in the withdrawal or substitutions.

3. Indicate the provision in the underlying indenture, if any, authorizing the withdrawal or substitution.

Instruction. This paragraph need not be answered where the withdrawal or substitution is made pursuant to the terms of an indenture which has been qualified under the Trust Indenture Act of 1939.

ITEM 17. DEFAULTS UPON SENIOR SECURITIES

General Instruction. No response to this item is required if the information called for herein has been previously reported in a report on Form F-4.

(a) If there has been any material default in the payment of principal, interest, a sinking or purchase fund installment, or any other material default not cured within 30 days, with respect to any indebtedness of the bank or any of its significant subsidiaries exceeding 5 percent of the equity capital of the bank, identify the indebtedness and state the nature of the default. In the case of such a default in the payment of principal, interest, or a sinking or purchase fund installment, state the amount of the default and the total arrearage on the date of filing this report.

Instruction. This paragraph refers only to events which have become defaults under the governing instruments, i.e., after the expiration of any period of grace and compliance with any notice requirements.

(b) If any material arrearage in the payment of divideneds has occurred or if there has been any other material delinquency not cured within 30 days, with respect to any class of preferred stock of the bank which is registered or which ranks prior to any class of registered securities, or with respect to any class of preferred stock of any significant subsidiary of the bank, give the title of the class and state the nature of the arrearage or delinquency. In the case of an arrearage in the payment of dividends, state the amount and the total arrearage on the date of filing this report.

Instruction. Item 17 need not be answered as to any default or arrearage with respect to any class of securities all of which is held by, or for the account of, the bank or its totally held subsidiaries.

ITEM 18. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

If any matter has been submitted to a vote of security holders, through the solicitation of proxies or otherwise, furnish the following information if not previously disclosed in a report on Form F-4

(a) The date of the meeting and whether it was an annual or special meeting.

(b) If the meeting involved the election of directors, state the name of each director elected at the meeting and the name of each other director whose term of office as a director continued after the meeting.

(c) Briefly describe each other matter voted upon at the meeting and state the number of affirmative votes and the number of negative votes cast with respect to each such matter.

Instructions. 1. If any matter has been submitted to a vote of security holders otherwise than at a meeting of such security holders, corresponding information with respect to such submission shall be furnished. The solicitation of any authorization or consent (other than a proxy to vote at a stockholders' meeting) with respect to any matter shall be deemed a submission of such matter to a vote of security holders within the meaning of this item.

2. Paragraph (a) need be answered only if paragraph (b) or (c) is required to be answered.

3. Paragraph (b) need not be answered if (i) proxies for the meeting were solicited pursuant to § 206.5 of Regulation F, (ii) there was no solicitation in opposition to the management's nominees as listed in the proxy statement, and (iii) all of such nominees were elected. If the registrant did not solicit proxies and the board of directors as previously reported to the Board was reelected in its entirety, a statement to that effect in answer to paragraph (b) will suffice as an answer thereto.

4. Paragraph (c) need not be answered as to procedural matters or as to the selection or approval of auditors.

5. If the Bank has published a report containing all of the information called for by the item, the item may be answered by a reference to the information contained in such report, provided copies of such report are filed as an exhibit to the report on this form.

SIGNATURES

[No change]

INSTRUCTIONS AS TO FINANCIAL STATEMENTS

[No change]

INSTRUCTIONS AS TO EXHIBITS

Subject to provisions regarding the incorporation of exhibits by reference, the following exhibits shall be filed as a part of the report:

A. Copies of all amendments or modifications, not previously filed, to all exhibits previously filed (or copies of such exhibits as amended or modified).

B. Copies of all contracts and other documents of a character required to be filed as an exhibit to an original registration statement on Form F-1 which were executed or in effect during the fiscal year and not previously filed.

C. Copies of the exhibits called for by Instruction 3(d) to Item 4.

D. Copies of all constituent instruments defining the rights of the holders of any new class of securities referred to in answer to Item 10(c).

E. Copies of the amendments to all constituent instruments and other documents described in answer to Item 18.

F. Copies of the text of any proposal described and copies of any published report furnished in response to Item 18.

Similarly, it is proposed to amend Item 5(e) of Form F-5 for this purpose, to read as follows:

(e) If, to the knowledge of the persons on whose behalf the solicitation is made, a change in control of the bank has occurred since the beginning of its last fiscal year, state the name of the person(s) who acquired such control, the amount and the source of the consideration used by such person or persons, the basis of the control, the date and a description of the transaction(s) which resulted in the change of control, and the percentage of voting securities of the bank now beneficially owned directly or indirectly by the person(s) who acquired control, and the identity of the person(s) from whom control was assumed. If the source of all or any part of the consideration used is a loan made in the ordinary course of business by a bank as defined by section 3(a)(6) of the Act, the identity of such bank shall be omitted provided a request for confidentiality has been made pursuant to Section 13(d)(1)(B) of the Act by the person(s) who acquired control. In lieu thereof, the material shall indicate that the identity of the bank has been so omitted and filed separately with the Board. If the source of all or any part of the funds used to acquire control of the bank was a loan made by a bank as defined by section 3(a)(6) of the Act, indicate whether there exists any agreement, arrangemnt, or understanding pursuant to which the registrant bank maintains or would maintain a correspondent deposit account at such lending bank.

INSTRUCTIONS

1. State the terms of any loans or pledges obtained by the new control group for the purpose of acquiring control, and the names of the lenders or pledgees.

2. Any arrangements or understandings among members of both the former and new control groups and their associates with respect to election of the directors or other matters should be described.

The Commission, at the time it transferred items from the current to the quarterly report form, amended one of the transferred disclosure items, which the Board does not propose to adopt. The Commission codified a staff interpretation that disclosure items concerning increases and decreases in amounts of securities outstanding include increases and decreases in the amount of commercial loans in issuer has obtained. In that commercial banks generally are not the recipient of commercial loans, a conforming amendment would appear inappropriate.

F. STOCK APPRECIATION RIGHTS

Under section 16(a) of the Act, any person who beneficially owns, directly or indirectly, more than 10 per cent of any class of equity security which is registered under section 12 of the Act, or who is a director or an officer of the bank that issued any such security, must file statements with the Board disclosing the amount of such securities that he owns. Section 16(b) requires that any profit realized by such officer, director, or 10 percent owner from any purchase and sale, or any sale and purchase, of a bank's registered equity securities within any period of less than six months shall inure to and be recoverable by the issuer. Under the amendments to its rues pursuant to sections 16(a) and (b), the Commission has provided a "safe harbor" from the requirements of these sections for certain transactions involviang cash settlements of stock appreciation rights (42 FR 754 (1977)). Stock appreciation rights generally entitle a person to receive an amount (payable in cash, securities, or a combination thereof) equal to the change over a period of time of any one or more measures of appreciation (e.g., book value or net earnings) or increase in the value of the equity security to which such right relates. This new provision has been added to the Commission's exemptive rules regarding acquisitions of stock and nontransferable options pursuant to certain employee benefit plans. In connection with its adoption of this amendment, the Commission had adopted a clarifying amendment indicating that the exemption for stock appreciation rights will be available only if the exercises (occurring on certain fixed dates) are made during a specified ten-day period each quarter following the release of financial information by the bank.

The Board proposes to amend Regulation F in order to adopt similar treatment of stock appreciation rights that may, from time to time, be issued by banks registered under Regulation F. To accomplish this, § 206.6(1) of Regulation F would be amended to read as follows:

* * * * *

(1) *Exemption from section 16(b) of acquisitions of shares of stock and stock options and stock appreciation rights under certain stock incentive, stock option or similar plans.* Any acquisition of shares of stock (other than stock acquired upon the exercise of an option, warrant or right) pursuant to a plan as defined in subparagraph (4)(i) of this paragraph, or any acquisition, expiration, cancellation or surrender to the bank of a stock option or stock appreciation right pursuant to such a plan by a director or officer of the bank shall be exempt from the operation of section 16(b) of the Act if the plan meets the following conditions:

(i) Approval by security holders. The plan has been approved, directly or indirectly, (i) by the affirmative votes of the holders of a majority of the securities of the bank present, or represented, and entitled to vote at a meeting duly held in accordance with the applicable laws of the state or other jurisdiction in which the bank was chartered, or (ii) by the written consent of the holders of a majority of the securities of the bank entitled to vote: *Provided, however,* That if such a vote or written consent was not solicited substantially in accordance with the rules and regulations, if any, in effect under section 14(a) of the Act at the time of such vote or written consent, the bank shall furnish in writing to the holders of record of the securities entitled to vote for the plan substantially the same information concerning the plan that would be required by the rules and regulations in effect under section 14(a) of the Act at the time such information is furnished, if proxies to be voted with respect to the approval or disapproval of the plan were then being solicited, on or prior to the date of the first annual meeting of security holders held subsequent to the later of (*a*) the first registration of an equity security under section 12 of the Act or (*b*) the acquisition of an equity security for which exemption is claimed. Such written information may be furnished by mail to the last known address of the security holders of record within 30 days prior to the date of mailing. Four copies of such written information shall be filed with, or mailed for filing to, the Board not later than the date on which it is first sent or given to security holders of the bank. For the purposes of this paragraph, the term "bank" includes a predecessor bank if the plan or obligations to participate thereunder were assumed by the bank in connection with the succession. In addition, any amendment to the plan shall be similarly approved if the amendment would:

(*1*) Materially increase the benefits accruing to participants under the plan;

(*2*) Materially increase the number of securities which may be issued under the plan; or

(*3*) Materially modify the requirements as to eligibility for participation in the plan.

(2) Disinterested administrators. If the selection of any director or officer of the bank to whom stock may be allocated or to whom stock options or stock appreciation rights may be granted pursuant to the plan, or the determination of the number or maximum number or shares of stock which may be allocated to any such director or officer or which may be covered by stock options or stock appreciation rights granted to any such director or officer pursuant to the plan is subject to the discretion of any person, then such discretion shall be exercised only as follows:

(i) With respect to the participation of directors:

(*a*) By the board of directors of the bank, a majority of which board and a majority of the directors acting in the matter are disinterested persons;

(*b*) By, or only in accordance with the recommendation of, a committee of three or more persons having full authority to act in the matter, all of the members of which committee are disinterested persons; or

(*c*) Otherwise in accordance with the plan, if the plan: (*1*) Specifies the number or maximum number of shares of stock which directors may acquire or which may be subject to stock options or stock appreciation rights granted to directors pursuant to the plan and the terms upon which, and the times at which, or the periods within which, such stock may be acquired or such options or rights may be acquired and exercised; or (*2*) sets forth, by formula or otherwise, effective and determinable limitations with respect to the foregoing based upon earnings of the bank, dividends paid, compensation received by participants, option prices, market value of shares, outstanding shares or percentages thereof outstanding from time-to-time or similar factors.

(ii) With respect to the participation of officers who are not directors:

(*a*) By the Board of directors of the bank or a committee of three or more directors;

(*b*) By, or only in accordance with the recommendations of, a committee of three or more persons having full authority to act in the matter, all of the members of which committee are disinterested persons; or

(c) Otherwise in accordance with the plan, if the plan (*1*) Specifies the number of maximum number of shares of stock which officers may acquire or which may be subject to stock options or stock appreciation rights granted to officers pursuant to the plan and the terms upon which, and the times at which, or the period within which, such stock may be acquired or such options or rights may be acquired and exercised; or (*2*) Sets forth, by formula or otherwise, effective and determinable limitations with respect to the foregoing based upon earnings of the bank, dividends paid, compensation received by participants, option prices, market value of shares, outstanding shares or percentages thereof outstanding from time-to-time or similar factors.

(iii) The provisions of this paragraph shall not apply with respect to any option or right granted or other equity security acquired, prior to the date of the first registration of an equity security under section 12 of the Act.

(3) Plan limitations. As to each participant or as to all participants the plan effectively limits the aggregate dollar amount of stock or the aggregate number of shares of stock which may be allocated, or which may be subject to stock options or stock appreciation rights issued pursuant to the plan. The limitations may be established on an annual basis, or for the duration of the plan, whether or not the plan has a fixed termination date, and may be determined either by fixed or maximum dollar amounts or fixed or maximum numbers of shares or by formulas based upon earnings of the bank, dividends paid, compensation received by participants, option prices, market value of shares, outstanding shares or percentages thereof outstanding from time-to-time, or similar factors that will result in an effective and determinable limitation. Such limitations may be subject to any provision for adjustment of the plan or of stock allocable or options outstanding thereunder to prevent dilution or enlargement of rights.

(4) Definitions. Unless the context otherwise requires, all terms used in this rule shall have the same meaning as in the Act or elsewhere in Part 206. In addition, the following definitions apply:

(i) The term "plan" shall mean an option, bonus, appreciation, profit sharing, retirement, incentive, thrift, savings or similar plan that meets the following conditions:

(*a*) The plan must be set forth in a written document describing the means or basis for determining the eligibility of individuals to participate and either the price at which the securities may be offered or the method by which the price or the amount of the award is to be determined; and

(*b*) The plan must provide with respect to any option or similar right (including a stock appreciation right) offered pursuant to the plan that such option or right is not transferable other than by will or the laws of descent and distribution and that it is exercisable during the employee's lifetime only by him or his guardian or legal representative.

(ii) The term "exercise of an option, warrant or right" contained in the parenthetical clause of the first paragraph of § 206.6(1) shall not include:

(*a*) The making of an election to receive under any plan compensation in the form of stock or credits therefor, provided that such election is made either prior to the making of the award or prior to the fulfillment of all conditions to the receipt of the compensation and, provided, further, that such election is irrevocable until at least six months after termination of employment;

(*b*) The subsequent crediting of such stock;

(c) The making of any election as to the time for delivery of such stock after termination of employment, provided that such election is made at least six months prior to any such delivery;

(*d*) The fulfillment of any condition to the absolute right to receive such stock; or

(*e*) The acceptance of certificates for shares of such stock.

(iii) The term "disinterested person" used in §§ 206.6(1)(2) and 206.6(1)(5) hereof shall mean an administrator of a plan who is not at the time he exercises discretion in administering the plan eligible and has not at any time within one year prior thereto been eligible for selection as a person to whom stock may be allocated or to whom stock options or stock appreciation rights may be granted pursuant to the plan or any other plan of the bank or any of its affiliates entitling the participants therein to acquire stock, stock options or stock appreciation rights of the bank or any of its affiliates.

(5) Cash Settlements of Stock Appreciation Rights. Any transaction involving the exercise and cancellation of a stock appreciation right issued pursuant to a plan (whether or not the transaction also involves the related surrender and cancellation of a stock option), and the receipt of cash in complete or partial settlement of that right, shall be exempt from the operation of section 16(b) of the Act, as not comprehended within the purpose of that section, if all the following conditions are met:

(i) Information about the issue. (*a*) The bank that is the issuer of the stock appreciation right has been subject to the reporting requirements of section 13 of the Act for at least a year prior to the transaction and has filed all reports and statements required to be filed pursuant to that section during that year.

(*b*) The bank that is the issuer of the stock appreciation right on a regular basis does release for publication quarterly and annual summary statements of revenues and earnings. This condition shall be deemed satisfied if the specified financial data appears (*1*) on a wire service, (*2*) in a financial news service, (*3*) in a newspaper of genaral circulation, or (*4*) is otherwise made publicly available.

(ii) Limitation of the right and any related option. Neither the stock appreciation right nor any related stock option shall have been exercisable during the first six months of their respective terms, except that this limitation shall not apply in the event death or disability of the grantee occurs prior to the expiration of the six-month period.

(iii) Administration of the plan. (*a*) The plan shall be administered by either the board of directors, a mamority of which are disinterested persons and a majority of the directors acting on plan matters are disinterested persons, or by a committee of three or more persons, all of whom are disinterested persons;

(*b*) The board or committee shall have sole discretion either (*1*) To determine the form in which payment of the right will be made (i.e, cash, securities, or any combination thereof), or (*2*) To consent to or disapprove the election of the participant to receive cash in full or partial settlement of the right. Such consent or disapproval may be given at any time after the election to which it relates.

(c) Any election by the participant to receive cash in full or partial settlement of the stock appreciation right, as well as any exercise by him of this stock appreciation right for such cash, shall be made during the period beginning on the third business day following the date of release of the financial data specified in § 206.6(1)(5)(i)(b) hereof and ending on the twelfth business day following such date. This subparagraph, (5)(iii)(c), however, shall not apply to any exercise by the participant of a stock appreciation right for cash where the date of exercise:

(*1*) Is automatic or fixed in advance under the plan;

(*2*) Is at least six months beyond the date of the stock appreciation right; and

(*3*) Is outside the control of the participant.

(iv) Compliance with other conditions of § 206.6(1). The plan under

which the stock appreciation rights and any related options are granted shall meet the conditions, specified above in § 206.6(1) (1), (2), (3), and (4).

(v) Limit of the exemption. Nothing in this § 206.6(1)(5) provides an exemption from section 16(b) for the acquisition of stock upon the exercise of a stock appreciation right or a stock option.

It is further proposed that § 206.6(e)(3) be amended to read as follows:

(3) Notwithstanding the foregoing, a statement need not be filed pursuant to section 16(a) of the Act:

(i) By any person with respect to the acquisition, expiration, surrender to the bank, or cancellation of any nontransferable stock option or stock appreciation right granted by the bank of the securities to which the option or right relates pursuant to a plan which meets the conditions specified in § 206.6(1) (1), (2), (3), (4) and (5) (a), (b), (c), (d) and (e) of this chapter, or;

(ii) By any bank with respect to any put, call, option or other right or obligation to buy or sell securities of which it is the issuer. As used in this subparagraph (3), the term "plan" shall have the meaning assigned to it in subparagraph (4) of § 206.6(1).

Beneficial Ownership Disclosure Requirements

One relatively recent Commission amendment is to "relevant regulations and rules", yet the Board has not proposed adoption of a similar rule at this time. Generally, section 13(d) of the Act requires that any person (or group of persons) who, as a result of an acquisition, becomes the beneficial owner of more than 5 percent of certain classes of equity securities of certain issuers must file a report with respect to such acquisition. The Commission has amended its rules under section 13(d) to provide definitions of the terms "beneficial owner", "acquisition", and "group", for purposes of section 13(d) that have not previously been defined in the Commission's rules thereunder (42 FR 1234 (1977)). The Commission also amended its rules to permit certain institutional investors (e.g., broker-dealers and investment companies) and certain employee benefit plans that acquire more than 5 percent of a class of securities in the ordinary course of business to file an abbreviated acquisition notice on a quarterly basis in lieu of filing beneficial ownership acquisition form Schedule 13D. Moreover, the Commission revised its Schedule 13D so as to require the disclosure of the citizenship of a beneficial owner, the general nature of any non-purchase acquisition, and certain pledges of securities by a beneficial owner. Additional changes to Schedule 13D reduce the reporting requirement about the employment histories and any criminal convictions of beneficial owners and related persons to five years, in place of the present ten-year period, limit information that a reporting corporation must disclose about its officers to information concerning its executive officers, and limit information that a reporting limited partnership must disclose about its partners to information regarding its limited partners.

The Commission recently postponed the effective date of these amendments and it is not entirely clear that the amendments may not again be revised prior to their delayed effective date. In view of the uncertainty involved, the Board intends temporarily to give further consideration whether to propose beneficial ownership rules similar to those adopted by the Commission.

To aid in the consideration of these matters by the Board, interested persons are invited to submit relevant data, comments, views, or arguments as to whether any of the particular proposed amendments are or are not "necessary or appropriate in the public interest or for protection of investors" within the meaning of section 12(i) of the Act. The Board wishes to invite particular comments as to whether the proposed amendment limiting confidential treatment of preliminary proxy material is "necessary or appropriate in the public interest or for protection of investors. "Any requests for a hearing on this matter should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

Any views or requests for a hearing should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than May 1, 1978. All material submitted should include the docket number R-0146. All views expressed in written comments on the proposal and received by the date will be considered by the Board. Such material will be made available for inspection and copying upon request, except as provided in the Board's Rules Regarding Availability of Infotmation (12 CFR Part 261).

By order of the Board of Governors, March 1, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-6474 Filed 3-10-78; 8:45 am]

[6714-01]

FEDERAL DEPOSIT INSURANCE CORPORATION

[12 CFR Part 335]

SECURITIES OF INSURED NONMEMBER STATE BANKS

Advance Notice of Proposed Rulemaking

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Proposed Rule.

SUMMARY: The proposal would amend the Federal Deposit Insurance Corporation's ("FDIC") securities disclosure regulations issued under the Securities Exchange Act of 1934 (15 U.S.C. 78*l*(i)) ("Act") in order to bring them into substantial similarity with those of the Securities and Exchange Commission ("SEC"), to correct existing errors and to effect minor revisions of a technical nature. Section 12(i) of the Act requires that the FDIC issue substantially similar regulations to those of the SEC or publish its reasons for not doing so. This proposal is intended to comply with Section 12(i) to update the regulation and to make the regulation more understandable.

DATES: Comments must be received on or before April 12, 1978.

ADDRESS: Interested persons are invited to submit written data, views or arguments regarding the proposed regulations to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429. All written comments will be made available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Gerald J. Gervino, Attorney, or Louis E. Wright, Financial Analyst, Federal Deposit Insurance Corporation, 550 15th Street, NW., Washington, D.C. 20429 202-389-4422 or 389-4651.

SUPPLEMENTARY INFORMATION: In addition to correcting a number of references and typographical errors, the FDIC would make the following changes:

A. Dissemination of Proxy Information

On July 5, 1977, the SEC amended its Rule 14a-3(d) (17 CFR 240.14a-3(d).) 42 FR 35953 (1977). The SEC amendment imposes a new time constraint upon issuer inquiries with respect to beneficial owners. The FDIC would impose an identical time constraint. A simultaneous SEC proposal imposes a new duty of inquiry upon issuers. The FDIC would adopt the SEC

proposal as well. 12 CFR 335.5(c)(3) would be appropriately amended.

B. Confidential Treatment of Preliminary Material

12 CFR 335.41 and 335.42 would be amended to clarify the types of adminamended to make it consistent with the instructions to Forms F—7 and F-8.

ing person who has the same home as such person.

* * * * *

power of attorney, pooling arrangement or any other contract, arrangement, or device with the purpose or effect of divesting such person of beneficial ownership of a security or

ant to the default enables him to change or influence control of the bank.

(v) Any person may expressly declare in any statement filed that the

ties, assembled in such form and at such a place, as the record holder may reasonably request in order to address and send one copy of each to each

proposal as well. 12 CFR 335.5(c)(3) would be appropriately amended.

B. CONFIDENTIAL TREATMENT OF PRELIMINARY MATERIAL

The SEC has amended its rules to remove (under most circumstances) a provision for confidential treatment of preliminary proxy material. 41 FR 53784 (1976). The FDIC would amend 12 CFR 335.5(f)(5) to accomplish a similar result.

C. MISLEADING STATEMENTS

On April 23, 1976, the SEC amended Rule 14a-9 by deleting the word "earnings" from a list of projections that might be misleading. 41 FR 19932. The FDIC would amend 12 CFR 335.5(h) in the same respect.

D. SHAREHOLDER PROPOSALS

The SEC has substantially revised its rules with respect to shareholder proposals. 41 FR 52994 (1976). The new rules allow submission by beneficial owners, establish new time, length and frequency requirements, and add new substantive bases for issuer omission of proposals. The FDIC would amend 12 CFR 335.5(k) to substantially conform to the SEC changes.

E. TENDER OFFERS

On July 21, 1977, the SEC substantially amended its tender offer regulations issued under the Williams Act Amendments, Pub. L. 90-439. 42 FR 38347 (1977). These amendments provide for a new more detailed form to be used for tender offers. The FDIC would amend 12 CFR 335.5(*l*) and 335.47, and adopt a new 12 CFR 335.54 to conform its regulations to those of the SEC.

The SEC has also proposed an amendment to its Rule 13d-3 which would broaden its definition of "beneficial owner." 42 FR 12342 (1977). Since the amendment is currently in effect as to tender offers, (42 FR 38347) the FDIC would amend 12 CFR 335.4(h)(5) to conform to Rule 13d-3.

Commentators who have submitted comments to the SEC in connection with comparable SEC proposals need not necessarily repeat their comments to the FDIC. The FDIC will review and consider comments already submitted to the SEC prior to publication of this proposal.

F. ACCOUNTING AMENDMENTS

Recently the SEC has made a number of minor accounting amendments to Regulation S/X. 40 FR 59339 (1975), 41 FR 35479, 41 FR 32736 (1976). The FDIC would amend 12 CFR 335.7 where appropriate to conform to the changes.

G. HOUSEKEEPING AMENDMENTS

The FDIC's definition of "beneifical ownership" (§ 335.2(e)) would be amended to make it consistent with the instructions to Forms F—7 and F-8.

12 CFR 335.41 and 335.42 would be amended to clarify the types of administrative proceedings which must be disclosed and to provide language in Form F-2 that is more specifically applicable to banking.

On July 13, 1977, the SEC adopted amendments to forms 8-K and 10-Q and other forms. 42 FR 4424. The FDIC would reflect most of these amendments by amending 12 CFR 335.42, 335.43, 335.44 and 335.51. However, it would not change its time or format requirements for filing the current reports.

The FDIC would also amend 12 CFR 335.71B(2)(i) in order to conform that paragraph with the Corporation's "Instruction for the Preparation of Report of Income and Dividends on Form 73."

H. SEC RULES NOT ADOPTED

The FDIC has not considered the adoption of SEC Exchange Act regulations which are not applicable to banking. In addition, certain amendments to the regulations adopted under Section 13(d) of the Act have not yet been made effective by the Commission. 42 FR 1237 (1977). These changes have not yet been considered.

An exemptive provision with respect to stock appreciation rights has been adopted by the SEC. 42 FR 754 (1977). The FDIC is unaware of any bank subject to its Exchange Act jurisdiction under Section 12(i) of the Act that has issued such rights. Thus it feels that it would be inappropriate to consider such an exemption until the circumstances suggesting its adoption should arise. The FDIC is also proposing revocation of its environmental disclosure provision in Item 5 of its Form F-2 and Item 3 of its Form F-3. Since banks have not encountered such proceedings previously, the FDIC finds the provision superfluous.

It is proposed to amend 12 CFR Part 335, as follows:

1. Section 335.2(e) would be amended as follows:

§ 335.2 Definitions.

* * * * *

(e) The terms "beneficial ownership", "beneficially owned", and the like, when used with respect to the reporting of ownership of the bank's equity securities in any statement or report required by this part, shall include, in addition to direct and indirect beneficial ownership by the reporting person, ownership of such securities (1) by the spouse (except where legally separated) and minor children of such reporting person, and (2) by any other relative of the reporting person who has the same home as such person.

* * * * *

2. Section 335.4 would be amended by revising paragraphs (a)(2), (a)(3), (h)(5) and (m)(1) as set forth below:

§ 335.4 Registration statements and reports.

(a) * * *

(2) *Registration of securities of successor bank.* Where in connection with a succession by merger, consolidation, exchange of securities or acquisition of assets, equity securities of a bank, not previously registered pursuant to section 12 of the Act, are issued to the holders of any class of equity securities of another issuer which is registered pursuant to section 12(g) of the Act, the class of securities so issued shall be deemed to be registered pursuant to section 12(g) of the Act unless upon consummation of the succession such class is exempt from such registration or all securities of such class are held of record by less than 300 persons.

(3) Where in connection with a succession by merger, consolidation, exchange of securities or acquisition of assets, equity securities of a bank, which are not registered pursuant to section 12 of the Act, are issued to the holders of any class of equity securities of another issuer which is required to file a registration statement pursuant to section 12(g) of the Act but has not yet done so, the duty to file such statement shall be deemed to have been assumed by the bank whose class of securities is so issued and such bank shall file a registration statement pursuant to section 12(g) of the Act with respect to such class within the period of time the predecessor issuer would have been required to file such a statement, or within such extended period of time as the Corporation may authorize upon application pursuant to § 335.4(r), unless upon consummation of the succession such class is exempt from such registration or all securities of the class are held of record by less than 300 persons.

* * * * *

(h) * * *

(5)(i) For the purposes of § 335.4(h) or § 335.5(*l*) a beneficial owner of a security includes any person who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares:

(A) *Voting power* which includes the power to vote, or to direct the voting of, such security; and/or

(B) *Investment power* which includes the power to dispose, or to direct the disposition, of such security.

(ii) Any person who, directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement or any other contract, arrangement, or device with the purpose or effect of divesting such person of beneficial ownership of a security or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the requirements of section 13(d) or section 14(d) of the Act shall be deemed for purposes of such sections to be the beneficial owner of such security.

(iii) All securities of the same class beneficially owned by a person, regardless of the form which such beneficial ownership takes, shall be aggregated in calculating the number of shares beneficially owned by such person.

(iv) Notwithstanding the provisions of other paragraphs of this § 335.4(h)(5):

(A) A person shall be deemed to be the beneficial owner of a security, subject to the provisions of subdivision (ii) of this § 335.4(h)(5), if that person has the right to acquire beneficial ownership of such security, as defined in subdivision (i) at any time within sixty days including but not limited to any right to acquire: (*1*) Through the exercise of any option, warrant or right; (*2*) through the conversion of a security or (*3*) pursuant to the power to revoke a trust, discretionary account, or similar arrangement. Any securities not outstanding which are subject to such options, warrants, rights or conversion privileges shall be deemed to be outstanding for the purpose of computing the percentage of outstanding securities of the class owned by such person, but shall not be deemed to be outstanding for the purposes of computing the percentage of the class by any other person.

(B) A member of a national securities exchange shall not be deemed to be a beneficial owner of securities held directly or indirectly by it on behalf of another person solely because such member is the record holder of such securities and, pursuant to the rules of such exchange, may direct the vote of such securities, without instruction, on other than contested matters or matters that may affect substantially the rights or privileges of the holders of the securities to be voted, but is otherwise precluded by the rules of such exchange from voting without instruction.

(C) A person who in the ordinary course of business is a pledgee of securities pursuant to a bona fide pledge agreement shall not be deemed to be the beneficial owner of such pledged securities merely because there has been a default under such an agreement, except during such time as the event of default shall remain uncured for more than thirty days or at any time before a default is cured if the power acquired by the pledgee pursuant to the default enables him to change or influence control of the bank.

(v) Any person may expressly declare in any statement filed that the filing of such statement shall not be construed as an admission that such person is, for the purposes of sections 13(d) or 14(d), the beneficial owner of any securities covered by the statement.

* * * * *

(m) *Incorporation by reference.* (1) Information contained in any part of a registration statement or report, other than exhibits, may be incorporated by reference in answer or partial answer to any item of the same statement or report. Information contained in an exhibit may be so incorporated to the extent permitted in paragraph (q) of this section.

* * * * *

3. In § 335.5, paragraph (c)(1), Note 6 would be amended by deleting the term "Item 1 (c)(1)" and inserting in its place the term "Item 1 (e)".

4. In § 335.5, paragraph (c)(1), Note 9 would be amended by deleting the term "§ 335.4(c)" from its first sentence and inserting in its place the term "§ 335.4(e)".

5. Section 335.5 would be amended by revising paragraphs (c)(3) and (f)(5), as follows:

§ 335.5 Proxy statements and other solicitations under section 14 of the act.

* * * * *

(c) * * *

(3) If the bank knows that securities of any class entitled to vote at a meeting with respect to which the bank intends to solicit proxies, consents or authorizations are held of record by a broker, dealer, bank or voting trustee, or their nominees, the bank shall inquire of such record holder at least 10 days prior to the record date for the meeting of security holders (or at such later time as the rules of a national securities exchange on which the class of securities in question is listed may permit for good cause shown), and shall inquire of any such person who becomes a record holder after such initial inquiry but on or before the record date for the meeting of security holders, whether other persons are the beneficial owners of such securities and, if so, the number of copies of the proxy and other soliciting material and, in the case of an annual meeting at which directors are to be elected, the number of copies of the annual report to security holders, necessary to supply such material to such beneficial owners. The bank shall supply such record holder in a timely manner with additional copies in such quantities, assembled in such form and at such a place, as the record holder may reasonably request in order to address and send one copy of each to each beneficial owner of securities so held and shall, upon the request of such record holder, pay its reasonable expenses for completing the mailing of such material to security holders to whom the material is sent.

Instructions. 1. If the bank's list of security holders indicates that some of its securities are registered in the name of a clearing agency registered pursuant to section 17A of the Act, a bank shall make appropriate inquiry of the agency and thereafter of the participants in such agency who may hold on behalf of a beneficial owner, and shall comply with the above paragraph with respect to any such participant.

2. The requirement for sending an annual report to security holders of record having the same address will be satisfied by sending at least one report to a holder of record at that address provided that those holders of record to whom a report is not sent agree thereto in writing. This procedure is not available where other banks, broker-dealers, and other persons hold securities in nominee accounts or "street names" on behalf of beneficial owners, and such persons are not relieved of any obligation to obtain or send such annual report to the beneficial owners.

3. The attention of banks is called to the fact that broker-dealers have an obligation pursuant to § 240.14b-1 of the rules and regulations of the Securities and Exchange Commission and applicable self-regulatory requirements to obtain and forward annual reports and proxy soliciting materials in a timely manner to benificial owners for whom such broker-dealers hold securities.

* * * * *

(f) * * *

(5) All copies of material filed pursuant to paragraphs (f)(1) and (2) of this section shall be clearly marked "Preliminary Copies" and shall be for the information of the Corporation only and shall not be considered available for public inspection before definitive material has been filed with the Corporation, except that such material may be disclosed to any department or agency of the U.S. Government and to the Congress. The Corporation may make such inquiries or investigation with respect to the material as may be necessary for an adequate review thereof. All material filed pursuant to paragraphs (f) (1), (2), or (3) of this section shall be accompanied by a statement of the date upon which definitive copies thereof are intended to be, or have been, sent or given to security holders. All material filed pursuant to paragraph (f)(4) of this section shall be accompanied by a statement of the date upon which copies thereof have been or are intended to be released to the individuals who will make the actual solicitation.

6. In § 335.5, paragraph (h) would be amended by deleting the work "earnings" in the second sentence.

7. In § 335.5, paragraph (k) would be amended as follows:

• • • • •

(k) *Proposals of security holders.* (1) If any security holder of the bank notifies the management of the bank of his intention to present a proposal for action at a forthcoming meeting of the bank's security holders, the management shall set forth the proposal in its proxy statement or information statement. If management issues a proxy statement, it shall identify the proposal in its form of proxy and provide means by which security holders can make the specification required by § 335.5(d)(2). If management issues an information statement pursuant to paragraph (a) of this section, it shall identify the proposal and indicate the disposition proposed to be made of the proposal by the management at the meeting. Management, however, need not include a proposal in its information statement if such proposal is submitted less than 60 days in advance of a day corresponding to the date of mailing a proxy statement or information statement in connection with the last annual meeting of security holders. Notwithstanding the foregoing, the management shall not be required to include the proposal in its proxy statement or form of proxy unless the security holder (hereinafter, the "proponent") has complied with the requirements of this paragraph and paragraphs (k)(2) and (3) of this section:

(i) *Eligibility.* At the time he submits the proposal, the proponent shall be a record or beneficial owner of a security entitled to be voted at the meeting on his proposal, and he shall continue to own such security through the date on which the meeting is held. If the management requests documentay support for a proponent's claim that he is a beneficial owner of a voting security of the bank, the proponent shall furnish appropriate documentation within 10 business days after receiving the request. In the event the management includes the proponent's proposal in its proxy soliciting materials for the meeting and the proponent fails to comply with the requirement that he continuously be a voting security holder through the meeting date, the management shall not be required to include any proposals submitted by the proponent in its proxy soliciting materials for any meeting held in the following two calendar years.

(ii) *Notice.* The proponent shall notify the management in writing of his intention to appear personally at the meeting to present his proposal for action. The proponent shall furnish the requisite notice at the time he submits the proposal, except that if he was unaware of the notice requirement at that time he shall comply with it within 10 business days after being informed of it by the management. If the proponent, after furnishing in good faith the notice required by this provision, subsequently determines that he will be unable to appear personally at the meeting, he shall arrange to have another security holder of the bank present his proposal on his behalf at the meeting. in the event the proponent or his proxy fails, without good cause, to present the proposal for action at the meeting, the management shall not be required to include any proposals submitted by the proponent in its proxy soliciting materials for any meeting, held in the following two calendar years.

(iii) *Timeliness.* The proponent shall submit his proposal sufficiently far in advance of the meeting so that it is received by the management within the following time periods:

(A) *Annual meetings.* A proposal to be presented at an annual meeting shall be received by the management at the bank's principal executive offices not less than 90 days in advance of a date corresponding to the date of the management's proxy statement released to security holders in connection with the previous year's annual meeting of security holders, except that if no annual meeting was held in the previous year or the date of the annual meeting has been changed by more than 30 calendar days from the date of the previous year's annual meeting a proposal shall be received by the management a reasonable time before the solicitation is made.

(B) *Other meetings.* A proposal to be presented at any meeting other than an annual meeting shall be received a reasonable time before the solicitation is made.

NOTE.—In order to curtail controversy as to the date on which a proposal was received by the management, it is suggested that proponents submit their proposals by Certified Mail-Return Receipt Requested.

(iv) *Number and length of proposals.* The proponent may submit a maximum of two proposals of not more than 300 words each for inclusion in the management's proxy materials for a meeting of security holders. If the proponent fails to comply with either of these requirements, or if he fails to comply with the 200-word limit on supporting statements mentioned in paragraph (k)(2) of this section, he shall be provided the opportunity by the management to reduce, within 10 business days, the items submitted by him to the limits required by this paragraph (k).

(2) If the management opposes any proposal received from a proponent, it shall also, at the request of the proponent, include in its proxy statement a statement of the proponent of not more than 200 words in support of the proposal, which statement shall not include the name and address of the proponent. The statement and request of the proponent shall be furnished to the management at the time that the proposal is furnished, and neither the management nor the bank shall be responsible for such statement. The proxy statement shall also include either the name and address of the proponent or a statement that such information will be furnished by the bank or by the Corporation to any person, orally or in writing as requested, promptly upon the receipt of any oral or written request therefor. If the name and address of the proponent are omitted from the proxy statement, they shall be furnished to the Corporation at the time of filing the management's preliminary proxy material pursuant to paragraph (f) of this section.

(3) The management may omit a proposal and any statement in support thereof from its proxy statement and form of proxy under any of the following circumstances:

(i) If the proposal is, under applicable law, not a proper subject for action by security holders;

NOTE.—A proposal that may be improper under applicable law when framed as a mandate or directive may be proper when framed as a recommendation or request.

(ii) If the proposal would, if implemented, require the bank to violate any State law or Federal law of the United States, or any law of any foreign jurisdiction, to which the bank is subject.

(iii) If the proposal or the supporting statement is contrary to any of the Corporation's proxy rules and regulations, including paragraph (h) of this section which prohibits false or misleading statements in proxy soliciting materials;

(iv) If the proposal relates to the enforcement of a personal claim or the redress of a personal grievance against the bank, its management, or any other person;

(v) If the proposal deals with a matter that is not significantly related to the bank's business;

(iv) If the proposal deals with a matter that is beyond the bank's power to effectuate;

(vii) If the proposal deals with a matter relating to the conduct of the ordinary business operations of the bank;

(viii) If the proposal relates to an election to office;

(ix) If the proposal is counter to a proposal to be submitted by the management at the meeting;

(x) If the proposal has been rendered moot;

(xi) If the proposal is substantially duplicative of a proposal previously submited to the management by another proponent, which proposal will

be included in the management's proxy materials for the meeting;

(xii) If substantially the same proposal has previously been submitted to security holders in the management's proxy statement and form of proxy relating to any annual or special meeting of security holders held within the preceding 5 calendar years, it may be omitted from the management's proxy materials relating to any meeting of security holders held within 3 calendar years after the latest such previous submission:

Provided, That—(A) If the proposal was submitted at only one meeting during such preceding period, it received less than 3 percent of the total number of votes cast in regard thereto; or

(B) If the proposal was submitted at only two meetings during such preceding period, it received at the time of its second submission less than 6 percent of the total number of votes cast in regard thereto; or

(C) If the proposal was submitted at three or more meetings during such preceding period, it received at the time of its latest submission less than 10 percent of the total number of votes cast in regard thereto; and

(xiii) If the proposal relates to specific amounts of cash or stock dividends.

(4) Whenever the management asserts, for any reason, that a proposal and any statement in support thereof received from a proponent may properly be omitted from its proxy statement and form of proxy, it shall file with the Corporation, not later than 50 days prior to the date the preliminary copies of the proxy statement and form of proxy are filed pursuant to paragraph (f) of this section, or such shorter period prior to such date as the Corporation or its staff may permit, three copies of the following items: (i) The proposal; (ii) any statement in support thereof as received from the proponent; (iii) a statement of the reasons why the management deems such omission to be proper in the particular case; and (iv) where such reasons are based on matters of law, a supporting opinion of counsel. The management shall at the same time, if it has not already done so, notify the proponent of its intention to omit the proposal from its proxy statement and form of proxy and shall forward to him a copy of the statement of reasons why the management deems the omission of the proposal to be proper and a copy of the supporting opinion of counsel.

8. In § 335.5, paragraph (*l*) would be amended as follows:

• • • • •

(*l*) *Tender offers.* 1. No person, directly or indirectly, by use of the mails or any means or instrumentality of interstate commerce or of any facility of a national securities exchange or otherwise, shall make a tender offer for, or a request or invitation for tenders of, any class of any equity security of a bank which is registered pursuant to section 12 of the Act, if after consummation thereof, such person would, directly or indirectly, be the beneficial owner of more than 5 percent of such class, unless, at the time copies of the offer or request or invitation are first published or sent or given to security holders, such person has filed with the Corporation a statement containing the information and exhibits required by the Form F-13.

NOTE.—See § 335.4(h)(5) for the applicable definition of "beneficial ownership".

• • • • •

(3) • • •

(iv) The information required by items 1(c); 2(b), 2(e), 2(f), and 2(g); 3; 4; 5; 6; 7; 8; 9; and 10 of Form F-13 (§ 335.54) or a fair and adequate summary thereof.

Instructions. 1. Negative responses to any such item or subitem of Form F-13 need not be included in the information published or sent or given to security holders.

2. If the information required by Item 9 is summarized, appropriate instructions should be included stating how more complete financial information can be obtained.

(4) Any additional material soliciting or requesting such tender offer subsequent to the initial solicitation or request shall contain the names of the persons making such solicitation or request and the information required by Items 1(c); 2(b), 2(e), 2(f), and 2(g); 3; 4; 5; 6; 7; 8; 9; and 10 of Form F-13 (§ 335.54), or a fair and adequate summary thereof. *Provided, however,* That such material may omit any of such information previously furnished to the persons solicited or requested for tender offers. Copies of such additional material soliciting or requesting such tender offers shall be filed with the Corporation not later than the time copies of such material are first published or sent or given to security holders.

• • • • •

9. In § 335.7 paragraph (d)(3) would be amended by deleting the word "Certification" and substituting the word "Examination."

10. In § 335.7, paragraph (d)(3)(ii)(B) would be amended by deleting the word "certificate" and substituting the word "report."

11. In § 335.7, paragraph (d)(3)(ii)(C) would be amended to read as follows:

§ 335.7 Form and content of financial statements.

(d) • • •

(3) • • •

(ii) • • •

(C) *Opinions to be expressed.* The independent public accountant's report shall state clearly: (*1*) The opinion of the accountant in respect of the financial statements covered by the report and the accounting principles and practices reflected therein; and (*2*) the opinion of the accountant as to the consistency of the application of the accounting principles, or as to any changes in such principles which have a material effect on the financial statements.

• • • • •

12. In § 335.7, paragraph (d)(3)(iv) would be amended by: (1) deleting the word "certification" and substituting the word "examination", and (2) by deleting the word "certificate" in four places and substituting the word "examination" in those four places.

13. In § 335.7, paragraph (e)(14)(vi) would be amended by deleting the term "(e)(12)(iii)" and inserting the term "(e)(14)(iii)."

14. In § 335.7, paragraph (e) would be amended as follows:

(e) • • •

(15) • • •

(iv) *Income tax expense.* (A) Disclosure shall be made in the income statement or a note thereto, of the components of income tax expense, including: (*1*) Taxes currently payable; (*2*) the net tax effects, as applicable, or (*i*) timing differences (indicate separately the amount of the estimated tax effect of each of the various types of timing differences, such as depreciation, warranty costs, etc., where the amount of such tax effect exceeds five percent of the amount computed by multiplying the income before tax by the applicable statutory Federal income tax rate and the aggregate amount of timing differences is less than five percent of such computed amount, disclosure of each of the separate types of timing differences may be omitted) and (*ii*) operating losses; and (*3*) the net deferred investment tax credit. Amounts applicable to U.S. Federal income taxes, to foreign income taxes and to other income taxes shall be stated separately for each major component. Amounts applicable to foreign and other income taxes each of which are less than five percent of the total of the major component need not be separately disclosed.

(B) If it is expected that the cash outlay for income taxes with respect to any of the succeeding three years will substantially exceed income tax expense for such year, that fact should be disclosed together with the approximate amount of the excess, the year (or years) of occurrence and the reasons therefor.

(C) Provide a reconciliation between the amount of reported total income

tax expense (benefit) and the amount computed by multiplying the income (loss) before tax by the applicable statutory Federal income tax rate, showing the estimated dollar amount

five succeeding fiscal years; (*ii*) each of the next three five year periods; and (*iii*) the remainder as a single amount. The amounts so determined should be reduced by rentals to be re-

(*iv*) The impact upon net income for each period for which an income statement is required if all noncapitalized financing leases were capitalized, related assets were amortized on a

FORMS

§ 335.41 Form for registration of securities of a bank pursuant to section 12(b) or section 12(g) of the Securities Exchange Act of 1934 (Form F-1).

provide a detailed reconciliation showing all charges and credits to any reserve provided.

• • • • •

20. In § 335.42, Item 5 would be

the Act in which case the identity of the lending bank shall be omitted.

2. Any arrangements or understandings among members of both the former and new control groups and their associates with respect to the election of directors or other

tax expense (benefit) and the amount computed by multiplying the income (loss) before tax by the applicable statutory Federal income tax rate, showing the estimated dollar amount of each of the underlying causes for the difference. If no individual reconciling item amounts to more than five percent of the amount computed by multiplying the income before tax by the applicable statutory Federal income tax rate, and the total difference to be reconciled is less than five percent of such computed amount no reconciliation need be provided unless it would be significant in appraising the trend of earnings. Reconciling items that are individually less than five percent of the computed amount may be aggregated in the reconciliation. The reconciliation may be presented in percentages rather than in dollar amounts.

• • • • •

(vi) *Leased assets and lease commitments.* Any contractual arrangement which has the economic characteristics of a lease shall be considered a lease for purposes of this paragraph (e)(15)(vi). For purposes of this paragraph (e)(15)(vi) a financing lease is defined as a lease which during the noncancelable lease period, either (A) covers 75 percent or more of the economic life of the property or (B) has terms which assure the lessor a full recovery of the fair market value (which would normally be represented by his investment) of the property at the inception of the lease plus a reasonable return on the use of the assets invested subject only to limited risk in the realization of the residual interest in the property and the credit risks generally associated with secured loans. The disclosures set forth under paragraph (e)(15)(vi)(*1*) and (*2*) below are only required if gross rental expense in the most recent fiscal year exceeds one percent of consolidated revenues.

(*1*) Total rental expense (reduced by rentals from subleases, with disclosure of such amounts) entering into the determination of results of operations for each period for which an income statement is required shall be disclosed. Rental payments under short-term leases for a month or less which are not expected to be renewed need not be included. Contingent rentals, such as those based upon usage or sales, shall be reported separately from the basic or minimum rentals. Rentals on noncapitalized financing leases shall be shown separately for both categories of rentals reported.

(*2*) The minimum rental commitments under all noncancelable leases shall be disclosed, as of the date of the latest balance sheet required, in the aggregate (with disclosure of the amounts applicable to noncapitalized financing leases) for (*i*) each of the five succeeding fiscal years; (*ii*) each of the next three five year periods; and (*iii*) the remainder as a single amount. The amounts so determined should be reduced by rentals to be received from existing noncancelable subleases (with disclosure of the amounts of such rentals). For purposes of this paragraph (e)(15)(vi), a noncancelable lease is defined as one that has an initial or remaining term of more than one year and is noncancelable, or is cancelable only upon the occurrence of some remote contingency or upon the payment of a substantial penalty.

(*3*) Additional disclosures shall be made to report in general terms: (*i*) The basis for calculating rental payments if dependent upon factors other than the lapse of time; (*ii*) existence and terms of renewal or purchase options, escalation clauses, etc.; (*iii*) the nature and amount of related guarantees made or obligations assumed; (*iv*) restrictions on paying dividends, incurring additional debt, further leasing, etc.; and (*v*) any other information necessary to assess the effect of lease commitments upon the financial position, results of operations, and changes in financial position of the lessee.

(*4*) For all noncapitalized financing leases there shall be disclosed: (*i*) The present values of the minimum lease commitments in the aggregate and by major categories of properties, such as real estate, and equipment. Present values shall be computed by discounting net lease payments (after subtracting, if practicable, estimated or actual amounts, if any, applicable to taxes, insurance, maintenance, and other operating expenses) at the interest rate implicit in the terms of each lease at the time of entering into the lease. Such disclosure shall be made as of the date of any balance sheet required. If the present value of the minimum lease commitments is less than five percent of the sum of long-term debt, stockholders' equity and the present value of the minimum lease commitments, and if the impact on net income required to be disclosed under (*iv*) below is less than three percent of the average net income for the most recent three years, this disclosure is not required.

(*ii*) Either the weighted average interest rate (based on present value) and range of rates or specific interest rates for all lease commitments included in the amount disclosed under paragraph (e)(15)(vi)(*4*)(*i*) of this section.

(*iii*) The present value of rentals to be received from existing noncancelable subleases of property included under paragraph (e)(15)(vi)(*4*)(*i*) of this section based on the interest rate implicit in the terms of the subleases at the times of entering into the subleases.

(*iv*) The impact upon net income for each period for which an income statement is required if all noncapitalized financing leases were capitalized, related assets were amortized on a straightline basis and interest cost was accrued on the basis of the outstanding lease liability. The amounts of amortization and interest cost included in the computation shall be separately identified. If the impact on net income is less than three percent of the average net income for the most recent three years, that fact may be stated in lieu of this disclosure. In calculating average net income, loss years should be excluded. If losses were incurred in each of the most recent three years, the average loss shall be used for purposes of this test.

• • • • •

(viii) *Disagreements on accounting and financial disclosure matters.* If, (A) within the twenty-four months prior to the date of the most recent financial statements, a Form F-3 has been filed reporting a change of accountants, (B) included in the Form F-3 there was a reported disagreement on any matter of accounting principles or practices or financial statement disclosure, (C) during the fiscal year in which the change of accountants took place or during the subsequent fiscal year there have been any transactions or events similar to those which involved the reported disagreement, and (D) such transactions or events were material and were accounted for or disclosed in a manner different from that which the former accountants apparently would have concluded was required, state the existence and nature of the disagreement and also state the effect on the financial statements if the method had been followed which the former accountants apparently would have concluded was required. These disclosures need not be made if the method asserted by the former accountants ceases to be generally accepted because of authoritative standards or interpretations subsequently issued.

• • • • •

15. In § 335.41, the General Instructions would be amended by revising the first sentence of the second paragraph to read as follows:

Section 335.41(s) requires that six copies of each registration statement (including financial statements) and two copies of each exhibit and each other document filed as a part thereof, shall be filed with the Corporation.

16. In § 335.41, Item 1(b)(2) would be amended by deleting the present paragraph (b)(2) and substituting the following:

FORMS

§ 335.41 Form for registration of securities of a bank pursuant to section 12(b) or section 12(g) of the Securities Exchange Act of 1934 (Form F-1).

Item 1. • • •
(b) • • •
(2) If a material portion of the bank's deposits has been obtained from a single person or a few persons (including Federal, State and local governments and agencies thereunder), the loss of any of one or more of which would have a materially adverse effect on the business of the bank, or if a material portion of the bank's loans is concentrated within a single industry or group of related industries, a description of such customers, their other relationships, if any, to the bank, and material facts regarding their importance to the business of the bank;

• • • • •

17. In § 335.41, Item 10 would be amended by deleting the present Instruction 1 and substituting the following:

Item 10. • • •
Instructions. 1. Notwithstanding Instruction 2 to this Item, administrative or judicial proceedings arising under Section 8 of the Federal Deposit Insurance Act shall be deemed material and shall be described.

• • • • •

18. In § 335.42, Item 1(b)(2) would be amended by deleting the present paragraph (b)(2) and substituting the following:

FORM F-2

§ 335.42 Form for annual report of bank (Form F-2).

Item 1. • • •
(b) • • •
(2) If a material portion of the bank's deposits has been obtained from a single person or a few persons (including Federal, State and local governments and agencies thereunder), the loss of any of one or more of which would have a materially adverse effect on the business of the bank, or if a material portion of the bank's loans is concentrated within a single industry or group of related industries, a description of such customers, their other relationships, if any, to the bank, and material facts regarding their importance to the business of the bank;

• • • • •

19. In § 335.42, Item 2, Instruction 6 would be revised as follows:

Item 2. • • •
Instructions. • • •
6. For any previously reported material charge or credit to income of an unusual or infrequent nature in which an amount of cost was estimated to be incurred in the fiscal year being reported on or the prior fiscal year, summarize such transaction and state the amounts of such estimated cost and the amounts of the actual cost incurred in such periods, the reasons for differences in estimated or actual amounts, if any, and provide a detailed reconciliation showing all charges and credits to any reserve provided.

• • • • •

20. In § 335.42, Item 5 would be amended by deleting the present Instruction 1 and substituting the following:

Item 5. • • •
Instructions. 1. notwithstanding Instruction 2 to this item, administrative or judicial proceedings arising under Section 8 of the Federal Deposit Insurance Act shall be deemed material and shall be described.

• • • • •

21. In § 335.42, Item 5 would be amended by deleting Instruction 4 and substituting the following:

Item 5. • • •
Instructions. • • •
4. Notwithstanding the foregoing, if a receiver, fiscal agent or similar officer has been appointed for the bank or its parent, in a proceeding under the Bankruptcy Act or in any other proceeding under State or Federal law in which a court or governmental agency has assumed jurisdiction over substantially all of the assets or business of the bank or its parent, or if such jurisdiction has been assumed by leaving the existing directors and officers in possession but subject to the supervision and orders of a court or governmental body, identify the proceeding, the court or governmental body, the date jurisdiction was assumed, the identity of the receiver, fiscal agent or similar officer and the date of his appointment.

• • • • •

22. In § 335.43, Item 1 would be amended as follows:

§ 335.43 Form for current report of a bank (Form F-3).

ITEM 1. CHANGES IN CONTROL OF BANK

(a) If, to the knowledge of management, a change in control of the bank has occurred, state the name of the person(s) who acquired such control; the amount and the source of the consideration used by such person(s); the basis of the control; the date and a description of the transaction(s) which resulted in the change in control; the percentage of voting securities of the registrant now beneficially owned directly or indirectly by the person(s) who acquired control; and the identity of the person(s) from whom control was assumed. If the source of all or any part of the consideration used is a loan made in the ordinary course of business by a bank as defined in section 3(a)(6) of the Act, the identity of such bank shall be omitted provided a request for confidentiality has been made pursuant to section 13(d)(1)(B) of the Act by the person(s) who acquired control. In lieu thereof, the material shall indicate that disclosure of the identity of the bank has been so omitted and filed separately with the Corporation.

Instructions. 1. State the terms of any loans or pledges obtained by the new control group for the purpose of acquiring control, and the names of the lenders or pledgees, unless confidential treatment has been requested pursuant to section 13(d)(1)(B) of the Act in which case the identity of the lending bank shall be omitted.

2. Any arrangements or understandings among members of both the former and new control groups and their associates with respect to the election of directors or other matters shall be described.

(b) Describe any contractual arrangements, including any pledge of securities of the bank, or any of its parents, known to management, the operation of the terms of which may at a subsequent date result in a change in control of the bank.

Instruction. Paragraph (b) does not require a description of ordinary default provisions contained in the charter, trust indentures or other governing instruments relating to securities of the bank.

(c) If the source of all or any part of the funds used to acquire control of the bank is a loan made by a bank as defined in section 3(a)(6) of the Act, indicate whether there exists any agreement, arrangement, or understanding pursuant to which the registrant bank maintains or would maintain a correspondent deposit account at such lending bank.

• • • • •

23. In § 335.43, Item 3 would be amended by deleting the present Instruction 1 and substituting the following:

Item 3. • • •
Instructions. 1. Notwithstanding Instruction 2 to this Item, administrative or judicial proceedings arising under Section 8 of the Federal Deposit Insurance Act shall be deemed material and shall be described.

• • • • •

24. In § 335.43, Item 3 would be amended by deleting Instruction 5 and substituting the following:

Item 3. • • •
Instructions. • • •
5. Notwithstanding the foregoing, if a receiver, fiscal agent or similar officer has been appointed for the bank or its parent, in a proceeding under the Bankruptcy Act or in any other proceeding under State or Federal law in which a court or governmental agency has assumed jurisdiction over substantially all of the assets or business of the bank or its parent, or if such jurisdiction has been assumed by leaving the existing directors and officers in possession but subject to the supervision and orders of a court or governmental body, identify the proceeding, the court or governmental body, the date jurisdiction was assumed, the identity of the receiver, fiscal agent or similar officer and the date of his appointment.

• • • • •

25. In § 335.43, Items 9 and 10 would be deleted and Items 11, 12, 13 and 14 would be renumbered Items 9, 10, 11, and 12.

26. In § 335.44, paragraph J would be amended as follows:

§ 335.44 Form for Quarterly Report of Bank (Form F-4) to be filed pursuant to § 335.4(i).

• • • • •

J. Other Financial Information. The bank may furnish any additional information re-

lated to the periods being reported on which, in the opinion of management, is of significance to investors, such as the seasonality of the bank's business, major uncertainties currently facing the bank, significant accounting changes under consideration and the dollar amount of standby letters of credit. In addition, the bank shall indicate whether any Form F-3 was required to be filed during the most recently completed fiscal quarter reporting a change in independent accountants.

. . . . . .

27. Section 335.47 would be amended as follows:

§ 335.47 Form for statement to be filed pursuant to § 335.4(h)(2) of Part 335 (Form F-11).

. . . . . .

ITEM 7. MATERIAL TO BE FILED AS EXHIBITS

Copies of all written agreements, contracts, arrangements, understandings, plans or proposals relating to (1) the borrowing of funds to finance the acquisition as disclosed in Item 3, (2) the acquisition of issuer control, liquidation, sale of assets, merger, or change in business or corporate structure or any other matter as disclosed in Item 4, and (3) the transfer or voting of the securities, finders fee, joint ventures, options, puts, calls, guaranty of loans, guranty against loss or of profits, or the giving or withholding of proxies as disclosed in Item 6 shall be filed as exhibits.

SIGNATURE

. . . . . .

28. In § 335.51, Item 5(e) would be amended as follows:

§ 335.51 Form for proxy statement; statement where management does not solicit proxies (Form F-5).

. . . . . .

Item 5. . . .

(e) If, to the knowledge of the persons on whose behalf the solicitation is made, a change in control of the bank has occurred since the beginning of its last fiscal year, state the name of the person(s) who acquired such control, the amount and the source of the consideration used by such person or persons; the basis of the control, the date and a description of the transaction(s) which resulted in the change of control and the percentage of voting securities of the bank now beneficially owned directly or indirectly by the person(s) who acquired control; and the identity of the person(s) from whom control was assumed. If the source of all or any part of the consideration used is a loan made in the ordinary course of business by a bank as defined in section 3(a)(6) of the Act, the identity of such bank shall be omitted provided a request for confidentiality has been made pursuant to section 13(d)(1)(B) of the Act by the person(s) who acquired control. In lieu thereof, the material shall indicate that the identity of the bank has been so omitted and filed separately with the Corporation.

Instructions. 1. State the terms of any loans or pledges obtained by the new control group for the purpose of acquiring control, and the names of the lenders or pledgees, unless confidential treatment has been requested pursuant to section 13(d)(1)(B) of the Act in which case the identity of the lending bank shall be omitted.

2. Any arrangements or understandings among members of both the former and new control groups and their associates with respect to election of directors or other matters should be described.

. . . . . .

29. A new § 335.54 would be added to read as follows:

§ 335.54 Form F-13, Tender offer statement pursuant to section 14(d)(1) of the Securities Exchange Act of 1934.

(Amendment No. ——)

.....

(Name of Subject Bank)

.....

(Bidder)

.....

(Title of Class of Securities)

.....

(CUSIP Number of Class of Securities)

.....

(Name, address and telephone number of person authorized to receive notices and communications on behalf of bidder)

Instruction. Two copies of this statement, including all exhibits, and four additional copies of this statement, including only the exhibits described in Item 11(a) of this statement, should be filed with the Corporation.

General Instructions. A. The item numbers and captions of the items shall be included but the text of the items is to be omitted. The answers to the items shall be prepared so as to indicate clearly the coverage of the items without referring to the text of the items. Answer every item. If an item is inapplicable or the answer is in the negative, so state.

B. Information contained in exhibits to the statement may be incorporated by reference in answer or partial answer to any item or sub-item of the statement unless it would render such answer incomplete, unclear or confusing. Matter incorporated by reference shall be clearly identified in the reference by page, paragraph, caption or otherwise. An express statement that the specified matter is incorporated by reference shall be made at the particular place in the statement where the information is required.

C. If the statement is filed by a partnership, limited partnership, syndicate or other group, the information called for by Items 2-7, inclusive, shall be given with respect to: (i) Each partner of such partnership; (ii) each partner who is denominated as a general partner or who functions as a general partner of such limited partnership; (iii) each member of such syndicate or group; and (iv) each person controlling such partner or member. If the statement is filed by a corporation, or if a person referred to in (i), (ii), (iii) or (iv) of this Instruction is a corporation, the information called for by the above mentioned items shall be given with respect to: (a) each executive officer and director of such corporation; (b) each person controlling such corporation; and (c) each executive officer and director of any corporation ultimately in control of such corporation. Executive officer shall mean president, secretary, treasurer and any vice president in charge of a principal business function (such as sales, administration of finance) and any other person who performs similar policy making functions for the corporation. A response to an item in the statement is required with respect to the bidder and to all other persons referred to in this instruction unless such item specifies to the contrary.

D. Upon termination of the tender offer, the bidder shall promptly file a final amendment to this Form F-13 disclosing all material changes in the items of this Form F-13 and stating that the tender offer has terminated, the date of such termination and the results of such tender offer.

E. If the bidder, before filing this statement, has filed a Form F-11 (§ 335.47) with respect to the acquisition of securities of the same class referred to in Item 1(a) of this statement, the bidder shall amend such Form F-11 (§ 335.47) and may do so by means of this statement and amendments thereto, including the final amendment required to be filed by Instruction D: *Provided*, That the bidder indicated on the cover sheet of this statement that it is amending its Form F-11 (§ 335.47) by means of this statement.

F. The final amendment required to be filed by Instruction D shall be deemed to satisfy the reporting requirements of section 13(d) of the Act with respect to all securities acquired by the bidder pursuant to the tender offer as reported in such final amendment.

G. For purposes of this statement, the following definitions shall apply:

(i) The term "bidder" means any person on whose behalf a tender offer is made; and

(ii) The term "subject bank" means any bank whose securities are sought by a bidder pursuant to a tender offer.

ITEM 1. SECURITY AND SUBJECT BANK

(a) State the name of the subject bank and the address of its principal office;

(b) State the exact title and the number of shares outstanding of the class of equity securities being sought (which may be based upon information contained in the most recently available filing with the Corporation by the subject bank unless the bidder has reason to believe such information is not current), the exact amount of such securities being sought and the consideration being offered therefor; and

(c) Identify the principal market in which such securities are traded and state the high and low sales prices for such securities in such principal market (or, in the absence thereof, the range of high and low bid quotations) for each quarterly period during the past two years.

ITEM 2. IDENTITY AND BACKGROUND

If the person filing this statement or any person enumerated in Instruction C of this statement is a corporation, partnership, limited partnership, syndicate or other group of persons, state its name, the state or other place of its organization, its principal business, the address of its principal office and the information required by (e) and (f) of this Item. If the person filing this statement or any person enumerated in Instruction C is a natural person, provide the information specified in (a) through (g) of this Item with respect to such person(s).

(a) Name;

(b) Residence or business address;

(c) Present principal occupation or employment and the name, principal business and address of any corporation or other organization in which such employment or occupation is conducted;

(d) Material occupations, positions, offices or employments during the last 5 years, giving the starting and ending dates of each and the name, principal business and address of any business corporation or other organization in which such occupation, position, office or employment was carried on;

Instruction. If a person has held various positions with the same organization, or if a person holds comparable positions with multiple related organizations, each and every position need not be specifically disclosed.

(e) Whether or not, during the last 5 years, such person has been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors) and, if so, give the dates, nature of conviction, name and location of court, and penalty imposed or other disposition of the case;

Instruction. While a negative answer to this sub-item is required in this schedule, it need not be furnished to security holders.

(f) Whether or not, during the last 5 years, such person was a party to a civil proceeding of a judicial or administrative body of competent jurisdiction and as a result of such proceeding, was or is subject to a judgment, decree or final order enjoining future violations of, or prohibiting activities subject to, federal or state securities laws or finding any violation of such laws; and, if so, identify and describe such proceeding and summarize the terms of such judgment, decree or final order; and

Instruction. While a negative answer to this sub-item is required in this schedule, it need not be furnished to security holders.

(g) Citizenship(s).

ITEM 3. PAST CONTRACTS, TRANSACTIONS OR NEGOTIATIONS WITH THE SUBJECT BANK

(a) Briefly state the nature and approximate amount (in dollars) of any transaction, other than those described in Item 3(b) of this schedule, which has occurred since the commencement of the subject bank's third full fiscal year preceding the date of this schedule, between the person filing this schedule (including those persons enumerated in Instruction C of this schedule) and:

(1) The subject bank or any of its affiliates which are corporations: *Provided, however*, That no disclosure need be made with respect to any transaction if the aggregate amount involved in such transaction was less than one percent of the subject bank's consolidated revenues (which may be based upon information contained in the most recently available filing with the Corporation by the subject bank, unless the bidder has reason to believe otherwise): (i) for the fiscal year in which such transaction occurred, or (ii) for the portion of the current fiscal year which has occurred, if the transaction occurred in such year; and

(2) The executive officers, directors, or affiliates of the subject bank which are not corporations, if the aggregate amount involved in such transaction or in a series of similar transactions, including all periodic installments in the case of any lease or other agreement providing for periodic payments or installments, exceeds $40,000.

(b) Describe any contacts, negotiations or transactions which have occurred since the commencement of the subject bank's third full fiscal year preceding the date of this schedule between the bidder or its subsidiaries (including those persons enumerated in Instruction C of this schedule) and the subject bank or its affiliates concerning: A merger, consolidation or acquisition; a tender offer or other acquisition of securities; an election of directors; or a sale or other transfer of a material amount of assets.

ITEM 4. SOURCE AND AMOUNT OF FUNDS OR OTHER CONSIDERATION

(a) State the source and the total amount of funds or other consideration for the purchase of the maximum number of securities for which the tender offer is being made.

(b) If all or any part of such funds or other consideration are or are expected to be, directly or indirectly, borrowed for the purpose of the tender offer:

(1) Provide a summary of each loan agreement or arrangement containing the identity of the parties, the term, the collateral, the stated and effective interest rates, and other material terms or conditions relative to such loan agreement; and

(2) Briefly describe any plans or arrangements to finance or repay such borrowings, or if no such plans or arrangements have been made, make a statement to that effect.

(c) If the source of all or any part of the funds to be used in the tender offer is a loan made in the ordinary course of business by a bank as defined in section 3(a)(6) of the Act, the name of such bank shall not be made available to the public if the person filing the statement so requests in writing and files such request, naming such bank, with the Corporation.

(d) If the source of all or any part of the funds to be used in the tender offer is a loan made by a bank as defined in section 3(a)(6) of the Act, indicate whether there exists any agreement, arrangement, or understanding pursuant to which the subject bank maintains or would maintain a correspondent deposit account at such lending bank.

ITEM 5. PURPOSE OF THE TENDER OFFER AND PLANS OR PROPOSALS OF THE BIDDER

State the purpose or purposes of the tender offer for the subject bank's securities. Describe any plans or proposals which relate to or would result in:

(a) An extraordinary corporate transaction, such as a merger, reorganization or liquidation, involving the subject bank or any of its subsidiaries;

(b) A sale or transfer of a material amount of assets of the subject bank or any of its subsidiaries;

(c) Any change in the present board of directors or management of the subject bank including, but not limited to, any plans or proposals to change the number or the term of directors or to fill any existing vacancies on the board;

(d) Any material change in the present capitalization or dividend policy of the subject bank;

(e) Any other material change in the subject bank's corporate structure or business;

(f) Causing a class of securities of the subject bank to be delisted from a national securities exchange or to cease to be authorized to be quoted in an inter-dealer quotation system of a registered national securities association; or

(g) A class of equity securities of the subject bank becoming eligible for termination of registration pursuant to section 12(g)(4) of the Act.

ITEM 6. INTEREST IN SECURITIES OF THE SUBJECT BANK

(a) State the aggregate number and percentage of the class represented by such shares (which may be based on the number of shares outstanding as contained in the most recently available filing with the Corporation by the subject bank unless the bidder has reason to believe such information is not current), beneficially owned (identifying those shares for which there is a right to acquire) by each person named in Item 2 of this schedule and by each associate and majority-owned subsidiary of such person giving the name and address of any such associate or subsidiary.

(b) Describe any transaction in the class of securities reported on that was effected during the past 60 days by the persons named in response to paragraph (a) of this item or by any executive officer, director or subsidiary of such person.

Instructions. 1. The description of a transaction required by Item 6(b) shall include, but not necessarily be limited to: (1) The identity of the person covered by Item 6(b) who effected the transaction; (2) the date of the transaction; (3) the amount of securities involved; (4) the price per share; and (5) where and how the transaction was effected.

2. If the information required by Item 6(b) of this schedule is available to the bidder at the time this statement is initially filed with the Corporation pursuant to § 335.5(*1*)(6), such information should be included in such initial filing. However, if such information is not available to the bidder at the time of such initial filing, it should be filed with the Corporation promptly but in no event later than two business days after the date of such filing, and if material, should be disclosed to security holders of the subject bank in a manner similar to that in which the tender offer was first published, sent or given to such security holders. The procedure specified by this instruction is provided for the purpose of maintaining the confidentiality of the tender offer in order to avoid possible misuse of inside information.

ITEM 7. CONTRACTS, ARRANGEMENTS, UNDERSTANDINGS, OR RELATIONSHIPS WITH RESPECT TO THE SUBJECT BANK'S SECURITIES

Describe any contract, arrangement, understanding or relationship (whether or not legally enforceable) between the bidder (including those persons enumerated in Instruction C to this Form F-13) and any person with respect to any securities of the subject bank, (including, but not limited to, any contract, arrangement, understanding or relationship concerning the transfer or the voting of any of such securities, joint ventures, loan or option arrangements, puts or calls, guaranty of loans, guaranty against loss, or the giving or withholding of proxies) naming the persons with whom such contracts, arrangements, understandings or relationships have been entered into and giving the material provisions thereof. Include such information for any of such securities that are pledged or otherwise subject to a contingency, the occurrence of which would give another person the power to direct the voting or disposition of such securities, except that, disclosure of standard de-

fault and similar provisions contained in loan agreements need not be included.

ITEM 8. PERSONS RETAINED, EMPLOYED OR TO BE COMPENSATED

Identify all persons and classes of persons employed, retained or to be compensated by the bidder, or by any person on the bidder's behalf, to make solicitations or recommendations in connection with the tender offer and describe briefly the terms of such employment, retainer or arrangement for compensation.

ITEM 9. FINANCIAL STATEMENTS OF CERTAIN BIDDERS

Where the bidder is other than a natural person and the bidder's financial condition is material to a decision by a security holder of the subject company whether to sell, tender or hold securities being sought in the tender offer, furnish current, adequate financial information concerning the bidder; *Provided*, That if the bidder is controlled by another entity which is not a natural person and has been formed for the purpose of making the tender offer, furnish current, adequate financial information concerning such parent.

Instructions. 1. The facts and circumstances concerning the tender offer, particularly the terms of the tender offer, may influence a determination as to whether disclosure of financial information is material. However, once the materiality requirement is applicable, the adequacy of the financial information will depend primarily on the nature of the bidder.

In order to provide guidance in making this determination, the following types of financial information will be deemed adequate for purposes of this item for the type of bidder specified: (a) Financial statements prepared in compliance with SEC Form 10 as amended (17 CFR 349.210) for a domestic bidder which is otherwise eligible to use such form; and (b) financial statements prepared in compliance with SEC Form 20 (17 CFR 249.200) for a foreign bidder which is otherwise eligible to use such form.

2. If the bidder is subject to the periodic reporting requirements of sections 13(a) or 15(d) of the Act, financial statements contained in any document filed with the Corporation under the Act may be incorporated by reference in this Form F-13 solely for the purposes of this Form F-13: *Provided*, That such financial statements substantially meet the requirements of this item; an express statement is made that such financial statements are incorporated by reference; the matter incorporated by reference is clearly identified by page, paragraph, caption or otherwise; and an indication is made where such information may be inspected and copies obtained. Financial statements which are required by be presented in comparative form for two or more fiscal years or periods shall not be incorporated by reference unless the material incorporated by reference includes the entire period for which the comparative data is required to be given.

3. If the bidder is not subject to the periodic reporting requirements of the Act, the financial statements required by this item need not be audited if such financial statements are not available or obtainable without unreasonable cost or expense and a statement is made to that effect disclosing the reasons therefor.

ITEM 10. ADDITIONAL INFORMATION

If material to a decision by a security holder whether to sell, tender or hold securities being sought in the tender offer, furnish information as to the following:

(a) Any present or proposed material contracts, arrangements, understandings or relationships between the bidder or any of the persons listed in General Instruction C or any of its subsidiaries and the subject bank or any of its executive officers, directors, controlling persons or subsidiaries (other than any contract, arrangement or understanding required to be disclosed pursuant to Items 3 or 7 of this schedule);

(b) To the extent known by the bidder after reasonable investigation, the applicable regulatory requirements which must be complied with or approvals which must be obtained in connection with the tender offer;

(c) The applicability of anti-trust laws;

(d) The applicability of the margin requirements of section 7 of the Act and the regulations promulgated thereunder;

(e) Any material pending legal proceedings relating to the tender offer including the name and location of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto and a brief summary of the proceedings; and

Instruction. In connection with this subitem, a copy of any document relating to a major development (such as pleadings, an answer, complaint, temporary restraining order, injunction, opinion, judgment or order) in a material pending legal proceeding should be promptly furnished to the Corporation on a supplemental basis.

(f) Such additional material information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made, not materially misleading.

ITEM 11. MATERIAL TO BE FILED AS EXHIBITS

Furnish a copy of: (a) Tender offer material which is published, sent or given to security holders by or on behalf of the bidder in connection with the tender offer;

(b) Any loan agreement referred to in Item 4 of this schedule;

Instruction. The identity of any bank which is a party to a loan agreement need not be disclosed if the person filing the statement has requested that the identity of such bank not be made available to the public pursuant to Item 4 of this Form F-13.

(c) Any document setting forth the terms of any contracts, arrangements, understandings or relationships referred to in Item 7 or 10(a) of this Form F-13;

(d) Any written opinion prepared by legal counsel at the bidder's request and communicated to the bidder pertaining to the tax consequences of the tender offer;

(e) In an exchange offer where securities of the bidder have been or are to be registered under the Securities Act of 1933, the prospectus containing the information required to be included therein by SEC Rule 434b (17 CFR 230.434b) of that Act; and

(f) If any oral solicitation of security holders is to be made by or on behalf of the bidder, any written instruction, form or other material which is furnished to the persons making the actual oral solicitation for their use, directly or indirectly, in connection with the tender offer.

Signature. After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

Date———

(Signature)

(*Name and Title*)

The original statement shall be signed by each person on whose behalf the statement is filed or his authorized representative. If the statement is signed on behalf of a person by his authorized representative (other than an executive officer or general partner of the bidder), evidence of the representative's authority to sign on behalf of such person shall be filed with the statement. The name and any title of each person who signs the statement shall be typed or printed beneath his signature.

30. In § 335.71, paragraph B(2)(i) would be amended by deleting the present paragraph B2(i) and substituting the following:

§ 335.71. Form for financial statements (Form F-9A, B, C, D and E).

B. • • •

2. • • •

(i) *Provision for possible loan losses.* (1) Banks which provide for loan losses on a reserve basis shall include an estimated amount for loan losses. Such amount shall be determined by management in light of past loan loss experience and evaluation of potential loss in the current loan portfolio. All banks on a loan loss reserve basis must report against this item an amount sufficient to bring the balance of the allowance for possible loan losses to an adequate level to absorb anticipated losses that management might reasonably expect, based upon its appraisal of the condition of the current loan portfolio.

(2) Banks which do not provide for loan losses on a reserve basis shall include the amount of actual net chargeoffs (losses less recoveries) for the current year.

(3) Furnish in a note to financial statements an explanation of the basis for determining the loan loss provision.

• • • • •

By order of the Board of Directors, January 13, 1978.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[FR Doc. 78-6475 Filed 3-10-78; 8:45 am]

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14CFR Part 39]

[Docket No. 17686]

AIRWORTHINESS DIRECTIVES

Israel Aircraft Industries Model 1121 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require protection and/or relocation of the flexible fuel lines in the near proximity of the Ni-Cad batteries on Israel Aircraft Industries (IAI) Model 1121 Series airplanes. The proposed AD is needed to minimize the possibility of damaging the flexible fuel lines in the event of a Ni-Cad battery thermal runaway which would result in a fire.

DATES: Comments must be received on or before May 1, 1978.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn.: Rules Docket (AGC-24), Docket No. 17686, 800 Independence Avenue SW., Washington, D.C. 20591. The applicable Service Bulletin may be obtained from: Commodore Aviation, Inc., 505 Park Avenue, New York, N.Y. 10022; or Commodore Aviation, Inc., 2025 South Nicklas, Suite 115, Oklahoma City, Okla. 73128. A copy of the Service bulletin is contained in the Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Paul A. Cormaci, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, telephone 513.38.30.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

The FAA has determined that the unprotected flexible fuel lines in the near proximity of the Ni-Cad batteries on the IAI models 1121, 1121A, and 1121B airplanes present a potentially hazardous condition, especially for those configurations where the Ni-Cad battery overtemperature warning or combination warning and indicator system rely on a single sensor per battery. In those warning systems, proper operation of the temperature sensor is determined on a periodic basis by a maintenance test procedure. Battery temperature warning and indicator systems relying on separate and redundant sensors for each function per battery provide a higher capability of detecting a battery overtemperature condition than a single system. In addition, the battery temperature indicator system may be functionally checked during preflight.

The FAA is not aware of any adverse performance of Ni-Cad battery temperature warning system combined with an undetected battery thermal runaway on the IAI Model 1121 Series airplanes to date. A 24-month review of service difficulty reports of all makes and models of airplanes reveals a significant number of battery temperature sensors (on-off switches) failures which were detected either in service or during periodic maintenance checks.

In spite of the relatively good service record, the FAA has determined that in the event of an undetected temperature sensor failure combined with a possible Ni-Cad battery thermal runaway, failure of a flexible fuel line, due to extremely high temperature radiated from the failed battery left across the charging source could result in a fire. Since this condition is likely to exist on other airplanes of the same type design the proposed AD would require protection and/or relocation of the flexible fuel lines from the Ni-Cad batteries on those IAI Model 1121 Series airplanes equipped with a battery temperature warning or combination warning and indicator system which rely on only a single sensor per battery.

The principal authors of this document are Paul A. Cormaci, Europe, Africa, and Middle East Region, F. Kelley, Flight Standards Service, and Peter Lynch, Office of the Chief Counsel.

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

ISRAEL AIRCRAFT INDUSTRIES (IAI). Applies to Models 1121, 1121A, and 1121B airplanes, Serial Nos. through 150 except 107 and equipped with Ni-Cad battery overtemperature warning or combination overtemperature warning and indicator systems which rely on a common single sensor per battery.

Compliance required within the next 150 hours time in service after the effective date of this AD, unless already accomplished.

To reduce the possibility of damage to the flexible fuel lines and potential fire in the event of an uncontrolled Ni-Cad battery thermal runaway, modify the flexible fuel line installation and after modification perform inspections and leak tests in accordance with Commodore Jet Service Bulletin No. CJ-16, dated May 31, 1977, or equivalent, approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region, c/o American Embassy, APO NY 09667.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on March 2, 1978.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc. 78-6449 Filed 3-10-78; 8:45 am]

[4830-01]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

[LR-54-78]

INCOME TAX

Information Reporting Requirements for Bearer Certificates of Deposit

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to information reporting requirements. The regulations would enable the Internal Revenue Service to obtain information returns with respect to interest paid on certificates of deposit issued in bearer form. The regulations would apply to all persons carrying on the banking business and making interest payments on certificates of deposit issued in bearer form in denominations of less than $100,000.

DATES: Written comments and requests for a public hearing must be delivered or mailed by April 27, 1978. The amendments are proposed to be effective for payments of interest on bearer certificates of deposit made after March 13, 1978.

For certificates of deposit issued prior to this effective date, the identity of the person to whom the certificate was originally issued need not be supplied by the bank, if this information is unknown at the time the information return is made.

ADDRESS: Send comments and requests for a public hearing to: Com-

missioner of Internal Revenue, Attention: CC:LR:T (LR-54-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Leonard T. Marcinko of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3297).

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains a proposed amendment to the Income Tax Regulations (26 CFR Part 1) under section 6049 of the Internal Revenue Code of 1954. The amendment is proposed in order to require information reports for interest paid with respect to certificates of deposit in bearer form, and is to be issued under the authority contained in sections 6049 and 7805 of the Internal Revenue Code of 1954 (76 Stat. 1056, 26 U.S.C. 6049; 68A Stat. 917, 26 U.S.C. 7805).

EXPLANATION OF PROVISIONS

Section 6049 of the Code imposes an information reporting requirement on any person making payments of interest aggregating $10 or more to another person during any calendar year. In addition, section 6049 gives the Secretary of the Treasury or his delegate authority to require information returns on payments of interest aggregating less than $10 to any person during the calendar year.

Section 1.6049-2(a)(2)(ii) of the regulations currently excepts from the definition of interest for purposes of section 6049 interest paid on certificates of deposit issued either in bearer form or in an amount of $100,000 or more. Paragraph 2 of the proposed regulations would amend this definition of interest so as to except from the definition only interest paid on certificates of deposit issued in an amount of $100,000 or more.

Paragraph 1 of the proposed regulations would amend § 1.6049-1(a)(1) in order to impose a reporting requirement on persons carrying on the banking business who make payments of interest on certificates of deposit issued in bearer form. This reporting requirement would apply whether or not the amount of interest paid to any person during a calendar year aggregates $10 or more. For purposes of this reporting requirement for bearer certificates of deposit, § 1.6049-2(a)(2) of the proposed regulations provides that the term "interest" has the same meaning as in § 1.61-7 of the regulations. This is the case regardless of whether the "interest" is taxable to the payee in the year the information return is made.

The information return that would be required by this proposed amendment to the regulations must include, among other items, the identity of the person to whom the certificate of deposit was originally issued, as well as the identity of any person to whom interest is paid. However, paragraph 4 of the proposed regulations makes it clear that the statement to the payee of the interest reported shall not disclose the identity of the person to whom the certificate was originally issued (if a different person than the payee). Of course, in connection with the reporting of a payment of interest to a subsequent owner, no statement is required to be made to the person to whom a bearer certificate was originally issued.

COMMENTS AND REQUESTS FOR A PUBLIC HEARING

Before adopting these regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal author of these proposed regulations was Leonard T. Marcinko of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and the Treasury Department participated in developing the regulation, both on matters of substance and style.

PROPOSED AMENDMENTS TO THE REGULATIONS

The proposed amendments to 26 CFR Part 1 are as follows:

PARAGRAPH 1. Paragraph (a)(1) of § 1.6049-1 is amended by inserting immediately after subdivision (v) the following new subdivision:

§ 1.6049-1 Returns of information as to interest paid in calendar years after 1962 and original issue discount includible in gross income for calendar years after 1970.

(a) *Requirement of reporting*—(1) *In general.* * * *

(vi) Every person carrying on the banking business who makes payments of interest to another person (whether or not aggregating $10 or more during a calendar year) with respect to certificates of deposit issued in bearer form (other than such certificates issued in an amount of $100,000 or more) shall make an information return on Forms 1096 and 1099-CD for such calendar year. The information return required by this subdivision for the calendar year shall show the following:

(*a*) The aggregate amount of interest paid with respect to the certificate of deposit;

(*b*) The name, address, and taxpayer identification number of the person to whom the interest is paid;

(*c*) The name, address, and taxpayer identification number of the person to whom the certificate was originally issued;

(*d*) The amount of interest with respect to the certificate attributable to each calendar year falling within the term of such certificate; and

(*e*) Such other information as is required by the form.

* * * * *

PAR. 2. Paragraph (a)(2) of § 1.6049-2 is amended to read as follows:

§ 1.6049-2 Interest and original issue discount subject to reporting.

(a) *Interest in general.* * * *

(2) Interest on deposits (except deposits evidenced by negotiable time certificates of deposit issued in an amount of $100,000 or more) paid (or credited) by persons carrying on the banking business. In the case of a certificate of deposit issued in bearer form, the term "interest", as used in the preceding sentence and in paragraph (a)(1)(vi) of § 1.6049-1, has the same meaning as in § 1.61-7 (regardless of whether taxable to the payee in the year the information return is made).

* * * * *

PAR. 3. Paragraph (c)(2) of § 1.6049-2 is amended to read as follows:

§ 1.6049-2 Interest and original issue discount subject to reporting.

* * * * *

(c) *Original issue discount*—(1) *In general.* * * *

(2) *Coordination with interest reporting.* In the case of an obligation issued after may 27, 1969 (other than an obligation issued pursuant to a written commitment which was binding on May 27, 1969, and at all times thereafter), original issue discount which is not subject to the reporting requirements of paragraph (a)(1)(ii) of § 1.6049-1 is interest within the meaning of paragraph (a) of this section. Original issue discount which is subject to the reporting requirements of paragraph (a)(1)(ii) of § 1.6049-1 is not interest within the meaning of paragraph (a) of this section.

* * * * *

§ 1.6049-3 [Amended]

PAR. 4. Paragraph (a) of § 1.6049-3 is amended by adding the following sentence at the end thereof: "References in this section to Form 1099 shall be construed to include Form 1099-CD, except that in applying paragraph (b)(2) of this section no information relating to the person to whom the certificate of deposit was originally issued shall be disclosed to another person to whom the payment of interest is made."

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc. 78-6506 Filed 3-9-78; 8:56 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR PART 73]

[BC Docket No. 78-85; RM-3005]

FM BROADCAST STATION IN LEXINGTON, VA.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a Class A FM channel to Lexington, Va., as that community's first FM channel. Petitioner. The Energy Exchange, Inc., states the proposed assignment could bring a first FM service to Lexington.

DATES: Comments must be filed on or before May 1, 1978, and reply comments on or before May 22, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTAL INFORMATION:

Adopted: March 1, 1978.

Released: March 6, 1978.

In the matter of amendment of § 73.202(b), FM Broadcast Stations. (Lexington, Va., BC Docket No. 78-85. RM-3005.

1. *Petitioner, proposal comments.* (a) Petition for rule making,[1] filed October 21, 1977, by The Energy Exchange, Inc. ("petitioner"), proposing the assignment of Channel 244A to Lexington, Va., as a first commercial FM assignment to that community.

(b) The channel can be assigned in conformity with the minimum distance separation requirements.

(c) Petitioner states that it will proceed promptly to prepare an application for a construction permit to build an FM station if the channel is assigned.

2. *Community data*—(a) *Location* Lexington, seat of Rockbridge County, is located approximately 64 kilometers (40 miles) northeast of Roanoke, Va.

(b) *Population.* Lexington—7,597; Rockbridge County—16,637.[2]

(c) *Local broadcast service.* Lexington is served by full-time AM Station WREL and noncommercial educational FM Station WLUR (Channel 218), licensed to Washington and Lee University in Lexington.

(d) Economic considerations. Petitioner states that Lexington is a nonmanufacturing community with the major areas of employment being in services, government and the wholesale and retail trade. It also claims that tourism is fast becoming a major industry and is expected to stimulate substantial growth since Lexington is a community rich in history. In support of its proposal, petitioner has submitted information with respect to population, education, churches, transportation, form of government and civic organizations.

3. *Other considerations.* Petitioner states there is no daily newspaper in Rockbridge County and radio is the only medium for providing information about schools and civic organizations on a timely basis, and it suggests the present broadcast service needs to be augmented. It asserts that the proposed assignment would serve the public interest by providing the needed additional coverage of community affairs both day and night, to the area. It also notes that this would bring for the first time the kind of audio quality that an FM station can provide.

4. In light of the above information and the fact that the proposed FM channel assignment would provide Lexington with its first commercial FM broadcast service, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the rules, with regard to Lexington, Va. as follows:

City and Channel No.	
Lexington, Va.;	Present:—; Proposed: 244A.

5. Authority to institute rule making proceedings; showings required; cut-off procedures; and filing requirements are contained in the attached Appendix and are incorporated herein.

NOTE.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before May 1 1978, and reply comments on or before May 22, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, §73.202(b) of the Commission's rules and regulations, as set forth in the notice of proposed rule making to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rule making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See §1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rule making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See §1.420(a), (b) and (c) of the Commission's rules.)

5. *Number of copies.* In accordance with the provisions of §1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's

[1] Public Notice of the petition was given on December 14, 1977, Report No. 1093.

[2] Population figures are taken from the 1970 U.S. Census.

Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-6404 Filed 3-10-78; 8:45 am]

vices rendered by public coast radiotelegraph (PCRT) stations licensed by this Commission.[1] We are affording an opportunity for hearing pursuant to Sections 201(a) and 214(d) of the Com-

ther review of the record for any clarification or modification deemed necessary.[2] Additionally, ITT and TRT petitioned the Court of Appeals for review of our action.

study of public coast station operations it conducted in connection with Docket No. 19544, states that it takes from fifteen minutes to many hours,

7. The efficiency of the above-described procedures is very much dependent on the number of operators on duty at the coast station and the

tion operator can contact one of the coast stations of the IRC specified, and (2) the coast station landline operators immediately transmit the traffic

Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-6404 Filed 3-10-78; 8:45 am]

[6712-01]

[47 CFR Part 81]

[Gen. Docket No. 78-67; FCC 78-115]

INTERCONNECTION AND UPGRADING OF PUBLIC COAST FACILITIES PROVIDING RADIOTELEGRAPH SERVICES

Inquiry

AGENCY: Federal Communications Commission.

ACTION: Request for comments, looking toward orders for the interconnection and upgrading of the facilities of public coast radiotelegraph stations to promote the efficient provision of maritime mobile communications services by these stations.

SUMMARY: Notice is given of rulemaking intended to prescribe measures for improvement of maritime mobile communications services rendered by public coast radiotelegraph stations. Public coast station licensees are afforded an opportunity for hearing pursuant to Sections 201(a) and 214(d) of the Communications Act of 1934, as amended, looking toward orders for the interconnection and upgrading of facilities of public coast radiotelegraph stations to promote the efficient provision of maritime mobile communications services by those stations.

DATES: Comments shall be received on or before April 17, 1978. Responses to those comments may be filed on or before May 8, 1978, and replies may be filed on or before May 18, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

James L. Ball, International Programs Staff, Common Carrier Bureau, 202-632-3214.

Adopted: February 22, 1978.

Released: February 27, 1978.

In the matter of interconnection and upgrading of public coast facilities providing radiotelegraph services, Gen. Docket No. 78-67.

1. Notice is hereby given pursuant to Section 553(b) of the Administrative Procedure Act (APA), 5 U.S.C. 553(b) (1970), and §1.412 of the Commission's rules and regulations, 47 CFR 1.412 (1975), of the above-captioned proposed rulemaking intended to prescribe measures for improvement of maritime mobile communications services rendered by public coast radiotelegraph (PCRT) stations licensed by this Commission.[1] We are affording an opportunity for hearing pursuant to Sections 201(a) and 214(d) of the Communications Act of 1934, as amended, 47 U.S.C. 201(a), 214(d), looking toward orders for the interconnection and upgrading of facilities to promote the efficient provision of maritime mobile communications services by these stations.

Background

2. This proceeding is initiated as a result of our inquiry in Docket No. 19544 into the problems of public coast radiotelegraph stations. Docket No. 19544 was an overall review of public coast radiotelegraph operations intended to provide a basis for long-term policy making in this area.[2] As part of that proceeding, we considered applications to close several coast stations licensed to three international record carriers (IRCs), RCA Global Communications, Inc. (RCA), ITT World Communications, Inc. (ITT), and TRT Telecommunications, Inc. (TRT).[3] We found in a Memorandum, Opinion and Order released on May 27, 1976, (hereinafter referred to as "Order") that services rendered by PCRT stations operated by these licensees are inadequate.[4] We generally concluded that the procedures used by IRC stations for the collection and delivery of traffic cause inefficient customer utilization of coast station facilities and result in unreasonable delays to ship stations in contacting coast stations for the exchange of traffic. We denied the IRC's applications for closure and specified measures to be taken to improve the services of all the stations operated by the IRCs, including mandatory interconnection and upgrading of coast station facilities. Based on challenges to our action by petitions for reconsideration filed by RCA and Mobile Marine Radio (MMR) and applications for stay file by RCA, ITT, and TRT, we stayed the "Order" on July 26, 1976, to allow further review of the record for any clarification or modification deemed necessary.[5] Additionally, ITT and TRT petitioned the Court of Appeals for review of our action.

3. Based on further evaluation of the entire record in this proceeding, we are today issuing a modification and clarification of our "Order." It affirms the general conclusion of our "Order" concerning the overall service now being provided by IRC coast stations; however, it also finds that sustaining the overall quality of PCRT service even at its current level is not necessarily dependent on maintaining the number of PCRT stations now in operation.[6] Accordingly, we are therein granting the applications for closure of coast stations which we find would not adversely affect the present or future "public convenience and necessity."[7] In the instant Notice of Proposed Rulemaking, we are affording an opportunity for hearing pursuant to Sections 201(a) and 214(d) of the Act to consider whether mandatory interconnection and upgrading of PCRT station facilities should be imposed as a means to correct the problems we identified in Docket No. 19544, and as part of an overall plan for improvement of PCRT station services.

Problems Identified in Docket No. 19544

4. Docket No. 19544 identified delay in the exchange of traffic as constituting the primary problem with PCRT station operations.[8] The report issued by Advanced Technology Systems, Inc. (ATS), as a result of an independent

[1] Section 81.3(e) of the Commission's rules, 47 CFR 81.3(e), defines a coast station as a land station in the maritime mobile service. A public coast station is a coast station open to public correspondence, 47 CFR 81.3(f). Section 81.2(a) of the rules, 47 CFR 81.2(a), defines public correspondence as any telecommunication which stations must, by reason of their being at the disposal of the public, accept for transmission. A Class I coast station is licensed to provide maritime mobile service over distances up to several thousand miles, 47 CFR 81.3(b). A Class II coast station is licensed to provide service primarily of a regional character, 47 CFR 81.3(f). There are no specific distance limitations placed on these classes of stations as to service area, although, limitations are placed on transmitter power, 47 CFR 81.134.

[2] Public Coast Radiotelegraph Stations, 36 FCC 2d 620 (1972); 45 FCC 2d 786 (1974).

[3] At the beginning of the proceeding the Commission had on file five applications to close public coast radiotelegraph stations: RCA's for station WOE (Lantana, Fla.); ITT's for stations WSF (New York, N.Y.), KLC (Arcadia, Tex.) and KFS (San Francisco, Calif.); and the Maryland Port Administration's (MPA) for station WMH (Baltimore, Md.). During the course of the proceeding MPA withdrew its application for closure of station WMH and TRT submitted an application for closure of station WAX (Hialeah, Fla.). Also during the course of the proceeding, RCA indicated that it planned to close stations WSC (Tuckerton, N.J.) and WPA (Port Arthur, Tex.) and ITT indicated it intended to close stations KOK (Los Angeles, Calif.) and KLB (Seattle, Wash.); however, neither RCA nor ITT filed proper applications for closure of these latter stations prior to the Commission's Order of May 27, 1976.

[4] Public Coast Radiotelegraph Stations, 59 FCC 2d 613 at 616, 626 (1976).

[5] See Order, FCC 76-686 No. 4178, July 26, 1976.

[6] See Memorandum Opinion and Order, Docket No. 19544, adopted February 22, 1978.

[7] Applications for closure of stations WSF, WAX, and WSC have been granted.

[8] See Memorandum Opinion and Order, supra, paragraph 80.

study of public coast station operations it conducted in connection with Docket No. 19544, states that it takes from fifteen minutes to many hours, and sometimes several days, for a ship station operator to make contact with coast stations and exchange traffic.[9] And, as we point out in the modification to our "Order" released simultaneously herewith, the record in Docket No. 19544 appears to support this finding.[10] That record demonstrates that PCRT users are experiencing delays in:

(1) Contacting coast stations for transmission of ship-to-shore traffic;

(2) Receiving ship-to-shore messages from coast stations; and,

(3) Receiving shore-to-ship traffic from coast stations.

Contacting Coast Stations

5. A ship station operator has a choice of several specified calling frequencies by which to attempt contact with a coast station. Coast station operators maintain watches on these frequencies to detect calls from ship stations. The ship station operator therefore must continue to attempt contact with a coast station until one of its operators acknowledges his call. This process can result in significant delay if coast operators discontinue their watch on the calling frequencies to handle traffic from other ships. This delay may be exacerbated if coast station operators must also work telegram, telephone or teleprinter facilities to route the traffic received.

6. During periods of heavy traffic, most coast stations use a "queuing up procedure." Ship stations calling following the transmission of the coast station traffic list are put on a waiting list.[11] They are then required to wait until other ship stations preceding them on the list have finished sending or receiving traffic before they may begin transmitting. If the coast station operator, or operators, are busy sending or receiving traffic when initial contact is attempted by a ship station, that ship station will be unable to raise the coast station, even to obtain a waiting list number, until a coast station operator returns to a listening watch on ship calling frequencies and recognizes its call.

7. The efficiency of the above-described procedures is very much dependent on the number of operators on duty at the coast station and the functions assigned to them. Responses filed by the carriers in Docket No. 19544 and inspections of public coast stations conducted by the Commission generally reveal that: (1) Operating positions are understaffed; (2) operators are expected to function efficiently while attempting to maintain listening watches on several frequency bands; (3) in some cases, operators are required to perform functions relating to the operation of both radio and landline facilities; (4) listening watches on one or more ship calling bands have been discontinued; and (5) transmitting and reciving antennas are poorly maintained.[12] We concluded in our "Order" in Docket No. 19544 that these conditions "* * * force the shipboard operator to engage in repeated call attempts on a diverse number of calling frequencies, which in turn increases the congestion in the calling bands with the overall result that service to ships is further deteriorated." (See "Order," paragraph 9). We note that, in their pleadings filed before this Commission subsequent to our "Order," none of the IRC's have specifically challenged this conclusion and the findings it is based on.

Receiving Ship-to-Shore Traffic

8. There are several methods for delivery of ship-to-shore traffic by a coast station to the addressee. Each has disadvantages. Delivery by telegram can, and often does, result in a delay from several hours to several days.[13] Delivery by telephone can also be slow if the addressee does not answer the coast station's telephone calls immediately. Delivery by teleprinter is the most efficient. However, it has limitations. For example, many ship owners or agents have an IRC teleprinter installed in their offices. They direct their ship station operators to use only coast stations of the IRC providing the machine. This is because each IRC limits the use of the teleprinter machines it provides to use in connection only with the teleprinter services it offers. Rapid delivery of traffic intended for the owner or agent can be effectuated if (1) the ship station operator can contact one of the coast stations of the IRC specified, and (2) the coast station landline operators immediately transmit the traffic via teleprinter to the owner or agent's office. However, if the ship station cannot contact a coast station of the IRC because of poor propagation, interference, or limitations on ship station radio facilities, the ship station operator must hold the traffic until conditions are favorable. Even then, additional delay may be experienced if the coast station is busy and is slow to acknowledge the calls of ship station operators (see paragraph 6 above). Should the ship station use a coast station other than one operated by the IRC supplying the teleprinter machine, the traffic cannot be delivered via the owner or agents teleprinter machine. It may be delivered by domestic teleprinter or TWX if the coast station contacted offers this service and if the owner or agent has obtained at added expense a domestic teleprinter or TWX machine in addition to the IRC teleprinter machine. Otherwise, it must be delivered by telegram or telephone at either additional delay or expense, or both, to the addressee.

Receiving Shore-to-Ship Traffic

9. There are three elements of delay involved in sending a shore-to-ship message. The first involves its transmission from the sender to the coast station. This can be accomplished within a reasonable time if the sender (1) uses an IRC teleprinter to route the message to a designated IRC coast station, or (2) uses the telephone, domestic teleprinter or TWX to route the message to either an IRC or non-IRC coast station (if the non-IRC coast station has either a TWX or domestic teleprinter machine). However, as with delivery of ship-to-shore traffic from the coast station, a delay of several hours to a few days may be experienced if domestic telegraph is used (see paragraph 8 above).

10. The second element consists of the time between the receipt of the message at the coast station and its first transmission on the traffic list. ATS estimates that there is normally less than a two hour interval between transmission of traffic lists.[14] However, the ship for which the message is intended may not necessarily hear the first traffic list on which the message is transmitted. This may be because the message is unexpected and the ship's radio operator is not on duty (a ship station operator is generally on duty no more than eight hours per day). Additionally, the ship may be in a poor position for reception of the coast station signal because of radio interference, poor propagation conditions or limitations on ship station

[9] See Final Report, the Public Coast Radio Telegraph Study by Advanced Technology Systems, Inc. submitted to the Commission on December, 1976, p. A-35. See also Memorandum Opinion and Order, FCC No.——, supra, paragraphs——.

[10] See Memorandum Opinion and Order, supra, paragraph 80.

[11] A "traffic list" is an alphabetical listing of the call signs of those ship stations that have a message addressed to them. Each coast station transmits a traffic list on a frequency in each band every two hours. The commencement time and interval of transmission varies from coast station to coast station. At the conclusion of each transmission, common ship calling channels in each band are monitored by coast station operators over fixed tuned receivers for response from the called ship stations.

[12] Based on inspections of Stations WLC, June 19 and 20, 1974; WSL, May 20 and June 14, 1974; WOE, July 2, 1974; WNU, July 2, 1974; KFS, June 11, 1974; KPH, June 12, 1974. See also Comments of RCA, November 30, 1972; ITT, December 8, 1972; TRT, December 11, 1972.

[13] See ATS Report, supra, p. II-34.

[14] See ATS Report, supra, p. II-34.

radio facilities.[15] The result is additional delay of two hours for each traffic list that is missed by the ship station operator.

of coast stations, but also to enable the coast stations that would remain after closures we may later allow, in addition to those approved today, to

ments could reduce traffic congestion and delay at these stations by enabling IRC teleprinter customers to utilize their equipment for sending or receiv-

perience unreasonable delay in receiving shore-to-ship traffic because either the coast station holding the traffic is busy or radio interference or poor

via teleprinter. The operator could thereby avoid the delay in waiting to come within range of that IRC's coast station and any delay in contacting

staff and operating personnel to be on duty during authorized periods of operation appear unrealistic at this time. We believe that consideration of stan-

radio facilities.[16] The result is additional delay of two hours for each traffic list that is missed by the ship station operator.

11. The third element of delay is the time which elapses from the moment the ship station operator hears the traffic list to the actual reception of the message. The length of this delay first depends on how long it takes the ship station operator to contact the coast station to be put on the waiting list. If the coast station operators begin handling traffic with other ships before this initial contact can be established, the ship station operator will experience the same problems as outlined in paragraph 6 above. Second, the length of this delay depends on the time required for the shore station operator to send the message once initial contact is made. This of course is determined by the number of ships on the waiting list and the amount of traffic they transmit. It can be significan during period of traffic congestion at the busier IRC stations.[16]

DISCUSSION

12. The communications Act mandates this Commission to promote the availability, so far as possible, of rapid, efficient wire and radio communication service with adequate facilities at reasonable charges. We therefore view the types of delays described above with serious concern. We recognize that these delays can be attributed to a number of factors, including the proficiency of coast station and ship station operators, location of the ship in relation to the shore station, number of hours in which ship station operators are on duty, and propagation or interference conditions between the ship and coast stations. Nevertheless, as shown above, Docket No. 19544 has identified major factors contributing to delay that are controllable by the coast station licensee. Generally, these factors involve coast station collection and delivery capabilities and operator staffing and functions. Improvements in these interrelated areas are required, not only to promote better service under the current configuration of coast stations, but also to enable the coast stations that would remain after closures we may later allow, in addition to those approved today, to expeditiously and efficiently handle the traffic that would be redistributed to them as a result of such closures. Section 214(a) of the Act provides that no carrier shall discontinue service until it first obtains from this Commission a certificate that neither the present nor future public convenience and necessity will be adversely affected. We believe that application of this statutory standard to closure applications for coast stations, in part, requires consideration of the capability of remaining coast stations to expeditiously and efficiently handle the redistribution of traffic that must necessarily result.[17] Hence, the disposition of any future closure applications should be made in the context of determination of an overall plan for the improvement of public coast station services.[18]

NEED FOR AN OVERALL PLAN OF IMPROVEMENT

13. We believe that an overall plan for improvement is imperative to: (1) Enable ship station operators to establish contact with coast stations within a reasonable time; (2) permit coast stations to route ship-to-shore traffic by a method most expeditious to addressees; and (3) give customers the greatest flexibility in routing shore-to-ship traffic. These objectives can be achieved by first encouraging efficient customer utilization of all coast station facilities. The current IRC practice of limiting customer use of IRC teleprinter equipment only with the coast stations of the IRC providing the equipment essentially constitutes a tie-in arrangement between service and equipment. It not only raises questions as to whether it is anticompetitive under Sections 201 and 202 of the Act but, as a practical matter, (1) locks a ship station into using only the coast station of the IRC from which the ship's owner or agent obtains teleprinter equipment, and (2) discourages the ship owner or agent from utilizing other coast stations, even if the ship is in a more favorable position to communicate with them. This can result in unnecessary traffic congestion during peak periods at a few stations and unreasonable delay in the exchange of traffic with those ships unfortunate enough to be put toward the end of the "waiting list" of those stations (see paragraph 6). However, elimination of IRC tie-in arrangements could reduce traffic congestion and delay at these stations by enabling IRC teleprinter customers to utilize their equipment for sending or receiving maritime messages through all available coast stations, and, as a result, promoting a greater degree of competition among coast stations for this traffic (RCA, ITT and TRT collectively handle approximately 95 percent of the total maritime telegraphy traffic, see "Order," paragraph 4). We emphasize that our goal is not to foster competition for competition's sake, but to induce coast stations to improve their speed of service in the exchange of traffic with ship stations through competitive necessity.

14. Additionally, the objectives described above can be achieved by reducing coast station dependence on manual operation. Indeed, the manual operations involved in both ship-to-shore and shore-to-ship traffic according to the ATS Report "* * * at its best, is a slow tedious process requiring that the message from the ship operator be received and transcribed by the station operator and then manually prepared for delivery to the addressee."[19] This situation is exacerbated by an insufficient number of operators on duty at coast stations. Moreover, we concluded in Docket No. 19544 that the implementation of measures proposed by the IRCs in that preceeding independent of an overall plan for improvement of PCRT station procedures and facilities would not effectively improve services.[20] We are therefore tentatively of the view that public coast radiotelegraph stations should be required to implement the following measures.

COLLECTION AND DELIVERY PROCEDURES

15. A landline interconnect network should be established by coast station licensees in order to spread out traffic during peak periods and thereby reduce the delays now being experienced by ship stations in contacting coast stations. The system would consist of three components. First, all coast stations would be interconnected via teleprinter to establish a network for the exchange between them of shore-to-ship traffic awaiting delivery. A ship station operator, after hearing a coast station's traffic list indicating the existence of traffic destined for his ship, and after attempting for a reasonable time to contact the coast station to obtain the traffic, could request another coast station to retrieve the traffic from the coast station holding it and transmit it to him. Two benefits should result from such a retrieval network. A ship station operator would not necessarily have to experience unreasonable delay in receiving shore-to-ship traffic because either the coast station holding the traffic is busy or radio interference or poor propagation conditions prevent contact with the station. The operator would have the option to use another coast station that can be contacted to obtain the traffic. Additionally, coast station efficiency in effectuating delivery of shore-to-ship traffic would be encouraged since failure to acknowledge within a reasonable time the calls of ship stations made in response to its traffic list could result in the loss of the opportunity to deliver the traffic. We anticipate that competitive necessity would induce a coast station to improve operating procedures in order to quickly respond to calls from ship stations following transmission of its traffic list. An inefficient operation could result in the loss of revenue for the coast station.

16. Second, the IRC's should develop interconnection arrangements permitting users equipped with an IRC teleprinter to access any coast station for sending or receiving traffic. Similar arrangements between the IRC's and the licensees of independent coast stations would be necessary so that those users could also have the capability of accessing any independent coast station. The resulting network would constitute a universal terminal and tieline for teleprinter access to all telegraphy coast stations. The existing IRC arrangements that tie the provision of teleprinter service with the use of carrier-provided teleprinter equipment would be eliminated. These are arrangements that essentially lock ship stations into using a particular coast station operated by the IRC that provides the teleprinter equipment to the ship owner or agent's office. We concluded in Docket No. 19544 that they contribute to the congestion at certain coast stations and as a practical matter deprive the subscriber of the flexibility of accessing other coast stations for routing traffic (see "Order" paragraph 13).[21] The interconnection arrangements we are proposing would permit subscribers this flexibility without the necessity of bearing the expense of additional teleprinter machines. Thus, a subscriber could route shore-to-ship traffic via teleprinter to a coast station other than one licensed to the IRC providing the teleprinter machine if he believes that the ship for which the traffic is intended may not be able to contact the IRC's coast station. The subscriber could thereby avoid delay in waiting for the ship to come within range of the IRC's coast station. Conversely, a ship station operator could select any coast station to send ship-to-shore traffic for routing via teleprinter. The operator could thereby avoid the delay in waiting to come within range of that IRC's coast station and any delay in contacting that IRC's coast station if another station is available and can be contacted. We believe that, as a result, IRC teleprinter subscribers and ship stations which regularly communicate with them will be encouraged to avoid constant use of busier coast stations and make more efficient use of all coast stations.

17. Third, each public coast station should have the capability to directly send or receive traffic by use of TWX and domestic telex with those users who employ either TWX and/or domestic telex. This capability would compliment our proposed IRC universal terminal network. TWX and/or domestic telex subscribers could use their machines to access any public coast station for the direct filing or delivery of traffic. We note that, in Docket No. 19544, RCA stated that there is no reason, from a technical standpoint, why this could not be done.[22]

OPERATOR STAFFING AND PROCEDURE

18. The ATS Report found that reduction in staff and operating personnel at coast stations has occurred due to attrition.[23] Indeed, many comments in Docket No. 19544 alleged that the IRCs have systematically allowed the deterioration of service by this practice and have requested us to require the addition of more operators by the licensees. In our "Order" in Docket No. 19544, we noted that some coast stations are operating with only a single operator on watch during certain times of the day, and at times during the week and on weekends (see "Order" paragraph 26). We affirm the conclusions we reached then that this situation puts an unrealistic workload on the operator and results in unsatisfactory service. As we stated, a single operator not only must handle traffic on the various frequency bands—500 kHz, 4, 6, 8, 10, 12, 16 and 22 MHz, he must also work telephone or landline telegraph or teleprinter facilities, prepare traffic lists and perform other functions.

19. Given the delays now being experienced by users under current methods of operation by coast stations, continued reduction of operating personnel by the licensees can only result in a further degradation of service. Every coast station should be adequately staffed during authorized periods of operation. Nevertheless, rigid standards requiring specific numbers of staff and operating personnel to be on duty during authorized periods of operation appear unrealistic at this time. We believe that consideration of standards for operator staffing to apply to all coast stations should await evaluation of coast station performances following a developmental period for implementation of measures we ultimately require in this proceeding. This does not mean that increases in operator staffing may not be required at some coast stations prior to such developmental period. We will consider requiring limited increases at individual stations based on updated information concerning traffic levels and peak operating periods that we are requesting from the licensees in this proceeding. However, we anticipate that the interconnection and retrieval measures we are proposing herein will ultimately induce coast station licensees to maintain adequate staff on duty so that ship stations will be able to contact coast stations and exchange traffic within a reasonable time (see paragraph 14 above).

20. The most effective way to improve coast station services would be to reduce dependancy on manual transmission procedures. This could be accomplished by introducing improvements in message handling techniques that would increase the productivity and expand the capabilities of each operator.[24] Specifically, we propose that coast stations be required to: (1) Use five unit to Morse converters to expedite the routing of lengthy messages and transmit traffic lists; (2) automate the compiling of traffic lists utilizing information concerning ship station operators' watch times, zone and frequency indicators; and (3) install video data terminals or teleprinters to copy ship-to-shore messages for transmission to the addressee. As noted in the modification of our "Order" released today, these are measures already suggested by RCA or TRT.[25]

21. Additionally, we propose the development of a uniform procedure of transmitting traffic lists as suggested in our "Order" in Docket No. 19544 (see "Order," paragraph 41). Currently, traffic lists are often simultaneously transmitted by coast stations using working frequencies in each ban allocated for sending and receiving regular traffic.[26] Under a uniform procedure,

[16] Even if the message is simultaneously sent via other coast stations, the ship station operator would not necessarily receive it unless he monitored the traffic lists of those stations in addition to that of the coast station normally designated by the user. This would be difficult since the time periods for transmitting traffic lists at various stations overlap. (See "Order," paragraph 12).

[16] For example, reports filed by ship station operators with the commission in response to the new closure applications advise of instances of waiting lists containing up to 40 ships and waits of several hours before being able to exchange traffic once initial contact is made.

[17] See Memorandum Opinion and Order, supra, paragraph 82.

[18] We note that section 214(c) empowers this Commission to attach to the issuance of a certificate for discontinuance such terms and conditions as in its judgment the public convenience and necessity may require.

[19] See ATS Report, supra p. II-32.

[20] See Memorandum Opinion and Order, supra, paragraph 82.

[21] See also Memorandum Opinion and Order, supra, paragraph 81.

[22] See letter from RCA to the Commission dated January 13, 1975.

[23] See ATS Report, supra, page 0-10.

[24] RCA asserts that, generally, 60-70 percent of its total expenses for operation of its HF coast stations is attributable to labor (See application to close Stations WOE, WPA, and WSC, File No. W-P-D-88, December 3, 1976).

[25] See Memorandum Opinion and Order, supra, paragraph 81.

[26] although the amount of time required by each coast station to transmit a traffic list varies, many hours per day are dedicated to the transmission of traffic lists if

there could be designated frequencies in each band for use by all coast stations in transmitting traffic lists. Coast stations would be required to use each of these frequencies when determined. Such guidelines would not be part of the Commission's Rules, but would constitute general standards for future evaluation of the speed of service rendered by coast stations, i.e., in-

users to submit comments in this proceeding showing that a demand exists for expansion of radioteleprinter service offerings. Specifically, we would hope that ship owners or their associ-

ment must ultimately be borne by maritime mobile users. However, the record in Docket No. 19544 indicates the need for public coast station radiotelegraph services will continue.

to participate herein. All comments, responses and replies, pleadings and other submissions in the proceeding instituted herein shall be served on all parties listed in the Public Notice.

whether any radiotelegraph operators were responsible for or performed any additional functions during their duty tours.

4. For each month specified in A.1. above, provide a breakdown of the number of outbound and the number of inbound messages

there could be designated frequencies in each band for use by all coast stations in transmitting traffic lists. Coast stations would be required to use each of these frequencies when transmitting traffic lists; however, no stations would be permitted to transmit simultaneously with another. Instead, all stations would transmit sequentially using a code to automatically trigger the transmission of the traffic list of one station after the station transmitting before it has finished. This procedure could have two benefits. First, it could improve operator efficiency if the measures proposed above for automated preparation and updating of traffic lists are used. Traffic lists could be transmitted independent of coast station working frequencies enabling coast station operators to simultaneously handle traffic, if necessary. Second, it would enable ship station operators to listen on a single channel in each band to hear the traffic lists of all coast stations available to them. This capability is essential to the success of the landline interconnection system we are proposing to establish.

22. Under the current procedure for transmission of traffic lists, the time periods for transmission at various coast stations overlap. Thus, if the current procedure is continued, one of the major benefits of interconnection—flexibility in routing shore-to-ship traffic via teleprinter—could be lost to ship owners or agents. This is because, as a practical matter, a ship station operator could not monitor the traffic lists of coast stations other than the one primarily designated by the ship owner or agent—usually that of the IRC providing the teleprinter.[27] Thus, if would be of no benefit to the ship owner or agent to route traffic to a different coast station knowing that his ship station operator would not be listening to the trafic list of that station. However, the uniform procedure we are seeking to establish would allow the ship station operator the opportunity to monitor other coast station traffic lists if he does not hear his ship called on the traffic list of the IRC coast station.

SERVICE GUIDELINES

23. General guidelines should ultimately be established by which the adequacy of service provided by public coast radiotelegraph stations could be determined. Such guidelines would not be part of the Commission's Rules, but would constitute general standards for future evaluation of the speed of service rendered by coast stations, i.e., involving the time from which a coast station receives a shore-to-ship message and begins to effect delivery via its traffic list; the time from which a ship station attempts to contact a coast station and begins to exchange traffic, whether ship-to-shore or shore-to-ship; and the time from which a coast station receives a ship-to-shore message and begins to effect delivery over the landline system. Such standards do not exist. Both RCA and ITT favor the adoption of speed of service standards. We believe that determination of any speed of service standards should be made upon consideration of whatever improvements we ultimately determine in this proceeding are required by the public interest. therefore, we will delay making specific proposals until after a developmental period of six months following an order to implement such improvements. after that period, we will evaluate the initial implementation of the required improvements from reports submitted by each licensee and results of coast station inspections. We will then propose specific speed of service standards to be commented on by the coast station licensees and other interested parties. the standards adopted will be used to conduct further review of the performance of coast stations.

OTHER MATTERS

24. In our "Order" in Docket No. 19544, we directed each licensee to ". . . develop a program for the implementation of a high quality radioteleprinter service and the institution of a selective calling system at the earliest possible date." (See "Order," paragraph 42(d)).[28] We note that four coast stations now offer a radioteleprinter service—stations WSL and KFS (ITT), KPH (RCA), and WLO (MMR). The record in Docket No. 19544 does not provide conclusive evidence that sufficient market exists to support the expansion of this service by other coast stations. We therefore invite interested parties and potential users to submit comments in this proceeding showing that a demand exists for expansion of radioteleprinter service offerings. Specifically, we would hope that ship owners or their associations provide estimates of the number of vessels expected to be equipped within the next five years for teleprinter service via either coast stations or MARISAT. In addition, we request TRT to indicate whether they foresee providing a radioteleprinter service at station WNU.[29] Further, we request RCA, ITT and MMR to submit the total radioteleprinter traffic volumes for 1976 and 1977 handled by their stations and the total revenue derived therefrom. RCA and ITT should also provide the total radioteleprinter traffic volumes for 1976 and 1977 each handled via MARISAT and the revenue derived therefrom. We instruct the Chief, common Carrier bureau to obtain for the record the same information from COMSAT General and WUI, both of which are not being made parties to this proceeding. This information should be accompanied by their projections (and the basis thereof) for growth in MARISAT teleprinter traffic for the next five years and their determination of the impact it may have on the teleprinter market for public coast stations.

25. Further, we will seek from the licensees of Class IA public coast stations such additional information that we believe necessary to determine what measures should be implemented to improve the services they offer and correct the problems we identified in Docket No. 19544. They therefore are being made parties respondent in this proceeding and required to answer the questions contained in the Appendix attached hereto. These questions are specifically intended to elicit information we believe necessary in order to make the statutory findings required by Sections 201(a) and 214(d).[30] It will be necessary to update certain information already supplied to the Commission by the licensees in Docket No. 19544. Additionally, we are inviting comments from all interested parties. In particular, we request that users and user groups comment supplying proposals for any additional measures they believe are necessary to improve the service they are now receiving.

26. Finally, we will expect full cooperation from the IRCs in supplying the information we are requesting. Our objective in this proceeding will be to determine what improvements in public coast station services are economically warranted. In doing so, we recognize that the cost of improvement must ultimately be borne by maritime mobile users. However, the record in Docket No. 19544 indicates the need for public coast station radiotelegraph services will continue. Should current licensees be unwilling to implement improvements that are reasonably required in the public interest and will not impair their ability to perform their duties to the public, we will consider institution of proceedings to determine whether they are qualified to continue to be public coast station licensees, or what alternative means is available to provide quality maritime mobile services to users.

27. *Accordingly, it is ordered,* Pursuant to Sections 2(a), 4(i), 4(j), 201(a), 214(d) and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 152(a), 154(i), 154(j), 201(a), 214(d) and 403, that an investigation, rule making and hearing is instituted into the need for, and means of implementing, measures for improvement of maritime mobile communications services rendered by class I-A public stations.

28. *It is further ordered,* That the investigation, rule making and hearing instituted herein shall include inquiry into whether it is necessary or desirable in the public interest for the Commission to order the licensees of Class I-A public coast stations to establish the landline interconnect network described in paragraphs 14 through 16 above, pursuant to Section 201(a) of the Communications Act.

29. *It is further ordered,* That the investigation, rule making and hearing instituted herein include inquiry into whether it is reasonably required in the interest of the public convenience and necessity to order the licensees of Class IA public coast stations to make improvements described in paragraphs 14 through 22 above to their coast station facilities pursuant to Section 214(d) of the Communications Act.

30. *It is further ordered,* That the investigation, rule making and hearing instituted herein, shall include inquiry into whether the expenses involved in coast station facility improvements that may be required in the interest of the public convenience and necessity pursuant to Section 214(d) of the Act will impair the ability of any Class IA licensee to perform its duty to the public.

31. *It is further ordered,* That RCA Global Communications, Inc., ITT World Communications, Inc., TRT Telecommunications, Inc., Mobile Marine Radio, Inc., and Clara Lee Warner Wood are made parties respondent in this proceeding and are directed to the questions posed in the Appendix attached below.

32. *It is further ordered,* That any interested person may file by a notice of intention to participate. The Commission shall then issue a Public Notice stating the names of parties intending to participate herein. All comments, responses and replies, pleadings and other submissions in the proceeding instituted herein shall be served on all parties listed in the Public Notice.

33. *It is further ordered,* That any interested person participating in the proceeding instituted herein shall file comments, responses and replies in accordance with the following schedule:

(a) Comments shall be filed on or before April 17, 1978;

(b) Responses to those comments may be filed on or before May 8, 1978; and

(c) Replies may be filed on or before May 18, 1978.

34. *It is further ordered,* In accordance with the provisions of § 1.419 of the Commission's rules and regulations, that all participants in the proceeding ordered herein shall file with the Commission an original and five (5) copies of all comments, responses, replies or other pleadings provided for herein. In addition to the material filed in response to this Notice, the Commission may consider any other relevant material before it. Copies of responses filed in this proceeding shall be available for public inspection during regular business hours in the Commission's Reference Room at its headquarters at 1919 M Street, NW., Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

APPENDIX

I. Licensees of Class IA public coast radiotelegraph (PCRT) stations are required to provide the information indicated below for each station operated.

A. TRAFFIC INFORMATION

1. For each month, May and September, 1977, and March, 1978, list the number of messages and words of all paid radiotelegraph traffic between the PCRT station and maritime mobile stations. This data should be separated to reflect the following categories: (1) Inbound and outbound traffic; (2) traffic with ships of United States registry and ships of foreign registry; and (3) class of traffic (Full Rate Ordinary; U.S. Government Ordinary; Marine Press; Greeting & Gift; Marine Teleprinter & Fascimile; other (specify)).

2. For each day of the months specified in A.1. above, provide the number of outbound and inbound messages and words handled on each day. This data should be separated to reflect the following time periods (local time at each station): (1) 8 a.m. to 4 p.m.; (2) 4 p.m. to 12 p.m.; and (3) 12 p.m. to 8 a.m.[1]

3. For each daily time period indicated in A.2. above, provide the number of personnel on duty at each PCRT station, separated by function: (1) Radiotelegraph operators; (2) landline or dispatch operators; and (3) other personnel (specify function). Indicate whether any radiotelegraph operators were responsible for or performed any additional functions during their duty tours.

4. For each month specified in A.1. above, provide a breakdown of the number of outbound and the number of inbound messages handled by the following receipt and delivery means: CTO; W.U. telegraph teleprinter (TWX-telex); telephone; messenger; over-the-counter; transferal to or from another coast station of the licensee; transferal to or from a coast station of another carrier; or any other method. For each message handled, indicate whether the outbound initiator of the message or the inbound addressee of the message is located:

(1) Within a radius of 25 statute miles of the PCRT station;

(2) Within a radius of 25 to 100 statute miles of the PCRT station; or (3) outside a radius of 100 statute miles from the PCRT station. Also, provide the number of inbound and outbound messages handled by CTO through gateway city networks of the station licensee.

5. For each day of March, 1978, provide a breakdown of the number of outbound and the number of inbound messages handled by each of the means listed in A.4. above during the following time periods (local time at each station): (1) 8 a.m. to 4 p.m.; (2) 4 p.m. to 12 p.m.; and (3) 12 p.m. to 8 a.m.

6. For each day, March 13, 18, 19, 22, 24, 28 and 30, 1978, provide the following breakdown for each message handled:

OUTGOING MESSAGES

(1) The time received by the station;

(2) The time first placed on the traffic list;

(3) The time delivery completed to the ship.

INCOMING MESSAGES

(1) The time received by the station from the ship;

(2) The time delivery to the addressee is first attempted;

(3) The time delivery to the addressee is completed.

NOTE.—For both outgoing and incoming messages, if delivery is not completed on the day received, indicate the date and time that delivery is completed.

7. For each month specified in A.1. above, list by frequency band (MF (415-525 kHz); 4 MHz; 6 MHz; 8 MHz; 12 MHz; 16 MHz; and 22 MHz) the number of messages estimated to be handled with ships within a radius of 500 nautical miles of the PCRT station, within a radius of 500-800 nautical miles of the PCRT station, within a radius of 800-1500 nautical miles of the PCRT station, and over 1500 nautical miles of the station. Explain the method for arriving at the estimate given.

8. For each day, March 13, 18, 19, 22, 24, 28, and 30, 1978, provide the number of traffic lists transmitted, the time each transmittal initiated, the length of time of each transmitted traffic list, and the number of ships on each list. For each traffic list, indicate the number of ships placed on a traffic waiting list following the traffic list transmission.

9. For the year 1977, state the number of distress calls on 500 kHz received by each station. Indicate the number of distress calls responded to by the station and the number referred to the Coast Guard for necessary action.

10. For the year 1977, state the number of inbound and outbound messages and words

Continued
the combined efforts of all coast stations on all frequency bands used are considered (See "Order," paragraph 12).

[27] Also, should someone, unaware of the prior arrangement a ship station may have with a designated coast station, attempt to send a personal or business message he finds it virtually impossible to communicate with that ship station unless he coincidentally chooses the designated coast station (See "Order," paragraph 12).

[28] Subsequently, we decided in another proceeding that coast stations offering radioteleprinter service (narrow-band-direct printing) would not be required to use error control (protected) systems such as the ARQ and ITU-FEC systems. Our rationale was that such a requirement would be premature before an agreement for the adoption of a digital selective calling system in the International Radio Regulations. Reconsideration of this decision has been requested and is pending. See Radiotelegraph in Maritime Services, FCC 77-380 No. 70167, June 10, 1977, 42 FR 30999, June 17, 1977.

[29] RCA has an outstanding application to commence radioteleprinter service at station WCC.

[30] See Memorandum Opinion and Order, supra, paragraphs 83-84.

[1] If the daily data requested is not available for May and September, 1977, so indicate and provide only the daily data for March, 1978.

handled via MF (415-525 kHz) at each station. For each month specified in A.1. above, state the number of inbound and outbound messages and words handled via MF (415-525 kHz) at each station.

B. FINANCIAL INFORMATION

1. For each year, 1974 through 1977, list for each PCRT station, the moneys received for the following:

(a) Marine Messages, United States Ships:

reflect those categories enumerated in A.1. above. A detailed explanation, including the various factors considered, of how these estimates are arrived at should be included.

2. For each year, 1978 through 1980, list for each PCRT station listed on Table 3 of

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public.

handled via MF (415–525 kHz) at each station. For each month specified in A.1. above, state the number of inbound and outbound messages and words handled via MF (415–525 kHz) at each station.

B. FINANCIAL INFORMATION

1. For each year, 1974 through 1977, list for each PCRT station, the moneys received for the following:

(a) Marine Messages, United States Ships:

Charge	Coast station charge	Mobile/ship station charge	Forwarding/ landline charges	Total
Full rate ordinary				
U.S. Government ordinary				
Marine press				
Greeting and gift				
Marine teleprinter and facsimile				
Other (specify)				
Total				

(b) Marine Messages, Foreign Ships:

Charge	Coast station charge	Mobile/ship station charge	Forwarding/ landline charges	Total
Full rate ordinary				
U.S. Government ordinary				
Marine press				
Greeting and gift				
Marine teleprinter and facsimile				
Other (specify)				
Total				

(c) Any charges, whether listed by tariff or not, associated with the receipt and/or forwarding of marine messages (other than the landline charges specified in (a) and (b) above). Specify by type: forwarding; holding; telephone; messenger; answering service; special instructions; etc.

(d) Sale and/or lease of land, buildings and/or equipment owned by the station or situated at the station site(s). Specify by type of transaction and the items involved.

(e) Any other moneys received. Specify the source.

2. For each month, May and September, 1977, and March, 1978, list for each PCRT station, the moneys received (or receivable) for those marine message charges indicated in B.1. (a) and (b) above, utilizing the format indicated therein.

3. For each day, March 13, 18, 19, 22, 24, 28, and 30, 1978, list for each PCRT station, the moneys received (or receivable) for those marine message charges indicated in B.1. (a) and (b) above, utilizing the format indicated therein.

4. For each year, 1974 through 1977, list the net book value for each PCRT station. Do not include value attributed to any other service or co-located station facilities of any other service. If any allocation due to co-located station facilities must be accomplished, explain the methodology used and the items allocated.

5. For each year, 1974 through 1977, list for each PCRT station, the costs (see note below) incurred for the following:

(a) Direct: Telegraph operator salaries, other personnel salaries, employee benefits, rent—property, rent—equipment, maintenance—radio equipment, maintenance—other facilities, new radio equipment, station improvements—radio equipment, station improvements—other facilities, electricity, utilities—other than electricity and telephone, telephone, telegraph, other leased lines (specify), operating taxes, advertising, insurance, office materials and supplies, vehicles and transportation (local), travel, depreciation—radio equipment, depreciation—other equipment, losses—fire, theft, weather, entertainment, other (specify).

(b) Indirect: Only include those items which are the portion of a parent company's operational expense solely attributable to each PCRT station's operation. Specify by item of cost. If items of a general nature are indicated (e.g. administration expenses), indicate what components are included in such items. Explain the precise methodology used to arrive at each cost figure indicated.

NOTE.—For each PCRT station, we do not expect any costs allocated with any other PCRT station or with any other service. We are interested in seeing the actual costs involved at each PCRT station.

6. For each month, May and September, 1977, and March, 1978, list for each PCRT station the costs indicated in B.5.(a) and (b) above, utilizing the format indicated therein.

C. PROJECTIONS

1. For each year, 1978 through 1980, list for each PCRT station listed on Modified Table 2 of Appendix 2 to the Memorandum Opinion and Order (Docket No. 19544) released simultaneously with this NPRM, estimates of messages and words expected to be handled. This data should be separated to reflect those categories enumerated in A.1. above. A detailed explanation, including the various factors considered, of how these estimates are arrived at should be included.

2. For each year, 1978 through 1980, list for each PCRT station listed on Table 3 of Appendix 2 to the Memorandum Opinion and Order (Docket No. 19544) released simultaneously with this NPRM, estimates of messages and words expected to be handled. This data should be separated to reflect those categories enumerated in A.1. above. A detailed explanation, including the various factors considered, of how these estimates are arrived at should be included. Although these estimates will be based on a particular coast station configuration associated with implementation of an overall improvement plan, do not consider an interconnection and retrieval system to be in operation.

3. For each year, 1978 through 1980, list for each PCRT station indicated in C.1. above, estimates of costs. This data should be separated to reflect a cost breakdown as shown in B.5. above. A detailed explanation, including the various factors considered, of how these estimates are arrived at should be included.

4. For each year, 1978 through 1980, list for each PCRT station indicated in C.2. above, estimates of costs. This data should be separated to reflect a cost breakdown as shown in B.5. above. A detailed explanation, including the various factors considered, of how these estimates are arrived at should be included. Although these estimates will be based on a particular configuration of coast stations associated with implementation of an overall improvement plan, do not consider an interconnection and retrieval system to be in operation.

5. With regard to the interconnection and retrieval system envisioned within this NPRM, provide the following information:

(a) What is the necessary lead time necessary to implement the system?

(b) What additional equipment, lines and operators will be necessary for implementation of the system?

(c) What are the estimated costs to implement the system? (Include detailed breakdown.)

II. Users of Class I-A PCRT stations, and user associations, are requested to:

A. Discuss whether substantial benefits may be derived from the interconnection and facility improvements proposals made in this NPRM.

B. Indicate whether, to the best of your knowledge, users will be willing to support the costs of implementation of these improvements through increased rates, if necessary.

C. Discuss the effect these improvements could have on user utilization of U.S. PCRT stations. Will U.S. PCRT stations be utilized less if these improvements are not implemented? If so, why?

D. What additional measures are necessary to improve the PCRT service you are now receiving?

[FR Doc. 78-5867 Filed 3-10-78; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6050-01]

ACTION

PRIVACY ACT OF 1974

New System of Records

AGENCY: ACTION.

SUMMARY: This notice is published to inform the public that ACTION has established a system of records titled "ACTION Information Gathering System." The purpose of this system is to furnish information to be used for statistical and analysis purposes in connection with agency activities including volunteer projects. The system title has been changed from "Management and Program Control Information System" to "ACTION Information Gathering System" in order to avoid confusion with other agency information systems.

A notice was published on November 17, 1977 in the FEDERAL REGISTER, Volume 42, No. 222 at page 59392, requesting comments from interested persons. No comments were received from members of the public. Congressman Chairman Preyer of the House of Representatives Subcommittee on Government Information and Individual Rights made suggestions which have been incorporated in this notice. The major changes are: (1) The "Categories of Individuals Covered by the System" paragraph has been revised to define in more detail the categories covered; (2) the "Description of the Categories of Records in the System" has been revised to explain in greater detail what kind of information the agency plans to collect and to more accurately reflect the nature of the system and components; (3) the "Routine Uses" paragraph has been revised to reflect, in its entirety, paragraph 8 of our general routine uses and has been revised to inform the reader as to who will receive and process the data submitted by the individual; (4) a paragraph regarding notification, access, and contest procedures has been added.

DATES: This notice is effective on March 13, 1978.

ADDRESS: ACTION, 806 Connecticut Avenue NW., Washington, D.C. 20525.

FOR FURTHER INFORMATION CONTACT:

Mr. John F. Nolan, Office of Administration and Finance, ACTION, Washington, D.C. 20525, 202-254-8105.

System name:

ACTION Information Gathering System—ACTION/AF-32.

System location:

Office of Administrative Services/ACTION, 806 Connecticut Avenue NW., Washington, D.C. 20525.

Categories of individuals covered by the system:

(1) Persons serving in, having served in, or who are served by programs initiated by ACTION; (2) persons working with ACTION programs on a volunteer basis, and (3) the general public, i.e., in communities and areas (i) where ACTION programs are; (ii) where ACTION programs are proposed; and (iii) nationwide for media impact studies, post-service studies, etc.

Categories of records in the system:

The system will contain information necessary to provide statistical and analysis data in connection with agency activities including volunteer projects. The agency anticipates during the next year studies in such areas as: Recruitment, impact of advertising campaigns or media on a given area; public awareness of proposed or existing programs; program effect in particular demographic areas; impact of volunteer service on individuals after service; community awareness of program impact and volunteer programs on private sector voluntarism, etc. Individuals will be asked to complete a form and will be informed of the particulars of the study, i.e., the specific purpose of the study, who is conducting the study, the use of the information they submit; who has access to the records; provisions of the Privacy Act; the authority for collecting the data; the effect of nondisclosure; the particular study title and the Privacy Act system of records identification number.

This information may include names and addresses, relationships to a particular agency activity, age, race, education, ethnic background, employment history, family size and age groups, marital status, impact of an ACTION program on the individual or community, type of service received, volunteer program interest area, effect of advertising on the individual. Although it is impossible to foresee all information which will be gathered for study the agency anticipates that such data may be collected. Subsystems of records may be set up for relatively short periods of time during the information gathering stage. However, the overall responsibility for these subsystems comes under the Administrative Services Division. Records will be retained only as long as needed for the study but statistical data may be retained after personal identifiers have been removed.

Authority for maintenance of the system:

The Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951, 5042 (13) and the Peace Corps Act, as amended (22 U.S.C. 2501, et seq.)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Data maintained in this system shall be used to enable the agency to carry out its authorized functions in connection with program and project evaluation as stated in the statement of general rountine uses published in the preliminary statement set forth in 42 FR No. 182 at page 47439 paragraph 8 * * * "Information in any system may be used as a data source, for management information, for the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies. Information may also be disclosed to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act or the Privacy Act or to locate specific individuals for personnel research or other personnel management functions." Initially, the information will be furnished by the individual to the ACTION staff personnel or personnel performing the study on behalf of ACTION. Such records will be retained only as long as required to complete the work.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

These files may be maintained in various fashions. Material placed on

computers shall be stored in disc packs with tape backup. All files shall in any event be maintained and filed in

[3510-25]

DEPARTMENT OF COMMERCE

tablishment of a foreign-trade subzone in an area separate from an existing zone, for one or more of the specialized purposes of storing, manipulating,

any manufacturing operations within the subzone other than the assembly of heavy equipment office typewriters.

The grant shall not be construed to

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and

and acessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for studies of electromagnetic and electro-

computers shall be stored in disc packs with tape backup. All files shall in any event be maintained and filed in rooms or cabinets with manipulation proof combination locks which are not in immediate use.

Retrievability:

Files are retrievable through name or identifying number.

Safeguard:

Records in this system will be available only to appropriate personnel, including staff or other individuals working on ACTION's behalf, having a need for such records in the performance of their duties.

Retention and disposal:

Records in this system shall be maintained only so long as necessary to carry out the management survey or other function for which they were collected and then shall either be destroyed or the information may be stored after removal of all personal identification.

System manager and address:

Director, Administrative Services Division, ACTION, 806 Connecticut Avenue NW., Washington, D.C. 20525.

Record source categories:

Information will be obtained from the individual or persons dealing with ACTION programs.

Notification, access and contest procedures:

Individuals wishing to see information in their records; inquire if this system of records contains information about them; or contest/correct information, should provide their name, any former name, date of birth, social security number, dates and type of record. Individuals should address their inquires to: Director, Administrative Services Division, Office of Administration and Finance, ACTION, 806 Connecticut Avenue NW., Washington, D.C. 20525. All inquiries should have "Privacy Act Request" noted on the envelope.

This notice is issued in Washington, D.C., on March 8, 1978.

SAM BROWN,
Director.

[FR Doc. 78-6453 Filed 3-10-78; 8:45 am]

[3510-25]

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 126]

HARRISBURG, PA.

Resolution and Order Approving Application of the Eastern Distribution Center, Inc., for a Foreign-Trade Subzone

Proceedings of the Foreign-Trade Zones Board, Washington, D.C., resolution and order.

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board has adopted the following resolution and order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Eastern Distribution Center, Inc., Avoca, Pa., grantee of Foreign-Trade Zone No. 24, filed with the Foreign-Trade Zones Board (the Board) on October 11, 1977, requesting authority to establish a special-purpose subzone at the typewriter assembly plant of the Olivetti Corp. of America, located at 2800 Valley Road, Harrisburg, Pa., within the Harrisburg Customs Port of Entry, for the purpose of assembling heavy office equipment typewriters (weighing 30 pounds or more and sold for use without a carrying case), the Board, finding that the nearest existing foreign-trade zone (No. 24) at Wilkes-Barre/Scranton, Pa., will not serve adequately the convenience of commerce with respect to the proposed purpose of such subzone, and that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest approves the application with regard to the above product.

The Secretary of Commerce, as Chairman of the Board, is hereby authorized to issue a Board order in accordance with this resolution. Should any proposal be made for use of the special-purpose subzone for a manufacturing operation, the grantee shall promptly notify the Board's Executive Secretary for clearance prior to the commencement of such as operation.

GRANT TO ESTABLISH, OPERATE, AND MAINTAIN A FOREIGN-TRADE SUBZONE AT HARRISBURG, PA.

Whereas, by an Act of Congress approved June 18, 1934, an Act: "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations provide (15 CFR 400.304) that the establishment of a foreign-trade subzone in an area separate from an existing zone, for one or more of the specialized purposes of storing, manipulating, manufacturing, or exhibiting goods may be authorized if the Board finds that existing or authorized zones will not serve adequately the convenience of commerce with respect to the proposed purposes;

Whereas, the Eastern Distribution Center, Inc., grantee of Foreign-Trade Zone No. 24 at Wilkes-Barre/Scranton, Pa. (the grantee), has made application (filed October 11, 1977) in due and proper form to the Board for the establishment, operation, and maintenance of a foreign-trade subzone at the typewriter assembly plant of the Olivetti Corp. of America, located at 2800 Valley Road, Harrisburg, Pa., for the purpose of assembling heavy office equipment typewriters (weighing 30 pounds or more and sold for use without a carrying case);

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard;

Whereas, the Board has found that the proposed location of the foreign-trade subzone in Harrisburg is suitable, and the facilities provided are sufficient; and

Whereas, the Board has further found that the closest existing foreign-trade zone (No. 24) at Wilkes-Barre/Scranton will not serve adequately the convenience of commerce with respect to the proposed purpose of the subzone;

Now, therefore, the Board hereby grants to the grantee the privilege of establishing, operating, and maintaining a foreign-trade subzone for the above purpose, designated on the records of the Board as Foreign-Trade Subzone No. 24A, at the location mentioned above and more particularly described on the maps and drawings accompanying the application, said grant being subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Operation of the foreign-trade subzone shall be commenced by the grantee within a reasonable time from the date of issuance of the grant, and prior thereto, the grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade subzone in the performance of their official duties.

The grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the subzone other than the assembly of heavy equipment office typewriters.

The grant shall not be construed to relieve the grantee or operator from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said subzone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and District Army Engineer with the grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C., this 28th day of February 1978 pursuant to order of the Board.

FOREIGN-TRADE ZONES BOARD,
JUANITA M. KREPS,
Chairman and Executive Officer.

Attest:

JOHN J. DAPONTE,
Executive Secretary.

[FR Doc. 78-6413 Filed 3-10-78; 8:45 am]

[3510-25]

[Order No. 127]

WILKES-BARRE, PA.

Approval for a Temporary Foreign-Trade Zone Site

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), and the Foreign-Trade Zones Board regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) adopts the following order:

Whereas, the Eastern Distribution Center, Inc., grantee of Foreign-Trade Zone No. 24, has applied to the Board for authority to establish, operate, and maintain a temporary zone site in the city of Wilkes-Barre, Luzerne County, Pa., for a period not to exceed 1 year;

Whereas, the application was accepted for filing on November 22, 1977, and notice inviting public comment was given in the FEDERAL REGISTER on November 28, 1977 (42 FR 60584);

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the temporary site is needed to provide immediate zone services for the business community until the permanent zone, which is presently under construction, is ready for occupancy; and

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby orders:

That the grantee is authorized to establish, operate, and maintain a temporary zone site in the city of Wilkes-Barre, Luzerne County, Pa., in conformity with the application filed November 22, 1977, for a period not to exceed 1 year from the date of this Board order. While the facility is requested to temporarily serve the permanent zone's first tenant, RCA Corp., its use shall not be limited to that tenant. The grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operation within the temporary site. The authority given in this order is subject to settlement locally by the District Director of Customs and the District Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, D.C., this 28th day of February 1978.

JUANITA M. KREPS,
Secretary of Commerce, Chairman and Executive Officer, Foreign-Grade Zones Board.

Attest:

JOHN J. DAPONTE,
Executive Secretary.

[FR Doc. 78-6412 Filed 3-10-78; 8:45 am]

[3510-25]

Industry and Trade Administration

ROME AIR DEVELOPMENT CENTER ET AL.

Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision applications for duty-free entry of electrom microscopes pursuant to Section 6(c) of the Educational, Scientific, and Cultrual Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301). (See especially § 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00042. Applicant: Rome Air Development Center, Deputy for Electronic Technology, RADC/ESM, Hanscom AFB, Mass. 01731. Article: Electron Microscope, Model JEM-100CX/SEG/ASID-4D and acessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for studies of electromagnetic and electro-optic crystalline and non-crystalline solids including semiconducting materials, glasses and thin films. The investigations will include determination of crystal structure orientation, identification of secondary phases, and degree of crystalline perfection, detection and characterization of lattice defects such as dislocations, stacking faults, and precipitates, the search for defects of atomic dimensions and the study of surface microstructure on glasses and other materials. Article ordered: September 28, 1977.

Docket No. 78-00043. applicant: New York University Medical Center, 550 First Avenue, New York, N.Y. 10016. Article: Electron Microscope, Model JEM-100CX (standard side entry type), and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for the following research objectives: (1) High resolution EM examination of the structural details of synaptic membranes in the vertebrate retina; (2) Identification of the sequence of events that occur during vesicle recycling at the photoreceptor terminal; and (3) Characterization of the nature of interreceptoral junctions in the vertebrate retina. Other studies and ultrastructural techniques to be employed involve negative staining procedures, autoradiography of labelled neurotransmitter agent, Golgi-EM for the identification of neuronal processes in synaptic organization of the retina. The educational uses to which the article will be put are limited to post-doctoral trainees working the department's (Ophthalmology and Physiology), research laboratories. Application received by Commissioner of Customs: November 8, 1977.

Docket No. 78-00051. Applicant: The University of Texas Health Science Center at Dallas, 5323 Harry Hines Boulevard, Dallas, Tex. 75235. Article: Electron Microscope, Model JEM-100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for further experiments on the low density lipoprotein (LDL) membrane receptor which will include the following: (1) Studies on the turnover of LDL receptors and where on the surface do the receptors appear; (2) effects of various drugs on the location and turnover of LDL receptors; and (3) Interaction of the LDL receptor with other surface membrane receptors, e.g., conconavalin-A. Application received by Commissioner of Customs: November 10, 1977.

Docket No. 78-00057. Applicant: Wesley Medical Center, Dept. of Ob-Gyn, 550 North Hillside, Wichita, Kans. 67214. Article: Electron Micro-

scope, Model EM 201 and accessories with plate camera. Manufacturer: Philips Electronics Instruments NVD, the Netherlands. Intended use of article: The article is intended to be used

Docket No. 78-00067. Applicant: Loyola University of Chicago, Stritch School of Medicine, 2160 South First Avenue, Maywood, Ill. 60153. Article:

analytical quality control, environmental toxicology and water supply. The article will be used for high resolution studies of virus-infected cells,

surface and the cytology of placental function; (2) Studies of the interaction of trophoblast and uterine luminal epithelial cells at implantation; (3)

halide, or other type of mineral. The size and shape, crystal structure orientation, grain growth and microstructure, defect structure, and chemical

the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States

scope, Model EM 201 and accessories with plate camera. Manufacturer: Philips Electronics Instruments NVD, the Netherlands. Intended use of article: The article is intended to be used for studies of all tumors of the female reproductive system, malignant and benign; such as tumors of the ovary, endometrium, cervix, endocervix, fallopian tube, vagina and vulva. Morphological changes are described in primary and metastatic tumors. Comparative studies are done on malignant tumors before and after treatment with chemotherapy, X-ray cobalt. The article will also be used in the training of M.D., Ob-Gyn postgraduates and M.D. Pathology postgraduates. Article ordered: December 21, 1976.

Docket No. 78-00061. Applicant: University of Kentucky, School of Biological Sciences, 101 T.H. Morgan Building, Lexington, Ky. 40506. Article: Electron Microscope, Model H-500. Manufacturer: Hitachi, Japan intended use of article: The article is intended to be used for electron microscopic studies of the interaction of *bdellovibrio bacteriovorus* with its prey. The experiments to be conducted will include the following: (1) Seeing where the *bdellovibrios* attach, (2) Isolating various fractions of the prey outer layers and testing for the ability of the fractions to inhibit attachment of *bdellovibrios*, (3) Isolating various fractions of the *bdellovibrio* outer layers and studying their ability to inhibit attachment by *bdellovibrios*, (4) Looking for a change in *bdellovibrios* comparable to eclipse in bacteriophage: determining when loss of the flagellum and sensitivity to bacteriophage occur; looking for retraction of pili, (5) Seeing if infected prey are still susceptible to *bdellovibrios* in the area in which the cell wall remains in close association with the cytoplasmic membrane, (6) Investigating the role of pili in the attachment by *bdellovibrios*, and (7) Characterizing attachment mutants of *bdellovibrio*, (8) Examination of ultrathin sections of specimens from attachment mixtures which have been subjected to conditions that prevent penetration by *bdellovibrios*, (9) Characterizing penetration mutants of *bdellovibrios*, (10) Study of the fine structure of penetration in attachment pairs in which the prey cell has been altered, and (11) Study of the detailed ultrastructure and morphology of penetration in systems in which the symptons of infection are markedly altered.

The article will also be used to train students in the techniques of electron microscopy in the following courses:

BIO 395—Independent Undergraduate Research in Biology.
BIO 795—Research in Zoology.
BIO 796—Research in Botany.
BIO 797-798—Research in Bacteriology.

Article ordered: April 21, 1977.

Docket No. 78-00067. Applicant: Loyola University of Chicago, Stritch School of Medicine, 2160 South First Avenue, Maywood, Ill. 60153. Article: Electron Microscope, Model EM 201 and Accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used in the following research projects: (1) Immunoelectron microscopic localization of blood group substances A, B, and H innormal and neoplastic human tissues; (2) ultrastructure and quantation of normal and altered lung surfactant; (3) mechanisms and treatment of lung lesions and associated surfactant damage in shock; and (4) localization of pacemarker cells outside the main sinoatrial node of the heart. In addition, the article will be used in the training of residents and research fellows in the Department of Pathology in the use of the article and its applications in diagnostic pathology as a research tool. Article ordered: August 17, 1977.

Docket No. 78-00068. Applicant: Lutheran Medical Center, 150 55th Street, Brooklyn, N.Y. 11220. Article: Electron Microscope, Model EM 9S-2 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for studies of a variety of human and animal tissues, principally kidney, liver, lung and also tumors. These studies will include submicroscopic organelle distribution and changes, alterations in cell membrane, subcelluar changes in cells induced by environmental factors. The plumonary mineral burden in human lungs obtained at autopsy will be determined and related to environmental factors. Tissues which have been appropriately prepared will be examined for asbestos. In selected animal experiments, viral particles will be identified and related to oncogenic developmental factors. Education will be carried out on an individual basis for the training of staff pathologists, residents in pathology and pathology technicians, as well as staff physicians and staff residents in the use of the electron microscope, the general principles of the techniques used in preparation of material for electron microscopy and in the knowledge of the ultrastructure of cells, tissues and minerals. Article ordered: October 7, 1977.

Docket No. 78-00070. Applicant: Environmental Protection Agency, Environmental Research Center, 26 West St. Clair Street, Cincinnati, Ohio 45268. Article: Electron Microscope, Model JEM 100CV (JEM 100CX) and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for a variety of EPA programs. These will include research investigations in the areas of advanced waste treatment, analytical quality control, environmental toxicology and water supply. The article will be used for high resolution studies of virus-infected cells, virions, isolated viral nucleic acids and proteins. Another aspect will be its use for particulate identification in water samples, visualization of the colloidal material remaining after treatment. In addition, high resolution microscopy will be used to investigate smoke and dust particulates of importance to inhalation toxicology as well as ultrastructural evaluation of biological samples for tissue pathology and morphology after animal exposure to these pollutants. Article ordered: August 31, 1977.

Docket No. 78-00071. Applicant: Savannah State College, Department of Biology, P.O. Box 20119, Falligant Avenue, Savannah, Ga. 31404. Article: Electron Microscope, Model EM 9S-2 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article will be used in the research project "Ultrastructural Modifications *Chlorogonium* Species Induced by Metabolic Inhibitors" to examine the effects of a variety of metabolic inhibitors including cytotoxic compounds, polyene and macrolide family antibiotics, and antihistamines, on the growth and viability of six species of *Chlorogonium*. Parallel experiments will involve the utilization of electron microscopic techniques and observations to establish comparative patterns of ultrastructural modifications or changes among *Chlorogonium* substrains produced and correlate these changes with specific mechanisms of action known for each drug or inhibitor employed. Complementary studies will involve utilization of electron microscopic techniques and observations to identify and characterize ultrastructural modifications induced by pyribenzamine which produce the well known chlorotic substrains of *Euglenea gracilis var. bacillaries*. In addition, the article will be used to support three senior courses (Biology 430. Biology Seminar, Biology 431. Introduction to Research, and Biology 440. Senior Research) as well as provide expansion and flexibility in student laboratory experimentation in various other biology courses. Application received by Commissioner of Customs: December 5, 1977.

Docket No. 78-00074. Applicant: University of California at Davis, University of California, School of Medicine, Department of Human Anatomy, Davis, Calif. 95616. Article: Electron Microscope, Model EM 400 HMG with High Magnification Goniometer and Accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for research in the following projects: (1) Studies of the nature of the placental

surface and the cytology of placental function; (2) Studies of the interaction of trophoblast and uterine luminal epithelial cells at implantation; (3) Distribution of receptor groups on the surface of the trophoblast; (4) Studies on carcinogenesis, specifically, ones involving possible viral contribution to carcinogenesis in mouse and woman, and the nature of the interaction of macrophages and melanoma cells; (5) Studies on the basis of formation and modification of basal lamina, both in the developmental process and in disease processes, such as glomerular nephritis; and (6) Studies on the interactions of bacteria and cells, specifically the interaction between Nocardia and alveolar and peritoneal macrophages. The objectives to be pursued in the course of the investigations are those of basic biomedical sciences: To understand the mechanisms of both normal and abnormal cell growth and development; To interrelate cell structure with the function in normal and dysfunctional situations and in cases of carcinogenesis and infection; To elucidate the cellular mechanisms of normal cell function in order to better understand control mechanisms. Article ordered: October 18, 1977.

Docket No. 78-00075. Applicant: Institute of Forest Genetics, North Central Forest Experiment Station, USDA-Forest Service, Box 898, Rhinelander, Wis. 54501. Article: Electron Microscope, Model H-300 and Accessories. Manufacturer: Hitachi, Japan. Intended use of article: The article will be used to study two problems of seed production in jack pine and white spruce. Specifically, the article will be used to compare the normal development of apical meristems with those treated by various chemical agents, such as gibberellic acid, that induce flowering. Through morphological, anatomical, and ultrastructural studies, a comparison of normal and aborting reproductive structures will be conducted so that the timing and causes of abortion can be identified. These studies include the relationship of the vasculature to the position of sterile and fertile regions of the flower and the relationship of pollination and fertilization to ovule and seed abortion. Article ordered: October 21, 1977.

Docket No. 78-00077. Applicant: Denver Technical Support Center, MESA, Building 55, Denver Federal Center, P.O. Box 25367, Denver, Colo. 80225. Article: Electron Microscope, Model EM 400 HTG with High Tilt Goniometer Stage and Accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for studies of rock and mineral dust generated in mining and milling activities and consisting of any type of naturally occurring silicate, oxide, sulfied, carbonate, sulfate, halide, or other type of mineral. The size and shape, crystal structure orientation, grain growth and microstructure, defect structure, and chemical composition properties of the materials will be investigated. The objective of the investigations is the identification of toxic minerals, such as asbestos and the identification of materials containing toxic elements such as arsenic in airborne dust in support of the enforcement of health and safety standards in the nation's mines and mills. Article ordered: July 21, 1977.

Docket No. 78-00083. Applicant: Howard University of College of Medicine, 520 W Street NW., Washington, D.C. 20059. Article: Electron Microscope, Model EM 10 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used in demonstrating teratogenic effects of drugs in living organisms that have been exposed to mycotoxins or pathogen fungi. The objectives pursued in the course of the sytochalasins.

(1) To determine the in-vivo effects of the sytochalasins.

(2) To see what tissues are affected due to the administration of mycotoxins.

(3) To study the molecular mechanism of action of the pathogenic fungi and mycotoxins in development.

(4) To see if foods, normally parasited by fungi that produce mycotoxins when fed to laboratory animals, will cause teratogenesis.

The article will also be used in the course "Introductory Electron Microscopy" which involves fixation techniques to demonstrate different subcellular organelles. Article ordered: August 29, 1977.

Comments: No comments have been received with respect to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as these articles are intended to be used, was being manufactured in the United States at the time the articles were ordered.

Reasons: Each foreign article to which the foregoing applications relate is a conventional transmission electron microscope (CTEM). The description of the intended research and/or educational use of each article established the fact that a comparable CTEM is pertinent to the purposes for which each is intended to be used. We know of no CTEM which was being manufactured in the United States either at the time of order of each article described above or at the time of receipt of application by the U.S. Customs Service.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States either at the time of order or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-6456 Filed 3-10-78; 8:45 am]

[3510-04]

National Technical Information Service

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $0.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Va. 22161 for $4 ($8 outside North American Continent). Requests for copies of patent applications must include the patent application number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE AIR FORCE AF/JACP, 1900 HALF STREET SW., WASHINGTON, D.C. 20314

Patent application 841,879: Annular Laser Having Adjustable and Interchangeable Laser Windows; filed October 13, 1977.

U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Branch, Federal Services Division/Federal Building, Agricultural Research Service, Hyattsville, Md. 20882

Patent application 837,489: Soil Stabilization Method; filed September 28, 1977.

U.S. DEPARTMENT OF COMMERCE, National Technical Information Sevice, 5285 Port Royal Road, Springfield, Va. 22161

Patent application 843,293: Document Reproduction Illumination/Exposure Control System; filed October 18, 1977.

U.S. DEPARTMENT OF TRANSPORTATION,

Patent 4,053,886: Stepped Dual-Frequency Ocean-Wave Spectrometer; filed November 19, 1976, patented October 11, 1977; not available NTIS.

Patent 4,054,879: Dual-Frequency, Remote

tion Center, Page Building 2, Room 193, 3300 Whitehaven Street NW., Washingon, D.C. 20235.

A limited number of single copies are

[6355-01]

CONSUMER PRODUCT SAFETY COMMISSION

sic fiber, loose fill, thermal insulation intended for use in or around a permanent or temporary household or residence. The definition includes insulation installed using the "wet process"

dress certain risks of injury alleged to be associated with cellulose, fibrous glass, and plastic foam/resin home insulation. After considering information gathered by its staff in analyzing

Patent application 843,293: Document Reproduction Illumination/Exposure Control System; filed October 18, 1977.

U.S. DEPARTMENT OF TRANSPORTATION, Patent Counsel, 400 7th Street SW., Washington, D.C. 20590

Patent 4,058,911: Road-Runner Alcohol Safety Interlock System; filed August 18, 1976, patented November 22, 1977; not available NTIS.

U.S. DEPT. OF HEALTH, EDUCATION AND WELFARE, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, Md. 20014

Patent application 737,271: Flocking of Blood-Contacting Surfaces of Artificial Implant Devices. Filed November 1, 1976.
Patent application 805,567: Tranquilizer Dart. Filed June 10, 1977.
Patent application 809,461: Medical Sonar for Use with Ultrasonic Camera; filed June 23, 1977.

U.S. DEPARTMENT OF INTERIOR, Banch of Patents, 18th and C Streets NW., Washington, D.C. 20240
Patent application 815,127: Muffler for Pneumatic Drill; filed July 13, 1977.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217

Patent application 817,884: Fluidic Interface Means; filed July 20, 1977.
Patent application 832,507: Active Waveguide Coupler for Surface Acoustic Waves; filed September 12, 1977.
Patent application 833,414: Strain Actuated Hydraulic Holdback Bar; filed September 15, 1977.
Patent application 833,415: Catapult Restraint/Release System; filed September 15, 1977.
Patent application 835,089: Remote Plotter Control System; filed September 21, 1977.
Patent application 836,167: Explosively-Separated Tongue and Groove Joint; filed September 23, 1977.
Patent application 836,822: Intense Ion Beam Producing Reflex Triode; filed September 26, 1977.
Patent application 837,058: Dual Ground Microstrip Antennas; filed September 28, 1977.
Patent application 839,946: A Vinyl Polymer-Fluoroalkylether Oligomer Composition; filed October 6, 1977.
Patent application 840,080: Dual Asymmetrically Fed Electric Microstrip Dipole Antenna; filed October 6, 1977.
Patent application 840,081: Dual Diagonally Fed Electric Microstrip Dipole Antenna; filed October 6, 1977.
Patent application 840,082: Dual Notch Fed Electric Microstrip Dipole Antenna; filed October 6, 1977.
Patent application 840,865: Submersible Apparatus for Evacuating Seawater from Suction-Type Work-Handling Gripper Members; filed October 11, 1977.
Patent application 847,331: Notched/Diagonally Fed Twin Electric Microstrip Dipole Antennas; filed October 31, 1977.
Patent application 847,454: End Fed Twin Electric Microstrip Dipole Antennas; filed October 31, 1977.
Patent 4,048,500: Infrared Background Suppression; filed November 8, 1976, patented September 13, 1977; not available NTIS.
Patent 4,051,062: 7-Amino Coumarin Dyes for Flashlamp-Pumped Dye Lasers; filed September 3, 1976, patented September 27, 1977; not available NTIS.
Patent 4,053,886: Stepped Dual-Frequency Ocean-Wave Spectrometer; filed November 19, 1976, patented October 11, 1977; not available NTIS.
Patent 4,054,879: Dual-Frequency, Remote Ocean-Wave Spectrometer; filed November 19, 1976, patented October 18, 1977; not available NTIS.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546

Patent 4,027,494: Low Gravity Phase Separator; filed September 12, 1975, patented June 7, 1977; not available NTIS.

[FR Doc. 78-6455 Filed 3-10-78; 8:45 am]

[3510-22]

National Oceanic and Atmospheric Administration

FISHERY MANAGEMENT PLAN FOR COMMERCIAL AND RECREATIONAL FISHERIES OFF THE COASTS OF WASHINGTON, OREGON AND CALIFORNIA COMMENCING IN 1978

Environmental Impact Statement; Availability

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Final Environmental Impact Statement.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Pacific Fishery Management Council and the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, have propared a final environmental impact statement on the proposed implementation of the Fishery Management Plan for Commercial and Recreational Fisheries off the coasts of Washington, Oregon and California commencing in 1978.

The proposed action will continue the management of commercial and recreational salmon fisheries off the coasts of Washington, Oregon and California in 1978 for optimum yield, conservation of the stocks and equitable allocation domestic fishermen, including treaty Indians. To achieve these management objectives, regulations are proposed for the commercial troll, ocean-sport and Indian treaty fisheries within the fishery conservation zone. The proposed regulations utilize limited seasons, limited areas, gear restrictions, fish size limitations and daily recreational fishing bag limits. Alternative management measures and their implacts are discussed.

ADDRESSES: Copies of the environmental statement are available for inspection at:

Pacific Fishery Management Council, 526 SW. Mill Street, Portland Oreg. 97201.
National Marine Fisheries Service, Northwest Regional Office, 1700 Westlake Avenue, N., Seattle, Wash. 98109.
National Oceanic and Atmospheric Administration, Environmental Science Information Center, Page Building 2, Room 193, 3300 Whitehaven Street NW., Washingon, D.C. 20235.

A limited number of single copies are available upon request to:

Mr. Lorry M. Nakatsu, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, Oreg. 97201.
Mr. Donald R. Johnson, Northwest Regional Director, National Marine Fisheries Service, 1700 Westlake Avenue, N., Seattle, Wash. 98109.

SUPPLEMENTARY INFORMATION: Concurrent with the appearance of this Notice, this environmental impact statement is being transmitted to the Environmental Protection Agency.

Copies of the environmental statement have been sent to various Federal, State and local agencies as outlined in the Council on Environmental Quality Guidelines.

Dated: March 8, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-6505 Filed, 3-10-78; 8:45 am]

[3510-22]

SURF CLAM AND OCEAN QUAHOG FISHERIES

Closure

The purpose of this notice is to announce the Regional Director's determination that pursuant to 50 CFR 652.6(c) (43 FR 6954, February 17, 1978) the surf clam quota established for the second half of the first quarter of 1978 will be exceeded on or before March 12, 1978. This determination is based on an analysis of the log book reports supplied by licensed vessels and surf clam processors. These reports indicate that the total quarterly allocation of 350,000 bushels established by the Surf Clam and Ocean Quahog fishery management plan will be caught by March 12, 1978. Therefore, I am announcing that it shall be unlawful to fish for surf clams in the Fishery Conservation Zone (FCZ) from 0001 hours, March 13, 1978, through 2400 hours, March 31, 1978. This notice does not effect fishing for surf clams in State territortial waters or fishing for ocean quahogs in the FCZ.

For further information concerning the closure contact: Mr. William G. Gordon, Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts 01930, telephone 617-281-3600.

Dated: March 9, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-6551 Filed 3-10-78; 8:45 am]

[6355-01]

CONSUMER PRODUCT SAFETY COMMISSION

CELLULOSE HOME INSULATION

Proceeding

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of proceeding.

SUMMARY: In this document, the Consumer Product Safety Commission begins the process of developing a mandatory consumer product safety standard for the fire hazards associated with cellulose home insulation. In taking this action the Commission is granting, in part, a petition from the Metropolitan Denver District Attorney's Consumer Office concerning home insulation (CP 77-1).

DATES: Anyone who wishes may submit to the Commission by April 12, 1978, either (1) one or more existing standards as a recommended consumer product safety standard or (2) and offer to develop a recommended consumer product safety standard. On March 27, 1978 at 1:30 p.m., members of the Commission's staff will hold a meeting with potential offerors to discuss procedures and guidelines to be followed by offerors in submitting an offer to develop a standard. The meeting will be held in Room 456, Westwood Towers Building, 5401 Westbard Avenue, Bethesda, Md. Persons interested in attending the meeting are requested to contact Harry Cohen, 301-492-6453, at least two days prior to the meeting.

ADDRESS: Submissions must be made to the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Third Floor, Washington, D.C. 20207. Information cited in this document may also be reviewed at this location.

FOR FURTHER INFORMATION CONTACT: Harry Cohen, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207 301-492-6453.

SUPPLEMENTARY INFORMATION: The Consumer Product Safety Commission ("Commission") has preliminarily determined (1) that fire hazards associated with cellulose home insulation constitute unreasonable risks of death or injury and (2) that one or more consumer product safety standards are necessary to eliminate or reduce those unreasonable risks. Therefore, the Commission begins this proceeding under section 7 of the Consumer Product Safety Act (15 U.S.C. 2056) to develop a consumer product safety standard for this product.

A. PRODUCT DEFINITION

For the purposes of this notice, "cellulose home insulation" means cellulosic fiber, loose fill, thermal insulation intended for use in or around a permanent or temporary household or residence. The definition includes insulation installed using the "wet process" method of installation. The "wet process" insulation is blown into an area with a spray or mist of water applied at the nozzle during installation. When dried, insulation installed in this manner loses its fluffiness and becomes a low density solid, similar in texture to expanded polystyrene foam. The wet process insulation is included since it may present the same risk of injury as cellulose insulation installed by other methods. The definition does not include spray-on cellulose insulation which is applied with an adhesive to interior/exterior walls, and interior ceilings, since the Commission believes that this insulation is rarely used in homes or residences and since the Commission has insufficient information to determine that this insulation presents an unreasonable risk of injury from fires.

The insulation covered by this proceeding includes cellulose insulation that is produced or distributed for sale to consumers for installation in households or residences, as well as insulation that is produced or distributed for installation by professionals in households or residences. Cellulose insulation that is labeled as, marketed, and sold solely for non-residential installation is not included within the scope of this proceeding.

The proceeding is limited to home or residential insulation since the reported incidents are primarily confined to homes and residences, and since the technical analysis indicates that consumers are most likely to be injured as occupants of a dwelling or residence.

Cellulose home insulation is manufactured predominantly from wood-based cellulosic fiber, such as selected paper (newspapers, newsprint) or paper board stock, which is shredded and ground or pulverized to form the insulation. These pulverized materials are normally treated with chemicals to provide flame resistant properties. Cellulose home insulation is usually a light, fluffy, fibrous material that can either be poured or blown into place. The insulation may be installed by pouring (by hand) between ceiling joists in attics or by blowing (through specially designed pneumatic equipment) between ceiling joists in attics, in stud wall cavities, or other hollow spaces located in housing.

B. BACKGROUND

On October 20, 1976, the Commission received a petition (CP 77-1) from the Metropolitan Denver District Attorney's Consumer Office concerning home insulation. The petition requested the Commission to initiate a standard development proceeding to address certain risks of injury alleged to be associated with cellulose, fibrous glass, and plastic foam/resin home insulation. After considering information gathered by its staff in analyzing the issues raised by the petition, the Commission, on August 22, 1977, held a public meeting to enable interested persons to present data, views, and arguments to assist the Commission in determining whether or not the petition should be granted. The Commission solicited written comments on the petition until October 21, 1977. After considering the oral and written comments, as well as an oral briefing of the issues by the staff, the Commission on November 10, 1977 instructed the staff to prepare a briefing package and a draft FEDERAL REGISTER notice to initiate a standard development proceeding to address the fire hazards associated with cellulose home insulation. On February 9, 1978, after considering this information, the Commission preliminarily determined that a consumer product safety standard is necessary to eliminate or reduce the unreasonabe risk of injury from fire associated with cellulose home insulation.

Although the petition alleges that flammability hazards are associated with fibrous glass home insulation and plastic foam-resin home insulation, the Commission has decided to confine the scope of this proceeding to fire hazards associated with cellulose home insulation. According to the National Bureau of Standards (NBS), data available from the National Fire Incident Reporting System (NFIRS), the data collection system of the National Fire Prevention and Control Administration (NFPCA), supports the conclusion that non-cellulose insulation has not played any significant role as the first material to be ignited in fire incidents where insulation was involved. According to NBS, this would indicate that non-cellulose insulation may not present a significant fire hazard. Fire Marshals from several jurisdictions who have communicated their concern to CPSC particularly identify cellulose insulation as a problem. In addition, consumer complaints and newspaper articles concerning fires associated with home insulation frequently mentioned cellulose home insulation. The Commission has not decided what action, if any, to take as to non-cellulose insulation.

In initiating this proceeding to develop a standard to address the unreasonable risk of injury from fire associated with cellulose home insulation, the Commission grants, in part, the petition submitted by the Metropolitan Denver District Attorney's Consumer Office (CP 77-1). After further staff briefings, the Commission will make a determination concerning the other issues in the petition regarding home insulation.

C. NATURE OF THE RISK OF INJURY

Information about accidents and injuries associated with cellulose home insulation that indicates a need for re-

dwelling, consumers in the residence or dwelling would be exposed to a risk of injury from burns or smoke inhalation. Once flaming combustion occurs, either directly from the celloulose or

The demand for home insulation in new housing construction and the reinsulation market for existing homes has increased dramatically in recent years. According to U.S. De-

product safety standard designed to reduce the risk of injury from flammable cellulose home insulation that, in effect, required manufacturers to use chemical additives in such a manner

a. Flame spread classification (FSC) is the main factor derived from results of this test. However, the meaningfulness of the FSC relative to the hazard of cellulose insulation is uncertain, be-

cerning the GSA Specification HH-I-515C, the NCIMA Standard N 101-73 (revised), and ASTM Standard C739-77. These existing standards, in addition to specifying the Steiner Tunnel

C. NATURE OF THE RISK OF INJURY

Information about accidents and injuries associated with cellulose home insulation that indicates a need for remedial action includes:

(1) Reports of in-depth investigations conducted by the Commission concerning fires associated with cellulose home insulation,

(2) Consumer complaints to the Commission and newspaper articles,

(3) Reports from Fire Marshals in several States and communities, and

(4) Fire incidence data provided by the National Fire Prevention and Control Administration (NFPCA).

Copies of this material and other documents cited may be reviewed in or obtained from the Office of the Secretary, CPSC, Third Floor, 1111 18th Street, NW., Washington, D.C. 20207.

The incidents and injuries reported in these source materials and the technical analysis of the CPSC staff indicate to the Commission that cellulose home insulation with insufficent or improper chemical treatments could result in a fire if the insulation comes into contact with electrical devices or heat sources such as recessed lighting fixtures, trouble lights, and furnace flues and chimneys. The insulation may also ignite if it comes into contact with a lighted cigarette, or if it comes into contact with an open flame, such as from a match, lighter, or plumber's torch.

In addition, laboratory tests conducted by NBS to verify the possibility of fires related to smoldering ignition of the insulation demonstrate that fires could be initiated by insulation installed over (1) recessed light fixtures using a bulb exceeding the rated wattage for the fixture and (2) electrically overloaded plastic-jacketed wiring. (Although the NBS tests did not result in ignition when tests were run using the correct wattage of light bulbs, the Commission believes that it is theoretically possible to ignite cellulose insulation in contact with certain recessed light fixtures that are operated with the correct wattage light bulbs for which the fixture is rated. In-depth investigations conducted by the Commission revealed that some incidents occurred when correct wattage light bulbs had been used.) Cellulose insulation exposed for a prolonged time to a source of low energy heat such as an overheated light fixture or an overloaded electrical wire may ignite, usually involving smoldering combustion. The smoldering combustion may continue to spread causing ignition of other combustibles in the attic area and may result in flaming combustion. The Commission has received several reports of incidents involving the smoldering combustion of cellulose insulation.

When the cellulose insulation ignites and a fire is started in a residence or dwelling, consumers in the residence or dwelling would be exposed to a risk of injury from burns or smoke inhalation. Once flaming combustion occurs, either directly from the celloulose or through ignition of other combustibles, the fire is likely to spread rapidly and fully involve the attic. A fire of this magnitude produces large amounts of heat and smoke, and if not extinguished will eventually consume the entire structure. The most probable injury scenario involves the occurrence of a fire in the early morning hours while occupants are asleep. Occupants with physical handicaps or whose reactions are otherwise impaired (through alcohol or medication, for example) may be less likely to detect fire or smoke and may be more limited in their ability to escape from the premises safely. With such impairment, escape potential is limited and it is likely for the fire to burn undetected, spreading flame and smoke into the living area and preventing safe egress of the occupants. The National Household Fire Survey (September 1977) and Report Number 13/76 from the British Home Office (Data Collection Feasibility Study on Home Accidents: Review of Data Collected by the Fire Brigades) both estimate that about three percent of residential fires result in injuries. Data available from the National Fire Incident Reporting System of the NFPCA concerning injuries from fires where home insulation was the first item to ignite conform with these estimates.

The Commission believes that, due to the increased demand for home insulation products in general, including cellulose home insulation, and the inexperience of new manufacturers and the questionable quality of their production facilities, it is reasonably foreseeable that some cellulose home insulation may be manufactured with insufficient or improper chemical treatments to protect against a risk of injury from fire associated with ignition of the insulation. The Commission also believes that the increased demand for cellulose home insulation may lead to the increasing frequency of improper installation of the insulation, by professionals or consumers, so that the insulation may be exposed to ignition from a recessed lighting fixture or other ignition source in the installation area. As a result, the Commission believes that unless there is a mandatory standard addressing the flammability properties of cellulose home insulation, it is increasingly likely that consumers will be exposed to a risk of injury from fires associated with cellulose home insulation. Accordingly, the Commission has preliminarily determined that a consumer product safety standard is necessary to eliminate or reduce the unreasonable risk of injury from fires associated with cellulose home insulation.

The demand for home insulation in new housing construction and the reinsulation market for existing homes has increased dramatically in recent years. According to U.S. Department of Commerce estimates, new housing construction has increased from an estimated 1.17 million housing starts in 1975 to an estimated 2 million housing starts in 1977. At the same time, the amount of insulation per new housing unit has steadily increased. In addition, the reinsulation market has increased from 2.6 million retrofits in 1976 to an estimated 6.0 million in 1977. As a result of the increasing cost of utility bills and incentives which might be created by the national concern for energy, the retrofit demand for home insulation could be even greater in 1978. Estimates available to the Commission indicate that in the next few years, cellulose home insulation is expected to dominate the retrofit market for home insulation. In 1977, the market share of cellulose home insulation was approximately 40 percent of the retrofit market. The expanding market share of cellulose home insulation may be due to the fact that, unlike other types of home insulation, manufacture of cellulose home insulation requires relatively little capital investment for market entry. Cellulose home insulation may be produced by inexpensive machinery mounted on a vehicle eliminating the need for a fixed plant site, so that an investment of as little as $10,000 may allow market entry. Most cellulose insulation manufacturing plants are being marketed at $65,000 to $125,000. Market conditions are so attractive that new producers are surging into the industry.

As a further matter, the Commission notes that most, if not all, of the current methods used by manufacturers to flame retard cellulose home insulation involve the use of chemical additives. Certain additives such as aluminum sulphate and ammonium sulphate, if present in large enough quantities, may present a problem of corrosiveness to the covering of insulation jackets of electrical wires, to metal pieces which support structures of a house, to metal pipes such as exhaust vents from heaters and attic furnaces, or to other metal items which may be exposed to home insulation containing such additives. Excessive corrosiveness associated with the use of chemical additives could present a safety hazard or a property damage hazard.

Section 9(c)(2)(B) of the CPSA states that the Commission shall not promulgate a consumer product safety rule unless it finds "that the promulgation of the rule is in the public interest." The Commission does not believe that it would be in the public interest for it to promulgate a consumer product safety standard designed to reduce the risk of injury from flammable cellulose home insulation that, in effect, required manufacturers to use chemical additives in such a manner that unacceptable levels of corrosion would be likely to occur.

Accordingly, the Commission believes that any offeror, to be acceptable, must provide a plan evaluating potential corrosiveness problems associated with the use of chemical additives to flame retard cellulose home insulation. Moreover, the Commission expects the offeror, in developing flammability requirements for cellulose home insulation, to take appropriate steps to ensure that such requirements do not result in unacceptable levels of corrosion associated with the use of such chemical additives. Any recommended standard submitted by the offeror shall explain the steps taken by the offeror to address any corrosiveness problems encountered in drafting requirements regarding the flammability hazards associated with cellulose home insulation. The Commission will make available to the offeror any additional information or analysis it obtains concerning potential corrosiveness problems associated with the use of chemical additives to flame retard cellulose home insulation.

D. EXISTING STANDARDS

The Commission has received information about the following three existing standards which are relevant to cellulose home insulation:

General Services Administration (GSA) Federal Specification-HH-I-515C (April 13, 1976).—"Insulation Thermal (Loose Fill for Pneumatic or Poured Application): Cellulosic or Wood Fiber."

National Cellulose Insulation Manufacturers Association (NCIMA) N-101-73 (revised).—"Standard Specification for Cellulosic Fiber (Wood Base) Loose Fill Thermal Insulation."

American Society for Testing and Materials (ASTM) C739-77.—"Standard Specification for Cellulosic Fiber (Wood Base) Loose-Fill Thermal Insulation."

The Commission makes the following observations concerning the adequacy of the existing standards to address the risk of injury from fires associated with loose-fill cellulose home insulation:

1. The existing standards adopt as a standard test method the Steiner Tunnel Test (American Society for Testing and Materials (ASTM E-84-77a): Standard Test Method for Surface Burning Characteristics of Building Materials). The Commission has several reservations concerning the adequacy of this test method, particularly the test procedure and test condition, for measuring the fire hazard associated with loose-fill cellulose insulation, especially when installed between ceiling joists in attics.

a. Flame spread classification (FSC) is the main factor derived from results of this test. However, the meaningfulness of the FSC relative to the hazard of cellulose insulation is uncertain, because the tests may not relate to real life conditions.

b. The existing standards categorize test materials according to fire performance results, including FSC. Materials with a FSC equal to or less than 25 have generally been regarded by the building code authorities as providing a high degree of safety. However, a FSC of 25 does not fully describe how the material performed under controlled laboratory conditions since it does not necessarily represent a uniform rate at which flames spread.

Recent tests conducted by the National Bureau of Standards (NBS) on home insulation materials, including cellulose insulation installed in a simulated attic, demonstrated that some materials with a FSC of 25 or less when installed between ceiling joists in attics and subjected to a 160°F preheating to simulate a hot summer attic will burn rapidly if subjected to an ignition source.

Therefore, in a real life situation a material with a low FSC (such as 25) nonetheless may have the potential for presenting a risk of injury.

c. The Steiner Tunnel test is designed to measure how quickly a given material will burn, and expresses test results as a flame spread rating. However, since cellulose home insulation fires may occur in an attic or other isolated part of a dwelling where no one is present, a home insulation fire may burn undetected for some time, perhaps until the attic is fully involved. As a result, it may be more appropriate to have a test procedure that measures whether and to what extent a material burns rather than how quickly a material burns.

d. The test specifies as an ignition source a flame extending downstream at a distance of 4½ feet over the specimen surface. This ignition source does not simulate exposure from a small open flame or a smoldering ignition source, such as recessed light fixtures or electrical wiring that have been identified as ignition sources of cellulose home insulation.

e. The test specifies the projection of the ignition source upward toward a ceiling mounted and supported loose-fill material specimen. This test configuration may not accurately reflect real-life fire incident patterns.

f. The test method provides that specimens must be conditioned to a constant weight at 70° F and 35 to 40 percent relative humidity. These conditions may not adequately simulate varied environmental conditions to which insulation will be subjected in real-life conditions.

2. The Commission has the following additional observations to make concerning the GSA Specification HH-I-515C, the NCIMA Standard N 101-73 (revised), and ASTM Standard C739-77. These existing standards, in addition to specifying the Steiner Tunnel test for measuring flame spread, also reference a test for flame resistance permanency. This test is used to measure how the fire performance of a material may vary after being subjected to accelerated aging, such as high temperature and high humidity conditions. The accelerated aging provision for determining flame resistance permanency may not accurately reflect real-life conditions, especially the short and long term effects of temperature and humidity extremes. The standard test for flame resistance permanency incorporates, by reference, a small tunnel test that may not be appropriate to evaluate loose fill insulation.

3. The Commission has not made a determination of the appropriateness of the Steiner Tunnel Test for applications other than those addressed in this notice.

4. As a result of the deficiencies discussed above concerning the existing standards indentified by the Commission, the Commission at the present time has doubts whether these standards are likely to reduce or eliminate the unreasonable risk of injury from fires associated with cellulose home insulation. However, a potential offeror is not precluded from submitting, as an existing standard, any of these standards. Any such submission should discuss the deficiencies identified by the Commission and explain why the offeror believes the provisions of the standard are adequate to prevent or reduce the unreasonable risk of injury from fires associated with cellulose home insulation.

E. PROPOSED STANDARDS

This Commission is aware of three proposed standards applicable to cellulose home insulation. Although under section 7(c) of the Consumer Product Safety Act these standards may not be submitted as existing standards unless they have been adopted by any private or public organization of agency, domestic or foreign, or any international standards organization before expiration of the period for submitting offers, the Commission believes that potential offerors should be aware of these standards. The Commission makes the following observations concerning the adequacy of these proposed standards to address the risk of injury from fire identified in section C of this notice as being associated with cellulose home insulation:

1. *Proposed General Services Administration Federal Specification HH-I-515D* (draft dated November 4, 1977) for Insulation Thermal Loose-Fill for Pneumatic or Poured Application): Cellulosic or Wood Fiber;

If adopted, this Federal Specification would supersede HH-I-515C (discussed at section D of this notice). This proposed standard replaces the Steiner Tunnel test with two new tests for evaluating the fire performance of cellulose insulation, the "Attic Floor Radiant Panel Test" and the "Smoldering Combustion Test".

a. The new test methods in this proposed standard appear to be appropriate for addressing the fire hazard associated with cellulose home insulation, since both open flame and smoldering ignition sources have been specified in an attempt to simulate real-life conditions.

b. The "Attic Floor Radiant Panel Test" specified in the proposed standard provides that materials tested shall have a critical radiant flux equal to or greater than 0.12 watts per square centimeter. Although the use of 0.12 may be a reasonable figure, this criterion should be substantiated by measurements in the field before being incorporated as a provision in a recommended standard.

c. The test procedure specifies test conditions of 70 degrees Fahrenheit and 50 percent relative humidity. The proposed standard does not provide any rationale for these limits.

d. The proposed standard does not measure the effects of changes in density on the test results. Cellulose insulation test results using the cigarette test specified in the "Smoldering Combustion Test" may be dependent to a large degree on the density of the test specimen.

e. The proposed standard does not measure the effects of preheating specimens on test results. Tests conducted recently by NBS indicate that in order to accurately duplicate hazard conditions present in an attic, preheating of the specimen prior to testing may be required. This preheating may apply to both the radiant panel and smoldering combustion tests. Some of the chemicals used to impart flame resistance to cellulose insulation may lose some of their flame resisting properties when subjected to elevated temperatures.

f. The proposed standard does not include provisions for flame resistance permanency, or provisions for determining the effects of aging or the separation of fire retardant chemicals from the insulation. The moisture absorption procedure referenced in the standard does not specify the configuration in which the specimen is tested.

g. The draft-protection provision for testing in the standard may not be as realistic as a draft-controlled condition for testing. A specific limit such as that specified in 4.4.1 of the Smoldering Combustion Test might allow normal air flow required to provide ventilation of the combustion products.

h. Use of the lighted cigarette in the Smoldering Combustion Test should be correlated with epidemiologically identified smoldering ignition sources. Only limited information is available which relates the proposed cigarette ignition source to the hazard presented in an attic by such devices as recessed lighting fixtures or over-heated electrical fixtures.

2. *Proposed Canadian Government Specifications Board Provisional Standard 51-GP-60P* (draft dated January 1977, for "Thermal Insluation Cellulose Fiber, Loose Fill").

This proposed Canadian standard provides that before February 1, 1978, loose-fill cellulose home insulation must be tested in accordance with the Steiner Tunnel Test method. The comments concerning this test method, at section D of this notice, are applicable to this proposed standard.

The proposed standard provides that after February 1, 1978, cellulose home insulation must be tested in accordance with a modified version of the Steiner Tunnel Test (ULC-S 102.2-1977, "Standard Method of Test for Surface Burning Charactristics of Flooring, Floor Covering, and Miscellaneous Materials".)

(a) The test method in the standard may be appropriate for materials that cannot be conveniently tested in a ceiling mounting configuration, such as loose fill materials.

(b) The test method in the proposed Canadian Standard may not be adequate since it only addresses open flame ignition and does not consider smoldering ignition sources, such as heating appliances or other electrical equipment. In addition, the magnitude of the ignition source may not accurately reflect real life conditions.

(c) The preheating of the test sample before the actual test may not be sufficient due to the lack of data correlating the specified preheating with real-life conditions.

(d) The flame resistance permanency prodecure (from ASTM 739) was discussed in connection with the existing NCIMA standard at section D of this notice. A moisture absorption procedure has been developed which may or may not simulate accurate conditioning for determining expected moisture uptake. Also, there is no limit on moisture absorption specified in the test procedure.

(3) *National Mineral Wool Insulation Association (NMWIA) Proposed Test Method* for "Localized Heat Sources and Their Effect on Loose Fill Thermal Insulation":

(a) This proposed test method represents an attempt to simulate the effects of installation techniques, aging of insulation, and termperature/air conditions found in the attic on the fire performance characteristics of insulation. However, the proposed test method only addresses smoldering combustion of attic installed insulation caused by household heat sources or electrical fixtures. The proposed test method does not address open flame ignition of insulation or smoldering combustion that may occur in walls of homes.

(b) The proposed test method does not include specific references for the affects of settled density and preheating specimens on fire peformance, flame resistance permanency, or separation of chemicals from the insulation.

F. Guidance to Offerors

The fire incident information and engineering analysis available to the Commission indicate that the fire performance properties of cellulose home insulation and the method of its installation are interdependent factors in the reported fires. Therefore, the Commission belives that persons submitting an existing standard or offering to develop a recommended standard should submit an existing standard or offer to develop a standard containing test methods that simulate the probable exposure of insulation to energy producing elements or other ignition sources in the environment where the insulation is installed. The Commission believes that, in order to eliminate or reduce the unreasonable risk of injury from fires associated with cellulose home insulation, a standard must also:

1. Address resistance to smoldering combustion (considering ignition sources which generate or dissipate heat at moderate to low levels over a prolonged period of time).

2. Address resistance to flame spread (considering open flame ignition sources).

3. Take appropriate steps to ensure that any requirements on flammability do not result in unacceptable levels of corrosiveness associated with the use of chemical additives to flame retard cellulose home insulation.

4. Measure critical flammability variables, such as the separability or the retention of fire retardants, settled density, and flame resistance permanency, and

5. Measure the effects of aging on those parameters listed in (4) above, and

6. Include labeling provisions containing methods and procedures for safe installation.

Although the proposed GSA specification, HH-I-515D, contains provsions that represent one approach to address the risk of injury from fire associated with cellulose home insulation, the Commission believes that additional developmental work is necessary before a determination could be made that the proposed standard would adequately eliminate or reduce the unreasonable risk of injury. The Commission has contracted with NBS to perform tests to assess the repeatability and reproductibility of the radiant panel and smoldering combustion tests in the proposed GSA specification. In addition, NBS is currently conducting Commission sponsored research that may determine the effect of variables such as density, humidity, ambient temperature, and chemical composition on the test results obtained using the test methods in the proposed standards. These NBS tests and research may also permit an assessment of the potential for commercially available cellulose insulation to pass the proposed test requirements. The Commission will make the results of the NBS testing and research available to potential offerors as this information is made available to the Commission. The Commission believes that any offeror who intends to submit a plan for developing a recommended standard based on the proposed GSA specification should utilize results of the NBS testing and research.

G. Invitation to Offerors

Pursuant to section 7 of the Consumer Product Safety Act and the regulations issued under that section (16 CFR part 1105), the Commission invites all standards writing organizations, trade associations, consumer organizations, professional or technical societies, testing organizations and laboratories, university or college departments, wholesale or retail organizations, Federal, State , or local government agencies, engineering or research and development establishments, ad hoc associations, companies, and individuals ("persons") to submit to the Commission on or before April 12, 1978, either of the following:

(1) One or more existing standards as a recommended consumer product safety standard applicable to cellulose home insulation to reduce or eliminate the unreasonable risk of injury from fire associated with this product.

(2) An offer to develop a recommended consumer product safety standard for the same purpose.

As part of an offer to develop a recommended standard an offeror may submit a plan to develop a recommended standard based on modifications of the existing or proposed standards that the offeror believes would adequately reduce or eliminate the risk of injury associated with the product.

Persons who are not members of an established organization may form a group for the purpose of submitting offers and developing standards. Such groups are referred to in the regulations as ad hoc associations (16 CFR 1105.5). An offer by an ad hoc association may be submitted by an individual member if the offer states that it is submitted on behalf of the members of the association. The individual member submitting the offer shall submit to the Commission a notarized copy of a power of attorney from each member of the group authorizing that individual member to submit an offer on behalf of each other member.

Persons interested in submitting existing standards or offering to develop a standard must follow the regulations concerning the submission of the existing standards and the development of standards (16 CFR part 1105). Potential offerors should pay particular attention to 16 CFR 1105.8 (Recommended Consumer Product Safety Standards Developed by Offerors), which states the criteria to be used by the Commission in evaluating recommended standards.

Part 1105 was published in the Federal Register of May 7, 1974 (39 FR 16206). Copies may be obtained from the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C. 20207 (phone 202-634-7700). Further information concerning the requirements of part 1105 is set forth in parts F through J of this Notice.

The time specified in section 7(b) of the Consumer Product Safety Act and in the regulations (16 CFR 1105.2) for the usual period of time to develop a standard has been changed by the Consumer Product Safety Commission Improvements Act of 1976 (sec. 7, Pub. L. 94-284, 90 Stat. 505). An explanation of the new provision is given in section I.8 of this notice.

H. Submission of Existing Standards

Any person may submit a standard that has been previously issued or adopted by any private or public organization or agency, domestic or foreign, or any international standards organization and which contains safety-related requirements that the person believes would be adequate to prevent or reduce the unreasonable risk of injury from fires associated with cellulose home insulation.

Section 7(a)(1) of the Consumer Product Safety Act provides that a consumer product safety standard shall consist of one or more of any of the following types of requirements:

(A) Requirements as to performance, composition, contents, design, construction, finish, or packaging of a consumer product.

(B) Requirements that a consumer product be marked with or accompanied by clear and adequate warnings or instructions, or requirements respecting the form of warnings or instructions.

Section 7(a)(1) also provides that the requirements of such a standard (other than requirements relating to labeling, warnings, or instructions) shall, whenever feasible, be expressed in terms of performance requirements.

Therefore, to be considered for publication as a proposed consumer product safety standard, submissions of existing standards should conform with the requirements of section 7(a) of the Consumer Product Safety Act. In addition, the submission should:

1. Identify the specific portions of the existing standard that are appropriate for inclusion in the proposed rule.

2. Be accompanied, to the extent that such information is available, by a description of the procedures used to develop the standard and a listing of the persons and organizations that participated in the development and approval of the standard.

3. Include supporting test data and other relevant documents or materials to the extent they are available.

4. Contain suitable test methods reasonably capable of being performed by the Commission, by persons subject to the act, and by private testing facilities.

5. Include data and information to demonstrate that compliance with the standard would be technically practicable.

6. Include data and information, to the extent that it can reasonably be obtained, on the potential economic effect of the standard, including the potential effect on small businesses and international trade. The economic information should include:

(a) The types and classes as well as the approximate number of consumer products that would be subject to the standard,

(b) The probable effects of the standard on the utility, cost, and availability of the products,

(c) Any potential adverse effects of the standard on competition, and

(d) The standard's potential disruption or dislocation, if any, of manufacturing and other commercial practices.

7. Include information, to the extent that it can reasonably be obtained, concerning the potential environmental impact of the standard.

8. Specify whether, and how the standard may adversely affect elderly and handicapped persons, taking their special needs into account.

I. Offers to Develop Standards

1. Any person may submit an offer to develop a proposed consumer product safety standard for cellulose home insulation.

2. It is the Commission's desire that consumers be afforded an opportunity to fully participate in the development of standards. The Commission believes it is essential that offerors include as members of the committee that actually drafts a recommended standard both use-oriented consumers and consumers who are technical experts in the subject matter of the standard under development. The Commission

believes that adequate participation must also include access by consumer committee members to expertise in such areas as law and economics. In addition, consumer committee members must have access to laboratory facilities and other such technical expertise as needed for carrying out such tests as may be necessary to support and evaluate criteria proposed for inclusion in the standard. A consumer is defined as an individual or group of individuals that does not have a significant economic interest in the outcome of the standard development proceeding.

The Commission believes that at least one third of the persons directly involved in the development of the standard should be consumers. The selection of consumer participants should also include participation by persons from the segments of the population concerned with the use of the product and by one or more representatives of organized consumer or public interest groups. Consideration should also be given to whether consumer participation from a range of geographic locations is desirable.

3. Each offer shall include:

(a) A detailed description of the procedure the offeror will utilize in developing the standard.

(b) A description of the plan the offeror will use to give adequate and reasonable notice to interested persons (including individual consumers, manufacturers, distributors, retailers, importers, trade associations, professional and technical societies, testing laboratories, federal and state agencies, educational institutions, and consumer organizations) of their right and opportunity to participate in the development of the standard.

(c) A description of the method whereby interested persons who have responded to the notice may participate either in person or through correspondence, in the development of the standard.

(d) A realistic estimate of the time required to develop the standrd, including a detailed schedule for each phase of the standard development procedure.

(e) A description of how the offeror will obtain consumer participation as described in section I.2 of this notice.

4. Each offeror shall also submit the following information with the offer to supplement the description of the standard development procedure.

(a) A statement listing all personnel, including voluntary participants who will be personally and directly involved in developing the standard. This list should distinguish among (1) persons directly employed by the offeror, (2) persons who have made a commitment to participate, (3) organizations that have made a commitment to provide a specific number of personnel, and (4) other persons to be utilized, although unidentified and uncommitted at the time of the submission of the offer. Where available, the names and relevant educational and/or experience qualifications of these persons should be included.

(b) A statement describing (1) the types of facilities and equipment the offeror plans to utilize in developing the standard and (2) explaining how the offeror plans to gain access to such facilities and equipment.

5. Standards developed by an offeror under an accepted offer must be suitable for promulgation under the Consumer Product Safety Act, must be supported by a technical rationale supplied as a separate document, and must contain test methods for determining compliance with the recommended standard. The technical rationale shall include test results, technical data, an explanation of how each substantive requirement of the standard serves to reduce the risks of injury identified in this notice and how the performance tests detect the factors which affect the risk to be reduced.

6. All equipment necessary to perform the compliance test methods prescribed in the recommended standard must be fully developed and tested prior to submission of the standard. At the conclusion of the development period, the offeror must be prepared to demonstrate to the Commission that the recommended compliance tests can be performed by persons concerned with the standard, such as the Commission staff, by persons subject to the requirements of the standard, and by private testing organizations. The offeror must also furnish data showing that the recommended test methods yield results that are reproducible and repeatable.

7. The offeror should also submit the following information with any recommended standard:

(a) Information showing that compliance with the standard would be technically practicable.

(b) To the extent that it can be reasonably obtained, a description of the potential economic effect of the standard, including the potential effect on small business and international trade, together with data to support the predicted economic effect. The economic information should include data indicating (1) the types and classes as well as the approximate number of consumer products that would be subject to the standard, (2) the probable effects of the standard on the utility, cost, and availability of the products, (3) any potential adverse effects of the standard on competition, and (4) the standard's potential disruption or dislocation, if any, of manufacturing and other commercial practices.

(c) Information, to the extent that it reasonably can be obtained, concerning the potential environmental impact of the standard.

(d) Information indicating whether and in what way the standard would adversely affect elderly and handicapped persons, taking their special needs into account.

8. As required by section 7(b) of the act, as amended, the time for developing the standard shall end 150 days after the offer is accepted, unless the Commission for good cause finds that a different period is appropriate. The Commission may modify the development time if it finds, for good cause, that a longer or shorter period of time is appropriate. Each offeror submitting an offer to develop a standard is required to submit both an estimate of the time required to develop the standard and a detailed schedule of each phase of the development. An offeror who believes that the development time provided is inadequate should submit an explanation of why the offeror cannot develop the requirements within 150 days of acceptance of the offer.

J. Publication of an Existing Standard as a Proposed Consumer Product Safety Standard

If the Commission determines that (1) there exists a standard which has been issued or adopted by any Federal agency or by any other qualified agency, organization, or institution, and (2) such standard if promulgated under the act would eliminate or reduce the unreasonable risks of injury associated with the product, then the Commission may, in lieu of accepting an offer to develop a standard, publish the existing standard as a proposed consumer product safety standard.

K. Acceptance of Offers

1. If the Commission (i) does not decide to publish an existing standard as a proposed consumer product safety standard or (ii) decides to publish an existing standard as a proposed consumer product safety standard which does not address all of the specified unreasonable risks of injury associated with the product, the Commission will as soon as possible, usually within 60 days of the date of publication of the notice of proceeding in the Federal Register, accept one or more offers to develop a proposed consumer product safety standard.

2. After all offers to develop a standard have been received, but before any offer is accepted, the Commission staff may meet with the offerors to (a) clarify any questions concerning the content of the offers or the exceptations of the Commission and (b) discuss possible modifications to the offers.

3. Prior to accepting an offer to develop a standard, the Commission may require minor modifications of the offer as a condition of acceptance.

4. The Commission will announce the acceptance of an offer to develop a standard by publishing a Federal Register notice describing in general, the terms of the offer and acceptance by the Commission.

5. The Commission and the offeror will execute an acceptance agreement, which will be made available to the public, setting forth (a) the requirements of the standard development, (b) the format for presenting a recommended consumer product safety standard to the Commission, (c) the requirements for monitoring the standard development by the Commission, and (d) the methods by which the offeror shall technically justify the recommended standard to the Commission. Either the offer or the acceptance agreement will provide for periodic review sessions with the Commissioners or the staff, so that the offeror's progress may be evaluated.

6. During the development period, members of the Commission's staff will be assigned to monitor the offeror's progress. Offerors are required to respond to inquiries raised by a project monitor which reasonably relate to the legitimate concerns of the Commission regarding the development of the recommended standard.

L. Contribution to Offeror's Cost

1. In accepting an offer, the Commission may agree to contribute to the offeror's costs in developing a proposed consumer product safety standard. It is the Commission's intent that payment by it of the total cost of developing a standard will be the exception rather than the rule. However, the Commission recognizes that contributions to the offeror's costs in order to obtain adequate consumer participation, as discussed in Section I.2 of this notice may be necessary.

The Commission encourages the offeror to make use of persons willing to volunteer part or all of their time. However, it also recognizes that due to the extensive time commitment required by the standards development process, volunteers are not always able to devote the substantial effort required for preparation, evaluation of proposed drafts, and attendance at offeror meetings without some compensation for their time. Therefore, in order to obtain the best possible consumer participation and upon demonstration of need by the offeror, the Commission will contribute to its costs in compensating consumers for the time they spend participating in the development of the standard. This compensation shall generally be at the rate of $100 per day. However, if a committee member would incur lost or foregone income at a rate exceeding $100 per day, he or she may be compensated at a daily rate equal to the actual income lost or foregone up to a rate equal to the daily equivalent of the basic rate of pay for a GS-18. Participation includes reasonable periods of time spent in preparation for attending standards development meetings, in evaluating proposed drafts, and in attendance at the meetings themselves. As a condition of compensation the offeror shall require consumers to submit such statements as the offeror or the Commission deems appropriate in justification of the number of hours spent and work performed in addition to attendance at standards development meetings. The offeror shall judge the reasonableness of the expenditure of time on the basis of the records submitted. Such records shall be subject to audit and examination in accordance with the provisions of 16 CFR 1105.9(d) and 15 U.S.C. 2056(d)(3)(D). Such compensation shall be in addition to compensation for travel and a reasonable per diem in lieu of living expenses while traveling.

In addition the Commission may contribute such reasonable sums to the offeror's costs as are necessary to ensure that consumer committee members have access to special expertise to the extent needed to ensure adequate participation as discussed in Section I.2 of this notice.

2. If an offeror desires to receive a financial contribution from the Commission toward the cost of developing a recommended consumer product safety standard, the offeror shall submit the following with the offer:

(a) A request for a specified contribution with an explanation of why the contribution is likely to result in a more satisfactory standard than would be developed without the contribution.

(b) A statement asserting that the offeror will employ an adequate accounting system in accordance with generally accepted accounting principles to record development costs and expenditures.

(c) A request for an advance payment of funds, if necessary to enable the offeror to meet operating expenses during the development period.

3. Contributions are not available for expenses involved in submitting an offer.

M. Invitation to Meeting

Potential offerors are invited to attend a meeting with members of the Commission's staff which will be held at 1:30 p.m., March 27, 1978 in Room 456, Westwood Towers Building, 5401 Westbard Avenue, Bethesda, Md. The meeting will be to discuss procedures and guidelines to be followed by offerors in submitting an offer to develop a recommended standard and/or in submitting existing standards.

Persons interested in attending the meeting are requested to contact Harry Cohen, 301-492-6453 at least 2 days prior to the meeting, as space for the meeting may be limited.

Those who are unable to attend this meeting, but who wish to raise a question related to the subjects to be discussed, may do so by submitting their question(s) in writing to the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C. 20207, prior to the date of the meeting. For those unable to attend the meeting, the Commission will furnish, free of charge, a tape recording of the meeting. Copies of the tape may be obtained by writing to the Office of the Secretary.

N. Submissions

All submissions should be addressed to the Office of the Secretary, 3rd Floor, 1111 18th Street NW., Washington, D.C. 20207, phone 202-634-7700. Submissions in response to this notice should be in 5 copies and must be received in the Office of the Secretary no later than April 12, 1978, to be considered in this proceeding.

Dated: March 8, 1978.

Sheldon Butts,
Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 78-6446 Filed 3-10-78; 8:45 am]

[3810-70]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON SOVIET MISSILE DEFENSE

Advisory Committee Meeting

The Defense Science Board Task Force on Soviet Missile Defense will meet in closed session March 29-30, 1978 at the Offices of the Defense Nuclear Agency, Alexandria, Va.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

The Task Force will review Soviet activities in ballistic missile defense and related subjects and will provide recommendations for appropriate U.S. responses.

In accordance with Section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in Section 552b(c), of Title 5, of the United States Code, specifically sub-paragraph (1) thereof, and that

accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, DoD/WHS.

MARCH 7, 1978.

[FR Doc. 78-6445 Filed, 3-10-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

VOLUNTARY AGREEMENT AND PLAN OF ACTION TO IMPLEMENT THE INTERNATIONAL ENERGY PROGRAM

Meetings

In accordance with Section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (Pub. L. 94-163), notice is hereby provided of the following meetings:

1. A meeting of the Industry working Party (IWP) to the International Energy Agency (IEA) will be held on March 15, 1978, at the Headquarters of the IEA, 2 Rue Andre Pascal, Paris, France, beginning at 10:30 a.m. The purpose of this meeting is to permit attendance by representatives of the IWP at meetings of the IEA Standing Group on Oil Market (SOM) and an ad hoc group of the SOM, being held at Paris on March 15. The agenda for the meeting is under the control of the SOM and its ad hoc group. It is expected that the IWP representatives will be asked to discuss with the SOM and its ad hoc group the subject listed below:

AGENDA

Proposed additions to crude oil and product cost and price information systems.

2. A meeting of the Industry Working party (IWP) to the International Energy Agency (IEA) will be held on March 16 and 17, 1978, at the offices of Shell International Petroleum Co. Ltd., Shell Centre, London, England, beginning at 9:30 a.m. on March 16. The agenda is as follow:

1. Discussion of the status of SOM and IWP activities including a report by IWP representatives of their meeting with the ad hoc group and SOM and discussion of any points arising from it.
2. Discussion of the SOM proposals for additions to the historical financial reporting system and preparation of documents relating to this question.
3. Arrangements for reporting to SOM and future meeting plans.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, this meeting will not be open to the public. As provided by section 209.32 of DOE regulations, IEP requirements and unanticipated procedural delays in processing this notice require the usual seven day notice period to be shortened.

Issued in Washington, D.C., March 7, 1978.

WILLIAM S. HEFFELFINGER,
Director of Administration, Department of Energy.

[FR Doc. 78-6431 Filed, 3-10-78; 8:45 am]

[3128-01]

Economic Regulatory Administration

SOUTHERN CALIFORNIA GAS CO.

Availability of Environmental Assessment on Proposed Waiver of Propane Purchase and Use Limitations

AGENCY: Department of Energy.

ACTION: Notice of availability.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces the availability of its environmental assessment (EA) of a proposed waiver of propane purchase and use limitations for the Southern California Gas Co. (SoCal). The waiver would allow SoCal to purchase imported propane for use in a proposed propane-air-natural gas mixing plant in the Wilmington area of Los Angeles. DOE has tentatively determined, based on the EA, that the proposed waiver does not constitute a major Federal action significantly affecting the quality of the human environment, pursuant to section 102(2)(C) of the National Environmental Policy Act. Comments regarding the EA and the need for an environmental impact statement (EIS) are requested.

DATE: Comments by March 31, 1978.

ADDRESS: Comments to Box SI, Department of Energy, Public Hearing Management, Room 2313, 2000 M Street, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Steve Gary (Economic regulatory Administration), Room 6318, 2000 M Street, NW., Washington, D.C. 20461, 202-254-6030.

Carol M. Borgstrom (Office of Environment), Room 7119, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9760.

Janine Landow-Esser (Office of the General Counsel), Room 5116, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9380.

SUPPLEMANTARY INFORMATION:

I. BACKGROUND

SoCal proposes to build a propane-air-natural gas mixing plant in the Wilmington area of Los Angeles to augment its declining natural gas supplies. It has applied to ERA for a waiver of the restrictions on gas utility use of propane, pursuant to the Mandatory Petroleum Allocation Regulations (10 CFR 211.10(g)(8)). SoCal anticipates the purchase of an average of 13,500 barrels per day of propane imported from non-Canadian sources from Petrolane, Inc., which has marine off- loading and storage facilities in the Los Angeles harbor area, near the plantsite proposed by SoCal. The maximum output of the plant would be the equivalent of approximately 52,000,000 cubic feet per day of natural gas.

The analyses of the EA indicate that the construction and operation of the propane mixing plant and related pipeline will not significantly affect the quality of the human environment. Air and water emissions, land use, and noise impacts were not found to be significant. SoCal's proposed project would result in an increase in liquefied petroleum gas (LPG) tanker traffic in Los Angeles harbor (1 tanker transit every 22 days) as well as an increase in propane transfer and storage operations at Petrolane's facilities. Based on analyses provided by the U.S. Coast Guard and State and local agencies, it is DOE's current view that the environmental and safety risks associated with these related operations are not significant.

Therefore, DOE has tentatively determined that a negative determination, pursuant to 10 CFR 208.4(c), is appropriate and that no EIS is required. However, in light of public concerns regarding the transport of LPG, DOE wishes to obtain the views of interested persons prior to making its final determination. Following a review of any comments received, DOE will publish a final notice of negative determination or a notice of intent to prepare an EIS with respect to the SoCal application.

II. COMMENT PROCEDURE

Single copies of the subject EA may be obtained from the Office of Specialty Fuels, Room 6318, 2000 M Street NW., Washington, D.C. 20461, 254-6030. Copies of the EA are also available for public review in the DOE Freedom of Information Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C., between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Interested parties may submit written comments with respect to the EA and tentative negative determination to Box SI, Public Hearing Management, Department of Energy, Room 2313, 2000 M Street NW., Washington, D.C. 20461. Comments should be identified on the outside of the envelope and on the documents submitted to DOE with the designation "SoCal Propane Waiver Environmental Assessment." All comments should be received by DOE by March 31, 1978, in order to insure consideration.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. Any material not accompanied by a statement of confidentiality will be considered to be non-confidential. DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

Issued in Washington, D.C., March 8, 1978.

WILLIAM S. HEFFELFINGER,
Director of Administration.

[FR Doc. 78-6465 Filed 3-10-78; 8:45 am]

[3128-01]

Energy Information Administration

SURVEY OF OIL AND GAS WELL OPERATORS TO OBTAIN ESTIMATES OF U.S. CRUDE OIL AND NATURAL GAS RESERVES, PRODUCTION AND RELATED DATA

Request for Public Comment, Extension of Time

Notice is hereby given that an extension of time to April 19, 1978, has been granted for commenting on the Oil and Gas Reserves and related data survey Form EIA-23 which was published in the FEDERAL REGISTER on February 17, 1978, 43 FR 6993.

FOR FURTHER INFORMATION CONTACT:

William L. Monroe, Department of Energy, 825 North Capitol Street, Room 7312A, Washington, D.C. 20426, 202-275-4357.

Written comments should be submitted, in duplicate, to: Gordon K. Zareski, Department of Energy, 825 North Capitol Street, Room 7312, Washington, D.C. 20426.

Issued in Washington, D.C., March 8, 1978.

WILLIAM S. HEFFELFINGER,
Director of Administration.

[FR Doc. 78-6466 Filed 3-10-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Docket No. CP75-123]

ARKANSAS LOUISIANA GAS CO.

Petition To Amend; Correction

MARCH 6, 1978.

In FR Doc. 78-5372 issued February 22, 1978, appearing in the FEDERAL REGISTER issue of March 2, 1978, at page 8579, change the docket number "CP77-123" to read "CP75-123" and in line 45: change "CP77-123" to read "CP75-123".

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6436 Filed 3-10-78; 8:45 am]

[6740-02]

[Docket No. CP78-203]

NORTHWEST PIPELINE CORP.

Application

MARCH 3, 1978.

Take notice that on February 24, 1978, Northwest Pipeline Corp. (Applicant), 315 East Second South, Salt Lake City, Utah 84111, filed in Docket No. CP78-203 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 5,000 Mcf of natural gas per day for Colorado Interstate Gas Co. (CIG), all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that CIG has under contract or otherwise owns or controls certain natural gas reserves in the Monument Butte area of Sweetwater County, Wyo., which is a distance from its existing transmission system, and that in order to make such gas reserves available to CIG, CIG and Applicant have entered into an agreement dated December 30, 1977, which contemplates that Applicant would perform certain gathering and transportation services for the benefit of CIG. It is indicated that Applicant would construct the necessary facilities to connect the Federal No. 32-22 Well, the Federal 32-27 Well, and the Federal 32-14 Well to Applicant's existing Lincoln Road Gathering System. Applicant states that it would gather and transport the volumes of gas so delivered by CIG from the wells and would redeliver equivalent volumes, subject to Applicant's purchase of 25 percent of the gas so gathered for delivery, to an existing point of interconnection between the facilities of Applicant and CIG in Sweetwater County, Wyo. Applicant indicates that it would construct the necessary facilities to connect the wells pursuant to the budget-type certificate authorization issued it in Docket No. CP77-507.

It is stated that Applicant would provide a wellhead gathering service for CIG of up to 5,000 Mcf per day, which may be available from the acreage within the subject area and that the volumes of natural gas to be gathered by Applicant for CIG would be transported through Applicant's Lincoln Road Gathering System and its 30-inch Opal Plant Lateral, processed at Applicant's Opal Gasoline Plant, transported to Applicant's mainline system and then redelivered to CIG at an existing point of interconnection located in Sweetwater County, Wyo. The volumes of natural gas redelivered to CIG at the existing point of interconnection would be equivalent to 75 percent of the volumes received by Applicant at the wellhead less CIG's proportional share of fuel, shrinkage and loss of heat value due to processing the volumes of gas through Applicant's Opal Gasoline Plant, it is said.

Applicant states that it would reimburse CIG 100 percent of the net revenues attributable to the liquid products extracted by Applicant's Opal Gasoline Plant less Applicant's actual cost-of-service incurred in the extraction process. It is stated that the volumes of gas to be gathered and transported would be balanced on a Btu basis and such balancing would, to the extent possible, be achieved monthly.

Applicant estimates that, initially, the total volumes of gas to be delivered by CIG to Applicant would be approximately 4,500 Mcf per day which Applicant would purchase 25 percent or approximately 1,125 Mcf per day, it is indicated.

The application states that in consideration for the gathering and transportation service proposed herein and pursuant to the agreement, Applicant has the right to purchase up to 25 percent of the gas so delivered to Applicant by CIG, and that Applicant's purchase from CIG would be at the same price paid by CIG in the Monument Butte unit of Sweetwater County, Wyo.

It is stated that Applicant proposes to charge CIG for the gathering and transportation as proposed herein a two-part rate as follows:

(a) A gathering rate based on Applicant's cost-of-service attributable to gathering CIG's gas and delivering such gas to the point of interconnection with Applicant's Opal Plant lateral line. The initial rate which Applicant would charge CIG for the gathering service proposed herein would be 15.90 cents per Mcf; and

(b) A transportation rate of 2.5 cents per Mcf for all gas transported by Applicant for CIG's account from the point of delivery into Applicant's Opal Plant lateral line to the point of interconnection of such line with Applicant's mainline and then, by displacement to Applicant's existing mainline delivery point to CIG.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 27, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate

action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to

tions which are the subject of this proceeding were specifically transferred to the FERC by Section 402(a)(1) of the DOE Act.

would purchase from PLGD from the following well:

1. The No. 1 Rodgers Well in Section 95, Block F, G&MMB&A, Ward County, Tex.

visions required to calculate both the surcharge amounts and future gas cost adjustments on a consistent basis. The purpose of the instant filing is to correct the earlier failure to make all of

tion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance

cepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application

action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6432 Filed 3-10-78; 8:45 am]

[6740-02]

[Docket No. CP76-107]

TRANSWESTERN PIPELINE CO.

Petition To Amend

MARCH 3, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission with the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of Section 705(b) of the DOE Act provided that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by Section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

Take notice that on February 27, 1978, Transwestern Pipeline Co. (Petitioner), P.O. Box 2521, Houston, Tex. 77001, filed in Docket No. CP76-107 a petition to amend the order of April 2, 1976 (55 FPC ——) issued by the Federal Power Commission (FPC) in the instant docket pursuant to section 7(c) of the Natural Gas Act so as to authorize the transportation of natural gas for Pacific Interstate Transmission Co. (Pacific Interstate) from an additional well, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the FPC order of April 2, 1976, in the instant docket, et al., Petitioner was authorized to transport natural gas in interstate commerce for Pacific Interstate pursuant to a transportation agreement dated September 29, 1975, between Petitioner and Pacific Interstate, and that such service commenced on April 2, 1976. Petitioner states that the gas which it is transporting is being purchased by Pacific Interstate from Pacific Lighting Gas Development Co. (PLGD) and is being sold by Pacifice Interstate to its sole customer, Pacific Lighting Service Co. (Service Co.). It is indicated that pursuant to orders issued November 3, 1976, March 17, 1977, and September 30, 1977, the FPC authorized Petitioner to transport and deliver natural gas from additional wells to Service Co. for the account of Pacific Interstate.

It is indicated that Pacific Interstate has advised Petitioner that it has contracted with PLGD to purchase gas from one additional well and has agreed to sell this gas to Service Co. Pacific Interstate has requested Petitioner to assist it in its effort to supply additional gas to its sole customer by transporting to Service Co. the gas supplies it has purchased from PLGD, it is stated. Petitioner states that it would render the proposed service pursuant to an agreement with Pacific Interstate dated February 1, 1978, which agreement further amends the transportation agreement dated September 29, 1975.

Consequently, Petitioner requests authorization to transport gas for the account of Pacific Interstate to Service Co., which gas Pacific Interstate would purchase from PLGD from the following well:

1. The No. 1 Rodgers Well in Section 95, Block F, G&MMB&A, Ward County, Tex.

The petition states that Petitioner would purchase the Transwestern Gas Supply Co.'s share of gas from No. 1 Rodgers well, and, accordingly, such well would be connected to Petitioner in Docket No. CP78-62. Petitioner states that it would transport the gas herein through its existing main line system and would deliver it to Service Co. at an existing interconnection between the two companies' systems at the Arizona-California border near Needles, Calif.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 27, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6433 Filed 3-10-78; 8:45 am]

[6740-02]

[Docket No. RP78-43]

WESTERN GAS INTERSTATE CO.

Filing of Substitute Tariff Sheets

MARCH 7, 1978.

Take notice that on March 1, 1978 Western Gas Interstate Co., ("Western") filed with the Commission for inclusion in Western's FERC Gas Tariff, Original Volume No. 1, Second Substitute Eight Revised Sheet No. 3A and Second Substitute First Revised Sheet No. 33A. The proposed effective date is November 1, 1977.

Western states that the proposed tariff sheets are being filed in order to correct the manner of calculating adjustments under its Purchased Gas Cost Adjustment Provision ("PGA clause") so that Western's PGA clause will be completely consistent with the agreement of the parties in Settlement of Docket No. RP77-94, approved by the Commission of December 28, 1977. Western states that in implementing the agreed-on revisions to its PGA clause, it neglected to make certain revisions required to calculate both the surcharge amounts and future gas cost adjustments on a consistent basis. The purpose of the instant filing is to correct the earlier failure to make all of the revisions to the PGA clause required by the Settlement. The effect of the filing is to increase annual revenues by approximately $117,000 to allow recovery of the full cost of service agreed on in the settlement. Since the effective date of the Settlement was November 1, 1977, Western proposes the same effective date for its proposed substitute tariff sheets.

Any person desiring to be heard and to make any protest with reference to said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 20, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petiton to intervene. Western's filing is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6434 Filed, 3-10-78; 8:45 am]

[6740-02]

[Docket No. RP72-41; PGA77-2]

WESTERN TRANSMISSION CORP.

Proposed Changes in Rates

MARCH 7, 1978.

Take notice that Western Transmission Corp. (Western), on February 24, 1978, tendered for filing as part of its FPC Gas Tariff, Original Volume No. 1, the following sheet:

Seventh Revised Sheet No. 3-A, superseding Sixth Revised Sheet No. 3-A.

The proposed changes would decrease the monthly charges for purchased gas to Colorado Interstate Gas Co., Western's sole jurisdictional customer, pursuant to the provisions of Section 18 of Western's FPC Gas Tariff, Original Volume No. 1.

Because this is a rate reduction, Western requests that the cost provision otherwise applicable be waived so as to permit the proposed rates to become effective January 1, 1978.

Copies of this filing have been served upon Colorado Interstate Gas Co.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 17, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-6435 Filed 3-10-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 900]

COMMON CARRIER SERVICES INFORMATION

Applications Accepted for Filing

MARCH 6, 1978.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's Rules and Regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (See § 309(c) of the Communications Act), applications filed under Part 68, applications filed under Part 63 relative to small projects, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and Section 214 applications within 30 days of the date of this notice and within 20 days for Part 68 applications.

In order for an application filed under Part 21 of the Commission's Rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule. (See § 1.227(b)(3) and 21.30(b) of the Commission's Rules.)

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

20742-CD-MP-78 Bullock County Rural Telephone Cooperative Incorporated (KDS793). Modification of C.P. to relocate facilities operating on 152.51 MHz to be located about 2.6 miles northwest of Brooklet, Ga.

20819-CD-P-(2)-78 Mobile Dispatch Service (KIF658). C.P. for additional facilities to operate on 152.18 and 152.06 MHz located at 942 Shelton Beach Road Extension, Mobile, Ala.

20827-CD-P-78 Mobile Radio System of San Jose, Inc. (KMA741). C.P. for additional facilities to operate on 454.300 MHz at Loc. No. 3: At Allison Peak, approximately 4.5 miles northeast of Milpitas, Calif.

20830-CD-P-78 Lake Mills Telephone Company (new). C.P. for a new 1-way station to operate on 152.84 MHz to be located at Grain Elevator, 104 North Third Avenue West, Lake Mills, Iowa.

20831-CD-MP-(3)-78 Burlington, Brighton & Wheatland Telephone Company (KUO636). Modification of C.P. to relocate facilities operating on 158.10 MHz, base, and for additional facilities to operate on 72.84 MHz, repeater at Loc. No. 2: On Highway 74, 0.5 miles north of Merton, Wis., and additional facilities to operate on 75.42 MHz, control at a new site described as Loc. No. 7: Highway 106, 1.5 miles east of Fort Atkinson, Wis.

20832-CD-P-78 General Communications Service (KSV965). C.P. to relocate facilities operating on 35.22 MHz at Loc. No. 5 to be located at 4865 Buford Highway, Norcross, Ga.

20834-CD-P-(3)-78 Rock Hill Mobile Communications, Inc. (new). C.P. for a new 1-way station to operate on 158.70 MHz, base and 72.18 MHz, repeater at Loc. No. 1: Intersection of Mt. Gallant Road and Watteree Road, 5 miles northwest of Rockhill, S.C.; and 75.88 MHz, control at Loc. No. 2: 400 South Tryon, Charlotte, N.C.

20845-CD-AL-78 Mobilfone Communications, Inc. Consent to Partial Assignment of License from Mobilfone Communications, Inc., Assignor to Austin Paging Service, Inc., Assignee. Station: KLF661, frequency 158.70 MHz, Loc. No. 2: 0.17 mile South of intersection of Highways 81 and 183, Austin, Tex., to Austin Paging Service, Inc. (new).

20846-CD-P-(2)-78 Juanita Cox d.b.a. Girl Friday (new). C.P. for a new station to operate on 152.12 and 152.15 MHz to be located at 605 East Mill Street, Comanche, Tex.

20852-CD-P-(3)-78 Radio Dispatch Company (new). C.P. for a new station to operate on 35.38, 35.26, and 35.46 MHz to be located at 2210 Boardwalk, Atlantic City, N.J.

20853-CD-P-78 Mobilfone, Inc. (new), C.P. for a new station to operate on 152.12 MHz to be located at 755 West Big Beaver Road, Troy, Mich.

20877-CD-P-2-78 Bren Corp., d.b.a. Tele-Beepers (new), C.P. for a new station to operate on 454.075 and 454.300 MHz to be located at 3910 Moulton Street, Greenville, Tex.

20878-CD-TC-(2)-78 Public Telephone Corp. Consent to transfer of control from Helen E. Schultz, trustee, transferor to Continental Telephone Corp., transferee. Stations: KSJ803, Batesville and KSJ804, Greensburg, Ind.

20879-CD-P-78 Public Radio Communications Co. (new), C.P. for a new station to operate on 152.21 MHz to be located at Hammit Hill Church Road, 0.7 mile from intersection of Route 7, Oxford, Miss.

20882-CD-MP-78 Citizens Telephone Co., Inc. (KDS681), modification of C.P. to change antenna system operating on 152.84 MHz located at Bond and Washington Streets, Plains, Ga.

20883-CD-TC-78 C & C Communications Co. Consent to transfer of control from Calvin A. Harpster, transferor to Marion O. Scott, transferee. Station: KWU377, Chehalis, Wash.

20885-CD-P-(2)-78 Canaveral Communications, Inc. (KIY516), C.P. for additional facilities to operate on 454.150 and 454.325 MHz located 2 miles West of Cocoa, Fla.

20886-CD-P-78 William H. Colclough, d.b.a. Sequoia Communications (new), C.P. for a new station to operate on 152.18 MHz to be located at 22501 Bald Hill Road, Fort Bragg, Calif.

20887-CD-P-78 Lake Mills Telephone Co. (new), C.P. for a new station to operate on 152.57 MHz to be located at Grain Elevator, 104 North 3rd Avenue West, Lake Mills, Iowa.

20888-CD-P-78 J. M. Blodgett, d.b.a. Radio Page Communications (KWT885), C.P. for additional facilities to operate on 35.58 MHz to be located at a new site described as Loc. No. 4: Hutton Hill, Marlton, N.J.

20889-CD-TC-(4)-78 Answer, Inc. of San Antonio. Consent to transfer of control from George O. Tillinghast, transferor to Roberta K. Tillinghast, transferee. Stations: KKG559, KRS652, KUS372, and KWT846, San Antonio, Tex.

20890-CD-P-78 Phil G. Hamilton (new), C.P. for a new station to operate on 152.15 MHz to be located at Five Tower Road, 0.5 mile WNW. of Stearns, Ky.

20892-CD-P-78 L & L Services, Inc., d.b.a. Metro Communication Services (KUC906), C.P. to replace transmitter, change antenna system and relocate facilities operating on 152.21 MHz to be located at Parkway Hospital Grounds, Decatur, Ala.

20893-CD-P-78 Intrastate Radio Telephone, Inc. of San Francisco (KMA833), C.P. for additional facilities to operate on 152.12 MHz at Loc. No. 7: Sunol Ridge, 4.3 miles NE. of Niles, Calif.

20894-CD-TC-(2)-78 Baker Protective Services, Inc. Consent to transfer of control from Baker Industries, Inc., transferors to BWA Corp., transferee. Stations: KIA956. Miami, Fla. and KSD312, Chicago, Ill.

20895-CD-P-(2)-78 Aircall Communications, Inc. (KSJ823), C.P. for additional facilities to operate on 454.025 and 454.350 MHz at a new site described as Loc. No. 3: 712 North Church Street, Decatur, Ill.

20896-CD-MP-(—)78 Illinois Bell Telephone Co. (WCJ834) (developmental) (cellular), modification of C.P. to relocate facilities operating on 884.790, 885.420, 886.050, 886.680, 887.310, 887.940, 888.570, and 889.200 MHz at Loc. No. 9 to be located at 3 miles ESE. from center of Libertyville, Rondout, Ill.

20897-CD-MP-(2)-78 Airsignal International of Pittsburgh, Pa., Inc. (KGA905), modification of C.P. to add control facilities operating on 75.96 MHz at Loc. No. 3: 4101 Grizella Street, Pittsburgh, Pa.; and relocate facility operating on 35.22 MHz at Loc. No. 5 to be located at St. James Park, Warren Cliff Drive, Monaca, Pa.

20899-CD-P-(2)-78 Industrial Communications Systems, Inc. (new) (developmental), C.P. for a new 1-way signaling station to operate on 459.175 MHz, base at two new sites described as Loc. No. 1: Santiago Peak Radio Site, Santa Ana, Calif. and Loc. No. 2: Verdugo Peak Radio Site, Verdugo, Peak, Calif.

20900-CD-ML-78 Southwestern Bell Telephone Co. (KLB582), modification of license to change frequency from 152.63 MHz to 152.72 MHz located 7 miles E. and 2 miles S. of U.S. Highways 77 and 60, Ponca City, Okla.

20901-CD-R-78 Bell Telephone Co. of Nevada (KDS9271) (developmental), renewal of license expiring April 27, 1978. Term: April 27, 1978 to April 27, 1979.

20910-CD-P-78 The Pacific Telephone Telegraph Co. (KMA615), C.P. for additional facilities to operate on 454.575 MHz at Loc. No. 2: 3 miles N. of Oildale, Calif.

20854-CD-P-(3)-78 Pacific Northwest Bell Telephone Co. (KOA732), C.P. to change antenna system operating on 454.375 and 454.450 MHz and for additional facilities to operate on 454.500 MHz at Loc. No. 3: 1708 East Pike Street, Seattle, Wash.

CORRECTIONS

21897-CD-TC-77 South Georgia Telephone Co., Folkston, Ga. Correct call sign to read KIY751 instead of KIY765. All other particulars to remain as reported on PN NO. 871 dated August 15, 1977.

INFORMATIVE

It appears that the following applications may be mutually exclusive and subject to the Commission's rules regarding ex-parte presentations by reasons of potential electrical interference:

454.150 MHz

Hazel-Tone Communications, Inc., Hazleton, Pa., 20400-CD-P-78.

Schuylkill Mobile Fone, Inc., St. Clair, Pa., 20500-CD-P-(2)-78.

Suburban Mobile Telephone Co., Malvern, Pa., 20498-CD-P-(2)-78.

RURAL RADIO SERVICE

60099-CR-P-78 United Telephone Co. of Florida (WCJ799) C.P. to replace transmitter, change antenna system, change frequencies from 157.83, 157.86, 157.89, and 157.95 MHz to 157.92 MHz and relocate facilities to be located 2 miles west of Pineland, Useppa Island, Fla.

60101-CR-P-78 United Telephone Co. of Fla. (new) C.P. for a new Central Office station to operate on 152.72 and 152.66 MHz to be located at Tipton Drive, Pine Island, Fla.

60114-CR-TC-78 Answer, Inc. of San Antonio. Consent to transfer of control from George O. Tillinghast, transferor, to Roberta K. Tillinghast, transferee. Station: KLT67, temporary-fixed within the territory of the grantee.

POINT TO POINT MICROWAVE RADIO SERVICE

GA—1482-CF-P-78 Southern Bell Telephone & Telegraph Co. (KIB53), 614 Pendleton Street Waycross, (Ware) Ga. Lat. 31°12'49" N. Long. 82°21'34" W. C.P. to add frequency 6093.5H MHz toward Nahunta, Ga.

GA—1483-CF-P-78 Same (WSL42) 4.8 miles NNW. of Nahunta, (Brantley) Ga. Lat. 31°16'02" N. Long. 82°00'30" W. C.P. to add frequencies 6345.5H MHz toward Waycross, Ga. and 6345.5V MHz toward Everett, Ga.

GA—1484-CF-P-78 Same (WSL43) 6 miles SW. of Everett, (Wayne Ga. Lat. 31°20'40" N. Long. 81°43'24" W. C.P. to add frequencies 6093.5V MHz toward Nahunta, Ga. and 6078.6H MHz. toward Brunswick, Ga.

GA—1485-CF-P-78 Same (KJN26) 2627 Norwich Street Brunswick, (Glynn) Ga. Lat. 31°09'55" N. Long. 81°29'53" W. C.P. to add frequency 6330.7V MHz toward Everett, Ga.

MI—1486-CF-P-78 Michigan Bell Telephone Co. (WJL83) 0.9 mile Northeast of Dodgeville, (Houghton) Mich. Lat. 47°06'05" N. Long. 88°34'10" W. C.P. to add a new point of communication on frequencies 5952.6V MHz and 6130.5V MHz on azimuth 30.1° toward Calumet, Mich.

MI—1487-CF-P-78 Same (new) Mine Street and Red Jacket Rd. Calumet, (Houghton) Mich. Lat. 47°14'35" N. Long. 88°26'56" W. C.P. for a new station on frequencies 6204.7V and 6382.6V MHz on azimuth 210.2° toward Dodgeville.

KS—1488-CF-P-78 Southwestern Bell Telephone Co. (KAD26) Topeka Junction 3rd and Oakley Topeka, (Shawnee) Kans. Lat. 39°03'46" N. Long. 95°42'56" W. C.P. to add antennas and frequencies 6034.2V and 6152.8V MHz toward St. Marys, Kans.

KS—1489-CF-P-78 Same (KAD27) 4 miles north of St. Marys, (Pottawatomie) Kans. Lat. 39°15'36" N. Long. 96°04'52" W. C.P. to add antennas and frequencies on 6286.2H, 6404.8H MHz toward Topeka Junction, Kans. and 6286.2V, 6404.8V MHz toward Manhattan Junction, Kans.

KS—1490-CF-P78 Same (KAD28) Manhattan Junction 0.5 mile north of Manhattan, (Riley) Kans. Lat. 39°11'57" N. Long. W. C.P. to add frequencies on 6034.2H and 6152.8H MHz toward St. Marys, Kans., add a new point of communication on 6004.5H MHz on azimuth 014.5° toward Fostoria Junciton.

KS—1491-CF-P.78 Southwestern Bell Telephone Co. (new) Fostoria Junction 1.5 miles SSE of Fostoria, (Pottawatomie) Kans. Lat. 39°25'15" N. Long. 96°30'01" W. C.P. for a new station on frequencies 6256.5V MHz on azimuth 194.5° toward Manhattan Junction, and 6256.5H on azimuth 306.1° toward Waterville, Kans.

KS—1492-CF-P-78 Same (new) 8.5 miles SSW of Waterville, (Riley) Kans. Lat. 39°33'50" N. Long. 96°45'17" W. C.P. for a new station on frequencies 6004.5V MHz on azimuth 125.9°, and 6004.5H MHz on azimuth 016.8° toward Marysville, Kans.

KS—1493-CF-P-78 Same (new) 901 Elm Street Marysville, (Marshall) Kans. Lat. 39°50'26" N. Long. 96°36'46" W. C.P. for a new station on frequency 6256.5V MHz on azimuth 196.9° toward Waterville, Kans.

OR—1513-CF-P-78 Pacific Northwest Bell Telephone Co. (KPB50) Haymaker 4.2 miles SW. of Keno. (Klamath) Oregon. Lat. 42°04'16" N. Long. 121°58'22" W. C.P. to change polarization from H to V on frequency 3830 MHz toward Chestnut Mt., Oreg.

PA—1515-CF-P-78 The Bell Telephone Co. of Pennsylvania (WBA69) 2 miles N. of DuBois, (Clearfield) Pa. Lat. 41°09'47" N. Long. 78°45'22" W. C.P. to add transmitters and frequency on 11265H MHz on azimuth 329.6° toward Brockway, Pa.

PA—1516-CF-P-78 Same (WBB254) 4.5 miles NW. of Brockway, (Jefferson) Pa. Lat. 41°17'56" N. Long. 78°51'43" W. C.P. to add transmitters and frequencies on 10855H MHz on azimuth 149.5° toward DuBois, Pa. and 10855H MHz on azimuth 22.8° toward Ridgway, Pa.

PA—1517-CF-P-78 Same (WBB255) 2 miles NNW. of Ridgway, (Elk) Pa. Lat. 41°27'48" N. Long. 78°48'12" W. C.P. to add transmitters and frequencies on 11265H MHz on azimuth 202.9° toward Brockway, Pa. and 11265H MHz on azimuth 351.8° toward Kane, Pa.

PA—1518-CF-P-78 Same (WBB256) 2 miles South of Kane, (McKean) Pa. Lat. 41°37'35" N. Long 78°48'05" W. C.P. to add transmitters on frequency 10855H MHz on azimuth 171.8° toward Ridgway, Pa.

1562-CF-AL-(4)-78 Goeken Communications Application for Consent to Assignment of Radio Station Construction Permit of License from Goeken Communications, Assignor, to Business Telecommunications Corporation, Assignee, for station WBA739, Chicago, Ill.; WBA740, Chicago, Ill.; WBA741, Somers, Wis. and WBA742, Milwaukee Wis.

ME—1383-CF-P-78 Maine Microwave, Inc. (WBB 208) 3.5 miles from junction of routes 116 & 157, Medway, Maine (Lat. 45°34'25" N.—Long. 68°31'10" W.): Construction permit to change transmit station location and name—6182.4V and 6241.7V MHz toward Bear Mtn., Maine, on azimuth 7.4 degrees.

PA—1390-CF-P-78 Eastern Microwave, Inc. (WDD 71) Pulpit Rock, Valley Rim TR., 4 miles NE. of Hamburg, Pa. (Lat. 40°35'50" N.—Long. 75°58'04" W.): power split, on azimuth 215.6 degrees.

NY—1391-CF-P-78 Same. (New) Syracuse-EMI, 3 Northern Concourse, N. Syracuse, N.Y. (Lat. 43°06'29" N.—Long. 76°09'10" W.): Construction permit for new station—6360 MHz toward Sentinel Heights, N.Y. on azimuth 171.3 degrees.

PA—1463-CF-P-78 Same (WQR 72) U.S. Route 30-1.4 miles SE. of Hookstown, Pa. (Lat. 40°34'37" N.—Long. 80°27'24" W.): Construction permit to add 10815H MHz toward Coraopolis, Pa., via power split, on azimuth 106.7 degrees.

OK—1464-CF-P-78 Cablecom-General, Inc. (KLU 53) Hugo, Okla. (Lat. 33°59'45" N.—Long. 95°30'30" W.): Construction permit to replace transmitter(s) 6071.2H and 6334.4H MHz toward Idabel, Okla.

TX—1465-CF-P/ML-78 Same (KLS 33) Isom Ranch, 3.5 miles WNW. of Landonia Tex. (Lat. 33°25'06" N.—Long. 96°00'29" W.): Construction permit and modification of license to correct transmit station coordinates and to increase height of existing antenna structure—5952.6H, 6071.2H, 6234.3H, and 6352.9H MHz toward Paris, Tex., on azimuth 55.8 degrees.

TX—1500-CF-P-78 Southwest Texas Transmission Co. (new) Quihi, 13.7 miles NE. of Hondo, Tex. (Lat. 29°29'59" N.—Long. 98°58'58" W.): Construction permit for new station—6197.2V, 6256.5V, 6286.2H, 6315.9V, and 6375.2V MHz toward D'Hanis, Tex., on azimuth 53.2 degrees.

TF—1525-CF-P/ML-78 Pacific North West Bell Telephone Co. (WAS 471) Temporary fixed within the territory of the Grantee construction permit and modification of license to add transmitter(s) on frequency band 3700-4200 MHz.

IN—1528-CF-TC-(2)-78 Public Telephone Corp. Consent to transfer of control from Helen E. Schultz, trustee transferor to Continental Telephone Corp., transferee for stations, KSN94 Batesville, Ind. and KSN79 Greensburg, Ind.

IN—1527-CF-(12)-78 Indiana Telephone Corp. Consent to transfer of control from Helen E. Schultz, trustee transferor to Continental Telephone Corp., transferee for stations KSO45 Seymour, Ind., KSO46 Salem (Suicide Cave), Ind. KSO47 Salem, Ind. KSO69 North Vernon, Ind., KVH90 Jasper, Ind., KVH91 Orleans, Ind. KVH92 Jasper, Ind., KVH93 Loogootee, Ind., KVH94 French Lick, Ind., WHT72 Scottburg, Ind. WHT73 Austin (Quick Creek), Ind., WHT74 Madison, Ind.

CORRECTIONS

1185-CF-P-78 American Telephone and Telegraph Co (KKN22) 201 E. Capital Street Jackson (Hinds), Miss. Correct frequency 4290 MHz to read 4090 MHz all other particulars remain the same as reported on Public Notice No. 896 February 6, 1978.

These entries appearing in Public Notice of February 21, 1978, No. 898 for MID-WESTERN RELAY COMPANY are corrected to show:

1384-CF-P-78 (WLJ 46) Longitude to read 88°21'30".

1370-CF-P-78 (WLJ 69) Frequency to read 6345.5H MHz toward Jefferson.

All other particulars remain the same as previously reported.

[FR Doc. 78-6472 Filed 3-10-78; 8:45 am]

[6712-01]

FM BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Adopted: March 3, 1978.

Released: March 7, 1978.

Notice is hereby given, pursuant to section 1.573(d) of the Commission's Rules, that the FM broadcast application listed below will be considered ready and available for processing on April 6, 1978. Since the application is timely filed and mutually exclusive with earlier filed and cut-off application of Falls Broadcasting Corp., File No. BRH-1987, for renewal of license of station WZMF(FM), Menominee Falls, Wis., no other applications may be filed. Rather the purpose of this Notice is to establish a date by which the parties to the forthcoming comparative hearing may compute the deadlines for filing amendments as a matter of right under § 1.522(a)(2) of the Rules and pleadings to specify issues pursuant to § 1.584.

The attention of any party in interest desiring to file a petition to deny the listed application pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to section 1.580(i) of the Commission's Rules for provisions governing the time for filing and other requirements relating to such pleadings.

BPH-10,314 New, Menominee Falls, Wis., Trans-Air Broadcasting Corp., Req: 98.3 MHz; Channel No. 252; ERP: 3kW; HAAT: 300 feet.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-6471 Filed 3-10-78; 8:45 am]

[6712-01]

[FCC 78-159; Docket No. 78-80]

WJPD, INC.

Revocation of License; Order to Show Cause

Adopted: March 1, 1978,

Released: March 7, 1978.

1. The Commission has before it for consideration the outstanding licenses of the captioned licensee, WJPD, Inc., to operate Stations WJPD-AM and FM, Ishpeming, Mich., and the Commission's field inquiries concerning the operation of those stations.

2. Information before the Commission raises the following questions:

(a) Whether, in light of all the facts and circumstances pertaining thereto, and if so, the extent to which the licensee has violated section 73.1205 of the Commission's Rules regarding fraudulent billing practices, the degree of knowledge or participation in those practices by principals of the licensee, and the degree of supervision over the operation of the stations exercised by the licensee.

(b) Whether, in light of all the facts and circumstances pertaining thereto, Laurence Dube, general manager of WJPD—AM and FM, signs stations affidavits of performance as Lane Dawson, Salesman (his on-the-air name), and notarizes them as Laurence Dube, and whether this practice was designed to mislead advertisers or their agents.

(c) Whether, in light of the information giving rise to these questions, if found to be true, the licensee possesses the requisite qualifications to remain a licensee of the Commission.

3. Information relating to the above questions has come to the attention of the Commission since grant of the renewal of licenses for WJPD-AM and FM. This information would, if substantiated, warrant a refusal to grant a license or permit or an original application, and raises serious questions, best resolved in a hearing, as to whether WJPD, Inc., has the qualifications to be a licensee of the Commission.

4. *Accordingly, it is ordered,* That pursuant to the provisions of section 312(a) (2) and (4) of the Communications Act of 1934, as amended, WJPD, Inc., is directed to show cause why an Order revoking the licenses of WJPD-AM and FM, Ishpeming, Mich., should not be issued and to appear and give evidence as to the matters raised in paragraph 2, at a hearing to be held at a time and location specified in a subsequent Order, that time to be no less than thirty (30) days from the receipt of the Order.

5. *It is further ordered,* That the Chief of the Broadcast Bureau is directed to serve upon WJPD, Inc., a Bill of Particulars regarding the matters referred to in Questions (a) and (b) set out in paragraph 2, within thirty (30) days of the release of this Order.

6. *It is further ordered,* That pursuant to section 312(d) of the Communications Act of 1934, as amended, both the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the Broadcast Bureau.

7. *It is further ordered,* That to avail itself of the opportunity to be heard, the licensee, pursuant to section 1.91(c) of the Commission's Rules, in person or by attorney, shall file with the Commission within 30 days of the receipt of the Order to Show Cause a written appearance stating that he will appear at the hearing and present evidence on the matters specified in the Order. If the licensee fails to file an appearance within the time specified, the right to a hearing shall be deemed to have been waived. See section 1.92(a) of the Commission's Rules. Where a hearing is waived, a written statement in mitigation or justification may be submitted within 30 days of the receipt of the Order to Show Cause. See section 1.92(b) of the Commission's Rules. In the event the right to a hearing is waived, the presiding officer, or the Chief Administrative Law Judge if no presiding officer has been designated, will terminate the hearing proceeding and certify the case to the Commission in the regular course of business and an appropriate Order will be entered. See sections 1.92 (c) and (d) of the Commission's Rules.

8. *It is further ordered,* That the Secretary of the Commission send a copy of this Order to Show Cause by Certified Mail—Return Receipt Requested to WJPD, Inc., licensee of Stations WJPD-AM and FM, Ishpeming, Mich.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-6740 Filed 3-10-78; 8:45 am]

[6712-01]

RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

Meetings

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In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM)meetings is as follows:

To: Special Committee No. 71, "VHF Automated Radiotelephone Systems".
Subject: Notice of 8th Meeting.
Date/time: Wednesday, March 29, 1978—10 a.m. (Full day meeting).
Location: Conference Room A-110, 1229-20th Street NW., Washington, D.C.

AGENDA

1. Call to Order; Chairman's Report.
2. Introduction of Attendees; Adoption of Agenda.
3. Acceptance of SC-71 Summary Record.
4. Morning session (10 a.m.-11:45 a.m.); afternoon session (1:45 p.m.-4:45 p.m.). (a) Review of documents received and discussion of subjects designated for study at 7th meeting of SC-71, held on February 1, 1978.
5. Other business.
6. Establishment of next meeting date.

John J. Renner, Chairman, Advanced Technology Systems, Inc., 2425 Wilson Blvd., Arlington, Va. 22201, phone: 703-525-2664.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat (phone: (202) 632-6490).

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-6395 Filed 3-10-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

INDEPENDENT OCEAN FREIGHT FORWARDER LICENSE

Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916, (Stat. 522 and 46 U.SC. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Atlantic Caribbean Export Shipping Corp., 444 Brickell Avenue, Room 650, Miami, Fla. 33131. Officers: Joseph De Losh, President, Maria De Losh, Secretary/Treasurer.

Savir, Inc., 7225 North West 44th Street, Miami, Fla. 33166. Officers: Roberto F. Rivas, President/Treasurer, Lila B. Rivas, Vice President/Secretary.

Di Mare Shipping International, Inc., 138 Van Dyke Street, Brooklyn, N.Y. 11231. Officers: Joseph Di Mare, President/Secretary, Silivano De Luca, Vice President, Frank Rolli, Vice President.

Paramount Forwarders, Inc., 3164 Springfield, Lancaster, Tex. 75146. Officers: Lyle K. Mc Dermed, President, Mabel Alley, Vice President S. Wyatt Carr, Jr., Secretary/Treasurer.

Agency Sales, Inc., Building No. 2141 Door N-5 MIAD, Miami International Airport, P.O. Box 52-2086, Miami, Fla. 33152. Officers: Raymond Lakritz, President, Cecilio Chavez, Vice President.

Ocean Traffic Services, Inc., 2875 East. Sky Harbor Boulevard, No. 202, Phoenix, Ariz. Officers: Vincent R. De Maso, Treasurer, Kenneth D. Romano, President, Kathleen M. Relyea, Vice President.

By the Federal Maritime Commission.

Dated: March 8, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-6483 Filed 3-10-78; 8:45 am]

[6730-01]

AGREEMENT FILED

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreements at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and San Juan, P.R. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before April 2, 1978. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. T-3384-1.
Filing party: Mr. E. E. Lee, Jr., Deputy Executive Director, P.O. Box 3037, Wilmington, N.C. 28401.
Summary: Agreement No. T-3384-1, between North Carolina State Ports Authority and Seatrain Lines, Inc., modifies the basic agreement between the parties which provides for the use of 6.325 acres of land at Wilmington Port Terminal and preferential use of: (1) Berths A and B; (2) a gantry crane; and (3) a truck scale. The purpose of this modification is to extend the agreement from May 1, 1978, for a period not to extend 6 months or until superseded by a new lease agreement.

Agreement No. T-3595.
Filing party: Ronaldo Rodriguez Ossorio, General Counsel, Puerto Rico Ports Authority, G.P.O. Box 2829, San Juan, P.R. 00936.
Summary: Agreement No. T-3595, between Puerto Rico Ports Authority (PRPA) and Caribe Tugboat Corp. (CTC), provides for the 5-year renewable lease to Caribe of land and an office building as detailed in the agreement. PRPA also grants to Caribe preferential berthing privileges at Pier 10 in San Juan. Caribe is authorized to perform certain repairs to the leased premises in order to restore the pier facilities to their original functional conditions. The use of the premises by Caribe is restricted to tug and barge operations and the loading and unloading of cargo in bulk operations. As compensation, PRPA will receive a minimum annual rental of $70,000 which will be comprised of payments for: office rental, pier use, preferential use of the premises, and wharfage and dockage charges assessed by PRPA on all vessels using Pier 10. The minimum wharfage clause will be revised every 2 years to reflect current rates and conditions. CTC's tugs and barges will be exempt from the payment of dockage, except when engaged in cargo operations. Use of Pier 10 by vessels will be subject to the rates and charges then in effect, including rules and regulations, applying uniformly at the terminal facilities of PRPA.

Agreement No. T-3596.
Filing party: Ronaldo Rodriguez Ossorio, General Counsel, Puerto Rico Ports Authority, G.P.O. Box 2829, San Juan, P.R. 00936.
Summary: Agreement No. T-3596, between the Puerto Rico Ports Authority (Port) and Agencias Intermares, Inc. (AII), provides for the Port's 5-year renewable term lease to AII of certain premises at Pier 12, San Juan, P.R., to be used for the purpose of loading, unloading, handling, processing, packing, and distribution of corn, its derivatives or byproducts, and/or any other product for human or animal consumption. This lease confers upon AII the right of preference in the use of a berthing and adjacent platform area (10,395 square feet) and a cargo-in-transit area (19,015 square feet) as well as the exclusive use of a cargo shed (44,163 square feet). The Port shall permit others to use the berthing area when not in use by AII and AII shall operate the loading and unloading equipment and the packing and bagging equipment for such other vessels when so requested. As compensation, AII shall pay the Port $122.54 per month for the preferential rights and $5,520.37 per month for the exclusive rights granted under the agreement, plus all harbor dues, wharfage, dockage, demurrage, and other charges assessed according to the Port's tariff, subject to a minimum annual dockage and wharfage guarantee of $30,000 per annum.

Agreements Nos. T-3597, T-3597-A, and T-3597-B.
Filing party: Ronaldo Rodriguez Ossorio, General Counsel, Puerto Rico Ports Authority, G.P.O. Box 2829, San Juan, P.R. 00936.
Summary: Agreements Nos. T-3597, T-3597-A, and T-3597-B are between the Puerto Rico Ports Authority (Port) and Trailer Marine Transport Corp. (TMT). Agreement No. T-3597 grants TMT the preferential use of 310,105.585 square feet of improved dockage facilities and cargo-in-transit area and the exclusive use of: (a) two parcels aggregating 1,204,411.63 square feet; and (b) area in and around Hangar 22, Isla Grande, San Juan. The agreement's initial term in 15 years, with two consecutive 5-year renewal options. As compensation, the Port is to receive: (a) $15,505.28 annually for the preferential use areas; (b) $386,138.66 annually for the exclusive use areas, plus rental due from another lease between the parties; and (c) all Port dockage and wharfage charges, subject to a minimum annual guarantee of $1,000,000. The Port retains secondary berthing rights under the agreement, and dockage and wharfage collected from non-TMT vessels will be credited to TMT's minimum annual guarantee. Agreement No. T-3597-A provides for the construction and reimbursement of improvements at the facilities covered by Agreement No. T-3597. Agreement No. T-3597-B provides for TMT's lease of approximately 331,000 square feet at Hangar 22, Isla Grande, for use in connection with its marine terminal operations.

Agreement No. 57-110.
Filing party: D. D. Day, Jr., Chairman, Pacific Westbound Conference, 320 California Street, Suite 600, San Francisco, Calif. 94104.
Summary: Agreement No. 57-110 has been entered into by the member lines of the Pacific Westbound Conference for the purpose of updating the Appendix to Agreement No. 57 to reflect current Conference practices.

By Order of the Federal Maritime Commission.

Dated: March 8, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-6482 Filed 3-10-78; 8:45 am]

[6732-01]

FEDERAL MEDIATION AND CONCILIATION SERVICE

ARBITRATION SERVICES ADVISORY COMMITTEE

Meeting

Notice is hereby given that the Federal Mediation and Conciliation Service Arbitration Services Advisory Committee, in accordance with Section 10 of the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), will meet on Saturday, April 8, 1978, at 9:30 a.m. in the Wildcatter Room of the Fairmont Hotel, University Avenue, New Orleans, Louisiana.

The agenda is as follows:

1. Report on recertification of roster members.
2. Review of OAS case data fiscal year 1977.
3. Modifications in case handling.
4. Maintenance of roster information.
5. Regional arbitration decisions library.
6. Report on labor arbitrator development programs.
7. Report of Arbitrator Review Board.
8. Revisions of arbitration regulations (29 CFR 1404).

This meeting shall be open to the public.

Communications regarding this meeting should be addressed to:

Mr. John Canestraight, Associate Director, Office of Arbitration Services, Federal Mediation and Conciliation Service, Washington, D.C. 20427.

Signed at Washington, D.C. this 7th day of March 1978.

WAYNE L. HORVITZ,
Director.

[FR Doc. 78-6451 Filed 3-10-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

WYOMING BANCORPORATION

Acquisition of Bank

Wyoming Bancorporation, Cheyenne, Wyo., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares) of the voting shares of First Wyoming Bank-Gillette, Gillette, Wyo., a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than March 30, 1978.

Board of Governors of the Federal Reserve System, March 8, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-6438 Filed 3-10-78; 8:45 am]

[1610-01]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports

Review Staff, GAO, on March 3, 1978. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed ICC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before March 31, 1978, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5108, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

INTERSTATE COMMERCE COMMISSION

The Interstate Commerce Commission requests clearance of a revision to Form BOp-102, Notice to Commission of Intent to Perform Interstate Transportation for Certain Nonmembers Under Section 203(b)(5) of the Interstate Commerce Act. This form is required by 49 CFR 1047.20 to be filed once by a cooperative association, or federation of cooperative associations as defined in the Agriculture Marketing Act, which performs or proposes to perform transportation for nonmembers, who are neither farmers, cooperative associations, nor a nonfederation of cooperative associations, under Section 203(b)(5) of the Interstate Commerce Act. Such transportation is not otherwise exempt under Part II of the Act.

The form has been revised as a result of a rulemaking instituted by the Commission. The information called for on Form BOp-102 is ordinary business information readily available from basic records and requires no compilation of data. There are only 16 items of information and most of these relate to the names and addresses of the principal officers and directors.

On an average, approximately 35 organizations file this form each year. The estimated time required per response is 30 minutes. Reports are mandatory and available to the public.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc. 78-6459 Filed 3-10-78; 8:45 am]

[6820-24]

GENERAL SERVICES ADMINISTRATION

FEDERAL PROPERTY MANAGEMENT REGULATIONS, TEMPORARY REGULATION A-11, SUPPLEMENT 5

To: Heads of Federal agencies.

Subject: Changes to Federal Travel Regulations.

1. *Purpose.* This supplement (a) further amends FPMR 101-7, Federal Travel Regulations (FTR), to implement certain restrictions on the use of first-class travel accommodations by Federal employees for official domestic and international travel and (b) amends the provisions of Supplement 4 to FPMR Temporary Regulation A-11, dated April 29, 1977, to extend the expiration date, revise the definition of "employee," and incorporate changes to certain travel allowances which were previously promulgated.

2. *Effective date.* Except for the travel allowance changes reflected therein which are currently in effect, the provisions of attachment A to this supplement are effective for travel performed on or after April 1, 1978.

3. *Expiration date.* This regulation expires December 31, 1978, unless sooner superseded or canceled.

4. *Background.*

a. Government policy, as reflected in the FTR, has historically restricted the use of first-class travel accommodations by Federal employees traveling on official business. However, a recent review of the current regulations indicates a need to clarify and strengthen provisions governing the authorization and use of first-class accommodations. This supplement revises those provisions accordingly and modifies the definition of "employee," as used in chapter 1 of the FTR, to clarify that the term includes agency heads and other agency officials.

b. Changes to certain travel allowances, effective for travel performed on or after September 18, 1977, were promulgated to Federal agencies in an addendum to a GSA report entitled "Cost of Travel and Operation of Privately Owned Vehicles." The report and addendum were published in the FEDERAL REGISTER on September 14, 1977 (42 FR 46087). The changes implemented by the addendum are incorporated into the FTR by this supplement. For information, these changes are summarized as follows:

(1) An increase in the mileage allowance for use of a privately owned automobile and increases in the maximum daily rates for the designated high rate geographical areas (HRGA's) of Chicago, Ill., Newark, N.J., and San Francisco, Calif.;

(2) The redefinition of the boundaries of the HRGA of Los Angeles, Calif.; and

(3) The addition of 14 newly designated HRGA's.

5. *Explanation of changes.*

a. The expiration dates for FPMR Temporary Regulation A-11 and Supplement 4 thereto are extended to December 31, 1978.

b. The provisions of attachment A to this supplement amend the FTR, as amended by FPMR Temporary Regulation A-11, for the reasons given below. It should be noted that the changes to travel allowances referenced in paragraph (4), below, were previously promulgated and are republished in this supplement without change.

(1) Paragraph 1-1.3c(6) is revised to clarify that the definition of "employee" includes agency heads and other agency officials.

(2) Paragraph 1-3.3 is revised to (a) change the title; (b) limit the use of first-class accommodations by employees traveling on official Government business; (c) require agency authorization or approval or employee certification when first-class accommodations are used; (d) make the employee financially responsible to the Government for costs in excess of less-than-first-class air accommodations in the absence of specific authorization or approval; and (e) require agencies to submit to GSA semiannual reports on the extent of, and the justification for, the use of first-class air accommodations.

(3) Paragraph 1-3.4a is deleted. Provisions which formerly appeared in that paragraph are incorporated into paragraph 1-3.3b(3).

(4) Paragraphs 1-4.2a(2), 1-4.2c (1) and (2), and 1-8.6 are revised to reflect changes to travel allowances which are currently in effect.

(5) Paragraphs 1-11.6b (8) and (9) are revised to conform with the changes explained in paragraphs (2) and (3), above.

Dated: March 8, 1978.

JAY SOLOMON,
Administrator of General Services.

CHANGES TO FEDERAL TRAVEL REGULATIONS, FPMR 101-7

1. Paragraph 1-1.3c(6) is revised as follows:

1-1.3. General rules.

* * * * *

c. * * *

(6) *Employee.* As used in this chapter, "employee" means the head of an agency, and agency official, or any other individual employed in or under an agency. This definition also includes an individual employed intermittently in the Government service as an expert or consultant and paid on a daily when-actually-employed (WAE) basis and an individual serving without pay or at $1 a year (5 U.S.C. 5701(2)).

* * * * *

2. Paragraph 1-3.3 is revised as follows:

* * * * *

1-3.3. Travel policy, class of service authorized, and reports.

a. *General policy.* It is the policy of the Government that less-than-first-class accommodations shall be used for all modes of passenger transportation. Common carrier accommodations shall be as specifically provided in b, c, and d, below, and shall apply to both domestic and international travel of civilian employees while on official business for the Government.

b. *Train accommodations.*

(1) *Sleeping car accommodations.* When overnight travel is involved, the lowest first-class sleeping accommodations available shall be allowed. Higher cost accommodations may be authorized or approved upon certification by the employee on the travel voucher that lowest-first-class accommodations were not available or that use of superior accommodations were authorized or approved by the head of the agency concerned, or his designee, as being required for security purposes. When practicable, through sleeping accommodations shall be obtained if they are more economical to the Government.

(2) *Parlor car and reserved coach accommodations.* One seat in a parlor car may be allowed when the duration of the train travel exceeds 4 hours. However, when adequate reserved coach accommodations are available, officials authorizing travel shall require that those accommodations be used to the maximum extent possible.

(3) *Extra-fare trains.* Travel by extra-fare trains may be authorized or approved whenever their use is administratively determined to be more advantageous to the Government or is required for reasons of security. The use of National Railroad Passenger Corporation (AMTRAK) Metroliner coach service is considered to be advantageous to the Government.

c. *Steamer accommodations.* The minimum first-class accommodation will be allowed when a stateroom is included in the cost of passage or is a separate charge. Higher cost accommodations may be allowed upon certification by the employee on the travel voucher that lowest first-class accommodations were not available or that use of higher cost accommodations were authorized or approved by the head of the agency concerned, or his designee, as being required for security purposes. (See 1-3.6a for use of U.S.-flag ships.) The travel order or other administrative determination may, however, specify the use of an accommodation less costly than the minimum first-class accommodations when suitable for a particular voyage. The term "minimum first-class accommodation" as used in this paragraph means one which provides direct access from within the stateroom to a washbasin, shower or bath, and toilet.

d. *Airline accommodations.*

(1) *Policy.* It is the policy of the Government that employees who use commercial air carriers for domestic and international travel on official business shall use less-than-first-class accommodations. (See 1-3.6b for use of U.S.-flag air carriers.) Only limited exceptions to this policy may be permitted as set forth in 1-3.3d(3), below.

(2) *Authorization and approval of the use of first-class air accommodations.*

(a) *Authority limited to agency head.* Authority for authorizing and approving the use of first-class air accommodations shall be retained by the agency head, or his deputy, and shall not be redelegated. As used in this 1-3.3d, "agency head" means the Secretary, Attorney General, Administrator, Governor, Chairman, or chief official by any other title of an executive agency, as defined in 5 U.S.C. 105, an agency in the legislative branch of the Government, or the government of the District of Columbia.

(b) *Requirements.* Authorization for the use of first-class air accommodations shall be made in advance of the actual travel unless extenuating circumstances or emergency situations make advance authorization impossible. If advance authorization cannot be obtained, the employee shall obtain written approval from the agency head, or his deputy, at the earliest possible time.

(c) *Employee responsibility and documentation.* The employee shall certify on the travel voucher the reasons for the use of first-class air accommodations. Specific authorization or approval shall be attached to, or stated on, the travel voucher and retained for the record. In the absence of specific authorization or approval, the employee shall be responsible for all additional costs resulting from the use of first-class air accommodations. The additional costs shall be the difference between the first-class accommodations used and the next lower class below first-class.

(3) *Use of first-class air accommodations.* Circumstances justifying the use of first-class air accommodations are limited to those listed in (a) and (b), below.

(a) *Employee certification required.* First-class accommodations may be used when regularly scheduled flights between the authorized origin and destination points (including connection points) provide only first-class accommodations, and the employee certifies this circumstance on the travel voucher. *Note:* The use of first-class accommodations in this instance need not be reported under the provisions of 1-3.3d(4), below.

(b) *Agency authorization or approval required.* The agency head (as defined in 1-3.3d(2)(a), above), or his deputy, may authorize or approve the use of first-class air accommodations when:

(i) Space is not available in less-than-first-class acommodations on any scheduled flights in time to accomplish the purpose of the official travel, which is so urgent that it cannot be postponed;

(ii) First-class accommodations are necessary because the employee is so handicapped or otherwise physically impaired that other accommodations cannot be used, and such condition is substantiated by competent medical authority;

(iii) First-class accommodations are required for security purposes or because exceptional circumstances, as determined by the agency head, or his deputy, make their use essential to the successful performance of an agency mission; or

(iv) Less-than-first-class accommodations on foreign carriers do not provide adequate sanitation or health standards.

(4) *First-class air accommodations report.* Heads of agencies shall submit semiannual reports on the use of first-class air accommodations to the Administrator of General Services (A), Washington, D.C. 20405, within 60 calendar days after the periods ending September 30 and March 31 of each fiscal year. The first report shall be submitted by November 30, 1978. Negative reports are required. Interagency Report Control Number 0167-GSA-SA has been assigned to this report in accordance with FPMR 101-11.11. The reports shall indicate the total number of emplyees whose use of first-class air accommodations was authorized or approved, the total additional cost to the Government, and the following information for each trip in the order shown:

(a) Name, grade, and position or title of each employee whose use of first-class air accommodations was authorized or approved;

(b) Origin and destination or segments on which first-class accommodations were used;

(c) Additional cost to the Government resulting from the difference between the first-class accommodations used and the next lower class accommodations below first-class; and

(d) Explanation of circumstances justifying the use of the first-class air accommodations, the name and title of

the authorizing or approving official, and, if a foreign air carrier was used, the name of the carrier.

3. Paragraph 1-3.4.a is reserved as follows:

1-3.4. Special fares.

a. *Reserved.*

* * * * *

4. Paragraphs 1-4.2a(2) and 1-4.2c (1) and (2) are revised as follows:

1-4.2. When use of a privately-owned conveyance is advantageous to the Government.

a. * * *

(2) For use of a privately owned automobile: 17 cents per mile.

* * * * *

c. * * *

(1) *Round trip when in lieu of taxicab to carrier terminals.* In lieu of the use of a taxicab under 1-2.3c, payment on a mileage basis at the rate of 17 cents per mile and other allowable costs as set forth in 1-4.1c shall be allowed for the round-trip mileage of a privately owned automobile used by an employee going from either his home or place of business to a terminal or from a terminal to either his home or place of business. However, the amount of reimbursement for the round trip shall not in either instance exceed the taxicab fare, including tip, allowable under 1-2.3c for a one-way trip between the applicable points.

(2) *Round trip when in lieu of taxicab between residence and office on day of travel.* In lieu of the use of a taxicab under 1-2.3d, payment on a mileage basis at the rate of 17 cents per mile and other allowable costs as set forth in 1-4.1c shall be allowed for round-trip mileage of a privately owned automobile used by an employee going from his residence to his place of business or returning from place of business to residence on a day travel is performed. However, the amount of reimbursement for the round trip shall not in either instance exceed the taxicab fare, including tip, allowable under 1-2.3d for a one-way trip between the points involved.

* * * * *

5. Paragraph 1-8.6 is revised as follows: 1-8.6. *Designated high rate geographical areas.* Pursuant to the provisions of 1-8.1b and 1-8.2a(1), for temporary duty travel to or within the cities designated as high rate geographical areas below, a traveler automatically shall be placed in an actual subsistence expense status and shall be reimbursed for the actual and necessary subsistence expenses incurred not to exceed the maximum rate prescribed for the particular geographical area involved.

Designated high rate geographical areas	Prescribed maximum daily rates
Albany, N.Y.[1]	$39
Baltimore, Md.[1]	41
Boston, Mass. (all locations within the corporate limits of Boston and Cambridge, Mass.)	49
Bridgeport, Conn.[1]	40
Chicago, Ill.[1]	45
Charleston, W. Va.[1]	39
Dallas, Tex.[1]	39
Detroit, Mich.[1]	42
Hartford, Conn.[1]	39
Houston, Tex.[1]	41
Las Vegas, Nev.[1]	48
Los Angeles, Calif. (all locations within the county of Los Angeles)	40
Miami, Fla.[1]	43
Milwaukee, Wis.[1]	39
Minneapolis, Minn. (all locations within the corporate limits of Minneapolis-St. Paul, Minn.)	41
Newark, N.J.[1]	45
New Orleans, La. (all locations within the parish of Orleans, La.)	44
New York, N.Y. (all locations within the Boroughs of the Bronx, Brooklyn, Manhattan, Queens, and Staten Island)	50
Philadelphia, Pa.[1]	46
Providence, R.I.[1]	40
San Francisco, Calif. (all locations within the corporate limits of San Francisco and Oakland, Calif.)	45
Washington, D.C. (all locations within the corporate limits of Washington, D.C.; the cities of Alexandria, Falls Church, and Fairfax, and the counties of Arlington, Loudoun, and Fairfax in Virginia; and the counties of Montgomery and Prince Georges in Maryland)	50

[1] All locations within the corporate limits thereof.

6. Paragraphs 1-11.6b (8) and (9) are revised as follows:

1-11.6. Administrative approvals.

* * * * *

b. * * *

(8) *Use of accommodations superior to those authorized (1-3.3).*

(9) *Use of extra-fare trains (1-3.3b(3)).*

* * * * *

[FR Doc. 78-6599 Filed 3-10-78; 8:45 am]

[6820-23]

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Meeting

MARCH 8, 1978.

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 3, on March 28 and 29, 1978, from 10 a.m. to 4 p.m., in Room 2636 of the GSA Regional Office Building, Seventh and D Streets SW., Washington, D.C. The meeting will be devoted to the initial stage of the process for screening and evaluating prospective architect-engineer firms to furnish professional services required in connection with development of a new Master Plan for completion of the Federal Triangle, Washington, D.C. (GS-03B-88186/89036). The meeting will be open to the public.

JOHN F. GALUARDI,
Regional Administrator.

[FR Doc. 78-6510 Filed 3-10-78; 8:45 am]

[4110-02]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

Meeting

AGENCY: Office of Education, National Advisory Council on Women's Educational Programs.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Women's Educational Programs and its Executive, Federal Policy and Practices, Legislation, Program, and Public Information Committees. It also describes the functions of the Council. Notice of the meeting is required pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463). This document is intended to notify the general public of their opportunity to attend.

DATES: March 28, 1978, 7 p.m. to 10 p.m.; March 29 and 30, 8:30 a.m. to 5 p.m.; and March 31, 8:30 a.m. to noon.

ADDRESS: 1832 M Street NW., Suite 821, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Kathleen Maurer, National Advisory Council on Women's Educational Programs, 1832 M Street NW., No. 821, Washingtn, D.C. 20036, 202-653-5846.

The National Advisory Council on Women's Educational Program is established pursuant to Pub. L. 93-380, section 408(f)(1). The Council is mandated to (a) advise the Commissioner with respect to general policy matters relating to the administration of the Women's Educational Equity Act of 1974; (b) advise and make recommendations to the Assistant Secretary concerning the improvement of educational equity for women; (c) make recommendations to the Commissioner with respect to the allocation of any funds pursuant to section 408 to Pub. L. 93-380, including criteria developed to insure an appropriate distribution of approved programs and projects throughout the Nation; (d) make such reports to the President and the Congress on the activities of the Council as it determines appropriate; (e) develop criteria for the establishment of program priorities; and (f) disseminate information concerning its activities under section 408 of Pub. L. 93-380.

The meeting of the Executive Committee will take place on March 28, 1978, from 7 p.m. to 10 p.m. The agenda will include plans for the Council meeting as well as a performance review of the executive director. From 8 p.m.to 9 p.m. the meeting will be closed to the public for the performance review. This portion of the meeting will touch upon matters which would constitute a serious invasion of privacy if conducted in an open session. Furthermore, the discussion will pertain solely to internal personnel matters. Such matters are protected by exemptions (2) and (6) of section 552b(c), Title V, U.S.C. The 8 p.m. to 9 p.m. session will therefore be closed to the public as provided in Section 10(d) of the Federal Advisory Committee Act.

The meeting of the Federal Policy and Practices Committee, the Legislation Committee, the Program Committee, and the Public Information Committee will take place on March 29, 1978, from 8:30 a.m. to 5 p.m. The agenda for the Federal Policy and Practices Committee will include discussion of actions taken in response to Council recommendations contained in the review of the Education Division of HEW, and discussion of how the proposed Department of Education might affect women and girls.

The agenda for the Legislation Committee will include discussion of the Women's Educational Equity Act and pending legislation and regulations as they affect women. The agenda for the Program Committee will include discussion of evaluation efforts directed toward the WEEA Program. The agenda for the Public Information Committee will include discussion of upcoming Council publications.

The meeting of the National Advisory Council on Women's Educational Program will take place from 8:30 a.m. to 5 p.m. on March 30 and from 8:30 a.m. to noon on March 31, 1978. The agenda will include (1) report of the executive director; (2) report of the Women's Program Staff; (3) committee report; (4) new business.

The meeting of the Council and the committees will be open to the public except for the 8 p.m. to 9 p.m. session of the Executive Committee on March 28. Records will be kept of the proceedings and will be available for public inspection. A summary of the activities at the closed session which are informative to the public consistent with the policy of Title 5 U.S.C. 552b(c) will be available to the public within 14 days of the March 28 closed session.

Signed at Washington, D.C. on March 7, 1978.

JOY R. SIMONSON,
Executive Director.

[FR Doc. 78-6495 Filed 3-10-78; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD-609; FDAA-547-DR]

CALIFORNIA

Major Disaster and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of California (FDAA-547-DR), dated February 15, 1978, and related determinations.

DATED: February 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on February 15, 1978, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of California resulting from severe storms, high tides, wave action, high winds, mudslides, and flooding, beginning about February 5, 1978, is of sufficient severity and magnitude to warrant a major disaster declaration under Pub. L. 93-288. I therefore declare that such a major disaster exists in the State of California.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Robert C. Stevens, FDAA Region IX, to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas to have been adversely affected by this declared major disaster.

The Counties of: Kern, Los Angeles, Orange, Riverside, San Bernardino, Santa Barbara, Tulare, and Ventura.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

WILLIAM H. WILCOX,
Administrator, Federal Disaster Assistance Administration.

[FR Doc. 78-6500 Filed 3-10-78; 8:45 am]

[4210-01]

[Docket No. NFD-610; FDAA-550-DR]

MAINE

Major Disaster and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Maine (FDAA-550-DR), dated February 17, 1978, and related determinations.

DATED: February 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on February 17, 1978, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Maine resulting from high winds, tidal surge, and coastal flooding, beginning about February 6, 1978, is of sufficient severity and magnitude to warrant a major disaster declaration under Pub. L. 93-288 for the purpose of providing Federal assistance to State and local governments and individuals. I have further determined that the damage resulting from snow and ice, beginning about February 7, 1978, is sufficient to warrant implementation of those programs of Federal agencies that provide assistance to individuals only, as authorized by Pub. L. 93-288. I therefore declare that such a major disaster exists in the State of Maine.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Au-

thority, Docket No. D-74-285, I hereby appoint Mr. Arthur T. Doyle of the Federal Disaster Assistance Administration to act for this declared major disaster.

I do hereby determine the following areas of the State of Maine to have been adversely affected by this declared major disaster.

The Counties of: Cumberland, Lincoln, Washington, and York.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS R. CASEY,
Acting Administrator, Federal Disaster Assistance Administration.

[FR Doc. 78-6501 Filed 3-10-78; 8:45 am]

[4210-01]

[Docket No. NFD-611; FDAA-546-DR]

MASSACHUSETTS

Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of Major Disaster Declaration for the State of Massachusetts (FDAA-546-DR), dated February 10, 1978.

DATED: February 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary of the Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on February 14, 1978 the President amended his major disaster declaration of February 10, 1978, as follows:

I hereby amend my February 10, 1978 declaration of a "major disaster" for the State of Massachusetts to read as follows:

I have determined that the damage in certain areas of the State of Massachusetts resulting from high winds, tidal surge, and coastal flooding, beginning about February 6, 1978, is of sufficient severity and magnitude to warrant a major disaster declaration under Pub. L. 93-288. I have further determined that the damage resulting from snow and ice, beginning about February 6, 1978, in the eight counties previously designated as eligible for Federal assistance by the Administrator of the Federal Disaster Assistance Administration is sufficient to warrant implementation of those programs of Federal agencies that provide assistance to individuals only, as authorized by Pub. L. 93-288. I therefore declare that such a major disaster exists in the State of Massachusetts.

This amendment is being made so that assistance may be made available to individuals and State and local governments for losses incurred as a result of high winds and tidal surge, in addition to those caused by coastal flooding, as stipulated in my declaration of February 10, 1978. In addition, this amendment authorizes the provision of Federal assistance to individuals only, as authorized by Pub. L. 93-288, for damages resulting from snow and ice, beginning about February 6, 1978.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

WILLIAM H. WILCOX,
Administrator, Federal Disaster Assistance Administration.

[FR Doc. 78-6503 Filed 3-10-78; 8:45 am]

[4210-01]

[Docket No. NFD-606; FDAA-549-DR]

NEW HAMPSHIRE

Major Disaster and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of New Hampshire (FDAA-549-DR) dated February 16, 1978, and related determinations.

DATED: February 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143), notice is hereby given that on February 16, 1978, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of New Hampshire resulting from high winds, tidal surge, and coastal flooding, beginning about February 6, 1978, is of sufficient severity and magnitude to warrant a major disaster declaration under Pub. L. 93-288 for the purpose of providing Federal assistance to State and local governments and individuals. I have further determined that the damage resulting from snow and ice, beginning about February 6, 1978, is sufficient to warrant implementation of those programs of Federal agencies that provide assistance to individuals only, as authorized by Pub. L. 93-288. I therefore declare that such a major disaster exists in the State of New Hampshire.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. E. Paul Hartsell of the Federal Disaster Assistance Administration to act for this declared major disaster.

I do hereby determine the following area of the State of New Hampshire to have been adversely affected by this declared major disaster.

The County of Rockingham

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

THOMAS R. CASEY,
Acting Administrator, Federal Disaster Assistance Administration.

[FR Doc. 78-6498 Filed 3-10-78; 8:45 am]

[4210-01]

[Docket No. NFD-604; FDAA-3061-EM]

NORTH DAKOTA

Amendment to Notice of Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of Emergency Declaration for the State of North Dakota (FDAA-3061-EM), dated February 16, 1978.

DATED: February 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: The Notice of Emergency for the State of North Dakota dated February 16, 1978, and amended on February 19, 1978, is hereby further amended to include the following counties among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of February 16, 1978:

The Counties of: Bowman and Slope.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

WILLIAM H. WILCOX,
Administrator, Federal Disaster Assistance Administration.

[FR Doc. 78-6496 Filed 3-10-78; 8:45 am]

[4210-01]

[Docket No. NFD-605; FDAA-3061-EM]

NORTH DAKOTA

Amendment to Notice of Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of Emergency Declaration for the State of North Dakota (FDAA-3061-EM), dated February 16, 1978.

DATED: February 19, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: The Notice of Emergency for the State of North Dakota dated February 16, 1978, is hereby amended to include the following county among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of February 16, 1978:

The county of Emmons.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS R. CASEY,
Acting Administrator, Federal Disaster Assistance Administration.

[FR Doc. 78-6497 Filed 3-10-78; 8:45 am]

[4210-01]

[Docket No. NFD-608; FDAA-3061-EM]

NORTH DAKOTA

Emergency Declaration and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of an emergency for the State of North Dakota (FDAA-3061-EM), dated February 16, 1978, and related determinations.

Dated: February 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on February 16, 1978, the President declared an emergency as follows:

I have determined that the impact of an abnormal accumulation of snow resulting from a blizzard and snowstorms in the State of North Dakota is of sufficient severity and magnitude to warrant a declaration of an emergency under Pub. L. 93-288. I therefore declare that such an emergency exists in the State of North Dakota.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. David P. Grier IV, of the Federal Disaster Assistance Administration to act as the Federal Coordinating Officer for this declared emergency. I do hereby determine the following areas of the State of North Dakota to have been adversely affected by this declared emergency:

The counties of Adams, Billings, Golden Valley, Grant, Hettinger, and Sioux.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

WILLIAM H. WILCOX,
Administrator, Federal Disaster Assistance Administration.

[FR Doc. 78-6502 Filed 3-10-78; 8:45 am]

[4210-01]

[Docket No. NFD-607; FDAA-548-DR]

RHODE ISLAND

Major Disaster and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Rhode Island (FDAS-548-DR), dated February 16, 1978, and related determinations.

DATE: February 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on February 16, 1978, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Rhode Island resulting from snow and ice beginning about February 6, 1978, is of sufficient severity and magnitude to warrant implementation of those programs of Federal agencies that provide assistance to individuals only, as authorized by Pub. L. 93-288. I therefore declare that such a major disaster exists in the State of Rhode Island.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Joe D. Winkle of the Federal Disaster Assistance Administration to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Rhode Island to have been adversely affected by this declared major disaster.

The counties of: Bristol, Kent, Newport, Providence, and Washington.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS R. CASEY,
Acting Administrator, Federal Disaster Assistance Administration.

[FR Doc. 78-6499 Filed 3-10-78; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Office of the Attorney General

[Order No. 768-78]

FREEDOM OF INFORMATION

Published and Unpublished Indexes to Final Opinions and Orders, Statements of Policy and Interpretations, and Administrative Staff Manuals and Instructions

Under subsection (a)(2) or the Freedom of Information Act, 5 U.S.C.

552(a)(2), each agency is required to maintain and make available for public inspection and copying current indexes to the agency's materials relating to certain final opinions and orders, statements of policy and interpretations, and administrative staff manuals and instructions. These indexes are required to be published at quarterly or more frequent intervals and distributed, unless the agency determines by order published in the FEDERAL REGISTER that such publication would be unnecessary and impracticable. The purpose of this order is to bring the Department of Justice into compliance with these requirements of subsection (a)(2) of the Freedom of Information Act.

By virtue of the authority vested in me by 28 U.S.C. 509, and 5 U.S.C. 301 and 552, it is hereby ordered as follows:

1. It is determined that it is unnecessary and impracticable to publish quarterly or more frequently the indexes to the Department of Justice materials indicated below. This determination is made because (a) there is insufficient interest to justify such publication; (b) with respect to some or the indexes listed continual updating and revision is required to reflect the frequent addition of materials; (c) with respect to other indexes changes are too infrequent to warrant quarterly publication; and (d) the practical utility of the indexes does not warrant such publication.

2. Indexes to the materials listed below can be inspected at the Department of Justice Reading Room, Room 1266, 10th and Pennsylvania Avenue NW., Washington, D.C. 20530, except that there are separate public reading rooms maintained by certain Departmental organizations at other locations as noted below. With respect to those materials which are individual documents and not part of a series of similar documents, the list set forth below, together with the headings under which such materials are listed, itself constitutes an index to such materials. In the interests of facilitation of public availability of information, the list set forth below has been prepared with a view to inclusiveness, and accordingly it is possible that a few of the documents or portions therof referred to below are not of an (a)(2) character or are exempted by subsection (b) of the Act.

The indexes to the (a)(2) materials of the Federal Bureau of Investigation are currently being revised, and will be published at a later date.

(a) *Antitrust Division.* (1) Antitrust Division Manual, chapter 1 (Organization of the Department and the Division), chapter 5 (Policy and Planning), and chapter 6 (Miscellaneous).

(2) Investigations of Cases of Price-Fixing, except for sample documents B, C, P, and G.

(3) Antitrust Guide for International Operations.

(4) Report to the Attorney General Pursuant to Section 6 of the Alaska Natural Gas Transportation Act of 1976.

(b) *Board of Immigration Appeals.* Public Reading Room, Room 1122, Safeway Building, 521 12th Street NW., Washington, D.C.:

(1) Selected Decisions Designated as Precedents; published periodically in hard cover and as slip opinions by the Government Printing Office.

(2) Precedent and Selected Non-precedent Decisions; indexed by subject matter in reading room.

(c) *Bureau of Prisons.* Public Reading Room, 117 D Street NW., Washington, D.C.:

(1) Numerical and Alphabetical Listings of Effective Policy Statements: (i) General Management and Administration; (ii) Laws and Legal Matters; (iii) Personnel Management; (iv) Budget Management; (v) Research, Development and Statistics; (vi) Accounting Management; (vii) Procurement and Warehouse Management; (viii) Commissary Management; (ix) Miscellaneous Business and Fiscal Management; (x) Custodial Management; (xi) Food Service Management; (xii) Farm Service Management; (xiii) Safety Standards and Procedures; (xiv) Jail Administration; (xv) Facilities and Equipment; (xvi) Industrial Management; (xvii) Medical Service Management; (xviii) Parole Board; (xix) Information Systems.

(2) Numerical and Alphabetical Listings of Effective Operations Memoranda: (i) General Management and Administration; (ii) Personnel Management; (iii) Budget Management; (iv) Inmate Management; (v) Accounting Management; (vi) Procurement and Warehousing Management; (vii) Commissary Management; (viii) Safety Standards and Procedures; (ix) Industrial Management.

(d) *Civil Division.* (1) Civil Division Practic Manual; (2) Civil Division Orders and Directives.

(e) *Civil Rights Division.* (1) Submissions under Section 5 of the Voting Rights Act of 1965.

(f) *Community Relations Service.* Public Reading Room, Room 667B, Todd Building, 550 11th Street NW., Washington, D.C.: (1) Community Relations Service Directives Manual; (2) Memoranda from the Director; policy and position statements.

(g) *Criminal Division.* (The Criminal Division is currently revising all of its policy memoranda for inclusion in the new United States Attorneys' Manual; when published this Manual will supersede all existing publications of the Division, and its index will constitute the (a)(2) index and will be published in the FEDERAL REGISTER):

(1) Miscellaneous Memoranda; including circulars, orders, directives to staff and notices.

(2) Compilations of Legislative Materials.

(3) Adversary Hearings Memorandum.

(4) Authority to Compromise Civil Penalties Assessed Under the Coal Mine Health and Safety Act of 1969, 30 U.S.C. Sections 801 et seq. (Criminal Division Memorandum No. 802 to United States Attorneys).

(5) Copyright Protection of Sound Recordings (Criminal Division Manual, April 1973).

(6) Deletion of Portions of Motion Picture Films or Other Materials or Their Reexportation After Seizure by the Bureau of Customs as Obscene and Inadmissible Under 19 U.S.C. 1305 (Criminal Division Memorandum No. 767 to United States Attorneys.).

(7) Extradition Handbook (Criminal Division Manual, December 1974).

(8) Extradition-Provisional Arrest (Criminal Division Memorandum of November 8, 1974, to Section Chiefs).

(9)Handbook for Federal Obscenity Prosecutions (Criminal Division Manual, June 1972).

(10) Handling of Obscene Private Correspondence Cases, 18 U.S.C. 1461 (Criminal Division Letter of August 31, 1964, to United States Attorneys).

(11) Sound Recording Piracy; Violations of 17 U.S.C. 104 (Criminal Division Memorandum No. 798 to United States Attorneys).

(h) *Drug Enforcement Administration.* Public Reading Room, Room 200, 1405 Eye Street NW., Washington, D.C.:

(1) DEA/Registrant Memorandums of Understanding; signed by registrant and DEA official, 21 CFR Part 1300.

(2) DEA Policy and Guidelines not published in the FEDERAL REGISTER.

(3) Tort Claims.

(4) Petitions for Remission of Mitigation of Forfeiture.

(5) Privacy Act—Policy Statements.

(6) Final Orders.

(7) Legal Opinions by Chief Counsel.

(8) Memoranda of Understanding between States and DEA/BNDD/DBAC/FBN.

(9) Compliance Administrative Manual.

(i) *Executive Office for United States Attorneys.* (The Executive Office for United States Attorneys is currently revising all of its policy memoranda for inclusion in the new United States Attorneys' Manual; when published this manual will supersede the existing U.S. Attorneys' Manual and its index will constitute the (a)(2) index and will be published in the FEDERAL REGISTER):

(1) United States Attorneys' Manual.

(2) United States Attorneys' Bulletins.

(3) Proving Federal Crimes, 6th edition, April 1976.

(j) *Immigration and Naturalization Service.* Public Reading Room, 425 I Street NW., Washington, D.C., and at all I&NS District Offices:

(1) Administrative Decisions Under Immigration and Naturalization Laws (including both precedent and nonprecedent decisions).

(2) Administrative Manual.

(3) Authority of Officers of the Immigration and Naturalization Service to Make Arrests (M-69).

(4) Border Patrol Handbook.

(5) Guide for the Inspection and processing of Citizens and Aliens by Officers Designated as Immigration Inspectors (M-94).

(6) Immigrant Inspector's Handbook.

(7) Investigator's Handbook.

(8) Naturalization Examiner's Guide.

(9) Officers' Handbook(M-68).

(10) Operations Instruction and Interpretations (the latter pertaining to nationality acquisition and loss).

(k) *Land and Natural Resources Division.* (1) Federal Eminent Domain (a two-volume manual).

(2) Federal Condemnation Manual—1951.

(3) Federal Condemnation Handbook (two volumes).

(4) Condemnation Seminar, Volume I—1962.

(5) Condemnation Seminar, Volume II—1963.

(6) Condemnation Seminar, Volume III—1964.

(7) Condemnation Seminar, Volume IV—1966.

(8) Condemnation Seminar, Volume V—1971.

(9) Condemnation Seminar, Volume VI—1973.

(10) Guidelines for Federal Water Pollution Control litigation—January 18, 1973.

(11) Layman's Guide to Investigating Section 10 Violations—1975.

(12) Directive No. 7-68, Settlement Policy and Guidelines in Condemnation Cases.

(13) Standards for the Preparation of Title Evidence in Land Acquisitions by the United States.

(14) Guidelines for Investigations of Violations of the 1899 Refuse Act.

(15) Title Evidence Requirements for Condemnation Cases—August 1, 1973.

(16) Regulations of the Attorney General Promulgated in Accordance with the Provisions of Public Law 91-393, Approved September 1, 1970, 84 Stat. 835, An Act to Amend Section 355 of the Revised Statutes, as Amended, Concerning Approval by the Attorney General of the Title to Lands Acquired for and on Behalf of the United States.

(17) Manual of Organization, Operation and Procedures.

(18) Analysis of Uniform Relocation Assistance and Real Property Acquisition Act of 1970—March 9, 1971.

(19) Land Acquisition Program Statement.

(1) *Law Enforcement Assistance Administration.* Public Reading Room, 633 Indiana Avenue NW., Washington, D.C.:

(1) Legal Opinions of the Office of General Counsel of the Law Enforcement Assistance Administration, United States Department of Justice, seven indexed volumes, each covering the following time periods:

(i) January 1, 1969, to June 30, 1973;

(ii) July 1, 1973, to December 31, 1973;

(iii) January 1, 1974, to June 30, 1974;

(iv) July 1, 1974, to December 31, 1974;

(v) January 1, 1975, to June 30, 1975;

(vi) July 1, 1975, to December 31, 1975;

(vii) January 1, 1976, to June 30, 1976.

(2) Numerical Checklist of Effective LEAA Directives (Instruction 0000.2 "0", November 11, 1976).

(3) Current Listing of LEAA External Directives (Guidelines 0000.6F, March 10, 1976).

(4) Implementation of the Privacy Act of 1974 (Instruction 1030.4, November 25, 1975).

(5) Standards of Conduct (Instruction 1561.3, November 3, 1976).

(6) Freedom of Information Act Amendments (Instruction 1600.4A, May 29, 1975).

(7) Attorney General's Memorandum on the 1974 Amendments to the Freedom of Information Act (Instruction 1600.5, March 7, 1975).

(8) Department of Justice Freedom of Information Act Regulations (28 CFR Part 16-A).

(9) Reallocation of LEAA Categorical Grant Funds (Instruction 4050.1, December 11, 1975).

(10) Eligibility for Grants (Instruction 4060.2, September 10, 1974).

(11) State Planning Agency Grants (Manual 4100.1F, January 18, 1977).

(12) Guide for Discretionary Grant Programs (Manual 4500.1E, September 27, 1976).

(13) Law Enforecement Education Program (Manual 5200.1B, May 6, 1975; Change-1, October 8, 1975).

(14) Competitive Graduate Research Fellowship Program (Guideline 5400.2, December 23, 1974).

(15) Guidelines for the Graduate Research Program: National Criminal Justice Educational Development Consortium Institutions. (Guideline 5400.3, January 27, 1975).

(16) Participation Criteria for Internship Program (Guideline 5500.1A, November 7, 1973).

(17) LEAA Visting Fellowship Program (Guideline 6010.1A, March 23, 1977).

(18) Use of LEAA Funds for Psychosurgery and Medical Research (Guideline 6060.1A, June 18, 1974).

(19) Comprehensive Data Systems Program (Manual 6640.1, April 27, 1976).

(20) Financial Management for Planning and Action Grants (Manual 7100.1A, April 30, 1973; Change-1, January 24, 1974; Change-2, December 18, 1974; Change-3, October 29, 1975).

(21) Principles for Determining Travel Cost Applicable to LEAA Grants (Guideline 7100.3A, January 28, 1976).

(22) Distribution, Resolution and Clearance of Audit Reports (Guideline 7140.1A, January 11, 1974).

(23) Reporting of Possible LEAA Fund Misuse, Criminal Activity, Conflict of Interest, or other Serious Irregularities (Guideline 7140.2, December 12, 1973).

(24) Construction Contracts—Equal Employment Opportunity Procedure for Submitting Information on Construction and Renovation Contracts (Guideline 7400.1B, June 4, 1974).

(25) The Effect of Minorities and Women of Minimum Height Requirements for Employment of Law Enforcement Officers (Guideline 7400.2A, June 18, 1974).

(26) Representation of Minorities and Women on Supervisory Boards of Criminal Justice State Planning Agencies and Regional Planning Units (Guideline 7400.4, August 19, 1974).

(27) Addresses of LEAA Regional Offices and State Planning Agencies (Guideline 1300.1G, March 29, 1977).

(28) Organization and Functions (Handbook 1320.1A, September 29, 1976).

(29) LEAA Directives System Handbook (Handbook 1332.1B, March 5, 1975).

(30) Dissemination of Grants Management Information Systems Data (Instruction 1340.1, February 1, 1974).

(31) LEAA Mailing Lists and Categories (Instruction 1441.1B, September 18, 1975).

(32) Procedure for Requesting Personnel Actions Under the Inter-Governmental Personnel Actions (Instruction 1520.1, May 22, 1972).

(33) Procedure for Employment of Experts and Consultants in LEAA (Instruction 1520.4A, October 4, 1976).

(34) Equal Employment Opportunity (Handbook 1563.1A, September 9, 1976).

(35) Establishing Contact with Female and Minority Candidates for Employment in LEAA Regional Offices (Instruction 1563.2, July 23, 1975).

(36) Procedures for Processing Complaints of Discrimination Based on Race, Color, Sex, Age and National Origin (Instruction 1563.3A, May 18, 1976).

(37) Grant Manager Procurement (Handbook 1700.6, February 7, 1973; Change 1, March 28, 1973; Change 2, January 25, 1974).

(38) Source Evaluation Board for Competitive Contracts (Instruction 1700.9, March 11, 1977).

(39) Procurement—Minority Business Contracting (Instruction 1701.1, March 23, 1972).
(40) Procurement References Library (Instruction 1701.5, May 18, 1973).
(41) Procurement of Non-Personal Services (Instruction 1701.7, November 25, 1974).
(42) Planning Grant Review and Processing Procedures (Handbook 4210.1C, May 17, 1976).
(43) Guide for Discretionary Grant Programs (Manual 4500.1E, September 27, 1976; Change 1, January 21, 1977).
(44) Procedures for Administration of Categorical Grants (Handbook 4500.2, February 8, 1977).
(45) Categorical Grant Processing Procedures (Handbook 4560.1A, October 23, 1975).
(46) Law Enforcement Education Program (Manual 5200.1B, May 6, 1975; Change 1, October 8, 1975).
(47) Law Enforcement and Criminal Justice Training Programs—Section 402(b)(6) (Instruction 5700.1, November 9, 1973).
(48) Applicability of the Guideline Manual for the Financial Management for Planning and Action Grants (Instruction 7100.2, July 1, 1974).
(49) Construction Contracts—Equal Employment Opportunity Procedure (Guideline 7400.1B, June 4, 1974).
(50) Equal Employment Opportunity Programs (Instruction 7400.3, February 13, 1974).

(m) *Offices of the Attorney General, Deputy Attorney General and Associate Attorney General.* (1) Letters to Congress specifically outlining Freedom of Information policies and procedures.
(2) Annual Report to Congress concerning the implementation of the Freedom of Information Act.
(3) Final determinations by the Attorney General and/or the Deputy Attorney General on Freedom of Information appeals.
(4) Synopses of Department of Justice applications of exemptions in the Freedom of Information Act, pursuant to administrative appeals filed under the provisions of that Act.
(5) Miscellaneous memoranda.

(n) *Office for Improvements in the Administration of Justice.* (1) Guidelines relating to use of statutory provisions to compel testimony or production of information.

(o) *Office of Legal Counsel.* (1) Opinions of the Attorney General; bound volumes and slip opinions.

(p) *Office of Legislative Affairs.* (1) Index of speeches, testimony, remarks of Attorney General, Deputy Attorney General and other officers and employees of the Department. The material is compiled chronologically, beginning with the 92d Congress, and is cumulative.
(2) Index of reports to Congress on pending legislation. The material is compiled numerically according to bill number, beginning with the 92d Congress, and is cumulative.
(3) Index of Congressional correspondence which sets forth official Department policies and positions. The material is listed by the writer's name, beginning about June, 1974, and is cumulative.

(q) *Office of Management and Finance.* (1) Final Decisions in Discrimination Complaints against the Department.
(2) Decisions on Adverse Actions and Discipline of Personnel.
(3) Decisions on Classification Appeals.
(4) Personnel Management Plans.
(5) EEO Affirmative Action Plans.
(6) Order DOJ 0000.4H, Directives Index as of March 31, 1976—Bureaus. (This material covers more than one component.)
(7) Order OBD 0000.1B, Directives Index as of March 31, 1976—Offices, Boards, Divisions, and Division Field Offices. (This material covers more than one component.)

(r) *Office of Public Information.* Room 5114, Justice Building, 10th and Constitution Avenue NW., Washington, D.C.:
(1) Speeches. Cumulative. Contains listing of speeches by Attorneys General, Assistant Attorneys General, Deputy Attorneys General, and Deputy Assistant Attorneys General.
(2) Press Releases, Testimonies, Statements. Cumulative. Contains listing of press releases and statements of policy issued by the Department; testimonies before the Congress by heads of the Department, Division, Offices, Boards and Bureaus.

(s) *Tax Division.* (1) Guide for the Preparation of Written Communications in the Tax Division.
(2) Institute on Criminal Tax Trials, 1975.
(3) Manual for Criminal Tax Trials.
(4) Organization, Operation and Procedure Manual.
(5) Tax Division Uniform System of Citation and Instructions on Briefs.
(6) United States Attorneys' Guide; Policies Affecting the Processing of Tax Fraud Cases.
(7) Policy statement regarding interrogation of jurors after trial and the obtaining of name checks on jurors (November 29, 1967).
(8) Policy statement regarding name checks of witnesses in civil and criminal tax cases (November 29, 1967).
(9) Memorandum from the Assistant Attorney General, Tax Division, outlining the policy on tax prosecution press releases (January 12, 1971).
(10) Memorandum from the Assistant Attorney General, Tax Division, regarding prevention of the departure of aliens who have failed to obtain a certificate of compliance from the Internal Revenue Service (May 9, 1972).
(11) Memorandum from the Assistant Attorney General, Tax Division, setting forth procedures for mailing of complaints in tax refund suits (January 5, 1973).
(12) Memorandum from the Assistant Attorney General, Tax Division, establishing guidelines concerning the use of post-trial motions for judgment n.o.v. (January 2, 1974).
(13) Policy statement regarding inspection of tax returns of members of the federal judiciary (February 6, 1974).
(14) Memorandum from the Assistant Attorney General, Tax Division, elaborating upon the policy statement regarding inspection of tax returns of members of the federal judiciary (February 8, 1974).
(15) Memorandum from the Attorney General regarding statutory restrictions on the disclosure of income tax returns (April 24, 1974).
(16) Policy statement regarding opposing attorneys who act as counsel and witness (August 7, 1974).
(17) Policy statement regarding attorney participation on A.B.A. Tax Section Committees (August 7, 1974).
(18) Memorandum from the Assistant Attorney General, Tax Division, concerning procedures in transmitting to the Tax Division complaints filed in tax refund suits (June 23, 1975).
(19) Policy statement regarding refund suits arising during a pending criminal case (February 18, 1975).
(20) Letter from Assistant Attorney General, Tax Division, regarding Reluctant Witness Grand Jury Proceedings (February 12, 1975).
(21) Approved Jury Instructions for use in civil tax trials, with two transmittal memoranda, dated March 25, 1970, and April 29, 1970.

(t) *United States Marshals Service.* (1) Outline of the Office of United States Marshal.
(2) United States Marshals Service.
(3) Women in the U.S. Marshals Service.
(4) The Marshal Today (updated annually).

Dated: February 20, 1978.

GRIFFIN B. BELL,
Attorney General.

[FR Doc. 78-6411 Filed 3-10-78; 8:45 am]

[6820-35]

LEGAL SERVICES CORPORATION

GRANTS AND CONTRACTS

MARCH 7, 1978.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by: Peninsula Legal Aid Center in Hampton, Va., to serve Accomack and Northampton counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporaton at:

Legal Services Corporation, Northern Virginia Regional Office, 1730 North Lynn Street, Suite 600, Arlington, Va. 22209.

THOMAS EHRLICH,
President.

[FR Doc. 78-6443 Filed 3-10-78; 8:45 am]

[6820-35]

GRANTS AND CONTRACTS

MARCH 7, 1978.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant applications submitted by:

1. Central Mississippi Legal Services in Jackson, Miss., to serve Sharkey County.
2. Southwest Mississippi Legal Services in McComb, Miss., to serve Adams and Pike Counties.
3. Southeast Mississippi Legal Services in Hattesburg, Miss., to serve Forrest, Lamar, and Perry Counties.
4. Northwest Arkansas Legal Services in Fayetteville Ark., to serve Baxter, Marion, and Searcy Counties.
5. Northeast Arkansas Legal Services in Newport, Ark., to serve Randolph County.
6. Greater Orlando Area Legal Services in Orlando, Fla., to serve Osceola County.

Interested persons are hereby invited to submit written comments or recommendations concerning the above applications to the regional office of the Legal Services Corporation at:

Legal Services Corporation, Atlanta Regional Office, 615 Peachtree Street NE., 9th Floor, Atlanta, Ga. 30308.

THOMAS EHRLICH,
President.

[FR Doc. 78-6441 Filed, 3-10-78; 8:45 am]

[6820-35]

GRANTS AND CONTRACTS

MARCH 7, 1978.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contact or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant applications submitted by:

1. Legal Aid of Western Missouri in Kansas City, Mo., to serve Jasper and Newton Counties.
2. Legal Aid Society of Omaha in Omaha, Neb., to serve Cedar and Knox Counties.
3. Kansas Legal Services in Topeka, Kans., to serve Leavenworth, Wyandotte, Shawnee, Atchison, Brown, Doniphan, Jackson, Sedgwick, Butler, Harvey, McPherson, Saline, Greenwood, Elk, Chatauqua, Kingman, Harper, Sumner, Cowley, Douglas, Wilson, Neosho, Crawford, Labette, Cherokee, Montgomery, Bourbon, Allen, and Woodson Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above applications to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Chicago Regional Office, 310 South Michigan Avenue, 24th Floor, Chicago, Ill.

THOMAS EHRLICH,
President.

[FR Doc. 78-6442 Filed, 3-10-78; 8:45 am]

[7555-01]

NATIONAL SCIENCE FOUNDATION

EXECUTIVE SUBCOMMITTEE FOR BEHAVIORAL AND NEURAL SCIENCES

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Executive Subcommittee of the Advisory Committee for Behavioral and Neural Sciences.
Date and time: March 24, 1978, 9 a.m. to 5:30 p.m.
Place: Room 321, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Richard T. Louttit, Director, Division of Behavioral and Neural Sciences, Room 320, National Science Foundation, Washington, D.C. 20550, telephone No. 202-634-4230.
Purpose of subcommittee: To provide advice and recommendations concerning support of research in the behavioral and neural sciences.
Agenda: To inspect program documentation on grants and declinations in the Division of Behavioral and Neural Sciences.
Reason for closing: The meeting will deal with a review of grants and declinations in which the Subcommittee will review materials containing the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This meeting will also include a review of the peer review documentation pertaining to applicants. Any nonexempt material that may be discussed at this meeting (proposals that have been awarded) will be inextricably intertwined with the discussion of exempt material and no further separation is practical. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Director, NSF, in accordance with the provisions of section 10(d) of Pub. L. 92-463, the Federal Advisory Committee Act.

M. REBECCA WINKLER,
Committee Management Coordinator.

MARCH 7, 1978.

[FR Doc. 78-6437 Filed 3-10-78; 8:45 am]

[7555-01]

ALAN T. WATERMAN AWARD COMMITTEE

Closed Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Alan T. Waterman Award Committee.
Date and time: March 25, 1978, 9 a.m.
Place: Room 520, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: M. Kent Wilson, Director, Office of Planning and Resource Management, National Science Foundation, Washington, D.C., telephone 202-632-4050.
Purpose of committee: To provide recommendations concerning recipient of Alan T. Waterman Award.
Agenda: To review nominations as part of the selection process for the Award.
Reason for closing: The nominations being reviewed include information of a personal nature. These matters are within exemption (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: The determination was made on March 6, 1978, by the Director of the National Science Foundation pursuant to provisions of section 19(d) of Pub. L. 92-463.

M. REBECCA WINKLER,
Committee Management Coordinator.

MARCH 7, 1978.

[FR Doc. 78-6468 Filed 3-10-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

NUCLEAR REGULATORY COMMISSION ISSUANCES

Availability of Semiannual Hardbound Volume

The Nuclear Regulatory Commission has issued Volume 5, Book I of II, of the Nuclear Regulatory Commission Issuances, covering the period January 1, 1977, to March 31, 1977. This publication is a semiannual compilation of adjudicatory decisions and other issuances of the Commission, the Atomic Safety and Licensing Appeal Boards, and the Atomic Safety and Licensing Boards.

A copy of Volume 5, Book I of II, is available for inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. This publication, designated Nuclear Regulatory Commission Issuances, Volume 5, Book I of II, Opinions and Decisions, January 1, 1977, to March 31, 1977, may also be purchased at a cost of $9.25 from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The GPO stock number is 052-010-00497-2.

Dated at Bethesda, Md. this 7th day of March 1978.

For the Nuclear Regulatory Commission.

GERALD L. HUTTON,
Acting Director, Division of Rules and Records, Office of Administration.

[FR Doc. 78-6458 Filed 3-10-78; 8:45 am]

[7590-01]

[NUREG-75/087]

REVISION TO STANDARD REVIEW PLAN

Issuance and Availability

As a continuation of the updating program for the Standard Review Plan (SRP) previously announced (FEDERAL REGISTER notice dated December 8, 1977 at 42 FR 62052), the Nuclear Regulatory Commission's (NRC's) Office of Nuclear Reactor Regulation has published Revision No. 2 to Section No. 9.5.1, including the attached Revision No. 1 to Branch Technical Position ASB 9.5.1, of the SRP for the NRC staff's safety review of applications to build and operate light-water-cooled nuclear power reactors. The purpose of the plan, which is composed of 224 sections, is to improve both the quality and uniformity of the NRC staff's review of applications to build new nuclear power plants, and to make information about regulatory matters widely available, including the improvement of communication and understanding of the staff review process by interested members of the public and the nuclear power industry. The purpose of the updating program is to revise sections of the SRP for which changes in the review plan have been developed since the original issuance in September 1975 to reflect current practice.

Copies of the Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants, which has been identified as NUREG-75/087, are available from the National Technical Information Service, Springfield, Va. 22161. The domestic price is $70.00, including first-year supplements. Annual subscriptions for supplements alone are $30.00. Individual sections are available at current prices. The domestic price for Revision No. 2 to Section No. 9.5.1, including the attached Revision No. 1 to Branch Technical Position ASB 9.5-1, is $4.50. Foreign Price information is available from NTIS. A copy of the Standard Review Plan including all revisions published to date is available for public inspection at the NRC's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555. (5 U.S.C. 552(a).)

Dated at Bethesda this 3rd day of March, 1978.

For the U.S. Nuclear Regulatory Commission.

ROGER J. MATTSON,
Director, Division of Systems Safety, Office of Nuclear Reactor Regulation.

[FR Doc. 78-6457 Filed 3-10-78; 8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on March 6, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of respondents; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

U.S. INTERNATIONAL TRADE COMMISSION

Zinc Mine Operator's Questionnaire, single time, 15 business firms, C. Louis Kincannon, 395-3211.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration:
- The Uses of Weather Information: Irrigated and Dryland Farming Interview Schedule, single time, 150 farms in denver area, Ellett, C. A., 395-6132.
- Sablefish Logbook, annually, 100 fishing vessels engaged in Alaskan sablefish fishery, Office of Federal Statistical Policy and Standard, 673-7959.

Bureau of Census:
- Textile Machinery in Place, MC-22Z, other (see SF-83), 6,000 textile mill product manufacturers, Office of Federal Statistical Policy and Standard, 673-7959.
- Birth Expectations and Fertility Supplement, June 1978 CPS, CPS-1, single time, 32,000 eligible interviewed households in June 1978 CPS, Office of Federal Statistical Policy and Standard, 673-7959.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service, 1980 Health Interview Survey Questionnaire Experiment, single time, 3,000 households, Office of Federal Statistical Policy and Standard, 673-7959.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Policy Development and Research:
- Evaluation of Urban Reinvestment Task Force: Survey of NHS Board Members, single time, board members in 45 NHS cities, Housing, Veterans and Labor Division, Caywood, D. P., 395-3532.
- Evaluation of Urban Reinvestment Task Force: Survey of Lenders, single time, 1,350 lending institutions in cities with an NHS program, Housing, Veterans and Labor Division, Caywood, D. P., 395-3532.
- Evaluation of Urban Reinvestment Task Force: Survey of Neighborhood Housing Services Operations, annually, NHS staff in 45 cities, Housing, Veterans and Labor Division, Caywood, D. P., 395-3532.
- Evaluation of Urban Reinvestment Task Force: Participant Survey, annually, Housing, Veterans and Labor Division, Caywood, D. P., 395-3532.
- Evaluation of Urban Reinvestment Task Force: Neighborhood Resident Interview Schedule, annually, 2,000 residents of 45 NHS neighborhood, Housing, Veterans and Labor Division, Caywood, D. P., 395-3532.

REVISIONS

DEPARTMENT OF AGRICULTURE

Economics, Statistics, and Cooperatives Service-Statistics, Wheat Objective Yield Survey, other (see SF-83), wheat growers, 4,518 responses, 979 hours, Office of Federal Statistical Policy and Standard, 673-7959.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration:
- Statistical Report on Children Aged 5-17 in Foster Homes and AFDC Recipients Aged 5-17 Needed to Implement the Elementary and Secondary Education Act, SR SNC SS 125, annually, State Department of Public Assistance and Child Welfare Agencies, 51 responses, 255 hours, Reese, B. F. and Laverne V. Collins, 395-3211.
- Survey of Disability and Work, SSA-3567, single time, age 16-64 noninsti- tutionalized population, 14,000 responses, 21,000 hours, Office of Federal Statistical Policy and Standard, 673-7959.
- Social Security Disability Beneficiary Report, SSA-454A, on occasion, beneficiaries whose disability is expected to improve, 200,000 responses, 50,000 hours, Reese, B. F., 395-3211.

DEPARTMENT OF LABOR

Employment Standards Administration:
- Notice of Death, LS-260, on occasion, widows, widowers, or dependents, 200 responses, 100 hours, Lowry, R. L., 395-3772.
- Rehabilitation Plan and Award From Special Fund, LS 26, on occasion, injured workers under the LHWCA, 300 responses, 600 hours, Lowry, R. L., 395-3772.

EXTENSIONS

RAILROAD RETIREMENT BOARD

Supplemental Report of Service or Compensation (by Employer for Periods Subsequent to Those Already Filed), UI-41, on occasion, railroad employers, 5,000 responses, 833 hours, Marsha Traynham, 395-3773.

U.S. CIVIL SERVICE COMMISSION

(This occupational supplement is a prototype for approximately 100 variations.)

Finance and Business Occupational Supplement, CSC 1203-A; 1203, on occasion, applicants for Federal employment, Marsha Traynham, 395-3773.

Application for Federal Employment, 1200, 1201, 1202, 1281, 1279, 1280, on occasion, applicants for Federal Employment, 250,000 responses, 180,000 hours, Marsha Traynham, 395-3773.

RAILROAD RETIREMENT BOARD

Notice of Payment of Separation Allowance, UI-13, on occasion, railroad employers, 1,500 responses, 375 hours, Marsha Traynham, 395-3773.

Claim for Unemployment Benefits, UI-3, on occasion, claimant for unemployment benefits, 450,000 responses, 37,500 hours, Marsha Traynham, 395-3773.

Claim for Sickness Benefits—Employees Statement, SI-3, on occasion, claimant's for sickness benefits, 460,000 responses, 15,333 hours, Marsha Traynham, 395-3773.

Notice of Cessation of Full-Time School Attendance, G-315, on occasion, schools, 2,000 responses, 166 hours, Marsha Traynham, 395-3773.

Statement by Divorced Woman Regarding Contributions and Support From Her Former Husband, G-134, on occasion, applicants for RRA benefits, 1,000 responses, 500 hours, Marsha Traynham, 395-3773.

Authorization of Payment and Release of All Claims to Death Benefits and Annuity Payments, G-131, on occasion, applicant for RRA benefits, 700 responses, 117 hours, Marsha Traynham, 395-3773.

Request for Supplemental Service Information, G-108, on occasion, applicants for RRA benefits, 15,000 responses, 1,250 hours, Marsha Traynham, 395-3773.

Employee Representatives Report of Compensation, DC-2, annually, employee representative, 270 responses, 45 hours, Marsha Traynham, 395-3773.

Application for Survivor Benefits Due Estate, AA-21A, on occasion, applicants for survivor benefits due State, 1,500 responses, 375 hours, Marsha Traynham, 395-3773.

Application for Lump-Sum Death Payment and Annuities Unpaid at Death, AA-21, on occasion, applicant for lump-sum benefit under the RRA, 24,000 responses, 12,000 hours, Marsha Traynham, 395-3773.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service:
- Cooperative Marketing Associations Regulations, on occasion, Cooperative Marketing Association, 30 responses, 15 hours, Ellett, C. A., 395-6132.
- Application for Approval of Cooperative Marketing Association for Price Support on Behalf of its Producer Members, CCC-846, on occasion, Cooperative Marketing Association, 25 responses, 200 hours, Ellett, C. A., 395-6132.

DEPARTMENT OF COMMERCE

Domestic and International Business Administration, Licensing/Joint Venture Proposal, DIB-4036P, on occasion, manufacturers, 50 responses, 50 hours, C. Louis Kincannon, 395-3211.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Railroad Retirement Board, Supplement to Application for Widow(er)'s Insurance Annuity, AA-17B, on occasion, widows and widowers who are disabled, 2,400 responses, 400 hours, Marsha Traynham, 395-3773.

Social Security Administration, Hospital Medical Report on Claimants for Disability Insurance—Pulmonary Tuberculosis, SSA-826.1, on occasion, physicians, clinics, hospitals, 60,000 responses, 30,000 hours, Reese, B. F., 395-3211.

DEPARTMENT OF THE TREASURY

Bureau of Customs, Appraisement Entry (of Merchandise), CF 7500, on occasion, importers and brokers, 574 responses, 48 hours, C. Louis Kincannon, 395-3211.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-6515 Filed 3-10-78; 8:45 am]

[3190-01]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

TRADE POLICY STAFF COMMITTEE

Possible Reallocation of Specialty Steel Quotas

AGENCY: Office of the Special Representative for Trade Negotiations.

ACTION: Notice of Possible Reallocation of Specialty Steel Quota Shortfalls.

SUMMARY: Written comments are solicited from interested parties on the possible reallocation, within certain quota categories, from suppliers who are not likely to export the quantity of steel which would fill the current quotas assigned to them, to other suppliers who are able to supply additional steel.

DATES: Comments should be received by or before March 23, 1978. It is anticipated that any reallocations would be published in the FEDERAL REGISTER by March 30, 1978.

ADDRESS: Comments should be sent to the Secretary, Trade Policy Staff Committee, Room 728, Office of the Special Representative for Trade Negotiations, 1800 G Street NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT:

Karen Alleman, Room 725, Office of the Special Representative for Trade Negotiations, 1800 G Street NW., Washington, D.C. 20506, 202-395-7203.

SUPPLEMENTARY INFORMATION: By Proclamation 4445 of June 11, 1976 (41 FR 24101), as modified, the President proclaimed import relief for the domestic specialty steel industry for a period of three years in the form of an Orderly Marketing Agreement with Japan and quotas on imports from other foreign suppliers. Headnote 2 of subpart A, part 2 of the Appendix to the Tariff Schedules of the United States (TSUS) gives the Special Representative for Trade Negotiations the authority to reallocate shortfalls during the last three months of each quota year. This notice identifies likely shortfalls in relation to quota quantities for the current restraint period (June 14, 1977-June 13, 1978) as listed below:

TSUS Item	Supplier	Quota Quantity for the Second Restraint Period	Estimated Charges by 6/13/78	Potential Shortfalls
		in short tons		
923.20	Canada	8,900	7,102	1,798
(Sheet & Strip)	Col. 2*	3	0	3

TSUS Item	Supplier	Quota Quantity for the Second Restraint Period in short tons	Estimated Charges by 6/13/78	Potential Shortfalls
923.20 (Sheet & Strip)	Canada	8,900	7,102	1,798
	Col. 2*	3	0	3
923.21 (Plate)	Canada	500	23	477
	Sweden	3,400	949	2,451
923.22 (Bar)	Canada	1,600	1,462	138
	Sweden	1,500	1,391	109
	Col. 2*	2	0	2
923.23 (Rod)	Sweden	4,100	3,467	633
923.26 (Alloy Tool Steel)	Canada	2,000	1,820	180
	Col. 2*	6	0	6

*Countries entitled to the rate of duty in rates of duty column numbered 2 of the Tariff Schedules of the United States.

Estimated charges by June 13, 1978 are extrapolated from actual charges against each quota quantity through February 17, 1978.

For each of the specialty steel product categories in which likely shortfalls by some suppliers are projected, there are other suppliers who may be able to ship amounts in excess of the quotas now allocated to them and thus would benefit from any reallocations made. These suppliers are:

TSUS item and supplier

923.20 (sheet and strip)—European Economic Community, Sweden, and other column 1 countries.
923.21 (plate)—European Economic Community and other column 1 countries.
923.22 (bar)—European Economic Community and other column 1 countries.
923.23 (rod)—European Economic Community.
923.26 (alloy tool steel)—Austria, European Economic Community, and other column 1 countries.

WILLIAM B. KELLY, Jr.,
Chairman, Trade Policy Staff Committee.

[FR Doc. 78-6547 Filed 3-10-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[License No. 05/05-0123]

CONSUMER GROWTH CAPITAL, INC.

Issuance of a Small Business Investment Company License

On December 9, 1977, a notice was published in the FEDERAL REGISTER (42 FR 62243) stating that an application had been filed by Consumer Growth Capital, Inc., 430 Oak Grove, Suite 404, Minneapolis, Minn. 55403, with the Small Business Administration (SBA) pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1977)) for a license as a small business investment company.

Interested parties were given until close of business December 27, 1977, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 05/05-0123 on February 13, 1978, to Consumer Growth Capital, Inc., to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: March 2, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-6402 Filed 3-10-78; 8:45 am]

[8025-01]

[Proposed License No. 01/01-0289]

CAPITAL ASSISTANCE CORP. OF CONNECTICUT

Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1977)), under the name of Capital Assistance Corp. of Connecticut (applicant), for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended, and the rules and regulations promulgated thereunder.

The applicant will be incorporated under the laws of the State of Connecticut and will commence operations with a capitalization of $500,000, all of which will be obtained through the sale of 100 percent of the applicant's no par value common stock to be initially issued and outstanding, privately and exclusively to Management Resources, Inc. (Management), 14 Cornell Road, West Hartford, Conn. 06107. Management was incorporated under the laws of the State of Connecticut in December 1970 and the beneficial holders of 10 percent or more of its voting securities are Robert A. Foisee (proposed president, treasurer, and director of the applicant), eighty (80) percent, and Thomas Van Cott, 141 Penn Drive, West Hartford, Conn. 06119, fifteen (15) percent.

The applicant's office will be located at 33 Brook Street, West Hartford, Conn. 06110, and it will conduct operations primarily in the State of Connecticut.

The proposed officers and directors of the applicant are:

Robert A. Foisie, 14 Cornell Road, West Hartford, Conn., President, Treasurer, and Director.
Kenneth A. Foisie, Overlook Road, Canton, Conn. 06019, Vice President, Secretary, and Director.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the Applicant under their management, including adequate profitability and financial soundness in accordance with the Act and SBA regulations.

Notice is hereby given that any person may, on or before March 28, 1978, submit written comments on the Applicant to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of the notice shall be published by the applicant in a newspaper of general circulation in West Hartford, Conn.

(Catalog of Federal Domestic Program No. 59.011, Small Business Investment Companies.)

Dated: March 2, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-6403 Filed 3-10-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1417; Amdt. No. 1]

INDIANA

Declaration of Disaster Loan Area

The above numbered Declaration (see 43 FR 3188) is amended by adding Sullivan and Madison Counties and adjacent counties, within the State of Indiana, as a result of the 1977 summer drought in Madison County; and in Sullivan County, drought during June, July, and August 1977, and excessive heat at pollenation period for corn, excessive rainfall and wet field conditions during October and December 1977. All other information remains the same.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 2, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-6396 Filed 3-10-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1435; Amdt. No. 1]

MASSACHUSETTS

Declaration of Disaster Loan Area

The above numbered Declaration (see 43 FR 8605) is amended in accordance with the President's declaration of February 10, 1978, to include damage resulting from high winds, tidal surge, snow, ice, and coastal flooding beginning about February 6, 1978. All other information remains the same.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: February 28, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-6397 Filed 3-10-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1367; Amdt. No. 4]

MISSISSIPPI

Declaration of Disaster Loan Area

The above numbered Declaration (see 42 FR 45977) and Amendments thereto (see 42 FR 58472, and 43 FR 2967 and 6666) are amended by adding Tunica County and adjacent counties within the State of Mississippi, as a result of a natural disaster (worm infestation August 1 through September 30, 1977) and drought (July 1 through August 31, 1977); the termination date for filing applications for physical damage is July 3, 1978, and for economic injury October 3, 1978.

Dated: February 28, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-6398 Filed 3-10-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1408; Amdt. No. 8]

NEBRASKA

Declaration of Disaster Loan Area

The above numbered Declaration (see 42 FR 63984) and Amendments (see 43 FR 4892 and 6666) are amended by adding Brown and Rock Counties and adjacent counties within the State of Nebraska, due to hail, winds, and flooding which caused severe crop losses during the 1977 crop year. All other information remains the same.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 1, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-6399 Filed 3-10-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1447]

PENNSYLVANIA

Declaration of Disaster Loan Area

Bradford, Lancaster, and Northumberland and adjacent counties within the State of Pennsylvania constitute a disaster area as a result of damage caused by rainfall, snow, and flooding which occurred on January 13 through 25, 1978. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on May 5, 1978, and for economic injury until the close of business on December 6, 1978, at:

Small Business Administration, District Office, East Lobby, Suite 400, One Bala Cynwyd Plaza, 231 St. Asaphs Road, Bala Cynwyd, Pa. 19004,

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 6, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-6400 Filed 3-10-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1378; Amdt. No. 4]

TENNESSEE

Declaration of Disaster Loan Area

The above numbered Declaration (see 42 FR 54897) and Amendments (see 42 FR 64753 and 43 FR 3784 and 4892) are amended by adding Hardin County and adjacent counties within the State of Tennessee, due to a severe drought causing crop damage June 1 through August 31, 1977. All other information remains the same.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 2, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-6401 Filed 3-10-78; 8:45 am]

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

(CGD-78-028)

CHEMICAL TRANSPORTATION INDUSTRY ADVISORY COMMITTEE

Annual Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) (1976 edition), notice is hereby given of a meeting of the Chemical Transportation Industry Advisory Committee to be held on Wednesday, 6 April 1978, beginning at 8:30 a.m. in Room 2230, Nassif Building, 400 7th Street SW., Washington, D.C. 20590.

Reports from the following subcommittees will be presented to the Advisory Committee for review:

1. Liquefied Gas Facilities.
2. Bulk Liquid Facilities.
3. Break Bulk and Container Facilities.
4. Commercial Explosives.
5. Roll-on Roll-off Vessels.
6. Chemical Vessels.
7. Liquefied Gas Vessels.
8. Ship Stores.

Participation by the Coast Guard in UN and IMCO conferences concerning the Transport of Dangerous Goods by Water will also be reviewed.

Attendance is open to the interested public. Members of the public may present oral statements at the meeting, with the approval of the Chairman. Persons wishing to make oral statements should notify Captain C. E. Mathieu, Commandant (G-MHM/83) U.S. Coast Guard, Washington, D.C. 20590 (telephone 202-426-2306) not later than April 4, 1978. Any person may present a written statement to the Committee at any time.

Issued in Washington, D.C., on March 7, 1978.

H. G. LYONS,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 78-6354 Filed 3-10-78; 8:45 am]

[4910-13]

Federal Aviation Administration

CASES INVOLVING TRANSPORTATION OR SHIPMENT BY AIR OF HAZARDOUS MATERI-

Approval of Minutes of Fourth Meeting held December 6-8, 1977; (3) Reports from Working Groups; (4) Review of draft Minimum Operational Performance Standards; (5) Radio Fre-

should be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590.

and content requirements for petitions requesting exemption from the generally applicable passenger automobile average fuel economy standards and

tions for the California emissions standards without making engine changes so extensive that it would be required to recertify its emissions levels with

than mass-produced. Automobiles within its price range must, according to Aston Martin, offer high levels of luxury, quiet, and performance. These

[4910-13]

Federal Aviation Administration

CASES INVOLVING TRANSPORTATION OR SHIPMENT BY AIR OF HAZARDOUS MATERIALS

Selection of Hearing Officers

The Federal Aviation Administration intends to procure by contract the services of licensed attorneys to act as Hearing Officers in proceedings conducted under part 13 of the Federal Aviation Regulations. The procedures applicable to cases involving the transportation and shipment by air of hazardous materials are set forth in Amendment 13-13, published in the Rules and Regulations section of this FEDERAL REGISTER.

Individuals will be selected primarily upon their demonstrated experience. Fee rates and geographic location of individuals will also be considered. Primary experience factors to be considered include: recency of experience as and administrative law judge or analogous experience; degree of complexity of hearings conducted; aviation experience; transportation experience; experience with hazardous materials regulations or enforcement; and technical or engineering experience. No individuals will be considered for cases in which the individual has a conflict or a potential conflict of interest.

Interested attorneys should submit resumes and references to:

Office of Hearing Officers, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591.

Details of the selection process will be furnished upon request.

Issued in Washington, D.C., on February 28, 1978.

JAMES E. CHESTNUT,
Chief, Contract Division, Logistics Service.

[FR Doc. 78-6448 Filed, 3-10-78; 8:45 am]

[4910-13]

RADIO TECHNICAL COMMISSION FOR AERONAUTICS (RTCA) SPECIAL COMMITTEE 133 AIRBORNE WEATHER AND GROUND MAPPING PULSED RADAR

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the RTCA Special Committee 133 on Airborne Weather and Ground Mapping Pulsed Radars to be held April 4, 5, 6, 1978, Conference Room 9A, DOT/Federal Aviation Administration Building, 800 Independence Avenue SW., Washington, D.C., commencing at 9:30 a.m. The agenda for this meeting is as follows: (1) Chairman's Comments; (2) Approval of Minutes of Fourth Meeting held December 6-8, 1977; (3) Reports from Working Groups; (4) Review of draft Minimum Operational Performance Standards; (5) Radio Frequency Spectrum Compatibility; and (6) Assignment of Tasks.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, RTCA Secretariat, 1717 H Street NW., Washington, D.C. 20006; 202-296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on March 2, 1978.

KARL F. BIERACH,
Designated Officer.

[FR Doc. 78-6440 Filed 3-10-78; 8:45 am]

[4910-59]

National Highway Traffic Safety Administration

[Docket No. LVM 77-04; Notice 1]

ASTON MARTIN LAGONDA, INC.

Petition for Exemption From Average Fuel Economy Standards

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Notice of receipt of a petition for exemption from average fuel economy standards.

SUMMARY: This notice announces the receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition submitted by Aston Martin Lagonda, Inc. (Aston Martin). The petition requests that the NHTSA exempt model year 1978-80 passenger automobiles manufactured by Aston Martin from the generally applicable passenger automobile average fuel economy standard for those model years, and establish lower, alternative standards for those vehicles. In accordance with agency procedures, this notice summarizes the petition, describes the options available to the NHTSA in responding to the petition, and invites written public comment thereon.

COMMENT CLOSING DATE: April 7, 1978.

ADDRESS: Comments on the Aston Martin petition must be limited to a total of 15 pages (although additional supporting material may be submitted as appendices or attachments) and refer to docket No. LVM 77-04 and should be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Douglas Pritchard, Office of Automotive Fuel Economy Standards, National Highway Traffic Safety Administration, Washington, D.C. 20590, 202-755-9384.

SUPPLEMENTARY INFORMATION: Part A of title III of the Energy Policy and Conservation Act (Pub. L. 94-163) amended the Motor Vehicle Information and Cost Savings Act (hereinafter referred to as "the Act") by adding a new title V. That title requires the Secretary of Transportation to implement and administer a program for improving the average fuel economy of new automobiles sold in the United States. Authority to administer the program was delegated by the Secretary to the Administrator of the NHTSA; 41 FR 25015, June 22, 1976.

Section 502(a)(1) of the Act establishes average fuel economy standards for passenger automobiles at 18.0 miles per gallon (mpg) for 1978, 19.0 mpg for 1979, and 20.0 mpg for 1980. They then steadily rise to a level of 27.5 mpg for 1985 and thereafter. Under 49 CFR part 523, Vehicle Classification, published at 42 FR 38362, July 28, 1977, passenger automobiles include station wagons, sedans, coupes, and sport cars.

Section 502(a) of the Act provides that a low volume manufacturer of passenger automobiles may be exempted from the generally applicable average fuel economy standards if those standards are more stringent than the maximum feasible average fuel economy achievable by the low volume manufacturer, and if the NHTSA establishes an alternative standard for the low volume manufacturer at the manufacturer's maximum feasible level. A low volume manufacturer under the Act is one which manufactures (within or without the United States) fewer than 10,000 passenger automobiles in the model year for which the exemption is sought (hereinafter "the affected model year"), and which manufactured fewer than 10,000 passenger automobiles in the second model year preceding the affected model year. In its determination of the maximum feasible average fuel economy, the NHTSA is required by the Act to consider—

(1) Technological feasibility;

(2) Economic practicability;

(3) The effect of other Federal motor vehicle standards on fuel economy; and

(4) The need of the Nation to conserve energy.

Part 525 of title 49, Code of Federal Regulations, establishes the format and content requirements for petitions requesting exemption from the generally applicable passenger automobile average fuel economy standards and describes the procedures that the NHTSA follows in acting on these petitions (42 FR 38374, July 28, 1977). Section 525.8 of that rule states that the NHTSA will publish a notice announcing receipt of a petition for exemption and summarizing the content of that petition. This notice is published in response to that section.

Publication of this notice of receipt of a petition does not represent any agency decision or exercise other judgment concerning the merits of Aston Martin's petition.

ASTON MARTIN'S PETITION

Aston Martin, which is not affiliated with any other automobile company, produces "* * * hand built quality automobiles second to none * * *". Current annual production is approximately 275 passenger automobiles, of which about 70 are imported into the United States. Aston Martin states that they are "almost certainly * * * the smallest automobile manufacturing concern producing its own engine—a 326 cubic inch, all aluminum alloy V8."

At present and for all model years through 1980, the company will market the V8 model in the United States. The V8 is offered with a choice of manual or automatic transmissions. In 1979, an additional model, the Lagonda, will be introduced in the United States and will be sold through the 1980 model year. Lagondas will be equipped with automatic transmissions.

In 1978, there will be two configurations, the V8 manual and the V8 automatic. A vehicle configuration is a classification of automobiles that includes all automobiles produced by the same manufacturer with the same inertia weight and which are equipped with the same engine, emissions control system, transmission type (e.g., manual, automatic, or semi-automatic) and axle ratio. This is a simplification of the Environmental Protection Agency's definition of the term which can be found at 40 CFR 600.002-77(a)(24). During each of the years 1979 and 1980 there will be three configurations—the two V8s plus the Lagonda automatic.

The combined city/highway fuel economy values for Aston Martin's 1977 model year automobiles are 11.5 miles per gallon (mpg) for the manual transmission configuration and 10.8 mpg for the automatic transmission, giving Aston Martin a 1977 average fuel economy of 10.9 mpg.

Aston Martin's average fuel economy for the 1978 model year is identical to the 1977 model year figure. For the 1978 model year, Aston Martin's major concern is to certify their configurations for the California emissions standards without making engine changes so extensive that it would be required to recertify its emissions levels with the Environmental Protection Agency for the 49-state levels. Aston Martin asserts that it is economically unfeasible for it to perform the testing annually, particularly the 50,000 mile durability test, required to recertify compliance with the applicable Federal emissions level. Therefore, Aston Martin tries to achieve compliance with the emissions requirements by making minor adjustments and recalibrations of its existing emission control system, instead of using a different emission control system, which would require a 50,000 mile durability test to be run.

Aston Martin's 1978 model year automobiles will differ from the 1977 automobiles in their use of wide heat range sparkplugs and "optimized carburetor and ignition timing settings". However, these changes are made to reduce emissions levels and are not anticipated to have any affect on the fuel economy of the vehicles. 1978 Aston Martin automobiles will also offer an aerodynamic drag reduction option. Aston Martin notes that the fuel economy affects from reducing the aerodynamic drag of an automobile are minimal at speeds of 55 miles per hour or less.

Model year 1979 Aston Martins will have automatic carburetor choke control, further improvements in engine settings and drag reduction, some weight reduction, and a possible change in the rear axle ratio. Aston Martin projects that these improvements will increase the fuel economy of the manual transmission configuration by 0.6 mpg to 12.1 mpg and increase the fuel economy of the automatic transmission configuration by 0.6 mpg to 11.4 mph. these increases, coupled with the introduction of the Lagonda with a projected combined fuel economy of 10.8 mpg, will give Aston Martin an average fuel economy of 11.5 mpg for the 1979 model year.

For the 1980 model year, Aston Martin plans a complete redesign of the emission control system, a reduction in valve sizing and overlap, smaller carburetors, and use of an electronic ignition. The net result of these changes will be an increase in the fuel economy of the manual transmission V8 configuration to 13.3 mpg, an increase in the fuel economy of the automatic transmission V8 configuration to 12.5 mpg, and an increase in the fuel economy of the Lagonda to 11.9 mpg. These levels would give Aston Martin an average fuel economy level of 12.5 mpg in the 1980 model year.

Aston Martin states that its automobiles necessarily are very expensive, since they are hand-assembled rather than mass-produced. Automobiles within its price range must, according to Aston Martin, offer high levels of luxury, quiet, and performance. These design goals are said by the company to conflict to some extent with improved fuel economy. As an example, Aston Martin notes that it could reduce the weight of its automobiles by removing the sound deadening materials, all padding, and the air conditioning. If this were done, though, Aston Martin doubts that many people would pay the price for one of its automobiles.

Aston Martin states that it does attempt to maximize its fuel economy. It reports that the thermal efficiency and specific fuel consumption of its engine compares very favorably with other engines.

The body of the automobile is all aluminum alloy, as are the engine block, heads, oil pan, and road wheels. Radial tires are standard equipment.

Other Federal motor vehicle standards are said by Aston Martin to affect the fuel economy of its automobiles. A 1978 Aston Martin equipped to comply with Federal emissions standards has a combined fuel economy that is 15.9 percent lower than the fuel economy of a 1978 Aston Martin equipped to comply with European standards. In 1979, Aston Martin says it will have to add from 50 to 90 pounds of weight to each vehicle if it must comply with new bumper standards.

Aston Martin also reports that it has severe financial problems. In December of 1974, Aston Martin Lagonda Ltd. was liquidated in bankruptcy proceedings. Aston Martin Lagonda (1975) Ltd. was incorporated shortly thereafter.

Because of all these factors, Aston Martin states that its currently planned average fuel economy is its maximum feasible average fuel economy, and thus petitions the NHTSA to exempt it from the otherwise applicable average fuel economy standards and establish average fuel economy standards for Aston Martin of 10.9, 11.5, and 12.5 miles per gallon for model years 1978, 1979, and 1980, respectively.

NHTSA OPTIONS

The NHTSA will carefully evaluate the Aston Martin petition and all comments received thereon. Following this evaluation, the NHTSA could find that Aston Martin plans to use all reasonably available means and strategies for improving its average fuel economy and that its projected average fuel economy for each affected model year is its maximum feasible average fuel economy for that model year. Alternatively, the NHTSA could find that Aston Martin has some additional means and strategies available to it to

improve its average fuel economy above the projected level for one or all of the affected model years, and make a determination of the maximum fea-

[4810-31]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

ment appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on

March 13, 1978, at Los Angeles, CA, will be held in room 203, Los Angeles County Courthouse, 111 North Hill Street.

No. MC 109397 (Sub-No. 381), Tri-State Motor Transit Co., now assigned March

protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The

Stores, P.O. Box 63, 6121 Huntley Road, Worthington, OH 43085. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce

improve its average fuel economy above the projected level for one or all of the affected model years, and make a determination of the maximum feasible average fuel economy that could be achieved for each affected model year if those means and strategies were implemented.

If Aston Martin's maximum feasible average fuel economy for any affected model year is determined by this agency to be equal to or greater than the generally applicable standard, Aston Martin's petition will be denied for that model year. If Aston Martin's maximum feasible average fuel economy for any affected model year is determined to be less than the generally applicable standard, Aston Martin's petition may be granted for that model year.

If Aston Martin's petition is granted for any affected model year, the NHTSA will establish an alternative average fuel economy standard applicable to Aston Martin during that model year. The Act permits the NHTSA to establish that standard in one of three ways: (1) A standard may be established specifically for Aston Martin; (2) classes, based on factors such as design or size, may be established for the automobiles of exempted manufacturers, with a separate average fuel economy standard applicable to each class; or (3) a single standard may be established for all exempted manufacturers.

Copies of the Aston Martin petition, except for those portions for which confidential treatment was requested, as well as supporting materials, other information, and any comments received, are available for public inspection in the docket section between 8 a.m. and 4 p.m., Monday through Friday.

Comments on the Aston Martin petition are invited from the public. These comments must be in writing, refer to docket No. LVM 77-04, and be submitted to the address for comments. It is requested, but not required, that five copies of the comments be submitted.

All comments received before the close of business on the comment closing date indicated above will be considered. Comments received after the closing date will be considered to the extent practicable. Comments received too late for consideration in developing a proposed decision on this petition will be considered in reaching a final decision.

Issued in Washington, D.C., on March 6, 1978.

ELWOOD T. DRIVER,
Acting Associate Administrator for Rulemaking.

[FR Doc. 78-6355 Filed 3-10-78; 8:45 am]

[4810-31]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 78-319; Reference: ATF O1100]

ASSISTANT DIRECTOR REGULATORY ENFORCEMENT

DELEGATION TO ASSISTANT DIRECTOR (REGULATORY ENFORCEMENT) OF AUTHORITY OF THE DIRECTOR IN 27 CFR PART 197, DRAWBACK ON DISTILLED SPIRITS USED IN MANUFACTURING NONBEVERAGE PRODUCTS

Order

1. *Purpose.* This order delegates certain authority, now vested in the Director by regulations in 27 CFR Part 197, to the Assistant Director (Regulatory Enforcement personnel in Bureau Headquarters.

2. *Background.* Under current regulations, the Director has authority to take final action on matters relating to drawback of internal revenue tax on distilled spirits used in the manufacture of certain nonbeverage products. It has been administratively determined that certain authority now vested in the Director by regulations in 27 CFR part 197, Drawback on Distilled Spirits Used in Manufacturing Nonbeverage Products, belongs at and should be delegated to a lower organizational level.

3. *Delegation.* Pursuant to the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 221, dated June 6, 1972, and by 26 CFR 301.7701-9, there is hereby delegated to the Assistant Director (Regulatory Enforcement) the authority to prescribe, pursuant to 27 CFR 197.2, all forms including bonds and records required by 27 CFR part 197, Drawback on Distilled Spirits Used in Manufacturing Nonbeverage Products.

4. *Redelegation.* The authority delegated to the Assistant Director (Regulatory Enforcement) may be redelegated to Regulatory Enforcement personnel in Bureau Headquarters not lower than the position of branch chief.

Effective date: This order becomes effective on March 3, 1978.

Signed: March 3, 1978.

REX D. DAVIS,
Director.

[FR Doc. 78-6477 Filed 3-10-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 608]

ASSIGNMENT OF HEARINGS

MARCH 8, 1978.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

No. MC 119792 (Sub-No. 67), Chicago Southern Transportation Co., is now assigned for hearing May 16, 1978 (2 days), at Chicago, IL, at a hearing room to be later designated.

No. MC 51146 (Sub-No. 531), Schneider Transport, Inc., is now assigned for hearing May 18, 1978 (2 days), at Chicago, IL, at a hearing room to be later designated.

No. MC 41905 (Sub-No. 5), Illini-Swallow Lines, Inc., is now assigned for hearing May 22, 1978 (1 week), at Chicago, IL, at a hearing room to be later designated.

No. AB 43 (Sub-No. 49), Illinois Central Gulf Railroad Co. Abandonment Between Kosciusko and Fentress, in Attala and Choctaw Counties, MS, now being assigned for May 22, 1978 (1 week), at Kosciusko, MS, in a hearing room to be later designated.

No. MC 52460 (Sub-No. 197), Ellex Transportation, Inc., No. MC 115162 (Sub-No. 382), Poole Truck Lines, Inc., MC 115311 (Sub-No. 241), J&M Transportation Co., Inc., and MC 123255 (Sub-No. 120), B&L Motor Freight, Inc., now being assigned May 16, 1978 (2 days), at New Orleans, LA, in a hearing room to be later designated.

No. MC 124170 (Sub-No. 72), Frostways, Inc., now being assigned May 18, 1978 (2 days), at New Orleans, LA, in a hearing room to be later designated.

No. MC 115495 (Sub-Nos. 3, 4, 7, 14, 16, 20, 22, 24G, and 25G), and MC 116200 (Sub-Nos. 2, 3, and 5), are assigned for continued hearings on the following dates: April 4, 1978, at the offices of the Interstate Commerce Commission, Washington, DC; April 18, 1978 (9 days), at Chicago, IL, at the Sheraton Plaza Hotel, 160 East Huron Street; May 9, 1978 (9 days), at New York, NY, at a hearing room to be later designated; May 23, 1978 (8 days), at Dallas, TX, at the downtown Holiday Inn; and June 5, 1978, at the offices of the Interstate Commerce Commission, Washington, DC.

MC-F-13314, Consolidated Freightways Corp. of Delaware—Purchase (Portion)—M&N Transportation Co. and MC-F-13333, Smith's Transfer Corp.—Purchase (Portion)—Nelson Freightways, Inc., are assigned for continued prehearing conference on April 21, 1978, at the offices of the Interstate Commerce Commission, Washington, DC.

MC-C-9761, Carolina Coach Co., et al. v Mandrell Motor Coach, Inc., now being assigned April 26, 1978 (2 days), at Dover, DE, in a hearing room to be later designated.

No. MC 118288 (Sub-No. 48), Frost Truck Lines, Inc., now assigned March 14, 1978, at Los Angeles, CA, will be held in room 203, Los Angeles County Courthouse, 111 North Hill Street.

No. MC 117068 (Sub-No. 91), Midwest Specialized Transportation, Inc., now assigned March 13, 1978, at Los Angeles, CA, will be held in room 203, Los Angeles County Courthouse, 111 North Hill Street.

No. MC 109397 (Sub-No. 381), Tri-State Motor Transit Co., now assigned March 13, 1978, at Los Angeles, CA, in room 203, Los Angeles County Courthouse, 111 North Hill Street.

No. MC 121649 (Sub-No. 4), Milan Express, Inc., and MC 134768 (Sub-No. 2), Lexington-Paris Motor Freight, Inc., now being assigned April 11, 1978 (4 days), at Paducah, KY, and will be held at the Holiday Inn, 727 Joe Clifton Drive and continued to April 17, 1978 (1 week), at Memphis, TN, and will be held at the Executive Plaza Inn, 1471 East Brooks Road at I-55.

No. MC 120761 (Sub-No. 31), Newman Bros. Trucking Co., is now assigned for hearing April 13, 1978 (2 days), at Dallas, TX, at a hearing room to be later designated.

No. MC 60987 (Sub-No. 22), Arkin Truck Line, Inc., is assigned for hearing April 4, 1978, at Chicago, IL, and will be held at room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

No. MC 114457 (Sub-No. 317), Dart Transit Co., is now assigned for hearing April 5, 1978, at Chicago, IL, and will be held at room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

No. MC 103993 (Sub-No. 879), Morgan Drive Away, Inc., is assigned for hearing April 6, 1978, at Chicago, IL, and will be held at room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

No. MC 141465 (Sub-No. 3), Geneva Lake Area Joint Transit Commission, now assigned March 20, 1978, at Lake Geneva, WI, will be held at the City Hall Building, 623 Main Street.

No. MC 74321 (Sub-No. 141), B. F. Walker, Inc., and No. MC 125433 (Sub-No. 120), F-B Truck Line Co., now assigned March 22, 1978, at Los Angeles, CA, will be held in room 203, Los Angeles County Courthouse, 111 North Hill Street.

No. MC 141804 (Sub-No. 43), Western Express, Division of Interstate Rental, Inc., and No. MC 141804 (Sub-No. 46), Western Express, Division of Interstate Rental, Inc., now assigned March 20, 1978, at Los Angeles, CA, will be held in room 203, Los Angeles County Courthouse, 111 North Hill Street.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-6485 Filed 3-10-78; 8:45 am]

[7035-01]

[Notice No. 23TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

FEBRUARY 27, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC, and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 16961 (Sub-No. 8TA), filed January 25, 1978. Applicant: HUTCHINS TRUCKING CO., P.O. Box 95, West End Station, 1000 Congress Street, Portland, ME 04102. Applicant's representative: Peter L. Murray, 30 Exchange Street, Portland, ME 04111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and general grocers, and food business houses (except commodities in bulk), between South Portland, ME, and the facilities of Hannaford Bros., Co., located at points in the State of VT, under a continuing contract, or contracts, with Hannaford Bros., Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Hannaford Bros., Co., 54 Hannaford Street, South Portland, ME 04106. Send protests to: Donald G. Weiler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 307, 76 Pearl Street, Portland, ME 04111.

No. MC 52579 (Sub-No. 168TA), filed January 24, 1978. Applicant: GILBERT CARRIER CORP., 1 Gilbert Drive, Secaucus, NJ 07094. Applicant's representative: Irwin Rosen, 1 Gilbert Drive, Secaucus, NJ 07094. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel* on hangers for retail store distribution, from points in NC, SC, FL, AL, TN, to Columbus, OH, for 180 days. Supporting shipper(s): Gold Circle Stores, P.O. Box 63, 6121 Huntley Road, Worthington, OH 43085. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

No. MC 77424 (Sub-No. 43TA), filed January 27, 1978. Applicant: WENHAM TRANSPORTATION, INC., 3200 E. 79th Street, P.O. Box 6931, Cleveland, OH 44104. Applicant's representative: J. G. Bamer, 3200 E. 79th Street, Cleveland, OH 44104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers* (applicant does not seek to transport commodities in bulk), from the plantsite and warehouse facilities of Hillsboro Glass Co., at or near Hillsboro, IL, to Detroit, MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Hillsboro Glass Co., Hillsboro, IL. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, 731 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

No. MC 106074 (Sub-No. 59TA), filed January 24, 1978. Applicant: B&P MOTOR LINES, INC., P.O. Box 727, Shiloh Road and U.S. Hwy 221 South, Forest City, NC 28043. Applicant's representative: William E. Collier, 447 Calumet, San Antonio, TX 78209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rough lumber, kiln dried and cut to size*, from Aumsville, OR, to Elkin, Hudson, Lenoir, Newton, and Rutherfordton, NC, for 180 days. Applicant has also filed and underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): National Wood Industry, Inc., P.O. Box 228, Aumsville, OR 97325. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, room CC516, Mart Office Building, Charlotte, NC 28205.

No. MC 106194 (Sub-No. 34TA), filed January 26, 1978. Applicant: HORN TRANSPORTATION, INC., East 4th Street, P.O. Box 1172, Pueblo, CO 81002. Applicant's representative: Frank W. Taylor, Jr., 1221 Baltimore Avenue, Suite 600, Kansas City, MO 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* as described in appendix V of Descriptions in Motor Carrier Certificates, 61 MCC 209 and 276, from the plantsite of Nucor Steel Division of Nucor Corp., at or near Norfolk, NE, to points in AR, CO, KS, MO, OK, and TX, restricted to the transportation of traffic originating at the plantsite or warehouse facilities of Nucor Corp., located at or near Norfolk, NE, and destined to points in the

above-named destination States (except for traffic moving in foreign commerce, for 180 days). Supporting shipper(s): Nucor Steel, Box 309, Norfolk, NE 68701. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

No. MC 107107 (Sub-No. 458TA), filed January 24, 1978. Applicant: ALTERMAN TRANSPORT LINES, INC., P.O. Box 425, 12805 Northwest 42nd Avenue, Opa Locka, FL 33054. Applicant's representative: Ford W. Sewell, 12805 Northwest 42nd Avenue Opa Locka, FL 33054. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), restricted to subsequent movement in interstate or foreign service, and shipments including foods and foodstuffs, in vehicles equipped with mechanical refrigeration, from Jacksonville, FL, to the various ports in FL located at Miami, Dania, Fort Lauderdale, Riviera Beach, Cape Canaveral, Tampa, and Key West, for 180 days. There is no environmental impact involved in this application. Supporting shipper(s): South Centeral Marine Service, Inc., 1726 East Church Street, Jacksonville, FL 32202. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, 8410 Northwest 53rd Terrace, Monterey Building, Suite 101, Miami, Fl 33166.

No. MC 109124 (Sub-No. 301A), filed January 24, 1978. Applicant: SENTLE TRUCKING CORP., P.O. Box 7850, Toledo, OH 43612. Applicant's representative: David A. Turano, of George, Greek, King, McMahon & McConnaughey, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Slag*, granulated, in bulk, in dump vehicles, from the plantsite of H. B. Reed & Co., Inc., located at or near Cresap, WV, to the plantsite and facilities of G. A. F., Corp., located at or near Erie, PA, for 180 days. Supporting shipper(s): G. A. F., Corp., 1361 Alps Road, Wayne, NJ 07470. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

No. MC 115322 (Sub-No. 138TA), filed January 24, 1978. Applicant: REDWING REFRIGERATED, INC., 9831 South Orange Avenue, P.O. Box 10177, Taft, FL 32809. Applicant's representative: J. V. McCoy, P.O. Box 426, Tampa, FL 33601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Margarine and shortening*, in vehicles equipped with mechanical refrigeration, from Birmingham, AL, to points in NY, NJ, PA, MD, CT, VT, NH, MA, ME, RI, WV, OH, and MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Sunnyland Refining Corp., P.O. Box 457, Birmingham, AL 35201. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

No. MC 118535 (Sub-No. 114TA), filed January 27, 1978. Applicant: TIONA TRUCK LINE, INC., 111 South Prospect, Butler, MO 64730. Applicant's representative: Tom Ventura, 111 South Prospect, Butler, MO 64730. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry feed, dry feed ingredients*, from Butler, MO, to points in AR, CO, IL, IA, KS, NE, OK, and TN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Occidental Chemical Co., P.O. Box 1185, Houston, TX. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 118831 (Sub-No. 156TA), filed January 25, 1978. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 7007, High Point, NC 27264. Applicant's representative: Earlie O. Jones, P.O. Box 7007, High Point, NC 27264. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oil*, in bulk, in tank vehicles, from the plantsite of Cargill, Inc., at Gainesville, GA, to points in AL, FL, GA, KY, MS, NC, SC, TN, VA, and WV, for 180 days. Supporting shipper(s): Cargill, Inc., P.O. Box 1298, Gainesville, GA 30501. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, NC 27611.

No. MC 127337 (Sub-No. 19TA), filed January 24, 1978. Applicant: CHET'S TRANSPORT, INC., Charlotte, ME 04666. Applicant's representative: Lawrence E. Lindeman, 425 13th Street NW., Suite 1032, Pennsylvania Building, Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual values, class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from points in MA to ports of entry in the international boundary line between the United States and Canada located in ME and MA, restricted to traffic destined to St. Pierre-Miquelon, France, for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): L. Sheldon Daly Association, 24 Harborview Drive, Hingham, MA 02043. Send protests to: Donald G. Weiler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 307, 76 Pearl Street, Portland, ME 04111.

No. MC 133805 (Sub-No. 6TA), filed January 25, 1978. Applicant: LONE STAR CARRIERS, INC., Route 1, Box 48, Tolar, TX 76476. Applicant's representative: Harry F. Horak, 5001 Brentwood Stari Road, Room 109, Fort Worth, TX 76112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts and articles distributed by meat packinghouses, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the plantsites and/or cold storage facilities utilized by Iowa Beef Processors, Inc., located at or near Denison and Fort Dodge, IA, Luberne, MN, Dakota City and West Point, NE, to points in the States of CT, DE, ME, MD, MA, NH, NJ, NY, NC, PA, RI, SC, VT, VA, WV, and DC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Iowa Beef Processors, Inc., Dakota City, NE 68731. Send protests to: Robert J. Kirspel, Distict Supervisor, Room 9A27, Federal Building, 819 Taylor Street, Fort Worth, TX 76102.*

No. MC 135410 (Sub-No. 15TA), filed January 24, 1978. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, P.O. Box 691, 700 South Main Street, Monmouth, IL 61462. Applicant's representative: Daniel O. Hands, 205 West Touhy Avenue, Suite 200, Park Ridge, IL 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and frozen inedible foodstuffs*, in vehicles equipped with mechanical refrigeration, from the facilities of terminal Ice & Cold Storage Co., at or near Bettendorf, IA, to points in CT, DE, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and DC, restricted to traffic originating at the named origin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Larry Christensen, Office Manager, Terminal Ice & Cold Storage Co., 6875 State Street, Bettendorf, IA 52722. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

No. MC 136343 (Sub-No. 125TA), filed January 24, 1978. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, R. D. 1 Milton, PA 17847. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sanitary household paper products and equipment, materials and supplies* used in operation of paper mills, between the facilities of Georgia-Pacific Corp., at Plattsburgh, NY on the one hand and, on the other, points in NJ, MD, PA, VA, WV, MI, OH, CT, MA, RI, ME, NH, VT and NY, for 180 days. Applicant has also filed on underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Georgia-Pacific Corp., 800 Summer Street, Stamford, CT 06901. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Federal Square Station, Harrisburg, PA 17108.

No. MC 136464 (Sub-No. 34TA), filed January 24, 1978. Applicant: CAROLINA WESTERN EXPRESS, INC., Box 3995, 650 Eastwood Drive, Gastonia, NC 28052. Applicant's representative: Eric Meierhoefer, 1511 K Street, NW., Suite 712, Washington, DC 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Hosiery, apparel, and materials and supplies* used in the manufacture of hosiery and apparel, from Las Cruces, NM, to Rockingham, NC, under a continuing contract, or contracts, with L'eggs Products, Inc., of Winston-Salem NC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): L'eggs Products, Inc., P.O. Box 2495, Winston-Salem, NC 27102. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

No. MC 139482 (Sub-No. 33TA), filed January 24, 1978. Applicant: NEW ULM FREIGHT LINES, INC., County Road 29 West, New Ulm, MN 56073. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese*, from Rochester, MN, to Atlanta, GA, Charleston, WV, Cincinnati and Cleveland, OH, Dallas and Houston, TX, Detroit and Grand Rapids, MI, Fort Wayne, IN, and Greensburg, IN, Little Rock, AR, Louisville, KY, Memphis and Nashville, TN, Peoria, IL, Roanoke, VA, and St. Louis, MO, for 180 days. Supporting shipper(s): The Korger Co., 1014 Vine Street, Cincinnati, OH 45201. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 110 South 4th Street, 414 Federal Building, and U.S. Courthouse, Minneapolis, MN 55401.

No. MC 139485 (Sub-No. 7TA), filed January 16, 1978. Applicant: TRANS CONTINENTAL CARRIERS, 169 East Liberty Avenue, Anaheim, CA 92803. Applicant's representative: David P. Christianson of Knapp, Stevens, Grossman & Marsh, 707 Wilshire Boulevard, Suite 1800, Los Angeles, CA 90017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bread and materials, supplies and equipment* utilized in the production of bread, between points in the United States, under a continuing contract, or contracts, with King's International Bakery, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): King's International Bakery, P.O. Box 6396, Torrance, CA 90504. Send protests to: Edward P. Henry, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 140023 (Sub-No. 5TA), filed January 27, 1978. Applicant: COLUMBIA TRANSIT CORP., 404 Walnut Street, P.O. Box 368, Waldo, AR 61770. Applicant's representative: James M. Duckett, 1021 Pyramid Life Building, Little Rock, AR 72201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood residuals*, consisting of wood chips, sawdust, bark, and shavings, from Lafayette County, AR, to Webster Parish, LA, and Bowie and Cass Counties, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Georgia-Pacific Corp., P.O. Box 520, Crossett, AR 71635. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 144032 (Sub-No. 4TA), filed January 27, 1978. Applicant: R & S TRUCKING, INC., R.R. 1, Box 123, Garretson, SD 57101. Applicant's representative: Jack L. Schultz, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cured corned beef*, from the facilities of H. Shenson, Inc., at or near Omaha, NE, to the U.S. Army Depots located at or near Columbia, SC, Norfolk and Williamsburg, VA, and Kansas City, MO, under a continuing contract, or contracts, with H. Shenson, Inc., for 180 days. Restriction: the above traffic is restricted to the transportation of traffic originating at the above-named origin and destined to the above-named destinations. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): H. Shenson, Inc., 2701 Y Street, Omaha, NE 68107. Robert Tenner, Plant Manager. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, SD 57501.

No. MC 144117 (Sub-No. 1TA), filed January 24, 1978. Applicant: TLC LINES, INC., 97 Produce Row, St. Louis, MO 63102. Applicant's representative: Daniel C. Sullivan, 10 South LaSalle Street, Suite 1600, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Laminated plastics and liquid adhesives* (except in bulk), from the facilities of General Electric Co., at or near Coshocton, OH to Redmond, Seattle, and Tacoma, WA; Portland, OR; Kingmon, and Bullhead City, AZ; Aurora, Colorado Springs, Denver, and Loveland, CO; Reno, NV; Salt Lake City, UT, and points in CA, restricted to traffic originating at the above named origin and destined to the above named destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): General Electric Co., Specialist Physical Distribution, 1350 South 2nd Street, Coshocton, OH 43812. Send protests to: J. P. Werthmann, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 North 12th Street, St. Louis, MO 63101.

No. MC 144191 (Sub-No. 1TA), filed January 24, 1978. Applicant: ELAINE MOON SIGNS, INC. d.b.a. CLASSIC VANS OF VIRGINIA, P.O. Box 2471, West Springfield, VA 22152. Applicant's representative: John M. Ballenger, Major, Sage and King, 6121 Lincolnia Road, Alexandria, VA 22312. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic sheeting and chemicals* used in the production of electronic circuit boards, (1) between Vienna, VA, on the one hand, and, on the other, Baltimore, MD, and (2) between Woburn, MA, on the one hand, and, on the other Vienna and Richmond, VA, under a continuing contract, or contracts, with Thiokol Dynachem for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s):

Thiokol Dynachem, 234 Old Dominion Road NE., Vienna, VA. Send protests to: W. C. Hersman, District Supervisor, Room 1413, Interstate Commerce

mission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer

does not seek section 210a(b) authority.

No. MC-FC-77460, filed January 4, 1978. Transferee: MAX L. FRAZIER,

10704. Authority sought for purchase by transferee of the operating rights set forth in Certificate No. MC 22554 issued May 27, 1966: *Household goods*

Doyle, 60 Robbins Rd., Springfield, MA 01104. Authority sought for purchase by transferee of the operating rights set forth in Certificate No. MC-

as set forth in certificate No. MC 129975, issued October 17, 1968, as follows: *Passengers and their baggage, and express, newspapers, and mail*, in

Thiokol Dynachem, 234 Old Dominion Road NE., Vienna, VA. Send protests to: W. C. Hersman, District Supervisor, Room 1413, Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, DC 20423.

No. MC 144293 (Sub-No. 2TA), filed January 26, 1978. Applicant: GEORGE McFARLAND, Sr., P.O. Box 21, Oakland, MN 56076. Applicant's representative: Thomas J. Beener, Waterloo Savings Bank Building, Suite 340, P.O. Box 5000, Waterloo, IA 50704. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses* (except hides and commodities in bulk), from the plantsite of George A. Hormel & Co. at Austin, MN, to points in WI, restricted to products originating at the named origin and destined to the named points, for 180 days. Supporting shipper: George A. Hormel & Co., P.O. Box 800, Austin, MN 55912. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 110 South 4th Street, 414 Federal Building and U.S. Court House, Minneapolis, MN 55401.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-6488 Filed 3-10-78; 8:45 am]

[7035-01]

[Notice No. 2]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before April 12, 1978. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-77392, filed December 30, 1977. Transferee: MACZUK INDUSTRIES, INC., New Haven, MO 63068. Transferor: Boos Grain & Fertilizer Co., River Road, Atchison, KS 66002. Applicant's representative: Richard P. Senecal, P.O. Box 349, Atchison, KS 66002. Authority sought for purchase by transferee of the operating rights set forth in Certificate No. MC 7073 and MC 7073 (Sub-No. 9) issued March 10, 1971 and April 22, 1971 respectively: *Livestock and agricultural commodities* over regular routes from Highland, KS, to St. Joseph, MO, and *feed, livestock, and building and fencing materials*, from St. Joseph, MO, to Highland, KS, both serving all points within ten miles of Highland in KS; *farm machinery and parts* and *feed and fertilizer* from Kansas City, MO, to Highland, KS, and points in KS within ten miles of Highland; *fertilizer and ice* from St. Joseph, MO, to Highland, KS, and points within ten miles of Highland; and *nitrogen fertilizer solution* from Atchison, KS, to points in IA, KS, MO, and NE. Transferee presently operates under temporary authority in MC 143754 TA.

No. MC-FC-77455, filed December 9, 1977. Transferee: SAN FRANCISCO WAREHOUSE CO., a California corporation, 200 Napoleon Street, San Francisco, CA 94124. Transferor: San Francisco Warehouse Property Co., a California corporation, d.b.a. San Francisco Warehouse Co., 200 Napoleon Street, San Francisco, CA 94124. Applicant's representative: John G. Lyons, 1418 Mills Tower, 220 Bush Street, San Francisco, CA 94104. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate No. MC 8780 issued April 29, 1941, and Certificate of Registration No. MC 8780 (Sub-No. 2) issued April 2, 1974: Magazines and periodicals between San Francisco, CA and Oakland, CA and from San Francisco, CA to San Jose, CA over specified regular routes and general commodities with the usual exceptions between points in San Francisco County, CA. Transferee holds no Commission authority and does not seek section 210a(b) authority.

No. MC-FC-77460, filed January 4, 1978. Transferee: MAX L. FRAZIER, d.b.a. STANDLEY TRANSFER & STORAGE CO., INC., 1018 Story Street, Boone, IA 50036. Transferor: Maurice L. Standley, d.b.a. Standley Transfer & Storage Co., Inc., 1018 Story Street, Boone, IA 50036. Applicant's representative: Max L. Frazier, 1018 Story Street, Boone, IA 50036. Authority sought for purchase by transferee of the operating rights set forth in Certificate No. MC 26166 issued September 13, 1949: Household goods between Boone, IA and points within 30 miles thereof, on the one hand, and, on the other points in IL, IA, KS, MN, MO, NB, and WI. Transferee holds no Commission authority and does not seek section 210a(b).

No. MC-FC-77465, filed January 4, 1978. Transferee: MEDINA SHIPPING CO., INC., 720 Broadway, Newark, NJ 07104. Transferor: State Moving & Storage, Inc., 1991 Utica Avenue, Brooklyn, NY 11234. Applicant's representatives: Robert Pepper, 168 Woodbridge Avenue, Highland Park, NJ; Ronald I. Shapss, 450 Seventh Avenue, New York, NY 10001. Authority sought for purchase by transferee of the operating rights set forth in Certificate No. MC-18302 issued June 3, 1965: Household goods between New York, NY, on the one hand, and, on the other, points in CT, MD, MA, NJ, NY, and PA. Transferee holds no Commission authority and does not seek section 210a(b) temporary authority.

No. MC-FC-77478, filed January 4, 1978. Transferee: EDWARD RABEL, 800 East Scott Street, Olyphant, PA 18447. Transferor: Thomas Gerrity, 902 Pittston Avenue, Scranton, PA 18505. Applicant's representative: J. F. Hoary, 121 S. Main Street., Taylor, PA 18517. Authority sought for purchase by transferee of the operating rights set forth in Certificate No. MC 67402 issued May 22, 1975: *Household goods* between Philadelphia, PA, on the one hand, and, on the other, points in MD, DE, and NJ and between Delaware City, PA, on the one hand, and, on the other, points in NY, PA, OH, NC, CT, NJ, MK, DE, and DC. Transferee holds no Commission authority and does not seek section 210a(b) authority.

No. MC-FC-77482, filed December 30, 1977. Transferee: A & S FINE ARTS, INC., 93-47 224th Street, Queens Village, NY 11428. Transferor: A.J.R. Davis Storage Co., Inc., 677 Nepperhan Avenue, Yonkers, NY 10703. Applicant's representative: Alvin Altman, 888 7th Avenue, New York, NY 10019. John P. Farruto, 1250 Central Park Avenue, Yonkers, NY

10704. Authority sought for purchase by transferee of the operating rights set forth in Certificate No. MC 22554 issued May 27, 1966: *Household goods* between New York, NY, on the one hand, and, on the other, points in CT, PA, NY, NJ, and DC. Transferee holds no Commission authority and does not seek temporary authority under section 210a(b).

No. MC-FC-77487, filed January 5, 1978. Transferee: J. W. MILLER MOVING & STORAGE CO., a Rhode Island corporation, 404 Wampanoag Trail, East Providence, RI 02915. Transferor: Joseph Wheaton Lake Miller, doing business as J. W. MILLER MOVING & STORAGE CO., 404 Wampanoag Trail, East Providence, RI 02915. Applicant's representative: Russell B. Curnett, P.O. Box 366, Harwich, MA 02645. Authority sought for purchase by transferee of the operating rights set forth in Certificate No. MC 20969 issued April 14, 1941: *Oysters* from New Haven, CT to Warren, RI; *scrap metal* from Providence, RI to Boston and Springfield, MA; *painting contractors' supplies and materials* between East Providence, RI, on the one hand, and, on the other points in MA within 20 miles of East Providence; and household goods between East Providence and Providence, RI, on the one hand, and, on the other points in MA, RI, CT, NY, and Philadelphia, PA. Transferee holds no Commission authority and does not seek section 210a(b) temporary authority.

No. MC-FC-77496, filed January 13, 1978. Transferee: HVH TRANSPORTATION, INC., d.b.a. THACKER TRANSPORTATION, 3110 South Wadsworth Blvd., Denver, CO 80227. Transferor: Robert L. Harris, d.b.a. Las Animas Transfer Co., 242 Bent Ave., Las Animas, CO 81054. Applicant's representative: Richard P. Kisinger, Suite 330, 50 South Steele St., Denver, CO 80209. Authority sought for purchase by transferee of the operating rights set forth in Certificate of Registration No. MC-56785 (Sub-No. 1) issued November 7, 1963: *Transportation of freight* on a regular schedule between Las Animas and Pueblo, CO, serving no intermediate points except those within a 15 mile radius of Las Animas, CO; and the transporation of freight on an irregular schedule within Las Animas, CO, and a radius of 15 miles from and to Las Animas. Transferee presently holds no Commission authority and does not seek section 210a(b) authority.

No. MC-FC-77498, filed January 9, 1978. Transferee: BEVERAGE TRUCKING, INC., 80 Baldarelli Ct., Springfield, MA 01104. Transferor: Malt Transport, Inc., 58 Rogers Ave., West Springfield, MA 01089. Applicant's representative: Patrick A. Doyle, 60 Robbins Rd., Springfield, MA 01104. Authority sought for purchase by transferee of the operating rights set forth in Certificate No. MC-142350 (Sub-No. 2) issued January 26, 1978: *Malt beverages* from South Volney, NY, to points in CT, ME, MA, NH, RI, and VT. Transferee holds no Commission authority and does not seek section 210a(b) temporary authority.

No. MC-FC-77501, filed January 9, 1978. Transferee: SUPER TRANS, INC., 522 Penman St., Charlotte, NC 28203. Transferor: Skyline Transport, Inc., 1910 Russell St., Baltimore, MD 21230. Applicant's representative: Ronald I. Shapss, 450 7th Ave., New York, NY 10001; Neil Garson, 3251 Old Lee Highway, Fairfax, VA 22030. Authority sought for purchase of the operating rights set forth in Certificate No. MC-128642 (Sub-No. 1) issued December 12, 1968. *Rayon, silk, textiles, chemicals, raw materials, and machinery* used in the manufacture of piece goods over specified regular routes between Paterson, NJ and Rocky Mount, NC and between Paterson, NJ and New York, NY and between Nanuet, NY and Paterson, NJ. Transferee holds no Commission authority and does not seek section 210a(b) approval.

No. MC-F-C 77526, filed January 24, 1978. Transferee: CHARLES S. WESLEY, d.b.a. MINERAL TRANSPORTERS, 523 South Main Street, Marion, KY 42064. Transferor: Lyle E. Winn, d.b.a. Minneral Transporters, 523 South Main Street, Marion, KY 42064. Applicant's representative: William L. Willis, 706 McClure Building, Frankfort, KY 40601. Authority sought for purchase by transferee of the operating rights of transferor as set forth in certificate No. MC 109658, issued September 25, 1974: *Fluorspar and lead and zinc concentrates*, in bulk, between points in Livingstone and Crittenden Counties, KY, and between points in those counties, on the one hand, and, on the other points in Hardin County, IL; *mining and milling machinery, materials, equipment, and supplies*, from Marion, KY, to the site of the Hutson mine near Salem, KY; and *fluorspar* from points in Hardin County, IL, to Calvert City, KY. Transferee holds no Commission authority, and section 210a(b) is not sought.

No. MC-F-C 77552, filed February 22, 1978. Transferee: C. W. SPARKS, d.b.a. KARST'S STAGE, 511 North Wallace, Bozeman, MT 59715. Transferor: Western Transit Co., a corporation, d.b.a. Western Transit Co., and Town and County G.M.C., P.O. Box No. 1253, Billings, MT 59103. Applicants' representative: C. W. Sparks (address same as transferee). Authority sought for purchase by transferee of the operating rights of transferor, as set forth in certificate No. MC 129975, issued October 17, 1968, as follows: *Passengers and their baggage, and express, newspapers, and mail*, in the same vehicle with passengers, over specified regualr routes, between Billings, MT, and Red Lodge MT, serving the intermediate points of Laurel, Mason, Silesia, Joliet, Rockvale, Mount Aqua, Boyd, Selmes, Roberts, and Fox, MT. Transferee is presently authorized to operate as a common carrier under certificate No. MC 52298. Application has been filed for temporary authority under section 210a(b)

No. MC-F-C 77554, filed February 20, 1978. Transferee: PETER DEL GRANDE, INC., d.b.a. JAMES GALLAGHER TRUCKING, INC., 301 Jackson Street, Camden, NJ 08104. Transferor: James Gallagher, Inc. (address same as transferee). Applicants' representative: Richard Rueda, Esq., 135 North 4th Street, Philadelphia, PA 19106. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in certificate Nos. MC 1475, and MC 1475 (Sub-No. 1), issued April 17, 1943, and November 15, 1944, respectively as follows: *General commodities*, with certain exceptions, over irregular route, between points and places in the Philadelphia, PA, commercial zone: from Philadelphia, PA, to points and places in PA within 100 miles of Philadelphia and those in DE and NJ within 30 miles of Philadelphia, and general commodities, with certain exceptions, over irregular routes from points and places in Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, PA, to Philadelphia, PA. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-C 77555, filed February 27, 1978. Transferee: VALLEY TRUCKING, INC., Rural Route No. 2, Box 55, Fargo, ND 58102. Transferor: Ronald Fitzgerald, d.b.a. G & M Carriers, Sabin, MN 56580. Applicant's representative: James B. Hovland, P.O. Box 1637, Fargo, ND 58102. Authority sought for purchase by transferee of the operating rights set forth in certificate No. MC 119761, issued March 13, 1974: *Malt beverages*, over specified regular routes from Milwaukee, and LaCrosse, WI, to Fargo, ND; *floor-sweeping compounds*, from St. Paul, MN, to Fargo, ND, *lubricating oil*, from LaCrosse, WI, and Duluth, MN, to Fargo, ND, and from Duluth, MN, to Fargo, ND, all over specified regular routes; malt beverages from Duluth, MN, and St. Paul, MN, to Grand Forks, ND, and from Duluth, MN, to Fargo, ND; from LaCrosse, WI, to Breckenridge and Detroit Lakes, MN; from Milwaukee, WI, to Detroit Lakes, MN, and Wahpeton, ND; and from

Sheboygan, WI, to Fargo, ND; *sugar*, over regular routes, from Duluth, MN, to Grand Forks, ND. Transferee presently holds temporary authority as a common carrier under No. MC 143659 and does not seek section 210a(b) temporary authority.

No. MC-F-C 77561, filed February 28, 1978. Transferee: DOUGLAS E. JACKSON, d.b.a. LARSEN TRANSFER CO., 284 Wellsian Way, Richland, WA 99362. Transferor: Larsen Transfer Co., a corporation, P.O. Box 368, Pendleton, OR 97801. Applicant's representative: George H. Hart, 1100 IBM Building, Seattle, WA 98101. Authority sought for purchase by transferee of the operating rights set forth in certificate No. MC 581 and No. MC 581 (Sub-No. 1 and 3), issued January 3, 1942; June 26, 1943; and April 12, 1973, respectively: *General commodities*, with the usual exceptions, between Pendleton, OR, and places within 3 miles thereof; *household goods*, between Pendleton, OR, on the one hand, and, on the other, places in WA; household goods between Kennewick, WA, and Richland, WA, serving the off-route point of Pasco, WA, and between Richland and Hanford, WA, over specified regular routes; household goods, between Kennewick and Pasco, WA, on the one hand, and on the other, points in specified parts of ID and OR; household goods and emigrant movables between points in Umatilla, Morrow, Gilliam, and Grant Counties, OR, on the one hand, and, on the other points in ID and that part of WA east of the Cascade Mountains and between Pendleton, OR, on the one hand, and, on the other points in the four counties specified above. Transferee presently holds no Commission authority and does not seek section 210a(b) authority.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-6489 Filed 3-10-78; 8:45 am]

[7035-01]

[Notice No. 3]

MOTOR CARRIER TRANSFER PROCEEDINGS

MARCH 13, 1978.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and transfer rules, 49 CFR Part 1132:

No. MC-F-C 77568. By application filed March 3, 1978, CARMIL, INC., Hershey, NE 69143, seeks temporary authority to transfer the operating rights of Fleecs Bros., Inc., Box 507, Sutherland, NE 69165, under section 210a(b). The transfer to Carmil, Inc., of the operating rights of Fleecs Bros., Inc., is presently pending.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-6490 Filed 3-10-78; 8:45 am]

[7035-01]

[ICC Order 52; Under Revised S.O. No. 1252]

NORFOLK & WESTERN RAILWAY CO.

Rerouting of Traffic

To all railroads: In the opinion of Joel E. Burns, Agent, the Norfolk & Western Railway Co. is unable to transport traffic over its line between Ottumwa, Iowa, and Moulton, Iowa, because of heavy snow.

It is ordered, That: (a) *Rerouting traffic.* The Norfolk & Western Railway Co. being unable to transport traffic over its line between Ottumwa, Iowa, and Moulton, Iowa, because of heavy snow, is authorized to divert or reroute such traffic over any available route to expedite the movement.

(b) *Concurrence of receiving road to be obtained.* The Norfolk & Western Railway Co., in rerouting cars in accordance with this order, shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* The Norfolk & Western Railway Co., when rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 9 a.m., March 1, 1978.

(g) *Expiration date.* This order shall expire at 11:59 p.m., March 10, 1978, unless otherwise modified, changed, or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., March 1, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-6491 Filed 3-10-78; 8:45 am]

[7035-01]

[Docket No. AB-12 (Sub-No. 49)]

SOUTHERN PACIFIC TRANSPORTATION CO.

Abandonment Between Sacramento and Hood in Sacramento County, CA

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on September 2, 1977, and the order of the Commission, Division 2, served February 6, 1978, adopted the report and order of the Commission, Review Board No. 5, which is administratively final, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment—Goshen*, 354 I.C.C. 76 (1977) and for public use as set forth in said order; the present and future public convenience and necessity permit the abandonment by the Southern Pacific Transportation Co. of the line of railroad extending from milepost 91.10 near Sacramento in a southerly direction to the end of the branch at milepost 104.96 near Hood, a distance of 13.86 miles, in Sacramento County, CA. A certificate of abandonment will be issued to the Southern Pacific Transportation Co. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

H. G. HOMME, Jr.
Acting Secretary.

[FR Doc. 78-6846 Filed 3-10-78; 8:45 am]

[Notice No. 11]

SPECIAL PROPERTY BROKERS

MARCH 8, 1978.

The following applicants seek to participate in the property broker special licensing procedure under 49 CFR 1045A authorizing operations as a broker at any location, in arranging for the transportation by motor vehicle, in interstate or foreign commerce, of property (except household goods), between all points in the United States including Alaska and Hawaii. Any interested person shall file an original and (1) copy of a verified statement in opposition limited in scope to matters regarding applicant's fitness within 30 days after this notice. Statements must be mailed to: Broker Entry Staff, Room 2379, Interstate Commerce Commission, Washington, D.C. 20423. Opposing parties shall serve (1) copy of the statement in opposition concurrently upon applicant's representative, or applicant if no representative is named.

If an applicant is not otherwise informed by the Commission, it may commence operation 45 days after this notice.

B-78-11, February 1, 1978.

Applicant: SHO-LEN, INC., d.b.a. PACIFIC DISTRIBUTION & ASSOCIATES, 1214 El Dorado, Placentia, CA 92670. Applicant's representative: Milton W. Flack, 4311 Wilshire Boulevard, Suite 300, Los Angeles, CA 90010.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-6487 Filed 3-10-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6320-01]

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[M-104, Amdt. 2, March 8, 1978]

DELETION OF ITEMS FROM THE MARCH 9, 1978 AGENDA

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., March 9, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 5. Docket 28655, Seattle/Portland-Japan Service Investigation (request for instructions) (Memo No. 7758, 7758-A, OGC). 20. Dockets 31821, 30223, 31583, 31116, 31762, 31757, 28366, 30971, 28273, 28475, 30267, 31699, Assignment of dockets for immediate hearing (Memo No. 7795, BLJ).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: The calendar for the Board's meeting of March 9, 1978, inadvertently includes Item 5. It was not intended to be added to the agenda and the staff requested that it be deleted. The staff has requested that Item 20 be withdrawn from the Board's calendar now scheduled for March 9, 1978. The reason for this is that extensive discussion between BALJ, BPDA, OGC and the Managing Director has resulted in the preparation of a series of orders to be put to the Board next week accomplishing the same goal. Accordingly, the following Members have voted that agency business requires the deletion of these items from the March 9, 1978 agenda and that no earlier announcement of these deletions was possible:

Chairman, Alfred E. Kahn
Vice Chariman, G. Joseph Minetti
Member, Lee R. West
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

[S-543-78 Filed 3-9-78; 3:42 pm]

[6320-01]

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[M-106, Amdt. 1, March 8, 1978]

ADDITION OF ITEM TO MARCH 7, 1978 CLOSED MEETING

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9:30 a.m., March 7, 1978.

PLACE: Room 1011, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 1. Docket 32183, Fares and Services of Braniff Airways, Inc. and British Caledonian Airways between Texas and London. 2. Ongoing negotiations with the Netherlands.

STATUS: Closed.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: During the course of discussion, during the closed sunshine meeting on March 7, 1978 concerning the Board's response to the President's letter of March 6th, the question of negotiations with the Netherlands came up. So that the Board can properly meet and consider those negotiations, the following Members have voted that agency business requires that the Board meet on less than seven days notice, and that no earlier announcement of the meeting was possible:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

This meeting will concern what steps the Board will take in its negotiations with the Netherlands. The Board's discussion of this matter will be likely to involve the formulation of the United States negotiating position in the ongoing discussions with the Netherlands.

Premature public disclosure of the options, plans, and opinions of the Board could seriously compromise the United States ability to successfully deal with these negotiations in the best interest of the United States.

Accordingly, the following Members have voted that public observation of this meeting would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9)(B) and 14 CFR section 310b.5(9)(B) and that the meeting should be closed:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

PERSONS EXPECTED TO ATTEND

Same people listed in M-106.

GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9)(B) and 14 CFR section 310b.5(9)(B).

PHILIP J. BAKES, Jr.,
General Counsel.

[S-544-78 Filed 3-9-78; 3:42 pm]

[6320-01]

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[M-107, Amdt. 1, March 8, 1978]

ADDITION OF ITEM TO MARCH 8, 1978 CLOSED MEETING

CIVIL AERONAUTICS BOARD.
TIME AND DATE: 9:15 a.m., March 8, 1978.

PLACE: Room 1011, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 1. Ongoing U.S.-U.K. Consultations about the Low Fare Dispute and Other Matters. 2. Ongoing negotiations with the Netherlands.

STATUS: Closed.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: During the course of discussion, during the closed sunshine meeting on March 8, 1978 concerning the ongoing consultations with the United Kingdom the question of negotiations with the Netherlands came up. So that the Board can properly meet and consider those negotiations, the following Members have voted that agency business requires that the Board meet on less than seven days notice, and that no earlier announcement of the meeting was possible:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

This meeting will concern what steps that Board will take in its negotiations with the Netherlands. The Board's discussion of this matter will be likely to involve the formulation of the United States negotiating position in the ongoing discussions with the Netherlands.

Premature public disclosure of the options, plans, and opinions of the Board could seriously compromise the United States ability to successfully deal with these negotiations in the best interest of the United States.

Accordingly, the following Members have voted that public observation of this meeting would involve matters, the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9)(B) and 14 CFR section 310b.5(9)(B) and that the meeting should be closed:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

PERSONS EXPECTED TO ATTEND

Same people listed in M-107.

GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9)(B) and 14 CFR section 310b.5(9)(B).

PHILIP J. BAKES, Jr.,
General Counsel.

[S-545-78 Filed 3-9-78; 3:42 pm]

[6320-01]

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[M-107, March 8, 1978]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9:15 a.m., March 8, 1978.

PLACE: Room 1011, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Ongoing U.S.-U.K. Consultations about the Low Fare Dispute and Other Matters.

STATUS: Closed.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: This meeting will concern what positions the Board will recommend in the current consultations with the United Kingdom. Premature public disclosure of the options, plans and opinions of the Board could seriously undermine the current consultations with the United Kingdom. Accordingly, the following Members have voted that public observation of this meeting would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552(b)(c)(9)(B) and 14 CFR section 310b.5(9)(B) and that the meeting will be closed.

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

So that the Board can consider this matter and promptly determine its positions during the ongoing consultations with the U.K., the following Members have voted that agency business requires that the Board meet on Wednesday, March 8, 1978, on less than seven days notice, and that no earlier announcement of the meeting was possible:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

PERSONS EXPECTED TO ATTEND

Board Members.—Chairman, Alfred E. Kahn; Vice Chairman, G. Joseph Minetti; Member, Lee R. West; Member, Richard J. O'Melia; and Member, Elizabeth E. Bailey.
Assistants to Board Members.—Mr. Mike Roach, Mr. James Casey, Mr. John Golden, Mr. Elias Rodriguez, and Mr. Ford Cole.
Office of the Managing Director.—Mr. Dennis Rapp and Mr. John Hancock.
Bureau of International Aviation.—Mr. Donald Farmer, Mr. Donald Litton, Mr. Joseph Chesen, Mr. Tony Largay, and Ms. Mary Pett.
Bureau of Pricing and Domestic Aviation.—Mr. Michael Levine and Ms. Barbara Clark.
Bureau of Fares and Rates.—Mr. Herbert Aswall, Mr. James Deegan, and Mr. James Greene.
Office of the General Counsel.—Mr. Philip Bakes, Mr. Gary Edles, Mr. Peter Schwarzkopf, Ms. Melissa Osborne, and Mr. Mitchell Black.
Office of Economic Analysis.—Mr. Darius Gaskins.
Office of the Secretary.—Mrs. Phyllis T. Kaylor and Ms. Deborah A. Lee.
Reporter.—North American Reporting.

GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9)(B) and 14 CFR section 310b.5(9)(B).

PHILIP J. BAKES, Jr.,
General Counsel.

[S-546-78 Filed 3-9-78; 3:42 pm]

[6712-01]

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FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, March 8, 1978 (Open), followed by the closed meeting.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open and closed meetings.

CHANGES IN THE MEETING: The following items will be considered on Thursday, March 9, 1978, starting at 9:30 a.m., in Room 856, at 1919 M Street NW., Washington, D.C., instead of the sequence and date indicated on the earlier notices.

The following items will be considered in open session:

Agenda, Item No., and Subject

Common Carrier—4—Western Union Tariff FCC No. 254 revising rates and rate structure for low-speed private line services.
Common Carrier—5—Western Union Tariff FCC Nos. 240 and 258 revising domestic telex and TWX.
Common Carrier—6—Notice of inquiry and proposed rulemaking to establish a policy on the offering of public message service by entities other than Western Union Telegraph Co.
Common Carrier—7—Reconsideration of authorization granted in Graphnet Systems et al., order.
Common Carrier—8—Reconsideration of tariff revisions filed by Graphnet Systems, Inc., under Transmittal No. 28.
Common Carrier—9—Graphnet Systems, Inc., Transmittal No. 38 revising Tariff FCC No. 1.
Assignment of License and Transfer of Control—2—Petition for stay and reconsideration of applications to exchange ownership of TV Stations in Washington, D.C. (WJLA) and Oklahoma City, Okla. (KOCO).

The closed meeting will follow these items.

This portion of the meeting is closed to the public:

Agenda, Item No., and Subject

Complaints and Compliance—1—Results of investigation concerning the broadcast by the CBS Television Network of the four "Heavyweight Championship of Tennis" matches.
Complaints and Compliance—2—Results of investigation concerning the broadcast by the ABC Television Network of the "United States Boxing Championships."
Hearing—1—Petition for leave to intervene and alternative motion for leave to file amicus brief in the Philadelphia, Pa., FM renewal proceeding (Docket No. 20677).

The prompt and orderly conduct of Commission business requires these

changes and no earlier announcement of the changes was possible.

This meeting may be continued the following workday to allow the Commission to complete appropriate action.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Office, telephone number 202-632-7260.

Issued: March 7, 1978.

[S-538-78 Filed 3-9-78; 3:42 pm]

[6712-01]

6

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, March 15, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

Agenda, Item No., and Subject

Common Carrier—1—Intergovernmental Maritime Consultative Organization: Preparation for the 1975 meeting of governments on the establishment of an international maritime satellite system.

Common Carrier—2—Unsolicited Telephone Calls ("Junk Phone Calls").

Safety and Special Radio Service—1—Redraft of the CB rules in "plain English" (Docket No. 21318).

Portion closed to the public:

Discussion of possible appeal of *Midwest Video Corp.* v. *FCC.*

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Office, telephone number 202-632-7260.

Issued: March 8, 1978.

[S-539-78 Filed 3-9-78; 3:42 pm]

[6712-01]

7

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, March 8, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission meeting.

CHANGES IN THE MEETING: The following agenda items should be deleted.

Agenda, Item No., and Subject

Cable Television—3—Motion for declaratory ruling (CSR-1140), filed by Oceanic Cablevision, Inc., operator of cable television system in Hawaii.

Broadcast—1 and 2—Amendment of section 73.1206 of the Commission's rules regarding the broadcast of recorded telephone conversations (RM-2564 and RM-2571).

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Office, telephone number 202-632-6410.

Issued: March 7, 1978.

[S-540-78 Filed 3-9-78; 3:42 pm]

[6712-01]

8

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 2 p.m., Wednesday, March 1, 1978.

PLACE: Room 847, 1919 M Street NW., Washington, D.C.

STATUS: Emergency closed meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Complaints and Compliance—1—Results of investigation concerning the broadcast by the CBS Television Network of the four "Heavyweight Championship of Tennis" matches.

Complaints and Compliance—2—Results of investigation concerning the broadcast by the ABC Television Network of the "United States Boxing Championships".

The prompt and orderly conduct of Commission business did not permit announcement of this meeting prior to the meeting.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Office, telephone number 202-632-7260.

Issued: March 1, 1978.

[S-541-78 Filed 3-9-78; 3:42 pm]

[6740-02]

9

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published March 10, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., March 15, 1978.

CHANGE IN THE MEETING: The following items have been added:

Item No., Docket No., and Company

M-1.—RM77-14, The Initial Research and Development Program of Gas Research Institute, Payments by Interstate Pipeline Companies for the Funding thereof, and Corresponding Pipeline Rate Adjustments.

CI-2.—CI77-657, American Natural Gas Production Co., et al.

CI-3.—Form No. 40 Program.

CP-14.—RP77-102, Public Service Co. of North Carolina, Inc., Piedmont Natural Gas Co., Inc. and *North Carolina Natural Gas Corp.* v. *Transcontinental Gas Pipe Line Corp., RP78-26,* Transcontinental Gas Pipe Line Corp. (North Carolina Utilities Commission on Behalf of Farmers Chemical Association).

KENNETH F. PLUMB,
Secretary.

[S-537-78 Filed 3-9-78; 1:28 pm]

[6740-02]

10

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANOUNCEMENT: To be published March 10, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., March 15, 1978.

CHANGE IN THE MEETING: The regular Commission meeting scheduled for Wednesday, March 15, 1978, at 10 a.m., has been changed to Tuesday, March 14, 1978, at 10 a.m.

KENNETH F. PLUMB,
Secretary.

[S-542-78 Filed 3-9-78; 3:42 pm]

[6210-01]

11

FEDERAL RESERVE SYSTEM.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 9407, March 7, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Monday, March 13, 1978.

CHANGES IN THE MEETING: Deletion of the following open item from the agenda:

Proposed supervisory letter or amendment to Regulation H (Membership of State Banking Institutions in the Federal Reserve System) with respect to the use of material nonpublic information by member bank personnel in the purchase or sale of securities.

This matter will be considered at an Open Meeting on Friday, March 17, 1978.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the board, 202-452-3204.

Dated: March 8, 1978.

GRIFFITH L. GARWOOD,
Acting Secretary of the Board.

[S-534-78 Filed 3-9-78; 8:32 am]

[6210-01]

12

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Friday, March 17, 1978.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposed statement to be presented to the subcommittee on Domestic Monetary Policy of the House Committee on Banking, Finance and Urban Affairs regarding the selection of Federal Reserve Bank directors.

2. Proposed supervisory letter or amendment to Regulation H (Membership of State Banking Institutions in the Federal Reserve System) with respect to the use of material non-public information by member bank personnel in the purchase or sale of securities.

3. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: March 8, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-535-78 Filed 3-9-78; 8:32 am]

[7035-01]

13

INTERSTATE COMMERCE COMMISSION.

MARCH 8, 1978.

TIME AND DATE: 9:30 a.m., Wednesday, March 15, 1978.

PLACE: Room 4225, Interstate Commerce Commission Building, 12th Street and Constitution Avenue NW., Washington, D.C.

STATUS: Open Special Conference.

MATTERS TO BE CONSIDERED: 1. Quarterly Briefing on Carriers and Transportation Industries Outlook (Bureau of Economics); 2. Review of Sunshine Act Regulations (General Counsel).

CONTACT PERSON FOR MORE INFORMATION:

Douglas Baldwin, Director, Office of Communications, telephone: 202-275-7252.

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

[S-533-78 Filed 3-8-78; 4:37 pm]

[7590-01]

14

NUCLEAR REGULATORY COMMISSION.

DATE: Week of March 13, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

WEDNESDAY, MARCH 15; 1:30 P.M.

1. Discussion of Statement on Standardization of Nuclear Power Plants. (Approximately 1½ hours—public meeting.)

2. Discussion of personnel matter. (Approximately 1½ hours.) (Closed—Exemption 6)—(tentative.)

3. Discussion of proposed licensing legislation (as necessary). (Approximately 2 hours—Closed—Exemption 9.)

THURSDAY, MARCH 16; 9:30 A.M.

1. Discussion of Draft Amendments to Atomic Energy Act on the Protection of Safeguards Information and related matters. (Approximately 1 hour—public meeting.)

2. Discussion of NRDC Petition re Tarapur Export License. (Approximately 1 hour—public meeting.)

3. Affirmation Items: (5 minutes—public meeting.) (a) Amendments to Parts 2 and 50 Concerning Antitrust Information; (b) Extension of Review Time in Midland—ALAB-458; (c) Personnel Matter—No Access Clearance for PDR Employee; and (d) Miscellaneous Amendments to Part 2.

THURSDAY, MARCH 16; 1:30 P.M.

1. Discussion of Proposed Licensing Legislation (if necessary). (Approximately 1½ hours—Closed—Exemption 9.)

FRIDAY, MARCH 17; 9:30 A.M.

1. Discussion of Proposed Licensing Legislation (if necessary). (Approximately 2½ hours—Closed—Exemption 9.)

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

March 8, 1978.

WALTER MAGEE,
Office of the Secretary.

[S-536-78 Filed 3-9-79; 11:04 am]

MONDAY, MARCH 13, 1978
PART II

federal register

MONDAY, MARCH 13, 1978
PART II

ENVIRONMENTAL PROTECTION AGENCY

WATER PROGRAMS

Hazardous Substances

[6560-01]

Title 40—Protection of Environment

[FRL 829-2]

proposing by separate notice in this FEDERAL REGISTER the addition of substances to the designation list of hazardous substances.

Section 311(b)(2)(A) of the Act prohibits the discharge of oil or hazardous substances in such quantities as may be harmful as determined by the President. Section 311(b)(6)(A) requires the President to promulgate regulations establishing the quantities of oil and hazardous substances the discharge of which may be harmful. Section 311(b)(6)(B) requires the President to promulgate regulations designating as hazardous substances those substances which, when discharged in any quantity, present an imminent and substantial danger to the public health or welfare, including but not limited to fish, shellfish, wildlife, shorelines, and beaches. Section 311(b)(4) requires that regulations establishing quantities of hazardous substances be based upon the risk of harm to the public health or welfare, including but not limited to fish, shellfish, wildlife, shorelines, and beaches, the danger of pollution of the navigable waters, the reasonable likelihood of such harm occurring, and the short- and long-term harm which may result from such hazardous substance discharge in those cases where a responsible or liable person fails to do so. In addition, these regulations will activate the penalty system that should provide a meaning-

(d) One-half of a test population of mammals in 14 days or less when exposed to a vapor concentration equal to or less than 20 cubic centimeters per cubic meter of air for 1 hour or

as hazardous materials, such screening does not preclude the designation of a substance initially not designated, if toxicological data or other factors support its addition to the designation

apply to the full extent of the scope of section 311 as amended. Since the regulations previously did not distinguish between discharges into different

[6560-01]

Title 40—Protection of Environment

[FRL 829-2]

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER D—WATER PROGRAMS

PART 116—DESIGNATION OF HAZARDOUS SUBSTANCES

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Administrator of the Environmental Protection Agency is issuing this regulation for the designation of an initial list of 271 substances as hazardous. This regulation designates hazardous substances, other than oil, under a provision of the Federal Water Pollution Control Act (the Act). This regulation is issued currently with three additional final rules on the discharge of hazardous substances in this same separate part of the FEDERAL REGISTER. The other three final rules determine their removability, harmful quantities when discharged to water and rates of penalty for the discharge of each of these hazardous substances. Concurrently with the issuance of the four final rules on the discharge of hazardous substances, the Agency also is issuing under the Act a proposed rule in this same separate part of the FEDERAL REGISTER which would add 28 substances to the designation list of hazardous substances.

EFFECTIVE DATE: June 12 1978, except for vessels. For vessels the effective date is September 11, 1978.

FOR FURTHER INFORMATION CONTACT:

Kenneth M. Mackenthun, Director, Criteria and Standards Division (WH-585), Office of Water Planning and Standards, U.S. Environmental Protection Agency, 401 M Street SW, Washington, D.C. 20460, 202-755-0100.

SUPPLEMENTARY INFORMATION: The Administrator of the Environmental Protection Agency proposed in the FEDERAL REGISTER of December 30, 1975 (40 FR 59960), to create a new Part 116 in Title 40 of the Code of Federal Regulations, designating hazardous substances other than oil under section 311(b)(2)(A) of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (the Act). The discharge of oil is regulated under 40 CFR Part 110. At the same time, the removability, harmful quantities, and rates of penalty for those substances were also proposed as Parts 117, 118, and 119, respectively. Final promulgation of those regulations is concurrent with this rulemaking. Concurrent with this rulemaking, the Agency also is proposing by separate notice in this FEDERAL REGISTER the addition of substances to the designation list of hazardous substances.

Section 311(b)(2)(A) of the Act provides:

> The Administrator shall develop, • • • regulations designating as hazardous substances • • • such elements and compounds which, when discharged in any quantity into or upon the navigable waters of the United States or adjoining shorelines or the waters of the contiguous zone, or in connection with activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976), present an imminent and substantial danger to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, shorelines, and beaches.

The substances designated as hazardous in this rulemaking are subject to a number of provisions of section 311 of the Act. Pursuant to section 311(b)(6), discharge of such a substance to the navigable waters, adjoining shorelines or the contiguous zone in excess of a harmful quantity (harmful quantities are set forth in Part 118 of this chapter) is cause for imposition by the U.S. Coast Guard of a civil penalty of up to $5,000. Under section 311(b)(2) a discharge of such a substance (if determined not removable in Part 117 of this chapter) can lead to a civil penalty assessed by EPA of up to $5,000,000 in the case of a vessel or $500,000 in the case of an onshore facility. Section 311(b)(5) requires that a discharge of a hazardous substance in a harmful quantity be reported to the proper U.S. Government authorities. Failure to report can lead to a fine of up to $10,000 or imprisonment of up to one year, or both. Reporting procedures are set forth in 33 CFR Part 153. Finally, sections 311(f) and (g) provide that one who discharges a hazardous substance is liable (subject to certain limited defenses) for the costs incurred by the United States Government in cleaning up or otherwise mitigating the effects of the discharge.

Relationship to Other Toxic Pollutant Control Programs: The promulgation of this regulation is a major component of the Environmental Protection Agency's strategy to regulate the discharge to the Nation's waters of toxic and hazardous substances. With the promulgation of hazardous substances regulations pursuant to section 311, a person is legally responsible for reporting a spill of any toxic or hazardous substance and the Nation has a national hazardous chemical spill control program. Further, the Environmental Protection Agency and the U.S. Coast Guard can use the section 311(k) "revolving fund" to take mitigating actions against a hazardous substance discharge in those cases where a responsible or liable person fails to do so. In addition, these regulations will activate the penalty system that should provide a meaningful economic incentive for industries to take greater precautions in the handling of hazardous materials. These regulations provide a vital link in the comprehensive program to control toxic and hazardous chemical discharges to water which includes reliance on technology-based effluent limitations as the principal abatement mechanism for such discharges, use of toxic effluent standards under Section 307(a) for the limited number of cases in which the effluent limitations will not provide environmental protection, development of best management practices to control toxic chemicals from nonpoint sources in conjunction with water quality management planning under Section 208, and use of water quality based limitations of Section 302 and water quality standards as supplements to technology-based effluent limitations in the remaining cases where effluent limitations are inadequate and Section 307(a) toxic effluent standards are inappropriate on a nationwide basis. Other laws involved in the Agency's strategy to control the discharge of toxic and hazardous materials include the Resource Conservation and Recovery Act, the Toxic Substances Control Act, and the Safe Drinking Water Act.

Designation of Hazardous Substances:

The substances included on the list of hazardous substances in § 116.4 of this Part: (1) Meet the toxicological selection criteria delineated herein and (2) have a reasonable potential for being discharged.

Selection Process: The Agency developed and proposed in December 1975 (40 FR 59961) a two part selection process for designating hazardous substances. The first step consisted of evaluating elements and compounds against toxicological selection criteria. The second step consisted of screening substances meeting those criteria against discharge potential to limit them to a practical number and establish a priority of designation. The criteria are set forth below:

Toxicological Selection Process: Any element or compound or structural isomer thereof which is lethal to:

(a) One-Half of a test population of aquatic animals in 96 hours or less at a concentration of 500 mg/l or less or similarly demonstrated acute toxicity; or

(b) One-half of a test population of mammals in 14 days when administered as a single oral dose equal to or less then 50 mg/kg of body weight; or

(c) One-half of a test population of mammals in 14 days when dermally exposed to an amount equal to or less than 200 mg/kg of body weight for 24 hours; or

(d) One-half of a test population of mammals in 14 days or less when exposed to a vapor concentration equal to or less than 20 cubic centimeters per cubic meter of air for 1 hour; or

(e) Aquatic flora as measured by a 50 percent decrease in cell count, biomass, or photosynthetic ability in 14 days or less at concentrations equal to or less than 100 mg/l (ppm); than it was a candidate for further consideration against discharge potential.

Toxicological data for individual substances primarily were derived from the compendium of information fact sheets entitled, "Hazardous Substances Facts Sheets, 1977," which may be obtained from the Environmental Protection Agency. In addition, other primary sources of data were: "Water Quality Criteria," Federal Pollution Control Administration, 1968, "Water Quality Criteria," 1972, EPA, March 1973, and "Quality Criteria for Water," EPA 440/9-76-023, July 1976.

Discharge Potential Screening Criteria: 1. If any substance met the toxicological selection criteria, (i.e., a "candidate substance"), and was determined to have a spill history it was designated a hazardous substance.

2. If a candidate substance was determined to have an annual production equal to or greater than 1 billion pounds, it was designated a hazardous substance.

3. If a candidate substance was determined to have an annual production of less than 1 billion pounds and:

a. If it is used primarily as a pesticide, it was designated a hazardous substance.

b. If use was unknown, it was not further considered for designation.

c. If use is limited to research, medicinals, food additives, or analytical reagents, it was not further considered for designation.

4. If a candidate substance was determined to have an annual production of less than one billion pounds and determined to have uses other than in "a," "b," or "c" above, then the selling price of the substance at the first commercial market level was examined. Available evidence appeared to indicate that substances with relatively high selling prices had a smaller discharge frequency, since more expensive chemicals are generally packaged and shipped in smaller quantities, and with greater precautions. If a candidate substance had a high selling price relative to the majority of substances, it was not further considered for testing. This was done to ensure that materials of relatively low market price and relatively high toxicity, i.e., meeting the toxicological selection criteria, were given the first priority.

Because the discharge potential screening criteria were used solely to permit the Agency to establish a priority system for designating substances as hazardous materials, such screening does not preclude the designation of a substance initially not designated, if toxicological data or other factors support its addition to the designation list.

The end result of this two-part selection process was the list of substances proposed on December 30, 1975. Only two substances in that proposed listing met one of the toxicological criteria other than that dealing with aquatic animal toxicity; they were acetone cyanohydrin and adiponitrile. Since that time, data supporting the aquatic animal toxicity of acetone cyanohydrin have been obtained.

The derivation of the harmful quantities for designated substances was proposed concurrently with the designation of proposed hazardous substances in December 1975, and is finalized concurrent with this promulgation. As proposed, the derivation of harmful quantities utilized a modification of an international categorization system. This system, discussed in detail in the proposal (40 FR 59986), proved to be cumbersome. In addition, the process required certain subjective judgments that could lead to alternative decisions. Due to those problems, a simplified system for establishing hazardous categories and harmful quantities has been adopted and is explained in Part 118. Basically, the new harmful quantity categorization process considers only the aquatic toxicity of the substances. The effect of this modification on the final designation is that toxicological effects other than aquatic are not considered in this initial priority list of hazardous substances. For this reason, adiponitrile is deleted from this final rulemaking. It should be clearly understood that this decision does not in any way affect the validity of all of the proposed toxicological selection criteria and they may be used in the future to expand upon this initial listing. Furthermore, additional selection criteria based on other acute or chronic toxicological effects on man or the environment will be developed and used to further expand upon this initial designation.

The applicability provisions of Parts 116, 117, 118, and 119 are written to conform to the amendments made in section 311 of the Federal Water Pollution Control Act by the Clean Water Act of 1977.

The Clean Water Act of 1977 extended the scope of section 311 to include discharges in connection with activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976). These regulations apply to the full extent of the scope of section 311 as amended. Since the regulations previously did not distinguish between discharges into different types of water bodies but instead applied uniformly wherever applicable, and because Congress gave no indication that it intended the regulations to differentiate between waters within or beyond the outer limits of the contiguous zone, the extension of the scope of the regulations requires no changes in the substance of the regulations themselves. Further discussion of this point may be found in the preamble to Part 118.

Comments. Interested persons were given until March 1, 1976, to submit written comments on all aspects of the proposed rules. One hundred and forty-eight (148) letters containing comments were received and reviewed prior to this rulemaking of which several substantive comments addressed the designation of hazardous substances.

Toxicological Selection Criteria: The concept of utilizing definitive criteria for the designation of hazardous substances was generally supported. However, many comments suggested certain changes to clarify the proposed criteria.

a. Several commenters suggested that the designation and determination of harmful quantities should be based on effects actually observed as a result of discharge. An example provided dealt with the expression of pH changes when a variety of substances are introduced to water. It was suggested that the discharge of any material which resulted in a pH change in the receiving water in excess of 3 pH units would consitute a harmful quantity discharge of a hazardous substance.

The suggested approach does not meet the requirements of the Act. Section 311(b)(2)(A) requires the designation of substances as hazardous rather than their circumstances of discharge. Moreover, section 311(b)(2)(A) requires that elements and compounds be designated and numerous elements, compounds or combinations thereof can produce a given pH change. Furthermore, the requirement for immediate notification under section 311(b)(5) and 40 CFR 118.7 in the event of a harmful quantity discharge appears to preclude the use of an effect resulting from a discharge as a basis for determining hazard. Persons responsible for giving notice frequently are not prepared to make a rapid determination of effects such as changes in pH or pollutant concentration. Because failure to notify the Federal government immediately of discharges in excess of the harmful quantity carries criminal penalties, adoption of the suggested approach was not considered feasible.

b. It was suggested that the persistence of substances be considered in the selection criteria. The comments expressed the opinion that substances which are either degraded or converted to innocuous materials by chemical or biological processes in relatively short periods of time should not be designated as hazardous for the purposes of section 311.

Chemical and biological degradation of pollutants are recognized phenomena. However, the selection criteria as adopted deal with acute effects. Most discharge events which are the primary concern of these rules are shock loadings resulting in elevated pollutant concentrations. In these cases, the degradability of the material has little immediate ameliorating effect. Lethal effects generally are exerted in the relatively short time period of high concentration before neutralization or degradation processes make significant contributions. The persistence of substances as characterized by their ability to bioaccumulate is expected to be incorporated into the derivation of selection criteria for proposing candidates for addition to the hazardous substances list.

c. Several comments dealt with the concentration limit proposed for the selection criterion utilizing aquatic toxicity data. Some of those commenters believed the proposed selection limit of 500 mg/l was excessive and should be lowered; it was suggested that the selection limitation should be 100 mg/l, which would result in the listing of fewer substances. On the other hand, other commenters believed the 500 mg/l level was too restrictive and suggested the selection limit of 1,000 mg/l.

The appropriateness of the selection limit of 500 mg/l for 96-hour aquatic LC50 bioassay values was discussed in the Preamble to the proposed rules (40 FR 59961) December 30, 1975. The basis for selecting 500 mg/l as the criterion for environmental damages was that fish kills have been observed for discharges of substances with 96-hour LC50 values consistently greater than 100 mg/l. On the other hand, substances with recorded 96-hour LC50 values consistently greater than 500 mg/l have no similar history of causing environmental damages in the form of fish kills resulting from spill type discharges. For some substances, bioassay data available from the existing literature show various toxicity values. These various bioassay values reflect differences in techniques, test species, and water conditions as used by the investigator. Data resulting from tests in which water conditions approximated "typical" receiving waters were favored. The general guidelines used by the Agency to select "preferred" data points are detailed in the document entitled: "Determination of Harmful Quantities and Rates of Penalty for Hazardous Substances" which may be obtained from the Superintendent of Documents, Washington, D.C. 20402 (Stock No. 055-001-01028-1).

d. Several commenters expressed the opinion that 96 hours was an unreasonably lengthy testing period. They argued that hazardous substance discharges are of substantially shorter duration and that the data utilized should reflect a more limited exposure time.

Although many of the discharges to be addressed by these regulations may not be of 96-hour duration, the use of 96 hours as the exposure period for testing the acute toxicity of chemicals to aquatic animals is now an accepted standard. It is important to note that these rules (40 CFR Parts 116-119) do not dictate or prescribe testing procedures which must be conducted for various chemicals. The intent in setting forth selection criteria is to clearly identify the kinds of data currently in existence which were used to derive the list of hazardous substances. Because the 96-hour testing period has long been accepted, the bulk of the more recent data in the scientific literature is in the form of 96-hour LC50 values.

e. Many comments dealt with the details of the bioassay toxicity selection criterion for aquatic animals. These comments expressed the opinion that conditions as well as species must be identified and that the species should be of median sensitivity, indigenous, or of direct commercial or recreational value. In general, it was the belief of those commenting in this area that test conditions should also relate to natural waters.

Bioassays conducted under laboratory conditions are related to mortalities within the environment because every organism has a certain tolerance to a concentration of a toxic substance and that tolerance or intolerance is defined in the bioassay test. The sensitivity demonstrated by organisms when tested against various concentrations of materials under controlled laboratory conditions will be reflected by those same species within the ambient environment. The bioassay data indicate those conditions and organism responses to be expected in the environment when the tested concentrations of a substance are encountered. The organisms selected for testing in bioassays generally are those found in a large number of our natural waters. In bioassays conducted in recent years natural waters are used as the dilutent for the toxic material in the test.

f. Several comments addressed the selection criterion for aquatic plant life. It was suggested that experimental variables should be specified in the criterion, that the 14-day exposure period should be shortened, or that the criterion should not be considered at all.

Although no substances in the current list were selected on the basis of toxicity to aquatic vegetation, the selection criterion is maintained in recognition of the important role of plant life in the maintenance of balanced aquatic ecosystems. Although few data are currently available on the toxicity of substances to aquatic flora, parameters generally viewed as those which constitute an appropriate bioassay determination of phytotoxicity may be found in Biological Field and Laboratory Methods Measuring the Quality of Surface Waters and Effluents, which may be obtained from the Environmental Protection Agency (EPA 670/4-73-001). According to that reference, 14 days has been selected as a standard testing period for the bioassay of periphyton. Therefore, no change has been made in the time period for acute toxicity for aquatic plants.

g. Many comments addressed various aspects of the criteria proposed for the evaluation of mammalian toxicological data. These comments included recommendations that the proposed observation time of 14 days be shortened, that all mammalian toxicological criteria be deleted, that inhalation or dermal exposure should be deleted because the data are inappropriate, or that the proposed LD50 limitation of 50 mg/kg for oral exposure was overly protective and should be lowered.

Section 311 clearly requires the protection of public health or welfare. Because the use of mammalian toxicological test data to evaluate a substance's potential for impairing human health has a substantial history of acceptance, a general deletion of the mammalian toxicological selection criteria is not acceptable. The discharge of chemicals which are toxic via skin absorbtion can threaten recreational water uses such as swimming and boating even though these substances may be diluted by the receiving waters. In the case of inhalation, wind and wave action may release dissolved chemicals to the atmosphere resulting in human exposure via inhalation. The toxic effects of chemicals to mammals from all exposure routes are deemed to be appropriate for the designation of hazardous substances and the mammalian toxicological criteria are maintained. The dosage levels proposed and adopted herein are generally accepted an indicative of highly toxic substances. Observation periods specified are those which are generally accepted as appropriate for toxicological testing.

h. Several comments expressed the opinion that the proposed selection criteria should be expanded to include additional considerations of toxicological effects, including carcinogenicity, mutagenicity, and teratogenicity as well as bioaccumulation.

The Agency recognizes the merits of these comments. However, in its initial efforts to promulgate section 311 regulations, the Agency has taken the position that those substances that are acutely toxic to aquatic life present an imminent hazard to the environment and should be controlled initially. This does not preclude the future expansion of the selection criteria, the list itself, or the sources and types of discharges to be regulated under section 311. Indeed, the Agency will seek to expand both the selection criteria and the list of designated hazardous substances in the months ahead. The Agency supports the general concept that episodic discharges of substances that bioaccumulate to cause subsequent damage to an organism or to its predator, or of substances that have been shown to be carcinogenic, mutagenic, or teratogenic are discharges of hazardous substances. The Agency will undertake efforts immediately to revise the selection criteria and to expand the list of hazardous substances to include such materials.

Requests for Substances to be Added: Several commenters requested that specific substances and categories of substances be added to the proposed list of hazardous substances. Suggested additions included suspended solids, Mirex, Kepone, polybrominated biphenyls, and an additional list of 126 specific compounds.

As stated above, this is the initial effort to promulgate hazardous substances regulations pursuant to section 311 of the Act. The Agency will continue to examine the appropriateness of substances to add to the hazardous substances list. Some of the substances suggested do not meet EPA toxicity selection criteria. No data were provided by the commenters in support of their suggestions, and the Agency has not yet found data to substantiate toxic effects of some of them. When supporting data become available, these substances will be evaluated against such data and the Agency's spill potential criteria as candidates for addition to future proposed lists of hazardous substances.

The Agency will examine the published selection criteria for hazardous substances and plans to modify such criteria in the future to permit the designation of additional hazardous substances. The Agency is appreciative of suggestions for the addition of substances to the list and will continue to examine their ability to meet the selection criteria that have been established or that may be proposed for comment in the future. The Agency anticipates that proposals for additions to the hazadous substances list will be a periodic and a continuing process.

Request for Deletion of Certain Substances: a. Two comment letters addressed ethylenediaminetetraacetic acid (EDTA), requesting that it be deleted because of limited discharge potential. It was argued that annual production is between 4 and 10 million pounds per year, there is no history of past spillage, the current value of the substance is $1.25-1.35/pound, and that shipment is exclusively in 50 to 100 pound containers (5 to 10 times lower than the proposed harmful quantity of 500 pounds).

The new data were carefully examined by the Agency. The history of past discharge is negative but the production and use and value considerations are borderline when compared with the judgment criteria. Because there is some potential for discharge, EDTA is retained on the designation list.

b. It was requested that ferric ammonium oxalate be deleted from the list because of low potential for discharge.

Re-examination of the date on ferric ammonium oxalate indicated an average selling price of $0.42/pound with a common shipment unit being a 250-pound drum. In addition, it cannot be categorized as a limited use compound. Therefore, ferric ammonium oxalate is maintained as a hazardous substance.

c. It was suggested that benzene, toluene, xylene, cyclohexane, ethylbenzene, and styrene all fall under the definition of oil as found in Section 311 and should be excluded from this rulemaking.

Although these substances share certain properties with oils, i.e., limited solubility and lower specific gravity than water, they are not defined as oils for the purpose of section 311 and are maintained on the list of designated substances. See the preamble to Part 117 for the rationale used by the Agency for chemically distinguishing between oils and oil-like hazardous substances.

d. It was requested that metallic sodium be removed from the designation list due to its generally safe transportation record.

Two accidents involving sodium tank cars are recorded. In one case, the integrity of the container was breached. Although neither of these resulted in a water pollution incident, the potential for discharge does exist, and sodium is maintained as a hazardous substance.

e. It was requested that calcium hydroxide and calcium oxide be deleted from the designation list, based on low discharge potential, low toxicity, and beneficial uses of these chemicals in wastewater and drinking water treatment processes. It was also requested by another commenter that because minor spills are typical of handling the substance in its normal fashion calcium hydroxide should be deleted from the designation list.

Both substances have a history of discharge from onshore facilities. In one case, a fish kill resulted from the discharge of calcium oxide. Toxicological data submitted with one comment letter support the selection based on lethal effects to three species of fish at 100 mg/l (ppm) in two to five hours. The beneficial usages of calcium hydroxide and oxide are not disputed or contradicted by the designation of these substances. It is not the intent to this rulemaking to restrict the proper usage, handling, and transport of any designated substance. Rather, the intent is to encourage the reduction of non-permitted discharges and the mitigation of environmental damages when discharges occur. Calcium hydroxide and calcium oxide are therefore maintained as hazardous substances.

f. One comment letter requested that ortho-xylene be deleted from the designation list because the material is not persistent and does not severely reduce amenities when discharged.

Ortho-xylene is toxic to a variety of aquatic life at concentrations of 21 to 30 mg/l (ppm) in 96 hours. The substance has a history of discharge and is, therefore, maintained as a designated hazardous substance.

g. It was suggested that all substances which have not been specifically tested for aquatic toxicity be deleted from the designation.

When inorganic salts are placed in water, and the well-known chemical phenomena of ionization and concomitant solubilization occur, the events result in the release, to the water, of the toxic ion in its biologically active form. Listing only those salts of toxic ions which have been specifically bioassayed would disregard the basic chemical process of ionization and solubilization. Therefore, when acute toxicity data on one ion of a soluble salt indicate that the salt meets the hazardous substances toxicity criteria, other salts of which that ion is a component are appropriately judged to be hazardous substances. Those proposed salts having at least one soluble ion which meets our toxicity criteria for aquatic animals are retained as hazardous substances.

h. One comment letter addressed the inclusion of lead sulfide on the proposed list of hazardous substances. It was argued that the limited solubility of lead sulfide did not qualify it as a hazardous substance.

The acute toxicity of lead was examined as well as its water solubility. An error in the water solubility data was detected and the actual solubility was determined to be 0.9 ppm. However, the Agency position with respect to solubility and toxicity is that if the 96-hr. LC50 bioassay data indicate that the substance is within the scope of our toxicity criteria, it will be designated a hazardous substance regardless of its water solubility. Lead sulfide is therefore maintained as a hazardous substance.

i. The same letter questioned the separate designation of zinc sulfate and zinc sulfate monohydrate.

The listing of the two forms of zinc sulfate is redundant since the designation applies to all forms of the listed compounds. For example, the listing of copper sulfate is inclusive of both the common mono- and pentahydrate as well as solutions of copper sulfate. This same general designation, including all forms of the substances, is true for all listed elements and compounds. Because a separate listing for the monohydrate of zinc sulfate is redundant with the general zinc sulfate entry, zinc sulfate monohydrate is deleted. However, the designation still applies to it as one of the hydrates of that compound. Parenthetically it is noted that, for the purpose of computing the harmful quantity under part 118, the most commonly hydrated form of the salt was used.

j. One comment appealed the designation of salts of dodecylbenzene sulfonic acid. However, no data were submitted in support of that appeal.

A review of the toxicity data reveals lethal effects of the sodium salt of dodecylbenzene sulfonic acid to a variety of aquatic species within the limits used as selection criteria. Industrial and domestic use and distribution of these materials contribute to an assessment of reasonable potential for discharge. Therefore, these substances are maintained as hazardous substances.

k. Additional supporting data and requests for deletion of substances included: aluminum fluoride—based on aquatic toxicity; aluminum sulfate—based on beneficial use; ammonium bicarbonate—based on discharge potential; and antimony pentafluoride—based on discharge potential.

Static bioassay data submitted for aluminum fluoride indicate a 96-hour LC50 value in excess of 10,000 mg/l to the fathead minnow. On the basis of these new data, aluminum fluoride is deleted from the final designation list.

Like calcium hydroxide and oxide, aluminum sulfate has recognized beneficial uses in both wastewater and drinking water treatment. These beneficial usages do not alter the fact that it falls within the scope of the toxicological selection criteria and that improper use and spill type discharges can result in environmental damage. Therefore aluminum sulfate is maintained as a designated hazardous substance.

Although ammonium bicarbonate is extensively used in the food industry, the substance is also used in the manufacture of dyes and as a degreasing agent in the textile industry. Annual production is estimated to be sixteen million (16,000,000) pounds with a low selling price of $0.10 to $0.12 per pound. Relatively large production, low selling price, and diverse industrial use indicate that the substance has a reasonable discharge potential and ammonium bicarbonate is maintained as a designated hazardous substance.

Data submitted in support of deleting antimony pentafluoride included annual production quantities of less than 5,000 pounds and a selling price of $15 per pound. Use data indicate only limited application as a catalyst in organic synthesis. In light of this new information, it is agreed that antimony pentafluoride has a low potential for discharge and is therefore deleted from the designation list.

1. Several commenters pointed out that although chlorine is toxic, used in many industrial processes, and produced in large quantities, its shipment in pressurized containers as a liquid has an enviable record of safety. These commenters believe that the safety record is indicative of a low discharge potential and they requested that consideration be given to deletion of chlorine.

Agency data support the fact that liquefied chlorine transportation has a laudable safety record. Nevertheless, discharges of chlorine in aqueous solution have occurred with resulting environmental damages. Therefore, a reasonable potential for discharge does exist and chlorine is maintained as a designated hazardous substance.

m. One comment letter pointed out that the pesticides chloropyrifos and mexacarbate were listed by their trademark rather than common name.

This oversight is corrected and these materials are listed by their appropriate common names in this final rulemaking.

Potential for Discharge: Although most comment letters supported the use of discharge potential evaluations in the designation of hazardous substances, several disagreed, indicating that such considerations were inappropriate.

In order to address the many chemical substances produced and shipped in this country, it is appropriate to restrict this initial designation to those elements and compounds which are in commercial use and transported, stored, or used in quantities or processes which make it possible that a harmful quantity discharge will occur. The present assessment of discharge potential is a qualitative consideration of factors which may influence a chemical's propensity for discharge. These include production quantities, past history of discharge, use and distribution patterns, and cost of the substance and are set forth under Supplementary Information in this Part. It is anticipated that the mandatory reporting of discharges in violation of 40 CFR Part 118 will provide considerable additional data. Discharge potential screening is a necessary tool to make designation a manageable process. But it is not a mandatory requirement under the Act and is subject to reevaluation by the Agency.

Financial Responsibility: Although not directly related to the process of designating hazardous substances or the specific substances listed, a number of comment letters requested that the effective date of the designation and accompanying rules be at least six months after date of final publication to permit owners or operators of vessels to obtain the necessary evidence of financial responsibility.

Under section 311(p)(1) vessels over 300 gross tons using the waters of the United States must maintain evidence of financial responsibility to meet the liability to the United States which the vessel could be subjected under section 311. Under section 311(p)(2), the effective date for such evidence of financial responsibility for hazardous substances was October 18, 1973. Because a designation of hazardous substances was not promulgated prior to that date, the implementing regulations (46 CFR Part 542) promulgated under section 311(p)(1) are effective for hazardous substances as soon as any designation regulation becomes effective. According to 46 CFR Part 542, evidence of financial responsibility may consist of an insurance certificate, security bond, or other proof of reserve capital. Acceptance by the Federal Maritime Commission of submitted evidence will result in the issuance of a certificate to be carried on board. Failure to have the certificate on board may result in penalties and restrictions imposed by the Federal Maritime Commission, the Secretary of the Treasury and the Coast Guard under sections 311(p)(4), (5) and (6).

Insurance underwriters have refused to write coverage for hazardous substances on the basis of the proposed rules, maintaining that until the list is final, the risk and premiums cannot be evaluated. Without sufficient lead time to obtain insurance, present evidence to the Federal Maritime Commission and receive the certificate, virtually every vessel in excess of 300 gross tons will be in violation of section 311(p). The shipping industry estimates that six months will be required to obtain insurance and certification. Because of the problem faced by the shipping community a delay in effective date of 180 days is granted for vessels. However, due to the importance of these regulations no further delays in their implementation will be considered. Insurers and shippers are urged to proceed immediately with the required procedures for complying with section 311(p).

Deletions Resulting from Commenters' Recommendations: Three substances proposed as hazardous substances have been deleted for reasons specified in the comments. Those substances are:

Aluminum Fluoride
Antimony Pentafluoride
Zinc Sulfate Monohydrate

Deletions Resulting from Agency Reevaluation: As explained above, substances with usages limited to research, medicinals, food additives or analytical reagents are not further considered for designation at this time. On this basis, the list of proposed hazardous substances has been examined further since December 30, 1975, and the following 21 substances deleted on the basis of limited usage:

Limited Use

Ammonium Hypophosphite
Arsenic Acid
Chromyl Chloride
Cobaltous Fluoride
Cupric Formate
Cupric Glycinate
Cupric Lactate
Cupric Subacetate
Cuprous Bromide
Hydroxylamine
Lead Tetraacetate
Lead Thiosulfate
Lead Tungstate
Lithium Bichromate
Mercuric Acetate
Nickel Formate
Stannous Fluoride
Uranium Peroxide
Uranyl Sulfate
Zinc Bichromate
Zinc Potassium Chromate

Further review of the proposed list on the basis of the toxicity criteria has in addition resulted in the deletion of the following 11 substances as not sufficiently toxic to meet the criteria:

Not Sufficiently Toxic

Adiponitrile
Ammonium Bromide
Ammonium Iodide
Ammonium Nitrate
Ammonium Pentaborate
Ammonium Persulfate
Propyl Alcohol
Sodium Phosphate, Monobasic
Sodium Sulfide
Zirconium Acetate
Zirconium Oxychloride

Adiponitrile is deleted for reasons stated previously.

Total Alphabetical List of All Deletions:

Adiponitrile
Aluminum Fluoride
Ammonium Bromide
Ammonium Hypophosphate
Ammonium Iodide
Ammonium Nitrate
Ammonium Pentaborate
Ammonium Persulfate
Antimony Pentafluoride
Arsenic Acid
Chromyl Chloride
Cobaltous Fluoride
Cupric Formate
Cupric Glycinate
Cupric Lactate
Cupric Subacetate
Cuprous Bromide
Hydroxylamine
Lead Tetraacetate
Lead Thiosulfate
Lead Tungstate
Lithium Bichromate
Mercuric Acetate
Nickel Formate
Propyl Alcohol
Sodium Phosphate, Monobasic
Sodium Sulfide
Stannous Fluoride
Uranium Peroxide
Uranyl Sulfate
Zinc Bichromate
Zinc Potassium Chromate
Zinc Sulfate, Monohydrate
Zirconium Acetate
Zirconium Oxychloride

Economic Impact Assessment: When the December 30, 1975, proposed regulations were published, it was determined that the economic impact of the designation of hazardous substances could not be separated from a consideration of removability, harmful quantities and rates of penalty. Therefore, an assessment, which was conducted in accordance with Executive Order 11821, of the combined impact of all four actions accompanied the December 30 proposal. The economic impact of the proposed regulations was not considered major.

The 1975 proposed regulations (Parts 116, 117, 118 and 119) used the concept of "gross negligence" in deciding which one of the two civil penalty alternatives (subsection (aa) or subsection (bb)) would be used. Based on an estimated 700 spills per year and the probability of spills requiring the use of either the (aa) or (bb) option, the total penalty costs were estimated to be $2.5 million per year ($1.9 million from (aa) penalties and $0.6 million from (bb) penalties). Clean-up costs were estimated to be $8.3 million per year.

These final regulations have abandoned the "gross negligence" concept and have substituted the "gravity-of-the-offense" approach with a list of factors to be considered in deciding which penalty option to use. Moreover, the Clean Water Act of 1977 has extended the scope of the applicability of the regulations.

The prior economic assessment has been evaluated and no substantial changes in its conclusions have been made.

Dated: March 3, 1978.

DOUGLAS M. COSTLE,
Administrator.

Part 116 is added as follows:

Sec.
116.1 Applicability.
116.2 Abbreviations.
116.3 Definitions.
116.4 Designation of hazardous substances.

AUTHORITY: Secs. 31(b)(2)(A) and 501(a), Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

§ 116.1 Applicability.

This regulation designates hazardous substances under section 311(b)(2)(A) of the Federal Water Pollution Control Act (the Act). The regulation applies to discharges of substances designated in Table 116.4.

§ 116.2 Abbreviations.

ppm=parts per million
mg=milligram(s)
kg=kilogram(s)
mg/l=milligrams(s) per liter=(approx.) ppm
mg/kg=milligram(s) per kilogram=(approx.) ppm

§ 116.3 Definitions.

As used in this part, all terms shall have the meaning defined in the Act and as given below:

"The Act" means the Federal Water Pollution Control Act, as amended by the Federal Water Pollution Control Act Amendments of 1972 (Pub. L. 92-500), and as further amended by the clean Water Act of 1977, (Pub. L. 95-217), 33 U.S.C. 1251 et seq.;

"Discharge" includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping;

"Vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water other than a public vessel;

"Public vessel" means a vessel owned or bareboat-chartered and operated by the United States, or a State or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce.

"Onshore facility" means any facility (including, but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under, any land within the United States other than submerged land;

"Offshore facility" means any facility of any kind located in, on, or under, any of the navigable waters of the United States, and any facility of any kind which is subject to the jurisdiction of the United States and is located in, on, or under any other waters, other than a vessel or a public vessel;

"Navigable waters" is defined in section 502(7) of the Act to mean "waters of the United States, including the territorial seas," and includes, but is not limited to: (1) all waters which are presently used, or were used in the past, or may be susceptible to use as a means to transport interstate or foreign commerce, including all waters which are subject to the ebb and flow

of the tide, and including adjacent wetlands; the term "wetlands" as used in this regulation shall include those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevelance of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas; the term "adjacent" means bordering, contiguous or neighboring; (2) tributaries of navigable waters of the United States, including adjacent wetlands; (3) interstate waters, including wetlands; and (4) all other waters of the United States such as intrastate lakes, rivers, streams, mudflats, sandflats and wetlands, the use, degradation or destruction of which affect interstate commerce including, but not limited to:

(i) Intrastate lakes, rivers, streams, and wetlands which are utilized by interstate travelers for recreational or other purposes; and

(ii) Intrastate lakes, rivers, streams, and wetlands from which fish or shellfish are or could be taken and sold in interstate commerce; and

(iii) Intrastate lakes, rivers, streams, and wetlands which are utilized for industrial purposes by industries in interstate commerce.

"Contiguous zone" means the entire zone established or to be established by the United States under article 24 of the Convention of the Territorial Sea and the Contiguous Zone;

"Territorial seas" means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of 3 miles; A discharge "in connection with activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976)," means: (1) A discharge into any waters beyond the contiguous zone from any vessel or onshore or offshore facility, which vessel or facility is subject to or is engaged in activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974, and (2) any discharge into any waters beyond the contiguous zone which contain, cover, or support any natural resource belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976).

"Aquatic animals" means appropriately sensitive wholly aquatic animals which carry out respiration by means of a gill structure permitting gaseous exchange between the water and the circulatory system;

"Animals" means appropriately sensitive animals which carry out respiration by means of a lung structure permitting gaseous exchange between air and the circulatory system;

"Aquatic flora" means plant life associated with the aquatic eco-system including, but not limited to, algae and higher plants;

"Mixture" means any combination of two or more elements and/or compounds in solid, liquid, or gaseous form except where such substances have undergone a chemical reaction so as to become inseparable by physical means.

"LC50" means that concentration of material which is lethal to one- half of the test population of aquatic animals upon continuous exposure for 96 hours or less.

§ 116.4 Designation of hazardous substances.

The elements and compounds appearing in Tables 116.4 A and B are designated as hazardous substances in accordance with section 311(b)(2)(A) of the Act. This designation includes any isomers and hydrates, as well as any solutions and mixtures containing these substances. Synonyms and Chemical Abstract System (CAS) numbers have been added for convenience of the user only. In case of any disparity the common names shall be considered the designated substance.

TABLE 116.4A.—*List of hazardous substances*

Common name	CAS No.	Synonyms	Isomers	CAS No.
Acetaldehyde	75070	Ethanal, ethyl aldehyde, acetic aldehyde.		
Acetic acid	64197	Glacial acetic acid, vinegar acid		
Acetic anhydride	108247	Acetic oxide, acetyl oxide		
Acetone cyanohydrin	75865	2-methyllactonitrile, alpha-hydroxyisobutyronitrile.		
Acetyl bromide	506967			
Acetyl chloride	79367			
Acrolein	107028	2-propenal, acrylic aldehyde, acrylaldehyde, acraldehyde.		
Acrylonitrile	107131	Cyanoethylene, Fumigrain, Ventox, propeneitrile, vinyl cyanide.		
Aldrin	309002	Octalene, HHDN		
Allyl alcohol	107186	2-propen-1-ol, 1-propenol-3, vinyl carbinol.		
Allyl chloride	107051	3-chloropropene, 3-chloropropylene, Chlorallylene.		
Aluminum sulfate	10043013	Alum		
Ammonia	7664417			
Ammonium acetate	631618	Acetic acid ammonium, salt		
Ammonium benzoate	1863634			
Ammonium bicarbonate	1066337	Acid ammonium carbonate, ammonium hydrogen carbonate.		
Ammonium bichromate	7789095			
Ammonium bifluoride	1341497	Acid ammonium fluoride, ammonium hydrogen fluoride.		
Ammonium bisulfite	10192300			
Ammonium carbamate	1111780	Ammonium aminoformate		
Ammonium carbonate	506876			
Ammonium chloride	12125029	Ammonium muriate, sal ammoniac, salmiac, Amchlor.		
Ammonium chromate	7788989			
Ammonium citrate dibasic	3012655	Diammonium citrate, citric acid diammonium salt.		
Ammonium fluoborate	13826830	Ammonium fluoroborate, ammonium borofluoride.		
Ammonium fluoride	12125018	Neutral ammonium fluoride		
Ammonium hydroxide	1336216			
Ammonium oxalate	6009707			
	5972736			
	14258492			
Ammonium silicofluoride	16919190	Ammonium fluosilicate		
Ammonium sulfamate	7773060	Ammate, AMS, ammonium amidosulfate.		
Ammonium sulfide	12135761			
Ammonium sulfite	10196040			
	10192300			
Ammonium tartrate	3164292	Tartaric acid ammonium salt		
	14307438			
Ammonium thiocyanate	1762954	Ammonium rhodanide, ammonium sulfocyanate, ammonium sulfocyanide.		
Ammonium thiosulfate	7783188	Ammonium hyposulfite		
Amly acetate	628637		iso-	123922
		Pear oil	sec-	626380
		Banana oil	tert-	625161
Aniline	62533	aniline oil, phenylamine, aminobenzene, aminophen, kyanol.		
Antimony pentachloride	7647189			

TABLE 116.4A.—*List of hazardous substances*—Continued

Common name	CAS No.	Synonyms	Isomers	CAS No.

TABLE 116.4A.—*List of hazardous substances*—Continued

Common name	CAS No.	Synonyms	Isomers	CAS No.

TABLE 116.4A.—*List of hazardous substances*—Continued

Common name	CAS No.	Synonyms	Isomers	CAS No.
Antimony potassium tartrate.	28300745	Tartar emetic, tartrated antimony, tartarized antimony, potassium antimonyltartrate.		
Antimony tribromide	7789619			
Antimony trichloride	10025919	Butter of antimony		
Antimony trifluoride	7783564	Antimony fluoride		
Antimony trioxide	1309644	Diantimony trioxide, flowers of antimony.		
Arsenic disulfide	1303328	Red arsenic sulfide		
Arsenic pentoxide	1303282	Arsenic acid anhydride, arsenic oxide.		
Arsenic trichloride	7784341	Arsenic chloride, arsenious chloride, arsenous chloride, butter of arsenic.		
Arsenic trioxide	1327533	Arsenious acid, arsenious oxide, white arsenic.		
Arsenic trisulfide	1303339	Arsenious sulfide, yellow arsenic sulfide.		
Barium cyanide	542621			
Benzen	71432	Cyclohexatriene, benzol		
Benzoic acid	65850	Benzenecarboxylic acid, phenylformic acid, dracylic acid.		
Benzonitrile	100470	Phenyl cyanide, cyanobensene		
Benzoyl chloride	98884	Benzenecarbonyl chloride		
Benzyl chloride	100447			
Beryllium chloride	7787475			
Beryllium fluoride	7787497			
Beryllium nitrate	7787555			
	13597994			
Butyl acetate	123864	acetic acid butyl ester	iso-	110190
			sec-	105464
			tert-	540885
Butylamine	109739	1-aminobutane	iso-	78819
			sec-	513495
			sec-	13952846
			tert-	75649
Butyric acid	107926	Butanoic acid, ethylacetic acid	iso-	79313
Cadmium acetate	543908			
Cadmium bromide	7789426			
Cadmium chloride	10108642			
Calcium arsenate	7778441	Tricalcium orthoarsenate		
Calcium arsenite	52740166			
Calcium carbide	75207	Carbide, acetylenogen		
Calcium chromate	13765190	Calcium chrome yellow, geblin, yellow untramarine.		
Calcium cyanide	592018			
Calcium dodecylbenzenesulfonate.	26264062			
Calcium hydroxide	1305620	Lime, hydrated, slaked lime, calcium hydrate.		
Calcium hypochlorite	7778543			
Calcium oxide	1305788	Lime, quicklime		
Captan	133062	Orthocide-406, SR-406, Vancide-89		
Carbaryl	63252	Sevin		
Carbon disulfide	75150	Carbon bisulfide, dithiocarbonic anhydride.		
Chlordane	57749	Toxichlor, chlordan		
Chlorine	75003			
Chlorobensene	108907	Monochlorobensen, benzen chloride		
Chloroform	67663	trichloromethane		
Chlorpyrifos	2921882	Dursban		
Chlorosulfonic acid	7790945	Sulfuric chlorohydrin		
Chromic acetate	1066304			
Chromic acid	11115745	chromic anhydride, chromium trioxide.		
Chromic sulfate	10101538			
Chromous chloride	10049055			
Cobaltous bromide	7789437	Cobalt bromide		
Coabaltous formate	544183	Cobalt formate		
Cobaltous sulfamate	14017415	Cobalt sulfamate		
Coumaphos	56724	Co-Ral		

TABLE 116.4A.—*List of hazardous substances*—Continued

Common name	CAS No.	Synonyms	Isomers	CAS No.
Cresol	1319773	Cresylic acid	m-	108394
		Hydroxytoluene	o-	95487
			p-	106445
Cupric acetate	142712	Copper acetate, crystalised verdigris.		
Cupric acetoarsenite	12002038	Copper acetoarsenite, copper acetate arsenite, Paris green.		
Cupric chloride	7447394	Copper chloride		
Cupric nitrate	3251238	Copper nitrate		
Cupric oxalate	5893663	Copper oxalate		
Cupric sulfate	7758987	Copper sulfate		
Cupric sulfate, ammoniated	10380297	Ammoniated copper sulfate		
Cupric tartrate	815827	Copper tartrate		
Cyanogen chloride	506774			
Cyclohexane	110827	Hexahydrobenzene, hexamethylene, hexanaphthene.		
2,4-D acid	94757	2,4-dichlorophenoxyacetic acid		
2,4-D ester	94111	2,4-dichlorophenoxyacetic acid ester		
	94791			
	94804			
	1320189			
	1928387			
	1928616			
	1929733			
	2971382			
	25168267			
	53467111			
DDT	50293	p,p'-DDT		
Diazinon	333415	Dipofene, Diazitol, Basudin, Spectracide.		
Dicamba	1918009	2-methoxy-3,6-dichlorobenzoic acid		
Dichlobenil	1194656	2,6-dichlorobenzonitrile, 2,6-DBN		
Dichlone	117806	Phygon, dichloronaphthoquinone		
2,2-Dichloropropionic acid	75990	Dalapon		
Dichlorvos	62737	2,2-dichlorovinyl dimethyl phosphate, Vapona.		
Dieldrin	60571	Alvit		
Diethylamine	109897			
Dimethylamine	124403			
Dinitrobenzene (mixed)	25154545	Dinitrobenzol	m-	99650
			o-	528290
			p-	100254
Dinitrophenol	51285 (2,4-)	Aldifen	(2,5-)	329715
			(2,6-)	573568
Diquat	85007	Aquacide		
	2764729	Dextrone, Reglone, Diquat dibromide.		
Disulfoton	298044	DI-syston		
Diuron	330541	DCMU, DMU		
Dodecylbenzenesulfonic acid.	27176870			
Endosulfan	115297	Thiodan		
Endrin	72208	Mendrin, Compound 269		
Ethion	563122	Nialate, ethyl methylene, phosphorodithioate.		
Ethylbensene	100414	Phenylethane		
Ethylenediamine	107153	1,2-diaminoethane		
Ethylenediamine-tetraacetic acid (EDTA).	60004	Edetic acid, Havidote, (ethylenedinitrilo)-tetraacetic acid.		
Ferric ammonium citrate	1185575	Ammonium ferric citrate		
Ferric ammonium oxalate	2944674	Ammonium ferric oxalate		
	55488874			
Ferric chloride	7705080	Flores martis, iron trichloride		
Ferric fluoride	7783508			
Ferric nitrate	10421484	Iron nitrate		
Ferric sulfate	10028225	Ferric persulfate, ferric sesquisulfate, ferric tersulfate.		
Ferrous ammonium sulfate	10045893	Mohr's salt, iron ammonium sulfate		
Ferrous chloride	7758943	Iron chloride, iron dichloride, iron protochloride.		

TABLE 116.4A.—*List of hazardous substances*—Continued

Common name	CAS No.	Synonyms	Isomers	CAS No.
Ferrous sulfate	7720787	Green vitrol		
	7782630	Iron vitrol, iron sulfate, iron protosulfate.		
Formaldehyde	50000	Methyl aldehyde, methanol, formalin.		
Formic acid	64186	Methanoic acid		
Fumaric acid	110178	Trans-butenedioic acid, trans-1,2-ethylenedicarboxylic acid, boletic acid, allomaleic acid.		
Furfural	98011	2-furaldehyde, pyromucic aldehyde		
Guthion	86500	Gusathion, azinphos-methyl		
Heptachlor	76448	Velsicol-104, Drinox, Heptagran		
Hydrochloric acid	7647010	Hydrogen chloride, muriatic acid		
Hydrofluoric acid	7664393	Fluohydric acid		
Hydrogen cyanide	74908	Hydrocyanic acid		
Isoprene	78795	2-methyl-1,3-butadiene		
Isopropanolamine dodecylbenzénesulfonate.	42504461			
Kelthane	115322	Di(p-chlorophenyl)-trichloromethylcarbinol, DTMC, dicofol.		
Lead acetate	301042	Sugar of lead		
Lead arsenate	7784409			
	7645252			
	10102484			
Lead chloride	7758954			
Lead fluoborate	13814965	Lead fluoroborate		
Lead fluoride	7783462	Lead difluoride, plumbous fluoride		
Lead iodide	10101630			
Lead nitrate	10099748			
Lead stearate	7428480	Stearic acid lead salt		
	1072351			
	52652592			
Lead sulfate	7446142			
Lead sulfide	1314870	Galena		
Lead thiocyanate	592870	Lead sulfocyanate		
Lindane	58899	Gamma-BHC, gamma-benzene hexachloride.		
Lithium chromate	14307358			
Malathion	121755	Phospothion		
Maleic acid	110167	Cis-butenedioic acid, cis-1,2-ethylenedicarboxylic acid, toxilic acid.		
Maleic anhydride	108316	2,5-furandione, cis/butenedioic anhydride, toxilic anhydride.		
Mercuric cyanide	592041	Mercury cyanide		
Mercuric nitrate	10045940	Mercury nitrate, mercury pernitrate		
Mercuric sulfate	7783359	Mercury sulfate, mercury persulfate		
Mercuric thiocyanate	592858	Mercury thiocyanate, mercuric sulfocyanate, mercuric sulfocyanide.		
Mercurous nitrate	7782867			
	10415755			
		Mercury protonitrate		
Methoxychlor	72435	DMDT, methoxy-DDT		
Methyl mercaptan	74931	Methanethiol, mercaptomethane, methyl sulfhydrate, thiomethyl alcohol.		
Methyl methacrylate	80626	Methacrylic acid methyl ester, methyl-2-methyl-2-propenoate.		
Methyl parathion	298000	Nitrox-80		
Mevinphos	7786347	Phosdrin		
Mexacarbate	315184	Zectran		
Monoethylamine	75047	Ethylamine, aminoethane		
Monomethylamine	74895	Methylamine, aminomethane		
Naled	300765	Dibrom		
Naphthalene	91203	White tar, tar camphor, naphthalin		
Naphthenic acid	1338245	Cyclohexanecarboxylic acid, hexahydrobensoic acid.		
Nickel ammonium sulfate	15699180	Ammonium nickel sulfate		
Nickel chloride	37211055	Nickelous chloride		
	7718549			

TABLE 116.4A.—*List of hazardous substances*—Continued

Common name	CAS No.	Synonyms	Isomers	CAS No.
Nickel hydroxide	12054487	Nickelous hydroxide		
Nickel nitrate	14216752			
Nickel sulfate	7786814	Nickelous sulfate		
Nitric acid	7697372	Aqua fortis		
Nitrobenzene	98953	Nitrobenzol, oil of mirbane		
Nitrogen dioxide	10102440	Nitrogen tetraoxide		
Nitrophenol (mixed)	25154556	Mononitrophenol	m-	554847
			o-	88755
			p-	100027
Paraformaldehyde	30525894	Paraform, Formagene, Triformol, polymerized formaldehyde, polyoxymethylene.		
Parathion	56382	DNTP, Niran		
Pentachlorophenol	87865	PCP, Penta		
Phenol	108952	Carbolic acid, phenyl hydroxide, hydroxybenzene, oxybenzene.		
Phosgene	75445	Diphosgene, carbonyl chloride, chloroformyl chloride.		
Phosphoric acid	7664382	Orthophosphoric acid		
Phosphorus	7723140	Black phosphorus, red phosphorus, white phosphorus, yellow phosphorus.		
Phosphorus oxychloride	10025873	Phosphoryl chloride, phosphorus chloride.		
Phosphorus pentasulfide	1314803	Phosphoric sulfide, thiophosphoric anhydride, phosphorus persulfide.		
Phosphorus trichloride	7719122	Phosphorous chloride		
Polychorinated biphenyls	1336363	PCB, Arocior, polychlorinated diphenyls.		
Potassium arsenate	7784410			
Potassium arsenite	10124502	Potassium metaarsenite		
Potassium bichromate	7778509	Potassium dichromate		
Potassium chromate	7789006			
Potassium cyanide	151508			
Potassium hydroxide	1310583	Potassium hydrate, caustic potash, potassa.		
Potassium permanganate	7722647	Chameleon mineral		
Propionic acid	79094	Propanoic acid, methylacetic acid, ethylformic acid.		
Propionic anhydride	123626	Propanoic anhydride, methylacetic anhydride.		
Pyrethrins	121299	Pyrethrin I		
	121211	Pyrethrin II		
Quinoline	91225	1-benzazine, benzo(b)pyridine, leucoline, chinoleine, leucol.		
Resorcinol	108463	Resorcin, 1,3-benzenediol, meta-dihydroxybenzene.		
Selenium oxide	7446084	Selenium dioxide		
Sodium	7440235	Natrium		
Sodium arsenate	7631892	Disodium arsenate		
Sodium arsenite	7784465	Sodium metaarsenite		
Sodium bichromate	10588019	Sodium dichromate		
Sodium bifluoride	1333831			
Sodium bisulfite	7631905	Sodium acid sulfite, sodium hydrogen sulfite.		
Sodium chromate	7775113			
Sodium cyanide	143339			
Sodium dodecylbenzene-sulfonate.	25155300			
Sodium fluoride	7681494	Villiaumite		
Sodium hydrosulfide	16721805	Sodium hydrogen sulfide		
Sodium hydroxide	1310732	Caustic soda, soda lye, sodium hydrate.		
Sodium hypochlorite	7681529	Bleach		
	10022705			
Sodium methylate	124414	Sodium methoxide		
Sodium nitrite	7632000			
Sodium phosphate, dibasic	7558794			
	10039324			

TABLE 116.4A.—*List of hazardous substances*—Continued

Common name	CAS No.	Synonyms	Isomers	CAS No.
10028247				
	10140655			
Sodium phosphate, tribasic.	7785844			
	7601549			
	10101890			
	10361894			
	7758294			
	10124568			
Sodium selenite	10102188			
	7782823			
Strontium chromate	7789062			
Strychnine	57249			
Styrene	100425	Vinylbenzene, phenylethylene, styrol, styrolene, cinnamene, cinnamol.		
Sulfuric acid	7664939	Oil of vitriol, oleum		
Sulfur monochloride	12771083	Sulfur chloride		
2,4,5-T acid	93765	2,4,5-trichlorophenoxy-acetic acid		
2,4,5-T ester	2545597	2,4,5-trichlorophenoxy/acetic esters.		
	93798			
	61792072			
	1928478			
	25168154			
TDE	72548	DDD		
Tetraethyl lead	78002	Lead tetraethyl, TEL		
Tetraethyl pyrophosphate	107493	TEPP		
Toluene	108883	Toluol, methylbenzene, phenylmethane, Methacide.		
Toxaphene	8001352	Camphechlor		
Trichlorfon	52686	Dipterex, Dylox		
Trichlorophenol	25167822	Collunosol, Dowicide 2 or 2S, Omal, Phenachlor.		
Triethanolamine dodecylbenzenesulfonate.	27323417			
Triethylamine	121448			
Trimethylamine	75503	TMA		
Uranyl acetate	541093			
Uranyl nitrate	10102064			
	36478769			
Vanadium pentoxide	1314621	Vanadic anhydride, vanadic acid anhydride.		
Vanadyl sulfate	27774136	Vanadic sulfate, vanadium sulfate		61.
Vinyl acetate	108054	Acetic acid ethylene ether		
Xylene (mixed)	1330207	Dimethylbenzene	m-	108383
		Xylol	o-	95476
			p-	106423
Xylenol	1300716	Dimethylphenol, hydroxydimethylbenzene.		
Zinc acetate	557346			
Zinc ammonium chloride	14639975			
	14639986			
	52628258			
Zinc borate	1332076			
Zinc bromide	7699458			
Zinc carbonate	3486359			
Zinc chloride	7646857	Butter of zinc		
Zinc cyanide	557211			
Zinc fluoride	7783496			
Zinc formate	557415			
Zinc hydrosulfite	7779864			
Zinc nitrate	7779886			
Zinc phenolsulfonate	127822	Zinc sulfocarbolate		
Zinc phosphide	1314847			
Zinc silicofluoride	16871719	Zinc fluorsilicate		
Zinc sulfate	7733020	White vitriol, zinc vitriol, white copperas.		
Zirconium nitrate	13746899			
Zirconium potassium fluoride.	16923958			
Zirconium sulfate	14644612	Disulfatozirconic acid		
Zirconium tetra-chloride	10026116			

TABLE 116.4B.—*List of Hazardous Substances By CAS Number*

CAS No. and common name

50000 Formaldehyde
50293 DDT
51285 2,4-Dinitrophenol
52686 Trichlorfon
56382 Parathion
56724 Coumaphos
57249 Strychnine
57749 Chlordane
58899 Lindane
60004 Ethylenediaminetetraacetic acid (EDTA)
60571 Dieldrin
62533 Aniline
62737 Dichlorvos
63252 Carbaryl
64186 Formic acid
64197 Acetic acid
65850 Benzoic acid
67663 Chloroform
71432 Benzene
72208 Endrin
72435 Methoxychlor
72548 TDE
74895 Monomethylamine
74908 Hydrogen cyanide
74931 Methyl mercaptan
75047 Monoethylamine
75070 Acetaldehyde
75150 Carbon disulfide
75207 Calcium carbide
75445 Phosgene
75503 Trimethylamine
75649 tert-Butylamine
75865 Acetone cyanohydrin
75990 2,2-Dichloropropionic acid
76448 Heptachlor
78002 Tetraethyl lead
78795 Isoprene
78819 iso-Butylamine
79094 Propionic acid
79312 iso-Butyric acid
79367 Acetyl chloride
80626 Methyl methacrylate
85007 Diquat
86500 Guthion
87865 Pentachlorophenol
88755 o-Nitrophenol
91203 Naphthalene
91225 Quinoline
93765 2,4,5-T acid
93798 2,4,5-T ester
94111 2,4-D ester
94757 2,4-D acid
94791 2,4-D ester

94804 2,4-D Butyl ester
95476 o-Xylene
95487 o-Cresol
98011 Furfural
98884 Benzoyl chloride
98953 Nitrobenzene
99650 m-Dinitrobenzene
100027 p-Nitrophenol
100254 p-Dinitrobenzene
100414 Ethylbenzene
100425 Styrene
100447 Benzyl chloride
100470 Benzonitrile
105464 sec-Butyl acetate
106423 p-Xylene
106445 p-Cresol
107028 Acrolein
107051 Allyl chloride
107131 Acrylonitrile
107153 Ethylenediamine
107186 Allyl alcohol
107493 Tetraethyl pyrophosphate
107926 n-Butyric acid
108054 Vinyl acetate
108247 Acetic anhydride
108316 Maleic anhydride
108383 m-Xylene
108394 m-Cresol
108463 Resorcinol
108883 Toluene
108907 Chlorobenzene
108952 Phenol
109739 n-Butylamine
109897 Diethylamine
110167 Maleic acid
110178 Fumaric acid
110190 iso-Butyl acetate
110827 Cyclohexane
115297 Endosulfan
115322 Kelthane
117806 Dichlone
121211 Pyrethrin
121299 Pyrethrin
121448 Triethylamine
121755 Malathion
123628 Propionic anhydride
123864 n-Butyl acetate
123922 iso-Amyl acetate
124403 Dimethylamine
124414 Sodium methylate
127822 Zinc phenolsulfonate
133062 Captan
142712 Cupric acetate
143339 Sodium cyanide
151508 Potassium cyanide
298000 Methyl parathion
298044 Disulfoton
300765 Naled
301042 Lead acetate
309002 Aldrin
315184 Mexacarbate
329715 2,5-Dinitrophenol
330541 Diuron
333415 Diazinon
506774 Cyanogen chloride
506876 Ammonium carbonate
506967 Acetyl bromide
513495 sec-Butylamine
528290 o-Dinitrobenzene
540885 tert-Butyl acetate
541093 Uranyl acetate
542621 Barium cyanide
543908 Cadmium acetate
544183 Cobaltous formate
554847 m-Nitrophenol
557211 Zinc cyanide
557346 Zinc acetate
557415 Zinc formate
563122 Ethion
573568 2,6-Dinitrophenol
592018 Calcium cyanide
592041 Mercuric cyanide
592858 Mercuric thiocyanate
592870 Lead thiocyanate
625161 tert-Amyl acetate
626380 sec-Amyl acetate
628637 n-Amyl acetate
631618 Ammonium acetate
815827 Cupric tartrate
1066304 Chromic acetate
1066337 Ammonium bicarbonate
1072351 Lead stearate
1111780 Ammonium carbamate
1185575 Ferric ammonium citrate
1194656 Dichlobenil
1300716 Xylenol
1303282 Arsenic pentoxide
1303328 Arsenic disulfide
1303339 Arsenic trisulfide
1305620 Calcium hydroxide
1305788 Calcium oxide
1309644 Antimony trioxide
1310583 Potassium hydroxide
1310732 Sodium hydroxide
1314621 Vanadium pentoxide
1314803 Phosphorus pentasulfide
1314847 Zinc phosphide
1314870 Lead sulfide
1319773 Cresol (mixed)
1320189 2,4-D ester
1327533 Arsenic trioxide
1330207 Xylene
1332076 Zinc borate
1333831 Sodium bifluoride
1336216 Ammonium hydroxide
1336363 Polychlorinated biphenyls
1338245 Naphthenic acid
1341497 Ammonium bifluoride
1762954 Ammonium thiocyanate
1863634 Ammonium benzoate
1918009 Dicamba
1928387 2,4-D esters
1928478 2,4,5-T ester
1928616 2,4-D ester
1929733 2,4-D ester
2545597 2,4,5-T ester
2764729 Diquat
2921882 Chlorpyrifos
2944674 Ferric ammonium oxalate
2971382 2,4-D ester
3012655 Ammonium citrate, dibasic
3164292 Ammonium tartrate
3251238 Cupric nitrate
3486359 Zinc carbonate
5893663 Cupric oxalate
5972736 Ammonium oxalate
6009707 Ammonium oxalate
6369966 2,4,5-T ester
7428480 Lead stearate
7440235 Sodium
7446084 Selenium oxide
7446142 Lead sulfate
7447394 Cupric chloride
7558794 Sodium phosphate, dibasic
7601549 Sodium phosphate, tribasic
7631892 Sodium arsenate
7631905 Sodium bisulfite
7632000 Sodium nitrite
7645252 Lead arsenate
7646857 Zinc chloride
7647010 Hydrochloric acid
7647189 Antimony pentachloride
7664382 Phosphoric acid
7664393 Hydrofluoric acid
7664417 Ammonia
7664939 Sulfuric acid
7681494 Sodium fluoride
7681529 Sodium hypochlorite
7697372 Nitric acid
7699458 Zinc bromide
7705080 Ferric chloride
7718549 Nickel chloride
7719122 Phosphorus trichloride
7720787 Ferrous sulfate
7722647 Potassium permanganate
7723140 Phosphorus
7733020 Zinc sulfate
7758294 Sodium phosphate, tribasic
7758943 Ferrous chloride
7758954 Lead chloride
7758987 Cupric sulfate
7773060 Ammonium sulfamate
7775113 Sodium chromate
7778441 Calcium arsenate
7778509 Potassium bichromate
7778543 Calcium hypochlorite
7779864 Zinc hydrosulfite
7779886 Zinc nitrate
7782505 Chlorine
7782630 Ferrous sulfate
7782823 Sodium selenite
7782867 Mercurous nitrate
7783188 Ammonium thiosulfate
7783359 Mercuric sulfate
7783462 Lead fluoride
7783495 Zinc fluoride
7783508 Ferric fluoride
7783564 Antimony trifluoride
7784341 Arsenic trichloride
7784409 Lead arsenate
7784410 Potassium arsenate
7784465 Sodium arsenite
7785844 Sodium phosphate, tribasic
7786347 Mevinphos
7786814 Nickel sulfate
7787475 Beryllium chloride
7787497 Beryllium fluoride
7787555 Beryllium nitrate
7788989 Ammonium chromate
7789006 Potassium chromate
7789062 Strontium chromate
7789095 Ammonium bichromate
7789426 Cadmium bromide
7789437 Cobaltous bromide
7789619 Antimony tribromide
7790945 Chlorosulfonic acid
8001352 Toxaphene
10022705 Sodium hypochlorite
10025873 Phosphorus oxychloride
10025919 Antimony trichloride
10026116 Zirconium tetrachloride
10028225 Ferric sulfate
10028247 Sodium phosphate, dibasic
10039324 Sodium phosphate, dibasic
10043013 Aluminum sulfate
10045893 Ferrous ammonium sulfate
10045940 Mercuric nitrate
10049055 Chromous chloride
10099748 Lead nitrate
10101538 Chromic sulfate
10101630 Lead iodide
10101890 Sodium phosphate, tribasic
10102064 Uranyl nitrate
10102188 Sodium selenite
10102440 Nitrogen dioxide
10102484 Lead arsenate
10108642 Cadmium chloride
10124502 Potassium arsenite
10124568 Sodium phosphate, tribasic
10140655 Sodium phosphate, dibasic
10192300 Ammonium bisulfite
10196040 Ammonium sulfite
10361894 Sodium phosphate, tribasic
10380297 Cupric sulfate, ammoniated
10415755 Mercurous nitrate
10421484 Ferric nitrate
10588019 Sodium bichromate
11115745 Chromic acid
12002038 Cupric acetoarsenite
12054487 Nickel hydroxide
12125018 Ammonium fluoride
12125029 Ammonium chloride
12135761 Ammonium sulfide
12771083 Sulfur chloride
13597994 Beryllium nitrate
13746899 Zirconium nitrate
13765190 Calcium chromate
13814965 Lead fluoborate
13826830 Ammonium fluoborate

13952846	sec-Butylamine
14017415	Cobaltous sulfamate
14216752	Nickel nitrate
14258492	Ammonium oxalate
14307358	Lithium chromate
14307438	Ammonium tartrate
14639975	Zinc ammonium chloride
14639986	Zinc ammonium chloride
14644612	Zirconium sulfate
15699180	Nickel ammonium sulfate
16721805	Sodium hydrosulfide
16871719	Zinc silicofluoride
16919190	Ammonium silicofluoride
16923958	Zirconium potassium fluoride
25154545	Dinitrobenzene
25154556	Nitrophenol
25155300	Sodium dodecylbenzenesulfonate
25167822	Trichlorophenol
25168154	2,4,5-T ester
25168267	2,4-D ester
26264062	Calcium dodecylbenzenesulfonate
27176870	Dodecylbenzenesulfonic acid
27323417	Triethanolamine dodecylbenzenesulfonate
27774136	Vanadyl sulfate
28300745	Antimony potassium tartrate
30525894	Paraformaldehyde
36478769	Uranyl nitrate
37211055	Nickel chloride
42504461	Dodecylbenzenesulfonate isopropanolamine
52628258	Zinc ammonium chloride
52740166	Calcium arsenite
53467111	2,4-D ester
55488874	Ferric ammonium oxalate
61792072	2,4,5-T ester

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[6560-01]

[FRL 829-3]

PART 117—DETERMINATION OF REMOVABILITY OF HAZARDOUS SUBSTANCES

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: This regulation establishes new rules for the determination of the removability of hazardous substances as required under a provision of the Federal Water Pollution Control Act. This regulation should be read in conjunction with other new regulations for hazardous substances which are also being promulgated today in this same separate part of the FEDERAL REGISTER, and which designate hazardous substances, harmful quantities, and rates of penalty.

EFFECTIVE DATE: June 12, 1978, except for vessels. For vessels the effective date is September 11, 1978.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: On December 30, 1975, a document was published in the FEDERAL REGISTER (40 FR 59977) proposing to create a new part 117 in Title 40 of the Code of Federal Regulations. It was a proposed determination of actual removability under section 311(b)(2)(B)(i) of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (the Act) for substances proposed as hazardous substances under Section 311(b)(2)(A) of the Act (40 FR 59960). At the same time, the designation of hazardous substances, determination of harmful quantities and determination of penalty rates were proposed as Parts 116, 118 and 119 respectively. Final promulgation of those regulations is concurrent with this rulemaking.

Interested persons were given until March 1, 1976 to submit written comments on all aspects of the proposed rules. Each of the comments received has been carefully considered in adopting the final rules which are promulgated at this time.

1. *Removability of oil-like substances.* A number of commenters expressed the opinion that certain of the proposed hazardous substances could actually be removed from the water after discharge. After reviewing the comments, physical-chemical data, and existing oil removal technology, it is agreed that some designated substances can actually be removed under most conditions of discharge. It is noted that these substances have limited water solubility, a relatively cohesive mass and are less dense than water. Thus, they resemble petroleum oils in their behavior when discharged to water. The substances can be described as those with specific gravities less than 1.0 and water solubility less than 1,000 mg/l. Accordingly, the final rule makes the determination that amyl acetate, ethylbenzene, xylene, allyl chloride, benzene, cyclohexane, isoprene, methyl methacrylate, styrene, and toluene can actually be removed.

2. *Definition of removability.* Many comments dealing with the question of removability expressed alternative interpretations from that proposed by the Agency. The basic issue is that section 311(a)(8) defines the term remove or removal as follows. "(8) 'remove or removal' refers to removal of the oil or hazardous substances from the water and shorelines or the taking of such other actions as may be necessary to minimize or mitigate damage to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches."

It was recognized that for every substance it may be possible to take some action to minimize or mitigate damages to public health or welfare depending on the circumstances of the discharge. Thus, commenters argued that under this part of the definition of remove or removal, all substances should be determined to be removable.

However, section 311(b)(2)(B)(i) requires a determination whether any designated substance can *actually* be *removed* (emphasis added). The Agency's proposal stated that this determination of actual removability was separable from the definition of remove or removal found in Section 311(a)(8) and referred only to the actual physical, chemical, or biological separation of the substance from the water.

With regard to the question of actual removability, the chemical, physical, or biological separation of a pollutant from the water or shorelines depends upon the hydrological characteristics of the receiving water at least as much as upon the properties of the substances. In general a substance when discharged to a contained water body of limited size often can actually be removed to some degree from that water body or shoreline. On the other hand, such substances when discharged to a large free flowing water body cannot, in general, be effectively separated from the water. Often it is the water body and other circumstances surrounding the discharge that dictate the success of attempts to actually remove the substance. However section 311 requires that the determination of actual removability be made with respect to designated substances rather than receiving water bodies. In addition, section 311 also applies to discharges to the shorelines of the navigable waters. Discharges of designated substances which result in contaminated shorelines can nearly always be physically or chemically removed to some degree from the shoreline. Thus, for substances other than those identified as actually removable, there is no clear *a priori* determination of removability which will satisfy *all* potential discharge situations. In effect, many substances are only partially removable and therefore also partially nonremovable. As stated in the proposed rulemaking, the intent of section 311 and the implementing regulations is the prevention of discharges of hazardous substances. A determination that all substances are actually removable would negate the incentives for cleaner operation and more careful handling provided by the civil penalties in those circumstances where discharges, while subject to mitigation, cannot be actually removed. Therefore, the Agency has determined that the most satisfactory definition, and the one which best satisfies the congressional intent, is to define oil-like hazardous substances as actually removable, and to define other, less generally removable hazardous substances, as not actually removable. Such non-oil-like hazardous substances can on occasion be partially removed from the water or adjoining shorelines. On the whole, however, such substances will not in fact be removable and so are properly designated as "not actually removable." Since Congress has in essence defined oil as removable, it is logical to define substances with oil-like physical characteristics as removable.

As noted previously in the Preamble to this Part 117 some substances have been described as oil-like on the basis of similarity in behavior to oil when discharged to water, i.e., limited solubility, less dense than water, and relatively cohesive mass. The Act defines oil in narrative form but left to the Agency the responsibility for designating and therefore, defining hazardous substances. The Agency defined hazardous substances in Part 116 on the basis of toxicological effects. For Part 117 the Agency developed a rationale to distinguish between oils and oil-like hazardous substances. That rationale is as follows:

I. If the substance is petroleum derived and:

A. If it *has* a defined chemical structure, it is a candidate hazardous substance.

B. If the substance's chemical structure is not defined and if it contains both:

1. mixtures of isomers, and

2. Members of a homologous series, i.e., series of organic compounds with members differing from successive members by increments of CH_2, the substance is classified as a petroleum oil and is not covered by these regulations.

II. If the substance is non-petroleum derived and:

A. If it is not an organic solvent extractable, it is a candidate hazardous substance.

B. If it is organic solvent extractable and:

1. If it *has* a defined chemical structure, it is a candidate hazardous substance.

2. If the substance's chemical structure is not defined and if it contains both:

(a) mixtures of isomers, and

(b) member of a homologous series, the substance is covered by these regulations.

On the basis of the foregoing, the ten oil-like substances previously identified have been determined to be removable hazardous substances.

The proposed regulation, under §117.3, made the determination that discharges of substances that are not actually removable are nonetheless subject to damage mitigation actions taken under Section 311(c). Section 57 of the Clean Water Act (Pub. L. 95-217) provides (in new section 311(b)(2)(B)(v)) that the Administrator may act to mitigate the damage caused by discharges of nonremovable hazardous substances and that the cost of such mitigation is to be deemed a cost incurred under Section 311(c) and thus recoverable from the responsible person under sections 311 (f) or (g).

3. *Guidelines for Mitigation:*

Several commenters addressed the need for guidelines on methods and procedures for removal or mitigation of discharges of hazardous substances.

Section 311(j)(1)(A) requires the promulgation of removal regulations. These regulations will be developed in cooperation with the U.S. Coast Guard. Until such time as those regulations are promulgated, appropriate damage mitigation actions are those reasonable steps taken to contain, neutralize, and remove the substance or other actions to protect the public health or welfare. The general pattern of operational response action is specified in the National Oil and Hazardous Substances Contigency Plan (40 CFR 1510.40). To insure that such actions are appropriate, the response plan should be carried out in consultation with and approval of the On-Scene Coordinator as defined in 40 CFR 1510.36.

4. *Definition of Mixture:*

It was suggested that the definition of mixture is too simplistic because it fails to recognize that the interactions of the two or more substances could produce a third substance more or less toxic than either of the substances being combined.

If two or more substances are chemically combined to form a non-hazardous substance, which is then discharged, there is no violation of section 311, but there may be violation of other sections of the Act or of other laws such as the Resource Conservation and Recovery Act. On the other hand if such substances combine to form a hazardous substance there is a violation of section 311. Further, if a hazardous substance is discharged followed by a discharge of another substance which renders the first substance harmless, the violation of section 311 caused by the first discharge is not obviated by the discharge of the second substance. However, mitigation efforts may be considered by the Administrator in determining which penalty to apply, as provided in Part 119.

Dated: March 3, 1978.

DOUGLAS M. COSTLE,
Administrator.

Part 117 is added as follows:

Sec.
117.1 Applicability.
117.2 Definitions.
117.3 Determination of actual removability.

AUTHORITY: Secs. 311 and 501(a), Federal Water Pollution Control Act, (33 U.S.C. 1251 et seq.).

§117.1 Applicability.

This regulation makes a determination under section 311(b)(2)(B)(i) of the Federal Water Pollution Control Act (the Act) as to the actual removability of substances designated under section 311(b)(2)(A). This regulation applies to substances designated as hazardous under 40 CFR part 116.

§117.2 Definitions.

Terms used in this part shall have the meanings as stated in 40 CFR part 116 and as indicated below:

"Mixture" means any combination of two or more elements and/or compounds in solid, liquid or gaseous form except where such substances have undergone a chemical reaction so as to become inseparable by physical means.

"Remove" or "removal" refers to removal of the oil or hazardous substances from the water and shorelines or the taking of such other actions as may be necessary to minimize or mitigate damage to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches.

"Actually be removed" means the separation and isolation of discharged hazardous substances from the waters by chemical, physical, or biological means.

§117.3 Determination of actual removability.

It is determined that the following substances designated as hazardous under 40 CFR part 116 can actually be removed: Allyl chloride, amyl acetate, benzene, cyclohexane, ethylbenzene, isoprene, methyl methacrylate, styrene, toluene, xylene. All other elements, compounds or their structural isomers, or mixtures thereof designated as hazardous substances under 40 CFR part 116 are determined to be not actually removable. The determination that certain designated substances cannot actually be removed by chemical, physical, or biological means does not relieve the discharger or third party from damage mitigation liabilities under sections 311(f) and 311(g) of the Act.

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[6560-01]

[FRL 829-4]

PART 118—DETERMINATION OF HARMFUL QUANTITIES FOR HAZARDOUS SUBSTANCES

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: This regulation establishes new rules for the determinations of harmful quantities of hazardous substances, as required by a provision of the Federal Water Pollution

Control Act. This regulation should be read in conjunction with other new regulations for hazardous substances, which are also being promulgated

fects such as biochemical oxygen demand, reduction of amenities, and the tainting of seafood. Further, these effects were not utilized in the pro-

System; or part of a designated National Forest Wilderness, a designated National Park System, or a designated National Wilderness Preserve System.

be made by regulation in advance of any specific discharge situation. It is recognized that the degree of harm to environmental health is dependent

amendments to section 311 of the Federal Water Pollution Control Act including, as noted in the preamble to

comments on this point expressed the opinion that the harmful quantities had little meaning unless a time

Control Act. This regulation should be read in conjunction with other new regulations for hazardous substances, which are also being promulgated today in this same separate part of the FEDERAL REGISTER, and which designate hazardous substances, removability, and rates of penalty.

EFFECTIVE DATES: June 12, 1978, except for vessels. The effective date for vessels is September 11, 1978.

FOR FURTHER INFORMATION CONTACT:

Kenneth M. Mackenthun, Director, Criteria and Standards Division (WH-585), Office of Water and Hazardous Materials, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 (phone: 202-755-0100).

SUPPLEMENTARY INFORMATION: The Administrator of the Environmental Protection Agency proposed in the FEDERAL REGISTER of December 30, 1975 (40 FR 59982), to create a new part 118 in title 40 of the code of Federal Regulations which made a determination of harmful quantities under section 311(b)(4) of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (the Act), for substances designated under section 311(b)(2)(A) of that Act. At the same time the designation of hazardous substances, determination of actual removability, and establishment of units of measurement and penalty rates were also proposed as parts 116, 117, and 119 respectively. Final promulgation of those regulations is concurrent with this rulemaking.

Method for determining harmful quantities. The December 30, 1975, proposal (40 FR 59982-89) described a procedure developed for determining harmful quantities based on a hazardous material classification system found in Annex II of the International Conference on Marine Pollution, 1973, which was submitted by the Intergovernmental Maritime Consultative Organization (IMCO) to member nations for adoption. The Agency indicated that a number of modifications to the basic IMCO system were required to satisfy the requirements of section 311. The modifications required were then used by the Agency in developing the table described at 40 FR 59988 as Table I, EPA Guidelines for Categorizing Hazardous Materials, which was to be used in conjunction with acute toxicity in determining harmful quantities.

Since the December 30, 1975, proposal, the Agency has reevaluated the use and appropriateness of the modified IMCO guidelines for categorizing hazardous substances. It was found that the IMCO guidelines and the proposed modifications to them required various subjective judgments, and relied, to some extent, on rather ill-defined effects such as biochemical oxygen demand, reduction of amenities, and the tainting of seafood. Further, these effects were not utilized in the proposed determination of harmful quantities. Therefore, this final rulemaking simplifies the categorization process to employ only the acute aquatic toxicity of the designated substances in deriving the harmful quantity categories. A result of this simplification is that substances for which no acute toxicity data are available are not categorized. As explained in the preamble to part 116 published elsewhere in this issue of the FEDERAL REGISTER, only two substances, adiponitrile and acetone cyanohydrin were proposed solely because of toxicological effects other than aquatic. Since that time, aquatic toxicity data for acetone cyanohydrin which support its final designation have become available. No similar supporting data for adiponitrile have become available and that substance was deleted from the final listing of hazardous substances. Although not used in the present rulemaking action, part 116 adopts selection criteria dealing with acute toxic effects to mammals and plants. At such time that those or other selection criteria are utilized for the designation of hazardous substances, this simplified system for categorizing substances according to their relative potential for harm will be supplemented.

Toxicological data for individual substances used in determining harmful quantities were derived from the compendium of information fact sheets entitled, Hazardous Substances Facts Sheets, 1977, which are available from the Environmental Protection Agency. In addition, other primary sources of data were: Water Quality Criteria Federal Water Pollution Control Administration, 1968, Water Quality Criteria 1972, EPA, March 1973, and quality Criteria for Water, EPA 440/9-76-023, July 1976.

Comments. Interested persons were given until March 1, 1976, to submit written comments concerning all aspects of the proposed rules. Each of the comments received has been carefully considered in adopting the final rules which are promulgated at this time.

1. *Special waters.* Many comment letters addressed the definition of Special Waters and the proposed determination that any quantity of a designated substance discharged to these waters constituted a harmful quantity. A majority of those commenting on this point believed the proposal lacked adequate definition or justification and would not result in a workable approach.

Special waters were proposed to be defined as those waters which are: (1) Drinking water reservoirs; (2) part of a designated National Wildlife Refuge System; or part of a designated National Forest Wilderness, a designated National Park System, or a designated National Wilderness Preserve System.

It was argued that the term "any quantity" was vague, and that the criminal nature of penalties for failure to notify demanded a definitive measure of a violation. It was also pointed out that the boundaries of waters proposed as special waters were neither clearly defined nor marked in such a way that the person responsible for giving notice could instantly recognize or differentiate between various waters. Thus, this lack of definition placed an additional and unfair burden on potential dischargers. It was further argued that the proposed harmful quantities were of such a magnitude that they provided an adequate level of protection for all waters.

On the other hand, several commenters suggested that the definition of "special waters" should be expanded to include State and locally defined parks and wildlife areas, tributaries to National wildlife refuges, forests, wildernesses and parks, and sources of drinking water in addition to reservoirs.

After review of the practical and legal implications of the proposed approach, the Agency is in agreement with the position that because of the criminal nature of penalties for failure to provide notice under section 311(b)(5), the lack of easily discernible marked boundaries for special waters makes the proposed approach impractical. The Agency further believes that the magnitude of quantities proposed as harmful and adopted by this rulemaking provide meaningful protection to those waters proposed as "special waters." Accordingly, the proposed provision concerning discharge of hazardous substances into special waters is deleted from this final rule.

2. *Demonstrable harm.* Many comment letters expressed the opinion that the proposed harmful quantities and the method for their derivation were inappropriate. It was suggested that the harmful quantity should be directly related to actual harm or demonstrable damage to the environment from each discharge. It was argued that the concentration of a toxic material in the water dictated whether or not damages or harm would occur. Thus, the characteristics of the receiving water body including type, size, and flow rate, all influence the toxicity and must be considered in the derivation of the harmful quantity. Other commenters argued that salinity, hardness, temperature, and biological populations of the water body further modify the actual impact of a hazardous substance discharge and should be considered.

Section 311(b)(4) requires that the determination of harmful quantities

be made by regulation in advance of any specific discharge situation. It is recognized that the degree of harm to environmental health is dependent primarily upon the concentration of the substance in the receiving water and that the pollutant concentration is dictated in large part by the type, flow rate, and size of the water body. It is further recognized that the ultimate degree of harm or damage is also a function of many other characteristics of receiving water bodies such as salinity, hardness, alkalinity, dissolved oxygen, turbidity, biological population, buffering capacity, and beneficial uses. Recognition of the numerous factors which influence the ultimate expression of harm or damages resulting from the discharge of a hazardous substance would preclude a before-the-fact quantitative evaluation of harm. The number of potentially influencing factors and their possible combinations would render any predictive model based on them entirely too cumbersome for regulatory application.

Similar to the problems discussed under the special waters provision, the boundaries and differentiation of various waters are not clearly defined nor readily discernible. The discharger, particularly from a transportation source, is not equipped to differentiate between large and small streams, estuaries and rivers, or rivers and lakes. Adoption of such an approach using variable harmful quantities depending on water body type or size would place dischargers in the position of facing criminal penalties for failure to immediately notify without having the means to make the determination that a violation has occurred. As pointed out by the numerous comments on the proposed special waters provision, such a nondefinitive determination would place an unfair burden on dischargers. The proposed approach, identifying a single harmful quantity applicable to all waters, provides a clear and definitive threshold for activation of the reporting requirement. The inclusion of numerous variables which may accompany a particular discharge and modify the harmful quantity would create uncertainty in the notification requirement which is unacceptable in light of the criminal penalty provisions for failure to give notice and the importance of prompt activation of response activities through such notice. The proposed approach adopted by this rulemaking is responsive to the requirements of the Act and the harmful quantity is defined in terms of the unit of measurement concept and the relative degree of hazard presented by each chemical. Because the determination must be made *a priori*, no individualized assessment of harm or damage is feasible.

The Clean Water Act of 1977 (Pub. L. 95-217) contained a number of amendments to section 311 of the Federal Water Pollution Control Act including, as noted in the preamble to Part 116, amendments extending the coverage of section 311 out beyond the contiguous zone. In the debates on the conference report concerning these amendments Senator Muskie states:

> The amendments to section 311 underscore the importance of this section and the need for completion of long-delayed regulatory action with respect to hazardous substances and determination of removability, harmful quantities and rates of penalty are major actions, the Administrator is expected only to make a reasonable effort to make these judgments. These are nationally applicable, before-the-fact decisions and are not expected to reflect the myriad of actual circumstances that may occur.

Congressional Record at S19653 (December 15, 1977).

This statement illustrates the principle that harmful quantity determinations, as well as designation of substances as hazardous and determinations of removability and rates of penalty, are to be based on the characteristics of the substance and not on the circumstances surrounding the discharge. Although discharges of the same substance to different bodies of water may result in different degrees of environmental harm, it is neither required by the statute nor practical to establish varying harmful quantities. In this connection it is significant that the Clean Water Act of 1977 amended section 311(b)(4) to delete the provision establishing a different test for a harmful quantity of oil in the contiguous zone than for other waters. As Senator Muskie's statement demonstrates, Congress was aware that requiring tailoring of such determinations to water body type and other circumstances is administratively unwise and could prevent achievement of the goals of the Act.

The question as to how EPA should implement the extension of the coverage of section 311 is really only a subset of the issue discussed above. The decision, arrived at with full public participation, to adopt uniform harmful quantities (and designations, determinations of removability, and rates of penalty) provides the answer. Moreover, nothing in the Clean Water Act of 1977 or its legislative history indicates that the extended coverage of section 311 was to be implemented differently in this respect than in other waters. In fact, as noted above, the contrary appears to be true. Thus, it is fully appropriate that the same provisions of Parts 116, 117, 118, and 119 which apply to other waters, also apply beyond the contiguous zone.

3. *Time of discharge.* Many comment letters addressed the fact that a discrete period of time was not proposed or associated with the determination of harmful quantity. The majority of comments on this point expressed the opinion that the harmful quantities had little meaning unless a time period for discharge of the quantity was specified. It was argued that the discharge of 2 pounds of a category A substance over a time period of 2 months would cause significantly less environmental impact than the discharge of the same amount over a time period of 2 minutes. A number of the commenters suggested specific time periods to be associated with the harmful quantity. Suggested limits ranged from 5 minutes to one month.

Neither section 311 of the Act nor its legislative history limit the applicability of section 311 to spill-type discharges of hazardous substances. Thus, implementing regulations under section 311 may be applied to any discharge over any length of time. However, the primary thrust of these regulations has been directed toward the control of short-term nonroutine discharges of hazardous substances. The association of a maximum time limit over which the discharge of a harmful quantity must occur to result in a violation will provide additional definition to the reporting requirement under section 311(b)(5). For the purpose of this regulation a maximum time period associated with the discharge of a harmful quantity has been established as 24 hours. It is believed that this time period will permit regulatory control over such discharges of hazardous substances and provide an additional degree of resolution to the reporting requirement. It is noted that a 24 hour average or maximum discharge limit is the shortest time period specified in typical NPDES permits or associated reporting and monitoring requirements.

4. *Changes in harmful quantity categories.* Several comment letters addressed the categorization of certain specific substances suggesting that new or existing data justified alternative categories. These petitions were made, in some cases, on the basis of data selectively quoted from information utilized by the Environmental Protection Agency in deriving the proposed categorization. In other cases, additional data were submitted by commenters to support their argument. A review of all proposed harmful quantities was also suggested.

In each case, the specific information utilized by the Agency in arriving at a harmful quantity category was carefully reviewed against the new data submitted. In addition, all remaining harmful quantity categories were reviewed by the Agency. As a result of this thorough review of the harmful quantity categories, category changes have been made.

Changes in harmful quantity categories were made for about 60 substances as a result of this review with changes

from categories of higher relative toxicity to less toxic categories approximately equal to changes in the opposite direction. In terms of the direction of change, most of the changes are in agreement with suggestions from commenters. The exception usually was in cases where a commenter without benefit of supporting data requested that a material be moved from one category to a less harmful category or be removed from the list. For further information see the *Hazardous Substances Fact Sheets, 1977.*

5. *Consideration of bioaccumulation.* Several commenters suggested that the consideration of bioaccumulation could be clarified by use of more quantitative criteria for assessing the magnitude of accumulation.

The simplification of the catgorization process explained earlier in the preamble discontinued the consideration of bioaccumulation. However, it is anticipated that future criteria may employ the assessment of bioaccumulation and to the extent possible that assessment will include quantitative evaluation of the effects of bioaccumulation.

6. *Magnitude of Harmful Quantities:* Numerous commenters expressed the view that the proposed harmful quantities were generally too low. Related to this some commenters pointed out an inequity in a harmful quantity category system that provides for a factor of ten difference between categories D and C, C and B, and B and A while permitting Category A to range over more than three orders of magnitude. Note Table II below from the December 30, 1975 proposal (40 FR 59889).

Category	Representative range	Harmful quantity pounds (kilograms)
A	LC50<1 mg/l	1.0 (0.454).
B	1 mg/lOLC50<10 mg/l	10 (4.54).
C	10 mg/lOLC50<100 mg/l	100 (45.4).
D	100 mg/lOLC500600 mg/l	500 (227).

The Agency has, on the basis of the above comments, reevaluated the harmful quantity categories as well as each of the suggested alternatives. In doing so, rates of penalties for Category A substances were compared as a function of acute toxicities. Endrin, for example, with an acute toxicity of 0.000037 mg/l would incur a penalty of $360 a pound. On the other hand, cupric chloride with an acute toxicity of 0.91 mg/l (about one twenty five thousandth that of Endrin) would incur a penalty of $62 per pound, or almost 17 percent of that for the other highly toxic substance. The Agency agrees with the concern about inequity in the A category and is therefore adding another category, the details of which are described below.

Several alternatives were proposed by commenters for modifying the harmful quantity system. The most practical of those and the one which has been accepted is to add a new category before Category A which we shall call Category X, in which substances with LC50 values of less than 0.1 mg/l are included, and to designate for this Category X the basic unit of one pound as the harmful quantity. The designated harmful quantities for Categories A, B, C, and D are then changed to 10, 100, 1,000 and 5,000 pounds respectively. Category A then retains only the acute toxicity range 0.1 LC50 1 ppm. Categories B, C, and D retain their LC50 ranges as proposed. The modified harmful quantity system is shown in table below:

Category	Toxicity range	Harmful quantity pounds (kilograms)
X	LC50<0.1 mg/l	1.0 (0.454).
A	0.1 mg/10LC50<1 mg/l	10 (4.54).
B	1 mg/10LC50<10 mg/l	100 (45.4).
C	10 mg/10LC50<100 mg/l	1,000 (454).
D	100 mg/10LC500600 mg/l	5,000 (2,270).

As mentioned earlier in this preamble and illustrated by the above table, the system for categorization has been simplified and is based solely on the ranges of aquatic toxicity. The overall effect of adding the additional Category X is that the harmful quantities proposed on December 30, 1975, have been increased. Due to the few data on recorded discharges, it is not possible to estimate the effect this change will have on the number of discharges exceeding the harmful quantity. Intuitively, it would appear that fewer discharges would exceed the present harmful quantity than those quantities proposed earlier. However, because these regulations generally apply to discharges which are the result of episodic events such as transportation and storage accidents and plant upsets, it is believed that the harmful quantities adopted by this Part 118 will regulate the bulk of those discharges which present an imminent and substantial threat to public health and welfare and the environment.

7. *Applicability:* A. Many comment letters expressed the opinion that the Applicability section proposed as Part 116.1 was inappropriate as it related to the section 402 National Pollutant Discharge Elimination System (NPDES) program. Most commenters believed that any association of section 311 regulations with an effluent discharge regulated under the NPDES program was redundant and exceeded the statutory authority of section 311. The primary alternative suggestion was that all holders of an NPDES permit be totally exempt from the provisions of section 311. The stated basis for this position was that violations of the NPDES permit are enforceable in their own right under section 309 and that additional reporting and enforcement provisions under section 311 were redundant, unnecessary, and burdensome. It was further argued that section 311 of the Act applied only to spills from sources other than an NPDES permitted facility.

As stated under the discussion of the "Time of Discharge," above, nothing in the Act limits the applicability of section 311 only to "spill-type" situations. However, the stated thrust and primary emphasis in these initial regulations (40 CFR Parts 116, 117, 118, and 119) is the control of spill-type or nonroutine discharge episodes. This policy of addressing such discharges as the priority area of concern does not preclude the application of section 311 to other discharges of hazardous substances. Section 311 provides important authorities and authorizes requirements not all of which are found in other sections of the Act. These include: (1) Immediate notification in the event of a discharge (section 311(b)(5)); (2) an organized Federal government plan to deal with pollution emergencies (section 311(c)(2)); (3) authority of the Federal government to respond to pollution emergencies and take actions to protect public health and welfare and the environment (section 311(c)(1)); (4) an established fund to support pollution emergency activities (section 311(k)); (5) responsible party liabilities for cleanup costs incurred by the Federal Government (sections 311(f) and (g)); and (6) removal and discharge prevention regulations (section 311(j)). The intent of the proposed applicability section was to clearly exclude discharges of hazardous substances which are permitted under other sections of the Act and related laws from the provisions of these regulations. Although violations of such other requirements may be enforced independently, no emergency response activities and the accompanying protection of public health such as those mentioned above are authorized. Therefore, discharges in violation of such requirements are in violation of section 311 as well.

The 24-hour discharge of a designated hazardous substance in a quantity equal to or exceeding its harmful quantity and in excess of the limitation in an NPDES permit issued pursuant to section 402 of the Act is a violation of these rules.

b. Some commenters pointed out that a discharger may not know for several days (the period required to do testing) whether his discharges violate his NPDES permit.

The requirement to provide notification arises when the discharger learns or should have known that he has made a discharge in a harmful quantity in violation of section 311(b)(4).

c. One comment letter pointed out that the State of California, under State statutory authority, issues permits for the application of calcium oxide to kelp beds for the control of sea urchins. Because the applicability section of the proposed rules did not specifically exclude such discharges, there was concern that continued use of calcium oxide in California waters may constitute a violation of section 311.

The beneficial uses of substances designated as hazardous in Part 116 have been recognized by the exclusion of certain activities permitted under Federal law. The benefits of calcium oxide addition to waters containing commercial kelp beds are also recognized and the applicability section of this final rule is amended to exclude discharges permitted under §165.7 of Title 14 of the California Administrative Code. A similar modification is made in 40 CFR Part 119.1.

d. In regard to the exclusion from applicability for activities permitted under section 404 of the Act or section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, it was pointed out that permits are not issued for Congressionally authorized projects. Accordingly, it was suggested that the language be changed to reflect compliance with the sections of law rather than the specific permit.

The suggested alternative is adopted in this final rulemaking.

e. Several commenters questioned whether discharges of materials for mitigation purposes would subject the discharger to further penalties. For example, base materials listed as hazardous substances might be discharged to neutralize acid discharges, thus subjecting the discharger to potential penalties for discharge of base materials.

The Agency believes that it would be contrary to the spirit of the law to penalize persons for undertaking mitigation actions which are encouraged under section 311. At the same time, the Agency believes that care must be exercised in carrying out mitigation actions. The Agency intends to promulgate removal regulations at a later date. Accordingly, the Agency has clarified the applicability of the regulations by amending §118.1 (and 119.1) to provide that mitigation actions undertaken on the instructions or with the approval of the Federal On-Scene Coordinator pursuant to 40 CFR 1510 (The National Oil and Hazardous Substance Contingency Plan), or pursuant to 33 CFR §153.105(c) (Pollution by Oil or Hazardous Substances), or in accordance with applicable section 311(j)(1)(A) regulations, when promulgated, do not violate section 311.

Dated: March 3, 1978.

DOUGLAS M. COSTLE,
Administrator.

Part 118 is added as follows:

Sec.
- 118.1 Applicability.
- 118.2 Abbreviations.
- 118.3 Definitions.
- 118.4 Determination of Harmful Quantities.
- 118.5 Demonstration Projects.
- 118.6 Notice.
- 118.7 Penalties.
- 118.8 Liabilities.

AUTHORITY: Secs. 311 and 501(a), Federal Water Pollution Control Act (33 U.S.C. 1251 *et seq.*, (the Act)) and Executive Order 11735.

§118.1 Applicability.

This regulation makes a determination of the harmful quantity for each substance designated as hazardous in 40 CFR Part 116. The regulation applies to quantities of designated substances equal to or greater than those set forth below, except to the extent that the owner or operator can show such discharges are made (1) in compliance with the requirements of sections 301, 302, 304, 306, 307, 318 and 403 of the Act, and in compliance with a National Pollutant Discharge Elimination System (NPDES) permit which has been issued pursuant to section 402 of the Act, (2) in compliance with Section 404 of the Act or in compliance with a permit issued under the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1401 *et seq.*), (3) in compliance with approved water treatment plant operations as specified by local, State or Federal regulations pertaining to safe drinking water, (4) pursuant to the label directions for application of a pesticide product registered under 40 CFR Part 162 (FEDERAL REGISTER, Vol. 40, No. 129, Part II, pp. 28242-28286, July 3, 1975) by authority of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended by the Federal Environmental Pesticide Control Act of 1972 (Pub. L. 92-516, 86 Stat. 973; Pub. L. 94-140, 86 Stat. 751; 7 U.S.C. 136 *et seq.*), (5) in compliance with the regulations issued under section 3004 of the Resource Conservation and Recovery Act, 90 Stat. 2795; 42 U.S.C. 6901, (6) in compliance with instructions of the On-Scene Coordinator pursuant to 40 CFR 1510 (the National Oil and Hazardous Substance Contingency Plan) or 33 CFR §153.105(c) (Pollution by Oil and Hazardous Substances) or in accordance with applicable removal regulations as required by §311(j)(1)(A), (7) in compliance with a permit issued under Section 165.7 of Title 14 of the State of California Administrative Code, or (8) from a properly functioning inert gas system when used to provide inert gas to the cargo tanks of a vessel. For the purpose of this Part 118.1, compliance with an NPDES permit means a discharge during a 24 hour period of a designated hazardous substance (40 CFR Part 116) when such discharge is equal to or less than the maximum daily amount expressly allowed in such permit, or is equal to or less than the average daily discharge for a hazardous substance not limited expressly in the permit, but as disclosed in the permit application.

§118.2 Abbreviations.

lb equals pound.
kg equals kilogram.
HQ equals harmful quantity.

§118.3 Definitions.

As used in this part, all terms shall have the meanings stated in 40 CFR Parts 116 and 117.

§118.4 Determination of harmful quantities.

The quantity listed with each substance in Table 118.4 is determined to be the harmful quantity for that substance. The harmful quantities of mixtures or solutions are considered additive based upon the proportions of the individual elements or compounds as follows. For a mixture or solution of substance X, substance Y, and substance Z, etc., the weight of substance X discharged is divided by the harmful quantity of pure substance X, and so forth. Next, the fractions so derived are added. If the total equals or exceeds unity, then the harmful quantity of the mixture or solution has been equaled or exceeded.

TABLE 118.4—HARMFUL QUANTITIES OF HAZARDOUS SUBSTANCES

NOTE.—The first number under the column headed "HQ" is the harmful quantity in pounds. The number in parentheses is the metric equivalent in kilograms. The column headed "Category" lists the EPA Category associated with each substance.

Material	Category	HQ in pounds (kilograms)
Acetaldehyde	C	1,000 (454).
Acetic acid	C	1,000 (454).
Acetic anhydride	C	1,000 (454).
Acetone cyanohydrin	A	10 (4.54).
Acetyl bromide	D	5,000 (2,270).
Acetyl chloride	D	5,000 (2,270).
Acrolein	X	1 (0.454).
Acrylonitrile	B	100 (45.4).
Aldrin	X	1 (0.454).
Allyl alcohol	B	100 (45.4).
Allyl chloride	C	1,000 (454).
Aluminum sulfate	D	5,000 (2,270).
Ammonia	B	100 (45.4).
Ammonium acetate	D	5,000 (2,270).
Ammonium benzoate	D	5,000 (2,270).
Ammonium bicarbonate	D	5,000 (2,270).
Ammonium bichromate	C	1,000 (454).
Ammonium bifluoride	D	5,000 (2,270).
Ammonium bisulfite	D	5,000 (2,270).
Ammonium carbamate	D	5,000 (2,270).
Ammonium carbonate	D	5,000 (2,270).
Ammonium chloride	D	5,000 (2,270).
Ammonium chromate	C	1,000 (454).
Ammonium citrate	D	5,000 (2,270).
Ammonium fluoborate	D	5,000 (2,270).
Ammonium fluoride	D	5,000 (2,270).
Ammonium hydroxide	C	1,000 (454).
Ammonium oxalate	D	5,000 (2,270).
Ammonium silicofluoride	C	1,000 (454).

Material	Category	HQ in pounds (kilograms)
Ammonium sulfamate	D	5,000 (2,270).
Ammonium sulfide	D	5,000 (2,270).
Ammonium sulfite	D	5,000 (2,270).
Ammonium tartrate	D	5,000 (2,270).
Ammonium thiocyanate	D	5,000 (2,270).
Ammonium thiosulfate	D	5,000 (2,270).
Amyl acetate	C	1,000 (454).
Aniline	C	1,000 (454).
Antimony pentachloride	C	1,000 (454).
Antimony potassium tartrate	C	1,000 (454).
Antimony tribromide	C	1,000 (454).
Antimony trichloride	C	1,000 (454).
Antimony trifluoride	C	1,000 (454).
Antimony triiodide	D	5,000 (2,270).
Arsenic disulfide	D	5,000 (2,270).
Arsenic pentoxide	D	5,000 (2,270).
Arsenic trichloride	D	5,000 (2,270).
Arsenic trioxide	D	5,000 (2,270).
Arsenic trisulfide	D	5,000 (2,270).
Barium cyanide	A	10 (4.54).
Benzene	C	1,000 (454).
Benzoic acid	D	5,000 (2,270).
Benzonitrile	C	1,000 (454).
Benzoyl chloride	C	1,000 (454).
Benzyl chloride	B	100 (45.4).
Beryllium chloride	D	5,000 (2,270).
Beryllium fluoride	D	5,000 (2,270).
Beryllium nitrate	D	5,000 (2,270).
Butyl acetate	D	5,000 (2,270).
Butylamine	C	1,000 (454).
Butyric acid	D	5,000 (2,270).
Cadmium acetate	B	100 (45.4).
Cadmium bromide	B	100 (45.4).
Cadmium chloride	B	100 (45.4).
Calcium arsenate	C	1,000 (454).
Calcium arsenite	C	1,000 (454).
Calcium carbide	D	5,000 (2,270).
Calcium chromate	C	1,000 (454).
Calcium cyanide	A	10 (4.54).
Calcium dodecylbenzenesulfonate	C	1,000 (454).
Calcium hydroxide	D	5,000 (2,270).
Calcium hypochlorite	A	10 (4.54).
Calcium oxide	D	5,000 (2,270).
Captan	A	10 (4.54).
Carbaryl	B	100 (45.4).
Carbon disulfide	D	5,000 (2,270).
Chlordane	X	1 (0.454).
Chlorine	A	10 (4.54).
Chlorobenzene	B	100 (45.4).
Chloroform	D	5,000 (2,270).
Chlorpyrifos	X	1 (0.454).
Chlorosulfonic acid	C	1,000 (454).
Chromic acetate	C	1,000 (454).
Chromic acid	C	1,000 (454).
Chromic sulfate	C	1,000 (454).
Chromous chloride	C	1,000 (454).
Cobaltous bromide	C	1,000 (454).
Cobaltous formate	C	1,000 (454).
Cobaltous sulfamate	C	1,000 (454).
Coumaphos	A	10 (4.54).
Cresol	C	1,000 (454).
Cupric acetate	B	100 (45.4).
Cupric acetoarsenite	B	100 (45.4).
Cupric chloride	A	10 (4.54).
Cupric nitrate	B	100 (45.4).
Cupric oxalate	B	100 (45.4).
Cupric sulfate	A	10 (4.54).
Cupric sulfate ammoniated	B	100 (45.4).
Cupric tartrate	B	100 (45.4).
Cyanogen chloride	A	10 (4.54).
Cyclohexane	C	1,000 (454).
2,4-D Acid	B	100 (45.4).
2,4-D Esters	B	100 (45.4).
DDT	X	1 (0.454).
Diazinon	X	1 (0.454).
Dicamba	C	1,000 (454).
Dichlobenil	C	1,000 (454).
Dichlone	X	1 (0.454).
2,3-Dichloropropionic acid	D	5,000 (2270).
Dichlorvos	A	10 (4.54).
Dieldrin	X	1 (0.454).
Diethylamine	C	1,000 (454).
Dimethylamine	C	1,000 (454).
Dinitrobenzene	C	1,000 (454).
Dinitrophenol	C	1,000 (454).
Diquat	C	1,000 (454).
Disulfoton	X	1 (0.454).
Diuron	B	100 (45.4).
Dodecylbenzenesulfonic acid	C	1,000 (454).
Endosulfan	X	1 (0.454).
Endrin	X	1 (0.454).
Ethion	A	10 (4.54).
Ethylbenzene	C	1,000 (454).
Ethylenediamine	C	1,000 (454).
EDTA	D	5,000 (2,270).
Ferric ammonium citrate	C	1,000 (454).
Ferric ammonium oxalate	C	1,000 (454).
Ferric chloride	C	1,000 (454).
Ferric fluoride	B	100 (45.4).
Ferric nitrate	C	1,000 (454).
Ferric sulfate	C	1,000 (454).
Ferrous ammonium sulfate	C	1,000 (454).
Ferrous chloride	B	100 (45.4).
Ferrous sulfate	C	1,000 (454).
Formaldehyde	C	1,000 (454).
Formic acid	D	5,000 (2,270).
Fumaric acid	D	5,000 (2,270).
Furfural	C	1,000 (454).
Guthion	X	1 (0.454).
Heptachlor	X	1 (0.454).
Hydrochloric acid	D	5,000 (2,270).
Hydrofluoric acid	D	5,000 (2,270).
Hydrogen cyanide	A	10 (4.54).
Isoprene	C	1,000 (454).
Isopropanolamine dodecylbenzenesulfonate	C	1,000 (454).
Kelthane	D	5,000 (2,270).
Lead acetate	D	5,000 (2,270).
Lead arsenate	D	5,000 (2,270).
Lead chloride	D	5,000 (2,270).
Lead fluoborate	D	5,000 (2,270).
Lead fluoride	C	1,000 (454).
Lead iodide	D	5,000 (2,270).
Lead nitrate	D	5,000 (2,270).
Lead stearate	D	5,000 (2,270).
Lead sulfate	D	5,000 (2,270).
Lead sulfide	D	5,000 (2,270).
Lead thiocyanate	D	5,000 (2,270).
Lindane	X	1 (0.454).
Lithium chromate	C	1,000 (454).
Malathion	A	10 (4.54).
Maleic acid	D	5,000 (2,270).
Maleic anhydride	D	5,000 (2,270).
Mercuric cyanide	X	1 (0.454).
Mercuric nitrate	A	10 (4.54).
Mercuric sulfate	A	10 (4.54).
Mercuric thiocyanate	A	10 (4.54).
Mercurous nitrate	A	10 (4.54).
Methoxychlor	X	1 (0.454).
Methyl mercaptan	B	100 (45.4).
Methyl Methacrylate	D	5,000 (2,270).
Methyl parathion	B	100 (45.4).
Mevinphos	X	1 (0.454).
Mexacarbate	C	1,000 (454).
Monoethylamine	C	1,000 (454).
Monomethylamine	C	1,000 (454).
Naled	A	10 (4.54).
Naphthalene	D	5,000 (2,270).
Naphthenic acid	B	100 (45.4).
Nickel ammonium sulfate	D	5,000 (2,270).
Nickel chloride	D	5,000 (2,270).
Nickel hydroxide	C	1,000 (454).
Nickel nitrate	D	5,000 (2,270).
Nickel sulfate	D	5,000 (2,270).
Nitric acid	C	1,000 (454).
Nitrobenzene	C	1,000 (454).
Nitrogen dioxide	C	1,000 (454).
Nitrophenol	C	1,000 (454).
Paraformaldehyde	C	1,000 (454).
Parathion	X	1 (0.454).
Pentachlorophenol	A	10 (4.54).
Phenol	C	1,000 (454).
Phosgene	D	5,000 (2,270).
Phosphoric acid	D	5,000 (2,270).
Phosphorus	X	1 (0.454).
Phosphorus oxychloride	D	5,000 (2,270).
Phosphorus pentasulfide	C	1,000 (454).
Phosphorus trichloride	D	5,000 (2,270).
Polychlorinated biphenyls	A	10 (4.54).
Potassium arsenate	C	1,000 (454).
Potassium arsenite	C	1,000 (454).
Potassium bichromate	C	1,000 (454).
Potassium chromate	C	1,000 (454).
Potassium cyanide	A	10 (4.54).
Potassium hydroxide	C	1,000 (454).
Potassium permanganate	B	100 (45.4).
Propionic acid	D	5,000 (2,270).
Propionic anhydride	D	5,000 (2,270).
Pyrethrins	C	1,000 (454).
Quinoline	C	1,000 (454).
Resorcinol	D	5,000 (2,270).
Selenium oxide	C	1,000 (454).
Sodium	C	1,000 (454).
Sodium arsenate	C	1,000 (454).
Sodium arsenite	C	1,000 (454).
Sodium bichromate	C	1,000 (454).
Sodium bifluoride	D	5,000 (2,270).
Sodium bisulfite	D	5,000 (2,270).
Sodium chromate	C	1,000 (454).
Sodium cyanide	A	10 (4.54).
Sodium dodecylbenzenesulfonate	C	1,000 (454).
Sodium fluoride	D	5,000 (2,270).
Sodium hydrosulfide	D	5,000 (2,270).
Sodium hydroxide	C	1,000 (454).
Sodium hypochlorite	C	100 (45.4).
Sodium methylate	C	1,000 (454).
Sodium nitrite	B	100 (45.4).
Sodium phosphate, dibasic	D	5,000 (2,270).
Sodium phosphate, tribasic	D	5,000 (2,270).
Sodium selenite	C	1,000 (454).
Strontium chromate	C	1,000 (454).
Strychnine	A	10 (4.54).
Styrene	C	1,000 (454).
Sulfuric acid	C	1,000 (454).
Sulfur monochloride	C	1,000 (454).
2,4,5-T Acid	B	100 (45.4).
2,4,5-T Esters	B	100 (45.4).
TDE	X	1 (0.454).
Tetraethyl lead	B	100 (45.4).
Tetraethyl pyrophosphate	B	100 (45.4).
Toluene	C	1,000 (454).
Toxaphene	X	1 (0.454).
Trichlorfon	X	1 (0.454).
Trichlorophenol	A	10 (4.54).
Triethanolamine dodecylbenzenesulfonate	C	1,000 (454).
Triethylamine	D	5,000 (2,270).
Trimethylamine	C	1,000 (454).
Uranyl acetate	D	5,000 (2,270).
Uranyl nitrate	D	5,000 (2,270).
Vanadium pentoxide	C	1,000 (454).
Vanadyl sulfate	C	1,000 (454).
Vinyl acetate	C	1,000 (454).
Xylene	C	1,000 (454).
Xylenol	C	1,000 (454).
Zinc acetate	C	1,000 (454).
Zinc ammonium chloride	D	5,000 (2,270).
Zinc borate	C	1,000 (454).
Zinc bromide	D	5,000 (2,270).
Zinc carbonate	C	1,000 (454).
Zinc chloride	D	5,000 (2,270).
Zinc cyanide	A	10 (4.54).
Zinc fluoride	C	1,000 (454).
Zinc formate	C	1,000 (454).
Zinc hydrosulfite	C	1,000 (454).
Zinc nitrate	D	5,000 (2,270).
Zinc phenolsulfonate	D	5,000 (2,270).
Zinc phosphide	C	1,000 (454).
Zinc silicofluoride	D	5,000 (2,270).
Zinc sulfate	C	1,000 (454).
Zirconium nitrate	D	5,000 (2,270).
Zirconium potassium fluoride	D	5,000 (2,270).
Zirconium sulfate	D	5,000 (2,270).
Zirconium tetrachloride	D	5,000 (2,270).

§ 118.5 Demonstration projects.

Notwithstanding any other provision of this Part, the Administrator of the Environmental Protection Agency may permit, on a case-by-case basis, the discharge of harmful quantities of designated hazardous substances in connection with research, demonstration projects, or studies relating to the prevention, control, or abatement of hazardous substance pollution.

§ 118.6 Notice.

Any person in charge of a vessel or an onshore or an offshore facility shall, as soon as he has knowledge of any discharge of a designated hazardous substance from such vessel or facility in quantities equal to or exceeding in any 24-hour period the harmful quantity determined by this Part, immediately notify the appropriate agency of the United States Government of such discharge. Notice shall be given in accordance with such procedures as the Secretary of Transportation has set forth in 33 CFR Part 153.

§ 118.7 Penalties.

(a) Any person in charge of a vessel or an onshore or offshore facility who fails to notify immediately the United States Government of discharges of hazardous substances designated in 40 CFR Part 116 equal to or exceeding in any 24-hour period those quantities determined to be harmful as set forth in this Part (except in the case of a discharge beyond the contiguous zone, a person in charge of a vessel not otherwise subject to the jurisdiction of the United States) shall be subject to not more than $10,000 or imprisonment for not more than one year or both pursuant to section 311(b)(5).

(b) The owner or operator of a vessel or onshore or offshore facility from which is discharged a hazardous substance designated in 40 CFR Part 116 in a quantity equal to or exceeding in any 24-hour period the harmful quantity established in this Part (except in the case of a discharge beyond the contiguous zone, a person in charge of a vessel not otherwise subject to the jurisdiction of the United States) shall be assessed a civil penalty of up to $5,000 under section 311(b)(6).

(c) The owner or operator of a vessel or onshore or offshore facility from which is discharged a hazardous substance designated in 40 CFR Part 116, shall, subject to the defenses to liability provided in section 311(f), be subject to a civil penalty assessed under Section 311(b)(2)(B)(iii) as set forth in 40 CFR Part 119, provided that such hazardous substance shall have been determined in 40 CFR Part 117, not to be actually removable, and provided further that the quantity of such hazardous substance discharged equals or exceeds in any 24-hour period the harmful quantity established in this Part.

§ 118.8 Liabilities for removal.

In any case where a substance designated as hazardous in 40 CFR Part 116 is discharged from any vessel or onshore or offshore facility in a quantity equal to or exceeding the harmful quantity determined by this Part, the party or parties liable pursuant to sections 311(f) and (g) of the Act shall be liable to the United States Government for the actual costs incurred in the removal of such substance, subject only to the defenses and monetary limitations enumerated in sections 311(f) and (g) of the Act. Removal refers to removal of the hazardous substance from the water and shorelines or the taking of such other actions as may be necessary to minimize or mitigate damage to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches.

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[6560-01]

[FRL 829-5]

PART 119—DETERMINATION OF UNITS OF MEASUREMENT AND RATES OF PENALTY FOR HAZARDOUS SUBSTANCES

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: This regulation establishes new rules which set forth the methods and procedures for determining and assessing civil penalties for the discharge of hazardous substances in harmful quantities in violation of Section 311 of the Federal Water Pollution Control Act. It also includes units of measurement and rates of penalty for particular substances which may be utilized as the basis for computing the penalty. This regulation should be read in conjunction with other regulations which are also being promulgated today in this same separate part of the FEDERAL REGISTER, and which designate hazardous substances, removability, and harmful quantities, respectively.

EFFECTIVE DATES: June 12, 1978, except for vessels. For vessels the effective date is September 11, 1978.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: On December 30, 1975, the Administrator of the Environmental Protection Agency proposed in the FEDERAL REGISTER (40 FR 59999) to create a new Part 119 in Title 40 of the Code of Federal Regulations. In that publication, units of measurement and rates of penalty for hazardous substances as required under section 311(b)(2)(B)(iv) of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), (the Act) were proposed. At the same time the designation of hazardous substances, determination of actual removability, and determination of harmful quantities were proposed as Parts 116, 117, and 118 respectively. Final promulgation of those regulations is concurrent with this rulemaking.

Interested persons were given until March 1, 1976, to submit written comments on all aspects of the proposed rules. More than a third of all comment letters addressed some aspects of penalty assessment. Each of those comments has been carefully considered in adopting the rules which are promulgated at this time. Those areas of substantive comment are discussed below, following a general statement concerning the content of the regulations.

A. PRINCIPAL FEATURES OF THE REGULATIONS

1. UNIT OF DISCHARGE AND PENALTY RATE

Section 311(b)(2)(B)(iii) of the Act subjects the owner or operator of any vessel, onshore facility, or offshore facility from which there is discharged any hazardous substance which has been determined to be not actually removable (see 40 CFR Part 117) to either of two alternative civil penalties. The first, under subsection (aa) thereof, is to be based on "the toxicity, degradability, and dispersal characteristics of the substance" and is not to exceed $5,000. The second, under subsection (bb) thereof, is determined by the number of units discharged multiplied by the rate of penalty under section 311(b)(2)(B)(iv) of the Act, as implemented in section 119.5 of this Part, and may be up to $5 million in the case of a discharge from a vessel and $500,000 in the case of a discharge from an onshore or offshore facility.

Section 119.4 of these regulations enumerates the factors to be considered in selection of the penalty provision. In the section as proposed on December 30, 1975, the discriminator between the two sections was "gross negligence." Because of the difficulty of proving gross negligence, and the absence of such a discriminator in the applicable statutory language, a number of commenters were critical of the Agency's adoption of this standard. In response to the suggestions of these commenters, the Agency has reconsidered its position, and in the regulations promulgated at this time has adopted a discriminator based on the gravity of the offense. The factors which must be considered by the Regional Administrator in selecting a penalty include the size of the discharge, the culpability of the owner, the extent of any mitigation or cleanup efforts, and any other factors which he finds relevant under the circumstances. It should be noted that the choice of penalty as provided in the Act is "in the discretion of the Administrator."

Generally those commenters who advocated use of the gross negligence discriminator also expressed concern with the proposed harmful quantity categorization system. As described in the preamble to Part 118 the Agency, after extensive review and analysis, has now revised that system by adding another category for the most acutely toxic substances.

With respect to the penalty rates to be established under section 311(b)(2)(B)(iii)(bb), the Act provides as follows in section 311(b)(2)(B)(iv):

> The Administrator shall establish by regulation, for each hazardous substance designated under subparagraph (A) of this paragraph, and within 180 days of the date of such designation, a unit of measurement based upon the usual trade practice and, for the purpose of determining the penalty under clause (iii)(bb) of this subparagraph, shall establish for each such unit a fixed monetary amount which shall be not less than $100 nor more than $1,000 per unit. He shall establish such fixed amount based on the toxicity, degradability, and dispersal characteristics of the substance.

As more fully set forth in the preamble to Part 118 which is being promulgated concurrently with this regulation, the method selected for determination of harmful quantities involves the ranking of hazardous substances on the basis of acute toxicity. Substances are divided into five categories on the basis of their relative toxicity, a fifth category having been added after review and consideration by the Agency of public comment on the proposed harmful quantity rulemaking. The smallest common commercial container size was then defined as the harmful quantity for the most toxic category. Other categories were thereafter assigned harmful quantities on a proportional basis but at higher values than proposed.

Several commenters expressed the opinion that potential penalties from some spills would be unduly excessive with relatively small spills resulting in nearly maximum possible penalties. One example calculated by a commenter indicated that the spill of a single truck load of copper sulfate, a Category B substance with a median dispersion factor, could result in a penalty of nearly $2.5 million. In another example it was noted that the rupture of a transfer line from a bulk terminal to a vessel being loaded with cresol, a Category B substance with a slightly higher dispersion factor than copper sulfate, could result in the discharge of 12,000 pounds in one minute and a resultant penalty of nearly $1 million.

Both the proposed harmful quantity and rate of penalty structures have been reviewed extensively by the Agency. Each has been modified to permit the application of penalties in a more reasonable manner that is uniform in proportionality from the most acutely toxic to the least acutely toxic of the designated substances. The modification to the rate of penalty table resulted from the modification of the harmful quantity table as described in the Preamble to Part 118. Its effect was to reduce by a factor of 10 the penalties for substances in the 1 to 500 mg/l LC50 range. The new harmful quantity and rate of penalty schedules are set forth in Tables 1 and 4 below.

With respect to mixtures of more than one hazardous substance, for the reasons set forth in the preamble to the Agency's December 30, 1975, proposal of this Part, 40 FR at 60000, rates of penalty will be the sum of the rates which would be assessed for each individual component of the mixture. Also in response to comment on that proposal, for discharges of a mixture in which the weights of the individual components are not known a penalty will be assessed for the discharge based on the harmful quantity and penalty rate for the most toxic component of the mixture. For solutions, the penalties assessed will be based on the content of hazardous substances. No penalties will be assessed for materials recovered unreleased from their integral containers. Resources expended on the development of containers that prevent discharges promote the objective of section 311 more so than resources expended on penalties or insurance.

A vital element of section 311(b)(2)(B)(iv) is the selection of the unit of measurement. As noted in the preamble to the December 1975, proposal, Agency studies involving industry and trade associations did not reveal such a unit to be universally common to trade practice. A common unit of measurement for the manufacturer is frequently different from that employed by the user of the same material. Furthermore, price quotations show a variety of commercial units for the same chemical. Transporters of chemicals frequently employ units different from those of either manufacturer or user. Still further variations are seen depending on the mode of transport.

In summary, the finding of the Agency is that the only generally common unit of measure is a weight unit, the pound. No compelling evidence was presented in the public comments for departing from this approach. Multiples of this basic unit are utilized throughout the chemical and transportation industries, but no single multiple of the basic pound unit can be found to be representative of the usual trade practice for any chemical. The penalties using these common units of measure shall be based on the toxicity and the dispersal characteristics of the substance (section 311(b)(2)(B)(iv)) with the latter ranked in order of relative potential harm to the public health or welfare in the event of a discharge. The feature in common is the potential capacity of the substance to cause environmental damage. Therefore, the minimum quantity of each material causing probable harm can be thought of as a common unit. Thus the weight corresponding to the smallest common commercial container size, one pound (0.454 kilogram), previously adopted as the "harmful quantity" for materials in the most toxic EPA harmful quantity category, has also been adopted as the "unit of measurement" for materials in the new most toxic category, Category x, and assigned a base penalty rate of $1,000 per unit. Other categories are assigned larger units of measurement which are finite multiples of the basic one pound unit. The aquatic toxicity ranges for various hazard categories and the units of measurement derived from the appropriate ratios are found in Table I.

TABLE I.—UNITS OF MEASUREMENT

Category	Unit of measurement lb (kg)	Toxicity range
X	1 (0.454)	LC50<0.1 mg/l.
A	10 (4.54)	0.1 mg/l≤LC50<1mg/l.
B	100 (45.4)	1 mg/l≤LC50<10 mg/l.
C	1,000 (454)	10 mg/l≤LC50<100 mg/l.
D	5,000 (2270)	100 mg/l≤LC50≤500 mg/l.

The system adopted recognizes that not all substances within a category exert their damaging effects equally. The law requires that the penalties range between $100 and $1,000 per unit of measurement. For each category the upper penalty limit is modified by physical/chemical adjustment factors which in addition reflect the substance's ability to disperse.

The adjustment factor (0.1 to 1.0) arises from a second profiling operation based on the solubility, density, volatility, and associated propensity for dispersal in water of each hazardous substance. Each substance has been placed in one of eight categories combining these physical/chemical/dispersal properties in various ways. The relative harm these categories pose to the environment was then ranked. The terms involved and final relative ranking of physical/chemical/dispersal categories, in increasing order of relative damage potential, are shown in Table II and the physical/chemical/dispersal (P/C/D) factor of each substance is also indicated in Table 119.5.

TABLE II.—PHYSICAL/CHEMICAL/DISPERSAL (P/C/D) ADJUSTMENT FACTORS

Material classification	P/C/D category	Rank	P/C/D factor
Insoluble Volatile Floater	IVF	1	0.10
Insoluble Nonvolatile Floater	INF	2	.20

TABLE II.—PHYSICAL/CHEMICAL/DISPERSAL (P/C/D) ADJUSTMENT FACTORS—Continued

Material classification	P/C/D category	Rank	P/C/D factor
Insoluble Sinker	IS	3	.36
Soluble Mixer	SM	4	.49
Precipitator	P	5	.62
Soluble Sinker	SS	6	.75
Soluble Floater	SF	7	.88
Miscible	M	8	1.0

LEGEND

IVF—(insoluble volatile floater)—materials lighter than water with a vapor pressure greater than 10 mm Hg and a solubility of less than 1,000 ppm (weight per weight basis) or materials with vapor pressure greater than 100 mm Hg and solubility less than 10,000 ppm.

INF—(insoluble nonvolatile floater)—materials lighter than water with a vapor pressure greater than 10 mm Hg and a solubility of less than 1,000 ppm (weight per weight basis).

IS—(insoluble sinker)—materials heavier than water and of solubility less than 1,000 ppm (weight per weight basis).

SM—(soluble mixer)—solid substances which have a solubility greater than 1,000 grams of solute per 1,000 grams of water.

P—(precipitator)—salts which dissociate or hydrolyze in water with subsequent precipitation of a toxic ion.

SS—(soluble sinker)—materials heavier than water and of solubility greater than 1,000 ppm (weight per weight basis).

SF—(soluble floater)—materials lighter than water and of a solubility greater than 1,000 ppm (weight per weight basis).

M—(miscible)—liquid substances which can freely mix with water in any proportion.

In summary, the adjusted rates of penalty, in dollars per unit of measurement, arising from possible combinations of toxic category and P/C/D factor are set forth in Table III below.

TABLE III.—*Rates of penalty*

[In dollars per unit of measurement]

	P/C/D classes						
	IVF	INF	IS	SM	P	SS	SF
Category:							
X	100	230	360	490	620	750	880
A	100	230	360	490	620	750	880
B	100	230	360	490	620	750	880
C	100	230	360	490	620	750	880
D	100	230	360	490	620	750	880

For convenience, table IV shows the approximate rates of penalty, in dollars per pound, for all combinations of toxic category and P/C/D factor.

TABLE IV.—*Rates of Penalty*

[In dollars per pound]

	P/C/D/ classes							
	IVF	INF	IS	SM	P	SS	SF	M
Category:								
X	100	230	360	490	620	750	880	1000
A	10	23	36	49	62	75	88	100
B	1.0	2.3	3.6	4.9	6.2	7.5	8.8	10
C	.10	.23	.36	.49	.62	.75	.88	1.0
D	.02	.05	.07	.10	.12	.15	.18	.2

The statute also requires that the Agency consider the degradability of hazardous substances in establishing rates of penalty. However, as explained elsewhere in the preamble to this Part and to Part 118, this initial rulemaking primarily concerns acute spill-type discharges and the designation and harmful quantity determinations were therefore based solely on acute toxicity. For this reason substances are deemed to have the same degradability within the short term toxicity period for the purposes of this rulemaking. When the Agency modifies the designation and harmful quantity criteria to include chronic toxic effects, the long term degradability of substances will be considered.

2. Prevention and Mitigation:

Prevention of discharges and the mitigation of their effects are the goals of this rule. The harmful effects of discharges may be reduced in many cases by such actions as warnings to affected water users, containment, treatment, appropriate final disposal of the discharge or debris from a clean-up operation, environmental restoration and monitoring of hazardous substance levels. Appropriate disposal includes compliance with requirements of the Resource Conservation and Recovery Act of 1976, Pub. L. 94-580, 90 Stat. 2795, 42 U.S.C. 6901 (RCRA). Though most of the substances to which these civil penalties apply have been designated as nonremovable, it is anticipated that in many situations partial removal will be possible, particularly when the water body is relatively calm. Such removal is desirable and is a factor which is considered in the selection of the penalty. Further information concerning mitigation may be found in the National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR Part 1510). The "General Pattern of Response Actions" has been specified in 40 CFR Part 1510.53.

Illustrations of the operation of the foregoing scheme for the (bb) penalties are set forth in the preamble to the December 1975, proposal, 40 FR 60004–60005.

3. Administrative Procedures:

A number of commenters pointed out that the regulations with respect to penalty rates as proposed on December 30, 1975, failed to spell out the procedures by which notices of violation will be issued and what if any administrative hearings and related procedures would be available with respect thereto. The Agency has concluded that the suggestion is well taken, and that such procedures should be spelled out in these regulations. Accordingly, §§ 119.6–119.15 set forth these procedures. Because these provisions are purely procedural in nature, they may be promulgated without prior notice of proposal and comment period under the pertinent provision of the Administrative Procedure Act, 5 U.S.C. section 533(b)(A). In accordance with that section, sections 119.6–119.15 are promulgated at this time.

In general, these regulations provide for "informal" adjudication, in the sense that the civil penalties are not required by statute to be determined pursuant to a hearing on the record, and therefore Sections 554, 556, and 557 of the Administrative Procedure Act are not applicable. It is the purpose of these regulations to allow the maximum degree of flexibility in the proceedings relating to the assessment of civil penalties. At the same time, the provisions reflect the need to provide an orderly framework for the process as well as a record of what was done during that process. To a large degree, the provisions in these sections follow the procedures for the assessment of civil penalties for violation of oil pollution prevention regulations issued pursuant to section 311(j) of the Act, at 40 CFR Part 114. These regulations contain somewhat greater detail with respect to hearing procedures, the contents of the record of any such hearing, and the provision for review first by the Regional Administrator and subsequently by the Administrator following a recommended decision by the Presiding Officer.

Section 119.6 provides for the assessment of the penalty and the issuance of a Notice of Violation, including the contents thereof. Among the provisions in the notice is the right of the

alleged violator to present to the Regional Administrator, within 30 days of his receipt of the Notice of Violation, any explanations, defenses, or other relevant information. In addition, he may request a hearing on the matter within 45 days of his receipt of the Notice of Violation. The reason for allowing a somewhat longer period of time for requesting a hearing is to afford the violator an initial opportunity to resolve any disputed issues promptly with the Regional Administrator without recourse to a hearing.

Section 119.7 sets forth the statutory defenses to liability, which are expressly provided in sections 311(b)(2)(B)(ii) and 311(f).

The provisions in §§119.8, 119.9, 119.10, and 119.11 concerning the request for a hearing, the designation of the Presiding Officer, the consolidation of related cases, and a prehearing conference, respectively, are adopted from comparable provisions in 40 CFR Part 114. Section 119.12(a) regarding the conduct of the hearing is also adopted substantially from the comparable provision of 40 CFR Part 114. Subsection (b) of that section enumerates the contents of the record of the hearing, while subsection (c) makes clear that the standards for admission of evidence shall be "liberal and permissive." While the Presiding Officer may exclude evidence which is immaterial, irrelevant, unduly repetitious, would involve undue delay, or which, if hearsay, is not of the sort upon which responsible persons are accustomed to rely. Doubts should be resolved in favor of admitting the evidence.

Section 119.13 provides that following the conclusion of the hearings, the Presiding Officer, who is a lawyer within EPA appointed by the Regional Administrator to preside over the hearings, shall issue a recommended decision, including a recommendation with respect to the amount of the civil penalty. This is reviewed within 15 days by the Regional Administrator who may adopt or modify it. This decision of the Regional Administrator becomes the decision of the Agency unless within 15 days from the date of receipt of such decision there is an appeal to the Administrator.

Section 119.14 sets forth the procedure for an appeal to the Administrator. The Administrator is authorized to request briefs or supplemental information from the Regional Administrator and the person or persons charged with a violation, though he need not do so. Absent such an invitation by the Administrator, there is no right to submit such briefs or supplemental information. Recognizing the heavy demands upon the time of the Administrator, subsection (d) of this section allows him to be assisted by appropriate staff (but not a person who has had any prior connection with the case) or to delegate his function under this section to an EPA Judicial Officer.

Dated: March 3, 1978.

DOUGLAS M. COSTLE,
Administrator.

Part 119 is added as follows:

Sec.
119.1 Applicability.
119.2 Abbreviations.
119.3 Definitions.
119.4 Factors to be Considered in Selection of Penalty Rates.
119.5 Determination of Units of Measurement and Rates of Penalty.
119.6 Notice of Violation and Penalty.
119.7 Third Party Comments.
119.8 Defenses.
119.9 Request for Hearing.
119.10 Presiding Officer.
119.11 Consolidation.
119.12 Prehearing Conference.
119.13 Conduct of Hearing.
119.14 Decision.
119.15 Appeal to Administrator.

AUTHORITY: Secs. 311 and 501(a), Federal Water Pollution Control Act, (33 U.S.C. 1251 *et seq.*).

§119.1 Applicability.

This regulation applies to substances designated as hazardous under 40 CFR Part 116 in quantities equal to or in excess of those established as harmful under 40 CFR Part 118, except when the owner or operator can show such discharges are made: (1) in compliance with the requirements of sections 301, 302, 304, 306, 307, 318 and 403 and in compliance with an NPDES permit which has been issued pursuant to section 402 of the Act, (2) in compliance with section 404 of the Act or in compliance with a permit issued under the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 *et seq.*), (3) in compliance with approved water treatment plant operations as specified by local, State or Federal regulations pertaining to safe drinking water, (4) pursuant to the label directions for application of a pesticide product registered under 40 CFR Part 162 (FEDERAL REGISTER, Vol 40, No. 129, Part II, pp. 28242-28286, July 3, 1975) by authority of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended by the Federal Environmental Pesticide Control Act of 1972, (Pub. L. 92-516, 86 Stat. 973; Pub. L. 94-140, 89 Stat. 751; 7 U.S.C. 136 *et seq.*), (5) in compliance with the regulations issued under section 3004 of the Resource Conservation and Recovery Act, 90 Stat. 2795, 42 U.S.C. 6901, (6) in compliance with instructions of the On-Scene Coordinator pursuant to 40 CFR 1510 (the National Oil and Hazardous Substance Contingency Plan), or 33 CFR 153.105(c) (Pollution by Oil and Hazardous Substances), or in accordance with applicable section 311(j)(1)(A) regulations, (7) in compliance with a permit issued under section 165.7 of Title 14 of the State of California Administrative Code, or (8) from a properly functioning inert gas system when used to provide gas to the cargo tanks of a vessel. For the purpose of this Part 119.1, compliance with an NPDES permit has the same meaning as set forth in 40 CFR Part 118.

§119.2 Abbreviations.

lb=pound(s).
kg=kilogram(s).
HQ=harmful quantity as required by section 311(b)(4) and specified in 40 CFR Part 118.
UM=unit of measurement as required by section 311(b)(2)(B)(iv) is that number of pounds designated as a harmful quantity.
ROP=rate of penalty as required by section 311(b)(2)(B)(iv).
P/C/D=physical/chemical/dispersal factor; it is based on whether the substance floats, sinks, mixes, precipitates or is miscible when discharged.

§119.3 Definitions.

As used in this part, all terms shall have the same meaning as in section 311 of the Act and in 40 CFR Parts 116, 117, and 118.

§119.4 Factors to be considered in selection of penalty rate.

(a) In accordance with section 311(b)(2)(B)(iii) of the Act, the owner or operator of any vessel, onshore facility, or offshore facility, from which there is discharged any hazardous substance which has not been determined by the Administrator to be actually removable under section 311(b)(2)(B)(i) of the Act shall be liable, subject to certain defenses enumerated in §119.8 of this section, to the United States for either one or the other of the following civil penalties, the determination of which shall be at the discretion of the Regional Administrator, subject to review by the Administrator as hereinafter provided:

(1) A penalty based on the toxicity, degradability and dispersal characteristics of the substance, but not less than $500 nor more than $5,000; or

(2) A penalty determined by the number of units of measurement discharged multiplied by the amount established for such unit under Section 119.5 of this part, but such penalty shall not be more than $5,000,000 in the case of a discharge from a vessel and $500,000 in the case of a discharge from an onshore or offshore facility.

(b) In determining which of the two alternative penalties set forth in the preceding subsection (a) of this Section shall be applied, the Regional Administrator shall consider the nature and circumstances surrounding the discharge, including each of the following factors:

(1) The size of the discharge;

(2) The culpability of the owner or operator (including but not limited to any officer, employee, contractor, agent, or servant of such owner or operator);

(3) The nature, extent, and degree of success of any efforts by such owner or operator to minimize or mitigate the effects of such discharge, including but not limited to any containment or removal of the substance or substances; and

(4) Such other factors as the Regional Administrator deems appropriate under the circumstances.

§119.5 Determination of units of measurement and rates of penalty.

In accordance with section 311(b)(2)(B)(iv) of the Act, the base penalty rate is determined for each category to be $1,000 per unit of measurement. The penalty rate for each UM is $1,000 times the P/C/D factor of the substance. The penalty for the discharge of one pound of a hazardous substance is $1,000 times the P/C/D factor divided by UM. The penalty rate for a discharge is thus obtained by the formula:

$1,000 divided by unit of measurement times P/C/D factor times pounds discharged.

For discharges of mixtures or solutions, the rate of penalty will be the sum of the rates for individual hazardous components if the quantity discharged equals or exceeds the harmful quantity for the mixture (determined by procedures set forth in 40 CFR Part 118). For discharges in which the weights of the individual component of a mixture are unknown, the rate of penalty will be that for the most toxic component of the mixture. The following table (Table 119.5) lists each designated hazardous substance (40 CFR Part 116) determined to be not actually removable (40 CFR Part 117) on the same line with the assigned EPA hazard category, the corresponding unit of measurement (and harmful quantity), the assigned physical/chemical/dispersal (P/C/D) adjustment factor and the rate of penalty in dollars per unit of measurement. For convenience and ease of comparison, the units of measurement have been used to calculate the penalty rates in dollars per pound as shown in the right hand column of Table 119.5.

TABLE 119.5.—*Rates of penalty and units of measurement for hazardous substances*

Material	Category	μM in pounds (kilograms)	P/C/D factor	ROP (dollars per μM)	Approximate ROP (dollars per pound)
Acetaldehyde	C	1,000 (454)	1.0	1,000	1.00
Acetic acid	C	1,000 (454)	1.0	1,000	1.00
Acetic anhydride	C	1,000 (454)	.75	750	.75
Acetone cyanohydrin	A	10 (4.54)	.88	880	88.00
Acetyl bromide	D	5,000 (2,270)	.75	750	.15
Acetyl chloride	D	5,000 (2,270)	.75	750	.15
Acrolein	X	1 (0.454)	.88	880	880.00
Acrylonitrile	B	100 (45.4)	.88	880	8.80
Aldrin	X	1 (0.454)	.36	360	360.00
Allyl alcohol	B	100 (45.4)	1.0	1,000	10.00
Aluminum sulfate	D	5,000 (2,270)	.62	620	.12
Ammonia	B	100 (45.4)	.88	880	8.80
Ammonium acetate	D	5,000 (2,270)	.49	490	.10
Ammonium benzoate	D	5,000 (2,270)	.75	750	.15
Ammonium bicarbonate	D	5,000 (2,270)	.75	750	.15
Ammonium bichromate	C	1,000 (454)	.75	750	.75
Ammonium bifluoride	D	5,000 (2,270)	.75	750	.15
Ammonium bisulfite	D	5,000 (2,270)	.49	490	.10
Ammonium carbamate	D	5,000 (2,270)	.75	750	.15
Ammonium carbonate	D	5,000 (2,270)	.49	490	.10
Ammonium chloride	D	5,000 (2,270)	.75	750	.15
Ammonium chromate	C	1,000 (454)	.75	750	.75
Ammonium citrate	D	5,000 (2,270)	.75	750	.15
Ammonium fluoborate	D	5,000 (2,270)	.75	750	.15
Ammonium fluoride	D	5,000 (2,270)	.49	490	.10
Ammonium hydroxide	C	1,000 (454)	1.0	1,000	1.00
Ammonium oxalate	D	5,000 (2,270)	.75	750	.15
Ammonium silicofluoride	C	1,000 (454)	.75	750	.75
Ammonium sulfamate	D	5,000 (2,270)	.49	490	.10
Ammonium sulfide	D	5,000 (2,270)	.75	750	.15
Ammonium sulfite	D	5,000 (2,270)	.75	750	.15
Ammonium tartrate	D	5,000 (2,270)	.75	750	.15
Ammonium thiocyanate	D	5,000 (2,270)	.49	490	.10
Ammonium thiosulfate	D	5,000 (2,270)	.49	490	.10
Aniline	C	1,000 (454)	.75	750	.75
Antimony pentachloride	C	1,000 (454)	.62	620	.62

TABLE 119.5.—*Rates of penalty and units of measurement for hazardous substances*—Continued

Material	Category	μM in pounds (kilograms)	P/C/D factor	ROP (dollars per μM)	Approximate ROP (dollars per pound)
Antimony potassium tartrate	C	1,000 (454)	.75	750	.75
Antimony tribromide	C	1,000 (454)	.62	620	.62
Antimony trichloride	C	1,000 (454)	.62	620	.62
Antimony trifluoride	C	1,000 (454)	.49	490	.49
Antimony trioxide	D	5,000 (2,270)	.36	360	07
Arsenic disulfide	D	5,000 (2,270)	.36	360	07
Arsenic pentoxide	D	5,000 (2,270)	.49	490	.10
Arsenic trichloride	D	5,000 (2,270)	.62	620	.12
Arsenic trioxide	D	5,000 (2,270)	.62	620	.12
Arsenic trisulfide	D	5,000 (2,270)	.36	360	.07
Barium cyanide	A	10 (4.54)	.75	750	75.00
Benzoic acid	D	5,000 (2,270)	.75	750	.15
Benzonitrile	C	1,000 (454)	.75	750	.75
Benzoyl chloride	C	1,000 (454)	.75	750	.75
Benzyl chloride	B	100 (45.4)	.36	360	3.60
Beryllium chloride	D	5,000 (2,270)	.75	750	.15
Beryllium fluoride	D	5,000 (2,270)	.49	490	.10
Beryllium nitrate	D	5,000 (2,270)	.75	750	.15
Butyl acetate	D	5,000 (2,270)	.88	880	.18
Butylamine	C	1,000 (454)	1.0	1,000	1.00
Butyric acid	D	5,000 (2,270)	1.0	1,000	.20
Cadmium acetate	B	100 (45.4)	.75	750	7.50
Cadmium bromide	B	100 (45.4)	.75	750	7.50
Cadmium chloride	B	100 (45.4)	.49	1,000	4.90
Calcium arsenate	C	1,000 (454)	.36	360	.36
Calcium arsenite	C	1,000 (454)	.36	360	.36
Calcium carbide	D	5,000 (2,270)	.62	620	.12
Calcium chromate	C	1,000 (454)	.75	750	.75
Calcium cyanide	A	10 (4.54)	.75	750	75.00
Calcium dodecylbenzenesulfonate	C	1,000 (454)	.75	750	.75
Calcium hydroxide	D	5,000 (2,270)	.75	750	.15
Calcium hypochlorite	A	10 (4.54)	.75	750	75.00
Calcium oxide	D	5,000 (2,270)	.75	750	.15
Captan	A	10 (4.54)	.36	360	36.00
Carbaryl	B	100 (45.4)	.36	360	3.60
Carbon disulfide	D	5,000 (2,270)	.75	750	.15
Chlordane	X	1 (0.454)	.36	360	360.00
Chlorine	A	10 (4.54)	.10	100	10.00
Chlorobenzene	B	100 (45.4)	.36	360	3.60
Chloroform	D	5,000 (2,270)	.75	750	.15
Chlorpyrifos	X	1 (0.454)	.36	360	360.00
Chlorosulfonic acid	C	1,000 (454)	.75	750	.75
Chromic acetate	C	1,000 (454)	.75	750	.75
Chromic acid	C	1,000 (454)	.75	750	.75
Chromic sulfate	C	1,000 (454)	.75	750	.75
Chromous chloride	C	1,000 (454)	.75	750	.75
Cobaltous bromide	C	1,000 (454)	.49	490	.49
Cobaltous formate	C	1,000 (454)	.75	750	.75

TABLE 119.5.—*Rates of penalty and units of measurement for hazardous substances*—Continued

Material	Category	μM in pounds (kilograms)	P/C/D factor	ROP (dollars per μM)	Approximate ROP (dollars per pound)
Cobaltous sulfamate	C	1,000 (454)	.75	750	.75
Coumaphos	A	10 (4.54)	.36	360	36.00
Cresol	C	1,000 (454)	.75	750	.75
Cupric acetate	B	100 (45.4)	.75	750	7.50
Cupric acetoarsenite	B	100 (45.4)	.36	360	3.60
Cupric chloride	A	10 (4.54)	.75	750	75.00
Cupric nitrate	B	100 (45.4)	.49	490	4.90
Cupric oxalate	B	100 (45.4)	.36	360	3.60
Cupric sulfate	A	10 (4.54)	.75	750	75.00
Cupric sulfate ammoniated	B	100 (45.4)	.75	750	7.50
Cupric tartrate	B	100 (45.4)	.36	360	3.60
Cyanogen chloride	A	10 (4.54)	.75	750	75.00
2,4-D acid	B	100 (45.4)	.36	360	3.60
2,4-D esters	B	100 (45.4)	.36	360	3.60
DDT	X	1 (0.454)	.36	360	360.00
Diazinon	X	1 (0.454)	.36	360	360.00
Dicamba	C	1,000 (454)	.75	750	.75
Dichlobenil	C	1,000 (454)	.36	360	.36
Dichlone	X	1 (0.454)	.36	360	360.00
2,2-Dichloropropionic acid	D	5,000 (2,270)	.75	750	.15
Dichlorvos	A	10 (4.54)	.75	750	75.00
Dieldrin	X	1 (0.454)	.36	360	360.00
Diethylamine	C	1,000 (454)	1.0	1,000	1.00
Dimethylamine	C	1,000 (454)	.88	880	.88
Dinitrobenzene	C	1,000 (454)	.36	360	.36
Dinitrophenol	C	1,000 (454)	.75	750	.75
Diquat	C	1,000 (454)	.75	750	.75
Disulfoton	X	1 (0.454)	.36	360	360.00
Diuron	B	100 (45.4)	.36	360	3.60
Dodecylbenzenesulfonic acid	C	1,000 (454)	.75	750	.75
Endosulfan	X	1 (0.454)	.36	360	360.00
Endrin	X	1 (0.454)	.36	360	360.00
Ethion	A	10 (4.54)	.36	360	36.00
Ethylenediamine	C	1,000 (454)	.88	880	.88
EDTA	D	5,000 (2,270)	.36	360	.07
Ferric ammonium citrate	C	1,000 (454)	.75	750	.75
Ferric ammonium oxalate	C	1,000 (454)	.75	750	.75
Ferric chloride	C	1,000 (454)	.75	750	.75
Ferric fluoride	B	100 (45.4)	.36	360	3.60
Ferric nitrate	C	1,000 (454)	.49	490	.49
Ferric sulfate	C	1,000 (454)	.36	360	.36
Ferrous ammonium sulfate	C	1,000 (454)	.75	750	.75
Ferrous chloride	B	100 (45.4)	.75	750	7.50
Ferrous sulfate	C	1,000 (454)	.36	360	.36
Formaldehyde	C	1,000 (454)	.75	750	.75
Formic acid	D	5,000 (2,270)	1.0	1,000	.20
Fumeric acid	D	5,000 (2,270)	.75	750	.15
Furfural	C	1,000 (454)	.75	750	.75
Guthion	X	1 (0.454)	.36	360	360.00
Heptachlor	X	1 (0.454)	.36	360	360.00
Hydrochloric acid	D	5,000 (2,270)	.75	750	.15
Hydrofluoric acid	D	5,000 (2,270)	1.0	1,000	.20
Hydrogen cyanide	A	10 (4.54)	1.0	1,000	100.00
Isopropanolamine dodecylbenzenesulfonate	C	1,000 (454)	.75	750	.75
Kelthane	D	5,000 (2,270)	.36	360	.07
Lead acetate	D	5,000 (2,270)	.62	620	.12

TABLE 119.5.—*Rates of penalty and units of measurement for hazardous substances*—Continued

Material	Category	µM in pounds (kilograms)	P/C/D factor	ROP (dollars per µM)	Approximate ROP (dollars per pound)
Lead arsenate	D	5,000 (2,270)	.36	360	.07
Lead chloride	D	5,000 (2,270)	.75	750	.15
Lead fluoborate	D	5,000 (2,270)	.62	620	.12
Lead fluoride	C	1,000 (454)	.36	360	.36
Lead iodide	D	5,000 (2,270)	.36	360	.07
Lead nitrate	D	5,000 (2,270)	.75	750	.15
Lead stearate	D	5,000 (2,270)	.36	360	.07
Lead sulfate	D	5,000 (2,270)	.36	360	.07
Lead sulfide	D	5,000 (2,270)	.36	360	.07
Lead thiocyanate	D	5,000 (2,270)	.75	750	.15
Lindane	X	1 (0.454)	.36	360	360.00
Lithium chromate	C	1,000 (454)	.49	490	.49
Malathion	A	10 (4.54)	.36	360	36.00
Maleic acid	D	5,000 (2,270)	.49	490	.10
Maleic anhydride	D	5,000 (2,270)	.49	490	.10
Mercuric cyanide	X	1 (0.454)	.75	750	750.00
Mercuric nitrate	A	10 (4.54)	.75	750	75.00
Mercuric sulfate	A	10 (4.54)	.62	620	62.00
Mercuric thiocyanate	A	10 (4.54)	.36	360	36.00
Mercurous nitrate	A	10 (4.54)	.62	620	62.00
Methoxychlor	X	1 (0.454)	.36	360	360.00
Methyl mercaptan	B	100 (45.4)	.88	880	8.80
Methyl parathion	B	100 (45.4)	.36	360	3.60
Mevinphos	X	1 (0.454)	1.0	1,000	1,000.00
Mexacarbate	C	1,000 (454)	.36	360	.36
Monoethylamine	C	1,000 (454)	1.0	1,000	1.00
Monomethylamine	C	1,000 (454)	1.0	1,000	1.00
Naled	A	10 (4.54)	.36	360	36.00
Naphthalene	D	5,000 (2,270)	.36	360	.07
Naphthenic acid	B	100 (45.4)	.75	750	7.50
Nickel ammonium sulfate	D	5,000 (2,270)	.75	750	.15
Nickel chloride	D	5,000 (2,270)	.75	750	.15
Nickel hydroxide	C	1,000 (454)	.36	360	.36
Nickel nitrate	D	5,000 (2,270)	.49	490	.10
Nickel sulfate	D	5,000 (2,270)	.75	750	.15
Nitric acid	C	1,000 (454)	1.0	1,000	1.00
Nitrobenzene	C	1,000 (454)	.75	750	.75
Nitrogen dioxide	C	1,000 (454)	1.0	1,000	1.00
Nitrophenol	C	1,000 (454)	.75	750	.75
Paraformaldehyde	C	1,000 (454)	.75	750	.75
Parathion	X	1 (0.454)	.36	360	360.00
Pentachlorophenol	A	10 (4.54)	.36	360	36.00
Phenol	C	1,000 (454)	.75	750	.75
Phosgene	D	5,000 (2,270)	.75	750	.15
Phosphoric acid	D	5,000 (2,270)	1.0	1,000	.20
Phosphorus	X	1 (0.454)	.36	360	360.00

TABLE 119.5.—*Rates of penalty and units of measurement for hazardous substances*—Continued

Material	Category	µM in pounds (kilograms)	P/C/D factor	ROP (dollars per µM)	Approximate ROP (dollars per pound)
Phosphorus oxychloride	D	5,000 (2,270)	.75	750	.15
Phosphorus pentasulfide	C	1,000 (454)	.75	750	.15
Phosphorus trichloride	D	5,000 (2,270)	.75	750	.15
Polychlorinated biphenyls	A	10 (4.54)	.36	360	36.00
Potassium arsenate	C	1,000 (454)	.75	750	.75
Potassium arsenite	C	1,000 (454)	.75	750	.75
Potassium bichromate	C	1,000 (454)	.75	750	.75
Potassium chromate	C	1,000 (454)	.75	750	.75
Potassium cyanide	A	10 (4.54)	.75	750	75.00
Potassium hyroxide	C	1,000 (454)	.49	490	.49
Potassium permanganate	B	100 (45.4)	.75	750	7.50
Propionic acid	D	5,000 (2,270)	1.0	1,000	.20
Propionic anhydride	D	5,000 (2,270)	1.0	1,000	.20
Pyrethrins	C	1,000 (454)	.36	360	.36
Quinoline	C	1,000 (454)	.75	750	.75
Resorcinol	D	5,000 (2,270)	.49	490	.49
Selenium oxide	C	1,000 (454)	.75	750	.75
Sodium	C	1,000 (454)	.49	490	.49
Sodium arsenate	C	1,000 (454)	.75	750	.75
Sodium arsenite	C	1,000 (454)	.75	750	.75
Sodium bichromate	C	1,000 (454)	.49	490	.49
Sodium bifluoride	D	5,000 (2,270)	.75	750	.15
Sodium bisulfite	D	5,000 (2,270)	.75	750	.15
Sodium chromate	C	1,000 (454)	.75	750	.75
Sodium cyanide	A	10 (4.54)	.75	750	75.00
Sodium dodecylbenzenesulfonate	C	1,000 (454)	.75	750	.75
Sodium fluoride	D	5,000 (2,270)	.75	750	.15
Sodium hydrosulfide	D	5,000 (2,270)	.75	750	.15
Sodium hydroxide	C	1,000 (454)	.49	490	.49
Sodium hypochlorite	B	100 (45.4)	.75	750	7.50
Sodium methylate	C	1,000 (454)	.49	490	.49
Sodium nitrite	B	1,000 (45.4)	.75	750	7.50
Sodium phosphate, dibasic	D	5,000 (2,270)	.75	750	.15
Sodium phosphate, tribasic	D	5,000 (2,270)	.75	750	.15
Sodium selenite	C	1,000 (454)	.75	750	.75
Strontium chromate	C	1,000 (454)	.75	750	.75
Strychnine	A	10 (4.54)	.36	360	36.00
Sulfuric acid	C	1,000 (454)	1.0	1,000	1.00
Sulfur monochloride	C	1,000 (454)	.75	750	.75
2,4,5-T acid	B	100 (45.4)	.36	360	3.60
2,4,5-T esters	B	100 (45.4)	.36	360	3.60
TDE	X	1 (0.454)	.36	360	360.00
Tetraethyl lead	B	100 (45.4)	.36	360	3.60
Tetraethyl pyrophosphate	B	100 (45.4)	1.0	1,000	10.00
Toxaphene	X	1 (0.454)	.36	360	360.00
Trichlorfon	X	1 (0.454)	.75	750	750.00
Trichlorophenol	A	10 (4.54)	.36	360	36.00
Triethanolamine dodecylbensenesulfonate	C	1,000 (454)	.75	750	.75
Triethylamine	D	5,000 (2,270)	.88	880	.18
Trimethylamine	C	1,000 (454)	.88	880	.88
Uranyl acetate	D	5,000 (2,270)	.75	750	.15

TABLE 119.5.—*Rates of penalty and units of measurement for hazardous substances*—Continued

Material	Category	μM in pounds (kilograms)	P/C/D factor	ROP (dollars per μM)	Approximate ROP (dollars per pound)
Uranyl nitrate	D	5,000 (2,270)	.75	750	.15
Vanadium pentoxide	C	1,000 (454)	.75	750	.75
Vanadyl sulfate	C	1,000 (454)	.75	750	.75
Vinyl acetate	C	1,000 (454)	.88	880	.88
Xylenol	C	1,000 (454)	.36	360	.36
Zinc acetate	C	1,000 (454)	.75	750	.75
Zinc ammonium chloride	D	5,000 (2,270)	.75	750	.15
Zinc borate	C	1,000 (454)	.75	750	.75
Zinc bromide	D	5,000 (2,270)	.49	490	.10
Zinc carbonate	C	1,000 (454)	.36	360	.36
Zinc chloride	D	5,000 (2,270)	.49	490	.10
Zinc cyanide	A	10 (4.54)	.38	360	35.00
Zinc fluoride	C	1,000 (454)	.36	360	.36
Zinc formate	C	1,000 (454)	.75	750	.75
Zinc hydrosulfite	C	1,000 (454)	.75	750	.75
Zinc nitrate	D	5,000 (2,270)	.49	490	.10
Zinc phenolsulfonate	D	5,000 (2,270)	.75	750	.15
Zinc phosphide	C	1,000 (454)	.36	360	.36
Zinc silicofluoride	D	5,000 (2,270)	.75	750	.15
Zinc sulfate	C	1,000 (454)	.49	490	.49
Zirconium nitrate	D	5,000 (2,270)	.75	750	.15
Zirconium potassium fluoride	D	5,000 (2,270)	.75	750	.15
Zirconium sulfate	D	5,000 (2,270)	.62	620	.12
Zirconium tetrachloride	D	5,000 (2,270)	.75	750	.15

§ 119.6 Notice of violation and penalty.

Following a determination by the Regional Administrator as to which of the two alternative penalties set forth in § 119.4 shall be assessed against the owner or operator, the Regional Administrator shall proceed to determine the amount of such penalty in accordance with the provisions of said § 119.4, and shall send a Notice of Violation to each person against whom such penalty is assessed. Such Notice of Violation shall specify the following:

(a) Date of issuance;

(b) Nature of the violation, including the substance or substances discharged, the date(s) and place of the discharge, and the quantity of each discharge;

(c) A citation to the pertinent section of the Act and regulations under which the violation is charged;

(d) A citation to the pertinent section of the act and regulations under which the civil penalty has been assessed;

(e) The amount of the civil penalty;

(f) The right of the alleged violator to present to the Regional Administrator, within thirty (30) days of his receipt of the Notice of Violation, written explanations, information or any materials in answer to the charges (including any of the defenses set forth in section 119.8 hereof) or in mitigation of the penalty;

(g) Manner in which the payment of any money may be paid to the United States;

(h) Right to request a hearing within forty-five (45) days of his receipt of the Notice of Violation; and

(i) The procedures for requesting a hearing including the right to be represented by counsel.

§ 119.7 Third party comments.

The Regional Administrator shall send a copy of the Notice of Violation to the State in which the discharge occurred and to any other person who he has reason to believe would be interested in the proceeding. The State and any interested person may submit written comments within thirty (30) days of receipt of the notice.

§ 119.8 Defenses.

It shall be a defense to any liability for any penalty assessed pursuant to section 119.4 through 119.6 hereof if the alleged violator establishes by a preponderance of the evidence that the discharge for which the penalty was assessed was caused solely by one or more of the following:

(a) An act of God,

(b) An act of war,

(c) Negligence on the part of the United States Government, or

(d) An act or omission of a third party without regard to whether or not such act or omission was or was not negligent.

§ 119.9 Request for hearing.

Within forty-five (45) days of the date of receipt of a Notice of Violation, the person named in the Notice may request a hearing by submitting a written request signed by or on behalf of such person by a duly authorized officer, director, agent, or attorney-in-fact, to the Regional Administrator.

(a) Requests for hearings shall:

(1) State the name and address of the person requesting the hearing;

(2) Enclose a copy of the Notice of Violation; and

(3) State with particularity the issues to be raised by such person at the hearing.

(b) After a request for hearing which complies with the requirements of subsection (a) of this section has been filed, a hearing shall be scheduled for the earliest practicable date.

(c) Extensions of the time for the commencement of the hearing may be granted for good cause shown.

§ 119.10 Presiding officer.

The hearing shall be conducted by the Presiding Officer. The Regional Administrator may designate any attorney in the Environmental Protection Agency to act as the Presiding Officer. No person shall serve as Presiding Officer who has any prior connection with the case including without limitation the performance of investigative or prosecuting functions. The Presiding Officer appointed shall have the full authority to conduct the hearing, decide issues, and to prepare a recommended decision in accordance with § 119.14.

§ 119.11 Consolidation.

The Presiding Officer may, in his discretion, order consolidation of any hearings held under this Part and arising within one Region whenever he determines that consolidation will expedite or simplify the consideration of the issues presented. The Administrator may, in his discretion, order consolidation, and designate one Region to be responsible for the conduct of any hearings held under this Part which arise in different Regions whenever he determines that consolidation will expedite or simplify the consideration of the issues presented. Consolidation shall not affect the right of any person to raise issues that could have been raised if consolidation had not occurred. At the conclusion of the hearing the Presiding Officer shall render a separate recommended decision for each separate civil penalty case.

§ 119.12 Prehearing conference.

The Presiding Officer may hold one or more prehearing conferences and may issue a hearing agenda which may include, without limitation, decisions with regard to any or all of the following:

(a) Stipulations and admissions;

(b) Disputed issues of fact;

(c) Hearing procedures including the names of witnesses, scheduling, identification and admission of documentary evidence, and the time allotted for oral arguments; and

(d) Any other matter which may expedite the hearing or aid in disposition of any issues raised therein.

§ 119.13 Conduct of hearing.

(a) The hearing shall be held, where feasible, in the general location of the facility where the alleged violation occurred or as agreed to by EPA and the person charged. The Presiding Officer shall have the duty to conduct a fair and impartial hearing, to take action to avoid unnecessary delay in the disposition of proceedings, and to maintain order. The person charged with the violation may offer relevant facts, statements, explanations, documents, testimony and other items in defense to the charges, or which may bear upon the penalty to be assessed. The EPA or appropriate Agency personnel shall have the opportunity to offer facts, statements, explanations, documents, testimony, or other material in order for the Presiding Officer to be fully informed. The person charged with the violation shall be informed in writing of the decision of the Presiding Officer and shall be advised of his right to appeal.

(b) A record shall be kept of the hearing, which shall include at least the following:

(1) The Notice of Violation;

(2) Any materials and information relied upon by the Regional Administrator in issuing the Notice of Violation and in determining and assessing the civil penalty or penalties at issue;

(3) Any materials submitted by the alleged violator in defense or opposition to the penalty;

(4) A verbatim transcript of the testimony of any witness presented at the hearing, which testimony shall be under oath;

(5) Any other materials offered by any party to the hearing and admitted by the Presiding Officer; and

(6) The recommended decision of the Presiding Officer described in § 119.14.

(c) The standards for admission of evidence shall be liberal and permissive. The Presiding Officer may exclude evidence which is immaterial, irrelevant, unduly repetitious or cumulative, or would involve undue delay or which, if hearsay, is not of the sort upon which responsible persons are accustomed to rely. In general, doubtful situations should be resolved in favor of admitting the evidence.

§ 119.14 Decision.

(a) Within thirty (30) days after the conclusion of the hearings, the Presiding Officer shall issue a recommended decision including a recommendation with respect to the amount of the civil penalty. In his recommendation concerning the civil penalty the Presiding Officer shall consider the factors set forth in §§ 119.4 through 119.8. His recommended decision shall contain appropriate findings of fact and conclusions such as to set forth clearly the basis for the recommended decision. A copy of the Presiding Officer's recommended decision shall be sent to the person charged in the Notice of Violation, and to the Regional Administrator.

(b) Within fifteen (15) days of the issuance of the recommended decision of the Presiding Officer the Regional administrator shall either adopt or modify the recommended decision of the Presiding Officer, in writing, stating his reasons for any modification. The Regional Administrator shall consider only information contained in the record established pursuant to § 119.13(b) of this Part. The recommended decision as thus adopted or modified (hereinafter the "Regional Administrator's decision") shall be sent to the person charged in the Notice of Violation, and shall become the final decision of the Environmental Protection Agency unless within fifteen (15) days from the date of receipt of such decision, the person assessed the penalty appeals the decision to the Administrator, or unless the Administrator shall have stayed the effectiveness of the decision pending review on his own motion.

§ 119.15 Appeal to administrator.

(a) The person assessed a penalty in the Regional Administrator's decision or any interested person who participated in the hearing shall have the right to appeal an adverse decision to the Administrator upon filing a written Notice of Appeal in the form required by paragraph (b) of this section within fifteen (15) days of the date of receipt of the Presiding Officer's decision.

(b) The Notice of Appeal shall be filed with the Regional Administrator and the Administrator, and shall:

(1) State the name and address of the person filing the Notice of Appeal;

(2) Contain a concise statement of the facts on which the person relies;

(3) Contain a concise statement of the legal basis on which the person relies; and

(4) Contain a concise statement setting forth the action which the person proposes that the Administrator take.

(c) The Administrator, after a Notice of Appeal in proper form has been filed, shall render a decision with respect to the appeal promptly. He may, though he need not, invite briefs or supplemental information from the Regional Administrator and the person(s) charged with the violation. In rendering his decision, the Administrator may adopt, modify, or set aside the decision of the Regional Administrator in any respect and shall include in his decision a concise statement of the basis thereof. The decision of the Administrator on appeal shall be effective when rendered.

(d) The Administrator may be assisted in his functions under this Section by such staff as he deems appropriate (but not a person who has any prior connection with the case including without limitation the performance of any investigative or prosecuting functions), and he may delegate his authority to act under this section to a judicial officer within the Environmental Protection Agency.

[FR Doc. 78-6342 Filed 3-10-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Parts 116, 117, 118, and 119]

[FRL 829-1]

HAZARDOUS SUBSTANCES

Proposed Rules for Designation, Determination of Removability, Determination of Harmful Quantity, and Determination of Units of Measurement and Rates of Penalty

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: In this separate part of the FEDERAL REGISTER the Environmental Protection Agency is publishing four final rules on the discharge of hazardous substances. The first rule designates an initial list of 271 substances as hazardous. The other three final rules determine their removability, harmful quantities when discharge to water and rates of penalty for the discharge of each of these hazardous substances.

The following proposed rules are published for the purpose of designating an additional 28 substances as hazardous, and of determining their removability, harmful quantities and rates of penalty. In effect, the following proposed rules would amend the above four final rules to designate an additional 28 substances as hazardous.

DATES: Comments on this proposal will be received until May 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Kenneth M. Mackenthun, Director, Criteria and Standards Division (WH-585), Office of Water Planning and Standards, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-755-0100.

SUPPLEMENTARY INFORMATION: Section 311(b)(2)(A) of the Act provides that the Administrator shall promulgate regulations designating hazardous substances. In Part 116, EPA has designated 271 substances as hazardous materials. The Administrator now proposes to add 28 substances as hazardous substances. These 28 substances meet the criteria that were used for designating substances to the hazardous substances list in Part 116. Further, the Administrator will add additional substances to the hazardous substances list from time to time as appropriate.

Section 311(b)(2)(B)(i) of the Act provides that the Administrator shall make a determination of whether or not any designated hazardous substance can actually be removed. On December 30, 1975, EPA proposed a determination that all substances designated as proposed hazardous substances in Part 116 are not actually removable. However, in response to public comment, the Administrator in the final rulemaking made a determination that substances on the hazardous substances list, except 10 substances with oil-like physical properties, are not actually removable. For this new notice, since none of the proposed substances has oil-like physicial properties, the Administrator proposes to make a determination that all are not actually removable.

Section 311(b)(4) of the Act provides that the Administrator shall by regulation, determine harmful quantities of those substances designated as hazardous substances. The Administrator has promulgated a Part 118 which, *inter alia*, sets forth a procedure as prescribed in the preamble to Part 118 for determining harmful quantities of hazardous substances. The Administrator has used the same procedures to determine proposed harmful quantities for the substances proposed in this regulation.

Section 311(b)(2)(B)(iv) of the Act provides that the Administrator shall establish by regulation, units of measurement and rates of penalty for designated hazardous substances. The Agency has concurrent with this notice promulgated a Part 119 which sets forth a procedure for determining units of measurement and rates of penalty for the designated hazardous substances. The Administrator has utilized the same procedures as prescribed in the preamble to Part 119 for proposing units of measurement and rates of penalty for the substances proposed as designated hazardous substances.

The preambles to Parts 116, 117, 118, and 119 issued by the Agency, set forth extensive information concerning the Act and the Agency's methodologies for designating hazardous substances (Part 116), determining whether such substances can actually be removed (Part 117), establishing harmful quantities (Part 118), and establishing rates of penalty (Part 119). Those regulations should be consulted in connection with this notice, since the Agency is basing the proposed designations, removability determinations, harmful quantities, and rates of penalties set forth herein upon the same scientific and technical analysis and information. Information concerning the characteristics of the substances proposed to be designated as hazardous are available from Kenneth M. Mackenthun, Director, Criteria and Standards Division (WH-585), Office of Water Planning and Standards, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

The economic impact of the proposal has been evaluated. The economic impacts will be incremental to the cost associated with implementing the initial section 311 regulations. It is estimated that final promulgation of these proposed regulations will increase the economic impact about 10 percent of the impact associated with the initial regulations. Therefore, no inflationary impact statement is required.

Comments submitted on or before will be considered in the preparation of final rulemaking. All comments should be submitted to Kenneth M. Mackenthun, Director, Criteria and Standards Division (WH-585), Office of Water Planning and Standards, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Dated: March 3, 1978.

DOUGLAS M. CASTLE,
Administrator.

PART 116—DESIGNATION OF HAZARDOUS SUBSTANCES

It is proposed to amend § 116.4 as follows:

§ 116.4 Designation of hazardous substances.

* * * * * * *

TABLE 116.4A.—LIST OF HAZARDOUS SUBSTANCES

Common name	CAS No.	Synonyms	Isomers	CAS No.
Adipic acid	124049	Hexanedioic acid		
n-butyl phthalate	84742	1,2-benzenedicarboxylic acid, dibutyl ester, dibutyl phthalate.		
Carbofuran	1563662	Furadan		
Carbon tetrachloride	56235	Tetrachloromethane, perchloromethane.		
Crotonaldehyde	4170303	2-butenal propylene aldehyde		
Dichlorobenzene	25321226	Di-chloricide	Ortho	95501
		Paramoth (Para)	Para	106467
Dichloropropane	26638197	Propylenedichloride	1,1	78999
			1,2	78875
			1,3	142289
Dichloropropene	26952238		1,3	542756
			2,3	78886
Dichloropropene-dichloropropane (mixture).	8003198	D-D mixture Vidden D		

TABLE 116.4A.—LIST OF HAZARDOUS SUBSTANCES—Continued

Common name	CAS No.	Synonyms	Isomers	CAS No.
Dinitrotoluene	25321146	DNT	2,4	121142
			2,6	606202
			3,4	610399
Epichlorohydrin	106898	γ-chloropropylene oxide		
Ethylene dibromide	106934	1,2-dibromoethane, acetylene dibromide, sym-dibromoethylene.		
Ethylene dichloride	107062	1,2-dichloroethane, sym-dichloroethane.		
Hexachlorocyclopentadiene	77474	Perchlorocyclopentadiene		
Hydrogen sulfide	7783064	Hydrosulfuric acid, sulfur hydride		
Kepone	143500	Chlordecone, 1,1a,3,3a,4,5,5,5a,5b,6-decachlorooctahydro-1,3,4-metheno-2H-cyclobuta(cd)pentalen-2-one.		
Mercaptodimethur	2032657	Mesurol		
Nitrotoluene	1321126		Ortho	88722
			Meta	99081
			Para	99990
Propargite	2312358	Omite		
Propylene oxide	75569	Propene oxide		
Silver nitrate	7761888	Nitric acid silver (1+) salt, lunar caustic.		
2,4,5-T amines	6369966	Acetic acid,(2,4,5-trichlorophenoxy)-, compound with N,N-dimethylmethanamine (1:1).		
	6369977	Acetic acid,(2,4,5-trichlorophenoxy)-, compound with N-methylmethanamine (1:1).		
	1319728	Acetic acid,(2,4,5-trichlorophenoxy)-, compound with 1-amino-2-propanol (1:1).		
	3813147	Acetic acid,(2,4,5-trichlorophenoxy)-, compound with 2,2',2''-nitrilotris(ethanol) (1:1).		
2,4,5-T salts	13560991	Acetic acid, (2,4,5-trichlorophenoxy)-, sodium salt.		
2,4,5-TP acid	93721	Propanoic acid, 2-(2,4,5-trichlorophenoxy)-.		
2,4,5-TP acid esters	32534955	Propanoic acid, 2-(2,4,5-trichlorophenoxy)-, isooctyl ester.		
Thallium sulfate	10031591			
	7446186			
Trichloroethylene	79016	Ethylene trichloride		
Vinylidene chloride	75354	1,1-dichloroethylene,1,1-dichloroethene.		

TABLE 116.4B—LIST OF HAZARDOUS SUBSTANCES BY CAS NUMBER

CAS No. and common name

56235 Carbon tetrachloride.
75354 Vinylidene chloride.
75569 Propylene oxide.
77474 Hexachlorocyclopentadiene.
78875 1,2-dichloropropane.
78886 2,3-dichloropropene.
78999 1,1-dichloropropane.
79016 Trichloroethylene.
84742 n-Butyl phthalate.
88722 o-Nitrotoluene.
93721 2,4,5-TP acid.
95501 o-Dichlorobenzene.
99081 m-Nitrotoluene.
99990 p-Nitrotoluene.
106467 p-Dichlorobenzene.
106898 Epichlorohydrin.
106934 Ethylene dibromide.
107062 Ethylene dichloride.
121142 2,4-Dinitrotoluene.
124049 Adipic acid.
142289 1,3-dichloropropane.
143500 Kepone.
542756 1,3-dichloropropene.
606202 2,6-dinitrotoluene.
610399 3,4-dinitrotoluene.
1319728 2,4,5-T amine.
1321126 Nitrotoluenes.
1563662 Carbofuran.
2032657 Mercaptodimethur.
2312358 Propargite.
3813147 2,4,5-T amine.
4170303 Crotonaldehyde.
6369966 2,4,5-T amine.
6369977 2,4,5-T amine.
7446186 Thallium sulfate.
7761888 Silver nitrate.
7783064 Hydrogen sulfide.
8003198 Dichloropropene-Dichloropropane mixture.
10031591 Thallium sulfate.
13560991 2,4,5-T salts.
25321146 Dinitrotoluene.
25321226 Dichlorobenzenes.
26638197 Dichloropropane.
26952238 Dichloropropene.
32534955 2,4,5-TP acid ester.

PART 117—DETERMINATION OF REMOVABILITY OF HAZARDOUS SUBSTANCES

It is proposed to amend § 117.3 as follows:

§ 117.3 Determination of actual removability.

The elements, compounds or their structural isomers, or mixtures thereof, designated as proposed hazardous substances under 40 CFR Part 116 cannot actually be removed.

PART 118—DETERMINATION OF HARMFUL QUANTITIES FOR HAZARDOUS SUBSTANCES

It is proposed to amend § 118.4 by adding the following proposed hazardous substances to table 118.4.

§ 118.4 Determination of harmful quantities.

* * * * *

TABLE 118.4—HARMFUL QUANTITIES OF HAZARDOUS SUBSTANCES

Material	Category	HQ in lb (kg)
Adipic acid	D	5,000 (2270).
n-Butyl phthalate	B	100 (45.4).
Carbofuran	A	10 (4.54).
Carbon tetrachloride	D	5,000 (2270).
Crotonaldehyde	B	100 (45.4).
Dichlorobenzenes	B	100 (45.4)
Dichloropropane	D	5,000 (2270).
Dichloropropene	D	5,000 (2270).
Dichloropropene-Dichloropropane mixture	D	5,000 (2270).
Dinitrotoluene	C	1,000 (454).
Epichlorohydrin	C	1,000 (454).
Ethylene Dibromide	C	1,000 (454).
Ethylene Dichloride	D	5,000 (2270).
Hexachlorocyclopentadiene	X	1 (0.454).
Hydrogen sulfide	B	100 (45.4).
Kepone	X	1 (0.454).
Mercaptodimethur	B	100 (45.4).
Nitrotoluenes	C	1,000 (454).
Propargite	A	10 (4.54).
Propylene oxide	D	5,000 (2270).
Silver nitrate	X	1 (0.454).
2,4,5—T Amines	B	100 (45.4).
2,4,5—T Salts	B	100 (45.4).
2,4,5—TP Acid	B	100 (45.4).
2,4,5—TP Acid Esters	B	100 (45.4).
Thallium sulfate	C	1,000 (454).
Trichloroethylene	C	1,000 (454).
Vinylidene chloride	D	5,000 (2270).

PART 119—DETERMINATION OF UNITS OF MEASUREMENT AND RATES OF PENALTY FOR HAZ-

MONDAY, MARCH 13, 1978
PART III

PART 119—DETERMINATION OF UNITS OF MEASUREMENT AND REATES OF PENALTY FOR HAZARDOUS SUBSTANCES

It is proposed to amend § 119.5 by adding the following proposed hazardous substances to table 119.5.

§ 119.5 Determination of units of measure, cost and rates of penalty.

• • • • •

TABLE 119.5.—*Rates of penalty and units of measurement of hazardous substances*

Material	Category	UM in pounds (kilograms)	P/C/D factor	ROP (dollars per UM)	Approximate ROP (dollars per pound)
Adipic acid (2,270)	D	5,000	0.75	750	0.15
n-Butyl phthalate	B	100 (45.4)	.36	360	3.60
Carbofuran	A	10 (4.54)	.36	360	36.00
Carbon tetrachloride (2,270)	D	5,000	.36	360	.07
Crotonaldehyde	B	100 (45.4)	.88	880	8.80
Dichlorobenzenes	B	100 (45.36	.36	360	3.60
Dichloropropane (2,270)	D	5,000	.75	750	.15
Dichloropropene (2,270)	D	5,000	.36	360	.07
Dichloropropene-dichloropropane mixture	D	5,000 (2,270)	.75	750	.15
Dinitrotoluene	C	1,000 (454)	.36	360	.36
Epichlorohydrin	C	1,000 (454)	.75	750	.75
Ethylene dibromide	C	1,000 (454)	.75	750	.75
Ethylene dichloride (2,270)	D	5,000	.75	750	.15
Hexachlorocyclopentadiene	X	1 (0.454)	.36	360	360.00
Hydrogen sulfide	B	100 (45.4)	.88	880	8.80
Kepone	X	1 (0.454)	.36	360	360.00
Mercaptodimethur	B	100 (45.4)	.36	360	3.60
Nitrotoluenes	C	1,000 (454)	.36	360	.36
Propargite	A	10 (4.54)	.36	360	36.00
Propylene oxide (2,270)	D	5,000	.88	880	.18
silver nitrate	X	1 (0.454)	.49	490	490.00
2,4,5-T amines	B	100 (45.4)	.36	360	3.60
2,4,5-T salts	B	100 (45.4)	.45	750	7.50
2,4,5-TP acid	B	100 (45.4)	.36	360	3.60
2,4,5-TP acid esters	B	100 (45.4)	.36	360	3.60
Thallium sulfate	C	1,000 (454)	.45	750	.75
Trichloroethylene	C	1,000 (454)	.36	360	.36
Vinylidene chloride (2,270)	D	5,000	.75	750	.15

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federal register

MONDAY, MARCH 13, 1978
PART III

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

FEDERAL CONSISTENCY WITH APPROVED COASTAL MANAGEMENT PROGRAMS

Implementation Policies and Procedures for Coastal States, Federal Agencies and Other Affected Parties

[3510-08]

Title 15—Commerce and Foreign Trade

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[3510-08]

Title 15—Commerce and Foreign Trade

CHAPTER IX—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 930—FEDERAL CONSISTENCY WITH APPROVED COASTAL MANAGEMENT PROGRAMS

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Final rule.

SUMMARY: These final regulations provide coastal States, Federal agencies, and other affected parties with policies and procedures for the implementation of the Federal consistency provisions of the Coastal Zone Management Act of 1972, as amended.

EFFECTIVE DATE: These final regulations will become effective on April 15, 1978.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Explanatory Statement

The National Oceanic and Atmospheric Administration (NOAA) is issuing today, in final form, regulations to implement the Federal consistency provisions of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1451 et seq.), hereafter referred to as the "Act." Two sets of proposed regulations for subsections 307 (c) through (h) of the Act were previously published in the Federal Register on September 28, 1976 (41 FR 42879), and August 29, 1977 (42 FR 43586). The introductory material within those publications discussed the need for adoption of these regulations and the intended effects of NOAA's action. The reader is referred to those drafts for background information.

Numerous comments were received on NOAA's latest version of proposed Federal consistency regulations. All comments were given full consideration, and while some recommendations were adopted in their entirety or in modified form, others were rejected as being inappropriate or legally impermissible. NOAA would like to take this opportunity to express its gratitude to each government agency, organization, and individual that submitted comments. Numerous minor changes were made in the regulations in response to public comments, and will not be discussed. The following material addresses changes made in the regulations in response to major comments.

II. Discussion of General Comments

Numerous reviewers prefaced their specific remarks with a general criticism that the Federal consistency provisions of the Act, and the implementing regulations, are the cause of undue complexity and unreasonable administrative burdens which are likely to result in unnecessary delay in the administration of Federal programs affecting the coastal zone. NOAA is well aware of these concerns and has, whenever possible, attempted to minimize the likelihood of adverse consequences.

This general criticism, however, should be viewed in light of a number of past events. The Federal consistency requirements of the Act have been perceived as a unique and highly controversial set of provisions. As a result, a number of unusual actions occurred. First of all, the regulations were submitted in proposed form for extensive public review and comment on two separate occasions. In between those publications, a formal and exhaustive Federal interagency review was undertaken to make certain that each affected Federal agency was provided a full opportunity to participate in developing the form and substance of the final regulations. As a consequence of these events, a substantial number of public and Federal agency comments were submitted with many generally criticizing the complexity of the regulations while at the same time insisting upon specific inclusion within the regulations of provisions addressing the particular concerns of the reviewer. The result is that the regulations, instead of becoming a broad and general framework for the implementation of the Federal consistency provisions, have evolved into a set of extensive and specific requirements for addressing a host of issues which might arise during the administration of an approved coastal management program. In other words, to be responsive to reviewer concerns, NOAA has favored comprehensive coverage over simplicity.

The benefits of this final result are that numerous uncertainties and potential conflicts may be avoided in light of the added specificity in the regulations. On the other hand, NOAA is still committed to the goal of implementing a Federal consistency system which not only promotes the substantive coastal management purposes of the Act but also fosters the Act's objective of expeditious intergovernmental coordination. There are opportunities ahead for achieving this goal.

First of all, interested parties are invited to provide NOAA with information regarding problems encountered during the actual implementation of these final regulations. These regulations are, as yet, untested and we continue to welcome constructive criticism which is aimed at modifying any provisions which prove, in practice, to be unmanageable. As we monitor the implementation of these new provisions, NOAA will also be initiating additional efforts to promote the efficient operation of the Federal consistency provisions. For example, we will be working with the Office of Management and Budget (OMB) to explore the possibility of further coordination of these regulations with the A-95 procedures for the evaluation, review and coordination of Federal programs. Similarly, we will be working with the Council on Environmental Quality to determine the extent to which environmental impact statements issued pursuant to the National Environmental Policy Act (NEPA) can be utilized to accomplish some of the intergovernmental coordination objectives of the Act's Federal consistency requirements. In addition, we will be working closely with the Department of the Interior to ensure that affected parties are not burdened with conflicting or repetitious requirements from the Commerce and Interior Departments with respect to activities undertaken on the Outer Continental Shelf. Finally, as a result of these and other efforts, NOAA will be in a position to seek additional regulatory or statutory modifications if such changes are deemed to be necessary. With regard to the latter, in the Conference Report to 1976 amendments to the Coastal Zone Management Act, the conferees emphasized that the Federal consistency provisions would be the subject of in-depth oversight measures during the 95th Congress.

Federal consistency matrix diagram. In the preamble to the proposed regulations, NOAA incorporated a matrix diagram which portrayed some general distinctions among the various types of Federal actions subject to the Federal consistency requirements of the Act. As a continuing aid to the reader, the matrix—with modifications reflecting changes made in the regulations—has been retained.

III. Discussion of Specific Comments and NOAA Responses

Subpart B—General Definitions

Section 930.18 *State agency.* A number of industry and Federal agency reviewers urged that the delegation provisions be deleted to ensure

continued State agency responsibility for the administration of the Federal consistency provisions and to eliminate unnecessary confusion and delay that could result from a multiplicity of agencies reviewing consistency material. NOAA has adopted this recommendation in modified form. While the broad delegation provisions have been deleted, the regulation does not permit a single State agency to coordinate its consistency review with other affected State, regional or local government agencies. Accordingly, all consistency material must be transmitted to and finally reviewed by the State agency; however, during the review period the State agency has the opportunity to promote intergovernmental analysis of the proposed Federal action.

Federal Consistency Matrix Diagram

CZMA section	307(c) (1) and (2) (subpart C)	307(c)(3)(A) (subpart D)	307(c)(3)(B) (subpart E)	307(d) (subpart F)
Federal action	Direct Federal activities including development projects.	Federally licensed and permitted activities.	Federally licensed and permitted activities described in detail in OCS plans.	Federal assistance to State and local governments.
Coastal zone impact	Significantly affecting the coastal zone	Significantly affecting the coastal zone.	Significantly affecting the coastal zone.	Significantly affecting the coastal zone.
Responsibility to notify State agency.	Federal agency proposing the action	Applicant for Federal license or permit.	Person submitting OCS plan	A-95 clearinghouse receiving State or local government application for Federal assistance.
Notification procedure	Alternatives chosen by Federal agency (subject to NOAA regulations).	Consistency certification	Consistency certification	OMB circular A-95 notification procedure.
Consistency requirement	Consistent to the maximum extent practicable with CZM program.	Consistent with the CZM program.	Consistent with the CZM program.	Consistent with the CZM program.
Consistency determination.	Made by Federal agency (Review by State agency).	Made by State agency	Made by State agency	Made by State agency.
Federal agency responsibility following a disagreement.	Federal agency not required to disapprove action following State agency disagreement (unless judicially impelled to do so).	Federal agency may not approve license or permit following State agency objection.	Federal agency may not approve Federal licenses or permits described in detail in the OCS plan following State agency objection.	Federal agency may not grant assistance following State agency objection.
Administrative conflict resolution.	Mediation by the Secretary	Appeal to the Secretary by applicant or independent Secretarial review.	Appeal to the Secretary by person or independent Secretarial review.	Appeal to the Secretary by applicant agency or independent Secretarial review.
	(Subpart G)	(Subpart H)	(Subpart H)	(Subpart H).
Assistant administrator reporting and review.	Notified by interested parties	Notified by interested parties.	Notified by interested parties	Notified by interested parties.
	(Subpart I)	(Subpart I)	(Subpart I)	(Subpart I).

Section 930.19 *Management program.* Rather than attempting to paraphrase the statutory definition, the regulation now simply references section 304(11) of the Act, which provides the definition for this term. However, the regulation does continue to emphasize that the Federal consistency provisions only apply to federally approved management programs.

Section 930.20 *Coastal zone.* Again, instead of providing an abbreviated version of the statutory definition, the regulation now references the statutory language within section 304(1) of the Act. In addition, the excluded Federal lands discussion has been deleted. The reader is referred to 15 CFR 923.33 (Program Approval Regulations) for a description of the relationship between excluded Federal lands and the Federal consistency provisions of the Act.

Section 930.21 *Significantly affecting the coastal zone.* This provision represents a new definition which replaces the earlier proposed § 930.32 ("directly affecting the coastal zone"), and §§ 930.53, 930.73, and 930.93 ("affecting the coastal zone"). A number of reviewers criticized the use of more than one definition given the fact that all of the earlier proposed sections highlighted the requirement that the Federal consistency provisions would apply whenever the primary, secondary or cumulative effects of a Federal action resulted in significant impacts upon coastal zone resources. In light of the similarity among the various definitions, and in view of the legislative history which supports the "significance" test, NOAA has adopted a uniform definition which is applicable to all types of Federal actions.

A number of industry reviewers recommended that this definition be limited to activities significantly affecting "land or water uses" in the coastal zone. NOAA rejected these recommendations. While we note that the statutory language is not uniform (i.e., section 307(c)(3)(A) uses the term "affecting land or water uses," section 307(c)(3)(B) uses the term "affecting any land or water use," and section 307(d) uses the term "affecting the coastal zone"), the legislative history of the Act demonstrates that Congress did not intend to create separate requirements for each subsection, and that the statutory terms are interchangeable and synonomous. The legislative history is replete with statements indicating that Congress was generally concerned about all Federal actions which were capable of significantly "affecting the coastal zone." This concern was not solely limited to land and water use, but extended to the use of all critical coastal resources, such as air resources control (see section 307(f) of the Act), which were subject to the provisions of the State's coastal management program.

Section 930.22 *Associated facilities.* This provision represents a new definition, recommended by a Federal agency, which replaces the examples previously set forth in proposed § 930.40(b). In brief, the new definition describes facilities which are functionally interrelated with a proposed Federal activity, development project, license or permit activity (including those described in detail in an OCS plan), or assistance activity. When this relationship exists, the proponent of the Federal action must consider the consistency of the associated facilities as well as the central action being proposed.

Subpart C—Consistency for Federal Activities

Section 930.30 *Objectives.* Throughout this Subpart and the succeeding Subparts the phrase "significantly affecting the coastal zone" is used. This is done to conform the specific Subpart requirements with the new definition set forth in § 930.21.

Section 930.31 *Federal activity.* In response to a State comment, this section now provides in commentary an example of a situation where a Feder-

al activity is being performed "on behalf" of a Federal agency. In response to a number of comments, the paragraph (b) definition of "Federal

nificantly affecting the coastal zone. In response to a Federal comment, paragraph (b) has been modified to require transmittal of the consistency

sion be narrowed to assure that individually significant Federal activities did not escape State review. In an attempt to accommodate both recom-

State agency concerns are not fully resolved within the 60-day period (45/15) of State agency review.

Section 930.42 (originally § 930.43) *State agency disagreement.* A number of States reiterated their arguments

ining the Act, legislative history and the arguments presented by Federal and State agency reviewers, NOAA has determined that retention of the Federal agency exclusion is appropriate.

State's decision to review a proposed license or permit activity. NOAA has rejected this recommendation because the Act confines the mediation process to serious disagreements between Fed-

al activity is being performed "on behalf" of a Federal agency. In response to a number of comments, the paragraph (b) definition of "Federal development project" has been clarified. Finally, NOAA has adopted State and Federal agency recommendations to modify the examples in paragraph (c) which describe Federal activities that are neither development projects nor activities covered by the Federal license, permit, and assistance Subparts.

In the preamble to the proposed regulations, NOAA discussed a disagreement between the Commerce and Interior Departments over whether Interior's Outer Continental Shelf lease sale actions, which include tract selection and choice of lease stipulations, constituted a "Federal activity" subject to the requirements of this Subpart. This issue is still under consideration by the Administration and will most likely be addressed during Congressional oversight of the Federal consistency provisions of the Act.

Section 930.32 *Directly affecting the coastal zone.* This section has been deleted. See the discussion regarding § 930.31.

Section 930.32 (originally § 930.33) *Consistent to the maximum extent practicable.* A number of Federal agency and industry reviewers urged NOAA to broaden this definition in a manner which would permit greater discretion for Federal agencies to deviate from the provisions of approved coastal management programs. NOAA rejected these recommendations. The proposed definition was adopted following extensive public comment and rigorous interagency analysis, and the reviewers did not provide any additional arguments which would warrant further modification of this definition. For purposes of clarity, NOAA has restructured the definition (without altering the substantive requirements) and has added new commentary to explain further the principles underlying this definition.

Section 930.33 (originally § 930.34) *Identifying Federal activities significantly affecting the coastal zone.* This section has been modified, at the request of State reviewers, to emphasize that Federal agencies must utilize the regulatory criteria (see § 930.21) for determining which of their Federal activities significantly affect the coastal zone of States with approved management programs.

Section 930.34 (originally § 930.39) *Federal agency consistency determinations.* In response to some comments stating that the sequence of the regulations caused some confusion, this section has been brought forward to promote the understanding that Federal agency consistency determinations must be issued following the identification of Federal activities significantly affecting the coastal zone. In response to a Federal comment, paragraph (b) has been modified to require transmittal of the consistency determination to the State agency at least 90 days before "final approval" of the Federal action. This change was made to eliminate the uncertainty created by the proposed language.

Section 930.35 *Federal and State agency coordination.* A number of State reviewers recommended that the waiver provision in paragraph (b) be deleted; States were concerned that a waiver might result in cases where the State agency had not received notice of the proposed Federal activity. In response to this concern, the regulation has been modified to state that the waiver will not apply in cases where the State agency does not receive notice. A Federal agency reviewer recommended that the regulations encourage the use of additional monitoring procedures beyond the A-95 process and the NEPA environmental impact statement review in order to minimize the likelihood of a State agency failing to receive notice of a proposed Federal activity. In response, new commentary now states that these procedures should be supplemented where necessary to make certain that State agencies are provided a reasonable opportunity to review all Federal activities likely to significantly affect the coastal zone.

In response to a Federal agency comment, a new paragraph (c) has been added to emphasize to Federal agencies that the recommended State listing and monitoring procedures set forth in paragraphs (a) and (b) do not remove Federal agency responsibility for providing State agencies with consistency determinations when the Federal agency independently concludes (i.e., without the assistance of State listing or monitoring) that the proposed activity will significantly affect the coastal zone. Finally, in response to State comments, the negative determination criteria in paragraph (d) (originally paragraph (c)) have been expanded to cover Federal activities for which the Federal agency undertook a thorough consistency assessment and developed initial findings on the effects of the activity on the coastal zone. New commentary notes that the negative determination procedures are set forth to provide States with an opportunity to review borderline cases.

Section 930.37 *Consistency determinations for proposed activities.* Proposed paragraph (b) of this section allowed Federal agencies to issue general consistency determinations for major Federal activities which were performed in an ongoing, repetitive fashion. One Federal agency supported this proposal and recommended further specificity. Another Federal agency recommended that the provision be narrowed to assure that individually significant Federal activities did not escape State review. In an attempt to accommodate both recommendations, NOAA has modified the section in the following manner. First, the general consistency determination feature is retained and the regulation specifically points out its utility for repeated Federal activities such as ongoing maintenance and waste disposal. However, the regulation also states that the general consistency determination may only be used in situations where the incremental actions are repetitive or periodic, substantially similar in nature, and cause only insignificant coastal zone effects when performed separately.

Section 930.39 (originally § 930.40) *Content of a consistency determination.* In response to comments, NOAA deleted the examples set forth in paragraph (b)—see the discussion related to § 930.22 "Associated facilities." In conjunction with this change in the structure of the regulations, NOAA also added new directives which state that while non-associated facilities must be included within a consistency determination's description of significant effects on the coastal zone, Federal agencies are not responsible for assessing the consistency of such facilities. New commentary sets forth alternate strategies for State control over such facilities. In response to Federal agency comments, a new paragraph (c) has been added which points out that Federal agencies are to give appropriate weight to the various types of provisions within the coastal management program. For example, while Federal agencies must ensure that their activities are consistent to the maximum extent practicable with the enforceable policies of the program, they need only give adequate consideration to management program provisions which are in the nature of recommendations.

Section 930.41 *State agency response.* In response to Federal agency comments, paragraph (b) has been modified so that the extension period, beyond the initial 45 days provided for State review, is 15 days rather than 30. The purpose of this change is to bring the Federal consistency regulations into conformance with the OMB A-95 and NEPA environmental impact statement comment periods. A new paragraph (c) has been added, at the request of State reviewers, to reiterate the requirement that final Federal agency action on a proposal may not be taken sooner than 90 days from the issuance of the consistency determination, unless both the State and Federal agency agree to an alternative period. This requirement is restated to alert the parties to the opportunity for continued intergovernmental consultation in the event Federal and

State agency concerns are not fully resolved within the 60-day period (45/15) of State agency review.

Section 930.42 (originally § 930.43) *State agency disagreement.* A number of States reiterated their arguments that Federal agencies should be required by regulation to suspend action on Federal activities in the event of a State objection. NOAA has rejected this argument on the basis that the act does not mandate the recommended suspension. One State requested that the section address situations where the State objects to a proposed Federal activity on the basis of Federal agency failure to supply sufficient information about the proposal. A new paragraph (b) has been added to respond to this request.

Section 930.44 (originally § 930.45) *Availability of mediation for previously reviewed activities.* In response to State comments, a new paragraph (a) has been added which directs Federal and State agencies to cooperate in their efforts to monitor Federally approved activities in order to make certain that such activities continue to be undertaken in a manner consistent, to the maximum extent practicable, with the State's management program. In response to a Federal agency comment, the section has been modified to require States to supply Federal agencies with supporting information in the event the State alleges that an activity is no longer being conducted in a manner consistent, to the maximum extent practicable, with the management program. The changes made in this section have also been made in § 930.66 (originally § 930.69) and § 930.100 (originally § 930.102).

SUBPART D—CONSISTENCY FOR ACTIVITIES REQUIRING A FEDERAL LICENSE OR PERMIT

Section 930.51 *Federal license or permit.* In response to Federal agency and industry comments, a separate provision has been added (paragraph (b)) which discusses the applicability of the Federal consistency provisions to Federal license or permit renewals and major amendments. One industry reviewer urged that the section point out that Outer Continental Shelf oil and gas leases were not to be considered a license or permit for the purposes of the Act. Another State reviewer urged that the section note that Federal onshore leases were subject to the requirements of this subpart. To accommodate both reviewers, new commentary states that all Federal leases are subject to the requirement of subpart D with the exception of leases issued pursuant to the Outer Continental Shelf Lands Act.

Section 930.52 *Applicant.* Numerous State reviewers objected to the exclusion of Federal agencies from the definition of "applicant." After examining the Act, legislative history and the arguments presented by Federal and State agency reviewers, NOAA has determined that retention of the Federal agency exclusion is appropriate. Numerous industry and Federal agency reviewers argued that the Act only applied to applicants who, following management program approval, filed an application for a Federal license or permit. Reviewers pointed out that the language in subsections 307(c)(3) (A) and (B), combined with statements in the legislative history referring to newly proposed activities, presented a persuasive case that Congress did not intend to apply the consistency requirements to applications filed prior to the approval of a coastal management program. NOAA agrees with this interpretation and the regulations have been modified accordingly. Nevertheless, NOAA strongly encourages Federal agencies to consider fully coastal management program provisions whenever the timing of Federal review allows such consideration with regard to applications filed prior to management program approval.

Section 930.53 *Affecting the coastal zone.* This section has been deleted. See the discussion regarding § 930.21.

Section 930.54 (originally § 930.55) *Unlisted Federal license and permit activities.* Industry, State and Federal agency reviewers all requested that the Assistant Administrator's approval or disapproval of a State agency request to review an unlisted permit activity be subject to procedures which require the Assistant Administrator to issue a decision with supporting comments. Paragraphs (c) and (d) are now responsive to these requests. In response to a number of State comments, a new paragraph (e) has been created which provides that following Assistant Administrator approval, concurrence by the State agency shall be conclusively presumed within 6 months from the original Federal agency notice to the State agency, or within 3 months from receipt of the applicant's consistency certification and accompanying information, whichever period terminates last. The purpose of this provision is to protect the State agency from an applicant's failure to submit necessary material in a timely fashion following an Assistant Administrator's decision which favors State review of the proposed activity.

Section 930.56 *Pending applications.* This section has been deleted. See the discussion in § 930.52.

Section 930.55 (originally § 930.57) *Availability of mediation for license or permit disputes.* One industry commentator urged that an applicant be given standing to request Secretarial mediation in the event there was a serious disagreement with regard to a State's decision to review a proposed license or permit activity. NOAA has rejected this recommendation because the Act confines the mediation process to serious disagreements between Federal and State agencies. However, in the event such a disagreement involves a Federal license or permit activity, the regulation now requires that the agency requesting mediation provide notice of the request to the applicant. In response to a Federal agency comment, the regulation now indicates that the existence of a serious disagreement will not prevent the Federal agency from approving a license or permit activity which the Assistant Administrator has not approved as subject to State review; a similar modification has also been incorporated into § 930.99 (*Availability of mediation for Federal assistance disputes*).

Section 930.56 (originally § 930.58) *State agency guidance and assistance to applicants; information requirements.* One Federal agency reviewer recommended that, as part of its assistance effort, each State agency make available for public inspection copies of the management program document. NOAA has adopted this recommendation. A number of industry reviewers urged that States be required to specify within the management program information and data necessary to assess the consistency of Federal license and permit activities. In response, NOAA has retained the provision which allows the State, in its discretion, to include such material within its management program. If a State does not include this material in the management program, the applicant must, at a minimum, supply the State agency with the information required by § 930.58 (see below). If a State decides to incorporate this material into the management program after its approval, it must be added to the program in the form of an amendment due to the significant nature and importance of this information. A number of States have reiterated their arguments that applicants should be required to provide them with confidential and proprietary information. NOAA continues to hold the position that the Act does not require that such information be submitted to coastal states. However, when satisfied that adequate protection against public disclosure exists, applicants are strongly encouraged to provide the States with such information when the material is necessary to make a reasoned decision on the consistency of the proposal (see § 930.58).

Section 930.59 *Federal license and permit activities having interstate effects.* This section has been deleted. Numerous Federal agencies pointed out that problems of interstate coordination applied with respect to all of

the subparts and that conflicting State program requirements are more appropriately addressed as part of the section 305 and 306 provisions of the Act. Accordingly, instead of addressing

limited the time period during which the State agency could request submission of necessary information. NOAA has rejected this recommendation, but has added in § 930.60 (originally

certification. Numerous industry reviewers argued that it was impermissible to permit the State agency to concur with a certification yet reserve the right to object and compel modifi-

states that if such activities are not described in the OCS plan, but are likely to significantly affect the coastal zone, then they are subject to the license and permit review requirements of subpart D.

the lessee to supply the State agency with a copy of permit applications unless the State agency indicates that it has no interest in receiving such information. This new provision has also

sically, the section emphasizes three issues: (i) Encouragement for the development of a list of Federal assistance activities, (ii) a directive stating that a geographic provision is only re-

the subparts and that conflicting State program requirements are more appropriately addressed as part of the section 305 and 306 provisions of the Act. Accordingly, instead of addressing this problem as a Federal consistency matter, the issue is covered instead in the Program Approval Regulations—see 15 CFR 923.34 (directing each coastal State to consult with adjoining coastal States during the program development process in order to promote uniform management of a common resource and to minimize the possibility of conflicting uses occuring at the juncture of each State's boundaries) and 15 CFR 923.56 (directing coastal States to coordinate their efforts with other plans which interrelate with the State's coastal management program). A number of industry reviewers urged that Secretarial intervention be required in the event coordination efforts did not prevent the development of conflicting State requirements. NOAA has rejected this recommendation. The Act does not compel uniform requirements among adjacent States. Accordingly, there may develop some cases where a proposed activity, while permissible in one State, is subject to an objection based upon significant inconsistent effects upon a neighboring State. In this event, the Secretary of Commerce, may intervene if such action is deemed appropriate (see subpart H).

Section 930.57 (originally § 930.60) *Consistency certifications.* One Federal agency recommended that the regulation include an example of a consistency certification. An example is now provided. Furthermore, for clarity purposes a separate section has been developed which describes the necessary data and information which must accompany the consistency certification (see § 930.58).

Section 930.58 *Necessary data and information.* In repsonse to numerous comments, a new section has been developed which specifically sets forth the material which an applicant must provide to the State agency. Basically, the submission encompasses four elements: (i) A detailed description of the activity, (ii) any information required by the State agency pursuant to § 930.56(b) (see discussion above), (iii) a brief assessment relating the effects of the proposal to the relevant elements of the management program, and (iv) a brief set of findings, derived from the assessment, which describes how the activity will be conducted in a manner consistent with the provisions of the management program. In response to a Federal agency recommendation, the regulation requires the State agency, at the request of the applicant, to provide assistance for developing the assessment and findings. One industry reviewer urged that the regulation include a provision which limited the time period during which the State agency could request submission of necessary information. NOAA has rejected this recommendation, but has added in § 930.60 (originally § 930.62) *Commencement of State agency review*, the directive that a State agency request for information or data in addition to that required by § 930.58 shall not extend the date of commencement of State agency review.

Section 930.59 (originally § 930.61) *Multiple permit review.* One State and one Federal agency reviewer recommended that NOAA require applicants and coastal States to utilize a "one-stop" multiple permit review system. At the same time another Federal agency and industry reviewer indicated a preference to retain the option of reviewing permits individually. In response, NOAA has adopted a compromise provision which directs applicants and States to use a consolidated permit review system to the extent practicable. Accordingly, if difficulties arise as a result of consolidated review efforts, the applicant and State may resort to individual permit review.

Section 903.60 (originally § 930.62) *Commencement of State agency review.* A number of industry commentators argued that State review should begin at the time the State agency receives the consistency certification, and that review should not be delayed pending State receipt of necessary supporting information. NOAA has rejected this argument as being contrary to the requirements of the Act. While the Act states that the period for presumed concurrence ends within 6 months after receipt of the certification, the Act also states that the certification shall be accompanied by necessary information and data. Accordingly, the submission is not complete until such time as the State agency has been provided both the certification and the supporting information. To hold otherwise would be to interpret the Act as allowing the applicant, as a practical matter, to shorten the permissible period of State review by the submission of supporting information at a date subsequent to the submission of the consistency certification.

Section 930.63 (originally § 930.65) *State agency concurrence with a consistency certification.*

One industry reviewer urged that the regulation direct Federal agencies not to delay processing permit applications pending receipt of a State agency's concurrence or objection, and to notify immediately the applicant and State agency in the event the Federal agency determined that the application could not be approved. NOAA has adopted this recommendation.

Section 930.64 (originally § 930.66) *State agency objection to a consistency certification.* Numerous industry reviewers argued that it was impermissible to permit the State agency to concur with a certification yet reserve the right to object and compel modifications or withdraw its concurrence following such approval. NOAA agrees with this argument and this provision has been deleted from the regulation. Instead, State monitoring which discloses that an activity is not being conducted in a manner consistent with the management program is addressed in § 930.66 (see discussion below). Two industry reviewers recommended that the regulation requre that any State agency objection based upon the receipt of insufficient information be preceded by a State agency request for such information, thereby allowing the applicant an opportunity to avoid the objection by submission of the requested material. NOAA has accepted this recommendation and new language has been added to the regulation.

Section 930.67 *Management program equivalents for consistency review.* This section has been deleted. Numerous industry reviewers urged that this section specifically include each of the Act's requirements related to licenses and permits (i.e., certification, public notice, discretionary hearings, presumed concurrence within 6 months, right of appeal to the Secretary, etc.). The reviewers were concerned that without reiteration of these requirements, an equivalent system of review could result in illegal circumvention of the requirements of the Act. Rather than restating the Act's requirements within this section, NOAA decided to eliminate the section and include within other sections the provisions suggested here. Accordingly, § 930.53(c) (*Management program license and permit listing*) now includes a provision allowing for a general concurrence. Similarly, § 930.56(b) (*State agency guidance and assistance to applicants; information requirements*) has additional commentary indicating that necessary information and data may include State or local government permits which are required in addition to the Federal license or permit.

SUBPART E—CONSISTENCY FOR OUTER CONTINENTAL SHELF (OCS) EXPLORATION, DEVELOPMENT AND PRODUCTION ACTIVITIES

Section 903.71 *Federal license or permit activities described in detail.* One industry reviewer suggested that if the Department of the Interior did not require an OCS license or permit activity to be described in detail in the OCS plan, then the activity would be exempt from the consistency requirements of the Act. NOAA rejects this suggestion. For purposes of clarity on this point, new commentary now

states that if such activities are not described in the OCS plan, but are likely to significantly affect the coastal zone, then they are subject to the license and permit review requirements of subpart D.

Section 930.73 *Affecting the coastal zone.* This section has been deleted. See the discussion in § 930.21.

Section 930.73 (originally § 930.74) *OCS plan.* In response to industry comments, a new provision has been added which states that the requirements of this part do not apply to Federal license and permit applications filed after management program approval for activities described in detail in OCS plans which were approved by the Secretary of the Interior prior to management program approval. NOAA's explanation for this decision is set forth in the discussion of § 930.52 (see above).

Section 930.76 (originally § 930.77) *Submission of an OCS plan and consistency certification.* This section has been modified in a manner similar to the changes that were made in §§ 930.57–930.58. First, this section solely describes the certification requirement of the Act, while a new § 930.77 discusses necessary data and information which must accompany the certification. Next, an example of a certification statement is provided.

Section 930.77 *Necessary data and information.* As noted above, this provision has been added to complement the new § 930.58. The major change is that the information requirements are no longer tied to OCS Appendices. The Appendices have been deleted. As indicated in the preamble to the proposed regulations, NOAA and the Department of the Interior initiated a joint effort to consolidate into one set of regulations the description of OCS information to be provided to affected coastal States. That effort has resulted in the issuance of Interior Department regulations governing exploration, development and production operations on the OCS (see 30 CFR 250.34—43 FR 3880 January 27, 1978) and regulations pertaining to an OCS information program (see 30 CFR Part 252—43 FR 3887 January 27, 1978). Accordingly, § 930.77 now references these regulations as the system for receiving OCS information necessary to assess the consistency of Federal license and permit activities described in detail in OCS plans.

Section 930.80 *Effect of State agency concurrence.* One Federal agency reviewer and one State agency reviewer recommended that this section include a monitoring mechanism to allow States to compare subsequently filed permit applications with the descriptions set forth in OCS plans and accompanying information. NOAA has adopted this recommendation, and a new provision now requires the lessee to supply the State agency with a copy of permit applications unless the State agency indicates that it has no interest in receiving such information. This new provision has also been included within § 930.84 (*Review of amended or new OCS plans, public notice*).

Section 930.86 *Failure to comply substantially with an approved OCS plan.* The proposed provision stated that if the Secretary made the finding of substantial noncompliance, the lessee would have to comply with the originally approved OCS plan pending approval of an amended or new OCS plan. One industry commentator noted that in some instances it might not be feasible to comply with the original plan, and suggested that in such cases the lessee be required to comply with Interior Department interim orders until a new or amended plan came into effect. NOAA has adopted this suggestion in modified form, and the regulation now addresses this contingency by providing for compliance with interim orders jointly issued by the Secretary of Commerce and the U.S. Geological Survey.

SUBPART F—CONSISTENCY FOR FEDERAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS

Section 930.90 *Objectives.* One Federal agency argued that the entire subpart should reflect the position that the Federal assisting agency, and not the State agency, had the responsibility for determining when Federal assistance activities were not consistent with an approved coastal management program. NOAA has rejected this position. The Act and the supporting statements in the legislative history clearly demonstrate that the Federal assistance provision of section 307 was to operate in the same manner as the Federal license and permit provisions—that is, the State agency would determine the consistency of the proposed activity, and in the event of a State agency objection, the applicant could appeal to the Commerce Secretary. In that event, the Act provides for a "reasonable opportunity for detailed comments from the Federal agency involved * * *."

Section 930.92 *Applicant agency.* This section has been modified to reflect the decision that only applications filed after management program approval are subject to the requirements of this Subpart. See the discussion in § 930.52 (above).

Section 930.93 *Affecting the coastal zone.* This section has been deleted. See the discussion in § 930.21 (above).

Section 930.94 (originally § 930.95) *Guidance provided by the State agency.* In response to a number of comments, this section has been restructured and refined to promote additional clarity and understanding. Basically, the section emphasizes three issues: (i) Encouragement for the development of a list of Federal assistance activities, (ii) a directive stating that a geographic provision is only required when the State wishes to review Federal assistance activities outside of the coastal zone which are likely to significantly affect the coastal zone, and (iii) a directive requiring intergovernmental coordination in the event a list or geographic provision is developed.

Section 930.97 (originally section 930.97) *Consistency review.* One State reviewer recommended that the regulation include a directive urging Federal agencies to continue to process assistance applications pending receipt of the State agency's consistency decision, and to notify the applicant agency and the State agency immediately in the event the Federal agency determined that the assistance application would be rejected. NOAA has adopted this recommendation. Another State reviewer urged that this section include a provision related to a State agency objection based upon a determination that the applicant agency had failed, following a State agency request, to supply necessary supporting information. This recommendation has also been adopted.

Section 930.98 (originally section 930.99) *Federally assisted activities outside of the coastal zone or described geographic area.* This provision applies to State agency monitoring of Federal assistance proposals which might reasonably be expected to significantly affect the coastal zone. This section has been modified to reference the material in § 930.54 (c) and (d) which relates to Assistant Administrator approval or disapproval of State agency decisions to review activities selected through the monitoring process (see § 930.54 discussion above).

Section 930.100 *Pending applications.* This section has been deleted. See the discussion in §§ 930.92 and 930.52 (above).

SUBPART G—SECRETARIAL MEDIATION

Section 930.110 *Objectives.* A few Federal and State agency reviewers argued that the mediation provisions should be mandatory; others, however, argued for retention of a voluntary mechanism. NOAA's position is that the Act does not compel operation of a mandatory system—accordingly, the latter arguments have been adopted.

Section 930.11 *Request for mediation.* One State reviewer urged NOAA to commit the Secretary to a more forceful effort to promote mediation in the event a request was received. NOAA has adopted this recommendation, and the regulation now indicates that if an agency declines an offer to enter into mediation efforts, the Secretary shall seek to persuade the

agency to reconsider its decision. The Secretary will cease efforts to provide mediation assistance only if the agency continues to refuse the mediation offer.

viewers did not provide any additional arguments which would warrant further modification of this section.

Section 930.122 *Necessary in the interest of national security.* One Federal agency urged that the Secretary of the Secretary is the appropriate forum for dealing with these types of grievances, and NOAA has concluded that subsections 307 (c) and (d) of the Act do not require Secretarial review for

and withdrawal of Federal funding and cessation of the operation of the Federal consistency provisions.

APPENDIX A—INFORMATION TO BE SUBMITTED WITH AN OCS EXPLORATION PLAN

Sec.
930.16 Assistant Administrator.
930.17 Federal agency.
930.18 State agency.
930.19 Management program.
930.20 Coastal Zone.
930.21 Significantly affecting the coastal
Sec.
930.77 Necessary data and information.
930.78 Commencement of State agency review; public notice.
930.79 State agency concurrence or objection.

agency to reconsider its decision. The Secretary will cease efforts to provide mediation assistance only if the agency continues to refuse the mediation offer.

Section 930.113 *Public hearing.* One individual reviewer urged that the hearing officer should not be permitted to exclude the submission of information. NOAA has changed the section to respond to this concern by allowing repetitive oral presentations to be excluded so long as the party is offered an opportunity to provide the hearing officer with a written submission of the proposed oral presentation.

Section 930.114 *Secretarial mediation efforts.* One industry reviewer pointed out that mediation efforts may, in some instances, involve the examination of a Federal license or permit activity (see, for example, § 930.55). In such cases, the reviewer urged that the mediation conference allow for applicant participation. NOAA has accepted this recommendation in modified form, and the regulation now permits attendance by interested parties whose participation is deemed necessary by the Secretary.

Section 930.116 *Judicial review.* A number of reviewers who recommended mandatory mediation (see the discussion in § 930.110 above) also recommended that judicial review not be available until mediation efforts were completed. Since NOAA has determined that mediation under the Act is a voluntary system, and that Federal agencies are not required to cease action following a State agency objection (see § 930.42—*State agency disagreement*—above), parties are not precluded from seeking timely judicial review where otherwise available by law. In fact, it may be the only effective State enforcement tool that can be used in the event intergovernmental cooperation efforts break down. For this reason, NOAA has rejected the recommendation posed above.

SUBPART H—SECRETARIAL REVIEW RELATED TO THE OBJECTIVES OR PURPOSES OF THE ACT AND NATIONAL SECURITY INTERESTS

Section 930.121 *Consistent with the objectives or purposes of the Act.* A number of industry reviewers argued that the criteria within this section were too narrow in scope and did not provide the Secretary with sufficient discretion to set aside State agency objections. A number of State reviewers took a completely opposite position, arguing that the criteria within the section were too broad and would thereby provide the Secretary with unqualified discretion to override State agency decisions. NOAA has rejected both sets of recommendations. This section was developed following extensive public comment and rigorous interagency analysis, and the reviewers did not provide any additional arguments which would warrant further modification of this section.

Section 930.122 *Necessary in the interest of national security.* One Federal agency urged that the Secretary of Commerce be bound by the views of the Defense Department with respect to national security matters. During interagency review of the regulations, this recommendation was rejected on the basis that it was contrary to the intent of the Act as substantiated by the legislative history. Accordingly, this regulation retains the provision preserving independent Secretarial review subject to the advice of the Department of Defense and other Federal agencies having national security interests.

Section 930.128 *Dismissal of appeals.* The proposed regulation at paragraph (d) states that failure of the appellant to base the appeal on either overriding national interest or national security grounds (see §§ 930.121-930.122) would constitute cause for dismissal. A number of industry reviewers have renewed their arguments that appeals should not be dismissed in cases where an applicant maintains that the State agency has incorrectly declared an activity to be inconsistent with the management program. NOAA has, again, rejected this recommendation and, accordingly, the section has not been changed. As noted in the preamble to the proposed regulations, NOAA has determined that the Secretarial case-by-case review process created by section 307 (c) and (d) of the Act was only intended for the review of inconsistent Federal actions which warranted Federal approval based upon overriding national concerns. NOAA's decision, however, does not leave the aggrieved parties cited above without recourse. First of all, in subpart I, NOAA has developed a new section (§ 930.142—discussed below) which offers a forum within the Office of Coastal Zone Management (OCZM) for applicant complaints regarding alleged State agency mismanagement of the Federal consistency provisions. Furthermore, as noted in the previous preamble, OCZM performance review efforts do not preclude an applicant from seeking judicial relief where otherwise available in the event a State agency fails to enforce properly management program requirements (see for example, *Mobil Oil* v. *Kelley*, 426 F. Supp. 230 (U.S.D.C. S.D. Ala., 1976) where an oil company challenged a State's denial of a certification required under section 401 of the Federal Water Pollution Control Act). The underlying issue is not whether an applicant has a means for addressing the specific type of grievance cited above, since OCZM and judicial review are available. The central issue is whether the Office of the Secretary is the appropriate forum for dealing with these types of grievances, and NOAA has concluded that subsections 307 (c) and (d) of the Act do not require Secretarial review for such cases.

Section 930.132 *Review initiated by the Secretary.* In response to Federal and State agency comments, this section has been modified to highlight three additional points: (i) Secretarial review may be initiated either before or after the completion of State agency review, (ii) the Secretary's decision to initiate review may be influenced by requests from interested parties, and (iii) if the Secretary decides to initiate review, a statement describing the basis for this decision must be provided.

SUBPART I—ASSISTANT ADMINISTRATOR REPORTING AND CONTINUING REVIEW OF FEDERAL ACTIONS SUBJECT TO THE FEDERAL CONSISTENCY REQUIREMENTS

Section 930.140 *Objectives.* In response to numerous comments, this subpart has been significantly modified to address the following four issues: (i) Monitoring of Federal actions which are believed to be inconsistent with an approved management program but which are not so found by the Federal or State reviewing agency, (ii) monitoring of Federal actions believed to have been incorrectly determined to be inconsistent with an approved management program, (iii) the reporting of any Federal actions found by the Assistant Administrator to be inconsistent with an approved management program, and (iv) the performance review of State implementation of the Federal consistency provisions.

Section 930.142 *Notification of Federal actions believed to have been incorrectly determined to be inconsistent with an approved management program.* This new section has been adopted in response to the numerous industry comments requesting a Federal agency forum for the submission of complaints regarding possible State agency abuses in the administration of the Federal consistency provisions (see the discussion in § 930.128).

Section 930.145 *Review of the implementation of the Federal consistency provisions.* This new section indicates that the Assistant Administrator's review of the performance of each State's implementation of the Federal consistency provisions shall be incorporated within OCZM's general efforts to ascertain any instances where a State has not adhered to its approved management program and such lack of adherence is not justified. In this regard, new commentary points out that 15 CFR 923.83 (Program Approval Regulations) addresses defects in management program administration which may lead to termination

and withdrawal of Federal funding and cessation of the operation of the Federal consistency provisions.

APPENDIX A—INFORMATION TO BE SUBMITTED WITH AN OCS EXPLORATION PLAN

APPENDIX B—INFORMATION TO BE SUBMITTED WITH AN OCS DEVELOPMENT PLAN

These appendices have been deleted. See the discussion in § 930.77 (above).

ENVIRONMENTAL AND INFLATIONARY IMPACT STATEMENTS

One industry reviewer requested that an environmental impact statement be issued on the promulgation of these regulations. As indicated in the preamble to the proposed regulations, the Assistant Administrator, in accordance with the guidelines of the Council on Environmental Quality and Department of Commerce Administrative Order 316-6, determined that an environmental impact statement would not be necessary or timely with respect to promulgation of these regulations. A copy of this negative determination, which has received concurrence from NOAA and the Department of Commerce, is available for review at the Office of Coastal Zone Management.

Another reviewer requested that an inflationary impact statement be issued on the promulgation of these regulations. An evaluation of the inflationary determination criteria in Section 5 of Department of Commerce Administrative Order 218-6, which sets forth procedures for such statements, led to the conclusion, indicated in the preamble to the proposed regulations, that an inflationary impact statement was not required in this instance.

Following consideration of comments received and other relevant information, there are adopted below final regulations describing the policies and procedures for the implementation of the Federal consistency provisions of the Act.

Dated: March 7, 1978.

T. P. GLEITER,
Assistant Administrator for Administration.

Accordingly, 15 CFR Part 930 is amended as follows:

Subpart A—Objectives

Sec.
930.1 Overall Objectives.

Subpart B—General Definitions

930.10 Index to definitions.
930.11 Act.
930.12 Section.
930.13 Secretary.
930.14 Executive Office of the President.
930.15 OCZM.
930.16 Assistant Administrator.
930.17 Federal agency.
930.18 State agency.
930.19 Management program.
930.20 Coastal Zone.
930.21 Significantly affecting the coastal zone.
930.22 Associated facilities.

Subpart C—Consistency for Federal Activities

930.30 Objectives.
930.31 Federal activity.
930.32 Consistent to the maximum extent practicable.
930.33 Identifying Federal activities significantly affecting the coastal zone.
930.34 Federal agency consistency determinations.
930.35 Federal and State agency coordination.
930.36 Availability of mediation for negative determination disputes.
930.37 Consistency determinations for proposed activities.
930.38 Consistency determinations for activities initiated prior to management program approval.
930.39 Content of a consistency determination.
930.40 Multiple Federal agency participation.
930.41 State agency response.
930.42 State agency disagreement.
930.43 Availability of mediation for disputes concerning proposed activities.
930.44 Availability of mediation for previously reviewed activities.

Subpart D—Consistency for Activities Requiring a Federal License or Permit

930.50 Objectives
930.51 Federal license or permit.
930.52 Applicant.
930.53 Management program license and permit listing.
930.54 Unlisted Federal license and permit activities.
930.55 Availability of mediation for license or permit disputes.
930.56 State agency guidance and assistance to applicants; information requirements.
930.57 Consistency certifications.
930.58 Necessary data and information.
930.59 Multiple permit review.
930.60 Commencement of State agency review.
930.61 Public notice.
930.62 Public hearings.
930.63 State agency concurrence with a consistency certification.
930.64 State agency objection to a consistency certification.
930.65 Federal permitting agency responsibility.
930.66 Availability of mediation for previously reviewed activities.

Subpart E—Consistency for Outer Continental Shelf (OCS) Exploration, Development and Production Activities

930.70 Objectives.
930.71 Federal license or permit activity described in detail.
930.72 Person.
930.73 OCS plan.
930.74 OCS activities subject to State agency review.
930.75 State agency assistance to persons; information requirements.
930.76 Submission of an OCS plan and consistency certification.
930.77 Necessary data and information.
930.78 Commencement of State agency review; public notice.
930.79 State agency concurrence or objection.
930.80 Effect of State agency concurrence.
930.81 Federal permitting agency responsibility.
930.82 Multiple permit review.
930.83 Amended or new OCS plans.
930.84 Review of amended or new OCS plans; public notice.
930.85 Continuing State agency objections.
930.86 Failure to comply substantially with an OCS plan.

Subpart F—Consistency for Federal Assistance to State and Local Governments

930.90 Objectives.
930.91 Federal assistance.
930.92 Applicant agency.
930.93 OMB A-95 process.
930.94 Guidance provided by the State agency.
930.95 OMB A-95 project notification and review.
930.96 Consistency review.
930.97 Federal assisting agency responsibility.
930.98 Federally assisted activities outside of the coastal zone or the described geographic area.
930.99 Availability of mediation for Federal assistance disputes.
930.100 Availability of mediation for previously reviewed activities.

Subpart G—Secretarial Mediation

930.110 Objectives.
930.111 Informal negotiations.
930.112 Request for mediation.
930.113 Public hearings.
930.114 Secretarial mediation efforts.
930.115 Termination of mediation.
930.116 Judicial review.

Subpart H—Secretarial Review Related to the Objectives or Purposes of the Act and National Security Interests

930.120 Objectives.
930.121 Consistent with the objectives or purposes of the Act.
930.122 Necessary in the interest of national security.
930.123 Appellant.
930.124 Informal discussions
930.125 Appeals to the Secretary.
930.126 Federal and State agency responses to appeals.
930.127 Public notice; receipt of comments.
930.128 Dismissal of appeals.
930.129 Public hearings.
930.130 Secretarial review.
930.131 Federal agency responsibility.
930.132 Review initiated by the Secretary.
930.133 Public notice; receipt of comments; public hearings.
930.134 Secretarial review; Federal agency responsibility.

Subpart I—Assistant Administrator Reporting and Continuing Review of Federal Actions Subject to the Federal Consistency Requirements

930.140 Objectives.
930.141 Notification of Federal actions believed to be inconsistent with approved management programs.
930.142 Notification of Federal actions believed to have been incorrectly deter-

Sec.
mined to be inconsistent with an approved mangement program.
930.143 Assistant Administrator reporting.
930.144 Assistant Administrator advisory statements.

by the Assistant Administrator for Coastal Zone Management to be inconsistent with an approved coastal zone management program, and for the performance review of State implementation of the Federal consistency provisions.

Accordingly, 15 CFR Part 930 is amended as follows:

Coastal Zone Management, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

§ 930.17 Federal agency.

zone effect caused by either a Federal activity including a development project (see subpart C of this part), a Federal license or permit activity (see subparts D and E of this part) or a Federal assistance activity (see subpart F of this part) and

velopment projects (see subpart C of this part), Federal license and permit activities (see subparts D and E of this part) and Federal assistance activities (see subpart F of this part) also apply

uations where a contractor will undertake the construction, operation, or other functions of the Federal agency. For example, the private construction of a Federal military installation meets this test.)

Sec.
mined to be inconsistent with an approved mangement program.
930.143 Assistant Administrator reporting.
930.144 Assistant Administrator advisory statements.
930.145 Review of the implementation of the Federal consistency provisions.

AUTHORITY.—Secs. 307, 316 and 317, Coastal Zone Management Act of 1972, Pub. L. 92-583, 86 Stat. 1280 (16 U.S.C. 1451 et seq.), as amended by Pub. L. 94-370, 90 Stat. 1013.

Subpart A—Objectives

§ 930.1 Overall objectives.

The objectives of these regulations are: (a) To describe the obligations of all agencies, individuals and other parties who are required to comply with the Federal consistency provisions of the Coastal Zone Management Act;

(b) To implement the Federal consistency provisions in a manner which strikes a balance between the need to ensure consistency for Federal actions significantly affecting the coastal zone with approved coastal management and the need to promote Federal programs;

(c) To provide flexible procedures which foster intergovernmental cooperation and minimize duplicative effort and unnecessary delay, while making certain that the objectives of the Federal consistency provisions of the Act are satisfied;

(d) To interpret significant terms in the Federal consistency provisions so that they can be uniformly understood and adhered to by all agencies, individuals and other affected parties;

(e) To provide procedures to make certain that all Federal agency and State agency consistency decisions are directly related to the objectives, policies, standards and other criteria set forth in, or referenced as part of, approved coastal management programs;

(f) To provide procedures which the Secretary, in cooperation with the Executive Office of the President, may use to mediate serious disagreements which arise between Federal and State agencies during the administration of approved coastal management programs;

(g) To provide procedures which permit the Secretary to review Federal license or permit activities, or Federal assistance activities, to determine whether they are consistent with the objectives or purposes of the Act, or are necessary in the interest of national security;

(h) To provide procedures which permit interested parties to notify the Assistant Administrator for Coastal Zone Management of Federal actions believed to be inconsistent with approved coastal management programs, or believed to have been incorrectly determined to be inconsistent with an approved management program; and

(i) To provide procedures for the reporting of any Federal actions found by the Assistant Administrator for Coastal Zone Management to be inconsistent with an approved coastal zone management program, and for the performance review of State implementation of the Federal consistency provisions.

Subpart B—General Definitions

§ 930.10 Index to definitions.

The following list includes all terms defined in Part 930 of this title keyed to the section or paragraph in which they are defined.

Term	Section
Act	930.11
Appellant	930.123
Applicant	930.52
Applicant agency	930.92
Assistant Administrator	930.16
Associated facilities	930.22
Coastal Zone	930.20
Consistent to the maximum extent practicable	930.32
Consistent with the objectives or purposes of the Act	930.121
Development project	930.31(b)
Executive Office of the President	930.14
Failure substantially to comply with an OCS plan	930.86(d)
Federal activity	930.31
Federal agency	930.17
Federal assistance	930.91
Federal license or permit	930.51
Federal license or permit activity described in detail	930.71
Management program	930.19
Necessary in the interest of national security	930.122
OCS plan	930.73
OCZM	930.15
OMB A-95 process	930.93
Person	930.72
Secretary	930.13
Section	930.12
Significantly affecting the coastal zone	930.21
State agency	930.18

§ 930.11 Act.

The term "Act" means the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.).

§ 930.12 Section.

The term "Section" means a section of the Coastal Zone Management Act of 1972, as amended.

§ 930.13 Secretary.

The term "Secretary" means the Secretary of the U.S. Department of Commerce.

§ 930.14 Executive Office of the President.

The term "Executive Office of the President" means the office, council, board, or other entity within the Executive Office of the President which shall participate with the Secretary in seeking to mediate serious disagreements which may arise between a Federal agency and a coastal State.

§ 930.15 OCZM.

The term "OCZM" means the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

§ 930.16 Assistant Administrator.

The term "Assistant Administrator" means the Assistant Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

§ 930.17 Federal agency.

The term "Federal agency" means any department, agency, board, commission, council, independent office or similar entity within the executive branch of the Federal Government, or any wholly owned Federal Government corporation.

§ 930.18 State agency.

(a) The term "State agency" means the agency of the State government designated pursuant to section 306(c)(5) of the Act to receive and administer grants for an approved coastal management program, or a single designee State agency appointed by the 306(c)(5) State agency. Any appointment by the 306(c)(5) State agency of a designee agency must be described in the State's management program. In the absence of such description, all consistency determinations, consistency certifications and Federal assistance proposals shall be sent to and reviewed by the 306(c)(5) State agency.

(b) The State agency is responsible for commenting on Federal agency consistency determinations (see subpart C of this part), concurring with or objecting to consistency certifications for Federal licenses, permits, and Outer Continental Shelf plans (see subparts D and E of this part), and reviewing the consistency of Federal assistance activities proposed by State or local government agencies (see subpart F of this part). The State agency shall be responsible for securing necessary review and comment from other State, regional, or local government agencies. Thereafter, only the State agency is authorized to comment officially on a Federal consistency determination, concur with or object to a consistency certification, or determine the consistency of a proposed Federal assistance activity.

The term "management program" has the same definition as provided in section 304(11) of the Act, except that for the purposes of this part the term is limited to those management programs adopted by a coastal State in accordance with the provisions of section 306 of the Act, and approved by the Assistant Administrator.

The term "coastal zone" has the same definition as provided in section 304(1) of the Act.

(*Comment.* See 15 CFR 923.33 for a discussion of the relationship between the Federal consistency provisions of the Act and Federal lands excluded from the boundaries of the coastal zone.)

§ 930.21 Significantly affecting the coastal zone.

(a) The term "significantly affecting the coastal zone" describes the coastal

zone effect caused by either a Federal activity including a development project (see subpart C of this part), a Federal license or permit activity (see subparts D and E of this part) or a Federal assistance activity (see subpart F of this part) which is sufficient to trigger the responsibility for complying with the Federal consistency requirements of this part.

(b) The Federal actions cited in paragraph (a) of this section will meet the requirements of this section if the Federal agency (see subpart C of this part) or the State agency (see subparts D, E, and F of this part) responsible for reviewing the actions determines that the actions cause significant:

(1) Changes in the manner in which land, water, or other coastal zone natural resources are used;

(2) Limitations on the range of uses of coastal zone natural resources; or

(3) Changes in the quality of coastal zone natural resources.

The significance of the changes or limitations caused by the Federal action must be considered in terms of the primary, secondary, and cumulative effects on the coastal zone. A Federal action which causes significant changes in or limitations on coastal zone natural resources meets the requirements of this section even when the action causes both beneficial and adverse coastal zone effects and, on balance, the effects are determined to be beneficial.

(*Comment.* The issue of whether a particular type of Federal action (e.g., Federal activity, development project, license, permit or assistance) significantly affects the coastal zone is separate from whether the proposed action satisfies the relevant consistency requirement of the Act. The former issue simply addresses a test which, once met by a Federal action, leads to an opportunity for State agency review of the proposed action. During the review stage the issue of the consistency of the proposed Federal action with the management program can be analyzed. The State agency can then plan for and manage the significant coastal zone effects resulting from consistent Federal actions as well as provide appropriate responses to those Federal actions found to be inconsistent with the management program.)

§ 930.22 Associated facilities.

The term "associated facilities" describes all proposed facilities:

(a) Which are specifically designed, located, constructed, operated, adapted, or otherwise used, in full or in major part, to meet the needs of a Federal action (e.g., activity, development project, license, permit, or assistance), and

(b) Without which the Federal action, as proposed, could not be conducted.

All further requirements in this part related to the review of and consistency for Federal activities including development projects (see subpart C of this part), Federal license and permit activities (see subparts D and E of this part) and Federal assistance activities (see subpart F of this part) also apply to associated facilities related to those Federal actions. Therefore, the proponent of a Federal action must consider whether the Federal action and its associated facilities significantly affect the coastal zone and, if so, whether these interrelated activities satisfy the relevant consistency requirement of the Act.

(*Comment.* Associated facilities are, in reality, an indispensable part of the proposed Federal action. Accordingly, this section requires their concurrent review along with the remainder of the proposal to ensure that the State agency is informed of all the critical elements of the proposal. As a result, the State agency will have complete information to fulfill its coastal planning and management responsibilities, and the proponent of the Federal action will not be faced with the situation where there has been receipt of State agency approval regarding one element of the project with later objection to an associated facility which was not earlier reviewed with the remainder of the proposal. For example, this section requires a Federal agency to make certain that both a proposed Federal waste treatment facility and a proposed pipeline connection which must be constructed to meet the needs of the facility are consistent, to the maximum extent practicable, with an approved management program where these interrelated activities significantly affect the coastal zone (see subpart C of this part).)

§ 930.30 Objectives.

The provisions of this subpart are provided to assure that all Federally conducted or supported activities including development projects significantly affecting the coastal zone are undertaken in a manner consistent to the maximum extent practicable with approved State coastal management programs.

(*Comment.* Statutory citation, Subsection 307(c)(1): "Each Federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state management programs."

Subsection 307(c)(2):

"Any Federal agency which shall undertake any development project in the coastal zone of a state shall insure that the project is, to the maximum extent practicable, consistent with approved state management programs.")

§ 930.31 Federal activity.

(a) The term "Federal activity" means any functions performed by or on behalf of a Federal agency in the exercise of its statutory responsibilities.

(*Comment.* A Federal activity is performed on behalf of a Federal agency in situations where a contractor will undertake the construction, operation, or other functions of the Federal agency. For example, the private construction of a Federal military installation meets this test.)

(b) A Federal development project is a Federal activity involving the planning, construction, modification, or removal of public works, facilities, or other structures, and the acquisition, utilization, or disposal of land or water resources.

(c) The term "Federal activity" does not include the issuance of a Federal license or permit to an applicant or person (see subparts D and E of this part) or the granting of Federal assistance to an applicant agency (see subpart F of this part).

(*Comment.* Federal activities other than development projects may be viewed as a residual category covering Federal actions which are neither Federal development projects nor activities covered by the Federal license, permit and assistance subparts. Examples would include:

(1) Federal waste disposal plans developed for Federal facilities pursuant to statutory or regulatory directives (the plan is an activity but not a development project);

(2) Federal agency activities requiring a Federal license or permit (such activities by Federal agencies are not covered by the Federal license and permit subpart); and

(3) Federal assistance for housing development to entities other than State and local governments, such as to private interests or Indian tribes (the Federal assistance provisions in subpart F only apply to State and local government applicants for Federal assistance).)

§ 930.32 Consistent to the maximum extent practicable.

(a) The term "consistent to the maximum extent practicable" describes the requirement for Federal activities including development projects significantly affecting the coastal zone of States with approved management programs to be fully consistent with such programs unless compliance is prohibited based upon the requirements of existing law applicable to the Federal agency's operations. If a Federal agency asserts that compliance with the management program is prohibited, it must clearly describe to the State agency the statutory provisions, legislative history, or other legal authority which limits the Federal agency's discretion to comply with the provisions of the management program.

(*Comment.* The word "practicable" within this definition means capable of being done. When modified by the phrase "to the maximum extent," the complete term means to the fullest degree permit by existing law. Federal agency conformance with existing law is preserved as a result of section 307(e) of the Act which declares that:

"Nothing in this title shall be construed: (1) To diminish either Federal or state jurisdiction, responsibility, or rights in the field of planning, development, or control of water resources, submerged lands, or navigable waters; nor to displace, supersede, limit,

or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more states or of two or more states and the Federal Government; nor to limit the authority of Congress to authorize and fund

program approval, and such circumstances create a substantial obstacle preventing complete adherence to the approved program. Accordingly, the rule in paragraph (a) requiring full consistency with the management program, when legally permissible,

posed activity, and will assist the State in planning for and managing the anticipated coastal zone effects. Given the benefits to be derived from this process, Federal agencies are encouraged to construe liberally the "significantly affecting" test in § 930.21(b)

the coastal zone, it must also describe the geographic location of such activities (e.g., reclamation projects in coastal floodplains).

(*Comment:* During management program

tion regarding all Federal activities significantly affecting the coastal zone continues to apply. Accordingly, the failure of a State agency to either list or monitor Federal activities does not remove the requirement for Federal agencies to provide State agencies

al consistency determination thereby avoiding the necessity of issuing separate consistency determinations for each incremental action controlled by the major activity. A general consis-

or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more states or of two or more states and the Federal Government; nor to limit the authority of Congress to authorise and fund projects;

(2) As superseding, modifying, or repealing existing laws applicable to the various Federal agencies; nor to affect the jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada, the Permanent Engineering Board, and the United States operating entity or entities established pursuant to the Columbia River Basin Treaty, signed at Washington, January 17, 1961, or the International Boundary and Water Commission, United States and Mexico.")

The duty the Act imposes upon Federal agencies is not set aside by virtue of section 307(e). The Act was intended to cause substantive changes in Federal agency decisionmaking within the context of the discretionary powers residing within such agencies. Accordingly, when read together, section 307(c) (1) and (2) and 307(e) require Federal agencies, whenever legally permissible, to consider State management programs as supplemental requirements to be adhered to in addition to existing agency mandates.

(b) A Federal agency may deviate from full consistency with an approved management program when such deviation is justified because of some unforeseen circumstances arising after the approval of the management program which present the Federal agency with a substantial obstacle that prevents complete adherence to the approved program.

(*Comment.* The legislative history of the Act states that Congress did not anticipate "that there will be any considerable number of situations where as a practical matter a Federal agency cannot conduct or support activities without deviating from approved State management programs." This anticipated result stems from Congress' intent that Federal agencies consult with the Secretary and State agencies during program development so that "any aspects or phases of the proposed program which are deemed by any agency to be impractical to carry out or support will be brought to the attention of the Secretary and steps will be taken at that point to iron out whatever differences appear to be established." To ensure this intergovernmental consultation, Congress provided that: (i) management programs be developed and adopted with an opportunity for full participation by affected Federal agencies (section 306(c)(1)), (ii) the Secretary shall not approve a management program unless the views of affected Federal agencies have been adequately considered (section 307(b)), and (iii) the Secretary, in cooperation with the Executive Office of the President, seek to mediate serious disagreements between any Federal agency and a coastal state regarding the development of a management program (section 307(h)(1)). Congress, however, indicated in the legislative history a need to permit deviations from management program provisions in limited cases where circumstances arise which were not foreseen at the time of program approval, and such circumstances create a substantial obstacle preventing complete adherence to the approved program. Accordingly, the rule in paragraph (a) requiring full consistency with the management program, when legally permissible, will apply in a substantial majority of cases with exceptions permitted only for the special circumstances described in paragraph (b).)

§ 930.33 Identifying Federal activities significantly affecting the coastal zone.

(a) Federal agencies shall determine which of their activities significantly affect the coastal zone of States with approved management programs.

(b) Federal agencies shall consider all development projects within the coastal zone to be activities significantly affecting the coastal zone. All other types of activities within the coastal zone are subject to Federal agency review to determine whether they significantly affect the coastal zone.

(*Comment.* Some Federal activities, such as a particular resource procurement practice, may not have the potential for causing a significant effect upon the coastal zone even when undertaken within the coastal zone.)

(c) Federal activities outside of the coastal zone (e.g., on excluded Federal lands, on the Outer Continental Shelf, or landward of the coastal zone) are subject to Federal agency review to determine whether they significantly affect the coastal zone.

(*Comment.* Federal agencies should determine whether a Federal activity outside of the coastal zone significantly affects coastal zone resources by considering the location, magnitude and type of activity contemplated. A significant effect usually will be found when the proposed activity is large in magnitude and is adjacent or in close proximity to the coastal zone. The smaller the magnitude of the activity and the further it is from the coastal zone, the less likely is the potential for significant effects on coastal zone resources. However, even in cases where a proposed activity is a great distance from the coastal zone, the Federal agency must still make a consistency determination and notify the State agency of such determination if the proposed activity will significantly affect the coastal zone (e.g., upland stream modification significantly affecting the quality of coastal waters).)

(d) Federal agencies shall utilize the criteria set forth in § 930.21(b) when determining which of their activities significantly affect the coastal zone of States with approved management programs.

(*Comment.* A determination that a proposed Federal activity significantly affects the coastal zone leads to two important benefits. First, this finding requires the Federal agency to review the activity to assure that it will be undertaken in a manner consistent to the maximum extent practicable with an approved management program and, second, the consistency determination will provide the State agency with an opportunity to review and comment on the proposed activity, and will assist the State in planning for and managing the anticipated coastal zone effects. Given the benefits to be derived from this process, Federal agencies are encouraged to construe liberally the "significantly affecting" test in § 930.21(b) in borderline cases so as to favor inclusion of Federal activities subject to consistency review.)

§ 930.34 Federal agency consistency determinations.

(a) Federal agencies shall provide State agencies with consistency determinations for all Federal activities significantly affecting the coastal zone. The Federal agency may provide the State agency with this information in any manner it chooses so long as the requirements of this Subpart are satisfied.

(*Comment:* Federal agencies are strongly encouraged to provide consistency determinations to State agencies through use of existing notification procedures (e.g., OMB Circular A-95, NEPA environmental impact statements, memoranda of understanding, etc.) in order to avoid waste, duplication of effort, and to reduce Federal and State agency administrative burdens. The use of existing procedures is permissible so long as such procedures are modified or supplemented as necessary to satisfy the requirements of this Subpart.)

(b) Federal agencies shall provide State agencies with a consistency determination at the earliest practicable time in the planning or reassessment of the activity. A consistency determination should be prepared following development of sufficient information to determine reasonably the consistency of the activity with the State's management program, but before the Federal agency reaches a significant point of decisionmaking in its review process. The consistency determination shall be provided to State agencies at least 90 days before final approval of the Federal activity unless both the Federal agency and the State agency agree to an alternative notification schedule.

(*Comment:* Federal and State agencies are encouraged to agree upon flexible procedures for extending the notification requirement beyond 90 days for major activities requiring a substantial period for adequate review, and for lessening the notification period for minor activities.)

§ 930.35 Federal and State agency coordination.

(a) State agencies should list in their management programs Federal activities which, in the opinion of the State agency, are likely to significantly affect the coastal zone and require a Federal agency consistency determination. Listed Federal activities must be described in terms of the specific type of activity involved (e.g., Federal reclamation projects). In the event the State agency chooses to describe Federal activities outside of the coastal zone but likely to significantly affect the coastal zone, it must also describe the geographic location of such activities (e.g., reclamation projects in coastal floodplains).

(*Comment:* During management program development, Federal agencies should inform State agencies of their Federal activities. From this description, the Federal and State agencies should develop agreements regarding those Federal activities likely to significantly affect the coastal zone, and these activities should be the ones listed in the management program. This joint effort should be carried out with a view towards avoiding Federal agency consistency determinations for Federal activities which can be reasonably expected to have minimal and insignificant impacts upon the coastal zone, both in an individual and cumulative sense.)

(b) State agencies should monitor unlisted Federal activities (e.g., by use of OMB Circular A-95 review, review of National Environmental Policy Act (NEPA) environmental impact statements, etc.) and should notify Federal agencies of unlisted Federal activities which Federal agencies have not subjected to a consistency review but which, in the opinion of the State agency, significantly affect the coastal zone and require a Federal agency consistency determination. State agencies must notify Federal agencies within 45 days from receipt of notice of the unlisted Federal activity, otherwise the State agency waives its right to request a consistency determination. The waiver does not apply in cases where the State agency does not receive notice of the Federal activity (e.g., for those Federal activities which are not processed through A-95 review, NEPA review or a similar procedure which permits State agency monitoring).

(*Comment.* During management program development, Federal and State agencies should develop agreements to modify or supplement existing intergovernmental coordination procedures (e.g., A-95 review) to make certain that State agencies are provided a reasonable opportunity to monitor all Federal activities likely to significantly affect the coastal zone.)

(c) The recommended listing and monitoring procedures described in paragraphs (a) and (b) of this section are neither a substitute for nor eliminate Federal agency responsibility under §§ 930.33(b) and 930.34 to provide State agencies with consistency determinations for all development projects in the coastal zone and for all other Federal activities which the Federal agency finds significantly affect the coastal zone.

(*Comment.* The provisions in paragraphs (a) and (b) simply represent recommended procedures for facilitating State agency review of Federal activities which reasonably can be expected to significantly affect the coastal zone. Whether adopted in full, in part, or not at all by Federal and State agencies, the responsibility of Federal agencies to provide State agencies with information regarding all Federal activities significantly affecting the coastal zone continues to apply. Accordingly, the failure of a State agency to either list or monitor Federal activities does not remove the requirement for Federal agencies to provide State agencies with consistency determinations when the Federal agency independently concludes that the proposed activity will significantly affect the coastal zone.)

(d) If a Federal agency decides that a consistency determination is not required for a Federal activity (1) identified by a State agency on its list or through case-by-case monitoring, (2) which is the same as or similar to activities for which consistency determinations have been prepared in the past, or (3) for which the Federal agency undertook a thorough consistency assessment and developed initial findings on the effects of the activity on the coastal zone, the Federal agency shall provide the State agency with a notification, at the earliest practicable time in the planning of the activity, briefly setting forth the reasons for its negative determination. A negative determination shall be provided to the State agency at least 90 days before final approval of the activity, unless both the Federal agency and the State agency agree to an alternative notification schedule.

(*Comment.* The negative determination procedures are provided to assure State agencies an opportunity to review borderline cases.)

§ 930.36 Availability of mediation for negative determination disputes.

In the event of a serious disagreement between a Federal agency and a State agency regarding a determination related to whether a proposed activity significantly affects the coastal zone, either party may seek the Secretarial mediation services provided for in Subpart G.

§ 930.37 Consistency determinations for proposed activities.

(a) Federal agencies shall review their proposed Federal activities which significantly affect the coastal zone in order to develop consistency determinations which indicate whether such activities will be undertaken in a manner consistent to the maximum extent practicable with approved State management programs. Federal agencies are encouraged to consult with State agencies during their efforts to assess whether such activities will be consistent to the maximum extent practicable with such programs.

(b) In cases where Federal agencies will be performing repeated activity other than a development project (e.g., ongoing maintenance, waste disposal, etc.) which cumulatively has a significant effect upon the coastal zone, the agency may develop a general consistency determination thereby avoiding the necessity of issuing separate consistency determinations for each incremental action controlled by the major activity. A general consistency determination may only be used in situations where the incremental actions are repetitive or periodic, substantially similar in nature, and cause only insignificant coastal zone effects when performed separately. If a Federal agency issues a general consistency determination, it must thereafter periodically consult with the State agency to discuss the manner in which the incremental actions are being undertaken.

(c) In cases where the Federal agency has sufficient information to determine the consistency of a proposed development project from planning to completion, only one consistency determination will be required. However, in cases where major Federal decisions related to a proposed development project will be made in phases based upon developing information, with each subsequent phase subject to Federal agency discretion to implement alternative decisions based upon such information (e.g., planning, siting, and design decisions), a consistency determination will be required for each major decision. In cases of phased decisionmaking, Federal agencies shall ensure that the development project continues to be consistent to the maximum extent practicable with the State's management program.

§ 930.38 Consistency determinations for activities initiated prior to management program approval.

(a) A consistency determination will be required for ongoing Federal activities other than development projects (e.g., waste disposal practices) initiated prior to management program approval, which are governed by statutory authority under which the Federal agency retains discretion to reassess and modify the activity. In these cases the consistency determination must be made by the Federal agency at the earliest practicable time following management program approval, and the State agency must be provided with a consistency determination no later than 120 days after management program approval for ongoing activities which the State agency lists or identifies through monitoring as subject to consistency with the management program.

(*Comment.* The Act requires Federal agencies which are "conducting or supporting" activities significantly affecting the coastal zone to comply with the Federal consistency requirements. Therefore, if a Federal agency is undertaking an activity at the time of management program approval and the program provisions require modification of the activity, the Federal agency must issue a consistency determination to the State agency indicating how the activity will

be conducted in a manner consistent to the maximum extent practicable with the approved program. In these cases, Federal agencies should consider general revisions of regional directives to reflect the consistency obligations which result following program approval.)

(b) A consistency determination shall be required for major, phased Federal development project decisions described in § 930.37(c) which are made following management program approval and are related to development projects initiated prior to program approval. In making these new decisions, Federal agencies shall consider coastal zone effects not fully evaluated at the outset of the project. This provision shall not apply to phased Federal decisions which were specifically described, considered and approved prior to management program approval (e.g., in a final environmental impact statement issued pursuant to the National Environmental Policy Act).

§ 930.39 Content of a consistency determination.

(a) The consistency determination shall include a brief statement indicating whether or not the proposed activity will be undertaken in a manner consistent to the maximum extent practicable with the management program. The statement must be based upon an evaluation of the relevant provisons of the management program. The consistency determination shall also include a detailed description of the activity, its associated facilities, and their coastal zone effects, and comprehensive data and information sufficient to support the Federal agency's consistency statement. The amount of detail in the statement evaluation, activity description and supporting information shall be commensurate with the expected effects of the activity on the coastal zone.

(*Comment.* As a preliminary matter, Federal agencies are strongly encouraged to obtain the views and assistance of the State agency regarding the provisions of the management program which are related to the proposed activity and the information necessary to determine whether the proposed activity will be conducted in a manner consistent to the maximum extent practicable with the management program.)

(b) Federal agencies shall be guided by the following in making their consistency determinations. The activity (e.g., project siting and constuction), its primary effects (e.g., air, water, waste discharges, etc.), and associated facilities (e.g., proposed siting and construction of access road, connecting pipeline, support buildings, etc.) and the primary effects of the associated facilities (e.g., erosion, wetlands, beach access impacts, etc.) must all be consistent to the maximum extent practicable with the management program. Although nonassociated facilities (e.g., recreational housing which is induced by but not necessarily related to a Federal harbor dredging project—see § 930.22) must be included within the consistency determination's description of the significant primary, secondary and cumulative coastal zone effects of the activity, Federal agencies are not responsible for evaluating the consistency of such facilities.

(*Comment.* Following notification from the Federal agency, the responsibility for planning for and managing the impacts caused by proposed nonassociated facilities rests with the State agency. Through the requirements of the management program the State agency has the authority to prohibit or control the development of facilities which are not directly associated with the proposed Federal activity (e.g., by enforcing land use/zoning requirements, by denying or conditioning the issuance of State or local governmental coastal permits, by objecting to the consistency of Federal permits or assistance that might be required for the facilities, etc.).)

(c) In making their consistency determinations, Federal agencies shall give appropriate weight to the various types of provisions within the management program. Federal agencies must ensure that their activities are consistent to the maximum extent practicable with the enforceable, mandatory policies of the management program. However, Federal agencies need only give adequate consideration to management program provisions which are in the nature of recommendations. Finally, Federal agencies do not have to evaluate coastal zone effects for which the management program does not contain mandatory or recommended policies because, in the absence of such provisions, there is no basis for making a consistency determination with respect to such effects.

(*Comment.* The consistency obligations imposed by the Act are only as extensive as the provisions of the management program. Therefore, to the extent a Federal activity relates to coastal issues which are addressed by the management program only in the form of recommended policies, Federal agencies need only give adequate consideration to such recommendations. Similarly, in the absence of any relevant management program policies related to certain effects caused by a Federal activity, the Federal agency is without any provisions or criteria to measure the consistency of the activity. In the event management program administration reveals the existence of additional coastal issues which should be addressed by the management program, the State agency should pursue program refinements or amendments to deal with emerging problems.)

(d) When Federal agency standards are more restrictive than standards or requirements contained in the State's management program, the Federal agency may continue to apply its stricter standards (e.g., restrict project development or design alternatives notwithstanding permissive management program policies). In such cases the Federal agency should inform the State agency in the consistency determination of the statutory, regulatory or other basis for the application of the stricter standards.

§ 930.40 Multiple Federal agency participation.

Whenever more than one Federal agency is involved in conducting or supporting a Federal activity or its associated facilities significantly affecting the coastal zone, or is involved in a group of Federal activities related to each other because of their geographic proximity, consideration should be given to the preparation of one consistency determination for all the Federal activities involved. In such cases, Federal agencies should consider joint preparation or lead agency development of the consistency determination. In either case, the consistency determination (i) must be transmitted to the State agency at least 90 days before final decisions are taken by any of the participating agencies, (ii) must indicate whether or not each of the proposed activities is consistent to the maximum extent practicable with the management program, and (iii) must include information on each proposed activity sufficient to support the consistency determination.

§ 930.41 State agency response.

(a) A State agency shall inform the Federal agency of its agreement or disagreement with the Federal agency's consistency determination at the earliest practicable time. If a final response has not been developed and issued within 45 days from receipt of the Federal agency notification, the State agency should at that time inform the Federal agency of the status of the matter and the basis for further delay. The Federal agency may presume State agency agreement if the State agency fails to provide a response within 45 days from receipt of the Federal agency notification.

(b) State agency agreement shall not be presumed in cases where the State agency, with the 45 day period, requests an extension of time to review the matter. Federal agencies shall approve one request for an extension period of 15 days or less. In considering whether a longer or additional extension period is appropriate, the Federal agency should consider the magnitude and complexity of the information contained in the consistency determination.

(c) Final Federal agency action may not be taken sooner than 90 days from the issuance of the consistency determination to the State agency unless both the Federal agency and the State agency agree to an alternative period (see § 930.34(b)).

(*Comment.* The requirement in paragraph (c) is simply derived for the provision in § 930.34(b) which directs Federal agencies to provide State agencies with consistency information at least 90 days prior to the anticipated date of final approval of the Federal activity. This requirement is reiterated here to emphasize the opportunity for continued intergovernmental consultation in the event Federal and State agency concerns are not fully resolved within the 60-day period (45/15) of the State agency review.)

§ 930.42 State agency disagreement.

(a) In the event the State agency disagrees with the Federal agency's consistency determination, the State agency shall accompany its response to the Federal agency with its reasons for the disagreement and supporting information. The State agency response must describe (1) how the proposed activity will be inconsistent with specific elements of the management program, and (2) alternative measures (if they exist) which, if adopted by the Federal agency, would allow the activity to proceed in a manner consistent to the maximum extent practicable with the management program.

(b) If the State agency's disagreement is based upon a finding that the Federal agency has failed to supply sufficient information (see § 930.39(a)), the State agency's response must describe the nature of the information requested and the necessity of having such information to determine the consistency of the Federal activity with the management program.

(c) State agencies shall send to the Assistant Administrator a copy of responses which describe disagreements with Federal agency consistency determinations.

(*Comment.* In the event of a disagreement, the Federal and State agencies should utilize the remaining portion of the 90-day notice period to attempt to resolve their differences. In cases of continuing State agency disagreement, Federal agencies are encouraged to suspend implementation of the activity beyond the 90-day period pending resolution of the disagreement.)

§ 930.43 Availability of mediation for disputes concerning proposed activities.

(a) In the event of a serious disagreement between a Federal agency and a State agency regarding the consistency of a proposed Federal activity significantly affecting the coastal zone, either party may request the Secretarial mediation services provided for in Subpart G.

§ 930.44 Availability of mediation for previously reviewed activities.

(a) Federal and State agencies shall cooperate in their efforts to monitor Federally approved activities in order to make certain that such activities continue to be undertaken in a manner consistent, to the maximum extent practicable, with the State's management program.

(b) The State agency shall request that the Federal agency take appropriate remedial action following a serious disagreement resulting from a State agency's objection to a Federal activity which was: (i) previously determined to be consistent to the maximum extent practicable with the State's management program, but which the State agency later maintains is being conducted or is having a coastal zone effect substantially different than originally proposed and, as a result, is no longer consistent to the maximum extent practicable with the State's management program, or (ii) previously determined not to be a Federal activity significantly affecting the coastal zone, but which the State agency later maintains is being conducted or is having a coastal zone effect substantially different than originally proposed and, as a result, the activity significantly affects the coastal zone and is not consistent to the maximum extent practicable with the State's management program. The State agency's request must include supporting information and a proposal for recommended remedial action.

(c) If, after a reasonable time following a request for remedial action, the State agency still maintains that a serious disagreement exists, either party may request the Secretarial mediation services provided for in Subpart G.

Subpart D—Consistency for Activities Requiring a Federal License or Permit

§ 930.50 Objectives.

The provisions of this subpart are provided to assure that Federally licensed or permitted activities significantly affecting the coastal zone are conducted in a manner consistent with approved management programs.

(*Comment.* Statutory citation: Subsection 307(c)(3)(A): "After final approval by the Secretary of a state's management program, any applicant for a required Federal license or permit to conduct an activity affecting land or water uses in the coastal zone of that state shall provide in the application to the licensing or permitting agency a certification that the proposed activity complies with the state's approved program and that such activity will be conducted in a manner consistent with the program. At the same time, the applicant shall furnish to the state or its designated agency a copy of the certification, with all necessary information and data. Each coastal state shall establish procedures for public notice in the case of all such certifications and, to the extent it deems appropriate, procedures for public hearings in connection therewith. At the earliest practicable time, the state or its designated agency shall notify the Federal agency concerned that the state concurs with or objects to the applicant's certification. If the state or its designated agency fails to furnish the required notification within six months after receipt of its copy of the applicant's certification, the state's concurrence with the certification shall be consiusively presumed. No license or permit shall be granted by the Federal agency until the state or its designated agency has concurred with the applicant's certification or until, by the state's failure to act, the concurrence is conclusively presumed.")

§ 930.51 Federal license or permit.

(a) The term "Federal license or permit" means any authorization, certification, approval, or other form of permission which any Federal agency is empowered to issue to an applicant.

(*Comment.* All Federal leases are included within the definition of "Federal license or permit" with the exception of leases issued pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).)

(b) The term also includes the following types of renewals and major amendments which cause significant coastal zone effects:

(1) Renewals and major amendments of Federal license and permit activities not previously reviewed by the State agency;

(2) Renewals and major amendments of Federal license and permit activities previously reviewed by the State agency which are filed after and are subject to management program amendments or refinements not in existence at the time of original State agency review; and

(3) Renewals and major amendments of Federal license and permit activities previously reviewed by the State agency which will cause significant coastal zone effects substantially diffenent than those originally reviewed by the State agency.

(*Comment.* Paragraph (b) is founded on the principle that an applicant does not have a vested right to receive approval of a renewal or a major amendment without first complying with the law existing at the time approval is sought. However, this principle must operate in the context of avoiding unnecessary State agency review. Therefore, subparagraph (1) assures the State agency of an opportunity to review licenses and permits which were originally approved by the Federal government prior to management program approval and are subject to major amendment or renewal following management program approval. In the event the State agency has previously reviewed a license or permit activity, further review is limited to cases where changes in management program provisions necessitate reevaluation of the activity (subparagraph (2)), or the activity will be modified substantially causing new and significant coastal zone effects (subparagraph (3)).)

§ 930.52 Applicant.

The term "applicant" means any individual, public or private corporation, partnership, association, or other entity organized or existing under the laws of any State, or any State, regional, or local government, who, following management program approval, files an application for a Federal license or permit to conduct an activity signifi-

cantly affecting the coastal zone. The term "applicant" does not include Federal agencies applying for Federal licenses or permits. Federal agency "activities" requiring Federal licenses or permits are subject to the consistency requirements of subpart C of this Part.

§ 930.53 Management program license and permit listing.

(a) During management program development, Federal agencies should assist State agencies in identifying Federal license and permit activities which reasonably can be expected to significantly affect the coastal zone.

(b) State agencies shall develop a list of Federal license and permit activities which are likely to significantly affect the coastal zone and which the State agency wishes to review for consistency with the management program. The list shall be included as part of the management program, and the Federal license and permit activities shall be described in terms of the specific licenses or permits involved (e.g., Corps of Engineers 404 permits, Coast Guard bridge permits, etc.). In the event the State agency chooses to review Federal licenses and permits for activities outside of the coastal zone but likely to significantly affect the coastal zone, it must generally describe the geographic location of such activities.

(*Comment.* The location element should encompass only areas where Federal license and permit activities are likely to cause significant effects on coastal zone resources. For example, the management program could list a Federal land use permit (e.g., Forest Service right-of-way permits for logging roads) and require review whenever such a permit is requested along riverine areas where development is likely to significantly affect downstream areas within the coastal zone. The State agency should exclude geographic areas outside of the coastal zone where Federal license and permit activities will reasonably be expected to have insignificant impacts on coastal zone resources both in an individual and cumulative sense.)

(c) If a State agency wishes to avoid repeated review of minor Federally permitted activities which, while individually insignificant, cumulatively cause significant effects on the coastal zone, the State agency, after developing conditions allowing concurrence for such activities, may issue a general public notice (see § 930.61) and general concurrence allowing similar minor work in the same geographic area to proceed without prior State agency review. In such cases, the State agency must set forth in the management program license and permit list the minor Federal license and permit activities and the relevent conditions which are covered by the general concurrence. Minor Federal license or permit activities which satisfy the conditions of the general concurrence are not subject to the consistency certification requirement of this subpart. Except in cases where the State agency indicates otherwise, copies of Federal license or permit applications for activities subject to a general concurrence must be sent by the applicant to the State agency to allow the State agency to monitor adherence to the conditions required by such concurrence. Confidential and proprietary material within such applications may be deleted.

(d) The license and permit list may be refined by the State agency following consultation with the affected Federal agency and approval of additions or deletions by the Assistant Administrator. The State agency shall provide copies of the list and any refinements to Federal agencies and shall make the information available to the public.

(*Comment.* States which have received Federal approval for management programs which do not contain a license and permit list must undertake a refinement effort to add the list to the management program.)

(e) No Federal license or permit described on an approved list shall be issued by a Federal agency until the requirements of this subpart have been satisfied. Federal agencies shall inform applicants for listed licenses and permits of the requirements of this subpart.

§ 930.54 Unlisted Federal license and permit activities.

(a) With the assistance of Federal agencies, State agencies should monitor unlisted Federal license and permit activities (e.g., by use of OMB Circular A-95 review, review of NEPA environmental impact statements, etc.) and shall immediately notify Federal agencies and applicants of unlisted activities significantly affecting the coastal zone which require State agency review. State agencies must inform the Federal agency and applicant within 30 days from notice of the license or permit application, otherwise the State agency waives its right to review the unlisted activity. The waiver does not apply in cases where the State agency does not receive notice of the Federal license or permit activity.

(b) The State agency must also notify the Assistant Administrator of unlisted Federal license or permit activities which the State agency believes should be subject to State agency review. Following State agency notification to the Federal agency, applicant and the Assistant Administrator, the Federal agency may not issue the license or permit until the requirements of this Subpart have been satisfied, unless the Assistant Administrator disapproves the State agency decision to review the activity.

(c) The Federal agency and the applicant have 15 days from receipt of the State agency notice to provide comments to the Assistant Administrator regarding the State agency's decision to review the activity. The sole basis for the Assistant Administrator's approval or disapproval of the State agency's decision will relate to whether the proposed activity can be reasonably expected to significantly affect the coastal zone of the State. The Assistant Administrator shall issue a decision, with supporting comments, to the State agency, Federal agency and applicant within 30 days from receipt of the State agency notice.

(d) In the event of disapproval by the Assistant Administrator, the Federal agency may approve the license or permit application and the applicant need not comply with the requirements of this subpart. If the Assistant Administrator approves the State agency's decision, the Federal agency and applicant must comply with the consistency certification procedures of this subpart.

(*Comment.* The procedures in this section are provided to ensure that State agencies are afforded an opportunity to review any Federal license or permit activity which reasonably can be expected to significantly affect the coastal zone. The need for Assistant Administrator intervention will most likely occur only in borderline cases. Prior to bringing the issue before the Assistant Administrator, the concerned parties should consider whether or not the proposed activity, assuming it would significantly affect the coastal zone, will be conducted in a manner consistent with the management program. If affirmative, further delay can be avoided by simply seeking the State agency's expeditious concurrence rather than attempting to avoid altogether State agency review. On the other hand, applicants should weigh this approach in connection with their right to be free from State agency review in cases where proposed Federal license and permit activities can not reasonably be expected to significantly affect the coastal zone.)

(e) Following an approval by the Assistant Administrator, the applicant shall amend the Federal application by including a consistency certification and shall provide the State agency with a copy of the certification along with necessary supporting data and information (see §§ 930.63 and 930.64). For the purposes of this section, concurrence by the State agency shall be conclusively presumed in the absence of a State agency objection within six months from the originial Federal agency notice to the State agency (see paragraph (a)) or within three months from receipt of the applicant's consistency certification and accompanying information, whichever period terminates last.

§ 930.55 Availability of mediation for license or permit disputes.

In the event of a serious disagreement between a Federal and State agency regarding whether a listed or unlisted Federal license or permit activity is subject to consistency review, either party may request the Secretarial mediation services provided for in subpart G; notice shall be provided to the applicant. The existence of a serious disagreement will not relieve the Federal agency from the responsibility for withholding approval of a license or permit application for an activity on an approved management program list (see § 930.53) or individually approved by the Assistant Administrator (see § 930.54) pending satisfaction of the requirements of this subpart. Similarly, the existence of a serious disagreement will not prevent the Federal agency from approving a license or permit activity which has not received Assistant Administrator approval.

§ 930.56 State agency guidance and assistance to applicants; information requirements.

(a) As a preliminary matter, any applicant for a Federal license or permit selected for review by a State agency should obtain the views and assistance of that agency regarding the means for ensuring that the proposed activity will be conducted in a manner consistent with the State's management program. As part of its assistance efforts, the State agency shall make available for public inspection copies of the management program document.

(b) The management program as originally approved or amended may describe requirements regarding the data and information necessary to assess the consistency of Federal license and permit activities. Required data and information may not include confidential and proprietary material. In the case of approved amendments, State agencies shall send copies to relevant Federal agencies who shall, in turn, provide the information requirements to applicants. If a State does not choose to develop or amend its management program to include information requirements, the applicant must, at a minimum, supply the State agency with the information required by § 930.58.

(*Comment.* Necessary information and data may include State or local government permits which are required in addition to the Federal license or permit. If this measure is adopted, the State agency may declare in the management program that following the issuance of the required public notice (see § 930.61) concurrence will be granted based upon the applicant's receipt of the State or local government permits.)

§930.57 Consistency certifications.

(a) When satisfied that the proposed activity meets the Federal Consistency requirements of this subpart, all applicants for Federal licenses or permits subject to State agency review shall provide in the application to the Federal licensing or permitting agency a certification that the proposed activity complies with and will be conducted in a manner consistent with the State's approved management program. At the same time, the applicant shall furnish to the State agency a copy of the certification.

(b) The applicant's consistency certification shall be in the following form: "The proposed activity complies with (name of State) approved coastal management program and will be conducted in a manner consistent with such program."

§930.58 Necessary data and information.

(a) The applicant shall furnish the State agency with necessary data and information along with the consistency certification. Such information and data shall include the following:

(1) A detailed description of the proposed activity and its associated facilities which is adequate to permit an assessment of their probable coastal zone effects. Maps, diagrams, technical data and other relevant material must be submitted when a written description alone will not adequately describe the proposal (a copy of the Federal application and all supporting material provided to the Federal agency should also be submitted to the State agency).

(2) Information required by the State agency pursuant to § 930.56(b).

(3) A brief assessment relating the probable coastal zone effects of the proposal and its associated facilities to the relevant elements of the management program.

(4) A brief set of findings, derived from the assessment, indicating that the proposed activity (e.g., project siting and construction), its associated facilities (e.g., access road, support buildings), and their primary effects (e.g., air, water, waste discharges, erosion, wetlands, beach access impacts) are all consistent with the provisions of the management program. In developing findings, the applicant shall give appropriate weight to the various types of provisions within the management program. While applicants must be consistent with the enforceable, mandatory policies of the management program, they need only demonstrate adequate consideration of policies which are in the nature of recommendations. Applicants need not make findings with respect to coastal zone effects for which the management program does not contain mandatory or recommended policies.

(*Comment.* Although nonassociated facilities must be included within the description of significant primary, secondary and cumulative coastal zone effects of the activity, the applicant is not responsible for assessing the consistency of such facilities—see § 930.22.)

(b) At the request of the applicant, interested parties who have access to information and data required by subparagraphs (a) (1) and (2) of this section may provide the State agency with all or part of the material required. Furthermore, upon request by the applicant, the State agency shall provide assistance for developing the assessment and findings required by paragraphs (a) (3) and (4) of this section.

(c) When satisfied that adequate protection against public disclosure exists, applicants should provide the State agency with confidential and proprietary information which the State agency maintains is necessary to make a reasoned decision on the consistency of the proposal. State agency requests for such information must be related to the necessity of having such information to assess adequately the coastal zone effects of the proposal.

§ 930.59 Multiple permit review.

(a) Applicants shall, to the extent practicable, consolidate related Federal license and permit activities significantly affecting the coastal zone for State agency review. State agencies shall, to the extent practicable, provide applicants with a "one-stop" multiple permit review for consolidated permits to minimize duplication of effort and to avoid unnecessary delays.

(b) A State agency objection to one or more of the license or permit activities submitted for consolidated review shall not prevent the applicant from receiving Federal agency approval for those license and permit activities found to be consistent with the management program.

§ 930.60 Commencement of State agency review.

(a) Except as provided in § 930.54(e), State agency review of an applicant's consistency certification begins at the time the State agency receives a copy of the consistency certification, and the information and data required pursuant to § 930.58.

(b) A State agency request for information or data in addition to that required by § 930.58 shall not extend the date of commencement of State agency review.

§ 930.61 Public notice.

(a) Following receipt of the material decribed in § 930.60 the State agency shall ensure timely public notice of the proposed activity. At a minimum the provision of public notice must be in accordance with State law. In addition, public notice must be provided in the immediate area of the coastal zone which is likely to be significantly affected by the proposed activity. Public notice shall be expanded in proportion to the degree of likely public interest resulting from the unique geographic area involved, the substantial commitment of or impact on coastal re-

sources, the complexity or controversy of the proposal, or for other good cause.

(b) Public notice shall facilitate public comment by providing a summary of the proposed activity, by announcing the availability for inspection of the consistency certification and accompanying public information and data, and by requesting that comments be submitted to the State agency.

(c) A number of procedural options, if permitted by State law, are available to State agencies to satisfy the public notice requirements of this Subpart. They include, but are not limited to:

(1) the State agency providing the public notice;

(2) the State agency requiring the applicant to provide the public notice; or

(3) the State agency relying upon the public notice provided by the Federal agency reviewing the application for the Federal license or permit (e.g., A-95 public notices, notic of availability of NEPA environmental impact statements) if such notice satisfies the minimum requirements set forth in subsections (a) and (b) above.

(d) Federal and State agencies are encouraged to issue joint public notices whenever possible to minimize duplication of effort and to avoid unnecessary delays.

§ 930.62 Public hearings.

(a) At the discretion of the State agency, public notice may include the announcement of one or more public hearings. Public hearings shall be scheduled with a view towards (1) allowing access to the consistency certification and accompanying public information within a reasonable time prior to the hearing, (2) facilitating broad public attendance and participation at the hearing, and (3) affording the applicant expeditious consideration of the proposed activity.

(b) Federal and State agencies are encouraged to hold joint public hearings in the event both agencies determine that a hearing on the action is necessary.

§ 930.63 State agency concurrence with a consistency certification.

(a) At the earliest practicable time, the State agency shall notify the Federal agency and the applicant whether the State agency concurs with or objects to a consistency certification. Concurrence by the State agency shall be conclusively presumed in the absence of a State agency objection within six months following commencement of State agency review.

(b) State agencies should restrict the period of public notice, receipt of comments, hearing proceedings and final decision-making to the minimum time necessary to inform the public, obtain sufficient comment, and develop a reasonable decision on the matter. If the State agency has not issued a decision within three months following commencement of State agency review, it shall notify the applicant and the Federal agency of the status of the matter and the basis for further delay.

(c) If the State agency issues a concurrence or is conclusively presumed to concur with the applicant's consistency certification, the Federal agency may approve the Federal license or permit application. Notwithstanding State agency concurrence with a consistency certification, the Federal permitting agency may deny approval of the Federal license or permit application. Federal agencies should not delay processing applications pending receipt of a State agency's concurrence. In the event a Federal agency determines that an application will not be approved, it shall immediately notify the applicant and the State agency.

(*Comment:* Concurrent review of a proposal will complement the consistency review process and minimize time delays. The early notification of a Federal agency's intent to deny approval for an application will preclude the need for further State agency review.)

§ 930.64 State agency objection to a consistency certification.

(a) If the State agency objects to the applicant's consistency certification within six months following commencement of review, it shall notify the applicant, Federal agency and Assistant Administrator of the objection.

(b) State agency objections must describe (i) how the proposed activity is inconsistent with specific elements of the management program, and (ii) alternative measures (if they exist) which, if adopted by the applicant, would permit the proposed activity to be conducted in a manner consistent with the management program.

(c) During the period when the State agency is reviewing the consistency certification, the applicant and the State agency should attempt to agree upon conditions, which, if met by the applicant, would permit State agency concurrence. The parties shall also consult with the Federal agency responsible for approving the Federal license or permit to ensure that proposed conditions satisfy Federal as well as State management program requirements.

(d) A State agency objection may be based upon a determination that the applicant has failed, following a written State agency request, to supply the information required pursuant to § 903.58. If the State agency objects on the grounds of insufficient information, the objection must describe the nature of the information requested and the necessity of having such information to determine the consistency of the activity with the management program.

(e) A State agency objection shall include a statement informing the applicant of a right of appeal to the Secretary on the grounds described in Subpart H.

§ 930.65 Federal permitting agency responsibility.

Following receipt of a State agency objection to a consistency certification, the Federal agency shall not issue the Federal license or permit except as provided in Subpart H of this part.

§ 930.66 Availability of mediation for previously reviewed activities.

(a) Federal and State agencies shall cooperate in their efforts to monitor Federally licensed and permitted activities in order to make certain that such activities continue to conform to both Federal and State requirements.

(b) The State agency shall request that the Federal agency take appropriate remedial action following a serious disagreement resulting from a State agency objection to a Federally licensed or permitted activity which was: (1) Previously determined to be consistent with the State's management program, but which the State agency later maintains is being conducted or is having coastal zone effects substantially different than originally proposed and, as a result, is no longer consistent with the State's management program; or (2) previously determined not to be an activity significantly affecting the coastal zone, but which the State agency later maintains is being conducted or is having coastal effects substantially different than originally proposed and, as a result, the activity significantly affects the coastal zone in a manner inconsistent with the State's management program. The State agency's request must include supporting information and a proposal for recommended remedial action; a copy of the request must be sent to the applicant.

(c) If, after a reasonable time following a request for remedial action, the State agency still maintains that a serious disagreement exists with the Federal agency, either party may seek the Secretarial mediation services provided for in Subpart G of this part.

Subpart E—Consistency for Outer Continental Shelf (OCS) Exploration, Development and Production Activities

§ 930.70 Objectives.

The provisions of this subpart are provided to assure that all Federal license and permit activities described in detail in OCS plans and which significantly affect the coastal zone are conducted in a manner consistent with approved coastal zone management programs.

(*Comment.* Statutory citation: Subsection 307(c)(3)(B):

"After the management program of any coastal state has been approved by the Secretary under Section 306, any person who submits to the Secretary of the Interior any plan for the exploration or development of, or production from, any area which has been leased under the Outer Continental Shelf Lands Act (43 U.S.C. 1331, et seq.) and regulations under such Act shall, with respect to any exploration, development, or production described in such plan and affecting any land use or water use in the coastal zone of such state, attach to such plan a certification that each activity which is described in detail in such plan complies with such state's approved management program and will be carried out in a manner consistent with such program. No Federal official or agency shall grant such person any license or permit for any activity described in detail in such plan until such state or its designated agency receives a copy of such certification and plan together with any other necessary data and information, and until:

(i) Such state or its designated agency, in accordance with the procedures required to be established by such state pursuant to subparagraph (A), concurs with such person's certification and notifies the Secretary and the Secretary of the Interior of such concurrence; or

(ii) Concurrence by such state with such certification is conclusively presumed, as provided for in subparagraph (A); * * *

"If a state concurs or is conclusively presumed to concur, * * *, the provisions of subparagraph (A) are not applicable with respect to such person, such state, and any Federal license or permit which is required to conduct any activity affecting land uses or water uses in the coastal zone of such state which is described in detail in the plan to which such concurrence * * * applies. If such state objects to such certification, * * * or if such person fails substantially to comply with such plan, as submitted, such person shall submit an amendment to such plan, or a new plan, to the Secretary of the Interior. With respect to any amendment or new plan submitted to the Secretary of the Interior pursuant to the preceding sentence, the applicable time period for purposes of concurrence by conclusive presumption under subparagraph (A) is 3 months.")

§ 930.71 Federal license or permit activity described in detail.

The term "Federal license or permit activity described in detail" means any activity requiring a Federal license or permit, as defined in § 930.51, which the Secretary of the Interior determines must be described in detail within an OCS plan.

(*Comment.* OCS plan Federal license and permit activities which are not required to be described in detail and which significantly affect the coastal zone are subject to the requirements of Subpart D.)

§ 930.72 Person.

The term "person" means any individual, corporation, partnership, association, or other entity organized or existing under the laws of any State, the Federal government, any State, regional, or local government, or any entity of such Federal, State, regional or local government, who submits to the Secretary of the Interior, following management program approval, an OCS plan which describes in detail Federal license or permit activities.

§ 930.73 OCS plan.

(a) The term "OCS plan" means any plan for the exploration or development of, or production from, any area which has been leased under the Outer Continental Shelf Lands Act (43 U.S.C. Sec. 1331 et seq.), and the regulations under that Act, which is submitted to the Secretary of the Interior following management program approval and which describes in detail Federal license or permit activities.

(b) The requirements of this subpart do not apply to Federal license and permit applications filed after management program approval for activities described in detail in OCS plans approved by the Secretary of the Interior prior to management program approval.

§ 930.70 OCS activities subject to State agency review.

Except for States which do not anticipate coastal zone effects resulting from OCS activities, management program lists required pursuant to § 930.53 shall include a reference to OCS plans which describe in detail Federal license and permit activities significantly affecting the coastal zone.

§ 930.75 State agency assistance to persons; information requirements.

(a) As a preliminary matter, any person intending to submit to the Secretary of the Interior and OCS plan which describes in detail Federal license or permit activities significantly affecting the coastal zone should obtain the views and assistance of the State agency regarding the means for ensuring that such activities will be conducted in a manner consistent with the State's management program. As part of its assistance efforts, the State agency shall make available for inspection copies of the management program document.

(b) In accordance with the provisions in § 930.56(b), the management program as originally approved or amended may describe requirements regarding data and information which will be necessary for the State agency to assess the consistency of the Federal license and permit activities described in detail in OCS plans.

§ 930.76 Submission of an OCS plan and consistency certification.

Any person submitting to the Secretary of the Interior any OCS plan shall:

(a) Identify all activities described in detail in the plan which are subject to State agency review;

(b) When satisfied that the proposed activities meet the Federal consistency requirements of this Subpart, provide the Secretary of the Interior with a consistency certification, attached to the OCS plan, and shall furnish the State agency a copy of the OCS plan (excluding proprietary information) and consistency certification.

(c) The person's consistency certification shall be in the following form:

> The proposed activities described in detail in this plan comply with (name of State(s)) approved coastal management program(s) and will be conducted in a manner consistent with such program(s).

§ 930.77 Necessary data and information.

(a) The State agency shall use the information received pursuant to the Department of the Interior's operating regulations governing exploration, development and production operations on the OCS (see 30 CFR § 250.34) and regulations pertaining to the OCS information program (see 30 CFR Part 252) to determine the consistency of proposed Federal license and permit activities described in detail in OCS plans.

(b) The person shall supplement the information provided by paragraph (a) of this section by supplying the State agency with:

(1) Information required by the State agency pursuant to § 930.75(b).

(2) A brief assessment relating the probable coastal zone effects of the activities and their associated facilities to the relevant elements of the management program, and

(3) A brief set of findings, derived from the assessment, indicating that each of the proposed activities (e.g., drilling, platform placement) and their associated facilities (e.g., onshore support structures, offshore pipelines), and their primary effects (e.g., air, water, waste discharge, erosion, wetlands, beach access impacts) are all consistent with the provisions of the management program. In developing findings, the person shall give appropriate weight to the various provisions within the management program in accordance with the guidance provided in § 930.58(a)(4).

(*Comment.* Although nonassociated facilities must be included within the description of significant primary, secondary, and cumulative coastal zone effects of the activities, the person is not responsible for assessing the consistency of such facilities.)

(c) At the request of the person, interested parties who have access to information required by paragraphs (a) and (b)(1) of this section may provide the State agency with all or part of the material required. Furthermore, upon request by the person, the State agency shall provide assistance for de-

veloping the assessment and findings required by paragraphs (b) (2) and (3) of this section.

(d) When satisfied that adequate protection against public disclosure exists, persons should provide the State agency with confidential and proprietary information which the State agency maintains is necessary to make a reasoned decision on the consistency of the proposed activities. State agency requests for such information must be related to the necessity of having such information to assess adequately the coastal zone effects of the proposed activities.

§ 930.78 Commencement of State agency review; public notice.

(a) State agency review of the person's consistency certification begins at the time the State agency receives a copy of the OCS plan, consistency certification, and required necessary data and information. A State agency request for information and data in addition to that required by § 930.77 shall not extend the date of commencement of State agency review.

(b) Following receipt of the material described in subsection (a), the State agency shall ensure timely public notice of the proposed activities in accordance with the directives within §§ 930.61–930.62.

§ 930.79 State agency concurrence or objection.

(a) The State agency shall concur with or object to the person's consistency certification in accordance with the directives within §§ 930.63–930.64.

(b) If the State agency issues a concurrence for a person's consistency certification, the State agency shall notify both the Secretary of Commerce and the Secretary of the Interior of such concurrence.

(c) If the State agency objects to one or more of the Federal license or permit activities described in detail in the OCS plan, it must provide a separate discussion for each objection in accordance with the directives within § 930.64 (b) and (d).

§ 930.80 Effect of State agency concurrence.

(a) If the State agency issues a concurrence or is conclusively presumed to concur with the person's consistency certification, the person will not be required to submit additional consistency certifications and supporting information for State agency review at the time Federal applications are actually filed for the Federal licenses and permits to which such concurrence applies.

(b) Unless the State agency indicates otherwise, copies of Federal license and permit applications for activities described in detail in an OCS plan which has received State agency concurrence shall be sent by the person to the State agency to allow the State agency to monitor the activities. Confidential and proprietary material within such applications may be deleted.

§ 930.81 Federal permitting agency responsibility.

Following receipt of a State agency objection to a consistency certification related to Federal license or permit activities described in detail in an OCS plan, the Federal agency shall not issue any of such licenses or permits except as provided in subpart H of this part.

§ 930.82 Multiple permit review.

(a) A person submitting a consistency certification for Federal license or permit activities described in detail in an OCS plan is strongly encouraged to work with other Federal agencies in an effort to include, for consolidated State agency review, consistency certifications and supporting data and information applicable to OCS-related Federal license and permit activities significantly affecting the coastal zone which are not required to be described in detail in OCS plans but which are subjected to State agency consistency review (e.g., Corps of Engineer permits for the placement of structures on the OCS and for dredging and the transportation of dredged material, Environmental Protection Agency air and water quality permits for offshore operations and onshore support and processing facilities, etc.). In the event the person does not consolidate such OCS-related permit activities with the State agency's review of the OCS plan, such activities will remain subject to individual State agency review under the requirements of Subpart D of this part.

(*Comment.* Persons are encouraged to consolidate permits for State agency review as this process can (i) minimize the delay in the review and approval of both OCS plan and OCS-related Federal licenses and permits, (ii) provide the State agency with comprehensive information on all aspects of OCS operations, thereby assisting the State in planning for and managing these activities, and (iii) provide the person with added certainty regarding the manner in which all OCS operations may proceed consistent with the management program.)

(b) A State agency objection to one or more of the OCS-related Federal license or permit activities submitted for consolidated review shall not prevent the person from receiving Federal agency approval (1) for those OCS-related license or permit activities found by the State agency to be consistent with the management program, and (2) for the license and permit activities described in detail in the OCS plan provided the State agency concurs with the consistency certification for such plan. Similarly, a State agency objection to the consistency certification for an OCS plan shall not prevent the person from receiving Federal agency approval for those OCS-related license or permit activities determined by the State agency to be consistent with the management program.

§ 930.83 Amended or new OCS plans.

If the State agency objects to the person's OCS plan consistency certification, and if, pursuant to subpart H, the Secretary does not determine that each of the objected to Federal license or permit activities described in detail in such plan is consistent with the objectives or purposes of the Act, or is necessary in the interest of national security, the person shall submit an amended or new plan to the Secretary of the Interior and to the State agency along with a consistency certification and data and information necessary to support the new consistency determination. The data and information shall specifically describe modifications made to the original OCS plan, and the manner in which such modifications will ensure that all of the proposed Federal license or permit activities described in detail in the amended or new plan will be conducted in a manner consistent with the State's management program.

§ 930.84 Review of amended or new OCS plans; public notice.

(a) After receipt of a copy of the amended or new OCS plan, consistency certification, and accompanying data and information, State agency review shall begin.

(b) Following receipt of the material described in subsection (a), the State agency shall ensure timely public notice of the proposed activities in accordance with the directives within §§ 930.61–930.62.

(c) The State agency shall concur with or object to the person's consistency certification in accordance with the directives within § 930.79, except that the applicable time period for purposes of concurrence by conclusive presumption shall be three months instead of six months.

(d) If the State agency issues a concurrence or is conclusively presumed to concur with the person's new consistency certification, the person will not be required to submit additional consistency certifications and supporting information for State agency review at the time Federal applications are actually filed for the Federal licenses and permits to which such concurrence applies.

(e) Unless the State agency indicates otherwise, copies of Federal license and permit applications for activities described in detail in an amended or new OCS plan which has received State agency concurrence shall be sent

by the person to the State agency to allow the State agency to monitor the activities. Confidential and proprietary material within such applications may be deleted.

§ 930.85 Continuing State agency objections.

If the State agency objects to the consistency certification for an amended or new OCS plan, the prohibition in § 930.81 against Federal agency approval of licenses or permits for activities described in detail in such a plan applies, further Secretarial review pursuant to subpart H may take place, and the development of an additional amended or new OCS plan and consistency certification may be required pursuant to §§ 930.83–930.84.

§930.86 Failure to comply substantially with an approved OCS plan.

(a) The Department of the Interior and State agencies shall cooperate in their efforts to monitor Federally licensed and permitted activities described in detail OCS plans to make certain that such activities continue to conform to both Federal and State requirements.

(b) If a State agency claims that a person is failing substantially to comply with an approved OCS plan subject to the requirements of this Subpart, and such failure allegedly involves the conduct of activities significantly affecting the coastal zone in a manner that is not consistent with the approved management program, the State agency shall transmit its claim to the U.S. Geological Survey supervisor for the area involved. Such claim shall include: (1) A description of the specific activity involved and the alleged lack of compliance with the OCS plan, and (2) a request for appropriate remedial action. A copy of the claim shall be sent to the person and the Assistant Administrator.

(c) If, after a reasonable time following a request for remedial action, the State agency still maintains that the person is failing to comply substantially with the OCS plan, the governor or section 306(c)(5) State agency (see § 930.18) may file a written objection with the Secretary. If the Secretary finds that the person is failing to comply substantially with the OCS plan, the person shall submit an amended or new OCS plan along with a consistency certification and supporting information to the Secretary of the Interior and to the State agency. Following such a finding by the Secretary, the person shall comply with the originally approved OCS plan, or with interim orders issued jointly by the Secretary and the U.S. Geological Survey, pending approval of the amended or new OCS plan. The directives within §§ 930.83–930.85 shall apply to further State agency review of the consistency certification for the amended or new plan.

(d) A person shall be found to have failed substantially to comply with an approved OCS plan if the State agency claims and the Secretary finds that one or more of the activities described in detail in the OCS plan which significantly affects the coastal zone are being conducted or are having a coastal zone effect substantially different than originally described by the person in the plan or accompanying information and, as a result, the activities are no longer being conducted in a manner consistent with the State's management program. The Secretary may make a finding that a person has failed substantially to comply with an approved OCS plan only after providing a reasonable opportunity for the person and the Secretary of the Interior to review the State agency's objection and to submit comments for the Secretary's consideration.

Subpart F—Consistency for Federal Assistance to State and Local Governments

§ 930.90 Objectives.

The provisions of this subpart are provided to assure that Federal assistance to State and local governments for activities significantly affecting the coastal zone is granted only when such activities are consistent with approved coastal zone managements programs.

(*Comment.* Statutory citation: Section 307(d):

"State and local governments submitting applications for Federal assistance under other Federal programs affecting the coastal zone shall indicate the views of the appropriate state or local agency as to the relationship of such activities to the approved management program for the coastal zone. Such applications shall be submitted and coordinated in accordance with the provisions of title IV of the Intergovernmental Cooperation Act of 1968 (82 Stat. 1098) [which provides authority for the Office of Management and Budget Circular A-95 (41 FR 2052 (1976))]. Federal agencies shall not approve proposed projects that are inconsistent with a coastal state's management program * * *."

Although the Coastal Energy Impact Program (CEIP) under Section 308 of the Act in not a form of Federal assistance under an "other Federal" program, it will be the policy of OCZM to subject the CEIP to the consistency requirements of this Subpart.)

§ 930.91 Federal assistance.

The term "Federal assistance" means assistance provided under a Federal program to an applicant agency through grant or contractual arrangements, loans, subsidies, guarantees, insurance, or other form of financial aid.

§ 930.92 Applicant agency.

The term "applicant agency" means any unit of State or local government, or any related public entity such as a special purpose district, which, following management program approval, submits an application for Federal assistance.

§ 930.93 OMB A-95 process.

The term "OMB A-95 process" describes the project notification and review procedures set forth in the Office of Management and Budget Circular A-95 for the evaluation, review and coordination of Federally assisted programs (41 FR 2052 (1976)).

§ 930.94 Guidance provided by the State agency.

(a) To assist A-95 State and areawide clearinghouses, State agencies should include within the management program a listing of specific types of Federal assistance programs subject to a consistency review. Such a listing, and any refinements, will require prior 306(c)(5) state agency (see § 930.18) consultation with affected Federal agencies and approval by the Assistant Administrator.

(b) In the event the State agency chooses to review applications for Federal assistance activities outside of the coastal zone but likely to significantly affect the coastal zone, the State agency must develop a Federal assistance provision within the management program generally describing the geographic area (e.g. coastal floodplains) within which Federal assistance activities will be subject to review. This provision, and any refinements, will require prior 306(c)(5) State agency consultation with affected Federal agencies and approval by the Assistant Administrator.

(c) The State agency shall provide copies of any Federal assistance list or geographic provision, and any refinements, to Federal agencies, units of State or local government empowered to undertake Federally assisted activities within the coastal zone or described geographic area, and to the A-95 State and areawide clearinghouses.

§ 930.95 OMB A-95 project notification and review.

(a) Pursuant to the OMB A-95 process, an applicant agency shall notify the appropriate State and areawide clearinghouses of its intent to apply for Federal assistance for an activity located in the coastal zone or the described geographic area.

(b) The applicant agency shall utilize the OMB A-95 process for every major funding phase of the Federal assistance activity which entails the consideration of new information not previously reviewed (e.g., planning and design data not reviewed in earlier project siting phase), or which results

in substantial modifications to previously reviewed phases.

(c) The clearinghouses shall ensure that the State agency is afforded an opportunity to review a notification for an activity located in the coastal zone or the described geographic area to determine whether the activity is consistent with the management program.

§ 930.96 Consistency review.

(a) If pursuant to the OMB A-95 process, the State agency does not object to the proposed activity, the Federal agency may grant the Federal assistance to the applicant agency. Notwithstanding State agency consistency approval for the proposed project, the Federal agency may deny assistance to the applicant agency. Federal agencies should not delay processing applications pending receipt of a State agency approval or objection. In the event a Federal agency determines that an application will not be approved, it shall immediately notify the applicant agency and the State agency.

(b) If pursuant to the OMB A-95 process, the State agency objects to the proposed project, the clearinghouse shall notify the applicant agency, Federal agency and the Assistant Administrator of the objection.

(c) State agency objections must describe: (1) how the proposed project is inconsistent with specific elements of the management program, and (2) alternative measures (if they exist) which, if adopted by the applicant agency, would permit the proposed project to be conducted in a manner consistent with the management program.

(d) A State agency objection may be based upon a determination that the applicant agency has failed, following a written State agency request, to supply necessary information. If the State agency objects on the grounds of insufficient information, the objection must describe the nature of the information requested and the necessity of having such information to determine the consistency of the activity with the management program.

(e) State agency objections shall include a statement informing the applicant agency of a right of appeal to the Secretary on the grounds described in subpart H of this part.

§ 930.97 Federal assisting agency responsibility.

Following receipt of a State agency objection, the Federal agency shall not approve assistance for the activity except as provided in subpart H of this part.

§ 930.98 Federally assisted activities outside of the coastal zone or the described geographic area.

(a) State agencies should monitor proposed Federal assistance activities outside of the coastal zone or the described geographic area (e.g., by use of the OMB A-95 process, review of NEPA environmental impact statements, etc.) and shall immediately notify applicant agencies, Federal agencies, and the appropriate clearinghouse of proposed activities which can reasonably be expected to significantly affect the coastal zone and which the State agency is reviewing for consistency with the management program. Notification shall also be sent by the State agency to the Assistant Administrator. State agencies must inform the clearinghouse and other parties of objections within the time period permitted under the OMB A-95 process, otherwise the State agency waives its right to object to the proposed activity.

(b) If within the permitted time period the State agency notifies the Federal agency of its objection to a proposed Federally assisted activity, the Federal agency shall not provide assistance to the applicant agency except as provided in Subpart H, unless the Assistant Administrator disapproves the State agency's decision to review the activity. The Assistant Administrator shall be guided by the provisions in § 930.54 (c) and (d).

§ 930.99 Availability of mediation for Federal assistance disputes.

In the event of a serious disagreement between a Federal and State agency regarding whether a Federal assistance activity is subject to consistency review, either party may request the Secretarial mediation services provided for in Subpart G of this Part. The existence of a serious disagreement will not relieve the Federal agency from the responsibility for withholding Federal assistance for the activity pending satisfaction of the requirements of this subpart, except in cases where the Assistant Administrator has disapproved a State agency decision to review an activity.

§ 930.100 Availability of mediation for previously reviewed activities.

(a) Federal and State agencies shall cooperate in their efforts to monitor Federally assisted activities in order to make certain that such activities continue to conform to both Federal and State requirements.

(b) The State agency shall request that the Federal agency take appropriate remedial action following a serious disagreement resulting from a State agency objection to a Federally assisted activity which was (1) previously determined to be consistent with the State's management program, but which the State agency later maintains is being conducted or is having a coastal zone effect substantially different than originally proposed and, as a result, is no longer consistent with the State management program, or (2) previously determined not to be a project significantly affecting the coastal zone, but which the State agency later maintains is being conducted or is having a coastal zone effect substantially different than originally proposed and, as a result the project significantly affects the coastal zone in a manner inconsistent with the State's management program. The State agency's request must include supporting information and a proposal for recommended remedial action; a copy of the request must be sent to the applicant agency.

(c) If, after a reasonable time following a request for remedial action, the State agency still maintains that a serious disagreement exists with the Federal agency, either party may seek the Secretarial mediation services provided for in Subpart G of this Part.

Subpart G—Secretarial Mediation

§ 930.110 Objectives.

The purpose of this subpart is to describe mediation procedures which Federal and State agencies may use to attempt to resolve serious disagreements which arise during the administration of approved management programs.

(*Comment.* Statutory citation: Section 307(h):

"In case of serious disagreement between any Federal agency and coastal state * * *

(2) in the administration of management programs approved under Section 306; the Secretary, with the cooperation of the Executive Office of the President, shall seek to mediate the differences involved in such disagreement. The process of such mediation shall, with respect to any disagreement described in paragraph (2), include public hearings which shall be conducted in the local area concerned.")

§ 930.111 Informal negotiations.

The availability of mediation does not preclude use by the parties of alternative means for resolving their disagreement. In the event a serious disagreement arises, the parties are strongly encouraged to make every effort to resolve the disagreement informally. OCZM shall be available to assist the parties in these efforts.

§ 930.112 Request for mediation.

(a) The Secretary or other head of a Federal agency, or the Governor or the section 306(c)(5) State agency (see § 930.18), may notify the Secretary in writing of the existence of a serious disagreement, and may request that the Secretary seek to mediate the serious disagreement. A copy of the written request must be sent to the agency with which the requesting agency disagrees, and to the Assistant Administrator.

(b) Within 15 days following receipt of a request for mediation the disagreeing agency shall transmit a written response to the Secretary, and to

the agency requesting mediation, indicating whether it wishes to participate in the mediation process. If the disagreeing agency declines the offer to enter into mediation efforts, it must indicate the basis for its refusal in its response. Upon receipt of a refusal to participate in mediation efforts, the Secretary shall seek to persuade the disagreeing agency to reconsider its decision and enter into mediation efforts. If the disagreeing agencies do not all agree to participate, the Secretary will cease efforts to provide mediation assistance.

§ 930.113 Public hearings.

(a) If the parties agree to the mediation process, the Secretary shall appoint a hearing officer who shall schedule a hearing in the local area concerned. The hearing officer shall give the parties at least 30 days notice of the time and place set for the hearing and shall provide timely public notice of the hearing.

(b) At the time public notice is provided, the Federal and State agencies shall provide the public with convenient access to public data and information related to the serious disagreement.

(c) Hearings shall be informal and shall be conducted by the hearing officer with the objective of securing in a timely fashion information related to the disagreement. The Federal and State agencies, as well as other interested parties, may offer information at the hearing subject to the hearing officer's supervision as to the extent and manner of presentation. Unduly repetitious oral presentation may be excluded at the discretion of the hearing officer; in the event of such exclusion the party may provide the hearing officer with a written submission of the proposed oral presentation. Hearings will be recorded and the hearing officer shall provide transcripts and copies of written information offered at the hearing to the Federal and State agency parties. The public may inspect and copy the transcripts and written information provided to these agencies.

§ 930.114 Secretarial mediation efforts.

(a) Following the close of the hearing, the hearing officer shall transmit the hearing record to the Secretary. Upon receipt of the hearing record, the Secretary shall schedule a mediation conference to be attended by representatives from the Office of the Secretary, the disagreeing Federal and State agencies, and any other interested parties whose participation is deemed necessary by the Secretary. The Secretary shall provide the parties at least 10 days notice of the time and place set for the mediation conference.

(b) Secretarial mediation efforts shall last only so long as the Federal and State agencies agree to participate. The Secretary shall confer with the Executive Office of the President, as necessary, during the mediation process.

§ 930.115 Termination of mediation.

Mediation shall terminate (a) at any time the Federal and State agencies agree to a resolution of the serious disagreement, (b) if one of the agencies withdraws from mediation, (c) in the event the agencies fail to reach a resolution of the serious disagreement within 15 days following Secretarial conference efforts, and the agencies do not agree to extend mediation beyond that period, or (d) for other good cause.

§ 930.116 Judicial review.

The availability of the mediation services provided in this subpart is not intended expressly or implicitly to limit the parties' use of alternate forums to resolve disputes. Specifically, judicial review where otherwise available by law may be sought by any party to a serious disagreement without first having exhausted the mediation process provided for in this subpart.

Subpart H—Secretarial Review Related to the Objectives or Purposes of the Act and National Security Interests

§ 930.120 Objectives.

The provisions of this subpart provide procedures by which the Secretary may find that a Federal license or permit activity, including those described in detail in an OCS plan, or a Federal assistance activity, which is inconsistent with a management program, may be federally approved because the activity is consistent with the objectives or purposes of the Act, or is necessary in the interest of national security.

(*Comment.* Statutory citations: Subsection 307(c)(3)(A):

"No license or permit shall be granted by the Federal agency until the state or its designated agency has concurred with the applicant's certification or until, by the state's failure to act, the concurrence is conclusively presumed, unless the Secretary, on his own initiative or upon appeal by the applicant, finds, after providing a reasonable opportunity for detailed comments from the Federal agency involved and from the state, that the activity is consistent with objectives of this title or is otherwise necessary in the interest of national security."

Subsection 307(c)(3)(B):

"No Federal official or agency shall grant such person any license or permit for any activity described in detail in such [OCS] plan until such state or its designated agency receives a copy of such certification and plan, together with any other necessary data and information, and until—

(i) The State agency concurs;

(ii) The State agency is conclusively presumed to concur; or

(iii) The Secretary finds, pursuant to subparagraph (A), that each activity which is described in detail in such plan is consistent with the objectives of this title or is otherwise necessary in the interest of national security."

Section 307(d):

"Federal agencies shall not approve proposed projects that are inconsistent with a coastal state's management program, except upon a finding by the Secretary that such project is consistent with the purposes of this title or necessary in the interest of national security."

§ 930.121 Consistent with the objectives or purposes of the Act.

The term "consistent with the objectives or purposes of the Act" describes a Federal license or permit activity, or a Federal assistance activity which, although inconsistent with a State's management program, is found by the Secretary to be permissible because it satisfies the following four requirements:

(a) The activity furthers one or more of the competing national objectives or purposes contained in sections 302 or 303 of the Act,

(b) When performed separately or when its cumulative effects are considered, it will not cause adverse effects on the natural resources of the coastal zone substantial enough to outweigh its contribution to the national interest,

(c) The activity will not violate any requirements of the Clean Air Act, as amended, or the Federal Water Pollution Control Act, as amended, and

(d) There is no reasonable alternative available (e.g., location design, etc.) which would permit the activity to be conducted in a manner consistent with the management program.

§ 930.122 Necessary in the interest of national security.

The term "necessary in the interest of national security" describes a Federal license or permit activity, or a Federal assistance activity which, although inconsistent with a State's management program, is found by the Secretary to be permissible because a national defense or other national security interest would be significantly impaired if the activity were not permitted to go forward as proposed. Secretarial review of national security issues shall be aided by information submitted by the Department of Defense or other interested Federal agencies. The views of such agencies, while not binding, shall be given considerable weight by the Secretary. The Secretary will seek information to determine whether the objected to activity directly supports national defense or other essential national security objectives.

§ 930.123 Appellant.

The term "appellant" refers to an applicant, person or applicant agency submitting an appeal to the Secretary

days from the date of public notice, with copies provided to the appellant and to the Federal and State agencies within the same time period.

(c) Requests for extensions may be

(b) If the Secretary does not make either of these findings, the Federal agency shall not approve the activity.

§ 930.132 Review initiated by the Secre-

agement program. This subpart also provides for the reporting of any Federal actions found by the Assistant Administrator to be inconsistent with an approved management program and

(b) Comments need not conform to any particular form, but should be specific, substantive and factual, and must describe how the Federal action is or would be inconsistent with an en-

agency, State agency, and the applicant, person, or applicant agency, as appropriate, the Assistant Administrator shall determine whether the Federal action will be included in the

§ 930.123 Appellant.

The term "appellant" refers to an applicant, person or applicant agency submitting an appeal to the Secretary pursuant to the provisions of this subpart.

§ 930.124 Informal discussions.

In the event the State agency informs the applicant, person or applicant agency that it intends to object to the proposed activity, the parties should consult informally to attempt to resolve the matter in a manner which avoids the necessity of appealing the issue to the Secretary. OCZM shall be available to assist the parties in these discussions.

§ 930.125 Appeals to the Secretary.

(a) An appellant may file a notice of appeal with the Secretary with 30 days of the appellant's receipt of a State agency objection. The notice of appeal shall be accompanied by a statement in support of the appellant's position, along with supporting data and information. The appellant shall send a copy of the notice of appeal and accompanying documents to the Federal and State agencies involved.

(b) No extension of time will be permitted for the filing of a notice of appeal.

(c) The Secretary may approve a reasonable request for an extension of time to submit supporting information so long as the request is filed with the Secretary within the 30-day period. Normally, the Secretary shall limit an extension period to 15 days.

§ 930.126, Federal and State agency responses to appeals.

(a) Upon receipt of the notice of appeal and supporting information, the Federal and State agencies shall have 30 days to submit detailed comments to the Secretary. Copies of such comments shall be sent to the appellant and other agency within the same time period.

(b) Requests for extensions may be made pursuant to § 930.125(c).

§ 930.127 Public notice; receipt of comments.

(a) The Secretary shall provide timely public notice of the appeal within 15 days of receipt of the notice. At a minimum, public notice shall be provided in the immediate area of the coastal zone which is likely to be significantly affected by the proposed activity. At the time public notice is provided, the Federal and State agencies shall provide the public with convenient access to copies of the appellant's notice of appeal and accompanying public information, and to the public information in the agencies' detailed comments.

(b) Interested persons may submit comments to the Secretary within 30 days from the date of public notice, with copies provided to the appellant and to the Federal and State agencies within the same time period.

(c) Requests for extensions may be made pursuant to § 930.125(c).

§ 930.128 Dismissal of appeals.

The Secretary may dismiss an appeal for good cause. Good cause shall include, but is not limited to:

(a) Failure of the appellant to submit a notice of appeal within the required 30-day period.

(b) Failure of the appellant to submit the supporting information within the required period or approved extension period;

(c) Secretarial receipt of a detailed comment from the Federal agency stating that the agency has disapproved the Federal license, permit or assistance application;

(d) Failure of the appellant to base the appeal on grounds that the proposed activity either (1) is consistent with the objectives or purposes of the Act or (2) is necessary in the interest of national security.

§ 930.129 Public hearings.

The Secretary may order a hearing independently or in reponse to a request. If a hearing is ordered by the Secretary it shall be guided by the procedures described within § 930.113.

§ 930.130 Secretarial review.

(a) In reviewing an appeal, the Secretary shall find that a proposed Federal license or permit activity, or a Federal assistance activity, is consistent with the objectives or purposes of the Act, or is necessary in the interest of national security, when the information submitted supports this conclusion.

(b) The Secretary shall make all reasonable efforts to complete consideration of an appeal within 90 days from the date of public notice.

(c) Following consideration of the appeal, the Secretary shall issue a decision in writing to the appellant and to the Federal and State agencies indicating whether the proposed activity is consistent with the objectives or purposes of the Act, or is necessary in the interest of national security; the decision shall include the basis for such finding. The Secretary shall provide public notice of the decision.

(d) The decision of the Secretary shall constitute final agency action for the purposes of the Administrative Procedure Act.

§ 930.131 Federal agency responsibility.

(a) If the Secretary finds that the proposed activity is consistent with the objectives or purposes of the Act, or is necessary in the interest of national security, the Federal agency may approve the activity.

(b) If the Secretary does not make either of these findings, the Federal agency shall not approve the activity.

§ 930.132 Review initiated by the Secretary.

(a) The Secretary may choose to consider whether a Federal license or permit activity, or a Federal assistance activity, is consistent with the objectives or purposes of the Act, or is necessary in the interest of national security. Secretarial review may be initiated either before of after the completion of State agency review. The Secretary's decision to review the activity may result from an independent concern regarding the activity or a request from interested parties. If the Secretary decides to initiate review, notification shall be sent to the applicant, person or applicant agency, and to the Federal and State agencies. The notice shall include a statement describing the reasons for the review and shall contain a request for submission of detailed comments to be submitted within 30 days from receipt of the notification. Copies of comments shall be exchanged among the parties.

(b) Requests for extensions may be made pursuant to § 930.125(c).

§ 930.133 Public notice; receipt of comments; public hearings.

(a) Upon receipt of detailed comments from the parties, the Secretary shall provide public notice and request public comments in accordance with the provisions in § 930.127.

(b) The Secretary may order a hearing in accordance with the provisions in § 930.129.

§ 930.134 Secretarial review; Federal agency responsibility.

(a) Secretarial review shall be undertaken in accordance with the provisions in § 930.130.

(b) Federal agencies are responsible for adhering to the provisions in § 930.131 when deciding to approve or deny an application for an activity objected to by a State agency and independently reviewed by the Secretary.

Subpart I—Assistant Administrator Reporting and Continuing Review of Federal Actions Subject to the Federal Consistency Requirements

§ 930.140 Objectives.

The provisions of this subpart provide procedures to permit interested parties to notify the Assistant Administrator of Federal actions (a) believed to be inconsistent with an approved management program but which are not so found by the Federal or State reviewing agency, and (b) believed to have been incorrectly determined to be inconsistent with an approved management program. This subpart also provides for the reporting of any Federal actions found by the Assistant Administrator to be inconsistent with an approved management program and for the performance review of State implementation of the Federal consistency provisions of this part.

(*Comment.* Statutory citation: section 312: "The Secretary shall conduct a continuing review of * * * the performance of * * * states with respect to coastal zone management * * *." The performance review responsibility under section 312 of the Act has been delegated by the Secretary to the Assistant Administrator for Coastal Zone Management.

Subsection 316(a)(5): "The Secretary shall prepare and submit to the President for transmittal to the Congress * * * a listing of all activities and projects which, pursuant to the provisions of subsection (c) or subsection (d) of section 307, are not consistent with an applicable approved state management program * * *." The reporting responsibility under section 316 of the Act also has been delegated by the Secretary to the Assistant Administrator for Coastal Zone Management.)

§ 930.141 Notification of Federal actions believed to be inconsistent with approved management programs.

(a) Interested parties are invited to submit to the Assistant Administrator detailed comments related to the alleged inconsistency of Federal activities including development projects, Federal license or permit activities, including those described in detail in OCS plans, and Federal assistance activities which are subject to the requirements of this part, and which have not been found by a Federal agency or State agency to be inconsistent with an approved management program. Copies of such comments should be sent to relevant Federal and State agencies, and to the applicant, person or applicant agency as appropriate.

(b) Comments need not conform to any particular form, but should be specific, substantive and factual, and must describe how the Federal action is or would be inconsistent with an approved management program.

(c) Commentators are encouraged to recommend modifications or alternatives to the existing or proposed action which would enable it to be consistent with the management program.

(d) The Assistant Administrator shall assure that public information within such comments is made available for public inspection.

§ 930.142 Notification of Federal actions believed to have been incorrectly determined to be inconsistent with an approved management program.

(a) Interested parties are invited to submit to the Assistant Administrator detailed comments related to Federal license and permit activities, including those described in detail in OCS plans, and Federal assistance activities which are believed to have been incorrectly determined by a State agency to be inconsistent with an approved management program. Copies of such comments should be sent to the relevant Federal and State agencies, and to the applicant, person, or applicant agency as appropriate.

(b) Comments need not conform to any particular form, but should be specific, substantive, and factual, and must clearly describe the basis for the belief that the State agency has incorrectly objected to the Federal action on the grounds of its inconsistency with the management program.

(c) The Assistant Administrator shall assure that public information within such comments is made available for public inspection.

§ 930.143 Assistant Administrator reporting.

After considering the views of interested parties, the relevant Federal agency, State agency, and the applicant, person, or applicant agency, as appropriate, the Assistant Administrator shall determine whether the Federal action will be included in the annual report listing of inconsistent Federal actions.

§ 930.144 Assistant Administrator advisory statements.

Upon request, the Assistant Administrator may issue as advisory statement prior to the issuance of the annual report indicating whether a Federal action will be listed within the annual report as being inconsistent with an approved management program.

§ 930.145 Review of the implementation of Federal consistency provisions.

As part of the responsibility to conduct a continuing review of approved management programs, the Assistant Administrator shall review the performance of each State's implementation of the Federal consistency provisions in this part. The Assistant Administrator shall use information received pursuant to this subpart to evaluate instances where a State agency is believed to have either failed to object to inconsistent Federal actions, or improperly objected to consistent Federal actions. This evaluation shall be incorporated within the Assistant Administrator's general efforts to ascertain instances where a State has not adhered to its approved management program and such lack of adherence is not justified.

(*Comment.* See 15 CFR 923.83 which describes defects in management program administration which may lead to termination and withdrawal of Federal funding and cessation of the operation of the Federal consistency provisions.)

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